

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.....

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SECTION OFFICER (Judl.)

FORM NO. 4  
( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO. 191/2000 OF 199

Applicant(s) Sri Hemanta Choudhury.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. Chittaranjan Goswami

Advocate for Respondent(s) C. G. S. C.

Notes of the Registry	Date	Order of the Tribunal
<p>5/7/00 Notice prepared and sent to Despatch Section for crossing the Respondent No 1 to 5 vide Despatch No 1765 dt 1767 dtd 6/7/00.</p> <p>5/7/00 Notice duly served on Despatch No. 2, 1, 3, 8 5.</p> <p>17/7</p>	<p>4.7.00</p> <p>lm</p> <p>5/7/2000</p> <p>3.8.00</p>	<p>Present: Hon'ble Mr.S.Biswas, Administrative Member.</p> <p>Heard learned counsel Mr.C.Goswami, for the applicant and Mr.B.S.Basumatary, learned Addl.C.G.S.C. for the respondents.</p> <p>Application is admitted. Issue notice to the respondents. List on 3.8.00 for written statement and further orders.</p> <p>As regards interim order, the learned counsel for the respondents submits that the respondent No.5 has already joined. Therefore, it would not be proper to consider the interim order. The prayer is rejected.</p> <p>S. Biswas Member(A)</p> <p>There is no bench. Adjourned to 22.8.00.</p> <p>15/10</p>

Notes of the Registry	Date	Order of the Tribunal
<p><u>25-10-2000</u></p> <p>① Notice duly served on R.No. 1, 2, 3 &amp; 5.</p> <p>② No written statement has been filed.</p> <p><u>25</u></p> <p>No written statement has been filed.</p> <p><u>25</u></p> <p><u>27-11-2000</u></p>	<p>22.8.00</p> <p>27.10.00</p> <p>28.11.00</p> <p>1.1.2001</p>	<p>Plt. is no Bar. adj. to 27.10.00</p> <p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mr. C. Goswami, learned counsel for the applicant.</p> <p>Four weeks time is granted to the respondents to file written statement on the prayer of Mr. B.S. Basumatary, learned Addl. C.G.S.C.</p> <p>List on 28.11.00 for written statement and further orders.</p> <p><u>mk</u></p> <p>Vice-Chairman</p> <p>Four weeks time is granted to file written statement on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C.</p> <p>List on 1.1.2001 for order.</p> <p><u>pg</u></p> <p><u>25/11</u></p> <p>Vice-Chairman</p> <p>Heard Mr. Chittaranjan Goswami, learned counsel for the applicant.</p> <p>Three weeks time is granted to the respondents to file written statement on the prayer of Mr. B.C. Pathak, learned Addl. Central Govt Standing Counsel for the respondents.</p> <p>List on 22.1.01 for written statement and further orders.</p> <p><u>mk</u></p> <p>Vice-Chairman</p>
<p><u>12-1-2000</u></p> <p>① Statement has been filed by the respondents.</p> <p><u>25</u></p>		

Notes of the Registry	Date	Order of the Tribunal
<p>No. Rejoinder has been filed.</p> <p><u>By</u> 26.4.01</p>	22.1.01	<p>The respondents have filed the written statement. The applicant may file rejoinder if any, within two weeks. List on 27.4.01 for hearing.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	lm	
	27.4.2001	<p>On the prayer of Mr Ch. Goswami, learned counsel for the applicant, the case is adjourned till 24.5.01 in order to enable him to file rejoinder, if any.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	nkm	
	24.5.01	<p>None appears for the applicant when called. List on 17.7.01 for hearing.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	lm	
	17.7.01	<p>There is a reference. List again on 13.8.2001.</p> <p><i>[Signature]</i> 17.7.</p>
	13.8.01	<p>None appears for the applicant to press the application. List the case again on 14.8.2001 for hearing.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	bb	
	14.8.01	<p>None appears for the applicant. List again on 16.8.2001 for hearing.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	pg	

Notes of the Registry	Date	Order of the Tribunal

OA. 194/00

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Notes of the Registry	Date	Order of the Tribunal
	16.8.01  bb	<p>None appears for the applicant to press the application. List <sup>again</sup> on 17.8.2001 for hearing.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	17.8.01  pg	<p>None appears for the applicant when called upon. The case is accordingly dismissed for default.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>7.10.99</p> <p>25.9.2001</p> <p>Copy of the Judgment has been sent to the Dy. Sec. for it to be put in line to the Applicant as well as to the D.C.Sr.S.C. on the Resp. Dr.</p> <p>nk m</p>	12.9.2001	<p>The case was dismissed for default on 17.8.2001 as the learned counsel for the applicant did not appear on that day when the case was called. Mr C. Goswami, learned counsel for the applicant, appeared thereafter and expressed his inability to be present at the time when the matter was taken up. Since Mr Goswami agreed to argue the matter we decided to hear the case of the applicant on merit by setting aside the order dated 17.8.2001. The case is accordingly taken up for hearing on merits.</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.</p> <p><i>K. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./~~XXXX~~ No. .191 . . . . . of 2000

DATE OF DECISION 12.9.2001 .....

Shri Hemanta Chowdhury ..... APPLICANT(S)

Mr C. Goswami ..... ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others ..... RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C. ..... ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHWODHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?
- 5.

Judgment delivered by Hon'ble Vice-Chairman





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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.191 of 2000

Date of decision: This the 12th day of September 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Hemanta Chowdhury,  
Village- Bagurihati, P.O.- Bagurihati,  
District- Nalbari, Assam.

.....Applicant

By Advocate Mr C. Goswami.

- versus -

1. The Union of India, represented by the  
Secretary,  
Department of Posts,  
Government of India,  
New Delhi.
2. The Regional Director of Postal Service,  
Chief Post Master General,  
Assam Circle,  
Guwahati.
3. The Superintendent of Post Offices,  
Nalbari.
4. The Inspector of Complain Post Offices,  
Nalbari.
5. Shri Ashok Talukdar,  
Village- Bagurihati, P.O.- Bagurihati,  
District- Nalbari, Assam.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the legitimacy of the appointment of respondent No.5 as Extra Departmental Branch Post Master at Bagurihati Post Office under Nalbari District by unlawfully denying the applicant the post. The brief facts relevant for the purpose of adjudication of this proceeding are summed up below:

The Superintendent of Post Offices, Nalbari, respondent No.3, invited applications through the District Employment Exchange, Nalbari

vide communication dated 14.8.1999 for the post of Extra Departmental Branch Post Master (EDBPM for short) for the Bagurihati Branch Post Office. The extract of the aforementioned communication is reproduced below:

"Sir,

A post of extra departmental branch post master is lying vacant at Bagarihati EDBO.

Kindly arrange to nominate at least 5(five) persons from Bagarihati vilage for the post of EDBPM/Bagarihati EDBO.

While nominating the persons the following conditions may kindly be kept in view :-

1. Persons seeking employment as EDBPM must be permanent resident of Bagarihati village.
2. The applicants should have adequate means of livelihood from independent source of income.
3. The applicants should be able to offer suitable accommodation for the post office with provision for installation of PCC even.
4. The applicants should have minimum educational qualification of HSLC passed or equivalent examination. Selection will be based on the marks secured in the matriculation or equivalent examination. No weightage will be given for higher qualification.
5. The applicant must attain the age of 18 years as on 1.1.99.
6. SC/ST applicants may be given perference subject to fullfilment of above conditions.

The applications alongwith supporting documents in r/o applicants nominated for the post of BPM Bagarihati EDBO may be forwarded to this office so as to reach this office on or before 18.9.99."

2. The District Employment Exchange nominated twentyfive candidates including the applicant. All the twentyfive candidates were called for the interview alongwith the original documents for verification which was done on 6.10.1999. The respondent authority finally selected the respondent No.5, Srhi Ashok Talukdar, for the post provisionally. The legality of the said appointment is questioned in this proceeding as arbitrary and discrminatory. The applicant,in this application, stated and asserted that the applicant being a better qualified person was entitled for being considered for appointment to the said post. The respondent authority in a most illegal fashion appointed respondent No.5 overlooking the genuine claim of the applicant.

3. The respondents submitted their written statement and asserted that the person concerned was lawfully appointed after assessing the respective merits. According to the respondents the consideration was primarily given to the candidates with matriculation or equivalent examination. The candidate selected fulfilled all the requirements. It was stated that the applicant failed to submit the vital required document, more particularly about the possession of land.

4. Mr C. Goswami, learned counsel for the applicant, strenuously urged that the applicant was unlawfully rejected from being appointed to the post. Mr Goswami submitted that the applicant is a well qualified person with graduation in Commerce. He secured higher marks than the other candidates in the matriculation examination, which was the relevant qualification. A person with higher merit was required to be considered and failure to consider such case amounted to denial of equal treatment under Articles 14 and 16 of the Constitution, contended Mr Goswami.

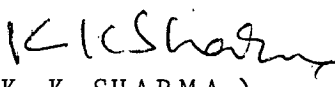
5. Mr A. Deb Roy, learned Sr. C.G.S.C., on the other hand submitted that the very advertisement indicated that the announcement was against a temporary post. The incumbent who was holding the substantive post was on put off duty pending disciplinary proceeding against him. To manage the day to day proceedings of the Post Office an ad hoc appointment was required to be made for managing the Branch. For that purpose the respondent authority considered twentyfive candidates including the applicant who were sponsored by the District Employment Exchange. The authority found the respondent No.5 suitable for appointment and accordingly appointed respondent No.5. Mr Deb Roy submitted that though the applicant was a graduate, the relevant qualification required for the post was matriculation. The respondent No.5 was also a matriculate. Since the applicant failed to prove and establish his landed property his case was not considered and the respondent No.5 who was found suitable was accepted for the post.


6. We have given our anxious consideration in the matter. The applicant, no doubt, is a qualified person, but then if he failed to produce the relevant document.....

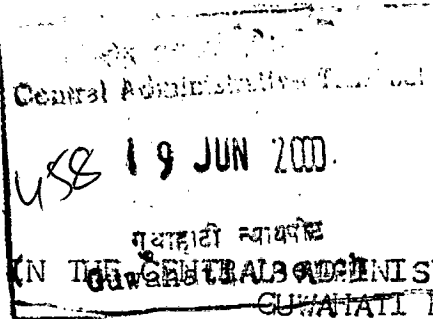
document at the relevant time the respondent could not be faulted for not considering his case. The assertion of the learned counsel for the applicant, that the applicant was in a position to provide suitable accommodation for the Post Office with the necessary supporting documents was seriously disputed by the respondents. If the applicant failed to fulfil the essential qualification the respondents cannot be faulted for not selecting him despite the fact that the applicant secured higher marks in the matriculation examination.

7. In the circumstances we find no merit in this application. The application is accordingly dismissed. We, however, make it clear that the dismissal of the application shall not debar the respondents from considering the case of the applicant against any future vacancy subject to fulfilment of the essential qualification.

No order as to costs.

  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN



12

( An application under section 19 of the Administrative Tribunal Act 1985. )

Original Application No. 191/2000

Shri Hemanta Choudhury,

..... Applicant

- VS -

Union of India and others

... Respondents

I N D E X

<u>Sl. No.</u>	<u>Documents</u>	<u>Pages</u>
1.	Application	1 to 8
2.	Verification	9
3.	Annexure - A	10
4.	Annexure- B	11
5.	Annexure - B-1	12
6.	Annexure - B2	13
7.	Annexure - B 3	14
8.	Annexure - B 4	15
9.	Annexure - B 5	16
10.	Annexure - B 6	17
11.	Annexure - B 7	18-19
12.	Annexure - C	20-21
13.	Annexure - D	22

For use in the Office :-

Signature

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

( An application under section 19 of the  
Administrative Tribunal Act 1965 )

Filed by:

HEMANTA CHOWDHURY

1/3 Applicant  
Through:

Chittaranjan Goswami

Sri Hemanta chowdhury Advocate 16.6.2000

O.A. No 191 /2000

SRI HEMANTA CHOWDHURY

son of Sri Deben Chowdhury

village : Bagurihati

Post Office : Bagurihati

District : Nalbari, Assam

Applicant

- versus -

1. UNION OF INDIA ,

represented by the Secretary,

Department of Post,

Govt of India, New Delhi- 1

2. The Regional Director of

Postal Service. Chief Post

Master General, Assam Circle,

Meghdoot Bhawan, Guwahati- 1

3. Superintendent of Post

Offices, Nalbari.

4. Inspector of <sup>Complain</sup> Post Offices

Nalbari.

5. Sri Ashok Talukdar,

son of Ananta Talukdar

Vill- Bagurihati

Post Office: Bagurihati

Dist: Nalbari, Assam

Respondents

Contd P/2

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

This application is made against the appointment order passed by the Superintendent of Post Offices, Nalbari, by which the Respondent No 5 is appointed as Extra Departmental Branch Post Master at Bagurihati Post Office under Nalbari District. The Respondent No 5 joined in his post on 6.1.2000. The copy of the joining letter could not be obtained by the applicant as such, same could not be produced by the applicant.

2. Jurisdiction :

That the applicant declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :

That the applicant declares that since the cause of action arose on 6.1.2000 this application is made within the period of limitation as has been prescribed Under Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case :

(i) That the Respondent No 3 invited application through the District Employment Exchange Nalbari vide letter dated 14.8.99 for the post of EDBPM (Extra Departmental Branch Post Master) of Bagurihati branch post office. A copy of the aforesaid invitation letter is enclosed herewith and marked as ANNEXURE - A.

(ii) That in pursuance of the aforesaid invitation letter dated 14.8.99, considering the terms and conditions, the name of the applicant has been

recommended alongwith others by the District Employment Exchange.

(iii) That in view of the above, the applicant was called for interview vide letter dated 20.9.99 and asked to appear before the Office of the Respondent No. 3 along with the following documents in original.

- "1. Certificate showing your age.
2. Certificate of having passed the HSLC Examination alongwith Marksheet.
3. Certificate showing that you a permanent resident of your village.
4. Document showing that you are able to provide accommodation for functioning the Branch Post Office.
5. Documents showing your annual income.
6. Document showing landed property in your name.
7. Any other documents/certificates of sports etc."

(iv) The applicant accordingly appeared before the interview on 6.10.99 alongwith all the documents from No 1 to 7 as mentioned in the call letter dated 20.9.99 and copies of the documents were submitted before the interview board.

Copy of the aforesaid letter dated 20.9.99 and copies of the aforementioned documents as mentioned in the letter dated 20.9.99 are annexed herewith and marked as ANNEXURE- B and B1, B2, B3, B4, B5, B6, and B7 respectively.

(v) That the applicant came to know that on 5.1.2000 Respondent No 5 was appointed as EDBPM at Bagurihati Post Office by the Respondent No 3 in violation of the terms and conditions as mentioned at the time of inviting application by letter dated 14.8.99.



(VI) That the applicant begs to state that the Respondent No 5 passed HSLC examination in 3rd division in 4th sitting and able to secured only 32.5 %. Whereas the applicant passed the H.S.L.C. examination in 2nd division in the 1st appearance and able to get 47 % marks. Therefore, in view of the clause 4 of the letter inviting application dated 14.8.99, the applicant is in the better footing than the Respondent No 5 for selection.

(VII) That it is also pertinent to mention here that one inspector of Nalbari Post Office with the lat mandal of the area made a spot verification in regards to the fulfillment of the conditions no 3,4, and 6 mentioned in the inviting letter dated 14.8.99 in respect of the applicant.

(VIII) That the applicant begs to state that at the time of interview the then Superintendent of Post Offices, Nalbari assured that the selection shall be made to the conformity with the rule and according to the marks secured in Matriculation or equivalent examination ; but during the process of selection the then Superintendent was transferred and the present one joined on 10/11.10.99, who made the final selection in violation of all norms.

(X) That on being aggrieved by the decision taken by the respondents in respect of the appointment of E.D.B.P.M. of Bagurihati <sup>Post Office</sup> Branch, the applicant narrating all the facts and grivences in detail filed one representation dated 31.3.2000 before the

17

-: 5 :-

Respondent No 2 and another before the Director General Posts, Dak Bhawan, New Delhi-1 on 31.3.2000. The aforesaid application is still pending before the authorities.

Copies of the aforesaid two representations dated 10.12.2000 and 31.3.2000 are annexed herewith and marked as ANNEXURE C & D respectively.

5. Grounds for relief :

- (i) For that the applicant is in better footing for selection and appointment for the aforesaid poste than the Respondent no 5 in view of the terms and conditions of advertisement letter dated 14.8.99. Therefore, the appointment of Respondent No 5 is liable to be set aside and quashed and the applicant shall be appointed in the post.
- (ii) For that in the clause 4 of the advertisement letter dated 14.8.99 clearly stated that selection will be based on the marks secured in the Matriculation or its equivalent examinations, the applicant secured 2nd Division in H.S.L.C. examination and whereas the Respondent No 5 secured 3rd Division and that too in the 4th sitting. Therefore ~~xxx~~ as per the clause 4 of the advertisement, the applicant is entitled for the post and therefor the appointment of Respondent No 5 is liable to be set aside and quashed.
- (iii) For that the action of the Respondents is in violation of Post and Telegraphs Extra Departmental

(Conduct and Service) Rules 1964 and Method of Recruitment under Section III of the Rules. Therefore the appointment of Respondent No 5 in violation of the above rule is liable to be quashed.

- (iv) For that the interview was taken by the then Superintendent of the Post Offices, Nalbari and the selection and appointment has been made by the new Superintendent without following the due process of law and without applying his mind. Therefore the appointment of Respondent No 5 is bad in law and hence it is liable to be set aside and quashed.
- (v) For that the appointment has been made arbitrarily, and in extraneous consideration which is in violation of the recruitment Rule as well as the terms of the advertisement. Hence the appointment of Respondent No 5 is liable to be quashed.
- (vi) For that the action of the Respondents in non considering the claim of the applicant is very much illegal and unsustainable.
- (vii) For that the action of the Respondents is illegal, unreasonable, unjust and whimsical and in violation Service jurisprudence.
- (viii) For that the action of the Respondents is not maintainable at any rate and is liable to be set aside and quashed.

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Hemanta Choudhury

6. Detail of remedies available :

That the applicant declares that he has already made two representations before Respondents and has taken all the remedies available to him but failed to get justice and hence there is no other alternative efficacious remedy open to him other than to approach this Hon'ble Tribunal.

7. Matter not previously filed and/or pending before any court.:

That the applicant further declares that he has neither previously filed any application, writ petition or suit regarding the matter before any court, authority or any other bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief sought for :

Under the facts and circumstances stated above the applicant prays for the following relief :-

- (i) To direct the Respondents to cancel the appointment of Respondent No 5 in the post of Extra Departmental Branch Post Master at Bagurihati branch post office.
- (ii) To direct the respondents to appoint the applicant as Extra Departmental Branch Post Master at Bagurihati Branch Post Office.
- (iii) Cost of litigation.
- (iv) And any other relief/reliefs as the Hon'ble Tribunal deem fit and proper.

9. Interim relief if any :

Hon'ble Tribunal may be pleased to stay the appointment of Respondent No. 5.

10. Particulars of Inidan Postal Order :

- i) I.P.O. No. :- OG- 497250
- ii) Date of Issue :- 17.5-2000
- iii) Payable at :- Guwahati

11. List of enclosures :

As stated in the Index.

VERIFICATION

I, Shri Hemanta Choudhury, son of Sri Deben Choudhury, aged about 33 years, resident of Bagurihati village, Post Office - Bagurihati, mouza- Pakowa, in the district of Nalbari do hereby verify that the contents of the paragraphs 1 to 12 of the application are true to the best of my knowledge and belief and that I have not suppressed any material fact of the case.

And I sign this verification on this 10 day of June, 2000.

Place : Guwahati

Date : 10.6.2000

Hemanta Choudhury

Signature of applicant.

DEPARTMENT OF POSTS  
OFFICE OF THE SUPDT. OF POST OFFICE: NALBARI BARPETA DIVISION

To

The Employment Officer  
District Employment Exchange, Nalbari

No. A/V-116/EDBP

Dated Nalbari the 14.3.99

Sub :- Appointment of EDBP of Bagarihati EDBO in a/c with Jagara S.O. in the district of Nalbari.

Sir,

A post of extra departmental branch post master is lying vacant at Bagarihati EDBO.

Kindly arrange to nominate at least 5(five) persons from Bagarihati village for the post of EDBPM/Bagarihati EDBO. ||

While nominating the persons the following conditions may kindly be kept in view :-

1. Persons seeking employment as EDBPM must be permanent resident of Bagarihati village. ✓
2. The applicants should have adequate means of livelihood from independent source of income.
3. The applicants should be able to offer suitable accommodation for the post office with provision for installation of PCC even.
4. The applicants should have minimum educational qualification of HSLC passed or equivalent examination. Selection will be based on the marks secured in the matriculation or equivalent examination. No weightage will be given for higher qualification. ✓
5. The applicants must attain the age of 18 years as on 1.1.99.
6. SC/ST applicants may be given preference subject to fulfillment of above conditions.

The applications alongwith supporting documents in r/o applicants nominated for the post of BPM Bagarihati EDBO may be forwarded to this office so as to reach this office on or before 18.9.99

Yours faithfully,

Sd/ x x x x x

Supdt. of Post Offices  
Nalbari Barpeta Dn. Nalbari.

Copy to :

- |   |   |
|---|---|
| 1. The SDI(P)/SPM                       | } for information & make wide publicity in the village and causing early submission of the applications through Dist Employment Exchange. |
| 2. The Gaon Burha of village Bagarihati |   |
| 3. BPM Bagarihati                       |   |
| 4. OC Bagarihati                        |   |
| 5. The SPM Jagara SO.                   |   |

Attested  
Cover  
10.4.2000

ANNEX - 3 - 11-

DEPARTMENT OF POSTS :: INDIA  
Office of the Superintendent of Post Offices :: Nalbari-Barpeta Division  
NALBARI-781335

No. A/X-116/EDA

Dated at Nalbari the 20-09-99

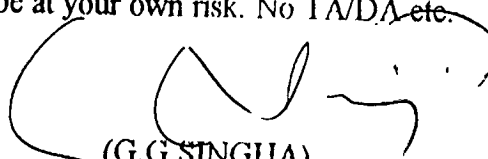
To

Sri/Miss Hemanta Choudhury  
S/o Sri Deben Choudhury  
Will + PO = Bagurikati  
near Jagara, Dist = Nalbari  
Sub: Recruitment for the post of EDBPM, Bagurikati Po  
via Jagara Dist. Nalbari

You are hereby requested to report to this office on 6.10.99  
the Wednesday 1100 A.M. along with the following documents in  
original.

1. Certificate showing your age.
2. Certificate of having passed the HSI.C Examination along with Marks Sheet.
3. Certificate showing that you are a permanent resident of your village.
4. Document showing that you are able to provide accommodation for functioning the Branch Post Office.
5. Document showing your annual income.
6. Document showing landed property in your name.
7. Any other documents/certificates of sports etc. if you have.

2. Failure to attend this office on the stipulated date without valid reason may invalidated your candidature for the post which will be at your own risk. No TA/DA etc. will be granted for this purpose.

  
(G.G. SINGHA)  
Superintendent of Post Offices

*Attended*  
*Ami*  
*12-6-2000*



OFFICE OF THE  
BAGURIHATI HIGH SCHOOL  
P.O. BAGURIHATI

B.H.S. 0/68 706

Certified that Sri/Smt Hemanta Chaulhury  
Son / Daughter of Sri Deben Chandra Chaulhury  
an inhabitant of village Bagurihat in the district of  
Nalbari had appeared in the H. I. L. C. / H. I. L. C.  
compartmental Examination, 1984 under Roll R-109  
No. 93 and passed / detained in I<sup>nd</sup> Division.  
His / Her date of birth according to the Admit Card  
is 1-3-68

I wish him / her success in life.

Attested  
12/11/90  
Headmaster  
Bagurihat High School

15/2/90  
Headmaster  
BAGURIHATI HIGH SCHOOL  
BAGURIHATI

attested  
12.6.2000

Form No. 54

## Board of Secondary Education, Assam



DUPLICATE

GUWAHATI

Date 10.4.1990

No 4683

## MARK SHEET

This is to certify that

Hemanta Choudhury

Roll

R-109

No.

93

of

Bagwihati High

School, has secured marks as detailed below, in the high school Leaving Certificate Examination. 1984.

CORE SUBJECTS														Elective			850 255		Addl.—I				950		Addl.—II Not to be added				Remarks												
First Language					Language in lieu of first Language		Second Language ENGLISH			GENERAL SCIENCE		GENERAL MATHEMATICS		SOCIAL STUDIES		WORK EXPERIENCE		Without Practical		With Practical		Without Practical		With Practical		Without Practical		With Practical													
FIRST PAPER Full marks 100	SECOND PAPER Group A Full marks 50	SECOND PAPER Group B/C Full marks 50	SECOND PAPER TOTAL Full marks 100	TOTAL Full marks 200 Pass marks 60	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	FIRST PAPER Full marks 75	SECOND PAPER Full marks 75	TOTAL Full marks 150 Pass marks 45	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30															
53	25	28	—	106	—	—	15	44	59	40	51	43	54	43	—	—	—	396	30	—	—	—	396	—	—	—	—	II													
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GRAND TOTAL														Full marks		396		Without Practical		Full marks		30		With Practical		Full marks		396													

Marks entered

Marks compared

Date 10/4/90

Date 10/4/90

## HOMB SCIENCE:

Theoretical— 70 21

Practical— 30 9

## CRAFTS &amp; Adv. Sc.

Theoretical— 50 15

Practical— 50 15

## Pass Marks

## AGRICULTURE:

Theoretical— 60 18

Practical— 40 12

## DANCE, MUSIC &amp; FINE ARTS:

Theoretical— 30 9

Practical— 70 21

## Pass Marks

\*Full marks of the Additional to be added to the total marks secured out of 850 to get correct P.C. of marks secured out of 950.

Controller of Examinations

-13-

GOVERNMENT OF ASSAM.

OFFICE OF THE DEPUTY COMMISSIONER ::::::::::: NALBARI.

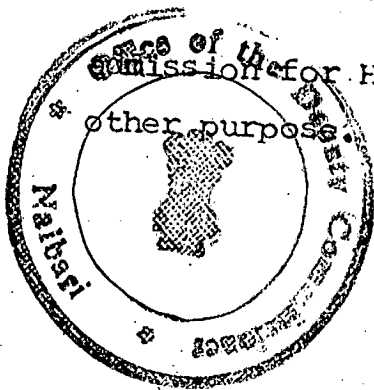
(ADMINISTRATION BRANCH)

NO. NA-7/99/2671.

Dated:- 15-09-99.

This is to certify that Shri/Smt. *Hemanta*.....  
*Choudhury*.....son/daughter/wife/of late/Shri....  
*Deben Choudhury*.....is a permanent resident of village  
*Bagurichati*.....under P.S. *Belson*.  
Mouza *Pakoua*.....of the Nalbari District.

This certificate is applicable only for the purpose of  
admission for Higher education and shall not be valid for any  
other purpose.



*On*  
Addl. Deputy Commissioner  
Addl. Deputy Commissioner,  
Nalbari. Nalbari

*Attended*  
*Q.*  
*15-6-2000*

( English Translated Copy )

C E R T I F I C A T E

Certified that Sri Hemanta Choudhury, son of  
Sri Deban Choudhury, permanent resident of village  
Bagurihati in the district of Nalbari, is able to provide  
necessary accommodation for functioning of Post Office  
at Bagurihati.

Sd/ Illegible

26/4/2000

Gaon Burah, Bagurihati.

Attested  
19-6-2000

- 16-  
28  
ANNEXURE - B 5

GOVERNMENT OF ASSAM

OFFICE OF THE CIRCLE OFFICER, WEST NALBARI CIRCLE

No. 3796

Date 23/6/99

Certi-fied that the annual income of  
Sri Hemanta Choudhury, son of Sri Deben Choudhury,  
resident of Bagurihati village under Pokowa mouza,  
is Rs 25,000/- (Twenty five thousand).

Sd/- Illageble

Attended  
@  
12-6-99

ANNEXURE - 3 6 91

( Translated from Assamese )

GOVERNMENT OF ASSAM  
OFFICE OF THE CIRCLE OFFICER : PACHIM NALBARI: CHAMATA

No. 1368

Date. 26.4.2000

Certified that the land measuring 1 katha 10  
lechas covered by Dag No 591 patta No 307 of village  
Bagarihati, Mouza - Pakoa is mutated in the name of Sri  
Hemanta Chowdhury son of Sri Deven Chowdhury of the  
said village.

Sd/x x x x x

Circle Officer

Pachim Nalbari Revenue Circle

Attended  
12.6.2000

GOVERNMENT OF ASSAM  
OFFICE OF THE DEPUTY COMMISSIONER : : : : : NALBARI.  
( ADMINISTRATION : BRANCH )

NO.NA.19/98/1058

Dated : 31/10/98

CASTE CERTIFICATE.

This is to certify that Shri/S<sup>ati</sup>. *Hemanta*  
*Choudhury* . . . son/daughter/wife of S<sup>ri</sup>.  
*Deben Choudhury* in Nalbari District of the state  
of Assam belongs to S/C . . . *Kaibarta* . . . . .

. . . . . caste/Tribe which is recognised as a Schedule  
Caste under the Constitution (Schedule Caste) order 1950  
the Constitution (Schedule Tribe Order 1950) as amended  
from time to time.

12) Shri/S<sup>ati</sup>. *Hemanta Choudhury*  
. . . . . and his/her family originally reside(s)  
in village/Town *Bagurikati* . . . of Nalbari  
District of the state.

*Signed*  
*15-5-2000*

Place :

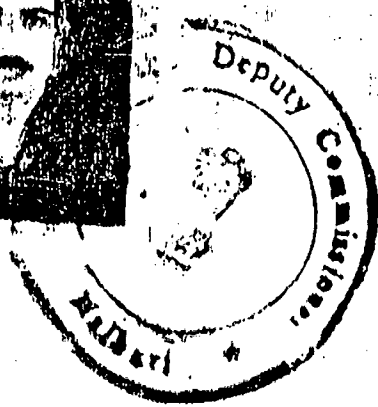
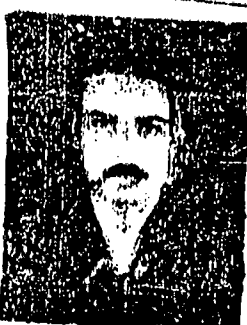
Date :

*[Signature]*  
P.A.C.

For Deputy Commissioner,  
Nalbari

*[Signature]*

31/10

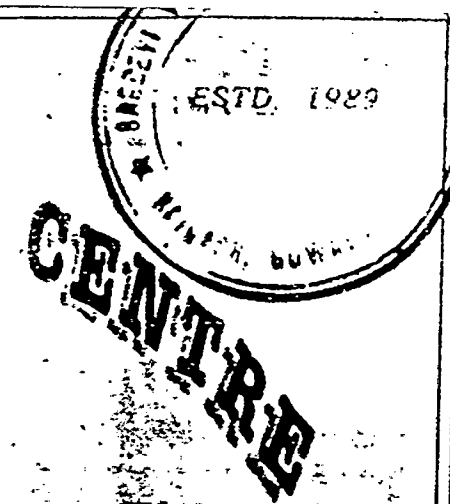


N. RVTCI TE/94/30

# BAGDEVI VOCATIONAL TRAINING

GOVT. RECOGNISED

RAJGARH ROAD : Guwahati-781 007  
COMMERCIAL AND VOCATIONAL DEPARTMENT  
INSTITUTE FINAL DIPLOMA



Certified that Shri/Smti. SSRI HEMANTA CHOUDHURY, S/O Deben Choudhury, Bagurihati, Nalbari.

has attended a full course of training in Shorthand/Typewriting ENGLISH  
for the session 1992-93 ##### of this institute and has successfully passed the Final Diploma  
Examination, having attained speed of 40 (Forty) words per minute respectively and being  
placed in the Second Division/Grade.

He/She has thoroughly acquired the knowledge of using and taking care of various Typewriters of different makes.

I consider him/her qualified to undertake the duties of a TYPIST.

Attested  
10-6-2000

Dated Guwahati.

25th Dec '94.

*[Signature]*  
Instructor

Bagdevi Vocational Training Centre  
Rajgarh Road, Guwahati

*[Signature]*  
Principal

Bagdevi Vocational Training Centre  
Rajgarh Road, Guwahati



- 32  
20-

ANNEXURE - C

To,

The Regional Director of Post Services  
Chief Post Master General  
Assam Circle  
BUWAHATI- 1

Sub:- Appointment of suitable Branch Postmaster at Bagurihati Branch Post Office.

Sir,

Respectfully we the following candidates for appointment of Branch Post Master in Bagurihati Branch Post Office, beg to state the following few lines for your kind consideration & justified action.

1. That Sir, we have applied through the employment Exchange Nalbari for the post of Branch Post Master at Bagurihati Branch Post office in response to the advertisement given by Supdt. of Post Office, Nalbari-Barpeta division, Nalbari. We have submitted all the documents required for said post as notified in the advertisement.

2. Sir, in the said advertisement (Copy enclosed) it was clearly stated in para-4 that the educational qualification of the candidate must be HSLC passed or equivalent examination & selection of candidate will be made basing on the marks secured in HSLC or equivalent examination.

3. Sir, few day earlier Sri Ashoke Talukdar who was also one of the candidates, has been appointed for the said post by Supdt of Post Office, Nalbari Barpeta Division, Nalbari. who got less marks in HSLC examination in comparison to the other at least 4/5 candidates & thereby the genuine candidates (who have all the required documents) has been deprived from the post.

4. Bagurihati Branch Post Office was running in a very deteriorated & mis appropriation in accounting of all the Pass Books & other related documents. Hence, we feel that a suitable & eligible Post Master is very essential & in which it was felt that the genuine candidates will be posted, but in contrary it is noticed that the post master now posted has itself deprived other candidates by the grace of Supdt. of Post Office, Nalbari. Obviously, the post office will not establish a better one than the previous one & the fame of the deptt. will be harmed.

*Submitted  
19.6.2000*

Contd.. Annexure -

In view of the above, we request your kindness to look into the matter & enquired how the said post has been given to a candidate who got less marks in comparison to other candidates & suitable instruction may be issued to the Supdt. of Post Offices Nalbari to appoint the genuine candidate in the Bagurihati Post Office & oblige.

Copy of this letter is also given to the below addressee.

Yours faithfully,  
Sd/-

1. Sri Hemanta Choudhury,
2. Sri Arup Talukdar.
3. Sri Kamaleswar Das.
4. Sri Nabajyoti Medhi.
5. Sri Diganta Choudhury

Dated 10/1/2000

Copy to :-

The Vigilance Officer  
Office of the Chief Post Master  
General (Assam)  
Guwahati - 1

:- For information with  
request to inquire the  
matter at an early date.

ANNEXURE - D

To

The Chief PMG

Assam Circle

Meghdoot Bhawan, Guwahati- 1 .

Sub:- Appointment of suitable Branch Post Master at  
Bagurihat Branch Post Office.

Sir,

Respectfully we beg to state the following few lines for  
kind consideration and favourable action.

1. That Sir, we five boys from village & PO - Bagurihat, PS  
Belsor under the Distt. of Nalbari, have appealed to the  
Regional Director of Post Master, Chief PMG Assam Circle, Ghy-1  
with a copy of to Vigilance Officer, Chief PMG Assam Ghy- 1, in  
connection with the appointment of suitable Branch Post Master  
at Bagurihat Branch Post Office vide our letter dated ~~20.1.2000~~  
10.1.2000. (Copy of the letter is enclosed herewith).

2. Sir, with a great sorrow we have been compelled to inform  
you that till date no fruitful action has been taken to inquire  
the illegal appointment made at our village Branch Post Office.

We, therefore, request your kindness to look into the  
matter immediately and take necessary steps to enquire the ~~same~~  
appointment of Branch Post Master at Bagurihat Branch Post Office  
Office & oblige.

Yours faithfully,

Sd/....

1. Sri Hemanta Choudhury,

2. Sri Arup Talukdar

3. Sri Kamaleswar Das,

4. Sri Nabajyoti Medhi,

5. Sri Diganta Choudhury

Dated 31.1.2000

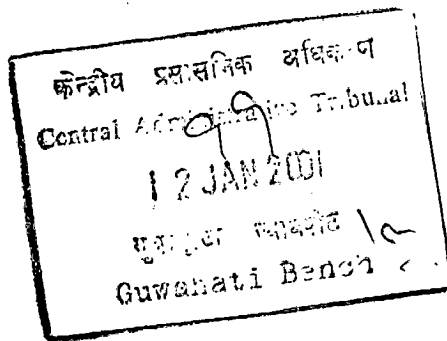
Bagurihat

Copy to :-

Vill &amp; PO - Bagurihat

via - Jagara 781310

Dist :- Nalbari (Assam)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI.

O.A. No. 191/2000

SHRI HEMANTA CHOUDHURY

-VERSUS -

UNION OF INDIA & ORS.

- AND -

~~WRITTEN~~

IN THE MATTER OF :

WRITTEN STATEMENTS FOR AND ON

BEHALF OF RESPONDENTS No . 1, 2,

3 & 4.

I Shri N. DAS, Superintendent of Post Offices ,  
Nalbari Barpeta Division, Nalbari and I have been impleaded  
party respondents No.3 in the instant O.A. I have received  
the copy of the aforesaid O.A. gone through <sup>the</sup> same and under-  
stood the contents thereof, as much I am competent to  
verify and file this written statement for <sup>and on</sup> my own behalf  
as well as for and on behalf of respondents No. 1, 2, 3 & 4.

2. <sup>of the</sup> That this answering respondents does not admit  
any facts, allegation, statements and averments made in the  
O.A. save and except those have been specifically admitted  
here under in this written statement. Further the state-  
ments which are not borne on records have been categorically  
denied.

35 23  
Filed by  
Sri N. Das  
through  
Shri Hemanta Choudhury  
Ad. C.S.C. 12/1/2001

3. That before the traversing to the parawise reply to the O.A. this answering respondents beg to state a ~~brief~~ brief background of the appointment of applicant:

That the post of EDBPM, Bagurihati BO has fallen vacant on the occasion of placing the permanent BPM under put off duty for the cause of misappropriation of Govt. money and the criminal case as well as disciplinary case is pending for disposal.

An arrangement for continuance of the functioning of the office, the charge of BPM was temporarily entrusted to the EDDAC EDMC with the award of consolidated allowances for the exigencies of services, when it was considered that a provisional appointment of BPM is to be made an advertisement was made to the District Employment Exchange, Nalbari on 19.08.99 for sponsoring 5 candidates with conditions as prescribed on the notification.

Accordingly, the District Employment Exchange, Nalbari had submitted at random nomination of 25 candidates with or without all documents against the wanted 5 candidates only. However, in the said list the position of the applicant was not within the serial of the 5 candidates. Any way all the 25 candidates have been called for to produce their original documents for verification which have been done on 06-10-99.

On perusal of the records and documents, departmental rules and procedures, consultation with the community roster, the selection of the candidate as BPM was made on

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Bx

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merit of the matriculate candidates and who fulfilled the condition.

The respondent No.5 was, therefore, selected at right best and appointed as EDBPM, Bagurihatī provisionally till finalisation of the disciplinary proceedings against the permanent BPM on settlement of the case on merit or otherwise decided.

4. That as regards the contents of paragraph 1 of the O.A. this answering respondent~~s~~ respectfully states that the respondent No.5 has been appointed as Extra Departmental Branch Postmaster, Bagurihatī EDBO in account with Jagara SO provisionally subject to the merit and conditions of the disciplinary case pending against the permanent incumbent, Sri Amalendu Talukdar, who is now on put off duty, as per Rules and Regulation of the department in the exigencies of the service, He has joined and is working with satisfaction.

5. That as regards the contents of paragraph 2 & 3 of the O.A. this answering Respondent does not make any comments.

6. That as regards the contents of paragraph 4 (i) of the O.A. this answering Respondent respectfully states that the vacancy was declared and nomination of 5 candidates with the declared conditions have been called for from the District Employment Exchange, Nalbari. In fact, the Employment

Exchange, Nalbari had nominated as many as 25 (twenty five) candidates who have of course at large been given chance to submit the documents for their consideration and selection at right best. The vital condition for qualification was that the candidate should have educational qualification of HSLC passed or equivalent examination and the selection will be based on the marks obtained in the Matriculation (HSLC) or equivalent examination. No weightage will be given for higher qualification.

The conditions have been carried from the departmental Recruitment Rules of Extra Departmental Agents, where there is specific mention and guide line that the qualification of the candidate for EBPM should be Matriculation or equivalent examination passed only. Therefore, the consideration is being primarily given to the candidates with Matriculation or equivalent examination provided with submission of all the required documents. Failure of such conditions by such candidates, will forfeit their claim and the next consideration is shifted to those candidates of higher qualification on the basis of the merit ~~in~~ in the Matriculation or equivalent examination only, provided further that all the documents have been submitted by any of such candidates of higher qualification who may be selected on certain cases.

But in this case, there was qualified Matriculation candidate with the submission of all the document, and he has rightly selected and appointed. There was also the pavement

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of equal consideration on community Roster position of the candidates as per Rules and Regulation of the department. The respondent No.5 belongs to ST and he got consideration.

7. That as regards the contents of paragraphs 4(ii), 4(iii), 4(iv), and 4(v) of the O.A. this answering Respondent does not make any comments.

8. That as regards the contents of paragraph 4(Vi) of the O.A. this answering Respondent respectfully states that there can not be any condition on his total qualification that a candidate has passed any examination and ~~after~~ acquiring basic qualification with the number of chance or sitting. After all the candidate is a Matriculate and have had all documents and merit among all candidates of Matriculation or equivalent examination. Thus he has been selected and appointed as EDBPM, Bagurihat. The allegation as such without valid position or document is extraneous and prejudicial in the interest of justice.

It is transparent that the document at Annexure B-4 dated 26.04.2000 and the document No. 1368 dated 26.04.2000 at Annexure B-6 appear to be for back dated 26.04.2000, than the date of selection in January'2000 which means that the applicant failed to submit the vital required documents and at large has brought the case on the basis of manipulation of records only.



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99. That as regards the contents of paragraph 4(vii) of the O.A. this answering Respondent respectfully states that it appears that the Inspector of Nalbari Post Office, viz Public Relation Inspector (Postal) was not at all deputed to meet the Lai Mandal for verification of the documents as mentioned in 3, 4 and 6 in the letter dated 14.08.99, beyond what have been checked and examined on 06.10.99 as usually with the original documents.

10. That as regards the contents of paragraph 4(viii) of the O.A. this answering Respondent respectfully states that while there was declared conditions and thereafter, there was no reason of assuming any further conditions by the out going Superintendent and even though the selection was made by the incoming Superintendent, as alleged there was no violation of any norms as noted against each paras especially at para 4(i)(vi) above.

11. That as regards the contents of paragraph 4(ix) of the O.A. this answering Respondent respectfully states that the serial is broken.

12. That as regards the contents of paragraph 4(x) of the O.A. this answering Respondent respectfully states that it appears that a copy of the common representation dated 31.01.2000, made by 5 candidates addressed to the Chief PMG, Assam Circle, Guwahati was received from the said office and detailed reply has been furnished to him in time. Since the case is still under persuasion and

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and it is being examined at right angles, the candidates may have a reply in due course and time.

13. That as regards the contents of paragraph 5(i) of the O.A. this answering Respondent respectfully states that there is no ground of the applicant O.A. No.191/2000 for consideration for selection that he had higher qualification raising to B. Com while there was eligible candidates of Matriculation. Moreover, he did not submit his vital documents as mentioned with replies against para 4(vi) above.

14. That as regards the contents of paragraph 5(ii) of the O.A. this answering Respondent respectfully states that the condition of clause 4 of the advertisement letter dated 14.8-99 stands mutatis mutandis, with the details as explained under para 4(i) (vi) above.

15. That as regards the contents of paragraph 5(iii) of the O.A. this answering Respondent respectfully states that there was no violation of method of Recruitment under section IV of the Rules of P & T EDA ( conduct & service ) Rules, 1964, to the extent of this appointment is concerned.

16. That as regards the contents of paragraph 5(iv) of the O.A. this answering Respondent respectfully states that the process was on the papers and documents examined and verified earlier and the selection was only made, by going through the papers, documents and conditions, provisions of Rules and Regulations, Roster position etc. and therefore,

made to the right best candidate, who is working nicely, being examined with the condition of services.

17. That as regards the contents of paragraph 5 (v) of the O.A. this answering Respondent respectfully states that there was no mention to the cause of arbitration and extraneous conditions and so, this statement of ground is illusory.

18. That as regards the contents of paragraph 5(vi) of the O.A. this answering Respondent respectfully states that the statement is illusory, keeping the consideration on the above facts and information.

19. That as regards the contents of paragraph 5(vii) of the O.A. this answering Respondent respectfully states that these are the ornaments on the allegation of fact and these are totally illusory.

20. That as regards the contents of paragraph 5(viii) of the O.A. this answering Respondent respectfully states that the Respondent does not make any comment, being illusory.

21. That as regards the contents of paragraph 6 of the O.A. this answering Respondent respectfully states that while the case is still under investigation of the department, it can not be said that he has exhausted all the remedies and has failed to get justice if there is lacking any.

22. That as regards the contents of paragraphs 7, 8, 9, 10 & 11 of the O.A. this answering Respondent does not make any comments.

That the statement made in paragraphs 1, 2, 5 and 7 of the affidavit are true to my best of my knowledge and belief and those have been made in paragraph 3, 4, 6, 8, 9, 10, 11 and 12 are true to the best of my information which have been derived from the records and the rest are my humble submission before the Hon'ble Tribunal.

And I sign this affidavit this 23<sup>rd</sup> day of November, 2000.

Identified by me

*Bhaskar Singh Basumatary*  
Advocate.

*Niranjana Das*,  
Deponent

Superintendent of Post Offices,  
Nalbari, Barpeta Division  
Nalbari-781005

The Deponent has solemnly affirmed and declared before me who has been identified by Shri B.S. Basumatary, Addl. C.G.S.C. This the day of 23<sup>rd</sup> day of November, 2000.

Advocate.