

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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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. 825/2000 OF 199

Applicant(s) Sri Sarpanw Mr. Chatterjee and ane.

Respondent(s) Union of India and o/s.

Advocate for Applicant(s) Mr. A. Ahmed.

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

Notes of the Registry	Date	Order of the Tribunal
Mr. Application filed within date of P. of Rs. 50/- Received vide J.P. No. 6922/10 Date of 2-2-2000  S. Basumatary Ran 5/7/2000	5.7.00	<p>Present : Hon'ble Sri S.Biswas, Member (A).</p> <p>Mr. A. Ahmed, learned counsel for the applicants and Mr. B.S.Basumatary, learned Addl. C.G.S.C. for the respondents.</p> <p>Heard the counsel for the applicants as well as Mr. B.S. Basumatary. Mr. Basumatary submits that he has no opportunity to verify whether the statement made in para 4.7 of the application is correct or not. In this paragraph it has been averred that two or three juniors as per the provisional seniority in Annexure A have been permitted by the respondents to take the limited departmental competitive examination and the applicants who are senior to them have been omitted, if this chance is not given their service career would be</p>

Contd..

## Notes of the Registry

## Date

## Order of the Tribunal

5/7/00

Notice prepared and sent to  
Section for hearing the  
respondent No 1 to 4. Vide  
DINo 1770 to 1773 dtd  
6/7/00

Ans  
5/7/00

Notice duly served on  
respondent No 2 & 3.

Notice duly served on  
respondent No 1, 2 & 3.

5.7.00

affected. The examination is to be held on 6.7.2000.

Considering the facts that the departmental limited examination is scheduled to be held on 6.7.2000 and 7.7.2000 at Guwahati the respondent nos. 3 and 4 shall be permitted to the applicants to sit in the examination. Any promotion consequent to the examination will be subject to the outcome of this O.A.

Post on 4.8.2000 for further order.

O.A. is admitted. Issue usual notices. Returnable on 4.8.2000.

The joint application prayer is allowed.

S. Basumatary

Member (A)

trd

BS  
5/7/2000

4.8.00

There is no sum. ad'm

to 12.9.00

BS  
h

13-12-2000

Written statement  
has been filed by  
the respondents No 1, 2, 3, 4.

12.9.00

Mr Basumatary to be listed on

20.11.00

BS  
h

20.11.00

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

Four weeks time is granted to file written statement on the prayer of Mr B.S. Basumatary, learned Addl. C.G.S.C.

List on 21.12.00 for written statement and further orders.

Vice-Chairman

3

4

Notes of the Registry	Date	Order of the Tribunal
	21.12.00	<p>Written statement is filed. The applicant may file rejoinder, if any, within two weeks from today.</p> <p>List on 19.1.2001 for hearing.</p>
<p><u>10-1-2000</u></p> <p>Rejoinder has been filed by the applicant Advocate.</p> <p>Par</p>	pg	<p><u>ar</u> Member</p> <p><u>L</u> Vice-Chairman</p>
	19.1.2001	<p>Heard the learned counsel for the parties.</p> <p>Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p>
<p><u>26.2.2001</u></p> <p>Copy of the Judgment has been sent to the Dsec. for issuing it due to the applicant as well as to the Addl. C.G.S.C.</p> <p>Sh</p>	nkm	<p><u>L C Usha</u> Member(A)</p> <p><u>L</u> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A. / ~~XXX~~ No. 225 . . . of 2000

DATE OF DECISION 19.1.2001

1. Shri Swapan Kumar Chakraborty

2. Shri Jagannath Paul

PETITIONER(S)

Mr A. Ahmed

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr B.S. Basumatary, Addl. C.G.S.C.

ADVOCATE FOR THE  
RESPONDENTS

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

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

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

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Orginal Application No.225 of 2000

Date of decision: This the 19th day of January 2001

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

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

1. Shri Swapan Kumar Chakraborty,  
Upper Division Clerk,  
Office of the Executive Engineer (Electrical),  
Guwahati Electrical Division-I,  
Central Public Works Department,  
Guwahati.
2. Shri Jagannath Paul,  
Upper Division Clerk,  
Office of the Executive Engineer,  
Silchar Electrical Division,  
Central Public Works Department,  
Silchar.

.....Applicants

By Advocate Mr A. Ahmed.

- versus -

1. The Union of India, represented by  
The Secretary,  
Government of India,  
Ministry of Urban Development,  
New Delhi.
2. The Director General (Works),  
Central Public Works Department,  
New Delhi.
3. The Superintending Engineer,  
Coordination Eastern Region,  
Calcutta.
4. The Superintending Engineer,  
Assam Central Circle I,  
Central Public Works Department,  
Guwahati.

.....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....

X

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The applicants, two in number, are working in the Central Public Works Department (CPWD for short) as Upper Division Clerk. The applicant No.1 is working in the Office of the Executive Engineer, Electrical Division-I, Guwahati and the applicant No.2 is working in the Office of the Executive Engineer, Silchar Electrical Division, Silchar. Their grievances are same and similar and the cause of action and nature of relief are also same and similar. Accordingly leave is granted to pursue their grievance in the same application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. By order dated 3.4.1995 these two applicants alongwith thirty others were promoted to the post of Upper Division Clerk (UDC for short) from the date of actual assumption of charge of the higher post until further orders and on promotion they would be on probation for a period of two years. The office order of promotion dated 3.4.1995 advised the promoted Lower Division Clerks (LDC for short) to intimate their acceptance or refusal of promotion/transfer within fifteen days (for promotees in Calcutta) and twenty days (for promotees at outstation) from the date of issue of the order. The order also indicated that any conditional acceptance of promotion would not be accepted and all controlling officers were advised not to recommend the conditional acceptance of promotees to the concerned office. The order further made it clear that in case of non-receipt of any intimation about the promotees' acceptance of promotion in time, their promotion order would be cancelled straightaway and the next person in the panel would be promoted in their place without making any further reference. The applicants also stated that pursuant to their order of promotion, the applicants accepted the same within twenty days from the date of issue of the order of promotion, but their respective controlling officers released them at a later date. The applicant No.1 joined his promotional post on 9.8.1995 and the applicant No.2 joined his

promotional post on 15.12.1995 on release from their respective posts by their respective employers. A seniority list of the UDCs as on 1.1.1998 was published wherein the applicant No.1 was shown at serial No.239 and the applicant No.2 at serial No.240. The respondent No.3 issued a Notification to all concerned vide letter dated 31.12.1999 inviting applications to fill up about twenty six posts of Head Clerks through Departmental Competitive examination to be held on 3.4.2000 and 4.4.2000 from amongst the UDCs having five years service in the cadre. There was a little modification of the communication dated 31.12.1999 and the date of examination was re-scheduled on 6.7.2000 and 7.7.2000. The applicants applied for permission to appear in the said examination. However, by O.M. dated 8.6.2000, the respondent authority published a list permitting the UDCs to appear in the Departmental Competitive Examination for Head Clerks scheduled to be held on 6.7.2000 in respect of centres mentioned. The name of the applicants did not appear in the list. Feeling aggrieved, the applicants moved this Bench assailing the action of the respondents, refusing them to participate in the competitive examination. Hence this application.

3. By order dated 5.7.2000 an interim order was passed by the Tribunal directing the respondents to permit the applicants to sit in the examination.

4. The respondents submitted their written statement and stated in clear terms that the respondent authority did not permit the applicants to appear in the examination since they did not fulfil the essential qualification, namely the minimum five years continuous service in the cadre as on 30.6.2000. According to the respondents since the applicants did not fulfil the requirement of continuous service of five years in the cadre of UDCs they were found ineligible and therefore, permission was not granted to these two applicants to appear in the examination for promotion to the post of Head Clerk.

5. Mr A. Ahmed, learned counsel for the applicants submitted that by the same order these two applicants and persons mentioned at para 4.7 of the application were also permitted. Since they were released by their respective authority they joined earlier and these two applicants were not released by their respective employers on public duty. The applicants accepted the promotion and they could assume their promotional post only after their release. Mr Ahmed referred to the promotional list and also the inter se seniority list and submitted that the name of the applicant No.1 was shown at serial No.239 and that of the applicant No.2 at serial No.240 in the provisional list, whereas Kanti Acharya, Sanjoy Kr Karan, D. Debnath, J.P. Sapui and Gurudas Das were shown below the applicants, but they were called for the interview only on the ground that they could join in their respective promotional posts earlier, leaving out their seniors. Mr Ahmed submitted that the aforesaid action of the respondents is arbitrary, discriminatory and contrary to the O.M. and note in the CPWD Manual, Vol.I to the following effect:

"A note that when juniors who have completed the eligibility period are considered for promotion their seniors would also be considered irrespective of whether they have completed the probation period, should be indicated in the Recruitment Rules in order to ensure that seniors who might have joined later due to various reasons are not overlooked for promotion."

Mr Ahmed also referred to a judgment of the Central Administrative Tribunal, Principal Bench in O.A.No.2112 of 1994, P.K. Jha vs. Union of India and others, decided on 18.8.1999 in support of his contention that seniors have to be considered for promotion when their juniors who have completed the requisite service are considered.

6. Mr A. Deb Roy, learned Sr. C.G.S.C., appearing on behalf of the respondents, on the other hand, submitted that the respondents only acted as per the eligibility condition prescribed for the post of Head Clerk. Since a minimal period of continuous service in the cadre was prescribed and unless one fulfils the requirement, the question of allowing the applicants to appear in the Departmental Competitive Examination did not arise. The respondents all throughout acted bonafide and sought to comply with the rules and norms prescribed by the respondents themselves.

7. From the narrations made above it emerges that these two applicants were promoted to the post of UDC as per the order of promotion dated 3.4.1995. There is also no dispute that the applicant No.1 joined in the promotional post on 9.8.1995 and the applicant No.2 joined his promotional post on 15.12.1995. The applicant No.1 was serving at the relevant time of promotion under ACC/Guahati and posted to the Office of the TCD/Agartala. Similarly the applicant No.2 was serving in the office of the CCD-VII/Calcutta and was transferred to the office of the DCD/Dinhata. For administrative exigency they were not released. The applicants could not join the promotional post immediately not due to their own volition, but for the exigency of administration. The applicants were all along discharging their public duties. Such eventuality were taken note of in the O.M. as well as the CPWD Manual, which also envisaged not to bypass the seniors who might have joined later on due to various reasons and they were not to be overlooked for promotion. The inter se seniority list all throughout maintained these two applicants as senior to Kanti Acharya, Sanjoy Kr Karan, D. Debnath, J.P. Sapui and Gurudas Das. Since the juniors were given the permission to appear in the Departmental Competitive Examination, the denial of permission to these two applicants to appear in the examination cannot be held as just, reasonable and fair. The applicants under the circumstances could not have been debarred to sit in the Departmental Competitive Examination for promotion from UDC to Head Clerk. The refusal of the respondents on the aforementioned grounds set out above, therefore, cannot be justified. It appears that both the applicants have appeared in the examination by virtue of the order of this Bench. The respondents are now directed to declare the results and act pursuant to the results of the examination.

8. The application stands allowed to the extent indicated. There shall, however, be no order as to costs.

*K. K. Shamra*  
( K. K. SHAMRA )  
ADMINISTRATIVE MEMBER

*D. N. Chowdhury*  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

58 64 JUL 2000  
गुवाहाटी न्यायालय  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985 )

ORIGINAL APPLICATION NO 225 OF 2000.

Shri Swapan Kr. Chakraborty & another.  
Applicants.

-Versus-

Union of India & Others

Respondents.

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Filed by  
Signature  
Advocate. (ADIL AHMED)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 225 OF 2000.

B E T W E E N

1) Sri Swapan Kumar Chakraborty,  
Upper Division Clerk,  
Office of the Executive  
Engineer(Electrical),  
Guwahati Electrical  
Division-I, Central Public  
Works Department,  
Guwahati-21.

2) Jagannath Paul,  
Upper Division Clerk,  
Office of the Executive  
Engineer, Silchar Electrical  
Division, Central Public  
Works Department, Malugram,  
Mela Road, Silchar - 2.

Applicants.

- AND -

1) The Union of India,  
represented by the Secretary,  
Government of India, Ministry of  
Urban Development,  
New Delhi-110011.

*S. K. Chakraborty*

Filed by  
Sri Swapan Kumar Chakraborty  
(Applicant)  
Handed over (2)  
(Asst. A.M.E.)  
Advocate

2) The Director General (works)  
 Central Public Works Department,  
 Nirman Bhawan, New Delhi-110011.

3) The Superintendent Engineer, Co-  
 ordination Eastern Region, Nizam  
 Palace, Calcutta-700020.

4) The Superintending Engineer,  
 Assam Central Circle I, Central  
 Public Works Department,  
 Bamunimaidan, Guwahati-21.

-Respondents

DETAILS OF THE APPLICATION:

1) PARTICULARS OF THE ORDER AGAINST  
 WHICH THE APPLICATION IS MADE:

i) The application has not been made against any particular order but praying for an appropriate direction from this Hon'ble Tribunal to the Respondents to allow the applicants to appear in the Departmental Competitive Examination for filling up the post of Head Clerk vide O.M. No. 9(58)/SE(C)/EZ/2000/Cal/1265 dated 31-12-99 and even No. 168 dated 23-02-2000 and even No. 516 dated 29-05-2000. The aforesaid Examination Scheduled to be held on 06-07-2000 and 07-07-2000.

S. K. Chakrabarty

## 2) JURISDICTION OF THE TRIBUNAL:

The applicants declare that the Subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

## 3) LIMITATION

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

## 4) FACTS OF THE CASE :

Facts of the case in brief are given below:

4.1 That your humble applicants are citizens of India and as such, they are entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 That your applicants beg to state that applicants are working in the Central Public Works Department as Upper Division Clerk. The Applicant No. 1 is working in the Office of the Executive Engineer, Electrical Division-I, Guwahati 21. The Applicant No. 2 is working in the Office of the Executive Engineer, Silchar Electrical Division, Silchar.

*S. K. Chakraborty*

4.3 That your applicants beg to state that they have got common grievances, common cause of action and the nature of relief prayed for is also same and similar and hence having regard to the facts and circumstances they intend to prefer this application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4 (5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pursue the instant applicants redressal to their common grievances.

4.4 That the applicants beg to state that as per provisional seniority list of Upper Division Clerk in Central Public Works Department, Region 'B' as on 01-01-98 the applicant No. 1 is in Serial No. 239 and the applicant No. 2 is in serial No. 240. The Provisional Seniority List of Upper Division Clerk was issued by the Respondent No. 3 vide Office Memorandum No. 9(59)/SE(C)/EZ/Cal/98/870 dated 27-11-98.

Annexure-A is the photocopy of relevant portion of Provisional Seniority List of Upper Division Clerk of C.P.W.D. issued by the Respondent No. 3.

*S. K. Chakraborty*

4.5 That your applicants beg to state that the Respondent No.3 has issued a notification to all concerned vide his letter No. F No. 9 (58)/99/SE(Coord)ER/1265 dated 31-12-99 inviting applications to fill up approximately 26 posts of Head Clerk through Departmental Competitive Examination to be held on 03-04-2000 and 04-04-2000. The aforesaid Examination open to the Upper Division Clerks having 5 (Five) years service in the Cadre. It may be stated that said O.M. dated 31-12-99 has been modified vide Corrigendum F No. 9(58)99/SE(Coord)/ER/168 dated 23-02-2000 and the date of examination has been rescheduled on 06-07-2000 and 07-07-2000.

Annexure-B is the photocopy of Notification No. F No. 9 (58)/99/SE (Coord) ER/1265 dated 31-12-99 issued by the Respondent No. 3.

Annexure-C is the photocopy of Corrigendum F No. 9(58)99/SE (Coord) /ER/168 dated 23-02-2000 issued by the Respondent No. 3.

4.6 That your applicants beg to state that after issuance of Notification for Departmental Competitive Examination for filling up posts of Head Clerks your applicants applied before the Respondents for granting permission to appear in the said Examination.

*S. K. Chakraborty*  
 9/895 - 4meri  
 13.12.93 8  
 13.12.93

Annexure-D is the photocopy of one such application filed by the applicant No. 1 before the Respondents.

4.7] That your applicants beg to state that the Respondent No.3 vide Office Memorandum No. 9(58)/SE(C)/ER/2000/ Cal /565, dated 08-06-2000 issued permission to the Upper Division Clerks to appear in the said examination to be held on 06-07-2000 and 07-07-2000. Most surprisingly in the said Office Memorandum the names of applicants of this instant application have not appeared. But their junior persons who are juniors to the applicants as per Provisional Seniority List of Upper Division Clerk which is annexed in this application as Annexure-A are granted permission to appear in the said examination vide Office Memorandum dated 08-06-2000. The Upper Division Clerks in Serial Nos. 242, 243 & 244 of the Seniority List of Upper Division Clerk are granted permission by the Respondent No. 3 to appear in the said examination. It may be stated that applicant No. 1 & 2 are in Serial No. 239 & 240 of the Seniority List of Upper Division Clerks.

Annexure-E is the Photocopy of Office Memorandum No. 9(58)/SE(C)/ER/2000/ Cal /565 dated 08-06-2000.

4.8] That your applicants beg to state that till today the Respondents have not issued any clarification or correction for

*S. K. Chakrabarty*

granting permission to the applicants for appearing in the said examination to be held on 06-07-2000 and 07-07-2000. Nor the Respondents have informed the applicants the reasons for not considering applicants' name for appearing in the said Examination of Head Clerk. And as such, finding no other alternative the applicants are compelled to approach this Hon'ble Central Administrative Tribunal for seeking justice.

4.9] That the applicants beg to state that in any case the applicants are not allowed to appear in the ensuing examination as referred above they will face irreparable loss and injuries in their service carrier.

4.90 That your applicants beg to state that the actions of the Respondents are illegal, arbitrary, violative of the principle of natural justice. The acts of the Respondents are whimsical. It is further stated that the Respondents have acted with a mala fide intention to deprive the applicants from their legitimate rights.

4.10 That the applicants made out a prima facie case against the Respondents for not allowing them to appear in the said examination. The principle of balance of convenience lies very much in favour of the applicants and in view of the matter the applicants pray for an interim order directing the respondents to allow them to appear in the said examination pending disposal of this application.

*S. K. Chakrabarty*

4.12 That your applicants submit that they have filed this application bona fide and for the ends of justice.

**GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the applicants have made a prima facie case against the Respondents and hence, the action of the Respondents is illegal and mala-fide.

5.2 For that the action of the respondents are arbitrary and violative of Principles of natural justice.

5.3 For that the similarly situated junior persons are granted permission to appear in the said examination but the applicants who are senior to those persons are not allowed to appear in the said examination and as such the action of the Respondents are whimsical and also violative of the fundamental rights of the applicants.

5.4 For that the Respondents have not applied their mind properly in granting permission to the eligible persons and hence the same is liable to be set aside and quashed.

5.5 For that the Respondents have not scrutinized the Seniority list of the Upper Division Clerks properly and

*S. K. Chakrabarty*

thoroughly hence the said permission for appearing in the said examination of Head Clerk vide letter dated 08-06-2000 is liable to be set aside and quashed.

5.6 For that the action of the Respondents is illegal, arbitrary and not sustainable in law.

5.7 For that being a model employer the Respondents can not deprive the applicants without any justification and reason.

5.8 For that in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The applicants crave Leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this application.

6) DETAIL REMEDY EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Court under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR, PENDING BEFORE ANY OTHER COURT:

*S. K. Chakraborty*

The applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other 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 PRAYED FOR:

Under the facts and circumstances narrated above it is prayed that your Lordship may be pleased to admit this petition, records be called for and issue notices to the Respondents to show cause as to why the reliefs sought for in this application should not be allowed and on perusal of the records and after hearing the parties and/or cause or causes that may be shown, the Hon'ble Tribunal may be pleased to grant the following reliefs:

- 8.1 To direct the Respondents to allow them to appear in the ensuing Departmental competitive Examination for the post of Head Clerks to be held on 06-07-2000 and 07-07-2000.
- 8.2 To direct the Respondents to issue admit cards/ call letters to the

*S. K. Chakraborty*

✓✓  
 applicants to enable them to appear in the aforesaid examination to be held on 06-07-2000 & 07-07-2000 at Guwahati.

8.3 To pay the cost of the case to the applicants;

8.4 Any other relief or reliefs that may be entitled to the applicants.

9) **INTERIM ORDER PRAYED:**

During the pendency of this application, the applicants pray for the following interim order:

9.1 The applicants pray for an interim order directing the Respondents to allow them to appear in the said competitive examination for the post of Head Clerk scheduled to be held on 06-07-2000 and 07-07-2000.

10) APPLICATION IS FILED THROUGH ADVOCATE.

11) **PARTICULARS OF I.P.O.**

I.P.O.No. : OG 497710

Date of Issue: 3.7.2000

Issued from : Guwahati C.P.O

Payable at : Guwahati

**LIST OF ENCLOSURES:**

As stated in index.

✓ Verification.

S. K. Chakrabarty

## VERIFICATION

I, Sri Swapan Kumar Chakraborty, Upper Division Clerk, Office of the Executive Engineer(Electrical), Guwahati Electrical Division-I, Central Public Works Department, Guwahati-21, applicant No. 1 of the this application and I am authorised to sign this verification on behalf of other applicant and verify the statements made in the accompanying application and in paragraphs 4.1 to 4.3, 4.6, 4.8 &

4.11 are true to my knowledge, those made in paragraphs 4.4, 4.5, 4.7 are true to my information being matters of record and which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 3rd day of July 2000 at Guwahati.

*S. K. Chakraborty*  
(SWAPAN KUMAR CHAKRABORTY)

*Declarant*

- 13 -

GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT

ANNEXURE - A

No. : 9(59)/SE(C)/EZ/Cal/98/ 870

Dated: - 27/11/98

OFFICE MEMORANDUM

Sub : Provisional seniority list of UDCs in  
Region 'B' as on 01/1/98.

A draft seniority list of UDCs in CPWD under Region 'B' as on 01/1/98 is sent herewith. All SES/SSWs/EES in CPWD Eastern Zone, IBB Zone, IBB(Mtn.)Zone, Patna Zone, North Eastern Zone are requested to circulate the list to all concerned staff and objections if any, with regards to actual position of UDC such as Date of Birth, Date of appointment as UDC etc. etc. received from the individual may please be checked with reference to entries in the Service Books of staff and sent to this office for necessary action of this office.

Enclo : One Seniority List.

Superintending Engineer  
Coordination Circle (EZ)  
Central PWD, Cal-28.

Copy to :  
01. The Director General of Works, CPWD, Nirman Bhawan, New Delhi-11.  
02. All SES/SSWs/EES under Region 'B'.  
03. The Secretary, CPWD Staff Association, Cal.  
04. The Regional Secretary, CPWD Non-Gazetted Office Staff Association, Cal.

12/11/98  
26/11/98  
SUPERINTENDING ENGINEER (EZ)

26/11/98  
26/11/98

(Handwritten signature)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
227.	Somnath Adhikary	UR	08/12/64	14/12/90	16/5/95		06/1/95	MCD/Mekhliganj	
228.	Sandip Kr. Nandy	UR	19/1/68	24/12/90	19/6/95		06/1/95		
229.	Sukhendu Saha	UR	01/11/57	07/10/91	03/5/95		06/1/95	MCD-II/Berhampore	
230.	Rita Banerjee	UR	08/5/47	03/10/68	05/4/95	01/4/88	03/4/95	CCD-III/Cal	
231.	A.K. Chakraborty	UR	15/1/44	20/1/69	30/10/95	01/4/88	03/4/95	CCEC-I/Cal	
232.	Tapati Sarkar	UR	06/1/44	09/5/69	17/4/95	01/4/88	03/4/95	CCED-I/Cal	
233.	P.K. Majumdar	UR	07/6/44	17/8/71	19/7/95		03/4/95	CCED-I/Cal	
234.	M.M. Chakraborty	UR	05/10/42	10/11/71	06/4/95	01/4/88	03/4/95	CCD-I/Cal	
235.	Gargi Lina Kar	UR	01/1/48	23/12/71	05/6/95	01/4/88	03/4/95	CCD-VIII/Cal	
236.	R.K. Som	UR	24/3/54	04/2/72	12/10/95	01/4/88	03/4/95	SCED/Silguri	
237.	Manika Basak	UR	20/5/54	03/6/72	15/5/95	01/4/88	03/4/95	SSC-I/Siliguri	
238.	Netai Ch. Das	SC	07/5/57	04/8/82	13/9/95	01/4/88	03/4/95	SCC/Silchar	
239.	Skapan Kr. Chakraborty	UR	10/11/59	21/10/82	09/8/95	01/4/88	03/4/95	GCED-I/Ghy.	
240.	Jagannath Paul	UR	05/12/60	05/11/82	15/12/95	01/4/88	03/4/95	SCED/Silchar	
241.	Kanti Acharya	UR	02/11/64	10/4/85	05/7/95		03/4/95		
242.	Sanjoy Kr. Karan	UR	08/2/59	13/9/85	05/6/95	01/4/88	03/4/95		
243.	Dulal Debnath	UR	03/1/59	29/11/85	29/4/95	01/4/88	03/4/95	CCD-VI/Cal	
244.	Joye Prakash Sapui	UR	16/11/60	02/12/85	12/6/95	01/4/88	03/4/95	SCC/Sil...	
245.	Gurudas Das	SC	28/2/61	19/10/89	17/7/95	01/4/92	03/4/95	SCC/Sil...	

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**PROVISIONAL SENIORITY LIST OF U.D.C. IN REGION 'B', AS ON 01/1/98.**

SL. NO.	Name	SC/ST/UR Birtch	Entry	Actual	Effective to	Remarks
01. P.Bhadot	Shri/Smt./Ms.	UR 03/11/44	04/3/63 30/6/76 01/3/80	30/6/76	18/10/76 DCD/Dhanbad	04/12/71 08/12/77 01/8/84 14/10/77 SSW(EZ-I)/CA1.
02. H.K.Mondal		SC 27/4/55	05/12/62 30/4/79	01/8/84	20/3/78 CEC-II/CA1	06/8/66 20/11/78 01/8/84 20/3/78 DCD/Dhanbad
03. Samir Choudhury		UR 01/10/51	01/10/71 29/12/79	01/8/84	17/10/79 DCD/Dhanbad	19/12/62 12/8/80 19/7/80 CEC-IV/CA1
04. K.Mu11ick		SC 09/6/43	05/12/62 30/4/79	01/8/84	20/3/78 CEC-II/CA1	01/10/71 29/12/79 01/8/84 17/10/79 DCD/Dhanbad
05. Lalati		ST 31/12/47	06/8/66 20/11/78	01/8/84	20/3/78 DCD/Dhanbad	19/12/62 12/8/80 19/7/80 CEC-IV/CA1
06. B.Murtmu		UR 13/5/41	05/9/61 20/11/80	01/8/84	20/3/78 DCD/Dhanbad	19/12/62 12/8/80 19/7/80 CEC-IV/CA1
07. S.S.Singh		ST 31/3/42	19/12/62 12/8/80	01/8/84	20/3/78 DCD/Dhanbad	19/12/62 12/8/80 19/7/80 CEC-IV/CA1
08. S.K.Chatterjee		UR 31/3/42	02/1/44	04/3/63 30/6/81	01/8/68 28/4/81 BFR/CA1	28/4/81 CEC-III/CA1
09. Balaswar Roy		SC 23/1/44	23/5/63	18/7/81		16/12/81 GCD/Gantotok
10. G.C.Mondal		SC 02/1/44	04/3/63	01/8/81	01/8/68 28/4/81 BFR/CA1	16/12/81 GCD/Gantotok
11. S.K.Pradhan		SC 02/1/44	04/3/63	01/8/81	01/8/68 28/4/81 BFR/CA1	16/12/81 GCD/Gantotok
12. Sriharayan Prasad		UR 14/4/41	22/4/61	08/1/63	08/1/63 16/12/81	16/12/81 GCD/Gantotok
13. Karunamoy Das		SC 19/10/42	08/5/63	08/1/63	08/1/63 16/12/81	16/12/81 GCD/Gantotok
14. R.S.Singh		ST 12/1/46	02/8/68	04/7/83	04/7/83 16/12/81	16/12/81 GCD/Gantotok
15. N.G.Burman		SC 01/2/47	31/1/72	15/10/82	01/7/72 15/10/82	20/5/82 CEC-IV/CA1
		SC 01/5/53	02/2/72	01/7/72	01/7/72 15/10/82	20/5/82 CEC-IV/CA1

**GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT**

F.NO: 9(58)99/SE(Coord)/ER/ 1265

Dated. 31.12.1999

**OFFICE MEMORANDUM**

Applications are hereby invited from **Upper Division Clerks** having **5 (five) years service in the cadre** in order to fill up approximately **26 (twenty six)** posts of Head Clerks through **Departmental Competitive Examination** for filling up vacancies in the grade of Head Clerks. However, the nos. of vacancies are likely to vary according to administrative requirement.

The **examination** shall be held on **03.04.2000 to 04.04.2000** in the Dr.B.R. Ambedkar Hall, 2<sup>nd</sup> floor, 1st M.S.O. Building, Nizam Palace Calcutta 20 for candidates from West Bengal, Bihar, Orissa and Gangtok under the Superintending Engineer, Co-Ordination, CPWD, Calcutta and at Guwahati under the Superintending Engineer, Assam Central Circle No,1,CPWD,Bamunuimaidan,Guwahati -21 for candidates stationed in Assam, Arunachal Pradesh, Meghalaya, Manipur, Nagaland and Tripura.

As per D.G(W)'s O.M No.5/52/98.EC.IV© dated 3.8.99 examination will be conducted in terms of following guidelines:-

<b>PART-I</b>	Written Exam. will be carrying maximum of <b>300 marks</b> .
<b>PART-II</b>	Evaluation of Records of service of Successful candidates will carry <b>100 marks</b>

The eligible candidates competing in the limited Departmental Exam. shall take written exam. in **PART-I** as under:-

<b>DATE</b>	<b>TIME</b>	<b>PAPER</b>	<b>SUBJECT</b>
03.04.2000	10 am to 12=30 pm 2 pm to 4=30 pm	Paper-I Paper-II	Precis writing & Drafting Office Procedure
04.04.2000	10 am to 12=30 pm	Paper-III	General Services & Financial Rules

examche

Office of the Superintending Engineer, Co-Ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

After  
1st  
time to

**Each paper shall carry 100 marks.** The Paper-III ( General Services & Financial Rules) will consist of portions relating to Pay & allowances, Joining Time, Pension Rules, Leave Rules, GPF Rules etc. Text Books on the above rules will be allowed.

All Superintending Engineers i/c Superintending Engineers (P&A) and Executive Engineers (Civil & Elec.) are requested to bring the contents of the O.M to the notice of all concerned and applications in the proforma given below may kindly be sent to this office duly filled in latest by **15.02.2000** positively.

**The above limited Departmental Examination will be open only to those eligible candidates who are willing to be considered for posting out side their present place of posting, if felt necessary, by the department. Willing candidates should report to the examination centre at 9:00 am.**

60  
(D.Hore) 30/12/95

**Superintending Engineer, Co-Ordination**

**Copy to:-**

1. Director General of Works, CPWD, Nirman Bhawan, New Delhi
2. Addl. Director General, ER, CPWD, Calcutta
3. All Chief Engineers (Civil & Elec.) under Region-“B”
4. All Superintending Engineers i/c Superintending Engineers (P&A) (Civil & Elec.) under Region-“B”
5. All Executive Engineers (Civil & Elec.) under Region-“B”
6. General Secretary, CPWD Staff Association, Calcutta
7. Regional Secretary, CPWD Non-Gazetted Staff Association, Calcutta
8. File no. 9(55)/SE@/ER/CPWD/Cal

600  
(D.Hore) 30/12/95

**Superintending Engineer, Co-Ordination**

example

Office of the Superintending Engineer, Co-Ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

2

Attested  
J.S.  
Private

**DEPARTMENTAL COMPETITIVE EXAMINATION FOR FILLING UP  
THE POSTS OF HEAD CLERK**

**PROFORMA**

1. Name of the Candidate
2. Designation
3. Date of Birth
4. Date of Appointment in CPWD
5. Date of Continuous appointment in the grade -
6. Whether Permanent / Temporary
7. Whether belongs to SC/ST/OBC
8. Office to which attached
9. Choice of Examination Centre
10. Any other remarks

**UNDERTAKING**

**In the event of my selection, I agree for my posting on promotion  
as Head Clerk out side my present place of posting**

**Date:-**

**Signature of the Candidate**

**Station:-**

**Certified that the above details have been verified from service  
book of the candidate and found correct**

**Signature of Controlling Officer**

**(SEAL)**

**Please note that an application without the above undertaking  
and certificate shall be rejected**

*A. H. Patel  
S. S. S.  
Asstt. Secy.*

no. 9(58)/G/2000

ANNEXURE - C

- 19 -

30

GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT

F.NO: 9(58)99/SE(Coord)/ER/ 168

Dated. 23.02.2000

1981  
3/3/2000

CORRIGENDUM

Following amendment this office memorandum of even no. 1265 dated 31.12.99 calling application for Departmental Competitive Examination for promotion from UDC to Head Clerk is hereby made:

1. **Eligibility** Minimum 5 years continuous service in cadre

as on 30.06.2000.

2. **Date of Examination** 06.07.2000 & 07.07.2000 (instead of 03.04.2000 & 04.04.2000)

3. **Last date of receipt of completed application in the office the SE(Coord), Cal.** 30.04.2000.

Other terms and conditions of this office O.M. dated 31.12.99 mentioned above shall remain unchanged.

03  
23/2/2000  
(D.Hore)

Superintending Engineer, Co-ordination

**Copy to:-**

1. Director General of Works, CPWD, Nirman Bhawan, New Delhi
2. Addl. Director General, ER, CPWD, Calcutta
3. All Chief Engineers (Civil & Elec.) under Region "B"
4. All Superintending Engineers i/o Superintending Engineers (P&A) (Civil & Elec.) under Region "B"
5. All Executive Engineers (Civil & Elec.) under Region "B"
6. General Secretary, CPWD Staff Association, Calcutta
7. Regional Secretary, CPWD Non-Gazetted Staff Association, Calcutta
8. File no. 9(55)/SE(Coord)/ER/CPWD/Cal

Engineer Assistant to

Superintending Engineer, Co-ordination

23/2/2000

examinc

Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

4

Attd  
P. T. C.  
Renu

No.9(31)/GED-I/2000/ 192

Government of India  
Central Public Works Department

\*\*\*\*\*

Dated Guwahati the 01/02/ 2000

To

The Superintending Engineer(EI),  
Guwahati Central Electrical Circle,  
C.P.W.D., Guwahati-21

Sub : Departmental Competitive Examination for filling up the  
post of Head Clerk.

Ref : Your O.M.No.9(58)99/SE(Coord)/ER/1265 dated 31.12.1999.

An application dated 28.1.2000 in prescribed form duly  
completed for appearing in Departmental Competitive Examination  
as circulated vide your O.M. under reference received from Sri  
S.K. Chakraborty, U.D.C. attached to this office is forwarded  
herewith for further disposal at your end please.

Encl : Application Form  
in-duplicate

(Er. D. Bhattacharyya)  
Executive Engineer(EI)  
Guwahati Electrical Division No.I  
C.P.W.D., Guwahati 781 021

*Accl  
7/2/2000*

Copy to :-

Sri S.K. Chakraborty, U.D.C., Guwahati Electrical  
Division No.I, C.P.W.D., Guwahati-21.

EXECUTIVE ENGINEER(EI)

*Accl  
7/2/2000*

*Abul  
J. S.  
B. S. T.*

- 21 -

6/

**DEPARTMENTAL COMPETITIVE EXAMINATION FOR FILLING UP  
THE POSTS OF HEAD CLERK**

**PROFORMA**

1. Name of the Candidate	:- Shri. S.K. Chakraborty .
2. Designation	:- II.D.C.
3. Date of Birth	:- 10-11-1959.
4. Date of Appointment in CPWD	:- 21-10-1982.
5. Date of Continuous appointment in the grade	:- 03-04-1985.
6. Whether Permanent / Temporary	:- Permanent.
7. Whether belongs to SC/ST/OBC	:- No.
8. Office to which attached	:- C.P.D.-I, C.P.W.D., Guwahati-21.
9. Choice of Examination Centre	:- GUWAHATI.
10. Any other remarks	:- NIL

**UNDERTAKING**

**In the event of my selection, I agree for my posting on promotion  
as Head Clerk out side my present place of posting**

**Date:- 28-1-2000.**

**Station:- Guwahati**

  
**Signature of the Candidate**

**Certified that the above details have been verified from service  
book of the candidate and found correct**

  
**Signature of Controlling Officer**

CPWD, GUWAHATI (Assam)

HEAD OFFICE, CPWD, GUWAHATI-21  
**(SEAL)**

**Please note that an application without the above undertaking  
and certificate shall be rejected**

examinc

*Attn:  
H. J. D. T. S. T.*

Office of the Superintending Engineer, Co-Ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

3

**GOVERNMENT OF INDIA**  
**CENTRAL PUBLIC WORKS DEPARTMENT**

No. 9(58)/SE(C)/ER/2000/CAL/ 565

Dated:-

8/6/2000

**OFFICE MEMORANDUM**

In continuation of this OM No. 9(58)/SE(C)/EZ/2000/CAL/1265 dated 31.12.99 and even no. 168 dated 23.2.2000 and even No. 516 dated 29.5.2000 (indicating syllabus) respectively, the following UDCs. have opted and are hereby permitted to appear for Departmental Competitive Examination for Head-Clerk scheduled to be held on 06/7/2000 at 10.00 A.M. to 12.30 P.M. and 2.00 P.M. to 4.30 P.M. and 07/7/2000 at 10.00 A.M. to 12.30 P.M. in respect of Centre as shown below:

A Centre : CALCUTTA  
 B Venue(X) : B. R. Ambedker Hall (Institute hall)  
 C Candidates : From West Bengal, Bihar, Orissa and Sikkim.

Roll No.	Name	Roll No.	Name
Cal/U/01	Tapan Naskar	Cal/U/18	Satish Mazumder
Cal/U/02	Amalendu Dey	Cal/U/19	B. D. Chakraborty
Cal/U/03	S. P. Sengupta	Cal/U/20	Ranjan Bhadra
Cal/U/04	Ashis Kr. Nath	Cal/U/21	Somnath Adhikari
Cal/U/05	Nitendra Mohan Dey	Cal/U/22	Sanjay Karan
Cal/U/06	Smt. Sabita Das	Cal/U/23	D. Gurnavak
Cal/U/07	T. S. Tomer	Cal/U/24	P. K. Roy Chowdhury
Cal/U/08	B. P. Mukherjee	Cal/U/25	C. R. Pattanayak
Cal/U/09	R. N. Singh	Cal/U/26	Debasish Dutta
Cal/U/10	I. R. Roy	Cal/U/27	Ashok Kumar Banerjee
Cal/U/11	V. S. N. Murty	Cal/U/28	Dulal Debnath
Cal/U/12	Smt. Gouri Rani Ghosh	Cal/U/29	Sukhendu Saha
Cal/U/13	R. N. Paul	Cal/U/30	Swapan Kr. Mondal
Cal/U/14	I. P. Sarii	Cal/U/31	Subir Kanti Ghosh
Cal/U/15	A. R. Dey Sarker	Cal/U/32	Sandip Nandi
Cal/U/16	Smt. Santa Acharya		
Cal/U/17	J. K. Roy		

examhc

Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

6

A. H. S.  
S. S.  
A. H. S.  
A. H. S.

D Centre : Guwahati

E Venue(Y) : Office of the Superintending Engineer,  
Assam Central Circle - I, CPWD,  
Bamuni Moidan, Guwahati - 21

F Candidates : From Assam, Meghalaya, Tripura, Manipur  
& Arunachal Pradesh

Roll No.	Name	Roll No.	Name
Gau/U/01	Smt. Kipnu Telien	Gau/U/7	Swapan Bhattacharyee
Gau/U/02	Pradip Kr. Das	Gau/U/8	H. K. Kaibarta
Gau/U/03	Sandha Sarkar	Gau/U/9	D. C. Saikia
Gau/U/04	Narendra Narzari	Gau/U/10	R. C. Das
Gau/U/05	M. K. Bhattacharyee	Gau/U/11	L. Tuolor
Gau/U/06	J. C. Mondal		

**NB:** Respective Controlling Officers are hereby requested to issue necessary Identification Slip with the attested signature of the candidates which is to be produced at the Examination Hall, failing which candidates will not be allowed to sit for examination

(D. Hore) 8/6/2000  
Superintending Engineer, Coord (ER)

Copy for information to :

- 1 Addl. Director General, ER, CPWD, Calcutta
- 2 All Chief Engineers (Civil & Elec.) under Region-“B”
- 3 All Superintending Engineers i/c Superintending Engineers (P&A) (Civil & Elec.) under Region-“B”
- 4 All Executive Engineers (Civil & Elec.) under Region-“B”
- 5 File no. 9(55)/SE@/ER/CPWD/Cal

They are requested to please intimate the incumbent under their control and direct them to attend on 06/07/2000 at 9.00 am at the venue

(D. Hore) 8/6/2000  
Superintending Engineer, Coord (ER)

examinc

Office of the Superintending Engineer, Co-Ordination, CPWD, Eastern Region, Nizam Palace, Calcutta- 700020

Affixed  
for  
Answer

24

Anurag Garg  
95  
Filing of OA  
Sri A. Ganguly  
through  
Chakraborty  
Adv. SC, C.P.L.  
of informed

In the Central Administrative Tribunal  
Guwahati Bench :: Guwahati

OA No. 225/2000

SHRI SWAPAN KR. CHAKRABORTY

..... Applicant

-Versus-

UNION OF INDIA AND OTHERS.

..... Respondents.

WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENT NO.1,  
2, 3 & 4.

1. I, Shri Anurag Garg, Executive Engineer(Admn), Assam Central Circle-I, CPWD, Guwahati-21, do hereby solemnly affirm and state as follows:
2. That I am the Executive Engineer(Admn), Assam Central Circle-I, CPWD, Guwahati-21 and I am under instructions from the Respondents for taking necessary steps including filing written statement in this original application for and on behalf of Union of India as well as the Director General of Works, CPWD New Delhi, Superintending Engineer (Coordination), Calcutta and Superintending Engineer, Assam Central Circle-I, Guwahati. Be it stated that the Union of India and the others have been impleaded parties Respondent No. 1,2,3&4 respectively. A copy of the aforesaid original application has been received from the Respondent No.4 and gone through the same and understood the contents thereof and as such I am competent to file this written statement for and on behalf of all the Respondents No.1,2,3 & 4.
3. That this answering respondent does not admit any facts, allegation statements and averments made in the OA save and except those have been specifically admitted hereunder in this written statement. Further the statements which are not borne on records have also been categorically denied.

Anurag  
4/12/00

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4. That as regards the content of paragraph 1 of the OA this answering respondent respectfully states that the application of the applicant to appear in the Departmental Examination to fill up the post of head Clerk is not tenable/acceptable as the eligibility criteria to appear in the said Examination specified in the O.M. No.9(58)99/SE(Coord)/ ER/265 dated 31-12-1999 (Ex-1) and O.M. of even file No.168 dt.23-02-2000 (Ex-2) does not qualify the applicants to appear in the said examination.
5. That as regards the contents of paragraph 2 of the O.A this answering Respondent does not make any comments.
6. That as regards the contents of paragraph 3 of the O.A this answering Respondent does not make any comments.
7. That as regards the contents of paragraph 4.1 of the O.A this answering Respondent respectfully states that the facts of the case are subject to verification.
8. That as regards the contents of paragraph 4.2 and 4.3 of the O.A this answering Respondent does not make any comments.
9. That as regards the contents of paragraph 4.4 of the O.A this answering Respondent respectfully states that as per provisional seniority list issued vide SE(Coord.) office No. 59(SE(C)/ EZ/Cal/98/870 dated 27-11-98 (EX-3) the seniority in the grade of UDC in respect of applicant 1&2 i.e., Shri Swapan Kr. Chakabarty and Shri Jagannath Paul is 03-04-1995 respectively while their date of entry in the grade of UDC is 9-8-95 and 15-12-95 respectively as per co. 6 of the seniority list. **It is pertinent place to mention clearly that seniority in the grade is treated from the date of issue of promotion order while date of entry in the grade indicate the date, the official actually assigned the post to perform duty in the higher post continuously.**
10. That as regards the contents of paragraph 4.5 of the O.A this answering Respondent respectfully states that the fact stated by the applicant is incomplete with wrong motive of suppression of fact leading to put the Hon'ble CAT in confusion. It is agreed that notification for Examination

*Answnr 4/12/00*

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was first issued on 31-12-99 (Ex-1) to held examination on 3-4-2000 and 4-4-2000 calling application from UDCs having 5 years service in the cadre in the enclosed proforma. It is also agreed that the said O.M. dated 31-12-99 was modified by corrigendum issued vide SE(Coord.) office O.M. dated 23-2-2000 (Ex-2) rescheduling the date of Examination on 6-7-2000 and 7-7-2000. In the said O.M. it was clearly mentioned as first point that eligibility criteria is minimum 5 years of continuous services in the cadre as on 30-6-2000 which is deciding factor for allowing a candidate to appear in the said examination, has been suppressed by the applicant in the statement purposely.

11. That as regards the contents of paragraph 4.6 of the O.A this answering Respondent respectfully states that it is agreed that the applicant applied to the Respondent No.3 for granting permission to appear in the said examination mentioning their date of continuous appointment in the grade as 3-4-1995 against Sl. No.5 of annexure "D" instead of quoting their date of entry in the cadre purposely knowing fully well that they do not meet the eligibility criteria for appearing in the said exam for not completing continuous 5 years service in the cadre on 30-06-2000 mentioned clearly in the O.M. dated 23-2-2000, date of their entry in the cadre being 9-8-95 and 15-12-95 for applicant No. 1 and 2 respectively. The other candidates mentioned their date against Sl. No.5 as the date of continuous service in the grade. Exhibit No.4 represents the application of a lady candidate at Guwahati itself for example.
12. That as regards the contents of paragraph 4.7 of the O.A this answering Respondent respectfully states that there is no reason of getting surprised by the applicants for not granting their permission to appear in the said examination by the respondent No.3 as the applicants have not completed 5 years continuous service in the cadre of UDC being their entry in the grade of UDC on 9-8-95 and 15-12-95 respectively and thereby the Respondent No.3 has acted righteously as per eligibility criteria mentioned in the O.M. dated 31-12-99 and 23-02-2000. The spirit behind the provision of the criteria that one should have minimum 5 years continuous working experience in the grade of UDC to enable him/her capable of working in the higher grade of Head Clerk. One may, for whatever reasons, join the cadre after one or two years of the date of issue

Answer 41210

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of his/her promotion order and therefore he/she cannot claim of having 5 years working experience in the cadre. In this context a copy of DG(W)'s OM No.5/52/98-EC dated 11-10-99 is exhibited as No.5 in which Para (ii) speaks of evaluation of 5 years Confidential Reports of UDCs for promotion to the post of Head Clerks. The Confidential Report of an official is written from the date of joining of the incumbent in the post and not from the date of issue of promotion order and therefore, it is beyond any confutation that 5 years working experience is the criteria for allowing one to appear in the said examination. The other UDCs at serial Nos. 242, 243 and 244 in the seniority list mentioned by the applicants joined their cadre on 5-6-95, 29-4-95 and 12-6-95 respectively and thereby have completed their 5 years continuous services on 30-6-2000 and have been allowed by the Respondent No.3 correctly. As such claim of the applicants to allow them to appear in the said examination on this plea does not hold good and demands to be summarily rejected.

13. That as regards the contents of paragraph 4.8 of the O.A this answering Respondent respectfully states that SE(Coord.) office O.M. dated 31-12-99 and 23-2-2000 does not have any provision of intimating the candidate in case of their non-admission in the examination.
14. That as regards the contents of paragraph 4.9 of the O.A this answering Respondent does not make any comments.
15. That as regards the contents of paragraph 4.10 of the O.A this answering Respondent respectfully states that as already explained in case of para 4.7, the respondent No.3 has acted righteously as per eligibility criteria mentioned in the office O.M. dated 31-12-99 and 23-2-2000. Therefore, claim of the applicants to allow them in the said examination violating laid down eligibility criteria is rather self interested and illegal and demands to be quashed.
16. That as regards the contents of paragraph 4.11 of the O.A this answering Respondent respectfully states that the application of the applicants to allow them to appear in the said exam demands out-right rejection as they

Quesn 412/10

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have not completed 5 years continuous services in the cadre as already explained in preceding paras.

17. That as regards the contents of paragraph 4.12 of the O.A this answering Respondent respectfully states that the respondents No.3 has acted righteously as per eligibility criteria for the said exam and unjustified, self-motivated claim of the applicants demands to be summarily rejected.
18. That as regards the contents of paragraph 5.1, 5.2 and 5.3 of the O.A this answering Respondent respectfully states that the allegation is denied. The action of the respondent No.3 is fully impartial and justified in view of the position explained in case of para 4.7 above.
19. That as regards the contents of paragraph 5.4 of the O.A this answering Respondent respectfully states that the allegation of the applicant is denied. The respondent has applied his mind absolutely properly by not granting permission to the applicant to appear in the said examination as explained in preceding paras.
20. That as regards the contents of paragraph 5.5 of the O.A this answering Respondent respectfully states that the allegation is denied. On the contrary it stated that the applicants have not been granted permission in the said examination because of thorough scrutiny of the seniority list of UDCs by the respondent No.3
21. That as regards the contents of paragraph 5.6, 5.7 & 5.8 of the O.A. this answering Respondent respectfully states that the allegation is denied. In view of position explained in preceding paras, the action of the respondent No.3 is reasonable, justified and tenable in the eye of law. The respondent pray to the Hon'ble Tribunal to produce further grounds/documents at the time of hearing.
22. That as regards the contents of paragraph 6 and 7 of the O.A this answering Respondent does not made any comments.
23. That as regards the contents of paragraph 8, 8.1 & 8.2 of the O.A this answering Respondent respectfully states that the respondent pray before

Answer  
41240

6-

the Hon'ble Tribunal to pay cost for dragging the respondents unnecessarily in the Court of Law inspite of having very clear criteria in the office O.M. dated 31-12-99 and 23-2-2000.

24. That as regards the contents of paragraph 9 of the O.A this answering Respondent does not make any comments.
25. That as regards the contents of paragraph 9.1 of the O.A this answering Respondent respectfully states that as per direction of the Hon'ble Tribunal, the claimant has been allowed to sit in the said examination and their consequent promotion will be subject to the out come of this O.A.

VERIFICATION .....

Amrit  
4/12/00

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## VERIFICATION

I, Anurag Garg, Executive Engineer(Admn), Assam Central Circle-I, CPWD, Guwahati-21, Assam being authorized do hereby solemnly affirm and states that the statements made in this written statement are based upon the information gathered from official records and are believed to be true. Nothing has been concealed. So, help me God.

And I verify and sign this verification on this the 4<sup>th</sup> day of December 2000.

Anurag Garg  
DECLARANT

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u1

**GOVERNMENT OF INDIA**  
**CENTRAL PUBLIC WORKS DEPARTMENT**

F.NO: 9(58)99/SE(Coord)/ER/1265

Dated. 31.12.1999

**OFFICE MEMORANDUM**

Applications are hereby invited from **Upper Division Clerks having**

**5 (five) years service in the cadre** in order to fill up approximately **26** (twenty six) posts of Head Clerks through **Departmental Competitive Examination** for filling up vacancies in the grade of Head Clerks. However, the nos. of vacancies are likely to vary according to administrative requirement.

The **examination** shall be held on **03.04.2000 to 04.04.2000** in the Dr.B.R. Ambedkar Hall, 2<sup>nd</sup> floor, 1st M.S.O. Building, Nizam Palace, Calcutta 20 for candidates from West Bengal, Bihar, Orissa and Gangtok under the Superintending Engineer, Co-ordination, CPWD, Calcutta and at Guwahati under the Superintending Engineer, Assam Central Circle No,1,CPWD, Balmuni Maidan, Guwahati -21 for candidates stationed in Assam, Arunachal Pradesh, Meghalaya, Manipur, Nagaland and Tripura.

As per D.G(W)'s O.M No.5/52/98.EC.IV@, dated 3.8.99 examination will be conducted in terms of following guidelines:-

**PART-I**

Written Exam. will be carrying maximum of **300 marks**.

**PART-II**

Evaluation of Records of service of Successful candidates will carry **100 marks**

The eligible candidates competing in the limited Departmental Exam. shall take written exam. in PART-I as under:-

DATE	TIME	PAPER	SUBJECT
03.04.2000	10 am to 12:30 pm	Paper-I	Precis writing & Drafting
	2 pm to 4:30 pm	Paper-II	Office Procedure
04.04.2000	10 am to 12:30 pm	Paper-III	General Services & Financial Rules

examinc

Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

1

Afft'd

Amrit 4/12/00

कार्यपालक इंजीनियर (प्र)

Executive Engineer (Assam)

कार्य केन्द्र परम्परा - 9

Assam Central Circle

स.प.न.वि., गुवाहाटी-29

C.P.W.D., Guwahati 29

GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT

F.NO: 9(58)99/SE(Coord)/ER/ 168

Dated. 23.02.2000

CORRIGENDUM

Following amendment this office memorandum of even no. 1205 dated 31.12.99 calling application for Departmental Competitive Examination for promotion from UDC to Head Clerk is hereby made :

1. **Eligibility** Minimum 5 years continuous service in cadre as on 30.06.2000.
2. **Date of Examination** 06.07.2000 & 07.07.2000. (instead of 03.04.2000 & 04.04.2000)
3. **Last date of receipt of completed application in the office the SE(Coord), Cal.** 30.04.2000.

Other terms and conditions of this office O.M. dated 31.12.99 mentioned above shall remain unchanged.

(D.Hore)

**Superintending Engineer, Co-ordination**

**Copy to:-**

1. Director General of Works, CPWD, Nirman Bhawan, New Delhi
2. Addl. Director General, ER, CPWD, Calcutta
3. All Chief Engineers (Civil & Elec.) under Region "B"
4. All Superintending Engineers i/c Superintending Engineers (P&A) (Civil & Elec.) under Region "B"
5. All Executive Engineers (Civil & Elec.) under Region "B"
6. General Secretary, CPWD Staff Association, Calcutta
7. Regional Secretary, CPWD Non-Gazetted Staff Association, Calcutta
8. File no. 9(55)/SE@/ER/CPWD/Cal

affcted  
23/2/2000  
Central Circle  
G. O. No. 41/2/89  
Executive Engg. etc. assn  
Calcutta

Central Circle  
G. O. No. 41/2/89  
Executive Engg. etc. assn  
Calcutta  
G. O. No. 41/2/89  
Central Circle  
G. O. No. 41/2/89  
G. P. W. D., Guwahati-21

**Engineer Assistant to  
Superintending Engineer, Co-ordination**

examinc

Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Nizam Palace, Calcutta-700020

or penury you may be required to do the  
following  
1. Draft reply with exhibits  
2. Copy of draft. apply on 23/2/2000. with 2nd floor

No. : 9(59)/SE(C)/M/Cal/98/ 870

Dated: - 27/11/98

## OFFICE MEMORANDUM

Sub : Provisional seniority list of UDCs in Region 'B' as on 01/1/98.

01/01/2000 A draft seniority list of UDCs in CPWD under Region 'B' as on 01/1/98 is sent herewith. All SES/SSWs/EES in CPWD Eastern Zone, IBB Zone, IBD(Mtn.)Zone, Patna Zone, North Eastern Zone are requested to circulate the list to all concerned staff and objections if any, with regards to factual position of UDC such as Date of Birth, Date of appointment as UDC etc. etc. received from the individual may please be checked with reference to entries in the Service Books of staff and sent to this office for necessary action of this office.

Enclo : One Seniority List.

Superintending Engineer  
Coordination Circle (EZ) ER  
Central PWD, Cal-29.

16/11/98

Copy to :

1. The Director General of Works, CPWD, Nirman Bhawan, New Delhi-11.
2. All SES/SSWs/EES under Region 'B'.
3. The Secretary, CPWD Staff Association, Cal.
4. The Regional Secretary, CPWD Non-Gazetted Office Staff Association, Cal.

16/11/98  
SUPERINTENDING ENGINEER (O)

16/11/98

26/11/98

acted

Amu(m 11/12/98  
सार्वजनिक इंजीनियर (प्र)

Executive Engg. (or) (dmn.)

प्राप्त रेजिमेंट अंतर्गत-१

Accom. Comm. (or) Circle-I

Q. & Q. M. M. युवाशुद्धी-११

R. P. W. (or) Guwahati 21

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
27. Somnath Adhikary	UR	08/12/64	14/12/90	16/5/95		06/1/95	MCD/Mekhliganj	
28. Sandip K. Nandy	UR	19/1/68	24/12/90	19/6/95		06/1/95		
229. Sukhendu Saha	UR	01/11/57	07/10/91	03/5/95		06/1/95	MCD-II/Berhampur	
230. Rita Banerjee	UR	08/5/47	03/10/68	05/4/95	01/4/88	03/4/95	CCD-III/Cal	
231. A. K. Chakraborty	UR	15/1/44	20/1/69	30/10/95	01/4/88	03/4/95	CCEC-I/Cal	
232. Tapati Sarkar	UR	06/1/44	09/5/69	17/4/95	01/4/88	03/4/95	CCED-I/Cal	
233. P. K. Majumdar	UR	07/6/44	17/8/71	19/7/95		03/4/95	CCED-I/Cal	
234. M. M. Chakraborty	UR	05/10/42	10/11/71	06/4/95	01/4/88	03/4/95	CCD-I/Cal	
235. Gargi Lina Kar	UR	01/1/48	23/12/71	05/6/95	01/4/88	03/4/95	CCD-VIII/Cal	
236. R. K. Som	UR	24/3/54	04/2/72	12/10/95	01/4/88	03/4/95	SCED/Silguri	
237. Manika Basak	UR	20/5/54	03/6/72	15/5/95	01/4/88	03/4/95	SEC-I/Siliguri	
238. Netai Ch. Das	SC	07/5/57	04/8/82	13/9/95	01/4/88	03/4/95	SCC/Silchar	
239. Sanjoy Kr. Chakraborty	UR	10/11/59	21/10/82	09/8/95	01/4/88	03/4/95	GCED-I/Ghy.	
240. Jagannath Paul	UR	05/12/60	05/11/82	15/12/95	01/4/88	03/4/95	SCED/Silchar	
241. Kanti Acharya	UR	02/11/64	10/4/85	05/7/95		03/4/95		checked
242. Sanjoy Kr. Karan	UR	08/2/59	13/9/85	05/6/95	01/4/88	03/4/95		
243. Dikshu Debnath	UR	03/1/59	29/11/85	29/4/95	01/4/88	03/4/95	CCD-VI/Cal	অসম কেন্দ্রীয় পরম্পরা-১
244. Jyoti Prakash Sapui	UR	16/11/60	02/12/85	12/6/95	01/4/88	03/4/95	SCC/Silchar	অসম কেন্দ্রীয় পরম্পরা-১
245. Guruprasad	SC	28/2/61	19/10/89	17/7/95	01/4/92	03/4/95	SCC/Silchar	G.P.W.D. Silchar-১

Contd. P.1

DEPARTMENTAL COMPETITIVE EXAMINATION FOR FILLING UP  
THE POSTS OF HEAD CLERK

## PROFORMA

1. Name of the Candidate Smt. Sandhya Sarkar  
 2. Designation U. D. C.  
 3. Date of Birth 22-5-1955  
 4. Date of Appointment in CPWD 5-7-1977  
 5. Date of Continuous appointment in the grade 30-9-1992  
 6. Whether Permanent / Temporary Permanent  
 7. Whether belongs to SC/ST/OBC S/C  
 8. Office to which attached GCEC/CPWD/Guwarhati - 2-A  
 9. Choice of Examination Centre Guwarhati - 2-A  
 10. Any other remarks

114 132

## UNDERTAKING

In the event of my selection, I agree for my posting on promotion  
as Head Clerk out side my present place of posting

Date:- 2/2/2000  
Station:- Guwarhati

S. Sarkar  
Signature of the Candidate

Certified that the above details have been verified from service  
book of the candidate and found correct

## Signature of Controlling Officer

Executive Engineer (Elect.) P & R  
Guwahati Central Elect. Circle  
C. P. W. D., Guwahati-781021

Please note that an application without the above undertaking  
and certificate shall be rejected

examinc

Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Dibrugarh, Assam - 786002

attested  
Anup M 4/12/00  
लाखपत्रक इंजीनियर (इ.)  
Executive Engineer, d.m.a.  
लाखपत्रक परिषद - 9  
Assam Central Circle - I  
D. S. B. N. M. Guwahati - 781021

5(52)/1982/2.C.1V(c) 13/26  
Government of India  
Directorate General of Works  
Central Public Works Department

31, Janpath, New Delhi  
Dated the 5th October, 99

OFFICE MEMORANDUM

Subject:-Regarding Departmental Exam. guidelines for filling up  
the posts of UDCs and Head Clerks.

This has reference to this Directorate letters of even  
number dated 3.8.99 and 31.8.99 on the above mentioned subject.  
In this connection some further clarifications have been sought  
for which are furnished as under:-

1) The existing DPCs working in Coordination Circles  
for making migration from DPCs to UDCs and UDCs to  
Head Clerks under seniority quota will continue to  
function. The Committee constituted for evaluating  
records of service of successful candidates of  
Departmental Exam. will only make assessment of  
CRs.

2) 100 marks for evaluation of records of service may  
be allotted in proportion to CRs of successful  
candidates equal to No. of their qualifying service  
viz., 3 yrs for UDC to UDC and 5 yrs. for UDC to  
Head Clerk. In other words 33-1/3 marks are to be  
allotted for one years CR for UDC Exam. and 20  
marks for Head Clerk Exam.

3) Since CRs may contain different gradations viz.  
Outstanding, Very Good, Excellent, Good, Average,  
Satisfactory etc. the marks for each gradation be  
allotted in proportionate to these gradations.

4) The paper of Office Procedure for UDC to Head  
Clerk Exam. will consist of 7-8 questions which  
may be taken from CPWD Manual Vol. I, II & III.

This is done with the approval of ADG(S&P).

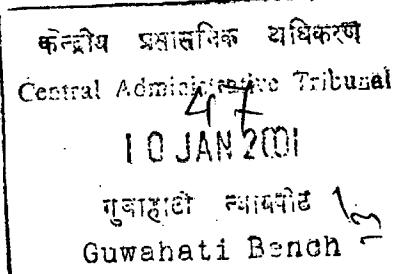
(SURENDER PAUL)  
DY. DIRECTOR(TRAINING)

To  
The Superintending Engineer  
(Coord)SR, CPWD,  
Chennai-20.

Copy to:-  
1. The Superintending Engineer(Civil), CPWD, New Delhi.  
2. The Superintending Engineer(CIEZ), CPWD, Calcutta-20.  
3. The Superintending Engineer(CIWZ), CPWD, Mumbai-20.

(K.R. JHA)  
SECTION OFFICER

affeted  
Rumal 112/1  
Executive Engineer (Assam)  
Assam Central Circle-I  
S. No. 11, G. B. P. W. Bldg., 21  
22  
23



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BENCH GUWAHATI.

O. A. NO. 225 OF 2000.

Sri Swapan Kumar Chakraborty & Anr.

- Applicants.

- Versus -

The Union of India & Ors.

- Respondents.

IN THE MATTER OF:

Rejoinder submitted by the applicants of the above Original Application No. 225 of 2000 against the Written Statements submitted by the Respondents.

The humble applicants filed their Rejoinder as follows:

1) That with regard to statements made in paragraphs 1, 2 and 3 the applicants have no comments.

2) That with regard to statements made in paragraph No. 4 of the Written statement the applicants beg to state that the eligibility criteria to appear in the Departmental Examination for Promotion to the Grade of Head Clerk as mentioned in O.M. No. 9(58)99/SE (Cord)ER/1265 dated 31-12-99 and O.M. No. 9(58)99/SE (Cord)ER/168 dated 23-02-2000 (at

S. K. Chakraborty

38

Annexure-A & B of the O.A. 225/2000) was that 'Applications are hereby invited from U.D.Cs. having 5 years service in the Cadre'. The said order dated 31-12-99 was modified by corrigendum issued vide O.M. dated 23-02-2000 where it is specified that 'minimum 5 years continuous service in cadre as on 30-06-2000'. It may be stated the applicants have completed service in the cadre, i. e., Group C (Ministerial) (The term Cadre has been specified in C.P.W.D. Manual Vol. I, Section 1, Chapter-IV (Administration) for more than 18 years continuous service.

Annexure-F is the photocopy of extract of relevant part of C.P.W.D. Manual Vol. I, Section 1, Chapter-IV (Administration).

3) That with regard to statements made in paragraphs No. 5, 6, 7 & 8. of the Written statement the applicants have no comment.

4) That with regard to statements made in paragraph No. 9 of the Written statement the applicants beg to state that the applicants were promoted to the Grade of Upper Division Clerk vide Office Order No. 9(56)/95/SEcEZ/Cal/490 dated 03-04-95 which were accepted by the applicants in prescribed time limit, i.e., 20 days from the date of issue of said Officer Order. But the applicants were relieved by the respective Controlling Officer at later date to enable them to join in their

S. C. Chakrabarty

44

new posts, i.e., Upper Division Clerk, so applicants are in no way can be held responsible for that. Moreover, the juniors have been allowed to sit in the said examination as per the seniority list of Upper Division Clerks, in Central Public Works Department. In the said seniority list the applicants' name are shown above the junior persons who were allowed to sit in the Departmental Examination. Hence the statements made in the paragraph No. 9 are not correct and denied by the applicants.

51. That with regard to statements made in paragraph No. 10 of the Written statement the applicants beg to state that the statements are not true and baseless. It may be stated that in case of P. K. Jha Versus Union of India and others in O.A. No. 2112 of 1994 decided on 18-08-1999 by the Principal Bench of the Hon'ble Central Administrative Tribunal it was held that the Senior persons who have not completed the requisite service for promotion whereas Junior persons have completed the requisite service under relevant rules then the Department should relied on the Department of Personnel and Training Office Memorandum dated 23-10-1989 to face such situation. In that case senior would also be considered for promotion irrespective of whether they have completed the probation period should be indicated in the recruitment rules in order to ensure that seniors who

S. K. Chatterjee

might have joined latter due to various reason  
are not over looked for promotion.

It is pertinent to mention here that under the CPWD manual volume I (1992 edition) Chapter IV promotion Section 6 Page 58 deals with such type of situation. The extract of the provision quoted below for kind perusal of this Hon'ble Tribunal.

"A note that when juniors who have completed the eligibility period are considered for promotion their seniors would also be considered irrespective of whether they have completed the probation period, should be indicated in the Recruitment Rules in order to ensure that seniors who might have joined later due to various reasons are not overlooked for promotion."

✓

61. That with regard to paragraph No. 11 of the Written Statement the Applicants Beg to state that in the application forms (Proforma) submitted by the applicant for Departmental Competitive examination for the post of Head Clerk the applicant has correctly stated that their date of continuous appointment in the grade as 03-04-1995. It is relevant to note that the Respondents themselves have prepared the seniority list showing the actual date of seniority of the applicants in the Grade as on 03-04-1995. The Respondents have issued another Provisional Seniority List of Upper Division Clerk as on 01-07-2000 vide letter

S. K. Chakraborty

dated 16-11-2000 wherein the applicants have been placed against serial No. 217 and 218 respectively. The date of seniority in the Grade of Upper Division Clerk has been shown as 03-04-1995 and hence the statements made in paragraph is baseless and motivated.

Annexure-G is the photocopy of seniority list of Upper Division Clerk as on 01-07-2000 vide letter dated 16-11-2000.

7) That with regard to paragraph No. 12 of the Written Statement the Applicants beg to state that the Respondents have tried to mis-interpret the terms of 'Appointment' as they themselves appointed (Promoted) the applicants from the post of Lower Division Clerk to Upper Division Clerk (both are group-C ministerial cadre) with effect from 03-04-1995. But the applicants assumed charge in the new assignment at later date due to non-release by the Controlling Officer at the relevant time. Although the applicant accepted the promotion against prescribed time limit, i.e., 20 (twenty) days. The terms of letter 'Appointment' are clearly given in the seniority list of Assistant Engineer (Civil) issued by the Director General Works, C.P.W.D. vide O.M. No. 30/10/93-EC. 1 dated 31-03-1993.

The contention of the Respondents under this paragraph is totally baseless and in suppression of facts as the Respondents

*S.K. Chakraborty*

have allowed the 3(three) Junior persons in Seniority list Serial No. 242, 243 and 244 to sit in the said Departmental Examination for the post of Head Clerk. It is also stated that the contentions of respondents regarding the spirit behind the provision and working experience as well is baseless and fabricated. It is also settled rule as mentioned in CPWD Manual Volume Chapter IV Section 6 that the D.P.C. should assess the suitability of the Officer for Promotion on the basis of their service records with particular reference to the confidential reports for five preceding year where one or more CRs have not been written for any reason during the relevant period, the D.P.C. should consider the CRs of the years preceding the period in question and if any case these are not available the D.P.C. should take the nos. of CRs <sup>of lower</sup> grade into account. If this is also not possible all the available CRs should be taken into account.

Annexure-H is the photocopy of extract of CPWD Manual Volume 1 Chapter IV Section 6 page 58.

Annexure-I is the Circular issued by the Government of India Department of Personnel and Training O.M.No. 22011/7/98-Estt(D) dated 06-10-2000.

8) That with regard to statements made in paragraph No. 13 of the Written statement the applicants beg to state that it is not

*S. K. Chakraborty*

correct and also to violative to fundamental rights of the constitution of India.

93 That with regard to paragraph No. 14 of the Written Statement the Applicants have no comment.

103 That with regard to paragraph No. 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Written Statement the Applicants Beg to state that the statements made in these paragraphs by the Respondents are baseless, misleading and also mala fide with a motive behind to only deprive your applicants from their legitimate right for appearing in the said Departmental Examination for the post of Head Clerks in Central Public Works Department.

From the above facts and circumstances it is humbly submitted by the Applicants that they are eligible for appearing in the said Departmental Examination and the Respondents have illegally deprived your applicants by giving chance to Junior persons who are juniors to your applicants as per seniority list prepared by the Respondents themselves. As such, the contention made by the Respondents in their Written Statements are misleading and suppression to the real facts of the case.

S. K. Chakraborty

## Verification

I, Sri Swapan Kumar Chakraborty presently working as Upper Division Clerk in the Office of the Executive Engineer (Electrical), Guwahati Electrical Division-1, Central Public Works Department, Guwahati-21, applicant No. 1 of this application and also authorised to sign this rejoinder on behalf of another applicant and do hereby solemnly verify that the statements made in this Rejoinder are true to my knowledge, belief and information and no material facts have been suppressed and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 8th day of January, 2001 at Guwahati.

*Swapan Kr. Chakraborty  
(S. K. Chakraborty)*

Declarant.

tion of CRs should be fair, just and non-discriminatory.  
Hence:

- (i) DPC should consider CRs for equal number of years in respect of all officers concerned for promotion.
- (ii) The DPC should assess the suitability of the officers for promotion on the basis of their service records and with particular reference to the CRs for 5 preceding years. However, in cases where the required qualifying service is more than 5 years, the DPC should see the records with particular reference to the CRs for the year equal to qualifying service.
- (iii) While holding DPC during a year, the crucial dates for determining the eligibility of officers for promotions would be prescribed as under:—
  - (a) 1st July of the year in cases where ACRs are written calendar yearwise.
  - (b) 1st October of the year where ACRs are written financial yearwise.

The crucial dates indicated above would be applicable to only such services and posts for which statutory Rules do not prescribe a crucial date.

A note that when juniors who have completed the eligibility period are considered for promotion their seniors would also be considered irrespective of whether they have completed the probation period, should be indicated in the Recruitment Rules in order to ensure that seniors who might have joined later due to various reasons are not overlooked for promotion.

- (iv) Where one or more CRs have not been written for any reasons during the relevant period, the DPC should consider the CRs of the years preceding the period in question and if in any case, these are not available, the DPC should take the number of CRs of the lower grade into account. If this is also not possible all the available CRs should be taken into account.

1992 edition  
(PROMOTION)

ANNEXURE - F

*Approved*  
*Admto*

— 10 —

ANNEXURE G

Government of India

Central Public Works Department

954

5/12/265

ANNEXURE G

No.9(59)/Seniority/UDC/SE(C)/ER/00/Cal/ 1122

Dated: 16-11-2000

Sub: Provisional Seniority List of UDC as on 01/07/2000 under Eastern Region

A Provisional Seniority list of UDCs in CPWD under Region 'B' as on 01.07.2000 is sent herewith. All SEs/ SE(P&A)/ EEs in CPWD Easter Zone, IBB Zone, IBB(MH), Patna Zone, North Eastern Zone are requested to circulate the list to all concerned and objection if any, with regards to actual position of UDC such as DOB, Date of Appointment as UDC etc. etc. received from the individual may please be checked with reference to entries in the Service Books of staff and sent to this office for necessary action of this office.

Encl: One

(D.Hore) 15/11/2000  
Superintending Engineer, Co-Ordination

Copy to:

- 1) The Director General of Works, Central P.W.D., Nirman Bhawan, NEW DELHI-110011
- 2) The Additional Director General of Works(ER), CPWD, Calcutta-20
- 3) The Chief Engineer, EZ-I, II, NEZ, EI, IBBZ, IBMZ under Region 'B'
- 4) All the Superintending Engineers including Superintending Engineer(P&A), Civil & Elect. Region 'B'
- 5) All the Executive Engineer(Civil & Elec.) under Region 'B'.
- 6) The Secretary , CPWD Staff Association, (EZ), Calcutta-20
- 7) The Regional Secretary, CPWD Non-Gazetted staff Association, Calcutta -20.

(D.Hore) 15/11/2000  
Superintending Engineer, Co-Ordination

D.P. 112/2K

Copy to the D.E.(EZ), CPWD,  
C.P.W.D., Patna for circulation  
to all D.E. under his  
control.

(D.Hore) 15/11/2000

SINo	Name	Category	DOB	DOE in CPWD	DOE in Grade	DOCONF	Deemed DOS	Office
196 )	A.K. Kar	UR	01/12/45	16/02/66	10/02/95	01/09/82	06/01/95	SE(P), IBBZ, Siliguri
197 )	S.R. Das	SC	02/12/41	22/06/66	24/01/95	01/09/82	06/01/95	CCD-VIII, Cal
198 )	Ganesh Ch. Das	UR	01/02/49			01/08/84	06/01/95	GCEC, Guwahati
199 )	A.B. Roy	SC	08/01/53	07/06/71		01/08/84	06/01/95	CCD-I, Cal
200 )	Pradip Kr. Das	SC	12/03/54	06/07/81	25/03/95	02/04/88	06/01/95	GCED-I, Guwahati
201 )	Blandina Nongkingra	ST	12/06/67	24/11/88	17/10/95	01/04/91	06/01/95	SE(P), NEZ, Shilong
202 )	Prabir Kr. Das	UR	10/02/60	06/03/89	06/03/95	06/03/91	05/01/95	CCD-VII, Cal
203 )	Miss Nilbiya Marry Shaker	ST	28/02/63	26/07/84	13/01/95	26/07/91	05/01/95	MCD, Shilong
204 )	Miss Kipnu Telien	ST	01/03/65	02/08/89	30/01/95		06/01/95	TMD, Tura
205 )	Miss Lucky Khasnobish	ST	06/12/69	03/08/89	30/01/95		06/01/95	MCD-I, Imphal
206 )	Somnath Adhikari	UR	08/12/64	14/12/90	16/05/95		06/01/95	ICD, Ishlampur
207 )	Sandeep Kr. Nandi	UR	19/01/68	24/12/90	19/06/95		06/01/95	BCD, Barasat
208 )	Slukhendu Saha	UR	01/11/57	07/10/91	03/05/95		06/01/95	B'Bhawan P. Divn(EI), Cal
209 )	Rita Banerjee	UR	08/05/47	03/10/68	05/04/95	01/04/88	03/04/95	CCD-V, Cal
210 )	A.K.Chakraborty	UR	15/01/44	20/01/69	30/10/95	01/04/88	03/04/95	CCEC-I, Cal
211 )	P.K. Mazumder	UR	07/06/44	17/08/71	19/07/95		03/04/95	CCED-I, Cal
212 )	M. M. Chakraborty	UR	05/10/42	10/11/71	06/04/95	01/04/68	03/04/95	CCD-I, Cal
213 )	Gargi Lina Kar	UR	01/01/48	23/12/71	05/06/95	01/04/88	03/04/95	CCD-VIII, Cal
214 )	R. K. Som	UR	24/03/54	04/02/72	12/10/95	01/04/88	03/04/95	SCED, Siliguri
215 )	Manika Basak	UR	20/05/54	03/06/72	15/05/95	01/04/88	03/04/95	SCC-I, Siliguri
216 )	Netai Ch. Das	SC	07/05/57	04/08/82	13/09/95	01/04/88	03/04/95	CCEC-II, Cal
217 )	Swapan Kr. Chakraborty	UR	10/11/59	21/10/82	09/08/95	01/04/88	03/04/95	GCED-I, Guwahati
218 )	Jagannath Paul	UR	05/12/60	05/11/82	15/12/95	01/04/88	03/04/95	SCED, Silchar
219 )	Kanti Acharya	UR	02/11/64	10/04/85	05/07/95		03/04/95	CED-VI, Cal
220 )	Sanjoy Kr. Karan	UR	08/02/59	13/09/85	05/06/95	01/04/88	03/04/95	CCD-V, Cal
221 )	D. Debnath	UR	03/01/59	29/11/85	29/04/95	01/04/88	03/04/95	CCD-VI, Cal
222 )	J. P. Sapui	UR	16/11/60	02/12/85	12/06/95	01/04/88	03/04/95	CED-VI, Cal
223 )	Gurudas Das	SC	28/02/61	19/10/89	17/07/95	01/04/82	03/04/95	SCD, Silchar

Adarsh  
Adarsh

tion of CRs should be fair, just and non-discriminatory.  
 Hence:

- (i) DPC should consider CRs for equal number of years in respect of all officers concerned for promotion.
- (ii) The DPC should assess the suitability of the officers for promotion on the basis of their service records and with particular reference to the CRs for 5 preceding years. However, in cases where the required qualifying service is more than 5 years, the DPC should see the records with particular reference to the CRs for the year equal to qualifying service.
- (iii) While holding DPC during a year, the crucial dates for determining the eligibility of officers for promotions would be prescribed as under:—
  - (a) 1st July of the year in cases where ACRs are written calendar yearwise.
  - (b) 1st October of the year where ACRs are written financial yearwise.

The crucial dates indicated above would be applicable to only such services and posts for which statutory Rules do not prescribe a crucial date.

A note that when juniors who have completed the eligibility period are considered for promotion their seniors would also be considered irrespective of whether they have completed the probation period, should be indicated in the Recruitment Rules in order to ensure that seniors who might have joined later due to various reasons are not overlooked for promotion.

- (iv) Where one or more CRs have not been written for any reasons during the relevant period, the DPC should consider the CRs of the years preceding the period in question and if in any case, these are not available, the DPC should take the number of CRs of the lower grade into account. If this is also not possible all the available CRs should be taken into account.

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ANNEXURE - H

1. Appended  
 2. Annexure

(2) **Procedure to be observed by the Departmental Promotion Committees (DPCs) — Number of Confidential Reports to be considered by the DPCs** — Number of Confidential Reports to be considered by the DPCs

The undersigned is directed to invite reference to the Department of Personnel and Training, Office, Memorandum No. 22011/5/86-Estt. (D), dated April 10, 1989, on the subject cited above. Para 6.2.1 of the instructions lay down the procedure to be followed by the DPCs with regard to the Confidential Reports (CRs) to be considered for the assessment of the suitability of the officers in the zone of consideration. Sub-para. (b) of the aforesaid para. provides that:—

~~"the DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to CRs for five preceding years. However, in cases where the required qualifying service is more than five years, the DPC should see the record with particular reference to the CRs for the years equal to the required qualifying service (if, for example, one CR has been written for a particular year, all the CRs for the relevant years shall be considered together as the CR for one year)"~~

2. The Fifth Central Pay Commission (in Chapter 21 (Para. 21.18), on 'Performance Appraisal' has, *inter alia*, recommended as follows:—

~~"Normally, the Confidential Reports of the immediately preceding five years, alone, should be considered by Departmental Promotion Committees (DPCs) to assess the suitability of the employees for career advancement and~~

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other benefits, unless reference to reports of enquiry is considered to be absolutely essential."

The Union Public Service Commission has also been of the opinion that the DPC should assess only last five CRs in all cases of promotion irrespective of the number of years of qualifying service prescribed in the Recruitment/Service Rules so as to maintain uniformity in the promotion procedure, provide realistic and objective assessment of recent performance, lighten the burden on the DPC and also to make its working less cumbersome in terms of time.

3. The aforesaid recommendation of the Fifth Commission has been examined by the Government and it is decided to accept it. Accordingly, the provisions of Para 3 of the Circular dated 20.9.98, as quoted above, may be substituted by the following:—

"The DPC should assess the suitability of the candidates for promotion on the basis of their Service Record with particular reference to the CRs for five consecutive years irrespective of the qualifying service prescribed in the Service/Recruitment Rules. The 'precedent five years' for the aforesaid purpose shall be decided by the guidelines contained in the 'DOP' & 'TDR' (Circular No 22011/9/98-Estt. (D), dated September 8, 1998) and prescribe the Model Calendar for DPC read with the Circular No 22011/9/98-Estt. (D), dated June 16, 2000. (If more than five CRs have been written for a particular year, all the relevant years shall be considered together as one year for one year)."

4. These instructions would be required to be followed by Departmental Promotion Committees convened on or after 15.6.2000.

5. Ministries/Departments are requested to bring these instructions to the notice of all concerned including their Subordinate Offices.

Attest  
J. B. Bhattacharya