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

(DESTRUCTION OF RECORD RULES, 1990)

M.P-269/2000 order sheet pg-1
disposed order - 04/12/2000

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R.A/C.P No.
E.P/M.A No. 269/2000

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 239/2000 OF 199

Applicant(s) *Shri Kamak Das.*

Respondent(s) *Union of India and ones*

Advocate for Applicant(s) *Mr. U.K. Nair.*

Advocate for Respondent(s) *Mr. B.C. Pathak, Addl. C.G.S.C.*

Notes of the Registry	Date	Order of the Tribunal
<p><i>26.9.00</i></p> <p><i>26/9/2000</i></p> <p><i>Ben</i></p> <p><i>Note: Requisite filed.</i></p>	<p>26.9.00</p>	<p>Present: The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mr B.K.Sharma, learned Sr. counsel for the applicant and also Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents.</p> <p>Issue notice to show cause as to why this application shall not be admitted.</p> <p>List on 17.11.2000 for show cause and admission.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>
<p><i>Notice prepared and sent to D/s for show the respondents No 1 to 3 vide D/No 2192 to 2194 dtd 10/10/2000</i></p> <p><i>5/10/00</i></p>	<p>pg</p> <p>17.11.00</p>	<p>On the prayer of Mr B.C.Pathak, learned Addl.C.G.S.C the case is adjourned to 4.12.00 for show cause and admission</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

16-11-2000

4.12.00

Show Cause has not been filed.

Admit. Call for the records. List on 11.12.2000 for further orders.

[Signature]
Vice-Chairman

[Signature]

trd

11.12.00

Mr. B.C. Pathak Addl. C.G.S.C has been filed "Vakalatnam" on behalf of all the respondents.

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman and Hon'ble Mr. M. F. Singh, Administrative Member.

Consolidated amended petition is filed and placed on record. The respondents are granted four weeks time to file written statement.

List on 11.1.2001 for written statement and further orders.

[Signature]
Member

[Signature]
Vice-Chairman

8-12-2000

mk

[Signature]
11/12/2000

Amendment application has been filed by the applicant Advocate.

11.1.01

Six weeks further time is granted to the respondents to file written statement on the prayer of Mr B.C. Pathak, learned Addl. C.G.S.C.

List on 23.2.2001 for order.

[Signature]
Member

[Signature]
Vice-Chairman

pg

23.2.01

List on 27.3.01 to enable the respondents to file written statement.

[Signature]
Member

[Signature]
Vice-Chairman

lm

27.3.01

List on 1.5.01 to enable the respondents to file written statement.

[Signature]
Member

[Signature]
Vice-Chairman

No written statement has been filed.

[Signature]
10.1.2001

pg

Notes of the Registry	Date	Order of the Tribunal
<p>Nb. Written statement has been filed.</p> <p><i>15.6.2001</i></p>	1.5.01	<p>List on 24-5-2001 to enable the respondents to file written statement.</p> <p><i>IC Usha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	bb	
	24.5.01	<p>List on 18-6-2001 to enable the respondents to file written statement.</p> <p><i>IC Usha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	bb	
	18.6.01	<p>Mr. B.C. Pathak, learned addl. C.G.S.C. for the respondents, prays for and granted 4 weeks time to file written statement. The applicant may file rejoinder ^{within two weeks} thereafter. List on 21-8-2001 for order.</p> <p><i>IC Usha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	Pg	
	24.8.01	<p>List again on 24/9/01 to enable the respondents to file written statement.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	mb	
<p><u>26.9.2001</u></p>	24.9.01	<p>Mr. S. Sarma, learned counsel for the applicant stated that in view of the subsequent development of the matter, the applicant not to press the application at this stage. Accordingly, the application stands dismissed as not pressed.</p> <p><i>IC Usha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Copy of the order has been sent to the office for issuing the same to the L/Advocates for the respondents to the applicant & respd No. 3.</p> <p><i>[Signature]</i></p>	mb	

केन्द्रीय प्रशासनिक न्यायालय
 Control Administrative Tribunal
 881
 8 DEC 2020
 गुवाहाटी बेंच
 Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH

Title of the case : D.A. No. 239 of 2020

BETWEEN

Shri Kanak Das... Applicant.

AND

Union of India & ors..... Respondents.

CONSOLIDATED APPLICATION.

I N D E X

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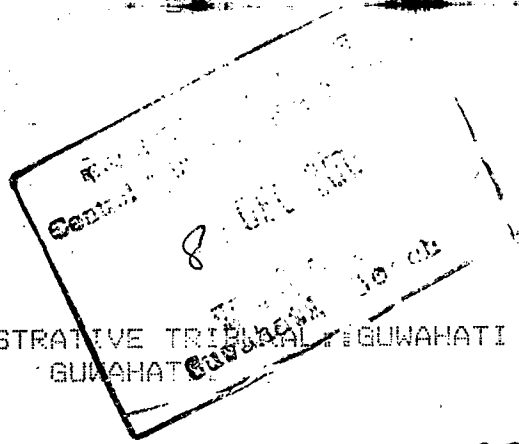
Filed by : U.K. NAIR, ADVOCATE

Regn.No.:

File : Kanak

Date :

THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI



FILED BY:
The Applicant
Through,
U.K. NAIR,
Advocate.

D.A. No. 239.. of 2000

BETWEEN

Shri Kanak Das, Junior Library
Attendant, Central Administrative
Tribunal, Guwahati Bench, Guwahati.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Central Administrative Tribunal, represented by the Registrar, Principal Bench, New Delhi.
3. The Central Administrative Tribunal, Guwahati Bench, represented by the Registrar, Rajgarh Road, Guwahati.

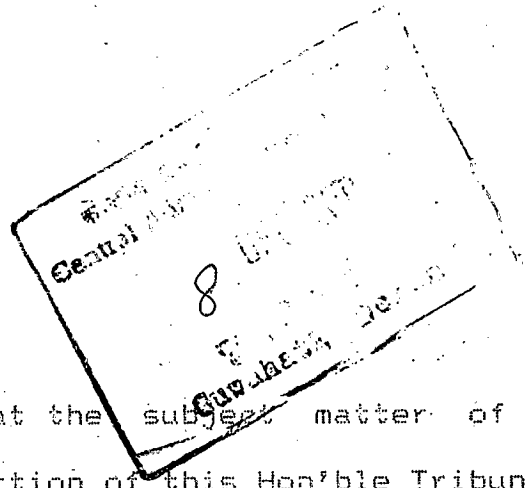
... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

The application is directed against the order dated 30.6.2000, which the representation filed by the applicant has been rejected. This application has also filed praying for a direction to consider the case of the applicant for appointment as Junior Librarian.

This application is also directed against the provisions of the Central Administrative Tribunal (Group B and C) Misc Post Recruitment Rules 1989 in terms of which post of Junior Librarian can only be filled up by Transfer on Deputation/transfer failing which by Direct Recruitment, without providing any scope for promotion amongst the incumbent of the Central Administrative Tribunal.



2. JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE:

4.1. That the Applicant is a citizen of India and a permanent resident of Assam and as such, he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2. That the Applicant has filed the present O.A. making a grievance against the order dated 30.6.2000, which has caused stagnation in the matter of promotion and for consideration of his case for appointment as Junior Librarian against the post lying vacant in the Central Administrative Tribunal, Guwahati Bench, hereinafter referred to as the Tribunal.

A copy of the order dated 30.6.2000 is annexed herewith and marked as Annexure-A.

4.3. That the Applicant is an Arts Graduate. He has also obtained his Bachelor Degree in Library and Information Science. He has obtained the B.A. and B.L.I.Sc. Degrees in the year 1991 and 1998 respectively.

4.4. That the Applicant had first entered into the services of the Hon'ble Tribunal way back in 1987 when he was appointed as Senior Library Attendant with effect from 23.12.87. He was confirmed in the said post with effect from 23.12.89. Unfor-

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Unfortunately, the post of Senior Library Attendant which the Applicant was holding was abolished and the Applicant was rendered surplus for the said post. In such a situation, he was down graded to the post of Junior Library Attendant. The respective pay scales of the post of Junior Library Attendant and Senior Library Attendant are Rs.800-1150/- (pre-revised) and Rs. 950-1400/- (pre-revised). The post of Junior Librarian with which the present O.A. is concerned carries the pay scale of Rs.1400-2600/-.

Copies of the orders dated 21.12.87 and 30.6.95 by which the Applicant was appointed and confirmed in the post Senior Library Attendant are annexed as ANNEXURES-1 and 2 respectively.

4.5 That the CAT, Principal Bench by its letter No. PB/7/2/95-DR(E)/2666/A1 dated 22.2.96 addressed to the Hon'ble Tribunal on the subject of "implementation of the Staff Inspection Unit report for the Central Administration Tribunal" conveyed the final position of existing post in the Hon'ble Tribunal which included the post of Junior Librarian at Sl. No. 21 and that of Junior Library Attendant at Sl. No. 35. By the said letter, it was requested that the adjustment of staff might be done in accordance with the sanctioned strength and in case of any surplus personnel, he might be repatriated to his parent office (in case of deputation) or if he was holding a higher post he might be reverted to a lower post if such post was available. It was pursuant to such a position, the Applicant was reverted/down graded to the post of Junior Library Attendant from that of Senior Library Attendant.

A copy of the said letter dated 22.2.96 is annexed as ANNEXURE-3.

4.6. That the Applicant by his letter dated ⁸ 11.11.96 while accepting the post of Junior Library Attendant, since he had no other options left made a request to consider his case for promotion to the post of Junior Librarian in case of his success in the B.L.I.Sc. examination.

A copy of the said letter dated 11.11.96 is annexed as ANNEXURE-4.

4.7. That the Applicant as stated above has since obtained his B.L.I.Sc. degree and he is fully eligible to be appointed as Junior Librarian. Be it stated here that the said post in the Hon'ble Tribunal has not yet been filled on regular basis and is manned by a deputationist whose term is going to expire on 23.7.2000. Be it further stated here that in terms of the service rules in existence, the Applicant is entitled to get any further promotion and thus will continue to stagnate in his present post of Junior Library Attendant.

4.8. That as per provisions of the Central Administrative Tribunal (Group "B" and "C" Miscellaneous Posts) Recruitment Rules, 1989, the qualification for the post of Junior Library Attendant is Middle Schools Standard passed with experience of working at least for one year in a Library. The qualification laid down for the post of Senior Library Attendant is Matriculation of equivalent with proficiency/experience in handling photocopying machines and that of Junior Librarian is degree of a recognised University and Diploma in Library Science with two years experience in a responsible capacity in a Library of standing.

The Applicant craves leave of the Hon'ble Tribunal to refer to the provisions of the aforesaid rules at the time of hearing of the O.A.

8 DEC 2000
Gus... Bench

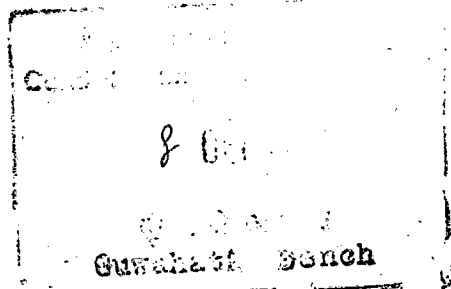
4.9. That the Applicant states that from above position of the rules relating to recruitment of Junior Library Attendant, Senior Library Attendant and Junior Librarian, it will be seen that the Applicant is over qualified for both the posts of Junior Library Attendant and Senior Library Attendant and is fully eligible to be appointed as Junior Librarian. His case is also required to be considered by the Respondents in view of the fact that he was reverted from the post of Senior Library Attendant and that he being a departmental candidate, should get preference over others. If need be, the power of relaxation as envisaged under Rule 7 of the aforesaid Rules.

4.10. That the Applicant states that the post of Junior Librarian being vacant and being manned by a deputationist, the Applicant is entitled to be considered for the said post having regard to the facts and circumstances involved in his case as narrated above and if need be the authorities of the Respondents may invoke the power of relaxation as envisaged under Rule 7 of the said Rules. The Applicant had submitted a representation on 17.2.99 urging for his promotion and/or appointment to the said post of Junior Librarian and in reference to the said representation, he had further submitted a representation on 24.2.2000 making a request therein to appoint him to the post of Junior Librarian.

A copy of the said representation dated 24.2.2000 is annexed as ANNEXURE-5.

4.11. That the applicant having no other alternative was constrained to move the Hon'ble Tribunal by way of filing O.A. No 211 of 2000 before the Hon'ble Tribunal praying for a direction to consider his case for appointment in the post of Junior Librarian in need be by invoking the power of relaxation under the Rules. The Hon'ble Tribunal having regard to the facts and cir-

Kamakh Das



4.14. That the applicant begs to state that the respondents while issuing the Annexure-A order dated 30.6.2000 has failed to comply with the directions and observations made in the order dated 13.6.2000 and hence same is liable to be set aside and quashed.

4.15. That the applicant begs to state that he is the only deserving and eligible candidate for the said post of Junior Librarian as he fulfills all the required qualification mentioned in the Rules. It is also stated that even his case can also be considered for appointment under the deputation clause mentioned the Rules. But the respondents without taking into consideration all these facts has issued the impugned order dated 30.6.2000 and for that the same is liable to be set aside and quashed.

4.16. That as already stated above, the tenure of the present deputationist holding the post of Junior Librarian is going to expire on 23.7.2000 and thereafter the said post will fall vacant. It is learnt that instead of filling up the vacancy on regular basis, the term of deputation is likely to be extended. In such an eventuality, the long standing grievance of the Applicant will be further perpetuated and he will have to continue in the post of Junior Library Attendant. On the other hand, since the post of Senior Library Attendant has been abolished, the Applicant does not have any avenue of promotion and he will have to stagnate for all the times to come. Be it stated here that the Recruitment Rules holding the field do not provide for any promotion for the Junior Library Attendant. It is under these circumstances, the interference of the Hon'ble Tribunal is called for to protect the interest of the Applicant. If the post of Junior Librarian is filled up by any other person, the valuable right of the Applicant of being considered against the said post will be frustrated and he will have to stagnate in the present

Control Administration
8 Oct 1998
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post of Junior Library Attendant without any scope of further promotion/appointment.

4.17. That the Applicant begs to state that there is no impediment against consideration of his case for appointment to the post of Junior Librarian and he has got a better claim than any other incumbent, he being an employee of the Hon'ble Tribunal having entered into the services way back in 1987. For the last thirteen years, he is continuing in his service without any promotion, rather as stated above, he had to face reversion to the post of Junior Library Attendant from Senior Library Attendant.

4.18. That if the post of Junior Librarian is filled up by an outsider, the only consideration for being appointed to a higher post as the Applicant can aspire will also be frustrated and he will suffer irreparable loss and injury in his service career. In such an eventuality, stagnation will be the rule and the Applicant will have to continue in his present post without any further scope of promotion/appointment.

4.19. That the Applicant states that having regard to facts and circumstances involved in the case, it is a fit case for passing an interim order as has been prayed for.

4.20. That the Applicant does not have any other alternative and/or efficacious remedy than to come under the protective hands of this Hon'ble Court.

4.21. That as already stated above the applicant is suffering from stagnation as there being no promotional scope providing in the Central Administrative Tribunal (Gr B and C) Misc Recruitment Rules 1989. He is suitable and qualified to hold the post of Junior Librarian as per the norms laid down in the said Rule. However, the manner and the method of recruitment provided under the said Rule for the post of Junior Librarian there is no scope

Kanak Das

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for promotion and the only method provided for is Transfer on Deputation/transfer failing which by Direct Recruitment. On the other hand the eligibility provided for Transfer on Deputation/transfer requires holding of analogous post or in the lower post or at least 5 years regular service in the scale of Rs 1200-2040 or equivalent. These debar the applicants from participating in the selections which has resulted in wild discrimination in violation of Art 15 and 16 of the Constitution of India. This being the position the said method and the eligibility criteria laid down for the post of Junior Librarian is ultra vires and liable to be struck down and/or read down.

4.22. That the applicants state that the irony of the situation is that although he is otherwise qualified to hold the post of Junior Librarian, the provision made in the aforesaid Recruitment Rule providing method of recruitment and eligibility criteria debar him even for applying for the post not to speak of consideration of his case, and the persons coming from other Department/ Institution is allowed to score a margin over the applicant belonging to the Tribunal. This being the position the said provision of the Recruitment Rule are Constitutionally not valid and liable to be declared as ultra vires and opposed to equality clause enshrined in the Constitution of India.

4.23. That the applicant states that like the other employees he has got a right for his promotion and he can not be made to stagnate at one stage for his entire service career. To that extent also the Recruitment Rule is required to be suitably amended providing promotional opportunity to the applicant.

4.24. That the applicant states that the having regard to the facts and circumstances of the case, it is a fit case of hardship being caused to the applicant and accordingly it is a fit case to invoke Rule 8 of the said Rules entitling the applicant for being

considered for the post of Junior Librarian by exercising power of relaxation.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that the Applicant cannot be made to stagnate for the rest of his service career and he is entitled to get promotion.

5.2 For that the Applicant once having been reverted from the post of Senior Library Attendant to that of Junior Library Attendant due to the abolition of the post and the Applicant having made it known at that time that his case may be considered for promotion/appointment as Junior Librarian, the Respondents are duty bound under the law to consider his case.

5.3. For that the Applicant having already attained the qualification required for the post of Junior Librarian and he being eligible for appointment as such, the Respondents ought to have considered his case for appointment instead of filling up the post by deputation.

5.4. For that the move to fill the post of Junior Librarian through outsider and/or by way of absorption of the deputationist is frustrating for the Applicant inasmuch as if such a move is materialised, the Applicant will continue to stagnate without any scope of promotion in his service career which situation cannot stand the scrutiny of law.

5.5. For that it is a fit case to exercise the power of relaxation by the competent authority having regard to the facts and circumstances involved in the case.

5.6. For that the Applicant being highly qualified, the post of Junior Library Attendant does not commensurate to his educational qualification and in such a facts situation, the authorities of the Respondents are duty bound to look into the

matter and do the needful in accordance with the rules and to achieve that goal, if need be, should exercise the power of relaxation to save the Applicant from the situation he is presently in.

5.7. For that the action of the respondents in issuing the impugned order is not sustainable as the same is contrary to the direction issued by the Hon'ble Tribunal and hence the said order dated 30.6.2000 is liable to be set aside and quashed.

5.8. For that in any view of the matter, non consideration of the Applicant for his appointment to the post of Junior Librarian is bad in law.

5.9. For that the provisions of the Central Administrative Tribunal (Gr C and B) Misc Post Rules 1989 by which it has been laid down the criteria for filling up the post of Junior Librarian by way of Transfer on Deputation/transfer failing which Direct recruitment without any scope for promotion amongst the eligible incumbent of the Central Administrative Tribunal is not sustainable in the eye of law and liable to be set aside and quashed. same is also discriminatory in nature and violative of Art 14 and 16 of the Constitution of India.

5.10. For that the aforesaid Recruitment Rule is ultra vires as same does not provide any promotional avenue employees of the Tribunal and the same violative of the Constitutional mandates.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

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

The Applicant further declares that no other applica-

tion, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1. To set aside and quash Annexure-A order dated 30.5.20.

8.2. To direct the Respondents to appoint the Applicant in the post of Junior Librarian lying vacant in the Hon'ble Tribunal and if need be to invoke the power of relaxation towards granting this relief to the Applicant.

8.3 To direct the Respondents not to fill up the post of Junior Librarian presently lying vacant in the Hon'ble Tribunal and being manned by a deputationist to be filled up by any outsider.

8.4 To grant any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper by the Hon'ble Tribunal under the facts and circumstances of the case.

8.5. To declare the Recruitment Rule i.e, Central Administrative Tribunal Gr B and C) Misc Post Recruitment Rule 1989 laying down the method of recruitment and eligibility criteria for the post of Junior Librarian to the extent by which the said provision disentitling the applicant even from being considered for the said post.

8.6. To direct the respondents to make adequate room and/or

6-10-89
Central Administrative Tribunal
P.O. C-200
Gurgaon

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provision in the Central Administrative Tribunal (G.B. and Ors. Misc Post) Recruitment Rules 1989 providing preferential prospect to the incumbent in the cadre of Junior Librarian Attendant.

9. INTERIM ORDER OR PAVED FOR

The Applicant prays for an interim order by way of a direction to the Respondents not to fill up the post of Junior Librarian in the Hon'ble Tribunal on regular basis or on deputation till such time, the case of the Applicant is considered against the said post.

10. The application is filed through Advocate

11. PARTICULARS OF THE P.P.O.

- i) SIF No. :
- ii) Date :
- iii) Payable at : Gurgaon

12. LIST OF ENCLOSURES

As stated in the

Kamak Das

8 Dec 2000
 Central Administrative Tribunal
 Guwahati Bench

VERIFICATION

I, Shri Kanak Das, aged about 34 years, son of Shri Bebejia Das, resident of Kharghuli, Guwahati-4, presently working as Junior Library Attendant in the Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,4'1,4'3,4'5,4'6 to 4'18,4'21,4'23 and 5 to 12 are true to my knowledge ; those made in paragraphs 4'2 and 4'5 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 7 th day of ~~Dec~~ 2000.

Kanak Das

Kanak Das



सत्यमेव जयते

(15)
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ANNEXURE - A

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi

Faridkot House, Copernicus Marg,
New Delhi - 110 001

Date: 30.6.2000

No. P8/17/18/99-Estt.II | 6567/A

DR To,

The Deputy Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati.

Sub: Forwarding of application in respect of Shri Karak Das,
Jr. Library Attendant - regarding.

Sir,

I am directed to refer the correspondence resting with your office letter No. B.K.DAS/784/ Dt. 19th June, 2000 on the subject cited above and to say that in compliance of the orders dt. 13.06.2000 passed by the Guwahati Bench of the Tribunal in the matter of Shri Karak Das w/s CAT Admn. bearing number OA 211/2000 the representation of Shri Karak Das Jr. Library Attendant dt. 24.02.2000 addressed to the Registrar Guwahati Bench of the CAT praying for the appointment on the post of Jr. Librarian at Guwahati. has been examined at the level of the Hon'ble Chairman and on examination it is found that rules for the post envisaging the recruitment on the post of Jr. Librarian only by way of transfer on deputation failing which by direct recruitment, there is no way nor any circumstances exists as at the moment, he can be considered for appointment on the said post.

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Representation therefore being devoid of merit is liable to be rejected and it has been ordered accordingly.

You are requested to inform the official concerned accordingly.

This issues with the approval of the Hon'ble Chairman.

AM
10/7/00

True Copy.

Anil
11/7/00

Yours faithfully,
Anil Srivastava
(ANIL SRIVASTAVA)
DEPUTY DIRECTOR (D)

Copy to: Deputy Registrar (Rules).

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Branch, Guwahati.

(16)

ANNEXURE-1

Despatch No. 1407
dt 23-12-87

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(16)

Rajgarh Road, Bhangagarh,
Guwahati- 781 005.

Memo No. CAT/GHY/49/86/ Dated Guwahati, the 21st Dec. '87.

Shri Kanak Das is hereby appointed as Senior Library Attendant temporarily in the scale of pay of Rs. 950-20-1150-EB-25-1400/- plus other allowances as admissible from time to time, in the Central Administrative Tribunal, Guwahati Bench, Guwahati-5 under usual terms and conditions of service.

Appointment of Shri Das is purely temporary and may be terminated at any time without assigning any reason thereof.

self-
(P.C. TALUKDAR)
DEPUTY REGISTRAR (ADMN.)

Memo No. CAT/GHY/49/86/

Dated Guwahati, the 21-12-87

Copy to :-

1. The Accounts Officer, Central Administrative Tribunal, Guwahati-Bench, Guwahati- 781 005..
2. The Deputy Registrar (Admn), Central Administrative Tribunal (PB), Farickot House, Copernicus Marg, New Delhi-110 001.
3. The Pay & Accounts Officer, Central Administrative Tribunal, 7th Floor, Nirvachan Sadan, Ashokar Road, New Delhi-110 001.
4. Shri Kanak Das, C/o S.K. Das, E.S.I. Corporation, Bamunimaidan, Guwahati-21.
5. Personal file of the official.
6. Staff Selection Committed file.
7. Spare.

P. C. Talukdar
21/12/87
(P.C. TALUKDAR)
DEPUTY REGISTRAR (ADMN)

P. C. Talukdar
21/12/87

Dated Guwahati, the 30th June '95

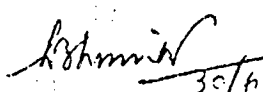
OFFICE ORDER

Consequent upon completion of the probation period of 2 years satisfactorily, services of the following officials are hereby confirmed and they are appointed substantively in the posts shown against their names with effect from the date as mentioned below.

S. No.	Name & Designation	Date of joining in the Post in CAT	Date of effect of confirmation	Remarks
1.	Shri S.C. Rajbanshi Driver	1.11.85	1.11.87	
2.	" S.R. Nath Driver	1.11.85	1.11.87	
3.	" Khagen Goswami Desp. Rider	14.12.87	14.12.89	
4.	" Om Prakash Sharma	1.5.86	1.5.88	
5.	" Photo copier Kanak Das, S.L.A.	23.12.87	23.12.89	

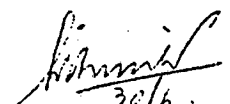
These names have not been arranged in the order of seniority and therefore this order shall not be construed as an order of seniority or merit etc.

This is issued on the basis of the recommendation of the DPC and as per orders of the Hon'ble Vice Chairman.


(K.K. BHOWMIK)
DEPUTY REGISTRAR CC

Copy to:-

1. The Official concerned for information
2. The Accounts Officer, Central Administrative Tribunal Guwahati Bench, Guwahati-5
3. Personnel File
4. Service Book


(K.K. BHOWMIK)
DEPUTY REGISTRAR CC

केन्द्रीय प्रशासनिक अदिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL,

प्रधान न्यायपीठ
PRINCIPAL BENCH
फरीदकोट हाउस कॉपरनिकस मार्ग,
Faridkot House, Copernicus Marg.

नई दिल्ली - 110003

NEW DELHI-110001

XXXXXXXXXXXX

XXXXXXXXXXXX

Dated: 22.2.1996

ANNEXURE- 3

Recd.
26.2.96

XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX

To

The Registrar/Deputy Registrar
Central Administrative Tribunal,
Guwahati Bench

Sub: Implementation of the Staff Insoection Unit Report
for the Central Administrative Tribunal-reg.

Sir,

This is to state that we have received the report of SIU and now it is to be implemented with immediate effect. The SIU while abolishing certain posts have created certain other posts in all the benches of the Tribunal, as will be evident from their letter. Accordingly the final position of existing posts of your bench will be as follows:-

Name of Post No. of sanctioned posts.

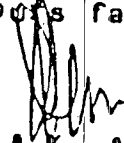
- 1. Vice-Chairman. _____ 1
- 2. Member _____ 1
- 3. Registrar _____ 1
- 4. Registrar _____ 1
- 5. FA&CAO _____ 1
- 6. Jt. Registrar _____ 1
- 7. Dy. Registrar _____ 1
- 8. Dy. C.A. _____ 1
- 9. Dy. Registrar(DOC) _____ 1
- 10. PPS to Chairman _____ 1
- 11. Acctts. Officer _____ 1
- 12. Section Officer _____ 3
- 13. Court Officer _____ 1
- 14. Private Secretary _____ 2
- 15. Senior P.A. _____ 1
- 16. Juhior A.O. _____ 1
- 17. Hindi Translator _____ 1
- 18. Assistant _____ 2
- 19. Court Master _____ 2
- 20. Steno Gr. C _____ 1
- 21. Jr. Librarian _____ 1
- 22. Caretaker cum Protocol Asstt. _____ 1

Sec.
File
203
mt.
27/2/96

- 23. Sr. Accountabb _____
- 24. Jr. Accountant _____
- 25. UDC _____ 3
- 26. Steno Gr 'D' _____ 1
- 27. LDC _____ 7
- 28. Hindi Typist _____
- 29. Bate Entry Operator _____
- 30. Staff Car Driver _____ 2
- 31. Photocopier _____ 1
- 32. Gestt. Optr. _____
- 33. Des. Rider _____ 1
- X 34. Sr. Lib. Attendant _____
- 35. Sr. Lib. Attendant _____ 1
- 36. Daftry _____ 2
- 37. Jamadar _____ 2
- 38. Peon _____ 10.
- 39. Safaiwala/Frash _____ 2
- 40. Choukidar _____ 2
- 41. Mali _____ 1

It is therefore requested that the adjustment of Staff may now be done in accordance with sanctioned strength of your Bench as shown above and if there is any surplus personnel he may be repatriated to his parent office(In case he is on deputation) or if he is holding a higher post he may be reverted to a lower post if, such post is available, or we may be informed so that such person could be adjusted in some other Bench or sent to surplus cell of Govt. of India. The report may kindly be implemented before the end of this month i.e. before 29.2.1996 and a compliance ~~and~~ report thereto may be sent to Principal/by Bench 15.3.1996 positively.

In accordance with the SIU report 67 posts of Peons have been abolished with the result that some of the peons of the Benches have been rendered surplus and they have to be adjusted in those Benches where ultimately it is found that some posts of Group 'D' are lying vacant. You are therefore, requested not to fill-up any Group 'D' post in your Bench till you notify such vacancies to the Principal Bench, and till such surplus persons are adjusted in your Bench and/or in other Benches as the case may be.

Yours faithfully,

 (A.K. AJMANI)
 DEPUTY REGISTRAR(ESTT.)

Control Administrative Tribunal
 Guwahati Bench
 1807

43

11/11/96

115

To

The Deputy Registrar,
 Central Administrative Tribunal,
 Guwahati Bench,
 Guwahati-5.

Sub : Adjustment against the post of Junior Library Attendant.

Ref : No.161/SIU/93-Estt./1796 dated 5.11.96.

Sir,

With reference to your letter No. cited above, I beg to inform you that I have no other option open but to adjust in the post of Junior Library Attendant.

I therefore request you to kindly adjust me in the post of Junior Library Attendant. In this connection I would also like to request you to kindly consider my case of promotion to the post of Junior ~~Librarian~~ Librarian in case of my success in the Bachelor's Degree in Library & Information Science examination, as I have already appeared in the said examination, but the result has not yet been declared. This is without prejudice to my right to be promoted.

With regards,

Yours faithfully,

Kanak Das

(Kanak Das)
 Senior Library Attendant

Dated 11-11-1996.

Estt

As ILA on 20/12/96.

REMINDER

To

The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
GUWAHATI-781005.

Dated Guwahati, the 24.2.2000

Sub: Appointment to the Post of Junior Librarian

Ref: My Application dated 17.2.1999

Sir,

With reference to the above, I, with due deference and profound submission beg to state the following for your kind perusal, favourable consideration and necessary orders thereof:

1. That I was appointed as Senior Library Attendant (Group 'C') way back in the year 1987 and I joined the post on 23.12.87 carrying the pay scale of Rs.950-1400/-. Presently my educational qualification is Bachelor of Arts (B.A.), Bachelor of Library and Information Science (BLISc.), Prabodh in Hindi.

2. That due to my bad luck, the post of Senior Library Attendant which was being held by me earlier was abolished as per Staff Inspection Unit Report vide letter No.PB/7/2/99-TR(E)2666(A) dated 22.2.96, on such abolition of the post, I was offered the post of Junior Library Attendant (Group 'D') carrying the pay scale of Rs.800-1150/-. Having no other alternative and being at the receiving end, I had joined the said post on 20.12.96 and have been continuing as such till date.

3. That it will be pertinent to mention here that along with the aforesaid letter dated 22.2.96 by which my earlier post of Senior Library Attendant was abolished, another post of junior Librarian carrying the pay scale of Rs.5000-8000/- (revised) was created and accordingly I was entitled to be absorbed in Junior Librarian. However, at the time of offering me the alternative employment, this vital aspect of creation of a post of Junior Librarian lost sight of and accordingly, I could not be accommodated in the said post.

4. That on 11.11.96 I have placed my option for the post of Junior Librarian and in the said letter I have given the condition that after passing in Degree in question (BLISc) my case for such promotion may be considered taking in to account my previous services.

5. That ever since my appointment way back in 1987 I have been sincerely rendering my service to the satisfaction of all concerned. I have been managing the Library of the Hon'ble Tribunal single-handedly which is an admitted position. Now in view of the aforesaid position and having regard to my length of service and

(22)

: 2 :

experience being attached to the Library, I am entitled to be promoted to the post of Junior Librarian.

6. That this prayer has been made to your goodself in view of the above circumstances and has been made bonafide and for ends of justice.

In view of the facts and circumstances stated above, should your Honour graciously be pleased to appoint me to the post of Junior Librarian, I shall spare no pain to work upto your entire satisfaction which I have all along been doing. I shall remain bound to your honour in deep gratitude.

Thanking you

Yours faithfully,

Enclo: My application
dated 17.2.1999 (copy).

Copies of Certificates
of B.A. and BLISC.

Kanak Das

24-2-2000
(KANAK DAS)

Junior Library Attendant

2A

The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI


ORDER SHEET
APPLICATION NO. 211/2000 OF 199

Applicant(s) Sri Kanak Das

Respondent(s) Union of India and others.

Advocate for Applicant(s) Mr. B.K. Sharma, Mr. J. H. Samas
Mr. M. Chandra.

Advocate for Respondent(s) Mr. U.K. Goonami
Mr. U.K. Goonami
C. G. S. K.

Notes of the Registry	Date	Order of the Tribunal
	13.6.2000	<p>Present : Hon'ble Mr.D.C. Verma, Judicial Member.</p> <p>Heard Mr.B.K. Sharma, learned counsel for the applicant and Mr.B.C. Pathak, learned Addl.C.G.S.C. for the respondents.</p> <p>The applicant is a Junior Library Attendant in the Guwahati Bench of Central Administrative Tribunal and he is claiming promotion to the post of Junior Librarian. Presently, the post of Junior Librarian is occupied by a deputationist and the second year term of deputation is going to expire on 23rd July, 2000.</p> <p>The applicant sent a representa- -tion on 24.2.2000 (copy annexed as Annexure-5 to the O.A.) The said representation has not been decided till date by the respondents. The applicant submitted that in all</p>

Notes of the Registry	Date	Order of the Tribunal
	13.6.00	<p>probability term of the present incumbent will be would be extended. The prayer is that the representation of the applicant be decided by the respondents before completion of the term of deputation of the present incumbent.</p> <p>Admittedly, the applicant does not fulfil the requirement of 5 years regular service in the scale of Rs.1200-2040/-(unrevised scale) and consequently, the applicant would require relaxation under Rule 7 of the Central Administrative Tribunal(Group B & C Misc.Post) Recruitment Rules, 1989. It is not known where the applicant stands in all India seniority List of his cadre. Besides it, it is always for the competent authority to judge how best the post can be manned. So far the question of relaxation is concerned, it is for the competent authority to consider the same.</p> <p>Division Bench is not available, so counsel for the parties agree that the O.A. may be disposed of at the admission stage with a direction to the respondents to dispose of the representation of the applicant submitted on 24.2.00(Annexure-5 to the O.A) before another term of extension is granted to the present incumbent holding the present post of Jr.Librarian or the post is filled up by any other method.</p> <p>O.A. is disposed of accordingly.No costs.</p>



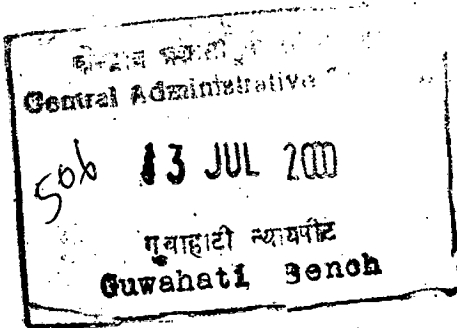
TRUE COPY

प्रतिप्रति

Section Officer (J)
 धनुमान अधिकारी (न्यायिक शाखा)
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक अधिकरण
 Guwahati Bench, Guwahati-8
 गवाहाटी बेंच, गवाहाटी-8

14/6/2000

sd/MEMBER(J)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 239 of 2000

BETWEEN

Shri Kanak Das... Applicant..

AND

Union of India & ors..... Respondents..

I N D E X

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5.	Annexure-2	14
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9.	Annexure-6	18

Filed by : U.K. Nair, Advocate

Regn.No.:

File : Kanak

Date :

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI.

FILED BY:

The Applicant

Throyki

H.K. Nair, Admcat

O.A. No. 239 of 2000

BETWEEN

Shri Kanak Das, Junior Library
Attendant, Central Administrative
Tribunal, Guwahati Bench, Guwahati.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Central Administrative Tribunal, represented by the Registrar, Principal Bench, New Delhi.
3. The Central Administrative Tribunal, Guwahati Bench, represented by the Registrar, Rajgarh Road, Guwahati.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

The application is directed against the order dated 30.6.2000, which the representation filed by the applicant has been rejected. This application has also been filed, praying for a direction to consider the case of the applicant for appointment as Junior Librarian.

2. JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The Applicant further declares that the application is filed

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within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

4.1. That the Applicant is a citizen of India and a permanent resident of Assam and as such, he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2. That the Applicant has filed the present O.A. making a grievance against the order dated 30.6.2000, which has caused stagnation in the matter of promotion and for consideration of his case for appointment as Junior Librarian against the post lying vacant in the Central Administrative Tribunal, Guwahati Bench, hereinafter referred to as the Tribunal.

A copy of the order dated 30.6.2000 is annexed herewith and marked as Annexure-A.

4.3. That the Applicant is an Arts Graduate. He has also obtained his Bachelor Degree in Library and Information Science. He has obtained the B.Ed. and B.L.I.Sc. Degrees in the year 1991 and 1998 respectively.

4.4. That the Applicant had first entered into the services of the Hon'ble Tribunal way back in 1987 when he was appointed as Senior Library Attendant with effect from 23.12.87. He was confirmed in the said post with effect from 23.12.89. Unfortunately, the post of Senior Library Attendant which the Applicant was holding was abolished and the Applicant was rendered surplus for the said post. In such a situation, he was down graded to the post of Junior Library Attendant. The respective pay scales of the post of Junior Library Attendant and Senior Library Attendant are Rs.800-1150/- (pre-revised) and Rs. 950-1400/- (pre-revised). The post of Junior Librarian with which the present O.A. is concerned carries the pay scale of

Rs.1400-2600/-.

Copies of the orders dated 21.12.87 and 30.6.95 by which the Applicant was appointed and confirmed in the post Senior Library Attendant are annexed as ANNEXURES-1 and 2 respectively.

4.5 That the CAT, Principal Bench by its letter No. PB/7/2/95-DR(E)/2666/A1 dated 22.2.96 addressed to the Hon'ble Tribunal on the subject of "implementation of the Staff Inspection Unit report for the Central Administration Tribunal" conveyed the final position of existing post in the Hon'ble Tribunal which included the post of Junior Librarian at Sl. No. 21 and that of Junior Library Attendant at Sl. No. 35. By the said letter, it was requested that the adjustment of staff might be done in accordance with the sanctioned strength and in case of any surplus personnel, he might be repatriated to his parent office (in case of deputation) or if he was holding a higher post he might be reverted to a lower post if such post was available. It was pursuant to such a position, the Applicant was reverted/down graded to the post of Junior Library Attendant from that of Senior Library Attendant.

A copy of the said letter dated 22.2.96 is annexed as ANNEXURE-3.

4.6. That the Applicant by his letter dated 11.11.96 while accepting the post of Junior Library Attendant, since he had no other options left made a request to consider his case for promotion to the post of Junior Librarian in case of his success in the B.L.I.Sc. examination.

A copy of the said letter, dated 11.11.96 is annexed as ANNEXURE-4.

4.7. That the Applicant as stated above has since obtained his B.L.I.Sc. degree and he is fully eligible to be appointed as Junior Librarian. Be it stated here that the said post in the

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Hon'ble Tribunal has not yet been filled on regular basis and is manned by a deputationist whose term is going to expire on 23.7.2000. Be it further stated here that in terms of the service rules in existence, the Applicant is entitled to get any further promotion and thus will continue to stagnate in his present post of Junior Library Attendant.

4.8. That as per provisions of the Central Administrative Tribunal (Group "B" and "C" Miscellaneous Posts) Recruitment Rules, 1989, the qualification for the post of Junior Library Attendant is Middle Schools Standard passed with experience of working at least for one year in a Library. The qualification laid down for the post of Senior Library Attendant is Matriculation of equivalent with proficiency/experience in handling photocopying machines and that of Junior Librarian is degree of a recognised University and Diploma in Library Science with two years experience in a responsible capacity in a Library of standing.

The Applicant craves leave of the Hon'ble Tribunal to refer to the provisions of the aforesaid rules at the time of hearing of the D.A.

4.9. That the Applicant states that from above position of the rules relating to recruitment of Junior Library Attendant, Senior Library Attendant and Junior Librarian, it will be seen that the Applicant is over qualified for both the posts of Junior Library Attendant and Senior Library Attendant and is fully eligible to be appointed as Junior Librarian. His case is also required to be considered by the Respondents in view of the fact that he was reverted from the post of Senior Library Attendant and that he being a departmental candidate, should get preference over others. If need be, the power of relaxation as envisaged under Rule 7 of the aforesaid Rules.

4.10. That the Applicant states that the post of Junior Librarian being vacant and being manned by a deputationist, the

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Applicant is entitled to be considered for the said post having regard to the facts and circumstances involved in his case as narrated above and if need be the authorities of the Respondents may invoke the power of relaxation as envisaged under Rule 7 of the said Rules. The Applicant had submitted a representation on 17.2.99 urging for his promotion and/or appointment to the said post of Junior Librarian and in reference to the said representation, he had further submitted a representation on 24.2.2000 making a request therein to appoint him to the post of Junior Librarian.

A copy of the said representation dated 24.2.2000

is annexed as ANNEXURE-5.

4.11. That the applicant having no other alternative was constrained to move the Hon'ble Tribunal by way of filing O.A. No 211 of 2000 before the Hon'ble Tribunal praying for a direction to consider his case for appointment in the post of Junior Librarian in need be by invoking the power of relaxation under the Rules. The Hon'ble Tribunal having regard to the facts and circumstances of the case was pleased to dispose of the said O.A. in the admission stage with a direction to dispose of the representation filed by the applicant. It is noteworthy to mention here that the Hon'ble Tribunal while disposing of the said O.A. was pleased to make a mention regarding the Rule 7 of the CAT (Gr. C & D Misc. Post) wherein the competent authority has been empowered with the relaxation clause to relax any of the said Rules.

A copy of the said Judgment and order dated 13.6.00 passed in O.A. No 211 of 2000 is annexed herewith and marked as ANNEXURE-6.

4.12. That thereafter the respondents pursuant to the aforesaid judgment and order dated 13.6.2000, issued an order dated 30.6.2000 (Annexure-A), which was served on the applicant on 11.7.2000, wherein it has been mentioned that the case of the

applicant could not be considered at the moment as the Rules for appointment for the said post of Junior Librarian does not cover his case.

4.13. That the applicant begs to state that his earlier O.A. 211 of 2000 was based mainly on the plea that in his if Rule does not permit than Rule 7 may be invoked but in the impugned order the respondents have failed to take into consideration the said Rule. It is further stated that in the Judgment and order dated 13.6.00 there has been a mention regarding the Rule 7 and it was kept open for the respondents to invoke the said Rule while considering the case of the applicant. However, in the impugned order there has been no mention regarding the fact as to whether the Rule 7 has been invoked or not. It is also stated that it is a fit case for invoking Rule 7 of the said Rules taking into consideration the initial appointment of the applicant and the educational qualification.

4.14. That the applicant begs to state that the respondents while issuing the Annexure-A order dated 30.6.2000 has failed to comply with the directions and observations made in the order dated 13.6.2000 and hence same is liable to be set aside and quashed.

4.15. That the applicant begs to state that he is the only deserving and eligible candidate for the said post of Junior Librarian as he fulfills all the required qualification mentioned in the Rules. It is also stated that even his case can also be considered for appointment under the deputation clause mentioned the Rules. But the respondents without taking into consideration all these facts has issued the impugned order dated 30.6.2000 and for that the same is liable to be set aside and quashed.

4.16. That as already stated above, the tenure of the present deputationist holding the post of Junior Librarian is going to expire on 23.7.2000 and thereafter the said post will fall va-

Kanak Das

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cant. It is learnt that instead of filling up the vacancy on regular basis, the term of deputation is likely to be extended. In such an eventuality, the long standing grievance of the Applicant will be further perpetuated and he will have to continue in the post of Junior Library Attendant. On the other hand, since the post of Senior Library Attendant has been abolished, the Applicant does not have any avenue of promotion and he will have to stagnate for all the times to come. Be it stated here that the Recruitment Rules holding the field do not provide for any promotion for the Junior Library Attendant. It is under these circumstances, the interference of the Hon'ble Tribunal is called for to protect the interest of the Applicant. If the post of Junior Librarian is filled up by any other person, the valuable right of the Applicant of being considered against the said post will be frustrated and he will have to stagnate in the present post of Junior Library Attendant without any scope of further promotion/appointment.

4.17. That the Applicant begs to state that there is no impediment against consideration of his case for appointment to the post of Junior Librarian and he has got a better claim than any other incumbent, be being an employee of the Hon'ble Tribunal having entered into the services way back in 1987. For the last thirteen years, he is continuing in his service without any promotion, rather as stated above, he had to face reversion to the post of Junior Library Attendant from Senior Library Attendant.

4.18. That if the post of Junior Librarian is filled up by an outsider, the only consideration for being appointed to a higher post as the Applicant can aspire will also be frustrated and he will suffer irreparable loss and injury in his service career. In such an eventuality, stagnation will be the rule and the Applicant will have to continue in his present post without any

Further scope of promotion/appointment.

4.19. That the Applicant states that having regard to facts and circumstances involved in the case, it is a fit case for passing an interim order as has been prayed for.

4.20. That the Applicant does not have any other alternative and/or efficacious remedy than to come under the protective hands of this Hon'ble Court.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that the Applicant cannot be made to stagnate for the rest of his service career and he is entitled to get promotion.

5.2 For that the Applicant once having been reverted from the post of Senior Library Attendant to that of Junior Library Attendant due to the abolition of the post and the Applicant having made it known at that time that his case may be considered for promotion/appointment as Junior Librarian, the Respondents are duty bound under the law to consider his case.

5.3. For that the Applicant having already attained the qualification required for the post of Junior Librarian and he being eligible for appointment as such, the Respondents ought to have considered his case for appointment instead of filling up the post by deputation.

5.4. For that the move to fill the post of Junior Librarian through outsider and/or by way of absorption of the deputationist is frustrating for the Applicant inasmuch as if such a move is materialised, the Applicant will continue to stagnate without any scope of promotion in his service career which situation cannot stand the scrutiny of law.

5.5. For that it is a fit case to exercise the power of relaxation by the competent authority having regard to the facts and circumstances involved in the case.

5.6. For that the Applicant being highly qualified, the post of Junior Library Attendant does not commensurate to his educational qualification and in such a facts situation, the authorities of the Respondents are duty bound to look into the matter and do the needful in accordance with the rules and to achieve that goal, if need be, should exercise the power of relaxation to save the Applicant from the situation he is presently in.

5.7. For that the action of the respondents in issuing the impugned order is not sustainable as the same is contrary to the direction issued by the Hon'ble Tribunal and hence the said order dated 30.6.2000 is liable to be set aside and quashed.

5.8. For that in any view of the matter, non consideration of the Applicant for his appointment to the post of Junior Librarian is bad in law.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be

Kamakh Das

called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1. To set aside and quash Annexure-A order dated 30.6.00.

8.2. To direct the Respondents to appoint the Applicant in the post of Junior Librarian lying vacant in the Hon'ble Tribunal and if need be to invoke the power of relaxation towards granting this relief to the Applicant.

8.3 To direct the Respondents not to fill up the post of Junior Librarian presently lying vacant in the Hon'ble Tribunal and being manned by a deputationist to be filled up by any outsider.

8.4 To grant any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper by the Hon'ble Tribunal under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

The Applicant prays for an interim order by way of a direction to the Respondents not to fill up the post of Junior Librarian in the Hon'ble Tribunal on regular basis or on deputation till such time, the case of the Applicant is considered against the said post.

10. The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) ~~I.P.O.~~ No. : *B.D.* OT/F 841648
ii) Date : 13-07-2000
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

✓

V E R I F I C A T I O N

I, Shri Kanak Das, aged about 34 years, son of Shri Bebejia Das, resident of Kharghuli, Guwahati-4, presently working as Junior Library Attendant in the Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,41,43,47-410 are true to my knowledge ; those made in paragraphs 42,44-46,410,411 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 13 th day of June 2000.

Kanak Das



सत्यमेव जयते

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi

Faridkot House, Copernicus Marg,
New Delhi - 110 001

Date: 30.6.2000

No. PB/17/18/99-Estt. I | 6567/A

To,

The Deputy Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati.

Sub: Forwarding of application in respect of Shri Kanak Das,
Jr. Library Attendant - regarding.

Sir,

I am directed to refer the correspondence resting with your office letter No. B.K.DAS/784/ Dt. 19th June, 2000 on the subject cited above and to say that in compliance of the orders dt. 13.06.2000 passed by the Guwahati Bench of the Tribunal in the matter of Shri Kanak Das ~~MS~~ CAT Admn. bearing number OA 211/2000 the representation of Shri Kanak Das Jr. Library Attendant dt. 24.02.2000 addressed to the Registrar Guwahati Bench of the CAT praying for the appointment on the post of Jr. Librarian at Guwahati. has been examined at the level of the Hon'ble Chairman and on examination it is found that rules for the post envisaging the recruitment on the post of Jr. Librarian only by way of transfer on deputation failing which by direct recruitment, there is no way nor any circumstances exists as at the moment, he can be considered for appointment on the said post. Representation therefore being devoid of merit is liable to be rejected and it has been ordered accordingly.

You are requested to inform the official concerned accordingly.

This issues with the approval of the Hon'ble Chairman.

yours faithfully,
Anil Srivastava
(ANIL SRIVASTAVA)
DEPUTY DIRECTOR (D)

Copy to: Deputy Registrar (Rules).

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Branch, Guwahati.

Attended
S. K. Saini
Advocate

30(E)
leave do
be needed

By
T. K. Saini

True Copy.

Anil
11/7/00.

-13-

Despatch No. 1404
dt. 23-12-87

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(116)

Rajgarh Road, Bhangagarh,
Guwahati- 781 005.

Memo No. CAT/GHY/49/86/ Dated Guwahati, the 21st Dec. '87.

Shri Kanak Das is hereby appointed as Senior Library Attendant temporarily in the scale of pay of Rs. 950-20-1150-EB-25-1400/- plus other allowances as admissible from time to time, in the Central Administrative Tribunal, Guwahati Bench, Guwahati-5 under usual terms and conditions of service.

Appointment of Shri Das is purely temporary and may be terminated at any time without assigning any reason thereof.

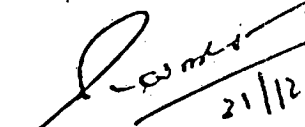
self-
(P.C. TALUKDAR)
DEPUTY REGISTRAR (ADMN.)

Memo No. CAT/GHY/49/86/

Dated Guwahati, the 21-12-87.

Copy to :-

1. The Accounts Officer, Central Administrative Tribunal, Guwahati-Bench, Guwahati- 781 005..
2. The Deputy Registrar (Admn), Central Administrative Tribunal (PB), Farickot House, Copernicus Marg, New Delhi-110 001.
3. The Pay & Accounts Officer, Central Administrative Tribunal, 7th Floor, Nirvachan Sadan, Ashokar Road, New Delhi-110 001.
4. Shri Kanak Das, C/o S.K. Das, E.S.I. Corporation, Bamunimaidan, Guwahati-21.
5. Personal file of the official.
6. Staff Selection Committed file.
7. Spare.


 (P.C. TALUKDAR)
 DEPUTY REGISTRAR (ADMN.)

21/12/87

Dated Guwahati, the 30th June '95'

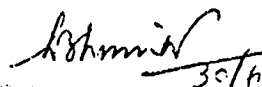
OFFICE ORDER

Consequent upon completion of the probation period of 2 years satisfactorily, services of the following officials are hereby confirmed and they are appointed substantively in the posts shown against their names with effect from the date as mentioned below.

S. No.	Name & Designation	Date of joining in the Post in CAT	Date of effect of confirmation	Remarks
1.	Shri S.C. Rajbanshi, Driver	1.11.85	1.11.87	
2.	" S.R. Nath Driver	1.11.85	1.11.87	
3.	" Khagen Goswami Desp. Rider	14.12.87	14.12.89	
4.	" Om Prakash Sharma	1.5.86	1.5.88	
5.	" Photo copier Kanak Das, S.L.S.	23.12.87	23.12.89	

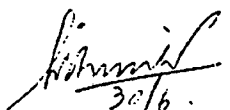
These names have not been arranged in the order of seniority and therefore this order shall not be construed as an order of seniority or merit etc.

This is issued on the basis of the recommendation of the DPC and as per orders of the Hon'ble Vice Chairman.


(K.K. BHOWMIK -)
DEPUTY REGISTRAR CC

Copy to:-

1. The Official concerned for information
2. The Accounts Officer, Central Administrative Tribunal Guwahati Bench, Guwahati-5
3. Personnel File
4. Service Book


(K.K. BHOWMIK)
DEPUTY REGISTRAR CC

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL,

प्रधान न्यायपीठ
PRINCIPAL BENCH
फरीदकोट हाउस कॉपरनिकस मार्ग,
Faridkot House, Copernicus Marg.

नई दिल्ली - 110001

NEW DELHI-110001

XXXXXXXXXX

XXXXXXXXXX

Dated: 22.2.1996

ANNEXURE- 3

To
The Registrar/Deputy Registrar
Central Administrative Tribunal,
Gwahati Bench

Sub: Implementation of the Staff Insoection Unit Report
for the Central Administrative Tribunal-reg.

Sir,

This is to state that we have received the report of SIU and now it is to be implemented with immediate effect. The SIU while abolishing certain posts have created certain other posts in all the benches of the Tribunal, as will be evioent from their letter. Accordingly the final position of existing posts of your bench will be as follows:-

Name of Post	No. of sanctioned posts.
1. Vice-Chairman	1
2. Member	1
3. Registrar	1
4. Registrar	1
5. FA&CAO	1
6. Jt. Registrar	1
7. Dy. Registrar	1
8. Dy. C.A.	1
9. Dy. Registrar(DOC)	1
10. PPS to Chairman	1
11. Acctts. Officer	1
12. Section Officer	3
13. Court Officer	1
14. Private Secretary	2
15. Senior P.A.	1
16. Junior A.O.	1
17. Hindi Translator	1
18. Assistant	2
19. Court Master	2
20. Steno Gr. C	1
21. Jr. Librarian	1
22. Caretaker cum Protocol Asstt.	1

Secy
Jt. Secy
Asstt. Secy
M
27/2/96

16

23. Sr. Accountant	—
24. Jr. Accountant	—
25. UDC	3
26. Steno Gr 'D'	1
27. LDC	7
28. Hindi Typist	—
29. Gate Entry Operator	—
30. Staff Car Driver	2
31. Photocopier	1
32. Gestt. Optr.	—
33. Des. Rider	1
X 34. Sr. Lib. Attendant	—
35. Sr. Lib. Attendant	1
36. Daftry	2
37. Jamadar	2
38. Peon	10
39. Safaiwala/Frash	2
40. Chowkidar	2
41. Mali	1

It is therefore requested that the adjustment of Staff may now be done in accordance with sanctioned strength of your Bench as shown above and if there is any surplus personnel he may be repatriated to his parent office (In case he is on deputation) or if he is holding a higher post he may be reverted to a lower post if, such post is available, or we may be informed so that such person could be adjusted in some other Bench or sent to surplus cell of Govt. of India. The report may kindly be implemented before the end of this month i.e. before 29.2.1996 and a compliance ~~and~~ report thereto may be sent to Principal/bench by 15.3.1996 positively.

In accordance with the SIU report 67 posts of Peons have been abolished with the result that some of the peons of the Benches have been rendered surplus and they have to be adjusted in those Benches where ultimately it is found that some posts of Group 'D' are lying vacant. You are therefore, requested not to fill-up any Group 'D' post in your Bench till you notify such vacancies to the Principal Bench, and till such surplus persons are adjusted in your Bench and/or in other Benches as the case may be.

Yours faithfully,

(A.K. AJANI)
DEPUTY REGISTRAR (ESTT.)

Central Administrative Tribunal
Guwahati Bench

14 NOV 1995
1807

11/11/95

43

HS

To

The Deputy Registrar,
Central Administrative Tribunal,
Guwahati Bench,
Guwahati-5.

Sub : Adjustment against the post of Junior Library
Attendant.

Ref : No.161/SIU/93-Estt./1796 dated 5.11.96.

Sir,

With reference to your letter No. cited
above, I beg to inform you that I have no other option
open but to adjust in the post of Junior Library
Attendant.

I therefore request you to kindly adjust
me in the post of Junior Library Attendant. In this
connection I would also like to request you to kindly
consider my case of promotion to the post of Junior
~~Librarian~~ Librarian in case of my success
in the Bachelor's Degree in Library & Information
Science examination, as I have already appeared
in the said examination, but the result has not yet
been declared. This is without prejudice to my right
to be promoted.

With regards,

Yours faithfully,

Kanak Das

(Kanak Das)
Senior Library Attendant

Dated 11-11-1995.

-18- REMINDER

To

The Registrar,
Central Administrative Tribunal,
Guwahati Bench,
GUWAHATI-781005.

Dated Guwahati, the 24.2.2000

Sub: Appointment to the Post of Junior LibrarianRef: My Application dated 17.2.1999

Sir,

With reference to the above, I, with due deference and profound submission beg to state the following for your kind perusal, favourable consideration and necessary orders thereof:

1. That I was appointed as Senior Library Attendant (Group 'C') way back in the year 1987 and I joined the post on 23.12.87 carrying the pay scale of Rs.950-1400/-. Presently my educational qualification is Bachelor of Arts (B.A.), Bachelor of Library and Information Science (BLISc.), Prabodh in Hindi.

2. That due to my bad luck, the post of Senior Library Attendant which was being held by me earlier was abolished as per Staff Inspection Unit Report vide letter No.PB/7/2/99-TR(E)2666(A) dated 22.2.96, on such abolition of the post, I was offered the post of Junior Library Attendant (Group 'D') carrying the pay scale of Rs.800-1150/-. Having no other alternative and being at the receiving end, I had joined the said post on 20.12.96 and have been continuing as such till date.

3. That it will be pertinent to mention here that along with the aforesaid letter dated 22.2.96 by which my earlier post of Senior Library Attendant was abolished, another post of Junior Librarian carrying the pay scale of Rs.5000-8000/- (revised) was created and accordingly I was entitled to be absorbed in Junior Librarian. However, at the time of offering me the alternative employment, this vital aspect of creation of a post of Junior Librarian lost sight of and accordingly, I could not be accommodated in the said post.

4. That on 11.11.96 I have placed my option for the post of Junior Librarian and in the said letter I have given the condition that after passing in Degree in question (BLISc) my case for such promotion may be considered taking in to account my previous services.

5. That ever since my appointment way back in 1987 I have been sincerely rendering my service to the satisfaction of all concerned. I have been managing the Library of the Hon'ble Tribunal single-handedly which is an admitted position. Now in view of the aforesaid position and having regard to my length of service and

experience being attached to the Library, I am entitled to be promoted to the post of Junior Librarian.

6. That this prayer has been made to your goodself in view of the above circumstances and has been made bonafide and for ends of justice.

In view of the facts and circumstances stated above, should your Honour graciously be pleased to appoint me to the post of Junior Librarian, I shall spare no pain to work upto your entire satisfaction which I have all along been doing. I shall remain bound to your honour in deep gratitude.

Thanking you

Yours faithfully,

Enclo: My application
dated 17.2.1999 (copy).

Copies of Certificates
of B.A. and BLISC.

Kanak Das
24-2-2000
(KANAK DAS)
Junior Library Attendant

The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI


ORDER SHEET
APPLICATION NO. 211/2000 OF 199

Applicant(s) Sri Kanak Das

Respondent(s) Union of De'ra workers.

Advocate for Applicant(s) Mr. B.K. Sharma, Mr. J. H. Samas
Mr. M. Chandra.

Advocate for Respondent(s) Mr. U.K. Goonami
Mr. U.K. Goonami
C.G. Sr

Notes of the Registry	Date	Order of the Tribunal
	13.6.2000	<p>Present : Hon'ble Mr.D.C. Verma, Judicial Member.</p> <p>Heard Mr.B.K. Sharma, learned counsel for the applicant and Mr.B.C. Pathak, learned Addl.C.G.S.C. for the respondents.</p> <p>The applicant is a Junior Library Attendant in the Guwahati Bench of Central Administrative Tribunal and he is claiming promotion to the post of Junior Librarian. Presently, the post of Junior Librarian is occupied by a deputationist and the second year term of deputation is going to expire on 23rd July, 2000.</p> <p>The applicant sent a representa- tion on 24.2.2000 (copy annexed as Annexure-5 to the O.A.) The said representation has not been decided till date by the respondents. The applicant submitted that in all</p>

Notes of the Registry

Date

Order of the Tribunal

13.6.00

probability term of the present incumbent ~~would be~~ would be extended. The prayer is that the representation of the applicant be decided by the respondents before completion of the term of deputation of the present incumbent.

Admittedly, the applicant does not fulfil the requirement of 5 years regular service in the scale of Rs.1200-2040/-(unrevised scale) and consequently, the applicant would require relaxation under Rule 7 of the Central Administrative Tribunal(Group B & C Misc.Post) Recruitment Rules, 1989. It is not known where the applicant stands in all India seniority List of his cadre. Besides it, it is always for the competent authority to judge how best the post can be manned. So far the question of relaxation is concerned, it is for the competent authority to consider the same.

Division Bench is not available, so counsel for the parties agree that the O.A. may be disposed of at the admission stage with a direction to the respondents to dispose of the representation of the applicant submitted on 24.2.00(Annexure-5 to the O.A) before another term of extension is granted to the present incumbent holding the present post of Jr.Librarian or the post is filled up by any other method.

O.A. is disposed of accordingly.No costs.

sd/MEMBER(J)

TRUE COPY

प्रतिनिधि

14/6/2000

Section Officer (J)
 धानुमान अधिकारी (न्यायिक शाखा)
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक अधिकरण
 Guwahati Bench, Guwahati-6
 गवाहाटी बेंच, गुवाहाटी-6

14/6/2000

