

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 14/2000.....

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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. 14/2000

OF 199

Applicant(s) Md. Abdul Mohit Choudhry.

Respondent(s) Union of India and ORs.

Advocate for Applicant(s) Mr. H. A. Sarkar. Mr. S. Chakrabarty.

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

| Notes of the Registry | Date | Order of the Tribunal |
|---|------------------|---|
| <p>456756 13-1-2000</p> <p>19/1/2000</p> <p>25-1-2000</p> <p>Service of notices Disappeared and sent to D. Section for issuing of the same to the respondants through Regal. post with A.D.</p> <p>Vide Nos. 216 to 219 25-1-2000</p> | <p>21.1.2000</p> | <p>Present : Hon'ble Mr Justice D.N.Baruah, Vice-Chairman</p> <p>Hon'ble Mr G.L.Sanglyine, Administrative Member.</p> <p>Application is admitted. Issue usual notice.</p> <p>List on 14.2.2000 for written state- ment and further orders.</p> <p>Mr H.A.Sarkar, learned counsel for the applicant prays for an interim order. Issue notice to show cause as to why the interim prayer of stay should not be granted. Mr A.Deb Roy, learned Sr. C.G.S.C submits that he has no instruc- tion and he requires 3 weeks time to receive instructions.</p> <p>List on 14.2.2000 for order. Meanwhile status quo as on today shall be main- tained.</p> <p>Member</p> <p>Vice-Chairman</p> |

2

SA 14/2000

Notes of the Registry

Date

Order of the Tribunal

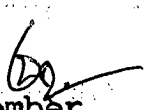
22-2-2000

Notice duly served
on R. No - 2, 3 & 4.

14.2.2000

Await service report.

Fix on 2.3.2000.


Member

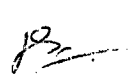

Vice-Chairman

mk

2.3.00

On the prayer of Mr. A. Deb Roy,
learned Sr. C.G.S.C. two weeks further
time is allowed for filing of written
statement.

List on 16.3.00 for written statement
and further orders.


Member(J)

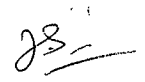

Member (A)

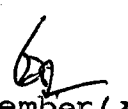
trd

16.3.2000

Two weeks time allowed for filing
of written statement on the prayer of
Mr A. Deb Roy, learned Sr.C.G.S.C.

List on 31.3.2000 for written state-
ment and further orders.


Member(J)


Member (A)

pg

31.3.00

Two weeks further time is
allowed on the prayer of Mr. A. Deb Roy,
learned Sr. C.G.S.C. for filing of
written statement.

List on 11.4.2000 for written
statement and further orders.


Member

trd

11.4.00

No written statement has been
submitted. Two weeks further time allowed for
submitting written statement on the prayer of
Mr A. Deb Roy, learned Sr. C.G.S.C. List for
written statement and further orders on
2.5.00.

nkm

Member

15-3-00

W/statement has not
been filed.

15/3

30-3-00

W/statement has not
been filed.

30/3

Written statement
has not been filed.

10.4.2000

17-4-2000

Order of the Tribunal
has been filed by
the respondents.

10/4

OA. 14/2000

3

| Notes of the Registry | Date | Order of the Tribunal |
|---|--------------------|--|
| 12-7-2000 The case is ready for hearing. <u>By</u> | 2.5.00 trd | Written statement has been submitted. Case is ready for hearing. List on 13.7.2000 for hearing. Jm Member(J) |
| | 13-7-00 | There is no D.B. Adjudged on 30.10.00. 10/6 b- |
| | 30.10.2000 | No D.B. Adjourned to 1.1.2001. 10/6 A.K. Jaz 30/10. |
| | 1.1.01 | No D.B. List on 28.3.01. 10/6 b- |
| | 28-3 | Heard in part. List again on 10/5/01 as foreseen by. 10/6 A.K. Jaz 28/3 |
| | 11.5 | There was a reversal. List again on 1.6.2001. 10/6 A.K. Jaz 11.5 |
| Written statement has been filed. <u>By</u> 6.7.01 | 1.6.2001 bb | There is no Division Bench and accordingly, the case is adjourned to 28-6-2001 for hearing. Vice-Chairman |
| | 9.7.2001 | None appears for the applicant. Mr A. Deb Roy, learned Sr. C.G.S.C. is present. List again tomorrow, 10.7.01, for hearing. CC Sharma Member Vice-Chairman |

| Notes of the Registry | Date | Order of the Tribunal |
|---|-----------|---|
| | 10.7.01 | <p>Counsel for the applicant is absent today also. Mr M.Chanda, learned counsel appearing on behalf of Mr H.A.Sarkar prays for little accommodation.</p> <p>List again on 16.7.01 for hearing.</p> <p><i>ICU Shaha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> |
| pg | 16.7.01 | <p>No representation stand out. List again on 30.7.2001 for hearing.</p> <p><i>ICU Shaha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> |
| bb | 30.7.2001 | <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p><i>ICU Shaha</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> |
| <p>14.8.2001</p> <p>Copy of the Judgment has been sent to the Office for issuing the writ to the applicant as well as to the Sr. C.G.C. for the response.</p> <p>HS</p> | nkm | |

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. 14 of 2000

DATE OF DECISION 30.7.2001

Md. Abdul Mohit Choudhury

APPLICANT(S)

Mr S.R. Bhattacharjee and

Mr H.A. Sarkar

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. 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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other benches ?

5.

Judgment delivered by Hon'ble Vice-Chairman.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2000

Date of decision: This the 30th day of July 2001

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

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

Md. Abdul Mohit Choudhury,
Resident of Village Rahatpur, P.O.- Bishnu Nagar,
District- Karimganj, Assam.

.....Applicant

By Advocate Mr S.R. Bhattacharjee and
Mr H.A. Sarkar.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Department of Communication,
Ministry of Communication,
New Delhi.
2. The Post Master General,
G.P.O., Guwahati, Assam Circle.
3. The Superintendent of Post Offices,
Cachar Division, Silchar.
4. The Sub-Divisional Inspector of Post Offices,
Karimganj.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The sole controversy raised in this application pertains to the order dated 16.4.1999 asking the applicant to hand over the charge of the Office immediately in the following circumstances:

2. The Branch Postmaster of Bishnupur Branch Post Office expired on 30.4.1997. To fill up the aforementioned vacancy, advertisements were made for regular appointment against the vacant post of Branch Post Master (BPM for short) vide communication dated 23.10.1997 through the Employment Exchange, Karimganj. The Employment Exchange accordingly forwarded a list of four candidates vide communication dated

19.11.1997. The applicant was one of the sponsored candidates and who was found eligible for appointment. Accordingly he was appointed as such to the post. An appointment letter dated 3.4.1998 was then issued appointing the applicant as BPM in Bishnu Nagar Branch Post Office with effect from 17.3.1998. By communication dated 8.12.1998 made from the Office of the Chief Post Master General, Assam Circle, Guwahati, the Senior Superintendent of Post Offices, Cachar Division, Silchar was advised to cancel the irregular selection/appointment of the applicant and to make fresh selection. By the aforesaid communication the Senior Superintendent of Post Offices was also asked to submit his explanation for the irregular selection/appointment of Md. Abdul Mohit Choudhury (applicant) as EDBPM, Bishnunagar. It seems pursuant to the communication dated 8.12.1998 the applicant's appointment was cancelled and by the impugned order dated 16.4.1999 the applicant was ordered to hand over the charge of the Office of BPM, Bishnunagar Branch Post Office. The legitimacy of the order dated 16.4.1999 is under challenge before this Tribunal.

3. The respondents submitted their written statement and stated that the selection of the applicant was wrong and since he did not fulfil the essential conditions for the post of EDBPM his appointment was cancelled. The respondents also stated that complaints were received from aggrieved candidates regarding the irregular selection of the applicant. The case was reviewed and it was found that the applicant did not possess the essential qualification prescribed for the post. The applicant also did not possess land of his own, which was one of the essential conditions.

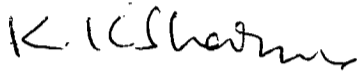
4. Heard Mr S.R. Bhattacharjee, learned counsel for the applicant assisted by Mr H.A. Sarkar, learned Advocate and Mr A. Deb Roy, learned Sr. C.G.S.C.

5. From the facts set out above it thus appears that the appointment of the applicant was cancelled on the alleged ground that he did not fulfil the essential qualification. The said decision was taken by the respondents unilaterally without providing any opportunity to the

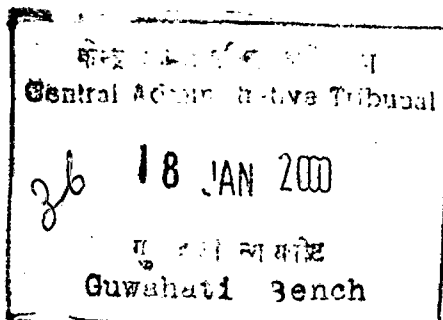
applicant.....

applicant to defend his case. The impugned order entailing cancellation of the appointment was visited with civil consequences in a unilateral manner without providing any opportunity. On this ground alone the impugned order cannot be sustained in law. For the reasons stated above the impugned order is set aside. The cancellation of the impugned order shall not, however, deter the respondents from taking necessary steps as per law.

6. The application is allowed to the extent indicate. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application U/S 19 of the Administrative Tribunal
Act, 1985.).

O.A. No. 14 /2000.

Md. Abdul Mohit Choudhury..... Applicant.

- Versus -

Union of India and ors. Respondents.

I N D E X

| <u>Sl.No.</u> | <u>Description of documents relied upon</u> | <u>Page No.</u> |
|---------------|---|-----------------|
| 1. | Application | 1 to 8. |
| 2. | Verification | 9. |
| 3. | Annexure- A,B,C,D and E. | 10 to 14. |
| 4. | Annexure - F.G.H. and I. | 15 to 18-(A) . |
| 5. | Annexure - J. | 19. |
| 6. | Annexure - K. | 20 |
| 7. | Annexure - L. | 21 . |

Filed by :-

H. A. Sarkar
Advocate
17-1-2000.

Registration No.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH.

O.A. No. 14 /2000.

Md. Abdul Mohit Choudhury,
son of Md. Abdul Sattar Choudhury,
resident of village - Rahatpur, P.O. Bishnu Nagar,
District :- Karimganj, Assam.

.....Applicant.

- Versus -

1. Union of India,
represented by the Secretary to the Govt.
of India. Deptt. of Communication,
Ministry of Communications : New-Delhi.
2. The Post Master General,
G.P.O. Guwahati, Assam Circle.
3. The Superintendent of Post Office,
Cachar Division, Silchar.
4. The Sub-Divisional Inspector of
Post Office, Karimganj .

.....Respondents.

1. Particulars of the Order against which application
is made :-

(1) That the post of Extra Departmental
Branch Post Master Bishnu Nagar Brance Office has
became vacant and it is not possible to make regular
apphointment to the said post immediately the senior
Superintendent post office Silchar (Appointing)
authority has decided to ~~make~~ make provisional appoint-
ment to ta

Md. Abdul Mohit Choudhury

Filed by -
Md. Abdul Mohit Choudhury
Through -
H. A. Sarker
Advocate
17-1-2000

appointment ~~to the said post~~ to the said post for a period from 17.3.98. The appellant Sri. Abdul Mohit Choudhury (Selected person) is offered the provisional appointment.

(2) Cancellation of the appointment order dated 8.12.98 vide letter No. Staff/58-7/98 issued by the Chief post Master General Guwahati- and the subsequent Communication order dated 16.4.99 issued by the Senior Supdt post Officers, Cachar, Division.

2. Jurisdiction of the Tribunal :-

The appellant declares that the Subject matter of the order against which he seeks redressal is within the jurisdiction of the Tribunal, as per the provisions of Section 14(1)(a) of the Administrative Tribunal Act 1985.

3. Limitation :-

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case :-

(1). That the applicant stated that he had passed Matriculation Examination in the year 1987, got himself Registered in the District Employment Exchange, Karimganj, having annual income of Rs. 8000/- (Rupees Eight thousand only) residing in the hoding

Contd.....3.

Md. Abdul Mohit choudhury

No. 58 of village Rahatpur, under Latuojpur G.P. and has landed property.

(Copy of the documents in support of above contention are annexed as Annexure- A.B.C and D And E.)

(2). That the applicant begs to state that having been sponsored as one of the candidate by the District Employment Exchange, your applicant was selected provisionally as Branch post Master of Bishnu Nagar Branch post Office and was duly appointed, after observing all the necessary formalities, as the Branch post Master, of Bishnu Nagar Branch post Office and took over charge on 17.3.98.

(Copy of the document in support of the above contention are annexed as Annexure- E, F, G. & H) and I)

(3). That your petitioner begs to state that your petitioner has been serving as the Branch post Master of the Bishnu Nagar Branch post Office w.e.f. 17.3.98 till the date with full satisfaction of the Authority.

(4). That the ~~pe~~ Applicant begs to state that suddenly and to his utter surprise, your applicant received the impugned communication from the respondent No. 3 vide his letter No.A-373/P.F. dt. 16.4.99 (Annexure - J) Directing your petitioner to hand over charge of his office on the basis of the sweeping statement of "Alleged irregular appointment of B.P.M. Bishnu Nagar Branch Office- case of Md. Abdul Mohit Choudhury"

(Copy of the above impugned order is enclosed herewith as Annexure - J).

Contd....4.

Md Abdul Mohit choudhury

5. GROUND FOR RELIEF WITH LEGAL PROVISION :-

That applicant ~~pr~~ prays for setting aside the letter No.A-373/A.F. dt. 16.4.99 ~~is~~ issued by the senior Supdt. post officer, Cachar Division, Silchar in connection with letter No. Staf/58-7/98 dtd. 8.12.98 passed by the Chief Post Master General Guwahati, on the following amongst other Grounds :-

(1). For that the impugned order dated 16.4.99 was passed by the Senior Post Officer Cachar, Division Silchar, in connection with letter No. Staff/58-7/98 dt.8.12.98 where it was asked the applicant to released yourself handing over the charge of the office to the ADDA, is viod and bad in law and as well as the facts and in therefore liable to be set-aside and quashed.

(2). For that the impugned order for handing over the charge to the said post is in gross violation of the mandatory provisions as laid down by the law regarding handing over the charge and as such is liable to be set-aside and quashed.

(3). That the applicant begs to state that the applicant is an Extra Departmental Agent within the Meaning of Rule 2(a)(b)(II) of the Extra Departmental Agent conducted Service Rules 1964 and all the formalities concerning prior to the issue of appointment letter to your applicant have been complied with by Respondent No.3 and 4 in respect of the applicant Substantially and incomplicance of with the direction issued by the postal higher authority.

Contd.....5.

Mr. Abdul Muhit Chowdhury

(4). That the applicant beg to state that merely on allegations, the respondents No.2 and 3 should not have directed the applicant to hand over the charge without following the statutory provisions contained in Rule 6, and 8 of the E.D. conduct and Service Rules. In the instant case, although your applicant was appointed provisionally, your applicant has acquired a legal right over the post and he is entitled to all the procedural safeguards provided under Art 311(2) of the Constitution of India.

(5). That your applicant beg to ~~xxxxx~~ submits that the Respondents have not followed the procedure while issuing the impugned letter at Annexure- J, which read between the lines, amounts to removal of the applicant from service illegally without following the principles of Natural Justice and in violation of Art 311(2) of the Constitution of India.

(6). That your applicant begs to stated that the applicant was appointed after having been found him eligible and suitable for the post and the applicant has been serving with full satisfaction of the Authority.

(7). For that the applicant begs to state that the applicant is continuing for the said post as a Branch post Master. On 16.4.99 one letter was issued to hand-over

Contd.....6.

Md Abdul Mukil Chowdhury

the charge. The applicant upon hearing from reliable sources that the Respondents are in the process of selecting the candidate of their choice. The applicant finding no other alternative hurriedly approached the Hon'ble Guwahati High Court vide W.P.(C). No. 1985/99 with a prayer to stay the letter No. A-373/PF dated 16.4.99. As the subject matter is within the Jurisdiction of this Hon'ble Tribunal. Therefore the applicant withdrew the said W.P.(C), No. 1985/99 from the Hon'ble High Court ~~xxxxxxx~~ with a liberty to file an application before the appropriate Forum. Thus the Central Administrative Tribunal is the appropriate Forum ~~xx~~, jurisdiction of this case.

6. Details of Remedies exhausted :-

That in view of the statement made in paragraphs 5(7) the applicant filed a W.P.(C) No. 1985/99 before the Hon'ble Gauhati High Court, Guwahati with a prayer to withdraw the impugned order dated 16.4.99 of handing over charge by the applicant (Annexure-J). The applicant begs to state that although the Hon'ble High Court is not the appropriate ~~xx~~ forum for deciding the matter in hand, the applicant had to approach it for the ends of justice for immediate redressal of his grievances.

7. Suit before other courts/Tribunal :-

That as stated above in paragraphs 4 and 5 the applicant approached before the Hon'ble Gauhati High Court with a view to directing the applicant to hand over charge of the office on the basis of the Sweeping statement of "Alleged irregular appointment of Branch ~~Post Master of Bishnu Nagar~~" and the applicant was harrazed

Contd....7.

Md Abdul Muhit Chowdhury

Branch post Master of Bishnu Nagar" and the applicant was harrazed without falt of him. The applicant filed an applicantion before the Hon'ble Gauhati High Court vide W.P.(C). No. 1985/99 for a direction to withdr̄ow the impugned order dated 16.4.99 issued by the Senior Supdt. Post Officer Cachher Division, Silchar on the basis of the Chief Post Master General Guwahati vide his letter No. Staff/58-7/98 dt.8.12.98. The applicant also filed Misc application on 2.12.99 in the said W.P(C) No.1985/99 for stay the impugned order dated 16.4.99 and also the subsequent order dated 19.11.99 issued by the Sub-Divisional Inspector, Karimganj for a direction to hand over the charge.

(Copy of the order dated 19.11.99 annexed herewith as Annexure - K)

The aforesaid W.P.(C). No. 1985/99 was disposed of with a direction to file a case before the appropriate Forum. The applicant t̄erefore prays that this Hon'ble Tribunal being the appropriate forum and having jurisdiction to entertain and decide upon the subject matter of this case as stated above.

(Copy of the Hon'ble High Court's Order annexed herewith as Annexure- L).

8. Relief sought for and Grounds :-

That this Hon'ble Tribunal woūd be pleased to admit this application , call for the records of the case, and after hearing the parties to set-aside the impugned order dated 16.4.99 and the subsequent order dated 19.11.99 of handing over charge by the applicant, which were issued on the basis of the Chief Post Master General's letter No. Staff/58-7/98 dt.8.12.98.

Md Abdul Muhit Choudhury

which were issued on the basis of the Chief Post Master General's letter No. staff/58-7/98 dated 8.12.98 or pass any other order/orders as to this Tribunal may deem fit and proper in the facts of the case, as stated above along with the legal provisions.

9. Interim Relief :-

It is further prayed that pending disposal of the application this Hon'ble Tribunal may be pleased to direct the Respondents, more particularly the senior Supdt of post Officer, Cachar Division Silchar and the Chief Post Master General Guwahati not to oust the applicant from the post of Extra-Departmental Branch Post Master or or allow to continue for the post of Extra-Departmental Branch Post-Master, Bishnu Nagar Branch Office at Silchar, where the applicant was appointed on a vacant post and still he is continuing in the same post.

10.

11. Particulars of the I.P.O. 456756 dt. 13-1-2k.

12. List enclosures as stated in the Index.

Verivication

Contd....9.

Md Abdul Muhiit Choudhury

-VERIFICATION-

I, Md. Abdul Mohit Choudhury, son of Md. Abdul Sattar Choudhury, aged about 30 years, by profession agricultural activity, resident of village- Rahatpur, Post Office Bishnu Nagar, under Karimgan police station, in the district of Karimganj, Assam, do hereby solemnly verify that the contention of paragraphs 1 to ~~8~~ and 11 are true to my knowledge and those made in the paragraph 1(2) are matters of records believed to be true on legal advice and that I have not suppressed any material fact.

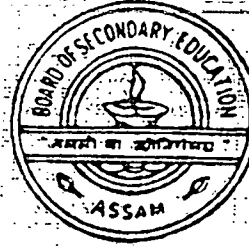
I put my signature on this
12th day of January 2000.

Md Abdul Mohit Choudhury

~~DEPARTMENT~~

APPLICANT.

Board of Secondary Education, Assam



ANNEXURE - A

036744

1989

High School Leaving Certificate Examination

(Date of announcement of result 22.7.89)

I Certify that Md. Abdul Muhit Choudhury

Roll I-203 No 125 duly passed the High School Leaving Certificate Examination, 1989 of this Board and was placed in the Third Division.

His / Her date of birth is 11/10/69

GUWAHATI, ASSAM

REGISTRAR II

(DILIP KR. KAKATI)

SECRETARY

GOVERNMENT OF ASSAM
DISTRICT EMPLOYMENT EXCHANS :: KARIMGANJ.
DEPARTMENT OF LABOUR & EMPLOYMENT.

IDENTITY CARD

(Not an introduction card for interview with employer)

1. Name :- Md. Abdul Muhit Choudhury.
2. Date of Birth :- 11.10.67.
3. Date of Registration :- 8.1.97.
4. Registration No. 421/97.
5. Qualification :- H.S.L. C. Passed
6. N.C.O No. :- X01 10.
7. Occupation :- General.
8. Month of Next Renewal :- Jan/2000

Sd/- Md. Abdul Muhit Choudhury.

Signature of applicant.

Sd/- Illegible
8.1.97.

Employmment Officer.

District Employment Excheng.

Karimganj.

This is to certified that Sri. Md. Abdul Mohit Choudhury, son of Md. Abdul Sattar Choudhury, Village/ Town Rahatpur, P.O. Bishnunagar, P.O. Karimganj, Dist.- Karimganj (Assam), is personally known to me.

His/Her total annual income from all sources is Rs. 8000/- (Rupees Eight thousand only) approeximately.

Sd/- Illegible

8.11.1997.

Signature.

Sub-Divisional Officer (Sadar)

Karimganj.

Annexure - D.

OFFICE OF THE
~~XX~~
 LATU SAJPUR GAON PANCHAYAT.
BISHNU NAGAR.

Date- 19.12.97.

This is to certify that Shri Md. Abdul Muhit
Choudhury S/O Md. Abdus Sattar Choudhury ~~IS AN~~
~~INHABITANT OF VILLAGE~~ is an inhabitant of village
Rahatpur P.O. Bishnunagar P.S. & Dist.- Karim-
ganj ~~of~~ Assam under latu Sajpur Gaon Panchayat.

He is living in the Gaon Panchayat holding No. 58 of his father of said village as per G.P. records.

I wish him success in life.

Sd/- Illegible
19.12.97.
Secretary.
Latu Sajpur Gaon Panchayat.

Annexure - E.

ORIGINAL KHATIAN NO. 137 PROVISIONAL PATTAN, KARIMGANJ
KUSHIARKUL.

NEW PATTAN No. 44 RAHATPUR.

| Pattadar's name & | original Dag No. | New Dag No. | Area | Class | Remarks. |
|-----------------------------------|---------------------|----------------|-------|-------|----------|
| <u>Father's name,</u> | | | | | |
| 1. Abdul Sattar S/O Osman Ali. | 71 | 89 | 70/28 | | |

Sd/- Illegible, Sd/- Illegible, Sd/- Illegible.
3.2.
Kanongo
AGP (S.O. Karimganj)

DEPTT. OF POST.

REGD.

To

Md. Abdul Muhit Choudhury.
S/O Abdus Sattar Choudhury,
Village- Rahatpur,
P.O. Bishnunagar,
Vis. Mahisashan.

No. A-373/P.F. Dated Silchar -1. The 11.3.98.

Subject :- Election of BPM, Bishnunagar, BPM.

You have been selected provisionally as BPM
Bishnunagar B.O.

A set of appointment documents is sent
herewith. Please get the forms duly filled in properly and
submit to this office through the SDIPOS Karimganj for
verification & onwards submission to this office. Also
take over the charge of the BO & send charve report to all
concerned.

Enclo:- As above.

Sd/- Illegible.
Senior Supdt. Post Officer
Cachar District. Karimganj.

Copy to :-

The SDIPOS, Karimganj for information. He
will please forward the documents to this
office after necessary verification.

Sd/- Illegible.
Senior Supdt. Post Office.
Cachar Dist.- Karimganj.

DEPARTMENT OF POST : INDIA
OFFICE OF THE SENIOR SUPDT OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

Regd

No. A-373/PR

Dated Silchar the 27-11-97

To

Shri/Smti Md Abdul Muhit Chonellmy
C/o Md Abdus Satter Chonellmy
vill-Rahatpur P.O. Bishnurager via-Mahisashan

Sub:- Selection for the post of Extra Departmental Sub/Branch
Postmaster Bishnurager post office.

As your name has been sponsored by the District Employment Exchange Silchar for considering you for appointment to the above cited post which has fallen vacant/is likely to fall vacant, you are requested to forward your application in the prescribed form enclosed herewith to the Sr. Supdt Of Post Offices, Cachar Division Silchar.

Please note that for considering your application you must have adequate means of livelihood viz. primary source of income from landed property/Residential property/Business/Agriculture/other employment. Further you should not be an Agent of LIC or any other financial Agency and in case you hold such an Agency you will have to give it up in case you are appointed.

You should ensure that your application is complete in all respects and enclose following documents therewith:-

- i) one copy of photograph.
- ii) An attested copy of School leaving/College/Board Certificate.
- iii) An attested copy of certificate of having passed Matriculation or equivalent Examination from an approved Board/University.
- iv) An attested copy of Marks certificate of Matriculation or or equivalent Examination.
- v) An attested copy of citizenship certificate.
- vi) An attested copy of the certificate certifying that you are a permanent resident of the post village and preferably indicating the landed/residential property registered in your name issued by District authority/Panchayat authority.
- vii) Character certificate from a Gazetted Officer/MP/MLA in original.
- viii) An attested copy of belonging to SC/ST/OBC or Ex-serviceman category if applicable, from competent Authority.

In case of your selection for the above post, you will be required to produce the originals of the above certificates besides the proof of possessing Landed/residential property as claimed in the application.

The application complete in all respects should reach this office by 1800 hrs. on 31-12-97.

Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

DEPARTMENT OF POST : INDIA
OFFICE OF THE SENIOR SUDT OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

No. A-373/PF

ANNEXURE - A

Dtd. Silchar - 1 The 3/4/98

Where as the post of Extra Departmental BPM, Bishnuragon (Name of post and office) has become vacant/~~has been newly created~~ and it is not possible to make regular appointment to the said post immediately the SS Pos (appointing authority) has decided to make provisional appointment to the said post for a period of 17-3-98 to SS Pos of Silchar (period) from 17-3-98 to SS Pos of Silchar regular appointment in made, whichever period is shorter.

2. Shri/Smti Abdul Muhit-Chandhury (Name and address of the selected person) is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The SS Pos / Silchar (Appointing authority) also reserves the right to terminate the provisional appointment at any time before the period mentioned in para.1 above without notice and without assigning any reason.

4. Shri/Smti Abdul Muhit-Chandhury will be governed by the Extra-Departmental Agents (conduct and service) Rules, 1964 as amended from time to time and all other rules and orders applicable to Extra-Departmental Agents.

5. In case the above condition are acceptable to Shri/Smti Abdul Muhit-Chandhury (Name of the selected candidate) he should sign the duplicate Copy of this memo and return the same to the undersigned immediately.

Recd

To

Shri/Smti Abdul Muhit-Chandhury
3/o. Abdus Satter Chandhury
Vill - Rahatpur Po.
P.O. Bishnuragon
na - Mahisashani

Appointing Authority

Senior Supt. Post Office

Cachar, Assam - 788001

Copy to - 1) The Postmaster Karimganj HO for information and n/a

2) The SDI Pos, Karimganj for information w/o to his letter no AI/Bishnuragon dtd 2/4/98.

Self -

Senior Supt. Post Office

Cachar, Assam - 788001



CPS
NO. 107-61
12/28/61
RECORDED
INDEXED

(देखिए नियम 267, डाक-तार वित्त पत्रिका का खण्ड I, द्वितीय संस्करण)
(See Rule 267, Post and Telegraphs Financial Hand Book, Volume-I,
Second Edition)
चार्ज की बदली पर आज्ञा रिपोर्ट और नकदी और टिकटों की रसीद
Charge Report and Receipt for each and satmps, on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of B.P. Bishnagar B

was made over by (name) Frank Koshino Paul

(नाम) को to (name) Mr Abdul Muhit Chowdhury स्थान at (place) Dahaga Bo

तारीख को पूर्वाह्न में
 on the (date)..... 17.3.94 for अपराह्न
 after noon in accordance with

सं० No. A-373/PF तारीख Dated 11/3/88 के अनुसार दे दिया। from 554/5c

1. Sri. Pran Krishna Paul Md. Habibul Muhiit Chowdhury
मारमुक्त अधिकारी मारग्राही अधिकारी
Relieved Officer Relieving Officer

[कृ०प००८०
P.T.O.]

*प्रमाणित किया जाता है कि आज के दिन इस कार्यालय की अनेक पुस्तकें के बकाया
स्टॉक पुस्तक और रजिस्टारों समेत) और लेखाओं की और जाच की और उन्हें ठोक पाया ।

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

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

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

(अ) नकदी/Cash

Rs. P.
Balances of 11/3/58 Rs. 298.59

(ब) अग्रदाय टिकट/Stamp Imprest

Can - 2407.59

P/s - 61.00

Rev - 30.00

2498.59

जिसमें ये शामिल है :-

Made up of :-

(1) टिकट/Stamps

(2) नकदी/Cash

Sri Pran Krishna Paul
भारमुक्त अधिकारी
Relieved Officer

Md Abdul Muhit Chaudhary
भारामाही अधिकारी
Relieving Officer

तारीख
Dated 19/3/58

Forwarded to Md Abdul Muhit Chaudhary को भेजा गया ।

*जब प्रमाण-पत्र की आवश्यकता न हो तो इसे काट दिया जाए ।

*The Certificate when not actually required may be scored through.

[28-90/68-MT]

I.P.P.M.SDP/L-25/Ptg.92dt.30-1-92 10Lacs

DEPARTMENT OF POST INDIA

REGD A/D .

FROM :- SENIOR SUPDT. POST OFFICER
CACHAR DIVISION DISTRICT

To

Md. Abdul Mohit Chowdhury,
EDBPM, Bishnunagar,
via - Mohisashan
Silchar - 1 The 16.4.99.

No. 373/P.F.

Sub :- Alleged irregular appointment of BPM, Bishnunagar,
P.O. - Case of Md. Abdul Mohit Chowdhury.

It is reported by the SDIPOS that you are
not handing over the charge of the BPM, Bishnunagar B.O.

Since the Chief Postmaster General Guwahati
had ordered to cancel the appointment under his letter No.
staff/58-7/98 dtd. 8.12.98, you are hereby asked to
release yourself handing over the charge of the office
to the EDDA of the office immediately and send charge
report to this office.

Sd/- illegible,
Senior Supdt. Post Officer,
Cachar Division, Silchar.

.....

Attested by
H. A. Sarthar
Advocate
17.4.99

DEPARTMENT OF POST

Sd/-

Sub-Divisional Inspector
Karimganj- 788700.

Sri. Abdul Mohit Choudhury.
Via- Mohisashon.

No. A-1/Bishnunagar/ Dated KRM the 19th Nov.99.

You ~~xxx~~ are hereby directed to
handover the charge of the office to Sri. S. Mullik
O/S Mallick vide SSP- SC letter No. A-373/PF Dt. 12.11.99.

Sd/-

Sub-Divisional Inspector,
Karimganj.

Copy to :-

1. Sri. S. Mallick O/S Mallick.

He will proceed to the B.O. under reliever
B.P.M. Bishnunagar Sri. Abdul Mohit Choudhury.

Sd/-

Sub-Divisional Inspector
Karimganj.

3/7/98 ~~Ans~~ Ans H p17
8/12/98 - LPM(G) ~~Ans~~
to relv
16/4/99 ~~Ans~~ to relv
Ans 7/9

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MONIPUR :
TRIPURA : MIZORAM AND ARUNACHAL PODESH).

W.P.(C). No. 1985/99

Md. Abdul Muhit Chowdhury,
S/O Md. Abdul Sattar, Chowdhury,
village- Rahatpur, P.O. Bishnu Nagar,
District - Karimganj, Now working as the
Branch Post Master of Bishnu Nagar.
Branch Office, District- Karimganj. Petitioner.

- Vs -

1. The Union of India,
represented by the Secretary to the
Govt. of India Ministry of Communication
Department of Posts of Telegraphs New-Delhi.
 2. The Chief Post Master General Guwahati.
 3. The Senior Supdt. of Post Officers, Cachar,
Division, Silchar.
 4. The Sub-Divisional Inspector of Post Office, Karimganj.
 5. The Post Master H.O. Karimganj.
- Respondents.

PRESENT

THE HON'BLE MR. JUSTICE P.G. AGARWAL.

For the petitioner :- Mr. A. Malik.

Mr. H.A. Sarkar, Advts.

For the Respondent :- C.G.S.C.

DATE

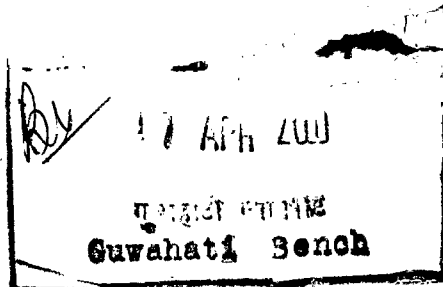
21.12.99.

ORDER

In view of the decision of the Misc, Case
this writ petition is disposed of. The petitioner if so
advised, may approach the appropriate Forum.

Sd/- P.G. AGARWAL

JUDGE.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A.NO.14 OF 2000

Md. Abdul Mohit Choudhury

...Applicant

-VS-

Union of India & Others

...Respondents

IN THE MATTER OF :

Written statement submitted by the
respondents

WRITTEN STATEMENT

The humble respondents beg to submit
their written statement as follows :

That the respondents beg to submit the brief
history of the case which may be treated as a part of
the written statement.

BRIEF HISTORY OF THE CASE

That Shri Nani Bhusan Paul, Ex-BPM of Bishnunagar
B.O. expired on 30.4.97. As a result the post of B.P.M.
Bishnunagar B.O. had fallen vacant and the EDDA of the

...1/-

Office was ordered to work as B.P.M. and advertisement was made ~~for~~ regular appointment against the vacant post of B.P.M. under Sr. Supdt. of P.O.s Silchar letter No. A-373/PF dated 23.10.97 through the Employment Exchange Karimganj as there was no eligible candidates in the family of the deceased official. Accordingly Employment Exchange forwarded a list of 4(four) candidates under their letter No. KXT/VG/Misc.-3/97/1339 dated 19.11.97.

That Abdul Mohit Chodhury was one of the sponsored candidate who has been selected provisionally as EDBPM Bishnunagar who secured highest marks in HSLC examination amongst the candidates. The selected candidate did not fulfill other existing norms for appointment as EDBPM except the educational qualification.

That on receipt of complaint from aggrieved candidate regarding irregular appointment of B.P.M. made by the Sr. Supdt. of Post Offices, Silchar, the case was enquired and reviewed by the competent authority and found that Shri Abdul Mohit Chodhury did not possess property in his own name but a land certificate was produced in the name of his father.

That though the candidate has shown an income of Rs.8000/- from the cultivation, the land was in the name of his father. As such the candidate was not found eligible for the post. Therefore the competent authority directed the Sr. Supdt. of P.O.s Silchar to cancel the

irregular appointment and to make fresh selection after following the prescribed procedure.

1. That with regard to para 1(1), the respondents beg to say that it is true that Shri Abdul Mohit Choudhury was selected provisionally for the post of B.P.M. Bishnunaragar Branch Office as he also secured highest mark in HSLC examination amongst other candidates. Accordingly the said candidate joined in the post on 17.3.98.

2. That with regard to para 1(v), the respondents beg to state that the appointment(provisional) of Shri Abdul Monit Choudhury was ordered to be nullified vide Chief Postmaster General, Assam Circle, Guwahati Letter No.Staff/52-7/98 dated 8-12-98 as the appointment was not in order as per existing rules. The applicant was accordingly directed to hand over the charge of EDBO vide Sr.Supt. of P.Os, Silchar Letter No. A-373/PF dated 14.4.99. Copy of Letter dated 8.12.98 and Letter dated 14.4.99 are annexed as ANNEXURES I & II respectively.

3. That with regard to paras 2 & 3, the respondents beg to offer no comment.

4. That with regard to para 4(1), the respondents beg to state that the statement given by the applicant is partially untrue in regard to his possessing landed property. As per certificate furnished by the concerned

Revenue Authority the applicant does not possess any landed property in his own name exclusively. In view of this, his claim having annual income of Rs.8,000/- independently does not hold good. Copy of certificate of Revenue Authority is annexed as ANNEXURE-III.

5. That with regard to para 4(2), the respondents beg to state that selection of a candidate in the post of B.P.M. Bishnunagar, was made due to expiry of the regular incumbent on 30.9.97. The Employment Exchange, Karimganj was therefore, requested to sponsored candidates for the post. In response the Employment Exchange forwarded a list of 4 candidates including the one of the applicant. After scrutiny of the applicants of the candidates and observing necessary formalities Shri Abdul Mohit Choudhury was selected for the post of B.P.M. by the Sr. Supdt. of Post Offices, Silchar, giving weightage to the highest mark obtained by him in HSLC examination among other candidates.

6. That with regard to para 4(3), the respondents beg to state that the statement of the applicant Shri Abdul Mohit Choudhury, that, he took the charge of the Branch Office on 11-2-99 is not correct. In fact the applicant joined in the post on 17-3-98 as per his charge report. Copy of joining report dated 17.3.98 is annexed as ANNEXURE-IV.

7. That with regard to para 4(4), the respondents beg to state that there was an complaint against regular appointment in the said post. The complaint was inquired into by competent authority which reveals that the appointment of the applicant in the said post was not in order as per existing rules. In course of inquiry it was found that the applicant does not possess landed property in his own name which is a basis for determining eligibility of the candidate even though the applicant submitted a document in support of owning landed property which actually belongs to his father. In view of this an order was issued by the competent authority to cancel the appointment of the applicant.

8. That with regard to para 5, the respondents beg to state that the prayer of the applicant before the Hon'ble CAT for setting aside the order of cancellation of his appointment is not justified hence, may not kindly be acceded to.

9. That with regard to para 5(1), the respondents beg to state that the order issued by the competent authority for cancellation of appointment of the applicants were justified to undo the wrong appointment in the spirit of existing rules, moreover the applicant was appointed on purely provisional basis subject to annulment of the appointment was finding of any irregularity at later stage.

10. That with regard to para 5(2), the respondents beg to state that the orders for cancellation of the appointment was mandatory as per provision laid down in the recruitment rules.

11. That with regard to para 5(3), the respondents beg to state that the appointment of the applicant Shri Abdul Mohit Choudhury had to be cancelled as it was found later on that the selection of the applicant was not in order as per rules.

12. That with regard to para 5(4), the respondents beg to state that the appointment was purely provisional subject to termination at any time without giving any prior notice or reason of regular appointment whichever is earlier. Hence, the observance of other formalities before cancelling his appointment was not called for.

13. That with regard to para 5(6), the respondents beg to state that the applicant was appointed on the basis of his obtaining highest mark in HSLC examination among other candidates. But the same was found not in order at later stage as he failed to fulfill other norms and conditions like possession of landed property in his own name.

14. That with regard to para 5(7), the respondents beg to state that the applicant could not be made to handover the charge of the B.O. in compliance of order issued by the competent authority for the fact that

the Hon'ble CAT issued stay order vide their order dated 21.1.2000.in the said OA.

15. That with regard to paras 6 & 7, the respondents beg to offer no comment.

16. That with regard to para 8, the respondents beg to state that the prayer of the applicant Shri Abdul Mohit Choudhury for setting aside the order of cancellation of his appointment may not be granted by the Hon'ble CAT for the fact that the applicant does not fulfill eligibility norms for selection/appointment the fact has already been discussed in the above paras.

17. That with regard to para 9, the respondents beg to state that the applicant is continuing in the said post in the light of interim order of Hon'ble CAT dated 21.1.2000 pending disposal of the case.

18. That with regard to paras 10, 11 & 12, the respondents beg to offer no comment.

VERIFICATION

I, Shri *Rabindra chandra Paul*

being authorised do hereby solemnly declare that the statements made in this written statement are true to my knowledge, belief and information and no material fact has been suppressed.

And I sign this verification on this the *15th* day of *April*, 2000.

Declarant

Rabindra chandra Paul

सहायक निदेशक (सतर्कता)

Post Director (Vig)

हाथीलय पोस्टमास्टर जनरल

Post Master General

असम क्षेत्र गुवाहाटी-781001

Assam Region, Guwahati-781001

Annexure - I

(9)

30
ANNEXURE - I

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL :: ASSAM CIRCLE
GUWAHATI - 781001.

Confidential

To
Sri J.K. Borbhuiya,
SSPOs, Bilchar

No. Staff/58-7/98

Dated Guwahati the 8-12-98

Sub:- Irregular appointment of Md. Abdul
Mohit Choudhury as EDBPM, Bishnunagar BO
under Karimganj HO.

Ref:- Your No. A-373/PF dtd. 22-5-98.

Kindly refer to your letter cited above.

I am directed to inform you to cancel the
irregular selection/appointment of the candidate forthwith
and to make fresh selection/appointment after following the
prescribed procedure.

I am also directed to request you to submit
your explanation for the irregular selection/appointment
of Md. Abdul Mohit Choudhury as EDBPM, Bishnunagar at an
early date.

(I. Pangnangsang)
APMG (Staff)

For Chief Postmaster General,
Assam Circle, Guwahati-1.

Annexure - II

(10)

21
ANNEXURE - II

- 19 -

Annexure - J

HEAD o/p.

DEPARTMENT OF POSTS AND TELEGRAPHS

FROM :- SENIOR SUBPT. POST OFFICER
CACHAR DIVISION, SILCHAR

To

Mr. Abdul Mohit Chowdhury,
SPT, Bishmunagar,
via - Lohitachan
Silchar - 1 Dtd. 10.4.93.

Re: 573/T.F.

Sub :- Alleged irregular appointment of SPT, Bishmunagar,
S.C. - case of Mr. Abdul Mohit Chowdhury.

It is reported by the SPTs that you are
not handing over the charge of the SPT, Bishmunagar S.C.

Since the Chief Postmaster General Guwahati
had ordered to cancel the appointment under his letter No.
staff/25-7/93 dtd. 5.12.93, you are hereby asked to
release yourself handing over the charge of the office
to the SPT of the office immediately and send charge
report to this office.

Sd/- Illegible,
Senior Subpt. Post Officer,
Cachar Division, Silchar.

(M)

Annexure - III

31/3/20
ANNEXURE - III

- 14 -

Annexure - II

ORIGINAL NO. 157 - NOTIFICATION NO. 157, KARIMNAGAR

NOTICE NO. 157

NOTICE NO. 44 - KARIMNAGAR.

POLLARD'S NAME ORIGINAL NEW NO. FROM CLERK REMARKS.
NO. NO.

POLLARD'S NAME,

1. Pollard's name 71 09 70/20
C/O CLERK 111.

1. Pollard's name, 11/11/20, 11/11/20, 11/11/20.
11/11/20
11/11/20 (11/11/20),

11/11/20.

on

a
e

ned

(12)

18

18

Annexure - IV

33

44

ANNEXURE-IV



CPC
17/3/94
17/3/94
17/3/94

DEPARTMENT OF POST, INDIA

(See Rule 267, Post and Telegraphs Financial Handbook, Volume-1, Second Edition)

Charge Report and Receipt for each and stamps, on transfer of charge

Certified that the charge of the office of B.P.M. Bhatnagar B.

was made over by (name) Frankenstein Paul

to (name) Mr. Abdul Muhit Chowdhury at (place) Bhatnagar B.

on the (date) 17/3/94 for noon in accordance with

No. A-373/FF
Dated 11/3/94
Relieved Officer

Relieving Officer
[Signature]
[P.T.O.]

13

- 18 (A) -

34
45

* प्रमाणित किया जाता है कि लाभ के विवरण, राजस्व की धरोहर पुस्तक के पचास
स्टॉक पुस्तक और रजिस्टरों (अर्थात्) और केन्द्रों की और लाभ (उ) और उन्हें ठीक पाया ।

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

* प्रमाणित किया जाता है कि निम्नलिखित राशियाँ मुझे प्राप्त हुई हैं और मैंने वे सही
और सही रूप में लिए जिम्मेदार हूँ ।

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

(अ) नकदी/Cash

Rs. 2198.59

(ब) अन्तर्गत टिकट/Stamp Imprest

Rs. 2407.59

कुल राशि/Total :-
Made up of :-

Rs. 2407.59
Rs. 2407.59

(1) टिकट/Stamps

Rs. 2407.59

(2) नकदी/Cash

B. P. P. M. SDP/L-25/Ptg. 92 at 30.1.92 10 Lacs

Relieved Officer

तारीख
Dated

19
19

Forwarded to

Relieving Officer

* जब प्रमाण-पत्र की आवश्यकता न हो तो इसे फाड़ दिया जाए ।

* The Certificate when not actually required may be scored through.

[28-90/68-M78]

I. P. P. M. SDP/L-25/Ptg. 92 at 30.1.92 10 Lacs