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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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closed date-27/8/2001

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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. 177/2000 OF 199.

Applicant(s) Swaroop Sharma.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. V. M. Thomas.

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

Notes of the Registry	Date	Order of the Tribunal
<p>PO No. 45242 Deposited vide F. of Rs. 500 Form and within time Application is this application is form and within time F. of Rs. 500 Deposited vide PO No. 45242 Dated 16.6.2000</p> <p>trd</p> <p>6/6/2000</p> <p>30/6/2000</p> <p>Resist 4 copies filed.</p>	<p>6.6.00</p>	<p>Present : Hon'ble Sri D.C.Verma, Member (J).</p> <p>Mr. V.M.Thomas, learned counsel for the applicant and Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents.</p> <p>Application is admitted. Issue usual notices. Returnable on 7.7.2000. Written reply to be filed within two weeks.</p> <p>List on 7.7.2000 for written reply and further orders.</p> <p>Member(J)</p>

N 1

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O.A.No.177/2000

Notes of the Registry	Date	Order of the Tribunal
<p><u>7-6-2000</u></p> <p>Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. Post with A/D.</p> <p><u>By</u></p> <p><u>12/6/00</u></p> <p>S/N 1544 to 1547</p> <p>dttd. 12/6/00</p> <p><u>by</u></p> <p><u>29/6/00</u></p> <p>Notice duly served on Respondents No. 3, 4.</p> <p><u>by</u></p> <p><u>6-7-2000</u></p> <p>No. W/S has been filed.</p> <p><u>by</u></p> <p>Notice duly served on respondent No 2</p> <p><u>by</u></p> <p><u>17/7/00</u></p> <p>No. written statement has been filed.</p> <p><u>by</u></p> <p><u>15.2.01</u></p> <p>No. written statement has been filed.</p> <p><u>by</u></p> <p><u>22.3.01</u></p>	<p>7.7.0</p> <p>nkm</p> <p>25.7.00</p> <p>28.8.00</p> <p>20.9.00</p> <p>pg</p> <p>3-11-</p> <p>16.2.01</p>	<p>Present: Hon'ble Mr S. Biswas, Administrative Member</p> <p>At the request of the learned counsel for the respondents two weeks time is granted for filing written statement. Mr V.M Thomas, learned counsel for the applicant is present. Post on 25.7.00 for orders.</p> <p><u>S. Biswas</u> Member(A)</p> <p>There is no Bench. Adjourned to 28.8.00</p> <p>There is no Bench. Adjourned to 3.11.00</p> <p>Present : The Hon'ble Mr Justice D.N. Choudhury, Vice-Chairman.</p> <p>List on 3.11.2000 for hearing as already fixed. The respondents may file written statement in the meantime.</p> <p><u>Vice-Chairman</u></p> <p>No. D. 3. Adjourned to 16.2.2001.</p> <p><u>17.10</u> <u>A.K. Singh</u> 3.11.2000</p> <p>The respondents are yet to file the written statement. On the prayer of learned counsel for the respondents case is fixed for hearing on 23.3.01. In the meantime the respondents may file written statement and the applicant also may file rejoinder within three weeks.</p> <p><u>V. V. Sharma</u> Member</p> <p><u>Vice-Chairman</u></p>

Notes of the Registry	Date	Order of the Tribunal
	23.3.01	<p>A prayer has been made for adjournment of the case on the ground of ailment of Mr V.M.Thomas, learned counsel for the applicant. Prayer allowed.</p> <p>List on 15.5.01 for hearing.</p> <p><i>K. V. Shetty</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>pg</p>
<p>7.6.2001</p> <p>Copy of the Judgment has been sent to the Dy. Sec. for issuing the same to the applicant as well as to the L/Admns for the parties.</p> <p>ST</p>	<p>15.5.2001</p> <p>lm</p> <p>KS 29/5/01</p>	<p>Judgment delivered in open Court. Kept in separate sheets. Application is allowed. No order as to costs.</p> <p><i>K. V. Shetty</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No.....177..... of 2000..

DATE OF DECISION. 15.5.2001.....

Shri Swarcep Sharma

PETITIONER(S)

Mr. V.M.Thomas.

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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 ?
- Judgment delivered by Hon'ble Vice Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.177 of 2000

Date of Order: This the 15th Day of May 2001.

HONBLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

HONBLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Shri Swaroop Sharma

"Gauri Shankar"

Kench's Trace,

Shillong-793004.

... .. Applicant.

By Advocate Mr.V.M.Thomas.

-Vs-

1. The Union of India,
represented by the
Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi-110001.
2. The Director (NE-II)
Government of India,
Ministry of Home Affairs ,
New Delhi-110001.
3. The Director,
North Eastern Police Academy,
(Govt. of India, Ministry of Home Affairs)
Umsaw-793123, Umiam, Meghalaya.
4. Baharul Islam Laskar
Asstt.Director(Lecturer)- Adhoc
North Eastern, Police Academy
Umsaw-793123, Umiam, Meghalaya.

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

O R D E R.

D.N.CHOUDHURY: This application under Section 19 of the Administrative Tribunal Act assailing the action of the respondent No.3 in not extending the term of the applicant's adhoc service, but replacing him by another adhoc appointee. An advertisement was published by the Respondent No.3 for filling up, one post of Assistant

Director(Lecturer) in the North-Eastern Police Academy on Adhoc Basis. Having the required eligibility criteria the applicant applied for the post. The interview was held on 8th December, 1998. He was selected for the post and appointed as Assistant Director (Lecturer) on adhoc basis for 179 days from 15.12.98 to 11.6.99. Before expiry period of the appointment the Respondent No.2 again advertised the post for adhoc appointment. Subsequently interview was held and the applicant was once again appointed as Assistant Director(Lecturer) on adhoc basis for another term of 179 days with effect from 18.6.99 to 13.12.99, vide order dated 15th June 1999. The post was again advertised for adhoc appointment in the Assam Tribune. The applicant again applied for that post. The written test and interview were held in January, 2000. The applicant appeared for the test and interview. Thereafter the Respondent No.3 appointed another candidate, the respondent No.4, as Assistant Director (Lecturer) on Adhoc basis.

Hence this application assailing the action of the respondents as arbitrary and indiscriminatory. It is also contended that among the members of the Board that conducted the aforesaid interview there was no specialist on the subject of sociology. Moreover, the Deputy Director(indoor) who had earlier been a regular member of the Board was also not made a member. In this application the applicant mainly contended the policy adopted by the respondents in replacing him now by another adhoc appointee. This according to the applicant, is illegal and arbitrary. The respondent No.3 has rejected the rightful and legitimate claim of the

contd/-

applicant and therefore the applicant has approached this Tribunal. The applicant submitted representation and thereafter submitted legal notice. The applicant moved this application questioning the legitimacy of the action of the respondents.

Notices were served on the respondents. Accordingly, the case is fixed for hearing. The respondents did not file any written statement.

Heard Mr.B.C.Pathak, Addl.C.G.S.C. appearing on behalf of the respondents No.1,2 and 3. Mr.B.C.Pathak Addl. C.G.S.C. submitted the steps were already taken for regularisation of the post. It was made cleared that the advertisement is made for filling up the post of Assistant Director(Lecturer) in the North Eastern Police Academy through U.P.S.C.

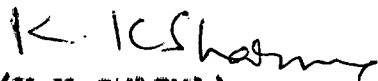
From the facts mentioned above it thus ^{emerges} ~~embargo~~ that the applicant was appointed to the post on adhoc basis. His services were yet to be regularised. Pathak also submitted that the right of the applicant was of precarious nature and therefore, their appointment for limited purpose and before expiry period it ^{could be} appointed any other person. In the instant case in respondent No.4 was appointed on the basis of the selection. Mr.V.M.Thomas learned counsel appearing on behalf of the applicant has submitted that as per legal policy for public appointments are to be made on regular basis. There could be no reason for replacing him now by another adhoc appointee. Accordingly the applicant contended that such replacement was illegal and arbitrary. Mr.Thomas also submitted that the actions of public authority is to conform to the content of Article 19 of the Constitution. In support of the contention the learned counsel referred to the decision of the Supreme Court State of Haryana -Vs- Piara Singh(1992)(4) SCC 118). In above Supreme Court Judgment it has been laid

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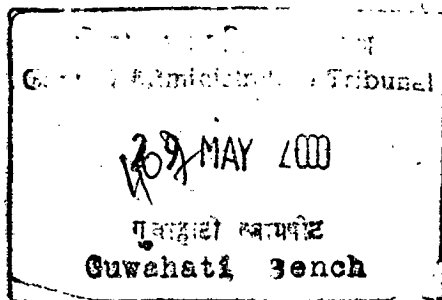
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down that an adhoc or temporary employee should not be replaced by another adhoc or temporary employee. This is to avoid arbitrary action on the part of the appointing authority. Mr.B.C.Pathak also referred to the decision of the Supreme Court Dr.(Mrs.) Meera Massey, Appellant -Vs- Dr.S.R.Mehrotra & Others. The above decision mainly pertains to filling up the post of regular basis. The said case factually distance from the case. The contention of Mr.Pathak that the application is barred the principle of acquiescence and waiver. For that purpose the decision of the Suneeta Agarwal -Vs-State of Haryana and Others (2000) 2 SCC 615 was referred to. It is not a case where the applicant cannot be held to guilty of acquiescence. No justification was assigned for replacing the applicant by another adhoc. The impugned action in replacing the applicant by another adhoc is thus unsustainable.

The respondents are directed to allow the applicant and to continue hold the adhoc post till completion of process of regularisation. Accordingly, application is allowed. There shall however no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE-CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :::
GUWAHATI BENCH.

O.A. NO. 177 /2000

BETWEEN

SHRI SWAROOP SHARMA ... Applicant.

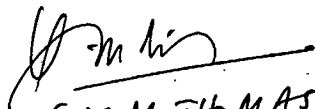
AND

THE UNION OF INDIA & ORS.. RESPONDENTS.

I N D E X

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Filed by :-


(V.M. THOMAS)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH.

Filed by 1/12/2000
applicant through
Advocate (V M THOMAS)
19/5/2000

O.A. NO. _____ /2000

BETWEEN

Shri Swaroop Sharma,
"Gauri Shankar"
Kench's Trace,
Shillong-793004.

..... Applicant.

AND

1. The Union of India,
represented by the
Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi-110001.
2. The Director (NE-II)
Government of India,
Ministry of Home Affairs,
New Delhi-110001.
3. The Director,
North Eastern Police Academy,
(Govt. of India, Ministry of Home Affairs),
Umsaw-793 123, Umiam, Meghalaya.
4. Baharul Islam Laskar
Asslt. Director (Lecturer). - Ad hoc
North-Eastern Police Academy
Umsaw - 793 123, Umiam
Meghalaya

Swaroop Sharma

.... Respondents.

DETAILS OF THE APPLICATION -

1. Particulars of the Order against which the Application is made -

This application is not being made against any specific order passed by any of the respondents. However, in the present application, the applicant who was serving as Assistant Director (Lecturer) on Ad-hoc basis in the North Eastern Police Academy (under the Ministry of Home Affairs, Govt. of India), is ~~xxx~~ seeking relief against the action of the Respondent No.3 in not extending the term of the applicant's ad-hoc service, but replacing him by another ad-hoc appointee.

2. JURISDICTION OF THE TRIBUNAL -

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

3. LIMITATION -

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

4. FACTS OF THE CASE -

- 4:1 That the applicant holds a Post-Graduate Degree in Sociology from the North-Eastern Hill University.

Contd..... P/3.

Swaroop Sharma

4:2 That an advertisement was published by the Respondent No.3 in the "Meghalaya Guardian" dated November, 23rd, 1998, for filling up, inter alia, one post of Assistant Director (Lecturer) in the North-Eastern Police Academy on Ad-hoc basis. The required qualification was Post-Graduate Degree in Sociology/Psychology/Social Anthropology, with two years' research/teaching experience. The applicant, having the required qualification, applied for the post. The interview was held on 8th December, 1998. Thereafter vide order No. NEPA/EG/6/90/Vol.III dated 9th December, 1998 issued by the Respondent No.3, the applicant was appointed as Assistant Director (Lecturer) on ad-hoc basis for 179 days from 15.12.98 to 11.6.99.

A copy of the aforesaid appointment order dated 9th December, 1998 is annexed hereto and the same is marked as Annexure-I.

4:3 That pursuant to the aforesaid appointment order the applicant joined the post on 15.12.98. Thereafter, before the period of appointment had expired, the Respondent No.3 again advertised the post for ad-hoc appointment in the Assam Tribune dated 24th May, 1999. Subsequently interview was held and the applicant was once again appointed as Asstt. Director (Lecturer) on ad-hoc basis for another term of 179 days w.e.f. 18.6.99 to 13.12.99, vide order No. NEPA/Apptt. (ADLec)/5/99/630-36 dated

Contd..... P/4.

Swaroop Sharma

dated 15th June, 1999. Thus the applicant continued to serve for a second term as ad-hoc Lecturer.

A copy of the aforesaid appointment order dated 15th June, 1999 is annexed hereto and the same is marked as Annexure-II.

4:4 That again the said post was advertised for Ad-hoc appointment in the Assam Tribune dated 1st December, 1999, against which the applicant applied. While the selection was pending, the applicant was appointed as Guest Lecturer w.e.f. 12.1.2000. However, the applicant could not join the post as Guest Lecturer because soon thereafter, pursuant to the advertisement dated 1st December, 1999, the written test and interview were held ^{in January} ~~on 1st February~~, 2000. The applicant appeared for the said test and interview. However, immediately thereafter the Respondent No.3 appointed another candidate, viz. the Respondent No.4, an Assistant Director (Lecturer) on Ad-hoc basis.

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4:5 That it is pertinent to mention here that among the members of the Board that conducted the aforesaid interview there was no specialist on the subject of Sociology. Moreover the Deputy Director (Indoor), who had earlier been a regular member of the Board, was also not made a member.

4:6 That the applicant is not aware of any Service Rules governing his case. Hence, the applicant who was aggrieved by his replacement by another Ad-hoc

Contd.... P/5.

Swaroop Sharma

appointee, sent a notice to the Respondent No.3 through Counsel, dated 15.2.2000, wherein he highlighted the law laid down by the Apex Court that one ad-hoc employee should not be replaced by another ad-hoc employee, but he should be replaced only by a regularly selected employee. The applicant also pointed out that the person who was appointed in the applicant's place had not even cleared the written examination. Further, the applicant stated that he had earlier served for two terms of 179 days each having been found suitable and eligible in all respects. Hence, there could be no reason for replacing him now by another ad-hoc appointee. Accordingly, the applicant contended that such replacement was illegal and arbitrary and demanded that he may be immediately reinducted as Asstt. Director (Lecturer) as before and to continue him in that capacity till regular selection and appointment is made.

A copy of the aforesaid notice dated 15.2.2000 is annexed hereto and the same is marked as Annexure-III.

4:7 That in reply to the aforesaid notice dated 15.2.2000 the applicant received a letter signed by the Deputy Director, N.E. Police Academy, bearing No.NEPA/PF(A)/2/99/9130 dated 8th March, 2000, which contained merely two sentences as follows :

"Remarks passed by the Director on the notice dated 15.2.2000 is reproduced below :

'He is totally unfit for the post and due to him the last batch suffered a lot'."

Contd..... P/6.

Swaroop Sharma

A copy of the aforesaid reply dated 8th March, 2000 is annexed hereto and marked as Annexure-IV.

4:8 That by the aforesaid short sentence the Respondent No.3 has rejected the rightful and legitimate claim of the applicant and accordingly the applicant is approaching this Hon'ble Tribunal seeking appropriate relief.

4:9 That in the meantime the UPSC already advertised the aforesaid post of Asstt. Director (Lecturer) for regular selection and appointment, vide Advertisement No.7 of 2000. The essential qualification mentioned in the said advertisement are Post-Graduate Degree in Psychology/Sociology/Social Anthropology or equivalent and 2(two) years' research or teaching experience in any of the said subjects. Pursuant to the said advertisement the applicant has already submitted his application.

A copy of the aforesaid advertisement is annexed herewith and the same is marked as Annexure-V.

5. GROUND FOR RELIEF WITH LEGAL PROVISION -

5:1 That the applicant had been appointed on ad-hoc basis for two terms after due test and interview and after having been found eligible and suitable for the post. During the two terms he had discharged his duties diligently and efficiently and there was no complaint against him from any quarter. Hence, there was no justifiable reason on the part of the respondents for replacing the applicant by another ad-hoc appointee.

Swaroop Sharma

Contd.... P/7.

5:2 That it is a well settled principle of service law that one ad-hoc employee should not be replaced by another ad-hoc employee. This has been held in several decisions of the Apex Court, more particularly in the case of State of Haryana -Vs- Piara Singh (1992(4)SCC 118). In paragraph-46 of the judgment it has been laid down that "an ad-hoc or temporary employee should not be replaced by another ad-hoc or temporary employee. This is to avoid arbitrary action on the part of the Appointing Authority". In the instant case by replacing the applicant by another ad-hoc appointee the Respondent No.3 has acted most arbitrarily, unreasonably and in total violation of the law laid down by the Apex Court.

5:3 That the remark passed by the Respondent No.3 on the notice sent by the applicant through his Counsel, is absolutely baseless and contrary to facts. In fact the opposite is true. The batch of students whom the applicant had taught during his two terms had done well in their examinations except for a few. Their performance was in no way inferior to the performance of the previous batches and there was never any complaint from any-one of them regarding his fitness or teaching ability. Hence, the allegation levelled by the Respondent No.3 is simply an after-thought for the purpose of justifying his illegal and arbitrary action.

5:4 That the commendation given to the applicant by the officers of the Academy, namely, by Shri T. Chandrasekharan the then Joint Director and by Shri

Swaroop Sharma

Contd.... P/8.

Shri K.R. Chetri the present Deputy Director (Indoor), dated 31.12.98 and 6.2.2000 respectively are a testimony to the applicant's efficiency, ability and diligence and devotion to duty. As such the allegations made by the Respondent No.3 are absolutely devoid of truth, but are simply the figment of a biased mind.

Copies of the aforesaid commendations dated 31.12.98 and 6.2.2000 are annexed herewith and the same are marked as Annexures-VI & VII respectively.

5:5 That the Respondent No.3 (Sri K.K. Jha) used to pass disparaging remarks about religious minorities in front of the students thereby hurting the feelings of students belonging to such groups. The applicant had politely asked Shri Jha not to pass such remarks. But this was taken as an affront and since then the Respondent No.3 (Shri K.K. Jha) turned against the applicant and ultimately he replaced the applicant ~~xx~~ by another ad-hoc appointee. Hence, the applicant submits that the real reason for discontinuing the applicant was nothing other than personal grudge. As such there was no valid and justifiable reason for replacing the petitioner who had proven his ability and gained experience in the job.

5:6 That the applicant submits that there was an irregularity in the composition of the Board which selected and recommended the Respondent No.4, in as much as there was no member in the Board who was specialised in Sociology and the Deputy Director (Indoor) was also kept out of the Board, and thereby prejudice has been caused to the applicant.

Saroop Sharma

Contd..... P/9.

5:7 That the applicant submits that neither was the applicant in any way unsuitable, nor was the new appointee (Respondent No.4) in any way better suited or better qualified than the applicant. To the information of the applicant, the new appointee had not even cleared the written test. As such there was no justification in replacing the applicant by appointing the Respondent No.4.

5:8 That the applicant submits that by illegally and arbitrarily cutting short his ad-hoc service the Respondent No.3 has deprived the applicant of the opportunity to gain the teaching experience required for regular appointment. Had he been continued in service till regular selection, the applicant would have by then acquired the necessary teaching experience. As such, by discontinuing the applicant the Respondent No.3 has committed a gross injustice.

5:9 That in any view of the matter the action of the respondent No.3 in discontinuing the ad-hoc service of the applicant and replacing him by another ad-hoc appointee, is altogether unreasonable, illegal, arbitrary and contrary to established law.

6. DETAILS OF REMEDY EXHAUSTED -

That the applicant states that he has no other efficacious alternative remedy available to him and the notice sent by him through his Counsel has also been disposed of against the applicant.

Contd..... P/10.

Swaroop Sharma

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

The applicant declares that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR -

The applicant prays for the following relief that the Respondent No.3 may be directed to immediately reinduct the applicant as Asstt. Director (Lecturer) in the North-Eastern Police Academy as before with retrospective effect from 1st February, 2000 and to continue him in that capacity till such time as regular selection and appointment is made.

9. INTERIM RELIEF PRAYED FOR -

The applicant is not praying for any interim relief.

10. This application is filed through Advocate.

11. Particulars of I.P.O.

I.P.O. NO. : OA 497247
Date of Issue ; 16-5-2000
Issued from : Guwahati H.O.
Payable at : Guwahati


12. List of Enclosures -
As stated in the Index.

Swaroop Sharma

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

I, the applicant, Shri Swaroop Sharma, aged about 28 years, son of Shri D.C. Sharma, resident of "Gouri Shankar", Kench's Trace, Shillong-793004, do hereby verify that the statements made in the above application in paragraphs 1, 2, 3, 4:1, 4:6, 4:8 and 6 to 10 — are true to my knowledge, those made in paragraphs 4:2, 4:3, 4:4, 4:7 and 4:9 are my information derived from records and those made in paragraphs 5:1 to 5:9 are my humble submissions based on legal advice and I have not suppressed any material fact.

And I sign this verification on this 19th day of May, 2000 at Guwahati.


(S I G N A T U R E)

- 12 -

North Eastern Police Academy

Government of India

Ministry of Home Affairs

Umsaw : 793 123 : Umiam : Meghalaya

ANNEXURE - T

No. NEPA/EG/6/90/Vol.III/

Dtd. Umsaw, the 9th Dec '98.

ORDER

Shri Swaroop Sharma is hereby appointed as Asstt. Director (Lecturer) on ad-hoc basis for a period of 179 days with effect from the forenoon of 15/12/98 to 11/6/99 afternoon or till a regular appointment of Asstt. Director (Lecturer) is made which-ever is earlier, in the scale of pay of Rs.8000-275-13500/- p.m. plus other allowances as admissible to the Central Government Employees from time to time.

The ad-hoc appointment however will not make Shri Swaroop Sharma entitled to claim any regular appointment.

Sd/-
(K.K.Jha)
Director

Memo.

No. NEPA/EG/6/90/Vol.III/7910-15 Dtd. Umsaw, the 9th Dec '98.

Copy to :-

- 1) The Director (NE-II), Govt. of India, Ministry of Home Affairs, New Delhi. } The matter relating to the selection of Asstt. director (Lecturer) is under process and like to take some time.
- 2) The Director, UPSC, Bhulpur House, Shajahan Road, New Delhi. } Services of an Asstt. Director (Lecturer) is essential in view of on-going training programme and therefore is not obviatable.
- 3) The RPAO (IB), Shillong-03.
- 4) The A/c's Section, NEPA, Umsaw, Barapam.
- 5) Shri Swaroop Sharma, Asstt. Director (Lecturer).
- 6) Personal file.
- 7) Office order file.

12/12/98
(K.K.Jha)
Director

Ashok
Advocate

North Eastern Police Academy
Government of India
Ministry of Home Affairs
Umsaw : 793 123 : Umiam : Meghalaya

No. NEPA/Apptt(ADLec)/5/99/630-2 Dtd. Umsaw, the 15th, June '99.

ANNEXURE - II

ORDER

Shri Swaroop Sharma is hereby appointed as Asstt. Director (Lecturer) on ad-hoc basis for a period of 179 days with effect from the forenoon of 18/6/99 to 13/12/99 afternoon or till a regular appointment of Asstt. Director (Lecturer) is made which-ever is earlier, in the scale of pay of Rs.8000-275-13500/- p.m. plus other allowances as admissible to the Central Government Employees from time to time.

The ad-hoc appointment however will not make Shri Swaroop Sharma entitled to claim any regular appointment.

(K.K.Jha)
Director

Memo.

No. NEPA/Apptt(ADLec)/5/99/630-2 Dtd. Umsaw, the 15th, June '99.

Copy to :-

- 1) The Director (NE-II), Govt. of India, Ministry of Home Affairs, New Delhi. } The matter relating to the selection of Asstt. Director (Lecturer) is under process and likely to take some time. Services of an Asstt. Director (Lecturer) is essential in view of ongoing training programmes
- 2) The Under Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi.
- 3) The RPAO(IB), Shillong-03.
- 4) The A/cs Section, NEPA, Umsaw, Barapani.
- 5) Shri Swaroop Sharma, Asstt. Director (Lecturer) - for information & necessary action, pl.
- 6) Personal file.
- 7) Office order file.

(K.K.Jha)
Director

HAHR#11

Attended
Adinca

Date :- 15-02-2000

To

The Director,
North Eastern Police Academy,
Umsaw-793 123, Umiam,
Meghalaya.

Sub : Notice on behalf of my client
Shri Swaroop Sharma, "Gauri Shankar",
Kench's Trace, Shillong-793 004.

Sir,

Under instructions from and on behalf of my
above-named client, I give you this notice as follows :

1. That my client was appointed as Asstt. Director (Lecturer), vide your order No. NEPA/EG/6/90/Vol-III dated 9th December, 1998, on Ad-hoc basis for a period of 179 days w.e.f. 15.12.98 to 11.6.99. The said appointment was made after advertisement and interview and finding my client eligible and suitable for the post.
2. That before the aforesaid period had expired, the said post was advertised again in the month of May, 1999 for ad-hoc appointment and pursuant to the interview held, my client was once again appointed vide your order No. NEPA/Apptt.(ADLoc)/5/99/630-36 dated 15th June, 1999 on ad-hoc basis for 179 days w.e.f. 18.6.99 to 13.12.99.
3. That the said post was again advertised for ad-hoc appointment in the Assam Tribune dated 1st December, 1999, against which my client applied. While

Contd.... P/2.

आ.पी. 51 (क) / R.P. 51 (a) R/No. 19. 1568

लगाई गई डाक टिकटों का मूल्य रु. 19. 1568

Stamp affixed Ro. P.

पंजीकृत सूचयेय

Received

पत्र पाले का नाम

addressed to

इसके पूर्व यह आदेश "Parcel" or "Railway Receipt" with the word "Insured" before

When the post is addressed to the Director, North Eastern Police Academy, Umsaw-793 123, Umiam, Meghalaya.

आदेश

the Director

to be sent to the Director, North Eastern Police Academy, Umsaw-793 123, Umiam, Meghalaya.

Means of transport

Insured for

Weight (in words)

Attended
Advocate

the selection was pending my client was appointed as Guest Lecturer from 12.1.2000 till the 20th Basic Course Classes are suspended, vide your letter of appointment No. 14011/1/88/TPG/7723 dated 12th ^{Jan} June, 2000.

4. That pursuant to the last mentioned advertisement a Test and Interview was held on 1st February, 2000 and thereafter you have appointed another candidate as Assistant Director (Lecturer) on ad-hoc basis rejecting the case of my client who had earlier served for two terms on ad-hoc basis.

5. That it is a well settled principle of service Law that one ad-hoc employee should not be replaced by another ad-hoc employee. This has been held in several decisions of the Hon'ble Supreme Court of India, more particularly ⁱⁿ the case of State of Haryana -Vs- Piara Singh reported in (1992) 4 SCC Page-118. The principle is laid down in paragraph-46 of the Judgment as follows - "An ad-hoc or temporary employee should not be replaced by another ad-hoc or temporary employee. He must be replaced only by a regularly selected employee. This is to avoid arbitrary action on the part of the Appointing Authority".

Therefore, by replacing my client by another ad-hoc appointee, you have clearly gone against the Rule laid down by the Apex Court.

Contd.... P/3.

Attested
[Signature]
Advocate

- 3 -

6. That since my client had been appointed on ad-hoc basis, there was no need at all for advertising the post again and again for ad-hoc appointment. In view of the Supreme Court's ruling my client's services ought to have been extended from time to time until regular selection and appointment is made.

7. That in the last advertisement published in the Assam Tribune dated 1st December, 1999, there is a clear deviation from the earlier advertisements in regard to required qualifications, in as much as in the earlier advertisements both teaching experience and research experience were mentioned as alternative qualifications, and this was in conformity with the recruitment Rules of U.P.S.C., whereas in the advertisement of 1st December, 1999 research experience only has been mentioned. This deviation was made merely to deprive my client who had gathered teaching experience in the job, apart from having research experience.

8. That it has come to the knowledge of my client that the person whom you have now appointed on ad-hoc basis, in the place of my client had not cleared the written examination. Hence, the appointment is totally illegal and arbitrary.

Contd.... P/4.

Attested
[Signature]
Adm. can

9. That it may be mentioned also that the Selection Board which recommended the said candidate was also not properly constituted.

10. That my client had put in two terms of ad-hoc service consisting of 179 days each and he had discharged his duties efficiently and there was no complaint against him from any quarter. Moreover, he had been appointed as he was found suitable and eligible in all respects. As such there could be no reason for replacing my client by another ad-hoc appointee.

11. That as per the law laid down by the Hon'ble Supreme Court of India as well as the Hon'ble Gauhati High Court, my client is entitled to get extension of service as Asstt. Director (Lecturer) in your establishment until regular selection and appointment is made.

Under the aforesaid facts and circumstances, I call upon you to do the needful for reinducting my client as Asstt. Director (Lecturer) in the North-Eastern Police Academy as before and to continue him in that capacity till such time as regular selection and appointment is made. This may kindly be done immediately, and at any rate within 15(fifteen) days from the date of receipt of this letter, failing which my client will have no other option but to seek relief

Contd..... P/5.

Attested
[Signature]
Advocate

- 5 -

from appropriate Courts of Law and in that event you shall be liable for all the consequences.

Yours faithfully,

sd/-

(V.M. THOMAS)
Advocate,
Gauhati High Court, Guwahati.

.....

Attested
Ambar
Advocate

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ANNEXURE-

IV

North Eastern Police Academy
Government of India
Ministry of Home Affairs
Umsaw-793123, Uniam, Meghalaya.

NONEPATF(A)/2000/9130

Dtd. Umsaw the 8th March, 2000.

To

Shri Swaroop Sharma.
"Gaur, Chantika",
Kench's Terrace,
Shillong-795 004.

Sub: Notice Dated 15/2/2000

On,

Remarks passed by the Director on the notice dated 15/2/2000 is reproduced below:

"He is totally unfit for the post and due to him the last batch suffered a lot".

Yours faithfully,



[Signature]
2/3/2000
(H. E. Mazumdar)
Dy. Director (Adjt)

13/12/99 *ETM*

Attended
[Signature]
Advocate

Re Adv.

- 203 -

Applications on prescribed form are invited by 27th April, 2000 (4th May, 2000 in respect of applications received only by post (by post) from candidates residing in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Jammu & Kashmir, Lahaul & Spiti districts and Pangi sub-division of Chamba district of Himachal Pradesh, A&N Islands or Lakshadweep or abroad). Pay Scale (Approx total emoluments excluding HRA & CCA) & Upper age limits immediately follow name of the post.

The date for determining eligibility of all candidates in every respect shall be the normal closing date prescribed for receipt of applications viz. 27.4.2000.

DEFENCE MINISTRY

1. One Sr. Photographic Officer in Dte of Public Relations. Rs. 8000-13500 (T.E. Rs. 10960). 35 yrs. EQ: (A): Edu: Matriculation/ School Final Pass from a recog Univ/ Bd/ School or eqv. (B): Exp.: 7 yrs exp in various branches of Photography incl exp in Press Photography. NOTE: The candidates may be reqd to undergo a pract test in various aspects of Photography.

HEALTH & F.W. MINISTRY

2. One Dtr (Ayurveda & Siddha) in Deptt of ISM&H. Rs. 22400-24500+NPA @ Rs. 5600 p.m. (T.E. Rs. 45660 incl HRA of 8400/- & CCA & DA). 50 yrs. EQ: (i) A recog Med Qual in Ayurveda of Siddha included in 2nd or 4th schedule to Indian Medicine Central Council Act, 1970 (48 of 1970). (ii) P.G. deg in Ayurveda or Siddha of a recog Univ or Statutory State Bd or Council or Faculty in Indian Medicine included in 2nd Schedule to IMCC Act, 1970 (48 of 1970). (iii) Enrolment in a Central/ State Register for relevant system of medicine. (iv) 20 yrs' standing in profession incl 8 yrs exp as Head of P.G. deptt of a speciality in Ayurveda or Siddha of a Univ or Med College or Res Instn or Teaching Instn or Hospital or Head of Health services in Ayurveda or Siddha. (v) Extensive pract & admin exp & (vi) Working knowledge of English, Hindi & Sanskrit or Tamil.

3. One Asstt Prof of Dentistry, Deptt of Health. Rs. 10000-15200+NPA (T.E. Rs. 17230). 40 yrs. EQ: (A): Edu: (i) A qual included in Part-I or Part-II of Schedule to Dentists Act, 1948 (16 of 1948). (ii) A P.G. deg in Dental Surgery from a recog Univ/ Instn or eqv. (iii) Shd be regd with a Dental Council. (B): Exp.: 3 yrs teaching exp in speciality as Tutor/ Demonstrator/ Registrar/Sr Resident/Lecturer after requisite P.G. qual.

HOME MINISTRY

4. One Asstt Dir (Lecturer) in North Eastern Police Academy, Meghalaya. Rs. 8000-13500 (T.E. Rs. 11260). 35 yrs. EQ: (A): Edu: P.G. Deg in Sociology/ Psychology/ Social Anthropology or eqv. (B): Exp.: 2 yrs res/ teaching exp in any of subjects mentioned in EQ (A) above. SPL CONCESSION: Rent free accommodation is available duly connected with the facilities of light & water supply.

I&B MINISTRY

5. One Dy Dtr in Song & Drama Div. (Resvd for OBC). Rs. 10000-15200 (T.E. Rs. 13700). 48 yrs. EQ: (A): Edu: (i) Deg or eqv. (ii) Knowledge of modern theatre techniques, stage craft & trends in contemporary theatre. (iii) Working knowledge of Hindi. (B): Exp.: 5 yrs exp of producing/ directing stage plays, dance, drama, operas, etc. OR 3 yrs exp in above fields for candidates possessing a Deg or Dip in Theatre Arts of a recog instt.

SURFACE TRANSPORT MINISTRY

6. One Res Offcr (Wage Revision). Rs. 8000-13500 (T.E. Rs. 10960). 35 yrs. EQ: (A): Edu: Master's Deg in Maths or Stats or eqv. (B): Exp.: 3 yrs exp in dealing with matters relating to wage Revision, Pay Structure, Court/ Arbitration cases & allied matters concerning Port & Dock Labour/ Employees in Public Sector.

URBAN DEV MINISTRY

7. One Sr Res Offcr (Eco & Econometrics) in TCPO. Rs. 10000-15200 (T.E. Rs. 13700). 40 yrs. EQ: (A): Edu: (i) Master's Deg in Eco (with Stats) or eqv. (ii) Knowledge of Econometrics. (B): Exp.: 5 yrs exp in conducting field studies & analysis of dev problems & their evaluation or doing original res on planning & dev problems.

UPSC

8. One Engr. (Resvd for OBC). Rs. 8000-13500 (T.E. Rs. 10960). 38 yrs. EQ: (A): Edu: Deg in Electronics/ Telecom Engg/ Elect Engg or eqv. (B): Exp.: 2 yrs exp in operations & maintenance of Computer hardware.

GOVT OF NCT OF DELHI

9. Fourteen Drugs Inspectors in Drug Control Deptt under Health & F.W. Deptt. (1 post each resvd for SC & ST and 3 for OBC). Rs. 6500-10500 (T.E. Rs. 8905). 30 yrs. EQ: (A): Edu: Deg in Pharmacy or Pharmaceutical Sc or Medicine with specialisation in Clinical Pharmacology or Microbiology or eqv. (B): Exp.: 3 yrs exp in manufacture or testing of Biological & special products specified in Schedule 'C' & 'C (I)' to Drugs-Cosmetics Rules, 1945.

• Age limits as on 27.4.2000. Relaxable for displaced persons, Ex-Servicemen & Commissioned Officers incl ECOs/ SSCOs/ Meritorious Sportsmen/ Sportswomen/ Widows, divorced women, women judicially separated from their husbands, who are not remarried as per Govt orders issued from time to time. Age relaxation of 5 yrs admissible to those who had ordinarily been domiciled in State of J&K during period from 1.1.1900 to 31.12.1989 subject to submission of certificate from District Magistrate of area or from any other authority designated by Govt in this behalf. Age is relaxable upto 5 yrs for SC & ST Candidates and upto 3 yrs for OBC candidates for posts resvd for them. For Govt Servants age is relaxable upto 5 yrs unless stated otherwise. Age is also relaxable upto 5 yrs. (i.e. total 10 yrs. for SC/ST and 8 yrs. for OBC for posts reserved for them) for blind, deaf-mute and orthopaedically handicapped persons for apptt to Group 'A' and Group 'B' posts/services subject to submission of certificate from competent authority from Govt. Hospital/Medical Board in support to their claims, subject also to fulfillment of prescribed standards of medical fitness of candidates before apptt.

• Quas are relaxable at Commission's discretion.

• Prescribed EQs are minimum & mere possession of same does not entitle candidates to be called for interview. Where number of applications received in response to an Advt is large & it will not be convenient or possible for Commission to interview all the candidates, Commission may restrict number of candidates to a reasonable limit by any or more of the following methods: (a) On basis of either qualification and experience higher than the minimum prescribed in the advertisement, or (b) On basis of experience in relevant field, or (c) By counting experience before or after acquisition of essential qualifications, or (d) By holding screening test. The candidate should, therefore, mention all the qualifications and experience in relevant field over and above the minimum qualifications and should attach attested/ self certified copies of Certificates in support thereof.

• Fee is Rs. 50 payable in form of Central Rectt Fee Stamps ONLY to be affixed on application form. No other mode of payment is acceptable. No fee for SC & ST candidates. Physically handicapped persons are also exempted from payment of fee subject to submission of prescribed medical certificate. Candidates abroad shd enclose fee receipt issued by Indian Embassy/Mission.

• Details of posts, instructions & application format in which candidates are to apply has been published with Advt in Employment News dated 8.4.2000. Candidates are requested to go through instructions printed in Employment News carefully and satisfy themselves that they meet with all requirements mentioned therein and fill up form accordingly. Candidates may also submit applications neatly typed on white paper (foolscap size 21 cms x 30 cms) in double space and typed on only one side of paper. They shd superscribe envelope with following "Application in response to Advt No. 7/2000". Applications not conforming to format published in Employment News will not be entertained. Completed applications with enclosures together with a self-addressed post card by affixing thereon an additional postage stamps of Rs. 2.00 indicating Advt. No., Item No. & Name of post shd be sent to Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011, so as to reach him on or before prescribed closing date.

• Candidates may kindly note that they need NOT apply for application forms to Union Public Service Commission.

NOTE: "Applications must be sent in the format given in Employment News. Applications sent in any other format are liable to be rejected."

For any query, visit the Commission's Facilitation Centre or Dial No. 1105271

For details see Employment News/Rozgar Samachar Issue dated 8.4.2000 published by the Publications Division, Ministry of I & B, Government of India, East Block IV, Level 2, R K Puram, New Delhi-110066.

dayr 3301 (186) 99

Attested
Advocate

TO WHOM IT MAY CONCERN

I have the pleasure to certify about the qualities of Mr. Swaroop Sharma, son of Shri D.C. Sharma, a senior citizen of Shillong.

I know Swaroop Sharma for a pretty long time and found in him lot of potentials. He is diligent, well mannered has high moral values.

Mr. Sharma is at present serving the North Eastern Police Academy as an Asstt. Director (Lecturer). He have been doing his duties with utmost devotion and dedication and by continuing to do so can contribute much to the Academy in future. I am confident of his capabilities and strengths.

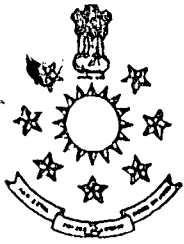
I wish him all success.



T. Chandrasekharan
(T. Chandrasekharan)

Joint Director 11/11/98
North Eastern Police Academy
Shillong

Attested
[Signature]
Advocate



D. O. No. NEPA/11/2000

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ANNEXURE -

VII

North Eastern Police Academy
Government of India
Ministry of Home Affairs
Umsaw 793 123 (Umiam)
Meghalaya

Tele No. (O) 0364 64290
(R) 0364 64246

Fax No. 0364 64290

Dated 6th Feb' 2000

TO WHOM IT MAY CONCERN

My association with Shri Swaroop Sharma is since the last part of 1998, when he joined the North Eastern Police Academy as Assistant Director (Lecturer), on Adhoc basis. During the last one year it was found that Shri Sharma could impress upon the staff and the cadets well, with his qualities of head and heart. His diligent and pain taking habits are worth mentioning. Over and above his academic proficiencies, he is a person with dynamism. He was found to be well skilled in handling video equipments. I understand he is also a diploma holder on video editing and sound recording. I wish him a prosperous and successful life.

Attested
[Signature]
Advocate

(K.R. CHETRI)
Deputy Director (Indoor)
North Eastern Police Academy

By Director
N. E. Police Academy
Umsaw, Umiam