

GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 181/2001

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

E.P/M.A No. 86/2002

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*[Signature]*  
6/12/17  
SECTION OFFICER (Judl.)

FORM NO.4  
(See Rule 42 )

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

ORDER SHEET

Gosriam APPLICATION NO .....18!.....OF 2001.

Applicant (s) Zakir Hossain Ansari

Respondent (s) U.O-I TUM

Advocate for Applicants (s) Mr. Adul Ahmed

Advocate for Respondent (s) case.

Notes of the Registry	Date	Order of the Tribunal
<p>is in form Petition for Rs 500 IPG/BB Dated 19-5-2001 deposited vide 64292408 C.F. By Registrar</p>	17.5.01	<p>The application is admitted. Call for the records. Returnable by four weeks. List on 14.6.2001 for orders.</p> <p>K U Khan Member Vice-Chairman</p>
<p>Requisites has been filed NS 16/5/2001</p>	14.6.01	<p>Mr. A. Deb Roy, learned xan Sr. C.G.S.C. for the respondents prays for and granted 4 weeks time to file counter reply. The applicant may file rejoinder, if any, within 2 weeks there after.</p> <p>List on 13-7-2001 for order.</p> <p>K U Khan Member Vice-Chairman</p>
<p>Notice prepared and sent to BIS for drawing the respondent No 482 by Regd A/D vide S/No 1934 to 1935 dtd 29-5-2001</p>	30.7.01	<p>List on 30.8.2001 to enable the respondents to file written statement</p> <p>K U Khan Member Vice-Chairman</p>
<p>Service report are still awaited. 13.6.01</p>	pg	<p>K U Khan Member Vice-Chairman</p>

30.8.01

List on 4/10/01 to enable the respondents to file written statement.

Vice-Chairman

mb

4.10.01

List on 13/11/01 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

13.11.01

List the case again on 18.12.01 to enable the respondents to file written statement.

Member

Vice-Chairman

bb

18.12.01

List on 16.1.02 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

15.1.02

Written statement has been filed. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from the receipt of the written statement. Mr. A. Ahmed, learned counsel for the applicant submitted that he has yet to get the written statement which Mr. B. C. Pathak, learned Addl. C.G.S.C. undertake to serve the copy of the written statement by the end of the week.

List on 13.2.2002 for ex hearing.

Member

Vice-Chairman

mb

13.2.02

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.

Member

Vice-Chairman

pb

No written statement has been filed.

29.8.2001

No written statement has been filed.

3.10.01

W/S has been filed by the respondents at 31-70.

7.01/02

Written statement filed on behalf of the respondents.

15.1.02

21.2.2002

copy of the judgment has been sent to the office for issuing the same to the applicant as well as to the d.C.S.C. in the response of 27/2

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 181 of 2001.

Date of Decision. 13.2.2002....

----- Sri Zakir Hussain Ansari ----- Petitioner(S)

----- Sri Adil Ahmed ----- Advocate for the  
Petitioner(s)

.Versus-

----- Union of India & Ors. ----- Respondent(s)

----- Sri A. Deb Roy, Sr. 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.

No

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 181 of 2001.

Date of Order : This the 13th Day of February, 2002.

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

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

Sri Zakir Hussain Ansari  
Chowkidar,  
Station Head Quarter,  
Narengi, Quarter No. P-A-36,  
Guwahati-27.

. . . Applicant.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Defence,  
New Delhi.
2. The Administrative Commandant,  
Station Head Quarter-51,  
Sub Area, Narengi, Guwahati-27. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C)

This is the third round of litigation. The applicant first joined the service with the respondents as Chowkidar way back in 1975. He tendered resignation on 28.2.94. On 17.3.94 the applicant made an application for withdrawal of his resignation. However, his resignation was accepted on 16.3.94. He moved this Tribunal by way of an O.A. which was registered and numbered as O.A.118/94. The Tribunal by its judgment and order dated 4.5.95 set aside the decision of the appointing authority accepting the resignation of the applicant and ordered that the

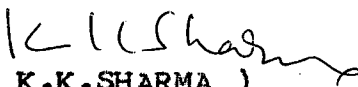
contd..2

applicant shall be deemed to have continued in service all throughout. No relief was granted as far as the claim for promotion is concerned. The applicant moved the Tribunal again by way of O.A.126/98 seeking for a direction for promotion. Considering the facts and circumstances the Tribunal held that there was no justification for withholding promotion of a person for about 25 years. The respondents were accordingly directed to consider the case of the applicant for promotion to Group C post considering his length of service and other factors so that the applicant could go to the higher rank. The decision so rendered was to avoid stagnation. By order dated 10.3.2001 the respondents turned down his case. Hence this application.

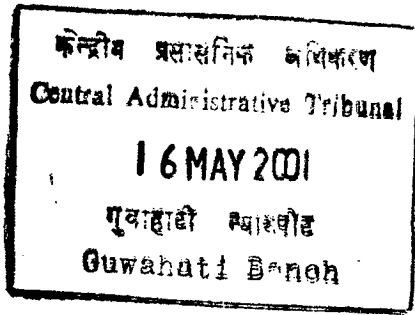
2. Heard Mr A.Ahmed, learned counsel appearing for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. Mr Ahmed, the learned counsel stated and contended that the case of the applicant was not considered in right perspective, which caused irreparable loss to the applicant. Mr Deb Roy, the learned Sr.C.G.S.C on the other hand submitted that the applicant was not found eligible since he did not possess the minimum educational qualification i.e. Matriculation or equivalent. The rejection order did not indicate on what reason the application was rejected. In the written statement the respondents however stated that though he was asked to produce the original certificate since he did not produce the same his case could not be considered. Mr Ahmed, learned counsel submitted that the applicant possesses the required qualification and the applicant is ready and willing to produce the original certificate.

3. In our view it is a fit case in which the respondents need to consider afresh the case of the applicant subject to eligibility criteria. The respondents are accordingly directed to consider the case of the applicant afresh for promotion to any of the Group C post within a period of 4 months from the date of receipt of this order. The applicant is also directed to produce the original certificate of Matriculation or its equivalent and other documents to satisfy the authority as to his eligibility criteria within 3 months from today.

4. Subject to the observation made above the application is allowed. There shall, however, be no order as to costs.

  
( K.K.SHARMA )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 181 OF 2001.

Sri Zakir Hussain Ansari

..Applicant.

-Versus-

Union of India & Others

.. Respondents.

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Filed by

Advocate. (Abul AHMED)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

Sri Zakir Hussain Ansari, Son  
of Late Mosafir Ansari,  
working as Chowkidar, Quarter  
No. P-A-36 Station Head  
Quarter, Narengi, Guwahati-  
781027.

- Applicant

-AND-

1] Union Of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Defence,  
New Delhi.

2] The Administrative Commandant  
Station Head Quarters-51, Sub  
Area Narengi, Guwahati-27.

- Respondents.

DETAILS OF THE APPLICATION:

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

Filed by  
Zakir Hussain Ansari  
applicant  
through  
(ADIC AHMED)  
Advocate

This instant application is directed against the Office Order No. 7202/Est/R(DIS)/ZHA dated 10th March 2001 by which the applicant's promotion to the post of Group-C has been rejected by the Office of the Respondent No. 2 in stead of direction to the Respondents made by this Hon'ble Central Administrative Tribunal, Guwahati Bench to consider the promotion of the applicant as expeditiously as possible vide Order dated 19-12-2000 passed in O.A. No. 126 of 1998.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

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

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.11 That your humble applicant is citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2] That your applicant begs to state that he was appointed as Chowkidar under the Respondent No. 2 in the year 1975. He is still working as Chowkidar, which is a Group-D Defence Civilian post. The applicant passed his Matric in the year 1967 from Allahbad Board and he obtained Diploma in Type Writing in the year 1969-70.

Annexure-A is the photocopy of Matric Certificate issued by the Allahabad Board.

4.3 That your applicant begs to state that there is a provision to fill up Departmental Group-C vacancies in the Cadre of General Supervisor Accounts Clerk/ Conservancy/ Storekeeper, etc. from the existing Group-D Defence Civilian employee vide circular No. S.R.O. 128 New Delhi 3rd April 1980 issued by the Ministry of Defence.

Annexure-B is the photo copy of such circular No. S.R.O. 128 New Delhi 3rd April 1980.

4.4 That your applicant begs to state that all the Group-C posts mentioned above are non-selection posts. These posts should be filled by the Departmental candidates of Group-D who have essential qualification and necessary experience. Your applicant possess the necessary educational Qualification and

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also have 25 years experience in Group-D posts which is much higher to the required experience.

4.5 That your applicant begs to state that for last 10(ten) years the applicant filed many representations before the authorities for his promotion to the Group-C post. But the Respondents have not selected him in the Group-C post and on other hand junior persons who are less qualified and less experienced were selected by the Departmental Promotion Committee by ignoring the legitimate claim of the humble applicant for reasons best known to the authorities.

4.6 That your applicant begs to state that being aggrieved by non-selection of the applicant to the Group-C post your applicant filed an Original Application No. 126 of 1998 before this Hon'ble Tribunal for seeking justice. The Hon'ble Tribunal finally heard this matter on 19-12-2000 and allowed O.A. No. 126 of 1998 directing the Respondents to consider the case of the applicant for promotion as expeditiously as possible preferably within a period of 3 months from the date of receipt of the copy of this order.

Annexure-C is the photocopy of Judgment and order dated 19-12-2000 passed in O.A. No. 126 of 1998.

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4.7 That your applicant begs to state that your applicant submitted the said judgment and order dated 19-12-2000 passed by the Hon'ble Tribunal passed in O. A. No. 126 of 1998 before the Respondent No. 2. But the same was rejected by the Respondent No. 2 vide his letter No. 7202/Est/R(DIS)/ZHA dated 10-03-2001. In the said rejection letter the Respondents has stated that your applicant's case is not covered by the Rule S.R.O.-128/80, C.F.R.O.-123/77. The rejection of the claim of the applicant for promotion by the respondents is illegal, mechanical and also without jurisdiction. The applicant has fulfilled the requirements under the scheme for promotion from Group-D to Group-C. Hence, your applicant being aggrieved by this he has again approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by filing the instant Original Application for seeking justice.

Annexure-D is the photocopy of rejection letter issued by the Respondent No. 2 vide his letter No. 7202/Est/R(DIS)/ZHA dated 10-03-2001.

4.8 That it may be stated that earlier also the applicant approached before the Respondent No. 2 for promotion to rank of Storekeeper and appeared before an interview board on 25/26 January 1994. But he was denied the said promotion by the Respondents. Being

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aggrieved by this he approached the respondent No. 2 for seeking justice. But unfortunately the Respondent No. 2 confined <sup>applicant</sup> in his office chamber and forced the applicant to sign a resignation letter on 28-02-1994. Your applicant approached the Hon'ble Tribunal by filing Original Application No. 118 of 1994 against the forceful resignation of the applicant and also against the forceful eviction of Government accommodation which was occupied by the applicant at that time. The Hon'ble Tribunal finally heard the Original Application No. 118 of 1994 on 4th May 1994. The Hon'ble Tribunal was pleased to set aside the decision of the appointing authority accepting the resignation of the applicant and also quashed the impugned order dated 10-06-1994 for vacating the Government accommodation provided to the applicant. The O.A. is allowed in terms of aforesaid order.

Annexure-E is the photocopy of judgment and order dated 04-05-1995 passed in O.A. No. 118 of 1994.

4.9 That your applicant begs to state that he is serving in this Department since 1975 with best satisfaction to all concerned and also possess the requisite qualification and experience for promotion to Group-C post as such, he has acquired the valid right for his promotion to the post of Group-C from the date of promotion of his juniors with all consequential service benefit including

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Monetary benefit. Be it stated that if his juniors by this time acquired eligibility for the next higher-grade promotion then they will further supercede the applicant in the matter of promotion. Therefore, the applicant has compelled to approached this Hon'ble Tribunal for immediate interference in the matter and also for seeking justice from the Hon'ble Tribunal.

4.10 That your applicant submits that the Respondents have disposed of the applicant's case of promotion to the post of Group-C by very casual manner on 10-03-2001. The Respondents have not gone to the depth of the case and also not fully scrutinized the records and facts of the case regarding his promotion to the post of Group-C.

4.11 That your applicant submits that the action of the Respondents is mala fide, illegal, arbitrary and whimsical and also with a motive behind. As such, the applicant is compelled to approach this Hon'ble Tribunal for seeking justice.

4.12 That your applicant submits that the Respondents have violated the provision of guide line regarding promotion and also deprived your applicant by giving the benefit of promotion to his junior persons without showing any cause or causes.

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4.13 That your applicant submits that that many of his juniors have already been promoted to the post of Group-C by the Respondents. But the applicant's case is left out by the Respondents the reasons are best known to the Respondents.

4.14 That your applicant submits that the Respondents have resorted the colourable exercise of power to deprive the applicant. The action of the Respondents is arbitrary and whimsical.

4.15 That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, on the reasons and facts which are narrated above, the action of the respondents, is prima facie illegal and without jurisdiction.

5.2 For that, the Respondents did not applied their mind properly in rejecting the promotion of the applicant to the post of Group-C and as such it appears to be bias and there has been serious miscarriage of justice.

5.3 For that, the Respondents have completely mis-conceived the facts

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and relevant guidelines for promotion of applicant and consequently come to an erroneous decision and as the promotion of the persons who are junior to the applicant is illegal and mala fide and violative of principle of natural justice.

5.4 For that, the Respondents are being model employer cannot be allowed to adopt a discriminatory treatment to the applicant.

5.5 For that, the applicant has requisite qualification and experience for promotion to the post of Group-C post under S.R.O. 128 Scheme issued by the Ministry of Defence on 3rd April 1980. Hence, the Respondents cannot deny the benefit of promotion to the applicant.

5.6 For that, the junior of the applicant has already been given promotion and as such the Respondents cannot deny the same to the applicant.

5.7 For that, the applicant is a victim of hostile discrimination and thereby the respondents violated the principle of administrative fair play and Article 14 & 16 of the Constitution of India.

*Attn*

5.8 For that, due to negligence of the respondents, the applicant has not been promoted in due time and as such, the applicant should be promoted with retrospective effect from the date when his juniors have been promoted to the post of Group-C post.

5.9 For the, in any view of the matter the action of the respondents are not sustainable in the eye of law.

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

6. DETAILS OF REMEDIES EXHAUSTED :

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

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

That the applicant further declares that he has not filed any application, writ petition or suit in

respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition, records may be called for and after hearing the parties on the cause or causes that may be show and on perusal of the records grant the following relief to the applicant.

8.1 To direct the respondents to promote the applicant to the post of Group-C post from the date of promotion of his juniors with retrospective effect with all consequential service and monetary benefits.

8.2 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.3 , Cost of the application.

9. INTERIM ORDER PRAYED FOR :

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The applicant prayed for an interim order from this Hon'ble Tribunal directing the respondents not to give any further Promotion to the Post of Group-C post who are juniors to the applicant.

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. CG 792408  
 Date Of Issue 9.5.2001  
 Issued from Guwahati G.P.O.  
 Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

. . . Verification.

## VERIFICATION

I, Sri Zakir Hussain Ansari, Son of Late Mosafir Ansari, working as Chowkidar, residing at Quarter No. P-A-36 Station Head Quarter, Narengi, Guwahati-781027, the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1, 4.4, 4.5, 4.9 are true to my knowledge, those made in paragraphs 4.2, 4.3, 4.6, 4.7, 4.8 are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 16th day of May 2000 at Guwahati.

ZHussain Ansari

Declarant

विद्यालय-परित्यग-प्रमाण-पत्र

विद्यालय-परित्यग-प्रमाण-पत्र

1. छात्र का नाम ..... पिता का नाम .....
2. निवासी ..... प्रा. वि. विद्यालय ..... जिला ..... राज्य .....
3. छात्र की जन्म तिथि .....  
(अक्षरों में) .....
4. प्रवेश हुआ ..... तिथि .....
5. विद्यालय परीक्षा समिति की वार्षिक/पूरक परीक्षा ..... से उत्तीर्ण  
प्रमाणित है .....
6. प्रमाणित ..... पूर्णतः .....
7. चरित्र .....
8. वैकल्पिक विषय .....  
  1. ....
  2. ....
  3. ....
9. विद्यालय त्यागने की तिथि — 3-7-80

*(Handwritten Signature)*

प्रधानाध्यापक  
10-01-01/अ०/सं.वि०/.....  
अ.वि.विद्यालय (सौराष्ट्र)

*(Handwritten Signature)*  
Attested  
Admitted

New Delhi, the 3rd April, 1980

**SR.O. 1287**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to certain Group 'C' and Group 'D' posts in the Formation Headquarters and Station Staff Office under General Staff Branch of the Army Headquarters in the Ministry of Defence, namely:—

1. Short title and commencement.—(1) These rules may be called the Formation Headquarters and Station Staff Offices (Conservancy Staff) Recruitment Rules, 1980.

(2) They shall come into force from the date of their publication in the Official Gazette.

(3) Past cases will not be re-opened.

2. Application.—These rules shall apply to the posts specified in column 2 of the Schedule annexed to these rules.

3. Number, classification and scales of pay.—The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 3 to 5 of the Schedule annexed.

4. Method of recruitment, age limit and other qualification etc.—The method of recruitment, age limit, qualifications and

other matters relating to the said posts, shall be as specified in columns 6 to 14 of the Schedule aforesaid.

5. Disqualification.—No person—

(a) who has entered into or contracted a marriage with a person having a spouse; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person,

shall be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

6. Power to relax.—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or posts.

7. Savings.—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

**SCHEDULE**

S. No.	Name of post	No. of posts	Classification	Scale of pay	Whether selection post or Non-Selection post.	Age limit for direct recruits	Educational and other qualifications required for direct recruits
1	2	3	4	5	6	7	8
	General Supervisor	23	Civilians in Defence Services, Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 330-8-370-10-400-EB-10-480	Non-selection	25 years (relaxable for Govt. servants, upto 35 yrs. as per rules) NA	(i) Matriculation or equivalent (ii) 3 years experience of supervising conservancy staff.
	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees/transferes	Period of probation if any	Method of rectrl. whether by direct rectrl. or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of rectrl. promotion/transfer grade from which promotion/transfer to be made	If a DPC exist.	Circumstances in which UPSC is to be consulted in making recruitment	
	9	10	11	12	13	14	
	Age: Nil; Educational qualifications Yes	2 years	By promotion which by transfer and failing which by direct rectrl.	Promotion: Store-keepers and Accounts Clerks, with 8 years of regular service in the grade. Transfer: Persons working in equivalent or analogous or grade in the lower formations of the Defence (Service who have the qualifications prescribed under column. 8	Group 'C' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of 1. Chairman: Officers of the rank of Lt. Col/Major, 2. Members 2: Officers of the rank of Captain/Lieutenant.	N.A.	

*Attal*  
*AS*  
*Asate*

1	2	3	4	5	6	7	8
2.	Accounts Clerk	17	Civilian in Defence Services Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 260-6-290- EB-6-326-8 366- EB-8-390-10-400	Non-selection	25 years (relaxable for Govt. servants upto 35 yrs. as per rules)	(i) Matriculation and its equivalent. (ii) Typing speed 30 words per minute. (iii) Knowledge of accounts keeping.
3.	<u>Conservancy Storekeeper</u>	24	Civilian in Defence Services Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 215-5-260-6- 290-EB-6-308	Non-selection	25 yrs. (relaxable for Govt. servants upto 35 years as per rules)	Essential : Matriculation and its equivalent. Desirable : Experience in Storekeeping.

9	10	11	12	13	14
---	----	----	----	----	----

Age: No.  
Educational qualifications: Yes.

2 years

90% by transfer, falling which by direct recruitment, 10% by promotion of Group 'D' employees borne on regular establishment subject to the following conditions :-

- (a) Selection shall be made through Departmental examination confined to such Group 'D' employees who fulfil requirements of minimum educational qualifications namely, Matriculation or equivalent.
- (b) The maximum age for this examination shall be 45 years (50 years for the Scheduled Caste and the Scheduled Tribes candidates).
- (c) At least 5 years service in Group 'D' posts is essential.
- (d) The maximum number of recruits by this method shall be limited to 10% of the vacancies in the cadre of Accounts Clerks occurring in a year and unfilled vacancies shall not be carried over.

Group 'C' D.P.C. (also for considering confirmation of the direct recruits) consisting of :-  
1. Chairman : Officer of the rank of Lt. Col/Major  
2. Members 2 : Officer of the rank of Captain/Lieutenant.

N.A.

Age: No.  
Edu. Qual. Yes 2 years

By promotion, falling which by transfer, and falling both by direct ree.

Promotion : By conservancy Sanitary Mate/Land Supervisor with 5 years regular service in the grade.  
Transfer : Persons working in equivalent or analogous or higher grades in the lower formations of the Defence services who have the qualifications prescribed under column 8.

Group 'C' D.P.C. (also for considering confirmation of the direct recruits.) consisting of :-  
1. Chairman : Officer of the rank of Lt Col/Major.  
2. Members 2 : Officer of the rank of Captain/Lieutenant.

N.A.

*Amal*  
*AS* *H*  
*Amate*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

( Original Application No. 126 of 1998.

Date of Order : This the 19th Day of December, 2000.

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

The Hon'ble Mr M.P.Singh , Administrative Member.

Shri Zakir Hussain Ansari,  
Son of late Mosafir Ansari,  
Working as Chowkidar,  
Quarter No. P-A-36,  
Station Headquarter,  
Narangi, Guwahati-27 . . . Applicant.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India  
through the Secretary,  
Ministry of Defence,  
New Delhi.
2. Administrative Commandant,  
Station Head Quarter-51,  
Sub-Area Narangi,  
Guwahati-27. . . Respondents.

By Advocate Sri A.Dob Roy, Sr.C.O.S.C.,

ORDER

CHOWDHURY J.(V.C)

It is a case of public servant who is holding the same post for the last 25 years. The applicant is a civilian employee in Defence Service and appointed in Group D post. The applicant was appointed on 1.7.1975 as Chowkidar. He is a Matriculate by qualification. Rules contemplated for promotion of Group D post to Group C which is also a non selection post. According to the respondents his case was considered for promotion but not found fit. Promotion is to be made from Group D posts.

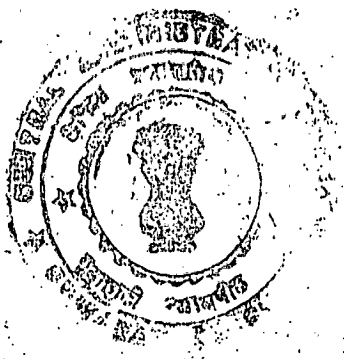


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Sd/-  
Advocate

direct recruitment. The respondents stated that the rules are made so that persons from lower rank can be promoted to higher rank. There is no justification for withholding promotion of a person for about 20 years. On that ground alone, we direct the respondents to consider the case of the applicant for promotion to Group C post considering his length of service and other factors so that the applicant can go to the higher rank. With this observation we allow the application directing the respondents to consider his case for promotion as expeditiously as possible, preferably within a period of 3 months from the date of receipt copy of this order.

There shall however, be no order as to costs.

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (Adm)



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Section Officer (J)  
आयुक्त अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक अधिकरण  
Guwahati Bench, Guwahati  
गुवाहाटी न्यायपीठ, गुवाहाटी

*Handwritten signature and initials: Anil, S.S., Avots*

(Station Cell  
HQ 51 Sub Area

10 Mar 2001

7202/EST/R(Dia)/ZHA

✓  
Md Zakir Hussain Ansari,  
Chowkidar,  
Station Cell  
HQ 51 Sub Area

CAT ORDER ON PROMOTION : CAT OA 126/00 (MISC-OA  
NO 149/2000) DATED 19 DEC 2000

1. Reference CAT Order dated 19 Dec 2000.
2. You are hereby informed that as per existing orders and instructions on the subject as per following rules your case is not being covered by the rules :-
  - (a) SRO - 126/00
  - (b) CPRO-123/77

13. The following rules as per SRO - 126/00 is appended below for your information :-

For General Supervisor

- Educational qualifications :**
- (i) Matriculation or equivalent.
  - (ii) 3 years experience of supervising conservancy staff.

**Eligibility : Promotion :** Store Keepers and Account clerk with 6 years regular service in the grade.

For Store-Keeper / Account clerk :

**Promotion :** By conservancy Sanitary Mate/Land Supervisor with 5 years regular service in the grade.

Educational qualifications :

- Essential :** Matriculation and its equivalent.
- Desirable :** Experience in Store-Keeper.

For Account clerk

**Eligibility :** Matriculation and its equivalent. Typing speed 30 words per minute. Knowledge of accounting.

For Land Supervisor/ Conservancy Sanitary Mate

**Qualification :** 4th Standard pass.

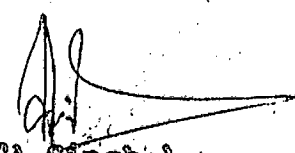
*Ansari*  
*Ansari*

Promotion : Conservancy Safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language.

Period of probation if any :- 2 years.

4. In view of the above, your case can not be considered on the subject cited above.

5. You are advise to appear in the next Departmental Promotion Committee as per rules cited above.



(TA Singha)  
Lt Col  
For Adm Comdt

Copy to :-

Central Administrative Tribunal, :  
Guwahati Bench  
P.O. Bhangegaraha  
Guwahati

For information please, wrt your CAT Order dated 19 Dec 2000.

HQ 51 Sub Area ( G Br)  
C/O 99 APO

: For information please.

*Handwritten signature and text:*  
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

29

Original Application No. 118 of 1994.

Date of decision : This the 4th day of May, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri Zakir Hussain Ansari,  
S/o Late Mosafir Ansari,  
Station Headquarter  
Quarter No. P-A-36  
Narengi,  
Guwahati-781027

..... Applicant

By Advocate Sri M. Chanda

-versus-

HD  
Narengi Sub Area  
E

1. Union of India  
Through Secretary,  
Ministry of Defence,  
New Delhi.
2. Administrative Commandant,  
Station Headquarter - 51,  
Sub Area Narengi,  
Guwahati-781027

..... Respondents

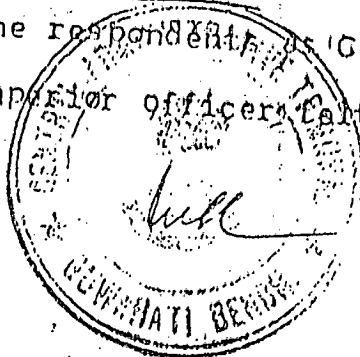
By Advocate Sri S. Ali, Sr. C.G.S.C.

ORDER

CHAUDHARI J. (V.C.).

This is somewhat an unfortunate case in which the applicant has placed himself into difficulty owing to his intemperate conduct. The applicant joined the service with the respondents as Chowkidar way back in 1975. As the superior officers felt a necessity to question

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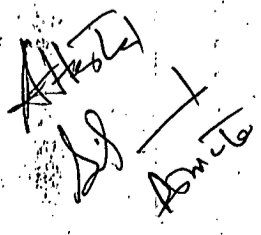


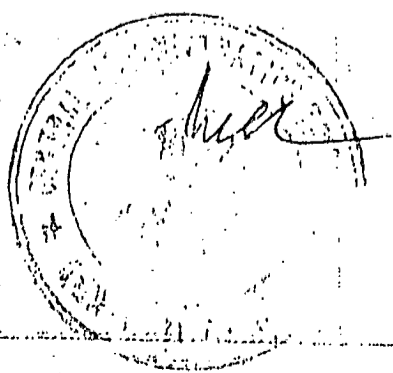
him relating to <sup>performance</sup> ~~performance~~ of his office duty and was questioned he was piqued and rushed to tender a letter of resignation on 28.2.94. On a second thought he applied for withdrawal of the said resignation <sup>on 17.3.94</sup> alleging that it was written under duress. He filed that application to the Brig. H.Q. 51 Sub area, Narengi. At the same time he also submitted an appeal to AH Quarters (AG 4 Civ'D'), DHQ, New Delhi. The appointing authority i.e. Station Commander however accepted the resignation on 16.3.94. A notice was issued to him dated 10.6.94 directing him to vacate the Govt. accommodation No. A/A-35 by 25.6.94. The applicant has therefore approached this Tribunal by presenting this O.A. on 22.6.94. He prays that the letter of resignation given by him and the notice to vacate the departmental quarter be set aside.

2. It appears that the applicant was aspiring for promotion to the rank of Store Keeper and had appeared before an interview/test Board on 25/26 January, 1994 but had not been selected. According to him he had been wrongfully denied the said promotion hence he has also prayed for the relief of promotion.

3. Mr. Chanda the learned counsel for the applicant submitted that since the letter of resignation was not written voluntarily and had been sought to be withdrawn the respondents have acted arbitrarily in purporting to accept it and to direct the applicant to vacate the quarter on the assumption that he had ceased to be their employee. He further submitted that as the applicant has

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served for 19 years. it is very harsh upon him to be required to lose the job in pursuance of some act done by him in the heat of the moment and as he had tried to rectify that mistake in good time.

4. The respondents contend that the applicant was questioned as regards certain matters pertaining to his duty and instead of giving satisfactory answers he had himself tendered the letter of resignation voluntarily and that had been accepted by the authority after due consideration. They deny that the letter of resignation was given under duress. They have purported to say that the letter of withdrawal of resignation was given by the applicant on 17.3.94. after the resignation was accepted on 16.3.94.

5. The respondents next contend that as the Board of Officers did not find him suitable for the promotion after the test was held he having secured lowest number of marks namely 12 out of 100 he was not promoted and the grievance of the applicant in that respect is untenable. The respondents therefore contend that the applicant is not entitled to be given any relief.

6. The question as to from what point of time a letter of resignation becomes effective and under what circumstances the request for its withdrawal may be entertained and what is its effect is a vexed question. Ordinarily where the resignation happens to be voluntary there would be no question of it being withdrawn. In the

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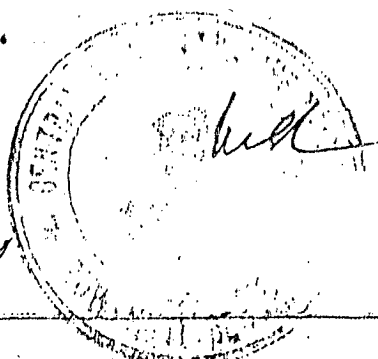


instant case there is an allegation of duress and that raises the question of fact calling for evidence and enquiry. We do not propose to enter into that field as we are convinced that having regard to the circumstances enlisted below the applicant may be granted relief in equity leaving the question of disciplinary action open.

7. The grievance made by the applicant as regards promotion reflects his disappointment as he seems to be brooding under the thought that even after 13 years of service he was not able to get that benefit. In this background his earliest version about the allegation of duress relating to the letter of resignation contained in the appeal Annexure-5 which was supposedly submitted by him has to be understood. He has narrated that it was on 28.2.94 that he was questioned by Lt. Colonel D.N. Singh relating to his personal affairs and the questions asked were objectionable. According to him the staff officer was also present in the room and there were 3 uniformed Jawans and the door of the room was bolted and that in that situation on being asked by Lt. Colonel Singh to write his resignation letter on a plain paper although initially he refused to do so, he wrote it on being threatened by Colonel Singh. This allegation is denied by the respondents. According to them the applicant was questioned by the officers on 1st March 1994 and not on 28.2.94 as alleged and that in fact on that day Col. V. Kapoor was away from the office when the applicant had written the resignation. The applicant has mentioned in his appeal that Colonel Kapoor was present in the room.

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S.S.  
Kumar



8. Mr. S. Ali, the Sr. C.G.S.C. has produced the copy of the letter of resignation. It is written in Hindi and reads thus :

"॥ श्री अरवि अग्रवाल जी १९७४ य॥  
- अरवि अग्रवाल - १९७४ - १९७४ - १९७४ -"

This copy bears the date as 1.4.94 and not as 28.2.94 or as 1.3.94. It is contended in paragraph 9 of the written statement that the applicant was confused as he has signed the resignation letter and put the date as 1st April, 1994 instead of 1st March, 1994. The applicant in his rejoinder has described this letter as not the same which he had written. It is not necessary to enter into that controversy but suffice it to say that if the respondents were to act on this letter since it shows to have been dated 1.4.94 they could not have purported to accept it on 16.3.94. The respondents have not chosen to produce the original letter. It is more agonizing that although they have stated in the written statement that the copy was attached to the written statement neither it is so attached and for that matter other annexures referred to in the written statement are also not produced alongwith the written statement. They want to correlate this letter to 1.3.94 but whether the letter of resignation was originally written on 28.2.94 or on 1.3.94 itself is a disputed point. We will assume for the time being that this was the letter written by the applicant on 1.3.94. The language of the letter indicates that it may not have been voluntary as the words '॥ श्री अरवि अग्रवाल - १९७४ - १९७४ - १९७४ -' would suggest. The applicant was likely to have

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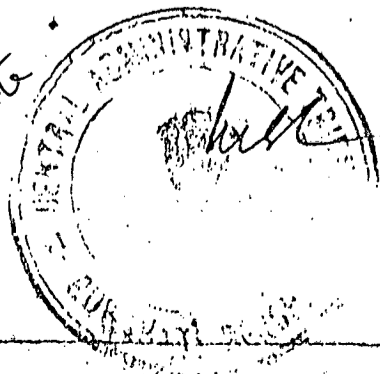


been in an agitated state of mind on being questioned, and having carried the belief that injustice was done to him as he was not given promotion and was not likely to have acted in a balanced way and seems to have written the resignation under stress. After reflection he seems to have realised that he had acted to his detriment and had thus submitted the application on 7.3.94. withdrawing the resignation. Although the allegation of duress exercised by the officers is not established we are inclined to take the view that the resignation was product of stress of the situation and given in extremely agitated state of mind by the applicant. The resignation therefore appears to have been involuntarily given.

9. As stated earlier, the respondents have not assigned any good reason as to why the request of the applicant to withdraw the resignation was not considered before accepting the resignation on 16.3.94. We are inclined to think that in paragraph 15 of the written statement the date of that application is advisedly stated as 17.3.94 although at the hearing Mr. Ali, the Sr. C.G.S.C. was fair enough to state that the date should be read as 7.3.94. Here is therefore a case where there has been non-application of mind to the request of the applicant to withdraw the resignation letter.

10. The written statement does not throw much light on the matter. It appears that the applicant was questioned for some lapses in duty. It is not therefore possible to draw any inference which we are also not called upon to draw that the applicant was guilty of any serious misconduct.

ASST  
S/S  
Answer



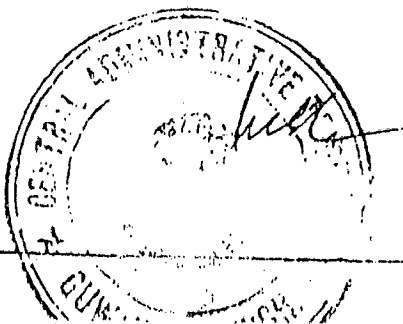
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From paragraph 15 of the written statement it is clear that even the officers and in particular Colonel Kapoor had intended to sort out the problem amicably and he seems to have even called the applicant to meet him. It is stated that Colonel Kapoor had in fact advised the applicant's wife to ask him to reconsider his decision to resign as applicant did not choose to meet him. That goes to show that the officers concerned were themselves keen to see that <sup>he</sup> may not lose the job and were willing to reconsider if proper response was shown by him. It is clear that the applicant could not think about his future dispassionately and had acted somewhat rashly. It appears that the advise to reconsider the resignation was given on 7.3.94 and the letter of withdrawal was also given by the applicant on the very day i.e. 7.3.94. There is no denial in the written statement that the letter was not given on that day. It therefore clearly appears that the decision to accept the resignation was taken by the appointing authority on 16.3.94 without seriously considering this letter.

11. For the aforesaid reasons we do not think that the applicant should be penalised on the technical ground of tendering resignation letter to the extent of requiring him to lose the benefit of his long service of 19 years more particularly as from the written statement it does not appear that there would be any serious problem if the applicant is continued in service.

In the result we set aside the decision of the appointing authority accepting the resignation of the

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applicant and direct that the applicant shall be deemed to have continued in service all throughout.

The respondents are directed to allow the applicant to resume his duty immediately and shall give him benefit of continuity.

However as the applicant did not factually work at least from 16.3.94 he shall not be eligible to be paid back wages for the period from that date till he is allowed to resume duty if that event takes place within one month from the date of receipt of copy of this order and if there is delay beyond one month he will be entitled to be paid the full-wages from expiry of one month's period till he is allowed to resume the duty.

The respondents however shall give him notional benefit as treating him on continuous duty.

No relief is granted as far as the claim for promotion is concerned as prayed.

It is made clear that this order is confined to the question of resignation and the respondents will not be precluded by this order from taking any disciplinary action against the applicant in accordance with the law and the rules if it is called for as regards any misconduct preceding the date of the letter of the resignation.

Attd  
Amt



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Consequently the order dated 10.6.94 calling upon the applicant to vacate the Govt. accommodation is quashed as it was based on the ground of resignation from service. However if the applicant is liable to vacate the quarter for any other reason the respondents will be at liberty to take that action in accordance with the law and the rules independently of the order dated 10.6.94.

The question of payment of rent for the period from 25.6.94 until the applicant resumes duty is left to be decided by the respondents in the light of this decision.

The O.A. is allowed in terms of the aforesaid order. No order as to costs.

Sd/- VICE CHAIRMAN  
Sd/- MEMBER (ADMN)

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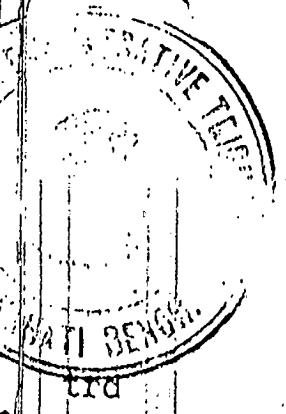
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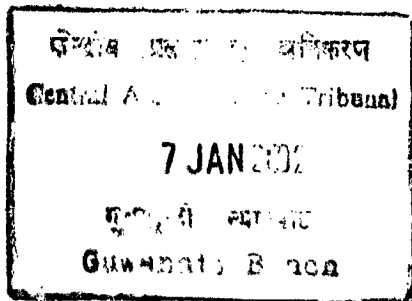
Section Officer (J)

सांख्यिक अदालत (केंद्रीय शाखा)  
Central Administrative Tribunal  
केंद्रीय शाखा, गुवाहाटी-5  
Guwahati Bench, Guwahati-5  
पुर्वांचली न्यायपीठ, पुर्वांचली-5

*[Signature]*  
29/9/95

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29/9/95





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 181/2001

Md. Zakir Hussain Ansari

- Vs -

Union of India and others.

- And -

In the written Matter of :

Written Statements submitted by  
the respondents

The Written Statements of the respondents are as follows :

1. That with regard to para 1, the respondents beg to state that this office letter No. 7202/EST/R(DIS)/ZHA dated 10 Mar 2001 ( Copy of which has been attached by the applicant. Md. Zakir Hussain Ansari, as Annexure-D to this application ) does not violate the spirit of the orders passed by the Hon'ble CAT vide order dated 19 Dec 2000 in O.A. No. 126 of 1998 as the applicant is not eligible to be promoted to any higher post due to lack of requisite qualifications. This has been clearly and unambiguously communicated to Md. Zakir Hussain Ansari vide our letter No. 7202/EST/R(DIS)/ZHA dated 10 Mar 2001. The respondent humbly invites the kind attention of the Hon'ble CAT to this letter, a copy of which has also been submitted to the Hon'ble CAT for inform

Photocopy of Station Headquarters Guwahati letter No. 7202/BST/R(DIS)/ZHA dated 10 Mar 2001. and marked as Annexure - A.

2. That with regard to para 2, 3 and 4.1, the respondents beg to offer no comments.

3. That with regard to para 4.2, the respondents beg to state that all points submitted by Md. Zakir Hussain Ansari are factually incorrect and are contested as below :

(a) (i) Statement of the Applicant : The applicant state that he was appointed as Chowkidar in the year 1975.

(ii) Facts on Record: Official records state that he was enrolled as Conservancy Safaiwala ( Group D Post ) against Scheduled Caste ( Reserved ) vacancy in the name of Shri Jagir Basfore on 01 Jul 1975, sponsored by Employment Exchange, Guwahati vide their letter No. ORD-201/75/5612 dated 28 May 1975.

Photocopy of Employment Exchange, Guwahati letter No. ORD, 201/75/5612 dated 28 May 1975. and marked as Annexure -B.

(b) The applicant changed his name from Shri Jagir Basfore to Md. Zakir Hussain Ansari by publishing in Assam Tribune dated 05 Jul 1989 and submitting an affidavit dated 27 Feb 87. This change has been duly recorded in his service record.

Photocopy of affidavit submitted by the applicant ( dated 27 Feb 1987 at Gopalganj. Bihar. and marked as Annexure - C.

Photocopy of relevant entry in the applicant's service record (Station Headquarters, Guwahati Part II order No. <sup>17/75ta✓</sup> 20/90/civ dated 06 Jun 1975. and marked as Annexure - D.

- (c) The applicant was re-classified through Departmental Promotion Committee in the post of Chowkidar on 17 Dec 1981.

Photocopy of relevant entry in the applicant's service record (Station Headquarters Guwahati Part II Order No. 01/31/Civ dated 15 Jan 1982 ) and marked as Annexure - E.

- (d) Photocopy of document submitted to the Hon'ble Court by the applicant Md. Zakir Hussain Ansari as Annexure-A in his application is that of School Leaving Certificate issued by Co-operative High School, Adhiyapur, Gopalganj (Bihar) dated 20 Feb 1996, which no maintainability as a proof of educational qualification. The applicant has misrepresented facts to the Hon'ble Court by stating that the said Annexure-A of the application was a copy of the Matriculation Certificate used by the Allahabad Board. The applicant and his Counsel are, thus guilty of misleading the Hon'ble Court. Furtherwere, the applicant did not produce any proof of educational qualification at the time of his initial enrolment as Conservancy Safaiwala in 1975. The School Leaving Certificate ( which the the applicant wrongly equates with Matriculation Certificate ) was suddenly produced in 1996 when the Hon'ble CAT did not give relief for his promotion in

O.A. No. 118/94 in 1995. Production of an educational qualification certificate, that too invalid, after 21 years of service is not understood as the applicant had all along been asked repeatedly to do so.

(e) The applicant has been asked a number of times to produce the original Matriculation/High School Certificate (Class X) issued by the State Education Board but he has consistently failed/refused to do so, always maintaining that he would do so whenever the legal necessity arises. The applicant was personally interviewed twice during the last one year by this respondents when a patient leaving was given to him but he has failed to produce the original certificate which he says is held in his custody. This adamant and strange attitude of the applicant leads this respondents to the suspicion that he does not possess the requisite certificate/qualification and is trying to force his will on the authorities through pressure tactics.

(f) Production of a certificate/diploma from a lay typing institute ( of which variety a large number of commercial and unrecognised establishments exist throughout the length and breadth of the country ) does not impart any weight to the arguments of the applicant as these certificates do not have any official recognition. Even if they did, these are of no relevance as manual/mental coordination skills

like typing have to be proved practically through administered tests and not by production of certificates. This is the established practice in all departments whether Govt or Non-Govt. By producing an irrelevant certificate, the applicant is attempting to mislead the Hon'ble Court and pressurise the authorities.

(g) This respondent most respectfully also begs to invite the attention of the Hon'ble Court to their own considered observation about the "Intemperate conduct" of the applicant in Para 1 of the Order dated 04 May 95 on the Original Application No. 118/94.

Photocopy of the relevant extract of the Order dated 04 May 95 is annexed herewith and marked as Annexure F.

4. That with regard to para 4.3, the respondents beg to ~~state~~ offer no comments.

Photocopy of relevant extract of Govt. of India Ministry of Defence SRO 128/80. is marked as Annexure -G.

5. That with regard to para 4.4, the respondents beg to state that the applicant Md. Zakir Hussain Ansari, does not ~~possess~~ possess the requisite qualifications as required vide Govt. of India, Ministry of Defence SRO 128/80 dated 03 Apr 1980. Deficiencies in his qualification are marked as Annexure - H-2.

Photocopy of relevant extract of SRO 128 of 1980 are marked as Annexure- H-1.

Deficiencies is Requisite Qualification in respect of Md. Zakir Hussain Ansari for Departmental promotion to Group C from Group D post are marked as Annexure - H-2.

Photocopy of Applicant's Refusal to appear for selection for Group C post of General Supervisor, Accounts Clerk and Conservancy Store keeper are marked as Annexure - H-3.

6. That with regard to para 4.5, the respondents beg to state that the Departmental promotion Committee (DPC) for from Group D to Group C posts were held as follows :-

a. He refused to appear in the test of Land Supervisor. (Application attached) as Annexure - H-3.

b. He had applied for appear in the higher post i.e. General Supervisor post which is not in the Promotional channel as per SRO 128/80.

In all the selection, the applicant failed due to the following reasons :

a. He had denied to appear in other tests/interview.

b. He has not fulfilled the general criteria of DPC rule i.e. not comes under the rule of SRO 128/80.

-37- 44

7. That with regard to para 4.6, the respondents beg to state that the Hon'ble Court has directed the respondents to consider the case of the applicant on the grounds of length of service alone, this respondent most humbly begs to submit that he is constrained by the Govt rules in doing so as length of service alone cannot constitute the requisite qualifications. Any attempt to consider the length of service as the sole criteria for selection to higher post/grade in this case would amount to violation of the stipulations of the said SRO 128 of 1980 which is the governing authority for departmental promotions in this case.

8. That with regard to para 4.7, the respondents beg to state that the grounds for rejection of the applicant's claim to promotion have been clearly and unambiguously spelt out in the letter addressed to him on 10 Mar 2001, as mentioned in Annexure H (referred above). Further elucidation will amount to repetition.

9. That with regard to para 4.8, the respondents beg to state that it is denied as follows :

Ref: DPC 25/26 Jan 1994.

(a) The applicant was rejected as he failed for the following reasons :

(i) He could not produced the requisite educational certificate at the time of interview held during 1994.

(b) No force appears to have been applied on the applicant to tender his resignation. Observation of the individual in his day to day dealings

with his superiors points to the fact that he is intemperate and habitually disrespectful to superiors and authority in general for unjustifiable reasons.

10. That with regard to para 4.9, the respondents beg to state that the supersession by juniors ( if the juniors are found more fit/qualified ) can not be considered a valid ground for promotion.

11. That with regard to para 4.10, the respondents beg to state that it is denied.

12. That with regard to para 4.11, the respondents beg to state that the right of the applicant to approach Hon'ble Court inrespective of any other consideration is conceded and upheld.

13. That with regard to paras 4.12, 4.13 and 4.14, the respondents beg to state that it is repetitive and denied.

14. That with regard to paras 5.1 to 5.9, the respondents beg to state that in view of the foregoing paras and being misconceived by the applicant.

15. That with regard to paras 6 and 7 , the respondents beg to offer no comments.

16. That with regard to paras 8.1 to 8.3, the respondents beg to state that relief sought by the applicant is unjustified.

(b) In view of the parawise comments offered by the respondent as above it is prayed that the applicant's petition be dismissed as the same is not maintainable according to the Govt. of India rules on Departmental Promotions.

17. That with regard to para 9, the respondent beg to state that it is proved beyond doubt that Md. Zakir Hussain - Ansari is not eligible for promotion to higher grade, that is no reason to block the promotion of junior employees who might be eligible and qualified for such promotions. This is a point of Principle which the respondent begs the Hon'ble Court to recognise/uphold.

(b) The respondent beg the Hon'ble Court to dismiss the application filed by the applicant.

(c) The respondent further begs the Hon'ble Court to ~~dis~~ dissuade the applicant from filing the same appeal repetitively merely because he does not have to suffer monetary expense is doing so.

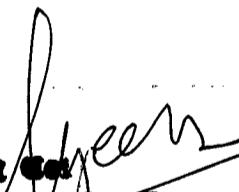
Verification.....

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

I ~~Sri~~ Lt Col P George, ~~offg~~  
Adm Comdt being authorised do hereby verify  
and declare that the statements made in this written  
statement are true to my knowledge, information and  
believe and I have not suppressed any material fact.

And I sign this verification on this 24th  
day of ~~November~~, 2001, at Guwahati.

Declarant.

  
Lt Col  
Offg Adm Comdt  
HQ Guwahati

# ANNEXURE A

Station Cell  
HQ 51 Sub Area

10 Mar 2001

7202/EST/R(Dis)/ZHA

Md Zakir Hussain Ansari,  
Chowkidar,  
Station Cell  
HQ 51 Sub Area

CAT ORDER ON PROMOTION : CAT OA 126/98(MISC-OA  
NO 140/2000) DATED 19 DEC 2000

1. Reference CAT Order dated 19 Dec 2000.
2. You are hereby informed that as per existing orders and instructions on the subject as per following rules your case is not being covered by the rules :-

(a) SRO - 128/80

(b) CPRO-123/77

3. The following rules as per SRO - 128/80 is appended below for your information :-

For General Supervisor

Educational qualifications : (i) Matriculation or equivalent.  
(ii) 3 years experience of supervising conservancy staff.

Eligibility : Promotion : Store Keepers and Account clerk with 8 years regular service in the grade.

For Store-Keeper / Account clerk :

Promotion : By conservancy Sanitary Mate/Land Supervisor with 5 years regular service in the grade.

Educational qualifications :

Essential : Matriculation and its equivalent.

Desirable : Experience in Store-Keeper.

For Account clerk

Eligibility : Matriculation and its equivalent. Typing speed 30 words per minute. Knowledge of accounting.

For Land Supervisor/ Conservancy Sanitary Mate

Qualification : 4th Standard pass.

Promotion : Conservancy Safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language.

Period of probation if any :- 2 years.

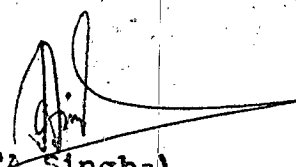
4. In view of the above, your case can not be considered on the subject cited above.

5. You are advise to appear in the next Departmental Promotion Committee as per rules cited above.

Copy to :-

Central Administrative Tribunal,  
Guwahati Bench  
P.O. Bhanganagara  
Guwahati

HQ 51 Sub Area ( G Br)  
C/O 99 APO

  
(TA Singha)  
Lt Col  
For Adm Comdt

For information please, wrt  
your CAT Order dated 19 Dec  
2000.

For information please.

Scheduled Caste

12

ANNEX - B

-42-

56

GOVERNMENT OF ASSAM  
 DEPARTMENT OF LABOUR  
 EMPLOYMENT EXCHANGE  
 IDENTITY CARD

Not an Introduction card for interview with employers.

1. Name of Applicant Jagir Bastor
2. Date of Registration 1-5-75
3. Registration No. 3820/75
4. N. C. O Code No. 541-20

INSTRUCTIONS TO APPLICANT

- (a) Bring this card with you whenever you come to the Exchange.
- (b) Quote your Registration Number and N. C. O. Number whenever you write to the Exchange.
- (c) Renew your Registration every three months.

Date before which registration should be renewed

If you do not renew by the due date your registration will be cancelled.

- (d) You can renew your registration personally or by post. For renewal by post DO NOT SEND THIS CARD. Apply to the Exchange on a REPLY PAID POST CARD.

1/75

Dis

....

ANNEX <sup>13</sup> ~~30~~ <sup>B</sup>

Appendix A

By hand

Government of Assam,  
District Employment Exchange, Gauhati. (95)  
Department of Labour.

No. ORD. 201/75/ 5612 / Dated, Gauhati the 28th May, 1975. 43

The Administrative Commandant,  
Station Head Quarters,  
Narangi ~~Garhaxk~~ Camp,  
Gauhati-20.

Sub:- RECRUITMENT OF SWEEPER.

Ref:- Your letter No. 7202/EST/Cons dt. 20-5-75.

Sir,

With reference to the above, I am submitting herewith the particulars of 59 (fifty Nine) applicants for favour of your necessary action. The applicants have been directed to report to you on 29th May, 1975 at 10 A.M. along with their all original certificates and Employment Exchange Regn. Cards. for your interview/test, etc.

The result of this submission may please be intimated to us in due course.

Yours faithfully,

*28/5/75*  
Employment officer,  
District Employment Exchange,  
Gauhati.

....

List of applicants submitted to the Administrative  
Commdt. Narangi Camp, Gauhati. For the post of Sweeper  
(Conservatory)

No. ORD: 201/75/  
N.C.O. No. 541.20

Sl. No.	NAME OF THE APPLICANTS	REGN. No.	DATE	REMARKS.
1	2	3	4	5
1.	Shri Jagir Basfore, ✓	3820/75.		S/Caste. ✓ Accepted
2.	" SAbaya ✓	2104/75.		-do- ✓ Accepted
3.	" B. Jagullu, ✓	12,113/74		-do- ✓ Accepted II
4.	" Sankar,	2762/75		-do-
5.	" Ranjit,	2760/75		-do-
6.	" Sareshlal Basfore,	2108/75		-do-
7.	" Basu R. Basfore,	2105/75		-do-
8.	" Huplal Basfore,	2172/75		-do-
9.	" Mongal Basfore,	2175/75		-do-
10.	" Ch. Demru	2156/75		-do-
11.	" Shamlal Basfore,	2174/75		-do-
12.	" Punnaman Basfore	2101/75		-do-
13.	" Ramoo Basfore, ✓	3116/75		-do- ✓ Accepted II
14.	" Ram Prasad, ✓	2754/75.		-do- ✓ Accepted II
15.	" Sena Chalen,	2103/75.		-do-
16.	" Kalchan Lal	2752/75		-do-
17.	" Panchiram	2761/75		-do-
18.	" Simansalam	3767/75		-do-
19.	" Raghu Nanda Basfore,	10,287/75		-do-
20.	" Badsha Prasad	11,594/75.		-do-
21.	" Sabilal Harijan,	4757/75.		-do-
22.	" Mani Raj,	4756/75.		-do- ✓ Accepted II
23.	" Radha Shyam ✓	4755/75.		-do-
24.	" B. Apparao,	4754/75.		-do-
25.	" Sumarah Harijan,	4753/75.		-do-
26.	" C. Chanaya,	4752/75.		-do-
27.	" Potraj,	4751/75.		-do-
28.	" Sambhu Harijan,	4750/75.		-do-
29.	" Dho ben Ram ✓	4748/75.		-do- ✓ Accepted
30.	" Su bhas Raj Harijan,	4747/75.		-do-
31.	" B. Sree Ram Mutri,	4743/75.		-do-
32.	" Rao Naya Harijan,	4742/75.		-do-
33.	" Suren Harijan, ✓	4741/75.		-do- ✓ Accepted
34.	" Suhan Balmiki, ✓	4740/75.		-do- Accepted by order of Adm. Comd.
35.	" Krishna Harijan,	4739/75.		-do-
36.	Mrs. E. Muthalamma,	W/217/75.		-do- ✓ Accepted
37.	" Radhika Basfore,	W/480/75.		-do- ✓ Accepted
38.	" Kaulasiya,	W/182/75.		-do-
39.	" Sima Chalam,	W/197/75.		-do-
40.	" Yama,	W/361/75.		-do-

Employment Officer  
Employment Exch.  
Gauhati  
20/5/75

45-53

	2	1	3	1	4
41. Mrs. Madhu Harizan,			W/941/74.		S/Caste-
42. " Chenemalu,			W/253/75.		-do-
43. " Sulemi Harijan,			W/145/75.		-do- ✓ Accepted
44. " K. Arikama,			W/938/75.		-do- ✓ Accepted
45. " Eapanama,			W/184/75.		-do-
46. " Dalama,			W/183/75.		-do- Accepted
47. " Kandama,			W/185/75.		-do- ✓ Accepted
48. Chandu Balmiki,			W/251/75.		-do-
49. " Sawaria Basfore,			W/989/74.		-do- ✓ Accepted
50. " Sukraji Basfore,			W/284/75.		-do-
51. " Radha Devi Basfore,			W/198/75.		-do-
52. " Maya Harijan,			W/942/74.		-do-
53. " Ram Devi,			W/283/75.		-do-
54. " Maryam Harijan,			W/500/75.		-do-
55. " Gello Mina Harijan,			W/499/75.		-do-
56. " Kandama Harijan,			W/498/75.		-do-
57. " Deurama Harijan,			W/497/75.		-do-
58. " Mahalakshmi Harijan,			W/496/75.		-do-
59. Sri K. Appa Rao,			469/75.		-do- ✓ Accepted

28/5/75  
 Employment officer,  
 District Employment Exchange,  
 Gauhati

28/5/75

*[Handwritten signature]*

Assam (16)

ANNEXURE - V

Annex - III

Published in Tribune : 5 Jul 89

51

ANNEX - IV

CORRIGENDUM

Reference to the result advt. for admission to Engineering Colleges of Assam and Assam Quota of seats in Regional Engineering Colleges and other Technical Courses for the Session 1989-90 published in this paper on 25.6.89 please read the correct Roll Nos. under General Merit List 'A' as follows: 5180 instead of 0180 (80th position) 7540 instead of 9540 (159th position).  
G/Edu/1319/IC

for Univ.) C/O J.L. ...  
10th Floor (Room No. 2 & 3)  
33A Jawaharlal Nehru Road,  
Calcutta-700071  
SV/2393/1

Jokel India Ltd. require an Electrical Engineer for its Group of Gardens to be based at Jokel Central Workshop, Panitola. The candidate should be a qualified graduate Engineer with minimum experience of four years on various maintenance and Electrical Project works. Age group 26 to 30 years, which may be waived for exceptional candidate. Post will be in Management Cadre. Candidates applying for the post should attach photo copies of their School and University certificates, local Employment Exchange Registration certificate and address it under private and confidential cover to the Senior Manager (Plantations) Jokel India Limited, Panitola T.E. Panitola-786183. Applications receive upto 10th August 1989 will be considered.  
SV/2394/3

PUBLIC NOTICE

I, Jagir Basfore have by an affidavit in the Gopalganj Court, changed my name, henceforth I shall be known as Jakir Hussain Ansari.

PN/2400/1

I Shri Dhan Bahadur Giri S/o Shri Padma Bahadur Giri of Vill & P.O. Tewari-pal, P.S. Chatia Dist. Sonitpur, Assam hereby changed my name as Sri Dhan Raj Giri before a First Class Magistrate of Guwahati Court on 3.7.89  
PN/2390/1



The court of Sri B. N. Rai

2.11  
27.2.87

Notary public  
Gopalganj

Affidavit.

I, ~~...~~ Basford, son of ...

was a resident of ...

S. B. Bicer, Dist. Gopalganj, aged about 38 yrs

solemnly affirm as follows.

The deponent do  
hereby solemnly  
affirm the contents  
of this affidavit  
to be true and correct  
by Mohd. Saif  
Adv. Gopalganj

1. That previously I was known by the name  
of Jigar Bastore but I want to change my  
name as Jigar Hussain Ansari.



Jigar Bastore  
deponent.

The deponent do hereby solemnly affirm  
and declare that the statement made here  
in this affidavit is true and correct

Jigar Bastore  
deponent.

I identify the deponent who has signed  
in my presence.

M. Saif  
Advocate, Gopalganj

27.2.87

18

EXTRACT OF SERVICE BOOK OF MD ZAKIR

HUSAIN ANSARI, CHOUKIDAR

48

पद का नाम और वेतनमान  
Name of post and scale of pay.

मूल पद है या स्थानापन्न और स्थायी या है अस्थायी\*  
Whether substantive or officiating and whether permanent or temporary\*

यदि स्थानापन्न हो तो लिखें कि (1) मूल पद नियुक्ति या (2) क्या सेवा अनुच्छेद 371 के से० नि० के अनुसार पेंशन के लिए गिनी जायगी? If officiating state—  
(1) substantive appointment, or (2) whether service counts for pension under Art. 371, C. S. R.

मूल पद में वेतन  
Pay in substantive post

स्थानापन्न होने का अतिरिक्त वेतन  
Additional pay for officiating

"वेतन" शब्द के अन्तर्गत अन्य परिशुद्धियाँ  
Other emoluments falling under the term "Pay"

Choukidar dt 17 Dec 81

Rn 196-3-220-BO-3-232

₹० Rs. पं० P. ₹० Rs. पं० P. ₹० Rs. पं० P.

211-00

dt 1 Jul 81

Converted to Choukidar dt 17 Dec 81 vide DO P/1/NO 01/31/81 dt 15 Jan 82.

(S. N. Yadav) Maj  
R. K. Sharma  
Capt  
Major Staff Officer

214  
dt 10/10/81

\*अस्थायी सेवा के लिए अनुच्छेद 370 के से० नि० से संबंधित आवश्यक प्रमाणपत्र आलिखित करने चाहिए।  
For temporary service, necessary certificate with reference to Article 370, C.S. R. should be recorded.

<p>सरकारी कर्मचारी के हस्ताक्षर Signature of Govt. servant</p>	<p>कालम 1 से 8 की तसदीक में कार्यालय के अध्यक्ष या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर और पदनाम Signature and designation of the head of the office or other attesting officer in attestation of column 1 to 8</p>	<p>नियुक्ति की समाप्ति की तारीख Date of termination of appointment</p>	<p>समाप्ति का कारण (जसे पदोन्नति, स्थानान्तरण या बरखास्तगी इत्यादि) Reason of termination (such as promotion, transfer, or dismissal, etc.)</p>	<p>कार्यालय के अध्यक्ष या अन्य तसदीक करने वाले अधिकारी के हस्ताक्षर Signature of the head of the office or other attesting officer</p>	<p>ली गई छुट्टी का प्रकार व अवधि Nature and duration of leave taken</p>	<p>13 छुट्टी LEAVE चार महिने तक की ऐसी औसत वेतन की छुट्टी की अवधियों का बटवारा जिनका छुट्टी वेतन दूसरी सरकार को डेबिट किया जाएगा Allocation of periods of leave on average pay upto four months for which leave salary is debitible to another Government अवधियां Periods किस सरकार को डेबिट की जायेगी Government to which debitible</p>	<p>14 कार्यालय के अध्यक्ष या अन्य अधिकारी के हस्ताक्षर Signature of the head of the office or other attesting officer</p>	<p>सरकारी कर्मचारी को दिए गए किसी बालिखित दण्ड या पुरस्कार का हवाला (संदर्भ) Reference to any recorded punishment or reward given to the Government servant</p>
						<p>E/L 24<sup>th</sup> 80 to 29<sup>th</sup> 80 = 6 days</p>	<p>DO Pt II 20/17/80 dt 16.5.80</p> <p>(Surinder Singh) Lt Col Administrative Commandant Ganesh</p>	
						<p>E/L 8 NOV 80 to 11 DEC 80 = 3 days</p>	<p>DO Pt II 39/34/81 dt 20.06</p> <p>(R.K. Sharma) Capt Station Staff Officer</p>	
						<p>E/L 01.5 to 9.5 = 9 days</p>	<p>DO Pt II 13/29/81 dt 11.8</p> <p>(R.K. Sharma) Capt Station Staff Officer</p>	
								<p>Granted 5th annual increment @ 3% Station Staff Officer wef 01/2/81. pay after increment will be Rs. 2110 vide SCPT II no 12/10/81/GV 7.10.81</p> <p>(R.K. Sharma) Capt Station Staff Officer</p>

19  
30

EXTRACT COPY  
RESTRICTED

Unit : Adm Comdt, Gauhati  
Station: Guwahati (Narangi Camp)  
Date : 06 Jun 75

Sec No 17/75/Civ  
Sheet No 1 of 3 - 49

(Last DO Pt II No 16/75/Civ dated 02 Jun 75)

EMPLOYMENT

The undermentioned personnel have been employed as Conservancy Sweepers in this Headquarters from the dated shown against their names :-

WEF

1. T/257 Cons Swpr Shri JAGIR BASFORE 01 Jun 75  
S/O Shri MUSAFIR  
Vill- BHIKACHHAPAR  
P.O.- BHREY  
P.S.- BHREY  
Dist- CHUPRA (BIHAR)  
(Date of Birth : June 1950 )

Ser No 2 to 14

xxx

xxx

xxx

Sd/- x x x  
(SP PASHA)

Lt Col  
Administrative Commandant

Distribution

1. CDA PAINA
2. PAY BILL
3. OFFICE COPY

RESTRICTED

C.T.C.

Lt Col  
Administrative Commandant  
Gauhati

28/12

EXTRACT COPY OF DO Pt II ORDER

RESTRICTED

Ser No 01/82/Civ

Unit : Adm Comdt, Guwahati.  
Station: Guwahati (Narangi Camp)  
Date : 15 Jan 82

Sheet No one of one

DAILY ORDERS PART II (CIVILIAN PERSONNEL) - 50-

(Last DO Pt II No 29/82/Civ dated 31 Dec 1981)

ANNUAL INCREMENT

Ser No 1 to 22                      x x x                      x x x                      x x x

EMPLOYMENT

Ser No 23 to 28                      x x x                      x x x                      x x x

RECLASSIFICATION

The following individuals have been reclassified w.e.f. 17 Dec 81 to the trade as mentioned against each :-

29.	T/276	Shri Joynarayan Harijan	From Safaiwalas to Chowkidar	
				Pay Scale : 196-3-220-EB-3-232
30.	T/279	Shri Radhesyam		-do-
31.	T/257	Shri Jagir Basfore		-do-
32.	T/289	Shri Banala Ram		-do-
33.	T/315	Shri Rajendra Harijan		-do-
34.	T/284	Shri Rajkishan Ram		-do-

Distributions :-

1. CDA Patna
2. Pay Bill
3. Office copy

Sd/- x x x

(RK Sharma)

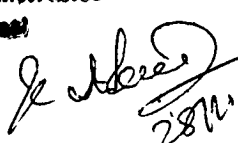
Capt.

Station Staff Officer.

RESTRICTED

C.T.C.

  
Administrative Commandant  
Guwahati

  
28/1/82

F 21

ANNEXURE - E 60

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

*[Handwritten signature]*

-51-

Original Application No. 118 of 1994.

Date of decision : This the 4th day of May, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri Zakir Hussain Ansari,  
S/o Late Mosafir Ansari,  
Station Headquarter  
Quarter No. P-A-36  
Narengi,  
Guwahati-781027

..... Applicant

By Advocate Sri M. Chanda

-versus-

*HO*  
*Narengi Sub Area*  
*[Signature]*

1. Union of India  
Through Secretary,  
Ministry of Defence,  
New Delhi.

2. Administrative Commandant,  
Station Headquarter - 51,  
Sub Area Narengi,  
Guwahati-781027

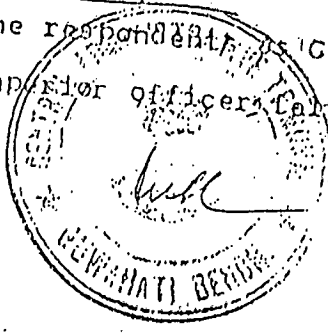
..... Respondents

By Advocate Sri S. Ali, Sr. C.G.S.C.

ORDER

CHAUDHARI J. (V.C.).

This is somewhat an unfortunate case in which the applicant has placed himself into difficulty owing to his intemperate conduct. The applicant joined the service with the respondent as Chowkidar way back in 1975. As the superior officer felt a necessity to question

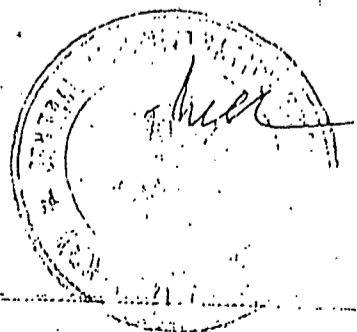


him relating to <sup>performance</sup> ~~performance~~ of his office duty and was questioned he was piqued and rushed to tender a letter of resignation on 23.2.94. On a second thought he applied for withdrawal of the said resignation <sup>on 27.3.94</sup> alleging that it was written under duress. He filed that application to the Brig. H.Q. 51 Sub area, Narengi. At the same time he also submitted an appeal to AH Quarters (AG 4 Civ'D'), DHQ, New Delhi. The appointing authority i.e. Station Commander however accepted the resignation on 16.3.94. A notice was issued to him dated 10.6.94 directing him to vacate the Govt. accommodation No. A/A-35 by 25.6.94. The applicant has therefore approached this Tribunal by presenting this O.A. on 22.6.94. He prays that the letter of resignation given by him and the notice to vacate the departmental quarter be set aside.

2. It appears that the applicant was aspiring for promotion to the rank of Store Keeper and had appeared before an interview/test Board on 25/26 January, 1994 but had not been selected. According to him he had been wrongfully denied the said promotion hence he has also prayed for the relief of promotion.

3. Mr. Chanda the learned counsel for the applicant submitted that since the letter of resignation was not written voluntarily and had been sought to be withdrawn the respondents have acted arbitrarily in purporting to accept it and to direct the applicant to vacate the quarter on the assumption that he had ceased to be their employee. He further submitted that as the applicant has

Contd....P/3



served for 19 years it is very harsh upon him to be required to lose the job in pursuance of some act done by him in the heat of the moment and as he had tried to rectify that mistake in good time.

4. The respondents contend that the applicant was questioned as regards certain matters pertaining to his duty and instead of giving satisfactory answers he had himself tendered the letter of resignation voluntarily and that had been accepted by the authority after due consideration. They deny that the letter of resignation was given under duress. They have purported to say that the letter of withdrawal of resignation was given by the applicant on 17.3.94 after the resignation was accepted on 16.3.94.

5. The respondents next contend that as the Board of Officers did not find him suitable for the promotion after the test was held he having secured lowest number of marks namely 12 out of 100 he was not promoted and the grievance of the applicant in that respect is untenable. The respondents therefore contend that the applicant is not entitled to be given any relief.

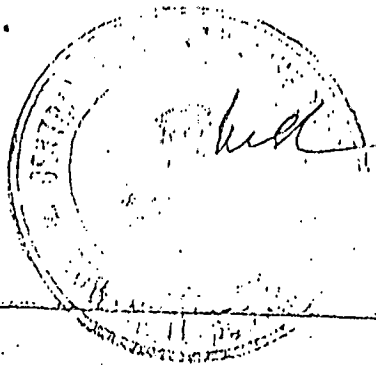
6. The question as to from what point of time a letter of resignation becomes effective and under what circumstances the request for its withdrawal may be entertained and what is its effect is a vexed question. Ordinarily where the resignation happens to be voluntary there would be no question of it being withdrawn. In the



Contd...P/4

instant case there is an allegation of duress and that raises the question of fact calling for evidence and enquiry. We do not propose to enter into that field as we are convinced that having regard to the circumstances enlisted below the applicant may be granted relief in equity leaving the question of disciplinary action open.

7. The grievance made by the applicant as regards promotion reflects his disappointment as he seems to be brooding under the thought that even after 13 years of service he was not able to get that benefit. In this background his earliest version about the allegation of duress relating to the letter of resignation contained in the appeal Annexure-5 which was supposedly submitted by him has to be understood. He has narrated that it was on 28.2.94 that he was questioned by Lt. Colonel D.N. Singh relating to his personal affairs and the questions asked were objectionable. According to him the staff officer was also present in the room and there were 3 uniformed Jawans and the door of the room was bolted and that in that situation on being asked by Lt. Colonel Singh to write his resignation letter on a plain paper although initially he refused to do so, he wrote it on being threatened by Colonel Singh. This allegation is denied by the respondents. According to them the applicant was questioned by the officers on 1st March 1994 and not on 28.2.94 as alleged and that in fact on that day Col. V. Kapoor was away from the office when the applicant had written the resignation. The applicant has mentioned in his appeal that Colonel Kapoor was present in the room.



Contd.....P/5

25

-55-

64

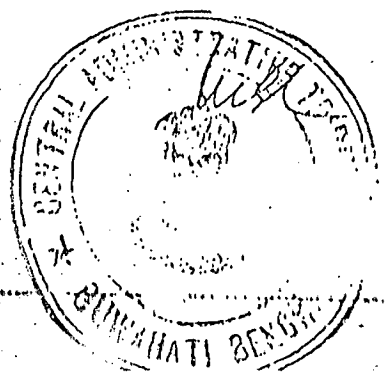
8. Mr. S. Ali, the Sr. C.G.S.C. has produced the copy of the letter of resignation. It is written in Hindi and reads thus :

" मैं नौकरात छोड़ने का निवेदन 19 अप्रैल 1994 -  
-मास 1-मं अर्थात् 22 मार्च 1994 - " "

This copy bears the date as 1.4.94 and not as 28.2.94 or as 1.3.94. It is contended in paragraph 9 of the written statement that the applicant was confused as he has signed the resignation letter and put the date as 1st April, 1994 instead of 1st March, 1994. The applicant in his rejoinder has described this letter as not the same which he had written. It is not necessary to enter into that controversy but suffice it to say that if the respondents were to act on this letter since it shows to have been dated 1.4.94 they could not have purported to accept it on 16.3.94. The respondents have not chosen to produce the original letter. It is more agonizing that although they have stated in the written statement that the copy was attached to the written statement neither it is so attached and for that matter other annexures referred to in the written statement are also not produced alongwith the written statement. They want to correlate this letter to 1.3.94 but whether the letter of resignation was originally written on 28.2.94 or on 1.3.94 itself is a disputed point. We will assume for the time being that this was the letter written by the applicant on 1.3.94. The language of the letter indicates that it may not have been voluntary as the words 'मैं नौकरात छोड़ने का निवेदन' would suggest.

The applicant was likely to have

Contd..P/6



26  
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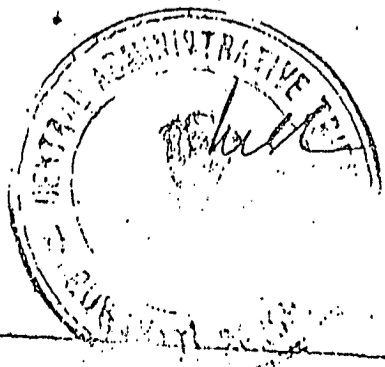
56-

15

been in an agitated state of mind on being questioned, and having carried the belief that injustice was done to him as he was not given promotion and was not likely to have acted in a balanced way and seems to have written the resignation under stress. After reflection he seems to have realised that he had acted to his detriment and had thus submitted the application on 7.3.94. withdrawing the resignation. Although the allegation of duress exercised by the officers is not established we are inclined to take the view that the resignation was product of stress of the situation and given in extremely agitated state of mind by the applicant. The resignation therefore appears to have been involuntarily given.

9. As stated earlier, the respondents have not assigned any good reason as to why the request of the applicant to withdraw the resignation was not considered before accepting the resignation on 16.3.94. We are inclined to think that in paragraph 15 of the written statement the date of that application is advisedly stated as 17.3.94 although at the hearing Mr. Ali, the Sr. C.G.S.C. was fair enough to state that the date should be read as 7.3.94. Here is therefore a case where there has been non-application of mind to the request of the applicant to withdraw the resignation letter.

10. The written statement does not throw much light on the matter. It appears that the applicant was questioned for some lapses in duty. It is not therefore possible to draw any inference which we are also not called upon to draw that the applicant was guilty of any serious misconduct.



Contd...P/7

27  
~~49~~

From paragraph 15 of the written statement it is clear that even the officers and in particular Colonel Kapoor had intended to sort out the problem amicably and he seems to have even called the applicant to meet him.

It is stated that Colonel Kapoor had in fact advised the applicant's wife to ask him to reconsider his decision to resign as applicant did not choose to meet him. That goes to show that the officers concerned were themselves keen to see that <sup>he</sup> may not lose the job and were willing to reconsider if proper response was shown by him. It is clear that the applicant could not think about his future dispassionately and had acted somewhat rashly.

It appears that the advise to reconsider the resignation was given on 7.3.94 and the letter of withdrawal was also given by the applicant on the very day i.e. 7.3.94. There is no denial in the written statement that the letter was not given on that day. It therefore clearly appears that the decision to accept the resignation was taken by the appointing authority on 16.3.94 without seriously considering this letter.

11. For the aforesaid reasons we do not think that the applicant should be penalised on the technical ground of tendering resignation letter to the extent of requiring him to lose the benefit of his long service of 19 years more particularly as from the written statement it does not appear that there would be any serious problem if the applicant is continued in service.

In the result we set aside the decision of the appointing authority accepting the resignation of the



Contd... P/3

28 -58

67

applicant and direct that the applicant shall be deemed to have continued in service all throughout.

The respondents are directed to allow the applicant to resume his duty immediately and shall give him benefit of continuity.

However as the applicant did not factually work at least from 16.3.94 he shall not be eligible to be paid back wages for the period from that date till he is allowed to resume duty if that event takes place within one month from the date of receipt of copy of this order and if there is delay beyond one month he will be entitled to be paid the full-wages from expiry of one month's period till he is allowed to resume the duty.

The respondents however shall give him notional benefit as treating him on continuous duty.

No relief is granted as far as the claim for promotion is concerned as prayed.

It is made clear that this order is confined to the question of resignation and the respondents will not be precluded by this order from taking any disciplinary action against the applicant in accordance with the law and the rules if it is called for as regards any misconduct preceding the date of the letter of the resignation.



Contd... P/9

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Consequently the order dated 10.6.94 calling upon the applicant to vacate the Govt. accommodation is quashed as it was based on the ground of resignation from service. However if the applicant is liable to vacate the quarter for any other reason the respondents will be at liberty to take that action in accordance with the law and the rules independently of the order dated 10.6.94.

The question of payment of rent for the period from 25.6.94 until the applicant resumes duty is left to be decided by the respondents in the light of this decision.

The O.A. is allowed in terms of the aforesaid order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

TRUE COPY  
प्रतिलिपि

*[Handwritten Signature]*  
30/9/95

Section Officer (J)

सांख्यिक आयोग (केंद्रीय शाखा)  
Central Administrative Tribunal

दफ्तरी कार्यालय  
Guwahati Bench, Guwahati-5

पुस्तकालय, पुस्तकालय-5



New Delhi, the 3rd April, 1980

S.R.O. 128.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to certain Group 'C' and Group 'D' posts in the Formation Headquarters and Station Staff Office under General Staff Branch of the Army Headquarters in the Ministry of Defence, namely:—

1. Short title and commencement.—(1) These rules may be called the Formation Headquarters and Station Staff Offices (Conservancy Staff) Recruitment Rules, 1980.

(2) They shall come into force from the date of their publication in the Official Gazette.

(3) Past cases will not be re-opened.

2. Application.—These rules shall apply to the posts specified in column 2 of the Schedule annexed to these rules.

3. Number, classification and scales of pay.—The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 3 to 5 of the Schedule annexed.

4. Method of recruitment, age limit and other qualification etc.—The method of recruitment, age limit, qualifications and

other matters relating to the said posts, shall be as specified in columns 6 to 14 of the Schedule aforesaid.

5. Disqualification.—No person—

(a) who has entered into or contracted a marriage with a person having a spouse; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person,

shall be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

6. Power to relax.—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or posts.

7. Savings.—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

S. No.	Name of post	No. of posts	Classification	Scale of pay	Whether selection post or Non-Selection post.	Age limit for direct recruits	Educational and other qualifications required for direct recruits
1	2	3	4	5	6	7	8
1.	General Supervisor	23	Civilians in Defence Services, Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 330-8-370-10-400-EB-10-480	Non-selection	25 years (relaxable for Govt. servants, upto 35 yrs. as per rules)	(i) Matriculation or equivalent (ii) 3 years experience of supervising/conservancy staff.

NA

Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotions/transferees	Period of probation if any	Method of re-ctt. whether by direct re-ctt. or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of re-ctt. promotion/-transfer grade from which promotion/transfer to be made	If a DPC exist.	Circumstances in which UPSC is to be consulted in making recruitment
9	10	11	12	13	14
Age: No; Educational qualifications Yes	2 years	By promotion failing which by transfer and failing which by direct re-ctt.	Promotion: Store-keepers and Accounts Clerks with 8 years regular service in the grade. Transfer: Persons working in equivalent or analogous or grade in the lower formations of the Defence Service who have the qualifications prescribed under column. 8	Group 'C' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of 1. Chairman: Officers of the rank of Lt. Col/Major 2. Members 2: Officers of the rank of Captain/Lieutenant.	N.A.



1	2	3	4	5	6	7	8
2.	Accounts Clerk	17	Civilian in Defence Services Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400	Non-selection	25 years (relaxable for Govt. servants upto 35 yrs. as per rules)	(i) Matriculation and its equivalent. (ii) Typing speed 30 words per minute. (iii) Knowledge of accounts keeping.
3.	Conservancy Storekeeper	24	Civilians in Defence Services Group 'C' Non-Gazetted, Non-Ministerial.	Rs. 225-5-260-6-290-EB-6-308	Non-selection	25 yrs. (relaxable for Govt. servants upto 35 years as per rules)	Essential : Matriculation and its equivalent. Desirable : Experience in Storekeeping.

9	10	11	12	13	14	
Age: No Educational qualifications: Yes.	2 years	90% by transfer, failing which by direct recruitment. 10% by promotion of Group 'D' employees borne on regular establishment subject to the following conditions :- (a) Selection shall be made through Departmental examination confined to such Group 'D' employees who fulfil requirements of minimum educational qualifications namely, Matriculation or equivalent. (b) The maximum age for this examination shall be 45 years (50 years for the Scheduled Caste and the Scheduled Tribes candidates). (c) At least 5 years service in Group 'D' posts is essential. (d) The maximum number of recruits by this method shall be limited to 10% of the vacancies in the cadre of Accounts Clerks occurring in a year and unfilled vacancies shall not be carried over.			Group 'C' D.P.C. (also for considering confirmation of the direct recruits) consisting of :- 1. Chairman : Officer of the rank of Lt. Col/Major 2. Members 2 : Officer of the rank of Captain/Lieutenant.	N.A.
Age: No Edl. Qual. Yes	2 years	By promotion, failing which by transfer, and failing both by direct recruitment.	Promotion: By conservancy Sanitary Mate/land Supervisor with 5 years regular service in the grade.		Group 'C' D.P.C. (also for considering confirmation of the direct recruits.) consisting of :- 1. Chairman : Officer of the equivalent or higher grades in the formations of the Defence services who have the qualifications prescribed under column 8. 2. Members 2 : Officer of the rank of Lt Col/Major. 2. Officer of the rank of Captain/Lieutenant.	N.A.

very clear

1	2	3	4	5	6	7
4. Land Supervisor	5	Civilians in Defence Services, Group 'D' Non-Gazetted. Non-Ministerial	Rs. 200-3-206-4-234-EB-4-250	Non-selection	N.A.	N.A.
5. Sanitary Mate	30	Civilians in Defence Services, Group 'D' Non-Gazetted. Non-Ministerial	Rs. 200-3-206-4-234-EB-4-250	Non-selection	N.A.	N.A.
6. Conservancy Safaiwala	11185	Civilian in Defence Services, Group 'D' Non-Gazetted. Non-Ministerial	Rs. 196-3-220-EB-3-232.	Non-selection	25 years (relaxable for Government servants upto 35 years as per rules)	Desirable : 4th standard Pass.

8	9	10	11	12	13
N.A.	2 years	By promotion, failing which by transfer	<p>Promotion : Conservancy Safaiwala with minimum 5 years service in the grade who is able to <del>write and read Hindi, English or regional language.</del></p> <p>Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence Services.</p>	<p>Group 'D' D.P.C. consisting of :- 1. Chairman—Officer of the rank of Lt. Col./Major, 2. Members—2: Officer of the rank of Captain/Lieutenant.</p>	N.A.
N.A.	2 years	By promotion, failing which by transfer	<p>Promotion : Conservancy safaiwalas with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language.</p> <p>Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence services.</p>	<p>Group 'D' D.P.C. consisting of :- 1. Chairman—Officer of the rank of Lt Col/Major 2. Members—2: Officer of the rank of Captain/Lieutenant.</p>	N.A.
N.A.	2 years	By direct recruitment	N.A.	<p>Group 'D' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of :- 1. Chairman—Officer of the rank of Lt Col/Major. 2. Members—2: Officer of the rank of Captain/Lieutenant.</p>	N.A.

- Notes : 1. The crucial date for determining age limit for direct recruits shall in each case, be the closing date for the receipt of applications from candidates in India (other than those in the Andaman and Nicobar Islands and Lakshadweep).
2. In respect of posts the appointments to which are made through the Employment Exchange, the crucial date for determining age limit shall in each case, be the last date upto which the Employment Exchanges are asked to submit names.
3. The qualification regarding experience is relaxable at the discretion of the competent authority in the case of candidates belonging to the Scheduled Castes and the Scheduled Tribes, if at any stage of selection, the competent authority is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.
4. The number of posts indicated in column 3 is subjected to variation according to workload.

Tele : Mil 6272

Annexure ~~IX~~

CPV ANNEX - H - H  
101 Area Dak Ikai

101 Area Postal Unit  
C/O 99 APO

A-12/1/APS-1

Station HQ  
Narangal Camp  
(Suwahati)

32

04

Mar 98	

DEPARTMENTAL PROMOTION COMMITTEE

1. Refer to your HQ letter No 7202/EST/DPC dt 27 Feb 98 and apropos discussion of 03 Mar 98 between Adm Comdt and undersigned.

2. You are requested to please provide the following docs to the DPC before fixing the actual date of holding DPC.

- (a) Proposal in the proforma given in Annexure I to CPRO No 27/90 may please be put up.
- (b) An upto date copy of the recruitment rules for the post of General Supervisor and conservancy supervisor.
- (c) Seniority list in prescribed proforma vide item 8(a) of the DPC proforma.
- (d) Particulars of changes in the Seniority List.
- (e) Vide item 8(f) of the DPC Proforma.
- (f) Eligibility List vide item 9 of DPC proforma.
- (g) Integrity cert.

3. It is also brought to your kind notice that the promotion to the post of General Supervisor has to be made out of Store Keeper and Accounts Clerk only vide item 1 of SRO 128/1980 and that of conservancy Store Keeper from the Sanitary Mate/Land Supervisor with Min 5 yrs regular service vide item 3 of SRO 128/80.

*RC Sharma*

(RC Sharma)  
Major  
Presiding Officer

288

Civ

33

ANNEX - 4

TO  
~~5~~

63	1968
	1968
	1968

The Adm. Control  
Station Halkhionkang  
Tuwari (Sarunggay)  
Davao

Subject

Certificates

24/6/76

Respected Sir,

I, Shis Zafin Hussain

Amari is submitting my school  
leaving certificate from  
from to co-operative school Shigapur  
Tobalgay Behar. These are as under:-

1. School leave certificate
2. Typing Diploma - page - one
3. Affidavit page - three
4. Application

All certificates are submitted  
for your information and record.

Thanking you Sir

Zafin

Sta. HRV, D. P. 36  
Chowkedar

21186

34

69

To

The Administrative Commandant  
Station Head Quarters  
Gowhati (Assam) County

Sub: PRODUCTION OF CERTIFICATE  
Respected Sir,

1. Reference Station HQ's letter no.  
7202/EST/THA/General dated 29/6/96

2. I want to state that my original  
certificates are in my college B.R.D.K  
Intermediate the Bhatpur Ranee college  
(UP) so I am forwarding the carbon  
copy of my original certificates with  
original affidavit for your further  
records.

3. I had given the photostatic copy  
of affidavit and school leaving  
certificate, so please return it  
for my record.

Thanking you Sir.

Yours faithfully,  
Lt Anand

Date  
1/7/96

Station HQ's  
Q. No P.A. 36  
Ther D. Sanyal

226

36



प्रमाणित किया जाता है कि राज ३७  
श्री आकिर हुसैन पिता श्री मोलानी मिर्जा याम-मिश्रा दापर  
पी०-सिखरी शाला-भरौ जिला-गोपालगंज के अला-  
प्रमाण पत्र विद्यालय में अमीनक विद्यालयिक विद्यालय  
वार्ड परना द्वारा उपलब्ध नहीं है।

इसकी विवर माध्यमिक विद्यालय परना  
द्वारा प्रमाणित पत्रक परीक्षा वर्ष 1967 में उत्तीर्ण प्राप्त  
की है जिसका क्रम डी० ए० श्री शिवान हर्ष कर्मक  
2085 E है।

20/2/1996  
प्रमाणित

23/1/95

GOVERNMENT HIGH SCHOOL  
MADHUPUR, GOPALGANJ

Tolo : Nil 227

38

ANNEXURE

101 Area Dak Hous  
101 Area Postal Hous  
C/O 99 APC

Annexure

A-12/1/APA-1

Mar 98

The Administrative Commandant  
Station HQ  
Station Head Quarters  
Gwarati (Marang) COMMITTEE

Subject: Request for Store Keeper  
Reference to your letter No 7202/EST/DPC dt 27 Feb 98

Respected Sir, please provide the following details regarding the actual date of holding

(a) Proposal in the proforma given in Annexure I to CPO No 27/90 may please be put up.

(b) An up to date record of all the posts of General Supervisor and conservancy supervisor.

(c) Seniority list in prescribed proforma vide item (a) for the post of Store Keeper only.

I would not like to appear before the DPC.

The DPC is a Secret for your kind production in the case of General Supervisor made out of Store Keeper and accounts of 12/1/90 and that of conservancy from the Conservancy and Store Keeper carried over from 1/1/90.

Dated  
25/1/94

Yours faithfully  
(S) Sharma  
2/1/94  
Station HQ

TO

38  
51

- 68-

The Adm Comd-  
Station Head Quarters  
Guahati (Ararangi) camp

Subject: Request for absence in  
Test of store keeper

Sir,

With due respect I beg to  
state that I would give test of  
store keeper.

There for I may please be given  
permission to sit in test-

Yours faithfully

ZT/Ans  
Chowkidar  
Station H Qs

Date  
25/1/94

Gen Supr

239  
Sd/- An (S)

69

To

The Administrative Commandant  
Station Headquarters  
Gulhat, Warangal  
Camp  
Subject: Application for the post of General  
Supervisor

Respected Sir,

With due respect, I beg  
to state that I am submitting  
application for the post of General  
Supervisor. As I had submitted many  
applications so far.

Therefore, it is requested  
you please promote me in General  
Supervisor. For this act of your kind-  
ness I shall be ever grateful to you.

Thanking you Sir,

Yours faithfully

Md Z H Ansari

Md Zakir Hussain  
Ansari

Sta HQS, Warangal

Dated

25/10/97

1250

1250

Gen. Supv  
Store keeper

40

70

FROM

Zakir Hussain

Ansary

Chowkidar

Civ. 40

To

The Station Commander  
Station Head Quarter Guwahati  
(Through Adm Comdt, Commandant  
Stn HQ Guwahati)

Sub:- Filling up of vacancy of General  
Supervisor and Conservancy store keeper  
by departmental promotion committee.

Sir,

I understand that there are two vacancies  
namely General supervisor and conservancy store keeper  
and lying vacant under your kind disposal some long.

I beg to request you to kindly promote  
me on any of the above vacant post by holding  
departmental promotion committee.

I hereby refer my civilian sammelan  
point put to honourable station commander held at  
station Headquarters Guwahati on 27 March 97  
on which honourable station commander agreed  
to hold D.P.C. during April 97. Now April 97 is  
being over but no action to hold D.P.C. has been  
taken so far.

I therefore humbly request your  
honour to kindly do that needful to help out  
the poor employee.

Yours employer

Dated :- 23-4-97

Zakir Hussain  
Chowkidar  
Stn. Head Quarter  
Naranyi Camp

26077