

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P.-

CP-18/03 ordersheet pg-1 to INDEX

Discharged Date 4/8/03

O.A./T.A No. 194/2001

R.A/C.P No. 18/03

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO194...OF 2001.

Applicant (S) **Gopa Nandy Deb**

Respondent (S) **Not Dors**

Advocate for Applicants (s) **Mr B.K. Sharma,**
Mr S. Sarma & Mr G.K. Goswami

Advocate for Respondent (s)

CASE

Notes of the Registry

Date

Order of the Tribunal

2.5.01

This application is in form
but not in the Contention
Petition and not filed vide
M. P. No. C.F.

for Rs. 5 / deposited vide

IPO/B.O. No. **EG 792094**

Dated.....**9/5/2001**...

Dy. Registrar

Requisites filed, copy sent (one)

NS
23/5/2001

22.6.01

NS
24/5/2001

Notice prepared and sent to D. Bee
for filing the Respondent No 1 to 5
by Regd A/D vide D/No
2033437 dtd 13/6/07

1m

- ① Service report are still awaited,
- ② Show Cause has ~~been~~ not been
filed.

21/6/01

Admit. Issue notice. Call for the
records. Notice returnable on 22.6.2001.

Issue notice on the interim prayer
as to why the operation of the impugned
Annexure-6 order dated 20.4.2001 shall not
be susupended. Notice ^{is} returnably on
22.6.2001. In the meantime the operation of
the impugned Annexure-6 order dated
20.4.2001 shall remain suspended.

List on 22.6.2001 for further
orders.

Vice-Chairman

List on 27.7.01 to enable
the respondents to file written
statement. In the meantime the
interim order dated 2.5.01 shall
continue.

Vice-Chairman

Order dtd. 22/6/01
Communicated to the
Parties Counsel. vide
D/No. ——— dtd. ———

27.7.01

Mr. A. Deb Roy, Sr. CG.S.C. requests
for time to file written statement. Four
weeks time is allowed for filing of written
statement. List on 24.8.01 for orders.
Meanwhile, the interim order 2.5.01 shall
continue.

K. K. Shaha
Member

No. written statement
has been filed.

By
26.7.01

lm
vs
30/7/2001
24.8.01

List again on 21/9/01 to enable the respondents
to file written statement.

The interim order dated 2.5.01 shall continue
until further order.

[Signature]
Vice-Chairman

Order dtd 27/7/01
Communicated to the
Parties Counsel vide
D/No. ——— dtd. ———

By
27/8/01

No. written statement 21.9.01
has been filed.

By
20.9.01

List on 16/11/01 to enable the respondents to
file written statement.

Interim order dated 2.5.2001 shall continue
until further order.

[Signature]
Vice-Chairman

Order dtd. 21/9/01
Communicated to the
Parties Counsel. 3788/01
26/9/01. dtd 4/10/01

mb

16.11.01

List on 14.12.2001 enabling the
respondents to file written statement.

In the meanwhile interim order
2.5.2001 shall continue.

K. K. Shaha
Member

No. written statement
has been filed.

By
15.11.01

bb
14.12.02

Four weeks time is allowed to the
respondents to file written statement.

List on 11.1.02 for order. Mean-
while, interim order dated 2.5.2001 shall
continue.


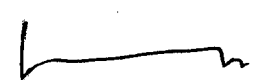

K. K. Shaha
Member

Order dtd 16/11/01
Communicated to the
Parties Counsel
20/11/01

Order dtd. 14/12/01
Communicated

mb

No. writs has been
filed. 20/1.02

Notes of the Registry	Date	Order of the Tribunal
<p>W/S has been filed on behalf of the Respondents at P- 22- 39.</p> <p>VJB 10/01/02</p> <p>No rejoinder has been filed.</p> <p><u>19.2.02.</u></p>	<p>11.1.02</p> <p>lm</p>	<p>List the case for hearing on 20.2.02. In the meantime the applicant may file rejoinder if any, within 2 weeks.</p> <p> Vice-Chairman</p>
	20.2.02	<p>Heard learned counsel for the parties. Hearing concluded. Judgement reserved. Parties may submit necessary Office Memorandum in support of their respective cases within three days from today.</p> <p> Vice-Chairman</p>
	trd	
<p><u>20.3.2002</u></p> <p>Copy of the order has been sent to the Dftr. for issuing the same to the applicant as well as to the Lr. C. G. S. for the Reply by Lr.</p> <p>HS</p> <p><u>21/3/02</u></p>	<p>28.2.02</p> <p>trd</p>	<p>Judgment and order pronounced in the open court. The application is disposed of. No costs.</p> <p> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 194 of 2001 of

DATE OF DECISION 28.2.2002.

Smt. Gopa Nandi Deb

APPLICANT(S)

Mr. B.K.Sharma, Sr. Counsel.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE

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

5.

Judgment delivered by Hon'ble Vice-Chairman.

x

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 194 of 2001.

Date of decision : This the 28th day of February, 2002.

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

Smti Gopa Nandi Deb,
W/o Nitailal Deb
Bhati Abhay Nagar,
West Tripura, Agartala.

...Applicant:

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India
Represented by the Secretary to the
Govt. of India, Ministry of
Communication, Department of
Posts, Dak Bhawan,
New Delhi-1.
2. The Director General of Posts,
New Delhi-1.
3. The Chief Post Master General,
N.E.Circle,
Shillong-1.
4. The Director of Postal Services,
Tripura State, Agartala-799001.
5. Sub-Divisional Inspector of Post Offices,
Agartala East Sub-Division
Agartala-799001.


...Respondents

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

O R D E R

CHOWDHURY J. (V.C.).

This application is directed and has arisen, against the order dated 20.4.2001 (Annexure-6 to the O.A.) passed by the respondents terminating the service of the applicant. The applicant also sought for further direction for conferring the benefit of regular service under the respondents.



The father of the applicant Hiralal Nandi was working as Branch Postmaster at Krishna Nagar (since deceased). Her father went on leave and during his absence on leave on the risk and responsibility the applicant was allowed to work in place of the EDA Krishna Nagar Branch Office vide order dated 26.10.1995. The applicant provided necessary security and other material records. The father of the applicant died on 9.3.1997 while he was on leave. The applicant prayed before the authority for her regular appointment as EDPBM. No action was taken on the prayer of the applicant for regularisation of her service as EDPBM. The applicant was allowed to act at EDPBM. The authority took steps for filling up the vacant post and sent the requisition to the Employment Exchange for sponsoring candidates. The case of the applicant was also considered. According to the applicant her case was not considered in right perspective. The respondents took steps to replace her. She submitted a representation. By the impugned order dated 20.4.2001 her service was terminated. The applicant preferred appeal and representation. The applicant also applied for appointment on compassionate ground. Failing to get appropriate remedy the applicant moved this Tribunal assailing the action of the respondents.

2. The respondents submitted its written statement. In the written statement the respondents stated that her case was considered for regular appointment but she was not found suitable. She worked as substitute during the leave period of the EDBPM who subsequently expired on 9.3.1997. The respondents stated that the applicant continued her service unauthorisedly till the impugned order of termination was issued. The nomination of her father automatically came to an end on 9.3.1997. The applicant was

Contd..

asked to apply for appointment on compassionate ground. The applicant applied for appointment on compassionate ground and the application of the applicant for compassionate appointment was forwarded to the Chief Post Master General, N.E.Circle, Shillong vide letter No. A-62 dated 12.5.2001. The respondents in their written statement also expressed its misgivings as to whether the applicant could be considered for appointment on compassionate ground. The applicant being a married daughter she would not fall as dependent family member, more so when the wife of the deceased is alive she could not be considered as a sole dependent for appointment on compassionate ground.


3. Heard Mr. B.K.Sharma, learned Sr. counsel appearing on behalf of the applicant and Mr. A.Deb Roy, learned Sr. C.G.S.C.

4. I am not inclined to go into those issues since on the own showing of the respondents the application of the applicant for compassionate appointment was forwarded to the Chief Post Master General, N.E.Region, Shillong on 12.6.2001. I am of the opinion that the matter should be sent back to the respondent authority to consider the case of the applicant as per law either for compassionate appointment or for granting temporary status. Needless to say that the scheme for granting temporary status is applicable to all Casual Labours. Mr. B.K.Sharma, learned Sr. counsel for the applicant also drawn my attention to a Full Bench decision rendered by Hyderabad Bench of the Central Administrative Tribunal in O.A. Nos. 912/92 and 961/92 on 7.6.1993 in the case of Sakkubai and N.J.Ramulu VS. The Secretary, Ministry of Communications etc. & four ors. reported in Full Bench Judgements of Central Administrative Tribunals 1991-1994, Vol III, 209. The said

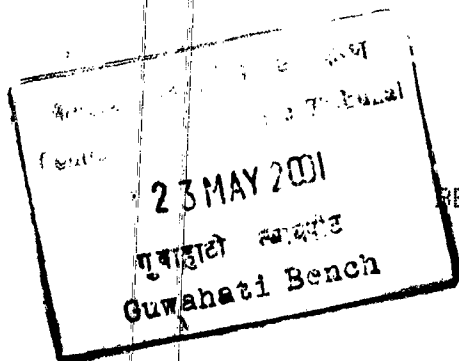
Contd..

decision took note of the order of Ministry of Communication no. 45/24/88-SPB dated 17.5.1989 which also covers EDAS. Admittedly the applicant worked as EDA with effect from 19.10.1995 till she was terminated from service by order dated 20.4.2001. The said period need to be computed for considering his case for conferment of temporary status in Group D post in accordance with casual labourers (Grant of Temporary Status and Regularisation) Scheme. The respondents are accordingly directed to consider the case of the applicant as per the above observations as per law. It is also made clear tht the applicant shall not be entitled for any arrear or emoluments arising from conferment of temporary status.

5. With the directions made above, the application stands disposed of. There shall, however be no order as to costs.


(D.N.CHOWDHURY)
Vice-Chairman

trd



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 194 of 2000

BETWEEN

Smt. Gopa Nandy Deb..... Applicant.

AND

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

I N D E X

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Filed by :

Regn.No.:

File :GOPA

Date :

Filed by:
the Applicant
through 2
Wijel kr. Goswami
Advocate
23/5/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1985)

O.A.No. of 2001

BETWEEN

Smt.Gopa Nandi Deb.
W/O. Nitailal Deb.
Bhati Abhay Nagar.
West Tripura. Agartala.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Communication .
Department of Posts.
Dak Bhawan, New Delhi-1. /
2. The Director General of Posts.
New Delhi-1.
3. The Chief Post Master General.
N.E.Circle.
Shillong -1.
4. The Director of Postal Services.
Tripura State, Agartala-799001.
5. Sub-Divisional Inspector of Post Offices.
Agartala East Sub-Division.
Agartala- 799001.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the impugned
communication bearing No.A-62 dated 20.4.2001 issued by the
Director of Postal Services, Tripura terminating the service of
the applicant .

Gopa

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That present applicant has preferred the instant Original Application impugning the termination order which has been issued illegally violating various rules and provisions holding the field. The father of the applicant was working as a Branch Post Master and during his service tenure, he had to avail long leave due to his illness. As per the provision contained in the Recruitment Rules meant for employment of ED employees, the father of the applicant nominated the name of her daughter (applicant). Pursuant to the said nomination the applicant got her appointment as EDBPM, after following the due processes of law. Necessary, formalities such as security deposit, submission of certificates etc have been made by the respondents prior to her such appointment w,e,f, 10.10.95. She kept on continuing for a long time. In the mean time father of the applicant Late Hira Lal Nandy died of cancer in the year 1997 (9.3.97), while he was on leave. The applicant thereafter, made a prayer for her regular appointment as EDBPM in the Month of Oct 1997, the applicant thereafter made application on 3.12.97 to the concerned authority. However nothing came out from such application. But fortunately her earlier service as EDBPM continued. In the mean time the respondents have issued an order dated 23.6.2000 by which she was sought to be replaced by another w.e.f.

Gopa

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30.6.2000. The said respondent however, did not turn on 30.6.2000 and she continued to serve as EDBPM. The applicant preferred a representation dated 22.7.2000 praying for her appointment as EDBPM, but same could not yield any reply from the respondents. Pending consideration of said representation, the Director, Postal services issued an order dated 21.9.2000 by which she was asked to place her option to work EDMC but she refused said post on the ground of same being lower in rank. Thereafter on 28.9.2000 applicant preferred an appeal praying for consideration of her case, but same yielded no result in positive. Thereafter, the respondents issued yet another order dated 29.3.2000 with reference to her application dated 3.12.97 asking her to submit a separate application for the post of EDBPM, Krishna Nagar. The respondents issued an order dated 20.4.2001 terminating her service casting stigma on her. On receipt of the said order applicant preferred an appeal on 30.4.2001 which is yet to be replied to. The applicant even after the order of termination has not handed over the charge of the said post office. Attempts have been made by the respondents to take over the charge but in absence of any formal order she did not hand over the charge. Highlighting the facts the applicant preferred a representation dated 14.5.2001 to the concerned authority. Having not found any positive reply/response redressing her grievance, the applicant has come before the Hon'ble Tribunal by way of filing this O.A.

This is the crux of the matter for which the present applicant has been preferred praying for an appropriate direction towards regularisation of her service as well as due protection towards the termination of her service, from this Hon'ble Tribunal.

4.2. That the applicant is a citizen of India, permanent

resident of Agartala and as such she is entitled to all the right, privileges and protections as guaranteed by the Constitution of India.

4.3. That the father of the applicant Late Hiralal Nandi was working as a EDBPM in Krishnanagar B.O.. In the year 1995 the father of the applicant was constrained to avail leave because of his ailment. As per the provision laid down in the recruitment rule of ED Employees the father of the applicant nominated the name of the applicant for the said post of EDBPM. The respondents pursuant to such application issued an order dated 26.10.95 appointing her to the post of EDBPM. She continued in the said post of EDBPM w.e.f. 10.10.95. Thereafter on 21.11.96 the father of the applicant submitted leave application handing over the charge to his daughter (applicant). Since her appointment w.e.f. 10.10.95 she continued in the said post of EDBPM.

A copy of the order dated 26.10.95 is annexed herewith and marked as Annexure-1.

4.4. That during the tenure of the applicant, as EDBPM, the Director Postal Services, Agartala issued an order dated 6.11.97 asking her to apply for the post of EDBPM in the said Krishna Nagar B.O. Pursuant to the said order applicant preferred an application dated 3.12.97 in the prescribed form which was supplied to her by the said order dated 6.11.97.

A copy of the representation dated 3.12.97 is annexed herewith and marked as Annexure-2.

4.5. That during the pendency of consideration of her case the respondents issued an order dated 26.3.2000 discharging her from the said post of EDBPM w.e.f. 30.6.2000 and further direction was given to one Sri C.H.Chakravorty, overseer to take over the charge of EDBPM, but on 30.6.2000 none appeared to take

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over charge from the applicant and she continued to hold the said post of EDBPM.

A copy of the order dated 23.6.2000 is annexed herewith and marked as Annexure-3

4.6. That the applicant thereafter preferred a representation dated 22.7.2000 praying for her regularisation as EDBPM. However nothing has been communicated to her. In the meantime respondents issued an order dated 21.9.2000 directing her to place her option to the post of EDMC which she refused. On the ground same being lower in rank.

4.7. That the applicant preferred numbers of representation to the concerned authority for regularisation of her service but same yielded no result in positive. However the Director Postal Services issued an order dated 29.3.2001 requesting her to submit yet another application form for appointment to the post of EDBPM. Pursuant to the said order dated 29.3.2001 the applicant preferred application to the concerned authority on 3.4.2001.

Copies of the order dated 29.3.2001 and her application dated 3.4.2001 are annexed herewith and marked as Annexure-4 & 5 respectively.

4.8. That the applicant who was under the bonafide impression that this time her case will be considered for regularisation as EDBPM, however to the utter surprise in reply to her Annexure-5 application the impugned communication dated 20.4.2001 has been issued by the Director Postal Services. In the said impugned order the Director Postal Services termed her continuous long service as EDBPM as unauthorised one.

A copy of the said impugned order dated 20.4.2001 is annexed herewith and marked as Annexure-6.

4.9. That the applicant immediately thereafter preferred an appeal dated 30.4.2001 against the impugned order of termination

20.4.2001. It is noteworthy to mention here that till date the applicant did not hand over charge to anybody.

A copy of the said appeal dated 30.4.2001 is annexed herewith and marked as Annexure-7.

4.10. That attempts have been made to take over charge from the said illegal action and preferred a representation dated 14.5.2001 highlighting the aforesaid illegalities.

A copy of the said representation dated 14.5.2001 is annexed herewith and marked as Annexure-8.

4.11. That the applicant begs to state that she being a holder of civil post, her service are not liable to be terminated as has been sought to be done by the respondents in the instant case. On the other hand the applicant having been appointed following the due process of law is not entitled to such an drastic action by the respondents.

4.12. That the applicant submits that the impugned order is a net result of malafide intention of the respondents which revealed from its wordings. Needless to say here that applicant being the sole dependent of her family needs special protection on compassionate ground. On the above ground her service is required to be considered on compassionate ground following various guidelines issued by the Ministry concerned time to time.

4.13. That the applicant submits that she is now continuing in her service in absence of any legal representative of the respondents. In that view of the matter the applicant prays for an interim order directing the respondents not to discharge her from the post of EDBPM by suspending the operation of the impugned order dated 20.4.2001 in the interest of justice. In the event of not allowing the interim relief the applicant will suffer irreparable loss and injury.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the impugned action on the part of the respondents are illegal arbitrary and violative of Article 14 and 16 of Constitution of India and laws framed thereunder.

5.2. For that the applicant being a regularly selected candidate her service can not be terminated as has been sought to done in the present case.

5.3. For that the impugned order being a stigmatic one same is not sustainable in the eye of law and same is liable to be set aside and quashed.

5.4. For that there being a clear instruction/ guidelines formulated by the concerned Ministry , the case of the applicant required to be considered for compassionate appointment.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other 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 applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties

on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash Annexure-6 impugned order dated 20.4.2001 with all consequential service benefits by regularising her service with retrospective effect.

8.2. Cost of the application.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents to allow her to continue as EDBPM by suspending the operation of impugned Annexure-6 order dated 20.4.2001.

10.

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

1. I.P.O. No. : 66 792094
2. Date : 9/5/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Smt. Gopa Nandy Deb, W/o Shri Nitailal Deb, aged about 42 years, at present working as EDBPM, Krishna Nagar, Agartala, do hereby solemnly affirm and verify that the statements made in paragraphs 4.1, 4.2, 4.6, 5.1 to 5.5..... are true to my knowledge and those made in paragraphs 4.3, 4.4, 4.5, 4.7, 4.8, 4.9, 4.10..... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 23rd day of May of 2001.

Gopa Nandy (Deb)

Signature.

NO. A-62

DATE: AGARTALA - the 26-10-95

30 (Thirty) days leave with effect from 19-10-95
to 17-11-95 is granted to Sri/Smti Hiralal
Nandi BPM Krishnanagar
on the arrangement that Sri/Smti Gopa Nandi (D.O.)
will work in place of the EDA Krishnanagar B.O.
during his/her absence on leave on the risk and responsibility
according to terms of security bond executed by him/her.

The allowance for the period of leave of EDA may be paid to Sri/Smti Gopa Nandi (D.O.) who will work in place of the EDA.

Self
Director of Post Offices,
Tripura State, Agartala Division - 799001.
Agartala-799001.

Copy to:-

1. The ASPOs/SDIPOS Agartala East dt. with
Ref. to his for information and no further action.
2. The Postmaster, Agartala/ Put H.O.
3. Shri Hiralal Nandi BPM (on leave)
4. Smt Gopa Nandi (D.O.) Krishnanagar B.O. Nominee EDEPM
5. The SPM Ramagar
6. O/C
7. H/F

Haha
Director of Post Offices,
Tripura State, Agartala Division - 799001.
Agartala-799001.

S/N/-
14/VI/91.

Amended
Uky
Advocate.

ANNEXURE-2

1. Director Postal Services,
Tripura State, Agartala.

Sub:- Selection for Appointment to the post of ED
SPM/BPM Krishna Nagar EDBO P.O.

Rf:- DPS letter No. A-62 at. 6.11.97

Sir,

In response to your above cited letter, I heroby apply for
the post of ED SPM/BPM Krishna Nagar EDBO.

My bio-data is given below.

1. Name in full of the Applicant:- SMT. GOPA NANDY (DEB)
(in Block capital)

2. Father's name

:- Lt. Hira Lal Nandi

3. Permanent address showing
village, Post Office, Thana,
District etc.

:- Vill - Bhatibhoynagar (C) Adjacent to
(Krishnanagar) P.O. Agartala, West -
Kotwali, Tripura West.

4. Date of birth

:- 3.9.58

5. Educational Qualification

:-

6. Marks obtained in Matricula-
tion or equivalent Examina-
tion of approved Board/
University. H.S. Plucked

valent to Matriculation as Tripura Govt.
No. F-33(4)-GA/80 Dn. 25.10.1980
copy enclosed.

Marks in Subjects	Total Marks
essential subjects	Marks obtained
Bengali	200 60
Eng	200 34
SS HS	200 59

7. Nationality

:- Indian.

8. Whether belonging to SC/ST.

:- NO.

9. (a) Are you employed or doing
your own business or cultivator?
State particular.

:- Serving as BPM Krishnanagar EDBO since
March 97 & Prior to that I worked in the
Casual service of my father in the same
Capacity - as nominee.

(b) Annual income from other
sources/landed property in the
name of the candidate.

:-

10. Whether willing to provide
rent free accommodation for
the P.O. if selected.

:- Agreed.

(The BPM is, however, eligible
to a maintenance allowance
of Rs.25/- per month for the
P.O.).

11. Give details of property
in your name in the
(attach certified proofs)

:- Khata No. 15226 & 15227, Dag No. 8208
1 Ganda land under Agartala Mouza.

* See note 1 on page No.2

Contd.....P.2/-

(2)

12. Are you an Agent of LIC/Any other Financial institution? ☒ NO

DECLARATION

I, Sri/Shrimati Gopa Nandy (Dee) hereby declare that the information furnished above is true to the best of my knowledge and belief. I submit herewith the following documents :-

1. Identity Card of Employment Exchange (Zerox)
2. Admit Card of Higher Secondary Exam (Zerox)
3. School Certificate (Zerox)
4. Permanent Resident Certificate (Zerox)
5. Land document (Zerox)
6. Identity Card of Election Commission (Zerox)
7. Mark sheet of Higher Secondary Education (old Zerox)
8. Citizenship Certificate (Zerox)
9. Memorandum of Central Govt for passing
10. Higher Secondary (old) equivalent to Matriculation or Madhyamik (Zerox)

Dated 03-10-97

Gopa Nandy

(Signature of the Applicant)

- NOTE :
- (1) In case you are not having property in the post village but intend to purchase such property in the post village certified proof of such acquisition and details thereof should be forwarded to this office within 15 days.
 - (2) Please forward the application by Registered A/D post or deliver by hand in the office of DPS Agartala Durgabari Road under proper receipt.

Handwritten notes:
 Attached
 Wkly
 attached

Agartala East Sub-Division
Agartala - 799001

Memo No A-2/Krishnanagar dt 11.7.73 23.06.00

In pursuance of the order of the
No A-62 dt 07.06.00, the following
orders are issued to have immediate effect.

Shri Chintakarna Chandralekha, C/S
Machhanta Post Post Sub-Division, Agartala
is hereby directed to forward Krishnanagar
Post with Krishnanagar S.O. to the
charge of the Post, Krishnanagar T.D.D.
from the date of the order, namely, 30.06.00 (11/7)
Btm Nandani Nandi postally on 30.06.00 (11/7)
and work there until further orders.

(A. K. Bhattacharya)
Agartala East Sub-Division
Agartala - 799001

Copy to:-

1. The S.D.O., Agt-799001. for information.
An order arrangement of the order shall be
made from the date of the order to the
date of the order.

2. Shri Chintakarna Chandralekha, C/S
Machhanta Post Sub-Division, Agartala.

3. The S.D.O., Krishnanagar T.D.D. for info.

4. The S.D.O., Krishnanagar S.O. for info.

5. The Postmaster, Agt 11.0.

23.6.00

(3)

Agartala East Sub-Division
Agartala - 799001

Advocate.

11/4/22-22
Form-22

गणराज्य भारत
DEPARTMENT OF POSTS, INDIA

Recd

सेवा
From

DIRECTOR OF POSTAL SERVICES
Tirupur State, Agent No-799001.

सेवा क्रमांक

क्र. A-62

दिनांक

Smt. Gopa. Navoli (Deo)
No. 46 Hiralal-Navoli
22-EDB/M, Krishnagar 80.
Agartala.

Dated at Agartala. 29/03/2001

विषय

Subject: Submission of synopsis
for compassionate appoint-
ment.

Ref. Your application dated
03/12/97. ✓

महोदय,

There are prescribed rules of
the department for appointment of EDB/M which
is equally applicable in all cases.

You are now requested
kindly to submit the enclosed form duly
filled in for appointment on compassionate
ground in relation to normal recruitment
rules for onward submission to Circle Office.
Circulating for consideration of your case.

Encls - 3 parts. 20/1/01
Part I, II, & III.

Yours faithfully

29.3.01

9.3.97

15

By, Superintendent,
Director Postal Services
Tirupur State, Agent No-799001

11/4/22
11/4/22

To,
The Director of postal Services
Tirupur State, Agartala-799001

26

Sub: Submission of Synopsis for compassionate
Appointment of ED.BPM in prescribed rules
of the department.

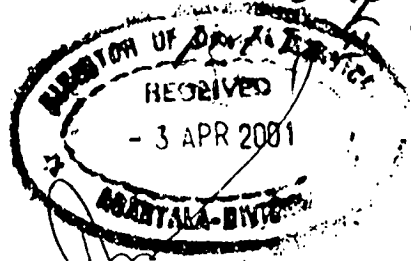
Sir,

With refer to your letter no. A-12 dt. 29.3.2001
I beg to state that I am Submitting the enclosed
forms duly filled in for appointment on compass-
ionate ground in relaxation to normal recruitment
rules for onward submission to circle officer, Shillong
for consideration of my case.

With thanks.

Agartala - 2.4.2001

Encls: - 5 copies each of
I & II filled.



yours faithfully
Gopa Nandy.

(Smt. Gopa Nandy)
ED. BPM Krishna Rao
Agartala, Tirupur.

Attested
W. G.
Advocate.

- 15 -

(10A)

X
2

PART-I

Particulars of the deceased/retired on invalid pension
employment.

1. Name : Late Hinalal Nandi
2. Designation : ED. BPM. Krishnanagar
3. Date of birth : 20th March, 1934.
4. Date of death/retirement on invalid pension : 9th March, 1997.
5. Date of superannuation : X
6. Total length of service rendered : 31 st 31st March 1997
7. Whether permanent or temporary : ED.
8. Whether belonging to SC/ST/OBC : NO.
9. Name of the candidate for appointment : Sm. Gopa Nandy
10. His/her relationship with the government servant : daughter
11. Date of Birth : 3.9.1958
12. Educational qualification : H.S. (Ord) passed, equivalent to Matriculation.
- B. Financial status of the family:
Terminal benefits, paid to the official who retired on invalid pension to the family of the official who expired in harness.
 - i. Family pension (Basic and DA separately please indicate the latest amount) : Rs 6000/-
 - ii. C.R.G. : NIL
 - iii. P.F. Balances : X
 - iv. Life insurance policies (PLI etc) : X
 - v. S.G.E.I.S. amount : X
 - vi. Encashment of leave : X
 - vii. Any other items : X
 - viii. Total amount of terminal benefits : X
- C. Assets and Other Sources of Income etc. :
 1. Immovable property :
 - a) Agricultural land --- size, income, cultivable or not, income from land. : 2 Bighas.
 - b) House, (approximate value of the house) : Rs 5000/-
 2. Movable property (Fixed deposits etc) : NIL
 3. Annual income from other sources : NIL
 4. Where does the family live? In own house or rented. Please give details. (The residential address of the family should be given). : own house
 5. Liabilities :
 - i. Occupation of minor children : NIL
 - ii. Marriage : NIL
 - iii. Loans --- amount taken, paid etc : NIL
 - iv. Others : NIL

Attested
Wkg
Advocate.

Particulars of all dependents Govt. Servant.

NOTE: 1. If some family members are employed their income and whether they are living separately should be clearly indicated.

Sl. No.	Name	Relationship with the Govt. servant.	Date of birth	Employed or not. (Please give details asked in NOTE 1)	Educational qualifications.	Marital status.	Whether living with the family or separately from the family, give address if living separately).
1.	Smt. Subarna Nandy	wife.	x	not employed.	Class V.	widow	Head of family
2.	Gopa Nandy	daughter	3.2.1958	not employed	Class 10 passed	married	living with family
3.	Sm. Subila Nandy	"	1962	not employed	B.A.	married	living separately
4.	Smt. Subila Nandy	son	1965	employed	B.E.	married	living separately
5.	Sm. Jayash Nandy	daughter	1969	not employed	B.A.	married	living separately

DECLARATION

- I hereby declare that the facts given by me above are to the best of my knowledge and correct. If any of the facts herein mentioned are found to be incorrect or facts of a future date my service may be terminated.
- I hereby also declare that I shall maintain properly the other family members who were dependent on the Govt. servant mentioned against 1(i) Part I of this term & in case it is proved at any time that the family members are being neglected or not being properly maintained by me, my appointment may be terminated.

Date of filling the synopsis:

2.4.2001

Signature of the candidate.

Shri/Smt. Gopa Nandy is known to me and the facts mentioned by him are correct.

Signature: _____

I have verified that the mentioned by the candidate above are correct.

Signature: _____

Attest
Mg
Advocate

PART-III

Details of the candidate and recommendations of the CPMG

1. Name of the candidate for appointment. *Sm. Gopa Nandy*
2. Relationship with Govt. servant. *daughter.*
3. Educational qualification, age (date of birth) and (c). *H.S. (old) plucked. Equivalent to matriculate.*
4. Post for which employment is proposed. Also specify whether it is a Group C or D post. *D.O. birth 3.9.1958*
ED. BPM. Krishnaregar
(Agartala, Tripura Dr).
5. Whether the post is to be filled in Central Secretariate Clerical Service (CSCS) or not. *No*
6. Whether the relevant Recruitment Rules provide for direct recruitment. *Yes*
7. Whether the candidate fulfills the requirements of the Recruitment Rules for the post. *Yes*
8. Apart from waiver of Employment Exchange/SSC procedure what other relaxation are to be given. *NIL*
9. Whether the facts mentioned at Part-I have been verified by the office and if so, indicate the results. *-*
10. Whether the Govt. servant died/retired on invalid pension more than five years back reasons for not sponsoring the case earlier. *No*
11. Recommendation of the Head of the Division.
12. Signature of the Head of the Division and seal (with date)

PERSONAL RECOMMENDATIONS OF THE HEAD OF THE CIRCLE.
(Please give categorical recommendation and also the reasons for the recommendation)

Date:

Signature of the Head of the Circle
(affix seal).

(5)

13/11/58

Wg

13/11/58

DEPARTMENT OF POSTS :: INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES::TRIPURA STATE
.....AGARTALA - 799 001.....

No.A-62

dated at Agartala, the 20th April
2001

In continuation of this office memo of even number
dated 07.06.2000, the unauthorised continuation of the
post of EDBPM, Krishnanagar EDBO by Smt. Gopa Nandi (Deb),
the nominee of Late Hiralal Nandi, Ex-EDBPM, Krishnanagar
EDBO is hereby terminated with immediate effect.

SD/-

DIRECTOR POSTAL SERVICES
TRIPURA STATE::AGARTALA

Copy to:

1. Smt. Gopa Nandi (Deb), EDBPM (Nominee), Krishnanagar EDBO for information with direction to vacate the post of EDBPM of Krishnanagar EDBO. Non-obligation of this order on your part will be viewed seriously.
2. The SDIPoS, Agartala East Sub-dvn. With direction to arrange suitable stop-gap officiating arrangement.
3. The Postmaster, Agartala HPO. He is requested to hold up drawal & disbursement of allowance of the nominee henceforth.
4. Office copy
5. Spare.

Sd-illegible
Director Postal Services
Tripura State:: Agartala

Attested
Uky
Advocate.

-19-
To
The Chief Postmaster General,
N.E. Circle;
Shillong-791 001

(12) 3'
ANNEXURE-7

Sir,

This is an appeal preferred under Rule 10 of the E.D.As' Service and Conduct Rules-1964, against the order of termination issued by the D.P.S. Agartala under its communication No.A-62 dated 20.4.2001, a copy of which is annexed here to as Annexure-I.

2. That I preferred an appeal to you on 26.2.2001 seeking regular appointment as E.D.A., Krishnanagar as I had continuously worked in that post for more than 3 years 11 months as no, inee of my late father Hiralal Nandi, Ex-EDBPM, Krishnanagar.

I have not yet been favoured with a decision of my appeal.

3. That on the other hand, the D.P.S. Agartala has terminated my job vide its communication referred to in para I above (Annexure-I).

4. That in terminating my job I was not informed of the proposal to take action against, and the allegation on which such action is proposed to be taken, and no opportunity was given to make any representation.

As the penalty imposed is removal from service, an enquiry was mandatory under Rule 8 of the E.D.As' Conduct and Service Rules-1964. But no such ~~xxx~~ enquiry was held, which violated the termination.

.....2

(17)
Attested
Wky
Advocate.

— 20 —

32

(2)

5. That the D.P.S. Agartala Memo. No. a-62 dated 07.06.2000, referred to in the termination order aforesaid (Annexure-1) was not communicated to me. As such I the contents of the said Memo. is not known to me.

6. That my continuation was not unauthorised. I was working in the post as being duly appointed by the EDA, Late Hiralal Nandi for more than 240 days, and had acquired the right to be regularised in that post. As such my removal order, without showing any reason, was itself unauthorised under Casual Workers' (Grant of temporary status and regularisation) Scheme-1993 of the G.O.I., Deptt. of Personnel and Training).

7. In the circumstances I pray that you would be kind enough to consider my appeal and re-instate me in the said post, and also appoint me in the said post regularly according to my appeal dated 26.2.2001.

Yours faithfully

Gopa Nandi

Enclosure-(1)

(Gopa Nandi (Deb)

Dated-Agartala
The 30th April, 2001

E.D.A. Krishnanaggar
Agartala-799001.

Copy to the Director, Postal Services, Agartala-799001.

Gopa Nandi

(17)

Attested

Uky
Advocate.

To
The Inspector of Post Offices
Agartala East Sub-Division,
Agartala-799 001.

Sir,

Your letter No.A.2/Krishnanagar dated 8.5.2001 has mis-represented the fact to the following extent, with a definite view to ~~xxx~~ create adverse impression about me.

2. That the DPS Agartala order No.A-52 dated 20.4.2001 directed that "2.The SDIPs, Agartala East Sub-Dvn with direction to arrange ~~xxxxxx~~ suitable stop-gap officiating arrangement."

But you did not make any arrangement till 8.5.2001, inasmuch as you did not issue any order to that effect with my knowledge. On 5.5.2001 O/S Sri Sukhrai Deb Barma came to take charge of the office from me without any order from you in the matter of said "Stop-gap" arrangement. He produced a photo copy of DPS Agartala letter No.A62 dated 20.4.2001

3. That I considered that charge of an office is not proper to be handed over to a person without particular order from the competent authority. It is Sukhrai Deb Barma who claimed the charge should be handed over to him without proper authority. The DPS, Agartala did not authorise him to take charge from me.

4. How would you justify your action?

Yours faithfully

Gopa Nandy (Deb)

(Smt. Gopa Nandy (Deb)
C/O Late Hiralal Nandy
Bhati-Abhaynagar (West)
Agartala-799001.

Dated
Agartala, 14.5.2001

Registered A/D.

Copy to-

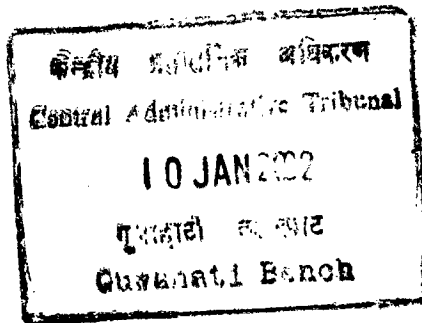
Smt. T. Sethi, Director of Postal Service, Tripura State; Agartala-799001, with request to direct said SDIPs to cancel the para No.1 of its letter under reference, as being false. Otherwise the matter will be taken up with ~~xxx~~ C.A.T. as being an instance of conspiracy against the plaintiff.

Gopa Nandy (Deb)

(Smt. Gopa Nandy (Deb)

Agartala

Utey
Autograph



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI.

Sushil Chandra Deb Barua
Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala-799001.

6715 / 15
O.A. NO. 194 OF 2001

Smt. Gopa Nandi (Deb).

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by the
respondents

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

(BACKGROUND OF THE CASE)

Shri Hiralal Nandi the then ED BPM, Krishnanagar
EDBO proceeded on leave for 180 days w.e.f. 21.11.96 to
19.5.97 by handing over charge of ED BPM to Smt. Gopa Nandi
(Deb) to work as his substitute during leave period of Shri
Nandi at his own risk & responsibilities. But the said
Shri Nandi did not turn up owing to his demise on 09.03.1997
and the nominee arrangement was continued.

The process for regular appointment to the vacant
post of ED BPM was taken up and the Regional Employment
Exchange was addressed to sponsor the candidates for filling

filling up of the resultant vacancy on 11.04.97. The Employment Exchange sponsored 6(six) candidates on 24.10.97. and Smt. Gopa Nandi (Deb) was one of them. Accordingly, the sponsored candidates were asked to submit their testimonials for examination of their candidature on 06.11.97. Out of the six candidates, 4 (four) candidates including Smti. Nandi (Deb) responded. On scrutiny of the candidatures, it was found that 3(three) candidates other than Smti. Nandi (Deb) belong to the Post Village but failed to submit their income or property certificates. Further, they were asked to submit within 15.6.98 as to whether they are able to provide accommodation for the EIBO. But ~~maxx~~ none responded and Smti. Nandi (Deb) was continued to work as ED BPM, Krishnanagar B.O.

As far as Smt. Nandi (Deb)'s eligibility for the post is concerned -

- a) She does not belong to the post village. ✓
- b) She is having no income but possessing landed property in the neighbouring village i.e. other than the post village.
- c) She is Higher Secondary plucked candidate by educational qualification and the Ministry of Home Affairs, New Delhi vide their O.M. No. F.6/3/69-Estt(D) dated 20.12.1969 has declared such candidates as equivalent to Matriculate for the purpose of employment in Central Govt. But such plucked students are not declared Matriculate by the Tripura Board of Secondary Education under which her name was not considered. Further, she

23
To the Director of Postal Services
Tirupur State, Agartala-733001
Deputy Superintendent
Post 7 Ch. Deb Barua

scored 17.1% in the H.S. Exam. i.e. equivalent to Matriculate and her rank was lowest in the merit list out of 4 (four) candidates.

As per rule, the eligibility criteria for the post of EDBPM is -

The candidate must belong to the post village where the post office is located.

The candidate should be Matriculate or Equivalent from a recognized Board/University/Institution.

Accordingly, Smt Nandi (Deb) did not come under the consideration zone for the post of ED BPM, Krishnanagar B.O.

~~Smt. Gopa Nandi (Deb) did not come under the consideration zone~~

Smt. Gopa Nandi (Deb) was unauthorisedly working as substitute of the deceased EDBPM since 20.05.97 and the fact was brought to the notice of this office by the SDIPOs, Agartala East Sub-Division who was directed to terminate the irregular holding the charge of ED BPM, Krishnanagar B.O. with a suitable arrangement till the recruitment of regular EDBPM vide this office letter No.A-62 dated 7.6.2000. The D SDIPOs directed Smt Chinta Haran Chakraborty, O/s (Mail) to take over the charge of the ED BPM, Krishnanagar EDBO from Smt. Nandi (Deb) who was holding the charge unauthorisedly. But Smt. Nandi(Deb) refused to hand

24
Smt. Chinta Haran Chakraborty
Deputy Superintendent,
Director of Postal Service
Agartala - 793001
O/o the District
State, Tripura

over the charge of ED BPM, Krishnanagar B.O. vide his letter No. A-2/Krishnanagar dated 21.07.2000. Smt. Nandi (Deb) again denied to hand over the charge to the O/s (Mali) with a plea that she had submitted her candidature as called vide this office letter dated 06.11.97 and she will not quit the charge without getting the matter discussed with the D.P.S.

To sum up, Smt. Nandi(Deb) was engaged as substitute/nominee by the then EDBPM, Shri Hiralal Nandi at his own risk and responsibility, so that very nominee arrangement automatically became null and void with the death of the regular EDBPM who expired on 9.3.97. Subsequently, Smt. Gopa Nandi (Deb) handed over the charge of EDBPM, Krishnanagar EDBO to the O/S Mails on 9.5.2001 after filing the O.A. No. 194/2001 to the Hon'ble CAT, Guwahati on 2.5.2001.

1. That with regard to the statements made in para 1, the respondents beg to state that the question of termination of services does not arise at all as Smt. Gopa Nandi (Deb) was working as EDBPM of Krishnanagar EDBO unauthorisedly. Shri Hiralal Nandi, the then EDBPM, Krishnanagar EDBO proceeded on leave for 180 days w.e.f. 21.11.96 to 19.05.97 by handing over the charge of EDBPM to Smt. Nandi (Deb) to work as his substitute during the said leave period of Hiralal Nandi at his own risks and responsibilities. Shri Hiralal Nandi expired on 09.03.97. So, the arrangement of nominee automatically became null and void with the death of the EDBPM i.e. on 09.03.97.

25
Smt. Nandi (Deb)
Deputy Superintendent,
Director of Postal Services,
Tirupur State, Agartala-796001.

Hence, Smt. Nandi (Deb) was unauthorisedly working in the capacity of EDBPM since then and the Director Postal Services has terminated the unauthorised continuation vide letter No. A-62 dated 20.04.2001.

2. That with regard to the statements made in para 2, the respondents beg to state that the applicant merely worked as nominee at the risks and responsibilities of Hiralal Nandi, the then EDBPM. Smt. Gopa Nandi (Deb) was neither having any formal appointment letter as EDBPM nor she was holding any civil post under the Govt. Hence, the applicant will not come under the purview of the limitation of the Hon'ble CAT under Sec.21 of the Central Administrative Tribunal Act, 1985.

3. That with regard to the statements made in para 3, the respondents beg to state that Smt. Nandi (Deb) was not appointed as an ED BPM who worked merely as substitute in the leave vacancy of the regular EDBPM of Krishnanagar EDBO, she will not come under the jurisdiction of the Hon'ble CAT and the application filed by Smt. Nandi (Deb) may kindly be considered to be quashed safely.

4. That with regard to the statements made in para 4, the respondents beg to state that the contention in this para is not correct and tenable. The post of EDBPM, Krishnanagar B.O. was fallen vacant when the regular ED BPM Shri Hiralal Nandi expired on 9.3.97 and the appointment to the vacant post of ED BPM was taken up. The Regional Employment Exchange was

-26-

Sushil K. Deb Barma

Deputy Superintendent,
Director of Postal Services
Tirupur State, Agartala-793001

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addressed to sponsor the candidates for filling up of the resultant vacancy on 11.04.97. The Employment Exchange sponsored 6(six) candidates on 24.10.97 and Smt. Gopa Nandi (Deb) was one of them. Accordingly, the sponsored candidates were asked to submit their testimonials for examination of their candidature on 06.11.97. Out of the six candidates, 4 (four) candidates including Smt. Nandi (Deb) responded. On scrutiny of the candidatures, it was found that 3(three) candidates other than Smt. Nandi(Deb) belong to the Post Village but failed to submit their income or property certificates. Further, they were asked to submit within 15.6.98 as to whether they are able to provide accommodation for the EMO. But none responded and Smt. Nandi (Deb) continued to work as ED BPM, Krishnanagar B.O. As far as Smt. Nandi (Deb)'s eligibility for the post is concerned -

- a) She does not belong to the post village.
- b) She is having no income but possessing landed property in the neighbouring village i.e. other than the post village.

Smt. Nandi (Deb) is Higher Secondary plucked candidate by educational qualification and the Ministry of Home Affairs, New Delhi vide their O.M. No. P.6/3/69-Estt(D) dated 20.12.1969 has declared such candidates as equivalent to Matriculate for the purpose of employment in Central Govt. But Tripura Board of Secondary Education did not declare as Matriculate for such H.S. plucked candidate. Hence the candidature of Smt. Nandi(Deb)

27
Joshi & Ch. Debbanang
Deputy Superintendent
of the District Postal Service
Tripura State, Agartala-791001

was not considered as she was not Matriculate from any recognized Institution or Board. Further, she scored 17.1% in the H.S. Exam. i.e. equivalent to Matriculate and her rank was the lowest in the merit list out of 4(four) candidates. As per rule, the eligibility criteria for the post of EDBPM is -

The candidate must belong to the post village where the post office is located. ✓

The candidate should be Matriculate or Equivalent from a recognized Board/University/Institution. ✓

Accordingly, Smt. Nandi (Deb) did not come under the consideration zone for the post of ED BPM, Krishnanagar B.O.

Smt. Gopa Nandi (Deb) was unauthorisedly working as substitute of the deceased regular EDBPM since 20.5.97 and the fact was brought to the notice of this office by the SDIPOs, Agartala East Sub-Division who was directed to terminate the irregular holding the charge of ED BPM, Krishnanagar B.O. with a suitable arrangement till the recruitment of regular ED BPM vide this office letter No. A-62 dated 7.6.2000. The SDIPOs directed Shri Chinta Haran Chakraborty, O/s (Mail) to take over the charge of the EDBPM, Krishnanagar EDBO from Smt. Nandi (Deb) who was holding the charge unauthorisedly. But Smt. Nandi (Deb) refused to hand over the charge of ED BPM. The SDIPOs' was again directed to implement

28
Juskel of. Deb Barma
To the Director of Post and Telegraphs
Bengal
Smt. Nandi (Deb)
Agartala East Sub-Division

29-
Sushil Ch. Deb Barma
Deputy Superintendent,
Director of Postal Services
Agartala-799001,
Tripura State.

the said termination order vide letter No. A-62 dated 17.7.2000 who in turn again directed the O/s (Mail) to take over the charge to the O/s (Mail) with a plea that she had submitted her candidatures as called vide this office letter dated 06.11.97 and she will not quit the charge without getting the matter discussed with the D.P.S. Thereafter, Smt. Nandi (Deb) was advised to apply for the compassionate appointment in relaxation of normal recruitment rules as ~~stated~~ she did not fulfill the eligibility criteria for direct appointment to the post of EDBPM. The application for the compassionate appointment was forwarded to the Chief Postmaster General, N.E. Circle, Shillong vide this office letter No. A-62 dated 12.06.2001. Further, Smt. Nandi (Deb) was engaged as substitute/nominee by the then EDBPM, Shri Hiralal Nandi at his own risk and responsibility, so that very nominee arrangement automatically became null and void with the death of EDBPM who expired on 9.3.97. Subsequently, Smt. Gopa Nandi (Deb) handed over the charge of ED BPM, Krishnanagar EDBO to the O/S Mails, Agartala East Sub-Division on 9.5.01 after filling the O.A. No.194/2001 to the Hon'ble CAT, Guwahati on 2.5.2001. Hence, the application filed by Smt. Nandi (Deb) may kindly be considered to be dismissed safely as discussed ~~safely as~~ in the foregoing paras 1, 2 and 3 above.

5. That with regard to the statements made in para 4.2, the respondents beg to ~~state that~~ offer no comments. However, so far recruitment of EDBPM Rules is concerned, it was done according to the specific rules and regulation of

the department.

6. That with regard to the statements made in para 4.3, the respondents beg to state that as per Rule, there is a provision to provide nominee during the leave period of a EDBPM. The letter dated 26.10.95 mentioned in this para was the leave memo granted to Shri Hiralal Nandi, the then EDBPM, Krishnanagar B.O. and it was not appointment letter of Smt. Nandi (Deb) as she claimed in this para. The applicant was approved to work as nominee during the leave period at the risk and responsibilities of the regular EDBPM. Mere approval of the nominee arrangement does not automatically entail Smt. Nandi (Deb) to be appointed as EDBPM.

7. That with regard to the statements made in para 4.4, the respondents beg to state that the process for regular appointment to the vacant post of EDBPM was taken up and the Regional Employment Exchange was addressed to sponsor the candidates for filling up of the resultant vacancy on 11.04.97. The Employment Exchange sponsored 6(six) candidates on 24.10.97 and Smt. Gopa Nandi (Deb) was one of them. Accordingly, the sponsored candidates were asked to submit their testimonials for examination of their candidature on 06.11.97 alongwith the candidate of Smt. Nandi (Deb) Smt. Nandi(Deb) did not fulfill the eligibility criteria for the post in question.

8. That with regard to the statements made in para 4.5.1, the respondents beg to state that the contention of this para is not correct. Smt. Nandi (Deb) was unauthorisedly

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Sushel Chandra Deb Nandi
Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala-799001

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Deputy Superintendent
Director of Postal Services
Tirupur State, April 1998
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holding the charge of EDBPM, Krishnanagar EDBO. The Director Postal Services, being the appointing authority, terminated that very unauthorised continuation vide letter No. A-62 dated 7.6.2000 and the SDIPOs, East Sub-Division was directed to implement the said termination order. Accordingly, the SDIPOs, directed Shri Chinta Haran Chakraborty, O/s (Mail) on 30.6.2000 to take over the charge of the ED BPM, Krishnanagar EDBO from Smt. Nandi (Deb) refused to hand over the charge of ED BPM. The SDIPOs' again directed Shri Kumod Chakraborty, another O/s (Mail) to take the charge of EDBPM from Smt. Nandi (Deb) who attended Krishnanagar on 22.07.2000. This time also Smt. Nandi (Deb) denied to hand over the charge to him on the plea that she had submitted her candidatures as called vide this letter dated 06.11.97.

9 . That with regard to the statements made in para 4.5.2, the respondents beg to state that the applicant Smt. Nandi (Deb) was unauthorisedly working as nominee of a deceased employee beyond 15.05.97 without any valid order from the competent authority. Since the applicant does not fulfil eligibility criteria for appointment as EDBPM, the question of regularization as EDBPM does not arise at all. Hence the application filed by Smt. Nandi (Deb) may kindly be quashed safely.

10. That with regard to the statements made in para 4.6, the respondents beg to state that there is no such provision to absorb a nominee as EDBPM. Further, Smt. Nandi (Deb) did not

fulfill the eligibility criteria for direct appointment to the post of EDBPM, Krishnanagar EDBO, as discussed in the foregoing paras, she was advised to apply for compassionate appointment in relaxation to normal recruitment rules being the near relative of the deceased EDBPM. There is a basic difference in between the direct recruitment and compassionate appointment. Smt. Nandi (Deb)'s prayer for compassionate appointment in relaxation of normal recruitment rules was sent to Circle Office, Shillong for examination vide letter No. A-62 dated 12.6.2001.

11. That with regard to the statements made in para 4.7, the respondents beg to state that it is already discussed in the foregoing above para that the applicant was advised to apply for the compassionate appointment in relaxation of normal recruitment rules considering her near relation to the deceased ED BPM. It does not mean that she is having right to claim for the post of ED BPM, Krishnanagar B.O.

12. That with regard to the statements made in para 4.8, the respondents beg to state that as already discussed in details in the foregoing paras above. As Smt. Nandi (Deb) was holding the charge of ED BPM unauthorisedly and on being repeated efforts made by this office, she handed over the charge of ED BPM, Krishnanagar B.O. on 09.05.2001 after filling the petition before the Hon'ble CAT on 2.5.2001.

13. That with regard to the statements made in para 4.9, the respondents beg to state that Smt. Nandi (DEB) worked

as ED BPM, Krishnanagar B.O. against the leave vacancy at the risk and responsibilities of ED BPM, who subsequently expired on 9.3.97, therefore the substitute arrangement made by the regular ED BPM automatically became null and void from the date of his expiry on 9.3.97. Hence the termination order issued vide letter No. A-62 dated 20.4.2001 is in order.

14. That with regard to the statements made in para 4.10, the respondents beg to state that the contention in this para is not correct. Smt. Nandi (Deb) was requested several times to hand over the charge of ED BPM, Krishnanagar B.O. which she was holding unauthorisedly, but she denied showing various pleas. Subsequently she handed over the charge on 9.5.2001 after filling this application to the Hon'ble CAT, Guwahati on 2.5.2001. Practically, Smt. Nandi (Deb) was neither appointed as ED BPM, Krishnanagar B.O. nor she was holding any civil post under the Govt. where she was holding the charge of ED BPM, Krishnanagar B.O. unauthorisedly. Subsequently, the ~~an~~ unauthorised and forceful continuation was terminated by issuing order vide order letter No. A-62 dated 20.4.2001. Hence the application filed by Smt. Nandi (Deb) may kindly be quashed safely.

15. That with regard to the statements made in para 4.11, the respondents beg to state that the applicant Smt. Nandi (Deb) is the married daughter of the deceased EDBPM. Since the wife of the deceased EDBPM is still alive, the applicant, Smt. Nandi (Deb) being married daughter of Late Hiralal Nandi, Ex-BPM, Krishnanagar B.O. can not be considered as solely dependent of

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Deputy Superintendent,
Director of Postal Services
Tirupur State, Agartala-790005
Baskit Ch. Deb Barma

the deceased ED BPM.

Sushil Chandra Deb Barma
Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala-799001

16. . . That with regard to the statements made in para 4.12, the respondents beg to state that the contention in this para is not correct. Widow of late Hiralal Nandi, Ex-BPM, Krishnanagar B.O. is still alive and the applicant is the married daughter of the ED-BPM. Hence, the case of Smt. Nandi (Deb) being a married daughter of the deceased ED BPM can not be considered as solely dependent for the appointment on compassionate ground.

17. That with regard to the statements made in para 4.13, the respondents beg to state that Smt. Gopa Nandi (Deb) merely worked as nominee during the leave vacancy of the BPM for 180 days w.e.f. 21.11.96 to 19.5.97 at his own risks and responsibilities who subsequently expired on 9.3.97. Hence the nominee arrangement automatically became null and void from the date of expiry of the ED BPM. Being a nominee, Smt. Nandi (Deb) is having no claim to be absorbed as ED BPM.

18. That with regard to the statements made in para 5.1, the respondents beg to state that Smt. Nandi (Deb) was neither appointed as an ED Agent nor holding any Civil post under the Govt. She worked as substitute against the leave vacancy for 180 dsys from 21.11.96 to 19.05.97 of Shri Hiralal Nandi, the EDBPM who expired on 09.03.97. Since then Smt. Nandi (Deb) was working as EDBPM unauthorisedly and the said unauthorised arrangement was terminated on 09.05.2001. Hence, the question of violation Article 14 and 16 of the Constitution

of India and Laws framed there under does not arise

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Sushil Chandra Deb Banna
Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala-799001.

19. That with regard to the statements made in para 5.2, the respondents beg to state that it has already been discussed in the foregoing paras that Smt Nandi (Deb) was neither appointed as EDBPM nor she was holding any ED post . She worked as substitute during the leave period of the EDBPM who expired on 09.03.97. But Smt. Nandi (Deb) was holding the post of EDBPM. Since then she was directed to hand over the charge on several dates on 03.07.2000, 22.07.2000 and 05.05.01. Hence the termination of service issued to Smt. Nandi (Deb), nominee of late Hiralal Nandi, Ex-EDBPM, Krishnanagar EDBO vide No. A-62 dated 20.04.2001 is in order.

20. That with regard to the statements made in para 5.3, the respondents beg to state that Smt. Nandi (Deb) worked as EDBPM in the capacity of nominee of the EDBPM, Sri Hiralal - Nandi at his own risks and responsibilities. Further, the arrangement of nominee automatically became null and void from the date of expiry of the regular ED BPM who expired on 09.03.97. But Smt. Nandi (Deb) was unauthorisedly holding the charge of ~~KMA~~ EDBPM without having any authority letter from the competent authority and also refused to hand over the charge whenever she was requested on 03.07.2000, 22.07.2000 and 05.05.2001. Hence, the application filed by Smt. Nandi (Deb) may kindly be quashed safely.

21. That with regard to the statements made in para 5.4, the respondents beg to state that Smt. Gopa Nandi (Deb) applied for the compassionate appointment in relaxation of normal

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Bachchan Ch. Deb Barma
Deputy Superintendent,
Director of Postal Services
Agartala-799001
Tripura State, Agartala

Recruitment Rules as she did not fulfill the eligibility criteria for direct appointment to the post of ED BPM. The application for the compassionate appointment was forwarded to the Chief Postmaster General, N.E. Circle, Shillong vide this office letter No. A-62 dated 12.6.01.

22. That with regard to the statements made in para 5.5, the respondents beg to state that as discussed in the foregoing paras above and also at para 5.3, the OA petition of Smt. Nandi (Deb) may kindly be quashed safely.

23. That with regard to the statements made in para 6, the respondents beg to state that as discussed in the foregoing paras, the application of Smt. Nandi (Deb) is not tenable and acceptable as she was neither appointed as ED employee nor holding any civil post under the Govt.

24. That with regard to the statements made in para 7, the respondents beg to offer no comments.

25. That with regard to the statements made in para 8 the respondents beg to state that the ~~xx~~ facts and circumstances narrated in the foregoing paras the application of Smt. Nandi (Deb) may kindly be quashed safely.

26. That with regard to the statements made in para 8.1, the respondents beg to state that the question of service benefit etc. does not arise at all since the applicant was not appointed to any ED post or not holding to any Civil post under the Govt. as well.

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Sushil K. Reddy
Deputy Superintendent
of the Director of Postal Services
Tirupur State, Andhra - 753001

27. That with regard to the statements made in para does not arise. As discussed in the foregoing paras, Smt. Nandi (Deb) is having no appointment letter in any ED post as prescribed in the rule or she is holding no civil post under the Govt. Hence the application filed by Smt. Nandi (Deb) may kindly be quashed safely.
28. That with regard to the statements made in para 8.5, the respondents beg to state that as discussed above in the foregoing paras, the petition filed by Smt. Nandi (Deb) may kindly be quashed safely.
29. That with regard to the statements made in para 9, the respondents beg to state that the question of allowing the applicant to continue in the post of EDBPM/ Krishnanagar EDBO does not arise at all since Smt. Nandi (Deb) was holding the charge unauthorisedly without any proper order of the competent authority and who was repeatedly requested to hand over the charge thrice on 3.7.2000, 22.7.2000 and 5.5.2001, but she denied. Moreover, she worked as nominee/ substitute of the EDBPM at the risks and responsibilities of the regular EDBPM who expired on 09.03.1997 and the nominee is having no claim to be absorbed automatically in the said post until and unless she fulfils the eligibility criteria prescribed by the department for recruitment to the post of EDBPM. Hence, the applicant's prayer may kindly be quashed safely.

Sushil Chandra Debbarma
Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala-799001

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30. That with regard to the statements made in para 10 to 12, the respondents beg to offer no comments.

It is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.

Verification.....

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

I, Shri Bishoī Chandra Deb Barma, Dy. Supdt. of Pos,
O/o the D/S, Agartala being authorised do hereby solemnly
affirm and declare that the statements made in this written
statement are true to my knowledge and information and I
have not suppressed any material fact.

And I sign this verification on this th day of
December, 2001.

Bishoī Chandra Deb Barma

Declarant.

Deputy Superintendent,
O/o. the Director of Postal Services,
Tripura State, Agartala—799001