

30/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 265/01
R.A/C.P No.
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

Original APPLICATION NO. 265 OF 2001

APPLICANT (S) Bisuen Boro

RESPONDENT (S) U.O.I Govt

ADVOCATE FOR APPLICANT(S) Mr. S.C. Borah, K. Bhattacharyya, A.K. Huma

ADVOCATE FOR RESPONDENT(S) C.G.S.C.

Smt. P. L. Sarma

Notes of the Registry	dated	Order of the Tribunal
<p>Application in form but not in form of donation petition is filed vide M.P. No. <u>C.F.</u> for Rs. 50/- deposited vide IPO/BD No <u>66791504</u> Dated <u>18.7.2001</u> <u>Dr. Registrar.</u></p>	<p>20.7.01</p> <p>pg</p>	<p>On the prayer of the counsel for the applicant the case is adjourned to 23.7.01 for admission.</p> <p><u>K. Chhabra</u> Member</p> <p><u>Vice-Chairman</u></p>
<p>Steps Received. Notice framed and sent to D/S for cross the Respondent No 1 to 4 by Legd MD vide B No <u>2865/2868</u> dt <u>1/8/01</u></p>	<p>23.7.01</p> <p>bb</p> <p>23.8.01</p> <p>mb</p>	<p>Heard Mr. K. Bhattacharyya, learned counsel for the applicant, The application is admitted, call for the records. Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents, accepts notice on behalf of the respondents. List on 23-08-2001 for order.</p> <p><u>K. Chhabra</u> Member</p> <p><u>Vice-Chairman</u></p> <p><u>Vice-Chairman</u></p>

① Service report are
still awaited.

22.8.01

25.9.01

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

K. Usha
Member

[Signature]
Vice-Chairman

mb

13.11.01

List again on 18.12.2001 to enable the respondents to file written statement.

K. Usha
Member

[Signature]
Vice-Chairman

bb

18.12.01

List on 15.1.02 to enable the respondents to file written statement.

K. Usha
Member

[Signature]
Vice-Chairman

mb

15.1.02

List on 5.2.02 to enable the respondents to file written statement.

K. Usha
Member

[Signature]
Vice-Chairman

lm

5.2.02

List on 7.3.2002 to enable the respondents to file written statement.

K. Usha
Member

[Signature]
Vice-Chairman

mb

7.3.02

List on 5.4.2002 to enable the Respondents to file written statement.

K. Usha
Member

[Signature]
Vice-Chairman

mb

5.4.02

Written statement has been filed. The case is ready for hearing. Post the matter for hearing on 8/5/2002. The applicant may file rejoinder, if any, within two weeks from today.

List on 8/5/2002 for hearing.

K. Usha
Member

[Signature]
Vice-Chairman

mb

✓

No written statement has been filed.

[Signature]
11.1.02

No written statement has been filed.

[Signature]
4.2.02

2.4.2002

W/S submitted by the Respondent Nos. 1, 2, 3 and 4.

[Signature]

No rejoinder has been filed.

[Signature]
7.5.02

OA 205/2001

Notes of the Registry

Date

Order of the Tribunal

8/5/2002

WAT at on 31/5/2002 for production of record.

mb
A. H. J. 8/5

9.5.

The cases adjourned to 14.6.2002

mb
A. H. J. 9/5

21. 5. 2002

Legislation submitted by the applicant in reply to the W/s submitted by the respondents 1, 2, 3 and 4.

14.6.02

Heard learned counsel for the parties. Hearing concluded. Judgement reserved.

Member

Vice-Chairman

trd

19.6.02

Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the orders. No order as to costs.

Member

Vice-Chairman

Judgment order dtd 19/6/02 communicated to the parties counsel and the applicant.

24/6

mb

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~xxx~~. No. . 265 of 2001.

DATE OF DECISION 19.6.2002,....

Sri Biren Boro & Ors.

APPLICANT(S)

Sri M.K.Mazumdar

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India &Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN
THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

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

5.

Judgment delivered by Hon'ble Vice-Chairman

K

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 265 of 2001.

Date of Order : This the 19th day of June, 2002.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

1. Sri Biren Boro,
 2. Sri Dinesh Boro,
 3. Sri Pradip Kr. Kalita and
 4. Sri Dolen Ch. Das
- ...Applicants

By Advocate Sri M.K.Mazumdar.

- Versus -

1. Union of India,
represented by Ministry of Defence,
Raksha Bhaban, New Delhi.
 2. Chief of the Air Staff,
Air Head Quarters, Vayu Bhawan,
New Delhi-11.
 3. Air Command,
Hqad Quaretr, Eastern Command,
Indian Air Force,
C/o 99 A.P.O.
 4. Flag Officer,
Civil Admn.
II Wing Air Force,
C/o 99 A.P.O.
- ...Respondents

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

The issue relates to employment of Seasonal Anti Malaria Laskar (hereinafter referred to as SAML) under the respondents.

2. The four applicants appeared in the interview at II Wing Air Force for the post of SAML on daily wages.

They were found suitable for the job and accordingly, all the four applicants were engaged by the respondents from 2.5.1990 and they continued in the job till 31.10.1990. It was also pleaded that those applicants were invited for interview by the respondents in the year 1991 to 2001. Each year they got qualified but instead of recruiting them the respondents in blatant violation of the policies engaged fresh persons and thereby denied them the benefit of regularisation in terms of the policy. The applicants were also advised to report before the authority for engagement as SAML in the year 2001. The applicants in terms of a notice appeared before the Selection Committee and in the year 2001 also they were not engaged. Hence this application seeking for a direction on the respondents to act as per the policy guidelines. In the application the applicant pleaded that even persons who were engaged as Anti Malaria Laskar after them were first granted temporary status and thereafter regularised, whereas the respondents failed to consider the case of the applicants for their absorption in the light of the policy decision.

3. The respondents contested the claim and admitted about the existence of the policy. According to the respondents the scheme for preparation of notional seniority list consisting SAMLs from 1990 onwards and

their engagement as SAML without intervention of employment exchange was introduced in December 1994 and the concerned wing received the same in 1995 and implemented the same since 1996. It was stated that since 1996 the wing started calling for all SAMLs on notional seniority list for interview and also from employment exchange upto 1997. SAML already engaged in the previous years were given preference for the next year subject to their good conduct/medical fitness/willingness to accept the post. In the case of unwillingness fresh candidate was selected from the notional seniority list. Whenever any one was being regularised by virtue of their completion of 650 days work for four consecutive years, the resultant vacancies were also being filled from the SAMLs placed in notional seniority list. The respondents in the written statement indicated as to the existence of vacancies of SAML during the malaria season of every year. It was also indicated that the case of the applicants would be considered only in 2002 in case of unwillingness given by any SAML/rejection due to misconduct/medical unfitness of the SAMLs as per policy involved in 1996.

4. We have heard Mr M.K.Mazumdar, learned counsel for the applicants and also Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents at length. From the

materials on record it transpired that SAML were engaged every year through employment exchange. A fair procedure for such engagement was indicated in two decisions of the Central Administrative Tribunal, Madras Bench and Hyderabad Bench respectively in O.A.No.1291-1294/93 and O.A.No.190-197/94 respectively. In terms of the decisions rendered by the C.A.T Benches the Ministry of Defence approved implementation of the judgments. The Air Headquarters vide letter No.Air HQ/23064/28/1/AML/PC-4 dated 16.12.94 it was inter alia took the following decision :

"(a) All AF units will prepare a notional seniority list of those who are engaged as Anti Malaria Lascars on sponsorship through the Employment Exchange.

(b) There is no need to approach employment exchange every time if an Anti Malaria Lascar is to be engaged for performing duties of casual/seasonal nature. Once an AML has been sponsored through Employment Exchange he can be engaged without sponsorship through Employment Exchange.

(c) All command HQs/AF Units, where applicable have to offer the post of Seasonal Anti Malaria Lascar to those who are in the notional seniority list for engagement by addressing letters by second week of Apr each year and those who are interested in working have to report before the concerned authority on the date specified for considering the medical fitness and good conduct. Names of those, who are not found to be of good conduct can be deleted from the seniority list by making a note in the confidential book as to why such a candidate is not found to be of good conduct so that it

can be produced before the Tribunal/Court, if the denial of appointment is challenged. In case the casual labourers/AMLs who had been engaged earlier are not available or are not willing to take up the job, the concerned command HQs/AF Units are free to appoint new candidate after calling for a fresh list of candidates from the employment exchange, in accordance with rules and regulations.

The said communication also indicated that the Department of Personnel and Training also clarified that grant of temporary status would be granted to those casual employees including AML who had rendered 240 or 206 days of service in a year for 6 days/5 days working week respectively. The said policy was further clarified vide Memo dated 21.8.97. The relevant extracts of which are re-produced below :

"(a) All AF Units to prepare a notional seniority list of those who are engaged as Anti Malaria Lascars on sponsorship through the employment exchange.

(b) There is no need to approach employment exchange every time if an Anti Malaria Lascar is to be engaged for performing duties of casual/seasonal nature. Once an AML has been sponsored through employment exchange he can be engaged next time without sponsorship through the employment exchange.

(c) All Command HQs/AF Units, where applicable, have to offer the post of Seasonal Anti Malaria Lascar to those who are in the notional seniority list for engagement by addressing letters by second week of April each year and those who are interested in working have to report before the concerned authority on the dates specified for considering the medical fitness and good conduct. The names

of those who are not found to be of good conduct can be deleted from the seniority list by making a note in the confidential book as to why such a candidate is not found to be of good conduct so that it can be produced before the Tribunal/Court if the denial of appointment is challenged. In case the casual labourers/AMLs who had been engaged earlier are not available or are not willing to take up the job, the concerned command HQs/AF Units are free to appoint new candidates after calling for a fresh list of candidates from the employment exchange, in accordance with the rules and regulations.

3. The SAMLs have been, of and on seeking legal remedies for their permanent absorption in IAF. The point has also been coming up in successive command's conference.

4. As a sequel to the Court judgment and in consultation with MOD/DOP&T a separate set of norms have been desigend to resolve this vexatious issue. These are as under :

(i) Temporary status be granted to Anti Malaria Laskars after 160 days of work in offices observing 06 days a week and after 130 days in offices observing 05 days a week for two consecutive years.

(ii) Such Anti Malaria Laskars who have completed 650 days in the last consecutive four years in offices observing 06 days in a week and 300 days in offices observing 05 days a week would be eligible for regularisation against a regular vacant group 'D' post."


The policy was further reiterated and clarified vide memo dated 8.5.2000 directing the concerned authorities to strictly comply to the guidelines. The communication indicated that individual engaged continuously for two or more years out of notional seniority list were eligible


should not be denied appointment without appropriate reason.

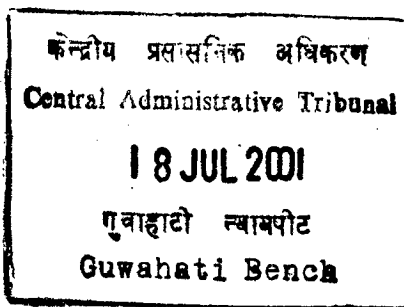
5. Admittedly the applicants worked in the year 1990. Overlooking their genuine claim the respondents in subsequent years appointed fresh persons in violation of the guidelines issued. The materials available clearly indicated that the respondents faltered in complying with the guidelines issued from time to time and thereby denied the applicants the benefits of the guidelines. Since the applicants were available for consideration in subsequent years the respondents could not have overlooked their case for granting temporary status and persons junior to them were granted temporary status in contravention of the policy. The guidelines were introduced for compliance. The respondents in the instant case however failed to adhere to the policy guidelines and thereby denied justice to the applicants.

6. Considering the facts and circumstances of the case we direct the respondents to consider the case of these applicants for conferment of the benefit of the policy by first giving them the temporary status and thereafter regularise their case in accordance with law. The respondents are directed to take necessary steps accordingly and also direct to complete the above exercise within four months from the date of receipt copy of this order.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



14
Filed by appellants
through his advocate
P. L. Sarma
18.07.01

APPENDIX - A

An Application under section 19 of the Administrative Tribunal Act, 1985.

C.A. 265/2001

Title of the Case : 1. Sri Biren Boro.

2. Dinesh Bora.

3. Pradip Kalita.

4. Dion Das.

..... Appellant.

-Versus-

Union of India and others.

..... Respondents.

I N D E X

Sl. Description of document relied upon.

Page.

1. Interview letter ^{and discharge certificate} for the
year 1990 and thereafter.

10 & 17.

2. Interview letter dt. 21.3.2001.

3. Representation dated 30.4.2001.

Sri Biren Boro
Signature of Appellant.

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

O.A. 265/2001

1. Sri Biren Boro,
s/o. Sri Lambachar Boro,
Vill - Baghmara,
Sonitpur, Assam.
2. Sri Dinesh Boro,
s/o. Sri Haban Boro.
Vill. - Gorumari,
Dist. - Sonitpur, Assam.
3. Sri Prajap Kr. Kalita,
s/o. Sri Habab Ram Kalita,
Vill. - Adabari,
Dist. - Sonitpur, Assam.
4. Sri Dolan Ch. Das,
s/o. Sri Bagiram Das,
Vill. - Gorumari,
Dist. - Sonitpur, Assam.

..... Appellants.

-Versus-

1. Union of India,
Represented by Ministry of Defence
Raksha Haban, New Delhi.

2.....

Sri Biren Boro

- 1990
2. Chief of the Air Staff,
Air Head Quarters, Vayu Vahan,
New Delhi - ii.
 3. Air Command,
Head Quarter, Eastern Command,
Indian Air Force,
C/O. - 99 A.P.O.
 4. Flag Officer,
Civil Admin.
II Wing Air Force,
C/O. - 99 A.P.O.

..... Respondents.

DETAILS OF THE APPLICATION.

- i. Particulars of the order against which application is made.

- (a) Petitioners appellants have made representations before the respondents on 30.4.2001 but the same has not yet been disposed off in relation to their non-appointment as per notional seniority list.

2.....

Shri Bhuven Bano

2. Jurisdiction of the Tribunal.

The applicants declare that the subject-matter of the order against which the appellants want redressal are within the jurisdiction of the Tribunal.

3. Limitation.

Applicants further declare that the application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

That the appellants having a common cause of action has preferred this single application before this Tribunal for proper adjudication.

1. That the appellants are the non-Matriculate persons and were in search of job and hailis from very backward class of society. They were engaged by the respondents after the selection as Seasonal Malaria Laskars.

2. That the appellants state that in the year 1990 appellants were asked to appear interview at II Wing A.P. C/O. 99 A.P.O. for the post of Seasonal Anti-Malaria

Laskars.....

Sri Biren Bano

Laskars on daily wages, accordingly the petitioners appellants appeared interview and Govt. selected them. Thereafter they were asked to go for Medical Fitness and after Medical fitness they were found fit and accordingly allowed to join under II Wing Air Force, C/O. 99 A.P.O. with effect from 2.5.90 and their jobs were continued till October, 1990.

Copies of appointment letters ^{and certificates} are annexed hereto and marked as Annexure - I.

3. That thereafter every year the appellants are invited for interview by the II Wing Air Force, C/O. 99 - A.P.O. for the post of Anti-Malaria Laskar, for 6 months in the year 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 and 2001 and each and every year the petitioners were got selected but instead of recruit them, the respondent always recruited fresh men violating the guidelines of the Scheme.

Copies of interview letter are annexed herewith and marked as Annexure - II.

4. That the appellants state that respondents preferred a Scheme as per Guide Lines of Apex Court as well as High Courts for the regularise of the services of the Anti-Malaria Laskars and according to a Scheme all Air Force Units will prepare a notional seniority list of those who are engaged as SML on sponsorship by the employment exchange.

5.....

Sri Biren Bano

5. That when the appellants were engaged in 1990 notional seniority list was in operation as such those names appeared in the notional seniority lists, their appointments had to be considered in the next year, that is in 1991 also, because there were no adverse records against any appellants and they were not found unfit Medically.

6. That appellants states that since 1990 they were regularly called to attend interview as their names are included in the seniority lists but the respondents always recruited fresh candidates and thereby denied the service of the appellants for SML with preference.

7. That the appellants state that the respondents prepared a scheme to engage the person on seniority basis after the direction given by the Apex Court and other High Court with regard to the engagement of the seasonal Anti-Malaria Laskar.

8. That the petitioner states that an interview was held by the respondents on 4th April, 2001 for engagement of Seasonal Anti Malaria Laskars wherein the appellants were called for the interview but the time of selection

of the.....

Sd/- Biren Bara

of the candidates the appellants were left out whereas the juniors of the year 1992/1993 were engaged in the Seasonal Anti Malaria Scheme.

(The Copies of the call letters dated 21st March, 2001 are annexed hereto as Annexure - III Series).

9. That the appellants state that as they were left out from the selection on seniority basis as per Notional seniority List they preferred representation before the authority and demand for justice. But till to-day no answer to it communicated to the appellants.

(A copy of the representation dated 3rd April 2001 is annexed hereto as Annexure - IV).

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION :

1) For that the respondents by not selecting the appellants on the basis of Notional Seniority List had committed an error apparently on the face of the record as the action of the respondents were illegal.

2) For that the appellants whose names appeared in the Notional seniority List ought to have been engaged in the service of Seasonal Anti-malaria Laskars. The respondents

BY.....

Sri Birendra Rao

by denying the same has not only violated the scheme but also violated the Article 16 of the Constitution of India.

3) For that the appellants had the expectations being the appellants had the expectations being the senior most amongst the workers in the Notional seniority List would be engaged but the denial of the same had not only deprived the appellants from the jobs but also affect their right to livelihood which is violating to Article 19 of the Constitution of India.

6. DETAILS OF THE REMEDY EXHAUSTED :

Appellants declared that they had filed the representations before the Authority under the rules.

7. Matters not previously filed or pending with any other court.

Appellants declares that they had not previously filed any application/writ petition or suit regarding the matter in respect of which this application has been made before any court or any other Authority or any other Bench of Tribunal.

8.....

Shri Biran Bano

8. Relief sought.

The respondents may be ordered or directed to engage the appellants on the basis of Notional Seniority List as Seasonal Anti-Malaria Laskars.

&

9. Interim Order, if any prayed for:

That the appellants states that 4 posts may kindly be kept vacant for the petitioners as there are more than 50 posts are lying vacant to be filled up.

10. In the event of application being sent by the Registered posts etc.

Not applicable.

11. Particulars of the Indian Postal Orders:

I.P.O. No. - 66 7915 04 .
Date of I.P.O. - 18-07-01
Issued by - Gauhati Head Post Office.
Payable at - At Gauhati.

list

12. List of enclosures:

(a) Annexures - 1 to 11

Verification.....

Sri Biren Baro

VERIFICATION.

I, Sri Biren Boro, s/o. Sri Lambahar Boro of village Baghmara Khutaputa, s Sonitpur, do hereby authorise to file this Verification on behalf of other appellants. That the contents in the paragraphs 1 to 4 of the application are true to my personal knowledge and the paragraphs - 5 ~~~~~ are believed to be true on legal advice and that I have not suppressed any facts.

I sign this verification on 18th day of July, 2001 at Gurnah.

Sri Biren Boro
Deponents.

27A-1

FORM 11-A

APPOINTMENT ORDERS

Shri/Smt. Gauri Biren Boro
(Name of appointee)

(Designation of the post
an officer of Grade
is appointed

as Seasonal Anti Malaria Lascar on daily wages
(Designation of the post of service or Grade of Service)
in a Substituting/Temporary capacity with effect
from 02 May 90 to 31 Oct 90. ~~XXXXXXXXXXXXXXXXXXXX~~
(Date)



(MS Vasudeva)

Signature Air Cmde
Designation of the
Appointing Authority
11 Wing A

Date 02 May 90

1. Applies only to persons already in Government employe. now being appointed on promotion, transfer etc. In this the detailed designation etc. of the person should be give.


* Applies only to persons appointed in a temporary or officiating capacity.

This form of Appointment Order is applicable, whether appointing authority is other than the President of the General Appointment Order.

/ Chhetri/

allotted

Certified to be true copy


18-7-257

ANA-I

- 14-11

VS

DISCHARGED CERTIFICATE

This is to certify that Mr. Bihus Boro
employed at No. 11 Wing, Air Force as a Seasonal Anti
Malaria Lascar wef 02 May 90 on daily wages basis and
and discharged on 31 Oct 90 on completion of terms of
engagement.

CIVIL SUPPLY

22 Nov 90

(D. C. and)

Fg Offr

C i/c Civil Admin

No. 11 Wing, Air Force

+

Certified to be true copy
18-2-91

15-12


A 1/2

28

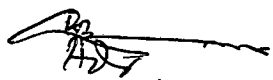
DISCHARGED CERTIFICATE

This is to certify that Air Dinesh Bora
employed at No. 11 Wing, Air Force as a Seasonal Anti Malaria
Lascar wef 02 May 90 on ~~usual~~ daily wages basis and
discharged on 31 Oct 90 on completion of terms of engagement.

(Date 22) 11/11/90


(D Ghend)
Fg Offr
O 1/c Civil Admin
No. 11 Wing, Air Force
- F

Certified to be true copy



18-7-2011

- 12-13

A-1

16

DISCHARGED CERTIFICATE

This is to certify that Shri. Mahesh Das
employed at No. 11 Wing, Air Force as a General with
Malaria Lascar wef 02 May 90 on daily wages basis and
was discharged on 31 Oct 90 on completion of terms of
engagement.

CIVIL
22 Nov 90
1211

(D. Chand)
Pg Offr
C i/c Civil Admin
No. 11 Wing, Air Force

Certified to be true Com

18-7-2001

17- A-11
DISCHARGED CERTIFICATE

This is to certify that Shri Pradip Kalita
employed at No. 11 Wing, Air Force as a Seasonal Anti
Malaria Lascar wef 02 May 90 on daily wages basis and
discharged on 31 Oct 90 on completion of terms of
engagement.

22 Nov 90

(D Chand)
Pg Offr
S-1/c Civ Admin
No. 11 Wing, Air Force

Certified to be true Copy

18-X-257

Tele : 21511/387

Air Force Station
Tezpur

No. 1901/1/PC

11 March 93

Shri Birzen Boro

Shri Gobindu Boro

Will. Baghmarew

P.O. Ulubari

INTERVIEW/SELECTION

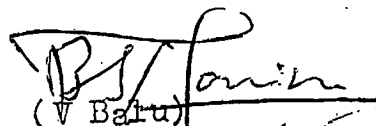
Sir,

1. As directed by Dist Employment Exchange, Tezpur (Sonitpur) you are advised to report to this Station on at 0900 hrs on 23 Mar 93 for interview/selection of Seasonal Anti Malaria Lascars (Daily Wages basis).

2. Please note that you should be in possession of the following certificates/testimonials at the time of reporting for interview, alongwith this call letter :-

- (a) Original School Certificate for proof of the date of birth and educational qualification.
- (b) Employment Exchange Registration Card.
- (c) Experience Certificate, if any.
- (d) SC/ST Certificate, if applicable.

Yours faithfully,



(V Bhat)
Flying Officer
OIC Civil Administration
For Air Officer Commanding

Sent to -

Sonitpur (

JH/-

A - 17
30

-16-

Telephone : 31573/383

Air Force Station
Tezpur

AM/1904/1/PC

21 Mar 2000

Shri Dinesh Baruah

Vill - Gogaimari

P.O - Haleswar, Dist - Sonitpur (Assam)

ENGAGEMENT OF SAMs ON DAILY WAGES BASIS
FROM 01 MAY TO 31 OCT 2000

1. On the basis of Notional seniority you are eligible for engagement as Seasonal Arti Malaria Lascar on daily wages basis subject to medical fitness and good conduct for the current seasonal period from 01 May to 31 Oct 2000. Daily wages will be (1/30th of Rs. 2550.00 plus LA as applicable for work of 08 hours a day.

2. It is, therefore, advised to you to report to the undersigned at 1000 hrs on 05 Apr 2000 for completion of necessary formalities, if you are interested for the job. In case you fail to report to the undersigned within the stipulated time and date, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(S. Kelkar)
Filt Lt-
OIC Civ Admin
For A O C
13/03

Telephone : 31573/383

Air Force Station
Tezpur

AFI/1901/1/FC

21 Mar 2000

Shri Pradip Kalita

Vill. Adabari Gaon (Khehmati)

P.O. Balapara Dist. Smitpur (Assam)

ENGAGEMENT OF S.M.S ON DAILY WAGES BASIS
FROM 01 MAY TO 31 OCT 2000

1. On the basis of Notional seniority you are eligible for engagement as Seasonal Anti Malaria Lascar on daily wages basis subject to medical fitness and good conduct for the current seasonal period from 01 May to 31 Oct 2000. Daily wages will be (1/30th of Rs. 2550.00 plus LA as applicable for work of 08 hours a day.

2. It is, therefore, advised to you to report to the undersigned at 1000 hrs on 05 APR 2000 for completion of necessary formalities, if you are interested for the job. In case you fail to report to the undersigned within the stipulated time and date, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(Seema Kalita)

FM Lt
are ch Adm

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640

Telephone : 31573/383

Air Force Station
Lezpur

M/1901/1/FC

21-Mar-2000

Shri Duler Ch. Das.

Vill & P.O. - Hakewar

Dist - Sonitpur (Assam)

ENGAGEMENT OF SAMLS ON DAILY WAGES BASIS
FROM 01 MAY TO 31 OCT 2000

1. On the basis of Notional seniority you are eligible for engagement as Seasonal Anti Malaria Lascar on daily wages basis subject to medical fitness and good conduct for the current seasonal period from 01 May to 31 Oct 2000. Daily wages will be 1/30th of Rs. 2550.00 plus L.A. as applicable for work of 08 hours a day.

2. It is, therefore, advised to you to report to the undersigned at 1000 hrs on 05 Apr 2000 for completion of necessary formalities, if you are interested for the job. In case you fail to report to the undersigned within the stipulated time and date, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(S. Kelkar)

Ft Lt

OIC Cine Admin

For A O C

18/03



Tele : 58001/383

Annex - IN UPC
Seri

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Air Force Station
Tezpur

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AFT/1901/1/PC

02/Mar 2001

Shri Biren Boro

Vill. Baghmara, P.O. Nubari

Dist. Sonitpur (Assam)

ENGAGEMENT OF SAMs ON DAILY BASIS FROM
01 MAY 2001 TO 31 OCT 2001

1. On the basis of notional seniority you are eligible for engagement as Seasonal Anti Malaria Lascar (SAM) on daily wages basis subject to medical fitness and good conduct for the current ~~XXXXXX~~ malarial season commencing from 01 May 2001 to 31 Oct 2001. Daily wages will be @ 1/30th of Rs. 2550.00 plus IA as applicable for work of 08 hrs a day.

2. You are, therefore, advised to report to the undersigned at 1000 hrs on 04 Apr 2001 along with the following documents/certificates for completion of necessary formalities. In case you fail to report to the undersigned within the stipulated date and time, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(a) Educational qualification certificate (Original), if any.

(b) Proof of date of birth certificate (Original)

Raj
(R. Kosta)
F2 Offr
OIC Civil Admin
For AOC

Tele : 58001/383

A-III UPC

Air Force Station
Tezpur

AFT/1901/1/PC

21 Mar 2001

Shri Dimesh Borah

Vill. Goroimari, PO Holeswar

Dist. Sonitpur (Assam)

ENGAGEMENT OF SAME ON DAILY BASIS FROM
01 MAY 2001 TO 31 OCT 2001

1. On the basis of notional seniority you are eligible for engagement as Seasonal Malaria Lascar (SML) on daily wages basis subject to medical fitness and good conduct for the current ~~XXXXXX~~ malarial season commencing from 01 May 2001 to 31 Oct 2001. Daily wages will be @ 1/30th of Rs. 2550.00 plus DA as applicable for work of 08 hrs a day.

2. You are, therefore, advised to report to the undersigned at 1000 hrs on 04 Apr 2001 alongwith the following documents/certificates for completion of necessary formalities. In case you fail to report to the undersigned within the stipulated date and time, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(a) Educational qualification certificate(Original), if any.

(b) Proof of date of birth certificate(Original)

Sign
(R Kosta)
Fg Offr
OIC Civil Admin
For AOC

all set

Certified to be true Gpo

18-7-2001

Tele : 58001/383

Air Force Station
Tezpur

AFT/1901/1/PC

21 Mar 2001

Shri Pradip Kalita

Vill. Teleria Gaon, P.O. Debargaon

Dist. Sonitpur (Assam)

ENGAGEMENT OF SAME ON DAILY BASIS FROM
01 MAY 2001 TO 31 OCT 2001

1. On the basis of notional seniority you are eligible for engagement as Seasonal Anti Malaria Lascar (SAM) or daily wages basis subject to medical fitness and good conduct for the current ~~XXXXXXX~~ malarial season commencing from 01 May 2001 to 31 Oct 2001. Daily wages will be @ 1/30th of Rs. 2550.00 plus DA as applicable for work of 08 hrs a day.

2. You are, therefore, advised to report to the undersigned at 1000 hrs on 04 Apr 2001 alongwith the following documents/ certificates for completion of necessary formalities. In case you fail to report to the undersigned within the stipulated date and time, it will be presumed that you are not interested for the job and your name will be deleted from the notional Seniority list.

(a) Educational qualification certificate (Original), if any.

(b) Proof of date of birth certificate (Original)

Raj
(R. Kosta)
F& Offr
OIC Civil Admin
For AOC

Certified to be True Copy

Adv.
18-7-2007

Tele : 58001/383

Air Force Station
Tezpur

AFT/1901/1/PC

21 Mar 2001

Shri Dolen Ch Das
will & P.O. Holeswar
Dist. Sonitpur (Assam)

ENGAGEMENT OF SAMs ON DAILY BASIS FROM
01 MAY 2001 TO 31 OCT 2001

1. On the basis of notional seniority you are eligible for engagement as Seasonal Anti Malaria Lascar (SAM) on daily wages basis subject to medical fitness and good conduct for the current ~~XXXXXX~~ malarial season commencing from 01 May 2001 to 31 Oct 2001. Daily wages will be @ 1/30th of Rs. 2550.00 plus IA as applicable for work of 08 hrs a day.

2. You are, therefore, advised to report to the undersigned at 1000 hrs on 04 Apr 2001 alongwith the following documents/certificates for completion of necessary formalities. In case you fail to report to the undersigned within the stipulated date and time, it will be presumed that you are not interested for the job and your name will be deleted from the notional seniority list.

(a) Educational qualification certificate (Original), if any.

(b) Proof of date of birth certificate (Original)

Rajiv
(R Kosta)
FG Offr
OIC Civil Admin
For AOC

Certified to be true copy

ANV.

18-7-2007

Annexure - II

The Air Officer Commanding,
11 Wing, A.F.,
C/O. 99 A.P.O.

Subj: Request for Justice

Hon'ble Sir,

i. We, the undersigned have the honour to state that, we were working as Anti-Malaria Lascar since May, 1990. As per the Policy, the selection/appointments are given per seniority. Recently on 04 Apr. 2001 the Interview were held and the Medical Officer told us that the Selection/appointments are purely on Seniority basis. But, it is regretted that the selection are taken from the junior batches (i.e. 92 & 93 batches), as it is reliably learnt. The 90 and 91 batches have been fully omitted from the selection/appointments. The reason is not known.

2. You are therefore, kindly requested your honour to look into the matter sympathetically and investigate how this injustice have been done towards us, and justice may be done from your High Office. (since we cannot go inside the A. E. Campus, this letter is sent through post for your justice).

Thanking you Sir, in anticipation.

Yours faithfully,

date : 30th Apr. 2001.

1. SC/- Sri Biren Boro.
2. SC/- Dinesh Boro.
3. SC/- Pradip Kalita.
4. SI/- Dolon Das.

Certified to be true Copy

AD,
18-7-2004

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

Filed by
[Signature]
14/02/2001
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

O.A. NO. 265 OF 2001

Shri Biren Boro & Others.

..... Applicants.

- Vs -

Union of India & Others .

..... Respondents.

(Written Statements for and on behalf of the
respondent No. 1, 2, 3 and 4)

The Written Statements of the abovenoted respondents
are as follows :

1. That a copy of the O.A. No. 265/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, the respondents have filed this written statements as common for all of them.

2. That the statements made in the application, except those which are specifically admitted, are denied by the respondents.

3. That before traversing the various paragraphs of the application, the respondents give a brief resume of the facts as under :

A. As per the existing policy, SAMLs are being employed on seasonal basis as casual labourers during malarial season commencing from 01 May to 31 Oct of every year. During the

period of 1990-1995, employment of SAMLs were carried out on sponsorship through local employment exchange . Meanwhile Air HQrs letter No. Air HQ/23064/28/1/AML/PC-4 dated 16 Dec 94 (Appx 'A') received under cover of HQ EAC IAF letter No. EAC/1601/7/PC dated 14 Feb 95 (Apex 'A') was received which stipulate as under -

- (1) a. All AF units to prepare a notional seniority list of those who are engaged as anti malaria lascars on sponsorship through the employment exchange since 1990 onwards.
- b. There is no need to approach employment exchange every time if an anti malaria lascar is to be engaged for performing duties of casual/~~season~~ seasonal nature . Once an AML has been sponsored through employment exchange he can be engaged next time without sponsorship through the employment exchange.
- c. All Command HQrs/AF Units, where applicable, have to offer the post of seasonal anti malaria lascars to those who are in the notional seniority list for engagement by addressing letter by the second week of April each year and those who are interested in working have to report before the concerned authority on the dates specified for considering the medical fitness and good conduct. The names of those who are not found to be of good conduct to clearly indicate in the confidential book as to why such a candidate is not found to be of good conduct so that it can be produced before the tribunal/court if the denial of appointment is challenged. In case the casual labourers/AMLs who had been engaged earlier are not available or are not willing to take up

the job, the concerned HQs/AF units are free to appoint new candidates after calling for a fresh list of candidates from the employment exchange in accordance with the rules and regulations .

Contd

B. In accordance with Air HQ letter as mentioned in para 1 above a notional seniority list consisting the SAMLs who were engaged from 1990 onwards was prepared after collection of various dates from the relevant records and the same was implemented in 1996. In 1996 candidates were also sponsored through local, employment exchange for interview/selection besides the SAMLs whose names were placed in notional seniority in 1997 on introduction of 03(three) new establishments Of SAMLs for 267 SU (a lodger unit of 11 Wg) candidates were also sponsored through local employment exchange besides the SAMLs on notional seniority for interview/selection. In the meantime, Air HQs in consultation with the MOD/DOP&T vide their letter No. Air HQ/23064/28/1/AMI/PC-4 dated 21 Aug 97 (Appx 'B') received under cover of HQ EAC IAF letter No. EAC/1601/POLICY/PC dated 03 Sep 97 (Appx 'C') formulated a separate set of norms for grant of temporary status to SAMLs and regularization of their services against regular group 'D' posts as per the following conditions -

- a. Temporary status be granted to anti malaria lascar after 165 days of work in offices observing 06 days a week and after 150 days in offices observing 05 days a week for two consecutive years.
- b. Such anti malaria lascars who have completed 650 days in the last consecutive 04 years in offices observing 06 days a week and 600 in offices observing 05 days a week would be eligible for

regularization against a regular vacant group 'D' post.

C. From 1998 onwards the interview/selection of SAMLs is being carried out amongst the SAMLs whose names are placed on notional seniority list as per the following preferences

- a. SAMLs who are engaged in the previous year. (1997)
- b. SAMLs who have already been given temporary status. ✓
- c. SAMLs who have worked more even after a break in service.

D. As and when any vacancy of SAML occurs consequent upon the regularization or service against regular group 'D' posts, the resultant vacancies are being filled from the notional seniority list as per the preferences as referred in para 3(a) to (c) above. Therefore, if any vacancy still falls short the same is being filled amongst the rest of the candidates from the notional seniority list through selection by a Board of Officers (BOO). The BOO finalized the proceedings after taking the following policy letters into consideration :

- a. Air HQs letter No. Air HQ/23064/28/1/AML/PC-4 dated 16 Dec 94 (Appx 'A').
- b. EAC IAF letter No. EAC/1601/7/1/AML/PC dated 15 Dec 97 (Appx 'D').
- c. HQ EAC letter No. EAC/1601/7/1/AML/PC dated 08 May 2000 (Appx 'E').

4. That with regard to the statements made in para 1(a), the respondents state that no representation dated 30 Apr 01 as alleged has not been received by the respondent No.4. However, an application of Apr 01 duly signed by the petitioners (without date) has been received (Annexure-I). A reply to the same has been sent to the petitioners under Regd. Post vide 11W/1901/1/PC dated 30 May 01 (Annexure -II) stating that since they were considered for employment once in 1990 and thereafter they could not be considered for engagement as SAML till 2000 either after break in service or in consecutive years. However, their names have not been deleted from the notional seniority list for consideration in future.

5. That the answering respondents have no comments to offer to the statements made in para 2, 3, 4.1 and 4.2 of the application.

6. That with regard to the statements made in para 4.3, the respondents state that the scheme for preparation of notional seniority list consisting SAMLs from 1990 onwards and their engagement as SAML without intervention of employment exchange was introduced in Dec 94 received by this wing in 1995 and was implemented at this wing in 1996. Thereafter, i.e. 1996 onwards this wing started calling all SAMLs on notional seniority list for interview/selection and also from employment exchange upto 1997. Detailed guidelines on the subject policy was received in Sep 97. SAMLs already engaged in previous year are being given preference for the next year subject to their good conduct/medical fitness/willingness to accept the post. In the case of unwillingness, fresh candidate is being selected from the notional seniority

list. Whenever any one is being regularised against regular vacancies by virtue of their completion of 650 days work for four consecutive years, the resultant vacancies are also being filled from the SAMLs placed in notional seniority list only. Hence, the individual's statement is not correct.

7. That with regard to the statements made in para 4.4, the respondents state that preparation of a notional seniority list consisting the SAML from 1990 onwards for engagement of SAML without intervention of employment exchange was introduced in Dec 94 and was received by this wing in 1995. The same was implemented in 1996 after collection of various dates from the relevant records. The regularization scheme was introduced in 1997.

8. That with regard to the statements made in para 4.5, the respondents state that the detailed guidelines incorporating the preparation of notional seniority list consisting of SAMLs from 1990 onwards was received in 1995 only. Finally seniority list was completed in 1996 and the scheme was implemented immediately. Prior to receipt of this policy, SAMLs were interview/selected & after sponsorship of the candidates through employment exchange. Hence, applicant's statement is not correct.

9. That with regard to the statements made in para 4.6, the respondents state that the applicant's statement that they were called to attend interview/selection since 1990 is not correct as the notional seniority was prepared in 1995 only as per Air HQs instruction. However, 03 fresh candidates were engaged against 11 Wg in the year 1996 and 03 candidates against 267 SU (Lodger Unit) on receipt of new establishment in the year 1997.

10. That with regard to the statements made in para 4.7, the respondents state that from 1997 onwards first preference in selection of SAMLs is always given to those who were engaged in the previous year so that an opportunity for regularization against regular vacancies can be given under the scheme called 'Implementation of SAMLs (Grant of Temporary Status and Regularisation) Scheme of IAF, 1997' in pursuance of the judgements of the Hon'ble Court and approval of the Ministry of Defence. However, SAMLs are engaged from notional seniority only. The selection procedure for SAMLs amongst notional seniority list has not stipulated any guidelines. However, names of SAMLs at this Wg since 1990 still appear in notional seniority and being considered for engagement. ✓

11. That with regard to the statements made in para 4.8, the respondents state that as there are no specific guidelines for selection of SAMLs on the basis of seniority, the candidates were interviewed/selected by a BOO as per suitability, as done in the past. From 1998 onwards the interview/selection of SAMLs is being carried out amongst the SAMLs whose names are placed on notional seniority list as per the following preferences :-

- a. SAMLs who are engaged in the previous year.
- b. SAMLs who have already been given temporary status.
- c. SAMLs who have worked more even after a break in service.

12. That with regard to the statements made in para 4.9, the respondents state that the alleged representation dated 30 Apr 01 has not been received by the respondent No.4. However, an application of Apr 01 duly signed by the petitioners (without date)

has been received (Annexure-I). A reply to the same has been sent to the petitioners under Regd. Post vide 11W/1901/1/PC dated 30 May 01 (Annexure II) stating that since they were considered for employment for once in 1990 and thereafter they could not be considered for engagement as SAML till 2000 neither after break in service nor in consecutive years. However, their names have not been deleted from the notional seniority list for consideration in future.

13. That with regard to the statements made in para 5.1 to 5.3, the respondents state that in view of the facts and circumstances of the case and also the provisions of rules/law as stated above, the grounds shown can not sustain in law and hence the application is liable to be dismissed as devoid of any merit.

14. That with regard to the statements made in para 6 and 7, the respondents have no comments to offer.

15. That with regard to the statements made in para 8 and 9, the respondents state that under the facts and circumstances of the case and the provisions of rules/scheme, the applicants are not entitled to any immediate relief as prayed for and hence the application is liable to be dismissed with cost. It is also clarified that as many as 16 vacancies of SAML (daily basis) occur during malarial season of every year w.e.f. 01 May to 31 Oct. Their case can be considered only in the year 2002 in case of unwillingness given by any SAML/rejection due to mis-conduct/medical unfitness of the SAMLs, who have already been engaged during 2001 as per policy in vogue since 1996 on the basis of their notional seniority.

-9-

In the premises, it is therefore, prayed that Your Honour 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 BIJOY KUMAR CHAURASIA, presently working as the COMMANDING OFFICER OF 746 SU, AF being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in para 1, 2, 5 to 15, are true to my knowledge, and belief, those made in para 3, 4, being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not ^U~~suppressed~~ any material fact.

And I sign this verification on this 16th day of April, 2002 at Guwahati.

Bijoy Kumar Chaurasia
Deponent.

11
The Air Officer Commanding
11 Wing, A.F.
C/O 99 APO.

Annexure - I

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(Ref S No. 3 of Paravise
Commitment on Case No. OA/
265/01/2868).

Sub: - Request for Justice.

Hon'ble Sir,

the

1. We, the undersigned have/honour to state that, we were working as Anti-Malaria Lascar since May 1990. As per the Policy, the selection/appointments are given per Seniority. Recently on 04 Apr. 2001 the Interviews were held and the Medical Officer told us that the Selection/appointments are purely on Seniority basis. But, it is regretted that the Selection are taken from the junior batches (i.e. 92 & 93 batches), as it is reliably learnt. The 90 and 91 batches have been fully omitted from the selection/appointments. The reason is not known.

2. You are therefore, kindly requested your honour to look into the matter sympathetically and investigate how this injustice have been done towards us, and justice may be done from your High Office. (since we can not go inside the A.F. Campus, this letter is sent through Post for your justice).

Thanking you Sir, in anticipation.

Yours faithfully,

Date: Apr. 2001.

① Suresh Borth

② Anon Boro

③ Pradip Kalita

(4) Boro Boro

a/c Gul Adm

pu

with comments

28/4/02
02/05/02

Annexure-II

(Ref. SI NO. 3 of Parawise
comment on Case NO
GA/265/01/2868)

REGISTERED POST

21A

Date: 50601/4283

11 Wing AF
C/O 99 AFO

14/1991/1/PC

30 May 2001

Addres as shown at bottom

INTERVIEW/SELECTION OF SAMs: 2001

1. Reference your application dated NIL.

2. It is intimated that you were employed as SAM in 1990 only and since then you could not be considered for employment as SAM from 1991 to 2000 neither after a break in service for consecutive years. SAMs who have rendered more number of days service even after a break and have served more recently have been given preference for employment. However, your names will be kept in the seniority list for consideration in future.

3. This is for your information.

- ① Shri Dimesh Borah
Vill. Gopinath, P.O. Haleswar
- ② Shri Dulen Ch. Das
Vill. 8, P.O. Haleswar
- ③ Shri Pyndip Kalita
Vill. Adurbani Gaon, P.O. Balipara (Khemali)
- ④ Shri Binay Boro
Vill. Baghmara, P.O. Numbani

Raj
(R. Kanta)
Pg Offr
OIC Civil Admin
Per AGO

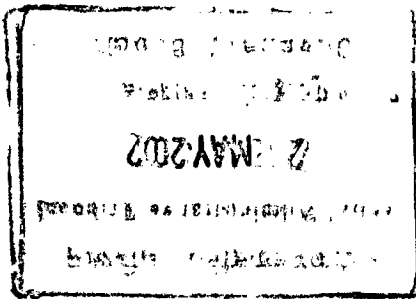
T.O.O.

Internal copy to:-

① OIC SHO for information.

See p 4265

Per. p. c



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Filed by Biren Boro
Principal Secy
21/5/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

O.A. NO. 265 of 2001.

Shri Biren Boro & others.

..... Applicants.

-versus-

Union of India & others.

..... Respondents.

(Re-joinder of the Applicants to the written
statements of the Respondent No. 1, 2, 3 and 4).

Re-joinder of the Applicants are as under :-

1. That a copy of the written statement has been served on the applicants. We have gone through the contents thereof and as such file this re-joinder.
2. That save and except what has been specifically admitted hereinafter all other statements made in the written statements are deemed to have been denied.
3. That the statements made in para 3-A, B, C and D, the applicant admit the same to the extent it is supported by records and anything contrary thereof is denied.

4.....

4. That the statements made in para -4 of the written statement (hereinafter referred to as S.) the applicants deny the contention made therein. The applicants in this regard states the Respondent authority on receipt of the order vide No. EAC/1601/8 7/PC dated 14.2.95⁵ wherein it was categorically directed all Air Force units not to approach Employment Exchange for sponsorship of any candidates through Employment Exchange and prepare a notional seniority from 1990 as cut-off date. But the Respondent Authority in total disregard to the order dated 14.2.95⁵ in respect of preparation of notional seniority has resorted to pick and choose policy as it would be evident that one Sri Thaneswar Nath amongst others was sponsored through Employment Exchange in the year April 1997 and was selected and appointed as SAML with effect from 1.5.97. Thereafter Sri Thaneswar Nath was absorbed as permanent Lascar in the year 2001. It would be evident from the statement referred to herein above that the Respondent authority wilfully resorted to pick and choose Policy overlooking the seniority position of the employees those who were similarly situated. As such, the action of the Respondent authorities clearly reflects mala fide, arbitrary and colourable exercise of power.

5. That the statement made in para 6 of the W.S., the applicant deny the statements which are contrary to the records. The applicant begs to state that the notional seniority in respect of the employees (SAML) those who were sponsored through the Employment Exchange from 1990 onwards, their seniority position (cut-off-date) was fixed as 1990. Thus, it may be pertinent to mention here that the notional seniority of SAMLs were not given effect to from 1990, thereby the Respondent authority of their own volition overlooking the notification dated 14.2.95 fixed the seniority of SAMLs on the basis of pick and choose policy in the most arbitrary manner. The answering applicant further begs to state that the applicants conduct/medical fitness never came under question at any point of time. As such non-consideration of the case of the applicants who were engaged in the year 1990 without engaging the applicants Respondents authority allowed the SAMLs of 1996 and 1997 and allowed them to continue in the post for a period of 4 yrs. so as to enable them to attain the temporary status and regularisation scheme of I.A.F. 1997. The applicants being senior were not given any opportunity nor their cases were considered for such engagement in spite of the fact that the applicants qualified in each and every year in the interview/test

but.....

but their cases were not considered instead juniors to the applicants were engaged year after years by way of pick and chose policy behind the back, violating the notification dated 14.2.95. As such, the action of the respondents are illegal, arbitrary and bad in law.

6. That the statement made in para 7 and 8 of the W.S. the applicants state that the respondents in their W.S. has admitted the position regarding the preparation of notional seniority list consisting of SAMLs from 1990 onwards, if that being the position then the applicant's name in the notional seniority of 1990 should have been appeared in the seniority list. But nothing as such was done by the respondents and kept on engaging SAMLs. as per their whims without following the notional seniority of 1990.

7. That with regard to the statement made in para 9 of the W.S. the applicants deny the correctness of the same. The applicants state that the Respondent Authority in spite of the clear instruction vide notification dated 14.2.95 not to engage SAMLs through Employment Exchange if such employees are working as such but to the utter surprise of the applicants, the Respondent engaged three new person namely Lakhi Prasad Saikia, Md- Zamaluddin, Shri Kamalashwar Baruah in the year 1998, through Employment

Exchange.....

Exchange. As such, it is crystal clear that seniority whatsoever has never been taken into consideration for such appointment.

8. That with regard to the statement made in para 10 the answering applicants do not reiterate the statements made in the preceding paragraphs and crave leave to rely on the statements made in those paragraphs.

9. That with regard to the statement made para 11 of the W.S. the answering applicants states that ever since from the date of notification which was implemented in the year 1997, the applicants were never considered for engagement, as a result, the statement made that those SAMLs who have been given temporary status and who had worked more even after a break in service does not apply at all in the case of the applicants as the respondents engaged SAMLs. by virtue of pick and choose policy behind the back.

10. That with regard to the statement made in para 12 of the W.S. the answering applicants do not reiterate the statements made in the following paragraph.

11. That as regards the statements made in para 14 and 15 of the W.S. the answering applicants do not offer any comments.

12. That as regards statements made in para 15 of the W.S. are the repetitions of the statement made in earlier paragraphs of the W.S.

13. That the applicants beg to submit that the notification of the guidelines of 14.2.95 was clear in respect of preparation of notional seniority taking the year 1990 as the cut-off-date. It was also made clear that seniority would be given due consideration but the respondents authority resorted to pick and choose policy to violating the seniority position. The respondents even employed persons through Employment Exchange in spite of the clear guidelines not to engage through Employment Exchange, as such the action of the Respondents is illegal, arbitrary and violation of the notification and the guidelines thereof dated 14.2.95 and thereby denied the same with petitioner, though they were existing seniormost.

14. That in the current years also while new incumbents have appointed from the notional lists the case of the petitioner being seniormost in lists have been ignored and juniors have been appointed from the lists.

15. That the applicants pray before the Hon'ble Tribunal to call for the records regarding the date of receipt of the circular sated 14.2.95 at Tezpur AIR Force station and also regarding appointments of persons through Employment Exchange as already categorically stated in the foregoing paragraphs.

VERIFICATION.....

VERIFICATION.

I, Shri Biren Boro, s/o. Shri Lambadhar Boro,
of village - Baghmara Khutaputa, District - Sonitpur,
do hereby authorise to file this verification on behalf
of other applicants. That the contents in the paragraphs
1, 2, 3, 5, 6, 7, 8 of the application are true to my personal
knowledge and the paragraphs 4, 15 are believed
to be true on legal advice and that I have not suppressed
any facts.

I sign this verification on 16th day of May, 2002,
at Guwahati.

Biren Boro
Deponent.