

30/100

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 359/2001

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. 180A-359/2001 Pg. 1 to
2. Judgment/Order dtd. 12/10/2001 Pg. No. Separate order withdrawn to
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 359/2001 Pg. 1 to 15
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. to
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

FORM No. 4
(Sub Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 359/2001

Applicant (S) Titul Kohla

Respondant (S) U.O.I Gorn

Advocate for the Applicant: A.C. Boragohain, N.C. Bora

Advocate for the Respondant: Case

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed vide M.P. No. 79548993 for the purpose of the IPO/B. Dated 14.9.2001.	14.9.01	Heard Mr. N. Bora, learned counsel for the applicant. The application is admitted. Call for the record. Returnable by 4 weeks. List on 12/10/01 for order. Issue notice as to why interim order as prayed for shall not be passed. Returnable by three weeks.
Notice prepared and sent to D/S for issuing the Respondent No 1 to 3 by Regd A.D.	12.10.01	The applicant have made a written request for withdrawing the application filed by him on the ground that he has been allowed to join. Accordingly, the application is dismissed as withdrawn.
Copy of the order has been sent to the D/Sec. for issuing the same to the 4/Advocate for the applicant as well as to the Regd. No. 3 by post.		

Vice-Chairman

Member

✓
5.10.2001

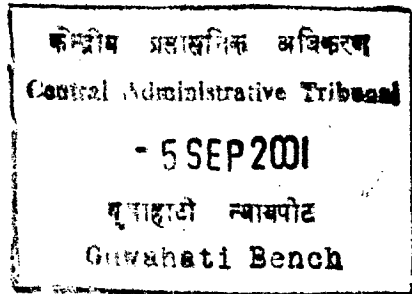
May kindly be seen at flag 'A'.

An application has
been received from the
applicant in connection
with his application no. 359/2001.
He submitted this application
for withdrawal of his case
from the Hon'ble Court.

Land before the
Hon'ble Court for further
order.

JS
PE translate the
app before listing
Signed

NS
5/12/2001
Deletion Officer
JS



DISTRICT : TINSUKIA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GAUHATI BENCH :

GUWAHATI.

O.A. CASE NO. 359 /2001.

CODE:

Sri Jitul Kalita,

...

Appellicant

- Vs -

Union of India & Ors.,

...

Respondents.

MATTER:

BENCH:

- I N D E X -

<u>Sl.No.</u>		<u>Particulars.</u>	<u>Pages.</u>
1.	-	Application.	- 1 to 10
2.	-	Annexure- A.	- 11
3.	-	Annexure- B.	- 12 to 13
4.	-	Annexure- C.	- 14
5.	-	Annexure- D.	- 15.


(NIRAN BARAH)

Signature of the Advocate.

For use in the Tribunal's Office.

Date of filing :

Registration No.:

DISTRICT : TINSUKIA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GAUHATI BENCH:

GUWAHATI.

O.A. Case No. 359/2001.

IN THE MATTER OF :

Sri Jitul Kalita,
S/O Mohan Kalita,
Village- Kailashpur,
P.O. Kailashpur, Via-Doemdooma,
Dist. Tinsukia, Assam.

LAST EMPLOYED :

As a E.D.D.A. in the village of
Kailashpur under the Office of the
Inspector of Post, Doemdooma Sub-
Division, Doemdooma.

... Applicant.

- Vs -

1. The Union of India. (Represented
by the Secretary, Department of
Post & Telegraph).
2. The Supdt. of Post Office,
Tinsukia Division, Tinsukia.
Pin - 786125.
3. The Sub-Divisional Inspector of
Post Office, Doemdooma Sub-
Division, Doemdooma.

... Respondents.

Filed by the
applicant Sri
Jitul Kalita
through Mr. Bhabu
Debnath
Srin Jitul Kalita

DETAILS OF APPLICATION :

1. Particulars of the Order : Order dated 12.3.2001 against which the application is made. bearing Memo No.A-2/ Talapathar Branch Office, consequent upon the opening of the E.D.B.O. at Talapathar Village in account with Kakapathar S.O. on 15.3.2001, ordering of shifting of E.D. Officials namely the applicant Sri Jitul Kalita E.D.D.A. Kailashpur B.O. is shifted and posted as E.D.E.P.M., Talapathar B.D. (Annexure -).
2. Jurisdiction of the Tribunal. : The applicant declares that the subject matter of the order against which he wants redressal is within the Jurisdiction of the Hon'ble Tribunal.
3. Limitation. : The applicant further declares that the application is within the Limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

b
Sri Jitul Kalita

FACTS OF THE CASE :

1. That, the applicant is a citizen of India and he is permanent resident of Village- Kailashpur, P.O. Kailashpur in the district of Tinsukia, Assam.
2. That, the applicant was appointed as E.D.D.A. with effect from 4.6.1990, which is a Grade-IV Post, in the Kailashpur Branch Post Office in the District of Tinsukia. The applicant has completed continuous 11(Eleven) years service, successfully and without any blamish.
3. That, the applicant was appointed vide Order dt. 10.1.1991 bearing Memo No.A-2/Kailashpur B.O. and then he was handed over charge of the said branch Post Office with effect from 4.6.1990.

The copy of the said Appointment Letter and charge taking order is annexed hereto marked as Annexure - A & B respectively.

4. That, until 12.3.2001 there was no difficulty whatsoever in discharging duties by the applicant. An Order was issued by the Inspector of Post, Doomdooma Sub-Division, Doomdooma, bearing Memo No. A-2/Talapather B.O. dated 12.3.2001 whereby a new Branch post Office is prepared to be opened at Talapather under the Kakapathar S.O. by the same order, the applicant has been shifted to the Talapathar B.O. from his Kailashpur Branch Post Office.

A copy of the aforesaid order dt.12.3.2001 is annexed hereby marked as Annexure- 'C'.

Shri Jitendra Kalita

Shri Jitendra Kumar

5. That, on or about 15.3.2001, in consequence of the aforesaid shifting order the applicant was taken to Talapathar to open the Branch post Office accompanied by the following officials of the postal department.

1. Sri Dhajya Dutta, Post Master,
Kailashpur Post Office.
2. Sri Rajen Dutta (Peon).
3. Sri Dinna Gogoi (Postman).
4. Sri Brajen Gohain, Post Master of
Tanganna Bazar Post Office.

The whole team was leaded by the Observer of the Postal Department was entrusted with the opening up in New Branch Post Office at Talapathar Village as per the aforesaid order dated 12.3.2001.

6. That, on arrival of the applicant alongwith the aforesaid officials at Talapathar Village, the Government GaonBura and some of the local people including members of the Talapathar Local Yobak Sangha has objected to the opening of the Talapathar Branch Post Office with the applicant as the B.P.M. (Branch Post Master) the particularly the members of the Yobak Sangha as highly aggrieved and agitated by threatening to kill the applicant if he is posted there as B.P.M. Their grievances was that they need one of the local boy to be appointed as a B.P.M. in the newly opened Talapathar Branch Post Office of a local boy is not appointed as B.P.M. they stated before the

9
Shri Jitendra Kumar

Officials that they do not any branch post office ~~on~~ open there. Ultimately the members of the Yobak Sangha has and the villagers as given to a representation to the observer to appoint one of local boy as the Branch Post Master in the Talapathar Post Office and if it is not done they will not allow the stay the applicant in the Talapathar village as Branch Post Master and they will not allow to appear the Branch Post Master there.

7. That, the applicant beg to state that he has been consistently persuing the matter and filed several representations before the authority concerned. Since the days he has not been paid his salary etc. He has neither been served with any termination order nor he has been given any written order not to come to the office. The applicant has been put in to a strange situation in as much as he is not allowing to join in the new Sub-Post Office by the local villagers nor he has been given any protection by the postal department to open the same at the specified area.

The copy of the last representation dated 25.8.2001 is annexed as Annexure - 'D').

8. That, having no other alternative the applicant alongwith the officials who accompanied the applicant the open the Branch Post Office/Sub-Post Office at Talapathar had returned to his original place of posting i.e. Kailashpur Sub-Post Office/Branch Post Office.

9. That, the applicant has been working as the Branch Post Master in the Kailashpur Branch Post Office since 16.3.2001 till date attending the office regularly.

10. That, to utter surprise of the applicant he was paid salary only upto 16.3.2001 and thereafter no bill for payment of salary was made for the applicant and he has not paid salary since 16.3.2001.

11. That, except order dt. 13.3.2001, the applicant has not served any other transfer order or order of dismissing his service or any other removing his service was serve of the applicant till date.

12. That, the petitioner had made enquires before the Head Office at Tinsukia and the concern Inspector had told that the applicant is shifted to Talapathar and as local people of Talapathar does not want the applicant to work as Branch Post Master at Talapathar, he cannot release his salary at Kailashpur.

13. That, till date nobody is appointed either Talapathar or in Kailashpur Branch Post Office in the post held by the applicant. Although, he has been working Kailashpur and he is not paid for the aforesaid salary.

14. That, no written order is passed by the Authority nor any written order is served till date, the applicant intenerating the reason for non-payment of salary with effect from 16.3.2001.

10
Shiv Jitendra Kalita

15. That, it may be mentioned that there is no provision of Transfer of the Branch Post Office in between the Branch Post Offices so the question of Transfer of the applicant also does not arise.

16. That, there is no allegation whatsoever against the applicant was issued against the applicant till date.

17. That, the applicant is still ready and willing to go and service at Talapathar Branch Post Office or any other place, where the department wants to post him. The applicant has been subjected to harassment for no fault of his own. The all the officials who accompanied the applicant to open the new Branch Post Office at Talapathar are witnesses of the untoward incident as mention above by which the local youths and the local villagers has set back the officials and the applicant on a sentimental ground that a local youth be appointed as the Branch Post Master at the new Sub-Post Office at Talapathar.

18. That, till date the applicant is waiting at Kailashpur and nobody is appointed as Branch Post Master either in Kailashpur or at Talapathar and the applicant is victimized for no fault of his own.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that, prima-facie the action/inaction on the part of the Respondent is illegal so far as termination of the service of the applicant is concerned

11
Jitendra Kalita
Shir

12
Shrinjit kaur

that too without assigning any reason and hence some is liable to be quashed.

5.2. For that, the discrimination meted to the applicant in reventing in his post is violative of Article 14 and 16 of the constitution of India.

5.3. 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.

5.4. For that, the Respondents have committed illegality by inflicting the Termination/alteration/removal or not pay in his due on the applicant.

6. DETAILS OF REMEDIES EXHAUSTED :

That, the applicant declares that he have exhausted all the remedies available to ~~her~~his and there is no alternative remedy available to his.

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

That, the applicant declares that the matter is not previously filed or pending in any other court.

8. RELIEF SOUGHT FOR :

Under the circumstances stated above the following reliefs are soughts -

8.1. To set aside and quashed the impugned order dtd. 12.3.2001 whereby the respondent has terminate the service of the applicant.

8.2. To direct the respondents to allow the applicant to continue in his respective post and pay his salary.

8.4. Cost of the application.

8.5. Any order/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deem fit and proper.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of this application the applicant pray for an interim order directing the respondents to allow the applicant to continue in his post of E.D.D.A. in the postal department and pay his salary regularly till the disposal of this original application.

10.

11. PARTICULARS OF I.P.O.

1. I.P.O. No.	: 76548993
2. DATE	: 4-9-2007
3. Payable at	: GUWAHATI.

12. LIST OF ENCLOSURES :

As stated above.

18
Shri Jitendra Kalita

- 10 -

- VERIFICATION -

I, Sri Jitul Kalita, S/O Mohan Kalita,
 aged about years, resident of Village -
 Kailashpur, P.O. Kailashpur via- Doondooma, in
 the District of Tinsukia, Assam, do hereby
 solemnly verify that the statement is made in
 paragraphs 4(1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15) are true
 to my knowledge, those made in paragraphs 16, 17, 18
 are being matters of records are true to my
 information believe to be true on legal advice and
 that I have not suppressed any materials facts.

And I set my hand on this verification,
 to-day the September, 2001, at Guwahati.

Sri Jitul Kalita

Signature of the Applicant.

- 11 -

15

ANNEXURE - 'A'.

Memo No. A.2/Kailashpur B.O.

Dated the 10.1.91.

Whereas the post of EDDA, Kailashpur B.O. in a/c with Kakopather S.O. has been vacant and it is not possible to make regular appointment to the said post immediately, the SD/PS, ~~where~~ DoomDooma has decided to make provisional appointment to the said post till regular appointment is made.

2. Sri Jitul Kalita, Vill & P.O. Kailashpur via Kakopather is offered the provisional appointment. He should clearly understand that his provisional appointment will be terminated when a regular appointment is made and he shall have no claim for appointment to any post.

3. The SD/POS, DoomDooma also reserves the right to terminate the provisional appointment at any time ~~before~~ the period mentioned in Para I above without notice and without assigning any reason.

4. Sri Jitul Kalita will be governed by the Extra-Departmental Agent (C&S) Rules 1964 as amended from time to time and all other rules and orders applicable to extra-deptt. agents.

5. In case the above conditions are acceptable to Sri Jitul Kalita, he should sign the duplicate copy of this memo & return the same to the undersigned immediately.

Sd/-

Sub Divisional Inspector of Post Office
Doom Dooma Sub-Division Doom Dooma.

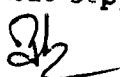
Copy to :-

- 1) The Postmaster, Tinsukia H.O. for information.
- 2) Sri Jitul Kalita, Vill. & P.O. Kailashpur via Kakopather for information.
- 3) The BPM, Kailashpur B.O. in Kakopather S.O. for information.
- 4)

Sd/- Illegible

Sub Divisional Inspector of Post Office
Doom Dooma Sub-Division Doom Dooma.

Certified to be true Copy


Advocate

Annex - 'B'

ए०सी०जी०-61
A.C.G.-61

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

चार्ज की बदली पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of BDA, Keralahy

चार्ज (नाम) ने
was made over by (name) Sh. Chandan K. Gogoi

(नाम) को
to (name) Sh. Jitendra Kumar Kalita स्थान
at (place) Keralahy

तारीख को पूर्वाह्न में
on the (date) 4-6-71 fore noon in accordance with
after

सं० तारीख के अनुसार दे दिया ।
No. Dated from

Sh. Jitendra Kumar Kalita

भारतमुक्त अधिकारी भारग्राही अधिकारी
Relieved Officer Relieving Officer

Sh. Chandan K. Gogoi [क०पू०ड०
[P.T.O.]

Attor
2/11/81
Medical Officer (A)
Kaka, er P. H. C.
Tiruk... ..

Certified to be true by

Advocate

*प्रमाणित किया जाता है कि आज के दिन इस कार्यालय की अनेक पुस्तकों के वकाया (स्टॉक पुस्तक और रजिस्ट्रों समेत) और लेखाओं की जांच की और उन्हें ठीक पाया।

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

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

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

रु० प०
Rs. P.

(अ) नकदी/Cash

(ब) अग्रदाय टिकट/Stamp Imprest

जिसमें ये शामिल है :—
Made up of :—

(1) टिकट/Stamps

(2) नकदी/Cash

भारमुक्त अधिकारी
Relieved Officer

भारग्राही अधिकारी
Relieving Officer

तारीख
Dated the

Forwarded to

19
Dr. J. K. Kohli

को भेजा गया।

*जब प्रमाण-पत्र की आवश्यकता न हो तो इसे काट दिया जाए।
*The Certificate when not actually required may be scored through.

प्रमाण-पत्र—297/पेस्ट/86—30-10-37—15,00,000.

[26-90/68-MI]

Certified to be true Copy

Advocate

ANNEXURE - 'C'.

DEPARTMENT OF POST INDIA
OFFICE OF THE INSPECTOR OF POSTS
DOOMDOOMA SUB-DIVISION, DOOMDOOMA-786151

MEMO NO. A2/TALPATHER B.O. DTD. 12/03/2001

CONSEQUENT UPON THE OPENING OF EDBO AT TALPATHER VILLAGE IN ACCOUNT WITH KAKOPATHER S.O. ON 15/03/2001, THE FOLLOWING ORDERS OF SHIFING OF ED OFFICIALS ARE BEING ISSUED TO HAVE IMMEDIATE EFFECT.

1) SRI JITUL KALITA EDDA, KALLASHPUR B.O. SHIFTED AND POSTED AS EDBPM, TALPATHER B.O. IN ACCOUNT WITH KAKOPATHER S.O.

COPY TO -

- 1) THE SPOS THINSUKIA FOR FAVOUR OF INFORMATION AND NECESSARY APPROVAL.
- 2) THE SPM, KAKOPATHER S.O. FOR INFORMATION AND N/A.
- 3) THE OFFICIAL CONCERNED.
- 4) THE BPM, KALLASHPUR B.O. FOR INFORMATION AND N/A.
- 5) THE POSTMASTER, TINSUKIA H.O. FOR INFORMATION AND N/A.
- 6) OFFICE COPY.

Sd/- Illegible,
INSPECTOR OF POSTS,
DOOMDOOMA SUB-DIVISION, DOOMDOOMA
786151.

Certified to be true Copy

Sb
Advocate

- 15 -

9

ANNEXURE - 'D'.

To,

The Superintendent,
Postal Department,
Tinsukia District, Tinsukia.

Dated 25.8.2001.

Sub:- Prayer for staying the Transfer order of
E.D.D.A. from Talapathar to Kailashpur Sub-
Post Office.

Sir,

With due respect I beg to inform you that on 15.3.2001, I was tranfered from Kailashpur to Talapathar Post Office which was ~~xxxxxx~~ newly innugorated posted as Branch Post Master(B.P.M.) by an order of the Inspector of Post Doomdooma. And accordingly, I joined on 15.3.2001 accompanied by Junior Engineer. But unfortunately, the villages of Talapathar threatened me with life, and did not allow me join in the said post.

I pray, that my order trensfering me to Talapathar may be stayed and I may be retained in Kailashpur post office. I have been working in Kailashpur for past 11 years in E.D.D.A. Department. Now I am not receiving salary . I ~~am~~ am facing lot of financial hardships and it ha become difficult to feed my family.

And therefore, I pray my prayer may be considered and I may be retained in Kailashpur.

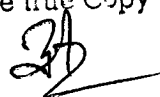
Sd/- Illegible
23.8.2001

S.D.M. & H.Q.
D/C Kailashpur E.M.C.
Dist. Tinsukia.

Yours faithfully,

Sd/- Sri Jitul Kalita.
Kailashpur E.D.D.A.

Certified to be true Copy


Advocate