

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No.....393/01.....

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

E.P/M.A No.....

1. Orders Sheet.....O.A.....393/01.....Pg.....1.....to.....2.....Dismissed/12/4/02

2. Judgment/Order dtd.....12/04/02.....Pg.....1.....to.....4.....

3. Judgment & Order dtd.....Received from H.C/Supreme Court

4. O.A.....393/01.....Pg.....1.....to.....23.....

5. E.P/M.P.....Pg.....to.....

6. R.A/C.P.....Pg.....to.....

✓ 7. W.S.....O.A.....393/01.....Pg.....1.....to.....4.....

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
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

APPLICATION NO. 393 / 2001

Applicant (s) Smriti Naina Singh

Respondant(s) M. O. T. Jones

Advocate for the Applicant: Dr. N. K. Singh, Mr. R. K. Dev Chaudhary.

Advocate for the Respondant: C A S C, M. Chanda, A. Doctor for Rep. q.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed and not filed vide M.P. No. X..... C.P. for Rs. 50/- deposited vide IPO/BO No. 75548951.....	26.9.01	Heard counsel for the parties.
Dated..... 31-8-2001		The application is admitted. Call for the records. Returnable by 4 weeks.
		Mr. B.C. Pathak, learned Addl.C.G.S.C accepts notice on behalf of respondents
		List on 15/11/01 for further order.
50 paisa E. F. stamp Shared in Vakalatnama.	Dy. Regd 26/9/01 BB	I C Usha Member Vice-Chairman
Pl. commonly order dated 26/9/2001	26/9/2001 VS	mb 15.11.01 List on 19/12/01 to enable the respondents to file written statement.
	26/9/01 VS	I C Usha Member Vice-Chairman
Slips received. Notice prepared and sent to DLS for giving the endorsement No 1 to 4 by Regd A.D.	26/9/01 S/1010	mb
DINo 3912 & 3915 Dtd. 11/10/01		

① Service report are still awaited.

By
19.12.01

19.12.01 List on 17.1.2002 to enable the respondents to file written statement.

IC Usha
Member

Vice-Chairman

No. written statement has been filed.

By
16.1.02

17.1.02 List on 18.2.2002 to enable the respondents to file written statement.

IC Usha
Member

Vice-Chairman

No. written statement has been filed.

By
14-3-02

18.2.02 List on 15.3.02 for orders.

IC Usha
Member

Vice-Chairman

lm

15.3.02 No written statement so far is filed by any Respondents. This is an urgent matter for that the case is posted for hearing on 12.4.2002. The Respondents may file written statement if any within three weeks from today.

List on 12.4.2002 for hearing.

8.4.2002

b/s submitted

mb

IC Usha
Member

Vice-Chairman

Appeal Respondent No. A, 12.4.2002

Heard counsel for the parties.

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

IC Usha
Member

Vice-Chairman

bb

Read & Replaced by
10/5

②

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 393 of 2001.

Date of Decision 12.4.2002

— — — — Smt. Naina Singh

Petitioner(s)

— — — — Dr. N. K. Singh & Mr. R. K. Dev Choudhury.

Versus-

Advocate for the
Petitioner(s)

— — — — Union of India & Others.

Respondent(s)

— — — — Mr. B. C. Pathak, Addl. C. G. S. C., Mr. M. Chanda,
— — — — Mr. H. Dutta & Mr. S. Dutta.

Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.393 of 2001.

Date of Order : This the 12th Day of April, 2002.

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

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

Smt. Naina Sinha
Wife of Sri Surendra Singh
Village & P.O:- Tikar Burunga
Via:- Bahara Bazar
P.S:- Katigora
District:- Cachar, Assam. . . . Applicant.

By Advocate Dr.N.K.Singh & Mr.R.K.Dev Choudhury.

- Versus -

1. Union of India
Through the Secretary
Government of India
Ministry of Communication
New Delhi - 110001.
2. The Chief Post Master General
Assam Circle, Meghdoot Bhawan
Guwahati - 781 001.
3. The Senior Superintendent of Post Offices
Cachar Division, Head Quarter Silchar
Silchar - 788 001.
Cachar.
4. Sri Sajal Kanti Das
S/o of Late Dhirendra Kumar Das
Village & P.O:- Tikan Burunga
Via:- Bahara Bazar
P.S:- Katigorah
Dist:- Cachar, Assam. . . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C. for Respondent
Nos.1 to 3 & Mr.M.Chanda, Mr.H.Dutta & Mr.S.Dutta
for Respondent No.4.

O R D E R

CHOWDHURY, J.(V.C.):

The recruitment of Extra Departmental
Branch Postmaster at Tikarburunga B.O., Cachar
Division, Silchar is again assailed in this proceeding.

1. The post of Extra Departmental Branch Postmaster (EDBPM), Tikarburunga B.O. fell vacant on 23.10.98 on the retirement of the incumbent. The respondent No.3 sent requisition to the Employment Exchange, Silchar to sponsor candidates for selection of EDBPM vide his letter dated 12.10.98. The names of five candidates were sponsored including that of the applicant and the respondent No.4. The respondent authority selected the applicant and offer of appointment was issued in her favour vide communication dated 5.3.99.

2. The respondent No.4 contested the claim of the applicant and moved this Tribunal by way of an application which was numbered and registered as O.A.362/99. On consideration of the materials made available, ~~to us~~ and on hearing the learned counsel for the parties the Bench found that the respondent authority fell into obvious error by overlooking the claim of the respondent No.4 from consideration who was incidentally applicant in the said O.A. From the materials produced before it appears that though the said respondent fulfilled the eligibility criteria he was not considered on the ground that one of his elder brother was working as EDDA in the said post office. The Bench observed that the case of the respondent No.4 could not have been overlooked on that ground in view of the changed policy of the Postal Department. We accordingly set aside the process of selection of EDBPM

and also the appointment of the respondent No.4, the present applicant and directed the respondents to consider the case of the applicant afresh alongwith other eligible candidates as per the requisition dated 12.10.98. The respondents by its order dated 2.8.2001 cancelled the appointment of the applicant and intimated the applicant that the post was already filled up as per the order of the CAT Guwahati Bench. The legitimacy of the process of appointment and selection of the respondent No.4 is assailed in this proceeding.

3. Dr.N.K.Singh, the learned counsel for the applicant submitted that as per order of the Tribunal the respondents were duty bound to hold the process of selection and consider the case of each of the candidates on merit. Dr.Singh submitted that the Tribunal did not pass any order directing appointment of the respondent No.4. As per the order of the Tribunal the respondents ought to have taken a fresh exercise and consider the case of the eligible candidates on merit. The respondent No.4 submitted his written statement contesting the claim of the applicant. It was averred that he was duly selected by the authority since he fulfilled all the eligibility criteria.

4. We have heard Dr.N.K.Singh, learned counsel for the applicant as well as Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondent Nos.1 to 3 and

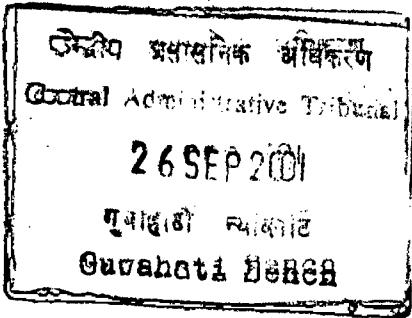
also Mr.S.Dutta, learned counsel for the respondent No.4. Mr.N.K.Singh is right in his submission that after the judgment and order passed by this Bench in O.A.362/99 the respondents did not take any other step to re-consider the case afresh and acted as per selection that was held in 1999. The appointment was made on the basis of earlier selection. It seems that the respondents issued appointment letter to the respondent No.4 on the basis of the process of selection undertaken in 1999. The respondent No.4 in that selection was placed at Sl.No.1, since he obtained higher marks in the H.S.L.C. examination than the others. He also fulfilled the other eligibility criteria, but he was disqualified only on the ground that his elder brother is working in the office. Save and except the aforementioned ground there was no other ground to reject his selection. The respondents after judgment rendered by this Bench ought to have taken a resort to review its decision, but that by itself will not invalidate its action, more so when the appointment apparently based on merit on fulfilling the procedure prescribed by law. No injustice as such is caused to the applicant and therefore we do not find any merit in this application.

The application thus stands dismissed.

There shall, however, be no order as to costs.

K K Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

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

ORIGINAL APPLICATION NO. 393 OF 2001.

Smti. Naina Sinha -Applicant.

-Versus-

The Union of India & Others

-Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1)	Application	1 to 10
2)	Verification	11
3)	Annexure-A/1	12 - 13
4)	Annexure-A/2	14
5)	Annexure-A/3	15 - 20
6)	Annexure-A/4	21
7)	Annexure-A/5	22
8)	Annexure-A/6	23

Filed by

Ranjit Kumar Dev Choudhury
Advocate.

- Naina Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

File by the applicant through
Kiran Kumar Dev Choudhury
Advocate
26/2/2001

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

ORIGINAL APPLICATION NO. 393 OF 2001.

B E T W E E N

Smti Naina Sinha
Wife of Sri Surendra Singh
Village & P.O.- Tikar Burunga
Via-Bahara Bazar,
P.S.- Katigora,
District- Cachar, Assam
-Applicant

-AND-

1) Union of India,
Through the Secretary,
Government of India,
Ministry of Communication,
New Delhi-110001.

2) The Chief Post Master
General, Assam Circle,
Meghdoct Bhawan, Guwahati-
781001.

3) The Senior Superintendent of
Post Offices, Cachar Division

-Naina Sinha

Head Quarter, Silchar,
Silchar-788001, Cachar.

4) Sri Sajal Kanti Das
S/o of Lt Dhirendra Kumar Das
Village-& P O Tikan Burunga,
Via-Bahara Bazar,
P.S. Katigorah,
Dist-Cachar, Assam.

-Respondents.

DETAILS OF THE APPLICATION:

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

In this application is filed against the letter dated 02-08-2001 issued by the Senior Superintendent of Post Offices, Cachar Division Silchar, informing the applicant that there is no vacant post at the Tikarburunga B.O., and that the post of Extra Departmental Branch Post Master has been filled up as per orders of this Hon'ble of Tribunal.

(b) This application also impugns the letter dated 3/8/2001 issued by the Senior Superintendent of Post Offices, Cachar Division, Silchar whereby the applicant was informed that her appointment order for the post of BPM, Tikarburunga B.O. issued vide letter dated 5/3/99 is treated as cancelled.

-Naina Singh

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

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

4) FACTS OF THE CASE:

4.1) That the post of Extra Departmental Branch Post Master, Tikarburunga B.O. fell vacant on 23/10/98 on the retirement of Sri Nirmalenu Bhattacharjee with his attaining the age of superannuation. Accordingly, the Senior Superintendent of Post Offices, Cachar Division, Silchar (Respondent No. 3 herein) sent a requisition to the Employment Exchange, Silchar to sponsor candidates for selection of EDBPM vide letter No. A.377/PF dated 12/10/98.

Annexure-A/1 is a copy of the above requisition 12/10/98.

4.2) That in response to the above letter dated 12/10/98, the Employment Exchange, Silchar sponsored the names of five candidates including the applicant and the Respondent No.4 indicating the applicant as an OBC

- Naina Singh

candidate and the respondent No. 4 as general candidate.

4.3) That on the basis of fulfillment of the required criteria as stipulated by the relating to the recruitment of EDBPM, the applicant was selected on 9/2/99 and thereafter a letter of offer of appointment was issued to the applicant vide letter No. A-377/PF dated 5/3/99.

Annexure-A/2 is a copy of the above letter dated 5/3/99.

4.4) That the respondent No. 4, namely Sajal Kanti Das, being aggrieved filed O.A. No. 362/99 stating inter alia that he has been working as an Extra Departmental Mail Carrier since his appointment and when the post of Extra Departmental Branch Post Master fell vacant he took charge on 23/10/98 and thereafter he submitted a representation to the respondent No. 3 on 25/11/98 praying for regularisation of his service as Extra Departmental Branch Post Master at Tikarburunga. The Respondent No. 4 stated that his representation was not considerate by the respondents. The respondent No. 4 as applicant in O.A. 362/99 prayed before this Hon'ble Tribunal for a direction to set aside the selection of Smti. Naina Sinha (The applicant herein), and further to regularise/confirm his service to the post of Extra-Departmental Branch Post Master.

- Naina Singh

4.51 That this Hon'ble Tribunal by its order dated 27/02/2001 passed in O.A. No. 362/99 directed the respondents to consider the case of the applicant (respondent No. 4 herein) afresh along with other eligible candidates as per the requisition dated 12/10/1998.

Annexure-A/3 is a copy of the above letter passed in O.A. 362/99 dated 27/02/2001.

4.60 That the applicant states that she filed an application dated 30/7/2001 before the Senior Superintendent of Post Offices, Cachar Division, Silchar praying to allow her to join at Tikarburunga B.O. as Extra Departmental Branch Post Manager. In pursuance to the said application the Senior Superintendent of Post Offices, Cachar Division, Silchar issued letter dated 2/8/2001 to the applicant stating that there is no vacant post at Tikarburunga B.O. The post has already been filled up as per the order of the Hon'ble Central Administrative Tribunal, Guwahati. The applicant has learnt from reliable source that the Respondent No. 4 has been adjusted to the post which was to be filled up by requisition letter dated 12/10/98.

Annexure-A/4 is a copy of the above application dated 30/7/2001.

Annexure-A/5 is a copy of the above letter dated 2/8/2001.

- Naina Singh

4.7] That the applicant states that she was appointed to the post of BPM, Tikarburunga B.O. issued under No. A-377/PF dated 5/3/99 and the same has been cancelled by the Senior Superintendent of Post Offices, Cachar Division, Silchar vide letter dated 3/8/2001 without assigning any reason.

Annexure-A/6 is a copy of the above letter dated 3/8/2001.

4.8 That applicant submits that she was selected on 5/3/99 on fulfillment of the required criteria as stipulated by the rules relating to recruitment of EDBPM and her appointment order has been cancelled most arbitrarily, illegally and without notice/hearing her.

4.9 That the applicant states that the Hon'ble CAT was pleased to dispose of the O.A. 362/99 with a direction to consider the case of the applicant (respondent 4 herein) afresh along with other eligible candidates as per the requisition dated 12/10/98.

4.10] That the applicant submits that the respondent authorities failed to consider the matter afresh in the light of the directions and observations made by the Hon'ble CAT, and decided the case mechanically without application of mind.

4.11] That it is submitted that the applicant fulfilled all the eligibility

- Naina Singh

requirements as mentioned in the requisition letter dated 12/10/98 and the authority having found the applicant the most suitable among the candidates issued the offer of appointment dated 5/3/99.

4.12 That the applicant emphatically states, that she fulfilled the property condition mentioned in the requisition letter that the candidate must be able to offer office space to serve as a small post office was functioning from the annexure cottage to the R.C.C. building house No. 356 belonging to the applicant and situated in the applicant's patta land No. 63 and dag No. 149.

4.13] That it is stated in the connection that the Respondent No. 4 or the other candidates did not fulfil this criteria.

4.14] That it is stated that the applicant being in the OBC group has a preferential right among the candidates as there is no representation belonging to the same group. The applicant submits that the Respondent No. 4 is not entitled to be regularised to the post of Extra Departmental Branch Post Master as per the requisition dated 12/10/98 as a fresh candidate among the eligible candidates.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1] For that the respondent authorities failed to consider the case as per the direction and observation made by this Hon'ble

- Naina Singh

Tribunal in judgement and order dated 27/2/2001.

5.2] For that the applicant being the only candidate who fulfilled all the eligibility conditions as per the requisition dated 12/10/98, she is entitled to be appointed to the post.

5.3] For that the Respondent No. 4 is not entitled to be adjusted to the post as per the requisition dated 12/10/98 as the post was to be filled up by afresh selected candidate.

5.4] For that the Respondent authorities acted illegally and arbitrarily in cancelling the offer of appointment dated 5/3/99 by the impugned order dated 3/8/2001, and also declaring that there is no vacant post and the post has already been filled up as per the order of the Hon'ble CAT.

5.5] For that at any rate the orders/communications dated 2/8/2001 and 3/8/2001 are not tenable in law and the same are liable to be set aside.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant states that there is no other alternative or efficacious remedy available to the applicant except invoking the jurisdiction this Hon'ble Tribunal.

-Naina Singh

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

The applicant declares that she has not filed any application before any court of law or any other authority or Bench of this Hon'ble Tribunal with regard to the subject of this application.

8) RELIEFS SOUGHT FOR:

That under the above facts and circumstances the applicant prays for grant of the following reliefs:

8.1) That a direction be issued to be respondents setting aside the impugned letter/orders dated 2/8/2001 and 3/8/2001.

8.2) That the respondents be directed to appoint the applicant as Senior Departmental Branch Post Master at Tikarburunga B.O. as she was earlier selected and given offer of appointment vide letter dated 5/3/99.

9) INTERIM ORDER IF ANY PRAYED FOR:

The applicant does not pray for any interim order at this stage.

10) THIS APPLICATION IS FILED THROUGH ADVOCATE.

-Naina Singh

11] Particulars of I.P.O.:

- (i) I.P.O. NO.: 548951
- (ii) Date Of Issue: 31/8/2001
- (iii) Issuing P.O.: G.P.O. Gauhati
- (iv) Payable at: Gauhati

12] LIST OF ENCLOSURES:

As per Index.

Verification.

Naina Singh

VERIFICATION

29

I, Smti. Naina Sinha, Wife of Sri Surendra Singh, aged about 32 years, Resident of village & P. O- Tikar Burunga, P.S.- Katigora, in the district of Cachar, Assam, PIN- 788817 do hereby solemnly verify that the statements of paragraph Nos. 4.2, 4.12, 4.13, 4.14

are true to my knowledge and those made in paragraph Nos. 4.1, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9 are matters of records derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact of the case.

-Naina Singh

Signature of Applicant,

Dated: Gourakati

Place: 25/9/2001

DEPARTMENT OF POST : INDIA
OFFICE OF THE SENIOR SUPDT OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

Regd
31

To

The Asstt. Director of Employment/Employment Office

Silchar

No.

A - 377/PP

Dated Silchar the 12/10/98

Sub:- Sponsoring of candidates for appointment as Extra Departmental Sub-Postmaster/Branch Postmaster Tikarburanga
via-Betarabazar

Sir,

You are requested to kindly forward a list of candidates for selection as EDSPM/ED PM Tikarburanga. The candidate selected will be required to work as EDSPM/ED BPM Tikarburanga ED S.O/EDBO in a/c with Betarabazar. The list should contain names of at least 3 (three) candidates. No upper limit is prescribed.

1. Requirements:-

a) Age:- The candidate should not be less than 18 years and not more than 65 years of age on the date of appointment.

b) Educational Qualification:- Matriculation or equivalent.

c) Property:- The candidate must have adequate means of livelihood and must be able to office space as will serve as a small P.O with provision for installation of even P.C.O.

d) Residence:- The candidate must be a permanent resident of the post village and must own property in his name singly or jointly in the said post village, candidates from any other locality will not be eligible. However, candidates likely to take up residence in the post village can also be considered.

e) Preference:- Preference may be given to S/C and S/T and Ex-Serviceman candidates.

2. Last date of application.

The list of candidates sponsored must reach this office within one month of issue of this letter i.e. 10-11-98.

3. Security Bond:- The candidates shall have to furnish a sum of Rs.4000/- at the time of appointment.

4. Form No.X-6 duly fill in is enclosed herewith.

Sr. Supdt. Of Post Offices
Cachar Dn. Silchar-788001

...../2....

Attested
by
Advocate

10/10/98

...../2.....

Copy To:-

The ASPO/SDIPOS West Sub Dn. Silchar.
He will ensure that copies of the above notification and sent to concerned village Panchayat, police station and other prominent offices in the village besides displaying at the concerned post offices. Four spare copies are hereby enclosed. The interested candidates must get their names sponsored through the nearest Employment Exchange, S.R.E.E and must possess property in the post village in his name singly or jointly.

Encls - Asabane.

Sr. Supdt. Of Post Offices
Cachar Dn. Silchar-783001

164

DEPARTMENT OF POST : INDIA
OFFICE OF THE SENIOR SUPT OF POST OFFICES
CACHAI DIVISION SILCHAR-788001

A-377/PF

ANN. KURE -A

Dtd. Silchar - 1 The 5/3/99

Whereas the post of Extra Departmental Branch Agentment Tikam Buringa (Name of post and Office of duty) has become vacant/has been newly created and it is not possible to make regular appointment to the said post immediately the SS Pos Silchar (appointing authority) has decided to make provisional appointment to the said post for a period of (period) from X to X or till regular appointment is made. Whichever period is shorter.

2. Shri/Smti Naina Singh (Name and address of the selected person) is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The SS Pos / Silchar (Appointing authority) also reserves the right to terminate the provisional appointment at any time before the period mentioned in para.1 above without notice and without assigning any reason.

4. Shri/Smti Naina Singh will be governed by the Extra-Departmental Agents (Conduct and Service) Rules, 1964 as amended from time to time and all other rules and orders applicable to Extra-Departmental Agents.

5. In case the above conditions are acceptable to Shri/Smti Naina Singh (Name of the selected candidate) he should sign the duplicate copy of this memo and return the same to the undersigned immediately. A set of appointment documents is sent herewith for re-submission to this office through the SDI Pos (West) duly filled in properly.

Regd
Shri/Smti Naina Singh
S/o Surendra Singh
Jill P.O. Tikam Buringa
Moria - Beharabazar

Appointing Authority.

Senior Supt. Post Officer
Cachai Division, Senior/80003

Copy to — 1) The SDI Pos (West) Silchar for information and necessary action.

2) The Postmaster, Karimganj HO for information and necessary action

Senior Supt. Post Officer
Cachai Division, Senior/80003

Attested
Advocate

Contd....

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-A/3

Original Application No. 362 of 1999.

Date of order : This the 27th day of February, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Sajal Kanti Das
Son of Late Dhirendra Kumar Das
Village & P.O. Tikar Burunga
Via Bahara Bazar, P.S. Katigorah,
District-Cachar, Assam.

....Applicant

By Advocate Mr. M. Singh.

-versus-

1. Union of India
Through the Secretary to the
Government of India,
Ministry of Communication,
New Delhi-110011.

Chief Post Master General
Assam Circle,
Meghdoott Bhawan
Guwahati-781001.

Senior Superintendent of Post Offices,
Cachar Division,
Headquarter Silchar,
Silchar 788001, P.S. Silchar
District Cachar, Assam.

4. Smt. Naina Sinha
Wife of Sri Surendra Singh
Villagae & P.O. Tikar Burunga
Via Bahara Bazar, P.S. Katigorah,
Dist. Cachar, Assam.

...Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

Recruitment of Extra departmental Post Master at
Tikar Burunga Post in Silchar Sub division of district
Cachar is the subject matter of the dispute raised in this
O.A. in the following circumstances :

The applicant was working as Extra Departmental Mail
Carrier on and from 8.1.1992 in Tikar Burunga Branch Post

Contd..

Attested
Advocate

office in Silchar Sub Division, Shri Nirmalendu Bhattacharjee, Extra Departmental Branch Post Master attained superannuation and by order dated 23.10.1998 the charge of the Extra Departmental Branch Post Master was made over to the applicant on 23.10.1998. According to the applicant he had submitted representation for regularisation and confirmation of his service as EDPBM. While things rested at this stage the respondent No. 3 made requisition to the local Employment Exchange for names of eligible candidates for appointment to the post of EDPBM at Tikar Burunga Post Office. Consequently respondent No.3 issued a letter dated 19.11.98 informing the applicant that his name had been sponsored by the District Employment Exchange, Silchar for considering his appointment to the post which he was holding. He was advised to submit an application with full particulars within a specified period. The applicant submitted his application as directed. Finally the respondents selected respondent No.4 for the said post and the letter of appointment was issued to her on 5.3.1999. In the meantime the applicant instituted a Civil Suit seeking declaration to allow the applicant to continue as Branch Post Master in the post office concerned and restraining the respondents from interfering in discharging of his duties. The suit was finally dismissed for want of jurisdiction. Hence this application before the Tribunal assailing the selection of Respondent No.4 and sought for appointment of the applicant in the said post.

2. The respondents contested the application. The Respondent Nos. 1,2 and 3 in its written statement stated that the applicant was working as ED Mail carrier in the same post office was allowed to run the works of the post office as a stop gap arrangement till the regular EDBPM was selected and posted. Requisition was to the Employment

Contd...

Exchnge, Silchar for sponsoring eligible candidates for the post of EDPBM vide letter dated 12.10.1998. The Employment Exchange in response sponsored five candidtes by communication dated 25.11.1998. The name of the applicant as well as the respondent No.4 and others were sponsored, wherein the respondent No.4 was indicated as OBC candidate while the applicant was shown as general. On the basis of the applicantions/informations a comparative check list was prepared for all the five candidates. On fulfilment of the required criteria in the rules regarding recruitment of EDPBM, the respondent no.4 was selected as on 9.2.99 and accordingly the offer of appointment was issued to respondent no. 4 on 5.3.1999. In the written statement it was also mentioned that the applicant earlier filed an O.A. before this Bench which was registered as O.A. No. 241/99 and the same was finally disposed of on 16.9.99 (sic) wherein the Tribunal directed to dispose of the representation of the applicant as early as possible at any rate within the period of three months from the date of receipt of that order. In terms of the said order of the Tribunal the resprentation was disposed of. In the written statement it was also stated that the case of the applicant was not considered in view of the fact that his brother was employed in the same post office. That apart he did not belong to OBC community while the respondent No.4 belong to OBC community. Moreover the applicant could not provide the house for the Post Office. On the other hand the respondent No.4 was found suitable as she fulfilled all the required criteria including the house for post office. It was also stated that the present post office was already operating in the house of Respondent No.4, which was however seriously disputed by Mr. M.Singh, learned counsel for the applicant seriously disputed. Mr. Singh submitted that the house in question belonged to somebody else (he named the owner), the respondent No.4 the

selected candidate, submitted her written statement denying and disputing the claim of the applicant.

3. From the materials made available before the Tribunal it appears that the applicant was provisionally appointed as Branch Post Master of Tikar Burunga Post Office. As per the check list the case of the applicant was rejected on the ground that his elder brother was also an EDDA. In the column of present employment it was stated the EMC of the office elder brother was working as EDDA residing separately in two establishments. Mr. M. Singh, learned counsel appearing for the applicant submitted that the case of the applicant was turned down overlooking the relevant consideration. Mr. Singh further submitted as per the circular dated 17.10.1966 it is no doubt mentioned that employment of near relative as ED Agents in the same post office should be avoided but the said circular is no longer in existence in view of subsequent clarification made by the Dak Bhawan, Samsad Marg, New Delhi dated 17.2.1999 vide Order No. 17-125/93-ED & TRC. Mr. Singh also submitted that since the applicant was working in the department in the capacity of Extra Departmental Mail Carrier, as per instructions preference should be given to such person. Dr. N.K. Singh, learned Sr. counsel for the respondent No. 4 submitted that the respondent No. 4 has fulfilled all the criteria as was in the requisition. Dr. Singh further submitted that respondent No. 4 offered the land in which the EDPBM is situated. Dr. Singh further submitted that she belongs to preferred class namely OBC and therefore the respondents rightly appointed her. Mr. B.C. Pathak learned Addl. C.G.S.C. for the respondent Nos. 1, 2 and 3 supported the stand of the respondents referring to the check memo and submitted that the case of the applicant was considered and turned down with the reason that his brother was working at the relevant time as EDDA in the said post office. As per norms his case could not be considered as

Contd...

one of the elder brothers of the applicant was working as EDDA.

4. The applicant could not have been overlooked on that ground in view of the changed policy of the Postal Department. Pursuant to the decision rendered by the Supreme Court in Civil Appeal No. 16753/96 arisen out of SLP(C) No. 14749/95 in the case of Baliram Prasad Vs. Union of India and Others declaring the departmental instructions forbidding employment of near relatives as ED Agents in the same post office as unconstitutional.

5. Admittedly the applicant was working as ED Mail carrier. As per the own policy of the department reference is given to such person in view of the exception are curbed by the following instructions :

" (i) When an ED post falls vacant in the same office or in any office in the same place and if one of the existing EDAs prefers to work against that post, he may be allowed to be appointed against that vacant post without coming through the Employment Exchange provided he is suitable for the other post and fulfils all the required conditions."

6. The applicant put his claim for regularisation in the post of EDDA. The respondent authority at least ought to have considered his eligibility in the light of the policy. Dr. N.K.Singh submitted that the respondent No.4 was also appointed as a OBC candidate when she fulfilled all the other requirements. When other things are equal question of preference could come. In this case the applicant was rejected outright on the ground of employment of near relative. On their own saying in the check memo the applicant was residing separately, therefore question of overlooking his case for regular appointment cannot be justified.

7. In the circumstances the rejection of the claim of the applicant on the stated reason, cannot be upheld and consequently the process of selection for the Extra Departmental Branch Postmaster Tiker Burunga Post Office

cannot be upheld. The appointment of the respondent No.4 is accordingly set aside and the respondents are directed to consider the case of the applicant afresh alongwith other eligible candidates as per the requisition dated 12.10.1998.

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)



Certified to be true Copy
সত্যাগ্রহ প্রতিলিপি

Section Officer (J)
অসম অধিনায়িক প্রান্ত
Central Administrative Tribunal
কেন্দ্রীয় প্রান্ত, গুৱাহাটী
গুৱাহাটী পৰগাঁও, পূর্ব প্রদেশ
১১/১১/২০০১

11/11/2001

10.11.98 List 2

25.11.98 List 7 B

3 Cam

12.10.98

To

The Senior Superintendent of post office Cachar Division Silchar-1

Sub : Prayer for joining to the post of B.P. M. (E.D.) at Tikar Burunga Branch post office.

Ref: My petition dated 22/03/2001 address to you

Sir,

I have honour to inform you that tillyet I have not been given chance to join the above post for which I am awaiting from long time ago.

Sir, I am an un-employed house wife of an un-employed husband for which it is a great trouble some to maintain our family with out any regular income in these hard days.

In these circumstances I request again your honour to reconsider my case sympathetically and allow me to join as B.P.M (E.D.) at Tikar Burunga Branch post office to enable me to run my family some how.

A sympathetic re-consideration and early necessary action in this regard is earnestly requested so as to enable me to join the post at the earliest possible for which I shall remain ever grateful to you

Dated Silchar
30/07/2001

Yours faithfully

Naina Singha

(NAINA SINGHA)

W/O Surendra Singha
Vill & P.O. Tikar Burunga
Dt-Cachar, Assam
Pin-788817

*Attested
S. P. S.
Advocate*

ANNEXURE -A/5

DEPARTMENT OF POSTS, INDIA

Senior supdt. , Post Offices,
Cachar Division , Silchar-788001

To,
Smti Naina Singh
W/O Surendra Singha
Vill & P.O. Tikarburunga
Via- Beharabazar,
Silchar -1

The 2-8-01

A- 377/PF

Sub:- Appointment of BPM,
Tikarburunga B.O.

Ref:-Your application dtd. 30-7-01

With reference to your application dated 30-7-01 regarding above application dated 30-7-01 regarding above subject it is to intimate that there is no vacant post at Tikarburunga BO at present. The Post has already been filled up as per the order of the Central Administrative Tribunal, Guwahati Bench, Guwahati.

Attested
by
Advocate

Sd/ illegible, 2/8

Senior Supdt., Post Officers

Cachar Division, Silchar-788001

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

To AD
Re: Smt. Naina Singha

Smt. Naina Singha
W/o Surendra Singha
Vill & P.O- Tikarburnga
Via- Beharabazar

No. A-377/PF

Dated at Silchar the 03-08-2001.

Sub:- Appointment of BPM, Tikarburnga B.O under Beharabazar S.O.

Madam,

The appointment order for the post of BPM, Tikarburnga B.O issued under this office letter of even no. dated 05-03-99 is hereby treated as cancelled. (1)

Yours Faithfully,

I.C. SARMA

(I.C. SARMA)
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Copy to:-

1. The Inspector Posts, West Sub-Dn. Silchar-788 001 for information.
2. The Postmaster, Kariunganj H.O for information.

*Attested
for
Advocate*
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A. No. 393 of 2001

Smt. Naina Sinha,

-vs-

Union of India & Ors.

-And-

In the matter of :

Written statement filed by the respondent no.4.

The above named respondent most humbly and respectfully begs to state as under:

1. That your applicant has duly received the copy of the O.A. No. 393/2001 and carefully gone through the same and understood the contents thereof. The averments made in the O.A. is specifically denied except which are borne out of records.
2. That your respondent categorically denies the statements made in paragraph 4.7, 4.8, 4.10, 4.11, 4.12 and 4.13 of the Original Application and further begs to state that the present respondent has been appointed on the basis of a fair selection and after being found suitable appointed to the post of EDBPM.

It is relevant to mention here that fulfillment of 1 or 2 conditions cannot be a ground to challenge the appointment of the respondent no.4. It is categorically submitted that the present respondent also fulfilled all the required

Filed by the Respondent
through advocate Smt
G.N. Chakraborty
8th Nov.

conditions for consideration for appointment to the post of EDBPM. In this connection it is stated that the present respondent has been working as an Extra departmental Mail Career since his appointment with effect from 8.1.1992 in Tikar Buranga Branch Post office in Silchar Sub divisions. Moreover when Sri Nirmalendu Bhattacharjee EDBPM of Tikar Buranga Branch retired on superannuation the respondent was ordered to officiate as EDBPM and accordingly took over charge on 23.10.1995 from the outgoing postmaster Sri Nirmalendu Bhattacharjee.

It is further stated that under the departmental rule in posts, the eligibility conditions for the post of Extra Departmental Branch Post Master (for short EDPBM) are as follows :

1. Age - Minimum 18 years
Maximum 65 years
2. Educational - VIIIth Standard
(Articulation or
equivalent qualification
may be preferred)
3. The person selected for the post of EDPBM must be able to offer space for postal operations.
4. He must be a permanent resident of village where the post is located.
5. He should be able to furnish security deposit of Rs. 2000/-.
6. He should have adequate means of livelihood.
7. He must have cycling knowledge.
8. He must be medically fit.

The respondent fulfills all the eligibility criteria mentioned above and states that he is an undergraduate. He is a permanent resident of village where the post office is situated. He has landed properties in the said village and the Post Office stands next to his house in a plot of land belonging to one Sri Punyabrata Bhattacharjee. Sri Punyabrata Bhattacharjee is a social minded person. He had offered a small plot of land for running the aforesaid post office. To this effect the Secretary of the Buranga Gaon Panchayat has issued a Certificate dated 03.08.1999.

3. That your respondent categorically denies the statement made in paragraph 4.14 of the Original Application and the grounds raised by the applicant in the said application. It is further stated that this Hon'ble Tribunal in fact decided all the issues now raised by the present applicant in the judgment and order dated 27.2.2001 passed in O.A. 362/99, filed by the present respondent earlier. The appointment of the present respondent in fact issued after detail consideration by the selection committee, in terms of the direction passed in O.A. 362/99 and the applicant in fact could not make out any infirmity in the aforesaid selection process as such the application of the applicant is liable to be dismissed with costs.

VERIFICATION

I, Sri Sajal Kumar Das, Son of late Dhirendra Kumar Das, aged about 39 years, resident of village & Post Office Tikar Buranga, P.S. Katigorah, district Cachar, Assam, respondent no.4 in O.A. No.393/2001 do hereby verify that the statements made in Paragraph 1 to 3 in the written statement are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 8th day of April, 2002.

Sajal Kumar Das.