

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

13

(DESTRUCTION OF RECORD RULES, 1990)

M.P-51/2002 orders sheet pg-1

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI, S

ORIGINAL APPLICATION NO. 4/2001 (T)

Mr. Binod Mahla Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. M. Chanda,
" A. Roshid.

For the Respondents. Mr. K. N. Choudhury,
Adv. N. V.

NOTES OF THE REGISTRY

DATE

ORDER

This application received on transfer from the Hon'ble Guwahati High Court, Guwahati & has been registered as OA no 4/01 vide the forwarding letter no. 21.5757RM dt. 22.11.2001.

It has been noted & found in order.

Submitted in accordance with the order of the Hon'ble High Court.

2-1-01

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2-1-01

Heard the learned counsel for the applicant. The respondents are allowed four weeks time for written statement. List it on 8.2.01.

Vice-Chairman

No S. M. Adjourned to 14.2.2001

Ala
A.A. 7
+2

14.2.01

Heard learned counsel for the parties. Application is admitted. Call for records. Call for records. Returnable by 4 weeks.

Four weeks time is allowed for filing of written statement. List on 14.3.01 for orders.

Vice-Chairman

lm

14.3.01

Heard Mr. M. Chanda for the applicant. On the prayer of Mr. S. Sar, learned counsel appearing on behalf K. N. Choudhury, learned counsel 2 weeks time is granted for filing of written statement. List on 28.3.01 for orders.

Member

No W's filed.

19.3.2001

Search & Notice today received & added to the concerned page side D. No. 1024-1025 dt. 19.3.2001

lm

28.3.2001

Mr. M. Chanda, learned counsel for the applicant, has stated that steps are being taken to furnish the copy of the application. Mr. S. Sarma, learned counsel for the respondents submitted that written statement shall be filed within three weeks. List the case for orders on 9.5.01.

Vice-Chairman

List on 15.6.2001 to enable the respondents to file written statement.

meanwhile interim order shall continue.

Vice-Chairman

On the request made by Mr. B.C. Pathak, appearing for the respondent four weeks time is allowed to the respondents to file written statement. List on 28-7-2001 for orders. In the meanwhile interim order shall continue.

Member (A)

List on 31.8.01 to enable the respondents to file written statement.

Vice-Chairman

List on 28.9.2001 to enable the respondents for filing of written statement.

Vice-Chairman

No. written statement
has been filed.

28/3/01

No. written statement
has been filed.

28/3/01

Order did 9/5/01 Remitted
to Smt. C. Sarma, Adv. CAT
by Bench.

21/5/01

No. written statement
has been filed.

28/3/01

Order did 15/6/01
Remitted to the
Committee Counsel vide
Smt. C. Sarma, Adv. CAT

18/6/01

No. written statement
has been filed.

28/3/01

No. written statement
has been filed.

28/3/01

②

C. 1656/96

Noting by Office or Advocate

Serial
No.

Date

Office notes, reports, orders or proceeding
with signature

3/4/96

or dt. 3.4.96

~~considered~~

8.4.96

Let it come up
after Behu vacation
In house not comm
continue

BEFORE

The Hon'ble Mr. Justice Bera

8/10/96

12/10/96

Please Communicate

1st only.

np

11-4-96

12/10/96

12/4/96

or dt 8.4.96

~~considered~~

CR-M-1656/96

Noting by Officer or Advocate

Serial No.

Date

Office notes, reports order or proceedings with signatures

1.6.96

Learned Sr. G.G. S.C.
has entered appearance
on behalf of the
Respondents No. 12, 3,
4 and 5 having
filed a Memorandum
of appearance on
20.5.96.

16

22/8/99

The case is ready
as regards service

13.9.2000

BEFORE

THE HON'BLE MR. JUSTICE P.G. AGARWAL

The learned Sr. CGSC has prayed that
in view of Section 14 of the Administrative
Tribunal Act the matter may be sent to the
Central Administrative Tribunal, Gauhati,

Learned counsel for the petitioner has
no objection over that. Let the matter be sent
to Central Administrative Tribunal for disposal.

JUDGE

Notes of the Registry	Date	Order of the Tribunal
No written statement has been filed. <i>By 15.11.01</i>	28.9.01	No written statement so far filed by the respondents. The matter is pending since 1996 and it has been transferred from Gauhati High Court in 2001. Let this case be listed for hearing on 16.11.01. The respondents may file written statement within 3 weeks. Vice-Chairman
No written statement has been filed. <i>By 20.12.01</i>	16.11.01	No written statement has been filed. Mr. M.Chanda, learned counsel for the applicant submits that records will be necessary for proper adjudication of the matter and requested for a direction to the respondents for production of records. Prayer allowed. Respondents are direction to produce the relevant records on the next date of hearing alongwith written statement. List the matter for hearing on 21.12.2001. Member
	21.12.01	Heard Mr.M.Chanda learned counsel for the applicant. He submitted that as per the Judgment dated 3.12.94 in C.R.No. 1843/92 the direction was given to the Respondents to consider the applicant along-with others under the regular selection process and do the needful by relaxing the age of the applicant, in view of the adhoc service. Accordingly, the applicant was called for interview on 13.11.1995. He appeared in the interview and has been rejected on the ground of being over-age.

contd/-

(2)

O.A.4 of 2001(T)

Notes of the Registry	Date	Order of the Tribunal
No written statement has been filed. 24/1/02.	21.12.01	<p>The respondents have not filed the written statement and no records is produced. After hearing the learned counsel Mr.M.Chanda for the applicant and Mr.S.Sarma learned counsel for the Railway the respondents are directed to produce the relevant records at the next date of hearing.</p> <p>List on 25th Jan.2002. for hearing.</p> <p>Member</p>
lm	25.1.2002	<p>Mr.B.C.Das, learned counsel appearing for the applicant makes a prayer for adjournment on the ground that he is seeking instruction from the applicant. Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents has no objection.</p> <p>Prayer is allowed. List the case for hearing on 8.2.2002.</p> <p>Member</p>
bb	25.1.2002	<p>Mr.B.C.Das, learned counsel for the respondents submitted that as per order dated 21.12.2001 a direction was given to the respondents to produce the relevant records. As he is unable to produce the record today, he prays for further time to submit the same. Mr.M.Chanda learned counsel for the applicant has no objection.</p> <p>prayer is accepted. List again on 8.2.2002 for hearing.</p> <p>Member</p>
bb		

Noting by Officer or Advocate

Serial No.

Date

Office notes, reports order or Proceedings with signature.

2.4.96

(Cm. No. 1)

forwards or crime notes should not be pressed as in this case may seem fair and proper.

Notice to be made returnable within 4 weeks.

Petitioner to take steps for service of notice on respondent by registered post immediately.

Mrs. Sarkar prays for an interim order for stay.

Just now case to be moved for consideration of interim order.

[Signature]

REGD.
CALCUTTA HIGH COURT

[Signature]

BEFORE

The Hon'ble Mr. Justice Sarkar

03/04/96

Mr. Bhattacharya prays that the case may be taken up on Monday next on Mr. K. N. Choudhury, Sr. C.G.Sc. is out of station. List the case on Monday next. Meanwhile, the petitioner shall not be ousted from service.

[Signature]

REGD.
CALCUTTA HIGH COURT

FIXED ON 3/4/96.
Pl. Communicate the order.

3/4

[Signature]

THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM :: NAGALAND :: MEGHALAYA :: MANIPUR ::
TRIPURA :: MIZORAM AND ARUNACHAL PRADESH).

OVER LEAF AND SHEET

Appeal from Civil No. 1656 of 15 91

Appellant.
Petitioner.

Bimal Mahto

Union of India

Respondent.
Opposite Party.

For Appellant
Petitioner

J L Sarkar
M. Chandra
A. K. Paul

For Respondent
Opposite Party

C. G. S. C.
Mr. K. N. Choudhury (For Respondents No. 1, 2, 3, 4 and 5)

Noting by Office or Advocate	Serial No.	Date	Office notes, report, orders or proceeding with signatures
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BEFORE

The Hon'ble Mr. Justice Barua

2.4.96

Heard Mr. J. L. Sarkar
He is for the petitioner.
Let a notice of
motion issue calling
upon the respondents, to
show cause as to why
a rule should not
be issued as prayed
for by the petitioner.

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. _____
Misc. Petition No. 51/2002 in O.A. 4/2001
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Binod Mahto

Respondent(s) H.O.I. 9ms

Advocate for Applicant(s) B.C. Das

Advocate for Respondent(s) Case.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
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This Misc petition
has been filed 20.3.02
by the counsel for the
Respondents praying
for acceptance of the
w/s in above noted
O.A. 4/2001.

List on 10.4.2002 alongwith O.A.2/01
for hearing.

11/11/02
Member

10.4.2002 Let the case be listed on 12.4.2002
alongwith O.A.4 of 2001.

Let it be before the
Honble Court for further
orders.

[Signature]
Vice-Chairman

[Signature]
Section Officer

2

10

Notes of the Registry	Date	Order of the Tribunal
	8.2.02	<p>On the prayer of Mr.M.Chanda learned counsel, on behalf of Mr.B. C.Das learned counsel for the applicant, has some personal difficulty. Mr.S.Sarma learned counsel for the respondents has no objection. List on 13.3.02 for hearing.</p> <p>lm</p> <p>K Usha Member</p>
<p>W/s has been filed on behalf of the respondents 2, 3 & 4.</p> <p>MS 13/3/02</p>	13.3.02	<p>Mr.S.Sarma learned counsel for the respondents, He has filed the Misc.Petition to-day for acceptance of written statement and he prays for adjournment. Mr.S.Dutta learned counsel for the applicant has no objection. Prayer is allowed. List on 20.3.02 for hearing.</p> <p>lm</p> <p>K Usha Member</p>
<p>Order dtd 20/3/02 forwarded to the Registry Counsel.</p> <p>MS 22/3/02</p>	20.3.02	<p>Heard Mr M.Chanda, learned counsel for the applicant. Mr Chanda submitted that he has received the written statement on 13.3.02. He argued that the respondents had considered the case of the applicant under revised recruitment rules 1995 which came into effect from 22.6.95. As per the revised recruitment rules, the vacancies are to be filled up 50% by promotion and 50% by limited departmental examination. While the respondents have not followed the rules as they have appointed 3 deputationist out of five posts in January 1996 and out</p> <p>contd..</p>

4
OA 4/2001 (T)



Notes of the Registry	Date	Order of the Tribunal
	20.3.02	<p>of that also one on contact basis, one on deputa- tion basis and one directly Mr S. Sarma, learned counsel for the respondents referring to the annexures filed with the written statement argued that the applicant ^{was} is not found suitable by the selection committee. Mr Sarma has filed incomplete record of interview held on 13.11.1995. He is directed to produce complete record on the next date of hearing and also the applicable rules.</p> <p>List again on 10.4.02.</p> <p><i>ICV Sharma</i> Member</p>
	pg 10.4.2002	<p>Put up before the appropriate Bench on 12.4.2002.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	bb 12.4.02	<p>Mr. S. Sarma learned counsel for the respondents submitted that he was directed to produce the records, he is not in a position to submit the materials and he prays for adjournments. The learned counsel for the applicant has no objection</p>

Wks has been filed

Mr.
9.4.02.

6

✓

Notes of the Registry	Date	Order of the Tribunal
12.4.02	List on 7.5.02 for hearing.	 Member
lm	8.5.2002	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. No order as to costs.
		 Vice-Chairman

bb

[illegible]

14

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.X. No. . . . 4 of 2001(T).

DATE OF DECISION 8.5.2002.....

Sri Binod Mahto

APPLICANT(S)

Mr.M.Chanda & A.Rashid.

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

Union of India & Others.

RESPONDENT(S)

Mr.K.N.Choudhury & B.C.Das. &
Mr.S.Sarma.

ADVOCATE FOR THE
RESPONDENTS.

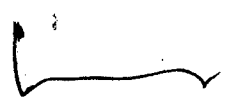
THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE

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

5.

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. \5

Original Application No.4/2001 (T)

Date of Order : This the 8th Day of May, 2002.

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

Sri Binod Mahto
S/o Ram Yatna Mahto
Resident of Athgaon
Guwahati-781005.

. . . Applicant.

By Advocates Mr.M.Chanda & A. Rashid.

- Versus -

1. Union of India
Through the Secretary
Government of India, Ministry of Human Resources
Development, Department of Education
New Delhi.
 2. The Deputy Director
Navodaya Vidyalaya Samiti
(An Autonomous Body), Ministry of
Human Resources Development
Department of Education
Regional Office
Upper Lachumiere, Shillong-1.
 3. Principal
Jawahar Navodaya Vidyalaya
Lambui, Ukhrul
Manipur.
 4. The Selection Board
Through the Dy. Director
Navodaya Vidyalaya Samiti (An Autonomous Body)
Ministry of Human Resources Development
Deptt. of Education, Regional Office
Upper Lachumiere
Shillong-793001.
 5. Mr. A. Biswas, L.D.C.
Jawahar Navodaya Vidyalaya Chandel
P.O. & Dist :- Chandel
Manipur.
- . . . Respondents.

By Sr. Advocates Mr.K.N.Choudhury , Mr.B.C.Das &
Mr.S.Sarma.

Contd./2

6

O R D E R

CHOWDHURY J.(V.C.) :

This is another round of the litigative battle. The applicant a B.Com graduate applied for the post of U.D.C. in Jawahar Navodaya Vidyalaya, Lambui, Ukhrul, Manipur. He appeared before the Selection Committee and his name was recommended for the post of U.D.C.. He was appointed as U.D.C. vide order dated 10.2.90 for 89 days and was allowed to work upto 30.4.90. During the summer vacation which started from 1.5.90 he was not allowed to work. After the reopening of the summer vacation he was re-appointed in the post of U.D.C. for 89 days and thus he was allowed to work for another period of 2 years with artificial breaks. By letter dated 2.4.92 his services as U.D.C. adhoc stood terminated w.e.f.31.5.92 and he was relieved from Vidyalaya w.e.f.31.5.92 (A.N.). The applicant assailed the legitimacy of the order of termination dated 31.5.92 by way of an Writ Petition before the Hon'ble High Court. The applicant also prayed for a writ upon the respondents to regularise the services of the applicant as U.D.C. in the Jawahar Navodaya Vidyalaya, Ukhrul, Manipur. The said Petition No.1843 of 92 was disposed on 3.12.94 directing the authority to take immediate step to fill up the post in accordance with the relevant rules. The authority was also directed to take necessary measure to appoint the applicant to that vancant post till it was filled up in the regular process. The said judgment and order clearly

spelt out that the post of U.D.C at Jawahar Navodaya Vidyalaya, Lumbai, Ukhrul, Manipur was vacant till the date of rendering judgment. It was stated that after judgment of the Hon'ble Gauhati High Court the applicant was appointed on adhoc basis as U.D.C. in Jawaha Navodaya Vidyalaya, Lumbai, Ukhrul, Manipur for a period of 89 days in the basic pay of Rs.1200/-. According to the applicant, pursuant to the aforesaid order he continued to work as U.D.C. till the filing of the Writ Petition i.e.1.4.96 before the Hon'ble Gauhati High Court. The respondents sent a call letter to the applicant directing to appear in the interview on 13.11.95 in the Regional Office, Jawahar Navodaya Vidyalaya Samiti, Upper Lachumiere, Shillong. According to the applicant, the respondent No.2 the Deputy Director, Navodaya Vidyalaya Samiti informed him that he could not be selected for the post of U.D.C. due to over age and one Mr.A.Biswas, L.D.C. of Jawahar Navodaya Vidyalaya, Chandel was appoined.

2. The applicant again moved the Hon'ble High Court by one Writ Petition which was numbered and registered as Civil Rule No.1656/96 assailing the action of the respondents and seeking for a direction upon the respondents to relax his age for consideration to the post of L.D.C.. Finally by order dated 13.9.2000 the case was transferred to the Tribunal for disposal as per law. The case was numbered and registered as O.A.4/2001(T).

3. The respondents submitted its written statement wherein it is specifically stated that his application was duly considered and he was interviewed by the duly constituted Selection Committee. The Selection Committee did not find him suitable, hence he was not appointed on regular basis. In para 7 of the written statement the respondents stated that as per the revised Recruitment Rules, 1995 which became effective from 22.6.95, the vacancies of U.D.C. was to be filled up by 50% promotion and 50% by Limited Departmental Examination amongst the L.D.C.s/Store Keepers working in the Samiti on regular basis for atleast five years. Hence there was no scope for the applicant to be considered for direct recruitment. In the same line the respondents at para 9 of the written statement, averred that the applicant could not be appointed on regular basis since there was no provision in revised Recruitment Rules.

4. The core controversy is as to whether the case of the applicant for permanent absorption was ^{considered} or not. According to the applicant, his case was turned down on the ground that he was overaged. The respondents, on the other hand, submitted his case was not rejected due to overage, but in view of the revised Recruitment Rules, which provided for recruitment - 50% by promotion and 50% by Limited Departmental Examinations amongst the L.D.C.s/Store Keeper working on regular basis. Hence the applicant did

not fulfil the eligibility criteria, there was no scope for him to consider for direct recruitment. To ascertain whether the applicant's case was considered this Bench called for the records. This Bench granted time on the respondents to submit the records. Despite time granted no records were produced. Mr.S.Sarma, learned counsel for the respondents regretted for his inability to produce the records and referred to records which were annexed to the written statement. From the written statement it appears that the respondents did not consider the case of the applicant, since he did not fulfil the eligibility criteria as per 1995 revised Recruitment Rules - 50% are to be filled up by promotion and the remaining 50% by Limited Departmental Examination from amongst L.D.C.s/Store Keepers working on regular basis. According to the respondents, since the applicant did not fulfil any of the criteria of the said rules, his case was not considered. Admittedly, the revised Recruitment Rules, 1995 came into force from 22.6.95. Those rules will not be applicable to the posts which fall vacant prior to new revised Recruitment Rules. The legal position is clarified by the Hon'ble Supreme Court in Y.V.Rangiah -vs- J.Sreenivasa Rao reported in (1983) 3 SCC 284. Therefore, the case of the applicant for regularisation or for absorption could not have been ignored by the authority on the strength of the new Recruitment Rules. Mr.S.Sarma, however, referred to the Annexures

containing assessment of performance of candidates interviewed on 13.11.95 for the post of U.D.C.. The learned counsel for the respondents submitted that the case of the 19 candidates were considered and amongst them the case of the applicant was also considered. His name appeared at Sl.No.1. In the written statement seven assessments of performance of the candidates interviewed on 13.11.95 were produced containing the signatures of seven members of the Interview Board. In the cases of Sl.No.4, 8, 10 and 19 marks were allotted. The person, Mr.L.Pyngrape, shown at Sl.No.2 was recommended for appointment on contract basis. The persons whose names appeared at Sl.Nos.4, 8, 10 & 19 were selected for appointment. Those four persons except one person namely, Mr..A.K.Biswas were shown as Deputationists and the other person Mr.Biswas was shown as direct. Another sheet was annexed to the written statement whereby marks were allotted to P.K.Biswas, Mathew V.Phillip, N.Syiemlieh, N.C.Chowdhury and L.Pyngrape. No marks were allotted to the applicant save and accept the note "Not Suitable" and why he was not found suitable was not indicated. In all probability in view of the misunderstanding of the revised Recruitment Rules, which on their own showing came into force from 22.6.95 his case was not considered. Even otherwise, there was a direction from the Hon'ble Gauhati High Court for consideration for appointment to the post of U.D.C.. The respondents were not justified in excluding the case of the applicant for consideration for

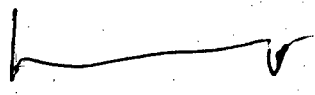
for appointment. In the case of regular recruitment question of appointing person on contract basis also did not arise.

5. I have also heard Mr.M.Chanda, learned counsel for the applicant at length. From the materials produced it appears that one person was appointed against direct vacancy and three persons on deputation and one on contract basis. The respondents thus acted unlawfully in overlooking the case of the applicant for consideration despite the clear direction of the Hon'ble High Court for consideration. Needless to state that Recruitment Rules are operative prospectively unless specified so in the rules. Any vacancy that arose prior to revised Recruitment Rules were to be regulated as per the old rules. At any rate, the Hon'ble High Court made it clear to consider the case of the applicant for consideration. But because of long distance of time I am not inclined to set aside the selection process, more so, when the selected persons are not made parties. The respondents are now directed to re-consider the case of the applicant for appointment as U.D.C. in terms of the Hon'ble High Court's order where the High Court indicated the procedure for recruitment of Upper Divisional Assistant - 50% by promotion and 50% by direct recruitment. The respondents are ordered to complete the exercise expeditiously at any rate within three months from the date of receipt of the order.

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The application is allowed to the extent indicated above.

No order as to costs.


(D.N. CHOWDHURY)
VICE CHAIRMAN

BB

Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण

1479

30 NOV 2000

Guwahati Bench.

गुवाहाटी न्यायापीठ

IN THE GAUHATI HIGH COURT

THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR :
TRIPURA : MIZORAM & ARUNACHAL PRADESH)

NO.

21575/21

dt 22/11/2000

From :

Asstt.Registrar(B).
Gauhati High Court,Guwahati.

GAUHATI HIGH COURT , GUWAHATI -781001.

To :

The Registrar,
~~Central Administrative Tribunal,~~
Bhangagarh, Guwahati.

Dated Guwahati , the

2000.

Subject : Transmition of C.R. No. 1656/96

Reference : Order Dt. 13.9.2000

Sir,

I am directed to send herewith the
marginally noted case along with the Original order for
disposal at your end.

Please acknowledge the receipt of the same
at an early date.

Yours faithfully,

Asstt.Registrar(B)
Gauhati High Court,Guwahati.

Enclo:-

1. C.R. No. 1656/96
H.C. Part-I
Original O/s - 2 with
Petition 1 to 21 Pages.

District-Kamrup

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Mizoram, Tripura and Arunachal Pradesh.).

Civil Rule No. 1656/96

Sri Binod Mahto

Vs.

Union of India & Ors.



Matter : Service in Navodaya Vidyalaya

Bench : B

I N D E X

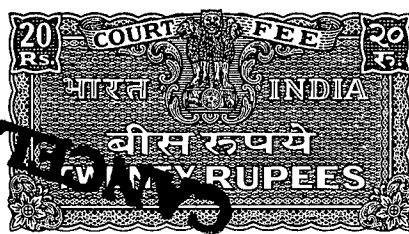
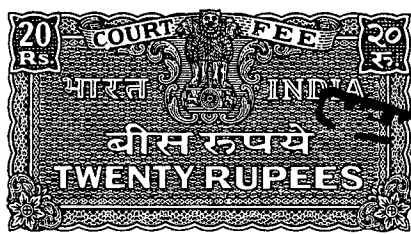
Sl. No.	Annexure	Particulars	Page No.
1	-	Petition	1-10
2	-	Affidavit	11
3	1	Judgement & Order dt. 3.12.94	12-17
4	2	O.M. dt. 19.1.95	18
5	3	Interview letter dt. 29.9.95	19-20
6	4	Letter dt. 06.11.95	21

Filed By :

Date : 1.4.96

A. Rashid

Advocate



District-Kamrup

Filed by the petitioner
through
A. Roshid
Advocate
14/96

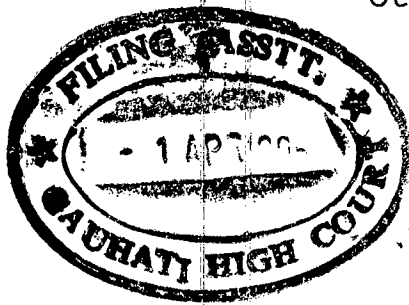
IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Mizoram, Tripura and Arunachal Pradesh).

(Civil Writ Jurisdiction)

Civil Rule No. 1656/96

To

The Hon'ble Sri V.K.Khanna, B.Sc., LL.B, the
Chief Justice of the Gauhati High Court and his Lordship's
other companion judges of the said Court.



In the matter of :-

An Application under Article 226
of the Constitution of India
praying for issuance of a writ in
the nature of Mandamus and or
Certiorary and or any other
appropriate writ order or direction.

-AND-

In the matter of :-

For enforcement of the petitioner's
Fundamental rights guaranteed under
the Constitution of India.

-AND-

Contd...P/2

In the matter of :-

For enforcement of principles of natural justice and the procedure established by Law.

-AND-

In the matter of :-

Violation of the direction given in order dated 3.12.94 passed in C.R. No. 1843/92 directing the Respondents to do needful to relax the question of Maximum age prescribed for appointment to the post. (Annexure-1).

-AND-

In the matter of :-

Sri Binod Mahto,
Son of Ram Yatna Mahto
resident of Athgaon
Guwahati-781005

..... Petitioner

-Vs.-

1. Union of India
T-hrough the Secretary
Govt. of India, Ministry of Human
Resources, Development, Deptt. of
Education, New Delhi.

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2. The Deputy Director
NAVODAYA VIDYALAYA SAMITI
(An Autonomous Body), Ministry of
Human Resources Development,
Deptt. of Educations, Regional Office
~~Upper Lachumiere~~
Upper Lachumiere, Shillong-1.
3. Principal,
Jawahar Navodaya Vidyalaya .
Lambui, Ukhrul,
Manipur
4. The Selection Board
Through the Dy. Director Navodaya
Vidyalaya Samiti (An Authnomous
Body) Ministry of Human Resources
Development (Deptt. of Education)
Regional Office, Upper Lachumiere,
Shillong-793001.
5. Mr. A. Biswas, L.D.C.,
Jawahar Navodaya Vidyalaya Chandel,
P.O. & Dist. Chandel,
Manipur

..... Respondents.

The petitioner above named

Most Respectfully sheweth :

1. That the petitioner is a citizen of India as such
he is entitled to all the rights and privileges guaranteed
by the Constitution of India.

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2. That the petitioner passed his B.Com. Examination and learned Typewriting in English.

The petitioner was selected and appointed as Upper Division Clerk (U.D.C.) on 19.2.90 on ad-hoc basis at Jawahar Navodaya Vidyalaya, Lambui, Ukhrul, Manipur and he continued in his post of U.D.C. in the aforesaid School till 30.5.92. The service of the petitioner was terminated with effect from 30.5.92. The petitioner being aggrieved by and dissatisfied with the termination order with effect from 30.5.92 filed a Civil Rule being Civil Rule No. 1843/92 in this Hon'ble Court praying to quash the termination order dtd. 31.5.92, to treat the service of the petitioner as continuous and to regularise the service of the petitioner.

The case was finally decided on 3.12.94 directing the Respondents to fill up the post of U.D.C. in accordance with rules. The petitioner may apply for being appointed regularly in that post. The Hon'ble Court also was pleased to direct that the authority shall do the needful to relax the question of maximum age prescribed for appointment to the post as the petitioner has been the victim of the system of ad-hoc appointment.

A copy of the Judgement and Order dated 3.12.94 is annexed as Annexure-1.

3. That the petitioner states that on receipt of the copy of Judgement and Order dtd. 3.12.94 the respondents No. 2 appointed the petitioner on ad-hoc basis and till date continuing in service as U.D.C. under Respondent No. 3.

A copy of appointment order dated 19.1.95 is annexed as Annexure-2.

Contd...P/5

4. That the petitioner states that as per order of the Hon'ble High Court the Respondents took steps to appoint some persons on regular basis and made an advertisement in News Paper. Thereafter the petitioner also submitted an application to the Respondents for appointment in the post of U.D.C. along with others. The petitioner was called to appear before the interview Board duly constituted by the Respondent No. 2 on 13.11.95 accordingly appeared in the interviews. On 26.3.96 the Respondent No. 2 Sri U.C. Bajpai, Dy. Director of Navadaya Vidyalaya, Shillong informed the petitioner that he could not be selected for the post of U.D.C. under his office due to over-age.

The petitioner then reminded the Judgement and Order dtd. 3.12.94 where direction given for age relaxation passed in Civil Rule No. 1843/92 but the Respondent No. 2 did not give any heed into the matter.

A copy of the interview Call letter dated 29.9.95 is annexed as Annexure-3.

3.12.94 18-21/12/94
19/12/94
Revised Rules 226/95

5. That the petitioner states that he is serving as U.D.C. since 19.2.90 to 31.5.92 thereafter 31.1.95 to till date on adhoc basis under the respondents. The Hon'ble High Court has directed in Para 10 of the Judgement that the authority shall do the needful to relax the question of maximum age prescribed for appointment to the post as the petitioner has been the victim of the system of adhoc appointment. But the Respondents have paid any heed into the matter.

Contd..

6. That the petitioner states that one Shri A. Biswas L.D.^C. of Jawahar Navodaya Vidyalaya, Chandel, P.O. & Dist. Chandel, Manipur have been selected in the post of the petitioner and he may join in his job in the month of March 1996. *The appointment order of respondent no 5 could not be obtained by the Petitioner in spite of his best effort.*

7. That the petitioner states that he is working as U.D.C. under the Respondent No. 2 and posted under Respondent No. 3. The Respondent No. 3 on being satisfied on the discharge of duties of the Petitioner issued a certificate of job satisfaction and the petitioner also competent, sincere, regular and loyal to his duties.

A copy of the certificate dated 6.11.1995 is annexed as Annexure-4.

8. That the petitioner states that he is serving in the post of U.D.C. under the Respondents for about three and half years. The petitioner has gathered experience discharge of official duties and the concerning officer is very much satisfied on the official duties of the petitioner.

9. That the petitioner states that the Respondent No. 5 may not be appointed in the post of the petitioner. The respondent No. 5 may be appointed in the Jawahar Navodaya Vidyalaya, Chandel, Manipur, where one post of U.D.C. is lying vacant. The Respondents intentionally trying to post the Respondent No. 5 in place of the petitioner wherein he is working for more than three and half years. Hence your Lordship would be pleased to direct the Respondents not to allow to join the Respondent No. 5 in place of the petitioner. The petitioner is apprehending that his service will be terminated.

10. That your petitioner begs to state that the respondents are directed not to oust the petitioner from service without considering the question of relaxation of age as directed in Judgment and Order dated 3.12.94. The relevant portion of the judgment is quoted below :

'The authority shall do the needful to relax the question of maximum age prescribed for appointment to the post as the petitioner has been the victim of the system of adhoc appointment'.

But the authorities did not take actions as regards the relaxation and did not do the needful in that matter, and before doing the same called for the selection. The Selection is, therefore, perverse and illegal. The petitioner came to know of the same after the selection when he knew that his case could not be considered by the selection Board and he was not selected being overaged.

11. That your petitioner begs to state that there are number of vacancies of UDCs are still lying vacant in the entire North Eastern Region under the respondents and the present applicant could have been accommodated in any of the vacancies of U.D.C. But the respondents intentionally posted the respondent No.5 in place where the present applicant is serving although there is a clear vacancy still exists in the Jawahar Navadays Vidyalaya at Chandel where the respondent No.5 is presently working therefore there is no difficulty to accomodate the respondent No.5 in the school where he is presently serving.

12. That your petitioner being aggrieved against the Judgment and Order dated 3.12.94 had filed a Writ Appeal before this Hon'ble Court which was subsequently rejected

by this Hon'ble Court upholding the Judgement and Order dated 3.12.94 passed by the learned Single Judge.

13. That the petitioner states that he has aged parents and three children in total 7 family members who are solely dependent upon the petitioner. If he is not selected and posted under the Respondents, he will not be able to obtain any other job due to over-age and will face starvation with all of his depended~~x~~ family members. The date of birth of the petitioner is 5.1.1960. Hence your Lordship would be pleased to direct the Respondents that upper age or maximum age should not be a bar to appoint the petitioner under the Respondents as U.D.C. as he is working on adhoc basis since 1990 till date without break.

14. That the petitioner submits that Your Lordship would be pleased to direct the Respondents to produce the minutes of the Selection Proceeding of U.D.C. post for perusal of this Hon'ble Court and hold fresh selection to select and appoint the petitioner on regular basis. The petitioner shall not be ousted from service till regular appointment is made.

15. That the petitioner submits that it is a fit case where Your Lordship would be pleased to direct the respondents to relax maximum age of the petitioner for the post of U.D.C. and select and appoint the petitioner for the post of U.D.C.

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16. That the petitioner submits that the Respondents has violated Article 14, 16, 19 and 21 of the Constitution of India by not selecting and appointing the petitioner as U.D.C. as he is experienced and working since 1990 on adhoc basis.

17. That there is no any other alternative remedy saved and except filing this application before Your Lordship under Article 226 of the Constitution of India praying for appropriate relief if granted would be just adequate and completed.

18. That this petition is made bonafide and for the cause of justice.

Under the facts and circumstances it is prayed that Your Lordship would be pleased to admit this petition, call for the records, issue rule calling the respondents to show cause as to why a writ of Mandamus and or Certiorari and or any other appropriate writ order or direction should not be issued directing them to relax the maximum ^{age} of the petitioner ^{for consideration,} for selection and appointment in the post of U.D.C. and allow to continue the service of the petitioner under Respondents as U.D.C. and direct the Respondents not to allow the Respondent No. 5 to join in the post of

Only
and

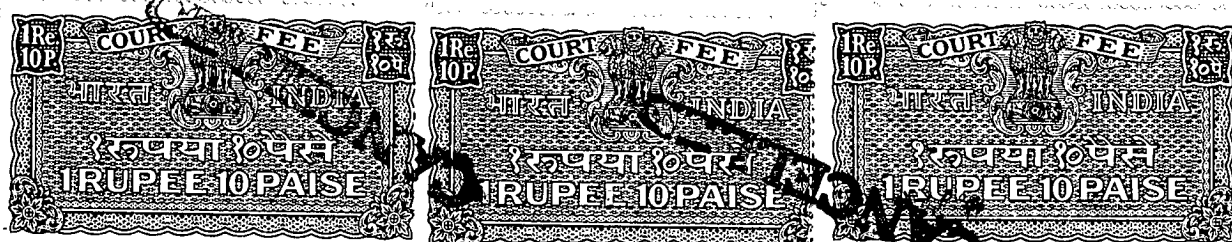
the petitioner and further the selection proceedings held on 13.11.95 be set aside and quashed considering the reply to show cause, if any, perusal of records, hearing the parties Your Lordship would be pleased to make the rule absolute and or pass such further order or orders as Your Lordship may deem fit and proper.

-AND-

During the pendency of the rule Your Lordship would be pleased to direct the Respondents not to ~~oust~~ ^{the petitioner} oust from the post of U.D.C. under the Respondent No. 5 and or pass such further order or orders as Your Lordship may deem fit and proper.

And for this act of kindness as in duty bound the petitioner shall ever pray.

P.T.O.

A F F I D A V I T

I Sri, Binod Mahto Son of Sri Ram Yatna Mahto resident of Athgaon, Guwahati-5 aged about 36 years by profession service presently residing C/o Jawahar Navodaya Vidyalaya, Lambui, Dist. Ukhrul, Manipur, do hereby solemnly affirm and state as follows :-

1. That I am the petitioner in this case as such am acquainted with the facts and circumstances of the same.
2. That the statements made in paragraphs ~~xx~~ 1,5,6,8, 9 are true to my knowledge and those made in paragraphs 2,3,4,7 are matters of records, true to my information derived therefrom which I believe to be true and rest are my humble submission before this Hon'ble Court.

Binod Kumar Mahto

DEPONENT

27/03/96

Identified by

Shahamir Mow
27/3/96
Advocate's Clerk

27th day of March 1996
The deponent is identified by S. K. Talwar (Adv.)
I certify that I read over and explained the contents to the deponent and that the deponent seemed to understand them.

Commissioner of Affidavits
Guwahati High Court

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Annexure-1

THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR :
TRIPURA : MIZORAM AND ARUNACHAL PRADESH)

CIVIL RULE NO. 1843/92

Sri Binod Mahto,
S/o Shri Ram Yatna Mahto
resident of Athgaon,
Guwahati-5 Petitioner

Vs.

1. Union of India
Through the Secretary
Govt. of India,
Ministry of Human Resources Development
(Department of Education)
New Delhi
2. Deputy Director,
NAVODAYA Vidyalaya Samiti
(An Autonomous Body), Ministry of Human
Resource Development (Department of Education)
Regional Office, Upper Lachumiere,
Shillong-1
3. Principal, Jawahar, Navodaya Vidyalaya,
Lambui Ukhrul, Manipur.
4. The District Magistrate and Chairman,
Managing Committee, Jawahar Navodaya
Vidyalaya, Lambui, Ukhrul, Manipur

..... Respondents.

P R E S E N T

THE HON'BLE MR. JUSTICE J.N. SARMA

For the Petitioner	:	Mr. B. Banerjee Mr. J.L. Sarkar, Mr. M. Chanda, Mr. A.K. Purkayastha, Advocates,
For the respondents	:	S.K. Chand Mohammad, C.G.S.C.
Date of hearing	:	17.11.94
Date of judgement	:	3.12.94

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R/R 1995 w.e.f 22.6.95

JUDGEMENT AND ORDER

1. This application under Article 226 of the Constitution of India has been filed praying the following reliefs :

- i) To regularise the service of the petitioner as Upper Division Clerk in the Hawahar Naodaya Vidyalaya, Lambui, Ukhrul, Manipur.
- ii) To treat the service of the petitioner as continuous appointment from the date of his appointment as U.D.C.
- iii) To quash the impugned order of termination dated 31.5.92.

The brief facts of the case are as follows :

2. That the petitioner passed the B.Com Examination in the year 1981. The petitioner applied for the post of U.D.C. in Jawahar Navodaya Vidyalaya, Lambui, Ukhrul, Manipur. On 10.2.90 the petitioner appeared before the Selection Committee and his name was recommended for the post of U.D.C. and the petitioner was appointed as U.D.C. vide order dated 10.2.90 for 89 days and he was allowed to work upto 30.4.90. Thereafter, the Summer Vacation started from 1.5.90 and he was not allowed to work in Summer Vacation. After the reopening of the Summer Vacation, the petitioner was re-appointed in the post of U.D.C. for 89 days and thus he was allowed to work for another period of 2 years with breaks. This will be evident from Annexures A, B, C and D. Ultimately, Vide Annexure-'E' the service of the petitioner was terminated. Annexure 'D' order dated 30.5.92 is quoted below :

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Annexure-1 (Contd.)

"Sub - Termination from service.

Sir,

As per letter No. F.2-2/91-NVS (ESTT) dated 2.4.1992 from the Deputy Director (P&A) NVS, New Delhi and letter No. F.1-21/92 NVS (SHR)/Admn/ 177 dated Shillong the 10th April, 1992 from the Assistant Director (Acad), NVS, Regional Office, Shillong. Your service as U.D.C. (Ad-hoc) stands terminated w.e.f. 31.5.1992 and you are hereby relieved from this Vidyalaya w.e.f. 31.5.92 (A.N)."

3. Hence this writ application.

4. The admitted position is that even as on to-day the post of U.D.C. in the Jawahar Navodaya Vidyalaya Lambui Ukhrul, Manipur is still vacant.

5. An Affidavit-in-opposition has been filed wherein it has been contended that Adhoc appointment do not confirm any right to the petitioner. The posts of U.D.C. are to be filled up - 50% by promotion and 50% by direct recruitment. That will be evident from the letter dated 2.4.92 of the authority. The termination is in terms of the letter of appointment and it is further contended that to regularise the post, the-requisite procedure is to be followed to hold 50% candidate on promotion and 50% by the direct recruitment and as such the prayer for regularisation of the petitioner cannot be considered.

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Annexure-1 (Contd.)

6. I have heard Mr. J.L.Sarkar, Learned Advocate for the petitioner and Mr. S.K. Chandmohammad, learned Central Govt. St. Counsel.

7. Mr. Sarkar, in support of his contention of right to be regularised in the service places reliance on the following two decisions :

i) 1985 (4) SCC Page 43 (Ratan Lal and Ors-Vs- State of Haryana and Ors.)

ii) 1991 (2) SCC Page 599 (Rabinarayan Mohatra -Vs- State of Orissa and Ors.)

8. In the case of Ratanlal, the question which arose for decision before the Supreme Court was whether it was open to the State Govt. to appoint the teachers on an adhoc basis at the commencement of an academic year and terminate their services before the commencement of next academic year and keeping the vacancies unfilled for years. The Supreme Court in that case pointed out that this sort of ad-hocism and are arbitrary and it amounts to the policy of "hire and fire". It was also pointed out that this plicy of ad-hocism followed by the State Govt. for a long period leads to breach of Article 14 and 16 of the Constitution. The Supreme Court also pointed out that the State Govt. is expected to function as a model employer. In the facts and circumstances of the case, the Supreme Court gave the direction to the authority to fill up the post in accordance with the relevant rules and to allow the teachers who are working on adhoc basis to remain in those posts till the vacancies are filled up. It was also directed that the

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Annexure-1 (Contd.)

State Govt. shall consider the question of relaxing maximum age prescribed for appointment to those post in case of those who have been victims of this system of adhoc appointment.

9. In the case of Rabinarayan Mohapatra, he was appointed as Hindi Teacher in one M.E.School for a period of 89 days or till a candidate is selected by the State Selection Board and the person continued to serve the school with repeated spells of 89 days appointment and one day break in between the spells till May 25, 1986. Thereafter, his appointment was not extended. The Supreme Court in the facts of that case in paragraph 9 of the judgement directed the respondents to treat Rabinarayan Mohapatra as regularly appointed Hindi Teacher in the School with effect from July 12, 1982.

10. The facts of the present case are also similar with the facts of two cases before the Apex Court. In that view of the matter, after hearing the learned counsel of both the parties and on perusal of the materials on record, I direct that the authority shall take immediate step to fill up the post in accordance with the relevant rules. The petitioner who was working on adhoc basis may also apply for being appointed regularly in that post. The authority shall do the needful to relax the question of maximum age prescribed for appointment to the post as the petitioner has been the victim of the system of ad hoc appointment.

11. It is submitted that the post is still lying vacant. If this submission is correct, the authority shall do the

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needful to appoint the petitioner to that vacant post till it is filled up in the regular process. The appointment to the vacant post shall be made by the authority within a period of 3 (three) months from the date of receipt of the order.

12. It is needless to say that as and when the vacancy is regularly filled up and if the petitioner is not selected for being appointed to this post, the petitioner shall have to vacate the post in favour of the regularly selected candidate.

13. Accordingly, this writ application stands disposed of with the direction given above.

Sd/- J.N.Sarma
Judge

Annexure-2

NAVODAYA VIDYALAYA SAMITI : REGIONAL OFFICE : SHILLONG

PHONE No. : 227836
227609

Ref No. F.1-17/Lambui/92-NVS (SHR)/24249 Dated 19.1.95

MEMORANDUM

In compliance with directions of the Hon'ble High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh at Guwahati. Shri Binod Mahto is hereby appointed on Adhoc basis as UDC at JNV Lambui (Ukhrul) for a period of 89 (eighty nine) days in the basis pay of Rs. 1200/- (Rupees one hundred twelve hundred only) with usual allowances on following terms and condition :

The appointment will not confer any right to the candidate to claim for retention of his service in the Samiti.

The appointment shall automatically stant terminated after expiry of 89 days or till the joining of regular incumbent whichever is earlier on completion of recruitment process as directed by the Hon'ble High Court in their orders of 3.12.94.

He will not be entitled for Travelling Allowance for joining the appointment.

In case he accepts the officer on the terms and conditions, he may intimate this office about his acceptance and joining.

Sd/- Dr. U.C. Bajpai

Deputy Director

Copy to :

1. The Principal JNV Lambui, Ukhrul for compliance and report his joining to this office.
2. Shri Binod Mahto C/o Shri Manik Chandra, Advocate, Bye Lane 7 Near South Saranica L.P. School, Lachitnagar P.O, Ulubari, Guwahati 781007.
3. Deputy Director (Admn) NVS, A-39, Kailash Colony New Delhi-48 for information alongwith a copy of the judgement
4. P/file
5. Office copy.

Sd/- U.C. Bajpai

Deputy Director

Annexure-3

NAVODAYA VIDYALAYA SAMITI : REGIONAL OFFICE : SHILLONG

No.F.1-52/NVS (SHR/Admn/Rectt/95-96/NT Dt. 29 SEP 1995)

To

BINOD KUMAR MAHTO
J.N.V. LAMBUI
B.P.O. LAMBUI, S.P.O. LAMLONG BAZAR
IMPHAL 795010

Sub : Interview for the post of U.D.C. on deputation/
Direct basis - regarding.

Sir/Madam,

With reference to your application for the
post of U.D.C. _____ you are hereby directed to
appear for an interview at the place, date and time given
below :-

Place : Regional Office, Navodaya Vidyalaya Samiti, Upper
Lachumiere, Shillong-793001 (Meghalaya).

Date : 13.11.1995

Time : 0900 Hrs

2. If the Selection Committee is unable to interview you on the date specified above, it may be necessary for you to stay on until the next day without any claim for overstay.
3. You are requested to bring with you the following documents at the time of Interview.
 - i) The Original Degree, Diploma and Mark-Sheets in support of Educational Qualifications starting from H.S.L.C. onwards.
 - ii) Experience Certificate
 - iii) High School/Hr. Sec Certificate in support of date of birth.
 - iv) In case of Scheduled Caste/Scheduled Tribe candidates, a Certificate in original from the competent authority i.e. Dist. Magistrate/Deputy Commissioner/Collector of your Dist.

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- v) For appointment on deputation basis a No Objection Certificate from your Employer indicating there in that you will be relieved on deputation (on lieu) basis for a period of two years.
4. Candidate should produce recent passport size photograph ~~graph~~ duly attested by the competent authority in case he/she has not affixed in the application form.
5. No Travelling expenses will be paid for attending this interview.
6. If any of the particulars stated by you in your Application is, on verification, found incomplete or wrong or if you are found to have wilfully suppressed material information relevant to the consideration of your case without prejudice to any other action that may be taken in consequence therefore, your candidature will summarily be rejected, and no travelling allowance will be paid to you.
7. It is your responsibility to make proper arrangements for the receipts or re-direction of communication addressed to you and save, in exceptional circumstances, no plea on non-receipt or late receipt of this communication for whatever reason shall be ~~accepted for~~ accepted for postponing the date of the interview or for any other purpose.
8. Only those candidates who are willing to serve anywhere in the North Eastern Region and Sikkim need appear for the Interview.

Yours faithfully,

Dr. U.C. Bajpai
Deputy Director

Annexure-4

Jawahar Navodaya Vidyalaya
Ministry of Human Resource Development
(Department of Education), Govt. of India
Lambui, Ukhrul Distt.
~~Manipur~~ Manipur

Ref No. JNVL/PF/BKM/4197

Date 06/11/1995

To

The Deputy Director
Navodaya Vidyalaya Samiti
Regional Office
Shillong-1

Sub : Special Performance Report in respect of Binod Kumar
Mahto U.D.C. (Ad-hoc).

Sir,

With reference to your interview letter for the post of U.D.C. to Binod Kumar Mahto on 29th Sept 1995, I would like to submit the following comments regarding Binod Kumar Mahto for consideration of his performance Report.

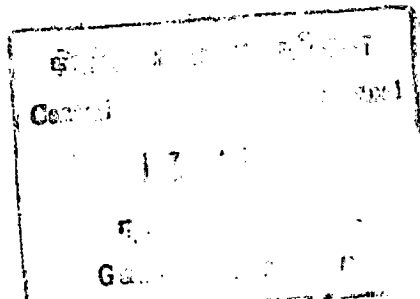
That Binod Kumar Mahto, U.D.C. (Adhoc) is a hard-working, Sincere and loyal official, who had changed the whole office environment into a systematic system within short tennure of his time. If he will be given a post, I am sure that he will certainly contribute for the better office system in future.

I shall be grateful, if he is appointed and posted to J.N.V. Lambui, Ukhrul district (Manipur). He will be an asset to this difficult and remote Vidyalaya.

Thanking you,

Yours faithfully,

Sd/- J.N. Prasad, Principal
Jawahar Navodaya Vidyalaya
Lambui Ukhrul Manipur



Piled by :
Binod Chandra Ver
Advocate
13.03.02. 4A

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

ORIGINAL APPLICATION NO. 4/2001 (T)

Shri Binod Mahto

... Applicant.

- Versus -

Union of India & Ors.

... Respondents.

The Respondent Nos. 2, 3 and 4 beg to file their
Written Statement as follows :-

- 1) That all the averments and submissions made in the Original Application are denied by the answering respondents save what has been specifically admitted herein and what appears from the records of the case.
- 2) That with regard to the statement made in paragraphs 1, 2 and 3 of the Original Application (hereinafter referred to as the O.A.) the answering respondents have no comments upon it.
- 3) That with regard to the statements made in paragraphs 4, 5 and 10 of the O.A. the answering respondents state that as per the direction/order of the Hon'ble High Court passed in Civil Rule No. 1843/1992 the candidature

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2.

of the applicant was duly considered by relaxing the overage limit. The allegation of the applicant that his candidature has not been accepted due to overage is incorrect and baseless. The candidature of the applicant was duly considered/accepted and he was interviewed by the duly constituted Selection Committee. The Selection Committee did not find him suitable, hence was not appointed on regular basis.

Copies of the Assessment of performance of candidates interviewed are annexed hereto and are marked as Annexure - I (Series).

4) That with regard to the statement made in paragraph 6 of the O.A. the answering respondents beg to state that Shri A.K. Biswas has been selected by the duly constituted Selection Committee as he was suitable whereas the applicant was not found suitable by the Committee.

5) That with regard to the statement made in paragraphs 7 and 8 of the O.A. the answering respondents have no comments to offer.

6) That the answering respondents deny the correctness of the statement made in paragraph 9 of the O.A. as the Hon'ble High Court order passed in Civil Rule No. 1843/92 dated 3.12.1994 has been complied with. As

contd... p 3.

stated in paragraph 12 of the Order that the petitioner have to vacate the post in favour of the regularly selected candidate and, as such, the case of the applicant was duly considered, but was not suitable for regular basis.

7) That with regard to the statement made in paragraph 11 of the O.A. the answering respondents beg to state that as per the revised Recruitment Rules, 1995 effective from 22.6.1995, the vacancies of U.D.C. has to be filled up by 50% promotion and 50% by Limited Departmental Exams. amongst the L.D.Cs./Store Keeper working in the Samiti on regular basis for atleast 5 years, hence there is no chance for the applicant to be considered for Direct appointment.

8) That with regard to the statement made in paragraph 12 of the O.A. being matters of records of the case the answering respondents have no comments to offer.

9) That with regard to the statement made in paragraph 13 of the O.A. the answering respondents state that the applicant cannot be appointed on regular basis since there is no provision in revised Recruitment Rules.

10) That with regard to the statement made in paragraph 14 of the O.A. the answering respondents state

that the relevant Assessment of performance of candidates interviewed by the Selection Committee are placed for perusal before this Hon'ble Tribunal and by the said assessment it is seen that the applicant is unsuitable for regular basis. As such, the applicant has to vacate the post in compliance with the judgement dated 3.12.1994 passed by the Hon'ble Gauhati High Court.

11) That with regard to the statement made in paragraph 15 of the O.A. the answering respondents state that the candidature of the applicant has been considered by relaxing the upper age limit, but the Selection Committee found him unsuitable for appointment to the post of UDC hence ~~the~~ he cannot be appointed on regular basis.

12) That with regard to the statement made in paragraph 16 of the O.A. the answering respondents state that there is no violation of Constitutional provisions as the applicant's case was considered as per the provisions contained in the Recruitment Rules.

13) That with regard to the statement made in paragraph 17 of the O.A. the answering respondents have no comments to offer.

14) That under the facts and circumstances stated above, it is respectfully submitted that there is no merit in the application and the same deserves to be dismissed with cost.

5.

VERIFICATION

Singh

I, Shri Bachcha S/o Ram Kishan Singh aged about 49 years, presently working as Asst. Director, Navodaya Vidyalaya Samiti, Regional Office - Shillong do hereby verify that the statements made in paragraphs 1, 2, 4 to 13 are true to my knowledge and those made in paragraph 3 being matters of record of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

Place :

Bachcha Singh

Date :

SIGNATURE

27-

-6-

7 vaca

Sesno--95-96

Final Select Panel

Subject : U.D.C.

Total No. of vacancy = 3 posts Direct
(Gen - 1, SC - 1, ST - 1)

4 posts deptn.

Candidates selected for appointment
MeritwiseList of the candidates
(waiting list)

- ✓ 1. N.Syiemlieh (ST) (Deptn)
- ✓ 2. Mathew V. Phillip (Deptn)
- ✓ 3. N.C. Chowdhury (SC) (Deptn)
- ✓ 4. A.K. Biswas (SC) (Direct)
- 5.
- ✓ 6. L. Pyngrape (ST) Recommended on contract basis.
- 7.
- 8.
- 9.
- 10.

- 1.
- 2.
- 3.
4. D (SC)
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Signatures of Experts

Signature of Members

Signature of
Member/Secy.Signature of the
Chairman of the
Board.

Name

Signature

Name

Signature

S. CHAKRAVARTY
DY. SECY, GAD/SAD/
SUPPLY DEPTT.

1. Dr. M. M. PANDEY

2. J. E. SHULLAI

3. W. TARIANG

DR. U. C. BAJPAI

DR. P. P. GOKULANATHAN

for
to school
roll

52

28

-7-

Session - 95756

3 posts - Direct. (S-1, Se-1, SF-1)
4 posts - Deputation.

NAVODAYA VIDYALAYA SAMITI : SHILLONG REGION

SELECT PANEL FOR THE POST OF U.D.C. CODE NO. INTERVIEWED ON 13.11.95

Sl. No.	Regd. No.	Name of the candidate interviewed	D.O.B.	Marks awarded by							MBF./ Secy.	Chairman	Gtto-tal	Average	Position	Remarks
				Sub	Exp.	1	2	3	4	5						
1	2	3	4	5	6	7	8	9	10	11	13	14	15	16	17	18
	83 (Direct)	P.K. Biswas (Sec)	7.5.68	45		42	40	44			42	42	256	4		Direct
	177 "	Mathew V. Phillips	22.5.66	56		52	50	53			54	52	317	2		Deputation
	180	N. Syremliet (SF)	25.10.50	59		57	53	54			53	52	328	1		Deputation
	169	N.C. Chowdhary (Sec)	31.10.56	43		43	43	43			44	45	261	3		Deputation
	14	L. Pyngrape (SF)	30.9.73	Recommended							Contract	Secy.				

Prepared by
Responsible
by U.C. Officer

NAVDAYA VIDYALAYA SAMITI: SHILLONG REGION

Assesment of performances of candidates interviewed on 13-11-95 (F/N) for the post UDC

Sheet No _____

SL.No	Regd No	Name of Candidate	D.O.B	Qualifi- cation	Assesment criteria 100 marks				Total	Remarks
					50	20	20	10		
					A	B	C	D		
✓ 1.	66 (Dept)	B.K.Mahto	5/1/60	B.Com.						Not suitable Direct
✓ 2.	14. do	L.Pyngrape (ST)	30/9/73	B.A.						Contract Direct
3.	29 do	P.N.Deori (ST)	4/6/66	B.A.						
✓ 4.	83 do	A.K.Biswas (SC)	7/5/68	B.Com.					43	Direct
5.	168 (Dept)	P.C.Pavithran	5/10/57							
6.	172 do	S.Fakma (ST)								
7.	175 do	R.Shadap (ST)	27/9/64	H.S.L.C						
✓ 8.	177 do	Mathew.V.Philip	22/5/66	H.S.L.C.					52	Deputation
9.	179 do	B.Worjri (ST)	14/9/63	P.U.						
✓ 10.	180 do	N.Syiemlieh (ST)	25/10/50	P.U.					52	Deputation
11.	181 do	L.Tsering (ST)	21/3/70	H.S.L.C.						
12.	184 do	D.Chakrobarty.	1/4/68	B.Com.						
✓ 13.	176 do	S.Ahmed	5/1/63	B.A.						Not suitable Deputation
14.	171 do	Mary Nongbri (ST)	23/8/60	B.A.						
15.	178 do	D.K.Medhi (OBC)		B.A.						
✓ 16.	123 do	A.C.Das (SC)	21/3/56	B.A.						Not suitable Deputation
✓ 17.	118 do	G.Baurah (OBC)	20/8/66	B.Sc						Not suitable Deputation
18.	167 do	B.L.Nath								
✓ 19.	169 do	N.C.Choudhury (SC)	31-10-56	B.Com.					45	Deputation

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME Dr P. P. Gokulnathan
DESIGNATION Member
DATE 13.11.95

Dr P. P. Gokulnathan

Signature

Sub-Expert/Member/Member Secy.

Chairman

NAVODAYA VIDYALAYA SAMITI: SHILLONG REGION

Assesment of performances of candidates interviewed on 13-11-95(F/N) for the post UDC

Sheet No

SL.No	Rego No	Name of Candidate	D.O.B	Qualifi- cation	Assesment criteria 100 marks	Total	Remarks
					50 120 120 110 A B C D	100	
1✓	66 (Dow)	B.K.Mahto	54/1/60	B.Com.			not available
2✓	14 do	L.Pyngrope (ST)	30/9/73	B.A.			on contract
3.	29 do	P.N.Deori (ST)	4/5/66	B.A.			
4✓	83 do	A.K.Biswas (SC)	7/3/62	B.A.		44	
5.	168 (Dept)	P.C.Pavithran	5/10/57				
6.	172 do	S.Pakma (ST)					
7.	175 do	R.Shadap (ST)	27/9/64	H.S.L.C.			
8✓	177 do	Mathew.V.Philip	22/5/66	H.S.L.C.		53	
9.	179 do	B.Worjri (ST)	14/9/63	P.U.			
10✓	180 do	N.Syiemlieh (ST)	25/10/50	P.U.		54	
11.	181 do	L.Tsering (ST)	21/5/72	H.S.L.C.			
12.	104 do	D.chakrobarty	1/4/60	B.Com.			not available
13✓	176 do	S.Ahmed	15/11/63	B.A.			not eligible
14.	171 do	Mary Nongbri (ST)	23/8/60	B.A.			
15.	178 do	D.K.Medhi (OBC)		B.A.			
16✓	123 do	A.C.Das (SC)	21/3/56	B.A.			not available
17✓	118 do	G.Baurah (OBC)	20/8/66	B.A.			
18.	167 do	B.L.Nath					
19✓	169 do	N.C.Choudhury (SC)	3/10/56	B.Com.		43	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME J. E. Shullai
DESIGNATION Principal P.G.T. College
DATE 13.11.95

J. E. Shullai
Signature 13.11.95
Sub-Expert/Member/Member Secy.

Chairman

Assesment of performances of candidates interviewed on 13-11-95 (F/N) for the post UDC

Sheet No _____

SL.No	Regd No	Name of Candidate	D.O.B	Quali- fication	Assessment criteria 100 marks				Total	Remarks
					50	20	20	10		
					A	B	C	D		
✓ 1.	66 (Diva)	B.K.Mahto. B.Com	5/1/60	B.Com.						not suitable
✓ 2.	14 do	L.Pyngrape (ST)	30/9/77	B.A.						Contract
3.	29 do	P.N.Deori (ST)	4/5/66	B.A.						
✓ 4.	83 do	A.K.Biswas (SC)	7/5/68	B.Com					42	
✓ 5.	168 (Dept)	A.K.Pavithran	2/10/67	B.Com						
6.	172 do	S.Pakma (ST)								
7.	175 do	R.Shadap (ST)	27/9/64	H.S.L.C						
✓ 8.	177 do	Mathew.V.Philip	22/5/66	H.S.L.C					54	
9.	179 do	B.Worjri (ST)	14/9/63	P.U.						
✓ 10.	180 do	N.Syiemlieh (ST)	25/10/50	P.U.					53	
11.	181 do	L.Tsering. (ST)	21/3/70	H.S.L.C.						
12.	104 do	D.chakrobarty	1/4/62	B.Com.						
✓ 13.	176 do	S.Ahmed	5/11/63	B.A.						not eligible
14.	171 do	Mary Nongbri (ST)	23/8/63	B.A.						
15.	178 do	D.K.Medhi (OBC)		B.A.						
✓ 16.	123 do	A.C.Das (SC)	11/1/75	B.A.						not suitable
✓ 17.	118 do	G.Baurah (OBC)	20/8/66	B.Sc.						not suitable
18.	167 do	B.L.Nath								
✓ 19.	169 do	N.C.Choudhury (SC)	13/10/56	B.Com.					44	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME Dr. U.C. Bhaumik
DESIGNATION AO
DATE 13/11/95

Signature
Sub-Expert/Member/Member Secy.

Charman

NAVODAYA VIDYALAYA SAMITI: SHILLONG REGION

Assesment of performances of candidates interviewed on 13-11-95(F/N) for the post UDC

Sheet No _____

SL.No	Regd No	Name of Candidate	D.C.B	Qualifi- cation	Assesment criteria 100 marks	Total	Remarks
					50 120 20 10	100	
					A B C D		
✓ 1.	66 (Dum)	B.K.Mahto	5/1/60	B.Com.			Not suitable
✓ 2.	14 do	L.Pyngrape (ST)	30/9/75	B.A.			Not suitable Contract
3.	29 do	P.N.Deori (ST)	4/5/66	B.A.			
✓ 4.	83 do	A.K.Biswas (SC)	7/5/62	B.Com.	18 18 4	- 40	
5.	168 (Dept)	P.C.Pavithran	5/10/57				
6.	172 do	S.Pakma (ST)					
7.	175 do	R.Shadap (ST)	27/9/64	H.S.L.C			
✓ 8.	177 do	Mathew.V.Philip	22/5/66	H.S.L.C.	25 20 5	- 50	
9.	179 do	B.Worjri (ST)	14/9/63	P.U.			
✓ 10.	180 do	N.Syiemlieh (ST)	25/10/50	P.U.	25 20 8	- 53	
11.	181 do	L.Tsering (ST)	21/3/70	H.S.L.C.			
12.	104 do	D.chakrobarty	1/4/60	B.Com.			
✓ 13.	176 do	S.Ahmed	5/11/63	B.A.			Not suitable
14.	171 do	Mary Nongbri (ST)	23/8/60	B.A.			
15.	178 do	D.K.Medhi (OBC)		B.A.			
✓ 16.	123 do	A.C.Das (SC)	21/3/65	B.A.			Not suitable
✓ 17.	118 do	G.Baurah (OBC)	20/8/66	B.A.			Not suitable
18.	167 do	B.Nath					
✓ 19.	169 do	N.C.Choudhury (SC)	13/11/56	B.Com.	20 14 9	- 43	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME M M Pandey
DESIGNATION F. A
DATE 13.11.95

Signature
Sub.Expert/Member/Member Secy.

Chairman

NAVODAYA VIDYALAYA SAMITI: SHILLONG REGION

Assesment of performances of candidates interviewed on 13-11-95(F/N) for the post UDC
Sheet No _____

SL.No	Regd No	Name of Candidate	D.O.B	Qualifi- cation	Assesment criteria 100 marks				Total	Remarks
					50	20	20	10		
					A	B	C	D		
✓ 1.	66(Dual)	B.K.Mahto	5/1/60	B.Com.						Not Suitable
✓ 2.	14 do	L.Pyngrope (ST)	30/9/70	B.A.						Contract
3.	29 do	P.N.Deori (ST)	4/6/66	B.A.						
✓ 4.	83 do	A.K.Biswas (SC)	7/5/68	B.Com.	25	10	5	2	42	
5.	168(Dept)	P.C.Pavithran	5/10/57							
6.	172 do	S.Pakma (ST)								
7.	175 do	R.Shadap (ST)	27/9/54	H.S.L.C						
✓ 8.	177 do	Mathew.V.Philip	22/5/66	H.S.L.C.	25	15	10	2	52	
9.	179 do	P.Woriri (ST)	14/9/63	P.U.						
✓ 10.	180 do	N.Syiemlieh (ST)	25/10/52	P.U.	25	15	15	2	57	
11.	181 do	L.Tsering (ST)	21/3/70	H.S.L.C.						
12.	184 do	D.Chakrobarty	1/4/60	B.Com.						
✓ 13.	176 do	C.Ahmed	5/11/65	B.A.						Not eligible
14.	171 do	Mary Nongbrri (ST)	23/8/60	B.A.						
15.	178 do	D.K.Medhi (OBC)		B.A.						
✓ 16.	123 do	A.C.Das (SC)	21/3/55	B.A.						Not suitable
✓ 17.	118 do	G.Baurah (OBC)	20/6/50	B.A.						Not suitable
18.	167 do	B.L.Nath								
✓ 19.	169 do	N.C.Choudhury (SC)	13/11/95	B.Com.	20	15	5	3	43	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME W. Taniar

DESIGNATION A.D.(Acad)

DATE 13.11.95

Signature
Sub.Expert/Member/Member Secy.

Chairman

NAVODAYA VIDYALAYA SAMITI:SHILLONG REGION

Assesment of performances of candidates interviewed

Sheet No. _____

Sheet No. _____

SL.No	Regd No	Name of Candidate	D.O.B	Category	Assesment Criteria 100 marks	Total	Remarks
					10 20 20 10 100		
					A B C D		
✓1.	66(Divn)	B.K.Mahto	5/1/60	B.Com.	Not suitable		
✓2.	14 do	L.Pyngrope (ST)	30/9/73	B.A.			on contract
3.	29 do	P.N.Deori (ST)	4/6/66	B.A.			
✓4.	83 do	A.K.Biswas (SC)	7/8/62	B.Com.	25 8 8 4	45	
5.	168(Dept)	P.C.Pavithran	5/10/57				
6.	172 do	S.Pakma (ST)					
7.	175 do	R.Shadap (ST)	27/1/64				
✓8.	177 do	Mathew.V.Philip	22/5/63		35 6 10 5	56	
9.	179 do	B.Worjri (ST)	14/9/61				
✓10.	180 do	N.Syiemlieh (ST)	25/10/50	P.U.	40 10 7 2	59	
11.	181 do	L.Tsering (ST)	21/3/70	H.B.L.C.			
✓12.	184 do	D.chakrobarty	1/4/62	B.Com.			
✓13.	176 do	S.Ahmed	3/11/63	B.A.			Deputation not agreed by Dept
14.	171 do	Mary Nongbri (ST)	23/8/64	B.A.			
15.	178 do	D.K.Medhi(OBC)		B.A.			
✓16.	123 do	A.C.Das (SC)	21/3/56	B.A.			Not suitable
✓17.	118 do	G.Baurah (OBC)	20/8/64	B.A.			do
18.	167 do	B.L.Nath					
✓19.	169 do	N.C.Choudhury (SC)	13/11/55		30 6 6 1	43	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas, interest etc.

(C) Communication, Skill Experience Clarity, of thought etc.

(D) Games and Sports etc.

NAME S. Chakravarty

DESIGNATION Jy. Secy, GAD/SAD/Supply Dept

DATE

12/11/95

Signature
S. Chakravarty, Member Secy.

Chairman
S. Chakravarty

Assesment of performances of candidates interviewed on 13-11-95 (F/N) for the post UDC

Sheet No

SL.No	Regd No	Name of Candidate	D.O.B	Qualifi- cation	Assesment criteria 100 marks	Total	Remarks
					50 20 20 10 A B C D	100	
✓ 1.	66 (Dum)	B.K.Mahto	5/1/62	B.Com.			Not suitable.
✓ 2.	14 do	L.Pyngrope (ST)	30/9/73	B.A.			on contract
3.	29 do	P.N.Deori (ST)	4/6/66	B.A.			
✓ 4.	83 do	A.K.Biswas (SC)	7/5/62	B.Com.	25 8 8 4	45	
5.	168 (Dept)	P.C.Pavithran	5/10/57				
6.	172 do	S.Pakma (ST)					
7.	175 do	R.Shadap (ST)	27/7/64	B.A.			
✓ 8.	177 do	Mathew.V.Philip	22/5/66	B.A.	35 6 10 5	56	
9.	179 do	B.Worjri (ST)	14/9/63	B.F.U.			
✓ 10.	180 do	N.Syiemlieh (ST)	25/10/50	B.D.	40 10 7 2	59	
11.	181 do	L.Tsering (ST)	21/3/70	B.B.L.D.			
12.	184 do	D.Chakrobarty	1/4/62	B.Com.			
✓ 13.	176 do	S.Ahmed	5/11/63	B.A.			Depulation not agreed by Dept.
14.	171 do	Mary Nongbri (ST)	23/8/50	B.A.			
15.	178 do	D.K.Medhi (OBC)		B.A.			
✓ 16.	123 do	A.C.Das (SC)	21/3/58	B.A.			Not Suitable
✓ 17.	118 do	G.Baurah (OBC)	20/8/66	B.A.			- do -
18.	167 do	B.L.Nath					
✓ 19.	169 do	N.C.Choudhury (SC)	13/11/95	B.Com.	30 6 6 1	43	

(A) Knowledge of the Subject.

(B) Language proficiency, innovative ideas interest etc.

(C) Communication, Skill Experience Clarity of thought etc.

(D) Games and Sports etc.

NAME S. Chakravarty

DESIGNATION Dy. Secy, GAD/SAD/Supply Dept.

DATE 13/11/95

Signature

Sub-Expert/Member/Member Secy.

Chairman
