

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 127/2001

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

original ORDER SHEET
APPLICATION NO 127 OF 2001

Applicant (s) Udhab Basumatary

Respondent(s) V. O. T. Taty

Advocate for Applicant(s) B.K. Sharma, S. Sarma, U.K. Goswami

Advocate for Respondent(s) Case

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in proper notation		
Petitioner filed vide M.A. C.R. for I.C. deposited vide IPC No. 422513	4.4.2001	Heard Mr. S. Sarma, learned counsel for the applicant. The application is admitted. Call for the records, returnable by four weeks. List for orders on 9.5.01.
Dated.... 23/4/2001 11C.Dy. Registered	21/4/01	

Memoranda filed.

Vice-Chairman

nkm

W.B.
6/4/2001

10.4.2001

31.5.01
(Kohima)

Mr. A. Deb Ray, learned Sr. C.G.S.C. Prays for four weeks time for filing written statement. Prayer allowed.

List on 5.7.2001 for orders.

I.C. Shas
Member

nkm

J.V.O. written statement has been filed.

30/4/01

5.7.01 List on 17.8.01 to enable the respondent to file written statement.

No. written statement has been filed.

Zy
16.8.01

lm

Vice-Chairman

17.8.01 At the request of Mr. A. Deb Roy, Sr.C.G.S.C. 2 weeks time is allowed for filing of written statement. List on 5.9.01 for filing of written statement and further orders.

I C Usha
Member

lm

5.9.01

Written statement has been filed. Two weeks time is allowed to the applicant to file rejoinder, if any.

List on 28/9/01 for order.

20.8.2001
W/S has been submitted by the Respondents.

Zy
mb

28.9.01

No. rejoinder has been filed.

are pleadings/complete. List for hearing on 21.11.01. The applicant may file rejoinder if any within 7 days.

Vice-Chairman

lm

No. Rejoinder has been filed.

Zy
28.9.01

21.11.2001 Adjourned on the prayer of the learned counsel for the applicant. List for hearing on 12.12.01.

Vice-Chairman

nkm

12.12.01 Sri S. Sarma, learned counsel for the applicant submits that he will file rejoinder and wants for short adjournment.

List on 16.1.02 for hearing.

No. Rejoinder has been filed.

Zy
15.1.02

mb

I C Usha
Member

3
3
O.A.127 of 2001

16.01.02 On the prayer made by Mr. B.C.Pathak, learned Addl. C.G.S.C. on behalf of Mr. A.Deb Roy, learned Sr. C.G.S.C. who is out of station, the case is adjourned to 22.02.2002.

Vice-Chairman

22.2.02

^{seen by}
Request has made on behalf of Mr. S.Sarma learned counsel for the applicant that he is unable to attend the Court to-day for his personal difficulty and prays for adjournment. Mr.A.Deb Roy, Sr.C.G.S.C. has no objection. Prayer is allowed. List on 6.3.02 for hearing.

Usha
Member

lm

6.3.2002

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is dismissed in terms order. No order as to costs.

Vice-Chairman

bb

18.6.2002
Copy of the Judgment
has been sent to the
Office for keeping
in view to the applicant
as well as to the
Sr.C.G.S.C. by me.

kk

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 127 of 2001.

Date of Decision. 6.3.2002.

— — — Sri Udhab Basumatary & 3 Others.

Petitioner(s)

By Mr. B. K. Sharma, Mr. S. Sara &

Mr. U. K. Goswami.

Versus-

Advocate for the
Petitioner(s)

— — — Union of India & Others.

Respondent(s)

— — — Mr. A. Deb Roy, Sr. C.G.S.C.

Advocate for the
Respondent(s)

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 ?

Judgment delivered by Hon'ble : Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.127 of 2001.

Date of Order : This the 6th Day of March, 2002.

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

1. Sri Udhab Basumatary
S/o Late Golap Basumatary
C/o AIBO Tombi Singh, Dimapur
Sub Post Office, Dimapur - 797112.
2. Shri Nityananda Basumatary
S/o Shri Nilakanta Basumatary
C/o AIBO Tombi Singh
Dimapur Sub Post Office
Dimapur - 797112.
3. Shri Lalit Ranjan Prasad
S/o Shri Prithvi Nath Prasad
C/o Shri D.N.Prasad
Dimapur.
4. Shri Ram Prabesh Prasad
S/o Late Ram Brista Prasad
C/o Suman Pan Shop (Ram Narayan)
Sainik Canteen, Opposite to
Railway Station, Dimapur. . . . Applicants.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma &
Mr.U.K.Goswami.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India, Ministry of Communication
Dak Bhawan
New Delhi.
2. The Chief Post Master General
N.E.Circle
Shillong.
3. The Director of Postal Services
Nagaland
Kohima - 797001.
4. The Sub Divisional Inspector
Dimapur Sub Division, Dimapur
Nagaland. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

The applicants are four in number. All these applicants were engaged by the respondents in different capacities. For example, the applicant No.1 was first engaged temporarily by order dated 3.12.97 as EDDA w.e.f.1.12.97 vice Shri Ashok Chakraborty promoted to postman on adhoc basis. By order dated 31.10.98 he was appointed as EDDA at Rangapahar Branch Office (Dimapur Section Office) w.e.f.2.11.98. His appointment was made on following condition :

" Shri Udhav Basumatary should clearly understand that his employment as EDDA Rangapahar will be in the nature of contract liable to be terminated by him, or the undersigned by notifying the order, in writing and that he shall also be governed by the P & T EDA (Conduct and Service) Rules 1964 as amended from time to time."

The applicant No.2 was provisionally appointed as EDMC/Khelma, BO (Jalukie) vide order dated 29.11.97 for a period of six months upto 31.5.98. By order dated 1.12.97 he was ordered to remain attached with Zalukie SO and to perform the duty of stamp sale and other attached works as may be entrusted by the SPM. By another order dated 3.3.99 the applicant No.2 was redesignated and was appointed as EDDA of Authibung BO w.e.f.1.3.99 vice Shri Helkho Jang Kuki deserted the post during Septmber, 1997. The appointment letter was issued on following Condition :

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" Shri Nitya Nanda Basumatary should clearly understand that his employment as EDDA/Authibung will be in the nature of contract liable to be terminated by him, or the undersigned by notifying the order, in writing and that he shall also be Governed by the Posts and Telegraphs extra Departmental Agents (Conduct and Services) Rules, 1964, as amended from time to time."

The applicant No.3 was similarly appointed as ED Packer of Chumukedima SO w.e.f.1.2.99 vide order dated 10.2.99. In this case also, the similar condition was enjoined. By order dated 8.12.97 the applicant No.4 Shri Ram Prabesh Prasad was ordered to take charge of EDMC cum EDDA of Diphupar BO against the post held by Shri Kumardhan Singh EDMC cum EDDA on temporary basis till final selection was made as per the normal Recruitment Rules. By order dated 28.1.99 the said applicant was appointed as EDDA cum EDMC of Diphupar BO w.e.f.9.12.97 containing the same condition as mentioned in the case of other applicants. These applicants were subsequently given notices as to why their services would not be terminated. In the case of applicant No.1 vide notice dated 31.1.2000 the applicant was informed that since he hailed from Nagaon District of Assam and he did not produce Employment Registration Card of Nagaland at the time of appointment he was terminated from service and he was advised to explain as to why his service would not be terminated. The other applicants were also served with similar notices. However, by orders dated 14.3.2000 and 18.3.2000 respectively the applicant Nos.1 & 2; 3 & 4 respectively were terminated from their services.

The applicants preferred individual appeals before the

appellate authority and the appellate authority considered their respective appeals and rejected the same. Hence this application assailing the legitimacy and validity of the order of termination.

2. The respondents submitted its written statement. In the written statement the respondents indicated about the appointment procedure of Extra Departmental Agents. It is specifically mentioned as to the eligibility conditions and one of them was that the candidate was to be a permanent resident of the delivery jurisdiction of the Post Office. It was also mentioned that the recruitments were to be made through the Employment Exchange and for that purpose the recruiting authority was to send a requisition to the local Employment Exchange having jurisdiction over the area,, requesting nomination of suitable candidates for the post within thirty days. The vacancies were also to be simultaneously notified through public advertisement and the candidates nominated by the Employment Exchange and also those responding to the open advertisement were to be considered. In the instant case the appointments were made irregularly and temporarily without following the prescribed recruitment procedures. During annual inspection in December 1999, it was detected that the applicants were appointed as Extra Departmental Agents by the then Sub-Divisional Inspector of Post Offices, Dimapur though they did not fulfil the eligibility conditions of recruitment as per the rules of recruitment.. In the

set of circumstances the respondents issued notices and after considering their replies terminated their services in terms of Rule 6. Their individual appeals were also duly considered and thereafter the same were dismissed as per law.

3. Mr.S.Sarma, learned counsel for the applicants submitted that the order of termination is contrary to law. Referring to rule 6 of the Rules Mr.Sarma submitted that the termination of the applicants in the manner cited was irregular and without justification. On the own showing of the respondents, the applicant's appointment were found to be proper, in the circumstances the respondents could not have terminated their service without offering them a fair and reasonable opportunity to put forth their case. The learned counsel for the applicant submitted that the impugned orders were visited with civil consequence and therefore, the applicants ought to have been provided with reasonable opportunity in consonance with the principles of natural justice. Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents contesting the claim of the applicants submitted that the very appointment of the applicants were illegal. Nevertheless, they were given due opportunities and after that the applicants were terminated from their service.

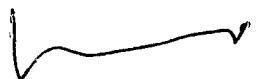
4. I have given anxious consideration on the matter. From the materials on record, it appears that the appointments were made on adhoc measure without following the prescribed procedure. The applicants were indicated

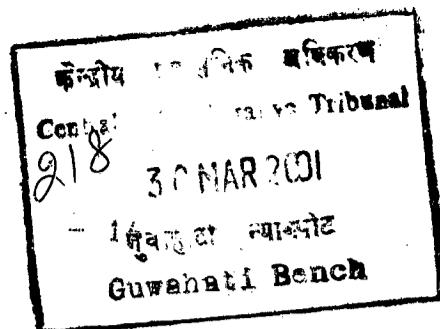
about the same and for that purpose notices were issued. The applicants submitted their replies and stated their case. Their case was duly considered and then termination was made. Mr.S.Sarma submitted that the procedure adopted was not adequate. The principles of natural justice cannot be put as straight jacket. It all depends on the facts situation. The applicants were made known the facts and since their appointments were found to be in breach of the Rules they were terminated from their service. No stigma is attached to the termination of the applicants. The appellate authority also duly considered the case of the applicants and dismissed the same as per law. I do not find any infirmity in the termination orders. The application is accordingly dismissed.

However, the dismissal of the application shall not preclude the applicants from offering their such candidatures, if any/fresh advertisement is made by the respondents and if such applications are made, the respondents shall consider their case as per law.

Subject to the observation made above, the application stands dismissed.

There shall, however, no order as to costs.


(D. N. CHOWDHURY)
VICE CHAIRMAN



THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
GUWAHATI

D.A. No. 127 of 2001

Sri Udbhab Basumatary & Drs.

-Vs- Applicants

Union of India & Drs.

- Respondents

I N D E X

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Filed by : U. K. Goswami
Advocate.

THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

(Application under Section 19 of the Central Administration Tribunal Act, 1985)

D.A. No. 127 of 2001

BETWEEN

1. Sri Uddhab Basumatary,
Son of Late Golap Basumatary,
C/o AIBO Tombi Singh, Dimapur
Sub Post Office, Dimapur-797112.
2. Shri Nityananda Basumatary,
Son of Shri Nilakanta Basumatary,
C/o AIBO Tombi Singh, Dimapur Sub Post Office, Dimapur-797112.
3. Shri Lalit Ranjan Prasad,
son of Shri Prithvi Nath Prasad,
C/O Shri D.N. Prasad, Dimapur.
4. Shri Ram Prabesh Prasad,
Son of Late Ram Brista Prasad,
C/O. Suman Pan Shop (Ram Narayan)
Sainik Canteen, Opposite to Railway Station, Dimapur.

EDDA

EDMC (Ex-97)
EDDA 1999

EDPAC 1999

EDDA 1997

EDMC 1999

AND

... Applicants

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Dak Bhawan, New Delhi-1,
2. The Chief Post Master General, N.E. Circle, Shillong.
3. The Director of Postal Services, Nagaland, Kohima-797001.
4. The Sub Divisional Inspector, Dimapur, Sub-Division, Dimapur, Nagaland.

... Respondents

DETAILS OF APPLICATION

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

Filed by:
the Applicants
through
Ujjal Kr. Gour
Advocate
30/3/2001

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The instant application is directed against the action of the respondents in terminating the services of the applicants. The respondents issued notices to the applicants without following the due process of law and thereafter arbitrarily their services have been terminated by issuing various orders more specifically indicated below (Facts of the case). The applicants thereafter preferred individual appeals against the said orders of termination but the authority concerned rejected the aforesaid appeals illegally and arbitrarily by issuing various orders more specifically mentioned hereinbelow. Through this application the applicants pray for their re-instatement in their respective services by setting aside the orders of termination as well as the rejection order in response of their appeals.

2. JURISDICTION OF THE TRIBUNAL :

The applicants declare that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1. That the applicants are citizen of India and as such they are entitled to all the rights and privileges as guaranteed under the Constitution of

India and laws framed thereunder.

4.2 That all the applicants have similar grievance and as such they have preferred the present DA jointly. The crux of the matter relates to termination of the services of the applicants and the grounds stated by the respondents for such termination are identical. It is therefore, the applicants pray before this Hon'ble Tribunal to allow them to join together in the single application invoking rule 4(5)(a) of the Central Administrative Tribunal (Procedural) Rules, 1987, to minimise the number of litigation as well as the cost of the application since they belong to the lower stratum of society.

4.3 That the present applicants are aggrieved by the action of the respondents in terminating their respective services. The applicants in response to an advertisement, applied for the post of EDA under the respondents, and after following the due process of selection the applicants got appointment as EDA under respondent No. 3 in the year 1997. Thereafter they continues in their respective posts. All on a sudden on 31.1.2000 they received notices issued by the respondent No. 3 alleging therein that their appointments were irregular and asked to show cause within a period of 3 days. Pursuant to that notice all the applicants submitted their show cause reply. But the respondent No. 3 issued the termination order on 14.3.2000 by which the services of all the applicants

have been terminated. Thereafter all the applicants preferred individual appeals before the respondent No. 2. But the respondent No. 2 rejected the appeals preferred by the applicants. Thus finding no other alternative the applicants have come before the protective bands of this Hon'ble Tribunal and seeking an appropriate relief.

4.4 That the applicants got their appointment as EDA issued by the respondent No. 3 on different dates in the year 1997 and they were holding various posts like EDA, ED, packer etc. after following due process of selection. Pursuant to such appointment the applicants joined and worked under the respondent No. 3 and discharged their duties to the satisfaction of all concerned. Although they got their appointment on temporary basis, the respondents adjusted them against the clear vacant posts and for all practical purpose they had been treated as regular employee and they continued in their services till January 2000.

Copies of the joining report are annexed herewith and marked as Annexure-A colly.

4.5 That the applicants beg to state that on 31.1.2000 they received identical notices issued by the respondent No. 3 to each of the applicants alleging mainly therein that the name of the applicants have not been sponsored by employment exchange of Nagaland and they are not domical of Nagaland. In the case of the applicant no.3 in the show cause notice no specific

reason have been ascertained and the same is vague. By the said notices, they have been asked to show cause as to why their services would not be terminated. The show cause reply to be submitted within a three days from receipt of the notice.

Copies of the show cause notices are annexed herewith and marked as Annexure-B colly.

4.6 That the applicants beg to state that after receiving the show cause notice they submitted their respective reply within the stipulated time period. In their replies the applicants while highlighting the factual aspects of the matter gave all information regarding their service.

The applicants crave leave of the Hon'ble Tribunal to rely and refer upon the statements made in their replies at the time of hearing of the case.

4.7 That the applicants beg to state that thereafter in the month of March 2000 the respondents No. 3 issued termination orders whereby the services of the applicants were terminated with immediate effect. The respondent authority arbitrarily terminated the services of the applicants and has not complied with the relevant rules under the EDA's (C&S) Rules, 1964.

Copies of the termination order issued by the respondent No. 3 are annexed herewith and marked as Annexure-D colly.



4.8 That the applicants beg to state that thereafter they preferred individual appeals before the respondent No. 2 stating therein that the termination order issued by the respondent No. 3 is not accordance with law and same shall be liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to rely and refer upon statements made in the said appeals at the time of hearing of the case with a further prayer treat the same as a part of the D.A.

A copy of the individual appeals are annexed herewith and marked as Annexure-D Colly.

4.9 That the applicants beg to state that 3.1.2001 the respondent No. 2 issued an order vide memo No. A-1/ED/Staff/Misc/Corr whereby rejected the appeals filed by the applicants. During the time of disposing the appeals the respondents authority did not apply their mind and arbitrarily passed the impugned orders. It is pertinent to mention here before preferring the appeal, the All India Postal Employee Union, Divisional Branch, Kohima has pursue their matter before the Director of Postal Service, Kohima, Nagaland and preferred a review application before him against the orders of termination (i.e. Annexure- D Colly). That review has been virtually disposed of by directing the applicants to file appeal.

The applicants crave leave of the Hon'ble Tribunal to produce the review petition during

the time of hearing of the case.

Copies of the order dated 2.1.2001, 3.1.2001, 4.1.2001 and 5.1.2001 are annexed herewith and marked as Annexure-E colly.

4.10 That the applicants beg to state that all the applicants are permanent resident of Nagaland and to that effect the concern authority has issued certificates. The respondents have also at the time of their respective appointments verified the correctness of the PRC submitted by them. To that effect a letter dated 16.11.2000 may be referred to.

Copy of the certificate dated 16.11.2000 is annexed herewith and marked as Annexure-F.

4.11 That the applicants beg to state that generally vacancies are notified in the local employment exchange endorsing the copy of notice of the concerned post office where vacancy arises. In absence of any sponsored candidates from the employment exchange, there is a provision for appointing persons recommended by the village headman, if directly applied for. In the case of the present applicants there was recommendation from the concer authority.

4.12 That the applicants beg to state that generally local people in Nagaland did not come forward to accept this kind of job. Therefore, in this kind of job people from other State are absorbed.

4.13 That the applicants beg to state that in the

instant case, the applicants have PRC of Nagaland and their names have been recommended by the concerned authority for the job and that fact has been made known to respondents even at the time of their appointment as per recruitment rule. Therefore, there is no illegality in the appointments. The termination order issued by the respondents authority is liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal for a direction to the respondents to produce the records pertaining contending the selection of the applicants, at the time of hearing of the case.

4.14 That the applicants beg to submit that the termination order dated 14.3.2000 and 18.3.2000 were issued arbitrarily without complying with relevant rule i.e. Rule 6 of EDA Service and Conduct Rules and the same is liable to be set aside and quashed.

4.15 That the applicants beg to submit that the termination order dated 14.3.2000 and 18.3.2000 are violative to the Article 311 of the Constitution of India and the same have not been issued following the settle procedure prescribed under the law. Hence, same is liable to be set aside and quashed.

4.16 That the applicants further state that the respondents authority have terminated only the services of the present applicants, whereas there are several instances where similarly situated candidates like that of the applicants are still continuing the respective

services under Postal Department, Nagaland, of which mention may be made of one EDNC Shri Sunil Kumar, Erabil Branch Post Office under A.R.T.C. Sub-post office and one Shri Ram Naresh is continuing in Nagaland State transport Branch Post Office. Shri Sunil Kumar, the Branch Post Master of Erabil Branch Post Office is still continuing his service since last 7/8 years without any formal appointment. But in the instant case the respondents authority arbitrarily terminated the services of the applicants who were duly appointed.

4.17 That before termination of the services of the applicants, no formal notice in the prescribe form has been served on them. In fact, while issuing the letters dated 31.1.2000 and 1.2.2000 the applicants were asked to explained the facts regarding their appointments. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letters dated 31.1.2000 and 2.1.2000 is inter-office matter and they being the applicants, the present position is not known to them as to whether relaxation has given to them. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against their appointing authorities, it is not possible for them to explain the position clearly.

4.18 That in any view of the matter, pursuant to the letters dated 31.1.2000 and 1.2.2000, the applicants submitted their reply but while issuing the orders

Wm

dated 14.3.2000 and 18.3.2000, same has not been taken into consideration.

4.19 That the letters dated 31.1.2000 and 1.2.2000 has casted stigma on the applicants and as per Article 311 of the Constitution of India, they are entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the rule involved and rule quoted are different.

4.20 That before issuance of the letters dated 31.1.2000 and 1.2.2000 and termination letters dated 14.3.2000 and 18.3.2000, due approval has been taken and no enquiry in the matter has been done properly as to whether illustration is applicable in their case on consideration of their length of services.

4.21 That issuance of letters dated 31.1.2000 and 1.2.2000 and termination letters dated 14.3.2000 and 18.3.2000, if not in the interest of public service and same is not at all sustainable in the eye of law as the said letters were issued without considering the length of service rendered by the applicants in the Department. Before terminating the service of the applicants, the concern authority should have taken a pragmatic view of the matter.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the appointment of the applicants has been offered after due consideration of the facts as well as the documents submitted by them along with the

applications and original certificates produced by them at the time of interview.

5.2 That before termination of the services of the applicants, no formal notice in the prescribe form has been served on them. In fact, while issuing the letters dated 31.1.2000 and 1.2.2000 the applicants were asked to explained the facts regarding their appointments. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letters dated 31.1.2000 and 2.1.2000 is inter-office matter and they being the applicants, the present position is not known to them as to whether relaxation has given to them. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against their appointing authorities, it is not possible for them to explain the position clearly.

5.3 For that while issuing the letter dated 31.1.2000 and 1.2.2000 the respondents authority has not taken into consideration the relevant rules i.e. Rules 6 of EDA Conduct and Service Rules. In the said letters there has been no mention regarding serving notice on the applicants.

5.4 For that in any view of the matter, pursuant to the letters dated 31.1.2000 and 1.2.2000, the applicants submitted their reply but while issuing the orders dated 14.3.2000 and 18.3.2000, same has not been taken into consideration.



5.5 For that the letters dated 31.1.2000 and 1.2.2000 has casted stigma on the applicants and as per Article 311 of the Constitution of India, they are entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the rule involved and rule quoted are different.

5.6 For that before issuance of the letters dated 31.1.2000 and 1.2.2000 and termination letters dated 14.3.2000 and 18.3.2000, due approval has been taken and no enquiry in the matter has been done properly as to whether illustration is applicable in their case on consideration of their length of services.

5.7 For that issuance of letters dated 31.1.2000 and 1.2.2000 and termination letters dated 14.3.2000 and 18.3.2000, if not in the interest of public service and same is not at all sustainable in the eye of law as the said letters were issued without considering the length of service rendered by the applicants in the department. Before terminating the service of the applicants, the concern authority should have taken a pragmatic view of the matter.

5.8 For that by the said letters dated 31.1.2000 and 1.2.2000 and termination letters dated 14.3.2000 and 18.3.2000, the concern authority has casted stigma on the applicants and as a measure of punishment their services has been terminated which is violative to the Article 311 of the Constitution of India.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. They are seeking urgent and immediate relief.

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

The applicants further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To direct the respondents to retain the applicants as EDA at their respective post office at Dimapur with all consequential service benefits, after

canceling/setting aside/quashing the termination orders dated 14.3.2000 and 18.3.2000 (Annexure-D colly). 8.2 To cancel/set aside/quashed the impugned orders dated 2.1.2000, 3.1.2000, 4.1.2000 and 5.1.2000 (Annexure-F colly) passed by the respondent No. 2 rejecting the appeals filed by the applicants.

8.3 Cost of the application.

8.4 Any other relief/reliefs to which the applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case the applicants pray for interim order directing the respondents to consider the case of the applicants.

10.

The application is filed through Advocate.

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

- i) I.P.O. No. : 56422513
- ii) Date : 23-2-2001
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Shri Uddhab Basumatary, aged about 29 years, son of Late Golap Basumatary, resident of Dimapur, Nagaland, do hereby solemnly affirm and verify that I am one of the applicant in this instant application and conversant with the facts and circumstances of the case. Thus I am competent to verify this case and the statements made in paragraphs 4.1, 4.2, 4.3, 4.11 to 4.21 & 5.1 to 5.8 are true to my knowledge; those made in paragraphs 4.4, 4.5, 4.6, 4.7, 4.8, 4.9 & 4.10 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 30 th day of March 2001.

Shri Uddhab Basumatary

ANNEXURE-A copy
Applicant no.1

Department of Posts

O/O the Sub-Divisional Inspector of Post Office, Dimapur Sub-Division Dimapur-797112, Nagaland

No.A-1/EDDA/N.Gaon S.O. Dated at DMP the 03.12.97

Shri Udhav Basumatary S/o(L) Gulab Basumatary of Rangapahar Sangtamilla is hereby temporarily appointed at EDDA of New Nepaligaon S/O w.e.f. 01.12.97 vice Shri Ashok Chakraborty promoted to Postman on adhoc basis.

The appointment of Shri Udhav Basumatary will be purely on temporary basis and will stand terminated as soon as Shri Ashok Chakraborty is reverted back to his original post.

The undersigned also reserves the right to terminate this arrangement (before reversion of Shri Ashok Chakraborty) at any time without assigning any reason and Shri Udhav Basumatary will have no claim or right over the said post or for regular absorption in that post.

Sd/- D.K. Bora
Sub-Divisional Inspector of Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

Copy to :

1. The Post Master., Kohima HO for information & n/a.
2. The SPM/New Nepaligaon SO for information & n/a.
3. Shri Udhav Basumatary for inform and n/a.

Sd/- D.K. Bora

Attested
Mr. P. K. Bora
Advocate

ANNEXURE-A copy
Applicant No. 1

Department of Posts

O/O Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

No.A-1/EDDA/Rangapahar Bo dated at DMP the 31.10.98

O R D E R

Shri Udhav Basumatary now working as EDDA of Nepaligaon S.O. is hereby appointed as the EDDA of Rangapahar BO (Dimapur SO) w.e.f. 2.11.98. He should be paid pay and allowances as admissible from time to time.

Shri Udhav Basumatary should clearly understand that his employment as EDDA Rangapahar will be in the nature of contract liable to be terminated by him, or the undersigned by notifying the order, in writing and that he shall also be governed by the P & T EDA (conduct and Service) Rules 1964 as amended from time to time.

Following this, the arrangement made under this office memo, dt. even no dated 15.5.98 will stand terminated.

Sd/- Illegible

Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

Copy to :

1. The Postmaster., Kohima HO for information & n/a.
2. The PSM/Nepaligaon at Dimapur for information & n/a.
3. Shri Udhav Basumatary, he should forwarded the copy of joining charge report to all concerned.
4. Rangapahar BO for information.

Sd/- Illegible

DEPARTMENT OF POST
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION

-0-

Memo No A1/EDDA/Rangapahar Dated at Dimapur, the 09-11-98

LETTER OF APPOINTMENT

Shri Mdhob Basumatary
S/o (A) Gitali Basumatary Village Sajikamintilla
P.O. Rangapahar P.O. P/S Dimapur
District Dimapur is hereby appointed as E.D.D.A. of Rangapahar
with effect from the F/N A/N of D.R. - 11-98. He/She shall be paid such allowances as admissible from time to time.

2. Shri/Smt. Mdhob Basumatary should clearly understand the his/her employment as E.D.D.A. will be in nature of contract liable to terminated by him/her for the undersigned by notifying the other, in writing and that he/she shall also be Governed by the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.

3. If these conditions are acceptable to him/her, he/she should communicate his/her acceptance in the prescribed proforma enclosed herewith.

4. The part service is terminated by Shri Mdhob Basumatary (A.D. (P.O.)
EDDA/A. N. 1-98) Sub-Divisional Inspector
S.O. 09/112-98 will of Post Offices
Court Date 11/12/98 Dimapur Sub-Division
Service completed as per Dimapur 797192112 Nagaland
will exist for the purpose.

Copy forwarded to:-

- 1) The Postmaster, Kohima H.O. for information
- 2) The Sub-Postmaster, Dimapur
- 3) The P.M. Rangapahar P.S.
- 4) Shri/Smt. Mdhob Basumatary

29.11.97

9.11.98

(A.D. (P.O.)
Sub-Divisional Inspector
of Post Offices
Dimapur Sub-Division
Dimapur 797192112 Nagaland

-1000:-

91

DEPARTMENT OF POST
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR-797112

-0-

PROVISIONAL APPOINTMENT ORDER

memo No. At/Edme/Khelma Bo Dated at Dimapur, the 29-11-97

Whereas the post of Edme/Khelma Bo (Talukie) has become vacant/has been newly created and it is not possible to make regular appointment to the said post immediately the undersigned . . . has decided to make provisional appointment to the said post for a period of . . . 6 (Six months) from 1-12-97 is made, whichever period is shorter.

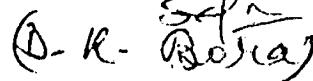
2. Shri Nityananda Basumatary is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The undersigned . . . 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 Nityananda Basumatary 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.

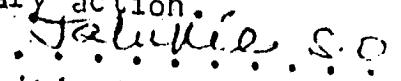
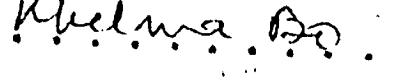
5. In case the above conditions are acceptable to Shri Nityananda Basumatary he should sign the duplicate copy of this memo and return the same to the undersigned, immediately.

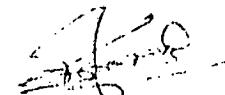
Appointing Authority


D. R. Borai

Dimapur Sub-Division
Dimapur-797112, Nagaland

Copy to

1. Shri Nityananda Basumatary
2. The Postmaster, Kohima H.O. for information and necessary action
3. The S.P.M.  Talukie S.O.
4. The B.P.M.  Khelma Bo


D. R. Borai

Dimapur-797112, Nagaland

ANNEXURE-A copy
Applicant No. 2

Department of Posts

O/O Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

No.A-1/EDMC/Khelma BO dated at DMP the 1.12.97

O R D E R

Shri Nityananda Basumatary EDMC of Khelma BO
is hereby ordered to remain attached with Zalukia SO
and perform the duty of stamp sale and other attached
works as may be entrusted by the SPM for smooth
functioning of the office until further orders.

Sd/- D.K. Bora

Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

Copy to :

1. The SPM/Zalukia SO for information & n/a.
2. Shri Nityananda Basumatary, for information.

Sd/- D.K. Bora

DEPARTMENT OF POSTS
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION
Dimapur 797 112 Nagaland.

Memo NO. A-1/EDDA/ ATHIBUNG/Dated at Dimapur ,the 03/03/99

LETTER OF APPOINTMENT

Shri Nitya nanda Basumatary who is working as EEMC/Khelma BO is hereby redesignated and appointed as EDDA/ of Athibung BO with effect from the F/N of 01/03/99 vice Shri Helkho jang Kuki deserted the post during Sept ' 1997". He shall be paid such a pay and allowances as admissible from time to time.

- 2) Shri Nitya Nanda Basumatary should clearly understand that his employment as EDDA/Athibung will be in the nature of contract liable to be terminated by him for the undersigned by notifying the other, in writing and that he shall also be governed by the posts and Telegraphs extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.
- 3) If these conditions are acceptable to him , he should communicate his acceptance in the prescribed proforma enclosed
- 4) This order is issued in accordance with the Dte letter NO.43/27/85 Pen deated 12/09/88 and the Official will be entitled to the benefit of his post services at Khelma for all purposes.

Scd
(D. K. BORA)
Sub-Divisional Inspector
of Post Office,
Dimapur Sub Division
Nagaland, India

Copy forwarded to :-

- 1) The Postmaster , Kohima H.O for information and necessary action.
- 2) The Sub-Postmaster Jalukie , S.O for information and necessary action.
- 3) The B.P.M.Athibung BO, for information.
- 4) Official concerned. *N. Basumatary*

Scd
(D.K.BORA)

Sub-Divisional Inspector

of Post Office

Department of Post, India.
 Office of the Sub-Divisional Inspector of Post Offices
 Dimapur Sub-Divn, Dimapur-797112.

Memo No. A-1 / ED Packer/Chumukedima Dimapur.

Dated at Dimapur the 10.2.99.

Shri LALIT RANJAN PRASAD, S/o, SHRI PRITHIVI NATH PRASAD OF GOLAGHAT ROAD DIMAPUR is hereby appointed as ED Packer of Chumukedima S.O. w.e.f. from 1.2.99. He shall be paid such allowances as admissible from time to time.

2. Shri LALIT RANJAN PRASAD should clearly understand that his employment as ED-Packer shall be in the nature of a contract liable to be terminated by him or the undersigned by notifying the other, in writing, and that he shall also be governed by the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.

3. If these conditions are acceptable to him, he should communicate his acceptance in the proforma reproduced below.

(D.K. BORA)
 SDIPOS, Dimapur Sub-Divn,
 Dimapur-797112,
 Sub-Divisional Inspector
 of Post Offices

Copy forwarded to:-

1. The Postmaster Kohima HO for information and necessary action.

2. The SPM, Chumukedima S.O. for information and necessary action.

3. Shri Lalit Ranjan Prasad ED-Packer Chumukedima S.O.

(D.K. BORA)
 SDIPOS, Dimapur Sub-Divn,
 Dimapur-797112, Inspector

of Post Offices
 Dimapur Sub-Division
 Dimapur-797112 Nagaland

ANNEXURE-A copy
Applicant No. 4

Department of Posts

O/O Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

No.B-2/Staff/Deputation/APS dated at DMP the 8.12.97

The following orders are issued in the interest of
service to have immediate effect -

1. Shri Kumardhan Singh EDMC cum EDDA of Diphupar BO is
hereby ordered to hand over the charge to Shri Ram
Pravesh Prasad and report to BRO Rangapahar P/Box-107
Dimapur vide DPS Nagaland, Kohima, Memo No. BI/33/R
dtd. at Kohima the 4.12.97.
2. The charge of EDMC cum EDDA held by Shri Ram Pravesh
Prasad will be on temporary basis till final selection
is made as per the normal recruitment Rules and
Procedure prescribed for ED agents and that this order
will not confers upon him any right or claim for
regular appointment.

Sd/- D.K. Bora

Sub-Divisional Inspector of
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

Copy to :

1. The DPS, Nagaland, Kohima 797112 for information &
n/a with his memo cited above.
2. The Post Master, Kohima HO for information & n/a.
3. The SPM/ARTC SO for information & n/a.
4. Shri Ram Pravesh Prasad.
5. Official concerned.
6. Ect files.

Sd/- D.K. Bora.

DEPARTMENT OF POST
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION

-0-

Mem. No. A-11 EDDA cum EDme / Dated at Dimapur, the 28-1-99

LETTER OF APPOINTMENT

Shri. Ram. Prevesh. Pecasad,
S/o. Ram. Prevesh. Pecasad Village. Rly. Colony
P.O. Dimapur P/S. Dimapur
District Dimapur is hereby appointed as E.D.D cum EDme
with effect from the F/N - D/N of 09-12-97 of Dimapur BSNL.
He/She shall be paid such allowances as admissible from time to time.

2. Shri/Smt. Ram. Prevesh. Pecasad,, should
clearly understand that his/her employment as E.D.D cum EDme
will be in nature of contract liable to be terminated by him/her for
the undersigned by notifying the other, in writing and that he/she
shall also be governed by the Posts and Telegraphs Extra Departmental
Agents (Conduct and Service) Rules, 1964, as amended from time to
time.

3. If these conditions are acceptable to him/her, he/she should
communicate his/her acceptance in the prescribed proforma enclosed
herewith.

(D. K. BORA)
Sub-Divisional Inspector
of Post Offices
Dimapur Sub-Division
Dimapur 797112
Dimapur 797112 Nagaland

Copy forwarded to:-

- 1) The Postmaster, Kohima H.O. for information
- 2) The Sub-Postmaster, O.R.T & S.O. for information
- 3) The S.P.O., Dimapur BSNL for information
- 4) Shri/Smt. Ram. Prevesh. Pecasad, for information

(D. K. BORA)
Sub-Divisional Inspector
of Post Offices
Dimapur Sub-Division
Dimapur 797112
Dimapur 797112 Nagaland

-:000:-

Attested
Advocate

ANNEXURE-B copy
(Applicant No.1)

DEPARTMENT OF POST : INDIA

Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur-797112, NAGALAND

No:- A-1/EDDA/Rangapahar
Date: 31.1.2000

To

Shri Udhav Basumatary
EDDA, Rangapahar P.O
Via-Dimapur

Subject:- Irregular appointment

It was observed by the
D.Ps/Nagaland Kohima while inspected a/o the u/s on
18.12.99 that you were appointed as EDDA /Rangapahar
P.O vide this office letter of even no dated 9.11.98

Since you are hails from Nagaon District of Assam
and has not produced employment Registration card of
Nagaland at the time of appointment , I have been
directed to terminate your service.

You are given an opportunity to explain as to
why your service will not be terminated.

Your explanation should reach to the u/s
within 3(Three) days on receipt of this letter.

Sd/Illegible

Sub-Divisional Inspector
Post office
Dimapur Sub-Division
Dimapur-797112, Nagaland

ANNEXURE-B: copy
Applicant no.2

Department of Post: India
Sub-Divisional Inspector Post Office
o/o the Dimapur Sub-Division
Dimapur-797112, Nagaland

No:1/PF/EDDA/Athibung Dated 31.1.2000

To

Shri Nityananda Basumatary
EDDA/Athibung P.o
Via. Zalukia Nagaland

Subject:- Irregular appointment

It was observed by the DPS/Nagaland, Kohima that you were appointed as EDMC/Khelma P.o vide this office memo No. A-1/EDMC/Khelma P.o dated 29.11.97 for six months with effect from 1.12.97 to 31.5.98 and you were redesignated and appointed as EDDA/Athibung P.o vide memo No. A-1/EDDA/Athibung dated 3.3.99 without observing any formality.

AS per certificate furnished by you are hails from Karbi-Anglong District of Assam and is registered with Employment Exchange ,Diphu which is not applicable in Nagaland. As such, I have been directed to terminate your service.

You are given an opportunity to explain as to why your service will not be terminated.

Your explanation should reach to the u/s within 3(three) days on receipt of this letter.

sd/
Sub-Divisional Inspector Post
Office
Dimapur Sub-Division
Dimapur-797112, Nagaland.

ANNEXURE-B colly
Applicant no.3

0/o the
Sub-Divisional Post Office
Dimapur sub-division

No:A-1/ED

Dimapur-797112, Nagaland

Packer/ckdas

Dated. 31.1.2k

To

Shri Lalit Ranjan Prasad
ED Packer, Chunu Kedina S.O.
Nagaland

Subject: Irregular appointment

It was observed by the D.P.S/Nagaland, Kohima while inspected the o/o the u/s on 18.12.99 that you were appointment vide this office memo of even no.30.1.99 A/N.

The required formalities were not observed while appointment made as such I have been directed to terminate your service

You are there for given an opportunity to explain as to why your service will not be terminated.

Your explanation should reach to the u/s within 3(three) days on receipt of this latter.

sd/
Sub Divisional Inspector
Post Office
Dimapur Sub-Division
Dimapur -797112, Nagaland

ANNEXURE-B copy
Applicant no.4

O/O the Sub Divisional Inspector
Post Office
Dimapur Sub-Division
Dimapur-797112, Nagaland

No:A-1/EDDA(C)EDMC/
Diphupar, Dated 1.2.2000

To

Shri Ram Pravesh Prasad
EDDA(C) EDMC/Diphupar
Now acting as BPM/Diphupar

Subject : Irregular appointment

It was observed by the DPS/Nagaland, Kohima that you were appointed as EDDA cum EDMC of Diphupar P.O. vide this office of even no. dated 28.1.99. But your name was neither sponsored by the Employment Exchange Kohima nor by village council. Further you failed to produce Employment Registration No. or card in support of your candidature.

Your candidature. As such I have been directed to terminate your service.

You are therefore given an opportunity to explain as to why your service will not be terminated.

Your explanation should reach to the u/s within 3(three) days on receipt of this letter.

sd/
Sub-Divisional Inspector
Post Office
Dimapur Sub-Division
Dimapur -797112, Nagaland

DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR 797 112 : NAGALAND.

Memo No. A-1/Rangapahar,

Dated at Dimapur the 14-3-2000

TERMINATION OF SERVICE

Under the cover of Rule-6 of P & T E.D. Agents (Conduct and service) Rules, 1964 service of Shri. Udhab Basumatary E.D.D.A./Rangapahar B.O. in a/c with Dimapur S.O. is hereby terminated with immediate effect.

Dimapur
(D. K. DEY) 14/3
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

To,

Shri. Udhab Basumatary,
E.D.D.A/Rangapahar B.O.
Via- Dimapur, Nagaland.

Copy to :-

1. The D.P.S./Nagaland Kohima w/r to this office I.R. dated 18-12-99 para 7.3 for favour of kind information.
2. Postmaster, Kohima H.P.O. for information and necessary action.
3. S.P.M./Dimapur for information.
4. B.P.M./Rangapahar B.O. Delivery works will be entrusted to Smti. Maola Ao, EDDA-II till further arrangement is made.
5. File NO.A-1/E.D.D.A/Rangapahar
6. O/C

Attested

W.K. Dey
Advo. a/c

Saf
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

DEPARTMENT OF POST : INDIA
OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION,
DIMAPUR 797112 : NAGALAND.

Memo No. A-1/Athibung.

Dated, at Dimapur the 14th March 2000.

TERMINATION OF SERVICE

Under the cover of Rule -6 of P & T., E.D. Agents (Conduct and service) Rules 1964 Service of Shri. Nityananda Basumatary E.D.D.A/Athibung B.O. in A/C with Zalukie, S.O. is hereby terminated with immediate effect.

Acc. to
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur 797112, Nagaland

To,

✓ Shri. Nityananda Basumatary,
E.D.D.A. Athibung B.O.
Via- Zalukie, Nagaland.

Copy to :-

1. The D.P.S./Nagaland Kohima w/r to this office I.R. dated 18-12-99 para 7.5 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./Zalukie for information.
4. The B.P.M./Athibung B.O. He will carryout the works of E.D.D.A. in addition to his works and without extra remuneration till further arrangement.
5. File NO A-1/P.F./E.D.D.A./Athibung.
6. O/C.

S.d/-
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur 797112, Nagaland

Recd/ed
Major
Advise

DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR - 797 112 : NAGALAND.

Memo NO:A-1/Chumukedima,

Dated At Dimapur the 18-3-2000.

TERMINATION OF SERVICE

Under the cover of Rule-6 of P & T E.D. Agents (Conduct and service) Rules 1964, service of Shri. Lalit Ranjan Prasad E.D. Packer, Chumukedima S.O. is hereby terminated with immediate effect.

Original
(D.K. DEY) 18.3.2000
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur 797112, Nagaland

Shri. Lalit Ranjan Prasad
E.D. Packer
Chumukedima, Nagaland.

Copy to :-

1. The D.P.S. Nagaland, Kohima w/r to this office I.R. dated 18-12-99 para 7.2 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./Chumukedima, Temporary local arrangement may be made in place of E.D. Packer.
4. File NO.A-1/E.D.Packer/Chumukedima.
5. O/C.

84
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

Request
My name
Advocate

DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR 797 112 : NAGALAND.

Memo No. A-1/Diphupar,

Dated at Dimapur the 18-3-2000.

TERMINATION OF SERVICE

(Conduct and service) Rules 1964, service of Shri. Ram Pravesh Prasad, E.D.D.A. cum E.D.M.C. Diphupar B.O. and now acting as B.P.M. in A/C with A.R.T.C., S.O. is hereby terminated with immediate effect.

Dis. S. 18/3
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

To,

Shri. Ram Pravesh Prasad
E.D.D.A(C) E.D.M.C.
now acting B.P.M./Diphupar B.O.
via A.R.T.C. Nagaland.

Copy to :-

1. The D.P.S. Nagaland, Kohima w/r to this office I.R. dated 18-12-99 para 7.6 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./A.R.T.C. for information.
4. Shri. L.R.M. Singh o/s mail Dimapur. He will take charge of the office till further order.
5. File No. A-1/PF/EDDA(C) EDMC/Diphupar.
6. O/C

Attested
My signature
Adv. 818

Sel/-
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

To

The Director of Postal Services,
Nagaland, Kohima.

(THROUGH PROPER CHANNEL)

Subject:- APPEAL AGAINST THE ORDER OF TERMINATION
DATED 14-3-2000 PURSUANT TO THE ORDER DATED
9-5-2000

Reference:- (1) No:- A-1/FOODA/Rangapahar. DTD- 31-1-2000
(2) No:- A-1/Rangapahar. DTD- 14-3-2000
(3) No:- A-1/AIPU/ COMM/NL DTD- 9-5-2000

Respected Sir,

With due deference and profound submission,
I beg to state the following few lines before your
honour for kind consideration and favourable action
thereof.

That after due selection by duly constituted
selection Committee, I was unanimously selected and
offered the post of FODA under your establishment.
Just after completion of about 27/2 years of continuous
service, I was served with a letter dated 31.1.2000.
In the said letter, on the subject, it was mentioned
as "Irregular appointment"; citing the facts and figures
of my appointment, I was asked for the explanation
regarding the allegations made therein.

That on receipt of the said letter dated
31.1.2000, I accordingly submitted my explanation stating
the facts and enlightening the circumstances under which
I was selected and appointed in the said post. However,
unfortunately, no weightage has been given to my such
reply and the order dated 14-3-2000 has been served on
me terminating my service.

That in the said order of termination, the
authority concerned has not discussed the facts and
circumstances stated by me in the reply. In addition to
that even no separate order has been issued to me disposing
of my such reply. In fact, till date, I am in a dark as to
whether the reply/representation/explanation filed by me
has been taken into consideration or not! I have got my
reasonable apprehension that my said reply has not been
taken into consideration. Had my representation/reply
been taken into consideration at the time of issuance of
the termination order dated 14-3-2000 my service should
not have been terminated in such a manner.

Attested
Major
Advocate

- (2) -

that espousing my cause of action, our Union took up the matter by way of filing review application for modification/review of order dated 14-3-2000. The said review application has been preferred by the Union on 30.3.2000 followed by reminder dated 01.4.2000. Finally, the said review application has virtually been disposed off by an order dated 04.5.2000 directing me to file appeal against the order dated 14-3-2000 terminating my service. Hence, the present appeal on amongst the following grounds:

- (a) That my appointment has been offered to me after due consideration of the facts as well as the documents submitted by me along with the application and certificates produced at the time of interview.
- (b) That before termination of my service, no formal notice in the prescribed form has been served on me. In fact, while issuing the letter dated 31.1.2000, I was asked to explain the facts regarding my appointment. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letter dated 31.1.2000 is inter-office matter and I, being an applicant, the present position is not known to me as to whether relaxation has given to me. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against my appointing authorities, it is not possible for me to explain the position clearly.
- (c) That while issuing the letter dated 31.1.2000, the department has not taken into consideration the relevant Rules i.e. Rule 6 of (MCA Conduct and Service Rules). In the said letter there has been no mention regarding serving notice on me.
- (d) That in any view of the matter pursuant to letter dated 31.1.2000, I submitted my reply, but while issuing the order dated 14-3-2000 same has not been taken into consideration.
- (e) That the letter dated 31.1.2000 has casted stigma on me and as per Article 311 of the Constitution of India, I am entitled to due notice as well as hearing. In fact, no proper enquiry should have been made in the case and the Rule invoked and Rule quoted are different.

- (3) -

(x) That before issuance of the letter dated 31.1.2000 and 14.3.2000, due approval has not been taken and no inquiry in the matter has been done properly as to whether relaxation is applicable in my case on considering my length of service.

(g) That issuance of letter dated 31.1.2000 and 14.3.2000, is not in the interest of public service and the same is not at all sustainable in the eye of law as the said letter was issued without considering my length of service rendered by me in the department.

(h) That before terminating my service, the concerned authority should have taken a pragmatic view in the matter.

(i) That by the said order dated 14.3.2000 and letter dated 31.1.2000, the concerned authority has cast stigma on me and as a measure of punishment my service has been terminated, violating Article 311 of the Constitution of India.

(j) That be that as it may, if any mistake has been committed by the Department, same can be treated as an act of state and the same always can be considered as a bonafide one, and also in the present case, treating the same as an exceptional case, reliefs required to be granted to me.

That in view of the aforesaid facts, circumstances and grounds, the order of termination is liable to be set aside and quashed and I may be allowed to continue in my service with all consequential service benefits.

Thanking you,

Yours faithfully,

SRI Uddhab Basumatary

Copy forwarded to :-

The Divisional Secretary, AIPSU,
Class III, IV & SDAS for information. S/No.

SRI Uddhab Basumatary

To

The Director of Postal Services,
Nagaland, Kohima.

(THROUGH PROPER CHANNEL)

Subject:- APPEAL AGAINST THE ORDER OF TERMINATION
DATED 14.3.2000 PURSUANT TO THE ORDER DATED
4.5.2000

Reference:- (1) No:- A-1/PE/EDDA/ATKiling, dated 31.1.2000
(2) No:- A-1/ATKiling, dated 14.3.2000
(3) No. A-1/AIPFU/CONP/NL dated 4.5.2000

Respected Sir,

With due deference and profound submission,
I beg to state the following few lines before your
honour for kind consideration and favourable action
thereof.

That after due selection by duly constituted
Selection Committee, I was unanimously selected and
offered the post of EDDA under your establishment.
Just after completion of about 2½ years of continuous
service, I was served with a letter dated 31.1.2000.
In the said letter, on the subject, it was mentioned
as "Irregular appointment"; citing the facts and figures
of my appointment, I was asked for the explanation
regarding the allegations made therein.

That on receipt of the said letter dated
31.1.2000, I accordingly submitted my explanation stating
the facts and enlightening the circumstances under which
I was selected and appointed in the said post. However,
unfortunately, no weightage has been given to my such
reply and the order dated 14.3.2000 has been served on
me terminating my service.

That in the said order of termination, the
authority concerned has not discussed the facts and
circumstances stated by me in the reply. In addition to
that even no separate order has been issued to me disposing
of my such reply. In fact, till date, I am in a dark as to
whether the reply/representation/explanation filed by me
has been taken into consideration or not! I have got my
reasonable apprehension that my said reply has not been
taken into consideration. Had my representation/reply
been taken into consideration at the time of issuance of
the termination order dated 14.3.2000 my service should
not have been terminated in such a manner.

- (2) -

That espousing my cause of action, our Union took up the matter by way of filing review application for modification/review of order dated 14.3.2000. The said review application has been preferred by the Union on 30.3.2000 followed by reminder dated 01.4.2000. Finally, the said review application has virtually been disposed off by an order dated 04.5.2000 directing me to file appeal against the order dated 14.3.2000 terminating my service. Hence, the present appeal on amongst the following grounds:

- (a) That my appointment has been offered to me after due consideration of the facts as well as the documents submitted by me along with the application and certificates produced at the time of interview.
- (b) That before termination of my service, no formal notice in the prescribed form has been served on me. In fact, while issuing the letter dated 31.1.2000, I was asked to explain the facts regarding my appointment. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letter dated 31.1.2000 is inter-office matter and I, being an applicant, the present position is not known to me as to whether relaxation has given to me. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against my appointing authorities, it is not possible for me to explain the position clearly.
- (c) That while issuing the letter dated 31.1.2000, the department has not taken into consideration the relevant Rules i.e. Rule 6 of (EDA Conduct and Service Rules). In the said letter there has been no mention regarding serving notice on me.
- (d) That in any view of the matter pursuant to letter dated 31.1.2000, I submitted my reply, but while issuing the order dated 14.3.2000 same has not been taken into consideration.
- (e) That the letter dated 31.1.2000 has casted stigma on me and as per Article 311 of the Constitution of India, I am entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the Rule invoked and Rule quoted are different.

- (3) -

(f) That before issuance of the letter dated 31.1.2000 and 14-3-2000, due approval has not been taken and no inquiry in the matter has been done properly as to whether relaxation is applicable in my case on considering my length of service.

(g) That issuance of letter dated 31.1.2000 and 14-3-2000, is not in the interest of public service and the same is not at all sustainable in the eye of Law as the said letter was issued without considering my length of service rendered by me in the department.

(h) That before terminating my service, the concerned authority should have taken a pragmatic view in the matter.

(i) That by the said order dated 14-3-2000 and letter dated 31.1.2000, the concerned authority has casted stigma on me and as a measure of punishment my service has been terminated, violating Article 311 of the Constitution of India.

(j) That be that as it may, if any mistake has been committed by the Department, same can be treated as an act of state and the same always can be considered as a bonafide one, and also in the present case, treating the same as an exceptional case, reliefs required to be granted to me.

That in view of the aforesaid facts, circumstances and grounds, the order of termination is liable to be set aside and quashed and I may be allowed to continue in my service with all consequential service benefits.

Thanking you,

Yours faithfully,

Alitjananda Basumatary

Copy forwarded to :-

The Divisional Secretary, AIPEU,
Class III, IV & EDAS for information n/a.

Alitjananda Basumatary

To

The Director of Postal Services,
Nagaland, Kohima.

(THROUGH PROPER CHANNEL)

Subject:- APPEAL AGAINST THE ORDER OF TERMINATION
DATED 18.3.2000 PURSUANT TO THE ORDER DATED
C4-3-2000

Reference:- (1) No: A-1/ ED Packer/ ckdima. Dtd. 31-1-2000
(2) No: A-1/ Akumukedima, Dated At Dimapur (18-3-2000)
(3) No: A-1/ IPEU/ COMP/NL. DTD -4-5-2000

Respected Sir,

With due deference and profound submission,
I beg to state the following few lines before your
honour for kind consideration and favourable action
thereof.

That after due selection by duly constituted
Selection Committee, I was unanimously selected and
offered the post of ED Packer under your establishment.
Just after completion of about (1) years of continuous
service, I was served with a letter dated 31.1.2000.
In the said letter, on the subject, it was mentioned
as "Irregular appointment"; citing the facts and figures
of my appointment, I was asked for the explanation
regarding the allegations made therein.

That on receipt of the said letter dated
31.1.2000, I accordingly submitted my explanation stating
the facts and enlightening the circumstances under which
I was selected and appointed in the said post. However,
unfortunately, no weightage has been given to my such
reply and the order dated 18-3-2000 has been served on
me terminating my service.

That in the said order of termination, the
authority concerned has not discussed the facts and
circumstances stated by me in the reply. In addition to
that even no separate order has been issued to me disposing
of my such reply. In fact, till date, I am in a dark as to
whether the reply/representation/explanation filed by me
has been taken into consideration or not! I have got my
reasonable apprehension that my said reply has not been
taken into consideration. Had my representation/reply
been taken into consideration at the time of issuance of
the termination order dated 18-3-2000 my service should
not have been terminated in such a manner.

- (2) -

That espousing my cause of action. Our Union took up the matter by way of filing review application for modification/review of order dated 18-3-2000. The said review application has been preferred by the Union on 30.3.2000 followed by reminder dated 01.5.2000. Finally, the said review application has virtually been disposed off by an order dated 04.5.2000 directing me to file appeal against the order dated 18-3-2000 terminating my service. Hence, the present appeal on amongst the following grounds:

- (a) That my appointment has been offered to me after due consideration of the facts as well as the documents submitted by me along with the application and certificates produced at the time of interview.
- (b) That before termination of my service, no formal notice in the prescribed form has been served on me. In fact, while issuing the letter dated 31.1.2000, I was asked to explain the facts regarding my appointment. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letter dated 31.1.2000 is inter-office matter and I, being an applicant, the present position is not known to me as to whether relaxation has given to me. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against my appointing authorities, it is not possible for me to explain the position clearly.
- (c) That while issuing the letter dated 31.1.2000, the department has not taken into consideration the relevant Rules i.e. Rule 6 of (EDA Conduct and Service Rules). In the said letter there has been no mention regarding serving notice on me.
- (d) That in my view of the matter pursuant to letter dated 31.1.2000, I submitted my reply, but while issuing the order dated 18-3-2000 same has not been taken into consideration.
- (e) That the letter dated 31.1.2000 has casted stigma on me and as per Article 311 of the Constitution of India, I am entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the Rule invoked and Rule quoted are different.

- (3) -

(f) That before issuance of the letter dated 31.1.2000 and 18/3/2000, due approval has not been taken and no inquiry in the matter has been done properly as to whether relaxation is applicable in my case on considering my length of service.

(g) That issuance of letter dated 31.1.2000 and 18/3/2000, is not in the interest of public service and the same is not at all sustainable in the eye of Law as the said letter was issued without considering my length of service rendered by me in the department.

(h) That before terminating my service, the concerned authority should have taken a pragmatic view in the matter.

(i) That by the said order dated 18/3/2000 and letter dated 31.1.2000, the concerned authority has casted stigma on me and as a measure of punishment my service has been terminated, violating Article 311 of the Constitution of India.

(j) That be that as it may, if any mistake has been committed by the Department, same can be treated as an act of state and the same always can be considered as a bonafide one, and also in the present case, treating the same as an exceptional case, reliefs required to be granted to me.

That in view of the aforesaid facts, circumstances and grounds, the order of termination is liable to be set aside and quashed and I may be allowed to continue in my service with all consequential service benefits.

Thanking you,

Yours faithfully,

Labit Ranjan Prasad
Ex-Parasen
GK Simi

Copy forwarded to :-

The Divisional Secretary, AIPAU,
Class III, IV & EDAs for information.

Labit Ranjan Prasad
Ex-Parasen
GK Simi

To

The Director of Postal Services,
Nagaland, Kohima.

(THROUGH PROPER CHANNEL)

Subject:- APPEAL AGAINST THE ORDER OF TERMINATION
DATED 18-3-2000 PURSUANT TO THE ORDER DATED
4-5-2000

Reference:- (1) No. H-1/EPDA(6) Com. Dtd. 1-2-2000
(2) No. H-1/DP/Ltrs Dtd. 18-3-2000
(3) No. H-1/AIPB/CO/np/NL Dtd. 4-5-2000

Respected Sir,

With due deference and profound submission,
I beg to state the following few lines before your
honour for kind consideration and favourable action
thereof.

That after due selection by duly constituted
Selection Committee, I was unanimously selected and
offered the post of ~~Driver/Com~~ under your establishment.
Just after completion of about 2½ years of ~~continuous~~
service, I was served with a letter dated ~~31-1-2000~~.
In the said letter, on the subject, it was mentioned
as "Irregular appointment"; citing the facts and figures
of my appointment, I was asked for the explanation
regarding the allegations made therein.

That on receipt of the said letter dated
~~31-1-2000~~, I accordingly submitted my explanation stating
the facts and enlightening the circumstances under which
I was selected and appointed in the said post. However,
unfortunately, no weightage has been given to my such
reply and the order dated ~~18/3/2000~~ has been served on
me terminating my service.

That in the said order of termination, the
authority concerned has not discussed the facts and
circumstances stated by me in the reply. In addition to
that even no separate order has been issued to me disposing
of my such reply. In fact, till date, I am in a dark as to
whether the reply/representation/explanation filed by me
has been taken into consideration or not! I have got my
reasonable apprehension that my said reply has not been
taken into consideration. Had my representation/reply
been taken into consideration at the time of issuance of
the termination order dated ~~18/3/2000~~ my service should
not have been terminated in such a manner.

- (2) -

That espousing my cause of action, our Union took up the matter by way of filing review application for modification/review of order dated 18/3/2000. The said review application has been preferred by the Union on 30.3.2000 followed by reminder dated 01.4.2000. Finally, the said review application has virtually been disposed off by an order dated 04.5.2000 directing me to file appeal against the order dated 18/3/2000 terminating my service. Hence, the present appeal on amongst the following grounds:

- (a) That my appointment has been offered to me after due consideration of the facts as well as the documents submitted by me along with the application and certificates produced at the time of interview.
- (b) That before termination of my service, no formal notice in the prescribed form has been served on me. In fact, while issuing the letter dated 31.1.2000, I was asked to explain the facts regarding my appointment. But the matter involved in the present case can be sorted out by the office only. The quarellies made in the letter dated 31.1.2000 is inter-office matter and I, being an applicant, the present position is not known to me as to whether relaxation has given to me. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against my appointing authorities, it is not possible for me to explain the position clearly.
- (c) That while issuing the letter dated 31.1.2000, the department has not taken into consideration the relevant Rules i.e. Rule 6 of (EDA Conduct and Service Rules). In the said letter there has been no mention regarding serving notice on me.
- (d) That in my view of the matter pursuant to letter dated 31.1.2000, I submitted my reply, but while issuing the order dated 18/3/2000, same has not been taken into consideration.
- (e) That the letter dated 31.1.2000 has casted stigma on me and as per Article 311 of the Constitution of India, I am entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the Rule invoked and Rule quoted are different.

- (3) -

(f) That before issuance of the letter dated 01.1.2000 and 18/3/2000, due approval has not been taken and no inquiry in the matter has been done properly as to whether relaxation is applicable in my case on considering my length of service.

(g) That issuance of letter dated 01.1.2000 and 18/3/2000, is not in the interest of public service and the same is not at all sustainable in the eye of Law as the said letter was issued without considering my length of service rendered by me in the department.

(h) That before terminating my service, the concerned authority should have taken a pragmatic view in the matter.

(i) That by the said order dated 18/3/2000 and letter dated 01.1.2000, the concerned authority has casted stigma on me and as a measure of punishment my service has been terminated, violating Article 311 of the Constitution of India.

(j) That be that as it may, if any mistake has been committed by the Department, same can be treated as an act of state and the same always can be considered as a bonafide one, and also in the present case, treating the same as an exceptional case, reliefs required to be granted to me.

That in view of the aforesaid facts, circumstances and grounds, the order of termination is liable to be set aside and quashed and I may be allowed to continue in my service with all consequential service benefits.

Thanking you,

Yours faithfully,

Ram Prakash prasad

Copy forwarded to :-

The Divisional Secretary, AIPSU,
Class III, IV & EDAs for information. 1/a.

Ram Prakash prasad

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 03.01.2001

This is an appeal preferred by Shri. Udhab Basumatary former EDDA of Rangapahar BO, against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimaapur vide memo no. A-1/Rangapahar, dtd. 14.3.2000.

2. Shri. Udhab Basumatary of Dighalipar Village, P.O-Pulakumti, Thana-Hawngiat under Karbi Anglong District of Assam was appointed as EDDA, Rangapahar BO in account with Dimaapur SO by the then SDI (P) Dimaapur, vide memo no. A-1/EDDA/Rangapahar BO, dtd. 31.10.98 and 9.11.98 w.e.f 2.11.98, without observing the prescribed recruitment procedures of notification through public advertisement inviting applications after the Employment Exchange, Kohima allegedly failed to sponsor candidates selection of candidates after proper verification of eligibility conditions.

3. Shri. Udhab Basumatary was served with a notice to show cause as to why his service should not be terminated since he hails from Karbi Anglong District of Assam and have not produced any Employment Registration card of Nagaland at the time of appointment by the SDI (P) Dimaapur vide his letter no. A-1/EDDA/ Rangapahar, dtd. 31.1.2000.

4. In his reply, dtd. 7.2.2000, Shri. Udhab Basumatary explained that he was appointed as EDDA, Rangapahar by the SDI (P) Dimaapur on 9.11.98 and has been working continuously and sincerely without any break from 2.11.98. He also stated that if there was any irregularity in his appointment, it is the responsibility of the appointing authority for which his service should not be terminated. The service of Shri. Udhab Basumatary, as EDDA, Rangapahar BO was terminated vide SDI(P) Dimaapur memo no. A-1/Rangapahar, dtd. 14.3.2000.

5. Against the order of termination of service, Shri. Udhab Basumatary preferred the present appeal to the Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000 Shri. Udhab Basumatary put forth the following arguments:-

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA. After completion of 2 1/2 years of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 14.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 14.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) Before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation/ charge sheet/ departmental proceedings against the appointing authority it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

v) The letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

Attested
 Mr. Jyoti
 Advocate

10. The contention of the appellant that he was duly selected and offered the appointment of EDDA after due selection by a duly constituted selection committee is incorrect. The appointment was made by the then SDI (P) Dimapur without observing the prescribed recruitment procedures and even though the appellant was not at all eligible to be considered for appointment as ED staff in Nagaland. Even though no specific mention of the reply of the appellant was made, the termination order dtd. 14.3.2000 was issued taking into account the reply of the appellant.

11. As mentioned above, even though the show cause notice may not be in the prescribed pro forma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/ representation. Thus, the appellant was not denied of the principles of natural justice.

12. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantage over the eligible candidates and given appointment.

13. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Udhab Basumatary should be rejected.

ORDER

I, Shri. F.P. Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Udhab Basumatary. However, in lieu of one month's notice Shri. Basumatary may be given one month's basic pay and dearness allowance.

S/1/-

(F.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Udhab Basumatary,
Ex-EDDA/Rangapahar BO.

Copy to:-

1.1-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt

3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.

4. The SPM, Dimapur for information and necessary action.

(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001.

vi) Before issue of the letters dtd. 31.1.2000 and 14.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 31.1.2000 and 14.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. From the copies of the documents mentioned below and produced by the appellant at the time of his appointment, it is evident that Shri. Udhab Basumatary was a permanent resident of Dighalipar Village under Karbi Anglong District of Assam:-

i) Scheduled Tribe certificate no.118, dtd.18.1.90 issued by Deputy Commissioner, Karbi Anglong District, Assam certifying that Shri. Udhab Basumatary, S/o Galap Ch. Basumatary as permanent resident of Dighalipar Village, P.O-Palakarnati, Thana-Hawraghat, Karbi Anglong District of Assam and belonging to Boro Kachari Tribe.

ii) Character certificate issued by the Principal, Debjin P.K.S Higher Secondary School, Nagaon, Assam.

iii) Board of Secondary Education Assam admit card no. 134613 and marksheets no.13534 dtd. 6.5.1991.

7. Apart from age and educational qualifications a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland.

8. Shri. Udhab Basumatary did not fulfill the basic eligibility of being registered with any local employment exchanges in Nagaland at the time of his appointment as EDDA, Rungapahar BO. The Scheduled Tribe certificate and certificates of Educational qualifications clearly show that he is a permanent resident of Dighalipar Village under Karbi Anglong, Assam and was, therefore, not eligible for seeking employment as ED staff in Nagaland Postal Division under the existing recruitment rules. In short, the appellant was not eligible to be considered for appointment as ED staff in Nagaland at the time of his appointment as EDDA, Rungapahar.

9. Now, the question is whether SDI (P) Dibrugarh followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 14.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dibrugarh as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 14.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 7.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice is less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 02.01.2001

This is an appeal preferred by Shri. Nityananda Basumatary former EDDA of Athibung BO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-DIVL. Inspector of Post Offices, Dimapur vide memo no. A-1/Athibung dtd. 14.3.2000.

2. Briefly, Shri. Nityananda Basumatary of Dighalipar village, P.C. Polakamati under Karbi Anglong district (Assam) was appointed as EDDA, Athibung BO in account with Zalukie SO by the then SDIPOs, Dimapur vide memo no. A-1/EDDA/Athibung, dtd. 3.3.99 without observing the prescribed recruitment procedure of approaching local employment exchange for sponsoring of eligible candidates, or notification through public advertisement inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Nityananda Basumatary was served with a notice to show cause as to why his service should not be terminated since he hails from Karbi Anglong district of Assam, was registered with employment exchange in Diphu and did not fulfill the eligibility conditions for appointment as ED staff in Nagaland by the SDI (P) Dimapur vide his letter no. A-1/PF/EDDA/Athibung, dtd. 31.1.2000.

4. In his reply dtd. 7.2.2000, Shri. Nityananda Basumatary explained that he was provisionally appointed as EDMC Khelma BO on 29.11.97 and after the expiry of the period of provisional appointment, was appointed as EDDA Athibung BO on 3.3.99 and since then he has been working continuously and sincerely without any break. He also stated that if there was any irregularity in his appointment it is the responsibility of the appointing authority for which his service should not be terminated. The service of Shri. Nityananda Basumatary, EDDA Athibung BO in account with Zalukie SO was terminated vide SDIPOs Dimapur memo no. A-1/Athibung, dtd. 14.3.2000.

5. Against the order of termination of service Shri. Nityananda Basumatary preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000. Shri. Basumatary brought out the following points:-

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA. After completion of 2 1/2 years of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 14.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 14.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation / chargesheet / departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

Attascc

Ulfgran
Advocate

v) That the letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 31.1.2000 and 14.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 31.1.2000 and 14.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

I have gone through the case carefully. From the copies of the documents mentioned below and produced by the appellant at the time of his appointment, it is evident that Shri.Nityananda Basumatary is a permanent resident of Dighalipar Village under Karbi Anglong district of Assam:-

i) Schedule Tribe certificate no. 1498, dtd. 18.7.88 issued by Deputy Commissioner, Karbi Anglong District, Diphu.

ii) Board of Secondary Education, Assam admit card no. 61288 and Marksheets no. 128207, dtd. 1988.

iii) Employment registration card no.224/73 issued by Employment Officer, District Employment Exchange, Diphu.

6. Apart from age and educational qualifications a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland.

7. Shri.Nityananda Basumatary did not fulfill the basic eligibility condition of being registered with any local employment exchanges in Nagaland. He also did not produce any document/ record to show that he was a permanent or temporary resident of any locality in Nagaland at the time of his appointment.

8. The appellant was, therefore, not eligible to be considered for appointment as ED staff in Nagaland at the time of his appointment as EDDA, Athibung BO.

9. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 14.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 14.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 7.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice is less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

62

10. The contention of the appellant that he was duly selected and offered the appointment of EDDA after due selection by a duly constituted selection committee is incorrect. The appointment was made by the then SDI (P) Dimapur without observing the prescribed recruitment procedures and even though the appellant was not at all eligible to be considered for appointment as ED staff in Nagaland. Even though, no specific mention of the reply of the appellant was made, the termination order dtd. 14.3.2000 was issued taking into account the reply of the appellant.

11. As mentioned above, even though the show cause notice may not be in the prescribed format, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/representation. Thus, the appellant was not denied of the principles of natural justice.

12. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given the undue advantage over the eligible candidates and given appointment.

13. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Nityananda Basumatary should be rejected.

ORDER

I, Shri.F.P.Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri Nityananda Basumatary. However, in lieu of one month's notice Shri. Basumatary may be given one month's basic pay and dearness allowance.

SD
(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri.Nityananda Basumatary,
Ex-EDDA/Rangapahar BO.

Copy to:-

- 1.-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, Jalukie for information and necessary action.

SD
21/01-
(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 04.01.2001

This is an appeal preferred by Shri. Lalit Ranjan Prasad, former ED Packer, Chumukedima SO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no. A-1/Chumukedima, dtd. 18.3.2000.

2. Shri. Lalit Ranjan Prasad, was appointed as ED Packer of Chumukedima SO in account with Kohima HO by the then SDI (P) Dimapur vide memo no. A-1/ED Pkr./Chumukedima Dimapur, dtd. 10.2.99 without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring eligible candidates or notification through public advertisements inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Lalit Ranjan Prasad was served with a notice to show cause as to why his service as ED Packer, Chumukedima SO should not be terminated as the required formalities were not observed at the time of his appointment by the SDI (P) Dimapur vide his letter no. A-1/ED Pkr/C K Dima, dtd. 31.1.2000.

4. In his reply dtd. 4.2.2000, Shri. Lalit Ranjan Prasad stated that on learning about the vacant post he submitted the required documents to SDI (P) Dimapur who issued appointment order to him. It is not known to him whether the required formalities were observed or not. He has been working continuously as ED Packer, Chumukedima SO from 1.2.99 without any break in service. The service of Shri. Lalit Ranjan Prasad as ED Packer, Chumukedima SO was terminated vide the SDI (P) Dimapur memo no. A-1/Chumukedima, dtd. 18.3.2000.

5. Against the order of termination of service Shri. Lalit Ranjan Prasad preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000, Shri. Prasad brought out the following points:-

i) After due selection by a duly constituted selection committee, he was offered the post of ED Packer. After completion of 1 year of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 18.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 18.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation/charge sheet/departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

v) That the letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well its hearing.

Attested
MKG
Advocate

v) Before issue of the letters dtd. 31.1.2000 and 18.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vi) The issuing of letters dtd. 31.1.2000 and 18.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

vii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

viii) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. From the records it is seen that no local employment exchange was addressed for sponsorship of candidates nor Village Council Chairman, or Town Committee Chairman notified about the vacancy as per the existing rules. There was no application from Shri. Lalit Ranjan Prasad available in the record. It is obvious that appointment order was issued to Shri. Lalit Ranjan Prasad by the then SDI (P) Dimapur without the candidate applying for the post. Undue favour has been shown to Shri. Lalit Ranjan Prasad in issuing appointment order to him by the then SDI (P) Dimapur without following the prescribed recruitment rules and procedures. The contention of the appellant that he was offered the post of ED Packer, Chunukedima SO after due selection by a duly constituted selection committee and after due consideration of the facts as well as the documents and certificates is incorrect. There was a serious miscarriage of justice by not affording opportunity to other eligible and deserving candidates to apply for the post and be considered for appointment as ED Packer, Chunukedima SO by not notifying the vacancy, through employment exchange or village council or Town Committee or public advertisement as required under the recruitment rules by the then SDI (P) Dimapur.

7. It was clearly mentioned at para 2 of the appointment order no. A-1/ED Pkr/Chunukedima, dtd 10.2.99 that the employment of Shri. Lalit Ranjan Prasad as ED Packer shall be in the nature of a contract liable to be terminated by him or the appointing authority by notifying the other in writing. At the time of his appointment Shri. Lalit Ranjan Prasad gave the following declaration, 'I understand that my employment is purely temporary and that my service may be terminated by one month notice either by me to Govt. or to me by the Govt.' The termination order dtd. 18.3.2000 was, therefore, within the preview of the conditions of service and the ED Conduct rules.

8. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 18.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 18.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 4.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice was less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

9. As mentioned above, even though the show cause notice may not be in the prescribed proforma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/ representation. Thus, the appellant was not denied of the principles of natural justice.

10. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantages over the eligible candidates and given appointment.

11. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Lalit Ranjan Prasad should be rejected.

ORDER

I, Shri. F.P.Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Lalit Ranjan Prasad. However, in lieu of one month's notice Shri. Lalit Ranjan Prasad may be given one month's basic pay and dearness allowance.

Since Shri. Lalit Ranjan Prasad appears to possess the eligibility conditions for being considered for appointment as ED staff, his application alongwith the applications of other eligible candidates may be considered on merit while filling up the post of ED Packer, Chumukedima SO after proper notification of the vacancy through local employment exchange, Village Council / Town Committee and public advertisement.

SD/-
(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Lalit Ranjan Prasad,
Ex-ED Packer, Chumukedima SO.

REGD

Copy to:-

- 1-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, Chumukedima SO for information and necessary action.

(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 05.01.2001

This is an appeal presented by Shri. Ram Pravesh Prasad, former EDDA cum EDMC of Diphupar BO in account with ARTC SO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no, A-1/Diphupar, , dtd. 18.3.2000.

2. Shri. Ram Pravesh Prasad was appointed as EDDA cum EDMC Diphupar BO by the then SDI (P) Dimapur vide memo no.A-1/EDDA cum EDMC/Diphupar, dtd. 28.1.99 w.e.f 9.12.97 without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring eligible candidates or notification through public advertisements inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Ram Pravesh Prasad was served with a notice to show cause as to why his service as EDDA cum EDMC, Diphupar BO should not be terminated as the required formalities were not observed at the time of his appointment by the then SDI (P) Dimapur vide letter no.A-1/EDDA (c) EDMC/Diphupar, dtd. 1.2.2000.

4. In this reply dtd. 4.2.2000 Shri. Ram Pravesh Prasad stated that he was ignorant about the method of recruitment in the Department. But he submitted his documents to the SDI (P) Dimapur. After submission of the documents he was given the appointment by the SDI (P) Dimapur. Since his appointment he claimed to be working sincerely and it is not known as to why his service should be terminated. The service of Shri. Ram Pravesh Prasad as EDDA cum EDMC, Diphupar BO was terminated vide SDI (P) Dimapur memo no.A-1/Diphupar, dtd.18.3.2000.

5. Against the order of termination of service, Shri. Ram Pravesh Prasad preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000, Shri. Prasad brought out the following points:

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA cum EDMC. After completion of 2 1/2 year of continuous service he was served with a show cause notice dtd. 1.2.2000 in view of his irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 18.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 18.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any expiation/ chargesheet / departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 1.2.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964

Attested
By
Advocate
Advo. are

v) That the letter dtd. 1.2.2000 has cast a stigma on the appellant and as per article 311-c of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 1.2.2000 and 18.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 1.2.2000 and 18.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. Apart from age and educational qualification a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland. Shri. Ram Pravesh Prasad did not fulfill the eligibility condition of being registered with any of the Employment Exchanges in Nagaland. However, it is seen that even though Shri. Ram Pravesh Prasad was not eligible he was directed to take charge of EDDA cum EDMC, Diphupar BO from one Shri. Kunardhan Singh who was selected for deputation to APS by the then SDI (P) Dimapur, vide memo no. B-2/Staff/Depulation/APS, dtd. 8.12.97. All the documents appear to have been produced and declaration signed by Shri. Ram Pravesh Prasad on 10.12.97. Thereafter one letter no. A-1/EDDA (c) EDMC/Diphupar BO dtd. 5.1.98 was purported to have been issued to the District Employment Officer, Kohima for nomination of candidates for filling up the post of EDDA cum EDMC, Diphupar BO. A note available in the record mentioned that since the Employment Exchange, Kohima failed to sponsor candidates, the Chairman Diphupar Village Council also remained silent and since no other candidate applied for the post it was decided to give the appointment to Shri. Ram Pravesh Prasad who was provisionally working as EDDA cum EDMC after obtaining police verification report. However, even before obtaining police verification report from the police authorities Shri. Ram Pravesh Prasad was given letter of appointment by the then SDI (P) Dimapur vide memo no. A-1/EDDA cum EDMC/Diphupar dtd. 28.1.99.

7. Even though a letter to the District Employment Officer, Kohima was purported to have been issued by the then SDI (P) Dimapur on 5.1.98 with a copy to the Chairman Diphupar Village Council, there is no evidence like registered letter receipt to show that the letter was actually issued / sent to the addressee. No reminder was issued to the Employment Exchange and no public advertisement about the vacancy was issued as required under the recruitment rules. There was no application from Shri. Ram Pravesh Prasad available in the record. It is obvious that the appointment order was issued to Shri. Ram Pravesh Prasad by the then SDI (P) Dimapur without the candidate applying for the post. Undue favour was shown to Shri. Ram Pravesh Prasad in appointing him as EDDA cum EDMC, Diphupar BO by the then SDI (P) Dimapur without following the prescribed recruitment rules and procedures. The contention of the appellant that he was offered the post of EDDA cum EDMC, Diphupar BO after due selection by a duly constituted selection committee and after due consideration of the facts as well as the documents and certificates is incorrect. There was a serious miscarriage of justice by not affording opportunity to other eligible and deserving candidates to apply for the post and be considered for appointment as EDDA cum EDMC, Diphupar BO by not notifying the vacancy through employment exchange or village council or Town Committee or public advertisement as required under the recruitment rules by the then SDI (P) Dimapur.

8. It was clearly mentioned at para 2 of the appointment order no. A-1/EDDA cum EDMC / Dimapur, dtd. 28.1.99 that the employment of Shri. Ram Pravesh Prasad as EDDA cum EDMC shall be in the nature of a contract liable to be terminated by him or the appointing authority by notifying the other in writing. At the time of his appointment Shri. Ram Pravesh Prasad gave the following declaration, 'I understand that my employment is purely temporary and that my service may be terminated by one month notice either by me to Govt. or to me by the Govt.' The termination order dtd. 18.3.2000 was, therefore, within the preview of the conditions of service and the ED Conduct rules.

9. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 1.2.2000 and terminating the service of the appellant vide order dtd. 18.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 18.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 4.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice was less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

10. As mentioned above, even though the show cause notice may not be in the prescribed proforma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/ representation. Thus, the appellant was not denied of the principles of natural justice.

11. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantage over the eligible candidates and given appointment.

12. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Ram Pravesh Prasad should be rejected.

ORDER

13. Shri. E.P. Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Ram Pravesh Prasad. However, in lieu of one month's notice Shri. Ram Pravesh Prasad may be given one month's basic pay and dearness allowance.

(E.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Ram Pravesh Prasad,
Ex-EDDA cum EDMC,

Copy to:-

- 1.-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, ARTCSO for information and necessary action.

(E.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

~~Rejected~~
U. G. S.
Advocate

GOVERNMENT OF NAGALAND
OFFICE OF THE DEPUTY COMMISSIONER DIMAPUR DISTRICT
HEADQUARTER CHUMUKEDIMA CAMP DIMAPUR NAGALAND

NO. DUD-7/9540/ 6352
Dt, Dimapur the 16 Nov 2000,

To

The Sub-Divisional Inspector
Post & Telegraph Office,
Dimapur, Nagaland.

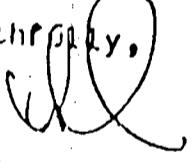
Sub:-

VERIFICATION OF DOMICILE CERTIFICATE AND P.R.C
THEREUPON

Sir,

Re: your letter NO A-1/EU-4/ppt/Dt, 17/10/2000
On the subject cited above I am directed to inform you that
the above-mentioned subject has been verified and found to
be genuine in respect of Shri. Lalit Ranjan Prasad and Udhav
Bosemetary.

This is for favour of your information and further
necessary action.

Yours faithfully,


(NIKHASHE SEMA)
Sub-Divisional Officer (Civil)
Office of the Deputy Commissioner, Dimapur
District Dimapur, Nagaland.

Attested

U. G. Sema
Ad. to

20 AUG 2001

गुवाहाटी बायोड
Guwahati Bench

Filed by

20/87
(A. DEBROY)
Sr. C. C. S.
C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O.A. NO. 127 OF 2001

Shri U. Pasumatary & Others

- Versus -

Union of India & Others

- - And -

In the matter of :

Written Statement submitted by the
respondents

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

(BRIEF HISTORY OF THE CASE)

There are elaborate rules for recruitment of
Extra Departmental Agents. The minimum age limit for
employment as Extra Departmental Agents is 18 years and
the maximum age to which an ED agent can be retained in
service is 65 years. The Director General, Posts, is
competent to consider relaxation of age limit in excepti-
onal cases. The minimum qualification required for appoint-
ment in the case of ED Sub-Postmaster and ED Branch Post
master is matriculation and in the case of other ED staff
like Extra Departmental Delivery Agents, ED stamp vendor and
other categories of EDAs is VIIIth standard. Preference
is to be given to the candidates with matriculation qualifica-
tion.

Another requirement is that an EDPM/EDSPM must be a permanent resident of the village where the Post Office is located. For an ED Mail carrier, runner and mail peon the candidate must reside in the station of the main Post Office or stage where from mails originate/terminate. In other words, the candidate should be permanent resident of the delivery jurisdiction of the Post Office. For other ED agents the candidates must as far as possible reside in or near the place of work. (Pages 75 to 76 of Swamy's ~~compila~~ Compilation of Service Rules for Postal ED Staff 7th Edition, 1999, enclosed as Annexure - 1).

As per recruitment rules the recruitment of ED Agents is made through employment exchange. For this the concerned recruiting authority is to send a requisition to the local employment Exchange having jurisdiction over the area, requesting nomination of suitable candidates for the post within 30 days. If no reply is received a reminder is to be sent to the local employment exchange. As per revised rule, in addition to notifying through employment exchange, the vacancies are to be simultaneously notified through public ~~f~~ advertisement and the candidates nominated by the employment exchange and also those responding to the open advertisement will be considered. If the notification and public advertisement so issued fails to elicit any response within the stipulated date or if the number of candidates responding is less than three, the vacancies are to be re-notified to the employment exchange and advertised calling for nominations within 15 days. (DGP & T letter No. 45-22/71-SPB.1/Pen, dated 4.9.1982. Pages 89 to 91

of Swamy's Compilation of Service Rules for Postal ED Staff VII th Edition, 1999, enclosed as Annexure - 2).

As far as possible provisional appointments are to be avoided (Pages 87 to 88 of Swamy's Compilation of Service Rules for Postal ED Staff VII th Edition, 1999, enclosed as Annexure - 3).

The ED Agents are not liable or entitled to transfer from one post to another under normal circumstances. (Page 94 of Swamy's Compilation of Service Rules for Postal ED Staff VII th Edition, 1999, enclosed as Annexure - 4).

Despite the clear rules and instructions issued by the Government of India on procedures to be followed on ED recruitment the applicants were irregularly and temporarily appointed as Extra Departmental Agents in various Post Offices under Dimapur Sub-Division by the then Sub-Divisional Inspector of Post Offices (SDIPOs), Dimapur. They were appointed against either temporary vacancies caused by desertion of service by the permanent incumbents or vacancies caused due to temporary promotion or on the vacancies which are to be filled by regular appointment after observing necessary formalities.

On review of the ED recruitment cases during the annual inspection of the O/O the Sub. Divisional Inspector of Post Offices (SDIPOs), Dimapur Sub-Division, in December 1999, it was detected that the applicants did not fulfill the necessary conditions/requirements for regular appointment as per recruitment rules but were given appointment as ED Agents by the then Sub-Divisional Inspector of Post Offices, Dimapur Sub-Division without observing the prescribed recruitment procedures.

As per rule 6 of EDA (Conduct & Service) Rules, 1964, the service of an employee who has not rendered more than 3 years of continuous service from the date of his appointment shall be liable to termination at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee. Since the applicants were not eligible for appointment as ED Agents under Dimapur Sub-Division and their appointments were made without following the prescribed recruitment procedures, Rule 6 of the ED Agents (Conduct and Service) Rules, 1964 was invoked by the Sub-Divisional Inspectors of Post Offices, Dimapur for terminating the services of the applicants after serving show cause notices to them. The applicants appealed to the Director Postal & Services, Nagaland against the orders of the termination of services issued by the SDIPOs, Dimapur. All the appeals were disposed off by upholding the orders of termination of services issued by the SDIPOs, Dimapur with direction that in lieu of one month's notice the applicants may be given one month's basis pay and Dearness allowances.

A brief on each of the following applicants is given in the succeeding paras :

- i. Shri Udhav Basumatary,
- ii. Shri Nityananda Basumatary,
- iii. Shri Lalit Ranjan Prasad,
- iv. Shri Ram Pravesh Prasad.

Shri Udhav Basumatary was a permanent resident of Dighalipar Village, P.O. Palakamati, Thana-Hawraghat under Karbi Anglong District of Assam and was not eligible for seeking

employment as ED Agents in Nagaland. He was also not registered with any local employment exchange of Nagaland as ED Agents in Nagaland. ~~Maxwaxxalzaxm~~

Without observing the prescribed recruitment procedures of notification through public advertisement inviting application after the Employment Exchange, Kohima allegedly failed to sponsor candidates and selection of candidates after proper verification of eligibility conditions, Shri Udhav Basumatary, was appointed as Extra Departmental Delivery Agent (EDDA), Rangapahar BO in account with Dimapur SO by the then SDIPOs, Dimapur vide his memo no. A-1/EDDA/Rangapahar BO dated 9.11.98. (Copy enclosed as Annexure - 5).

Shri Udhav Basumatary was served with a show cause notice as to why his service should not be terminated since he hails from Karbi Anglong - District of Assam and have not produced any employment registration card of Nagaland at the time of appointment by the SDIPOs, Dimapur vide his letter No. A-1/EDDA/Rangapahar dated 31.1.2000 (Copy enclosed as Annexure - 6).

Shri Udhav Basumatary submitted his reply dated 7.2.2000, explaining that he was appointed as EDDA, Rangapahar BO by the SDIPOs, Dimapur on 9.11.98 and has been working continuously and sincerely without any break from 2.11.98. (Copy enclosed As Annexure - 7). He also stated that if there was any irregularity in his appointment it is the responsibility of the appointing authority for which his service should not be terminated.

After receipt of the explanation, the service of Shri U. Basumatary as EDDA, Rangapahar BO was terminated vide SDIPOs, Dimapur memo no. A-1/ Rangapahar, dated 14.3.01. (Copy enclosed as Annexure - 8).

Against the order of termination of service, Shri U. Basumatary preferred an appeal dated 8.5.2000 to the Director of Postal Services, Nagaland, (Copy enclosed as Annexure -9).

After thorough examination of the facts and merits of the case the appeal was disposed off by the Director of Postal Services, Nagaland, vide his order no. A-1/ED Staff/ Misc/Corr, dated 3.1.2001 (Copy enclosed as Annexure - 10).

Contrary to the claim of the applicant at para 4.10, copies of the following documents produced by the applicant at the time of his appointment show that the applicant is not a permanent resident of Nagaland :-

a. Scheduled Tribe Certificate No. 118 dated 18.1.90 issued by Deputy Commissioner, Karbi Anglong. (Copy enclosed as Annexure -II)

b. Character Certificate issued by the Principal, Debjia P.K.S. Higher Secondary School, Nagaon, Assam. (Copy enclosed as Annexure - 12)

c. Board of Secondary Education Assam, Admit Card No. 134643. (Copy enclosed as Annexure-13).

d. Board of Secondary Education Assam, Mark sheet no. 13534 dated 6.5.91. (Copy enclosed as Annexure -14).

Shri Nityananda Basumatary was not eligible for appointment as ED Agent in Nagaland as he was a permanent resident of Dikhalipar Village, P.O. Polakamati, Thana Hawaraghat under Karbi Anglong District of Assam and was not registered with any local employment exchange of Nagaland.

Despite his ineligibility and without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring of eligible candidates or notification through public advertisement, inviting applications and selection of candidates after proper verification of eligibility conditions, Shri Nityananda Basumatary was appointed as EDDA, Athibung BO in account with Zalukie SO by the then SDIPOs, Dimapur vide his memo no. A-1/EDDA/Athibung dated 3.3.99 (Copy enclosed as Annexure - 15).

As the appointment of Shri Nityananda Basumatary was irregular, he was served with a notice to show cause as to why his service should not be terminated vide SDIPOs Dimapur memo no. A-1/PF/EDDA/Athibung dated 31.1.2000. (Copy enclosed as Annexure - 16).

Shri Nityananda Basumatary submitted his explanation dated 7.2.2000 which is enclosed as Annexure - 17.

After considering the explanation of Shri Nityananda Basumatary, his service as EDDA/ Athibung BO was terminated by the SDIPOs, Dimapur vide his memo no. A-1/Athibung dated 14.3.2000. (Copy enclosed as Annexure - 18).

Shri Nityananda Basumatary preferred an appeal dated 8.5.2000 which is the same as Annexure-9 against the order of termination of his service to the Director of Postal

Services, Nagaland.

The appeal was disposed off by the Director Postal Services, Nagaland vide his order no. A-1/ED Staff/Misc/Corr. dated 2.1.2001. (Copy enclosed as Annexure - 19).

Contrary to the claim of the applicant at para 4.10 of the application, Shri Nityananda Basumatary was a permanent resident of Dighalipar village under Karbi Anglong District of Assam is copies of the following documents produced by him at the time of his appointment would show :-

- a. Scheduled Tribe Certificate no. 1498 dated 18.7.88 issued by Deputy Commissioner, Karbi Anglong. (Copy enclosed as Annexure - 20).
- b. Employment Registration no. 224/73 issued by Employment Officer, District Employment Exchange, Diphu. (Copy enclosed as Annexure - 21).
- c. Board of Secondary Education Assam, Admit Card No. 61288. (Copy enclosed as Annexure - 22).
- d. Board of Secondary Education Mark sheet no. 12824 128207 of 1988 (Copy enclosed as Annexure - 23).

Shri Lalit Ranjan Prasad did not have a permanent house within the delivery jurisdiction of Chumukedima P.O. or near Chumukedima. He also did not apply for the post of ED Packer, Chumukedima SO. But without observing the prescribed recruitment procedures of approaching local ex employment exchange for sponsoring eligible candidates or notification through Public advertisement, inviting applications and selection of candidates after proper verification of eligibility conditions, Shri Lalit Ranjan Prasad was appointed

as ED Packer of Chumukedima SO in account with Kohima HQ by the then SDIPOs, Dimapur vide memo no. A-1/ED Pkr/Chumukedima/ Dimapur dated 10.2.99. (Copy enclosed as Annexure 24).

As the required recruitment formalities were not observed and the appointment was irregular and illegal, Shri Lalit Ranjan Prasad was served with a notice to show cause as to why his service as ED Packer, Chumukedima SO should not be terminated by the SDIPOs, Dimapur vide his letter No. A-1/ED Pkr/C.K. Dima dated 31.1.2000. (Copy enclosed as Annexure -25).

Shri Lalit Ranjan Prasad submitted his reply dated 4.2.2000 stating that on learning about the vacant post he submitted the required documents to SDIPOs, Dimapur who issued appointment order to him. (Copy enclosed as Annexure -26).

Under Rule 6 of EDA (Conduct & Service) Rules, 1964 the service of Shri Lalit Ranjan Prasad as ED Packer, Chumukedima SO was terminated vide SDIPOs memo no. A-1/ Chumukedima dated 18.3.2000. (Copy enclosed as Annexure - 27).

Against the order of termination of service, Shri Lalit Ranjan Prasad preferred an appeal dated 8.5.2000 which is similar to Annexure-9 to the Director of Postal Services, Nagaland.

After thorough examination of the facts and merits of the case the appeal of Shri Lalit Ranjan Prasad was disposed off by rejecting the appeal vide order no. A-1/ED Staff/Misc/ Corr. dated 4.1.2001. (Copy enclosed as Annexure - 28).

It may be mentioned that it was clearly mentioned in para 2 of the appointment letter, Annexure-24 that the employment of Shri Lalit Ranjan Prasad as ED Packer shall be in the nature of a contract liable to be terminated by him or

by the appointing authority by notifying the order as per rule of EDA (Conduct & Service) Rules, 1964.

Shri Ram Pravesh Prasad was not a resident of Diphupar BO or ARTC SO nor was registered with any of the employment exchanges in Nagaland. But without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring eligible candidates or notification through public advertisements inviting applications and selection of candidates after proper verification of eligibility conditions Shri Ram Pravesh Prasad was appointed as EDDA cum EDMC, Diphupar BO by the then SDIPOs, Dimapur vide memo no. A-1/EDDA cum EDMC/ Diphupar dated 23.1.99 (Copy enclosed as Annexure - 29).

As the appointment was not in order and the principle of natural justice was denied to other eligible candidates, Shri Ram Pravesh Prasad was served with a notice to show cause as to why his service as EDDA, cum EDMC, Diphupar BO should not be terminated vide SDIPOs, Dimapur letter no. A-1/EDDA(C) EDMC/Diphupar dated 1.2.2000 (Copy enclosed as Annexure -30).

Shri Ram Pravesh Prasad submitted his explanation dated 4.2.2000 stating that he was ignorant about the method of recruitment in the Department, but was give appointment after submission of documents to the SDIPOs, Dimapur. (Copy enclosed as Annexure -31).

After considering the representation, the service of Shri Ram Pravesh Prasad as EDDA cum EDMC, Diphupar BO was terminated by the SDIPOs, Dimapur vide memo no. A-1/Diphupar dated 18.3.2000. (Copy enclosed as Annexure - 32).

Against the order of termination Shri Ram Pravesh Prasad preferred an appeal dated 8.5.2000 which is the same copy as Annexure-9 to the Director of Postal Services, Nagaland.

After examining the facts and merits of the case the appeal of Shri Ram Pravesh Prasad was disposed off by the appellant authority upholding the decision of SDIPOs, Dimaapur vide order no. A-1/ED/Misc/Corr, dated 5.1.2001. (Copy enclosed as Annexure - 33).

PARAWISE COMMENTS -

1. That with regard to para 1, the respondents beg to state that as per Rule-6, of EDA (Conduct & Service) Rules 1964, the service of an ED employee, who has not already rendered more than three years of continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice. None of the applicants had rendered more than three years of continuous service upto the date of termination. As such the service of the applicants were terminated as per departmental rule. The reasons for rejection of the appeals were elaborately discussed in the orders no. A-1/ED Staff/Misc./Corr, dated 2.1.2001, 3.1.2001, 4.1.2001 and 5.1.2001 and the appeals were disposed off within the purview of the Departmental Rules/Procedures and various instructions issued by the Government of India.
2. That with regard to para 3, 3, 4, 4.1 and 4.2 the respondents beg to offer no comments.

3. That with regard to para 4.3, the respondents beg to state that Shri Udhav Basumatary, Son of Shri Golab-Basumatary of Dighalipar Village, P.O. Palakamati, Thana Howrahghat under Karbi Anglong District of Assam was appointed as EDDA (Extra Departmental Delivery Agent) Rangapahar BO, under Dimapur SO w.e.f. 2.11.98 vide SDI (P) Dimapur NO. A-1/EDA/Rangapahar dated 9.11.98.

Shri Nityananda Basumatary, was appointed provisionally for a period of 6(six) months from 1.12.97 to 31.5.98 as EDMC, Khelma BO, under Salt Zalukie SO vide SDI(P) Dimapur No.A-1/EDMC/ Khelma BO, dated 29.11.97. Shri Nityananda Basumatary was redesignated and appointed as EDDA/Athibung BPO with effect from the P/N of 1.3.99, vide SDI(P) Dimapur no. A-1/EDDA/Athibung, dated 3.3.99.

Shri Lalit Ranjan Prasad, S/o Shri Prithivi Nath prasad was appointed as ED Packer/Chumukedima, P.O. with effect from 1.2.99, vide SDI(P) Dimapur NO. A-1/ED Packer/Chumukedima dated 10.2.99. Being a temporary arrangement, he did not even apply for the post.

Shri Ram Pravesh Prasad, S/o Shri Ram Briksk Prasad was appointed as EDDA cum EDMC of Diphupar BPO w.e.f. 9.12.97, vide SDI(P) Dimapur no. A-1/EDDA cum EDMC/Diphupar, dated 28.1.99. Being a temporary arrangement he did not even apply for the post. The claim that the applicants got their appointment in the year 1997 is not correct.

All the applicants were paid one month's basic allowance with admissible DA in lieu of one month's notice and the same were received by them. Thus, the argument for one

month's notice as per condition of appointment letter is not justified . Appeals preferred by the applicants were rejected on the basis of sufficient and justified grounds.

4. That with regard to para 4.4, the respondents beg to state that the claim that the applicants got their appointment as EDA on different dates in the year 1997 is not true. The applicants were not assured to be adjusted against clear vacant posts and for all practical purpose, they were not treated as regular employees.

5. That with regard to para 4.5, the respondents beg to state that the appointment of the applicants to the posts were found irregular, they were asked to explain as to why their engagements as ED Staff should not be terminated.

6. That with regard to para 4.6, the respondents beg to offer no comments.

7. That with regard to para 4.7, the respondents beg to state that action was taken as per the provision of Rule 6 of P & T, Extra Departmental Agents (Conduct & Service) Rules 1964 as all the applicants came under purview of this rule.

8. That with regard to para 4.8, the respondents beg to state that the termination orders were quite justified and as per departmental rules. And no appeal lies on the order of termination under Rule 6.

9. That with regard to para 4.9, the respondents beg to state that the respondent no.2 disposed off the

the individual applications of the applicants in a manner thought fit after thread bare discussions of the applications. The Union cannot interfere in the case.

10. That with regard to para 4.10, the respondents beg to state that the Annexure 'F' is subject to verification as it was received on a later date.

11. That with regard to para 4.11, the respondents beg to state that the Employment Exchange, vacancies may be notified through Public Advertisement. Effective ~~num~~ number of candidates responding must be not less than 3. Otherwise vacancies are to be renotified. Recommendation of Village Headman is no substitute to Departmental Rules.

12. That with regard to para 4.12, the respondents beg to state that the local people of Nagaland are very much interested for such jobs. The argument raised thus is baseless and not true. The argument proves that the applicants are not locals and are therefore not eligible for appointment to ED posts in Nagaland.

13. That with regard to para 4.23, the respondents beg to state that P.R.C. if at all available was not proved at the time of appointment. Moreover, EDAs are not recruited on recommendation of any authority. Appointments are to be made through advertisements.

14. That with regard to para 4.14, the respondents beg to state that the termination orders dated 14.3.2000 and 18.3.2000 were issued as per the provision of Rule-6 of EDA

Conduct and Service rule 1964.

15. That with regard to para 4.15, the respondents beg to state that the Rule 6 of P&T EDAs (Conduct & Service) Rules, 1964 is not in any way violative of Article 311 of the Constitution of India.

16. That with regard to para 4.16, the respondents beg to state that the irregular appointments are always subject to review from time to time. However, it seems that, the applicants were very much aware that their *of* appointments were irregular and were likely to be terminated.

17. That with regard to para 4.17, the respondents beg to state that as per provision of Rule 6 of EDA (Conduct & Service) Rule 1964, any formal notice is not required.

18. That with regard to para 4.18, the respondents beg to state that the orders dated 31.1.00 and 1.2.00 are not correlative to the orders, dated 14.3.00 and 18.3.00.

19. That with regard to para 4.19, the respondents beg to state that the letters dated 31.1.00 and 1.2.00 are not issued under any EDA (Conduct & Service) Rules. As such no hearing was necessary.

20. That with regard to para 4.20, the respondents beg to state that the service of the applicants were terminated under Rule 6 of EDA (Conduct & Service) Rules 1964 for which the respondents no.4 was very much competent.

21. That with regard to para 4.21, the respondents beg to state that the termination order was issued in the larger interest of the public and to provide safeguard to the eligible local candidates. Length of service of the applicants were duly taken into consideration, but none of them had completed three years of continuous service from the date of appointment.

22. That with regard to para 5.1, the respondents beg to state that the applicants were appointed temporarily on a contractual basis liable to be terminated at any time by giving one month's notice.

23. That with regard to para 5.2, the respondents beg to state that no formal notice is required. An extract of the Rule-6 of EDA (Conduct & Service) Rules 1964 is submitted in Annexure for ready reference.

24. That with regard to para 5.3, the respondents beg to state that the letters dated 31.1.00 and 1.2.00 are not co-relevant to the action taken under Rule 6 of P & T EDAs (Conduct & Service) Rules, 1964.

25. That with regard to para 5.4, the respondents beg to state that the services of the applicants were terminated under Rule 6 of P & T EDAs (Conduct & Service) Rules, 1964 and the letters dated 31.1.00 and 1.2.00 were written differently and not co-relative.

26. That with regard to para 5.5, the respondents beg to state that the letters dated 31.1.00 and 1.2.00 were written as per office procedure. These are not statutory letters. And no action was also taken against the applicants under these letters. So, hearing was not necessary.

27. That with regard to para 5.6, the respondents beg to state submit the comments what have already made against the foregoing paragraph 4.20 above.

28. That with regard to para 5.7, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.21, above.

29. That with regard to para 5.8, the respondents beg to state that the services of the applicants were terminated under Rule 6 of the EDAs (Conduct and Service) Rules, 1964 and the respondent was empowered to take action under the said rules. The said rule is not violative to the Article 311 of the Constitution of India.

30. That with regard to paras 6, 7, 8, 8.1 , 8.2, 8.3, 8.4 and 9, the respondents beg to offer no comments.

Verification.....

VERIFICATION.

I, Shri F.P. SOLO.

being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge information and believe and I have not suppressed any material fact.

And I sign this verification on this 30th day of July, 2001, at Guwahati.

Dip. L. SOLO
Director of Police Services
Guwahati, Assam-781001

SECTION IV

Method of Recruitment

(1) **Instructions regarding selection.**—The question of consolidating various instructions issued from time to time governing the appointment and other service conditions of ED Agents has been engaging the attention of this Directorate. After careful examination of all aspects of employment of ED staff, it has been decided to observe the following instructions scrupulously while making selection of ED Agents:—

1. **Age:**

The minimum age-limit for employment as ED Agent will be 18 years and maximum age up to which an ED Agent can be retained in service will be 65 years. The Director-General, Posts and Telegraphs, may consider relaxation of this age-limit in exceptional cases.

2. **Educational Qualifications:**

ED Sub-Postmasters and Matriculation, [The selection should be based on the marks secured in the
ED Branch Postmasters : Matriculation or equivalent examinations. No weightage need be given for any qualification(s) higher than Matriculation.]

ED Delivery Agents VIII Standard. Preference may be given to the candidates with Matriculation qualifications. No weightage should be given for any qualification higher than Matriculation. Should have sufficient working knowledge of the regional language and simple arithmetic so as to be able to discharge their duties satisfactorily. Categories such as ED
ED Stamp Vendors and All other Categories of
EDAs. Messengers should also have enough working knowledge of English.

3. **Income and ownership of property:**

The person who takes over the agency (ED SPM/ED BPM) must be one who has an adequate means of livelihood. The person selected for the post of ED SPM/ED BPM must be able to offer space to serve as the agency premises for postal operations. The premises must be such as will serve as a small postal office with provision for installation of even a PCO (Business premises such as shops, etc., may be preferred).

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4. Residence:

(i) The ED BPM/ED SPM must be a permanent resident of the village where the post office is located. He should be able to attend to the post office work as required of him keeping in view the time of receipt, despatch and delivery of mails which need not be adapted to suit his convenience or his main avocation.

(ii) ED Mail Carriers, Runners and Mail Peons should reside in the station of the main post office or stage wherfrom mails originate/terminate, i.e., they should be permanent residents of the delivery jurisdiction of the post office.

(iii) ED Agents of other categories may, as far as possible, reside in or near the place of their work (Letters No. 5-9/72-EL Cell, dated 18-8-1973 and No. 43-312/78-Pen., dated 20-1-1979, stand modified to this extent).

5. Security:

ED Agents of all categories including ED Delivery Agents should furnish security of Rs. 4,000 subject to the condition that the amount of security should be increased/decreased so as to be equal to the amount of cash and valuables that is authorized to be entrusted to them under the orders of Divisional Superintendent or the Head of the Circle, as the case may be.

6. Preferential Categories:

With reference to the last orders issued under Letter No. 43-191/79-Pen., dated 22-6-1979, fixing the four preferential categories according to the earlier orders issued *vide* D.G., P. & T., Letter No. 43-14/72-Pen., dated 2-3-1972, No. 43-246/77-Pen., dated 8-3-1978, to Scheduled Castes and Scheduled Tribes candidates; and No. 43-231/78-Pen., dated 17-2-1979 (regarding Ex-Army Postal Service Personnel); No. 43-312/78-Pen., dated 20-1-1979 (regarding Backward Classes and weaker sections of Society) and to the educated unemployed persons, it is clarified that the above preference should be subject to first and foremost condition that the candidate selected should have an adequate means of livelihood, which though already prescribed, seems to have been ignored for some time past especially in view of these preferential categories being introduced in the above orders.

The criterion to judge "adequate means of livelihood" should be that, in case he loses his main source of income, he should be adjudged as incurring a disqualification to continue as ED SPM/ED BPM. In other words, there must be absolute insistence on the adequate source of income of ED SPM/BPM and the allowances for his work as ED SPM/BPM must be just supplementary to his income. To ensure this condition, the candidate must be able to offer office space to serve as the agency premises for postal operations as well as public call office and as such, business premises such as shops, etc., must be preferred regardless of the various categories of preferences mentioned above.

[D.G., P. & T., Letter No. 43-81/80-Pen., dated the 30th January, 1981 and corrigendum, dated the 29th March, 1981, D.G., Posts Letter No. 41-301/87-PI; II (ED & Trg.), dated the 6th June, 1988 and No. 17-366/91-ED & Trg., dated the 12th March, 1991.]

look after the work of.....(Name of Post,) the undersigned (Appointing Authority) has decided to make a provisional appointment to the said post.

2. The provisional appointment is tenable till the disciplinary proceedings against Shri.....are finally disposed of and he has exhausted all channels of departmental and judicial appeals and petition, etc. (this clause may be deleted if the vacancy was caused by the dismissal/removal of an EDA) and in case it is finally decided not to take Shri.....(name of the ED Agent who has been put off/removed/dismissed) back into service till regular appointment is made.

3. Shri.....(name and address of the selected candidate) is offered the provisional appointment to the post of.....(name of post). Shri.....(name of the selected candidate) should clearly understand that if ever it is decided to take Shri.....(name of the ED Agent who has been put off/removed, dismissed) back into service, the provisional appointment will be terminated without notice.

4. The.....(Appointing Authority) reserves the right to terminate the provisional appointment any time before the period mentioned in Para. 2 above without notice and without assigning any reason.

5. Shri.....(name of the selected candidate) shall be governed by the Extra-Departmental Agents (Conduct and Service) Rules, 1964, and all other rules and orders applicable to Extra-Departmental Agents.

6. In case the above conditions are acceptable to Shri.....(name of the selected candidate), he should sign the duplicate copy of this memo and return the same to the undersigned immediately.

Appointing Authority

To

Shri.....

.....

.....

CLARIFICATION.—It has now been decided that provisional appointment of EDAs which are expected to continue for a long period should be made in the light of instructions contained in Letter No. 45-22/71-SPB.I/Pen., dated 4-9-1982 (Sl. No. 16). However, it should be made clear to the Employment Exchange and the selected candidate that his appointment is purely on provisional basis and liable to be terminated whatever the length of the service may be, in case it is ordered to reinstate the regular incumbent and the appointment letter may be issued in the respective forms as prescribed in the above instruction.

[D.G., Posts, Letter No. 41-286/87-PE-II, dated the 14th December, 1987.]

(16) **Recruitment of ED Agents through Employment Exchange.**—The question of recruitment of ED Agents through Employment Exchange has been under consideration of the Government for some time past.

2. It has now been decided that the employment of ED Agents should be made through Employment Exchanges. For this purpose, the concerned recruiting authority should send a requisition to the local Employment Exchange, having jurisdiction over the area, requesting nomination of suitable candidates for the post, having the prescribed qualifications, within a period of 30 days from the date of sending requisition to the Employment Exchange for nomination of candidates, to the concerned authority. While placing requisition on the Employment Exchange, the competent recruiting authority should make a special mention of the following points:

- (a) Persons seeking employment as ED Sub-Postmasters/Branch PMs must be permanent residents of the village where the Post Office is located or proposed to be located. The applicants must have adequate means of income from an independent source of livelihood and they should also be able to offer suitable accommodation for the purpose of functioning of the PO.
- (b) Persons seeking employment to other categories of ED Agents should satisfy the condition of residence as specified in Instruction (1) above.

3. The competent recruiting authority should while sending the requisition to the Employment Exchange, indicate the names of the villages or localities from which the candidates are required to be nominated.

4. The other terms and conditions, as in force from time to time such as age, educational qualification and security deposit, etc., should be indicated in the requisition being placed on the Employment Exchange by the competent recruiting authority.

[D.G., P. & T., Letter No. 45-22/71-SRN, I/Pen., dated the 4th September, 1982.]

(16-A) Modified Instructions. — * * *

2. The exhort procedure requiring nomination to be obtained from the Employment Exchange came up for Judicial scrutiny in the Supreme Court in the matter of *Excise Superintendent, Malkapathana, Krishna District A.P. v. K.B.N. Visveswara Rao & others* [1996 (6) Scale 670]. the Apex Court held that:

“It should be mandatory for the requisitioning authority/establishment to intimate the Employment Exchange and Employment Exchange should sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate Department or Undertaking or Establishment, should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and Employment News Bulletins and then consider the cases of all the candidates who have applied.”

3. In the context of selection of candidates to work as EDAs, the issue relating to notification of the vacancies to the local Employment Exchanges has

been further examined in the light of O.M. No. 14024/2/96-Estt. (D), dated 18-5-1998 of the Ministry of Personnel, Public Grievances and Pensions (DoP & T). It has now been decided that in respect of all vacancies of EDAs, excluding those where the process of recruitment through Employment Exchange/open advertisement has already commenced, in addition to notifying through the Employment Exchange, the vacancies shall be simultaneously notified through public advertisement and the candidates nominated by the Employment Exchange as also those responding to the open advertisement will be considered. In case the notification and public advertisement so issued fail to elicit any response within the stipulated date or if the effective number of candidates responding is less than 3, the vacancies will be re-notified to the Employment Exchange and advertised calling for nominations, etc., within 15 days and all the candidates offering their candidature will be considered in accordance with the instructions issued by this office from time to time. Since the posts of ED Agents falling vacant are isolated and scattered and publication of the same through newspapers is considered cost prohibitive, the existing method of giving wide publicity by way of public advertisement in this behalf will continue to be followed.

4. These instructions will come into force with immediate effect.

5. The contents of this letter may be brought to the notice of all concerned for information/guidance/necessary action.

[D.G., Posts, No. 19-4/97-ED & Trg., dated the 19th August, 1998.]

(17) Appointment of EDAs to be strictly in accordance with the Rules and irregularities to be checked.—It has been observed that in many cases of appointment of ED BPMs, the reports from the Circles have shown that persons who are not residents of post-villages are being recruited on the ground that they have additional sources of income or possess properties. Often, the recruitment is being decided on the basis of only one application. In case no persons from the post-village who have applied had additional source of income, the vacancy is required to be re-advertised and then only regular appointment of a non-resident of the post-village (but with income or property) can be done. If the vacancies are re-advertised and no application from the post-village is received, then only there are adequate grounds to appoint an outsider as ED BPM. It is also seen that provisional appointments made by SPMs or other lower functionaries are being allowed to continue for a long period, in contravention of Letter No. 43-4/77-Pen., dated the 18th May, 1979. This state of affairs is highly objectionable. It is therefore, necessary for the concerned officers to keep vigilant eye on such cases in order to check such irregularities in appointment of EDAs and specially ED BPMs so that appointments of EDAs are made strictly in accordance with the Rules. All Appointing Authorities of EDAs may kindly be advised to go through the relevant rules for appointment of EDAs before appointments are made.

[D.G., Posts, Letter No. 41/295/87-PE. II, dated the 27th August, 1987 and 17-108/94-ED & Trg., dated the 14th December, 1994.]

(14) Appointment of ED BPM by Inspectors.—With a view to ensuring quick administration, it has been decided that where there is no contest for the post of ED BPM, the Inspector of Post Offices can make the appointment in anticipation of the formal approval of the Superintendent of Post Offices. The formal orders in this connection will be issued by the competent Appointing Authority, namely, the Divisional Superintendent. In other cases, where there are rival claimants, the Inspector of Post Offices would be required to obtain the prior approval of the Divisional Superintendent before appointing any person as ED BPM.

[D.G., P. & T., Letter No. 18/3/62-Disc., dated the 30th January, 1965.]

(15) Provisional appointment of ED Agents.—It has come to the notice of this office that provisional appointments made to ED posts are being allowed to continue for indefinite periods and when regular appointments are made, the provisionally appointed persons do not readily hand over the charge. The following instructions are issued in this regard:—

- (i) As far as possible, provisional appointments should be avoided. Provisional appointments should not be made to fill the vacancies caused by the retirement of ED Agents. In such cases, the Appointing Authority should take action well in time before the retirement of the incumbent ED Agent, to select a suitable successor.
- (ii) Wherever possible, provisional appointments should be made only for specific periods. The appointed person should be given to understand that the appointment will be terminated on expiry of the specified period and that he will have no claim for regular appointment. Where a new Post Office is opened or where a new post is created or where an ED Agent dies while in service or resigns from his post and it is not possible to make regular appointment immediately, a provisional appointment should be made for a specific period. The offer for appointment should be in the form annexed (Annexure-A).
- (iii) Where an ED Agent is put off duty pending departmental or judicial proceedings against him and it is not possible to ascertain the period by which the departmental/judicial proceedings are likely to be finalized, a provisional appointment may be made, in the form annexed (Annexure-B). It should be made clear to the provisionally appointed person that if ever it is decided to reinstate the previous incumbent, the provisional appointment will be terminated and that he shall have no claim to any appointment.

Even in cases where an appointment is made to fill the vacancy caused by the dismissal/removal of an ED Agent and the dismissed/removed employee has not exhausted all channels of appeal, the appointment should only be provisional. The offer for appointment should be in the form annexed (Annexure-B).

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2. Efforts should be made to give alternative employment to ED Agents who are appointed provisionally and subsequently discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting list of ED Agents discharged from service, prescribed in D.G., P. & T., Letter No. 43-4/77-Pen., dated 23-2-1979.

3. These instructions may be brought to the notice of all Appointing Authorities.

[D.G., P. & T., Letter No. 43-4/77-Pen., dated the 18th May, 1979.]

ANNEXURE - A
[*in Duplicate*]

Whereas the post of Extra-Departmental.....(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.....(Appointing Authority) has decided to make provisional appointment to the said post for a period of (period) from.....to.....or till regular appointment is made, whichever period is shorter.

2. Shri.....(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.....(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.....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.....(Name of the selected candidate) he should sign the duplicate copy of this memo and return the same to the undersigned immediately.

Appointing Authority

To

Shri.....
.....
.....

ANNEXURE - B
[*In Duplicate*]

Whereas Shri.....(Name and Designation of the ED Agent who has been put off duty/removed/dismissed) has been put off duty pending finalization of disciplinary proceedings and judicial proceedings against him has been removed/dismissed from service and the need has arisen to engage a person to

retrenched EDAs within the stipulated one year due to circumstances beyond control. This concession will not be admissible, if the retrenched ED Agent has been offered an alternative appointment but has declined to accept the same. In such cases his name will be removed from the waiting list and he will have no claim for being considered at a later date.

3. In cases where a relaxation has been given to continue a person on waiting list and he is given an alternative post within the extended period, the interim period of non-employment will count as qualifying service for eligibility to take departmental examinations of Group 'D'/Postmen. The period thus condoned will not be counted for the purpose of *ex gratia* gratuity.

[D.G., Posts, Letter No. 17-128/88-EDC & Trg., dated the 6th April, 1989.]

(22) Transfer of ED Agents from one post to another.—ED Agents are not liable or are entitled to transfer from one post to another. However, a few cases have arisen where some ED Agents have been shifted from one post to another at their request. The ED Agents are asked to resign their posts and a fresh appointment order is issued against new posts in such cases.

In this connection, the following issues have arisen and clarified:—

(i) The formality of calling for nomination from Employment Exchange calling for applications, etc., should be gone through. The ED Agents already in service should apply through Employment Exchange and their applications/appointment should be accepted or rejected under the normal rules for appointment of ED Agents.

(ii) The ED Agents selected for the new posts should resign from their previous posts.

(iii) If there is no break in their service, ED Agents selected for the new posts are eligible for the purpose of taking examinations and for sanction of gratuity. Their previous service should be considered in such cases.

(iv) If there is a break in service, this depends on the discretion of the Postmaster-General concerned to condone this break in service or reject it keeping in view the circumstances of the case.

[P.M.G., Madras, Letter No. STC/13-413/84, dated the 3rd January, 1985 and D.G., P. & T., Letter No. 43-27/85-Pen., dated the 6th May, 1985, in reply thereto.]

Exceptions: Normally, the Employment Exchange does not register/sponsor the names of persons already in employment except in the cases for appointment to higher posts.

A proposal that EDAs may, therefore, be considered in a limited manner for appointment in other ED posts without coming through the agency of Employment Exchange in exceptional cases has been under examination.

Normally, EDAs are to be recruited from local area and they are not eligible for transfer from one post to another; but in cases where a post has been abolished, EDAs are to be offered alternative appointment within the sub-division in the next available vacancy in accordance with Order No. 43-24/64-Pen., dated 12-4-1964 and further clarified in Order No. 43-4/77-Pen.,

DEPARTMENT OF POST
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION

-0-

Memo No. A/EDDA/Rangapahar, Dated at Dimapur, the 09-11-98

LETTER OF APPOINTMENT

Shri Udhab Basumatary
S/o (L) Dulal Basumatary Village Sangtamilla
P.O. Rangapahar B.P.O. P.S. Dimapur
District Dimapur is hereby appointed as E.D. EDDA of Rangapahar
with effect from the F/N AN of 02-11-98.
H/She shall be paid such allowances as admissible from time to time.

2. Shri/Smt. Udhab Basumatary should
clearly understand the his/her employment as E.D. EDDA
will be in nature of contract liable to terminated by him/her or
the undersigned by notifying the other, in writing and that he/she
shall also be governed by the Posts and Telegraphs Extra Departmental
Agents (Conduct and Service) Rules, 1964, as amended from time to
time.

3. If these conditions are acceptable to him/her, he/she should
communicate his/her acceptance in the prescribed proforma enclosed
herewith.

4. The past services rendered by Shri Udhab Basumatary (A.K. Boxes)
at EDDA/N-N-Qaon Sub-Divisional Inspector
SO w.e.f 1-12-97 will of Post Offices
Count for all the Dimapur Sub-Division
Service rendered as per Dimapur 787192 Nagaland
rule existing for the purpose.

Copy forwarded to:-

- 1) The Postmaster, Kohima H.O. for information
- 2) The Sub-Postmaster, Dimapur S.O.
- 3) The B.P.M., Rangapahar B.P.O.
- 4) Shri/Smt. Udhab Basumatary

A.K. Boxes
Sub-Divisional Inspector
of Post Offices
Dimapur Sub-Division
Dimapur 787192 Nagaland

of the Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 757112, Nagaland

No: A-1/EDDA/Rangapahar
- dt. 31.1.2000

H 5438
1/2/00

45/8

To.

Sri Uddhar Basumatary
EDDA, Rangapahar B.O.
via - Dimapur.

Subject:- Disregular appointment.

It was observed by the D.P.S./Nagaland & Kohima while inspected of the u/s on 18.12.99 that you were appointed as EDDA/Rangapahar B.O. vide this office letter of even no. dated 9.11.98.

Since you are hails from Nagaon district of Assam and have not produced Employment Registration card of Nagaland at the time of appointment, I have been directed to terminate your service.

You are given an opportunity to explain as to why your service will not be terminated.

Your explanation should reach to the u/s. within 3 (three) days on receipt of this letter.

Disigner
(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 757112, Nagaland

To

The Sub-Divisional Inspector of Post Offices

Dimapur - Sub-Division

Dimapur 797112 (Nagaland)

Sub:- Irregular appointment

Respected Sir,

Kindly refers to your letter memo
moco - A-1/EDDA of Rangaphar B.O. dated 31-1-2000

That Sir, I was appointed as EDDA
Rangaphar B.O. vide letter memo no A-1/EDDA/1
Rangaphar B.O. dated at the Dimapur, the 09-11-98
and I am working continuously and sincerely
without any break from 02-11-98. my allowances
also drawing time to time as admissible. If
there any irregularities regarding appointment,
it is the responsibility of the appointing auth-
ority for which I should not be terminated.

Thanking you.

Dated Rangaphar
the 7-2-2000

yours faithfully

Vishal Basumatary (EDDA)

Rangaphar B.O.

Dimapur 797112

DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR 797 112 : NAGALAND.

Memo No.A-1/Rangapahar,

Dated at Dimapur the 14-3-2000

TERMINATION OF SERVICE

Under the cover of Rule-6 of P & T E.D. Agents (Conduct and service) Rules, 1964 service of Shri. Udhab Basumatary E.D.D.A./Rangapahar B.O. in a/c with Dimapur S.O. is hereby terminated with immediate effect.

Sd/-

(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

To,

Shri. Udhab Basumatary,
E.D.D.A/Rangapahar B.O.
Via- Dimapur, Nagaland.

Copy to :-

1. The D.P.S./Nagaland Kohima w/r to this office I.R. dated 18-12-99 para 7.3 for favour of kind information.
2. Postmaster, Kohima H.P.O. for information and necessary action.
3. S.P.M./Dimapur for information.
4. B.P.M./Rangapahar B.O. Delivery works will be entrusted to Smti. Maola Ao, EDDA-II till further arrangement is made.
5. File NO.A-1/E.D.D.A/Rangapahar
6. O/C

D.K.Dey
(D. K. DEY) 14/3
Sub-Divisional Inspector Post Office

To

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The Director of Postal Services,
Nagaland, Kohima.

(THROUGH PROPER CHANNEL)

Subject:- APPEAL AGAINST THE ORDER OF TERMINATION
DATED 14-3-2000 PURSUANT TO THE ORDER DATED
4-5-2000

Reference:- (1) No.: A-1/EODA/Rangapahar. DTD. 31-1-2000
(2) No.: A-1/Rangapahar. DTD. 14-3-2000
(3) No.: A-1/PTO/Conn/Nic DTD. 4-5-2000

Respected Sir,

With due deference and profound submission,
I beg to state the following few lines before your
honour for kind consideration and favourable action
thereof.

That after due selection by duly constituted
Selection Committee, I was unanimously selected and
offered the post of EODA under your establishment.
Just after completion of about 2½ years of continuous
service, I was served with a letter dated 31.1.2000.
In the said letter, on the subject, it was mentioned
as "irregular appointment"; citing the facts and figures
of my appointment, I was asked for the explanation
regarding the allegations made therein.

That on receipt of the said letter dated
31.1.2000, I accordingly submitted my explanation stating
the facts and enlightening the circumstances under which
I was selected and appointed in the said post. However,
unfortunately, no weightage has been given to my such
reply and the order dated 14-3-2000 has been served on
me terminating my service.

That in the said order of termination, the
authority concerned has not discussed the facts and
circumstances stated by me in the reply. In addition to
that even no separate order has been issued to me disposing
of my such reply. In fact, till date, I am in a dark as to
whether the reply/representation/explanation filed by me
has been taken into consideration or not! I have got my
reasonable apprehension that my said reply has not been
taken into consideration. Had my representation/reply
been taken into consideration at the time of issuance of
the termination order dated 14-3-2000 my service should
not have been terminated in such a manner.

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that espousing my cause of action, our Union took up the matter by way of filing review application for modification/review of order dated 14-3-2000. The said review application has been preferred by the Union on 30.3.2000 followed by reminder dated 01.4.2000. Finally, the said review application has virtually been disposed off by an order dated 04.5.2000 directing me to file appeal against the order dated 14-3-2000 terminating my service. Hence, the present appeal on amongst the following grounds:

- (a) That my appointment has been offered to me after due consideration of the facts as well as the documents submitted by me along with the application and certificates produced at the time of interview.
- (b) That before termination of my service, no formal notice in the prescribed form has been served on me. In fact, while issuing the letter dated 31.1.2000, I was asked to explain the facts regarding my appointment. But the matter involved in the present case can be sorted out by the office only. The quarries made in the letter dated 31.1.2000 is inter-office matter and I, being an applicant, the present position is not known to me as to whether relaxation has given to me. It is pertinent to mention here that in absence of any explanation/chargesheet/departmental proceedings against my appointing authorities, it is not possible for me to explain the position clearly.
- (c) That while issuing the letter dated 31.1.2000, the department has not taken into consideration the relevant Rules i.e. Rule 6 of (SDA Conduct and Service Rules). In the said letter there has been no mention regarding serving notice on me.
- (d) That in my view of the matter pursuant to letter dated 31.1.2000, I submitted my reply, but while issuing the order dated 14-3-2000 same has not been taken into consideration.
- (e) That the letter dated 31.1.2000 has casted stigma on me and as per Article 311 of the Constitution of India, I am entitled to due notice as well as hearing. In fact, rigorous enquiry should have been made in the case and the Rule invoked and Rule quoted are different.

(f) That before issuance of the letter dated 31.1.2000 and 14.3.2000, due approval has not been taken and no inquiry in the matter has been done properly as to whether relaxation is applicable in my case on considering my length of service.

(g) That issuance of letter dated 31.1.2000 and 14.3.2000, is not in the interest of public service and the same is not at all sustainable in the eye of Law as the said letter was issued without considering my length of service rendered by me in the department.

(h) That before terminating my service, the concerned authority should have taken a pragmatic view in the matter.

(i) That by the said order dated 14.3.2000 and letter dated 31.1.2000, the concerned authority has casted stigma on me and as a measure of punishment my service has been terminated, violating Article 311 of the Constitution of India.

(j) That be that as it may, if any mistake has been committed by the Department, same can be treated as an act of state and the same always can be considered as a bonafide one, and also in the present case, treating the same as an exceptional case, reliefs required to be granted to me.

That in view of the aforesaid facts, circumstances and grounds, the order of termination is liable to be set aside and quashed and I may be allowed to continue in my service with all consequential service benefits.

Thanking you,

Yours faithfully,

SRI Adhab Basumatary

Copy forwarded to :-

8-5-2000
The Divisional Secretary, AIPMU,
Class III, IV & EDAS for information.

SRI Adhab Basumatary

8-5-2000

Q.C. 4/10/01

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DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Cort

Dated at Kohima the 03.01.2001

This is an appeal preferred by Shri. Udhab Basumatary former EDDA of Rangapahar BO, against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no. A-1/Rangapahar, dtd. 14.3.2000.

2. Shri. Udhab Basumatary of Dighalipar Village, P.O-Palakamati, Thana-Hawrahgat under Karbi Anglong District of Assam was appointed as EDDA, Rangapahar BO in account with Dimapur SO by the then SDI (P) Dimapur, vide memo no. A-1/EDDA/Rangapahar BO, dtd. 31.10.98 and 9.11.98 w.e.f 2.11.98 without observing the prescribed recruitment procedures of notification through public advertisement inviting applications after the Employment Exchange, Kohima allegedly failed to sponsor candidate's selection of candidates after proper verification of eligibility conditions.

3. Shri. Udhab Basumatary was served with a notice to show cause as to why his service should not be terminated since he hails from Karbi Anglong District of Assam and have not produced any Employment Registration card of Nagaland at the time of appointment by the SDI (P) Dimapur vide his letter no. A-1/EDDA/ Rangapahar, dtd. 31.1.2000.

4. In his reply, dtd. 7.2.2000, Shri. Udhab Basumatary explained that he was appointed as EDDA, Rangapahar by the SDI (P) Dimapur on 9.11.98 and has been working continuously and sincerely without any break from 2.11.98. He also stated that if there was any irregularity in his appointment, it is the responsibility of the appointing authority for which his service should not be terminated. The service of Shri. Udhab Basumatary, as EDDA, Rangapahar BO was terminated vide SDI(P) Dimapur memo no. A-1/Rangapahar, dtd. 14.3.2000.

5. Against the order of termination of service, Shri. Udhab Basumatary preferred the present appeal to the Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000 Shri. Udhab Basumatary put forth the following arguments:-

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA. After completion of 2 1/2 years of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 14.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 14.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation/ chargesheet / departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

v) That the letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 31.1.2000 and 14.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 31.1.2000 and 14.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. From the copies of the documents mentioned below and produced by the appellant at the time of his appointment, it is evident that Shri. Udhab Basumatary was a permanent resident of Dighalipar Village under Karbi Anglong District of Assam:-

i) Scheduled Tribe certificate no. 118, dtd. 18.1.90 issued by Deputy Commissioner, Karbi Anglong District, Assam certifying that Shri. Udhab Basumatary, S/o Galap Ch. Basumatary as permanent resident of Dighalipar Village, P.O-Palakamati, Thana-Hawraghat, Karbi Anglong District of Assam and belonging to Boro Kachari Tribe.

ii) Character certificate issued by the Principal, Debjia P.K.S Higher Secondary School, Nagari, Assam.

iii) Board of Secondary Education Assam admit card no. 134643 and marksheets no. 13534 dtd. 6.5.1991.

7. Apart from age and educational qualifications a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland.

8. Shri. Udhab Basumatary did not fulfill the basic eligibility of being registered with any local employment exchanges in Nagaland at the time of his appointment as EDDA, Rangapahar BO. The Scheduled Tribe certificate and certificates of Educational qualifications clearly show that he is a permanent resident of Dighalipar Village under Karbi Anglong, Assam and was, therefore, not eligible for seeking employment as ED staff in Nagaland Postal Division under the existing recruitment rules. In short, the appellant was not eligible to be considered for appointment as ED staff in Nagaland at the time of his appointment as EDDA, Rangapahar.

9. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 14.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 14.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 7.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice is less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

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10. The contention of the appellant that he was duly selected and offered the appointment of EDDA after due selection by a duly constituted selection committee is incorrect. The appointment was made by the then SDI (P) Dimapur without observing the prescribed recruitment procedures and even though the appellant was not at all eligible to be considered for appointment as ED staff in Nagaland. Even though, no specific mention of the reply of the appellant was made, the termination order dtd. 14.3.2000 was issued taking into account the reply of the appellant.

11. As mentioned above, even though the show cause notice may not be in the prescribed pro-forma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/ representation. Thus, the appellant was not denied of the principles of natural justice.

12. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantage over the eligible candidates and given appointment.

13. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Udhab Basumatary should be rejected.

ORDER

I, Shri F.P.Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Udhab Basumatary. However, in lieu of one month's notice Shri. Basumatary may be given one month's basic pay and dearness allowance.

(F.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Udhab Basumatary,
Ex-EDDA/Rangapahar BO.

Copy to:-

- 1.-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, Dimapur for information and necessary action.

(F.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001.

(b)

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GOVERNMENT OF ASSAM
DEPARTMENT OF THE INTEGRITY COMMISSIONER KARBI ANGLOONG DISTRICT BRANCH

FORM OF CASTE CERTIFICATE

NO. 118

This is to certify that Sri/Smti Makha ~~Ma~~
~~son/daughter/ wife of Sri/Smti Chap~~Basumatary

permanent resident of village/town

DiphluP.O. Palekona, Thana KamrupDistrict Karbi Anglong and belongs to the Kore ~~Kachar~~

(Name of the Tribes) Tribe which is not Scheduled Tribe in the
aforesaid District but is recognised by the Govt. of Assam as "Hill
Tribes in Plains" "Plains Tribes in Hills" for the purpose of giving
economic/educational and employment benefits against quota reserved
for Scheduled Tribes (Hills) - Scheduled Tribes (Plains).

Attested
21/1/98

Sub-Divisional Inspector
Post Office
S/o ~~Signature~~

*Sub-Divisional Inspector
Post Office
S/o ~~Signature~~*

*Sub-Divisional Inspector
Post Office
S/o ~~Signature~~*

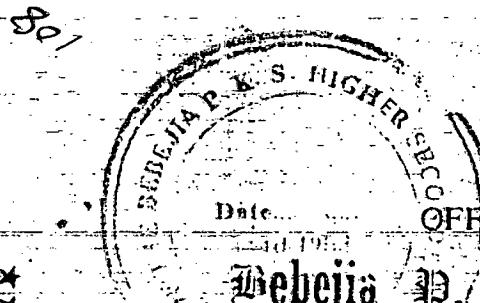
Place:- Diphlu

Date:- 18-1-98

Strike out whichever is inapplicable.



ANNEEXURE-12



Date.....

OFFICE OF THE PRINCIPAL

Bebejia P. S. Higher Secondary School

No—

P. O. Bebejia Dist. Nagaon Assam

Date—

Certified that Sri - Umar Baruah

(Roll No. 38 No. 373) son/daughter of late- Gopal Baruah
an inhabitant of Vill South - Dighali Par

P.O. Kangki Bari P.S. Houngi in the distriat of
Nagaon (Assam) passed the High School Leaving Certificate Examination
1991 under the Board of Secondary Education, Assam, Guwahati from this
School as a Regular/Private Candidate and was Placed in the _____
Division.

His/Her date of birth according to the Admit Card is 6-2-74

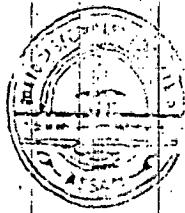
He/She bears a good moral character. I wish him/her success in life.

PRINCIPAL

PRINCIPAL
BEBEJIA P. S. HIGHER
SECONDARY SCHOOL

Sub-Divisional Inspector
of Post Offices
for Sub Division
19/12 Nagaon
19/12 Nagaon

Office No : 134843



Photograph

Board of Secondary Education : Assam, Guwahati

ADMIT

Sri. Ullal, Basumatary.....

Son/daughter of S. Swami. Is a widow...
B. L.

Roll. A. 38. No. 373.

to the High School Leaving Certificate (Special) Examination, 1991 to commence on Wednesday, the 2nd January, 1991.

His/Her Date of Birth is 6-2-74

Elective	1st Additional	2nd Additional
34	51	—

Subjects for Examination :-

Morning—From 9 a.m. to 12 noon

Afternoon—From 1 p. m. to 4 p. m.

Note :— Hours of Examination :—

N B - Any alteration made in the entries on this Adm/ Card without the authority of the Board renders the candidate liable to disqualification for sitting at this or any subsequent Examinations.

Counters: dated

Officer-in-Charge

કાર્યક્રમ નિયમો

Digitized by srujanika@gmail.com

Sub-Divisional Inspector
of Post Offices
Dimapur Sub Division
Dimapur 19/112 Nagaland
Controller of Ex-
amination of Secondary Ed-
ucation
Mizoram

Nagaland S.S.- K C Deka
Controller of Examinations.
Board of Secondary Education, Assam

Nagaland Council of Examination

Board of Secondary Education, Assam

DEPARTMENT OF POSTS
 OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
 DIMAPUR SUB-DIVISION
 DIMAPUR 797 112 NAGALAND.

Memo NO. A-1/EDDA/ATHIBUNG Dated at Dimapur , the 03/03/99

LETTER OF APPOINTMENT

Shri Nitya nanda Basumatary who is working as EDMC/ Khelma BO is hereby redesignated and appointed as EDDA/of Athibung BO with effect from the F/N of 01/03/99 vice Shri-Helkhojang Kuki deserted the post during Sept 1997. He shall be paid such pay and allowances as admissible from time to time

2) Shri Nitya nanda Basumatary should clearly understand that his employment as EDDA/Athibung will be in the nature of contract liable to be terminated by him for the undersigned by notifying the other, in writing and that he shall also be Governed by the posts and Telegraphs extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time

3) If these conditions are acceptable to him , he should communicate his acceptance in the prescribed proforma enclosed herewith.

4) This order is issued in accordance with the Dte letter NO.43/27/85. Pen deated 12/09/88 and the official will be entitled to the benefit of his past services at Khelma for all - purposes. *As of 1-12-1997.*

[Signature]
 (D. K. BORA)
 Sub-Divisional Inspector
 of Post Offices
 Dimapur Sub Division
 Dimapur 797112 Nagaland

Copy forwarded to :-

- 1) The Postmaster, Kohima H.O. for information and necessary action.
- 2) The Sub-Postmaster Jalukei, S.O for information and necessary action.
- 3) The B . P. M. Athibung BO, for information .
- 4) Official concerned.

[Signature]
 (D.K.BORA)
 Sub-Divisional Inspector
 of Post Offices
 Dimapur Sub Division
 Dimapur 797112 Nagaland

Sub-Divisional Inspector Post Office:
Dimaapur Sub-Division,
Dimaapur - 797112, Nagaland

NO:- A-1/AF/EDDA/Attribung.
Dated: 31.1.2000.

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To.

Sri Nityananda Basumatary.
EDDA/ Attribung B.O.
via: Zalkrie Nagaland.

Subject:- Irregular appointment.

It was observed by the D.P.S. Nagaland, Kohima that you were appointed as EDMC/ Khelma B.O. vide this office memo no. A-1/EDMC/ Khelma B.O. dated 29.11.97 (for 6(Six) months will effect from 1.12.97 to 31.5.98 and then you were redesignated and appointed as EDDA/ Attribung B.O. vide memo no. A-1/EDDA/ Attribung dated 3.3.99 without observing any formality.

As per certificate furnished by you are starts from Karbi Anglong District of Assam and is registered with Employment Exchange, Diphu which is not applicable in Nagaland. As such I have been directed to terminate your service.

you are given an opportunity to explain as to why your service will not be terminated.

your explanation should reach to the m/s within 3 (Three) days on receipt of this letter.

D. K. Dey
(D. K. Dey)
Sub-Divisional Inspector Post Office
Dimaapur Sub-Division
Dimaapur - 797112, Nagaland

To

The Sub. Divisional Inspector of Post offices

Dimapur - Sub - Division

Dimapur 797112 (Nagaland)

Sub:- Irregular appointment

Respected Sir,

Kindly refer to your letter memo No.

No. A-1/PE/EDDA/ Athibung dated 31-1-2000

That Sir, I was appointed as G.D.M.C / Kholma B.O. Dated Dimapur the 29-11-97 which was provisional.

After expiry the specified period of provisional appointment I was appointed as G.D.D.A at Athibung B.O. vide your letter memo No. A-1/EDDA / Athibung dated at Dimapur the 3-3-99 and I am working continuously and sincerely without any break. I may say also drawing time to time as admissible. If there any irregularities regarding appointment it is the responsibility of the appointing authority for which I should not be terminated.

Thanking you

your faithfully

Dated the Athibung

7-2-2000

Nilaynanda Basumatary

Athibung B.O. (EDDA)

via galukie B.O.

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DEPARTMENT OF POST : INDIA
OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION,
DIMAPUR 787112 : NAGALAND.

Memo No. A-1/Athibung, Dated, at Dimapur the 14th March 2000.

TERMINATION OF SERVICE

Under the cover of Rule -6 of P & T. , E.D. Agents (Conduct and service) Rules 1964 Service of Shri. Nityananda Basumatary E.D.D.A/Athibung B.O. in A/C with Zalukie, S.O. is hereby terminated with immediate effect.

Sd/-

(D. K. DEY)
Sub-Divisional Inspector Post Office

To,
Sub-Division
Dimapur - 787112, Nagaland

Shri. Nityananda Basumatary,
E.D.D.A. Athibung B.O.
Via- Zalukie, Nagaland.

Copy to :-

1. The D.P.S./Nagaland Kohima w/r to this office I.R. dated 18-12-99 para 7.5 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./Zalukie for information.
4. The B.P.M./Athibung B.O. He will carryout the works of E.D.D.A. in addition to his works and without extra remuneration till further arrangement.

152 File NO A-1/P.F./E.D.D.A./Athibung.

6. O/C.

Dwijin
(D. K. DEY) 14/3
Sub-Divisional Inspector Post Office
Sub-Division
Dimapur - 787112, Nagaland

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Annexure - 19

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 02.01.2001

This is an appeal preferred by Shri. Nityananda Basumatary former EDDA of Athibung BO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no. A-1/Athibung dtd. 14.3.2000.

2. Briefly, Shri. Nityananda Basumatary of Dighalipar village, P.O Polakamati under Karbi Anglong district (Assam) was appointed as EDDA, Athibung BO in account with Zalukie SO by the then SDIPOs, Dimapur vide memo no. A-1/EDDA/Athibung, dtd. 3.3.99 without observing the prescribed recruitment procedure of approaching local employment exchange for sponsoring of eligible candidates, or notification through public advertisement inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Nityananda Basumatary was served with a notice to show cause as to why his service should not be terminated since he hails from Karbi Anglong district of Assam, was registered with employment exchange in Diphu and did not fulfill the eligibility conditions for appointment as ED staff in Nagaland by the SDI (P) Dimapur vide his letter no. A-1/PF/EDDA/Athibung, dtd. 31.1.2000.

4. In his reply dtd. 7.2.2000, Shri. Nityananda Basumatary explained that he was provisionally appointed as EDMC Khelma BO on 29.11.97 and after the expiry of the period of provisional appointment, was appointed as EDDA Athibung BO on 3.3.99 and since then he has been working continuously and sincerely without any break. He also stated that if there was any irregularity in his appointment it is the responsibility of the appointing authority for which his service should not be terminated. The service of Shri. Nityananda Basumatary, EDDA Athibung BO in account with Zalukie SO was terminated vide SDIPOs Dimapur memo no. A-1/Athibung, dtd. 14.3.2000.

5. Against the order of termination of service Shri. Nityananda Basumatary preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000. Shri. Basumatary brought out the following points:-

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA. After completion of 2 1/2 years of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 14.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 14.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation / chargesheet / departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

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v) That the letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 31.1.2000 and 14.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 31.1.2000 and 14.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

I have gone through the case carefully. From the copies of the documents mentioned below and produced by the appellant at the time of his appointment, it is evident that Shri.Nityananda Basumatary is a permanent resident of Dighalipar Village under Karbi Anglong district of Assam:-

i) Schedule Tribe certificate no. 1498, dtd. 18.7.88 issued by Deputy Commissioner, Karbi Anglong District, Diphu.

ii) Board of Secondary Education, Assam admit card no. 61288 and Marksheets no. 128207, dtd. 1988.

iii) Employment registration card no.224/73 issued by Employment Officer, District Employment Exchange, Diphu.

6. Apart from age and educational qualifications a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland.

7. Shri.Nityananda Basumatary did not fulfill the basic eligibility condition of being registered with any local employment exchanges in Nagaland. He also did not produce any document/record to show that he was a permanent or temporary resident of any locality in Nagaland at the time of his appointment.

8. The appellant was, therefore, not eligible to be considered for appointment as ED staff in Nagaland at the time of his appointment as EDDA, Athibung BO.

9. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 14.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 14.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 7.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice is less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

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10. The contention of the appellant that he was duly selected and offered the appointment of EDDA after due selection by a duly constituted selection committee is incorrect. The appointment was made by the then SDI (P) Dimapur without observing the prescribed recruitment procedures and even though the appellant was not at all eligible to be considered for appointment as ED staff in Nagaland. Even though, no specific mention of the reply of the appellant was made, the termination order dtd. 14.3.2000 was issued taking into account the reply of the appellant.

11. As mentioned above, even though the show cause notice may not be in the prescribed pro forma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/representation. Thus, the appellant was not denied of the principles of natural justice.

12. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given the undue advantage over the eligible candidates and given appointment.

13. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Nityananda Basumatary should be rejected.

ORDER

I, Shri F.P.Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Nityananda Basumatary. However, in lieu of one month's notice Shri. Basumatary may be given one month's basic pay and dearness allowance.

21/10/01
(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Nityananda Basumatary,
Ex-EDDA/Rangapahar BO.

Copy to:-

- 1.-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, Jalukie for information and necessary action.

(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

GOVERNMENT OF ASSAM
OFFICE OF THE DEPUTY COMMISSIONER: KARBI ANGLONG: DIPHU

CERTIFICATE

NO. 118

This is to certify that Sri/Smti

Nilakanta Bhattacharya son/daughter/wife of

Late Nilakanta Bhattacharya permanent resident
of village/Town Diphu P.O. Diphu

Thana Hengnghat District Karbi Anglong and

belong to the Deo tribe (name of the tribe)

which is not Scheduled Tribe in the aforesaid District but

is recognised by the Govt of Assam as "Hills Tribe in plains"

"Plains tribe in Hills" for the purpose of giving economic/

Educational and employment benefits against quota reserved for

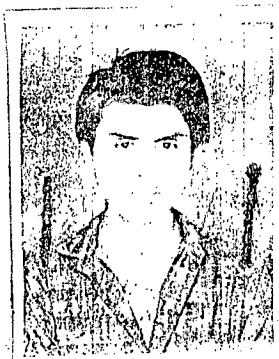
Scheduled Tribes (Hills) & Scheduled Tribes (Plains).

Place :- DIPHU

Signature:-

Date :- 15/1/82

Designation:-

Deputy Commissioner
Karbi Anglong Dist. Diphuchever is in
licable

Attest
Date 20/1/82

cl & l
20/1/82
Central Institute of English
Diphu Sub-Division
Date 20/1/82. Name

(Plains) 65 (4) Annexure-2(h)
 GOVERNMENT OF INDIA
 DEPARTMENT OF LABOUR & EMPLOYMENT
 DISTRICT EMPLOYMENT EXCHANGE, DILCHERI
 NOT INTRODUCTION CARD OR INTERVIEW WITH EMPLOYER

1. Name : S. N. Tyagiramda (Begum)
 2. Date of birth : 30-4-21
 3. Date of registration : 4-3-73
 4. Registration No. : 22473
 5. Qualification : Pass 8th Standard
 6. N.U.C. No. : 2057-60
 7. Prominent Identification mark : X

Signature of the applicants
 2. S. A. B.
 EMPLOYMENT OFFICER
 DISTRICT EMPLOYMENT EXCHANGE
 DEPU.

Next renewal of month & year	Date initial of renewal clerk	Next renewal of month & year	Date initial of renewal clerk
<u>14/3/96</u>	<u>24/3/93</u>		

Attested
20/11/97

etc 1/1/98
1/1/98
 2. Divisional Inspector of
Labour Sub-Division
Bhopal, 707112, Number

Office No. 61288



Photograph

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Board of Secondary Education : Assam, Guwahati

ADMIT

Sri Nityananda Basumatary

Son/daughter of Sri Nilo Kanta Basumatary

Roll P-159 No. 38

To the High School Leaving Certificate Examination, 1988

to commence on Tuesday, the 29th March 1988. His/Her

date of birth is 30-4-71

Elective	1st Additional	2nd Additional
Maths	Yes	

Subjects for Examination:-

Note:- Hours of Examination:-

Morning - From 9 a.m. to 12 noon.

Afternoon - From 1-30 p.m. to 4-30 p.m.

N.B.—Any alteration made in the entries on this Admit Card without the authority of the Board, renders the candidate liable to disqualification for sitting at this or any subsequent Examinations.

Countersigned

Sd/- R. C. Deka

Controller of Examinations

Board of Secondary Education, Assam

GUWAHATI-21

Officer-in-Charge
Ass't Officer-in-Charge
(Officer's Seal)

Board of Secondary Education
EXAMINATION CENTRE
R. C. D. P. 159

J. H. Deka
20/3/1988

Examination
Board of Secondary Education

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Department of Post:India.
 Office of the Sub-Divisional Inspector of Post Offices
 Dimapur Sub-Divn, Dimapur-797112.

Memo No.A-1/ED Packer/Chumukedima Dimapur.

Dated at Dimapur the 10.2.99.

Shri LALIT RANJAN PRASAD, S/o, SHRI PRITHIVI NATH PRASAD OF GOLAGHAT ROAD DIMAPUR is hereby appointed as ED Packer of Chumukedima S.O. w.e.f. from 1.2.99. He shall be paid such allowances as admissible from time to time.

2. Shri LALIT RANJAN PRASAD should clearly understand that his employment as ED-Packer shall be in the nature of a contract liable to be terminated by him or the undersigned by notifying the other, in writing, and that he shall also be governed by the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.

3. If these conditions are acceptable to him, he should communicate his acceptance in the proforma reproduced below.

(D.K. Sub-Divisional Inspector
 SDIPOS, Sub-Dimapur Offices
 Dimapur-797112, Nagaland

Copy forwarded to:-

Dm

Q.C.

1. The Postmaster Kohima HO for information and necessary action.
2. The SPM, Chumukedima S.O. for information and necessary action.
3. Shri Lalit Ranjan Prasad ED-Packer Chumukedima S.O.

(D.K. Sub-Divisional Inspector
 SDIPOS, Sub-Dimapur Offices
 Dimapur-797112, Nagaland

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At 5th
1/2/10

Regd A/c

Sub-Divisional Inspector Post Off
O/T The
Dimapur Sub-Division
Dimapur - 797112, Nagaland

NO:- A-1/ E.D. Packer/ Churn
DTD. 31-1-2000.

To.

Sri Lalit Ranjan Basawad.
ED. Packer, Churn Kedima So.
Nagaland.

Subject:- Irregular appointment.

It was observed by the D.P.S./Nagaland. Churn while inspected the O/T of the U.P.S. on 18.12.99 that you were appointed vide the office memo or even no. dated 10.2.99 with effect from 1.2.99 and you joined as ED. Packer, Churn Kedima on 30-1-99 A/H.

The required formalities were not observed while appointment made as such & have been directed to terminate your service.

You are therefore given an opportunity to explain as to why your service will not be terminated.

Your explanation should reach to the U.P.S. within 3 (three) days on receipt of this letter.

Dated
(D. K. DEY)
Sub-Divisional Inspector Post Off
Dimapur Sub-Division
Dimapur - 797112, Nagaland

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42/19

To,

The Sub-Divisional Inspector of Postal
Dimapur - Sub-Division.
Dimapur - 797112. (Nagaland).

Sub :- Irregular appointment.

Respected Sir,

Kindly refer to your memo No. A-1/ED Packer/CKd'ma dated 31-01-2000.

That Sir, before getting of my appointment letter of ED Packer at CKd'ma so. I was unemployed student and then I was searching for job according to my eligibility. From reliable source I come to know that one Post was vacant in CKd'ma so. So, I contacted to S.D.I. Pos. Dimapur Sub-Division. He informed me that ED Packer Post was vacant in that time in CKd'ma so, But for that certain qualification is required and I submitted all my documents in support, and on the basis of my documents satisfaction, the former S.D.I. Pos had issued the some appointment order on favour of me. Now it is not known to me that, officially what formalities were not observed while my appointment was made because, it was not done by me.

Sir, As per appointment letter which was issued by former S.D.I. Pos, Sri D.K. Bora bearing memo No A-1/EDPacker Chumukelima Dated 10-2-1999, I am working as ED Packer CKd'ma S.O. from 1.2.1999, But I had taken the charge of ED Packer on 30.1.1999 A/N at CKd'ma so, as per verbal instruction of S.D.I. Pos. Dimapur Sub-Division and continuously I am working as ED Packer at CKd'ma so. without break upto till date.

Therefore, It is so clear in my best of knowledge that my service will not be terminated by the Department.

Thanking you.

Dated : 4-02-2000.

Yours most faithfully,

Lalit Ranjan Barai
ED Packer

Chumukelima, P.O.
(Nagaland)

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DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
 DIMAPUR SUB-DIVISION
 DIMAPUR - 797 112 : NAGALAND.

Memo NO:A-1/Chumukedima, Dated At Dimapur the 18-3-2000.

TERMINATION OF SERVICE

Under the cover of Rule 6 of P & T E.D. Agents (Conduct and service) Rules 1964, service of Shri. Lalit Ranjan Prasad E.D. Packer, Chumukedima S.O. is hereby terminated with immediate effect.

Sd/-

(D.K. DEY)

Sub-Divisional Inspector Post Office

Dimapur Sub-Division

Dimapur - 797112, Nagaland

To,

Shri. Lalit Ranjan Prasad
 E.D. Packer
 Chumukedima, Nagaland.

Copy to :-

1. The D.P.S. Nagaland, Kohima w/r to this office I.R. dated 18-12-99 para 7.2 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./Chumukedima, Temporary local arrangement may be made in place of E.D. Packer.
4. File NO.A-1/E.D.Packer/Chumukedima.
5. O/C.

Dey
 (D. K. DEY) 18/3
 Sub-Divisional Inspector Post Office
 Dimapur Sub-Division
 Dimapur - 797112, Nagaland

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 04.01.2001

This is an appeal preferred by Shri. Lalit Ranjan Prasad, former ED Packer, Chumukedima SO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no. A-1/Chumukedima, dtd. 18.3.2000.

2. Shri. Lalit Ranjan Prasad, was appointed as ED Packer of Chumukedima SO in account with Kohima HO by the then SDI (P) Dimapur vide memo no. A-1/ED Pkr./Chumukedima Dimapur, dtd. 10.2.99 without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring eligible candidates or notification through public advertisements inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Lalit Ranjan Prasad was served with a notice to show cause as to why his service as ED Packer, Chumukedima SO should not be terminated as the required formalities were not observed at the time of his appointment by the SDI (P) Dimapur vide his letter no. A-1/ED Pkr/C KDima, dtd. 31.1.2000.

4. In his reply dtd. 4.2.2000, Shri. Lalit Ranjan Prasad stated that on learning about the vacant post he submitted the required documents to SDI (P) Dimapur who issued appointment order to him. It is not known to him whether the required formalities were observed or not. He has been working continuously as ED Packer, Chumukedima SO from 1.2.99 without any break in service. The service of Shri. Lalit Ranjan Prasad as ED Packer, Chumukedima SO was terminated vide the SDI (P) Dimapur memo no. A-1/Chumukedima, dtd. 18.3.2000.

5. Against the order of termination of service Shri. Lalit Ranjan Prasad preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000, Shri. Prasad brought out the following points:-

i) After due selection by a duly constituted selection committee, he was offered the post of ED Packer. After completion of 1 year of continuous service he was served with a show cause notice dtd. 31.1.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 18.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 18.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation/ chargesheet/ departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 31.1.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

v) That the letter dtd. 31.1.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 31.1.2000 and 18.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 31.1.2000 and 18.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. From the records it is seen that no local employment exchange was addressed for sponsorship of candidates nor Village Council Chairman, or Town Committee Chairman notified about the vacancy as per the existing rules. There was no application from Shri. Lalit Ranjan Prasad available in the record. It is obvious that appointment order was issued to Shri. Lalit Ranjan Prasad by the then SDI (P) Dimapur without the candidate applying for the post. Undue favour has been shown to Shri. Lalit Ranjan Prasad in issuing appointment order to him by the then SDI (P) Dimapur without following the prescribed recruitment rules and procedures. The contention of the appellant that he was offered the post of ED Packer, Chumukedima SO after due selection by a duly constituted selection committee and after due consideration of the facts as well as the documents and certificates is incorrect. There was a serious miscarriage of justice by not affording opportunity to other eligible and deserving candidates to apply for the post and be considered for appointment as ED packer Chumukedima SO by not notifying the vacancy through employment exchange or village council or Town Committee or public advertisement as required under the recruitment rules by the then SDI (P) Dimapur.

7. It was clearly mentioned at para 2 of the appointing order no. A-1/ED Pkr/Chumukedima, dtd. 10.2.99 that the employment of Shri. Lalit Ranjan Prasad as ED Packer shall be in the nature of a contract liable to be terminated by him or the appointing authority by notifying the other in writing. At the time of his appointment Shri. Lalit Ranjan Prasad gave the following declaration, 'I understand that my employment is purely temporary and that my service may be terminated by one month notice either by me to Govt. or to me by the Govt.' The termination order dtd. 18.3.2000 was, therefore, within the preview of the conditions of service and the ED Conduct rules.

8. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 31.1.2000 and terminating the service of the appellant vide order dtd. 18.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 18.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 4.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice was less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

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9. As mentioned above, even though the show cause notice may not be in the prescribed proforma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/representation. Thus, the appellant was not denied of the principles of natural justice.

10. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantage over the eligible candidates and given appointment.

11. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Lalit Ranjan Prasad should be rejected.

ORDER

I, Shri.F.P.Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri.Lalit Ranjan Prasad. However, in lieu of one month's notice Shri. Lalit Ranjan Prasad may be given one month's basic pay and dearness allowance.

Since Shri.Lalit Ranjan Prasad appears to possess the eligibility conditions for being considered for appointment as ED staff, his application alongwith the applications of other eligible candidates may be considered on merit while filling up the post of ED Packer, Chumukedima SO after proper notification of the vacancy through local employment exchange, Village Council / Town Committee and public advertisement.

(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri.Lalit Ranjan Prasad,
Ex-ED Packer, Chumukedima SO.

Copy to:-

- 1-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, Chumukedima SO for information and necessary action.

(F.P.Solo)
Director of Postal Services,
Nagaland, Kohima-797001

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DEPARTMENT OF POST
OFFICE OF THE SUB-DIVISIONAL INSPECTOR OF POST OFFICES
DIMAPUR SUB-DIVISION

Memo No. A-1/EDDA cum ED/one Dimapur, dated at Dimapur, the 28-1-99

LETTER OF APPOINTMENT

1. Shri. Ram Prakash Prasad
S/o. Ram Prakash Prasad Village Rij colony
P.O. Dimapur P/S. Dimapur
District Dimapur is hereby appointed as E.D.D.A cum P.M.
with effect from the F/N A.N of 09-12-97 of Dimapur B.O.
H/She shall be paid such allowances as admissible from time to time.

2. Shri/Smt. Ram Prakash Prasad should
clearly understand the his/her employment as E.D.D.A cum P.M.
will be in nature of contract liable to terminated by him/her for
the undersigned by notifying the other, in writing and that he/she
shall also be Governed by the Posts and Telegraphs Extra Departmental
Agents (Conduct and Service) Rules, 1964, as amended from time to
time.

3. If these conditions are acceptable to him/her, he/she should
communicate his/her acceptance in the prescribed proforma enclosed
herewith.

(D. K. BORA)
Sub-Divisional Inspector
of Post Offices Post Offices
Dimapur Sub-Divisional Division
Dimapur 797112 Nagaland

Copy forwarded to:-

- 1) The Postmaster, Kohima H.O. for information
- 2) The Sub-Postmaster, ARTC S.O. for info.
- 3) The B.P.M., Dimapur B.O. for info.
- 4) Shri/Smt. Ram Prakash Prasad for info.

(D. K. BORA)
Sub-Divisional Inspector
of Post Offices Post Offices
Dimapur Sub-Divisional Division
Dimapur 797112 Nagaland

-:00:-

Appointment Accepted
R/2/99
R/2/99
A. P.

19. Aug 2000

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Sub-Divisional Inspector Post Office
of office. Dimapur Sub-Division
Dimapur - 797112, Nagaland

No. A-1/5001 (c) EDMC/

Dimapur dated 1.2.2000

To

Shri Ram Parash Prasad,

EDDA (c) EDMC / Dimapur
and acting as B.P.M / Dimapur.

Subject:- Irregular appointment.

It was observed by the DDO / Nagaland: Kohima that you were appointed as EDDA cum EDMC of Dimapur P.O. vide this office memo of even no. dated 28-1-99. But your name was neither sponsored by the Employment Exchange, Kohima nor by the village council. Further you failed to produce Employment Registration no. or card in support of your candidature. As such I have been directed to terminate your ~~service~~ service.

you are therefore given an opportunity to explain as to why your service will not be terminated.

your explanation should reach to the office within 3 (three) days on receipt of this letter.

D.S.I.

(D. K. Dey)

Sub-Divisional Inspector Post Office

Dimapur Sub-Division

Dimapur - 797112, Nagaland

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To,

S.D.I.P.O.
Dimapur Sub-Division,
Dimapur 797123.

Sub:- IRRIGULAR APPOINTMENT.

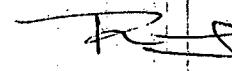
Respected Sir,

With due respect kindly refer to your Memo No. A-1/EDDA Cum E.D.M.C. Diphupar Dated 1/2/2000 that Sir, I was appointed as EDDA Cum EDMC at Diphupar B.O. on 9/12/97 Vide Memo No A-1/EDDA Cum EDMC/Diphupar dated at Dimapur, the 28/1/99 as per received your Memo No. A-1/EDDA Cum EDMC/Diphupar dated 1/2/2000 you are asking that " why your service will not be terminated" Actually before getting my appointment letter I was ignore about the method of Recruitment by the post a i department. I was applied for the same post to S.D.I.P.O. on behalf of postal Department. After verified all my documents which was called up by S.D.I.P.O. I has submit all documents according to his instruction. After satisfaction my appointment letter was issued and allowed to joint for same post. After joining in the service I have been working sincerely. But I don't know my service will be terminated by the Department.

Thanking you.

Dated: Diphupar.
The 4th Feb '2000.

Yours faithfully,


(RAM PRAVESH PRASAD)
E.D.D.A.CUM EDMC.
DIPHUPAR B.O.

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DEPARTMENT OF POST : INDIA

OFFICE OF THE SUB-DIVISIONAL INSPECTOR POST OFFICES
DIMAPUR SUB-DIVISION
DIMAPUR 797 112 : NAGALAND.

Memo No.A-1/Diphupar,

Dated at Dimapur the 18-3-2000.

TERMINATION OF SERVICE

Under the cover of Rule-6 of P & T, E.D. Agents (Conduct and service) Rules 1964, service of Shri. Ram Pravesh Prasad, E.D.D.A. cum E.D.M.C. Diphupar B.O. and now acting as B.P.M. in A/C with A.R.T.C., S.O. is hereby terminated with immediate effect.

S.d/-

(D. K. DEY)
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

To,

Shri. Ram Pravesh Prasad
E.D.D.A(C) E.D.M.C.
now acting B.P.M./Diphupar B.O.
via- A.R.T.C. Nagaland.

Copy to :-

1. The D.P.S. Nagaland, Kohima w/r to this office I.R. dated 18-12-99 para 7.6 for favour of kind information.
2. Postmaster Kohima H.P.O. for information and necessary action.
3. S.P.M./A.R.T.C. for information.
4. Shri. L.R.M. Singh o/s mail Dimapur. He will take charge of the office till further order.
5. File No.A-1/PF/EDDA(C) EDMC/Diphupar.
6. O/C

Draijin

(D. K. DEY) 18/3
Sub-Divisional Inspector Post Office
Dimapur Sub-Division
Dimapur - 797112, Nagaland

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DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA: 797001.

NO:A-1/ED Staff/Misc/Corr

Dated at Kohima the 05.01.2001

This is an appeal preferred by Shri. Ram Pravesh Prasad, former EDDA cum EDMC of Diphupar BO in account with ARTC SO against the order of termination of service under Rule 6 of EDA (Conduct & Service) Rules 1964 issued by Sub-Divl. Inspector of Post Offices, Dimapur vide memo no. A-1/Diphupar, , dtd. 18.3.2000.

2. Shri. Ram Pravesh Prasad was appointed as EDDA cum EDMC Diphupar BO by the then SDI (P) Dimapur vide memo no. A-1/EDDA cum EDMC/Diphupar, dtd. 28.1.99 w.e.f 9.12.97 without observing the prescribed recruitment procedures of approaching local employment exchange for sponsoring eligible candidates or notification through public advertisements inviting applications and selection of candidates after proper verification of eligibility conditions.

3. Shri. Ram Pravesh Prasad was served with a notice to show cause as to why his service as EDDA cum EDMC, Diphupar BO should not be terminated as the required formalities were not observed at the time of his appointment by the then SDI (P) Dimapur vide letter no. A-1/EDDA (c) EDMC/Diphupar, dtd. 1.2.2000.

4. In this reply dtd. 4.2.2000 Shri. Ram Pravesh Prasad stated that he was ignorant about the method of recruitment in the Department. But he submitted his documents to the SDI (P) Dimapur. After submission of the documents he was given the appointment by the SDI (P) Dimapur. Since his appointment he claimed to be working sincerely and it is not known as to why his service should be terminated. The service of Shri. Ram Pravesh Prasad as EDDA cum EDMC, Diphupar BO was terminated vide SDI (P) Dimapur memo no. A-1/Diphupar, dtd. 18.3.2000.

5. Against the order of termination of service, Shri. Ram Pravesh Prasad preferred the present appeal to Director Postal Services, Nagaland. In his appeal dtd. 8.5.2000, Shri. Prasad brought out the following points:-

i) After due selection by a duly constituted selection committee, he was offered the post of EDDA cum EDMC. After completion of 2 1/2 year of continuous service he was served with a show cause notice dtd. 1.2.2000 mentioning irregular appointment. He submitted an explanation stating the facts and circumstances under which he was selected and appointed. However, in the termination order dtd. 18.3.2000, no mention was made about his explanation and it was not known to him whether his representation was taken into consideration at the time of issue of the termination order dtd. 18.3.2000.

ii) The appointment was offered to him after due consideration of the facts as well as the documents and certificates produced at the time of interview.

iii) That before termination of service no formal notice in the prescribed form was served to him. In the absence of any explanation/ chargesheet / departmental proceedings against the appointing authorities it is not possible for the appellant to explain the position clearly.

iv) While issuing the letter dtd. 1.2.2000 the Department has not taken into consideration the relevant Rule 6 of EDA (Conduct & Service) Rules 1964.

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v) That the letter dtd. 1.2.2000 has cast a stigma on the appellant and as per article 311 of the Constitution of India the appellant was entitled to notice and as well as hearing.

vi) Before issue of the letters dtd. 1.2.2000 and 18.3.2000 no approval was taken and no proper enquiry was done as to whether relaxation was applicable in the appellant's case considering his length of service.

vii) The issuing of letters dtd. 1.2.2000 and 18.3.2000 is not in the interest of public service and the same is not sustainable in the eye of law.

viii) That before terminating the service of the appellant the concerned authority should have taken a pragmatic view in the matter.

ix) If any mistake was committed by the Department it should be treated as an act of state and the same be considered as a bonafide one and in the present case reliefs are required to be granted to the appellant.

6. I have gone through the case carefully. Apart from age and educational qualification a candidate to be eligible to be considered for appointment as ED staff must be a permanent resident of the village where the Post Office is located in the case of EDBPM or a resident near the place of work in the case of other ED staff. Above all a candidate must be registered with any one of the local employment exchanges in Nagaland. Shri. Ram Pravesh Prasad did not fulfill the eligibility condition of being registered with any of the Employment Exchanges in Nagaland. However, it is seen that even though Shri. Ram Pravesh Prasad was not eligible he was directed to take charge of EDDA cum EDMC, Diphupar BO from one Shri. Kumardhan Singh who was selected for deputation to APS by the then SDI (P) Dimapur, vide memo no. B-2/Staff/Deputation/APS, dtd. 8.12.97. All the documents appear to have been produced and declaration signed by Shri. Ram Pravesh Prasad on 10.12.97. Thereafter one letter no. A-1/EDDA (c) EDMC/Diphupar BO dtd. 5.1.98 was purported to have been issued to the District Employment Officer, Kohima for nomination of candidates for filling up the post of EDDA cum EDMC, Diphupar BO. A note available in the record mentioned that since the Employment Exchange, Kohima failed to sponsor candidates, the Chairman Diphupar Village Council also remained silent and since no other candidates applied for the post it was decided to give regular appointment to Shri. Ram Pravesh Prasad who was provisionally working as EDDA cum EDMC after obtaining police verification report. However, even before obtaining police verification report from the police authorities Shri. Ram Pravesh Prasad was given letter of appointment by the then SDI (P) Dimapur vide memo no. A-1/EDDA cum EDMC/Diphupar dtd. 28.1.99.

7. Even though a letter to the District Employment Officer, Kohima was purported to have been issued by the then SDI (P) Dimapur on 5.1.98 with a copy to the Chairman Diphupar Village Council, there is no evidence like registered letter receipt to show that the letter was actually issued / sent to the addressee. No reminder was issued to the Employment Exchange and no public advertisement about the vacancy was issued as required under the recruitment rules. There was no application from Shri. Ram Pravesh Prasad available in the record. It is obvious that the appointment order was issued to Shri. Ram Pravesh Prasad by the then SDI (P) Dimapur without the candidate applying for the post. Undue favour was shown to Shri. Ram Pravesh Prasad in appointing him as EDDA cum EDMC, Diphupar BO by the then SDI (P) Dimapur without following the prescribed recruitment rules and procedures. The contention of the appellant that he was offered the post of EDDA cum EDMC, Diphupar BO after due selection by a duly constituted selection committee and after due consideration of the facts as well as the documents and certificates is incorrect. There was a serious miscarriage of justice by not affording opportunity to other eligible and deserving candidates to apply for the post and be considered for appointment as EDDA cum EDMC, Diphupar BO by not notifying the vacancy through employment exchange or village council or Town Committee or public advertisement as required under the recruitment rules by the then SDI (P) Dimapur.

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8. It was clearly mentioned at para 2 of the appointment order no. A-1/EDDA cum EDMC / Diphupar, dtd. 28.1.99 that the employment of Shri. Ram Pravesh Prasad as EDDA cum EDMC shall be in the nature of a contract liable to be terminated by him or the appointing authority by notifying the other in writing. At the time of his appointment Shri. Ram Pravesh Prasad gave the following declaration, 'I understand that my employment is purely temporary and that my service may be terminated by one month notice either by me to Govt. or to me by the Govt.' The termination order dtd. 18.3.2000 was, therefore, within the preview of the conditions of service and the ED Conduct rules.

9. Now, the question is whether SDI (P) Dimapur followed the correct procedure in issuing show cause notice dtd. 1.2.2000 and terminating the service of the appellant vide order dtd. 18.3.2000 after getting the representation of the appellant to the show cause notice. Rule 6 of EDA (Conduct & Service) Rules 1964 was invoked by the SDI (P) Dimapur as the appellant had put in less than 3 years of continuous service from the date of appointment. In the show cause notice the reasons for proposing to terminate the service of the appellant were given. The order dtd. 18.3.2000 terminating the service of the appellant was issued after receipt of the representation / reply / submission dtd. 4.2.2000 from the appellant. Though the show cause notice may not be in the prescribed proforma, it is clear that an opportunity has been provided to the appellant to explain his position before his service was terminated. The only lacuna is that as the period of notice was less than 1 month, one month's basic allowance + dearness allowance should have been remitted to the appellant through Money Order in lieu of notice of 1 month.

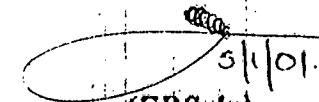
10. As mentioned above, even though the show cause notice may not be in the prescribed proforma, reasonable opportunity was afforded to the appellant to make representation against the proposed termination of service. Rule 6 of EDA (Conduct & Service) Rules 1964 does not provide for a show cause notice. Only a one month's notice is sufficient for terminating the service of an ED staff with less than 3 years of continuous service. But the appellant was given opportunity stating reasons as to why his service was proposed to be terminated. And his service was terminated only after getting his explanation/ representation. Thus, the appellant was not denied of the principles of natural justice.

11. The termination of the service of the appellant is very much in the interest of the public service. Due to non issue of notification about the vacancy, eligible and deserving candidates who would have applied were deprived of the chance to appear for the interview and the appellant was given undue advantage over the eligible candidates and given appointment.

12. In view of the facts and circumstances stated above I am of the considered view that the appeal of Shri. Ram Pravesh Prasad should be rejected.

ORDER

I, Shri. F.P. Solo, Director Postal Services, Nagaland, therefore, rejects the appeal of Shri. Ram Pravesh Prasad. However, in lieu of one month's notice Shri. Ram Pravesh Prasad may be given one month's basic pay and dearness allowance.


S/101
(F.P. Solo)
Director of Postal Services,
Nagaland, Kohima-797001

To,

Shri. Ram Pravesh Prasad,
Ex-EDDA cum EDMC,
Diphupar BO.

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to:-

- 1.-2. The SDI (P) Dimapur. He is requested to hand over one copy to the appellant under receipt.
3. The Postmaster, Kohima for information and necessary action. He is requested to remit one month's pay and allowances to the appellant through MO.
4. The SPM, ARTC SO for information and necessary action.

(F.P.Solo)

Director of Postal Services,
Nagaland, Kohima-797001

O/C