

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-120/2001/ordered pg-1

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Disposed Date-08/04/02

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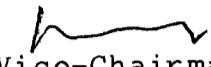
SECTION OFFICER (JUDI.)

2
O.A.No.17/2001

28.2.2001

Four weeks time allowed to the respondents to file written statement. List it on 28.3.01. Interim order shall continue.

BB
27.2.01


Vice-Chairman

nm

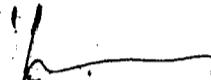
BB
27.2.01

No. wts has been filed.

BB
8.5.01

28.3.2001

Four weeks time allowed to the respondents to file written statement. List it for orders on 9.5.01.


Vice-Chairman

Order dtd 9/5/01
Communicated to Smt Ades
Roy. Sec. C.G.S.C.

BB
21/5/01

nm

9.5.2001

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

In the meantime, interim order shall continue.


Vice-Chairman

Wts has been filed
on behalf of the
Respondents.

WS
21/5/2001

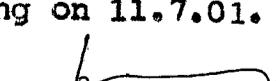
Written statement
has been filed.

BB
14.6.01

bb

22.6.01

Written statement has been filed. Case is ready for hearing as regard pleadings, The case may be listed for hearing on 11.7.01.


Vice-Chairman

Order dtd. 15/6/01.
Communicated to the
Parties Counsel, vide
DINo 2169152170

BB 20/6/01

BB 18/6/01

lm

3

Notes of the Registry	Date	Order of the Tribunal
has been filed.	11.7.01	Written statement has been filed. List for hearing on 17.8.01. for
<i>By 16.8.01</i>	1m	Vice-Chairman
has been filed.	17.8.01	By Order This O.A. pertains to termination of service. This case case is wrongly listed before Single Bench to-day. Let this case be listed before Division Bench. List on 13.9.01 before Division Bench.
<i>By 12.9.01</i>	1m	<i>1C Usha</i> Member
en Statement has filed.	13.9.2001	List after a month to enable the respondents to produce the connected records and other materials. List on 17.10.2001 for hearing.
<i>By 12.10.01</i>	bb	<i>1C Usha</i> Member
has been filed.	<u>17/10</u>	<i>There is no Divisional Bench today. The case is adjourned to 14/11/2001.</i>
<i>By 11.1.02.</i>	<u>17/11</u>	<i>There is no Divisional Bench today. The case is adjourned to 15/11/2002.</i>
15.1.02	On the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. case is adjourned to 1.2.02 for hearing.	
1m	<i>1C Usha</i> Member	
	<i>Vice-Chairman</i>	

0.A.17/2001

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Notes of the Registry	Date	Order of the Tribunal
	1.2.2002	<p>Mr. P. Roy, the learned counsel for the applicant is not present today. Mrs. R. Dutta, learned counsel states that Mr. Roy is not keeping well, hence he could not attend the Tribunal today.</p> <p>Heard Mr. A. Deb Roy, Sr.C.G.S.C. for the official respondents and also Mr. S. Sarma, learned counsel appearing for the private respondents.</p> <p>List the case again for hearing on 18.2.2002 and on that day the respondents are ordered to produce the connected records.</p>
Written statement filed by the respondents	bb	<p><i>K L Sharmin</i> Member</p> <p><i>h</i> Vice-Chairman</p>
	18.2.02	<p>On the prayer of learned counsel for the respondents case is adjourned to 21.3.02 for hearing.</p>
<i>20.3.02.</i>	bb	<p><i>K L Sharmin</i> Member</p> <p><i>h</i> Vice-Chairman</p>
	1m	
	21.3.2002	<p>None appears for the applicant. Mr S. Sarma, learned counsel for the private respondent is present. List again for hearing on 8.4.02.</p>
	nkm	<p><i>K L Sharmin</i> Member</p> <p><i>h</i> Vice-Chairman</p>
<i>27.3.02</i>	8.4.2002	<p>Heard counsel for the parties. Judgment delivered in Open Court, kept in separate sheets.</p> <p>The application is allowed in terms of the order. No order as to costs.</p>
	bb	<p><i>K L Sharmin</i> Member</p> <p><i>h</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 17 of 2001.

8.4.2002.
Date of Decision.....

Abdul Matin Chowdhury

Petitioner(s)

Mr. P. Roy & Mr. B. K. Talukdar.

Advocate for the
Petitioner(s)

versus-

Union of India & Others.

Respondent(s)

Mr. A. Deb Roy, Sr. C. G. S. C. & Mr. S. Sarma.

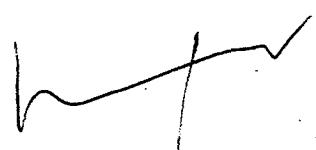
Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.17 of 2001.

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

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

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

Abdul Matin Chowdhury
S/O Fozle Karim Chowdhury
Vill:- Satkarakandi pt.II.
P.O:- Dhanekari, P.S:- Sonai
Dist:- Cachar, Assam. . . . Applicant.

Mr.P.Roy & B.K.Talukdar, learned counsel.

- Versus -

1. Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
New Delhi.
2. The Chief Postmaster General
Assam Circle, Guwahati.
3. The Senior Superintendent of Post Offices
Cachar Division
Silchar - 788 001. . . . Respondents.

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

O R D E R

CHOWDHURY,J(V.C.) :

By order dated 2.3.2000 the applicant was appointed as Extra Departmental Branch postmaster at Satkarakandi Branch Post Office. By the impugned order dated 22.12.2000 in pursuance of the Proviso to Rule 6 (b) and the note below Rule 6(b) of P & T EDAS (Conduct and Service) Rules, 1964 the services of the applicant was terminated. Hence this application assailing the legitimacy in the order of termination.

2. It was pleaded that in order to fill up the created post of EDPBM at Satkarakandi Branch Office, the Sr. Superintendent of Post Office, Cachar Division, Silchar asked the local Employment Exchange, Silchar to sponsor

qualified candidates vide his letter dated 24.8.99. The Employment Exchange first sponsored nine names on 27.9.2000 and thereafter sponsored three names of qualified candidates including the name of the applicant vide letter dated 8.10.99. After completion of selection process the applicant was appointed provisionally vide communication dated 2.3.2000 and the applicant joined in the service and was working sincerely and honestly. When things rested as such the impugned order was passed terminating the services of the applicant in a most illegal fashion.

3. The respondents submitted its written statement and stated that the Employment Exchange, Silchar was asked for sponsoring suitable candidates for the post of Extra Departmental Branch Postmaster, Satkarakandi. Twelve candidates including the name of the applicant were received from the Employment Exchange. The applications were sent to SDIPOS. and received back on 1.12.99. The applications were shortlisted and the applicant was selected provisionally and appointed as such where he joined on 26.4.2000. According to the respondents, in course of review of appointment/selection of the applicant the Postmaster General, Assam Region, Guwahati had noticed some irregularities in selection and communicated his decision vide letter No. Staff/31-3/99/RP (L) dated 16.9.2000. that appointment of the applicant was found irregular and directed to cancel the appointment forthwith and proper appointment was to be made.

4. Mr. S. Sarma, learned counsel appearing on behalf of nine applicants seeking for their impleadment contended that the applicant was appointed erroneously. It was contended that the name of the applicant alongwith two others were sponsored by the Employment Exchange after the expiry of the advertisement.

5. We have heard Mr.P.Roy, learned counsel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents also Mr.S.Sarma, learned counsel appearing on behalf of the applicants in Misc. petition No.120 of 2001. From the facts alluded it appears that the applicant was issued appointment letter and he joined in his service. His appointment letter though indicated his appointment as provisional for all intents and purposes his appointment was made on basis of selection process. In the instant case the respondent authority terminated the service of the applicant in aid of proviso to Rule 6(b) and the note below Rule 6(b) of P&T EDAS (Conduct and Service) Rules, 1964. The full content of Rule 6 is extracted below :-

"(a) The services of an employee who has not already rendered more than three year's 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;

(b) the period of such notice shall be one month;

Provided that the service of any such employee may be terminated forthwith and on such termination, the employee shall be entitled to claim a sum equivalent to the amount of his Basic Allowance plus Dearness Allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month."

The Rule 6 speaks of termination simplicitor. In the instant case the respondents relied upon the communication No.Staff/ 31-3/99RP(L) dated 16.9.2000 sent by the Director Postal Services which reads as follows :-

"Sub : Irregular appointment of ED

This is regarding irregular appointment of EDBPMs at Satkarakandi, Baithakhal Basti. The cases have been examined by the Directorate and it was established that while appointing the candidates, the departmental rules and procedures was not followed. It is therefore desirable to cancel the appointments and fresh recruitment is made after advertising the vacancies afresh as per standing

instruction, while doing so, it may be examined if the provision of rule 6 of ED Conduct and Service rules 1964 can be invoked against the BPM, where selection was found irregular.

Please submit your compliance report on the nature of action taken."

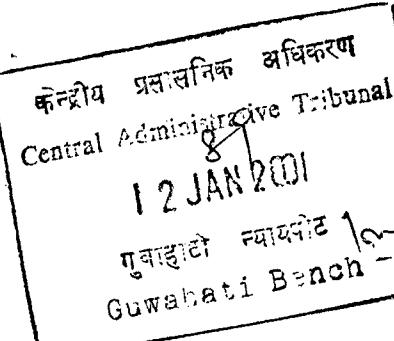
6. Admittedly, the services of the applicant was terminated on the ground that his appointment was made irregularly. The nature of irregularity is not discernible from the order. The order must emanate from some materials indicating the nature of irregular appointment. Admittedly, the order of termination was made on the basis of some complaint of irregularity without indicating the applicant about itself. The impugned order of termination is, therefore, visited with evil consequence without giving any opportunity to the applicant. The order of termination is, therefore, liable to be set aside for the violation of breach of natural justice.

Accordingly, the order of termination dated 22.12.2000 is set aside. The application is allowed to the extent indicated above. This order, shall, however, not preclude the respondents to take appropriate measure as per law and probe into the alleged irregularity, if any, by affording appropriate opportunity to the applicant.

There shall, however, no order as to costs.

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

D.N.Chowdhury
(D.N.CHOWDHURY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O.A. NO. 17 /2001.

ABDUL MATIN CHOWDHURY.

-Vs-

UNION OF INDIA & ORS.

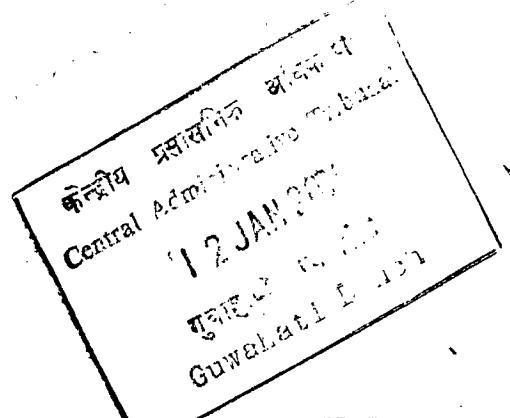
I N D E X

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FILED BY :-

B.K. Talukdar

(ADVOCATE)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O.A. NO. 17 /2001

BETWEEN

Abdul Matin Chowdhury,
Son of Foxli Karim Chowdhury
of Village-Satkarakandi Pt.II,
P.O. Dhanehari, P.S. Sonai,
Dist-Cachar, Assam.

.... APPLICANT.

AND

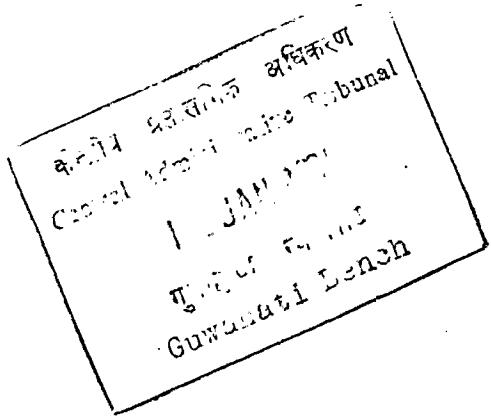
1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief Postmaster General, Assam Circle, Guwahati.
3. The Senior Superintendent of Post Offices, Cachar Division, Silchar - 788001.

.... RESPONDENTS.

DETAILS OF THE APPLICATION

1. Particulars of the Order against which this application is made :-

Abdul Matin Chowdhury
Contd...2.



The instant application is made against the order dt. 22-12-2000 passed by the Senior Superintendent of Post Offices, Cachar Division, Silchar terminating the service of the applicant without any reason in violation of principle of natural justice.

2. JURISDICTION :

The applicant further declares that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4(a). That the applicant is a citizen of India and permanent resident of Assam and as such he is entitled to the all rights, protecting and privileges as guaranteed by the Constitution of India and the laws framed thereunder.

4(b). That in pursuance of the decision of the Chief Postmaster General, Assam Circle, Guwahati for opening of Extra Departmental Branch Offices in short-

Contd....3.

Abdul Matin Choudhury

12 JAN 2001

Guwahati Branch

• 3 •

EDBO within the Cachar Division, Satkarakandi Branch Office is also opened in the month of March, 2000 along with other Branch Offices.

4(c). That in order to fill up the created post of Extra-Departmental Branch Postmaster in short EDBPM of Satkarakandi Branch Office, the Sr. Superintendent of Post Office, Cachar Division, Silchar made a demand to the Local Employment Exchange, Silchar to sponsor the qualified candidates for filling up the post by his letter No. M.O.H3.7/3-948/C dt. 24.8.99. Accordingly the Employment Exchange, Silchar firstly sponsored nine names on 27.9.2000 and thereafter sponsored three names of the qualified candidates including the applicant stating their respective qualification and the marks secured in the examination from H.S.L.C. onwards by its letter No. DRD-81/99/3799 dt. 8.10.99.

(A copy of the letter is annexed herewith as Annexure-'A' to the application.

4(d). That the respondent-appointing authority after scrutiny of the respective qualification and marks obtained by all the twelve candidates found the applicant to be qualified and suitable to be appointed as EDBPM and accordingly the applicant was appointed as EDBPM at Satkarakandi B.P.O. vide his letter No. H3-948/C dated 2.3.2000 provisionally till a regular appointment is made.

(A copy of the appointment letter is annexed herewith as Annexure-'B' to the petition).

Contd...4.

Abdul Matin Chendumy

केन्द्रीय प्रतासकिक अधिकरण
Central Administrative Tribunal
12.12.2000
Case No. 1000

- 4 -

4(e) That thereafter the applicant joined to his post and has been working sincerely and honestly to the satisfaction of the higher authority. But all of a sudden he was served with a notice dt. 22.12.2000 terminating his service without mentioning any reason thereof.

(A copy of this order dtd. 22.12.2000 is annexed herewith as Annexure-'B' to this petition.).

4(f). That the applicant states that the aforesaid impugned order dt. 22.12.2000 which was served on the applicant on 3.1.2001 have been passed illegally and without giving any opportunity of hearing to the applicant and without any prior notice to the applicant.

4(g). That the applicant states that the appointment letter clearly states that the service of the petitioner shall continue till a regular appointment is made. And till today no process has been taken for regular appointment and as such the question of termination of the service of the petitioner does not arise but the same is done most illegally and without giving any opportunity to the applicant.

4(h). For that the applicant begs to state that it is the settled law that one ad-hoc appointment can not be substituted by another ad-hoc appointment and

Contd.....5.

Abdul Matin Choudhury

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Supreme Court of India Central Public Record Office
12 JUNE 2001
Guwahati Bench

- 5 -

as such termination of the applicant's service with that end ~~the~~ in view is not in consonance of the laws of the land and as such the same is liable to be set aside or quashed.

4(i). That the applicant states that the service of the applicant is terminated not by a process of regular appointment but by a process of substituting the one ad-hoc appointee by another ad-hoc appointee which is evident from the copy of the letter enclosing the order sent to the SDIPOS, Silchar South Division, Silchar for service on the applicant.

4(j). That the applicant states that the impugned order is passed malafide and in violation of principle of natural justice as well as against the settled law of the land and as such the same is not sustainable and ~~as such the same is not~~ liable to be set aside or quashed.

4(k). That the applicant made several requests to the authorities concerned for revocation and cancellation of the order but when nothing has been done in the matter he was constrained to approach this Hon'ble Tribunal by way of filing the instant O.A.

4(l). That the applicant states that the impugned order is passed on 22.12.2000 but due to the postal strike the same was received by him only on 3.1.2001

Contd.....6.

Abdul Matin Choudhury

and still today he has not handed over the charge. The applicant is a poor employee and his family members are totally defendant on his meagre salary. If the service of the applicant is terminated as has been sought to be done in the instant case, the applicant will suffer irreparable loss and injury. The principle of balance of convenience lies very much in favour of the applicant and hence he prays before this Hon'ble Tribunal for an interim order directing the respondents not to terminate the service of the applicant by suspending the impugned order dt. 22.12.2000 pending disposal of this application.

5. GROUNDs :

5(1) For that the action of the respondents are prima-facie illegal, arbitrary and violative of the principles of natural justice.

5(2) For that the respondents have acted contrary to the settled principles laid down by the Constitution of India in not giving any opportunity of hearing at the time of passing the impugned orders dated 22.12.2000.

5(3). For that the respondents have issued the impugned order violating their own commitments and hence the same is liable to be set aside and quashed.

Contd....7.

Abdul Matin Choudhury

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5(4). For that the respondents have issued the impugned order dated 22.12.2000 without any notice to the applicant and hence the same is liable to be set aside and quashed.

5(5). For that the respondents have passed the impugned order against the settled law of the land since one ad-hoc appointee can not be substituted by another ad-hoc appointee and as such the same is liable to be quashed or set aside.

5(6). For that the impugned order is passed malafide and in violation of principle of natural justice and as such the same is liable to be set aside or quashed.

5(7). For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and hence same are liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

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

The applicant further declares that he has not

Contd....8.

Abdul Matin Choudhury

previously filed any application, writ petition or suit regarding this in respect of which this application is made before any Court or any other Bench of the Tribunal or any other authority nor any such application, Writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants :-

8(a). To direct the respondents not to terminate the service of the applicant.

8(b). To set aside and quash the impugned order dtd. 22.12.2000.

8(c). To direct the respondents to regularise the service of the applicant and not to disturb him in his service till that is done.

8(d). Cost of application.

8(e). Any other relief/reliefs to which the applicant is entitled to and as deemed fit and proper by the Hon'ble Tribunal.

Contd....9.

Abdul Matin Choudhury

केन्द्रीय प्रस्तानिक अधिकरण
Central Administrative Tribunal

12 JAN 2001

गुमलाल बंगला
Gumalal Branch

9. INTERIM ORDER PRAYED FOR :

The applicant pray for an interim order directing the respondents not to terminate his service and to allow him to continue in his service pending disposal of this application by suspending the impugned order dt. 22.12.2000 contained in Annexure-B.

10. PARTICULARS OF THE IPO :

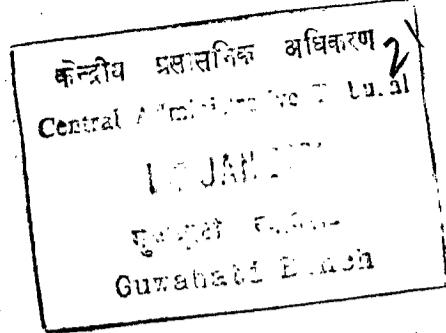
1. IPC NO. 4212 & 3
2. DATE :- 8.1.2001
3. Payable at... G.P.O., Gwalior

11. ENCLOSURES :

As stated above.

Verification.....10.

Abdul Matin Choudhury



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VERIFICATION

I, Sri Abdul Matin Chowdhury, son of Sri Foyle Karim Chowdhury, resident of Village-Satkarakandi Pt. II, P.S. Sonai, District-Cachar, Assam, aged about years, by caste - Muslim by profession - Service, do hereby solemnly affirm and verify that the statements made in paras 1, 2, 3, 4a, 4b, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 6 and 7 of the petition are true to my knowledge and those made in paras 4c, 4d and 4e of the petition are matters of records derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this Verification this 10th day of January, 2001 at Guwahati.

Abdul Matin Chowdhury

(APPLICANT)

✓
2

Annexure-A

NO.DRD-81/99/3799

Dtd. Sil. 8.10.93

TO

The Sr. Supdt. Post Office,
Cachar Division, Silchar-1.

Sub :- Application for the post of B.P.M. at
Satkarakandi.

Ref :- Your letter No. H3-948/C dt. 24.8.99.

Sir,

With reference to the above, I have the honour to forward herewith 3 (three) Nos. of applications alongwith necessary enclosures for the above mentioned post for favour of your necessary action. It is requested to call all the applicants direct for interview/Test etc. under intimation to this Exchange.

The name & Regn. No. NCO No. of the candidates are furnished below.

<u>Sl. No.</u>	<u>Name of the applicants.</u>	<u>Reg. No.</u>	<u>NCO</u>	<u>Remarks</u>
1)	Mojibur Rahman Laskar.	10314/97	x01.30	M
2)	Nazmul Alam Borlaskar.	-	x01.10	M
3)	Abdul Matin Chowdhury.	4679/98	x01.70	M

Yours faithfully,

Sd/-

Asstt. Director of Exchange,
Dist. Employment Exchange,
Silchar.

Enclo :- As above.

*Ansari
B.R. Tuhel
A. H. S.*

Annexure B
23/2K
23

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SR. SUPDT. OF POST OFFICES: CACHAR DN: SILCHAR-788001

Memorandum No. 113-948/e

ANNEXURE - 'A'

Dtd. 23/2/2007

Whereas the post of Extra Departmental ~~Postmaster~~ ^{Postmaster} ~~Sat. Karan Kandil, pt. II, M.A. S. B. G. S.~~ (Name of post & Office of the post) has become vacant/has been newly created & it is not possible to make regular appointment to the said post immediately the ..

... S.S.P.O.S. ... Silchar (appointing authority) has the right to make provisional appointment to the said post for a period (period) from X to Y or till regular appointment in matter whichever period is shorter.

2. Sri/Smt. Abdul Matin Choudhury (Name & 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 ... S.S.P.O.S. ... Silchar (appointing authority) also reserves the right to terminate the provisional appointment at any time before the period mentioned in PARA 1 above with notice and without assigning any reason.

4. Sri/Smt. Abdul Matin Choudhury will be governed by the Extra-Departmental Agents (Conduct & Service) 1964 as amended from time to time and all other rules and regulations applicable to Extra-Departmental Agents.

5. In case the above condition are acceptable to Sri/Smt. Abdul Matin Choudhury (Name of the selected candidate) he should sign the duplicate copy of this memorandum and return the same to the undersigned immediately. A set of the same is sent herewith for resubmission to this office during the month of April 2007 through the ASPOS/SDIPOS.

SDIPOS Shri/Smt. Abdul Matin Choudhury Appointing Authority
S.D. F.O. D.L. Karimganj, Hailakandi, Assam
... Sat. Karan Kandil, pt. II
Date - 23/2/2007
Senior Supdt. Post Offices,
Cachar Division, Silchar-788001

Copy To:-

1. The Sr. Postmaster, Silchar/Postmaster, Karimganj, Hailakandi for information and necessary action.
2. The ASPOS/SDIPOS ... Silchar ... for information and necessary action.

13.8.99

Appointing Authority
S.D. F.O. D.L. Karimganj, Hailakandi, Assam

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

Abdul Matin
B.K. Mohi
B.K. Mohi

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

Memo No. H3-948/PF

Dated Silchar the 22-12-2000

In pursuance of the Provisio to Rule 6 (b) and the note below Rule 6 (b) of P&T EDAs (Conduct and Service) Rules, 1964. I, Shri I.C. Sarma, Sr. Supdt. Of Post Offices, Cachar Division Silchar hereby terminate the services of Sri Abdul Matin Choudhury, BPM Satkarakandi B.O. in A/C with Sonabarighat S.O. forthwith and direct that he shall be entitled to claim a sum equivalent to the amount of his basic allowance plus dearness allowance for the period of notice at the same rates at which he was drawing them immediately before the termination of his service. The due amount of basic allowance plus dearness allowance is being remitted in lieu of the notice of one month.

(I.C. SARMA)

Sr. Supdt. Of Post Offices,
 Cachar Dn: Silchar-788 001

✓ Shri Abdul Matin Choudhury,
 BPM Satkarakandi B.O.
 Via Sonabarighat S.O.

(through the SDIPOs Silchar South Sub-Division Silchar).

Copy to:-

1. The SDIPOs, Silchar South Sub-Dn: Silchar for information and to relieve Sri Abdul Matin Choudhury by making alternative arrangement temporarily and report compliance. The copy of the order of Sri Abdul Matin Choudhury is enclosed for its delivery to him under receipt.
2. The Sr. Postmaster, Silchar H.O. He will please remit the amount of basic allowance plus DA for one month to Sri Abdul Matin Choudhury by M.O. in accordance with the provision of Rule 6(b) and the note below of that Rule of P&T ED Agents(Conduct and Service) Rules, 1964.

(I.C. SARMA)
 Sr. Supdt. Of Post Offices,
 Cachar Dn: Silchar-788 001

Attn
 Attn
 DRW Adb -

केन्द्रीय प्रहासनिक अधिकरण
Central Administrative Tribunal
21 MAY 2001 230
गुवाहाटी Guwahati Bench

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Regd
C.Y. 21/5/01

(A. DEB ROY)
Sr. C. C. S. C.
C.A.T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 17 OF 2001

Shri Abdul Matin Choudhury

-Vs-

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)

Employment Exchange, Silchar was asked by the respondent No.3 for sponsoring the names of suitable candidates for the post of Extra Departmental Branch Postmaster, Satkarakandi EDBO in account with Sonabarighat SO under Silchar HO. Accordingly twelve applications including the name of Shri Abdul Matin Choudhury, the applicant, were received from the employment exchange, Silchar. On receipt, the application were sent to SDIPOs. Silchar South Sub-Dn. for necessary verification etc. and received back on 01.12.99.

On the ~~grund~~ strength of listed ten(10) applications of the candidates Sr. Supdt. of Post Offices, Cachar Dn. Silchar, the respondent No.3 had provisionally selected Shri Abdul Matin Choudhury the applicant, as ED Branch Postmaster, Satkarakandi EDBO.

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EDBO vide memo No. H3-948/C dated 02.03.2000 and accordingly he joined in the post on 26.04.2000.

Thereafter, in course of review, of appointment/selection of Shri Abdul Matin Choudhury, the applicant, the Postmaster General, Assam Region, Guwahati had noticed some irregularities in selection and communicated his decision vide letter No. Staff/31-3/99/RP (L) dated 16.09.2000. That the appointment so made by the respondent no.3, the Sr. Supdt. of Post Offices, Cachar Dn. Silchar was irregular and directed to cancel the appointment forthwith and proper appointment should be made afresh. On advertising the vacancy. Accordingly Sr. Supdt. of Post offices, Cachar Dn. Silchar vide his memo No. H3-948/PF dated 22.12.2000 ordered for termination of service of Shri A.M. Choudhury, the applicant and he received the order of termination on 03.01.2001 under receipt promising to hand over the charge of the office on 04.01.2001. Accordingly SDIPOs, South Sub-Dn. Silchar visited the B.O. on 04.01.2001 alongwith O/S Mails Shri S. Seal. But neither Shri A.M. Choudhury, the applicant nor his father Fazle Karim-Choudhury was found available at the house.

Shri Abdul Matin Choudhury, the applicant thus instead of handing over the charge of the office submitted an application of leave with effect from 03.01.2001 on M/C and got himself relieved handing over charge to his nominated substitute on 03.01.2001. The nominee has not been accepted by the Sr. Supdt. of Post Offices, Cachar Dn. Silchar as yet not his leave as applied for granted.

Against the order of termination issued by the Sr. Supdt. of Post Offices, Cachar Dn. Silchar vide his memo No. H3-948/PF dated 22.12.2000 Shri Abdul Matin Choudhury moved to the Hon'ble CAT, Guwahati Bench and the case has been registered under O.A. No. 17/2001.

The respondents beg to submit para wise written statement as follows :

1. That with regard to para 2(a), (b), the respondents beg to offer no comments.
2. That with regard to para 4(d) the respondents beg to state that the paragraph are agreed.
3. That with regard to para 4(d), the respondents beg to state that the respondent no.3 (Sr. Supdt. of Post Office, Cachar Dn. Silchar) being the Appointing Authority had offered provisional appointment to the applicant with clear understanding that such provisional appointment will be terminated when regular appointment is made and he should have no claim for appointment. It was clearly mentioned in the memo of provisional appointment at para No.2 issued under this office memo No. H3-948/C dated 02.03.2000. It was also mentioned in the said memo at para No.3 that the appointing authority reserved the right to terminate the provisional appointment at any time without notice/assigning any reason.
4. That with regard to para 4(e), the respondents beg to state that the order for termination of service of the applicant was issued in conformity of Rule 6(b) and note below Rule 6(b) of the P & T ED Agents (Conduct and Service) Rules

1964 under this office memo No. H3-948/PF dated 22.12.2000.

5. That with regard to para 4(f), the respondents beg to state that the order of termination dated 22.12.2000 mentioned against para 4(e) was served to the applicant on 05.01.2001. In no case, the order was issued illegally as it was issued in conformity with the provision of Rule 6(b) and note below 6(b) ibid.

6. That with regard to para 4(g), the respondents beg to state that the points adduced by the applicant are not agreed to. The appointing authority reserved the right to terminate provisional appointment at any time without assigning any reason/~~xxxx~~ notice as a condition of provisional appointment.

7. That with regard to para 4(h), the respondents beg to state that no provisional/ad-hoc appointment was made in place of the applicant. Therefore, question of violation of law is not arised.

8. That with regard to para 4(i), the respondents beg to state that it is not correct. The SDIPOs, South Sub-Dn. Silchar was asked to implement the order for termination of service of the applicant by making alternative arrangement temporarily. The SDIPOs is not authorised by any Rule to made ad-hoc appointment to the post of Branch Postmaster.

9. That with regard to para 4(j), the respondents beg to state that the order for termination of the service of applicant was issued in conformity with the provision of rules applicable to such case. There was no violation of

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principle of natural justice and law of the land.

10. That with regard to para 4(k), the respondents beg to state that nothing in the shape of requests from the applicant was received for consideration except one application dated 03.01.2001 for leave for the period from 03.01.2001 to 18.01.2001 through the SDIPOs, South Sub-Dn. Silchar.

11. That with regard to para 4(l), the respondents beg to state that the Postal employees strike was called off on 18.12.2000 and the order for termination of the service of the applicant was issued on 22.12.2000. Therefore, the applicant stated false information that due to Postal strike the order was sent out through the SDIPOs with instruction to serve the same to the applicant and the SDIPOs visited the Branch P.O. on 29.12.2000 accordingly but the applicant refused to take delivery of the order on that date and could be served on 03.01.2001. And the applicant got himself relieved on the same date handing over the charge of the office to one Shri Abdul Mative Choudhury irregularly sending one leave application to the SDIPOs, South Sub-Dn. Silchar by registered post.

Verification

19-30

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VERIFICATION

I, Shri J&wan Ch. Sarma

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

And I sign this verification on this 15th day of
MAY, 2001.

J&wan Ch. Sarma
Declarant.
Senior Supdt., Post Office,
Cachar Division, Silchar 783001