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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 363/2002

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( SEE RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

✓ Original Application No : 363 / 2002  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant(s): Sri N. K. Das

- Vs. -

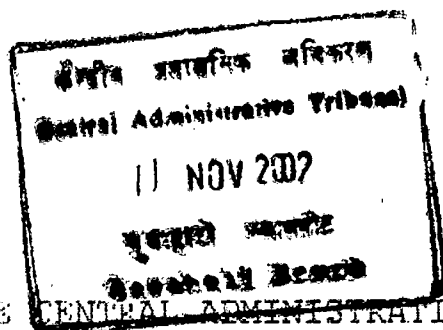
Respondent(s): Union of India & Ors.

Advocate for the Applicant(s): Mrs. A. Ahmed

Advocate for the Respondent(s): C. G. S. C. - (Mr. B. C. Pathak)

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IP/BD No 74-575438 Dated 11/11/02</p> <p>By Registrar 11/11/02</p> <p>21.11.2002</p> <p>Copy of the order has been sent to the Dy. Sec. for sending the same to the applicant as well as to the Addl. C.G.S.C.</p>	12.11.02	<p>Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S. C. for the respondents.</p> <p>The grievance relates to the selection process of Mazdoor reserved for ST and OBC. According to the applicant the respondent No.4 is not OBC. Therefore, his appointment is illegal. From the material furnished by the applicant in the pleadings it is difficult to hold that the Respond- ent No.4 is not an OBC. No illegality is discernible requiring interference under section 19 of the Administrative Tribunal Act, 1985. We do not find any merit in the application.</p> <p>The application is dismissed accordingly. No order as to costs.</p> <p>K K Sharma Member</p> <p>Vice-Chairman</p>

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.

O.A. NO. 363 OF 2002.

Sri Naren Kumar Das -Petitioner.  
-Versus-  
The Union of India & Ors. -Respondents

I N D E X

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Filed by

Advocate.

(ADIL AHMED)

Filed by  
Shri Naren Kumar Das  
applicant  
through (Abul AHMED)  
Advocate

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH AT GAUHATI.

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

ORIGINAL APPLICATION NO. 363 OF 2002

BETWEEN

Sri Naren Kumar Das,  
Son of Sri Karuna Kanta Das,  
Village-Dhantola,  
P.S. & District-Nalbari, Assam.

-Applicant.

-AND-

- 1] Union Of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Defence, New Delhi.
- 2] The Director General,  
Ordinance Service, Master General of  
Ordinance Branch, Army Head  
Quarters, P.O.-D.H.Q.,  
New Delhi-110011.

N. Das

<sup>31</sup>  
~~epcecececece~~ The Commandant,  
222 A.B.O.D., C/o 99 APO.

-Respondents.

4] Sri Hari Prasad Sharma, Mazdoor,  
S/o Sri Sat Raj Sharma,  
C/o The Commandant,  
222 A.B.O.D., C/o 99 APO.

-Private Respondent.

DETAILS OF THE APPLICATION:

- 1] PARTICULARS OF THE ORDER AGAINST WHICH THE  
APPLICATION IS MADE:

This application is made against non-  
appointment of the applicant in the post of  
Mazdoor (Reserved for ST and O.B.C.) in the  
Office of the Respondent No. 3.           

- 2] JURISDICTION OF THE TRIBUNAL

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

- 3] LIMITATION

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

4] FACTS OF THE CASE

Facts of the case in brief are given below:

4.1 That your humble applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 That your applicant begs to state that he belongs to Other Backward Class (OBC) community and also hails from a poor family.

Annexure-A is the photocopy of caste certificate issued by the President, All Assam Other Backward Class Association, Nalbari District, which is counter signed by the Deputy Commissioner, Nalbari.

4.3 That your applicant begs to state that the Respondent No. 3 issued an advertisement in 'The Assam Tribune' dated 13-06-2001 for the

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- 9 -

posts of Mazdoor in the pay scale of Rs. 2550-55-2660-60-3200 Plus allowances admissible to the Central Government Employees. There were 79 posts of Mazdoor in total of which 11 posts were Reserved for Schedule Tribe and 68 posts were Reserved for Other Backward Classes. The applicant applied for the said post of Mazdoor. Accordingly, the Respondent No. 3 vide his letter dated 07-07-2001 called the applicant for interview for the post of Mazdoor in his office. The date and test of interview was on 26-07-2001.

Annexure-B is the photocopy of such advertisement.

Annexure-C is the photocopy of the letter dated 07-07-2001 issued by the Respondent No. 3.

- 4.4 That your applicant begs to state that on 26-07-2001 the applicant reported the Office of the Respondent No. 3 for interview and test etc. The Respondent No. 3 took the applicant alongwith other candidates for physical test and other necessary verification.

4.5 That your applicant begs to state that he passed in his interview and he was also fully satisfied with the interview and physical test. But most surprisingly he was not selected for the above said post, on the other hand, some outsiders has been selected and appointed to the above said reserved posts of Mazdoor. The Private Respondent No. 4 was also selected although he is not belongs to the Other Backward Class. The list of Schedule Caste and Schedule Tribes in Assam and Other Backward Classes are annexed herewith for kind perusal of this Hon'ble Tribunal. In the said list nowhere the title of the Private Respondent No. 4, 'Sharma' is figured as Other Backward Class.

Annexure-D is the extract list of Schedule Caste and Schedule Tribe and Other Backward Classes.

4.6 That your applicant begs to state that he is a poor educated local unemployed youth who is running from pillar to post for getting an employment under the Government establishment. But the Respondent No. 3 with a motive behind selected his own interested candidates, who are not belonging to the above mentioned reserved class community and hence the



Respondent No.3 deprived the applicant, though he belongs to the Other Backward Class Community.

4.7 That the applicant begs to state that if the Hon'ble Tribunal does not interfere immediately than irreparable loss will be caused to the applicant. As such, finding no other alternative your applicant compelled to approach this Hon'ble Tribunal for seeking justice.

4.8 That your applicant begs to state that the Respondents, particularly, the Respondent No.3 violated the fundamental rights under the Constitution of India.

4.9 That your applicant begs to state that the action of the Respondents is illegal, mala fide, arbitrary and also violative of administrative fair-play.

4.10 That this application is filed bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

- 5.1 For that, on the reasons and facts which are narrated above the action of the Respondents is prima facie illegal and without jurisdiction.
- 5.2 For that action of the Respondents in prima facie is mala fide, illegal, and with a motive behind. As such, the action of the respondents is illegal, arbitrary and also violative of the natural justice.
- 5.3 For that recruitment of general candidate is instead of reserved candidates as mentioned in the advertisement is hostile discrimination and violative of Articles 14 & 16 the Constitution of India.
- 5.4 For that it is not just and fair to deprive the applicant from selecting him by the Respondent No.3 for the post of Mazdoor.
- 5.5 For that the Central Government being a model employer cannot employer cannot be allowed to adopt a differential treatment to the applicant.

- 5.6 For that the action of the Respondents is not maintainable in the eye of law.

The applicant craves Leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, or any other bench of this Hon'ble Tribunal 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 applicant most respectfully prayed that your Lordship may be pleased to admit this petition, call for the records and after hearing both the parties the Hon'ble Tribunal may be pleased to direct the Respondents to give the following reliefs:

8.1 that the Respondents may be directed by the Hon'ble Tribunal to appoint the applicant to the post of Mazdoor and also cancelled the earlier appointment of the Private Respondent No.4 along with other candidate.

8.2 Cost of the application.

9. INTERIM ORDER PRAYED FOR:

That this Hon'ble Tribunal may be pleased direct the Respondent not to appoint any other outsider depriving the genuine candidates who had appeared the interview as per above-mentioned advertisement.

9.1 That the respondents may be directed to appoint the applicant as Mazdoor under the Respondent No. 3.

10. Application Is Filed Through Advocate.

11} Particulars of I.P.O.:

I.P.O. NO. 76575438

Date Of Issue 7.11.2082

Issued from Guwahati

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

- Verification.

## VERIFICATION

I, Sri Naren Kumar Das, Son of Sri Karuna Kanta Das, Village-Dhantola, P.S. & District-Nalbari, Assam do hereby solemnly verify that the statements made in paragraphs 4.1, 4.6, 4.7, 4.9

\_\_\_\_\_ are true to my know-ledge, those made in paragraphs 4.2, 4.3, 4.5

\_\_\_\_\_ are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this 11 th day of Nov 2002 at Guwahati.

Sri Naren K. Das

Declarant.

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ANNEXURE - A



# All Assam Other Backward Classes' Association

( Registered under the Society Registration Act, Act XXI, 1860 & Recognised

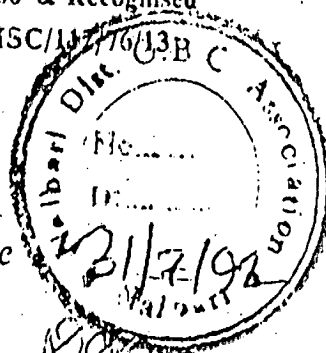
by the State Govt. of Assam Vide Memo No. TAD/MISC/1176/13B C  
dated the 3rd March 1976 )

Registration No -- 890

S K Barua Road, Guwahati- 781 022

Sl. No. T 5246

Date



Certified that Shri/Shrimati Naren Kumar Borah  
Son/Daughter/Wife of Shri/Late Karna Kanta Borah of  
Village/Town/T.E. Dhanola under the P/S Nalbari  
in the District of Nalbari Assam belongs to  
recognised OBC/MOBC and his/her sub-caste/Tribe/community is Koch  
Generally his/her family resides at Dhanola  
Village/Town/T.E. under P/S Nalbari in the District of  
Nalbari Assam.

Counter Signature

D.C./S.D.O. Deputy Commissioner  
Nalbari

Naren Kumar Borah  
31/7/92  
President/General Secretary

All Assam Other Backward Classes' Association  
President ( Seal )  
Nalbari Dist. O.B.C. Association  
Nalbari

Attested  
Signature

Application, are invited to fill up the following vacant posts of the various categories in 222 ABOD. Necessary details are as under:

1. Office/dept and address : 222 ABOD C/O 99 APO
2. Name and designation of : Col M Rajgopal
3. Indenting Officer : Commandant
4. Name and designation of the : Administrative Officer
5. Officer to whom the application : 222 ABOD C/O 99 APO
6. will be submitted.
7. Date Time and place of : 25 to 26 Jul 2001
8. Interview : Time - 08.00 hrs
9. : Place-Foot ball Ground, 222 ABOD, C/O 99 APO
10. Designation of the post :
  - (a) LDC
    - (i) Scale of Pay : Rs. 13050-75-3960-80-4590
    - (ii) Place of work : 222 ABOD C/O 99 APO
    - (iii) No. of post to be filled : 02 (Reserved for ST-01 and OBC-01)
    - (iv) Age limit : 18 to 25 years
    - (v) Qualification : Matriculation or equivalent with minimum typing speed of 30 words per minute
  - (b) Fireman
    - (i) Scale of Pay : Rs. 12750-70-3000-75-4500 plus allowances admissible to Central Govt employees
    - (ii) Place of work : 222 ABOD C/O 99 APO
    - (iii) No. of post to be filled : 01 (Reserved for OBC)
    - (iv) Age limit : 18 to 25 years
    - (v) Qualification : Matriculation with training in fire fighting under state fire service or in an institute
    - (vi) Physical standard : Height - 165 cm, Chest - 81.5cm minimum, on expansion 86 cm, Weight - 50 Kg. Must be physically/mentally alert, of active habits and capable of performing strenuous duties.
  - (c) Safaiwala
    - (i) Scale of Pay : Rs. 2550-55-2660-60-3200 plus allowances admissible to Central Govt employees
    - (ii) Place of work : 222 ABOD C/O 99 APO
    - (iii) No. of post to be filled : 01 (Reserved for General)
    - (iv) Age limit : 18 to 25 Years
    - (v) Qualification : Primary standard pass with knowledge of Hindi.
  - (d) Mazdoor
    - (i) Scale of Pay : Rs. 2550-55-2660-60-3200 plus allowances admissible to Central Govt employees.
    - (ii) Place of work : 222 ABOD C/O 99 APO
    - (iii) No. of post to be filled : 79 (Reserved for ST-11 and OBC-68)
    - (iv) Age limit : 18 to 25 years
    - (v) Relaxation : (i) Five years relaxation for ST and three years for OBC candidates and 10 years for physically handicapped persons belong to ST. (ii) Age limit for Ex-service men who have rendered not less than 6 month continuous service in the Armed forces will be determined as under: Present age minus period of service plus three years.

Qualification : Primary standard pass with knowledge of Hindi.

- (e) Messenger
  - (i) Scale of Pay : Rs. 2550-55-2660-60-3200 plus allowances admissible to Central Govt employees.
  - (ii) Place of Work : 222 ABOD, C/O 99 APO
  - (iii) No. of post to be filled : 02 (ST-01, OBC-01)
  - (iv) Age Limit : 18 to 25 Years.
  - (v) Qualification : Under Matric

- (f) Draughtsman gde III
  - (i) Scale of Pay : 4000-100-6000 Plus Allowances admissible to central Govt Employees
  - (ii) Place of Work : 222 ABOD, C/O 99 APO
  - (iii) No. of Post to filled : 01 (General)
  - (iv) Age Limit : 18 to 25 years

Qualification : Matriculate or Equivalent and diploma/Certificate in Draughtsmanship

7. Whether willing to wait and consider applicant from other exchange area in case local applicant are not available. No

8. Candidate will be selected by a board of Officers, but final appointment is subject to medical fitness and favorable police verification report.

9. The candidate will be on probation for a period of 2 years and successful completion of probationary period, they will be observed as regular (Temporary Mazdoor)

Note: The individual will also be directed to send the application form along with one Registered envelop with home address of the applicant for conformation with the details required duly filled up by 30 Jun 2001.

Attended  
Advocate

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ANNEXURE - C



File No : 6954

REGISTERED BY POST

222 Agrim Sthai Ayudh Bhanda  
222 Advance Base Ordnance Depot  
C/O 99 APO

1503/Post/ /Civ Est

07 JUL 2001

Mr. N. K. Datta

Sl. No. - R. K. Datta

EMPLOYMENT OF DRAUGHTSMAN/LDC/FIREMAN/MESSENGER/SAFAIWAHI/MAZDOOR

Name Mr. N. K. Datta

Roll No 214

1. Ref your application dated \_\_\_\_\_
2. You are hereby directed to report to 222 ABOD at 0800 hrs on 26 Jul 2001 for interview for the post of Mazdar. You are required to bring the following documents in original for reporting for interview :-
  - (a) Caste/Cat certificate (SC/ST/OBC/Ex-Serviceman).
  - (b) Educational qualification certificate.
  - (c) Domicile or Ration Certificate.
  - (d) Document proving date of birth.
3. Candidates should be willing to serve any where in India.
4. The decision of the Recruitment Board in all matters regarding eligibility, conduct of test, interview and selection would be final. No correspondence would be entertained in this behalf.
5. You will be subjected to physical tests, any injury sustained during the course of the test will not be the liability of the organisation. An interview will also be held.
6. Please note that your candidature will be rejected summarily, if you fail to produce the above certificate in original at the time of interview.



( RK Bhatia )  
Lt Col  
Adm Officer  
for Commandant

Adm Officer  
for Commandant

LIST OF SCHEDULED CASTES AND SCHEDULED TRIBES IN ASSAM.

An extract of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, showing the list of Scheduled Castes and Scheduled Tribes for Assam State.

THE FIRST SCHEDULE.

In the Constitution (Scheduled Castes) Orders, 1950 (a) in paragraph 2, for the figures "XVII", the figures "XIX" shall be substituted. (b) for paragraph 4, substitute -

4. Any reference in this Order to a state or to a district or other Territorial division thereof shall be construed as a reference to the state, district or other territorial division as constituted on the 1st day of May, 1976.

(c) For the Schedule substitute -

' THE SCHEDULED '

Part - II - Assam.

- |                             |                       |
|-----------------------------|-----------------------|
| 1. Bansphor.                | 9. Kaibortta, Jaliya. |
| 2. Bhuinmali, Mali.         | 10. Lalbegi.          |
| 3. Brittilal Bania, Bania.  | 11. Mahara.           |
| 4. Dhupi, Dholi.            | 12. Methar, Bhangl.   |
| 5. Dugla, Dholi.            | 13. Muohi, Rishi.     |
| 6. Hira.                    | 14. Namasudra.        |
| 7. Jalkeot.                 | 15. Patni.            |
| 8. Jhalo, Malo, Jhalo-Malo. | 16. Sutradhar.        |

THE SECOND SCHEDULE.

CHAPTER - I.

In the Constitution (Scheduled Tribes) Order, 1950.

(a) For paragraph 3, substitute -

"3. Any reference in this order to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division as constituted on the 1st day of May, 1976."

Attal  
Jal - Advait

Contd..... 2/-

-(2):-

(b) for the Schedule, substitute -

" THE SCHEDULE "

PART - II - ASSAM

In the Autonomous District :

1. Chakma, 2. Dimas, Kachari, 3. Garo, 4. Hajong, 5. Haar.
6. Khasi, Jaintia, Synteng Phar, War, Bhoi, Lyinggam.
7. Any Kuki Tribes including,
  - (i) Biate, Biate, (ii) Changsan, (iii) Chonglei, (iv) Doungal,
  - (v) Gamalhou, (vi) Gangya, (vii) Guite, (viii) Haneg, (ix) Haskip,
  - Hauptit, (x) Haolo, (xi) Hengna, (xii) Hongsuhgh, (xiii) Hrangklo-
  - gwai, Rongkhol, (xiv) Khelma, (xv) Khawohung, (xvi) Khawathlang,
  - Khothalong, (xvii) Jongbe, (xviii) Kholhou, (xix) Kipgon, (xx) Kuki,
  - (xxi) Lengthang, (xxii) Lhengum, (xxiii) Lhoujem, (xxiv) Lhoum,
  - (xxv) Lumpheng, (xxvi) Mangjel, (xxvii) Misao, (xxviii) Rieng,
  - (xxix) Sairhem, (xxx) Selnam, (xxxi) Singson, (xxxii) Sitlhou,
  - (xxxiii) Sukto, (xxxiv) Thado, (xxxv) Thongseu, (xxxvi) Uibuh,
  - (xxxvii) Vaiphei.

8. Lakher,
9. Man (Moi speaking)
10. Any Mizo (Lushai) Tribes.
11. Mikir.
12. Any Naga Tribe.
13. Pawl.
14. Synthang.

15. In the State of Assam exclu-  
ding Autonomous District.

1. Barmans of Cachar.
2. Boro, Boro Kachari.
3. Deori.
4. Hojai.
5. Kachari, Sonowal.
6. Lalung.
7. Mech.
8. Miri.
9. Rabha.

*Advised*  
*Advised*

- 17 -

(1)  
20

**LIST OF THE TEA GARDEN AND EXTRA GARDEN LABOURERS AND BACKWARD CLASSES VILLS NO. 212/23/246/70/37 DATED 27th NOV/15**

1. Ayn Hala	24. Dandari	47. Kherwar	69. Palai
2. Ayn	25. Dandari	48. Khodai	70. Panika
3. Bosphor	26. Dandari	49. Koya	71. Parja
4. Baskta	27. Dandari	50. Kandpan	72. Patratanti
5. Kauri	28. Ganda	51. Khar	73. Faradham
6. Bhyam	29. Ganda	52. Komankar	74. Rajwar
7. Bhandi	30. Chandi	53. Kachan	75. Gaur
8. Bolla	31. Gauri	54. Lahar	76. Bahara
9. Bolder	32. Chatarwar	55. Kodha	77. Turi
10. Bherali	33. Har	56. Kodhi	78. Chamar
11. Bhatta	34. Kaira	57. Madari	79. Barhai
12. Boser	35. Keet	58. Mahli	80. Ahir-Gain
13. Bolea	36. Koiri	59. Mohli	81. Jolha
14. Bafjara	37. Mhenyar	60. Mahata	82. Modi
15. Bhal	38. Kural	61. Mahacharia	83. Teluga
16. Benda	39. Kaur	62. Maki	84. Zassa
17. Bhaile	40. Karmali	63. Mardhar	85. Bauri
18. Bher	41. Karna	64. Majwar	86. Tuntubai
19. Birja	42. Kol	65. Mania	87. Kalihandi
20. Bodi	43. Kalahandi	66. Haganis	88. Nath
21. Choudhary	44. Kotwal	67. Nagbani	89. Teli
22. Chora	45. Kharin	68. Pail	90. Tanti
23. Chik Bantik	46. Khar		

**PROVINCIAL LIST OF A.B.C.**

- |   |  |
|---|--|
| <p>1. Ayn</p> <p>2. Boria</p> <p>3. Dandari</p> <p>4. Dandari</p> <p>5. Dandari</p> <p>6. Dandari</p> <p>7. Dandari</p> <p>8. Dandari in Cachar only</p> <p>9. Dandari, Coy. Guala</p> <p>10. Dandari, Dandari, Part of Cachar</p> <p>11. Dandari Karmali, Barh</p> <p>12. Mahiya Das, Mahiya</p> <p>13. Kandi Bri including Manipur Dandari and Manipur Nuoline</p> <p>14. Karna and Katak</p> <p>15. Kandi</p> <p>16. Kandi</p> | <p>17. Dandari (i.e. Thapa, Gaur, Dandari, Nagar, Dandari, Khar, Dandari, Gaur, Rai, Chatri, Lihu &amp; Sarki i.e. Cabbler).</p> <p>18. Rajbanshi or Kach</p> <p>19. Dandari Das or Doy</p> <p>20. Dandari</p> <p>21. Dandari</p> <p>22. D. G. Converted to Christianity.</p> <p>23. Dandari, Tanti, Tanti</p> <p>24. Tea Garden Labourers or Tribes</p> <p>25. Ex-Tea Garden Labourers or Tribes/i.e. Ganda, Mundas, Khand, Bantals, Boveras, Pans Ganda.</p> <p>26. Teli</p> <p>27. Yogi (Nath)</p> <p>28. Karmali (Muslim Fishermen)</p> <p>29. Karia</p> |
|---|--|

✓ The following communities are treated as more backward for the purpose of educational facilities.

(1) Karna & Katak (2) Tea Garden Labourers or Tribes (3) Ex-Tea Garden Labourers or Tribes (only the seven sub-tribes as mentioned above) (4) Rajbanshi or Kach (Kach of Gualpara & Gura Hills only) (5) Choudhary (6) Karia (7) Chutia.

*Admitted*

*Admitted*