

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

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 392/02

R.A/C.P No.

E.P/M.A No. 109/03

1. Orders Sheet..... 8A Pg. 1 to 4
MP 109/03 under Pg. 1 AD 14/10/03

2. Judgment/Order dtd. 20/11/2003 Pg. 1 to 3 810

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

4. O.A. 392/02 Pg. 1 to 22

5. E.P/M.P. 109/03 Pg. 1 to 6

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

7. W.S. Pg. 1 to 49

8. Rejoinder Pg. 1 to 5
Add. Rejoinder Pg. 1 to 4

9. Reply Pg. to

10. Any other Papers Pg. to

11. Memo of Appearance
.....

12. Additional Affidavit
.....

13. Written Arguments
.....

14. Amendment Reply by Respondents
.....

15. Amendment Reply filed by the Applicant
.....

16. Counter Reply
.....

SECTION OFFICER (Judl.)

Salil
4/12/07

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 392/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): B. C. Das

- Vs. -

Respondent(s): N. C. T. Gons

Advocate for the Applicant(s): M. Chander, G.N. Chakrabarty

Advocate for the Respondent(s): Cafe

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed / not filed C.P. for Rs. 50/- deposited vide IPO/B/ No <u>76606013</u> . Dated <u>15.11.02</u>	<u>19.12.02</u>	Heard Mr. G.N. Chakrabarty, learned counsel for the applicant. Issue notice to shew cause as to why the application shall not be admitted. List on 22.1.2003 for admission.
<i>By Registrar</i> <i>12/12/02</i> <i>Notice weekend and 1st to 15th for owing the respondent</i> <i>No 1 to 3 by Regd. Ad.</i> <i>22.1.2003</i> <i>DINo 3456143428</i> <i>Dtd 27/12/02</i>	<i>mb</i>	Pendency of this application shall not stand in the way of the respondents to consider the case of the applicant for absorption.

I C U Shaha
Member

Vice-Chairman

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Majra, Administrative Member.

On the prayer of Mr. A. Deb Roy, I.C.U. & Sr. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file reply. List again on 19.2.2003 for admission.

Suru
Member

Vice-Chairman

(2)

7

19.2.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury,
Vice-Chairman.

20.1.03

May kindly see at
flag 'A'.

A letter received
by Post from Assistant
Registrar, Income Tax Appellate
Tribunal regarding Adjournment
O.A. 392/02 for boning
the W.P.s. by the Department.

Laid before the Hon'ble
Court for further orders.

N.B. 20/1/03
Section Officer

AR

N.B. Written statement
has been filed.

BB
18.2.03

DEPUTY REGISTRAR

No such correspondence
need to be accepted and
department should be advised
to give instruction to their
appointed counsel.

19.2.03

Vice-Chairman

Pl. put up a draft
letter to Ass't. Registrar
for Income Tax.

19
20/2/03

Pl. put up a draft
letter to Ass't. Registrar
for Income Tax.

20/2/03

21.3.03
W.Ps. submitted by the
Respondents by the

No reply so far filed by
the respondents. On the other hand,
Mr. A. Deb Roy, learned Sr. C.G.S.C.
appearing on behalf of the respondents
prayed for time to file reply. Further,
four weeks time is allowed to the
respondents to file reply. List the
matter again on 20.3.2003 for admission
and further orders.

C. B.
Member

Vice-Chairman

20.3.2003

Heard Mr. S. Sarma, learned counsel
for the applicant and also Mr. A. Deb Roy,
learned Sr. C.G.S.C. .

The respondents are yet to submit
reply. Mr. A. Deb Roy, learned Sr. C.G.S.C.
however, submitted that in course of the
day the respondents are submitting its
written statement reply.

On hearing the learned counsel
for the parties and on perusal of the ap-
plication the O.A. is admitted. List the
case on 23.4.2003.

Parties may exchange pleadings
in the meantime.

Vice-Chairman

23.4.2003 Division bench did not sit today.
The case is adjourned to 26/4/2003.

24.4.2003 Division bench did not sit today.
The case is adjourned to 25/4/2003.

25.4.2003 Division bench did not sit today.
The case is adjourned to 26/4/2003.

BB
26/4/2003

28.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Member (A).

Prayer has been made by Mr. M. Chanda, learned counsel for the applicant for adjournement of the case to obtain instruction on the matter. The case is accordingly adjourned. Put up again on 19.8.2003 for hearing.

Member

Vice-Chairman

28.8.03

19x8x2003 ~~19x8x2003~~ 19x8x2003 for
hearing

Reply filed
by the applicant.

DR.

19.8.2003 Present : The Hon'ble Sri K.V. Prahaldan, Administrative Member.

Put up again on 19.9.2003 for
hearing.

KV Prahaldan
Member

mb

19.9.03 Put up again on 5.11.03 for
hearing.

KV Prahaldan
Member

lm

14.10.2003 Heard the learned counsel for
the parties. Post the matter for
hearing on 27.10.03.

Vice-Chairman

nkm

27.10.2003 Adjourned and again listed on
29.11.2003 for hearing.

Govindachari
 Member

Vice-Chairman

bb

5.11.03 No Bench today.

Adjourned to 20.11.03.

BS
 1a

10.11.03
 Additional Response
 submitted by the applicant.

20.11.2003 Present: Hon'ble Smt Lakshmi
 Swaminathan, Vice-Chairman

Hon'ble Shri S.K. Naik,
 Administrative Member

SP
 Heard learned counsel for
 parties. Orders passed separately.

8.12.03

Copy of the judgment
 has been sent to the
 office for issuing
 the same to the applicant
 as well as to the Mr.
 C.G.S.C. for the record.

BS

11/12

Naik
 Member

BS
 Vice-Chairman

nkm

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~No. 1111 392 of 2002

DATE OF DECISION 20.11.2003

Shri Babul Chandra Das

.....APPLICANT(S).

Shri M. Chanda and Shri G.N. Chakraborty

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

The Union of India and others

.....RESPONDENT(S)

Shri A. Deb Roy, Sr. C.G.S.C.

.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE ~~XXX~~ SMT LAKSHMI SWAMINATHAN, VICE-CHAIRMAN

THE HON'BLE SHRI S.K. NAIK, 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 ~~Member~~ Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.392 of 2002

Date of decision: This the 20th day of November 2003

The Hon'ble Smt Lakshmi Swaminathan, Vice-Chairman

The Hon'ble Shri S.K. Naik, Administrative Member

Shri Babul Chandra Das
S/o Late Bhabani Prasad Das
Working as Lower Division Clerk
on officiating basis,
Income Tax Appellate Tribunal,
Guwahati.Applicant

By Advocates Shri M. Chanda and
Shri G.N. Chakraborty.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Law and Justice,
New Delhi.

2. The Registrar,
Income Tax Appellate Tribunal
Central Government Offices Building,
4th Floor Maharshi Karve Marg,
Mumbai.

3. The Assistant Registrar
Income Tax Appellate Tribunal,
Guwahati.Respondents

By Advocate Shri A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

SMT LAKSHMI SWAMINATHAN (V.C.)

The applicant has submitted that the respondents
are not considering his case for regular appointment as
Lower Division Clerk (LDC) with effect from 22.10.1996
i.e. the date from which he has been appointed in that
post on ad hoc basis.

Yours,

2. The brief relevant facts are:

The applicant had appeared in the Limited Departmental Competitive Examination (LDCE) held by the respondents in 1974, 1980 and again in 1983 against the 10% quota reserved for Group 'D' employees. The respondents in their reply affidavit have submitted that the applicant had appeared in the LDCE for 1980 and 1983 and was placed at serial 7 and 11, in the order of merit, respectively. According to them, since only 10% quota of vacancies was available in a particular year under this category i.e. for promotion of Group 'D' employees who were successful in the examination, the applicant could not be appointed in the year 1980 since only two posts of LDCs were available in that quota. The same thing appears to have happened after the applicant had appeared in LDCE in 1983, ~~also~~. The respondents have stated that the applicant has been appointed as LDC on ad hoc basis as a stop gap arrangement till the Staff Selection Commission sponsored a candidate for regular appointment. This has been done with effect from 1.10.1996 vice Shri S.C. Saikia, LDC who was promoted as UDC. They have submitted that the applicant has no right to claim for regular promotion to the post of LDC de hors the rules, as he is appointed in that post on ad hoc basis as a stop-gap arrangement.

3. Shri M. Chanda, learned counsel for applicant has submitted that from 1.10.1996 till date the applicant is continuing in the higher post of LDC, even though it may be on ad hoc basis, without any break. He has, therefore, submitted that there is no reason why respondents ought not to consider regularisation of the applicant's posting

as.....

as LDC. In this regard he submits that the applicant has made several representations, including the representation placed at Annexure-X, which is stated to be dated 2.11.2001. We note that the applicant has narrated the relevant facts as mentioned above, praying that his services may be regularised, as according to him, there is also a vacant post at Guwahati Office of the respondents. Learned counsel has submitted that no reply has been given by respondents to this representation. We also note that there is no impugned order in this O.A. excepting the non-action of the respondents in not considering the claim of the applicant for regular appointment as LDC against the 10% quota reserved for promotion of Group 'D' employees.

4. In the facts and circumstances of the case, after hearing the learned counsel for parties and perusing the relevant documents on record, we dispose of the application with the following directions:

i) The respondents shall take an appropriate decision in the matter of the claim of the applicant for regular appointment ^{as} LDC, against 10% quota ^{for} promotion to that post from Group 'D' employees, in accordance with law, relevant rules and instructions and shall pass a reasoned and speaking order, ~~which~~ shall be done within four months from the date of receipt of a copy of the order.

No order as to costs.

Naik

(S. K. NAIK)
ADMINISTRATIVE MEMBER

Lakshmi Swaminathan

(LAKSHMI SWAMINATHAN)
VICE-CHAIRMAN

Central Administrative Tribunal
Guwahati Bench

11 DEC 2002

গুৱাহাটী আদায়ক

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 892/2002

Sri Babul Chandra Das : Applicant

- Versus -

Union of India & Others: Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	-----	Application	1-12
02.	-----	Verification	13
03.	I	Copy of the Telegram dt. 10.3.80	14
04.	II	Copy of reply dt. 11.3.80	15
05.	III	Copy of the letter dt. 9.2.84	16
06.	IV	Copy of the letter dt. 17.9.85	17
07.	V	Copy of the letter dt. 4.3.99	18
08.	VI	Copy of the appointment letter dt. 22.10.96	19.
09.	VII	Copy of the representation dt. 24.1.91	20-21.
10.	VIII	Copy of the letter dt. 8.3.99	22
11.	IX	Copy of representation dt. 19.8.99	23-27.
12.	X	Copy of the representation dated 2.11.2000	28-29.
13.	XI	Copy of the letter dt. 2.2.01	-30-
14.	XII	Copy of the letter dt. 14.2.02	31-32.

Filed by

Date

Advocate

Babul Chandra

10

Filed by the applicant
through advocate
Sri G.N. Chakravarty
on 11-12-2002.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

O. A. No. /2002

BETWEEN

Sri Babul Chandra Das
Son of Late Bhabani Prasad Das
Working as Lower Division Clerk on
Officiating basis,
Income Tax Appellate Tribunal,
Fancy Bazar, Guwhati-781001

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Law and Justice,
New Delhi.
2. The Registrar,
Income Tax Appellate Tribunal
Central Govt. Offices Building

4th Floor Maharshi Karve Marg,
Mumbai-400 020
3. Assistant Registrar,
Income Tax Appellate Tribunal
Fancy Bazar, Guwhati-781001

Babul Ch. Das

...Respondents..DETAILS OF THE APPLICATION1. Particulars of order(s) against which this application is made.

This application is not made against particular order but praying for a direction upon the respondents to promote the applicant to the post of Lower Division Clerk with effect from 1.10.1996 on regular basis with all consequential service benefits including seniority treating the ad hoc period of service rendered by the applicant to the post of Lower Division Clerk after being duly qualified in the limited departmental competitive examination against a substantive regular vacancy.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

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

Balalch Das.

4.2 That your applicant was initially appointed as Group D Peon on regular basis in the year 1973 under the respondents. He passed his matriculation examination in the year 1971 i.e. prior to his appointment to the post of Group D Peon in the office of the Income Tax Appellate Tribunal, Guwahati (for short I.T.A.T.). The applicant was promoted to the post of Duftary in the year 1975.

4.3 That the applicant while working as Group D Peon he was allowed to appear in the departmental examination for Group D employees for promotion to the post of Lower Division Clerk in the year 1980 and the applicant in fact came out successfully in the said qualifying examination and thereby attained eligibility for consideration of regular promotion to the post of L.D.C. However, no formal communication was made to the applicant regarding the result of the aforesaid qualifying examination. But the Headquarter office, Bombay (now Mumbai) vide Telegram dated 10.3.1980 sought willingness from the applicant along with others for their posting on appointment as L.D.C. either at Pune, Ahemadabad, Jaipur and the then Bombay in order of preference. Accordingly the applicant submitted his willingness for posting on promotion to the post of L.D.C. outside North Eastern Region as desired by the Telegram dated 10.3.1980 and the said willingness of the applicant was duly forwarded to the then Headquarter office, Bombay vide Telegram dated 11.3.1980. But unfortunately thereafter no communication was received from the Headquarter Office,

Babalch Das

Bombay regarding the posting and appointment on promotion of the applicant.

Copy of the Telegram dated 10.3.1980 and reply Telegram dated 11.3.1980 are annexed as **Annexure I** and **II** respectively.

4.4 That your applicant finding no favourable response from the respondents regarding his appointment to the post of L.D.C. and being disappointment, again appeared in the same limited departmental competitive examination held in the year 1983 and the applicant also consecutively came out successfully in the aforesaid examination along with others. The result of the said examination was published by the respondents vide letter No. U.O. No. F.171-Ad(AT)/83 dated 9.2.1984 wherein the name of the applicant appeared at serial no. 11. It is stated in the said letter dated 9.2.1984 that the names in the list are given in order of merit. It is further stated that selection to the vacancies in the year 1984 in the post of Lower Division Clerk were to be filled up against the 10% quota reserved for promotion of Group D employees subject to the reservation to be made to SC/ST/Ex. Service man would be made in order of merit from the above list and the list would be operative up to 31.12.1984.

A copy of the letter dated 9.2.1984 is annexed as **Annexure-III**.

4.5 That it is stated that once an employee qualified in the limited departmental examination of Group D employees for consideration of promotion to the post of L.D.C., the said employee need not appear in the same

Balaji Ch. Das.

examination anymore for the purpose of his promotion to the post of L.D.C. This fact would be evident from the letter bearing No. F. No. E-6/JDL/85-86/5150 dated 17.9.1985 whereby Commissioner of Income Tax, Shillong on a query clarified the aforesaid position to the Assistant Registrar, I.T.A.T., Guwahati. Similarly, Commissioner of Income Tax further confirmed the aforesaid position in a communication made to the Assistant Registrar, I.T.A.T., Fancy Bazar, Guwahati vide letter bearing No. E-8/Estt./90-91/CT/21986 dated 4.3.1999. It is further stated in the said letter that the qualified candidates who are left out in the panel will find place in the subsequent Departmental Promotion Committee.

Copy of the letters dated 17.9.1985 and 4.3.1999 are annexed as **Annexure - IV and V** respectively.

- 4.6 That Your applicant thereafter submitted several representations to the respondents for his appointment to the post of Lower Division Clerk on being qualified in the limited departmental competitive examination twice way back in the years 1980 and 1983 respectively, but to no result.
- 4.7 That it is stated that only during the year 1996 the applicant was appointed to the post of Lower Division Clerk to officiate with effect from 1.10.1996 in the pay scale of Rs. 950-20-1150-EB-25-1500 in the same Bench of the I.T.A.T., at Guwahati until further orders against a substantive post occurred due to promotion of Sri S.C. Saikia, L.D.C. vide order bearing letter No. F. 74/Ad/AT/96 dated 22.10.1996. It is stated in the

Babul Ch. Das

16

said order of appointment that the appointment of the applicant is purely on ad hoc and as such the same would not bestow any claim for regular appointment to the post of L.D.C. and the service of ad hoc period would not count for the purpose of seniority as well as eligibility for promotion to the next higher grade. Accordingly the applicant started his duties and responsibilities to the post of L.D.C. with effect from 1.10.1996.

Copy of the appointment order dated 22.10.1996 is annexed as **Annexure VI.**

4.8 That it is stated that the applicant was appointed/promoted to the post of Lower Division Clerk with effect 1.10.1996 by the order dated 22.10.1996 against a regular post of L.D.C. which occurred following promotion of one Sri B.C. Saikia, L.D.C. But the said promotion termed as ad hoc for the reasons best known to the respondents. Be it stated that at the relevant time when the aforesaid promotion was effected in favour of the applicant he had the requisite qualification by passing the limited departmental examination, therefore the said promotion to the post of L.D.C. ought to have been made on regular basis instead of ad hoc basis with effect from 1.10.1996. In this connection it may be stated that since the applicant has qualified in the limited departmental examination way back in the year 1980 and 1983 respectively therefore there was no impediment on the part of the respondents to grant him promotion to the post of L.D.C. on regular basis with effect from 1.10.1996. Therefore the applicant has acquired a

Babul Ch. Das

valuable and legal right for consideration of his case for promotion to the post of L.D.C. on regular basis at least with effect from 1.10.1996. It is relevant to mention here that Government instructions also provide that promotion should be made from the date of occurrence of regular vacancy. Therefore the applicant in the instant case is entitled to be promoted to the post of L.D.C. on regular basis with effect from 1.10.1996.

4.9 That your applicant begs to state that he had submitted number of representations to the higher authorities for consideration of his promotion to the post of Lower Division Clerk in the office of the I.T.A.T., Guwahati Bench. In this connection it may be stated that on 24.1.1991 he had made a representation addressed to the Registrar, Income Tax Appellate Tribunal, Bombay requesting to consider his promotion to the post of Lower Division Clerk and also pointed out that he had qualified in the limited departmental competitive examination held in the year 1980 and 1983. The applicant also expressed his willingness to accept his posting and promotion outside the North Eastern Region but to no result.

Copy of the representation dated 24.1.1991 is annexed as **Annexure-VII.**

4.10 That your applicant begs to state the Assistant Registrar, I.T.A.T., Guwahati Bench also wrote a D.O. letter to the Registrar, Mumbai on 8.3.1999 bearing letter No. D.O. No. 5/ATG/98-99/640 whereby the Assistant Registrar requested the Registrar,

Babulch Das

Headquarter office, Bombay to consider the case of promotion of the applicant to the post of Lower Division Clerk. The applicant also submitted a representation on 19.8.1999 addressed to the Hon'ble President, Income Tax Appellate Tribunal, Mumbai. In the said representation the applicant inter alia prayed for consideration of his promotion on regular basis with effect from 1.10.1996 against the existing available vacancy of L.D.C. The applicant finding no response from the respondents again submitted another representation on 2.11.2000 to the Registrar, Income Tax Appellate Tribunal, Mumbai for consideration of his promotion on regular basis to the post of L.D.C. with effect from 1.10.1996, but to no result.

Copy of the letter dated 8.3.1999, representations dated 19.8.1999 and 2.11.2000 are annexed as **Annexure VII, IX and X** respectively.

4.11 That it is stated that the Assistant Registrar, Guwahati Bench, Guwahati wrote letter on 2.2.2001 bearing No. U.O. No. F.IV/6/ATG/80-2000 to the Registrar, I.T.A.T., Mumbai requesting him to regularize the services of the applicant to the post of L.D.C., it is specifically stated in the said letter dated 2.2.2001 that the applicant is continuously working as L.D.C. with effect from 1.10.1996 and also considering the fact that the applicant has come out successfully in the limited departmental examination on two occasions and requested to settle up the matter without further loss of time. It is pertinent to mention here that the Assistant Registrar, Guwahati Bench, Guwahati while addressing a letter bearing

Bafal ch. Ans

No.U.O. No. F. 5/ATG/98 dated 14.2.2002 to the Registrar, I.T.A.T., Mumbai made a reference of appointment of the present applicant to the post of L.D.C. on ad hoc basis with effect from 1.10.1996 and also made a mention that the present applicant had come out successfully on two occasions in the limited departmental examination in the year 1980 and 1983 respectively, but his case was not considered for regular promotion till date. In this connection it is also stated by the Assistant Registrar, that the applicant appeared in each and every limited departmental application without hesitation but due ^{to} age bar he was not allowed to appear before the limited departmental examination held on 27.5.1998 even though he applied for condonation of his age limit vide representation dated 7.4.1998 which was duly forwarded to the Head Office vide Zonal Office letter No. U.O. No. F.33/ATG-(C)/Cal dated 30.4.1998, but to no result. In this connection it is stated that since the applicant passed his limited departmental examination for promotion to the post of L.D.C. on two occasions in the year 1980 and 1983, and moreover when the applicant was appointed against a regular vacancy of L.D.C. with effect from 1.10.1996 therefore question of further appearing in the examination does not arise in the instant case and since the order of appointment is made against a regular vacancy therefore he has acquired a valuable right for promotion on regular basis to the post of L.D.C. with effect from 1.10.1996 with all consequential service benefits including seniority.

Balaji Ch. Das

Copy of the letter dated 2.2.2001 and 14.2.2002 are annexed as **Annexure-XI and XII** respectively.

4.12 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the applicant has qualified in the limited Departmental Competitive Examination way back in the year 1980, as such, he has acquired a valuable legal right for appointment to the post of L.D.C. on regular basis.

5.2 For that, the applicant is officiating to the regular post of L.D.C. with effect from 22.10.1996 continuously, therefore entitled to be promoted in the existing post of L.D.C. holding by the applicant with retrospective effect from 22.10.1996 with all consequential service benefits including seniority.

5.3 For that, it is evident from the letter dated 17/9/1985 once the applicant qualified in the limited departmental competitive examination is entitled to promotion/appointment to the post of L.D.C. as soon as the vacancy is available.

5.4 For that, non consideration of promotion/appointment to the post of L.D.C. on regular basis after passing the limited departmental competitive examination in the year 1980 is highly arbitrary, unfair and illegal.

5.5 For that, the representation of the applicant was duly recommended by the local authority for regular

Babulch. Das.

absorption of the applicant to the post of L.D.C. but to no result.

5.6 For that, in the facts and circumstances stated above, the applicant is entitled to promotion/appointment to the post of L.D.C. on regular basis with effect from 17.9.1996.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

Balal Ch. Das.

8.1 That the respondents be directed to consider the promotion/appointment of the applicant on regular basis at least with effect from 22.10.1996 in the existing regular post of L.D.C. presently holding by the applicant with all consequential service benefits including seniority.

8.2 Costs of the application.

8.3 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant for promotion/appointment on regular basis to the post of L.D.C.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. : 79 60 6013 .

ii) Date of Issue : 15.11.2002.

iii) Issued from : Guwahati .

iv) Payable at : Guwahati .

12. List of enclosures.

As given in the index.

Balend Ch. Das .

VERIFICATION

I, Shri Babul Chandra Das, Son of Late Bhabani Prasad Das, aged about 50 years, Working as Lower Division Clerk on officiating basis, in the office of the Income Tax Appellate Tribunal, Fancy Bazar, Guwahati-781001 do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 115 day of December, 2002.

Babul Ch. Das

८८ B	प्राप्ति के विवर Received Particulars	प्राप्ति संख्या Circulation No.	प्रेषण के विवर Sent Particulars	195 Date-Stamp
F.C.P.W immediately 1/2/1958.		3553	10/1 9/10/8	24

X 2125 01 783 Bombay 5 P.S.I-37

Intelligence Bureau

- Ascertain from Shri V.S. Nareshwarlal B.C. Das

R.C. Mehti Mainuddin Ahmed and intimate

Telegraphically willingness for appointment as

lower division clerk in pure Ahmedabad Jaipur

Bombay in order of preference

Intelligence Bureau

(28.12.1958)

Blessed
Intelligence Bureau

STATE/ORDINARY

INCOTRIBUNAL

BOMBAY

196

REF: YOUR TEL. FIFTH(.) NARESHWAR DAS OPTED APPOINTMENT AS LDC
 JAIPUR AHMEDABAD BOMBAY PUNE (.) BABUL CHANDRA DAS JAIPUR
 BOMBAY PUNE AHMEDABAD (.) RAJESH CHANDRA MEDHI BOMBAY PUNE
 JAIPUR (.) MAINUDDIN AHMED AHMEDABAD PUNE JAIPUR

INCOTRIBUNAL

Not to be telegraphed:-

Assistant Registrar.

F.I/1/ATG/79/ 3100

Post copy in confirmation forwarded to :- ITAT.Gauhati, Dt.11.3.80.

The Registrar, ITAT.Bombay. The willingness from S/Sri N.Das, B.C.Das, R.C.Medhi and M.Ahmed have been obtained. Their willingness are given below in order of preference as desired by the Head Office:-

Name of the officials.

1. Sri N.Das, Jamadar.

2. Sri B.C.Das, Pastry.

3. Sri R.C.Medhi, Jamadar.

4. Sri M.Ahmed, Peon.

Choice of place in order of preference.

(a) Jaipur, (b) Ahmedabad (c) Bombay and (d) PUNE.

(a) Jaipur (b) Bombay (c) PUNE and (d) Ahmedabad.

(a) Bombay (b) PUNE and (c) Jaipur

(a) Ahmedabad, (b) PUNE and (c) Jaipur.

Assistant Registrar.

by A.C.

9/2/1980

After 1st
Sesn. 10/3/80

(Copy)

Annexure 'B'

26

INCOME TAX APPELLATE TRIBUNAL

BOMBAY

Subject:- Scheme for Departmental Competitive Examination limited to Group 'D' employees in the Income-tax Appellate Tribunal for promotion to the post of Lower Division Clerk.

A list of Group 'D' employees of Income-tax Appellate Tribunal who have attained the qualifying standard for promotion to the post of Lower Division Clerk in the Income-tax Appellate Tribunal held at different stations on 28.12.1983 is given below :-

1. Shri M.C.Dharmapalan.	10. Shri R.B. Bhare.
2. " Rajinder Singh.	11. " B.C. Das.
3. " K.B. Parmar.	12. " Rajendra Prasad.
4. " Balbir Singh.	13. " M.S. Rawat.
5. " Ramesh Chandra Mehti.	14. " Mainuddin Ahmed.
6. " K.G. Pahwa.	15. " Shanker Singh Chauhan.
7. " D.M. Urewar.	16. " J.K. Malvia.
8. " Kanhaiyalal.	17. " Sital Prasad.
9. " A.K. Dutta.	

The names in the list are given in order of merit. Selection of the vacancies in the year 1984. In the post of Lower Division Clerk to be filled up against the 10% quota reserved for promotion of Group 'D' employees subject to the reservation to be made to SC/ST/Ex-Servicemen etc. will be made in order of merit from the above list. The list will be operative upto 31.12.1984.

Sd/- (G.P. Bajpai.)
REGISTRAR.

The Deputy/Assistant Registrar, ITAT, GSuhati Benbhi(es),
U.O. No. F. 171-Ad(AT)/83 dated 9.2.1984.

-00-

*Ellesed
Jidivacate*

Annexure - IV

Annexure - 'C'

F.IV.8-6/JUL/85-96/5150 /

OFFICE OF THE COMMISSIONER OF INCOME TAX
NORTH EASTERN ZONE, POKOJI COMPOUND
POST BOX NO. 201, SHILLONG - 793001.

Dated 17 SEP 1985

To

The Assistant Registrar,
I.T.A.T., Oriental Building,
1st Floor, Fancy Bazar,
Gauhati;

Sub:- Departmental Examination of Group 'D'
Employees for promotion to LDC -
Information regarding -

Please refer to your letter No. F.IV/6/
ATG/80/1197 dated 6.9.85 on the above subject.

The information as sought for by you is
given below :-

- (a) Departmental examination for Group 'D' Employees for promotion to the LDCs is of "qualifying" nature from February 1982. A Group 'D' employee who once has cleared this examination need not appear in the subsequent examination if he is not promoted prior to that examination.
- (b) A note should be made in the respective service books of such employees to the effect of their passing such examination.

Sd/- (J.C.Dey)

Dt. 17/9/85

Income-tax Officer, Judicial,
for Commissioner of Income-tax ,

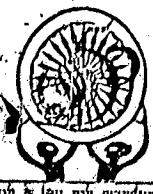
Shillong.

-000-

*Revised
for
advantage*

by Speed Post

Annexure 2



सभा के लिए सभी अधिकारी
ALL HUMAN RIGHTS FOR ALL



कार्यालय आयकर आयुक्त

पो० वॉ० सं० 20 शिलांग -793001 (मेघालय)

OFFICE OF THE COMMISSIONER OF INCOME TAX

Post Box 20; Shillong-793001 (MEGHALAYA)

Telegram - Anykar

Office : 223587, Fax : (0364) 223758.

फा० सं०/ फ०. नो. E-8/Estdt/90-91/CT/ 21926

तिथि/Date 4th march, 1999.

To
Shri T.C.Goswami,
Assistant Registrar,
Income-tax Appellate Tribunal,
Guwahati Bench, Oriental Building,
1st Floor, Fancy Bazar,
G U W A H A T I - 781 001.

Sir,

Sub: Procedure for promotion to the post of Lower Division Clerk amongst the Group-D employees who have qualified the Departmental Examination of Group-D employees - Information Regarding -

Kindly refer to your letter F.No.5/ATG/98 dated 18-12-98 on the above subject.

I am directed to inform you that the rules in force in regard to promotion of Group- 'D' employees to the post of L.D.C. is as below :-

Method of promotion:-

The DPC determines the actual number of vacancies that arise during the year inclusive of the anticipated vacancies. The DPC prepare the panel against the actual number of vacancies only. The qualified candidates who are left out of the panel will find place in the subsequent DPC. The left out candidates need not appear in the same examination again.

Yours faithfully,

(S. KHARPOR)

Deputy Commissioner of Income-tax, Hqrs.
for Commissioner of Income-tax,
SHILLONG

*Allied
Jew
SAC*

Income-tax Appellate Tribunal,
Central Govt. Offices Building,
4th floor, Maharshi Karve Road,
MUMBAI - 400 020.

Annexure VI

18/11/96

G

Dated the 22nd October, 1996.

* O R D E R *

1. Shri B.C.DAS, Daftary, Income-tax Appellate Tribunal, Gauhati Bench, Gauhati is appointed to officiate as Lower Division Clerk on ad-hoc basis with effect from the forenoon of 1st October, 1996 in the pay scale of Rs.950-20-1150-EB-25-1500 in the same Bench until further orders vice Shri S.C.Saikia, LDC promoted.
2. Shri D.C.Sharma, Peon, Income-tax Appellate Tribunal, Gauhati Bench, Gauhati is appointed to officiate as Senior Peon on ad-hoc basis with effect from the forenoon of 1st October, 1996 in the pay scale of Rs.775-12-871-EB-14-1025 in the same Bench until further orders vice Shri M.C.Chakraborty, Sr.Peon promoted.
3. Shri T.C.Boro, Chowkidar, Income-tax Appellate Tribunal, Gauhati Bench, Gauhati is appointed to officiate as Peon on ad-hoc basis with effect from the forenoon of 1st October, 1996 in the pay scale of Rs.750-12-870-EB-14-940 in the same Bench until further orders vice Shri D.C.Sharma, Peon promoted.

The above appointments are on ad-hoc basis and as such it will not bestow on them any claim for regular appointment in the grade as mentioned above. Further the services rendered on ad-hoc basis in the grade would not count for the purpose of seniority in the grade as well as for eligibility for promotion to next higher grade.

This issues with the approval of the Hon'ble President, Income-tax Appellate Tribunal.

SC
S. PRASAD
DEPUTY REGISTRAR.

Copy to:-

1. The Pay & Accounts Officer, Ministry of Law & Justice, Department of Legal Affairs, New Delhi.
2. The Deputy Registrar, I.T.A.T., Calcutta Benches, Calcutta.
3. The Assistant Registrar, I.T.A.T., Gauhati Bench, Gauhati with reference to his U.O.No.F.5/ATG/1994 dated 3.10.96 is requested to intimate the joining of duty in the post of Daftary by Shri M.C.Chakraborty, Senior Peon, so that the formal Orders can be issued in his favour.
4. Shri B.C.Das, Lower Division Clerk, I.T.A.T., Gauhati Bench, Gauhati.
5. Shri D.C.Sharma, Senior Peon, I.T.A.T., Gauhati Bench, Gauhati.
6. Shri T.C.Boro, Peon, I.T.A.T., Gauhati Bench, Gauhati.
7. Personal file.
8. Hindi Section, I.T.A.T., Mumbai.
9. Guard file.

Kishan RD
DEPUTY REGISTRAR.

*Alles Ed
Alles Jev
Alles vev*

(Copy)

To

The Registrar,
Income-tax Appellate Tribunal,
Central Govt. Offices Building,
4th Floor, 101, Maharshi Karve Marg,
Bombay - 400 020.

(Through Proper Channel)

Sir,

Sub:- Prayer for promotion to the post of
Lower Division Clerk in the Office of the
ITAT, Gauhati Bench, or any other Benches
of the Tribunal.

With due respect and humble submission, I beg to
lay before your honour the following few lines for favours
of your kind and sympathetic consideration :-

1. That Sir, I am a Group 'D' employee worked as Peon
from 13-3-1972 to 16-3-1975 and afterwards, I was
promoted to the post of Daftry w.e.f. 17.3.1975 and
since then, I am working in the same capacity.
2. That Sir, I have passed the H.S.L.C. Examination in
the year 1971 under the Board of Secondary Education,
Assam, Gauhati and I appeared for the Pre-University
Final Examination under the Gauhati University with
due permission of the Department.
3. That Sir, I have got Diploma in English Typewriting
with a speed of 41 words per minute from the Govt.
recognised School.
4. That Sir, I was appointed as L.D.Clerk on ad-hoc
basis in this Bench, w.e.f. 16.4.79(A.N.) until
further orders in lower cadre against the post of
U.D.Clerk vacated by Sri T.C.Goswami Vide Head
Office order No.F.96-Ad(AT)/79 dated 26.6.79 and
was reverted to my original post of Daftry w.e.f.
10.8.79(A.N.).
5. That Sir, I have appeared and passed twice in the
Departmental Competitive Examination for promotion
to the post of L.D.Clerk held in 1980 and 1983 as
communicated vide Head Office Telegram dt. 5th March,
1980 and U.O.F.No.171 Ad(AT)/83 dated 9.2.1984
respectively (copy enclosed marked Annexure 'A' & 'B').
In this connection, reference is invited to F.No.E.6/
JDL/86-86/5150 dated 17.9.1985 address to the
Assistant Registrar, ITAT, Gauhati Bench, Guwahati
by the Income-tax Officer, Judicial, for Commissioner
of Income-tax, Shillong (copy enclosed marked Annexure-
'C') wherein it has been clarified by the Income-tax
Dept. that Group 'D' employees who passed the
Departmental Examination need not appear in the
subsequent Examinations.
6. That Sir, I have completed more than 18 years
service in the Tribunal and though I am eligible
for promotion to the post of L.D.Clerk I am still

*Revised
J. D.
Advocate*

Contd....2/-

(2)

In the Group 'D' post for the last 18 years.

In view of the above facts and circumstances, I humbly request your honour to fervently consider my case for promotion to the post of Lower Division Clerk in the Income-tax Appellate Tribunal, Gauhati Bench or any other Benches of the Tribunal and for this act of your kindness I shall ever pray.

Yours faithfully,

Sd/- (Babul Chandra Das.)

Dt. 24/1/91

Daftary,
Income-tax Appellate Tribunal,
Gauhati Bench, Guwahati-1.

-000-

(Copy)

From :
T.C.Goswami,
Assistant Registrar.

D.O.No.5/ATG/98-99/640
Income-tax Appellate Tribunal,
Gauhati Bench, Oriental Building,
1st Floor, Fancy Bazar,
Guwahati-781001.

Dated :- 8.3.1999.

Respected Sir,

With reference to my D.O. letter of even number dated 30.6.98 and as per your telephonic instructions a reference was made to the Commissioner of Income-tax, N.E.Region, Shillong on the matter of Departmental procedure being followed in respect of promotion of Group 'D' Staff to the post of L.D.C. who could qualify in the Departmental Competitive Examination.

In this connection, a photocopy of letter No.E.8/Estt/ 90-91/CT/21986, dated 4.8.99 received from the Dy.Commissioner of Income-tax, Shillong, Headquarters, Office of the Commissioner of Income-tax, Shillong is sent herewith for your kind information and also to examine the issue to be considered to adopt similar procedure in our I.T.A.T. also on the light of the above said letter in the interest of administration.

Hope, request of Shri P.C.Das, who had qualified in the Departmental Competitive Examination for promotion the post of L.D.C. in different occasions held earlier but could not accommodate him for non-availability of vacancy, may now be considered sympathetically.

With respectful regards,

Yours sincerely,

Sd/- (T.C.Goswami)

To

Shri N.N.Nayak,
Registrar,
I.T.A.T.,
Mumbai-20.

-000-

*Attested
for
Advocate*

To
Respected
Hon'ble President,
Income-tax Appellate Tribunal,
Mumbai.

Dated: Guwahati, the 19th
August, 1999.

Subject:- Appointed as L.D.Clerk on regular
basis - Prayer for

Respected Sir,

With due respect I would like to draw kind attention
of your honour to the following facts for your information,
sympathetic consideration and favourable orders:

- 1) That Sir, as a candidate sponsored by the Employment Exchange I was selected and appointed to the post of Peon/Daftry in the I.T.A.T., Gauhati Bench, Guwahati, W.e.f. 13.3.72/17.3.75 vide Registrars' Order No. F. 84-(AT)/72 dated 16.4.72 and No. F. 92-(AT)/74 dated 13.3.75.
- 2) That Sir, since I read upto Pre-University Course and also having Diploma in Typewriting (English), the authority has been pleased to appoint me in the post of L.D.Clerk in various occasions at Guwahati against the leave vacancies and discharged my duty to the best satisfaction of my superiors.
- 3) That Sir, I appeared in the Departmental Competitive Examination amongst the Group 'D' employees for promotion to the post of L.D.Clerk and passed such examinations twice held in 1980 and 1983 as communicated by the Head Office vide Telegram dated 5.3.80 and U.O.No.F. 171-Ad(AT)/83, dated 9.2.84 respectively. (copy enclosed). But, I have not been promoted to the post of L.D.Clerk by the Head Office stating that no vacancy exist during the period under consideration and hence my eligibility has not been considered subsequently for such promotion.
- 4) That Sir, giving promotion to the post of L.D.C. amongst the eligible Group 'D' employees after observing necessary formalities is followed by all Central Govt. Departments as per instructions issued by the Government. To know the procedure followed by the Income Tax Department in such cases, a reference was made to the Commissioner of Income Tax, Shillong, who has clarified vide his letter F.No.E-6/JDL/85-86/5150, dated 17.9.85 (copy enclosed) as under :
 - (a) Departmental Examination for Group 'D' Employees for promotion to the LDCs is of "Qualifying" nature from February 1982. A Group 'D' employee who once passes this examination need not appear in the subsequent examination if he is not promoted prior to that examination.
 - (b) A note should be made in the respective Service Books of such employees to the effect of their passing such examination.
- 5) That Sir, in view of the above, I appealed to the Registrar, ITAT, Mumbai vide my application dated 24.1.91 (copy enclosed) to consider my promotion to the post of L.D.C. as and when vacancy arise, but my request has not been exceeded to and thereby I am deprived of my claim.

*After fed
Dear
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(2)

6) That Sir, I am rendering continuous service for more than 27 years and presently attending the age of 47 years.

7) That Sir, although I submitted my willingness to appear in the last Competitive Departmental Examination held on 27.4.98, I have not been allowed to sit in said examination considering my age bar even after my submission of written application dated 7.4.98 (copy enclosed).

Nevertheless, to do justice for me with the similar procedure followed by the Income Tax Department the Ass'tt. Registrar, ITAT, Guwahati was kind enough to make a further reference to the Registrar, ITAT, Mumbai vide his D.O. letter No.5/ATG/98-99/640, dated 8.3.99 (copy enclosed) for the settlement of my legitimate claim but no order has yet been received from the Head Office.

That Sir, in this connection, I would like to inform that your honour was kind enough to promote me to the post of L.D.C. on adhoc basis W.e.f. 1.10.96. vide Head Office order No.F.74-Ad(AT)/96, dated 22.10.96 and since then I am discharging my duties as L.D.C. to the best satisfaction of all my superiors.

In view of my above submissions, there left no other alternative but to approach your honour to look into the matter so that I may not be deprived of my claim at this old age and may be appointed to the post of L.D.C. on regular basis against the existing vacancy available at Guwahati.

And for this act of kindness I together with my poor family members will remain ever grateful to your honour and oblige.

Enclo: As above.

Yours faithfully,

(Babul Chandra Das)
(Babul Chandra Das)
L.D.C. (Adhoc)
I.T.A.T., Gauhati Bench,
Guwahati:- 781001.

(Copy)

STATE : EXPRESS

X 2125 01 783 BOMBAY 5 P 81-37

INCOTRIUNAL GAUHATI

ASCERTAIN FROM SARVASHRI NARESWAR DAS B. C. DAS
R. C. MEDHI M. INUDDIN AHMED AND INTIMATE
TELEGRAPHICALLY WILLINGNESS FOR APPOINTMENT AS
LOWER DIVISION CLERK IN FUNS AHMEDABAD JAIPUR
BOMBAY IN ORDER OF PREFERENCE

INCOTRIUNAL
BOMBAY

(Copy)

STATE ORDINARY

INCOTRIBUAL BOMBAY

REFYOURTEL FIFI (.) NARESWAR DAS OPTED APPOINTMENT AS
L D C JAIPUR AHMEDABAD BOMBAY PUNE (.) BABUL CHANDRA DAS
JAIPUR BOMBAY PUNE AHMEDABAD (.) RAMESH CHANDRA MEDHI
BOMBAY PUNE JAIPUR (.) MAINUDDIN AHMED PUNE
JAIPUR

Date : 11-3-1980

INCOTRIBUAL
GAUHATI

(Copy)

INCOME TAX APPELLATE TRIBUNAL, GAUHATI BENCH, GUWAHATI.

3X

SUB : Forwarding of application dated 24-01-1991 of
Shri B.C.Das, Daftary prayer for promotion to
the post of L.D.C. in the Income-tax Appellate
Tribunal, Benches.

.....

Application dated 24-01-1991 received from
Shri B.C.Das, Daftary, Income-tax Appellate Tribunal,
Gauhati Bench, Guwahati requesting for promotion to the
post of L.D.C. is forwarded in duplicate.

The above noted application was placed before
the Sr. Member and his comments are reproduced below :-

" In this representation, matter
relating to promotion is involved.
Considering the background,
qualifications, past services and
experience acquired by the incumbent,
the representation is forwarded to
B.C. through Z.O. The case deserves
favourable consideration, at the
earliest.

Sd/-
(E. Singh)
Sr. Member
28.1.91.

Enclo: As above.

Sd/- (S.K.Biswas)
dt. 30/1/91
Assistant Registrar.

The Deputy Registrar, ITAT, Calcutta.
U.O. No.F. IV/6/2G/20-89 dated 30.01.1991.

.....

To
The Registrar,
Income-tax Appellate Tribunal,
Central Govt. Offices Building,
4th Floor,
101, Moharshi Karve Marg,
MUMBAI - 400 020.

(Through Proper Channel)

Sub:- Prayer for regularisation in the post of L.D.C. in the I.T.A.T., Gauhati Bench, Guahati - regarding.

Sir,

With due respect and humble submission, I beg to lay before your honour the following few lines for favour of your kind and sympathetic consideration.:

1. That Sir, I am working as L.D.Clerk and have completed more than 4 years as L.D.Clerk on adhoc basis w.e.f. 1.10.1996. Previously, I also worked as L.D.Clerk on adhoc basis in 1979 (i.e. from 16.4.79 to 10.8.79) vide Head Office Order No. F.96-Ad(AT)/79, dated 26.6.79.
2. That Sir, I have appeared and passed the Departmental Examination for promotion to the post of L.D.Clerk in the year 1980 and as such the Head Office sought willingness for appointment as L.D.Clerk as per Head Office telegram dated 5.3.1980 (copy enclosed as Annexure 'A') and accordingly I opted for appointment as L.D.Clerk in one of the Benches of the Tribunal as per telegraphic intimation sent to the Head Office vide this Office telegram dated 11.3.1980 (copy enclosed for ready reference as Annexure 'B') but I was not given the benefit of my passing the Departmental Examination of Group 'D' Employees in the year 1980 in spite of my willingness even outside the Gauhati Bench.
3. That Sir, again in the year 1983 I have duly passed the Departmental Competitive Examination of the Group 'D' Employees for promotion to the post of L.D.Clerk in I.T.A.T. held on 28.12.1983 as per intimation sent to this Office vide Head Office U.O.No.F.171-Ad(AT)/83, dated 9.2.1984 (copy enclosed for ready reference as Annexure 'C'). But .. this time also I was not given any opportunity for promotion to the post of L.D.Clerk even though I was willing to go outside Gauhati Bench on promotion.
4. That Sir, I have qualified twice in the Departmental

*Att'd Ver.
Jew
Perv. calt*

(2)

Competitive Examination of Group 'D' Employees for promotion to the post of L.D.Clerk.

I understand that an employee once qualified for Departmental Examination for promotion to the next higher grade is to be kept in the panel of the subsequent D.P.C. to consider his promotion and he need not appear in the same examination again and again. In this connection, your kind attention is drawn to the two separate letters F.No.E-6/JDL/85-96/5150 dated 17.9.1985 and F.No.E-8/Estt./90-91/CT/21986, dated 4.3.99 of the C.I.T., N.E.R., Shillong. (Copy enclosed for ready reference as Annexure 'D' and Annexure 'E' respectively).

5. That Sir, I have completed about 29 years service in the Tribunal and I am eligible to get two promotion during the period of 24 years of my service. Considering this point P.60, I am entitled to get Assured Career Progression(A.C.P.) as per O.M.No.35034/1/97-Estt.(D) dated 9th August, 1999 issued by the Ministry of Personnel, and Public Grievances and Pension (Department of Personnel and Training). In this connection, my service particulars in prescribed proforma duly filled in was sent to the Head Office vide this Office U.O. No.F.5/AT/5/94-99, dated 3.11.99 but nothing has so far been heard from the Head Office.
6. That Sir, Sri S.C.Saikia, L.D.Clerk was promoted as U.D.Clerk in Gauhati Bench vide Head Office U.O.No. F.84-nd(AT)/97-98 dated 10.3.1998 and Sri N.Das, L.D.Clerk was also promoted as U.D.Clerk in Gauhati Bench vide Head Office U.O.No.F.84-nd(AT)/98 dated 17.8.1999 and consequently two posts of L.D.Clerks are still lying vacant in Gauhati Bench till date.

: P R A Y R :

In view of the foregoing facts and circumstances, I fervently request your honour that considering my 29 years service rendering in I.T.A.T. including 4 years as L.D.Clerk w.e.f. 1.10.1996 (on adhoc basis) I may kindly be regularised in the post of L.D.Clerk w.e.f. 1.10.1996 in which I am working on adhoc basis against the existing vacant post of L.D.Clerk in the Gauhati Bench and enable me to get service benefit and redress my mental anxiety.

And for this act of your kindness I together with my poor family members will remain ever grateful to your honour and oblige.

Enclo:- As above.

Yours, faithfully,

INCOME TAX APPELLATE TRIBUNAL : GAUHATI BENCH : GUWAHATI.

Subject :- Regularisation of the service of Shri B.C. Das,
L.D.C. appointed on adhoc basis.

It may be stated that Shri B.C. Das, Dufty has been appointed as L.D.C. on adhoc basis with effect from 01-10-1996 vide the Head Office order No.F.74-Ad(AT)/96 dated 22.10.1996. Since then Shri B.C. Das is working continuously as L.D.C. against this Bench and his service has not yet been regularised in the post of L.D.C. In this connection the Head Office is being requested from time to time for taking necessary steps to regularise the service of Shri B.C. Das in the Grade of L.D.C. considering the fact that Shri B.C. Das has came out ~~awkk~~ successfully in the Departmental Promotion Examination ~~mk~~ twice as well as the age of the GOVERNMENT service so that he can get the benefit of the services rendering in the post.

In this connection, the application dated 2.11.2000 of Shri B.C. Das, L.D.C. (ad hoc) alongwith its enclosures forwarded to the Head Office with the approval of the Hon'ble Vice-President, Kolkata zone under U.O. No.F.33/ATC(CZ)/2000 dated 20-11-2000 may also be taken into account so that the matter may be finalised accordingly without further loss of time.

Assistant Registrar.

The Registrar, I.T.A.T., Mumbai-20.

U.O. No.F.IV/6/ATG/80-2000 dated 02-02-2001.

Blessed
be
the
name
of
Jesus

INCOME TAX APPELLATE TRIBUNAL:GUWAHATI BENCH:GUWAHATI.

Sub:- 1) Scheme for Competitive Examination limited to the Lower Division Clerks in the Office of the Income-tax Appellate Tribunal for promotion to the Grade of Upper Division Clerks in the Tribunal according to Income-tax Appellate Tribunal (Group 'C' posts), Recruitment Rules, 1984. &

2) Departmental Competitive Examination for filling up the vacancies in the Lower Division Clerks grade from among the Group 'D' employees working in the Office of the Income-tax Appellate Tribunal (Class-III posts) Recruitment Rules. - Information regarding.

Ref:- 1) Head Office, U.O.No.F.123-Ad(AT)/2002, dated 21.1.2002, &

2) Head Office, U.O.No.F.171-Ad(AT)/2002, dated 18.1.2002.

With reference to the above, the information about the willingness or otherwise from the eligible employees of this Office for appearing in the Departmental Competitive Examination for promotion to the post of U.D.Cs scheduled to be held tentatively in the 2nd week of March, 2002 are furnished below:

Sl.No.	Name of the employees with designation.	Whether willing to appear in the Competitive Examination.	Signature of employees concerned.
1)	Shri R.C.Medhi, U.D.C. (Ad-hoc)	As he is on leave, his willingness will be sent after his joining.	
2)	Shri M. Ahmed, L.D.C.	I am willing to appear in the Competitive Examn. to be held on March, 2002.	M. Ahmed 14.2.2002

So far as the information about the willingness or otherwise from the eligible Group 'D' employees of this Office concerned, it may be stated that though Shri B.C.Das, L.D.C. (Ad-hoc) is willing to sit for the Departmental Competitive Examination, but he is not permitted to sit for aforesaid Departmental Competitive Examination in view of para of the I.T.A.T. (Class-III posts) Recruitment Rules-1967 for Competitive Examination in respect of Class-IV employees as he has crossed the upper age limit relaxed upto 45 years for General candidature. His date of birth is 22-8-1952 and as such his age is 49 years as on the date of Examination.

It may further be stated that Shri Das has been working continuously as L.D.C. on adhoc basis w.e.f. 1-10-1996 vide Head Office Order No.F.74-Ad(AT)/90, dated 22-10-1996 for above 5 years 4 months without break upto 14-2-2002. Previously, he worked as L.D.C. on adhoc basis w.e.f. 16-4-1979 (A.N.) to 9-8-1979 (A.N.) (above 4 months) vide Head Office Order No.F. 96-Ad(AT)/79, dated 26-6-1979 and authority has been pleased to appoint him in the post of L.D.C. in various occasions at Guwahati Bench against the leave vacancies and discharged his duties to the best satisfaction of the superiors. Shri Das

Contd...2/-

*Pls. check for
Ans. to cat*

(2)

has passed the written Departmental Examination, securing 2nd position out of 3 candidates at Guwahati Bench for promotion to the post of L.D.C. held during the year in 1974. But he did not get the promotion in that year. Again he passed the Departmental Competitive Examination held during the year in 1980 and 1983 as communicated by Head Office ^{vide} Telegram dated 5th March, 1980 and U.O.No.F.171-Ad(AT)/83, dated 9-2-1983. Unfortunately, Shri Das did not get the promotion to the post of L.D.C. on regular basis at that time also. Although Shri Das appeared in each and every such Departmental Examination without any hesitation but due to age bar he was not permitted to sit for the Departmental Examination held on 27-5-1998, even though Shri Das has applied for condonation of age limit ^{vide} his application dated 7-4-1998 duly forwarded to the Head Office ^{vide} Zonal Office U.O.No.F.33-ATC-(C)/Cal, dated 30-4-1998. Almost all typing works of this Office as well as orders of the Guwahati Bench are done by him as and when required by the Hon'ble Members and superiors to their full satisfaction.

In view of the above, there is no Group 'D' employees of this Office entitled to sit for the aforesaid Departmental Competitive Examination for promotion to the post of L.D.C. as none of the remaining Group 'D' employees has passed the Matriculation Examination or equivalent Examination.

It is, therefore, requested to kindly send the question papers and other instructions to be followed accordingly.

This is with the approval of Member.

C Assistant Registrar.

The Registrar, I.T.A.T., Mumbai-20.
U.O.No.F.5/ATG/98, dated 14-02-2002.

BCD/

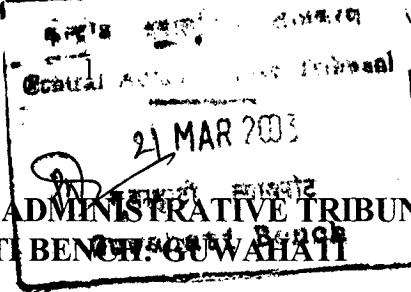
-006-

मारतीयडाक



GUWAHATI GENERAL POST OFFICE
SP. EEE788646317IN
Counter No:1, OP-Code:8ABUL
To:REG.I T A T,
MUMBAI, PIN:400
From:I.T.A.T., GH
Wt:20grams,
PS:50.00, 14/02/2002, 17:41:24

33
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI



Filed by

21/3/03
(A. D. Dey)
S. C. C. S.
C. & T. Guwahati Bench

O.A.NO.392/2002

Shri Babul Chandra Das

...

Applicant.

Versus

Union of India & Others.

...

Respondents.

IN THE MATTER OF:

WRITTEN STATEMENT SUBMITTING BY THE RESPONDENTS:

1. That with regard to the Para 1 the respondents beg to state that they do not admit the contention of the applicant for promoting to the post of Lower Division Clerk with effect from 1.10.1996 on regular basis along with consequential benefits. The Applicant appeared in the Limited Departmental Competitive Examination in the year 1980 and 1983 and was placed seventh and eleventh in the order of merit in the year 1980 and 1983 respectively. Since only ten percent quota against the vacancies arising in a particular year is reserved for promotion of Group 'D' employees who are successful in the examination and the applicant could not be accommodated in the year 1980 as only two posts of Lower Division Clerks were earmarked for the merit quota and the candidates at Sl.No.1 and 2 S/Shri S.N.Sarkar, Peon and L.R.Mandal, Jamadar, Income Tax Appellate Tribunal, Kolkata were appointed as Lower Division Clerks in Income Tax Appellate Tribunal, Ahmedabad and Pune respectively vide order dated 31.3.1980 and 24.3.1980 respectively. It is also submitted that the orders mentioned above had categorically stated that panel prepared would be valid for a period of one year. This fact is well known to the applicant as he again appeared for Departmental



Examination in the year 1983 but could not come up to the stage of merit though passed the examination. The Applicant was appointed as Lower Division Clerk on ad-hoc basis as a stop gap arrangement till the Staff Selection Commission sponsored a candidate for a regular appointment With effect from 1.10.1996 vice Shri S.C.Saikia, L.D.C. promoted as Upper Division Clerk subject to the condition which was accepted by the Applicant, that the appointment is only ad-hoc and will not bestow on the applicant any right to claim for regular appointment in the grade of L.D.C. Further, the service rendered on ad-hoc basis in the grade would not count for the purpose of seniority in the grade hence the Applicant can not claim for appointment on regular basis with effect from 1.10.1996.

The Respondents further submit that the willingness or otherwise was called from all the successful candidates who were kept in the panel as a matter of abundant precaution in case any of the panelists refuses to go out then the next willing panelist in order of merit could be appointed. Since there were only two vacant posts of Lower Division Clerk at Ahmedabad and Pune and the Candidate listed at Sl.No.1 and 2 in the order of merit were appointed as Lower Division Clerk in Income Tax Appellate Tribunal at Ahmedabad and Pune respectively rest of panelists including the Applicant could not be appointed and the panel list lapsed for the year. Similarly, in the year 1983 the applicant was placed at Sl.No.11 and at that point of time also there were only five vacancies and all the five ~~panelists~~ in order of merit have shown their willingness and were appointed as Lower Division Clerk against merit quota from the dates mentioned against their names.

1.Shri M.C.Dharampalan	SC	18.12.1984
2.Shri Rajender Singh	SC	05.05.1984
3.Shri K.B.Parmer		14.04.1984
4.Shri Balbir Singh	Ex-S	29.11.1985
5.Shri R.C.Medhi		09.12.1985

Since the Applicant was at Sl.No.11 in the order of merit ,the Applicant could not be appointed to the post of Lower Division Clerk against merit quota along with others.

Para 2 No comment.

Para 3 The Applicant is filing the appeal beyond its limitation since the examination was conducted in the year 1983 in which the applicant has appeared, there is a delay of 19 years in filing this application before the Hon'ble CAT. Since there is a delay and the Applicant was sleeping all these years, the O.A.deserved to be dismissed on this ground alone.

The Respondents rely on the Judgment of the Hon'ble CAT, Jodhpur Bench in O.A.No.167/1994 where the Hon'ble ^{Bench} has observed as under:

“The contention that latches of any length of time is of no consequence will lead to a startling proposition of an Employee, waiting till superannuation and ^{then} challenging the Impugned orders, claiming monetary benefits for the entire Period, which cannot be the true import of article 14.”

The Respondents further rely on the decision of the Hon'ble CAT, Chandigarh Bench in O.A.No.167/HR of 1993 in which the Hon'ble CAT has observed, “the decision on a representation which is made after the period of limitation would not revive the limitation.”

Para 4.1 and 4.2 Pertain to the office records. Needs no comment.

Para 4.3 and 4.4 The Respondents beg to state that the ten percent of the vacancies in a particular year are earmarked for the merit quota to be filled by conducting Departmental Competitive Examination limited to Group 'D' employees in Income Tax Appellate Tribunal for promotion to the post of Lower Division Clerk as per the Recruitment

Rules for the Lower Division Clerks. (A copy of the Recruitment Rules of Lower Division Clerks is hereto annexed and marked as Exhibit A-I). It is an admitted fact that the Applicant has submitted his willingness vide telegram-dated 11.03.1980 but could not be appointed due to limited number of vacancies and he stood below the panel. Similarly, in the year 1983 the Applicant was placed at Sl.No.11 in order of the merit but could not be appointed as only five vacancies existed and those were filled by the first five candidates as stated in the proceeding Para.

Para 4.5 and 4.6 The circular quoted by the applicant are applicable to Income Tax Department only.

Para 4.7 The Respondents have reported the vacancy of Lower Division Clerk in the year 1996 to the Staff Selection Commission for sponsoring the candidates for the post of Lower Division Clerk in Income Tax Appellate Tribunal, Gauhati Bench, Guwahati. The Staff Selection Commission has nominated handicapped candidate for appointment to the post of Lower Division Clerk in the Income Tax Appellate Tribunal, Gauhati Bench, Guwahati vide their letter-dated 20.12.2002. Accordingly, an offer of appointment dated 02.01.2003 has been issued to Shri Ashwini Kumar Singh with a direction to report for duty as L.D.C. by 03.02.2003 in Income Tax Appellate Tribunal, Gauhati Bench, Guwahati. (Copies of the letter dated 20.12.2002 and offer of appointment dated 02.01.2003 are hereby annexed and marked as Exhibit A-2 collectively). Hence, the applicant can not claim for promotion to the post of Lower Division Clerk on regular basis with effect from 01.10.1996 as the order itself speaks that it will not bestow on him any claim for regular appointment in the grade of Lower Division Clerk further the service rendered on ad-hoc basis in the grade would not count for the

uX

purpose of seniority as well as for eligibility for promotion for next higher grade.

The Respondents rely on the decision of the Supreme Court of India in C.W.P.No.593 of 1990 in the case of Nisha Walia & Others VS. High Court of Himachal Pradesh & Others reported in AILCC Vol.I Page 739.

Para 4.8 The Respondents say and submit that the vacancy occurred due to promotion of Shri S.C.Saikia, L.D.C. as Upper Division Clerk, does not fall under the category of merit quota as wrongly alleged by the Applicant.

Para 4.9 and 4.10 The Respondents respectfully submit that the Applicant's case is time-bared case by 19 years and the Applicant's claim for regular appointment cannot be considered after a gap of 19 years.

Para 4.11 The Respondents respectfully submit that the Departmental Competitive Examination to Group 'D' employees in the Income Tax Appellate Tribunal for promotion to the post of Lower Division Clerk was conducted in the year 1998 and at that point of time the Applicant was overaged as per the scheme of the Departmental Examination and thus he was not allowed to appear before the limited Departmental Competitive Examination held on 27.05.1998. Other employees similarly placed were also not allowed to appear in the examination as per the scheme of the examination.(A copy of the Scheme of Examination is hereto annexed and marked as Exhibit A-3)

Para 4.12 The Respondents respectfully deny and do not admit the averments made by the Applicant.

Para 5.1,5.2 and 5.3 The Respondents respectfully submit that simply qualifying in the limited Departmental Competitive Examination does not bestow legal right on the Applicant for appointment to the post of Lower Division Clerk unless his name in the top of the list as compared to vacancies. The appointment of applicant is purely on ad-hoc basis and a stopgap arrangement till the Staff Selection Commission candidate joins and hence the question of continuing the Applicant even on ad-hoc basis would not arise once the Staff Selection Commission sponsored candidate report for duty.

Para 5.4 As already clarified in the aforesaid paras the Respondents deny and do not admit the contentions of the Applicant.

Para 5.5 and 5.6 The Respondents respectfully submit that the Applicant cannot be appointed on regular basis as per the existing Recruitment Rules of Lower Division Clerk.

Para 6 and 7. The Respondents beg to offer no comment.

Para 8.1 and 8.2 The Respondents respectfully submit that the Applicant is not entitled for any relief sought for as the Applicant's case is a long time bared case. The Respondents further submit that the Applicant has filed the present O.A. before the Hon'ble CAT after a period of 19 years and this delay and latches tantamounts itself for dismissal of the case with cost.

Para 9 The Respondents respectfully submit that the Applicant is not entitled for any interim relief prayed in the present O.A.

VERIFICATION

I, Shri Tilak Chandra Goswami working as Assistant Registrar in
The office of the Income Tax Appellate Tribunal, Gauhati Bench, Guwahati
being authorized do hereby solemnly affirm and verify that the statements
made in Paras 1 (one) to 9 (nine) are true to my knowledge and the statements
made in paras 1,3& 4.7 are true to my information and I have
not suppressed any material fact.

And I sign this Verification on this 17th day of March, 2003.



DECLARANT.

Assistant Registrar,
Income-Tax Appellate Tribunal,
Gauhati Bench, Guwahati-1.

Exhibit A-1 (40)

TO BE PUBLISHED IN THE GAZETTE OF INDIA PART II SECTION 3,
SUB-SECTION (1) (WITH HINDI VERSION)

Government of India
Ministry of Law and Justice
Department of Legal Affairs

New Delhi, the 10th December, 84

N_O_T_I_F_I_C_A_T_I_O_N

G.S.R..... In exercise of the powers conferred by the provisions of article 309 of the Constitution, and in supersession of the Income-tax Appellate Tribunal (Class III Posts) Recruitment Rules, 1967, except in respect of things done or omitted to be done before such supersession, the President, hereby, makes the following rules regulating the method of recruitment to Income-tax Appellate Tribunal (Group C Posts) Recruitment Rules, namely: -

1. Short title and commencement:-

- (1) These rules may be called the Income-tax Appellate Tribunal (Group 'C' Posts) Recruitment Rules, 1984.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Number, classification and scale of pay:-

The number of posts, their classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualifications etc.

The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification:- No person,

- (a) who has entered into or contracted a marriage with a person having a spouse living, or
- (b) who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to any of the said posts.

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax:- Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or persons.

6. Saving:- Nothing in these rules shall affect the reservations, relaxation of age limit and other concessions required to be provided for Schedule Castes, the Scheduled Tribes, Ex-servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.

Under Secretary to the Government
No. A-12018(1)/79-Admn.III(LA)

To
The Manager,
Government of India Press,
Ring Road,
New Delhi

Copy to:-

1. The Registrar, Income-tax Appellate Tribunal, Central Govt. Offices (Bldg., M. Karve Road, Bombay-20 (with 20 s/copies).
2. Deptt. of Personnel & Admin., New Delhi.
3. Correction-Section/ GSRO/Translation Section.
4. Leg. III Section/Admn. I(LA)/Admn II(LA) Section, DB&A/IFA
5. Admn. III(LA) Section (with 30 s/copies).

(S.N. DHIR)
Under Secy. to the Govt. of India.

(42)

SCHEDULE TO INCOME TAX APPEAL TRIBUNAL
(GROUP 'C') RECRUITMENT RULES

Name of post.	No. of posts	Classification	Scale of pay	whether selection or non-selection post
1. Assistant Superintendent.	7*	General Central Service Group 'C' Non-gazetted (Ministerial)	Rs. 550-20- 650-25- 750/-	Selection post.
2. Head Clerk	31*	*subject to variation dependent on work-load	-do- -do- -do-	Rs. 425-15- 500-EB-15- 560-20- 700/-
3. Stenographer Grade III	1*	*subject to variation dependent on work-load	-do-	Rs. 330-10- 380-EB-13- 500-EB-15- 560/-
4. Upper Division Clerk.	83*	*subject to variation dependent on work-load.	-do-	Rs. 330-10- 380-EB-12- 500-EB-15- 560/-
5. Lower Division Clerk.	132*	*subject to variation dependent on work-load.	-do-	Rs. 260-6- 290-EB- 6-326-8- 366-EB-8- 390-10- 400/-

whether age limit for benefit of direct recruits, added years of service admissible under rule 30 of CCS(Pension) Rules, 1972	other qualifications required for direct recruits.	Whether age and other qualifications prescribed for direct recruits will apply in the case of promoted
N.A.		Not applicable
N.A.		Not applicable
No.	18 to 25 years. (Relaxable for Government Servants upto 35 years in accordance with the instructions or orders issued by the Central Government).	Matriculation or its equivalent examination. Stenography speed of 80 WPM and typewriting speed of 40 WPM
	Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep).	
	In case of recruitment through the Employment Exchange, the crucial date for determining the age limit shall be the last date upto which the Employment Exchange is asked to submit the names.	
Grade		Not applicable.
	18 to 25 years. (Relaxable for Government Servants upto 35 years in accordance with the instructions or orders issued by the Central Government).	(i) Matriculation or its Educational equivalent examination. Age: No examination. Yes. (ii). Minimum speed of 30 w.p.m. in typewriting.
	Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep).	
	In case of recruitment through the Employment Exchange, the crucial date for determining the age limit shall be the last date upto which the Employment Exchange is asked to submit the names.	

0
of LDR/R

-- 2 --

Period of
probation,
say.

Method of rectt. In case of rectt. whether by direct promotion/députation/transfer, grades from which promotion/transfer percentage of députation/transfer to be made. The vacancies to be filled by various methods.

If a D.P.C. exists. Circumstances what is its composition. UPSC is to be consulted in making rectt.

10 - - - - - 11 - - - - - 12 - - - - - 13 - - - - - 14 - - - - -

1. 2 years. By promotion

Promotion

Head Clerk with
5 years regular
service in the
grade.

Group 'C' Departmental Not applicable
Promotion Committee

consisting of
Vice-President, Income-tax
Appellate Tribunal,
Bombay - Chairman.
One Member of the Income-tax
Appellate Tribunal, Bombay -
Member.

Registrar, Income-tax Appellate
Tribunal, Bombay - Member.

-do- Not applicable.

2. 2 years. By promotion

Promotion

Upper Division
Head Clerk with 5 years
regular service in
the grade.

-do-

3. 2 years. By transfer

Transfer

feiling which by direct
regular basis in
recruitment. similar or equivalent
commissions to grade of Stenographer
and similar in other Central
and other Government Offices.
In addition, exams will be
held for higher posts in
various posts in various posts.

-do-

Not applicable.

54

4. 2 years

75% by promotion on
the basis of seniority
subject to rejection
of unfit.

25% by promotion on the basis of limited Departmental Competitive examination.

5. 2 years.

By direct recruitment 90%
By promotion 10%

Excomptex Appellate Tribunal, Bombay
No. F-14 Ad (A) 17/85 dated 31/1/85
Copy forwarded to the Asst. Registrar,
Insurance Appellate Tribunal, Ahmedabad/
Ahmedabad and the concerned Comptroller
Commodities Board and the concerned
Gadhar Prabhakar for information and
necessary action.

ASSIST. REGIST.

3.1.85

Promotion on the basis
of seniority

L.D.Cs. with 8 years' regular service in the grade.

Promotion on the basis
of limited Departments
Competitive
Examination

LDCs with 5 years' regular service in the grade. -do-

Promotion from amongst Group 'D' employees subject to the following conditions:-
(a) Selection would be made through a departmental examination confined to such Group D Employees who fulfil the requirement of minimum educational qualification, namely, Matriculation or equivalent.

(b) The maximum age for this examination would be 45 years (50 years in case of Scheduled Castes and Scheduled Tribes candidates).

(c) At least 5 years' regular service in Group D would be essential.

(d) The maximum number of appointment by this method would be limited to 10% of the vacancies in the cadre of Lower Division Clerks occurring in a year; unfilled vacancies would not be carried over to the next year.

Not ~~applicable~~

Not applicable.

8 LDR/R
and the U.S.

—sd/-Registrar
Income-tax Appellate Tribunal
—A. D. —

पंजीकार / Registrar
मायकर अपेलेट अधिकारण
Income-Tax Appellate Tribunal
मुम्बई / Mumbai.

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Exh - A-2

46



A 023821

क्रम नं.

Serial No.

गोपनीय

CONFIDENTIAL

F.No. SSCG.A-11011/85/2000/Nom/

Vol.III(ML)/

फाइल नं.
File No. 1722

अनुसारी

द्वानेक
23/12

सेवा में

To

भारत सरकार

GOVERNMENT OF INDIA

कर्मचारी चयन आयोग

STAFF SELECTION COMMISSION

कार्मिक एवं प्रशिक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

कार्मिक, लोक शिकायत तथा पेंशन मन्त्रालय

M/o Personnel, Public Grievances & Pensions

क्षेत्रीय कार्यालय

North-Eastern Regional Office

P.O. Assam Sachivalaya

Rukmini Nagar, Guwahati-781006. दिनांक

Dated 19.12.2002.

The Registrar,
Income Tax Appellate Tribunal,
Central Govt. Offices Building,
4th floor, Maharshi Karve Marg,
Mumbai-400 020(Maharashtra).

विषय : परीक्षा 19

नियुक्ति के लिए सिफारिश किए गए उम्मीदवारों का नामांकन

SUBJECT: Combined Main (Matric Level) Examination 1999 - LDCs.

Nomination of candidates recommended for appointment.

संदर्भ : पत्र सं. दिनांक

पद वेतनमात्र रु.

REF.: Letter No. 152-Ad(AT)/99 Dated 20.00 dated 03.03.2000.

Post L.D.C. Scale Rs. 3050-4590/-

महोदय/महोदया,
Sir/Madam,

आपके उपर्युक्त पत्र के संदर्भ में कथित 'पद' के लिये

अनारक्षित अ० जा० अ० ज० जा० अ० पि० वा० शा० वि०

तथा भूतपूर्व सैनिक उम्मीदवारों को आपकी आवश्यकता पूरी करने के लिए उम्मीदवारों के डोजियर, जिनमें उनके मूल आवेदन पत्र एवं अन्य

सम्बद्ध दस्तावेज हैं (अनुबन्ध I) (एम्बास्ट शीट के, पृष्ठ सं. I से तक) आपके पास भेज रहा हूँ। ज्यों ही और उम्मीदवार अनारक्षित अ०जा० अ०ज०जा० अ०पि०व० भू०सै.....

....शा०वि० उपलब्ध हो जाएंगे, आपकी शेष रिक्तियों के लिए उन्हें नामित किया जाएगा।

With reference to your letter referred to above, I am sending herewith the dossiers, containing the original application(s) and other relevant document(s), of O.L. (.....) candidates (Annexure-I). (Embossed Sheet of Page 1 to) against your requirement of UR X SC X for the said post.

ST X OBC X Ex-S. X PH OI SC OBC Ex-S. PH will be nominated as and when they become available.

47 A 023821
क्र सं Serial No.....

अनुबन्ध I
ANNEXURE I

(यह शीट तभी मान्य है जब नीचे दिये गये स्थान पर हस्ताक्षर हों तथा ऐम्बास की सील भी लगी हो) (This sheet is valid if duly authenticated by the signature and embossed seal at space provided)

कर्मचारी चयन आयोग
STAFF SELECTION COMMISSION

परीक्षा के परिणाम पर नामित किए गए
उम्मीदवारों की सूची (कुल अनारक्षित , अ० जा०
ज० जा० अ० पि० व० भ० सै० शा० वि०).....

List of candidates nominated (Total 01 (one) UR X SC X ST
X OBC X EX-S X PH 01) on the results of
Combined Main (Matriculation) Exam., 1999.

क्रम सं Sl. No.	उम्मीदवार का नाम व श्रेणी Name of the Candidate and Category	रोल नं Roll No.	रैंक नं Rank No.	अभ्युक्तियां Remarks	Zone of posting
1.	ASHVINI KUMAR SINGH(OH)	2652640	SLY/13/0041		Assam

डोजियरों की संख्या :
No of Dossiers :

शब्दों में :
In Words : One.
अंकों में :
In Figures : 01.

क्षेत्रीय निदेशक/अवर सचिव
(Regional Director/Under Secretary)

(Santanu Bhattacharjee) IAS
Regional Director (NER)
Staff Selection Commission
Govt. of India
Guwahati

ऐम्बास सील
Embossed Seal

No.F.300-Ad/AT/2003
INCOME TAX APPELLATE TRIBUNAL,
Central Govt. Offices Building,
4th Floor, Maharshi Karve Marg,
MUMBAI 400 020

48

Registered A.D.

dated the 21/1/2003

RECEIVED A.D.

Dated the, 2nd January, 2003.

*** MEMORANDUM ***

On recommendation from the **Staff Selection Commission, North-Eastern Region** it has been decided to offer to **Yashwant Shri Ashvin Kumar Singh**

the post of **Lower Division Clerk** which belongs to the General Central Service (Group 'C' Non-Gazetted) in the **Income-tax Appellate Tribunal** at **Gujarati** Bench/ies in the scale of Rs.3050-75-3950-80-4590/- plus usual allowances at the rates admissible to Central Govt. officers of his/her category under and subject to condition laid down in the rules and orders governing the grant of such allowances in force from time to time. His/her appointment will be subject to the following terms and conditions:-

1. I) The appointment is temporary and will be governed by the Central Civil Service(Temporary Service) Rules, 1965.
 - II) He/She is liable to serve anywhere in India.
 - III) He/She will have to comply with the requirements of the Central Civil Service (Conduct) Rules, 1964. All rules or orders already in existence or issued from time to time regarding attendance, duties, discipline, conditions of service etc. will automatically be applicable to him/her.
 - IV) If he/she belongs to a Scheduled Caste and professes the Hindu/Sikh religion, he/she should report any change of religion to the appointing authority immediately such change takes place.
 - V) He/she should give a declaration of his/her home town for the purpose of Leave Travel Concession within 6 months from the date of entry into service.
2. He/She should produce, for verification, the following certificates in original and attested copies thereof to the Deputy/Assistant Registrar while reporting for duty.
 - a) Matriculation or its equivalent examination in support of age and certificates of educational qualification etc.
 - b) Degree Certificates conferred at the time of convocation.

Without production of the above mentioned certificates, appointment will not be considered. He/She should also submit the following documents with his/her letter of acceptance.

- I. Certificate of Character in the form enclosed from the head of the educational institution last attended of in case such a certificate cannot be obtained, a certificate in the same form from a Gazetted Officer (in both cases duly attested by stipendiary I class Magistrate, District/Sub-Divisional Magistrate). This certificate should have reference to the two years immediately preceding.

प्राप्ति-2003
2/1/2003
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अनुग्राम
आ. अ. अ., मुंबई

P.T.O.

II. Attestation form, in triplicate, in the enclosed proforma duly completed.
3

III. A declaration that he/she has not more than one wife/husband.

IV. No Objection Certificate from his/her present employer and release order accepting his/her resignation from that service.

V. Displaced person certificate from a Govt. Office of the Central Govt. or from a District Magistrate and/or eligibility certificate issued by the Govt. of India or citizenship certificate as a proof of registration as an Indian Citizen.

3. This offer of appointment is further subject to his/her being found medically fit for Govt. service by a Civil Surgeon of Govt. Hospital, Lucknow.
A letter addressed to Superintendent Government Hospital Lucknow. is enclosed.

4. This offer of appointment is also subject to his/her taking an oath allegiance to the Constitution of India.

5. No T.A. will be paid for joining the appointment.

6. If the offer is accepted by him/her, he/she should report for duty to the Deputy/Assistant Registrar, Income-tax Appellate Tribunal, Oriental Building, 1st Floor, Fancy Bazar, Guwahati - 781 001.

by 03.02.2003, alongwith the documents mentioned above. In case, no reply is received by the stipulated date this offer of appointment will stand cancelled.

16
To,

Shri Ashvini Kumar Singh,
C/o Shri S.M. Singh,
Kothi No.1, Digrui Bazaar,
Jating Road,
LUCKNOW (U.P.) - 226001.

16
E - 1/340, Vinay Khand - 1,
Gomti Nagar,
Lucknow (U.P.) - 10

16
(KISHOR RAO)
DEPUTY REGISTRAR

Copy forwarded to :-

1. The Regional Director, Staff Selection Commission, (North-Eastern Region), P.O. Assam Sachivalaya, Ruknuddin Nagar, Guwahati-781006.
2. The Deputy/Assistant Registrar, I.T.A.T., Guwahati Bench, Guwahati.

16
DEPUTY REGISTRAR

Note :- The Candidates will have the option to answer item(s) in Hindi or in English. Item (b) will have to be answered in English. The option will be for a complete paper and not for different questions in the same paper.

8. The syllabus for the examination will be as under:-

General English and Short Essay.

(a) Short Essay - An essay to be written on one of the several specified subjects.

(b) General English - Candidates will be tested in the following:-

- 1) Drafting
- 2) Precis writing
- 3) Applied Grammer
- 4) Elementary tabulation (to test candidates ability in the art of compiling, arranging and presenting data in a tabular form.

General Knowledge including Geography of India.

Knowledge of current events and of such matters of every day observation and experience in their scientific aspects as may be expected of an educated person who has not made a special study of any scientific subjects. The paper will include questions on geography of India.

9. On the results of the examination a consolidated list will be prepared in order of merit of qualified candidates who have attained the qualifying standard (i.e. who have secured 40 % or above of the total marks - 30 % marks in the case of Scheduled Castes/Scheduled Tribes for vacancies reserved for them and nominations of the candidates to the extent of the available reserved vacancies will be made.

10. No fees will be charged for the examination.

11. The class IV employees who are appointed to the class III posts of Lower Division Clerks will be treated as direct recruitment and will be on probation for the period specified in the recruitment rules. They will also have to pass a typing test at 30 words per minute prescribed for regular direct recruitments before they are considered for confirmation.

12. The relative seniority of class IV employees who are appointed to the post of Lower Division Clerk on the basis of the Departmental Examination shall be determined by the order of merit in which they are selected for such appointment, persons appointed on the result of an earlier examination being senior to those appointed as a result of subsequent examination.

13. The relative seniority of the class IV employees as Lower Division Clerks through the Departmental Examination will be determined with reference to the date of announcement of the result announcement.

61

Scheme for Departmental Competitive Examination for filling up vacancies in the Lower Division Clerk's grade from among the class IV employees working in the office of the Income-Tax Appellate Tribunal (Class III Posts) Recruitment Rules, 1967.

* * * * *

A Competitive Examination of the eligible class IV employees in the Income-tax Appellate Tribunal for promotion to the posts of Lower Division Clerks (ordinary Grade) against 10 % of the vacancies in the latter grade, as laid down in the Income-tax Appellate Tribunal (Class III Posts) Recruitment Rules, 1967 will be held once every year or on the occurrence of the vacancy/ vacancies in that grade in the same quota whichever is later.

2. At their own option, all class IV employees in the Income-tax Appellate Tribunal who have passed matriculation or equivalent examination and whose age limit does not exceed 40 years (45 years for Scheduled Caste and Scheduled Tribe Employees) on the date fixed for such examination and who have put in at least 5 years of service in class IV grade will be eligible to appear in the examination.

3. Provided that for the first two examinations to be held under this scheme, the upper age limit shall be relaxed upto 45 years (50 years the case of Scheduled Caste/Scheduled Tribes.)

4. If there are any candidates belonging to the Scheduled Caste/Scheduled Tribes, they will be appointed against the usual number of vacancies to be reserved for them. If such candidates are not available from among the class IV employees for appointment in the vacancies reserved for which qualified Scheduled Caste/Scheduled Tribe candidates are not available, will be filled by candidate of the other communities but the reservation will be carriedforward to subsequent examinations according to the general instructions for carrying forward of reserved vacancies for Scheduled Castes/Scheduled Tribes.

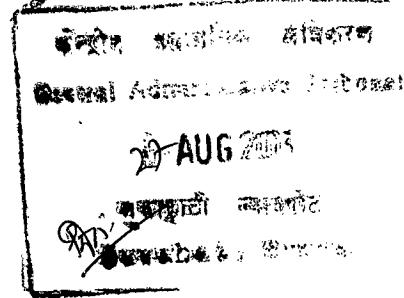
5. Reservation will be determined by working out anticipated vacancies in calander year and 10 % of such vacancies will be reserved for class IV employees. When 10 % of the such vacancies works out to a fraction and if the fraction is more than 0.5, one vacancy will be reserved subject to suitable adjustment from among the future vacancies. The vacancies thus worked out will be shown in the 200 point roster prescribed for the purposes of determining the vacancies to be reserved for Scheduled Castes/Scheduled Tribes in direct recruitment made on all India basis by open competition.

6. The decision of the Registrar of the Tribunal as to the eligibility or otherwise of a candidate for admission to the examination shall be final.

7. The papers for the examination will be set by the Registrar, Income-tax Appellate Tribunal at Mumbai and the evaluation of the papers will be arranged by the orders of the Registrar, Income-tax Appellate Tribunal, Mumbai. The papers for the examination and the maximum marks assigned to each paper will be as indicated below :-

- a) Short Essay 100 Marks
- b) General English 200 Marks
- c) General Knowledge 100 Marks
including Geography of India.

T O T A L : 400 Marks



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of:

O.A. No. 392 of 2002

Shri Babul Chandra Das

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the applicant in reply to the written statement submitted by the Respondents.

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

1. That the applicant categorically denies the statements made in paragraph 1 of the written statement and further begs to state that the applicant passed the limited departmental examination in 1980 in which he was placed seventh. As per rules, he is not required to appear in any subsequent departmental competitive examination since he already qualified in 1980. This is evident from the letter No. F.No. E-6/JDL/85-86/5150 dated 17.9.1985 and letter No. E-8/Estt./90-91/CT/21986 dated 4.3.1999 (Annexure IV and V to the O.A.) of the respondents wherein it was also maintained that the qualified candidates who are left out in the panel will find place in the subsequent D.P.C. However, the applicant unknowingly appeared in the Departmental Competitive Examination again in 1983 which also

successfully qualified. As such, when he could not be promoted in 1980 due to lack of vacancy, his case ought to have been considered automatically in 1983 as a left out candidate in the panel of 1980 and after exhausting that panel only, the fresh candidates could be inducted in 1983. the respondents filled up a total of seven posts in 1980 and 1983 and the applicant's position was seventh in the panel of 1980, and in all fitness of the things the applicant ought to have been accommodated in 1983 before inducting the strangers, more so, when he was already working in the post and had been rendering services. This apart, when the applicant was subsequently promoted to the post of LDC in 1996 against a regular vacancy, he ought to have been promoted on regular basis only and not on ad hoc basis since he had already been working the said post for years together and acquired a valuable right for promotion to the said post. Further, the question of validity of the panel is irrelevant here since the promotion in the instant case is against a specified quota. Again, the respondents have promoted Shri Balbir Singh and Shri R.C.Medhi in 1985 from the panel of 1983 i.e. after 2 years while they have stated that the panel is valid for only one year.

2. That the applicant categorically denies the statements made in paragraph 3, 4.9 and 4.10 of the written statement and further begs to state that the application has been filed well within the period of limitation since it is a case of continuous wrong and fresh cause of action have been arising every month when his salary is paid incurring financial loss. Further, his case is being recommended at regular

interval by his senior officers and it is an on-going process.

3. That the applicant categorically denies the statements made in paragraph 4.3 and 4.4 of the written statement, the reply have been furnished in para 1 above.
4. That the applicant categorically denies the statements made in paragraph 4.5 and 4.6 1 of the written statement, the applicant begs to state that the circular in question is applicable in case of the applicant also.
5. That the applicant categorically denies the statements made in paragraph 4.7 of the written statement and begs to state that no person has reported for joining till date and the applicant has been holding the post even till now and as such he is the bona fide and legitimate claimant for the said post.
6. That the applicant categorically denies the statements made in paragraph 4.8 of the written statement and begs to submit that while the applicant could be promoted against the regular post which fell vacant due to promotion of Shri S.C. Saikia as a bona fide claimant of the post, then there was no impediments for the Respondents to promote the applicant on regular basis instead of on ad hoc basis.
7. That the applicant categorically denies the statements made in paragraph 4.11 and 4.12 of the written statement and further begs to state that under the rules, the applicant is no longer required to appear for Departmental Examination in 1998 since he qualified twice in the said examination 1980 and 1983 and he was already promoted to the post in 1996 although on ad

hoc basis. As such the question of overage in terms of the scheme as contended by the Respondents is not applicable in the instant case.

8. That the applicant categorically denies the statements made in paragraph 5.1, 5.2 and 5.3 of the written statement and begs to submit that the applicant was promoted in 1996 against a regular vacancy and that too was not for a short spell but for years together. As such the contention of the Respondents that it was a stop-gap arrangement and it was on ad hoc basis is not sustainable in the eye of law and is contrary to all principles of service jurisprudence.
9. That the applicant categorically denies the statements made in paragraph 5.4, 5.5 and 5.6 of the written statement and begs to reiterate that the applicant is legally entitled to be appointed as LDC on regular basis with effect from 1.10.1996.
10. That the applicant categorically denies the statements made in paragraph 8.1, 8.2 and 9 of the written statement and submits state that the applicant is entitled to all the reliefs and interim relief prayed for.
11. That under the facts and circumstances stated hereinabove, the applicant is entitled to all the reliefs prayed for and the application deserves to be allowed with cost.

VERIFICATION

I, Shri Babul Chandra Das, Son of Late Bhabani Prasad Das, aged about 51 years, Working as Lower Division Clerk on officiating basis, in the office of the Income Tax Appellate Tribunal, Fancy Bazar, Guwahati-781001 do hereby verify that the statements made in Paragraph 1 to 11 of this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the _____ day of August, 2003.

Babul Ch. Das

IN NIV 753

গুৱাহাটী জায়গার
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Filed by the applicant
Kuoronghi
Subrata Nabi
Advocate
62

10.11.2003

In the matter of :

O.A. No. 392 of 2002

Shri Babul Chandra Das

-vs-

Union of India & Ors.

And

In the matter of

Additional Rejoinder submitted by the applicant in reply to the written statement submitted by the Respondents.

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

1. That with regard to the statement made in paragraph 4.11 of the written statement, the applicant categorically denies the correctness of the same and further beg to state that he was arbitrarily held as over aged for consideration of promotion under the 10% quota after 27.5.1998. In this connection, it is stated that the respondents are wrongly interpreted the maximum age limit of 45 years for appearing the Departmental Competitive Examination as indicated in the Recruitment Rule issued under Notification dated 10.12.1984 by the department. It is pertinent to mention here that the maximum age limit of 45 years as indicated in the Recruitment Rule for appearing in the Limited Departmental Examination,

but the candidate those who have cleared the Competitive Examination within the age limit of 45 years, they cannot be excluded from consideration for promotion to the cadre of L.D.C. under 10% quota even after crossing the age of 45 years, rather, those candidates who cleared the Departmental Competitive Examination earlier they should get priority for consideration for promotion under 10% quota, then the candidate subsequently qualified in the limited departmental examination. It is a settled position of law that a candidate once qualified in the Limited Departmental Examination he need not appear in the subsequent examination but his case should be considered on priority basis by the D.P.C. against the available vacancies for promotion under 10% quota occurring in the subsequent years, provided if he is not appointed in the same year. This practice is adopted in all the Central Govt. offices including the Railways, Comptroller and Auditor General, etc. as for example, when a candidate passed in Subordinate Accounts Service (for short SAS) then they need appear in the subsequent written examination, but their cases will be considered on priority basis over the qualified candidates of subsequent years. The applicant urge to produce relevant documents in support of the contention stated above at the time of hearing. But in the instant case of the applicant the respondents took a different view, wrongly interpreting the relevant provisions of examinations as indicated in the Recruitment Rule

for appearing in the Limited Departmental Examination and thereby wrongly ignored the case of the applicant for consideration for promotion under 10% quota.

It is further submitted after May 1998 some of the Group 'D' employees were allowed to appear in the Limited Departmental Examination on and after 27.5.1998 till 2002 have already been promoted to the cadre of L.D.C. under 10% quota in other regions without considering the case of the applicant deliberately. It is stated that the applicant in spite of his best efforts could not obtain the particulars of those Group 'D' employees in different regions other than N.E. Region under 10% quota. The applicant has acquired a valuable and legal right for consideration of his promotion to the cadre of L.D.C. under 10% quota even after crossing of the age limit 45 years since he has cleared the Limited Departmental Examination within the time limit of 45 years.

However, the Hon'ble Tribunal be pleased to direct the respondents to produce detail particulars of Group 'D' employees who have passed the examination and promoted to the post of L.D.C. after May, 1998 under 10% quota in other regions.

In any view of the matter, the Original Application deserves to be allowed with costs.

VERIFICATION

I, Shri Babul Chandra Das, Son of Late Bhabani Prasad Das, aged about 51 years, Working as Lower Division Clerk on officiating basis, in the office of the Income Tax Appellate Tribunal, Fancy Bazar, Guwahati-781001 do hereby verify that the statements made in this additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the _____ day of November, 2003.

Babul Ch. Das.