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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 304/03.....

R.A/C.P No.....

E.P/M.A No. 12/02/.....

1. Orders Sheet.....OA.....Pg. 1.....to 4.....
1/12/04 and Pg. 1 to 4/12/04

2. Judgment/Order dtd/ 8/02/2005.....Pg. 1.....to 3.....

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

4. O.A.....OA 304.....Pg. 1.....to 55.....

5. E.P/M.P.....12/04.....Pg. 1.....to 6.....

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

7. W.S.....Pg. 1.....to 15.....

8. Rejoinder.....Pg.....to.....

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.)

Leahita
21/11/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No.: 304.103

Misc Petition No: 8

Contempt Petition No: 8

Review Application No: 123456789

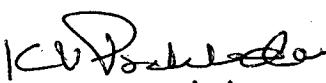
Name of the Applicant(s): Jagat Dass

Name of the Respondant(s): W. S. S. N.

Advocate for the Appellant:- Mr. M. Chaudhury,

Advocate for the Respondat:-

Ch S C A. K. Chandram

Notes of the Registry	date	Order of the Tribunal
Opp. application is in but not in time Petition is M.P. No. 387482 Date 29.12.03 or by 30/1/04 Re. Small 30/12/03 L.A.	7.1.2004 mb	List on 12.1.2004 for admission.  Member (A)
Opp. envelops lacking	17.2.2004	There was a reference Advised to 3.2.04 870 a.
Notice & order dt. 17/2/04 sent to D/Section for receiving to respondent es. 1 to 4.		Vide order passed today in M.P.No.12/2004 the delay in filing the O.A. is condoned. The O.A. is accordingly taken up for consideration.
		Heard Mr M. Chanda, learned counsel for the applicants. The application is admitted. Issue notice returnable by four weeks.
		List for orders on 19.3.04

ICR Parkside

Member

19.3.2004

On the plea of counsel for the applicant and respondents list on 20.4.2004 for orders.

The postal A/D card received from R.No-3 only.

11/5/04.

mb

26.4.2004

On the plea of Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. four weeks time is allowed to the respondents to file written statement. List on 28.5.2004 for order.

Ku. Poshesh
Member (A)

26-5-04

bb

28.5.2004

Written statement has been filed by the respondents. Four weeks time is given to the applicant to file rejoinder, if any. List on 1.7.2004 for hearing.

Ku. Poshesh
Member (A)

Dinesh

mb

25.8.04

Present: Hon'ble Mr.D.Goverman, Vice-Chairman. Court is adjourned to Hon'ble.

Heard learned counsel for the parties.

These applications concerned question of law and facts. Shd'st be heard together. The learned counsel for both sides prays that this case may be fixed before the next available Division Bench.

Member

Vice-Chairman

25.8.04. Present: Hon'ble Mr.D.C.Verma, Vice-Chairman.
Hon'ble Mr.K.V.Prahladan, Administrative Member.

Heard learned counsel for the parties.

This application involves common question of law and facts and it would be heard together. The learned counsel for both sides prays that this case may be fixed before the next available Division Bench. alongwith connected matters. List the case as prayed for before the next available Division Bench.

M(A)
Member (A)

SL
Vice-Chairman

8-11-04

1m

1 Notice duly. Served. 1m
09-12-2004
2 w/5-hr. Sear. 81/CD.
9.11.2004 Present: Hon'ble Justice Shri R.K. Batta, Vice-Chairman
Hon'ble Shri K.V. Prahladan, Administrative Member.

Learned Sr. C.G.S.C. states that Mr A.K. Chaudhuri, learned Addl. C.G.S.C. who is handling this matter is sick and as such the matter be adjourned. Stand over to 7.1.2005.

Case is ready for hearing.

Member

R
Vice-Chairman

nkm

07.01.2005 List on 15.02.2005 for hearing.

Hon'ble Mr.K.V.Prahladan
Member (A)

mb

15.02.2005 Heard. Reserved. for orders.

f

Member (A)

Member (J)

18.02.2005 Judgment delivered in

open Court, kept in separate sheets. The application is dismissed. No costs.

Member (A)

Member (J)

Recd wif
AN Chet
14/3/05

14.3.05

Copy of the Judgment
handed over to the
2/Advocates for the
parties.

AS Rec'd ^{6/3/05}
14/3/05

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXX. NO. 304/2003

DATE OF DECISION 18.02.2005

Sri Jagat Das APPLICANT(S)

Mr. M. Chanda, Mr. S. Nath ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

U.O.I. & Ors. RESPONDENT(S)

Mr. A.K. Chaudhuri, (Not present) ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. M.K. GUPTA, JUDICIAL MEMBER.

THE HON'BLE MR. K.V. PRAHLADAN, 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 (A).

X

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

Original Application No. 304/2003.

Date of Order : This the 18th day of February, 2005.

THE HON'BLE MR. M.K. GUPTA, JUDICIAL MEMBER.

THE HON'BLE K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

Sri Jagat Das
Son of Late Satram Das
Village Nabil
P.O. – Towbhanga
District – Sanitpur

... Applicant

By Advocates Mr. M. Chanda, Mr. S. Nath.

- Versus -

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence
New Delhi
2. The Director General,
Canteen Store Department,
Ministry of Defence,
ADELPHI, 119 Maharsi Karve Road,
Bombay – 400 020.
3. The Regional Manager,
Canteen Store Department
Govt. of India, Ministry of Defence,
Satgaon, Narengi,
Guwahati.
4. The Manager,
Canteen Store Department,
Misamari Depot (Cont.),
PIN – 784 506. Respondents

Mr. A.K. Chaudhuri, Addl. C.G.S.C. Not present.

ORDER (ORAL)

M.K. Gupta, Member (J):

The objective of this O.A. is appointment of the applicant to any group 'D' or equivalent post on the basis of the interview held at Misamari Depot of the

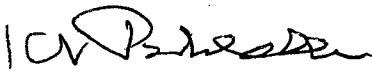
Canteen Store Department on 23.06.1996. The applicant claims that he is entitled to appointment on the basis of directives contained in O.A. No. 49 of 1996 vide its judgment dated 15.09.1998 and C.P. No. 42 of 1999 vide judgment dated 05.01.2001. The applicant also claims that ban on recruitment has been lifted and thereby creating vacancies in group 'D' posts.

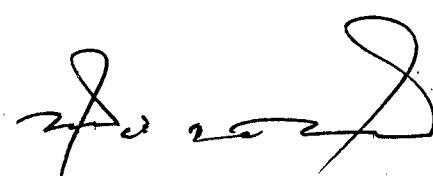
2. The applicant was appointed as a Daily rated Mazdoor at the Canteen Stores Department, Misamari on 29.10.1985 working continuously till 1989 without break. The applicant was empanelled for the post of a Peon in 1986 but not appointed. The applicant was selected for the post of Watchman but again not appointed, the reason cited by the Respondents the DOP&T O.M. No. 49014/18/84-Estt. (C) dated 01.05.1985. He was selected, but ultimately not appointed to the post of Mali in 1990 and Cook in 1994. The applicant was interviewed for the post of Group 'D' on 23.09.1996 on the basis of an interim order passed by this Hon'ble Tribunal on 19.09.1996. The applicant claims that though he was qualified for selection he was rejected on account of over age. The applicant claims that he is eligible for age relaxation for the number of years he served as daily rated Mazdoor, with the CSD Misamari Depot five years for being a resident of Assam as well as five years for him being a scheduled caste. He applicant filed O.A. No. 49/1996 seeking appointment to any Group 'D' post by granting age relaxation. This Tribunal in its order dated 15.09.1998 directed the Respondents to take into consideration the plea of the applicant for age relaxation with reference to the interview of 23.06.1996. The Respondents in view of the judgment in O.A.No.49/1996 wrote to the applicant vide letter dated 16.12.1998 (Annexure-6) that he was overage on the date of the interview even if he was given an age relaxation of six years. The applicant filed C.P.No.42/1999 (O.A.49/1996). This C.P was dismissed.

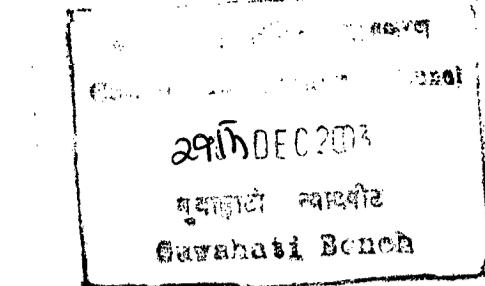
3. The respondents claim that though the applicant was empanelled for the post of peon in June 1986 but could not be selected as he was at Sl.No.7. Only two candidates were selected from this panel. He was again empanelled in 1988 at Sl.No.3. However, the Government of India order of 7.5.1995 (Annexure I to the written statement), which restricted recruitment of Group 'D' to those whose name was forwarded by Employment Exchange and recruited before 7.5.1985. His name was empanelled for the post of Mali on 10.9.1990 but there was no vacancy and the panel lapsed on 15.10.1992. His name did not appear in the panel for the post

of Cook on 23.5.1991. In reply to a legal notice on 26.6.1995 the respondents in their reply dated 28.9.1995 stated that the applicant was empanelled in January 1986 and September 1990 but could not be selected as there was no vacancy and the panel lapsed. The respondents also claimed that employment was given to candidates empanelled subject to availability of vacancy during life of the panel. The applicant appeared for interview on 20.9.1996 but was not considered as he was over aged (32 years).

4. Heard the learned counsel for the applicant and learned counsel for the respondents. The crux of the matter is the eligibility of the applicant to the post of Group 'D' in interview held on 23.6.1996. The applicant's claim of age relaxation on being a native of Assam was to remain in force for only five years from the date of issue of the O.M. of 15.10.1987. The applicant could not have benefited from this since his interview was on 23.6.1996. The applicant's claim of five years age relaxation for being a scheduled caste also does not benefit him. Relaxation of age for the period served under the respondents, 3 years 4 months, also does not help him. The applicant has also not quoted any Government of India's order or decision where age benefit given to different categories, in this case age benefits of being a scheduled caste, a native of Assam or the period served under the respondents can be combined for the purpose of age relaxation for employment under Govt. of India. The applicant therefore has no claim whatsoever to an appointment under the Respondents. The O.A is thus liable to be dismissed and is therefore dismissed.


 (K.V.PRAHLADAN)
 ADMINISTRATIVE MEMBER


 (M.K.GUPTA)
 JUDICIAL MEMBER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O. A. NO. 304 / 2003

Sri Jagat Das.

... Applicant

-Versus-

Union of India & Others

... Respondents

Lists of dates and synopsis of the case

<u>Date</u>	<u>Synopsis of particulars in the application</u>
29.10.1985-	The applicant was appointed as <u>daily rated Mazdoor</u> in the Canteen Store Department, Misamari.
05.05.1987-	Manager, Canteen Store Department, Misamari Depot issued a certificate to the applicant. (Annexure-1)
30.11.1987-	The applicant being aggrieved for non consideration of his appointment to the post of Peon submitted a representation to the General Manager, CSD, Bombay. (Annexure-2)
07.06.1988-	The applicant is entitled to be appointed in any Group D post in terms of the scheme issued by the Govt. of India.
28.07.1988-	The applicant appeared for interview for the post of Mazdoor/Driver/Watchman/Peon/Mali/Cleaner in terms of the call letter dated 28.07.1988 and declared selected.
30.07.1990-	The applicant appeared for interview for the post of Mazdoor/Peon/Watchman/Safaiwala/Mali/Driver/Cleaner.
10.09.1990-	The applicant was declared selected and empanelled for the Group-D post.

26.06.1995- The name of the applicant was cancelled based on the Govt. Order dated 07.05.1985, which was communicated in terms of Lawyer's Notice dated 26.06.1995. (Annexure-3)

28.09.1995- The respondent authority replied the Lawyer's Notice stating there that the order dated 07.05.1985 restricted the appointment of casual workers recruited after issuance of the circular dated 07.05.1985. (Annexure-4)

19.09.1996- The applicant approached this Hon'ble Tribunal through O.A.No.49/1996, for non consideration of his appointment in any Group D post. This Tribunal directed the respondents to give opportunity to the applicant to appear in the interview on 23.09.1996.

30.06.1996- The respondents have admitted in the Misc. Petition No. 135/97 in O.A.No.49/96 that the applicant was interviewed by the Interview Board but he was not selected being over aged. (Annexure-8)

21.02.1998- The respondents recruited for the Group-D posts, which fact they suppressed before the Hon'ble CAT. (Annexure-10)

05.11.1998- Respondents again recruited in Group- D post denying the applicant, which fact they suppressed before the Hon'ble CAT. (Annexure-10)

04.10.1998- Respondents proceeded a series of recruitment but the fact was suppressed

22.10.1999- before the Hon'ble CAT, Guwahati Bench during disposal of C.P.42/99.

15.09.1998- This Hon'ble Tribunal decided the O.A in favour of the present applicant. (Annexure-5)

16.12.1998- The respondents vide their letter bearing No.3/Pers/A-1/1107(Misamari)/6094 informed the applicant that due to over age his case could not be considered for appointment in the C.S.D. This decision of the respondents is contrary to the judgment and order of the Hon'ble Tribunal. (Annexure-6)

12
25.06.2001- The alleged contemnor No.4 in his reply in the contempt proceeding admitted that the applicant is entitled for further age relaxation of 3 years 4 months service, which he rendered in the department as casual worker.

(Annexure-7)

05.10.2001- This Hon'ble Tribunal was pleased to dismiss the C.P.No. 42/99 with a strong observation in favour of the rightful claim of the applicant.

(Annexure-11)

Hence this O.A. before the Hon'ble Tribunal.

P R A Y E R

Under the facts and circumstances stated in the application the applicant prays for the following reliefs:-

- 8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be recruited on existing regular Group D post on priority basis as per Scheme issued by the Government of India dated 07.06.1988.
- 8.2 That the respondents also be directed to consider appointment of the applicant in any existing group D post including the post of Mazdoor, Peon, Safaiwala, Mali, Cleaner etc. on priority basis considering the past service of the applicant.
- 8.3 That the respondents be directed to appoint the applicant in the existing post of Group 'D' by granting age relaxation, in pursuance of the selection held on 23.9.96.
- 8.4 Costs of the application.
- 8.5 Any other relief(s) to which the applicant is entitled to 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 respondents be directed to consider the appointment of the applicant in any existing group 'D' vacancy particularly to the post of watchman.

13

Filed by the applicant
Subrata Nath
Advocate
29.12.03

**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 304 /2003

Sri Jagat Das : Applicant

- Versus -

Union of India & Others: Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Application	1-26
02.	----	Verification	27
03.	1	Copy of the certificate dated 5.5.87	-28-
04.	2	Copy of representation dated 30.11.1987	-29-
05.	3	Copy of the Lawyer's notice dated 26.6.96	30-31
06.	4	Copy of reply dated 28.9.1995	-32-
07.	5	Copy of judgment and order dated 15.09.98	33-34
08.	6	Copy of letter dated 16.12.98	-37-
09.	7	Copy of reply dated 25.6.2001	38-41
10.	8	Copy of M.P. No. 135/97 dated 30.6.96	42-44
11.	9	Copy of the letter dated 16.12.1998	-45-
12.	10 (Series)	Copy of the letter dated 21.2.1998, 5.11.1998, 4.10.998, 22.10.1999 and 29.12.1998	46-52
13.	11	Copy of the order of the C.P. No. 42/99	53-55.

Filed by

Subrata Nath
Advocate

Date 29.12.03

Sze Jagu- Dm -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 304 /2003

BETWEEN

Sri Jagat Das,
Son of Late Satram Das
Village Nabil
P.O. Towbhanga
District-Sanitpur

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence,
New Delhi.
2. The Director General,
Canteen Store Department,
Ministry of Defence
ADELPHI, 119 Maharshi Karve Road
Bombay-400 020
3. The Regional Manager,
Canteen Store Department,
Govt. of India, Ministry of Defence,
Satgaon, Narengi
Guwahati.
4. The Manager,
Canteen Store Department,
Misamari Depot (Cont.),
PIN 784 506

...Respondents.

Sri Jagat Das -

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made for appointment/absorption of the applicant on regular basis against the existing vacancies of Watchman or any other Group D post, in terms of the Selection held on 23.9.1996 and in the light of the directives of the Judgment and order dated 15.9.1998 passed in O.A. No. 49/96 and also in view of the order passed by the Hon'ble Tribunal in C.P. No. 42/99 (O.A. No. 49/96) vide its order dated 05.10.2001, and also in view of the fact that ban on the recruitment has been lifted and the Group D posts are now available under the respondents.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

That your applicant earlier approached this Hon'ble Tribunal through O.A. No. 49/96 which was disposed of on 15.9.98 with a direction to appoint the applicant pursuant to the selection held on 23.9.96 at Misamari Depot by granting age relaxation. However, the said

re Jagm - DAS -

order of the Hon'ble Tribunal passed in the aforesaid O.A. was not complied with by the respondent Union of India on the alleged ground that there was no specific order passed by the Hon'ble Tribunal in O.A. 49/96 for counting/considering his age relaxation for the period of engagement of the applicant on daily rated basis w.e.f. 26.10.1985 to 28.2.1989 i.e. 3 years 4 months and also on the alleged ground that there was a complete ban of filling up of posts and also there was an order for imposition of 10% cut in the existing vacancies.

The applicant preferred a contempt petition for non compliance of the said order which was registered as C.P. No. 42/99, the said C.P. was finally disposed of on 05.10.2001 by this Hon'ble Tribunal. However, in view of the observations made in the order dated 05.10.2001 wherein it was held by the Hon'ble Tribunal that the applicant is entitled to the benefit of age relaxation. Moreover, in the meantime the ban on recruitment has also been lifted. Hence this present application for a specific direction to the respondents for appointment pursuant to the selection proceeding held on 23.9.96 held at Misamari Depot or any other existing suitable post in the Group D cadre available under the respondents. However, the instant Original Application is well within the period of limitation as per Administrative Tribunals Act, 1985.

4. Facts of the Case.

Sle Jyoti - DM -

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. The applicant is a bona fide local unemployed youth. He read up to Class IX. The name of the applicant was sponsored by the local Employment Exchange in the year 1985 against a vacant regular post of Mazdoor in the Canteen Store Department, Misamari, Government of India, Ministry of Defence, the Applicant accordingly appeared before the constituted selection board for the post of Mazdoor and duly selected and accordingly he was appointed as daily rated Mazdoor with effect from 29.10.85 and thereafter he continuously worked up to 1989 without any break at the rate of Rs. 12/-, 15/-, 21/-, 31/- and 32/- per day on 'No work No pay basis' with one or two days artificial breaks.

2 That the applicant served the Canteen Store Department to the best satisfaction of the authorities concerned which would be evident from the certificate dated 5.5.87 issued by the Manager, Canteen Store Department Misamari Depot. The applicant while serving as Mazdoor in the Misamari Depot he appeared in an interview for the post of Peon in the year 1986. After the said interview, a panel was prepared in the Canteen Store Department, Misamari and the name of the applicant also declared selected and shown in the approved panel for appointment to the post of Peon. But the respondents

Sre Jagm. Day

did not issue any appointment letter in respect of the applicant. The applicant being aggrieved for non-appointment to the post of Peon submitted a representation dated 30.11.1987 addressed to the General Manager, Canteen Store Depot, Bombay but the same did not yield any result.

A copy of the certificate dated 5.5.1987 and representation dated 30.11.1987 are annexed as Annexure- 1 & 2 respectively.

4.3 That your applicant also sponsored by the local Employment Exchange for interview for the post of Mazdoor/Driver/Watchman/Peon/Mali/Cleaner. The applicant appeared in the interview in terms of Call Letter dated 28.7.1988 under Reference MMD/Estt/64/ 1463. The applicant also declared selected in the said interview and empanelled in the panel for the post of Watchman which was drawn on 22/23 November, 1988 but the name of the applicant is now stated to be cancelled based on the Govt. order bearing No. OM/40014/18184/Esttc dated 7.5.85 which was communicated in response to his Lawyer's Notice dated 26.6.95. It is further stated in their reply dated 28.9.95 through the letter under reference No. 3/PRS/A-1/1107 (Misamari)/4932. It is however stated in the said letter dated 28.9.95 that the order dated 7.5.85 as stated above restricted the appointment of casual workers recruited after issuance of the Circular dated 7.5.85 and therefore the applicant could not be recruited though he was duly

Sri Jayan-IAS -

selected for the post of Watchman while he was serving in the Canteen Store Depot.

4.4 That your applicant sponsored by the local Employment Exchange for interview for the post of Mazdoor/Peon/Watchman/Safaiwala/Mali/Driver/Cleaner and the applicant accordingly appeared in the interview on 30.7.90 and he was declared selected and also empanelled for the Group D post which was prepared at Misamari Depot on 10.9.1990. But surprisingly it is stated in the reply to the Legal Notice dated 28.9.95 that he could not be appointed due to non-availability of vacancy of Mali and the validity of the panel is expired on 15.8.92. It would also be evident from the letter dated 28.9.95 that the applicant could not be appointed in the recent recruitment in C.S.D., Misamari during May 1994 and the serial No.1 of the local panel drawn up for recruitment for the post of cook. There also the present applicant was deprived from the appointment of Cook whereas the applicant is entitled to on priority basis for consideration of appointment to the post of Cook. Therefore the action of the respondents is highly arbitrary, illegal and unfair.

4.5 That the applicant being highly aggrieved for non-appointment to any Group D post submitted a Lawyer's Notice on 26.6.95 for seeking employment under the respondents on priority basis considering his past service. The applicant have stated in detail regarding his service rendered in the Canteen Store Depot at

Sri Jagat Day -

Misamari in the Lawyer's Notice dated 26.6.95. The respondents on receipt of the Notice dated 26.6.95 replied the same vide their letter under Reference No. 3/PRS/A-1/1107 (Misamari/4932 dated 28.9.95 by the General Manager, Canteen Store Depot, Government of India, Ministry of Defence, Bombay wherein it is admitted that the present applicant was initially appointed in the Misamari Depot with effect from 26.10.85 as Casual worker and also stated that on number of occasions the applicant was empanelled for appointment against Group D posts. But either due to the non-availability of post or due to expiry of validity of the panel and it is also admitted that even during the year 1988 some recruitment was made but the applicant could not be appointed. Therefore, the action of the respondents is highly illegal, arbitrary for non-appointing the applicant to any Group D vacancy on priority basis. Be it stated that the applicant is entitled to be appointed in any Group D post considering his past service in the Canteen Store Depot, in terms of the Scheme issued by the Government of India dated 7.6.1988.

A copy of the Lawyer's Notice dated 26.6.95 and reply dated 28.9.95 are annexed as Annexure 3 and 4 respectively.

4.6 That the applicant begs to state that during pendency of the earlier case the applicant came to learn from a reliable source that six posts of Chowkidar/Watchman

Sri Jagat - DM -

were lying vacant under the respondents and the respondents were taking necessary steps to fill up other Group D vacancies in the Canteen Store Depot at Misamari along with some other Group D vacancies.

4.7 That it is stated being highly aggrieved for non consideration of his appointment on regular basis in any of the suitable existing vacancies the applicant approached this Hon'ble Tribunal through O.A. No. 49/96. It is relevant to mention here that during the pendency of the said Original application the respondents conducted an interview for filling up of few vacant posts of group 'D'; including the posts of Chowkidar, on 23.9.96, the applicant also allowed to appear in the said interview in terms of Hon'ble Tribunal's order dated 19.9.96, passed in Misc. Petition. The applicant therefore came to know from a reliable source that although he was qualified in the selection but due to overage, his case for appointment cannot be considered. This decision of the respondents is highly arbitrary, illegal and unfair.

4.8 That your applicant begs to state that the applicant is entitled to age relaxation to the extent he has served in the Canteen Store department as casual worker in addition to 3 years relaxation and over and above, the age relaxation granted in terms of Assam accord. The relevant portion of the extract of age relaxation provision laid down by the Government of India are quoted below from Swamy's Complete Manual on

Sri Jagat-Das ~

Establishment and Administration 1994 edition Chapter 14, Page 114.

"AGE RELAXATION FOR APPOINTMENTS.

1. Categories of persons and extent of concessions - certain age concessions have in the past been sanctioned to specified categories of persons for the purpose of appointment under the Government of India. These concessions are still in force until further order. Details of the categories of persons and age concessions admissible to them, as given below are hereby published for general information.

Category of person to who Age concession is admissible	Categories of posts to which the Age concession is admissible	Extent of Age concession
i)	X	
ii) Retrenched Central Govt. Employees	For posts filled otherwise than through UPSE, on the basis of competitive tests, i.e. filled through Employment Exchange.	Period of previous service under the Government of India plus three years.
XX	XX	XX

Sri Jagat Das

ix) Casual labours for absorption on regular establishment in Group 'D'	For 'D' posts only	Period spent as casual labourer, broken period of service rendered as casual labourer may also be taken into account for the purpose of age relaxation for appointment in regular establishment, provided that one stretch of such service is for more than six months.
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In addition to above, the applicant is also entitled to grant of temporary status in terms of 1988 office memorandum and also entitled to be treated as temporary Central Govt. Employees.

4.9 That it is stated that the respondents Union of India vehemently contested the case of the applicant, however, the Hon'ble Tribunal on perusal of the records of the case finally decided in favour of the present applicant on 15.9.1998. Thereafter the respondents vide their letter bearing No. 3/Pers/A-1/1107(Misamari)/6094 dated 16.12.98 informed the applicant that his date of birth as per record is 6.2.1964 on the day of interview i.e. 23.6.1996 held at Misamari Depot his age was 32 years 6 months 17 days age relaxation for SC/ST is only up to 5 years therefore it alleged that the applicant is over aged as because at the relevant date of

See Jagat Das -

interview he was more than 32 years and thus over aged for Govt. service. It is stated that even if 6 years relaxation is granted being the resident of Assam even then the applicant is over aged for Govt. service as on 23.6.96 and therefore the respondents regretted to consider the case of the applicant for appointment in the C.S.D. This decision of the respondents is contrary to the judgment and order of the Hon'ble Tribunal. It is categorically submitted that the applicant belonged to SC community and the said position was admitted by the respondents themselves in the earlier proceedings, as such the applicant is entitled to 5 years age relaxation as per privilege granted for the SC/ST candidate. Moreover, in addition to aforesaid 5 years relaxation the applicant is further entitled to at least 3 years 4 months service which he had rendered in the department as casual worker as per their own admission indicated in the respondents letter dated 28.9.95 and also in their reply submitted in the contempt proceeding by the then alleged contemnor No.4 on 25.6.2001. It is submitted that the respondents are duty bound to grant relaxation to the extent of his service rendered as daily rated worker/casual worker and if such relaxation is granted as per order of the Hon'ble Tribunal passed in O.A. No. 49/96, the applicant would be well within the age limit as prescribed by the Govt. of India for recruitment after relaxation. Be it stated that the present applicant

See Jagat Das-

preferred C.P. which was registered as C.P. No. 42/99 (O.A. 49/96).

A copy of the judgment and order dated 15.9.1998, letter dated 16.12.98, reply submitted by the alleged contemnor No.4 on 25.6.2001 are annexed as Annexure- 5,6 and 7 respectively.

4.10 That it is stated that the respondents have admitted in the Misc. Petition No. 135/97 which was filed in earlier proceeding in O.A. No. 49/96 that he was interviewed by the Interview Board but he was not selected being over aged. Therefore it is quite clear that the applicant was not recommended by the Selection Board for appointment only on the alleged ground of over aged. It also appears that the respondents denied the benefit of the age relaxation only alleged ground that he was not a casual worker but it is categorically admitted by the respondents themselves that the applicant performed his work as daily rated worker during the period of 1985-1989 which established beyond all doubt that the applicant is a casual worker as per definition laid down in the service jurisprudence, therefore respondents are not entitled to deny the benefit of age relaxation as prayed by the applicant.

Moreover, as per Govt. Memorandum dated 7.6.1988 the present applicant is also entitled to be considered for regular appointment. As such, the case of the present applicant is squarely covered vide Memorandum dated 7.6.1988 issued by the Government of

Sri Talyar-Das

India. It is further categorically submitted that the present applicant had rendered more than 240 days work in each calendar year during the period of 1985-89. As such, he is entitled to be considered for appointment in any suitable Group D post in pursuant to the interview held on 23.9.96 at Misamari Depot.

A copy of the M.P. No. 135/97 submitted by the respondents in O.A. No. 49/96 on 30.6.96 as Annexure-8.

4.11 That it is stated that the Hon'ble Tribunal in its judgment and order dated 15.9.98 passed in O.A. No. 49/96 specifically directed the respondents to grant age relaxation to the applicant and consider his appointment in pursuant to the selection held on 23.9.1996. After receipt of the copy of the Judgment, the respondents rejected the prayer of the applicant vide letter dated 16.12.98 as well as vide letter bearing No. 3/Pers/A-1/1107 (Misamari) highly aggrieved for deliberate non compliance of the Hon'ble Tribunal's order dated 15.9.98 the applicant preferred a contempt petition before the Hon'ble Tribunal i.e. C.P. 42/99, the alleged contemnors contested the Contempt Petition. However, ultimately the Hon'ble Tribunal was pleased to dismiss the C.P. on 05.10.2001, although a strong observation was made in favour of the rightful claim of the applicant but the same could not be decided in the contempt proceeding. Hence this present application, praying for an appropriate direction upon the

Sri Jagat Day -

respondents to consider the appointment of the applicant pursuant to the selection held on 23.9.96 in any suitable existing vacancies with immediate effect.

A copy of the letter-dated 16.12.1998 is annexed as Annexure-9

4.12 That it is stated that the respondent Union of India took the plea of ban on recruitment in the earlier proceeding but surprisingly at the relevant point of time the respondents themselves processed a series of recruitment in the Group D cadre but misled the Hon'ble Tribunal by suppressing the material fact which would be evident from the document dated 21.2.98, 5.11.98, 4.10.98, 22.10.98 and 29.12.98. Therefore, it is quite clear that the respondents submitted wrong statement of facts before the Hon'ble Tribunal which could not be dealt in a Contempt Proceeding, as such, the Hon'ble Tribunal was pleased to dismiss the C.P. 42/99.

Copy of the letter dated 21.2.98, 5.11.98, 4.10.98, 22.10.99 and 29.12.98 are annexed as Annexure- 10 series and a copy of the order of the C.P. is also annexed as Annexure-11 respectively.

4.13 That it is stated that the applicant could not approach the Hon'ble Tribunal immediately after disposal of the Contempt Petition due to poor financial condition. Moreover, litigation is being very costly affairs, but

Sri Jagm-DW -

on consideration of the fact that he has now become over aged for any other Govt. job compelled to approach this Hon'ble Tribunal through the instant proceeding pursuant to the order passed in the contempt proceeding and praying for an appropriate order/direction to appoint the applicant in any existing suitable Group D post after granting age relaxation pursuant to the selection held on 23.9.96 at Misamari Depot, otherwise it will cause irreparable loss and injury to the applicant.

4.14 That it is stated that it is a well settled law that the retrenched employee should be given priority in the matter of future employment which would be evident from the judgment and order dated 16.2.90 in O.A. No. 2306/89 (Sri Rajkamal & Ors. Vs. Union of India & Ors.) passed by the Principal Bench, New Delhi wherein it is observed in paragraph 21 of the Judgment and Order that the surplus casual workers should be absorbed on priority basis in the existing or future vacancies. The relevant portion of the Judgment and order dated 16.2.90 reported in SJJ. 1990 (2) CAT Page 168 is reproduced below :

"21. We are, therefore, of the opinion that in order to solve the problem of casual labours engaged in the Central Government offices in a fair and just manner, the proper course for the Government would be to prepare a scheme, somewhat like the one in operation for redeployment of surplus staff, vide Department of Personnel and

Sri Jagat Dwarak

A.R.'s O.M. No. 3/27/65-CS-II dated 25.2.1966 and amplified vide Department of Personnel and Training's O.M. No. 1/8/81-CS-II dated 30.4.1987, and the Department of Personnel and Training's O.M. No. 1/14/88-CS-III dated 31.3.1989 and 1/18/88-C.S.III dated 1.4.1989, for all casual labourers engaged prior to 6.1988, but who had not been regularized by the authority concerned for want of regular vacancies or whose service has been dispensed with for want of regular vacancies. Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/206 days (in the case of six days/five days week respectively), in each of the two years prior to 7.6.1988 will have priority over the other in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period

Sri Taj M- Day -

they actually worked as Casual Labourers. No fresh engagement of casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be restored to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age limit.

The applicant also begs to refer the Judgment and Order dated 8.2.1991 passed by the Principal Bench, New Delhi reported in 1991 (17) ATC Page 671. The relevant portion is quoted below :

"12. The Supreme Court has directed the Government to prepare Scheme for regularizing casual workers in the Railways, the posts and Telegraphs Department, the Income Tax Department, the Delhi Municipal Corporation, Nehru Yuvak Kendra, C.P.W.D. and P.W.D. daily-wage employees in Karnataka (vide Inder Pal Yadav Vs. Union of India relating to the Railways, daily-rated casual labour employed under P & T Vs. Union of India relating to P & T Department; U.P. Income Tax Department Vs. Union of India Vs. P.L. Singh, Dhirendra Chamoli Vs. State of U.P. relating to Nehru Yuvak Kendras, Surinder Singh, Vs. Engineer-in-Chief, C.P.W.D., and Dharward District P.W.D.

Sri Jagat-Das

Literate Daily Wages Employees Vs. State of Karnataka. Referring to the leading decisions on the subject, the Supreme Court made the following pertinent observations in the Karnakata case, mentioned above.

We have referred to several precedents all rendered within the current decade - to emphasize upon the feature that equal pay for equal work and providing security of service by regularizing casual employment within a reasonable period, have been unanimously accepted by this court as a constitutional goal to our policy. Article 142 of the Constitution provides how the directions of this court are to be treated and we do not think there is any need to remind the instrumentalities of the State - be it of the Centre or the State, or the Public Sector - that the Constitution makers wanted them to be bound by what this Court said by way of interpreting law."

13. In the light of the aforesaid legal position,

the framing of a suitable scheme for regularizing the casual Artists of Doordarshan is a constitutional imperative and long overdue.

14. In our considered view, the respondents should frame a scheme for absorption of casual Artists who have worked for a period of one year and more, keeping in view of the following aspects.

Sri Jagay-Das-

- i) Casual Artists who have been engaged for an aggregate period of 120 days, may be treated as eligible for regularization. The broken periods in between engagement and disengagement, are to be ignored for this purpose.
- ii) The respondents shall prepare a panel of casual Artists who had been engaged on contract basis, depending on the length of service. The names of those who have not been regularized so far, specially from 1980 onwards, though may not be in service now, are to be included in the panel. Persons borne on the panel, are to be considered for regularization in the available vacancies.
- iii) For the purpose of regularization the upper age-limit has to be relaxed to the extent of service rendered by the Casual Artists, 120 days' service in the aggregate shall be treated as the service rendered in one year for this purpose.
- iv) Till all the Casual Artists who have been engaged by the respondents have been regularized, the respondents may not resort to fresh recruitment of such Artists though Employment Exchange or otherwise.

Sri Jagat Das -

v) Till the Casual Artists are regularized the wages to be paid to them should be in accordance with the scale of pay of the post held by a regular employees in an identical post. The amount of actual payment would be restricted to the actual number of days worked during a month.

The Central Administrative Tribunal, Principal Bench, New Delhi has also expressed similar view in the case of P. Munu Swamy and Ors. Vs. Union of India & Ors. Reported in ATC (1992) Vol. 22, Page 115. The relevant portion of the Judgment and Order passed in O.A. Nos. 1154 of 1991, 1827, 1843 and 1954 of 1990 in the case of P. Munuswamy and others Vs. U.O.I. & Ors. Dated 24.12.1991 is quoted below :

"11. In the light of the above, the applications are disposed of with the following and directions :

i) The respondents are directed to prepare a list of casual labourers engaged in their various offices located in Delhi and elsewhere from time to time through Employment Exchange or otherwise. Whenever they need the services of the casual labourers, they should be engaged from the said list, preference being

Sri Jagat Das

given to those who have put in longer period of service shall not be reckoned for the purpose of determining the total length of service.

- ii) We hold that the practice of disengaging casual labourers and engaging fresh recruits through Employment Exchange is not legally sustainable and disapprove the same.
- iii) The respondents shall consider regularization of the casual labourers in Group D post whenever vacancy arises due to retirement or otherwise. Such regularization should be in accordance with the administrative instructions issued by the Department of Personnel and Training. Till they are so regularized, they should be paid wages on the scale prescribed by the Department of Personnel and Training.
- iv) The applicants shall be accommodated as casual labourers in their offices located at Delhi or elsewhere, depending on the availability of vacancies and in accordance with the aforesaid directions. Interim orders passed in these cases are hereby made absolute.
- v) There will be no order as to costs."

Sri Jagat Das.

From above, it is quite clear that the applicant also acquired a valuable legal right for his appointment on regular basis in any existing or further Group D post considering his length of service on casual basis under the respondents. Be it stated that presently a number of Group D posts are lying vacant in the Misamari Canteen Stores Department therefore the Hon'ble Tribunal be pleased to direct the respondents to consider the appointment of the applicant on priority basis against any existing Group D post.

4.15 That this application is made bona fide and for the cause of justice.

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

- 5.1 For that, the applicant has rendered more than 4 years of service under the respondents as casual labourer in the Misamari Canteen Store Depot.
- 5.2 For that, the applicant have acquired legal rights for consideration of appointment on priority basis considering the past service of the applicant.
- 5.3 For that, the applicant was empanelled by the respondents on number of occasions but denied appointment on regular basis to any Group D post.

Sri Tajm-Das

5.4 For that, fresh hands were recruited in supersession of the claim of the applicant for appointment on regular basis.

5.5 For that, the applicant completed required number of working days for regular appointment on regular basis in each year in terms of Central Govt. Scheme for regular appointment of casual workers.

5.6 For that, the applicant fulfils all requisite qualification for appointment to the Group D post on regular basis.

5.7 For that the respondents have admitted applicant's engagement on casual basis in the Canteen Store Depot since 26th Oct. 1985 in their letter dated 28.9.85.

5.8 For that the applicant approached the respondents through his representations, Lawyers Notice for regular appointment in any Group D post in the Canteen Store Depot.

5.9 For that the applicant belongs to very poor family having no other source of alternative income for maintaining himself and his depending family members.

5.10 For that the applicant is entitled to grant of age relaxation as per provision laid down by the Government of India.

5.11 For that selection committee ought to have granted the age relaxation to the applicant following the provision laid down by the Government of India.

Sri Jagat Das,

5.12 For that the applicant ought to have been appointed on regular basis long back on priority basis in terms of Govt. of India's Office Memorandum dated 7.6.1988.

5.13 For that Group 'D' vacancies are still available in the Canteen Store Department at Misamari.

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 previously filed an O.A. which was registered as 49/96 and C.P. 42/99 before this Court. However, the same were disposed of. The applicant further declares that no such Writ Petition or Suit before any other Court or any other authority regarding the subject matter of this application 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

Sri Jagm - DWS

may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be recruited on existing regular Group D post on priority basis as per Scheme issued by the Government of India dated 07.06.1988.
- 8.2 That the respondents also be directed to consider appointment of the applicant in any existing group D post including the post of Mazdoor, Peon, Safaiwala, Mali, Cleaner etc. on priority basis considering the past service of the applicant.
- 8.3 That the respondents be directed to appoint the applicant in the existing post of Group 'D' by granting age relaxation, in pursuance of the selection held on 23.9.96.
- 8.4 Costs of the application.
- 8.5 Any other relief(s) to which the applicant is entitled to 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 respondents be directed to consider the appointment of the applicant in any existing group 'D' vacancy particularly to the post of Watchman.

Sri Jagat Das -

10.

-This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. JJG 387482.
- ii) Date of Issue 29.12.03.
- iii) Issued from G.P.O. GunaShahi
- iv) Payable at G.P.O. GunaShahi

12. List of enclosures.

As given in the index.

SRI Jagat Das,

VERIFICATION

I, I, Sri Jagat Das, son of Satram Das, resident of Village Nabil, P.O. Towbhanga, District-Sonitpur, Assam, aged about ...years, 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 28th day of December, 2003.

Sri Jagat Das

ANNEXURE - 1.

Govt. of India.
CANTEEN STORES DEPARTMENT.
MISANARI DEPOT.

Telogram : CANSIND. MISANARI (CANT).
Telephone : Office 441-255. Assam 784506.
Residential 441 - 28.

Ref. Date : 5th May '87.

TO WHOM IT MAY CONCERN.

It is to certify that Shri Jagat Das Son of
Shri Satram Das of Vill. Sobil P.O. Sopherbari District
Sonitpur (ASSAM) was serving this Department as Daily
Rated Masoor w.e.f. 29 Oct. 85 to 31 Mar 87 with
intermittent breaks.

I wish him success in life.

Sd/- Illegible
MANAGER.
CANTEEN STORES DEPARTMENT.
(M.L. Sarker).

Attested
from
Advocate
25.12.83

to
the General Manager,
Canteen Stores Department,
"ADELBHAI" 119 K.K. Road,
Bombay-20.

through proper channel.

sub: PRAYER FOR APPOINTMENT.

sir,

I beg to state the following few lines for your kind perusal and sympathetic consideration please:

Sir, I am working in (CSD) Missamari Depot, since October '85 as a daily rated Mattoon. I had given an interview in this Depot for the post of Peon in the year 1986. After interview a panel was drawn in this department. My name also listed in the approval panel. However, now I am eager to move here for my service at CSD Depot BRAJENDRA-NI-BARI (Muz.) in respect of your circular No. 3/A-2/1275/9806 dt. 17 Nov. '87.

Therefore, I fervently request to your kindness to offer me one the post. I am belong to a schedule C caste of Assam and son of very poor family and there was no income source except me in my family. I hope you will give a chance for the post mentioned above. For this act of kindness I shall remain ever grateful and oblige.

Thanking you in anticipation.

Yours faithfully,

Dated : The Missamari CSD DEPOT, MISSAMARI,
30th November '87. P.O. Missamari - 784506
Dist. Sonitpur (Assam).

Attested
Frank
Advocate
26.02.03.

Annexure - 3

MUSTIK CH/MDA, Advocate,
Guwahati High Court,
G/O, Late Rabindra Nagendar,
Bye Lane - 7, Lachit Nagar,
Guwahati-781007.

Dated : 26.6.96.

NOTICE.

To
The Manager,
Canteen Stores Department,
Misamari.

Under the instruction of my client Sri Jagat
Das, son of Late Satram Das of village Nabil, P.O.
Towthanga in the district of Sonitpur I do hereby give
this notice to you undementioned grounds :-

1. That my client is a citizen of India having his permanent residence at the aforesaid address. He read upto Class IX.
2. That my client's name was sponsored through the local Employment Exchange to the Canteen Stores Department, Misamari, Ministry of Defence, Govt. of India. Thereafter my client appeared before the Selection Board and was selected for a post of Nazdar at Canteen Stores Department, Misamari Depot. My client was appointed as daily rated Nazdar with effect from 29.10.1985 and worked upto 1989 at the rate of Rs. 12/-, 15/-, 22/-, 31/-, and 32/-etc. per day with artificial breaks. He served to the best satisfaction of the authorities concerned vide a copy of certificate dated 5.5.87, issued by the Manager, Canteen Works Department, Misamari Depot.
3. That since 1989 my client is without job.
4. That my client filed a representation dated 30.11.87 praying to get appointment but to no result vide representation dated 30.11.87. My client has working experience in this Depot for about 4 years.

.....

Attested
Rabu.
Advocate
28-12-03

- 26 -

Annex. 3.

5. that many other persons were appointed in this C.S.D., Misamari Depot on regular basis but my client is singled out. My client came to know from reliable source that very recently that office of the Administrative Commandant, Misamari has recruited some officials against regular vacancies whereas the case of my client has not been considered.
6. That my client has acquired a legal right to get regular appointment in this C.S.D., Misamari Depot as he has completed more than 240 days in this Depot as per Circular of the Central Government.

Under the facts and circumstances state above I requested you to make an arrangement to appoint my client in C.S.D., Misamari Depot as Headman on regular basis otherwise my client shall institute a case in legal forum appropriate relief. Hope you will avoid bitter experience of case for most and consequence thereof.

Hope you will do needful as early as possible.

Thanking you,

Yours Sincerely,

Sd/-

Advocate,
for Client J. Das.

Copy to :

The Regional Manager, Canteen Stores Department,
Harengi, Setgao, Govt. of India, Ministry of Defence).

(M/FIK CH/BLV).

Government of India,
Canteen Stores Department
Ministry of Defence.

Telegams : CAMBIND.
Telex : 112761 CAMB IE.

'ADELPHI'
119 MAHARSHI KARVE ROAD,
BOMBAY-400020.

Ref. No. 3/Perr./2-1/1107 (Misrazi) /4932. Date 23th Sept. '95.

Shri Manik Chanda,
Advocate,
Gazhati High Court,
Bye Lane-7,
Lachit Nagar,
Gauhati - 781007.

EMPLOYMENT TO START JAGHT DAE.

Reference your Notice dated 26.6.95 for giving employment to Shri Jagat Das A/O. Late Satram Das.

2. We have examined the case of your client Shri Jagat Das, S/o. Late Satram Das of village Kabil, P.O. Dabhanga, Dist. Sonitpur.

Brief of the case is as under :-

1. Chh. Jagat Das was engaged at our Mysore Depot, w.e.f. 26th Oct. '85. Though his name was engaged in the local panel for Watchman which was drawn on 22/23 Nov. '88, his name was cancelled from the panel based on the Govt. Order bearing No. G.M. 40014/18114/lett(C) dated 7th May. '85.

The order states that "Casual workers recruited prior to the issue of the instructions can be considered for regular appointment of Gp. 'B' posts, even if they were recruited otherwise than through the Employment Exchange, provided they are eligible for regular appointment in all other aspects.

ii. Your client's name was engaged for the post of Mali when the local panel for Cpl. "D" categories were drawn at Kisamari Depot on 16.9.90, as his name was sponsored by Employment Exchange. Since there was no vacancy for the post of Mali at our Kisamari Depot till expiry of validity period of the panel i.e. 15.8.92, we could not give appointment to your client in our Department.

iii. Regarding recent recruitment in CSD Misamari, it is stated that on 23rd May, '94, local panel for Cook was drawn by Misamari Board and the person who has been engaged at Sri. No. 1 was given appointment to fill up the vacancy of Cook at our Misamari Board.

2. From the above, it is seen that we have not done any injustice to your client. Therefore, you are requested to appraise the petition to your client Shri Jagat Das.

SAC - J. N. KAR,
OIC (P),
for General Manager.

Affected
Lab. Advocate
28.12.03

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 49/96

Date of Order: This the 15th day of September 1998.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN
HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Sri Jagat Das,
Son of Late Satram Das
Village Kabil,
P.O. Toubhanga,
District Cnitpur. Applicant

By Advocate Mr.J.L.Sarkar, Mr.M.Chanda.

-Vn-

1. Union of India,
Through the Secretary to the Govt. of India
Ministry of Defence,
Delhi.

2. The Director General
Canteen Store Department,
Ministry of Defence,
ADELPHI, 119 Maharsi Karve Road,
Bombay-400020

3. The Regional Manager,
Canteen Store Department,
Govt. of India, Ministry of Defence
Satgaon, Narangi, Guwahati.

4. The Manager,
Canteen Store Department,
Missamari Depot(Cant.)
PIN 784506. Respondents.

By Advocate Mr.S.Ali, Sr.C.G.S.C.

O R D E R.

SANGLYINE, ADMINISTRATIVE MEMBER:

This application has been submitted by the applicant seeking directions on the respondents to consider appointing him against existing vacancies of Chowkidar/ Watch-man or any other Group 'D' post lying vacant under the Canteen Stores Department, Missamari by granting age relaxation. According to the applicant being surplus casual employee he has priority over others for absorption and appointment in regular Group 'D' post under the respondent No.4, the Manager, Canteen Stores Department, Missamari Depot, (Cant). He is also entitled to the

contd/-

Attended
Date: 28.12.07

benefits of the 1988 scheme for regularisation of casual employees.

The facts in short are :-

The applicant was a casual Mazdoor on daily rate basis in Canteen Stores Department, Missamari, from 29-10-85 to 1989. He was selected for appointment as Peon in 1986 but he was not appointed. In 1988 he was selected for appointment in Group 'D' post but again he was not appointed. In 1990 he was selected for appointment as Mali. But at that time also he was not appointed. In 1994 he was not considered for appointment as cook. The applicant submitted this O.A. on 19-3-96. During the pendency of the application the respondents made recruitment to some vacant Group 'D' posts. The interview was held on 23-9-1996. Pursuant to the interim order dated 19-9-1996 issued by the Tribunal the applicant was allowed to participate in the interview. It is however, alleged that although he qualified in the Selection his case was not considered for appointment due to being over aged. The applicant had amended the application and submitted the amended application on 28-7-97 and copy served on the Sr.C.G.S.C. No additional written statement was submitted.

We have considered the contention of the applicant in this application. Apparently the respondents had allowed the applicant to participate in several selections as mentioned above. But for some reasons stated by them in the written statement he could not be appointed though he was successful. We however fail to understand why in 1990 he was empanelled for the post of Mali if there

contd/-

is no vacancy in that post. According to the applicant in the selection of 1996 he had qualified in the interview. This is not contradicted by the respondents. He also submitted that he was not given appointment because of his being over aged. This is also not contradicted by the respondents. The applicant contended that he is not over aged if relaxation of age is granted to him in accordance with the provision as laid down by the Government of India in their policy of granting age relaxation as published in Swammy's Complete Manual of Establishment and Administration, 1994 edition, Chapter 14 pages 114-124. According to his policy it has been stated by the applicant that he is entitled to his age relaxation to the extent of his service in the Canteen Stores Department as Casual Worker in addition to three years age relaxation and over and above the relaxation of age limit in favour of the residents of the State of Assam for appointment in Public Service as provided in the Residents of Assam (Relaxation of Upper Age-Limit) Rules, 1985. After considering the contentions of the applicant we direct the respondents to reconsider the case of the applicant with reference to the interview held on 23-6-1996 by taking into consideration the provision of age relaxation as indicated above. As it has not been disputed by the respondents that the applicant had qualified in the said interview, the respondents shall make appointment of the applicant according to merit if he is within the age limit after age relaxation is granted. A final order shall be communicated to the applicant by the competent authority of the respondents with 60 days

contd/-

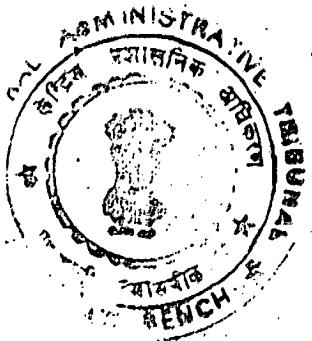


from the date of receipt of this order.

The application is disposed of as indicated
above. No costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMN)



Certified to be true Copy
প্রমাণিত প্রতিলিপি

Myre 31/8/08
Deputy Registrar (A)
Central Administrative Tribunal
Guwahati Bench

X/3/8

Attest'd
Prasenjeet
Advocate
28.12.03

Annexure-3 6

Govt. of India
Ministry of Defence
Canteen Stores Department
'Adelphi, 119 Mahatma Karve Road
Mumbai 400 020

3/Pers/A-1/1107 (Misamari)/6094

16 Dec '98

Shri Jagat Das
3/o Late Shri Satram Das
Village-Nabil
P.O. Towhhanga
Dist-Sonitpur
Assam

JUGGEMENT ORDER DATED 15.9.98 PASSED IN O.A. NO.
49/96.

Reference our letter No. 3/Pers/A-1/1107 (Misamari)/
3501 dated 17 Nov 98,

2. As per our Recruitment Rules for appointment to the post of watchman, the age criteria is that the candidate should be between 18 to 25 years. Your date of birth as per our record is 06.02.64. On the day of interview i.e. 23.6.96, held at CSD Depot Misamari your age was 32 years 4 months and 17 days. Age relaxation for SC/ST is upto 5 years. Therefore, on the day of interview i.e. 23.6.96, you should be within the age of 30 years after granting age relaxation, whereas you more than 32 years and thus overaged for Govt. service.

3. Further the upper age relaxation in favour of residents of Assam for appointment in Central Govt. offices located in the State of Assam, is 6 years to all persons who have ordinarily resided in the State of Assam during the period from the 1st day of Jan 80 to 15th day of August 1985. Therefore, even if 6 years age relaxation is considered, you were still overaged as on 23.6.96 i.e. date of interview held at Misamari depot.

4. Since you were overaged as per rules, we regret our inability to consider your case for an appointment in CSD.

Sd/-

(RAKESH MEHTA)
Manager (P)
for General Manager.

H.O.O.

C. : The Manager
CSD Depot
Narangi

CC : FM(E)

CC : AGH (HRD&L) : Reference our Memo No. 3/Pers/A-1/1107 (Misamari) dated 15 Dec 98. You may inform the court and also Defence Secretary, as directed vide BOCCE Fax No. 95307/0/BOCCE dated 15 Dec 98.

Affctd
S. Das
Advocate
Ex. 12/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

CONTEMPT PETITION NO. 42/1999 IN
ORIGINAL APPLICATION NO. 49/1996

Regd by
Shri N.B. Singh
Guruji : A. Jagat Das
25/6/2001

In the matter of

Shri Jagat Das

v/s

Union of India & Ors.

- And -

In the matter of

Shri Jagat Das

v/s

Shri N.B. Singh

REPLY SUBMITTED BY THE ALLEGED CONTEMNER NO. 4

I, N.B. Singh, Dy. General Manager (P&A) of Canteen Stores Department, Head Office, Mumbai - 20 do hereby solemnly affirm and declare as under.

2. That I have gone through the contents of the aforesaid contempt petition and have understood the same.
3. That I took charge as Dy. General Manager (P&A), only in the month of April 2001 and the matter pertaining prior to, are matter of facts as available in records.
4. That the contention of the petitioner that there is a willful and deliberate non-compliance of the order passed by the Hon'ble Tribunal is totally incorrect and denied. The deponents have highest

Affected
Date
Answered
28.12.01

regard for the authority of the Hon'ble Tribunal and I respectfully submit that, there is no violation much any willful or intentional disobedience and violation to the direction on order passed on 15.09.1998 in OA No. 49/96 by the Hon'ble Tribunal.

5. That on 23rd Sept 96, on the basis of existing as well as anticipated vacancies, a panel for Watchman was drawn by the Board of Officers prescribed for the purpose. In compliance with the orders of Hon'ble CAT dated 20th Sept 96 in MP No. 136/96 in OA No. 49/96, the petitioner was allowed to appear for the interview before the aforesaid Board. During the interview, the petitioner was found to be over aged even after giving him relaxation of five years on account of his being SC Candidate.

6. That although the age relaxation given by the Assam Government vide their notification dated 30.09.85 was no longer valid on the date of his interview, but even if the relaxation, as stipulated therein, had been given to the petitioner making the relaxation period to be six years on account of his being a resident of Assam, even then he was beyond the prescribed age limit. As such, he could not find place in the panel of Watchmen drawn on 23rd Sept 96.

7. That it is also clarified here that although the age limit prescribed for the post of Mazdoor is 45 years there was neither any post of Mazdoor vacant nor was any anticipated vacancy of Mazdoor at Misamari Depot on the date of his interview i.e. 23.09.96. Thereafter, till now no panel was drawn for the post of Mazdoor or any other Group 'D' Post at Misamari.

8. That in the order dated 15th Sept 98 of Hon'ble CAT, in the aforesaid OA No. 49/96, no specific directive/order was passed for counting/considering, for the purpose of age relaxation, the period of engagement of the petitioner on daily rated basis from 26.10.85 to 22.02.88 (Approx. 8 years & 1 month) understandable in view of our

No Spec/ ✓ *order passed*

J.P.

engaged only on 'daily rated and on as required basis' without confirming on him the status of causal employee. As such, during his interview on 23.09.96, this period of 3 years 4 months of the daily rated services rendered by him with intermittent breaks could not be counted for age relaxation by the Board of Officers.

9. That in addition to 10 % cut in posts the Government of India, Ministry of Finance have imposed complete ban on filling up of posts vide OM No. 7(3) B (Co-Ord) dated 05.08.99. It is submitted that our reply may kindly not be interpreted as if there was a post of Mazdoor available as on 23.09.96 or thereafter till now and that the department is taking the plea of 10% cut in posts or complete ban in filling up the vacant posts only at this juncture. As a matter of fact, at Misamari Depot, no panel was drawn for the post of Mazdoor or any other Group 'D' posts from 23.09.96 onwards till date, nor any vacancy of Mazdoor was existing.

10. That in short, if Misamari Depot had drawn a panel for the post of Mazdoor, certainly the department would have considered the petitioner for empanelment, if he was found eligible in all other aspects.

In view of the submission made herein above, the deponent respectfully pray that the present contempt proceeding is liable to be dismissed by discharging the notice issued to the respondents.

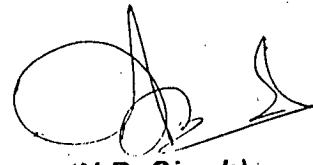
(N.B. Singh)
 Dy. General Manager (P&A)
 Canteen Stores Department
 "Adelphi", 119, M.K. Road,
 Churchgate, Mumbai - 20.

MS/ST/R
 Date: 28.12.03
 Page No. 8

VERIFICATION

That the statements made in paras 2, 3 and 4 are true to my knowledge and statements made in paras 5 to 10 are true and correct based on the official records and my knowledge and rests are my humble submission.

Verified on 14th day of June 2001.



(N.B. Singh)
Dy. General Manager (P&A)
Canteen Stores Department
"Adelphi", 119, M.K. Road,
Churchgate, Mumbai - 20.

Identified by

Solemnly affirmed and declare
before me by the deponent
being identified by Shri A. Deb
Roy Advocate on this date of
June 2001

Advocate

ANNEXURE-8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCHIn the matter of :

R.P. No. 135/97

in

O.A. No. 49 of 1996

Sri Jagat Das

- Versus -

Union of India & Ors.

- And -

In the matter of :

An application praying for amendment

This is in of the Original Application.

- And -

In the matter of :

Sri Jagat Das

Son of late Satram Das

Village - Nabil

P.O. Towbhanga
Dist - Sonitpur

STATE OF Assam

The above cause is being heard by the
The applicant above named most humbly and respectfully

begs to submit as follows :

Page No. 1 :

The applicant was appointed only on daily wages and not on Casual Labour as claimed by the applicant.

Subd
Kam
Advocate
28.12.03

Contd...2/2

C. 10000/-

2nd Court Session No. 396/97
Central Administrative Tribunal
Guwahati Bench, Guwahati

Para No 2 :

It is true that he was interviewed on the instructions of the Central Administrative Tribunal but being overaged was not selected.

* 6.6 (A) :

It is true that he was interviewed by the Interview Board as per the instructions of the Honourable Central Administrative Tribunal but he was not selected being overaged.

6.6 (B) :

This is not true. An age relaxation is not permissible in respect of daily wages workers.

* AGE RELAXATION FOR APPOINTMENTS :

1. The relevant rule quoted in the application does not cover the applicant as he was neither Retrenched Central Govt Employees nor was Casual Labour. He was employed on daily wages basis as and when required.

2 (A). It is for the Honourable Tribunal to pass order as they deem fit.

Para No 10 & 11 :

The rule quoted in the application by the applicant is not applicable to him as he was engaged on daily wages.

Para No 12 :

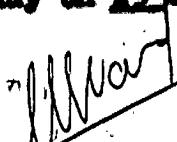
Since the Memorandum No is not mentioned only date is mentioned, it is difficult to ascertain as to which memorandum the applicant has referred to and what are its contents.

13. It is true that the process of filling up the vacancies at Kamrup Misamari has commenced i.e. filling up of formal application forms etc. But the appointments have not yet been made by HQs.

VERIFICATION.

I, M.K. Vaid, Regional Manager (East) Canteen Stores Department, C.S.D. Depot Complex, Satgaon, Guwahati, do hereby solemnly affirm and declare that the statements made in the above written statements are true to my knowledge, belief & information.

And I sign this verification today on 23rd day of June 1997 at Guwahati.


M.K. Vaid
Regional Manager (E)
CSD, Depot (Complex)
P.O - Satgaon,
Guwahati-27

Reckha

Reckha
Reckha
Reckha

Affected
from retrodate
28.12.93

100-10000/-

-12-

Annexure-2

Govt. of India
Ministry of Defence
Canteen Stores Department
"Adelphi, 119 Mahatma Kavre Road
Mumbai 400 020

3/Pers/A-1/1107 (Minamari)/6034

16 Dec '98

Shri Jagat Das
S/o Late Shri Satram Das
Village-Nahil
P.O. Towhanga
Dist-Sonitpur
Assam

JUDGEMENT ORDER DATED 15.9.98 DATED IN O.A. NO.
49/98.

Reference our letter No. 3/Pers/A-1/1107 (Minamari)/
3501 dated 17 Nov 98.

2. As per our Recruitment Rules for appointment to the post of watchman, the age criteria is that the candidate should be between 18 to 25 years. Your date of birth as per our record is 06.02.61. On the day of interview i.e. 23.6.98, held at CSD Depot Minamari your age was 32 years 4 months and 17 days. Age relaxation for SC/ST is upto 5 years. Therefore, on the day of interview i.e. 23.6.98, you should be within the age of 30 years after granting age relaxation, whereas you were then 32 years and thus overaged for Govt. service.

3. Further the upper age relaxation in favour of residents of Assam for appointment in Central Govt. offices located in the State of Assam, is 6 years to all persons who have ordinarily resided in the State of Assam during the period from the 1st day of Jan 80 to 15th day of August 1985. Therefore, even at 6 years age relaxation is considered, you were still overaged as on 23.6.98 i.e. date of interview held at Minamari depot.

4. Since you were overaged as per rules, we regret our inability to consider your case for an appointment in CSD.

Sd/-

(KAREN MEHTA)
Manager (P)
for General Manager.

M.O.O.

cc : The Manager
CSD Depot
Narangi

cc : PR(E)

cc : AGM(HRDL) : Reference our Memo No. 3/Pers/A-1/1107 (Minamari) dated 15 Dec 98. You may inform the court and also Defence Secretary, as directed vide BOCCB Fax No. 95307/0/BOCCB dated 15 Dec 98.

Alfred
Advocate
28.12.03

Area Manager (Guwahati)
Canteen Stores Department
Govt of India Ministry of Defense
C. S. D. Depot Complex
Guwahati-781027

46

25

9

ANNEXURE-10 (Series)

MM/019/EST/016

21 Feb 98

Shri Shrinandan Sharma,
C/o Chandrika Brahme,
Vill. & P.O. Bonda,
GUWAHATI - 26

CONFIDENTIAL

Read Ad

SUB: RECRUITMENT OF WATCHMEN

Confidential

This has reference to the interview held on 21 Nov 97 at CSD Depot Narangi for the post of Watchmen.

2. Your name have been approved in the panel list of watchman. Therefore, you are advised to fill up the application form (CSF 4) in duplicate duly completed and furnish other documents such as School Leaving Certificate, Cast Certificate (In case OBC, SC, ST), Army discharge certificate (In case of EX Servicemen), Character Certificate (as per attached preforma) and three copies of passport size photographs duly attested. These documents should be submitted in person or by registered post to the Area Manager, Canteen Stores Department, P.O. Satgaon, Guwahati-781027 (Assam) latest by 16th March 98.

3. Please note that calling for application form and other documents should not be considered as commitment or assurance for regular appointment in this department.

4. In case these documents do not reach by 16 March 98, the candidate will forfeit his right for consideration of appointment as watchman in this department.

5. On being appointed, you will be posted to Dimapur Depot which please note. No interim enquiry will be entertained on the subject.

(Signature)
(L.K. KLAKE)

MANAGER

Encl: Application form
(CSF 4) in duplicate
& Character certificate.

FOR REGIONAL MANAGER (EAST)

Attested
J. M.
Private
28.12.97

RM E/019/EST/017

21 Feb 98

Shri Sanjaya Kr. Singh,
 C/O Bijay Stores,
 Satgaon Bazar,
 P.O. Meukhuli,
 GUWAHATI - 27

CONFIDENTIAL

Read AD

गोपनीय | Confidential

SUB : RECRUITMENT OF WATCHMEN

This has reference to the interview held on 21 Nov 97 at CSD Depot Narangi for the post of Watchmen.

2. Your name have been approved in the panel list of Watchmen. Therefore, you are advised to fill up the application form (CSF 4) in duplicate duly completed and furnish other documents such as School Leaving Certificate, Caste Certificate (In case OBC, SC, ST), Army discharge certificate (In case of Ex serviceman), Character certificate (as per attached premera) and three copies of passport size photographs duly attested. These documents should be submitted in person or by registered post to the Area Manager, Canteen Stores Department, P.O. Satgaon, Guwahati-781027 (Assam) latest by 16 March 98.
3. Please note that calling for application form and other documents should not be considered as commitment or assurance for regular appointment in this department.
4. In case these documents do not reach by 16 March 98, the candidate will forfeit his right for consideration of appointment as watchman in this department.
5. On being appointed, you will be posted to Dimapur Depot which please note. No interim enquiry will be entertained on the subject.

Encl: Application form
 (CSF 4) in duplicate
 & Character Certificate.

(L.K. KLARE)

MANAGER

FOR REGIONAL MANAGER (EAST)

Attested
 S. K. Adhvare
 28.12.95

Central Stores Department
Ministry of Defence
C. S. Depots, Assam
Assam, 781026

-48-

26

RME/019/EST/015

21 Feb 98

Shri Tangbahadur Karki,
C/o S. Jegahi,
Directorate of Employment
& Craftsmen Training,
Assam, Rehbari,
GUWAHATI - 8

/CONFIDENTIAL

Reqd AD

गोपनीय Confidential

SUB: RECRUITMENT OF WATCHMEN

This has reference to the interview held on
21 Nov 97 at CSD Depot Narangi for the post of Watchmen.

2. Your name have been approved in the panel list
of Watchman. Therefore, you are advised to fill up the
application form (CSF 4) in duplicate duly completed
and furnish other documents such as School Leaving
Certificate, Cast Certificate (In case OBC, SC, ST),
Army discharge certificate (In case of Ex Servicemen),
Character Certificate (as per attached preforma) and
three copies of passport size photographs duly attested.
These documents should be submitted in person or by
registered post to the Area Manager, Canteen Stores
Department, P.O. Satgaon, Guwahati - 781027 (Assam)
latest by 16th March 98.

3. Please note that calling for application form
and other documents should not be considered as
commitment or assurance for regular appointment in
this department.

4. In case these documents do not reach by 16 March 98,
the candidate will forfeit his right for consideration of
appointment as watchman in this department.

5. On being appointed, you will be posted to Dimapur
Depot which please note. No interim enquiry will be
entertained on the subject.

Blare
(L.K. BLARE)

MANAGER

Encl: Application Form
(CSF 4) in duplicate
& Character certificate.

FOR REGIONAL MANAGER (EST)

Attached
S. Jagahi
28.12.97

Govt. of India
Ministry of Defence
ARMED STORES DEPARTMENT
Narangai Depot
P. O. Patnaon
Narangai-81001
48048

49

35

EDD/EDTE/1611

05 NOV 98

20
Shri. Sanjay Kumar Sirci
C/O Shri. B.N. Sirci
Vill. Satgaon
P.O. Monkuli-37

SUB: DOCUMENTS FOR THE POST OF CLEANER

Reference NO Mumbai Letter No. 3/Perma/A-1/
1107(Narangai)/5072 dtd. 20.10.98.

You are hereby advised to obtain the Application Form (CSF-4) in duplicate from this Office which may be duly completed and other documents such as School Leaving Certificate, Character Certificate (proforma attached) and 3 copies of Passport Size Photographs duly attested to be submitted to this Office on receipt of this letter. at the earliest.

Please also bear it in mind that calling for application form from you should not be considered as commitment or assurance for regular appointment in this department.

For
V. SIVAPRAKASH

(V. SIVAPRAKASH)
ARMA MANAGER
CSD DEPOT, NARANGI

RM.	
AAO.	5/7
EST	

MINISTRY OF DEFENCE
CSD

C.S.D. DEPOT, NARANGI

For information
C.S.D. DEPOT, NARANGI

C.S.D. DEPOT, NARANGI

Filed
Guru
Advocate
28.12.03

Govt. of India
Ministry of Defence
AMTEEN STORES DEPOT
Narangi Depot
P. O. Satgaon,
Gawabati-78102
ASSAM

-50-

67

530

NGD/EST/19/2199

BL + FR
SU

4 Oct '99
Rajpal APD ✓

Shri Lakshman Ch. Nath
Vill. Meirachora
P.O. Dimalchach
P.S. Bokai, RM Karup

SUB: DOCUMENT FOR THE POST OF MAIL

Enclosed please find herewith the following proforma
received from our HQ Mumbai:-

(1) Caste certificate proforma

(2) Character certificate proforma

(3) CSF 4 Column No. 27 ink complete.

2. You are now advised to forward the same duly completed
and signed by the appropriate authorities for XMM onward
B/R Pymission to HQ on or before 30-10-99.

B/R	Pymission
54	

CC. HQ Sec. 3 Paxo

CC. RM(E):

Form

V. SIVAPRAKASHAN)

AREA MANAGER

This has ref. to your letter No.
3/para/A-1/1107/Narangi/4209 dt.9-9-99

For information please.

ESD
ESD
07/XLSS

Attested
Sachin
Advocate
28.12.03

Govt. of India
Ministry of Defence
CARTER STORES DEPARTMENT
Narangi Depot
P. O. Satkhira,
Guwahati-781027
Assam.

-51-

54

NARANGI DEPOT

MANAGER(P)
CSD HO.
MUMBAI

By Courier

NGD/EST/19/2084

22 Oct'99

Sub : DOCUMENTS FOR THE POST OF MAIL

Reference your letter No.3/Peru/A-1/1107/Narangi
/4289 dated 9-9-99.

2. In the above letter you have forwarded the proforma
of Caste certificate, character certificate and CSF 4.

3. The individual has submitted the following
documents duly completed and signed by the appropriate
authorities which are forwarded herewith for necessary
action please.

XX

For
(V.SIVAPRAKASH)
AREA MANAGER

Encl : a/a

cc : RM(E) Narangi : for information.

A/R F/R

53

MR.	
AGO.	

Est/

EST/10/2014
(EST) KARUNAM JAWAHAR
AGM/BO. KVR
100-5-27
ADDRESS TO YARD
CSD MUMBAI

Jitendra
Prat
Advocate
28.12.03

52

Ministry of Finance
BEG ST. 19/1918
Name: ...
P. O. ...
Chuukhola - 78307
ASSAM.

65

36

BEG/EST/19/1918

Dec '98

Govt. of Assam
Dept. of Labour and Employment Exchange
For Unskilled Applicants
Subsaxenia, Ghay-3

B/R F/R

Sub : DRAWAL OF PANEL FOR
GP-D POST

It is proposed to draw a panel to fill up the existing/future vacancy for the post of Mail in our department.

2. The minimum educational qualification, age, experience etc. required for the post as per the recruiting rule is attached in Appendix (A).

3. You are requested to forward a list of suitable candidates not more than 20 (Twenty) having the requisite age/educational qualification, experience etc.

4. The list indicating the full personal address, date of birth, qualification, age may please be forwarded in duplicate by 10-1-99.

5. Although the panel will be drawn at CBD Depot Narangi the selected candidates of this post can be posted any where in India where the department have offices.

RM.	SC
A.R.	19/1918
<i>(Signature)</i>	

cc : The RM(B)

CBD Narangi - for information pl.

cc : The AGM (P), Mumbai - for info. pl.

for information
(V. SIVAPRAKASAM)
ARRA MANAGER

*Alfred
for
private
26/12/83*

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Contempt Petition No. 42 of 1999 (O.A. 49 of 1996)

Date of decision : This the 5th day of October, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Jagat Das

Son of Late Satram Das

Villate Nabil,

P.O. Thoubanga,

District-Sonitpur

Assam

..Petitioner

By Advocate Mr. M. Chanda.

-versus-

1. Sri S.P. Paul
Regional Manager,
Canteen Stores Department
Ministry of defence,
Satgaon, Narengi,
Guwahati.

2. Sri N. Chandra Sekar
Assistant General Manager (P)
'Adelphi'
119 Maharsi Kavre Road
Bombay

3. Sri Mohar Singh,
Regional Manager
East Canteen Store Depot
Government of INdia,
Ministry of Defence,
C.S.D. Depot Complex
Guwahati-27.

4. Sri N.B. Singh
Dy. General Manager (P and Admn.)
CSD Headquarters,
'Adelphi', 119 Maharsi Karve Road,
Mumbai 400020.

..Alleged Contemnors

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

ORDER

CHOWDHURY J. (V.C.).

O.A. 49 of 1996 was instituted praying for a direction upon the respondents to consider his case for appointment against the existing vacancies of Chowkidar, Watchman or any other Group D Post lying vacant under the Canteen Store Department, Misamari by granting age relaxation.

Contd....

Allex D
Ranjan
28/12

By order dated 15.9.1999 a direction was issued to that extent to consider the case of the applicant with reference to interview held on 2.6.1996 by taking into consideration the provision of age relaxation as mentioned in the judgement. The respondents this time also turned down the case of the applicant on ground of age. The applicant was fighting for his case as is reflected in the earlier judgement of the Tribunal in O.A. No. 49 of 1996 which reads as follows :

The applicant was a casual Mazdoor on daily rate basis in Canteen Stores Department, Missamari, from 29.10.85 to 1989. He was selected for appointment as Peon in 1986 but he was not appointed. In 1988 he was selected for appointment in Group 'D' post but again he was not appointed. In 1990 he was selected for appointment as Mali. But at that time also he was not appointed. In 1994 he was not considered for appointment as Cook. The applicant submitted this O.A. on 19.3.1996. During the pendency of the application the respondents made recruitment to some vacant Group 'D' posts. The interview was held on 23.9.96. Pursuant to the interim order dated 19.9.1996 issued by the Tribunal the applicant was allowed to participate in the Interview. It is however, alleged that although he qualified in the selection his case was not considered for appointment due to being over aged.

It was contended by the counsel for the applicant that the respondents were wilfully disregarding the direction of the Tribunal in computing the age the respondents in a most illegal fashion overlooked his earlier period of service from 26.10.1985 to 28.2.1989, approximately three years four months in contravention of all norms and standards. The respondent contended that said period could not be counted since for the aforesaid period the applicant was engaged on daily rated basis and not on casual basis. The learned counsel for the applicant contended that the respondents were playing with the words in a most contumacious manner. It was stated and contended that the respondent authority by the aforesaid action sought to lower the functional utility of the institution and thereby rendering it ineffective.

Contd. .



We have given our anxious consideration in the matter. We are of the view that the said period of three years four months were meant to be considered in computing his service for the purpose of age relaxation ~~etc~~ ^{etc} in the construction of the judgement. The respondents fell into error in interpreting the provisions of the Executive instructions & orders etc. but for that count the respondents cannot be held guilty of contempt of court without something more. To constitute Civil Contempt there must be wilful disobedience to any judgement. The alleged disobedience must be deliberate. A contempt proceeding is not an usual or matter of course affair. The power is of summary nature. - It is to be wielded with care and caution. The power should be exercised when a clear case of contumacious conduct not explainable or justifiable otherwise, then and then only the contemner must be punished. The jurisdiction is entrusted in the Superior Courts for punishing contempt of its authority for the purpose of averting or frustrating the course of justice and for maintaining the authority of the law. The present proceeding is also hit by Section 20 of the Contempt of Courts Act 1971. From the tenor of the Notice itself it cannot be inferreded that the Tribunal in fact initiated the proceeding for contempt by calling upon the contemners to show cause as to why they should not be punished. The Contempt Proceeding thus stands terminated. Therefore the Contempt Petition is ^{also} liable to be dismissed in view of Section 20 of the Contempt of Court Act. The tenor of the notice itself did not indicate that the Tribunal in fact initiated proceeding for contempt by calling upon them to show cause as to why they should not be punished.

In the circumstances the Contempt Petition stands dismissed. There shall, however be no order as to costs.

Verdict in the Contempt

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

Section Officer (S)

C.A.T. GUWAHATI BANCH

Guwahati, 28/10/03

Attested
28/10/03



- 56 -

69

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. No.304 of 2003

Shri Jagat Das ... Applicant
-Versus-

Union of India & Ors.

... Respondent

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENTS NOS.1,2,3 & 4.

I, Vinod Kumar, RM(E), Canteen Stores Department, Narangi, Guwahati, do hereby solemnly affirm and say as follows :-

1. That I am the R.M.(E), Canteen Stores Department, Narangi, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I am authorized to file the written statement on behalf of all the respondents.
2. That with regard to the statements made in paragraph 4.1 of the application, the respondents beg to state that the applicant was engaged as daily rated at CSD Depot Misamari with effect from 26th Oct '85.
3. That with regard to the statements made in paragraph 4.2 of the application, the respondents beg to state that ~~xx~~ during June '86 a panel for peon was drawn at CSD Misamari although the applicants name was not sponsored by Employment Exchange, he was empanelled at Sr. No. 7 in the said panel being a departmental candidate. The panel was valid up to 09-07-88. From the said panel only 2 candidates were given appointment. The applicant's turn did not come up till the expiry of said panel.
4. That with regard to the statements made in paragraph 4.3 of the application, the respondents beg to state that during Nov '88 Local panel for Group 'C' and 'D' was drawn at CSD Depot, Misamari.

Union of India + Ors
Respondent
through
Anup Kumar Choudhury
Addl. Commr. Govt. Finance (2/5/504)
Guwahati

-57-

X

The name of applicant was empanelled at Serial No.3 in the panel for Watchman. However his name was subsequently cancelled from the panel consequent to Govt. order No.OM 40014/18/84/Estt (C), dtd. 7-5-95 (copy enclosed as ANNEXURE - I). The applicant was also empanelled for the post of Mali in the panel drawn on 10-9-90 by CSD Depot Misamari, his name having been sponsored by Local Employment Exchange.

Since there was no vacancy till the expiry of the panel i.e. 15-10-92 the applicant was not given appointment. The applicant's name did not appear in the panel drawn on 23-5-94 for the post of Cook. Hence the question of giving him appointment did arise.

5. That with regard to the statements made in paragraph 4.4 of the application, the respondents beg to state that the applicant's Lawyer's notice dated 26-6-95 was suitably replied vide our letter No.3/Pers/A-1/1107(Misamari)/4932, dtd. 28-9-95 (copy enclosed as ANNEXURE-II and III). It is agreed that the applicant was empanelled twice i.e. Jan 86 and Sep 90 but appointment was not issued due to lack of vacancies during the validity of said panel.

6. That with regard to the statements made in paragraph 4.5 of the application, the respondents beg to state that as per recruitment procedure the regular appointment is given to the candidates who are empanelled subject to availability of vacancy during validity of the panel and not just because the any applicants have rendered service in the past.

7. That the respondents have no comments to the statements made in paragraph 4.6 of the application.

8. That with regard to the statements made in paragraph 4.7 of the application, the respondents beg to state that it was decided to draw panel for the post of driver and Watchman at Misamari during Sept 96. Since the applicant came to know about the drawal of panel he brought an interim order dated 20-9-96 from the Hon'ble Tribunal, Guwahati to allow applicant to appear for interview. Accordingly he was interviewed but not considered for empanelment by the board due to over age (being 32 years).

9. That with regard to the statements made in paragraph 4.8 of the application, the respondents beg to state that the applicant was not a casual worker but was engaged purely as

(3)

daily rated basis, as and when required basis depending upon the day to day workload of the depot. Hence benefit of counting of the period of his service as daily rated worker from 26-10-85 to 28-02-89 (i.e. 3 years and 4 months) for the purpose of relaxation of age limit is not applicable.

The applicant has not stated under which OM he is claiming for temporary status.

10. That with regard to the statements made in paragraph 4.9 of the application, the respondents beg to state that the applicant was eligible for age relaxation only in the terms of being SC member. Age relaxation is not applicable to the applicant since being the resident of Assam. OM No. 14017/20/87-Estt(BR) dated 15th Oct 87 (copy enclosed as ANNEXURE-IV),, under which age relaxation to the extend of 6 years is applicable to resident of Assam only for a period of 5 years from the date of issue of the OM i.e. upto 14 Oct 92 where as applicant was considered for appointment with reference to interview held on 23-6-96. Age relaxation in the term of casual labour is not applicable to the applicants as explained in para 9 above.

11. That with regard to the statements made in paragraph 4.10 of the application, the respondents beg to state that the respondents have at no point agreed that the applicant was casual labour. He was a daily rated, working day to day as and when required basis. Hence age relaxation to the casual labour is not applicable to the applicant.

It is not known that which OM the applicant is referring to. It is not disputed as to how many days the applicant has worked, but the applicant is not entitled for appointment due to over age.

12. That with regard to the statements made in paragraph 4.11 of the application, the respondents beg to state that the Hon'ble Tribunal, Guwahati in its judgement in OA No.49/96 has directed to considered the case of applicant with reference to the interview held on 23-6-96 by taking into consideration the provision of age relaxation. Accordingly the case has been examined and the applicant found eligible for age relaxation available to the member SC/ST categories which was not sufficient i.e. even after offering age relaxation available to SC members,

the applicant was found over age hence he was not considered for appointment. Accordingly contempt petition filed by the applicant was dismissed by Hon'ble Tribunal, Guwahati upholding the respondents decision.

13. That with regard to the statements made in paragraph 4.12 of the application, the respondents beg to state that it is not understood what the applicant is intending to establish by referring letter dated 21-2-98, 05-11-98, 22-10-98 and 29-12-98. the department have never misled the Hon'ble Tribunal nor suppressed any material fact.

14. That with regard to the statements made in paragraph 4.13 of the application, the respondents beg to state that the applicant is over aged at the time of interview held on 23-06-96 hence he was not eligible for regular appointment.

15. That with reference to the statements made in paragraph 4.14 of the application, the respondents repeat and reiterate what is stated above. Respondents further submit that the Applicant was neither a daily rated worker covered under temporary status nor covered with the status of casual labour in accordance with the guidelines issued by DOPT vide OM dated 10-9-93. The Applicant was engaged purely as daily rated as and when required basis depending upon the day to day workload of the Depot. It is further submitted that even when vacancies are available with respondents, the recruitment can be made only after observing the laid down Govt procedure. Further, the Respondents beg to add that "as per settled law, no candidate gets an indefeasible right to appointment merely because of inclusion of his name in a panel". Ruling of Hon'ble CAT, Allahbad bench dated 1-12-99 in OA No. 1999/93 in the matter of Shri Munna Lal & Ors V/s Union of India & Ors is enclosed in Annexure - V.

The respondents beg to submit that this Hon'ble Tribunal had disposed the OA No. 49/96 filed by the Applicant, pleading similar averments and also dismissed the CP filed by the applicant upholding our decision.

16. That the respondents have no comments to the statements made in paragraph 4.15 of the application.

17. *That* With reference to the statement made in paragraphs 5 to 5.3 of the application, the Respondents repeat and reiterate what is stated above. It is submitted that to cope up with the increased workload, the respondents have engaged the services of the applicant and not at any point of time he has been assured for continuous employment as such the contention of the Applicant

(5)

That he has got the legal right for his consideration for appointment is absolutely baseless misconceived, hence denied.

18. That with reference to the statements made in paragraph 5.4 of the application, the Respondents deny the contents and repeat and reiterate what is stated above.

19. That with reference to the statements made in paragraph 5.5 of the application the respondent beg to submit that the candidature of the Applicant is to be considered in the light of existing recruitment rules and this Hon'ble Tribunal may not pass any order in this matter.

20. That with reference to the statements made in paragraph 5.6 to 5.9 of the application the Respondents repeat and reiterate what is stated above.

21. That with reference to the statements made in Paragraph 5.10 to 5.12 of the application the Respondents repeat and reiterate what is stated in Paragraph 9 and 10 of the written statement.

22. That with reference to the statements made in paragraph 5.13 of the application the Respondents repeat and reiterate what is stated in paragraph 19 of this written statement.

23. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, Vinod Kumar, presently working as R.M(E), Canteen Stores Department, Narangi, Guwahati being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1 & 23 of the application are true to my knowledge and belief, those made in paragraphs 2 - 22 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the 20th day
of May 2004 at Guwahati.

W. J. L.
~~DEPONENT~~
WESLEY L. MARSHALL

VINOD KUMAR
Regional Manager (East)
Canteen Stores Department
- 00 Govt. of India, Ministry of Defence
Guwahati-781027

- (i) No casual labourer not registered with the Employment Exchange should be appointed to posts borne on the regular establishment;
- (ii) Casual labourers appointed through Employment Exchange and possessing experience of a minimum of two years' continuous service as casual labour in the office/establishment to which they are so appointed will be eligible for appointment to posts on the regular establishment in that office/establishment without any further reference to the Employment Exchange.
- (iii) Casual labourers recruited in an office/establishment direct, without reference to the Employment Exchange, should not be considered for appointment to regular establishment unless they get themselves registered with the Employment Exchange, render, from the date of such registration, a minimum of two years' continuous service as casual labour, and are subsequently sponsored by the Employment Exchange in accordance with their position in the register of the Exchange. (See paragraph 3 below for one time relaxation.)

3.2. A casual labourer may be given the benefit of 2 years' continuous service as casual labourer if he has put in at least 240 days (206 days in the case of offices observing 5 days week) of service as a casual labourer (including broken periods of service) during each of the two years of service referred to above.

[G.I., M.F., O.M. No. F. 8 (2)-Estt. (Spl) 60, dated the 24th January, 1961; M.H.A., O.M. No. 6/52/60-Estt. (A), dated the 16th February, 1961; No. 16/10/64-Estt. (D), dated the 2nd December, 1966; No. 14/1/68-Estt. (C), dated the 12th February, 1969 and D.P. & A.R., O.M. No. 49014/19/84-Estt. (C), dated the 26th October, 1984.]

4. Regularization of service of casual workers, not recruited through Employment Exchange before 7-5-1985, in Group 'D' posts

4.1. The services of casual workers may be regularized in Group 'D' posts in various Ministries/Departments, etc., subject to certain conditions, in terms of the general instructions issued by this Department. One of these conditions is that the casual workers concerned should have been recruited through the employment exchange. Sponsorship by the employment exchange being a basic and essential condition for recruitment under the Government, it has repeatedly been brought to the notice of the various administrative authorities that recruitment of casual workers should always be made through the employment exchange. It has, however, come to the notice of this Department that in certain cases these instructions were contravened and casual workers were recruited otherwise than through the employment exchange. Though these persons may have been continuing as casual workers for a number of years, they are not eligible for regular appointment and their services may be terminated any time. Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship

to them, it has been decided, as a one time measure, in consultation with the Director-General, Employment and Training, that casual workers recruited before the issue of these instructions may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through the employment exchange, provided they are eligible for regular appointment in all other respects.

4.2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the employment exchanges. If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned.

[G.I., D.P. & T., O.M. No. 49014/18/84-Estt. (C), dated the 7th May, 1985.]

5. Ban on engagement of casual workers for duties of Group 'C' posts

There is a complete ban on engagement of casual workers for performing duties of Group 'C' posts and hence no appointment of casual workers should be made in future for performing duties of Group 'C' posts. If any deviation in this regard is committed, the administrative officer in charge in the rank of Joint Secretary or equivalent will be held responsible for the same.

[G.I., M.P., O.M. No. 49014/16/89-Estt. (C), dated the 26th February, 1990.]

6. Payment of wages to unskilled casual workers in Archaeological Survey of India

It has been decided that the unskilled casual worker whose nature of work is the same as that of the regular employees may be paid at the rate of 1/30 of Rs. 750 plus DA for work of 8 hours a day with effect from 7-6-1988. The guidelines issued by the Department of Personnel and Training should be strictly observed. On a reference made to them, it has been clarified as under—

- (i) The persons on daily wages on regular nature of work should not be engaged. In case casual workers have been engaged to do duties of regular nature, they shall have to be paid at the minimum time-scale of pay plus DA for work of 8 hours a day.
- (ii) The casual workers are required to be paid for the day on which they actually perform duties.
- (iii) If the casual worker is called for duty on a holiday, he will have to be paid for that day. In case this holiday happens to be paid holiday for the casual worker that he will have to be allowed additional wages for the duty for that holiday.

(iv) The practice of engaging a casual worker on his weekly off day should be avoided. The question of allowing paid weekly off to casual workers in the offices following five days week work pattern is under consideration of the Department of Personnel and Training.

Approved
A. R. Chatterjee
C. G. S. G.

18

ANNEXURE-¹¹

MANIK CHANDA, Advocate
 Gauhati High Court
 C/o Late Rabindra Mazumdar
 Bye Lane-7, Lachit Nagar
 Guwahati-781007

Dated : 26.6.96

NOTICE

To

The Manager
 Canteen Stores Department
 Misamuri

Under the instruction of my client Sri Jagat Das, Son of Late Satram Das of village Nabil, P.O. Towbhangs in the district of Sonitpur I do hereby give this notice to you undermentioned grounds :-

1. That my client is a citizen of India having his permanent residence at the aforesaid address. He read upto Class IX.
2. That my client's name was sponsored through the local Employment Exchange to the Canteen Stores Department, Misamuri, Ministry of Defence, Govt. of India. Thereafter my client appeared before the Selection Board and was selected for a post of Mazdoor at Canteen Stores Department, Misamuri Depot. My client was appointed as daily rated Mazdoor with effect from 29.10.1983 and worked upto 1989 at the rate of Rs. 12/-, 15/-, 21/-, 31/-, and 32/- etc. per day with artificial breaks. He served to the best satisfaction of the authorities concerned vide a copy of certificate dated 5.5.87 issued by the Manager, Canteen Works Department, Misamuri Depot.
3. That since 1989 my client is without job.
4. That my client filed a representation dated 30.11.87 praying to get appointment but to no result vide representation dated 30.11.87. My client has working experience in this Depot for about 4 years.

Annexure-II

5. That many other persons were appointed in this C.S.D., Misamari Depot on regular basis but my client is singled out. My client came to know from reliable source that very recently that office of the Administrative Commandant, Misamari has recruited some officials against regular vacancies whereas the case of my client has not been considered.

6. That my client has acquired a legal right to get regular appointment in this C.S.D., Misamari Depot as he has completed more than 240 days in this Depot as per Circular of the Central Government.

Under the facts and circumstances state above I request you to make an arrangement to appoint my client in C.S.D., Misamari Depot as Mazdoor on regular basis otherwise my client shall institute a case in legal forum appropriate relief. Hope you will avoid bitter experience of case for cost and consequence thereof.

Hope you will do needful as early as possible.

Thanking you,

Yours Sincerely,

Sd/-

Advocate
for Client J. Das

Copy to :

The Regional Manager, Canteen Stores Department,
Narengi, Satgaon, Govt. of India, Ministry of Defence.

(MANIK CHANDA)

Attested
Addl. C.G.S.O
M. Chanda

GOVERNMENT OF INDIA,
MINISTRY OF DEFENCE,
CANTEEN STORES DEPARTMENT
"ADELPHI", 119, M.K. ROAD,
MOMBAY - 400 020.

(180)

28th Sept '95.

1/107/1/1107 (Misamari) / Hq 32

Shri Jagat Chanda,
Advocate,
Mumbai High Court,
Bldg Lane-7,
Lachit Nagar,
Guvghati-781007.

REGD. A.D.EMPLOYMENT TO SHRI. JAGAT DAS.

Reference your Notice dated 26.6.95 for giving employment to Shri. Jagat Das S/O Late Satram Das.

2. We have examined the case of your client Shri. Jagat Das, S/O Late Satram Das of village Hali, P.O. Towbhanga, Dist-Sonitpur.

Brief of the case is as under :-

i) Shri. Jagat Das was engaged at our Misamari Depot w.e.f. 26th Oct '85. Though his name was empanelled in the local panel for Watchman which was drawn on 22/23 Nov '88, his name was cancelled from the panel based on the Govt. Order bearing No. O.M. 40014/18124/East(O) dated 7th May '85.

The order states that "casual workers recruited prior to the issue of the instructions can be considered for regular appointment of Gp. 'D' posts, even if they were recruited otherwise than through the Employment Exchange, provided they are eligible for regular appointment in all other aspects.

ii) Your client's name was empanelled for the post of Hali when the local panels for Gp. 'D' categories were drawn at Misamari Depot on 10.9.90 as his name was sponsored by Employment Exchange. Since there was no vacancy for the post of Hali at our Misamari Depot till expiry of validity period of the panel i.e. 15.8.92, we could not give appointment to your client in our Department.

iii) Regarding recent recruitment in CSD Misamari, it is stated that on 23rd May '94, local panel for Cook was drawn by Misamari Depot and the person who has been empanelled at Srl. No. 1 was given appointment to fill up the vacancy of Cook at our Misamari Depot.

3. From the above, it is seen that we have not done any injustice to your client. Therefore, you are requested to appraise the position to your client Shri. Jagat Das.

Attested
A. K. Chaudhury
Addl. C. G. S. O.

(J. N. KAR)
OIC (P)

For General Manager

AC & CP

N.C.O.

CC : THE MANAGER,
CSD DEPOT,
MISAMARI

Ref. our copy of your
letter no. NMID/EST/361/709

6. Relaxation of upper age-limit in favour of residents of the State of Assam for appointment to public services.—The Residents of Assam (Relaxation of Upper Age-Limit) Rules, 1985, notified on 30th September, 1985, provide for relaxation in the upper age-limit up to a maximum age of 6 (six) years to all persons who have ordinarily resided in the State of Assam during the period from the 1st day of January, 1980 to the 15th

120

SWAMY'S—ESTABLISHMENT AND ADMINISTRATION

day of August, 1985, from recruitment to services and posts which are made through the UPSC or the SSC as also recruitment to all civil posts in Central Government offices located in the State of Assam otherwise than through the UPSC or the SSC. These rules shall remain in force for a period of five years from the date of their publication.

[G.I., Dept. of Per. & Trg., O.M. No. 14017/20/87-Estt. (RR), dated the 15th October, 1987.]

7. Upper age relaxation admissible to Government Employees for direct recruitment to Groups 'A' and 'B' posts.—I. The following decisions have been taken in consultation with the Union Public Service Commission:—

(i) Government servants may not be allowed any relaxation of age for recruitment to Group 'A' or Group 'B' posts on the basis of competitive examinations held by the Commission, except in cases where it has been specifically provided for in the scheme of the examinations approved in consultation with the Commission.

(ii) Government servants may be allowed, on a uniform basis, relaxation of a maximum of 5 years in the upper age-limit for recruitment to other Group 'A' or Group 'B' posts by advertisements through the Commission. The age relaxation will be limited to such of the Group 'A' and 'B' posts

where a relationship could be established that the service already rendered in a particular post will be useful for the efficient discharge of the duties of the post(s) recruitment to which has been advertised. Decision in this regard will rest with the Commission.

[G.I., D.P. & A.R., O.M. No. 4/4/74-Estt. (D) dated the 9th April, 1981.]

2. It was not, however, made clear in the above instructions that this concession is available to departmental candidates for recruitment to Groups 'A' and 'B' posts which are exempted from the purview of the UPSC and, therefore, recruitment to which is made by the organisations themselves. For example, Groups 'A' and 'B' posts in paramilitary forces and scientific/technical posts in scientific departments fall in this category. As it was not the intention to deny this concession in the cases of this type, it is hereby clarified that the provisions of the above-mentioned O.M. are also applicable to departmental candidates for Groups 'A' and 'B' posts to which recruitment is made by a body other than UPSC. The Administrative Department concerned would be competent to take a decision in regard to the question whether there is a nexus between the duties of the post held by the Government servant and those of the post for which recruitment is being made.

[G.I., Dept. of Per. & Trg., O.M. No. 15012/8/87-Estt. (D), dated the 15th October, 1987.]

Attested
Addl. C.G.S.

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CHAPTER 14

AGE RELAXATIONS FOR APPOINTMENTS

1. Categories of persons and extent of concessions.—Certain age concessions have in the past been sanctioned to few specified categories of persons for the purpose of appointment under the Government of India. These concessions are still in force until further orders. Details of the categories of persons and age concessions admissible to them, as given below are hereby published for general information—

Category of Persons to whom Age concession is admissible (1)	Categories of Posts to which the Age concession is admissible (2)	Extent of Age concessions (3)
(i) Scheduled Castes and Scheduled Tribes.	(a) All posts filled by direct recruitment. (b) All posts filled by promotion when an upper age limit not exceeding 50 years is prescribed, except posts which have arduous field duties or are meant for operational safety or are in paramilitary organizations.	Five years. Five years.
(ii) Retrenched Central Government Employees.	For posts filled otherwise than through UPSC on the basis of competitive tests, i.e., filled through Employment Exchange.	Period of previous service under the Government of India <i>plus</i> three years.
(iii) Ex-Servicemen and demobilized personnel of Armed Forces.	-do-	Service rendered in Army, Navy and Air Force <i>plus</i> three years.
(iv) Whole-time Cadet Instructors in NCC.— (a) who were released from NCC after the expiry of their initial extended tenure. (b) who were released from NCC before the expiry of their initial extended tenure.	-do-	(a) Period of service rendered in NCC <i>plus</i> three years. (b) Period of service rendered in NCC <i>plus</i> three years, provided they have served in the NCC for a period of not less than six months prior to their release from NCC.

*Attested
P. N. Chatterjee
Addl. G. G. S. G.*

72
Annexure I
B2

Open Court.

Central Administrative Tribunal
Allahabad Bench, Allahabad.Dated: This the First day of December 1999.

Counsel:- Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Hafiz Uddin, A.M.

Original Application No. 199 of 1993.

1. Munna Lal aged about 53 years son of Sri Basoray, resident of S. Mewatipura, Jhansi.
2. Shiv Charen aged about 26 years son of Sri J.L. Raikwar resident of 597/1 Gwal Toll Kamal Kachhi Compound, Civil Lines, Jhansi.

... Petitioner,
(Through Sri R.K. Nigam, Adv.)

Versus

1. Union of India through Ministry of Defence, Defence Head Quarters, New Delhi.
2. General Manager (P & A) Canteen Stores, Department, Government of India, Ministry of Defence, 'ADELPHI' 119, Maharashtra Karve Road, Bombay-400020
3. Manager, Canteen Stores Department, Depots, Jhansi.

(Through Sri C.S. Singh, Adv.) ... Respondents.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

This application has been filed for seeking the relief of direction to the respondents to issue appointment letters in favour of applicants on the basis of panel of 1986 and of 1988 in

RB

Ansawar

10/05/2004 10:12 FAX 91-22-22094282
FASHIONSMARKETING

CSD AGM(HRD&L)

91220942865

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case of applicant No.1 ~~apprised~~ and panel
of 1986 in case of applicant No.2. There is
also a prayer for direction to the respondents
to produce the entire proceedings before the
Tribunal.

2. The applicants have stated that their
names have been sponsored by Employment
Exchange Channel for the post of Mazdoor in the
scale of Rs.750-940 and they were selected by
a Selection Committee. Applicant No. 1 was
selected in Panels which were made in 1986 and
thereafter in 1988 and applicant No.2 was included
in panel formed in 1988. The name of the
applicant No.1 was at serial No.14 in the panel
of 1986 and serial No. 21 in the panel of 1988.
The name of the applicant No.2 was at serial
No.9 in the panel of 1988. Despite inclusion of
their names in the panels no appointment letters
were issued to them.

3. The arguments of Sri Opender Nath
Brief holder of Sri R.K. Nigam and Sri C.S. Singh
for the respondents have been heard.

4. The first contention of the learned
counsel for the applicant is that no reason has been
given for not issuing letters of appointment
to the applicants and that the operation of
panels was started but the panels were not
exhausted and the applicant were not given orders
of appointment.

5. The contention of the respondents is
that the panel was current for one year and may
be extended for another six months. Thus the

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Annexure V

-3-

panel of 1986 was made on 4.2.87 and was valid till 3.2.88. It was further extended for six months upto 3.8.88. Nine candidates from general category and three candidates from S.C./S.T. category and one candidate from Ex-service men category were offered appointment. No further vacancies were available and therefore no other persons could be accommodated. The name of applicant No.1 stood at serial No. 14, in the list of general candidates - a position admitted by the applicant. In view of this, the claim of applicant No.1 for appointment on the basis of panel of 1986 is not tenable.

6. As regards panel of 1988, the respondents have mentioned in their counter reply that only two empanelled candidates who had experience of work on casual labour in the department were offered employment. Since the applicants were at serial No. 21 and 9 respectively, they could not be offered appointment for want of vacancies. The learned counsel for the applicant has not denied this contention specifically although he mentions that they had ample number of vacancies to complete the panel. It is not the contention of learned counsel for the applicants that any candidate standing lower in merit to the applicants was offered appointment. The learned counsel has mentioned that the respondents offered appointment to candidates stand at serial No.2 and Serial No.4 in the panel formed in 1988 and have adopted the policy of pick and choose but the applicants do not deny that only two vacancies were filled out of the panel formed in 1988.

7. No candidate gets an indefensible right to

appointment merely because of inclusion of his name in a panel. In the circumstances of the case, we do not find that any order can be granted to the applicant. Although the panels were formed in 1985 and 1988, the applicants have chosen to file the O.A. in the year 1993 which is four years after the panel of 1988 was operative. Hence even from the point of limitation this application can not be allowed.

B. The application is, therefore, dismissed. There shall be no order as to costs.

Sd/-
Member (D)

Sd/-
Copy

Sd/-
Member (A)

Sy/ 1/3/93
Section Officer
Central Admin. Tribunal
Court House

7/3

Serial No. 94
Name of the applicant E. R. DIXIT, A.O.
Date of birth 2/3/1970
Date of application
Number of pages Four
Fees enclosed Rs. 50/-
Date of hearing 2/3/2000
Date of return 2/3/2000

Attested
JMK Chellu
Addl. C.G.S.A