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3
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Salma
15/11/17

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCHORDER SHEETOriginal Application No. 56/03Misc. Petition No. /Contempt Petition No. /Review Application No. /Applicant (s) Girish Kohila

- Vs. -

Respondent (s) U.O.T. FarmsAdvocate for the applicant (s) M. Chanda, G.N. ChakrabartyAdvocate for the respondent (s) CAC

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Abandonation of the application is filed / not filed C.C.F for Rs. 50/- deposited vide IPO/BO No. 26/607026 Dated..... 25/3/03 S. D. Ray D. Registrar P.M.	27.3.2003	Heard Mr. M. Chanda, learned counsel for the applicant. Issue notice on the respondent to show cause as to why the application shall not be admitted. List on 28.4.2003 for admission.
Stamps taken alongwith envelopes.	28.4.2003 bb 3/5/03 31/3/03	Heard Mr. S. Dutta, learned counsel for the applicant. Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents prayed for time to obtain necessary instruction on the matter. List on 29.5.03 for admission. The respondents may file written statement if any, in the meantime.
Received 15 day 4/4/03 Notice received and sent to the respondent No 1 to 5 by post Add. 20/4/03 DINo 8571861 add 25/4/03 mb		Vice-Chairman

(2)

No. W's has been
billed

May
28.5.03.

29.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra, Member (A).

Put up before the Single Bench on 27.6.2003. In the meantime, the respondents may file reply, if any.

Member

Vice-Chairman

mb

23-6-03

27.6.03 present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

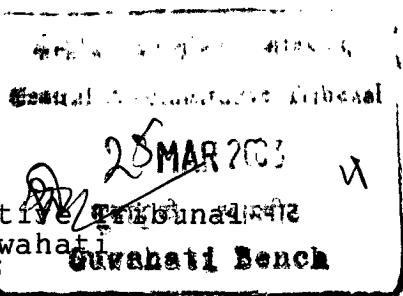
W's submitted
by the Respondents
Nos. 1, 2, 3, 4 & 5.

This is one more round of litigation. The applicant was engaged as EDDA as an interim measure pending disciplinary proceeding against the incumbent who was working in that post. Finally the incumbent was reinstated in service and therefore the applicant was terminated. In O.A. 451/2001 disposed of on 27.6.2003 took note of the stand of the respondents to consider the case of the applicant for accommodation in terms of the guidelines laid down in DG P&T's letter No. 43-4/77-Pen dated 23.2.1979. The authorities were accordingly directed to take note of these facts for future engagement. The respondents in its written statement also reiterated the fact and contended that the authorities are fully aware of the communication dated 23.2.1979 and fully alive by the judgment and order passed by the Tribunal in O.A. 451/2001. In view of the fair stand taken by the respondents no further direction is issued.

The application thus stands disposed of. No order as to costs.

11.7.2003
Copy of the order
has been sent to the
D/sec. for sending
the same to the L/Rd.
for the ~~dead~~ Applicant.

HT



In the Central Administrative Tribunal
Guwahati Bench : Guwahati

O.A.No. 56/2003

Shri Girish Kalita : Applicant

Vs.

Union of India and others : Respondents

Synopsis and list of dates

5.4.1995 The applicant joined as Extra Departmental Delivery Agent (EDDA) in the Lawpara Branch Office on receipt of provisional letter of appointment issued by the Sub Divisional Inspector of Post Offices, West Sub Division, Nalbari, Assam. The applicant joined in place of one Shri Rajat Chandra Medhi, the regular EDDA who was under disciplinary proceeding.

1.4.2000 The applicant's services were terminated vide order No. Ad/Lawpara/2000 after functioning satisfactorily for more than five years. The applicant functioned in the post of EDDA since the disciplinary proceedings against Shri Rajat Chandra Medhi continued for more than five years. But surprisingly at the instance of respondent No.4 it was decided to take back Shri Rajat Chandra Medhi in the post of EDDA at Lawpara Branch Office and as a

....contd/-

Filed by the applicant
through advocate
G. M. Chakravarthy
28 MAR 2003

consequence, the service of the present applicant was terminated.

10.11.2000 The applicant approached this Hon'ble Tribunal against the arbitrary and capricious action of the respondents by filing an O.A.No.126/2000. This Hon'ble Tribunal after examining the facts and circumstances of the case dismissed the application and passed its order on 10.11.2000 in O.A.No.126/2000 observing that the respondents shall have to take care of the situation to accommodate the applicant as per the existing rules and left the matter to the Postal Authority for consideration of the case of the applicant in conformity with the accepted norms and policy as expeditiously as possible, preferably within three months from the date of receipt of the aforesaid order dated 10.11.2000.

20.11.2000 The applicant submitted one representation to respondent No.3 (The Superintendent of Post Offices, Nalbari, Assam) enclosing therewith a copy of the Judgment and Order dated 10.11.2000 praying for cosideration of his appointment against the post of EDDA/EDMC lying vacant at Kachua, Mukalmua in District.

....contd/-

20.3.2002 During the pendency of the O.A. No.451/2001 filed by the applicant the learned counsel for the respondent Union of India submitted before the Hon'ble Tribunal that the case of the present applicant is under consideration for appointment. On the basis of the said submission this Hon'ble Tribunal observed that pendency shall not be a bar for consideration of his appointment in the light of policy of the Department dated 23.2.1979 for providing employment to those who are appointed provisionally and subsequently discharged from service due to administrative reasons. The said O.A. No.451/2001 in fact filed by the applicant praying for a direction upon the respondents for consideration of his appointment to the vacant post of EDDA at Lawpara Branch Post Office.

27.6.2002 This Hon'ble Tribunal was pleased to dismiss the aforesaid O.A. No.451/2001 on 27.5.2002 holding that since the matter of appointment is under active consideration before the respondent Union of India as such no direction warranted on the facts and circumstances of the case.

The applicant after the judgment and order dated 27.5.2002 passed in O.A.

.....contd/-

No.451/2001 again approached the authority by submitting detailed representation for consideration of his appointment as EDDA at Lawpara Branch Post Office but to no result.

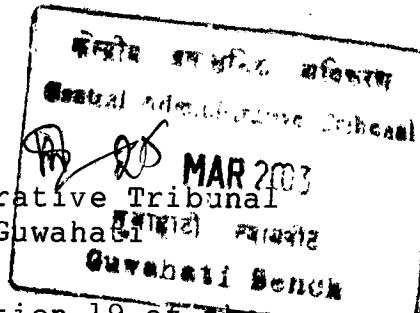
29.1.2003 ^{of} That one post EDMC now fall vacant at Kandhbari Branch Post Office due to death of Shri Arfan Ali in the month of January 2003. Thereafter the applicant submitted representation for appointment to the said post but to no result.

Reliefs sought for :-

The applicant most respectfully prays that Your Lordships be pleased to admit this application and further be pleased to grant the following reliefs:

- (1) To direct the respondents to comply with the observations made by this Hon'ble Tribunal in their order dated 10.11.2000 passed in O.A.No.126/2000 and order dated 27.6.2002 in O.A.No.451/2001.
- (2) To direct the respondents to absorb and regularise the services of the applicant in the post of EDMC at Branch Office, Khandhbari or such other office.
- (3) Costs of the application.
- (4) Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

In the Central Administrative Tribunal
Guwahati Bench : Guwahati



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

Title of the case O.A.No. 96/2003

Shri Girish Ch Kalita : Applicant

Vs.

Union of India and others : Respondents

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Piled by the applicant
through advocate Sri
G. N. Chakravary on
26/3/03

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

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

O.A. No. /2001

BETWEEN

Sri Girish Kalita
S/o Sri Krishna Kanta Kalita
Resident of village Law Para
P.O. Law Para
District Nalbari,
Assam.

.....,Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India
Ministry of Communication
Department of Posts
New Delhi.
2. The Chief Postmaster General
Assam Circle
Meghdoot Bhawan
Guwahati-781001.
3. The Superintendent of Post Office
Nalbari, Assam.
4. The Sub Divisional Inspector of
Post Offices, West Sub Division,
Nalbari, Assam.
5. Sri Rajat Chandra Medhi
Resident of Village Lawpara
P.O. Lawpara
District- Nalbari,
Assam.

.....,Respondents

DETAILS OF THE APPLICATION

1. Particulars of the order against which the application is made.

This application is made praying for a direction
upon the respondents to consider appointment of the

Sri Girish Kalita

applicant in the existing vacant post of EDMC at Khandbari Branch Office in the District of Nalbari P.S. Mukalmuwa in terms of the direction and assurances contained in the Judgment and Order dated 10.11.2000 in O.A.No.156/2000 and in O.A.No.451/2001.

2. Jurisdiction of the Tribunal

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

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1935.

4. Facts of the case

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

4.2 That your applicant was initially appointed as Extra Departmental Delivery Agent (EDDA) in the Branch Office, Lawpara, District Nalbari vide Memo No. Al/Lawpara/95 dated 5.4.1995, issued

Sri Hirish Kulit

by the Respondent No.4, in place of one Shri Rajat Chandra Medhi, the regular EDDA, who was under a disciplinary proceeding. As per the appointment letter, the appointment of the present applicant was provisional and was subject to termination without notice following the final disposal of the disciplinary proceeding against Sri Rajat Chandra Medhi.

- 4.3 That the applicant, on receipt of the said provisional letter of appointment, joined as EDDA in the Lawpara Branch office with effect from 5.4.1995 and started functioning as EDDA with satisfaction of all concerned wherein he continued to work for more than 5 years i.e. until his services were terminated vide order No.A1/Lawpara/2000 dated 1.4.2000.
- 4.4 That the disciplinary proceeding against Sri Rajat Chandra Medhi continued for more than 5 years and during that period, the applicant shouldered the entire responsibility of the post of EDDA as said above. Eventually, the disciplinary proceeding ended and Sri Rajat Chandra Medhi was not exonerated by the disciplinary authority but surprisingly, at the instance of respondent no.4, it was decided to take back Sri Rajat Chandra Medhi in the post of EDDA at Lawpara Branch Office on extraneous considerations and as a consequence the

.....contd/-

Sri Hirish Kalita

services of the present applicant were terminated by the respondents vide their order No. Al/Lawpara/2000 dated 1.4.2000 just to make way for re-absorption of Sri R.C. Medhi in an unfair and unjust manner.

4.5 That the applicant being highly aggrieved at this arbitrary and capricious action of the respondents resulting to his unprocedural, unceremonious and unjust termination, approached this Hon'ble Tribunal for protection of his rights and interests by filing an O.A. NO.126/2000. The Hon'ble Tribunal after examining the facts and circumstances of the case was pleased to dismiss the application and passed its order on 10.11.2000 in O.A. No.126/2000 observing that the respondents shall have to take care of the situation to accommodate the applicant as per existing rules and left the matter to the Postal authority for consideration of the case of the applicant in conformity with the accepted norms and policy as expeditiously as possible, preferably within three months from the date of receipt of the aforesaid order dated 10.11.2000.

Copy of the judgment & order dated 10.11.2000 passed in O.A.No.126/2000 is annexed hereto and marked as Annexure-I.

Sri Hirish Kalita

4.6 That the applicant thereafter submitted one application on 20.11.2000 to respondent No.3 through Respondent No.4 enclosing therewith a copy of the judgment and order dated 10.11.2000 passed in O.A. No.126/2000 and praying for consideration of his appointment against the post of EDDA/EDMC, lying vacant at Kachua, Mukalmua in Nalbari district, in accordance and in compliance with the judgment and order dated 10.11.2000.

Copy of the representation dated 20.11.2000 is annexed herewith as Annexure-II.

4.7 That your applicant begs to state that he has rendered his services as EDDA, Lawpara for more than 5 years and as such he is entitled to be regularised under the scheme issued by the Department of Post. As per the policy of the Department, a person who renders service for not less than 3 years should be included in the list of EDDAs who are discharged from service for appointment under Rule 20 of the method of Recruitment of EDDA read with C.G.P.T. letter No.43-4/77-Pen dated 23.2.1979. In the instant case, the applicant has rendered services for more than 5 years, working for more than 240 days in each year, as required for regularisation of service.

4.8 That in spite of acquiring eligibility and right for being considered for regularisation

.....contd/-

Sri Hirish Kalita

and in spite of the valued observation of the Hon'ble Tribunal in favour of the applicant in its order dated 10.11.2000 in O.A.No.126/2000, the respondents did not show any inclination to consider the case of the applicant although there are vacant post of EDDA and other posts in the cadre of D & C under the Senior Superintendent of Post Offices.

It is relevant to mention here that the poor applicant has three dependent members in his family including two minor son and daughter and as such the order of termination would lead to civil consequences and put the applicant in extreme difficulty to support to his family. He has become over aged in the meantime for any other Government job.

4.9 That your applicant finding no other alternative again approached this Hon'ble Tribunal through O.A.No.451/2001 for protection of his rights and interest. During pendency of O.A.No.451/2001 more particularly on 20.3.2002 the learned counsel for the respondent Union of India referring a communication submitted before this Hon'ble Tribunal that the case of the present applicant is under consideration for appointment. On the basis of the said submission this Hon'ble Tribunal observed that pendency shall not be a bar for consideration of his appointment in the light of the policy

.....contd/-

Sri L. N. Singh Kalra

of the Department dated 23.2.1979 for providing employment who are appointed provisionally and subsequently discharged from service due to administrative reasons. But it stated that at the relevant point of time one post of EDDA fell vacant at Lawpara Branch Post Office and the said O.A.No.451/2001 in fact filed by the applicant praying for a direction upon the respondents for consideration of his appointment to the vacant post of EDDA at Lawpara Branch Post Office. However, the said O.A.No.451/2001 was dismissed by this Hon'ble Tribunal on 27.5.2002 holding that since the matter of appointment is under active consideration before the respondent Union of India as such no direction warranted in the facts and circumstances of the case.

A copy of the Order dated 20.3.2002 and judgment and order dated 27.5.2002 passed in O.A.No.451/2001 are enclosed as Annexures 3 and 4.

4.10 That it is stated that the applicant after the judgment and order dated 27.5.2002 passed in O.A.No.451/2001 again approached the authority by submitting detailed representation for consideration of his appointment as EDDA at Laopara Branch Post Office and also approached repeatedly for his appointment to the aforesaid vacant post before the respondent authorities but to no result.

Copy of representation dated 9-9-2002 and 29-1-2003 are annexed as Annexures 5 & 6 respectively.

Dr. Girish Kalita (contd)

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4.11 That your applicant has acquired a valuable right for considertion of his appointment against the post of EDMC at Kandhbari Branch Post Office in the Nalbari District which is now occured due to death of Sri Arfan Ali in the month of January 2003. The applicant submitted a detailed representation addressed to the Superintendent of Post Offices, Nalbari, Assam for consideration of his appointment against the post of EDMC at Kandhbari Branch Post Office in the Nalbari District, but to no result. The applicant is apprehending that the vacant post of EDMC now available at Kandhbari Branch Post Office, under Nalbari District may also be filled by the respondents without considering the case of the applicant. It is pertinent to mention here that the earlier vacant post of EDDA at Laopara has already been filled up without considering the case of the applicant in spite of the assurances given by the respondents before this Hon'ble Tribunal. Be it stated that as per method of recruitment of Postal E.D. Staff more particularly in terms of Sub Rule 2 of Rule 15 of method of recruitment of E.D. Staff the applicant has acquired right for consideration of appointment to the vacant post of EDMC at Kandhbari under Nalbari District. Therefore, the Hon'ble Tribunal be

.....contd/-

Sri Girish Khatua

pleased to give directions upon the respondents for appointment of the applicant to the vacant post of EDMC at Kandhbari.

Extract of Method of Recruitment of Postal ED Staff is enclosed as Annexure-6.

4.12 That it is stated that the applicant whenever approached the respondents authorities for his appointment against any vacant post the said request used to be turned down by the Superintendent of Post Offices, Nalbari on the alleged ground that the applications of the applicant filed before this Hon'ble Tribunal has been dismissed and as such there is no scope for considering his case for appointment.

In the facts and circumstances stated above, finding no other alternative the applicant is approaching this Hon'ble Tribunal for a direction upon the respondents for his appointment as EDMC at Kandhbari.

4.13 That this application is made bonafide and for the ends of justice.

5. Grounds for relief(s) with legal provisions

5.1 For that the applicant has served the department for more than five years in the

.....contd/

sri Hirish Kalita

post of EDDA and as such the services of the applicant cannot be terminated without any prior notice.

- 5.2 For that there is regular vacancies of Group D and C under the Superintendent of Post Offices, Nalbari and as such there is no difficulty in accommodating the appointment in the vacant post of EDMC at Khandbari Branch Office.
- 5.3 For that the applicant has completed 240 days in each calender year for last five years and as such he is entitled to be regularised in terms of the scheme issued by the Department of Posts.
- 5.4 For that, as per the policy of the Respondent Department a person who renders services for not less than three years should be included in the list of EDDA and who are discharged from service for appointment.
- 5.5 For that the claim of the applicant gains support from the observations made by the Hon'ble Central Administrative Tribunal in their judgment and order dated 10.11.2000 passed in O.A.No.125/2000, dated 27.5.2000 in O.A.No.451/2002.

.....contd/-

sri Hirish Kalika

Details of remedies exhausted

That the applicant states that he has no other alternative and other efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

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

The applicant further declares that he had filed an application before this Hon'ble Tribunal vide O.A.No.126/2000 and O.A. No.451/2001 and the Hon'ble Tribunal was pleased to dismiss the said O.A.s on 10.11.2000 and 27.6.2001 with observations for consideration of the case of absorption of the applicant by the respondents. The applicant further declares that no other Writ Petition or Suit regarding the matter in respect of which this application has been made is pending before any court or any other authority or any other Bench of the Tribunal.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant most respectfully prays that Your Lordships be pleased to admit this application and further be pleased to grant the following reliefs:

.....contd/-

Sri Hirish Kalita

8.1 To direct the respondents to comply with the observations made by this Hon'ble Tribunal in their Order dated 10.11.2000 passed in O.A. No.126/2000 and Order dated 27.6.2002 in O.A.No.451/2001.

8.2 To direct the respondents to absorb and regularise the services of the applicant in the post of EDMC at Branch Office, Khandbhari or such other office.

8.3 Costs of the application.

8.4 Any other relief or reliefs 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 humbly prays for the following relief :-

9.1 That the respondents be directed that pendency of this application shall not be a bar for absorption and regularisation of the services of the applicant in the vacant post of EDMC at Khandbhari Branch Post Office.

10. This application is filed through Advocates.

.....contd/-

sri Girish Kulkarni

11. Particulars of the I.P.O.

- i) I.P.O. No. 7G 60 J026
- ii) Date of issue : 5-3-2023
- iii) Issued from : G.P.O., Guwahati
- iv) Payable at : G.P.O., Guwahati

12. List of enclosures

As stated in the index.

Sri Hirish Kalita

VERIFICATION

I, Shri Girish Kalita, son of late Krishna Kanta Kalita, aged about 41 years, resident of village Law Para, P.O. Lawpara, district- Nalbari, Assam do hereby verify that the statements made in Paragraphs 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 day of March 2003.

sri Girish Kalita

Annexure-1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 126 of 2000

Date of decision : This the 10th day of November 2000

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

Sri Girish Kalita
S/o Sri Krishna Kanta Kalita
Resident of village Law Para
P.O. Law Para
District Nalbari,
Assam.

.....Applicant

—AND—

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.
2. The Chief Postmaster General,
Assam Circle,
Meghdoott Bhawan,
Guwahati-781001
3. The Superintendent of Post Office,
Nalbari, Assam.
4. The Sub Divisional Inspector of
Post Offices, West Sub Division,
Nalbari, Assam.
5. Sri Rajat Chandra Medhi,
Resident of Village Lawpara,
P.O. Lawpara,
District-Nalbari,
Assam.

.....Respondents.

ORDER

CHOWDHURY J. (V.C.)

A disciplinary proceeding was initiated against Shri Rajat Chandra Medhi, Extra Departmental Delivery Agent

*Pitis Med
J.C. Chowdhury*

(EDDA), Lawpara Branch Office, Nalbari. To overcome the situation, the respondents provisionally appointed the applicant as EDDA, Lawpara vide Memo No. A1/Lawpara/95 dated 5.4.1995. The aforementioned Rajat Chandra Medhi was taken back into service after completion of the enquiry. The respondents, therefore, by order dated 1.4.2000 terminated the service of the applicant given vide order dated 5.4.1995. Hence this application.

2. Heard Mr. M. Chanda, learned counsel for the applicant who has submitted that strictly in terms of the appointment letter dated 5.4.1995, the respondents acted within their competence in terminating the service of the applicant and appoint the original incumbent. But then, the respondents, as a State, ought not to have abandoned the humane considerations for absorbing him against some post, so much so that the applicant has rendered more than five years service as EDDA. The learned counsel pointed out that in terms of the provisions of the Industrial Law applicable, it was incumbent on the employer to take care of those employees that rendered more than 240 days of service. Mr. Chanda also pointed out to some such welfare measures adopted by the respondents.

3. Mr. B.C. Pathak, learned Addl. C.G.S.C., pointing to the terms of the appointment, on the other hand, submitted that after finalisation of the disciplinary proceeding of Shri Rajat Chandra Medhi he had to be appointed and accordingly the applicant has to give way to Shri Rajat Chandra Medhi. The learned Addl. C.G.S.C. fairly placed the

Government policy in this regard for accommodating the EDDA and referred to the relevant circulars.

4. From the foregoing discussion it appears that there is no discernible error or infirmity in terminating the service of the applicant. Therefore the impugned order dated 1.4.2000 cannot be faulted. However, the applicant has put in more than five years of service. As per the policy of the Department a person who renders service not less than three years should be included in the list of EDDAs who are discharged from service for appointment under Rule 20 of the Method of Recruitment of EDDA read with D.G.P.T. letter No. 43-4/77-Pen dated 23.2.1979. Since the applicant has completed more than five years of service in the Department, the respondents shall have to take care of the situation to accommodate him as per the existing rules. Mr. Chanda submitted that there is one such vacant post in Kachua, Mukalmua in Nalbari district wherein the applicant can be accommodated. Mr. Pathak, however, submits that he is not aware of any such vacancy. In my view no such direction is required to be issued for the appointment of the applicant. The entire matter is left to the Postal Authority for consideration of the case of the applicant in conformity with the accepted norms and policy as expeditiously as possible, preferably within three months from the date of receipt of this order.

5. Subject to the above observation, the application is dismissed. No order as to costs.

Sd/- Vice-Chairman

Annexure-2

Dated : 20.11.2000

To
The Superintendent of Post Offices,
Nalbari, Assam,

(Through Sub Divisional Inspector (Forest Offices)
West Sub Division, Nalbari, Assam).

Sub : Prayer for immediate appointment in any suitable post, EDDA, EDMC, in terms of the judgment and order dated 10.11.2000 passed in O.A. No. 126/2000.

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that being highly aggrieved, I approached Hon'ble CAT, Guwahati against the order of termination date 1.4.2000, after rendering five years continuous service as EDDA at Lawpara Branch Office in place of Sri Rajat Ch. Medhi. The Hon'ble Tribunal while delivered Judgment and order dated 10.11.2000 in O.A. 126/2000, it is categorically observed that the undersigned is entitled to be appointed under Rule 20 of the method of recruitment of EDDA read with DGPT letter No. 43-4/77-PEN dated 23.2.1979 and also observed that the appointment should be considered as expeditiously as possible within three months. IT is relevant to mention here that one post of EDDA/EDMC is presently lying vacant at Kachva Mulkmua, in Nalbari District. Therefore you are requested to consider my appointment in the said existing vacancy or in any other suitable vacancy as early as possible considering my poor financial condition and also considering the fate of the dependent family members.

*Prakash
Jain
Advocate*

- 19 -
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A copy of the judgment and order dated 10.11.2000 passed in O.A. No. 126/2000 is enclosed for your ready reference.

Encl : As stated above

Yours faithfully,

Sd/-

(Girish Kalita)

Vill. Lawpara
P.O. Lawpara
Dist. Nalbari, Assam.

Copy to :

The postmaster General, Assam Circle, Guwahati. You are requested to pass necessary order for any appointment in any existing vacant post of EDDA/EDMC, in terms of judgment and order dated 10.11.2000.

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Annexure-3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 451 /2001

Applicant(s) :- Girish Kohli

Respondent(s) :- U.O. I Govt

Advocate for the Applicant :- M. Chanda, Mrs. N. D. Goswami, G. N. Chakrabarty

Advocate for the Respondent: Addl. case B.C. Pathak

Office of the Registry } Date } Order of the Tribunal

bb

20.3.02 Heard Mr. M. Chanda, learned
counsel for the applicant and also
Mr. B.C. Pathak, learned Addl. C.G.S.C.
for the Respondents.

Referring to the communication
sent to Mr. B.C. Pathak, learned Addl.
C.G.S.C. submitted that the case of the
applicant is under consideration. Let
the Respondents submitted its written
statement so that the matter can be
disposed expeditiously. List on 25.4.02
for further order.

Pendency of this application
shall not stand in the way of the
Respondents to consider the case of
the applicant in the light of the policy
of the department dated 23.8.1979 for
providing employment who are appointed
provisionally subsequently discharged
from service due to administrative
reasons.



Memo No. 1203/MC/20.3.02
City to Mr. N. Chanda, Adv. CAT/
Guwahati Bench, Alby-5
(2) Mr. B.C. Pathak, Addl. C.G.S.C.
CAT/Alby-5

Section Officer (W)

Central Administrative Tribunal
Guwahati Bench, Guwahati
Assam, India

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

Pathak
B.C. Pathak
Addl. C.G.S.C.

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 451 of 2001.

Date of Order : This the 27th Day of June, 2002.

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

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

Shri Girish Kalita,
 S/o Sri Krishna Kalita,
 Resident of village Law Para,
 P.O. Law Para,
 District - Nalbari (Assam).Applicant.

By Advocate Shri H.Dutta.

1. Union of India,
 Represented by the Secretary to the
 Government of India,
 Ministry of Communication,
 Department of Posts,
 New Delhi.

The Chief Postmaster General,
 Assam Circle, Magdoot Bhawan,
 Guwahati-781001.

3. The Superintendent of Post Office,
 Nalbari, Assam.

4. The Sub Divisional Inspector of
 Post Offices, West Sub Division,
 Nalbari, Assam.

5. Sri Rajat Chandra Medhi,
 Resident of Village Lawpara,
 P.O. Lawpara,
 District - Nalbari (Assam)Respondents

By Shri B.C.Pathak, Addl.C.G.S.C.

ORDERCHOWDHURY J. (V.C)

This is the second round of litigation. The applicant earlier preferred O.A.126/2000 seeking for a direction for absorption under the respondents as EDDA.

In the above O.A. the applicant assailed the order of

*Abhishek
Advocate*

contd..2

termination dated 1.4.2000 by which his appointment dated 5.4.1995 was terminated his service as an EDDA Law Para Branch office, Nalbari. In the aforementioned post the applicant was appointed on 5.4.1995 provisionally in view of the fact that a disciplinary proceeding was pending against the incumbent. Accordingly he was put off from the the duty. Disciplinary proceeding ended in his favour accordingly the old incumbent was reinstated. On reinstatement the applicant was terminated. The earlier O.A. was accordingly dismissed with certain observations.

The Tribunal while dismissing the application recorded the fact that the applicant rendered service for about five years indicating the policy for absorption of such person in the facts and situation, the Bench disposed the matter leaving the subject at the disposal of the authority. The applicant has now come before this Tribunal for a direction for his absorption.

2. The respondents authority had submitted their written statement and stated that there was no vacant post at Kachua and Mukalmua in Nalbari District. The respondents however, fairly stated that the case of the applicant for absorption in any available vacant post is looked into and also stated that he would be accommodated as soon as vacant post suitable to him is available as per the guidelines laid down in DG P&T's letter No. 43-4/77-Pen dated 23.2.1979 and also keeping in mind the judgment and order of the Tribunal in O.A.126/2000.

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B)

3. We have heard Mr H.Dutta, learned counsel appearing for the applicant as well as Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents at length. Considering all the aspects of the matter we do not find, any scope for intervention at this stage. We are fully satisfied to the steps taken by the respondents and it is expected that the respondents shall do the needful at the earliest available opportunity.

Subject to the observation made above, the application stands dismissed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/MEMBER (A)

To

Sri Niranjan Das
 Superintendent of Post Offices.
 Nalbari. P.O. & District Nalbari,
 Assam.

Sub : Submission of representation praying for early appointment in any suitable vacant post in terms of judgment and order dated 27.6.2002 passed in O.A. No. 451/2001.

Sir,

I like to draw your kind attention on the subject cited above and further beg to state that my service was terminated way back on 1.4.2000 after being served as EDDA for a period of about 5 (Five) years. As per D.G. P & T's letter dated 23.2.1979 the undersigned is entitled to be appointed/reinstated in service in any available suitable vacancy on priority basis but till date no action was initiated in this regard except assurance, given before the learned Central Administrative Tribunal. Therefore you are requested to expedite my case for appointment in terms of the assurance given by the respondents as stated in para 2 (two) of the judgment dated 27.6.2002. In this connection it may be stated that vacant post of Postman is available at JAGARA (Sub-office) and another post of Postman is also vacant at DEHAR KALAKUCHI" (Branch Office) therefore there is no difficulty on your part for immediate compliance of the judgment and order dated 27.6.2002.

You are further requested to inform the undersigned your decision as well as the progress of my case for appointment as per judgment and order passed in O.A. No. 126/2000 as well as in O.A. 451/2001.

I am also entitled to a reply, on my representation from your end in terms of letter No. 137-5/2002-SPB-II, dated 29/1/2.01.2002. Therefore you are requested to inform your decision immediately to the undersigned.

Thanking you,

Yours faithfully,

Sri Girish Kalita.

(GIRISH KALITA)

Son of Sri Krishna Kalita
 Resident of village Law Para
 P.O. Lawpara, Dist. Nalbari(Assam)

*Mr. Girish Kalita
 Advocate*

8/9/02

Annexure-6

To

Sri Niranjan Das
 Superintendent of Post Offices,
 Nalbari Assam

Sub : **Prayer for appointment to the vacant post of EDMC at Kandbari Branch Post Office under P.S. Mukalmua in terms of Judgment and order in O.A. 176 of 2000 as well as Judgment and Order passed in O.A. 451 of 2001.**

Respected Sir,

I like to draw your kind attention on the subject cited above, and further beg to state that a post of EDMC now fall vacant due to sudden demise of Sri Arphan Ali,EDMC at Kandbari Branch Post office, under P.S. Mukalmua. Therefore you are requested to consider my case for appointment on regular basis to the vacant post of EDMC at Kandbari Branch Post Office in terms of the assurance given before the Hon'ble Central Administrative Tribunal, Guwahati Bench and also in terms of the direction passed in the judgment and orders in O.A. 126/2001 and 451/2001.

You are further requested to kindly intimate the undersigned regarding consideration of my appoint to the aforesaid post of EDMC. A copy of the judgment and order dated 27.6.2002 passed in O.A. 451/2001 is enclosed for your ready reference.

An early action is highly desired in this regard.

Enclo : As stated above.

Yours faithfully,

Date : 29.1.2003

(GIRISH KALITA)
 S/o Sri Krishna Kanta Kalita
 Resident of village Lawpara,
 P.S. Lawpara, Dist. Nalbari,
 Assam.

*Girish
 Kalita
 Advocate*

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

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

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

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

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

Attested
by
Advocate

SWAMY'S—POSTAL ED STAFF

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- 15 -

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

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

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

ANNEXURE - A
[in Duplicate]

Whereas the post of Extra-Departmental.....(Name of Post and Office of duty) has become vacant/has been newly created and it is not possible to make regular appointment to the said post immediately the.....(Appointing Authority) has decided to make provisional appointment to the said post for a period of (period) from.....to.....or till regular appointment is made, whichever period is shorter.

2. Shri.....(Name and address of the selected person) is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The.....(Appointing Authority) also reserves the right to terminate the provisional appointment at any time before the period mentioned in Para. 1 above without notice and without assigning any reason.

4. Shri.....will be governed by the Extra-Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time and all other rules and orders applicable to Extra-Departmental Agents.

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

Appointing Authority

To

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

ANNEXURE - B
[in Duplicate]

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
23 JUN 2003
GUWAHATI BENCH: GUWAHATI.

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T.M.P. 2003
Guwahati Bench

In the matter of :-

O.A. No. 56 of 2003

Girish Kalita,..... Applicant

-- versus --

Union of India & Ors.

..... Respondents

Written statements for and on behalf of Respondents
Nos. 1, 2, 3, 4 & 5.

I, Sri Sankeswar Das, Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari-781335, do hereby solemnly affirm and say as follows:-

1. That I am the Supdt. of Post Offices, Nalbari Barpeta Division, Nalbari 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 statements may be deemed to have been denied. I am authorised to file the written statements on behalf of all the respondents.
2. That the applicant was appointed provisionally as EDDA, Lowpara BO in a/c with Mukalmua SO vide SDI(P), Nalbari No. A1/Lowpara/95 dtd. 5-4-95 and he joined on 17-4-95 (A/N).

The disciplinary proceeding against Sri Rajat Ch. Medhi the permanent EDDA, Lowpara BO was under put off duty, has since been completed and the disciplinary authority exonerated and re-instated him in the original post of EDDA, Lowpara BO w.e.f. 7-4-2000 (A/N) vide SDI(P), Nalbari West No. A1/Lowpara/2000, dtd. 1-4-2000, since there was no merit to be revised the order, it was not done by the appellate authority. The appointment of the applicant was purely provisional with the term and condition if ever Sri Rajat Ch. Medhi is taken back to the service, the provisional appointment issued as such, will be terminated without any notice. The applicant accepted the terms and

Contd., p/2

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Union of India & Ors - Respondent
through -
Sampy Kumar Choudhury
23/6/03

conditions and as such his termination from service was in order.

The re-absorption of the applicant, who was terminated on 6-4-2000, could not be made in Kachupathar BO, Mukalmua SO for non vacancy of post. The application of the applicant for absorption in vacant post of Kandbari BO could not also be undertaken as employment a family member of Late Arfan Ali, Ex-EDMC, Kandbari BO is under consideration on compassionate ground.

Despite the judgement & order passed on 10-11-2000 in O.A.No.126/2000 and on 27-6-02 in O.A.No.451/2001 by the Hon'ble Tribunal, the absorption of the applicant against the posts shown in application could not be considered in view of the facts stated above.

The respondents are however, considering the case of the applicant for absorption in any GDS vacant post likely to occur as per the guidelines laid down in DGP & T letter No.43-4/77-Pen dtd.23-2-79 and also keeping in mind the judgement & order of the Hon'ble Tribunal in O.A.No.126/2000.

3. That with regard to the statements made in paragraph 1 of the application the respondents beg to state that in the O.A.No.126/2000 and in O.A.No.451/2001 the Hon'ble Tribunal directed that the respondents to do the needful at the earliest available opportunity to absorb the applicant.

As there was no vacant post at Kandbari BO at that time, his application could not be considered.

The post of EDMC, Kandbari BO has been lying vacant w.e.f.01-1-03 due to expiry of Ex-EDMC, i.e. Late Arfan Ali. As per provision contained in DG Post letter No.14-25/91-ED & Trg. dtd.16-12-91, it is the department's duty to inform the family members of the deceased employee for availing the concession of compassionate appointment. Accordingly the son of Late Arfan Ali has submitted application for appointment and his case is under consideration for appointment in the post of EDMC, Kandbari, falling vacant due to the death of the Ex-ED official.

4. That the respondent has no comment to offer to the statements made in paragraph 2,3,4.1,4.2,& 4.3 of the application.

5. That with regard to the statements made in paragraph 4.4 of the application, the respondents beg to state that the disciplinary proceeding against Sri Rajat Ch. Medhi was completed by the Disciplinary authority and the Disciplinary authority exonerated Sri Rajat Ch. Medhi from the charged leveled against him (vide Memo No. A2/Lowpara/94-95 dtd. 31-3-2000). Accordingly Sri Rajat Ch. Medhi was re-instated in the post of EDDA, Lowpara BO vide SDI (P), Nalbari (W) No. A1/Staff/Lowpara/2000 dtd. 1-4-2000.

The termination of the applicant was not in an unfair and unjust manner as his provisional appointment against the vacancy caused by put off duty of Sri Rajat Ch. Medhi was made with clear understanding that his provisional appointment may be terminated at any time without notice and without any assignment of any reason.

6. That with regard to the statements made in paragraph 4.5 of the application, the respondents beg to state that the termination of provisional appointment of the applicant was legal as the disciplinary proceedings against Sri Rajat Ch. Medhi was finally disposed of and Sri Rajat Ch. Medhi was re-instated being exonerated from all charges leveled against him. As per terms of provisional appointment, the applicant was terminated on Sri Rajat Ch. Medhi being re-instated in service.

The action of the respondent with regard to termination of the applicant was as per terms and conditions under which he was provisionally appointed and that the action was therefore just and as per procedure.

7. That with regard to the statements made in paragraph 4.6 of the application, the respondents beg to state that the posts mentioned in representation dtd. 20-11-2000 were not lying vacant at that time.

One Branch Post Office i.e. Kachuapathar (not Kachua) was newly opened on 31-3-99 with lone post of BPM at the office. The post was notified on 26-3-99 for filling up and appointment in the post was made on 10-7-99, i.e. before the submission of application dtd. 20-11-2000 by the applicant.

There was no vacant post at Mukalmua Post Office at that time.

Due to non availability of vacant post, the case of the applicant could not be undertaken for consideration.

8. That with regard to the statements made in paragraph 4.7 of the application, the respondents beg to state that the case of the applicant has been kept in mind for consideration under provision in DGP&T No.43-4/77-Pen dtd.18-5-79.

9. That with regard to the statements made in paragraph 4.8 of the application, the respondents beg to state that as there were no vacant post of EDDA at that time of his application dtd.20-11-02 as specifically mentioned, there is no scope for stating that the respondent has no inclination for considering his case of appointment in ED post.

The applicant has no right for claiming Gr-D & Gr-C post as per provision of rules as there is separate recruitment rules.

The respondent has no comment to offer with regard to position of the dependent family members etc. of the applicant.

10. That with regard to the statements made in paragraph 4.9 of the application, the respondents beg to state that the applicant was terminated as per terms and conditions of his provisional appointment. His termination from service was due to administrative reason. As he has already rendered more than 3 years continuous service, his name is only to be included in waiting list for appointment as ED agent as per guidelines in DGP&T letter No.43-4/77-Pen dtd.18-5-79. This has also relation with available vacant post as well as other required terms and conditions to be fulfilled by him. At the time of his application dtd.20-11-02 for absorption in ED post, there were no vacant posts in the POs of the locality. It was already mentioned that there was no vacant post at Lowpara PO.

11. That with regard to the statements made in paragraph 4.10 of the application, the respondents beg to state that as mentioned in the representation dtd.9-9-02 and 29-10-03 submitted by the applicant, there were no vacant posts at Jagara and Deharkalakuchi PO. In respect of the post of EDMC, Kandbari PO, one of the dependent family members of the deceased EDMC, Kandbari PO has already applied for appointment under compassionate ground and the case is under consideration as mentioned in para-1.

12. That with regard to the statements made in paragraph 4.11 of the application, the respondents beg to state that the incumbent of EDMC, Kandbari BO i.e., Late Arfan Ali expired while in service. As per instruction in DGP&T letter No. 14-24/91-ED & Trg. dtd. 16-12-91 the family member of Late Arfan Ali has the right to avail the concession of appointment on compassionate ground in the post of EDMC, Kandbari BO.

In respect of the post of EDDA, Lowpara, it was already mentioned in para 4.11 that the post was not lying vacant permanently.

13. That with regard to the statements made in paragraph 4.12 of the application, the respondents beg to state that the matter of inability to absorb the applicant in ED post is not due to filling applications by the applicant before the Hon'ble Tribunal, but due to non-availability of vacant post in PO which are chosen by him.

14. That the respondents have no comment to offer to the statements made in paragraph 4.13 of the application.

15. That with regard to the statements made in paragraph 5.1 of the application, the respondents beg to state that the provisional appointment of the applicant was terminated in accordance with terms and conditions of his provisional appointment.

16. That with regard to the statements made in paragraph 5.2 of the application, the respondents beg to state that as the post of EDMC, Kandbari BO is being offered for appointment on compassionate ground of one of dependent family member of Late Arfan Ali, Ex-EDMC, Kandbari BO who expired while in service, the appointment of the applicant could not be considered for the post of EDMC, Kandbari BO.

17. That with regard to the statements made in paragraph 5.3 of the application, the respondents beg to state that the appointment of the applicant was not like a casual labour to have the benefit of 240 days continuous service. Moreover, his appointment was provisional with clear terms & conditions during which period his service was regulated under the EDAs (Service & Conduct) Rules 1964.

18. That with regard to the statements made in paragraph 5.4 of the application, the respondents beg to state that the provisional appointee subsequently discharged is to be included in the waiting list of ED agents/discharged from service.

19. That with regard to the statements made in paragraph 5.5 of the application, the respondents beg to state that the Hon'ble Tribunal while disposing the O.A. No. 126/2000 & 451/02 left the subject at the disposal of the postal authority.

20. That the respondents have no comment to the statements made in paragraph-7 of the application.

21. That with regard to the statements made in paragraph 8.1 of the application, the respondents beg to state that the Hon'ble Tribunal has already made certain observation on O.A. No. 126/2000 & O.A. No. 451/2001 and no other direction for immediate absorption may be applicable at present as there are # vacant posts as mentioned by the applicant and the respondent has to take into consideration all other criteria for absorption of the applicant whose name is liable to be included in waiting list of discharged ED Agent and also subject to fulfilment other terms and conditions.

22. That with regard to the statements made in paragraph 8.2 of the application, the respondents beg to state that no claim from the part of the applicant for his absorption in the post of Kandbari BO could be entertained due to the reasons stated in the paragraphs 11,12 & 16 above.

23. That the respondents have no comments to the statements made in paragraph 8.3 and 8.4 of the application.

24. That with regard to the statements made in paragraph 9 of the application, the respondents beg to state that the appointment of the applicant in the post of EDMC, Kandbari BO could not be considered as stated in para-2 above.

25. That the respondents have no comments to the statements made in paragraph 10,11 and 12 of the application.

26. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs on the reasons stated in the pre-paragraphs.

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VERIFICATION

I, Sri Sukheswar Das, presently working as Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari-781335 being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 4, 13, 14, 20 + 23 of the application are true to my knowledge and belief, those made in paragraphs 2, 3, 5-12, 15-19, 21+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 21st day of June, 2003

Sukheswar Das
डाक अधीक्षक नलवारी बरपेटा
डाक मंडल नलवारी - 781335
SUPDT. OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI - 781335

DEPONENT

Div. B
Nalbari West Sub-Division
Nalbari Post Office
Nalbari, Assam

DEPARTMENT OF POSTS

OFFICES OF POSTS
AND POST OFFICES

OFFICES OF THE SECRETARIAL
POST OFFICES
Nalbari Burpota Div.
Nalbari, Assam

MALBARI 783003, 2000.

Mem. No. A2/Lewpara/94-95 dated

Postm...

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for addl. P.M.
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Annexure I

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In this Office Memo of even no dated 24.8.95 proposed to hold an enquiry against Sri. Rajat Ch. Medhi, EDDA/Lewpara B.O. under Rule 8 of P.T. EDA (Conduct & Service) Rules 1964.

ANNEXURE-I.

Statement of Article of charge framed against Sri. Rajat Ch. Medhi EDDA/Lewpara B.O. in A/C with Mukalmua S.O. (UPD).

ARTICLE-I.

That the said Sri. Rajat Ch. Medhi, EDDA Lewpara B.O. (UPD) while working as such remained in Authorised absence from duty W.E.F. 7.8.95 to 14.2.95 i.e. 1288 day.

Thereby the said Sri. Rajat Ch. Medhi violated note below Rule (6) of EDA (Conduct & Service) Rule-1964.

ANNEXURE-II

Statement of imputation of misconduct & misbehaviour in support of the article of charge framed against Sri. Rajat Ch. Medhi EDDA/ Lewpara B.O.

ARTICLE-I

Sri. Rajat Ch. Medhi EDDA Lewpara B.O. was granted leave for 95 days W.E.F. 4.5.91 to 6.8.91 vide SDI(P) NLM Memo No. A2/Lewpara dated 9.8.91.

Sri. Medhi was to join in his duty on 7.8.91. But instead of joining he remain absent since 7.8.91 without any authority to 14.2.95 i.e. of a ~~strikes~~ ^{stretch} 1288 days.

Thereby ⁹ said Sri. Medhi violated noted below Rule 5 (6) of EDDA (Conduct & Service) Rules 1964.

The I.O. of the rule 8 case recorded his findings in two Phases.

(1) Sri. Rajat Ch. Medhi EDDA Lawpara B.O. (UPD) Officiate in Departmental posts in different capacities at different S.O.S. from 8.8.91 to 21.10.92. Hence the said period is excluded from un Authorised absence.

(2). Again Sri. Medhi was absent from duties W.E.F. 22/10/92 to 14/2/95.

The charge levelled for un Authorised absence of Sri. Medhi from 8/8/91 to 14/2/95 is to to not proved.

The period mentioned in column (1) from 8.8.91 to 21.10.92 is partially not proved & the period mentioned in column No. (2) to the period 22/x/92 to 14/2/95 partially proved.

The charged Official in his defence statement on I.O.S final report raise question in which term & condition that the person who worked as EDDA Lawpara B.O. for a long period. In the same line of reasoning posting order was essential for him.

I have gone through the I.O.S, final report, charged Official defence statement & other relevant records & documents & comes to following observation.

(A) I am agree with the finding of I.O. WHICH mentioned in column No. (1).

But I disagree with the findings arrived at in the I.O. in column No. (2) for the following reasons which noted below :

(i) Then appointing authorities did not give reasonable opportunities to rejoin of Sri. Rajat Ch. Medhi in the post of EDDA Lawpara after relieving from the post of Postman Baharhat S.O. on 22/10/92.

(ii) In reverse concerned authorities allowed Sri. Manik Ch. Medhi to work as EDDA Lowpara B.O. (in O/C with Mukalmua) as un authorised/un-approved nominee for the period 7-8-91 to 16-2-95 which is in contrary of Rule 5 of EDA (Conduct & Service) Rules 1964. Also then Appointing authorities did not terminate the service of un approved nominee in proper time to make way to rejoin the original ED Official of Lowpara B.O.

O R D E R

I Md. Hammul Haque Laskar SDI POS Nalbari (West) Sub-Division, Nalbari & disciplinary authority in the Rule -8 Case of EDDA Lowpara is hereby exonerate Sri. Rajat Ch. Medhi from the charges that levelled against him & reinstate in original post i.e. EDDA Lowpara.

Sd/

Divisional Inspector (Post)
Nalbari West Sub Division
Nalbari-781335

Copy to:-

1. Sri. Rajat Ch. Medhi, Ex-EDDA Lowpara B.O. for information.
2. The Postmaster (HSGI) Nalbari H.O. for information and necessary action.
3. S.POS NLB, for information.
4. O/C.

✓
Divisional Inspector (Post)
Nalbari West Sub Division
Nalbari-781335

✓
H.S. Gorkha
Divisional Inspector (Post)
Nalbari West Sub Division
Nalbari-781335

Abul Qasim

Annexure II

Hayam Malu

38

Final Br

16/77

DEPARTMENT OF POSTS : : : : INDIA.

SDO Additional Inspector (Postal)
Nalbari West Sub Division
Nalbari-781335

1/Staff/Lawpara/2000 datd. of Nalbari the 1-4-2000.

O R D E R

Copy of this Order of
Post Office

Nalbari Barpara Division WHEREAS Sri. Rajat Ch. Medhi EDDA Lawpara P.O. in A/C with

MALBARI-781335 Mukalmua S.O. under Nalbari H.O. placed under put off duty w.e.f. 16-2-95

16-2-95 was made vide this Office Memo No. A 2/Lawpara/94-95 dtd.

16-2-95.

Now therefore the undersigned in exercise of power ^(Conferred) ~~conferred~~ in clause (C) of Sub-Rule-5 of Rule-10 of the C.C.S.Rules-1965 hereby revoked the said order with immediate effect due to administrative reason.

Sd/

SDO Additional Inspector (Postal)
Nalbari West Sub Division
Nalbari-781335

Copy to :-

1. Sri. Rajat Ch. Medhi EDDA Lawpara (UPD)
2. The Postmaster (HSCI) Nalbari H.O. for information and necessary action.
3. The S.POS Nalbari for kind information.
4. The S.PM Mukalmua for information.
5. The BPM Lawpara for information & asked to allow Sri. Rajat Ch. Medhi EDDA (UPD) to join in the Office immediately.
6. O/C.

J. R. K. S.
SDO Additional Inspector (Postal)
Nalbari West Sub Division
Nalbari-781335

Attested
G. K. Chakraborty

12
Annexure III
391
76
forward for
1
Date
12/12/2000
M/s. 350
Nalbari West Sub Division
Additional Inspector (Post)
Nalbari-781335

DEPARTMENT OF POSTS :::: INDIA.

Memo No. A 1/Lawpara/2000 dtd. of Nalbari the 1-4-2000.

WHEREAS Sri Girish Kalita Vill. & P.O. Lawpara Dist. Nalbari was engaged to look after the work of EDDA Lawpara B.O. W.E.P. 05.4.95.

He was given clear understanding that if ever it is decided to take Sri. Rajat Ch. Medhi back in to service then the provisional appointment issued to him will be terminated without notice.

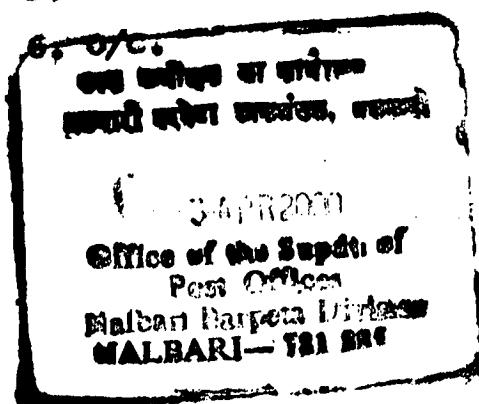
Now the undersigned come to the decision that Sri. Rajat Ch. Medhi EDDA Lawpara (in A/C with Mukalmua S.O.) (UPD), should be taken back in to Service.

Therefore the provisional appointment issued to Sri. Girish Kalita as EDDA Lawpara B.O. vide this Office Memo No. A 1/Lawpara/95 dtd. 5/4/95 is hereby terminated with immediate effect.

Se/
2nd Additional Inspector (Post)
Nalbari West Sub Division
Nalbari-781335

Copy to :-

1. The Postmaster (HSGI) Nalbari H.O. for information and necessary action.
2. Sri. Girish Kalita EDDA (Prov. Appt.) Lawpara for information.
3. The BPM Lawpara for information & necessary action.
4. The SPM Mukalmua for information.
5. SPOS' Nalbari for information.
6. O/C.



2nd Additional Inspector (Post)
Nalbari West Sub Division
Nalbari-781335

Attended
Rajat Ch.

4b
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18

DEPARTMENT OF POSTS
OFFICE OF THE SUP DT. OF POST OFFICES: NALBARI BARPETA DN.

To,

The Employment Officer,
District Employment Exchange, Nalbari

No. A-208/EDA

Dated at Nalbari the 26-3-99

Sub:- Appointment of EDBPM of Kachua Pather EDBO in a/c with
Bartala SO in the district. Nalbari

Sir,

A post of extra departmental branch postmaster is likely to
be created at Kachua Pather BO. At present the selection will be
provisional and on purely temporary basis and may be terminated at
any time in the interest of service.

While nominating the persons the following conditions may
kindly be kept in view:-

1. Persons seeking employment as EDBPM must be permanent resident of Kachua Pather village.
2. The applicants should have adequate means of lively hood from independent source of income.
3. The applicants should be able to offer suitable accommodation for the post office with provision for installation of PO even.
4. The applicants should have minimum educational qualification of HSLC passed or equivalent examination. Selection will be based on the marks secured in the matriculation or equivalent examination. No weightage will be given for higher qualification.
5. The applicant must attain the age of 18 years as on 1-1-99
6. SC/ST applicants may be given preference subject to fulfilment of above conditions.

The applications alongwith supporting documents in r/o applicants nominated for the post of BPM/Kachua Pather EDBO may be forwarded to this office so as to reach this office on or before.

22-4-99

Yours faithfully

Supdt. of Post Offices
Nalbari Barpeta Dn. Nalbari.

Copy to:-

1. The SDI(P) / Nalbari (a)
2. The Gaon Burah of Village Kachua Pather for information and make wide publicity in the village and encourage early submission of the applications through Dist. Employment exchange.
3. The SPM, Bartala S.O.

Supdt. of Post Offices
Nalbari Barpeta Dn. Nalbari.

Mr.

Abdul Ali

Annexure V

41
11/11/99
8/11/99
DEPARTMENT OF POSTS INDIA
Overseer Mails-II
Halbari-781333

भारतीय डाक विभाग
(देखिए नियम 267, डाक-तार वित्त युक्तिका ता. खंड 1, द्वितीय संस्करण) Volume 1, Second Edition
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

कार्ज से बदली गर नार्जिं योर्ड और नकदी और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of Sh. Md. A. S. Khan at Kumarghat B. B. C.

नार्जिं (नाम)
was made over by (name) Ahmed Khan

(नाम) को Kulachan Bauman at (place) Kumarghat
to (name) से पूर्वाह में
तारीख अप्रृष्ट

on the (date) 10/7/99 after noon in accordance with

No. A-208/EDH तारीख
Dated 26/6/99 from 3 pm to 4.

भारतीय अधिकारी
Relieved Officer

Shri Kulachan Bauman
मार्गदारी अधिकारी
Relieving Officer
10.7.99
(कुलचन बूमन)
(P.T.O.)

Ahmed Khan
10/7/99

Ahmed Khan

Amesha VI

(42) 50
15/5

DEPARTMENT OF POSTS : INDIA
Office of the Superintendent of Post Offices :: Nalbari-Barpeta Division
NALBARI-781335

Memo No. A-208/EDA

Date :: 28-06-99

Sri Kuladhar Barman, S/O Sri Jaggya Ram Barman, village and Post Kachuapathar via- Bartala SO is hereby appointed as EDBPM Kachuapathar with immediate effect. He shall be paid such allowances as are admissible to him from time to time.

2. Sri Kuladhar Barman should clearly understand that his employment as EDBPM Kachuapathar shall be in the nature of a contract liable to be terminated by him or by the undersigned by notifying the other in writing and that his conduct and service shall be governed by the Posts and Telegraphs Extra-Departmental Agents(Conduct and service) Rules, 1964 as amended from time to time.

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

G.G.SINGHA
(G.G.SINGHA)
Superintendent

Copy to:

1. The Postmaster, Nalbari HO for information and necessary action.

2-3. Sri Kuladhar Barman, village and Post Kachuapathar via- Bartala Dist-Nalbari (Assam).

4. The SDI(P) Nalbari(W) for information and handing over the charge of the BO to Sri Kuladhar Barman at an early date. He is also requested to impart necessary training to the new EDBPM for a period of seven(7) days.

5. The SPM, Bartala SO for information.

6. O.C.

G.G.SINGHA
(G.G.SINGHA)
Superintendent

M. H. Barman

SECTION X

Compassionate Appointments to Dependents of EDAs

(1) **Instructions regarding Compassionate appointment.**—The question of providing some ED posts to dependents of ED Agents in case of death/infirmity of an ED Agent has been under consideration of the Government for quite some time past. It has now been decided that a suitable job in ED cadre may be offered to one dependant of an ED official who dies while in service leaving the family in indigent circumstances, subject to the conditions applicable to regular employees who die while in service or retire on invalid pension. Such employment to the dependant should, however, be given only in very hard and exceptional cases.

2. The orders contained in this Office Letters No. 43-246/77-Pen., dated 8-3-1978 and No. 43-231/78-Pen., dated 17-2-1979, for giving preference to SC and ST and retired Army Postal Service candidates, etc., will not be applicable in such cases.

[D.G.P. & T. Letter No. 43-212/79/Pen., dated the 4th August, 1980.]

The purpose of giving compassionate appointments to one of the eligible dependants/near relatives of the deceased/invalidated ED Agents is to render immediate employment assistance to the family which has been left in indigent circumstances. The delay in finalization of the requests for compassionate appointments not only defeats the very purpose, but also gives rise to serious complaints from the beneficiaries concerned as also public representatives, both inside and outside the Legislatures. Besides causing sufferings to the bereaved families, inordinate delays in finalization of such cases also cause embarrassment to the Department.

2. High priority should be given to the expeditious finalization of compassionate appointment cases in respect of the dependants of the deceased/invalidated ED Agents in keeping with the provisions contained in the relevant orders. It would be desirable to monitor progress in the disposal of these cases with a view to ensuring that no case suffers avoidable delay and all cases are finalized within a reasonable time-frame prescribed for this purpose. In each case of delay, unless justified to the satisfaction of the higher authorities, suitable notice should be taken against the officer/official responsible for the same.

3. To keep proper watch on progress of disposal of such cases, half-yearly returns for the periods ending 30th September and 31st March should be submitted *inter alia* indicating the number of ED Agents who died in harness or retired on invalidation during the half-yearly period, number of compassionate appointment cases decided during the period, etc. If the disposal is not satisfactory, steps taken/proposed to be taken to accelerate the tempo may also be indicated. It is hereby reiterated that it is the Department's duty to inform

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the families of the ED Agents concerned, that they can avail of the concession of compassionate appointments. In no circumstances, it should be left to them to come up with such requests at the time of their choosing as in cases where delayed requests are received, excuses are made that they were not aware of the facility.

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[I.O., Posts, Letter No. 14-25/91-ED & Trg., dated the 16th December, 1991.]

(2) Written Intimation to be sent by Registered Post. — On careful consideration, it has been decided that in future written intimations about the existence of the facility of compassionate appointments must be sent in all cases by registered post. Before filling up the posts on regular basis, it must be ensured that no claim for compassionate appointment is pending or is anticipated.

[I.O. Posts, Letter No. 14-25/91-ED & Trg., dated the 5th August, 1993.]

(3) Clarifications. — Attention is invited to letters particularized below—

1. Letters No. 24-269/87-SPB-1, dated 10-2-1985, addressed to all Heads of Postal Services, etc., with which a copy of O.M. No. 14014/6/86-Estt. (D), dated 30-6-1987 (Appendix-2 of Swamy's Pension Compilation), from the Ministry of Personnel and Public Grievances and Pensions addressed to all Ministries/Departments of the Government of India containing guidelines for dealing with compassionate appointment cases of sons/daughters/near relatives of deceased Government servants; and

2. Letter No. 17-366/91-ED & Trg., dated 12-3-1993, wherein revised educational qualifications have been prescribed for recruitment to various categories of ED Agents.

In the context of the above-mentioned communications, references have been received from certain quarters seeking clarifications on the following points:

(1) For dealing with compassionate appointment cases in respect of the dependents/near relatives of deceased ED Agents, this Department is mutatis mutandis following the guidelines contained in O.M. No. 14814/6/86, dated 30-6-1987, of the Ministry of Personnel, Public Grievances and Pension which, *inter alia*, provide that where a widow of a deceased Government employee is appointed on compassionate grounds to Group 'D' posts, she will be exempted from the requirements of educational qualifications, provided the duties of the post can be performed without having the educational qualifications of middle standard prescribed in the Recruitment Rules. In the context of this provision, clarification has been sought whether similar relaxation can also be given to dependents/near relatives of the deceased ED Agents and whether the same will be applicable to all categories of ED Agents including EDBPM/EDSPM, etc.

(2) The ED posts are isolated and well spread out. It is, therefore, necessary that a vacancy caused due to the death of an ED Agent is filled up by appointing one of his/her dependents/near relatives on compassionate grounds. If it is not done, it would be quite difficult to give compassionate

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

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

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

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

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

METHOD OF RECRUITMENT

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

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

[D.G., P. & T., Letter No. 43-4/77-Pen., dated the 18th May, 1979 and Cir. No. 19-34/99-ED & Trg., dated the 30th December, 1999.]

ANNEXURE - A
[in Duplicate]

Whereas the post of Extra-Departmental (Name of Post and Office of duty) has become vacant/has been newly created and it is not possible to make regular appointment to the said post immediately the (Appointing Authority) has decided to make provisional appointment to the said post for a period of (period) from _____ to _____ or till regular appointment is made, whichever period is shorter.

2. Shri _____ (Name and address of the selected person) is offered the provisional appointment. He should clearly understand that the provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The (Appointing Authority) also reserves the right to terminate the provisional appointment at any time before the period mentioned in Para. 1 above without notice and without assigning any reason.

4. Shri _____ will be governed by the Extra-Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time and all other rules and orders applicable to Extra-Departmental Agents.

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

Appointing Authority

To

Shri _____

ANNEXURE - B
[in Duplicate]

Whereas Shri _____ (Name and Designation of the ED Agent who has been put off duty/removed/dismissed) has been put off duty pending finalization of disciplinary proceedings and judicial proceedings against him has been

*Accepted
B.P. Chakraborty*