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

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 88/2003

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SECTION OFFICER (Judl.)

Sahit  
16.11.17

( RULE - 4 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
.....

ORDER SHEET

Original Application No. 88/2003

Misc. Petition No.       /

Contempt Petition No.       /

Review Application No.       /

Applicant (s) H.B. Singh

- Vs. -

Respondent (s) V. O. I & ONS.

Advocate for the applicant (s) Mr K.K. Gupta  
Mr S. Sarma.

Advocate for the respondent (s) CASC.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in the <del>Condonation</del> Petition is filed / not filed C.F. for Rs. 50/- deposited vide IPO/BO No. <u>88/490026</u> Dated <u>26/4/03</u>.</p> <p><i>[Signature]</i> By, Registrar</p> <p>Steps taken <i>[Signature]</i> 28/4/03</p> <p>One copy Notice Short</p> <p>Notice prepared &amp; sent to BIS for issuing the Resumption No 1 to 4 by Regd. A.D.</p> <p><i>[Signature]</i> 31/5</p> <p>DINo 91515918 dtd 8/5/03</p> <p>① Service report are still awaited.</p> <p><i>[Signature]</i> 19.6.03</p>	<p>29.4.2003</p> <p>Heard Mr.S.Sarma, learned counsel for the applicant.</p> <p>The application is admitted call for the records.</p> <p>The prayer for interim order is rejected. It is made clear that any appointment<sup>made</sup> to the post of BPM, Nungei B.O., Manipur by the respondents shall be subject to the outcome of this application.</p> <p>List the case on 28.5.2003 for order.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>bb</p> <p>28.5.2003</p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S.K. Hajra, Member (A).</p> <p>Await service report. Put up again on 20.6.2003 for orders.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>	

20.6.2003

Put up again on 5.8.2003 to enable the respondents to file written statement on the prayer made by Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

*[Signature]*

Member

*[Signature]*

Vice-Chairman

mb

16.7.03

WB submitted by the respondents.

*[Signature]*

No rejoinder has been filed.

29.8.03

5.8.2003

Written statement has been filed. The case may now be listed for hearing on 1.9.2003. The applicant may file rejoinder, if any, within two weeks from today.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

1.9.2003

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

The Hon'ble Mr. K.V. Prahaladan, Administrative Member.

On the prayer of Mr. S. Sarma, learned counsel for the applicant the case is adjourned. Put up again on 9.9.2003 for hearing.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

9.9.2003

List again on 24.10.2003 for

hearing.

*[Signature]*  
Member

mb

17-11-03

Case is ready for hearing.

la

24.10.03 There is no Bench today. Adjourned to 18.11.03.

870  
h.

Office Note	Date	Tribunal's Order
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18.11.2003

Present: Hon'ble Smt Lakshmi  
Swaminathan, Vice-Chairman  
Hon'ble Shri S.K. Naik,  
Administrative Member.

We have heard Mr S. Sarma,  
learned counsel for the applicant and  
Mr A. Deb Roy, learned Sr. C.G.S.C.  
Orders passed seperately.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

nkm

8.12.03

Copy of the Judgment  
has been sent to the  
Office for issuing the  
Order to the applicant as  
well as to the R.C.G.S.C.  
in the Respondent.

st

6/11/12

Office Note

Date

Tribunal's Order

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./~~W.A.~~ No. 1111 88 of 2003

DATE OF DECISION 18.11.2003

Shri Huidrom Birchandra Singh .....APPLICANT(S).

Shri S. Sarma and Shri K.K. Gupta .....ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

The Union of India and others .....RESPONDENT(S)

Shri A. Deb Roy, Sr. C.G.S.C. ....ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE MR. SMT LAKSHMI SWAMINATHAN, VICE-CHAIRMAN

THE HON'BLE SHRI S.K. NAIK, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman

18  
19/11

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.88 of 2003

Date of decision: This the 18th day of November 2003

The Hon'ble Smt Lakshmi Swaminathan, Vice-Chairman

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

Shri Huidrom Birchandra Singh

S/o H. Tomba Singh,

Resident of Nungei Village,

P.O. & P.S. Lilong,

District- Thoubal, Manipur.

.....Applicant

By Advocates Shri S. Sarma and

Shri K.K. Gupta.

- versus -

1. The Union of India, through the  
Director General,  
Department of Posts,  
Government of India,  
New Delhi.

2. The Chief Post Master General,  
North Eastern Circle,  
Shillong, Meghalaya.

3. The Director, Postal Services,  
Imphal, Manipur.

4. Shri Abdul Jabbar,  
C/o The Director of Postal Services,  
Manipur, Imphal.

.....Respondents

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

.....

O R D E R (ORAL)

SMT LAKSHMI SWAMINATHAN (V.C.)

In this application, the applicant is aggrieved by the action of the respondents and issuance of the order dated 9.4.2003 cancelling his earlier appointment as Gramin Dak Sevak Branch Post Master (GDSBPM for short), Nungei Branch Office. By this order ~~the~~<sup>3</sup> respondent 4 has also been appointed on provisional basis to that post.

Y3/

2, The brief relevant facts of the case are:

The applicant, in pursuance to the order issued on 28.2.2002, applied for recruitment to the post of GDSBPM at Nungei Branch Post Office. According to him he fulfils all the relevant eligibility conditions for appointment to this post. Shri S. Sarma, learned counsel for the applicant has submitted that after holding the interview and selection for the post of GDSBPM, the applicant was issued the letter dated 24.10.2002 and appointed to that post at Nungei Branch Office. Thereafter, the respondents issued a show cause notice letter dated 16.1.2003 to which he submitted a representation. The respondents have stated that there were some inaccuracies in the action taken by them in appointing the applicant as GDSBPM. Later, the applicant's appointment was cancelled by the impugned order dated 9.4.2003. Shri S. Sarma, learned counsel for the applicant has submitted that respondent 4 was not even able to do simple arithmetic in the literacy test held by the respondents. The learned counsel for the applicant has also submitted that respondent 4 is not even qualified to be appointed on provisional basis as he is a student and there was, therefore, no reason why the applicant's appointment as GDSBPM should have been cancelled by the respondents. He has, therefore, prayed that the impugned letters dated 16.1.2003, 3.4.2003 and 9.4.2003 should be quashed and set aside with a further direction to the respondents to regularise the applicant's service with all consequential benefits, including back wages.

83/

3. We have seen the reply filed by the respondents and have heard Mr A. Deb Roy, learned Sr. C.G.S.C. In the reply affidavit filed on behalf of the respondents, it has been stated that more than twenty applications were received in response to the aforesaid advertisement and eleven candidates were short listed by the office. A literacy test was conducted in respect of these eleven candidates on 17.9.2002 to test their knowledge of simple arithmetic and local language. The applicant was selected for appointment and after completion of the necessary formalities he was provisionally appointed as GDSBPM of Nungei Branch Office. The Post Master General, N.E. circle, Shillong disagreed with the selection procedure and had reviewed the selection as he was of the view that no such written test followed by interview was required to be held under the relevant recruitment rules of GDS but the selection should have been based on the marks obtained by the candidates in the matriculation examination only. They have also submitted that the relevant instructions issued by respondent 1, i.e. DG L.No.17-104/93-ED&TRG dated 6.12.93 was received in the Office of the DPS, Manipur only on 8.4.2003. Hence, though the Notification was not included as part of the Notification calling for suitable candidates in the aforesaid selection to the post of GDSBPM, Nungei Branch Office, taking into account the relevant facts and circumstances of the case, therefore, the respondents have stated that a decision has been taken by the competent authority to cancel the Notification for the post of GDSBPM vide O.M. dated 25.4.2003, as being defective and a fresh notification giving the relevant details of recruitment has been issued to avoid the application of the rules in a selective manner. The

learned.....

learned Sr. C.G.S.C. has, therefore, submitted that there is no illegality in the procedure adopted by the respondents. He has also clarified that ~~the~~<sup>13</sup> respondent 4 who had obtained the highest marks in the matriculation examination has been provisionally appointed as GDSBPM and regular candidates will be appointed strictly in accordance with the relevant rules and instructions.

4. We have carefully considered the submissions made by the learned counsel for the parties and perused the pleadings and relevant documents on record. The stand taken by the respondents that they could not be applying the rules selectively to any given situation cannot be faulted. We further note their submissions that because of non-receipt of the relevant instructions from the Ministry of Communication which had been issued as far back as December 1993, which was received only in April 2003, the concerned officers had adopted a procedure which was not relevant for recruitment to the post of GDS. In the facts and circumstances of the case, the decision taken to cancel the notification for the post of GDSBPM vide O.M. dated 25.4.2003 as being defective and also to issue a fresh notification giving the correct and relevant information, to the candidates so as to follow the relevant recruitment rules and instructions cannot again be held to be unreasonable ~~and~~<sup>or 13</sup> arbitrary to justify any interference in the matter. Therefore, in the circumstances of the case the cancellation of the applicant's earlier appointment to the aforesaid post, based on interview and selection test as being contrary to the relevant rules and instructions cannot also be faulted. In this view of the matter we do

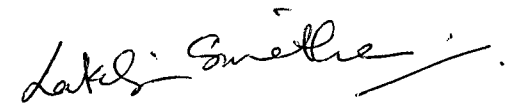
not.....

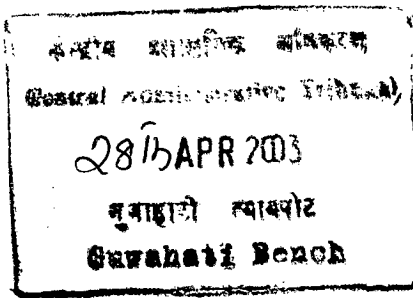
not find any merit in this application so as to justify setting aside the show cause or reasons given by the respondents in the action taken by them to set aside the earlier appointment of the applicant as GDSBPM, Nungei Branch Office.

5. However, before we part with this case, needless to say, it would be incumbent on the respondents to take necessary steps for appointment to the post of GDSBPM, Nungei Branch Office, on which post ~~the~~ respondent 4 has been provisionally posted, in accordance with the rules and instructions as expeditiously as possible and in any case within three months from the date of receipt of a copy of this order, if not already done.

6. In the result, for the reasons given above as we find no merit in the application, the O.A. stands dismissed with the above observations. No costs.

  
( S. K. NAIK )  
ADMINISTRATIVE MEMBER

  
( LAKSHMI SWAMINATHAN )  
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH

O.A. NO. 33 OF 2003

BETWEEN

Sri Huldrom Birchandra Singh,  
aged about- 40 years, son of H. Tomba Singh,  
a resident of Nungei village, P.O. & P.S.- Lilong,  
District- Thoubal, Manipur

...Applicant

-AND-

1- The Union of India & ors.

...Respondents

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Filed by-

Date of Filing-

Registration No.-

SYNOPSIS OF THE CASE

- 4.1- The applicant is a citizen of India
- 4.2- Advertisement dt. 28.2.2002 for GDSBPM post
- 4.3- Direction dt. 31.7.2002 to submit addl. Documents in pursuance of application.
- 4.4- Call for Interview by letter dt. 2.9.2002 and provisional selection by letter dt. 30.9.2002
- 4.5- Appointment letter dt. 18.10.2002 and for charge hand over letter dt. 24.10.2002.
- 4.6- Doing service to the best of ability.
- 4.7- Notice of show cause dt. 16.1.2003 by Director of Postal Services (HQ)
- 4.8- Communication dt. 24.1.2003 by Director of Postal Services, Manipur, that respd. No. 4 failed in mathematics
- 4.9- Show cause reply dt. 1.2.2003.
- 4.10- Cancellation of appointment by letter dt. 3.4.2003.
- 4.11- Letter dt. 9.4.2003 appointing respd. No 4 in place of the applicant

Filed by 's  
the applicant through  
Usha Das  
Advocate  
28/4/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH

O.A. NO. 98 OF 2003

Filed by  
the applicant through  
Alsha Das  
Advocate  
28/4/03

**BETWEEN**

Sri Huidrom Birchandra Singh,  
aged about- 40 years, son of H. Tomba Singh,  
a resident of Nungei village, P.O. & P.S.- Lilong,  
District- Thoubal, Manipur

...Applicant

**-AND-**

- 1- The Union of India, through the Director General, Department of Posts, Govt. of India, New Delhi.
- 2- The Chief Post Master General, North Eastern Circle, Shillong, Meghalaya.
- 3- The Director, Postal Services, Imphal, Manipur
- 4- Sri Abdul Jabbar, c/o- The Director of Postal Services, Manipur, Imphal.

...Respondents

**DETAILS OF THE APPLICATION**

PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is directed against the issuance of the letter dated 3.7.2003 communicating the decision of the Post Master General, N.E. Circle, Shillong to cancel the appointment given to the applicant and also against the consequential order dated 09.4.2003.

JURISDICTION OF THE TRIBUNAL:

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

LIMITATION:

1

*Huidrom Birchandra Singh*

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

**FACTS OF THE CASE:**

- 4.1 That the applicant is a citizen of India and a permanent resident in the State of Manipur and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed there under.
- 4.2 That the respondent no.3 vide his letter dated 28.2.2002 took steps for advertising 3 posts of Gramin Dak sevak Branch Post Masters. As per the contents of the said letter the minimum educational qualification prescribed was matriculation or equivalent from a recognized Board/ University. The other criteria prescribed were that the intending candidate must have adequate means of livelihood. He must be able to offer space/ room for functioning of Post Office. Moreover, school/ college going students were debarred from applying for appointment against the said post. The dispute raised in this application pertains to the post of Gramin Dak Sevak (Branch Post Master), Nungei Branch Office.

A copy of the said letter dated 28.2.2002 is annexed herewith as Annexure- A/1.

- 4.3 That the applicant who satisfied all the conditions prescribed in the said letter dated 28.2.2002, submitted his application for being appointed as Gramin Dak Sevak(Branch Post Master), Nungei Branch Office. The authorities acknowledged the receipt of the application submitted by the applicant and vide letter dated 31.7.2002 directed him to submit further additional documents which the applicant accordingly did.

A copy of the letter dated 31.7.2002 is annexed herewith as Annexure- A/2.

- 4.4 That the applicant on being found to be eligible for consideration for appointment against the post advertised vide the Annexure- A/1 letter dated 28.2.2002, he was vide letter dated 2.9.2002 directed to appear in an interview to be held on 17.9.2002 in the office of the respondent no. 3. The applicant accordingly appeared in the selection. On being successful in the said interview, the applicant was provisionally selected for appointment as Gramin Dak Sevak (Branch Post Master), in short 'GDSBPM' of Nungei BPO vide issuance of letter dated 30.9.02. Vide the said letter the applicant was also directed to submit

*Huidrom Pikaenakha Singh*

necessary bond and documents as mentioned therein. The applicant accordingly carried out the directions contained in the said letter. It may be stated here that along with the applicant the respondent no. 4 also appeared in the said selection.

Copies of the letters dated 2.9.02 and 30.9.02 are annexed herewith as Annexures- A/3 & A/4 respectively.

- 4.5 That the applicant states that on completion of the necessary formalities, the applicant was appointed as GDSBPM vide issuance of letter dated 18.10.02. the applicant honoring the said letter dated 18.10.02 joined his services as GDSBPM Nungei BPO. By letter dated 24.10.02 the applicant was directed to be handed over charge of the said post.

A copy of the said letter dated 18.10.02 is annexed as Annexure- A/5 and a copy of the said letter dated 24.10.02 is annexed as Annexure- A/6.

- 4.6 That your applicant states that after joining his services as GDSBPM, he has been discharging his duties to the best of his ability and without blemish to any quarter. The applicant in pursuance of the said appointment also supplied all the conditionality requires to be completed for being appointed as GDSBPM.

- 4.7 That poised thus the applicant was shocked and surprised to come across a letter dated 16.1.2003 issued by the Director of Postal Services (HQ), directing him to show cause as to why his appointment as GDSBPM, Nungei EDBO shall not be declared null and void. It was alleged that the name of the applicant figured at serial no. 10, whereas the name of the respondent no. 4 figured at serial no. 1 in the merit list prepared by the respondent no. 3.

A copy of the said letter dated 16.1.03 is annexed herewith as Annexure- A/7.

- 4.8 That on receipt of the said letter the applicant made enquiries in the offices of the respondent authorities and could come to learn that the was placed at serial no. 1 in select list prepared in pursuance to the said selection. The contention as made in the letter dated 16.1.03 (Annexure- A/7) that the applicant was placed at serial no. 10 was not passed on the performance of the candidates in the said selection but 3was based on the marks obtained by the candidates in their matriculation examinations. This aspect of the matter was also clarified by the respondent no. 3 vide his letter dated 24.1.03. In the said letter dated 24.1.03 it was further stated that the respondent no. 4 was unable to do even simple

*Heidekm Pitechandra Singh*

arithmetic and was disqualified in the selection. Be it stated here that knowledge of arithmetic is considered essential for appointment as GDSBPM.

A copy of the said letter dated 24.1.03 is annexed herewith as Annexure- A/8.

- 4.9 That poised thus the applicant vide letter dated 1.2.03 proceeded to submit his show cause reply to the notice dated 16.1.2003, inter alia, stating therein that he was eligible for being appointed as GDSBPM and his such appointment was in pursuance to a process of selection. As such it was prayed that the notice dated 16.1.2003 be withdrawn and he be allowed to continue in his service.

A copy of the reply dated 1.2.03 is annexed herewith as Annexure- A/9.

- 4.10 That your applicant states that without taking into consideration the reply submitted by him and also the clarifications issued by the Respondent no:3 vide his letter dated 24.1.03(Annexure-A/8), the Postmaster General, N.E.Circle, Shillong, proceeded to cancel the appointment given to the applicant as GDSBPM, Nungei B P O vide letter dated 18.10.02 (Annexure-A/5). The only ground as taken was that no interview was required to be conducted and the said appointment was to be effected by the respondent no.3 only on the basis of the marks obtained by the candidates in their matriculation examination. The above order was communicated to the applicant vide letter dated 3.4.03.

A copy the said letter dated 3.4.03 is annexed herewith as Annexure-A/10.

- 4.11 That as a consequence to the passing of the directions as contained in the Annexure-A/10 letter dated 3.4.03, the respondent no.3 vide his order dated 9.4.03 proceeded to provisionally appoint the respondent no:4 as G D S-B P M, Nungei BPO. It may be stated that no formal letter appointing the respondent no:4 as such has been issued till date.

A copy of the said order dated 9.4.03 is annexed as Annexure-A/11

- 4.12 That your petitioner submits that his appointment as G D S-BPM, Nungei BPO was preceded by a selection and it was only on his name finding place at serial no. 1 of the select list prepared in pursuance to the said selection that the Annexure -A/5 letter dated 18.10.2002 was issued. It is no ones case that the selection was vitiated due to some illegalities committed therein. The applicant

*Huskom Birkachandrea Singh*

and the respondent no. 4 having submitted themselves to the said selection process and it being on record that the respondent no. 4 could not succeed therein, it was not open for the respondent authorities to take a plea that the said selection ought not to have been conducted and the appointment ought to have been effected on the basis of marks obtained in the matriculation examination. Further, the fact that the respondent no. 4 was a college going student and as such incapable for applying for the post in question was also not considered by the respondent authorities.

- 4.13 That your petitioner submits that his name did not figure at serial no 10 in the merit list prepared by the respondent no. 3 and this aspect of the matter will be abundantly clear from mere perusal of the letter dated 24.1.03 Annexure- A/8 written by the respondent no.3. The respondent authorities failed to take into consideration this vital aspect of the matter and proceeded to cancel the appointment of the letter issued in favour of the applicant. It may be mentioned here that the applicant is a graduate.
- 4.14 That your applicant states that there are about 600 BPMs working at present in the State of Manipur and these persons were also selected through a process of selection, but their appointments have not been cancelled and they have been allowed to continue. The applicant has been picked up for differential treatment and has been deprived of his job.
- 4.15 That your applicant submits that the plea taken in the impugned notice dated 16.1.03 (Annexure- A/7) and the letter dated 3.4.03 (Annexure- A/10) are on the face of it untenable. The appointment of the applicant was made after he was selected by a duly constituted DPC could not have been cancelled in the manner and method it has been done. It may be mentioned here that the applicant had approached the Gauhati High Court, Imphal Bench by way of a writ application numbered as W.P. (C) No. 487 of 2003, but the same was disposed of with the observation that the petitioner should have approached the Central Administrative Tribunal. Therefore, this Hon'ble Tribunal is the appropriate forum for redressal of his grievances.
- 4.16 That in view of the facts and circumstances stated above the applicant prays that Your Lordships would be pleased to pass an interim direction as has been prayed for, failing which he would suffer irreparable loss and injury.

*Huidrom Bika Chandra Singh*

- 4.17 That in the event of Your Lordships being pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicant in as much as the respondent no. 4 is yet to assume charge of the post in question, no right has accrued to the respondent no., 4 as regards the post in question. Further the formal letter of appointment is yet to be issued to the respondent no. 4.

**GROUND WITH LEGAL PROVISION:**

- 5.1 For that the action/ inaction on the part of the respondent authorities in proceeding to cancel the appointment of the applicant as GDSBPM, Nungei BPO is not sustainable in the eye of law and liable to be set aside and quashed.
- 5.2 For that the appointment of the applicant being in pursuance to a regular process of selection, his such appointment could not have been cancelled without first resorting to the procedure as prescribed under Article 311 of the Constitution of India.
- 5.3 For that it is admitted position that the appointment was in pursuance to a written examination and interviews and on his securing 1<sup>st</sup> position therein. The appointing authority having without any bias or malafide, proceeded to procure the best talent available for the post in question, the appointment of the applicant ought not to have been cancelled in the manner and method it has been done.
- 5.4 For that other BPMs working at present were also appointed following the same procedure as adopted in the case on hand, and they are being allowed to continue. As such the cancellation of the appointment of the applicant on the plea that no selection was to be conducted is untenable and as such the impugned orders are liable to be set aside and quashed.
- 5.5 For that the respondent no. 4 who was declared disqualified in the said selection, now being sought to be appointed through the back door to the detriment to the applicant.
- 5.6 For that the respondent no. 4 is not at all eligible for the post in question as because he was a student at the relevant time and is still continuing his education and is a student of TDC.

- 5.7 For that in any view of the matter, the impugned orders have no legs to stand and are liable to be set aside and quashed.

#### DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

#### MATTERS NOT PENDING WITH ANY OTHER COURT OR TRIBUNAL:

The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authorities or any other Bench of the Tribunal.

#### RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this application, call for the records of the case and upon hearing the parties on cause or causes that may be shown and on perusal of the records be pleased to grant the following relief to the applicant: -

- 8.1 To set aside and quash the Impugned orders/ letters dated 16.1.03 (Annexure- A/7), 3.4.03 (Annexure- A/10) and 9.4.03 (Annexure- A/11).
- 8.2 To direct the respondent authorities to regularizes the services of the applicant with all consequential benefits including back wages/ arrears of salary and wages.
- 8.3 To pass such further or other order/orders as Your Lordships may deem fit and proper.

#### INTERIM ORDER PRAYED FOR:

The applicant further prays that pending disposal of this application Your Lordships would be pleased to stay the effect and operation of the impugned letters/ orders dated 16.1.03 (Annexure- A/7) and 9.4.03 (Annexure- A/11) with further direction to the authorities to allow the applicant to continue as Gramin Dak Sevak (Branch Post Master), Nungei Branch Post Office.

7 *Hei from Bikashandha Singh*

The application is filed through an Advocate.

PARTICULARS OF THE I.P.O.:

I.P.O. NO. : 8 G 490026

Date : 25/4/03

Payable at Guwahati

LIST OF ENCLOSURES:

As indicated in the Index.

VERIFICATION

I, Huidrom Birachandra Singh, aged about- 40 years, son of H. Tomba Singh, a resident of Nungei village, P.O. & P.S.- Lilong, District- Thoubal, Manipur, do hereby verify and state that the statements made in paragraphs 2, 3, 4, 4, 6, 4, 12 to 4, 18 & 5 to 12 are true to my knowledge, those made in paragraphs 1, 4, 2-4, 5, 4, 7-4, 11 — are matters of records which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 25<sup>th</sup> day of April 2003 at Guwahati.

*Huidrom Birachandra Singh*

Signature

DEPARTMENT OF POSTS : INDIA  
NORTH EASTERN POSTAL CIRCLE

Director Postal Services,  
Manipur State,  
Imphal-795 001.

No.A-1/GDS-Rectt/2002.

28<sup>th</sup> February 2002.

1. The Station Director,  
All India Radio,  
Imphal-795001.
2. The Station Director,  
Doordarshan Kendra,  
Imphal-795001.
3. The Director,  
Information & Public Relations,  
Govt. of Manipur,  
Imphal-795001.

GDS 3 PM

Subject: Recruitment of Gramin Dak Sevak Post Masters. ✓

The following vacancies in the cadre of Gramin Dak Sevak Branch Post Masters (GDSBPMs) in Manipur are to be filled by calling applications from the willing and eligible candidates fulfilling the criteria shown in para-2 below.

Sl. No.	Name of the Vacant Post	Place, where vacant	
		Name of Branch Post Office	Name of the Sub Post Office
1.	Gramin Dak Sevak Branch Post Master	Lambui B.O	Litun S.O
2.	Gramin Dak Sevak Branch Post Master	Nungei B.O	Lilong S.O
3.	Gramin Dak Sevak Branch Post Master	Leijangphei B.O	Thanlon S.O

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

Attested

Advocate

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

EXECUTIVE ENGINEER  
KHUGA CANAL DIVISION  
I F C D MANIPUR

2. A candidate aspiring to apply for any of the above posts should fulfil the following criteria.

- (i). AGE : Should not be less than 18-years and below 65-years as on 21-03-2002.  
(21-03-2002)
- (ii). EDUCATIONAL QUALIFICATION: Matriculation or Equivalent from the recognised Board/University.
- (iii). OTHERS: (a). The candidate must have own income & Property (ie. adequate means of livelihood.
- (b). The candidate must be able to offer space/room for functioning of Post Office.
- (c). School/College going students and State/Central Government employees are ineligible.

3. Applications, neatly handwritten or typewritten in blank paper, enclosed in an envelope super-scribed "APPLICATION FOR THE POST OF GDSBPM AT \_\_\_\_\_ (Name of the Branch Post Office)" and addressed to THE DIRECTOR POSTAL SERVICES, MANIPUR, IMPHAL -795001, should reach the office of the Director Postal Services, Manipur, Imphal on or before (22<sup>nd</sup> March 2002) 22-03-2002. The applications should accompany the following:

- (i). 2 (Two) attested copies of recent passport size photographs.
- (ii). Attested copies of certificates and testimonials in proof of age and educational qualifications.
- (iii). Income certificate issued by revenue authority not below the rank of Sub Divisional Officer.
- (iv). Attested copy of document in proof of property holding.
- (v). Declaration that the candidate will be able to provide accommodation for functioning of the Branch Post Office.

4. Applications received after the last date, ie. 31<sup>st</sup> March 2002, will not be entertained.

5. Detailed information may be had from Litan, Lilong, Thanion and Churachandpur Post Offices.

Approved  
HSM  
Director

DEPARTMENT OF POSTS : INDIA.  
OFFICE OF THE DIRECTOR POSTAL SERVICES,  
MANIPUR DIVISION : IMPHAL-795001.

No.A-1/PF/Nungei

31-07-2002.

To Hnidrom Birkachandra Singh  
S/o H. Tomba Singh  
Nungei village

Sub:- Recruitment of Gram Dak Sevak Branch Post Master at  
Nungei Branch Post Office.

You are hereby asked to submit the attested copies of  
the following documents so as to reach this office on or  
before 15-08-2002.

1. Income certificate.
2. Property certificate.
3. Employment Exchange Card.
4. Residency certificate.
5. Matriculation certificate & Mark Sheet.
6. Attested pass port photograph (two copies).

While submitting the above documents, it any kindly be  
ensured that only the personal income and the personal  
property holding of the applicant are shown in the  
certificates. The property not standing in the name of the  
applicant is not the property held by the applicant for the  
purpose of consideration of candidature for the post of  
GDSBPMs.

Asstt. Supdt. of Post Offices (HQ)  
Manipur Division: Imphal: 795001.

O/MC certificate

Amended  
H. S. M.  
Advocate.

DEPARTMENT OF POSTS : INDIA.  
OFFICE OF THE DIRECTOR POSTAL SERVICES, MANIPUR.  
IMPHAL-795001.

No. A-1/PF/Nungei


02-09-2002.

To,  
Shri.H.Birachandra Singh,  
S/o H. Tomba Singh,  
Nungei Village.

Sub:- Interview for selection of GDS\_BPM at Nungei EDBO in  
account with Lillong SO.

The interview for selection of GDS-BPM, Nungei EDBO  
in account with Lillong S.O. will be held on Wednesday,  
the 17<sup>th</sup> September 2002. You are directed to appear on the  
interview for selection of the GDS-BPM at 1100 hrs to be  
held in the office of the Director Postal Services, Manipur  
Imphal.

Please ensure to bring the original Certificates and  
Marksheet of Matriculation along with valid employment  
registration card.

  
(R.K.B. Singh)  
Director Postal Services,  
Manipur:Imphal:795001

Accepted  
Advocate.

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE DIRECTOR POSTAL SERVICES: MANIPUR  
IMPHAL 795 001

Regd/AD  
No.A-1/P.F/Nungei

30 Sep 02

Shri H.Birachandra Singh  
S/o Shri H.Tomba Singh  
Nungei village  
Lilong S.O.

Sub: Recruitment of GDSBPM-Nungei EDBO under Lilong S.O.

Shri H.Birachandra Singh, S/o Shri H.Tomba Singh, of Nungei village is hereby provisionally selected as GDSBPM of Nungei EDBO.

So you are hereby asked to submit your pre-appointment papers as well as the surety bond of another person in Govt service within 15(fifteen) days from the date of receipt of this letter.

Documents to submitted:

1. Health certificate. ✓
2. Character certificate. ✓
3. Attestation form. ✓
4. Declaration form. ✓
5. Statement of descriptive particulars. ✓
6. Surety bond as mentioned above. ✓

The documents mentioned above are to be submitted in duplicate.

(R.K.B.Singh)

Director Postal Services  
Manipur, Imphal 795 001

Am-31  
N.D. on  
Advocate.

DEPARTMENT OF POST, INDIA

LETTER OF PROVISIONAL APPOINTMENT

Memo No. A-1/PF/Nongai

Dated at Imphal, the 18<sup>th</sup> Oct. 2002

Whereas the post of Extra Departmental GDS-BPM has become vacant/has been newly created and it is not possible to make regular appointment to the said post immediately the

D. P. S. Imphal has decided to make provisional appointment to the said post for a period of 6<sup>th</sup> from 21-10-2002 or till regular appointment is made whichever is shorter.

Shri/Smt. St. Biraachandra Singh is offered with provisional appointment. He/she should clearly understand that the provisional appointment will be terminated when regular appointment is made and he/she shall have no right to claim for appointment to any post.

The DPS-IP also reserves the right to terminate the provisional appointment at any time before the period mentioned in para-1 above without assigning any reasons.

Shri/Smt. St. Biraachandra Singh 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.

In case the above conditions are acceptable to Shri/Smt. St. Biraachandra Singh he/she should sign the duplicate copy of this memo and return the same to the undersigned.

Director Postal Services  
Manipur Division, Imphal-795001

Copy to:-

1. Shri/Smt. St. Biraachandra Singh.  
He/she should sign the duplicate copy of the memo enclosed and return the same to this office immediately.
2. The Postmaster, Imphal PO for information and n/c.
3. The SDIFOS/ 2nd Sub-Division, Imphal.
4. The SEM/ Lilong S.O.
5. O/c

Signature Biraachandra Singh

Director Postal Services  
Manipur Division, Imphal-795001

24.10.02

## DEPARTMENT OF POSTS : INDIA

No. A-1/Nungei BO

24-10-2002.

To,

Md. Samaul Haque,  
O/s mail, 2<sup>nd</sup> Sub Division, Imphal.

Sub:- Handing over of charge of BPM, Nungei EDBO.

Director Postal Services, Imphal vide order No. A-1/PF/Nungei dated 18-10-02 has appointed Shri H. Birachandra Singh as BPM of Nungei BO.

You are, therefore, Directed to hand over the charge of BPM, Nungei Bo to Shri H. Birachandra Singh and said charge report to all concerned. A list of office records and stock articles should also be prepared with reference to the stock book.

(B. Rajbangshi)

Sub Divisional Inspector(P)  
Imphal.

Copy to:-

1. Md. Abdul Latif, acting BPM, Nungei BO for information and compliance of the order.
2. Shri. H. Birachandra Singh, Nungei village. For information.
3. O/c.

(B. Rajbangshi)

Sub Divisional Inspector(P),  
Imphal-795001.

W. Don  
Director

16 -

ANNEXURE - A/7<sup>30</sup>

DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL: N.E. CIRCLE: SHILLONG

No. Vig-1/9/02-03

Dated Shillong, the 16-1-2003

To

Shri H. Birachandra Singh,  
GDS BPM, Nungei BO, Manipur,  
C/O the Director of Postal Services,  
Manipur, Imphal.

This is in connection with your appointment as GDS BPM of Nungei BO by D.P.S., Imphal.

The following irregularity was observed in the process of your appointment.

*Merit list:* The D.P.S., Imphal prepared final merit list of eleven candidates for the post of BPM, Nungei. In that merit list, your position was 10<sup>th</sup> with 37.55% of marks in Matriculation, whereas, Shri Md. Abdul Jabbar was No. 1 in the merit list with 60.67% of marks in Matriculation. Therefore, your appointment as the BPM Nungei, although your position is 10<sup>th</sup> in the merit list was irregular and not in accordance with the existing departmental rules.

You are, therefore, requested to show cause as to why your appointment as GDS BPM, Nungei EDBO shall not be declared null and void/cancelled.

Your reply should reach me within 15 Feb 03.

  
(LALHLUNA)

Director of Postal Services(Hq)

60.67% /

37.55% /

Attest  
  
Advocate.

- 17 -

ANNEXURE-A/8

DEPARTMENT OF POSTS  
O/o THE DIRECTOR POSTAL SERVICES, MANIPUR  
IMPHAL

No. A-1/PF/Nungei BO

dated 24-1-2003

To

Shri Lalihuna DPS(H/Q)  
O/o CPMG NE Circle, Shillong

Ref: CO L. No. Vig-1/9/02-03 dated 16-1-2003.

In the above referred to CO letter, there are some inaccuracies.  
Shri H. Birachandra Singh was not 10<sup>th</sup> in the merit list prepared by DPS  
Imphal. Md. Abdul Jabbar was disqualified as he failed to do simple  
arithmetic (multiplication) in the literacy test.

Sd/-  
( R K B Singh )  
DPS Manipur

Copy to: Shri H. Birachandra Singh, BPM Nungei BO. Circle Office L.No.  
Vig-1/9/02-03 dated 16-1-03 is enclosed. He is permitted to correspond  
direct with Circle Office in the matter.

Ch/-  
( R K B Singh )  
DPS Manipur

Attest  
Wan  
Adv. rate.

To

The Director of Postal Services (HQ),  
Department of Post,  
North East Circle, Shillong.

Subject: Humble reply to the letter under No. Vig-1/9/02-03  
dated Shillong, the 16-1-2003.

Sir,

With reference to your letter No. Vig-1/9/02-03 dated Shillong, the 16-1-2003, I have the honour to submit that I have received your letter on 27-1-2003 at about 2 p.m. and I have read out over the contents of your letter when I was very surprised came to know the contents of the said letter.

That, I was appointed as Branch Post Master vide order No.A-PF/Nungei dt.18-10-2002 by the concerned authority of your esteem Department, I joined as a Branch Post Master of Nungei Post Office, Nungei in short B.O. on 31-10-2002.

Since, then I have been rendering as Branch Post Master till now without any break in service and have done with my best level as a Government employee of the Department. I am an eligible candidate to appoint to the post of B.P.M. (Branch Post Master) of the Postal Services. Accordingly, I applied for appointment to the post of Branch Post Master to the competent authority according to your advertisement notice. I have received Call letter Card from your esteem office for facing/appearing an interview for selection of B.P.M. at Nungei, EDBO in account with Lilong S.O. under letter No.A-1/PF/Nungei dt.2-9-2002.

That, the interview was held on 17-9-2002 for appointment to the post of B.P.M., Nungei as such I appeared the said interview and the said interview result was out/declared after some days. Then, I came to know that I was selected to the said post. Hence, I joined to the said post with a great hope and would do my duty as a Government employee.

Contd..P.2/-

100  
100  
100

That, unfortunately, I received your letter dt. 24-1-2003 under being No. A-1/PF/Nungei BO, which is very unfortunate and irreparable loss on my part as a Government employee. I also submitted that the allegations against me are concocted, and false charge of your esteem office. Hence, you kindly may be allowed to withdraw and allow me to do my duty as an employee of your esteem department in future without any break in service.

I therefore request Your Goodself be pleased to consider and allow me to do my duty as an employee of your esteem department in the interest of the employee.

Yours faithfully,

Dated/Imphal,  
The 1<sup>st</sup> Feb., 2003

(H. Birachandra Singh)  
BPM, Nungei BO, Manipur.

10-03-03  
18.

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL N. E. CIRCLE:  
SHILLONG-793 001.

No.Staff/118-14/2003(13)

Dated at Shillong, the 3<sup>rd</sup> April' 2003.

✓ To,

Shri H. Birachandra Singh,  
BPM, Nungei B.O.  
Manipur.

( Through Director of Postal Services, Manipur Division, Imphal)

Sub:- Compliant against irregularity in selection of H. Birachandra Singh, as BPM Nungei B.O. under Lilong S.O.- Regarding.

Ref:- Your representation dtd. 3<sup>rd</sup> February' 2003 in reply to Circle Office, Shillong letter No. Vig-1/9/02/03.

I have been directed to communicate the orders of the Postmaster General, N. E. Circle, Shillong on the above noted subject verbatim.

"I have gone through the case in its entirety, carefully. The selection of Shri H. Birachandra Singh as BPM, Nungei has been done by the appointing authority, DPS, Manipur Division, on the basis of written test and interview, conducted by Appointing authority himself, without the involvement of any other officer/official. This procedure of a subjective written test followed by interview is not laid down in the rules relevant to recruitment of EDAs, now GDS. Without devising new methods of finding out merit DPS Manipur could and should have used the simple method of assessing merit through the marks scored by the candidates in the Matriculation Exam.

In view of the above the selection of Sri Birachandra Singh as BPM Nungei is irregular. Following the principles of natural justice, Sri Birachandra Singh was given an opportunity to explain his point of view, in the form of a notice to show cause why his appointment should not be cancelled. In his reply to the notice, received on 6-2-03, Sri Birachandra Singh, after explaining the history of his selection, stated that "the show cause notice was unfortunate and irreparable loss on his part as a Govt employee and that the allegations against him were false and concocted and further requested that the notice be withdrawn and he be allowed to continue as BPM.

After careful scrutiny of the reply to the show cause notice and considering all the facts of the case it is seen that Sri Birachandra Singh doesnot have any strong reason as per his representation dt.03-Feb. 2003, to be allowed to continue as BPM Nungei, as per the appointment order issued by DPS Manipur Division which is found to be irregular and in violation of recruitment rules and procedures laid down by Director General Posts.

Accordingly this irregular appointment of Sri Birachandra Singh, as BPM Nungei is cancelled with immediate effect, in accordance with DG Posts letter 19-23/97-ED & Trg. Dtd.13-11-97".

( B. R. Halder )  
Asstt. Director (Staff)  
For Chief Postmaster General,  
N. E. Circle, Shillong.

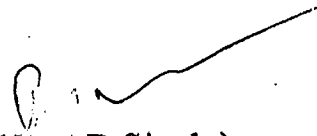
WMS

DEPARTMENT OF POSTS  
O/o THE DIRECTOR POSTAL SERVICES, MANIPUR  
IMPHAL

No. A-1/PF/Nungei BO

dated 9/4-03

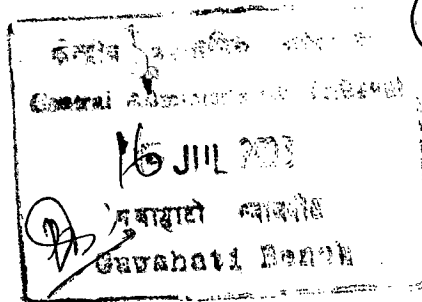
In pursuance to Circle Office, Shillong letter no. Staff/118-14/2003(13) dated 3-4-03, the appointment of Shri H. Birachandra Singh as GDSBPM Nungei BO has been cancelled. As per direction in the above order, Md. Abdul Jabbar is provisionally appointed as GDSBPM Nungei BO with immediate effect. SDIPos 2<sup>nd</sup> Sub-division will hand over the charge of the BO to the candidate selected by CO and report compliance. Formal provisional appointment letter will follow.

  
(R. B. Singh)  
DPS Manipur

Copy to :-

1. The SDI, 2<sup>nd</sup> Sub Div. for information
2. Shri H. Birachandra Singh
3. Md. Abdul Jabbar
4. Office Copy

10/4/03



22  
36  
Filed by  
16/7/03  
(A. DEBROY)  
Sr. C. G. S. C.  
C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 88 OF 2003

Shri H. Birachandra Singh

- Vs - ..... Applicant.

Union of India & Ors.

..... Respondents.

- And -

In the matter of :

Written Statement submitted by  
the respondents.

The respondents beg to submit a  
brief history of the case which  
may be treated as a part of the  
written statement.

( BRIEF HISTORY OF THE CASE )

One post of Gramin Dak Sevak Branch Postmaster  
of Nungei Branch Post Office was lying vacant and it was  
decided to fill up the said vacancy of GDS BPM immediately  
in the interest of the public service.

The Recruitment process for filling up the said  
vacancy was initiated by notifying the said vacancy through  
all possible advertising medias vide this office L. no. A-1/  
GDS-Recdt/2002 dated 28.2.02. The educational qualification

was declared as Matriculation or equivalent from any recognized University/Board along with some other criteria viz (i) the candidates must have adequate means of livelihood. (ii) the candidates must be able to offer space/room for the functioning of the post office.

More than 20 applications were received @ 22 in response to the said advertisement. But only 11 candidates were short listed by this office on the basis of the residency of the other applicants being not of post village. The 11 (eleven) candidates were short listed and their verification of documents and literacy test was conducted on 17.09.2002. In the said literacy test the ability of the candidates with regard to knowledge in simple Arithmetic and local language were tested. Candidates who failed the literacy test were disqualified and selection was made from the remaining candidates. Shri H. - Birachandra Singh was selected for appointment and after completing the necessary pre-appointment formalities Shri H. Birachandra Singh was provisionally appointed as GDSBPM of Nungei B.O. The Post Master General North Eastern Circle Shillong disagreed with the selection procedure and reviewed the selection on the ground that the procedure of a subjective written test followed by interview is not laid down in the relevant recruitment rules of EDA now GDS, but should be on the basis of the marks scored in the Matriculation examination.

Subsequently the appointment of Shri H. Birachandra - Singh was cancelled and Md. Abdul Jabbar has been appointed provisionally as GDS BPM of Nungei B.O. vide Post Master General N.E. Circle Shillong order No. Staff/118-14/2003(13) dated

dated 3.4.2003, being the highest mark scored in the Matriculation examination.

The exclusion of the applicants being not of post village and the short listing of only 11 candidates from the post village is itself defective. As per DG L. No. 17-104/93-ED&TRG dated 6.12.93, the candidates need not be of post village. But it should be made a precondition of appointment that the candidate must take up residence in the village before appointment. But this information was received at the office of DPS Manipur only on 8.4.03 and was not included in the notification calling for application. It may also be mentioned that the notification calling for application for the post of GDSBPM of Leijangphai BO issued along with the notification for the post of GDSBPM of Nungei BO has since been cancelled vide this office memo no. A-1/GDS-Rectt/2003 dated 25.4.03 as being defective and a fresh notification giving the details of the conditions of recruitment has been issued, to avoid the application of rules selectively.

PARA-WISE COMMENTS :

1. That with regard to the statement made in para 1 of the application the respondents beg to state that no comment except the order of the P.M.G. N.E. Circle Shillong referred to therein is dated 3.4.2003 and not 3.7.2003 as mentioned by the applicant.
2. That with regard to para 2, 3, 4.1 and 4.2, of the application the respondents beg to offer no comments.

-3-

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that after the preliminary scrutiny of 22 applications received in respect to the recruitment notification dated 28.2.2002 all the candidates who are found eligible as per residency and educational qualification criteria were asked to submit the copies of the following documents vide DPS Manipur letter No. A-1/PF/NUNGEI dated 31.7.02.

1. Income certificate.
2. Property certificate.
3. Employment Exchange card.
4. Residency certificate.
5. Matriculation certificate and mark sheet.
6. Attested passport size photographs - 2 copies

The applicant was also one of the candidate.

The exclusion of the applicants as being not of post village and the short listing of only 11 candidates from the post village is itself defective. As per DGL. no. 17-104/93-ED&TRG dated 6.12.93, the candidates need not be of post village. But it should be made a precondition of appointment that the candidate must take up residence in the village before appointment. But this information was received at this office only on 8.4.03 and was not included in the notification calling for application. It may also be mentioned that the notification calling for application for the post of GDSBPM of Leijangphai BO issued along with the notification for the post of GDSBPM of Nungei BO has since been cancelled vide this office memo no. A-1/GDS-Rectt/2003 dated 25.4.03 as being defective and a fresh notification giving the details of the conditions of recruitment has been

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40

-4-

issued, to avoid the application of rules selectively.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that all the ~~fixxhixixi~~ 11 (eleven) short listed candidates were called for an interview for the assessing the suitability and in the said interview the ability of each the candidates with regard to knowledge in simple arithmetic and local language were tested. The applicant also attended in the test on 17.9.2002. The candidates who were found disqualified in the test for arithmetic were not considered for selection, and selection was made from among the candidates who qualified in the test for knowledge of arithmetic. On the basis of the performance of the applicant in the interview the applicant was provisionally selected for the post of GDSBPM of Nungei Branch Post office and after completing the necessary pre-appointment formalities the applicant was provisionally appointed as GDSBPM of Nungei Branch Post Office. However, the Postmaster General, N.E. Circle Shillong disagreed with the selection process and reviewed the selection made by the DPS Manipur on the ground date that, the written test followed by the interview is not laid down in the relevant recruitment rule of EDA now GDS. The Postmaster General, Shillong also further held, that the selection should be based on merit, on the basis of marks secured by the candidates in matriculation examination and cancelled the selection of Shri H. Birachandra Singh, and Md. Abdul Jabbar who scored more marks on the basis of the matriculation marks was appointed in place of the applicant as per direction of the P.M.G. N.E. Circle, Shillong.

-5-

5. That with regard to the statement made in para 4.5, of the application the respondents beg to offer no comments.

6. That with regard to the statement made in para 4.6, of the application the respondents beg to state that the applicant's service as GDSBPM was cancelled on the basis of review by the competent reviewing authority viz, Postmaster General Shillong.

7. That with regard to the statement made in para 4.7 & 4.8, of the application the respondents beg to state that before the applicant's appointment was cancelled the applicant was given an opportunity of being heard vide CO letter no. Vig-1/9/02-03 dated 16.1.2002 and the show cause letter have already been enclosed by the applicant as Annexure A-7. No merit list was prepared by the office of DPS Manipur based on the marks obtained in matriculation. The candidates who were found disqualified in the test for arithmetic were not considered for selection, and selection was made from among the candidates who qualified in the test for knowledge of arithmetic. This was held irregular by the Postmaster General Shillong and the selection of Shri H. Birachandra Singh was cancelled accordingly, and directed that Md. Abdul Jabbar be appointed provisionally with immediate effect. The Postmaster General Shillong has held that merit is to be assessed on the basis of the marks scored in matriculation. There is no ground for the non-inclusion of the other applicants who are not resident of the village in the selection process.

-6-

8. That with regard to the statement made in para 4.9, of the application the respondents beg to state that the applicant's prayer in reply to his show cause notice letter was not accepted by the reviewing authority for the reason that the selection to the post of GDSBPM was to be made on the basis of matriculation mark, as per the decision of the reviewing authority.

9. That with regard to the statement made in para 4.10, of the application the respondents beg to state that the appointment of the applicant was cancelled by the competent reviewing authority after taking into account his representation - that the applicant does not have a strong ground to continue as BPM Nungei.

10. That with regard to the statement made in para 4.11, of the application the respondents beg to state that ~~the appoint-~~ ~~ment~~ Md. Abdul Jabbar has been provisionally appointed as GDSBPM Nungei BO as per the review decision of PMG Shillong vide DPS Manipur office memo no. A-1/PF/Nungei BO dated 9.4.03.

11. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the PMG Shillong cancelled the selection of Shri H Birachandra Singh after following the procedure of natural justice. The notification No. A-1/GDS-Rectt/2002 dated 28.2.02 includes a condition that school/college going students and State/Central Government employees are ineligible and is defective to that extent. There is nothing in this office record to show that Md. Abdul Jabbar was a school/college going student at that point of time.

12. That with regard to the statement made in para 4.13 & 4.14, of the application the respondents beg to state that the selection of GDSBPMs in Manipur Division is based on the departmental guidelines received at the office of DPS Manipur from time to time. For example the notification issued after April 2003 contains the express provision that selection will be made on the basis of marks obtained in matriculation only and weightage will not be given for any qualification higher than matriculation, and that the candidate need not be a permanent resident of the post village. The PMG Shillong cancelled the selection of Shri H Birachandra Singh after following the procedure of natural justice. Therefore the contention of the applicant that he has been picked up for differential treatment is baseless.

13. That with regard to the statement made in para 4.15, of the application the respondents beg to offer no comment, except that the PMG Shillong cancelled the selection of Shri H Birachandra Singh after following the procedure of natural justice.

14. That with regard to the statement made in para 4.16 & 4.17, of the application the respondents beg to offer no comment.

15. That with regard to the statement made in para 5.1 to 5.7, of the application the respondents beg to state that on the basis of the facts mentioned in the preceding paragraphs the applicant has no legal ground. Before cancellation of appointment, he was given an opportunity of being heard and his appointment was cancelled duly following the principle of natural justice. Moreover, the appointment of the applicant to the post of GDSBPM Nungei BO was provisional.

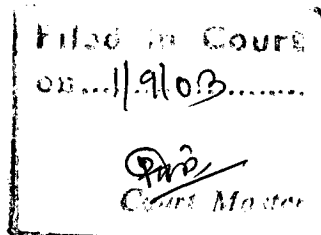
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V E R I F I C A T I O N

I, *shri Anulya Raton Shawmik*, presently working as *Asstt. Postmaster General, Shillong*, being duly authorised and competent to sign this verification, do hereby solemnly affirm and declare that the statements made in paragraphs *1 to 15* of this written statement are true to my knowledge, those made in paragraph being matters of record are true to my information derived therefrom and those made in the rest are humble submission before the Hon'ble Tribunal.

And I sign this verification on this      th day of July, 2003.

*[Signature]*  
Deponent.  
Asstt. Postmaster General (INV)  
O/o the Chief Postmaster General  
N.E. Circle, Shillong -793001



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Filed by  
the applicant through  
Alsha Das S.S.  
Advocate  
11/9/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.No. 88/2003

H. B. Singh

..... Applicant

-VS-

Union of India & Ors.

..... Respondents

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS

1. That the applicant has received the copy of the written statement filed by the respondents and has gone through the same and understood the contents of the same. Save and except the statements which are not specifically admitted herein below, rest may be treated as total denial and the statements which are not borne on record are also denied.

2. That with regard to the statement made in background history of the case are totally false and fabricated and same has been made without consulting the rules guiding the field. The advertisement issued through media in terms of Annexure-1 letter dated 28.2.2002 clearly indicates the fact that same has been issued covering all the relevant eligibility criteria of the rules. The applicant submitted his application and acknowledging the receipt the respondents directed him to produce all the documents relating to required qualification. The Recruitment Rules

provide for assessment of knowledge regarding simple Arithmetic, Local language and English. The selection committee to make a comparative assessment in respect of knowledge regarding simple Arithmetic, Local Language and English held test amongst the candidates wherein applicant stood first and gone selected for the said post. The selection committee had no other option for assuring the Merritt of the candidates in respect of simple Arithmetic, Regional language and English than to hold a selection test. In the said test applicant stood first and the selection committee found him fit for such appointment. It is therefore the contention of the respondents regarding holding of selection test is not laid down in the relevant Recruitment Rules, is baseless. It is pertinent to mention here that where the rules provide assessment, it is in the duty of the selection committee to make their own arrangement to find out and to come to a definite conclusion regarding the said assessment. Since all the eleven candidates were matriculate, the selection committee has no option than to hold the test to find out the best among them. In the process of selection the applicant having outstanding merit admittedly secured the highest mark and got selected for the said post and accordingly he was given the offer of appointment.

The contention regarding appointment of the Respondent No.4 provisionally in place of the applicant on the alleged ground of obtaining higher mark is baseless and not correct. The Respondent No.4 who is a student of B.Sc 1st year could not have placed his candidature for such apppointment suppressing the aforesaid fact. In terms of the

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advertisement he is not a person eligible for making application for the said post. The advertisement at Annexure-1 is very clear that school/college going student and State/Central Govt. employees are ineligible for the said post of GDSEPM. Apart from that the contention regarding scoring higher marks in the matriculation examination is one of the eligibility criteria and as such assessment of a particular candidate cannot be made only on the basis of marks scored in the matriculation examination. A candidate scoring higher marks in matriculation may not have the required knowledge of simple Arithmation, local language and English, which are the basic requirement for the said post and therefore the Recruitment Rule is very specific in respect of having knowledge simple Arithmetic, Regional Language and English and in the event of having secured same marks by more than one candidate, the marks obtained by them in matriculation examination will be taken into consideration as a deciding factor for making comparative assessment. However, the Respondents have miserably failed to understand the said Recruitment Rule in total and passed the impugned order terminating the service of the applicant.

The applicant states that since the earlier selection has been made after the due consideration of the said Recruitment Rules the contention regarding holding of fresh recruitment is arbitrary and same has been made only to deprive the applicant from his legitimate claim. It is further stated that the applicant through this rejoinder also has made a challenge to the aforesaid decision of making fresh recruitment canceling his appointment. The

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applicant has also challenged the decision of appointing Respondent No.4 as he could not pass the literacy test refer Annexure-8 to the OA.

3. That with regard to the statement made in para 1 @ 2 of the Written Statement the applicant offers no comment on it.

4. That with regard to the statement made in para 3 of the WS the applicant while reiterating and reaffirming the statement made above as well as in the OA begs to state that the contention of the Respondents are baseless and incorrect. The impugned communication dated 3.4.2003 (Annexure-10) as well as 9.4.2003 (Annexure-11) indicate the fact that the procedure for subjective Written Test followed by interview was not included in the Recruitment Rules and as such the appointment of the applicant has canceled holding the said selection as a defective one, but the Recruitment Rule is very clear regarding sufficiency of knowledge and English and the selection committee was correct in holding test to judge the relative merit of the candidates. On that score only the Respondents ought not to have canceled the selection and not to have appointed Respondent No.4 who is a college going student.

A copy of the letter dated 9.5.2003 is annexed herewith and marked as Annexure-RJ-1.

5. That with regard to the statement made in para 4 of the WS the applicant while reiterating and reaffirming the statement made above begs to state that the marks

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obtained in the matriculation examination for making comparative assessment of the candidates and as such the decision of the Respondents holding the selection by which the applicant was selected is totally <sup>illegal and</sup> baseless and as such the aforesaid decision as well as the impugned orders are liable to be set aside and quash.

6. That with regard to the statement made in para 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the WS the applicant while reiterating and reaffirming the statement made above as well as in the OA the applicant denies the correctness of the same and since detailed reply has already been given above beg to rely the same for the sake of brevity.

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VERIFICATION

I, Huidrom Birachandra Singh, aged about 40 years,  
at resident of Nungel Village, P.O. & P.S. Lilong, District  
Thoubal, Manipur, I hereby solemnly affirm and verify that  
the statements made in para-  
graphs ..... 1, 2, 3, 5 & 6 ..... are true  
to my knowledge and those made in  
paragraphs ..... 4 ..... are also true to my legal  
advice and the rest are my humble submission before the  
Hon'ble Tribunal. I have not suppressed any material facts  
of the case.

And I sign on this the Verification on this  
the 29<sup>th</sup> day of August of 2003.

Signature.

Huidrom Birachandra Singh

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Annexure - RI-1

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OFFICE OF THE PRINCIPAL  
**MAYAI LAMBI COLLEGE**  
YUMNAM HUIDROM MANIPUR  
ESTD. 1981  
(GOVT. AIDED)  
AFFILIATED TO MANIPUR UNIVERSITY

Ref. No. 13/MLC/Coir/2003/765

Date 9/5/2003

To,

Shri Kh. Tamba, Advocate,  
C/O B.R. Sahu  
M.A. (J.N.U.) LLB (Delhi) Advocate  
Supreme Court and High Courts.

Subject:- Notice for issuing a Certificate Certifying that  
Md. Abdul Zabar S/O Md. Abdul Jalil resident of  
Liling Nongei was a student of your College studying  
in B.Sc. 1st year during the academic session 2002-2003  
under Roll No. 101 till the announcement / declaration  
of the result of the said examination.

Sir,

With reference to your ref. No.-Nil dated 9-5-2003 I am furnishing  
this information that as per Office record maintained by the College Md.  
Abdul Zabar S/O Md. Abdul Jalil resident of Nongei was a student of B.Sc.  
1st year under Class Roll No. 101 in the academic session 2001-2002. He  
had appeared the said B.Sc. 1st year Examination conducted by the Manipur  
University under Roll No. 221189 and Registration No. 18810 of 2001.

Yours faithfully,

*W. Fishakmachia Singh*  
( W. FISHAKMACHIA SINGH )  
Principal,  
Mayai Lambi College  
Yumnam Huidrom

Attested  
Wason  
Advocate