

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 170/2004

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SECTION OFFICER (Judl.)

Kalika
10.11.17

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Org. App/Misc. Petn/Cont. Petn/Rev. Appl.....170/04.....

In O.A. _____

Name of the Applicant(s) Amrit Bisha

Name of the Respondent(s) U. G. I. Jany

Advocate for the Applicant N. Dhar, P. Datta

Counsel for the Railway/C.G.S.C. M. H. Ahmed

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

5.8.2004

Heard Mr. N. Dhar, learned counsel for the applicant.

The O.A. is admitted. Issue notice to the parties, returnable by four weeks List on 8.9.2004 for orders.

The order of status quo passed by the Hon'ble High Court dated 14.11.2003 will continue until further orders.

K. D. Deb Roy
Member (A)

bb

8.9.04

On the prayer of Mr A. Deb Roy, learned Sr.C.G.S.C four weeks time is allowed to file written statment.

List on 1.11.04 for order.

K. D. Deb Roy
Member (A)

Notice & order sent to D/section for issuing to resp. Nos 1 to 6, by regd. with A/D post.

pg

24/8/04

01.11.2004

None was present for the applicant
At the request made by Mr.A.Deb Roy,
learned Sr.C.G.S.C. stand over to
21.12.2004 for filing written statement

postal A/D card
received from
resp. Nos. 1, 4, 5, 6.

K.P. Prasad
Member (A)

R.
Vice-Chairman

bb

21.12.2004

On the plea of learned counsel
for the respondents, six weeks time is
given to the respondents to file writ-
ten statement. List on 04.02.2005 for
orders.

29.10-04
Notice duly served
on Resp't. no. 1, 4, 5 & 6.
Service mailed from R.2 & 3.
by No W/S filed.

K.P. Prasad
Member (A)

mb

15.2.2005

Present: The Hon'ble Mr.M.K.Gupta,
Member (J).

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

None appears for the parties. Repl
has not been filed. In the interest of
justice last and final opportunity is
granted to the respondents to file repl
within eight weeks.

Adjourned to 26.4.2005.

K.P. Prasad
Member (A)

W.
Member (J)

bb

10.05.2005

Mr. N. Dhar, learned counsel for
the applicant is present. Mr. M.U.
Ahmed, learned ~~xxx~~ Addl. C.G.S.C. for
the respondents seeks time for filing
written statement. Post on 09.06.2005.

K.P. Prasad
Member (A)

W.
Vice-Chairman

mb

Notice duly served
on resp. Nos- 1, 2, 4, 5 & 6.

9-5-05
No reply for been filed.

8-6-05
No W/S for been.

No reply for been
filed.

W.

W.

27/4

Order of the Tribunal

Office Notes

Date

09.06.2005

Mr. M.U. Ahmed, learned Addl. C. G.S.C. for the respondents submits that written statement is being filed today. Post on 30.6.2005. Rejoinder, if any, in the meantime.

K. P. Bhat
Member

V. V. Rao
Vice-Chairman

mb

30.06.2005

No Division Bench is available. Adjourned to 8.8.2005.

V. V. Rao
Vice-Chairman

bb
08.08.2005

Mr. N. N. Dhar, learned counsel for the applicant is present. Mr. M.U. Ahmed learned Addl. C.G.S.C. submits that the respondents want to file reply to the rejoinder. Post on 30.8.2005.

K. P. Bhat
Member

V. V. Rao
Vice-Chairman

mb

30.8.05.

Post the matter before the next available Division Bench.

V. V. Rao
Vice-Chairman

lm

5.10.2005

Learned counsel for the applicant is absent. post on 14.11.2005.

M. D. Dhar
Member

V. V. Rao
Vice-Chairman

bb

14.11.2005

Post before the next Division Bench.

V. V. Rao
Vice-Chairman

mb

28.6.05

W/s filed by the Respondents.

P. V. S.

28.6.05

Rejoinder filed by the Applicant.

P. V. S.

The case is ready for hearing.

30
5.8.05

The case is ready for hearing as regards W/s and Rejoinder.

30
4.10.05

The case is ready for hearing.

30
11.11.05

3-1-06

The case is ready for hearing.

30

04.01.2006

Mr N. Dhar, learned counsel for the applicant and Mr M.U. Ahmed, learned Addl. C.G.S.C. are present. After hearing the counsel for the parties ^{for some time} we feel that some more details are required to be obtained from the respondents. Post before the next available Division Bench.

3-3-06

The case is ready for hearing.

3m

Member

Vice-Chairman

nkm

06.03.2006

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.

13/3/06
Addl. C.G.S.C.

Vice-Chairman (J)

Vice-Chairman (A)

mb

13.3.06

C. Copy of the judgment has been collected by the L/Advocate for the applicant and a copy of the same has been collected handover to the Addl. C.G.S.C. for the Respondent.
Hf.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

170 of 2004

O.A. No.

06.03.2006
DATE OF DECISION

Sri Amrit Sinha

Applicant/s

Mr. N. Dhar & Mr. P. Dutta

Advocate for the
Applicant/s.

- Versus -

Union of India & Others

Respondent/s

Mr. M.U. Ahmed, Addl. C.G.S.C.

Advocate for the
Respondents

CORAM

THE HON'BLE SRI B.N. SOM, VICE CHAIRMAN (A).

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN (J)

1. Whether reporters of local newspapers
may be allowed to see the Judgment ? ~~Yes/No~~
2. Whether to be referred to the Reporter or not ? ~~Yes/No~~
3. Whether to be forwarded for including in the Digest
Being compiled at Jodhpur Bench ? ~~Yes/No~~
4. Whether their Lordships wish to see the fair copy
of the Judgment ? ~~Yes/No~~

Vice-Chairman(J)

A

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 170 of 2004

Date of Order: This is the 6th March 2006.

The Hon'ble Sri B.N. Som, Vice-Chairman (A).

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman (J).

Sri Amrit Sinha
Son of Shri Ashit Kumar Sinha
Village and Post Office Tinokhal
District - Karimganj, Assam.

... Applicant

By Advocate Sri N. Dhar, Mr. P. Dutta.

- Versus -

1. Union of India,
(Represented by the Secretary to the
Government of India,
Ministry of Communication, New Delhi - 11.
2. The Post Master General,
Assam Circle, Guwahati - 1.
3. The Director of Postal Services,
Assam Circle, Guwahati - 1.
4. The Senior Superintendent of Post Offices
Cachar Division, Post Office Shilchar - 1
District Cachar, Assam.
5. The Inspector of Post Offices,
Patharkandi Sub-Division,
Post Office Patharkandi,
District - Karimganj, Assam.
6. Smt. Sukriti Sarma
Wife of Sri Subhash Sarma
Village Pargana Bazar
Post Office Dullavcherra,
District - Karimganj, Assam.

... Respondents

By Advocate Mr. M.U. Ahmed, Addl. C.G.S.C.

✓

ORDER (ORAL)**K.V. SACHIDANANDAN, (V.C.)**

The applicant was engaged as Gramin Dak Sevak Mail Carrier (in short GDSMC), Tinokhal Branch Office with effect from 05.06.2003 vide annexure - 2 on contract basis with condition to be terminated by the respondents by notifying the other in writing and that conduct and service shall also be governed by the posts of GDS Conduct and Service Rules. Vide annexure - 3, one Smti. Sukriti Sarma, wife of late Subshas Sarma has been appointed in place of the applicant vide order dated 30.10.2003. Being aggrieved by the said inaction, the applicant has filed this application seeking the following reliefs :-

"A) To pass an order in setting aside and quashing the impugned letter/order dated 30.10.2003 (Annexure -3) passed by the Respondent No. 5 and/or

B) To pass an order directing the authorities to provide for employment/absorption of the petitioner in the department in accordance with the rules; and/or

C) To pass such further and other orders as your Lordships may deem fit and proper under the facts and circumstances of the case in the interest of justice."

2. The respondents have filed a detailed reply statement contending that the applicant has no legal right to continue in service because the applicant was on contract basis and appointed Smti. Sukriti Sarma against the vacant post of GDSMC Tinokhal BO on compassionate ground in relaxation of all the normal recruitment rules. More so, the applicant was worked only for a

2

period of 31 days with effect from 05.05.2003 to 04.06.2003. The Inspector of Post is therefore justified in disengaging the applicant.

3. Heard Mr. N. Dhar, learned counsel for the applicant and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. Learned counsel for the parties placed various pleadings and materials on record.

4. Counsel for the applicant argued that the respondents did not comply with the rules prescribed in the GDS Conduct and Service Rules with special reference to Rule 6 of the said Rules. Therefore, disengaging the applicant from service without serving notice is per se violative of prescribed rules and therefore, interference of the Tribunal called for. Counsel for the respondents contended that though notice was actually not served on the applicant, the respondents were at liberty to disengage the services of the applicant, which is justified.

5. We have given due consideration on the arguments and materials placed on record by both the parties. Materials available on record reveals that the applicant had approached the Hon'ble Gauhati High Court by way of a Writ Petition (C) No. 9385 of 2003, wherein the High Court has observed as follows: -

"Mr. Dhar submitted with reference to Rule 4(ii) of the Departmental Rules for appointment of Extra Departmental Mail Carrier that Rules requires that persons who are permanent residents of the delivery jurisdiction of the post office should be appointed. According to the learned counsel for the petitioner, the petitioner satisfies this

L

condition and was, therefore, appointed as Extra Delivery Mail Carrier in Tinokhal Branch Post Office. The complain of the petitioner is that though the Respondent No. 6 is not a permanent resident of the area, by the impugned order she has been appointed in his place. Mr. Dhar has also pointed out that the petitioner is a physically handicapped person being almost blind in one eye."

A status quo order as regard the post of Extra Delivery Mail Carrier in question as on that date directed to be maintained.

6. We have also given due consideration to the Rules with reference EDA Conduct and Service Rules so far as this applicant is concerned, which was as follows: -


"6 Termination of Services

(a) The Services of an employee who has not already rendered more than three years' continuous service from the date of this appointment shall be liable to termination at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee;

(b) the period of such notice shall be one month

Provided that the service of any such employee may be terminated forthwith and on such termination, the employee shall be entitled to claim a sum equivalent to the amount of his Basic Allowance plus Dearness Allowance for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.

7. On going to the said rules, we are of the view that notwithstanding the fact that the applicant has served only 31 days



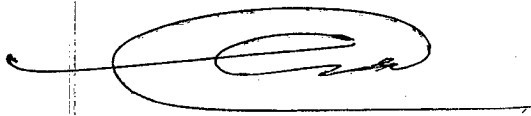
we are not convinced that it can bypass this rule. The rule is that the services of an employee who has not already rendered more than three years' continuous service from the date of this appointment shall be liable to terminate at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee. Counsel for the applicant also relied on a decision of the Hon'ble Supreme Court (2000) 7 SCC 502, Prabhudayal Bihari Vs. M.P. Rajya Nagrik Aapurkti Nigam Ltd., in which this position has cleared that a notice is mandatory for termination of such employee. Counsel for the respondents have also relied on the decisions of Hon'ble Supreme Court in Union of India & Ors. Vs. G.R. Prabhavalkar & Ors. (1973) 4 SCC 183 and in State of Maharashtra Vs. Lok Shikshan Sanstha (1971) 2 SCC 410, wherein it was observed that personal hearing is not required for termination of service. We have given due respect to the said decisions relied on by the counsel for the respondents which pertains to "for grant of personal hearing", but that is not germane so far as this case is concerned. Serving of notice and personal hearing are different concepts and the said decisions cited by the respondents are not squarely applicable in this case.

8. Considering the facts and circumstances of the case, we are of the considered view that the termination of the applicant is not in conformity with the Rules of EDA Service and Conduct Rules, that should have done by the respondents by serving notice to the

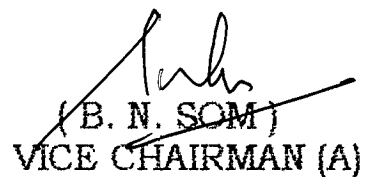
L

applicant. Therefore, we set aside the termination of the service of the applicant and direct the respondents to reinstate the applicant in the same capacity/status in the same Sub Division if not in the same place in the next available vacancy.

The O.A. is allowed and disposed of accordingly. In the circumstances of the case, no order as to costs.

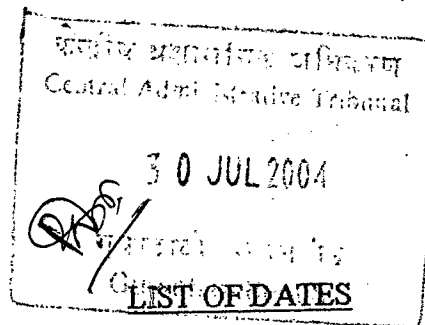


(K. V. SACHIDANANDAN)
VICE CHAIRMAN (J)



(B. N. SOM)
VICE CHAIRMAN (A)

/mb/



On 5.6.2003:- The applicant was appointed to the post of the Gramin Dak Deva Mail Carrier (in short G.D.S.M.C.) i.e an Extra Departmental Mail Carrier (in short E.D.M.C.) at Tinokhal Branch Post Office, Patharkandi Sub-Division, Karimganj district, Assam.

On 7.7.2003:- The Senior Superintendent of Post Offices, Cachar Division, Silchar, informed the Sub-Divisional Inspector of Post Offices, Patharkandi Sub-Division, Karimganj district, to appoint the Respondent No. 6 against the alleged vacant post of the E.D.M.C at Tinokhal Branch Office in which post the applicant is working and in erroneously stating that the said post had fallen vacant.

On 30.10.2003:- The Inspector of Post Offices, Patharkandi, directed the Respondent No. 6 to join to the post of the E.D.M.C. at the aforesaid Tinokhal Branch Office without any formal appointment order and the applicant was directed to hand over charge of the office of the E.D.M.C. to the Respondent No. 6 without providing alternative employment to the applicant.

On 14.11.2003:- The Hon'ble Gauhati High Court in Writ Petition (C) No. 9385 of 2003 directed the respondents to maintain status quo as regard the post of E.D.M.C. in question.

On 1.12.2003:- The applicant submitted a representation in this connection to the Respondent No. 5.

On 18.6.2003:- The Hon'ble Gauhati High Court directed the applicant to approach the Central Administrative Tribunal for redressal of his grievances in view of the law settled by the Apex Court in this connection.

Prabhat Dutta
(Prabhat Dutta)
Advocate.

Amrit Sinha
Filed by
through
Prabhat Sinha
Advocate
On.

(Signature)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

An application Under Section 19 of the Central administrative
Tribunal Act, 1985

O.A. No. of 2004

Shri Amrit Sinha	-----	Applicant
-Versus-		
Union of India and others	-----	Respondents.

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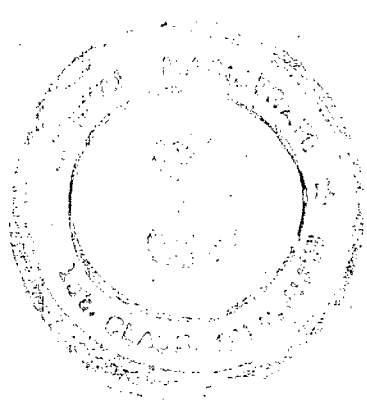
Particulars --

-page 2.-

Amrit Sinha

1. Particulars of the applicant :- Shri Amrit Sinha,
Son of Shri Ashit Kumar Sinha,
Village and Post Office Tinokhal,
District Karimganj, Assam.

2. Particulars of the Respondents:-
1. Union of India,
(Represented by the Secretary to
the Govt. of India, Ministry of
Communication, New Delhi-11.)
 2. The Post Master General,
Assam Circle, Guwahati-1.
 3. The Director of Postal Services,
Assam Circle, Guwahati-1.
 4. The Senior Superintendent of Post
Offices, Cachar Division,
Post Office Silchar-1,
District Cachar, Assam.
 5. The Inspector of Post Offices,
Patharkandi Sub-Division,
Post Office Patharkandi,
District Karimganj, Assam.
 6. Smti. Sukriti Sarma,
Wife of Sri Subhash Sarma,
Village Pargana Bazar,
Post Office Dullavcherra,
District Karimganj, Assam.



3. Particulars—

3. Particulars of the order against which this application is made :-

This application is made against the impugned order dated 30.10.2003 issued by the Respondent No. 5 directing the applicant to hand over charge of the Extra Departmental Mail Carrier (in short E.D.M.C.) without providing for alternative employment to the applicant.

4. Limitation:-

The applicant declares that the application is made within the prescribed period of limitation.

5. Jurisdiction:-

The applicant further declares that the cause of action for the present application arose within the jurisdiction of this Hon'ble tribunal.

6. FACTS OF THE CASE:-

6.1 That the applicant belongs to a very poor and other backward class community family of Tinokhal village in Karimganj district. The applicant is a physically handicapped person. He read up to Class-VIII, but thereafter, could not prosecute his further studies nor could treat himself, being a blind person with limitation in the field of vision, due to extreme poverty in the family. The applicant was accordingly looking for a job in

public--



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Amril-Sinha


-page 4.-

public employment under the state to earn his means of livelihood in public employment.

A copy of the medical certificate in respect of the applicant is annexed hereto as Annexure-1 of this application.

6.2. That under the aforesaid circumstances and on being sponsored by the local employment exchange, the applicant was appointed as the Extra Departmental Mail Carrier (in short E.D.M.C.) at Tinokhal Branch Post Office, Patharkandi Sub-Division, Karimganj district, as per order dated 5.6.2003 passed by the Respondent No. 5 under Rule 3 of the Post and Telegraph Extra Departmental (Conduct and Service Rule), 1964.

A copy of the aforesaid order dated 5.6.2003 is annexed hereto as Annexure- 2 of this application.



6.3. That, thereafter, the Senior Superintendent of Post Offices, Cachar Division, as per his letter dated 7.7.2003 informed the Respondent No. 5 that one Smti. Sukriti Sarma (Respondent No.6), an approved candidate on compassionate ground, is waiting for absorption since 2002 due to want of vacant post and as the incumbent working as the E.D.M.C. at Tinokhal Branch Post Office was declared successful in the departmental examination of post man and as such necessary action to be taken to absorb Smti. Sukriti Sarma to the said vacant post.

A copy of the aforesaid letter dated 7.7.2003 is annexed hereto as Annexure- 3 of this application.

6.4 That--

Amrit-Sinha

-page 5.-

6.4 That, thereafter, Respondent No. 5, all of a sudden, as per the impugned letter/ order dated 30.10.2003 directed the Respondent No. 6 to join as the Extra Departmental Mail Carrier (in short E.D.M.C.) at Tinokhal Branch Post Office, Patharkandi Sub-Division, in place of the applicant in violation of rules. The applicant was also directed by the aforesaid impugned order dated 30.10.2003 issued by the Respondent No. 5 to hand over charge of office to the Respondent No. 6 whimsically without providing alternative employment to the applicant and accordingly the applicant was under the purported threat of ouster from service in violation of the standing order/ instructions of the department.

A copy of the aforesaid letter dated 30.10.2003 is annexed hereto as Annexure- 4 of this application

6.5 That the petitioner in this connection begs to quote the relevant executive instruction contained in Item 4 of the method of recruitment of the extra departmental employees as follows:-

Item No. 4. Residence:-

- i) The EDMPM/ EDSPM must be a permanent resident of the village where the post office is located. He should be able to attend to the post office work as required of him keeping in view the time of receipt, dispatch and delivery of mails which need not be adapted to suit his convenience or his main vocation.

ii) E.D.--

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Amrit Senha

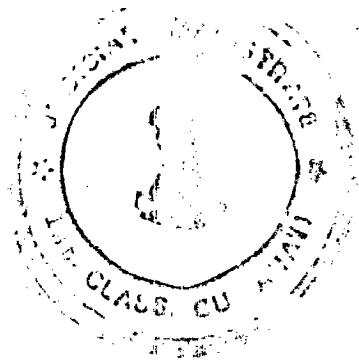
-page 6.-

ii) ED Mail Carriers, Runners and Mail Peons should reside in the station of the main Post Office or stage wherefrom mails originate, i.e. they should be permanent residents of the delivery jurisdiction of the Post Office.

iii) ED Agents of other categories may, as far as possible, reside in or near the place of their work (Letters No. 5-9/72-EL Cell dated 18.8.1973 and No. 43-312/78-Pen dated 20.1.79 sand modified to this extent).

6.6 That the applicant in this connection also states that the Director General. Posts and Telegraph, as per his circular letter dated No. 43-4/77-Pen dated 23.2.1979 also directed that in regard to item No.4, the recruitment of outsiders to the post of the Extra Departmental Agents, other than EDBPMs/ EDSPMs should not be made until all the surplus/
displaced Extra Departmental Agents on the waiting list are re-employed or they refuse the offer of re-employment.

not surplus



6.7. That the applicant states that he belongs to other backward community class and is also a physically handicapped person and as such entitled to reservation/ preference under circular letter Nos. 43-14/72-Pen dated 2.3.1972, No. 43-246/77-Pen dated 8.3.1978, No.43-312/78-Pen dated 20.1.1979 issued by the Director General, Posts and Telegraph and also under the Office Memo. dated 5.8.1981 issued by the Govt. of Assam.

A copy of the aforesaid O.M. dated 6.8.1981 is annexed here as Annexure- 5 of this application.

6.8. That—

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Anirudh Sinha

-page 7.-

6.8 That the applicant under the aforesaid circumstances filed a Writ Petition (C) No. 9385 of 2003 in the Hon'ble Gauhati High Court against the aforesaid letter/order dated 30.10.2003 passed by the Respondent No. 5 directing the Respondent No. 6 to join as the Extra Departmental Mail Carrier (in short E.D.M.C.) of the Tinokhal Branch Post Office, Patharkandi Sub-Division, in place of the applicant in violation of rules. The Hon'ble Gauhati High Court accordingly as per order dated 14.11.2003 passed in the above Writ Petition (C) No. 9385 of 2003 was pleased to direct the respondents that the status quo as regard the post of Extra-Delivery Mail Carrier in question on date shall be maintained.

A copy of the aforesaid order dated 14.11.2003 is annexed hereto as Annexure- 6 of this application.

6.9 That the applicant, thereafter, also submitted a representation dated 1.12.2003 before the Inspector of Post Offices, Patharkandi Sub-Division, Patharkandi, praying, inter alia, to allow him to work as the Extra Departmental Mail Carrier at Tinokhal Branch Post Office, Patharkandi Sub-Division, Karimganj district, but it was without any effect till to date.

A copy of the aforesaid representation dated 1.12.2003 is annexed hereto as Annexure- 7 of this application.

6.10 That--



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Amrit-Sinha

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6.10 That the Hon'ble Gauhati High Court, thereafter, as per order dated 18.6.2004 passed in the above Writ Petition (C) No. 9385 of 2003 was pleased to direct the applicant to approach the appropriate forum for redresses in view law laid down by the Apex Court in the case of L. Chandra Kumar Vs. Union of India and others as reported in 1997 (1) GLT (SC) and hence the present application before this Hon'ble tribunal.

A copy of the aforesaid order dated 18.6.2004 is annexed hereto as Annexure- 8 of this application.

7. Relief sought for in the application:-

Under the facts and circumstances stated above the applicant prays for the following relief :-

A) To pass an order in setting aside and quashing the impugned letter/ order dated 30.10.2003 (Annexure-3) passed by the Respondent No. 5 and/or,

B) To pass an order directing the authorities to provide for employment/ absorption of the petitioner in the department in accordance with the rules; and/or,

C) To pass such further and other orders as your Lordships may deem fit and proper under the facts and circumstances of the case in the interest of justice.

The---

21
Annet Singh

8. The above reliefs are prayed on the following grounds:-

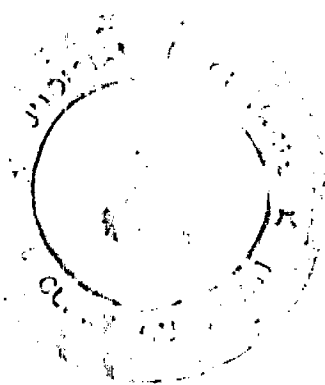
GROUNDS

A) For that in the instant case the impugned order dated 30.10.2003 (Annexure- 4) passed by the Respondent No. 5 directing the applicant to hand over charge of office of the Extra Departmental Mail Carrier (in short E.D.M.C.) to the Respondent No. 6 without providing for alternative employment to the applicant in the case is arbitrary, unreasonable, violative of the principles of natural justice and as such unsustainable in law.

B) For that in the instant case the authority concerned has passed the impugned order dated 30.10.2003 (Annexure-4) without taking consideration of the relevant executive instruction contained in Item 4 of the method of recruitment of the extra departmental employees in as much as the Respondent No. 6 is not a resident of the locality under Patharkandi Sub-Division to be entitled to be appointed to the post of the Extra Departmental Mail Carrier (in short E.D.M.C.) at Tinokhal Branch Post Office under Patharkandi Sub-Division in accordance with the rules.

C) For that in the instant case the authority concerned has passed the impugned order dated 30.10.2003 (Annexure-4) without taking consideration of the relevant executive instructions contained in the Circular dated No. 43-4/77-Pen dated 23.2.1979 issued by the Director General. Posts and Telegraphs, Govt. of India, that has resulted in to the failures of justice.

D) For—



23
Anand Singh

-page 10.-

D) For that in the instant case the authority concerned has passed the impugned order dated 30.10.2003 (Annexure-4) without taking consideration of the relevant executive instructions contained in the Circular Nos. 43-14/72-Pen dated 2.3.1972, No. 43-246/77-Pen dated 8.3.1978, No.43-312/78-Pen dated 20.1.1979 issued by the Director General, Posts and Telegraphs, Govt. of India, and also the Govt. Policy communicated under the Office Memorandum, dated 5.8.1981 issued by the Govt. of Assam, that has resulted in to the failures of justice.

E) For that in the instant case the authority concerned has passed the impugned order dated 30.10.2003 (Annexure-4) without proper appreciation of the letter dated 7.7.2003 (Annexure-3) issued by the Senior Division Superintendent of Post Offices, Cachar Division, Silchar, that has resulted into the failures of justice.

F) For that in the instant case the authority concerned has passed the impugned order dated 30.10.2003 (Annexure-3) whimsically without application of mind to the relevant fact and circumstance of the case which has resulted into the failures of justice.

G) For that in any view of the matter the impugned order dated impugned order dated 30.10.2003 (Annexure-4) passed by the authority concerned is otherwise bad in law and as such it is liable to be set aside and quashed.

9) That--

9. Details of the remedy exhausted:-

The remedy exhausted in the case has been detailed above and there is no other remedy left other the instant application before this Hon'ble Tribunal.

10. Matter not pending in any other court/ tribunal:-

The applicant declares that the matter is not pending in any other court tribunal at present.

11. Details of Postal orders:-

I. Postal Order No. :- 206 112398

Date of Issue:- 29.7.2004

Issued from:- G.P.O

Payable at:- -Do -

12. Details of Index:-

An index showing the particulars of documents is enclosed.

13. List of Enclosures:-

As per index.

VERIFICATION

I, Shri Amrit Sinha, the applicant in this case, do hereby verify that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts of the case. I sign this verification this day of July, 2004 in Guwahati.

Amrit Sinha



AFFIDAVIT

I, Shri Amrit Sinha, Son of Shri Ashit Kumar Sinha, resident of village and post office Tinokhal, Police Station Patharkandi, district Karimganj, Assam, aged about 23 years do hereby solemnly affirm and may as follows:-

1. That I am the petitioner in the above case and as such I am acquainted with the facts and circumstances of the case.
2. That the contents of this affidavit and the statements made in paragraphs 1,2,3,4,5,6,7,8,9,10,11,12 and 13 of the above petition are true to my knowledge and the rests are my prayers and submissions before this Hon'ble court which I also believe to be true.

I sign this affidavit this 29th day of July, 2004 in Guwahati.

Amrit Sinha

Identified by

DEPONENT.

Prabhat Dutta

Advocate.

Solemnly affirmed and sworn in before me by the deponent, this 29th day of July, 2004 in Guwahati.

[Signature]
29/7/04
Magistrate.

চিকিৎসালয়ৰ ভিতৰত ধূমপান আৰু তামোল-পান খোৱা নিষেধ
SMOKING AND CHEWING BETEL-NUT INSIDE THE HOSPITAL PROHIBITED

GAUHATI MEDICAL COLLEGE HOSPITAL

Dated Guwahati the 12-11-20 03

MEDICAL CERTIFICATE

WHOM IT MAY CONCERN

This is to certify that Shri / Smt Anurit Singha
was treated as an in-door / out-door patient in Regional Institute of Ophthalmology
of Medical College Hospital, Guwahati from 12-11-03
to Horizontal Nystagmus (Rt.) and was suffering from Microcornea, Iris Coloboma,
Horizontal Nystagmus (Rt.) Anomalous (Rt.) and was / is suffering from Microcornea, Iris Coloboma,
He / She was / is advised to take rest for His vision is R. eye - 2/60
week / days / months
with effect from 12-11-03 to 12-11-03

Now he / she is fit to resume his / her duties. His percentage of visual
improvement is 100%.

Countersigned

13/11/03
Director & H. O. n.
Regional Institute of Ophthalmology
Gauhati Medical College Hospital,
Guwahati-781032

Signature [Signature]
Seal [Seal]
Guwahati-781032

Which to be a true copy by
[Signature]
Advocate

14
24
ANENXURE - 2

OFFICE OF THE INSPECTOR OF POST OFFICES
PATHARKANDI SUB-DIVISION
PATHARKANDI - 788724

Order of Appointment

No. AI/Tinokhal

Dated 5.6.2003

Shri Amrit Sinha, Son of Ashit Kumar Sinha is hereby appointed as G.D.S. M.C. Tinokhal B.O. with effect from 5.6.2003 forenoon. He shall be paid such allowances as are admissible from time to time.

2. Shri Amrit Sinha should clearly understand that his employment as G.D.S. M.C. 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 also be governed by the posts of G.D.S. Conduct and service Rules.

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

Sd/- R.K.Das,
Appointing Authority,
Inspector of Post Offices,
Patharkandi Sub-Division,
Patharkandi.

To
Shri Amrit Sinha

Copy to :-

1. The Post Master, Karimganj for necessary action.
2. The Branch Post Master, Tinokhal,
3. Office copy.

Sd/- R.K.Das,
Appointing Authority,
Inspector of Post Offices,
Patharkandi Sub-Division,
Patharkandi.

Recd

15-
ANENXURE - 3

DEPARTMENT OF POSTS
GOVERNMENT OF INDIA
OFFICE OF THE SENIOR SUPERINTENDENT OF POST OFFICES
CACHAR DIVISION, SILCHAR- 788001

To
The Sub-Divisional Inspector of Post Offices,
Patharkandi Sub-Division.

No. A-127/PF

Dated at Silchar, the 7-7-2003

Sub:- Compassionate appointment -case of Smti. Sukriti Sarma,
W/O late Subshas Sarma, Ex-EDMM, TMO, Katakhal.

Smti. Sukriti Sarma, an approved candidate on compassionate ground is waiting for absorption since 2002 due to want of one vacant post. Now, the post of GDSMC Tinokhal B.O. has fallen vacant as the incumbent working as EDMC Tinokhal declared successful in the Departmental examination of Postman. You are, therefore, requested to take to absorb Smti. Sarma against the said vacant post immediately and submit report to this office.

Sd/- J.K. Barbhuiya,
Senior Superintendent of Post Offices,
Cachar Division, Silchar-788001

Copy to:-

Smti. Sukriti Sarma, W/O of late Subhash Sarma, Village Pargana Bazar, P.O. Dullavcheria, District Karimganj, for information.

Sd/- J.K. Barbhuiya,
Senior Superintendent of Post Offices,
Cachar Division, Silchar-788001

Copy to be made - copy to
Smti. Sukriti Sarma
21/7/2003

15
ANENXURE - 4

OFFICE OF THE INSPECTOR OF POST OFFICES
PATHARKANDI SUB-DIVISION
PATHARKANDI - 788724

No. AI/Tinokhal

Dated 30.10.2003

In pursuance of S.S.P.O.S., Cachar Division, letter No. A-127 dated 7.7.2003 Smti. Sukriti Sharma, Wife of Subhash Sarma an approved candidate for compassionate ground is hereby ordered to join as E.D.M.C., Tinokhal with effect from 3.11.2003 forenoon.

Her formal appointment order will follow.

Shri Amrit Sinha will handover the charge of E.D.M.C, Tinokhal on 3.11.2002 to Smti. Sukriti Sarma.

She shall be paid such allowance as admissible from time to time.

Sd/- R.K. Das,
Inspector of Post Offices,
Patharkandi Sub-Division,
Patharkandi.

Copy to :-

1. Smti. Sukriti Sarma, Village Pargana Bazar, P.O. Dullavcherra.
2. The Branch Post Master, Tinokhal, for information and necessary action
3. Amit Sinha, E.D.M.C.
4. The Post Master, Karimganj for necessary action.
5. The S.S.P.O.S, Cachar Division.

Sd/- R.K.Das,
Inspector of Post Offices,
Patharkandi Sub-Division,
Patharkandi.

No. AAP.330/79/49
Government of Assam
Department of Personnel (Personnel-A)
Assam Secretariat (Civil), Dispur
Gauhati-781006

OFFICE MEMORANDUM

The 6th August, 1981

After careful consideration of various aspects, the Governor of Assam is pleased to make the provision for reservation in Grade(III) and Gerade(IV) posts under State Government and Public Sector undertakings for the Physically Handicapped persons listed below to the extent indicated against each :

<u>Category of the Handicapped</u>	<u>Percentage of reservation</u>
1. Blind	1%
2. The Deaf	1%
3. The Orthopaedically Handicapped	1%

(2) The categorisation of the Physically Handicapped persons for the purpose of above reservation will be on the basis of the following definition.

(A) The Blind

The blind are those who suffer from either of the following conditions :

- (a) Total absence of Sight
- (b) Visual acuity not exceeding 6/60 or 20/200 (Snellon) in the better eye with correcting lenses.
- (c) Limitation of the field of vision subtending an angle of 20 degree or worse.

(B) The Deaf

The deaf are those in whom the sense of hearing is non-functional for ordinary purposes of life. They do not hear, understand sounds at all events with amplified speech. The cases included in this category will be those having loss more than 90 decibels in the better ear (Profound impairment) or total loss of hearing in both ears.

be a true copy by
Advocate

- 18
- 31
4. All Commissioners of Divisions, Assam.
 5. All Heads of Departments.
 6. All Deputy Commissioner / Sub-Divisional Officers.

By order etc.,

(B. Phatowali)
Deputy Secretary to the Government of Assam

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

Writ Petition (C) No. 9385 of 2003

Shri Amrit Sinha,
Son of Shri Ashit Kumar Sinha,
Village and Post Office Tinokhal,
District Karimganj, Assam.

----- PETITIONER.

-Versus-

1. Union of India,
(Represented by the Secretary to the Govt. of India,
Ministry of Communication, New Delhi-11.)
2. The Post Master General,
Assam Circle, Guwahati-1.
3. The Director of Postal Services,
Assam Circle, Guwahati-1.
4. The Senior Superintendent of Post Offices,
Cachar Division, Silchar-1.
5. The Inspector of Post Offices,
Patharkandi Sub-Division, Patharkandi,
District Karimganj, Assam.
6. Smti. Sukriti Sarma,
Wife of Sri Subhash Sarma,
Village Pargana Bazar, P.O. Dullavcheria,
District Karimganj, Assam.

----- RESPONDENTS.

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-page 2.-

PRESENT

THE HON'BLE MR JUSTICE AMITAVA ROY

For the petitioners:- Mr. N. Dhar,
Mr. P. Dutta,
Miss D. Roy Choudhury, Advocates.

For the respondents:- C.G.S.C.

Date

ORDER

14.11.2003

Heard Mr. N. Dhar, learned counsel for the petitioner and
Mr. C. Choudhury, learned senior Central Govt. Standing counsel.

Let a notice of motion issue calling upon the respondents to show
cause as to why a Rule should not be issued as prayed for, or why such
further or other orders should not be passed as to this court may seem fit
and proper.

The notice is made returnable on 9.12.2003

Mr. C. Choudhury, takes notice on behalf of Respondent Nos. 1 to
5. Extra copies of the petition be furnished to him within 3 days. The
petitioner would take steps for service on the Respondent No. 6 by
registered post with A/D. Requisites be filed within 3 days.

Contd/- page 3

20-21-37

-page 3-

Mr. Dhar submitted with reference to Rule 4(ii) of the Departmental Rules for appointment of Extra Departmental Mail Carrier that Rule requires that persons who are permanent residents of the delivery jurisdiction of the post office should be appointed. Accordingly to the learned counsel for the petitioner, the petitioner satisfies this condition and was, therefore, appointed as Extra Delivery Mail Carrier in Tinokhal Branch Post Office. The complain of the petitioner is that though the Respondent No. 6 is not a permanent resident of the area, by the impugned order she has been appointed in his place. Mr. Dhar has also pointed out that the petitioner is a physically handicapped person being almost blind in one eye.

Considering the statements made in the petition supported by an affidavit, it is ordered that till the returnable date, status quo as regard the post of Extra Delivery Mail Carrier in question as on date shall be maintained.

Sd/- Amitava Roy
Judge

21-22-35

ANNEXURE- 7

To
The Inspector of Post Offices,
Patharkandi Sub-Division,
Patharkandi.

Dated, Tinokhal the 1st Dec. ' 2003

Sub:- Resuming of duty as E.D.M.C at Tinokhal Branch Post Office.

Ref:- 1) My letter No. nil dated 17.11.2003
2) Hon'ble Gauhati High Court Status Quo Order
vide No. W.P.(C) No. 9385/ 2003 order dated 14.11.2003.

Sir,

With reference to subject captioned above, I have the honour to request your esteem office once again to kindly allow me to perform my assigned duty, since I have resumed duty on 17.11.2003. But it is regretted that till today I was not allowed by your high office to carry the mail.

Under the above circumstances, I fervently pray your esteem office once again to consider the matter for which I have enclosed herewith the Hon'ble Gauhati High Court Status Quo Order vide No. W.P.(C) No. 9385 /2003 dated 14.11.2003 for favour of your kind information and necessary action.

Encl:-

- 1) A copy of the Hon'ble
Gauhati High Court's
Status Quo order vide
No. W.P.(C) No. 9385/ 2003
Dated 14.11.2003.

Yours faithfully
Sd/- Amrit Sinha
(SRI AMRIT SINHA)
E.D.M.C., Tinokhal.

attached to be a true copy of
Advocate

IN THE GAUHATI HIGH COURT

**(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)**

Writ Petition (C) No. 9385 of 2003

**Shri Amrit Sinha,
Son of Shri Ashit Kumar Sinha,
Village and Post Office Tinokhal,
District Karimganj, Assam.**

----- PETITIONER.

-Versus-

- 1. Union of India,
(Represented by the Secretary to the Govt. of India,
Ministry of Communications, New Delhi-11.)**
- 2. The Post Master General,
Assam Circle, Guwahati-1.**
- 3. The Director of Postal Services,
Assam Circle, Guwahati-1.**
- 4. The Senior Superintendent of Post Offices,
Cachar Division, Silchar-1.**
- 5. The Inspector of Post Offices,
Patharkandi Sub-Division, Patharkandi,
District Karimganj, Assam.**
- 6. Smti. Sukriti Sarma,
Wife of Sri Subhash Sarma,
Village Pargana Bazar, P.O. Dullavcherra,
District Karimganj, Assam.**

----- RESPONDENTS.

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-page 2.-

PRESENT

THE HON'BLE MR JUSTICE B.K.SHARMA

For the petitioners:- Mr. N. Dhar,
Mr. P. Dutta,
Miss D. Roy Choudhury, Advocates.

For the respondents:- C.G.S.C.

Date

ORDER

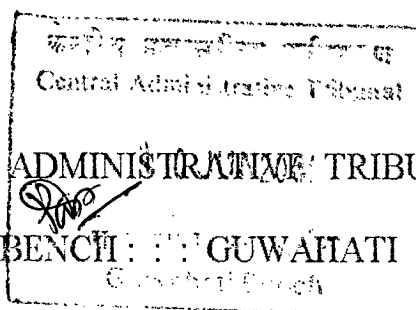
18.6.2004

The subject matter of dispute raised in this writ petition is within the exclusive jurisdiction of the Central Administrative Tribunal, Gauhati bench, in view of the provisions of the Administrative Tribunal Act, 1985, and the law laid by the Apex court in the case of L. Chandra Kumar Vs. Union of India and others as reported in 1997(1) GLT(SC). In that view of the matter, writ petition is not maintainable and accordingly stands dismissed. The petitioner may approach the proper forum towards redressal of his grievance, if so advised. The period spent before this court shall be taken into account towards prayer for condonation of delay in approaching the appropriate forum.

Writ petition stands disposed of.

Sd/- B.K.Sharma,
Judge

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI



O.A. NO. 170 OF 2004

Sri Amrit Sinha

.....Applicant

-Vs-

Union of India & Ors

.....Respondents

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)

The post of GDSMC Tinokhal EDBO in account with Patharkandi S.O. has been fallen vacant as the incumbent working as GDSMC Tinokhal declared successful in the Departmental Examination of Postman. The SDIPOs Patharkandi Sub Division has been asked vide this office letter no. A-127/ PF dtd 07-07-2003 to absorb Smt Sukriti Sarma an approved candidate on compassionate ground who is waiting for absorption since 2002 due to want of one vacant post,

Filed by

M. U. Ahmed

Addl. C. G. S. C.

7/6/05

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against vacant post of GDSMC Tinokhal B.O. at an early date. The concerned SDIPOs vide letter no. A1/ Tinokhal dated 21-07-03 intimated that he has made temporary arrangement against the vacant post by appointing temporarily one Sri Amrit Singha without obtaining prior approval/ instruction from this office. However, the said temporary arrangement was terminated by the Inspector of Posts as per instruction of this office appointing Smt Sukriti Sarma vide memo no.A1/ Tinokhal dated 06-11-03 against vacant post of GDSMC Tinokhal B.O. and Smt Sarma joined on 06-11-03. Sri Amrit Singha the petitioner then proceeded to the Court on the ground that Smt Sukriti Sarma who is appointed to the post of GDSMC Tinokhal is not a permanent resident of post village. But the point of permanent residence has been changed as per present ruling and any one eligible can apply for any GDS post.

Parawise comments:

1. That with regard to para 6.1 of the application, the respondents beg to offer no comments. The file of this office does not reveal anything about the statement that he is physically handicapped and or limitation in the field of vision.
2. That with regard to the statement made in para 6.2 of the application, the respondents beg to state that the local Employment Exchange was not at all requested to sponsor candidates for the post of GDS Mail Carrier of Tinokhal B.O.

since it will take sufficient time. He was just engaged on purely local arrangement to maintain mail communication with the parent office of Tinokhal B.O. temporarily.

3. That with regard to the statement made in para 6.3 of the application, the respondents beg to state that the circumstances under which the respondent no.6 viz Smt Sukriti Sarma W/O Late Subhas Sarma, an ex GDS official of this Department who died while in service and an approved person for appointment in any vacant GDS post on compassionate ground in relaxation of all the normal recruitment rules had to be employed against this vacant post of GDSMC Tinokhal B.O. has been stated in the "Brief History" of the case.

4. That with regard to the statement made in para 6.4 of the application, the respondents beg to state that the appointment of Smt Sukriti Sarma in the post of GDSMC Tinokhal B.O. was a case of appointment on compassionate ground in relaxation of all normal recruitment rules as mentioned in para 6.3 above. Moreover, Sri Amrit Singha had worked in the said post on temporary basis for a period of 31 days only from 05-05-03 to 04-06-03 and hence the question of alternative appointment does not arise.

5. That with regard to the statement made in para 6.5 of the application, the respondents beg to state that the residence conditions and the Income and Property qualification for appointment in GDS posts have been liberalised and changed vide D.G.Posts letter no.17-104/93-ED & Trg dated 06-12-93.

ii. mentioned above in para 6.5 (i)

iii. mentioned above in para 6.5 (i)

6. That with regard to the statement made in para 6.6 of the application, the respondents beg to state that Sri Amrit Sinha had worked only for a period of 31 days, the question of re-employment does not arise. Further the appointment of Smt Sukriti Sarma in the post of GDSCM Tinokhal B.O. is in relaxation of all normal recruitment rules on compassionate ground being approved by the Circle Welfare Board, Guwahati.

7. That with regard to the statement made in para 6.7 of the application, the respondents beg to state that no such records are available in this office to justify his claim.

8. That with regard to the statement made in para 6.8 of the application, the respondents beg to state that order dated 14-11-2003 passed by the Guwahati High Court in Writ Petition no.9385 of 2003 directing the Inspector Posts, Patharkandi Sub Division to maintain status-quo was received at Patharkandi on 24-11-03. But prior to the date of issue of the said order the present change of

incumbent in the post of GDSCMC was effected on and from 06-11-03 and as such to maintain the status quo ordered by the Guwahati High Court on 14-11-03 which was received on 24-11-03 was maintained.

9. That with regard to the statement made in para 6.9 of the application, the respondents beg to state that Gauhati High Court's order dated 14-11-03 received on 24-11-03. On the date of issue of the said order Smt Sukriti Sarma had been working as GDSCMC Tinokhal B.O. and as such status quo of the order dated 14-11-03 was maintained.

10. That with regard to para 6.10 of the application, the respondents beg to offer no comments.

11. That with regard to the statement made in para 7 of the application, the respondents beg to state that as per facts stated in the forgoing paras the petitioner is not entitled to any sorts of relief as prayed for by him rather he is responsible for mis-representing the case vide para 6.2 above.

Verification.....

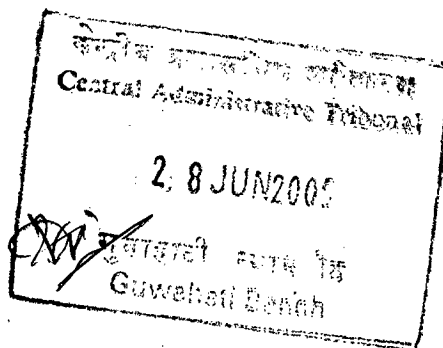
VERIFICATION

I, Shri R.C.Paul, Senior Supdt of Post Offices, Cachar Division, Silchar do hereby verify that the statements made in paragraph..... of the written statement are true to my knowledge, those made in paragraphs..... being matter of records are true to my information derived therefrom which I believe to be true and those made in the rest are humble submissions before the Hon'ble Tribunal. I have not suppressed any material facts.

And I signed this verification on this the 9th.....day of Jan...2005.

Rabinchandra Paul.

Deponent



44
Filed by the P.
Prabhat Dutta
On 28.6.2005

District: - Karimganj

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI**

Original Application No. 170 of 2004

IN THE MATTER OF :-

A rejoinder filed by the applicant in pursuance to the order dated 9.6.2004 passed by this Hon'ble Tribunal in the above case.

AND

IN THE MATTER OF :-

O.A. No. 170 of 2004

In between

Shri Amrit Sinha ----- Applicant

-Versus-

Union of India and others ----- Respondents.

I, Shri Amrit Sinha, Son of Sri Ashit Kumar Sinha, resident of Village and Post Office Tinokhal, Police Station Patharkandi, District Karimganj, Assam, aged about 23 years do hereby solemnly affirm and say as follows:-

1. That --

1. That I am the applicant in the above case and as such, I am acquainted with the facts and circumstances of the case.
2. That I have received a copy of the written statement filed by the respondents in the above case through my engaged lawyer in the above case and I have gone through it and understood the contents thereof. I accordingly file this rejoinder on perusal of the written statement filed by the respondents and in pursuance to the order dated 9.6.2005 passed by this Hon'ble Tribunal in the above case.
3. That I deny all the statements and averments made in the above written statement save and except those that are matters of records and those which are specifically admitted herein below to be true. Those that are not specifically admitted herein below to be true are to be taken as denied by me.
4. That the statements made in the written statement filed by the respondents in the case under the heading "Brief history of the case" are not correct and as such, I deny these. It is not a fact that my appointment as the G.D.S.M.C. at Tinokhal B. O. was terminated by the Inspector of Post Offices, Patharkandi, and Smti. Sukriti Sharma (Respondent No.6) was appointed to the said post on 6.11.2003 and Smti. Sukriti Sharma (Respondent No.6) joined in the said post on 6.11.2003 in the said post office. In fact there is no such appointment order dated 6.11.2003 appointing said Smti. Sukriti Sharma (Respondent No.6) to the said post

neither she joined in the said post on 6.11.2003 in the said post office. In fact the Inspector of Post Offices (i.e. Respondent No.5) by his letter dated 30.10.2003 directed the applicant to hand over charge of E.D.M.C., Tinokhal B.O., to Smti. Sukriti Sharma (i.e. Respondent No.6) without any prior notice issued to the applicant and without any formal appointment order issued to Smti. Sukriti Sharma (i.e. Respondent No.6). The applicant accordingly being aggrieved filed Writ Petition (C) No. 9385 of 2003 before the Hon'ble Gauhati High Court and accordingly the Hon'ble Gauhati High Court as per order dated 14.11.2003 passed the aforesaid writ petition was pleased to direct the respondents to maintain status quo as regard the post of the E.D.M.C. in question. Thereafter, the Hon'ble Gauhati High Court as per order dated 18.6.2004 passed in the aforesaid Writ Petition (C) No.9385 of 2003 directed the applicant to approach this Central Administrative Tribunal at Guwahati. The applicant accordingly filed the present O. A. No. 170 of 2004 before this Hon'ble Tribunal and accordingly this Hon'ble Tribunal as per order dated 5.8.2004 while admitting the present O. A. was pleased to direct that the order of status quo passed by the Hon'ble Gauhati High Court on 14.11.2003 shall continue until further orders. The Inspector of Post Offices, Patharkandi, (i.e. Respondent No.5), received the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court in his office on 24.11.2003. However, the Inspector of Post Offices, Patharkandi, (Respondent No.5), on receipt of the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court, as per his letter dated 15.3.2004 directed the E.D.D.A., Tinokhal B. O., to hand over charge of

the--

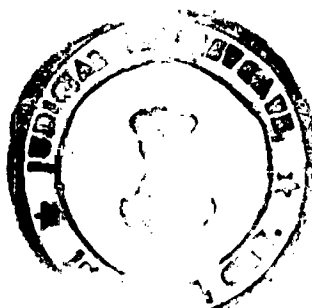
E.D.M.C., Tinokhal B.O., to Smti. Sukriti Sharma (i.e. Respondent No.6) and accordingly said Smti. Sukriti Sharma (i.e. Respondent No.6) was allowed by the official respondents to join in the post of the E.D.M.C., Tinokhal B.O., on 15.3.2004 in deliberate and willful disobedience and violation of the order passed by the court.

5. That the statements made in paragraph Nos. 8 and 9 of the written statement filed by the respondents are absolutely false and misleading and as such these are denied by me. It is a fact that that the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court in Writ Petition(C) No. 9385 of 2003 directing the respondents to maintain status quo in regard to the post of the E.D.M.C., Tinokhal B.O., was received by the Inspector of Post Offices, Patharkandi, on 24.11.2003. However, it is not a fact that prior to the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court, the change of incumbent in the post of the G.D.S.M.C, Tinokhal B.O., was effected on and from 6.11.2003 and as such the status quo order passed by the Gauhati High Court was maintained. It is also a false statement that on the date of issue of the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court, Smti. Sukriti Sharma (i.e. Respondent No.6) had been working as G.D.S.M.C, Tinokhal B.O. and as such the status quo order dated 14.11.2003 passed by the Hon'ble Gauhati High Court was maintained by the respondents. In fact the Inspector of Post Offices, Patharkandi, (i.e. Respondent No.5), received the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court in his office

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on 24.11.2003. However, the Inspector of Post Offices, Patharkandi, (Respondent No.5), on receipt of the aforesaid order dated 14.11.2003 passed by the Hon'ble Gauhati High Court, as per his letter dated 15.3.2004 directed the E.D.D.A., Tinokhal B. O., to hand over charge of E.D.M.C., Tinokhal B.O., to Smti. Sukriti Sharma (Respondent No.6) and accordingly said Smti.Sukriti Sharma (i.e. Respondent No.6) was allowed to join in the post of the E.D.M.C., Tinokhal B.O., on 15.3.2004 by the official respondents in willful violation of the order passed by the court.

A copy of the aforesaid letter dated 15.3.2004 and joining report dated 15.3.2004 are annexed hereto as Annexure-A and Annexure-B respectively of this rejoinder.



6. That the contents of this affidavit and the statements made in paragraphs 1, 2, 3, 4 and 5 of the above in this affidavit are true to my knowledge.

I sign this affidavit this 28th day of June, 2005 in Guwahati.

Anmit Sinha
DEPONENT.

Identified by

Prabhat Dutta
Advocate.

Solemnly affirmed and sworn in before me by the deponent, this 28th day of June, 2005, in Guwahati.

28/6/05
Magistrate
[Signature]
Sub Divisional Magistrate

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ANNEXURE - A

Shri Sushil Singh
EDDA
Tiruchirappalli P.O.

NO A1/Tiruchirappalli Dated 15.3.04

Sub : hand over the
charge of EDDA Tiruchirappalli
to Shri Sushil Singh

Shri Sushil Singh EDDA Tiruchirappalli

You are hereby directed to
hand over the charge of EDDA
Tiruchirappalli to Shri Sushil Singh
with immediate effect.

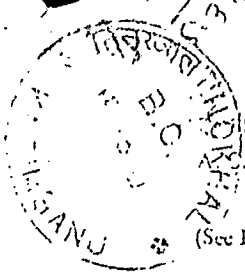
Sd/-
(R.K. DAS)

Copy to

1. P.M. Karimnagar H.O for information
2. a/c.
2. SPM Palakkad for information
3. a/c.
3. B.M. Tiruchirappalli for a/c.

Sd/-
(R.K. DAS)

Prabhat Dutta



जो. 61. भारत सरकार विभाग पोस्ट्स इंडिया
G-61. DEPARTMENT OF POSTS INDIA
(देविण नियम 267, डाक-तार वित्त पुस्तिका का खण्ड 1, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

चार्ज को बदली पर चार्ज रिपोर्ट 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 EDDA Linahelp

को
was made over by (name) Sushil Sharma

को
to (name) Sushil Sharma स्थान
at (place) Linahelp

तारीख
on the (date) 15/3/54 को पूर्वाह्न में
after noon in accordance with

No. A1/1111 को 15/3/54 के अनुसार दे दिया
from Sushil Sharma to Sushil Sharma
भारत सरकार अधिकारी
Relieved Officer
भारत सरकार अधिकारी
Relieving Officer

(हस्ताक्षर पृष्ठ उपस्थित)
(P. T. O.)

Prabhat Dutta

Rule 6