

50/100
3
CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 3/11/2004

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SECTION OFFICER (Judl.)

Shabita
14/11/18

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T

Original Application No. 311/2004

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Jahan Ali

Respondents: 401 tons

Advocate of the Applicants: - Mr. M.A. Sheikh, M. Rahman,
K.U. Ahmed and I. Ahmed

Advocate for the Respondents: - Chse.

Notes of the Registry | Date | Order of the Tribunal

2.12.04

Heard counsel for the parties.

Issue notice to respondents
returnable by four weeks. No interim
relief at this stage.

List on 5.1.2005 for filing counter
reply.

K. Prahled
Member

R
vice-Chairman

pg

Dy. Registrar

5.1.2005

List on 19.1.2005 for admission.

N.B.
30/11/04

Notice of order
sent to D/Section
for issuing do.
resp. Nos. 1 to 5
by regd. A/D post.

Com
14/12/04

4-1-05
S/2. awithd
On

19.1.2005

present: The Hon'ble Mr. Justice R.K.
Batta, Vice-Chairman.

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

The applicant has approached this
Tribunal for directions to quash the
selectiom list ~~xxx~~ as also further
direction to appoint him to the post of
Branch Postmaster.

R
Contd.

OA 311/2004

Contd.

19.1.2005

We have heard Mr. M. A. Sheikh, learned counsel for the applicants also Mr. A. Deb Roy, learned counsel for the respondents.

It may be mentioned here that the appointment of respondent no. 5 has ~~xxx~~ earlier been challenged in O.A. 287/2003 and the said application had been rejected. Be that as it may, learned counsel for the respondents has placed before us letters of the department that the said selection has been cancelled.

In view of the cancellation of the selection, the petition as it exists at present would not survive and the applicant may have to challenge the decision of the respondents to cancel the selection process for which ~~xxx~~ ~~xxx~~ the applicant will have a separate cause. He may, if advised, file appropriate application in view of the cancellation of the selection process and we grant liberty for filing such application, incase, the applicant is so advised.

In view of the above, it is not necessary to entertain this application and the application is disposed of in the light of the observations made above.

K. P. Bhandari
Member

R.
Vice-Chairman

bb

2/12/04

सेंट्रल प्रशासनिक अधिकरण
Central Administrative Tribunal

29 NOV 2004

District: Dhubri

गुवाहाटी ब्याबाठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

O.A.No. 311 /04.

Jahan Ali ... Applicant

- Vs -

The Union of India and ors.... Respondent

Synopsis :

1. A Notification was published for filling up of a Post of Branch Post Master at Chirakut Branch, Post office on 20/6/03 by the Superintendent of Post Offices, Goalpara Division, Dhubri and the applicant alongwith other 14 Candidates applied on 18/9/03 interview was held, although the applicant was the most-meritorious among the candidates as per terms and condition of the Advertisement, but he was not selected but Respondent No.5 was selected.

Being aggrieved by the arbitrary act of the said Superintendent, the petitioner filed the instant original application.

contd....2.

3. Total grounds of Challenge are 4(four) in number Viz(i). Impugned action ,illegal, arbitrary, malafide and without jurisdiction ,(ii) Other 13 candidates were not qualified ,(iii) Govt. Respondents violated Rules , Guidelines , notifications etc. and (iv), For any other views , the impugned Selection is bad.

List of Dates : (1). 27/1/04 Notification Dt,27/1/03 inviting applications for filing the Post of Branch- Post Master at Chirakuti Branch office.

Annexure No.1, Page 14 to 16.

(2). Dt. 19/6/03: Letter Dt.19/6/03 whereby the Notification Dt.27/1/03 was cancelled.

Annexure No.2, Page 17.

3. Dt.20/6/03: Fresh notification whereby fresh- applications were invited to fillup the same post.

Annexure No.3 , page - 18

4. Dt.27/8/03 : Interview Call Letter was issued to the Applicant .

Annexure No.4 , page -22.

-3-

5. Dt. 20/10/03: Respondent No.4 issued a Letter asking the Applicant and one Rafiqul Islam to produce land documents.

Annexure No.7 , page 45

6. Dt. 4/11/03 : The Circle Officer , Dhubri issued -Land Holding Certificate to the Applicant Under No.0B(3)03/2003/102.

Annexure No.9 , page 27

7. Dt. 7/9/03 : The Respondent authority published a ~~xx~~ Guideline for Selection and appointment of persons in the Post of Branch Post Master .

Annexure No.10 page 28-31.

8. Dt.23/9/04 : Judgement passed by the Hon'ble Tribunal in O.A.No.287/03.

Annexure No.11 page No. 32-36.

Filed by:

M

Dt. 25/11 November, 2004.

(Mr. M. Rahman, Advocate)

District:: Dhubri

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI:: BENG.

O.A. No. 311 /04.

BETWEEN :

Jahan Ali Applicant

- VS -

The Union of India and o/s. . . Respondents

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14.	Annexure No.11.	: <u>32-36</u>

xxxxxxxxxxxxxxRxxxxxxxxxx

Filed by: m

Date: 23 Sept, 004.

Advocate
Guwahati High Court.

District:: Dhubri

File by the petitioner
Md. Jahan Ali
through
Mustakim Rahman
Advocate

{ CENTRAL ADMINISTRATIVE TRIBUNAL } { GUWAHATI }

O.A.No. 911 /04.

- B E T W E E N -

Jahan Ali S/O Late Aburuddin Sk.

P.O & P.S. Gouripur, Dist. Dhubri (Assam)

.....Applicant

- Versus -

1. The Union of India, represented
by the Secretary to the Govt. of India
Department of Communication, New Delhi.

2. The Director of Postal Services,
New Delhi.

3. The Post Master General, Assam,
Meghdoct Bhaban, Guwahati.

4. The Supddt. of Post offices, Goalpara
Division, Dhubri, Dist. Dhubri (Assam).

5. Elias Rahman Son of Ebrahim Khalil,
Vill. & P.O. Chirakuti, P.S. Chapor,
District Dhubri (Assam).

.....Respondents.

contd....2

J. Ali

DETAILS OF APPLICATION

1.

The instant application is directed against the illegal action of the Respondents authority in Pursuance to the 'Interview /Selection 'Dt.18/9/2003 for the post of GDS/EDDA/EDMC i.e. Peon at Chirakuti Branch of Post office under Bilasipara Subdivision in Dhubri District (Assam) and also against a illegal action of the Respondents authority by violating the Notification Dt.20/6/2003 . The application is also directed against the arbitrary , malafide and bias, discriminatory and high handed exercise of Powers of the Respondents authority in selection and appoint^{ment} of BPN/Peon of Chirakuti Branch Post office .

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

The applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act.1985.

contd....3

4. FACTS OF THE CASE :

4.1. That the applicant is a Citizen of India and a permanent resident of Gouripur Ward No. IV,

P.O & P.S. Gouripur in the District of Dhubri and as such he is entitled to get all rights and sorts privileges, benefit and protections guaranteed by the Constitution of India and other Laws of the Land.

4.2. That on 27/1/2002 a Notification was issued by the Superintendent of Post office, Goalpara Division for filling-up, the Post of Branch Post Master at Cherekuti Branch office. Accordingly the applicant applied for the said Post, but surprisingly on 19/6/2003, the earlier Notification was cancelled due to some unavoidable reasons.

Photo copies of Notification Dt. 27/1/03 and Letter ~~dt. 27/1/03~~ Dt. 19/6/03 are annexed hereto as Annexure No. 1 and serial 2 respectively.


contd.....4

4.3. That on 20/6/03 another Notification was issued by the same Superintendent of Post office, Goalpara Branch, Dhubri for filling up the same post. Accordingly the applicant alongwith other 14 candidates applied for the said post. The applicant being duly qualified for the said post submitted all the required documents with the application.

A copy of Notification Dt. 20/6/03 is Annexure No.3

4.4. That on 27/8/03, the Respondent No.4 issued a Interview Call Letter Under No. B3/ 358/Chirakuti whereby the applicant was invited to attend the Selection Committee meeting for Selection of the said Post on 18/9/03.

A copy of Interview Call Letter Dt. 27/8/03 is Annexure No.4.

4.5. That on 18/9/03 the applicant alongwith other 14 candidates appeared in the Selection meeting and did well in the Interview. As per Guidelines for the Selection of the said post, the Petitioner become the most suitable candidate with best merit. The applicant secured 62%

of Marks in ~~the~~ his H.S.L.C. examination and he
was ^{highest} secured marks holder in H.S.L.C. Examination.
among all candidates. Moreover the applicant was
also the only Science Graduate among the candidates.

A copy of Mark sheet is Annexure No.5. A copy of B.Sc.
Pass Certificate issued by the Principal, B.N. College,
Dhubri is Annexure No.6.

4.6. That the said Selection Committee after perusing
the documents of the Candidates did not select any person
for the said post. Though they were supposed to publish the
Select list, then and there as per the Guidelines for the
Selection of ^{the} said post. Instead of publishing the said Select
List, the Respondent No.4 issued a Letter under No. B3/358/
Chirakuti Dt. 20/10/03 whereby the applicant alongwith another
candidate Rafiqul Islam were directed to produce land document
exclusively in their name within 15 days from the receipt
of the said Letter.

A copy of Letter Dt. 20/10/03 is Annexure No.7.

contd...6

4.7. That the applicant received the Letter Dt. 20/10/03 on 1/11/03 and on 11/11/03 , the applicant submitted a Land holding Certificate under Dhubri Circle No. DB.C(3)03/2003/102 Dt. 4/11/03 as per Letter Dt. 20/10/03.

A copy of application Dt. 11/11/03 is
Annexure No.8

A translated copy of land holding certificate Dt. 4/11/03 is Annexure No.9.

4.8. That ,inspite of having requisite qualification and best merit among the candidates the applicant ought to have been selected for the said post by the Selection Committee as there was no oral Interview held .

4.9. That the Selection Committee in total violation of appointment norms , Guidelines and provisions of Law whimsically and arbitrarily selected Respondent No.5 on 10/12/03 and issued appointment Letter in his name and asked him to join in the said Post though there was public complaint against him regarding his character.

J. J. Ali

4.10. That the applicant states that Respondent No.5 has less merit than the applicant according to the terms and conditions of the appointment Notification and Guidelines for the Selection for the said post. The Selection for appointment ought to have been made purely on the basis of merit and the Selection ought to have been made in presence of the candidates appeared in the Interview on the basis of their respective documents but the Respondent No.4 with a sinister motive did not do so. In Order of merit the applicant was in the first position and the Respondent No.5 was in 2nd position.

A copy of Guidelines Dt. 7-9-03 is Annexure No.10.

4.11. That the applicant begs to state that he has fulfilled all the terms and conditions as laid down in the Notification and applicant is the only candidate who ought to have been selected and appointed for the said post. The Respondent No.5 had not fulfilled all the terms & conditions as per the Notification Dt. 20/6/03 and as such no

vontd...8

appointment shall be made in view of the purported illegal Select list and if any appointment made in pursuance to the said Select List and the appointment of the Respondent No.5 is illegal, arbitrary, malafide, bias, based on extreneous consideration and as such the Select list the appointment in favour of the Respondent No.5 may kindly be set aside and quashed in the interest of Justice.

4.12. That considering the facts and circumstances of the Case, the Select List and appointment Letter in favour of the Respondent No.5 may kindly be stayed in the interest of Justice.

4.13. That this application has been made bonafide and in the ends of Justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

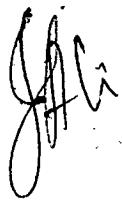
5.1. For that the impugned Selection and appointment Letter in favour of the Respondent No.5 is illegal, arbitrary, malafide without jurisdiction as per the Acts, Rules, Guidelines and Notification Dt. 20/6/03 Select list and the appointment Letter in favour of the Respondent No.5 if already made is not sustainable and liable to be set aside and quashed.

5.2. For that other candidates except the applicant is not eligible & qualified at the time of Interview and as such the illegal select list is liable to be set aside and quashed.

5.3. For that the Respondent authorities have violated the Act, Rules, Guidelines and Notification framed thereunder and as such impugned Select List and the appointment Letter in favour of the Respondent No.5 if already made is illegal, arbitrary, malafide, bias based on extreaneous consideration and the same is liable to be set aside and quashed.

5.4. For that in any view of the matter the entire action of the Respondents are liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both factual as well as legal at the time of hearing of the Case.



contd. 10

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. MATTER NOT PREVIOUSLY FILED OR PENDING
BEFORE ANY OTHER COURT.

The applicant declares that , a Title Suit being Numbered as T.S.No.581/02 was filed before Civil Judge, Jr. Division, Dhukri on the same subject matter by the Applicant and the same was subsequently withdrawn on 14/10/04 and presently there is no other application , Writ Petition or Suit in respect of the subject matter is filed before any other Court .Authority or any other bench of the Hon'ble Tribunal and no such application , Writ Petition or Suit is pending before any of them .It is pertinent to mention here that on the same subject matter involved in this application , another aggrieved person namely Abdur Rahim filed an original application in this Hon'ble Tribunal being Numbered as O.A.No. 287 /03 which was dismissed by Judgement and Order Dt. 23/9/04 by this Tribunal.

J. Ali

contd.....11

In the said Judgement it was held that there was more meritorious person than the applicant in aforesaid Case .The present applicant is the most meritorious person among the candidates and he is entitled to be selected. A Photocopy of Judgement Dt.23/9/004 is Annexure No.11.

8. RELIEVES SOUGHT FOR :

Under the facts and circumstances stated above , the applicant prays that this application be admitted , records be called for and notices be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of records, be pleased to grant the following reliefs.

8.1. To direct the Respondent No.3 and 4 to set aside and quash the impugned Select list and the appointment Letter made by the Supdt.Postal Department , Goalpara , Division (Dhubri) ,if any in favour of the Respondent No.5.

8.2. To direct the Respondent No.3 & 4 to select the Applicant and also to appoint the Applicant in the Post of GDS/EDDA/EDMC/BPM I.E.Peon at Chirakuti Branch Post Office, Bilasipara in the Dist.of Dhubri for ~~maxx~~ in pursuance to Notification/Selection.

J. Ali

8.3. Any other reliefs /reliefs to which the applicant is entitled to.

9. INTERIM ORDER PRAYED FOR :

The applicant prays that till disposal of this Original application , the Govt. Respondents may be directed not to allow the Private Respondents No.5 to join in the post of GDS BPM at Chirakuti or alternatively it is prayed that statusquo in respect of the aforesaid post of GDS BPM at Chirakuti may be maintained till disposal of this original application.

10. That this application is filed through Advocate, Guwahati.

11. PARTICULARS OF I.P.O.

I. I.P.O.No. 20G 135547

II. Date : 23-11-04

III. Payable at Guwahati.

Jfli

12. LIST OF ENCLOSURES.

As stated in the Index.

VERIFICATION

I, Jahan Ali SP of Late Akur Uddin Sheikh,
resident of Ward No. 1 V of Gouripur town P.O &
P.S. Gouripur District Dhubri (Assam) do hereby
solemnly affirm and declare and verify that the
statements made in paras 1, 2, 3, 4, 5, 6, 7, 8 to 4/3 are true to
the best of my knowledge and those made in paragraphs
4.2 to 4.8 and 7 are matter of records and the
rest are my humble submissions before this Hon'ble
Tribunal.

And I sign this Verification on this the 25/5
day of ^{Nov,} Sept. 2004 at Guwahati.


: Md. Jahan Ali
(Deponent)

DEPARTMENT OF POSTS

Office of the
Sub-Divisional
Postmaster
Goalpara Division
Dhoni-Dhubri-78327

No. B/352/C.R. dated 1-1-1980 Dated at Dhubri on 1-1-1980

NOTIFICATION

Subject: Appointment to the post of BPM/Chowkuti - I Bn.

Applications in the enclosed proforma are invited for the above post from the intending candidates fulfilling the following conditions. The applications complete in all respects should reach the office of the undersigned on or before 28/1/83. The application should be submitted in closed covers only, duly superscribed in bold letters as 'APPLICATION FOR THE POST OF BPM/EDSPM Chowkuti I BO/EDSO'. Incomplete applications; applications without prescribed enclosures and applications received after the due date will not be entertained.

2. The vacancy is reserved for _____ / not reserved for any community.
(Strike out whichever is not applicable).
3. In case the minimum number of three eligible candidates do not offer their candidature, the vacancy will be re-notified.
4. The appointment is purely temporary and in the nature of a contract to be terminated by the competent authority at any time with one month's prior notice. The work is part time for a period of 3 to 5 hours a day and the appointment will not confer any right on the candidates to claim any regular full-time post in the department. The post carries time related continuity allowance of Rs 1280 + 35 - 1980 plus admissible DA.
5. Any kind of influence brought by the candidates regarding appointment, will be considered as a disqualification. No correspondence attempting to influence the selection process will be entertained.

*Certified to be
true copy
R.D.N.*

6. ELIGIBILITY CONDITIONS:

(i) AGE:

About 18 years and below 62 years of age as on the last date for receipt of applications.

(ii) MINIMUM EDUCATIONAL QUALIFICATION:

HSLC/ X standard pass.

No weightage is given for higher qualification. However this does not bar the candidates with higher qualification from applying for the post.

(iii) RESIDENCE:

Candidate belonging to places other than Post Office village, can also apply for the post and such candidate should shift the residence to PO village in the event of his/her selection. The selected candidate should produce a proof to that effect within the date prescribed by the undersigned, after selection.

(iv) ACCOMMODATION:

The candidate selected should provide free accommodation to house the Post Office.

(v) INCOME AND PROPERTY:

(a) *The candidate should have an independent source of income for his/her livelihood. Income certificate in candidate's own name (indicating clearly the source of income) issued by Revenue/competent authority should be furnished in the enclosed proforma. Income in the name of guardian/others will not make the candidate eligible for the post. Only such candidates who fulfills this condition and all other eligibility conditions, will be eligible to apply for the post.*

(b) *Precence will be given to those candidates who derive income from the landed property/ immovable assets in their own name. A copy of the record of rights of property issued in respect of property in the name of candidate only, should be enclosed. Joint property or hereditary property not transferred in the name of the candidate, will not be considered as property in the name of the candidate. The landed property/immovable assets purchased/transferred in the name of the candidate subsequent to the submission of application but*

before the last date for receipt of applications, will be considered only if the copy of record of rights as mentioned above and income certificate issued by Revenue/competent authority indicating the income from such property, are submitted to reach the undersigned on or before the last date fixed for receipt of applications.

(vi) The candidate should not be an elected member of the panchayat/other statutory bodies.

(vii) The candidate should not be an agent of LIC or other insurance/finance companies.

7. DOCUMENTS TO BE ENCLOSED:

Copies of the following certificates/documents should be enclosed to the application, invariably. If any of these enclosures listed below do not accompany the application, the application is liable to be rejected outright. The originals need not be sent. They may be produced for verification when called for.

(i) School leaving certificate/or certificate regarding date of birth.

(ii) Marks sheet of HSLC (any higher qualification if any).

(iii) Caste Certificate issued by DC/competent authority in the enclosed proforma. (in case of candidates belonging to SC/ST/OBC).

(iv) Record of rights of property (if property is in the name of candidate only. If no such property exists, this enclosure is not insisted upon).

(v) Income certificate in the name of candidate issued by Revenue/competent authority in the enclosed proforma.

(vi) Two character certificates issued by prominent persons of the locality.

8. SELECTION PROCESS:

Selection will be made on merit among the candidates who fulfill all the prescribed eligibility conditions. The closed covers containing applications will be opened in this office by the undersigned on _____ in the presence of all such candidates who may be present. All the candidates may participate in this process personally and their representatives will not be allowed. Before opening the covers/applications, the candidates present, will be explained about the eligibility conditions/presidential condition/selection process once again. The selection would be finalized in

17- JF. Annexure 24

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES GOALPARA DIVISION
DHUBRI 783301

No. B3/358/Chirakuti-I

Dated at Dhubri the 19-06-2003

Sub :- Appointment to the post of RPM/Chirakuti-I, B.O.

The advertisement made vide this office memo of even no. dtd 29-01-2003 on the above noted subject is hereby cancelled due to some unavoidable reasons and fresh advertisement will be issued later on.

This is for information to all concerned.

(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Division
Dhubri - 783301.

Copy to :-

1. The Ass'tt. Director, Employment Exchange, Dhubri w.r.t to his No. DOX/VC-5/84/03/226-27 dtd 25-2-03.
2. The President, Chirakuti Tilapara GP, P.O.-Tilapara, Via- Bilasipara.
3. The RPM, Chirakuti B.O. Via- Bilasipara S.O. for displaying on office notice board.
4. The SPM/Bilasipara S.O. for displaying on office Notice Board.
5. The SDI(P), Dhubri for displaying on office notice boards.
6. All applicants concerned.

*Copy to be
true copy
Adv.*
Supdt. of Post Offices
Goalpara Division
Dhubri - 783301.

DEPARTMENT OF POSTS

Office of the **Postmaster**
Post Office
Goalpara Division
Dhubri-783301

(A-2)

No. 12/356/ Chirakuti

Dated at Dhubri on 20/6/03

NOTIFICATION

Sub:- Appointment to the post of **Gr. 7 B.P.M.**

Applications in the enclosed proforma are invited for the above post from the intending candidates fulfilling the following conditions. The applications complete in all respects should reach the office of the undersigned on or before 21/7/03. The application should be submitted in closed covers only, duly superscribed in bold letters as **'APPLICATION FOR THE POST OF B.P.M./EDSPM Chirakuti BO/EDSO'**. Incomplete applications, applications without prescribed enclosures and applications received after the due date will not be entertained.

2. The vacancy is reserved for OC / not reserved only community.
(Score out whichever is not applicable)
3. In case the minimum number of three eligible candidates do not offer their candidature, the vacancy will be re-notified.
4. The appointment is purely temporary and in the nature of a contract to be terminated by the competent authority at any time with one month's prior notice. The work is part time for period of 3 to 5 hours a day and the appointment will not confer any right on the candidate to claim any regular full-time post in the department. The post carries time related continuity allowance of Rs. 12.80/- plus admissible DA.
5. Any kind of influence brought by the candidates regarding appointment, will be considered as a disqualification. No correspondence attempting to influence the selection process will be entertained.

to 22
Certified
True copy
ADN

6. ELIGIBILITY CONDITIONS:(i) AGE:

About 18 years and below 62 years of age as on the last date for receipt of applications.

(ii) MINIMUM EDUCATIONAL QUALIFICATION:

HSLC/ X standard pass.

No weightage is given for higher qualification. However this does not bar the candidates with higher qualification from applying for the post.

(iii) RESIDENCE:

Candidate belonging to places other than Post Office village, can also apply for the post and such candidate should shift the residence to PO village in the event of his/her selection. The selected candidate should produce a proof to that effect within the date prescribed by the undersigned, after selection.

(iv) ACCOMMODATION:

The candidate selected should provide free accommodation to house the Post Office.

(v) INCOME AND PROPERTY:

(a) The candidate should have an independent source of income for his/her livelihood. Income certificate in candidate's own name (indicating clearly the source of income) issued by Revenue/competent authority should be furnished in the enclosed proforma. Income in the name of guardian/others will not make the candidate eligible for the post. Only such candidates who fulfills this condition and all other eligibility conditions, will be eligible to apply for the post.

(b) Preference will be given to those candidates who derive income from the landed property/immovable assets in their own name. A copy of the record of rights of property issued in respect of property in the name of candidate only, should be enclosed. Joint property or hereditary property not transferred in the name of the candidate, will not be considered as property in the name of the candidate. The landed property/immovable assets purchased/transferred in the name of the candidate subsequent to the submission of application but

before the last date for receipt of applications, will be considered only if the copy of record of rights as mentioned above and income certificate issued by Revenue/competent authority indicating the income from such property, are submitted to reach the undersigned on or before the last date fixed for receipt of applications.

- (vi) The candidate should not be an elected member of the panchayat/other statutory bodies.
- (vii) The candidate should not be an agent of LIC or other insurance/finance companies.

7. DOCUMENTS TO BE ENCLOSED:

Copies of the following certificates/documents should be enclosed to the application, invariably. If any of these enclosures listed below do not accompany the application, the application is liable to be rejected outright. The originals need not be sent. They may be produced for verification when called for.

- (i) School leaving certificate/or certificate regarding date of birth.
- (ii) Marks sheet of HSLC (any higher qualification if any).
- (iii) Caste Certificate issued by DC/competent authority in the enclosed proforma. (in case of candidates belonging to SC/ST/OBC).
- (iv) Record of rights of property (if property is in the name of candidate only. If no such property exists, this enclosure is not insisted upon).
- (v) Income certificate in the name of candidate issued by Revenue/competent authority in the enclosed proforma.
- (vi) Two character certificates issued by prominent persons of the locality.

8. SELECTION PROCESS:

Selection will be made on merit among the candidates who fulfill all the prescribed eligibility conditions. The closed covers containing applications will be opened in this office by the undersigned on _____ in the presence of all such candidates who may be present. All the candidates may participate in this process personally and their representatives will not be allowed. Before opening the covers/applications, the candidates present will be explained about the eligibility conditions/prefential condition/selection process once again. The selection would be finalised in _____.

the presence of candidates and the name of selected candidate would be notified then and there and the letter of selection would be issued to the selected candidate. Thereafter the other pre-appointment formalities such as verification of documents, medical examination, collection of pre-appointment papers etc. would be completed. The selection/appointment would be provisional till completion of police verification and also subject to the conditions as mentioned in provisional appointment letter/order.

9. If any information furnished in this application by the candidate is found to be false at a later date, the selection/appointment is liable to be terminated apart from criminal prosecution.

Encls: 1. Proforma of application. ✓
2. Proforma of caste certificate. (wherever applicable)
3. Proforma of income certificate.

Signature:

Deputy Commissioner

गोपालपारा गार्जन

Goalpara Division

पुस्ती-Dhubri-783301

Copy to (Reqd AD)

1. The President, Gaon Panchayat
2. The Head Master, Govt. Primary/High School
3. BPM, प्राथमिक शिक्षण विभाग
4. SPM, प्राथमिक शिक्षण विभाग (Account Office)
5. The ASPO/AVC/SDI(P), प्राथमिक शिक्षण विभाग Sub Division.

(for display on the notice board and for wide publicity)

Signature:

Designation:

Deputy Commissioner

पुस्ती-Dhubri-783301

गोपालपारा गार्जन

Goalpara Division

पुस्ती-Dhubri-783301

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
GOALPARA DIVISION :: DHUBRI - 783301.

To,

Shri *Jalim Ali*
C/O
Vill Ward No. 7
P.O. *Gaura Pura*
Via - *Bilasipara*
Dist. - Dhubri

No. B3/3587 Chirakuti.

Dated at Dhubri the 27-08-2003.

Sub : Selection Meeting for the post of GDS BPM, Chirakuti B.O. in account with Bilasipara S.O.

Sir,

Please attend in the selection committee meeting for selection of GDS BPM for Chirakuti B.O. in account with Bilasipara S.O. on 18.09.03 at 1200 hours in the chamber of the undersigned.

No representative on behalf of the candidate will be allowed to attend the selection committee meeting.

No TA / DA will be allowed.

Yours faithfully,

G. C. Hazarika (G. C. Hazarika) 27-8-2003
Supdt. of Post Offices
Goalpara Divn, Dhubri
783301

Certified to be true
Copy
12/8/03

Board of Secondary Education, Assam



Education, Assam

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Serial No. 4609

Book No. 17

DHUBRI :: ASSAM



Certified that Sri/Smti Md. Tahar Ali
has/had been a student of this College during the session 1989-92
He/She has been reading in the class
appeared at the B. Sc. Part II (Sci) Examination under
the A.T.S.E Council/Gauhati University from this College
in the year 1995 and passed in the Simple
Pass class/division/course/Major in X
His/Her conduct and character while a student of this
college has/had been good

Dated DHUBRI,
The 25. 2. 1975

S. N. SARKAR
Principal.

B. N. College, Dhubri.

Certified to be true
copy of R.D.N.

গুৱামুৰ
Capital of Post Office
গুৱামুৰ মুক্ত
Goalpara Division
গুৱামুৰ-৭৮২৩০

To

Recd 1/ 1. Sri Rafiqul Islam
Vill + P.O - Chirauanti
via - Bilaripara
Dist - Dhubri.

Recd 2/ Sri Jahan Ali
Ward. no. 4, Gauripur
P.O - Gauripur

NO. B3/358/Chirauanti dated at Dhubri on 20/10/03

Sub - Regarding selection of GRS BPM of
Chirauanti Bd.

Sir, Please refer to your application
in (u) re subject. In this connection
you are requested to submit land
documents exclusively in your own
name within 15 (fifteen) days from
the date of receipt of this letter
to this office.

Yours faithfully,

Certified to be
true copy

M
Adv.

Exercised 20/10/03
(Govt. of India)
Capital of Post Office
Gauripur 4
Goalpara Division
গুৱামুৰ-৭৮২৩০

ANNEXURE No.8

To

The Superintendent of Post offices,
Goalpara Division. Dhubri.

Dtd. Ward No. IV, Ghy the 11th Nov/03.

Subj: Submission of Land documents in my name.

Ref: No. B3/358/Chirakuti Dt. 20/10/03.

Respected Sir,

I have come to know through your Letter No. B3/358/Chirakuti Dt. 20/10/03 that you have wanted land documents from me in my own name. Sir, you have issued the Letter which is inside the envelope on 20/10/03 but sir, the Letter No. B3/358/Chirakuti Dt. 30/10/03 on the top of the envelope and R/No. 841 Dt. 31/10/03 at Head Office Dhubri. So, sir I could not understand that why the date is valuable.

What may be sir, I have got the Letter on 01/11/03 and now I am sending my land documents under Dhubri Circle No. D.B.C(S)03/2003/102 Dt. 4/11/03 at Gouripur town, Ward No. LV Under Medi Patta Old-112, New 132 in Dag No. 424/165 2K 8½ Ls. ~~xxxxxxxxxx~~ and the same Patta Old-1263, New 423 No. Dag 1 K 8 Ls. Therefore the total land in my own name is 3 K 16½ Ls. I have enclosed the Trace Map and the Land documents Certificate herewith this Letter.

Yours faithfully,
Md Jahan Ali,
S/O. Aburuddin Sk.
Gouripur, W/No. 1 V.P.O. Gouripur,
Dist. Dhubri (Assam).
783331.

*Certified to be
true copy
m/s*

Adr

Annexure No.9

(Translated from Assamese).

Govt. of Assam
Office of the Asstt. Settlement Officer,
Dhubri Circle : Dhubri.

No. DBC (s) 03/2003/102 Dt. 4/11/03.

Land holding Certificate

This is to certify that a plot of land measuring
2 K 8½ Lechas Covered by Patta No. 112 (old) 132 (new)
and Dag No. 424/165 and another plot of land measuring
1 K 8 Lecha Covered by same Patta and Dag No. 1263 (old),
423 (new) total 3 K 16½ Lechas. of land of Ward No. 1V of
Gouripur town is ~~xxxxx~~ currently is in record in the name
of Md. Jahan Ali S/O Late Akur Uddin.

Sd/illegal. 4/11/03.

Asstt. Settlement Officer,

Dhubri Circle, Dhubri.

*Certified to be
true copy*
Adm'

Government of India
Ministry of Communications
Department of Posts

Sarbad Marg
New Delhi - 110001

No.22-12/2001-GDS

Dated: September 17, 2003

To

All Principal/Chief Postmasters General,
All Postmasters General
Director Postal Staff College of India, Ghaziabad,
All Principals, Postal Training Centers
Directors/Dy. Directors of Accounts (Postal)
Addl. Director General APS, Army Headquarters, R.K. Puram, New Delhi

Subject: Income and property qualifications prescribed for appointment to various categories of Gramin Dak Sevaks (GDSs) - Review thereof.

Sir,

I am directed to invite your kind attention to this office letters No.17-104/93-ED & Trg, dated 6.12.93, No.17-366/91-ED & Trg dated 26.5.95 and No.17-104/91-ED & Trg., dated 18.9.1995 wherein detailed instructions and clarifications regarding the condition of income preferably derived from landed property or immovable assets, for recruitment to the posts of ED BPMs/ SPMs (now called GDS BPMs/ SPMs) were laid down. Subsequently this condition was extended to all categories of GDSs, vide Note (iii) below Rule 3 of the Department of Posts (Conduct and Employment) Rules, 2001, when the P&T ED Agents (Conduct and Service) Rules, 1964 were replaced by the said rules.

2. The preferential condition of income derived from landed property or immovable asset as laid down vide letter dated 6.12.1993, which was extended to all GDSs, in Department of Posts (Conduct and Employment) Rules, 2001 has come to judicial

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any before various benches of the Hon'ble Central Administrative Tribunals and High Courts.

Against the aforesaid backdrop, the whole matter has been re-examined in this office in its entirety in consultation with Ministry of Law, which has also termed the above condition as violative of Constitutional provisions. The above matter was placed before the Postal Services Board. The Postal Services Board considered the above issue and also the issue of enhanced security in view of increased cash handling liability of GDSs. Keeping in view all the relevant considerations and after careful deliberation, the Postal Services Board has decided as follows:

- 3.1 The condition of income preferably derived from liquid property or immovable assets, for recruitment to the posts of Gramin Dak Sevaks (GDSs), including GDS BPM/ SPM, will be deleted.
- 3.2 As GDS is a part-time employee, a candidate applying for the post of any category of GDS will have to supplement his income from other employment sources so as to have adequate means of livelihood to support himself and his family. A certificate to this effect will have to be obtained from the candidate before he/ she is given an appointment letter.
- 3.3 In view of increase in cash handling liability and line limit of the GDSs, security amount (which is Rs.4000/- at present) will be enhanced to Rs.10,000/- for GDS SPM/ BPM and Rs.5,000/- for other categories of GDSs. The Security will be in the form of Fidelity Bond or NSC pledged to the Department in the name of the President of India.
- 3.4 The above enhanced security deposit will be effective from the date of next renewal of security bond for the existing GDSs and with effect from date of employment for the new GDSs.
4. In view of the above decisions of the Postal Services Board, the sole criteria for selection to the posts of all categories of GDSs will henceforth be the merit subject to orders on reservation and fulfilling other eligibility conditions like providing of space for BO, taking up residence in the BO village before appointment etc.
5. Further, as a corollary to the decision at 3.1. above of the Postal Services Board, necessary amendment deleting the provision contained in Note II (iii) below Rule 3 in the Department of Posts (Conduct and Employment) Rules, 2001, is being issued separately.

er will come into force from the date of issue.

contents of this letter may be brought to the notice of all concerned
by for information /guidance / necessary action.

Receipt of this letter may be acknowledged to the undersigned.

edi version will follow.

Yours faithfully,

(ANAND PRAKASH)
ASSTT. DIRECTOR GENERAL (GDS)

PS to Hon'ble MOD, C&IT/ MOS (C&IT), /Sr.PPS to Secretary (P)/ PS to
Members, Postal Services Board and JS&FA/ Secretary, Postal Services
Board

All DDsG, Department of Posts

All recognised Unions/Federations

SPB/SPB II/Vig. Petition/PAP/PE I/PE II sections of the Directorate

All dealings Assistants in the GDS Section

Spare/Guard file

Chunchra
(Somnath Chunchra)
ASSTT. DIRECTOR (Estt)

-25-

8. SELECTION PROCESS :

Selection will be made on merit among the candidates who fulfill all the prescribed eligibility conditions. The closed covers containing applications will be opened in this office by the undersigned on _____ in the presence of all such candidates who may be present. All the candidates may participate in this process personally and their representatives will not be allowed. Before opening the covers/applications, the candidates present, will be explained about the eligibility conditions/prefeferential condition/selection process once again. The selection would be finalised in the presence of candidates and the name of selected candidate would be notified then and there and the letter of selection would be issued to the selected candidate. Thereafter, the other pre-appointment formalities such as verification of documents, medical examination, collection of pre-appointment papers etc. would be completed. The selection/appointment would be provisional till completion of police verification and also subject to the conditions as mentioned in provisional appointment letter/order.

9. If any information furnished by the candidate is found to be false at a later date, the selection/appointment is liable to be terminated apart from criminal prosecution.

Enclo: 1. Proforma of application.

2. Proforma of caste certificate (wherever applicable)
3. Proforma of income certificate.

Copy to (Rcgd AD)

1. The President, Gaon Panchayat _____
2. The Head Master, Govt. Primary/High School _____
3. BPM _____
4. SPM _____ (Account Office)
5. The ASPOs I/C /SDI(P) _____ Sub Dn.
(for display on the notice board and for wide publicity)

Signature
Designation:

Signature :
Designation :

Annexure No.11

CENTRAL ADMINISTRATIVE TRIBUNAL, GUJARATI BENCH.

Original Application No.287 of 2003.

Date of Order : This, the 23rd Day of September, 2003.

THE HON'BLE SHRI JUSTICE R. K. BATTA, VICE CHAIRMAN.

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

Abdur Rahim
S/o Samad Ali
Vill. Chiracuti, P.O:Chiracuti
P.S: Chapor, Dist: Dhubri
Assam. Applicant.

By Advocates Mr.H.R.A.Choudhury, Mr.M.U.Mandal &
Mr. Z.Hussain.

- versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Department of Communication
New Delhi.
2. The Director of postal Services
New Delhi.
3. The Post Master General, Assam
Meghdoot Bhawan, Guwahati.
4. The Superintendent of post Offices
Goalpara Division, Dhubri
Dist: Dhubri, Assam.
5. Elias Rahman
Son of Ebrahim Khalil
Vill. & P.O: Chir-cutti
P.S: Chapor
Dist: Dhubri
Assam.

. Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

BATTA, J.(V.C.) :

The applicant applied for the post of Branch Post Master at Chirakata Branch Post Office pursuant to notification dated 20.6.2003. Interview was held on 18.9.2003. According to the applicant, letters dated 19.9.2003 and 20.10.2003 were issued to four candidates contrary to the notification. The applicant says that he did well in the interview, but the Selection list was not notified.

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: 2 :

According to the applicant, he is fully qualified for the said post and the letters written on 19.9.2003 and 20.10.2003 to respondent no.5 to submit land document are contrary to the selection process contemplated in the said notification.

According to him, respondent no.5 had not fulfilled all the terms and conditions of the said notification and as such his appointment, if any, is required to be quashed and further directions are sought to select the applicant and appoint him to the said post.

2. Respondents have filed reply stating that when the applications were opened in presence of the candidates for scrutiny it was found that none of the candidates submitted land documents exclusively in their own name on account of which, selection of the candidates could not be done on that day. However, four candidates having higher marks in H.S.L.C. examination were asked to submit land documents exclusively in their own name for final selection. Out of the said four candidates, two candidates including respondent no.5 submitted registered land deed in their own name and between the said two candidates respondent no.5 having higher marks was appointed to the said post vide letter dated 10.12.2003.

3. We have heard Mr. M. U. Mandal, learned counsel for the applicant as well as Mr. A. Deb Roy, learned Sr. C. G. S. C. for the respondents.

4. Learned counsel for the applicant has argued that the selection process mentioned in the notification dated 20.6.2003 contemplates that the selection has to be finalised on the date on which the applications are scrutinised ^{even if} i.e. 18.9.2003. and though none of the candidates had filed land documents, no further time could be given and the selection process could not be deferred for the purpose of produc-

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tion of land document in view of the said notification. In support of his contention, learned counsel for the applicant has relied upon judgment of the Apex Court in Maharashtra State Transport Corporation and Ors. -vs- Rajendra Bhimrao Mandve and Ors. reported in AIR 2002 SC 224 and has particularly placed reliance at paragraph 5 of the said judgment.

5. Mr.A.Deb Roy, learned Sr.C.C.S.C. appearing for the respondents, has stated that since no candidates had produced land documents in their name on 18.9.2003, as such, four candidates having higher marks were given opportunity to produce land documents. It is further contended that the applicant had secured only 32.3% marks in H.S.L.C. examination whereas respondent no.5 had secured 56% marks and as respondent no.5 had better marks, he was selected. In further reply learned counsel for the applicant has stated that the applicant had, infact, submitted all required documents including land holding certificate.

6. A close scrutiny of notification dated 20.6.2003, and especially Paragraph 8 of which deals with selection process, shows that the selection will be made on merit among the candidates, who fulfill all the prescribed eligibility conditions. It is, no doubt, true that the notification speaks of the selection on the date on which the applications are scrutinised. However, it is pertinent to note that selection is required to be made on merit and, in our view, merit cannot be sacrificed at the altar of procedural aspects. The Selection Committee found that respondent no.5 had more marks since he had secured 56% marks in H.S.L.C. examination, whereas the applicant had secured only 32.3% marks. In view of the huge disparity between marks of the two candidates, the Selection Committee thought it fit to give an opportunity to the candidates who had higher marks to produce land documents on subsequent date. This was done so that a meritorious candidate gets ^{appointment} and the procedural requirement was relaxed in respect of production of ^{land} documents.

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Respondent no.5 produced land documents subsequently and he was appointed against the said post. In the circumstances, we are of the opinion that selection of the respondent no.5, who was having more marks than the applicant, cannot be faulted with.

7. We are supported in respect of the view taken by us by two Full Bench judgments of Tribunal namely:- H. Lakshmana and Others -vs- The Superintendent of Post Offices, Bellary and Others reported in 2003 (1) ATJ 277 and Rana Ram -vs- Union of India and Others reported in 2004 (1) ATJ 1. In Rana Ram -vs- Union of India and Others (*Supra*) similar issue came up for consideration before the Full Bench, wherein, it was held that a candidate applying for the post of EDBPM need not submit the proof of income/property alongwith application, nor the said proof is required at the time of interview and the selection/appointment has to be made on the basis of marks obtained in the matriculation examination. Thereafter, the candidate selected can be given reasonable time to submit proof of income/property as per rules/instructions.

8. Reliance placed by the learned counsel for the applicant on the judgment of the Apex Court does not, in any manner, help the applicant's case since observations therein have been made in the context. In that case, posts of Drivers in Maharashtra State Road Transport Corporation were advertised in 1995. Selection process had started and driving test was held. However, when the selection process was in progress, a circular dated 24.6.1996 was issued by the Corporation fixing criteria for selection. This obviously could not be done and the same could not be applied to the ongoing selection and in this context the Apex Court has made the observations in paragraph 5 of

the judgment.

9. We may also point out at this stage that the applicant, in order to create prejudice against respondent no.5, made unfounded allegations in Paragraph 4.5 of the application stating that respondent no.5 is a man of bad character and he was involved in many notorious activities like immoral living. This statement has been verified by the applicant as true to his knowledge as can be seen from the verification. The applicant, however, did not place any materials whatsoever on record to substantiate his unfounded allegations and this, in our view, has been done by the applicant deliberately only to create prejudice against respondent no.5 so as to defeat his selection, which was otherwise done on merit.

In view of the above, we do not find any merit in this application and the application is hereby dismissed with costs.



Sd/ VICE-CHAIRMAN
Sd/ MEMBER (A)

Certified to be true Copy
29/9/04

Section Officer (II)
C.A.T. GUWAHATI BANCH
Guwahati 781005