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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

4 3

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 153 / 12003

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Smti Archana Seal

Respondants: - U.O. 1-2018

Advocate for the Applicants: - J. Purkayastha

Advocate for the Respondants: - CASE

Notes of the Registry	Date	Order of the Tribunal
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7.7.2003

Heard Mr. J. Purkayastha, learned counsel for the applicant.

Issue notice on the respondents to show cause as to why the application shall not be admitted.

List on 7.8.2003 for admission.

Vice-Chairman

7.8.2003

Heard Mr. J. Purkayastha, learned counsel for the applicant and also Mr. A.K. Goudhury, learned Addl. C.G.S.C. for the respondents.

Put up again on 5.9.2003 to enable the respondents to file reply, if any.

Member

Vice-Chairman

mb

Steps Taken:

P.L. copy archd
dated 1.7.03

Notice prepared & sent to
SIS for imz the
Respondent 1 to 3 by
Regd. AID
D/No 151/1513
Dtd 15/7/03

14/7

5.9.03

On the prayer of Mr.A.K.Choudhury learned Addl.C.G.S.C. four weeks time is allowed to file written statement.

List on 19.9.03 for filing of written statement and further orders.

10/10/03
Member

10/10/03
Vice-Chairman

lm

19.9.03

~~Miss again~~ ~~SM~~

Heard learned counsel for the parties.

Application is admitted. Call for records. Returnable by four weeks. List ~~SM~~ for hearing on 7.11.03.

10/10/03
Member

lm

22.9.03

7-11-03

no Bench today.
Adjourned to 18.11-03.

W/s submitted
by the Respondents
Nos. 1, 2 & 3.

18.11.2003 present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman
The Hon'ble Shri S.K.Naik Administrative Member.

17-11-03

Case is ready
for hearing.

Mr.S.Sarma, learned counsel on behalf of Mr.J.Purkayastha, learned counsel for the applicant.

Mr.A.K.Chaudhuri, learned Addl. C.G.S.C. for the respondents.

At the request of Mr.S.Sarma, learned counsel appearing on behalf of Mr.J. Purkayastha, learned counsel for the applicant, the case is listed on 8.12. 2003 for hearing.

10/10/03
Member

10/10/03
Vice-Chairman

bb

1.4.2004 Present: Hon'ble Shri Kuldip Singh,
Judicial Member

Hon'ble Shri K.V. Prahladan,
Administrative Member.

The learned counsel for the
applicant prays for an adjournment.
List the matter for hearing before
the next available Division Bench.

Kuldip Singh
Member(A)

K.V. Prahladan
Member(J)

nkm

14.5.04 Adjourned on the request
of learned proxy counsel.

List on before next Division
Bench.

Kuldip Singh
Member(A)

K.V. Prahladan
Member(J)

pg

13.9.04

There was a reference.
Advised on 21.9.04.

1870
h

21.09.2004 Present : The Hon'ble Mr. R.K. Batta,
Vice-Chairman.

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

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.

R.K. Batta
Member(A)

R.K. Batta
Vice-Chairman

bb

15.10.04

Copy of the judgment
has been sent to the
office for issuing the
fine to the applicant by
post. H.S.

W/B has been
filed.

20
10.5.04

No rejoinder has been
filed by the applicant.

NS
20/9/04

Remind order
dated 21/9/04 -

NS
22/9/04

Recd copy
KK Chandra
2/10/04

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 153/2003.

DATE OF DECISION 21.09.2004.

Smti. Archana Seal

APPLICANT(S)

Mr. J. Purkayastha

ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India & Ors.

RESPONDENT(S)

Mr. A.K. Chaudhuri, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. R.K. BATTAL, VICE CHAIRMAN.

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble Vice-Chairman.

No.

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 153 of 2003.

Date of Order : This, the 21st Day of September, 2004.

THE HON'BLE MR. JUSTICE R. K. BATTI, VICE CHAIRMAN.

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

Smti Archana Seal

W/o Sri Satyandra Seal

Vill. & P.O: Kanchanpur

Silchar.

. Applicant.

By Advocate Mr.J.Purkayastha.

- Versus -

1. The Union of India
Represented by Secretary
to the Government of India
Ministry of Communication
Dak Bhawan, New Delhi.

2. The Chief Post Master General
Department of Posts
Meghdoot Bhawan
Guwahati-1.

3. The Senior Superintendent of Post Offices
North Sub-Division
Silchar-1.

. Respondents.

By Mr.A.K.Chaudhury, Addl.C.G.S.C.

O R D E R (ORAL)

BATTI, J.(V.C.):

The applicant was appointed to the post of FDBPM at kanchanpur and she took charge of the said post on 5.2.1997. She continued to work till the impugned order dated 2.7.2003 which was issued in pursuance of order dated 29.5.2003 of this Tribunal in O.A.188 of 2002. By this order Ashish Naug, who was earlier working against

R -

Contd./2

the said post and was put off duty and subsequently removed, was reinstated by setting aside the order of dismissal. Pursuant to the order of the Tribunal, the existing arrangement of the applicant was terminated. The applicant claims that there are at least 11 posts lying vacant and the respondents instead of terminating her services ought to have accommodated Ashis Naug against any vacant post.

2. Respondents in their written statement have stated that after Ashis Naug was placed under put off duty, applications were called from persons having requisite requirements to work as BPM, Kanchanpur against "put off duty" temporary vacancy. Six applications were received and out of them applicant was selected to work in put off vacant post of BPM, Kanchanpur. Subsequently Ashis Naug was removed from service w.e.f. 30.11.2000. Ashis Naug filed O.A.188 of 2002 before this Tribunal, which was disposed of vide order dated 29.5.2003 by setting aside the order of removal dated 30.11.2000 with a direction to reinstate him in service. Pursuant to the said order of this Tribunal the impugned order was issued. Respondents have also stated that the applicant could have applied to the authority for a regular appointment against similar vacant post on the basis of consideration of her rendering services in the department, but instead of approaching the department the applicant has directly approached this Tribunal.


R -

3. We have heard Mr.J.Purkayastha, learned counsel for the applicant as well as Mr. A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents.

4. Respondents have taken a categorical stand in Paragraph 2 , sub-para (iii) and (iv) of the written statement that the appointment of the applicant was against put off vacancy of Ashis Naug and since Ashis Naug had been ordered to be reinstated, the existing arrangement of the applicant had to be terminated. No rejoinder has been filed to rebut these avernments. If the appointment of a person is against put off vacancy, he/she has to vacate the same if the person against the said put off vacancy is ordered to be reinstated by Court of law. In view of this, the impugned order dated 2.7.2003 terminating existing arrangement cannot be faulted with. The applicant, as pointed out by the respondents ⁱⁿ at Paragraph 8 of the written statement, could have applied to the authority for a regular appointment against vacant post in as much as according to the applicant 11 posts are lying vacant, but instead of approaching the department the petitioner approached this Tribunal. The applicant, should have, infact, in the first instance, ^{ed} approach_{ed} the department in respect of her claim for her appointment against vacant post, if any, in the light of the fact that she had worked against the said post for a period of about seven years. Therefore, the present application can be

disposed of with the direction that applicant shall approach the appropriate authority in the department for consideration of her case for regular appointment against any post lying vacant on the ground that she had worked in the department for about seven years, which shall be given due weight while considering her representation. The authority shall take a decision in the matter in accordance with the rules and regulations applicable in that behalf. The applicant shall make a representation to that effect to the appropriate authority in the department within six weeks time from the date of receipt of this order. On receipt of such representation the department shall pass an appropriate order on the same in accordance with the rules and regulations applicable in that behalf within a period of two months from the date of receipt of representation. Respondents shall file compliance report before this Tribunal within a period of four months and the matter be listed on the board for that purpose.

The application is disposed of in aforesaid terms with no order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(R.K.BATTA)
VICE CHAIRMAN

7th - JUL 2003
Gauhati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 153 of 2003

BETWEEN

Smti Archana Seal Applicant.

AND

Union of India & ors..... Respondents.

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6.	Annexure-4	15

Filed by : *Gaideep Purnharyas*
7.7.2003
File : c:\WS7\ARCHANAS

Regn.No. :
Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. of 2003

L I S T O F D A T E S.

1. 8.10.96, Order issued by the Respondent No 3 to
the Asstt Director Employment Exchange
placing indent of a post of EDBPM at
Kanchanpur Br. Office, Silchar.
2. 4.2.97 Appointment letter.
3. 27.1.97 Charge Report.
4. 02.07.03 Impugned order of termination.

Jaidheep Purharyashka
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

Filed by: 12
the Applicant
Through:
Jaideep Purkayastha
7.7.03
Advocate

O.A.No. of 2003

BETWEEN

Smti Archana Seal
W/o Sri Satyandra Seal
Vill. & P.O. Kanchanpur
Silchar.

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Communication
Dak Bhawan, New Delhi.
2. The Chief Post Master General
Department of Posts,
Meghdoot Bhawan,
Guwahati-1.
3. The Senior Superintendent of Post Offices
North Sub-Division,
Silchar-1

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the order
issued vide Memo No. A-587/PF dated 2.7.2003 by which
decision has been conveyed for termination of the service of
the applicant.

2. LIMITATION:

The applicant declares that the instant
application has been filed within the limitation period

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prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant in search of employment registered her name in local Employment Exchange. The respondents in respect of a Vacant Post of EDBPM at Kanchanpur, B.O, placed in the Employment Exchange and to that effect the respondent No.3 issued an order dated 8.10.96 to the Asstt. Director of Employment, Silchar indicating the condition of such employment.

A copy of the said order dated 8.10.96 is annexed herewith and marked as Annexure-1.

4.3. That the local Employment Exchange sponsored 11 names of eligible candidates for the said vacant post of EDBPM ~~including~~ the name of the applicant. An interview was held and the applicant ~~failed~~ well and ~~got selected~~ for the said post. The respondents issued an order dated 4.2.97

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offering her the said post of EDBPM. Accordingly the applicant accepted the offer and resumed her duty w.e.f. 5.2.97 by submitting charge report.

Copies of the appointment letter and charge report are annexed herewith and marked as Annexure-2 & 3 respectively.

4.4. That the applicant continued to perform her duty w.e.f. 5.2.97 without any blemish. Suddenly the applicant came to know about the issuance of the impugned order dated 2.7.2003 by which the respondents have taken initiative to terminate her service. The aforesaid order clearly indicates the fact that one Sri Ashish Nag who was under put off duty now has been ordered to rejoin as GDSBPM Kanchanpur, B.O. in her place.

A copy of the said impugned order dated 2.7.2003 is annexed herewith and marked as Annexure-4.

4.5. That the applicant begs to state that the offer of appointment issued to her as EDBPM was not an adhoc arrangement and in fact Annexure-1 requisition dated 8.10.96 is indicative of the fact that her appointment has been made on regular basis and following the due process of law. Apart from that the said Annexure-1 requisition is also indicative of the fact that the post was lying vacant. It is therefore the method adopted by the respondents for termination of her service is clearly violative of the principles of administrative fairness.

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4.6. That the applicant begs to state that since 5.2.97 she has been performing her duty without any blemish and at no point of time there has been any adverse from her side. Apart from that the respondents during her service tenure never indicated the fact that her service would be terminated without any reason.

4.7. That the respondents have issued the impugned order conveying the decision of terminating the service of the applicant. However, the respondents have not yet issued any formal order of termination of her service but there is every likely hood of issuance of such order of termination of her service in terms of the aforesaid impugned order dated 2.7.2003. It is therefore, the applicant has come before this Hon'ble Tribunal seeking an urgent and immediate relief protecting her service and for a direction towards the respondents for continuation of her service.

4.8. That the applicant begs to state that the respondents now making a move for termination of her service in terms of the Annexure-4 impugned order dated 2.7.2003 and if such termination order is issued she will suffer irreparable loss and injury. It is therefore the applicant prays for an appropriate interim order directing the respondents to not to terminate her service during the pendency of the OA.

4.9. That the applicant begs to state that since 5.2.97 she has been continuing as EDBPM and as such even if her service is treated to be a casual one, the proposed termination is bad in law in terms of various guidelines

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issued by the Govt. of India, Department of Posts for protection of Casual service.

4.10. That the applicant begs to state that she is a holder of civil post and she is entitled to get the protection under the Article 311 of the Constitution of India as affirmed by the Apex Court in case of Superintendent of Post Offices -VS- P.K. Rajamma etc. reported in 1977 SLT 532. In the instant case no such notice has been issued to the applicant before issuance of the impugned order of termination and as such same is bad in law and liable to be set aside and quashed.

4.11. That the applicant even if treated to be a casual worker is entitled to get the protection of the scheme of 1989 and by operation of law her service can be treated at least on a temporary status Casual Mazdoor taking into consideration of her length of service. It is further stated that in terms of the scheme of 1989 and it's subsequent clarification issued from time to time she is entitled to get regularisation of her service if her initial appointment is not treated to be a regular appointment or temporary arrangement.

The applicant craves leave of this Hon'ble Tribunal to produce the relevant scheme at the time of hearing of the case.

4.12. That the applicant states that at present there are at least 11 posts under GDS are lying vacant under the respondent No.3 and the respondents instead of terminating

her service ought to have accommodate said Sri Ashish Nag against any of such vacant post without disturbing the applicant but contrary to that the respondents are now making a move to terminate her service and hence this OA seeking an urgent and immediate relief.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in issuance of the impugned order dated 2.7.2003 is illegal, arbitrative and violative of Article 14, 16 and 311 of the Constitution of India.

5.2. For that the respondents have acted in violation of the settled position of law in proposing to terminate the service of the applicant (Sri Ashish Nag) without any notice that too without any notice violating Article 311 of the constitution of India and as such it is sustainable in the eye of law and liable to be set aside and quashed.

5.3. For that the applicant who got her initial appointment after following the due process of law is entitled to get the protection under the Article 311 of the Constitution of India and the manner and method adopted by the respondent in dispensing the service of the applicant is totally uncalled for as the respondents are model employer and as such their impugned actions are not sustainable and liable to be set aside and quashed.

5.4. For that even the appointment of the applicant is treated to be an adhoc arrangement, on casual basis she is entitled to get the benefit of the 1989 scheme meant for casual worker and by operation of law she is at least can be treated as a temporary status casual worker and as such the impugned action on the part of the respondents is not sustainable and liable to be set aside and quashed.

5.5. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

A. Seal

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quashed the impugned communication dated 2.7.2003 so far it relates to termination of existing arrangement is concerned with a further direction not to terminate the service of the applicant.

8.2. To direct the respondents to regularise the service of the applicant if her initial appointment is treated to be a casual one in terms of 1989 scheme and its subsequent clarifications time to time.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim not to terminate her service and to allow her to continue in the present place of posting.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : ~~89 63592~~
2. Date : 07.07.03.
3. Payable at : Guwahati.

20F092115

2JC765817.

2JC765818.

2JC765819.

2JC765860.

37E 692101.

12. LIST OF ENCLOSURES:

As stated in the Index.

A. Seal

VERIFICATION

I, Smt. Archana Seal, w/o. Sri Satyandra Seal, aged about years, at resident of vill. & P.O. Kanchanpur, Silchar, I hereby solemnly affirm and verify that the statements made in paragraphs 1.2, 3, 4.1, ~~4.5~~ 4.5 to 4.12 & 5 to 12 are true to my knowledge and those made in paragraphs 4.2, 4.3, 4.4 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the ^{7th} day of July of 2003.

Archana Seal

Signature.

DEPARTMENT OF POST: INDIA

OFFICE OF THE SR. SUPDT. OF POST OFFICES: CACHAR DN: SILCHAR-788001

To,

The Asstt. Director of Employment/ Employment OfficerRecdNo. A-587/P.F. Dated, Silchar, 788001 the 8/10/96

Sir,

A post of Extra Departmental Sub/Branch Postmaster has fallen vacant in Kanchanpur Post Office in the scale of pay Rs. 275/- - other allowances as admissibleKindly forward the applications of the intending candidate sponsoring at least 3 so as to reach this office on or before 8-11-96. Persons seeking employment as ED Sub/Branch Postmaster must fulfill the following conditions :-

- The applicant must be permanent residents of the village where the P.O. is located or proposed to be located.
- The applicant must have adequate means of income from an independent source of livelihood (particulars of other independent source of income should be mentioned).
- The applicant should be able to offer suitable accommodation for the Post Office at his own cost.
- The minimum qualification is to be HSLC passed.
- The candidate should not be less than 18 years of age on 11-96 and not more than 65 years on that date.

Yours faithfully,

Encl - ① one

Sol
 Sr. Supdt. of Post Offices
 Cachar Dn., Silchar-788001

Copy to :-

- The SDIPO Aspor (North) for information, circulation and directing the candidates to submit application through the Employment Exchange of his area.
- The BPM Kanchanpur na V. N. Roach. He should hang it in the office Notice Board and direct the candidates to forward their applications through the Employment Exchange.
- The President Kanchanpur G.P. for directing the eligible candidates to apply to Employment Exchange.

Sol
 Sr. Supdt. of Post Offices
 Cachar Dn., Silchar-788001

Attested

Jh 7.7.03
 Advocate.

Asstt. Supdt. of Post Offices
North Sub-Division
Silchar-788001

To,
Sri Taresh Namusudra
offg. EDBPM, Kanchanpur
Via. V.N.Road

No. A/Kanchanpur Dist. Sc 4.2.97

Sub:- Appointment of the post of EDBPM Kanchanpur P.O.

Smt. Archana Chanda(Seal) has since been appointed
to the post of EDBPM at Kanchanpur B.O. vide SSP/Sc Memo
No. A-587/PF dated 27.1.97.

Please therefore, hand over charge of the office
of EDBMP Kanchanpur to Smt. Archana Chanda immediately
and join to your original post of EDPA-C.E. Div.

Asstt. Supdt. of Post Offices
North Sub-Division
Silchar-788001

Copy to Smt. Arachana Chanda(Seal) w/o Sri Satyendra
Seal Vill & P.O. Kanchanpur, Via. V.N.Road & she will
please joint to the post immediately.

Asstt. Supdt. of Post Offices
North Sub-Division
Silchar-788001

Attested
7.7.03
Advocate

ANNEXURE-3

ए० सी० जी०-61 / A.C.G-61

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA
(देखिए नियम 267, डाक-तार वित्त पुस्तिका का खण्ड I, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I, Second Edition)

चार्ज का 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 *B. P. Kanchan* का

चार्ज (नाम) ने
was made over by (name) *Tarash Namachandra*

(नाम) को
to (name) *S. N. Arora Seal*

स्थान
at (place)

तारीख को पूर्वाह्न में
अपराह्न

on the (date) *5-2-97* fore noon in accordance with

सं० *A-587/PF* तारीख Dated *27-1-97*

Tarash Namachandra
भारतीय अधिकारी
Relieved Officer

के अनुसार दे दिया।
from *S.S.P. S. S. S.*

Sri Arora Seal
भारतीय अधिकारी
Relieving Officer
[छ०पु०उ० P.T.O.]

Attested

Jh 27.7.03
Advocate.

14

15

*प्रमाणित किया जाता है कि आज के दिन इस कार्यालय की अनेक पुस्तकों के बकाया (स्टॉक पुस्तक और रजिस्ट्रों समेत) और लेखाओं की जांच की और उन्हें ठीक पाया
 *Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित बकाया मुझे भारमुक्त अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।
 *Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

	रु० Rs.	पै० P.
(अ) नकदी/Cash	68.56	
(ब) अग्रदाय टिकट/Stamp Imprest	545.50	
Rev	0.20	

जिसमें ये शामिल है :-
 Made up of :-

(1) टिकट/Stamps

(2) नकदी/Cash

Tarishk. Namosewara
 भारमुक्त अधिकारी
 Relieved Officer

Sri Archana Seal
 (Chanda)
 भारीवाही अधिकारी
 Relieving Officer

तारीख
 Dated the 5.2.1997

Forwarded to **Sri Archana Seal** को भेजा गया

*जब प्रमाण-पत्र की आवश्यकता नहीं तो इसे काट दिया जाए।
 *The Certificate when not actually required may be scored through.

[28-90/68-MH]

पञ्जाब/14/CTED Bhor-2/1 DPT/01-02-31 00 000 Copies

Attested
7-2-03
Advocate

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
CACHAR DIVISION: SILCHAR-788001

Memo No: A-587/ PF

Dated at Silchar the 02-07-2003

In pursuance of the order dated 29-5-03 on OA No.188 of 2002 of the CAT, Guwahati Bench, Guwahati and this office memo no. F1-11/ 96-97/ CAT dated 25-6-03 the following order is issued to have with immediate effect.

Shri Ashish Naug, formerly BPM Kanchanpur who was put-off duty under this office memo no. A-587/ PF dtd 13-8-96 is hereby revoked and ordered to re-join as GDS BPM Kanchanpur B.O. terminating the existing arrangement.

Shri Naug shall not be entitled to any backwages; however he will be entitled to all other service benefit like seniority as per judgment of the CAT. ||

sd/
(J.K. BARBHUIYA)
Senior Supdt. of Post Offices
Cachar Division : Silchar-788001

Copy to:

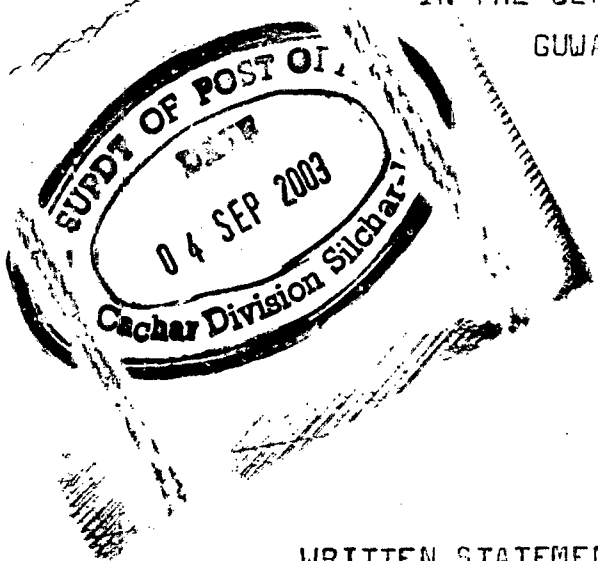
1. The Sr. Postmaster, Silchar H.O.
2. The ASPOs Silchar North Sub-division, Silchar for information and necessary action for joining.
- ✓ 3. The GDS BPM/ Kanchanpur for information.
- 4-5. Spare.

sd/
Senior Supdt. of Post Offices
Cachar Division : Silchar-788001

Attested
Jh 7.7.03
Advocate.

19 SEP 2003

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::GUWAHATI



In the matter of :-
O.A. No.153 of 2003
Smt Archana Seal ... Applicant
-Versus-
Union of India & Ors.
... Respondents

Jay Krishna Barbhuiya
27
Filed by -
Anup Kumar Choudhury
19/9/03

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

I, J.K. Barbhuiya, Senior Supdt. of Post Offices, Cachar Division, Silchar-788001, do hereby solemnly affirm and say as follows :-

1. That I am the Senior Supdt. of Post Offices, Cachar Division, Silchar and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I authorised to file the written statement on behalf of all the respondents.

2. That the respondents beg to place the brief facts of the case as follows :-

(i) Sri Ashis Naug, a resident of Kanchpur village was appointed as EDBPM (now the designation changed to GDS BPM) on and from 31-3-1980 (A/N) after observing the required formalities and had been working as such on and from that date.

(ii) But, whereas a disciplinary case was contemplated against said Sri Ashis Naug he was placed under "Put off duty" with effect from 9-7-1996. Disciplinary proceedings were drawn against said Sri Ashis Naug and on completion of the formalities he was removed from service with immediate effect under this office memo No.F1-11/96-97/K.Pur/DA, dtd.30-11-2000.

(iii) Immediately on placing Sri Ashis Naug under "Put off duty" on 9-7-96 the ED Delivery Agent cum EDMC of the said Kanchanpur B.O. was engaged as BPM of the office to run the office in the interest of public service and the Employment Exchange, Silchar was requested to forward application from the willing candidates having requisite requirements to work as BPM Kanchanpur against "put off duty" temporary vacancy. Simultaneously, the Asstt. Supdt. of POs, Silchar North Sub Division was also addressed to collect and forward applications from willing candidates of the village Kanchanpur to work as BPM Kanchanpur against put-off-vacancy. One application from Employment Exchange and 5 applications from the ASPOs Silchar North Sub Dn. Out of those 6 applications received the applicant was selected to work in the put-off vacant post of BPM Kanchanpur terminating the purely temporary arrangement made on the date of placing Sri Ashis Naug, BPM under "Put Off Duty" and the ASPOs Silchar North Sub Division was informed accordingly and he intimated that the applicant has taken over charge of BPM Kanchanpur on 5-2-97. Since the engagement of the applicant in the temporary vacant post of BPM Kanchanpur no formal appointment letter was issued by this office appointing her in the post of BPM Kanchanpur B.O. Rather the Senior Postmaster Silchar H.O. the Drawing & Disbursing Authority was informed to draw and arrange disbursement of her allowances until further orders and continuing drawing and disbursement of her allowances on and from 5-2-97.

(iv) Though Sri Ashis Naug, the employed BPM of Kanchanpur BO was removed from service with effect from 30-11-2000 vide para(2) above yet the applicant was could not be formally appointed against the said post till expiry of the period for submitting appeal against the punishment awarded on him by the competent authority to Appellate Authority, viz the Director Postal Services, Assam Region, Dibrugarh or filing case in the Court of Law/Central Administrative Tribunal, Guwahati. Sri Ashis Naug preferred an appeal to the Director Postal Services, Assam Region, Dibrugarh which was not accepted and the punishment of removal awarded on him was confirmed under order dtd.10-12-2001.

(v) Thereafter Sri Ashis Naug filed an application to the before the Hon'ble Tri C.A.T., Guwahati Bench, Guwahati which was registered under OA No.188 of 2002 Judgement/order in respecting of the above case was delivered jointly by the Hon'ble Tribunal on 29-5-2003 with the following orders :-

Contd.p/3-

" On consideration of all the materials we are of the opinion that the impugned order of removal cannot be sustained and accordingly the impugned order of removal dtd. 30-11-2000 is set aside and consequently the appellate order dated 10-12-01 is also set aside and quashed. The applicant shall be reinstated in service but he shall not be entitled to any back wages. The applicant shall however will be entitled to all other service benefits like seniority etc. except the backwages.

The application is allowed to the extent indicated. There shall, however, be no order as to costs".

(vi) A certified copy of the above mentioned order dated 29-5-2003 of the Hon'ble Tribunal was received by this office on 19-6-03 from Shri A.K. Chaddhuri, Addl. C.G.S.C. Guwahati and in pursuance of the order dtd.29-5-03 of the Hon'ble Tribunal, Guwahati this office memo No.F1-11/96-97/K.Pur/DA dtd.30-11-2000 was cancelled. The "Put Off duty" order issued under this office memo No.A-587/PF dtd.13-8-96 was revoked and Sri Ashis Naug was ordered to rejoin as GDSBPM Kanchanpur B.O. terminating the existing arrangement under this office memo No.A-587/PF dtd.2-7-03 i.e. relieving the applicant the person who was not appointed in the said post of BPM Kanchanpur B.O. with formal appointment letter but was engaged to man the post against "put off"vacancy of Sri Ashis Naug.

*For
Kishore Chakraborty*
(vii) To obey the order dtd.29-5-03 of the Hon'ble Tribunal in above mentioned OA No.188/2002 there was no other alternative left to the undersigned to issue the above orders of termination of the temporary arrangement since the Addl. CESC, Guwahati had opined that no useful purpose would be served by filing a W.P. in the high Court and that the Deptt. should comply with order of the Tribunal.

3. That with regard to the statement made in paragraph 1 of the application, the respondent beg to state that the circumstances which compelled the undersigned to issue the memo No.A-587/PF dtd.2-7-03 has been categorically narrated in the "Brief history" of the case (Particularly in paras(6) & (7).

4, That the respondents have no comment to the statement made in paragraph 2 and 3 of the application.

5. That with regard to the statement made in paragraph 4.1 to 4.11 of the application, the respondent beg to state that the reasons which necessitated the issue of release order of the applicant from the post of GDSBPM Kanchanpur B.O., in which post she was engaged to work against "Put off duty" vacancy and not at all appointed has been narrated in details in "Brief History" of the case.

6. That with regard to the statement made in paragraph 4.12 of the application, the respondent beg to state that the appointment condition, as specified by the Deptt. of Posts, India of GDS employees is such that a person is appointed after observing all formalities, against a particular post in a particular office for which applications were called for. There is no provision in the "DOP GDS (Conduct and Employment) Rules 2001" to transfer or re-employ/re-instate of a G.D. Sevak to similar post in some other office. In such circumstances Sri Ashis Naug, the appointed BPM of Kanchanpur B.O. is to be reinstated in the same post of same office to obey the order dtd.29-5-2003 of the Hon'ble Tribunal.

7. That with regard to the statement made in paragraph 5.4 to 5.5 of the application, the respondent beg to state that the order dtd.2-7-03 had to be issued in compliance to the order dtd.29-5-03 issued by the Hon'ble Tribunal in OA No.188/2002 to avoid apprehension of "Contempt of the Hon'ble Tribunal" case being filed by said Sri Ashis Naug, the applicant of the above OA No.188/2002.

8. That with regard to the statement made in paragraph 6 of the application, the respondent beg to state that the applicant of this OA No.153/2003 since not formally appointed in the post of GDSBPM Kanchanpur B.O. but managed the work of the said post for a considerable period being engaged as such could have applied to the authority for her regular appointment against a similar vacant post, in special consideration of her rendering services for a considerable long period in another B.O. since she claimed that "at least 11 posts under GDS are lying vacant under the respondent No.3". But instead of doing so she has filed an application to the Hon'ble Tribunal, Guwahati before exhausting all the opportunities for remedy of her grievances. The statement of the applicant is, as such untrue.

Contd...p/5-

9. That the respondent have no comment to the statement made in paragraph 7 of the application.

10. That with regard to the statement made in paragraph 8.1 to 8.2 of the application, the respondent beg to state that the applicant is not entitled to any relief since she has gone to Hon'ble Tribunal before exhausting the Deptl Channel.

11. That with regard to the statement made in paragraph 8.3 & 8.4 of the application, the respondent beg to state that the applicant is not entitled to cost or any other relief, as prayed for since she has gone to Hon'ble Tribunal before exhausting the Deptl Channel. Rather the case is liable for dismissal with cost in favour of the opposite parties.

12. That the respondent have no comment to the statement made in paragraph 9 of the application.

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

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

I, J.K. Barbhuiya, presently working as Senior Supdt. of Post Offices, Cachar Division, Silchar being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs / of the application are true to my knowledge and belief, those made in paragraphs 2 - 12 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 4th day of Sept. 2003

Jay Kishore Barbhuiya
Deponent