

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(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: 159/12503

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Sri Swaroop Sharma

Respondants: - U.O. 12 OAS

Advocate for the Applicants: - Mn V.M. Thomas

Advocate for the Respondants: - Care

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in but not in time for admission. Reason is 1/ not filed at R. Rs 50/- deposited NO/BET No. 76.5786/06 8/7/03</p> <p><i>[Signature]</i> By Registrar</p> <p>Steps taken <i>[Signature]</i> 15/7/03</p> <p>Notice prepared & sent to D/s for issuing the notification No 1 to 5 by Regd. A/D. S/N No 1604 to 1608 D/d 31/7/03</p> <p><i>[Signature]</i> 17/7</p>	<p>16.7.2003</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal, Member (A).</p> <p>Heard Mr. V.M. Thomas, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>Any appointment to the post of Asstt. Director (Lecturer) in the N.E. Police Academy, Meghalaya pursuant to the advertisement No. 05 shall be subject to the outcome of the O.A.</p> <p>Put up again on 18.8.2003 for orders.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>mb</p>

18.08.2003

Present: The Hon'ble Mr.K.V. Prahaladan, Member(A)

9.9.03

No W/S has been filed.
but

List the case on 9.9.2003 for order.

ICV Prahaladan
Member

bb

9.9.2003 List again on 24.9.2003 to enable the Respondents to file written statement.

No. W/S has been filed.

24.9.03

ICV Prahaladan
Member

mb

24.9.2003 Mr.A.Deb Roy, learned Sr.C.G.S.C. stated that he has received instruction from respondent no.4, but he requires further instruction from other respondents and accordingly he prayed for time for filing of written statement.

Prayer allowed. List again on

24.9.2003

Heard Mr.V.M.Thomas, learned counsel for the applicant. Mr.A.Deb Roy, learned SR.C.G.S.C. stated that he has received instruction from respondent no.4, but he requires further instruction from other respondents, and accordingly he prayed for time to file written statement.

Prayer allowed. List the case on 28.10.2003 for further order.

No. W/S has been filed

28.10.03

ICV Prahaladan
Member

Vice-Chairman

.bb

28.10.2003

On the prayer made by Mr.A.Deb Roy, learned Sr.C.G.S.C. four weeks time is allowed to the respondents to file written statement.

List the case on 1.12.2003 for order

ICV Prahaladan
Member

Vice-Chairman

bb

1.12.03

No Bench today. Adj 22-12-03.

19.12.03

W/S filed by R.no.2

20/12

3

O.A.No.159/2003

Office Note	Date	Tribunal's Order
<i>Rejoinders have not been filed by the applicant.</i> <i>[Signature]</i>	22.12.2003	Present: Hon'ble Mr Justice B. Panigrahi Vice-Chairman Hon'ble Mr K.V. Prahaladan, Administrative Member Written statement has been served upon the learned counsel for the applicant who has prayed for time to file rejoinder. List it on 9.2.2004. In the meantime rejoinder, if any, may be filed. <i>[Signature]</i> Member <i>[Signature]</i> Vice-Chairman
<i>16.6.04</i> <i>A Rejoinder submitted by the applicant.</i> <i>[Signature]</i>	15.6.2004	Present: The Hon'ble Smt. Bharati Roy Member (J). The Hon'ble Shri K.V.Prahlada- Member (A). None appeared for the applicant. No rejoinder has been filed till today. Matter be posted on 17.6.2004. <i>[Signature]</i> Member (A) <i>[Signature]</i> Member (J)
<i>bb</i>	17.6.04	<i>Adjourned. List on 18.6.04 for hearing.</i>
<i>9-11-04</i> <i>Sh-come is read for hearing.</i> <i>[Signature]</i>	18.6.04	<i>Adjourned. List on next D.B. for hearing.</i> <i>[Signature]</i>

Office Note	Date	Tribunal's Order
	10.11.04	<p>Maxxd Shri M.M.Thomas, learned counsel for the applicant and Sri A. Deb Roy, learned Sr.C.G.S.C for the respondents are present.</p> <p>Stand over to 11. 8.12.04.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>7-12-04</p> <p>Ready to hearing</p> <p>by <i>[Signature]</i></p>	<p>8.12.2004 Shillong</p>	<p>The applicant is present in person. He states that his advocate is not well. The applicant had applied for the post of Assistant Director (Lecturer) in the N.E. Police Academy. In all one hundred eightythree candidates had applied for the post and after shortlisting, ten candidates were called for the interview. The applicant was not called and he approached this Tribunal by filing O.A.No.55 of 2003 wherein directions were given to the respondents to interview the applicant for the purpose of selection. Ultimately, the applicant was not selected and respondent 5 was selected. The applicant claims that he is not only better qualified, but better suited candidate. In order to examine the issue raised in this application it is considered necessary that the respondents should place before this Tribunal all records pertaining to the selection to the post of Assistant Director (Lecturer) in N.E. Police Academy on</p> <p><i>[Signature]</i></p>

8.12.2004

the next date of hearing.

Mr A. Deb Roy, learned Sr. C.G.S.C. seeks three months time to place the record before the Tribunal. Stand over to 7.3.2005.

Order dt. 8/12/04
Sent to D/Section
for issuing both nkm
the parties.

7.3.05

As directed by this Tribunal the respondents has produced the original records in sealed cover. We have heard the learned counsel for the parties.

Hearing concluded. Judgment reserved

Member(A)

Vice-Chairman

pg

16.3.2005

Judgment delivered in open Court, kept in separate sheets.

The O.A. is dismissed in terms of the order.

Member

Vice-Chairman

bb

28.3.05

Copy of the order
has been sent to the
Office for issuing
the same to the
applicant as well as
to the L/Advocate
on the Resps No 2 n.s.

yt
29/3

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./Rxx.No. 159 of 2003

DATE OF DECISION 16.3.2005

Shri Swaroop SharmaAPPLICANT(S)

Mr V.M. ThomasADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

The Union of India and othersRESPONDENT(S)

Mr A. Deb Roy.ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, 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

X

10

X

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.159 of 2003

Date of decision: This the 16th day of March 2005

The Hon'ble Justice Shri G. Sivarajan, Vice-Chairman

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

Shri Swaroop Sharma

"Gauri Shankar", Kench's Trace,
Shillong - 793004.

.....Applicant

By Advocate Mr V.M. Thomas

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Department of Development of North Eastern Region,
Vigyan Annexe, Maulana Azad Road,
New Delhi.

2. The Union Public Service Commission,
through its Secretary,
Dholpur House, New Delhi.

3. The North Eastern Council,
(Taxation Building),
through its Secretary,
Shillong.

4. The Director,
North Eastern Police Academy,
Umsaw, Umiam, Meghalaya.

5. Smt Gahabati Chanambam,
C/o N.E. Police Academy,
Umsaw, Umiam, Meghalaya.

.....Respondents

By Advocate Me A. Deb Roy, for respondents 2 & 4.

.....

O R D E R

G. SIVARAJAN (J), VICE-CHAIRMAN

The matter relates to selection and appointment to the post of Assistant Director (Lecturer) in the North Eastern Police Academy, Umiam in Meghalaya State. The applicant, Shri Swaroop Sarma is a Post Graduate Degree holder in Sociology (MA) from North Eastern Hill University. He has also two years research experience in

9/21

the subject under Professor A.C. Sinha, the then Head of the Department of Sociology, NEHU. The applicant had served as Assistant Director (Lecturer) in N.E. Police Academy during 15.12.1998 to 11.06.1999, 18.06.1999 to 13.12.1999, 22.08.2002 to 31.12.2002, 10.02.2003 to 07.08.2003 totalling 669 days.

2. The UPSC issued advertisement inviting applications, inter alia, for the post of Assistant Director (Lecturer) in the North Eastern Police Academy (NEPA for short), Meghalaya in March 2002. The qualifications prescribed for the said post are :

Essential:

A. Educational: Post Graduate Degree in Sociology/ Psychology/Social Anthropology from a recognised University or equivalent.

B. Experience: Two years research/teaching experience in any of the subjects mentioned in EQ (A) Above.

Desirable:

Experience of teaching in educational institutions in North Eastern Region of India.

3. Altogether 183 applications were received. Since there was only one post of Assistant Director (Lecturer), on the basis of preliminary scrutiny and shortlisting criteria approved by the Commission, ten persons were called for interview. Since the applicant's name was not included in the said list, he filed application O.A.55 of 2003 before this Tribunal. Pursuant to direction issued by this Tribunal in the aforesaid O.A. the applicant was also called for interview alongwith the ten persons. The applicant appeared for the interview. The grievance of the

[Handwritten signature]

applicant in this O.A. is that, ignoring his superior claim for the said post respondent No.5 in the application was selected and appointed to the post as per order No.NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11 dated 17.06.2003. This order is impugned in the application.

4. On behalf of respondent No.2 a written statement is filed. In para 3 of the said written statement it is stated that the applicant's candidature was rejected as he was not having possession of two years teaching experience in academic institutions of North Eastern Region of India as per the short listing criteria approved by the Commission. It is further stated that after interviewing the applicant also, one candidate was recommended for the above post and the recommendation letter was issued on 13.05.2003. The applicant, it is stated, was not found suitable by the Interview Board to be recommended for the aforesaid post. Regarding the applicant's contention that the post is filled by an OBC candidate though it is not reserved for any category, it is stated that the notified post was an unreserved post open to all categories and may be filled by a candidate of any category whether general or ST/SC or OBC provided he/she fulfils the requirements of the post and is called for interview and in the interview he/she performs to the satisfaction of the Interview Board to be finally recommended for the post. It is further stated that in the instant case 6 ST, 3 OBC and 2 general (including the applicant) were called for the interview and the recommended candidate happened to be an OBC and the question of reservation of the post does not arise at all in this case. It is also stated that the role of Ministerial Representative is limited to apprising the

gma

Interview Board of the requirement of the post, service conditions, career prospectus etc. within the organisation and such other information as may be sought by the Board or the candidates and that he does not participate in the actual process of the selection. Respoondent 3, it is stated, was not in the Interview Board and that neither respondent 3 nor respondent 4 has got any role in the selection of candidates. The interview Board, it is stated, has on it two or more expert Advisers who have the technical knowledge and expertise to assess the candidates; they are chosen and appointed by the Commission for obtaining independent expert assistance and advice in assessing the performance of the candidate and his suitability for the post in question. They also assess the "potentiality" of the candidate. It is further stated that the Interview Board determines the broad pattern for the conduct of the interview and that the Board also discusses the subject requirement of the posts so that the examination of every candidate is well directed and purposive and after the candidate is interviewed the President of the Board assigns marks to each candidate based on the advice given by the expert Advisers and on his own judgment regarding the performance of the candidate.

5. As directed by the Tribunal the UPSC has also produced the files in a sealed cover despite the written objection filed claiming the privilege available under Section 123 of the Indian Evidence Act, 1872.

6. We have heard Mr V.M. Thomas, learned counsel for the applicant and Mr A. Deb. Roy, learned counsel for respondents 2 and 4. The counsel for the applicant submitted that the applicant has got all the required

gpr

qualifications and that he was not selected for appointment only because he belongs to a forward caste. Though there are certain allegations regarding malafide on the part of the respondents in the application, the counsel did not seriously pursue such allegations. The counsel further submitted that he is entitled to be selected and appointed in preference to respondent 5 in view of his superior qualifications. Mr A. Deb Roy, counsel for respondents 2 and 4, submitted that the Interview Board consisted of experts in the field and that the selection was made strictly in accordance with the procedure prescribed which can be discerned from the records now produced.

7 We have considered the rival submissions and also perused the original files which have been produced before us in sealed cover.

8. Circular No.29 dated 27.07.1992 issued by the UPSC, Recruitment (C&P) Section (vide No.F.16/11(i)/92-R(C&P) dated 27.07.1992) prescribes the procedure to be followed by the Interview Boards and size of Reserve List.

Paras 4 and 6 of the said procedure are extracted below:

"4, Candidates are called for interview after preliminary scrutiny of applications by the Commission. The Interview Boards "examine" the candidate. This is a constitutional function of the Commission. The purpose of the examination of every candidate is to ascertain his suitability for the post in view. The Board has to express its view on each candidate by awarding marks on the basis of a total evaluation of the candidate's performance and taking into account his qualifications and experience. In order to be able to do so, the Board will find it useful to discuss with the Advisers and the M.Rs. the special requirements of the post. The Board will also find it useful to determine the broad pattern for the conduct of the interview so that the examination of every candidate is well directed and purposive.

"6. After each candidate is interviewed, the President of the Board will consult the expert Advisers regarding the total marks to be allotted,

no.....



no attempt will be made to give marks for each plus point. IN the light of the advice tendered by the Advisers and his own judgment regarding the performance of the candidate, the President will assign marks to each candidate. Each Adviser is not asked to assign marks with a view to strike an average, the attempt is to arrive at a consensus but where this is not possible, the President will use his own discretion and assign the marks. In certain cases these marks may be firmed up only after interviewing a few more candidates, it considered necessary. Final marks awarded during a session must be announced and recorded."

9. We have also perused the relevant files. We find that the Interview Board under the Presidentship of the Hon'ble Member Dr S.R. Hashim in the UPSC conducted an interview on 28.3.2003 to select a candidate for the post of Assistant Director (Lecturer) in the N.E. Police Academy, Umiam, Meghalaya. The Interview Board consisted of Dr S.R. Hashim, Prof. B.N. Chattoraj, Retd. Prof. and Head, Faculty of Criminology, National Institute of Criminology, New Delhi, Shri S.V. Subramanian, Retd. Director General of Police, Assam and Shri T. Pachuau, IPS, Director, NEPA, Meghalaya. It is seen that eight candidates were interviewed in the morning and four candidates, including the applicant, were interviewed in the afternoon of 28.3.2003. We also find that, as provided in clause 6 of the procedure extracted above, the President of the Board after consultation with the other members of the Interview Board had assigned marks regarding the performance of all the twelve candidates. We find that highest marks was awarded to respondent 5 (60/100), whereas the applicant had secured only 58 out of 100 marks. The other persons interviewed secured less marks.

10. In this context it must be noted that judicial review is not concerned with the merits of a decision but with the manner in which the decision was made. Judicial review is entirely different from an ordinary appeal.


9/24

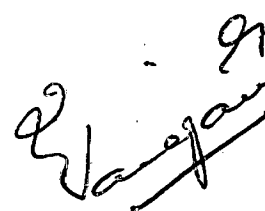
These positions are settled by the apex court decision (Tata Cellular Vs. Union of India, (1994) 6 SCC 651).

11. From the perusal of the confidential records produced before us we are fully satisfied that the selection and appointment of respondent 5 was made strictly in accordance with the procedure prescribed in the circular mentioned above.

12. Having regard to the fact that the Interview Board consisted of eminent persons particularly Technical Experts in the field and the said Board had taken a decision strictly in accordance with the procedure it would be inappropriate on the part of Courts and Tribunals to sit in judgment over the expert opinion based on which the selection to the post is made. We find no illegality in the impugned order. There is no merit in this application. It is accordingly dismissed.

No order as to costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. NO: 159/2003

Shri Swaroop Sharma.....Applicant

Versus

Union of India & Others.....Respondents

AFFIDAVIT

I, Dr. S.R.Hashim (Date of birth 02-04-1941) Chairman, Union Public Service Commission, New Delhi do hereby solemnly affirm and most respectfully state as follows:-

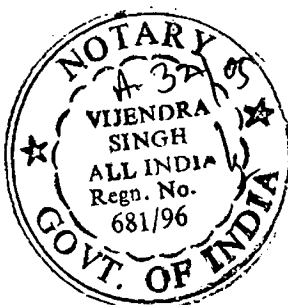
1. The Hon'ble Central Administrative Tribunal vide their order dated 08-12-2004 directed the respondents to produce the minutes of the proceedings of the Selection Committee mentioned below by the next date.
2. I, as Chairman of the Union Public Service Commission, a Constitutional Body, am in control of and incharge of the relevant records.
3. I have carefully read and considered the relevant records and have come to the conclusion in respect of them as under:-

Documents for which
Privilege is claimed

i) File No.F1/4/2002-R.III (containing pages from 1 to 126/corr & Notes pages from 1 to41) relating to the recruitment of One Assistant Director(Lecturer) in North Eastern Police Academy, Meghalaya, Ministry of Home Affairs, General Central Service, Group 'A', Gazetted , incorporating the Preliminary Scrutiny notes/Shortlisting Criteria and the Report of the Interview Board containing the name of the recommended candidate ;

ii) Original proceedings of the Interview Board held on 28-03-2003 for recruitment to the aforesaid post, consisting of Notes of the President of the Interview Board (16 pages) and the Reserve List (one page)

iii) Procedure to be followed by Interview Boards and size of Reserve List (eight pages)



S. R. Hashim

Contd p 2



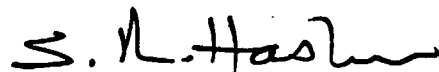
4. I have found that these are unpublished official records relating to the affairs of the State and their disclosure will cause injury to Public Interest and will materially affect the freedom and candour of expression of opinion in the determination and execution of public interest.

5. I do not, therefore, as per law give permission to any one under Section 123 of the Indian Evidence Act, 1872 to produce the said documents nor to give any evidence derived therefrom, and claim privilege under the said Act.

6. However, I most respectfully point out that I have no objection, whatsoever, to the documents in regard to which privilege has been claimed, being produced on demand, for perusal by the Hon'ble Tribunal in camera for satisfying themselves about the bona fides and genuineness of the privilege. The Original relevant notes are enclosed in the sealed cover.

7. I realize the solemnity and significance attached to the exercise of power under Section 123 of Indian Evidence Act, 1872 and the privilege is not being claimed on the grounds of expediency or to avoid an embarrassing or inconvenient situation or because it is apprehended that the documents, if produced would defeat the case of the Commission.

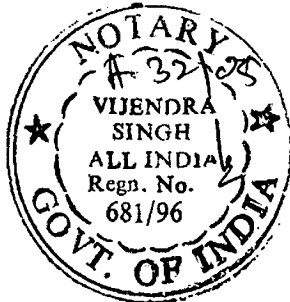
Solemnly, affirmed at New Delhi, this 30th day of March, 2005


(S.R.Hashim)


Chairman,

Union Public Service Commission,

DEPONENT



ATTESTED


VIJENDRA SINGH
Notary Public Delhi [India]
660, Patiala House N. Delhi
Contd p 3

VERIFICATION

I , Dr. S.R.Hashim, do hereby solemnly affirm and state that the contents of paragraphs 1 to 7 are true to my knowledge.

S.R. Hashim

(S.R.Hashim)

Chairman,

Union Public Service Commission,

DEPONENT



ATTESTED
Vijendra Singh
VIJENDRA SINGH
Notary Public Delhi [India]
660, Patiala House N. Delhi

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

15/5 JUL 2003

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

O.A. No. 159 / 2003

-BETWEEN-

Shri Swaroop Sharma

... Applicant

-AND-

Union of India & Ors

... Respondents

SYNOPSIS OF THE CASE

In this application the Applicant is challenging the appointment of the Respondent no.5 as Asstt. Director (Lecturer) in the North-Eastern Police Academy, Umiam, Meghalaya, by Order of the Respondent no.4 bearing no. NEPA/ Apptt/AD(lec)/5/99/Vol-I/1705-11 dt. 17-6-03, following an advertisement and interview conducted by the UPSC in which the applicant too had participated. The applicant is further praying for a direction to the concerned Respondents to appoint him in the said post.

Dates

Particulars

1995	...	The applicant obtained Post Graduate Degree in Sociology (MA) from NEHU.
1995 - 97	...	The applicant got 2 years' research experience in the subject under Prof.A.C.Sinha the then Head of the Deptt.of Sociology, NEHU
15-12-98 to 11-6-99	...	The applicant served as Asstt. Director (Lecturer) in N.E. Police Academy for 179 days on ad-hoc basis
18-6-99 to 13-12-99	...	Again the applicant served as above for another 179 days

Annexure-4

Annexure-5

contd-2

15-7-03

Date	Particulars
22-8-02 ... to 31-12-02	Again the applicant served on <u>ad-hoc basis</u> for <u>132 days</u> Annexure-6
10-2-03 ... to 7-8-03	Presently the applicant is serving on ad- hoc basis in the said post. Annexure-7
March '02 ...	In the meantime in March 2002 the post was advertised by UPSC for regular appointment. <u>Qualifications: Essential</u> - (a) Post Gradua- te Degree in Sociology/Psychology/Social Anthropology from a recognised University or equivalent. (b) Two years research/teaching experience in any of the said subjects. <u>Desirable: Experience of teaching in acade-</u> mic institutions in N.E.Region of India. Annexure-8
<u>O.A. 55/2003</u> 25-3-03	The Applicant, being qualified, applied for the post, but <u>he was not called for the</u> interview scheduled to be held on 28-3-2003. - Hence he preferred O.A.no.55/2003 praying for a direction to the Resp.no.2 to allow him to appear in the interview. - <u>Interim order dt.25-3-03 directing the Res-</u> pondents to allow the Applicant to appear. Annexure-9
28-3-03	The applicant appeared for the interview along with 10 other candidates, including the Respondent no.5.
10-4-03	O.A.no.55/2003 was disposed of (dismissed as infructuous) as the applicant already secured the relief that he had prayed for. Annexure -10

DA 120/03

7/7/03

On coming to know that the Respondents have offered the appointment to the Resp.no.5 the Applicant preferred O.A. 120/2003 which was allowed to be withdrawn by this Hon'ble Tribunal with leave to refile it, vide Order dt. 7/7/03 -Annexure - 12

17/6/03

In the meantime the Applicant's ad-hoc service was terminated by Order dt. 17/6/03 and by another order bearing no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11 also dt.17-6-03 the Respondent no.5 was given the appointment to the post in question. - Annexure-11

*** Hence this application challenging the afore-said appointment order and claiming appointment to the said post

Main Grounds Urged :

- 1) The appointment of the Respondent no.5 was made in a hush-hush manner without preparing or publishing any select list.
- 2) The Respondent no. 5 was given the appointment as she belongs to the OBC. However, it was not mentioned in the concerned advertisement that the post was reserved. Moreover, there cannot be reservation in respect of single post cadres like the post in question.
- 3) Nepotism and favouritism have played a role in the selection and appointment of the Respondent no.5.
- 4) The applicant is better suited and better qualified than the Respondent no.5 for appointment in the post in question.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

D.A. no. /2003

-BETWEEN-

Shri Swaroop Sharma

... Applicant

-AND-

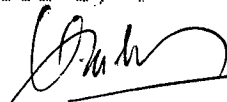
Union of India & ors

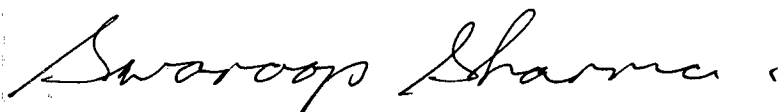
... Respondents

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Filed by :


(CVM THOMAS)
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH

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

D.A. NO.

/2003

Filed by
[Signature]
15-7-03
Advocate
(V.M. THOMAS)

-BETWEEN-

Shri Swaroop Sharma,

"Gauri Shankar", Kench's Trace,

Shillong - 793 004

... Applicant.

-AND-

1. The Union of India, represented by
the Secretary to the Govt. of India,
Deptt. of Development of North-Eastern Region,
Vigyan Annexe, Maulana Azad Road,
New Delhi - 110 011.

2. The Union Public Service Commission,
Dholpur House, New Delhi - 100 001,
through its Secretary.

3. The North-Eastern Council,
(Taxation Building), Shillong - 793 001,
through its Secretary.

4. The Director,
North-Eastern Police Academy,
Umsaw - 793 123, Umiam, Meghalaya.

5. Smt. Gehabati Chanambam,
C/o N.E. Police Academy, Umsaw - 793 123,
Umiam, Meghalaya.

... Respondents.

Swaroop Sharma

DETAILS OF THE APPLICATION -

1. Particulars of the Order against which the Application is made -

In this Application the Applicant is challenging the appointment of the Respondent no.5 as Asstt. Director (Lecturer) in the North-Eastern Police Academy, Umiam, Meghalaya, by Order of the Respondent no.4 bearing no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11, dt. 17/6/2003, following an Advertisement and interview conducted by the UPSC, in which the Applicant too participated.

2. Jurisdiction of the Tribunal -

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

3. Limitation -

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

4. Facts of the Case -

4:1 That the Applicant obtained a Post Graduate degree in Sociology from the North-Eastern Hill University in 1995.

A copy of the relevant certificate is annexed hereto as ANNEXURE- 1.

4:2 That the Applicant also has a 2 years' research

Contd-3

Swaroop Sharma

experience in Sociology during 1995-97 under Prof. A.C. Sinha the then Head of the Deptt. of Sociology of North-Eastern Hill University.

A copy of the certificate issued by Prof. A.C. Sinha dated 10/11/98 is annexed hereto as ANNEXURE- 2.

4:3 That the North-Eastern Police Academy at Umiam (Meghalaya) is an institute for both outdoor and academic training of police personnel of NE region. Earlier this institute was under the Ministry of Home Affairs, Govt. of India and at present it is under the Deptt. of Development of North-Eastern Region, Govt. of India (Resp. no.2).

4:4 That earlier there was an advertisement given in the Meghalaya Guardian dated Nov.23rd, 1998 for a post of Assistant Director (Lecturer) in the North-Eastern Police Academy to be filled up on ad-hoc basis. The required qualification was Post Graduate Degree in Sociology/ Psychology/Social Anthropology with two years' teaching/ research experience in any of the said subjects.

A copy of the aforesaid advertisement is annexed hereto as ANNEXURE- 3.

4:5 That as the applicant had the required qualification, he applied for the post and was selected: and vide Order no.NEPA/EG/6/90/Vol-III dated 9/12/98, he was appointed as Assistant Director (Lecturer) on ad-hoc basis for 179 days w.e.f. 15/12/98 to 11/6/99. He joined on 15/12/98 and served till 11/6/99.

A copy of the said appointment order dt.9-12-98 is annexed hereto as ANNEXURE- 4.

Contd-4

Swaroop Sharma

4:6 That similarly the Applicant served in the same post on ad-hoc basis for a period of another 179 days from 18/6/99 to 13/12/99, on the strength of the Order no. NEPA/Apptt (AD Lec)/5/99/630-36 dt. 15/6/99. Next he served in the same capacity for 132 days from 22/6/02 to 31/12/02, as per Order no. NEPA/Apptt(ADLec)/5/99/3245-50 dated 23/8/02. Again the Applicant was given a similar appointment vide Order no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/6894/99 dated 10/2/03 for a period of 179 days w.e.f. 10/2/2003 to 7/8/2003.

Copies of the aforesaid appointment orders dated 15/6/99, 23/8/02 & 10/2/03 are annexed hereto as ANNEXURES- 5, 6 & 7 respectively.

4:7 That in the meantime the Respondent no.2 published an advertisement being Advertisement no.5 in the issue dt.9-15 March 2002 of the Employment News inviting applications for regular appointment to various posts including 1 post of Asstt. Director (Lecturer) in NE Police Academy (Item no.5 of the advertisement).

The essential qualifications prescribed were:

- (a) Post Graduate Degree in Sociology/Psychology/Social Anthropology from a recognised University or equivalent, and
- (b) two years' research/teaching experience in any of the said subjects.

A desirable qualification was also mentioned, viz. experience of teaching in academic institutions in North-Eastern Region of India.

A copy of the relevant page of the aforesaid

Contd-5

Swaroop Sharma.

Advertisement no.5, as published in the Employment News, 9-15 March, 2002, is annexed hereto as ANNEXURE - 8.

4:8 That in response to the aforesaid advertisement the Applicant, being fully qualified, submitted his application to the Respondent no.2.

4:9 That the interview for the post in question was later scheduled to be held on 28/3/03 at the premises of the N.E. Police Academy itself. Several other persons who had also applied for the aforesaid post, received call letters directing them to appear for the interview on the said date. But to the Applicant's dismay, he did not receive any such letter, and as there were only 3 days remaining for the scheduled interview the Applicant lost all hope of receiving any call letter. Hence the Applicant preferred the O.A.no.55/2003 before this Hon'ble Tribunal praying for a direction to the Respondent no.2 to allow the Applicant to appear for the said interview. In the said Application, the Applicant specifically pleaded that he has both the required as well as the desirable qualifications as mentioned in the Advertisement and as such, there was no justification at all in not calling the Applicant for the interview.

4:10 That by Order dt. 25/3/03 this Hon'ble Tribunal was pleased to direct issuance of notice of motion and further, as an interim measure, directed the Respondents to allow the Applicant to appear in the said interview.

A copy of the aforesaid interim order dt.25/3/03 is annexed hereto as ANNEXURE - 9.

4:11 That pursuant to the said interim Order the

Contd-6

Swaroop Sharma

Applicant appeared for the interview for the post of Asstt. Director (Lecturer) in the N.E. Police Academy, held on 28/3/03. It may be mentioned that there were 11 candidates in all, including the Applicant and the Resp.no.5, who appeared in the said interview on that date.

4:12 That thereafter the aforesaid O.A. no. 55/2003 again came up for admission before this Hon'ble Tribunal on 10/4/03. On that date the Applicant submitted that, pursuant to the interim order passed on 25/3/03, he was allowed to appear in the interview held on 28/3/03. Accordingly this Hon'ble Tribunal was pleased to record that since the applicant secured the relief prayed for, no further direction is necessary and the application was thus dismissed as infructuous by the order dt.10/4/03.

A copy of the aforesaid Order dt.10/4/03 passed in O.A.no.55/2003 is annexed hereto as ANNEXURE 10.

4:13 That thereafter, while awaiting the result of the interview, the Applicant came to know that sometime in the middle of May '03 the Respondents had offered the appointment to the post in question to the Respondent no.5, directing her to join the post within a month if the offer is accepted.

4:14 That thereupon, apprehending that the interview given by the Applicant has not been taken into consideration while making the aforesaid selection, the Applicant once again preferred an Application before this Hon'ble Tribunal being O.A.no.120/2003, praying that:

(a) the Respondents may be directed to take into consideration the interview-results of the Applicant too in the matter of selection for the post of Asstt. Director (Lec-

Swaroop Sharma

turer) in the N.E. Police Academy and to offer him the appointment if found meritorious; and (b) to set aside and quash the selection and appointment of the Resp.no.3 (ie. present Resp.no.5) to the said post.

4:15 That the aforesaid O.A. 120/2003 came up for admission on 4-6-2003 and this Hon'ble Tribunal was pleased to order issuance of notice of motion, fixing 7-7-03 again for admission.

4:16 That thereafter the Respondent no.4, vide his Order under memo no. NEPA/PF(A)/5/2003/Estt/1718-24 dt. 17th June '03, terminated the services of the Applicant as ad-hoc Asstt. Director (Lecturer) w.e.f. 13-6-03. It has transpired from the said Order that by another Order of the same date (ie. 17-6-03) bearing no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11 the Respondent no.5 has been appointed as Asstt. Director (Lecturer) consequent upon selection by the UPSC.

A copy of the aforesaid termination order dt. 17-6-03 (containing reference to the appointment of the of the Resp.no.5) is annexed hereto as ANNEXURE - 11

4:17 That the Applicant states that significantly a copy of the aforesaid order has been endorsed to the Respondent no.3 (Secretary, North-Eastern Council) which goes to show that the NEC had some say in the matter of appointment of the Respondent no.5 and the termination of the Applicant. Hence the NEC, through its Secretary, has been made a Respondent in this application.

4:18 That the Applicant begs to state that inspite of best efforts a copy of the appointment order of the

Contd - 8

Swaroop Sharma

Respondent no.5 could not be obtained by the Applicant as he has no access to the same. The Applicant vide a letter dt.10/7/03 requested the Respondent no.4 to supply him a copy of the said order, but no copy has been given to the Applicant till date. Hence the Applicant is unable to annexe a copy of the impugned appointment order along with this application. The Applicant craves leave of this Hon'ble Tribunal to submit a copy as and when the Respondent no.4 supplies the same to the applicant.

A copy of the aforesaid letter dt.10/7/03 is annexed hereto as ANNEXURE - 12

4:19 That the Applicant begs to state that the appointment of the Respondent no.5 has been made without preparing and publishing any select-list. Moreover, it has been learnt that the Respondent no.5 was given the appointment as she belongs to the category of OBC. However it may be stated that there was no mention in the concerned Advertisement (Annexure - 8) that the post was reserved for OBC; Besides, there cannot be reservation in respect of single post cadres. It is also relevant to mention here that the present incumbent in the post of Director, N.E. Police Academy (ie. Resp.no.4) and the present incumbent in the post of Secretary of NEC (ie. Resp. no.3) are both officers from the Manipur-cadre, and the new-appointee (ie. Resp.no.5) also hails from Manipur. Furthermore, the Resp.no.4 was himself on the Board that conducted the interview. Hence the circumstances show that favouritism has played a role in the selection and appointment of the Respondent no.5. For all these reasons the selection and appointment of the Respondent no.5 suffers from illegality and arbitrariness, calling for interference of this Hon'ble Tribunal.

4:20 That in view of the above circumstances, when the aforesaid O.A.no.120/2003 came up again for admission on 7/7/03 the Applicant sought leave of this Hon'ble Tribunal to withdraw the said application praying also for permission to file a fresh application. This Hon'ble Tribunal was therefore pleased to dismiss the said O.A. 120/2003 on withdrawal granting liberty to refile it.

A copy of the said order dt.7/7/2003 is annexed hereto as ANNEXURE - 13

4:21 That accordingly the Applicant is preferring this fresh application seeking appropriate relief, ie. setting aside and quashing the selection and appointment of the Respondent no.5 as Asstt. Director (Lecturer) in the N.E.Police Academy, and for a direction to the concerned Respondents to appoint the Applicant in the said post.

5. Grounds for Relief with Legal Provisions :

5:1 That the impugned appointment of the Respondent no.5 has been made in a hush-hush manner without preparing or publishing a select-list, which is contrary to the principles of service law. As such, the impugned appointment vide order no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11 dt.17-6-2003, is liable to be set aside and quashed for being illegal and arbitrary.

5:2 That it had not been notified in the relevant advertisement (Annexure-8) that the post in question is reserved for OBC or for any other special category. Nevertheless the Respondent no.5 has been selected and appointed as she belongs to the OBC category. As such,

Contd - 10

Swaroop Sharma

the preferential appointment of the Respondent no.5, for being of OBC category, cannot be sustained in the eye of law and is therefore liable to be set aside.

5:3 That it is a well established principle of service law that there cannot be reservation in respect of single post cadres. In the instant case the post in question being a single post cadre it could not be made reserved for the OBC or for any other special category.

5:5 That the present incumbent in the post of Director, N.E. Police Academy, and the present incumbent in the post of Secretary, N.E.C. are both Manipur-cadre officers, and the new-appointee (ie. the Resp.no.5) also hails from Manipur. Moreover, the Director, who is the appointing authority, was himself on the Board that conducted the interview. Hence it is submitted that favouritism and nepotism has played a major role in the appointment of the Resp. no.5, thereby vitiating the appointment.

5:6 That the Respondent no.5 who is a post-graduate in Psychology, having 2 years' teaching experience, is in no way better qualified than the Applicant who is a post-graduate in Sociology having 2 years' research experience in the subject (which is an alternative to teaching experience). Moreover, the Applicant has also the additional 'desirable qualification', ie. experience of teaching in an academic institution in the N.E. Region of India, which he has obtained by teaching in the N.E. Police Academy itself in the very same post of Asstt. Director (Lecturer). The interview-Board has noted the fact that he was working in the said capacity since 1998-99. As such, having hands-on experience in the concerned post itself, the Applicant is better suited than anyone else to be selected and appointed.

Contd-11

Swaroop Sharma

5:7 That in any view of the matter the selection and appointment of the Respondent no.5 is altogether arbitrary, unreasonable and contrary to the principles of service jurisprudence, besides being violative of Article 14 of the Constitution. Hence, the selection and appointment so made is liable to be set aside and quashed; and the Applicant is entitled to be appointed in the post in question.

6. Details of Remedy Exhausted:

That the Applicant states that there is no alternative remedy available to him except to approach this Hon'ble Tribunal.

7. Matters not Previously Filed or Pending Before any other Court -

The applicant declares that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such Application, writ petition or suit is pending before any of them, except as already mentioned in paras 4:14 & 4:20 above.

8. Relief Sought For -

The Applicant prays for the following reliefs :

- a) that the selection of the Respondent no.5 and her appointment vide Order no. NEPA/Apptt/AD (Lec)/5/99/Vol-I/1705-11 dt. 17-6-2003, to the post of Asstt. Director (Lecturer) in the N.E. Police Academy, Umiam, Meghalaya, may be set aside and quashed; and

Contd-12

Swaroop Sharma

b) that the concerned Respondents may be directed to appoint the Applicant to the aforesaid post.

9. Interim Relief Prayed For:

Pending the final decision on this application, the Applicant prays for the issuance of the following interim order :

A direction may be issued staying the impugned appointment-order no. NEPA/Apptt/AD(Lec)/5/99/Vol-I/1705-11 dt. 17-6-2003, appointing the Respondent no.5 to the post of Asstt. Director (Lecturer) in the N.E. Police Academy.

10. This application is filed through Advocate.

11. Particulars of I.P.O.

I.P.O. no. : 76 578640

Date of Issue : 8/7/2003

Issued from : Guwahati Head Post-Office

Payable at :

12. List of Enclosures :

As stated in the Index.

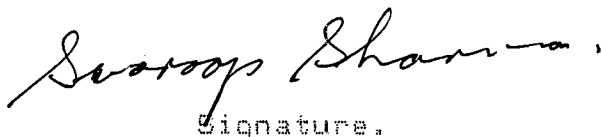
Contd-13

Swaroop Sharma.

VERIFICATION

I, the Appliant, Shri Swaroop Sharma, son of Shri D.C.Sharma, aged about 31 years, resident of "Gauri Shankar", Kench's Trace, Shillong - 793 004 do hereby verify that the statements made in the application in paras 1,2,3, 4:1, 4:2, 4:3, 4:8, 4:9, 4:11, 4:13, 4:17, 4:18, 4:19, 4:21, 6 & 7 are true to my knowledge, those made in paras 4:4 to 4:7, 4:10, 4:12, 4:14, 4:15, 4:16 & 4:20 are true to my information based on records, and those made in made in paras 5:1 to 5:7 are my humble submissions based on legal advice and I have not suppressed any material fact.

And I sign this Verification on this 14th day of July, 2003 at Guwahati.


Signature.

North-Eastern Hill University



M.A. DEGREE EXAMINATION, 1995

This is to certify that

..... *Iwaro Phama*

Roll No. *33* Registration No. *01505*

of 1987....-1988.... has qualified for the Degree of Master
of Arts in *Sociology*..... in this University at the
Examination held in the year 1995.... and was placed
in the *Second*..... Division.

Given under the seal of the University.

Shillong
The *1st Nov* 1995
Serial No.

[Signature]
Vice-Chancellor

Attested
[Signature]
Advocate



A. C. Sinha

Department of Sociology
SCHOOL OF SOCIAL SCIENCES

NORTH-EASTERN HILL UNIVERSITY
SHILLONG - 793 014 (INDIA)

Phone - 27644 Residence
Phone - 23234 Office
Gram - NEHU

Annexure - 2


10 November, 1998.

TO WHOM IT MAY CONCERN

Mr. Swaroop Sharma has been an MA student in this department.
He is known to me as a researcher, as he worked in my
research project during 1995-1997. I found him ^a friendly
person, who has sufficient skill for sociability. I wish
him well in life.


(A.C. Sinha)

Attested


Advocate

Annexure - 3

Guardian (Meghalaya) November 23 - '98

SITUATION VACANT

One post each of Asstt. Director (Scientific aids), Asstt. Director (Lecturer) and Asstt. Director (Law) are required to be filled up on ad-hoc basis in NEPA as per details given below :-

Asstt. Director (Scientific Aids) - Candidates with qualification Degree/Post Graduate in Forensic Science with teaching experience. Degree in Law would be preferable.

Asstt. Director (Lecturer) - Post Graduate Degree in Sociology/Psychology/Social Anthropology with two years research/teaching experience in any of the above mentioned subjects.

Asstt. Director (Law) - Degree in Law with two years teaching experience in an institution/College.

Interview on 8th Dec, 1998 at 1100 hrs with original testimonials.

Venue : Office of the Director, North Eastern Police Academy, Umsaw, Umiam (Meghalaya)

Attested



Advocate

North Eastern Police Academy
Government of India
Ministry of Home Affairs
Umsaw : 793 123 : Umiam : Meghalaya

Annexure - 4 ³⁸

No. NEPA/EG/6/90/Vol.III/

Dtd. Umsaw, the 9th, Dec '98.

ORDER

Shri Swaroop Sharma is hereby appointed as Asstt. Director (Lecturer) on ad-hoc basis for a period of 179 days with effect from the forenoon of 15/12/98 to 11/6/99 afternoon or till a regular appointment of Asstt. Director (Lecturer) is made which-ever is earlier, in the scale of pay of Rs.8000-275-13500/- p.m. plus other allowances as admissible to the Central Government Employees from time to time.

The ad-hoc appointment however will not make Shri Swaroop Sharma entitled to claim any regular appointment.

Sd/-
(K.K.Jha)
Director

Memo.

No. NEPA/EG/6/90/Vol.III/7910-15 Dtd. Umsaw, the 9th, Dec '98

Copy to :-

- 1) The Director (NE-II), Govt. of India, Ministry of Home Affairs, New Delhi. } The matter relating to the selection of Asstt. director (Lecturer) is under process and likely to take some time.
- 2) The Director, UPSC, Dholpur House, Shajahan Road, New Delhi. } Services of an Asstt. Director (Lecturer) is essential in view of on-going training programme and therefore is not obviatable.
- 3) The RPAO (IB), Shillong-03.
- 4) The A/c's Section, NEPA, Umsaw, Barapani.
- 5) Shri Swaroop Sharma, Asstt. Director (Lecturer).
- 6) Personal file.
- 7) Office order file.

(K.K.Jha)
Director

Attested

Advocate

-18-
North Eastern Police Academy
Government of India
Ministry of Home Affairs
Umsaw : 793 123 : Umiam : Meghalaya

Annexure - 5

(4099)

No. NEPA/Apptt(ADLec)/5/99/630-3-6 Dtd. Umsaw, the 15th, June'99.

ORDER

Shri Swaroop Sharma is hereby appointed as Asstt. Director (Lecturer) on ad-hoc basis for a period of 179 days with effect from the forenoon of 18/6/99 to 13/12/99 afternoon or till a regular appointment of Asstt. Director (Lecturer) is made which-ever is earlier, in the scale of pay of Rs.8000-275-13500/- p.m. plus other allowances as admissible to the Central Government Employees from time to time.

The ad-hoc appointment however will not make Shri Swaroop Sharma entitled to claim any regular appointment.

K.K.Jha
(K.K.Jha)
Director

Memo.

No. NEPA/Apptt(ADLec)/5/99/630-3-6 Dtd. Umsaw, the 15th, June'99.

Copy to :-

- 1) The Director (NE-II), Govt. of India, Ministry of Home Affairs, New Delhi. } The matter relating to the selection of Asstt. Director (Lecturer) is under process and likely to take some time. Services of an Asstt. Director (Lecturer) is essential in view of ongoing training programmes
- 2) The Under Secretary, UPSC, Dholpur House, Shajahan Road, New Delhi. }
- 3) The RPAO(IB), Shillong-03.
- 4) The A/cs Section, NEPA, Umsaw, Barapani.
- 5) Shri Swaroop Sharma, Asstt. Director (Lecturer) - for information & necessary action, pl.
- 6) Personal file.
- 7) Office order file.

K.K.Jha
(K.K.Jha)
Director

Attended

[Signature]
Advocate

#A#B#C#D#E#F#G#H#I#J#K#L#M#N#O#P#Q#R#S#T#U#V#W#X#Y#Z#

Government of India
Department of Development of North Eastern Region
Umsaw, Umiam- 793 123
Meghalaya

No.NEPA/Apptt(ADLec)/5/99/ 3245-50 Dtd. Umsaw, the 23 Aug, 02.

ORDER

Shri Swaroop Sharma, S/O Shri Dhyan Sharma, P.O- Gauri Shankar, Kench's Trace, Shillong-4, is hereby appointed as Assistant Director (Lecturer) on adhoc basis for a period of 132 days with effect from the forenoon of 22/08/2002 to 31/12/2002 afternoon or till regular appointment of Assistant Director (Lecturer) is made which-ever is earlier, in the scale of pay of Rs. 8000-275-13,500/-p.m. plus other allowances as admissible to the Central Government Employees from time to time.

The adhoc appointment however will not make Shri Swaroop Sharma entitled to claim any regular appointment or subsequent appointment.

(Umed Singh)
Director, I/C

Memo No.NEPA/Apptt(ADLec)/5/99/Vol.I 3245-50, Dtd. Umsaw, Aug 23 02

Copy to:-

1. The Dy. Secretary, Deppt. Of DONER, Govt of India, Vigyan Annexe, Maulana Azad Road, New Delhi - 110 011.
2. The Under Secretary, UPSC, Dholpur House, Shajahan Road, New Delhi- 110 011.
3. The RPAO (IB), Shillong-03.
4. The Accounts Section, NEPA, Umsaw, Meghalaya.
5. Shri Swaroop Sharma, Assistant Director (Lecturer), NEPA, for information.
6. Personal file
7. Office Order File.



22/8/02
(H K Mazumdar)
Dy. Director (A)

Attested
[Signature]
Advocate

GOVERNMENT OF INDIA
DEPARTMENT OF DEVELOPMENT OF NORTH EASTERN REGION
NORTH EASTERN POLICE ACADEMY
UMSAW, UMIAM - 793 123
(MEGHALAYA)

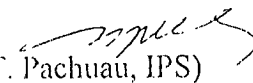
No. NEPA/Apptt/AD(Lect)/5/99/Vol.I: 6894-99 Dated: 10th /Feb.,/2003

ORDER

Shri Swaroop Sharma is hereby appointed as Assistant Director (Lecturer) in the scale of pay of Rs. 8000-275-13500/- p.m. plus other allowances w.e.f. 10th February, 2003 to 7th August, 2003 for a period of 179 days or till regular appointment is made whichever is earlier.

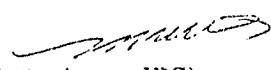
The ad-hoc appointment will not make entitled to claim any regular appointment or subsequent appointments.


During the period of appointment, his Headquarter will be NEPA, Umsaw and will be provided government accommodation.


(T. Pachuaui, IPS)
Director

Copy to: -

1. The Dy. Secretary, Deptt. of DONER, Govt. of India, Vigyan Annexe, Maulana Azad Road, New Delhi - 110 011.
2. The Under Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi - 110 011.
3. The RPAO (BI), Shillong - 03
4. The Accounts Section, NEPA, Umsaw, Meghalaya
- ✓ 5. Shri Swaroop Sharma, Gauri Shankar, Kench's Trace, Shillong - 04.
6. Personal File.
7. Office Order File.


(T. Pachuaui, IPS)
Director

Attested

Advocate



UNION PUBLIC SERVICE COMMISSION

ADVERTISEMENT NO. 05

INVITES APPLICATIONS FOR THE FOLLOWING POSTS.

1. (Ref.No.F.1/203/2000-R-IV) FIVE DEPUTY SUPERINTENDING ARCHAEOLOGISTS IN THE ARCHAEOLOGICAL SURVEY OF INDIA. Of the five posts, one post is reserved for Other Backward Classes Candidates. **QUALIFICATION: ESSENTIAL: A. EDUCATIONAL: i)** Master's degree in Indian History/ Archaeology/Sanskrit/ Persian/Prakrit/Pali/Arabic/Anthropology with knowledge of Stone age Archaeology/ Geology with knowledge of Pleistocene Geology of a recognised University or equivalent. **ii)** Diploma in Archaeology from the ASI or equivalent. **iii)** 2 years research experience in Ancient or Medieval Indian History, Archaeology, Epigraphy, Museology, Architecture, or any study connected with the art and Architecture of India with specialisation in one or more of the following fields: a) Pre-history and Proto-History; b) Art and Architecture of Northern India (Early period) c) Medieval Monuments of Northern India and Deccan d) Art and Architecture of South India with special preference of Temples. **NOTE:** Candidates selected for the posts will, during the period of probation, be required to undergo training as per requirement of job prescribed by the Archaeological Survey of India and will be required to pass a Departmental examination before confirmation. **DUTIES:** To undertake Excavations, Explorations & Preservation of Monuments on Archaeological Principles, Preparation of technical reports on Monuments & Antiquities, Archaeological research in general and to assist the Superintending Archaeologist in running the Office. **HQ:** Liable to serve anywhere in India or abroad.

2. (Ref.No.F.1/358/2001-R-I) TWO ASSISTANT PROFESSORS OF RADIO-DIAGNOSIS, MINISTRY OF HEALTH AND FAMILY WELFARE, DEPTT. OF HEALTH, SPECIALIST GRADE-II (TEACHING SUB-CADE) OF CENTRAL HEALTH SERVICE. Of the two posts one post is reserved for OBC candidates. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL: i)** A recognised medical qualification included in the first or the Second Schedule or Part II of the Third Schedule (Other than Licentiate Qualifications) to the Indian Medical Council Act, 1956. Holders of educational qualifications included in Part II of the Third Schedule should also fulfil the conditions stipulated in sub-section(3) of Section 13 of the IMC Act, 1956. **ii)** Post Graduate degree qualifications in the concerned speciality i.e. M.D.(Radio-Diagnosis), DMRD or equivalent diploma of two years duration or equivalent. **B. EXPERIENCE:** At least three years teaching experience in the concerned speciality as Sr. Resident/ Tutor/Demonstrator/Registrar/Lecturer after the requisite post graduate degree qualifications. **NOTE-I:** The Medical qualifications possessed by the candidates should have the recognition of the Medical Council of India. **NOTE-II:** In so far as post graduate medical qualifications awarded by Indian Universities are concerned, they should also find a place in the Schedules to the Indian Medical Council Act, 1956, as amended from time to time. **NOTE-III:** Holders of speciality Board of USA qualifications should complete the entire requirements of the Board concerned. **NOTE-IV:** Teaching experience in any other posts like the post of GDMO/MO shall not be considered for eligibility purpose for recruitment to the teaching posts. **NOTE-V:** Persons who have done their MD or diploma in Radiology before 1985 will also be eligible to apply for the posts of Radio-Diagnosis/Radio-Therapy. **DUTIES:** To impart theoretical and practical instructions

to under graduate/post graduate medical students. To conduct and guide research work in the speciality. To provide patient care in the speciality. Any other duties that may be assigned by the authorities from time to time. **HQ:** JIPMER, Pondicherry but likely to serve anywhere in India. **ANY OTHER CONDITIONS:** (A) Private practice of any kind whatsoever shall not be allowed including any consultation and laboratory practice. (B) The candidates selected will, if so required, be liable to serve in any Defence Service, or post connected with the Defence of India for a period of not less than four years including the period spent on training, if any provided that: (i) he/she will not be required to serve as aforesaid after the expiry of 10 years from the date of appointment. (ii) he/she will not ordinarily be required to serve as aforesaid after obtaining the age of 45 years. **OTHER BENEFIT: BENEFIT OF ADDED YEARS OF SERVICE AS ADMISSIBLE UNDER RULE 30 OF CCS(PENSION) RULES IS APPLICABLE TO THE POST.**

3. (Ref.No.F.1/354/2001-R-I) TWO SPECIALISTS IN FORENSIC MEDICINE, MINISTRY OF HEALTH AND FAMILY WELFARE, DEPTT. OF HEALTH, SPECIALIST GRADE II OF CENTRAL HEALTH SERVICE (NON-TEACHING SPECIALIST SUB-CADE). Of the two posts one post is reserved for Other Backward Classes Candidates. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL: i)** Same as in Item No.2 at (i) above. **ii)** P.G. degree in the concerned speciality i.e. M.D.(Forensic Medicine), M.D.(Pathology), M.D./MRCP in Medicine with diploma in Forensic Medicine/diploma in medical Jurisprudence, Speciality Board of pathology (USA) or equivalent. **B. EXPERIENCE:** Three years experience in concerned speciality after obtaining post graduate degree. **NOTE: I to III:** Same as in Item No.2 above. **DUTIES:** To perform all duties required of a specialist in the concerned speciality. To perform various administrative duties may be assigned from time to time. Any other duties that may be assigned by the higher officers. **ANY OTHER CONDITIONS & BENEFIT:** Same as in Item No.2 above. Any Special Concession: For Andaman & Nicobar Admn. & Lakshadweep Admn.: a) Special compensatory allowance @ Rs.525-650/- p.m. b) Special Duty Allowance @ 25% of basic pay subject to a maximum of Rs. 400/- p.m.

4. (Ref.No.F.1/12/2002-R-I) TWO UROLOGISTS, MINISTRY OF HEALTH & FAMILY WELFARE, DEPARTMENT OF HEALTH, SPECIALIST GRADE II IN THE NON-TEACHING SPECIALIST SUB-CADE OF THE CENTRAL HEALTH SERVICE. Of the two posts, one post is reserved for Other Backward Classes Candidates. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL: i)** Same as in Item No.2 at (i) above. **ii)** Post Graduate degree in the concerned speciality i.e. M.Ch(Urology) or speciality Board of Urology(USA) or equivalent. **B. EXPERIENCE:** Three years experience in the speciality of Urology after obtaining the first Post Graduate Degree. **NOTE: I to III:** Same as in Item No.2 above. **NOTE-IV:** In the case of qualifications in Super-Specialities(M.Ch/D.M.) except in case of holders of D.M./M.Ch of 5 years duration, the holders should have obtained M.D. (Gen Medicine) or M.S(Gen Surgery) or an equivalent qualification as prescribed by said council in its recommendations on P.G. medical examination. **NOTE-V:** In the case of holder of D.M./M.Ch qualification of 5 years duration, the period of Sr P.G. residency rendered in last part of said D.M./M.Ch shall be counted towards

requirement of 5 years experience. **DUTIES, ANY OTHER CONDITIONS & BENEFIT:** Same as in Item No.3 above. Any Spl Conces for Andaman & Nicobar Admn.: a) Special compensatory allowance @ Rs.525-650/- p.m. b) Special Duty Allowance @ 25% of basic pay subject to a maximum of Rs. 400/- p.m.

5. (Ref.No.F.1/4/2002-R.III) ONE ASSISTANT DIRECTOR (LECTURER) IN NORTH EASTERN POLICE ACADEMY, MEGHALAYA, MINISTRY OF HOME AFFAIRS. **QUALIFICATIONS: ESSENTIAL: A) EDUCATIONAL:** Post Graduate Degree in Sociology/Psychology/Social Anthropology from a recognised University or equivalent. **B) EXPERIENCE:** Two years research/teaching experience in any of the subjects mentioned in EQ(A) above. **DESIRABLE:** Experience of teaching in Academic Institutions in North Eastern Region of India. **DUTIES:** To teach Behavioural Science, Sociology, Anthropology and allied subjects relating to Police functions to the Police Officers of the rank of Dy. SP to Sub-Inspectors attending Basic and Advanced courses and to perform other training and administrative duties that may be assigned by the Director, NEPA from time to time. **HQ:** North Eastern Police Academy, Meghalaya. **ANY SPECIAL CONCESSIONS:** Rent free accommodation is available duly connected with the facilities of light and water supply.

6. (Ref.No.F.1/296/2001-R.V) ONE SENIOR SCIENTIFIC OFFICER, GRADE-II (BALLISTICS) IN CENTRAL FORENSIC SCIENCE LABORATORY, CENTRAL BUREAU OF INVESTIGATION, MINISTRY OF HOME AFFAIRS. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL:** Master's degree in Mathematics or Physics or Chemistry from a recognised University or equivalent. **B. EXPERIENCE:** Three years' experience in Laboratory in fire arms and explosives. **DESIRABLE:** Doctorate Degree in Mathematics or Physics or Chemistry from a recognised University or equivalent. **DUTIES:** To examine firearms and explosive cases, visit crime scene under supervision of Head of Division (Ballistic). **HQ:** New Delhi with liability to serve anywhere in India.

7. (Ref.No.F.1/315/2001-R.III) ONE ASSISTANT DIRECTOR (GENERAL) IN NATIONAL CIVIL DEFENCE COLLEGE, NAGPUR, MINISTRY OF HOME AFFAIRS. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL:** Degree of a recognised University preferably in Science or equivalent. **B. EXPERIENCE:** Qualified in the Emergency Relief Officers or equivalent Courses at the Central Emergency Relief Training Instt (Now NCDC), Nagpur or similar Instt recognised by Govt of India and about two yrs exp as Emergency Relief Officer or Instructor in Emergency Relief. OR About four years service in the Defence Services as a Commissioned Officer. **DESIRABLE:** 1. Teaching experience. 2. Administrative experience. 3. Experience of conducting, demonstration/exercises. 4. Knowledge of Wireless Communications and First Aid. **DUTIES:** Instructions on Civil Defence Communications Relief Operations and any other work allotted by the Director from time to time. Responsible for proper maintenance of wireless sets and telephone equipment in the College. He will be the Mess Secretary and will supervise mess arrange mess meetings. Administrative duties as may be allotted by the Director from time to time. **HQ:** Nagpur, but liable to serve anywhere in India.

8. (Ref. No.F.1/321-2001-R.I) ONE DOCTOR (GDO) GRADE II IN DELHI JAL

BOARD, GOVT. OF NCT OF DELHI. The post is reserved for Other Backward Classes Candidates. **QUALIFICATIONS: ESSENTIAL: EDUCATIONAL: i)** Same as in Item No.2 at (i) above. **ii)** Completion of Compulsory rotating internship. **DESIRABLE:** Knowledge of Hindi. **DUTIES:** To attend the patients through Departmental Dispensaries. **HQ:** Delhi/ New Delhi. **ANY OTHER CONDITION:** Private practice of any kind whatsoever shall not be allowed.

9. (Ref.No.F.1/295/2001-R.III) ONE LECTURER (FOREIGN TRADE) UNDER DIRECTORATE OF TRAINING AND TECHNICAL EDUCATION, GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL:** At least Second Class Master's Degree in Commerce (with Foreign Trade as one of the subject) of a recognised University or equivalent. **B. EXPERIENCE:** About three years Teaching/Professional experience. **DESIRABLE:** Post Graduate Diploma/ Certificate in Foreign Trade. **DUTIES:** Teaching and allied duties. **HQ:** Delhi/New Delhi.

10. (Ref.No.F.1/146/2001-R.VI) FOURTEEN ASSISTANT ENGINEERS (CIVIL) IN ANDAMAN PUBLIC WORKS DEPARTMENT, ANDAMAN & NICOBAR ADMINISTRATION. Of the fourteen posts, one post(permanent) is reserved for Scheduled Tribe Candidates and remaining thirteen posts (six permanent and seven temporary) are unreserved. **QUALIFICATIONS: ESSENTIAL: A. EDUCATIONAL:** Degree in Civil Engineering of a recognised University or equivalent. **B. EXPERIENCE:** Two years professional experience in Civil Engineering. **DUTIES:** Supervision and execution of works of field unit, as per norms and standards laid down in designs, drawings and estimates. To achieve targets fixed by the Department successfully for completion of each project with due consideration for quality and economy and/or the proper maintenance of the buildings, structures, areas and equipments under his charge by implementation of the policies and general orders of the Department. Preparation of the Works Accounts and Stores Accounts, proper maintenance of stores and their accounts under his charge and weeding out unserviceable stores, inspection of buildings, structures, areas and equipment and record a certificate to that effect. **HQ:** A & N Island. **SPECIAL FEATURES OF RECRUITMENT TO THE POST OF ASSISTANT ENGINEER (CIVIL) APWD.** Depending upon the number of applications received in response to this advertisement for the post of Assistant Engineer (Civil), APWD, the Commission may hold a Recruitment Test at the following centres to short list candidates for interview. Centres: Delhi, Port Blair, Chennai, Kolkata, Allahabad, Mumbai and Dispur. The candidates have to indicate any one of the above mentioned centres in the Block Capitals (ROMAN SCRIPT) in the right hand side of the space provided for indicating the date of birth in figures but below the space provided for writing the MIDDLE NAME and SURNAME in Part I of the Application Form. Recruitment Test shall comprise of a 2 hour objective type question paper with multiple choices. The question paper shall cover all the core areas taught in a BE (Civil)/ B.Tech. (Civil) programme. The question will be set in English only. Use of calculators/slip/rulers/log tables is not permitted. The candidates have to send one copy of their duly signed recent

Continued

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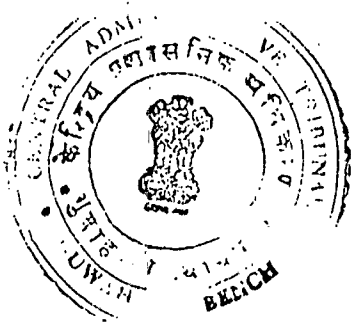
Annexure - 9

(RULE - 4)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 55/03
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /
Applicant (s) Sh. Swaroop Sharma
- Vs. -
Respondent (s) H.O. I. 9mm
Advocate for the applicant (s) V.M. Thomas
Advocate for the respondent (s) Case

Notes of the Registry	Date	Order of the Tribunal
	25.3.2003	<p>Heard Mr. V.M. Thomas, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by two weeks.</p> <p>Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents accepts notice on behalf of the respondents.</p> <p>As an interim measure, the respondents are directed to allow applicant to appear in the interview for the post of Asstt. Director (Lecturer), but the result is subject to the outcome of the application.</p> <p>List on 10.4.2003 for admission.</p>



Certified to be true Copy
प्रमाणित प्रतिलिपि

25/3/03

Section Officer (C),
Central Administrative Tribunal,
Guwahati Bench.

25/3/2003
Advocate

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

SL. No. 67

Annexure - 10

ORDER SHEET

Original Application No. 55/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) En. Swaroop Sharma

- Vs. -

Respondent (s) H.O. I. Jom

Advocate for the applicant (s) V.M. Thomas

Advocate for the respondent (s) Case

Notes of the Registry

Date

Order of the Tribunal

10.4.2003

Heard Mr. V.M. Thomas, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

The only relief, the applicant prayed for was to consider his case for selection for the post of Assistant Director (Lecture) in the North-Eastern Police Academy, Umiam, Meghalaya. It has now been stated that in view of the order passed on 25.3.2003, the applicant was allowed to appear in the interview held on 28.3.2003 and ^{that} the applicant was allowed to participate in the selection process.

Since the applicant secured the relief prayed for no further direction is necessary.

The application thus dismissed as infructious. No order as to costs.

Certified to be true Copy
সত্যি প্রমাণিত

28/5/03

Section Officer (A)
C.A.T. GUWAHATI BENCH
Guwahati-781005

28/5/03

Sd/VICE CHAIRMAN

Attested
Advocate

GOVERNMENT OF INDIA
NORTH EASTERN POLICE ACADEMY
UMSAW, UMIAM - 793 123
(MEGHALAYA)

No. NEPA/PF(A)/5/2003/Estt/

Dated: ____/June./2003

ORDER

Consequent upon the selection of Assistant Director (Lecturer) by the UPSC, vide their letter No.F.1/04/2002. R-III dt. 13/5/2003 & appointment of Ms Gehabati Chanambam as Assistant Director (Lecturer), vide this office Order No. NEPA/Appdt/AD(Lec)/5/99/Vol-I/1705-11 dt. 17/6/2003, the services of Shri Swaroop Sharma, who was appointed as Assistant Director (Lecturer) on ad-hoc basis for a period of 179 days w.e.f. 10/2/2003 (FN) to 7/8/03 (AN) vide this office Order No. NEPA/Appdt/AD(Lec)/5/99/Vol-I/6894-99 dt. 10/2/2003 is hereby terminated w.e.f. 13/6/2003 (AN), in terms of para 1 of said order.

sel/
(T. Pachuau, IPS)
Director

Mezao No. NEPA/PF(A)/5/2003/Estt/ *1718-26* Dtd. Umsaw, the *17* June, 03

Copy to: -

1. Shri Swaroop Sharma, Gauri Shankar, Kench's Trace, Shillong-04.
2. The Deputy Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi - 110 011 for infon pl,- w.r. to his letter No. F.1/04/2002-R.III dt. 13/5/2003.
3. The Dy. Secretary, Deptt. of DONER, Govt. of India, Vigyan Annexe, Maulana Azad Road, New Delhi - 110 011 for infon. Pl.
4. The Secretary, NEC, Shillong- for information, pl.
5. The RPAO (BI), Shillong - 03
- 6.. The Accounts Section, NEPA, Umsaw, Meghalaya
7. Personal File.
8. Office Order File.

[Signature]
(T. Pachuau, IPS)
Director



Attended

[Signature]

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 120 / 2003

Applicant: Shri Swaroop Sharma

-vs-

Respondents: U.O.I. & ors.

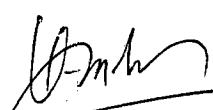
<u>Date</u>	<u>Order of the Tribunal</u>
7.7.2003	Heard Mr.V.K.Thomas, learned counsel for the applicant and also Mr.B.C.Pathak, learned Addl. C.G.S.C.

Mr.Thomas at the first instance submitted that he wants to withdraw the application because of formal defects and refile it after removing the defects. Mr.Thomas also submitted that a new cause of action has also emanated.

Under the circumstances the application is dismissed on withdrawal with liberty to refile it.

Sd/-

Vice-Chairman

Attested

Advocate

SWAROOP SHARMA

'GAURI SHAN KAR'
KENCH'S TRACE

SHILLONG - 4

Dt: 10/7/2003.

To,

The Director
North Eastern Police Academy
Unsaw, Umiam
Meghalaya.

Sub:- Letter No. NEPA/PF(A)/5/2003/Estt/ Dt. 17 June, 03
Terminating my services on Adhoc basis.

Sir,

With reference to the above letter Dt. 17 June, 03.

I would request you kindly to furnish me with a copy of the appointment letter of Ms Genabati Chanambam against the post of Assistant Director (Lecturer) in the North Eastern Police Academy.

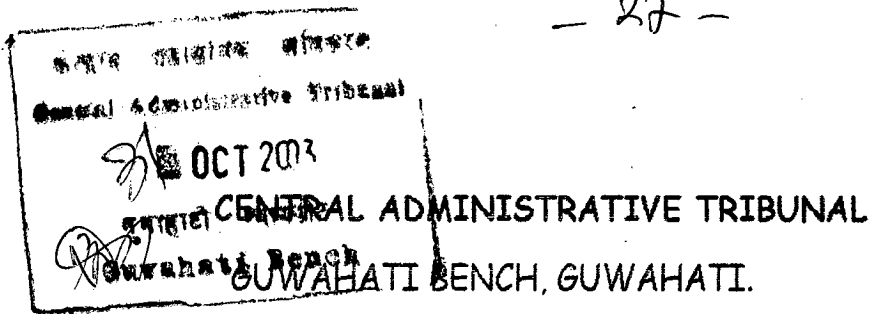
Thanking You

Yours faithfully

(SWAROOP SHARMA)

Accountant
N. E. Police Academy
Unsaw, Meghalaya

Attested
Advocate



Filed by
3/11/03
(A. DEB ROY)
Sr. C. C. S. C.
Guwahati Bench

O.A.NO.159/2003.

SHRI SWAROOP SHARMA

- APPLICANT

UNION OF INDIA

& OTHERS

- RESPONDENT

Reply on behalf of the Respondents No. 2 (UPSC).

I, ARUN KUMAR S/o Late Shri K. PRASAD aged 51 years working as Under Secretary in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi do hereby submit that I have read the application and that I am fully conversant with the facts and circumstances of the case and also I am competent to file this reply on behalf of the Respondent No. 2, I submit as stated hereunder :-

Preliminary Submission

The Union Public Service Commission (Respondent No.2) are a Constitutional Body established under Article 315 to 323 Chapter II Part XIV of the Constitution of India. The Constitution have enjoined upon them the solemn duty of making recruitment to all Civil Services and Posts under the Union Government. In the discharge of their Constitutional obligations, the Commission are vested with the power to devise their internal modes of functioning and procedures objectively and in a just and equitable manner in which reasonable

(ARUN KUMAR)
(ARUN KUMAR)
अवर सचिव
Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

classification of various applicants on the basis of their qualifications and experience is an integral part. These powers of the Commission for reasonable classification of applicants have been upheld by various Judicial authorities including the Hon'ble Supreme Court of India. In one of its rulings in Civil Appeal No.6103 of 1994 of Madhya Pradesh Public Service Commission Vs. Others, the Hon'ble Supreme Court has observed ".....In substance and reality, this process of short-listing is part of the process of selection. Once the applications are received and the Selection Board or the Commission applies its mind to evolve any rational and reasonable basis, on which the list of applicants should be short-listed, the process of selection commences. If with five years of experience an applicant is eligible, then no fault can be found with the Commission if the applicants having completed seven and half years of practice are only called for interview because such applicants having longer period of practice, shall be presumed to have better experience"

It is submitted that the Commission set in motion the process of recruitment by advertising the posts strictly in conformity with the notified recruitment rules framed under Article 309 of the Constitution of India.

(अरुण कुमार)
(ARUN KUMAR)
अवर सचिव
Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
अ-1 (अ.स.)/नया दिल्ली

Brief facts of the case

This case relates to the recruitment of one Assistant Director (Lecturer) in North Eastern Police Academy, Meghalaya, M/o Home Affairs. The post was advertised on 9.3.2002 with closing date as 28.3.2002. The post is unreserved. The age limit, pay scale, educational qualifications and experience prescribed for the said post was as under:-

Pay Scale: Rs.8000-275-13500/-

AGE: Not exceeding 35 years on normal closing date.
RELAXABLE FOR GOVERNMENT SERVANTS UPTO FIVE YEARS. For age concession applicable to some other categories of applicants, please see relevant paras of the 'Instructions to Candidates'.

Qualifications:

Essential:

A. Educational:

Post graduate degree in Sociology/Psychology/Social Anthropology from a recognised university or equivalent.

B. Experience:

Two years research/teaching experience in any of the subjects mentioned in EQ(A) Above.

Note: The qualifications are relaxable at Commission's discretion in case of candidates otherwise well qualified.

Desirable Qualification

Experience of teaching in Academic Institutions in North Eastern Region of India.

2. In response to the advertisement applications from 183 candidates (including 27 ST, 18 SC & 37 OBC candidates) were received and scrutinised. The applications of ST, SC & OBC candidates were treated at par with general candidates as the post is unreserved.

3. Since only one post was to be filled up, there was no point in calling all the 183 candidates for interview. Accordingly, on the basis of the Preliminary Scrutiny & shortlisting criteria approved by the Commission, 10 candidates were called for interview held on 28.3.2003 by the Interview Board under the Presidentship of Dr. S R Hashim, Hon'ble Member, UPSC. The petitioner's candidature was rejected as he was not in possession of two years of teaching experience in academic institutions in North Eastern Region of India as per the short listing criteria approved by the Commission. However, the petitioner was also interviewed in compliance of order of Hon'ble Tribunal, Guwahati Bench, Guwahati. One candidate was recommended for appointment to the above post. Recommendation Letter was issued on 13.5.2003. The petitioner was, however, not found suitable by the Interview Board to be recommended for the aforesaid post.

4. Parawise reply to the O.A. 159/2003 (Sh. Swaroop Sharma Vs U.I.O. & Others) is as follows :-

Para 1.to 4.16

No comments.

(अरुण कुमार)
(ARUN KUMAR)
अवर सचिव

Under Secretary

संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

Para 4.17

No comments as the para is concerned to R-3.

Para 4.18.

The para concerns R-4.

Para 4.19.

The statements are denied. The allegations made by the applicant are malafide and cast aspersions on the Commission, which is a constitutional body functioning objectively without any bias towards any candidate. It is submitted that the petitioner was interviewed in compliance of the order of Hon'ble CAT, Guwahati Bench along with other 10 candidates who were originally called by the UPSC for interview. Their performance was duly considered by the Interview Board. One candidate (Respondent No.5) was finally recommended by the Commission. The petitioner was not found suitable for being recommended to the post. The Commission recommends candidates to the extent of the number of posts and publishes the list of the recommended candidates in the 'Employment News' weekly. The recommendation letter was issued on 13.5.2003 and the result of the recruitment case was published in the Employment News dated 14.6.2003.

(अरुण कुमार)
(ARUN KUMAR)
अवर सचिव
Under Secretary
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

The petitioner's contention is that the post is filled by an OBC candidate though it is not reserved for any category. In fact, an unreserved post is open to all categories and may be filled by a candidate of any category whether general or ST/SC or OBC provided he/she fulfils the requirements of the post and is called for interview and in the interview he/she performs to the satisfaction of the Interview Board to be finally recommended for the post. In the instant case 6 ST, 3 OBC and 2 general (including the petitioner) were called for interview and the recommended candidate happens to be an OBC. The question of reservation of the post does not arise at all in this case.

It is submitted that the role of Ministerial Representative (Respondent No.4) is limited to apprising the Interview Board of the requirement of the post, service conditions, career prospectus etc. within the organisation and such other information as may be sought by the Board or the candidates. He does not participate in the actual process of the selection. Respondent No. 3 was not in the Interview Board. Neither respondent no. 3 nor respondent no. 4 has got any role in the selection of candidates. It is also submitted that there is no favoritism by the Interview Board in making selections. The Interview Board has on it one two or more expert Advisers who have the technical knowledge and expertise to assess the candidates. They are chosen and

(अरुण कुमार)

(ARUN KUMAR)

अवर सचिव

Under Secretary

सर्व लोक सेवा आयोग

Union Public Service Commission

14, Jawahar Road, Delhi.

appointed by the Commission for obtaining independent expert assistance and advice in assessing the performance of the candidate and his suitability for the post in question. They also assess the "potentiality" of the candidate. The Interview Board determines the broad pattern for the conduct of the interview. The Board also discuss the subject requirement of the posts so that the examination of every candidate is well directed and purposive. After the candidate is interviewed the President of the Board assigns marks to each candidate based on the advice given by the expert Advisers and on his own judgement regarding the performance of the candidate.

Para 4.20 and 4.21.

No comments. Matters of records.

Para 5.1.

The grounds for relief made by the petitioner in these paragraphs are baseless. Selections for the advertised post are made by UPSC strictly as per statutory rules and criteria devised by the Commission with prejudice to none. In this case also, the Commission have discharged their constitutional obligation with equity and fair play and there is no question, whatsoever, of being partisan towards anyone. As already stated, the Commission recommends the candidates to the extent of the number of posts and the list of recommended candidates is published in Employment News weekly.

(अरुण कुमार)
(ARUN KUMAR)
अवर सचिव
Under Secretary,
संघ लोक सेवा आयोग
Union Public Service Commission,
नई दिल्ली New Delhi.

Para 5.2 & 5.3.

The post is not reserved and is open to any category of castes. The candidate finally recommended by the Interview Board in this case happens to be an OBC candidate. The question of reservation does not arise at all.

Para 5.5 to 5.7.

As already stated neither the Respondent No.3 nor Respondent No. 4 has any role in the selection of candidates.

Para 5.6 & 5.7.

The statement is denied. The petitioner has got only one year teaching experience on a regular basis which is short of required two years experience as prescribed in the recruitment rules for the post. He was interviewed as per the directions of the Hon'ble CAT, Guwahati Bench. But the Interview Board has recommended another candidate. There is no malafide against the petitioner nor any favoritism towards any other candidate. It will not be right for the petitioner to consider himself as better suited than anyone else to be selected and appointed since this is a matter under the purview of the Interview Board. The recommendation made by the Commission is not arbitrary, unreasonable and contrary to the principle of service jurisprudence. It is also not violative of Article 14 of the Constitution of India.

Para 6 & 7.

No comments.

(अरुण कुमार)
(ARUN KUMAR)
अधिवक्ता
Under Secretary
संयुक्त लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

Para 8 & 9.

It is submitted that UPSC is a Constitutional body for making recruitment to all Civil Services and posts under the Union Government. In matters of direct recruitment where selection is based on interviews only, best available experts in the concerned field are roped in the Interview Boards for assessment of candidates' suitability. The President of the Board takes a wholistic view considering the advice of experts. The Interview Board finally recommends the most suitable candidate. It is submitted that the petitioner was duly considered by the Interview Board but was not found suitable for being recommended to the post. The Commission have discharged their duties and constitutional obligation in a just and equitable manner.

It is therefore prayed that the petitioner may not be granted the reliefs sought by him as this will tantamount to being prejudicial to other candidate recommended for the post. It is, therefore, prayed that the Hon'ble Tribunal may be pleased to dismiss the OA and to pass a suitable order against the petitioner.


DEPONENT

(अरुण कुमार)
(ARUN KUMAR)
अवर सचिव

Under Secretary

सर्व लोक सेवा आयोग
Union Public Service Commission
13, Jawahar Road, Delhi.

VERIFICATION

I, Arun Kumar, working as Under Secretary in Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi do verify and state that what is stated above is true to the best of my knowledge information and are based on record.



NEW DELHI :

DATE :

DEPONENT

(अरुण कुमार)

(ARUN KUMAR)

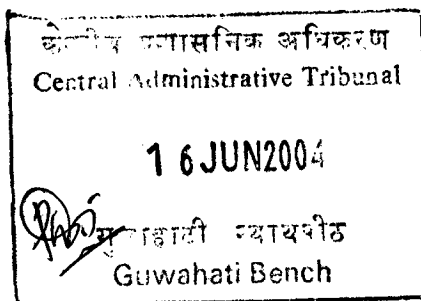
अवर सचिव

Under Secretary

यु. पी. एस. सी. आयोग

Union Public Service Commission

दिल्ली



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A.no. 159 / 2003

BETWEEN

Shri Swaroop Sharma ... Applicant

AND

Union of India & ors. ... Respondents

In The Matter Of:

A Rejoinder by the Applicant, to the
Written Statement filed on behalf of
the Respondent no.2 (UPSC).

Most Respectfully Sheweth:

1. That the Applicant preferred the instant O.A.no.159/2003 before this Hon'ble Tribunal challenging the appointment of the Respondent no.5 as Asstt.Director (Lecturer) in the North Eastern Police Academy, Umiam, Meghalaya, following an advertisement and interview conducted by the UPSC, and further praying for a direction ^{to} the the concerned Respondents to appoint him in the said post.

2. That a copy of the Written Statement filed on behalf of the Respondent no.2 (UPSC) was served on the Applicant's Counsel. The Applicant has perused the same and has understood the contents thereof, and accordingly begs to file this rejoinder thereto.

3. That with regard to the statements made in para 3 of the W.S. the Applicant begs to state that as per the Advertisement the required qualification was EITHER 2 years' research experience OR 2 years' teaching experience. It is stated that the Applicant had 2 years' research experience; but it is evi-

Contd - 2

[Signature]
Swaroop Sharma

- 2 -

dent from the statements made in the said para 3 of the W.S. that the Applicant's research experience was totally overlooked and ignored by the Interview Board. As regards the desirable qualification, viz. 'Experience of teaching in Academic Institutions of North Eastern Region', the Applicant states that he had that qualification as he had been teaching in the N.E. Police Academy itself and that too in the very same post for which the selection was being held. As such, the Applicant was better qualified than the Respondent no.5 and there could be no valid reason for rejecting the Applicant's candidature nor for finding him unsuitable for being recommended for the post, nor was there any justification in holding that the Respondent no.5 was the best suited for the post. The Applicant craves leave to annexe herewith the copy of the appointment order of the Respondent no.5 dt.17th June '03 which could not be annexed with the original application.

A copy of the appointment order dt 17th June 2003 is annexed hereto as ANNEXURE - A.

4. That with regard to the statements made in para 4 of the W.S. the Applicant denies that simply because the UPSC is constitutional body its actions cannot be criticised or called in question before Courts of Law. Constitutional Bodies are also made up of human beings who are liable to commit errors or may be influenced by bias or prejudices. Hence any aggrieved person may question their acts and omissions before competent courts of law. This is what the Applicant has done in the instant case. Accordingly the Applicant humbly begs to reiterate the statements made in para 4:19 of the original application.

Contd - 3

Swaroop Sharma

5. That the Applicant further begs to state that it is evident also from the statements made in the W.S. at page 8 thereof that the Research Experience of the Applicant was totally overlooked by the Interview Board thereby causing prejudice to the Applicant.

6. That the Applicant begs to state that as regards teaching experience, the Interview Board had considered and noted that the Applicant had three years' experience. The Applicant had started teaching in the N.E. Police Academy on 15-12-98 and as on the date of interview he was still teaching there. The gap period was caused due to the illegal action of the Academy authorities in replacing the Applicant's ad-hoc service by appointing another person, again on ad-hoc basis.

7. That the Applicant begs to state that Shri Arun Kumar, Under Secretary in the UPSC, who has verified and signed the W.S. was not a member of the Interview Board. Hence it necessarily follows that he had no personal knowledge of the matter and as such, the UPSC ought to produce the relevant records before this Hon'ble Tribunal in support of the statements made in the W.S.

Contd - 4

Swaroop Sharma

Verification

I, the Applicant, Shri Swaroop Sharma, son of Shri D.C.Sharma, aged about 32 years, resident of 'Gauri Shankar', Kench's Trace, Shillong - 793 004, do hereby verify that the statements made in the Rejoinder in paras

2, 3, 5 and 6 are true to my knowledge,

those made in paras 1 are true to my in-

formation based on records and those made in paras 4

and 7 are my humble submissions based on legal advise.

And I sign this Verification on this 27th day of January, 2004 at Guwahati.


Signature

- 91 -
Annexure - A ✓

6

GOVERNMENT OF INDIA
NORTH EASTERN POLICE ACADEMY
UMSAW, UMIAM - 793 123
(MEGHALAYA)

No. NEPA/Appt/AD(Lect)/5/99/Vol.I/1705-II

Dated: 17th June, 2003

ORDER

Consequent upon her selection by the UPSC, vide their letter No. F.1/04/2002-R.III dt. 13/5/2003. Ms Gehabati Chanambam is hereby appointed as Assistant Director (Lecturer) in the scale of Rs 8000-275-13,500/- p.m. plus other allowances as admissible from time to time in the establishment of NEPA, Umsaw, Umiyam, Meghalaya, with effect from the afternoon of 13/06/2003.

Her Headquarter will be NEPA, Umsaw, Umiyam, Meghalaya.

The appointment is purely temporary and her services may be terminated by giving one month's notice from either side.

600/2
(T. Pachuau, IPS)
Director


Memo No. NEPA/Appt(AD Lec)5/99/Vol-II/1705-II Dtd. Umsaw, the 17th June, 03

Copy to: -

1. Ms Gehabati Chanambam, Asstt. Director (Lecturer), NEPA, Umsaw, Megh
- ✓ 2. The Deputy Secretary, UPSC, Dhoolpur House, Shahjahan Road, New Delhi - 110 011 for info. pl. - w.r. to his letter No. F.1/04/2002-R.III dt. 13/5/2003.
3. The Dy. Secretary, Deptt. of DONER, Govt. of India, Vigyan Annexe, Maulana Azad Road, New Delhi - 110 011 for info. Pl.
4. The Secretary, NEC, Shillong - for information, pl.
5. The RPAO (BI), Shillong - 03
6. The Accounts Section, NEPA, Umsaw, Meghalaya
7. A. Personal File.
8. Office Order File.

(T. Pachuau, IPS)
Director

CERTIFIED TO BE
TRUE COPY


Advocate