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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

halis
17.11.17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 173/103

Misc Petition No: /

Contempt Petition No: /

Review Application No: /

Applicants: Gharashyam Mahanta

Respondents: h. o. f. firms

Advocate for the Applicants: Mr. S. Samra, Miss U. Das

Advocate for the Respondents: C.A.C.

Notes of the Registry	Date	File	Order of the Tribunal
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Received from the Registry	14.8.2003	bb	List the case on 5.9.2003 for admission.
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Vice-Chairman

Dated	17.7.03 <i>Deb Roy</i> <i>Dy. Registrar</i>	5.9.2003	Put up again on 12.9.2003 in presence of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.
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Vice-Chairman

12.9.2003 <i>Deb Roy</i>	Present is The Hon'ble Sri K.V. Prahaladan, Member (A).
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List again on 31.10.2003 to enable the Respondents to file written statement.

K.V. Prahaladan
Member

No written statement has been filed.

*230
30-10-03*

31.10.2003 Put up again on 8.12.2003 to enable the respondents to file written statement.

Vice-Chairman

mb

19.12.2003 Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

The application is admitted, call for the records.

List on 29.1.2004 for orders.

Pl. copy order
dated 19/12/03

NS
19/12/03

Notice & order dt. 19/12/03,
sent to D/Section for
issuing to the respondents
No. 1 to 3, vide memo No. 19/2.04
dated 26/12/03. 2474 to 2476
dated 28.12.03.

ICV Prabhash
Member (A)

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

List on 25.3.04 for order.

No. W.O.s has been
filed.

pg

25.3.2004 On the plea of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents, four weeks time is granted to the respondents to file written statement. List on 24.4.2004 for order.

ICV Prabhash
Member

22.4.04

W.O.s submitted
by the Respondents.

Pl:

No rejoinder has
been filed.

Pl
12.5.04

mb

bb

23.4.2004 Written statement has been filed. Two weeks time is given to the applicant to file rejoinder on the plea of counsel for the applicant. List on 10.5.2004 for orders.

ICV Prabhash
Member (A)

18.5.2004 List on 28.5.2004 for hearing.

WB has been
billed.

28
28.5.04

mb

AC Deb Roy
Member (A)

12-8-04
Wts - for hearing - 877er

DR

28.5.2004 Since Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents is on leave, list on 29.6.2004 for hearing.

AC Deb Roy
Member (A)

mb

13.8.2004 On the plea of counsel for the applicant, the case is adjourned. List again on 14.9.2004 for hearing.

AC Deb Roy
Member (A)

mb

22.9.04 Heard 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.

Received order
dated 22/9/04.

AS
23/9/04

29.9.04

pg

R
Vice-Chairman

Copy of the order
has been sent to the
Office for issuing
the same to the applicant
as well as to the
R.C.G.S.C. for the
respective.

AS
29/9/04

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 173 of 2003.

DATE OF DECISION 22.9.2004.

Sri Ghanashyam Mahanta APPLICANT(S)

Sri S. Sarma ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India & Ors. RESPONDENT(S)

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

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

THE HON'BLE MR.

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. 173 of 2003.

Date of Order : This the 22nd Day of September, 2004.

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

Sri Ghanashyam Mahanta,
Resident of village - Moharia,
P.O. Koniha, Dist. Kamrup

... Applicant

By Advocate Sri S.Sarma.

- versus -

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

2. The Chief Postmaster General,
Assam Circle, Meghdoott Bhawan,
Guwahati-1.

3. The Senior Superintendent of Post Offices,
Department of Posts,
Guwahati-1.

... Respondents.

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

O R D E R

R.K.BATTA, J (V.C)

Heard Mr S.Sarma, learned counsel for the applicant
and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.

On merits, the applicant does not have any case since
the applicant has not been able to place any record to show
that he continued working after August 1986. The learned
counsel for the applicant states that representations made
by the applicant were not considered. The respondents have
taken stand in their written statement that no such represen-
tations were received by them. Learned counsel for the
applicant states that applicant would be satisfied if
direction is issued to consider fresh representation,

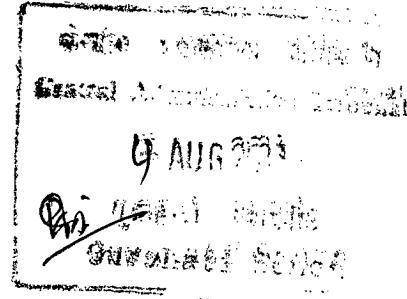
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which will be filed by the applicant, to the appropriate
which may be disposed authority in accordance with rules and regulations applicable
in that behalf.

In view of the above, the application can be disposed of with a direction to the respondents that if any fresh representation is filed by the applicant within a period of six weeks from today, the appropriate authority shall consider the said representation in accordance with rules and regulations applicable in that behalf and pass appropriate orders thereon within a period of 3 months from the date of receipt of such fresh representation.

The application stands disposed of in the aforesaid terms.

R
(R.K.BATTA)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 173 of 2003

Shri Ghanashyam Mahanta

..... Applicant.

-VS-

Union of India & ors.

..... Respondents.

LIST OF DATES

1. 03/05/86 Certificate issued by the Sub-Post Master.
2. 07/07/97 Representation preferred by the applicant.
3. 06/08/2002 Representation preferred by the applicant.

Filed by
the applicant Through
Kulha Das
Advocate &
16/7/03

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 173 of 2003

BETWEEN

Shri Ghanashyam Mahanta

Applicant.

AND

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

I N D E X

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Filed by : *Alsha Das*

Regd. No. :

File No: 1WS7\GHANASHYAM

Date

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A. No. 173 of 2003

BETWEEN

Sri Ghanashyam Mahanta
Resident of village - Moharia
P.O. - Koniha, Dist. - Kamrup

..... 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
Department of Posts,
Guwahati-1

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is not made against any particular order but has been made against the action of the respondents in not considering his case for regular absorption in terms of various circulars and OM's issued in this regard.

1
Ghanashyam Mahanta

Filed by
the applicant through
Ghosh Das -/o
Advocate
16/7/03

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period 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 citizen of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant hails from a very poor family and in search of job he had to abandon his further studies after completion of his studies upto class-IX. In search of the job the applicant placed his candidature before the Respondent No.3 in the year 1985 and the Respondent No.5 considering his case appointed him as a daily rated mazdoor in the Kharghuli Post Office. In the said capacity the applicant continued to perform his duty till April 1986.

A copy of the certificate issued by the Sub-Post Master is annexed herewith and marked as Annexure-1.

4.3. That the applicant in the month of April 1986 was issued with an order of transfer and he was directed to report for duty in Uzan Bazar Post Office in the same capacity. The applicant accordingly resumed his duty w.e.f. 5.5.1986. His such employment continued till 11.8.1986 and thereafter his service was discontinued.

A copy of the certificate issued by the Sub-Post Master, Uzanbazar, P.O. is annexed herewith and marked as Annexure-2.

4.4. That the applicant after discontinuation of his service visited the office of the respondent No.3 and the respondent No.3 allowed him to continue as daily rated Mazdoor with artificial break. The respondents allowed him to work even as part-time worker but his such employment continued only for 89 days for a single spell. The respondents as such allowed him to continue till 1997 and thereafter for about 6 months he was never offered any such employment. Situated thus the applicant preferred a representation to the respondent No.3 with a prayer to regularise his service temporary status and regularisation.

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A copy of the said representation dated 7.7.1997 is annexed herewith and marked as Annexure-3.

4.5. That on receipt of the representation the respondents never engaged him since January 1997. The applicant thereafter made several representations to the authority concerned for consideration of his case but

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yielded no result in positive. The applicant subsequently came to know that under the respondent No.3 number posts have been sanctioned by the Ministry concerned and the respondents are now filing up those posts by fresh candidate without taking into consideration the case of the applicant. It is pertinent to mention here that the applicant anticipating those vacancies preferred representation placing his candidature but same yielded no result in positive before this Hon'ble Tribunal seeking regularisation of his service.

A copy of the representation dated 6/8/2002 is annexed herewith and marked as Annexure-4.

4.6. That the applicant begs to state that his case for grant of temporary status and regularisation is covered by the scheme qualification. It is noteworthy to mention here that persons junior to him have been granted with temporary status and by now they are holding regular group-D posts. However, in case of the applicant the Respondents have not taken any steps for grant of temporary status and subsequent regularisation. The applicant preferred number of representation but same yielded no result in positive. The applicant even visited the office of the respondent No.3 but in absence of any direction from this Hon'ble Tribunal they placed their helplessness in considering his case. Hence, this application seeking an appropriate direction towards the respondents for consideration of his for grant of temporary status under the scheme alternatively to consider his case for regular absorption any group-D vacancy or BDS Posts.

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to details.

4.7. That this application has been bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in not considering the case of the applicant for grant of temporary status under the scheme or his regular absorption against any Group-D or GDS Posts an as such same are liable to be set aside and quashed.

5.2. For that the higher authority of the respondents now have sanctioned number of Group-D and GDS posts under the respondent No.3 and accordingly the applicant placed his candidature as a departmental candidate but the respondents have not considered his case and as such appropriate direction need be issued towards the respondents for consideration of his case.

5.3. For that the applicant fulfills all the required qualification as described in the scheme and as such the respondents are duty bound to consider his case and to grant him the benefit of the scheme.

5.4. For that the respondents have acted illegally in not responding to his representation and as such appropriate direction need be issued towards the respondents to dispose of the representation with speaking order.

5.5. For that the respondents have acted contrary to the settled proposition of law discriminating in the matter

of employment by regularisation of the services of the juniors ignoring his case which is violative of Article 14 and 16 of the constitution of India.

5.6. 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.

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

Shanaz Begum m/s/

and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to direct the respondents to extend the benefit of the scheme to the present applicant and thereafter to regularise his service with retrospective effect with all consequential service benefits.

8.2. To direct the respondents to consider the candidature of the applicant for appointment in any Group-D or GDS Posts.

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 order for reinstatement in any Group-D or GDS Posts.

10.

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

1. I.P.O. No. : 86491 392
2. Date : 17/7/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

Chiragshankar Mahanta

VERIFICATION

I, Sri Ghanashyam Mahanta, aged about 33 years, son of late Santiram Mahanta, resident of Mohoria, P.O. Koniha, P.S. Kamalpur, Dist. Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 1, 4, 5, 4, 7, 4, 5 to 12 are true to my knowledge and those made in paragraphs 4, 2, 4, 3, 4, 4, 4, 5 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 16 day of July of 2003.

Ghanashyam Mahanta

Signature.

TO WHOM IT MAY CONCERN.

KHARGHULI

781004

ANNEXURE - 1

CERTIFIED that Shri Ganeshyan Mahant a son of late Banti Ram Mahant of village Mahaxia P.S. Kamalpur under Ranchi District was working at Kharghuli post office on salary basis with effect from April 1985 to Apr 11 1986.

He has sincere and punctuality and during his working period his character and conduct were good.

I wish him all success in his life.


Ganeshyan Mahant
Kharghuli, 6 April 1986.

3/5/86

Attested
V. D. D.

Advocate.

TO WHOM IT MAY CONCERN

This is to certify that Sri Ghanashyam Mahanta,
S/o Late Santiram Mahanata, Vill Maharia, P.O. Kaniha,
P.S. Kamalpur, District Kamrup was working as daily wage
basis from 5-5-86 to 11-8-86 as per this office records. He
was sincere and obedient staff.

I wish him success in life.

*Sub-Postmaster, A.M.B.A.T.S.K.B.
Dranbazar Post Office
Guwahati*

*Atul
Nath
Advocate.*

To,
The Chief Post Master General
Assam Circle, Meghdoott Bhawan
Guwahati-1

Date: 7/7/1997

Sub:- Regularisation of my service in Group D Post under scheme.

Sir,

With due respect I beg to state that I got my appointment at Kharghuli Post Office as daily wage mazdoor w.e.f. April'85 to April'86. Thereafter I have been offered time to time with some break.

Sir, as per the scheme I am eligible for grant of temporary Status and thereafter subsequent regularisation. But unfortunately, I have not been made temporary Status Mazdoor.

Sir, I request your Goodself to consider my case for temporary Status and appoint me in my Group-D Post.

Ghanashyam Mahanta

Your's faithfully

Ghanashyam Mahanta
Resident of Village-Mohoria
P.O.-Koniha,
Dist. Kamrup

*Arrested
V.S. on
Advocate*

To,
The Chief Post Master General
Assam Circle, Meghdoot Bhawan
Guwahati-1

Date: 6/8/2002

Sub:- Regularisation of my service in Group D Post under scheme.

Sir,

With due respect I beg to state that at present there are several posts are lying vacant in Guwahati Division and in this regard various advertisement have also been issued.

Sir, I am an ex-casual group-D employee and as a departmental candidate my candidature against any Group-D or GDS Posts may be accepted. Accordingly I may be allowed to submit my biodata.

Sir, I hope that I may be allowed to participate in the interview which will be held shortly.

Ghanashyam Mahanta

Your's faithfully

Ghanashyam Mahanta
Resident of Village-Mohoria
P.O.-Koniha,
Dist. Kamrup

*Attested
by
Advocate*

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 APR 2004

Guwahati Bench
Guwahati - 781001

- B -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

Pl. Dk. / Sub. Dk. / Sub. Dk. / Sub. Dk.
22/4/04
A. D. D. R. O. P. /
Sr. C. G. S. C. /
C. A. T. / Guwahati Bench
Bench Secretary, Assam, Guwahati - 781001
Guwahati Bench, Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001
22

O.A. NO. 173 OF 2003

Shri Ghanashyam Mahanta.

..... Applicant
- Vs -

Union of India and Ors.

..... Respondents

In the matter of :

Written Statement submitted by
the Respondents.

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

(BRIEF HISTORY OF THE CASE)

There is no records and orders show that the applicant
(Shri Ghanashyam Mahanta) work^{ed} as Daily rated Mazdeer at
Kharghuli Post Office from April, 1985 to April, 1986 and from
5.5.1986 to 11.8.1986 at Uzambazar Post Office. There is a
provision in the Department that short term vacancy like Group D/
Postman is manned by Extra Departmental Agents now called
Gramin Dak Sevak Staff and not by the outsider. The order of
engagement in short term vacancy is issued by the Asstt. Supdt.
of Post Offices, Guwahati Sub Division, Guwahati and not by

Contd.

-2-

the respondent. The applicant is an outsider and engaging him as daily rated mazdoor in short term vacancy does not arise. The certificates marked as Annexure-I and II are irregular as these certificates were issued by the officials (since been retired from service) having no authority and base. By producing the irregular certificates the applicant tries to get the undue privileges of the Department.

PARAWISE COMMENTS :

1. That with regard to the statement made in para 1, of the application the respondents beg to state that there is no order and records to show that the applicant works ever. As daily rated mazdoor and work as such under the respondent.
2. That with regard to paras 2, 3 and 4.1, of the application the respondents beg to offer no comments.
3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that the statement made in para is denied. The respondent did not receive any application for engaging him as a daily rated mazdoor at Kharghuli Post Office. There is also no record to show that the applicant was engaged as daily rated mazdoor till 1986 at Kharghuli PO or any or any other place. Moreover the certificate marked as Annexure-1 produced by applicant can not be granted by the Sub Postmaster, Kharghuli who is not competent to issue such certificate.

Copy of the certificate is annexed herewith and marked as Annexure -1.

-3-

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the applicant's claim is not correct. There is no records to show that the applicant worked at Uzambazar Post Office. Moreover the certificate (Annexure-II) produced by applicant can not be granted by the Sub Postmaster, Uzan Bazar as he is not competent to issue such certificate.

A copy of the certificate is annexed herewith and marked as Annexure -II .

5. That with regard to the statement made in para 4.4, of the application the respondents beg to state that the applicant is not correct. The applicant stated that respondent allowed him to continue as daily rated mazdoor for 89 days for a single spell with artificial break and continue till 1997. The applicant failed to pin point the particular name of the post and office where the applicant worked till 1997 and failed to enclose the copy of order of the appointing authority. As no records show that the applicant work as daily rated mazdoor, so regularization of service in temporary status of the applicant does not arise.

6. That with regard to the statement made in para 4.5, of the application the respondents beg to state that no representation was received from the applicant in the matter of engaging him any post under the respondent.

-4-

7. That with regard to the statement made in para 4.6, of the application the respondents beg to state that the applicant's claim is not tenable as there is no record show that applicant works daily rated mazdoor. So the question of granting temporary status does not arise.

8. That with regard to the statement made in para 4.7, of the application the respondents beg to state that the applicant has no merit and liable to be dismissed.

9. .. That with regard to the statement made in para 5.1, of the application the respondents beg to state that the question of considering the case of the applicant for granting temporary status does not arise as no records show that the applicant work as daily rated mazdoor.

10. That with regard to the statement made in para 5.2, of the application the respondents beg to state that no records show that applicant work as daily rated mazdoor under the respondents.

11. That with regard to the statement made in para 5.3, of the application the respondents beg to state that the applicant's statement is not correct and as the applicant did not work the question of disposing of representation does not arise.

12. That with regard to the statement made in para 5.4, of the application the respondents beg to state that the applicant did not work as daily rated mazdoor under the res-

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receivdebts, so the question of dispesing of representation does not arise.

13. That with regard to the statement made in para 5.5, of the application the respondents beg to state that the respondent did not act contrary to law or violated the Article of 14 and 16 of the Constitution of India.

14. That with regard to the statement made in para 5.6, of the application the respondents beg to state that it did not do any impugned action. Hence the statement of the applicant is not based on fact.

15. That with regard to paras 6 & 7 of the application the respondents beg to offer no comments.

16. That with regard to the statements made in paras 8 to 8.4, of the application the respondents beg to state that ^{/the} ground and reasons stated above the application has no merit and liable to be dismissed.

17. That with regard to para 9, of the application, the respondents beg to state that the above stated reasons interim order prayed for by the applicant is unreasonable and liable to be rejected.

Under the circumstances and facts stated above it is stated that the application is devoid of any merit. And it is prayed that the same may kindly be dismissed at the stage of admission.

Verification.....

-6-

VERIFICATION

I, Son Ramchand PS, SSPOS, Guwahati
Postal Dr. Guwahati, is, being authorised
do hereby solemnly affirm and declare that the statements made
in this written statement are true to my knowledge and infor-
mation and I have not suppressed any material fact.

Declarant:

Son Kamer
वरिष्ठ अधीक्षक, डाकघर
गुवाहाटी मंडल, गुवाहाटी - 781001
Sr. Supdt. of Post Offices
Guwahati Div., Guwahati-781001

TO WHOM IT MAY CONCERN.

KHARGHULI

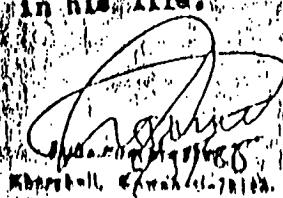
781004

28
POST

Om Shri Mahadev Shri Mahadevshayam Mahadev
Son of Late Banti Ram Majumdar of village Mahadev
P.S. Kharagpur under Kharagpur District was working at
Kharagpur office as a Peon. I have been in touch with
effect from April 1985 to April 1986.

He has in looks and in character
during his working period his character and
conduct were good.

I wish him all success in his life.


S. K. Majumdar
Kharagpur 721302
West Bengal

3/5/86

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9

TO WHOM IT MAY CONCERN

This is to certify that Sri Ghanashyam Mahanta,
S/o Late Santram Mahanta, VIII Mahara, P.O. Kaniha,
P.S. Kamalpur, District Kamrup was working as daily wage
basis from 5-5-86 to 11-8-86 as per this office records. He
was sincere and obedient staff.

I wish him success in life.

[Signature]
17/8/86
Sub-Postmaster
UZAMBAZAR
Uzambazar Post Office P. O.
Guwahati - 781001