

501/00  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

3/1/17

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

ORDERS SHEET

Original Application No. 27/2005

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Jahan Ali

Respondents: The Union of India 2005

Advocates for the Applicant: M. A. Sheikh, M. Rahman, M. H. Choudhury

Advocates of the Respondents: C.G.S.C, A.S. Choudhury, I. Hossain for

Report No. 5

Order of the Tribunal

Notes of the Registry

Date

10.2.05.

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

Hon'ble Mr. K. V. Prahadan, Adminis-  
 trative Member.

Mr. M. A. Sheikh learned counsel  
 for the applicant is present.

On perusal of O.A. we are  
 satisfied that it is a fit case for  
 issue notice, that If any appointmen-  
 t is made to the post of Branch Post-  
 Master in pursuant to the Notifica-  
 tion dated 7.12.04 and 27.12.04, the  
 shall abide the outcome of the  
 present O.A..

List on 10.3.05.

(C.R. Sivaranjan  
 Member (A))

(K.V. Prahadan  
 Member (J))

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

23/2

9-3-05  
 S/2 cartho.

AS

lm  
 10.3.05.

Present: Hon'ble Mr. Justice G.  
 Sivarajan, Vice-Chairman  
 Hon'ble Mr. K. V. Prahadan  
 Member (A)

In this application the 5th  
 Respondent No. 5 has entered ap-  
 pearance through advocate. The  
 learned counsel for the responder  
 submits that the Respondent No. 5  
 earlier filed O.A. No. 23 of 05  
 contd/-

10.3.05.

Notice duly  
Served on  
resp. Nos-4,5.

22/3

which is posted to 6th April, 2005.  
Hence this case be listed on 6.4.05.  
The other respondents in O.A. No. 27 of  
2005 as also respondents in the connected  
O.A. will file their written statement  
within that time. Post the matter  
on 6.4.05. for hearing.

K.V.Prahlad  
Member

2/4/05  
Vice-Chairman

1m

31.3.05

6.4.2005

W/C filed by  
the Respondent No. 1 to 4.

3/4/05

W/C filed by the Respondent No. 5.

W/C filed by the  
Respondent No. 5. bb

12.4.2005

Present : The Hon'ble Mr. Justice G.

Sivarajan, Vice-Chairman.

The Hon'ble Mr. K.V.Prahladar  
Administrative Member.

## The xxappx

Heard learned counsel for the  
parties. The application is disposed of  
in terms of the order passed in separate  
sheets.

K.V.Prahlad  
Member (A)2/4/05  
Vice-Chairman

Received  
Mustakim Rahim  
Advocate  
6-5-05

copy of the judgment

handed over to the  
Adv. of C.G.S.C for the  
Respondent.

S/

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application Nos. 23/2005, 27/2005 and 32/2005

Date of Decision: This the 12<sup>th</sup> Day of April, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.  
The Hon'ble Sri K.V. Prahladan, Administrative Member.

1. O.A. No. 23/2005

Elias Rahman  
Village - Chirakuti  
P.O. - Chirakuti  
P.S: Chapar  
District - Dhubri.

... Applicant

By Advocates Sri A.S. Choudhury, Mr. I. Hussain, Sri R. Ali.

- Versus -

1. The Union of India,  
Through the Secretary, Ministry of Communication (Post),  
Government of India, New Delhi.
2. The Chief Post Master General,  
Assam Region, Meghdoot Bhaban  
Guwahati - 1.
3. The Superintendent of Post Offices,  
Goalpara Division,  
P.O. & District - Dhubri.

By Ms. U. Das, Addl. C.G.S.C.

2. O.A. No. 27/2005

Johan Ali  
S/o Late Aburuddin Sk.  
R/o Ward No. 4, Gauripur,  
P.O. & P.S. Gauripur,  
District - Dhubri (Assam).

... Applicant

By Advocates Sri M.A. Seikh, Sri M. Rahman, Sri I. Ahmed.

## - Versus -

1. The Union of India, represented by the Secretary to the Government of India, Department of Communication, New Delhi.
2. The Director of Postal Services, New Delhi.
3. The Chief Post Master General, Assam Circle, Meghdoot Bhaban, Guwahati.
4. The Supdt. of Post Officers, Goalpara, Division, Dhubri, District Dhubri (Assam).
5. Elias Rahman, son of Ibrahim Khalil, Village & P.O. - Chirakuti, P.S. - Chapor, District - Dhubri (Assam).

... Respondents

By Ms. U. Das, Addl. C.G.S.C.

3. O.A. No. 32/2005

Abdur Rahim  
 Son of Samad Ali  
 Village - Chiracuta,  
 P.O. - Ghirasuti,  
 P.S. - Chapor,  
 District - Dhubri, Assam

... Applicant.

By Advocates Sri M.U. Mandal, Sri M.H. Barbhuyan,  
 Sri Z. Hussain.

## - Versus -

1. The Union of India, represented by the Secretary to the Govt. of India, Department of Communication, New Delhi.
2. The Director of Postal Services, The Post Master General, Assam, Meghdoot Bhawan, Guwahati.
3. The Superintendent of Post Office, Goalpara Division, Dhubri, District - Dhubri, Assam.

4. The Inspector of Posts,  
Dhubri Sub-Division, Dhubri

... Respondents.

My Ms. U. Das, Adl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J. (V.C.)

Applicants in all the three O.As were applicants for the posts of GDS BPM of Chirakuti EDBO pursuant to the Notification No B3/350/Chirakuti dated 20.6.2003 (Annexure - 3 in O.A. No. 27/2005). Altogether there were 15 applicants. After conducting the selection process Mr. Elias Rahman, the applicant in O.A. No. 23/2005 (5<sup>th</sup> Respondent No. O.A. No. 27/2005) was selected and appointed as GDSBPM of Chirakuti EDBO as per order dated 10.12.2003, followed by order dated 17.12.2003 (vide Annexures 6 and 7 to O.A. No. 23/2005). This was challenged by Mr. Abdur Rahim the applicant in O.A. No. 32/2005 before this Tribunal by filing O.A. No. 287/2003. The applicant in O.A. No. 23/2005 was the 5<sup>th</sup> Respondent in the said O.A. whereas the applicant in O.A. No. 27/2005 was not party. He filed another O.A. No. 311/2004 challenging the very same order. A Division Bench of this Tribunal to which one of us (Hon'ble Sri K.V. Prahladan, Administrative Member) was a party dismissed O.A. No. 287/2003 by order dated 23.09.2004 (Annexure - 13) by upholding the selection and appointment of the applicant in O.A. No. 23/2005 and the order has become final.

2. While the matter stood thus the 4<sup>th</sup> Respondent in O.A. No. 27/2005 has decided to cancel the entire selection process and directed the 4th Respondent therein to implement the same vide Order dated 07.12.2004 (Annexure - 11).

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Accordingly the 4<sup>th</sup> Respondent issued proceedings dated 27.12.2004 (Annexure - 12 in the said O.A.) canceling the selection.

3. When O.A. No. 311/2004 came up for consideration on 19.01.2005 the Tribunal noted the challenge made in O.A. No. 287/2003 and its dismissal as also the cancellation of the selection made as per the above two orders. It was thereafter observed that the applicant may have to challenge the decision to cancel the selection process for which the applicant will have a separate cause. It was further observed thus "He may, if advised, file appropriate application in view of the cancellation of the selection process and we grant liberty for filing such application, in case, the applicant is so advised". The application was disposed of with the above observation at the admission stage.

4. Pursuant to the cancellation of the selection as per order dated 27.12.2004, the respondent has issued a fresh notification No. B3/358/Chirakuti-1, dated 05.01.2005 (Annexure - 13 to O.A. No. 32/2005 inviting fresh applications to the notified post.

5. Applicants in O.A. No. 23/2005 and O.A. No. 27/2005 challenge the cancellation of the selection (vide order dated 27.12.2004) and the issuance of the fresh notification dated 05.01.2005. While the applicant in O.A. No. 27/2005 as a consequence seeks for direction to appoint him to the notified post, the applicant in O.A. No. 23/2005, on the strength of the Tribunal order dated 23.09.2004 in O.A. No. 287/2003, seeks for direction to permit him to join duty in the notified post based on his earlier appointment made on 10.12.2003 and 17.12.2003.

6. It is the case of the applicant in O.A. No. 23/2005 who was the 5<sup>th</sup> Respondent in O.A. No. 287/2003 that this Tribunal has upheld the selection and appointment of the applicant as per order in the said O.A. and therefore,

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cancellation of the selection and appointment order by the Respondents ignoring the order passed by this Tribunal is illegal and unjustified. The case of the applicant in O.A. No. 27/2005 is that he was not party in O.A. No. 287/2003 and therefore order passed therein will not bind him. It is his further case that earlier he filed O.A. No. 311/2004 and this Tribunal vide order dated 19.01.2005 noticing the fact that the selection earlier made has been cancelled by the authorities, disposed of the application with liberty to the applicant to file fresh application challenging the cancellation order and that it is in view of the above, the present application is filed. It is his further case that since he has secured maximum marks in the HSLC examination and also fulfilled the required conditions he was entitled to be selected and appointed to the said post in preference to the applicant in O.A. No. 23/2005. He also pointed out that the cancellation order was passed during the pendency of O.A. filed by him.

7. The case of the applicant in O.A. No. 32/2005 is that though his application O.A. No. 287/2003 challenging the selection and appointment of the applicant in O.A. No. 23/2005 was dismissed in view of the fact that the respondent themselves have cancelled the entire selection process including the appointment of the applicant in O.A. No. 23/2005 and in view of the fact that he had worked as Branch Postmaster of Zamduar Branch Post Office for five months in a temporary capacity, he must be posted in the notified vacancy on regular basis or provide him alternative employment. He had also, it is stated, filed a representation-dated 03.01.2005 (Annexure - 12 to his application) for the said relief. For the said purpose he wants the fresh notification dated 05.01.2005 to be quashed.

8. We have hear Mr. M.U. Mandal, learned counsel for the applicant in O.A. No. 32/2005, Mr. I. Hussain, learned counsel for the applicant in O.A. No.

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23/2005 and Mr. M.A. Seikh, learned counsel for the applicant in O.A. No. 27/2005 and Ms. U. Das, learned Addl. C.G.S.C. for the Respondents in all the three cases. They made their respective submissions. We will now deal with the said submissions.

9. We will first deal with the case of the applicant in O.A. No. 32/2005. He challenged the selection and appointment of the applicant in O.A. No. 23/2005 by filing O.A. No. 287/2003, which was dismissed. The said order as already stated has become final. However, the Respondents/Officers have cancelled the selection of the applicant in O.A. No. 23/2005 and a fresh notification dated 05.01.2005 was issued. The selection pursuant to the notification is yet to take place. He now wants the notification to be quashed for the purpose of giving him regular appointment in the said post. Here it must be noted that his case is that he had worked as a temporary Branch Postmaster for about 5 months prior to the first notification dated 27.01.2003 and therefore he must be regularly posted in the notified vacancy. This cannot be granted for the reason that he had not established his right with reference to any Rules or orders in that regard. That apart, such a claim was not raised any time prior to Annexure - 12 representation of January, 2005 though the vacancy was notified as early as 27.01.2003. He had also applied for the post and lost in the litigation. Hence there is no merit in the claim for appointment in the notified vacancy. It is, accordingly rejected. However, it is for the respondents to consider the applicant's other claim i.e., for alternate appointment and arrears of pay made in Annexure - 12 representation, if the same has already been received. Order will also be passed within a period of three months from the date of receipt of this order.

10. Now coming to the application Nos. 23/2005 and 27/2005, the applicant in O.A. No. 23/2005 heavily relies on the order in O.A. No. 287/2003 which is in

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his favour, whereas the applicant in O.A No. 27/2005 contends that he was not a party to the said O.A. and therefore the said order does not bind him. It is an admitted position that he secured highest marks 59.76% in the HSLC examination and therefore, the Tribunal in the earlier proceedings was not justified in holding that the applicant in O.A. No. 23/2005 has secured highest marks when he had secured only 56.50% marks. The counsel for the applicant in O.A. No. 23/2005 highlighted that in view of the decision in O.A. No. 287/2003 which has become final the respondents are bound by the same and consequently cancellation of the entire selection process and the appointment order in his favour was illegal. Counsel also highlighted that the applicant in O.A. No. 27/2005 apart from other defects, did not satisfy the residential requirement under the notification. On the other hand the contention of the counsel for the applicant in O.A. No. 27/2005 is that when the authorities have clearly found, as noted in the proceedings dated 07.12.2004, that the applicant had secured the highest mark in the HSLC Examination apart from fulfilling the conditions including property/income condition and had also produced a land holding certificate issued by the appropriate authority the insistence of land document and the rejection of the candidature of the applicant was not proper and they were not justified in canceling the entire selection instead of selecting and appointing the applicant for the post. From the written statement filed on behalf of respondents No. 1 to 4 in O.A. No. 27/2005 the situation becomes clear. It is stated in paragraph 2 - statement of facts in the written statement thus :

"This case is regarding appointment for the post of GDSEPM of newly opened Chirakuti-I EDBO in a/c with Bilasipara S.O. An advertisement for filling up the said post was made vide the office letter No. B3/258/Chirakuti-I dated 20.06.2003 through employment Exchange, and opened notification for submission of application to reach the office on or before 21.07.2003. In response, total 15(fifteen) applications were received within the specified date.

9/2/

All the candidates were asked to attend before the selection committee held on 18.09.2003 at the chamber of the Spud. Of Post Offices, Goalpara Div. Dhubri. Out of 15, 14 candidates were appeared before selection committee held on 18.9.03. All the applications were opened in presence of all the candidates and on scrutiny it was found that none of the candidates submitted register land deed to their own name. As such 4 (four) candidates among them getting highest marks in HSLC Examination came to selection zone and those 4(four) candidates to submit land documents exclusively in their own name for final selection. Out of 4 candidates 2 candidates submitted registered land deed in their own name. The application Sri Jalan Ali submitted a land holding certificate in his own name but failed to submit registered land deed. So the name of Sri Jalan Ali was not figured in the selection list due to non-submission of registered land deed. Sri Elias Rahman fulfilled all the conditions and he was selected for the said post on 10.12.03 though his marks in the HSLC Examination was less than Sri Jahan Ali.

11. In the notification inviting applications for the notified post eligibility condition No. V – Income and property clause (a) clearly provides that candidate should have an independent source of income for his livelihood, income certificate in own name issued by the competent authority should be furnished. It is also provided that preference will be given to those candidates who derive income from the landed property immovable property in their own name. A copy of the record of rights of property issued in respect of property in the name of candidate only should be enclosed. It is further stated that such documents will be considered only if they are submitted before the last date fixed for receipt of the application. Condition No. 7 specified the documents to be enclosed alongwith the application. Item No. IV is record of rights of property (if property is in the name of candidate only).

12. In the application No. 27/2005 in para 4.6 it is stated that the 4<sup>th</sup> respondent issued a letter dated 20.10.2003 directing the applicant and another to produce land document exclusively in their names and para 4.7 it is stated that

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the applicant submitted a land holding certificate dated 04.11.2003 (Annexure - 8).

13. Thus from the written statement of respondents 2 to 4 extracted above it is clear that none of the applicants submitted register land deed to their own name.

The applicant has been produced the land holding certificate in his own name only after a direction issued by the 4<sup>th</sup> respondent. These are contrary to the terms and conditions contained in clause V(b) of the advertisement. Thus, the applicant in O.A. No. 27/2005 is not correct in stating that he satisfied all the conditions specified in the notification.

14. Admittedly none of the candidates have produced register land deed, which was a requirement. In view of clause V(b) and 7 the respondents were not justified in affording opportunity to any of the applicants for producing the document subsequently. Though the selection and appointment of the applicant in O.A. No. 23/2005 was upheld in O.A. No. 287/2003 the same was on the premise that he had secured highest mark in the HSLC examination, which is incorrect. The applicant in O.A. No. 27/2005 secured the highest mark. Further he was not a party in O.A. No. 287/2003. As such, the decision in the said case will not bind him. Notwithstanding the illegality if the selection and appointment of the applicant in O.A. No. 23/2005 is upheld it will amount to ignoring the claim of a more meritorious Candidate. In these circumstances, the cancellation proceedings dated 07.12.2004 and 27.12.2004 of Respondents No. 3 and 4 respectively are upheld.

15. Having regard to the facts that the respondents have advertised the vacancy again by notification dated 05.01.2005, all the applicants are getting one more opportunity to apply for the post fulfilling all the conditions in the said notification. It is seen that the selection meeting was scheduled to be held on

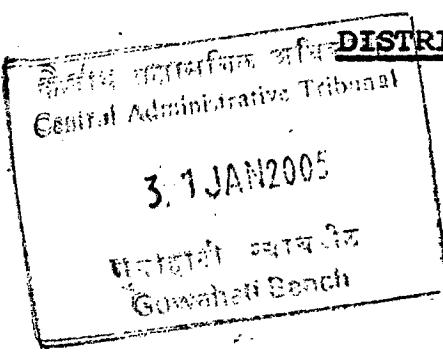
*Gp*

10.03.2005 as per letter dated 16.02.2005, and same was cancelled due to some unavoidable reasons as per proceedings dated 28.02.2005 (Annexure - 3 to the written statement of Respondents 1 to 4 in O.A. No. 27/2005). Though Ms. U. Das, learned Addl. C.G.S.C. for the respondents has submitted that notification dated 05.01.2005 itself has been cancelled by the said letter it does not follow from the Annexure - 3. It is only the meeting scheduled to 10.03.2005 that is cancelled. The respondents 1 to 4 in O.A. No. 27/2005 are directed to conduct the selection to the notified post strictly in accordance with the terms and conditions of the notification dated 05.01.2005 expeditiously.

In the result O.A. Nos. 23/2005 and 27/2005 are dismissed with above observation. O.A. No. 32/2005 is disposed of in terms of para 9 of this order.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



**DISTRICT : DHUBRI**

Before the Central Administrative Tribunal:::  
Guwahati Bench.

O.A. No. 27 /05

Jahan Ali ...

Applicant

-Versus-

The Union of India ...

Respondent.

Synopsis :-

1. An original Application being numbered as O.A. No.311/04 was filed by the applicant against non-selection of the Applicant in the post of Branch Post-Master at Chirakuti Branch post office though the applicant was most meritorious among the 15 candidates who applied and appeared into the interview on 18.9.03 as per notification dated 20.6.03. On 2.12.04, this Hon'ble Tribunal issued notice to the respondents in O.A.No.311/04 and made the notice returnable by 5.1.05. But on 27.12.04 Supdt. of Post Offices, Goalpara Divn., Dhubri, issued Annexure No.12.... whereby the entire selection process has been cancelled.

Being highly aggrieved by this arbitrary cancellation of said selection process, the applicant filed this fresh application as per order of this Hon'ble Tribunal passed in O.A.No.311/04 on 19-1-05.

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2. Total grounds of Challenge are 4(four) in number Viz (i) Impugned action, illegal, arbitrary, malafide and without jurisdiction, (ii) Applicant was fittest in all respect among all the candidates, (iii) Govt. Respondents violated Rules, Guidelines, notifications etc. and (iv) For any other views, the impugned Selection is bad.

3. List of Dates :-

(a) 27-1-03 : Notification dtd. 27-1-03 inviting applications for filing the post of Branch Post Master at Chirakuti Branch Office.

Annexure No.1 Page No. 17-19

(b) 19-6-03 : Letter dtd. 19-6-03 whereby the Notification dtd. 27-1-03 was cancelled.

Annexure No.2 Page No. 20

(c) 20-6-03 : Fresh notification whereby fresh applications were invited to fill up the same post.

Annexure No.3 Page No. .... <sup>21-24</sup>

(d) 27-8-03 : Interview ~~xx~~ call letter was issued to the applicant.

Annexure No.4 Page No. .... <sup>25</sup>

(e) 20-10-03 : Respondent No.4 issued a letter asking the applicant and one Rafiqul Islam to produce land documents.

Annexure No.7 Page No. .... <sup>28</sup>

(f) 4-11-03 : Land holding certificate issued by Circle Officer, Dhubri. ..

Annexure No.9 Page No. ....<sup>30</sup>

(g) 7-9-03 : Guidelines issued by the Respondents for selection and appointment of persons in the post of Branch Post Master.

Annexure No.10 Page No. ....<sup>31-34</sup>

(h) 23-9-04 : Judgement passed by this Hon'ble Tribunal in O.A.No.287/03.

Annexure No.13 Page No. ....<sup>37-41</sup>

(i) 7-12-04 :- Asstt.Director (INV), O/O the Chief Post Master General, Assam Circle, issued a letter to the Supdt. of Post M<sup>x</sup> Offices, Dhubri, directing him to cancell the entire selection process and start afresh.

Annexure No.11 Page No. ....<sup>35</sup>

(j) 27-12-04 :- A letter issued by Supdt.of Post Offices, Goalpara Division under No.B3/358/Chirakuti whereby the entire process of selection and appointment of BPM Chirakuti has been cancelled.

Annexure No.12 Page No. ....<sup>36</sup>

Filed by

Date : 28-1-05

M  
(Mr. M. Rahman)  
Advocate

1X

DISTRICT : DHUBRI

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:::  
GUWAHATI::: BENC.

O.A.No. 27 /05

BETWEEN

Jahan Ali ... Applicant.  
-Versus-  
The Union of India and others. ... Respondents.

I N D E X

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Filed by

Date : 28<sup>th</sup> Jan 2005

Mustakim Rahman

Advocate  
Guwahati High Court.

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Filed by the applicant  
through  
Mustakim Rahman  
Advocate  
28-1-05-

DISTRICT : DHUBRI

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNA:::

GUWAHATI:::BENC.

O.A.No. 27/105

B E T W E E N

Johan Ali

S/o Late Aburuddin Sk.

R/O Ward No.4, Gauripur Town,

P.O. & P.S. Gauripur,

District-Dhubri (Assam).

Applicant.

...

-Versus-

1. The Union of India, represented

by the Secretary to the Govt. of India  
Department of Communication, New Delhi.

2. The Director of Postal Services,

New Delhi.

3. The Chief Post Master General, Assam Circle,

Meghdoot Bhaban, Guwahati.

4. The Supdt. of Post Offices, Goalpara

Division, Dhubri, Dist. Dhubri (Assam).

5. Elias Rahman son of Ibrahim Khalil.

Village & P.O. Chirakuti, P.S. Chapor,

District-Dhubri (Assam).

...

Respondents.

Contd.....2

DETAILS OF APPLICATION :

1. The instant application is directed against the illegal action of the Respondents authority in Pursuance to the 'Interview/Selection 'Dt. 18.9.2003 for the post of GDS/EDDA/EDMC i.e. Peon at Chirakuti Branch of Post Office under Bilasipara Sub-division in Dhubri District (Assam) and also against an illegal action of the Respondents authority by violating the Notification Dt. 20.6.2003. The application is also directed against the arbitrary, malafide and bias, discriminatory and high handed exercise of powers of the Respondents authority in selection and appointment of BPN/Peon of Chirakuti Branch Post Office and subsequent cancellation of entire process of selection and appointment.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

**4. FACTS OF THE CASE :**

4.1. That the applicant is a citizen of India and a permanent resident of Gouripur Ward No. IV, P.O. & P.S. Gauripur in the District of Dhubri and as such he is entitled to get all rights and sorts of privileges, benefit and protections guaranteed by the Constitution of India and other Laws of the land.

4.2. That on 27.1.2003 a Notification was issued by the Superintendent of Post Office, Goalpara Division for filling-up, the post of Branch Post Master at Cherakuti Branch office. Accordingly the applicant applied for the said post, but surprisingly on 19.6.2003, the earlier Notification was cancelled due to some unavoidable reasons.

Photo copies of Notification Dt. 27.1.03 and Letter dt. 19.6.03 are annexed hereto as Annexure No.1 and 2 respectively.

4.3. That on 20.6.03 another Notification was issued by the same Superintendent of Post office, <sup>Divn.</sup> Goalpara Branch, Dhubri for filling up the same post. Accordingly the applicant alongwith other 14 candidates applied for the said post. The applicant being duly qualified for the said post submitted all the required document with the application.

A copy of Notification dated 20.6.03 is  
Annexure No.3.

4.4. That on 27.8.03, the Respondent No.4 issued a Interview Call Letter Under No.B3/358/Chirakuti whereby the application was invited to attend the Selection Committee meeting for Selection of the said Post on 18.9.03.

A copy of Interview Call Letter dated 27.8.03  
is Annexure No.4.

4.5. That on 18.9.03 the applicant alongwith other 14 candidates appeared in the Selection meeting and did well in the Interview. As per Guidelines for the Selection of the said post, the petitioner become the most suitable candidate with best merit. The applicant secured 62% of Marks in his H.S.L.C.examination and he was highest marks holder in H.S.L.C.Examination among all candidates. Moreover the applicant was also the only Science Graduate among the candidates.

H.S.L.C  
A copy of Mark sheet is Annexure No.5.

A copy of B.Sc.pass certificate issued by the Principal,B.N.College,Dhubri is Annexure No.6.

4.6. That the said Selection Committee after perusing the documents of the candidates did not select any person for the said post. Though they were supposed to publish the select list, then and there as per the Guidelines for the Selection of the said post. Instead of publishing the said Select List, the Respondent No. 4 issued a Letter under No. B3/358/Chirakuti Dt. 20.10.03 whereby the applicant alongwith another candidate Rafiqul Islam were directed to produce land document exclusively in their names within 15 days from the receipt of the said letter.

A copy of letter Dt. 20.10.03 is Annexure No.7.

4.7. That the applicant received the Letter Dt. 20.10.03 on 1.11.03 and on 11.11.03, the applicant submitted a Land holding Certificate under Dhubri Circle No. DBC(3)03/2003/102 dt. 4.11.03 as per letter Dt. 20.10.03.

A copy of application Dt. 11.11.03 is  
Annexure No.8.

A translated copy of land holding certificate  
Dt. 4.11.03 is Annexure No.9.

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

4.9. That the Selection Committee in total violation of appointment norms, Guidelines and provisions of Law whimsically and arbitrarily selected Respondent No.5 on 10.12.03 and issued appointment letter in his name and asked him to join in the said post though there was public complaint against him regarding his character.

4.10. That on being highly aggrieved by the arbitrary and ~~xx~~ malafide actions of the official respondents the petitioner filed an original Application being O.A.No.

✓ 311/04 before the Central Administrative Tribunal, Guwahati Bench praying for that the selection and appointment of respondent No.5 may be quashed and set aside and the applicant may be selected and appointed in the post of BPM at Chirakuti Branch Post Office as he is the Meritorious among all the candidates.

4.11. That on 2-12-04, this Hon'ble Tribunal issued notices to the respondents in O.A.No.311/04 and made returnable on 5-1-05.

4.11.A. That on 23-12-2004 when the applicant went to the office of the respondent No.4, the head Clerk inform the applicant that the authority is going to

cancell the entire process of selection as there were large scale irregularities in the selection for the said post. Hence the appellant filed Misc. Case No. 40/05 in O.A. No. 311/04 challenging the intended cancellation of entire selection process.

4.12. That though the matter was under active consideration of this Tribunal, the respondent No. 3 ✓ issued a letter under No. VIG/5/TS/03/03 dtd. 7.12.04 whereby he observed that though the applicant secured highest marks (59.76%) in H.S.L.C. examination amongst all the candidates apart from fulfilling criteria/ conditions he was ignored and the respondent No. 5 with lesser marks (56.50%) was selected for the post of GDS BPM, Chirakuti, EDBPO and held that the selection of respondent No. 5 has vitiated the guidelines contained in Directorate's No. 17-366/91-ED & Trg. dtd. 12-3-93 and hence directed the respondent No. 4 to take immediate steps to cancell the selection made for the post of GDS & BPM, Chirakuti, EDBO.

*JM* A copy of letter dtd. 7.12.04 is Annexure No. 11.

4.13. That after receiving the letter dtd. 7.12.04 from the respondent No. 3, the respondent No. 4 passed ✓ an order under Memo No. B3/35/Chirakuti dtd. 27.12.04 whereby the whole process of appointment for GDS, BPM, Chirakuti, BO made by this office letter of even No. B3/358/Chirakuti dtd. 29-1-2003 has been cancelled.

The respondent No.4 has also cancelled the selection of respondent No.5 made vide Memo No.B3/358/Chirakuti dtd. 15-10-2003.

✓ A copy of order dated 27-12-04 is Annexure No.12.

4.13A. That the application states that on 19-1-05 when the O.A.No.311/04 was moved before the learned tribunal, the learned C.G.S.C. submitted the Annexure No.11 and Annexure No.12 before the Tribunal and after going through the contents of letter dtd. 7-12-04 and 27-12-04 whereby the selection process was cancelled the Tribunal passed an order dtd. 19-1-05 in the O.A. whereby it was observed that as there arose fresh cause of action after cancellation of the selection process so the petitioner may file fresh petition by challenging the cancellation orders whereby the selection. Process was cancelled and with that observation the said original application was closed and on the basis of observation made in the O.A. and order dated 19-1-05 was passed in the said Misc.Case No.40/05 and Misc. case was dismissed.

A copy of order dtd. 19-1-05 passed in O.A.No.311/04 is Annexure No.12 A

4.14. That, the applicant states that Respondent No.5 has less merit then the applicant according to the terms and conditions of the appointment Notification and Guidelines for the Selection for the said post. The Selection for appointment ought to have been made purely on the basis of merit and the Selection ought

to have been made in presence of the candidates appeared in the Interview on the basis of their respective documents but the Respondent No.4 with a sinister motive did not do so. In order of merit the applicant was in the first position and the Respondent No.5 was in 2nd position.

A copy of Guidelines dated 7.9.2003 is  
Annexure No.13.

4.15. That the applicant begs to state that he has fulfilled all the terms and conditions as laid down in the notification and the candidate is the only candidate who ought to have been selected and appointed for the said post. The respondent No.5 had not fulfilled all the terms and conditions as per notification dated 20.6.03. Hence the order dated 27-12-04 vide Memo No. B3/350/Chirakuti by the respondent No.4 is illegal, arbitrary, malafide bias and is liable to set aside and quash in the interest of justice.

4.16. That the applicant states that the said head clerk of Superintendent of ~~Post~~ Post Offices, Goalpara Division, Dhubri also informed him that the authority is going to re-advertise the said post and the office of said Superintendent of Post Offices also recommended the higher authority that if re-advertisement of the post is not possible then the said post shall be filled up by way of transfer.

4.17. That the applicant states that the authority to frustrate the petitioner in a motivated manner with a malafide intention for vested interest and or extreaneous consideration is trying to re-advertise the post or filled up the said post by way of Transfer. If the respondent is able to materialise its motivated plan of re-advertising the said post or filled up the post by way of transfer then the instant O.A. shall become infractious and no post of Branch Post Master at Chirakuti Branch Police Office will remain vacant till the time when the instant O.A. would be finally decided by this Tribunal. It is crystal clear that the authority in a planned manner is going to deprive the petitioner from employment in this tuff unemployment sccnario. Under the above circumstances it is bona-fidely required to direct the respondent authorities in general and Respondent No.3 & 4 inparticular not to re-advertise the said post or shall not filled up the said post by way of transfer till final disposal of the instant O.A. by this Hon'ble Tribunal in the interest of justice. Till date the post is lying vacant, so balance of convenience is tilted in favour of the petitioner for the purpose of passing interim order as stated above.

4.18. That the applicant submits that if the above stated attempted arbitrary and unfair actions of the Respondents authorities are allowed to hold the field then the petitioner will be prejudiced and would be deprived off from the Public employment which he is entitled to get in pursuance of the advertisement dated

26-3-03\*

4.19. That considering the facts and circumstances of the case, the operation of the impugned order dated 27-12-04 under No. B3/358/Chirakuti passed by the respondent No.4 may be stayed till final disposal of this Original Application by this Hon'ble Tribunal.

4.20. That this application is made bonafide in the interest of justice.

5. G R O U N D S

5.1. For that the Govt. respondents have acted illegally by cancelling the selection process in question while the matter was under active consideration of the Learned tribunal as such the impugned cancellation of selection process against advertisement dated 20-6-03 is liable to be quashed and set aside and the petitioner is entitled to be appointed as BPM of Chirakuti B.P.O. in pursuance of the selection process held against advertisement dated 20-6-03 (Annexure No.3).

5.2. For that the order dated 7-12-04 passed by the Asstt. Director (INV) (Annexure No.11) clearly says that the petitioner obtained highest marks among all the candidates and the petitioner also submitted a land holding certificate by the appropriate authority, it was also held that insistants on land document from the petitioner and rejection of his candidature was not in order. The plain reading of observation of

the said Asstt. Director clearly supported the case of the <sup>govt</sup> petitioner. As such the respondents ought to have select and appoint the petitioner in the said post instead of cancelling the process of selection. As such the impugned cancellation of selection process is arbitrary, illegal and based on no reason and the same is liable to be cancelled and the applicant is entitled to be appointed in the said post.

5.3. For that the Govt. respondents have taken self contradictory stand by cancelling the process of selection. In order dated 7-12-04 (Annexure No.11) they observed that the petitioner got the highest marks and submitted land document, but on the other hand the Selection process was cancelled, whereby they again acted against the legitimate claim of appointment of the applicant.

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

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

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has no other

alternative and efficacious remedy except by way of filing this application.\*\*

**7. MATTER NOT PREVIOUS FILED OR PENDING BEFORE ANY OTHER COURT :**

The applicant declares that, a Title Suit being Numbered as T.S.No.581/02 was filed before Civil Judge,Jr.Division,Dhubri on the same subject matter by the Applicant and the same was subsequently withdrawn on 14.10.04 and presently there is no other application. Writ petition or Suit in respect of the subject matter is filed before any other Court. Authority or any other bench of the Hon'ble Tribunal and no such application,Writ petition or Suit is pending before any of them. It is pertinent to mention here that on the case subject matter involved in this application, another aggrieved person namely Abdur Rahim filed an original application in this Hon'ble Tribunal being Numbered as O.A.No.287/03 which was dismissed by Judgement and order dated 23.9.04 by this Tribunal. In the said Judgement it was held that there was more meritorious person than the applicant in aforesaid case. The present applicant is the most meritorious person among the candidates and he is entitled to be selected.

fai

A copy of Judgement dated 23-9-04 is

Annexure No.13.

**8. Relieves Sought For :-**

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

8.1. To set aside and quash the order dated 7.12.04 issued by respondent No.3 (Annexure No.11) and order dated 27-12-04 issued by respondent No.4 (Annexure No.12).

8.2. To direct the respondent No.3 and 4 to select and appoint the applicant in the post of BPM Chirakuti BPO under Bilasipara S.O. in the district of Dhubri in pursuance to notification dated 20-6-03.

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

**9. INTERIM ORDER PRAYED FOR :**

The applicant prays that till disposal of this original application, the operation of orders dated 7-12-04 (Annexure No.11) and dated 27-12-04 (Annexure No.12) may be stayed and further it is prayed that

till disposal of this Original Application, the Govt. Respondents in general and respondent No. 3 and 4 in particular may be directed not to advertise the post or filled up the post of GDS BPM at Chirakuti by way of transfer or alternatively it is prayed that status quo in respect of the aforesaid post of GDS BPM at Chirakuti may be maintained till disposal of this original application.

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

11. PARTICULARS :

I. I.P.O. No. 206117938

II. Date : 28-1-05

III. Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Jahan Ali son of Late Abur Uddin Sheikh, resident of Ward No. IV of Gouripur town, P.O. & P.S. Gouripur, District Dhubri (Assam) do hereby solemnly affirm and declare and verify that the statements made in paras 1,2,3 and 4.1,4.8,4.9, 4.10,4.11,4.12 & 4.13 are true to the best of my knowledge and those made in paragraphs 4.2,4.3, 4.4, 4.5, 4.6, 4.7, 4.8 and 7 are matters of records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the day of Sept, 2004 at Guwahati.

*Md. Jahan Ali*

Deponent.

## DEPARTMENT OF POSTS

Gauhati Post Office

Office of the ~~Postmaster~~ Superintendent

Goalpara Division

Dhoni-Dhubri-78337

No. 135/ 357 / C.R. dated 1-1-1980 Dated at Gauhati 18.7.1980

(A-2)(i)

NOTIFICATIONSub:- Appointment to the post of BPM/ Churukuri - 1 Bn.

Applications in the enclosed proforma are invited for the above post from the intending candidates fulfilling the following conditions. The applications complete in all respects should reach the office of the undersigned on or before 28.7.80. The application should be submitted in closed covers only, duly superscribed in bold letters as 'APPLICATION FOR THE POST OF BPM/EDSP/EDSO Churukuri BO/EDSO'. Incomplete applications; applications without prescribed enclosures and applications received after the due date will not be entertained.

2. The vacancy is reserved for \_\_\_\_\_ / not reserved for any community.  
(Score out whichever is not applicable).

3. In case the minimum number of three eligible candidates do not offer their candidature, the vacancy will be re-notified.

4. The appointment is purely temporary and in the nature of a contract to be terminated by the competent authority at any time with one month's prior notice. The work is part time for a period of 3 to 5 hours a day and the appointment will not confer any right on the candidates to claim any regular full-time post in the department. The post carries time related continuity allowance of Rs. 280 + 35 - 1980 plus admissible DA.

5. Any kind of influence brought by the candidates regarding appointment, will be considered as a disqualification. No correspondence attempting to influence the selection process will be entertained.

*Certified to be  
true copy  
MP  
Dated*

6. ELIGIBILITY CONDITIONS:(i) AGE:

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

(ii) MINIMUM EDUCATIONAL QUALIFICATION:

HSLC/ X standard pass.

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

(iii) RESIDENCE:

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

(iv) ACCOMMODATION:

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

(v) INCOME AND PROPERTY:

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

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

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

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

#### 7. DOCUMENTS TO BE ENCLOSED:

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

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

#### 8. SELECTION PROCESS:

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

18 - 20 ANNEXURE NO 2

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

No. B3/358/Chirakuti-I

Dated at Dhubri the 19-06-2003

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

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

This is for information to all concerned.

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

Dhubri - 783301.

Copy to :-

1. The Asstt. Director, Employment Exchange, Dhubri w.r.t to his No. DOX/VC-5/84/03/226-27 dtd 25-2-03.
2. The President, Chirakuti Tilapara GP, P.O.-Tilapara, Via- Bilasipara.
3. The RPM, Chirakuti B.O. via- Bilasipara S.O. for displaying on office notice board.
4. The SPM/Bilasipara S.O. for displaying on office Notice Board.
5. The SDI(P), Dhubri for displaying on office notice board.
6. All applicants concerned.

Supdt. of Post Offices  
Goalpara Division  
Dhubri - 783301.

Certified to be true copy  
Date:

Annexure No. 3

DEPARTMENT OF POSTS  
Post Office Office  
Office of the शोधापारा अधिकारी  
Goalpara Division  
दुर्गा-Dhubri-783301

No. B.2/358/ Chirakuti Dated at Dhubri on 20/6/03

NOTIFICATION

Sub:- Appointment to the post of 6th B.P.M./C.P.M.

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

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

*(Certified to be  
true copy  
M. P.*

ELIGIBILITY CONDITIONS:(i) AGE:

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

(ii) MINIMUM EDUCATIONAL QUALIFICATION:

HSLC/ X standard pass.

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

(iii) RESIDENCE:

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

(iv) ACCOMMODATION:

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

(v) INCOME AND PROPERTY:

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

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

Own 14 DIV  
Reportant 5  
5 DIV  
56

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

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

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

#### 7. DOCUMENTS TO BE ENCLOSED:

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

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

#### 8. SELECTION PROCESS:

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

24

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

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

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

Signature :  
গোপনীয়া প্রাপ্তি  
Goalpara District  
পুষ্পলি-Dhupli-183303

Copy to (Regd AD)

1. The President, Gaon Panchayat  
2. The Head Master, Govt. Primary/High School  
3. BPM  
4. SPM (Banker/Accountant/Account Office)  
5. The ASPO/EC/SDI(P)

### Sub-Division

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

Signature:

### Designation

पूर्ण दिवाली  
पूर्ण दिवाली  
पूर्ण दिवाली  
पूर्ण दिवाली

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

To,

Shri ..... Jahan Ali  
C/O .....  
Vill ..... Ward NO. 7  
P.O. .... Gauripur  
Via - BILASIPARA  
Dist. - Dhubri

No. B.B / 358 / Chirakuti

Dated at Dhubri the 27-08-2003.

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

Sir,

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

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

No TA / DA will be allowed.

Yours faithfully,

*G.C. Hazarika*  
(G. C. Hazarika) 27.8.2003  
Supdt: of Post Offices  
Goalpara Divn, Dhubri  
783301

*Certified to be  
true copy  
m/n  
Adm.*



DHUBRI :: ASSAM



Certified that Sri/Smti Md. Jahan Ali  
 has/had been a student of this College during the session 1989-92  
 He/She has been reading in the \_\_\_\_\_ class  
 appeared at the B. Sc. Part II (One) Examination under  
 the A.H.S.E. Council/ Gauhati University from this College  
 in the year 1995 and passed in the Simple  
Pass. class/division/course/Major in .....

His/Her conduct and character while a student of this  
 college has/had been good.

Dated DHUBRI

The 6<sup>th</sup> July 1995S. MUKHERJEE  
Principal,

B. N. College, Dhubri.

M. B. Ban.

Certified to be  
 true copy  
 M. B. Ban.

গোপনীয় অধিবাহক  
Superintendent of Post Office  
শ্রীমান্দেশ্বরা মন্ত্রী  
Goalpara Division  
গুৱামুখ-ধুৰুৰি-৭৮৩৩০৮

To

Recd 1. Sri Rafiqul Islam  
vill + P.O - Chirakuti  
via - B. Lanipara  
Dist - Dhubri.

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

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

Sub - Regarding selection of one APM of  
Chirakuti B.D.

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

Yours faithfully,

(G. C. Thakurka)

Superintendent  
of Post Office  
শ্রীমান্দেশ্বরা মন্ত্রী  
Goalpara Division  
গুৱামুখ-ধুৰুৰি-৭৮৩৩০৮

Certified to  
True copy  
M. Adv.

Annexure No.8

To

The Superintendent of Post Office,  
Goalpara Division, Dhubri.

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

Sub :- Submission of Land documents in my name.

Ref :- No. B3/358/Chirakuti Dt. 20.10.03.

Respected Sir,

I have come to know through your letter No. B3/358/Chirakuti Dt. 20/10/03 that you have wanted land documents from me in my own name. Sir, you have issued the Letter which is inside the envelope on 20/10/03 but sir, the Letter No. B3/358/Chirakuti Dt. 29/10/03 on the top of the envelope and P/No. 841 Dt. 31/10/03 at Head Office Dhubri. So, sir I could not understand that why the date is veriable.

That may be sir, I have got the letter on 01/11/03 and now I am sending my land documents under Dhubri Circle No. D.B.C. (S)03/2003/162 Dt. 4.11.03 at Gouripur town, Ward No. IV under Medi Patta Old-112, New 132 in Dag No. 424/165 2 K 8 $\frac{1}{2}$  Ls. and the same patta Old-1263. New 424 N. Dag 1 K 8 Ls. Therefore the total land in my own name is 3 K 16 $\frac{1}{2}$  Ls. I have enclosed the Trace Map and the Land documents Certificate herewith this letter.

Yours faithfully,

Md. Jahan Ali,  
S/o Aburuddin Sk.  
Gouripur, W/No. IV, P.O. Gouripur,  
Dist. Dhubri (Assam)  
783331.

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

Annexure No.9

(Translated from Assamese)

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

No. DBC. (s) 03/2003/102 Dt. 4.11.03.

Land holding Certificate

This is to certify that a plot of land measuring 2K 8 $\frac{1}{2}$  Lechas covered by Patta No. 112 (old) 132 (new) and Dag No. 424/165 and another plot of land measuring 1K 8 Lecha covered by same Patta No. and Dag No. 1263 (old), 423 (new) total 3 K 16 $\frac{1}{2}$  Lechas of land of Ward No. IV of Gouripur town is currently is in record in the name of Md. Johan Ali S/o Late Abur Uddin.

Sd/- Illegible  
4.11.03  
Asstt. Settlement Officer,  
Dhubri Circle, Dhubri.

- x -

Certified to be  
True copy  
Adm.

Government of India  
Ministry of Communications  
Department of Posts

Santosh Marg,  
New Delhi - 110001

No. 22-12/2001-GDS

Dated: September 17, 2003

To

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

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

Sir,

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

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

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true copy  
M. Adv.*

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

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

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

come into force from the date of issue.

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

Receipt of this letter may be acknowledged to the undersigned.

Indi version will follow.

Yours faithfully,

(ANAND PRAKASH)  
ASSTT. DIRECTOR GENERAL (GDS)

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

All DDsG, Department of Posts

All recognised Unions/Federations

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

All dealings Assistants in the GDS Section

Spare/Guard file

*Chunchra*  
(Somnath Chunchra)  
ASSTT. DIRECTOR (Est)

8. SELECTION PROCESS!

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

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

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

Signature  
Designation:

Copy to (Rcgd AD)

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

Signature :  
Designation :

Most Hon'ble Ref. Gob  
19/1/05  
Anneaux No 11  
35

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL  
ASSAM CIRCLE: GUWAHATI

ANNEX - II Dated at Guwahati the December 17, 2004.

To  
Shri G. C. Dharika  
SPO, Dhubri.

Subject: Selection of GDS BPM of Chirakuti EDBO in account with Bilaspura SO.

Ref: Voir No B3/358/Chirakuti I dated 7.6.2004.

The appointment case has been scrutinized and it is found that the candidate Shri(Md.) Julian Ali who secured the highest marks in HSLC Examination (59.70%) amongst all the candidates apart from fulfilling the criteria/conditions including property/income condition was ignored and another candidate with lesser marks (56.50%) was selected for the post of GDS BPM, Chirakuti EDBO. Shri Julian Ali, as it appears, submitted a land holding certificate issued by the appropriate authority. Therefore insistence of land document from the candidate and rejection of his candidature was not in order. The selection has vitiated the guidelines contained in Directorate's No. 17-366/91-ED&Trg. dated 12.3.93.

In view of the vitiation of selection, the competent authority has directed to cancel the entire selection process and start it afresh duly observing the required formalities. It is also directed that the panel/committee for selection should consist of at least one SPOs of a neighbouring division and the selection should be made without leaving any doubt on its fairness and uniformity.

I am therefore directed to inform you that immediate steps may be taken to cancell the selection made for the post of GDS BPM, Chirakuti EDBO.

The Civil Court, Dhubri and CAT, Guwahati in which the matter is under litigation in T.S. No.581/03 and OA No.237/03 respectively may be apprised of this administrative action through the GP/CGSC concerned at the next hearing of the cases.

A compliance report may also be sent to Circle Office for information of DPS/CPMG. The appointment case file is returned herewith for disposal.

Enclo: As above.

WVVVVVVVV  
7/12/04  
( S. Gbose )  
Asst. Director ( INV )  
O/o the Chief Postmaster General  
Assam Circle, Guwahati - 781 001

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true copy

Adm

To

Mostakim Rahman, Adv. G.H.C.

Reported: 19/11/05

43

Annex - 1

Annexure No 12

36

POST & TELEGRAPH DEPT, INDIA  
GENERAL GOVERNMENT OF INDIA  
CHINAR KHANA, DEPARTMENT OF POST OFFICES  
CHINAR KHANA, DHARMAJI, GUJARAT - 763 301.

Memorandum B3/358/chiratni

Dated at Dhamer on 27-12-2005

As directed by the Chief Postmaster General, Dhamer, vide C.O.'s letter No. VIG/5/TS/63/03, dated Government of India, the whole process of appointment for GDS post, Chiratni P.O. in A/C with Chiratni P.O. made by this office letter of even no. B3/358/Chiratni-I, dated 29.01.2003 have been cancelled. In this connection, the selection of Shri Elia Rahman S/o Md Ibrahim Khalid S/o Md Ibrahim Khan, issued vide this office Memorandum No. B3/358/chiratni issued vide his appointment of even no. B3/358/Chiratni dated 15.11.2003, has also been cancelled.

Copy to  
1. G.P.O. Dhamer (29-12-2005)  
(G. C. Hacilla)  
Supdt. of Post Offices  
Chiratni P.O., Dhamer  
763 301.

Copy to  
1. The Collector, Dhamer, Dhamer Circle, Chiratni for information.  
2. The M.P.M., M. S. P. & P. P. A., Dhamer for information.  
3. Shri P. S. Patel, Dhamer, 1st Divisional Khedi S/o. V.P.O. Chiratni, V.P.O. - Bhasiplana for information.  
4. The Deputy Collector, Central Administration, Taluka, Chiratni bench, Chiratni, 1st Divisional Khedi, Dhamer, Dhamer Circle, 10/12/2005 off 16.12.2005.  
5. The Civil Justice Panel, Dhamer through Shri K. A. Prabhat Govt. Pleader, Dhamer, 10/12/2005 off 16/12/2005 off 22.12.2005.

Copy to  
(G. C. Hacilla)  
Supdt. of Post Offices  
Chiratni P.O., Dhamer  
763 301.

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R.D.W.

36 A

Annexure No. 12 A

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

Original Application No. 31/2004

Misc. Petition No. -

Contempt Petition No. -

Review Application No. -

Applicants: Jahan Ali

Respondents: 101208

Advocate of the Applicants: - H. M. A. Sheikh, M. Rahman,  
Kul Ahmed md I. Ahmed

Advocate for the Respondents: -

Close

Order of the Tribunal

Notes of the Registry

Date: 19.1.2005

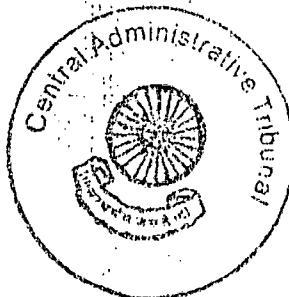
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19.1.2005 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

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

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

Contd. -



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*Adv.*

2  
O.A. 311/2004

Contd.

19.1.2005

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

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

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

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

Sd/ VICE CHAIRMAN

XZ

Sd/ MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUJARATI BENCH.

Original Application No. 287 of 2003.

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

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

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

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

..... Applicant.

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

- Versus -

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

..... Respondents.

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

O R D E R (ORAL)

BATTA, J. (V.C.) :

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

Contd./2

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true copy  
M. P. D.*

According to the applicant, he is fully qualified for the said post and the letters written on 19.9.2003 and 20.10.2003 to respondent no.5 to submit land document are contrary to the selection process contemplated in the said notification. According to him, respondent no.5 had not fulfilled all the terms and conditions of the said notification and as such his appointment, if any, is required to be quashed and further directions are sought to select the applicant and appoint him to the said post.

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

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

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

Contd./3

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

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

6. A close scrutiny of notification dated 20.6.2003, and especially Paragraph 8 of which deals with selection process, shows that the selection will be made on merit among the candidates, who fulfill all the prescribed eligibility conditions. It is, no doubt, true that the notification speaks of the selection on the date on which the applications are scrutinised. However, it is pertinent to note that selection is required to be made on merit and, in our view, merit cannot be sacrificed at the altar of procedural aspects. The Selection Committee found that res-

pondent no. 5 had more marks since he had secured 56% marks in H.S.L.C. examination, whereas the applicant had secured only 32.3% marks. In view of the huge disparity between marks of the two candidates, the Selection Committee thought it fit to give an opportunity to the candidates who had higher marks to produce land documents on subsequent date. This was done so that a meritorious candidate gets <sup>appointment</sup> land and the procedural requirement was relaxed in respect of production of documents.

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

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

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

the judgment.

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

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

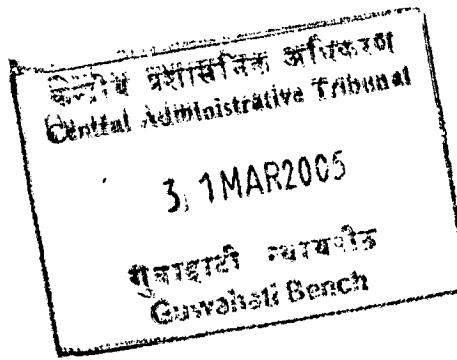


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RECORDED & INDEXED

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

Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

29/9/04



Filed by  
the Respondent No. 1  
through Usha Das  
(Usha Das)  
Addl. C. G. S. C.  
CAT/Ghy.  
6

34 [ 3105 ]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

OA NO. 27/05

JAHAN ALI

.....APPLICANT

VERSUS

UNION OF INDIA&ORS

.....RESPONDENTS

2005-2006  
(R. Rabha).  
Supt. of Post Office  
Gosipara Divn. Dhubri.  
783301

WRITTEN STATEMENT FILED ON BEHALF OF THE RESPONDENTS NO. 1 to 4

- 1) That the respondents have received copy of the OA and have gone through the same .Save and except the statements, which are specifically admitted herein below rests, may be treated as total denial. The statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
- 2) That before going through the various paragraphs of the OA the respondents beg to give the history of the case.

/ This case is regarding appointment for the post of GDSBPM of newly opened Chirakuti-I EDBO in a/c with Bilasipara S.O. An advertisement for filling up the said post was made vide the office letter No. B3/358/Chirakuti-I dated 20-6-03 through employment Exchange, and opened notification for submission of application to reach the office on or before 21.7.03. In response total 15 (fifteen) applications were received within the specified date. All the candidates were asked to attend before the selection

2

committee held on 18.9.03 at the chamber of the Spud. Of Post Offices, Goalpara Divn. Dhubri. Out of 15 ,14 candidates were appeared before selection committee held on 18.9.03. All the applications were opened in presence of all the candidates and on scrutiny it was found that none of the candidates submitted register land deed to their own name. As such 4 (four) candidates among them getting highest marks in HSLC Examination came to selection zone and those 4 (four) candidates to submit land documents exclusively in their own name for final selection. Out of those 4 candidates 2 candidates submitted registered land deed in their own name. The applicant Sri Jahan Ali submitted a land holding certificate in his own name but failed to submit registered land deed. So the name of Sri Jahan Ali was not figured in the selection list due to non-submission of registered land deed. Sri Elias Rahman fulfilled all the conditions and he was selected for the said post on 10.12.03 though his marks in the HSLC Examination was less than Sri Jahan Ali.

Aggrieved by the non-selection the applicant moved Civil Judge No.1 Dhubri by way of filing Misc. ( J ) No. 407/03 & T.S. No 581/03. The Misc. No. 407/03 was dismissed on 30.04.04 on contest. Sri Jahan Ali again preferred appeal before the Civil Judge (Sr Div. ) vide No. Misc. (J) No. 14/04 and Misc (A) No. 15/04. After hearing both the parties to the proceeding the learned court was pleased to dismiss both cases vide judgment and order dated 8.9.04.

Sri Jahan Ali withdrew the case No. 581/03 on 14.10.04 from Civil Judge, Dhubri and preferred OA No. 311/04 before this Hon'ble Tribunal . After hearing both the parties the Hon'ble Tribunal was pleased to dismissed the OA advising him to challenge the selection process. Hence this application.

- 3) That with regard to the statement made in paragraph 1 of the OA the respondents while denying the contentions made therein beg to state that the selection was made as per the rules and norms. However the Assitt. Director reviewed the entire selection process Director (Inv. ), O/O the Chief Post Master General, Guwahati and directed to cancel vide order dated 7.12.04. Accordingly the selection made

earlier to Elias Rah man for the post of GDSBPM/Chirakuti EDBO was cancelled vide order dated 27.12.04.

Copies of the orders dated 7.12.04 and 27.12.04 are annexed herewith and marked as Annexure-1&2 respectively.

- 4) That with regard to the statement made in paragraphs 2,3, and 4.1 of the OA the respondents do not offer any comment .
- 5) That with regard to the statement made in paragraph 4.2 of the OA the respondents beg to state that the advertisement was cancelled due to some administrative reasons informing all concerned . The applicant did not apply for the said post as per advertisement made on 27.01.04. Due to re-advertisement the applicant got chance to apply for the said post and he lost the chances to get service due to non-submission of records of landed property in his own name.
- 6) That with regard to the statement made in paragraph 4.3 of the OA the respondents beg to state that Sheri Johan Ali failed to submit the land documents exclusively in his own name. Landed property was submitted which is not acceptable as per condition No. V( b ) of the advertisement/notification dated 20.06.03.
- 7) That with regard to the statement made in paragraph 4.4 of the OA the respondents beg to state that the applicant and other 11 candidates appeared before the selection committee on 18.09.03.
- 8) That with regard to the statement made in the paragraph 4.5 of the OA the respondents beg to state that the applicant secured 59.7% of marks in the HSLC examination excluding the marks of additional subject and not 62% as mentioned in the application. No weightage was given on the marks of additional subject to work out the percentage for service matter.

- 4 -

64

- 9) That with regard to the statement made in paragraph 4.6 of the OA the respondents beg to state that the selection was not made on 18.09.03 as none of the candidates could produce land document exclusively in their own name. Hence Shri Elias Rahman and Shri Refiqul Islam were requested to submit land deeds in their own name.
- 10) That with regard to the statement made in paragraph 4.7 of the OA the applicant beg to admit receipt of the said documents
- 11) That with regard to the statement made in paragraph 4.8 of the OA the respondents beg to state that the applicant did not come under selection zone, as he was not a P.O. Village candidate.
- 12) That with regard to the statement made in paragraph 4.9 of the OA the respondents beg to state that the section was made to a P.O. Village candidate though his marks in the HSLC Examination was less than the applicant.
- 13) That with regard to the statement made in paragraph 4.10 of the OA the respondents beg to state that the OA No. 311 was dismissed on 19.01.05 after hearing both the parties.
- 14) That with regard to the statement made in paragraph 4.11 of the OA the respondents beg to state that the selection to Elias Rahman was cancelled because the CPMG/ GHY reviewed the entire process and ordered to cancel the process. Accordingly the selection was cancelled as stated in paragraph 2 of this ws.
- 15) That with regard to the statement made in paragraph 4.12 of the OA the respondents beg to state that the selection was cancelled as per direction of the CPMG/Guwahati after reviewing the selection process.

16) That with regard to the statement made in paragraph 4.13 and 4.13A of the OA the respondents do not admit anything contrary to the records of the case.

17) That with regard to the statement made in paragraph 4.14 of the OA the respondents beg to state that the selection was made to a local candidate though his marks was less in the HSLC examination than the applicant.

18) That with regard to the statement made in paragraph 4.15 of the OA the respondents beg to state that the selection was cancelled as per direction of the CPMG/GHY.

19) That with regard to the statement made in paragraph 4.16 of the OA the respondents do not admit anything contrary to the records of the case.

20) That with regard to the statement made in paragraph 4.17 of the OA the respondents beg to state that the advertisement was made as the selection was cancelled by the CPMG/Guwahati.

21) That with regard to the statement made in paragraph 4.18 of the OA the respondents do not admit anything contrary to the record of the case.

22) That with regard to the statement made in paragraph 4.19 of the OA the respondents beg to state that though the re-advertisement was issued and the date of interview was fixed the entire process was cancelled vide order-dated 28.02.05.

A copy of the order dated 28.02.05 is

annexed herewith and marked as  
Annexure-3.

- 23) That with regard to the statement made in paragraph 4.20, 5.2, 5.2, 5.3, 5.4, 6, 7 and 8.1 of the OA the respondents do not anything contrary to the record of the case.
- 24) That with regard to the statement made in paragraph 8.1 of the OA the respondents beg to state that the date of interview was fixed on 10.03.05 and now that has been cancelled vide Annexure dated 28.02.05.
- 25) That with regard to the statement made in paragraph 8.2, 8.3 and 9 of the OA the respondents do not admit anything contrary to the record of the case.
- 26) That the respondents beg to state that in view of the above facts and circumstances of the case the Hon'ble Tribunal may be pleased to dismissed this OA with costs

## VERIFICATION

I Shri R. Rabha at present working as -  
Superintendent of Post offices, at Goalpara Divn, Dhubri.  
----- who is taking steps in this case, being duly authorized and  
competent to sign this verification, do hereby solemnly affirm and state that the statement  
made in paragraph 1, 4, 25, 26  
are true to my knowledge and belief, those made in paragraph  
2, 3, 5 to 24 being matter of records, are true to my  
information derived there from and the rest are my humble submission before this  
Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 23 the day of March 2005 at Guwahati.

DEPONENT  
R. Rabha  
Supdt of Post Offices.  
Goalpara Divn, Dhubri.  
783301

DEPARTMENT OF POSTS: INDIA  
 OFFICE OF THE CHIEF POSTMASTER GENERAL  
 ASSAM CIRCLE: GUWAHATI

No. VIG/5/TS/03/03

To

Shri G. C. Hazarika  
 SPOs, Dhubri.

Dated at Guwahati the December 3, 2004

13 DEC 2004

Sub:- Selection of GDS BPM of Chirakuti EDBO in account with Bilasipara SO.

Ref:- Your No.B3/358/Chirakuti-I dated 7.9.2004.

The appointment case has been scrutinised and it is found that the candidate Shri(Md.) Johan Ali who secured the highest marks in HSLC Examination (59.76%) amongst all the candidates apart from fulfilling the criteria/conditions including property/income condition was ignored and another candidate with lesser marks (56.50%) was selected for the post of GDS BPM, Chirakuti EDBO. Shri Johan Ali as it appears, submitted a land holding certificate issued by the appropriate authority. Therefore insistence of land document from the candidate and rejection of his candidature was not in order. The selection has vitiated the guidelines contained in Directorate's No.17-366/91-ED&Trg. dated 12.3.93.

In view of the vitiation of selection, the competent authority has directed to cancel the entire selection process and start it afresh duly observing the required formalities. It is also directed that the panel/committee for selection should consist of at least one SPOs of a neighbouring division and the selection should be made without leaving any doubt on its fairness and uniformity.

I am therefore directed to inform you that immediate steps may be taken to cancell the selection made for the post of GDS BPM, Chirakuti EDBO.

The Civil Court, Dhubri and CAT, Guwahati in which the matter is under litigation in T.S. No.581/03 and OA No.287/03 respectively may be apprised of this administrative action through the GP/CGSC concerned at the next hearing of the cases.

A compliance report may also be sent to Circle Office for information of DPS/CPMG. The appointment case file is returned herewith for disposal.

Enclo : As above.

7/12/04  
 ( S. Ghose )  
 Asstt. Director ( INV )  
 O/o the Chief Postmaster General  
 Assam Circle, Guwahati - 781 001

Regd

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE SUPERINTENDENT OF POST OFFICES  
GOALPARA DIVISION :: DHUBRI - 783 301.

Memo No.B3/358/Chirakuti

Dated at Dhubri the 27-12-2004

As directed by the Chief Postmaster General/Guwahati vide C.O's letter No. VIG/S/TS/03/03 dated Guwahati 07-12-2004 the whole process of appointment for GDS BPM, Chirakuti B.O. in a/c with Bhasipara S.O. made by this office letter of even no B3/358/Chirakuti-I dated 29-01-2003 have been cancelled. In this connection, the selection of Shri Elias Rahman S/O Md. Ibrahim Khalil Sk, Chirakuti issued vide this office Memo No. B3/358/Chirakuti issued vide this office memo of even No. B3/358/Chirakuti dated 15-10-2003 has also been cancelled.

*Letter 27/12/2004*  
( G. C. Hazarika )  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

Copy to :-

1. The Chief Postmaster General, Assam Circle, Guwahati-1 for information.
2. The SDI(P), Dhubri-Sub-Divn, Dhubri for information.
3. Shri Elias Rahman, S/O Ibrahim Khalil Sk. VIII & PO- Chirakuti Via- Bhasipara for information.
4. The Deputy Registrar, Central Administrative Tribunal, Guwahati bench, Guwahati-5 through Shri Arunesh Deb Roy, CGSC, Guwahati Bench, Guwahati-5. in re CAT case o.p. no 311/2009 dt 16.12.2009.
5. The Civil Judge (Sr. Divn. ) Dhubri through Shri K. A. Prodhani Govt. Pleader, Dhubri in re Misc (s) Case no 907/03 dt 22-12-03.

*Letter 27/12/2004*  
( G. C. Hazarika )  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

*Post to Smt. B. D. D. 27/12/04  
Re. M/s. ADm. 27/12/04  
to his office*

10

Annexure - 3  
Regd. off

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE SUPERINTENDENT OF POST OFFICES  
GOALPARA DIVISION :: DHUBRI - 783 301.

No. B3/358/Chirakuti-1

Dated at 28-02-2005.

Sub :- Regarding appointment to the post of GDS BPM/Chirakuti B.O. in a/c with Bilasipara S.O.

Schedule

The Selection Meeting to be held on 10-03-2005 as fixed vide this office letter of even no. dated 16-02-2005 on the above noted subject is hereby cancelled due to some unavoidable reasons.

This is for information to all concerned.

sd-

( G. C. Hazarika )  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

Copy to :-

1. The Asstt. Director, Employment Exchange, Dhubri for information and necessary action.
2. Shri S. Das, Supdt. of Post Offices, Nalbari- Barpeta Divn., Nalbari - 781 335.
3. The President, Chirakuti, Tilapara G.P., P.O.- Tilapara Via- Bilasipara S.O.
4. The BPM, Chirakuti B.O. Via- Bilasipara S.O. for displaying on Notice Board.
5. The SPM, Bilasipara S.O. for displaying on Office Notice Board.
6. All applicants concerned. : - *All candidates are intimated* *Regd. post letter off 28-2-05*
7. Office copy.
8. Spare.

*G. C. Hazarika*  
( G. C. Hazarika )  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BRANCH: GUWAHATI.

O.A. No. 27/2005.

Jahan Ali.

... Applicant.

-Versus -

Union of India and others.

... Respondents.

Written statement filed by the respondent No.5,

Elias Rahman.

1. That one Jahan Ali, filed the aforementioned Original Application in this Hon'ble Tribunal praying for setting aside and quashing the selection and appointment order dt. 7.12.04 issued by respondent No.3 (Vide annexure No.11 to the O.A. ) and order dt. 22.12.2004 issued by the respondent No.4 cancelling the selection process for the post of GDS, BPM, Chirakati Branch Post office for which I was selected . The applicant ~~has~~ not approached this Hon'ble Court in clean hands and suppressed material facts in this regard.
2. That the Applicant has impleaded myself as respondent No.5 in the O.A. and as I am vitally interested in the matter , beg to file this written statement.
3. That the statements made in the Original Application which are not specifically admitted by me and are contrary to the records of the case, are to be treated as denied and the applicant is liable for proper proof thereof.

Central Administrative Tribunal  
Guwahati Branch  
1 APR 2005  
Guwahati Bench

L2d by the respondent No.5  
Elias Rahman 7/  
The night  
Sohel Hossain  
6.4.2005

4. That the applicant has admitted himself in para 4.1 of the O.A. that he is a permanent resident of Gauripur Ward No. IV P.O. & P.S. Gauripur. This residential status of the applicant has vital and substantial bearing in the present applicant as regards to his residence.

5. That the statements made in paragraph 4.2 to 4.4 are borne by record of the case and the same are admitted.

6. That the statements made in paragraph 4.5 of the O.A, as regards performing well in the interview is not admitted. As regards obtaining mark in H.S.L.C. Examination by the applicant is pertaining to record and I have no comment to make. However, obtaining graduation by any candidate will not confer any better right to him for appointment for the post of B.P.M.

7. That as regards statement made in paragraph 4.6 I beg to say that both myself as well as the applicant are asked to produce land documents exclusively in the respective names.

8. That as regards statements made in paragraph 4.7, I have no knowledge if the applicant has received the letter as mentioned. However, the applicant has submitted particulars of land documents of Gauripur Town and not of Chirkati village for which applications were called for appointment of BPM. It be stated that Gauripur Town is situated at a distance of 60 miles from Chirakati village.

9. That as regards the statements made in paragraph 4.8 of the O.A., I beg to say that applicant has not got all the required qualification/criterias for appointment. As per records, he might to have secured better marks but he neither belongs to Chirakati village or have land in his own name. As such ; the applicant is not eligible for selection and appointment although he might have received better marks. The criteria of marks is considered only when a candidate fulfills all other criterias as per rules and procedure. As such the question of selection of the applicant does not arise.

10. That as regards statements made in paragraph 4.9, I beg to say that there was no violation of norms, guidelines and provisions of law in my selection and appointment. The appointment letter was rightly issued to me. I totally deny that there was any public complaint as regards my character. The applicant ought not to have made some false and concocted stories against myself. This statement is totally uncalled for and without any basis whatsoever.

In this regard, this Hon'ble Tribunal vide order dt. 23.9.04 was pleased to dismiss the O.A. No. 287/03 with cost filed by another candidate namely - *wherein I was impleaded as respondent no.5* Abdur Rahim for the same cause of action. The relevant paragraph No.9 of ~~said~~ the order dt. 23.9.04 is quoted below :-

"We may also point out at this state that the applicant, made unfounded allegations in paragraph 4.5. of the application stating that the respondent No.5 is a man of bad character

and he has involved in many notorious activities like immoral living. This statement has been verified by the applicant as true to his knowledge as can be seen from the verification. The applicant however, did not place any materials whatsoever on record to substantiate his unfounded allegations and this, in our view, has been done by the applicant deliberately only to the great prejudice against respondent No.5 so as to defeat his selection which was done otherwise on merit".

The copy of order dt. 23.9.2004 passed in O.A. No.287/2003 is annexed as Annexure No.A

11. That as regards statements made in paragraph 4.10 of the O.A. , I beg to say that there was no arbitrary and malafide action of the official respondents in selecting myself and as such there was no cause of action for the applicant to file O.A. No.311/04 challenging my selection.

12. That as regards the statements made in paragraph 4.11. of the O.A, the same is matters of records.

13. That as regards the statements made in paragraph 4.11.(repeated) of O.A. I deny the observation of the Head Clerk of respondent No.4 that there was large scale irregularities in the selection process.

14. That as regards statement made in paragraph 4.12 and 4.13 of the O.A. , I beg to say that the respondent No.4

ought not to have issued the letter dt. 7.12.04 for cancellation of the selection process. I deny the contention of the respondent No.4 that the selection process has vitiated the guidelines of the department. Although the Applicant has secured higher mark than myself but the applicant is not a permanent resident of Chirakati and does not have landed property of his own in the village. He has landed property in Gauripur, Town which is about 60 miles away from Chirakuti. On this score alone, the Applicant is not entitled even for consideration of his case for the post of EDBPM of Chirakati village. So the respondent authorities ought not to have cancelled the selection process.

15. That as regards the statements made in paragraph 4.13 (A) of the O.A. the same is matters of records and I have no comments to make.

16. That as regards the statements made in paragraph 4.14 & 4.15 of the O.A, I beg to state that as already stated, mere obtaining higher mark in H.S.L.C.(Matriculation Examination does not confer any right for appointment of the applicant as he has got no landed property in Chirakuti. i.e. where the Branch Post office is situated. The candidate securing higher marks in H.S.L.C. examination is to be appointed when he fulfills other conditions. The applicant who resides in Gauripur Town at a distance of 60 miles is not expected to give proper service to the village in question. So his candidature should not have been considered. Moreover, he could not acquire any landed property in the village before finalisation of the selection process.

17. That as regards the averments made in paragraph 4.16, 4.17 and 4.18 of the O.A., I beg to state that the respondent authorities in the meantime cancelled my selection for the post of BPM vide an order dt. 27.12.04 and readvertised for the said post on 5.1.05. As such I preferred the O.A. No.23/2005 before this Hon'ble Tribunal challenging the order and readvertisement and the same is pending disposal. Furthermore, I beg to say that in the meantime, the respondent No.4 the Superintendent of Post Offices, Goalpara Division vide an order dated 28.2.05 cancelled the selection meeting which was to be held on 10.3.05 for selection for the aforesaid post.

The copy of order dt. 28.2.05 cancelling the selection meeting scheduled to be held on 10.3.05 is annexed as Annexure No.B.

18. That as regards statements made in paragraph 4.19 of the O.A. , I beg to state that the order dt. 27.12.04 is already under challenge in the O.A. No.23/2005 as the same relates to my selection for the post of BPM.

19. That the applicant has not filed the present application bonafide and the same is liable to be dismissed.

20. That I beg to state that in the written statement of the respondent authorities in O.A.No.287/2003 filed by another unsuccessful candidate Abdur Rahman, they have categorically stated that out of four candidates who were directed to submit land documents in their names, only two candidates submitted the aforesaid documents. It be

stated that only myself and Abdur Rahim submitted land documents in our names. Out of two of us, I was selected as I got higher marks than Abdur Rahim in H.S.L.C. Exmn.

The said contention of the respondent authorities, is reflected in the paragraph 2 of the order dt. 23.9.04 passed in O.A. No.287/2003 ( which is annexed as Annexure No.13 in the O.A. No.23/05 and also as Annexure No.A. of my written statement ) which may kindly be perused by this Hon'ble Tribunal. From the aforesaid facts, it is crystal clear that I was the only eligible candidate to be selected for the post.

21. That in the column of paragraph 7 of the O.A. (matters not previously filed or pending before any court) the present applicant has suppressed the actual facts and have not approached this Hon'ble Tribunal in clean hands. He has misled this Tribunal by stating wrong facts on verification. In this regard, I beg to say that the applicant stated in the present application that he filed a Title suit No.581/02 before the Civil Judge, Jr. Division, Dhbri on the same subject matter and the same was subsequently withdrawn on 14.10.04 and no other application, writ petition or suit in respect of the subject matter is filed before any court.

But I beg to state that the aforesaid statement is totally false. As already stated by myself in paragraph 4.11 of the O.A. No.23/2005 ( filed by me) that Jahan Ali

(present applicant in O.A.No.27/05 preferred a Civil Suit vide T.S.No.581/03(Not 581/02 as stated) before the learned Civil Judge, Jr. Division No.1, Dhubri alongwith Misc. (J) Case No.407/03 for granting temporary injunction restraining the opposite parties from appointing myself (Elias Rahman) and also for granting permanent injunction etc alongwith other prayers. The aforesaid suit was dismissed by the Civil Judge (Jr.Divn.)No.1 Dhubri vide an order dt. 30.4.04. Thereafter, Jahan Ali (Present applicant ) filed Misc. Appeal No.15/2004 alongwith Misc.(J) Case No.14/04 before the learned Civil Judge(Sr. Divn.) Dhubri. against the order of Court below. Both the cases were dismissed by the learned Civil Judge (Sr. Divn.) vide order dt. 9.8.04 holding the appeal without any merit and affirmed the order of learned Civil Judge (Jr. Divn.).

The copy of order dt. 9.8.04 in Misc(J) Case No.14/04 and copy of judgment dt. 9.8.04 passed by Learned Civil Judge(Sr.Dvn.)Dhubri are annexed as Annexure No.C & D.

22. That I beg to submit that as per guidelines of authorities, the criteria of permanent resident of the selected candidate having property in the village in question is a must. He must submit proof of residence and property particulars before finally selected. The marks obtained by a candidates will be taken into account only when if fulfills other condiditions. A person having property in some oth2r place is not entitled for

*even*  
appointment if he obtains higher marks in H.S.L.C.  
(Matriculation) Examination. In the instant case, the applicant Jahan Ali, posses land in Gaumipur Town ( 60 miles away) and his case cannot be considered although he secured higher marks. On this score lone, the application is liable to be dismissed. He is also liable to pay cost for unnecessary dragging me to the court/Tribunal for no fault of mine.

VERIFICATION.

I, Elias Rahman, son of Ebrahim Khalil Ek, aged about 21 years, a resident of village and P.O. Chirakuti, P.S. Chapar, Dist. Dhubri do hereby verify that the contents in paragraphs 1 to 21 are true to my knowledge and also true from the records of the case and rests are my humble submissions before the Hon'ble Tribunal.

Date:

Place: Guwahati-

*Elias Rahman.*

Signature.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUJARATI BENCH.

Original Application No. 287 of 2003.

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

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

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

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

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

- VERSUS -

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

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

. . . . . Respondents.

O R D E R (ORAL)

BATTA, J.(V.C.) :

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

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Contd./2

Certified to be

true Copy

Advocate

rding to the applicant, he is fully qualified for the said post and the letters written on 19.9.2003 and 20.10.2003 to respondent no.5 to submit land document are contrary to the selection process contemplated in the said notification. According to him, respondent no.5 had not fulfilled all the terms and conditions of the said notification and as such his appointment, if any, is required to be quashed and further directions are sought to select the applicant and appoint him to the said post.

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

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

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

Contd./3

-12-

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

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

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

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Contd./4

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

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

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

Q  
Contd./5

the judgment.

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

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



Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

Certified to be true copy  
Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Guwahati-800005  
29/9/04

ANX. NO. B

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE SUPERINTENDENT OF POST OFFICES  
GOALPARA DIVISION, DHUBRI 783 301.

No. B3/358/Chirakuti-1

Dated at 28-02-2005.

Sub :- Regarding appointment to the post of GDS BPM/Chirakuti  
P.O. in a/c with Bilasipara S.O.

*Scheduled*

The Selection Meeting to be held on 10-03-2005 as fixed vide  
this office letter of even no. dated 16-02-2005 on the above noted subject is  
hereby cancelled due to some unavoidable reasons.

This is for information to all concerned.

*Sd/-*

(G. C. Hazarika)  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

Copy to :-

1. The Asstt. Director, Employment Exchange, Dhubri for  
information and necessary action.
2. Shri S. Das, Supdt. of Post Offices, Nalbari- Barpeta Divn.,  
Nalbari 783 335.
3. The President, Chirakuti, Tilapara G.P., P.O.- Tilapara Via-  
Bilasipara S.O.
4. The BPM, Chirakuti B.O. Via- Bilasipara S.O. for displaying on  
Notice Board.
5. The SPM, Bilasipara S.O. for displaying on Office Notice Board.
6. All applicants concerned. *Elias Rahanan, P.O. Chirakuti, Dhubri*
7. Office copy.
8. Spare.

*See end*  
(G. C. Hazarika) 28/2/2005  
Supdt. of Post Offices  
Goalpara Divn. Dhubri  
783 301.

**Certified to be**

**true Copy**

**Advocate**

Supplying the requisite  
number of Stamps  
and Folios

Date of delivery  
of the requisite  
Stamps and folios

Date on which  
the Copy was  
ready for deli-  
very

-16-  
Date of mailing  
over the Copy  
to the applicant

12-8-04 12-8-04 12-8-04 12-8-04

HIGH COURT FORM No. (J) 3

HEADING OF JUDGMENT ON APPEAL

DISTRICT Dhubri

In the Appellate Court of the Civil Judge (Sr. Division)

Present: Sri Imtiaz Ali, (AJS)

.... Mon ..... day, the 9th day of August/04 19

Misc. APPEAL No. 15 /04 of 19

from the decree/order of  
Munsif/Subordinate Judge No. 1, Dhubri.  
Misc. (J) suit/case No. 407/03 of

and made in

1 Jahan Ali,

2 Versus  
G.C. Hazarika, and others.

Appeal

Respondent(s)

\*Give date or dates.

This appeal coming on this day (or having been heard on) 28-7-04  
in the presence of

1- Sri S. Husain, advocate for Appellant(s)  
Advocate(s) for Appellant(s)

2- Sri K.A. Pradhan, G.P.  
Advocate(s) for Respondent(s)  
Pleader(s)

2. Sri A. Latif, advocate for the respondents.

and having stood for consideration to this day, the court delivered the  
following judgment:

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6.87-30,000-15-7-06,

Advocate

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J U D G M M E N T

1. This misc appeal is directed against the order dated 30-4-04 passed by the learned Civil Judge (J.D.) No.1, Dhubri in Misc. (J) case No. 407/03 arising out of Title Suit No. 581/03 rejecting the prayer of ~~and~~ ad interim temporary injunction preferred by the plaintiff/petitioner.

2. Being aggrieved by the said order, the plaintiff/appellant preferred this appeal on ~~the~~ grounds mentioned in the memorandum of appeal. The facts of the case is that the opposite parties with a view to appoint any eligible candidates for the post of G.D.S. Branch Postmaster at Chirakuti has invited applications through the Employment Exchange, on 20-6-03 for the said post ~~from~~ <sup>from</sup> the eligible candidates. Accordingly, the plaintiff possessing the requisite ~~and~~ qualification applied for the post ~~of~~ along with others. Thereafter, the plaintiff/appellant has also appeared before the ~~and~~ <sup>selection committee</sup> ~~selection candidates~~ but the said Selection Committee did not select him violating the rules of appointment etc. However, the aforesaid selection committee selected the defendant No.5 illegally. Therefofe, the plaintiff filed the Title Suit No. 581/03 in the learned court below. Along ~~the~~ with the said suit, the plaintiff/appellant also filed a petition under order 39 Rule 1 & 2 t/w Sec. 151 CPC praying for grant of temporary injunction restraining the O.P./respondent No.5 from appointing ~~the defendant no.5~~ <sup>post</sup> in the post aforementioned after selection and for a mandatory injunction against other defendants to terminate the defendant No.5. if he joined the said post. After hearing the learned counsels for the

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parties, the learned Civil Judge(J.D.) No.1, Dhubri passed the impugned order. Heard the learned advocates for the parties. Perused the impugned order and the case records.

3. My findings and reasons thereof are given below :-

The learned Civil Judge(J.D.) no.1, Dhubri by way of the impugned order has rejected the prayer of the petitioner/appellant for the granting injunction. In this case, the plaintiff/appellant stated that an advertisement was made on 20-6-03 <sup>through</sup> to the local Employment Exchange, Dhubri for the post of GDS, Branch Postmaster, at Chirakuti Branch Office. Accordingly, the plaintiff applied for the said post in the office of the defendant No.1 and attended before the ~~selection~~ selection committee on 18-9-03. Along with the plaintiff/appellant, another 14 Nos. of candidates appeared before the selection committee. The appellant ~~submit~~ claimed that he secured 62% marks in the Matriculation Examination under the Board of Secondary Education, Assam, ~~which~~ the said marks was the highest amongst all the candidates who appeared before the selection Committee for the post of G.D.S. Branch postmaster, Chirakuti Branch Office. The plaintiff/petitioner also claimed ~~for~~ graduate in Science and <sup>that he was a</sup> passed ~~History~~ in the year 1995 from B.N. College, Dhubri.

After perusal of the documents of the candidates by the selection committee the defendant No.1 issued a letter dated 20-10-03 in the name of the plaintiff with the defendant No.1 to ~~to~~ produce necessary documents exclusively in their names. On receipt of the said letter the plaintiff has ~~sent~~ the necessary documents to the defendant No.1 by

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registered post. However, despite having requisite qualification, the selection committee did not select the plaintiff/appellant. ~~however~~ <sup>Moreover</sup>, the said committee selected the defendant No.5 on 10-12-03 and issued ~~pa~~ appointment letter though there was <sup>public</sup> ~~to be~~ allegation about the character of defendant No.5.

4. The Opposite parties contested the injunction matter before the learned court below and the O.P. No.1 to 4 and 5 filed the written objections separately. They denied the allegations brought out by the plaintiff/appellant and claimed that the process of selection was done on the basis of the departmental rules and guidelines and accordingly, finding the defendant No.5 suitable, was selected and provisionally ~~allowed to~~ joined for the aforementioned post. From the above, it is seen <sup>that</sup> from the selection committee after going into the selection process and on consideration/~~et~~, the examination of the certificates, testimonials/ ~~to~~ the documents etc found the defendant No.5 eligible and holding merit for defendant No.5 selected him for the post of G.D.S. Branch Postmaster at Chirakuti Branch Officer. If there ~~is~~ is any illegal selection the same is a matter of ~~an~~ <sup>to be</sup> adjudicated <sup>in</sup> the main suit. Prima facie at this ~~stage~~ stage, nothing was shown as how the selection of the defendant No.5 was illegal. The appellant simply stated that the selection committee in violating the rules of appointment and out of provision of law whimsically, arbitrarily, and improperly selected by the defendant No.5. Now from the above, if the ~~injunction~~ contention of the plaintiff ~~is~~ is accepted the process of selection as a ~~as~~ whole stands <sup>who</sup> tainted. In such circumstances, the plaintiff ~~has~~ has not been

selected have no right to accrue in his favour for coming appointment. Now comes into question whether the plaintiff/appellant and defendant No.5 were duly considered by the selection board. I am of the opinion that the plaintiff has required qualification ad per advertisement. Records show that the plaintiff along with others including the defendant No.5 were duly considered and defendant No.5 was selected by the selection committee. There is nothing on record to so as to ~~sex~~ scrutinise the correctness of process adopted by the Selection committee.

5. Having regard to the above, I do not find any ~~prima facie~~ case that the defendant No.5 has been illegally and arbitrarily selected. The learned Civil Judge (JD.) passed the impugned order on a consideration of the fact that the appointment of the defendant No.5 was in the nature of contract and so there was no possibility of granting permanent injunction as prayed for by the plaintiff. The learned court below also held that the temporary injunction cannot be granted <sup>where</sup> ~~whether~~ permanent injunction is ~~not~~ not possible to be granted. The granting of temporary injunction ~~is~~ is regulated by the principle of ~~prima facie~~ case, balance of conveniences and irreparable loss. From the above, I find that the appellant was a candidate for the post of G.D.S. Branch Post Master, Chirakuti Branch Office and <sup>he</sup> claimed that he was the best suitable candidate but the defendant No.5 was selected arbitrarily and illegally by the selection committee. Now in finding out as to whether there is a ~~prima facie~~ case, court has to be <sup>look</sup> ~~either~~ <sup>into the</sup> strength of the plaintiff's case as reveals from the ~~his~~ his petition and affidavit at this stage <sup>and</sup> the Court

need not examine the merit of the case. The contention raised by the plaintiff/petitioner that he was the person to be selected by the selection committee but the said committee, <sup>selected</sup> the defendant No.5 arbitrarily raised a substantial question which needs investigation and a decision on merits. <sup>thus</sup> Applying the above, I find that the petitioner has a *prima facie* case to go for trial. Again if the O.P./defendant No.5 is not allowed to join in his ~~mansingh~~ <sup>assignment</sup> he will definitely suffer irreparable loss and in the event of the plaintiff/petitioner's case being failed, it will be hard <sup>hand</sup> be on the part <sup>of the</sup> of the defendant No.5 to get back his post. In these circumstances, I am of the opinion that the O.P.No.5 could be put into the ~~sooother~~ matter in-convenience if the injunction in favour of the plaintiff is allowed. Hence, I find that the balance of convenience is not in favour of the petitioner. Further, appointment of the G.D.S. <sup>Branch</sup> postmaster was made in favour of the O.P.No.5 after conducting selection process and therefore, it appears that it will cause ~~irreparable injury~~ <sup>such</sup> to the defendant No.5, ~~if~~ if injunction is granted as no post will ~~be~~ remained <sup>not</sup> vacant in ~~know~~ future if the O.P.No.5 is <sup>not</sup> allowed to resume his duty in the post of the G.D.S. postmaster in the event the plaintiff failed to get the decree in the instant suit. On the other hand, if the plaintiff get a decree in the instant suit, there is remedy for giving relief to the plaintiff. Hence, no prejudice has ~~been~~ caused upon the plaintiff if any injunction <sup>as</sup> ~~had~~ prayed for is not granted. For the reasons, observation and discussion made above, I am of the opinion, that the ~~defendant~~ appellant/plaintiff could not make out any case to justify interreference with the signed order dated 30-4-04 passed by the ~~judge~~.

learned court below.

6. In the result, this appeal is without any merit and accordingly, dismissed, thus affirming the impugned order passed by the learned court below.  
Both the parties bear their own cost.

Send back the original case record with a copy of this judgement to the learned court below.

Given under my hand and hand and seal of this court on this the 9th August 2004 at Dhubri.

Dictated & Corrected by me

Sd/- J. Ali  
 Civil Judge, (S/o. D. M.)  
 Dhubri. 9/8/04

Sd/- J. Ali  
 Civil Judge, (S/o. D. M.)  
 Dhubri. 9/8/04

certified to be true copy

Gayashree Goswami  
 Secretary  
 Dhubri  
 Authorised under Rule 1, Sec  
 14 of the Act 1270

12/8/04  
 12/8/04