

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No.....82/2005

R.A/C.P No.....

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 82/05

Misc. Petition No.

Contempt petition No.

Review Application No.

Applicants. Hitenendra Baidhya

Respondents. U.C.I. 701

Advocates for the Applicant. S. Sarma, U.K. Nair, B. Dei

Advocates of the Respondents. case M. Chanda, S. Nath, S. Chaudhury
for Respondent No. 3.

Notes of the Registry	Dated	Order of the Tribunal
1. Application is in form is filed/C. F. for Rs. 50/- and posted via PC/BD No. 206/116097 Dated 21.2.05	30.3.2005	Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman. Heard Mr. U.K. Nair, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Issue notice to show cause as to why this application shall not be admitted. Post on 25.4.2005.
Steps not taken and no Synopsis. <i>21</i>		In the meantime, further action pursuant to communication dated 16.3.2005 (Annexure - 9) will be deferred.

Steps taken
on 4/4/05.

Notice & order
Sent to D/Section
for issuing to
resp. Nos. 2, 3 by
hand and resp. No-1
resp. regd. A/D post.

25.4.05.

Mr. S. Sarma learned counsel for the
applicant. Mr. S. Nath learned counsel
appearing on behalf of Respondent No. 3.
Mr. A.K. Choudhury Addl. C.G.S.C. seeks time
for instructions.

Post the matter on 9.5.05. The
interim order dated 30.3.2005 shall
continue.

Vice-Chairman

(2)

25.5.05

9.5.05

6.5.05

① Respd. no 2 & 3

July Served

- Respd. no. 1 awaited

② No. reply filed

b/w

Suchitra Das Chaudhury

Advocate

11/May/05

(For Resp. 3)

Mr. M. Chanda learned counsel appearing on behalf of Respondent No. 3 submits that the application is not maintainable. Mr. U.K. Nair learned counsel for the applicant submit that a party Respondent No. 3 has no right to be absorbed in the Debt Recovery Tribunal under the rules. According to us it is necessary to have a written statement of all the respondents in the matter. Since Mr. M. Chanda submits that the deputation period of Respondent No. 3 is going to be expired on 05.06.2005, Post the matter on 31.5.05.

25.5.05

Vice-Chairman

10th June
Member

lm

31.5.2005 Heard the counsel for the parties.

Order passed, kept in separate sheets.

The O.A. is disposed of in terms of

the order.

25.5.05

Ans. submitted
by the Respondent No. 3.prabhakar
Member

Vice-Chairman

bb

R
Suchitra Das Chaudhury
3/b for Respondent No. 3R
M. Chanda
6/6/05

6.6.05

Copy of the Order
handed over to the
Advocates for the
partiesReceived
order copy
6/6/05

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 82 of 2005 with M.P. 97 of 2005.

DATE OF DECISION: 31-05-2005.

Shri Hitendra Baishya

APPLICANT(S)

Mr. S. Samra

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. A.K. Chaudhuri, Addl. C.G.S.C & Mr. M. Chanda

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.

G.P.S.

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH,

Original Application No. 82 of 2005 along with

Misc. Petition No. 97 of 2005.

Date of Order: This, the 31st day of May, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

Sri Hitendra Baishya
S/o Sri Deben Baishya
R/o Bharalumukh
J.P. Agarwala Road
Bye-Lane No.2
Guwahati-9.

At present working as Upper Division Clerk
In the Debts Recovery Tribunal, Guwahati.

.... Applicant.

By Advocates S/Shri S.Sarma, U.K.Nair & D.Devi.

- Versus -

1. Union of India represented by
Secretary to the Govt. of India
Ministry of Finance, Economic Affairs
(Banking Division), New Delhi.

2. The Registrar
Debts Recovery Tribunal
B. Barooah Road, Guwahati-7.

3. Sri Ajijur Rahman
Assistant in O/o Debt Recovery Tribunal
B. Barooah Road, Guwahati - 7. Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C. for official Respondents &
Mr.M.Chanda for 3rd respondent.

O R D E R (ORAL)

SIVARAJAN, J. (V.C.):

The applicant was originally recruited as Lower Division Assistant in the office of the Family Court, Kamrup, Guwahati. He was sent on deputation as Upper Division Clerk w.e.f. 7.7.1997 in the Debts Recovery Tribunal (DRT in short), Guwahati. He is continuing as such as on today. The third respondent was initially appointed as Accounts Assistant in the Assam State Co-operative and Consumers

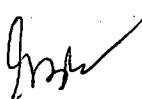
[Signature]

Federation Limited (STATFED in short) and was further promoted to the post of sub-Accountant as well as to the post of Assistant Manager (Accounts). He was also sent on deputation as Accounts Assistant in the DRT, Guwahati initially for a period of one year w.e.f. 5.6.2002. He is continuing as such.

2. The applicant has filed this Original Application with the allegation that the respondents are going to regularize the services of the third respondent in the DRT, which would adversely affect the service prospect of the applicant. He has accordingly sought for setting aside of two orders dated 7.4.2004 (copy not reproduced) and 15.4.2004 (Annexure - 7) and also the initial appointment order dated 6.6.2002 (Annexure-5).

3. Mr.M.Chanda, learned counsel appearing for the third respondent has raised a preliminary objection with regard to the maintainability of this application on the ground that DRT is not amenable to the jurisdiction of this Tribunal; the applicant is not aggrieved person under Section 19 of the Administrative Tribunals Act and the applicant has not exhausted statutory remedy available to him.

4. Mr.S.Sarma, learned counsel for the applicant sought to sustain the application. Mr. A. K. Chaudhuri, learned Addl.C.G.S.C for the official respondents submits that he has not received any instruction from the respondents till date in regard to the matters stated by the counsel for the applicant and for the third respondent. Inspite of that counsel for the parties argued the matter on merits for some time. Placed the present circumstances we are of the view that this Original Application itself can be disposed of at the admission stage itself. In that view of the matter we do not think it necessary to go into the



question of maintainability of the application for the time being. We leave open the said question. The applicant, as already noted, was a deputationist. However, his services were regularized in the DRT as per order dated 26.2.2001 (Annexure-4). He is presently working as UDC. Likewise the third respondent is also a deputationist in the post of Accounts Assistant and that he is continuing as Assistant (re-designated post). The apprehension of the applicant is that the official respondents are going to regularize the services of the third respondent as Assistant and that a decision in that regard has already been taken which is contrary to the Rules (Annexure-3). On the other hand, contention of the third respondent is that applicant's service as UDC has been regularized under the same Rules and therefore it is not open to the applicant to contend that the third respondent service cannot be regularized under the said Rules. Counsel for the third respondent further submits that the applicant does not have the requisite service for aspiring the post held by the third respondent now and thus has no locus standi. Counsel also submits that deputation period of the third respondent is due to expire in the first week of June, 2005. Mr. A.K.Chaudhuri, learned Addl.C.G.S.C., as already noted, did not get any instruction in this matter.

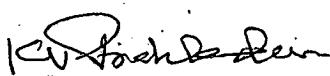
5. Taking into account all the circumstances we are of the view that this O.A. can be disposed of with directions at the admission stage itself. Admittedly, the period of deputation of the third respondent is due to expire in the first weeks of June, 2005. In such circumstance, it is for the concerned official respondent to deal with the matter either to repatriate the third respondent to his parent department or allow him to continue in the deputation post in terms of the relevant rules mentioned in Annexure-5. On the other hand, if the

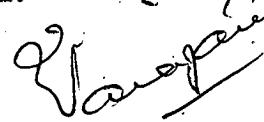
Jpt

respondents have any idea of regularizing the services of the third respondent as alleged by the applicant, certainly if there is any rule or regulation in that regard it must be done in accordance with the said rules or regulation. However, since the applicant has projected his grievances against the alleged regularization of the third respondent, he will make a representation raising all his legal contentions with supporting provisions within a period of two weeks from today. If any such representation is received, the same will be duly considered by the concerned respondent before taking final decision in the matter of regularization of the services of the third respondent (if there is any such proposal). The third respondent has also to be heard before a decision is taken with reference to the representation to be filed by the applicant with copy to him. The third respondent will be entitled to file his objection if any in the matter. A decision in that regard will be taken within a period of three months from the date of receipt of the representation as directed hereinabove. The third respondent shall not be repatriated on the expiry of the deputation period, if any proposal for regularization is pending, till a decision is taken on the representation to be filed by the applicant as directed hereinabove. Any decision taken, as directed hereinabove, will be communicated to the applicant and to the third respondent immediately thereafter.

The O.A. is accordingly disposed of. The applicant will produce this order alongwith the representation to the concerned respondent for compliance.

In view of this order, M.P. No. 97 of 2005 is closed:


 (K.V.PRAHLADAN)
 ADMINISTRATIVE MEMBER


 (G.SIVARAJAN)
 VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. /2005.

Sri Hitendra Baishya ... Applicant.

- Versus -

Union of India & Ors. ... Respondents.

SYNOPSIS

The applicant in the instant case is aggrieved by the action on the part of the respondents in proposing to fill up the post of Assistant by way of permanent absorption of respondent No. 3 who is on deputation violating the recruitment rules holding the file and thereby causing permanent blocking in the promotional avenue of the applicant who is eligible and due for such promotion. The respondent No. 3 was working as an Assistant Manager (Accounts) in the office of the Managing Director Assam State Co-operative Marketing and Consumers Federation (Statfed) got his appointment to the post of Accounts Assistant in the Debt Recovery Tribunal on deputation basis for one year w.e.f. 05.06.2002 vide order dated 06.06.2002. The service of the Respondent No. 3 thereafter was converted to Assistant and subsequently he made application for his permanent absorption as Assistant. Acting on his such representation now the Registrar DRT has issued a letter dated 16.03.2005 to the Managing Director, Statfed, Bhangagarh, Guwahati - 5 requesting him to issue no objection certificate for permanent absorption of the Respondent No. 3. The present applicant who is the only incumbent entitled for next promotion to the post of Assistant, in the event of such permanent absorption of Respondent No. 3 will have to remain stagnant in the post of UDC throughout his service career. It is under these peculiar fact situation of the case the applicant has come under the protective hands of this Hon'ble Tribunal.

Central Administrative Tribunal

28 MAR 2001

গুৱাহাটী বিধায়ক
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : D.A. No. of 2005

BETWEEN

Sri Hitendra Baishya

..... Applicant.

AND

Union of India & ors. Respondents.

I N D E X

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7.	Annexure-5	
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11.	Annexure-9	

Filed by :

Regn. No. :

File : d:\WS\private\hitendra

Date :

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

28 MAR 2005

गुवाहाटी बेंच
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 82/05 of 2005

BETWEEN

Sri Hitendra Bishya
S/o Sri Deben Bishya
R/o Bharalumukh,
J.P. Agarwala Road,
Bye-Lane No.2,
Guwahati-9.

at present working as Upper Division Clerk
in the Debts Recovery Tribunal, Guwahati.

..... Applicant.

- AND -

1. Union of India represented by
Secretary to the Govt. of India,
Ministry of Finance, Economic Affairs,
(Banking Division), New Delhi.
2. The Registrar
Debts Recovery Tribunal
B. Barooah Road, Guwahati-7.
3. Sri Ajijur Rahman
Assistant in of O/o Debt Recovery Tribunal
B. Barooah Road, Guwahati-7.

..... Respondents.

DETAILS OF THE APPLICATION

1. THE PARTICULARS AGAINST WHICH THIS APPLICATION IS MADE:

This application is not made against any particular order but has been made against the action/inaction on the part of the respondents in proposing to fill up the post of Assistant in the Debts Recovery

Filed by -
The applicant
through
Bamolma Devi
Abroon
28.3.05

Tribunal on the basis of permanent absorption in violation of the recruitment rules holding the field and thereby blocking the avenue of promotion of the applicant.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant in the instant case is aggrieved by the action on the part of the respondents in proposing to fill up the post of Assistant by way of permanent absorption of respondent No.3 who is on deputation violating the recruitment rules holding the field and thereby causing permanent blockage in the promotional avenue of the applicant who is eligible and due for such promotion. The respondent No.3 was working as an Assistant Manager (Accounts) in the office of the Managing Director Assam State Co-operative Marketing and Consumers Federation (Statfed) got his appointment to the post of Accounts Assistant in the Debt Recovery Tribunal on deputation basis for one year w.e.f. 5.6.82 vide order dated 6.6.82. The service of the respondent No.3 thereafter was converted to Assistant and subsequently he made application for his permanent absorption as Assistant. Acting on his such representation now the Registrar DRT has issued a letter

dated 16.3.05 to the Managing Director Statfed, Bhangaghar, Guwahati-5 requesting him to issue no objection certificate for permanent absorption of the respondent No.3. The present applicant who is the only incumbent entitled for next promotion to the post of Assistant, in the event of such permanent absorption of respondent No.3 will have to remain stagnant in the post of UDC throughout his service career. It is under these peculiar fact situation of the case the applicant has come under the protective hands of this Hon'ble Tribunal.

This is the crux of the matter for which the present applicant has filed this Original Application. Detail facts leading to filing of this case are given below:

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

4.3. That the applicant got his initial appointment as on LDC vide order dated 25.3.92 and thereafter he continued to hold the post of LDC till the year 1997. Thereafter the applicant applied for the post of UDC under DRT and he was selected for the said post. Thereafter the DRT issued an order dated 29.8.97 by which the applicant was appointed on deputation basis for one year w.e.f. 7.7.97. The present applicant since his such appointment is continuing as such without there being any blemish.

Copies of the orders dated 25.3.92 and 29.8.97 are annexed herewith and marked as Annexure-1 & 2

respectively.

4.4. That the Govt. of India vide gazette notification dated 1.12.01 announced the rules namely Debt Recovery Tribunal, Guwahati Group-A and Group-B (gazetted) and Group-B (non-gazetted) posts Recruitment Rules 2001. In the said recruitment rules while describing the posts at Sl. No.7, the post of Assistant along with its recruitment rules has also been notified.

4.5. That the aforesaid gazette notification more particularly in para 7, also prescribes the manner and method to be adopted in regularising and absorbing its staff who are on deputation subject to fulfillment of qualification and experience as prescribed in the recruitment rule.

4.6. That the applicant who is qualified and who has got the requisite experience as per the recruitment rule got his permanent absorption in the Debt Recovery Tribunal pursuant to an office order issued by the Debt Recovery Tribunal dated 26.2.2001 in the post of UDC. In terms of the aforesaid recruitment rule the next promotional avenue for the applicant in the post of Assistant and his case is required to be considered by the respondents for such promotion in the next available DPC.

A copy of the order dated 26.2.2001
is annexed herewith and marked as
Annexure-4.

4.7. That the respondent No.3 who was working as a

Assistant Manager (Accountants) in Statfed in response to an advertisement published in the Employment news on 8.2.2002 for the post of Account Assistant on deputation basis for a period of one year, applied for the same. As per the recruitment rule the said respondent No.3 is not eligible for consideration of his case on deputation to the post of Accounts Assistant. The recruitment rule made through the Annexure-3 Gazette notification specifically mentioned that the officers of the Central Govt. holding analogous posts on regular basis or 3 years regular service in a post carrying the pay scale of Rs.5000-8000 or 8 years of regular service in the pay scale of Rs.4000-6000 or equivalent and having experience of working as Senior Accountant or Accountant in the pay scale of Rs.4000-6000 who have undergone training in cash and accounts. As per the said recruitment rule he was not eligible for the said post as he was not a Central Govt. Employee. However the respondents ignoring that provision of the recruitment rule appointed him to the post of Account Assistant vide office order dated 6.6.02 and accordingly he joined the service as Account Assistant on 5.6.02 by submitting joining report. It may be stated here that there is no order from the competent authority relaxing the eligibility criteria prescribed for the post against which the Respondent No.3 was appointed.

Copies of the office order dated 6.6.02 and joining report dated 5.6.02 are annexed herewith and marked as Annexure-5 & 6.

4.8. That the official respondents thereafter issued an order dated 7.4.04 by which the service of the respondent

No.3 was converted to the designation of Assistant from the Account Assistant. It is noteworthy to mention here that both the posts of Assistant and Account Assistant are two distinct and separate posts having different recruitment rules as well as eligibility criteria as evident from the Annexure-3 Gazette notification and as such the conversion made as regards the service of respondent No.3 is not permissible. The official respondent however to provide him undue benefit converted his service to Assistant without any authority. The official respondents in addition to that mentioned in the said order dated 7.4.04 that the terms and conditions of the service of the respondent No.3 will remain same as earlier office order dated 6.6.02. In this connection the official respondents issued an order dated 15.4.04 indicating such conversion of the service of the respondent No.3.

Copies of the order dated 15.4.04 and the charge report submitted by respondent No.3 are annexed herewith and marked as Annexure-7 & 8 respectively.

4.9. That the applicant begs to state that the official respondents for the reasons best known to them have provided undue favour to the respondent No.3 right from his initial recruitment. The said respondent No.3 during the course of his service now has applied for his permanent absorption in the Debt Recovery Tribunal and as usual the official respondents in continuation to their earlier illegalities now have decided to absorb the respondent No.3 in the post of Assistant permanently. It is noteworthy to mention here

that the official respondents acting on his prayer for permanent absorption have issued a letter dated 16.3.05 to the Managing Director Statfed for issuance of no objection certificate in absorbing the respondent No.3 permanently in the post of Assistant in Debt Recovery Tribunal.

A copy of the letter dated 16.3.05 is annexed herewith and marked as Annexure-9.

4.10. That the applicants begs to state that the official Respondents have acted illegally in appointing the respondent no.3 in the post of Accounts Asstt. in Debt Recovery Tribunal in violation to the recruitment Rules holding the field. Admittedly, the respondent No.3 who is an employee of Co-operative Society does not fulfill the eligibility criteria in terms of the said recruitment rules. It is noteworthy to mention here that the respondent no.3 is not a Central Govt. Employee and as such he does not fulfill the basic criteria for being considered for appointment to the post of Accounts Assistant. Again the said Respondent No.3 who was holding the post of Asstt. Manager was drawing a pay scale of Rs.1635-3950 which is much lower than the required pay scale in terms of the said recruitment Rules. As stated above the official respondents have been providing the respondent No.3 the undue favour in all respects violating the provision of the recruitment rule and as such entire action on their part is liable to be set aside and quashed along with the proposed action for his permanent absorption in the post of Assistant.

4.11. That as stated above under no circumstances

the respondent No.3 is entitled for permanent absorption against the post of Assistant. It is further stated that the extension period of the Respondent No.3 is going to be expired on 4.6.05 which is the 3rd & last extension he is availing. The sequence of events as narrated above clearly indicate that the official respondents have been providing undue favour to the respondent No.3 violating the recruitment rule and as a consequence of such illegal action has virtually blocked the promotional avenue of the applicant to the post of Assistant.

4.12. That the respondent No.3 admittedly got his appointment on deputation as Account Assistant though he was not eligible even for consideration of his case. Thereafter the aforesaid illegalities continues when his such service as Account Assistant was converted to Assistant without following the recruitment rule and lastly by the impugned action the respondents have sought to absorb him permanently in the post of Assistant without taking into consideration the recruitment rule holding the field. The Rule 7(1) of the recruitment rule clearly stipulate in case of permanent absorption the candidate who is holding the post on deputation must fulfill the qualification and experience as laid down in the rule. Admittedly the respondent No.3 is not a qualified person to hold any of the post i.e. the post of Account Assistant or Assistant in terms of the recruitment rules and as such the proposed action on the part of the official respondents towards absorption of respondent No.3 in the post of Assistant is per-se illegal and arbitrary. The official respondents have been processing the case of the respondent No.3 in a very confidential manner and it is

the definite information of the applicant that within a day or two he will be permanently absorbed as Assistant in Debt Recovery Tribunal which will cause serious prejudice to the applicant.

It is under this peculiar fact situation of the case the applicant has come under the protective hands of this Hon'ble Tribunal seeking an urgent and immediate relief. The applicant through this application prays for an interim order from this Hon'ble Tribunal directing the respondents not to absorb the respondent No.3 permanently in the post of Assistant in Debt Recovery Tribunal during the pendency of the OA. In the event of not passing any interim order as prayed for would cause irreparable loss and injury to the applicant and same would render the OA infructuous. Since respondent No.3 is still in force upto 4.6.05, there will be no difficulty in passing the interim order as prayed for.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1. For that in any view of the matter the action/inaction on the part of the respondents as reflected in the facts of the case is per-se illegal and arbitrary and as such same is liable to be set aside and quashed.

5.2. For that the action on the part of the respondents No.3 who is not qualified to hold the post of Account Assistant on deputation is illegal as the respondent No.3 does not possess the required qualification for such appointment in terms of the recruitment rule and as such same is liable to be set aside and quashed.

5.3. For that the action/ inaction on the part of the respondents in converting the service of the respondent No.3 from the post of Account Assistant to Assistant treating both the posts to be same and similar is illegal as the entry qualification for both the posts are different and as such the orders dated 7.4.04 and 15.4.04 are liable to be set aside and quashed.

5.4. For that the proposed action on the part of the respondent No.3 permanently in the post of Assistant is in direct violation of the recruitment rule holding the field and as such the official respondents need be restrained from absorbing the respondent No.3 in the post of Assistant and to repatriate him back to his present organisation immediately.

5.5. For that the respondents have acted illegally in not considering the case of the present applicant for promotion to the post of Assistant in terms of the recruitment rules by covering DPC and as such appropriate direction need be issued to the respondents to consider his promotion to the said post immediately.

5.6. For that admittedly the respondent No.3 not having the prescribed eligibility norms for appointment as Account Assistant and/or Assistant and there being no order from the Central Govt. invoking the provisions of Rule 8 of the rules of 2001, it was not open for the respondent authorities to consider the case of respondent No.3 for absorption against the post of Assistant. Such a course of action is in clear violation of the express provision of the rules of 2001 and 10

accordingly the steps as have been initiated in this connection are all ab-initio void and of no consequence.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown

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

8.1. To set aside and quash the impugned orders dated 7.4.84 (not annexed) and 15.4.84 including the order dated 6.6.82.

8.2. To direct the respondents to repatriate the respondent No.3 to his parent organisation immediately.

8.3. To direct the official respondents not to absorb the respondent No.3 in the post of Assistant permanently.

8.4. To direct the respondents to consider the case of the applicant to the post of Assistant in terms of the recruitment rule holding the field.

8.5. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order directing the respondents not to issue any order absorbing the respondent No.3 in the post of Assistant in Debt Recovery Tribunal, Guwahati and to repatriate him to his present Deptt. immediately.

13.

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

1. I.P.O. No. : 20 Cr 116097

2. Date : 21.2.05

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Sri Hitendra Baishya, aged about 36 years, S/o Sri Deben Baishya, R/o Bharalumukh, J.P. Agarwala Road, Bye-Lane No.2, Guwahati-9, do hereby solemnly affirm and verify that the statements made in paragraphs 4:5., 4:10-4:12..... are true to my knowledge and those made in paragraphs 4:3., 4:4, 4:6-4:9..... are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

I am the applicant in the instant application and as such well convergent with the facts and circumstances of the case and also competent and authorised by the other applicant to sign the verification.

And I sign on this the Verification on this the 28th day of March of 2005.

Hitendra Baishya.

Signature.

GOVT. OF ASSAM
OFFICE OF THE FAMILY COURT, GUWAHATI, KAMRUP.

O R D E R

In exercise of the powers conferred under Rule 10 (3) of the Assam Family Court Rules, 1990, Sri Hitendra Baishya S/O Sri Deben Baishya, Bharalumukh, Guwahati, Kamrup, now serving as L D Asst in the office of the District & Sessions Judge, Kamrup, Guwahati be appointed as L D Asst in that establishment in the pay scale of Rs. 1063-20-1225-30-1345-DE-30-1435-40-1635-50-2035-60-2055/- p.m. with effect from the date of joining.

Principal Judge,
Family Court, Guwahati,
Kamrup.

Memo No. FCG/2/92/15-16/A

Dated 25.3.92.

Copy to :-

1. The District Sessions Judge, Kamrup, Shy. He is requested to release Sri Hitendra Baishya with immediate effect.
2. Sri Hitendra Baishya s/o Sri Deben Baishya Bharalumukh, Guwahati.
3. The Treasury office, Guwahati, Kamrup.

25.3.92
Principal Judge
Family Court, Guwahati,
Kamrup.

ANNUAL
APPROVAL

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPTT. OF ECONOMIC AFFAIRS
(BANKING DIVISION)
DEBTS. RECOVERY TRIBUNAL,
R. C. ROAD, JORPUKHURI (TOPOBAN)
UZANBAZAR, GUWAHATI-781001.

- 16 -

28
ANNEXURE- 2

NO. DRTG/P-7(97)/S2C

Dated August 29, 1997

OFFICE ORDER

Sri Hitendra Baishya, L.D. Asstt. in the Scale of pay Rs. 1065-2090/- of the Principal Judge, Family Court, Govt. of Assam, Guwahati is hereby appointed to the post of U.D.C. in the Debts Recovery Tribunal, Guwahati in the scale of pay Rs. 1200-30-1560-EB-40-2040/- on deputation basis initially for a period of one year, w.e.f. 07-07-1997 (FN). His deputation terms will be regulated in terms of Govt. of India, Min. of Finance O.M. No. F-1(11)-E-III(B)/75 dated 7/11/75 as amended from time to time

(A.H. LASKAR)
PRESIDING OFFICER

Sri Hitendra Baishya,
Upper Division Clerk,
D.R.T., Guwahati-1

Copy to,

1. The Under Secretary to the Govt. of India, Ministry of Finance, Deptt. of Economics Affairs, Parliament Street, New Delhi-1
2. The Pay & Accounts Officer, Pay & Accounts Office, Min. of Finance, Deptt. of Economics Affairs, (Banking Divn.), ERIS & Banking, AGCR, Building, New Delhi-2
3. The Principal Judge, Family Court, Govt. of Assam, Guwahati-1
4. The Accountant General, O/O the A.G., Beltala, Guwahati-28
5. Accounts Section, DRT., Guwahati.
6. File No. DRTG/Appt-1(1)/97

(A.H. LASKAR)
PRESIDING OFFICER

11

Attn:
Advocate.

13

लागू नहीं होता

AYANA 10. 1923 [PART II—SUP. 3(1)]

14

नहीं होता

7

ही होता

लागू नहीं होता

1	2	3	4
9.	लेखा सहायक	1* (एक) (2001)	साधारण केन्द्रीय सेवा, समूह 'ख' के आधार पर परिवर्तन किया जा सकता है
			5500 9000

8	9	10
लागू नहीं होता	नहीं	दो वर्ष

11	12
प्रतिनियुक्ति द्वारा	
	प्रतिनियुक्ति :
	(i) केन्द्रीय सरकार के ऐसे अधिकारी जो नियमित आधार पर सदृश पद धारण किए हुए हैं या
	(ii) जिन्होंने 5000-8000 रु. के वेतनमान में 3 वर्ष नियमित सेवा की है या
	(iii) जिन्होंने 4000-6000 रु. या समतुल्य वेतनमान में 8 वर्ष नियमित सेवा की है और जिनके पास ज्येष्ठ लेखापाल के रूप में कार्य करने का अनुभव है या 4000-6000 रु. के वेतनमान में ऐसे लेखापाल जिन्होंने रोकड़ और लेखा में प्रशिक्षण प्राप्त किया है।

टिप्पणी : प्रतिनियुक्ति की अवधि, जिसके अंतर्गत केन्द्रीय सरकार के त्रिसी या किसी अन्य संगठन/विभाग में इस नियुक्ति से ठीक पहले धारित किसी अन्य काड़र वाल्ये पद पर प्रतिनियुक्ति की अवधि भी है, साधारणतया तीन वर्ष से अधिक नहीं होगी।
(प्रतिनियुक्ति द्वारा नियुक्ति के लिए अधिकतम आयु सीमा) आवेदन प्राप्त करने की अंतिम तारीख को 56 वर्ष से अधिक नहीं होगी।)

13	14
लागू नहीं होता	लागू नहीं होता

[फा. सं. 1/3/2000-झी आरटी]

एस. पी. एस. सांगवान, अवर सचिव

New Delhi, the 15th November, 2001

G. S. R. 650.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 36 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby makes the following rules regulating the method of recruitment of Group 'A' and 'B' (Gazetted) and Group 'B' (Non-Gazetted) Posts in the Debts Recovery Tribunal, Guwahati namely :—

1. **Short title and commencement.**—(1) These rules may be called the Debts Recovery Tribunal, Guwahati, Group 'A' and 'B' (Gazetted) and Group 'B' (Non-Gazetted) Posts Recruitment Rules, 2001.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Application.**—These rules shall apply to the posts specified in column 1 of the Schedule annexed hereto.

3. **Number of posts, classification and scales of pay.**—The number of the said posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. **Method of recruitment, age limit, qualifications etc.**—The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns 5 to 14 of the said Schedule.

5. **Initial Constitution.**—All persons appointed at the commencement of these rules holding the posts of Secretary/Registrar, Recovery Officer, Private Secretary, Section Officer, Stenographer Grade 'C', Assistant, Recovery Inspector on regular basis shall be deemed to have been appointed as such under these rules, if such persons opt for such posts within thirty days of the commencement of these rules. The service rendered by them before the commencement of these rules shall be taken into account for deciding the eligibility for promotion, etc., to the next higher grade.

6. **Disqualifications.**—No person,—

(a) who has entered into or contracted a marriage with a person having a spouse living; or
 (b) who, having a spouse living, has entered into or contracted a marriage with any other person.

shall be eligible for appointment to the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

7. **Regularisation/Absorption.**—(1) Notwithstanding anything contained in the provisions of these rules, the persons holding the posts in the Debs Recovery Tribunal, Guwahati, on the date of commencement of these rules, either on transfer or on deputation basis and who fulfil the qualifications and experience laid down in these rules and who are considered suitable by the Departmental Promotion Committee shall be eligible for regularisation or absorption in the respective grade subject to the condition that such persons exercise their option for the absorption and that their parent Departments do not have any objection to their being absorbed in the Tribunal.

(2) The seniority of officers mentioned in sub-rule (1) shall be determined with reference to the dates of their regular appointment to the post concerned:

Provided that the seniority of officers recruited from the same source and in the posts held by them in the parent Department shall not be disturbed.

(3) The suitability of persons for absorption may be considered by a Departmental Promotion Committee.

8. **Power to relax.**—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

9. **Saving.**—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-Serviceman and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of the post	Number of posts	Classification	Scale of pay	Whether selection-cum-seniority or selection by merit	Whether benefit of added years of service admissible under rule 30 of the Central Civil Services (Pension) Rules, 1972
1	2	3	4	5	6
1. Secretary/ Registrar	1* (One) (2001) *Subject to variation depending on workload.	General Central Service, Group 'A' Gazetted, Non- Ministerial	Rs. 12750-375- 16500	Not applicable	Not applicable

After
Advocate.

Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Period of probation, if any
8	9	10	
Not applicable	Not applicable	No	Two years

Method of recruitment, whether by direct recruitment or by promotion or deputation or absorption and percentage of the posts to be filled by various methods	In case of recruitment by promotion or deputation or absorption, grades from which promotion or deputation or absorption to be made
--	---

11	12
By promotion or deputation	Deputation:
	(i) Officers holding analogous posts in Central, State Governments, or Judicial and Revenue Services etc., having five years' regular service as Under Secretary or an equivalent post in the scale of Rs. 10000-15200.
	(ii) Scale V Officers of the public sector banks holding analogous post.
	(iii) Scale IV Officers with five years' service in the scale relaxable in deserving cases.
	(iv) Officers in the public sector banks who have already held the post of Secretary, Registrar or equivalent post in a Tribunal for a period of three years.
	Desirable:
	Preference will be given to persons having legal experience or experience in judicial or recovery matters.
	Note 1.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years. (The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)
	Note 2.—Departmental Assistant Registrar/Recovery Officers with five years' regular service shall also be considered alongwith outsiders and, in case the Departmental candidate is selected, the post will be treated to have been filled-up by promotion.

13	14
Joint Secretary in Banking Division	—Chairman
Director or Deputy Secretary in Banking Division	—Member
Director or Deputy Secretary (Debts Recovery Tribunal) in Banking Division	—Member
Deputy Legal Adviser Bank of India	—Member

1	2	3	4	5	6
2. Assistant Registrar	1* (On 1 st January 2001)	General Central Service, Group 'A'	Rs. 10000-325-15200	Not applicable	Not applicable
	*Subject to variation depending on workload.	Gazetted Non-Ministerial			
Not applicable	Not applicable	No		Two years	



Advocate

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By deputation

Deputation:

- (i) Officers holding analogous posts in the Central, State Governments, or Judicial and Revenue Services, officers having eight years' regular service as Section Officer or equivalent post in the scale of Rs. 6500-10500.
- (ii) Scale IV Officers of the public sector banks holding analogous post.
- (iii) Scale III Officers with five years' service in the public sector banks.
- (iv) Officers who have already held the post of Assistant Registrar or equivalent post in a tribunal for a period of three years.

Desirable:

Preference will be given to persons having legal experience or experience in judicial or recovery matters.

Note.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

13

14

Not applicable

Not applicable

1	2	3	4	5	6
3. Recovery Officer	2* (Two) (2001) *Subject to variation depending on workload.	General Central Service, Group 'A' Gazetted Non-Ministerial	Rs.10000-325-15200	Not applicable	Not applicable

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Not applicable

Not applicable

No.

Two years

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12

By Promotion/deputation

Deputation:

- (i) Officers holding analogous posts in the Central, State Governments, or Judicial and Revenue Services, or having eight years' regular service as Section Officer or an equivalent post in the scale of Rs. 6500-10500.
- (ii) Scale IV Officers of the public sector banks holding analogous post.
- (iii) Scale III Officers of public sector banks with five years' service.
- (iv) Officers in the public sector banks who have already held the post of Recovery Officer or equivalent post in a tribunal for a period of three years.

Desirable:

Preference will be given to persons having legal experience or experience in recovery matters.

Note 1.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

RECEIVED
Advocate
Advocates

1

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

Note 2.—Departmental Section Officers with eight years' regular service shall also be considered alongwith outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

Joint Secretary in Banking Division	Chairman	14
Director or Deputy Secretary in Banking Division	—Member	Not applicable
Director or Deputy Secretary (Debt Recovery Tribunal) in Banking Division	—Member	
Deputy Legal Adviser, Reserve Bank of India	—Member	

1	2	3	4	5	6
4. Private Secretary	1* (One) (2001) *Subject to variation depending on workload.	General Central Service, Group 'B' Gazetted Non-Ministerial	Rs.65(0)-20(0)- 10500	Not applicable	Not applicable

8	9	10
Not applicable	No	Two years

By promotion/deputation

Deputation:

(i) Officers in Central Government or State Government or in Courts or holding analogous posts on regular basis and having a degree from a recognised University.

(ii) Stenographers Grade 'C' with eight years regular service in the scale of Rs. 5500-175-9000 or equivalent and having a degree from a recognised University.

Desirable:

Preference will be given to persons having experience in legal or judicial work.

The maximum age limit for deputation shall be 56 years on the date of the appointment.

Note 2.—Departmental Grade 'C' Stenographers with eight years' experience shall be 50 years on the last date of receipt of

also be considered along with outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

13	Presiding Officer of the Tribunal Secretary/Registrar Assistant/Registrar or Recovery Officer	—Chairman —Member —Member	14	Not applicable
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Section Officer	1* (One) (2001)	General Central Service, Group 'B' Gazetted Non-Ministerial	2	3	4	5	6
*Subject to variation depending on workload.			Rs 6500-200/- 10500		Not applicable		Not applicable

John G. Gandy
Attala County
Mississippi
Attala
Advocate

7	8	9	10
Not applicable	Not applicable	No	Two years

11	12
----	----

By promotion/deputation

Deputation:

- Officers in Central Government or State Government or in Courts holding analogous posts on regular basis and having a degree from recognised University, or
- With eight years regular service in the scale of Rs. 5500-175-9000 or equivalent and having a degree from a recognised University.

Desirable:

Preference will be given to persons having experience in legal or judicial work.

Note 1.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

Note 2.—Departmental Assistants with eight years regular service shall also be considered along with outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

13	14
Presiding Officer of the Tribunal	—Chairman
Secretary/Registrar	Not applicable

15	16	17	18	19	20
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6	7	8	9	10
Stenographer Grade 'C'	2* (Two) (2001)	General Central Service, Group 'B'	Rs.5500-175- 9000	Not applicable

*Subject to
variation
depending
on workload.

11	12
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By promotion/deputation

Deputation:

- Officers in Central Government or State Government or in Courts holding analogous posts on regular basis; or
- Stenographers Grade 'D' with eight years' regular service in the scale of Rs. 4000-100-6000 or equivalent.

Note 1.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

Note 2.—Department Grade 'D' Stenographers with eight years' regular service shall also be considered along with outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

RTJ

Sec

Attested
Signature
Advocate.

24

54

13

14.

Presiding Officer of the Tribunal Secretary/Registrar Assistant Registrar or Recovery Officer	--Chairman --Member --Member	Not applicable
---	------------------------------------	----------------

1	2	3	4	5	6
✓ 2 Assistant	2* (Two) (2(XI)) *Subject to variation depending on workload.	General Central Service, Group 'B' Non-Gazetted Non-Ministerial	Rs. 5500-175- 9000 XXX)	Not applicable	Not applicable
7	8	9		10	
Not applicable	Not applicable	No		Two years	
II		12			

By promotion/deputation

Deputation:

(i) Officers in Central Government or State Government or in Courts holding analogous posts and possessing degree from a recognised University; or

(ii) Upper Division Clerks with eight years' regular service in the scale of Rs. 4000-100-6000 or equivalent.

Note 1.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

Note 2.—Departmental Upper Division Clerks with eight years' regular service shall also be considered alongwith outsiders and in case the Departmental candidate is selected, the post will be treated to have been filled up by promotion.

13

14.

Presiding Officer of the Tribunal Secretary/Registrar Assistant Registrar or Recovery Officer	--Chairman --Member --Member	Not applicable
---	------------------------------------	----------------

1	2	3	4	5	6
✓ 8 Recovery Inspector	2* (Two) (2(XI)) *Subject to variation depending on workload.	General Central Service, Group 'B' Non-Gazetted Non-Ministerial	Rs. 5500-175- 9000	Not applicable	Not applicable

Attested
Advocates

7	8	9	10
Not applicable	Not applicable	No	Two years
11	12		

By promotion/deputation

Promotion:

From amongst Court Masters of Debts Recovery Tribunal with eight years regular service.

Deputation:

- (i) Officers holding analogous posts in Central Government/State Government or in Courts and having degree from a recognised University; or
- (ii) Court Masters with eight years' regular service in the scale of Rs. 4000-100-6000 or equivalent.

Note.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years. (The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

13	14
Presiding Officer of the Tribunal	— Chairman
Secretary/Registrar	Not applicable

Assistant Registrar or Recovery Officer — Member

2	3	4	5	6
Accounts Assistant	1* (One) (2001) *Subject to variation depending on workload.	General Central Service, Group 'B' Non-Gazetted Non-Ministerial	Rs. 5500-175-9000	Not applicable
				Not applicable

7	8	9	10
Not applicable	Not applicable	No	Two years
11	12		

By deputation

Deputation:

- (i) Officers of the Central Government holding analogous posts on regular basis; or
- (ii) With three years' regular service in the pay scale of Rs. 5000-8000; or
- (iii) With eight years' regular service in the pay scale of Rs. 4000-6000 or equivalent and having experience of working as Senior Accountant or Accountant, in the scale of Rs. 4000-6000, who have undergone training in Cash and Accounts.

Note.—Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years. (The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

13	14
Not applicable	Not applicable

IE No: 1/3/2000-DRT
S. P. S. SANGWAN, Under Secy

Attested
Signature
Advocate.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEBTS RECOVERY TRIBUNAL
APSARA BUILDING, 2ND FLOOR
L.R. B. BARUAH ROAD, GUWAHATI-7.

ANNEXURE - 4
34

NO.DRTG/Estt-1(18)/99/206

dated : 26-2-2001.

OFFICE ORDER

Sri Hitendra Baishya, L.D. Asstt. in the office of the Principal Judge, Family Court, Kamrup, Guwahati Govt. of Assam, who is presently on deputation as U.D.C. w.e.f. 07-07-1997 in this Tribunal is hereby absorbed as U.D.C. in the Scale of pay Rs.4000-100-6000/- in the sanctioned strength of the Debts Recovery Tribunal, Guwahati w.e.f. 26-2-2001 in accordance with the Recruitment Rules notified by the Ministry of Finance, Deptt. of Economic Affairs, (Banking Division) notification No.2 at 9.1.1999 and vide Govt. of India, M.O.F. DOEAA, (Banking Division) New Delhi letter No.15/2/99-DRT at 08-02-2001. His seniority will be determined later on.

To,

Sri Hitendra Baishya, UDC
DRT, Guwahati-7

(N. K. LAL)
PRESIDING OFFICER

Copy to : -

1. The Pay & Accounts Officer, Pay & Accounts Office, Ministry of Finance, (Banking Division) New Delhi-2
2. The Under Secretary, Govt. of India, Ministry of Finance, Deptt. of Economic Affairs, New Delhi-1.
3. The Principal, Judge, Family Court, Kamrup, Guwahati, Assam.
4. The Accountant General, Assam, Ghy-29.
5. The Accounts Section, DRT, Guwahati.
6. The Service Book.
7. The Personal file in respect of Sri H. Baishya.

(N. K. LAL)
PRESIDING OFFICER.

Attested
Signature
Advocate.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEBTS RECOVERY CIBNAL
APSARA BUILDING, 3RD FLOOR
DIL B. BARUAH ROAD, GUWAHATI-7

-27-

ANNEEXURE-5

NO.DRTG/P-40/2002/501

/DT.

6/6/02

OFFICE ORDER

(A/C)

Md. Ajijur Rahman, Assistant Manager/in the scale of pay
Rs.1635-50-2035-2275-60-2275-ED-60-2395-80-2875-100-3575-125-
3950/- P.M(Pre-revised) Office of the Managing Director,
Assam State Co-Op Marketing & Consumers Federation Ltd.,(STATFED)
Guwahati-5 is hereby appointed to the post of Accounts Assistant
in the Debts Recovery Tribunal,Guwahati in the scale of pay
Rs.5500-175-9000/-P.M. on deputation basis initially 1(one) year
w.e.f 5.6.02(E/N). His deputation terms will be regulated
in terms of Govt. of India,Ministry of Finance O.M.NO.F.1(1)-E-
XII(B)/75 dated 7.11.75 and as amended from time to time.

TO

Md. Ajijur Rahman,
Accounts Assistant,
DRT,Guwahati.

(SMT. L. BORA)
REGISTRAR, DRTG.

Br

COPY for information to:-

1. The Under Secretary to the Govt. of India,Ministry of Finance,Dept. of Economic Affairs(Banking Division),New Delhi-1.
2. The Pay & Accounts Officer,Pay & Accounts Office,(Banking Division)New Delhi-2.
3. The Managing Director,Assam State Co-Op Marketing & Consumers Federation Ltd.,Bhangagarh,Guwahati-5.
4. The Accounts Section,DRT,Guwahati.
5. The Guard file.

(SMT. L. BORA)
REGISTRAR, DRTG.

Br

Attested


Advocate.

To:

The Registrar,
Debts Recovery Tribunal,
Ministry of Finance,
Dr. B. Barua Road,
Guwahati-7.

Dated, the 5th June, 2002.

Sub :- Joining Report.

sir,

With reference to the subject cited above I have the honour to inform you that I have joined in my duty on to-day i.e., 5-6-2002 at 10 A.M. as "Accounts Assistant" in your office on deputation (Vide your order No. DRTG/APTT/(I) 97/Vol-II/553 dt. 27-5-2002) after releasing myself from STATFED service on 4-6-2002 as per Release Order No. GA/A-167/ 80/948 -A dt. 31-5-2002/4-6-2002.

This is for your information and necessary action.

Yours faithfully,

(AJIJUR RAHMAN)

Copy to :-

The Managing Director, STATFED, H.O.
GMC Road, Bhangagarh, Guwahati-5
for information.

11

(AJIJUR RAHMAN)

Advocate

GOVERNMENT OF INDIA
MINISTRY OF FINNCE
DEBT RECOVERY TRIBUNAL
GUWAHATI

ANNEXURE - 7

NO.DRTO/APP.1(1)/97/VOL II/281-286 Dated-15.04.2004.

OFFICE ORDER

Consequent upon the personal prayer of Sri Ajijur Rahman, Account Assistant and order of Hon'ble Presiding Officer, Debt Recovery Tribunal, Guwahati vide No. DRTG/P-40/2002/8/N dated 7.4.2004 his appointment is considered as Assistant on deputation which carries the same pay scale, against one vacant post of Assistant in Debt Recovery Tribunal, Guwahati w.e.f. 5.6.2003. The terms and conditions will remain same as earlier Office order No.DRTO/P-40/2002/593-598 dated 6.6.2002.

This is issued in continuation of this office order No.DRTO/P-40/2002/570-575 dated 3.6.2003.

To

Sri Ajijur Rahman,
Assistant,
Debt Recovery Tribunal,
GUWAHATI.

Signature

(Smt. L. BORA) Registrar,
Debt Recovery Tribunal
GUWAHATI.

Copy to :-

1. Under Secretary to the Govt. of India, Ministry of Finance, New Delhi.
2. Pay & Accounts Officer, Pay & Accounts Office, New Delhi.
3. Managing Director, SITTED, Rhenangarh, Guwahati.
- ✓ 4. Personal file of Sri Ajijur Rahman.
5. " " " Guard file.

Signature

(Smt. L. BORA)
Debt Recovery Tribunal
GUWAHATI

Signature
Advocate

To

ANNEXURE - 8

The Registrar,
Debt Recovery Tribunal
Apparao Building, Lalbaug, Guvadah 7

Debt- Charge taking Report

Ref: DRTS/APT. 1(1) of Vol-11/281-286 dated 15/11/04

Madam,

With reference to the subject cited
here, I have the honour to inform you that on per
your order dt. 7/11/04 I have assumed the
charge of "ASSISTANT" in this DEBT RECOVERY
TRIBUNAL, Guvadah to day on 5/6/03 (retrospective
effect). This is for your information please.

Yours faithfully

(ASSISTANT)
ASSISTANT

DEBT RECOVERY
TRIBUNAL

Attest


Advocate

—31—
41
GOVERNMENT OF INDIA
MINISTRY OF FINNCE
DEBT RECOVERY TRIBUNAL
ALIKA BUREAU, 11TH FLOOR
DR. B. BARUAH ROAD, GUWAHATI-781001

ANNEXURE - 9

NO.DRTG/P-40/2002/235

Date: 16.03.2005

To

The Managing Director,
STATFED,
Bhangagarh,
Guwahati - 5 (Assam)

Subject - No Objection Certificate for permanent
absorption i.r.o. Sri Ajijur Rahman.

sir,

With reference to the subject cited above,
I am directed to inform you that Sri Ajijur Rahman,
Assistant Manager, Accounts, who is presently working as
Assistant on deputation in Debts Recovery Tribunal, Guwahati
has applied for his absorption permanently in this Tribunal
as a permanent staff.

For consideration of his prayer, 'NOC' from his
parent department is essential.

It is therefore, requested that you may kindly
issue the 'NOC' for permanent absorption of Sri Rahman,
if agreed to.

Yours faithfully,


(SMT. L. BORA)
REGISTRAR
Debt Recovery Tribunal,
GUWAHATI

Attested


Advocate.

11, 5 MAY 2005

गुवाहाटी बाबू
Guwahati Bench

92
Filed by the Respondent
No. 3, Photocopy
Guwahati Bench
24.05.05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:

O.A. No. 82/2005

Sri Hitendra Baishya.

-Vs-

Union of India & Ors.

-AND-

In the matter of:

Written Statement submitted by the respondent
No.3 against the Original Application filed by the
applicant.

The respondent No.3 most humbly and respectfully begs to state as under: -

1. That your above named respondent has duly received a notice of the Hon'ble Tribunal and a copy of the Original Application No. 82/2005. The respondent categorically denies the averments made in the Original Application, save and except which are borne on records.

The answering respondent beg to say that the original application is not maintainable and liable to be dismissed at the threshold on the sole ground that there is no notification issued by the Central Govt. Under Sub Sec (2) of Sec 14 of the Administrative Tribunals Act, 1985 for invoking the jurisdiction of this Hon'ble Tribunal for adjudication of the cases of the employees of the Debts Recovery Tribunal. In this connection it may be stated that even the recruitment rule of the applicant has been framed in exercise of powers conferred by clause (a) of Sub section (2) of Section 36 of the Recovery of Debts Due to Banks and Financial

Institutions Act, 1983 (51 of 1993), The Central Govt. hereby makes the following rules regulating the method of recruitment of Group "A" and Group "B" (Gazetted) and Group "B" (Non-Gazetted) posts in the Debts Recovery Tribunal, Guwahati. Therefore it is abundantly clear that the aforesaid Recruitment Rule has not been framed under the proviso to Article 309 of the Constitution. Moreover, the Debts Recovery Tribunal is a Department under the Ministry of Finance, Department of Economic Affairs, Banking Division. Hence this Hon'ble Tribunal has no jurisdiction to entertain their application under Sec 19 of the Administrative Tribunals Act, 1985. More so in view of the fact that this Tribunal has no jurisdiction since there is no notification under Sub Section (2) of Section 14 of the Administrative Tribunals Act, 1985.

The answering respondent also beg to say that the said original application is also not maintainable in view of provision laid down in Section 19(1) of the Administrative Tribunals Act, 1985, since the applicant is not a aggrieved person with the meaning of Sec 19 of the aforesaid Act which reads as follows: -

"19. Applications to Tribunals- (1) subject to other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance".

In view of the aforesaid specific provision the applicant cannot be treated as an aggrieved person in view of the order likely to be passed in favour of the answering respondent by the Debts Recovery Tribunals, Guwahati vide letter dated 07.04.2004 as well as by office order dated 15.04.2004, the answering respondent has been considered for appointment to the vacant post of Assistant in the Debts Recovery Tribunal. The answering respondent is working in the post of Accounts

Assistant on deputation basis in the Debts Recovery Tribunal. It is categorically submitted by the answering respondents that the original applicant is not eligible for the post of Assistant in terms of Recruitment Rules 2001. As such applicant cannot be treated as an aggrieved person in view of the specific provision laid down in Sub Rule- I of Section 19 of the Administrative Tribunals Act, 1985 and on that score alone the application is not maintainable. Moreover, in view of the specific provision laid down in sub-Section (1) (2) and (3) of Section 20 of the Administrative Tribunals Act, 1985 which says as follows:

"Section 20. Applications not to be admitted unless other remedies exhausted-

- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.
- (2) For the purposes of sub section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievance; or
 - (a) If a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or
 - (b) where no final order has been made by the Government or other authority or office or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.
- (3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a state or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

It is quite clear from the above provision of the act, that application is not maintainable unless other remedies are exhausted.

In the instant case the answering respondent was initially appointed on deputation basis, pursuant to an advertisement followed by selection in the post of Account Assistant in the pay scale of Rs. 5500-9000 in DRT and pursuant to such selection applicant was appointed and joined to the post of Accounts Assistant on 05.06.2002 on deputation basis in the Debts Recovery Tribunal. It is relevant to mention here that the recruitment qualification notified for the post of Accounts Assistant as per Recruitment Rule 2001 are as follows;

Deputation:

- (i) Officers of the Central Government holding analogous posts on regular basis, or
- (ii) With three years regular service in the pay scale of Rs. 5000-8000, or
- (iii) With eight years regular service in the pay scale of Rs. 4000-6000 or equivalent and having experience of working as Senior Accountant or Accountant in the scale of Rs. 4000-6000 who have undergone training in cash and accounts."

In view of the above recruitment qualification applicant was rightly selected to the post of Account Assistant by the duly constituted selection committee.

Therefore appointment of the applicant to the post of Accounts assistant on deputation basis cannot be faulted. More over said appointment was never challenged by the applicant.

2. That your answering respondent while working as such to the post of Accounts Assistant on deputation basis submitted his willingness for appointment to the post of Assistant in the DRT on deputation basis. Be it stated that the recruitment

qualification and the scale of pay for the post of Accounts Assistant are equivalent to the post of Assistant. Both the cadres are allotted the pay scale of Rs. 5500-175-9000. The recruitment qualification for the post of Assistant as per Recruitment Rules 2001 are quoted below: -

By promotion/deputation

Deputation

- (i) Officers in central Government or State Government or in Courts holding analogous posts and possessing degree from a recognized University; or
- (ii) Upper Division clerks with eight years regular service in the scale of Rs. 4000-100-6000 or equivalent.

Note 1- Period of deputation including period of deputation in ex-cadre post held immediately preceding the appointment in the same or any other organization/ Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications)

Note 2- Departmental Upper Division clerks with eight years regular service shall also be considered alongwith outsiders and in case the Departmental candidate is selected. The post will be treated to have been filled up by promotion.

In view of the aforesaid recruitment qualification answering respondent has attained eligibility equally for the post of Assistant in the pay scale of Rs. 5500-175-9000.

In this connection it ma be stated that the answering respondent has obtained his bachelor degree of Commerce stream from Gauhati University in the year 1978 and also obtained LL.B degree from Gauhati University in the year 1991. The answering respondent was appointed as Accounts Assistant in the pay scale of Rs. 470-800 (Pre-revised) in the Assam State Co-operative and Consumers Federation Limited in short STATFED as per fresh service staff regulation of Statfed, 1985. The following recruitment qualification has been prescribed for the post of Accounts Assistant, which is figured in Sl. No. 19 of the aforesaid regulation.

<u>Sl. No.</u>	<u>Name of the Post</u>	<u>Classification</u>	<u>Scale of pay</u>
19	General Asstt./Godown Asstt. Sales Asstt/Typist/Accounts Asstt./Electrician/ Project Asstt/ Technical Asstt.	III	Rs 470-12-530 EB-12-590-EB- 15-680-20-800/-
<u>Whether selection Or non selection</u>		<u>Age limit for direct recruitment</u>	<u>Educational qualification required for direct recruitment</u>
-do-		-do-	Graduate from recognized University.

<u>Whether age and Other qualification required for direct recruitment</u>	<u>Mode of recruitment</u>	<u>In case of promotion from which promotion is to made</u>
-do-	100% by direct recruitment.	

The answering respondent was further promoted to the post of sub-Accountant as well as to the post of Assistant Manager (Accounts) in the revised scale of Rs. 4120-9725 w.e.f. 1st January 1996.

In view of the aforesaid recruitment qualification the answering respondent who is eligible for the post of Accounts Assistant/Assistant in the Debts Recovery Tribunal and accordingly after screening of the candidature of the answering respondent the selection committee found him fit for appointment by way of selection to the post of Accounts Assistant in DRT.

It is relevant to mention here that advertisement for the post of Accounts Assistant was published in the Employment News dated 2-8 March, 2002 and pursuant to the aforesaid advertisement the answering respondent has applied for the post of Accounts Assistant in DRT and got selected for the post of Accounts Assistant in the pay scale of Rs.5500-9000 on deputation basis, the applicant of the O.A. did not raised any objection at any point of time after appointment of the answering respondent to the post of Accounts Assistant. Even the applicant of the O.A. never submitted any representation for consideration of his case of promotion to the post of Assistant, as because he is fully aware that he is not eligible and qualified for consideration to the post of Assistant/Accounts Assistant in terms of the RR, 2001, Applicant also never express his willingness for consideration for the post of Assistant. As per RR 2001, 8 years regular service is necessary for attaining eligibility for consideration for appointment to the post of Assistant. It is relevant to

mention here that applicant was initially appointed on deputation basis to the post of UDC vide order dated 29.08.1997. However he was absorbed on regular basis to the post of UDC vide order dated 26.02.2001 (Annexure-4 of the O.A), therefore applicant has completed only about 4 years service during the month of February 2005, therefore the question of consideration and promotion of the applicant to the post of Assistant does not arise at all in terms of RR 2001 & mere possibility of blocking his chances of promotion can not give rise to a cause of action and post of Assistant can not be kept vacant for next 4 years for consideration of promotion of the applicant. This proposition is contrary to the Law and allegation regarding blockage of scope or chance of promotion can not be a ground for filing the application that too by an ineligible person cannot be sustained in the eye of law and on that score alone the O.A. is liable is he dismissed with cost.

3. That the original applicant however stated that he is eligible for appointment to the post of Assistant but factually it is not correct. Therefore the O.A. is liable to be dismissed on the sole ground that there is no cause of action for filing of the instant application before this Hon'ble Tribunal, since he is not a person aggrieved for action or inaction on the part of the official respondents.

The applicant was initially appointed on deputation basis in the DRT in the cadre of UDC. It is relevant to mention here that prior to his appointment on deputation basis he was working as LDA in the Family Court, and thereafter on submission of his willingness, he was absorbed on regular basis in the cadre of UDC following the order dated 26.02.2001, whereas at the relevant point of time, when the applicant got his absorption, 3 other LDA namely Shri S. Syed, Shri K.K. Das & Shri J.C. Boro were working to the cadre of LDC and as a result of absorption of the

original applicant the of promotion of the above named LDC has been reduced/ blocked as because there was only 2 posts of UDC's available in the DRT, Guwahati, whereas 4 LDC has already been absorbed and working in DRT. So applicant has also blocked the chances of promotion of the above named LDC's in DRT. Therefore applicant is barred by law of estoppel to raise any such plea to defeat the legitimate claim of absorption of the answering respondent to the cadre of Assistant.

Para wise comments:

1. That with regard to the statements made in paragraph 4.2 and 4.3 the answering respondents categorically denies the statements of the applicant to the effect that the applicant is eligible for promotion to the post of Assistant rather it is a deliberate false and misleading statement made by the applicant before this Hon'ble Court.

As per recruitment rule 2001 Note 2(two) it says as follows.

Note 2- Departmental Upper Division clerks with eight years regular service shall also be considered alongwith outsiders and in case the Departmental candidate is selected. The post will be treated to have been filled up by promotion.”

It was quite clear from the recruitment rule as stated above that 8 (eight) years regular service is necessary for consideration of promotion for departmental upper division clerk, whereas the applicant of his own, stated in para 4.6 that he has been permanently absorbed in DRT by order dated 26.02.2001 and prior to that applicant was also working as UDC on deputation basis, it is relevant to mention here that prior to absorption in DRT the applicant was working as L.D. Assistant in the office of the Principle Judge, Family Court, Kamrup, Guwahati. Therefore it appears that applicant has completed only

4(four) years of service in the cadre of UDC in DRT on regular basis, therefore claim of the applicant is that he is an eligible candidate for the post of Assistant is totally false as per the documents enclosed in the original application and relied on by the applicant himself. Moreover chance of promotion cannot be claimed as a matter of right. Further claim of the applicant that in the event of permanent absorption of the answering respondent to the cadre of Assistant is likely to cause permanent blockage in the promotional avenue of the applicant is denied in view of the specific provision laid down in Clause-7 of the statutory recruitment rules 2001 and the answering respondent fulfilling the eligibility criteria laid down in the statutory rules, has been rightly considered by the DRT for absorption to the post of Assistant.

Be it stated that in the similar process the applicant who was a deputationist got his absorptions in the higher cadre of UDC exactly by the similar manner and process and as a result of applicant's absorption to the post of UDC, applicant also blocked the promotional avenue of the 4 LDC's namely; 1) Shri Sunanda Seal, 2) Sri Kalyan Kr. Das, 3) Sri Jadab Chandra Boro and 4) Sri Nur Islam Ali in the cadre of UDC. Therefore applicant is barred by law of estoppel to take such a plea of reduction of chances of promotional avenue by way of blocking the same. In this connection the answering respondent submit that blockage of chances of promotion cannot be a condition of service and on this score alone the original Application is liable to be dismissed with cost.

3. That with regard to the statement made in paragraph 4.3, 4.4, 4.5 since those statements are matter of records as such need no comment.

4. That with regard to the statement made in paragraph 4.6, the answering respondent beg to say that applicant is not eligible for consideration for promotion to the post of Assistant as per the existing recruitment rule 2001, which require 8 (eight) years regular service in the cadre of UDC for promotion in the case of departmental candidate but the applicant has completed only 4 (four) years of service in the cadre of UDC in the month of February 2005, therefore applicant cannot claim consideration of his case for his promotion to the cadre of Assistant.

5. That with regard to the statement made in paragraph 4.7, 4.8 and 4.9 that the answering respondent say that the contention of the applicant that the answering respondent is not qualified for recruitment either to the post of Assistant or Accounts Assistant is not true. In this connection it may be stated that the answering respondent was initially appointed on deputation as accounts assistant in the scale of Rs. 5500-9000/-, wherein the qualification prescribed for the post of Accounts Assistant as follows: -

By deputation	Deputation:
	(i) Officers of the Central Government holding analogous posts on regular basis; or
	(ii) With three years regular service in the pay scale of Rs. 5000-8000; or
	(iii) With eight years regular service in the pay scale of Rs. 4000-6000 or equivalent and having experience of working as Senior Accountant or Accountant in the scale of Rs. 4000-6000 who have undergone training in Cash and Accounts.

Note- Period of deputation including period of deputation in ex-cadre post held immediately preceding the

appointment in the same or any other Organisation/Department of Central Government should ordinarily not exceed three years.

(The maximum age limit for deputation shall be 56 years on the last date of receipt of applications.)

On a mere reading of the qualification prescribed for the post of Accounts Assistant, more particularly in clause (iii) it says 8 years of regular service in the scale of Rs. 4000-6000/- or equivalent and having experience as working as senior Accountant, who have undergone training in cash and account, therefore the answering respondent is eligible for the post of accounts Assistant in view of he specific clause or equivalent having experience of working as senior accountant". Therefore contention of the applicant that only a Central Govt. employee is eligible for appointment to the post of Accounts Assistant is contrary to the recruitment rules of Accounts Assistant. Therefore, the selection committee of the DRT has found the answering respondent is eligible for appointment to the post of Accounts Assistant on deputation. The applicant has never challenged he order of appointment of the answering respondent to the post of Accounts Assistant and as such he is barred by law of estoppel to raise the question regarding the eligibility of the answering respondent more particularly when the applicant himself is not eligible for the post of Assistant.

It is further submitted that the post of Assistant could be filled up by way of promotion or deputation or by way of absorption/regularization in terms of the clause 7 of the Recruitment Rule, 2001, wherein it is stated that officers in Central Government or State Government or in Courts holding analogues post and possessing degree from a recognized university is entitled to be absorbed on regular basis a per clause 7 of Recruitment Rules. The answering respondent is

on deputation in Central Govt. and holding analogous post and also possessing Degree from a recognized University and as such entitled and eligible for consideration of regular absorption and accordingly DRT has rightly considered the case of the answering respondent for regular absorption. There is no bar in Recruitment Rule for absorption of a deputationist who is holding analogous post in DRT in the scale pay Rs. 5,500- 9,000/-, therefore DPC has rightly considered for regular absorption in favour of the answering Respondent to the post of Assistant and the decision of the DRT for absorption of the answering is in conformity with the Recruitment Rule.

It is further stated that there is no infirmity or bar for appointing the answering respondent on regular basis from the post of Accounts Assistant to the post of Assistant as done by the DRT in the case of the applicant. The word 'conversion' has been wrongly used by the applicant in respect of the answering respondent for conversion as well as for regular absorption.

5. That the answering respondent deny the correctness of the contention of the applicant raised in Para 4.10, 4.11, 4.12 and 4.13. Therefore it is categorically submitted that the answering respondent is quite eligible for absorption to the post of Assistant and no prejudice has been caused to the applicant for absorption of the answering respondent and none of the grounds prescribed in the Original application is sustainable in the eye of law.

In the circumstances stated above the application is liable to be dismissed with costs.

VERIFICATION

I, Shri Ajijur Rahman, S/o- Late Bosir Ali, aged about 48 years, working as Assistant in the Office of Debt Recovery Tribunal, B.B Boorah Road, Guwahati, Respondent No. 3 in the instant original Application, do hereby verify that the statements made in Paragraph 1 and 5 of the application are true to my knowledge and rest are my humble prayer before this Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of May, 2005.

