

50/100
8
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 05/2005

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SECTION OFFICER (Judl.)

Bhalita
01/05/17

FORM NO. 4

(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 05/2005

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Bordoloi, K. R. & Sons

Respondents: Ministry of India Hari Kallati
A. P. K. Deka, P. B. H. Deka
L. Sarangi & H. Deka

Advocates for the Applicant

Adv. U. S. M. A. Ahmed

Advocates of the Respondents

Order of the Tribunal

Notes of the Registry Date

11.1.2005 present: The Hon'ble Mr. K. V. Prahладan,
Member (A).

Heard learned counsel for the
applicant.

The O.A. is admitted, call for
the records, returnable within four
weeks. List on 10.2.2005 for orders.

K. V. Prahладan
Member

bb

10.2.05.

Service is awaited on the
Respondents. Fresh notice be issued
for the next date of hearing.
Adjourned to 29.3.05.

K. V. Prahладan
Member (A)

Member (J)

Notice & order sent
to Dissection for
joining to resp.
Nos. 1 to 4 by speed
A/D post.

2/10/05. D/No = 205 to
208 (2)
Notice duly served
on resp. No - 1.

22/3.

28.3.05

✓ notice duly served.
R-10-1
✓ no-arts ha-seen.
B-Tec
Da

Order dt. 29/3/05
irriging to learned
advocate for applicant.

(cc)
4/4/05.

12.4.05
W/S filed by the
Respondents 1, 2, 3.

DA

lm

27.4.2005

Mr. J. Purkayastha, learned counsel
for the applicant is present. Mr. A.K.
Chaudhury, learned Addl. C.G.S.C. for
the respondents submits that written
statement has been filed by the official
respondents. Mr. P.K. Deka,
learned counsel for the applicant seeks
time to file rejoinder and also to take
steps to the 4th Respondent. The applic-
ant to take ~~some~~ steps, for service of
notice to the 4th Respondent within ~~some~~
three days from today.

List on 31.5.2005. Rejoinder, if
any, in the meantime.

Vice-Chairman

Step taken on 27.4.2005
on 2/5/05

Notice & order
dt. 27/4/05 sent to
D/section for issuing
to resp. No. 4. by regd.
A/D post.

(cc) 3/5/05. D/No = 671
DT = 4/5/05.

Notice sent to R-4.
no ready recd. 3/5/05

Mr. A.K. Chaudhuri, learned Addl.
C.G.S.C. for the respondents submits that
written statement has been filed by the
official respondent. Mr. P.K. Deka,
learned counsel for the applicant seeks
time for filing rejoinder and also
to take step to the 4th respondent. The
applicant to take step for service of
notice to the respondent No. 4 within
three days from today. Post on 31.5.2005.
Rejoinder, if any, in the meantime.

Vice-Chairman

- 3 -

Office will verify from 31.5.05
the post office as to
whether the notice has
been served on the 4th
respondent or not ?

Respondents No. 1, 2 and 3 have filed
written statement. Though notice was sent
to the 4th respondent, the acknowledgement
card has not yet been received.

By order

Post on 1.7.05 for order.

As per above order dated
31.5.05 the Registry is
informed to the Post Master,
Dispur Branch, Guwahati-5
vide our despatch No. 413
dated 2.6.05 for Ad Card 1.7.05
of Respondent No. 4 Shri
Baidya Nath Kachari, P.S.
Tangla, P.O. Malmura, Darrang
(Assam). The copy or the pg
letter is kept in 'C' file.

Post on 3.8.2005 for order.

2 Jan 05
Vice-Chairman

3.8.2005

Mr. P.K. Deka, learned counsel
for the applicant and Mr. A.K. Chaudhuri
learned Addl. C.G.S.C. for the respondents
are present.

There is no information regarding
service of notice to the 4th respondent.
It is stated that the matter is being
ascertained by the Guwahati Customer
Care Centre. Post on 5.9.2005.

K. Bhattacharya
Member

2 Jan 05
Vice-Chairman

30/6/05

mb

As per order above, a
letter was addressed to the
Postmaster, Dispur on
2.6.05 as at 'C' file.
But the same is still
to Despatch and pending
in the Despatch Sec.
This has been placed
in m.a.

DK *30/6/05* *30/6/05* *30/6/05*
SO(GA) *30/6/05* *30/6/05*
The letter has been deli-
vered today: 30/6/05

30-6-05

As at prepage, letter

b. to postmaster

enquiring about the

service of notice to

R.W. 4 has delayed

only on ~~yesterday~~ today.

D. 30-6-05 b/says it was sent
to D.Sec or 2-6-05
(placed to order)

On!

1.7.05

Deputy Registrar

Call for an explanation from
the concerned section Clark. as
to why this letter was not
despatched in time.

2nd
By order.

So(E)

8/7/05

Name
11/7/05

Copy law over to SO(E)

SO(E) to comply as

above

Name

11/7/05

22-5-05

been received Gantakuti
Customs Care Centre
vide No. GCCC/CR03A/7/
2005/122 - Comos 3 dated
15.6.05 at Flag A!

Ans
22/6/05

2-8-05

No explanation as called
for on 1-7-05 has been received
so far from the concerned
Clerk/Sec.

However, an intimation is
received from the Gantakuti Customer
Care-Centre, Deptt. of post. at Flag A'

No intimation recd.
from the R. 4.

On!

045/05.

(4)

22/8/05

05.09.2005

Service ~~xx~~ is completed.

Pleadings are also completed.

Post on 14.09.2005.

Letter No. Cr.CCC/CR 03A/
7/2005/122-COM 03 DT
11/8/05, received from
Guwahati customer
care centre, D/o = post

CR HY-1, In continuation
of our office letter dt. 15/07/05^{mb}
the letter was delivered to

Sri B. N. Kachari, Malmora
Dist = Darrang, Assam on 14.9.2005 No Division Bench is available.
Post before the next Division Bench.

12/5/05 at Flag 'A'

Therefore Service
is completed in respect
of resp. No - 4.

bb

(Ans)
22/8/05.

06.10.2005 Learned counsel for the
applicant is absent. Mr. A.K.
Chaudhuri, learned Addl. C.G.S.C.
is ready. Post on 24.11.2005.

WLS filed on behalf

of R. No - 1 to 3,

R. No - 4 not yet filed.

mb

Paru
Member

Vice-Chairman

24.11.2005 Post before the next Division
Bench.

3/2
13.9.05

Vice-Chairman

① WLS has been
billed.

mb

3/2
5-10-05

6.1.2006 Mr. P.K. Deka, learned counsel
for the applicant is present. On
behalf of Mr. A.K. Chaudhuri, learned
Addl. C.G.S.C. for the respondents
Ms. U. Das, learned Addl. C.G.S.C.
seeks for adjournment. Post before
the next Division Bench.

5-1-06

② WLS has been billed.

2/2

mb

MF
Member

Vice-Chairman

7-3-06

post ~~on~~ after two weeks before Division Bench.

6-3-06

Wts has been filed.

By

Vice-Chairman (J)

jlh
Vice-Chairman (A)

pg

3-8-06

04.08.2006 Present : Hon'ble Sri K.V. Sachidanandan,
Vice-Chairman.

Hon'ble Sri Gautam Ray,
Administrative Member.

By

Mr M.U. Ahmed, learned Addl. C.G.S.C
for the respondents submitted that he would
like to restructure the file and wanted
time.

Post on 21.08.2006.

Wts has been
filed.

18.8.06

Member

Vice-Chairman

mb

21.08.2006

Post after three weeks.

Wts has been filed.

22
14.3.07

mb

12.3.07

Counsel for the applicant is absent.
On the last occasion also he was not present.
Let the case be listed on 21.3.07 as a last
chance. Otherwise the case will be disposed
of without merit.

A
Member

Vice-Chairman

lm

Wts has been
filed

22
20.3.07

21.3.07

This application has filed by the applicant against the order dated 19.10.2004. The petitioner has approached this Tribunal against the Respondent No.3 by filing the O.A.No.178 of 04 which was disposed of on 16.8.2004 with a direction to the respondents to dispose of the representation dated 1.6.2004. In compliance of the said order the Respondent No.3 passed the impugned order. Being aggrieved the applicant has filed this seeking the following reliefs:-

"8.1 To direct the respondents No.3 to cancel/set aside and/or quash the appointment order of respondent No.4 to the post of Branch Post Master (BPM), Malmura B.O. and direct the respondents to appoint the petitioner in the said post."

I have heard Mr.M.U.Ahmed learned Addl.C.G.S.C. for the respondents. The case was listed on 6.1.2006 onwards on 4.8.06. On 12.3.07 this Court has made observation "counsel for the applicant is absent. Let the case be listed on 21.3.07 as last chance. Otherwise the case will be heard in his absence." Today also the counsel for the applicant is not present in the Court. Therefore, it appears that applicant is not interested to prosecute matter. Accordingly, O.A. dismissed. No order as to costs.

Member

Vice-Chairman

10 JAN 2005

गुवाहाटी अदायक दल

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.

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

O.A. No. 05/2005

Sri Pradip Kr. Boro

... Petitioner

- Vs -

The Union of India & anr.

... Respondents.

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Filed by :

H. Deka.

Advocate

Sri Pradip Kumar Boro

10

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH.

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

Filed by Petitioners
Sri Pradip Kumar Boro
Through, H. Sekha. Advocate #1105-

O. A. No. 05/2005

Sri Pradip Kr. Boro
S/o. Sri Mati Ram Boro
Resident of village Malmura
P. S. Tangla, P.O. Malmura
District Darrang, Assam.

... PETITIONER

- A N D -

1. The Union of India

Represented by the Secretary
Department of Postal Services
under the Ministry of Communication.

2. The Post Master General

Assam Circle Panbazar,
Guwahati- 781001.

3. The Superintendent of Post Offices

Darrang Division,
Tezpur- 784001.

Contd ...

- 2 -

4. Sri Baidya Nath Kachari
S/o. Late Bhogiram Boro
Resident of village Malmura
P. S. Tangla, P.O. Malmura
District Darrang, Assam.

... RESPONDENTS.

PARTICULARS OF THE APPLICATION

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

This application is made against the order passed by the respondent No. 3 vide order No. H2/88/Ch-I dated Tezpur 19.10.2004. The petitioner moved O.A. No. 178/04 against the present respondents before this Hon'ble Tribunal which was disposed of on 16.8.2004 with a direction to dispose of the representation dated 1.6.2004 submitted by the petitioner before the respondent No. 3. In compliance of the said order the respondent No. 3 passed the impugned order.

2. LIMITATION :

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

Contd...

3. JURISDICTION :

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

4. FACTS OF THE CASE :

4(1) That the petitioner is an Indian Citizen having his permanent residence at village Malmura in the district of Darrang.

4(2) That the petitioner who was born on 31.12.78 passed his H.S.L.C. Examination in the year 1996 under the Board of Secondary Education, Assam. The petitioner was placed in 3rd Division and he secured in total 343 marks out of Grand Total of 900 marks.

Copy of the Admit Card showing the date of birth is annexed as ANNEXURE-1.

4(3) That the petitioner having passed his H.S.L.C. Examination registered his name in the Mangaldoi Employment Exchange in the Schedule Tribe category under Regn. No. 686/2002.

Copy of the Identity Card of the Mangaldoi Employment Exchange is annexed as ANNEXURE-2.

Contd...

4(4) That the respondent No.1 is the Union of India represented by its Secretary, Deptt. of Postal Services, the respondent No.2 is the Post Master General, Assam Circle, the respondent No.3 is the Superintendent of Post Offices Darrang Division having the head quarter situated at Tezpur.

4(5) That the respondent No.3 vide his notification No. H2-88/Ch-I dated 10.9.03 requested the petitioner to submit his application complete in all respects to reach the office of the respondent No.3 on or before 30.9.03 for appointment to the post of Extra Departmental Branch Post Master (B.P.M) Malmura Branch Office (BO). The name of the petitioner was forwarded by the Mangaldai Employment Exchange to the respondent No.3.

Copy of the notification dated 10.9.03 is annexed as ANNEXURE-3.

4(6) That the eligibility conditions for appointment of the person to the said post of BPM , Malmura BO are as follows :

" 4 Eligibility Conditions

i) AGE : above 18 years and below 62 years of age as on the last date for receipt of application.

Contd...

- 5 -

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 the post.

iii) RESIDENCE :

Candidates belonging to places other than Post Office village can also apply for the post and such candidates should shift the residence to P.O. 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(including clearly the source of income) issued by Revenue/competent authority should be furnished in enclosed proforma.

Contd...

Income in the name of guardian/other will not make the candidates eligible for the post. Only such candidates who fulfil 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 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 or receipt of applications, will be considered only if the copy of record of rights as mentioned above, and income certificate issued by competent authority indicating the income from such property, are submitted to reach the undersign on or before the last date fixed for receipt of applications.

4(7) DOCUMENTS TO BE ENCLOSED :

Copies of the following certificates/documents should be enclosed to the application

Contd...

invariably. If any of these enclosures listed below do not accompany the application, the application is liable to be rejected out right.

- I) School Leaving Certificate or Certificate -regarding date of birth.
- II) Marksheets of H. S. L. C. (and higher qualification if any)
- III) Caste Certificate issued by the D. C/competent authority in the enclosed proforma (in case of candidates belonging to S. C. ST/OBC)
- IV) Record of rights of property (if property is in the name of the 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 person of the locality.

4(8) SELECTION PROCESS :

Selection will be made on merit among the candidates who fulfil all the prescribed eligibility conditions..."

- 4(9) That the petitioner applied for the said post of BPM as per the terms and conditions stipulated

Contd...

in the letter calling for application dated 10.9.03. The petitioner submitted certificate regarding date of birth, Mark Sheet of H.S.L.C. Caste Certificate issued by the DC, record of rights of property, income certificate issued by the Revenue authority and two character certificates. The respondent No.4 also applied for appointment in the said post of BPM.

Copies of Mark Sheet, Caste Certificate, Record of Rights, Income Certificate and Character Certificate are annexed as
ANNEXURES- 4,5,6,7,8(a) and 8(b) respectively.

4(i) That as per the terms stated in the letter calling for appointment dated 10.9.03, the closed covers containing applications were opened by the respondent No.3. Thereafter the respondent No.3 vide letter No. H2/88/Ch-I dated 14.10.03 requested the Circle Officer, Khairabari Revenue Circle to confirm if the land shown by the petitioner and the respondent No.4 are actually held in their own names.

Copy of the letter dated 14.10.03 is annexed as ANNEXURE-9.

4(ii) That in response to the query of the respondent No.3, the Circle Officer, Khairabari Revenue Circle vide his report dated 31.12.03 informed that the petitioner has been occupying in his own name

Contd ...

a plot of land measuring 1 Bigha 4 Kathas 6 lechas covered by Dag No. 11 of K.P.Patta No. 80 of village Malmura, Mauza Majikuchi. On the other hand the Circle Officer informed that the respondent No. 4 has been possessing a plot of land measuring 3 Bighas 4 Kathas 18 Lechas covered by Dag No. 671 of K.P. Patta No. 194 of village Malmura, Mauza Majikuchi alongwith his two brothers jointly.

of
Copy of letter dated 31.12.03/the Circle
Officer, Khairabari Revenue Circle is
annexed as ANNEXURE-10.

4(12) That after opening of the closed covers the petitioner found that so far H.S.L.C. Examination marksheets were concerned he had an advantage upon the respondent No.4 inasmuch as out of grand total of 900 marks the petitioner scored 343 and the respondent No.4 Secured 297 marks. Considering the said advantage both in respect of the land holdings and marks obtained in the H.S.L.C. Examination, the petitioner was upon the bonafide expectation that he would be selected for appointment.

Copy of the mark sheet of the respondent
No.4 is annexed as ANNEXURE-11.

Contd ...

4(13) That since the month of December, 2003 much time had elapsed but there was no communication with the petitioner from the respondent No. 3. To clear up his minds the petitioner on the last part of May 2004 visited the office of the respondent No. 3 and came to know that there was a move on the part of the respondent No. 3 to appoint the respondent No. 4 to the post of BPM, Malmura B.O. For the said purpose letter calling for medical report from the respondent No. 4 was already issued. The petitioner could not make out for what qualifications the respondent No. 4 was selected. So the petitioner alongwith one Fuleswar Basumatary (a candidate) requested through their representation dated 1.6.04 to halt the said selection process and re-examine the documents submitted by each of the candidates afresh and appoint the eligible candidate accordingly.

4(14) That even after the said receipt of the representation dated 1.6.04 the respondents failed to reply to the petitioner. For the said reason the petitioner was compelled to prefer an application bearing No. OA 178/04 before this Hon'ble Tribunal praying inter-alia for a direction to respondent No. 3 to cancel the appointment of respondent No. 4 to the post of B.P.M. Malmura B.O. and appoint the rightful candidate for the said post.

4(16) That this Hon'ble Tribunal vide order dated 16.8.2004 disposed of the said petition thereby directing the respondent No.3 to dispose of the representation dated 1.6.2004 submitted by the present petitioner within two months from the date of receipt of the order. Further this Hon'ble Tribunal was pleased to keep in abeyance any appointment letter if issued.

Copy of the order dated 16.8.2004 is annexed as ANNEXURE-13.

4(16) As per the direction the order of this Hon'ble Tribunal was served upon the respondent No.3 and vide order bearing No. H2/88/Ch-I dated 19.10.2004 informed the petitioner that the process for selection of the candidate for the post of GDS BDM , Malmura Branch Post Office was completed. It was further intimated that the selected candidate had taken over his charge on 24.5.2004. With regard to the representation dated 1.6.04 the respondent No.3 maintained silence but vide the said letter dated 19.10.2004 the respondent No.3 informed the petitioner that the selected candidate was found befitting as he could fulfil all the required terms and conditions.

Copy of the letter bearing No.H2/88/Ch-I dated 19.10.2004 is annexed as ANNEXURE-14.

Contd ...

4(17) The respondent No.3 did not mention the name of the appointed candidate but the petitioner from credible source has come to know that the respondent No.4 has been appointed to the post in question.

5. GROUNDS FOR RELIEFS WITH LEGAL PROVISION :

- i) For that as apparent from the notification dated 10.9.03 that the relevant educational qualification required for the post of extra departmental BPM is Matriculation. The petitioner passed matriculation examination by securing in total 343 marks out of grand total of 900 marks. On the other hand, the respondent No.4 passed his matriculation examination by securing 297 marks out of grand total of 900 marks. Thus the petitioner is more meritorious so far as marks obtained at the matriculation examination was concerned. The respondents failed to consider this vital aspect of the selection process and having not done so the appointment of respondent No.4 is liable to set aside and quashed.

- ii) For that as apparent from the notification dated 10.9.03 it has been specifically stipulated that no weightage would be given for higher qualification.

Contd...

Thus it is clear that the respondents were to consider the factum of passing of matriculation examination.

But in the present case in hand the respondents failed to abide by their own terms and conditions set-forth in the notification dated 10.9.03. This has vitiated the whole selection process for the post of E.D.B.P.M. and hence the appointment order to the respondent No.4 is liable to be set aside and quashed.

iii) For that the acts of the respondents more specifically that of respondent No.3 in appointing the respondent No.4 has discriminated the petitioner inasmuch as Art. 16 of the Constitution guarantees that the citizen has the right to make an application for a post under the Government and also the right to be considered on merit for the post. For the said reason the appointment of respondent No.4 to the said post of E.D.B.P.M. as well as the whole selection process is infirm in the eye of law and liable to be set aside and quashed.

iv) For that the Executive order issued by the Director-General of Post, New Delhi as notified with respect to the selection of E.D.B.P.M. wherein it has been stipulated that when the Constitution of India guarantees equal opportunity to all for their advancement, the reasonable course would be offer E.D. employment to the person who secured maximum

marks in the examination which made him eligible for the appointment, provided the candidate has the prescribed minimum level of property and income so that he has adequate means of livelihood apart from the E.D. Allowance. This instruction was issued considering the fact that proof of financial status is not only subject to manipulation but it is also detrimental to merit. But in the present case in hand the respondents appointed respondent No. 4 in clear disregard to the aforesaid instruction. This has vitiated the whole selection process and hence the appointment order to respondent No. 4 is liable to be set aside and quashed.

V) For that the petitioner has fulfilled the condition prescribed for the minimum level of property and income for his adequate means of livelihood and in addition to that he is more meritorious than the respondent No. 4. Under the said circumstances the petitioner is the rightful candidate for appointment. The respondents having failed to take into consideration the said facts have clearly violated the fundamental right of the petitioner guaranteed by the Constitution of India and hence it is a fit case for interference by this Hon'ble Tribunal.

VI) For that in any view of the matter the impugned order is liable to be set aside.

Contd...

6. DETAILS OF REMEDIES EXHAUSTED :

- 6(1) That the petitioner has been running from pillar to post to stall the selection process for appointment to the post of E.D.B.P.M. for doing justice to his claim but the respondents as apparent from ANNEXURE-14 i.e. letter dated 19.10.2004 issued informed that the appointment letter was issued and the incumbent had already taken charge on 24.5.2004.
- 6(2) That as it was not disclosed to the petitioner about the completion of the selection process, finding no other alternative the petitioner submitted a representation to the respondent dated 1.6.2004.
- 6(3) That even after that the respondents never felt it necessary to inform the petitioner about the said fact of appointment and completion of the selection process which the petitioner came to know vide letter dated 19.10.2004 and was compelled to file O.A. No. 178/04 before this Hon'ble Tribunal praying inter-alia to direct the respondent No. 3 to cancel the appointment of respondent No.4 if the same was issued. This Hon'ble Tribunal vide order dated 16.8.2004 disposed of the said application with a direction to the respondents to dispose of the representation dated 1.6.04 of the petitioner.

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7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

The petitioner declares that he has filed previously an application before this Hon'ble Tribunal which was registered as O.A. No. 178/04 with respect to the present matter in question and the same was disposed of by this Hon'ble Tribunal vide order dated 16.8.2004 (ANNEXURE-13). However the petitioner begs to state that as on today he has not filed 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. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above the petitioner most respectfully prays that the instant application be admitted, records pertaining to the selection process for appointment of candidates for the post of Extra-Departmental Branch Post Master (BPM), Malmura branch office as per notification No. H2/88/Ch-I dated 10.9.03 issued by respondent No. 3 be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records the following reliefs be granted to the petitioner :

Contd ...

- 8(1) To direct the respondent No.3 to cancel/ set aside, and/or quash the appointment order of respondent No.4 to the post of branch post master (BPM), Malmura B.O. and direct the respondents to appoint the petitioner in the said post ;
- 8(2) Cost of the petition ;
- 8(3) Any other relief/reliefs to which the petitioner is found to be entitled under the law.

9. INTERIM ORDER PRAYED FOR :

In the mean time Your Lordship would be pleased to stay the operation of the appointment letter and the subsequent charge taken over on 24.5.2004 by respondent No.4 as apparent from the letter No. H2/88/Ch-I dated 19.10.04 (ANNEXURE-14) until further order.

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

- 10(1) I.P.O. No. : 206-135851
10(2) DATE : 14-12-04
10(3) Payable at : Guwahati.

Verification ...

VERIFICATION

I, Sri Pradip Kr. Boro, son of Sri Moti Ram Boro, aged about 25 years, by profession unemployed, resident of village and P.O. Malmura, P.S. Tangla, District Darrang do hereby solemnly affirm and verify the statements made in paragraphs 2, 3, 4(1), 4(4), 4(9), 4(13), 4(14), 7 are true to my knowledge and those made in paragraphs 1, 4(2), 4(3), 4(5-12), 4(15), 4(16), 10 are also true to my legal advice and the rest are my humble submission before this Hon'ble Tribunal I have not suppressed any material facts of the case.

And I sign this verification on this 7 th day of January, 2004 at Guwahati.

Sri pradipkumar Boro
S I G N A T U R E

Sri pradipkumar Boro

226077

Annexure - 1



Photograph

Board of Secondary Education, Assam, Guwahati
ADMIT

Son/daughter of *Prodipt Kumar Boro*
Roll N. 6 *425* No. *77*

To the High School Leaving Certificate Examination, 1996 to
commence on Friday, the 15th March, 1996

His/Her Date of Birth is *31-12-78*

Subjects for Examination :-

MIL or its alternative	Elective
<i>Bd.</i>	<i>HN 4</i>

Note :- Hours of Examination :-

{ Morning—From 9 a.m. to 12 noon
Afternoon—From 1-30 p.m. to 4-30 p.m.

N.B.—Any alteration made in the entries on this Admit Card without the authority of the Board renders
the candidate liable to disqualification for sitting at this or any subsequent Examinations.

Countersigned

[Signature]
Officer-in-charge
Ass'tt. Officer-in-charge
(Office Seal)
HSLC Examination
Bhiska Centre
Affidavit
3/6/96
Parbat Medical & Health Center
Ranbari, Guwahati
Dated: 15/3/96
Sd/- B. C. Goswami
Controller of Examinations
Board of Secondary Education, Assam
Guwahati-781021

Certified to be true copy
H. Deka
Advocates

ANNEXURE-2

S / T

GOVERNMENT OF ASSAM

District Employment Exchange, Mangaldai

Department Exchange & Employment

(Identify Card) Revised

Category SC/ST/OBC/PH/Ex. S/TC/Ex. TT.

1. Name @ Sri Pradip Kr. Boro
2. Date of Birth : 31.12.78
3. Date of Regn. : 2.4.02
4. Regn. No. : 686/2002
5. Qualification : H. S. L. C. Passed
6. N. C. C. Code No. X01.10
7. Occupation : X
8. Prominent Identification Mark : X

Sri Pradip Kumar Boro

(Signature of Applicant (SEAL) Sd/- Illegible,
Employment Officer,
Dist. Employment Exchange ,
Sd/- Illegible, Mangaldai.
(SEAL)

Next Renewal Date : April, 2005

certified to be true copy
H. Deka.
Advocate

(13)

- 21 -

To : Annexure - 3 - 21
 Sri Prodipt Kr. Bara - 21
 S/o Mati Ram Bara
 Vill & P.O. - Malmura
 Darraing 30

দারাইং
 (A-ক্লাস প্রাপ্তি, টেল-৭৩১০০১)
 Supdt. of Post Office
 Darraing Division, T. P. - 781701
 From

DEPARTMENT OF POSTS

To

No. H2-88/Ch-I

Dated at Tezpur... the 10.9.10?

Sub: Appointment to the post of GDS.BPM.Malmura BO.

In connection with appointment to the above post, your name has been sponsored by the employment exchange. You may submit your application in the enclosed form, complete in all respects, which should reach this office on or before 30.9.10. The application should be submitted in closed cover only, duly superscribed in bold letters as 'APPLICATION FOR THE POST OF BPM/EDSPM. Malmura.....BO/EDSO'. Incomplete application, application without prescribed enclosures and application received after the due date will not be entertained.

2. The appointment is purely temporary and in the nature of a contract liable 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.

3. 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.

4. ELIGIBILITY CONDITIONS:

(This to be fulfilled as on the last date fixed in the original notification i.e.)

(i) AGE:

Above 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:

Candidates 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) ACCOMODATION:

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

Certified to be true copy
 H. Deka
 Advocate

(indicating clearly the source of income) issued by Revenue/competent authority should be furnished in enclosed proforma. Income in the name of guardian/other will not make the candidate eligible for the post. Only such candidates who fulfil 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 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 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.

5. 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) Mark sheet of HSLC (and higher qualification if any).
- (iii) Caste certificate issued by the 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.

6. 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 11.9.1982..... 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/preferential condition/selection process once again.

the selection would be finalised in the presence of candidate and the name of selected candidate would be notified then 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.

7. 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 :

राम गिल

Supdt. of Post, GPO

Darrang District, Assam-784001

Medical & Physical
Examination Form
Dated 10/10/04

Board of Secondary Education, Assam



GUWAHATI 781 021

Date : 10-07-1996

MARKS SHEET

This is to certify that

Pradip Kumar Baru Roll No. 6

25

.....No.....⁴⁷ T

HSLC

Nakatai Girish: School has secured marks as detailed below, in the High School Leaving Certificate Examination, 1996.

WORK EXPERIENCE Grade		CORE SUBJECTS												ELECTIVE			
		First Language			Second Language			GENERAL SCIENCE			GENERAL MATHEMATICS			SOCIAL STUDIES			
FIRST PAPER		Full marks		100		Languages in Lieu of first Language		ENGLISH		TOTAL		TOTAL		TOTAL		TOTAL	
2	59	SECOND PAPER	Group A	50	Full marks	50											
		SECOND PAPER	Group B/C	50	Full marks	50											
		SECOND PAPER	TOTAL	100	Full marks	100											
					Full marks	200	60										
					Full marks	100	30										
					Pass marks	100	30										
					Full marks	100	30										
					Pass marks	100	30										
					FIRST PAPER	100											
					SECOND PAPER	50											
					Full marks	150	45										
					Pass marks	150	45										
					FIRST PAPER	100											
					SECOND PAPER	50											
					Full marks	150	45										
					Pass marks	150	45										
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					Pass marks	150	45										
					FIRST PAPER	100											
					SECOND PAPER	50											
					Full marks	150	45										
					Pass marks	150	45										
					FIRST PAPER	100											
					SECOND PAPER	50											
					Full marks	150	45										
					Pass marks	150	45										

Marks entered

Marks compared

Work Experience Grade Scale
 A—Excellent
 B—Good
 C—Fair
 D—Average
 F—Poor (needs improvement)

SHRIMP CULTURE:
Theoretical
Practical
CRAFTS:

Full Pass Marks		HOME SCIENCE/ AGRICULTURE:		Full Pass Marks	
31	Theoretical	60	18		
9	Practical	30	12		
(DANCE, MUSIC & FINE ARTS:					
15	Theoretical	30	9		
15	Practical	30	21		

Ass't. Controller of Examinations

Controller of Examinations

Date.....

Certified to be true copy
H. Delta
Advocate

Schäfer

WVVA (200, -)

TANAKA Art

-181-

33

ANNEXURE- 5

APPENDIX 'B'

FORM OF CAST CERTIFICATE - SC / ST

This is to certify that Shri Pradip Kumar
Boro son of Sri Mati Ram Boro of village /town
in district Darrang of the State of Assam belongs
to the S.T. which is recognised as a Schedule
Caste/Schedule Tribe under :

The Constitution(Schedule Castes)Order,1950

The Constitution(Schedule Tribes)Order,1950

The Constitution(Schedule Castes)(Union Territory)
Order,1951

The Constitution(Schedule Tribes)(Union Territory)
Order 1951

as amended by the Schedule Castes and Scheduled
Tribes STs (Modification)Order 1956 the Bombay
recognition Act 1960, the Punjab Recognition
Act ,1966 the State of Himachal Pradesh Act 1970 the
North Eastern Area (Re-organisation Act,1971 and the
Schedule Castes and Scheduled Tribes Orders

(Amendment) Act,1976. The Constitution (Jammu &
Kashmir)Scheduled castes order 956

The Constitution(Andaman & Nicobar Islands)Schedule
Tribes Order 1959 as amended by the schedule castes
and scheduled tribes order (Amendment Act) 1976.

The Constitution(Dadra and Nagar Haveli)Scheduled
castes order 1962

The Constitution(Dadra and Nagar Haveli) Scheduled
Tribes Order 1962.

Contd...

Certified to be true copy
H. Dehak
Advocate

- 2 -

The Constitution(Pondicherry) Schedule Castes Order,
1964.

The Constitution(Uttar Pradesh)(Schedule Tribes)Order,
1967

The Constitution(Goa,Daman & Diu) Scheduled Castes
order 1968

The Constitution(Goa,Daman & Diu) Scheduled Tribes
Order 968

The Constitution(Nagaland) Scheduled Tribes Order,
1970.

2. Shri Prodip Kumar Boro and/or/his/her family
ordinarily reside(s) in village/Town Malmura of
Darrang Dist./Division Mangaldoi of the State/
Union Territory of Assam.

Place :

Date ::

Signature

Designation with seal of Office
Sd/-Illegible
(Seal) State
Union Territory

NOTE : The term ordinarily resides used here will
have the same(sic.)section 20 of the Representation of
the people's Act, 1950.

Please delete the words which are not applicable to
be signed by :

1. District Magistrate/Additional District Magistrate
Collector Deputy Commissioner/Additional Deputy
Commissioner/Deputy Collector/First Class Stipendiary
Magistrate/City Magistrate/Sub-Divisional Magistrate.

Contd...

Central Public Sector
A. Delhi
autocopy

not below the rank of 1st Class Stipendary Magistrate
Taluka Magistrate/Executive Magistrate/Extra Asstt.
Commissioner.

2. Chief Presidency Magistrate/Additional Chief
Presidency Magistrate/Presidency Magistrate.
3. Revenue Officer not below the rank of Tehsildar
4. Sub-Divisional Officer, of the area where the
candidate and/or his family normally resides.
5. Administrator/Secretary to Administrator(sic...)
Officer (Lakshdweep Island).

ANNEXURE - 6

Translated Copy

Certified copy of Jamabandi for the period
1976-77 of village Malmura, Mauza Majikuchi

<u>No. of Patta</u> Old	Name of Pattadar New Father's name, residence.	Dag Area No. of Dag	Class of land	Rev. L.T.	Remarks
78,78	80	1. Z			
81		2. X			
	3. Sri Pradip Kr. Borc S/c. Sri Mati Ram Borc.	11 1B. 4K. 6L.	Bari 4K. 6L.	1B. 9.30 4K. 6L.	5.32

(KHA) As per order dated 15.3.02 of the Circle Officer in the chitha the name of Sri Pradip Kr. Borc, S/c. Sri Mati Ram Borc is mutated in Dag No. 11 to an extent of 1 Bigha 4 Kathas 6 Lechas of land on the relinquishment by Sri Mati Ram Borc.

Sd/- Ichit Borc	Sd/- Illegible
31.10.03	27.3.02
Copiest	Compared by
Sd/- Illegible	Sd/- Illegible
	Certified to be true copy
	Sd/- Illegible
	Revenue Sheristadar
	Sd/- 10.11.03

Certified to be true copy
A. Debn.
Advocate

ANNEXURE - 7

(ROUND SEAL)

A-5

GOVERNMENT OF ASSAM

OFFICE OF THE CIRCLE OFFICER KHOI RABARI REV. CIRCLE ,
KHOI RABARI.

No. 456

Dated 19.9.03

INCOME CERTIFICATE

On the strength of the certificate/
report of the Chairman, village Panchayat/village
Accountant/Revenue Inspector this is to certify that
the Annual income of Sri Pradip Kumar Bora son of Sri
Mati Ram Bora resident of village Kalnukha under
Majikuchi Mauza in the district of Darrang as follows :

Pegari Rs. 3000.00(three thousand) only Total
Rs. 3000.00 (Rupees three thousand)

This certificate is issued for the
purpose of apply for service only.

Sd/-Illegible,
19/9
Circle Officer
Khoirabari Rev. Circle, Khoirabari
(Seal)

Certified to be true copy
H. Deba

ANNEXURE - 8(a)

Type Copy

Office of the Principal of
Nackata Milan Higher Secondary School P. O. Nackata,
Dist. Kamrup (B. A. C.), Assam.

Date : 22.9.03

CHARACTER CERTIFICATE

Certified that Sri Pradip Kumar Boro
son of Mati Ram Boro of village Malmura, P. O. Malmura
in the district of Darrang was a student of Nackata
Milan Higher Secondary School.

As far as I know his/her/he/she bears
good moral character.

I wish him success in life.

Sd/- Illegible,
Principal
Nackata Milan H. S. School
(Office Seal)

Certified to be true copy
H. Debnar
Advocate

ANNEXURE - 8(b).

Translated Copy

CERTIFICATE

Certified that Sri Pradip Kumar Boro ,
S/o. Matiram Boro is a resident of village Malmura
under Mauza Majikuchi.

I wish him success in future.

Sd/- Sri Tapeswar Kachari

5.11.08

Illegible

Certified to be true copy
H. Deka.
Advocate

ANNEXURE - 9

Dept. of Post India
Office of the Supdt. Post Office Darrang Division,
Tezpur - 784001

No. 112/88/Ch-I

Dated Tezpur the 14.10.2003

To,

The Circle Officer,
Khairabari Rev. Circle, Khairabari

Sub. : Confirmation of land holding by candidates
for selection as Extra Departmental Agents.

Sir,

Land holding particulars furnished by the
following candidates in connection with Selection as
Extra Departmental Branch Post Master are appended
below.

Kindly favour this office with a confirmation
report if the land as scheduled below against their
names are actually held in their own names.

<u>Name of candidate</u>	<u>Particulars of land</u>
1. Sri Pradip Kr. Boro S/o. Sri Mati Ram Boro	Village Malmura Mauza Majikuchi, Patta No. 80 Dag No. 11 land measuring 1(one) Bigha 4(four) Kathas 6(six) Lochas.
2. Sri Baidyanath Kachari S/o. Late Bhogi Ram Boro	Village Malmura Mauza Majikuchi, Patta No. 114, Dag No. 671 Land 3 B. 4K. 18 Lochas.

Yours faithfully,

S3/-Illegible
Supdt. of Post Offices
(Office Seal)

certified to be true copy
H. Debari
Advocate

ANNEXURE - 10

(Translated Copy)

Govt. of Assam

Office of the Circle Officer, Khairabari Rev. Circle
Khairabari

No. KBR. (Sic)/505 Dated 31.12.03

To,

The Superintendent
Dept. of Post Offices, Tezpur

Sub :: Landholdings in the name of 1) Sri Pradip Kr. Boro, S/c. Matiram Boro 2) Sri Baidya Nath Kachari, S/c. Late Bhagti Ram Boro.

Ref :: Your letter No. 112/88/Ch-I dated 14.10.03.

Sir,

With respect to the above subject and reference respectfully it is submitted.

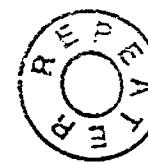
1. Sri Pradip Kr. Boro/S/c. Sri Matiram Boro is the absolute owner of land measuring 1 Bigha 4 Kathas 6 Lechas covered by Dag No. 11 of K.P. Patta No. 80 of village Malmura, Mauza Majikuchi and he is possessing the said land.

2. Sri Baidya Nath Kachari, S/c, Late Bhagti Ram Boro is holding jointly as co owner with his two brothers land measuring 3 Bighas 4 Kathas 13 lechas covered by Dag No. 671 of K.P. Patta No. 114 of village Malmura, Mauza Majikuchi and possessing jointly.

This is the report for favour of your information.

Yours sincerely,
S/-Illegible,
30.12.03
Circle Officer
Khairabari Rev. Circle
(Office Seal)

Certified to be true COPY
H. Deka
Advocate



Board of Secondary Education, Assam



MARKS-SHEET

DUPLICATE

GUWALI

Date: 22 - F - 04

HSLC (Repeaters)

This is to certify that Baidhya Nath Kacharw Roll R. 1-353 No. 28
 a Private Candidate, has secured marks as detailed below, in the High School Leaving Certificate (Repeaters) Examination, 1995.

CORE SUBJECTS												ELECTIVE						
First Language	Languages in Lieu of first Language			Second Language ENGLISH			GENERAL SCIENCE			GENERAL MATHEMATICS			SOCIAL STUDIES			With Practical		
	Full marks	Pass marks	Total	Full marks	Pass marks	Total	Full marks	Pass marks	Total	Full marks	Pass marks	Total	Full marks	Pass marks	Total	Full marks	Pass marks	Total
32	29	27	88	20	20	40	7	24	31	34	13	47	34	23	57	34	14	29
																		19
																		III

Marks entered

Marks compared

Rs. 25.00

Date: 10/10/00

Date: 10/10/00

Work Experience Grade denotes :

- A—Excellent.
- B—Gold.
- C—Fair.
- D—Average.
- E—Poor (needs improvement).

Pass Marks

AGRICULTURE :

Theoretical—

Practical—

CRAFTS :

Theoretical—

Practical—

Pass Marks

AGRICULTURE :

Theoretical—

Practical—

DANCE, MUSIC & FINE ARTS :

Theoretical—

Practical—

Vice-Controller of Examinations

State Controller of Examinations
 Govt. of Assam
 Assam, Government

47

Bentified to be true copy
 H. Deka.
 Advocate

ANNEXURE - 12

(Translated Copy)

To,
The Superintendent of Post Offices,
Darrang Division,
Tezpur- 784001

Sub :: Application for re-examination of the certificates and appoint the fit candidate for the post of BPM/Malmura Branch post office.

Date :01.06.04

Sir,

It has come to our knowledge that one Sri Baidya Nath Kachari has been appointed by the department inspite of his unfitness to the post. In the educational certificate the name of Sri Baidya Nath Kachari has been shown wrongly and as per the report of the circle officer, Khairabari revenue circle there does not exist land in his name as the absolute owner. The percentage of marks obtained in the HSIC examination by Sri Baidya Nath Kachari is much below than the other candidates. The people of the Malmura village has expressed surprise to such appointment.

So it is hereby requested to re examine the educational certificates and appoint the fit candidate at the earliest. Failing which we would be constrained to approach the court of law.

Yours sincerely,

1. Sri Fuleswar Basumatry
2. Sri Pradip Kumar Boro
Vill. & PO. Malmura, Dist.
Udaguri (BTAD)

certified to be true copy
H. D. Dhar
District

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH

ORDER

178/04.....

Obj. App/Misc. Petn/Cour Petn/.....

In O.A.

Name of the Applicant(s) Pradip Km. Baroo

Name of the Respondent(s) H.O. I. Govt.

Advocate for the Applicant H. Deka, P.K. Deka, B. Sarma
Counsel for the Railway/C.G.S.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

16.8.2004

Heard Mr. P.K. Deka, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.G.S.C. for the
respondents.

The O.A. is regarding the selection
to the post of Extra Departmental Branch
post Master in Malmura Branch Office.
The applicant submitted representation
to the Superintendent of Post Offices,
Darrang Division, Tezpur to re-examine
the certificate and to appoint the fit
candidate for the post of BPM in Malmu-
ra Branch Post Office which is yet to
be disposed of by the respondents.

Accordingly, the respondents are direct-
ed to dispose of the representation dated
1.6.2004 submitted by the applicant,
within two months from the date of
receipt of this order. Till the comple-
tion of the aforesaid exercise, if any
appointment letter is issued ~~in the~~ the
operation of the same shall be
kept in abeyance.

The O.A. is accordingly disposed
of. No order as to costs.

Sd/MEMBER(ADM)

Section Officer
C.A.T. GUWAHATI BRANCH
Guwahati 781005

16/8/04

16/8/04

Central Administrative
Tribunal
H. Deka

DEPARTMENT OF POSTS :: INDIA ::
OFFICE OF THE SUPERINTENDENT OF POST OFFICES, DARRANG DIVN.
TEZPUR-784001

NO.H2/88/Ch-I

Dated at Tezpur-784001
The 19/10/2004

TO

1. Sri Fuleswar Basumatary
Vill+Post=Malmura
Via=Khoirabari
Distt=Udalguri (BTAD)

✓ 2. Sri Prodip Kr. Boro
Vill+Post=Malmura
Via=Khoirabari
Distt=Udalguri (BTAD)

Sub:- Selection of candidate for the post of GDS BPM – Malmura EDBO.

Sir,

This is for your kind information that the process for selection of the candidate for the post of GDS BPM, Malmura Branch Post Office was completed and the selected candidate taken over his charge on 24/05/2004.

It may be mentioned here that the selected candidate was found befitting as he could fulfil all the required terms and conditions.

With thanks.

Yours faithfully


(K.C. SARMA)
Superintendent of Post Offices
Darrang Division, Tezpur-784001

Certified to be true copy
H. D. Deka
Advocate

Advocate

12 APR 2005

গুৱাহাটী বিভাগ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. No. 25 of 2005

Sri Pradip Boro ... Applicant

-Versus-

Union of India & Ors.

... Respondent

WRITTEN STATEMENT FOR AND ON BEHALF
OF RESPONDENTS NO. 1, 2 & 3.

I, J.B. Biswas, Superintendent of Post Offices, Darrang Division, Tezpur, do hereby solemnly affirm and say as follows :-

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

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

a) That the post of Branch Postmaster, Palmura FDBO under account jurisdiction of Kholrabari Sub Post Office became vacant with effect from 27-11-02 due to resignation tendered by the BPM Sri Mono Ranjan Boro.

b) That the Employment Exchange, Mangaldoi sponsored 11(eleven) candidates on 12-12-02 as per requisition dated 11-11-02 and those candidates were asked to submit their applications under letter dated 23-12-02 within 08-01-2003.

c) That the applications were examined on 9-1-03 but none could be selected as nobody fulfills the requisite terms and conditions.

Contd.. p/2

5x
Union of India vs
Pradip Boro
Central Govt. Standing Counsel
Addl. C.A. T.
Guwahati

11/4/05

d) That again a requisition for candidates was made on 23-01-03. This time also Employment Exchange sponsored 11(eleven) candidates. Applications were checked on 17-3-2004, but none could be selected because of non-fulfilment of the requisite terms/ conditions.

✓ e) That the fact was communicated to the Postmaster General, Dibrugarh Region who directed to make re-advertisement.

✓ f) That it was again processed on 8-8-03 for filling up the vacancy. The Employment Exchange sponsored 7(seven) candidates this time, out of which 6(six) candidates submitted applications, Applications received were checked on 01-10-03. 3(three) candidates viz the applicant, Sri Fuleswar Basumatary and Sri Baidhya Nath Kachari were present at the time of opening the covers containing their applications.

✓ g) The applicant and Sri Fuleswar Basumatary submitted land-holding certificates issued by the SDC' Khoirabari, while Sri Baidhya Nath Kachari submitted copy of Zamabandi. Other three candidates did not submit any document in c/w land/immovable properties, which is one of the required conditions.

✓ h) That the original of the documents in r/o copies of which submitted by the candidates were verified at Mangaldai HO on 7-11-03. The applicant alongwith Sri Fuleswar Basumatary, could not produce proper and authenticated documents in support of right of land holding by them while Sri Baidhya Nath Kachari produced original copy of certified Zamabandi.

✓ i) That the SDC/Khoirabari was addressed on 14-10-03 to ascertain if the candidate possesses any land, the reply of which was not received by the appointing authority. The Annexure-9 and 10 in the OA seems to be intercepted by the applicant with the collaboration of someone of SDC's office, Khorabari is presumed. It is very much surprising as to how an unauthorized person can have the copies of letter addressed to SDC/Khoirabari and also his reply to the SPOs' Tezpur while the later is quite ignorant of the facts.

✓ j) That the Postmaster General, Dibrugarh Region, Dibrugarh was requested to furnish his opinion regarding acceptance of a certificate issued by the SDC as a valid document of possession of land by a candidate in another case vide letter No.A-313/Chit dated 19-06-03 and 19-07-03. And the PMG directed this office to take it up either with the Revenue Authority or with the Govt. Pleader under his letter dated 01-08-03.

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k) That accordingly, it was taken up with the Deputy Commissioner, Darrang/Sonitpur and Govt. Pleader, Mangaldoi/Tezpur court on 22-8-03. The Govt. Pleader, Mangaldoi Court Sri B.K. Sarma submitted his comments on 26-8-03 that the certificates issued by the SDC are not define in the Assam Land Revenue Regulation, 1886. The certificate issued by the SDC is not the conclusive proof of land holder/pattaholder.

✓ 1) That therefore, in the instant case, the SDC/Khoirabari was not pursued for his reply.

m) That out of the 6(six) candidates, Sri Baidhya Nath Kachari was found to fulfill the required conditions and accordingly, after completion of verification/collection of pre-appointment letter/collection of required security deposit money, he was handed over the charge on 24-5-04 and formal appointment letter issued on 25-5-04.

n) That the applicant submitted an application before Hon'ble Tribunal under OA No.178/04 against the selection of GDSBPM, Maimura BO.

✓ o) That the said OA No.178/04 was disposed of by the Hon'ble Tribunal on 16-8-04 to re-examine the certificate and to appoint the fit candidate for the post of BPM in Maimura Branch Post Office which is yet to be disposed of by the respondent.

The respondent has already disposed of the selection of the BPM on 10-5-04 vide Memo No.H2/88/PF/BN Kachari dated 10-5-2004. i.e. selection was made before issue order of the Hon'ble Tribunal.

3. That with regard to the statements made in paragraph 1 of the application, the respondents beg to state that the Representation dated 01-06-04 of the applicant was disposed on 19-10-04.

4. That the respondents have no comments to the statements made in paragraph II, III, IV(1), IV(2), IV(3), IV(4) of the application.

5. That with regard to the statements made in paragraph IV(5) of the application are admitted. The name of the applicant was sponsored by the Employment Exchange.

6. That the statements made in paragraph IV(6), (i), (ii), (iii), (iv), (v), (vi) are admitted.

7. That the statements made in paragraph IV(7), (i), (ii), (iii), (iv), (v), (vi) & (vii) are admitted.

8. That the respondents have no comments to the statements made in paragraph IV(8) & IV(9) of the application.
9. That with regard to the statements made in paragraph IV(10) of the application are admitted. But no reply was received from the SDC/Khoirabari. It is surprising that an official letter addressed to State Govt. officer alongwith its reply was intercepted by the applicant and annexed as Annexure-9 and 10 in the O.A. It seems that it was intercepted in collaboration with somebody of the SDC's office/Khoirabari.
10. That with regard to the statements made in paragraph IV(11) of the application, the respondents beg to state that the reply of the SDC/Khoirabari which has been annexed by the applicant in original application was not received by the respondent No.3. It was intercepted by the applicant in the Office of the SDC/Khoirabari with the collaboration of somebody of his office instead of sending it to the respondent No.3.
11. That with regard to the statements made in paragraph IV(12) of the application, the respondents beg to state that it is not admitted that the applicant had an advantage upon the respondent No.4 because he could not submit valid and authenticate documents of land holding. Because the certificate issued by the SDC is not a valid and authenticated documents regarding possession of land property. In this connection, the opinion of B.K. Sarmah, Asstt. Govt. Pleader Mangaldoi dated 26-8-03, obtained in another case, was taken into consideration.
- (2000000000)
- The DC, Sonitpur, Darrang District and the Govt. Pleader, Mangaldoi, Tezpur were requested to clarify as to the validity of a certificate issued by the SDC.
12. That with regard to the statements made in paragraph IV(13) of the application, the respondents beg to state that since the process of selection/recruitment is a confidential one, no communication to any candidate is required to be made. In the instant case also, none was communicated. The process was completed during the 3rd week of May/04 and the selected candidate (Respondent No.4) had taken over the charge of GDSBPP-Maimura on 24-5-04 and continuing still date. It is not desirable to communicate the reason for non-consideration of the candidates who are not settled.

It is admitted that one Fax message dated 01-06-04 signed by one Sri Fuleswar Basumatary and the applicant was received. The contents were illegible. No confirmation copy by post or hand was received subsequently. But in the meantime, the process was over and the selected candidate (Respondent No.4) joined already. However, representation is disposed of on 19-10-04 as per direction of the Hon'ble Tribunal.

(~~Answered~~)

13. That with regard to the statements made in paragraph IV(14) of the application, the respondents beg to state that it is not mandatory for the appointing authorities to reply the candidates for this representation.

14. That with regard to the statements made in paragraph IV(15) of the application, the respondents beg to state that the Respondent No.3 made reply to the applicant on 19-10-04 intimating that the process of selection of the GDSBPM Maimura BO was over prior to receipt of Representation. It was also intimated that the selected candidate had joined in the post on 24-5-04. As the process was already over before receipt of the representation as well as judgement passed by the Hon'ble Tribunal, it was not possible to keep in abeyance or to withdraw the appointment letter.

15. That with regard to the statements made in paragraph IV(16) of the application, the respondents beg to state that the Respondent No.3 had received the copy of the judgement of the Hon'ble Tribunal through the applicant on . No copy was received from the Hon'ble Tribunal.

16. That with regard to the statements made in paragraph IV(17) of the application, the respondents beg to state that it is not mandatory on the part of the Respondent No.3 to furnish the Bio-data of the selected candidates to the applicant.

17. That with regard to the statements made in paragraph IV(18) of the application, the respondents beg to state that the applicant had secured total marks-343 18 out of 900 while the selected candidate Sri Baidhya Nath Kachari (Respondent No.4) secured marks 297 - 19 out of 900 marks. The selection is made on the basis of merit as per HSLC Examination, provided other conditions are fulfilled. It is not true that neither the applicant nor the Respondent No.4 had passed the matriculation Examination as stated by the applicant.

Both of them had passed HSLC Examination. The Respondent No.4 fulfilled all the required conditions while the applicant could not. The applicant had got no landed property on his name as required. He simply furnished one certificate from the SDC ' Khoirabari which is not valid and authenticated documents of holding landed property. In this connection, opinion obtained from one Sri B.K. Sarmah, Ass'tt. Govt. Pleader, Mangaldoi dated 23-8-03 in another case has been taken into consideration in this case also, in response to the letter written to the DC/Sonitpur, DC/Darrang and Govt. Pleader, Tezpur and Mangaldoi.

(00000000)

18. That with regard to the statements made in paragraph V(2) of the application, the respondents beg to state that it is not admitted that there was no such conditions of the notification dated 10-9-03 to give special weightage to candidates having higher qualification. In the instant case, the applicant had passed HSLC Examination but not the matriculation examination as demanded by him. The applicant himself is not having a clear understanding of the qualifications he possess.

19. That with regard to the statements made in paragraph V(3) of the application, the respondents beg to state that there is no discrimination in respect of selection process of the GDSBPM, Faimura BO.

20. That with regard to the statements made in paragraph V(4) & V(5) of the application, the respondents beg to state that there is no deviation of any Rule for selection of GDSBPM, Faimura BO.

21. That with regard to the statements made in paragraph V(6) of the application, the respondents beg to state that the selection was made observing all the formalities without violation of any standing rules and procedures.

22. That the respondents have no comments to the statements made in Paragraph VI(1), (2), (3), VII, VIII(1), (2), (3) of the application.

23. That with regard to the statements made in paragraph IX of the application, the respondents beg to state that no interim order is justified as because the entire process of selection of GDSBPM, Faimura was completed before the submission of the applicant by the applicant as well as the judgement passed by the Hon'ble Tribunal.

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

VERIFICATION

I, J.B. Biswas, presently working as Superintendent of Post Offices, Darrang Division, Tezpur being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 4, 6 ~ 8 & 22 of the application are true to my knowledge and belief, those made in paragraphs 2, 3, 5, 9 - 21 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 3rd day of April, 2005


 DEPOIMENT अधीक्षक
 दरंग प्रमाणिल तेजपुर-784001
 Supdt. of Posts Offices
 Darrang Division, Tezpur-784001