

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No 253/2006
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E.P/M.A No.....

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SECTION OFFICER (Judl.)

Shahila
27/10/17

FROM Rule
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
SEPARATE LENGTH

1. Original Application No. 253/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Santi Niva Kundu

Respondant(s) U. O. I 40MM

Advocate for the Applicant(s) A. K. Roy, Esq. S. S. Roy.

...b. Wcupang.....

Advocate for the Respondent(s). Ms. U. D. As., A.M. C.A.S.

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C.F. for Rs 50/- deposited vide P. 20 No. 266352649 Dated.....18.10.06.....	24.10.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.
<i>for D. Registrar 23.10.06</i>		The Applicant is a graduate and was selected for the post of UDC according to the Applicant after due process of selection and she has been continuing as UDC till date, i.e. 18 years. Since last 4 years, she is continuing in the same post on the strength of the Hon'ble Gauhati High Court's order passed in W.P. (C) No. 98(SH)/2002, which was disposed of by the Hon'ble High Court on 17.10.2006 with a direction to the Applicant to withdraw the case in view of the fact that Central Administrative Tribunal has got jurisdiction over the issue. It was also made clear that status quo as on 17.10.2006 to be maintained for a period of 15 days. Hence, the Applicant has filed this O.A.
<i>PAI</i>		
<i>W.M. 9/11.06</i> <i>• Bewolf</i> <i>• retro rot 50.</i> <i>• sub exen filis en.</i>		

Contd/-

OA 253/06

Contd/-

24.10.2006 Heard Mr A.K. Roy, learned Counsel for the Applicant and Ms U. Das, learned Addl. C.G.S.C. for the Respondents. Ms. Das, learned Addl. C.G.S.C. for the Respondents wanted to take instructions. Let it be done.

Post on 05.12.2006.

Learned Counsel for the Applicant insisted for an interim order. It is an admitted fact that the Applicant is continuing in the post of UDC for a period of 14 $\frac{1}{2}$ years and further 4 years on the strength of Hon'ble Gauhati High Court's order. It is also brought to my notice to the annexure - J that Principal of the Institute has recommended her case for regularization as a very special case even also in relaxation of recruitment rules. Though an ad hoc employee may not have fixed employment, it appears from the records available that the Applicant is holding the post of regular vacancy for the last 18 years without interruption. Considering the said factual position and also to the fact that she is continuing on ad hoc basis for the last 18 years, this Court directs that status quo as on today shall be maintained till the next date of hearing.


Vice-Chairman

/mb/

5.12.06

Counsel for the respondents prays for ~~six~~ ^{six} weeks time to file written statement. Prayer allowed.

Post on 19.1.07 for order. Interim order will continue till next date.

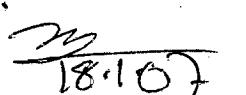

Vice-Chairman

order dt - 5/12/06
issuing to learned
advocates for both
the parties -

6/12/06

No Writ has been
billed.

pg


18.10.06

7.6.2007

No WCs has been
billed.

Further four weeks time is granted for
filing of reply statement.

Post the case on 10.7.2007.

23
6.6.07.

Vice-Chairman

/bb/

Wb not billed.

10.7.2007

23
9.7.07.
order dt. 10/7/07
issuings to learned
advocate's for both
the parties.

UAS
11/7/07.

/bb/

Let the case be posted on
10.08.2007 granting further time to
Ms.U.Das, learned Addl. C.G.S.C. to file
reply statement.

Interim order shall continue till such
time.

Vice-Chairman

7.9.2007

Post on 11.9.2007. Interim order shall
continue till then.

26.7.07

WCS filed by the
Respondents. Pccg

1 to 9. Petitioning given /bb/
for Service of copy.

04.10.07

Pccg

Call this mater on 28.11.07
awaiting rejoinder from the applicant.

Wb billed.

lm

23
6.9.07.

23
(Khushiram)
Member(A)

23
Monoranjan Mahanty
Vice-Chairman

31.7.07.
Please comply.

WCS billed.

23
3.10.07.

19.01.07.

Heard Learned counsel for the parties. Considering the facts and circumstances I am of the view that application has to be admitted.

Application is admitted. Issue notice on the respondents. Post the matter on 30.2.07. Interim order shall continue.

lm

Vice-Chairman

5.3.07.

Counsel for the respondents wanted to file written statement. Let it be done. Post the matter on 5.4.07. Interim order shall continue.

lm

Vice-Chairman

① Service report awaited.

2/3/07
2.3.07

5.4.2007

Further time of four weeks is granted to the respondents to file reply statement.

Post on 8.5.2007. Interim order shall continue till such time.

h

Vice-Chairman

order dt. 5/3/07
issuing to learned
advocate's for both
the parties.

bb

8.5.2007

Ms. U.Das, learned Addl.C.G.S.C. prays for further time to file reply statement. Four weeks' time is allowed.

Post the case on 07.06.2007. Interim order shall continue till such time.

h

Vice-Chairman

order dt. 5/4/07 issuing
to learned advocate's
for both the parties.

/bb/

9/4/07

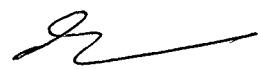
No W.Ls has been
billed.

7.5.07
order dt 8/5/07 issuing to
both the parties.

28.11.2007

Mr.A.K.Roy, learned counsel for the Applicant and Ms.Usha Das, learned counsel for the Respondents are present. The counsel for the Applicant seeks adjournment for three weeks. Prayer is granted. in the meanwhile, they will find out ~~the matter~~ whether the matter is within the Jurisdiction of the Tribunal or not. Matter will be heard on 11.12.2007 on this point ~~first~~.

Accordingly, call this matter on 11th December, 2007;



(Khushiram)
Member(A)

Lm

11.12.07 None appears for the Applicant nor the Applicant is present. However, Miss U. Das, learned Additional Standing counsel for the Respondents is present.

By way of indulgence ^{an adjournment is granted.} call this matter on 03.01.2008.



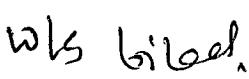
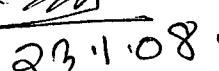
(G. Ray)
Member(A)


(M. R. Mohanty)
Vice-Chairman

pg

03.01.2008

Heard-in-part. On the prayer of learned counsel for both the parties, this case is adjourned to be taken up on 24.01.2008.

(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

/bb/

O.A.253/06

24.01.2008 Heard Mr. A. K. Ray, learned
counsel appearing for the Applicant and
Ms. Usha Das, learned Addl. Standing
Counsel appearing for the Respondents.
Hearing concluded. Judgment reserved.

Hearing concluded. Judgment reserved.

(Khushiram)
Member(A)

(M. R. Mohanty)
Vice-Chairman

Im

29.01.2008 Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No order as to costs.

(Khushiram)
Member(A)

(M. R. Mohanty)
Vice-Chairman

-Liu

31.1.08

Copy of the
final order collected
by the applying on
29.1.08

26.2-08

Copy of 1st
Draft of send to
the Office for
issuing the same to
Rebeldos as well
as to the 2nd Adm'
for 75 copies - L.

10

22.1.09

D NWS 1226 to
23° 37° 3.3.08

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 253 of 2006

DATE OF DECISION: 29/01/2008

Smt Niva Kundu

.....APPLICANT(S)

Mr A.K. Ray, Smt S. Ray and L. Wapang.

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

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

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Mr Khushiram, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench and other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman/Member

.....

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.253 of 2006

Date of Order: This the 29th day of January 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khushiram, Administrative Member

Smt Niva Kundu
Resident of Nakham Bazar, Tura,
West Garo Hills, Meghalaya.

.....Applicant

By Advocates Mr A.K. Ray, Smt S. Ray
and L. Wapang.

-versus-

1. The Union of India, represented by the Secretary, Ministry of Labour, Government of India, New Delhi.
2. The Director of Training (WO) Director General of Employment and Training, Ministry of Labour, Shram & Shakti Bhawan, Rafi Marg, New Delhi-110001.
3. The Regional Director Regional Directorate of Apprentiative Training, M.S.O. Building, 1st Floor, Salt Lake city, Kolkata-64.
4. The Principal Regional Vocational Training Institute, Araimile, Tura, Meghalaya-794101.Respondents

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

.....



ORDERKHUSHIRAM (ADMINISTRATIVE MEMBER)

The Applicant was appointed as Upper Division Clerk (UDC) on ad hoc basis "initially for a period of six months from the date of her joining the post or till the post is filled up on regular basis whichever is earlier", on 25.08.1988. She has, however, continued in the same position since then as there was no other contender in the department at Calcutta who could come over to take over. Regularization of her ad hoc services was recommended by Respondent No.4, but the same could not be acceded to. During this period, the Applicant was sent for the 1st course on 'Effective Office Management' and other institutions. On 28.02.1997, the Respondent No.4 directed the Applicant to appear in the L.D. Grade Examination to be conducted by the Staff Selection Commission (SSC) to facilitate her regularization in the job with age relaxation. She was allowed to contribute on GPF and Central Government Employees' Group Insurance Scheme 1980 also. However, she could not qualify the examination of the SSC for appointment as LDC. Her services ultimately had to be terminated on 17.04.2002, but by order dated 24.10.2006, this Tribunal directed the Respondents to maintain status quo, which has continued so far. The Applicant is claiming regularization on account of her long tenure of service without any break and the fact that her name has been struck off from the Employment Exchange and she has reached the age where it will be difficult to seek appointment elsewhere. Aggrieved by the termination decision dated 17.04.2002 she has filed this O.A. under the Administrative Tribunals Act, 1985, before the Tribunal.



2. The respondents have filed written statement stating that the name of the Applicant was called from the Employment Exchange as the post had to be filled up on urgent basis for six months as the Regional Vocational Training Institute (Women) at Tura had to be established. The attempts made by the Respondents to fill up the post by promotion did not succeed as the eligible candidates located at Calcutta Unit declined to accept the post. Therefore, the ad hoc services of the Applicant were not discontinued. The Respondents have admitted that the Applicant was allotted GPF Account Number in 1999, but it does not confer any right of regularization of her services. In order to facilitate the regularization of the Applicant the Respondents decided to allow her to compete in the L.D. Grade Examination so that her post could be regularized as LDC as per Recruitment Rules. She appeared in the examination in May 2000. She got three years for preparation for this examination, but she could not succeed in the 'Combined Preliminary Examination (Matric Level)' under SSC held on 21.05.2000. Obviously, the Applicant is not fit to hold the post of UDC as she could not clear the examination for the lower post of LDC and that too after having got three years to prepare for the said examination. Since there is no provision for direct recruitment to the post of UDC and the respondents are obliged to follow the Constitutional Mandate of Articles 14 and 16 of the Constitution of India, the Respondents had no other option but to terminate her services. Therefore, the action of the Respondents in terminating the services of the Applicant cannot be called arbitrary or violative of Articles 14 and 16 of the Constitution of India.



3. Mr A.K. Roy, learned Counsel appearing for the Applicant, argued that the long services of the Applicant on ad hoc basis should be seen for her continuance/regularization. Ms U. Das, learned Addl. Standing Counsel for the Union of India, argued for the Respondents and contended that the Applicant was appointed on ad hoc basis for six months only and she was given chance to qualify the examination for LDC, which she could not qualify. Therefore, the termination of the services of the Applicant is absolutely in order.

4. We have considered the rival contentions of both sides. Admittedly, the Applicant was appointed "on ad hoc basis for a period of six months or till alternative arrangements" are made, whichever is earlier. But, by sheer luck and the fact that no alternative arrangements could be made, she continued so long against the post of UDC for which there is no provision in the Recruitment Rules for direct recruitment (it being a promotional post). Therefore, the Applicant's initial appointment is irregular and her continuance has also no legal basis. In spite of that, the Respondents helped the Applicant, allowed her to sit in the 'Combined Preliminary Examination 2000 (Matric Level)' under SSC after granting her age relaxation. But, the Applicant could not clear that examination also. Therefore, the Applicant's continuance is no longer tenable as it is against the fundamental law of the land like, "equity for all and not of just the few before the court, by upholding of Constitutional Scheme of public employment whose hallmark is equality of opportunity" as was held by the Apex Court in Secretary, State of Karnatak & Others vs. Umadevi (3) and others, reported in (2006) 4 SCC 1.



5. In view of the above, the Original Application has no merit and is accordingly dismissed without any order as to costs.

Khushiram
(KHUSHIRAM)
ADMINISTRATIVE MEMBER

foral
29/01/08
(M. R. MOHANTY)
VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

21 SEP 2006
गुवाहाटी न्यायालय
Guwahati Bench

Original Application No. 253 /2006

Smt Niva Kundu
.....Applicant

-Vs-

Union of India & Ors.

.....Respondents

LIST OF DATES

Dates	Particulars	Para	Annexure	Page
1987	Applicant passed degree examination and got her name registered in the local Employment Exchange.	4(III)		2
1988	Respondents sent requisition to Employment Exchange for post of UDC and accordingly applicant's name along with others were sent and selection was held, applicant came out successful basing on which she was appointed.	4(II)/(IV)	A	2/3
25-08-1988	Applicant joined in duty as UDC	4(V)	B	3
03-02-95	Certificate regarding 1 st course on effective office management was issued	4(VI)	C	3
28-02-1997	Respondent No.4 directed applicant to appear in LD Grade Examination conducted by Staff Selection Commission	4(VIII)	D	4
17-06-1997	Letter of applicant to the respondent stating that no advertisement has been made for L.D. Grade examination.	4(IX)	E	4
14-01-1998	Applicant's representation regarding GPF and respondent accordingly given the GPF account No. and deposited the same.	4(X)	F & G series	5
1998	Respondents allowed her to contribute for Central Govt. Employees Group Insurance Scheme.	4(XI)	H	5
1-10-97 to 17-10-97 and 19.11.97 to 02-12-97	Applicant allowed to discharge duty as Office Superintendent	4(XII)	I Series	5

Contd..

LIST OF DATES

Dates	Particulars	Para	Annexure	Page
03-11-2000	Respondent No.4 recommended for regularisation of applicant	4(XIV)	J	6
17-04-2002	Applicant service has been terminated	4(XV)	K	7
18-04-2002	Applicant representation	4(XVIII)	L	8
2002	Applicant filed writ petition No. 98 ((SH)/2002 and the Hon'ble High Court stayed the operation of termination order.	4(XX)		8
17.10.2006	Hon'ble High Court allowed to withdraw the Writ Petition with observation to approach this Hon'ble Tribunal within fifteen days and till then status quo shall be maintained	4(XX)	M	8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Original Application No. 253 /2006

Smt Niva Kundu
.....Applicant.

-Vs-

Union of India & Ors.

.....Respondents

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14	Annexure - L	31
15	Annexure - M	32 - 34

For use in the office

Signature:

Date :

17
Filed by the applicant
Smt. Niva Kundu
through -
Ashok Kumar Ray
Advocate
23/05/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: GUWAHATI

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

Original Application No. 253 /2006

-BETWEEN-

Smt Niva Kundu
R/o Nakham Bazar, Tura
West Garo Hills, Meghalaya

.....Applicant

-AND -

1. The Union of India, represented by the Secretary, Ministry of Labour, Govt. of India, New Delhi.
2. The Director of Training (WO)
Director General of Employment and training, Ministry of Labour, Shram & Shakti Bhawan, Rafi Marg, New Delhi-110001
3. The Regional Director,
Regional Directorate of Apprentiative Training, M.S.O. Building, 1st Floor,
Salt-Lake city, Kolkata -64
4. The Principal,
Regional Vocational Training Institute,
Araimile, Tura, Meghalaya - 794101

.....Respondents

1. PARTICULARS OF THE ORDERS AGAINST WHICH THIS APPLICATION IS DIRECTED

This application is directed against Order No. A-28011/2/2002 - Estt.

Dated 17-04-2004 which has been issued in pursuance to the letter No.

Niva Kundu

RD/CAL/Estt/2(12)/ 2001 dated 12-04-2002 and through which the applicant has been terminated from her service (Annexure -K).

2. JURISDICTION :

That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal

3. LIMITATION :

That the applicant also declares that the present application is made within the limitation period as has been prescribed under section 21 of the Administrative Tribunal Act 1985.

4. FACT OF THE CASE :

(I) That the Petitioner is a citizen of India by birth and an unmarried lady and a permanent resident of Nakham Bazar, Tura, District: West Garo Hills, Meghalaya. :

(II) That the Respondents during the year 1988 advertised for the post of Upper Division Clerk for their Regional Vocational Training Institute for women at Tura under the Government of India, Ministry of Labour. The respondent notified the same to the Local Employment Exchange.

(III) That the applicant who already completed her B.A (Three years) Degree Pass Examination 1987 under North-eastern Hill University, Shillong and being got her name registered in the local

Employment Exchange, Tura, her name was forwarded to the respondent for the dame and accordingly applicant faced before the Selection Committee along with many other candidate and came out successful.

(IV) That on the basis of the recommendation of the Selection Committee, the Respondents offered the appointment to the applicant in the post of UDC at Regional Vocational Training Institute at Tura, on adhoc basis initially for a period of 6(six) months from the date of her joining or till the post is filled up on regular basis, whichever is earlier vide Memorandum No. A-12021/1/88-Est. dated 25-08-1988 issued by the Respondent No.4.

(A copy of the appointment Memorandum dated 25-08-1988 is annexed herewith 'Annexure -'A').

(V) That the terms and conditions were acceptable to the applicant and accordingly she joined in the duty on 25-08-1988 itself and since then the Humble applicant has been working as UDC to the best satisfaction of the Respondents.

(A copy of the Joining Report is annexed herewith and marked as 'Annexure -'B').

(VI) That it is to be mentioned here that though is the appointment Memorandum dated 25-8-1988, it was incorporated that the appointment is purely on adhoc basis initially for a period of six months from the date of her joining the post or till the post is filled up on regular basis whichever is earlier, but after the lapse of six months of service on adhoc basis neither her services was terminated nor the post is filled up

✓

on regular basis rather, the Petitioner was allowed to continue with the service providing her all service benefits including increments and leaves applicable to other regular central Govt. employees.

(VII) That because of the applicant's sincerity, dedicated service and hard-working and that too with full devotion, the Respondents being satisfied with the performance in her duties sent her for the '1st course on Effective Office Management" under the Central Staff Training and Research Institute of Govt. of India in Calcutta, which the applicant successfully completed and accordingly certificate dated 03-02-1995 was issued.

(A copy of the Certificate dated 03-02-95 issued by the Director, Central Staff Training and research Institute, Calcutta is annexed Annexure -"C")

(VIII) That after the successful prolong and continuous service of more than 6 ½ (six and half) years of service in the capacity of Upper Division Clerk, the Respondents vide Memorandum No. A -32019/I/88-Estt. Dated 28-02-1997 issued by the Respondent No.4 directed the applicant to appear in the L.D. Grade Examination being conducted by Staff Selection Commission for the purpose of regularisation in the post of UDC.

(A copy of the memorandum No. A -32019/I/88-Estt. Dated 28-02-1997 is annexed herewith and marked as Annexure "D")

(IX) That as there was no advertisement for L.D. Grade Examination by the Staff Selection Commission of North Eastern Region

Prakash Kumar

accordingly, she informed the Respondent No.4 by her application dated 17-06-1997.

(A copy of the letter dated 17-06-1997 is annexed herewith as Annexure "D")

(X) That during the continuance of the service under the Respondents as initially no deduction towards General Provident Fund was made as such, the applicant moved an application on 14-01-1998 to the Respondent No.3 and accordingly she was given General Provident Fund Account No. 3737 and allowed to make deposit in the G.P.F Account from the year 1998-99 onwards.

(A copy of the application-dated 14.1.98 of the Petitioner is annexed herewith as Annexure -F and a copy of GPF. Statements for the year 1998-99, 1999-2000 and 2000-2001 are annexed herewith as Annexure -G, G-1 and G-2).

(XI) That the Respondents because of the prolong and continuous unbreak service of the applicant for years together also allowed her to contribute under the Central Government Employees' Group Insurance Scheme 1980 since the year 1998.

(A copy of the Nomination for benefits under the Central Govt. Employees' Group Insurance Scheme, 1980 is annexed herewith and marked as Annexure -"H")

(XII) That it should not be out of the context to be mentioned here that whenever the office Superintendent and or the Principal or both of Regional Training Vocational Training Institute, for women at Tura used

to remain out of Station, the applicant used to discharge the duties of office Superintendents and for the period 01-10-97 to 17-10-97 and 19-11-97 to 02-12-97, the applicant discharged the duties of Office Superintendent of Regional Vocational Training Institute for Women at Tura.

(A copy of the office Order No. I-28011/2/96-Estt. Dated 24-09-97 and office Order No. I-28011/2/96-Estt dated 18-11-97 are annexed herewith as Annexure "I and I-1"

(XIII) That it is to be mentioned here that though under the terms and conditions of the appointment Memorandum dated 25-08-1988 (Annexure 'A') the applicant was no bound to appear in any qualifying Test under the Staff Selection Commission in the L.D. Grade for regularization of the service but even than just to respect and honour the instructions of the Respondents, she appeared in the 'Combined Preliminary Examination -2000 (Metric Level) under Staff Selection Commission on 21-05-2000 but due to heavy pressure of official works, the petitioner could not take proper preparation for the examination and as such, she could not be successful in the said examination.

(XIV) That being satisfied with efficiency and ability in the duties, the Respondent No.4 recommended for regularization of the adhoc service of the applicant to the Respondent No.3 with copy to Respondent No.2 vide Memo No. A-32019/2/99-Estt. Dated 03-11-2000.

(A copy of the Memo No A-32019/2/99- Estt. Dated 03-11-2000 is annexed herewith and marked as Annexure -"J")

(XV) That most unfortunately without assigning any reason at all the Respondent No.4 vide his Order No. A-28011/2/2002/Estt. Dated 17-04-2002 terminated the humble and innocent applicant after taking her services for a period of 13 (thirteen) years 7 (seven) months and 22 (Twenty two) days without any break and that too, without assigning any reason, nor giving any opportunity of being heard and further, she has been directed to hand over the charge and to obtain No-dues Certificate in total violation of the mandatory provisions of Law and Rules.

(A copy of the Order No. A-28011/2/2002-Estt. Dated 17-04-2002 is annexed herewith and marked as 'Annexure "K")

(XVI) That the applicant respectfully states that the terms and conditions of the Appointment Memorandum dated 25-08-1988 (Annexure -A) is very much applicable to her and nowhere in the said appointment Memorandum there is any whisper that the Petitioner's service can be terminated at any time by the Respondents. Under the circumstances, the termination order of the applicant dated 17-04-2002 issued by the Respondent No. 4 is just without jurisdiction and in total violation of the mandatory provisions of Law and Rules applicable to the Petitioner.

(XVII) That the applicant respectfully states that the illegal and unjustified termination order cannot stand in the eye of Law and there is glaring violation of the natural justice as no chance to show cause was

given to the applicant before issuing the illegal and unjustified termination order dated 17.4.2002.

(XVIII) That the applicant, after receipt of the termination order, submitted one representation dated 18-04-2002 to the Principal, Regional Vocational training Institute, Araimile, Tura, but the same has not been considered.

(Copy of the representation dated 18-04-2002 is annexed herewith as Annexure "L".

(XIX) That the Petitioner who entered into the service under the respondents at that time she was about 24 years of age and fulfilled all the essentials for appointment in the post of UDC but at this middle age of at present about 38 years, she is not qualified to seek for any appointment under Govt. Agencies to earn her livelihood and when the Respondents have taken already about 14 years of service and prime time of Petitioner's life and at this stage, under any circumstances cannot kick on her belly to die out of starvation as the only source of her earning livelihood to taken away means life is taken away. It is also pertinent to state that after her appointment, her name in the Employment Exchange has also been struck off.

(XX) That being aggrieved with the termination order, the applicant approached the Hon'ble Guwahati High Court, Shillong Bench by filing a unit petition being W.P(C) (SH)/2002 and the Hon'ble High Court was pleased to pass an interim order dated 26.04.2002 staying the operation of the Termination order and accordingly she has been

Nina Guwahati

working till date. The aforesaid writ petition was listed for final hearing on 17.10.2006 and as the Hon'ble court has no jurisdiction on the matter, the court was pleased to allow the applicant to withdraw the same by an order dated 17-10-2006 with observation that applicant may approach this Hon'ble Tribunal within a period of fifteen days and till then the status quo shall continue.

(Copy of the order dated 17-10-2006 passed by the Hon'ble High Court is annexed herewith as Annexure – "M")

(XXI) That the applicant submits that as the Termination order is illegal and has been issued without following the principle of natural justice, the applicant approach this Hon'ble Tribunal alongwith this application.

5. GROUNDS FOR RELIEFS :

- (i) For that the action of the respondent is illegal arbitrary and whimsical and hence is not sustainable in the eye of law.
- (ii) For that as per appointment letter her service for six months is on adhoc basis and hence after six months she should be treated as regular employee and she should not be terminated in the process as has been done in the instant case.
- (iii) For that as the applicant has been forwarded by the local Employment Exchange as per requisition at the respondents and has been selected by the duly constituted selection committee she should be treated as regular employee, moreso,

Nirav Kundu

when she has been performing her service for last 17/18 years without any break and with full satisfaction of the concerned authority.

- (iv) For that as applicant's name has already been struck off from the Employment Exchange after her valuable part of life rendering to the respondents, they can not shirk off their responsibility terminating her service by a stroke of pen.
- (v) For that the action of the respondents is against the all canons of law and natural justice and hence the same is not sustainable in the eye of law.
- (vi) For that the action of the respondents is violative of fundamental rights of the applicant as has been guaranteed under Article 14, 16 and 21.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant states that she has availed all the remedies as stated in paragraph 4 of this application but failed to get justice and hence there is no other alternative remedy available to her other than approach this Hon'ble Tribunal by filing this application.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that she has not filed any application or writ petition or suit, except as stated in paragraph 4 above, regarding this matter before any court or any other bench of this Hon'ble Tribunal nor any such petition or suit is pending before any of them.

Nina Kundu

8/

8. RELIEF SOUGHT FOR :

Under the fact and circumstances stated above the applicant prays for the following reliefs:-

- (i) To set aside and quash the office order dated 17-04-2002 (Annexure -K)
- (ii) To direct the respondents to treat the applicant as regular employee considering her long period of service and extend all the benefits as has been given to her till date.
- (iii) Any other relief or reliefs as your Lordship may deem fit and proper.

9. INTERIM RELIEF PRAYED FOR :

Under the fact and circumstances stated above your Lordships may further be pleased to stay the operation of order dated 17-04-2002 (ANNEXURE -K)

10.

11. PARTICULARS OF IPO

- (i) IPO No. : 26 G 352649
- (ii) Date of issue : 18/10/06
- (iii) Payable at : *Guru Nanak Dev*

12. LIST OF ENCLOSURES :

As stated in Index

Nirankar Singh

VERIFICATION

I, Smt. Niva Kundu, daughter of Late Tokani Kunduy aged about 42 years resident of Nakham Bazar, Tura, working as UDC in the Regional Vocational Training Institute for woman, Tura, do hereby verify that the statements made in paragraphs 1 to 12 of this application are true my personal knowledge and submissions made therein, I believe the same to be true as per legal advice and I have not suppressed any material fact of the case

And I sign this verification on this the 22nd day of October 2006 at Guwahati

Date : 22.10.2006

Place : Guwahati

Niva Kundu

Signature

18 yrs. confirmed
Smt. Niva Kundu

Sc. No. 1 (2)

No. A-2021/1/88-186.

Govt. of India
Ministry of Labour
Directorate General of Employment and Training
Regional Vocational Training Institute for Women
Aizawl, TURA, Meghalaya-794101

29

Dated, Tura, the 25, Aug 1998.

Memorandum

On the basis of the recommendation of the Selection Committee the undersigned is pleased to offer ad hoc appointment in the post of U.D.C. in the office of the Principal, Regional Vocational Training Institute for women, TURA to Miss N. Kundu at the initial pay of Rs. 1200.00 p.m. in the Scale of pay of Rs. 1200.00-80.00-1060-
88-40.00-2040.00. In addition, she will also be entitled to the usual allowances admissible to other Central Govt. staff of her class and grade under the rules and orders in force from time to time. The appointment is purely on ad hoc basis initially for a period of 6 months from the date of her joining the post or till the post is filled up on regular basis whichever is earlier.

The appointment will be subject to the production of original documents/certificates in support of date of birth, educational qualifications, professional experience and Caste/Tribe wherever applicable. The appointment will also be subject to production of a medical fitness certificate from civil surgeon/District medical officer, character certificate from two gazetted officers duly counter-signed by a Magistrate/District Magistrate.

She should also submit a declaration in the prescribed form in the event of the Candidate having more than one husband living or being married to a person having more than one husband living the enforcement of the requirement on this behalf and taking of an oath of Allegiance/faithfulness to the constitution of India (or making of a solemn affirmation to that effect) and sign in the prescribed form.

She may please be stated that whether she is serving or is under obligation to serve another Central Govt. Dept. or a State Govt. or a public authority/undertaking etc.

Form...2.

Attested by
Rishabh
22/07/00
Advocate.

If any declaration given or information furnished by her in the later date found false or if the Candidate is found to have wilfully suppressed any material information she will be liable for removal from service and such other action as Govt. may deem necessary.

If Miss N. Kundu accepts the offer of appointment on the terms mentioned above, she should communicate her acceptance or report to the undersigned immediately and in any case, not later than If no reply is received or the Candidate fails to report for duty by the due date, the offer will be treated as cancelled.

No travelling allowance will be allowed for joining the post.

Principal

To :-

Kumari Niva Kundu
Nakham Bazar,
TURA, W. Garo Hills
Meghalaya.

Copy to :-

- (1) The Director of Apprenticeship Training, DSETI, New Delhi.
- (2) The Regional Director, DSETI, Nizam Place, Calcutta-700020.
- (3) The Accounts section, RVTI, Tura, Meghalaya.
- (4) The Accounts officer, Pay & Accounts office, DSETI, New Delhi.
- (5) The Asstt. Employment officer, District Employment Exchange, Chandmari, Tura.

(6) The Deputy Director of Training (ADT-Section) DSETI, New Delhi.

(7) Spare Copies.

(8) Personal file.

Principal

Attested on
Olday
22/11/66
Advocate.

Ser No. 2 (2)

3 -

To

Date 25th August 1988

The Principal,
RVTI, Tura.
Meghalaya.

Sir,

With reference to your letter No. A-12021/1/88-EST, dated 25.8.88., I beg to report for duty today i.e. 25.8.88. (F.N.), as UDC in RVTI, Tura.

Yours faithfully,

N.K...
25.8.88.

(NINA KUNDU)

636
26/8

25/8/88

Attested by
Adu...
22/8/88
Advocate

8819.

Annexure - C



GOVERNMENT OF INDIA

CENTRAL STAFF TRAINING AND RESEARCH INSTITUTE

MINISTRY OF LABOUR
DIRECTORATE GENERAL OF EMPLOYMENT & TRAINING

This is to certify that

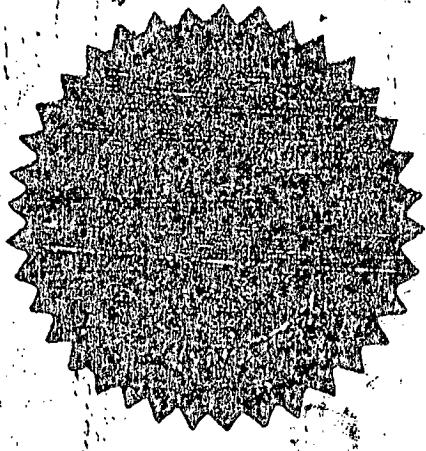
Sir/ Shrimati..... Nira..... Kundee.....

of R. V. I. I. Jura

has satisfactorily completed the 1st course on,

Effective Office Management

*conducted by the Central Staff Training and
Research Institute, Calcutta from 30.01.95 to
03.02.95 in the field of Industrial Training.*



Dated 03.02.95.....

Tomindar

Director

*Central Staff Training and
Research Institute, Calcutta.*

*Attested by
Arun
22/1/95
Advocate.*

GOVT. OF INDIA
MINISTRY OF LABOUR
DIRECTORATE GENERAL OF EMPLOYMENT AND TRAINING
REGIONAL VOCATIONAL TRAINING INSTITUTE (WOMEN)
Araimile, TURA - Meghalaya.

No. A.32019/1/88-Estt.

Dated 28th, February/97.

: MEMORANDUM :

With reference to the Directorate letter No. DGET-Z-20011/4/93-MOT dated 18th February, 1997, Miss Niva Kundu, UDC is hereby advised to attend the followings for consideration of her case of regularisation in the post of UDC:-

1. She may appear in the next available L.D. grade Examination being conducted by Staff Selection Commission.
2. She may contact S.S.C. of nearest branch of her own for the purpose and submit application for appearing in the examination under intimation to Principal.

Further, She is informed that D.O.P.T. has granted her age relaxation for appearing the examination under reference.

L. Mani
Principal 28/2/97

To
Miss Niva Kundu,
UDC
RVTI(W), Tura.

Copy for information to:

1. The Director of Training, WO, DGE&T, New Delhi.
2. The Regional Director, RDAK, Calcutta.

Principal

22/2/97

Attested by
Alsay
22/2/97
Advocate.

Annexure - E

28
3

The Principal,
R.V.T.I., Tuxa.

Dated-17/6/97.

Sir,

With reference to your 'Memorandum' No.A-32019/1/88-Estt. dt. 17.6.97 I am to furnish the following information as desired.

(1) No advertisement for L.D.Grade examination has been released by SSC of NER circle as yet and therefore the year and date of holding the Examination cannot be intimated.

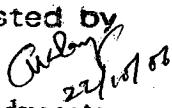
(2) The roll No. or any other proof cannot be given till it is- advertised as above.

Further you are again requested to supply all the documents/papers relating to the case of my regularisation as requested in my application dated 10-3-97, please.


Niva Kundu

Yours faithfully

Niva Kundu.
(Niva Kundu)
UDC.

Attested by

21/1/97
Advocate.

Regional Director,
RDAT, Salt Lake City
Calcutta-64.

Dt - 14-1-93

(Through Proper Channel)

Sub:- Permission to subscribe to G.P.F.

Sir,

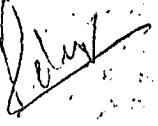
As you aware that I am working on adhoc basis since August/88 and due to "adhoc appointment" I am not be allowed to subscribe into G.P.F. since that year.

Now, as I came to know DGE&T(MQ) has taken certain action for regularisation of my service after giving due consideration to relaxation of my age limit also. But it has got no any certainty as and when the case of regularisation of service will be finalised and therefore I am really worried while think and not known upto what extent, I will have to keep myself away from subscribing a portion of my salary to GPF A/C as per Govt. Rules.

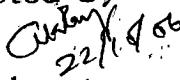
I therefore, request you kindly to allow me to subscribe an amount of my salary to GPF A/C as admissible under GPF Rules. I will submit the requisite application and nomination for allotment of GPF A/C No. from PAO as soon as your permission to this effect is received please.

Thanking You.

Yours faithfully


Niva Kundu
(Niva Kundu)
U.D.C.,

Attested by


Advocate.

Annual Statement of GENERAL Provident Fund Account

लेखे का वर्ष Year of Account 1998 - 99

ब्याज की दर Rate of Interest 12%

36

लेखा सं Account No.	अभिदाता का नाम Name of Subscriber	अर्थ शेष Opening Balance	वर्ष में जमा दसुलियां Deposits/Recoveries During the Year	वर्ष में दिया गया ब्याज Interest allowed During the Year	वर्ष के दौरान निकाली गई राशि Withdrawal during the Year	शेष Balance
2	3	4	5	6	7	
10	Mrs. Mira. Deodikar	Nil	9600	6.24.	—	10224

*पूर्समें निवेदित दिये गये अधिकारी के अनुसार विछले वर्षों में दसुली की गई लेफिन अभिदाता के खासे में इस की गई छप्पे की रकम भी शामिल है।
This also includes RSto Recovered in earlier years detailed below, but brought on to the account of the subscriber in this year

विछली अवधियों से सम्बन्धित केंद्रियों पर ब्याज भी शामिल है।
Includes interest on credits relating to earlier periods also.

**गुम होडिटो और डेबिटो के लिए कृपया पृष्ठ बाग देखें।
For missing credit debits please see below.

Notes:

टिप्पणी

- यदि वह पहले दिए गए नामांकन में कोई परिवर्तन करते का शासक है तो इस हेतु फॉर्म के लिए नियमानुसार संशोधित प्रेसित करें।
If the subscriber desires to make any alteration in the nomination already made, a revised nomination may be sent forth with in accordance with the rules of the fund.
- यदि अभिदाता से अपना शोर्ह परिवार न होने मी दशा में अपने परिवार के सदस्यों/सदस्य के अतिरिक्त किसी अन्य व्यक्ति/व्यक्तियों दो नामांकित किया था और याचिका के उसका परिवार हो जाता है तो उसे अपने परिवार के किसी सदस्य/सदस्यों के पक्ष में नामांकन प्रस्तुत करना चाहिए।
In case the subscriber owing to his/ her having no family then, had nominated a person / persons other than a member /members of his family and has subsequently acquired a family he / she should submit a nomination in favour of a member/members of his/ her family.
- अभिदाता से अनुरोध है कि वह अपने आपको सन्तुष्ट करते की विवरणिका ठीक है तथा यदि कोई त्रुटि हो तो उसका प्राप्ति के तीन माह के भीतर लेखा अधिकारी की जानकारी में लाई जाए।
The subscriber is requested to satisfy himself / herself as to the correctness of the statement and to bring errors if any to the notice of the Accounts Officer within three month from the date of its receipt.
- सम्बन्धित निधि नियमावली के अनुसार भरा जाए। To be filled in according to the rules of the Fund concerned.

S. D. Sharad
Ministry of Labour
Signature
पद / Designation
Ministry of Labour
New Delhi

तिथि / Date

पावती पर्ची

- महत्वपूर्ण कृपया लेखा विवरणी की प्राप्ति के परचात इस पर्ची को लौटा दे।
- मेरे एवं द्वारा मेरे एवं १६ नं. के मध्य निधि की लेखा की वार्षिक विवरणी की प्राप्ति की पायती देता हूँ।

Acknowledgement Slip

Important : Kindly return the slip

The Receipt of the Account Statement.

I hereby acknowledge the Receipt of the Annual Statement of my Provident fund Account for the year 19.....19.....

I certify that the best of my knowledge and information the balance shown there in is correct.

I Certify that to the best of my knowledge and information the balance shown there in is correct.

मेरे प्रमाणित करता हूँ कि उपर दिए गए कालम उसमें दिखाए शेष का मैं सही रूपीकार नहीं करता हूँ।

I am to state that, do not accept the balance shown there in as correct for the reasons given overleaf

इस्ताकार / Signature

नाम (रोटे अक्षरों में)

Name (in block letters)

निधि लेखा सं.

Fund Account No.

लेखा पद / पन्ना नोट कर लिया गया
Noted in the Ledgers Card / Folioलेखा कार्यालय के प्रयोग के लिए
For use in Account Office

लेखा कार

Accountant

परिषट लेखाकार फ० ले० अधिकारी
Sr. Accountant JAO

Attested by
R. M. B.
21/11/1998
Advocate.

Annual Statement of General Provident Fund Account

49
6.10.2)लेखे का वर्ष Year of Account
ब्याज की दर Rate of Interestभविष्य निधि लेखे का वार्षिक विवरण
1999/2000-2001
11%

लेखा सं० Account No.	अभिदाता का नाम Name of Subscriber	अर्थ शेष Opening Balance	वर्ष में जमा यसुलियाँ Deposits/Recoveries During the year	वर्ष में दिया गया ब्याज Interest allowed During the Year	वर्ष के दौरान निकाली गई राशि Withdrawal during the Year	शेष Balance
1	2	3	4	5	6	7

- इसमें नीचे दिये गये व्यारे के अनुसार पिछले वर्षों में बास्तु की गई राशि जिसे अभिदाता के खाते में इस वर्ष स्थित गया है शामिल है।
- This also includes Rs. recovered in earlier years detailed below, but brought on to the account of the subscriber in this years.
- पिछले अवधियों से सम्बन्धित क्रेडिटों पर ब्याज भी शामिल है।
- Includes interest on credits relating to earlier periods also.
- गुम क्रेडिटों और डेबिटों के लिए कृपया पृष्ठ आगे देखो।
- For missing credit debits please see overleaf.

टिप्पणी

Notes :

- यदि वह पहले दिए गए नामांकन में कोई परिवर्तन कराने का इच्छुक है तो इस हेतु फण्ड के लिए नियमानुसार संशोधित नामांकन प्रेषित करें।
If the subscriber desires to make any alteration in the nomination already made, a revised nomination may be sent forth with in accordance with the rules of the fund.
- यदि अभिदाता अपना कोई परिवार न होने की दशा में अपने परिवार के सदस्यों/सदस्य के अतिरिक्त किसी अन्य व्यक्ति/व्यक्तियों को नामांकित किया था और बाद में उसका परिवार हो जाता है तो उसे अपने परिवार के किसी सदस्य/सदस्यों के पक्ष में नामांकन प्रस्तुत करना चाहिए।
In case the subscriber owing to his/her having no family then, had nominated a person/persons other than a member/members of his family and has subsequently acquired a family he/she should submit a nomination in favour of a member/members of his/her family.
- अभिदाता से अनुरोध है कि यह अपने आपको सन्तुष्ट करे कि विवरणिका ठीक है तथा यदि कोई त्रुटि हो तो उसका प्राप्ति के तीन माह के भीतर लेखा अधिकारी की ज्ञानकारी में लाई जावे।
The subscriber is requested to satisfy himself/herself as to the correctness of the statement and to bring errors if any to the notice of the Accounts Officer within three month from the date of its receipt.
- सम्बन्धित निधि नियमावली के अनुसार भरा जाए।
To be filled in according to the rules of the Fund Concerned.

तिथि / Date

हस्ताक्षर / Signature

पद / Designation (S.E.T.)

Willy nilly (1/1/1996)
New Delhi

पावती पर्ची

- महत्वपूर्ण - कृपया लेखा विवरणी की प्राप्ति के पश्चात इस पर्ची को लेखा अधिकारी को लौटा दें।
- मैं एतद् द्वारा मेरे वर्ष 1995-96 के भविष्य निधि की लेखे की वार्षिक विवरणी की प्राप्ति की पावती देता हूँ।

Acknowledgement Slip

- Important - Kindly return the slip to the Pay of Accounts officer immediately after the Receipt of the Account Statement.
- I hereby acknowledge the Receipt of the Annual Statement of my provident fund Account for the year 1995-96.
मैं प्रमाणित करता हूँ कि मेरी ज्ञानकारी और सूचना के अनुसार उसमें दिखाया गया रोप सही है।
I certify that to the best of my knowledge and information the balance shown therein is correct.
मैं प्रमाणित करता हूँ कि ऊपर दिए गए कालम दिखाए रोप का मैं सही स्वीकार नहीं करता हूँ। इसका कारण पिछले पन्ने पर दिया गया है।
I am to state that I do not accept the balance shown therein as correct for the reasons given overleaf.

हस्ताक्षर / Signature

नाम (मोटे अक्षरों में)

Name (in block letters)

निधि लेखा सं०

Fund Account No.

लेखा कार्यालय के प्रयोग के लिए
For use in Account Officeलेखा कार
Accountantवरिष्ठ लेखाकार
Sr. Accountantस.ले.ओ.
A.A.O.लेखा पद / पन्ना नोट कर लिया गया
Noted in the Ledgers Card/FolioAttested by
One
22/6/96
Advocate.

Annual Statement of General Provident Fund Account

भविष्य निधि लेखे का वार्षिक विवरण

2000-2001

11%

लेखे का वर्ष Year of Account
ब्याज की दर Rate of Interest

लेखा सं० Account No.	अभिदाता का नाम Name of Subscriber	अर्थ शेष Opening Balance	बर्ष में जमा बहुतिया Deposits/Recoveries During the year	बर्ष में हिस्सा ब्याज Interest allowed During the Year	बर्ष के दौरान निकाली गई राशि Withdrawal during the Year	शेष Balance
1	2	3	4	5	6	7
3737	Nikita Kundu	3062/-	18000/-	444/-	/	53062/-

इसमें निम्नलिखित गये वर्षों के अनुसार पिछले वर्षों में बहुती को गई राशि जिसे अभिदाता के खाते में इस वर्ष लिया गया है शामिल है।
 This amount includes Rs. recovered in earlier years detailed below, but brought on to the account of the subscriber in this year.
 पिछली अधिकारियों से सम्बन्धित फ्रैंडिटो पर ब्याज भी शामिल है।
 includes interest on credits relating to earlier periods also.
 गुप्त के लिए और डेबिटो के लिए कृपया पृष्ठ भाग देखें।
 For missing credit debits please see overleaf.

टिप्पणी 2

Notes

- अदि यह पहले दिए गए नामांकन में कोई परिवर्तन करने वाला इच्छुक है तो इस हेतु फण्ड के लिए नियमानुसार संशोधित नामांकन प्रेषित करें।
 If the subscriber desires to make any alteration in the nomination already made, a revised nomination may be sent forth with in accordance with the rules of the fund.
- यदि अभिदाता अपना कोई परिवार न होने वाला था अपने परिवार के सदस्यों/सदस्य के अतिरिक्त किसी अन्य व्यक्ति/व्यक्तियों को नामांकित किया था और बाद में उसका परिवार हो जाता है तो उसे अपने परिवार के किसी सदस्य/सदस्यों के पक्ष में नामांकन प्रस्तुत करना चाहिए।
 In case the subscriber owing to his/her having no family then, had nominated a person/persons other than a member/members of his family and has subsequently acquired a family he/she should submit a nomination in favour of a member/members of his/her family.
- अभिदाता से अनुरोध है कि यह अपने आपको सन्तुष्ट करे कि विवरणिका ठीक है तथा यदि कोई गुटि हो तो उसका प्राप्ति के तीन माह के भीतर लेखा अधिकारी की जानकारी में लाई जावें।
 The subscriber is requested to satisfy himself/herself as to the correctness of the statement and to bring errors if any to the notice of the Accounts Officer within three month from the date of its receipt.
- सम्बन्धित निधि नियमावली के अनुसार भरा जाए।
 To be filled in according to the rules of the Fund Concerned.

तिथि / Date

पावती पर्ची

- महत्वपूर्ण - कृपया लेखा विवरणी की प्राप्ति के पश्चात इस पर्ची को लेखा अधिकारी को लौटा दें।
- मैं एतद् द्वारा देर वर्ष 1995-96 के भविष्य निधि की लेखे की वार्षिक विवरणी की प्राप्ति की पावती देता हूँ।

Acknowledgement Slip

- Important - Kindly return the slip to the Pay of Accounts officer immediately after the Receipt of the Account Statement.
- I hereby acknowledge the Receipt of the Annual Statement of my provident fund Account for the year 1995-96.
- मैं प्रमाणित करता हूँ कि मेरी जानकारी और सूचना के अनुसार उसमें दिखाया गया शेष सही है।
 I certify that to the best of my knowledge and information the balance shown therein is correct.
 मैं प्रमाणित करता हूँ कि कंपनी दिए गए कालमें दिखाए शेष का मैं सही स्वीकार नहीं करता हूँ। इसका कारण पिछले पढ़े पर दिया गया है।
 I am to state that I do not accept the balance shown therein as correct for the reasons given overleaf.

हस्ताक्षर / Signature.....
 नाम (मोटे अक्षरों में)
 Name (in block letters).....
 निधि लेखा सं०
 Fund Account No.

लेखा कार्यालय के प्रयोग के लिए
For use in Account Office

लेखर पद / एन्जा नोट कर दिया गया
Noted in the Ledgers Card/Folio

लेखा कार
Accountant

परिष्ठ लेखाकार
Sr. Accountant

स.ले.ओ.
A.A.O.

Attested by
Advocate.

CENTRAL GOVT. EMPLOYEES' GROUP INSURANCE SCHEME, 1980

FORM NO. 8

NOMINATION FOR BENEFITS UNDER THE CENTRAL GOVERNMENT EMPLOYEES' GROUP INSURANCE SCHEME, 1980

(When the Government servant has a family and wishes to nominate one member or more than one member thereof)

I, W. M. Bandy, hereby nominate the person/persons mentioned below, who is/are member(s) of my family and confer on him/them the right to receive to the extent specified below any amount that may be sanctioned by the Central Government under the Central Government Employees' Group Insurance Scheme, 1980 in the event of my death while in service or which having become payable, on my attaining the age of superannuation, may remain unpaid at my death.

Names and addresses of nominee/nominees (1)	Relationship with Government servant (2)	Age (3)	Share of amount to be paid to each (4)	Contingencies on the happening of which the nomination shall become invalid (5)	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his pre-deceasing the Government servant (6)
Ms. Parvinder Bandy, Turu	Sister	25 years	1/67	Nomination will be invalid as and when acquire Family.	Smt. Madhu Bandy Bandy, Turu Bihar.

*This column should be filled in so as to cover the whole amount that may be payable under the Insurance Scheme.

N.B.—The Government servant should draw a line across the blank space below his last entry to prevent the insertion of any names after he has signed.

Dated this 9th day of June 19th 1988 at

Two witnesses to signature :

1. Smt. B. Bandy, M.A. B. Bandy

2. Mr. P. D. P. D.

Attested by
22/6/88
Advocate

Signature of Government Servant

B

-24-

Annexure-I

GOVT. OF INDIA
MINISTRY OF LABOUR
DIRECTORATE GENERAL OF EMPLOYMENT & TRAINING
REGIONAL VOCATIONAL TRAINING INSTITUTE(WOMEN)
Arimile, TURA, Meghalaya

Dated: 24-09-97.

No. I-28011/2/96-Estt.

O R D E R

Shri B.Borthakur, office updt. is proceeding on leave w.e.f. 01-10-97 to 17-10-97=17 days. Mrs. Lakshmi Singha, VI(M&SC) and Miss Niva Kundu, UDC are hereby advised to look after day to day activities of the Institute including the activities of the Institute during the leave period as under :-

<u>Name of the Official</u>	<u>Duties Entrusted</u>
(1) Mrs. Lakshmi Singha V.I.(M&SC)	(1) All the activities relating to training parts of both M&SC & SP trade. (2) Stores/receipt and issue during the period of training of Mrs. L.Devi Talukdar, V.I.(SP) from 1-10-97 to 30-11-97.
(2) Miss Niva Kundu, U.D.C.	(3) Keys of office to be kept with her and to handover chowkidar(Night) Shri S.R.Sangma at 7 P.M. every day duly signed in the attendant Register. (1) Duties of "Office Supdt" during leave period in addition to her duties. (2) The attendance Register of staff members to be in her table who is authorised to mark 'CROSS' against the staff members who fail to attend duty in time i.e. 9.00 A.M. within the said period of leave during the said period and also will not be granted any leave except on genuine ground.
	Both the above officials will not be granted any remuneration during the said period and also will not be granted any leave except on genuine ground.
	Office Supdt.
To	
(1) Mrs. L.Singha, V.I.(M&SC), RVTI, Tura	
(2) Miss Niva Kundu, UDC, RVTI, Tura.	
(3) For circulation among to the staff and trainees of RVTI, Tura.	

Staff members

1.
2.
3.

Trainees(M&SC)

1.
2.
3.

Trainees of S.P.

1.
2.
3.

Attested by
G. D. Singh
22/10/97
Advocate.

—25—

Annexure I

GOVT. OF INDIA
MINISTRY OF LABOUR
DIRECTORATE GENERAL OF EMPLOYMENT & TRAINING
REGIONAL VOCATIONAL TRAINING INSTITUTE(WOMEN)
Araimile, TURA, Meghalaya

No. I-28011/2/96-Estt.

Dated:— 18-11-97

ORDER

Shri B. Borthakur, Office Supdt. & Mrs Lakshmi Singha, VI(H&SC) are proceeding to attend Seminar/Workshop conducted by DGE&T, (HQ) at NVTI, Noida with effect from 19-11-97 to 02-12-97 = 14 days. Miss Niva Kundu, UDC and Shri Pintu Dey, LDC are hereby advised to look after day to day activities of the institute including the activities of the Institute during the said period as under :—

<u>Name of the Official</u>	<u>Duties Entrusted</u>
(1) Miss Niva Kundu, U.D.C.	(1) Duties of 'Office Supdt. during the period in addition to her duties. (2) The attendance Register of staff members to be in her table who is authorised to mark 'CROSS' against the staff members who fail to attend duty in time i.e. 9.00 AM passed 10 minutes. (3) All the activites relating to training parts of both H&SC/ SP trade.
(2) Shri Pintu Dey, L.D.C.	(1) Keys of office to be kept with him and to handover chowkidar (night) Shri S.R.Sangma at 7 PM every day duly signed in the attendant Register.

Both the above Official will not be granted any remuneration during the said period and also will not be granted any leave except genuine ground.

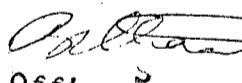
To

(1) Miss Niva Kundu, U.D.C., RVTI, Tura
(2) Shri Pintu Dey, L.D.C., RVTI, Tura
(3) For circulation among to the staff and trainess of RVTI, Tura.

Staff Members

Trainees (H&SC)

Trainees of S.P.


Office updt.

Attested by
22/11/97
Advocate.

Govt. of India
Ministry of Labour (DGE&T)
Regional Vocational Training Institute For Women
Araimile, Tura, Meghalaya.

Date-3/11/2000.

A-32019/2/99-Estt.

The Regional Director,
RDAT, Salt Lake City,
Calcutta-64.

Sub:- Regularisation of Service of Miss Niva Kundu, UDC (Adhoc) -
regarding.

Sir,

I am to inform you that with reference to the Verdict of Supreme Court Published in the Ananda Bazar Patrika on 24.8.2000 (An extract of paper cutting enclosed both in Bengale and Translated in English Containing that the Govt. Employees appointed an Adhoc Basis in any post since a long time and Working under all the Govt. Rules and regularisation, can not be treated as (TEMPORARY) DGE&T (HQ)) was requested to regularise the Service of Miss Niva Kundu, UDC working on adhoc basis since 25.8.1988, vide this Office letter of even number dt. 18.9.2000 and a copy of which was also endrosed to you with the request to take up the matter with the (HQ) with reference to the above for consideration. But till this date, no intimation has seen be taking from your end till date.

Now, DGE&T in his letter No. DGET-Z-200/1/4/93-WOT dt. 23.10.2000 (Copy enclosed for ready reference) has stated that the matter is required to be examined and to submit therein duly recommended from your end being the Head of Department.

In this connection, I am enclosing herewith a brief history of this case for your examination and for submission to DGE&T (HQ) duly recommended under intimation to this Office please.

An early action is requested please.

Encl:- As above.

Yours faithfully

(N.K. Pandey)
Principal.

Copy to:-

1. The Director of Training, (WO) DGE&T, with reference to the above.
2. Miss Niva Kundu, UDC, RVTI (W) Tura.

N.K.P.
Principal.

Attested by

R.S. Sarker
Advocate.

**SELF CONTAINED NOTE OF PRINCIPAL, RVTI-TURA FOR
REGULARISATION SERVICE OF MISS NIVA KUNDU UDC
WORKING ON ADHOC BASIS SINCE 25.8.1988 FOR
EXAMINATION OF REGIONAL DIRECTOR/ H.O.D. RDAT
CALCUTTA>**

The post of UDC was sanctioned in the year 1986 for establishment of this institute in a remote corner of the North East Region for Commencement of training from August, 1987. As per Rules, the post of UDC was to be filled up by promotion from amongst the eligible LDCs of the Calcutta Unit. Numerous attempts had thereafter been made to fill up the post on promotion but without any result. Moreover, no willing candidates could be located from calcutta-unit to whom promotion have been offered by the DPC at RVTI (W) Tura as evident from the consent given by the candidates. This exercise has been repeated from time to time by the DPC Conducted at RDAT Calcutta since the year 1989 but with no sucess for the reasons that the promotees stand at a financial loss in according the offer of promotion due to lower rates of allowance admissible to them in Tura compared to Calcutta. As a result, the institute continued the function with the existing adhoc UDC Miss Niva Kundu Since 1988 to keep the activities of the institute going.

Besides all this, next mode of recruitment was also resorted to fill up the post by direct recruitment through SSC but was also in vain. Therefore, this Office has got no any alternative but to retain the Continuety of the service of existing adhoc UDC (Miss Niva Kundu) to carry on with essentiality activities of the establishment Concerned. However, DGE&T (HQ) is informed time to time for keeping her on adhoc basis through the monthly periodical returns.

3. That as per the SIU norms, the Single post of UDC is also not only functioned but is the minimus requirement of the institute to look after as many as 5 (Five) sections.
4. In the year 1992, the Audit Party has adversely Commented up an adhoc appointment and have suggested that orders for regularisation of adhoc services of the present incumbment.

Cont.-2

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5. an effort was made by DGE&T (HQ) with the DEpartment of Personal & Training, New Delhi-1 alongwith all the evidents/ documents mentioned above for regularisatrion of the service of Miss Nive Kundu (Adhoc) UDC, but DOPT had not agreed to the request of DGE&T (HQ) and advised DGE&T (HQ) to ask the present incumbent to appear the available L.D. Grade Examination being conducted by the Staff Selection Commission by granting age relaxation for appearing in the aforesaid examination as communicated vide DGE&T (HQ) letter No. DGET-Z-200/1/4/93-WOT dt. 18.2.97.

Even without showing any disappointment and grivence for longering the case which is still in hanging stage, the adhoc UDC Miss Niva Kundu had immditally responded the instruction of the DGE&T (HQ) as above and appeared available Clerk Grade Exam Conducted by SSc Guwahati on 28.5.2000 and the result is yet to come. The matter has also been intimated through periodical return tp DGE&T (HQ) with the request to Communicate further action to this effect.

6. Now it has seen that a Verdict of Supreme Court Published in the Ananda Bazar Patrika on 24.8.2000 (Copy of Bengali & English Version enclosed) that Govt. employees appointed Adhoc Basis in any post since a long time and working under all the Govt. Rules and regulation framed bt Govt. cannot be treated as TEMPORARY.

Now, in view of the points explained at paras 1 to 5 and also the views of the SUPREME COURT at para-6, the service of adhoc appointment of Miss Niva Kundu is no-doubt required to be regularised from the date of Joining 25.8.88. Besides, the difficulties and extra -ordinary Circumstances of the area, the regularisation of Miss Niva Kundu, who is working as UDC on the adhoc basis is also recommended and should be considered as a very special case even also in relaxation of recruitment rules. //

NGP
PRINCIPAL
Regional Vocational Training Institute
For women Tura, Meghalaya

Attested by
R. Bhattacharya
Advocate.

ENGLISH VERSION OF SUPREME COURT VERDICT PUBLISHED IN NEWS PAPER
"ANANDA BAZAR PATRIKA" DATED-24-08-2000.

GOVT. EMPLOYEE WORKING ON ADHOC BASIS CANNOT BE TREATED AS
"TEMPORARY".

SUPREME COURT

NEW DELHI-23rd AUGUST, 2000.

An Govt. employee appointed on Adhoc Basis in any post since a long time and working under All Govt. Rules & Regulation framed by Govt. cannot be treated as "TEMPORARY" as per SUPREME COURT VERDICT. To-day the Supreme Court issued a Judgement in the bench -

Comprising Justice S/Shri J.B. Patnaiwk, S.Rajendra Babu, D.P. MahaPatra, Duraiswami Raju and Sibraj Patil that:-

"If any person appointed an Adhoc Basis in Govt. Department with due approval from the Competent Authority and Working Since a long, cannot be treated as "Temporary".

The Promittee Officers of Delhi Higher Judicial Service has Challgened against the Verdict of Delhi High Court on their Seniority issues and file a case to the Supreme Court. Accordingly, the

Supreme Court has given Such Verdict on Adhoc Employees.

The Complain of the Promottee Officers was that since they are working as Additional District Magistrate since a long time, even through their appointment at Higher Judicial Service are to be treated as "Temporary" as per High Court Judgement.

P.T.I.

Attested by
A. B. J. A.
Advocate.

GOVT. OF INDIA
MINISTRY OF LABOUR
DIRECTORATE GENERAL OF EMPLOYMENT & TRAINING
REGIONAL VOCATIONAL TRAINING INSTITUTE(WOMEN)
Araimile, Tura, Meghalaya

No. A-28011/2/2002-Estt.

Date :- 17-04-2002.

O R D E R

With reference to the Regional Director (HOD FOR RVTI) RDAT, Kolkata letter No. RD/CAL/Estt/2(12)/2001 dtd. 12-04-2002 received on 17-04-2002, the services of Miss Niva Kundu, UDC working on adhoc basis is being terminated from Forenoon of 18-04-2002. She is further advised to hand over the charge to Shri Pintu Dey, LDC accordingly and obtain No-dues certificate from all the concern.

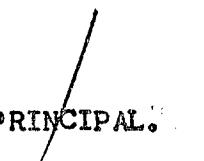

PRINCIPAL

To

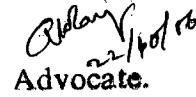
Miss Niva Kundu
U.D.C., (Adhoc)
RVTI(W), Tura

Copy to :-

- (1) The Regional Director, RDAT, Kolkata-64.
- (2) The Director of Training(WO), DGE&T, New Delhi-1.
- (3) Shri Pintu Dey, LDC with the advised to take over the Charge.


PRINCIPAL

Attested by


Advocate.

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to,

The Principal,
Regional Vocational Training Institute for (own)
Koti Gora Hills, Tura.

Subject- Illegal Termination from Service and handing over the charge.

Refer- Your Memo No. A-20011/2/2002/Datt. dated 17.4.2002, delivered to me at 6.00pm on the same day.

Sir,

While referring to the subject cited above and the letter quoted under above reference most fervently I beg to state that after the lapse of almost - 14 years of continuous services UGC under you, met illegally and unjustifiably you have terminated me that to without any reason.

I have no other alternative but to seek redress for before the High Court as it involves my right to life and survival.

It is respectfully prayed till the Court of law decides the matter I may not be directed to hand over the charge and oblige.

Yours faithfully

Niru Kundu
(Also Niru Kundu)
UGC
RVTI (A) Tura, Araria, Jharkhand.

Copy to:-

1. The Regional Director, RDAF, Salt Lake City, Kolkata-64 for fav of kind information.

2. The Director of Training (SD) DCET, New Delhi-1.

Niru Kundu
18/4/02
(Also Niru Kundu)
UGC.

O/C

Attested by
Rabindra
Advocate.

Application for	Date when the copy of the application was delivered to the court.	Date of delivery of the requisite stamp and 32 folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
10/06	18/10/06	18/10/06	18/10/06	18/10/06

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND,
MEGHALAYA, MANIPUR AND TRIPURA)
SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W.P.(C) No 98 (SA) of 2002

Civil Rule

Amli Nira Kundel
versus
Union of India & Ors.

Appellant Mr. S. R. Sen
For Mr. S. R. Sen
Petitioner Mr. D. B. Baruah
Respondent Mr. D. K. Acharyea
For Mr. P. S. Acharyea
Opposite-Party Mr. P. S. Acharyea

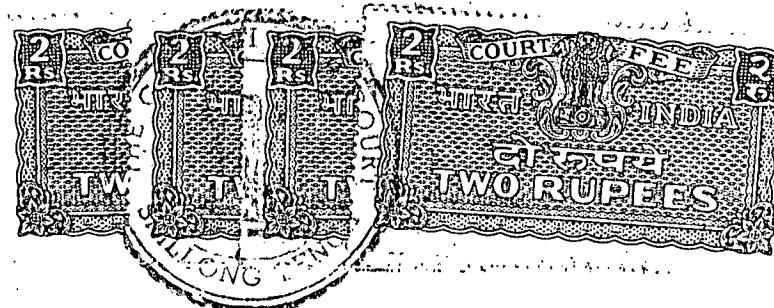
Appellant

Petitioner

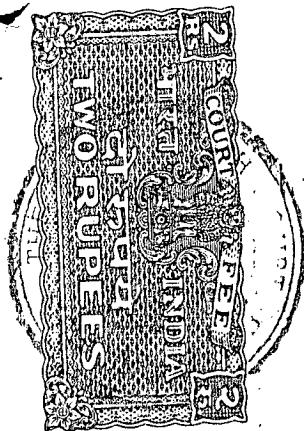
Respondent

Opposite-Party

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
10/10/06	2	3	4



Attested by
22/10/06
Advocate.



Smti. Niva Kundu,
Daughter of Late Tokani Kundu,
Resident of Nakham Bazar, Tura,
P.O. & P.S. Tura, District-West
Garo Hills, Meghalaya

... Petitioner

- VERSUS -

1. The Union of India,
Ministry of Labour,
New Delhi.

2. The Director of Training (WO),
Directorate General of Employment
And Training, Ministry of Labour,
Shram & Shakti Bhawan, Rafi Marg,
New Delhi - 110 001.

3. The Regional Director,
Regional Directorate of Apprentiative,
Training M.S.O. Building, 1st Floor,
Salt-Lake City, Kolkata - 64.

4. The Principal,
Regional Vocational Training Institute,
Araimile, Tura, Meghalaya - 794101.

... Respondents

WP(C) No.98(SH)2002

BEFORE
THE HON'BLE MR JUSTICE T VAIPHEI

17.10.2006

Heard Mr. SR Sen, learned senior counsel for the petitioner and Mr. P Dey, the learned CGC.

The learned senior counsel for the petitioner states that since the matter is within the purview of the CAT he may be allowed to withdraw this writ petition with the liberty to file a fresh case before the appropriate forum. He also prays that since the CAT is closed due to vacation till 29.10.2006, for the ends of justice, the status quo maybe allowed to continue for a period of 15 days from today. This prayer is vehemently opposed by Mr. P Dey, the learned CGC who contends that in view of the fact the writ petition is sought to be withdrawn after four long years such prayer is hardly reasonable and cannot be entertained by the Govt. I have duly given my anxious consideration to the rival submissions made on behalf of the parties. However, since the writ petition is being withdrawn and also in view of the fact that the CAT is closed for vacation, the ends of justice will be served if the petitioner is allowed to withdraw the writ petition ant at the same time the status quo as on today is maintained by the respondents. Consequently, this writ petition is disposed of on the above terms. It is made clear that the status quo as on today shall be maintained by the respondents for a period of 15 days from today.

Typed By.....

Read By.....

Compared By.....

Sd/- T. Vaiphei
Judge

Certified To Be True Copy

Shri 17/10/06
Superintendent (Judicial)
Gauhati High Court
Shillong Bench.

Attested by
Advocate

26 JUL 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

OA NO. 253/2006

SMIT NIVA KUNDU

.....APPLICANT

VERSUS

UNION OF INDIA & OTHERS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through the same and have understood the contentions made therein. Save and except the statements, which are not specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1, 2 and 3 4(1) of the OA, the respondents beg offer no comment.
- 3) That with regard to the statement made in paragraph 4(II), 4(III), 4(IV) and 4(V) of the OA, the respondents beg to submit that the local District Employment Exchange, Tura was requested vide letter No. A-12021/1/88-Estt. dated 27.7.1988 for a suitable candidate for filling up the post of U.D.C. on Ad-hoc basis for a period of 6 (six) months. In reply the District Employment Exchange, Tura, has issued a non-availability certificate since no

Sonjeet Kundu 27.07.07
Dy. Director of Trb.

Gt. v. of India, Min. of Labour & Employment
D.G.E & T. R.D.A.T. (B.R.)
C.G.O. Complex, Salt Lake, Kali-66

Filed by
The Respondents through
Alka Das
Addl. C.M.C
26/7/07

suitable candidate as per requirement was available in LIVE REGISTER. Besides, the next mode of recruitment was also resorted to fill up the post by transfer on deputation but could not succeed by adopting this method of recruitment also (encl. copy). Since the recruitment was urgent to establish the Regional Vocational Training Institute at Tura, applications were invited through advertisement and the applicant was only graduate candidate and was selected through Selection Committee held on 29.7.1988 and offered the appointment to the post of U.D.C. on Ad-hoc basis for a period of 6 (six) months or the post was filled up on regular basis whichever was earlier vide memo No. A-12021/1/88-Estt. dated 29th Aug. 88 (Annexure A-I). That with regard to the statement made in paragraph 4 (VI) of the OA, the respondents beg to submit that as per rules, the post of U.D.C. was to be filled up by promotion from amongst the eligible L.D.C.s of Kolkata Unit, the respondents made numerous attempts to fill up the post on promotion but without any result. The eligible candidates located from Kolkata Unit to whom promotions were offered by the Regional Vocational Training Institute (Women) Tura, declined to accept the post. As such the services of the applicant on adhoc basis were not discontinued.

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- 4) That with regard to the statement made in paragraph 4(VII) of the OA, the respondents beg to submit that the applicant was sent to undergo official training on "EFFECTIVE OFFICE MANAGEMENT" as per normal training provided to office staff and not for her sincerity, dedication in services or hardworking as those remarks are not necessary and essential to nominate the

name of the staff to undergo the above training course. The Respondents further deny the averments made in paragraph by the applicant.

- 5) That with regard to the statement made in paragraph 4(VIII) of the OA, the respondents beg to submit that the applicant was appointed on adhoc basis and her services were bound to be terminated at any time. However, in order to avoid hardship due to unemployment it was decided to allow her to sit in the LDC grade examination so that her service could be regularized as per RRs on the lower post of LDC.
- 6) That with regard to the statement made paragraph 4(IX), the respondents beg to offer no comment.
- 7) That with regard to the statement made in paragraph 4 (X) and (XI) of the OA, the respondents beg to submit that the applicant was allotted the GPF A/C Number at her own request and allowed to contribute towards G.P.F. from the year 1999 and also to contribute under CGEGI Scheme, 1980. However, this does not confer any right for permanency/regularization of service.
- 8) That with regard to the statement made in paragraph 4(XIII) of the OA, the respondents beg to admit it as correct as the arrangement was made as per normal office procedure/practice.
- 9) That with regard to the statement made in paragraph 4(XIII) of the OA, the respondents while denying the contentions made therein beg to

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submit that the applicant was asked to appear in L.D. Grade Examination in Feb 1997 and she actually appeared in the said Exam in May 2000. Therefore, the applicant had got more than 3 years for preparation for the said examination. The applicant could not even qualify the 'Combined Preliminary Examination-2000 (Matric Level)' under Staff Selection Commission held on 21.05.2000 even after 3 years of time for preparation. Thus her plea that she could not prepare properly for examination is not tenable.

10) That with regard to the statement made in paragraph 4 (XIV) and (XV) of the OA, the respondents beg to submit that the applicant has herself accepted her adhoc status which was liable to be terminated any time. In fact the applicant was given an opportunity to appear in the examination conducted by SSC for recruitment of LDC in the Central Government Offices so that her services could be regularized as per RRs. As the applicant failed to qualify in the said examination she could not be considered to hold even a lower post of LDC rather than allow her to continue against the post of UDC and therefore her services were terminated.

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In this connection, it is submitted that in the judgement of Hon'ble Supreme Court dated 29th Jan 1996 in the case of State of Himachal Pradesh Vs. Suresh Kumar Verma & others (Jt 1996(2) Sc 455) the Hon'ble Supreme Court, has observed that it is settle law that having made rules of recruitment to various services under the State to a class of posts under the State, State is bound to follow the same and to have selection of the candidates made as per

Recruitment Rules and appointments shall be made from the date of discharging the duties attached to the post accordingly.

11) That with regard to the statement in paragraph 4(XVI) of the OA, the respondents while denying the contentions made herein beg to submit that the statement made by the applicant is totally false and misconceived. In the

appointment Memorandum dated 25.08.1988, it is specifically mentioned that the appointment is purely on adhoc basis initially for a period of Six months from the date of her joining to the post or till the post is filled up on regular basis whichever is earlier. As her services were on adhoc basis it could be terminated at any time even after a period of six months and as such there is no violation of letter of appointment.

12) That with regard to the statement made in paragraph 4 (XVII) of the OA, the respondents while denying the contentions made therein beg to submit that the applicant was given opportunity to appear in the L.D. Grade Examination relaxing the age limit but she could not qualify the same. Since the applicant is seeking public appointment the respondents have to follow the Constitutional Mandate of Article 14 and 16 of Constitution of India. As such her services were terminated.

13) That with regard to the statement made in paragraph 4(XVIII) of the OA, the respondents beg to submit that the applicant in her request dated 18.4.2002 only informed to the Principal, RVTI Tura that she was seeking redressal from the Hon'ble High Court. She requested that she may be permitted not to hand over the charge till the decision of the Hon'ble Court.

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The respondents submit that the applicant had asked to hand over the charge in the 'order' as per procedure/rules while issuing termination order. However, in terms of stay orders granted by the Hon'ble High Court, the applicant has been allowed to continue in the same post.

14) That with regard to the statement made in paragraph 4 (XIX) of the OA, the respondents while denying the contentions made therein beg to submit that the post of UDC if required to be filled up by promotion from feeder grade of LDC failing which by transfer/transfer on deputation. Direct recruitment is permissible at the level of LDC and precisely for these reasons she was given an opportunity by relaxing age limit and time, so that she may qualify LDC examination for retaining her in employment. However, she could not qualify the LDC examination to show her ability and capability. Therefore the Department had no other alternative but to terminate her services as per Govt. Rules. The respondents further submit that the respondents never denied the applicant to apply for any other post.

15) That with regard to the statement in paragraph 4 (XX) of the OA, the respondents beg to offer no comment being matter of fact.

16) That with regard to the statement made in paragraph 4 (XXI) of the OA, the respondents stoutly deny the contentions made therein and beg to reiterate and reaffirm the statement made above. The case of the applicant was

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considered under the provision of RRs by granting age relaxation as a special case to appear and qualify the LD Grade examination, but she could not qualify the above examination, even after 3 years of time. As such the action taken to terminate her adhoc service is neither illegal nor arbitrary.

17) That with regard to the statement made in paragraph 5 (i) to (vi) of the OA, the respondents while denying the contention made therein beg to submit that none of the grounds taken by the applicant is a valid ground. The

applicant was afforded with full opportunity to qualify the Examination for the post of L.D. Grade relaxing age as a special case. The applicant could not qualify the said exam it is not a fault of the respondents. The applicant is not qualified to hold the post of UDC on regular basis hence the services of the applicant has been terminated after following the Rules, Regulation and Constitutional provisions, hence the action of the respondents can not be said to be and illegal, arbitrary or violative of Article 14, 16 and 21 of the Constitution of India. Article 14, 16 and 21 of the Constitution of India never says that employment has to be offered to an ineligible candidate ignoring the claim of the other eligible candidates. Unequal cannot claim equality under Article 14, 16 and 21 of the Constitution of India. Opportunity was granted to qualify the Exam along with other candidates in view of the submissions made above the Hon'ble Tribunal may be pleased to dismiss the OA.

18) That with regard to the statement made in paragraph 6 & 7 of the OA, the respondents beg to offer no comment.

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19) That with regard to the statement made in paragraph 8 (i) to (iii) of the OA, the respondents while denying the contentions made therein beg to submit that in view of the submissions made above the applicant is not entitled to get any of the reliefs as sought in the OA. The applicant was given full opportunity to qualify the Exam of L.D. Grade relaxing her age as a special case but the applicant failed to qualify the same hence she is stopped from seeking the reliefs. The respondents have not violated any of the Rules & Regulations or any of the provisions contained in the Constitution of India regarding public employment in terminating the service of the applicant hence same can not be said to be an illegal, arbitrary and whimsical one. Since the applicant has got no legal right to hold the post hence the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

20) That with regard to the statement made in paragraph 9 of the OA, the respondents beg to submit that since the order of termination has been passed as per law hence the Hon'ble Tribunal may be pleased to dismiss the OA.

Sarjy Kumar

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VERIFICATION

I Sanjay Kumar, aged about 42 years at present working as Dy. Director of Training, at Regional Directorate of Apprenticeship Training (ER), Kolkata-64, who is one of the respondents and taking steps in the case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph 1, 2, 4, 6, 8, 12, 15, 16, 17 to 20 are true to my knowledge and belief, those made in paragraph 3, 5, 7, 9, 10, 11-14, being matter of records, are true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 23rd day of July 2007 at 11 AM.

Sanjay Kumar
23.07.07

DEPONENT

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