

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No 320/2006

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

LADE R SHEET

1. Original Application No. 320/2006
2. Mise Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) H.C. Das VS Union of India & Ors

Advocate for the Applicant(s) Mr Adil Ahmed  
Smti S. Bhattacharya

Advocate for the Respondent(s) Addl. CGSC Mrs M. Das

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. F. r. L.S. 10/- deposited with D.P.C./D.D. No. <u>286932910</u> Dated <u>18.12.06</u>  <i>By Registrar</i>  <i>N.S 22/12/06</i>	22.12.2006	Present: The Hon'ble Shri K.V.Sachidanandan Vice-Chairman.  The Applicant was called for a selection test and interview for the post of Group 'D' by Respondent No.3 vide letter dated 22.3.2000. In the said selection test and interview Applicant was selected and engaged as a daily wage labour on 25.4.2000. On 14.9.2006, the Respondent No.3 called the Applicant along with others to appear before the DPC to be held on 22.9.2006. Applicant appeared before the DPC and according to him, DPC selected him for Group D post and he was found in

Contd.P/2

OA. 320/2006

Contd.

22.12.2006 medical test also. The Applicant claims that inspite of completing all formalities the Respondents have not issued appointment order to him as yet. Hence

for comply order  
dated 22-12-06.

Ans  
26.12.06

Done & Regd this O.A.

Order dt. 22/12/06  
issuing to learned  
advocate's for both  
the parties.

Cas  
2/1/07

Ans  
10/1/07

Heard Mr.A.Ahmed, learned counsel for the Applicant. Mrs.M.Das, learned Addl.C.G.S.C. referring to Annexure-G submits that Applicant's case has been sent for verification of character and antecedents and probably that report has not been received by the Respondents. However, she requested for time in order to take instruction in the matter. Let it be done.

Post the matter on 31.1.2007.

Vice-Chairman

/bb/

No W.L.S has been  
filed.

2/2  
5.3.07.

6.2.07 Further four weeks time is granted to file written statement. Post the matter on 6.3.07.

Vice-Chairman

lm

6.3.2007

Mrs. M. Das, learned Addl. C.G.S.C. prays for time to file written statement. Let it be done. Post the matter on 21.3.07.

Vice-Chairman

nkm

20.3.07

W.L.S has been filed

21.3.07. Counsel for the applicant wanted to file rejoinder. Let it be done. Post the matter on 26.4.07.

  
Member

Vice-Chairman

Lm

① Wb's filed on behalf of R.No- 2 & 3.

26.4.07. Dr.J.I.Sarkar learned counsel for the

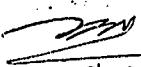
② No rejoinder has been filed.



25.4.07.

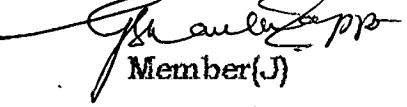
~~Respondents prays for some more time to file written statement. Four weeks time is granted to file written statement. Post the matter on~~

26.4.07. Ms. S. Bhattacharjee learned counsel for the applicant has submitted that she wants to file rejoinder. She is permitted to file rejoinder. In the meanwhile, Registry is directed to fix the matter before the next available Division Bench.

  
Rejoinder not filed.

08.05.08.

  
Member(A)

  
Member(J)

Lm

04/3/2008 (5)

09.05.2008 On the prayer of the learned Counsel for the parties, call this matter on 16.05.2008.



(Khushiram)  
Member (A)



(M.R. Mohanty)  
Vice-Chairman

nkm

2m  
15.5.08

Rejoinder not filed.

16.05.2008 On the prayer of learned counsel appearing for both parties, call this matter on 02.06.2008.

  
Im

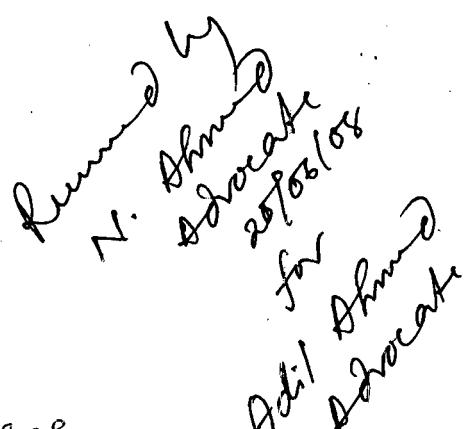
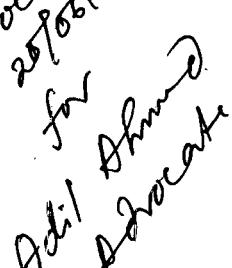
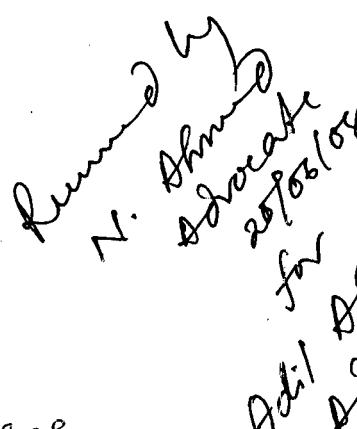
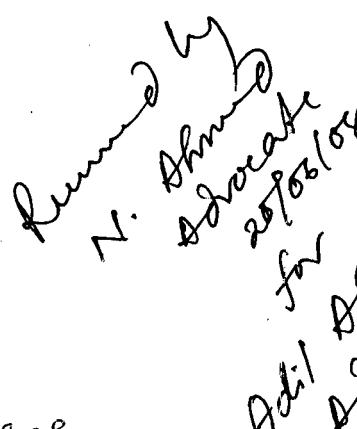
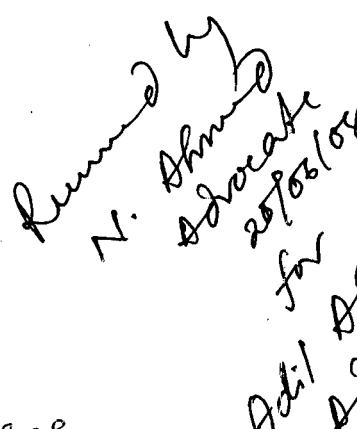
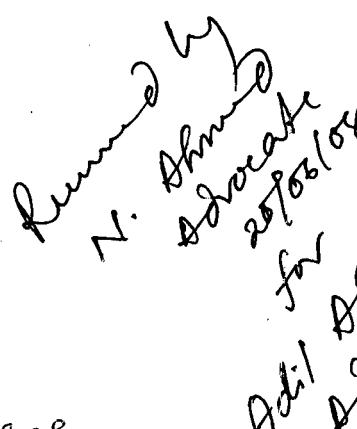
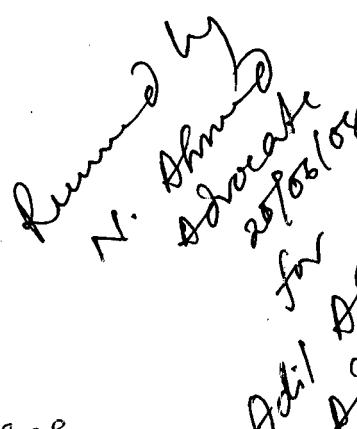
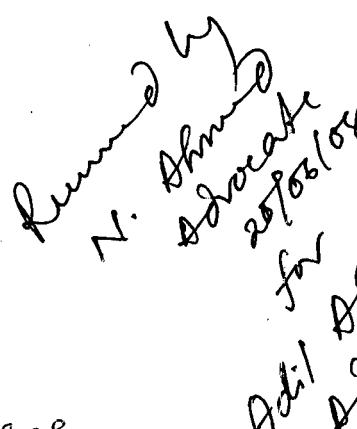
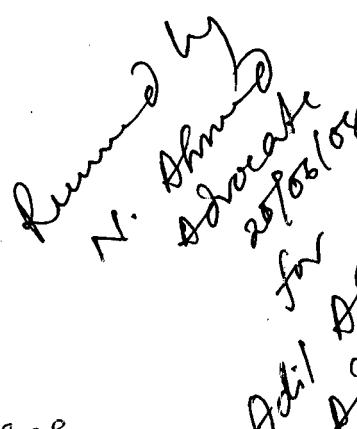
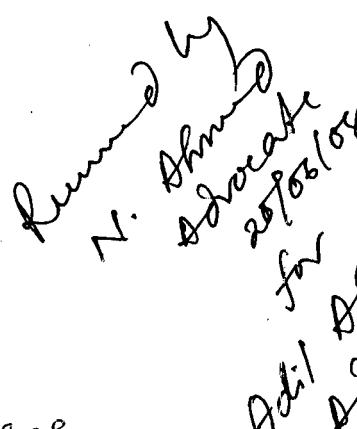
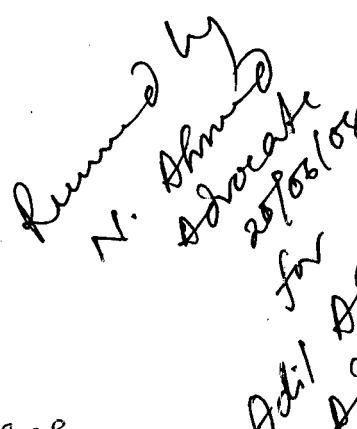
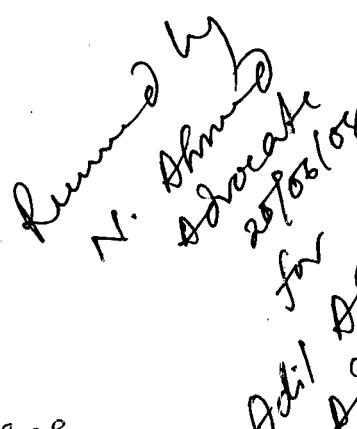
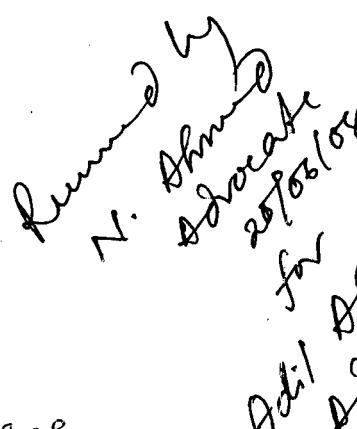
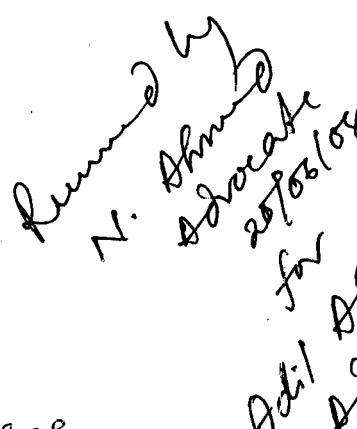
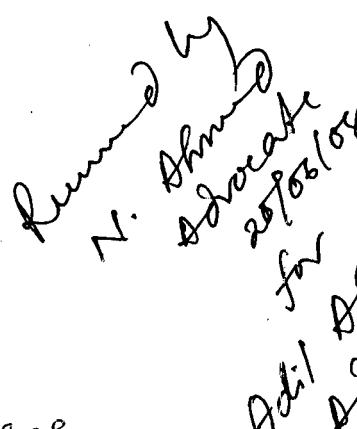
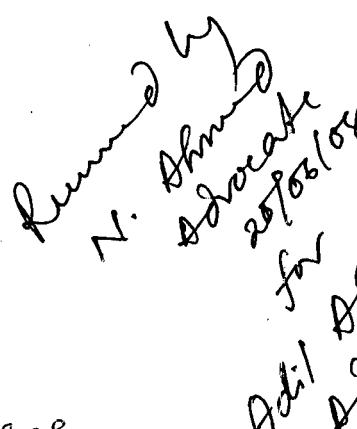
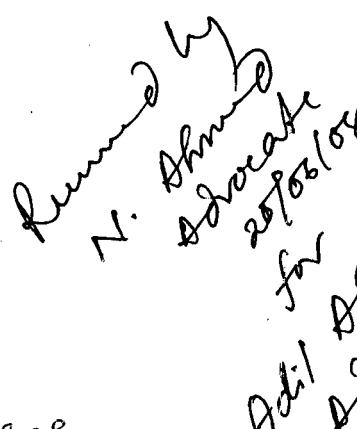
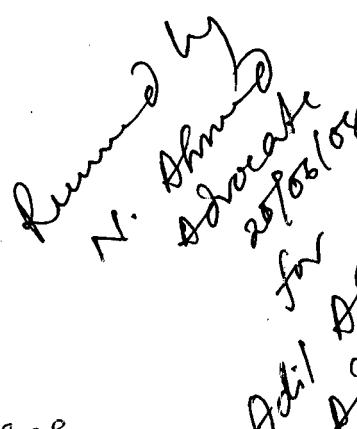
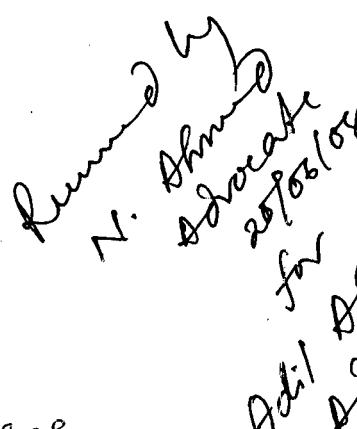
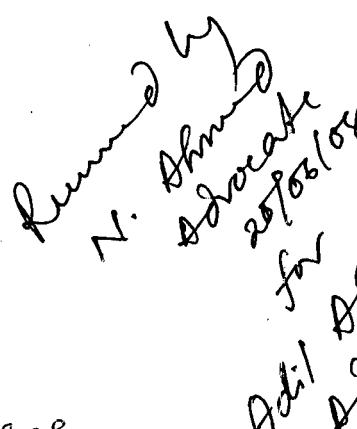
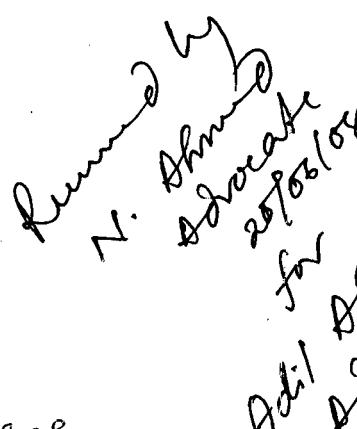
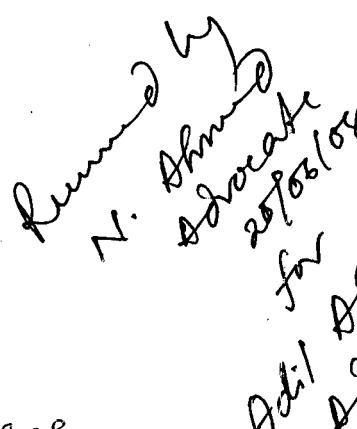
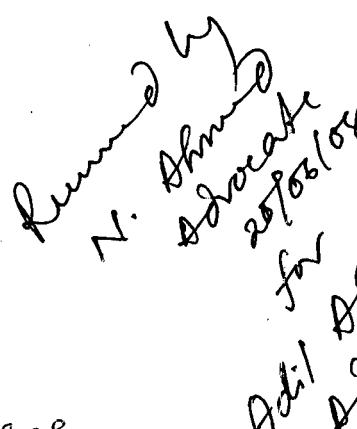
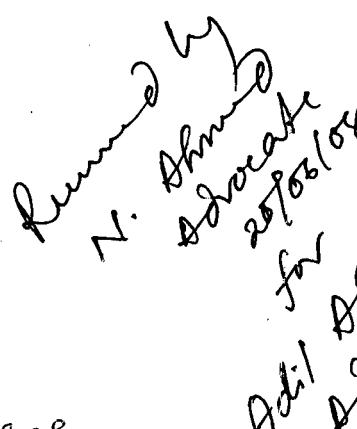
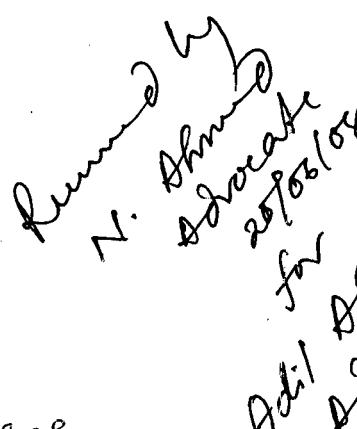
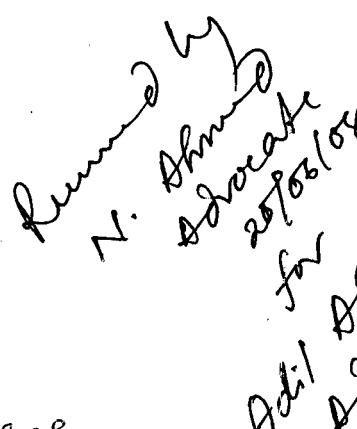
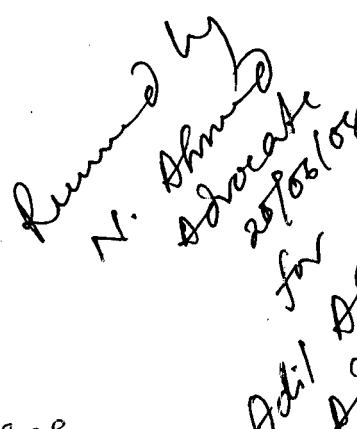
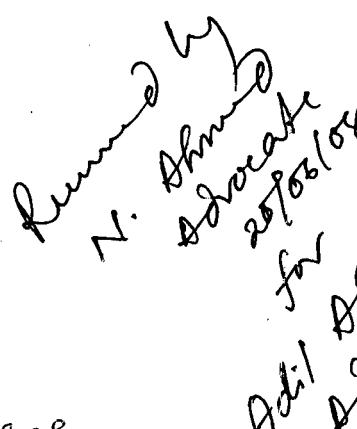
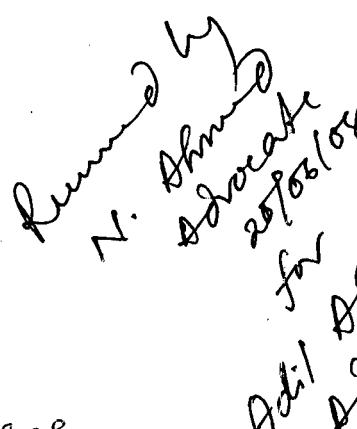
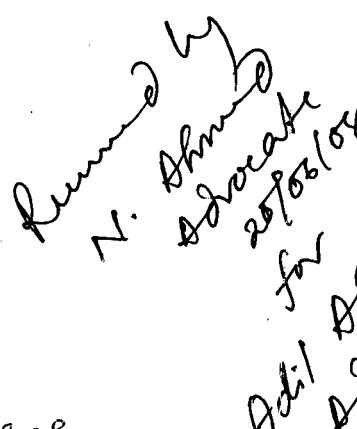
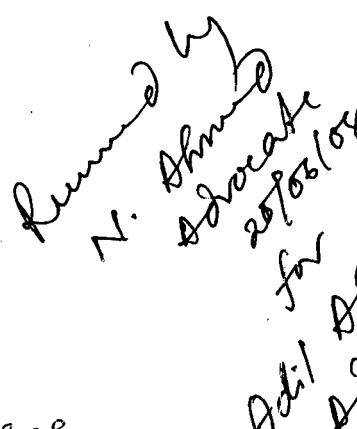
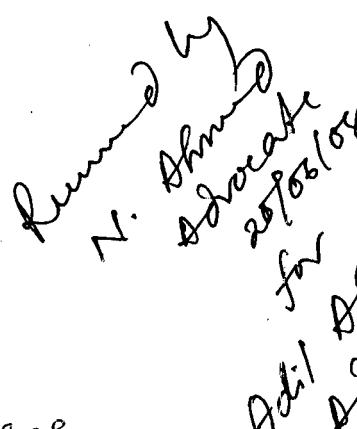
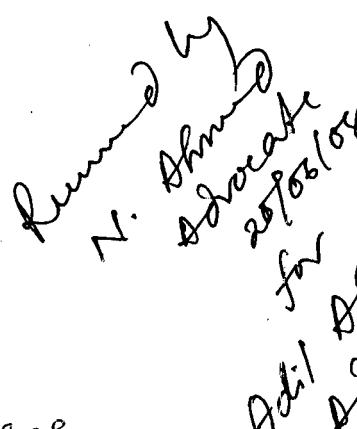
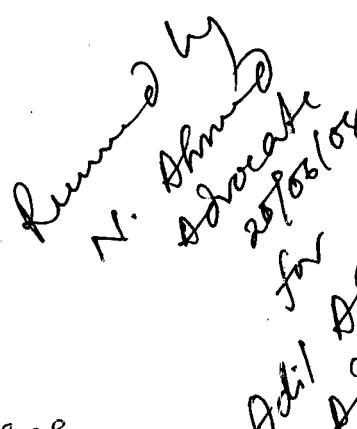
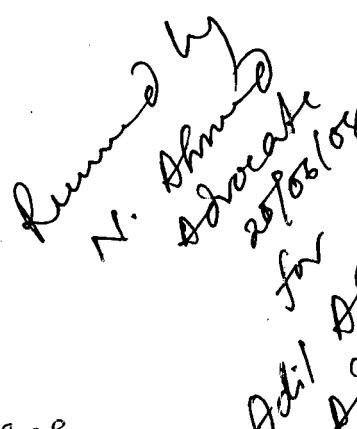
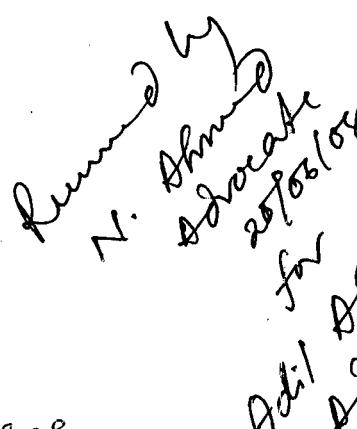
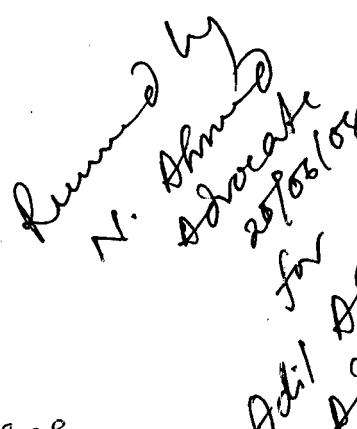
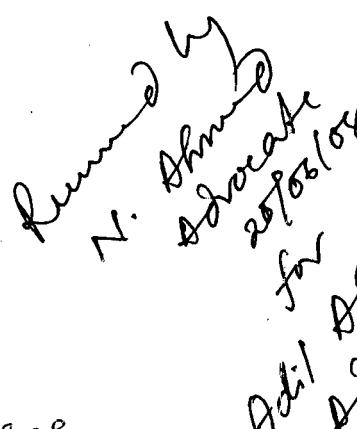
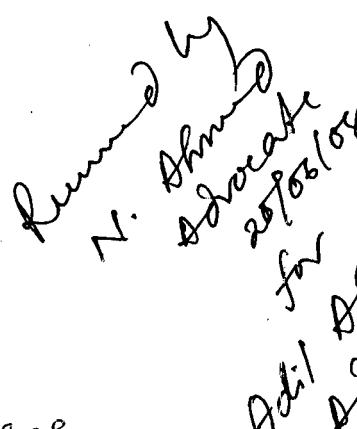
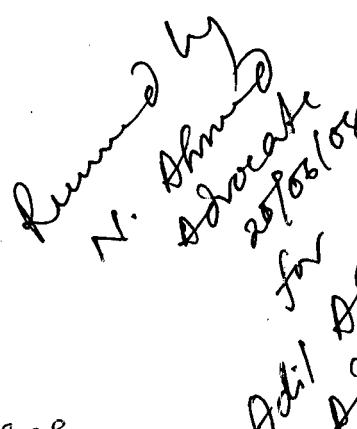
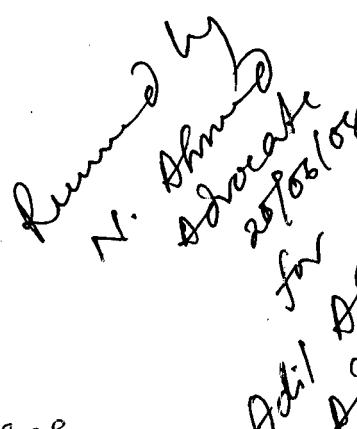
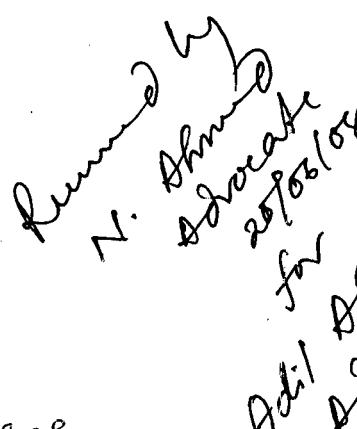
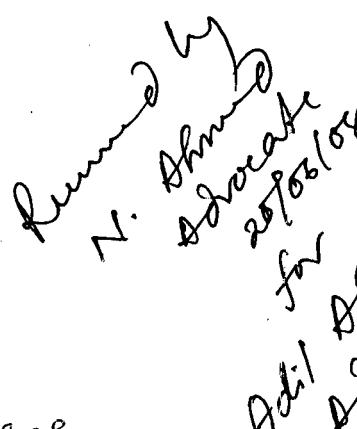
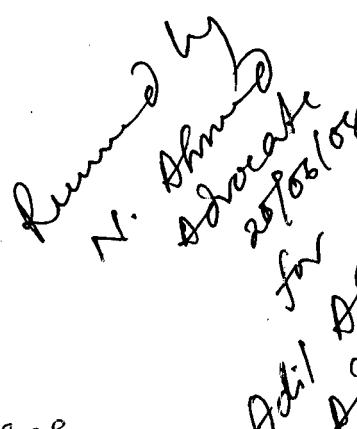
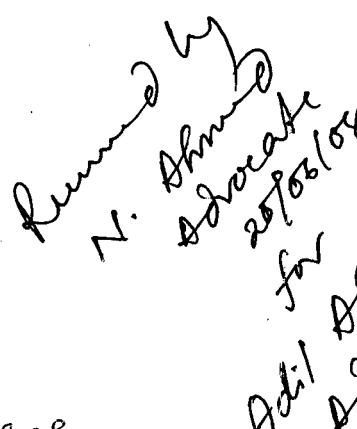
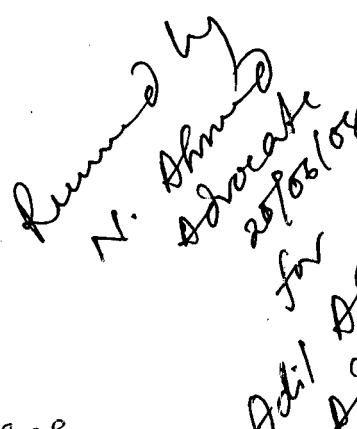
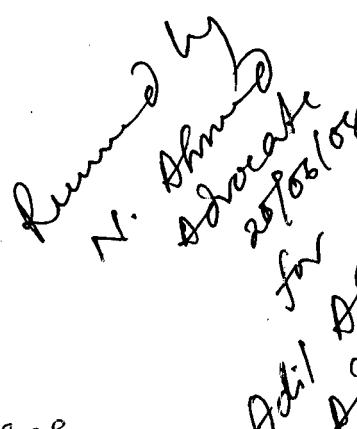
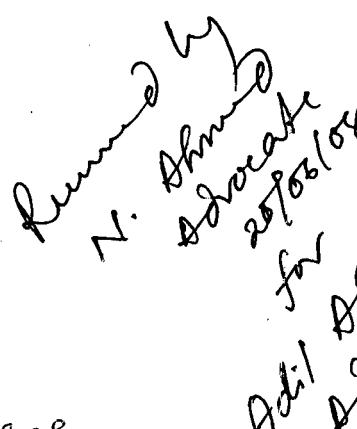
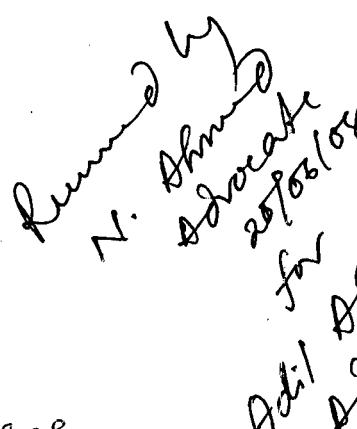
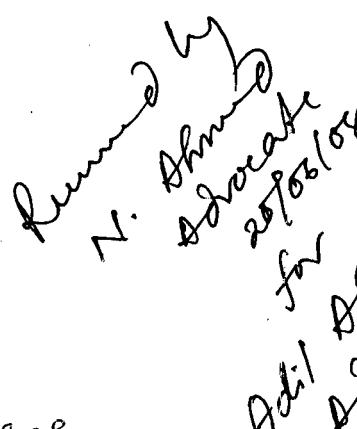
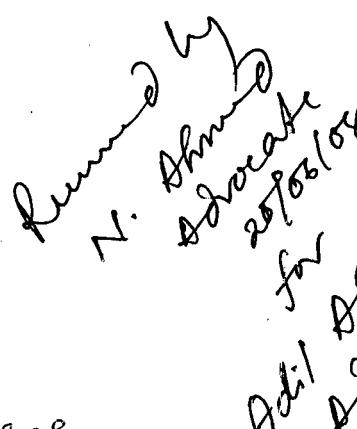
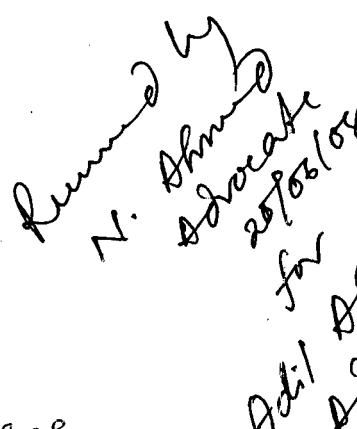
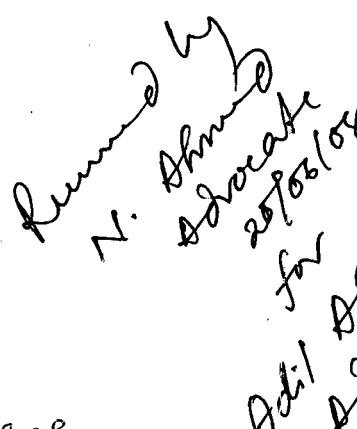
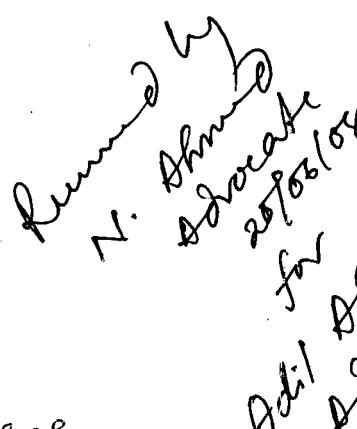
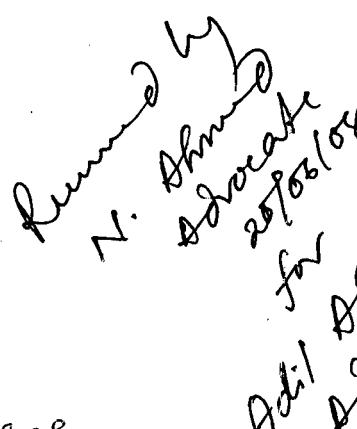
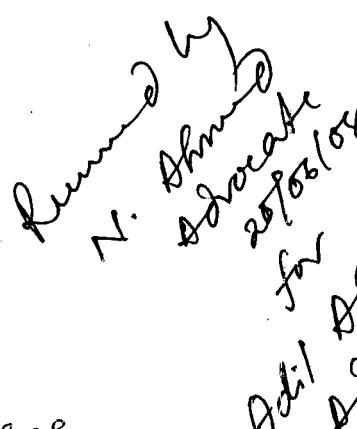
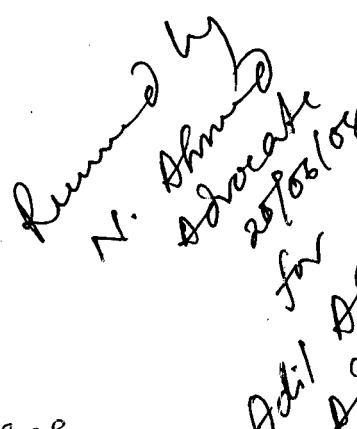
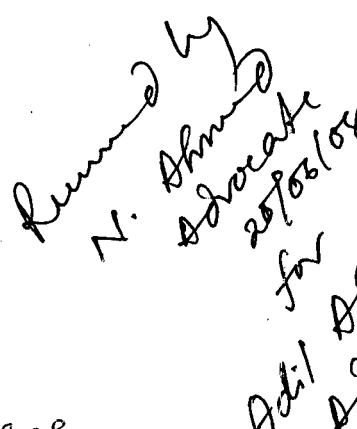
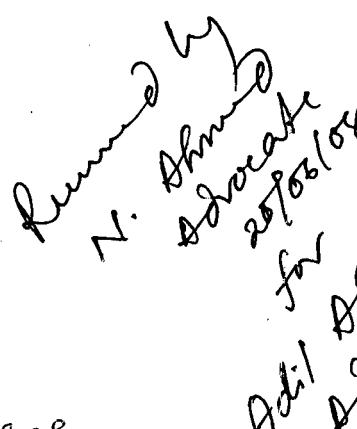
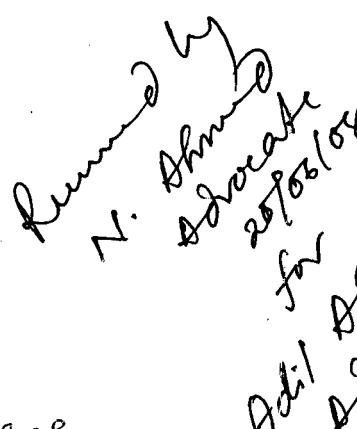
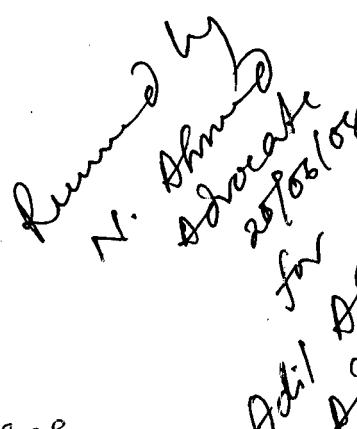
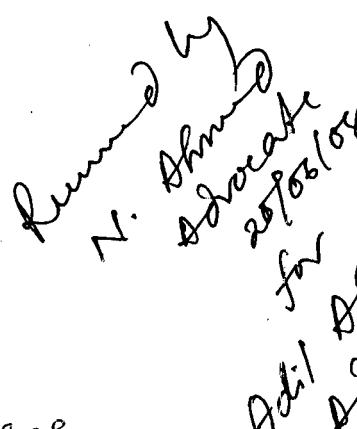
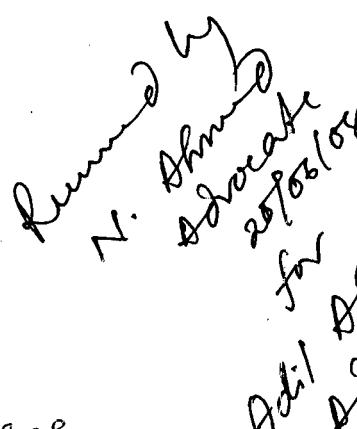
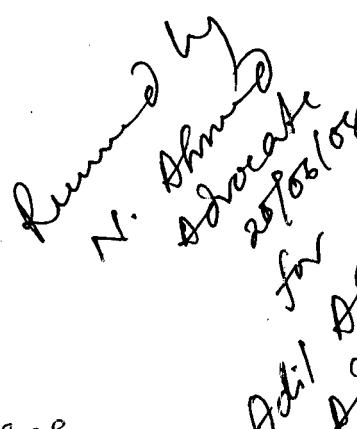
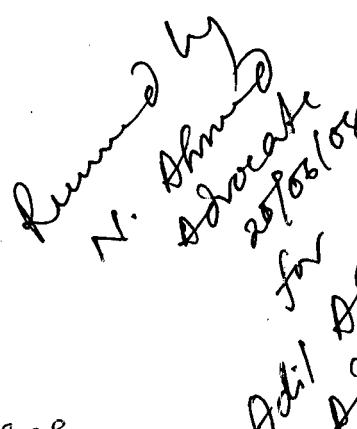
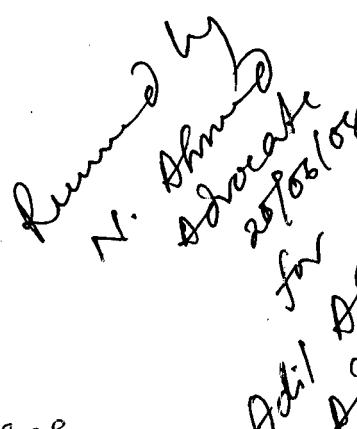
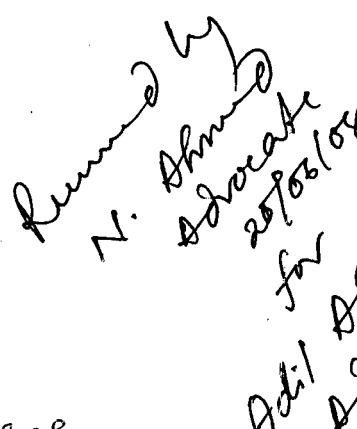
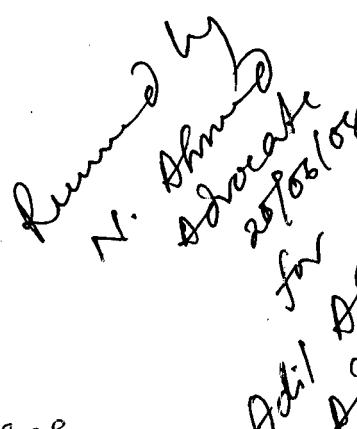
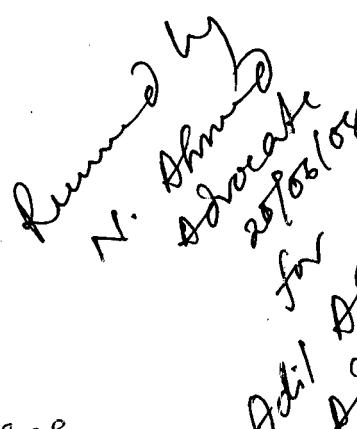
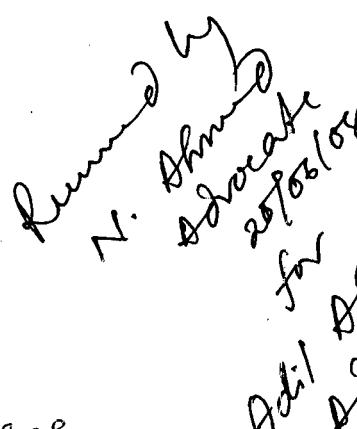
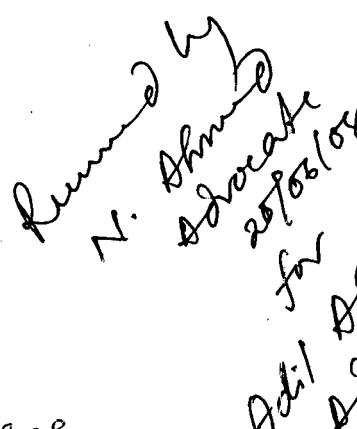
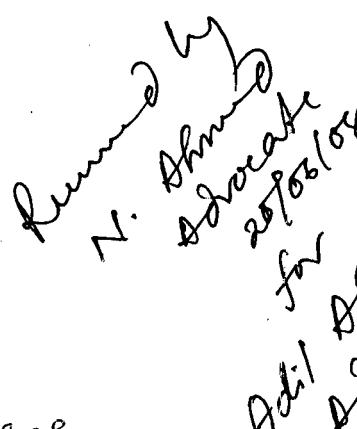
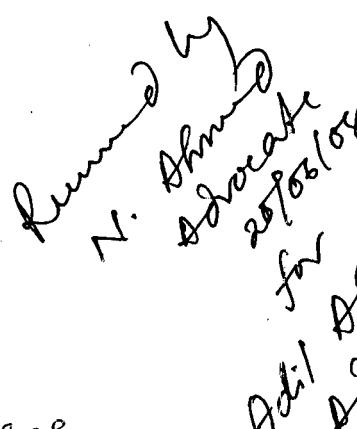
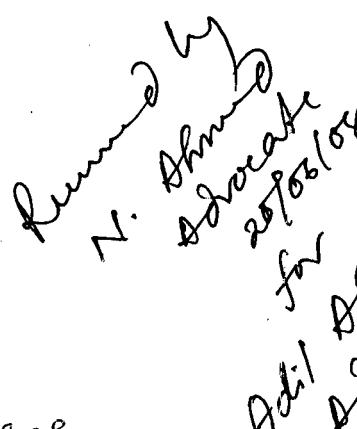
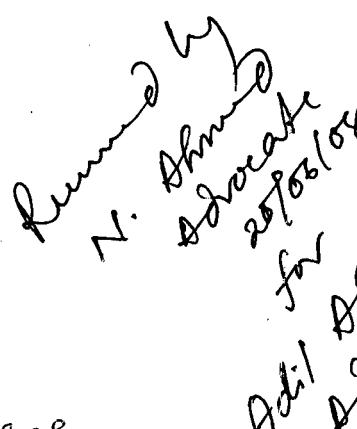
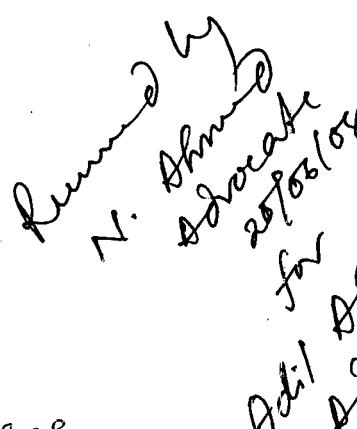
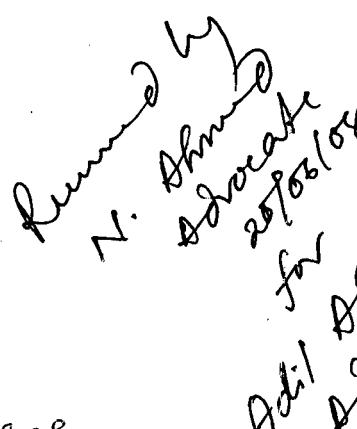
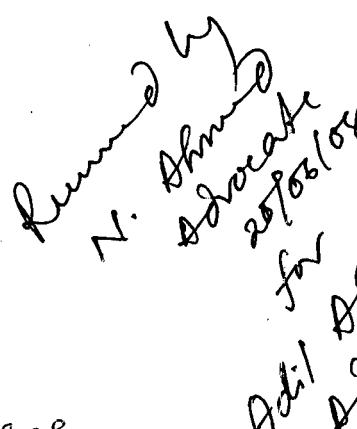
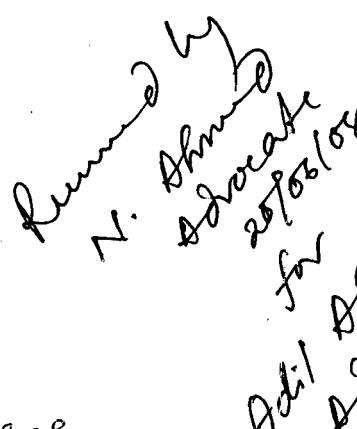
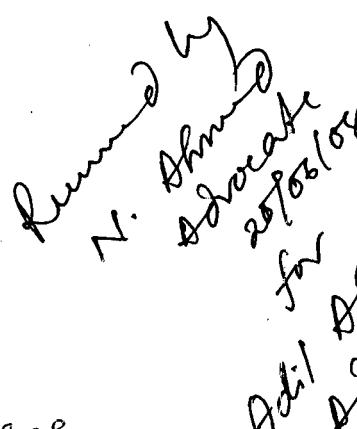
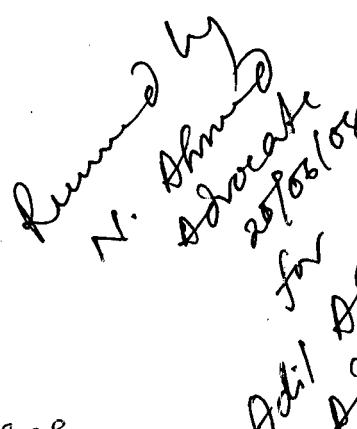
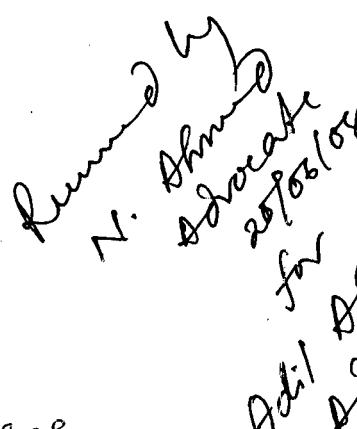
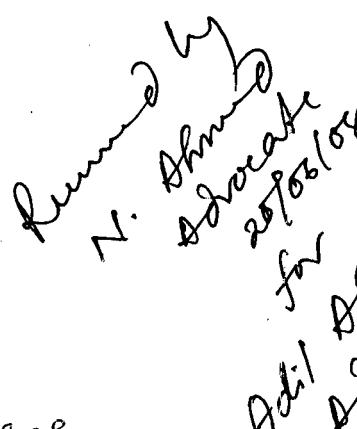
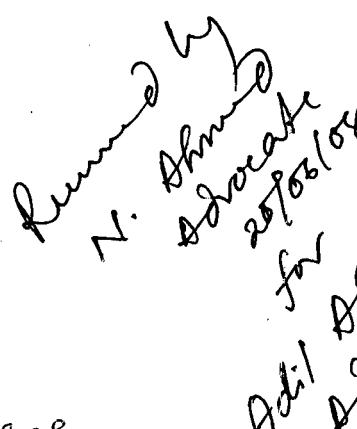
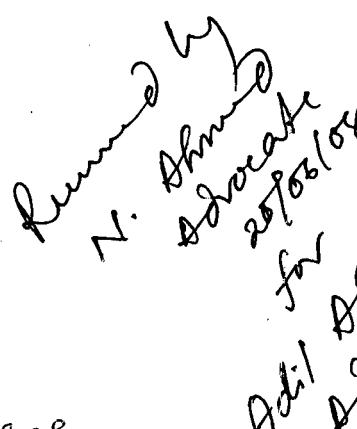
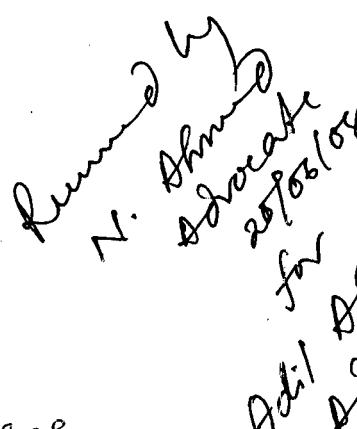
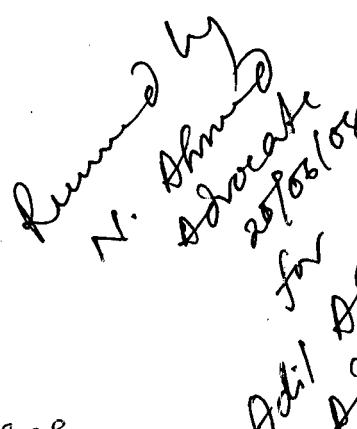
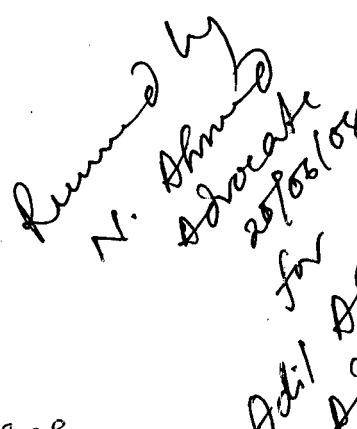
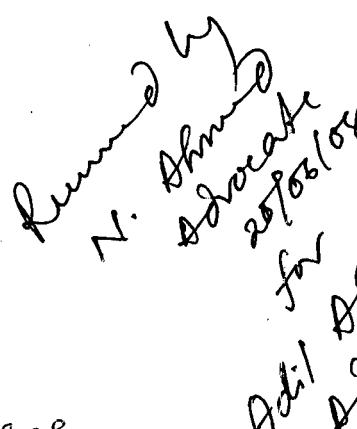
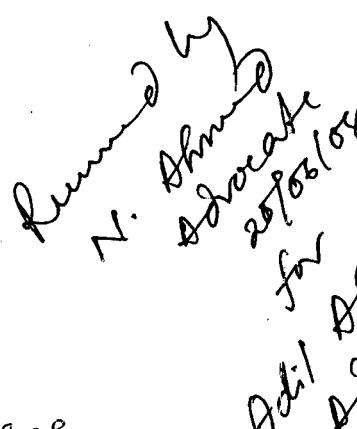
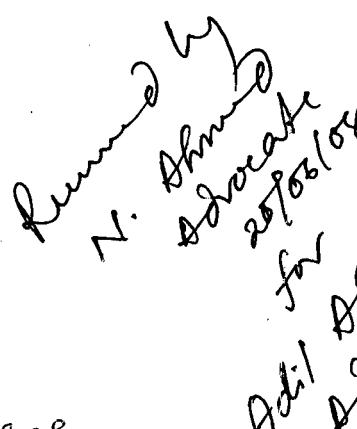
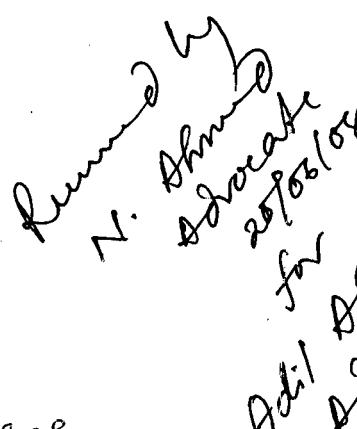
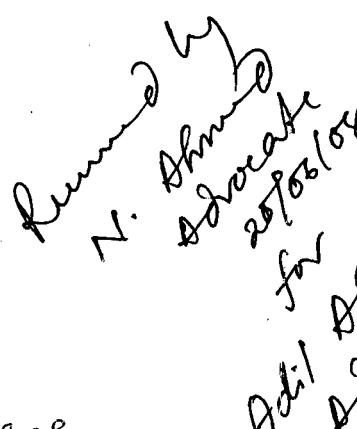
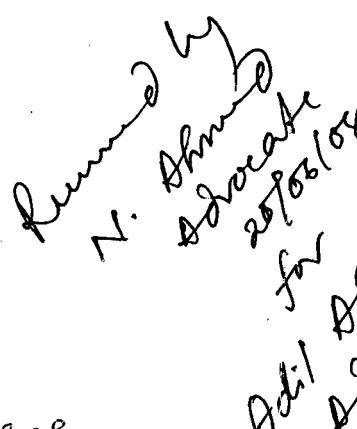
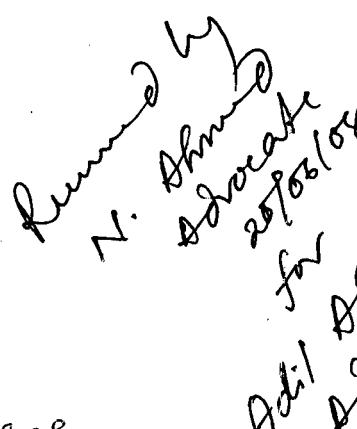
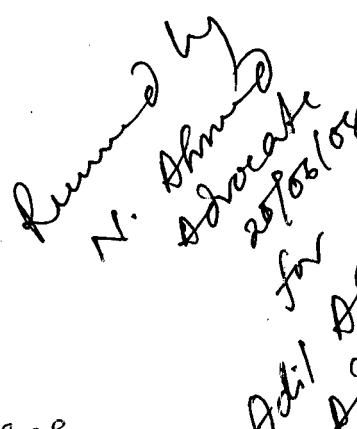
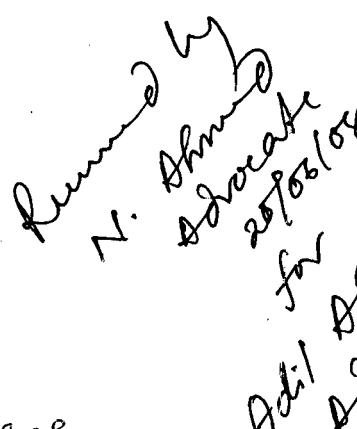
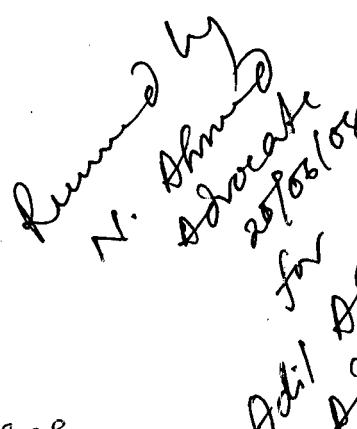
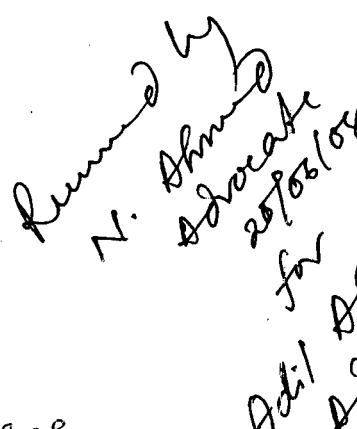
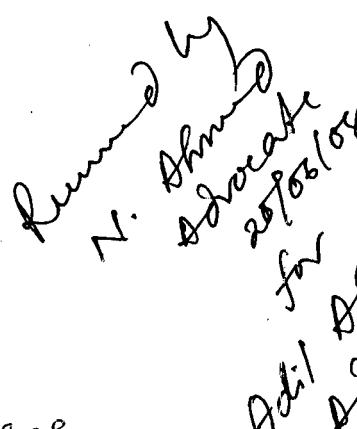
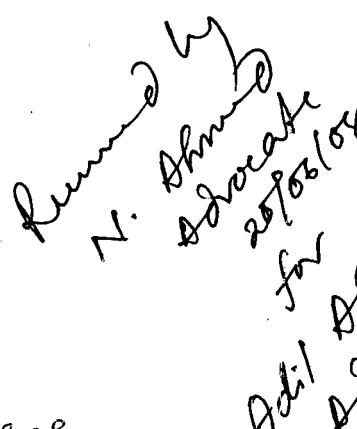
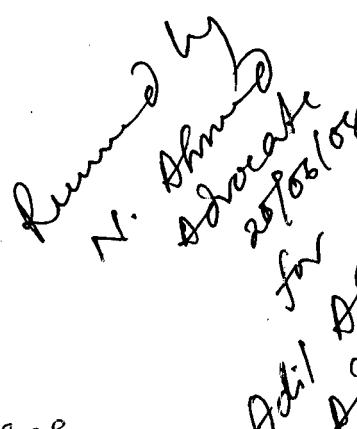
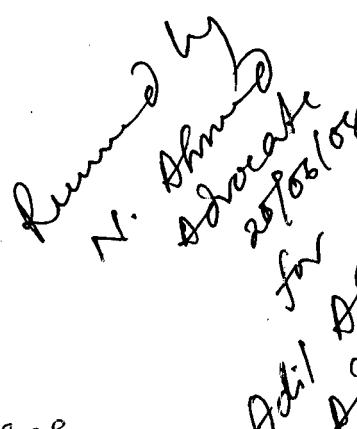
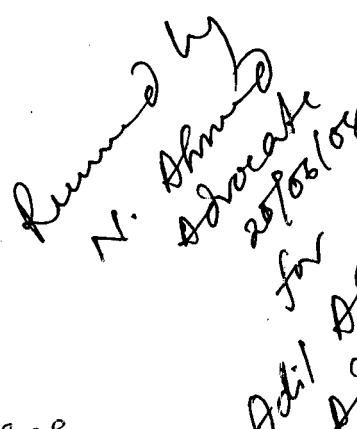
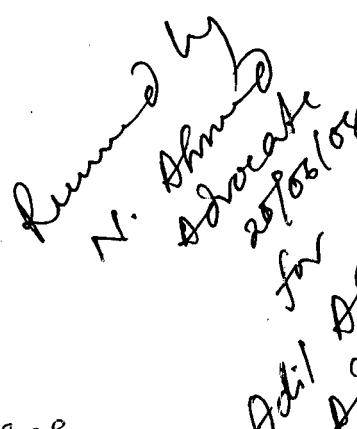
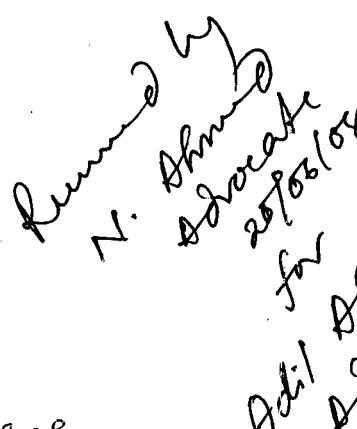
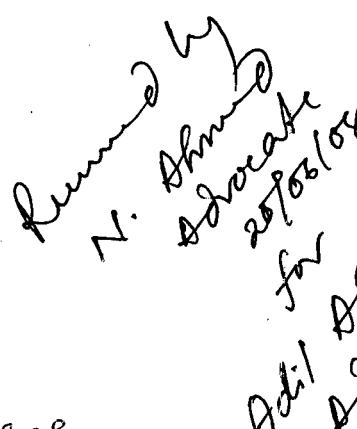
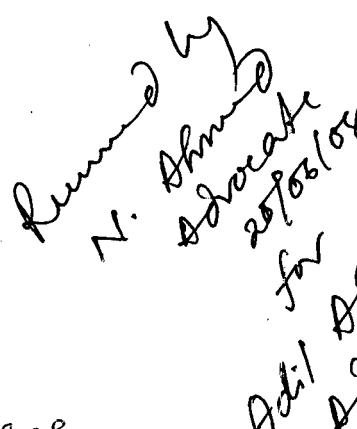
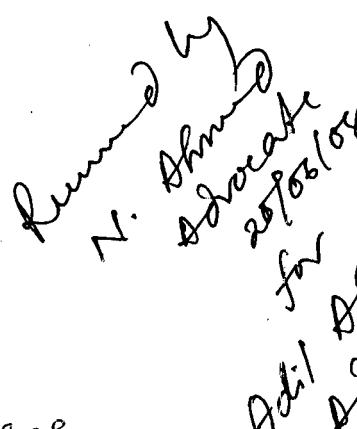
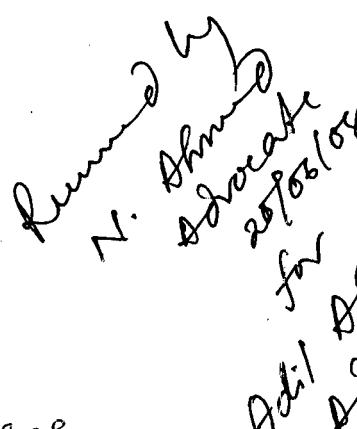
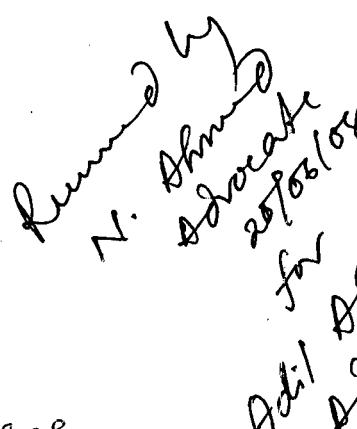
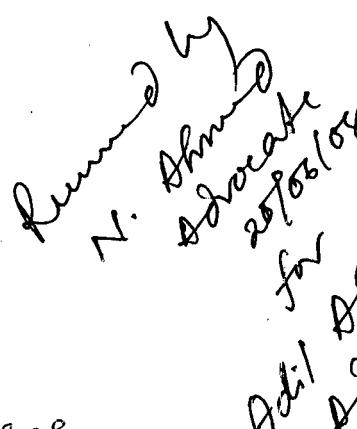
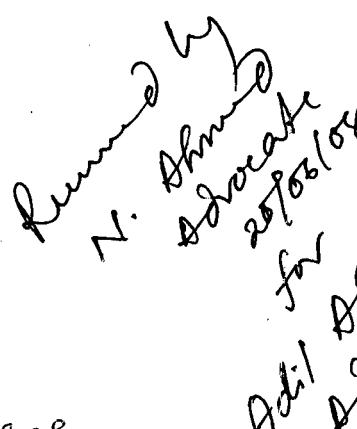
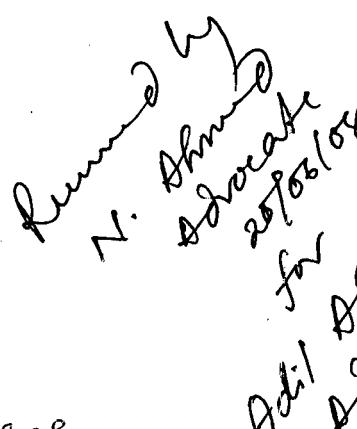
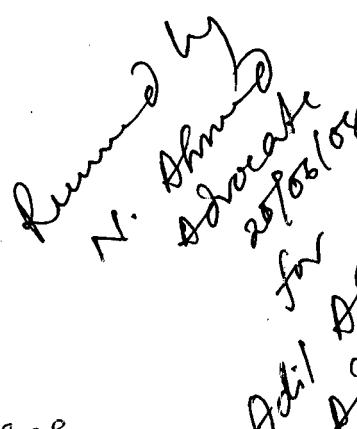
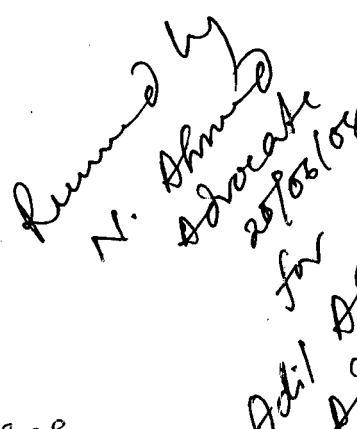
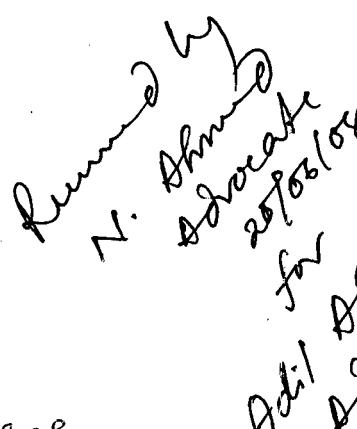
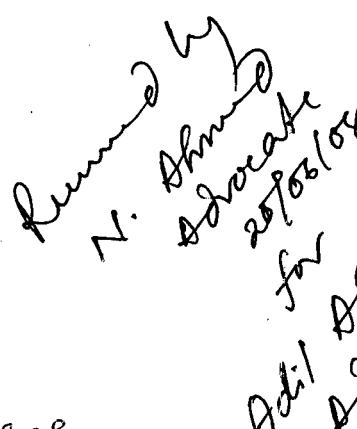
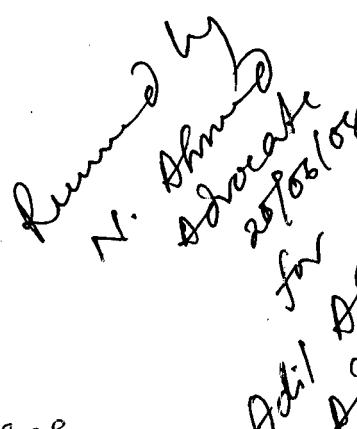
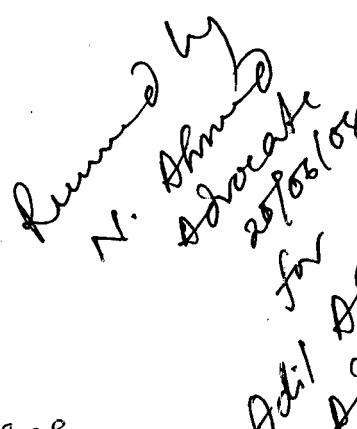
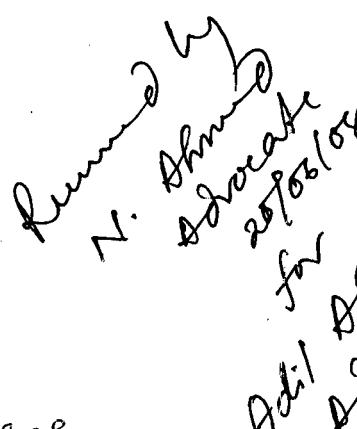
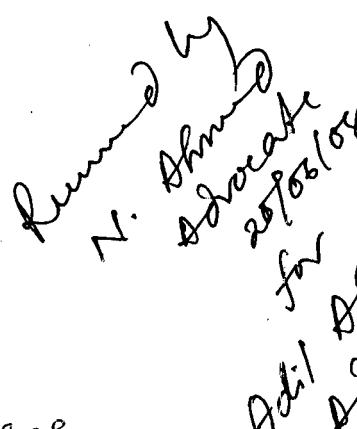
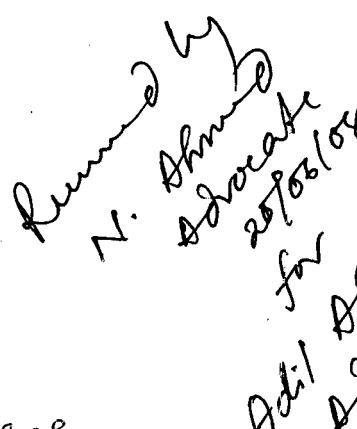
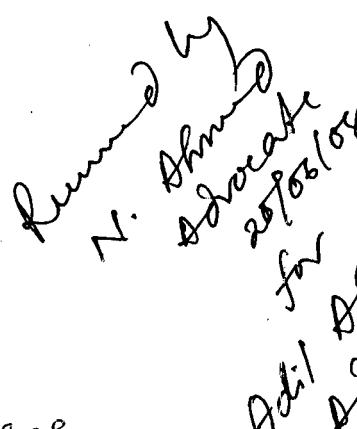
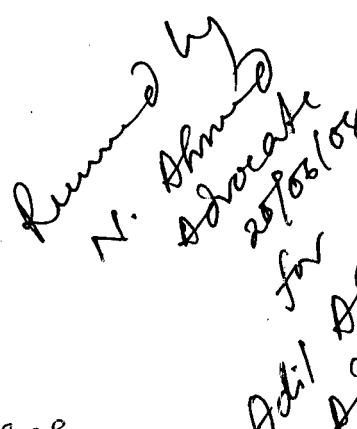
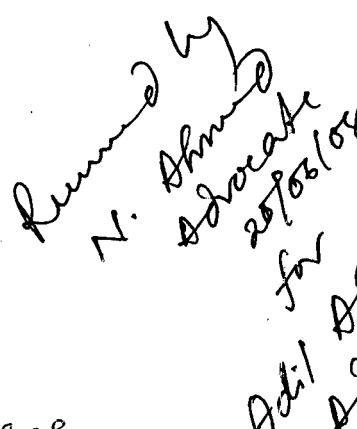
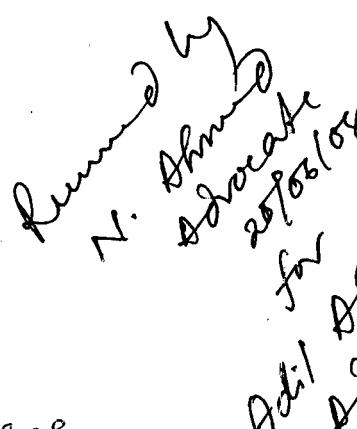
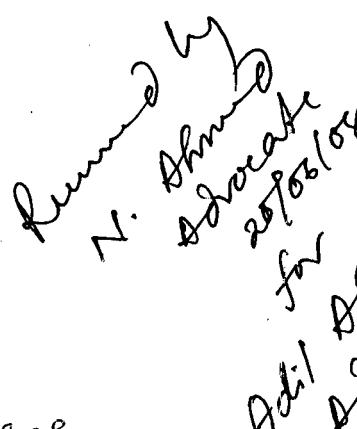
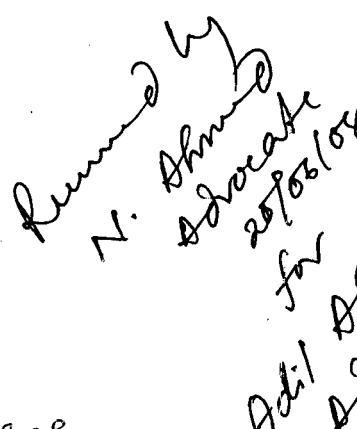
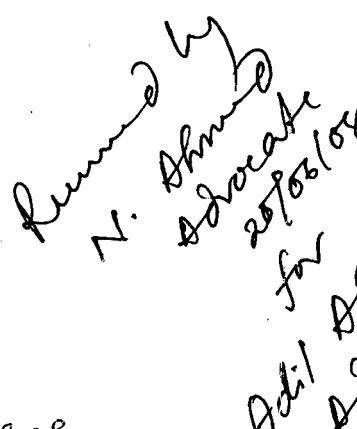
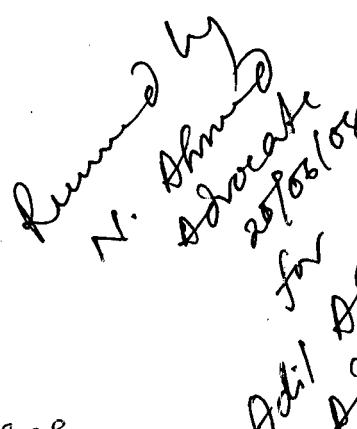
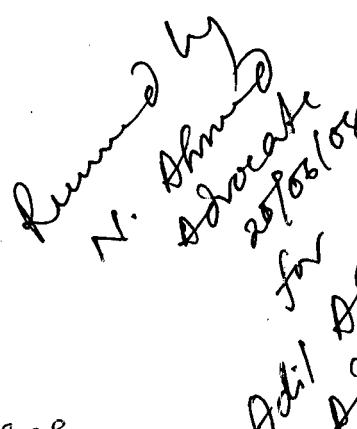
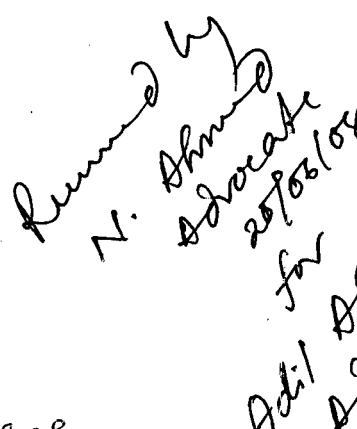
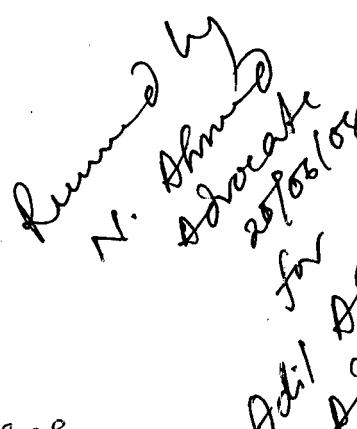
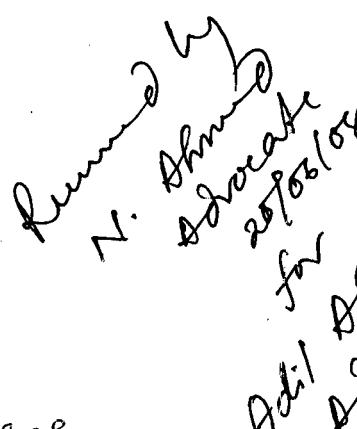
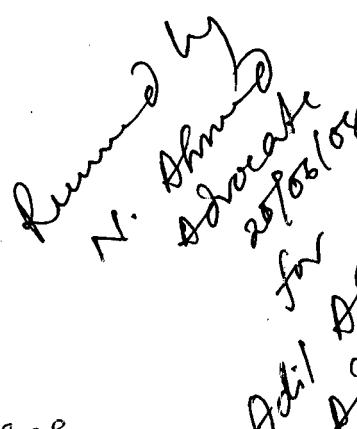
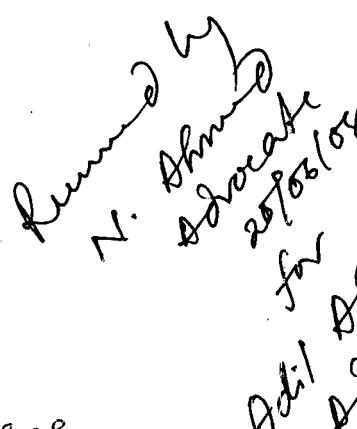
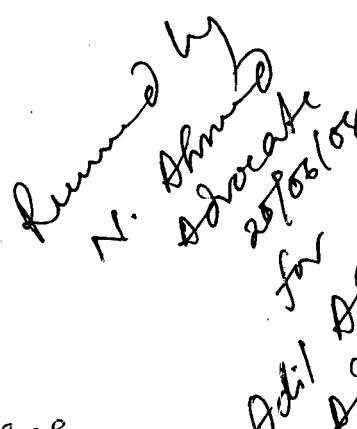
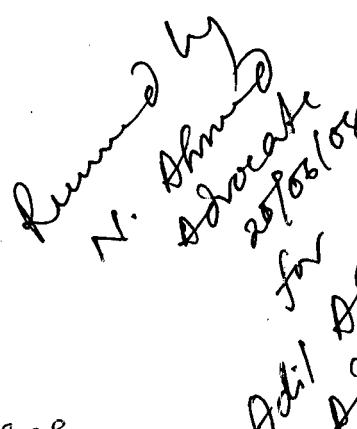
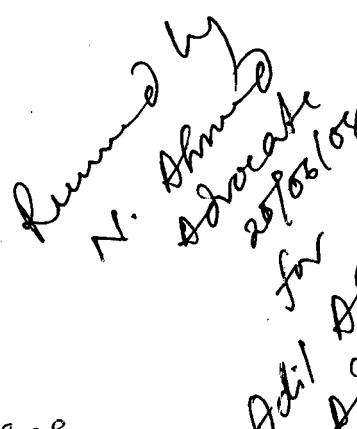
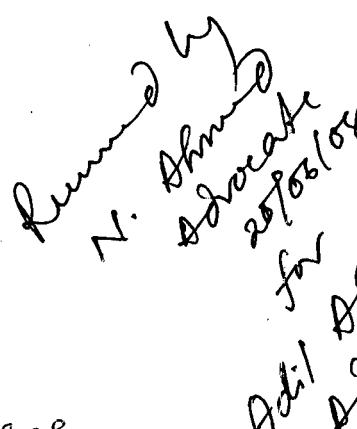
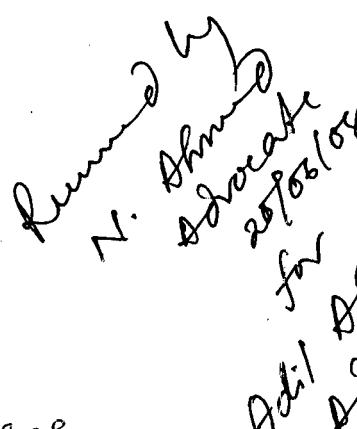
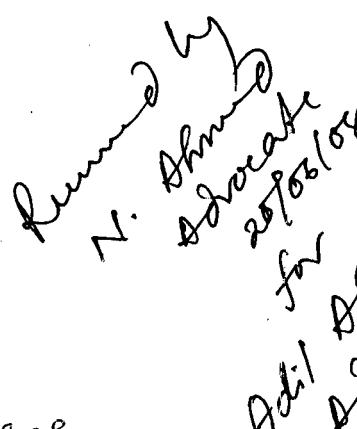
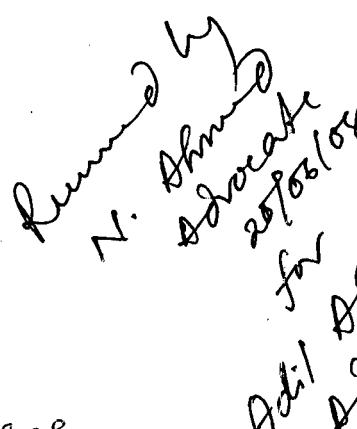
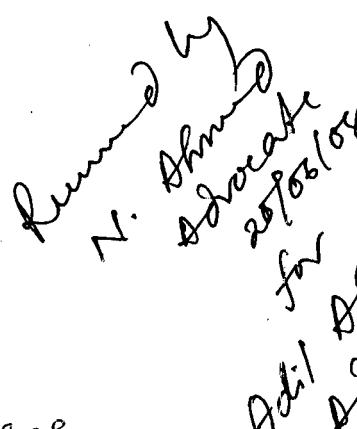
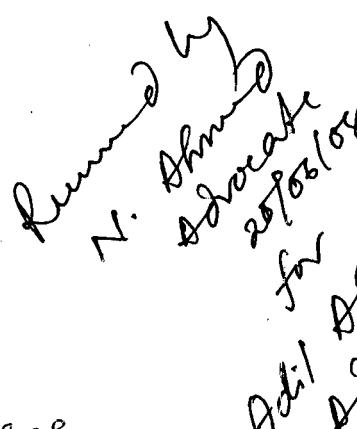
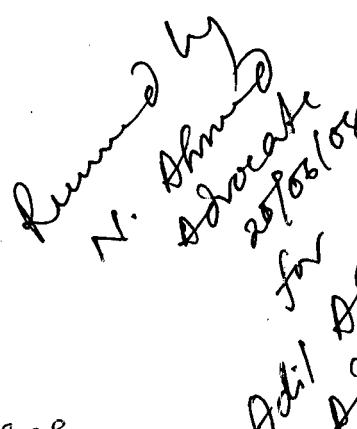
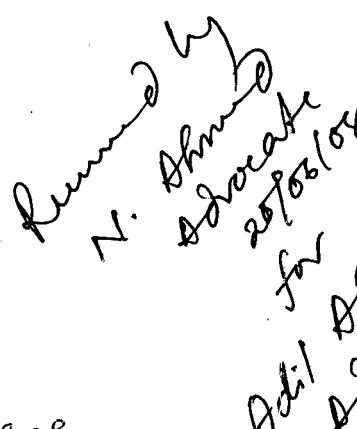
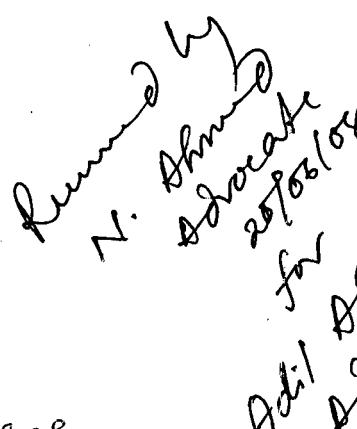
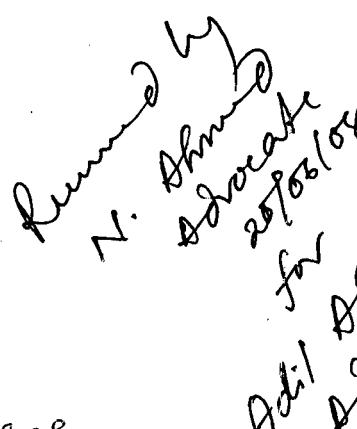
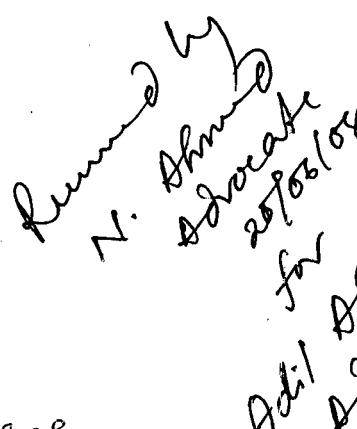
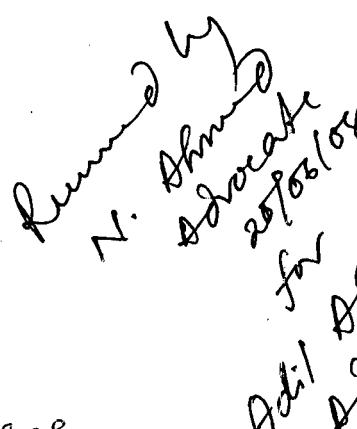
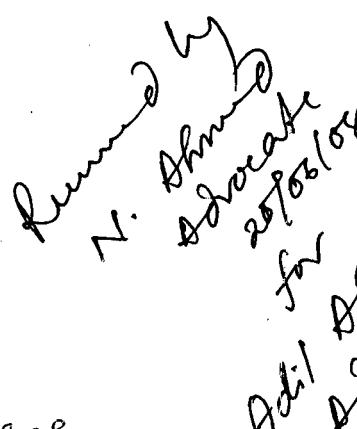
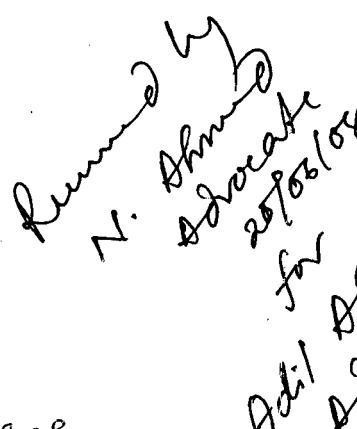
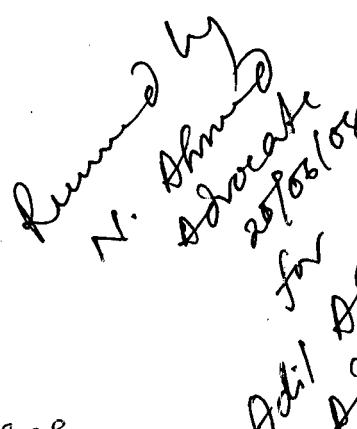
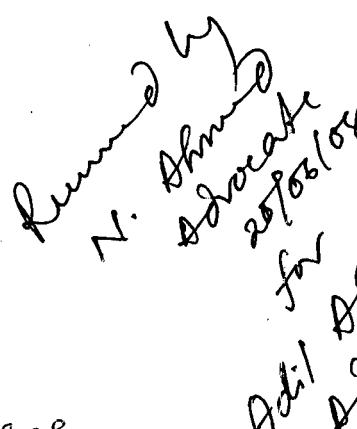
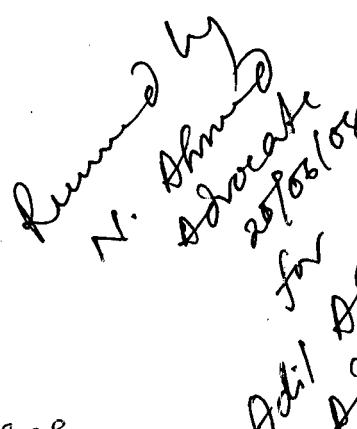
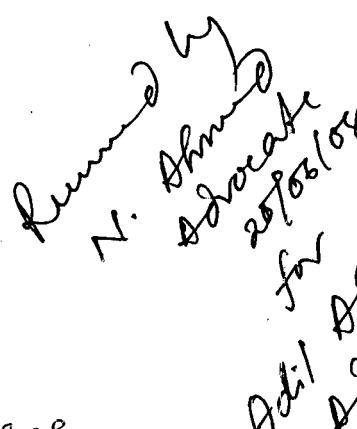
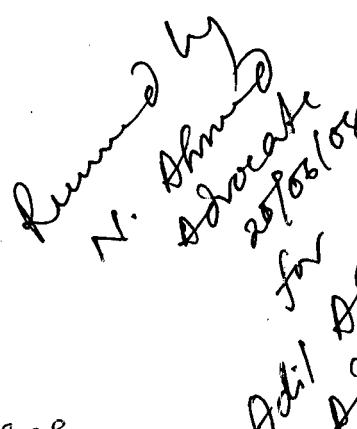
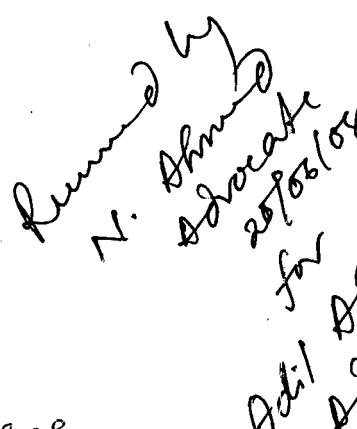
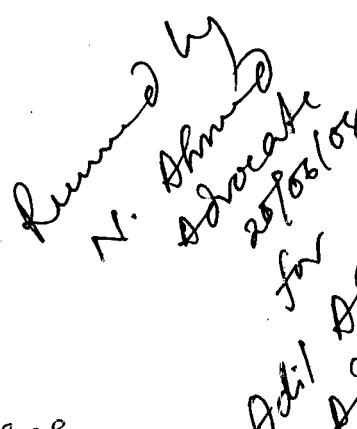
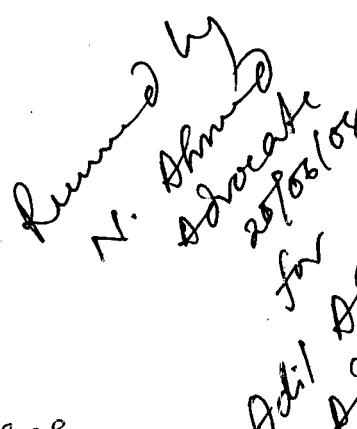
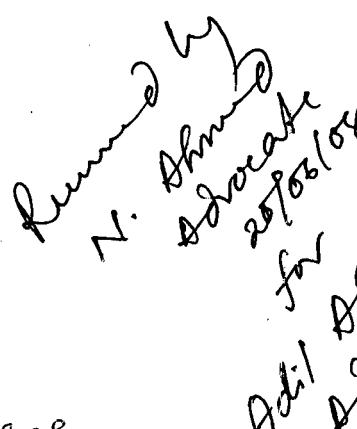
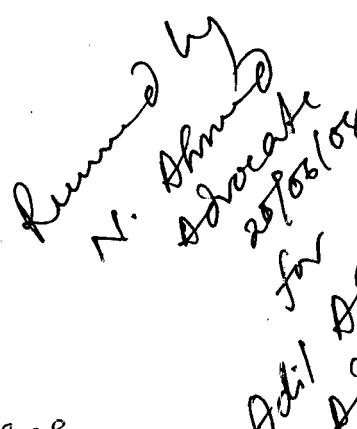
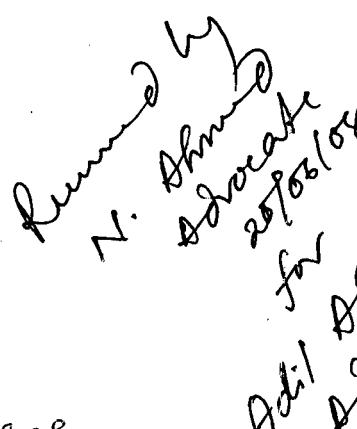
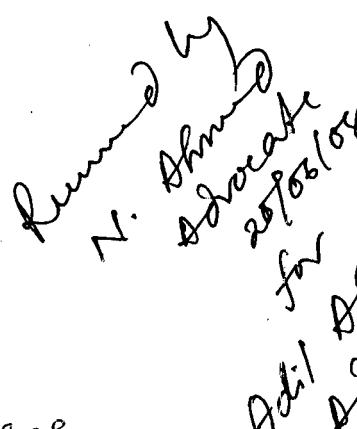
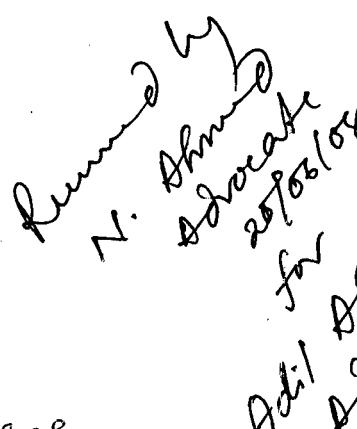
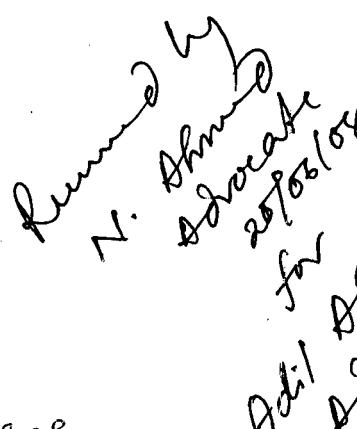
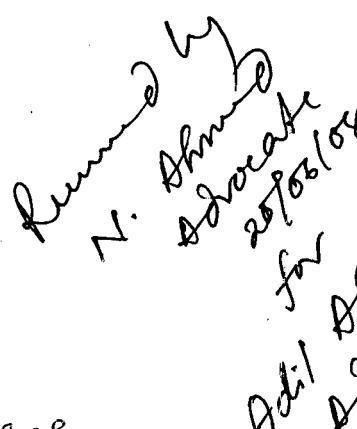
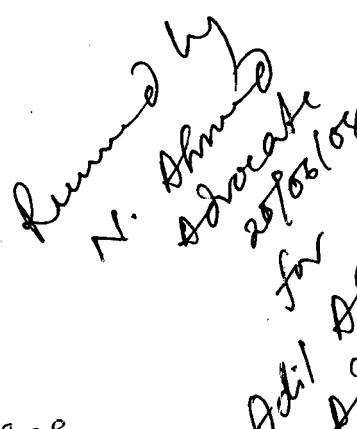
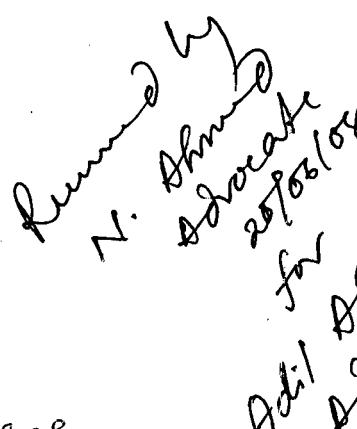
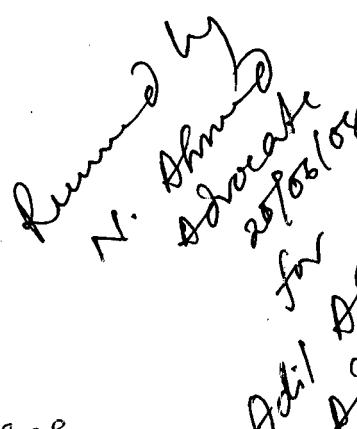
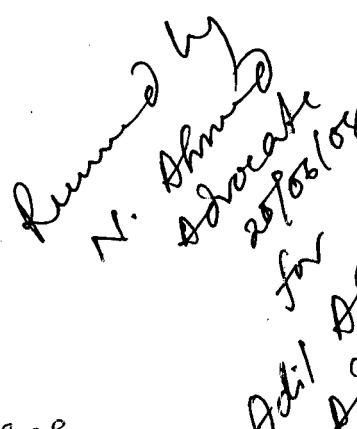
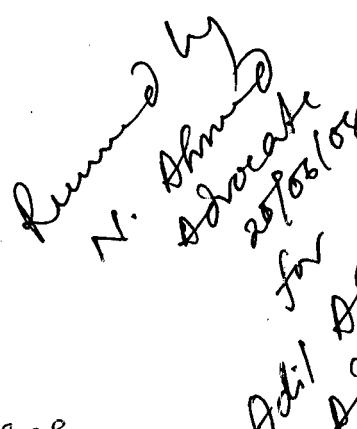
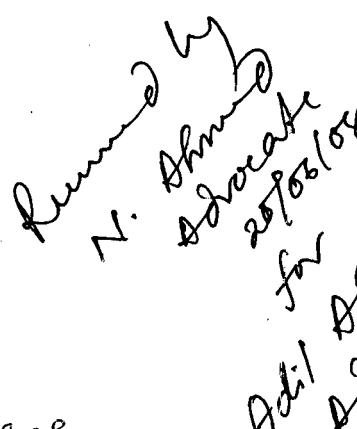
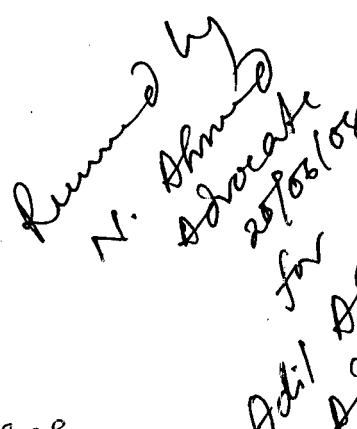
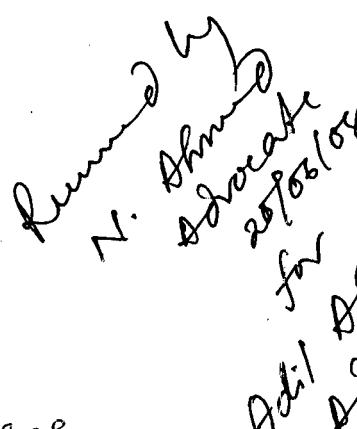
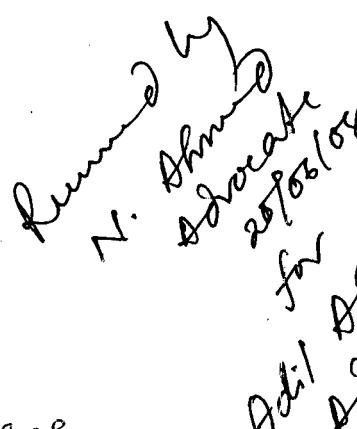
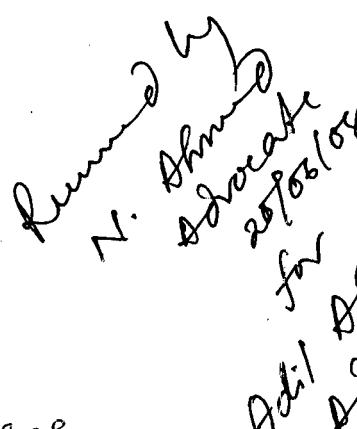
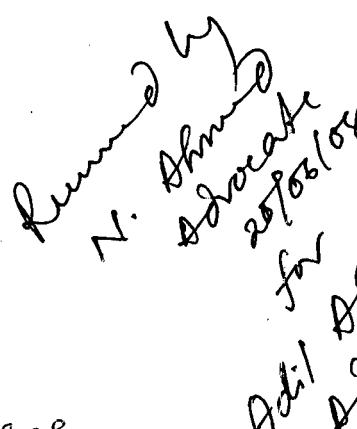
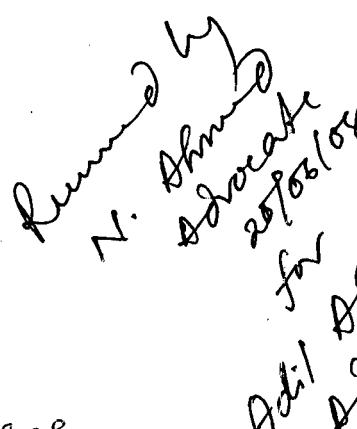
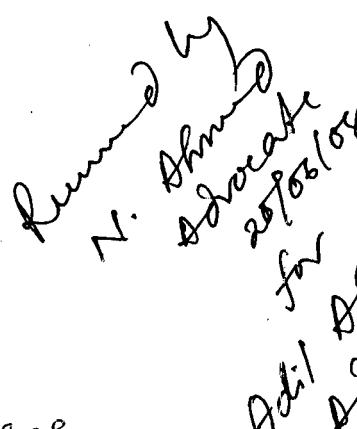
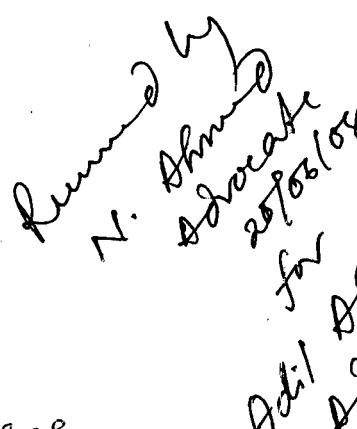
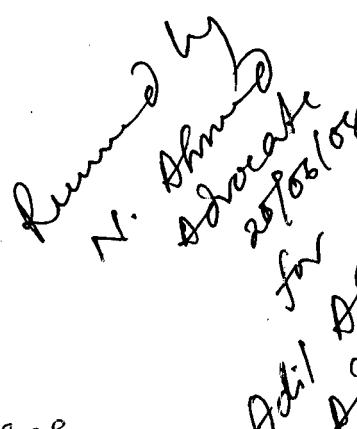
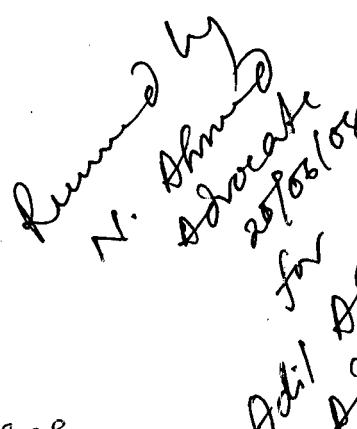
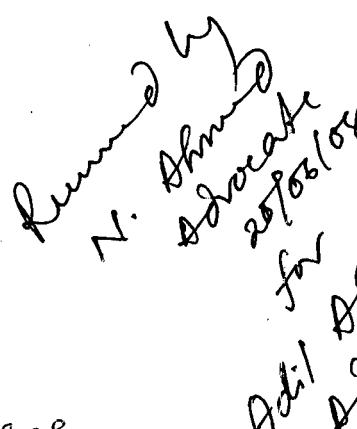
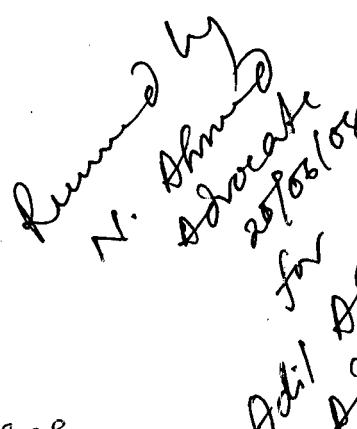
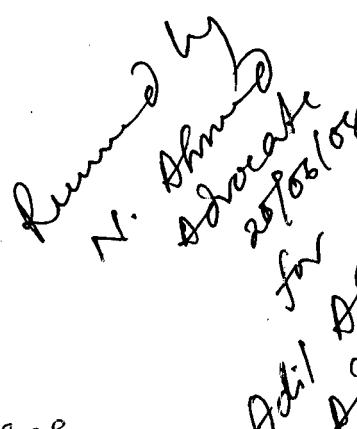
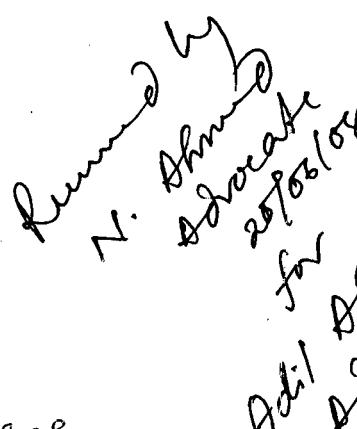
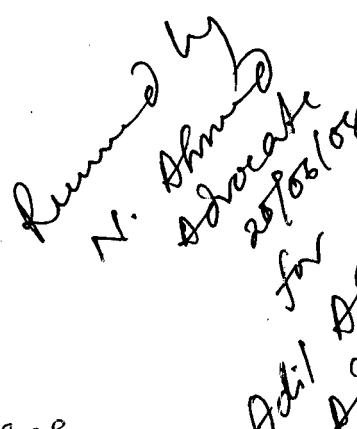
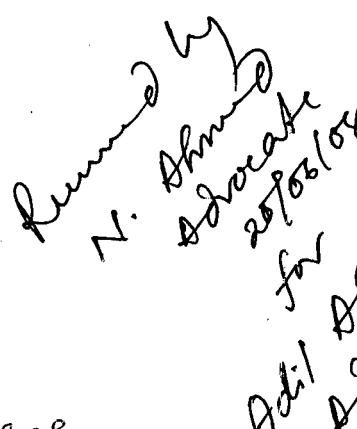
(Khushiram)  
(Member(A))

  
(M.R. Mohanty)  
Vice-Chairman

02.06.2008 Mrs.S.D.Choudhury, learned counsel for the Applicant and Mrs.M.Das, learned Addl. Standing counsel for the Union of India are present.

Call this matter on 18.06.2008 for hearing.

  
(Khushiram)  
Member (A)

  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
  
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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. Nos.320 of 2006

DATE OF DECISION: 18.06.2008

Sri H.C. Das ..... Applicant/s

Mr A. Ahmed & Ms S. Bhattacharjee ..... Advocate for the  
Applicant/s.

- Versus -

Union of India & Others ..... Respondent/s

Mrs.M.Das, Addl.C.G.S.C. ..... Advocate for the  
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

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

  
Vice-Chairman/Member (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

**Original Application No.320 of 2006**

**Date of Order: This the 18<sup>th</sup> day of June 2008**

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

**The Hon'ble Shri Khushiram, Administrative Member**

**Shri Hitesh Chandra Das,  
S/o Sri Dinesh Chandra Das,  
Resident of Village - Bongra,  
P.O.-Bongra, P.S.- Palasbari, Mirza,  
District-Kamrup, Assam.**

..... **Applicant**

**By Advocates Mr A. Ahmed and Ms S. Bhattacharjee.**

**- versus -**

**1. The Union of India, represented by the  
Secretary to the Government of India,  
Ministry of Communication,  
New Delhi-1.**

**2. The Chief Post Master General  
Meghdoot Bhawan Complex,  
Guwahati-781001.**

**3. The Manager  
Mail Motor Service,  
Department of Posts, India,  
Government of India,  
Meghdoot Bhawan,  
Guwahati-781001.**

..... **Respondents**

**By Advocate Mrs M. Das, Addl. C.G.S.C.**



.....

ORDER (ORAL)KHUSHIRAM, ADMINISTRATIVE MEMBER

The Applicant was called for an interview on 22.03.2000 for a Group 'D' post. The interview was held on 12.04.2000 and the Applicant was placed at No.1 in the Select List. However, the appointment letter was not issued because of the ban on recruitment. The Applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 and the Respondents have not acted on the selection list by issuing the appointment letter in respect of the Applicant.

2. The Respondents have filed written statement admitting that the selection process was held, but the appointment letter could not be issued because of the ban and for want of approval from the competent authority, the applicant could not be issued the appointment letter.

3. Heard Mr A. Ahmed, learned counsel appearing for the Applicant and Mrs M. Das, learned Addl. Standing Counsel for the Union of India. The learned Counsel for the Applicant argued that the DPC was held and the Applicant was selected, but the appointment letter was not issued because of the ban. He submitted that direction may be issued to the Respondents to consider the case of the Applicant even at this late stage. The learned Counsel for the Respondents argued that since there was a ban on recruitment the appointment letter could not be issued and there is no possibility of issuing appointment letter in this case.



4. After considering the arguments of the learned Counsel for the parties and on perusal of the records placed before us, it is apparent that the Applicant has no right to get appointment on the basis of the selection process. Unless such an appointment letter is issued, he has no right to seek relief also. As regards the prayer of the Applicant for issuance of directions to the Respondents, we feel that it is too late for the Applicant to pray for such a direction.

5. In view of the foregoing discussions, we are of the view that there is no merit in this case and, accordingly, the case is dismissed. While parting with the case we may observe that the Applicant can avail of the opportunity for appointment in the department in future, if an opportunity arises for fresh appointment against a post for which he is eligible in accordance with the rules.

6. No order as to costs.

*Khushiram*  
 ( KHUSHIRAM )  
 ADMINISTRATIVE MEMBER

*Yobanji*  
 18/06/08  
 ( M. R. MOHANTY )  
 VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

(An Application Under Section 19 of The Administrative  
Tribunal Act 1985)

ORIGINAL APPLICATION NO. 320 OF 2006.

Sri Hitesh Chandra Das

...Applicant

- Versus -

The Union of India & Others

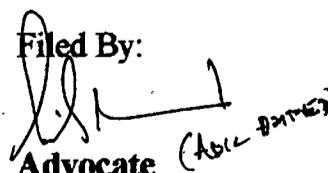
...Respondents

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Date:

Filed By:

  
Advocate (Abul Baray)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

O. A. NO. \_\_\_\_\_ / 2006.

Sri Hitesh Chandra Das

...Applicant

- Versus -

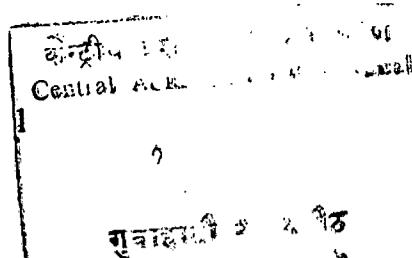
The Union of India & Others

...Respondents

**SYNOPSIS:**

Applicant was called for an interview and selection on 22.03.2000 by the Respondent No.3 for the post of Group D. Accordingly interview was held on 12.04.2000. He was selected for Daily Wage Labour Group D on 25.04.2000. Since then he is working under the Respondent No.3 and his service was utilized for Cleaner, Helper and Driver in the Mail Motor Garage at Guwahati. The Respondent No.3 had called the Applicant along with other on 14.09.2006 to before the DPC on 22.09.2006. He appeared before the aforesaid DPC and he was selected for Group D post. Respondent No.3 vide his letter dated 05.10.2006 requested the Chief Medical Officer, I/c Postal Dispensary, Panbazar, Guwahati to medically examined the recommended candidate i.e the Applicant for appointment in Group D post. The said Medical Officer found him fit for appointment. The Respondent No.3 vide his Letter dated 16.11.2006 requested the Deputy Commissioner, Kamrup, Guwahati for verification of the Applicant's character. Now all formality has been completed. However, the Respondent No.3 is not issuing Appointment Letter to the Applicant. Although he is duly selected by the DPC after completing all the formalities.

Hence this Original Application for payment of Special Duty Allowance.



12  
FILED BY  
Sri Hitesh Chandra Das  
Petitioner  
Through J. J. D.  
(As per Application)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 310 OF 2006.

BETWEEN

Sri Hitesh Chandra Das  
Son of Sri Dinesh Chandra Das  
Resident of Village - Bongra,  
P.O. - Bongra  
P.S. - Palashbari, Mirza  
District - Kamrup  
Assam.

...APPLICANT

- AND -

1. The Union of India represented by the Secretary to the Government of India, Ministry of Communication, New Delhi-1.
2. The Chief Post Master General Meghdoot Bhawan Complex Guwahati-781 001.
3. The Manager  
Mail Motor Service  
Department of Posts, India  
Government of India  
Meghdoot Bhawan  
Guwahati-781 001.

...RESPONDENTS

DETAILS OF THE APPLICATION

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

The Application is not made against any particular order but for seeking a direction from this Hon'ble Tribunal to the Respondents to appoint the Applicant in the Group 'D' post, as he is selected by the Respondents for appointment in the Group- D post.

①

**2. JURISDICTION OF THE TRIBUNAL :**

The Applicant declares that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

**3. LIMITATION:**

The Applicant further declares that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act 1985.

**4. FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1) That your Applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India. He is aged about 27 years. He belongs to a very poor family.

4.2) That your Applicant begs to state that the Department of Posts, India, Office of the Manager, Mail Motor Service, Guwahati-781001 i.e. the Respondent No.3 vide their Office Order No.MM/C-IV/Ghy/1/ dated 22.03.2000, had called the Applicant for a Selection test and interview for the post of Group D, to be held on 12-04-2000.

In pursuance of the aforesaid Selection test and interview, the Applicant was engaged as a daily wage labour (Group D), by the Department of Post, India. Office of the Manager, Mail Motor Service, Guwahati-781 001, i.e. the Respondent No.3 vide their Office Order No.MM/C-IV/Ghy/1 dated 25-4-2000. Accordingly, Applicant joined his duty as daily wage labour, under the office of the Respondent No. 3.

Photocopy of the Office Order No.MM/C/-IV/Ghy/1 dated 22-3-2000 is annexed hereunto and marked as  
**ANNEXURE-A.**

(D.S.)

Photocopy of the Office Order No.MM/C/-IV/Ghy/1 dated 25-4-2000 is annexed hereunto and marked as **ANNEXURE-B.**

4.3) That your Applicant begs to state that the Manager, Mail Motor Service, Guwahati – 781 001 i.e. the Respondent No.3, had issued an experience certified bearing No. MM/Duty Arrangement/Gh/Ch-III dated 17-7-2003. In the aforesaid Certificate it was certified that the Applicant was engaged by the Respondent No. 3 since April 2000 and his service was utilized for cleaner, helper in the Mail Motor Garrage at Guwahati and also his service was utilized to drive Departmental vehicle sometimes.

Photocopy of the experience Certificate, issued by the Respondent No.3, vide their No. MM/Ch-III dated 17-7-2003 is annexed hereunto and marked as **ANNEXURE-C.**

4.4) That your Applicant begs to state that Respondent No.3 i.e. the Department of Posts, India, Office of the Manager, Mail Motor Service, Guwahati-781 001, vide their Office Order No.MM/C-IV/Ghy/1 dated 14-9-2006, had called the Applicant along with others to appear before the DPC on 22-9-2006 for the test to determine working eligibility.

Photocopy of the Call Letter, issued by the Respondent No.3 vide their Office Order No.MM/C-IV/Ghy/1 dated 14-9-2006 is annexed hereunto and marked as **ANNEXURE-D.**

4.5) That your Applicant begs to state that on 22-9-2006 he appeared before the DPC for the aforesaid selection. The DPC has selected him and the Respondent No. 3 vide his letter No. MM/ C-IV/ Ghy/1 dated 5-10-2006 requested the Chief Medical Officer –in-charge, Postal Dispensary, Panbazar, Guwahati to medically examine the recommended candidate Shri Hitesh Das daily wager

(H)

for appointment in Group- D post of Mail Motor Service, Guwahati. It is to be stated that the Applicant's signature was also attested by the Respondent No. 3 in the said letter. The Chief Medical Officer I/C Postal Dispensary Panbazar Guwahati vide his Certificate dated 6-10-2006 found fit for his appointment. The Respondent No. 3 vide his letter No. MM/C-IV/Ghy/1 dated 16-11-2006 requested the Deputy Commissioner, Kamrup, Guwahati for verification of the Applicant's character. In spite of all the formalities for appointment of the Applicant has completed, however the Respondent No. 3 is not issuing the appointment letter to the Applicant although he is duly selected by the DPC after completing all the formalities. Hence, finding no other alternative, the Applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Photocopy of the Letter No. MM/C-IV/Ghy/1 dated 5-10-2006 issued by the Respondent No. 3 is annexed hereunto and marked as ANNEXURE-E

Photocopy of Medical Certificate dated 6-10-2006 issued by the Chief Medical Officer in Charge, Postal Dispensary Panbazar, Guwahati is annexed hereunto and marked as ANNEXURE - F

Photocopy of the Letter No. MM/C-IV/Ghy/1 dated 16-11-2006 issued by the Respondent No. 3 is annexed hereunto and marked as ANNEXURE- G

4.6) That your Applicant begs to state that the Applicant has fulfilled all the required qualifications for the appointment to the post of Group D as seeked by the Respondents, and also been selected by them to the past. But, even after his selection, he has not been appointed to the post of Group D, which is violation of the Fundamental Rights guaranteed under the Constitution of India.

4.7) That your Applicant submits that he is suffering from frustration and mental depression, due to non-appointment to the post of Group D under the Respondents.



4.8) That your Applicant that the action of the Respondents is illegal, arbitrary, whimsical, mala-fide and colourable exercise of power, and thus is not sustainable in the eyes of law.

4.9) That your Applicant demanded justice and the same has been denied to him.

4.10) That this application is made bonafide and for the cause of justice.

#### **5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1) For that due to the above reasons narrated in details the action of the Respondents is prima-facie, illegal, mala-fide, arbitrary and without jurisdiction.

5.2) For that the Applicant fulfills all the required qualifications for the appointment in Group D post under the Respondents.

5.3) For that the Respondent has already completed all the formalities for the appointment of the Applicant in Group- D post, however the Respondents particularly Respondent No. 3 adopting delaying tactic only to deprive the Applicant from his legitimate claim.

5.4) For that the action of the Respondents is prima facie, whimsical, mala-fide, illegal and with a motive behind and also is violation of the principles of natural justice.

5.5) For that the action of the Respondents is violative of the fundamental rights guaranteed under the Article 14, 16 and 21 of the Constitution of India.

5.6) For that it is not just and fair to deprive the Applicant from getting appointed to the post of Group D under the Respondents.

5.7) For that the Respondents being a model employee cannot be allowed to adopt a differentiate approach towards the Applicant by not appointing him to the post of Group D.

Dr.

5.8) For that the action of the Respondents is not maintainable under the eyes of law as well as fact.

5.9) For that in any view of the matter, the action of the Respondents is not sustainable in the eye of law.

The Applicant crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant Application.

**6. DETAILS OF REMEDIES EXHAUSTED:**

That there is no other alternative and efficacious and remedy available to the Applicants except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the Applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

**8) RELIEF PRAYED FOR:**

Under the facts and circumstances stated above, the Applicants most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicants may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relief (s).

(Dh.)

8.1 That the Hon'ble Tribunal may be pleased to direct the Respondent No. 3 to appoint the Applicant in the Group D post under him with immediate effect as he was duly selected by the DPC.

8.2 To pass any other relief or relives to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3 To pay the costs of the application.

**9. INTERIM ORDER PRAYED FOR:**

The Applicant most humbly prays for an interim order before this Hon'ble Tribunal by directing the Respondents to reserve one Group- D post for the Applicant till disposal of this Original Application.

**10. APPLICATION IS FILED THROUGH ADVOCATE.**

**11. PARTICULARS OF I.P.O.**

I.P.O. No. :- 28 G 932910

Date of Issue :- 5-12-2006

Issued from :- G.P.O. Guwahati

Payable at :- G.P.O. Guwahati

**12. LIST OF ENCLOSURES:**

As stated in Index.

... Verification

Dr.

## VERIFICATION

Shri Hitesh Chandra Das, Son of Dinesh Chandra Das Resident Of Village Bongara P.O Bongara P.S Palashbari(Mirza)Distrist Kamrup(Rural), aged about 29 years do hereby solemnly verify and sign this verification. That the statements made in paragraph 4.1, and 4.6 \_\_\_\_\_ are true to my knowledge, those made in paragraph Nos. 4.2 to 4.5 \_\_\_\_\_ are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

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

*Shri Hitesh Chandra Das*

D E C L A R A N T

*22/12/06*

To

Shri. Hitesh Ch. Gohain  
Vill. of P.C. Bongora  
P.S. Palibari, Dist. Kamrup (Assam)

No. MM/ C-LV/ GRH/ 1, Dated at Guwahati-1 the 22-3-2000.

Sub :- Selection test and interview for the post of Gr. 'D' on daily basis.

Please appear before the Recruitment Selection Committee to be held for selection test for appointment purely on daily basis as Gr. D at 10-30 hrs on 12-4-2000 in the office of the Manager, Mail Motor Service, Guwahati.

Please bring all the original certificate in respect of Age proof, qualification, caste certificate, Experience, Employment Exchange Registration card etc. with a passport photograph attested by a Gazetted officer and also bring a pen with you to write with simple written test of literacy etc.

No TA and DA will be admissible for your journey.

VENUE :- OFFICE OF THE MANAGER,  
MAIL MOTOR SERVICE,  
MEGHDOOT BHAWAN COMPLEX  
GUWAHATI-781001

TIME :- 10-30 HRS.

DATE :- 12-4-2000

  
Manager,  
Mail Motor Service,  
Guwahati-781001

\*\*\*\*\*

ATTESTED  
ADVOCATE

-10-

ANNEXURE - B

DEPARTMENT OF POSTS INDIA  
O/O THE MANAGER MAIL MOTOR SERVICE : GUWAHATI-781001

To

1. Shri Prakash Deka  
C/O Deka Store,  
Santipur,  
P.O- Bharalumukh, Guwahati-781009
2. Shri Hitesh Ch. Das,  
Vill & P.O- Bengra,  
Dist:- Kamrup.

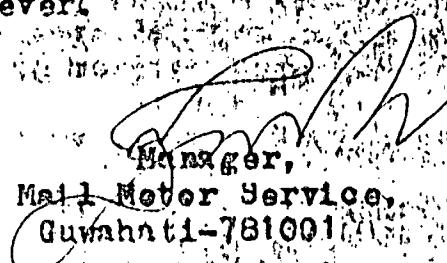
No. MM/C-IV/ GHY/1, Dated at Guwahati-1 the 25-4-2000.

Sub :- Engagement of Gr-D on daily wage basis.

In pursuance of DSC meeting held on 12-4-2000, you are hereby provisionally selected for engagement for as daily wage labour (Gr.-D) in this establishment on daily wage basis with immediate effect. Please furnish two character certificates from any of the two following authorities immediately.

- (a) Deputy Commissioner
- (b) S.D.O (Civil)
- (c) Executive Magistrate
- (d) Block Development Officer.
- (e) Any Other Gazetted Officer.

Please note that this selection will not bestow any claim for future absorption in this establishment against any regular post and liable to terminate any time without any prior notice without assigning any reason whatsoever.

  
Manager,  
Mail Motor Service,  
Guwahati-781001

Copy to :-

1. The Chief PMG (Mails), Assam Circle, Guwahati-781001 for information w.r.to C.O's No.Mails/27-27/98 (Part-IV) dtd. 23-2-2000.
2. The Employment Exchange for Unskilled Applicants, Pub Saranin, Guwahati-781003- for information w.r.to his letter No. ORDY/26/2000/189 dtd. 14-3-2000.

Sd/-  
Manager,  
Mail Motor Service,  
Guwahati-781001

ATTESTED  
\*\*\*\*\*  
ADVOCATE

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE MANAGER MAIL MOTOR SERVICE  
GUWAHATI-781001

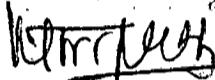
No. MM/Duty Arrangement/Gh/Ch-III

Dated at Guwahati-1, the 17.7.2003

**CERTIFICATE**

This is to certify that Sri Hitesh Das s/o Sri Dinesh Das r/o Village-Bongra, P.O.Bongra, Distt-Kamrup is a casual labourer in this office. He was first engaged during April 2000. Since then as and when required his services are utilised as cleaner/helper in the Mail Motor Service Garage at Guwahati. He also knows driving and therefore his services have been utilised to drive vehicles sometimes.

This experience certificate is issued to him on his request to enable him to enclose it as a supporting document to his application for recruitment to the post of Khalasi/Helper advertised by Railway Recruitment Board, Guwahati vide its Employment Notice no. 01 of 2003.

  
(R.K. Tripathi)  
Manager

Mail Motor Service, Guwahati-781001

 Sri Hitesh Das  
Casual labourer

ATTESTED  
ADVOCATE

12  
2  
ANNEXURE-B

(Typed Copy)

Department of Posts, India  
O/O the Manager Mail Motor Service  
Guwahati - 781001

To,

- 1) Shri Dadhimal Basfor  
pt. time safaiwala &  
Daily wager.
- 2) Shri Janeur Rehman  
pt. time waterman cum  
.... & daily wager.
- 3) Shri Prakash Deka  
daily wager Group- D
- 4) Shri Hitesh Das  
daily wager Group- D

No. MM/C-IV/Ghy/1 dated at Guwahati the 14-9-06

Please appear before DPC on 22/9/06 for the test to determine working eligibility. Shri D. Basfor may however appear before DPC with original documents in ref. DOB (date of birth) & qualification. He may be allowed for the test with the permission of DPC subject to satisfactory verification of DOB and Educational qualification and possessing minimum eligibility as per rule.

S/d illegible

ATTESTED  
ADVOCATE



ANNEXURE-E

(Typed Copy)

Department of Posts, India  
O/O the Manager Mail Motor Service  
Guwahati - 781001

To,

The Chief Medical Officer  
in Charge of Postal Dispensary  
Panbazar Guwahati.

No. MM/C-IV/Ghy/1 dated at Guwahati the 05-10-06

~~\_\_\_\_\_  
\_\_\_\_\_~~  
Sub: - Medical Examination of the recommended  
Candidate- Shri Hitesh Das for appointment in Gr.- D  
post of MMS Guwahati

Sir,

Kindly undertake the Medical Examination of Shri Hitesh  
Das daily wager whose signature is given below and issue a Health  
Certificate to him to produce it before office for the purpose of his  
appointment in Gr. D post.

With best wishes.

Yours Sincerely  
S/d  
(R.K. Tripathi)

*R.K. Tripathi*

ATTESTED  
ADVOCATE

Report of Dr. D. S. Patel,  
Manager, Motor  
Gardens, 28th Oct.

Date Recd:

10/10/06

The Chief Medical  
Officer in charge  
of Posts & Telegraph  
Panbazar  
Gumtak.

No. mm/C-IV/6147/1

Dtd: 10/10/06  
at Guwahati, Assam

05-10-06

Subject: Medical Examination of the  
selected candidate - Sri Hitesh Dass  
for appointment in G.O. post of  
M.M's Executive.

Sir,

Kindly undertake the medical  
Examination of Sri Hitesh Dass whose  
signature is given below and issue  
a Health Certificate to him  
privately if before office (or the day  
of his appointment) in G.O. post  
with best wishes.

Yours sincerely,

K. M. D.

Rukhsar

Sri Hitesh Chandra Dass.

Signature of Sri Hitesh Dass

K. M. D.

Dr. D. S. Patel  
M.B.B.S.  
M.R.C.P.  
M.R.C.O.G.  
M.R.C.S.  
F.R.C.P.

ATTESTED  
ADVOCATE

ANNEXURE-II

(Typed Copy)

I hereby certify that I have examined Shri/Smti. Hitesh Chandra Das a candidate for employment in the office/ Department and can not discover that he has any disease, constitutional weakness or bodily informative except nil. I do not consider this as a disqualification for employment in the office of the Manager Mail Motor Service, Depit. of Posts, Guwahati.

His/Her age is according to his/her own statement 27 yrs 10 months and by appearance about 27(twenty seven) years.

Note: - In the case of Non- Gazetted officers that the signature of the candidate or if the candidate is illiterate his Left thumb impression should be taken on the certificate in the presence of and certificate as so taken by the Medical Officer who grants the certificate. These should be afterwards be verified by the head of office with those in the service book.

Date: 6/10/06

Shri Hitesh Ch. Das.

S/d

Chief Medical Officer, I/C  
Postal Dispensary,  
Panbazar, Guwahati  
Signature of Medical Officer  
(With Seal & Designation)

ATTESTED  
ADVOCATE

17

ANNEXURE - F

I hereby certify that I have examined Shri/Smti Hitesh Chandra Das  
a candidate for employment in the office/Department and can not  
discover that he has any disease, constitutional  
weakness or bodily infirmity except \_\_\_\_\_.

I do not consider this is a disqualification for employment in the office of Manager, Mail  
Service, Deptt. of Post, Guwahati

His/Her age is according to his/her own statement 27 years 10 months any by  
appearance about 27 (Twenty seven) years.

Note :- In the case of Non-Gazetted officers that the signature of the candidate or if the  
candidate is illiterate his Left thumb impression should be taken on the certificate in  
the presence of and certificate as so taken by the Medical Officer who grants the  
certificate. These should be afterwards be verified by the head of office with those in  
the service book.

Date: 6/10/06.

Shri Hitesh Ch. Das.

Signature of Medical Officer Dr. B. C. Deka  
(With Seal & Date) 6/10/06  
Chief Medical Officer, VC  
Dak Viniyat Samiti, Panbaza  
Postal Dispensary, Panbaza  
Guwahati / Guwahati.

ATTESTED  
ADVOCATE

ANNEUXRE-G

(Typed Copy)

Department of Posts, India  
O/O the Manager Mail Motor Service  
Guwahati - 781001

To,

The Deputy Commissioner  
Kamrup, Guwahati-781001

No. MM/C-IV/Ghy/1 dated 16-11-06

Sub: - Verification of character and antecedents of  
candidates for the post of Group-D.

Sir,

Kindly refer to this office letter No. B-2/Police Report dtd.  
11/10/06, it is requested kindly to send/ return attestation for after  
verification to this office early.

With regards.

Yours faithfully

S/d

(R.K. Tripathi),

ATTESTED  
ADVOCATE

19-  
19/11/06  
To the Manager, Maharashtra State  
Gumhat - 787011

ANNEXURE (2)

To

The Deputy Commissioner,  
Koraput, Maharashtra  
- 787011

No. mm/c-12/448/1

Dtd. 16-11-06

Sub:- Verification of character and  
antecedents of candidates for the post  
of Group 'D'.

Sir,

Kindly refer to this office letter no. B-  
/ Police Report 1874, 11/06, if required.

Kindly to send permanent affidavits for  
after verification. To this office  
early

With regards,

Yours faithfully

C.R.K. Tripathi

Copy send to  
Dell Met. Service (P.)  
Mumbai/Chennai, P.M.

16/11/06

ATTES.

ADVOCATE

(i)

Central Administrative Tribunal

14 MAR 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

IN THE MATTER OF  
O.A. No 320/06  
Shri Hitesh Chandra Das  
-Vs-  
Union of India and others.

-AND-  
IN THE MATTER OF

Written statement on behalf of  
Respondent no. 2 (Chief Post Master  
General, Meghdoot Bhawan  
Complex, Guwahati-1) and  
Respondent no.3 (Manager, Mail  
Motor Services, Department of  
Posts, India, Govt. of India,  
Meghdoot Bhawan, Guwahati-1)

(Written statement on behalf of Respondents no.2 and 3)

I Shri Atul Ch. Das son of late Tri Kho Ram Das, presently working as the Manager, Mail Motor Services, department of Posts, India, Govt. of India, Meghdoot Bhawan, Guwahati-781001, do hereby solemnly affirms and state as follows:-

1. That I am the Manager, Mail Motor Services, Department of Posts, India. The copies of the aforesaid application have been served upon the respondents. I have gone through the same and being the Manager of the Department (Mail Motor Services), I have understood the contents thereof. I have been authorized to file this written statement on behalf of Respondent no.2.
2. I do not admit any averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That with regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it.
4. That with regard to the statements made in paragraph 4.2 of the application the humble answering respondent begs to state that vide letter dated 22.03.2000 he invited the candidates to appear before the Departmental Selection Committee for Literacy Test for the post of Group-D to be held on 12.04.2000.

Thereafter the Selection Committee selected the candidates according to their merit which is as follows:

- I. Sri Prakash Deka- Shantipur, Bharalumukh, Guwahati-781009,
- II. Sri Hitesh Ch. Deka- Vill.&P.O.-Borga, Dist-Kamrup,

Filed by: C.  
Respondent M.283  
Sh. Singh  
Manager Das  
Addl. C.G.S.C  
CAT  
31/3/2007  
Atul Ch. Das.

- III. Sri Kanak Barman, S/o Bhanu Kr. Barman, Hotel Blue Star, A.T. Road, Guwahati.
- IV. Sri Mintu Talukdar, Arata P.C.O, Kaikuchi Market, P.O.-Azara.
- V. Md. Fazal Ali, Vill.-Dingarbari, P.O.-Pacharia, Dist-Kamrup.

It is to be stated here that the first nominee Sri Prakash Deka is working as Casual Labourer with effect from 25.04.2000, whereas the second nominee, i.e. the applicant is working as Casual Labourer with effect from 27.04.2000.

5. That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent has nothing to make comment on it, he however does not admit statements which are contrary to the records.

6. That with regard to the statements made in paragraph 4.4 of the application the humble answering respondent begs to state that vide letter dated 14.09.06 he invited the candidates namely Sri Dodhimal Basfor, Part-time Safaiwala, Sri Janeur Rahman, Part-time watermen-cum-Farash, Sri Prakash Deka, Casual Labourer and the applicant who is also a Casual Labourer to appear before the DPC for Literacy Test to be held on 22.09.06. Out of the four candidates the applicant was recommended by the DPC.

7. That with regard to the statements made in paragraph 4.5 of the application the humble answering respondent begs to state that the applicant was recommended for cleaner group-D post. He was medically examined and the Deputy Commissioner, Kamrup, Guwahati was also requested to send Police Verification Report of the candidate and his antecedents.

8. That with regard to the statements made in paragraph 4.6 of the application the humble answering respondent begs to state that the approval for filling up the vacant post of group-D has not yet been received from the Screening Committee as requires under the law. In this connection the humble answering respondent further begs to state that infact the then Manager, Mail Motor Services, Department of Posts, Guwahati did not take the approval of the competent authority for filling up the vacant post as required under the departmental procedure.

Further the senior most casual labourer submitted a representation to the appointing authority and the Service Union (NFPE) also approached the Postal Department's Headquarter, Guwahati.

Further it is stated that after promotion of Sri Monohar Das, group-D to driver cadre, the then Manager (MMS) Guwahati conducted the said Departmental Promotion Committee meeting to select the one candidate by Literacy Test to fill up the vacant post of group-D without the approval of the Screening Committee and action taken by the Manager (MMS) is infact was not regular. The said committee recommended the junior candidate i.e. the applicant. Hence the senior candidate as well as the Service Union, Assam Circle agitated against the said recommendation and therefore the

(3)

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Respondent no.2 vide letter no.STAFF/37-1/93 dated 20.11.06. has directed the present answering respondent not to issue any appointment order till review is over and further direction is received from Circle Office.

It is humbly stated that under the above circumstances no appointment could be made.

9. That with regard to the statements made in paragraph 4.7 of the application the humble answering respondent has nothing to make comment on it.

10. That with regard to the statements made in paragraph 4.8 of the application the humble answering respondent begs to state that the DPC meeting held on 22.09.06 by the then Manager (MMS) was not regular as much as there is no approval from the competent authority and as such to fill up the vacant post without the approval of the Screening Committee is not tenable under the law.

11. That with regard to the statements made in paragraph 4.9 of the application the humble answering respondent has nothing to make comment on it.

12. That the humble answering respondent begs to submit that there is no merit in the instant application and is liable to be dismissed.

After ch. 600

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## VERIFICATION.

I, Shri Atul Ch. Das sloka te Tekho Ram Das, presently working as Manager, Mail Motor Service, Department of Posts, India, Meghdoot Bhawan, Guwahati, do hereby solemnly verify and state that the statements made in paragraph 12, 3, 6, 7, 9, 10 and 11 are true to my knowledge ; those made in paragraphs 4, 5 and 8 are being matters of records of the case derived therefrom which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

I have not suppressed any material facts.

And I sign this verification on this 6th March, '07 at Guwahati.

Atul eh. 803

لِلْمُؤْمِنِينَ

Call 11-7810

Received Copy on behalf of  
Applicant.

Bhatta

Smita Bhattacharjee  
S.M.T.

Advocate

06-03-2007