

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 177/2005
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet..... OAPg. 1to. 2.....
2. Judgment/Order dtd. 30.06.2005Pg. xto. No. Separate order
STO
3. Judgment & Order dtd.Received from H.C/Supreme Court
4. O.A. 177/2005Pg. 1to. 1/.....
5. E.P/M.P.Pg.to.
6. R.A/C.P.Pg.to.
7. W.S.Pg.to.
8. Rejoinder.Pg.to.
9. Reply.Pg.to.
10. Any other Papers.Pg.to.
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

blabls
03/11/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 177/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(S): Nripan Kalita

Respondant(S): H-O. I. Jais

Advocate for the Applicant(S): Mr. Adil Ahmed

Advocate for the Respondant(S): CASE

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

This application is in form
is filed/C. F. for Rs. 20/-
deposited vide IPC/PO
No. 206/33.6.8.3
Dated 29.6.05

QW
Dy. Registrar

PAI AS
29.6.05

Steps taken with
envelops.

PAI

30.06.2005 present; The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

The applicant has approached this Tribunal by filing this O.A. with the allegation ^{by that} inspite of the fact that he has been selected for appointment as Messenger/Mazdoor in the office of the third respondent and was also asked to obtain medical fitness certificate and even after obtaining such a certificate he has not been appointed to the said post. The applicant, in the circumstances, seeks for direction to the respondents to issue appointment letter immediately to the post of Messenger under respondent no.3.

Heard Mr.A.Ahmed, learned counsel for the applicant and Mr.M.U.Ahmed, learned Addl.C.G.S.C. appearing for the respondents. I am afraid whether any such direction can be issued to the respondents. Certainly it is a matter for the applicant to file proper representation before the third respondents for the reliefs sought for in this

Contd.

30.6.2005 application. If any such representation is filed, the third respondent will pass appropriate orders in accordance with law and communicate the same to the applicant without delay.

The Original Application is disposed of at the admission stage itself.

[Handwritten Signature]
Vice-Chairman

bb

*Mr. Anand
Addl. Secy
30/6/05*

*30/6/05
By the applicant*

Central Administrative Tribunal
29 JUN 2005
গুৱাহাটী বেঞ্চ
Guwahati Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 172 /2005

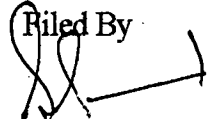
Sri Nipan Kalita ... Applicant

- Versus -

The Union of India & Ors ... Respondents.

I N D E X

<u>SL NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
1	Original Application	1 - 6
2	Verification	7
3	Annexure-A	8
4	Annexure-B	9
5	Annexure-C	10
6	Annexure-D	11

Riled By

(ADIL AHMED)
ADVOCATE

5

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 177 /2005

Shri Nripan Kalita

... Applicant

-Versus -

The Union of India & Ors

... Respondents.

LIST OF DATES/EVENTS

02.01.2005

An Advertisement was published in a local daily 'The Assam Tribune' for recruitment to the post of Messenger/Mazdoor in the office of the Respondent No. 3, i.e. the Officer Commanding No. 1 Adv. Base Stationery Depot, C/o - 99 APO.

19.01.2005

Interview was held for the post of Messenger. The applicant appeared in the said Interview. Accordingly, he was selected on merit for the post of Messenger. The Office of the Respondent No. 3 issued the format of medical check up certificate to the applicant. The Office of the Respondent No. 3 informed the Office of the Respondent No. 2 that as per their letter dated 19.10.2004 action for recruitment for one Messenger and one Mazdoor released to this Depot under the ARP Scheme for the year 2000-01 and 2001-02 have been completed as advised in the above said letter.

22.01.2005

The Medical Office issued medical fitness certificate to the applicant.

27.01.2005

The Office of the Inspector General of Police Kahilipara submitted the final police verification report to the Respondent No. 3 stating that there is nothing against the applicant either politically or criminally, which would render him unsuitable to employment in Government service.

But till today the Respondents have not appointed the applicant in the post of Messenger in spite of his selection on merit and completion of all other formalities and procedures. Hence, findings no other alternatives the applicant has compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. 177 OF 2005.

BETWEEN

Shri Nipan Kalita
Son of Sri Prafulla Kalita
No. 1 Madgharia (Pathar Kuwari)
Police Station – Noonmati
Guwahati.

...Applicant

- AND -

- 1) The Union of India, represented by the Secretary to the Government of Indian Ministry of Defence, South Block New Delhi.
- 2) The Director General, Ordnance Service Master General of Ordnance Branch Army Headquarter, P.O. – DHQ, New Delhi – 110 011.
- 3) Officer Commanding, No. 1 Adv. Base Stationere Depot. C/o –99 APO.

...Respondents

1) **DETAILS OF THE APPLICATION/PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This application is made against for non appointment of the applicant in the post of messenger under the Office of the Respondent No. 3, as per Selection List vide 316/02/Msgr/Adm(Civ) dated 19.01.2005.

2) **JURISDICTION OF THE TRIBUNAL:**

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

3) **LIMITATION:**

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

Filed by
Shri Nipan Kalita
through J. J. Bhabhani
(Adv. Advocate)
Delwanti. S.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble Applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2 That your Applicant begs to state that the Office of the Respondent No. 3 published an advertisement in a local dailies "The Assam Tribune" on 02.01.2005 for recruitment to post of Messenger/Mazdoor in the pay scale of Rs. 2550-55-2660-60-3200/- in the office of the Respondent No.3.

Annexure - A is the photocopy of the advertisement dated 02.01.2005

4.3 That your applicant begs to state that as per the above said advertisement, he applied for the post of Messenger and he appeared before the Interview Board on 19.01.2005. Accordingly, he was selected by the Interview Board on merit for the post of Messenger vide their letter No. 316/02/Msgr/Admn/Civ. Dated 19.01.2005. The applicant was also advised to report to the Office of the Respondent No. 3 during office hours to collect the medical fitness certificate and he was also directed to submit the medical fitness certificate after signature of any Government Medical Officer. Police Verification form will be forwarded to his permanent place for necessary action by the Office of the Respondent No.3. The Office of the Respondent No. 3 vide their letter No. 136/2/Admn(Civ) dated 19.01.2005 issued the format of Medical Check up certificate. It is to be stated that the Office of the Respondent No. 3 vide their letter No. 316/02/Adm(Civ.)/193 dated 19.01.2005 informed the Office of the Respondent No. 2 that as per their letter No. A/23801/35/ARP/2000-01 and 2001/02/OS-8C(T) dated 19.10.2004 action for recruitment of one Messenger and one Mazdoor released to this Depot under ARP Scheme for the year 2000-01 and 2001-02 have been completed as advised in the above letter.

Annexure - B is the photocopy of letter No. 316/02/Msgr/Adm(Civ) dated 19.01.2005.

Annexure - C is the photocopy of letter No. 316/2/Adm(Civ) dated 19.1.2005.

4.4 That your applicant begs to state that the Medical Officer issued the certificate of fitness to the applicant on 22.01.2005. In the said medical Certificate it was certified that he is fit for employment.

Annexure - D is the photocopy of the Medical fitness certificate dated 22.01.2005.

4.5 That your applicant begs to state that as per his knowledge the Office of the Inspector General of Police, Kahilipara, Guwahati- 19 vide their Memo No. SB.IX/5/AH 489/2005 dated 27.01.2005 submitted the final police verification report to the Respondent No. 3 stating that there is nothing the against the applicant either politically or criminally which would render him unsuitable for employment in Government service.

4.6 That your applicant begs to state that after completion of all the formalities of his appointment to the post of Mazdoor in the month of January, 2005 by the Respondent No. 3, but till date no appointment letter has been issued to the applicant in spite of full completion of all formalities. Hence findings no other alternative your applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.7 That your applicant begs to state that the action of the Respondents is illegal and violation of the fundamental rights of the Constitution of India. The applicant is a very poor person; he was selected to the post of Messenger through proper interview and also on merit. The all formalities like Medical and Police Verification has already been completed in the month of January 2005. But the Respondent No. 3 has not issued the appointment letter to the applicant till date the reason best known to them.

4.8 That your applicant begs to state that it is a fit case for interference by this Hon'ble Tribunal. The Hon'ble Tribunal may also be pleased to pass an interim order by directing the Respondents; particularly the

Respondent No. 3 to keep one post of Mazdoor may be kept vacant till disposal of this Original Application.

4.9 That this application is filed bona fide for the ends of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, on the reason and facts which are narrated above the action of the Respondents is prima facie illegal and without jurisdiction.

5.2) For that the action of the Respondents are malafide and illegal and with a motive behind.

5.3) For that, the applicant was selected on merit and also after completion of all procedures and formalities by the Respondents.

5.4) For that the applicant was not selected through any backdoor policy and he was selected on the basis open Advertisement and interview.

5.5) For that the Central Government being a model employer cannot be allowed to adopt a differential treatment as regard to appointment when the applicant was duly selected by the Respondents.

5.6) For that the applicant has got no alternative means of livelihood.

5.7) For that action of the Respondent is arbitrary, whimsical, malafide and also with a motive behind to deprive the applicant to get the appointment.

5.8) For that in any view of the matter the action of the Respondents is not maintainable in the eye of law as well as facts of the case.

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

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal.

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

The applicant further declares that he has 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 of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship 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 applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following reliefs.

8.1) That the Respondents may be directed by this Hon'ble Tribunal to issue appointment letter immediately to the applicant for the post of Messenger under the Respondent No. 3.

8.2) Costs of the application.

9) INTERIM ORDER PRAYED FOR:

Pending final decision of this application the applicant seeks issue of an Interim order by this Hon'ble Tribunal:

That the Respondents may be directed by this Hon'ble Tribunal not to give any appointment to the said post of Messenger under the respondents and one post may be kept vacant till the disposal of this original application.

10) This Application is filed through Advocate.

11) **PARTICULARS OF L.P.O.**

I.P.O. No. : 226-133687
Date of Issue : 9-6-05
Issued from : GPO
Payable at :
G.A.P.

12) **LIST OF ENCLOSURES:**

As stated above.

Verification

VERIFICATION

I, Shri Nripen Kalita, aged about 24 years, son of Sri Prafulla Kalita, No. 1 Madgharia (Pathar Kuwari), Police Station – Noonmati, Guwahati, do hereby solemnly verify that the statements made in paragraph Nos. *4.1 to 4.5, 4.6 to 4.8,* are true to my knowledge, those made in paragraph Nos. *4.2, 4.3, 4.4* are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph Are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this
Guwahati.

29th day of June, 2005 at

Sri Nripen Kalita.

The Assam Tribune
Chandernani
Gauwahati-3

(18) 02/01/2005

**NO. 1 ADVANCE BASE STATIONERY DEPOT
C/O 99 APO**

1. Applications are invited by No. 1 Adv. Base Stationery Depot, C/o 99 APO from the eligible candidates who are Indian Nationals for filling up the vacancies of 01 Messenger (General Category) and 01 Mazdoor (OBC).
2. Pay scale for both post : Rs. 2550-55-2660-10-2700/-
3. Method of applying :
a) The candidate who are of sound health may apply to the Officer Commanding, No. 1 Adv. Base Stationery Depot, C/o 99 APO using application form as given below neatly typed on good quality paper strictly as per format. The application received after the date will not be entertained. Date for Test/Interview will be intimated through call letters.
b) The envelope containing application should be named as "For the post of Messenger/Mazdoor" and addressed to Officer Commanding No. 1 Adv. Base Stationery Depot, C/o 99 APO.
c) Last date of receipt of application forms in No. 1 Adv. Base Stationery Depot, C/o 99 APO by 10 Jan. 2005.
4. Documents to be attached with application
a) Affixed recent passport size photograph duly attested by a Gazetted Officer as space earmarked on application form.
b) Attested true copies of the following :
i) Certified true copy of the birth certificate.
ii) Current Employment Exchange Registration Card if held.
iii) No original documents/certificates are to be sent.
5. Age limit as on last date of receipt of application (i.e. as on 08 Jan. 2005) will be :
a) 25 years for General candidate (UR)
b) 25 years for OBC.
- 6) a) Qualification for Messenger : Class VIII passed.
b) Qualification for Mazdoor : Class VIII passed/Good physique.
c) Probation : Candidates selected will remain on probation for a period of 2 years and will be made permanent if found fit thereafter.
7. Physical Standard : Should be sound health.
8. Rejection : Use of incorrect information, tampered information or improper means will render the candidature ineligible for recruitment.
9. Dispute : Any dispute with regard to the recruitment will subject to the jurisdiction of courts in Guwahati only.

APPLICATION FOR THE RECRUITMENT IN NO. 1 ADVANCE STATIONERY DEPOT : CATEGORY : MESSENGER/MAZDOOR

1. Post applied for
2. Name of the candidate
(in Block Letters)
3. Father's Name
4. Date of birth
5. Educational Qualifications
6. Whether registered with Employment Exchange : Yes/No.
7. If Yes Registration No. and mention the name of Employment Exchange.
8. Permanent Home Address :
9. Address for Correspondence :

I hereby certify that there is no criminal proceeding/contemplated against me nor has any such proceeding held against me for which I was convicted.

I hereby certify that all the particulars mentioned in the application form are correct and true to be best of my knowledge and belief. If particulars mentioned by me found false at any stage than my service may be terminated without notice.

Date : _____ Full Signature of the candidate.
(List of photo copy and documents which are attached with the application) _____ Date: 7/01/169/2004

Attested
Affixed passport size
photograph duly attested
by a Gazetted Officer
(across the photograph of
applicant)

Attested
Signature
Date

-9-

ANNEXURE - B

No 1 Army Base Stationary Depot
C/O 99 APO

315/02/Msgr/Adm(Civ)

19 Jan 2005

Shri Niran Kalita
epo Shri Pradip Kalita
Vill - No 1 Madghuria (Lathankusari)
Dist: Kamrup (Assam)
PO: Udayan Nihan.

SELECTION/APPOINTMENT OF MESSENGER

1. Refer your interview dated 19-01-2005 for the post of Messenger.
2. The interview board of Officers have selected you on merit for recruitment as Messenger subject to Physical fitness by the Medical Officer on medical examination and after receipt of police verification.
3. In view of the above, you are hereby advised to report to this office during working hrs and collect the medical fitness certificate. Please submit the medical fitness certificate after signature of any Govt Medical Officer. Police verification form will be forwarded to your permanent place for necessary action by this office.

(Suresh Kumar)
Major
Officer Commanding

Attested
[Signature]
Advent

-10-

ANNEXURE ~~B~~ C

No 1 Adv Base Stationery Depot
C/O 99. APO

315/2/Adm(Civ)

19 Jan 2005

The Medical Officer (Health)

Chief Med & Health Officer Rank

DIST: L.O.K.A (Kamrup)

Assam

MEDICAL EXAMINATION/PHYSICAL FITNESS

1. The following candidates have been selected for appointment in this depot subject to medical fitness. The candidates are hereby directed to report you for medical checkup. A copy of medical fitness certificate (Blank) is enclosed herewith. You are therefore requested to checkup the candidate and if found fit kindly issue the certificate duly signed with official seal.

- (a) Shri Niranjan Kalita
- (b) Shri Yukt Prasad Jangir

(Suresh Kumar)
Major
Officer Commanding

Encl:

- 2 set of certificates
- 1 for each.

Attchd
S.P.
Advante

11-

ANNEXURE - B

C E R T I F I C A T E

I hereby certify that I have examined SURI NIPAN KALITA
Son of Shri PRAFULLA KALITA of Vill; NO 1 MADGHARIA (PATHARKUWARI)
PO; UDAYANVIHAR under PS; NOONMATI in the Dist of KAMRUP (ASSAM)
a candidate for employment as Ty MESSENGER and can not discover
that he has any disease, communicable or otherwise constitutional
weakness or bodily infirmity except and

I do not consider this a disqualification for employment
in No 1 Adv Base Stationery Depot, C/O 99 APO. Age according
to his statement is 24 (twenty four) years and by appearance
is 24 (twenty four) years

Height 5' (feet) 6" (inches)

- Identification Marks: 1) one black mark on the face below
the right eye lid
- 2) one black mark on the left cheek
near nose

Station: C/O 99 APO

DR. J. R. KALITA 22/1/05
 I, DR. J. R. KALITA Medical Officer
 Signature of O. K. A.
 Designation: H.O. Rank

Attested
 A. K. A.