

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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Birmingham B.O.
~~H. V. K. Sharma~~

SECTION OFFICER (JUDL.)

C

ORDER SHEET

1. Original Application No. 104/07

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(S) H. A. Laskar VS Union of India & Ors

Advocate for the Applicant(S) S. Sauron, B. Devi

H-K Das

Advocate for the Respondant(S) Case: M. U. Ahmed

Notes of the Registry	Date	Order of the Tribunal
	4.5.07.	

This application is in form
is 104/07 AS 10/-

d. 104/07
N. 2869899.85

Date 24.2.07

[Signature]
Dy. Registrar

MS
35.07

Petition's Gr & W
issue notices are
not revised.

[Signature]

The applicant has approached this Tribunal against the order of termination dated 18.9.06. The Respondents initiated service Rule 8(1) and (2) of the Deptt. of posts/GDS Agents (Conduct of Employment) Rules 2001. Upon the applicant, Earlier the applicant has approached this Tribunal by filing O.A.No.252 of 2006. This Tribunal has directed the respondents to dispose of the said appeal after assigning reason for such termination. After receipt of the judgment and order passed by the Tribunal, too the matter of the applicant and passed the impugned order dated 19.12.2006 rejecting the appeal filed by the applicant. The grievance of the applicant is that the appellate order is a non speaking order.

I have heard Ms.B. Devi learned counsel for the applicant and Mr.M.U.Ahmed learned Addl.C.G.S.C. for the respondents.

Considering the facts and circumstances I am of the view that this application has to be admitted. Application is admitted Issue notice on the respondents post the matter on 18.6.07.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T.

1. Original Application No...104/07.....
 2. Misc.Petition No.....
 3. Contempt Petition No.....
 4. Review Application No.....
- Applicant(s).....H.A.Laskar.....
- Respondent(s).....Union of India & Ors.....
- Advocate for the Applicant(s).....Mr.S.arma , Ms.B.Devi
H.K.Das.....
- Advocate for the Respondent(s).....G.G.S.C. M.L. Sharma.....

Notes of the Registry	Date	Order of the Tribunal
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4.5.07

The applicant has approached this Tribunal against the order of termination-dated 18.9.06. The Respondents have initiated Service Rule 8(1) and (2) of the Deptt. of posts/GDS Agents (Conduct of Employment) Rules 2001 against the applicant. Earlier the applicant has approached this Tribunal by filing O.A. No.252 of 2006. This Tribunal has directed the respondents to dispose of the said appeal after assigning reason for such termination. After receipt of the judgment and order passed by the Tribunal, ~~the~~ ^{the Respondents} the matter ~~of the applicant~~ ^{have} passed the impugned order (Annexure 9) dated 19.12.2006 rejecting the appeal filed by the applicant. The grievance of the applicant is that the appellate order is a non speaking order.

Contd/-

7

4.5.07

Notice & order sent to D/Section for issuing to R-1, 4 and 5 by regd. A/D post and other resp. nos-2 and 3 sent to received by hand.

Cons 14/5/07. D/No-462 to 466 Dt. = 15/5/07.

I have heard Ms .B. Devi learned counsel for the applicant and Mr.M.U.Ahmed learned Addl.C.G.S.C. for the respondents.

Considering the facts and circumstances I am of the view that this application has to be admitted. Application is admitted. Issue notice on the respondents. Post the matter on 18.6.07.

Vice-Chairman

- ① Service report awaited, 18.6.07.
- ② No Ws has been filed.

15.6.07.

Counsel for the respondents prays for further four weeks time to file written statement. Let it be done. Post the matter on 27.7.07.

Vice-Chairman

Ws not filed.

19.7.07.

20.7.2007

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

Post the matter on 22.8.2007.

Vice-Chairman

Ws not filed.

21-8-07.

/bb/

22-11-07

Ws filed by the respondents. Copy saved.

27/11/07

104/2007

3-

4

22.8.2007

Mr.G.Baishya, learned Sr.C.G.S.C. representing Mr.M.U.Ahmed, learned Addl.C.G.S.C. sought for further time on his behalf to file reply statement. Four weeks time is granted for the same.

Post the case on 24.9.2007.

Vice-Chairman

/bb/

W/s not filed.

21.9.07.

W/s not filed.

24
13.10.07.

24.9.07
24.9.07

WS has not been filed in this case by the respondents. Call on 4.10.07 awaiting WS.

Vice-Chairman

04.10.07

Despite notices were issued, no reply has been filed as yet.

Call this matter on 27.11.07, expecting reply from the Respondents.

Send copies of this order to the Respondents requiring them to file written statement by 27th 11.07.

(Khushiram)
Member(A)

Monoranjan Mahanty
Vice-Chairman

lm

W/s not filed.

26.11.07.

order dt. 4/10/07
sent to D/section
for issuing to
R- 1 to 5.

D/Nc-1242 to 1246

Dt= 14/11/07-

16/11/07.

O.A. 104 of 2007

27.11.2007

Mr.H.K.Das, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents are present. Mr.M.U.Ahmed undertakes to file written statement in this case during the course of the day. A copy of the written statement has been handed over to the learned counsel for the Applicant, who seeks some time to file rejoinder.

Rejoinder not
filed.

Accordingly, call this matter on
07.01.2008 for filing of rejoinder.

24
31.12.07

(Khushiram)
Member (A)

/bb/

01.01.2008

No rejoinder has yet been filed in this case; despite several opportunities to the Applicant.

Call this matter on 31.01.2008 for hearing. Respondents should cause production of the departmental proceeding file pertaining to the Applicant and the file pertaining to the recruitment that was faced by the Applicant, on the next date of hearing.

Send copies of this order to the Respondents in the addresses given in the Original Application.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

Dt. 1.1.08

Pt. Send order copies
to the Respondents

Order dt. 1/1/08 sent
to D/Section for
issuing to resp.
nos. 1 to 5 by post.

/bb/

D/No-24 to 28

Dt. 2/1/08.

07/10/2007 5

31.01.2008

On the prayer of Mr M. U. Ahmed,
learned Addl. Standing counsel appearing
for the Respondents the case is adjourned
to 27.02.2008.

W/s filed.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Pg

04.03.2008

Call this matter on 25.04.2008.

W/s filed.

(Khushiram)
Member (A)

Lm

25.04.2008

Call this matter on 13.06.2008.

W/s filed.

(M.R.Mohanty)
Vice-Chairman

/pg/

13.06.2008

On the prayer of Mr M.U. Ahmed,
learned Addl. Standing Counsel for the
Union of India, call this matter on
30.07.2008.

W/s filed.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

30.07.2008

Mr H.K. Das, learned Counsel
appearing for the Applicant, is present. Mr
M.U. Ahmed, learned Addl. Standing
Counsel for the Union of India, is on
accommodation.

W/s filed.

Call this matter on 03.09.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

W/s filed.

x

03.09.2008

None appears for the Applicant nor the Applicant is present. It is stated that the learned Counsel for the Applicant has been held up for the reason of his mother's illness in the hospital. Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, is however, present.

Call this matter on 01.10.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

01.10.2008

Mr.H.K.Das, learned counsel for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing counsel is absent for the reason of his personal difficulties.

Call this matter on 03.12.2008 for hearing.

(S.N.Shukla)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

W/s bikel

03.12.08

Call this matter on 29.01.for hearing.

28.1.09.

(N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

No Rejoinder filed

18.3.09

29.01.2009

None appears for either of the parties.
Call this matter on 19.03.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

/bb/

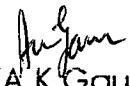
OA. 104/07

19.03.2009

Mr.H.K.Das seeks adjournment and prays that this case be taken up on next available Division Bench.

Khairul

Put up this case on 27.04.2009 for hearing.


(A.K.Gaur)
Member (J)

/bb/

Reminder not
filed.

24.4.09.

~~27.04.2009~~

~~Call this matter on 09.06.2009 for hearing.~~

~~(M.R.Mohanty)
Vice-Chairman~~

~~/bb/~~

27.04.2009

Call this matter on 09.06.2009 for hearing.


(M.R.Mohanty)
Vice-Chairman

/bb/

Reminder not
filed.

31.7.09

09.06.2009.

Call this matter on 3rd August
2009.


(M.R.Mohanty)
Vice-Chairman

lm

03.08.2009

Heard Mr.H.K.Das, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel representing the Respondents in part.

Mr.M.U.Ahmed, learned Addl. Standing counsel representing the Respondents, in his usual fairness, placed before us the connected departmental records. We have perused them. We permit the learned counsel for the Applicant to inspect the same under the supervision of the learned Addl. Standing counsel.

On the prayer of learned counsel for both the parties, call this part heard matter on 24.08.2009 for further hearing.

(M.K.Chaturvedi)

(M.R.Mohanty)

O.A. 104/07

03.08.2009

Heard Mr.H.K.Das, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel representing the Respondents in part.

Mr.M.U.Ahmed, learned Addl. Standing counsel representing the Respondents, in his usual fairness, placed before us the connected departmental records. We have perused them. We permit the learned counsel for the Applicant to inspect the same under the supervision of the learned Addl. Standing counsel.

On the prayer of learned counsel for both the parties, call this part heard matter on 24.08.2009 for further hearing.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

25.8.09

24.08.2009

On the request of counsel for both the parties, call this matter on 15.10.2009.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

The case is ready for hearing. 15.10.2009

None appears for the Applicant nor the Applicant is present. However, Mr.M.U.Ahmed, learned Addl. Standing counsel representing the Respondents Organization is present.

Call this matter on 03.12.2009 for hearing.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

The case is ready for hearing.

2.12.09

The case is ready for hearing.

21.8.09

Respondent has been filed by the Applicant through his d/adv. Mr. H.K.Das on 24.8.09 in the court. Copy served.

25/8/09

14/10/09

~~No order to be made~~

~~25/8/09~~

03.12.2009 List this case on 17.12.2009 for hearing.

Madan Kumar Chaturvedi
Member (A)

nkm

(Mukesh Kumar Gupta)
Member (J)

The case is ready
for hearing.

17.12.2009

Heard Mr H.K.Das, learned
counsel for the applicant and Mr
M.U.Ahmed, learned Addl.C.G.S.C for
the respondents. Hearing concluded.
Reserved for orders.

16.12.09

7-1-2010.

Judgment and Final
order dated 6-1-2010
Prepared and send to
the Dispatch Section
for issuing the all the
respondents - by Post
and issued to the
Advocate for both Side,
vide No 166 to 171
dated 18.1.2010

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

6.1.2010

Judgment pronounced in open Court.
Kept in separate sheets. Application is
dismissed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar
Member (J)

/lm/

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

O.A. No. 104 of 2007.

DATE OF DECISION: 06 -01-2010.

Md Halim Ahmed Laskar

.....Applicant/s

Shri H. K. Das

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr M.U. Ahmed, Addl. C.G.S.C

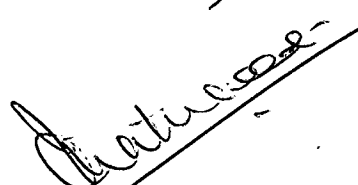
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER(A)

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No


Member (J)/Member(A)

13

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :**

O.A. No.104 of 2007

DATE OF DECISION : THIS IS THE 6TH DAY OF JANUARY, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)

THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

Md. Halim Ahmed Laskar
Son of Late Firiz Ali Laskar
Resident of Vill. & P.O. – Buribail
Dist.- Cachar, Silchar.

...Applicant

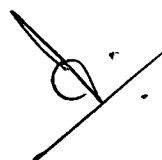
By Advocate: Mr. H.K. Das

-Versus-

1. Union of India
represented by the Secretary
to the Govt. of India
Ministry of Communication
Department of Posts
Dak Bhawan, New Delhi.
2. The Chief Post Master General
Meghdoot Bhawan
Panbazar, Guwahati – 781001
Assam.
3. The Director of Postal Services
Deptt. of Posts, Assam Circle
Meghdoot Bhawan, Guwahati – 1.
4. The Sr. Superintendent of Post Offices
Cachar Division Silchar.
5. The Inspector of Posts
Silchar West Sub-Division
Deptt. of Posts, Silchar.

...Respondents

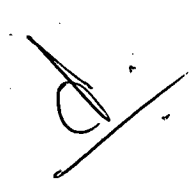
By Advocate: Mr. M.U. Ahmed, Addl. CGSC.



ORDER**MR M. K. CHATURVEDI, MEMBER (A)**

By this O.A applicant makes a prayer to set aside and quash the notice dated 18.9.2006 and the order dated 19.12.2006 by which the service of the applicant was terminated.

2. Pursuant to an advertisement issued by the respondents, applicant made an application for the post of GDS MD in Gunirgram B.O. account with Arunachal SO, Silchar. The Inspector of Post Silchar West Sub Division, Silchar issued a communication dated 6.9.05 by which applicant was directed to produce all the original documents for verification. Those records were produced and verified. Vide order dated 15.4.06 applicant was provisionally selected. Consequent upon selection he joined the service; and his joining report was forwarded on 10.4.06 to the Senior Superintendent of Post Offices, Cachar Division. On 20.9.06 applicant received a communication dated 18.9.06 issued by the Inspector of Post, Silchar. In pursuance of the communication of Senior Superintendent of Post Offices, Cachar Division, Silchar dated 14.9.06 a notice for termination of service dated 18.9.06 was forwarded to the applicant for his information. Being aggrieved by the said order applicant had preferred an appeal before the Director Postal Services, Assam Circle praying for setting aside the order of termination. The appeal preferred by the applicant remained unheard for a long period. Applicant approached the Tribunal vide O.A.252/06. Tribunal directed the respondents to dispose of the said appeal by assigning reason for termination. In consonance with the direction rendered by the Tribunal



respondents disposed of the matter rejecting the appeal filed by the applicant.

3. Mr H.K.Das, learned counsel for the applicant appeared before us. It was contended that no reason was adduced for terminating the employment. The only reason stated in the impugned order was that the applicant was selected illegally by the Selection Committee. Apart from that there is no explanation as to what was the illegality, whether there ^Nhas any laps on the part of the applicant, whether the records submitted by the applicant was not in order, whether there has been any scope of rectification of such illegality.

4. Reliance was placed on the decision of the Patna Bench of Tribunal rendered in the case Sri Kant Yadav vs. Union of India & Ors., 1997(2) S.L.J. (CAT) 446. In this case applicant was duly selected and appointed. DPS reviewed the case under Rule 16 and found others were better candidates as such the service of the applicant was terminated. Tribunal held that action was not competent because details of the other candidates were not provided and the notice issued was a vague notice contrary to the tenets of natural justice.

5. Mr M.U. Ahmed, learned Addl. Standing counsel appearing for the respondents has invited our attention to the merit list which was prepared by the authority on the basis of the percentage of marks secured by the candidates in HSLC examination. This is as under :

Sl.	Name of candidates	Percentage of marks on HSLC Examination
1	Md Saharul Alam Choudhury	75.22%
2	Shri Anup Sekher Nath	40%
3.	Md Halim Ahmed Laskar	35.33%

4	Shri Pramatesh Ch Nath	31.06%
5	Md Mashadul Alam Choudhury	31%
6	Shri Prananjan Ch Nath	HSLC failed

It is made clear that required qualification for the post was 8th standard pass and preference was to be given to the matriculate. There was clear stipulation that no weightage for higher qualification is to be given. Candidates having equal qualification for the post are generally given priority on the basis of percentage of marks obtained in Matriculate or equivalent examination.

6. We have heard the rival submissions. It transpires from the perusal of the merit list that Md Saharul Alam Choudhury secured 75.22% marks in HSLC examination, whereas applicant got only 35.33% marks. On considering the total conspectus of the case it was found that the applicant was mistakenly selected by the Selection Committee consisting of one Chairman and two members. For such mistake departmental disciplinary action have been initiated against each of them by the authority for such action. To rectify the mistake done by the Selection Committee and injustice caused to the person secured highest percentage of marks in HSLC examination it was thought fit that justice be done to the candidate who secured the highest percentage of marks, since he fulfilled other conditions also. Ex consequenti notice of termination was issued.

7. Adverting to the argument in regard to the violation of principles of natural justice we find that doctrine of natural justice embodies to principle namely no one can be judged in his own cause and judicial or quasi judicial bodies ought not and shall not condemn



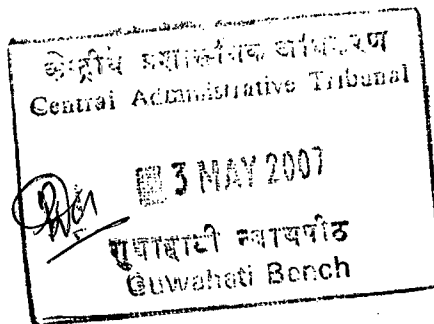
any person unheard, "audi alteram partem" is the bedrock of quasi judicial determination. Justice should not only be done but manifestly appear to be done.

8. If something is offered to a person by mistake that person does not get any vested right in such thing. Rules of natural justice are framed to promote the cause of justice and not to delay or defeat the cause of justice. It is abundantly clear from the perusal of records, that the person who secured 75.22% marks was ignored and applicant who got only 35.33% was selected. When this fact came to the knowledge of superior authorities, action was taken to rectify the mistake, as such we do not find any failure of natural justice in issuing the termination order. Since there is no infirmity in the impugned order we uphold the same.

In the result, O.A. stands dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

G.A. No. 104 of 2007

Between

Md. Halim Ahmed Laskar..... Applicant.

AND

Union of India & ors Respondents.

SYNOPSIS

The applicant is presently working as Gramin Dak Sevak (mail deliverer)(GDSMD) in the Silchar Sub-Division. He is aggrieved by the action on the part of the respondents in seeking termination of his service without there being any reason as such. Admittedly there is no dispute so far as his service is concerned but all on a sudden he has been served with the copy of the impugned notice of termination dated 18.09.06 without any reason. This applicant has been filed against the aforesaid action on the part of the respondents seeking an urgent and immediate relief.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 104 of 2006

Between

Md. Halim Ahmed Laskar..... Applicant.

AND

Union of India & ors Respondents.

I N D E X

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11.	Annexure-9	26

Filed by : *gsm*.

Regn.No.:

File : D:\Private\halim

Date: 6.6.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

Filed by:-
The Applicant
Through Mr. Advocate
20.4.07

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

O.A.No. 104 of 2007.

BETWEEN

Md. Halim ~~Ahmed~~ Laskar
Son of Late Firiz Ali Laskar
resident of Vill. & P.O.-Buribail
Dist. Cachar, Silchar.

.....Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Communication.
Department of Posts.
Dak Bhawan, New Delhi.
2. The Chief Postmaster General,
Meghdoot Bhawan ,
Panbazar. Guwahati. 781001.
Assam.
3. The Director of Postal Services
Deptt. of Posts, Assam Circle,
Meghdoot Bhawan, Guwahati-1.
4. The Sr. Superintendent of Post Offices,
Cachar Division Silchar.
5. The Inspector of Posts
Silchar West Sub-division,
Deptt. of Posts, Silchar.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the notice of termination issued under memo No. A1/Gunirgaon dated 18.9.2006 issued by the Inspector of Posts Silchar West Sub-Division, by which service of the applicant has been sought to be

Handwritten signature

terminated/discontinued after expiry of one month. The applicant submitted his statutory appeal but same has been rejected by the impugned order dated 19.12.2006. Hence this OA, challenging the aforesaid two impugned orders.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE:

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

4.2. That the applicant who possesses the requisite qualification for appointment as Gramin Dak Sevak (mail deliverer) (in short GDSMD) pursuant to an advertisement issued by the respondents by duly filled up application dated 26.8.2005 applied for the post of GDSMD in Gunirgram B.O. account with Arunachal SO, Silchar. The application of the applicant dated

26.8.2005 was duly scrutinized by the selection committee and thereafter he was selected for the said post of GDSMD on amongst the other candidates. The performance as well as the qualifications of other candidates were not found suitable and it was only the case of the applicant was found to be utmost suitable.

4.3. That the respondents i.e. the Inspector of Posts, Silchar West Sub-division, Silchar, immediately after his selection issued a communication dated 6.9.2005 directing him to produce all the original documents/certificates for verification. The applicant immediately on receipt of the said communication dated 6.9.2005 approached the authority concerned and produce all the relevant records in origin.

A copy of the said communication dated 6.9.2005 is annexed herewith and marked as Annexure-1.

4.4. That the applicant kept on pursuing the authority concerned for issuance of formal appointment order. The Inspector of Posts subsequently issued an order dated 5.4.2006 intimating the fact regarding his selection and he was further directed to submit copies of the documents in support of his qualification etc. The applicant accordingly submitted all the requisite documents before the authority concerned.

A copy of the aforesaid communication dated 5.4.2006 is annexed herewith and marked as Annexure-2.

Hastar.

4.5. That the Inspector of Posts Silchar West Sub-Division immediately on receipt of the documents submitted by the applicant issued an order dated 10.4.2006 directing him to report to the GDS-Branch Post Master, Gunirgaon BO immediately. Accordingly, the applicant on 10.4.2006 itself reported the Gunirgaon BO and he was handed over the charge of GDSMD.

Copies of the communication dated 10.4.2006 and the charge report dated 10.4.2006 are marked as Annexure-3 & 4.

4.6. That the applicant begs to state that the Inspector of Posts, Silchar West Sub-division, Silchar immediately on receipt of the joining report submitted by the applicant intimated the matter to the Sr. Superintendent of Post Offices, Cachar Division by communication dated 10.4.06. By the said communication the Inspector of Post Silchar West Sub-division forwarded the charge report of the applicant to the Sr. Superintendent of Post Offices, Cachar Division, Silchar-1.

A copy of the communication dated 10.4.06 is annexed herewith and marked as Annexure-5.

4.7. That the applicant after joining in his service as GDSMD, Gunirgram BO continued to serve the respondents with the best of his abilities and utmost sincerity. At no point of time he has been issued with any communication regarding his unsatisfactory service or any other adverse communication. The applicant is also receiving his regular pay and allowances for his service and he continued as GDSMD under the respondents.

4.8. That the applicant on 20.9.2006 received the impugned communication dated 18.9.2006 issued by the Inspector of Post, Silchar West Sub-division intimating the fact that on expiry of one month notice period his service shall be stand terminated. It is pertinent to mention here that the said notice of termination date 18.9.2006 has been issued in terms of the letter issued under memo No.A-48 dated 14.9.2006 issued by the Superintendent of Post Offices, Cachar Division, Silchar-1. However, the copy of the said communication dated 14.9.2006 has not been served on the applicant as on date.

A copy of the said impugned order dated 18.9.2006 is annexed herewith and marked as Annexure-6.

4.9. That the applicant begs to state that immediately on receipt of the impugned order dated 18.9.2006 he submitted an appeal before the Director of Postal Services, Assam Circle praying for setting aside of the order of termination. In the said appeal the applicant highlighted the fact that letter dated 14.9.2006 pursuant to which the impugned order dated 18.9.2006 has been issued is yet to be communicated to him and he has not been intimated as to why his service is going to be terminated.

A copy of the appeal preferred by the applicant is annexed herewith and marked as Annexure-7.

4.10. that applicant begs to state that the impugned notice of termination has been issued as per dictation of the higher authority and the said notice of termination does not indicate the basic ingredients of exercising the power by the

26

- 6 -

authority concerned. It is under the fact situation of the case the applicant preferred the Annexure-7 appeal to the Director of Postal Services praying for setting aside of the impugned notice dated 18.9.2006 and to allow him to continue as GDSMD in Gunirgram BO. It is noteworthy to mention here that the appeal preferred by the applicant had been kept unanswered for long period. It was under the facts of the case the applicant had to approach the Hon'ble Court by way of filing OA No. 252/2006, before the Hon'ble Central Administrative Tribunal. The Hon'ble Tribunal having noticed the fact that no reason has been assigned for such termination and the appeal filed by him has been kept unattending, the Hon'ble Tribunal vide judgment and order dated 23.11.2006, while disposing of the said OA directed the respondents thereto, to dispose of the said appeal after assigning reason for such termination.

A copy of the said judgment and order dated 23.11.2006, is annexed herewith and marked as ANNEXURE - 8.

4.11. That the applicant begs to state that the respondents only after receipt of the judgment and order passed by the Hon'ble Tribunal, took the matter of the applicant and passed the impugned order dated 19.12.2006 rejecting the appeal filed by the applicant. The only reason as stated in the said impugned order is that the applicant was selected illegally, by the selection committee. Apart from that there is no explanation as to what was the illegality, whether there has any laps on the part of the applicant, whether the records submitted by the applicant was not in order, whether the constitution of the committee was not as per the rules, and whether there has been

scope of rectification of such illegalities. In spite of repeated requests made by the applicant the respondents have chosen not to act upon such requests. The respondents have kept the matter unanswered.

A copy of the said impugned order dated 19.12.2006, is annexed herewith and marked as ANNEXURE -9.

4.12. That the applicant begs to state that the action on the part of the respondents in issuing the impugned notice of termination dated 18.9.2006 is illegal and arbitrary as same does not indicate the cause under which the said notice has been issued. It is stated that whole purpose of issuance of the notice, if same does not indicate the reason, is baseless. The principles of natural justice demands that adequate opportunity is required to be provided against any action detrimental to one's service career. In the instant case both the impugned notice as well as the impugned order dated 19.12.2006, does not clarify the reason as to what was the reason for termination of the services of the applicant. Apart from that the provision contained in the impugned notice of termination dated 18.9.2006 is also not sustainable as the provision of the said Rule does not contemplate the termination of service of GDS agents in the manner and method as has been sought to be done in the instant case. It is therefore the impugned notice of termination dated 18.9.2006 as well as the resultant impugned order dated 19.12.2006 are not at all sustainable and liable to be set aside and quashed.

H. S. S. S.

4.13. That the applicant begs to state that under similar fact situation the GDS agents under Silchar Division approached the Hon'ble Tribunal and the Hon'ble Tribunal in number of occasion held such an action to be illegal and arbitrary. The case of the present applicant squarely covered by those judicial pronouncement.

The applicant craves leave of this Hon'ble Tribunal to rely and refer upon those judicial pronouncement at the time of hearing of this case.

4.14. That the applicant begs to state that he could learn from the reliable source that the respondents are making a move to appoint some person in his place without selection and without following the due process of law. It is under this situation the respondents have issued the impugned notice of termination dated 18.9.2006 without any cause by which the applicant is sought to be terminated from his service and same was followed by the non-speaking impugned order dated 19.12.2006. Such a malafide intention on the part of the respondents, who are the part of the Deptt. of Posts- a model employer, is not at all sustainable and entire action on the part of the respondents is required to be set aside including the impugned notice of termination dated 18.9.2006 and 19.12.06.

4.15. That the applicant begs to state that he being a selected candidate and his candidature is being scrutinized by the higher authority, and after his appointment he became a regular employee of the Postal Department and he is holding a Civil Post, it is therefore the manner and method adopted by the

H. K. Das

respondents in terminating his service is not at all sustainable and liable to be set aside and quashed declaring the same to be violative of Article 14 and 16 of the Constitution of India.

That the applicant further begs to state that he being a holder of civil post the action on the part of the respondents in issuing the impugned notice of termination dated 18.9.2006 and the order dated 19.12.2006 are not at all sustainable, same being opposed to the constitutional mandate. Apart from that in the event of the Rule-8(1) and (2) of the Deptt. of Posts/GDS agents (Conduct of Employment) Rules 2001 encourages/helps the respondents to take such an drastic action on the GDS agents same is also required to be set aside holding the same to be unconstitutional. It is under the fact situation of the case the action on the part of the respondents in issuing the impugned notice of termination dated 18.9.2006, and 19.12.2006 are not at all sustainable and liable to be set aside and quashed.

4.16. That the applicant begs to state that at present he is holding the post of GDSMD in the Gunirgram BO and as on date he has not handed over the charge to anyone and as such it is a fit case wherein the Hon'ble Tribunal may be pleased to pass appropriate interim order suspending the effect and operation of the impugned notice of termination dated 18.9.2006 as well as the order dated 19.12.2006 till disposal of this OA, directing further the respondents to allow him to continue as GDSMD in Gunirgram BO. It is stated that in the event of not passing any interim order as prayed for, the applicant would suffer irreparable loss and injury and same would render the OA infructuous.

H. S. S. S.

4.17. That the applicant files this application bonafide and secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that prima facie the action/inaction on the part of the respondents are illegal and arbitrary and accordingly judicial interference is called for in the matter.

5.2. For that the action/inaction on the part of the respondents being founded malafide and the entire exercise on their part being colorable exercise of power, timely intervention of the Hon'ble Tribunal in the matter is called for.

5.3. For that the applicant having appointed as GDSMD pursuant to a due selection processes and since there being no show cause for his unsatisfactory service, his service should not have been terminated as has been sought to be done here in the present case. The said action is violative of Article 311 of the Constitution of India.

5.4. For that the action of the Respondents in issuing the impugned notice of termination dtd.18.9.2006 without providing the applicant the communication 14.8.2006 basing on which said impugned notice of termination order has been said to be issued and the impugned order 19.12.2006 - a non-speaking one are per-se illegal and as such same are liable to be set aside and quashed.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

Hayee,

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him. The applicant further begs to state that the impugned order has been issued by the respondents on 18.9.2006 but the said has been received by him on 20.9.06.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. The applicant in view of the extreme urgency of the matter have come under the protective hands of the Hon'ble Tribunal without waiting for the disposal of the appeal.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned notice dated 18.9.2006, and the order dated 19.12.2006, and to provide him all the consequential service benefits flowing from such setting aside.

8.2. To direct the respondents to allow the applicant to work as GDSMD in the said BO.

8.3. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents to allow him to continue in the post of Gramin Dak Sevak (Mail Deliverer)(GDSMD) in the Silchar Sub-Division, by suspending the effect and operation of the impugned orders dated 18.9.06 and 19.12.2006.

10.

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

1. I.P.O. No.: 28 G 985386

2 . Date 24.2.07

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

Alayer

VERIFICATION

I, Md. Halim Ahmed Laskar, Son of Late Firiz Ali Laskar, aged about 23 years, resident of Vill & P.O. Buribail, Dist. Cachar, Silchar, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 4.13, 4.15, 4.16 are true to my knowledge and those made in paragraphs 4.1 - 4.12, 4.14 are matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 1st day of May of 2007.

✓ Md. Halim Ahmed Laskar

Signature.

ANNEXURE -1

DEPARTMENT OF POSTS, INDIA

From: Inspector Posts

To: Halim Ahmed Laskar

Silchar West Sub-Division

Buribail

Silchar-788001

No.A1/Gunirgram

Dated at Silchar the 06.09.05

Subject: Verification/

Inspection of documents/certificates in communication with selection against the vacant post of GDSMD Gunirgram Branch. Post Office under Arunachal Sub-Post Officer.

You are hereby requested to attend in the office of the undersigned with all your original documents/certificates, on 13.9.05 (Tuesday) at 1030 hrs for the subject above along with this letter which should be handed over to the undersigned at the end of verification, duly signed by you in the space provided below:-

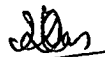
No TA/DA will be paid for the journey.

Inspector of Posts

Silchar West Sub-Division

Silchar-788001.

Attested



Advocate.

Signature of the candidate

Date: _____

ANNEXURE-2

DEPARTMENT OF POSTS:INDIA
INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

To

Md. Halim Ahmed Laskar
S/o Late Firuj Ali Laskar
Vill. & P.O. Buribail
Via-Arunachal, Dist.-Cachar.

Memo No.A1/Gunirgram Dated at Silchar the 05.04.2006

Sub:- Selection tot he post of GDSMD, Gunirgram B.O. in account
with Arunachal S.O.

Ref:- Your application dated 26.08.05.

This is to intimate that you have been provisionally
selected as the GDSMD, Gunirgram B.O. in account with Arunachal
S.O. by the Selection Committee.

A set of pre-appointment document/from is sent herewith
for re-submission to the undersigned immediately duly filled up &
signed by you & attested by the competent authority, and on
receipt of the same, the charge of the GDSMD will be handed over
to you & formal appointment letter will be issued.

This may be trusted as the most urgent.

Encl: As above

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Copy to:

1. The Sr. Supdt. of Posts, Cachar Division, Silchar-1 for kind information w.r.t. his letter No.A-48 dated 20.09.05.
2. The Sr. Postmaster, Silchar H.O. for kind information & necessary action.
3. The GDS BPM, Gunirgram B.O. for information and necessary action. He is hereby directed to allow the selected candidate to join in duty on receipt of written information from the undersigned and he will perform his original duty as soon as the selected candidate is joined in duty.
4. Personal File of Md. Halim Ahmed Laskar
5. The SPM, Arunachal S.O. for information.
6. Spare.

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Attested



Advocate.

ANNEXURE-3

DEPARTMENT OF POSTS

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

To:

Md. Halim Ahmed Laskar
S/O Late Firuj Ali Laskar
Vill. & P.O. Buribail
Date:- Cachar

No.A1/Gunirgram

Dated at Silchar the 10.04.06.

Sub:- Selection to the post of GDSMD Gunirgram B.O.

Kindly refer to this office memo of memo No. dated 5.4.06 on the above subject & you are hereby directed to report to the GDSBPM, Gunirgram B.O. immediately.

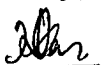
INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Copy to:

1. Shri S.C.Roy, O/S Mails-II. He is hereby directed to hand over the charge of GDSMD to the selected candidate as above immediately.
2. Personal file of Md. Halim Ahmed Laskar.
3. The GDSBPM, Gunirgram B.O. for information & necessary action.

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Attested



Advocate.

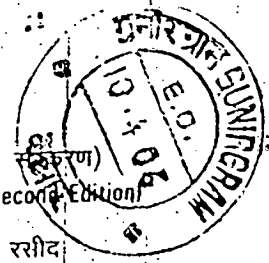
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ANNEXURE - 4

ए सी जी-1
A.C. 1-61

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

(देखिए नियम 267 के तहत पित्त पुस्तिका का खण्ड 1, द्वितीय संस्करण)
(See Rule 267 of the Telegraphs Financial Handbook, Volume 1, Second Edition)



चार्ज पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि G.D.S.M. - Gorongrom B.
Certified that the charge of the office of

चार्ज Assumed (नाम) में
was made over by (name)

(नाम) को Md. Halim Ahmad Khan
to (name) at (place) Gorongrom B.

तारीख को पूर्वाह्न में
अपराह्न

On the (date) 10/04/06
A1/Gorongrom
No. तारीख
Dated

fore noon in accordance with
after 5/4/06 52950(W) Subon
के अनुसार दे दिया।

भारमुक्त आधेजरी
Relieved Officer

from
Md. Halim Ahmad Khan
भारमुक्त अधिकारी
Relieving Officer
(कृपया पृष्ठ उलटिये)
(P.T.O.)

Arrested
Shan
ocate

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ANNEXURE-5

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

To
The Sr. Supdt. of P.O.s
Cachar Division, Silchar-1.

No.A1/Gunirgram

Dated at Silchar the 10.04.06.

Sub: Joining of the GDSMD of Gunirgram B.O.

Ref: Your No.A-48 dated 20.9.05.

In continuation of this office memo of memo no. dated 5.4.06, it is intimated that the selected candidate viz Md. Halim Ahmed Laskar has joined as GDSMD of Gunirgram B.O. on this day i.e. 10.04.06 F/N.

A copy of charge report is forwarded h/w for favour of your kind disposal.

Encl. As above

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Copy to:-

1. The Sr. Postmaster, Silchar H.O. H.O. with a copy of ACG-61 for kind information & n/a
2. The SPM, Arunachal S.O. for information
3. The GDS BPM, Gunirgram B.O. for information
4. Md. Halim Ahmed Laskar, GDSMD Gunirgram B.O.
5. Personal File of Md. Halim Ahmed Laskar
6. Spare.

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Attested



Advocate.

ANNEXURE-6.

DEPARTMENT OF POSTS, INDIA

From: Inspector Posts
Silchar West Sub-Division
Silchar-788001

To: Halim Ahmed Laskar
GDSMD, Guningram B.O.
Via- Arunachal S.O.

No.A1/Guningram

Dated at Silchar the 18.09.06

Subject: Notice for
termination of your service.

In pursuance of the Sr. Supdt. of P.O.s, Cachar Division, Silchar-1 letter No.A-48 dated 14.9.2006, a notice for termination of your service, dated 18.9.2006, in prescribed form is forwarded herewith for your information.

You are also hereby directed to return the acknowledgement portion of the said notice dated 18.9.2006 to the undersigned duly signed by you with date on the day of receipt positively.

Encl. As above

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Copy to:-

1. The Sr. Supdt. of P.O.s, Cachar Dn, Silchar-1 for kind information w.r.t. his letter No.A-48 dated 14.9.2006.
2. Personal File of Sri Halim Ahmed Laskar.

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Attested



Advocate.

Annexure-6.

DEPARTMENT OF POSTS:INDIA

In pursuance of Rule 8(1) & (2) of the Department of Posts/GDS Agents (Conduct & Employment) Rules, 2001, I, Shri K.Nath, Inspector Posts, West Sub-Dn, Silchar-1, hereby give notice to Shri Halim Ahmed Laskar, GDSMD Gunirgram B.O. that his services shall stand terminate with effect from the date of expiry of a period of one month from the date on which this notice is served on or, as the case may be intended to him.

INSPECTOR OF POSTS
SILCHAR WEST SUB-DIVISION
SILCHAR-788001

Station: Silchar-1
Date: 18.9.06.

To,
The Sr. Superintendent of Post Offices,
Cachar Division, Silchar.

Date.28.09.2006

Sub :- Appeal against the Notice of Termination of my service.

Ref :- 1. Notice of termination dated 18.9.06 issued by the Inspector of Posts, Silchar West Sub-Division, Silchar, issued in pursuance to a letter dated 14.9.06 issued by the Sr.Suptd of Post Offices, Cachar Division, Silchar.

Sir,

With due deference and profound submission, I beg to lay the following few lines for your kind consideration and necessary action thereof.

That Sir, pursuant to an advertisement I applied for the post of GDSMD, Gunirgram, B.O by submitting dully filled application. My said application was examined by the selection committee constituted for that purpose and I was selected for the said post. Subsequently I was directed to submit my original testimonials and records and accordingly I submitted all those in original. By an order dated 5.4.06 I was appointed as GDSMD in the Gunirgram B.O. and I joined the said post and at present I am continuing as such, with the satisfaction of all concerned.

That Sir, all on a sudden I received the communication dated 18.09.06 on 20.09.06 issued by the Inspector of Post Offices West Sub. Division Silchar, by which I have been intimated that on expiry of one month my service would be terminated. In the said communication there is an indication that the said notice has been issued as per the letter dated 14.9.06, issued by the Sr. Supdt. Of Post Offices, Cachar Division. However, content of the said letter nor a copy of the same has been transmitted to me.

That Sir, as on date I do not know the reason of my termination nor the content of the letter dated 14.9.06, pursuant to which my service is sought to be terminated. Apart from that as on date my higher authority has not expressed any displeasure or dissatisfaction on my service or conduct. I have been continuing in my service with utmost sincerity and devotion.

That sir, I have preferred directly to you, due to fact that the notice of termination has been issued as per the direction of the Sr. Superintendent of Post Offices, Cachar Division.

That Sir I belong to a very poor family and at present there is no one to look after my family members. In the event of effecting the termination there will be irreparable injury to me and my family and same would lead to starvation.

That Sir, in the aforesaid fact and circumstances, I earnestly request you to set aside the notice dated 18.9.06 issued by the Inspector of Post Offices, and allow me to perform my job as GDSMD in the Gunirgram B.O and for that I shall remain ever grateful to you.

Thanking you,

Yours Faithfully,

Halim Ahmed Laskar.
GDSMD, Gunirgram,B.O.

Copy to,

1. The Director of Postal Services, Assam Circle, Meghdoot Bhawan. Guwahati-1.
3. The Inspector of Post Offices, Silchar West Sub. Division, Silchar.

Halim Ahmed Laskar.
GDSMD, Gunirgram,B.O.

Attested



Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 252 of 2006.

Date of Order: This the 23rd day of October 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Md. Halim Ahmed Laskar
Son of late Firiz Ali Laskar
Resident of Vill. & P.O. - Buribail
Dist. - Cachar, Silchar.

.... Applicant

By Advocate: Mr S. Sarma and Ms. B. Devi, Advocates.

- Versus -

1. Union of India,
Represented by the Secretary to the Govt. of India
Ministry of Communication
Department of Posts
Dak Bhawan, New Delhi.

The Chief Postmaster General,
Meghdoot Bhawan,
Panbazar, Guwahati - 781 001
Assam.

3. The Director of Postal Services
Deptt. of Posts, Assam Circle,
Meghdoot Bhawan, Guwahati - 1.

4. The Sr. Superintendent of Post Offices,
Cachar Division, Silchar.

5. The Inspector of Posts,
Silchar West Sub-Division,
Deptt. of Posts, Silchar.

.... Respondents.

By Advocate: Mr G. Baishya, Sr. C.G.S.C.

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The Applicant is presently working as Gramin Dak Sevak (Mail Deliverer) in the Silchar Sub-Division and he is aggrieved by the action on the part of the Respondents in seeking termination of his service.

Attested

[Signature]

Advocate.

without any reason. According to the Applicant, there is no dispute so far as his service is concerned, but all of a sudden, he has been served with a copy of the impugned notice of termination dated 18.09.2006 without any reason. Aggrieved by the said action of the Respondents, the Applicant has filed this application seeking the following reliefs :-

8.1 To set aside and quash Annexure - 6 communication dated 18.9.2006.

8.2 To direct the respondents to allow the applicant to work as GDSMD in the said BO.

8.3 Cost of the application.

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

2. Heard Mr S. Sarma, learned Counsel for the Applicant and Mr G. Balshya, learned Sr. C.G.S.C. for the Respondents. Mr Sarma, learned Counsel for the Applicant has taken the Court's attention to Rule 8 of the EDA Conduct and Service Rules. The Rule 8(1) and (2) are reproduced below:-

"8(1) No order imposing a penalty shall be passed except after -

- (a) the employee is informed in writing of the proposal to take action against him and of the allegation on which it is proposed to be taken and given an opportunity to make any representation he may wish to make, and
- (b) such representation, if any, is taken into consideration by the appointing authority:

Provided that the penalty of dismissal or removal from service shall not be imposed except after an enquiry in which he has been informed of the charges against him and has been given a reasonable opportunity of being heard in respect of those charges:

L

Provided further that where it is proposed after such enquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such enquiry.

(2) The record of proceedings shall be include -

- (i) a copy of the intimation to the employees of the proposal to take action against him;
- (ii) a copy of the statement of allegations, along with a list of evidence in support thereof, communicated to him;
- (iii) his representation, if any.
- (iv) The records of the enquiry proceedings along with the enquiry report of the appointing authority or enquiry officer, if any, appointed in a case where a formal enquiry is necessary.
- (v) Finding of the appointing authority in respect of the allegations with reasons thereof; and
- (vi) The order imposing the penalty."



Mr Sarma, learned Counsel for the Applicant also submitted that though the termination of the ED employees need not follow the provisions of Rule 14 of the CCS (CCA) Rules 1965, invariably in the termination notice/order the reasons should be specified and in the impugned order dated 18.09.2006, there was no specific reason mentioned for termination of service of the Applicant. Therefore, the termination of service of the Applicant is not in conformity with the Rules. He further submitted that the Applicant has filed an Appeal before the Director of Postal Services, i.e. the Respondent No. 3 herein, against the impugned termination order, which is yet to be disposed of and he submitted that the said appeal was made to Respondent No. 3 for the reason that the

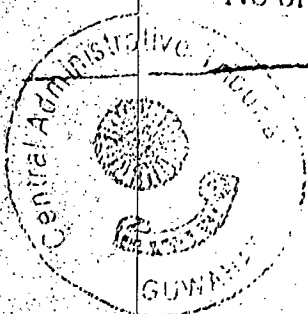
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Respondent No. 2, who is the Appellate Authority has also issued letter dated 14.09.2006 and therefore, that authority has applied his mind in sending the notice. Learned Counsel also submitted that he will be satisfied if a direction is given to the competent authority to consider and dispose of the appeal filed by the Applicant. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents submitted that he has no objection if such a course is adopted.

3. In the interest of justice, this Court directs that the Respondent No. 3 and/or any other competent authority shall consider the annexure - 7 Appeal filed by the Applicant and pass appropriate order communicating the same to the Applicant within a period of two months from the date of receipt of this order. This Court also directs that till disposal of the annexure - 7 Appeal, the impugned order dated 18.09.2006 (Annexure - 6) will be kept in abeyance.

4. The O.A. is disposed of as above at the admission stage itself.
No order as to costs.

Sd/VICE CHAIRMAN



TRUE COPY

सिद्धि

(Signature) 20/11/06

अनुमान अधिकारी

Secretary (Judicial)

Central Administrative Tribunal

Guwahati

Assam

20/11/06

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SENIOR SUPDT OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

Memo No. A-48

Dated Silchar the 19-12-2006

Notice under Rules 8 of GDS (Conduct and Employment) Rules, 2001 was served on Shri Halim Ahmed Laskar GDS MD, Ganirgram Branch Post office by the Inspector of Posts, Silchar West Sub-Division vide Memo No. AI/Ganirgram BO dated 24-10-06 for termination of service under the rules in force. Accordingly the service of Shri Halim Ahmed Laskar GDS MD, Ganirgram BO was terminated by the Inspector of Posts, Silchar (West) with effect from 19-10-2006 (A/N). It was alleged that Shri Halim Ahmed Laskar was selected illegally by the selection committee consisting of ASP (Dn.) as Chairman and Inspector of Posts Silchar (South) and Inspector of Posts Silchar West Sub-Dn: as Members, flouting all norms for recruitment of Gramin Dak Sevaks. Hence the appeal.

I have gone through the appeal made by Shri Halim Ahmed Laskar dated 21-11-2006, examined all records thoroughly and carefully. I do not find any merit to consider his case and hence rejected.

Sd/-

(B.K. MARAK)
Sr. Supdt of Post Offices
Cachar Dn. Silchar - 788 001

Copy to:-

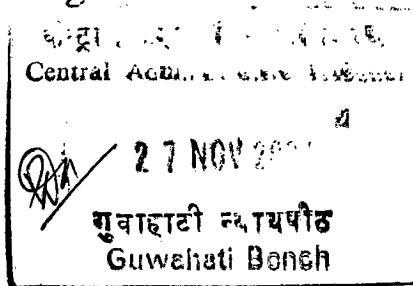
1. Shri Halim Ahmed Laskar, Ex. GDS MD Ganirgram BO w/r to his appeal dated 21-11-2006 for information.
2. The Inspector of Posts, Silchar (West) Sub-Division.
3. The Postmaster General, (Staff) (Vig), R.O. Dibrugarh, w/r to letter No. Staff/32-40/2006/RP/Pt-II and Vig/5/XXI/RO/06 for favour of information

Sr. Supdt of Post Offices
Cachar Dn. Silchar - 788 001

Attested

[Signature]

Advocate.



1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 104/2007

Md. Halim Ali Laskar

...Applicant

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 1 to

WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

1(a)

- That I

am Sri Gopal Bora

Supdt of POs, Cachar Dn = Silchar

.....

.....and respondent

No. A in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.

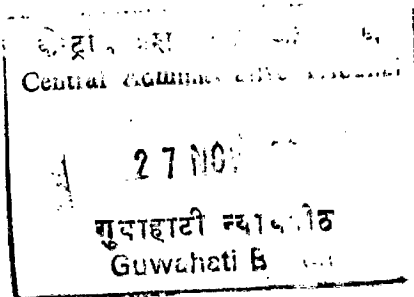
(b) The application is filed unjust and unsustainable both facts and in law.

27

Superintendent of Post Offices
Cachar Division
Silchar-788001

Post. M. U. Shumy, Cachar
27/11/07

Received by
H.K. Das
27/11/07



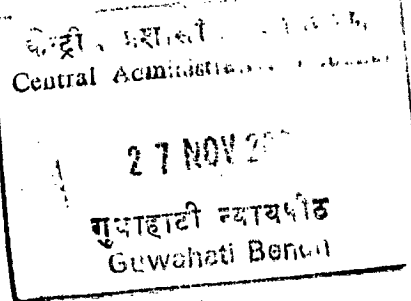
- (c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.
- (e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicants had suffered from vice of illegality.

That with regard to the statement made in paragraph 1 to 4.1 of the OA, the respondents offer no comment.

2) That with regard to the statement made in paragraphs 4.2 to 4.13 of the OA, the answering respondents beg to submit that in response to the advertisement for the post of Gramin Dak Sevak Mail Delivery (in short GDS MD) Garingram BO in accordance with the Arunachal S.O. under Silchar H.O. (6) six numbers of applications were received.

As per Rules (1) 1 to 4 of Section IV of the "Department of Posts Gramin Dak Sevak (Conduct & Employment) Rules, 2001" (in short DOP GDS (C & E) Rules, 2001) the conditions for recruitment to the cadre of GDSMD are as follows:-

VIII standard. Preference may be given to Matriculate. NO weightage for higher qualification. Candidates having same educational qualification for the post are generally given priority on the basis of percentage of marks obtained in Matriculate or equivalent examination. These are in addition to some other conditions.



Supintendent of Post Offices
Cachar Division
Silchar-788001

3

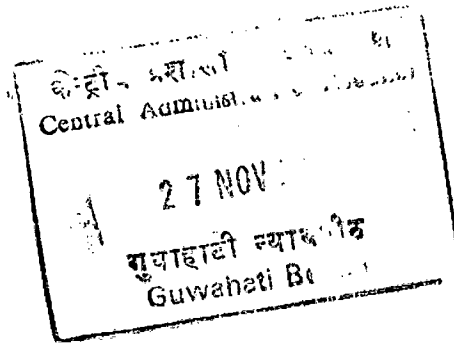
Accordingly, a merit list was prepared by the authority containing percentage of marks secured by the candidates in HSLC exam, the particulars are shown in the following tables:-

Sl No	Name of candidates	Percentage of marks on HSLC exam
1	Md. Saharul Alam Choudhury	75.22%
2	Shri Anup Sekher Nath	40%
3	Md. Halim Ahmed Laskar	35.33%
4	Shri Pramatesh Ch Nath	31.06%
5	Md Mashadul Alam Choudhury	31%
6	Shri Prananjan Ch Nath	HSLC failed

Such being the position of merit list Md. Saharul Alam Choudhrury should have been selected for the post of GDS MD Ganirgram BO, instead of Md. Halim Ahmed misunderstanding the 3rd person of the merit list was mistakenly selected by the Selection Committee consisting of one Chairman & 2 members. For such mistake Departmental disciplinary actions have been initiated against each of them by the authority for such action as and when the mistake came to light.

To rectify the mistake done by the Selection Committee and injustice caused to the person secured highest percentage of marks in HSLC examination, it was decided to offer justice to the 1st candidate by giving notice to the person selected wrongly.

Such being the position the statement put forward by the applicant in last sentence of para 4.2 is quite untrue and against the justice.



4

सुपरिन्टेंडेंट ऑफ पोस्ट ऑफिस
Cachar Division
Silchar-788001

The applicant was therefore served with one month's notice under Rule 8 of the DOP GDS (C&E) Rules, 2001 in the prescribed form of notice, below Rule 8 ibid.

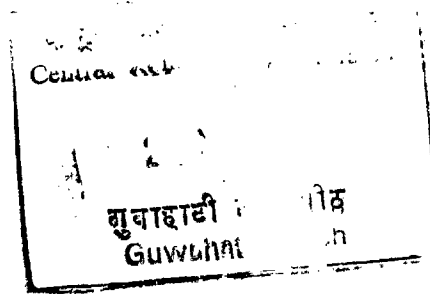
3) That with regard to the statement made in paragraph 4.14 of the OA, the answering respondents beg to submit that to rectify the injustice caused to the 1st candidate there is no necessity to call for fresh applications for the said post of GDS MD Ganirgram BO. As per legal point of view of a fresh meeting of the Selection Committee is to be held for selection of the right candidate observing the rules framed by the Department of Postal, India and this is considered to be the right action on the part of the model employer.

4) That with regard to the statement made in paragraph 4.15 of the OA, the answering respondents while denying the contentions made therein beg to reiterate and reaffirm the statement made in paragraph 2 of the Written Statement.

5) That with regard to the statement made in paragraph 4.16 of the OA, the answering respondents beg to submit that the respondents will not take any further action against the applicant complying with the interim order dated 04.05.2007 in OA No. 104/07.

6) ACP w. e. f. 09 Aug 1999 or at a later date as per his entitlement, which shall be done in due course of time as per rules.

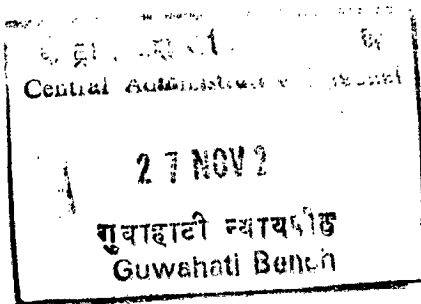
7) That with regard to the statement made in paragraph 5 of the OA, the answering respondents beg to submit that the reply to these paras has already given in the preceding paras and hence for the sake of brevity it is not repeated again. It is further submitted that for the sake of justice, it is



considered to be a right action to offer the post of GDS MD Ganirgram BO to the 1st person of the merit list. If, however the said person is not willing to join the post at present then to offer 2nd person of the merit list and so on. It is considered to be the lawful action on the part of the Department of Posts, India.

8) That with regard to the statement made in paragraphs 6 and 7 of the OA, the respondents do not any comment.

9) That with regard to the statement made in paragraphs 8 and 9 of the OA, the answering respondents beg to rely and refer upon the statements made above and further submit that in view of the submission made above the applicant is not entitled to any relief as sought for in the OA hence liable to be dismissed with cost.



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Supintendent of Post Offices
Cachar Division
Silchar-788001

VERIFICATION

I Shri Gopal Bara aged
about 53.... years at present working as
Supdt. of P.Os, Cachar, Dist. Silchar.....
....., who is one of the respondents and taking steps in this case, being
duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph
2 to 8 are true
to my knowledge and belief, those made in paragraph
1 being matter of records, are
true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 27th day of Nov 2007 at -----


Supintendent of Post Offices
Cachar Division
Silchar-788001

DEPONENT

33
File in Court on 24/8/09

Court Officer.

1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::

GUWAHATI BENCH :: GUWAHATI::

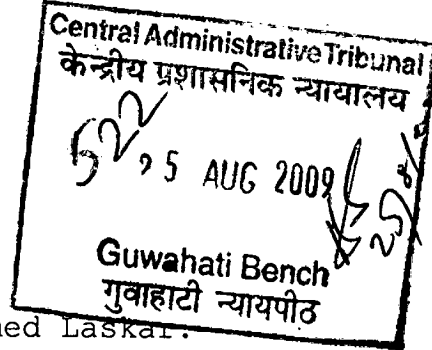
Filed by
The Applicant

through
Hridip K. Das.
Advocate
24.08.09.

OA No. 104 / 2007.

BETWEEN

Md. Halim Ahmed Laskar.



APPLICANT

-Versus-

Union of India and Ors

RESPONDENTS

REJOINDER

1. That a copy of written statement has been served upon the applicant. The applicant has gone through the same and under stood the contents thereof. The statements which are specifically admitted herein below, other statements made in the written statement are categorically denied and the respondents are put to the strictest proof thereof.

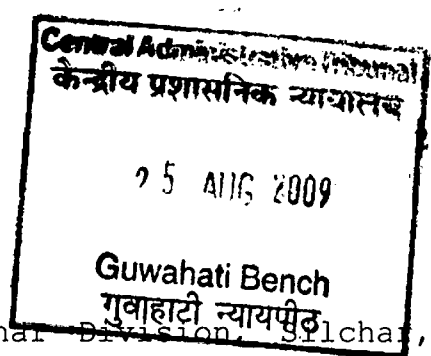
2. That with regard to the statements made in Para 1 of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the contentions made in the O.A. begs to state that the action of the respondents is stigmatic and not based on records and reasons.

3. That with regard to the statements made in Para 2 of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the statements made in the original application begs to state that the applicant was selected pursuant to a due selection process. Accordingly the Inspector of Posts, Silchar West Sub-Division being the appointing authority issued order dated 05.04.06 [Annexure- 2 of the O.A.] under intimation to

Received
MD
24/08/09

MD. Halim Ahmed Laskar.

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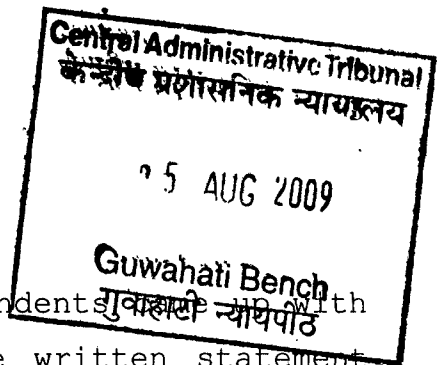
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the Sr. Superintendent of Post, Cachar Division, Silchar, intimating the applicant regarding his selection and asking him to join as GDSMD, Gunirgram B.O. after submission of documents. The applicant joined as GDSMD in Gunirgram B.O. on 10.04.06. It is stated that the respondents did not dispute the constitution of the selection committee. After joining the Gunirgram B.O. the applicant was discharging his duties to the satisfaction of all concern.

On 18.09.06 while the applicant was discharging his duties at Gunirgram B.O. was served with an order dated 18.09.06 which was received by the applicant on 20.09.06 stating to be a show cause notice. It is stated that said order dated 18.09.06 did not disclose any reason for termination of service of the applicant and also did not give any opportunity to the applicant to place his say in the matter causing gross violation of natural justice. It is worthwhile to mention here that there is no indication in the order dated 18.09.06 giving opportunity to the applicant to represent. However, on the same day i.e. on 18.09.06 the termination order was issued terminating the service of the applicant after expiry of one month from the date of receipt of the notice. It is stated that the respondents committed gross illegality and violation of natural justice in terminating the service of the applicant. The applicant having no knowledge of the reasons for termination of his service submitted an appeal to the Director of Postal Service, Assam Circle praying for setting aside of the order of termination.

It is stated that the respondents after interference of the Hon'ble Tribunal in O.A. No. 252/06 passed the order dated 19.12.06 rejecting the appeal on the ground that pursuant to some allegation the applicant was selected illegally flouting all norms of recruitment of Gramin Dak Sevaks. It is stated that in the order dated 19.12.06 also, the respondents did not disclose the reasons for termination of the service of applicant. Hence the impugned order dated 19.12.06 has been issued in gross violation of natural justice and liable to be set aside and quashed.

MD - Haliq Ahmed Laskon.

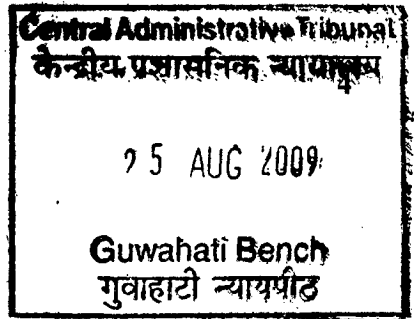


It is further stated that the respondents with the reasons for termination only in the written statement that one Md. Saharul Alam Choudhury has got better qualification than the applicant. The law is very clear one can not improve his case by filling counter. Moreover, it is not the case of the respondents that continuance of the applicant in service will be detrimental to the interest of the administration. Hence the impugned order dated 19.12.06 is bad in law and liable to be set aside and quashed.

4. That with regard to the statements made in Para 3 and 4 of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the contentions made in the original application begs to state that there is nothing on record to ascertain that the respondents have given offer of appointment to the said Md. Saharul Alam Choudhury after the termination of the applicant. It is stated that on the last occasion when the matter came up for hearing the respondents have produced the records and the Hon'ble Court granted liberty to the applicant's counsel to peruse the records. The records reveal that no such notice was given to the said Md. Choudhury i.e. Sl. No. 1 and he was also found unsuitable by the respondents due to non fulfillment of some other criterion. Moreover the person at Sl. No. 2 was also not found to be suitable because of he got compartmental in the HSLC examination. Therefore, considering the relative suitability of the persons in the select list the applicant was appointed as GDSMD in Gunirgram B.O. Therefore, when the persons at Sl. No. 1 and 2 were not found suitable and the respondents did not offer appointment to those persons after termination of the applicant, there is no question of doing injustice to anyone. Hence, the impugned order dated 19.12.06 is bad in law and liable to be set aside and quashed.

5. That with regard to the statements made in Para 5 of the written statement the applicant does not offer any comment and are matters of record.

MD. Haliem Ahmed Laskar.



6. That with regard to the statements made in Para 6 of the written statement the deponent begs to state that the statements are not pertaining the present original application and belong to some other matters.

7. That with regard to the statements made in Para 7, 8 and 9 of the written statement the deponent while denying the contentions made there in and reiterating and reaffirming the contentions made in the O.A. as well as in Para 4 above begs to state that since the persons at Sl. No. 1 and 2 are also not found suitable, hence it is incumbent upon the respondents to appoint the applicant who stood at Sl. No. 3. There is no denial of justice in giving appointment to the most suitable person as per Rules. Hence, the impugned order dated 19.12.06 is devoid of any merit and liable to be set aside and quashed.

8. In view of the aforesaid facts and circumstances of the case the present original application deserves to be allowed with cost.

MD. Halim Ahmed Laskar.

-37 -

VERIFICATION

I, Sri Md. Halim Ahmed Laskar, Son of late Fizir Ali Laskar, resident of vill & P.O. Buribail, District Kachar, Silchar, Assam, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 2, 3[partly], 5, 6, 7 and 8 are true to my knowledge, those made in paragraphs 3[partly], 4 being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 21st day of August, 2009 at Guwahati.

MD. Halim Ahmed Laskar.

APPLICANT