

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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P.D. 19.7.2015
SECTION OFFICER (JUDL.)

19.7.2015

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 95 /2009

2. Misc Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(s) Syed J. Hussain & 3 ors

Respondent(s) Union of India & ors

Advocate for the Applicant(s): H.K. Das

Advocate for the Respondent(s): C.C.S.C.

Notes of the Registry	Date	Order of the Tribunal
This application is filed/C. F. Regd. No. 69F 351794, deposited vide I.P.C./D.O. No. 69F 351795 Dated: <u>26/5/09</u> <i>Handed over to Dy. Registrar 26/5/09</i>	<u>27.05.2009</u>	Results of Departmental Examination (which was, apparently declared on 15.11.2006) for grant of promotion to the posts of HC/ACCT/SSK; was cancelled on 30.05.2007. After the disposal of O.A.No.526/420 of 2007 (on 31.03.2008), the Respondents have cleared the results of all zones except the NE/Guahati Zone under Annexure-8 dated 01.09.2008. Despite representations dated 29.08.2008, dated 03.09.2008 and dated 04.11.2008, no heed has

Received seven copies application with envelope for issue notice to the respondents. Copy served to the C.C.S.C.

Extra charge Rs. 10/- for R-6,7 deposited

Contd/-

*Car
26/5/09*

Contd/-

27.05.2009 been paid to the grievances of the Applicants, who took the said Departmental Examination during 2006.

2. In the above premises, the 4 Applicants (all are UDCs in the Doordarshan Kendra at Guwahati) have approached this Tribunal with the present Original Application No.95 of 2009 filed (under section 19 of the Administrative Tribunals Act, 1985) on 26.05.2009. They have also filed a petition (M.P.No.53 of 2009) seeking permission to prosecute this case jointly.

3. Copies of this O.A.No.95 of 2009 & M.P.No.53 of 2009 have already been supplied to Mr. Kankan Das, learned Addl. Standing Counsel for Govt of India.

4. Heard Mr. H. K. Das, learned counsel for the Applicant and Mr. Kankan Das, learned Addl. Standing Counsel and perused the materials placed on record. Permission to prosecute this O.A. jointly is hereby granted to the Applicants by way of allowing the M.P.No.53 of 2009.

Contd/-

5. From the materials placed on record Mr. H. K. Das, learned counsel for the Applicant submitted that some examiners, on assessment of answer-scripts in respect of Guwahati Zone, came to the opinion that there were mass-copy ; where as the invigilators, who conducted examinations have not supported the said view of the examiners and, thus the views expressed by the examiners (who evaluated the answer-scripts) can, at best, be branded as "un-intelligent memory work" and, therefore, such a view can not be a reason to cancel the entire examination/result. Mr. Kankan Das, learned Addl. Standing Counsel intents to take instruction in the matter.

6. Registry to issue notice to the Respondents (in O.A.95/2009) requiring them to file their written statement by 30.06.2009.

7. Along with the written statement, the Respondents should produce the copy of the result sheet in respect of Guwahati Zone (which

Contd/-

Contd/-

re. Order of the Court dated 27.05.2009

Journal and A.H. and the same was declared made ready before Bonfridus Interlege (for Guwahati) on 30.05.2007 and the copy of the same was sent to the concerned report of the examiner(s) and other verification reports leading to cancellation/with-holding of the results of the examination held (for Guwahati Zone) during the year 2006.

Notwithstanding the pendency of this case, the Respondents shall remain free to reconsider the matter and republish the result of the 2006 Departmental Examination/give clearance to Guwahati Zone to act upon the result of 2006 Departmental Examination.

Send copies of this order to the Applicants and all the Respondents (along with notices) and free copies of this order be supplied to the Advocate for the parties.

Copies of notices
along with order

Dated 27/5/2009
Send to D/Secretary of Assam Legislative
for issuing to (N.D.Dayal)
resp. nos - 6th floor
Jm Member(A)

Mohanty
27/05/09
(M.R. Mohanty)
Vice-Chairman

Free copies of
this order handed
over to learned
Counsel for both
the parties.

1/6/09 D/No - 2876 to 2882.
Dt: 04-6-2009

Notice duly served
on R.F.

1/6/09.

Note of Registry

Date

Order of the Tribunal

13-6-09 inserted 30.06.2009

On the prayer of Mr.Kankan Das, learned Addl. Standing counsel for the Union of India, call this matter on 04.08.2009, awaiting written statement from the Respondents.

Notice served on R-s,

29.6.09

13-6-09

29.6.09

Service report of
waited from R.No-1 to
13-6-09

(M.R.Mohanty)
Vice-Chairman

29.6.09

29.6.09
29.6.09

No W/S filed

30.8.09

No W/S filed

4.8.09

Isanoo bariel to tressel ent no
no ghoen tel tafom ent tel, zefing ent no
RUS.1.5.0

6
O.A.95-09

07.09.2009 Call this matter on 16.10.2009

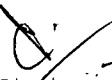
and notice of hearing no. awaiting written statement from the
parties for hearing to be issued with a notice to the Respondents.

Copies of order dated 7/9/2009
send to D/Sec. for
issuing to respondents by post,
and Mr. Kankan Das, Addl.
C. C. S. C., I A.T., C HY-5
by hand.

Cl
7/9/09.

/bb/

Send copies of this order to the
Respondents in the address given in the O.A.
and a free copy of this order be also
supplied to Mr. Kankan Das, learned Addl.
Standing counsel, who is present in court.


(M.K.Chaturvedi)
Member (A)


(M.R.Mohanty),
Vice-Chairman

No. 1075 b/leel.

15.10.09
16.10.2009 Despite notice no written statement
has yet been filed by the Respondents in
this case. Subject to question of law to
be examined at the time of final hearing,
the case is admitted.

Call this matter on 30.11.2009
awaiting written statement from the
Respondents.


Send Copies to parties
(M.K. Chaturvedi)
Member (A)


(M. R. Mohanty)
Vice-Chairman

/lm/

20.10.09

W/S filed by the
Respondents in the
Court on 16.10.09.
Copy served.

20/10/09

Copies of order dt. 16/10/09
send to D/Sec. for issuing /lm/
to the L/counsel for both
the parties.

26/10/09. D/Sec.

30.11.2009 On the request of learned counsel
for the parties, list the matter for hearing on
02.12.2009.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

Copy received
25/10/2009

02.12.2009 On the request of proxy
counsel for respondents adjourned to
7.1.2010.

W/S G/Led.

W
6.1.2010


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

07.01.2010 Heard both sides. Hearing
concluded. Order reserved.

Respondents have also produced
records of enquiry report which may be
kept in sealed cover.


(Madan Kumar Chaturvedi) 
Member (A) Member (J)

/PB/

19.1.2010 Judgment pronounced in open
Court. Kept in separate sheets.
Application is dismissed. No costs.


(Madan Kumar Chaturvedi) 
Member (A) Member (J)

/lm/

8

Notes of the Registry	Date	Order of the Tribunal

-7-
OA 95/09

Notes of the Registry	Date	Order of the Tribunal
<p><u>28-1-2010</u> Judgment / Final orders dated 19-1-2010 passed and sent to the D/Section for issuing the applicant/ respondents by Post and issued to Advocate for both side vide NO 264 to 270 dated <u>01-2-2010</u></p>		

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No: 95 /2009

2. Mise Petition No 53 /2009

3. Contempt Petition No 1

4. Review Application No 1

Applicant(s) Syed J. Hussain & 3 others

Respondent(s) Union of India & ors

Advocate for the Applicant(s): H.K. Das

Advocate for the Respondent(s): C.Cr.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>this Mise petition has been filed by the counsel for the petitioner u/s 4(5)(a) of C.A.T procedure, Rules, 1987 for granting leave to the Applicants to join together in the O.A.</p> <p><u>S. O. (5) / DR.</u></p> <p><u>Class</u> <u>26/5/09</u></p>	27.05.2009	<p>Results of Departmental Examination (which was, apparently declared on 15.11.2006) for grant of promotion to the posts of HC/ACCT/SSK; was cancelled on 30.05.2007. After the disposal of O.A.No.526/420 of 2007 (on 31.03.2008), the Respondents have cleared the results of all zones except the NE/Guwahati Zone under Annexure-8 dated 01.09.2008. Despite representations dated 29.08.2008, dated 03.09.2008 and dated 04.11.2008, no heed has</p>

Contd/-

Contd/-

27.05.2009 been paid to the grievances of the Applicants, who took the said Departmental Examination during 2006.

2. In the above premises, the 4 Applicants (all are UDCs in the Doordarshan Kendra a Guwahati) have approached this Tribunal with the present Original Application No.95 of 2009 filed (under Section 19 of the Administrative Tribunals Act, 1985) on 26.05.2009. They have also filed a petition (M.P.No./53 of 2009) seeking permission to prosecute this case jointly.

3. Copies of this O.A.No.95 of 2009 & M.P.No.53 of 2009 have already been supplied to Mr. Kankan Das, learned Addl. Standing

Administrator, Doordarshan & Counsel for Govt. of India.

After giving due consideration to the learned counsel for the Applicant and to the learned Addl. Standing Counsel Mr. Kankan Das, learned Addl. Standing Counsel and perused the materials placed on record.

On 27.05.2009 to O.A.No.95 of 2009 Permission to prosecute this O.A. and the application filed on 26.05.2009 jointly is hereby granted to the aforesaid 4 Applicants by way of allowing the same to proceed.

Contd/-

Date: 8-6-2009
Amount paid on 26.05.2009
Rs. 20,000/-
Paid back on 26.05.2009

Contd/

27.05.2009

5. From the materials placed on record Mr. H. K. Das, learned counsel for the Applicant submitted that some examiners, on assessment of answer-scripts in respect of Guwahati Zone, came to the opinion that there were mass-copy ; where as the invigilators, who conducted examinations, have not supported the said view of the examiners and, thus, the views expressed by the examiners (who evaluated the answer-scripts) can, at best, be branded as "un-intelligent memory work" and, therefore, such a view can not be a reason to cancel the entire examination/result. Mr. Kankan Das, learned Addl. Standing Counsel intents to take instruction in the matter.

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~~Contd/-~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No.95 of 2009

DATE OF DECISION: 19. 1. 2010

Syed Imdadul Hussain & 3 othersApplicant(s)

Mr H.K. Das Advocate(s) for the
Applicant (s)

- Versus -

Union of India and others Respondent(s)

Mr K.K. Das, Add. C.G.S.C. Advocate(s) for the
Respondent(s)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No


Member (J)/Member (A)

✓

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.95 of 2009

Date of Order: This the 19th day of January 2010

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Syed Imdadul Hussain
S/o Nazamul Hussain,
Upper Division Clerk,
Doordarshan Kendra,
Guwahati-24.
2. Sri Tarun Chandra Bharali,
S/o Late Rati Kanta Bharali,
Upper Division Clerk.
PPC (NE),
Doordarshan Kendra,
Guwahati-24.
3. Sri Tapash Chakraborty,
S/o Sri Parimal Bikash Chakraborty,
Upper Division Clerk,
PPC (NE),
Doordarshan Kendra,
Guwahati-24.
4. Sri Dulal Roy,
S/o Late Haridas Roy,
Upper Division Clerk,
Doordarshan Kendra,
Guwahati-24.

..... Applicants

By Advocate Mr H.K. Das.

- versus -

1. Union of India, represented by the
Secretary,
Ministry of Information & Broadcasting,
Government of India,
Shastry Bhawan,
New Delhi-110001.
2. Prasar Bharati Broadcasting Corporation of India,
represented by the Chief Executive Officer,
Doordarshan Bhawan,
Mandi House, New Delhi-110001.

JP

3. The Director General,
Doordarshan,
Mandi House,
New Delhi-110001.
4. The Director General
All India Radio,
Akashvani Bhawan,
Sansad Marg,
New Delhi-110001.
5. The Deputy Director General (NER)
All India Radio,
Chandmari,
Guwahati-3.
6. The Director
Staff Training Institute (P),
All India Radio,
Radio Colony, Kingsway Camp,
New Delhi-110009.
7. The Station Director
All India Radio,
Chandmari,
Guwahati-3. Respondents

By Advocate Mr K.K. Das, Addl. C.G.S.C.

.....

ORDER

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Four UDCs of Doordarshan Kendra, Guwahati, in this O.A. challenge impugned order dated 30.05.2007 and 01.09.2008 (Annexures- 5 and 8 respectively). Vide order dated 30.05.2007 examination held in the year 2006 for promotion to the grade of Head Clerk/Accountant/Senior Store Keeper from UDC/SK had been cancelled while vide communication dated 01.09.2008 earlier order dated 30.05.2007 had been withdrawn in so far as it relates to all Zonal Heads of AIR except Guwahati. Applicants also seek direction to the respondents to declare the result of aforesaid examination of

Guwahati Centre with all consequential benefits including promotion, costs etc.

2. Admitted facts are that, under the Recruitment Rules for the post of Head Clerk/Accountant/Senior Storekeeper of All India Radio and Doordarshan, 20% of vacancies are to be filled by departmental competitive examination. UDCs/SKs working in All India Radio and Doordarshn with three years experience as on 31st March of the recruitment year for which examination is held were eligible to appear in the examination. Said examination was held throughout the country as well as under supervision of Zonal Head, All India Radio, Guwahati during March 2006 for filling up five vacancies of Head Clerk under 20% of total vacancies which arose between 1999 to 2004. Applicants also appeared in said examination. Answer sheets were evaluated by Staff Training Institute (P), New Delhi. Vide communication dated 30.05.2007 (Annexure-5), Director, Staff Training Institute (P), All India Radio, decided to hold a fresh examination in view of alleged irregularities found in the departmental competitive examination conducted during the year 2006 and said examination was cancelled. Validity of said communication, which was endorsed to the applicants on 06.06.2007 (Annexure-6) had been challenged by certain officials before Hyderabad Bench of this Tribunal vide O.A.Nos.576 and 420 of 2007. Said O.A.s had been allowed vide common order dated 31.03.2008 and order dated 30.05.2007 was set aside so far as it relates to cancellation of examination conducted in March 2006 in centres other than Delhi and Guwahati. Respondents were also directed to declare the results of the centres other than Delhi and Guwahati and take consequential action. They were also granted liberty to pass

appropriate orders separately based on the enquiry committee report as per rules as far as Delhi and Guwahati zones were concerned, keeping in view the direction of Hon'ble Supreme Court in Indrapreet Singh Kahlon and others vs. State of Punjab and others, AIR 2006 SC 2571, referred to in para 10 thereof. In purported compliance of said direction of Hyderabad Bench, the respondents issued order dated 01.09.2008 and declared results of all zones except Guwahati.

3. Grievance of applicants is that without issuing any notice and without conducting any enquiry, aforesaid impugned orders had been passed which are illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India. Gross irregularities had been committed in considering representations made by the unsuccessful candidates and cancelling the examination. Furthermore, results of Delhi centre have been declared *suo motu* and thus discrimination had been committed by respondents in withholding results of Guwahati centre alone on mere presumption from the complaint of one of the examiners. The sealed packet of question papers was opened by the DDG (NR) i.e. Examination Incharge and invigilators had confirmed that no mass copying took place in the said examination, yet, ignoring all these aspects, respondents continued to withhold their results. Representations preferred by their Association on 29.08.2008, 03.09.2008 followed by further reminders dated 04.11.2008 remained unattended. They have not only lost their promotion but seniority and monetary benefits too. In the above backdrop, learned counsel for applicants contended that they are entitled to relief as prayed for.

4. By filing reply, the respondents have stated that the examination in question was cancelled as complaints of irregularities were received. After conducting an enquiry into the matter it was found that allegations of serious lapses like tampering and mass copying were found to be true. Based on enquiry report, the competent authority decided to cancel the examination. A fresh preliminary enquiry had also been entrusted to a DDG level officer with a view to find out the roles played by the invigilators and candidates in such mass copying. With respect to Delhi region it was difficult to confirm that Hindi version of the examination was leaked before the examination started and further it was difficult to prove the allegation that bribe was paid to the examiner by successful candidates. However, in respect of Guwahati region, report of Inquiry Officers in unambiguous terms pointed out that there had been mass copying. Judgment of Hyderabad Bench dated 31.03.2008 was examined in depth and reviewed the gravity of irregularities in respect of Delhi and Guwahati zones and it was decided to withdraw the order dated 30.05.2007 and declare the results of all zones except Guwahati. Decision taken in this respect was neither tainted nor illegal and arbitrary, as projected. Apart from examiners' observations about mass copying a comparison chart indicating number of qualified candidates in different zones viz-a-viz Guwahati Zone clearly indicated that observations of the examiner proved to be true. The examination had been cancelled after holding in-depth enquiry and after due consideration of the facts and circumstances of the case by the competent authority. The result of Guwahati zone was not withheld on mere presumption but after holding an enquiry by a duly constituted

committee and considering all aspects of the case, based on facts and figures.

5. We have heard Mr H.K. Das, learned counsel for applicants and Mr K.K. Das, learned Addl. C.G.S.C.

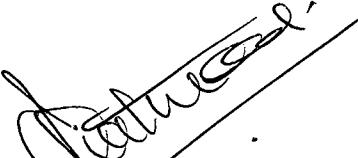
6. M.P.No.143/2009 has also been filed by respondents seeking vacation of interim order dated 04.08.2009 by which respondents were restrained to conduct fresh departmental examination as notified vide communication dated 20.05.2009.

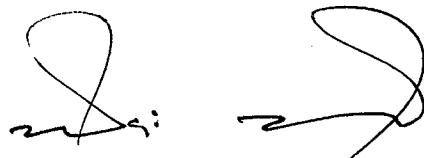
7. We have perused the pleadings filed by the parties and other relevant material placed on record including enquiry report produced by the respondents regarding irregularities committed in the departmental examination held in 2006. At the outset we may note that very senior officers of the rank of Director and that too more than one had conducted said enquiry and in respect of Guwahati Division it was observed that answer sheets of 90% candidates revealed that a mass copying had taken place. It further observed that: "almost all candidates appeared to have copied word to word at least five answers each directly from the text book without even a minor variation or mistake". In the above backdrop, Inquiry Officers concluded that there had been mass copying in the departmental examination held for promotion from UDC to Head Clerk/Accountant/Senior Storekeeper at Guwahati centre. We may also note that no rejoinder has been filed by applicants refuting/rebutting the contentions raised by respondents.

8. Question which arises for consideration is whether respondents were justified in cancelling said examination for

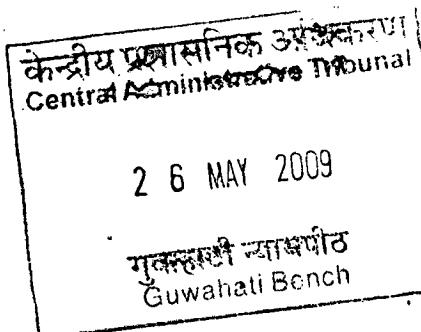
Guwahati centre on the ground of mass copying in said examination. We may observe that Co-ordinate Bench at Hyderabad had considered all these aspects including report submitted by the Inquiry Officers. Para 11 of said order revealed that said report had been perused by the Bench and it was observed that one of the examiners complained about mass copying from book while evaluating answer sheets for Paper II for Guwahati region. Coordinate Bench also did not issue any favourable order or direction in respect of Guwahati region, rather while setting aside impugned order dated 30.05.2007 it carved out an exception in respect of Delhi and Guwahati centres and granted liberty to respondents to pass appropriate orders separately based on Inquiry Committee report in terms of judgment of Hon'ble Supreme Court in Indrapreet's case (*supra*). In compliance thereto, the respondents have passed orders dated 01.09.2008. On examination of the matter in depth including the Inquiry Committee report, we are of the view that respondents had made sincere efforts to segregate the tainted from non-tainted candidates. Though the task was difficult, but based on clear findings of the Inquiry Committee report, when it observed that all the candidates appeared to have copied word to word at least five answers directly from the text book without even a minor variation or mistake, it cannot but be observed that allegation of mass copying in Guwahati Region had been duly established. We do not find any justification in the contentions raised by applicants that no enquiry was held into the matter, as projected. Furthermore, allegations of discrimination are totally baseless and misconceived. No specific foundation has been laid down to justify such contention. Thus the Respondents, in our considered view, have acted very justly and fairly.

9. In view of the discussion made hereinabove and finding no merit, O.A. is dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 95 of 2009

Syed Imdadul Hussain & Ors.

APPLICANTS

- Vs -

Union of India & Ors.

RESPONDENTS

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Received on
26.05.09

16

Filed by

Advocate

26 MAY 2009

गुवाहाटी बैचली
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 95 of 2009

Syed Imdadul Hussain & Ors.

...APPLICANTS

- Vs -

Union of India & Ors.

...RESPONDENTS

S Y N O P S I S

That the applicants are presently working as Upper Division Clerk in the Doordarshan Kendra, Guwahati. The Recruitment Rule for the post of Head Clerk/ accountant/Senior Store Keeper of AIR and Doordarshan provides for filling up of 20% vacancies by Departmental Competitive Examination. Accordingly, a Scheme was circulated for holding of departmental competitive examination for promotion to the grade of Head Clerk/ Accountant/ Sr. Store Keeper. The 6th respondent conducted the examination country wide in each Zone under the super vision of the Zonal Heads. The written examination for N.E. Zone was conducted during March' 2006 under the supervision of Zonal Head in Guwahati for filling up 5 (five) vacant posts of Head Clerk under 20% vacancies arose since 1999 to 2004. The vacancies are to be calculated and filled up only on the Zonal basis.

The written examination was conducted smoothly and without there being any irregularity. The respondents vide three communications dated 13.07.06, 06.10.06 and 07.11.06 [Annexure- 2, 3 & 4] requested the Zonal Heads to sent the C.R. Dossiers of the applicants for the DPC scheduled to be held shortly.

While the applicants were eagerly waiting for the results, the 6th respondent issued an order dated 30.05.07 [Annexure- 5] by which the examination held in the year 2006 for promotion to the grade of HC/ ACCTT/ SSK was cancelled due to the alleged irregularities. It is stated that some of the unsuccessful candidates after being participated in the examination made some representation alleging irregularities in the examination in some centers. So far as Guwahati Center is concerned one of the examiner raised complain of mass copying. However, the 6th respondent being over enthusiastic cancelled the examination of all Zones in the entire country.

26 MAY 2009

गुवाहाटी बैच
Guwahati Bench

Being aggrieved by the order dated 30.05.07, three applicants approached the Hon'ble Central Administrative Tribunal, Hyderabad Bench by way of filing O.A. No. 420/07 and 526/07. The Hon'ble Tribunal vide judgment and order dated 31.03.08 [Annexure- 7] set aside the order dated 30.05.07 directing the respondents to declare the results of the examination except Delhi and Guwahati for the years not declared so far and take consequential action to promote successful candidates subject to their eligibility. Moreover, liberty was given to the respondents to declare the results of the Delhi and Guwahati by passing appropriate orders. The respondents in compliance of the judgment passed by the Hon'ble Tribunal, Hyderabad bench, passed an order dated 01.09.08 [Annexure- 8] by which direction was given to declare the results of all zones except Guwahati. The respondents by the aforesaid order singled out the N.E. Zone. It is stated that the respondents have suo-moto declared the results of the Delhi center wherein the allegation of tampering of answer sheets was confirmed and withheld the results of Guwahati Center causing gross discrimination towards the candidates of the N.E. Zone. The order dated 01.09.08 pertaining to the Guwahati Center was passed causing gross discrimination and in gross violation of the Article 14 and 16 of the Constitution of India. It is further stated that the allegation of mass copying is not at all conclusive and it is a mere presumption of the examiner. The Zonal Head under whose supervision the examination was conducted and the invigilators have confirmed that there was no any instance of mass copying in the examination. The respondents only with the sole purpose to deprive the candidates of the N.E. Region are extending this step mom treatment withholding the results in respect of Guwahati Center without holding any inquiry into the matter. Therefore, the impugned order dated 30.05.07 and 01.09.08 are illegal, arbitrary, discriminatory and in gross in gross violation of Article 14 and 16 of the Constitution of India. The applicants submitted several representations but same yielded no result in positive and having no other alternative the applicants have filed this present application praying for justice.

Hence the present original application.

Filed by

Advocate

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 95 of 2009

LIST OF DATES

13.07.06 Communication under No. SD/3(3)/2005 issued by the Assistant Station Director, Prasar Bharati, All India Radio, Guwahati pursuant to a letter received from STI(P), AIR, King Way Camp, Delhi, by which the C.R. Dossiers of UDCs are urgently sought i.e. before 17.07.06 in connection with the Departmental Competitive Examination for the year 1999-00 for which the DPC is being scheduled shortly. The name of applicant No. 1 and 3 are at serial No. 7 and 6 respectively. **[ANNEXURE- 2] [Page- 18]**

06.10.06 Communication under No. SD/3(3)/2005 issued by the Superintending Engineer, Prasar Bharati, All India Radio, Guwahati pursuant to a letter received from STI(P), AIR, King Way Camp, Delhi, by which the C.R. Dossiers of UDCs are urgently sought i.e. before 13.10.06 in connection with the Departmental Competitive Examination for the year 2002-03 for which the DPC is being scheduled shortly. The name of applicant No. 2 is at serial No. 5. **[ANNEXURE- 3] [Page- 20]**

07.11.06 Communication under No. SD/3(3)/2005/1381/06 issued by the Station Director, Prasar Bharati, All India Radio, Guwahati pursuant to a letter received from STI(P), AIR, King Way Camp, Delhi, by which the C.R. Dossiers of UDCs are urgently sought i.e. before 15.11.06 in connection with the Departmental Competitive Examination for the year 2003-04 for which the DPC is being scheduled shortly. The name of applicant No. 4 is at serial No. 8. **[ANNEXURE- 4] [Page- 21]**

30.05.07 Impugned order No. STI(P)/5/9/06-07/981 by which the examination for promotion to HC/ACCTT/SSK from UDC/SK held in the year 2006 was cancelled and a decision was taken to hold fresh examination. **[Annexure- 5] [Page- 22]**

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Guwahati Bench

06.06.07 Order No. DEL-26(7)/2004-S.TT(DE-2000-2001)/2493 by which the candidates were informed about the order dated 30.05.07 and respective cancellation of the examination. **[Annexure- 6] [Page- 23]**

2007 O.A. No. 526 & 420/07 filed before Hon'ble Central Administrative Tribunal, Hyderabad Bench challenging the legality and validity of the order dated 30.05.07.

31.03.08 Hon'ble C.A.T, Hyderabad Bench allowed both the O.A.'s setting aside the order dated 30.05.07 directing the respondents to declare the results of the examinations in centers other than Delhi and Guwahati for the years not declared so far and take consequential action to promote successful candidates subject to their eligibility. Moreover, liberty was given to the respondents to declare the results of the Delhi and Guwahati by passing appropriate orders. **[Annexure- 7]**
[Page- 24]

01.09.08 Impugned order No. DSTI(P)/5/1/DPC (Astt)06 issued declaring the results of all Heads/Zones/Circles except Guwahati. It was further directed to promote the qualified persons to the post of HC/ACCTT/SSK after declaration of the results. **[Annexure- 8] [Page- 35]**

29.08.08 Representation submitted by the applicants through their association to the Chief Executive Officer, Prasar Bharati ventilating their grievance and praying for the declaration of the results of the N.E. Region which was withheld only on presumption. **[Annexure- 9] [Page- 36]**

03.09.08 Representation submitted to the Deputy Director General (NER), AIR, Guwahati having no response from the CEO, Prasar Bharati, making a prayer to take up the matter to the competent authority and declare the results of the N.E. Zone at an early date and save the candidates of the North East. **[Annexure- 10] [Page- 38]**

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Guwahati Bench

04.11.08 Representation to the General Manager (Personnel) cum Chief Vigilance Officer to take appropriate steps and issue orders towards declaration of results because the results of the departmental examinations of the N.E. Region are withheld only on presumption. [Annexure- 11]
[Page- 40]

Filed by



Advocate

26 MAY 2009

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Guwahati Bench

Filed by:
the Applicants
Preeng
Haridip Kr. Das.
A. G. Grade
22.5.09.
S. 1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 95 of 2009.

BETWEEN

1. Syed Imdadul Hussain, son of late Nazamul Hussain, Upper Division Clerk, Doordarshan Kendra, Guwahati- 24.
2. Sri Tarun Chandra Bharali, Son of late Rati Kanta Bharali, Upper Division Clerk, PPC(NE), Doordarshan Kendra, Guwahati- 24.
3. Sri Tapash Chakraborty son of Sri Parimal Bikash Chakraborty, Upper Division clerk, PPC (NE), Doordarshan Kendra, Guwahati- 24.
4. Sri Dulal Roy, Son of late Haridas Roy, Upper Division Clerk, Doordarshan Kendra, Guwahati- 24.

APPLICANTS

-Versus-

1. Union of India
Represented by the Secretary, Ministry of Information & Broadcasting, Government of India, Shastray Bhawan, New Delhi- 110001.

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2. Prasar Bharati Broadcasting Corporation of India, represented by the Chief Executive Officer, Doordarshan Bhawan, Mandi House, New Delhi- 110001.

3. The Director General, Doordarshan, Mandi House, New Delhi- 110001.

4. The Director General, All India Radio, Akashvani Bhawan, Sansad Marg, New Delhi- 110001.

5. The Deputy Director General (NER), All India Radio, Chandmari, Guwahati- 3.

6. The Director, Staff Training Institute (P), All India Radio, Radio Colony, Kingsway Camp, New Delhi- 110 009.

7. The Station Director, All India Radio, Chandmari, Guwahati- 3.

RESPONDENTS

DETAILS OF APPLICATION

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

The present application is directed against the impugned order No. STI(P)/5/9/06-07/981 dated 30.05.07 [Annexure- 5] issued by 6th respondent and order No. DSTI(P)/5/1/DPC(Astt)/06 dated 01.09.08 [Annexure- 8]

2. **JURISDICTION OF THE TRIBUNAL:**

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

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Guwahati Bench

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicants are presently working as Upper Division Clerk in the Doordarshan Kendra, Guwahati.

4.2 That the Recruitment Rules for the post of Head Clerk/Accountant/Senior Store Keeper of All India Radio and Dordarshan provides for filling up of 20% of the vacancies by the departmental competitive examination. The Upper Division Clearks/Storekeepers working in All India Radio and Dordarshan with 3 (three) years of regular service as on 31st March of the recruitment year for which the examination is held are eligible to appear in the examination.

The applicants crave leave of the Hon'ble Tribunal to produce the Recruitment Rule at the time of hearing of the case.

4.3 That the applicants beg to state that the 6th respondent conducted the departmental competitive examination in the Zonal stations through out the country under the supervision of Zonal Heads. The selection process carries 500 marks of which 400 marks are for written test and 100 marks are provided for evaluation of ACRs of those candidates who qualify in the written examination. Accordingly, the written examination for the North Eastern Zone was conducted under the supervision of Zonal Head, All India Radio, Guwahati during March, 2006 for filling up 5 (five) vacant posts of Head Clerk under 20% of the total vacancies arose between 1999 to 2004. The vacancies are to be calculated and filled up only on the zonal basis.

A copy of the Scheme for holding departmental competitive examination is annexed herewith and marked as **ANNEXURE- 1**.

4.4 That the applicants beg to state that the examination was conducted in NE Region smoothly and without any complain of

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Guwahati Bench

any quarter. The sealed packet of question was opened by the DDG (NER), the examination in charge and the examinees appeared in the examination.

4.5 That the applicants beg to state that the Staff Training Institute (P), New Delhi evaluated the answer scripts and issued communications to the Heads of all Zones requesting them to send the complete C.R. Dossiers of the successful candidates who were declared successful in the written examination. Pursuant to the said communication the Assistant Station Director and Superintending Engineer, Prasar Bharati Broadcasting Corporation of India, All India Radio, Guwahati issued a communication dated 13.07.06 and 06.10.06 making request to the Head of Offices of All India Radio and Doordarshan Kendra to provide the ACR's of 9 (nine) and 5 (five) candidates respectively who cleared the written examination. In the said communications it was stated that the DPC was going to sit shortly. By an another communication dated 07.11.06 the Station Director, AIR, Guwahati requested the concerned Head Offices to submit the Confidential Reports of 16 (sixteen) persons pursuant to the communication issued by the STI(P), New Delhi, who were also successful in the written examination. Accordingly, the Station Director, All India Radio, Guwahati (Cadre Controlling Authority) sent the ACR's of the qualified candidates.

Copies of the communication dated 13.07.06, 06.10.06 and 07.11.06 are annexed herewith and marked as **ANNEXURE- 2, 3 and 4.**

4.6 That the applicants while eagerly waiting for the results of the examination and subsequent promotion thereof, had to come across an order dated 30.05.07 issued by the Director, Staff Training Institute (P), All India Radio, by which the examination held in the year 2006 for promotion to the grade of HC/ACCTT/SSK from UDCs/SKs was cancelled due to the alleged irregularities in the Departmental Competitive Examination. By the said communication it was also decided to hold fresh examination. It is noteworthy to mention here that some unsuccessful candidates made some representations alleging

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irregularity in conducting the examination and basing on such representations the 6th respondent without going deep in to the matter and without holding any inquiry in proper perspective cancelled the examination country wide.

Copy of the order No. STI(P)/5/9/06-07/981 dated
30.05.07 is annexed herewith and marked as
ANNEXURE-5.

4.7 That the respondents by a communication under No. Del-
26(7)/ 2004-S.II (DE-2000-2001)/ 2493 dated 06.06.07
communicated the order dated 30.05.07 to the Head Offices of
AIR/Doordarshan/CCW located in New Delhi with a request to
intimate the candidates.

A copy of the communication dated 06.06.07 is annexed herewith and marked as **ANNEXURE- 6.**

4.8 That being aggrieved by the impugned order dated 30.05.07, 3 (three) applicants **U.V.Naga Raju, Ch. Naga Raju and S. Nagarajan** approached the Hon'ble Central Administrative Tribunal, **Hyderabad Bench** by way of filing **Original Application No. 420/07 and 526/07**. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said O.A's vide judgment and order dated 31.03.08 by setting aside impugned order dated 30.05.07 with further direction to declare the **results of all centers other than Delhi and Guwahati** immediately and take consequential action to promote successful candidates subject to their eligibility. Moreover, the liberty was given to the respondents to pass appropriate orders separately basing on the inquiry committee's report as per rules, in respect of Delhi and Guwahati Zones keeping in view the Hon'ble Apex Court's observations mentioned in Para- 10 supra.

A copy of the judgment and order dated 31.03.08 passed in O.A. No. 420/07 and 526/07 by the C.A.T., Hyderabad Bench is annexed herewith and marked as **ANNEXURE- 7.**

4.9 That the respondents in compliance of the judgment and order dated 31.03.08 passed in O.A. No. 420/07 & 526/07 issued the impugned order under No. DSTI(P)/5/1/DPC(Astt.)/06 dated

syed amad Ali Hussain

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01.09.08 by which direction was given to declare the results of the Departmental Examination conducted by the STI (P) in March'06 in respect of all zones except Guwahati. By the said communication the order dated 30.05.07 was withdrawn in respect of all zonal heads except Guwahati and directed all the concerned zonal heads except Guwahati to give effect to the results and appoint the candidates to the post of HC/ACTT/SSK who declared qualified.

Copy of the order under No. DSTI (P)/ 5/ 1/ DPC Astt.)/ 06 dated 01.09.08 is annexed herewith and marked as **ANNEXURE- 8.**

4.10 That the applicants beg to state that by the order dated 31.03.08, the Hon'ble CAT, Hyderabad Bench directed the respondents to declare the results of all centers except Delhi and Guwahati. However, the respondents suo-moto declared the results of the Delhi centre and withheld the result of the Guwahati center causing gross discrimination to the candidates of the North Eastern Zone who were eagerly waiting for their appointment orders. The respondents only with the sole purpose to deprive the candidates of the North Eastern Zone to the post of HC/ACTT/SSK had decided not to declare the results. Therefore, the action of the respondents in not declaring the results of Guwahati and singled out the Guwahati Center, is grossly illegal, arbitrary and clear violation of the Article 14 of the Constitution of India.

4.11 That the applicants beg to state that they are successful in the written examination held in the year March' 06 and as a result the ACR's were sought for by the 6th respondents. Accordingly, the Zonal heads sent the C.R. Dossiers to the 6th respondent and the applicants were eagerly waiting for the final outcome. However, the respondents without giving any notice nearly 15 months after the conduct of examination issued the order dated 30.05.07 canceling all the examination held for promotion to the post of Head Clerk/Accountant/Sr. Store Keeper. Hence, the action of the respondents is illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India.

Syed Shadedul Hussain

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4.12 That the applicants beg to state that the respondents cancelled the examination of the entire country only on consideration of the allegation raised by some unsuccessful candidates. Law is very clear that when a candidate appears at the examination without protest and is subsequently found to be unsuccessful in the examination, the question of entertaining a petition challenging the said examination would not arise. However, in case of Guwahati one of the examiners made complain of mass copying while evaluating answer sheets for Paper-II. It is stated that the decision of the respondents not to declare the results of Guwahati center pursuant to the complain of one examiner is only a mere presumption of the respondents. No inquiry in proper perspective was conducted and no evidence was recorded so far as mass copying is concerned. However, the respondents have declared the results of Delhi Center where tampering with the answer sheet was noticed, which is more serious and conclusive. Hence, it is crystal clear that the actions of the respondents are discriminatory and are in clear violation of Article 14 and 16 of the Constitution of India.

4.13 That the applicants beg to state that the examination was conducted in the NE Zone smoothly. The sealed packet of question papers was opened by the DDG (NR) by the examination-in-charge. The invigilators have confirmed that no mass copying took place in the examination. Hence, the respondents have committed gross illegality and arbitrariness by withholding the results of Guwahati centre only on the presumption of one of the examiners.

4.14 That being aggrieved by the impugned action of the respondents of withholding the results of Guwahati Center, the applicants through their Association submitted representation dated 29.08.08 to the Chief Executive Officer, Prasar Bharati, New Delhi ventilating their grievances. However, the respondents failed to attend the representation of the applicants and sat over the matter.

A copy of the representation dated 29.08.2008 is annexed herewith and marked as ANNEXURE-9.

Syed Imtiazul Hassan

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Guwahati Bench

4.15 That the applicants beg to state that having no reply from the CEO, Prasar Bharati the applicants submitted another representation to the Deputy Director General (NER), All India Radio, Guwahati ventilating their grievances. The applicants made a prayer to take up the matter with the competent authority i.e. CEO, DG, STI (P) and declare the results examination at an early date and save the candidates of N.E. Zone from this gross discrimination. However, this occasion also nothing has been done in this regard and results are no declared till today.

A copy of the representation dated 03.09.08 is annexed herewith and marked as **ANNEXURE- 10.**

4.16 That having found no response the applicant through the Association submitted another representation dated 04.11.08 to Sri G.G. Pathak, General Manager (Personnel), Chief Vigilance Officer, Prasar Bharati praying for declaration of the results at an early date. The respondents for the reasons best known to them sat over the matter and as a result of which the applicants have lost their seniority as well as monetary benefits for the lapses on the part of the respondents.

A copy of the representation dated 04.11.08 is annexed herewith and marked as **ANNEXURE- 11.**

4.17. That from the present facts and circumstances of the case it clear that the respondents in spite of there being clear case of tempering of answer sheets declared the results of the Delhi Center and on the other hand causing gross discrimination towards the candidates of N.E. Zone withheld the results of Guwahati center on the presumption of the examiner. No inquiry was conducted and no evidence was recorded while confirming the allegation of mass copying. Moreover, no consideration was given to the substantiation of the invigilator that there was no mass copying in the examination in Guwahati Center. The respondents only with the sole purpose to deprive the candidates of the N.E. Zone have resorted to this step mom treatment withholding the results in respect of Guwahati center. Hence the present case is a fit case wherein the Hon'ble Tribunal may be pleased to pass an interim order directing the respondents to declare the results of the examination held in March, 06 in respect of

Syed Md. dadul Hussain

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Guwahati Bench

Guwahati center pending disposal of the present original application. The applicants have made out a *prima facie* case of illegality and arbitrariness on the part of the respondents. The balance of convenience is in favour of the applicants for such an interim order. They would also suffer irreparable loss and injury if the interim order sought for is not passed by the Hon'ble Tribunal.

4.18 That the applicants demanded justice from the respondents which has been denied to them.

4.19 That the applicants have no other alternative or any other efficacious remedy and the remedy sought for, if granted, shall be adequate, just and proper.

4.20 That the applicants have filed this application bonafide for securing the ends of justice.

5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS:-

5.1 Because the respondents without issuing any notice and without holding any inquiry issued the impugned order dated 30.05.07 and 01.09.08 illegally, arbitrarily and in clear violation of Article 14 and 16 of the Constitution of India. Hence on this ground alone the impugned order is liable to be set aside and quashed.

5.2 Because the respondents committed gross illegality in considering the representations made by the unsuccessful candidates and thereby canceling the examinations of the entire country. Law is very clear that when a candidate appears at the examination without protest and is subsequently found to be unsuccessful in the examination, the question of entertaining a petition challenging the said examination would not arise. Hence, on this score alone the impugned orders are liable to be set aside and quashed.

Syed Imdadul Hussain

26 MAY 2009

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Guwahati Bench

5.3 Because the respondents conducted the examination on zonal basis under the supervision of the zonal heads in the month of March' 06 and the applicants appeared in the written examination. The examination was conducted smoothly. The respondents themselves evaluated the answer scripts in Delhi and having found everything in order sought for the C.R. Dossiers of the applicants. Accordingly, the Zonal Heads sent the C.R. Dossiers of the eligible candidates. While the applicants were eagerly waiting for the results the respondents issued the order dated 30.05.07 canceling the examination country wide. Pursuant to a judicial process initiated in CAT, Hyderabad Bench, the respondents declared the results of all centers except Guwahati vide impugned order dated 01.09.08 on the ground that one of the examiners made a complain of mass copying. Without holding any inquiry and without placing any evidence on record the respondents only on presumption withheld the results of Guwahati center. The respondents declaring the applicants successful after evaluation of the answer sheets now can not cancel /withheld the results on some flimsy grounds. There is no scope for presumption of irregularity after the success of the applicants in the written examination. Therefore, the action of the respondents is not at all sustainable in the eye of law and the impugned order dated 30.05.07 and 01.09.08 are liable to be set aside and quashed by this Hon'ble Tribunal.

5.4 Because the Hon'ble CAT, Hyderabad Bench directed the respondents to declare the results of all centers except Delhi and Guwahati and pass appropriate orders keeping in view Para- 10 supra. However, the respondents in compliance of the order declared the results of the Delhi center suo- moto in spite of the fact of tempering with the answer sheets therein and withheld the results of Guwahati center only on the presumption of irregularity. Hence, it is a clear case of discrimination and a treatment of step mom to the candidates of the N.E. Zone in not declaring the results of the Guwahati and singled out the Guwahati center.

5.5 Because the respondents withheld the results of the Guwahati center on the presumption derived from the complaint of one of

Syed Imadul Hussain

26 MAY 2009

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Guwahati Bench

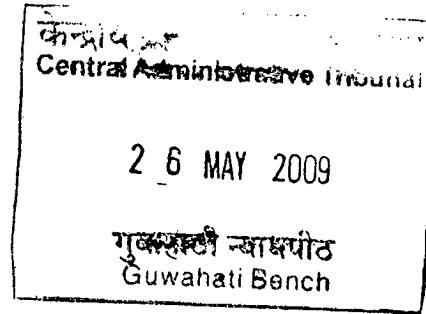
the examiner complaining mass copying. When the invigilators were called upon to confirm any foul play, they confirmed that there was no room for any complain/foul play. The examination was conducted smoothly without any irregularity. Therefore, the respondents have committed gross illegality and arbitrariness in withholding the results of the Guwahati without holding any inquiry into it and singled out the Guwahati center. Hence the impugned orders dated 30.05.07 and 01.09.08 are liable to be set aside and quashed.

5.5 Because the action of the respondents in declaring the results of all the centers depriving Guwahati pursuant to a judicial process in C.A.T, Hyderabad Bench is discriminatory. The respondents in consideration of the Para- 10 of the said order dated 31.03.08 as directed by the Hon'ble Tribunal should have declared the results of the Guwahati center also. However, only to deprive the candidates of the N.E. Zone the respondents are not declaring the results and for which the applicants have lost their seniority as well as monetary benefits. Hence, on this score alone the impugned order dated 30.05.07 and 01.09.08 are liable to be set aside and quashed.

5.6 Because the respondents have committed gross illegality stalling the entire promotional process. If there is any dispute regarding irregularity in examination it is pertaining to the examination held in the year 2006. No such irregularity occurred in the examination held in the year 1999, 2002 and 2003. Therefore, no reasonable person properly instructed in law can come to a conclusion of stalling the entire promotional process. Hence, on this score alone the Hon'ble Tribunal can direct the respondents to declare the results of the examination and promote the applicants giving consequential benefits with retrospective effect.

5.7 Because from the sequence of events it is clear that the impugned orders are illegal and arbitrary and are issued depriving the applicants from promotion to the posts of Head Clerk/Accounts/Sr. Store Keeper which are lying vacant. Hence on this ground alone the impugned orders are liable to be quashed.

Syed Imdadul Hussain



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

6. DETAILS OF THE 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.

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 regarding the grievances in respect of which this application is made, before any other court or any other bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT FOR:

8.1 Quash and set aside the impugned orders dated 30.05.07 and 01.09.08 and grant all the consequential service benefits.

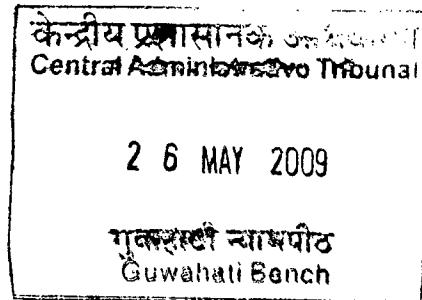
8.2 Direct the respondents to declare the result of the Departmental Competitive Examination conducted in Guwahati Center.

8.3 Direct the respondents to promote the applicants giving retrospective effect.

8.2 Cost of the application.

8.3 pass any such order/orders as Your Lordships may deem fit and proper.

syed Imadeddin Hussain



9. INTERIM ORDER PAYED FOR:

Pending disposal of the present original application the Hon'ble Court may be pleased to direct the respondents to declare the results of the Departmental Competitive Examination held in March' 2006 in Guwahati and consider the case of the applicants for promotion to the post of Head Clerk/Accountant/Sr. Store Keeper.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

(I) IPO No.	:	69F 351794, 351795, 351796 .
(II) Date of Issue	:	12.5.09
(III) Issued from	:	G. P. O
(IV) Payable at	:	Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification

Syed Imdadul Hameed

केन्द्रीय प्रशासनीय
Central Administrative Tribunal

26 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Syed Imdadul Hussain, son of late Nazamul Hussain, aged about 51 years, presently working as Upper Division Clerk, Doordarshan Kendra, Guwahati- 24, Assam, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.4, 4.10, 4.11, 4.12, 4.13 and 4.17 are true to my knowledge, those made in paragraphs 4.2, 4.3, 4.5, 4.6, 4.7, 4.8, 4.9, 4.14, 4.15 and 4.16 being matters of records are true to my information derived there from and the grounds urged are as per legal advice and rests are my humble submission before the Hon'ble Court. I have not suppressed any material fact.

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

Syed Imdadul Hussain
APPLICANT

APPENDIX-II

SCHEME FOR HOLDING DEPARTMENTAL COMPETITIVE EXAMINATION FOR PROMOTION TO THE GRADE OF HEAD CLERK/ ACCOUNTANT (ASSTT.) / SR. STOREKEEPER IN TERMS OF THE RECRUITMENT RULES NOTIFIED VIDE MINISTRY OF INFORMATION & BROADCASTING'S NOTIFICATION NO. 10(43)/92-S.II(BA) DATED 14.11.1994.

In accordance with the recruitment rules prescribed vide Min. of Information & Broadcasting's notification No. 10(43)/92-S.II(BA) dated 14th November 1992/20th November 1992, the vacancies of Head Clerk/Accountant/Senior Storekeeper are to be filled up on the basis of Limited Departmental Competitive Examination from amongst the following grades of employees working in All India Radio/Doordarshan Kendras/ Stations/Offices with three years regular service in their respective grade:-

- (a) Upper Division Clerks/Storekeepers in the pay scale of Rs. 4000-6000.(Pre-revised Rs.1200-2040)
- (b) Caretakers in the pay scale of Rs. 4000-6000.(Pre-revised Rs. 1200-1800 & Rs.1200-2040).
- (c) Jr. Reception Officers in the pay scale of Rs. 4000-6000.(Pre-revised Rs.1200-2040 & Rs. 1350-2200)

The following instructions are issued for holding the said departmental competitive examination.

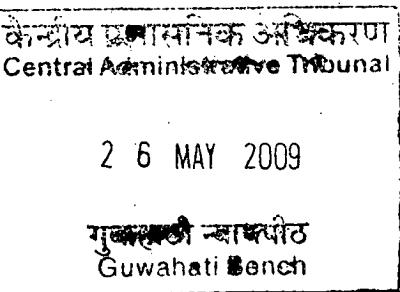
- (1) The examination will be a competitive one. It will be held in the **Zonal Stations** of All India Radio under the supervision of the Heads of Zonal Stations.
- (2) Final list of the successful candidates will be published strictly on the basis of the number of vacancies and the vacancies will be filled accordingly. If a candidate refuses to join at the place of posting, he will be debarred from appearing at the next examination. The resultant vacancies will be filled up from the successful candidates appearing in the order of merit.
- (3) The eligibility of a candidate will be decided with reference to 31st March of the recruitment year for which the examination is held. If in a particular zone there is no vacancy, no candidate from that zone will be allowed to appear at the examination irrespective of any employees fulfilling the eligibility criteria.
- (4) A candidate can appear as many times as he likes in the examination. TA will be paid for to and fro journey for the first attempts only.
- (5) Special Casual Leave will be allowed to the candidates for the examination dates and to and fro journey, wherever necessary.
- (6) A candidate proceeding to another station for appearing at the examination will carry a suitable identification card to eliminate the possibility of impersonation.

Contd...P/2...

DKS/EXAM-HC

Attested

Advocate



(7) The candidates appearing at the examination will have the option to answer papers in English or in Hindi. The answering of a single paper partly in Hindi and partly in English will not be permitted. The question papers will be available both Hindi & English.

(8) The candidates availing of exercising the option to answer the paper in Hindi will indicate their intention to do so clearly when they apply for permission to take the examination. In the absence of any such indication, it will be assumed that they would answer the papers in English. Candidates will not be allowed to change the option once exercised.

(9) The examination will carry 600 marks, of these 400 marks will be for the written test and 100 marks for evaluation of CRs of such of the candidates who would qualify the written examination. Written examination will be held as under:-

PAPER	SUBJECT	MAX. MARKS	DURATION
Paper-I	Noting and Drafting & Office Procedure, Book Keeping, Civil Accounts Manual, Proforma Accounts & Budget, G.F.R.	200	3 hours
Paper-II	Establishment matters, reservation rules, FRSR, DFPR, CCS(Leave)rules, CCS(Conduct rules), CCS(CC&A)rules, Pension rules, AIR/Doordarshan Manuals & Departmental instructions issued from time to time.	200	3 hours

(10) The examination will be conducted by STI(P) on a single day.

(11) SYLLABUS OF THE EXAMINATION.

PAPER-I : NOTING & DRAFTING AND OFFICE PROCEDURES ETC.

The questions on Paper - I will be designed to test the candidate's knowledge of office procedure in offices and generally their ability to write notes and drafts, knowledge of book keeping, Civil Accounts Manual, Proforma Accounts and Budget and G.F.R.

PAPER-II : ESTABLISHMENT MATTERS ETC.

This paper will be designed to test the candidate's knowledge of establishment matters, reservation rules, FRSR, DFPR, Treasury rules, CCS(Conduct) rules, CCS(CC&A) rules, CCS(Leave) rules, Pension rules, AIR & DDn. Manuals and departmental instructions issued from time to time.

(12) The minimum qualifying marks for the written test will be 45% in each paper and minimum aggregate 50% for General Category candidates and in case of SC/ST 95% marks in each paper and 40% in aggregate.

Contd... P/3...

(13) Reservation shall be made for the candidates belonging to SC/ST and physically handicapped as per DP&T Instructions.

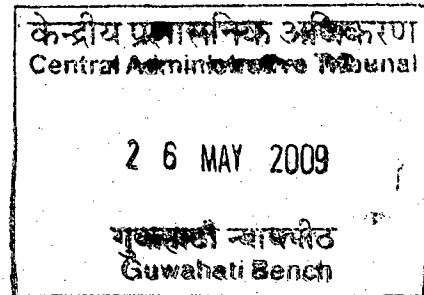
(14) A successful candidate nominated for a particular AIR station/Doordarshan Kendra in the Zone by the Zonal Head/Joint Establishment Committee, as the case may be, will have to join duty at that station on promotion. No request for choice posting shall be entertained and if he fails to join duty within the stipulated date his selection will be liable to be cancelled.

(15) STI(P) will chalk out the modalities of holding the examination viz. setting up of question papers, dispatch of question papers and answer sheets to zonal stations, publication of result etc.

(16) STI(P) will bring out list of the selected candidates zonewise within two months after the examination is held.

(17) No examination fee will be charged from the candidates.

-----X-----X-----X-----



—18—
(Typed Copy).

ANNEXURE - 2

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
ALL INDIA RADIO: GUWAHATI

NO: SD/3(3)/2005/

Date : 13.07.2006.

To
The Head of Office,
All India Radio,
Tura(EEC)/Imphal/Silchar/Haflong/DDG(NE),Guwahati/
PPC(NE), Guwahati/CCW(C), Guwahati/Imphal.

Sub :- Departmental competitive examination for the year
1999-2000 in the Grade of Asstt/HC/AC/SSK.

Please find a copy of a letter No. STI(P)/5/1/DPC/06/69 dated 04.07.06 received
from STI(P), AIR, Kingsway Camp, Delhi wherein the complete C.R. Dossiers of the following
UDCs are urgently sought latest by 17th July, 2006 in connection with the Departmental
Competitive Examination for the year 1999-2000 for which a DPC is being scheduled shortly.

1. Sh. A.K. Acharjee, AIR, Tura.
2. Sh. D.M. Barbhuya, EEC, AIR, Silchar.
3. Sh. P. Das, AIR, Silchar.
4. , AIR, Haflong
5. Sh. B. Banik, DDG(NE), AIR, Guwahati.
6. Sh. T. Chakraborty, PPC(NE), DDK, Guwahati.
7. Sh. I. Hussain, PPC(NE), DDK, Guwahati.
8. Sh. N.C. Debnath, CCW(C), AIR, Guwahati.
9. Smt. Lalramawi, AIR, Imphal.

A/3

A/1

It is requested that the Confidential Reports of the officials mentioned above may
please be sent to this office urgently, latest by 17th July, 2006.

Enclo : As above.

(Dr. Sujata Das)
Asstt. Station Director
For Station Director

Arrested
H.A.S.
Advocate

PRASAR BHARATI

भृत्य भारती

BROADCASTING CORPORATION OF INDIA
(भृत्य भारती नियन्त्रित संस्था)

ALL INDIA RADIO : GUWAHATI

भृत्य भारती नियन्त्रित संस्था

No. STI (P) 5/1/DPC/06/69

Date: 13.07.2006

To:

Guwahati Office,

AC/SSK, Guwahati

DDG(NE), AIR, Silchar/Hailigang/DDG(NE), Guwahati

PPC(NE), Guwahati, CCW(C), Guwahati/Imphal

Subject: - Departmental competitive examination for the year 1999-2000 in connection with the Departmental Competitive Examination for the year 1999-2000 for which a DPC is being scheduled shortly.

Reference is made to a letter No. STI(P)/5/1/DPC/06/69 dated 04.07.06 received from STI(P), AIR, Kings way camp, Delhi wherein the complete C.R. Dossiers of the following UDCs are urgently sought latest by 17th July, 2006 in

connection with the Departmental Competitive Examination for the year 1999-2000 for which a DPC is being scheduled shortly.

1. Shri A. K. Acharyya, AIR, Tura

2. Shri K. M. Baruah, PE(C), AIR, Silchar

3. Shri T. D. Asit, Silchar

4. Mr. AIR, Hailigang

A/2

5. DDC(NE), AIR, Guwahati

6. Shri Baruah, PPC(NE), DDK, Guwahati

7. Mr. Baruah, PPC(NE), DDK, Guwahati

8. Shri N. C. Dabbari, CCW(C), AIR, Guwahati

9. Mr. Dabbari, AIR, Tengnoupal

It is requested that the Confidential Reports of the officials mentioned above may please be sent to this office urgently latest by 17th July, 2006
Enclosed as above.

10.1.6.7.3.7.1
(D. S. 2002)

Asst. Station Director
Exco. Director

केन्द्रीय भृत्य नियन्त्रित संस्थाओं का अधिकार परिषद
Central Administrative Tribunal

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

S. BROADCASTING CORPORATION OF INDIA
(राष्ट्रीय व्यवस्था मित्र)
ALL INDIA RADIO "C", GUWAHATI
REGISTRATION NO. E/1936

No SD.3(3)-2005/

Date : 06.10.2006.

To
The Head of Office,
All India Radio/
Doordarshan Kendra,
Agra/UP/DDK, Deemed/DDK, Lucknow/
DDK, Varanasi/DDK, Tora.

Sub : Departmental competitive examination for the year 2002-2003 to the
Grade of Assistant.

Symptom.

A letter received from STI(P), AIR, Kuigs way Camp, Delhi wherein the complete C.R. Dossiers of the following UDCs/LDCs are urgently sought in connection with the Departmental Competitive Examination for the year 2002-2003 for which a DPC is being conducted shortly.

1. Shri Kshurbagesh Adhikari, AIR, Almora
2. Shri Pabare K. Das, DDK, Churkhi.
3. Shri Dulal Roy DDK, Rangpur.
4. Shri Dabesprasad Datta, DDK, Bilkhar.
5. Shri Tarun Ch. Bherati, DDK, Tura

It is requested that the up to date Confidential Reports of the officials mentioned above may please be sent to this office, urgently latest by 15th October, 2006.

Yours faithfully,

Abdul Rahman Sheikh 1/1/03
(Abdul Rahman Sheikh)
Superintendent Engineer..

Copy to : The Dr. Director General (NER), AIR & DDK, Guwahati.

Superintending Engineers. *July 8, 10*

Attested

~~Hals.~~
~~Advocat~~

At Dossou

Confidential

प्रसार भारती

PRASAR BHARATI
(भारतीय प्रसारण निगम)

BROADCASTING CORPORATION OF INDIA

आखाताबाणी :: गुवाहाटी

13/11/06 ALL INDIA RADIO :: GUWAHATI

No. SD.3(3)/2005/

Date : 07.11.2006.

To
The Head of Office,
All India Radio,
Doordarshan Kendra/DDMC/CE(NEZ), Guwahati,
Imphal/I/Dibrugarh/Nagaon/Tura/Diphu/Haflong/Pasighat/Silchar/DDK,
Itanagar/EE(C), Silchar/CE(NEZ), Guwahati/DDK, Tura/DDK, Guwahati
/PPC(NE), Guwahati/DDMC, Jorhat/DDK, Silchar.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

26 MAY 2006

गुवाहाटी न्यायालय
Guwahati Bench

Sub : - Departmental competitive examination for the year
2003-2004 to the Grade of Assistant.

Sir/Madam,

A letter received from STI(P), AIR, Kings way Camp, Delhi wherein the complete C.R.Dossiers of the following UDCs are urgently sought in connection with the Departmental Competitive Examination for the year 2003-2004 for which a DPC is being scheduled shortly.

Sl.No.	Name	Station
1.	Dr. (Smt.) Sukla Roy Choudhury	AIR, Dibrugarh
2.	Shri Uttam Bhujel	AIR, Diphu
3.	Shri Fedric Tariang	AIR, Haflong
4.	Shri Lalrothang Songte	AIR, Imphal
5.	Shri L.H.K. Singha	AIR, Pasighat
6.	Shri Amarondra Nath Sarma	CE(NEZ), Guwahati
7.	Smt Laldingpui Buharil	DDK, Guwahati
8.	Shri Dulal Roy	DDK, Itanagar
9.	Shri Alok Biswas	DDK, Silchar
10.	Shri Paritosh Deb	DDK, Silchar
11.	Shri S. K. Paul	DDK, Silchar
12.	Shri Sankar Brahma	DDK, Tura
13.	Shri Bishwajit S. Baidya	DDK, Tura
14.	Shri V. S. Johnson	DDMC, Jorhat
15.	Shri Sandeep Sen Gupta	PPC(NB), DD, Guwahati
16.	Smt Manorama Das	PPC(NB), DD, Guwahati

It is requested that the Confidential Reports of the officials mentioned above may please be sent to this office urgently latest by 15th November, 2006.

Yours faithfully,

(Dinesh Ch. Das)

Station Director.

Copy to :- The Dy. Director General (Rif. P.), AIR, Guwahati.
Kind information.

Attested

H. S.
Advocate.

- 22 -

BY RSGD

ANNEXURE - 5



to. STI(PY) 5/9/06-07

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
STAFF TRAINING INSTITUTE (PROGRAMMES)
ALL INDIA RADIO
RADIO COLONY, KINGSWAY CAMP
Delhi-110 009

274, India 1/4th, Gouribari
Sector 1, Guwahati, 781001
Dated: 30.05.2007
15/5/07

SUB: RESULTS OF THE DEPTT. EXAMINATION FOR PROMOTION
FROM UDC/SK TO HC/ACCTT./SSK HELD IN THE YEAR 2006

The Directorate General, AIR have taken a decision to hold a fresh examination vide their communication No. 7/10/2007-Vtg. Dtd. 12.04.2007 and 25.05.2007 in view of alleged irregularities in the Departmental Competitive Examinations conducted during the year 2006 for promotion from UDC/SK to HC/ACCTT./SSK. Thus the examinations held in the year 2006 for promotion to the grade of HC/ACCT./SSK from UDC/SK is STAND CANCELLED.

This may be brought to the notice of the candidates appeared in the Departmental Competitive Examinations from your zone.

The schedule for holding examinations afresh will be intimated shortly.

JAGDISHWAR PRASAD
DY. DIRECTOR (AT)
FOR DIRECTOR

केन्द्रीय प्रसारणी
Central Administrative Tres.

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Attested

Advocate

23 -

**PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
ALL INDIA RADIO : NEW DELHI**

ANNEXURE - 6

6 JUN 2007

No. DEL-26(7)/2004-S.II(DE-2000-2001)/

Copy of above letter No. STI(P)/6/9/06-07/981 dated 30.8.2007, received from STI(P), AIR, Delhi is forwarded to all concerned Head of Offices of AIR/Doordarshan/ CCW located in Delhi Zone with the request to bring it in the notice of all candidates in respect of their offices, who appeared in the said Departmental Examinations(as mentioned below) regarding cancellation of Examination.

Dated:

All Concerned offices of AIR/Deodars/HRD/CCW located in Delhi Zone. MTP/SC

EST PESS AER

~~Mr.(A.K. Koul)~~
Sr. Administrative Officer
For Station Director

केन्द्रीय प्रशासनिक अदायक Central Administrative Tribunal

Copy to:-

Copy to:-

1. The Director General(By Name Sh. Hir Lal, DDA), B-II Section, All India Radio, Akashvani Bhawan, New Delhi.
2. The Director General(By Name S.O.), B-II(A)Section, Doordarshan, Doordarshan Bhawan, Mandi House, Copernicus Marg, New Delhi-110001.
3. The Director(By Name Sh. Jagdishwar Prasad, DDA), Staff Training Institute(P), All India Radio, Radio Colony, Kingway Camp, Delhi-1100091

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

1. S. N. D. Roy - UDC - Roll No - 2210, 2225, 2336

(Allentown, Pa. - ~~Sept. 25, 1933~~)

11. 1900 Oct 20 (1881). N. Cal. U. S. Natl. M. Socy.

Attested

~~H. A.~~
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

OA Nos. 526 & 420 of 2007 + MA 65 /08 in OA 420/07

Date of Order : 31-3-2008..

Between:-

OA 420/07

U.V.Naga Raju S/o U.D.P. Jagannadha Rao,
aged 45 years, Accountant, Doordarshan
Kendra, Hyderabad.Applicant

And

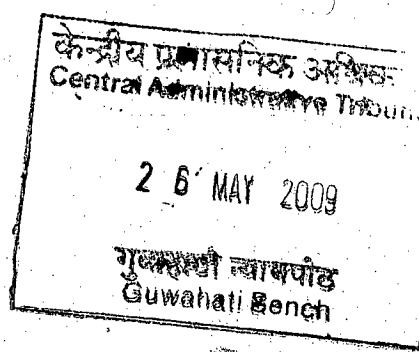
1. Union of India rep. by its Secretary,
Information & Broadcasting, Govt. of India,
Sastry Bhavan, New Delhi.
2. Prasar Bharati, Broadcasting Corporation of India,
Rep. by the Chief Executive Officer, Doordarshan
Bhavan, Mandi House, New Delhi.
3. Director General, Doordarshan, Mandi House, New Delhi.
4. Director General, All India Radio, Akashvani Bhavan,
New Delhi.
5. Station Director, All India Radio, Saifabad, Hyderabad.
6. Director, Doordarshan Kendra, Ramanthapur, Hyderabad.
7. Director, Staff Training Institute (P), All India Radio,
Kings Way Camp, Radio Colony, Delhi.Respondents

OA 526/07

1. Ch. Nagaraju S/o Ch. Srinivasulu aged 44 years
UDC/SK, Doordarshan Maintenance Centre,
r/o No.51-1017, B2, Seetharam Nagar,
Kurnool-518003.

2. S. Nagarajan S/o S. Shankara Subbu, aged 48 years,
UDC, All India Radio, Commercial Broadcasting Service,
S-2, Tirumala Apartments, Jayanagar, Saidabad Colony,
Hyderabad-500 009.Applicants

And



Attested

H. S.
Advocate

2. Prasar Bharati Broadcasting Corporation of India,
rep. Chief Executive Officer, Doordharsan Bhavan,
Mandihouse, N. Delhi - 110 001.

3. The Director General, Doordarshan, Mandi House,
New Delhi.

4. The Director General, All India Radio,
Parliament Street, Akashwani Bhavan,
New Delhi - 110 001.

5. The Director, Staff Training Institute (P), All India
Radio, Radio Colony, Kingsway Camp, N. Delhi - 110 009.

6. The station Director, All India Radio,
Shilparam, Hyderabad - 500 004. ... Respondents

Counsel for the Applicant : Dr. P.B. Vijay Kumar (in both OAs)

Counsel for the Respondents : Sri G. Jayaprakash Babu, Sr. CGSC
(in OA 420/07)

Sri A.V. Rama Rao, Addl. CGSC
(in OA 526/07)

CORAM:

THE HON'BLE JUSTICE M.R.P. LAKSHMANA REDDY : VICE-CHAIRMAN
THE HON'BLE M.R.R. SANTHANAM : MEMBER (ADMINISTRATIVE)
(Order per Hon'ble Mr. R. Santhanam, Member (A))

The applicants have challenged the order No. STI(P)/5/9/6-07 dated 30.5.2007 of Respondent No.5 canceling the departmental competitive examination for promotion to the post of Head Clerk/Accountant/Sr. Store Keeper from the post of UDC/Store Keeper conducted during the month of March, 2006, as illegal, arbitrary and violative of principles of natural justice and also violative of Article 14 of Constitution of India. Since the nature of the grievance and the relief sought in both the applications is the same, both the OAs are taken together and a common order is passed.

2. The applicants in OA 526/07 have been working as UDCs/Store Keepers on regular basis with All India Radio and Doordarshan. The Recruitment Rules for the post of Head Clerk/Accountant/Sr. Store Keeper

In All India Radio and Doordarshan provide for filling up of 20% of the vacancies by a departmental competitive examination. The examination is conducted by the Respondent No.5 in the zonal stations under the supervision of zonal heads. According to the applicants a list of selected candidates zone wise is to be brought out within two months after the examination is held. UDCs /Store Keepers working in AIR / DD with three years of regular service as on 31st March of the recruitment year for which

the examination is held are eligible to appear in the examination. The 26 MAY 2009

selection process carries 500 marks of which 400 marks are for written test

and 100 marks are provided for evaluation of ACRs of those candidates

who qualify in the written examination. Respondent No.5 conducted the

above examination at eleven centers to fill the vacancies that arose in the years 1999-00 and 2003-04 between 18.3.2006 and 22.3.2006. The

applicants also appeared in the departmental examination conducted on

22.3.2006 at All India Radio, Hyderabad for which two vacancies have been

notified for the year 2003-04.

3. The applicant in OA 420/07 was also issued Hall Tickets for the examination on 18.3.2006 and 22.3.2006 for the recruitment years 1999-00

and 2003-04. There was one vacancy for the post of Head Clerk/Accountant for the year 1999-00. There were two different set of

papers for the examinations and he attended both the examinations. In

August, 2006, the STI (P), AIR, with the approval of Director General, AIR,

New Delhi, informed the Respondent No.5 that the applicant may be appointed to the post of Head Clerk / Accountant against the vacancy for the

accordingly appointed Shri U.V.

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

गुवाहाटी न्यायालय
Guwahati Bench

Nagaraju, the applicant in OA 420/07 to the post of Head Clerk Accountant at Doordarshan Kendra, Hyderabad. Applicant joined the post on 24.8.2006.

4. It is the case of the applicants' in OA 526/07 that they were successful in the written examination and their ACRs were also sent by the Station Director, All India Radio, Hyderabad, in the first week of November, 2006. When the applicants were waiting eagerly for the final outcome, they were informed vide impugned order dated 30.5.2007 that all the examinations held for promotion to the post of Head Clerk / Accountant / Sr. Store Keeper held between 18.3.2006 to 22.3.2006 were canceled. The applicants' grievance is that the authorities have canceled the examinations nearly 15 months after the conduct of the examination. The applicants have lost their seniority as well as monetary benefits in the process. They learnt that the examination was canceled based on the complaint lodged by some unsuccessful candidates in Delhi. The applicants contend that since the selection is made on zonal basis, the authorities had erred in canceling the examination in all the zones. It is a well settled law, according to the applicants, that whenever irregularities take place in a particular zone only the person(s) who indulged in such irregularities in a particular zone only should be debarred or the examination in that particular zone should be canceled. The action of the Respondents, according to them, is therefore illegal and arbitrary and violative of Article 14 of the Constitution of India.

5. The Respondents have filed a reply statement in which they have stated that the examination in question was canceled as some complaints of

irregularities were received and after conducting an inquiry it was found that serious lapses like tampering with answer sheets and mass copying were found to be true. Based on the inquiry report, the competent authority decided to cancel the examination conducted in the year 2006 for promotion to the post of Head Clerk / Accountant as there was a system failure in the entire process / conduct of the examination. The Respondent No.4 has also issued orders to hold the fresh examination and to carry out a detailed exercise to devise a system of safe conduct of examination in the future.

केन्द्रीय प्रशासनिक उचित
Central Administrative Trial

26 MAY 2009

6. The applicants have filed a rejoinder in which they have pointed out that the inquiry into the alleged irregularities was conducted without issuing any order appointing the inquiry officer and based only on joint representation made by some unsuccessful candidates working in Delhi zone. The crux of the issue according to them is the submission of joint representation by unsuccessful candidates eight months after the conduct of the examination. In this context, the applicants have cited the case of Om Prakash Shukla Vs. Akilesh Kumar Shukla & Others (AIR 1986 SC 1043) wherein a full bench of the Apex Court laid down as follows :-

"when a candidate appears at the exam without protest and is subsequently found to be not successful in the examination, the question of entertaining a petition challenging the said exam would not arise".

The joint representation of the unsuccessful candidates should not have been entertained by the Respondents. Moreover, the alleged complaint was confined to Delhi, Bhopal and Guwahati zones alone which are far away from Hyderabad whereas the examination was conducted in 15 zones

Is the above statement that a fair reading?

?

of the joint representation would reveal that it is more a personal allegation against one of the officers then working in STI(P) and the successful candidates in Delhi zone. The applicants have also claimed that the alleged inquiry based on which the respondents have decided to cancel the examination, is not conclusive and definite about the irregularities as the inquiry officers did not pinpoint any officer responsible for the irregularity but said some irregularities were found. Noting that the departmental competitive examination for the promotion of LDCs to the grade of UDC / Store Keeper which were conducted during the month of March, 2006 for the years 1999-00, 2003-04 and 28.3.2006 were not canceled, the applicants point out that no complaint was received from Andhra Pradesh zone for any examination either for the post of Accountant / Head Clerk / Assistant or UDC. Therefore, the analogy which was followed in the examination to the post of UDC should have been followed in the case of Head Clerk / Accountant / Sr. Store Keeper also.

Heard Dr. P.B. Vijay Kumar, learned counsel for the applicants, Sri G. Jayaprakash Babu, learned senior standing counsel for respondents in OA 420/07 and Sri A.V. Rama Rao, learned standing counsel for Respondents in OA 526/07. The material papers furnished by the counsels were also perused.

8. When the case came up for hearing on 15.6.2007, on a representation made by the learned counsel for the applicant in OA 420/07, status quo as on that date was ordered to be maintained only in regard to the post which the applicant was holding. In the course of hearing on 25.2.2008, the

All India News Tribune
6 MAY 2009
Appeal Court
Guwahati Bench

ansel for the respondents was directed to produce the concerned records

relating to the cancellation of selection process. Accordingly, the learned senior standing counsel for the Respondents produced and handed over the inquiry report in a sealed cover.

Central Administrative Tribunal
Guwahati Bench

26 MAY 2009

Guwahati Bench

9. The points that arise for consideration are whether,

- (i) the respondents are justified in canceling the examination all over the country when the alleged irregularities were confined to a few centers and
- (ii) if not, to what relief are the applicants entitled?.

10. The learned counsel for the applicant pointed out that while the applicant in OA 420/07 has been appointed as Head Clerk and is officiating without any complaint, based on the declaration of results for the year

1999-00, the applicant in OA 526/07 is not so lucky because though the results have been declared, appointment orders have not been given. He argued vehemently that the cancellation of examination all over the country shows the department in very poor light. He added that this is not first time that examinations are canceled on the basis of complaints received about irregularities. He also pointed out that the respondents have not been regular in conducting these examinations although it is supposed to be conducted every year. The examination for the year 1999-00 should have been conducted in the year 2000 or 2001. The examinations for filling up vacancies for five years between 1999-00 and 2003-04 were held in March,

2006 and eight months after the examinations were held and a few months after the announcement of the results, the examinations in the entire country were canceled based on representations from a few unsuccessful candidates

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alleging irregularities. In this context, he referred to the judgment of

Hon'ble Supreme Court in Indrapreet Singh Kahlon & Ors. V. State of Punjab & Ors. (AIR 2006 SC 2571) wherein it was held as follows :

"Held, from inferences drawn on certain facts and circumstances it is difficult to accept that it was demonstrated by the State that it was absolutely impossible for it to separate the innocent people from the tainted ones. The orders of the State Govt. and High Court are liable to be set aside."

The Hon'ble Apex Court also observed as under :

"Undoubtedly, in the selection process, there have been manipulations and irregularities at the behest of the then Chairman, Punjab Public Service Commission. But, on careful scrutiny of the facts and circumstances of the case, the High Court ought to have made a serious endeavor to segregate the tainted from the non-tainted candidates. Though the task was certainly difficult, but by no stretch of imagination, it was not an impossible task. The Government, instead of discharging its obligation, unjustly resorted to the cancellation of all the appointments en masse by treating unequals as equals without even *prima facie* examining their cases. This is clearly arbitrary and unconstitutional".

In another case in Mahadev Appa Rao Vs. The Divisional Railway Manager, East Coast Railway, Dondaparthy, Visakhapatnam - 4 & Others, (WP 15196/07) the Hon'ble High Court of Andhra Pradesh, ~~while setting~~ ~~setting~~ aside the notification issued by the Respondent No.2 canceling the practical test conducted on 30.10.2006, observed as follows :-

"Further no specific provision under the Statute which envisage such cancellation, is brought to the notice of this court. It is also to be noticed that as per the case of the unofficial respondents, they made representation on 23.10.2006, but they

26 MAY 2009

Guwahati Bench

kept quiet till the test is conducted and also participated in the test and only after the declaration of results, they made representation alleging certain irregularities and based on the same, the selection list was canceled by order dated 14.12.2006 without any reasons and further the second notification was issued on the very same day. No material is also placed before this court with regard to the alleged irregularities. Therefore, in the absence of any tangible material and the reasons to show that the practical test has been conducted in an irregular manner or that there are any mala fides on the part of the selected candidates, we are of the view that the official respondents are not justified in canceling the initial selection merely based on the representation of the unsuccessful candidates and the Tribunal has not properly appreciated the above aspects the impugned order of the Tribunal is liable to be set aside".

11. The learned senior central government standing counsel made available the inquiry report relating to the complaints received regarding irregularities in the examination. We have gone through the report carefully. It is seen that complaints were received from unsuccessful candidates with reference to selected candidates in Delhi, Bhopal and Jabalpur. There was also a complaint from one of the examiners that mass copying from book has been noticed while evaluating answer sheets for Paper-II from Guwahati. The inquiry committee came to the conclusion that in respect of Bhopal region, there is no conclusive evidence to substantiate the charges in the complaint. With respect to Delhi region it says that it is difficult to confirm allegations that Hindi version of the paper was leaked before the examination and it was difficult to prove the allegation that bribe was paid to the examiner by successful candidates. However, one case of tampering with answer sheet has been noticed in

33

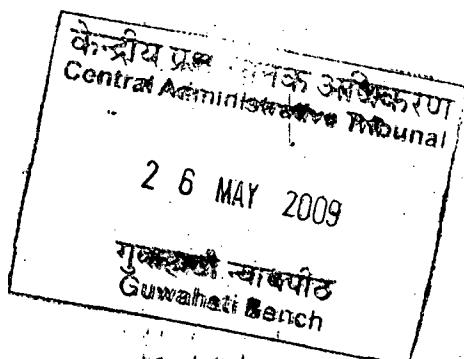
Delhi. In respect of Guwahati, the mass copying as seen from the answer sheets of 90% of the candidates in the Guwahati region. There were no complaints of any irregularity or malpractice in other centers though the examination was held in Jaipur, Jalandhar, Mumbai, Hyderabad, Bangalore, Cuttack, Thiruvananthapuram and Lucknow apart from Delhi, Guwahati and Bhopal. No explanation has been given for canceling the examinations in the centers where no complaints of malpractice were made or found. We therefore find it difficult to accept the decision of the authorities canceling the examination in the entire country. This is clearly arbitrary and unconstitutional in the light of the judgments cited supra and violative of Article 14 of the Constitution.

12. We therefore set aside the impugned order of the Respondent No. 5 canceling the examination in areas other than Delhi and Guwahati where only the inquiry committee found evidence of irregularities. Consequently the applicant in OA 420/07 will be entitled to continue as Head Clerk from the date he assumed charge without having to appear in the examination again. The applicants in OA 526/07 should also be promoted if they are otherwise eligible, based on the results of the exams announced earlier.

13. In the result, we allow the OAs with the following directions :

(i) the impugned order No. STI(I)5/9/06-07 dated 30.5.2007 is set aside in so far as it relates to cancellation of exams conducted in March, 2006 in centers other than Delhi and Guwahati.

(ii) the respondents shall immediately declare the results of the examinations conducted in centres other than Delhi and Guwahati for the years not



declared so far and take consequential action to promote successful candidates subject to their eligibility.

(iii) the respondents are at liberty to pass appropriate orders separately basing on the enquiry committee's report as per Rules, in respect of Delhi and Guwahati zones keeping in view the Hon'ble Apex Court's observations mentioned in para-10 supra,

(iv) the applicant in OA 420/07 shall continue as Head Clerk from the date he assumed charge without having to appear in the examination again and

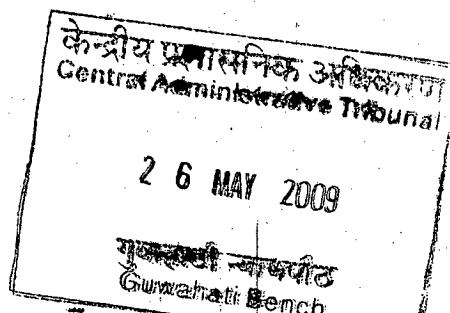
(v) the applicants in OA 526/07 shall be promoted as Head Clerk/Accountant/Sr. Store Keeper based on the results of the examination conducted on 22.3.2006, if they are otherwise suitable and

(vi) these orders will supersede the interim order dated 15.6.07 in OA 420/07. MA 65/08 filed in OA 420/07 ordered accordingly.

14. In the circumstances of the case, there shall be no order as to costs.

प्रमाणित प्रति
CERTIFIED TRUE COPY
क्रमांक OA 526 & 420/7
दिनांक 21.3.2008
मिति 21.3.2008
दिनांक 21.3.2008

महानगर पालिका
नियमित नियन्त्रित
कानूनी विवरण
Central Administrative Tribunal
काशीपुरा आरोपी/Hyderabad Bench



35-

FAX NO. :
PRASAR BHARATI
 BROADCASTING CORPORATION OF INDIA
 STAFF TRAINING INSTITUTE (PROGRAMMING)
 ALL INDIA RADIO
 RADIO COLONY, KIRRIWAY CAMP
 P.R.I.H.I. - 110 001

Sept. 16 2008

ANNEXURE + 8

No. DSTI(P)/5/1/DPC(ASII)/06

Telefax : 27605104
 Email : delhitrainingair@rediffmail.com

16th September 2008

**Sub : RESULTS OF THE DEPTT. EXAMINATION FOR PROMOTION
 FROM UDC/SK TO HC/ACTT/SSK HELD IN THE YEAR 2006.**

In compliance with the Hon'ble CAT Hyderabad Bench decision in OA No.420 and 526 of 2007 filed by S/ Shri U.V. Nagaraju, Asstt. DDCR, Hyderabad and C.H. Nagaraju, UDC, DMC, Kurnool, it has been decided by the competent authority that the results of the Departmental Examination conducted by STI(P) in March '06 for promotion of successful UDC/SK to the post of HC/ACTT/SSK in respect of all zones except Guwahati may be declared.

Consequently, the communication issued by STI(P) vide No. STI(P)/5/9/2006-07/972-283 dated 30.05.2007 is hereby withdrawn in so far as it relates to all Zonal Heads of AIR except Guwahati.

All the concerned Zonal Heads except Guwahati are requested to give effect to the results communicated by this office letter No. DSTI(P)/5/1/DPC(ASII)/06 dated 14.11.2006 (copy enclosed) and the candidates declared qualified may be given appointment to the post of HC/ACTT/SSK as the case may be by the appointing authorities concerned.

This issues with the approval of DDC(Training) U/C.

केन्द्रीय प्रशिक्षण आयोजन
 Central Administrative Training
 Tribunal

26 MAY 2009

राज्यकालीन
 Guwahati Bench

(Signature)
 (Dr. P. Pathan)
 Dy. Director General
 for DDC U/C

**HEADS OF ZONAL STATIOS OF AIR, TIRUVANANTHAPURAM, JAIPUR,
 CUTTACK, HYDERABAD, GUWAHATI, LUCKNOW, JALANDHAR, MUMBAI,
 BIJOPAL, DELHI AND BANGALORE.**

Copy forwarded for kind information to :

The Directorate General (By name : Shri. Mira Lal, DDC(A), All India Radio, Akashvani Bhawan, Parliament Street, New Delhi-110 001.

The General Manager (P), Prasar Bharati Sectt., PTT Building, Parliament Street, New Delhi-110 001.

Chief Vigilance Officer, Prasar Bharati, Prasar Bharati Sectt., PTT Building, Parliament Street, New Delhi-110 001.

The Dy. Director General (Admin.), All India Radio, Akashvani Bhawan, Parliament Street, New Delhi-11001.

PS to CEO, Prasar Bharati, Prasar Bharati Sectt., PTT Building, Parliament Street, New Delhi-110 001.

(Signature)
 for DDC U/C

Attested

(Signature)

Advocate

Aakashvani & Doordarshan Administrative Staff Association (Regd.)

National Council

Room No. 408, Aakashvani Bhawan, Defence Marg, New Delhi-110001
Phone : 23421000 (extn. 1003) Telefax : 01-11-23421027
Website : www.adasainc.org

NO. A/DASH/NO/NER/2009

Dtd. : 29.05.2009

The Chief Executive Officer,
Prasar Bharat,
New Delhi

Sir,

I am constrained to bring to your personal notice the following issue for immediate necessary action.

You are kindly aware that the department examination to fill up the posts of UDC/SK and HC/AC/SSK was held in the year 2006. But the declaration of results in respect of the exam for HC/AC/SSK posts was withheld consequent to the receipt of complaints. This decision of the department led to a court case in CAT Hyderabad and the Hon'ble CAT has directed the department to declare the results of all Zones, except in respect of those complaints of malpractices were received. Now it is widely believed that except in respect of North Eastern Zone the results of all other zones will be declared. This has created much anxiety and agitation among the administrative employees in North Eastern Region. In this regard I would like to draw your kind attention to the following facts.

After sufficient enquiries, I learn that the examination was conducted in NE zone smoothly and without any complaint. The sealed packet of question papers was opened by the DDG(NR) the examination-in-charge. Very recently the Invigilators were called upon to confirm whether there was any foul play in conducting/writing the examinations. Accordingly the Invigilators have confirmed that there was no room for any complaint/foul play in conducting the examinations.

Attested

H. N.

Advocate

Central Administrative Tribunal
Tribunal Registry No. 347/2009

26 MAY 2009

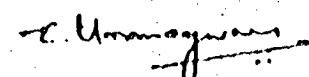
Tribunal Registry
Guwahati Bench

However the trouble arose as a result of the comments of the examiner, while correcting the answer papers that mass copying had taken place in Paper II of the exam. I am not able to comprehend as to how the examiner could come to such conclusions when he was not at all present at the place. While the Invigilators have confirmed that the examination was conducted fool proof, any such opinion by the examiner could be taken as mere 'Presumptions'. Moreover the enquiry reports (the excerpts of which are reproduced in the CAT order) has dismissed complaints from other place such as Delhi, Bhopal etc as unconfirmable, but in the case of NE Region the presumptions are sought to be taken into consideration for canceling the exam.

No doubt, this has created agitations among the members of NE Zone. I hope that I need not elaborate further in this regard. Any unjustified discrimination in respect of North Eastern zone is bound to have its repercussions. Therefore I request you to kindly intervene personally and instruct the concerned authorities to declare the results of NE Zone forthwith. I have advised the members to exercise restraint since I am taking up the matter at the highest level. I once again request you to kindly do the needful in this region.

Apart from the above I would also request you to kindly ensure that departmental examinations in respect of administrative employees are conducted in a time bound manner. It is very sad to note that after 2006 further examinations have not been conducted. You may kindly agree that fast-track promotions do not have any meaning if they are not conducted in time. Therefore I request you to issue necessary instructions for the timely conduct of examinations.

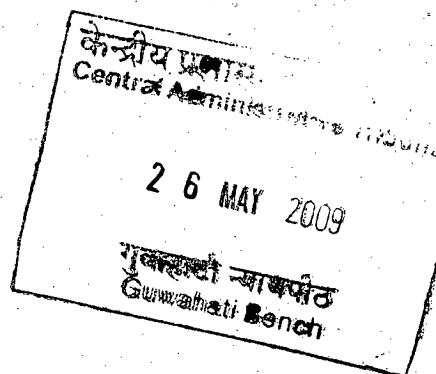
Yours faithfully,



(L.UMAMAGESWARAN)
PRESIDENT(NC)

Copy to: Com. Sangam Thakur, General Secy., ADASA (NC), New Delhi.

✓ 2. A.B.Dhar, Zonal Chairman, ADASA(NE Region), Silchar.



AKASHVANI & BHOOSHARAN
ADMINISTRATIVE STAFF ASSOCIATION
T.S.P. (REGD.)
REGIONAL COUNCIL (DIB)

NO. ADIA/2008/13/12/2008

Dated, Guwahati on 19 Sep'08.

To
The Dy. Director General (NBR)
(Kindly inform: Ms. V. Sekhore)
All India Radio,
Guwahati.

Respected Madam,

I am to bring to your kind notice on the issue of declaration of result of Deptt.
Competitive Examination for promotion to the post of Head Clerk/Asstt.

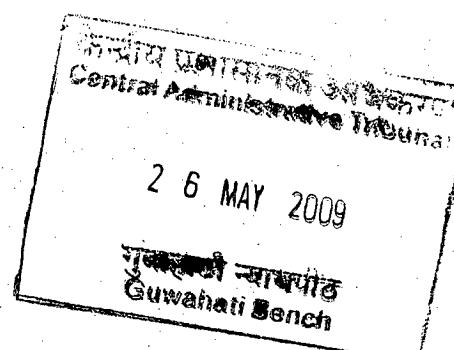
You are kindly aware that the Deptt. Com. Exam to fill up the notified 5 (five) posts of
HC/Asstt from the years 1999-2004 was held in the year March 2006 at Guwahati centre by
NER by the single notification by STT (P), New Delhi. The examination was conducted
smoothly and without any complaint. While going through the outcome of declaration of result,
it has been learnt that as per process of examination, the CR do not of qualified candidates in
written test were called for by STT (P) during the month of Sept. 06 to October 06 for NER for
some recruitment years together. But later on declaration of final result all over the country was
cancelled by the authority consequent on receipt of alleged irregularities. Thus, decision of the
department led to a court case in CAT Hyderabad and Hon'ble Court directed the department to
declare the results except in respect of those complaints of irregularities were received i.e. except
Delhi and N.E. Region etc.

This has created much anxiety and agitation among the administrative employees in
NER. The trouble has cropped up when it has been learnt that except in respect of North East
Region, the results of all other zones will be declared while the enquiry reports has dismissed
complaints from other place such as Delhi, Bihar etc. as unconvincing but in the case of North
East Region the "presumptions" as sought has been taken into consideration for cancelling the
Exam.

Attested

H. N.

Advocate



Contd. p/ 2

On knowing of the above facts the matter was communicated to the knowledge of the National Council on 26.08.08 and in response to that a copy of the letter dated 29.8.08, which is enclosed herewith for your kind ready reference.

Since the members of ADASA, NE Region have shown their discontent which is very much painful and in view of that we do hope, your good office being the administrative head of this region, will realize the pain and trouble of the innocent members of this neglected region and to be considerate to take up the matter with competent authority (CBO, DO, BII (F) to declare the result of the said DCE immediately which was held by a single notification and pending for the last two and half years so that the members of this neglected region may not be scapegoat and deprived of getting of their justice.

Your early personal intervention in this regard is solicited.

With regards,

Yours faithfully,

(A.B. DHAIR)
CHAIRMAN

Copy for kind information to:

1. The Dy. Director General (NPR), Doordarshan, Guwahati.
2. Station Director, All India Radio, Guwahati.
3. The President, (Sh. L.Umamageswaran - by name), National Council, ADASA, O/o the CE (SZ), AIR & TV, Swami Vivekananda Salal, Chennai- 600005.
4. The General Secretary (Shri. Sengen Kr. Thakur- by name), O/o the Directorate General, All India Radio, Room No. 416, Akashvani Bhawan, Parliament Street, New Delhi- 110001.

CHAIRMAN

केन्द्रीय न्यायालय
Central Administrative Tribunal

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Akashivani & Doordarshan Administrative Staff Association (Regd.)

National Council

Room No. 408, Akashivani Bhawan, Sanoid Marg, New Delhi-110001

Phone : 23421000 Extn: 408 Telefax : 91-11-23421827

Website - www.adassaa.org

संघीय प्रशासनक उचित
Central Administrative Tribunal

DT.04.11.08

26 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Smt. G.G. Patlek,
General Manager (Personnel),
Chief Vigilance Officer,
Prasar Bharati,
PTI Building,
New Delhi - 110 001.

Sub: Non-declaration of results in r/o Departmental Exam for the posts of
HC/AC in r/o N.E. Region - Request for Intervention - Reg.

Ref: This Assn's earlier letters of even No. Dated 29.8.08 & 6.10.08

Sir,

I invite your kind attention to the issue regarding the Non-declaration of results of Departmental Examination for the posts of Head Clerk/Accountant in respect of North Eastern Region. I am enclosing herewith copies of my earlier letters, which will be self-explanatory. I have also taken up the issue with the CEO, PB personally during the meeting on 26th September 2008 and the CEO has assured to look into the matter. I learn that this particular issue is being dealt at the Vigilance Section. Therefore I take this opportunity to request you to kindly decide the issue taking into consideration the inputs contained in my earlier communications.

Since the results of the departmental exam have been withheld in respect of N.E. Region alone based on presumption, this is creating a toxic atmosphere in there. Therefore I once again request you to look into the matter and issue order to declare the results in the earliest.

Thanking you,

Attested



Advocate

Copy to
Com. Babloo Banik, Jt. Secy (Hr), NER, ADASSA, 9/o DOA (NER)
Guwahati.

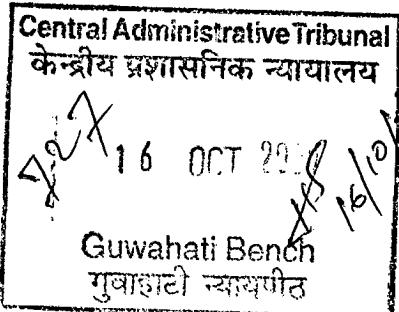
Yours faithfully,
[Signature]
(L. Upadhyay, ARS)

File in Court on... 16/10/09
Court Officer.

-41-

By
S. K. Mankar, Draft in CAT
Add C.U.S.C.
At Central Admin. Bench
16-9-09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



IN THE MATTER OF :

Original Application. No.95/2009

Syed Imdadul Hussain & Ors.

.....Applicant(s)

- Versus -

Union of India & Ors.

.....Respondents

AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No.

on behalf of all the Respondent Nos.

Received copy
H. Das
16.9.09.

WRITTEN STATEMENT

The humble answering respondents submit their written statement as follows :

1. That I Shri Atul Ch. Das
Station Director, All India Radio Guwahati
and Respondents No. 7 in the above case and 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 the written statement, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the statement on behalf of the respondents No.1 to 7.

Atul Ch. Das

STATION DIRECTOR,
ALL INDIA RADIO
GUWAHATI.

16 OCT 2009

Guwahati Bench

गुवाहाटी न्यायपीठ

2. That with regard to the statements made in paragraphs 1, 2 & 3 of the Original Application the answering respondents do not offer any comment.

3. That with regard to the statements made in paragraphs 4(1), 4(2), 4(3), 4(5), 4(7), 4(9), 4(13), 4(14) & 4(15) of the Original Application the answering respondents beg to state that those are matter of fact and records.

4. That with regard to the statements made in paragraphs 4(4) of the Original Application the answering respondents beg to state that this is a matter of fact and records.

However, STI(P) did not receive any complaint from Examination Centre, Guwahati.

5. That with regard to the statements made in paragraphs 4(6) of the Original Application the answering respondents denied the statement.

In fact the examination in question were cancelled as some complaints of irregularities were received and after conducting an enquiry into the matter it was found that serious lapses like tempering and mass copying were found to be true. Based on the enquiry report, the competent authority decided to cancel the examination.

It is further added that Hon'ble CAT Hyderabad while deciding the O.A No.420/2007 in para 1 of their judgment have observed as under :

"It is send that complaints were received from unsuccessful candidates with reference to selected candidates in Delhi, Bhopal and Jabalpur. There was also a complaint from one of the examiners that mass copying from book has been noticed while evaluating answer sheets from Paper-II from Guwahati. The Inquiry

Sameh Ch. Aya

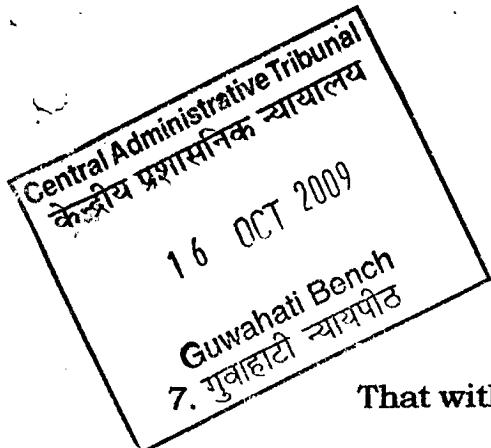
16 अग 2009

Committee came to the conclusion that in respect of Bhopal region, there is no conclusive evidence to substantiate the charges in the complaint. With respect to Delhi region it says that it is difficult to confirm allegations that Hindi version of the paper was leaked before the examination and it was difficult to prove the allegation that bribe was paid to the examiner by successful candidates. However, one case of tempering with answer sheet has been noticed in Delhi. In respect of Guwahati, the report points out that there has been mass copying as seen from the answer sheets of 90% of the candidates in Guwahati region." The above observations clearly negate the presumption of the applicant."

6. That with regard to the statements made in paragraphs 4(8) of the Original Application the answering respondents beg to state that in its judgment dated 31.3.2008, Hon'ble CAT Hyderabad in O.A.No.420/07 and 526/07 directed as under :

- (i) The impugned order No. STI(P)5/9/06-07 dated 30.5.2007 is set aside in so far as it relates to cancellation of examination conducted in March 2006 in centers other than Delhi and Guwahati.
- (ii) The respondents shall immediately declare the results of the examinations conducted in centres other than Delhi and Guwahati for the years not declared so far and take consequential action to promote successful candidates subject to their eligibility.
- (iii) The respondents are at liberty to pass appropriate orders separately basing on the enquiry committee's report as per Rules, in

Dinesh Ch. S.



respect of Delhi and Guwahati zones keeping in view the Hon'ble Apex Court's observations mentioned in para-10 supra."

That with regard to the statements made in paragraphs 4(10) & 4(11) of the Original Application the answering respondents beg to state that as per the direction (ii) of the judgment dated 31.3.2008 of Hon'ble CAT, Hyderabad the competent authority again reviewed the gravity of irregularities in respect of Delhi and Guwahati Zones and decided to withdraw order No. STI(P)5/9/06-07 dated 30.5.2007 and declare result of all zones except Guwahati zone. The prerogative of the competent authority cannot be termed as illegal, arbitrary and is not any violation of the Article 14 of the Constitution of India.

8. That with regard to the statements made in paragraphs 4(12) & 4(13) of the Original Application the answering respondents beg to state that apart from the examiners observations about mass copying a comparison chart indicating the number of qualified candidate in different zones viz a viz Guwahati Zone clearly indicate that the observation of the examiner proves to be true.

9. That with regard to the statements made in paragraphs 4(17) of the Original Application the answering respondents beg to state that it is submitted that the obversations of the Inquiry Committee with regard to tempering of one answer sheet in Delhi Zone was further examined in the Directorate. However, this could not be substantiated. But the observations of the Inquiry Committee prima facie revealed the role of invigilators I regards to mass copying in Guwahati Zone due to which the further Inquiry Committee has been constituted at the level of DDG to examine the matter. Thus the contention of the applicants has no merit.

Dinesh Ch. Das

STATION DIRECTOR
ALL INDIA RADAR
GUWAHATI

16 NCT 2009

Guwahati Bench

— 45 —

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10. That with regard to the statements made in paragraphs 4(18) of the Original Application the answering respondents beg to state that the contention of the applicant is not true. The examinations were cancelled after holding in depth inquiry and after due consideration of the facts and circumstances of the case by the competent authority.

11. That with regard to the statements made in paragraphs 4(19) & 4(20) of the Original Application the answering respondents do not offer any comment.

12. That with regard to the statements made in paragraphs 5(1) of the Original Application the answering respondents beg to state that the statement of the applicant is not true so denied.

13. That with regard to the statements made in paragraphs 5(2) of the Original Application the answering respondents beg to state that the point raised in his para does not pertain to Guwahati Zone is irrelevant and hence denied.

14. That with regard to the statements made in paragraphs 5(3) & 5(4) of the Original Application the answering respondents beg to state that the contention of the applicant is denied. The result of Guwahati Zone was not withheld on mere presumption but after holding an enquiry by a duly constituted committee and considering all the aspects of the case, based on the facts and figures the decision was taken by the competent authority. It is also stated that a fresh preliminary enquiry has also been entrusted to a DDG level officer with a view to find out the roles played by the invigilators and the candidates.

15. That the application is devoid of any merit and deserved to be dismissed.

16. That this written statement has been made bona fide and for the ends of justice and equity.

Dinesh Ch. Das

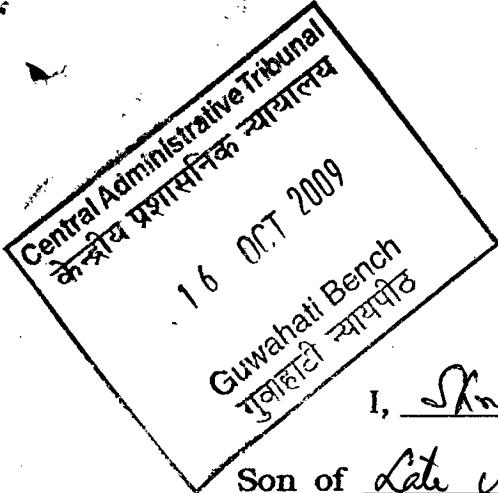
STATION DIRECTOR
ALL INDIA RADI
GUWAHATI.

It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicant may be dismissed with cost.



STATION DIRECTOR,
ALL INDIA RADIO
GUWAHATI.





7

VERIFICATION

I, Shri Nimesh Ch. Das
Son of Late Chinalal Das aged about 56
years, resident of Chandmari, Guwahati
working as Station Director, AIR Guwahati and
duly authorized and competent officer of the answering respondents
to sign this verification, do hereby solemnly affirm and verify that the
statements made in Paras ^{1, 2, 3, 4, 8, 10, 11, 12, 13, 14, 15, 16} are true to my knowledge,
belief and information and those made in Para 5, 6, 7, 9 - being
matters of record are true to my knowledge as per the legal advice
and I have not suppressed any material facts.

And I sign this verification on this 15th day of September, 2009
at

Nimesh Ch. Das

STATION DIRECTOR,
ALL INDIA RADIO
GUWAHATI.