

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./TA/ NO... 72/2009-2008
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~~E.P./M.P./NO... 77/09 2009~~
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filed by Mrs. M. D. Sar. C.M.

23/7/2015
SECTION OFFICER (JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 72 / 2009

2. Miscellaneous Petition No /

3. Contempt Petition No /

4. Review Application No /

Applicant(S) Dipak Medhi

Respondant(S) Union of India

Advocate for the Applicant(S): S. Sarma

H. K. Das

Advocate for the Respondant(S): CGEC

| Notes of the Registrar | Date | Order of the Tribunal |
|---|-------------------|---|
| <p>This application is in form. 21.04.2009 is filed/C. F. Rs. 50/- deposited vide P.O. No. <u>69F351156</u>, <u>69F351155</u> Dated <u>20.11.09</u>, <u>69E999150</u> <u>20/4/09</u> Dy. Registrar</p> <p><u>Petitioner's G.P.O. for</u> <u>issue notices are received</u> <u>with envelope by</u> <u>server.</u></p> <p><u>20/4/09</u></p> | <p>21.04.2009</p> | <p>Heard Mr. H. K. Das, learned counsel for the Applicant, and Mr. M.K. Boro, learned Addl. Standing Counsel for the Government of India (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.</p> <p>2. Admit. Issue notice to the Respondents requiring them to file their written statement by 11.06.2009.</p> <p>3. As an ad-interim measure, the Respondent should maintain the status- quo of the Applicant (who is continuing as temporary Post-man at Kharghuli Sub- Post Office under Guwahati G.P.O.) until further orders.</p> |

O.A. 72/09

Contd../-


~~11.06.2009~~ None appears for the
21.04.2009 Applicant. No written statement has

~~yet been filed by the Respondents.~~
4. The Respondents should also keep
~~Call this matter on 31st July,~~
vacant one post of Postal
~~2009 awaiting written statement~~
Assistant/Sorting Assistant (out of 124)
~~from the Respondents.~~
vacant posts; which has been notified (to
be filled up by a recruitment) under
Annexure-A/19; so that the same can be
given to the Applicant in ~~(M.R. Mohanty)~~
~~Vice-Chairman~~
/lm/ success in this case.

5. While passing this ad-interim
orders, liberty is hereby granted to the
Respondents to file their objection, if any,
to the interim prayer made in this O.A,
and to this ad-interim order.

6. Send copies of this order to the
Applicant and to the Respondents (along
with notices) in the address given in the
O.A.

7. Free copies of this order be also
supplied to the counsel appearing for
both the parties.


(M.R. Mohanty)
Vice-Chairman

lm

Copies of notices
along with order
dated 21/4/09 send
to D/Sec. for
issuing to respondents,
no. 2,3 they have another
R-1 leg. regd. A/D post.

~~Copy~~
4/5/09. D/No-2316 & 2318
Dt. 11-5-2009

MS. D/S filed. 7.

Received copy.
Has.
24.4.09.

Received copy of
order dt. 21/4/09
Munul Kumar Bho.
Addl. C.S.C.

11.06.2009

None appears for the Applicant. No written statement has yet been filed by the Respondents.

Call this matter on 31st July, 2009 awaiting written statement from the Respondents.

(M.R.Mohanty)
Vice-Chairman

18.6.09

Notice duly served on R-1.

18/6/09

/lm/

31.30.7.09

N/S not filed.

31.07.2009

Mr.H.K.Das, learned counsel for the Applicant is present. Mr.M.K.Boro, learned Addl. Standing counsel undertakes to file the written statement by 7th of August, 2009.

Call this matter on 07.08.2009.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

07.08.2009

Mr.H.K.Das, learned counsel for the Applicant is present. Mr.M.K.Boro, learned Addl. Standing counsel representing the Respondents undertakes to file the written statement in course of the day.

Mr.H.K.Das, Advocate, who has received a copy of the written statement, prays for three weeks time to file rejoinder. Call this matter on 01.09.2009 awaiting rejoinder from the Applicant.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

11.8.09

N/S filed by the Respondents in the Court on 7.8.09 through Mr. H.K. Boro, Addl. C.S.C.

11/8/09

No rejoinder filed.

31.8.09.

O.A.72-09

01.09.2009

A rejoinder is filed in Court today on behalf of the Applicant. Copy thereof has already been supplied to Mr.M.K.Boro, learned Addl. Standing counsel.

Call this matter on 05.10.2009.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

05.10.2009

In this case written statement and rejoinder have already been filed by the parties. In the rejoinder a point of law has been set up, for which, adjournment from 01.09.2009 till today was granted to the Respondents. Today Mr.M.K.Boro, learned Addl. Standing counsel representing the Respondents states that no written reply to the rejoinder is necessary to be filed and the point of law shall be unanswered at the hearing.

2. In the aforesaid premises, call this matter on 01.12.2009 for hearing.

3. By way of filing M.P. No.77/2009, Respondents sought vacation of the interim order; which was passed on 21.04.2009. Since the matter is now going to be listed for final hearing, prayers made in M.P. No.77/2009 shall be taken up on 01.12.2009 at the final hearing itself.

Contd...

1.9.09

Rejoinder has been filed by the applicant in the through Mr. H.K. Desai, Adv. Copy served.

11/3/09

Rejoinder and rejoinder filed by the parties.

1.10.09

OA. 72/09

-5-

Contd.
05.10.2009

K. Das

Send copies of this order to the Applicant and Respondents and also free copies to H.K. Das and Mr. M.K. Boro, advocates.

6/10/09

Received copy.
6.10.09

Received.
6/10/09
Addl CGSC.

Copies of order dated 5/10/2009 send to D/Sec. for issuing to respondents by post.

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

D/NB - 1174 to 11706

5/10/09 Dr = 8.10.09

4.11.05

Reply to the Respondent has been filed by the Respondent. Copy sent.
4/11/05

/bb/

4. It has been stated, on behalf of the Applicant, in M.P. No.82/2009, that although (on the strength of the interim order) the Applicant is continuing to serve as Postal Assistant, he is not being paid monthly salary by the Respondents. Nonpayment of monthly salaries to the Applicant (who is continuing to serve on the strength of interim order) amounts to commission of contempt, by the Respondents, of the interim order dated 21.04.2009. Respondents should, therefore, make payment of monthly salaries to the Applicant in the post of Postal Assistant. Arrears salary of the Applicant, as on today, should be paid to him immediately latest by 26.10.2009.

5. Call this matter on 01.12.2009 for hearing.

6. Send copies of this order to the Applicant and to the Respondents in the address given in the O.A.

7. Free copies of this order be also supplied to Mr.H.K.Das, learned counsel for the Applicant and to Mr.M.K.Boro, learned Addl. Standing counsel representing the Respondents.

5/10/09
(M.R.Mohanty)
Vice-Chairman

O.A.72 of 09

The case is ready
for hearing.

01.12.2009

None appears for the Applicant.

Case is adjourned to 07.12.2009.

30.11.09

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

07.12.2009

List the matter on 19.01.2010.

The case is ready
for hearing.

(Mukesh Kumar Gupta)
Member (J)

/lm/

18.1.2010

19.01.2010

Mr. H.K. Das, learned counsel for
applicant has filed a written request for
his absence as well as to adjourn the
case.

List the matter on 25.01.2010.

The case is ready
for hearing.

22.1.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

The case is ready
for hearing.

/PB/

22.2.2010

25.1.2010

List the matter on 23.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

23.2.2010

List of dates
filed by the applicant
for the adjournment.
23/2/2010

24.02.2010

On the request of parties adjourn
to 9.3.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

The case is ready
for hearing.

/pg/

8.3.2010

09.03.2010

Heard Mrs M.Das, learned Sr.C.G.S.C along with Mr M.K.Boro, learned Addl.C.G.S.C. Respondents have filed M.P.77/09 seeking vacation of interim order dated 21.4.2009. Learned counsel for the respondents states that the issue raised in the present O.A is no more res-integra in view of this Bench judgment dated 19.1.2010 in O.A.79/09 (Smt. Naremai Bordoloi vs. Union of India).

I have heard learned counsel for the respondents for some time. Mr H.K.Das, learned counsel for the applicant states that he was not aware of this judgment and therefore seeks 1 day adjournment to make further submission on the subject. Heard in part.

List as item No.1 under the regular list on 10.3.2010.



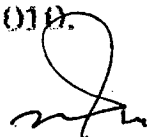
(Mukesh Kr. Gupta)
Member (J)

/pg/

10.03.2010

After arguing for some time, Mr H.K. Das, learned counsel for applicant, states that matter may be placed before the Division Bench. On the other hand, Mrs M. Das, learned Sr. C.G.S.C. for the respondents, states that issue raised in the present case namely, compassionate appointment is no longer res integra as held in O.A.No.79 of 2009 Smt Naremai Bordoloi vs. Union of India and Others.

In view of the request made by learned counsel for applicant, list before the Division Bench on 31.03.2010.



(Mukesh Kurnu Gupta)
Member (J)

31.03.2010

Mr. H.K. Das, learned counsel for Applicant appeared and prays for adjournment, which has not been opposed by other side.

List on 26th April 2010.

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

26.04.2010

Proxy counsel for Applicant prays for adjournment. Counsel for Respondents has no objection for adjournment of this case.

List the matter on 28.4.2010.

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

Im

28.4.2010

On the request of proxy counsel for respondents case is adjourned to 11.5.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

11.05.2010

List the matter for hearing on 26.05.2010.

(Madan Kumar Chaturvedi)
Member (A)

/pb/

The case is ready for hearing.

23.4.2010

The case is ready for hearing.

10.5.2010

The case is ready for hearing.

25.5.2010

O.A.72-09

26.05.2010

On the written request of Mr.H.K.Das,
learned counsel for applicant, adjourned to
08.06.2010.

The case is ready
for hearing.

7.6.2010

/bb/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

~~08.06.2010~~
~~08.06.2010~~

~~Learned proxy counsel for applicant~~
~~Learned proxy counsel for applicant~~

~~prays for adjournment~~
~~prays for adjournment.~~

08.06.2010

Learned proxy counsel for applicant
prays for adjournment.

List on 10.06.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkrr

10.6.2010

As agreed by learned counsel for both
sides, list the matter on 15.6.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

15.06.2010

For the reasons recorded separately
O.A. is dismissed.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

Received copy
of order dtd. 15.6.10
for Mrs. M.Das
P. K. Rana
1/7/10

Received copy for applicant
Das.
1.7.10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No.72 of 2009

With

M.P.No.77 of 2009

DATE OF DECISION: 15.06.2010

Shri Dipak Medhi

.....Applicant(s)

Mr H.K. Das

Advocate(s) for the
Applicant (s)

- Versus -

Union of India and others

Respondent(s)

Mrs M. Das, Sr. 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? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy
of the Judgment? Yes/No


Member(J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.72 of 2009

With

M.P.No.77 of 2009

Date of Order: This the 15th day of June 2010

The Hon'ble Sri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

Dipak Medhi,
S/o late K.C. Medhi,
Fatasil Ambari, Near Kali Mandir,,
Guwahati-781025.

..... Applicant

By Advocate Mr H.K. Das.

- versus -

1. The Union of India, represented by its
Secretary,
Ministry of Communication, Dak Bhawan,
Department of Posts,
New Delhi-1.
2. The Chief Postmaster General,
Meghdoot Bhawan,
Assam Circle, Guwahati-1.
3. The Senior Superintendent of Post Offices
Guwahati Division,
Meghdoot Bhawan, Guwahati-1.

..... Respondents

By Advocate Mrs. M. Das, Sr. C.G.S.C.

.....

ORDER (ORAL)


MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Dipak Medhi, in this O.A., seeks direction to the respondents to consider his case for absorption in the grade of Postal Assistant, Army Postal Service in terms of judgment dated 25th July



2003 in Nripen Tamuli vs. Union of India with all consequential benefits.


2. Admitted facts are: Shri Kanak Chandra Medhi, Postman, Kharghuli S.O. under G.P.O., died in harness on 02.08.1997. Applicant being his son and eligible for appointment on compassionate ground submitted an application dated 24.09.1997. He was approved for such appointment under relaxation of normal rules as Postal Assistant on 11.11.1999. Earlier, vide communication dated 18.06.1999 his willingness was sought for enrolment in Army Postal Service, which he had accepted but no action had been taken. Thereafter, vide communication dated 13.03.2001, Assistant Post Master General (Staff), Assam Circle, Guwahati, required him to submit willingness to join in any other department or outside Assam. Accordingly, vide communication dated 19.03.2001 he prayed to the respondents for issuing an early appointment order to save his family from starvation. Vide order dated 14.11.2002 (Annexure-A/4) he was appointed against the vacant post of Branch Postmaster in Bordol Branch Office under Rangliya S.O. Although he submitted his willingness but due to his not having any landed property, said offer of appointment was cancelled. Consequently, he submitted representation dated 17.03.2003 and made a request to consider his case for alternative appointment. Senior Superintendent of Post Offices, Guwahati Division, vide communication dated 14.07.2003 ordered his absorption as GDSMD, Dhepargaon Branch Office under Rangliya S.O. and formal appointment order was issued on 21.07.2003. He assumed charge of said post on 22.07.2003.



3. His grievance started when Nripen Tamuli and two others approached this Tribunal vide O.A.Nos.370, 407 and 408 of 2002 respectively, which had been disposed of vide common order dated 25.07.2003 requiring them to submit fresh representation individually seeking consideration for enrolment in the Army Postal Services by giving necessary undertaking, if any. The respondents were also directed to pass speaking order thereon. It is contended that said persons were appointed as Postal Assistant. His representation seeking similar treatment had not been considered favourably and objectively. As such, the respondents committed gross discrimination, violative of Articles 14 and 16 of the Constitution of India, emphasized Mr H.K. Das, learned counsel for applicant. It was further emphasized that he being similarly situated is entitled for similar treatment. It was forcefully contended that the State has acted in an arbitrary and discriminatory manner, which action cannot be approved. Thus, there is scope for judicial interference. Reliance was placed on order dated 19.12.2008 in O.A.No.05/2007, Md. Nazimuddin Ahmed vs. Union of India and others, to contend that discrimination committed by the respondents led to gross miscarriage of justice in the decision making process.

4. By filing reply, the respondents contested the claim laid stating that Department of Posts vide communication dated 08.02.2001 discontinued the practice of maintaining waiting list approved for compassionate appointment. Vide another Circular dated 14.08.2001, Office of Chief Post Master General, Assam Circle, Guwahati, disclosed that in the Circle there were total twentyseven candidates for PA/SA, 16 candidates for Postman/Mailguard cadre and 47 candidates for Group 'D' cadre approved between 07.12.1993 to

11.11.1999, kept in waiting list. Since practice of wait listing of candidates was dispensed with, chances of absorption of said approved candidates against available vacancies were remote, which would have caused hardship and, therefore, they were offered appointment against GDS posts, subject to their fulfilling all required conditions of recruitment like educational qualification etc. Vide para 2 it was made clear to approved candidates that: "with their acceptance of GDS post they would have no further claim for appointment on any special consideration against regular departmental vacancies and they would have to take their turn as per present departmental policy for GDS, in the matter of their appointment against future departmental vacancies". Applicant's name figured at serial No.6 in Guwahati Division in the waiting list of approved candidates. He had accepted his appointment as GDS. His claim for similar treatment like that of Ms Barnali Das, Md. Abdul Kasim and Nripen Tamuli was not justified as his name had already been cancelled in the year 2001 alongwith other approved candidates in the waiting list. His representation was considered but it could not be accepted. He accepted his appointment to GDS post and joined said post at Dhepargaon Branch Office on 22.07.2003. Candidates who had filed O.A.Nos. 370, 407 and 408 of 2002 did not offer their willingness in GDS cadre as an alternative way of absorption by the Department, though he accepted appointment to GDS post and joined said post. As such there is no similarity between him and the candidates who filed aforementioned O.A.s. as projected, emphasized Mrs M. Das, learned Sr. C.G.S.C. for the respondents. Reference was also made to co-ordinate Bench decision in O.A.79/2009 decided on 19.01.2010, Smt Naremai Bordoloi Vs. Union of India and others,



whose name also appeared in the list of waiting approved candidates at serial No.8 in RMS Guwahati Division. In Naremai Bordoloi (supra) she was appointed as GDS Mailman and as such her request for absorption in regular Group 'D' post had not been accepted and O.A. was dismissed.

5. We have heard learned counsel for parties, perused the pleadings and other material placed on record very carefully. The short question which arises for consideration is whether applicant who had accepted post of GDS and joined on 22.07.2003 has any legal claim for absorption/appointment as Postal Assistant merely because of inclusion of his name in the list of waiting approved candidates. On examination of the matter with reference to material placed before us, and as noticed hereinabove, our decision has to be in the negative. It is not in dispute that Department of Posts vide Circular dated 08.02.2001 discontinued the practice of maintaining waiting list of candidates approved for compassionate appointment. As per said circular dated 14.08.2001, CPMG, in order to mitigate the hardship caused because of aforementioned policy decision, wait listed candidates were offered GDS vacancies subject to fulfilling all required conditions or recruitment and also making it absolutely clear that with acceptance of GDS posts, concerned candidates: "would have no further claim for appointment on any special consideration against regular departmental vacancies". Admittedly, he accepted such offer and joined the post of GDS. Thus, having accepted alternate appointment in the year 2003, he is estopped to contend that he is entitled to similar treatment as Nripen Tamuli and others. On examination of said judgment, we are of the view that the same is not a judgment in rem. Rather, vide order dated 25.07.2003 deciding said

O.A.s, no final determination of any issue had been made except issuing direction to applicants therein to submit their fresh representation as well as direction to the respondents to consider the same as per relevant terms and conditions. Furthermore, said three persons had not offered their willingness in the GDS cadre as an alternative way of absorption by the department. On the other hand, applicant had accepted offer for alternate appointment in GDS cadre. Thus, he is not similarly situated to said three persons.

6. Furthermore, we may note that Smt Naremai Bordoloi (supra) was similarly situated as him as her name was also included in the list of waiting approved candidates. She was also offered alternate appointment, which she accepted and thus her claim for absorption in regular Group 'D' post was rejected by this Tribunal vide order dated 19.01.2010.

7. In view of discussion made hereinabove, we are of the considered view that judgment and order dated 25.07.2003 in O.A. Nos.370, 407 & 408 of 2002 did not lay down any principle. It cannot be followed as a legal precedent. The same is not a judgment in rem.

8. Thus, finding no merits, O.A. is dismissed. M.P.No.77/2009 which was filed by the respondents for vacation of interim order dated 21.04.2009 also stands disposed of. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O. A. NO. 72/09

Dipak Medhi.

-vs-

U.O. 1 of Ovs.

I may be permitted to move one
Misc. case in the aforesaid O.A on
19.8.09.

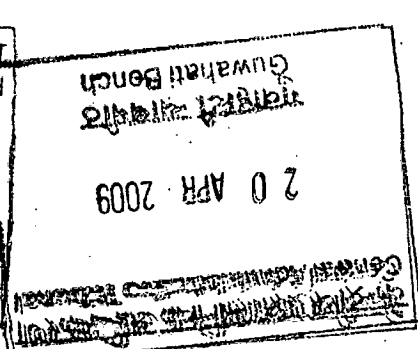
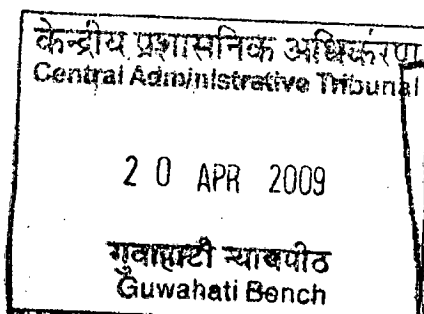
I therefore pray before Honour to
grant leave to move the matter on 19.8.09.

Thanking.

Sincerely yours.

Has
18.8.09.

Allowed
provided completed
formalities.
18/8/09



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 72 of 2009

Sri Dipak Medhi

...APPLICANT

- Vs -

Union of India & Ors. ...RESPONDENTS

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Filed by



Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 72 of 2009

Sri Dipak Medhi

..APPLICANT

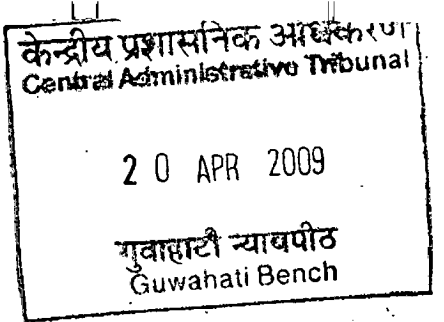
- Vs -

Union of India & Ors.

...RESPONDENTS

S Y N O P S I S

That the applicant is presently working as officiating Postman in the Kharghuli B.O. under the Guwahati West S.O. The applicant submitted his application for appointment on compassionate ground on 24.09.97 and accordingly he was approved on 11.11.1999 for appointment in the P.A. Cadre under the relaxation of normal recruitment rules. On 18.06.1999 communication under No. Staff/16-11/98 was issued to the applicant asking his willingness for enrolment in Army Postal Services and the applicant submitted his willingness. However, the respondents did nothing for appointing the applicant. Being aggrieved some of the similarly situated persons approached this Hon'ble Tribunal by way of filing O.A. Nos. 370, 407 and 408 of 2002. The Hon'ble Tribunal vide order dated 24.07.03 disposed of the cases directing the applicant to submit fresh representations and thereafter the respondents to consider the representations submitted by the applicants thereto with a further direction to the CPMG, Assam Circle to take up the matter with the concerned Army Postal Service authority, through proper channel, for enrolment of the applicants as per relevant terms and conditions. It was also directed that the Army Postal Service will consider the cases of the applicants subject to fulfillment of terms and conditions by a speaking order. Pursuant to the order dated 24.07.03 passed by the Hon'ble Tribunal the respondents while considering the cases of the applicants thereto absorbed them in the cadre of P.A. The applicant submitted representation for similar relief however the respondents did not give an eye towards the grievance of the applicant causing serious discrimination.



On the other hand in the year 2004 the respondents absorbed two persons namely Miss Barnali Das and Md. Abdul Kasim in the P.A. Cadre on compassionate ground causing gross discrimination towards the applicant in clear violation of Article 14 and 16 of the Constitution of India. It is state that the approval of the said 2(two) persons for compassionate appointment came much later to that of the applicant i.e. in the year 2002. Therefore seeking similar relief the applicant made a prayer before the respondents to consider his case for absorption in the Cadre of P.A. However, the respondents sat over the matter. Being aggrieved by such inaction on the part of the respondents the applicant has approached this Hon'ble Tribunal by way of filing the instant original application for redressal of his grievances.

Hence the present original application.

Filed by

Advocate

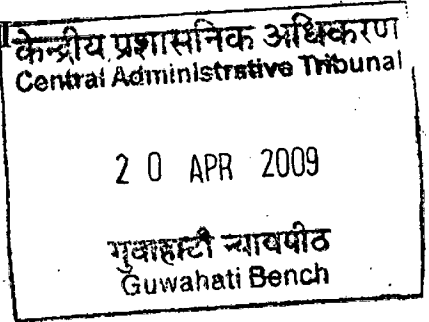
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 72 of 2009

LIST OF DATES

- 02.07.97 The father of the applicant expired.
- 24.09.97 Applicant submitted application for appointment on compassionate ground.
- 18.06.99 Communication under No. Staff/16-11/98 issued to the applicant asking his willingness for enrolment in Army Postal Services and accordingly the applicant submitted his willingness. [ANNEXURE- A/1] [Page- 14]
- 13.03.01 Communication issued under no. Staff/16-Rlg/88/Part by the Assistant Postmaster General (Staff), Assam Circle, Guwahati to the applicant asking his willingness to join in any other department or outside Assam. [Annexure- A/2] [Page- 15]
- 19.03.01 Communication submitted by the applicant to the CPMG, Assam Circle expressing his willingness. [Annexure- A/3] [Page- 16]
- 14.11.02 Order issued by Senior Superintendent of Post Offices, Guwahati division considering the appointment of the applicant against the vacant post of Branch Postmaster (in short BPM) in Bordol B.O. under Rangiya S.O.. [Annexure- A/4] [Page- 18]
- 17.03.03 Representation submitted by the applicant to the SSPO, Guwahati Division making a prayer to give him alternative appointment as his appointment in the post of BPM was rejected due to not having of immoveable property to pledge. [Annexure- A/5] [Page- 20]
- 14.07.03 communication issued under No. A2-EST/ED/Rlg/Pt-II by Senior Superintendent of Post Offices, Guwahati division absorbing the applicant in the post of



GDSMD, Dhepargaon B.O. under Rangia S.O. [Annexure- A/6] [Page- 21]

21.07.03 Formal appointment order. [Annexure- A/7] [Page- 23]

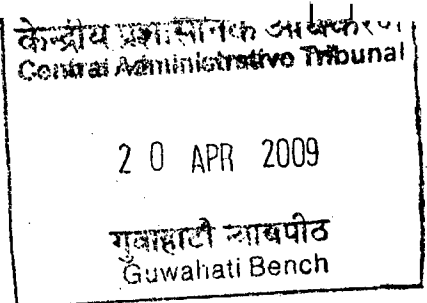
22.07.03 Order by which the applicant assumed charge. [Annexure- A/8] [Page- 24]

25.07.03 Common order passed by the Hon'ble Tribunal in O.A. Nos. 370, 407 and 408 of 2002 (Sri Nripen Tamuli and Ors. -Vs- U.O.I & Ors.), who were similarly situated to the applicant. By the said order the Hon'ble Tribunal directed the respondents to consider the representations submitted by the applicants thereto with a further direction to the CPMG, Assam Circle to take up the matter with the concerned Army Postal Service authority, through proper channel, for enrolment of the applicants as per relevant terms and conditions. It was also directed that the Army Postal Service will consider the cases of the applicants subject to fulfillment of terms and conditions by a speaking order. [Annexure- A/20] [Page- 40]

20.07.04 Order under no. B 2/compassionate appointment/01 issued by respondent no. 3 in favour of 2(two) i.e. Miss. Barnali Das and Md. Abdul Kasim, who were similarly situated to that of the applicant directing them to undergo attachment training for appointment in P.A cadre under relaxation of normal recruitment rule against the vacancies of direct recruitment quota. [Annexure- A/9] [Page- 25]

09.08.04 Order by which the aforesaid 2(two) persons were directed for induction training. [Annexure- A/10] [Page- 26]

29.10.04 Order No. B 1/PTC/Guwahati directing the said Miss. Barnali Das and Md. Abdul Kasim to undergo practical training at Guwahati University H.O. wherein they were finally absorbed in the P.A. Cadre. [Annexure- A/11] [Page- 27]



- 02.02.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/12] [Page- 28]
- 08.11.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/13] [Page- 29]
- 22.11.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/14] [Page- 31]
- 06.06.07 Representation submitted by the applicant to the Sr. Superintendent of Post offices, Guwahati Division praying for his transfer from Dhepargaon, B.O. under Rangia S.O. to a nearby office for attending his old ailing mother. [Annexure- A/15] [Page- 33]
- 04.07.07 Order passed pursuant to the representation dated 06.06.07 by which he was allowed to work as officiating postman against a vacant post in the Kharghuli B.O. under Guwahati West S.O. [Annexure- A/16] [Page- 34]
- 01.01.09 Order extending the service of the applicant in the post of officiating postman in the Kharghuli B.O. [Annexure- A/18] [Page- 37]
- 2009 Advertisement issued by the CPMG, Assam Circle for filling up of 84 posts of Postal Assistants. [Annexure- A/19] [Page- 39]

Filed by

H. as.

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 72 of 2009

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी ब्याचपीठ
Guwahati Bench

BETWEEN

Dipak Medhi,
Son of late K.C. Medhi
Fatasil Ambari, Near Kali Mandir,
Guwahati- 781025.

APPLICANT

-Versus-

1. The Union of India
Represented by its Secretary,
Ministry of communication, Dak Bhawan,
Department of Posts, New Delhi- 1

2. The Chief Postmaster General, Meghdoot Bhawan,
Assam Circle, Guwahati- 1.

3. The Senior Superintendent of
Post Offices, Guwahati Division,
Meghdoot Bhawan, Guwahati- 1.

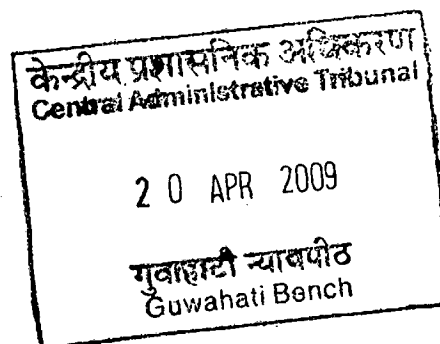
RESPONDENTS

DETAILS OF APPLICATION

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

The present application is directed against the discrimination meted out to the applicant in the matter of public appointment and same is also made for a direction to the respondents to appoint the applicant in the cadre of Postal Assistant.

Dipak Medhi



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.

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:

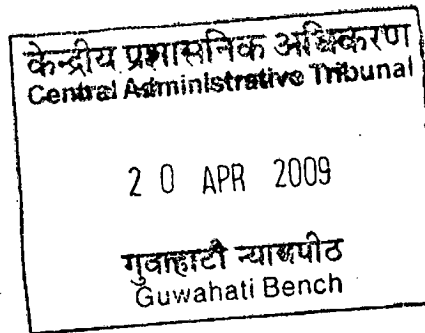
4.1 That the applicant is presently working as officiating Postman in the Kharghuli S.O. under the G.P.O.

4.2 That the father of the applicant expired on 02.08.1997. The applicant made application for appointment on compassionate ground on 24.09.1997 and accordingly he was approved on 11.11.1999 for appointment under relaxation of normal rules as Postal Assistant. On 18.06.1999 a communication under No. Staff/16-11/98 was issued to the applicant asking his willingness for enrolment in Army Postal service and accordingly the applicant placed his willingness. However, nothing was done towards absorption of the applicant in the Army Postal Service.

A copy of the communication dated 18.06.1999 is annexed herewith and marked as **ANNEXURE-A/1**.

4.3 That thereafter the Assistant Postmaster General (Staff), Assam Circle, Guwahati issued a communication dated 13.03.2001 under no. Staff/16-Rlg/88/Part to the applicant asking his willingness to join in any other department or outside Assam. In the said communication it is mentioned that the applicant was approved for appointment as Postal Assistant under the respondents.

As per me Shi



A copy of the communication dated 13.03.2001 under no. Staff/16-Rlg/88/Part is annexed herewith and marked as **ANNEXURE- A/2.**

4.4 That accordingly the applicant submitted his willingness to the Chief Post Master General, Assam Circle, Guwahati vide his communication dated 19.03.2001. In the said communication the applicant also prayed to the respondents for issuing an early appointment order to save his family from starvation.

A copy of the letter dated 19.03.2001 is annexed herewith and marked as **ANNEXURE- A/3.**

4.5 That on 14.11.2002 the Senior Superintendent of Post Offices, Guwahati division issued an order considering the appointment of the applicant against the vacant post of Branch Postmaster (in short BPM) in Bordol B.O. under Rangiya S.O. By the said communication the applicant was also asked to submit necessary documents.

A copy of the order dated 14.11.2002 is annexed herewith and marked as **ANNEXURE- A/4.**

4.6 That although the applicant placed his willingness for the post of BPM in Bordol B.O. under Rangiya S.O., however due to not having of landed property certificate his appointment to the post of BPM was rejected. To that effect the applicant submitted a representation dated 17.03.2003 to the Senior Superintendent of Post Office, Guwahati division expressing that he is an unemployed youth and for not having moveable property to pledge before the postal authority his appointment to the post of BPM is rejected. The applicant in the said representation made a prayer to consider his case for any alternative appointment.

A copy of the representation dated 17.03.2003 is annexed herewith and marked as **ANNEXURE- A/5.**

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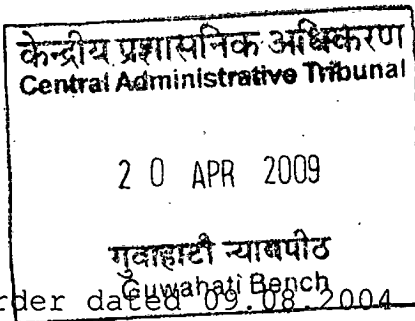
4.7 That the Senior Superintendent of Post Offices, Guwahati division, Department of Posts issued a communication under No. A2-EST/ED/Rlg/Pt-II dated 14.07.03 absorbing the applicant in the post of GDSMD, Dhepargaon B.O. under Rangia S.O. Accordingly formal appointment order dated 21.07.03 was issued to the applicant. On 22.07.03 the applicant assumed charge as EDDA in the Dhepargaon B.O. under Rangia S.O.

Copies of the communications dated 14.07.03, appointment order dated 21.07.03 and joining report dated 22.07.03 is annexed herewith and marked as **ANNEXURE- A/6, A/7 and A/8...../////**

4.8 That the applicant begs to state that although the initial approval of the applicant was for the post of P.A however the respondents have done nothing towards absorbing the applicant in the cadre of P.A. It is not the case of the respondents that the applicant is not eligible for the post of P.A. The respondents are denying the legitimate claim of the applicant only on the ground of vacancy. However, the respondent no. 2 committing gross illegality issued an order dated 20.07.04 under no. B 2/compassionate appointment/01 in favour of 2(two) applicants i.e. Miss. Barnali Das and Md. Abdul Kasim, who were similarly situated to that of the applicant as they were also approved for appointment in the cadre of P.A. By the aforesaid order the respondent no. 3 directed them to undergo attachment training for appointment in P.A cadre under relaxation of normal recruitment rule against the vacancies of direct recruitment quota.

A copy of the order dated 20.07.04 is annexed herewith and marked as **ANNEXURE- A/9.**

4.9 That after completion of the attachment training the aforesaid 2 (two) applicants were again directed by the respondent No. 3 to go for induction training in Postal Training Centre, Guwahati and to that effect the respondent No. 3 issued an order dated 09.08.2004 under No. B1/PTC/Guwahati.



A copy of the order dated 09.08.2004 under No. B1/PTC/Guwahati is annexed herewith and marked as **ANNEXURE- A/10.**

4.10 That the applicant begs to state that on 29.10.2004 the respondent No. 3 issued the order under No. B 1/PTC/Guwahati directing the aforesaid similarly situated 2 (two) applicants to undergo practical training at the Guwahati University H.O. and finally absorbed Miss Barnali Das and Md. Abdul Kasim in the cadre of P.A in the said Guwahati University H.O.

A copy of the order No. B 1/PTC/Guwahati dated 29.10.2004 is annexed herewith and marked as **ANNEXURE- A/11.**

4.11 That the applicant begs to state that the respondents considered the cases of Miss Barnali Das and Md. Abdul Kasim under relaxation of normal recruitment rules and absorbed them in the P.A. Cadre causing gross discrimination towards the applicant. It is stated that the said Miss Barnali Das and Md. Abdul Kasim were approved for appointment on compassionate ground much later in 2004 whereas the applicant was approved in the year 1999. Hence, without considering the case of the applicant the respondents flouting all norms absorbed the Miss Barnali Das and Md. Abdul Kasim. It is stated that in the instant case the applicant is not challenging the absorption of the said 2 persons same being compassionate in nature. The only relief sought for is the similar treatment to the applicant as has been done to them.

4.12 That after having come to know about such discrimination the applicant submitted representations dated 02.02.05, 08.11.2005 and 22.11.2005 before the Chief Postmaster General, Assam Circle praying for similar treatment like that of Miss Barnali Das and Md. Abdul Kasim. In the said representation the applicant categorically stated

Bipak Mishra

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that the cases of similarly situated persons like that of the applicant were considered for absorption in the cadre of P.A for the direct recruitment quota of 2002 overlooking the case of the applicant. However same yielded no result in positive and till date the respondents have done nothing for consideration of the case of the applicant for absorption in the cadre of P.A.

Copies of representation dated 02.02.05, 8.11.2005 and 22.11.05 is annexed herewith and marked as **ANNEXURE- A/12, A/13 and A/14.**

4.13 That on 06.06.2007 the applicant made a representation to the Sr. Superintendent of Post Offices, Guwahati Division, Assam praying for transfer from Dhepargaon, B.O. under Rangia, S.O. to a nearby office for attending his old ailing mother who requires constant medical care.

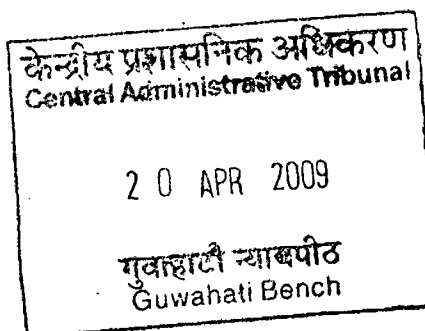
A copy of the representation dated 06.06.07 is annexed herewith and marked as **ANNEXURE- A/15.**

4.14 That pursuant to the representation dated 06.06.07 the respondents issued an order under No. B2/Staff/oftg dated 04.07.07 by which he was allowed to work as officiating postman against a vacant post in the Kharghuli B.O, under Guwahati West S.O. On 04.04.07 the applicant assumed charge in the Kharghuli B.O and since than he is working as officiating postman in the said B.O.

A copy of the order dated 04.07.07 and the charge report is annexed herewith and marked as **ANNEXURE- A/16 and A/17.**

4.15 That the applicant begs to state that since then his service has been extended and till today he is working as the officiating postman in the Kharghuli B.O. The last extension order was issued on 01.01.09. It is stated that the applicant has been given the assignment of officiating postman by the respondents having regard to his outstanding

Bipank Mishra



service career and having regard his eligibility to hold the said post.

A copy of the extension order dated 01.01.09 is annexed herewith and marked as **ANNEXURE-A/18.**

4.16 That the applicant begs to state that the CPMG, Assam Circle issued an advertisement in 2009 for filling up the 84 posts of postal assistants in the Assam Circle by direct recruitment. Therefore, there are clear cut vacancies under the respondents for absorbing the applicant in the cadre of Postal Assistant. It is noteworthy to mention here that Miss Barnali Das and Md. Abdul Kasim who were approved on 13.05.04, much later to that of the applicant, got absorbed in the cadre of P.A against the direct recruitment quota of 2002 whereas the applicant who was approved in the year 1999 is deprived of the similar benefits. It is stated that the respondents in clear discrimination and in gross violation of Article 14 and 16 of the Constitution of India are denying the legitimate claim of the applicant for absorption in the cadre of Postal Assistant.

A copy of the advertisement published in 2009 is annexed herewith and marked as **ANNEXURE-A/19.**

4.17 That the applicant begs to state that similarly situated persons from whom the department also sought willingness for enrolment in the Army Postal Service vide letter dated 18.06.1999 likewise the applicant, had earlier approached this Hon'ble Tribunal by way of filling O.A. Nos. 370, 407 and 408 of 2002 (Sri Nripen Tamuli and Ors. -Vs- Union of India and Ors). The Hon'ble Tribunal on 25.07.03 after hearing the parties to the proceeding at length was pleased to direct the respondents to consider the representations submitted by the applicants thereto with a further direction to the CPMG, Assam Circle to take up the

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matter with the concerned Army Postal Service authority, through proper channel, for enrolment of the applicants as per relevant terms and conditions. It was also directed that the Army Postal Service will consider the cases of the applicants subject to fulfillment of terms and conditions by a speaking order.

It is stated that the Army Postal Service pursuant to the said judgment passed in O.A. Nos. 370, 407 and 408 of 2002 (Sri Nripen Tamuli and Ors. -Vs- Union of India and Ors) while considering the cases of the applicants thereto appointed them in the cadre of P. A. in the Army Postal Service and till date they are continuing as such. However, willingness submitted by the applicant pursuant to the communication dated 18.06.99 was never attended by the respondents.

A copy of the common order passed in O.A. Nos. 370, 407 and 408 of 2002 dated 24.07.03 is annexed herewith and marked as **ANNEXURE- 20**.

4.18 That the applicant begs to state that in spite of giving assurances the respondents have done nothing for absorption of the applicant in the P.A Cadre. The applicant has made representation praying for similar relief however the respondents have never given an eye on the grievance of the applicant. The respondents being a model employer could have absorbed the applicant in the P.A. Cadre in the Army Postal Services as has been done in the case of Sri Nripen Tamuli and Ors. i.e. applicants in O.A. Nos. 370, 407 and 408 of 2002. Hence, pending disposal of this application the applicant prays for an interim relief directing the respondents to consider his case for absorption in the P.A cadre in the Army Postal Service.

4.19 That it has been reliably learnt by the applicant that the respondents are making a move to fill up the posts pursuant to the advertisement in 2009 without considering the case of the applicant. Therefore, in the event of filling up

Ripak Mehta

of the posts there will be great discrimination on the part of the applicant who has been denied with the similar benefits as has been extended to his juniors. It is further stated that there is apprehension on the part of the applicant that after the intervention of this Hon'ble Court the respondents may discontinue his officiating arrangement making his service life miserable. Hence, the applicant prays for an interim order to allow him to continue in his present place of posting during the pendency of the instant original application.

4.20. That from the facts and circumstances of the case it clear that the respondents resorting to gross illegalities are denying the similar benefits to the applicant irrespective of there being clear cut vacancies. 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 keep 1 (one) post vacant pending disposal of the instant original application with a further direction of status-quo as on date. The applicant has 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 applicant for such an interim order. He would also suffer irreparable loss and injury if the interim order sought for is not passed by the Hon'ble Tribunal.

4.21. That the applicant files this application bonafide for securing the ends of justice.

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

5.1. Because the applicant was approved on 11.11.1999 for absorption in the P.A. cadre on compassionate ground and Miss Barnali Das and Md. Abdul Kasim were approved on 13.05.04 for compassionate appointment. Therefore, the respondents without considering the case of the applicant for

Dipak Mehta

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absorption in P.A. cadre considered the cases of persons much junior to the applicant causing serious discrimination to the applicant. The respondents only with the sole purpose to deny the legitimate claim of the applicant have resorted to favoritism and absorbed their blue eyed persons in the P.A. cadre flouting all norms. Hence, the action of the respondents are discriminatory, arbitrary and is in clear violation of Article 14 and 16 of the Constitution of India and liable to be interfered with by this Hon'ble Tribunal.

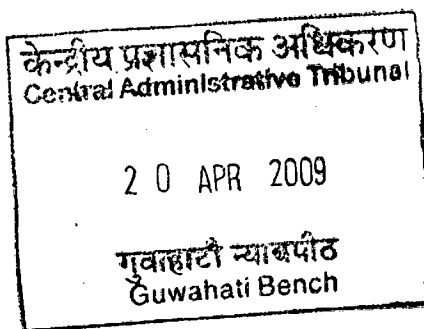
5.2. Because in spite of there being clear cur vacancies i.e. 84 posts of Postal Assistants floated vide advertisement published in 2009 the respondents are negating the absorption of the applicant in the P.A. cadre without there being any reason, which is not at all sustainable and liable to be interfered with by this Hon'ble Tribunal.

5.3 Because the similarly situated persons like the applicant i.e. Miss Barnali Das and Md. Abdul Basik who were also approved for compassionate appointment got absorbed in the P.A. Cadre against the direct recruitment quota of 2002. However, the respondents are denying the similar benefits to the applicant in gross violation of Article 14 and 16 of the Constitution of India which is not sustainable in the eye of law and incurs interference of this Hon'ble Court.

5.4 Because similarly situated persons like that of the applicant after the order of this Hon'ble Court in O.A. Nos. 370, 407 and 408 of 2002 passed on 25.07.03 (Sri Nripen Tamuli and Ors -Vs- U.O.I and Ors.) were absorbed in the Army Postal Service in the Cadre of P.A. Therefore, there is also gross discrimination towards the applicant in not considering his case for absorption in the Army Postal Service in the P.A. Cadre.

5.4 Because from the sequence of events it is clear that the act of the respondents in filling up the entire 84

Sipax Meethi



posts of Postal Assistants floated vide advertisement published in 2009 without considering the case of the applicant is per se illegal, arbitrary and contrary to the Article 14 and 16 of the Constitution of India and has been done with the sole purpose to deprive the applicant from his legitimate claim. The respondents in totality failed to adhere to the rules of reservation and sat over the matter which requires judicial interference by this Hon'ble Court. Hence on this ground alone the respondents can be directed to absorb the applicant in the cadre of Postal Assistant.

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 Direct the respondents to absorb the applicant in the Cadre of P.A notionally as has been done in the case of similarly situated persons along with all consequential service benefits.

8.2 Direct the respondents to consider the case of the applicant for absorption in the P.A Cadre in the Army Postal

Sipak M. J.

Service as has been done in the case of Sri Nripen Tamuli and Ors. -Vs- Union of India & Ors pending disposal of the original application.

8.2 Cost of the application.

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

9. INTERIM ORDER PAYED FOR:

Direct the respondents to allow him to continue in the present place of posting along with a further direction to keep 1 (one) post vacant pursuant to the advertisement published in 2009 pending disposal of the instant original application.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

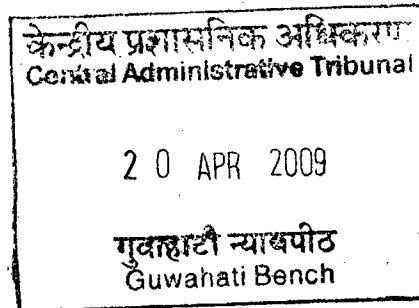
| | | |
|-------|---------------|---------------------------------------|
| (I) | IPO No. | : 69F 351156, 69F 351155, 69E 949150. |
| (II) | Date of Issue | : 20.4.09. |
| (III) | Issued from | : Guwahati |
| (IV) | Payable at | : Guwahati |

12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification

Sipak Mehta



VERIFICATION

I, Sri Dipak Medhi, Son of Late Kanak Chandra Medhi, resident of Fatasil Ambari, Near Kali Mandir, P.O-Fatasil Ambari, Dist- Kamrup, Assam- 781025, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.2, 4.11, 4.18, 4.19 and 4.20 are true to my knowledge, those made in paragraphs 4.3 to 4.10 and 4.12 to 4.17 being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 2nd day of April, 2009 at Guwahati.

Dipak Medhi

-14-

ANNEXURE - A / 1

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1

No. Staff/32-1/92-1/Loose

dated at Guwahati the 18/6/99

To,

REGISTERED

Shri

Dipankar Meelhi
8/0 Late Kanak Ch. Meelhi
Facilities Ambulance, Khargesson Roy Path,
Guwahati - 781025.

Subject :- Deputation to APS

With reference to your application for Compassionate Appointment dated 26/9/97, I am directed to ask your willingness for enrollment for the Army Postal Service. Your selection for enrollment in the Army Postal Service will be subject to clearance of physical / Medical examination to be conducted by the Army Postal Service.

If you are found eligible and selected for enrollment in the Army Postal Service, you will have to give an undertaking that you will not claim repatriation from Army Postal Service to Civil Division till your turn comes and vacancy arises against Compassionate Appointment under relaxation of normal rules.

If you are willing for enrollment in the Army Postal Service on the above terms and conditions, you may apply in the enclosed form and submit same with the undertaking that if you are found medically unfit by the Recruitment Office (A.P.S.), you will not claim appointment in the Department, so as to reach this office by 30.6.1999 for taking further necessary action.

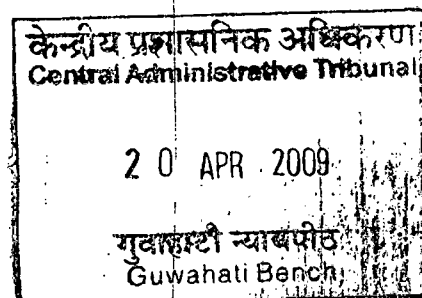
- Encl:- 1. Application form for enrollment in the Army Postal Service.
2. Declaration form.

(E L. G. GUWAHATI-1)
A/MG STAFF
O/O C. T. G. GUWAHATI-1

Copy to :-

1. Individual file of the candidate concerned.

Approved
[Signature]
Guwahati



- 15 -

ANNEXURE - A/2

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL : ASSAM CIRCLE
GUWAHATI - 781001.

No. Staff/16-Rlg/AR/Part

Dated Guwahati the 13-3-2009

To
Shri/Smt. Dipak Modha

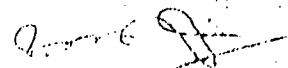
S/O Late K.C. Modha, Ex-C.D.
Fardakhil Ambari (near Kalimandir)
Guwahati - 781025

Sub:- Appointment on compassionate ground under relaxation of normal rules- case of Sri/Smt.

Ref:- Your application dated 24-9-97

You were approved on 11-11-97 for appointment on compassionate ground under relaxation of normal recruitment rules as PA and you are in the waiting list since then. You could not be appointed so far due to non-availability of vacancy in this circle.

Therefore, you are asked to express your willingness whether you are agreeable to join in any other department within or outside Assam. On receipt of your willingness, other department will be consulted to consider your case.



(S. S. am)

ADPG(S aff)

For Chief Postmaster General,
Assam Circle, Guwahati-1.

Copy to concerned file.

Staff/16-11/78

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

✓
Attachment

Handwritten signature

943501553
943501553
943501553

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी ब्याचपीठ
Guwahati Bench

To: The Chief Post Master General
Assam Circle, Guwahati-1.

Date: 19/3/2009

Sub:- Appointment on compassionate ground under relaxation
Of normal rules.

Ref:- No. Staff/16-RLC/88/Part, DL Guwahati 13.3.2001

Sir,

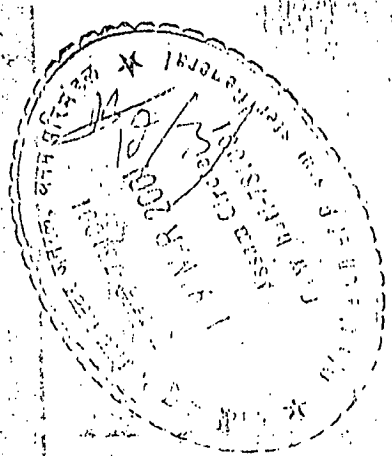
With reference to letter above, I beg to state the following
few lines for favour of your kind consideration and necessary
action.

That sir, regarding the willingness vide your letter cited above,
I offer my willingness to serve anywhere outside Assam if the
department feels necessary.

That sir, at present I am badly in need of service to save my
family from starvation. After the death of my father financial
condition of the family has gone to total bankruptcy.

Therefore, I fervently request the department to settle the
case and issue an appointment letter as soon as possible and
save the family from ruins.

Thanking you,



Yours faithfully

(Sd/-) Mr. Dipak Medhi
S/O Late Kanak Ch. Medhi
Fatasih Ambari,
Near Kalinganagar
Guwahati-25.

Attested
H. S.
Secretary

-17

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

14

(Typed Copy)

ANNEXURE-

A/4

DEPARTMENT OF POSTS :: INDIA

Sr. Superintendent of post offices
Guwahati Division, Guwahati 781001.

To,

Sri Dipak Medhi
s/o late Kanak Chandra Medhi
Fatasil Ambari- Near Kali Mandir,
Guwahati- 781025.

No. A/X-200/EDA dated Guwahati, 14-11-02

Sub:- Recruitment for the post of EDBPM at Bordol B.O. under
Rangia S.O.

Since your name is approved for compassionate appointment and as you have offered your willingness for GDS post, hence your name is considered for appointment against the vacant post of BPM/Bordol subject to fulfillment of the terms and conditions of ED service regulation. In this connection, you are hereby requested to submit the undermentioned documents to this office within 15 days from the date of receipt of this letter:

- i) HSLC pass certificate.
- ii) Marksheet of HSLC
- iii) Admit card of HSLC Exam as age proof certificate
- iv) Character certificate from the head of the institution studied last.
- v) Employment exchange identity card.
- vi) Permanent Residential certificate.
- vii) Landed property certificate acquired in your own name and any other source of private income (Annual income certificate).

If you are unwilling to the offer of BPM at Bordol B.O. then you are requested to inform the office immediately in writing for taking further n/a.

Sd/-

Sr. Superintendent of Post offices
Guwahati Division, Guwahati- 781001

Attended
H. S.
Advocate

৬৮৫২ পোস্টাল, গুৱাহাটী
Sr. Superintendent of Post Office
Guwahati Division, Guwahati-781001

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

1st Officer Postal
1st Officer Postal
1st Officer Postal
Guwahati - 781001

No. A/X.2009/42A
Subject: Recruitment for the post of 1st BPM at Boreol
B.O. under Range 20.

Since your name is approved for

compassionate appointment and as you have offered
your willingness to work post hence your name is
considered for appointment against the vacant
post of 1st BPM / Boreol subject to fulfilment of
the terms and condition of L 20 Service Rules.
In this connection, you are hereby requested to
submit the following documents within 15 days
from the date of receipt of this order.

- i) State pass certificate
- ii) Marksheet of 12th
- iii) Admit card of 12th Exam. As per
proof certificate
- iv) Character certificate from the head
of the institution attended last
- v) Employment history / Identity card
- vi) Government identification certificate
- vii) Domicile properly certified document

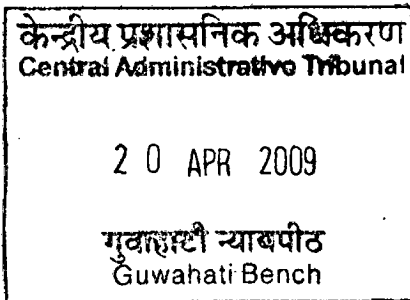
in your own name and any other source
of private income (Annual Income Statement)

If you are unwilling to submit the
documents of 1st BPM at Boreol B.O. then you are requested to
inform immediately by writing to the undersigned.

ANIL
Advocate

Sr. Superintendent of Post Office
Guwahati Division, Guwahati-781001

(Typed copy).



ANNEXURE-

A/5

To,

The Sr. Superintendent of Post Offices
Kamrup Division, Guwahati G.P.O.

Sub:- Prayer for appointment on compassionate ground to Dipak
Medhi, s/o late Kanak Ch. Medhi, Ex- Group-D worked
under Guwahati GPO.

Respected sir,

With profound respect and humble submission, I beg to
state that I have been selected for appointment as BPM, under
Bordol village, Rangia SPM, which I am interested to accept
the same.

In this regard I may like to inform you that I am an
unemployed youth and having no other movable/immovable
property, laying behind me, to pledge before the postal
authority.

As such, I request you honor, kindly favour me with the
alternative appointment and oblige thereby.

With best regards.

Guwahati

Date- 17.03.2003

Yours faithfully

Sd/-

(Dipak Medhi)

Fatasil Ambari, Near Kalimandir
Guwahati- 25.

Ambari

Hu.

Ambari



To
The Sr. Supdt. of Post Office
Kamrup Division,
Guwahati - G.P.O.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
20 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Sub - Prayer for appointment
on compassionate ground
to Dipak Medhi,
S/o Late Karak Ch Medhi
Ex. Group-D, worker
under Guwahati - G.P.O.

Respected Sir,

With profound respect
and humble submission, I beg
to state that I have been
selected for appointment as B.P.M.
under Bardal village Rangiya - SPM,
which I intended to accept the same.
In this regard, I may
like to inform you that I am
an unemployed youth and
having no other movable/immovable
properties, lying behind me
to pledged before the postal
authority.

As such, I request your
honour, kindly favour me
with the alternative appointment
and oblige thereby.

With best regards,

Guwahati.
Dt. 17/3/2003

Yours faithfully

Dipak Medhi
Futabil Ambulance
New - Sirimandir,
Guwahati - 25

RECEIVED

Has.
16/04/2003

Received
17/3

Sr. Superintendent of Posts
Guwahati Division, Guwahati-781001

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
20 APR 2009
गुवाहाटी बेंच
Guwahati Bench

Sri Dipak Mehi
Fatahil Ambari
Near Kalamaidi
Guwahati - 781025

No. A2-EST/12/Rig/PR-II dtd Guwahati, 14.7.03

Subj: - Absorption of approved waitlist candidate
on compassionate ground in the vacant G.O.S.
Post.

Since you have offered your willing-
ness for any G.O.S posts, hence your name is con-
sidered for filling up the vacant post of G.O.S. Mail
delivery, Shepargan B.O. under Rangia S.O. subject
to fulfilment of the terms and conditions of G.O.S.
Service Rule 2001.

In this connection, you are requested
to attend the office of Aspos Guwahati West Sub.
Guwahati on or before 23.7.03 positively. And if
you are unwilling to the office of G.O.S M.D. of Rangia
B.O. then please inform this office in writing for further
action.

Sr. Superintendent of Posts
Guwahati Division, Guwahati-781001

copy to:- The Aspos, West Sub. Guwahati
Information W.D. Ch. No. A-11/Shepargan
dt. 7.7.03.

Sr. Superintendent of Posts
Guwahati Division, Guwahati-781001

Slaff / 16-11/88 Sr. Deputy Magistrate P.A.

vide CO's G. 41 letter no 16 - misc / 87 dated 11 Nov 95

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी बेंच
Guwahati Bench

etd 7.1.03.

गुवाहाटी बेंच, गुवाहाटी
Sr. Superintendent
Guwahati Bench, Guwahati
781004

Asstt. Supdt. of Post Offices
Guwahati West Sub-Division
Guwahati-781001.

Office of the

ORDER OF APPOINTMENT

No. A-1/Dhe Pargana, Guwahati Dated at the 21-7-03

Sri. Di Pak Mothi son of Late-Kamak Ch Medhi hereby appointed as ED Dhe Pargana with effect from 22-7-03 forenoon/afternoon. He shall be paid such allowances as are admissible from time to time.

2. Sri. Di Pak Mothi should clearly understand that his employment as ED Dhe Pargana shall be in the nature of a contract liable to be terminated by him or by the undersigned by notifying the order in writing and that his conduct and service shall also be governed by the posts and telegraphs Extra-Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.
3. If these conditions are acceptable to him, he should communicate his acceptance in the enclosed Proforma.

(Appointing Authority)
Supdt. of Post Offices
Guwahati West Sub-Division
Guwahati-781001

To
1) Sri. Di Pak Mothi
2) Late Kamak Ch Medhi
3) P.M. Guwahati-ACKNOWLEDGEMENT
under order No. Di Pak Mothi

Asstt. Supdt. of Post Offices
Guwahati West Sub-Division
Guwahati 781001

I, Di Pak Mothi, acknowledge the receipt of your memo No: dated the and hereby accept the appointment of under the specific condition that my appointment is the nature of contract liable to be terminated by notice given in writing.

2. I further declare that I have read the Posts and Telegraphs ED Agents (Conduct and Services) Rules, 1964, and clearly understand that I become liable to the provisions and penalties contained in these rules on being appointed as in the Posts and Telegraphs Department.

Di Pak Mothi
(Extra Departmental Employee,

Dated 21-7-03

[DG, P&T, Letter No.43-68/71-Pen, dated the 6th February, 1973]

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी बेंच
Guwahati Bench

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी ब्याचपीठ
Guwahati Bench

रजि. नं. 100001
A.T. 3-61

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA

(रेगुलेशन 267, पोस्ट और टेलिग्राफ्स फिनेंशियल हान्डबुक, वॉल्यूम 1, सेकंड एडिशन)
(See Rule 267, Ports and Telegraphs Financial Handbook, Volume 1, Second Edition)

चुर्न के बराबर नकद के रिपोर्ट और स्टम्प्स के ट्रांसफर के चार्ज
Charge Report and Receipt for cash and stamps on transfer of charge

मा. नि. वि. वि. के नि.

certified that the charge of the office of

Sd/- EDDA Dhepariya

Assumed to EDDA

मा. नि. वि. वि. के नि.

Sd/- Dipak Mehta

Dhepariya Me

मा. नि. वि. वि. के नि.

मा. नि. वि. वि. के नि.

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Sd/- Dipak Mehta

मा. नि. वि. वि. के नि.

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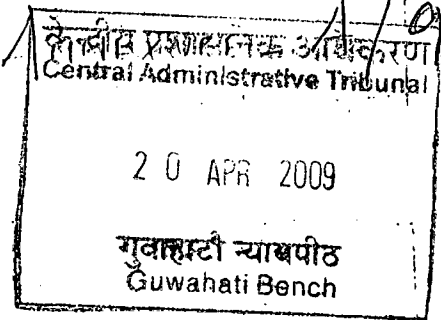
Sd/- Dipak Mehta
21-7-03

Attest

Hd/-

Sd/-

- 25 -



DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVN
MEGHDOOT BHAWAN THIRD FLOOR, GUWAHATI - 781001

No : B 2 / Compassionate appointment / 01

Dated at Guwahati the 20-07-2004

The following candidates have been approved vide CO / Guwahati memo No : Staff / 16-CSC / 04 dated 13-05-2004 under relaxation normal recruitment rules in 'A' cadre against the vacancies of direct recruitment quota for 2002 and allotted to this Division for compassionate appointment are hereby directed to undergo attachment Training for period as prescribed at Guwahati GPO with effect from 02-08-2004.

The candidates will get relieved on the day of completion of 15 (Fifteen) days attachment Training and they are to wait till directed to undergo Induction Training at PTC / Guwahati.

During the period attachment Training they will get allowances as admissible under existing rules.

Regd
SL No. Name of Candidate

Post Office where attached.
Guwahati GPO.

1. Miss. Barnali Das, D/O. late Nagen Ch. Das
Vill. Sindurghopa, P.O. Changsari, I
Dist. Kamrup (Assam)

Guwahati GPO.

2. Md. Abdu Kagim, S/O. Late Mokshed Ali
Ex-Group-D, Baidhata, C/O. SPM Baidhata SO.
Dist. Kamrup (Assam).

20/7/04
Sr. Superintendent of Post Office,
Guwahati Division, Guwahati-781001

Copy to :

- 1-2. The Candidates concerned.
- 3-4. The PF of the candidates.
5. The Sr. Postmaster Guwahati GPO, Guwahati-1.
6. The Chief Postmaster General, Assam Circle, Guwahati-781001.
7. OC.
8. Spare.

Sr. Superintendent of Post Office,
Guwahati Division, Guwahati-781001

Attested

Hos.

Advocate

P.S.D.

Guwahati



Barnali Das

भारतीय डाक



INDIA POST

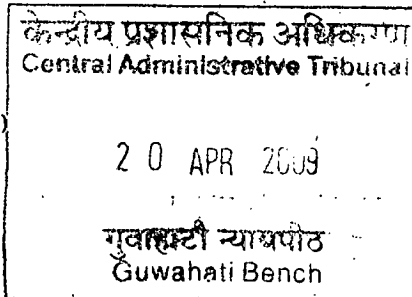
DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVN
MEGHDOOT BHAWAN THIRD FLOOR, GUWAHATI - 781001

No : B1 / PTC / Guwahati

Dated at Guwahati the 09-08-2004

In pursuance of CO/Guwahati memo No. Staff/10-5/2003 dated 21-07-2004 the following newly selected candidates approved vide CO/Guwahati memo No. Staff/16-CSC /04 dated 13-05-2004 under relaxation of normal recruitment rules in PA Cadre and allotted to this Division and now under Attachment Training at Guwahati GPO are hereby directed to undergo Induction Training at PTC Guwahati to be started from 27-08-2004.

| Sl. No. | Name of the Candidates and Address | Post Office where working |
|---------|--|---------------------------|
| 1. | Md. Abul Kashim S/O. Late Mokshed Ali EX-Group-ID, Baidhata Dist, Kamrup Assam | Guwahati GPO |
| 2. | Miss. Barnali Das D/O. Late Nagen Chandra Das Vill. Sendurighopa Via. Changsa Dist. Kamrup Assam | Guwahati GPO |



The candidates should report to the Director at PTC Guwahati on 27-08-2004 positively.

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

Copy to :

- 1-2. The Candidate concerned.
- 3-4. The PF of the official.
5. The Director PTC, Guwahati, Guwahati-1.
6. The Chief Postmaster General, Assam Circle, Guwahati-781001.
7. The Sr. Postmaster Guwahati GPO, Guwahati-1.
8. OC.
9. Spare.

Attested

[Signature]

[Signature]

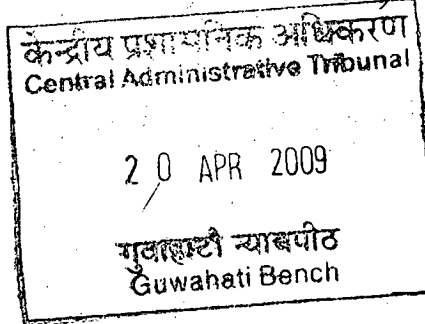
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

2664318

P.S.D.

Guwahati

भारतीय डाक



ANNEXURE A/11

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SR. SUPERINTENDENT OF POST OFFICES, GUWAHATI DIVN
MEGHDOOT BHAWAN THIRD FLOOR, GUWAHATI - 781001

No : B 1 / PTC / Guwahati

Dated at Guwahati the 29-10-2004

The following PA (Direct) Trainee approved under relaxation of normal recruitment rules vide CO / Guwahati memo Staff / 16-CSC / 64 dated 13-05-2004 . On completion of Induction Training at PTC / Guwahati are hereby directed to undergo Practical Training for 15 (Fifteen) days from the date of assuming at Guwahati University HO .

| Sl. No. | Name of the Trainee | Post Office where attached |
|---------|---|----------------------------|
| 1. | Md. Abdul Kasim PA Trainee PTC/Guwahati | GU HO |
| 2. | Miss. Barnali Das , PA Trainee PTC/Guwahati | GU HO |

Sd/-
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

Copy to :

- 1-2. The official concerned .
- 3-4. The PF of the official .
5. The Postmaster Guwahati University HO, Guwahati-14 for information . He will furnish a Certificate to this office regarding completion of Practical at his office .
6. The Sr. Postmaster Guwahati GPO, Guwahati-1 .
7. The Director PTC/ Guwahati .
8. The Chief Postmaster General , Assam Circle , Guwahati-781001
9. OC.
10. Sparo .

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

Attested

Has

Signature

CERTIFICATE OF INSTRUCTION SUPPLIES

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE - 4/12

To,
The Chief Justice, Central
Adm. Circle
High Court Bhawan
Guwahati-1.

Subj:- An Appeal praying for my appointment in the cadre of
P.A. under relaxation of normal recruitment rules.

Sir,

With due respect I beg to lay the following few lines
for your kind consideration and necessary action thereof.

That my father late Kanak Ch. Hedhi who was an employee
under the Postal Deptt. expired on 2.8.92 while on service.
Immediately after his death I applied for compassionate
appointment and the authority concerned acting on my such
prayer directed me to furnish relevant documents during the
course of such consideration I was asked to place my
willingness regarding my absorption in Army Postal Service.
Subsequently the duly constituted committee approved my
application for compassionate appointment on 11.11.99 under
relaxation of normal recruitment rules as P.A. and I was
asked to place my willingness which I accordingly did.

That due to poverty and the compelling need of a
job I was constraint to pursue the matter repeatedly before
the concern authority and said authority subsequently issued
an order dated 21.7.03 appointing me as ED w.e.f. 22.7.03 in
the Dhepargaon B.O. I joined the service accordingly and
presently I am serving their to the best of my ability.

That Sir, during my such service tenure I had
occasion to come across the orders dated 20.7.04 by which
similarly situated persons awaiting compassionate
appointment like me has been offered the post of P.A.
against the direct recruitment quota for 2002. The
reflection of the same is also apparent in a subsequent
order dated 9.8.04.

That Sir, those candidates are admittedly placed
under the similar fact situation awaiting compassionate
appointment like me and in my case an insignificant post has
been offered whereas others have been offered with P.A. post
higher pay scale. The select committee in fact approved my
case for appointment in P.A. cadre but in reality I had to
accept a lower post with less pay scale.

That Sir, in that view of the matter I earnestly
request you to review my case and to offer me a post in the
cadre of P.A. to meet the hardship.

Thanking you,

Sincerely yours

Dipak Modhi

Dipak Hedhi

Jalashil Anwarat Jpratik Modi
modhi
PB - Jalashil Anwarat
Guwahati - 25.



ANNEXURE - A/13

Date: 08/11/04

To
The Assistant Post Master General (Staff)
Department of Post, Assam Circle, Ghy-1.

Sub:- An appeal praying for consideration of my case for appointment in the cadre of P.A. on compassionate ground.

Sir/Madam,

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

That, after the death of my father late Kanak Chandra Medhi who was an employee of postal department, I applied for consideration of my case for appointment on compassionate ground. The concerned authority acting on my such request to complete the formalities, directed me to furnish the relevant records and information in connection with my such appointment and accordingly I furnished those information and records to the said concerned authority.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी बेंच
Guwahati Bench

That, my prayer for appointment on compassionate ground was duly considered and to complete the consideration proceeding the authority concerned through his official communication sought for my willingness to serve in Army Postal Service. Subsequent to that a committee constituted for approval for appointment on compassionate ground and the said committee on 11.11.1999 approved my name along with other eligible candidate. After the approval the said concerned authority again sought for willingness to serve in the postal department in Group-D cadre i.e. Cadre of P.A. and accordingly I placed my willingness in affirmative.

That due to the extreme financial hardship I had to pursue my case repeatedly before the concerned authority. Later on, the concerned authority issued communication seeking my willingness for absorption in GDS posts and I was also informed that in the event of my willingness against absorption in the GDS cadre I would lose my entire claim of compassionate appointment. Under these compelling circumstances I had to place my willingness for appointment on compassionate ground and accordingly by an order dated 21.7.2003 I got my appointment in the cadre of GDS w.e.f. 22.7.2003 in the Dhepargaon B.O. At present I am serving as RDA in the said B.O. on the strength of the aforesaid order dated 21.7.2003.

That during my service tenure I could come to know that the list approved on 11.11.99 my name appeared at serial No.6 and the said list contained 11 approved candidates. It is pertinent to mention here that from the said approved list other similarly situated candidates have been absorbed in P.O. cadre whereas myself along with others have been compelled to place our willingness for absorption in GDS cadre. Admittedly, my case was recommended and approved by the committee for absorption in P.A. cadre and both the cadres carrying different pay scales as well as status. Since, the cadre of GDS carries a lower pay scale the concerned authority ought not to have compelled me to accept the post of P.A.

Attn:

H. S.

Attn:

that, ventilating my such grievance I preferred representations to the CPMG, Agam Circle wherein I also pointed out the orders dated 28.7.2004 and 9.8.04 by which appointments have been made on compassionate ground in P.A. cadre against the direct recruitment quota illegally. the names appearing in the orders dated 28.7.04 and 9.8.04 are for more junior to me and at present they are enjoying the benefit of Group D posts. On the other hand, though my case was considered against P.A. cadre I was compelled to accept the post under GDS cadre.

It is under the facts and circumstances stated above I pray before your honour to observe me against the P.A. cadre as has been done in case of others and for that I shall remain evergreatful to you.

Thanking you.

Sincerely Yours

Sripak Medhi

Sri Dipak Medhi
EDDA, Dhepar Gaon B.O.

Copy to:
Senior Superintendent of Post Offices
Assam Circle, Guwahati-1.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Date : 22/11/2005

ANNEXURE - A/14

To,
The Chief Post Master General
Assam Circle
Megdoot Bhowan
Guwahati - I.

Sub : An appeal praying for consideration of my case for appointment in the cadre of P.A. on compassionate ground.

Sir,

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

That, after the death of my father late Kanak Chandra Medhi who was an employee of postal department, I applied for compassionate ground. The concerned authority acting on my request to complete the formalities, directed me to furnish the relevant records and information in connection with my such appointment and accordingly I furnished those information and records to the said concerned authority.

That, my prayer for appointment on compassionate ground was duly considered and to complete the consideration proceeding the authority concerned through his official communication sought for my willingness to serve in Army Postal Service. Subsequent to that a committee constituted for approval for appointment on compassionate ground and the said committee on 11.11.1999 approved my name along with other eligible candidate. After the approval the said concerned authority again sought for willingness to serve in the postal department in Group - D cadre i.e. of P.A. and accordingly I placed my willingness in affirmative.

That due to the extreme financial hardship I had to pursue my case repeatedly before the concerned authority. Later on, the concerned authority issued communication seeking my willingness for absorption in GDS posts and I was also informed that in the event of my willingness against absorption in the GDS cadre I would lose my entire claim of compassionate appointment. Under these compelling circumstances I had to place my willingness for appointment on compassionate ground and accordingly by ban order dated 21.7.2003 in the Dhepargaon B.O. At present I am serving as EDIDA in the said B.O. on the strength of the aforesaid order dated 21.7.2003.

That during my service tenure I could come to know that the list approved on 11.11.99 my name appeared at Serial No. 6 and the said list contained 11 approved candidates. It is pertinent to mention here that from the said approved list other similarly situated candidates have been observed in P.A. cadre whereas myself along with others have been compelled to place our willingness for absorption in GPS cadre. Admittedly, my case was recommended and approved by the committee for absorption in P.A. cadre and both the cadres carrying different pay scales as well as status. Since, the cadre of GDS carries a lower pay scale the concerned authority ought not to have compelled me to accept the post of EDIDA.

~~ATTACHED~~

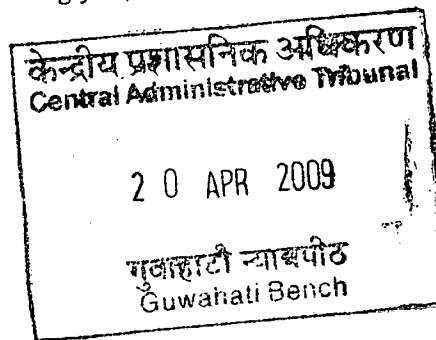
H. B.

Advocate

That, ventilating my such grievance I preferred representations to the CPMG, Assam Circle wherein I also pointed out the orders dated 20.7.2004 and 9.8.04 by which appointments have been made on compassionate ground in P.A. cadre against the direct recruitment quota illegally. The names appearing in the orders date 20.7.04 and 9.8.04 are for more junior to me at present they are enjoying the benefit of Group D posts. On the other hand, though my case was considered against P.A. cadre I was compelled to accept the post under GDS cadre.

It is under that facts and circumstances stated above I pray before your honour to observe me against the P.A. cadre as has been done in case of others and or that I shall remain ever grateful to you.

Thanking you,



Sincerely Yours

Sri Dipak Medhi

Sri Dipak Medhi

EDDA, Dhepargaon B.O.

Rangia - 783554.

Copy to :

Senior Superintendent of Post Offices
Assam Circle, Guwahati - I.

ACKNOWLEDGEMENT

NAME

The Chief Post Master General

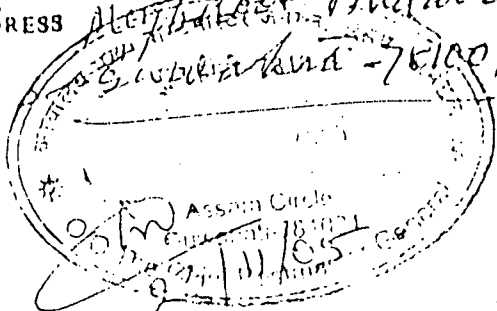
ADDRESS

Assam Circle

SIGNATURE

ADDRESS

*Post Office Bhawan
Guwahati - 781001*



To

The Senior Superintendent of Post Offices,
Guwahati Division, Guwahati-781001, Assam.

Sub :- Prayer for Transfer.

Dated : 6/6/09

Sir,

I have the honour to lay before you the following few lines for favour of your kind perusal and sympathetic consideration and necessary action thereon.

That Sir, I am an employee of your esteemed department having the designation of E.D.A./Thepargachi Branch under Rangia Sub-post Office. I have been working in this Office since 22nd July, 2003.

That Sir, as per my knowledge and belief, I have been working in this Deptt. with a great devotion and have never been neglecting my duties.

That Sir, my mother is a widow and about 72 years old. She has been suffering from Old Age ailment and she is a constant patient of hypertension and diabetes. She requires constant medical care which can be possible only when I remain with her as my mother has no one to look after her except me.

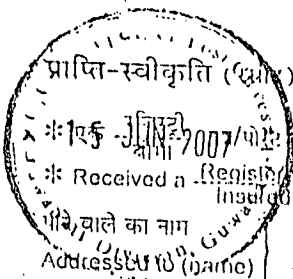
Under above circumstances, I am getting difficulty work in a distant and interior village at present and my transfer to Guwahati or to nearest office of my residence is urgent.

It is therefore prayed that Your Honour may be pleased to transfer me from Thepargachi Branch under Rangia Sub-post Office to a nearest office of my residence as early as possible.

For this act of kindness, I shall remain ever grateful to

Yours faithfully,

Sri Dipak Medhi
(Sri Dipak Medhi (EDDA))
Vill. Fatashilambari,
Guwahati- 25.
Vill. & P.O. Thepargachi,
Via-Rangia,
Dist. Kamrup, Assam.
Pin - 781354



Sd/- Senior Superintendent
of Post Offices
Guwahati Division, Guwahati

• बीमे का मूल्य (रुपयों में)

• Insured for Rupees

वितरण की तारीख

Date of Delivery

19 नामे वाले के हस्ताक्षर / Signature of addressee

* अनावश्यक की काट दिया जाये / Score out the matter not required

* केवल बीमा वस्तुओं के लिए / For insured articles only

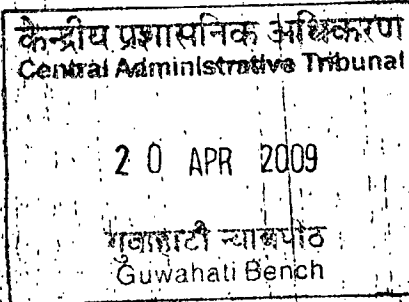
Asstt. Supdt. of Post Offices
Guwahati West Sub-Division
Guwahati-781001.

To
Shri Shri
Khonghuli
4-7-07

No. B2/staff/077

Sub: Offr avancement of Patman.

Please allow to Shri Dipak
Medhi, G.D.S. - Dhopargam to work as
Patman at your office from
today against vacant post
The journal order will be
issued.



(N. W. Sanooal)
Asstt. Supdt. of Post Offices
Guwahati West Sub-Division
Guwahati-781001.

Asstt. Supdt.

Asstt. Supdt.

Asstt. Supdt.

Countersigned

L. B. H.

Sub Postman

पुस्तक-61
A.C.G.-61

भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

(वेचिंग नियम 267, डाक-तार वित्त पुस्तिका, खण्ड 1, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I, Second Edition)

चार्ज हो देवली पर वाजं रिपोर्ट और गृहणी और टिकटों को रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of

Offg Postman
Kharighuri

नाम *Assumed* (नाम) ने
was made over by (name) *Dipak Medhi*

(नाम) को *Dipak Medhi*
(to (name)) स्थान
at (place) *Kharighuri*

तारीख को पूर्वाह्न में
अपराह्न

on the (date) *04/7/07* *fore* noon in accordance with
after

सं. *132/sta 88/0878* दि. *4/7/07*

भारतवर्त अधिकारी
Relieved Officer

को अनुसार वे विभा.
मिलने *ASP GH West*
Sub Division
Dipak Medhi
भारतवर्त अधिकारी
Relieving Officer

[५० ५० ३०]
P.T.O.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
20 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Das
Das

*प्रमाणित किया जाता है कि बाज के दिन इस कार्यालय की अनेक पुस्तकों के बकाया (स्टॉक पुस्तक और रजिस्टरों सहित) और लेखाओं की जांच की गयी और सही पाया।

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित दफ्तरी मुद्दे आरक्षित अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

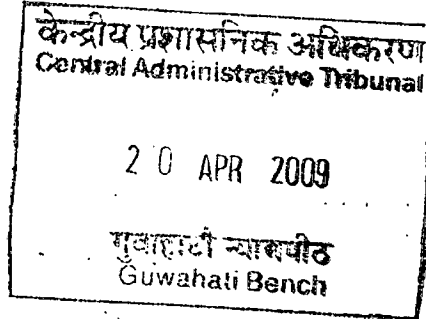
Rs.

P.

- (अ) नकद/Cash
(ब) अन्वय टिकट/Stamp Imprest

जिसमें ये शामिल है—
Made up of

- (1) टिकट/Stamp
(2) नकद/Cash



आरक्षित अधिकारी
Relieved Officer

आरक्षित अधिकारी
Relieved Officer

तारीख 19

Date: 19

(Forwarded to)

[Signature]

(को भेजा गया है)

*यह प्रमाण पत्र की आवश्यकता न हो तो इसे फाट दिया जाए।
*The certificate when not actually required may be scored thereon.

MGIP Smt.-177 & 14 F&C/72/74-SFS-1/2/3-7-10-74-23,00,000

23-90/03 110

- 37 -

ANNEXURE - A/18

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

20 APR 2009

गुवाहाटी बेंच
Guwahati Bench

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE ASSISTANT SUPERINTENDENT OF POST OFFICES
WEST SUB DIVISION: GUWAHATI-781001

No. 112/Staff/OIDg

dated at Guwahati 1st January, 2009.

The following temporary arrangement order are issued in the interest of service.

- 1) Sri Dipak Medhi, GDS/MD, Dhepargaon BO in account with Rangia MDG on being relieved will join and officiate in the Post of Postman, Kharghuli SO, in account with Guwahati GPO vice vacant post w.e.f. 03.01.09 for 90 days.
- 2) Sri Mohan Ch. Kumar, GDS/MD, Pitambar Hatbajali BI in account with Rangia MDG on being relieved will join and officiate in the Post of Postman, Bharalumukh SO in account with Guwahati GPO vice vacant post w.e.f. 09.01.09 for 90 days.
- 3) Md. Mohammad Ali, GDS/Stamp Vendor, Paltan Bazar SO in account with Guwahati GPO on being relieved will join and officiate in the Post of Postman, Rehabari SO vice vacant post w.e.f. 03.01.09 for 90 days.
- 4) Sri Harapati Patowary, GDS/MD, Kamakhya, SO in account with Guwahati GPO on being relieved will join and officiate in the Post of Group "D" Kamakhya SO, in account with Guwahati GPO vice vacant post w.e.f. 03.01.09 for 90 days.
- 5) Md. Hassan Ali Ahmed GDS/MD, Palahartari BO in account with Nagarbera SO on being relieved will join and officiate in the Post of Postman, Silpukhuri SO, in account with Guwahati GPO against leave vacancy of Sri Bharat Saud, Postman; Silpukhuri SO w.e.f. 1.01.09 for 60 days.
- 6) Sri Iswar Sarma, GDS/Packer, Paltan Bazar SO in account with Guwahati GPO on being relieved will join and officiate in the Post of Group 'D', Pandu SO vice vacant post w.e.f. 03.01.09 for 90 days.

The arrangement made is purely an adhoc and temporary basis and the services will confer neither any right upon the official to claim regular absorption in the post nor will be counted towards any promotional grade and may be terminated at any time without notice.

Signature
Date
Place

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

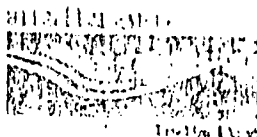
गुवाहाटी ब्याचपीठ
Guwahati Bench

Asstt. Supdt. of POs
Guwahati West Sub Dn,
Guwahati-781001

Copy to :

1. The Sr. Supdt. of POs Guwahati Dn, Guwahati -781001 for kind information
2. The Senior Postmaster, Guwahati GPO, Guwahati-781001 -do-
3. The Postmaster, Guwahati university HO, Guwahati-781014 -do-
4. The SPM, Pandu/SO, Bharalumukh SO, Nagarbera, Silpukhuri SO, Kamakhya SO and Paltan Bazar for information and necessary action. *K/arghulisu*
5. The SDI (P), Bijoynagar Sub Division for information and n/a.
6. The Official Concerned.
7. OC.

X/S
Asstt. Supdt. of POs
Guwahati West Sub Dn,
Guwahati-781001



RECRUITMENT OF POSTAL ASSISTANTS AND SORTING ASSISTANTS FOR FILLING UP OF RESIDUAL VACANCIES

ASSAM POSTAL CIRCLE, DEPARTMENT OF POSTS, GOVERNMENT OF INDIA requires Postal Assistants and Sorting Assistants as indicated below in the Pay Band- 1 Rs. 5200-20200 with Grade Pay Rs.2400/- + other allowances admissible from time to time in the following Postal, Railway Mail Service Divisions.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Officer

20 APR 2009

गुवाहाटी बेंच
Guwahati Bench

| Sl. No. | Name of Division | Number of vacancies | | | | | Application to be addressed to |
|--------------------|-----------------------------|---------------------|-----|----|----|-------|--|
| | | OC | OBC | SC | ST | Total | |
| POSTAL ASSISTANT | | | | | | | |
| 1 | Tinsukia | 5 | — | 3 | 1 | 9 | Supdt. of Post Offices, Tinsukia Division, Tinsukia-786125 |
| 2 | Guwahati | 23 | — | 4 | 1 | 28 | Sr. Supdt. of Post Offices, Guwahati Division, (Guwahati-781001) |
| 3 | Sivasagar | 4 | 2 | — | 2 | 8 | Supdt. of Post Offices, Sivasagar Division, Jorhat-785001 |
| 4 | Cachar | 2 | — | 1 | — | 3 | Supdt. of Post Offices, Cachar Division, Silchar-788001 |
| 5 | Nalbari-Barpeta | 2 | — | 1 | 1 | 4 | Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari-781355 |
| 6 | Goalpara | 9 | — | 2 | 3 | 14 | Supdt. of Post Offices, Goalpara Division, Dhubri-783301 |
| 7 | Darrang | 9 | 7 | 2 | — | 18 | Supdt. of Post Offices, Darrang Division, Tezpur-784001 |
| Sorting Assistants | | | | | | | |
| 8 | RMS 'GH' Division, Guwahati | 33 | — | 2 | 2 | 37 | SSRM, RMS 'GH' Division, Guwahati-781001 |
| 9 | RMS 'S' Division, Silchar | 3 | — | — | — | 3 | SRM, RMS 'S' Division, Silchar-788001 |

(Vacancies are subject to change)

Willing and eligible candidates may collect Application Form and Prospectus from the following Post Offices on payment of Rs.25/- (By cash).

- | | | | |
|-------------------|-------------------------|--------------------|-----------------------------|
| 1) Guwahati GPO | 11) Udalguri MDG | 21) Diphu HPO | 31) Maligaon MDG |
| 2) Nalbari HPO | 12) North Lakhimpur HPO | 22) Hojai MDG | 32) Rangla MDG |
| 3) Barpeta HPO | 13) Dibrugarh HPO | 23) Nagaon HPO | 33) Bokakhat MDG |
| 4) Dhubri HPO | 14) Dhemajuli MDG | 24) Maligaon MDG | 34) Mariani MDG |
| 5) Kokrajgar HPO | 15) Jorhat HPO | 25) Hailakandi HPO | 35) Lumding MDG |
| 6) Bongaigaon MDG | 16) Golaghat HPO | 26) Karimganj HPO | 36) Barpeta Rd MDG |
| 7) Goalpara MDG | 17) Sivasagar HPO | 27) Badarpur MDG | 37) Rangirchari MDG |
| 8) Mangaldoi HPO | 18) Tinsukia HPO | 28) Silchar HPO | 38) Assam Sachivalaya MDG |
| 9) Tezpur HPO | 19) Dibrugarh MDG | 29) Hailong MDG | 39) Guwahati University HPO |
| 10) Chariali MDG | 20) Duliajan MDG | 30) Nazira MDG | |

The candidates may send their applications to the Sr. Supdt./Supdt. of Post Offices in respect of Sl. No. 1 to 7, Sr. Supdt./Supdt. of RMS in respect of Sl. No. 8 & 9. The applications should be submitted either by Registered Post or Speed Post so as to reach on or before 19-03-2009 positively. Applications received other than by Registered Post or Speed Post will be summarily rejected.

The candidates should be between 18 to 25 years of age as on 1.1.2009 with minimum of 10+2 or equivalent certificate (Excluding Vocational Stream) and should have studied language of the state as a subject at least upto matriculation level. Candidate should have typing and computer knowledge with certificates from reputed coaching institutes. Maximum eligible age for SC/ST candidates would be 30 years and for OBC candidates would be 29 years.

- 40 -

SL No 13 ANNEXURE - A/20

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 370, 407 & 408 of 2002.

Date of Order : This the 25th Day of July, 2003.

THE HON'BLE MR. N. D. DAYAL, ADMINISTRATIVE MEMBER.

1. Sri Nripen Tamuli
S/o Juddha Ram Tamuli
P.O: Kamakhya
Guwahati - 10.

Applicant in O.A. 370/2002.

2. Shri Sanjeev Kumar Das
S/o Late Chandrakanta Das
Resident of Village and post Office Kulhati
District: Kamrup.

Applicant in O.A. 407/2002.

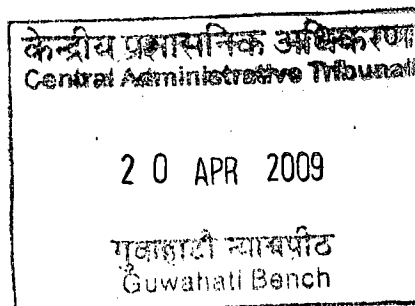
3. Shri Rabin Ch. Das
S/o Late S.N. Das
Resident of Vill. & P.O: Kulhati
District: Kamrup.

Applicant in O.A. 408/2002.

By Sr. Advocates/ Mr. B.K. Sharma, Mr. S. Sarma & Ms. U. Das in O.A. 370/2002 & Mr. S. Sarma & Ms. U. Das in O.A.s 407 & 408/2002.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Department of post
Ministry of Communication
New Delhi.



2. The Chief post Master General
Assam Circle, Guwahati-1.

3. The Senior Superintendent of post Offices
Guwahati Division, Meghdoot Bhawan
Guwahati - 1.

Respondents in O.A. 370/2002.

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

2. Bharat Sanchar Nigam Ltd
Sanchar Bhawan, New Delhi.

3. The Chief post Master General
Assam Circle, Guwahati-1.

3. The Sr. Superintendent of post Offices
Guwahati Division, Meghdoot Bhawan
Guwahati-1.

Respondents in O.A.s 407 & 408 of 2002.

By Mr. A.K. Chaudhuri, Addl. C.G.S.C. in O.A. 407/2002 &
Mr. A. Deb Roy, Sr. C.G.S.C. in O.A.s 370 & 408 of 2002.

-41-

O R D E R.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

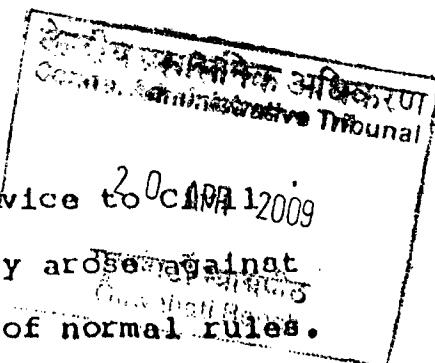
20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

DAYAL, N.D., MEMBER (ADMN):

Heard Mr.S.Sarma, learned counsel for the applicants in all the above three cases, Mr.A.K.Choudhuri, learned Addl.C.G.S.C. for the respondents in O.A. 407/2002 and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents in O.A.Nos.370 & 408/2002. The applicants in all the O.A.s have sought common reliefs on similar grounds. They are primarily seeking appointment in the cadre of postal Assistant on compassionate grounds taking into consideration the approval conveyed by the competent authority of the Department of posts. The background of the cases is briefly stated below:

1. The applicants in all three O.A.s applied for compassionate appointment under relaxation of normal rules of recruitment in the Department of posts. The Circle Selection Committee had approved the applicants and placed them on the Waiting List for consideration on availability of vacancy to absorb them in the post of postal Assistant. While the applicant in O.A.370/2002 was approved on 3.10.97, the applicants in O.A.s 407 & 408 of 2002 were approved on 11.11.99. The Department also sought willingness of the applicants in O.A.s 370 & 407 of 2002 for enrolment in the Army Postal Service vide letter dated 18.6.99 making reference to their applications for compassionate appointment wherein it was clarified that the enrolment would be subject to clearance of physical/medical examination to be conducted by the Army Postal Service. If found eligible and selected for enrolment in the Army postal Service, they would be required to give an undertaking that they would



not claim repatriation from Army Postal Service to Division till their turn came up and vacancy arose against compassionate appointment under relaxation of normal rules.

It was also made clear therein that in case the applicants accepted these terms and conditions they could apply in the enclosed form with the further undertaking that if they were found medically unfit by the recruitment office (Army Postal Service) they would not claim appointment in the Department. The learned counsel for the applicants, Mr.S.Sarma stated that both the applicants in O.A.s 370 & 408/2002 placed their willingness with the Department for the Army postal Service.

2. Again all the three applicants were asked by the Department by letter dated 13.3.2001, drawing attention to their approval for compassionate appointment, whether they would like to exercise their willingness to join in other departments within or outside Assam and on receipt of their willingness, other departments would be consulted to consider their case. The learned counsel for the applicants confirmed that all the three applicants submitted their willingness in this regard.

3. All along the Department had been more than once informing the applicants that they were on the Waiting List for compassionate appointment as Postal Assistant and their case would be considered when vacancy became available for the purpose. As observed from letter of 25.7.20001 of Department of Posts, New Delhi annexed with the O.A.s the Waiting List of candidates approved for compassionate appointment had been discontinued by letter No.24-1/99-SPB-1 dated 8.2.2001 of the Department of posts and would no longer be operated in view of the clarifications by the

Department of personnel & Training in its memo dated 24.11.2000 and further in terms of subsequent instructions mentioned in this letter. The practice of circulating names of the deserving candidates to other Ministries/Depts. had also been discontinued. In the light of these instructions a further offer was made to the candidates approved for compassionate appointment, and kept on the Waiting List that they may apply for appointment for Gramin Dak Sewak post subject to their fulfilling all required conditions of recruitment and giving an undertaking forfeiting their claims for appointment against regular departmental vacancies except as per their turn in accordance with the policy for absorption of Gramin Dak Sewaks in regular posts. This offer was valid for one year and to be reviewed thereafter. Instructions to implement these orders were issued by the office of the Chief Post Master General, Assam Circle making it clear that the Waiting List was discontinued and dispensed with and extending the offer of Gramin Dak Sewak post in terms of the Govt. orders received.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

20 APR 2009

गुवाहाटी बेंच
Guwahati Bench

The learned counsel for the applicants contended that the applicants did not wish to apply for the Gramin Dak Sewak posts and had not done so.

4. It has been strenuously argued by the learned counsel for the applicants that the Waiting List is only discontinued and can still be operated. However, Mr. A. Deb Roy, learned Sr. C.G.S.C. emphatically stated that the Waiting List stands discontinued and dispensed with and no longer exists. It was also contended on behalf of the applicants that the Juniors to the applicants have been given compassionate appointment overlooking their claim.

On scrutiny of the relevant pleadings it was found that the appointments were not those of any of the persons on the Waiting List of approved candidates for compassionate appointment, but these were fresh cases in terms of the instructions on the subject. This matter was not pressed further. From the perusal of the Government orders and instructions in this matter on records as well as the action of the Government to make alternative offers to the applicant it cannot be said that the Waiting List of candidates approved for appointment on compassionate grounds is still valid. The learned counsel for the applicants expressed the despair and anxiety of the applicants in not receiving any response from the Department to the willingness given by them for adjustment in other Ministries/Depts as well as in the Army Postal Service. Mr. S. Sarma learned counsel finally stated that in the facts and circumstances of the case the applicants would be satisfied if their request for enrolment in the Army postal Service could be revived by the

Department of posts. He further requested that the Tribunal may be pleased to issue directions to the Deptt. of posts to consider their cases for appointment in the Army postal Service and all three applicants would make fresh individual representations in this regard to the Chief post Master General Assam Circle, Guwahati-1 for further action.

5. It is seen that the letter from the Department seeking willingness for enrolment in the Army Postal Service mentioned that repatriation back to Civil Division would not be permitted.

except on turn and when vacancy arose for compassionate appointment and again it said that a further undertaking is necessary to give the commitment that if found medically unfit by the Army Postal Service appointment in the said Department would not be claimed. It is thus noted that the offer did not require appointment on compassionate grounds as a precondition. The Department in fact picked up those approved for compassionate appointment but not appointed and sought to take suitable undertaking from them so that if found eligible and selected for enrolment in the Army Postal Service, they would continue and be retained there in absence of appointment in the Department on compassionate ground and would not claim appointment if medically unfit. In the circumstances discussed in this order and to meet the ends of justice there should be

no bar to the applicants seeking revival of their case for enrolment in the Army Postal Service subject to fulfillment of the conditions mentioned in the offer.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

20 APR 2009

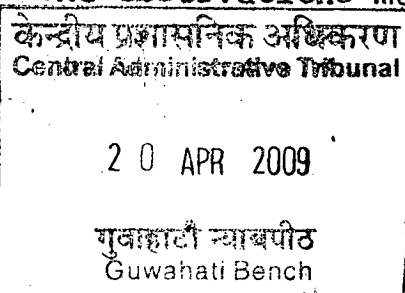
गुवाहाटी न्यायाधीश
Guwahati Bench

It is frankly informed by the learned counsel for the applicants that the applicant in O.A. 408/2002 had not received the offer for Army postal Service, but that his situation was similar to those of other two applicants in so far as approval of compassionate appointment as well as the offer of absorption in other Departments and the offer of Gramin Dak Sewak posts are concerned and as such in equity his case may also be similarly considered. Admittedly, to their credit there was no objection to this suggestion on behalf of respondents by the learned Sr.C.G.S.C. Accordingly, it is ordered that all the three applicants in these O.A.s may submit fresh representations individually

- 45 -

to the Chief Post Master General, Assam Circle, Guwahati seeking consideration of their willingness for enrolment in the Army Postal Service by giving necessary undertakings. If such representations are received, the Chief Post Master General, Assam Circle is directed to take up the matter with the concerned Army Postal Service authority, through proper channel, for enrolment of the applicants as per relevant terms and conditions within one month from the date of receipt of the representations. The Army Postal Service authority will in turn consider their cases on merit subject to fulfillment of terms and conditions applicable. The decision of the Army Postal Service authority shall be conveyed by speaking order to the applicants within three months thereafter.

All the three O.A.s are disposed of subject to the observations made above. No costs.



Sd/MEMBER (Adm)

ADMINISTRATIVE MEMBER

bb

Date of Application : 24.2.09
Date on which order made : 3.3.09
Date on which order is made : 3.3.09
Certificate to be issued : 13

Section Officer (Jd) 13/09
C. A. T. Guwahati Bench
Guwahati-3.

File in Court on.....

47

DISTRICT:

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 72/09

Sri Dipak Medhi

.....Applicant.

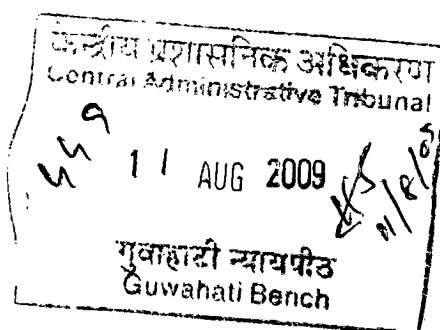
-VS-

Union of India and Others

.....Respondents

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| 4. | Annexure-2 | 13 to 18 |



Filed by

[Signature]
Advocate

DISTRICT: KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI**

O.A NO. : 72 / 2009

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

11 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE MATTER OF :

Sri . Dipak Medhi.

.....Applicant.

-VS-

Union of India and Others

.....Respondents

-AND-

IN THE MATTER OF :

A written statement on behalf of the
Respondents.

WRITTEN - STATEMENT

Written statement on behalf of the Respondents

MOST RESPECTFULLY SHEWITH:

1. That I am.....D. K. Sharma.....Sr. Superintendent.....
of Post Offices.....Guwahati Division.....Guwahati-1.....in
the instant O.A. No. 72/2009 I have been impleaded as Respondent
No....3.... I have gone through a copy of the Original Application
served on me and have understood the contents thereof. Being well
conversant with the facts and circumstances of the case and I am
competent to swear this Written Statement on my behalf as well as
for all the respondents .

Dwipendra Nath Sharma.

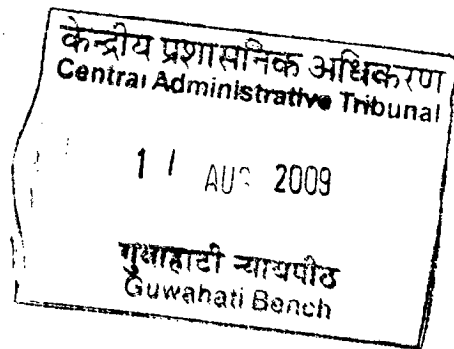
वरिष्ठ वरिष्ठ, गुवाहाटी

गुवाहाटी बेंच, गुवाहाटी-781 001

Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

Filed by the Respondents
through
Munil Kumar Boro.
Beldi case
718109

(49)



-2-

2. That save and except those statements made in the Original Application, which are specifically admitted herein below, the rests not being admitted, should be treated to have been denied by the deponent hereto. The deponent also does not admit anything which is contrary to and inconsistent with the records of the case.

3. That, with regard to the statements made in paragraph 1, 2 and 3 in the Original Application, the deponent have no comments and do not admit anything which is contrary to and / or inconsistent with the records

4. That, with regard to the statements made in paragraph 4.1 of the Original Application, the deponent the answering respondent begs to state that the applicant Sri Dipak Medhi has been ordered to work as officiating postman at kharghuli S.O. Under Guwahati G.P.O. is purely on temporary and adhock basis for 90 days w.e.f. 04/04/2009 to 02/07/2009 vide ASPOs order being Memo No. B2/staff /Offtg dated 02/04/2009 in the interest of service.

5. That, with regard to the statements made in paragraph 4.2 of the Original Application, the deponent have no comments and do not admit anything which is contrary to and / or inconsistent with the records.

6. That, in regards to the averments made in paragraph No.- 4.3 of the Original Application the deponent begs to state that the CPMG(staff), Assam Circle, Guwahati mentioned in his letter being letter No. Staff/16-Rlg/88/Part I dated 13/03/2001 that the applicants name was in the waiting list and he could not be appointed so far due to non-availability of vacancy in the Assam circle.

Dwipendra Nath Sharma

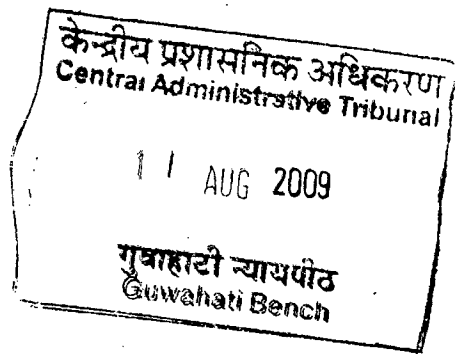
वरिष्ठ पोस्टमैन, काठवा

गुवाहाटी बंच, गुवाहाटी-781 001.

Sr Superintendent of Post Offices

Guwahati Division, Guwahati-781001

✓



Further the Director(Staff), Ministry of Communication and IT, department of Post New Delhi vide its letter No. 24-1/99-SPB-I dated 08-02-2001 issued an order to all the principal and Chief at Master General for discontinuance of candidates in the waiting list a proof for compassionate appointment and other relevant instructions from the Department of Personnel and Training. In the aforesaid letter of the Directorate it was also instructed that the candidates whose names were already waiting list for appointment on the compassionate ground but could not be appointed due to want of vacancies within 5% limit may be asked to expressed their willingness for consideration by other Ministries. As per instruction of the Directorate willingness from the applicant was sought whether he was agreed to join in any other department within or outside Assam vide CPMG (staff) Assam Circle Guwahati letter No. Staff/ 16 -Rlg / 88 Part-I dated 13-03-2001.

A copy of the letter dated 08-02-2001 issued by the Ministry of Communication is annexed herewith and marked as **ANNEXURE -1.**

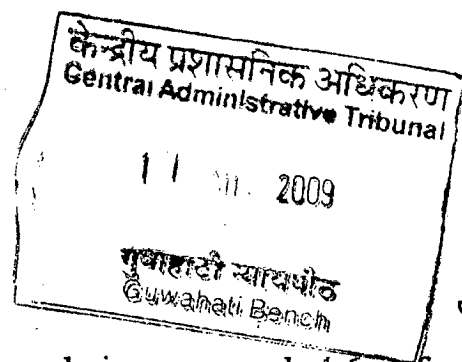
-AND

A copy of the letter dated 13-03-2001 issued by the CPMG, Guwahtai , Asam Circle is annexed herewith and marked as **ANNEXURE -2.**

7. That, with regard to the statements made in paragraph 4.4 and 4.5 of the Original Application, the deponent have no comments and do not admit anything which is contrary to and / or inconsistent with the records.

Swipendra Nath Sharma

वरिष्ठ वकील, काकर
गुवाहाटी बेंच, गुवाहाटी-781 001
Sr Superintendent of Post Offices
Guwahati Division, Guwahati-781001



8. That, with regard to the statements made in paragraph 4.6 of the Original Application, the deponent begs to state that as per recruitment Rules of ED Agents or Gramin Dak Sevak the person who takes over the agency (ED/GDSBPM) must be one who has an adequate means of livelihood. The person selected for this post must be able to offer space as the agency premises for Postal Operation. The ED/GDS BPM must be permanent resident of the village where the Post Office is located. The Person should have landed property in his name.

Though Sri Medhi gave option to work as GDS BPM of Bordol BO he was not considered for appointment as GDS BPM of Bordol BO due to non availability of landed property in his name.

9. That, in regards to the averments made in paragraph No.4.7 of the Original Application the deponent begs to state that since the applicant could not fulfill the eligibility criteria to get appointment as GDS BPM, he was appointed as GDSMD, Dhepargaon BO in a/c with Rangia MDG vide ASPOs, Guwahati west Sub- Div., Guwahati memo No. 41 / Dhepargaon dated 21-02-03.

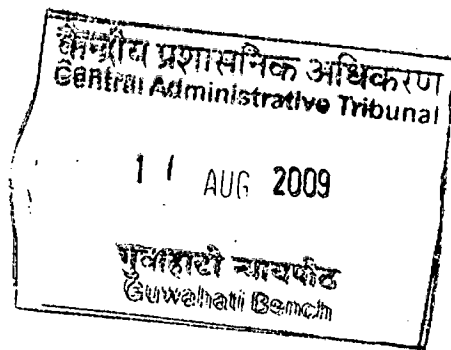
10. That, in regards to the averments made in paragraph No.- 4.8 of the Original Application the deponent begs to state that the claim of applicant is not based on fact. The approved waiting list where the name of Sri Dipak Medhi was included at Sl.No. 6 for Guwahati Division for consideration in PA cadre had finally cancelled vide the CPMG, Assam Circle, Guwahati letter No. Staff/ 16-Rlg/88/Pt dated 14-08-01. In all 27 candidates for PA/SA, 16 candidates for Post man / Mail Guard and 47 candidates for Group 'D' approved between 07-12-93 to 11-11-99 and they are kept in the waiting list in Assam Circle. Since wait listing of

Dipendra Nath Sharma

वरिष्ठ संचालक, डाकघर

गुवाहाटी बंच, गुवाहाटी-781 001
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

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candidates for compassionate appointment has been dispensed with, chance of absorption of these approved candidates in the waiting list against vacancies available within 5% ceiling of direct recruitment quota is remote. The Postal Directorate as decided to consider such wait listed candidates for vacant post of Gramin Dak Sevak (GDS) if they are willing and eligible for the post. As per instruction of the Postal Directorate Sri Dipak Kr. Medhi has been offered GDS vacancies who has been already approved for appointment on compassionate ground and is still awaiting absorption for want of regular department vacancies as on 08-02-01, Sri Dipak Kr. Medhi offered his willingness to the CPMG, Assam Circle, Guwahati vide his representation dated 18-03-01 to settle his case. Accordingly he was offered 1(one) GDS BPM post at Bordol B.O. under Rangia S.O. vide SSPOs, Guwahati letter No.A/X-200/ EDA dated 14-11-02, Sri Dipak Kr. Medhi could not provide landed property in his name at Bordol B.O. as per service condition of appointment of GDS BPM he was finally appointed as EDDA, Dhjepargaon B.O. (now called as GDS MD) observing all formalities of appointment under compassionate ground in the formalities of appointment under compassionate ground in the aforesaid post. Thus his case has been finally disposed of by the department.

Rupendra Nath Sharma

वरिष्ठ सचिव, गुरुवा
गुरुवाटी बेंच, गुरुवाटी-781 001.
Superintendent of Post Offices
Guwahati Division, Guwahati-781001

11. That, in regards to the averments made in paragraph No.- 4.9 and 4.10 of the Original Application the deponent begs to state that as per Departmental ruling, approved candidates in PA cadre were directed to attend Induction Training at PTC, Guwahati vide SSPOs, Guwahati memo No. B1/PTC/ Guwahati dated 09-08-04.

12. That, in regards to the averments made in paragraph No.- 4.11 of the Original Application the deponent begs to state that the

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
11 AUG 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

-6-

name of Mss Barnali Das & Md. Abdul Kasim were approved by the Circle Selection Committee on 02-04-04 after following proper procedures. On the Other hand, the name of Sri Dipak Medhi was approved by the CSC on 11-11-99 and his name was in the waiting list. The waiting list was cancelled as per instruction received from the Directorate letter No. 24-1/99-SPB-I dated 08-02-01 which was communicated vide the CPMG, Assam Circle, Guwahati letter No. Staff /16-Rlg/88 Pt dated 14-08-01. Therefore, the name of Sri Dipak Medhi Could not be considered I the year 2004 afresh with other candidates who were in the zone of consideration in that year i.e. 2004.

Dipendra Nath Sharma

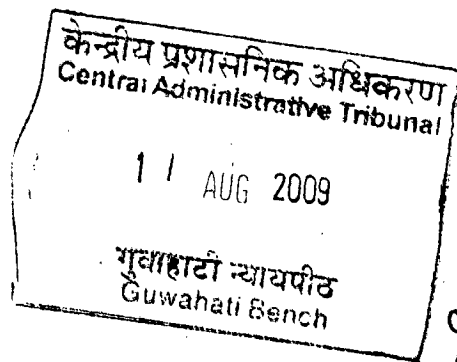
वरिष्ठ अधीक्षक, डाकघर
गुवाहाटी संडल, गुवाहाटी-781 001.
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

13. That, in regards to the averments made in paragraph No.- 4.12 of the Original Application the deponent begs to state that the similar treatment as like Miss Barnalai Das & Md. Abdul Kasim cold not be given to Sri Dipak Medhi as his name was already cancelled in the year 2001 alongwith there approved candidates in the waiting list after receiving instruction from the Directorate conveyed vide the CPMG, Assam Circle, Guwahati letter No. Staf /16-Rlg/88/Pt dated 14-08-01.

14. That, with regard to the statements made in paragraph 4.13 of the Original Application, the deponent have no comments and do not admit anything which is contrary to and / or inconsistent with the records.

15. That, in regards to the averments made in paragraph No.- 4.14 of the Original Application the deponent begs to state that the representation of Sri Dipak Medhi dated 06-06-07 was considered and he was allowed to work a s Officiating Postman at Kharguli S.O. w.e.f 02-07-07 to 31-12-07 on purely temporary basis and

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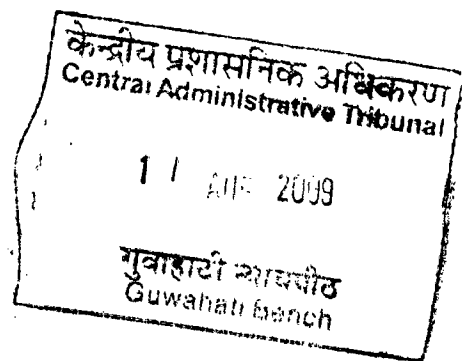
in the interest of service vide ASPOs, Guwahati west Sub - Div, Guwahati memo No. B@ / Staff / offtg dated 09-07-07. In the said memo it was clearly mentioned that Sri Medhi will not claim any seniority nor absorption in the Department and may be terminated at any time without showing any reason thereof. Later on his service was utilize as officiating Postman at Kharghuli S.O. on different spell when vacancy arised in that cadre on purely temporary basis in the interest of service.

Dwipendra Nath Sharma

बोरसट्ट बंधीशक, गारुड
 गुवाहाटी बंजन, गुवाहाटी-781 001
 Sr. Superintendent of Post Offices
 Guwahati Division, Guwahati-781001

16. That, in regards to the averments made in paragraph No.- 4.15 of the Original Application the deponent begs to state that the Sri Dipak Medhi, GDSMD, Dhepargaon BO in account with Rangia M DG was allowed to work as Officiating Postman at Kharghuli S.O. under Guwahati GPO on Purely temporary basis in the interest of service only. He was not allowed to work on his officiating post considering his outstanding service carrier as claimed by the applicant.

17. That, in regards to the averments made in paragraph No.- 4.16 of the Original Application the deponent begs to state that the case of the compassionate appointment of the applicant Sri Dipak Medhi has already been disposed of in the year 2001 by appointing him in GDS (Gram Dak Sevek) cadre as a policy decision of the Govt. of India which has been already explained in the Para -10 of this Written Statement. The advertisement was made by the CPMG, Assam, Circle, Guwahati for filling up the residual vacancies for the year 2005, 2006 and 2007. There is no justification of claim of the applicant to consider him now as Postal Assistant (PA) against the aforesaid vacancies advertised by the Department.

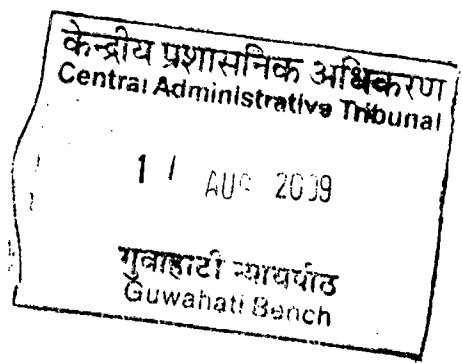


18. That, in regards to the averments made in paragraph No.- 4.17 of the Original Application the deponent begs to state that the applicant accepted the offer of GDS post in lieu of PA post on compassionate ground vide his willingness as explained in the aforesaid para 4.8 and his appointment was in the GDS cadre was disposed on 21-07-03 by issuing order of appointment by the appointing authority and the applicant joined in the GDS post at Dhepargaon B.O. 22-07-03(F/N) by signing the joining charge report. The candidates who filed OA Nos. 370,407 and 408 of 2002 (Sri Nripen Tamuly & Others -vs- Union of India & Others) did not offer their willingness in GDS cadre as an alternative way of absorption by the Department. But the applicant accepted appointment in GDS cadre as such his case for consideration in Army Postal Service complying the Hon'ble CAT, Guwahati bench verdict dated 25-07-2003 does not arise.

19. That, in regards to the averments made in paragraph No.- 4.18 of the Original Application the deponent begs to state that the applicant accepted the alternative offer of appointment in GDS cadre and join GDS at Dhepargaon B.O. his case for compassionate appointment in the Department is treated as closed. His case cannot be considered for appointment in the Army Postal Service in PA cadre on obvious reason like other applicants in OA Nos. 370,407,408 of 2002.

20. That, in regards to the averments made in paragraph No.- 4.19 of the Original Application the deponent begs to state that there is no ambiguity to fill up the vacancies as advertised by the Department in the Advertisement Notice, 2009. The case of compassionate appointment of the applicant has already disposed of as explained in para 17 in this Written Statement there is no

नरेश कुमार, डाक्टर
 गुवाहाटी ब्रांच, गुवाहाटी-781 001
 Sr. Superintendent of Post Offices
 Guwahati Division, Guwahati-781001



ground to consider his case in the vacancies for which application from the outsider candidates has been called for.

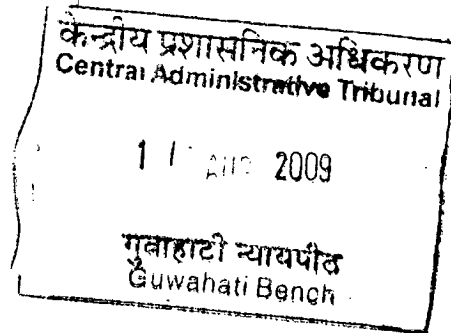
21. That, in regards to the averments made in paragraph No.- 4.20 of the Original Application the deponent begs to state that the applicant accepted the offer of appointment in GDS post by virtue of compassionate appointment offered to him in the year 2001 immediately on discontinuation of the waiting list approved by the competent authority where his name was enlisted at Sl. 6 for Guwahati Division. There is no jurisdiction to keep one post vacant and to maintain status quo as the facts submitted by the applicant.

Durpan Sharma

गुवाहाटी बं. गुवाहाटी-781 001
Sr. Superintendent of Post Offices
Guwahati Division, Guwahati-781001

22. That, with regard to the statements made in paragraph 4.21 of the Original Application, the deponent have no comments and do not admit anything which is contrary to and / or inconsistent with the records.

23. That, in regards to the averments made in paragraph No.- 5.1 of the Original Application the deponent begs to state that the candidates those were approved between 07-12-93 to 11-11-99 and were kept in the waiting list has been discontinued in compliance of Postal Directorate letter No. 24-1 / 99 -SPB-I dated 08-02-01 circulated vide the CPMG, Assam Circle, Guwahati letter No./ Staff / 16-Rlg / 88 /Pt dated 14-08-01. Accordingly the name of the applicant was approved by the competent authority on 11-11-99 become null and void from the date of circulation of the aforesaid circular. As per Directorate's instructions for consideration with regards to the candidates of waiting list the willingness from the applicant was obtained alongwith others and he was offered post of GDS cadre & he appointed as GDS MD,



Dhepargaon B.O. As such his case was treated as closed at this stage and thus his case can not be considered at par with Miss Barnali Das and Md. Abdul Kasim approved on 13-05-04 for compassionate the appointment by the competent authority vide the CPMG, Assam Circle, Guwahati letter No. Staff / 16-CSC / 2004 dated 13-05-04. In view of this fact it is neither a ground of favouratism nor an illegitimate as alleged by the petitioner and his such ground is not tenable and liable to be rejected.

24. That, in regards to the averments made in paragraph No.- 5.2 of the Original Application has already been explain in Para 20 of this Written Statement.

25. That, in regards to the averments made in paragraph No.- 5.3 of the Original Application has already been explain in Para 23 of this Written Statement.

26. That, in regards to the averments made in paragraph No.- 5.4 of the Original Application has already been explain in Para 18 of this Written Statement.

27. There is no question of violation article 14 and 16 of the Constitution of India, discrimination and / or arbitrariness on the part of the respondent authorities as explained in the previous paras above.

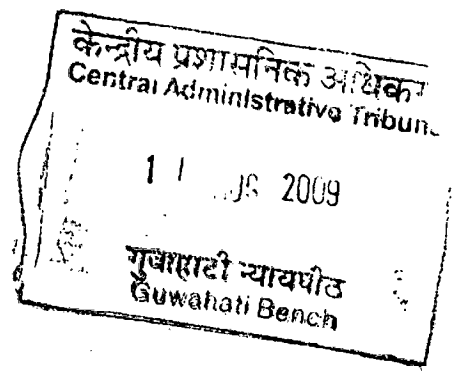
28. That in view of the statements made herein above, the applicant is not entitled to any kind of relief prayed for and the application is liable to be dismissed with cost.

29. That the deponent beg to submit that the application is filed unjust and unsustainable both in facts & law and as such the same should be dismissed.

Verification....

Deponent's Name Sharmila

वरिष्ठ सचिव, डाकघर
गुवाहाटी-781 001
Sr. Superintendent of Post Office
Guwahati Division, Guwahati-781 001



VERIFICATION

I, Shri Daipendra Nath Sharma, Son of Late Phaniadhan
Salma, aged about 54 years, working as Sr. Supdt. of Post Offices
in the office of Sr. Supdt. of Post Offices, Kamrup Division, Guwahati
resident of Odalbakra, Guwahati-781034

_____ do hereby verify that the contents
of paragraph _____ to _____ are true my
personal knowledge and paras _____ believed
to be true on legal advice and that I have not suppressed any
material facts.

Place: Guwahati

Date

Daipendra Nath Sharma.

DEPONENT

परिषद् पदवीधर, जज

गुवाहाटी संज, गुवाहाटी-781 001

Sr. Superintendent of Post Offices

Kamrup Division, Guwahati-781001

(59)

-12-

Central Administrative Tribunal

11 AUG 2009

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

(4) ANNEXURE - I

Government of India
Ministry of Communications
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi-110001

No.24.1/99-SPB.I

Dated 8th February, 2001

To,

All Principal/Chief postmasters General,

Sub: Discontinuation of waiting list of candidates approved for compassionate appointment and other relevant instructions from Department of Personnel & Training.

Sir/ Madam,

I am directed to say that the Department of Personnel & Training has been consulted to clarify various aspects of the procedure for making appointment on compassionate grounds. That Department has given explanatory advice vide their O.M. No.42012/4/2000-Estt. (D) dated 24.11.2000 which is enclosed for your information / adherence.

2. In pursuance of the O.M. referred to above, you are requested to discontinue maintenance of waiting list of approved candidates for compassionate appointment immediately, if already not discontinued by now. The candidates whose names are already in the waiting list for appointment on compassionate grounds but could not be appointed due to want of vacancies within 5% limit, may be asked to express their willingness for consideration by other Ministries. The names of the candidates willing for consideration by other Ministries may be circulated to heads of Departments of other Ministries in your Circle in reference to DOP&T O.M. No.14014/6/94-Estt(D) dated 09.10.98 for their consideration. A list of names circulated may be endorsed to Directorate.

a. Remains of this letter may please be acknowledged.

Encl: As above

Yours faithfully,

(A. K. DASH)
Director (Staff)

Start
In file. R
12/2/01
12/2/01
Verified to be
True copy.
Mineral in / no
addl case.

60 -13- ANNEXURE - II

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE: GUWAHATI-781001

No.Staff/16-Rlg/88/Part

Dated at Guwahati, the 14th Aug, 2001

To

All Divisional Heads in Assam Circle.

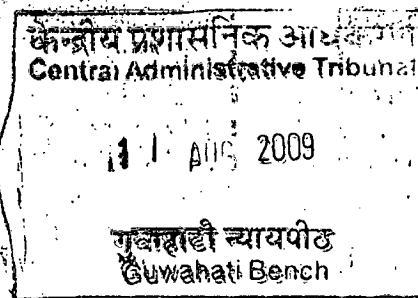
Sub:- Compassionate appointment proposal of candidates approved and wait-listed.

1. Directorate in consultation with Department of Personnel and Training has already Issued Instruction for discontinuation of waiting list of candidates approved for compassionate appointment. It was clearly mentioned that the maintenance of waiting list of approved candidates should immediately be discontinued if not already discontinued. In Dte in its letter No.24-1/2001-SPB.I dated 6.7.2001 circulated under this office letter of even number dated 31.7.2001 has directed that in future the committee for considering request for appointment on compassionate ground should take into account the position regarding availability of vacancy for such appointment and it should limit its recommendation for appointment only in a really deserving case against the vacancy meant for appointment on compassionate ground is available within a year and that too within the ceiling of 5% of vacancy falling under direct recruitment quota in any group-C or D posts prescribed in this regard. The practice of circulating names of the deserving applicants to other departments has also been discontinued.

2. In our circle we have got total 27 candidates for PA/SA, 16 candidates for Postman/Mailguard cadre and 47 candidates for Group-D cadre approved between 7.12.93 to 11.11.1999 and they are kept in the waiting list. Since wait-listing of candidates for compassionate appointment has been dispensed with, chance of absorption of these approved candidates in the waiting list against vacancies available within 5% ceiling of direct recruitment quota is remote. This may cause hardship to the approved candidates who have been waiting for quite a long period. In consideration of this aspect Directorate has decided to consider such wait-listed candidates for vacant posts of Gramin Dak Sewak if they are willing and eligible for the post. As per instruction of Dte you are therefore requested to offer GDS vacancies to the dependants of regular employees (group-C or D) who are already approved for appointment on compassionate ground and are still awaiting absorption for want of regular departmental vacancies as on 8.2.2001. Such approved candidates will however be appointed against GDS posts subject to their fulfilling all required conditions of recruitment like educational qualification etc. It will have to be made clear to the approved applicants that with their acceptance of GDS post they would have no further claim for appointment on any special consideration against regular departmental vacancies and that they would have to take their turn as per present departmental policy for GDS, in the matter of their appointment against future departmental vacancies. An undertaking in this regard must be obtained from these candidates before giving any appointment.

Contd

certified to be true copy
Mineral Kumar Boro
Addl. Secy
of

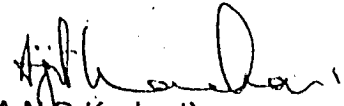


11 - 2009

3. The list containing names of all the approved candidates is enclosed division-wise. You may take action to ascertain the willingness and choice of stations, if any, from the approved and wait-listed candidates for consideration of their appointment against vacant GDS post and necessary follow-up action may be taken for the above instructions. However, wherever required action to fill up GDS posts is already in progress that action may continue and these posts may not be offered to wait-listed candidates.

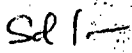
4. Offer of GDS posts to wait-listed candidates will be valid for one year and the scheme will be reviewed after one year. In the meantime, action taken report indicating number of GDS posts offered to wait-listed candidates and particulars of beneficiaries may be reported quarterly to this office beginning with quarter ending 30.9.2001, for onward transmission to Directorate.

Encl:AA


(A.N.D. Kachari)
Chief Postmaster General
Assam Circle, Guwahati-781001

Copy to :-

The Postmaster General, Assam Region, Dibrugarh-786001 for Information.


Chief Postmaster General
Assam Region, Guwahati-781001

केन्द्रीय प्रशासनिक अधिक
Central Administrative Tribunal
11 AUG 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

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29-1

LIST OF WAITING APPROVED CANDIDATES

Guwahati Division

| SL | NAME & ADDRESS | CADRE IN WHICH APPROVED | DATE OF APPROVAL | |
|----|---|-------------------------|------------------|----|
| 1. | Sri Nazimuddin Ahmed Son of Nausad Ali Ahmed, Ex Postman, Guwahati HO | PA cadre | 3.10.97 | X |
| 2 | Md Mantaz Ali, S/o late Mehboob Ali, Ex Sorting Postman, Guwahati HO | PA cadre | 11.11.99 | X |
| 3 | Sri Bhaskar Boro, Son of Late Mukunda Boro Ex Postman, Guwahati HO | PA cadre | 11.11.99 | W |
| 4 | Sri Sanjib Kumar Das, S/o late Chandra Kanta Das Ex PA Guwahati HO | PA cadre | 11.11.99 | X |
| 5 | Md Nurul Haque, S/o late Sahruddin Choudhury, Ex PA Palasbari SO. | PA cadre | 11.11.99 | X |
| 6 | Sri Dipak Medhi, S/o late Kanak Ch. Medhi, Ex Group D Guwahati HO | PA cadre | 11.11.99 | W |
| 7 | Sri Lakshya Bora Son of late Krishna Kanta Bora, Ex Group-D, PSD Guwahati | PA cadre | 11.11.99 | W |
| 8 | Sri Rabin Ch. Das S/o late Surendra Nath-IV Ex PA Guwahati HO | PA cadre | 11.11.99 | X |
| 9 | Sri Pronab Kumar S/o late Naren Ch. Kumar, Ex Postman, Khanapara | Postman Cadre | 6.10.97 | W |
| 10 | Sri Bhuban Rabha Son of late Dinesh Ch. Rabha, Ex Postman, Rehbari HO | Postman cadre | 11.11.99 | W |
| 11 | Smt Joymati Baruah, W/o late Biren Ch. Baruah Ex Postman, Ulubari SO | Group-D | 7.10.97 | NW |
| 12 | Smt Dipali Kalita, D/o late Sibranath Kalita, Ex Postman, Bharalumukh SO | Group-D | 6.10.98 | NW |
| 13 | Smt Padumi Das W/o late Harihar Das Ex Group D, Athgaon SO | Group-D | 11.11.99 | X |
| 14 | Sri Kamal Choudhury S/o late Putul Choudhury Ex Group-D Guwahati HO | Group-D | 11.11.99 | W |

Approached
Tribunal at
19/12/08

4 Assn
PA
ARS

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

11 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

RMS GH Division

| | | | | |
|-----|---|---------------|----------|---|
| 1 ✓ | Sri Diken Deka Son of late Uttam Ch. Deka Ex SGMM, HRO Guwahati | SA cadre | 3.2.98 | W |
| 2 ✓ | Sri Binod Bordoloi Son of late Kusum Ch. Bordoloi, Ex LSG HRO Guwahati | MG cadre | 11.11.99 | W |
| 3 ✓ | Sri Subhash Dey Son of late Sunil Ch. Dey Ex-SG MM, HRO Guwahati | MG cadre | 11.11.99 | W |
| 4 ✓ | Smt. Binita Baishya D/O Late Kandarpa Baishya Ex-SS MM, HRO Guwahati | MG cadre | 11.11.99 | W |
| 5 | Smt Anu Boro ✓ D/o late Maniram Boro Ex SGMM, HRO Guwahati | MG cadre | 11.11.99 | W |
| 6 ✓ | Sri Upen Ch. Boro Son of late Debendra Nath Boro Ex SG MM SRO Rangia | Group-D cadre | 7.12.93 | W |
| 7 ✓ | Smt Kajini Bala Nath W/o late Rati Ram Nath Ex Mail Pcon, RMS Guwahati | Group-D | 7.12.93 | W |
| 8 | Smt Naremai Bordoloi W/o late Babul Ch. Bordoloi ✓ Ex MM SRO Chaparmukh | Group-D | 11.11.99 | W |
| 9 ✓ | Smt Amila Boro W/o late Atul Ch. Boro Ex LSGSA, HRO Guwahati | Group-D | 12.12.94 | W |
| 10 | Sri Atul Ch. Boro Son of late Bularam Boro Ex SGMM, Guwahati RMS | Group-D | 11.11.99 | W |
| 11 | Smt Manju Medhi W/o late Kartick Medhi Ex SA Guwahati RMS | Group-D | 11.11.99 | W |

Darrang Division

| | | | | |
|---|--|---------------|----------|---|
| 1 | Sri Sushil Ch. Deka Son of Satish Ch. Deka Ex PA Tezpur HO | Postman cadre | 3.2.98 | |
| 2 | Sri Bobin Saikia Son of late Promode Ch. Saikia Ex SPM Bishukuri SO | Group-D | 7.12.93 | |
| 3 | Sri Sankar Das Son of late Harimohan Das Ex Group-D Jamadar Tezpur HO | Group-D | 17.4.96 | |
| 4 | Sri Nalini Pd Sarma Baruah Son of late Satya Pd Sarma Baruah Ex Cash Overseer Mangaldoi HO | Group-D | 7.12.93 | W |
| 5 | Smt Alpina Rani Baruah W/o late Upendra Bikash Baruah Ex Postman Tezpur HO | Group-D | 12.12.94 | |
| 6 | Smt Gita Deka D/o late Jay Chandra Deka Ex OS Mail Darrang Division | Group-D | 11.11.99 | |

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

11 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

19/11/2010
DB 0A 29/09

Report
Absence

(64)

-17-

| | | | |
|----|---|---------|--|
| 5 | Sri Gopal Namasudra Son of late Gopendra Namasudra Ex Group D Cachar Dn | Group-D | 7.12.93 EPDA Bhaubong W |
| 6 | Sri Sanjeeb Sengupta Son of late Sukhendu Sengupta Ex SPM Badarpur Bazar | Group-D | 7.12.93 ED S/vandev W Panchgrom |
| 7 | Smt Giribala Barman Wife of late Nirmal Kumar Barman Ex Gr.D P&D Dispensary Silchar | Group-D | 7.12.93 |
| 8 | Sri Jayanta Debnath Son of late Binod Behari Debnath Ex Group-D Haflong | Group-D | 7.12.93 ED Packar, Kaling W |
| 9 | Sri Ashit Kumar Nath Son of late Anil Kumar Nath Ex SPM Manipur Bazar | Group-D | 2.6.95 |
| 10 | Sri Pramesh Ch. Das Son of Sri Mantu Das Patni Ex Postman Karimganj Bazar | Group-D | 11.11.99 |
| 11 | Sri Kajal Das Son of Smt Suniti Bala Das Ex Group-D Silchar HO | Group-D | 7.10.97 ED Packar Sonabairghat |
| 12 | Sri Babudhan Dhree Son of late Bijoy Kumar Dhree Ex O/s Cash, Silchar HO | Group-D | 11.11.99 EDMC, Lallong W (Dewan) |

Circle Office, Guwahati :

| | | | |
|---|--|----------|---------|
| 1 | Sri Nripen Ch. Tamuli Son of late Judharam Tamuli Ex Group-D C.O. Guwahati | PA cadre | 3.10.97 |
|---|--|----------|---------|

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

11 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

(65)

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

11/11/2009

गुवाहाटी न्यायापीठ
Guwahati Bench

Tinsukia Division :

| | | | | |
|---|--|----------|----------|----|
| 1 | Sri Samarendra Hazarika Son of late Lohit Kumar Hazarika Ex SPM Margherita SO | PA Cadre | 11-11-99 | W |
| 2 | Sri Dipak Malakar Son of late Durga Sankar Malakar Ex PA Tinsukia HO | PA cadre | 11.11.99 | W |
| 3 | Miss Sangeeta Das D/o of Kamal Ch. Das Ex PA Doomdooma SO | PA cadre | 11.11.99 | |
| 4 | Sri Manbahadur Chettri Son of late Bhimbahadur Chettri Ex Mailpeon, Doomdooma SO | Group D | 11.11.99 | NR |
| 5 | Smt Chenchu Singhphow Wife of late Gopal Singhphow Ex Group-D Margherita SO | Group-D | 11.11.99 | W |
| 6 | Miss Bhagya Gogoi D/o late Jyotish Gogoi Ex Mail Pcon Chabua SO | Group-D | 11.11.99 | W |
| 7 | Sri Pradip Garh Son of late Mangal Garh Ex Group-D Tinsukia HO | Group-D | 11.11.99 | W |

Sibsagar Division :

| | | | | |
|---|--|----------|----------|----|
| 1 | Sri Chitrannarayan Bharali Son of late Hireswar Bharali Ex SPM Majuli Bongaon SO | PA cadre | 11.11.99 | NW |
| 2 | Sri Sumantra Gum Son of late Kaliram Gum Ex Postman Kamalabari SO | Group-D | 11.11.99 | NW |

Goalpara Division :

| | | | | |
|---|---|----------|----------|----|
| 1 | Miss Sharmila Brahma D/o Ajendra Nath Brahma Ex Postman Dhubri HO | PA cadre | 3.10.97 | NR |
| 2 | Sri Dibakar Rabha Son of late Debas Kanta Rabha Ex SPM Baladuari SO | Postman | 11.11.99 | NW |
| 3 | Sri Kishor Kumar Das Son of Kulendra Ch. Das Ex SPM Dingdinga SO | Group-D | 12.12.94 | W |

Cachar Division :

| | | | | |
|---|---|----------|----------|----|
| 1 | Smt Smritikana Das D/o late Budhamay Das Ex PA Badarpur SO | PA cadre | 11.11.99 | W |
| 2 | Sri Nilopal Roy Son of late Nikunja Ch. Roy Ex Postman Gumra Bazar | Postman | 6.10.97 | NW |
| 3 | Sri Himangshu Paul Son of late Phani Bhuran Paul Ex Group-DP&T Dispensary Silchar | Postman | 6.10.97 | W |
| 4 | Smt Arati Rani Dev Wife of late Gopal Ch. Dev Ex Postman Tarapur SO | Postman | 11.11.99 | W |

2 Gr-D is reported
absent (87/c)

u/c for qualification

(117-1/c)
ED 3/vandav
Badarpur

EDDA-C-EDMC
Charakandi

(117-1/c)
Kamamandhara

EDDA-C-EDMC
Charakandi
(Tarapur Pt-VII)
(138/c)

File in Court on.....*11/9/09*.....
 Court Officer.

(66)

1
 Filed by:
 The Applicant
 through
 Hridip K. Das
 Advocate
 01.09.09

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::
 GUWAHATI BENCH :: GUWAHATI::**

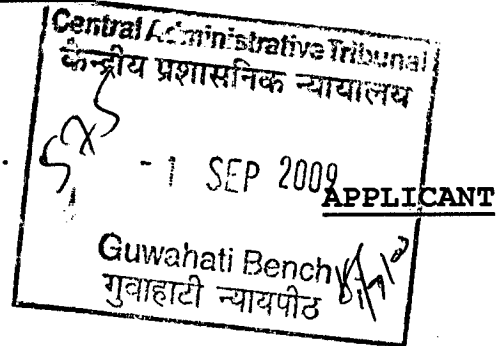
O.A. No. 72 / 2009.

BETWEEN

Dipak Medhi.

-Versus-

Union of India and Ors.



RESPONDENTS

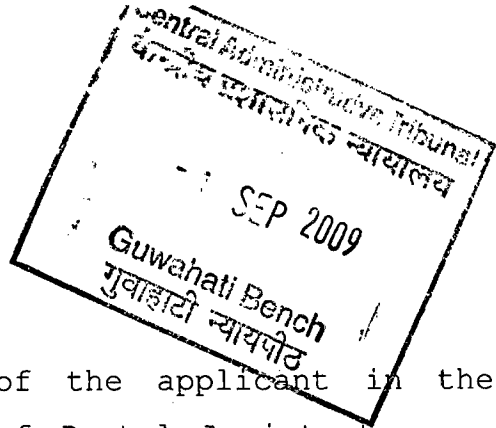
R E J O I N D E R

Received.
 Mmalla Boro
 Addl Secy
 01/09/09

1. That a copy of written statement has been served upon the applicant. The applicant has gone through the same and under stood the contents thereof. The statements which are specifically admitted herein below, other statements made in the written statement are categorically denied and the respondents are put to the strictest proof thereof.
2. That with regard to the statements made in Para 1, 2, and 3 of the written statement the applicant does not admit anything contrary to the relevant records of the case.
3. That with regard to the statements made in Para 4 of the written statement the applicant begs to state that these are matters of record.
4. That with regard to the statement made in Para 5 of the written statement the deponent while reiterating and reaffirming the statements made in the original application begs to state that the respondents have admitted that the applicant was approved on 11.11.1999 for appointment in the cadre of Postal Assistant under the relaxation of normal rules. The respondents by implication also admitted their

Dipak Medhi

(67)



2

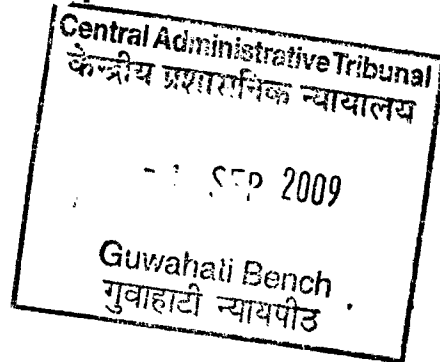
inaction towards absorption of the applicant in the Army Postal Service in the cadre of Postal Assistant even after receipt of willingness of the applicant. It is stated that the respondents causing serious discrimination appointed the persons named at Sl. Nos. 4 and 8 of the select list **[Annexure- 2, Page- 15 of the written statement]** in Army Postal Service as Postal Assistant, whereas the applicant whose name appeared in Sl. No. 6 was deprived of the similar benefits.

5. That with regard to the statements made in Para 6 of the written statement the applicant while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that by the communication dated 13.03.01 the respondents by confirming the date of approval of the applicant sought for his willingness to join in any other department. Accordingly, the applicant under compelling circumstances to recover the family from starvation submitted his willingness. However, it is noteworthy to mention here that from the said waiting list persons named at Sl. No. 4 and Sl. No. 8 i.e. junior to the applicant were appointed in the cadre of P.A. causing serious discrimination towards the applicant. Therefore, the contention raised by the respondents that due to non availability of posts the applicant's case could not be considered is not correct.

It is further stated that the father of the applicant expired on 02.08.1997 and the applicant submitted application on 24.09.1997. The limit to provide compassionate employment as against 5% of the direct recruitment vacancies have been fixed on 03.12.1999. Therefore, the limit of 5% is not applicable in the case of the applicant and the case of he applicant ought to have been considered as against any vacancy instead of 5% vacancy limit. Moreover, it is stated that the respondents should have considered the applicant for compassionate appointment under the law governing the field as on the death of his father when the applicant became automatically qualified to hold the post of Postal Assistant

Lipna Mehta

(68)



3

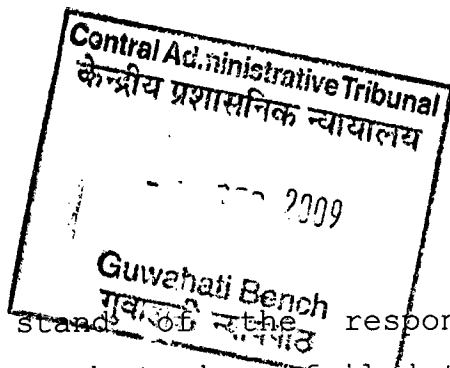
against any vacancy not bound by the limit of 5% of the direct recruitment vacancies which was available at that point of time to be offered to the applicant. The respondents causing serious discrimination and miscarriage of justice denied the consideration of case of the applicant on grounds which were not in existence.

6. That with regard to the statements made in Para 7 and 8 of the written statement the deponent begs to state that these are matters of record.

7. That with regard to the statements made in Para 9 of the written statement the deponent begs to state that the applicant who was initially approved for appointment in the P.A. cadre and due to the inaction on the part of the respondents denied with the such appointment causing serious discrimination had to accept the post of GDSMD, Dhepargaon B.O. under compelling circumstances to save the family from starvation.

8. That with regard to the statements made in Para 10 of the written statement the applicant while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that there is gross suppression of material facts on the part of the respondents. It is stated that persons named at Sl. No. 4 and 8 of the select list [Annexure- 2, Page- 15 of the written statement], wherein the name of the applicant appeared in Sl. No. 6, were asked for to exercise their option to join APS and they placed their willingness like the applicant and appointed in the Army Postal Service pursuant to the judicial pronouncement in O.A. No. 407 & 408 of 2002. However, the respondents causing serious discrimination did not consider the case of the applicant to join APS organization like the similarly situated persons at Sl. No. 4 and 8. It is stated that the respondents causing serious discrimination and suppression of material facts made attempt to mislead the Hon'ble Court by not mentioning the above facts. It is

Sipax Mehta



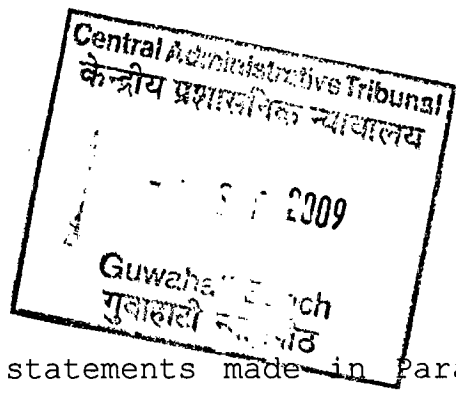
further stated that the stand of the respondents is contradictory because the respondents have failed to explain under what circumstances the persons at Sl. No. 4 and 8 of the select list were appointed in the APS as Postal Assistant in spite of the cancellation of the select list denying the similar benefit to the applicant. Moreover, it is further stated that due to the inaction on the part of the respondents the applicant had to accept the post of GDSMD in compelling circumstances to save the family from starvation.

9. That with regard to the statements made in Para 11, 12 and 13 of the written statement the applicant while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that on each and every occasion the respondents did not consider the case of the applicant on the ground of lack of vacancy. However when the vacancy surfaced the respondents again causing serious discrimination without considering the case of the applicant, appointed Miss Barnali Das and Md. Abdul Kashim who were approved much later to the applicant for appointment in the P.A. cadre under the relaxation of normal recruitment rule against the vacancies of direct recruitment quota. It is stated that the stand of the respondents pertaining to the cancellation of select list has got no legal stand because after cancellation of the said list the respondents had appointed persons named at Sl. No. 4 and 8 of the select list **[Annexure- 2, Page- 15 of the written statement]** in the Army Postal Service. It is further stated that Smt. Barnali Kalita and Md. Abdul Kashim not only similarly situated to the applicant but also they are much junior to the applicant in the matter of compassionate appointment.

10. That with regard to the statements made in Para 14, 15 and 16 of the written statement the applicant begs to state these are matters of record. It is stated that till date the applicant is discharging his duties to the satisfaction of all concern as the officiating postman in the Kharghuli B.O.

Dipak Pradhan

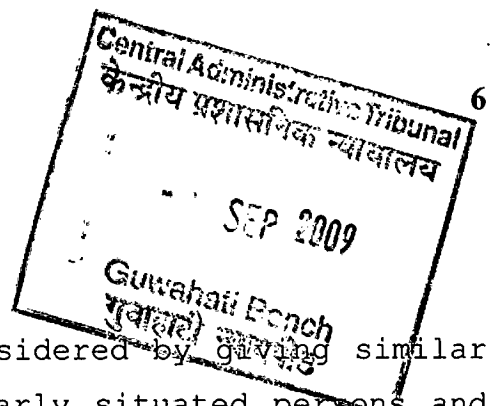
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11. That with regard to the statements made in Para 17 of the written statement the applicant while denying the contentions made therein and reiterating and reaffirming the statements made in the original application begs to state that the applicant submitted his application for compassionate appointment on 24.09.1997 and thereafter approved on 11.11.1999 for appointment under relaxation of normal rule as Postal Assistant. Accordingly the respondents asked for options from the persons of the select list [Annexure- 2, Page- 15 of the written statement] for appointment in the APS. The applicant along with others submitted their option of acceptance. The respondents did not act upon the options and sat over the matter. In the mean time as per respondents in the year 2001 the said select list was cancelled. However, the respondents taking contradictory stand and causing serious discrimination appointed persons named at Sl. No. 4 and 8 of the said select list in the post of Postal Assistant in the APS. The applicant submitted representations stating his meager financial condition and praying for consideration of his case like the similarly situated persons. However, the respondents in the case of the applicant denied the benefit on the ground that 5% vacancy was not available. The respondents taking advantage of the poor situation of the applicant gave option to join in GDS post on the ground of non availability of posts in 5% reservation in direct recruitment and made an attempt to frustrate the claim of the applicant. It is noteworthy to mention here that the limitation of 5% vacancy came much later than the date when the father of the applicant expired. The applicant having no alternative had to accept the GDS post under compelling circumstances. Hence, it is stated that the consideration sought to be made by the respondents pertaining to appointment of the applicant in the post of P.A and denying his case is based on discriminatory action on the part of the respondents and is arbitrary in nature. Therefore, since the vacancies of Postal Assistant/Sorting Assistants have surfaced in the year 2009 for filling up of the residual vacancies for the year 2005 onwards, the case of

Signature

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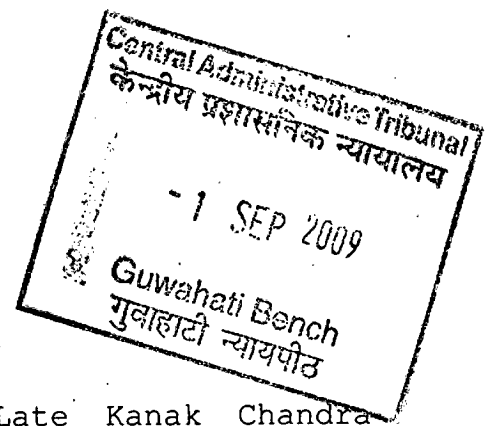


the applicant now can easily be considered by giving similar benefits granted to the other similarly situated persons and appointment can be given to him in the post of P.A.

12. That with regard to the statements made in Para 18 to 29 of the written statements the applicant while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A. begs to state that similarly situated persons from the same select list approached this Hon'ble Court by filing O.A. No. 370, 407 and 408 of 2002 and the respondents appointed those persons in the post of P.A. in the Army Postal Service causing serious discrimination to the applicant. It is further stated that in the communication dated 19.03.01 by which the applicant submitted his willingness the applicant nowhere stated that he accepted the offer of GDS post in lieu of P.A. post on compassionate ground, rather the applicant stated his piteous financial condition and prayed for issue of appointment letter at an early date to save the family from starvation. The applicant had to accept the GDS post under compelling circumstances and the respondents taking benefit of the poor condition of the applicant made attempt to dissolve his claim. Hence, the case of the applicant is similar to that of the persons who filed O.A. No. 370, 407 and 408 of 2002 and it incumbent upon the respondents to grant him the similar benefits by appointing him in the post of Postal Assistant directed to be kept vacant as per the ad-interim direction dated 21.04.09 of this Hon'ble in the instant Original Application.

13. That in view of the aforesaid facts and circumstances of the case the present original application deserves to be allowed with cost.

Disputes resolved

VERIFICATION

I, Sri Dipak Medhi, Son of Late Kanak Chandra Medhi, resident of Fatasil Ambari, Near Kali Mandir, P.O- Fatasil Ambari, Dist- Kamrup, Assam- 781025, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 2, 3, 6, 7, 10, 11/4, 12 are true to my knowledge, those made in paragraph 4, 5, 8, 9, being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 1st day of September' 2009 at Guwahati.

Sri Dipak Medhi
APPLICANT

(73)

DISTRICT: KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI

Filed by the Respondents.
through me.
Mural Kumar Boro.
Addl CG Sec.
06/10/09

Central Administrative Tribunal
পৈন্যীষ প্রশাসনিক ন্যায়ালয়
04 NOV 2009
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

O.A NO. : 72 / 2009

IN THE MATTER OF :

Sri . Dipak Medhi.

.....Applicant.

-VS-

Union of India and Others

..... Respondents

-AND-

IN THE MATTER OF :

Reply to the re-joined filed by the
applicant

REPLY TO THE RE-JOINED

Reply to the re-joined on
behalf of the Respondents

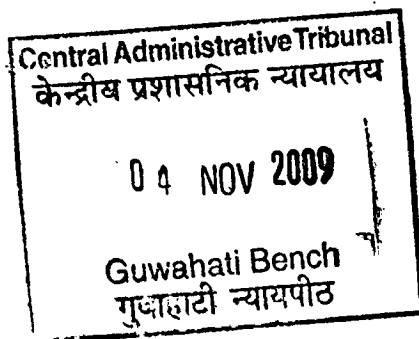
Dipendra Nath Sharma

Received copy
4.11.09.
at 2 p.m.

MOST RESPECTFULLY SHEWETH:

1. That I am.....Sri . D. N. Sarmah, ,.....Sr. Supdt.....of.....
..post. officers. Guwahati Division, Guwahati: - I.....in
the instant O.A. No. 72/2009 I have been impleaded as Respondent
No..... I have gone through a copy of the Re-joinder served on
me and have understood the contents thereof. Being well conversant
with the facts and circumstances of the case and I am competent to
swear this Reply on my behalf as well as for all the respondents .

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-2-

2. That save and except those statements made in the Re-joinder, which are specifically admitted herein below, the rests not being admitted, should be treated to have been denied by the deponent hereto. The deponent also does not admit anything which is contrary to and inconsistent with the records of the case.

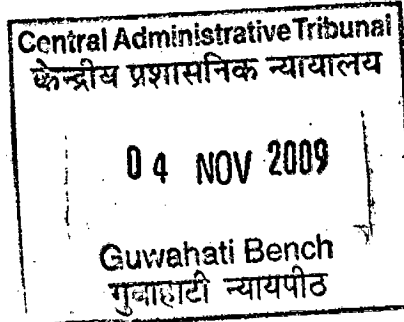
3. That the statements made in paragraph 1 of the re-joinder are not true and are hereby denied. The deponent begs to state that the written statement which is filed in the Original Application is based on based on records.

4. That the statements made in paragraph 2 of the re-joinder are not true and are hereby denied by the deponent and the deponent begs to state that the denial of the applicant to the statements made in paragraph 4,5,6,7,8 and 9 of the written statement are baseless and are not factual as the applicant has already accepted appointment in GDS cadre after following due process of companionate appointment.

5. That with regards to the statements made in paragraph 3 of the rejoinder the deponent, begs to state that as per existing procedure of the Department the applicant who was GDS Mail Deliverer, Dhepargaon Branch Post Office under Rangia Mukhya Dak Ghar was ordered by his controlling authority to Officiate in the Departmental Post as Postman at Kharguli Sub-Post Office on purely on temporary basis and in the interest of service, reserving the right to terminate him by his authority at any time without assigning any notice or reason.

6. That with regards to the statements made in paragraph 4 of the rejoinder the deponent begs to state that the applicant in this

Deponent's Name Shamma
Deponent's Name Shamma



and in view of cancellation of waiting list by Postal Directorate , New Delhi vide letter No. 24-1 / 99-SPB -1 dt. 08-02-2001 and communicated by CPMG, Assam Circle Guwahati's letter no Strass /16 -Rlg / 88/Pt dt. 14-08-2001 , the applicant offered his willingness to the CPMG , Assam Circle , Guwahati vide his representation dated 18-03-2001 to settle his case . Accordingly , he was absorbed in 01(one) GDS Post in the Department as an alternative solution of appointment on compassionate ground which the applicant has already accepted and has worked as GDS staff at Dhepargaon Branch Post Office under Rangia MDG.

Absorption from waiting list in the approved cadre of Postal Assistant in the Department on compassionate cases are subject to ceiling of 5% vacancy falling under recruitment quota in any Group C or D Post -prescribed in this regard . Therefore , there is limitation in absorption of huge number of approved candidate at a time by violating the prescribed norms of 5% vacancy of direct recruitment quota . Thus , the allegation made by the applicant is quite baseless and not tenable and is liable to be rejected .

10. That with regards to the statements made in paragraph 8, 9 and 10 of the rejoinder the deponent begs to state that the applicant accepted the offer of GDS Post in lieu of Postal Assistant on compassionate ground vide his written willingness dated 18-03-2001 and his case was accordingly disposed of under the provision of rules. ✓

It is pertinent to mention here that waitlisted candidate at serial number 04 & 08 of the approval list did not offer their willingness to appoint them in GDS cadre . As much their case was not considered in GDS cadre as an alternative solution of absorption of waitlisted candidate from the approved list . Subsequently , they approached the Hon'ble Court by way of filing

Disputed fact shown

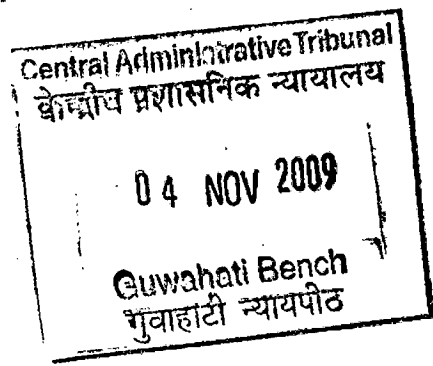
an original Application being O.A. No. 370 , 407 and 408 of 2002 (Sri Nripen Tamuly & Others-VS-Union of India & Others) which was disposed of by the Hon'ble CAT, Guwahati Bench on 25-07-2003 with a direction to the respondent departments to appoint them in Army Postal Services as Postal Assistants and accordingly, they were appointed in that cadre .

It is further stated that the applicant by submitting the rejoined stated that the respondent department failed to explain what circumstances the person at Sl.No. 04 & 08 of the select list were appointed in the APS as Postal Assistant in spite of cancellation of the selected list . The fact is crystal clear that candidate at Sl. No. 04 & 08 were appointed in the APS as Postal Assistant by virtue of Hon'ble CAT Guwahati Bench Order dated 25-07-2003 against OA No. 407 and 408 of 2002 filed by the candidate . But in the case of applicant , the length of court verdict dated 25-07-2003 cannot be granted as he has already accepted a GDS Post in the department by offering his willingness .

The Offering of GDS Post in line of Departmental Postal Assistant was policy decision of the Government at that time for which respondent department cannot be blamed for the same and as such the averments of the applicant are not tenable and liable to be rejected .

11. That with regards to the statements made in paragraph 11 of the rejoinder the deponent begs to state that the applicant's name was approved by the Circle , Selection Committee on 11-11-1999 and was in the waiting list of candidate under the Guwahati Postal Division at serial 06 of the list . This waiting list was discontinued as a policy decision of the government vide Postal Directorate, New Delhi's letter No. 24-1/99 SPB -I dated 08-02-2001 and was communicated by CPMG , Assam Circle , Guwahati Vide its letter

Swipanda Nath Sharma



number staff -/ 16-Rlg / 88 /Pt. dated 14-08-2001 directing that recommendation for appointment on compassionate ground only should be made for really deserving case against the vacancy meant for appointment on compassionate ground is available within a year and that too within the ceiling of 5% of vacancy falling under direct recruitment quota in any Group C or D Post prescribed in this regard.

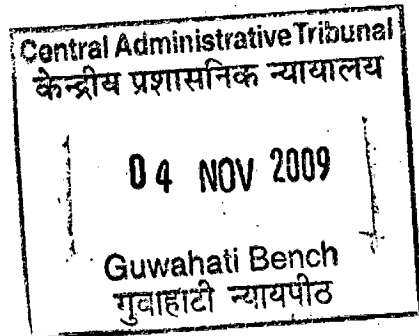
It is further stated that the Hon'ble CAT, Guwahati Bench vide its order dated 25-07-2003 passed in OA No. 370, 405 & 408 of 2002 has clearly mentioned (in para 4) that "appointment of Juniors (Miss Barnali Das and Md. Abdul Karim) were fresh case in terms of the instructions on the subject and cannot be equalized in the same position of Barnali Das and Md. Abdul Kasim which arise much later of the disposal of case of Sri Dipak Das.

From the perusal of the Govt. Orders and instructions in this matter on records as well as action of the Government to make alternative offers to the applicant, cannot be said that waiting lists candidates approved for appointment on compassionate ground was still valid."

The candidate at SL No. 04 & 08 were selected in Army Postal Service as per verdict of Hon'ble CAT Guwahati Order dated 25-07-2003 as they have not accepted the alternative offer of GDS Post in lieu of Department Postal Assistant Post till the implementation of Hon'ble Court ordered unlike the applicant who has already accepted the Offer of GDS Post in the Department. Therefore, the claim of the applicant were totally baseless and are liable to be rejected.

12. That with regards to the statements made in paragraph 12 of the rejoinder the deponent begs to state that the averments made

Dipak Das



here in are already explained in the written statement filed by the respondents.

13. That with regards to the statements made in paragraph 13 of the rejoinder the deponent begs to state that from the order of Hon'ble CAT Guwahati Bench dated 25-07-2003 in OA No. 370, 407 & 408 of 2002, it is to be clarified that the waiting list dated 11-11-99 approved by Circle Selection Committee do not have any validity as the government has already discontinued the waiting list.

Thus, the applicant's case cannot be considered now for purpose of appointment to cadre of Postal Assistant for the vacancy occurred in the year, 2005 as advertised by the respondent department.

14. That with regards to the statements made in paragraph 14 of the rejoinder the deponent begs to state that the applicant accepted the offer of the appointment in GDS Cadre without precondition at the time of appointment by the department is a cheer example precondition at the time of appointment by the department is a cheer example of appointment in the GS Cadre. Therefore, claim if the applicant is baseless and not tenable by the respondent department.

15. That with regards to the statements made in paragraph 15 of the rejoinder the deponent begs to offer no comment.

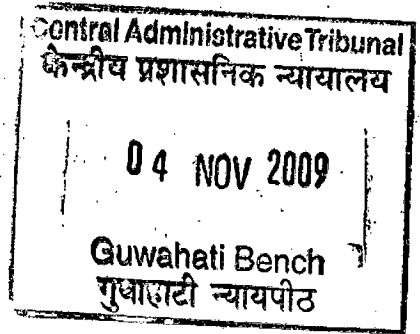
16. That in view of the statements made herein above, the applicant is not entitled to any kind of relief prayed for and the application is liable to be dismissed with cost.

17. That the deponent beg to submit that the application is filed unjust and unsustainable both in facts & law and as such the same should be dismissed.

Verification....

Nishi Sharma
20/11/2009

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VERIFICATION

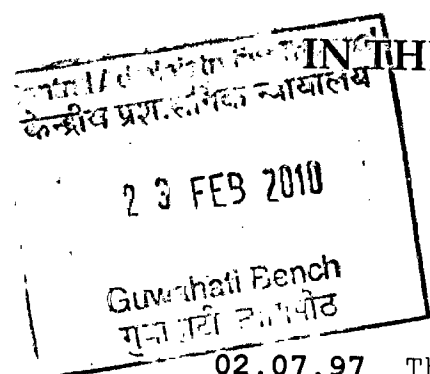
I, Shri Dwipendra Nath Sharma Son of Late Phomidhar
Sharma aged about 54 years, working as Sr. Supt. of P.O. in
the office of Sr. Supt. of Post offices, Guwahati Divn, G#4
resident of Odalbakra, Guwahati - 781034

do hereby verify that the contents
of paragraph 3 to 15 are true my
personal knowledge and paras 16 - 17 believed
to be true on legal advice and that I have not suppressed any
material facts.

Place:

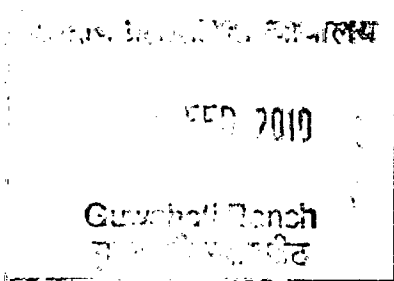
Date

Dwipendra Nath Sharma
Deponent



Filed By:
The Applicant
through
Hridip K. Das
Advocate
23/02/20

- 02.07.97 The father of the applicant expired.
- 24.09.97 Applicant submitted application for appointment on compassionate ground.
- 18.06.99 Communication under No. Staff/16-11/98 issued to the applicant asking his willingness for enrolment in Army Postal Services and accordingly the applicant submitted his willingness. [ANNEXURE- A/1][Page- 14]
- 13.03.01 Communication issued under no. Staff/16-Rlg/88/Part by the Assistant Postmaster General (Staff), Assam Circle, Guwahati to the applicant asking his willingness to join in any other department or outside Assam. [Annexure- A/2][Page- 15]
- 19.03.01 Communication submitted by the applicant to the CPMG, Assam Circle expressing his willingness. [Annexure- A/3][Page- 16]
- 14.11.02 Order issued by Senior Superintendent of Post Offices, Guwahati division considering the appointment of the applicant against the vacant post of Branch Postmaster (in short BPM) in Bordol B.O. under Rangiya S.O.. [Annexure- A/4] [Page- 18]
- 17.03.03 Representation submitted by the applicant to the SSPO, Guwahati Division making a prayer to give him alternative appointment as his appointment in the post of BPM was rejected due to not having of immoveable property to pledge.. [Annexure- A/5] [Page- 20]
- 14.07.03 communication issued under No. A2-EST/ED/Rlg/Pt-II by Senior Superintendent of Post Offices, Guwahati division absorbing the applicant in the post of



GDSMD, Dhepargaon B.O. under Rangia S.O. [Annexure- A/6] [Page- 21]

21.07.03 Formal appointment order. [Annexure- A/7] [Page- 23]

22.07.03 Order by which the applicant assumed charge. [Annexure- A/8] [Page- 24]

25.07.03 Common order passed by the Hon'ble Tribunal in O.A. Nos. 370, 407 and 408 of 2002 (Sri Nripen Tamuli and Ors. -Vs- U.O.I & Ors.), who were similarly situated to the applicant. By the said order the Hon'ble Tribunal directed the respondents to consider the representations submitted by the applicants thereto with a further direction to the CPMG, Assam Circle to take up the matter with the concerned Army Postal Service authority, through proper channel, for enrolment of the applicants as per relevant terms and conditions. It was also directed that the Army Postal Service will consider the cases of the applicants subject to fulfillment of terms and conditions by a speaking order. [Annexure- A/20] [Page- 40]

20.07.04 Order under No. B 2/compassionate appointment/01 issued by respondent no. 3 in favour of 2(two) i.e. Miss. Barnali Das and Md. Abdul Kasim, who were similarly situated to that of the applicant directing them to undergo attachment training for appointment in P.A cadre under relaxation of normal recruitment rule against the vacancies of direct recruitment quota. [Annexure- A/9] [Page- 25]

09.08.04 Order by which the aforesaid 2(two) persons were directed for induction training. [Annexure- A/10] [Page- 26]

29.10.04 Order No. B 1/PTC/Guwahati directing the said Miss. Barnali Das and Md. Abdul Kasim to undergo practical training at Guwahati University H.O. wherein they were finally absorbed in the P.A. Cadre. [Annexure- A/11] [Page- 27]

- 02.02.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/12] [Page- 28]
- 08.11.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/13] [Page- 29]
- 22.11.05 Representation submitted by the applicant ventilating his grievances and making a prayer for extending the similar benefits. [Annexure- A/14] [Page- 31]
- 06.06.07 Representation submitted by the applicant to the Sr. Superintendent of Post offices, Guwahati Division praying for his transfer from Dhepargaon, B.O. under Rangia S.O. to a nearby office for attending his old ailing mother. [Annexure- A/15] [Page- 33]
- 04.07.07 Order passed pursuant to the representation dated 06.06.07 by which he was allowed to work as officiating postman against a vacant post in the Kharghuli B.O. under Guwahati West S.O. [Annexure- A/16] [Page- 34]
- 01.01.09 Order extending the service of the applicant in the post of officiating postman in the Kharghuli B.O. [Annexure- A/18] [Page- 37]
- 2009 Advertisement issued by the CPMG, Assam Circle for filling up of 84 posts of Postal Assistants. [Annexure- A/19] [Page- 39]

Filed by

H. S.
1/12/09.

Advocate