

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*Gahil*  
31/1/18

(3) OA 257/96

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA NO. 250/96

Md. S. Ullah

.. Applicant

Vs.

Union of India & Ors.

.. Respondents

Mr. S. S. Goswami

.. Advocate for applicant

Mr. S. Ali, Sr. CGSC

.. Advocate for respdts.

Notes

dt.

Orders

18.10.96

This application is in  
form and within time  
C. F. of Rs 50/-  
deposited vide  
IPO/RD No 44482/  
Dated 12.10.96

D. Registrar.

18/10/96

Annexure VI not  
registerable

D. S. Goswami  
18/10/96

Mr S.S.Goswami for the  
applicant. Mr S.Ali, Sr.C.G.S.C  
for the respondents.

Heard Mr Goswami for admis-  
sion. Perused the contents of  
the application and the reliefs  
sought. Application is admitted.  
Issue notice on the respondents  
by registered post. Written state-  
ment within six weeks.

List for written statement  
and further orders on 3.12.96.

Mr S.S.Goswami prays for  
interim relief order. Mr Ali oppo-  
ses to grant interim relief. Heard  
counsel of the parties and perused  
the application. The impugned order  
dated 29.3.96 annexure-VII cancell-  
ing the selection dated 3.10.96  
had taken place for quite some time  
now and thus the cancellation  
stands implemented. The impugned  
order dated 7.5.96 Annexure-VII is  
for direct recruitment to the cadre  
of Postal Assistant in the reserved  
vacancies. The applicant in this  
application however is general can-  
didate. Thus apparently the appli-  
cant cannot claim any of these  
vacancies. In the circumstances  
the prayer of the applicant to keep  
one post vacant by staying the  
impugned order letter dated 7.5.96  
Annexure-VII cannot be granted.

18/11/96

Notice issued to  
the concerned parties  
order No. 3811, 21.11.96.

By

contd...

18.10.96

Interim prayer in this regard is rejected. But the learned counsel for the applicant also submits that out of the 66 vacancies advertised in 1995 for which the applicant appeared 56 candidates were selected including the applicant and further out of the 56 candidates selected the applicant was not sent for training though the other selected candidates were sent for training and appointed. He submits that vacancies are still available and one post may be kept vacant for the applicant. Respondents are directed to show cause as to why this part of the interim prayer should not be granted to the applicant. Returnable on 3.12.96.

List for order on interim relief prayer on 3.12.96.

The respondents are directed to keep one post vacant out of the vacancies mentioned in the letter dated 3.5.95 (Annexure-I), if they are still vacant, till disposal of the show cause.

Copy of this order may be furnished to the counsel of both sides

PL. comply above  
order dated 18.10.96.

M 23/10/96.

26.10.96

Copy of order issued to  
the concerned parties  
on 24.10.96.

6  
Member

Ans

2.12.96

pg  
AV  
23/10

3.12.96

Mr. S.S.Goswami for the applicants.

Mr. S.Ali, Sr. C.G.S.C. for the

respondents.

Service report is awaited. Written statement has not been submitted.

List for written statement and further orders on 2.1.1997.

Notice duly served on  
Respondant No-2, 3, in O.A. 251/96

1) Notice duly served on R. Ali  
2, 3.  
2) W/S has not been filed.

trd

6  
Member

(3)

O.A.251/96

2-1-97

28.1.97

NO written statement has been submitted.

m  
28/1

lm  
m  
28/1

Learned counsel Mr.S.S.Goswami for the applicant. No written statement has been submitted.

List for written statement and further order on 29-1-97.

6  
Member

29.1.97

20.2.97

1) NO written statement has been filed.

2) Memo of appearance has not been filed.

or  
20/2

pg  
m  
312

Mr S.Ali, learned Sr.C.G.S.C for the respondents prays for 3 weeks time to file written statement. The other side has no objection.

List on 20.2.1997 for written statement and further orders.

6  
Member

S. Bhowmik  
Vice-Chairman

4-4-97

21.2.97

1) Notice duly served on R.No-223.

2) w/s has not been submitted

31

Mr S.Ali, learned Sr.C.G.S.C prays for further extension of time to file written statement. Several adjournments have been granted for filing written statement. We are not inclined to grant any further extension of time.

Let this case be listed on 7.4.97.

6  
Member

S. Bhowmik  
Vice-Chairman

pg

m  
21/2

7.4.97

On the prayer of Mr S.S.Goswami, learned counsel for the applicants the case is adjourned till 8.4.97. Mr S.Ali, learned Sr.C.G.S.C is requested to produce record.

6  
Member

S. Bhowmik  
Vice-Chairman

OA-251/96 (4)

8.4.97 On the prayer of the learned counsel for the parties the case is adjourned till 22.4.1997.

6  
Member

  
Vice-Chairman

17-4-97

PG

✓  
f/n  
91A

written statement  
filed on behalf of  
The Respondent No-  
1, 2 & 3, at page- 30 to  
35.

5x5x97

Division Bench is not sitting.  
Therefore, the case is adjourned to  
18.4.97, for hearing.

3/1  
17.4.

  
Vice-Chairman

lm

21.4.97.

17.6.97

Division Bench is not sitting.  
hearing is part heard on 6.5.97.

1) Memo of appearance  
not yet filed.

2) No rejoinder has been  
filed.

  
Member

lm

21/4/97.

22.4.97

Let the case be listed for  
hearing on 6.5.97.

lm

✓  
f/n  
21/4/97

6  
Member

  
Vice-Chairman

6-5-97

Division Bench is not sitting.  
Therefore, the case is adjourned to  
17-6-97 for hearing.

  
Vice-Chairman

lm

✓  
f/n  
17-6-97

17-6-97

Let the case be listed for hearing  
as part heard on 8-7-97.

  
Member

lm

✓  
f/n  
17-6-97

8-7-97

On the prayer of counsel for the parties case is adjourned till 29-7-97. for hearing.

Memo of appearance has been filed.

8/7.

Member

Vice-Chairman

lm

9/7

WTS has been (29/7.97)  
→ No adjournment by  
summons.

Mr S.Ali, learned Sr.C.G.S.C for the respondents prays for adjournement till 30.7.97 for receiving instruction. Prayer allowed.

List on 30.7.97 for hearing.

8/7

Member

Vice-Chairman

pg

30.7.97 Answer for 1<sup>st</sup> day.

By order.

b.

31.7.97 Left over. List on 9-8-97.

By order.

9.8.97 Answer for 1<sup>st</sup> day.

By order.

10.9.97 Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.250 of 1996

And others

Original Application No.251 of 1996

Date of decision: This the 10th day September 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

O.A.No.250/96

1. Shri Gautam Bora, Bongalpukhuri, Jorhat.
2. Shri Mrinal Borthakur, K.K. Path, Jorhat.
3. Shri Monojyoti Goswami, Chutiagaon, P.O. Bokolai.
4. Shri Dipak Goswami, P.O. Barua Bamungaon, Golaghat.
5. Shri Kumar Nayan Barua, Raja Maidam, New Colony, Jorhat.
6. Shri Dipak Kumar Sarma, Phukan Nagar, Sibsagar.
7. Ms Marjina Begum, Village-Tengaholla Gohain Gaon, Golaghat.
8. Ms Shamim Ahmed, P.O. Sarupathar, Distt. Golaghat.

O.A.No.251/96

Md Samad Ullah, Amgurigaon, Sigsagar.

.....Applicants

By Advocate Mr S.S. Goswami.

- versus -

1. The Union of India, represented by the Director General (Posts), New Delhi.
2. The Chief Post Master General (Staff), Assam Circle, Guwahati.
3. The Superintendent of Post Offices, Sibsagar Division, Jorhat.

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....Respondents

that is to say

SO R D E R

BARUAH.J. (V.C.)

Both the above applications relate to the selection and appointment of Postal Assistants in the Sibsagar Postal Division. The Postal Department of the Sibsagar Division being in need of Postal Assistants made advertisement through the Employment Exchange stating that about 66 posts were vacant and the department wanted persons in those vacant posts. The number of posts were, thereafter, reduced to 56. 28 posts were reserved - 9 for SC, 4 for ST, and 15 for OBC. The remaining 28 were, therefore, unreserved.

2. A written test was held which was followed by viva voce test and a select list of reserved as well as unreserved candidates was published. For the 28 unreserved posts, 10 persons belonging to SC, ST and OBC were qualified to be appointed on unreserved posts on the basis of merit. However, due to mistake those 10 persons were taken in the reserved posts. This defect was, later on, detected and a fresh list was issued stating interalia that persons whose names appeared in the first select list would be entitled to get appointment in unreserved posts. Accordingly those 10 persons in the list of SC, ST and OBC were selected in unreserved posts purely on the basis of merit. The present 8 applicants in O.A.No.250/96 and the applicant in O.A.No.251/96 were among the 28 selected persons and they were appointed. However, after detection of the mistake their appointments had been cancelled, even though the applicants were entitled to be appointed even after taking those 10 persons in the unreserved posts. Hence the present applications.

3. We have heard Mr S.S. Goswami, learned counsel for the applicants and Mr S. Ali, learned Sr. C.G.S.C. Mr Goswami

*JB*

submits that the 8 applicants of O.A.No.250/96 were in the first select list. Their positions were as follows:

Name	Sl.No.
Mrinal Borthakur	20
Gautam Bora	21
Dipak Kumar Sarma	22
Monojoyoti Goswami	23
Kumar Nayan Barua	24
Ms Marjina Begum	26
Dipak Goswami	27
Ms Shamim Ahmed	28

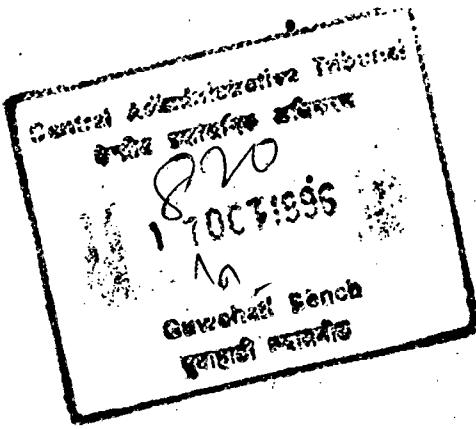
and the applicant in O.A.No.251/96 was at serial number 19 of the first select list. This was disputed by Mr Ali when we heard the case yesterday, i.e. 9.9.1997. However, Mr Ali prayed for time till today to verify the fact. Today an officer of the Postal Department has come to the Tribunal and as per his instructions Mr Ali submits that the names of the applicants of both the original applications are now included in the fresh select list. Mr Ali has further been instructed to inform this Tribunal that all the 8 applicants in O.A.No.250/96 and the applicant in O.A.No.251/96 can be appointed. In fact 9 posts had been kept vacant as per order of this Tribunal.

4. In view of the above we direct the respondents to appoint the applicants in both the applications as early as possible, at any rate within a period of fifteen days from the date of receipt of this order.

5. Both the applications are accordingly disposed of. However, in the facts and circumstances of the cases we make no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)



10

Filed through:  
Shyamal Kumar Goswami  
Advocate  
17.10.96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

An application under Section 19  
of the Administrative Tribunal  
Act, 1985.

O.A. No. 25/ (G) of 1996

Md. Samad Ullah ----- Applicant

vs.

Union of India & others.--- Respondents.

I undertake to serve copy  
to the Senior CGSC today  
Biswanath  
17.10.96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 251 of 1996

Md. Samad Ullah ..... Applicant

versus

Union of India & ors .... Respondents.

1. Particulars of applicant:

(i) Name: Md. Samad Ullah

(ii) Father's name : Md. Tayub Ullah

(iii) Address: Amgurigaon,

PO Sibsagar, District-Sibsagar

(Assam).

2. Particulars of respondents:

(i) Union of India, Rep. by D. G. (Posts) New Delhi

ii) represented by the Chief Post Master  
General (Staff), Assam Circle,  
Guwahati-1.

(iii) The Superintendent of Post Offices,  
Sibsagar Division,  
Jorhat-785001.

3. Particulars of orders against which  
application is made:

(i) arbitrary cancellation of the selection  
to the post of Postal Assistant of the  
applicant by order No. B 2/Rectt/PAS/95 dated  
29.3.96.

Attested  
B. D. D.

(ii) Letter No. B 2/Rectt/96 dated Jorhat the 7.5.96 issued by the respondent No. 2 inviting application for direct recruitment to the cadre of Postal Assistant for the year 1996 in the Sibsagar Postal Division.

(iii) Subject in brief: The selection of the applicant to the post of Postal Assistant in the Sibsagar Postal Division has been arbitrarily cancelled.

4. Jurisdiction: That the applicant states that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation: That the applicant further states that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Brief facts of the case:

(i) That the applicant is a citizen of India and therefore entitled to all the rights and privileges guaranteed to a citizen of India under the Constitution and the laws framed thereunder.

(ii) That pursuant to an advertisement and also on the basis of letter No. B2/PAS/Rectt/93

*Assisted  
Biswai  
Guru*

3.

dated Jorhat the 3-5-95 the Superintendent of Post Offices, Sibsagar Division, Jorhat, has invited applications with enclosed proforma for filling up the vacancies of Postal Assistant through the District Employment Officers of the concerned Districts Employment of the Sibsagar Division of Post Offices. In the said letter the number of vacancies have been clearly mentioned. It has been declared that the number of vacancies for unreserved is 32 while for Scheduled Caste 11, Scheduled Tribe 6, other Backward Community 17.

On the basis of the requirements mentioned in the aforesaid letter the applicant has applied for the post of unreserved postal Assistant in the prescribed form through the respective Employment Exchange in which his name is registered.

A copy of the said letter dated 3.5.95 is annexed herewith and marked as Annexure-I.

(iii) That the applicant begs to state that after submission of the application form complying with all the formalities the respondent No. 2 has declared the date of written test on 12.11.95 for the aforesaid post of Postal Assistant direct recruitment for the year 1995.

The applicant has duly appeared in the written test on receipt of the information from the

*Attest  
B. D. D.*

....4

## Respondent No.3.

The applicant annexes herewith one of the copies of the letter dated 13.10.95 calling for written test by the respondent and the same is marked as Annexure-II.

(iv) That the applicant begs to state that the Respondent No.3 has called for the candidates selected in the written test for appearing before the Interview Board on 1.1.96 to 5.1.96 at the Office of the Respondent No.3. The applicant has received such letter ~~from~~ for interview and Viva-voce test and duly appeared before the Interview Board on the stipulated dates.

The applicant annex herewith one of such calling letters dated 18.12.95 issued in favour of the applicant and the same is marked as Annexure-III.

(v) That the applicant begs to state that after successful completion of the written test and the interview the applicant has been informed vide letter dated 31.1.96 about his selection for the post of Postal Assistant. In the said letter it has been specifically stated that the applicant has been selected for the aforesaid post and directed the applicant to appear before the Respondent No.2 on or before 20.2.96 with all the original

testimonials. The said letter has made it clear that in case of failure to appear on the stipulated date his name shall be removed from the select list without any further claim. Further the select list containing roll numbers of the applicant has also been hanged in the notice board of the respondent No. 2.

The applicant annex herewith a copy of the letter No. B2/Rectt/PAS/95 dated 31.1.96 issued in favour of the applicant and the same is marked as Annexure-IV.

(vi) That the applicant begs to state that after the aforesaid selection order the applicant's name has been shown in the select list prepared after the aforesaid selection. It may be mentioned here that the respondent No. 2 has declared 32 numbers of total vacancies for unreserved candidates. The respondent No. 2 has clearly stated that the applicant shall have to undergo a course of special training before appointment in the particular cadre in the Indian Post and Telegraph Department and he shall be given training allowances. Further the respondent No. 2 has also taken the signatures of the applicant in his bond which has to be executed by Postal and Telegraph trainees before admission into training classes. The respondent No. 2 has also sent the name of the applicant for police verification. The other

Attest  
B. D. D.

declarations submitted by the applicant is marriage declaration and other. The respondent No.2 has also obtained health certificate from the applicant and identity certificate with attestation of all the particulars.

(vii) That the applicant begs to state that in the meantime, the respondent No.2 has implemented the said list and sent the applicant with some other for 15 days initial training course. The applicant has successfully completed 13 days training and received Rs.818/- as allowance.

The applicant encloses herewith the challan of receipt of training allowances and the same is marked as Annexure-V.

(viii) That the applicant was surprised to receive an order No.B2/Rectt/PAS/95 dated 29.3.96 issued by the Superintendent of Post Offices, Sibsagar Division, Jorhat, stating about the direct recruitment to the Postal Assistant Cadre for the year 1995 drawing up of fresh list in lieu of the provisional list. In the said letter the respondent No.2 has only stated that without prejudice to fresh list of selection being finalised , you are hereby informed that the provisional selection made under this officer letter of even number dated 31.1.96 stands cancelled.

The applicant encloses herewith the copy of the aforesaid letter dated 29.3.96 and the same is marked as Annexure-VI.

*Attest  
Gowain*

(ix) That the applicant begs to state that the aforesaid order is ex facie clear that there is no reason as to why the selection list has been ~~ever~~ cancelled only for the applicant. In fact, at no point of time any opportunity and/or reason was given/shown or any notice was issued to the applicant before passing the impugned order and, therefore, the impugned order passed by the Respondent No.2 is in gross violation of the principles of natural justice.

(x) That the applicant has already deposited his original certificates as per selection order dated 31.1.96. However, the Respondents have returned the original certificates to the applicant without any explanation.

(xi) That the applicant was surprised to know about the letter No.B2/Rectt/96 dated Jorhat the 7th May, 1996 issued by the respondent No.3 inviting applications for direct recruitment to the cadre of Postal Assistants for the year 1996 in the Sibsagar Postal Division. The aforesaid applications are invited through the District Employment Officer showing the total number of 20 reserved vacancies without appointing the earlier selected candidates.

The applicant encloses herewith a copy of the said letter and the same is marked as  
Annexure-VII.

Attested  
 Broswani

8.

(xii) That the applicant begs to state that he has all requisite qualifications and was selected for the post of Postal Assistant after successfully completing all the written test interview, viva voce etc. The impugned order is motivated and passed with an ulterior motive just to accommodate some other interested candidates depriving the just and genuine claim of the applicant. By the impugned order the respondents are trying to take away the means of livelihood of the applicant, who is eagerly waiting for an appointment on the basis of the clear and unequivocal promise made by the respondents. The applicant is denied the opportunity of being heard by the respondents. Such actions of the respondents are most perverse and without any justification.

7.

Details of remedies exhausted:

That in view of the statements made in the aforesaid paragraphs, the applicant has not filed any appeal/representation against the impugned orders. Further the applicant was not yet appointed to his select post and accordingly there will be no effective appeal in the present case even if the same is filed and therefore this application may be entertained without an appeal.

8.

Matters not previously filed or pending with any other Court: That the applicant having no other alternative filed a writ petition before the Hon'ble Gauhati High Court and the same has been registered

Attested  
Borowai

....9

as Civil Rule No. 2557 of 1996. The Hon'ble Gauhati High Court has issued notice on the respondents and stayed the letter No. B2/Rectt/ 96 dated Jorhat the 7.5.96. The Hon'ble High Court has heard the matter on preliminary point of jurisdictional importance whether the writ petition is maintainable before the High Court in terms of Section 14 of the Central Administrative Tribunal Act on 4.9.96. The Hon'ble High Court by judgment dated 27.9.96 dismissed the writ petition holding to be not maintainable and stated that it is however open to the petitioners to approach the Tribunal if so advised and in the event they so approached the time consuming prosecution of this petition deserves to be condoned.

The applicant annexes herewith a certified copy of the aforesaid judgment and the same is marked as Annexure-VIII.

9. Relief Sought:

The applicant prays:

(a) Your Lordships may be pleased to quash and set aside the impugned orders dated 29.3.96 and 7.5.96 as illegal and arbitrary.

(b) to declare the actions of the respondents as arbitrary, unfair and capricious;

*Akhilesh  
Borwari*

10.

(c) to direct the respondents to immediately send the applicant to complete the special training and appoint him on the basis of the selection made by the respondents.

10. Interim order, if any prayed for:

That the applicant respectfully states and submits that his case for appointment has not been considered in conformity with law. To the knowledge of the applicant other selected candidates have gone for the full training course. The respondents have only discriminated the applicant without any rhyme and reason. The applicant's post is still vacant and no other candidates have gone for training course in his post. The balance of convenience is heavily in favour of the applicant being granted adequate interim relief during the pendency of the application by directing the respondents not to appoint any other candidate and also by staying the impugned letter dated 7.5.96 during the pendency of the application.

11. In the event of the application being sent by registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall

Attached  
Boswell

11.

attach a self address post card or inland letter at which intimation regarding the date of hearing could be sent to him: *Not applicable*.

12. Particulars of the Bank draft/Postal order in respect of the application fee:

(a) Number of the Indian Postal order: 244827

(b) Name of the issuing post office: *Panbazar Head post office*

(c) Date of issue of postal order : 17.10.96

(d) Post office at which payable :

13. List of Annexures:

1. Annexure-I : Letter No.B2/PAS/Rectt/93 dated 3.5.95.

2. Annexure-II copy of letter dated 13.10.95.

3. Annexure-III One copy of calling letter dated 18.12.95.

4. Annexure-IV Letter No.B2/Rectt/PAS/95 dt. 31.1.96(8 copies)

5. Annexure-V Copies of the challans of receipt training allowance.

6. Annexure-VI Letter No.B2/Rectt/PAS/95 dt. 29.3.96 -8 copies.

7. Annexure-VII letter No.B2/Rectt/96 dated Jorhat the 7th May, 1996.

8. Annexure-VIII Judgement in CR No.2557/96

...12

*Attested  
Bawali*

12.

VERIFICATION

I, Md. Samad Ullah, son of Md. Tayub Ullah,  
aged about 22 years, resident of Amguri Gaon,  
do hereby verify that the contents of the paragraphs  
1512 are true to my knowledge and  
also on legal advice and I have not suppressed any  
material fact.

M D. Samad Ullah  
SIGNATURE OF THE APPLICANT

PLACE: Guwahati

DATE : 17.10.96

Attest  
Monogram

DEPARTMENT OF POST : INDIA  
 OFFICE OF THE SUPDT. OF POST OFFICES SIBSAGAR DIVN JORHAT-785001.

To

The District Employment Officer,  
 Sibsagar/Jorhat/Golaghat.

No. 32/PMS/Rectt/93

Dated at Jorhat, the 3-5-95.

Subject :- Direct recruitment to the Postal Asstt. in Sibsagar  
Postal Division.

Sir,

Application in the Preference appended below are invited for the post of Postal Asstt. for filling up the vacancies mentioned below in post offices under Sibsagar Postal Division.

Number of vacancies.

<u>Unreserved</u>	<u>SC</u>	<u>ST</u>	<u>OBC</u>	<u>P.M.</u>	<u>Total</u>
32	11	6	17	-	66

1. Scale of pay :- Rs. 975 + 25 + 1150 = Rs. 210 - 1650 plus gratuity of 30% to pension Government Employee.
2. Age :- 18 years and above but below 25 years on the first 1-6-95. Upper age limit is relaxable by five years for Scheduled Castes, Scheduled Tribes and for certain other categories like ex-servicemen and displaced persons.
3. Educational Qualification:- Minimum Education Qualification is a pass in 12 class or 10+2 standard Examination conducted by a recognised University or Board.
4. Selection:- a). 5 Marks would be given for knowledge of Typing. Minimum speed of 30 w.p.m.
- b). 5 Marks would be given for data entry qualification in computers.
- c). The marks obtained by the candidate in 10+2/12th class examination will be given 40% weightage.
- d). The candidates would be called for objective Type test as well as for oral interview held by an interview Board.

5. Warning:- Applicants should have their names registered with any of the Employment Exchange situated in the recruiting unit to which he is likely to be employed and indicate the registration number and name of Employment Exchange in the application form.

Attested  
 (Signature)

contd. P/2...

...P/2...

6. Training:-

Selected candidates will have to undergo a prescribed training for the period of three months. Stipend during the training period will be paid @ Rs 660 p.m.

You are hereby requested to send the minimum 60 from O/C, 25 from SC, 10 from ST, 30 from OBC applications containing all the essential particulars alongwith attested copies of marksheets in 10+2 standard or 12 class examination and above, Educational qualification certificates, age proof certificate, caste certificate, citizenship certificate, permanent resident certificate, Nationality certificate and certificate of Type and computer knowledge (if any) in support of the candidature under Regd/AD post so as to reach this office on or before 15.6.95.

Applications received after due date will not be entertained. Only attested copy of certificates should be sent with the application.

For the

Yours faithfully

Auth. Rep't of Post Office,  
Siosagar Division, Jorhat-783401

(Sd/- N. R. Basu)  
Supdt of post offices,  
Siosagar Divn. Jorhat.

Enclos: Prescribed  
application.

copy to:-

The Chief Postmaster General (Staff), Assam  
Circle, Guwahati-1 with ref to his No. Staff-  
13/18/88/110/Corr dated 1.5.95.

Supdt of post offices,  
Siosagar Divn. Jorhat.

Attested  
G. Deshwarai

DEPARTMENT OF POST & INDIA  
OFFICE OF THE SUPT. OF POST OFFICES: SIBSAGAR DIVISION JORHAT-785001.

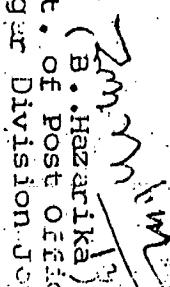
shri/smt. Govind Mahadev  
Sehdev

No. B2/PAS/Recrt/95  
Dated at Jorhat the 13th Oct/95.

Sub :- Written test for Postal Assistant direct recruitment for  
the year 1995.

You have been permitted to appear in the above  
mentioned examination scheduled to be held on 12-11-95 (Sunday).  
The Hall Permit enclosed herewith.

Yours faithfully,

  
(B. Hazarika)  
Suptd. of Post Offices,  
Sibsagar Division Jorhat.

Annexure - B (contd)

## DEPARTMENT OF POST INDIA

OFFICE OF THE SUPDT. OF POST OFFICES: SIBSAGAR DIVISION

MALON ALI JORHAT 785001

From  
Supdt. of Post Offices,  
Sibsagar Division, Jorhat.

To  
Shri/Smti Md. Renuka Mehta  
Dr. Md. Tarek Mehta  
Amlaguri  
P.O. Sibsagar

Dated at Jorhat the 18.10.95

No. B2/PAs/kctt/95  
Subj:- Written Test for postal Asstt. direct recruitment for the year  
1995 - affixing recent passport size attested photograph  
in the Hall-Permit.

Please refer to the Hall-Permit issued to you under this  
office No. B2/P As/kctt/95 dtd 13.10.95 issued to you for  
participating in the above Aptitude Test.

Please affix your recent passport size attested photograph  
on the Hall-Permit, failing which your candidature is liable to  
be rejected.

Mehta  
for Supdt. of Post Offices  
Sibsagar Division, Jorhat

Attested  
Copy

17

Annexure - III

DEPARTMENT OF POST: INDIA  
OFFICE OF THE SUPERINTENDENT OF POST OFFICES: SIBSAGAR DIVISION JORHAT

TO :

Shri/mti. Md. Gannad...Hilla.  
...Roll. No ...J.R.I...61/Recd/H/P.A/95  
S.D. Md...Toxayb...Hilla  
Aongun Gaon, P.O. Sibsagar

No. B2/PAS/Recd/95, Dated at Jorhat, the, 18.12.95

You are hereby permitted to appear before the Interview Board on 21.1.1996 at 0930 hours at the office of the Supdt. of Post Offices, Sibsagar Division, Jorhat for viva-voice test.

You are likely to stay at the station for more 1 day.

You should bring all certificates, testimonials including marksheet of examination HSSLC examination onwards together with attested copies of all such documents.

No TA/DA will be paid for appearing the aforesaid test.

(N. B.  
Supdt. of Post Offices,  
Sibsagar Divn Jorhat.

Attested  
D.W.

Annexure - IV

Reqd. AD

10

THE GOVERNMENT OF INDIA  
MINISTRY OF POST & TELEGRAMS, SUBDIVISIONAL DIVISIONAL  
OFFICE OF THE SUB-DIVISIONAL OFFICER, SIBSAGAR

32/Recd/Pha/95

Dated at Jorhat, the

31-1-96.

To Sir

Mr. Samad-Ullah

Sto Mr. Toyab-Ullah.

Subject:-

selection for 32/3T/96

You have been provisionally selected for the post of Postal Assistant in Sibsagar Division. Please, therefore, appear before the undersigned on or before 31-1-96, with your original certificates i.e., age proof certificate, mark sheet of all examinations issued by the Board/University, 20/2/96, certificate in respect of 32/3T/candidates from any of the following officers:-

1. District Magistrate/Additional Magistrate/Magistrate/Collector/Deputy Commissioner/Deputy Commissioner/Deputy Collector/1st class stipendiary magistrate/City Magistrate/Sub-Divisional Magistrate/Executive Magistrate/Extra-Assistant Commissioner/Revenue Officer not below the range of Tahsildar/Sub-Divisional Officer.

In case of failure to appear before the undersigned on the stipulated date, your name will be removed from the select list without any future claim. In case of your inability to appear personally, the certificates/documents may be sent by registered post so as to reach this office on or before the stipulated date.

An attestation form is enclosed herewith. While attending this office, the same may be filled in correctly and be over to this office.

Sub-Divisional Officer  
Sibsagar Divisional Officer

Attest  
S. S. S.

ए० तज० जी० 61  
A.C.G.61

## भारतीय डाक विभाग

रत्तय छाक प्रमाण  
MENT OF POSTS, INDIA

**DEPARTMENT OF POSTS, INDIA**  
 ( देल्ही ए नियम 267, डाक-तार वित्त पुस्तिका का खांड I, द्वितीय संस्करण। )  
 ( See Rule 267, Posts and Telegraphs Financial Handbook,  
 Volume I, Second Edition )

Volume 1, Second Edition  
 चार्ज को बदली पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीद  
 Charge Report and Receipt for cash and stamps on transfer of charge  
 प्रमाणित किया जाता है कि  
 Certified that the charge of the office of PA (Treasurer) SBP.  
 चार्ज...  
 was made over by (name) स्थान

(नाम) की  
to (name) M. Sarsidullah at (place)

अपराह्ण  
on the (date) ..... fore noon in accordance with 8950 of  
19 ..... after / / 15.3.96

मारमुक्त अधिकारी ..... भारतीय ही अधिकारी  
Relieved Officer ..... Relieving Officer

1976-1977 में दिल्ली विश्वविद्यालय के द्वारा दिल्ली विश्वविद्यालय के द्वारा  
प्राप्ति की गई विद्यालयी विद्युति का नाम है।

Annexure - 2 Contd

ए. सी. ग. ६१  
A. C. G.-61

भारतीय डाक विभाग  
DEPARTMENT OF POSTS INDIA

(देविए नियम २६७, डाक-तार वित्त पुस्तक का खण्ड १, दितीय संस्करण)  
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

चार्ज को वंदली पर चार्ज एसोट और नकदी और टिकटों की 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

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

(नाम) को Somnath 21/loc  
to (name)

स्थान  
at (place) Subagent

तारीख ..... पूर्वी मा.  
Date ..... पूर्वी मा.

on the (date) 29-3-96  
B21PAS/Recd/95 dtg 99

सं० 15-2-96  
No. 22-3-96  
Dated

fore noon in accordance with  
after

के अनुसार दिया ।  
from

M.D. Somnath 21/loc

भारतीय अधिकारी  
Relieved Officer

(क्रमांक पृष्ठ उल्लिखन)  
(P. T. O.)

Relieved  
Officer

Annex 2

32

1. Direct recruitment of PAs

2. To

3. Direct recruitment of PAs

4. Direct recruitment of PAs

5. Direct recruitment of PAs

6. Selection

7. Selection

8. Selection

9. Selection

10. Conviction

11. The Chief PMA

12. The Chief PMA

DEPARTMENT OF POST: INDIA

OFFICE OF THE SUPERINTENDENT OF POST OFFICES: SIBSAGAR DIVN JORHAT

TO:

The District Employment Officer  
Sibsagar/Jorhat/Golaghat.

No. B2/rectt/96, Dated at Jorhat, the, 7.5.96.

Subject:- Direct recruitment to the cadre of Postal Assistants for the year 1996 in Sibsagar postal Division.

sir,

Applications in the proforma appended below are invited for the post of Postal Assistants for filling up the vacancies mentioned below in post office under Sibsagar Postal Division.

Number of vacancies.

<u>OC</u>	<u>SC</u>	<u>ST</u>	<u>OBC</u>	<u>Ex Service Man</u>	<u>Total</u>
8	2	2	6	2	20

1. scale of pay: Rs 975/- 25/- 1150/- E.B-30-1660/- plus usual allowance as admissible to Central Government employees.

2. Age:- 18 years and above but below 25 years on the first 1-6-1996. Upper age limit is relaxable by five years for scheduled Caste and scheduled Tribes. Ex.Serviceman and displaced person and three years for other than backward person.

3. Educational qualification: Minimum educational qualification 10+2 class or 10+2 standard examination conducted by recognised university or board passed.

4. Selection: a) Five marks is allotted for knowledge of type subject to test which required a minimum speed of 30 p.m in English and 25 p.m in Hindi.

b) Five marks is allotted for data entry qualification in computer, the candidate should produce certificate from any of the recognised institute which are given below.

- i). Apple Industries Ltd. (APTECH)
- ii). Computer Maintenance Corporation (CMC)
- iii). A Division of NIIT Ltd.
- iv). Computer Education Centre (CEC).
- v). UPTRON- ICL.
- vi). Digital.

vii). Indian Education Centre (IEC) or any other such institutions as may be approved by the Head of the Circle, i.e. Chief Postmaster General, Guwahati 5 marks will be allowed to such candidates. 40% of the marks obtained by the candidate in 10+2/12th Classes examination will be taken into account for computing the marks.

*Accepted  
B.M.*

1). Illustration:- A candidate secured 400 marks without additional subject in 10+2/12 classes examination will be taken into account i.e. he will get 16 marks.

2). The candidate will be called for objective type test as well as for oral interview held by an interview Board. He will also have to sit in for Type Test.

3). Warning: Applicant should have their names registered with any of the employment exchange situated in the recruiting unit to which he is likely to be employed and indicate the registration number and name of employment exchange on the application form.

4). Training: Selected candidate will have to undergo prescribed training for the period of three months. Stipend during the training period will be paid @ Rs 660 p.m. + D.A.

You are hereby requested to send application categoriwise as follows:

OC=24, SC=6, ST=6, OBC=18, ESM=6, Total=60. Containing all the essential particulars alongwith attested copies of mark sheet in 10+2 standard or 12 classes examination and above, Educational qualification certificate, Age proof certificate, Caste certificate, Discharge certificate in case of Ex-Serviceman, Citizenship certificate, Permanent residential certificate, Nationality certificate, Type writing Diploma and certificate on computer knowledge in respect of the candidate under Regd AND post so as to reach this office on or before 10.6.1996.

Application received after due date will not be entertained. Only attested copy of certificate should be sent with the application.

When number of application should not exceed 60 categoriwise stated above applications are to be sent should be based on merit basis.

Two copies of recent photographs of each candidate of which one should be affixed on the application form duly attested and other copy should accompany alongwith other documents.

Incorrect and incomplete applications would be summarily rejected.

Yours faithfully

( N. R. Baul )  
Supdt of post offices,  
Sibsagar Divn Jorhat.

copy to:-

The Chief P.M.G (Staff) Assam circle, Guwahati  
w.c.t no Staff/7-13/91 dated 18.4.96.

S. N. —  
Supdt of post offices,  
Sibsagar Divn Jorhat.

Att to  
Bew

Date of application for the copy.	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
30.9.96	7.10.96	7.10.96	7.10.96	7.10.96

Annexure - VIII 35

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:  
TRIPURA: MIZORAM AND ARUNACHAL PRADESH).

CIVIL RULE NO. 2524/96

Shrimoti Tapati Rani Mahanta,  
Daughter of Dr. Duleswar Mahanta,  
resident of Jorhat Town,  
District-Jorhat, Assam .....Petitioner.

Versus.

1. Union of India, represented by the Secretary to the Government of India, Department of Posts & Telegraphs, Ministry of Tele-Communication, New Delhi.
2. Post Master General, Assam Circle, Mignoot Bhawan, Guwahati.
3. Superintendent of Post Offices, Sibsagar Division, Jorhat. ....Respondents.

CIVIL RULE NO. 2556/96

1. Shri Gautam Bora, son of Shri Khireswar Bora, Bongalpukhuri, Jorhat-1.
2. Shri Mrinal Borthakur, son of Shri Lakheswar Borthakur, K.K. Path, Jorhat.
3. Shri Manajyoti Goswami, son of Shri Chakradhar Goswami, Chutia gaon, P.O. Bokalai,
4. Shri Dipak Goswami, son of Shri Bipin Chandra Goswami, P.C. Barua Bamungaon (Kumargaon), District-Golaghat, Assam.
5. Shri Kumar Nayan Barua, son of Shri Padma K. Lita, Raja Maidam, New Colony, Jorhat-1.
6. Shri Dipak Kumar Sarmah, son of Shri Chandra Nath Sarmah, Phukan Nagar, Sibsagar.
7. Miss. Marjina Begum, Daughter of Md. Nafijur Rahman, Vill. Tengahola Gohain Gaon, P.O. Gohaingaon via Sarupathar, District-Golaghat, Assam.
8. Miss. Shamim Ahmed, Daughter of Md. Kawar Ahmed, P.O. Sarupathar, District- Golaghat, Assam .....Petitioners.

Versus.

1. The Union of India.
2. The Chief Post Master General (staff), Assam Circle, Guwahati-1.
3. The Superintendent of Post Offices, Sibsagar Division, Jorhat. ....Respondents.

*affixed  
S.G.W.*

CIVIL RULE NO. 2557/96

Md. Samad Ullah,  
son of Md. Tayub Ullah,  
Amguri Gaon, P.O. Sibsagar,  
Dist. Sibsagar, Assam .....Petitioner.

Versus.

1. The Union of India,
2. The Chief Post Master General (Staff),  
Assam Circle, Guwahati-1.
3. The Superintendent of Post Offices,  
Sibsagar Division, Jorhat. ....Respondents.

B E F O R E

HON'BLE MR.JUSTICE VD GYANI.

For the Petitioners : Mr. N. Dutta, (In C.R. No. 2556/96 &  
Mr. SS Goswami C.R. No. 2557/96)  
Mr. DC Mahanta, } (In C.R. No. 2524/96)  
Mr. TJ Mahanta } Advocates.

For the Respondents : Mr. KN Choudhury, C.G.S.C.

Date of hearing : 4. 9. 96  
Date of Judgement : 27. 9. 96.

JUDGEMENT AND ORDER.

These three writ petitions involve a common question of law of jurisdictional importance whether these petitions are maintainable before the Court in face, Section of the Administrative Tribunal Act.

Basic facts necessary for disposal of the point as raised above, is that the petitioners are empanelled on the select list for appointment of Postal Assistant in Sibsagar Division which sought to be departed from or malafide distorted by Respondent No.3, who acting whimsically capriciously cancelled the appointment letters issued to as many as ten candidates from the select list. Petitioners contention therefore is that denial of appointment the selected candidates on extraneous considerations is arbitrary illegal and void.

Since the question of law involved is common and goes to the root of the matter the maintainability of the petitions by this Court, they are acting disposed of

by a common order.

Mr. Dutta, learned counsel appearing for the petitioners tracing the history of the Administrative Tribunals Act, 1985 (for short the Act.) and the Constitutional Amendment Act 323 A to the Constitution, submitted that considering the object of the Act, the petitions at the stage they are preferred namely selection, are maintainable, in any view of the matter while Mr. KN Choudhury learned Standing Counsel appearing for the Respondent Union of India urged that the issue is no longer 'res-integra' in view of AIR 1993 SC 382 and 1995 (5) SCC 678.

It was strenuously urged by Mr. Dutta, that, reading Art. 323 A with Sec. 19 and 28 of the Act, in the light of the object of the Arts. 'The word persons, appointed to public services as they occur in Art. 323 A, should be given their full meaning while interpreting the above provisions of law otherwise they would be rendered nugatory, and such an interpretation should be avoided. On facts he emphasized and high-lighted the fact that the petitioners are yet to be appointed therefore their petitions are clearly maintainable, the High Court's jurisdiction is not ousted.

Article 323 A (1) reads as follows :-

"PARLIAMENT MAY, BY LAW, PROVIDE FOR THE ADJUDICATION OR TRIAL BY ADMINISTRATIVE TRIBUNALS OF DISPUTES AND COMPLAINTS WITH RESPECT TO RECRUITMENT AND CONDITIONS OF SERVICE OF PERSONS APPOINTED TO PUBLIC SERVICES AND POSTS IN CONNECTION WITH THE AFFAIRS OF THE UNION OR OF ANY STATE OR OF ANY LOCAL OR OTHER AUTHORITY WITHIN THE TERRITORY OF INDIA OR UNDER THE CONTROL OF THE GOVERNMENT OF INDIA OR OF ANY CORPORATION OWNED OR CONTROLLED BY THE GOVERNMENT." and

Section 6 Clause (2)(d) of the Art. 323 A provides:

(2) A law made under clause (1) may-

- (a) .....
- (b) .....
- (c) .....

(d) EXCLUDE THE JURISDICTION OF ALL COURTS, EXCEPT THE JURISDICTION OF THE SUPREME COURT UNDER ARTICLE 136, WITH RESPECT TO THE DISPUTES OR

allied  
S.R.

The emphasis laid by the learned counsel is on the object of the Article which reads as follows :

"AN ACT TO PROVIDE FOR THE ADJUDICATION OR TRIAL BY ADMINISTRATIVE TRIBUNALS OF DISPUTES AND COMPLAINTS WITH RESPECT TO RECRUITMENT AND CONDITIONS OF SERVICE OF PERSONS APPOINTED TO PUBLIC SERVICES AND POSTS IN CONNECTION WITH THE AFFAIRS OF THE UNION OR THE CONTROL OF THE GOVERNMENT OF INDIA OR OF (ANY CORPORATION OR SOCIETY OWNED OR CONTROLLED BY THE GOVERNMENT IN PURSUANCE OF ARTICLE 323 A OF THE CONSTITUTION) AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO."

Here again the expression 'persons appointed to Public services' is highlighted, with reference to Sec. 19 and 28 of the Act. Section 19 is a procedural provision which deals with Applications to Tribunal while Section 28 provides for exclusion of jurisdiction of Courts other than Supreme Court.

Since the argument as advanced veers around the object of the Act, it would be pertinent to see as to how far it is helpful as an aid in construction of a particular provision of the Act. Patanjali Shastri C.J. in Aswini Kumar Vs. Arabinda Bose, AIR 1952 SC 369, emphatically ruled out the object and reasons, as an aid to construction of a statute. It has been followed in Central Bank of India Vs. Workman, AIR 1960 SC 12 and more recently in Narayan Khanna Vs. Pradyumna Kumar AIR 1985 SC 4.

Referring to the definition of 'Service matters' as contained in Section 3(q) of the Act it was argued by Mr. Dutta, that the question of applying conditions of service in relation to a person would arise only on entering service. It is taking a very narrow view of the matter, the definition has been construed in its wide range in several judgements. It is indeed a term of wide amplitude, and embraces within its fold the whole garment of service conditions including conditions of recruitment,

*After*  
*Review*

*Mr.*

Contd...5

which is an integral part of the process of selection for appointment to Public Services.

The Supreme Court in Sampat Kumar's case AIR 1987 SC 386 dealing with the question of exclusion of High Court's jurisdiction has obtained as follows :-

"Exclusion of the jurisdiction of the High Courts in service matters and its propriety as also validity have thus to be examined in the background indicated above. We have already seen that judicial review by this Court is left wholly unaffected and thus there is a forum where matters of importance and grave injustice can be brought for determination or rectification. Thus exclusion of the jurisdiction of the High Court does not totally bar judicial review. This Court in Minerva Mills' (case), (AIR 1980 SC 1789) did point out that "effective alternative institutional mechanisms or arrangements for judicial review" can be made by parliament. Thus it is possible to set up an alternative institution in place of the High Court for providing judicial review. The debates and deliberations spread over almost two decades for exploring ways and means for relieving the High Courts of the load of backlog of cases and for assuring quick settlement of service disputes in the interest of the public servants as also the country cannot be lost sight of while considering this aspect. It has not been disputed before us- and perhaps could not have been- that the Tribunal under the scheme of the Act would take over a part of the existing backlog and a share of the normal load of the High Courts. The Tribunal has been contemplated as a substitute and not as supplemental to the High Court in the scheme of administration of justice. To provide the Tribunal as an additional forum from where parties could go to the High Court would certainly have been a retrograde step considering the situation and circumstances to meet which the innovation has been brought about. Thus barring of the jurisdiction of the High Court can indeed not be a valid ground of attack."

The Supreme Court in Union of India and others Vs. Deep Chand Pandey and another, AIR 1993 SC 382, dealing with the scope of Article 323 A has held as follows :-

"The scope of Article 323-A permitting the Parliament to legislate on the subject covered therein is, having regard to the language, very wide, and by enacting 1985 Act this power has been exercised in almost full measure. An examination of Section 14 and Section 3(q) clearly indicates that the Act covers a very wide field, and there is nothing to suggest that the provisions dealing with the jurisdiction of the Tribunal should receive a narrow interpretation. This is also supported by the clarification offered by the then Minister for Law, who was piloting the Bill, while replying to the demand for the further enumeration of the conditions of service in Sections 14 and 15. He stated that (as recorded in the proceedings for 9th to 11th November, 1976 of the Rajya Sabha Debate) he believed the 'conditions of service' to be of such a wide expression that

*affected  
B.C.W.*

29

50

an attempt of enumeration would be "really so dangerous from the point of view of the employees themselves that by exclusion you say that the others are not."

In Himachal Pradesh State Electricity Board, Shimla and others Vs. Tirath Raj and others (1995 (5) SCC 678) the Supreme Court dealing with the question of jurisdiction of the Tribunal as referring to Deep Chand Supra has held that the High Court has been divested of the power and jurisdiction under Article 226 of the Constitution of India and the same vests in the Administrative Tribunal constituted under the Act.

It was pointed out by the learned counsel for the petitioners that it was a case of daily wage employees who were already working under the appellants. True it is but what is to be seen is the under lying principle which has again been reiterated under lying principle as laid down in Deep Chand Supra and again reiterated by the Supreme Court in Tirath Raj.

Two other judgements are also been relied upon , 1986 Lab.I.C. 1602 (C.Vinod Kumar and others Vs. The Director,D.M.R.L. Kanchanbagh, Hyderabad) and 1987 Lab.I.C. 104 (Pratap Chandra Rout and others Vs. State of Orissa and others.) In view of the Supreme Court judgement it is no longer necessary to discuss them here.

In view of the foregoing discussion the petitions are held to be not maintainable. They are accordingly dismissed. It is however, open to the petitioner to approach the Tribunal if so advised and in the event they so approached the time consuming prosecution of these petitions deserve to be condoned.

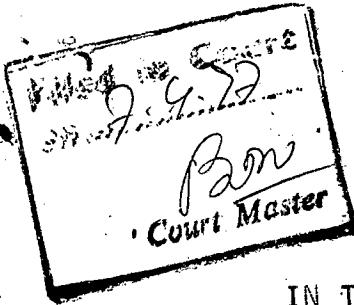
Sdt V. D. Gfand.

Judge

**Certified to be true Copy**  
*Epknl Keri*  
**7/10/96**  
**Superintendent (Copying)**  
**GAUHATI HIGH COURT**  
**Actuated U/S 76 Act. 1 of 1872**

~~Ans~~ 210.

Attested  
B.G.W. -



(30)

41

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BENCH:GUWAHATI.

G. A. NU. 251 UF 1996.

Md. Samad Ullah

-Versus-

The Union of India & others.

-AND-

IN THE MATTER OF :

Written Statements submitted by the  
Respondents No. 1, 2 & 3.

( WRITTEN STATEMENTS )

The humble Respondents beg to  
submit their Written Statements  
as follows :

- 1) That, with regard to the statements made in paragraphs 1, 2, 3, 4 & 5 of the application the Respondents have no comments.
- 2) That, with regard to the statements made in paragraph 6(i) of the application the Respondents have no comments .
- 3) That, with regard to the statements made in paragraph 6(ii) of the application the Respondents beg to state that, the vacancy position was revised

( Contd.)

4/9/92

and was duly intimated to the District Employment Exchange Officers, Jorhat, Sibsagar and Golaghat under the registered post vide Superintendent of Post Offices, Sibsagar Division's letter No. B.2 PAC/Ractt/95 dated 30-5-95 showing the vacancy as under :

<u>Unreserved</u>	<u>SC</u>	<u>ST</u>	<u>UBC</u>
28	09	04	15

But now, the vacancies are not the same in number as stated in the Original Application filed by the Applicant. Though earlier it was stated that, unreserved vacant posts are 32 now it has been made 28 only. The vacancies for the Scheduled Caste are now 9 and not 11 . The vacancies for the Scheduled Tribe are now 4 and not 6 and Other Backward Community vacancies are 15 at present instead of 17 as stated in the application filed by the applicant. Regarding other statements of the application the Respondents have no comments.

4) That, with regard to the statements as made in paragraphs 6.iii, 6.iv, and 6.v of the application the Respondents have no comments the same being matters of record.

5) That, with regard to the statements as made in paragraph 6.vi of the application the Respondents beg to state that the total number of vacancies were 28 for unreserved candidates and not 32 as stated in the application. Regarding other statements of the application the Respondents have no comments.

(Contd.)

6) That, with regard to the statements as made in paragraph 6.vii of the application the Respondents have no comments the same being matters of record .

7) That, with regard to the statements as made in paragraph 6.viii of the application the Respondents have no comments, but, the Respondents further beg to state that, when the fault was detected in the Select List by the Circle Office it was directed to cancel the Select List and accordingly a fresh Select List was prepared as per Rule and the previous List dated 31-01-1996 as well as the provisional selection made on the basis of that Select List were cancelled.

8) That, with regard to the statements as made in paragraph 6.ix of the application the Respondents beg to state that, the Select List was found defective and not prepared as per Rule. So, a fresh Select List was prepared after preparing common merit list for unreserved vacancies. The same of 10 other Community (U.C.) candidates were deleted. This is an administrative error and the question of giving any notice to the provisionally selected candidates does not arise.

9) That, with regard to the statements as made in paragraph 6.x of the application the Respondents beg to state that, it is not a fact that the Select List has been cancelled without any reason. As stated earlier the previous Select List has been cancelled

(Contd.)

without any reason. As stated earlier the previous Select List has been cancelled when the defect was detected by the Circle Officer. As the defect was detected before the appointment, so question of violation of principles of natural justice does not arise.

10) That, with regard to the statements as made in paragraph 6.xi of the application the Respondents beg to state that, the applications were called for fill up 20 vacancies for the year of 1996. All the selected candidates against the vacancies for the year 1995 were sent for training. Only the provisionally selected candidates/ applicants whose selection was cancelled subsequently were not sent for training.

11) That, with regard to the statements as made in paragraph 6.xii of the application the Respondents beg to state that, when irregularities in selection was detected and found that the ineligible persons were selected the Select List was cancelled before the appointment. Ineligible persons who has been selected through mistake cannot be appointed violating the selection rule framed by the Department. The benefit of error cannot be given to an ineligible persons and which will be an injustice to the eligible candidates.

12) That, with regard to the statements as made in paragraph 6.xiii of the application the Respondents beg to state that the competent authority

is at liberty to cancel the Select List if found defective and can prepare list on merit out of the provisionally selected candidates or to make a fresh advertisement for the said post.

13) That, with regard to the statements as made in paragraph 7 of the application regarding the details of the remedies exhausted the Respondents have no comments.

14) That, with regard to the statements as made in paragraph 8 of the application the Respondents beg to state that they have no comments the same being matters of record.

15) That, with regard to the statements as made in paragraph 9 of the application regarding the reliefs sought for the Respondents beg to state that the applicant is not entitled to get any relief as sought for and as such the application is liable to be dismissed.

16) That with regard to the statements as made in paragraph 10 of the application the Respondents beg to state that, if the relief sought for to be granted to the other applicants and similarly situated candidates it is up to the Hon'ble Tribunal to consider the same.

17) That, with regard to the statements as made in paragraph 11 of the application regarding

the interim order the Respondents beg to state that in view of the facts and circumstances narrated above, the applicants are not entitled to get any interim relief.

18) That, with regard to the statements as made in paragraphs 12, 13 & 14 of the application the Respondents beg to state that they have no comments.

19) That, the Respondents beg to submit that the application has no merit and as such, the same is liable to be dismissed.

#### VERIFICATION

I, Sri J.N. Sarma, Assistant Post Master General (Vig) Office of the CPMG, Assam Circle, Guwahati do hereby solemnly declare that the statements made above in the Written Statements in para 1, 2, 4, 6, 9 and in para - 3, 5, 7, 8, 10, are true to my knowledge, belief and information and I signed this verification on this 18<sup>th</sup> day of December, 1996. ~~March 97~~

*Jitendra Nath Sarma,*

*Declarant.*

*Asstt. Postmaster General (Vig)  
Assam Circle, Guwahati-781001*