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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-165/96 ordersheet pg-1 to 2 INDEX

Disposed Date-20/12/96

M.P-164/96 ordersheet pg-1 to 2

Disposed Date-20/12/96

O.A/T.A No...69/96.....

R.A/C.P No.....

E.P/M.A No...165/96.....

1. Orders Sheet. O.A-69/96.....Pg. 1.....to 4.....

2. Judgment/Order dtd. 20/12/1996.....Pg. 1.....to 4..... Dismissed

3. Judgment & Order dtd.....Received from H.C/Supreme Court

4. O.A..... 69/96.....Pg. 1.....to 39.....

5. E.P/M.P. 165/96.....Pg. 1.....to 44.....

6. R.A/C.P. M.P-164/96.....Pg. 1.....to 6.....

7. W.S.....Pg. 1.....to 6.....

8. Rejoinder.....Pg. 1.....to 9.....

9. Reply..... Nil.....Pg.....to.....

10. Any other Papers..... Nil.....Pg.....to.....

11. Memo of Appearance..... Nil.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

ORIGINAL APPLICATION NO. 69/96
MISC. PETITION/CONT EMPT PETITION/RE...

(O A) _____

Sh. Bhikarilal Mahato APPLICANT(S)

VS.

u.o.l 9oms RESPONDENT(S)

Mr. J.h. Soukcar, Mr. M. Chanda Advocate for Applicant(s)

Mr. G. Sarma, Addl. C.G.S.C Advocate for Respondent(s)

OFFICE NOTE

7.5.96

Application is in
order and within time
C. F. of Rs. 50/-
deposited vide
IPO/BD No. 345633
Dated 26.3.96

M. Chanda
6.5.96

28.5.96

Requisite received
and issued to the
concerned Respondent
No. 1, 2, 3, 4 & vide
No. 1122 dt. 30.5.96

11-6-96

Notice duly served
on Respondent No. 3.

Bor
Bor

Learned counsel Mr M.Chanda for
the applicant. Learned Addl.C.G.S.C Mr
G.Sarma for the respondents No.1 to 4.

Heard Mr Chanda for admission.
Perused the contents of the application
and the reliefs sought. Application is
admitted. Issue notice on the respon-
dents by registered post. Written state-
-ment within 6 weeks.

List on 24.6.96 for written state-
ment and further orders.

Pendency of this application shall
not be a bar for the official respon-
dents to consider posting the applicant
as Phone Mechanic.

[Signature]
Member

OFFICE NOTE

DATE.

O I L E N

24.6.96

Mr M.Chanda for the applicant. Mr G.Sarma, Addl.C.G.S.C for the respondents.

Written statement has not been submitted. List on 22.7.96 for written statement and further orders as requested, by Mr G.Sarma.

Member

pg

22-7-96

Learned counsel Mr.M.Chanda for the applicant. Addl.C.G.S.C, Mr.G.Sarma for the respondents. Written statement has not been submitted.

List for written statement and further orders on 12-8-96 as prayed by Mr.G.Sarma.

Member

lm

22/7/96

12.8.96

Learned counsel Mr M. Chanda for the applicant. Written statement not submitted.

List for written statement and further orders on 29.8.96.

Member

nkm

27/8

W/statement - has not been filed -
27/8/96

W/statement - has not been filed -
27/8/96

Notice duly served on OP No 3
W/statement - has not been filed -
27/8/96

29.8.96

Mr M.Chanda for the applicant.
Mr G.Sarma, Addl.C.G.S.C for the respondents.

Respondents have not submitted written statement. Mr G.Sarma submits that he ~~has~~^{is} no longer representing the respondents in this case. Registry should not show his name in the cause list.

List on 19.9.1996 for written statement and further orders.

Go
Member

pg

6.9.96
Notice duly served on Respondt No. 1.

19.9.96

Mr M.Chanda for the applicant.
Mr S.Ali, Sr.C.G.S.C for the respondents prays for short adjournment for filing written statement.

List for written statement and further orders on 8.10.96.

Go
Member

pg

Mr 20/9

8-10-96

Mr.M.Chanda counsel for the applicant. Mr.S.Ali Sr.C.G.S.C. for the respondents. Written statement has not been submitted.

List for written statement and further order on 14-11-96.

Go
Member

17-10-96

W/S filed by 1st Respondt no. 1 - 4 at 12 40-45.

lm
an
9/10

of statement - has not been filed.
7/10

Bero

18.10.96

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

Written statement has been submitted and served on the applicant.

List for hearing on 15.11.1996.

[Signature]
Member

In page No. 3 the date is fixed on 14-11-96
P/O. But in page no. 4 again date is fixed 15-11-96.
(The M.P. are listed on 15-11-96)

Notice duly served on Respondent.
no. 1 & 3
w/ statement has been
filed.

trd
W
23/10

14.11.96

Learned Sr. C.G.S.C. Mr. S. Ali for the respondents. Leave note of Mr M. Chanda, learned counsel for the applicant.

List for hearing on 3.12.96.

[Signature]
Member

2-12-96
k/s filed.
Response filed by
the applicant.

nkm
W
11/11

3.12.96

Learned counsel Mr M. Chanda for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents.

Learned counsel have completed their submissions. Hearing concluded. Judgment reserved.

[Signature]
Member

31.12.96

nkm

Copy of Judgment 20.12.96 has been issued to the parties vide J.No 126 to 130 Hd.

Mr J.L.Sarkar for the applicant.
Mr S.Ali, Sr.C.G.S.C for the respondents

Judgment pronounced. Subject to the directions in the OA, the application is dismissed. No order as to costs. Interim order stands vacated.

[Signature]
Member

6-1-97

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

D.A. NO. 69/96 (with M.O. 164/96 & 165/96)
T.A. NO.

DATE OF DECISION 20-12-1996

Shri Bhikhari Lal Mahato

(PETITIONER(S))

Mr. J.L. Sarkar and Mr. M. Chanda

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

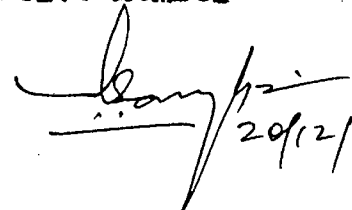
Mrs. S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE **SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER**
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? *Yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? *No*
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble **SHRI G.L. SANGLYINE,**
Administrative Member


20/12/96

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.69/96

Date of Order: The the 20th Day of December 1996.

HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

Shri Bhikhari Lal Mahato
Son of Sri Raghunandan Mahato
Sub Divisional Office of Telegraph
Telephone Exchange, Rangiya,
P.O.Rangiya, District-Kamrup,
Assam.

... Applicant.

By Advocate Mr.J.L.Sarkar and Mr.M.Chanda

-Vs-

1. The Union of India
Through the Secretary to the Govt. of India
Ministry of Telecommunication,
Department of Telecommunication,
New Delhi.
2. The Chief General Manager, Telecom
Sonaram Road, Ulubari, Guwahati. Assam.
3. The Telecom District Manager,
Ulubari, Sonaram Road, Guwahati
4. The Sub Divisional Officer of Telecommunication,
P.O.Rangiya, District-Kamrup, Assam
5. Sri Bhupen Chandra Das, Lineman
Darranga Telephone Exchange
Under the Control of SDOT, Rangiya, Assam

... Respondents

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

O R D E R.

G.L.SANGLYINE, ADMINISTRATIVE MEMBER:

The applicants has sought the following reliefs-

1. That the respondents be directed to consider the posting of the applicant in the promotional post of Phone Mechanic at Darranga Telephone Exchange against the existing vacant post of phone Mechanic.
2. To set aside and quash the order under letter No.E-2/95-96/32 dated 13-12-95(Annexure-II) passed by the Respondent No.4.

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20.12.96

3. That the respondents be directed to pay the pay and allowances of the applicant with effect from 16-12-95 to till date with immediate effect.

For his personal interest the applicant had sought for transfer and posting as Phone Mechanic in the alleged existing vacant post at Darranga Telephone Exchange. This interest of his is mainly education of his children in a Hindi Medium School at Darranga . To buttress his claim he puts forward a contention that the Respondents are following a wrong policy of manning the Exchange by the respondent No.5, who is an unqualified person being a Lineman. Further that by doing so the respondents are depriving him of his legitimate right of being posted as phone Mechanic. He has submitted this application praying for a direction to the official respondents to post him in the promotional post as Phone Mechanic in the Exchange. While admitting this O.A. it has been observed that pendency of this application shall not be a bar for the official respondents to consider posting of the applicant as Phone Mechanic. The respondents have since transferred the applicant from Rangiya Telephone Exchange to Darranga Telephone Exchange vide order No.E-2/96-97/10 dated 30-5-1996. Thus relief No.2 in this application has become infructious. Even relief No.1 would seem to be infructious. But the respondents had posted him as Phone Mechanic in Outdoor Plant in Darranga. Now the contention of the applicant is that the posting order is contrary to the relief sought by him in this application as he has not been posted against the post of Phone Mechanic inside the Darranga Telephone Exchange. Thus the respondents are perpetuating the wrong policy of manning the Exchange by an

contd/-

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20-12-96

unqualified person and depriving him.

I have heard counsel of both sides. The respondents have stated that there is no specific sanctioned post of phone Mechanic at Darranga Telephone Exchange. No document has been produced by the applicant to show that there is a sanctioned post of Telephone Mechanic(Indoor) at the Exchange. The fact that the respondents have been running the Exchange by a Lineman would support the contention of the Respondents that there is no sanctioned post of Indoor Phone Mechanic in the Exchange. Further the applicant cannot dictate to the respondents in what manner the Exchange is to be run or his service be utilised. He has no right to claim a posting in a particular post. The respondents know better whether his service is to be utilised in Outdoor or Indoor duties. It is their fight to utilise the service of an employee according to administrative needs of the organisation in a particular area of work and exigencies of work. Thus the contention in support of relief No.1 is rejected.

Relief No.3 as it is seen relates to pay and allowances for the period from 16-12-1995. The applicant in protest refused to receive the pay and allowances of the month of February and March 1996 though he was paid. The respondents cannot therefore be faulted if the payee prefers not to accept the payments. The pay for the period from 16-12-1995 to 15-1-1996 had since been released to him according to the respondents after his absence had been regularised by granting him leave. In the circumstances his further contention that his pay and allowances for the period from 16-12-1995 to 15-4-1996 has not been paid is unacceptable.

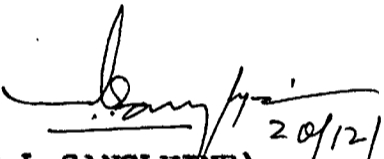
contd/-

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20-12-96

However, if the pay and allowances for the period have not yet been actually paid by the respondents as claimed by him, the respondents may take step to pay him the pay and allowance which may be due to him in accordance with the relevant rules and the facts of his case. This may be finalised within one month from the date of receipt of this order.

Subject to the above direction, the application is dismissed.

No order as to costs. Interim order stands vacated.


(G.L.SANGLYINE) 20/12/96
ADMINISTRATIVE MEMBER

LM

1. Particulars of the Applicant.

Sri Bhikhari Lal Mahato
 Son of Sri Raghu Nandan Mahato
 Sub Divisional Office of Telegraph
 Telephone Exchange, Rangiya,
 P.O. Rangiya, District-Kamrup,
 Assam

..... Applicant

2. Particulars of the Respondents.

1. The Union of India
 Through the Secretary to the Govt. of India
 Ministry of Telecommunication,
 Department of Telecommunication,
 New Delhi.
2. The Chief General Manager Telecom
 Sonaram Road,
 Ulubari,
 Guwahati
 Assam
3. The Telecom District Manager,
 Ulubari, Sonaram Road,
 Guwahati
4. The Sub Divisional Officer of Telecommunication,
 P.O. Rangiya,
 District-Kamrup
 Assam
5. Sri Bhupen Chandra ~~Kalita~~, Das
 Lineman,
 Darranga Telephone Exchange
 Under the control of SDOT, Rangiya,
 Assam

..... Respondents

Contd...P/3

Bhikhari Lal Mahato

3. Particulars for which this application is made.

That this application is made against the Policy of the Telecom Department as regard running of Rural Automatic Exchange by non-trained Phone Mechanic when trained Phone Mechanics are available and this application is made for a direction upon the respondents for posting of the applicant at Darranga Centre Development of Telematic (in short DDOT) 128P RAX (Rural Automatic Exchange) in the vacant post of Phone Mechanic which is now running by a non-trained Phone Mechanic Shri Bhupen Chandra Das, and also on the ground that the applicant declared qualified in the initial course of training for Phone Mechanic vide letter No. E/44/95-96/137 dated 12.5. 1995 (Annexure-1) and also against non-consideration of posting at Darranga Telephone Exchange in terms of Hon'ble Tribunal's Order dated 23.11.95 passed in O.A. No. 257/95.

4. Limitation

The applicant begs to state that this application is filed within the prescribed limitation period under Section 21 of the Administrative Tribunals Act, 1985.

5. Jurisdiction of the Tribunal

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

Contd....P/4

Bhikharilal Mahato

6. Facts of the case

6.1 That the applicant is a citizen of India as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant is presently serving as Phone Mechanic in the Sub-divisional Telegraph Office, Rangiya.

6.2 That the applicant was initially appointed as Line Man in the year 1973 and was posted at Rangiya thereafter the applicant was promoted under the time bound promotion scheme on completion of 16 years of service to the next higher pay scale of Rs. 950-1500 under Office Memorandum No. TDM/Estt-349/OTPB/236 dated 23.2.90. Thereafter the applicant being found eligible after 21 years of service in the department of Telecommunication he was sent for 12 weeks training for Phone Mechanic vide SDOT, Rangiya letter No. E-7/94-95/34 dated 17.2.95 at Circle Telecom Training Centre, Bharalumukh, Guwahati-9 which was commenced from 20.2.95 to 12.5.95. The applicant had successfully completed 12 weeks initial course of training of Phone Mechanics (Switching Specialisation) in the Batch No. 4 from the Circle Telecom Training Centre, Guwahati which would be evident from Circular of Telecom Training Centre Letter No. E-44/95-96/137 dated 12.5.95 and it would further be evident that your applicant secured 2nd position in the aforesaid training amongst 24 trainees.

A copy of the letter dtd. 12.5.95 is annexed herewith as Annexure-1.

Contd....P/5

Bhikhari Lal Mahata

6.3 That the Principal of the Circle Telecom Training Centre, Department of Telecommunication, Government of India, Bharulumukh was pleased to issue a certificate under letter No. E-44/95-96/136 dated 12.5.95 and declared him secured 2nd position amongst 24 trainees.

A copy of the certificate issued by the Principal Circle Telecom Training Centre is annexed for perusal of the Hon'ble Court as Annexure-2.

6.4 That your applicant submitted a representation after being declared successful in the Pune Mechanics Examination addressed to the Sub-divisional Officer, Telecom, Rangiya under his letter dated 20.7.95 whereby the applicant prayed for his posting at Darranga Telephone Exchange which is at present running by a Line Man namely Shri Bhupen Chandra Das.

A copy of the representation dated 20.7.95 is annexed herewith as Annexure-3.

6.5 That the applicant although prayed for his posting at Darranga Exchange by his representation dated 20.7.95 addressed to the Sub-divisional Officer, Telecom, Rangiya posted the applicant at Kumarikata and that too without granting any T.A/D.A. vide SDOT's letter No. E-2/95-96/5 dt. Rangiya 7.8.95. This posting order of the applicant has been passed by SDOT without considering his representation dated 20.7.95 where the applicant has prayed for Darranga Telephone Exchange for his posting and the post

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Bhikharilal Mahato,

of Phone Mechanic is lying vacant at Darranga Telephone Exchange. Be it stated that in Kumarikata there is no sanctioned post of Phone Mechanic or Line Man exists although the posting order is issued by SDOT, Rangiya.

~~A copy of the representation dated 20.7.95 is~~
~~annexed herewith as Annexure-4.~~

A copy of the posting order issued by the SDOT dated 7.8.95 is annexed herewith as Annexure-4.

6.6 That the applicant being aggrieved by his posting order dated 7.8.95 filed another representation dated 16.8.95 addressed to the Sub-divisional Officer, Telegraph Rangiya Sub-division, Rangiya wherein it is prayed that since the applicant completed nearly 20 years of service and after successful completion of Phone Mechanic Examination therefore he is entitled to be posted against a vacant post of Phone Mechanic which is lying vacant at Darranga Telephone Exchange and is running by a Line Man, was also stated in the said representation that being declared successful in the Phone Mechanic's Examination and specially when the post is lying vacant in the Darranga Telephone Exchange and it is also prayed that the posting order at Kumarikata be cancelled and his posting as Phone Mechanic in the Darranga Telephone Exchange be considered.

A copy of the representation dated 16.8.95 is annexed as Annexure-5.

6.7 That the Sub-divisional Officer, Telegraph, Rangiya Sub-division, Rangiya vide his letter No. E-2/95-96/13

Contd...P/7

Bhishari Lal Mahato.

dated 26.9.95 cancelled his posting at Kumarikata after considering his representation dated 16.8.95.

A copy of the cancellation order dated 26.9.95 is annexed as Annexure-6.

6.8. That the office of the Chief General Manager, Telecom, Assam Circle, Guwahati vide his letter No. STES-101/120 dated 2.8.95 whereby the Chief General Manager Telecom was pleased to sanction additional 153 posts of Phone Mechanics and allotted 36 posts of Phone Mechanics under Telecom District Manager, Guwahati. Be it stated that the post of Phone Mechanics in the Baihata Chariali Telephone Exchange and Tambulpur Telephone Exchange are filled by the trained Phone Mechanics but the post of Phone Mechanic presently lying vacant at Darranga Telephone Exchange is yet to be filled up by a trained Phone Mechanic. Therefore the applicant had requested for his posting at Darranga Telephone Exchange and specially on the ground since the applicant hailed from the State of Bihar and his son and daughter are studying in the Hindi Medium School at Rangiya presently and if the applicant is ~~not~~ transferred and posted at Darranga Telephone Exchange in that event it would be convenient ^{for} ~~from~~ smooth running of the education of the children of the applicant as one Hindi Medium School is thereat Darranga. The detail particulars of his children are furnished below :

Contd....P/8

Bhishhari Lal Mahato

1. Sri Sitasaran Mahato,
Son Presently reading in
Class VI in Basumati
Hindi High School at
Rangiya.
2. Sri Prabhusaran
Mahato, Son. Presently reading in
Class II in Basumati
Hindi High School,
Rangiya.

Therefore it would be a great help towards the children of the applicant if he is posted as Phone Mechanic at Darranga Telephone Exchange which is presently lying vacant and thereby he would also be able to serve in the promotional post of Phone Mechanic. Therefore the Hon'ble Tribunal be pleased to direct the respondents to consider the posting of the applicant in the promotional post of phone mechanic at Darranga Telephone Exchange to facilitate to utilise the service of the applicant in the promotional post of Phone Mechanic.

A copy of the order dated 2.8.95 is annexed as Annexure-7.

6.9 That the District Telecom Manager, Kamrup vide Memo No. TDM/EST-301/95-96/161 dated 30.10.95 appointed the applicant alongwith 4 other Line Man of Rangiya Division as trained Phonic Mechanic which would be evident from the Annexure to the letter dated 30.10.1995. The name of the applicant is placed at Serial No. 2 and posted as Phone Mechanic under SDOT Rangiya. Be it stated that 5 Linemen are promoted as Phone Mechanics and posted under SDOT Rangiya but in these 5 Phone Mechanics who were initially posted as Lineman under Rangiya SDOT are retained at Rangiya but the SDOT Rangiya surprisingly

Contd...P/9

Bhikhari Lal Mahato

retained all the 5 Phone Mechanics at their present place of posting at Rangiya Telephone Exchange although Darranga Telephone Exchange also under SDOT Rangiya and the post of Phone Mechanics in the Rural Automatic Exchange Darrange are still lying vacant and the Darranga Telephone Exchange is being run by a non-trained Phone Mechanic by namely/Shri Bhupen Chandra Das Lime Man for last 10-15 years whereas the trained Phone Mechanic are being kept idle and proper work also not allotted at Rangiya to the applicant. This policy of the authorities particularly of the SDOT Rangiya is discriminatory, unfair and arbitrary as the trained Phone Mechanic like the present applicant also gave an option for his posting as Phone Mechanic for Darranga Telephone Exchange. In spite of his repeated representations, Lawyer's notices, the SDOT Rangiya will continuing Shri Bhupen Chandra Das to continue the work of the Phone Mechanic at Darranga Telephone Exchange (C DOT) In this connection it may be stated that if the proper work is not allotted to a trained Phone Mechanic when the post is available and the posting is sought for specially on the consideration that he should be allowed to discharge his duties as Phone Mechanic therefore the decision of the SDOT Rangiya is contrary to the policy of non-posting of a trained Phone Mechanic to C DOT Exchange i.e. Darrange and the same is being run by a Line man therefore the Hon'ble Tribunal be pleased to direct the respondents to post the applicant at Darranga Telephone Exchange under Rangiya SDOT for allocation of proper work of Phone Mechanic.

A copy of the letter dated 30.10.95 is annexed as Annexure-8.

Bhikhari Lal Mahato

6.10 That the applicant begs to state that he is serving in the department of Telecommunications for a period of about 22 years therefore it is a legitimate expectation on the part of the applicant for the posting in the promotional post of Phone Mechanic in a suitable place like Darranga Telephone Exchange where at least a Hindi Medium School is available for smooth running of education of his children and therefore it is a fit case where the Hon'ble Tribunal be pleased to interfere and further be pleased to direct the respondents to consider his posting at Darrange Telephone Exchange against the existing vacant post of Phone Mechanics.

✓ 6.11 That the applicant also approached to this Hon'ble Tribunal for his posting at Darrange Telephone Exchange in place of Shri Bhupen Chandra Das, Lineman, who is now being utilised as Phone Mechanics although he is not trained and qualified Phone Mechanics. He (the applicant) approached this Hon'ble Tribunal through O.A. No. 257/95. The Hon'ble Tribunal was pleased to dispose of the O.A. No. 257/95 vide Order dated 17.11.95 wherein the Hon'ble Tribunal was pleased to direct the respondents as follows :

"The applicant is directed to submit a representation to the competent authority of the respondents within 10 days from today and the competent authority of the respondents may sympathetically consider the case of the applicant for posting him at a place of his choice, namely, Darranga Telephone Exchange keeping in view the personal

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Bhikhari Lal Mahato

difficulties expressed by the applicant in this application regarding education of his children".

But the respondents particularly Respondent No. 4 even on receipt of his representation dated 23.11.95 did not consider the case of posting of the applicant at Darranga Telephone Exchange. The applicant especially in his representation dated 23.11.95 have taken the ground that since he had been declared successful for appointment to the post of Phone Mechanic and since the post of Phone Mechanic at Darrange Telephone Exchange is vacant, the applicant prayed for his posting at Darranga Telephone Exchange as Phone Mechanic and it is a legitimate expectation of the applicant.

A copy of the order dated 17.11.95 and representation dated 23.11.95 are annexed as Annexures 9 and 10 respectively.

6.12 Most surprisingly the Respondent No.4 vide letter No. E-2/95-96/32 dated 13.12.95 informed the applicant that his prayer for transfer to Darranga Telephone Exchange and posted at Rangiya ^{as} Indoor Phone Mechanics. In this connection the applicant begs to state that the purpose for which the applicant was sent for training is for utilising his services in C-DOT Telephone Exchange but the present posting of the Phone Mechanic the service of the applicant cannot be utilised and there is no scope also to acquire further skill for the job for which the applicant is trained

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Bhikharilal Mahato

Therefore it is necessary that the applicant be posted in a C-DOT Telephone Exchange and the post of Phone Mechanic is available at C-DOT Telephone Exchange, Darranga, where a Lineman is placed in charge of Phone Mechanic for a long period and the qualified Phone Mechanic like the applicant being denied arbitrarily the appropriate posting although the post of Phone Mechanic is lying vacant at Darranga Telephone Exchange. The decision communicated by the SDO under letter dated 13.12.95 is arbitrary, unfair and liable to be set aside and quashed and the same is amount to contempt of Court when there is a positive direction from the Hon'ble Tribunal to consider the case of the applicant passed in O.A. No. 257/95 on 17.11.95.

A copy of the letter dated 13.12.95 is annexed as Annexure 11.

6.13 That the applicant served ^{two} a Lawyer Notice on 9.1.96 ~~claiming his posting~~ and ²⁰ 30.3.96. In this connection it may be stated that the Lawyers Notice dated ²⁰ 30.3.96 the respondents were requested to consider his posting at Darranga Telephone Exchange on the ground that the post at Darranga Telephone Exchange is vacant and the same is being run by the authorities by a non-trained Phone Mechanic but the respondents did not take any action as regard posting of the applicant at Darranga Telephone Exchange. Particularly the SDOT Rangiya perhaps does not like to disturb the respondent No. 5 i.e. Sri Bhupen Chandra Das the non-trained Phone Mechanic of

Contd....P/13

Bhikhari Lal Mahato

Darranga Telephone Exchange when the trained Phone Mechanics are available kept idle therefore it is a fit case where the Hon'ble Tribunal is required to interfere to protect the rights of the applicant as the Telecom authorities have adopted an arbitrary policy as regard the posting of a trained Phone Mechanic.

A copy of the Lawyers Notice dated ²⁰30.3.96 is annexed as Annexure 12.

6.14 That the present applicant is also being harassed as he has submitted representation against the unfair policy of the authorities as regard posting of a Trained Phone Mechanic. The SDOT Rangiya withheld his pay and other allowances of the applicant for the period 16.12.95 to 15.1.96 without serving any notice to the applicant and without assigning any reason.. It is worth to mention here that the applicant ~~per~~ duly performed his duty during the said period i.e. 16.12.95 to 15.1.96 which would be evident from the posting list of JTOP Rangiya dated 16.12.95 to 15.1.96. In this connection it may also be stated that the applicant is being paid Over Time Allowance ^{Rs. 21.90 paise} as well as Travelling Allowance for the period from 16.12.95 to 15.1.96 and the same was being approved by the SDOT Rangiya for amounting ^{to} Rs. 338/- as Over Time Allowance. The efore withholding to pay and allowances of the applicant for the a-foresaid period cannot be legally permissible when the SDOT himself ~~have~~ has approved the OTA as well as TA Bills of the applicant

Contd....P/14

Bhikhari Lal Mahato

for the same period and pay and allowances cannot be withheld in the manner in which the SDOT has withheld the pay and allowances of the present applicant. Be it stated that pay and allowances of December-January 1996 was not paid to the applicant therefore the applicant insisted for payment of the same and the applicant has not received the pay and allowances for the month of February and March without the salary for the months of December-January 1996 as a mark of protest due to non receipt of pay and allowances for the period from 16.12.95 to 15.1.96. Therefore the Hon'ble Tribunal be pleased to direct the respondents to pay the pay and allowances for the period from 16.12.95 to till date. Therefore all these actions of SDOT, Rangiya is arbitrary, illegal and discriminatory and unfair. Therefore the interference of the Hon'ble Tribunal under the facts and circumstances stated above is absolutely necessary to protect the rights and interest of the present applicant. Be it further stated that on number of occasions to SDOT, Rangiya the applicant approached to pay the ^{withheld} salary as mentioned above but no action has been initiated by the SDOT, Rangiya.

6.15 That the applicant begs to state that he is being harassed by the SDOT Rangiya by withholding the pay and allowances of the applicant arbitrarily and also adopted an unfair policy to run the Darranga Exchange by a non-trained Phone Mechanic when the applicant is the qualified and trained Phone Mechanic available under SDOT, Rangiya.

Contd....P/15

Bhikhar Lal Mahato

6.16 That the applicant begs to state that due to non-posting of the applicant in C-Dot Telephone Exchange, Darranga

the applicant is ~~incurring loss of Rs. 150/- per month.~~ denied *the legitimate claim of posting as phone mechanic.*

6.17 That it is a fit case where Your Lordship's would be pleased to direct the Respondent No. 4 to appoint the applicant at Darranga Telephone Exchange.

6.18 That this application is made bona fide and for the cause of justice.

7. Reliefs prayed for

Under the facts and circumstances as stated above the applicant prays for the following reliefs :

1. That the respondents be directed to consider the posting of the applicant in the promotional post of Phone Mechanic at Darranga Telephone Exchange against the existing vacant post of Phone Mechanic.
2. To set aside and quash the order under letter No. E-2/95-96/32 dated 13.12.95 (Annexure-11) passed by the Respondent No. 4.
3. That the respondents be directed to pay the pay and allowances of the applicant with effect from 16.12.95 to till date with immediate effect.

Contd...P/16

Phikhari Zalmahato

4. To pass any other order or orders as deemed fit and proper under the facts and circumstances stated above.

The above reliefs are prayed on the following amongst other-

-GROUNDS-

1. For that the applicant is declared successful in the Phone Mechanic Examination and entitled to be posted to the promotional post of Phone Mechanic from the post of Line Man.
2. For that the post of Phone Mechanic at Darranga Telephone Exchange is lying vacant.
3. For that Darranga Telephone Exchange is under Rangiya Sub-divisional Officer, Telegraphs and there cannot be any difficulty on the part of the respondents for considering his posting at C-DOT 128 (P) (RAX) Telephone Exchange.
4. For that the SDO Rangiya adopted an unfair policy to run the Darranga Telephone Exchange by a non-trained Phone Mechanic when qualified Phone Mechanic is available and posted under SDO^T Rangiya by the TDM, Kamrup.

Contd...P/17

Bhishhari Lal Mahata

5. For that justice demand for allotment of proper work and also for posting of the applicant to the post of Phone Mechanic to utilise the technical knowledge which is gathered during the course of Phone Mechanic training and thereby to allow the applicant to develop his skill which he has acquired during the course of Phone Mechanic training.
6. For that posting of the applicant at Darranga Telephone Exchange would facilitate the smooth running at the education of his minor children who serving in the department for about 22 years.
7. For that the order of non-consideration passed by the Respondent No. 4 without application of mind and the same is amount to contempt of Court.
8. For that the applicant secured second position in the Training Examination of Phone Mechanic and entitled to be posted in the promotional post of Phone Mechanic.

X 8. INTERIM RELIEF SOUGHT FOR

During the pendency of the case the respondents be directed to consider the posting of the applicant ~~and~~ at ~~also~~ Darrange Telephone Exchange and also be directed to pay the pay and allowance of the applicant with effect from 16.12.95 to till date.

The above reliefs are prayed on the grounds explained in paragraph 7 of this application.

Contd....P/18

Bhikhari Lal Mahato

9. Details of remedy exhausted

There is no scope of any other remedy under any rule. There is no service rule in this respect and the Hon'ble Tribunal is the only remedy for the applicant.

10. Matter is not pending in any other Court/Tribunal.

The applicant declares that he has not filed any other application before any other Court/Tribunal.

11. Particulars of Postal Order

Postal Order No.	:	345633
Date of Issue	:	26.3.96
Issued from	:	G.P.O., Guwahati.
Payable at	:	G.P.O., Guwahati

12. Details of Index

An Index showing the particulars of documents is enclosed.

13. List of enclosures

As per Index.

Bhikharilal Mahato

V E R I F I C A T I O N

I, Sri Bhikari Lal Mahato, Son of Sri Raghu Nandan Mahato, resident of Rangiya, working in the Sub-divisional Office of Telegraph, Telephone Exchange, Rangiya, P.O. Rangiya, District-Kamrup, Assam do hereby declare that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts.

I, sign this verification on this the 2nd day of April, 1996.

Place : Guwahati

Bhikhari Lal Mahato

Signature

Annexure-1

DEPARTMENT OF ~~TELECOMM~~ TELECOMMUNICATIONS,
OFFICE OF THE PRINCIPAL, CIRCLE TELECOM TRAINING INST CENTRE
BHARALUMUKH, GUWAHATI-781009

No. E-44/95-96

Dated at Guwahati the 12 May '95

On successful completion of 12 week initial Course Training on 'PHONE MECHANIC (SWITCHING SPECIALISATION) w.e.f. 20.02.95 to 12.05.95, the following trainees of batch No. 4 are hereby released on the A/N of 12th May 1995 from the Circle Telecom Training Centre, Guwahati with direction to report back to their deputing unit as indicated below :

Sl.No.	Name of the Trainees	Rectt. Unit.	R. Unit.
1	Sri Nani Gopal Baidya	TDE/SC	SDOT/KRJ
2	Sri Bhikharilal Mahato	TDM/GHY	SDOT/RNY
3	Sri Budhu Lal Choudhury	TDE/BGN	SDE/OP
4	Sri Adit Chandra Medhi	TDM/DR	SDE (C)/DR
5	Sri Khorshed Ali	TDM/TM	SDOT/NLD
6	Sri Dineswar Patar	TDS/NCG	SDOT/NCG
7	Sri Biran Baruah	TDE/TZ	SDE (G)/B. Charali.
8.	Sri Manik Ranjan Malakar	TDE/SC	SDOT/NLG
9.	Sri Umesh Ch. Boro	TDM/GH	SDOT/KMP
10	Sri Krishna Mohan Ray	TDM/DR	SDOT/Hojai DR
11	Sri Ram Pratap Mishra	TDM/DR	SDOT/Hojai
12	Sri Harendra Ray	TDE/NGG	SDOT/ NGG Hojai
13	Sri Uma Gogoi	TDE/NGG	SDOT/ NGG NGG
14	Sri Krishna Ram	TDE/BGN	SDOT/ NLB DU
15	Sri Kashi Ram Kalita	TDE/BGN	SDOT/NLB
16	Sri Dharmeswar Sonowal	TDE/TZ	SDOT/NMP
17	Sri Chandra Saikia	TDM/GH	SDOT/GM (C)
18	Sri abhi Ram Huzuri	TDM/GH	SDOT/RNY
19	Sri Sarif Uddin Ahmed	TDM/GH	SDOT/RNY
20	Sri Deben Rajbanshi	TDM/GH	SDOT/RNY
21	Sri Khailur Rahman	TDE/SC	SDOT/NKD
22	Sri Rama Gogoi	TDE/JRT	SDOT/JRT
23	Sri Hiteswar Dutta	TDE/JRT	SDOT/JRT
24	Sri Hareswar Senapati	TDE/JRT	SDOT/JRT

Sd/- Illegible
Circle Telecom Training Centre,
Bharalumukh, Guwahati

Copy to :-

1. The Chief General Manager Telecom, Assam Circle, Guwahati.
- 2-3. The Telecom District Manager, Guwahati/Dibrugarh.
- 4-8 The Telecom District Engineer, Bongaigaon/Nagaon/Jorhat/Tezpur/Silchar.
9. The Sub-divisional Engineer (Cable), Dibrugarh.
- 10-11. The S.D.O. Phones, Guwahati (Central)/Dibrugarh.
- 12-22. The S.D.O. Telegraphs, Mangaldoi/Nagaon/Haflong/Kamrup/Hojai, Dhubri/Rangiya/Nalbari/North Lakhimpur/Karimganj/Hailakandi.
- 23-24 The S.D.O. P. Group Goalpara/Biswanath Charali.
25. The Trainees concerned
49. The Office Copy.

Sd/- Illegible
Circle Telecom Training Centre
Bharalumukh, Guwahati

AH 21-1-95
@whl
Adv

Annexure-2

No. E-44/95-96/136

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
CIRCLE TELECOMMUNICATION TRAINING CENTRES

SEAL

BHARALUMUKH, GUWAHATI-9

TRAINING COURSE IN

Phone Mechanic (Switching Specialisation)

This is to certify that Shri Bhikari Lal Mahato
sucessfully completed the above mentioned training
course conducted by this training centre from 20.02.95
to 12.05.95 and secured II position.

Sd/- Illegible
PRINCIPAL 12.5.95

Guwahati, dated the 12th May '95

Attested
Chhila
Adv.

Annexure-3

To

The Sub-divisional Officer Telegraph
Rangiya Sub-division, Rangiya

Dated, Rangiya the 20th July, 1995

Sub : Prayer for Transfer from Rangiya to Darranga
Telephone Exchange.

Sir,

With kind regards I beg to state that the following
a few lines for your kind consideration and favourable
action :-

That I have been working in Rangiya under your Sub-division
since 21st May 1973 and undergone training for Phone Mechanic
with effect from 20th February, 1995 to 12th May 1995 in the
Office of the Principal Circle Telecom, Training Centre,
Bharalumukh, Guwahati-9 and completed successfully in the
said training. After that received a released letter No.
E-44/95-96/137 dated at Bharalukukn Guwahati-9 on 12.5.95
that letter is also enclosed herewith.

That it is learnt that there is untrained man in the
in the said and as I have completed more than 20
years in your Sub-division. So may please be transferred
from Rangiya to Darranga Telephone Exchange.

Thanking you,

Yours faithfully,

Sd/-

(Bhikhari Lal Mahato)
Phone Mechanic
Rangiya

Copy to :

The Branch Secretary,
N.U.T.E.E.Ls & Cl-IV
Rangiya for information
and take necessary action
please.

Attested
@hln
pdr

From

To Sri B.L. Mahato

Sub : Prayer for transfer from Rangiya to Darranga Telephone Exchange

Ref : Your letter No. No. dt. 20.7.95

Kindly refer to your above letter on the above mentioned subject. This is to intimate you that your prayer for transfer is considered and posted under Darranga Exchange headquarter being Kumarikata. No. TA/DA is admissible as it is a request transfer. This is for favour of your information please.

Sd/- Illegible

Copy to :

TDOP/Rangiya for favour of information and necessary action.

Sd/- Illegible

Attested
@hila
Adv.

Annexure-5

To

The Sub-divisional Officer Telegraphs
Rangiya Sub-division, Rangiya

Dated, Rangiya the 16th August, 1995

Sub : Prayer for transfer from Rangiya to Darranga
Telephone Exchange.

Ref : Your letter No. E-2/95-96/5 dated at Rangiya the
7th August, 1995.

Sir,

With best regards I beg to state that an application was filed on 20.7.95 (A Photostat copy is enclosed herewith) for transfer of me from Rangiya to Darranga Telephone Exchange. On the body of my application it is stated by you as "Redommeded Head Quarter at Kumarikata" and subsequently a copy of your Office Memo issued to me stating therein as "Your prayer for transfer is considered and posted under Darranga headquarter being Kumarikata with direction not to pay TA/DA as transfer is on request.

Indeed and virtually the fact of my filing transfer application is that I am to be posted from Rangiya to Darranga in place of Sri Bhupen Chl Das Lineman who is line man of Darranga Telephone Exchange who has not passed any Phone Mechanic Examination inspite of holding incharge of Darranga Telephone Exchange last 20 years where as I have sucessfully completed Phone Mechanic Training held at Bharalumukh, Guwahati by securing second position among 24 (twenty four) trainees vide letter No. E-44/95-96/137 dated 12.5.95.

It is failed to understand the reason of my transfer from Rangiya to Mumarikata and keeping an unqualified untrained man like Sri Bhupen Ch. Das lineman as in charge of Darranga Telephone Exchange, further I am compelled to point out that with some narrow motive and personal interest and throwing out the interest of service. You have kept Sri Bhupen Dhandra Das under your jurisdiction throwing me to a place where I have never prayed for.

Once again, I fervently and respectfully request your kindness kindly reconsider my case at the interest of service and on reconsidering the same. I may please be transferred

Contd....

Attested
While
ASV.

Annexure-5 (Contd)

from Rangiya to Darranga in place of Sri Bhupen Ch. Das Lineman who is now incharge of Darranga Telephone Exchange and by not transferring me as Phone Mechanic I am in loss of getting emoluments as Phone Mechanic being entitled to get the same. Further I request that as Sri Bhupen Ch. Das is not a qualified person for the post and not passed any Phone Mechanic Examination and training he may be transferred to Kumarikata. It is once again requested that the whole matter may be considered within a period of 30 (thirty) days from today i.e. 16.8.95 and failure of this I am to approach before the competent Court of Law and no notice is to be served upon you before filing the suit in the competent court of law.

Thanking you,

Yours faithfully,

Sd/- Bhikhari Lal Mahato
16.8.95
Phone Mechanic, Rangiya

Copy to

The Junior Telecom Officer, Rangiya, for necessary information Sir,

2. The District Engineer (External-2) for necessary information & take action Sir (in the o/o the TDM Guwahati).
3. The Telecom District Manager, Ulubari, Guwahati-7 for necessary information Sir,
4. The Branch Secretary of Rangiya, National Union Telecom Telegraph Engineering Employees L/S & CL-IV for information and take necessary action please.
5. District Secretary, National Union Telegraph, Guwahati Division, Guwahati for information and take necessary action please.
6. Circle Secretary, National Union Telegraph Assam Circle, Guwahati of LS & Class-IV for information and take necessary action please.

Yours faithfully,

Sd/- Bhikhari Lal Mahato
Phone Mechanic
Rangiya

*Attended
Dhruv
Adv*

Annexure-6

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SDOT, RANGIYA.

To
Sri B.L.Mahato, L.M.
Rangiya Telephone Exchange

No. E-2/95-96

Dated 26.9.95

Sub : Transfer Order

Ref : This office letter No. E/2/95-96/5
dt. 7.8.95

Kindly refer to the letter No. mentioned above.
This is to intimate you that the order issued vide
above letter has been kindly treated as cancelled.

Sd/- Illegible
Sub-divisional Officer Telegraphs

Copy to

JTOP/Rangiya for favour of information and n/a

Sd/-
Sub-divisional Officer Telegraphs

Attested
@huly
Adv.

Annexure-7

Government of India
 Department of Telecommunications
 Office of the Chief General Manager Telecom : Assam Circle
 Ulubari : Guwahati-781007

No. STES-101/120 Dated at Guwahati the 2nd Aug'95

Sanction of the Chief General Manager Telecom., Assam Telecommunication Circle, Guwahati is hereby conveyed for creation of 153 (one hundred and fifty three) additional posts of Phone Mechanics in the pay scale of Rs. 975-25-1150-EB-30-1540 for Assam Telecom Circle.

The expenditure is debitable to the relevant Head of the Accounts and to be met from the sanctioned budget of the current Financial Year.

The sanction issued with the concurrence of the Circle IFA.

These posts are in addition to the 169 (one hundred sixty nine) posts sanctioned earlier vide this office's letter No. STES-101/120/55 dated 05.07.93.

With the sanction of these 153 additional posts of Phone Mechanics, I am directed to convey the allotment of posts to various SSA as furnished below :

<u>Sl. No.</u>	<u>Name of SSA</u>	<u>Name of Posts allotted</u>
1	TDM, Guwahati	36
2	TDM, Dibrugarh	22
3	TDE, Nagaon	32
4	TDE, Jorhat	11
5	TDE, Bongaigaon	24
6	TDE, Tezpur	14
7	TDE, Silchar	14
Total		153

(One hundred fifty three only).

The Heads of SSA are requested to maintain Community Roster Register accordingly.

SSA Heads are instructed to furnish the list of promoted Officials with name and cadre from which promoted immediately after the event.

Sd/- M. Biswas
 Asstt. Director (Telecom H&R)
 for Chief General Manager,
 Assam Telecommunication Circle

*Att-est-ed
 Adv.*

Annexure-7 (Contd.)

Letter No. STES-101/120 Dtd. at Guwahati, the 2.8.95
Copy for information and necessary action to :

- 1-2 The area Managers Telecom, Guwahati/Dibrugarh.
- 3-4 The Telecom. District Managers, Guwahati/Dibrugarh.
- 5-9 The Telecom. District Engineers, Nagaon/Jorhat/
Bongaigaon/Tezpur/Silchar.
- 10-11 The ADT Staff/HRD), Circle Office, Guwahati
- 12-13 The A.O. (A&P/TA), Circle Office, Guwahati.
- 14 File No. RNCTZ-3/58/91
- 15 The Hindi Officer, C.O., Guwahati for Hindi Version
of this letter.
- 16-18 Concerned Circle Secretaries of the Service Unions.
- 19 Guard File

Sd/- Illegible
Asstt. Director Telecom (E&R)
for Chief General Manager
Assam Telecommunication Circle

Sri G.Lal Ray, Circle, Secretary, NUTEE E/S & Gr. D, C/o
SDOP, Ambari, Gh.

Attested
@lala
Adv

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN. NO. 257/1995

B.L. Mahato (Applicant(s))

Vs.

U.O.I & Ors. (Respondent(s))

For the Applicant(s) : Mr. M. Chanda
For the Respondents : Mr. G.Sarma, Addl. C.G.S.C.

OFFICE NOTE	DATE	ORDER
-------------	------	-------

17.11.95	Mr. M.Chand for the Applicant. Mr. G.Sarma, learned Addl. C.G.S.C. for the respondents.
----------	---

Mr. M.Chanda, learned counsel for the applicant, Shri B.L.Mahato, moves this application unlisted on the ground that there is urgency in the matter. In this application the applicant seeks for a direction on the respondents to post him as a Telephone Mechanic at Darranga Centre Development of Telematic as he is a qualified mechanic and as there is a vacant post in that place. He is presently working in the office of the Sub-divisional office of Telegraphs, Telephone Exchange, Rangiya as Lineman. The grounds on which the applicant has based his claim are broadly -

1. That as a qualified Telephone Mechanic he is entitled to be posted as a Telephone Mechanic.
2. By not posting him as Telephone Mechanic he is incurring financial loss in every month and
3. There is a Hindi Medium School in Darranga. For the benefit of his school going children his posting in Darranga is essential.

Contd....

*Attested
@hls
Adv.*

OFFICE NOTE DATE ORDER

17.11.95

The learned Addl. C.G.S.C. Mr. G.Sarma, has received copy of the application today and seeks to appear for the respondents. He opposes admission of this application.

Perused the application and heard the learned counsels. The real grievance of the applicant is that he should be transferred and posted in Darranga Telephone Exchange in place of Shri Bhupen Chandra Das, Line Man, who is in-charge of the Exchange although he is an unqualified mechanic was not posted to that exchange. On the basis of his representation dated 20.7.95 he was once posted on transfer to Darranga Exchange but with Kumarikata as Headquarter. He further made a representation dated 16.8.95 for his transfer from Rangiya to Darranga. Subsequently, the earlier transfer order posting the applicant to Kumarikata was cancelled on 26.9.1995. There is no further decision whether the applicant should be transferred from Rangiya to Darranga. The other grievance of the applicant seems to be that he should be posted in Darranga Telephone Exchange as Phone Mechanic on promotion. The other ground regarding medium of Instruction of his school going children appears to be a matter of his personal difficulties. All these matters are best left to the respondents for their consideration. Therefore, this application is disposed of with the following directions :

Contd....

Attested
Dhruv
Adv

Annexure-9 (contd.)

Office Note	Date	Order
	17.11.95	The applicant is directed to submit a representation to the competent authority of the respondents within 10 days from today and the competent authority of the respondents may sympathetically consider the case of the applicant for posting him at a place of his choice, namely, Darranga Telephone Exchange keeping in view the personal difficulties expressed by the applicant in this application regarding education of his children

Sd/- Member (Admn)

Attested
Pahla
Adv.

Annexure-10

To

The Sub-divisional Officer Telegraphs
Rangiya Sub-division, Rangiya

Dated Rangiya the 23.11.95

Sub : Prayer for posting at Darranga Telephone Exchange,
Darranga.

Ref : Honourable Central Administrative Tribunal, Guwahati
Bench, Guwahati Order dated 17.11.95.
passed in Original Application No. 257/95
(Bikhari Lal Mahato Vs. Union of India & Ors.)

Sir,

I have the honour to state you that being aggrieved for non-posting me at Darranga Telephone Exchange under your Sub-division I filed an application in the Hon'ble Central Administrative Tribunal Guwahati specially on the ground that since I have been declared successful for appointment to the post of Phone Mechanics and there is a post of Phone Mechanic lying vacant at Darranga Telephone Exchange and my children are studying in Hindi Medium School so, it would be convenient on my part for smooth running of education of my children if I am posted at Darranga Telephone Exchange as Hindi Medium School is available at Darranga.

The Hon'ble Tribunal after considering my grievances passed the necessary order directing to consider sympathetically my posting at Darranga telephone exchange.

In this connection it may be stated that my son Sri Sita Sharan Mahato presently reading in Hindi Medium School at Rangiya in Class VI and Sri Prabhu Sharan Mahato reading in Class II in Hindi Medium School at Rangiya. Therefore if I am posted at Darranga telephone exchange in the promotional post of Phone Mechanic at Darranga in that event it would be convenient for my children to prosecute education at Darranga Hindi Medium School.

Contd...

A Hestad
@whn
Adv

Annexure-10 (Contd.)

I would be highly grateful if your goodself consider my posting as Phone Mechanic at Darranga Telephone Exchange as per C.A.T., Order dated 17.11.95.

A copy of Original Application No. 257/95 and C.A.T. Order dated 17.11.95 are annexed herewith for necessary action.

Yours faithfully,
Sd/- Bhikhari Lal Mahato,
P/M 23.11.95

Rangia Telephone Exchange, Rangia.

Enclosures - 23 only

- (i) Original Application contd. Page 01-20
- (ii) O.A. No. 257/95 with Central Administrative Tribunal Guwahati Order dated 17.11.95.
- (iii) Application dated 23.11.95

Copy to

1. The Divisional Engineer (Plg. & Admn.), O/o the TDM Guwahati for information and take necessary action.
2. The Telecom District Manager, Guwahati-7 for information and take necessary action.

Attended
@ Adv.
Adv.

Annexure-11

DEPARTMENT OF Telecommunications

From
Sub-divisional Officer
Telegraphs
Rangia

To
Sri B.L. Mahato
P.M.

No. E-2/95-96/32

Dated at Rangia the 13.12.95

Sub : Transfer Order

Ref : Your letter No. Nil dated 23.11.95

Kindly refer to your above letter on the above mentioned subject. This is to intimate you that your prayer for transfer to Darranga Exchange is not considered and posted at Rangiya Exchange as I/D Phone Mechanic. No TA/DA is admissible as it is local transfer. This is for favour of your information please.

Sd/- Illegible

Copy to

JTOP/Rangiya for favour of information and necessary action.

Sd/- Illegible
Sub-divisional Officer,
Telegraphs, Rangiya

AA e 27-12-95
Chhly
Adv

From

Annexure-12

A.Roshid
 Advocate
 Gauhati High Court
 Guwahati-781001

LEGAL NOTICE

To

The Sub-Divisional Officer
 Telecommunication, Rangiya,
 P.O. Rangiya,
 Dist. Kamrup

Under the instruction of my client Sri Bhikhari Lal Mahato, Phone Mechanic, office of the Sub-divisional Office, Telecom, Telephone Exchange, Rangiya, Kamrup, I do hereby give this statutory notice on the following grounds :

1. That my client who has successfully completed 12 weeks of "Initial Course of Training of Phone Mechanic" (Switching Specialisation in the batch No. 4 which was commenced from 20.2.95 to 12.5.95 in the Circle Telecom Training Centre, Guwahati-9 and my client successfully secured 2nd position in the aforesaid Training amongst 24 trainees and now he is a qualified Phone Mechanic and working under Your Sub-Division, Rangiya Telephone Exchange.
2. That after successful training and after being qualified as Phone Mechanic my client is entitled to be posted in any available post of Phone Mechanic under C-DOT Exchange but unfortunately my client is retained in Your Rangiya Telephone Exchange with the earlier duty of Lineman although after submission of number of representations you have informed vide your order dated 13.12.95 that my client is posted at Rangiya Exchange as Indoor Phone Mechanic along with

Contd....

Attested
 @hls
 AdN

4 other Phone Mechanic but duty still remain of the Lineman which my client was performing under you before passing of his Phone Mechanic Training. But it is surprising that although the appropriate work of Phone Mechanic and a post of Phone Mechanic is available under Sub-divisional Office, Rangiya at Darranga Telephone Exchange which is a C-DOT Telephone Exchange which is known as Darranga Centre Development of Telematic (in short C-DOT) 128 P RAX (Rural Automatic Exchange where my client is entitled to be posted on priority basis as the post of Phone Mechanic is lying vacant where my client is entitled to be appointed as a Phone Mechanic after being successfully qualified as Phone Mechanic securing 2nd position. Therefore it is legitimate expectation on the part of my client to be posted as Phone Mechanic with appropriate work where as in the Darrang Automatic Telephone Exchange is being allowed to perform by one Sri Bhupen Chandra Das, Lineman. In this connection it may be stated the specialisation and skillness acquired by my client after completion of 12 weeks Training Course should not be allowed to waste where there is scope for my client to perform the appropriate work of Phone Mechanic in the RAX at Darranga Telephone Exchange which is being run by a Lineman. The policy of utilising the service of a untrained Phone Mechanic in the vacant of Phone Mechanic where the qualified Phone Mechanic is readily available but your action is contrary to the Departmental policy of the Telecom Department. Therefore I further request you for immediate posting of my client to develop his further skillness in the ~~line of Phone Mechanic~~

Contd...P

Attested
 Ohlu
 Adh

Annexure-12 (Contd.)

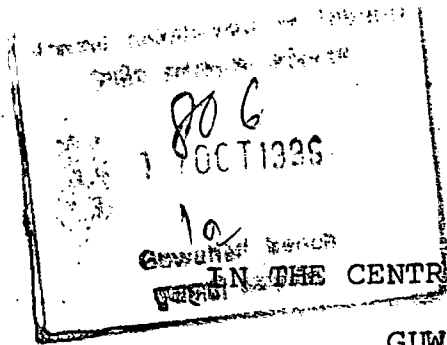
line of Phone Mechanic failing which my client shall take appropriate action for his grievances after 30 days from the date of issue of this Notice.

Yours Sincerely

Date 20.03.96

Sd/- A. Roshid, Advocate
Guwahati High Court.

Attended
Adv
Adv



40

4/8

FILED BY:
Shreeharsh 16/10/96
Q. NO. 57 (U) 1985
Central Administrative Tribunal
Guwahati Bench, Guwahati

GUWAHATI BENCH

O.A. No. 69 of 1996

Sri Bhikhari Lal Mahato

-versus-

Union of India & Ors.

-And-

In the matter of :

Written statement filed by the
Respondent Nos. 1, 2, 3 and 4.

WRITTEN STATEMENT

The humble respondents submit the written statement in O.A. No. 69/96 as follows :

1. That with regard to statement made in paragraphs 1, 2, 3, 4 and 5 of the application the respondents have no comments.
2. That with regard to statement made in paragraphs 6.1., 6.2, 6.3 and 6.4 of the application the respondents have no comments as the same being matters of record.
3. That with regard to statement made in paragraph 6.5 of the application the respondents beg to state that it is not correct that there ^{is} specific sanctioned post of Phone Mechanic at Darrang Exchange. The post

B. Dasgupta

Contd...P/2

Asst. Dir. for Telecom (Legal)
O/C G. M. Telecom
Assam Circle, Guwahati-781007.

of Phone Mechanic is a restructured cadre with specific duties and responsibilities. A total of 5 Phone Mechanic Posts have been attached to SDOT/Rangiya on consolidated basis to utilise their services as per the requirement of the department. Due to administrative reasons and as felt convenient for the interest of service also, his prayer was granted to post him at Darranga Exchange outdoor duties with HQ at Kumarikata. His contention of lying a post vacant at Darranga Exchange for indoor works is not true.

4. That with regard to the statements made in paragraph 6.6 of the application the respondents beg to state that since there is no vacant post in Darranga Exchange Indoor so the claim of the applicant for posting at Darrang Exchange could not be considered.

5. That with regard to the statements made in paragraph 6.7 of the application the respondents beg to state that however, considering his prayer for Indoor duties, the applicant has been transferred and posted in Rangiya Exchange Indoor duties.

6. That with regard to the statements made in paragraph 6.8 of the application the respondents beg to state that moreover, considering study of his children in Hindi medium School as well as his prayer for Indoor duties he was posted in Rangiya Exchange Indoor duties, which the department feels that his prayer has been fulfilled.

7. That with regard to the statements made in paragraph 6.9 of the application the respondents beg to state that

Contd..P/3

the same is admitted to be correct. The applicant has been promoted as Phone Mechanic alongwith others and posted under SDOT/Rangiya. The contention of lying a vacant post for Phone Mechanic at Darranga Exchange (indoor) is not true and his claim for posting there for indoor duties is not a matter of 'Right' which can be considered. This is purely an administrative matter.

8. That with regard to the statements made in paragraph 6.10 of the application the respondents beg to state that adequate replies have been given against para 6.8 of the application.

9. That with regard to statement made in paragraph 6.11 of the application the respondents beg to state ~~(that actually his case was)~~ that actually his case was sympathetically considered and was posted in Darranga with out-door duties. But he insisted on Indoor duties which could not be considered. It is also not understood as to why he is so much interested in indoor duty particularly in Damanga Exchange.

10. That with regard to the statement made in paragraph 6.12 of the application the respondents beg to state that as the lineman already working in Darranga indoor duties is carrying out his job well and there is no deficiencies on his part to run the services satisfactorily. Moreover service of the Phone Mechanics trained in switching branch can also be utilised for both indoor and outdoor duties, if required.

B. D. Gupta

Contd...P/4

11. That with regard to the statements made in paragraph 6.13 of the application, the respondents beg to state that the same is not correct and claiming his posting at a specific place is also not a matter of right of the applicant.
12. That with regard to the statement made in paragraph 6.14 of the application the respondents beg to state that the pay and allowances held up for the period from 16.12.95 to 13.1.96 for absence have been released after settlement of leave.
13. That with regard to the statement made in paragraph 6.15 of the application the respondents beg to state that the same is not correct. The official posted at Darranga indoor duties is running the services perfectly and with satisfaction to all.
14. That with regard to the statement made in paragraph 6.16 of the application the respondents beg to state that the claim for posting at a particular place cannot be granted as a matter of right. Therefore, denial of Fundamental right/legitimate claim does not arise.
15. That with regard to the statement made in paragraph 6.17 of the application the respondents beg to state that it is not correct and as such denied. In fact, it is not a fit case where the Hon'ble Tribunal would be pleased to direct the respondents No. 4 to post the applicant at Darranga Telephone Exchange.
16. That with regard to statement made in paragraph 6.18 of the application the respondents beg to state that

Contd...P/5

the same is disputed.

17. That with regard to the statement made in paragraph 7 regarding reliefs sought for, the respondents beg to state that none of the reliefs sought for in this paragraph is entitled to the applicant and as such the application is liable to be dismissed.

18. That with regard to ground of the application the respondents beg to state that none of grounds is maintainably in law as well as in facts and as such the application is liable to be dismissed.

19. That with regard to statement made in paragraph 8 regarding interim relief in this application the respondents beg to state that the applicant is not entitled any interim relief.

20. That with regard to statement made in paragraphs 9,10,11, 12 and 13 of the application the respondents have no comments.

21. That the respondents submit that the application is devoid of merit and as such the same is liable to be dismissed.

B. Singh

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- V E R I F I C A T I O N -

I, Shri B. Dasgupta, Asstt. Director Telecom (^{legal}~~HRD~~), Office of Chief General Manager Telecom, Assam Telecom Circle, Guwahati being authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And, I, sign the verification on the 15th day of Oct. 1996, at Guwahati.

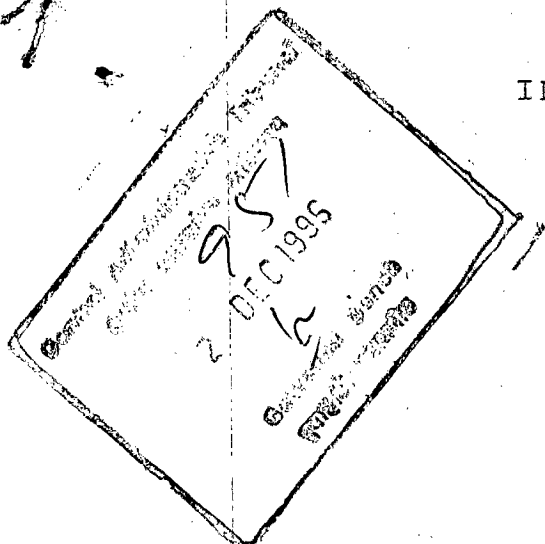
::: DECLARENT :::



(B. Dasgupta.)
Asstt. Director Telecom (Legal)
O/O the C.G.M.T. Assam Circle.
Guwahati 781007.

MB

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



Filed by the
Applicant - through
Ms. Shinde - Adv.
27.11.96.

O.A. No. 69 of 1996
Sri Bhikhari Lal Mahato
-versus-
Union of India & Ors.

-And-

In the matter of :

Rejoinder submitted by the
applicant.

The above named applicant most humbly
and respectfully begs to state as under :

1. That with regard to the statement made in paragraphs 3,4,5 and 6 of the written statement the applicant denies the correctness of the same and further begs to state that it is admitted by the respondents that altogether 5 posts have been sanctioned under SDOT, Rangiya and the applicant is a trained and qualified Phone Mechanic secured second position with specialisation in Indoor Switching Plant and at the relevant time the Darrang C-DOT Exchange was running by one Shri Bhupendra Ch. Das respondent No 4, Lineman whereas as per Telecom. Deptt. policy a trained Phone Mechanic is required to be posted in the Indoor Plant and since there are altogether 5 sanctioned posts have been allotted to SDOT Rangiya but the SDOT retained all the 5 trained qualified Phone Mechanics under the

Rangiya Exchange itself without having sufficient work whereas the post of qualified and trained Phone Mechanic ~~was lying vacant at Darrang Exchange~~ Phone Mechanic which was lying vacant at Darrang Exchange and which was required to be performed by a trained Phone Mechanic. At the relevant time the work of the Darranga Exchange was entrusted with an untrained phone mechanic i.e. respondent No. 4. The whole grievance of the applicant is that since he is a trained and qualified Phone Mechanic to be posted at an proper place ~~allowing~~ allotting him due work which is meant for trained mechanic but the telecom authorities have violated the policy of utilising the trained phone mechanic in the Indoor plant particularly in the matter of posting of a trained Phone Mechanic at Darranga Exchange in Indoor Plant. Therefore the question of specific sanction for Darranga Exchange which is although/specifically mentioned but a post of trained Phone Mechanic was vacant at the relevant time at Darranga C-DO^T Exchange and the basic policy of posting of a trained Phone Mechanic has been violated in the matter of posting of Phone Mechanic at Darranga Exchange.

2. That with regard to the statement made in paragraphs 7, 8, 9, 10 and 11 of the written statement the applicant categorically denies the same and further begs to state that he is in agreement with the contention of the respondents that he has no right for posting in a particular place but the authorities require to adopt

a fair policy in the matter of posting of a trained Phone Mechanic and especially when there is a scope with the authorities to allot him the proper and due duties as available in the Darrango Telephone Exchange. It would be evident from the fact that although there is a scope for allotting the applicant proper and due work of Phone Mechanic in the Indoor Plant of Darrango Telephone Exchange but even then the respondents arbitrarily posted him in the outdoor plant. This fact would definitely prove the vindictive attitude of the respondents, whereas the Indoor Plant has been runned by respondent No.4 who is untrained and unqualified Phone Mechanic. They respondents are duty bound to adopt a fair policy in the matter of allotting proper and due work to a trained qualified Phone Mechanic. Therefore in the circumstances stated above the interference of the Hon'ble Tribunal is required for posting him in the Indoor Plant of the Darrango Telephone Exchange in place of respondent No.4. There is no ground shown in the written statement for non-consideration of the posting of the applicant in the Indoor Plant at Darrango Exchange. It is needless to mention that all 5 qualified trained Phone Mechanics are retained at the initial stage under SDOT Rangiya whereas although works are available in other Exchanges under SDOT Rangiya for posting of the applicant as trained qualified Phone Mechanic but the same has not been considered and therefore action of the respondents are arbitrary, illegal and unfair. In this connection it may be stated

Contd..P/4

that the applicant preferred posting at the Indoor Plant at Darranga Exchange since the scope of work is available there in the Indoor Plant at Darranga Exchange and Hindi Medium School is also available at Darrang~~o~~ where his children could be studied smoothly. It is categorically admitted by the respondents in paragraph 10 of the written statement that a lineman has been entrusted with the Indoor duties at Darranga Telephone Exchange, therefore this fact alone shows the arbitrary action of the respondents as regard posting of the present applicant and on that score alone the application is liable to be allowed with costs.

3. That with regard to the statement made in paragraphs 12, 13, 14, 15, 16, 17, 18, 19 and 21 of the written statement the applicant categorically denies the correctness of the same and further begs to state that the applicant's pay with effect from 16.12.95 to 15.1.96 has been kept withheld showing him absence in duty although the applicant was very much present in his duties on those days and the same would be evident from the posting list No. E-3/MAX II/Rangia/95-96 dated 16.1.1996 approved by JTO Phone, Rangiya at Sl. No. 34 and the same is evident of his presence in the said list. It is also categorically denies by the applicant that the ^{of salary} payment/for the period from 15.12.95 to 15.1.96 has been settled after submission of leave and it is further reiterated that no payment has been made for the period from 16.12.95 to 15.4.96 (i.e. 4 months). In this connection it may be stated that when the payment for the period

from 16.12.95 -15.1.96 was denied by the applicant on the alleged ground of absence and sought to be made payment thereafter but the applicant insisted for making payment for the period 16.12.95 to 15.1.1996 but the authorities denied to pay him the pay for the aforesaid period (i.e. from 16.12.1995 to 15.1.1996) and therefore the applicant did not receive the subsequent payment of salaries and the authorities also did not make any effort to pay the salary thereafter till 15.4.96. Therefore now the applicant is due for salary for the period from 16.12.1995 to 15.4.96 and therefore the Hon'ble Tribunal be pleased to direct the respondents for immediate payment of the salary of the applicant.

A copy of the post list dated 16.1.96 approved by the JTO, Rangiya is annexed herewith as Annexure-L.

Under the circumstances stated above it is a fit case where the Hon'ble Tribunal be required to interfere to restrain the authorities to adopt unfair policy in the matter of posting and payment of salary in respect of the applicant.

The application is deserves to be allowed with costs.

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VERIFICATION

I, Sri Bhikhari Lal Mahato, working as Phone Mechanic in the office of the SDOT, Rangiya, applicant in the O.N. No. 69 of 1996 do hereby declare that the statements made in this rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this verification on this the 27th day of November, 1996.

Bhikhari Lal Mahato.
Signature

J. T. O. Phones
Group Exchange, Rangia
Rangia-781354

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311 B.D.O.P. Rangia
dt. 16-1-76

Annexure L

E-3 / MAX-II / Rang / 95-96

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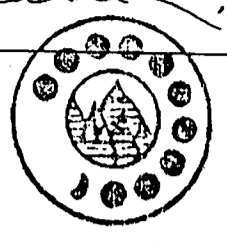
Subj: - posting list under J.T.O.P.
P.F. - 14-12-75 to 15-1-76,

Sl. No.	Name of Official	Designation	Place of Posting	P.F. of Present	P.F. of Absent	Remark
1.	Sri B. Alam	J.T.O.P.	Rang	16-12-75	Nil	
2.	" Sachin Ch. Das	J.T.O.P.	do	15-1-76	do	
3.	" Sarat Ch. Das	do	do	do	do	
4.	" H. K. Sarma	do	do	do	do	
5.	" R. P. Boro	do	do	do	do	
6.	" D. N. Mali	do	do	do	do	
7.	" D. D. Sena	do	do	do	do	
8.	" U. C. Das	do	do	do	do	
9.	" R. C. Kalita	do	do	do	do	
10.	" G. R. Medhi	do	do	do	do	
11.	" J. C. Kalita	do	do	do	do	
12.	" K. K. Das	Tech	Suk	do	do	
13.	" Gopi Roy	T/S	Rang	do	do	
14.	" K. K. Pandey	TTR	do	do	do	
15.	" W. A. Ló	Tech	do	do	do	
16.	" K. C. Medhi	TTR	do	do	do	
17.	" D. J. Barman	R.S.P.	do	do	do	
18.	" P. K. Datta	do	do	do	do	
19.	" D. N. Das	do	do	do	do	
20.	" P. C. Dey	S/I	do	do	do	
21.	" N. A. Ló	do	do	do	do	
22.	" H. P. Kar	do	do	do	do	
23.	" S. Ahmed	P/In	do	do	do	
24.	" B. C. Lalbar	R/In	do	do	do	
25.	" S. C. Sarbar	In	BTA	do	do	
26.	" H. Basumatary	T/In	Rang	do	do	
27.	" Abul Hal	do	do	do	do	
28.	" S. N. Das	do	do	do	do	
29.	" R. K. Talukder	do	do	do	do	
30.	" L. C. Boro	P/In	Rafó	do	do	

P.T.O.

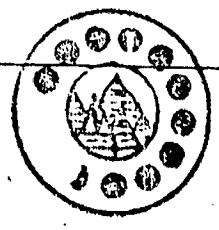
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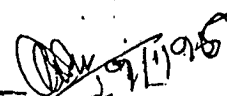
Sl. No.	Name of official	Designation	Place of Posting	PE of Present	PE of Absent	Remarks
31.	Shri R. Sarma	Ltn	Rmy	16-12-25	Nil	
32.	" J. C. Das.	Sl	- do -	- do -	- do -	
33.	" K. C. Das.	Ltn	- do -	- do -	- do -	
34.	" B. L. Mahato	Ptn	- do -	- do -	- do -	
35.	" A. A. B.	Ltn	- do -	- do -	- do -	
36.	" M. C. Boro	do	- do -	- do -	- do -	
37.	" R. C. Roy.	- do -	- do -	- do -	- do -	
38.	" D. Rajbanshi	Ptn	- do -	- do -	- do -	
39.	" A. R. Hujeri	- do -	- do -	- do -	- do -	
40.	" B. Singh.	Ltn	- do -	- do -	- do -	
41.	" B. Sena.	Ptn	P.T.A.	- do -	- do -	
42.	" B. C. Das.	Ltn	D.R.G.	- do -	- do -	
43.	" B. R. Kalita	- do -	clg	- do -	- do -	
44.	" A. C. Kalita	- do -	Rmy	- do -	- do -	
45.	" J. Roy	- do -	G.W.R.	- do -	- do -	
46.	" R. V. Roy.	- do -	Rmy	- do -	- do -	
47.	" M. C. Kalita	- do -	S.V.R.	- do -	- do -	
48.	" A. L. Akbar	- Ptn	Rmy	- do -	- do -	
49.	" R. K. Sena.	Wtn	- do -	- do -	- do -	
50.	Mrs Manomala Das.	Rtn	- do -	- do -	- do -	
51.	Shri S. K. Borzo	- do -	Ex. Secy	- do -	- do -	
52.	" G. N. Sarma	- do -	P.T.A.	- do -	- do -	
53.	" A. C. Day.	- do -	Rmy	- do -	- do -	
54.	" L. C. Singh	W/Cg	- do -	- do -	- do -	
55.	" R. K. Paul	Rtn	- do -	- do -	- do -	
56.	" K. Paul	- do -	- do -	- do -	- do -	
57.	" G. Chowdhury	- do -	Hqrs	- do -	- do -	
58.	" J. C. Talukder	- do -	Rmy	- do -	- do -	
59.	" P. Talukder	- do -	- do -	- do -	- do -	
60.	" Siddique A. B.	- do -	- do -	- do -	- do -	
61.	" P. K. Day.	- do -	- do -	- do -	- do -	
62.	" Indriska A. B.	- Ptn	T.P.L.	- do -	- do -	
63.	" Abdul Aziz	T.P.A.	Rmy	- do -	- do -	
64.	" L. Karje	T.S.M.	- do -	- do -	- do -	
65.	" Tapas Bar	- do -	- do -	- do -	- do -	
66.	" F. Harege	Rtn	- do -	- do -	- do -	
67.	" Swaga Hujeri	- do -	P.T.A.	- do -	- do -	
68.	" Babul Sena	- do -	Rmy	- do -	- do -	
69.	" Owahedun Rahman	- do -	- do -	- do -	- do -	



Handwritten signature and initials

	NOMENCLATURE	CLASSIFICATION	TO	THRU	DATE
70	Sri Sabir Das	TSU	- do -	- do -	- do -
71	" Mobarak Ali	- do -	- do -	- do -	- do -
72	" Nazimuddin Dewan	- do -	- do -	- do -	- do -
73	" Dilnuz Ali	PLM	- do -	- do -	- do -
74	" Wandmaha mad Ali	RM	- do -	- do -	- do -
75	" Sibani Kumar	TSU	- do -	- do -	- do -
76	" Zaver Ali	RM	- do -	- do -	- do -




 T. O. Phones
 Group Exchange, Rangia
 Rangia-781354

Attached
 John
 AD