

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

4) MD 147/98 under page 162  
12) MP 95/96 under page 162 dtd 19.7.96  
3) 96/96 under page 163 dtd 15.7.96

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SECTION OFFICER (Judl.)

Bahita  
25/1/19

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

No. 85/96  
MP No. (UA)  
RA No. (OA)  
CP No. (OA)

Sri Bhavad Barman

VERSUS

APPLICANT(S)

RESPONDENT(S)

Mr. B. K. Sharma Advocate for the applicant.

Mr. P. K. Tiwari, Mr. S. Sarma

Mr. G. Sarma, Addl. C.G.S.C. Advocate for the Respondents.  
C. G. Se

Office Notes

Court's Orders

File application in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
PO/BD No. ....  
dated .....

7.6.96

Mr. P.K. Tiwari for the applicant.  
Mr. G.Sarma, Addl. C.G.S.C. for the  
respondents.

Mr. Tiwari moves this application on  
behalf of the applicant. Heard counsel  
of the parties for admission. Perused  
the contents of the application and  
relief sought for. The application is  
admitted. Issue notice on the  
respondents by registered post. Written  
statement within six weeks.

List on 22.7.96 for written statement  
and further orders.

Heard Mr. Tiwari on the interim relief  
prayer. The prayer as prayed for cannot  
be granted. However the respondents are  
directed to keep vacant one post of  
L.D.C. till further order.

Member(J)

Member(A)

trd

10.6.96

Notice issued to the  
parties ~ 18.6.96  
vide No. 1472 D. 15/6/96

bow

15.7.96

Vide order of today in M.P.96/96 (O.A85/96) applicant has been allowed to make the amendment as prayed for in the M.P. Consolidated amendment application to be filed before 19.7.96.

List for order on consolidated amendment application on 19.7.1996.

*[Signature]*  
Member

pg

19-7-96

Learned counsel Mr. B.K. Sharma for the applicant. Learned Addl. C.G.S.C. Mr. G. Sarma for the respondents.

Consolidated amendment application has been made and copies thereof have been submitted. Copies of the same to be served on the respondents. List for written statement and further order on 22-7-96 as originally fixed on request of learned Addl. C.G.S.C.

Mr. B.K. Sharma submits for interim relief order. Mr. G. Sarma opposes grant of interim prayer. Heard counsels of both sides. Interim order as prayed for cannot be granted. Further, it is ordered that the interim order dated 7-6-96 directing the respondents to keep vacant one post of LDC till further order shall continue until further order. The applicant had served in the office of the respondents for a long time and he may be in financial distress due to loss of his job. Keeping these in view, the respondents may, at their own discretion, consider to appoint the applicant as LDC in the office of the respondent No.3 on purely temporary adhoc basis with clear understanding that such appointment, if made, will not confer any right or future benefits whatever to the applicant and it will be without prejudice to the rights and contentions of the parties in this original application.

2.8.96

Notice issued to  
the resps vide  
D. No. 2273 dt.  
24.7.96.

*[Signature]*

3  
O.A.85/96

22-7-96

Learned Addl.C.G.S.C. Mr.G.Sarma for the respondents seeks four weeks time to file written statement.

List for written statement and further order on 19-8-96.

lm

Member

19-8-96

Learned counsel Mr.S.Sarma for the applicant. Learned Addl.C.G.S.C. Mr.G.Sarma for the respondents. Mr.G. Sarma has submitted written statement to-day and copy has been served on counsel of the applicant. Case is ready for hearing.

List for hearing on 18-9-96.

lm

Member

18.9.96

Mr. G.Sarma, Addl.C.G.S.C. for the respondents.

List for hearing on 16.10.96.

trd

16.10.96

Learned Addl. C.G.S.C. Mr G. Sarma for the respondents. List for hearing on 3.12.96.

Member

nkm

17/10

(4)

O.A. No. 85 of 1996

5.2.97

Let the case be listed on 28.2.97

for hering.

*ba*  
Member

*SB*  
Vice-Chairman

nkm  
*or*  
*6/2*

28.2.97

Place the case on 14.3.97 alongwith O 221 of 91 for hearing.

1) Notice issued on 10-6-96 & 24-7-96

2) ~~Service Report~~ Notice duly served on Respondent no. 1.

*ba*  
Member

*SB*  
Vice-Chairman

trd

3) w/statment - he has b/w  
No appearance he sub'd  
*5/3*

14.3.97

On the request of the learned cou for the parties this case be listed for hea on 3.4.97.

w/statment - he has b/w  
*2/4*

*ba*  
Member

*SB*  
Vice-Chair

nkm  
*or*  
*1/10*

3-4-97

Mr. S. S. arma counsel for the appl: and Mr. G. S. arma Addl. C.G.S.C. for the respondents are present.

List for hearing on 8-5-97.

*ba*  
Member

*SB*  
Vice-Chairman

w/s. he has b/w  
*5/5*

3-7-97

Memo of appearance filed by Mr. G. Sharma Addl. C.G.S.C.

lm  
*or*  
*2/1*

8.5.97

Left over. List on 10.6.97 for hearing.

*ba*  
Member

*SB*  
Vice-Ch

w/s. he has b/w

(5)

O.A.No.85/96

7.7.97

It is submitted by the learned counsel for the parties that the case is ready for hearing. List it for hearing on 12.8.97.

Member

Vice-Chairman

nkm

12-8-97

Division Bench is not sitting.

Let this case be listed for hearing on 3-11-97.

Vice-Chairman

lm

13/8

3.11.97

~~Adjourned~~

27-11-97

By order

27-11-97

Division Bench is not sitting. List on 15-1-98 for hearing.

By order

There is no representation on behalf of the applicant. Mr A.K.Choudhury learned Addl.C.G.S.C for the respondents is present.

The case is adjourned to 12.2.98 for hearing.

Member

Vice-Chairman

pg

15.1.98

Let the case be listed for hearing on 1.4.1998.

*GP*  
Member

*LB*  
Vice-Chairman

pg

*NS*  
19/11

*w/s has been filed*

1-4-98

Case is ready for hearing.

List for hearing on 26-5-98.

*GP*  
Member

*LB*  
Vice-Chairman

1m

*NS*  
2/19

*w/s has been filed*

26-5-98 Adjourned to 5-6-98,  
by order.

5-6-98

Heard in part. Case is adjourned till 9-6-98.

BY ORDER

1m

*w/s has been filed* 8.6.98

*Heard in part.*  
~~Part has heard.~~ Case  
to be listed for  
hearing 11.6.98.

*by order*

11.6.98

On the prayer of Mr G.Sarma, learned Addl.C.G.S.C the case is adjourned till 16.6.98. Mr B.K.Sharma, learned counsel for the applicant has no objection.

*GP*  
Member

*LB*  
Vice-Chairman

*w/s has been filed*

17.6.98

Pass over for the day.  
*By order*

pg

*NS*  
12/6

16.6.98. Pass over for the day.

*By order*

Notes of the Registry	Date	Order of the Tribunal
	18.6.98	<p>We have heard Mr B.K. Sharma, learned counsel for the applicant at some length. At this stage he prays for a short adjournment to get some more instructions. Prayer allowed. The case is adjourned till 22.6.98.</p> <p>Member <span style="float: right;">J.B. Vice-Chairman</span></p>
<p>W/S has been H.W. 30/6</p> <p>W/S has been f.W. 14/7</p> <p>W/S has been filed. 24/7</p> <p>W/S has been filed. 11/8</p> <p>12.8.98 Copy of order dtd. 12.8.98 issued to Mr. G. Sarma, Add. C.G. Secy Recd No. 4 by Special Messenger on</p> <p>Boo</p>	<p>25</p> <p>22.6.98</p> <p>nkm</p> <p>26</p> <p>27.7.98</p> <p>27</p> <p>12.8.98</p>	<p>Mr S. Sarma, learned counsel for the applicant once again prays for time to receive instructions. List it on ;1.7.98.</p> <p>Member <span style="float: right;">J.B. Vice-Chairman</span></p> <p>At the instance of the applicant certain documents were called for. Mr S.Ali, learned Sr.C.G.S.C submits that the respondents have not been able to produce the documents and he prays for some time. Accordingly two weeks further time is granted to produce the documents. Mr S.Sarma, learned counsel for the applicant has no objection.</p> <p>List on 12.8.98 for hearing.</p> <p>Member <span style="float: right;">J.B. Vice-Chairman</span></p> <p>The 4th respondent- Staff Selection Commission, is not present. The relevant records with the Staff Selection Commission have also not been produced. These are very important records, necessary for the purpose of</p>



Notes of the Registry	Date	Order of the Tribunal
	12.8.98	<p>proper adjudication of the matter. Issue notice to the Regional Director, Staff Selection Commission, directing him to appear before this Tribunal with all the relevant records relating to the selection of the applicant for regularisation in the post of Lower Division Clerk held on 23.1.1991. The Registrar shall get this notice served through a special messenger from the office of this Tribunal. Besides Mr G. Sarma, learned Addl. C.G.S.C., who filed the written statement on behalf of all the respondents is also requested to take up the matter with the Staff Selection Commission.</p> <p>Office shall make endeavour to serve copy on the Regional Director, Staff Selection Commission during the course of the day.</p> <p>List it on 18.8.98.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Furnish a copy of this order to Mr G. Sarma, Addl. C.G.S.C., to enable him to take proper steps.</p> <p>By Order <i>[Signature]</i></p> <p><i>pl. immediate.</i> <i>ns</i> <i>12/8</i></p> <p><i>W/s to be submitted by 12/8</i></p> <p><i>Memo of appearance filed by Mr. S.Ali, Sr., C.G.S.C.</i> <i>18.8</i></p>	<p>nkm <i>ns</i> <i>12/8</i></p> <p><u>18.8.98</u></p> <p><u>19.8.98</u></p> <p>20.8.98</p> <p>pg</p>	<p><i>Passover on the day.</i> <i>By order.</i></p> <p><i>Passover on the day.</i> <i>By order.</i></p> <p>On the prayer of Mr S.Ali, learned Sr.C.G.S.C the case is adjourned to 24.8.98 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
<p>W/S has been filed on Respetts. SD 29/8</p>	24.8.98	<p>On the prayer of Mr U.K.Nair, learned counsel on behalf of Mr B.K.Sharma the case is adjourned to 28.8.98. The respondents shall produce the rules by that day. If no rules are produced the Tribunal will proceed to hear the matter without the rules and deliver judgment.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>W/S has been filed on Respetts. SD 14/9</p>	28.8.98	<p>Leftover adjourned to 15-9-98. By order</p>
<p>W/S has been filed. SD 2/11</p>	15.9.98	<p>Mr S. Sarma has made a mention that Mr B.K. Sharma who is in charge of this case is indisposed and is unable to attend court today. Therefore, he prays for two weeks adjournment. Prayer allowed. List it on 3.11.98.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>W/S has been filed. SD 25/11</p>	3.11.98	<p>Division Bench is not available. List on 26.11.98 for hearing.</p> <p>Member</p>
<p>7-12-98 Written statement has been filed. SD 7/12/98</p>	26.11.98	<p>Division Bench is not available. List on 8.12.98 for hearing.</p> <p>By Order</p>

Notes of the Registry	Date	Order of the Tribunal
<p>24-12-98</p> <p>Written statement as submitted.</p> <p>24/12/98</p>	8-12-98	<p>Mr.G.Sarma learned Addl.C.G.S.C. on behalf of Mr.S.Ali, prays for adjournment of this case on the ground that Mr.Ali is indisposed. Mr.J.L.Sarkar learned counsel appearing on behalf of the applicant has no objection. Prayer is allowed.</p> <p>List on 28-12-98 for hearing.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>4-1-99</p> <p>Written statement as submitted.</p> <p>4/1/99</p>	28.12.98	<p>On the prayer of Mr G.Sarma, learned Addl.C.G.S.C the case is adjourned to 5.1.99.</p> <p>Member</p> <p>Vice-Chairman</p>
	5-1-99	<p>Leftover. Adj'd and to 7.1.99.</p> <p>By order.</p> <p>10</p>
	7.1.99	<p>We have heard Mr B.K. Sharma, learned counsel for the applicant at some length. We have also heard Mr B.C. Pathak, learned Addl. C.G.S.C. During the course of argument we find that the records of the Staff Selection Commission and other relevant records are necessary. In fact, earlier notices had been issued to the Regional Director, Staff Selection Commission. Mr Pathak, therefore, prays for a short adjournment. Prayer allowed. Let this case be listed on 11.1.99 for further hearing.</p> <p>Member</p> <p>Vice-Chairman</p>

⑪ MT 85/96

12.1.99 Adjourned to 19.1.99.

By order  
h

20.1.99 Parson

By order  
h

21.1.99 Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed. No costs.

28.1.99

Copy of the Judgment  
issued to the parties  
vide D.Nos. 246 to 250  
on 28.1.99. Through Regd  
Wife A.D.  
H.S.

pg

60  
Member

J. B. S. S.  
Vice-Chairman

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

O.A.No. 85 of 1996.

DATE OF DECISION.....21.1.1999.....

!! Shri Bharat Barman (PETITIONER(S))

S/Shri B.K.Sharma, S.Sarma. ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

S/Shri A.Deb Roy, Sr.C.G.S.C & ADVOCATE FOR THE  
B.C.Pathak, Addl.C.G.S.C. RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

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

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 85 of 1996.

Date of Order : This the 21st Day of January, 1999.

Justice D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Bharat Barman,  
LDC-Cum-Typist in the  
Office of the Small Industries  
Service Institute,  
Bamunimaidan, Guwahati-21. . . . Applicant.

By Advocate S/Shri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India,  
represented by the Secretary,  
Ministry of Industries,  
Nirman Bhawan, New Delhi-11.
2. The Development Commissioner,  
Small Scale Industries,  
Ministry of Industry,  
Nirman Bhawan, New Delhi.
3. The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.
4. The Regional Director (NER)  
Staff Selection Commission,  
Nabagraha Road, Chenikuthi,  
Guwahati-3. . . . Respondents.

By Advocate S/Shri A.Deb Roy, Sr.C.G.S.C &  
B.C.Pathak, Addl.C.G.S.C.

O R D E R

BARUAH J.(V.C)

In this application the applicant has challenged Annexure IX-A order dated 17.5.1991, Annexure-XIII Memorandum dated 30/31-10-1991 and Annexure-XIX letter dated 17.4.1996 and also Annexure-XX Memorandum dated 10.6.1996. The applicant was appointed Clerk-cum-Typist on adhoc basis for a fixed period on being selected by the Departmental Promotion Committee by Annexure-1 order dated 12.4.1989.

*SB*

contd..2

Immediately after the appointment the applicant appeared before the Staff Selection Commission (SSC for short) for direct recruitment alongwith other candidates from open market. He passed the written test but failed in the typing test as a result he was unsuccessful in the selection. Thereafter by Annexure-3 representation dated 16.10.1990 the applicant applied to the Director, Small Industries Service Institute (for short SISI), Guwahati intimating his intention to appear in the quarterly type writing examination conducted by SSC and requested the Director to forward his application to the SSC. He made it clear in that application that quarterly type writing examination was for temporary/adhoc candidates. The application was forwarded to the SSC and in due course he appeared in the quarterly type writing test and came out successful in the test. But he was not appointed to the post of LDC. He submitted several representations. However not a single representation was disposed of. Having not disposed of his representations he filed O.A.No. 221/91 before this Tribunal. The said O.A.221/91 was disposed of by this Tribunal by order dated 15.9.1995 directing the respondents to consider the matter afresh in the light of the observations made in that order. Thereafter the matter was considered by the respondents and the entire matter was disposed of by Annexure-XIX letter dated 17.4.1996 issued by the Deputy Director(Admn.) of the office of the Development Commissioner, Small Scale Industries addressed to the Director, SISI, Guwahati. In the said letter it was observed as follows :-

"In pursuance of the directive of the Hon'ble CAT Guwahati Bench vide judgment dated 15.9.95 the competent authority has considered afresh the request of Shri Barman for regularisation in the grade of LDC. It has been decided that on consideration of the provisions regarding rules and procedures of recruitment to the

B

post of LDC. Shri Barman is not eligible for regular appointment as LDC. Shri Barman's services may therefore be terminated on vacation of the stay Order granted by the Hon'ble CAT Gauhati Bench. . . . ."

pursuant to the Annexure-XIX the local office issued a Memorandum dated 10.6.1996 terminating the services of the applicant. Hence the present application.

2. In due course the respondents have filed written statement. In the written statement it has been stated that the appointment to the post of LDC in all Central Government offices are ~~being~~ made by candidates sponsored by SSC against regular vacancies. But the applicant was appointed to the post of Clerk-cum-Typist for specific work 'census of small scale Industries' on temporary basis for a specific period through local Employment Exchange as per directions from the office of the Development Commissioner, SSI. It is further stated in the written statement as follows :-

" . . . . . !we may not have objection to recommend his application to the Staff Selection Commission to appear for test/ typing speed as a departmental candidate' and the office on good faith, forwarded his application. But he had never mentioned here that he is appearing only in type-writing test. Had he ever mentioned the real fact, his application would not have been forwarded to Staff Selection Commission. Thus he had misled the respondents."

Again in para 7 of the written statement the respondents have stated as under :-

" . . . . . the applicant completed 1 1/2 years of service as Clerk-cum-Typist under the Census Scheme. It is a fact, this Institute gave sympathetic consideration to accommodate the applicant against the existing vacant post of LDC. But Development Commissioner (SSI), New Delhi informed vide letter No.C-18013/13/91-A(NG) dated 17.4.96 (Annexure R-VI) that "the competent authority has considered afresh the request of Shri Barman for regularisation in the grade of

B2



LDC. It has been decided that on consideration of the provisions regarding rules and procedures of recruitment to the post of LDC, Shri Bharat Barman is not eligible for regular appointment as LDC. Shri Barman's services may, therefore, be terminated on vacation of the Stay Order granted by the Hon'ble CAT, Guwahati Bench."

In the written statement it has also been stated that the quarterly type writing test was meant for departmental candidates who had been appointed on compassionate ground or by promotion from Group D post. As the applicant belonged to neither of the above categories, he was not eligible to appear in the quarterly examination. Therefore the applicant could not be regularised in the post.

3. We have heard Mr S.Sarma, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C and Mr B.C. Pathak, learned Addl.C.G.S.C for the respondents. Mr Sarma submits before us that the authority completely ignored the provisions of the office Memorandum which is evident and apparent from the materials available in the record. Mr Sarma submits that it is true that recruitment made for regular appointment from the open market, candidates are required to pass two parts of the examination namely, written and typing test. Learned counsel also submits that the applicant when he appeared in the SSC examination for regular appointment to LDC he came out successful in the written test and failed in the typing test. Therefore he was not selected for regular appointment. However, Mr Sarma has emphasised that the applicant is not claiming regular appointment from open market on the basis of SSC examination. He is claiming his right to get his service regularised as per "the quarterly type writing examination" conducted by the SSC. Mr Sarma further submits that the authority

Bz

has completely confused the matter by linking regular SSC examination with "the quarterly type writing examination" conducted by the SSC. SSC examination from open market candidates is for direct recruitment only. The applicant claims that he being a departmental candidate he is entitled to appear in the quarterly examination and in fact he applied to the authorities to that effect to appear before the quarterly examination to be held in the month of December, 1990 for temporary/adhoc departmental candidates. Learned counsel submits that the applicant claimed to be a departmental candidate as he was a temporary employee but in fact this facility is available to adhoc employees also. Mr Sarma has drawn our attention to the decision of this Tribunal in O.A.No.221/91. In para 14 of the said judgment this Tribunal had quoted a portion of the letter to indicate that this quarterly type test is applicable to the adhoc employees also. This letter was annexed by the respondents themselves in Annexure-N of their Misc.Petition No.173/91 (in O.A.221/91) filed before this Tribunal. From this letter it is abundantly clear that the quarterly type writing test conducted by the SSC is applicable to the adhoc employees. Mr Sarma submits that there is no doubt that the applicant was an adhoc employee and therefore he was entitled to get the benefit of this quarterly type writing test. It is further argued that only because of this, the authority forwarded his application to the SSC. Mr Deb Roy also very candidly and fairly has admitted that this Annexure-N letter to M.P.173/91 was filed by the respondents themselves and therefore there is no point in dispute about the contents of the said letter. Learned Addl.C.G.S.C Mr B.C.Pathak has filed a letter dated 10.12.1991 written by the Regional Director, SSC to the Director, SISI. This letter shows that refusal to select the applicant <sup>was</sup> on the ground that he was

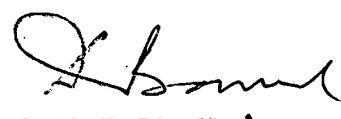
B2

not an employee appointed on compassionate ground or promoted from Group D post. Considering the submissions of the learned counsel for the parties we are of the opinion that the contents of Annexure-N to the Misc.Petition No.173/91 is somewhat different from the stand taken in the written statement of the respondents. Later portion of the said letter confirms the same. That being the position, we are of the opinion that the applicant being an adhoc employee is entitled to appear in the quarterly type writing test and if he came out successful in the test he is entitled to get regularisation. As the applicant had already come out successful in the quarterly type writing test he is entitled to be regularised.

4. Accordingly we quash and set aside Annexure IX-A dated 17.5.1991, Annexure-XIII dated 30/31-10-1991, Annexure XIX dated 17.4.1996 and Annexure-XX dated 10.6.1996 and direct the respondents to regularise the service of the applicant in the post of Lower Division Clerk within 2 months from the date of receipt copy of this order.

The application is allowed. No order as to costs.

  
( G.L.SANGLYINE )  
ADMINISTRATIVE MEMBER

  
( D.N.BARUAH )  
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 85 of 1996

Shri Bharat Barman : ... Applicant

- Versus -

Union of India & Ors. ... Respondents

(AMENDED/CONSOLIDATED PETITION)  
I N D E X

Court Master

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For use in Tribunal's Office:

Date of filling : 19.7.96  
Registration No. : 85/96  
REGISTRAR

Shri Bharat Barman

Received Copy  
Golap Janna  
ADIC 45C  
CAT  
19/7/96 Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

O.A. No. 85 of 1996

BETWEEN

Shri Bharat Barman  
LDC-Cum-Typist in the  
Office of the Small Industries  
Service Institute,  
Bamunimaidan, Guwahati-21.

... Applicant

AND

1. Union of India, represented by  
the Secretary, Ministry of Industry,  
Nirman Bhawan, New Delhi-11.
2. The Development Commissioner,  
Small Scales Industries,  
Ministry of Industry,  
Nirman Bhawan, New Delhi-11.
3. The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.
4. The Regional Director(NER),  
Staff Selection Commission,  
Nabagraha Road, Cenikuthi,  
Guwahati-3.

... Respondents

DETAILS OF APPLICATION

1. Particulars of the order against which  
the application is made :

The application is directed against non-  
registration of the service of the applicant and termina-  
tion of his service vide Memo.No.A.11013/1/88/4432 dated  
30/31-10-91 and communication under No.18013/13/91-A(NC)  
dated 17.4.96.

"The application is also directed against  
the memorandum No.C-14014/10/91/852 dated 10.6.96  
purportedly terminating the services of the applicant".

2. Jurisdiction of the Tribunal :

The applicant declares that the subject  
matter of the order against which the wants redressal is  
within the jurisdiction of the Tribunal.

Contd..2.

*Sy*

*Filed by  
through*  
*in applicant*  
*Dr. M. K. A. D. 18.7.96*

3. LIMITATION :

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

4. FACTS OF THE CASE :

i) That the applicant is a citizen of India and permanent resident of Assam and as such, he is entitled to all the rights and protections guaranteed by the Constitution of India.

ii) That the applicant hails from a very poor family and his family members are dependent on his meagre income. Due to his poverty, he could not prosecute his further study after passing the P.U. (Arts) Examination.

iii) That the applicant entered into the services of the Small Industries Services Institute (SISI) under the Ministry of Industries at Bamunimaidan, Guwahati-21 as Clerk-Cum-Typist by an order No.A.11013(1)/88 dated 12.4.89. Initially the applicant was given a consolidated pay of Rs.850/- per month. However, later on by an order No.A.11013(1)/8 dated 2.8.89 his pay was fixed at Rs.950/- in the scale of Rs. 950-20-1150-EB-25-1500/-p.m. The said order was issued in terms of order No.16/3/85-Stat dated 26.11.88 stated to be issued from the Office of the Respondent No.2. However, the copy of the same was not given to the applicant. It will be pertinent to mention here that the appointment of the applicant was preceded by a selection from amongst the candidates sponsored by the Employment Exchange. Many candidates appeared in the selection. The applicant could get his appointment after due selection.

Copies of the order dated 12.4.89 and 2.8.89 are annexed herewith as ANNEXURE-I and II respectively.

Contd..3.

dm<sup>2</sup>

iv) That ever since the appointment of the applicant, as aforesaid, he has been serving as such to the satisfaction of all concerned and at no point of time, he was ever communicated with any adverse remark. The applicant having come to know from the office of the respondent No. 4 that the Central Government employees who have been working on temporary basis could appear in the selection conducted by Staff Selection Commission(SSC) for regularisation of their services, submitted an application dated 16.10.90 to the respondent No.3 making a request to him to forward his application to the respondent No.4 to avail such chance. Accordingly, his application was forwarded to the office of the respondent No.4 with the remark of 'no objection'.

The copies of the said application dated 16.10.90 and no objection certificate dated 1.11.90 are annexed herewith as ANNEXURE-III & IV respectively

v) That thereafter the applicant having come to know that while forwarding his application to the respondent No.4 with the no objection certificate, the duly filled in application form was not forwarded by the office of the respondent No.3 inadvertently and accordingly, the applicant by his letter dated 21.11.90 made a request to their respondent No. 3 to forward his duly filled in application from submitted earliest on. Thereafter, the office of the respondent No.3 was pleased to forward his duly filled in application from to the office of the respondent No.4 by its letter dated 29.11.90.

A copy of the said letter dated 29.11.90 along with the copy of the filled in application form is annexed herewith as ANNEXURE-V&V(A) respectively.

Contd..4.

-dm2

vi) That thereafter as instructed by the office of the respondent No.4, the respondent No.3 by a Memo No. A.20017(28)/90 dated 22.1.91 instructed the applicant to appear before the SSC on 23.1.91. The appointment was also issued with an admission certificate by the SSC. The applicant duly appeared in the said selection and came out successful.

Copies of the Memo No.A.20017(28)/90 dt.22.1.90 and admission certificate are annexed herewith and marked as ANNEXURE-VI and VII respectively.

vii) That after the aforesaid selection, the applicant by his representation dated 1.4.92 before the respondent No.3 made a request to accommodate/regularise him as LDC mentioning therein about a vacant post of LDC in the office of the respondent No.3 . The respondent No.3 by his letter No.A.12021(1)/89/90 dated 5.4.91 requested the respondent No.4 to send the name of the applicant for recruitment of LDC on regular basis. In the said letter, it was also mentioned about the demand made for nominating 3 LDC, one reserved for ST candidates.

A copy of the said letter dated 5.4.91 is annexed herewith as ANNEXURE-VIII.

viii) That the respondent No.3 by his letter No.A.12021(1)/89 dated 29.4.91 addressed to the respondent No.2 made a request to communicate the approval of the competent authority to allow the applicant to be absorbed as LDC, on regular basis in the SISI, Guwahati. In the said letter the selection of the applicant by the SSC was mentioned. It was also mentioned about the placing of indent to the SSC for nominating LDCs against the clear vacancies. It was further mentioned that the service rendered by the applicant is satisfactory and he has also gained experiences.

*dm*



A copy of the said letter dated 29.4.91 is annexed herewith as ANNEXURE-IX.

ix) That when the applicant was cherishing in his mind that his service will be regularised he was surprised to receive a letter No. A.60015/2/89-A(MT) dated 17.5.91 issued from the office of the respondent No.2 to the respondent No.3 expressing their inability to regularise the service of the applicant. On receipt of a copy of the same, the applicant submitted a representation to the respondent No.3 on 28.5.91 praying for regularisation of his service with the further request to place his prayer before the respondent No.2. The respondent No.3 forwarded the application to the respondent No.2 with the request to consider his case sympathetically with further observation that if any comments/information is needed, the same would be supplied. The applicant having not heard anything in the matter, again submitted a representation dated 6.8.91 by way of a reminder to the respondent No.3 followed by another reminder dated 26.8.91.

Copies of the said letter dated 17.5.91 representation dated 28.6.91 and reminders dated 6.8.91 and 26.8.91 are annexed herewith as ANNEXURE-IX(A), X, XI & XII.

x) That the applicant was surprised to receive the impugned Memo No.11013/1/884432 dated 31/31-10-91 relieving him from his duty on and from the same date. The said memo has come as a bolt from the blue to the applicant inasmuch as after the aforesaid submission of representation by him, he was cherishing in his mind that his services would be regularised more so in view of the fact that he came out successful in the selection conducted SSC.

Contd.6.

*dm*

A copy of the said memo dated 30/31-10-91  
is annexed herewith a ANNEXURE-XIII

xi) That the applicant came to know that the respondent No.2 by his letter No.16(3)/85-Stat dated 29.10.91 addressed to the respondent No.3 had been pleased to extend the services of the applicant. However, he could not obtain a copy of the same but could obtain the letter number and date as indicated above. For the reasons best known to the respondent No.3, the services of the applicant had not been extended and he was not allowed to resume/rejoin his duties. Accordingly, the applicant by his representation dated 15.11.91 to the respondent No.3 urged upon him to allow him to continue in service in terms of the sanction given by the respondent No.2. However, he was not allowed to rejoin/resume his duties though he had been regularly attending office.

xii) That the applicant states that the aforesaid action/inaction on the part of the respondents is grossly illegal and nothing but deprivation of his legitimate claim of regularisation to his service. He had acted as per promise made out to him for regularisation of his service but the respondents flouted with their own promise and instead of regularising him in his service had decided to terminate his service which is grossly illegal and not sustainable.

xiii) That the applicant states that he had made enquiries in the office of the respondent No.4 as regards regularisation of his service as LDC. The officials therein had told in categorical terms that his services

Contd..7.

*dm*

was required to be regularised in view of the selection by the SSC inasmuch as such selection are conducted only for such temporary employees. The officials had also observed that since there was an indent of a few posts of LDC from the office of the respondent No.3, the applicant could easily be regularised in one of such posts after his due selection by the SSC as aforesaid.

xiv) That being faced with such a situation the applicant had filed O.A. No.221/91 making a grievance against the order dated 30/31-10-91 (Annexed-xiii) before this Hon'ble Tribunal. The Hon'ble Tribunal while admitting the case by its order dated 25.11.91 was pleased to pass an interim order to the effect that the applicant shall be treated in service and on duty without break and shall continue as such until further orders. The interim order was passed for the reasons recorded in the order itself.

A copy of the order dated 25.11.91 is annexed herewith as ANNEXURE-XIV.

xv) That the aforesaid O.A. was disposed of by the judgement and order dated 15.9.95 directing the respondents to apply their mind afresh to the case of the applicant in the light of the observation made in the judgement. The Hon'ble Tribunal was further pleased to extend the aforesaid order dated 25.11.91 for a period of 6 months enabling the respondents to apply their mind afresh to the case of the applicant.

A copy of the judgement dated 15.9.95 is annexed herewith as ANNEXURE-XV.

xvi) That after the aforesaid judgement it has been the reasonable and legitimate expectation of the applicant that he would be regularly absorbed in service and to that effect appropriate order would be passed by the Competent Authority. The applicant pursuant to the judgement and submitted his representation dated 8.11.95 to the respondent No.2 regarding regularisation of his services.

A copy of the said representation dated 8.11.95 is annexed herewith as ANNEXURE-XVI.

xvii) That the respondents also took up the matter of the applicants regularisation in service and to that effect made queries vide their letter No.C-18013/13/91-A(NG) dated 2.12.95 to which necessary reply was furnished vide their letter No.C-14014(10)91. Vol.II dated 5.1.96.

Copies of the letter dated 2.12.95 and letter dated 5.1.96 are ~~furnished~~ annexed as ANNEXURES XVII AND XVIII.

xviii) That in view of the aforesaid developments, the applicant was very much hopeful that his services would be regularised more so in view of vacancies being available and the applicant having been holding a regular post with all the benefits of a regular employee as indicated in Annexure-XVIII letter dated 5.1.96. The applicant has been granted all other facilities like that of any other employee and his service book has also been opened. This is for all practical purposes and intent the applicant is a regular employee of the SISI, Guwahati.

xix) That the applicant being not communicated with any decision in the matter and being faced with a situation in which the period of 6 months fixed by this Hon'ble Tribunal

in its aforesaid judgement dated 15.9.95 the applicant had to approach this Hon'ble Tribunal by way of filling Misc. Application one after another, which were registered and numbered as M.P. No.31/96, M.P. No.46/96 and M.P. No.76/96. By the orders passed in the M.Ps. the time limit originally fixed in the judgement was further extended. Lastly the time limit has been extended upto 7.6.96 by order dated 31.5.96 passed in M.P. No.76/96. The applicant on the strength of these orders passed in the M.Ps. has been continuing in service as before. He was on earned leave for the period 20.5.96 to 4.6.96. During this period has pursued the matter even by going to Delhi from where he has come back on 3.5.96. He has resumed his duties on 5.6.96. During his visit to Delhi to pursue the matter in the office of the Respondent No.2, the applicant was not apprised of anything regarding the case of his regularisation in terms of the aforesaid judgement of this Hon'ble Tribunal. He was only apprised that the matter was being pursued and that he would get due intimation in his office at Guwahati.

xx) That the applicant states that on his rejoining duty as aforesaid to his great shock and dismay, he was intimated by the officials in the Establishment Section that intimation from Delhi has come directing the local office to terminate his services on vacation of the stay order granted by the Hon'ble Tribunal. However, till date the applicant has not been communicated with anything and he is continuing in his service as before. Now in terms of the communication from Delhi Office, his services is going to be terminated at any moment. On receipt of such information, the applicant demanded a copy of the communication stated to be received from Delhi Office to which the reply of the

officials in the Establishment Section that along with the order of termination he would be given a copy of the communication sent from Delhi Office. However, as his request he has been given a copy of the communication No.C-10013/13/91-A(NG) dated 17.4.96 purportedly issued by the Dy. Director (Admn.) to the Director, SISI, Guwahati. By the said communication the services of the applicant has been directed to be terminated on vacation of the stay order granted by this Hon'ble Tribunal.

A copy of the said communication dated 17.4.96 is annexed herewith as ANNEXURE-XIX.

xxi) That a bare perusal of the Annexure-XIX letter dated 17.4.96 it is seen that the authority concerned has not applied its mind to the case of the applicant in the light of the observation made in the judgement dated 25.11.96. The contents of the letter are very cryptic and disclosed total non-application of mind. The only observation made in the letter is "it has been decided that on consideration of the provisions regarding rules and procedure of recruitment to the posts of LDC, Shri Barman is not eligible for regular appointment as LDC". This is very particular contention was raised by the respondents time and again before this Hon'ble Tribunal which did not find any favour of this Hon'ble Tribunal because of which even in the final judgement, the Hon'ble Tribunal made the details observation in the judgement particularly in para XVI favouring the case of the applicant.

In view of the position the respondents cannot terminate the services of the applicant by a cryptic order as has been sought to be done without reverting back and consideration thereof in its true prospective to the points raised by the Hon'ble Tribunal. If the plea of the respondents

11

as in the impugned order dated 17.4.96 is allowed to stand, the same will be total failure of justice and mockery of judgement of the Hon'ble Tribunal. The Hon'ble Tribunal did not pass the detal judgement for the aake of passing it but the same was passed with a definite purpose and the respondents cannot flirt and mockery of the same.

xxii. The applicants states that two aspects of the matter were considered by this Hon'ble Tribunal in the earlier O.A. No.221/91 viz(i) in view of the appointment of the applicant as ad-hoc basis whether he is entitled to any relief and (ii)secondly in view of the process of regularisation undertaken by the respondents. Wheteher the applicant is entitled to be considered for such regularisation. The Hon'ble Tribunal directed the respondents to apply their mind afresh in the light of the observations made by the Hon'ble Tribunal in respect of the second aspect of the matter, However, prima facio no such consideration has been given by the respondents in passing the impugned order dated 17.6.96.

xxiii) That the applicant states that after the aforesaid order dated 17.4.96(Annexure-XIX), the respondent No.3 has issued a memorandum No.C-14014/10/91/852 dated 10.6.96 purportedly terminating the services of the applicant pursuant to the order passed by this Hon'ble Tribunal on 7.6.96 in M.P.No.76/96(O.A.221/911).

A copy of the said order dated 10.6.96 is annexed hereto and marked as ANNEXURE-XX.

xxiv) That the applicant states that prima facio the aforesaid memorandum dated 10.6.96 is illegal inasmuch as there is no direction of this Hon'ble Tribunal to terminate

The services of the applicant. Although the stay order dated 25.11.91 passed in the earlier O.A.221/91 has come to an end upon expiry of the extension granted in M.P.No.76/96(O.A.No.221/91 filed by the applicant on 31.5.96 and the Hon'ble Tribunal was pleased to vacate the interim order dated 25.11.91. There is no order as such from the Hon'ble Tribunal to terminate the services of the applicant.

A copy of the order dated 7.6.96 passed in M.P.No.76/96 is annexed herewith as annexure-XXI

xxv) That the applicant states that the prima facie the aforesaid impugned order at Annexure-XIX and XX dated 7.4.96 and 10.6.96 are not in conformity with the direction of the Hon'ble Tribunal passed in the Judgment dated 15.9.95 in O.A. 221/91 Apparently, there is no exercise on the part of the respondents as was directed by this Hon'ble Tribunal. On this score alone both the orders are not sustainable and liable to be set aside and quashed.

5. Grounds for relief with legal provisions :

- I) For that the impugned orders are prima facie illegal and not sustainable under the law.
- II) For that the impugned orders having been issued without giving the applicant an opportunity of being heard, the same is bad in law and liable to be set aside and quashed.
- III) For that the applicant having cleared the examination conducted by the SSC, the respondents ought to have regularised him in a vacant post of LDC for which indents have also been placed by the respondent No.3 to respondent No.4.

Contd..13.

Jm



IV) For that it was only after the assurance and promise made by the respondent No.3, the applicant had appeared in the examination conducted by the SSC and now he having come out in the said selection, the respondents cannot turn round their own promise and victimise the applicant and that too in these hard days of employment.

V) For that the applicant having cleared the examination conducted by the SSC for regularisation of temporary service of LDCs, the respondents cannot deny him the benefit of the same and as such, the impugned orders are liable to be set aside and quashed.

VI) For that the respondent No.2 having extended the services of the applicant for a further period, the respondent No.3 could not have issued the impugned order of termination, terminating the services of the applicant before expiry of the extended period of service.

VII) For that the respondent No.4 having laid down in clear terms that the services of the applicant could be regularised, and there is no impediment against such regularisation, the respondent No.2 and 3 cannot give their own interpretation in the matter so as to deprive the applicant from regularisation of his service and consequently, the impugned orders are liable to be set aside and quashed.

VIII) For that there is gross violation of Articles 14,16 and 311 of the Constitution of India and so also the principles of natural justice and accordingly, the impugned orders are not sustainable and the services of the applicant are required to be regularised.

Contd...14.

*Smc*

- IX) For that the impugned order dated 17.4.96 being not in conformity with the order passed by the Hon'ble Tribunal and being a non-speaking order, same is liable to be set aside and quashed.
- X) For that the impugned order having not taken into account the observations made by this Hon'ble Tribunal in the earlier O.A. same is not sustainable and liable to be set aside.
- XI) For that the respondents cannot make a mockery of the order passed by the Hon'ble Tribunal in ignoring the directives contained in the earlier Judgment. The impugned order having been passed mechanically without any application of mind, same is not sustainable and liable to be set aside and quashed.
- XII) For that in any view of the matter, the impugned orders are not sustainable.
- XIII) For that the impugned order dated 10.6.96 is prima facie illegal inasmuch as there is no direction of this Hon'ble Tribunal to terminate the services of the applicant.
- XIV) For that the respondents have not passed the impugned orders in conformity with the orders passed by this Hon'ble Tribunal in the earlier O.A.No.221/91.
- XV) For that the respondents have failed to discharge their duties as entrusted by this Hon'ble Tribunal towards passing of an order as per observations made in the earlier O.A.

Contd...15.

*dm*

6. Details of remedies exhausted :

That the applicant states that he has exhausted the departmental remedies available to him and there is no other alternative and efficacious remedy open to the applicant.

7. Matters not previously filed or pending with any other Court :

The applicant further declares that the matter regarding which the application has been made is not pending before any other Court of law or any other authority or any other Bench of the Tribunal.

8. Reliefs sought :

Under the facts and circumstances stated above, the applicant prays for that the application be admitted and the records of the case be ~~examined~~ ~~the~~ called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :

- (i) To set aside and quash the impugned order dated 17.5.91 (Annexed-IX-A), Memo dated 30/31-10-91 (Annexure-XIII) and letter dated 17.4.96 (Annexure-XIX)
- (ii) To direct the respondents to regularise the services of the applicant with all consequential benefits.
- (iii) Cost of the application ,

Contd..16.

*Sm*

- (iv) Any other relief or reliefs to which the applicant is entitled to as this Hon'ble Tribunal may deem fit and proper.
- (v) To set aside and quash the memorandum dated 10.6.96 (Annexure-XX)

9. Interim relief prayed for :

Pending disposal of the case, the applicant prays that the impugned order dated 17.4.96 (Annexure-XIX) be suspended with further direction to allow the applicant to continue in his service as before. " Further be pleased to suspend the memorandum dated 10.6.96(Annexure-XX)."

10. . . . .

11. Particulars of the I.P.O./Bank Draft :

- (i) No.of the I.P.O. :
- (ii) Date :
- (iii) Payable at : Guwahati.

12. List of Enclosures :

As stated in the Index.

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

I, Shri Bharat Barman, son of Late Thanu Ram Barman, aged about 36 years, resident of Dispur, Guwahati, Ganeshguri Chariali, LDC-Cum-Typist in the office of the SISI, Bamunimaidam Guwahati-21, do hereby solemnly affirm and verify that the statements made in paragraphs from 1 to 4 and 6 to 12 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 16th day of July, 1996 at Guwahati (Original verification on 6th day of June, 1996)

Shri Bharat Barman

Registered post.

Government of India  
Ministry of Industry  
Small Industries Service Institute  
Bamunimaidan, Guwahati-21 (Assam)

No.A.11013(1)/88

Dated the 12th April, 1989.

O R D E R

On the recommendation of DPC dt. 4.4.89 the Director, SISI, Guwahati is pleased to issue offer of appointment to Shri Bharat Chandra Barman as a Clerk cum Typist in this Institute on purely temporary basis at a consolidated pay of Rs.850/- per month. He will not be entitled for any other allowance for his service in the post. The appointment is exclusively for a period of 18 months for census liaison cell at SISI, Guwahati. Shri Barman will have no right to claim for regular appointment in future for this post and he is liable to be terminated at any time without assigning any reason.

He is advised to communicate his acceptance of this offer letter immediately and to report for duty in this Institute, but not later than 10 days from the date of issue of this order.

Sd/- (S. CHAKRABARTY. )  
Asstt. Director (Admn.)  
For Director.

To.  
Shri. Bharat Chandra Barman,  
C/o.M/s.Chandra Silk House,  
Capital Road, (R.P.Road),  
Dispur, Guwahati-6.

Copy to :-

1. The Asstt. Director of Employment,  
District Employment Exchange,  
Silpukhuri, Guwahati-3. This has a reference to his  
letter No. ORD-125/89/4550 dated 3.4.89 Regd.No.5248/79.
2. The Accounts Section, SISI, Guwahati for information.

Sd/- (S. Chakraborty )  
Asstt. Director (Admn. )  
For Director.

130025-100  
R. Q.  
Advocate. 18/7/96

Government of India  
Ministry of Industry  
Small Industries Service Institute,  
Bamunimaidam, Guwahati-781021 (Assam)

A. 11013(1)/88

2nd Aug '89

ORDER

In continuation to this office order of even number dated 11/12th April '89, the Director, SISI, Guwahati is pleased to fix the pay Rs.950/- to Shri Bharat Ch. Barman, LDC cum Typist from the date of his joined in this office in the Scale of Rs.950/-20-1150-EB-25-2500/- in terms of DC(SSSI), New Delhi order No.16/3/85-Stat dated 25.11.88. Shri Barman will get usual allowances as admissible to Central Govt. Servant under the rules in force from time to time.

The expenditure involved will be debitable to Major Head "2851"-C.4(16)(12)-other expenditure.

Sd/- ( S. Chakrabarty )  
Asstt. Director (Admn.)  
For Director.

To  
Shri Bharat Chandra Baeman, LDC-cum-Typist  
SISI Guwahati.

Copy to :-

1. The Pay & Accounts Officer, PAO(SSSI), 111/112 B.T, Rd., Calcutta-35.
2. Office Supdt. (Accounts), SISI, Guwahati. He is requested to clear all the arrear of Shri Barman.

( S. Chakrabarty )  
Asstt. Director (Admn.)  
for Director.

Attested.

18/8/89  
Advocate.

Dated the 16th Oct '90

To

The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

(Through the Asstt. Director EI/PI)

Sub : Appeared in the quarterly examination sponsored by  
Staff Selection Commission.

Sir,

With due respect I beg to inform you that I am a Temporary staff (LDC) of SISI Guwahati. Understanding from the Commission that a quarterly examination will be held in the month of December, 1990 for regularisation of Temporary/Adhoc candidates. This Test/Examination will be conducted by the Staff Selection Commission in every quarter. I want to appear in the above said examination for regular appointment.

Therefore, I request you to forward my application to the Regional Director, Staff Selection Commission, Chenikuthi, Navagraha Road, Guwahati-3 for necessary action at their end. Your kind consideration is highly appreciable.

Yours faithfully,

Sd/-

( Bharat Barman )  
LDC(C)

Sri B.C. Barman was recruited in April, 1989 as Clerk-Cum-Typist on purely temporary basis for the Census work and since then Mr. Barman is working in the office. He has already completed one year on 16th April, 1990 and his term has been extended upto 25th Nov. 1990 subject to further extension depending on the exigency of work. In view of this, we may not have objection to recommend his application to the Staff Selection Commission to appear for test/Typing speed as a departmental candidate.

Director

Sd/- (G.C. Medhi )  
Asstt. Director (EI/PI)  
dtd. 17.10.90

Attested.

  
18/10/90  
Advocate.

A-20017(28)/90

1st November, 1990

To  
The Regional Director(NER),  
Staff Selection Commission,  
Nabagraha Road,  
Chenikuthi Hill side,  
Guwahati-781021.

Sub : Permission to appear in the quarterly Clerk  
cum Typist Examination in December, 1990.

Sir,

Shri Bharat Barman a purely temporary L.D.Clerk of this Institute is working for a short period upto 24-11-1990. We have no any objection to permit him to appear in the ensuing examination conducted by you in the month of December, 1990.

Yours faithfully,

Sd/-(C.P. Choudhury )  
Asstt. Director (Admn.)  
for Director

O/C. K. Choudhury.

dt.1.11.90.

Director.

Advocate.



ANNEXURE-V

A. 20017(28)/90

29th Nov '90

To

The Regional Director (NER),  
Staff Selection Commission,  
Navagraha Road,  
Chenikuthi, Guwahati-3.

Sub : Application for the post of LDC for appearing  
quarterly examination held on 1st January, 91.

Sir,

I am to forward herewith an application form  
duly filled in and signed by the applicant Shri Bharat  
Barman an employee of this Institute together with our  
departmental endorsement for the post of LDC for favour  
of your sympathetic consideration.

Encle One application.

Yours faithfully,  
Sd/-(C.P.Choudhary )  
Asstt. Director (Admn.)  
for Director

Sd/-K.Choudhry

30.11.90.

Application form for English/Hindi Type Writing Test to be held in the month of January, 1991 at Guwahati.

( To be filled in candidates handwriting )

An extra copy of the passport size photograph should be enclosed.

1. Name in full(in Block letters) SRI BHARAT BARMAN  
state whether Kumari or Smt.
2. Date of birth (in christian Era) 1-11-61
3. Father's name and address  
(Husband) Late Thanu Ram Barman  
Vill. Namsala,  
P.O.: Sarthebari, Barpeta (Assam)
4. Name of the Ministry/Office  
where employed and the station  
where it is located. SISI, Guwahati-21.
5. (a) Name of the post held : LDC from Group 'D' employees  
(✓/ the relevant box) Seniority quota

LDC from Group 'D'  
employees Exam. 19

UDC

Asstt. (DR)

LDC on compassionate Grounds

LDC (DR)


(b) Date from which the post is held: 17-4-89

6. At which of the following places do you wish to appear at the test -  
Jaipur, Patials, Shimla, Srinagar, Chandigarh, Allahabad, Patna,  
Bhopal, Calcutta, Cuttack, Gangtok, Bhubaneswar, Ahmedabad,  
Trivandram, Guwahati, Agartala, Shillong and Indian Mission  
abroad (give the name of place and country).

7. Details of the Staff Selection Commission Type writing Test at which  
you appeared last time.

Sl. No.	Date of Test	Roll No.	Place where the test was taken	Result (give the speed if qualified)

Contd..2.

  
1991

I hereby declare that the statements made in this application are true to the best of my knowledge and belief.

Place : Guwahati

Signature Sd/-

Date : 21-11-90

Name SRI BHARAT BARMAN  
(in block letters)

### DEPARTMENTAL ENDORSEMENT

Certified that the particulars given above are correct Shri Bharat Barman is a temporary LDC(DR) in the Office of/ Ministry of Industry which is participating/Not participating in the Central Secretariat Clerical Service and is eligible to take the Type Writing Test to be held on January, 1991. His admission to the Test is recommended.

Signature Sd/-

Name : (C.P. Choudhury)

Designation: Asstt. Director (Admn).

Ministry/ : SISI Guwahati-21  
Office Ministry of Industry

Place \_\_\_\_\_ Stamp/Genl \_\_\_\_\_

This endorsement should be signed by an Officer not below the rank of an Under Secretary or equivalent.

\*Whichever is 'NOT' applicable may be deleted.

\*\*\*

Attested.

Advocate.

18/7/96

ANNEXURE-VI

Phone : 25412, 25415, 25419,  
Telegram : SMALLIND

GOVERNMENT OF INDIA  
MINISTRY OF INDUSTRY  
SMALL INDUSTRIES SERVICE INSTITUTE  
BAMUNIMAIDAN, GUWAHATI-781021(Assam)

No.A-20017(28)/90

Dated the 22nd Jan'91

Memorandum

Shri Bharat Barman, Rool No. 4210001 is hereby instructed to appear before the Staff Selection Commission to participate in the Type Writing test to held on 23rd January 1991, 11.00 A.M. He should reach there at  $\frac{1}{2}$  an hour before the commencement of the test.

Sd/- (C.P. Choudhary )  
Asstt. Director (Admn. )  
SISI Guwahati.

✓

Attested.  
[Signature]  
Advocate.

ANNEXURE-VII

## STAFF SELECTION COMMISSION

ADMISSION CERTIFICATE

QUARTERLY TYPEWRITING TEST/~~TYPEWRITING TEST UNDER E.B.~~  
~~SCHEME (HINDI/ENGLISH)~~ TO BE HELD ON 23.01.91.

VENUE OF CENTRE : Regional Office (NER)  
 Staff Selection Commission,  
 Nabagraha Road, Chenikuthi,  
 Hillside, Guwahati-3.

TIME : 11.00 A.M.

NAME OF CANDIDATE: Shri Bharat Barman,

ROLL NO. : 4210001

\*\*\*

LIST OF CANDIDATE(S)

<u>SL.No.</u>	<u>NAME</u>	<u>ROLL NO.</u>	<u>POST HELD</u>	<u>CENTRE</u>
1.	Shri Bharat Barman	4210001	LDC(DR)	Guwahati.
2.				
3.				
4.				
5.				
6.				

Attached  
 B-2  
 18/7/96  
 Advocates

ANNEXURE<sup>3</sup>-VIII

Gram :SMALLIND

Tlx.235-2378 ASEX IN  
Phones : 2355 : 31152

Govt. of India  
Ministry of Industry  
Small Industries Service Institute  
Banunimaidan, Guwahati-21.

No.A.12021(1)/89/90

Dt.5.4.91

To

The Regional Director (NER),  
Staff Selection Commission,  
Chenikuthi, (Hill side),  
Guwahati-781001.

Sub : Quarterly Type-writing test held on 23.1.91  
results regarding.

Sir,

I am to state that this Institute has submitted demand for nominating 3 LDCs (one reserved for S/T) vide this office letter of even number dated 22.3.91.

Now it is seen that Shri Bharat Barman whose Roll No. is 2410001 has been qualified in Type-writing test (English) held on 23rd & 30th Jan'91 as circulated in your circular No.2/1/91-CI dated 6.3.91. Since Shri Bharat Barman is working in this Institute as LDC for the last 2 years and also gained experience to deal with various activities of this Department, it is requested that the name of Shri Barman may be set to this office for recruitment as LDC on regular basis. It is also requested to send the Dossier of Sri Barman for record in this office.

Yours faithfully,

Sd/- (C.P.Choudhury )  
Asstt. Director (Admn.)  
for Director.

NCO -

Shri Bharat Barman,  
LDC  
SISI, Guwahati-21.

Sd/- (C.P. Choudhury )  
Assistant Director (admn.).

Attd. 134.  
B-25  
23703:180196

GRAM : SMALLIND

Tlx. 23313379 ASEXIN  
Ph. 23155: 31152

Govt. of India  
Ministry of Industry  
Small Industries Service Institute,  
Bamuniasiden, Guwahati-21.

( A s s n )

No. A.12021(10/89

Dt. 29.4.91

To,  
The Development Commissioner,  
Small Scale Industries,  
Nirman Bhawan (7th floor)  
New Delhi-11.

Sub : Regularisation of Shri Bharat Barman to the post of  
LDC after qualifying in the Type-writing test  
conducted by SSC, Guwahati.

Sir,

I am to state that Shri Bharat Barman, was appointed as Ad-hoc Clerk-cum-Typist through Employment Exchange, Guwahati against Census Scheme as was sanctioned under your letter No. 16/3/85-Secit. Dated 15th Nov. '88. Shri Barman joined on 17.4.88 as Clerk-cum-Typist and since then he has been working in the Census Cell and his continuation against the Scheme has been extended upto 31.10.91 as communicated to this Institute under your letter No. A.110011/20/90-A(NG) Dated 27.2.91. Shri Barman during his service in this institute applied for confirmation to appear before Type-writing test held on 23.1.91 as a departmental candidate and he became qualified in the test conducted by Staff Selection Commission, Guwahati as notified by vide their Circular letter No. 2/1/91-CI Dt. 6.3.91 (copy enclosed).

Prior to this, this institute has placed indent to SSC, Guwahati for nominating 2 LDCs against the clear vacancy to be filled in SISI, Guwahati. Since Shri Barman has completed 2 years service satisfactorily, and also become experienced in his trade as LDC, it is felt necessary to be considered that Shri Barman is given a scope for regular appointment to the post of LDC in SISI Guwahati as he became qualified in the Type writing test as required under Recruitment Rules.

In this connection it is also mentioned that sanction of the post under Census Scheme is likely to be discontinued with effect from Nov. '91 and in the event of our failure to regularise Shri Barman as LDC against the clear vacancy then Shri Barman has to be terminated as soon as the scheme is discontinued.

In view of the position explained above, it is requested to communicate the approval of competent Authority to allow Shri Barman to be absorbed as LDC on regular basis in SISI, Guwahati.

This issues with the approval of the Director.

Yours faithfully,

sd/- (C.P. Choudhury)  
Asstt. Director.

Enclo : as above.

GOVERNMENT OF INDIA  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)  
Nirman Bhawan  
New Delhi-11.

No.A.60015/2/89-A(NG)

Dt. 17th May, 1991.

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

Sub. Regularisation of Shri Bharat Barman to the  
post of LDC after qualifying typewriting  
test conducted by SSC, Guwahati.

Sir,

I am to refer to your letter No.A.12021/1/89  
dated 30th April, 1991 on the above subject and to say  
that the matter has been examined. It is, therefore,  
regretted that Shri Bharat Barman, Ad-hoc LDC cannot  
be absorbed under a regular vacancy of LDC under your  
Institute as all regular vacancies of LDC are filled  
up through SSC only.

Yours faithfully,

Attested.

Advocate.

Sd/-J.R. Chopra,  
Section Officer (Admn.)



29

ANNEXURE - X

23

Date 28.6.91

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

(Through proper channel)

Sub : Regularisation of LDC post after qualifying  
the SSC test.

Sir,

I joined this Institute on 17.4.89 as Clerk-cum-Typist, in the scale of pay Rs.950-20-1150-EB-25-1500/-p.m. Initially this was an Ad-hoc appointment but it has continued since then and I have been granted yearly increment Earned leave, medical facilities etc. as per administrative Rules of Central Govt. servant from time to time which are granted to regular employees. The SISI had issued instructions to the Employment Exchange that I have been selected for appointment and hence my employment Exchange Card also was cancelled by the Exchange. As a result my name was not considered for any other employment.

I have already completed more than 2(two) years of service and have crossed the age for eligibility, for being considered for Government Service. I had therefore, prayed to the Department on 16th Oct. '90 to forward my name to the Staff Selection Commission as a departmental candidate which was most kindly accepted by the Director & application was sent to Staff Selection without concealing any fact about my appointment. The Staff Selection Commission accepted my candidature & allowed me to appear in the Typing test. It was confirmed by SSC, Guwahati that they hold typing test for the departmental candidate only. They do not have to appear in the full Examination as it is considered that the Govt. service done by the candidate is enough and only because the work of the departmental candidate has been found satisfactory by department has sponsored the candidate.

I successfully completed the examination and was declared successful. The result was duly forwarded to this Institute. It was expected that I would be regularised against a vacant post of LDC in this Institute. However, I have been informed that the DC office is not agreeable to my appointment. Under the circumstance my prayer may be forwarded to the DC (SSI) New Delhi for kind consideration.

Yours faithfully,

Sd/- (Bharat Barman)  
LDC SISI Guwahati.

Sd/- G.C. Modhi,  
Asstt. Director (EI/PI)  
dtd. 28.6.91.

DD(EI)

His case may be considered sympathetically  
If any comments/information is needed the  
same will be supplied by AD (EI/PI)

Sd/- K. Banerjee,  
By. Di. (EI),  
Dt 28.6

(Adm.)

Date 16.8.91.

To,  
The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

Sub : Regularisation of LDC post after  
qualifying the SSC Test.


Sir,

With reference to your Memorandum No.A.20017(28)/90 dated 22nd Jan'91 I beg to state that I appeared for test before that Staff Selection Commission Guwahati on dated 23rd Jan'91 for my regularisation to the post of LDC Result of the SSC published vide No.SSCG.1/2/91-Rect./972 dated 14th March, 1991 and a copy of the same also forwarded to you by the Staff Selection Commission for necessary action at your end. I therefore, fervently pray your good office to kindly regularise me to the post LDC w.e.f. the date of publication of the result. In this connection, I have already submitted a representation dated 28.6.91 for consideration of my prayer to regularise me against the existing vacant post of LDC under your administrative control.

Yours faithfully,

Sd/- Bharat Barman,  
LDC (Census).

Attested.

  
Advocate. 18/7/91

Dated 26.8.91

To

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

Ref: My representation dtd.1.4.91, dt.28.6.91  
dt.6.8.91.

Sub: Regularisation of LDC post after qualifying  
the SSC test.

Sir,

Kindly refer to my representation on the  
subject cited above. In this connection, I once again  
pray your honour to regularise me against the vacant  
post of LDC under your Administrative control. Since  
I have already qualified myself SSC test conducted  
by the SSC Guwahati.

With humble submission.

Yours faithfully,

Sd/- Bharat Barman,  
LDC (Census)  
SSSI Guwahati-21.

Attested.  
B. Barman  
Advocate.

PHONE : 23155/31950

GRAM:SMALLIND.

GOVERNMENT OF INDIA  
Ministry of Industry  
Small Industries Service Institute  
Bamunimaidan;Guwahati-21.

(A S S A M)

No.11013/1/88/8332

Dated 30.10.91  
31

## MEMORANDUM

As per terms and condition of appointment letter issued to Shri B.C. Barman, LDC-Cum-Typist recruited for Census work of this Institute is hereby relieved from his duty to-day that is on 31.10.91.

Sd/-

( C.P. Choudhury )  
Asstt. Director(Admn.)

To,

Shri Bharat Barman,  
SISI,Guwahati-21.

Copy to :-

1. The Development Commissioner, Small Scale Industries, Nirman Bhawan(7th floor) New Delhi-11. This has a reference to his letter No.A-110011/20/90-A(NG) dated 29-2-91 for information.
2. The Dy. Director(EI),SISI,Guwahati-21.
3. Pay & Account Officer,(SISI),Calcutta-35.
4. Accounts Section, SISI, Guwahati-21.

Sd/-

(C.P. Choudhury)  
Asstt. Director(Admn.)  
for, Director.

Attested  
by  
Advoc.  
31/10/91

CENTRAL

ADMINISTRATIVE

TRIBUNAL

C.A. No. 221/91.

For the petitioner: - Mr. S.K. Sharma, Mr. A.K. Choudhury, Adv.  
For the respondents: - Mr. A.K. Choudhury, Adv.

Date: 21.91

O.B.P.E.

Heard learned counsel  
Mr. S.K. Sharma on behalf of  
the applicant Shri Sharat  
Berman, also heard learned  
Addl. C.G.S.C Mr. A.K. Choudhury.  
Perused the grievance  
and prayers in the application.

This application is  
admitted. Mr. Choudhury  
takes notice on behalf of  
respondents No. 2 and 4 and  
prays for six weeks time  
to file counter. Time  
allowed as prayed for. Let  
notices be served on the  
remaining respondents under  
Registered post.

Heard counsel of the  
parties on the interim  
prayer. Perused letter No.  
A.110011/20/90-A(NG) dated  
29.10.1991 extending the  
period of service of the  
applicant upto 30.11.1991.  
Therefore the impugned  
Memorandum No. 11013/1/88/  
4432 dated 30/31.10.1991  
(Annexure XIII) becomes  
unenforceable. The applicant  
shall be treated to be  
in service and duty without  
break and shall continue as  
such until further orders  
from this Tribunal. The  
respondents are at liberty  
to approach this Tribunal  
for alteration, modification  
etc. if so advised.

List on 14th January  
1992 for orders.

Sd/-S. Haque,  
Vice-Chairman.

P.T.O.

21/91  
21/91

-2-

L.O.O. No. 3306

Date.. 26-11-91

Copy to:- 1. Mr. B.K. Sharma, Adv. for petitioner.

✓ 2. Mr. A.K. Choudhury, Adl. C.G.S.C.  
for information.

*W. 26/11/91*  
Deputy Registrar (J).  
*SC*

## CENTRAL ADMINISTRATIVE TRIBUNAL

ANNEXURE XV

GUWAHATI BENCH

Original Application No. 221 of 1991

Date of decision : This the 15th day of September, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (A).

Shri Bharat Barman,  
LDC-cum-Typist, in the  
office of the Small Industries  
Service Institute,  
Bamunimaidan, Guwahati-21

..... Applicant

By Advocate M. Chanda for Mr. B.K. Sharma.

-versus-

1. Union of India, represented by  
the Secretary, Ministry of Industry,  
Nirman Bhawan, New Delhi-11.
2. The Development Commissioner,  
Small Scale Industries,  
Ministry of Industry,  
Nirman Bhawan, New Delhi-11
3. The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21
4. The Regional Director (NER),  
Staff Selection Commission,  
Nabagraha Road, Chenikuthi,  
Guwahati-3

... Respondents.

By Advocate Mr. A.K. Choudhury, Addl. C.G.S.C.

ORDER

CHAUDHARI J (VC).

The applicant who was appointed purely on  
temporary basis against a temporary post for a fixed  
duration seeks regularisation in a permanent post of  
Lower Division Clerk which has been refused by the  
respondents on the ground that that is not permissible  
to do under the recruitment rules Although the service

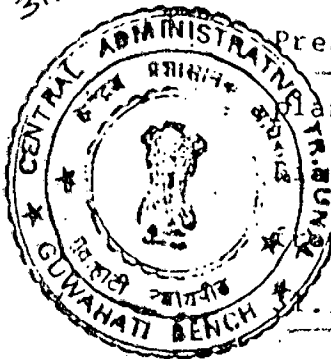


of the applicant came to an end on 31.10.91 he ha continued to work as LDC under protective umbrella of the interim order passed by this Tribunal.

Initial appoint ment.

2. The applicant was offered an appointment as Clerk-cum-Typist in the Small Industries Service Institute, Guwahati by order of the Assistant Director dated 12.4.1989 Annexure-I. The order states that on recommendation of the D.P.C. dated 4.4.89 the offer of appointment was issued on purely temporary basis at a consolidated pay of Rs.850/- per month. It was further stated that the appointment was exclusively for a period of 18 months for Census Liaison Cell, SISI, Guwahati. The further condition stated was that the applicant will have no right to claim regular appointment in future for that post and he was liable to be terminated at any time without assigning any reason. That offer was accepted by the applicant and he was so appointed. By order dated 2.8.89 passed by the same authority (At Annexure-II) his pay was fixed at Rs. 950/- in the scale of Rs. 950-20-1150-EB-25-1500 and he was made eligible to get usual allowances as admissible under the rules.

Extension  
8. Post upto  
31.12.91



3. By order dated 25.11.88 issued by the Govt. of India, Ministry of Industry, Office of the Development Commissioner, Small Scale Industries, sanction of the President was conveyed for creation of non-gazetted plan posts temporarily for a duration of 18 months for Liaison Cell at SISIs. That period came to be extended from time to time and finally it was extended upto 31.12.91. Thus the post against which the applicant was



6. -3- 7-

pointed did not continue as a sanctioned post after that date. The appointment of the applicant was in the Census Liaison Cell and that is how the post was not available for his continuation after 31.12.91.

4. By the impugned order dated 31.10.91 (Annexure-XIII) issued by the Assistant Director (Admn.) SIS1, Guwahati the applicant has been relieved from his duty on 31.10.91. It has been stated in the order that as per terms and conditions of appointment letter the applicant recruited for Census work of the Institute was relieved.

5. Since the appointment of the applicant was against a temporary post which post itself had ceased to exist his temporary appointment cannot be continued and thus he is not entitled any relief to be granted for being continued against that post. His appointment was clearly subject to the terms and conditions of the letter of appointment and the order of termination of service being in accordance therewith that cannot be held illegal.

6. The grievance of the applicant however is that he became eligible for being absorbed against a regular post of LDC in the SIS1 Institute which had no connection with the posts created under Census Liaison Cell. His grievance is that the respondents have deprived him of that right and he should be directed to be regularised.

In the background of the above facts he has prayed that the order of termination of service dated 31.10.91 and the communication from the Govt. of India



Prayer

Attorney  
Advocate

Relieved from duty

Finding

\* Main grievance

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to the Director SISI, Guwahati dated 17.5.91 may be quashed and set aside and the respondents be directed to regularise his services with retrospective effect from the date of his joining and extend him the consequential benefits.

Circumstances for seeking regularisation.

Attending circumstances with backdrops of which provision for regularisation was made.

8. The ground for seeking regularisation to the regular post is based upon the following circumstances. On 16.10.90 the applicant requested the Director SISI, Guwahati to forward his application to the Regional Director, Staff Selection Commission for permitting him to appear at the quarterly examination to be held in the month of December 1990 for regularisation of temporary/adhoc candidates since it was necessary to appear at the said examination for regular appointment. The Institute gave its no objection for applicant's appearing at the said examination and that was conveyed to the Staff Selection Commission vide Annexure-IV dated 1.11.90. An application Form duly filled in and signed by the applicant was also forwarded by the Institute to the Staff Selection Commission vide Annexure-V dated 29.11.90 together with endorsement for sympathetic consideration for the post of LDC. The Staff Selection Commission instructed the applicant to participate in the type writing test to be held on 23.1.91 by letter dated 22.1.91 Annexure-VI. The applicant qualified at that type writing test.



Attended by Asst. Dir.

It appears that by that time 3 regular vacancies of LDCs became available in the Institute at Guwahati. The Assistant Director (Administration) of Institute requested the Staff Selection Commission by

Recommendation

L.C.A.

letter dated 5.4.91 Annexure-VIII that since the applicant had qualified at the type writing test and as he had been working in the Institute as LDC for two years and had gained experience to deal with various activities of the Department he may be sent to the office of the Institute for recruitment as LDC on regular basis. The Assistant Director also made recommendation to the Development Commissioner, Small Industries Service Institute by letter dated 29.4.91 Annexure-IX for absorbing the applicant against a regular post of LDC. In that letter he pointed out that as the temporary post in the Census Cell was likely to be discontinued within a short time and the applicant had become qualified in the test conducted by the Staff Selection Commission it was felt necessary to consider that he be given a scope for regular appointment to the post of LDC as he had become qualified in the type writing test as required under recruitment rules. He also stated that the applicant had completed two years service satisfactorily. He also expressed apprehension that in the event of the failure of the department to regularise him against the clear vacancy his service may have to be terminated as soon as the Census Scheme was discontinued. He made a request that the applicant may be allowed to be absorbed. However by letter dated 17.5.91 (Annexure IX A) the Development Commissioner declined to accept the request of the Assistant Director stating that since adhoc LDC cannot be absorbed in the regular vacancy of LDC and as all regular vacancies of LDCs are to be filled up through



Annexure 8  
and 9 recommended

Received

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Staff Selection Commission only the request could be accepted. The applicant persisted in requesting regularisation by representations dated 26.6.91, 16.8.91 and 26.8.91.

10. It appears that in connection with the application of the respondents for vacating the interim stay being in M.P. No. 173/91 certain queries were made by the Tribunal by order dated 7.1.92 to the Director, SISI, Guwahati. The reply submitted by the Director dated 21.2.92 which forms part of the proceedings of the M.P. reveals that the view taken by the Directorate was that the applicant could not be allowed to continue in the regular post inasmuch as the recommendation made by the local authorities was not accepted by the Director on the ground that the applicant failed to qualify at one of the parts of Clerk Grade Examination 1989 and was deemed to have failed in the examination and since all the appointments on regular basis had to be made through Staff Selection Commission and since he was not recommended by the Staff Selection Commission he could not be regularised. It was stated that the application of the applicant was considered most sympathetically but as he could not be absorbed in breach of the recruitment rules as it was not possible to regularise him as LDC.

11. This has to be understood in the context of submission made by the Staff Selection Commission as Respondent No. 4 in the aforesaid M.P. The purport of the submission is that since candidates appointed on adhoc basis are not eligible for the quarterly type writing test and as the applicant was allowed to appear at the quarterly type writing test because the



Reply to the respondent as to why the applicant cannot be regularised

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-7- 36 - 105

Institute had forwarded his name due to wrong interpretation of law relating to the rules for the quarterly type writing test <sup>though</sup> he was appointed on adhoc basis. ~~and was not eligible, he was not recommended.~~

12. It is now the stand of the respondents 1 to 3 in the written statement that although the Institute had recommended the name of the applicant to the Staff Selection Commission with whom lies the recruitment to the posts of LDC, but <sup>has with the Commission</sup> The Commission which has got its own selection standard. The candidates who apply in pursuance of advertisement have to appear for an interview and a written test whereupon the selection is made by the Commission and therefore although the Institute had recommended the name of the applicant that did not amount to selection by the Commission and the applicant ~~therefore~~ could not be regarded as selected candidate and could not be appointed on regular basis within the terms of the recruitment rules.

13. The position that therefore emerges is that while the Institute at Guwahati was of the view that the applicant was fit to be regularised against the available vacancy and had done everything in that direction as was within their power but eventually the

Directorate did not agree to their recommendation on the ground that the Staff Selection Commission had not recommended the name of the applicant. That stand of the Directorate cannot be held to be illegal.

14. In the anxiety of the Institute to secure the regularisation of the applicant they seem to have given no objection for the participation of the applicant at

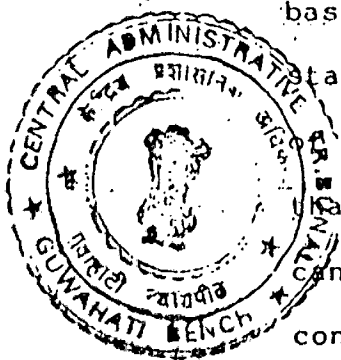


the quarterly examination conducted by the Staff Selection Commission. The Staff Selection Commission on its own part did not decline permission to the applicant to appear at the said examination which was part of the process for final selection by scrutinising the position under the recruitment rules before the examination was held. Indeed by letter dated 10.4.91 Annexure-M to the M.P. the Regional Director of the Staff Selection Commission had written to the Assistant Director SISI Institute that :

"Quarterly type writing test conducted by the Staff Selection Commission is a Departmental Examination and the candidates who are appointed on ad hoc basis, Compassionate ground and promotee from Group 'D' posts are eligible for this test".

However it was stated with reference to the letter of the Institute forwarding the application of the applicant that he appears to be a temporary Lower Division Clerk in the Institute and it was not clear as to whether he was a regular employee and why his application was forwarded to participate in the quarterly type writing test.

15. The portion quoted above from the letter clearly means that even persons appointed on ad hoc basis were eligible to appear at the test. That statement and what is stated in the written statement of the Staff Selection Commission dated 10.2.92 namely that this opportunity is not available to the candidates appointed on ad hoc basis creates a conflicting situation. If the letter dated 10.4.91 reflected the correct position then forwarding the name of the applicant by the Institute and the act of



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- 12 -

permitting him to appear at the examination on the part of the Staff Selection Commission should be sufficient to permit his appointment on regular basis. The Directorate however has acted consistently with the stand of the Commission dated 10.2.92. We are however unable to know as to exactly under what provision of the recruitment rules it has so acted as none of the parties have bothered to produce the said rules. The queries made by the Tribunal earlier should have been dealt with <sup>and all aspects explained</sup> ~~all these aspects~~. After all the applicant cannot be held responsible for the mistakes committed by the Institute or the Staff Selection Commission. We are also unable to know as to how the Staff Selection Commission <sup>in its stand</sup> could be inconsistent at different stages. Even though the applicant could be eligible only in accordance with the recruitment rules the conduct of the Institute and the Staff Selection Commission was sufficient to give him the impression that his case was being considered in accordance with the recruitment rules. It was not therefore fair on the part of the Directorate to place its finger on the technicality of non-compliance with the recruitment rules <sup>in</sup> by its letter ignoring the spirit behind the recruitment rules and the fulfilment of the requirements substantially by the applicant aided by the conduct of the Staff Selection Commission. The Directorate took a stiff stand as reflected in the letter dated 31.10.91 Annexure-0 to the M.P. in the

Following terms :

"...Since these are Group C non-technical posts recruitment to these posts falls within the purview of the Staff Selection Commission. In view of this, regularisation of the said adhoc appointees in relaxation of the recruitment procedure cannot be agreed to".



44  
-13-

It is not clear to us whether the letter of the Selection Commission dated 10.4.91 had been available to the Directorate when this view was taken.

16. The circumstances therefore inevitably lead to the conclusion that this is pre-eminently a fit case for the Directorate to consider the appointment of the applicant on regular basis as Lower Division Clerk in an existing vacancy if necessary by giving relaxation in the condition of the recruitment procedure as for the loss of the job suffered by the applicant the blame has to be shared by all concerned. The applicant has not protected himself by making any application to the Staff Selection Commission. There is room to believe that had the Institute not sent his name officially to the Staff Selection Commission he might have done so. The Staff Selection Commission after having permitted him to appear at the test was not justified in not considering his candidature for selection. The stand of the respondents is also a shifting stand. At one stage it was stated that the name of the applicant was not recommended by the Staff Selection Commission. At another place it is pointed out that he had failed to qualify one of the two parts of Clerks Grade Examination 1989 and he was deemed to have failed in the examination. That was on the basis of the report of the Staff Selection Commission. There is room to take the view that the Staff Selection Commission was itself not very certain as to how the candidature of the applicant was to be treated and has taken different stands at different stages. That is the further circumstance to deserve a fresh and sympathetic consideration by the Directorate despite the fact that they had declined to consider the question of regularisation earlier.





17. Since the defence based on the technical plea that the requirement of the recruitment rules is not fulfilled by the applicant it is not possible for us to direct the respondents to regularise the applicant straight away. We have therefore recommended the matter for fresh consideration by the Directorate. However having regard to the legal hurdle we have to decline relief to the applicant in terms he has prayed for on the ground <sup>that</sup> he did not acquire any vested right which can be said to have been denied by the respondents by the impugned action.

In the result subject to the observations made above the O.A. is disposed of. However in order to enable the Directorate to apply their mind afresh to the case of the applicant in the light of the observations made above we continue the interim order of stay dated 25.11.91 for a period of <sup>3</sup> months from today. The interim order shall stand automatically vacated after that period unless further extended by this Tribunal. The applicant is given liberty to send a copy of this order to the Directorate through the SISI, Guwahati for necessary consideration.

No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Certified to be true Copy

प्रमाणित प्रतिलिपि

*[Signature]* 21/11/95

COURT OFFICER

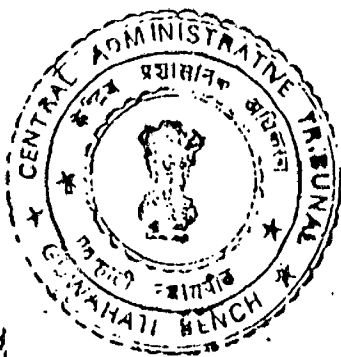
न्यायालय अधिकारी

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

Guwahati Bench, Guwahati-8

गुवाहाटी न्यायालय, गुवाहाटी-8



trd

*[Handwritten signatures and initials]*

*why tribunal is unable to give relg.*

38

45

-14-

65

Page - 108

101-8-11-95

Sub : Prayer for regularisation of service pursuant to judgement and order dt.15.9.95 in O.A.221/91.

With due deference and profound submission I beg to state that the Hon'ble CAT, Guwahati Bench has delivered judgement in the case filed by me seeking regularisation of my service. A copy of the judgement is sent herewith which will speak for itself.

I am sure that your honour will appreciate that there is enough indication in the judgement that my service should be regularised on a reconsideration of the matter. You must be aware that vacancies are available at SISI Guwahati and I have already been adjusted against a regular post. I have also been granted all service benefits like that of any other regular employee. You are also aware that my name was recommended to the SSC for regularisation of my service and I came out successful in the examination conducted by the SSC.

Now I am aged about 35 years and thus ineligible for any fresh central Govt. job. If my service is not regularised in terms of the observations, hope and desire expressed by the Hon'ble Tribunal, I will suffer irreparable loss and injury and my family will lead to starvation which is completely dependent on my meagre income.

Should your honour graciously be pleased to regularise my service and thereby extend your protective hands over my family which will provide the much needed mooring, I shall bound to your honour in deep gratitude.

Yours faithfully,

( Bharat Barmen )  
Cl. cum-Typist.

Small Industries Service Insstt.  
Domunimaidem, Guwahati-781021.

SECRET

11/17/50 / Mr. [unclear] / CIAC / (MT, / Lend /  
ZIM / (Circles / Food / Anc. / (Meds / P. A. /  
Edg. / / / Acct. / Hindi /

NOV 1950

Director

फोन-3019311 (7 लाइनें)

301-66259, दो-सी-एन-आई-

संयुक्त विकास, नई दिल्ली

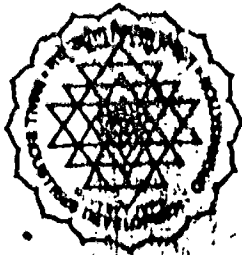
महिला, विकास आयुक्त (लघु उद्योग)

लघु, कृषि एवं ग्रामीण उद्योग विभाग

उद्योग मंत्रालय, भारत सरकार

निर्माण भवन (दक्षिणी खंड), सातवीं मंजिल

मौलाना आजाद रोड, नई दिल्ली-110011



Phone : PABX-3019311 (7 Lines)

Telex : 031-66259 DCSI

Telegram : SMALLINDEVCOM, NEW DELHI

OFFICE OF THE  
DEVELOPMENT COMMISSIONER  
SMALL SCALE INDUSTRIES

Deptt. of SSI, Agro & Rural Industries

Ministry of Industry, Govt. of India

NIRMAN BHAVAN (SOUTH WING), 7TH FLOOR  
MAULANA AZAD ROAD, NEW DELHI 110011

C-18013/13/91-A(NG)

संख्या / No. ....

दिनांक / Dated, the 21/12/95

To

The Director,  
Small Industries Service Institute,  
Guwahati.

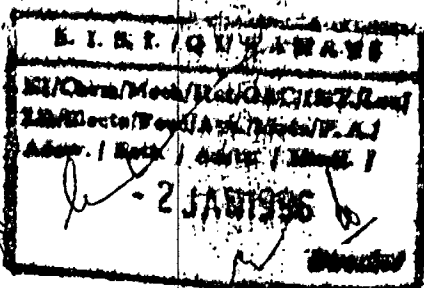
Subject :- M.P.No. 81/95 in O.A. No. 221/91 filed by  
Shri Bharat Barman, L.D.C. regarding regulari-  
sation of his services in SISI, Guwahati.

Sir,

I am to refer to your letter No. C-14014(10)/91/  
Vol-II/400 dated 13.11.95 on the subject mentioned above  
and to request you to furnish the following information  
to this H.Qr. immediately for further necessary action  
in the matter :

1. Whether Shri Bharat Barman is drawing a consoli-  
dated salary or is he in a regular scale.
2. Pay of Shri Barman w.e.f. 1.1.92 till date and  
details thereof.
3. Status of Shri Barman as on 1.1.92.
4. Status of Shri Barman at present.
5. Whether the post Shri Barman is holding is under  
the cadre of SISI, Guwahati.

Yours faithfully,



(O.A. CHAKRAVARTY)  
DEPUTY DIRECTOR (ADMIN.)

31950, 23155, 32360  
: सीमा-31152, निवास-25477  
: समाचार  
भारत सरकार  
उद्योग मंत्रालय  
सबु उद्योग सेवा संस्थान  
बामुनीमैदान, गुवाहाटी-781021, असम



48  
SPEED POST.

सूचक नं. : 235-2379 ASEA IN  
Phone : PBX 31950, 23155, 32360 Director : Direct 31152  
Residence 25477  
Telegram : SMALLIND : 550083/550073/550298  
GOVERNMENT OF INDIA  
MINISTRY OF INDUSTRY  
SMALL INDUSTRIES SERVICE INSTITUTE  
BAMUNIMAIIDAN, GUWAHATI-781021 (Assam)

ANNEXURE - XVIII

संख्या.....  
C-14014(10)/91.Vol-II.  
No.....

दिनांक.....  
Dated the... 8th. January. 1998.....

To,  
The Development Commissioner,  
Small Scale Industries,  
Nirman Bhawan, (7th floor)  
NEW DELHI-110011.

Kind Attention :- Mr. O.A. Chakraborty, Dy. Director (Admin.).

Subject :- M.P.No. 81/93. in O.A.No. 221/91. filed by Shri Bharat Barman,  
LOC, regarding regularisation of his services in SISI, Guwahati.

Sir,

In response to your letter no. C-18013/13/91-A(NG). Dtd. 21-11-95.  
regarding the subject cited above, the requisite information as desired by  
you is furnished below :

1. Shri Bharat Barman is drawing his salary in a regular scale of  
Rs. 950-20-1150-BB-25-1500/- w.e.f. from 20-4-89, vide DC(SSI) New Delhi's Order  
No. 16/3/88, Stat. Dated 25-11-88.
2. Shri Barman is drawing his pay w.e.f. 1-1-92 as follows :

Dt./Month/Year	Basic	D.A.	H.R.A.	C.C.A.	I.R.	GROSS
1-1-92.	990/-	594/-	250/-	40/-	--	Rs. 1874/-
1-4-92.	11010/-	717/-	1250/-	40/-	--	Rs. 2017/-
1-4-93.	1030/-	855/-	250/-	40/-	--	Rs. 2175/-
1-4-94.	11050/-	1092/-	250/-	40/-	100/-	Rs. 2532/-
1-4-95.	11070/-	1338/-	250/-	40/-	100/-	Rs. 2932/-

3. Status of Shri Barman as on 1-1-92. is : As Temporary LOC as per  
DC(SSI) New Delhi's letter no. C-18013/13/91-A(NG). Dtd. 11.11.92. (copy enclosed).

4. Consequent upon the stay order for 6(six) months granted by  
Hon'ble C.A.T. Guwahati Bench vide order dated 15-9-95, he is working as LOC.

5. Shri Barman is holding the post of LOC under the cadre controlling  
authority of SISI, Guwahati. He is presently holding a clear vacant post of  
LOC under the control of SISI, Guwahati.

Yours faithfully,

( P.C. DAS. )  
Assistant Director (Admin.)  
for Director.

bb

49  
42  
ANNEXURE - XIX

BY SPEED POST

No. C-18013/13/91-A(NG)  
Government of India  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)

705 "A" Wing, Nirman Bhavan,  
New Delhi - 110 011

Dated: 17th April, 1996

To,

Shri A.K. Sarkar,  
Director,  
SISI Gauhati,  
Bamunimadan,  
Gauhati - 781 021

Sub : QA No 221/91 filed by Shri Bharat Barman, LDC  
Regarding regularisation of his services in SISO  
under SISI Gauhati - Implementation of directives  
given by Honourable CAT Gauhati Bench.

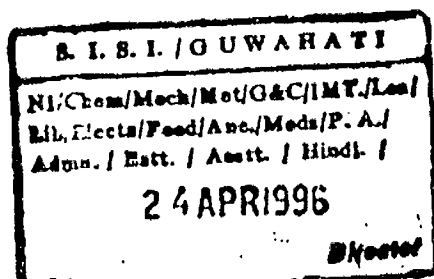
Sir,

Please refer to correspondence resting with your letter  
No C-1401/(10)/91.Vol.II/5624 dated 7 Feb 96 on the above  
subject.

In pursuance of the directive of the Hon'ble CAT  
Gauhati Bench vide judgement dated 15.9.95 the competent  
authority has considered afresh the request of Shri Barman for  
regularisation in the grade of LDC. It has been decided that on  
consideration of the provisions regarding rules and procedures of  
recruitment to the post of LDC, Shri Barman is not eligible for  
regular appointment as LDC. Shri Barman's services may therefore  
be terminated on vacation of the Stay Order granted by the Hon.  
CAT Gauhati Bench. A copy of the action taken may be endorsed to  
this HQ immediately for our reference and record.

Yours faithfully,

(O.A.CHAKRAVARTY)  
DEPUTY DIRECTOR (ADMN.)



( S.CHAKRABARTY )  
ASSTT.DIRECTOR(ADMN.)  
FOR DIRECTOR.

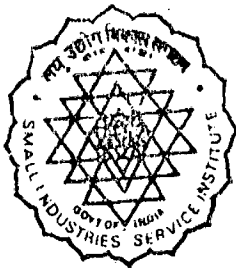
Attested  
[Signature]  
Advocate

50

ANNEXURE - XXA

PHONE-550052

टेलीफोन : 235-2379 ए.एस.ई.एक्स इन  
 फोन : पी.बी.एक्स 31950, 23155, 32360  
 निदेशक : सीधा-31152, निवास-25477  
 तार : स्माल इंड  
 भारत सरकार  
 उद्योग मंत्रालय  
 लघु उद्योग सेवा संस्थान  
 बामुनीमैदान, गुवाहाटी-781021, असम



Telex No. : 235-2379 ASEX IN  
 Phone : PBX 31950, 23155, 32360 Director : Direct 31152  
 Residence 25477  
 Telegram : SMALLIND ANNEXURE - C  
 GOVERNMENT OF INDIA  
 MINISTRY OF INDUSTRY  
 SMALL INDUSTRIES SERVICE INSTITUTE  
 BAMUNIMAIDAN, GUWAHATI-781021 (ASSAM)

दिनांक

Dated the..... 10-6-1996

संख्या

No..... C-14014/10/91/852

MEMORANDUM

Consequent upon the order issued by Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, dated 7-6-96 in M.P.No. 76/96(OA - 221/91), the services of Sri Bharat Barman LDC of this Institute, stands terminated.

To  
 ✓ Shri Bharat Barman, LDC  
 SISI, Guwahati-21

*A.K. SARKAR*  
 ( A.K. SARKAR )  
 DIRECTOR

Copy to:

- 1) The Development Commissioner (SSI),  
 Nirman Bhavan, 7th floor, New Delhi-11- for information along with  
 a copy of the Hon'ble C.A.T.'s order dated 7-6-96.
- 2) The Accounts Officer,  
 Pay & Accounts Office (SSI), 111/112 B.T. Road, Cal-35.
- 3) The Accounts Section, SISI, Ghy

DIRECTOR

-0-

*Received*  
*on 12/6/96*  
*by*

**Attested.**  
*[Signature]*  
 Advocate

B. Barmen

Versus

Applicant.

D. O. I. & Org.

Respondents.

P R E S E N T

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER(A)  
THE HON'BLE SHRI D.C. VERMA, MEMBER(B)

For the Applicant : Mr. P.K. Sharma, Advocates.

For the Respondents: Mr. G. Sarma, Addl. C.G.S.C.

7.6.96

Mr. P.K. Tiwari for the petitioner (Applicant in O.A.).

Mr. G. Sarma, Addl. C.G.S.C. for the opposite parties (Respondents in O.A.).

In our order dated 15.9.95 in O.A. No. 221/91 in order to enable the Directorate to apply their mind afresh to the case of the applicant in the light of the observations made therein we had continued the interim order of stay dated 25.11.91 for a period of six months from 15.9.95 with a provision for further extension. Extension had been granted from time to time through M.P.s filed by the applicant. The last extension was granted on 5.6.96 upto today in the instant M.P. 76/96(O.A. 221/91) as a result of the request of the learned Addl. C.G.S.C. for adjournment. Today Mr. G. Sarma learned Addl. C.G.S.C. has produced a letter No. C-18013/13/91-A(NC) dated 17.4.1996. In this letter it has been conveyed that in pursuance of our order dated 15.9.95 above the competent authority has complied with the order dated 15.9.95. Under the facts and circumstances we consider that the extension of further stay of the interim order dated 25.11.91 is not necessary. The stay order dated 25.11.91 stands vacated.

The M.P. 76/96 is disposed of accordingly.

TRUE COPY

Section Officer (Judicial)  
Central Administrative Tribunal  
Guluanath Beach, Guwahati

Sd/- G.L. Sanglyine,  
Member(A)  
Sd/- D.C. Verma,  
Member(B)

Attested.  
Advocate.

52

File by  
Mr. B. B. Barman  
6.6.96

176  
6 JUN 1996  
12  
Sd/-  
Sd/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 85 of 1996

Shri Bharat Barman ... Applicant

- Versus -

Union of India & Ors. ... Respondents

I N D E X

<u>Sl.No.</u>	<u>Particulars of the documents</u>	<u>Page Nos.</u>
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4.	Annexure-II ...	17.
5.	Annexure-III ...	18.
6.	Annexure-IV ...	19.
7.	Annexure-V ...	20.
8.	Annexure-VI(A) ...	21 to 22.
9.	Annexure-VI ...	23.
10.	Annexure-VII ...	24.
11.	Annexure-VIII ...	25.
12.	Annexure-IX ...	26.
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Rem  
Golap Sarma  
ADD CHSC  
CAT. Guwahati  
6/6/96

For use in Tribunal's Office :

Date of filing : 6-6-96  
Registration No.: OA 85/96

REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O. A. No. 85 of 1996

BE TWEEN

Shri Bharat Barman  
LDC-cum-Typist in the  
office of the Small Industries  
Service Institute,  
Bamunimaidan, Guwahati-21.

..... Applicant

AND

1. Union of India, represented by  
the Secretary, Ministry of Industry,  
Nirman Bhawan, New Delhi-1.
2. The Development Commissioner,  
Small Scale Industries  
Ministry of Industry,  
Nirman Bhawan, New Delhi-11.
- ✓ 3. The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.
4. The Regional Director (NER)  
Staff Selection ~~Board~~ Commission,  
Nabagraha Road, Chenikuthi,  
Guwahati-21.

... Respondents

### DETAILS OF APPLICATION

1. Particulars of the order against which the application is made :

The application is directed against non-regularisation of the service of the applicant and termination of his service vide Memo No. A. 11013/1/88/4432 dated 30/31-10-91 and communication under No. C-18013/13/91-A(NG) dated 17.4.96.

- ## 2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which ~~he~~ wants redressal is within the jurisdiction of the Tribunal.

Con t d. . . P / 2.

(Bhorat - Barman).

3. LIMITATION :

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

4. Facts of the case :

i) That the applicant is a citizen of India and permanent resident of Assam and as such, he is entitled to all the rights and protections guaranteed by the Constitution of India.

ii) That the applicant hails from a very poor family and his family members are dependent on his meagre income. Due to his poverty, he could not prosecute his further study after passing the P.U. (Arts) Examination

iii) That the applicant entered into the services of the Small Industries Service Institute (SISI) under the Ministry of Industries at Bamunimaidan, Guwahati-21 as Clerk-cum-Typist by an order No.A.11013(1)/88 dated 12.4.89. Initially the applicant was given a consolidated pay of Rs.850/- per month. However, later on by an order No.A.11013(1)/88 dated 2.8.89 his pay was fixed at Rs.930/- in the scale of Rs.930-20-1150-EB-25-1500/-. The said order was issued in terms of order No. 16/3/85-Stat dated 26.11.88 stated to be issued from the office of the Respondent No.2. However, the copy of the same was not given to the applicant. It will be pertinent to mention here that the appointment of the applicant was preceded by a selection from amongst the candidates sponsored by the Employment Exchange. Many candidates appeared in the selection. The applicant could get his appointment after due selection.

Contd....P/3.

✓

Copies of the order dated 12.4.89<sup>and 2.8.89</sup> are annexed herewith as ANNEXURES-I and II respectively.

iv) That ever since the appointment of the applicant, as aforesaid, he has been serving as such to the satisfaction of all concerned and at no point of time, he was ever communicated with any adverse remark. The applicant having come to know from the office of the respondent No. 4 that the Central Government employees who have been working on temporary basis could appear in the selection conducted by State Selection Commission (SSC) for regularisation of their services, submitted an application dated 16.10.90 to the respondent No. 3 making a request to him to forward his application to the respondent No. 4 to avail such chance. Accordingly, his application was forwarded to the office of the respondent No. 4 with the remark of 'no objection'.

The copies of the said application dated 16.10.90 and a ~~no~~ objection certificated dated 1.11.90 are annexed herewith as ANNEXURES-III and IV respectively.

v) That thereafter the applicant having come to know that while forwarding his application to the respondent No. 4 with the no objection certificate, the duly filled in application form was not forwarded by the office of the ~~app~~ respondent No. 3 inadvertently and accordingly, the applicant by his letter dated 21.11.90 made a request to the respondent No. 3 to forward his duly filled in application form submitted earlier on. Thereafter, the office of the respondent No. 3 was pleased to forward his duly filled in application form to the office of the respondent No. 4 by its letter dated 29.11.90.

Contd...P/4.

h

A copy of the said letter dated 29.11.90 along with the copy of the filled in application form is annexed herewith as ANNEXURES-V & V(A) respectively.

vi) That thereafter as instructed by the office of the respondent No.4, the respondent No. 3 by a Memo No. A.20017(28)/90 dated 22.1.91 instructed the applicant to appear before the SSC on 23.1.91. The applicant was also issued with an admission certificate by the SSC. The applicant duly appeared in the said selection and came out successful.

Copies of the Memo No.A.20017(28)/90 dt. 22.1.90 and admission certificate are annexed herewith and marked as ANNEXURES-VI and VII respectively.

vii) That after the aforesaid selection, the applicant by his representation dated 1.4.91, before the respondent No. 3 made a request to accommodate/regularise him as LDC mentioning therein about a vacant post of LDC in the office of the respondent No.3. The respondent No. 3 by his letter No. A.12021(1)/89/90 dated 5.4.91 requested the respondent No. 4 to send the name of the applicant for recruitment of LDC on regular basis. In the said letter, it was also mentioned about the demand made for nominating 3 LDCs, one reserved for ST candidate.

A copy of the said letter dated 5.4.91 is annexed herewith as ANNEXURE-VIII.

viii) That the respondent No.3 by his letter No.A.12021(1)/89 dated 29.4.91 addressed to the respondent No. 2 made a request to communicate the approval of the competent authority to allow the applicant to be absorbed as LDC

on regular basis in the SISI, Guwahati. In the said letter, the selection of the applicant by the SSC was mentioned. It was also mentioned about the placing of indent to the SSC for nominating LDCs against the clear vacancies. It was further mentioned that the service rendered by the applicant is satisfactory and he has also gained experience.

A copy of the said letter dated 29.4.91 is annexed herewith as ANNEXURE-IX.

ix) That when the applicant was cherishing in his mind that his service will be regularised he was surprised to receive a letter No. A.. 60015/2/89-A(MT) dated 17.5.91 issued from the office of the respondent No.2 to the respondent No. 3 expressing their inability to regularise the service of the applicant. On receipt of a copy of the same, the applicant submitted a representation to the respondent No. 3 on 28.5.91 praying for regularisation of his service with the further request to place his prayer before the respondent No.2. The respondent No. 3 forwarded the application to the respondent No. 2 with the request to consider his case sympathetically with further observation that if any comments/information is needed, the same would be supplied. The applicant having not heard anything in the matter, again submitted a representation dated 6.8.91 by way of a reminder to the respondent No. 3 followed by another reminder dated 26.8.91.

Copies of the said letter dated 17.5.91 representation dated 28.6.91 and reminders dated 6.8.91 and 26.8.91 are annexed herewith as ANNEXURES-IX(A), X, XI, & XII.

Contd....P/6.

J

x) That the applicant was surprised to receive the impugned Memo No. 11013/1/88/4432 dated 30/31-10-91 relieving him from his duty on and from the same date. The said memo has come as a bolt from the blue to the applicant inasmuch as after the aforesaid submission of representation by him, he was cherishing in his mind that his services would be regularised more so in view of the fact that he came out successful in the selection conducted by SSC.

A copy of the said memo dated 30/31-10-91 is annexed herewith as ANNEXURE-XIII.

xi) That the applicant came to know that the respondent No. 2 by his letter No. 16(3)/85-Stat dated 29.10.91 addressed to the respondent No. 3 had been pleased to extend the services of the applicant. However, ~~the~~ he could not obtain a copy of the same but could obtain the letter number and date as indicated above. For the reasons best known to the respondent No. 3, the services of the applicant had not been extended and he was not allowed to resume/rejoin his duties. Accordingly, the applicant by his representation dated 15.11.91 to the respondent No. 3 urged upon him to allow him to continue in service in terms of the sanction given by the respondent No. 2. However, he was not allowed to rejoin/resume his duties though he had been regularly attending office.

xii) That the applicant states that the aforesaid action/inaction on the part of the respondents is grossly illegal and nothing but deprivation of ~~the~~ his legitimate claim of regularisation to his service. He had acted as per

per promise made out to him for regularisation of his service but the respondents flouted with their own promise and instead of regularising him in his service had decided to terminate his service which is grossly illegal and not sustainable.

xiii) That the applicant states that he had made enquiries in the office of the respondent No. 4 as regards regularisation of his service as LDC. The officials therein had told in categorical terms that his services was required to be regularised in view of the selection by the SSC inasmuch as such selection are conducted only for such temporary employees. The officials had also observed that since there was an indent of a few posts of LDC from the office of the respondent No. 3, the applicant could easily be regularised in one of such posts after his due selection by the SSC as aforesaid.

xiv) That being faced with such a situation the applicant had filed O.A. No. 221/91 making a grievance against the order dated 30/31-10-91 (Annexure-xiii) before this Hon'ble Tribunal. The Hon'ble Tribunal while admitting the case by its order dated 25.11.91 was pleased to pass an interim order to the effect that the applicant shall be treated in service and ~~xxxx~~ on duty without break and shall continue as such until further orders. The interim order was ~~be~~ passed for the reasons recorded in the order itself.

A copy of the order dated 25.11.91 is annexed herewith as ANNEXURE-XIV.

xv) That the aforesaid O.A. was disposed of by the judgment and order dated 15.9.95 directing the respondents to apply their mind afresh to the case of the applicant

in the light of the observation made in the judgment. The Hon'ble Tribunal was further pleased to extend the aforesaid order dated 25.11.91 for a period of 6 months enabling the respondents to apply their mind afresh to the case of the applicant.

A copy of the Judgment dated 15.9.95 is annexed herewith as ANNEXURE-XV.

xvi) That after the aforesaid judgment it has been the reasonable and legitimate expectation of the applicant that he would be regularly absorbed in service and to that effect appropriate order would be passed by the Competent Authority. The applicant pursuant to the judgment and submitted his representation dated 8.11.95 to the respondent No.2 regarding regularisation of his services.

A copy of the said representation dated 8.11.95 is annexed herewith as ANNEXURE-XVI.

xvii) That the respondents also took up the matter of the applicant's regularisation in service and to that effect made queries vide their letter No.C-18013/13/91-A(NG) dated 2.12.95 to which necessary reply was furnished vide their letter No.C-14014(10)91.Vol.II dated 5.1.96.

Copies of the letter dated 2.12.95 and letter dated 5.1.96 are annexed as ANNEXURES XVII and XVIII.

xviii) That in view of the aforesaid developments, the applicant was very much hopeful that his services would be regularised more so in view of vacancies being available



and the applicant having been holding a regular post with all the benefits of a regular employee as indicated in Annexure-XVIII letter dated 5.1.96. The applicant has been granted all other facilities like that of any other employee and his service book has also been opened. Thus for all practical purposes and intent the applicant is a regular employee of the SISI, Guwahati.

xix) That the applicant being not communicated with any decision in the matter and being faced with a situation in which the period of 6 months fixed by this Hon'ble Tribunal in its aforesaid judgment dated 15.9.95 the applicant had to approach this Hon'ble Tribunal by way of filing Misc. Application one after another, ~~with~~ which were registered and numbered as M.P. No. 31/96, M.P. No. 46/96 and M.P. No. 76/96. By the orders passed in those M.Ps. the time limit ~~of~~ originally fixed in the judgment was further extended. Lastly the time limit has been extended up to 7.6.96 by order dated 31.5.96 passed in M.P. No. 76/96. The applicant on the strength of these orders passed in the M.Ps. has been continuing in service as before. He was on earned leave for the period 20.5.96 to 4.6.96. During this period he pursued the matter even by going to Delhi from where he has come back on 30.5.96. He has resumed his duties on 5.6.96. During his visit to Delhi to pursue the matter in the office of the Respondent No.2, the applicant was not apprised of anything regarding the case of his regularisation in terms of the aforesaid judgment of this Hon'ble Tribunal. He was only apprised that the matter was being ~~perused~~ and that he would get due intimation in his office at Guwahati.

xx) That the applicant states that on his rejoining duty as aforesaid to his great shock and dismay, he was intimated by the officials in the Establishment Section that intimation from Delhi has come directing the local office to terminate his services on vacation of the stay order granted by this Hon'ble Tribunal. However, till date the applicant has not been communicated with anything and he is continuing in his service as before. Now in terms of the communication from Delhi Office, his services is going to be terminated at any moment. On receipt of such information, the applicant demanded a copy of the communication stated to be received from Delhi office to which the reply of the officials in the Establishment Section that along with the order of termination he would be given a copy of the communication sent from Delhi Office. However, as his request, he has been given a copy of the communication No.C-10013/13/91-A(NG) dated 17.4.96 purportedly issued by the Dy. Director (Admn.) to the Director, SISI, Guwahati. By the said communication the services of the applicant has been directed to be terminated on vacation of the stay order granted by this Hon'ble Tribunal.

A copy of the said communication dated 17.4.96 is annexed herewith as ANNEXURE-XIX.

xxi) That a bare perusal of the Annexure-XIX letter dated 17.4.96 it is seen that the authority concerned has not applied its mind to the case of the applicant in the light of the observations made in the judgment dated 25.11.96. The contents of the letter are very cryptic and disclosed total non-application of mind. The only observation made in the letter is "it has been decided that

- 10 -

on consideration of the provisions regarding rules and procedure of recruitment to the posts of LDC, ~~xxx~~ Shri Barman is not eligible for regular appointment as LDC." This very particular contention was raised by the respondents time and again before this Hon'ble Tribunal which did not find any favour of this Hon'ble Tribunal because of which even in the final judgment, the Hon'ble Tribunal made the details observations in the judgment particularly in para XVI favouring the case of the applicant

In view of the position the respondents cannot terminate the services of the applicant by a cryptic order as has been sought to be done without reverting back and consideration thereof in its true perspective to the points raised by the Hon'ble Tribunal. If the plea of the respondents as in the impugned order dated 17.4.96 is allowed to stand, the same will be total failure of justice and ~~mockery of~~ <sup>mockery of</sup> judgment of this Hon'ble Tribunal. The Hon'ble Tribunal did not pass the detail judgment for the sake of passing it but the same was passed with a definite purpose and the respondents cannot flirt and mockery of the same.

xxii. That the applicant states that two aspects of the matter were considered by this Hon'ble Tribunal in the earlier O.A. No. 221/91 viz (i) in view of the <sup>appointment</sup> ~~application~~ of the applicant as ad-hoc basis whether he is entitled to any relief and (ii) secondly in view of the process of regularisation undertaken by the respondents. Whether the applicant is entitled to be considered for such regularisation. The

Hon'ble Tribunal directed the respondents to apply their mind afresh in the light of the observations made by the Hon'ble Tribunal in respect of the second aspect of the matter. However, prima facie no such consideration has been given by the respondents in passing the impugned order dated 17.6.96.

5. Grounds for relief with legal provisions :

- I) For that the impugned orders are prima facie illegal and not sustainable under the law.
- II) For that the impugned orders having been issued without giving the applicant an opportunity of being heard, the same is bad in law and liable to be set aside and quashed.
- III) For that the applicant having cleared the examination conducted by the SSC, the respondents ought to have ~~been~~ regularised him in a vacant post of LDC for which indents have also been placed by the respondent No. 3 to respondent No. 4.
- IV) For that it was only after the assurance and promise made by the respondent No. 3, the applicant had appeared in the examination conducted by the SSC and now he having come out in the said selection, the respondents cannot turn round their own promise and victimise the applicant and that too in these hard days of employment.
- V) For that the applicant having cleared the examination conducted by the SSC for regularisation of temporary service of LDCs, the respondents cannot deny him the benefit of the same and as such, the impugned orders

are liable to be set aside and quashed.

VII) For that the respondent No. 2 having extended the services of the applicant for a further period, the respondent No. 3 could not have issued the impugned order of termination terminating the services of the applicant before expiry of the extended period of service.

VII) For that the respondent No. 4 having laid down in clear terms that the services of the applicant could be regularised, and there is no impediment against such regularisation, the respondent No. 2 and 3 cannot give their own interpretation in the matter so as to deprive the applicant from regularisation of his service and consequently, the impugned orders are liable to be set aside and quashed.

VIII) For that there is ~~grave~~ gross violation of Articles 14, 16 and 311 of the Constitution of India and so also the principles of natural justice and accordingly, the impugned orders are not sustainable and the services of the applicant are required to be regularised.

XIX) For that the impugned order dated 17.4.96 being not in conformity with the order passed by the Hon'ble Tribunal and being a non-speaking order, same is liable to be set aside and quashed.

X) For that the impugned order having not taken into account the observations made by this Hon'ble Tribunal in the earlier O.A. same is not sustainable and liable to be set aside.

XI) For that the respondents cannot make a mockery of the order passed by the Hon'ble Tribunal in ignoring the directives contained in the earlier Judgment. The impugned order having been passed mechanically without any application of mind, same is not sustainable and liable to be set aside and quashed.

XII) For that in any view of the matter, the impugned orders are not sustainable.

6. Details of remedies exhausted :

That the applicant states that he has exhausted the departmental remedies available to him and there is no other alternative and efficacious remedy open to the applicant.

7. Matters not previously filed or pending with any other Court :

The applicant further declares that the matter regarding which the application has been made is not pending before any other Court of law or any other authority or any other Bench of the Tribunal.

8. Reliefs sought :

Under the facts and circumstances stated above, the applicant prays ~~for~~ that the application be admitted and the records of the case be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :

- (i) To set aside and quash the impugned order dated 17.5.91 (Annexure-IX-A), Memo dated 30/31-10-91 (Annexure-XIII) and letter dated 17.4.96 (Annexure-XIX)
- (ii) To direct the respondents to regularise the services of the applicant with all consequential benefits
- (iii) Cost of the application ;
- (iv) Any other relief or reliefs to which the applicant is entitled to as this Hon'ble Tribunal may deem fit and proper.

9. Interim relief prayed for :

Pending disposal of the case, the applicant prays that the impugned order dated 17.4.96 (Annexure-XIX) be suspended with further direction to allow the applicant to continue in his service as before.

10. ....

11. Particulars of the I.P.O. / Bank Draft :

- (i) No. of the I.P.O. : 09 346173
- (ii) Date : 1.6.96
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

VERIFICATION

I, Shri Bharat Barman, son of Late Thanu Ram Barman, aged about 36 years, resident of Dispur, Guwahati Ganeshguri Chariali, LDC-cum-Typist in the office of the SISI, Bamunimaidan, Guwahati-21, do hereby solemnly affirm and verify that the statements made in paragraphs from 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 6th day of June 1996 at Guwahati.

Sri Bharat Barman  
(BHARAT BARMAN)



Government of India  
Ministry of Industry  
Small Industries Service Institute  
Bamunimaidan, Guwahati-781021(Assam)

No.A.11013(1)/88

Dated the 12th April, 1989

ORDER

On the recommendation of DPC dt. 4.4.89 the Director, SISI, Guwahati is pleased to issue offer of appointment to Shri Bharat Chandra Barman as a Clerk cum Typist in this Institute on purely temporary basis at a consolidated pay of Rs.850/- per month. He will not be entitled for any other allowance for his service in the post. The appointment is exclusively for a period of 18 months for census liaison cell at SISI, Guwahati. Shri Barman will have no right to claim for regular appointment in future for this post and he is liable to be terminated at any time without assigning any reason.

He is advised to communicate his acceptance of this offer letter immediately and to report for duty in this Institute, but not later than 10 days from the date of issue of this order.

Sd/ (S.CHAKRABARTY)  
ASSTT. DIRECTOR (ADMIN)  
FOR DIRECTOR.

To:

Shri Bharat Chandra Barman,  
C/o. M/s. Chandra Silk House,  
Capital Road, (R.P.Road),  
Dispur, Guwahati-6.

Copy to :-

1. The Asstt. Director of Employment,  
District Employment Exchange,  
Silpukhuri, Guwahati-3. This has a reference to his  
letter No.ORD-125/89/4550 dated 3.4.89. Regd.No.5248/79.
2. The Accounts Section, SISI, Guwahati for information.

Attested  
/s/  
Advocate

( S.CHAKRABARTY )  
ASSTT.DIRECTOR (ADMIN)  
FOR DIRECTOR.

Government of India  
Ministry of Industry  
Small Industries Service Institute  
Bamunimaidan, Guwahati-781021(Assam)

A.11013(1)/88

2nd Aug'89.

ORDER

In continuation to this office order of even number dated 11/12th April'89, the Director, SISI, Guwahati is pleased to fix the Pay Rs.950/- to Shri Bharat Ch. Barman, LDC-Cum-Typist from the date of his joined in this office in the Scale of Rs.950/- -20-1150-EB-25-1500/- in terms of DC(SS), New Delhi order No.16/3/85-Stat dated 25.11.1988. Shri Barman will get usual allowances as admissible to Central Govt. Servant under the rules in force from time to time.

The expenditure involved will be debitable to Major Head "2851"-C.4(16)(2)-Other expenditure.

Sd/- (S.CHAKRABARTY )  
Asstt. Director (Admn)  
for Director

To

Shri Bharat Chandra Barman, LDC-cum-Typist  
SISI, Guwahati.

Copy to :-

1. The Pay & Accounts Officer, PAO(SS), 111/112 B.T.Road, Calcutta-35.
2. Office Supdt.(Accounts), SISI, Guwahati. He is requested to clear all the arrear of Shri Barman.

( S.Chakrabarty )  
Asstt.Director(Admn)  
for Director.

Attested  
/s/  
Advocate

-18-  
-13-

ANNEXURE-III  
27

To

Dated the 16th Oct'90.

The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

(Through the Asstt. Director, EI/PI)

Sub: Appeared in the quarterly examination sponsored by  
Staff Selection Commission.

Sir,

With due respect I beg to inform you that I am a  
Temporary staff (LDC) of SISI Guwahati. Understanding  
from the Commission that a quarterly examination will be  
held in the month of December, 1990 for regularisation of  
Temporary/Ad-hoc candidates. This Test/Examination will  
be conducted by the Staff Selection Commission in every  
quarter. I want to appear in the above said examination for re-  
gular appointment.

Therefore, I request you to forward my application  
to the Regional Director, Staff Selection Commission,  
Chenikuthi, Navagraha Road, Guwahati-3 for necessary action  
at their end. Your kind consideration is highly appreciable.

Yours faithfully,  
Sd/-  
( Sri Bharat Barman )  
LDC(C)

Sri B.C.Barman was recruited  
in April, 1989 as Clerk-cum-Typist  
on purely temporary basis for  
the Census work and since then  
Mr.Barman is working in the office.  
He has already completed one year  
on 16th April, 1990 and his term has been  
extended upto 25th Nov, 1990 subject to further  
extension depending on the exigency of work. In view  
of this, we may not have objection to recommend his  
application to the Staff Selection Commission to  
appear for test/Typing speed as a departmental  
candidate.

Director

Sd/- G.C.Medhi  
Asstt. Director(EI/PI)  
dtd.17.10.90

specific purpose

Attended  
Advocate

Sd/-S.Haque,

A-20017(28)/90

1st November, 1990. 72

To

The Regional Director(NER),  
Staff Selection Commission,  
Nabagrah Road,  
Chenikuthi Hill Side,  
Cuwahati-781003.

Subject :- Permission to appear in the quarterly Clerk  
cum-Typist Examination in December, 1990

Sir,

Shri Bharat Barman a purely temporary L.D.Clerk R  
of this Institute is working for a short period upto  
24-11-1990. We have no any objection to permit him to  
appear in the ensuing examination conducted by you in  
the month of December, 1990.

Yours faithfully,

S/- (C.P.Choudhary)  
Asstt. Director (Adm.)  
for Director.

O/C. K.Choudhury.  
dt.1.11.90

\*\*\*

Attested  
Advocate.

Sd/-S.Haque,  
Vice-Chairman.

# ANNEXURE V

Λ.20017(28)/90

29th Nov'90

To

The Regional Director (NER)  
Staff Selection Commission,  
Navagrah Road,  
Chenikuthi, Guwahati-3.

Sub: Application for the post of LDC for appearing  
quarterly examination held on 1st January '91.

Sir,

I am to forward herewith an application form duly filled in and signed by the applicant Shri Bharat Barman an employee of this Institute together with our departmental endorsement for the post of LDC for favour of your sympathetic consideration.

Encl: One application.

Yours faithfully,  
Sd/- (C.P.Choudhary)  
Asstt. Director (Admn)  
for Director.

Sd/- K. Choudhury  
30.11.90

Abstract  
/ Advocate

... for orders.

Sd/-S. Haque,  
Vice-Chairman.

Application form for English/Hindi Type Writing Test to be held in the month of January, 1991 at Guwahati.

(To be filled in candidates handwriting)

An extra copy of the passport size photograph should be enclosed

1. Name in full (in Block letters) SRI BHARAT BARMAN  
state whether Kumari or Smt.
2. Date of birth (in christian Era) 1-11-61
3. Father's name and address  
(Husband) Late Thanu Ram Barman  
Vill. Namsala,  
P.O. Sarthebari, Barpeta  
(Assam)
4. Name of the Ministry/Office SISI, Guwahati-21.  
where employed and the station  
where it is located.
5. (a) Name of the post held : LDC from Group 'D' employees  
(   /    the relevant box) Seniority quota

LDC from Group 'D'  
employees Exam. 19

UDC

Asstt. (DR)

LDC on compassionate Grounds

LDC (DR)

(b) Date from which the post is held : 17-4-89

6. At which of the following places do you wish to appear at the test -

Jaipur, Patiala, Shimla, Srinagar, Chandigarh,  
Allahabad, Patna, Bhopal, Calcutta, Cuttack, Gangtok,  
Bhubaneswar, Ahmedabad, Bombay, Nagpur, Bangalore,  
Hyderabad, Madras, Trivandram, Guwahati, Agartala,  
Shillong and Indian Mission abroad (give the name  
of place and country).

7. Details of the Staff Selection Commission Type writing Test at which you appeared last time.

Sl. No.	Date of Test	Roll No.	Place where the test was taken	Result (give the speen if qualified)

Contd...2.

Sd/-S. Haque,  
Vice-Chairman.

- 2 -

I hereby declare that the statements made in this application are true to the best of my knowledge and belief.

Place Guwahati

Signature Sd/-

Date : 21-11-90

Name SRI BHARAT BARMAN  
(In block letters)

DEPARTMENTAL ENDORSEMENT

Certified that the particulars given above are correct.  
Shri Bharat Barman is a temporary LDC(DR) in the Office of/ Ministry of Industry which is participating/Not participating in the Central Secretariat Clerical Service and is eligible to take the Type writing Test to be held on January, 1991. His admission to the Test is recommended.

Signature Sd/-

Name : ( C.P.Choudhary )

Designation : Asstt. Director (Admn)

Ministry/ SISI Guwahati-21  
Office Ministry of Industry

Place Stamp/Genl

This endorsement should be signed by an Officer not below the rank of an Under Secretary or equivalent.

\* whichever is 'NOT' applicable may be deleted.

\*\*\*

Attested  
Advocate

Phone: 25412, 25415, 25419,  
Telegram : SMALLIND

GOVERNMENT OF INDIA  
MINISTRY OF INDUSTRY  
SMALL INDUSTRIES SERVICE INSTITUTE  
BAMUNIMAIDAN, GUWAHATI-781021 (Assam)

No. A-20017(28)/90

Dated the 22nd Jan '91.

MEMORANDUM

Shri Bharat Barman, Roll No. 4210001 is hereby instructed to appear before the Staff Selection Commission to participate in the Type Writing test to held on 23rd January 1991 at 11.00 A.M. He should reach there at 1/2 an hour before the commencement of the test.

Sd/- (C.P. Choudhury)  
Asstt. Director (Admn.)  
SISI Guwahati.

Attested  
Advocate



STAFF SELECTION COMMISSION

ADMISSION CERTIFICATE

QUARTERLY TYPEWRITING TEST/~~TYPEWRITING TEST~~ UNDER F.B.  
SCHEME (HINDI/ENGLISH) TO BE HELD ON 23.01.91.

VENUE OF CENTRE : Regional Office (NER)  
Staff Selection Commission,  
Nabagrah Road, Chenikuthi,  
Hillside, Guwahati-3.

TIME : 11.00 A.M.

NAME OF CANDIDATE : Shri Bharat Barman,

ROLL NO. : 4210001

\*\*\*

LIST OF CANDIDATE(S)

<u>SL. NO.</u>	<u>NAME</u>	<u>ROLL NO.</u>	<u>POST HELD</u>	<u>CENTRE</u>
1.	Shri Bharat Barman	4210001	LDC (DR)	Guwahati.
2.				
3.				
4.				
5.				
6.				

*Approved  
Private*

- 25 -  
- 20 -  
Gram : SMALLIND

ATTN: VIII  
Tlx. 235-2379 ASEA IN  
Phones : 23155:31152

Govt. of India  
Ministry of Industry  
Small Industries Service Institute  
Bamunimaidan, Guwahati-21.

No.A.12021(1)/89/90

Dt. 5.4.91

To,

The Regional Director (NER),  
Staff Selection Commission,  
Chenikuthi, (Hill Side),  
Guwahati-781001.

Sub : Quarterly Type-writing test held on 23.1.91  
Results regarding.

Sir,

I am to state that this Institute has submitted demand for nominating 3 LDCs (one reserved for S/I) vide this office letter of even number dated 22.3.91.

Now it is seen that Shri Bharat Barman whose Roll No. is 2410001 has been qualified in Type-writing test (English) held on 23rd & 30th Jan'91 as circulated in your circular No.2/1/91-CI dated 6.3.91. Since Shri Bharat Barman is working in this Institute as LDC for the last 2 years and also gained experience to deal with various activities of this Department, it is requested that the name of Shri Barman may be sent to this office for recruitment as LDC on regular basis. It is also requested to send the Dossier of Sri Barman for record in this office.

Yours faithfully,

Sd/- (C.P. Choudhury)  
Assistant Director (Admn.)  
for Director.

NOO -

Shri Bharat Barman,  
LDC  
SISI, Guwahati-21.

Sd/- (C.P. Choudhury)  
Assistant Director (Admn.)

Attended  
&  
Advocate

GRAM : SMALLIND

Tlx. 235:3379 ASEXIN  
Ph. 23155: 31152

Govt. of India  
Ministry of Industry  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

( A s s a m )

No. A.12021(10)/89

Dt. 29.4.91

To,  
The Development Commissioner,  
Small Scale Industries,  
Nirman Bhawan (7th floor)  
New Delhi-11.

Sub : Regularisation of Shri Bharat Barman to the post of  
LDC after qualifying in the Type-writing test  
conducted by SSC, Guwahati.

Sir,

I am to state that Shri Bharat Barman, was appointed as Ad-hoc Clerk-cum-Typist through Employment Exchange, Guwahati against Census Scheme as was sanctioned under your letter No.16/3/85-Sectt. Dated 25th Nov. '88. Shri Barman joined on 17.4.89 as Clerk-cum-Typist and since then he has been working in the Census Cell and his continuation against the Scheme has been extended upto 31.10.91 as communicated to this Institute under your letter No. A.110011/20/90-A(NQ) Dated 27.2.91 Shri Barman during his service in this institute applied for confirmation to appear before Type-writing test held on 23.1.91 as a departmental candidate and he became qualified in the test conducted by Staff Selection Commission, Guwahati as notified by vide their Circular letter No.2/1/91-CI Dt. 6.3.91 (copy enclosed).

Prior to this, this institute has placed indent to SSC, Guwahati for nominating 2 LDCs against the clear vacancy to be filled in SISI, Guwahati. Since Shri Barman has completed 2 years service satisfactorily, and also became experienced in his trade as LDC, it is felt necessary to be considered that Shri Barman is given a scope for regular appointment to the post of LDC in SISI Guwahati as he became qualified in the Type writing test as required under Recruitment Rules.

In this connection it is also mentioned that sanction of the post under Census Scheme is likely to be discontinued with effect from Nov. '91 and in the event of our failure to regularise Shri Barman as LDC against the clear vacancy then Shri Barman has to be terminated as soon as the scheme is discontinued.

In view of the position explained above, it is requested to communicate the approval of competent Authority to allow Shri Barman to be absorbed as LDC on regular basis in SISI, Guwahati.

This issues with the approval of the Director.

Yours faithfully,

Sd/- (C.P. Choudhury)  
Asstt. Director.

Enclo : as above.

Sd/- S. Haque,  
Vice-Chairman.

Government of India  
Ministry of Industry,  
Office of the Development Commissioner  
(Small Scale Industries)  
Marina Bhawan,  
New Delhi-11.

No.A.60015/2/89-A(NQ)

DT: 17th May 1991.

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-71.

Sub : Regularisation of Shri Bharat Barman to the  
post of LDC after qualifying typewriting test  
conducted by SSC, Guwahati.

Sir,

I am to refer to your letter No.A.12021/1/89  
dated 30th April 1991 on the above subject and to say  
that the matter has been examined. It is, therefore,  
regretted that Shri Bharat Barman, Ad-hoc LDC cannot  
be absorbed under a regular vacancy of LDC under  
your Institute as all regular vacancies of LDC are  
filled up through SSC only.

Yours faithfully,

Sd/- J.R. Chopra,  
Section Officer (Admn.)

Attand  
Advocate

Sd/- S. Haque,  
Vice-Chairman.

28

ANNEXURE - X

Date 28.6.91

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

(Through proper channel)

Sub : Regularisation of LDC post after qualifying the SSC test.

Sir,

I joined this Institute on 17.4.89 as Clerk-cum-Typist, in the scale of pay Rs.950-20-1150-EB-25-1500/-p.m. Initially this was an Ad-hoc appointment but it has continued since then and I have been granted yearly increment Earned leave, medical facilities etc. as per administrative Rules of Central Govt. Servant from time to time which are granted to regular employees. The SISI had issued instructions to the Employment Exchange that I have been selected for appointment and hence my employment Exchange Card also was cancelled by the Exchange. As a result my name was not considered for any other employment.

I have already completed more than 2(two) years of service and have crossed the age for eligibility, for being considered for ~~forthxwxwxwxwxwxwxwxwxwxwx~~ Government Service. I had therefore, prayed to the Department on 16th Oct. '90 to forward my name to the Staff Selection Commission as a departmental candidate which was most kindly accepted by the Director & application was sent to Staff Selection without concealing any fact about my appointment. The Staff Selection Commission accepted my candidature & allowed me to appear in the Typing test. It was confirmed by SSC, Guwahati that they hold typing test for the departmental candidate only. They do not have to appear in the full Examination as it is considered that the Govt. service done by the candidate is enough and only because the work of the Departmental candidate has been found satisfactory by department has sponsored the candidate.

I successfully completed the examination and was declared successful. The result was duly forwarded to this Institute. It was expected that I would be regularised against a vacant post of LDC in this Institute. However, I have been informed that the DC office is not agreeable to my appointment. Under the circumstance my prayer may be forwarded to the DC (SSI) New Delhi for kind consideration.

Yours faithfully,

Sd/- (Bharat Barman)  
LDC SISI Guwahati.

Sd/- G.C. Medhi,  
Asstt. Director (EI/PI)  
dtd. 28.6.91.

DD(EI)

His case may be considered sympathically  
If any comments/information is needed the  
same will be supplied by AD (EI/PI)

SA/- M.N. Banerjee,  
Dy. Director (EI),  
Dt 28.6.91

AD (Admn.)

20

ANNEXURE

82

Date 16.8.91

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-21.

Sub : Regularisation of LDC post after qualifying  
the SSC Test.

Sir,

With reference to your Memorandum No.A20017(28)/  
90 dated 22nd Jan'91 I beg to state that I appeared for  
test before the Staff Selection Commission Guwahati on  
22nd Jan'91 for my regularisation to the post of  
LDC Result of the SSC published vide No.SSCG.1/2/91-Rectt./  
972 dated 14th March, 1991 and a copy of the same  
also forwarded to you by the Staff Selection Commission  
for necessary action at your end. I therefore, fervently  
pray your good office to kindly regularise me to the  
post of LDC.w.e.f. the date of publication of the result.  
In this connection, I have already submitted a representa-  
tion dated 28.6.91 for consideration of my prayer to  
regularise me against the existing vacant post of LDC  
under your administrative control.

Yours faithfully,

Sd/- Bharat Barman,  
LDC (Census).

Attested  
by  
Bharat Barman

Dated 26.8.91

To,

The Director,  
Small Industries Service Institute,  
Bamunimaidan,  
Guwahati-2.1

Ref : My representation dtd. 1.4.91, dt. 28.6.91  
dt. 6.8.91

Sub : Regularisation of LDC post after qualifying  
the SSC test.

Sir,

Kindly refer to my representation on the  
subject cited above. In this connection, I once again  
pray your honour to regularise me against the vacant  
post of L.D.C. under your Administrative control. Rk  
Since I have already qualified myself SSC test conducted  
by the SSC Guwahati.

With humble submission.

Yours faithfully,

Sd/- Bharat Barman,  
LDC (Census)  
SISI Guwahati-21.

*Attend*  
*ADvent*

PHONE : 23155/31950

GRAM: SMALLIND.

Government of India  
Ministry of Industry  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

( A S S A M )

No. 11013/1/88/4432

Dated 30.10.91.  
31

## M E M O R A N D U M

As per terms and condition of appointment letter issued to Sri B.C. Barman, LDC-cum-Typist recruited for Census work of this Institute is hereby relieved from his duty today that is on 31.10.91.

Sd/-

( C.P. Choudhury )  
Asstt. Director (Admn.)

To,

Shri Bharat Barman,  
SISI, Guwahati-21.

Copy to :

1. The Development Commissioner, Small Scale Industries, Nirman Bhawan (7th floor) New Delhi-11. This has a reference to his letter No.A-110011/20/90-A(NG) dated 29.2.91 for information.
2. The Dy. Director (EI), SISI, Guwahati-21.
3. Pay & Account Office, (SOI), Calcutta-35.
4. Accounts Section, SISI, Guwahati-21.

Sd/-

( C.P. Choudhury )  
Asstt. Director (Admn.)  
for Director.

*Attended*  
*Admn.*



GENERAL

ADMINISTRATIVE

TRIBUNAL

JAMNATI BEACH : 11:11 JAMNATI.

O.A.No.221/91.

B. D. K. ... vs ... J.G.I. &amp; Ors. ... respondents.

PROBANT:- THE HON'BLE SHRI XXXXXX S. HAQUE, VICE CHAIRMAN.

For the petitioner:- Mr. E. K. Sharma, Mr. N. K. Choudhury, Adv.

For the respondents:- Mr. A. K. C. Choudhury, Addl. C.G. ...

Date: 31.91

O R D E R.

Heard learned counsel Mr. E. K. Sharma on behalf of the applicant Shri Charat Sarman, also heard learned Addl. C.G.S.C Mr. A. K. Choudhury. Perused the grievance and prayers in the application.

This application is admitted. Mr. Choudhury takes notice on behalf of respondents No.2 and 4 and prays for six weeks time to file counter. Time allowed as prayed for. Let notices be served on the remaining respondents under Registered post.

Heard counsel of the parties on the interim prayer. Perused letter No: A.110011/20/90-A(NG) dated 29.10.1991 extending the period of service of the applicant upto 30.11.1991. Therefore the impugned Memorandum No.11013/1/88/4432 dated 30/31.10.1991 (Annexure XIII) becomes unenforceable. The applicant shall be treated to be in service and duty without break and shall continue as such until further orders from this Tribunal. The respondents are at liberty to approach this Tribunal for alteration, modification etc. if so advised.

List on 14th January 1992 for orders.

Sd/-S. Haque,  
Vice-Chairman.

P.T.O.

Heard  
Amend

106  
-2-

Memo. No. 3306

Date.. 26-11-91

Copy to:- 1. Mr. B. K. Sharma, Adv. for petitioner.  
2. Mr. A. K. Choudhury, Adl. C. G. S. C.  
for information.

*W. J. 26/11/91*  
*in* Deputy Registrar (J).  
*SC*

- 33 -  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ANNEXURE XV

Original Application No. 221 of 1991

Date of decision : This the 15th day of September, 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (A).

Shri Bharat Barman,  
LDC-cum-Typist, in the  
office of the Small Industries  
Service Institute,  
Bamunimaidan, Guwahati-21

..... Applicant

By Advocate M. Chanda for Mr. B.K. Sharma.

-versus-

1. Union of India, represented by  
the Secretary, Ministry of Industry,  
Nirman Bhawan, New Delhi-11.
2. The Development Commissioner,  
Small Scale Industries,  
Ministry of Industry,  
Nirman Bhawan, New Delhi-11
3. The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21
4. The Regional Director (NER),  
Staff Selection Commission,  
Nabagraha Road, Chenikuthi,  
Guwahati-3

... Respondents.

By Advocate Mr. A.K. Choudhury, Addl. C.G.S.C.

ORDER

CHAUDHARI J (VC).

The applicant who was appointed purely on temporary basis against a temporary post for a fixed duration seeks regularisation in a permanent post of Lower Division Clerk which has been refused by the respondents on the ground that that is not permissible to do under the recruitment rules. Although the service

87 of the applicant came to an end on 31.10.91 he has continued to work as LDC under protective umbrella of the interim order passed by this Tribunal.

2. The applicant was offered an appointment as Clerk-cum-Typist in the Small Industries Service Institute, Guwahati by order of the Assistant Director dated 12.4.1989 Annexure-I. The order states that on recommendation of the D.P.C. dated 4.4.89 the offer of appointment was issued on purely temporary basis at a consolidated pay of Rs.850/- per month. It was further stated that the appointment was exclusively for a period of 18 months for Census Liaison Cell, SISI, Guwahati. The further condition stated was that the applicant will have no right to claim regular appointment in future for that post and he was liable to be terminated at any time without assigning any reason. That offer was accepted by the applicant and he was so appointed. By order dated 2.8.89 passed by the same authority (At Annexure-II) his pay was fixed at Rs. 950/- in the scale of Rs. 950-20-1150-EB-25-1500 and he was made eligible to get usual allowances as admissible under the rules.

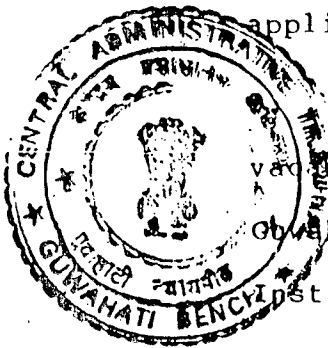
3. By order dated 25.11.88 issued by the Govt. of India, Ministry of Industry, Office of the Development Commissioner, Small Scale Industries, sanction of the President was conveyed for creation of non-gazetted plan posts temporarily for a duration of 18 months for Liaison Cell at SISIs. That period came to be extended time to time and finally it was extended upto 31.12.91. Thus the post against which the applicant was



to the Director SISI, Guwahati dated 17.5.91 may be quashed and set aside and the respondents be directed to regularise his services with retrospective effect from the date of his joining and extend him the consequential benefits.

8. The ground for seeking regularisation to the regular post is based upon the following circumstances. On 16.10.90 the applicant requested the Director SISI, Guwahati to forward his application to the Regional Director, Staff Selection Commission for permitting him to appear at the quarterly examination to be held in the month of December 1990 for regularisation of temporary/adhoc candidates since it was necessary to appear at the said examination for regular appointment. The Institute gave its no objection for applicant's appearing at the said examination and that was conveyed to the Staff Selection Commission vide Annexure-IV dated 1.11.90. An application Form duly filled in and signed by the applicant was also forwarded by the Institute to the Staff Selection Commission vide Annexure-V dated 29.11.90 together with endorsement for sympathetic consideration for the post of LDC. The Staff Selection Commission instructed the applicant to participate in the type writing test to be held on 23.1.91 by letter dated 22.1.91 Annexure-VI. The applicant qualified at that type writing test.

It appears that by that time 3 regular vacancies of LDCs became available in the Institute at Guwahati. The Assistant Director (Administration) of Institute requested the Staff Selection Commission by



*Attn*  
*As*  
*Admin*

*1.01*

87  
appointed did not continue as a sanctioned post after that date. The appointment of the applicant was in the Census Liaison Cell and that is how the post was not available for his continuation after 31.12.91.

110  
4. By the impugned order dated 31.10.91 (Annexure-XIII) issued by the Assistant Director (Admn.) SISI, Guwahati the applicant has been relieved from his duty on 31.10.91. It has been stated in the order that as per terms and conditions of appointment letter the applicant recruited for Census work of the Institute was relieved.

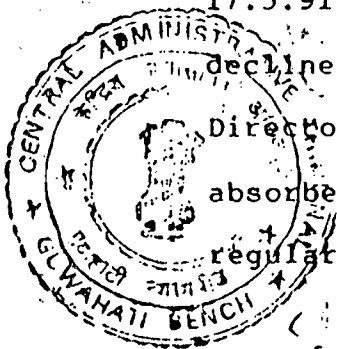
5. Since the appointment of the applicant was against a temporary post which post itself had ceased to exist his temporary appointment cannot be continued and thus he is not entitled any relief to be granted for being continued against that post. His appointment was clearly subject to the terms and conditions of the letter of appointment and the order of termination of service being in accordance therewith that cannot be held illegal.

6. The grievance of the applicant however is that he became eligible for being absorbed against a regular post of LDC in the SISI Institute which had no connection with the posts created under Census Liaison Cell. His grievance is that the respondents have deprived him of that right and he should be directed to be regularised.

In the background of the above facts he has prayed that the order of termination of service dated 31.10.91 and the communication from the Govt. of India



letter dated 5.4.91 Annexure-VIII that since the applicant had qualified at the type writing test and as he had been working in the Institute as LDC for two years and had gained experience to deal with various activities of the Department he may be sent to the office of the Institute for recruitment as LDC on regular basis. The Assistant Director also made recommendation to the Development Commissioner, Small Industries Service Institute by letter dated 29.4.91 Annexure-IX for absorbing the applicant against a regular post of LDC. In that letter he pointed out that as the temporary post in the Census Cell was likely to be discontinued within a short time and the applicant had become qualified in the test conducted by the Staff Selection Commission it was felt necessary to consider that he be given a scope for regular appointment to the post of LDC as ~~he had become~~ qualified in the type writing test as required under recruitment rules. He also stated that the applicant had completed two years service satisfactorily. He also expressed apprehension that in the event of the failure of the department to regularise him against the clear vacancy his service may have to be terminated as soon as the Census Scheme was discontinued. He made a request that the applicant may be allowed to be absorbed. However by letter dated 17.5.91 (Annexure IX A) the Development Commissioner declined to accept the request of the Assistant Director stating that since adhoc LDC cannot be absorbed in the regular vacancy of LDC and as all regular vacancies of LDCs are to be filled up through



12/ 91  
Staff Selection Commission only the request could not be accepted. The applicant persisted in requesting for regularisation by representations dated 26.6.91, 16.8.91 and 26.8.91.

10. It appears that in connection with the application of the respondents for vacating the interim stay being in M.P. No. 173/91 certain queries were made by the Tribunal by order dated 7.1.92 to the Director, SISI, Guwahati. The reply submitted by the Director dated 21.2.92 which forms part of the proceedings of the M.P. reveals that the view taken by the Directorate was that the applicant could not be allowed to continue in the regular post inasmuch as the recommendation made by the local authorities was not accepted by the Director on the ground that the applicant failed to qualify at one of the parts of Clerk Grade Examination 1989 and was deemed to have failed in the examination and since all the appointments on regular basis had to be made through Staff Selection Commission and since he was not recommended by the Staff Selection Commission he could not be regularised. It was stated that the application of the applicant was considered most sympathetically but as he could not be absorbed in breach of the recruitment rules as it was not possible to regularise him as LDC.

11. This has to be understood in the context of the submission made by the Staff Selection Commission as respondent No. 4 in the aforesaid M.P. The purport of the submission is that since candidates appointed on adhoc basis are not eligible for the quarterly type writing test and as the applicant was allowed to appear at the quarterly type writing test because the





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Institute had forwarded his name due to wrong interpretation of law relating to the rules for the quarterly type writing test, <sup>though</sup> he was appointed on adhoc basis. ~~and was not eligible~~, he was not recommended.

12. It is now the stand of the respondents 1 to 3 in the written statement that although the Institute had recommended the name of the applicant to the Staff Selection Commission with whom lies the recruitment to the posts of LDC, but <sup>lies with the Commission</sup> The Commission which has got its own selection standard. The candidates who apply in pursuance of advertisement have to appear for an interview and a written test whereupon the selection is made by the Commission and therefore although the Institute had recommended the name of the applicant that did not amount to selection by the Commission and the applicant ~~therefore~~ could not be regarded as selected candidate and could not be appointed on regular basis within the terms of the recruitment rules.

13. The position that therefore emerges is that while the Institute at Guwahati was of the view that the applicant was fit to be regularised against the available vacancy and had done everything in that direction as was within their power but eventually the Directorate did not agree to their recommendation on the ground that the Staff Selection Commission had not recommended the name of the applicant. That stand of the Directorate cannot be held to be illegal.

14. In the anxiety of the Institute to secure the regularisation of the applicant they seem to have given no objection for the participation of the applicant at



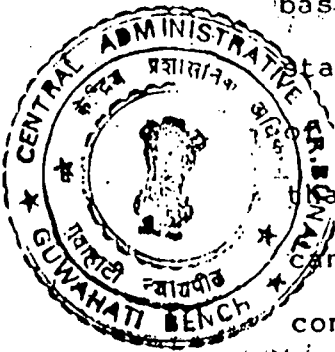
*Handwritten signatures and initials.*

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the quarterly examination conducted by the Staff Selection Commission. The Staff Selection Commission on its own part did not decline permission to the applicant to appear at the said examination which was part of the process for final selection by scrutinising the position under the recruitment rules before the examination was held. Indeed by letter dated 10.4.91 Annexure-M to the M.P. the Regional Director of the Staff Selection Commission had written to the Assistant Director SISI Institute that :

"Quarterly type writing test conducted by the Staff Selection Commission is a Departmental Examination and the candidates who are appointed on adhoc basis, Compassionate ground and promotee from Group 'D' posts are eligible for this test".

However it was stated with reference to the letter of the Institute forwarding the application of the applicant that he appears to be a temporary Lower Division Clerk in the Institute and it was not clear as to whether he was a regular employee and why his application was forwarded to participate in the quarterly type writing test.

15. ✓ The portion quoted above from the letter clearly means that even persons appointed on adhoc basis, were eligible to appear at the test. That statement and what is stated in the written statement of the Staff Selection Commission dated 10.2.92 namely that this opportunity is not available to the candidates appointed on adhoc basis creates a conflicting situation. If the letter dated 10.4.91 reflected the correct position then forwarding the name of the applicant by the Institute and the act of



12-94

- 37 -

permitting him to appear at the examination on the part of the Staff Selection Commission should be sufficient to permit his appointment on regular basis. The Directorate however has acted consistently with the stand of the Commission dated 10.2.92. We are however unable to know as to exactly under what provision of the recruitment rules it has so acted as none of the parties have bothered to produce the said rules. The queries made by the Tribunal earlier should have been dealt with <sup>and all aspects explained</sup> ~~all these aspects~~. After all the applicant cannot be held responsible for the mistakes committed by the Institute or the Staff Selection Commission. We are also unable to know as to how the Staff Selection Commission - <sup>in its stand</sup> could be inconsistent at different stages. Even though the applicant could be eligible only in accordance with the recruitment rules the conduct of the Institute and the Staff Selection Commission was sufficient to give him the impression that his case was being considered in accordance with the recruitment rules. It was not therefore fair on the part of the Directorate to place its finger on the technicality of non-compliance with the recruitment rules <sup>in</sup> by its letter ignoring the spirit behind the recruitment rules and the fulfilment of the requirements substantially by the applicant aided by the conduct of the Staff Selection Commission. The Directorate took a stiff stand as reflected in the letter dated 31.10.91 Annexure-O to the M.P. in the

following terms :

"...Since these are Group C non-technical posts recruitment to these posts falls within the purview of the Staff Selection Commission. In view of this, regularisation of the said adhoc appointees in relaxation of the recruitment procedure cannot be agreed to".



*[Handwritten signatures]*

-13-

It is not clear to us whether the letter of the Staff Selection Commission dated 10.4.91 had been made available to the Directorate when this view was taken.

16. The circumstances therefore inevitably lead to the conclusion that this is pre-eminently a fit case for the Directorate to consider the appointment of the applicant on regular basis as Lower Division Clerk in an existing vacancy if necessary by giving relaxation in the condition of the recruitment procedure as for the loss of the job suffered by the applicant the blame has to be shared by all concerned. The applicant has not protected himself by making any application to the Staff Selection Commission. There is room to believe that had the Institute not sent his name officially to the Staff Selection Commission he might have done so. The Staff Selection Commission after having permitted him to appear at the test was not justified in not considering his candidature for selection. The stand of the respondents is also a shifting stand. At one stage it was stated that the name of the applicant was not recommended by the Staff Selection Commission. At another place it is pointed out that he had failed to qualify one of the two parts of Clerks Grade Examination 1989 and he was deemed to have failed in the examination. That was on the basis of the report of the Staff Selection Commission. There is room to take the view that the Staff Selection Commission was itself not very certain as to how the candidature of the applicant was to be treated and has taken different stands at different stages. That is the further circumstance to deserve a fresh and sympathetic consideration by the Directorate despite the fact that they had declined to consider the question of regularisation earlier.



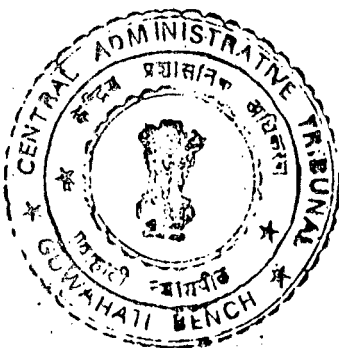
17. Since the defence based on the technical plea that the requirement of the recruitment rules is not fulfilled by the applicant it is not possible for us to direct the respondents to regularise the applicant straight away. We have therefore recommended the matter for fresh consideration by the Directorate. However having regard to the legal hurdle we have to decline relief to the applicant in terms he has prayed for on the ground <sup>that</sup> he did not acquire any vested right which can be said to have been denied by the respondents by the impugned action.

In the result subject to the observations made above the O.A. is disposed of. However in order to enable the Directorate to apply their mind afresh to the case of the applicant in the light of the observations made above we continue the interim order of stay dated 25.11.91 for a period of <sup>six</sup> months from today. The interim order shall stand automatically vacated after that period unless further extended by this Tribunal. The applicant is given liberty to send a copy of this order to the Directorate through the SISI, Guwahati for necessary consideration.

No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)



Certified to be true Copy  
प्रमाणित प्रतिलिपि

*[Signature]* 21/11/95

COURT OFFICER

न्यायालय अधिकारी

Central Administrative Tribunal

প্ৰশাসনিক ন্যায়ালয়

Guwahati Bench, Guwahati-6

গুৱাহাটী ন্যায়ালয়, গুৱাহাটী-৬

trd

*[Handwritten signatures]*

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S.L.NO - 77

ANNEXURE VIII

Page - 108

11-8-11-95

To  
The Development Commissioner,  
Small Scale Industries,  
Nirman Bhawan, 7th floor,  
New Delhi-11.

Through proper channel.

Sub : Prayer for regularisation of service pursuant to  
Judgement and order dt.15.9.95 in O.A.221/91.

Sir,

With due deference and profound submission I beg to  
state that the Hon'ble CAT, Guwahati Bench has delivered  
Judgement in the case filed by me seeking regularisation of  
my service. A copy of the Judgement is sent herewith which  
will speak for itself.

I am sure that your honour will appreciate that there  
is enough indication in the judgement that my service should  
be regularised on a reconsideration of the matter. You must  
be aware that vacancies are available at SISI Guwahati and  
I have already been adjusted against a regular post. I have  
also been granted service benefits like that of any  
other regular emp. etc. You are also aware that my name was  
recommended to the SSC for regularisation of my service and  
I came out successful in the examination conducted by the  
SSC.

Now I am aged about 35 years and thus ineligible for  
any fresh central Govt. job. If my service is not regularised  
in terms of the observations, hope and desire expressed by  
the Hon'ble Tribunal, I will suffer irreparable loss and  
injury and my family will lead to starvation which is  
completely dependent on my meagre income.

Should your honour graciously be pleased to regularise  
my service and thereby extend your protective hands over my  
family which will provide the much needed mooring, I shall  
bound to your honour in deep gratitude.

With sincere regards,

Yours faithfully,

Encls : As stated.

(Harat Berman)

Cl. cum-Typist.

Small Industries Service Instt.  
Damanimaldum, Guwahati-781021.

3. L. S. I. GUWAHATI
Nil/Chem/Mech/Elec/OAC/IMT/Loc/
Lib/Black/Feed/Anc./Medic/P. A./
Admn./Rec./Acct./Hindi/
ENOV1335

फोन-3019311 (7 लाइनें)  
टेली-031-66259, टी-सी-रसे-आई  
टेलीग्राम-समल्लिन्देवूम, नई दिल्ली  
आयुक्त (लघु उद्योग)  
उद्योग विभाग, भारत सरकार  
मिशन भवन (दक्षिणी खंड), सातवीं मंजिल  
मौलाना आज़ाद रोड, नई दिल्ली-110011



Phone : PABX-3019311 (7 Lines)  
Telex : 031-66259 DCSI  
Telegram : SMALLINDEVUOM, NEW DELHI

**OFFICE OF THE  
DEVELOPMENT COMMISSIONER  
SMALL SCALE INDUSTRIES**  
Deptt. of SSI, Agro & Rural Industries  
Ministry of Industry, Govt. of India  
NIRMAN BHAVAN (SOUTH WING), 7TH FLOOR  
MAULANA AZAD ROAD, NEW DELHI 110011

C-18013/13/91-A(NG)

दिनांक / Dated, the 21/12/95

To

The Director,  
Small Industries Service Institute,  
Guwahati.

Subject :- M.P. No. 81/95 in O.A. No. 221/91 filed by  
Shri Bharat Barman, L.D.C. regarding regulari-  
sat of his service in SISI, Guwahati.

Sir,

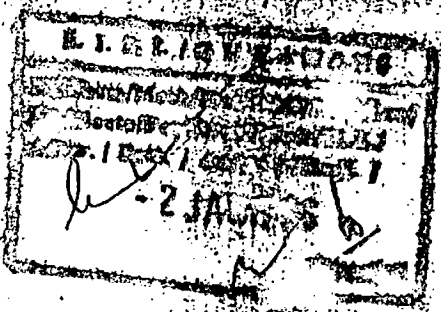
I am to refer to your letter No. C-14014(10)/91/  
Vol-II/400 dated 13.11.95 on the subject mentioned above  
and to request you to furnish the following information  
to this D.O. immediately for further necessary action  
in the matter :

1. Whether Shri Bharat Barman is drawing a consoli-  
dated salary or is he in a regular scale.
2. Pay of Shri Barman w.e.f. 1.1.92 till date and  
details thereof.
3. Status of Shri Barman as on 1.1.92.
4. Status of Shri Barman at present.
5. Whether the post Shri Barman is holding is under  
the cadre of SISI, Guwahati.

Yours faithfully,

*(Signature)*

(O.A. CHAKRAVARTY)  
DEPUTY DIRECTOR (ADMIN.)



*(Handwritten notes)*

टेलीफोन सं. : 235-2379 ए.एस.ई.एस. इन  
फोन नं. बी.एस. 31950, 23155, 32360  
निदेशक : सी.पी.—31152, निवास—25477  
सार : स्माल इंड  
भारत सरकार  
उद्योग मंत्रालय  
लघु उद्योग सेवा संस्थान  
बागुनीमैदान, गुवाहाटी-781021, असम



**EXPED POST.**

99 ANNEXURE XVIII  
Telex No. : 235-2379 ASEX IN  
Phone : PBX 31950, 23155, 32360 Director : Direct 31152  
Residence 25477  
Telegram : SMALLIND  
GOVERNMENT OF INDIA  
MINISTRY OF INDUSTRY  
SMALL INDUSTRIES SERVICE INSTITUTE  
BAMUNIMAIDAN, GUWAHATI-781021 (ASSAM)

संख्या : .....  
C-14014(10)/91.Vol-II.  
No. ....

दिनांक : .....  
Dated the... 8th. January. 1995. ....

To,  
The Development Commissioner,  
Small Scale Industries,  
Nirman Bhawan, (7th floor)  
NEW DELHI-110011.

Kind Attention :- Mr. O.A. Chakraborty, Dy. Director (Admin.).

Subject :- M.P.No. 81/95. in O.A.No. 221/91. filed by Shri Bharat Barman, LDC, regarding regularisation of his services in SISI, Guwahati.

Sir,

In response to your letter no. C-18013/13/91-A(NG). Dtd. 21-11-95. regarding the subject cited above, the requisite information as desired by you is furnished below :

1. Shri Bharat Barman is drawing his salary in a regular scale of Rs. 950-20-1150-EB-25-1500/- w.e. from 20-4-89, vide DC(SSI) New Delhi's Order No. 16/3/85.Stat. Dated 25-11-88.

2. Shri Barman is drawing his pay w.e.f. 1-1-92 as follows :

Dt./Month/Year	Basic	D.A.	H.R.A.	C.C.A.	I.R.	GROSS
1-1-92.	990/-	594/-	250/-	40/-	—	Rs. 1874/-
1-4-92.	1010/-	717/-	250/-	40/-	—	Rs. 2017/-
1-4-93.	1030/-	855/-	250/-	40/-	—	Rs. 2175/-
1-4-94.	1050/-	1092/-	250/-	40/-	100/-	Rs. 2332/-
1-4-95.	1070/-	1338/-	250/-	40/-	100/-	Rs. 2532/-

3. Status of Shri Barman as on 1-1-92. is : As Temporary LDC as per DC(SSI) New Delhi's letter no. C-18013/13/91-A(NG). Dtd. 11.11.92. (copy enclosed).

4. Consequent upon the stay order for 6(six) months granted by Hon'ble C.A.T. Guwahati Bench vide order dated 15-9-95; he is working as LDC.

5. Shri Barman is holding the post of LDC under the cadre controlling authority of SISI, Guwahati. He is presently holding a clear vacant post of LDC under the control of SISI, Guwahati.

Yours faithfully,

( P.C. Das. )  
Assistant Director (Admin.)  
for Director.

bb

8/copy

\*\*\*\*\*



- 42 -  
ANNEXURE - XIX

BY SPEED POST

100 124

No. C-18013/13/91-A(NG)  
Government of India  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)

705 "A" Wing, Nirman Bhavan,  
New Delhi - 110 011

Dated: 17th April, 1996

To,

Shri A.K. Sarkar,  
Director,  
SISI Gauhati,  
Bamunimadan,  
Gauhati - 781 021

Sub : OA No 221/91 filed by Shri Bharat Burman, LDC  
Regarding regularisation of his services in SISO  
under SISI Gauhati - Implementation of directives  
given by Honourable CAT Gauhati Bench.

Sir,

Please refer to correspondence resting with your letter  
No C-14013/10/91.Vol.II/5624 dated 7 Feb 96 on the above  
subject.

In pursuance of the directive of the Hon'ble CAT  
Gauhati Bench vide judgement dated 15.9.95 the competent  
authority has considered afresh the request of Shri Barman for  
regularisation in the grade of LDC. It has been decided that on  
consideration of the provisions regarding rules and procedures of  
recruitment to the post of LDC, Shri Barman is not eligible for  
regular appointment as LDC. Shri Barman's services may therefore  
be terminated on vacation of the Stay Order granted by the Hon.  
CAT Gauhati Bench. A copy of the action taken may be endorsed to  
this HQ immediately for our reference and record.

Yours faithfully,

*(Signature)*

(O.A.CHAKRAVARTY)  
DEPUTY DIRECTOR (ADMN.)

P.L. put up on 21-5-96  
P.A. *(Signature)*  
24/6  
C.A.M.

<b>S. I. S. I. / GUWAHATI</b>
NI/Chem/Mech/Mot/G&C/MT/Lea/ Elb./Elects/Feed/Anc./Mech/P.A./ Admn./Estt./Asst./Hind./
<b>24 APR 1996</b>
<i>(Signature)</i>

(S.CHAKRABARTY)  
ASSTT.DIRECTOR(ADMN)  
FOR DIRECTOR.

Attested  
*(Signature)*  
Advocate

Filed in Court  
on 19-8-96  
Court Master

481  
04/06/1996  
Guwahati Bench  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

101  
Filed by  
Smt. S. S. S.  
19/8/96

In the matter of :

O.A.No.85/96

Shri Bharat Barman ... Applicant.

-Vs-

Union of India & Ors. ... Respondents.

-AND-

In the matter of :

Written Statement on behalf of  
the Respondents.

I, Sri Anil Kumar Sarkar, Director  
Small Industries Service Institute, Guwahati-21.  
do hereby solemnly affirm and declare as follows :-

1. That a copy of application alongwith an order passed by this Hon'ble Tribunal have been served upon the respondents and being called upon by this Hon'ble Tribunal and being authorised by the competent authority, I do hereby file this Written Statement as a common one and say categorically that save and except what is specifically admitted by the respondents in this written statement rest may be treated as total denial.

Contd/.

Received by  
Smt. S. S. S.  
19.8.96

2. That with regard to the contents made in paragraphs i, ii, iii, iv(i), & iv(ii) of the application, the respondents have nothing to comment.

3. That with regard to the contents made in paragraph iv(iii) of the application, respondents beg to state that the applicant was appointed as Clerk-cum-Typist through local Employment Exchange, Guwahati on purely temporary basis against Census Scheme of Small Scale Industries for a specific period for 18(eighteen) months which was subsequently extended upto 30-11-1991. The applicant joined on 19-4-89 after accepting terms and conditions of the appointment.

A copy of the appointment letter is annexed herewith and marked as Annexure R-I.

The appointment to the post of LDC in all Central Govt. offices are being made by candidates sponsored by Staff Selection Commission against regular vacancies. But the applicant was appointed to the post of Clerk-cum-Typist for specific work 'Census of small scale Industries' on temporary basis for a specific period through local Employment Exchange as per directions from the office of the Development Commissioner, SSI, New Delhi under letter No.16/13/85-State dt.25.11.88.

A copy of the said letter is annexed herewith and marked as Annexure R-II.

The applicant has requested this Institute vide his letter dated 16-10-90 that he should be allowed to seat in the Quarterly Examination to be held in

December '90.....

December '90 and his application dated 16-10-90 was forwarded vide letter No.A.20017(28)/90 dated 1.11.90 and dated 29.11.90.

The copy of representation and the forwarding letters as mentioned above are annexed herewith and marked as Annexure-R-III, Annexure R-IV and Annexure R-V respectfully.

It may also be seen that he had represented vide his letter dtd.16.10.90 (Annexure R-III) to forward his application to appear in quarterly examination to be held on Dec '90 and Asstt. Director(EI) recommended at the bottom of the said letter that "we may not have objection to recommend his application to the Staff Selection Commission to appear for test/typing speed as a departmental candidate" and the office on good faith, forwarded his application. But he had never mentioned here that he is appearing only in type-writing test. Had he ever mentioned the real fact, his application would not have been forwarded to Staff Selection Commission. Thus he had misled the respondents.

4. That with regard to the contents made in paragraph 4(iv) of the application, the respondents have nothing to comment except what has been made in paragraph 3 above.

5. That with regard to the contents made in paragraph 4(vi) of the application, the respondents beg to state that they have nothing to comment.

Contd/.

6. That with regard to the contents made in paragraph 4(vii) of the application, Respondents beg to state that the LDCs in all Central Govt. Departments/offices are being appointed by the candidates sponsored by Staff Selection Commission under Statutory Recruitment Rules. The SSC conducts written and typing test for appointment of LDCs against regular vacancies. On getting requisition from Central Govt. offices, they sponsor the name of the candidates who have become successful in the competitive examination for appointment.

The applicant was appointed on purely temporary basis against specific work "Census of Small Scale Industries" for a specific period as per terms and conditions already enumerated in his appointment letter that "Shri Barman will have no right to claim for regular appointment in future of this post and is liable to be terminated at any time without assigning any reason" as per the terms & conditions given by the Development Commissioner(SSI), New Delhi vide their letter No.16/3/85-Stat dated 25.11.88(Annexure R-II). Now the applicant had given the false impression that he became successful in the competitive examination. On hearing from him, this Institute requested the requested the Staff Selection Commission, Guwahati to sponsor his name to fill up regular vacancy of LDC. Since Staff Selection Commission, Guwahati did not sponsor his name as a passed candidate for appointment to the post of LDC, he was not appointed on regular basis in violation of Recruitment Rules for LDCs. This has already been.....

been confirmed vide Development Commissioner(SSI),  
New Delhi vide letter No.C-18013/13/91-A(NG) dated 17.4.96.

A copy of the letter is annexed herewith  
and marked as Annexure R-VI.

7. That with regard to the contents made  
in paragraph 4(viii), the Respondents beg to state that  
the applicant completed 1½ one and half years of service  
as Clerk-cum-Typist under the Census Scheme. It is a  
fact, this Institute gave sympathetic consideration to  
accommodate the applicant against the existing vacant  
post of LDC. But Development Commissioner (SSI),  
New Delhi informed vide letter No.C-18013/13/91-A(NG)  
dated 17.4.96(Annexure R-VI) that "the competent  
authority has considered afresh the request of ~~shri~~ Barman  
for regularisation in the grade of LDC. It has been  
decided that on consideration of the provisions  
regarding rules and procedures of recruitment to the  
post of LDC, Shri Bharat Barman is not eligible for  
regular appointment as LDC. Shri Barman's services may,  
therefore, be terminated on vacation of the Stay Order  
granted by the Hon'ble CAT, Guwahati Bench."

8. That with regard to the contents made  
in paragraph 4(ix), the respondents have nothing to  
comment except those what have been stated above in  
paragraph 7.

Contd/.

9. That with regard to the contents made in paragraph 4(x) of the application, the respondents beg to state that since Staff Selection Commission, Guwahati did not recommend his name considering provisions of Recruitment Rules and procedures to the post of LDCs. The applicant is not eligible for regular appointment as LDC. As per terms and conditions laid down in the appointment letter issued to him vide letter No.A.11013(1)/88 dated 12.4.89 (Annexure R-I), his services was terminated.

10. That with regard to the contents made in paragraph 4(xi) of the application, the respondents beg to state that the representation dated 15.11.91 of the applicant could not be acceded to for consideration as he has completed the extended period under the scheme of Census operation and accordingly he was relieved from his duty on 31-10-91 vide order No.A.11011/11/1/88 dated 30/31.10.91 as per terms and conditions enumerated in his appointment letter dated 12.4.89(Annexure R.I).

A copy of the order dated 30/31.10.91 is annexed herewith and marked as Annexure R-VII.

11. That with regard to the contents made in paragraph 4(xii) of the application, the respondents beg to state that the statement made by the applicant that he was given given promise for regularisation of his services is not correct as there is no such documentary evidence and this is only imaginary. Therefore, timely  
action.....

action taken for relieving him from duties as Clerk-cum-Typist is not illegal.

12. That with regard to the contents made in paragraphs 4(xiii),(xiv),(xv),(xvi), and (xvii) of the application, the Respondents beg to state that they have nothing to comment.

13. That with regard to the contents made in paragraph (xviii) of the application, the Respondents beg to state that the applicant allowed to continue in his service on the direction from Hon'ble CAT, Guwahati Bench. The applicant was never holding any regular post for which there was no sanction at all. He was receiving salaries and other service benefits as applicable to other Central Govt. Employees during the period he was working in this office. But he was never a regular employee of Small Industries Service Institute, Guwahati.

14. That with regard to the contents made in paragraphs (xix),(xx),(xxi) and (xxii), the respondents beg to state that they have nothing to comment.

15. That with regard to the contents made in (ii) & (iii) paragraph 5(i)/ the respondents beg to state that these are not correct and hence denied.

Contd/.....



16. That with regards to the contents made in paragraphs 5(iv) & (v) of the application, the Respondents beg to state that Staff Selection Commission has not recommended the name of the applicant, so question of appointment does not arise.

17. That with regard to the contents made in paragraphs 5(vi) to (xii) and 6 to 9, the Respondents beg to state that they have nothing to comment.

18. That the present application is ill-conceived of law and mis-conceived of fact and as such the same may be rejected outright.

19. That the present application is without any cause of action and hence liable to be rejected.

20. That the present application is barred by law of limitation.

21. That the stay order granted by this Hon'ble Tribunal against the termination order had put the respondents in much administrative difficulties and more so when the Staff Selection Commission has not recommended the name of the applicant for appointment. The respondents pray before this Hon'ble Tribunal to vacate the stay order.

22. That the respondents crave leave of this Hon'ble Tribunal of filing additional written statement if this Hon'ble Tribunal so directs.

23. That this written statement is filed bonafide and in the interest of justice.

Verification.....

109  
130

VERIFICATION

I, Sri Anil Kumar Sarkar, Director,  
Small Industries Service Institute, Guwahati-21.

do hereby solemnly affirm and declare that the contents  
made in paragraph 1 of this written statement are true  
to my knowledge and those made from paragraph 2 to 17  
are derived from records which I believe to be true and  
rest are humble submissions before this Hon'ble Tribunal.

AND I sign this Verification on this       day  
of       , 1996 at       .

Anil Kumar  
DEPONENT

R-5

110

100  
19/413/3/89  
19/4

(1A)

S.L. No. 1A

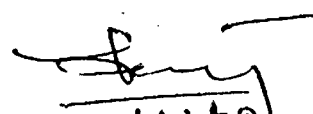
The Director,  
SISI, Bamunimaidan,  
Guwahati-21,Dated Guwahati on 12th April  
89.

Sub:- joining report.

Sir,

I have the honour to inform you  
that I have join my duty as a Clerk cum  
Typist- vide your letter order no. A.11013(1)/88,  
dated 12th April '89 and oblige.

Yours faithfully

  
19/4/89

(B. Barman)

SZ No. 10  
C.O. 93  
12/4  
R-2  
19/11  
132

A.11013(1)/88.

11th April, 1989.

O R D E R

On the recommendation of D.P.C. dt. 4.4.89 the Director, SISI, Gauhati is pleased to issue offer of appointment to Shri Bharat Chandra Barman as a Clerk cum Typist in this Institute on purely temporary basis at a consolidated pay of Rs.850/- per month. He will not be entitled for any other allowance for his service in the post. The appointment is exclusively for a period of 18 months for census liaison cell at SISI, Guwahati. ~~Shri Barman will have no right to claim for regular appointment in future for this post and he is liable to be terminated at any time without assigning any reason.~~

He is advised to communicate his acceptance of this offer letter immediately and to report for duty in this Institute, but not later than 10 days from the date of issue of this order.

( S CHAKRABARTY )  
ASSTT. DIRECTOR (ADMIN)  
FOR DIRECTOR.

To:  
Shri Bharat Chandra Barman,  
C/o M/s Chandra Silk House,  
Capital Road, (R.P. Road),  
Dispur, Gauhati-6.

Copy to:-

1. The Asstt. Director of Employment,  
District Employment Exchange,  
Silpukhuri, Gauhati-3.  
This has a reference to his letter no. ORD-125/89/4550  
dated 3-4-89. Regd No. 5248/79.
2. The Accounts Section, SISI, Gauhati for information.

( S CHAKRABARTY )  
ASSTT. DIRECTOR (ADMIN.)  
for Director.

A-20017(28)/90.

1st November, 1990.

*SL No. 154432*  
*9/11*  
The Regional Director (NER),  
Sta of Selection Commission,  
Nabagraha Road,  
Chenikuthi Hill Side,  
Guwahati-781003.

Subject:- Permission to appear in the quarterly Clerk-  
cum-Typist Examination in December'90.

Sir,

Shri Bharat Barman a purly temporary L.D. Clerk  
of this Institute is working for a short period upto  
24-11-1990. We have no any objection to permit him to  
appear in the ensuing examination conducted by you in  
the month of December, 1990.

Yours faithfully, \_\_\_\_\_

*Start*  
*11/11/90*  
(C.P. Choudhary)  
Assistant Director (Admn.)  
for Director.

\*\*\*\*\*

113  
R-1 130  
2

No. 16/3/85-Stat.  
Government of India  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)

Nirman Bhawan  
New Delhi-110011

Dated 25th Nov. '88.

O R D E R

**Subject:** Creation of temporary Gazetted/Non-gazetted plan posts  
for conducting census of small scale Industrial  
Units all over India.

Sanction of the President is hereby accorded to the  
creation of the following temporary Gazetted/Non-gazetted plan  
posts with immediate effect for a period of 24 months for  
Central Census Cell and 18 months for Liaison Cell at SISIs.

1. Central Census Cell at Hqrs. Office:

Sl. No.	Designation of the post	No. of posts	Pay scale(revised) Rs
1	2	3	4
1.	Director	1	3700-125-4700-150-EB-5000
2.	Dy. Director	4	3000-100-3500-EB-125-4500
3.	Asstt. Director (Field Operation)	4	2000-60-2300-EB-75-3200-100-3500
4.	Asstt. Director (Publicity)	1	2000-60-2300-EB-75-3200-100-3500
5.	Sr. Programmer	1	3000-100-3500-EB-125-4500
6.	Programmer	4	2200-75-2800-EB-100-4000
7.	SIPO	8	1640-60-2600-EB-75-2900
8.	Steno-typist (Steno-DI)	6	1200-30-1560-EB-40-2040

1	2	3	4
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2. Liaison Cell at SISIs.

1. Dy. Director	13	3000-100-3500-EB-125-4500
2. Asstt. Director	25	2000-60-2300-EB-75-3200-100-3500
3. SIPO	33	1640-60-2600-EB-75-2900
4. Steno-typist	21	1200-30-1560-EB-40-2040
5. Clerk cum typist	7	950-20-1150-EB-25-1500
	<u>99</u>	

(Distribution of these 99 posts amongst various SISIs are given in annexure to this sanction).

The above posts will carry usual allowances as admissible to Central Government Servants under the rules in force from time to time.

The expenditure involved will be debitable to Major Head "2851"-C.4(16)(2)-Other Expenditure.

This issues with the concurrence of Ministry of Industry, Department of ID, IF Wing vide their UO No. 5650/F.I/68 dated 25/11/88.

(K.C. GANJWAL)  
DIRECTOR (ADMN)

To

1. Ministry of Finance, Deptt. of Expenditure.
2. Ministry of Industry, Deptt. of ID(IF Wing), New Delhi, w.r.t. their above U.O.
3. PAO, SSI, New Delhi/Bombay/Calcutta/Madras.
4. Admn(G)/Admn(NG)/O&M/Vig/B&A/HE Section.
5. PS to DC.
6. Spare Copies.

115  
4  
135

ANNEXURE

SISI-WISE DISTRIBUTION OF POSTS CREATED VIDE DC(SSI) LETTER NO.  
16/3/85-Stat. DATED 25/11/88.

Sl. No.	Name of SISI	No. of posts				
		Dy.Dir.	Asstt. Dir.	SIPO	Clerk cum Typist	Steno-Typist
✓1.	Itanagar(Br.).....			1		
2.	Dimapur(Br.).....			1		
✓3.	Shillong(Br.).....			1		
4.	Aizawl(Br.).....			1		
5.	Agartala(Br.).....			1		
6.	Imphal.....		1	1	1	
7.	Margao.....		1		1	
✓8.	Guwahati.....		1	1	1	✓
9.	Solan.....		1	1	1	
10.	Srinagar.....		1		1	
11.	Cuttack.....		1	1	1	
12.	New Delhi.....		1		1	
13.	Trichur.....	1				1
14.	Bangalore.....	1				1
15.	Karnal.....	1		2		1
16.	Patna.....	1				1
17.	Bombay.....	1				1
18.	Jaipur.....	1	2	3		2
19.	Hyderabad.....	1	2	1		2
20.	Ahmedabad.....	1	2	4		2
21.	Madras.....	1	2	1		2
22.	Ludhiana.....	1	2	2		2
23.	Indore.....	1	2	5		2
24.	Kanpur.....	1	3	3		2
25.	Calcutta.....	1	3	3		2
Total =		13	25	33	7	21



792  
19/10

Dated the 16th Oct '90.

To

SL No. 14

15

The Director,  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

(Through the Asstt. Director, EI/PI)

Sub : Appeared in the quarterly examination  
sponsored by Staff Selection Commission.

Sir,

With due respect I beg to inform you that I am a Temporary staff (LDC) of SISI Guwahati. Understanding from the Commission that a quarterly examination will be held in the month of December, 1990, for regularisation of Temporary/Ad-hoc candidates. This Test/Examination will be conducted by the Staff Selection Commission in every quarter. I want to appear in the above said examination for regular appointment.

SISI GUWAHATI

El/Chem/Mech/Met/G&C/INT  
Lib/Electr/Food/Anc/Med/P-2  
Aqua/Estt/Acct.

1 OCT 1990

appreciable.

Therefore, I request you to forward my application to the Regional Director, Staff Selection Commission, Chenikuthi, Navagraha Road, Guwahati-3 for necessary action at their end. Your kind consideration is highly

Yours faithfully,

(Bri Bharat Barman),  
LDC(C)

Sr B. Barman was recruited in April, 1989 as clerk-typist on purely temporary basis. His term of service was one year. On 16.12.1990, his term has been extended up to 25.12.1990 subject to further extension depending on the exigency of work. In view of this, we may be application of him to the Staff Selection Commission for regularisation. We have objection to recommend him for test/Typing Speed as a permanent candidate.

Director

17/10/90  
Asstt. Dir (EI/PI)

A.20017(28)/90

*SL. No. 17*

29th Nov '90.

To

The Regional Director(NER)  
Staff Selection Commission,  
Navagrah Road,  
Chenikuthi, Guwahati-3.

Sub : Application for the post of LDC for appearing  
quarterly examination held on 1st January '91.

Sir,

I am to forward herewith an application form  
duly filled in and signed by the applicant Sri Bharat  
Barman an employee of this Institute together with our  
departmental endorsement for the post of LDC for favour  
of your sympathetic consideration.

Enclo : One application.

Yours faithfully,

( C.P. Choudhary )  
Asstt. Director (Admn.)  
for Director.

*o/c*  
*V. L. Choudhary* 30/11/90

BY SPEED POST

No. C-18013/13/91-A(NG)  
Government of India  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)

705 "A" Wing, Nirman Bhavan,  
New Delhi - 110 011

Dated 17th April, 1996

Shri A.K. Sarkar,  
Director,  
SISI Gauhati,

Bamanimadan,  
Gauhati - 781 021

Sub : OA No 221/91 filed by Shri Bharat Burman, LDC  
Regarding regularisation of his services in SISO  
under SISI Gauhati - Implementation of directives  
given by Honourable CAT Gauhati Bench.

Sir,

Please refer to correspondence relating with this letter  
No. C-14014/103.91/Wd.II/221 dated 17.4.96 in the  
subject.

In pursuance of the directive of the Hon'ble CAT  
Gauhati Bench vide judgement dated 18.1.96, the  
authority has considered afresh the request of Shri Bharat Burman for  
regularisation in the grade of LDC. It has been decided that  
consideration of the provisions regarding rules and regulations of  
recruitment to the post of LDC. This request is not eligible for  
regular appointment as LDC. The Bharat Burman's services may  
be terminated on vacation of the post. The request is not  
CAT Gauhati Bench. A copy of the judgement may be sent to  
this HQ immediately for record.

*(Signature)*

(O.A. CHAKRAVARTY)  
DEPUTY DIRECTOR (ADMN.)

put up on 21-5-96  
24/6

S. I. S. I. / GUWAHATI
NI: Chem/ Mech/ Met/ G&C/ HMT/ Lss/
Elb. Elects/ Food/ App. Mode/ P. A./
Admn. / Estt. / Acct. / Hindi. /
24 APR 1996
Director

R-VII  
119  
PHONE : 23155/31250

GRAM: SMALLIND.

Government of India  
Ministry of Industry  
Small Industries Service Institute,  
Bamunimaidan, Guwahati-21.

( A C S A M )

No. 11013/1/88/4432

Dated 30.10.91.  
31

M E M O R A N D U M

As per terms and condition of appointment letter issued to Sri B.C. Barman, LDC-cum-Typist recruited for census work of this Institute is hereby relieved from his duty today that is on 31.10.91.

Sd/-

( C.P. Choudhury )  
Asstt. Director (Admn.)

To,

Shri Bharat Barman,  
SISI, Guwahati-21.

Copy to :

1. The Development Commissioner, Small Scale Industries, Nirman Bhawan (7th floor) New Delhi-11. This has a reference to his letter No.A-110011/20/90-A(NG) dated 29.2.91 for information.
2. The Dy. Director (EI), SISI, Guwahati-21.
3. Pay & Account Office, (SISI), Calcutta-35.
4. Accounts Section, SISI, Guwahati-21.

Sd/-

( C.P. Choudhury )  
Asstt. Director (Admn.)  
for Director.

Attenu  
Adm

50.28  
P. 42  
120  
CONFIDENTIAL  
BY. REGD. POST

3455  
15/XI/91  
No. A-60015/2/89-A(NG)  
Government of India  
Ministry of Industry  
Office of the Development Commissioner  
(Small Scale Industries)

Nirman Bhawan  
New Delhi.

Dated:- 3/10-1991

To

The Director,  
Small Industries Service Institute,  
Guwahati.

Sub:- Regularisation of adhoc appointment(s) of Steno-typist  
and Clerk-Cum-Typist made in posts created for Second  
All India Census of Small Scale Industries Units.

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Sir,

This office had created 7 posts of Clerk-Cum-Typists in the pay scale of Rs. 950-1500 and 21 posts of Steno-typists in the pay scale of Rs. 1200-2040 vide this office order No. 16/3/85-Stat. dated 25-11-1988, which were further extended upto 31-10-1991 vide this Office Order No. A-11011/20/90-A(NG) dated 27-2-1991. On being represented by some of the ad hoc appointees, holding these posts, this office has examined the question of regularisation of adhoc appointments in consultation with Department of Personnel and Training. They have observed that these adhoc appointments were made for specific purpose and for a specific period only. Since these are Group C non-technical posts, recruitment to these posts fall within the preview of the Staff Selection Commission. In view of this, regularisation of the said ad hoc appointees in relaxation of the recruitment procedure cannot be agreed to.

Yours faithfully,

(J.R. CHOPRA)

Section Officer (Admn.)

Copy to:-

Census Cell, Head Qrs. Office.

24/11/91  
12/11/91  
15/11/91  
15/11/91  
15/11/91