

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXX~~

O.A. No. 483 OF 1989.
~~XXXXXX~~

DATE OF DECISION 27-8-1990

E.I. JOSEPH, Petitioner

MR. B.P. TANNA Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s.

MR. J.D. AJMERA Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. N.R. CHANDRAN, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? *js*
2. To be referred to the Reporter or not? *js*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *js*

E.I. Joseph,
Section Officer (Accounts)
Office of the Controller of Defence
Accounts Southern Command,
PUNE - 1.

..... Petitioner.

(Advocate: Mr. B.P. Tanna)

Versus.

1. The Controller of Defence
Accounts, Southern Command,
No.1 Finance Road,
Pune - 1, Maharashtra State.
2. Controller General of Defence
Accounts, West Block Vth,
R.K. Puram,
New Delhi - 110 066.
3. Union of India,
Represented by the Secretary,
Ministry of Finance (Defence),
Government of India,
New Delhi.

..... Respondents.

(Advocate: Mr. J.D. Ajmera)

J U D G M E N T

O.A. No. 483 OF 1989

Date: 27-8-1990.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The applicant, a civilian employee of the Defence Accounts Department, was promoted as Officiating Assistant Accounts Officer (Group B) retrospectively from 1.4.1987 by order No. 332 dated 7.6.1988 (Annexure A-2) issued by DCDA(AN) SC Pune on the authority of CGDA's Confidential most immediate No. AN/XI-A/11061/1/Promotion/AAO/I dated 22.4.88. But close on the heels of the order of promotion, DCDA(AN)

Pune issued order No. 460 dated 10.8.1988 (Ann. A-4) by which applicant's name in the promotion order No. 332 dated 768 was cancelled on the authority of CGDA Confidential No. AN/XI-A/11061/Promotion/AAO/II dated 28.7.1988 and order No. 463 dated 12.8.88 (Ann. A-5) ordered recovery of higher than due-in-the-lower post emoluments paid to the applicant on account of his promotion. The applicant submitted representation dated 10.9.1988 (Ann. A-6) to the Controller General of Defence Accounts (CGDA) through proper channel stating why the order of cancellation of promotion (Ann. A-4) and the order of recovery (Annex. A-5) are bad and untenable. This representation elicited reply dated 2.1.1989 (Annex. A-7) from LAO(A) Jamnagar on the authority of CDASC that the applicant was not eligible for promotion to AAO's grade being not in the zone of consideration and that his promotion to AAO's grade will be considered in turn. The applicant has challenged the three orders, namely of cancellation of his promotion (Annex. A-4) of recovery (Annex. A-5) and the reply to his representation (Annex. A-7).

2. The applicant's grounds of challenge appearing in the application are that he was promoted by a duly constituted departmental promotion committee, that no reason were advanced for cancellation of the order of promotion and that the order was unspeaking and that the recovery order

violates his property rights over his salary and thus infringes his constitutional right. The representation the applicant made (Annexure A-6) refers to the plus and the minus sides of his service career and asserts that he was promoted because the Departmental Promotion Committee had found him suitable for promotion and the order of cancellation of promotion in fact reduced him in rank without following the principles of natural justice. Similarly, the order of recovery though penal in nature was issued without giving him an opportunity to be heard.

3. The reply on behalf of the respondents/ Mr. M.I. Chawla shows his designation as Accounts Officer in the beginning and LAO (A) in verification. He has not signed the reply, leaving the place for his signature and date blank. This omission violates part of the rule 12(2) of Central Administrative Tribunal (Procedure) Rules, 1987 which requires that the "reply shall be signed and verified as a written statement by the respondent....." He does not figure as one of the respondents and has filed the reply because he claims to have read the application and perused the record. The reply objects to the application on the ground that the applicant had not exhausted all other remedies. However, why the applicant's representation dated 10.9.88 falls short of exhausting all other remedies and what these other allegedly unexhausted remedies are not stated. This despite Rule 12(2) of C.A.T. (Procedure) Rules, 1987

inter alia requiring that the reply "may also state such additional facts as may be found necessary for the just decision of the case". Para 3 of the reply and the unnumbered paras after it aver that the promotion of the applicant was erroneously made and he is not entitled to promotion looking to his service record, that promotion order is retrospective by 14 months; that duties and responsibilities of Assistant Accounts Officers in the department have not yet been delineated to distinguish the same from the duties of Section Officer(A) and the nature of the duties of the two designations is the same ; that on account of that "the contention of the applicant that he worked on the promoted post is of no avail" and "his promotion did not involve any additional duties and responsibilities and he continued to work in the same capacity" and the "applicant discharged the same duties which he was discharging prior to his said promotional order"; that the applicant had earned adverse remarks in the year 1982 and 1983 which were duly communicated to him and his probation period was time and again extended from 1980 upto 23.5.84; that the applicant's juniors having been confirmed earlier than the applicant, they, as per rules, become senior to him and the applicant lost his original seniority in the SO(A) grade from place 687 to 921-R; that the LAO(A) Jammagar's letter dated 15.12.1988 to the applicant in fact conveyed the decision of the Controller General of Defence

Accounts; and that the applicant came to be promoted wrongly on the basis of his place 687 in seniority list and the same was an administrative lapse. Regarding recovery order, the reply avers that the applicant has not worked on the promotional post and therefore not entitled to retain the higher emoluments of the promotional post.

4. Though the signatory of the respondents' reply claims to have read the application and perused the record, no documents, not even the seniority lists showing the original and the changed place of the applicant in the seniority and order, if any, by which the change in seniority adverse to the applicant came to be made, is annexed. Thus the reply is in the position of a shoe that tries to suspend itself by its own string and not on any document for support as a peg. With reply not filed by any one of the respondents but filed by a much lower official than the respondents, absence of documents to support the averments in it should detract its evidentiary value. When reply has not been filed by any of the respondents and is filed on ^{their} / behalf, becomes greater the need for supporting at least key averments with documentary evidence especially when, as in this case, a major career benefit like an eligible normal next step promotion first came to be given to an employee only to be withdrawn later on the ground that the order of promotion was issued by mistake, is involved.

5. In the above state of the reply for the respondents, the applicant submitted his rejoinder which, rightly in our view, questions entitlement of LAO(A) who is not a respondent and is a mere Group B Gazetted Officer to file reply on behalf of any of the respondents and pleads that such a reply deserves to be excluded from consideration. The applicant has asserted that he was promoted in accordance with his seniority and 110 other persons were also promoted at the same time as he with retrospective effect as he. He has further averred that his promotion was in fact an upgradation to the higher scale of Rs. 2000-3200 prescribed for Section Officer (SG) and 80% of the Section Officers were to be in scale Rs. 2000-3200 and only 20% in the lower scale of Rs. 1640-2900 in accordance with circular dated 12.6.87 of the Government of India, Ministry of Finance, Department of Expenditure (Annexure A-8) and Section Officer (SG) is equivalent to AAO in rank and pay. He asserts that the 110 others promoted performed the same duties as the applicant (which in fact it should be in accordance with the provisions of the circular dated 12.6.1987 of Government of India). The applicant has pointed out that his probation period completed on 23.11.82. But the communication of extension of probation period was sent to him on 5.10.83, after ten months of that. He asserts that his promotion was ordered by the Controller General of Defence Accounts but the order

of reversion is issued by a lower authority. He says that promotion being on nonselection method, question of comparative assessment of service records did not arise for determining suitability. He has also averred that his adverse seniority shift from place 687 to 921 was carried out without any prior notice to him and violated the principles of natural justice. He has claimed that he received no adverse remarks since 1984 and promotion order was issued in 1988.

6. Both sides made their respective written submissions in which, by and large, their known stands and facts in pleadings came to be repeated. However, the applicant questions the respondents' assertion that no junior to the applicant who was not confirmed earlier than him is working as AAO

by pointing out that in Annex. A-2 the applicant figures at OA/687 whereas S.N.Deshpande, A.C. Pathrose and R.S. Gaur figure at OA 739, OA 772 and OA 797 respectively and occupy positions as his juniors and that they were not confirmed at the time of their promotion. He has explained that OA stands for Officiating Accountant. The respondents say that the post of Unit Accountant to Garrison Engineer, Nadiad, the post the applicant held during promotion, was never upgraded to the rank of AAO and that the applicant's say that his juniors are working as AAO is not correct.

7. Even if we accept for the sake of facility of understanding that there has been, though as viewed earlier it is not satisfactorily proved, a mistake in promoting the applicant, an inference that derives from the respondents' stands is that the applicant would have been due for and would have been correctly promoted had his seniority not been shifted adversely to him from point 687 to point 921, a drastic slide by 234 points, because of the extension of his period of probation and the consequential delay in his confirmation which placed him over two hundred juniors confirmed before him as senior to him. Then the question arises what procedure is required to be adopted for finalising this vastly adverse seniority shift of the applicant and whether the respondents adopted it. The respondents have thrown no light on it even in the face of the applicant's allegation that he was neither put on notice about the adverse shift of seniority nor heard. The record of the case is consistent with the view that as if the applicant came to know about the shift for the first time only from the respondents' reply to the ^{original application} . We are of the view that this gross adverse shift of applicant's seniority by neither informing him about it nor giving him opportunity to be heard is grossly unfair and violative of the ^{service} rights of the applicant to persevere in his appointed place of seniority.

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(12)

Length of continuous service in the promoted post should reasonably be an important criteria for confirmation in that post. When extension in confirmation in such a post is advanced as ground for adverse seniority shift, it is all the more necessary that prior notice of change and reasons for it and giving opportunity to the employee to represent against the change ^{should be} a prerequisite. The respondents have not even averred that they published a seniority list showing the applicant's name shifted down below so that the applicant could represent against it. There is no averment that any seniority list exists and published. As is inevitable, a Government servant stand in a queue at a given place with people ahead and people behind in his rank in his department. Fairness and natural justice enjoin that if the department has come to possess any satisfactory material, reasons or grounds warranting an adverse shift in this position depriving the employee of his legitimate right to be ^{to the adverse consequence on his career,} in the given place in the queue, the department should speakingly inform the concerned employee about it, hear him and then decide what the position should be. None of this is shown to have been done in the case before us despite which the promotion given to the applicant came to be snatched. This should naturally be a matter of serious consequence and concern ^{the applicant. His representation against} to it elicited only a routine reply and even the reply to this OA is filed by a lower functionary who cannot even state that he has verified the connected documents and annex them respondents ignoring which ^{resulted in the promotion of the applicant which,}

but for the alleged mistake, appears as accrued at normal time.

8. When the adverse shift in the seniority of the applicant has been illegally made, the change is void and nonest and his original position at serial number 687 is deemed to have continued. With that happening, the order of cancellation of promotion issued on the basis of seniority of the applicant at serial number 921 cannot survive. When that cannot survive, survives the order of promotion which came to be cancelled. With that happening, the recovery order cannot survive and the respondents reply to the applicant's representation has to be considered as unsustainable.

9. In view of our above reasoning, we do not take up for consideration the respondent's other arguments like nondelineation of duties of AAO and SO, on account of which the applicant, despite his promotion as AAO did the work of SO and the applicant's contest to the same. To any one conversant with administrative and personnel matters in Government departments, such an arguments should be absurd on its very face. Instances of Government upgrading posts and incumbents of the posts before upgradation doing the same work in the upgraded posts are common.

10. As a consequence, the application is liable to succeed and we hereby so order with following directions to the respondents :

- (i) The respondents are directed to cancel orders No. 460 dated 10.8.1988 (Ann.A-4) and No. 463 dated 12.8.1988 (Annexure A-5) within fifteen days of this order. They shall, within the same fifteen days, restore the applicant to the rank of AAO from the date the order of cancellation of his promotion become effective. This restoration shall be on the basis that the order of cancellation of promotion was never issued.
- (ii) The respondents shall, within two months of the date of this order, pay to the applicant all consequential benefits like difference of salary, allowances and emoluments as if the applicant was not reverted and continued as AAO ever since his promotion as AAO.
- (iii) In case the respondents have affected any recovery from the applicant pursuant to order No. 463 dated 12.8.88 (Ann.A-5) the amount so recovered shall be paid to the applicant within two months of this order.
- (iv) Respondents shall pay Rs. 500 (Rupees five hundred only) to the applicant within two months of this order towards the cost of the suit.

We clarify that this order does not preclude the respondents from taking legal steps to shift the seniority of the applicant if so advised.

N.R. Chandran



(N.R. CHANDRAN)
JUDICIAL MEMBER.

M. M. Singh
27/57

(M.M. SINGH)
ADMINISTRATIVE MEMBER.

(27)

M.A./ST./ 515/90 in
R.A./42/90 in
O.A./483/89

Date	Office Report.	O R D E R
2.7.91		<p data-bbox="657 473 1421 513">Present : None present for the parties.</p> <p data-bbox="621 633 1620 805">The case be struck off, as the objections could not be rectified. With this MA.ST.515/90, stands disposed of.</p> <div data-bbox="609 819 1039 978"> (S. Santhana Krishnan) Judicial Member</div> <div data-bbox="1274 819 1567 978"> (P.H. Trivedi) Vice Chairman</div> <p data-bbox="605 1170 662 1204">AIT</p>

(2)

M.A./ST./ 515/90 in
R.A./42/90 in
O.A./483/89

Date	Office Report.	O R D E R
2.7.91		<p data-bbox="651 455 1414 486">Present : None present for the parties.</p> <p data-bbox="615 613 1609 776">The case be struck off, as the objections could not be rectified. With this MA.ST.515/90, stands disposed of.</p> <div data-bbox="602 886 1549 955"><div>(S. Santhana Krishnan) Judicial Member</div><div>(P.H.Trivedi) Vice Chairman</div></div> <p data-bbox="592 1150 651 1176">AIT</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

R.A.No. 42 OF 1990

IN

O.A. No. 483 OF 1989 ~~198x~~
~~ExxNox~~

DATE OF DECISION 25-2-1991.

The Controller of Defence, & Ors. Petitioners (Orig. Respondents)

Mr. P.M. Rayal Advocate for the Petitioner(s)

Versus

E.I. Joseph Respondent (Orig. Petitioner)

Mr. B.P. Tanna Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. N.R. Chandran, Judicial Member.

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

1. The Controller of Defence,
Accounts, Southern Command,
No.1 Finance Road,
Pune - 1, Maharashtra State.
2. Controller/General of Defence,
Accounts, West Block V,
R.K. Puram,
New Delhi - 110 066.
3. Union of India,
Represented by the Secretary,
Ministry of Defence Finance
Government of India,
New Delhi.

.... Petitioners
(Orig. Respondents)

(Advocate: Mr. P.M. Raval)

Versus.

E.I. Joseph,
Section Officer,
Office of the Controller of Defence,
Accounts Southern Commands,
Pune - 1.

..... Respondent
(Orig. Petitioner)

(Advocate: Mr. B.P. Tanna)

J U D G M E N T

R.A.No. 42 OF 1990

IN

O.A.No. 483 OF 1989

Date: 25-2-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The three applicants who are respondents in O.A.No. 483/89 have filed the above review application dated 25.9.1990 on our judgment and order dated 27.8.90 in the O.A. The substance of the application is that the original applicant was promoted by mistake on the part of the administration that the mistake was corrected in view of the

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provisions of para 100 of the Chapter : Recruitment, Appointment, Promotion and Confirmation from Office Manual which the application admits was not placed on record at any stage upto the final hearing though various contentions on the basis of this para are claimed to have figured in reply to the original application. While substantially saying so, the application, at the end of para 7 and inconsistently with this admitted position, mentions that " the petitioners submit that no new evidence is required to be produced before this Hon'ble Tribunal save and except pointing out the relevant para 100 and the abstract from the Roster of officiating section officers". It is apparent that para 100 which though not specifically relied upon in pleadings or in arguments before the judgment is now strongly pressed into use as virtually the sole ground for the review application. In para 8.1 of the application permission is sought "to point out the relevant para-100 in support of the consequential order of correction of the Roster Number of the petitioner particularly in view of the fact that the change in roster numbers effected are already on record". These averments in fact have the affect of introducing new material in the record at the

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- 4 -

review stage which is not permissible in review.

2. The above apart, we reproduce para 8 of the judgment which contains the main reasons behind the judgment and order dated 27.8.90.

"When the adverse shift in the seniority of the applicant has been illegally made, the change is void and nonest and his original position at serial number 687 is deemed to have continued. With that happening, the order of cancellation of promotion issued on the basis of seniority of the applicant at serial number 921 cannot survive. When that cannot survive, survives the order of promotion which came to be cancelled. With that happening, the recovery order cannot survive and the respondents reply to the applicant's representation has to be considered as unsustainable."

It is clear from the above that the judgment nowhere says that the applicant respondents have no power under the rules or at all to make an adverse shift in the seniority of persons figuring in the seniority list. In fact our judgment ended with the sentence " We clarify that this order does not preclude the respondents from taking legal steps to shift the seniority of the applicant if so advised."

M. M. Sre.

..... 5/-

CENTRAL ADMINISTRATIVE TRIBUNAL, DE LHI

(28)

Application No.

483

of 1989

~~Transfer application No.~~

Old Write Pet. No.

CERTIFICATE

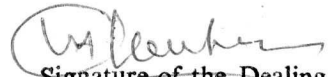
Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated:

Countersigned.

Section Officer/Court Officer.

MGIPRRND—17 CAT/86—T. S. App.—30-10-1986—150 Pads,


Signature of the Dealing
Assistant.

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH**

INDEX SHEET

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 NAMES OF THE PARTIES Shri E. S. Joseph
 VERSUS The controller of Defence Accounts, S.C. & G.
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[illegible]

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Submitted;

C.A.T./Judicial Section.

Original Petition No.: 483 of 89.

Miscellaneous Petition No.: of .

Shri E. I. Joseph Petitioner(s).

Versus.

Union of India & Co Respondent(s).

This application has been submitted to the Tribunal by
Shri B P Tanna under Section 19 of
The Administrative Tribunal Act, 1985. It has been scrutinised
with reference to the points mentioned in the check list in
the light of the provisions contained in the Administrative
Tribunals Act, 1985 and Central Administrative Tribunals
(Procedure) Rules, 1985.

The application has been found in order and may be
given to concerned for fixation of date.

The application is not been found in order for the
same reasons indicated in the check list. The applicant
may be advised to rectify the same within 21 days/Draft
letter is placed below for signature.

Document or not certified as the copy.

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OK)

We may inform accordingly.

E. I. Joseph

12/10/89

12/10/89

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10-11-88
10/11/88

ANNEDURE-I

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT (S) E I Joseph

RESPONDENTS (S) Union of India &c

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO
RESULT OF EXAMINATION

1. Is the application competent?
2. (A) Is the application in the prescribed form?
(B) Is the application in paper book form?
(C) Have prescribed number complete sets of the application been filed?
3. Is the application in time?
If not, by how many days is it beyond time?
Has sufficient cause for not making the application in time stated?
4. Has the document of authorisation/ Vakalat nama been filed?
5. Is the application accompanied by B.D./I.P.O for Rs.50/-? Number of B.D./I.P.O. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed?
(b) Have the documents referred to in (a) above duly attested and numbered accordingly?
(c) Are the documents referred to in(a) above neatly typed in double space?
8. Has the index of documents has been filed and has the paging been done properly?

Y
Y
Y
Y
Y

—
Y
Y

yes Anne. A-4, A5 &
A7 (P 23-24-29)

Y
100
Y
Y

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?
11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with annexures filed.
 - (a) Identical with the original.
 - (b) Defective.
 - (c) Wanting in Annexures
No _____ Page Nos _____?
 - (d) Distinctly Typed?
13. Have full size envelopes bearing full address of the Respondents been filed?
14. Are the given addressed, the registered addressed?
15. Do the names of the parties stated in the copies, tally with those indicated in the application?
16. Are the translations certified to be true or supported by an affidavit affirming that they are true?
17. Are the facts for the cases mentioned under item No.6 of the application.
 - (a) Concise?
 - (b) Under Distinct heads?
 - (c) Numbered consecutively?
 - (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for, stated with reasons?

checked.
12/10/11

SLE 46789
6/10

Before the Central Administrative Tribunal
Ahmedabad Bench at Ahmedabad.

Original Application No. 483 of 1989.

E.I. Joseph. ... Applicant.

vs.

The Controller of Defence
Accounts, S.C. and ors. Respondents.

I N D E X

Sr.No.	Annex.	Particulars	Pages
1--	--	Memo of application	1 to 14
2.	A/1	Copy of order dt.7.1.81.	15
3.	A/2	Copy of order No.332 dt.7-6-88.	16-17
4.	A/3	Copy of order No.340 dt-13-6-88.	18-22
5.	A/4	Copy of order dt.460 dt-10-8-88.	23
6.	A/5	Copy of order No.463 dt.12-8-88.	24
7.	A/6	Copy of order dated 10.9.1988.	25-28
8.	A/7	Copy of order dtd. 2-1-1989.	29

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Received Com.
6.10.89
J.D. Sharma
Adm. Secy.

L+3.
(B.P. Faruqi)

10/11
21/1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD

Original Application No. 683 /1989.

E.I. Joseph,
Section Officer (Accounts)
Office of the Controller of Defence
Accounts Southern Command,
Pune-1. .. Applicant.

versus

1. The Controller of Defence
Accounts, Southern Command,
No.1 Finance Rd.
Pune-1, Maharashtra State.
2. Controller General of Defence
Accounts, West Block Vth,
R.K. Puram, New Delhi 110 066.
3. Union of India,
Represented by the Secretary,
Ministry of Finance (Defence),
Government of India,
New Delhi. .. Respondents.

Application under Section 19 of the
Central Administrative Tribunal Act,
1985.

1. Particulars of the applicant:

- | | | |
|------|--|--|
| i) | Name of the applicant | - E.I. Joseph |
| ii) | Name of the father | - E.C. Ittyaviram |
| iii) | Designation and office in which employed | - Section Officer (Accounts)
Controller of Defence Accounts,
Southern Command,
At Naliya, Kutch,
at present employed as
Section Officer (Accounts)
CDA SC, Pune-1. |
| iv) | Office address | - As given above. |
| v) | Address for service of all notices | - As given above. |

2. Particulars of the respondents:

- | | | |
|------|---|--------------------------------------|
| i) | Name and designation of the respondents. | - As shown in the cause title above. |
| ii) | Office address of respondents | - As shown in the cause title above. |
| iii) | Address of the respondents for service of notices | - As shown in the cause title above. |

3. Particulars of the orders against which the application is made:

This application is made against the following orders:

- i) Order No. CDA SC, Pune-1, Part II bearing No. 460 dated 10.8.1988 by which the applicant was reverted.
- ii) Order which is passed in pursuance of the earlier order ~~of reversion~~ for recovery of pay and allowances given to the applicant bearing No. 463 dated 12.8.1988 passed by Accounts Officer (AM/Pay/SC Pune-1)
- iii) Order rejecting appeal dated 2-1-1989 signed by LAO (A) Jamnagar.

4. Jurisdiction of the Tribunal

The applicant is serving in the Defence Department (Accounts) on civil post. Therefore this Hon'ble Tribunal has jurisdiction. While the applicant was promoted and reverted he was at Naliya, Kutch-Bhuj, Gujarat State. Therefore also this Hon'ble Tribunal has jurisdiction

5. Limitation

The appeal which was made against the impugned order was rejected on 2-1-1989

and, therefore, this application is within time limit prescribed under Section 21 of the Central ~~Tribunal~~ Administrative Tribunal Act, 1985.

6. Facts of the case:

- a) The applicant joined as a Lower Division Clerk in the Defence Accounts Department, a Civil Department, under the administrative control of the Union Finance Ministry in the year 1966 and was posted at Pune in the office of the Pay Accounts Office (other Ranks) BEG Kirkee.
- b) The first respondent is presently the Head of Office of the applicant. He is one of the subordinate officers of the Second respondent who is the Head of the Defence Accounts Department. The third respondent is the Secretary, Ministry of Finance (Defence), Government of India, New Delhi and is the administrative Ministry.
- c) The applicant was transferred from his Pune office and was posted to the office of the UA BSO Cochin and subsequently to the office of the UA GE Cochin. Prior to

the re-regular vacancy and in officiating capacity from 24-11-1980. A copy of this order of promotion dated 7-1-1981 is annexed hereto and marked as Annexure A/1 Annex.A/1 to this application.

- f) By a covering transfer order bearing No.AN/I/1111(6)/ii dated 18-12-1982, the applicant was locally transferred to the office of the Local Audit Office (Army) Jamnagar and reported there on 20-9-1982 Forenoon and continued to serve in that office till he was transferred on 19-10-1983 to the office of the LAO(Army) Ahmedabad and took charge there on 30-10-1983. The applicant was again locally transferred from the office of the LAO (Army) 'A' Ahmedabad to LAO (Army) 'B' Ahmedabad. The applicant was again transferred from this office as UA GE (Project) Naliya in Gujarat State and took over as independant charge for the second time with effect from 14-5-1987-.
- g) While functioning as UA GE(P) Naliya, the first respondent on the authority of the second respondent's confidential/Most Immediate letter No.AN/XI/A/11061/1/Promotion/AAO-I dated 22-4-1988 issued his Pt.II Office Order No.332 dated 7-6-1988, a copy of which

his posting from Pune to Cochin the applicant had passed Part I of the Subordinate Accounts Service Examination (shortly known as 'SAS' Examination) in the year 1972 and was confirmed as a UDC with effect from the date of passing this examination. The applicant was again transferred to the office of the UA BSO Ahmedabad from Cochin. The applicant wrote his SAS Part II Examination from Cochin Centre and was declared successful by the first respondent vide his Part II Office Order No.163 dated 18.3.1980.

d) The first respondent thereafter appointed the appoicant to the grade of Section Officer (Accounts) in the regular vacancies in an officiating capacity from the forenoon of 24-11-1980 on promotion under his Part II Office Order No.15 dated 7-1-1981. The applicant on his promotion was transferred to take an independent charge as Unit Accountant Garrison Engineer (shortly known as UA GE) (Air Force) at Jamnagar with effect from 24-11-1980 (FN).

e) After passing SAS Part II Examination held in November, 1979 the applicant was given promotion on the post of SO (A) in

Ann.A/2 is annexed hereto and marked as Annexure A/2 to this application. Thereafter in pursuance to the order dated 7-6-1988 by which the applicant was promoted on the post of Assistant Accounts Officer (Group B) from the post of Section Officer (Accounts) and the pay was fixed by order No.340 dated 13-6-1988. A copy of this order No.340 dated 13-6-1988 is

Ann.A/3 annexed hereto and marked as Annexure A/3 to this application. The applicant worked on the promoted post with sincerity. But all of a sudden, after two months he received an order dated 10.8.1988 stating that his promotion order has been cancelled and his name should be deleted from the promotion order dated 7-6-1988 (Annexure A/2). There was no reason mentioned in this reversion order. A copy of this order No.460 dated 10.8.1988 is annexed hereto

Ann.A/4 and marked as Annexure A/4 to this application. It is important to note at this stage that when the applicant was promoted on the lower post of Section Officer in 1980 he was put on probation for two years. It was extended from time to time upto 1984. Thereafter there is no extension of probation period till 1988. There is

no adverse remarks communicated to the applicant since last three years. Even ~~though~~ what was the justification in reverting the applicant was not mentioned. Thereafter second order dated 12.8.1988 bearing No.463 was passed for recovery of the pay and allowance which the applicant had received on the higher post. A copy of this order No.463 dated 12-8-1988 is annexed hereto and marked as Annexure A/5 Ann A/5 to this application. This order is patently wrong when the applicant had actually worked on the promoted post and in fact the Government had no reason to hurriedly recover the pay and allowance which was given to the applicant as he had worked on the higher post. It may also be stated that till today his juniors/^{who}are working on the post of AAO have not been reverted.

- h) Thereafter the applicant made an appeal to the Controller General of Defence Accounts, New Delhi on 10.9.1988. A copy of this appeal is annexed hereto and marked as Annexure A/6 to this applic- Annex A/6 -ation. To the shock and surprise of -the applicant, he received an order

Ann.A/7

dated 2-1-1989 from the Local Audit Officer (Army), Jamnagar withat CDA SC (Controller of Defence Accounts, Sothern Command) has intimated that the applicant was outside the zone of consideration and, therefore, the applicant was not eligible for promotion and his promotion will be considered in his turn. A copy of this order dated 2-1-1989 is annexed hereto and marked as Annexure A/7 to this application. It is important to note at this point that the applicant made appeal to the Controller General of Defence Accounts which is the highest authority and the appellate authority while his appeal is disposed of by the -lower officer, that is, Controller of Defence Accounts, Southern Command, Pune. There is no reference regarding the Controller General that all what he has to say in the matter. Even this order is without reasons that why the case of the applicant was not coming in the zone of consideration and, therefore, it is not a speaking order. There is no denial or discussion about the appeal of the applicant. There is no mention of the

points, averments, etc., which the applicant have raised in the appeal. Therefore, there is non-application of mind on the part of the so-called appellate officer. Therefore, this order is also liable to be quashed and set aside.

- 1). The applicant herein approaches for redressal of his grievances on the following amongst other grounds which are without prejudice to one another.

G R O U N D S

- A) That the order of the respondents cancelling the promotion of the applicant already granted to him by a duly constituted Departmental Promotion Committee that too without assigning any reason whatsoever is illegal, arbitrary, against the principles of natural justice and violative of Articles 14 and 16 of the Constitution of India.
- B) That the action of the first and second respondents and subsequent recovery of arrears of pay and allowances etc., from the applicant which promotion

was already granted is ultravires of the powers and without jurisdiction.

- C) That the first and second respondents are duty bound under the law to disclose the reasons why they have cancelled a promotion already granted to the applicant. The order now passed in cancelling the promotion of the applicant and the one ordering recovery of arrears already granted are errors on the face of the record and deserves to be quashed.
- D) That the order of the first and second respondent cancelling the promotion already granted to the applicant and their subsequent action in ordering recovery of arrears of pay and allowances in the absence of any lawful reasons will only amount to malafide action based on extraneous considerations.
- E) That salary is property is a well settled law of the land. Though it ceases to be a fundamental right it continues to be a Constitutional right under Article 300 A of the Constitution, under which the property

of a citizen which includes a Government servant as well cannot be deprived without an authority of the law. The unilateral action in cancelling the promotion of the applicant with its monetary consequences is against this Constitutional mandate and cannot be sustained in the eyes of law.

7. Reliefs sought for:

- (A) quash and set aside the order or reversion dated 10.8.1988 (Annexure A/4) and also further be pleased to quash and set aside the order for recovery ~~of~~ of pay and allowances vide order at Annexure A/5 and further be pleased to quash and set aside the order rejecting the appeal dated 2-1-1989 produced at Annexure A/7 to the application.

8. Interim reliefs prayer:

As the impugned orders are already implemented, no interim relief is prayed for.

9. Details of the remedy exhausted:

~~As~~ The appeal made to respondent No.2 was rejected by respondent No.1.

10. Matter not pending with any Court, etc:

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

11. Particulars of bank draft in respect of the application fee:

A) Name of the bank on which drawn:

B) Demand Draft No.

12. Details of Index:

An index in duplicate enclosing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

- a) Application under Section 19 of the Act.
- b) Demand Draft for Rs. in favour of the Registrar, CAT, Ahmedabad.
- c) Typed set of papers containing Annexures.
- d) Index in duplicate.

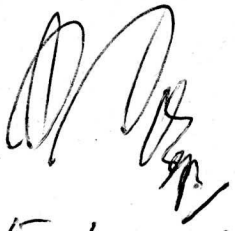
Ahmedabad,

Date: -10-1989.

D. V. Tanna
(B. P. Tanna)
Advocate for the applicant.

In Verification

I, E.I. Joseph, son of Shri E.C. Ittyavira, aged about 42 years, serving at present as Section Officer (Accounts) in the office of the CDA SC Pune and residing at Pune, do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any facts.


E.I. JOSEPH.

To

The Registrar,
 Central Administrative Tribunal,
 Ahmedabad.

Iskanti Lal
by me.
B. P. Tanna
(B.P. Tanna)
Advocate.

Filed by Mr. *B. P. Tanna*
 Learned Advocate for Petitioners
 with second set & *3* spares
 copies copy served/not served to
 other side

C. S. Shetty
 Dt. 6/10/11 Dy. Registrar C.A.T.(I)
 A'bad Bench

6/10/88

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, SOUTHERN COMMAND PUNE - 1.

PART II OFFICE ORDER NO: 15 DATED 7-1-81.

Sub : Promotion of S.A.S. Part II Examination passed individuals to SO(A) grade in regular vacancies.

The C.D.A SC Pune hereby appoints the undermentioned SAS part II Examination passed individuals to the grade SO(A) in the regular vacancies in an officiating capacity with effect from the dates shown against each. They will be on probation for a period of two years, from the date of their promotion in the first instance.

Sl.No.	Name	A/c No.	Present grade	Section/office where serving	Date from which promoted
1.	Shri E.I. JOSEPH	8300986	Pt.Auditor	UAGE(AF) JAMNAGAR	24-11-80 (FN)
2.	Shri P.P. SHARMA	8306957	Pt.Auditor	LAO 6 FOD JODHPUR	24-11-80 (FN)
3.	Shri R.S. GAUR	8307035	Pt.Auditor	UAGE KOTA	25-11-80 (FN)

NO: AN/II/21131/Vol.II
DATE: 8-1-1981.

Copy to:

1. The C.D.A(P) Allahabad (2 copies)
2. All Sub-sections to 'AN' Sn
3. C.R.Task, Index Card Task, Personal files
4. UAGE (AF) Jamnagar, LAO 6 FOD Jodhpur, UAGE Kota.
5. Officer-In-Charge 'T', Grocery.

sd/-(S.D.KASHIKAR)
ACCOUNTS OFFICER (AN) SC PUNE.

(S.D.KASHIKAR)
ACCOUNTS OFFICER (AN) SC PUNE.

Annex. A1

15

(39)

Am A/2

16

(40)

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, S.C. PUNE-1

PART II OFFICE ORDER NO. 332 DATED: 7-6-1988

Sub : Higher Functional Grade in Section Officer (A)
Grade in D.A.D.

.....

Having been selected for promotion to the grade of Assistant Accounts Officer, of the CDA S.C., pune hereby appoints the SOs (A) mentioned in Annexure 'A' (Unreserved category) to this order as Assistant Accounts Officers (Group 'B') in the scale of Pay of Rs. 2000-32000 with effect from the dates shown against the name of the individuals in the officiating capacity till successful completion of their probation. These Officers will be on probation for a period of 2 years with effect from 1-4-87/1-11-87 i.e., the date of their promotion.

On promotion to the Higher functional grade from 1-4-87/1-11-87 as the case may be. The pay of the affected individuals will be fixed under FR 22 C from 1-4-87/1-11-87 * the financial benefits would be given to him from the date of joining duty after leave. (* If any promotee was on leave on 1-4-87/1-11-87)

In case if any promotee was on leave on 1-4-87/1-11-87 other than C.L. the office where the promotee was serving during 4-87/11-87 is hereby directed to intimate to AN-PAY Section of Main Office the date of joining duty of such promotee after leave period.

If any of the Officer desires to have the pay fixed as A.A.O. in terms of DP & OM No. 1/2/87/Eatt/Pay-I dt. 9-11-87 they should exercise an option within a period of one month from the date of issue of this order and the option once exercised will be final. No request for condonation of delay in exercising the option will be entertained.

The contents of this part II O.O. may please be brought to the notice of the concerned individuals and their initials obtained and recorded for having noted the contents. If any individual is on leave/Ty, Duty a copy of the order may please be sent to his leave address by Regd. Post Ack. Due and his acknowledgment having noted the contents recorded at your end.

Please acknowledge receipt.

Authority : C.G.D.A. Confidential/Most Immediate No. AN/XI-A/11061/1/Promotion/AAO/I dated 22-4-88.

sd/- (T.S. NAYAR)
Dy.C.D.A. (AN) SC PUNE-1

Three Copy
B2
Advance

1. The C.G.D.A., New Delhi

2. The C.D.A (A) Allahabad

3. U.A.G.E. Naliya

4. U.A.G.E. Kamptee

5. S.L.A. (A) Udaipur

6. AN-PAY Sn. (Local)

7. PAO/GREF Sn (Local)

8. AN-I, II, III, IV, V/AN-PAY-I, II, III, IV

9. C.R. Task/Index Card Task/PF

10. AN-PAY (Pay Fixation Task Holder)

11. Spare copies.

(N.V. DESHMUKH)
Accounts Officer (AN) SC PUNE-1

ANNEXURE 'A'

Sl. No.	Roster No.	Name S/Shri	Date of Promotion	Station/Office where serving	Remarks
1	2	3	4	5	6

1. OA/679 A.G. KULKARNI 1-4-87 U.A.G.E. (I) Girinagar

2. OA/687 E.I. JOSEPH 1-4-87 U.A.G.E. Naliya

3. OA/739 S.N. DESHPANDE 1-4-87 AN-PAY M.O.

4. OA/732 A.O. PATHROSE 1-11-87 U.A.G.E. Kamptee

5. OA/797 R.S. GAUR 1-11-87 U.A.G.E. Udaipur

Five individuals only.

(N.V. DESHMUKH)
Accounts Officer (AN) SC PUNE-1

OFFICE OF THE CONTROLLER OF DEF. ACCOUNTS SOUTHERN COMMAND PUNE - 411 001

PART II OFFICE ORDER No. 340 DATED: 13/6/88

SUB:- Fixation of Pay under FR 22C on promotion from SO(A) Grade to Offg. Assistant Accounts Officer grade.

REF:- Part II Officer Order Nos. 242/88 and 332/88.

On Promotion as A.A.O. in a officiating capacity, the initial pay of the undermentioned individuals are fixed under FR 22C in the time scale of Rs. 2000-60-2300-EB-75-3200 as under with effect from the date of promotion shown against each in column 9.

(LOWER GRADE SCALE : 1640-60-2600-EB-75-2900)

Sl. No.	Account No.	Name S/Shri Smt.	S.B P.F. No.	Where serving	Rate of pay in the SO(A) grade on the date of promotion as AAO.	Pay notional-ly increased by one increment in the lower grade.	Rate of pay initially fixed in the promoted grade from the date of promotion.	Date from which pay is fixed in the promoted grade.	DNI if other-wise admissible.	Financial effect w.e.f	REMARKS (Whether opted or not in terms of Govt. OM Dtd. 9/11/87 Note 2 also refers.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
1.	8270464	S.N.Deshpande	10125	AN/PAY	1820	1880	2000	1/4/87	1/4/88	1/4/87	Opted
2.	8299007	A.V.Bivalkar	9994	LAO (A)	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted

A3 2 8

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
3.	8303097	V.J. Mathai	6019	LAO(A) Ahmedabad T. SN	1820	1880	2000	1/4/87	1/4/88	1/4/87	opted
4.	8303251	A.B. Datar	9693		2240	3200	2375	1/4/87	1/4/88	1/4/87	Not opted
5.	8269954	G.S. Sahasrabudhe	10057	UAGE(CME) Phugewadi	1820	1880	2000	1/4/87	1/4/88	1/4/87	opted
6.	8283178	P.M. Deshpande	1641	UABSO(CME) Phugewadi	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
7.	8269300	M.I. Pillay	8664	FA SN	2360	2420	2450	1/4/87	1/4/88	1/4/87	Opted
8.	8299170	V.C. Ramachandran	8613	RAO(MES) Pune	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
9.	8283398	A.G. Anandraman	8266	FA SN	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
10.	8299377	R. Muralidharan	5654	UAGE(W) Bombay	2240	2300	2375	1/4/87	1/4/88	1/4/88	Not opted
11.	8263484	S.M. Cutchhi	8121	UAGE(P) Thane	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
12.	8299423	N.D. Jagtap	8617	LAO(A) Ahmednagar	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
13.	8263521	R. Easwaran	4801	UAGE Karanja	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
14.	8283417	G.M. Shah	8452	PAO Graf	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
15.	8269870	M.R. Damle	8615	UABSO(S) Pune	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
16.	8270221	A.V. Mhaskar	8614	Fund Cell	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
17.	8288910	M.Y. Phadnis	9720	Pay 4	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
18.	8303841	B.K. Chandane	10287	PAO GREF	1760	1820	2000	1/4/87	1/4/88	1/4/87	Not opted
19.	8283382	M.N. Kulkarni	1899	Pay 2	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
20.	8269658	A.G. Kulkarni	10058	UAGE(I) IAT Girinagar	1920	1880	2000	1/4/87	1/4/88	1/4/87	Opted
21.	8297397	M. Balasubramanian	9791	AAO Jaipur	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
22.	82955681	Kishan Lal Singh	9807	LAO(A) Kota	1760	1820	2000	1/4/87	1/4/88	1/4/87	Not opted
23.	8295580	Girija Shankar Tewari	10278	AAO Jaipur	1820	1880	2000	1/4/87	1/4/88	1/4/87	Not opted
24.	8310794	Chandrasen	7675	UAGE(AF) Jodhpur	1820	1880	2000	1/4/87	1/4/88	1/4/87	Not opted
25.	8308199	A.O. Pathrose	9354	LAS(DAD) Dehu Road (Now UAGE Kamptee)	1880	1940	2000	1/11/87	1/11/88	1/11/87	Opted
26.	8307035	R.S. Gaur	8804	UAGE Udaipur	1880	1940	2000	1/11/87	1/11/88	1/11/87	-
27.	8300986	E.I. Joseph	7117	UAGE Naliya	1820	1880	2000	1/4/87	1/4/88	1/4/87	-
28.	8288145	P.N. Singh	10376	CDA Patna (previously in UAGE 864 EWS C/o 99 APQ)	1940	2000	2060	1/4/87	1/4/88	1/4/87	Not opted
29.	8282171	Indra Dev	8842	LAS Udaipur	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted
30.	8293186	James Jayaraj	8120	UAGE Dehu	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted
31.	8298670	L D Gupta	9918	UAGE Alwar	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
32.	8297815	R.C.Sharma	9937	LAO Alwar	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted
33.	8300949	P.Sundara Mohan	8345	UAGE (C) Deolali	2000	2060	2120	1/4/87	1/4/88	1/4/87	Not opted
34.	8284723	K.Rajaram	4892	UAGE Baroda	1880	1940	2000	1/4/87	1/4/88	1/4/87	Not opted
35.	8283280	M.A.Lagad	1767	UABSO(NW) Bombay	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted

NOTE 1 : FR 22C provides for fixation of pay of Govt. servant in the time-scale of the promoted grade/post at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower grade/post by one increment at the stage at which such pay has accrued.

NOTE 2 : The fixation of pay has been under FR 22 C straining away as the above individuals have either opted for fixation of pay under FR 22C from the date of promotion straight away without any further review on accrual of increment in the pay scale of the above grade/post or have not opted so within the time ~~as~~ limit of one month prescribed in terms of Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Dept. of Personnel & Training) OM No. 1/2/87 - Estt (Pay-I) of 9/11/87 (Part I O.O. No. 275/87 refers)

(THIRTY FIVE OFFICERS ONLY.)

SD/-(K.A.KUMARASWAMY)
ACCOUNTS OFFICER(AN/PAY)SC PUNE -1.

No.AN/PAY/I/ 51154/Fixation/RPR86/IV

DATED : 22/6/88.

COPY TO :-

1. The CDA (Pensions) Allahabad (2 copies).
2. The Officer-In-Charge-AN-IV (Local) (2 copies)
3. The Officer-In-Charge-AN-PAY-I, II, III, IV (Local).(2 copies)
4. File copy/File No.AN/PAY/I/0307/RPR86/Promotion/Option/C/II
5. P F Copy (as per PF Nos shown in Col.4 above).
6. Spare copies-10
7. The A.A.O. (SC) Nala Garden Road, Near CWE's office, Jaipur Cant- 302008 (4 copies)
8. The AO (MES) C/o (Project), Port Blair (4 copies)
9. All sections in Main office, CDA SC Pune (local).
10. The UAGE Naliya
11. The UAGE (CME) Phugewadi/UABSO(CME) Phugewadi/LAS DAD Dehu Road/UAGE Dehu Road
12. The RAO (MES) Pune/UABSO (S) Pune/UAGE (I) IAT, Girinagar
13. The UAGE (W) Bombay/UAGE (P) Thane/UAGE Karanj- a/UABSO (NW) BOMBAY
14. The LAO (A) Ahmednagar/UAGE Kamptee/UAGE (C) Deolali
15. The LAO (A) Kota/UAGE (AF) Jodhpur/UAGE Udaipur/UAGE Alwar/LAO (A) Alwar
16. The CDA Patna
17. The UAGE 864 EWS C/o 99 APO.

SD/-(K.A.KUMARASWAMY)
ACCOUNTS OFFICER(AN PAY)S.C. PUNE - 1.

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Adman

Am A/4

23

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, S.C. PUNE-1

PART II OFFICE ORDER NO.460 DTD.10/8/88

Sub : Amendment to Part II O.O.No.332 dtd. 7/6/88
on account of Higher Functional Grade in
Section Officer (A) Grade in D. A. D.

Ref : Part II O.O. No.332 dtd. 7/6-88

.....

The following amendment may please be carried out to the
Part II O.O. referred to above.

Sl. No. 2 of the Annexure 'A' of Part-II O.O. No.332 dtd
7/6/88 notifying the promotion to AAO's Grade in respect of Shri
E.I. JOSEPH, Roster No. OA/687 is hereby cancelled and Serial No.2
may be treated as blank. All other entries remain unchanged.

Authority : C.G.D.A. Confidential No. AN/XI-A/11061/Promotion/AAO/II
dated 28/7/88.

sd/- (T.S. NAYAR)
D.C.D.A. (AN) SC Pune-1

No. AN/II/0268/VII
Dated: 10/8/1988

Copy to:

1. C. G. D. A., West Block - V, R.K.Puram, NEW DELHI - 110066
2. C. D. A. (P) Allahabad
3. LAO (B) Ahmedabad
4. U.A.G.E Kamptee
5. SLA (A) Udaipur
6. U.A.G.E. Naliya
7. PAO/GREFF (LOCAL)
8. AN-PAY-I,II,III,IV/AN-I,II,III,IV
9. AN-PAY (Pay-fixation Task holder)
10. CR Tack/Index Card/PF No.7117
11. Spare copies.

(N.V. DESHMUKH)
Accounts Officer (AN) SC Pune-1

True Copy
PLT
Adv. v. e.

A/S
OFFICE OF THE CONTROLLER OF DEF. ACCOUNTS SOUTHERN COMMAND PUNE - 411 001

PART II O.O. No.463 OF 12/8/88.

SUB:- Fixation of Pay in AAO's grade on promotion - cancellation of

REF:- Part II O.O. Nos. 332/88, 340/88, 427/88 and 460/88.

Consequent on the cancellation of the promotion order notified under our Part II O.O. No.332 of 7/6/88 (Sl.No.2) vide our subsequent Part II O.O. No.460 of 7/6/88 ibid, the Pay fixed in respect of E.J. JOSEPH, SO(A) A/c No.8300986 in AAO's grade vide this office Part II O.O. No.340 of 13/6/88 (Sl. No. 27) (as amended vide Part II O.O. No.427 of 21/7/88) is hereby cancelled. The Pay and Allowance paid to the individual in question in AAO's grade together with arrears paid thereof may please be recovered and corresponding deductions regulated accordingly. Sl. No.27 of this Office Part II O.O. No.340/88 may, therefore, please be treated as BLANK.

(One (1) individual only.)

Sd/- (K.A. KUMARASWAMY)
ACCOUNTS OFFICER (AN/PAY) S.C. PUNE-1.

No. AN/PAY/I/51154/Fixation/RPR86/IV

Dated:- 16/8/88.

COPY TO:-

1. The CDA (Pensions) Allahabad (2 copies).
2. The Officer In-Charge-AN-IV (Local) (2 copies).
3. The Officer In-Charge-AN-PAY-I, II, III, IV (Local).
4. File copy
5. PF 7117
6. Spare copies - 5.
7. The UAGE Maliya
8. The LAO(A) Jamnagar.

(K. A. KUMARASWAMY)
ACCOUNTS OFFICER (AN/PAY) S.C. PUNE-1.

Annex - Ag

24

(45)

Three Copy
B/L
Advocate

By Regd. A.D.

September 10, 1988.

From:-

E.I. Joseph, A/c. No. 8300986,
U.A.G.E. Project,
Naliya,
Gujarat State,
Pin - 370 655.

To:

The Controller General of Defence Accounts,
R.K. Pwam,
New Delhi.

(THROUGH PROPER CHANNEL)

Sub:- Appeal to set aside the Office Order Passed by CDA,
Southern Command, Pune bearing Part II Office Order
No. 460 dated 10-8-1988, whereby my promotion to the
Post of Assistant Accounts Officer at Naliya is
Cancelled. AND

to set aside the Order dated 10-8-1988 and to pass an
order to treat me on the post of AAO from 1-4-1987.

.....

Respected Sir,

I am submitting this appeal so as to seek redressal of
my grievance about the cancellation of my promotion as AAO
during the tenure at Naliya as a Section Officer, on
which post I am working since 1980, after I was promoted
on clearance of the departmental examination.

2. I state that I am continuously serving as Section
Officer under the CDA Southern Command, from 24-11-1980.
The said promotion was on clearance of Subordinate Accounts
Service Part II Examination and the result of the Examination
of Part II was declared in November, 1979, and the list of
successful candidates under CDA, including my name at Sr.No.
53 of CDA(SC) Part II OO 163 of 18-3-1980 was prepared. I
submit that I started working as Section Officer (Accounts)
on 24-11-1980 with a posting at the office of Unit Accountant,
Garrison Engineering Project (Air Force), Jamnagar. I submit
that I was posted on probation for a period of two years,
i.e. till 24-11-1982, but due to certain extraneous reasons my
probation period was extended for a period of one year. I
state that when my extended probation was to come to an end,

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I was communicated certain adverse remarks on 3-10-1983 stating that my probation was extended upto 24-11-1983 due to these adverse remarks. I submitted my representation against these adverse remarks. The said representation was submitted to the Controller of Defence Accounts, Southern Command, Pune on 6-2-1984 and it was submitted through proper channel. I was glad to receive a reply from the Assistant Controller of Defence Accounts, Southern Command, Pune, dated 24-2-1984 whereby I was informed that the adverse remarks relating to integrity had been expunged, but I was sorry to hear that the remarks relating to my performance were not expunged and I was asked to prefer an appeal to the Controller General of Defence Accounts at Delhi. I submit that I preferred an appeal to the said authority, vide representation made in the month of May, 1984. But the same was rejected stating that the said adverse remarks cannot be expunged. I submit that thereafter on 25-1-1984, I was intimated on Office Order No. AN/II/21124/I/III issued by the office of the CDA Southern Command, Pune, whereby my probation period was extended till 23-5-1984 and I was warned to be more careful and I was advised to earn good assessment reports during the extended period of probation. I say that after 23-5-1984 there was no correspondence between me and the office of the Southern command. Therefore, I presume that my assessment for the years 1984 to 1987 was 'GOOD' and/or 'VERY GOOD', as no adverse remarks have been communicated to me till this date.

3. I submit for your kind consideration that I was considered suitable by the Departmental Promotion Committee when it cleared the names of Section Officers, and my name was placed at Sr. No. 2 of CDA, SC. Part II Order No. 332 of 8/88 in Roster No. OA/687.. I was, therefore, considered eligible and suitable for promotion to the post of AAO from the post of Section Officer. I annex hereto a copy of my promotion order dated 7-6-1988. It says that I am promoted to the post of Assistant Accounts Officer in the unreserved category and it was to the post of Group B, in the payscale of Rs. 2000-3200 and it was on officiating basis on probation for a period of two years, with retrospective effect from 1-4-1987. i.e. the date of my promotion.

4. I further submit that consequent on promotion as Assistant Accounts Officer as notified in the Part II Office order *ibid*, I started working as such on the said post at Naliya. I submit

that after about two months, i.e. from the impunged order cancelling my promotion and reverting me to the post of Section Officer was passed.

5. I submit that the order of the reversion has been passed without any reasons. My confidential records, when I was working as Section Officer, are without any blemishes to the best of my knowledge as no adverse entries for the year 1984 to 1987 have been Communicated and the adverse entered earlier are deemed to be wiped off after I was promoted. This promotion given to me is on merits, after the Departmental Promotion Committee had cleared my name. Therefore, the reversion given to me is bad and contrary to the rulings of the Hon'ble Supreme Court and the Hon'ble Administrative Tribunal. This would also amount to reduction in rank and therefore would be violative of the Principles of natural justice, as I am not afforded enough opportunity so that my performance may be assessed in the said post. A simple order passed for amendment in the earlier order dated 7-6-1988 is not proper and is violative of the principles of natural justice.

6. I submit that the corresponding letter issued by the Accounts Officer whereby he had instructed that my pay and allowances already paid for the post of AAO be recovered from me is also a penal order and is without giving an opportunity of hearing to me and is against the principles of natural justice null and void. Therefore, I humbly submit and pray as under:-

(a) Be pleased to quash and set aside the order dated 10-8-1988, whereby my promotion of the post of AAO has been cancelled and I am reverted to the post of Section Officer, with immediate effect;

(b) Be pleased to revive the earlier order dated 7-6-1988, as it was passed after the Departmental promotion Committee had considered my case and had given retrospective effect and be pleased to implement the said order.

(c) Be pleased to stay the order dated 12-8-1988, bearing No. Part II OO No. 463, wherein pay and allowances paid to me for the post of AAO are to be recovered from my salary and be further pleased to direct that no deductions may be effected . . . 4

28

[Handwritten signature]

from my salary till the disposal of this appeal.

I therefore request you to kindly consider my appeal within a period of one month in my favour.

Thanking you, in anticipation.

Yours obediently,

*These copy
B.I.
Advances*

(E.I. JOSEPH)

Ann A/7

(48)

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Shri E.I. Joseph,
The VAGE(P),
Naliya.

CONFIDENTIAL

JNR/E/Con/IV,
LAO (Army),
Jamnagar.

2/1/89

Sub: Higher functional Grade in SO(A)
Cadare in DAD Shri E.I. Joseph
SO(A) A/C No. 8300986.

It has been intimated by CDASC, Pune, vide their letter No. AN/II/0268/II, dt. 15/12/88, that you were not eligible for promotion to AAO's grade, since you were outside the zone of consideration and your promotion will be considered in your turn.

Please acknowledge receipt.

(sd:)

LAO(A), Jamnagar.

MA
TRAC
Adra caef

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O.A. No. 483 of 1989

S.I. Joseph Applicant

Versus

Union of India & Ors. Respondents

WRITTEN SUBMISSION ON BEHALF

OF THE RESPONDENTS:

The applicant has filed written submissions which are received by me on 17.7.1990. The respondents most respectfully state as follows-

1. I say that the applicant was promoted as Assistant Accounts Officer with effect from 1st April, 1987 vide the Controller of Defence Account, Southern Command, ~~Unit~~ Unit-II office order No. 332 dated 7.6.1988 i.e. promotion was made from ~~retrospective~~ retrospective effect as far as back about 14 months. It is submitted that the duties of the Accounts Officer in the department have yet ~~not been~~ not been delegated to distinguish that the nature of the duties of S.O.(A) and that of A.A.O. are the same. The contention of the applicant that he worked on the promotional post is of no use and is not tenable because the nature of duty of both the posts are same. It is further clarified that the promotion did not involve ~~any~~ any additional duty or responsibilities.

Copy sent
18/7/90
Dis. Mr. [Signature]
B. [Signature]

and he continued to work in the same capacity. The Unit Accountant, Garison Engineer's post at Nadiad was never upgraded nor re-named so as to require any extra duty or to add new charge to the post. Therefore it is submitted that the applicant discharged the same duties which was discharging prior to his said promotion order.

It is further submitted that the applicant earned adverse remarks in his annual confidential report for the year 1982-83 which was communicated to him time being and therefore the promotion period was time and again extended and again upto 23.5.1984 when he was considered to have ~~not~~ successfully completed the probation period of promotion as S.O.(A) with effect from November, 1980.

It is submitted that seniority depends upon the confirmation and therefore his junior became senior to the applicant as per the rules. The ~~x~~ applicant did not complete his ^{PRUBAN} promotion period successfully and his confirmation was made late.

It is in this view of the aforesaid circumstances of the case and due to delay in confirmation of the applicant, he had lost his original seniority in S.O. (A) grade. The settlement made by the applicant that his junior are working in the post of A.A.O.

13-2-90

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(51)

BEFORE THE CENTRAL ADMINISTRATIVE
TRIBUNAL AT AHMEDABAD.

O.A.NO.483/89.

S.I.Joseph. .. Applicant.

VS

Controller of Defence
Accounts and others. .. Opponents.

COPY Sent to Mr.
Mr. B.P. Tamra
Advocate

83-1-90

83-1-90

REPLY ON BEHALF OF THE
OPPONENTS.

I, M. I. Chaudhri Account Officer
Ahmedabad

do hereby verify and state in reply to the
application as under.

1. I have read the application and perused
the record and competent to file this reply. I do
not admit such of the averments made in the
application except which are specifically admitted
by me and I hereby deny the same.

2. At the outset, it is submitted that the
present application is misconceived and not
maintainable at law and deserves to be dismissed.
The orders passed by the opponents are legal and
valid. The applicant is not entitled to any
relief as prayed for and application deserves to
be dismissed.

2. Referring to para-4, it is submitted that the applicant has not exhausted all other remedies available under the rules and therefore the present application is premature in view of provisions of section 20 of the Act.

3. Referring to para-6-A to F, the applicant has narrated his service particulars. I do not admit any of the averment and contention raised in these sub-paras which are inconsistent with the orders passed by the respondents and also records of the case. It is submitted that promotion of the applicant was erroneously made. The applicant was not entitled to the promotion looking to his service record. The applicant has therefore no right to claim to continue on the said promotional post.

Referring to para 6-G, it is submitted that the applicant was promoted to the grade of Assistant Accounts Officer with effect from 1st April 1987 vide the Controller of Defence Accounts, Southern Command, Pune-II office order No.332, dated 7-6-1988 i.e. promotion was made with retrospective effect as far back as about 14 months. It is further submitted that duties and responsibilities of the Assistant Accounts Officers in the department have yet not been delineated to distinguish it with that of Section Officer (A). It is submitted that nature of duties of S.O.(A) and that of A.A.O. are the same. The contention of the applicant that he worked on the promoted post is of no avail because nature of duty of both the posts are same. It is

submitted that his promotion did not involve any additional duties or responsibilities and he continued to work in the same capacity. The Unit Accountant, Garison Engineer's post at Nalia was neither upgraded nor re-named so as to require any extra duty or to add new charge to the post. It is submitted that therefore the applicant discharged the same duties which he was discharging prior to his said promotional order.

It is further submitted that the applicant earned adverse remarks in his annual confidential report for the years 1982 and 1983 which was communicated to him timely and acknowledged by the applicant and therefore his probation period was time and again extended finally upto 23-5-1984 when he was considered to have successfully completed the probation period on promotion as S.O.(A) with effect from November 1980. It is submitted that seniority depends upon the confirmation. As his juniors' record was clear and who cleared their probation period earlier, they were confirmed and therefore his juniors became senior to him, as the applicant did not complete his probation period successfully and his confirmation was made late. It is submitted that in view of the aforesaid facts and circumstances of the case and due to delayed confirmation of the applicant, he had lost his original seniority in the S.O.(A) grade. The statement made by the applicant that his juniors

are working in the post of A.A.O. is not factually correct in view of the aforesaid position.

Referring to para 6-H, it is submitted that against the impugned order, the applicant had made appeal to the Controller General of Defence Accounts, which is an appellate authority. It is submitted that after considering merits of the case, the appellate authority has rejected his appeal and communicated the decision to the lower authority, who in turn communicated the applicant that his appeal has been rejected. The contention of the applicant that his appeal has been rejected by the lower authority is not correct and hereby denied and the said contention has no force. It is further submitted that the applicant's application dated 10-9-1988 was forwarded to the Controller General of Defence Accounts by the Controller of Defence Accounts, Southern Command, Pune vide his letter dated 21-10-1988. The applicant was also informed vide the intimation issued through the Local Audit Officer (A) Jamnagar vide the letter dated 28-11-1988. The decision of the appellante authority was informed to the applicant by the Controller of Defence, ~~Southern~~ Accounts, Southern Command, Pune vide his letter dated 21-11-1988 and same was conveyed through the Local Audit Officer(A) Jamnagar vide his letter dated 15-12-1988. It is submitted that therefore it is clear that appeal was decided by the higher authority and the said

authority has rejected the same. The appellante
authority has communicated the decision to the
lower authority and the lower authority in turn
conveyed the decision of the higher authority
through proper channel. It is further submitted
that the decision of the competent authority
stated that since the applicant had lost his
original seniority in S.O.(A) grade by virtue of
his supersession in confirmation in the S.O.(A)
grade by his juniors, the S.O.(A) was out side the
zone of consideration for promotion to the A.A.Os
grade and his promotion to A.A.O. will be considered
in his turn. It further submitted that the
applicant had lost his original seniority in
S.O.(A) grade from Roster No. Officiating Accountant-
687 to O.A. 921-R in the Officiating S.O.(A) by
virtue of his supersession in confirmation on
S.O.(A) grade by his juniors. It is submitted
that as contended above, the applicant was not
within the zone of consideration. It is submitted
that originally his number was O.A. 687, but
subsequently it was brought down to O.A. 921-R
because his confirmation was delayed and therefore
he was not within the zone of consideration and
therefore he could not have been promoted. As it
was wrongly considered that his ~~pro~~ number remains
at O.A. 687 and therefore his case was considered.
This was administrative lapse.

Referring to grounds, same are legal contentions and are untenable and deserve to be rejected. It is submitted that the applicant's service record was not satisfactory and therefore his probation period was extended from time to time. It is submitted that the applicant was given erroneous promotion and therefore he has no right to enjoy the same. It was bonafide error on the part of the administration. The impugned reversion is therefore simpliciter and only with a view to correct the error, which was committed by the department. It has no adverse effect on the applicant. It is denied that the said action is malafide or otherwise illegal as alleged. It is submitted that the applicant has not worked on the promotional post and therefore he was not entitled to retain the difference of salary paid to him of the promotional post and therefore the said amount has rightly been recovered from the applicant. It is denied that there is any violation of the applicant's fundamental right guaranteed under the Constitution as alleged. It is submitted that the impugned orders are legal and valid and in accordance with rules.

4. Referring to para-7, the applicant is not entitled to any relief as prayed for and the application deserves to be rejected.

DATE: _____

(34)

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VERIFICATION

I, M. I. Chaudhary

do hereby verify and state that what is stated hereinabove, is true to my knowledge, information and belief and I believe the same to be true.

DATE: 11.1.90

M. I. Chaudhary

L.A.O. (A)

Ahmedabad

Reply/Rejoinder/written submissions
filed by Mr. T. D. A. M. S. G.
learned advocate for petitioner/
Respondent with second set.
Copy served/not served to other side

C. S. Gow 24/1/90
At 23/1/90 Dy. Registrar C.A.T. 07
Ahmedabad Bench

17-4-90 (2)
37
58

Before Central Administrative Tribunal at
Ahmedabad.

O.A. No. 483 of 1989.

S.I. Joseph Applicant.

vs.

Controller of defence
Accounts and others Opponents.

AFFIDAVIT IN REJOINDER

I S.I. Joseph filing this rejoinder to deny various contentions which are wrongly made in the affidavit in reply filed by Local Audit officer (Ahmedabad).

1.. The reply which is given by L.A.O.(A) who is not the respondent in this application. He is Group 'B' Gazetted officer, Ahmedabad. He is not entitled to make reply on behalf of any respondent. He has not mentioned that in whose behalf he is filing this reply. where he is empowered to file reply from any of the respondents he has not stated anywhere. Therefore, this reply should not be taken into consideration by this Tribunal.

Copy sent
for R.P. Bhattacharya
13/3/90

2.. I deny the averments made in para 2 of the reply.

3.. It is not true that the applicant has not exhausted alternative remedies, but on the contrary, he had filed appeal to respondent No.2 i.e. Controller General of Defence Account and it was rejected. (Annexure A/7 page 29) The respondent himself admitted in his reply on page 4 that the applicant has made appeal which was rejected.

4.. Therefore, we can say that L.A.O. (A) has filed this reply without any substance and verifying the facts and he has made contrary statement in the reply.

5.. It is the contention of the L.A.O. (A) that the promotion of the applicant is erroneously made. whether he is entitled to say this on behalf of all the respondents? The promotion of the applicant was made on 10-6-88 with retrospective effect on 1-4-87 Annexure A/1, A/2 A/3) relying upon seniority list and on non-selection basis. 110 persons were promoted with him.

6. The applicant strictly speaking not

promoted but he was put in upgradation to the higher scale according to the memorandum of 12th June 1987. This circular dated 12th June 1987 is annexed and marked Annexure A/8 to the application. In this circular it is stated that there will be two grades. section officer (S.G.) 2000-3200 and section officer 1640-2900. section officer(S.G.) were have to be made up to 80%. The section officer will remain in 20%. The section officer(S.G.) which is equivalent to Assistant Accounts officer in which the applicant is ~~prom~~ promoted it is 80%. The section officer is equivalent to section officer Account which are 20%.

Annexure A/8

7. With the applicant there were more than 110 people were promoted in the southern Command, Gujarat, Maharashtra and Rajasthan and all are working and performing the same duties which the applicant is performing. This is according to the government of India decision vide circular dated 12-6-87. This circular is annexed and ~~marked~~ marked Annexure A/9 to the application.

Annexure A/9

8. It is the contention of L.A.O(A) that the adverse remarks were communicated to the

applicant in time which is on face of it wrong.

period of adverse remarks.	Communication delay	
1982	20-10-83	8 months.
1983	6-4-84	2 months.

The probation period completed on 23-11-82. The communication of the extension of the probation period was conveyed to him on 5-10-83. When 10 months have already been passed and the extended period was about to complete. on 5-10-83, he was conveyed that your probation period has been extended from 23-11-82 to 23-11-83.

9.. The applicant also denies that his representation has been decided by Controller General of defence Account. The original of the rejection order may be called for.

According to my information some lower officer has decided the case and rejected the same in the name of higher authority. The promotion was made by Controller General of defence Account and therefore, reversion cannot be made by the lower authority. Even the reversion order dated 28-7-88 has not

been made by him but by some lower officer. Therefore, original reversion order dated 28-7-88 may be called for.

10. since 1984, there is no adverse remark against the applicant. The applicant's promotion was made by non-selection method and the question of comparative assessment does not arise.

11. It is also mentioned in the reply that the petitioner's seniority list No. 687 was changed to 921. How it is happened? There is no notice given to the applicant. The principle of natural justice has not been followed by the authority. The promotion of the applicant to the post of section officer (S.G.) was on regular vacancies shown in Annexure 'A'. The reversion of the petitioner's seniority position has been made without informing the petitioner. There is no order given to the petitioner in this behalf. The promotion was made to the applicant in June 1988 and since 1984 there is no adverse remarks against the applicant. Therefore, there is no occasion to lower down the position in the seniority list. Therefore, the ~~xxx~~ petition should be allowed with ~~costs~~ costs.

What is stated above is true and correct
and I believe the same to be true.

solemnly affirmed today, on this day
of 1990.

*Signature is
on white
paper*

Reply/Response/written submission
filed by Mr. B.P. Tanna
learned advocate for petitioner/
Respondent with second set.
Copy served/not served/other side

Dt. 14/3/90 Dy. Registrar C & T (J)
A'bad Bench

C14/3/90

OFFICE OF THE CONTROLLER OF THE ACCOUNTS

SOUTHERN COMMAND PUNE- 1.

PART I OFFICE ORDER NO. 166 DATED : 2nd JULY
1987

SUB : Restructuring of Accounts Staff in Organised
Accounts.

Govt. of India, Ministry of Finance Department
Expenditure office Memorandum No.F5(32)-E.III/86-PT-II
dated the 12th June 1987 on the above subject received
under C.G.D.A. New Delhi circulation slip No. AN/SIV/
14162 dated 15-6-1987 is reproduced below for informa -
tion and guidance of all concerned. A further communica-
tion in regard to the implementation of the orders will
follow on receipt of the same from CGDA New Delhi.

"Based on the recommendation of the Fourth
Central Pay Commission the scales of pay for Auditors
and Section Officers in Audit stream of Indian Audit &
Accounts Department(IA&AD) is on the following lines:-

	<u>Pre-revised</u>	<u>Revised</u>	
1. Assistant Audit Officer	Rs. 650-30-740- 35-880-EB-40- 1040.	Rs.2000-60-2300-EB- 75-3200	80%
2. Section Officer	Rs. 500-20-700- EB-25-900	Rs.1640-60-2600- EB-75-2900	20%
3. Senior Auditor	Rs.425-15-500- EB-15-560-20- 700-EB-25-800	Rs.1400-40-1600- 50-2300-EB- 60-2600	80%
4. Auditor	Rs. 350 330-10-380- EB-12-500-EB-15- 560	Rs.1200-30-1560- EB-40-2040	20%

2. The Fourth Central Pay Commission vide
para 11.38 of Part I of its report have observed

that the Audit & Accounts functionare complementary to each other and are generally performed in many Government offices in an integrated manner which is necessary for their effective functioning.

Accordingly, the Pay Commission have recommended that there should be broad parity in the pay scales of the staff in IA & AD and other Accounts Organisations. It has further recommended that the proposed scales of pay of Rs. 1400-2600 and Rs. 2000-3200 may be treated as functional grades in future and that there will be no selection grade for any of these posts. As regards the number of posts in the higher functional scales, the commission left this matter for Government to decide.

3. The revised scale of pay for the Accounts Staff in the Organised Accounts Cadres under the Controller General of Defence Accounts, Controller General of Accounts, Departments of Posts & Telecommunications and also in Indian Audit and Accounts Department at par with Audit stream have already been notified vide this Ministry's Notifications No. F15(1)IC/86 dated 13-9-86 and 22-9-86 respectively. In accordance with these Notifications, certain persons have already been allowed the higher revised scales of pay subject to the conditions laid down therein.

4. The question regarding number of posts to be placed in the higher scales of pay has been under the consideration of the Government

- 3 -

and it has now been decided that the ~~max~~ ratio of number of posts in higher and lower scales in the Organised Accounts cadre as well as in Accounts Wing of the IA & AD may be follows :-

i) Section Officer (SG)	Rs. 2000-60-2300-EB-75-3200	80%
ii) Section Officer	Rs. 1640-60-2600-EB-75-2900	20%
iii) Senior Accountant	Rs. 1400-40-1600-50-2300-EB-60-2600	80%
iv) Junior Accountant	Rs. 1200-30-1560-EB-40-2040	20%

The designations in different Organised Accounts cadre may be different. In such cases also the pay structure on these lines may be decided.

5. These orders take effect from 1/4/87. The respective cadre controlling authorities may now take necessary action to prescribe criteria for appointment to the higher functional grades requiring promotion to the grade of Rs. 1400-40-1600-50-2300-EB-60-2600 and Rs. 2000-60-2300-EB-75-3200 on the same lines as adopted for Audit stream and thereafter take necessary action to implement these orders.

6. The orders in respect of Railway Accounts Organisation will issue separately.

7. These orders issue in consultation with the Comptroller and Auditor General of India in so far as these relate to IA & AD.

Sd/ (GIAN SWARUT)
CONTROLLER OF DEF. ACCOUNTS
S.C.PUNE-1.

(64)
A/9

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS,
S.C.PUNE-1

PART II O.O. NO. 242 DATED 6-5-1988

sub : Higher functional grade in SO(A) grade
in DAD

.....

Having been selected for promotion to the grade of Assistant Accounts officer, the C.D.A. S.C. pune hereby appoints the sos(A) mentioned in Annexure 'A' (unreserved category) and Annexure 'B' (S/C category) to this order as Asstt. Accounts officers (Group B) in the scale of pay of Rs. 2000-3200 with effect from 1-4-87 in the offg. capacity till successful completion of their probation. These officers will be on probation for a period of 2 years w.e.f. 1-4-87.

2. However, the individuals at sr. Nos. 5,8,18, 29,37,59,76, 80 listed in the Annexure 'A' to this order are given proforma promotion w.e.f. 1-4-87 under NBR as they were on deputation with other departments on that date. The benefit of notional pay fixation from the date of proforma will be given to them from the date of reversion to the present department.

3. On promotion to the higher functional grade from 1-4-87 the pay of the effected individuals will be fixed under FR 22 C from 1-4-87. If any promotee was on leave on 1-4-87, the financial ^{ex} benefits would be given to him,

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(5)
- 2-

from the date of joining duty after leave.

4. In case if any promotee was on leave, on 1-4-87 other than CL the office where the promotee was serving during 4/87 is hereby directed to intimate to AN-PAY Section of main office the date of joining duty of such promotee after leave period.

5. If any of the officer desire to have their pay fixed as A.A.O. in terms of DP & T OM No. 1/2/87/Estt/Pay-I dated 9-11-87 they should exercise an option within a period of one month from the date of issue of this order and the option once exercised will be final. No request for condonation of delay in exercising the option will be entertained.

6. The contents of this part II OO may please be brought to the notice of the concerned individuals and their initials obtained and recorded for having noted the contents. If any individuals is on leave/Ty. duty a copy of the order may please be sent to his leave address by Regd. post ACK a due and his acknowledgement having noted the contents recorded at your end.

please acknowledge the receipt.

AUTHORITY : C.G.D.A. NEW DELHI Confidential
Important letter No. AN/XI/
11060/I/Vol. I. dated 5-12-87
and AN/XI-A/11061/1/Promotion/
AAO/I. dated 22-4-88.

Sd/ (T.S.NAYAR)
DY.C.D.A. (AN) SC PUNE-1.

- 3 -

Copy to :

1. The C.G.D.A. New Delhi.
2. The C.D.A.(P) Allahabad (2 copies)
3. The C.D.A. (ors) Central Nagpur.
4. The C.D.A. (Navy) Bombay.
5. PAO (ors) ASC MT Bangalore
6. Director (IF) Cabinet secretariate, New Delhi
7. Ministry of defence (Fin) Estate- II, south Block,
New Delhi.
8. B.A.R.C. Deptt. of Electronics Bombay.
9. The C.D.A. Patna
10. The C.D.A. (PD) Meerut
11. The C.D.A. (ors) south Bangalore
12. PAO (ors)GTS Varnasi.
13. The C.D.A. (ors) North Meerut.
14. The C.D.A. Madras.
15. All Sections in main office/All sub
officers as per standard list.
16. CR Task/Index Card Task/PF
17. All Sub Sections in AN-PAY/AN Sn.
18. AN-PAY (pay fixation task holder)

If any of the promotees who are shown in Annexures but have been transferred out to their organisation, action to issue an amendment to LPC may please be taken.

19. spare copies.

(N.V.DESHPANDE)
ACCOUNTS OFFICER(AN) SC PUNE-1

(60)

ANNEXURE 'A'

Sr. No.	ROSTER No.	NAME S/ SHRI	STATION/OFFICE WHERE SERVING	REMARKS
1.	992	R. SUNDARAJA RAO	CDA(Ors) CENTRAL NAGPUR	offg. A.O. w.e.f. 28-5-87.
2.	1024	P.VI SWANATHAN	'T' Sn. M.O.	offg. A.O. w.e.f. 18-1-88
3.	1052	M.R.PILLAY	'FA' Sn. M.O.	
4.	1086	M. JAYARAMAN	UAGE(AF) THANE	
5.	1096	C.T.SAMUEL	CDA (NAVY) BOMBAY	Deputation up to 8-2-88 Development Commissioner Santacruz Electronic Export proceeding Zone Min. of Commerces.
6.	1135	K.J.KADE	O & M CELL M.O.	
7.	1168	D.K.GUPTA	LAS(AD)EHARATPUR	
8.	1215	P.ABRAHAM JACOB	PAO (Ors) ASC(MT)	on deputation as on 1-4-87 Electronic test & development Centre at Bangalore Deptt. of Electronic New Delhi.
9.	1222	R. ESWARAN	UAGE (P) KARANJA	
10.	1208	A.G.ANANDRAM	FA Sn. M.O.	
11.	1265	M.Y.PHADNIS	PAY/4 M.O.	
12.	1268	P.M.DESHPANDE	UABSO (CME) KIRKEE	
13.	1276	G.M. SHAH	UABSO(SOUTH) PUNE	
14.	1280	M.N.KULKARNI	PAY/4 M.O.	
15.	1366	V.C.RAMCHANDRA	RAO (MES) PUNE	
16.	1483	A.V. ELVAIKAR	ACCOUNTS Sn. M.O.	

1	2	3	4	5
17.	1486	M.R. DAMLE	DDP (PENSION)	
18.	1527	S.SADASIVAN	CABINET SEC. NEW DELHI.	Deputation
19.	1533	A.V.MHASKAR	FUNDCELL (M.O.)	
20.	1551	M.BALASUBRAMANIAN	AAO JAIPUR.	
21.	1562	N.D. JAGTAP	LAO (B) AHMEDNAGAR	
22.	1571	A.B.DATAR	T Sn M.O.	
23.	1581	R.MURALIDHARAN	UABSO(W) BOMBAY.	
24.	1706	INDRA DEO	LAS SNAIPUR	
25.	1725	M.A.LAGAD	UABSO(NW) BOMBAY	
26.	1746	JAMES JAYARAJ	UAGE DEHU ROAD	
27.	1774	K.NARASIMHA CHARI	UAGE (P) PASHAN	
28.	1801	L.D.GUPTA	UAGE ALWAR	
29.	1822	T.A.B.PASUPATHI	DIRECTOR(IF) CABINET SECRETARIAT AT DG(ST) UNIT NEW DELHI.	
30.	1851	R.S.SRIVASTAVA	LAO CAFVD KIPKEE	
31.	1924	RAM MOHAN	AN PAY M.O.	
32.	1931	R.C. SHARMA	LAO ALWAR	
33.	1961	K.HARIDASAN	AO EHO BOMBAY	
34.	1967	R.S. MINE	E Sn. MCO.	

1	2	3	4	5
35.	1968	K.VISWANATHAN	UAGE(P) R & D IAT GININAGAR	
36.	1990	C.S.HINGE	LAO (A) PUNE	
37.	2241	L.S.R.MURTHY	MIN. OF DEF. (FIN) NEW DELHI	on Deputation
38.	2321	B.DIVAKARAN NAIR	PAY/I M.O.	
39.	2333	V.B. JAGANNATHAN	UAGE(P) GANDHINAGAR	
40.	2354	T.S. VENJATESAN	UAGE LONAVLA	
41.	2378	S.K. MNASKAR	UAGE(AF) LOHAGAON	
42.	2480	S.P. CADRE	ACCOUNTS SN. M.O.	
43.	2505	C.P. SESHADRI	M SN. M.O.	
44.	2523	B.CHITTARANJAN	ACCOUNTS SN. M.O.	
45.	2526	C.N. SITARAMAMURTHY	LAO (A) BOMBAY	
46.	2639	D.B.SHIRKE	E SN. M.O.	
47.	2641	R.RAJASHEKHARAN	'M' Sn. M.O.	
48.	2644	S.SEETHARAMAN	UAGE(AF) JAMNAGAR	
49.	2679	A.SRINIVASA SHASTRY	AN.PAY Sn. M.O.	
50.	2680	K.S. BEDDY	LAS ARTY CENTRE NASIK	
51.	2703	A.B. ZENDE	'E' Sn. M.O.	

1	2	3	4	5
52.	2719	R.C. NAYMAR	AAO JAIPUR	
53.	2744	R.ETHIRAJAN	PAY_FUND CELL M.O.	
54.	2751	T.C. ABRAHAM	EDP (PENSION)	
55.	2772A	R.V. KOSHE	'D' Sn. M.O.	
56.	2772G	P.V. THANKACHAN	UAGE PULGAON	
57.	2772H	M.RAMDAS	STORES Sn. M.O.	
58.	2781	P.S. VAIDYA	UAGE(C) KIRKEE	
59.	2783	C.JOHN HENRY	BARC BOMBAY	On deputation.
60.	2788	K.VIJAYA KUMARAN	RAO (MES) BOMBAY	
61.	2794	MRS. J.J.KATHALE	'E' Sn.M.O.	
62.	2807	K.K.G.NAIR	STORES Sn. M.O.	
63.	2817	V.V.TIWARI	F A Sn. M.O.	
64.	2830	V.I.VARGHESE MATHEW	FA Sn. M.O.	
65.	2837	Mrs. A.JAYACHANDRAN	UAGE(P) BHANDUP	
66.	2866n	M.S. JADANNATHAN	LAS KAMPTEE	
67.	2870	T.K.DHAKTAVATSALAM	LAO (B) PUNE	
68.	2876	A.A.ZIRALE	AN SN M.O.	

1	2	3	4	5
69.	2876A	S.M.CUTCHHI	UABSO (P) BHANDUP	
70.	2877	P.UNDER MOHAN	UAGE (C) DEOLALI	
71.	2887	V.K.MADAN	UAGE (W) BOMBAY	
72.	2932	V.H. NAIR	LAS AURANGABAD	
73.	2955	T.P. ASOKAN	LAO DEOLALI	
74.	3005	M.K. EASAW	LAO 512 AB WKSP KIRKEE	
75.	3038	P.N.SINGH	C.D.A. PATNA	Transferred on 15-3-88
76.	3070	K.C. KHANNA	LAO (B) JODHPUR	(On deputation to Deptt. Cabi- net Sec. New Delhi as on 1-4-87
77.	3081	V.M. SASIDHARAN	PAY-1 Sn.	
78.	3083	B.K.P. THOMAS	PAO GREF Sn.	
79.	3085	P.KUMARAN	LAS BHUJ	
80.	3095	K.J. PANICKER	CDA(PD) MEERUT	(On deputation as on 1-4-87 to BRDB Sec. New Delhi)

1	2	3	4	5
81.	3102	P.VIVEKANANDAN	LAONDEOLALI	
82.	3105	V.SIVADAS	UAGE AHMEDABAD	
83.	44	C.M. SRIVASTAVA	A.A.O. JAIPUR	
84.	62	R.UTHIRATHI	PAO GREF. M.O.	
85.	78	M.N.SRIVASTAVA	UAGE(P) CHANDRAPUR	
86.	84	TEGPAL	UAGE(AF) KYME JODHPUR	
87.	110	V.S. AMBERDEKAR	UAGE(S) PUNE	
88.	116	K.RAJARAM	UAGE BARODA	
89.	136	MUSAFIR SINGH	PAO (ORS) CTC VARNASI	
90.	184	H.K. SEN	CDA(P) ALLAHABAD	
91.	188	R.RANGARAJAN	UAGE(NW) BOMBAY	
92.	246	S.SOUNDARAJAN	UAGE(N) SANTACRUZ	
92.	265	S.M. AVACHAT	UAGE KHADAKWASLA	
	272			
94.	285	K.B. GADALE	Stores Section, M.O.	
95.	290	R.R. ABUJA	EDP CENTRE, M.O.	
96.	295	H.C. LOHANI	UAGE BARNER	
	301			
97.	295	Miss. P.N.ARVIKAR	LAO(A) AHMEDNAGAR	
98.	349	V.RAMAMURTHY	ACCOUNTS Sn.	

1	2	3	4	5
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99.	356	A.V.KALE	UABSO AHMEDNAGAR
100.	372	K.UNNIKRISHNAN	PAY 3 M.O.
101.	384	K.K. JOHNSON	AO NP (B) BOMBAY
102.	390	K.JANARKHANAN	EDP COMPUTER
103.	410	P.J. DIXIT	UAGE AHMEDNAGAR
104.	417	K.G. KARAR	LAO JAMNAGAR
105.	430	V.RAMAKRISHNAN	UAGE (N) PUNE
106.	445	V.S. NAGARAJAN	LAO COD KANDIVLI
107.	522	M.P. NAGARKAR	R SN. M.O.
108.	607	G.S.SAHASHRABUDHE	UAGE (CME) KIRKEE
109	668	V.J. MATHAI	LAO AHMEDABAD
110.	547	GIRIJA SHANKAR TIWARI	LAO JAIPUR

(ONE HUNDRED & TEN ONLY)

ANNEXURE 'B'

RESERVED CATEFORY

(SC)

CHANDRA SEN

LAO (A) JODHPUR

K.RAGHAVAN

PAY/2 M.O.

Spa 86
(28)

before Central Administrative Tribunal at
Ahmedabad.

O.A. No. 483 of 1989.

S.I. JosephApplicant.

vs.

Controller of defence
Accounts and othersopponents.

AFFIDAVIT IN REJOINDER

I S.I. Joseph filing this rejoinder to deny various contentions which are wrongly made in the affidavit in reply filed by Local Audit officer (Ahmedabad).

1.. The reply which is given by L.A.O.(A) who is not the respondent in this application. He is Group 'B' Gazetted Officer, Ahmedabad. He is not entitled to make reply on behalf of any respondent. He has not mentioned that in whose behalf he is filing this reply. where he is empowered to file reply from any of the respondents he has not stated anywhere. Therefore, this reply should not be taken into consideration by this Tribunal.

Annexure A/8

promoted but he was put in upgradation to the higher scale according to the memorandum of 12th June 1987. This circular dated 12th June 1987 is annexed and marked Annexure A/8 to the application. In this circular it is stated that there will be two grades. section officer (S.G.) 2000-3200 and section officer 1640-2900. section officer(S.G.) were have to be made up to 80%.The section officer will remain in 20%. The section officer(S.G.) which is equivalent to Assistant Accounts officer in which the applicant is prok promoted it is 80%. The section officer is equivalent to section officer Account which are 20%.

7. With the applicant there were more than 110 people were promoted in the southern Command, Gujarat, Maharashtra and Rajasthan and all are working and performing the same duties which the applicant is performing. This is according to the Government of India decision vide circular dated 12-6-87. This circular is annexed and marked marked Annexure A/9 to the application.

Annexure A/9

8. It is the contention of L.A.O(A) that the adverse remarks were communicated to the

applicant in time which is on face of it wrong.

period of adverse remarks.	Communication	delay
1982	20-10-83	8 months.
1983	6-4-84	2 months.

The probation period completed on 23-11-82.

The communication of the extension of the probation period was conveyed to him on 5-10-83. When 10 months have already been passed and the extended period was about to complete. On 5-10-83, he was conveyed that your probation period has been extended from 23-11-82 to 23-11-83.

9.. The applicant also denies that his representation has been decided by Controller General of Defence Account. The original of the rejection order may be called for.

According to my information some lower officer has decided the case and rejected the same in the name of higher authority.

The promotion was made by Controller General of Defence Account and therefore, reversion cannot be made by the lower authority. Even the reversion order dated 28-7-88 has not

been made by him but by some lower officer. Therefore, original reversion order dated 28-7-88 may be called for.

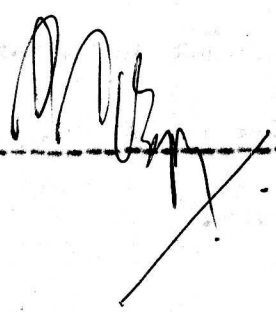
10. Since 1984, there is no adverse remark against the applicant. The applicant's promotion was made by non-selection method and the question of comparative assessment does not arise.

11. It is also mentioned in the reply that the petitioner's seniority list No. 687 was changed to 921. How it is happened? There is no notice given to the applicant. The principle of natural justice has not been followed by the authority. The promotion of the applicant to the post of section officer (S.G.) was on regular vacancies shown in Annexure 'A'. The reversion of the petitioner's seniority position has been made without informing the petitioner. There is no order given to the petitioner in this behalf. The promotion was made to the applicant in June 1988 and since 1984 there is no adverse remarks against the applicant. Therefore, there is no occasion to lower down the position in the seniority list. Therefore, the petitioner's petition should be allowed with extra costs.

85

What is stated above is true and correct
and I believe the same to be true.

solemnly affirmed today, on this 13th day
of April 1990.

A handwritten signature in dark ink, appearing to be 'M. B.', written over a horizontal dashed line.

Isabel A. Acuña
mo
(D. J. Acuña)
Adm

(51) A/8

OFFICE OF THE CONTROLLER OF THE ACCOUNTS

SOUTHERN COMMAND PUNE- 1.

PART I OFFICE ORDER NO. 166 DATED : 2nd JULY
1987

SUB : Restructuring of Accounts Staff in Organised
Accounts.

Govt. of India, Ministry of Finance Department
Expenditure office Memorandum No.F5(32)-E.III/86-PT-II
dated the 12th June 1987 on the above subject received
under C.G.D.A. New Delhi circulation slip No. AN/SIV/
14162 dated 15-6-1987 is reproduced below for informa-
tion and guidance of all concerned. A further communica-
tion in regard to the implementation of the orders will
follow on receipt of the same from CGDA New Delhi.

"Based on the recommendation of the Fourth
Central Pay Commission the scales of pay for Auditors
and Section Officers in Audit stream of Indian Audit &
Accounts Department (IA&AD) is on the following lines:-

	<u>Pre-revised</u>	<u>Revised</u>	
1. Assistant Audit Officer	Rs. 650-30-740- 35-880-EB-40- 1040.	Rs. 2000-60-2300-EB- 75-3200	80%
2. Section Officer	Rs. 500-20-700- EB-25-900	Rs. 1640-60-2600- EB-75-2900	20%
3. Senior Auditor	Rs. 425-15-500- EB-15-560-20- 700-EB-25-800	Rs. 1400-40-1600- 50-2300-EB- 60-2600	80%
4. Auditor	Rs. 330-10-380- EB-12-500-EB-15- 560	Rs. 1200-30-1560- EB-40-2040	20%

2. The Fourth Central Pay Commission vide
para 11.38 of Part I of its report have observed

that the Audit & Accounts functionaries complementary to each other and are generally performed in many Government offices in an integrated manner which is necessary for their effective functioning.

Accordingly, the Pay Commission have recommended that there should be broad parity in the pay scales of the staff in IA & AD and other Accounts Organisations. It has further recommended that the proposed scales of pay of Rs. 1400-2600 and Rs. 2000-3200 may be treated as functional grades in future and that there will be no selection grade for any of these posts. As regards the number of posts in the higher functional scales, the commission left this matter for Government to decide.

3. The revised scale of pay for the Accounts Staff in the Organised Accounts Cadres under the Controller General of Defence Accounts, Controller General of Accounts, Departments of Posts & Telecommunications and also in Indian Audit and Accounts Department at par with Audit stream have already been notified vide this Ministry's Notifications No. F15(1)IC/86 dated 13-9-86 and 22-9-86 respectively. In accordance with these Notifications certain persons have already been allowed the higher revised scales of pay subject to the conditions laid down therein.

4. The question regarding number of posts to be placed in the higher scales of pay has been under the consideration of the Government

and it has now been decided that the ~~max~~ ratio of number of posts in higher and lower scales in the Organised Accounts cadre as well as in Accounts Wing of the IA & AD may be follows :-

i) Section Officer (SG)	Rs. 2000-60-2300-EB-75-3200	80%
ii) Section Officer	Rs. 1640-60-2600-EB-75-2900	20%
iii) Senior Accountant	Rs. 1400-40-1600-50-2300-EB-60-2600	80%
iv) Junior Accountant	Rs. 1200-30-1560-EB-40-2040	20%

The designations in different Organised Accounts cadre may be different. In such cases also the pay structure on these lines may be decided.

5. These orders take effect from 1/4/87. The respective cadre controlling authorities may now take necessary action to prescribe criteria for appointment to the higher functional grades requiring promotion to the grade of Rs. 1400-40-1600-50-2300-EB-60-2600 and Rs. 2000-60-2300-EB-75-3200 on the same lines as adopted for Audit stream and thereafter take necessary action to implement these orders.

6. The orders in respect of Railway Accounts Organisation will issue separately.

7. These orders issue in consultation with the Comptroller and Auditor General of India in so far as these relate to IA & AD.

Sd/ (GIAN SWARUP)
CONTROLLER OF DEF. ACCOUNTS
S.C. BUNE-1

88

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS.
S.C.PUNE-1

PART II O.O. NO. 242 DATED 6-5-1988

sub : Higher functional Grade in SO(A) grade
in DAD

.....

Having been selected for promotion to the grade of Assistant Accounts Officer, the C.D.A. S.C. Pune hereby appoints the SOs(A) mentioned in Annexure 'A' (unreserved category) and Annexure 'B' (S/C Category) to this order as Asstt. Accounts Officers (Group B) in the scale of pay of Rs. 2000-3200 with effect from 1-4-87 in the offg. capacity till successful completion of their probation. These officers will be on probation for a period of 2 years w.e.f. 1-4-87.

2. However, the individuals at gr. Nos. 5,8,18, 29,37,59,76, 80 listed in the Annexure 'A' to this order are given proforma promotion w.e.f. 1-4-87 under NBR as they were on deputation with other departments on that date. The benefit of notional pay fixation from the date of proforma will be given to them from the date of reversion to the present department.

3. On promotion to the higher functional grade from 1-4-87 the pay of the effected individuals will be fixed under PR 22 C from 1-4-87. If any promotee was on leave on 1-4-87, the financial benefits would be given to him.

from the date of joining duty after leave.

4. In case if any promotee was on leave, on 1-4-87 other than CL the office where the promotee was serving during 4/87 is hereby directed to intimate to AN-PAY Section of main office the date of joining duty of such promotee after leave period.

5. If any of the officer desire to have their pay fixed as A.A.O. in terms of DP & T OM No. 1/2/87/Estt/Pay-I dated 9-11-87 they should exercise an option within a period of one month from the date of issue of this order and the option once exercised will be final. No request for condonation of delay in exercising the option will be entertained.

6. The contents of this part II CC may please be brought to the notice of the concerned individuals and their initials obtained and recorded for having noted the contents. If any individuals is on leave/Ty. duty a copy of the order may please be sent to his leave address by Regd. post ACK & due and his acknowledgement having noted the contents recorded at your end.

please acknowledge the receipt.

AUTHORITY : C.G.D.A. NEW DELHI Confidential
Important letter No. AN/XI/
11060/I/vol. I. dated 5-12-87
and AN/XI-A/11061/1/Promotion/
AAO/I. dated 22-4-88.

sd (T.S. NAYAR)
BY C.D.A. (ANY) SC PUNE 1

Copy to :

1. The C.G.D.A. New Delhi.
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4. The C.D.A. (Navy) Bombay.
5. PAO (ORS) ASC MT Bangalore
6. Director (IF) Cabinet secretariate, New Delhi
7. Ministry of defence (Fin) Estate- II. south Block,
New Delhi.
8. B.A.R.C. Deptt. of Electronics Bombay.
9. The C.D.A. Patna
10. The C.D.A. (PD) Meerut
11. The C.D.A. (ORS) South Bangalore
12. PAO (ORS) GTS Varanasi.
13. The C.D.A. (ORS) North Meerut.
14. The C.D.A. Madras.
15. All sections in main office/All sub
officers as per standard list.
16. CR Task/Index Card Task/PR
17. All sub sections in AN-PAY/AN Sn.
18. AN-PAY (Pay fixation task holder)

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19. spare copies.

(N.V. DESHPANDE)
ACCOUNTS OFFICER(AN) SC PUNE-1

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Sr. No.	ROSTER NO.	NAME S/SHRI	STATION/OFFICE WHERE SERVING	REMARKS
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5.	1096	C.T.SAMUEL	CDA (NAVY) BOMBAY	Deputation up to 8-1-88 Development Commissioner Santacruz Electronic Export proceeding zone Min. of Commerces.
6.	1135	K.J.KADE	O & M CELL M.O.	
7.	1168	D.K.GUPTA	LAS(AD)EHARTPUR	
8.	1215	P.ABRAHAM JACOB	PAO (ORs) ASC(MT)	on Deputation as on 1-4-87 Electronic test & development Centre at Bangalore Deptt. of Electronic New Delhi.
9.	1222	R. ESWARAN	UAGE (P) KARANJA	
10.	1208	A.G.ANANDRAM	PA Sn. M.O.	
11.	1265	M.Y.PHANI S	PAY/4 M.O.	
12.	1268	P.M.DESHPANDE	UABSO (CME) KIRKEE	
13.	1276	G.M. SHAH	UABSO(SOUTH) PUNE	
14.	1280	M.N.KULKARNI	PAY/4 M.O.	
15.	1366	V.C.RAMCHANDRA	RAO (MES) PUNE	
16.	1483	A.V.HIVAIKAR	ACCOUNTS Sn.M.O.	

1	2	3	4	5
17.	1486	M.R. DAMLE	DDP (PENSION)	
18.	1527	S.SADASIVAN	CABINET SEC.	Deputation
			NEW DELHI.	
19.	1533	A.V.MHASKAR	FUNDCELL (M.O.)	
20.	1551	M.BALASUBRAMNIAN	AAO JAIPUR.	
21.	1562	N.D. JACTAP	LAO (B) AHMEDNAGAR	
22.	1571	A.B.DATAR	T Sn M.O.	
23.	1581	R.MURALIDHARAN	UABSO(W) BOMBAY.	
24.	1706	INDRA DEO	LAS SNAIPUR	
25.	1725	M.A.LAGAD	UABSO(NW) BOMBAY	
26.	1746	JAMES JAYARAJ	UAGE LEHU ROAD	
27.	1774	K.NARASIMHA CHARI	UAGE (P) PASHAN	
28.	1801	L.D.GUPTA	UAGE ALWAR	
29.	1822	T.A.B.PASUPATHI	DIRECTOR(IP) CABINET	
			SECRETARIAT AT DG(ST)	
			UNIT NEW DELHI.	
30.	1851	E.S.SRIVASTAVA	LAO CAFVD KIPKEE	
31.	1924	RAM MOHAN	AN PAY M.O.	
32.	1931	R.C. SHARMA	LAO ALWAR	
33.	1961	K.HARIDASAN	AO EHO BOMBAY	
34.	1967	R.S. MINE	E Sn. MCO.	

1	2	3	4	5
35.	1968	K.VISWANATHAN	UAGE (P) R & D IAT GININAGAR	
36.	1990	C.S.HINGE	LAO (A) PUNE	
37.	2241	L.S.R.MURTHY	MIN. OF DEF. (FIN) NEW DELHI	on Deputation
38.	2321	B.DIVAKARAN NAIR	PAY/I M.O.	
39.	2333	V.B. JAGANNATHAN	UAGE (P) GANDHINAGAR	
40.	2354	T.S. VANJATESAN	UAGE LONAVLA	
41.	2378	S.K. MNASKAR	UAGE (AF) LOHAGAON	
42.	2480	S.P. CADRE	ACCOUNTS SN. M.O.	
43.	2505	C.P. SESHADRI	M SN. M.O.	
44.	2523	B.CHITTARANJAN	ACCOUNTS SN. M.O.	
45.	2526	C.N. SITARAMAMURTHY	LAO (A) BOMBAY	
46.	2639	D.B.SHIRKE	E SN. M.O.	
47.	2641	R.RAJASHEKHARAN	'M' Sn. M.O.	
48.	2644	S.SETHARAMAN	UAGE (AF) JAMNAGAR	
49.	2679	A.SRINIVASA SHASTRY	AN.PAY Sn. M.O.	
50.	2680	K.S. BEDDY	LAS ARTY CENTRE NASIK	
51.	2703	A.B. ZENDE	'E' Sn. M.O.	

1	2	3	4	5
52.	2719	R.C. NAYMAR	AAO JAIPUR	
53.	2744	R.ETHIRAJAN	PAY_FUND CELL M.O.	
54.	2751	T.C. ABRAHAM	ADP (PENSION)	
55.	2772A	R.V. KOHE	'D' Sn. M.O.	
56.	2772G	P.V. THANKACHAN	UAGE PULGAON	
57.	2772H	M.RAMDAS	STORES Sn. M.O.	
58.	2781	P.S. VAIDYA	UAGE(C) KIRKEE	
59.	2783	C.JOHN HENRY	BARC BOMBAY	On deputation.
60.	2788	K.VIJAYA KUMARAN	RAO (MES) BOMBAY	
61.	2794	MRS. J.J.KATHALE	'E' Sn.M.O.	
62.	2807	K.K.G.NAIR	STORES Sn. M.O.	
63.	2817	V.V.TIWARI	F A Sn. M.O.	
64.	2830	V.I.VARGHESE MATHW	FA Sn. M.O.	
65.	2837	Mrs. A.JAYACHANDRAN	UAGE(P) BHANDUP	
66.	2866	M.S. JADANNATHAN	LAS KAMPTEE	
67.	2870	T.K.DHAKTAVATSALAM	LAO (B) PUNE	
68.	2876	A.A.ZIRALE	AN SN M.O.	

1	2	3	4	5
69.	2876A	S.M.CUTCHHI	UABSO (P) BHANDUP	
70.	2877	P.UNDER MOHAN	UAGE (C) DEOLALI	
71.	2887	V.K.MADAN	UAGE (W) BOMBAY	
72.	2932	V.H. NAIR	LAS AURANGABAD	
73.	2955	T.P. ASOKAN	LAO DEOLALI	
74.	3005	M.K. BASAW	LAO 512 AB WKSP KIRKLE	
75.	3038	P.N.SINGH	C.D.A. PATNA	Transferred on 15-3-88
76.	3070	K.C. KHANNA	LAO (B) JODHPUR	(On deputation to Deptt. Cabi- net Sec. New Delhi as on 1-4-87
77.	3081	V.M. SASIDHARAN	PAY-1 Sn.	
78.	3083	B.K.P. THOMAS	PAO GREF Sn.	
79.	3085	P.KUMARAN	LAS BHUJ	
80.	3095	K.J. PANICKER	CDA (PD) MEERUT	(On deputation as on 1-4-87 to BRDB Sec. New Delhi)

1	2	3	4	5
81.	3102	P.VIVEKANANDAN	LAO DEOLALI	
82.	3105	V.SIVADAS	UAGE AHMEDABAD	
83.	44	C.M. SRIVASTAVA	A.A.O. JAIPUR	
84.	62	R.UTHIRATHI	PAO GREF. M.O.	
85.	78	M.N.SRIVASTAVA	UAGE (P) CHANDRAPUR	
86.	84	TEGPAL	UAGE (AF) KOHK JODHPUR	
87.	110	V.S. AMBERDEKAR	UAGE (S) PUNE	
88.	116	K.RAJARAM	UAGE BARODA	
89.	136	MUSAFIR SINGH	PAO (ORS) CTC VARNASI	
90.	184	H.K. SEN	CDA (P) ALLAHABAD	
91.	188	R.RANGARAJAN	UAGE (NW) BOMBAY	
92.	246	S.SOUNDARAJAN	UAGE (N) SANTACRUZ	
93.	266	S.M. AVACHAT	UAGE KHADAKWASLA	
	272			
94.	288	K.B. GADALE	Stores Section, M.O.	
95.	290	R.R. ABUJA	EDP CENTRE, M.O.	
96.	296	H.C. LOHANI	UAGE BARNER	
	301			
98.	298	Miss. P.N.ARVIKAR	LAO (A) AHMEDNAGAR	
99.	349	V.RAMAMURTHY	ACCOUNTS Sn.	

1	2	3	4	5
99.	356	A.V.KALE	UABSO AHMEDNAGAR	
100.	372	K.UNNIKRISHNAN	PAY 3 M.O.	
101.	384	K.K. JOHNSON	AO NP (B) BOMBAY	
102.	390	K.JANARKHANAN	EDP COMPUTER	
103.	410	P.J. DIXIT	UAGE AHMEDNAGAR	
104.	417	K.G. KARAR	LAO JAMNAGAR	
105.	430	V.RAMAKRISHNAN	UAGE (N) PUNE	
106.	445	V. . NAGARAJAN	LAO COD KANDIVLI	
107.	522	M.P. NAGARKAR	R SN. M.O.	
108.	607	G.S.SAHASHRABUDHE	UAGE (CME) KIRKEE	
109.	668	V.J. MATHAI	LAO AHMEDABAD	
110.	547	GIRIJA SHANKAR TIWARI	LAO JAIPUR	

(ONE HUNDRED & TEN ONLY)

ANNEXURE 'B'

RESERVED CATEGORY

(SC)

1.	843	CHANDRA SEN	LAO (A) JODHPUR
2.	1319	K.RAGHAVAN	PAY/2 M.O.

90

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1

2

3

4

5

3. 1336 K.L.SINGH LAO (A) KOTA

4. 1487 B.K. CHANDANE PAO GREF M.O.

Sd/- (N.V. DESHMUKH)

ACCOUNTS OFFICER (AN) S.C. PUNE - 1

Before the Central Administrative Tribunal
Ahmedabad Bench at Ahmedabad.

Original Application No.483 of 1989

E.I. Joseph. .. Applicant
versus

The Controller of Defence
Accounts and others. .. Respondents

WRITTEN STATEMENT

1. The applicant has filed this Application challenging his reversion order from the post of Assistant Accounts Officer (Group B) to the post of Section Officer (Accounts) vide order dated 10-8-88 (Annexure A/4). Thereafter, the order of recovery of pay was also passed on 12-8-88 (Annexure A/5).

2. The applicant has passed SAS Part I and Part II. Thereafter, he was promoted to the post of Section Officer (Accounts) with effect from 24-11-80 and his promotion order dated 7-1-81 is annexed as Annexure A/1.

3. Thereafter, on 7-6-88 when the applicant was working as UA GS (Project) Naliya in Gujarat State he was promoted to

Recd by
ne
Dyc
17/7/20
Tender in Court
by chh. (Court)
at 11-15

8/11

59

/2/

the post of Assistant Accounts Officer (Group B) with retrospective effect from 1-4-87 (Annexure A/2), vide order No. Confidential/Most Immediate No. AN/XI-A/11061/1/Promotion/AAO/1 dated 22-4-88.

4. The applicant had worked on the post of Assistant Accounts Officer with sincerity but all of a sudden after two months on 10-8-88 he received the letter that his promotion order has been cancelled and that his name should be deleted from promotion order (Annexure A/2). This letter dated 10-8-88 is annexed herewith as Annexure A/4 to this application.

5. This order is very cryptic order and without showing any reason and without any application of mind, Immediately on the foot steps of the earlier order dated 10-8-88, applicant order received another dated 12-8-88 in which the pay and allowances which was received by him was sought to be recovered from him. This order of recovery dated 12-8-88 is annexed as Annexure A/5 in the Application. Both

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/3/

Both these orders are without rhyme or reason and on the face of it non-application of mind is explicit. Though the applicant had worked on the post sincerely, the authority wanted to recover the pay and allowances given to him. This is nothing else but arbitrariness on the part of authority concerned.

6. Being aggrieved by the same the applicant made Appeal to the appellate authority (Annexure A/6). To the utter shock and surprise of the applicant, the appellate authority behaved in the same bleak manner and shown their prejudice against the applicant. The appellate authority had turned down the appeal without giving any reasoned order and one line cryptic order has been made as can be seen from Annexure A/7. By this order it has been intimated that "you were not eligible for promotion to AAO's grade, since you were outside the zone of consideration and your promotion will be considered in your turn." There was no mention that what was the criteria for considering him eligible for promotion.

7. It is also pertinent to note that

6
/4/

there is nothing to show that what was the consideration applied when the applicant was promoted by the earlier order (Annexure A/2). It is also pertinent to note that there is nothing to show that why applicant's name was not coming in that zone of consideration.

8. The cancellation order is arbitrary and without giving any opportunity of hearing to the applicant. It is well known that when a person is benefited by an order, it can not be cancelled without giving any opportunity of being heard. This is violative of principles of natural justice and this principle has been confirmed time and again by several judgments of the Hon'ble Supreme Court, High Court and Central Administrative Tribunals.

9. It is pertinent to note that the pay was fixed in the promoted post at Annexure A/3 after taking all the relevant circumstances into consideration and one can not say that the order of promotion was passed without application of mind.

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/5/

10. The cancellation order (Annexure A/4) does not reflect any reason that why the cancellation order has been passed, and why the promotion, which has already been given, is being cancelled.

11. In the recovery order (Annexure A/5) it is not mentioned that even though the applicant has worked on the higher post, why the authority wants to take away the pay and allowances received by him. This is also against the principle of natural justice and violative of the principles laid down by several judgments of the Hon'ble Supreme Court and High Court.

12. I deny that my juniors were confirmed prior to me, and, therefore, they are continuing in the job (reason given by the authority on page 32 of affidavit in reply) and my denial is supported by Annexure A/2 when it is mentioned on page 17 column No.2 as under:-

OA/739 S.N. Deshpande

OA/772 A.O. Pathrose

OA/797 R.S. Gaur

It is pertinent to note that ~~xxxxx~~ applicant's name is shown as :

OA/687 E.I. Joseph.

The letters OA connote the meaning Officiating Accountant. Therefore, the applicant can say that his juniors were not confirmed at the time of promotion.

63

/6/

13. It is not true to say that the applicant has not exhausted the appellate authority. The applicant has exhausted the same (Annexure A/7). Therefore, the respondents' say in the affidavit-in-reply is quite wrong on the face of it.

14. The applicant was promoted on 10-6-88 with retrospective effect of 1-4-87 (Annexure A/1 and Annexure A/2 and Annexure A/3) relying upon the seniority list and on non-selection basis and about 110 persons were promoted with him.

15. This promotion is technically upgradation to the higher pay scale (Annexure A/8). The applicant would fall in the category of higher pay scale i.e. ~~thatixix~~ Section Officer (S.G.) 2000-3200 in which 80% of the Section Officers were required to be promoted.

16. In the affidavit-in-reply on continuous page 32 internal page 3 it is mentioned that the applicant earned adverse remarks in his annual confidential report for the years 1982 and 1983, which

64
/7/

were communicated to the applicant and, therefore, probation was extended upto 23-5-84. It is patently wrong . According to the affidavit-in-rejoinder(Page 40) the periods of adverse remarks, which were communicated to him, were as under:

Period of adverse remarks.	Communication	Delay
1982	20-10-83	8 months
1983	6-4-84	2 months

The probation period completed on 23-11-82. The communication of the extension of probation period was conveyed to the applicant on 5-10-83, when 10 months have already been passed and extended period of probation was about to be completed. The effect was that on 5-10-83 the applicant was conveyed that probation period was extended from 23-11-82 to 23-11-83.

17. Since 1984 there is no adverse remarks against the applicant.

18. The applicant's seniority list number 687 was changed to 921. How it has happened, the applicant doesnot know. In this case also, the principle of natural justice has not #been followed.

19. The applicant was promoted to

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/8/

of Assistant Accounts Officer (Annexure A/1) on regular vacancy and his reversion has been made without informing the applicant.

20. Since 1984 to 1988 there is no adverse remarks against the applicant. His juniors are still working in the higher scale and higher post. Therefore, this Application deserves to be allowed and impugned order of reversion as well as recovery of pay and allowances ought to be cancelled.

Date: 17/7/1990

D. V. M. K.

Shri

84-443/90

Ord. by
m.m.s

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

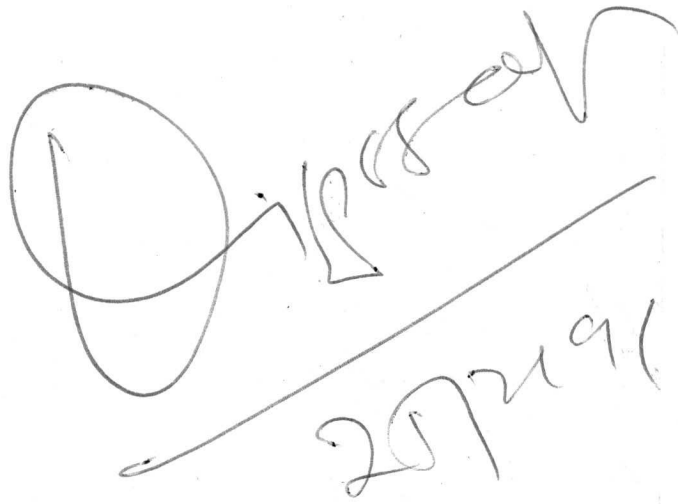
RA/M.A/O.A./T.A./ 412 1980 in O.A/483/89

Controller of Defence Applicant (s).
Accounts & or Mr. P.M. Rawal Orig. Respondent
Adv. for the
Petitioner (s).

Versus

E. T. Joseph Respondent (s).
Mr. B. P. Tanna Orig. Applicant
Adv. for the
Respondent (s).

m.m.s.
m.Rc

SR. NO.	DATE.	ORDERS,
		Review Copy served to other side  25/2/91

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted ;

C.A.T./JUDICIAL SECTION.

Original Petition No.: _____ of _____.

Review
Miscellaneous Petition No.: 42 of 1990.

Shri Controller of defence Accounts Petitioner(s).
Versus.

E. I. Joseph Respondent(s).

This application has been submitted to the Tribunal by
Shri P. M. Rawal

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days/draft letter is placed below for signature.

Asstt. : ☒ Documents are not certified as true copy.
S.O.(J). :
Dy. R.(J): we may inform accordingly

RM
allo

Asst

SO

GAC/7690/-.

DYP (Repatriated)

o/gl a
11/10/90
K. B. Sahu
05/11/90

We may issue obi letter

Am
9/10

mpl
10/10/90

Att

Se

ICBSaw
10/10/90

Dyr
(Repatriated)

Advocate has complied the office
objections.

we may fix for order

Am
15/11

mpl
16/10/90

Att

Se

ICBSaw
16/10/90

Dyr

R/S

Advocate concern has complied the office
objections on 16/10/90

we may fix for order by circulation

Am
25/11/91

Att

Se

25/11

Dyr

Applicant had seen already
registered

mpl
25/11/91
in circulation
25/11/91

515-481/90
28/9/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

Review Petition No. 412 of 1990
OA in 483/89

1. The Controller of Defence,
Accounts and others. .. Petitioners
(Orig. Respondents)

v/s

E.I. Joseph,
Section Officer
Office of the Controller of
Defence. .. Respondent
(Orig. Petitioner)

I N D E X

Annex.	Particulars	Page Nos.
	Review Petition	1 to 13
"A"	Copy of the Original Applica- tion No. 483/1989. ..	14 to 58
"B"	Copy of the Written Statement filed by the respondents along- with the Annexures.. ..	59 73
"C"	Copy of the said Para-100. ..	74
"D"	Copy of the order passed by Dy.C.G.D.A.(adm.).. ..	75 83

COPY
B.P. Tanna
Advocate
26/9/90

PMB
mesel-
only

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

REVIEW PETITION NO. 242 OF 1990

CH O.A. 483/1988

1. The Controller of Defence,
Accounts, Southern Command,
No.1 Finance Road,
Pune - 1, Maharashtra State.
2. Controller General of Defence,
Accounts, West Block Vth,
R.K. Puram,
New Delhi - 110066.
3. Union of India,
Represented by the Secretary,
Ministry of ~~Finance~~ ^{Defence} ~~(Defence)~~ ^{Finance}
Government of India,
New Delhi.

..... PETITIONERS
(Orig.
Respondents)

V E R S U S

E.I. Joseph,
Section Officer,

CH

...

Office of the Controller of
Defence,
Accounts Southern Command,
PUNE-1.

..... RESPONDENT
(Orig.
Petitioner)

REVIEW PETITION UNDER RULE
17 OF CENTRAL ADMINISTRATIVE
TRIBUNAL PROCEDURE RULES 1987
IN THE MATTER OF ORIGINAL
APPLICATION NO.483/1989
FILED BY SHRI E.I. JOSEPH
IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL, AHMEDABAD BENCH.

THE HUMBLE PETITION OF
THE PETITIONERS ABOVENAMED

MOST RESPECTFULLY SHEWETH :

1. The petitioners are the original respondents viz. Respondent Nos. 1, 2 and 3 in the Original Application No.483/1989 filed by Shri E.I. Joseph before this Hon'ble Tribunal. This Petition is filed for review of the order passed by this

...

Hon'ble Tribunal on 27th August 1990 in Original Application No.483/1989 for reviewing the said order.

2. That the decision in the aforesaid Original Application No.483/1989 was pronounced by this Hon'ble Tribunal on 27th August 1990 and the copy of the same was received by the petitioners through the then Additional Standing Counsel Shri J.D. Ajmera on or about 12th September 1990. However, this Petition is filed within 30 days from the date of the order. A copy of the decision of this Hon'ble Tribunal is annexed herewith.

3. The parties are referred to as their original position in the Original Application No.483/1989 i.e. the petitioners are the original respondents and the respondent is the original petitioner.

4. The facts leading to this Petition are as under:-

The applicant, a civilian employee of the Defence Accounts Department, was promoted as Officiating Assistant Accounts Officer (Group B) retrospectively from

1-4-1987 by order No.332 dated 7-6-1988 (Annexure A-2) issued by DCDA(AN) SC Pune on the authority of CGDA's Confidential most immediate No.AN/XI-A/11061/1Promotion/AAO/I dated 22-4-1988. But close on the heels of the order of promotion DCDA (AN) Pune issued order No.460 dated 10-8-1988 (Ann. A-4) by which applicant's name in the promotion order No.332 dated 768 was cancelled on the authority of CGDA Confidential No.AN/XI-A/11061/Promotion/AAO/II dated 28-7-1988 and order No.463 dated 12-8-1988 (Ann-A-5) ordered recovery of higher than due-in-the-lower post emoluments paid to the applicant on account of his promotion. The applicant submitted representation dated 10-9-1988 (Ann. A-6) to the Controller General of Defence Accounts (CGDA) through proper channel stating why the order of cancellation of promotion st and the order of recovery are bad and untenable. This representation elicited reply dated 2-1-1989 from LAD(A) Jamnagar on the authority of CDASC that the applicant was not eligible for promotion to AAO's grade being not in the zone of consideration and that his promotion to AAO's grade will be considered in turn. The applicant has challenged the three orders, namely of cancellation of his promotion, of recovery and the reply to his representation.

5. The applicant's grounds of challenge appearing in the application are that he was promoted by a duly constituted departmental promotion committee, that no reason were advanced for cancellation of the order of promotion and that the order was unspeaking and that the recovery order violates his property rights over his salary and thus infringes his constitutional rights. The representation the applicant made refers to the plus and the minus side of his service career and asserts that he was promoted because the Departmental Promotion Committee found him suitable for promotion and the order of cancellation of promotion and the order of cancellation of promotion in fact reduced him in rank without following the principles of natural justice. Similarly, the order of recovery though penal in nature was issued without giving him an opportunity to be heard.

6. Before dealing with the various contentions, the petitioners herein crave leave to annex herewith the copy of the Original Application No.483/1989 and the Written Statement filed by the Respondents. Hereto annexed and marked Annexure-A is the

AC
Annex-A

copy of the Original Application No.483/1989. Hereto annexed and marked Annex-B is the copy of the Written Statement filed by the respondents alongwith the Annexures. The petitioners would like to point-out the following facts, which facts are admitted by the original petitioner, as is evident from the application itself :-

Annex-B

- (1) That the petitioner joined as a Lower Division Clerk in the year 1966.
- (2) The petitioner passed Subordinate Accounts Service Examination in the year 1972 and was promoted and confirmed as Upper Division Clerk.
- (3) The petitioner passed Part-II of S.A.S.E Examination on 18th March 1980.
- (4) On 24-11-1980, the petitioner was promoted as Section Officer (Accounts) on probation period for 2 years.
- (5) The probation period of 2 years was extended upto the year 1984.
- (6) That the petitioner's place in seniority was shifted from place 687 to 921 :

In the reply on behalf of the opponents, it has been pointed out that the seniority depended upon the confirmation and as the applicant did not complete his probation period successfully, his confirmation was made late. However, it appears that on account of a bonafide mistake the relevant Rule does not appear to have been pointed out to the Hon'ble Tribunal, presumably on account of a communication gap. The petitioners crave leave to annex herewith a copy of the relevant promotion Para-100 from Chapter : Recruitment, Appointment, Promotion and Confirmation from Office Manual.

Annex-C

Hereto annexed and marked Annexure-C is the copy of the said Para-100. It appears that though the facts depending upon these Para are mentioned, the Para itself is not mentioned, which apparently shows how the mistake has occurred. In the present case, the petitioner was promoted to the post of Section Officer (Accounts) w.e.f. 24-11-1980. His probation period was for a period of 2 years. This probation period was extended upto 23rd May 1984. It appears that by a mistake his seniority was shown at Serial No.687 on the assumption that the petitioner has completed satisfactorily, his probation

...

period of 2 years and that he is confirmed.

It appears that on account of a bonafide mistake, the fact about extention of

period of probation upto 23rd May 1984

appears to have been lost sight of. Para-100

referred hereiabove will pperate and therefore

he will get his rank and seniority only on

the date of confirmation and that number

would be 921-R. Thus this was merely a

bonafide mistake in giving the number in the

seniority list which in fact and reality

on account of the operation of Para-100

referred hereinabove would be at serial No.

921-R. That the seniority list originally

appears to have been passed on the basis of

the completion of the 2 year's probationary

period without taking into consideration

Para-100 which would operate in case of

extended probation period and ~~as~~ far as

26 such persons were wrongly mentioned and

all of them have been given serial as per

Para-100, this was sheer mistake. The

petitioners crave leave to annex herewith

a copy of the order in respect of such 26

persons which show that there was a bonafide

mistake in allotting the serial numbers in

Roster of Officiating Section Officer.

Hereto annexed and marked Annexure-D is

the copy of the said order.

Annex-D

7. The petitioner at this stage would like to point out that this was not taken into consideration when the petitioner was given promotion to the post of Assistant Accounts Officer. The petitioner also craves leave to annex herewith the copy of the D.C.P. proceedings for promotion to the post of Assistant Accounts Officers, which also shows that the aforesaid promotions were based on incorrect roster numbers. However, when this fact was ~~xxxxxx~~ realised a necessary consequential correction were issued which also resulted into cancellation of erroneous promotion. The petitioners at this stage would like to point out that this cancellation was not a result of any punishment but was merely consequential upon the correct number in the Roster Of Officiating Section Officers and in correction of the bonafide mistake. The petitioners submit that though these facts are mentioned in the reply to the petition, but it does not appear to have been properly brought-out and it appears that Para-100 was not referred though the consequential benefits i.e. that the promotion order was cancelled on account of the change in the seniority ranking. The petitioners submit that no new evidence

...

is required to be produced before this Hon'ble Tribunal save and except pointing out the relevant Para-100 and the abstract from the Roster of Officiating Section Officers. In view of the aforesaid facts the petitioners drave leave to file this Review Petition on the grounds mentioned hereinbelow:

8.1 The petitioners submit that the order passed by this Hon'ble Tribunal may kindly be reviewed and the petitioner may kindly be permitted to point out the relevant para-100 in support of the consequential order of correction of the Roster Number of the petitioner particularly in view of the fact that the change in roster numbers effected are already on record.

8.2 That this Hon'ble Tribunal be pleased to consider the order cancelling the erroneous promotion in light of the submissions made hereinabove, that there was a bonafide mistake in granting promotion by the Departmental Promotion Committee on the basis of the roster number which did not take into account, the para-100 referred hereinabove and the consequential ranking in case of extended probation period.

8.3 That the petitioners be permitted

to produce before this Hon'ble Tribunal the aforesaid evidence which consists of Para-100 from the Office Mannual referred hereinabove, the proceedings of the Departmental Promotion Committee and the Roster Number, original as well as changed, from the Roster of Officiating Section Officers (Accounts).

9. The petitioners crave leave to add, alter, amend, vary, rescind, or modify any of the grounds mentioned hereinabove.

10. In view of the facts stated hereinabove, the petitioners pray :-


- (A) That this Hon'ble Tribunal will be pleased to review the order dated 27th August 1990 ;
- (B) That this Hon'ble Tribunal will be pleased to permit the petitioners to produce the abstract from the Para-100 from the Departmental Mannual referred hereinabove and the abstract of the Roster of Officiating Section Officers (Accounts) as on 1-1-1983 and the corrections carried out and the corrected entries pursuant to the order :
- ...

- (C) That this Hon'ble Tribunal will be pleased to decide this Original Application No.483/1989 afresh in light of the material produced before this Hon'ble Tribunal :
- (D) That this Hon'ble Tribunal will be pleased to dismiss the Original Application No.483/1989 :
- (E) That this Hon'ble Tribunal will be pleased to stay and operation and implementation of the order dated 27th August 1990 till and pending the hearing and final disposal of this Review Petition :
- (F) That this Hon'ble Tribunal will be pleased to pass such other and further order as the nature and circumstances of the case may require :

AND FOR THIS ACT OF KINDNESS AND JUSTICE
AND PETITIONERS AS IN DUTYBOUND SHALL EVER PRAY :

Place : Ahmedabad

Date : 25-09-1990


(ADVOCATE FOR THE PETITIONERS)

:13:

AFFIDAVIT

I, P.S.Raman ACDA AND o/s. C.D.A. SC of
the petitioner No. 1 herein, do hereby solemnly
affirm and state that what has been stated above
in paragraphs 1 to 6 are true to my
knowledge and what has been stated in the rest
of the paragraphs are true to my information
and belief and I believe the same to be true.

Solemnly declared at Ahmedabad on this
25th day of September, 1990.

P. S. Raman
DEPONENT

Identified by :

[Signature]
Clerk to Mr. P.M. Raval
Central Govt. Standing
Counsel



~~Subscribed before me~~
by Shri P.S. Raman
who is identified by Shri
Clerk of Advocate Shri [Signature]
whom I personally know
Dated 25/9/90
[Signature]
Superintendent ~~Registrar~~,
City Civil Court, Ahmedabad

Filed by Mr. P. M. Raval
Learned Advocate for Petitioners
with second set of 3 copies
copies copy served/not served to
other side

C. S. Raval
Dt. 25/9/90 Dy. Registrar C.A.T. (U)
A'bad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXX~~

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O.A. No. 483 OF 1989.
~~XXXXXX~~

DATE OF DECISION 27-8-1990

E.I. JOSEPH,

Petitioner

MR. B.P. TANNA

Advocate for the Petitioner(s)

Versus

UNITED STATES OF INDIA & ORS.

Respondent s.

MR. J.D. AJMERA

Advocate for the Respondent(s)



CORAM

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. N.R. CHANDRAN, JUDICIAL MEMBER.

E.I. Joseph,
Section Officer (Accounts)
Office of the Controller of Defence
Accounts Southern Command,
PUNE - 1.

..... Petitioner.

(Advocate: Mr. B.P. Tanna)

Versus.

1. The Controller of Defence
Accounts, Southern Command,
No.1 Finance Road,
Pune - 1, Maharashtra State.
2. Controller General of Defence
Accounts, West Block Vth,
R.K. Puram,
New Delhi - 110 066.



Union of India,
Represented by the Secretary,
Ministry of Finance (Defence),
Government of India,
New Delhi.

..... Respondents.

(Advocate: Mr. J.D. Ajmera)

J U D G M E N T

O.A. No. 483 OF 1989

Date: 27-8-1990.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The applicant, a civilian employee of the Defence Accounts Department, was promoted as Officiating Assistant Accounts Officer (Group B) retrospectively from 1.4.1987 by order No. 332 dated 7.6.1988 (Annexure A-2) issued by DCDA(AN) SC Pune on the authority of CGDA's Confidential most immediate No.AN/XI-A/11061/1/Promotion/AAO/I dated 22.4.88. But close on the heels of the order of promotion, DCDA(AN)

- 3 -

Pune issued order No. 450 dated 10.8.1988 (Ann. A-4) by which applicant's name in the promotion order No. 332 dated 768 was cancelled on the authority of CGDA Confidential No. AN/XI-A/11061/Promotion/AAO/II dated 28.7.1988 and order No. 463 dated 12.8.88 (Ann. A-5) ordered recovery of higher than due-in-the-lower post emoluments paid to the applicant on account of his promotion. The applicant submitted representation dated 10.9.1988 (Ann. A-6) to the Controller General of Defence Accounts (CGDA) through proper channel stating why the order of cancellation of promotion (Ann. A-4) and the order of recovery (Annex. A-5) are bad and untenable. This representation elicited reply dated 2.1.1989 (Annex. A-7) from LAO(A) Jamnagar on the authority of CDASC that the applicant was not eligible for promotion to AAO's grade being not in the zone of consideration and that his promotion to AAO's grade will be considered in turn. The applicant has challenged the three orders, namely of cancellation of his promotion (Annex. A-4) of recovery (Annex. A-5) and the reply to his representation (Annex. A-7).

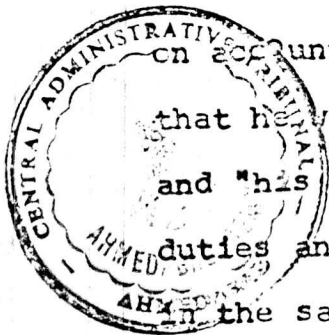
2. The applicant's grounds of challenge appearing in the application are that he was promoted by a duly constituted departmental promotion committee, that no reason were advanced for cancellation of the order of promotion and that the order was unspeaking and that the recovery order

violates his property rights over his salary and thus infringes his constitutional right. The representation the applicant made (Annexure A-6) refers to the plus and the minus sides of his service career and asserts that he was promoted because the Departmental Promotion Committee found him suitable for promotion and the order of cancellation of promotion in fact reduced him in rank without following the principles of natural justice. Similarly, the order of recovery though penal in nature was issued without giving him an opportunity to be heard.



filed by
The reply on behalf of the respondents/ Mr. M.I. Chawla shows his designation as Accounts Officer in the beginning and LAO (A) in verification. He has not signed the reply, leaving the place for his signature and date blank. This omission violates part of the rule 12(2) of Central Administrative Tribunal (Procedure) Rules, 1987 which requires that the "reply shall be signed and verified as a written statement by the respondent....." He does not figure as one of the respondents and has filed the reply because he claims to have read the application and perused the record. The reply objects to the application on the ground that the applicant had not exhausted all other remedies. However, why the applicant's representation dated 10.9.88 falls short of exhausting all other remedies and what these other allegedly unexhausted remedies are not stated. This despite Rule 12(2) of C.A.T. (Procedure) Rules, 1987

inter alia requiring that the reply "they also state such additional facts as may be found necessary for the just decision of the case". Para 3 of the reply and the unnumbered paras after it aver that the promotion of the applicant was erroneously made and he is not entitled to promotion looking to his service record, that promotion order is retrospective by 14 months; that duties and responsibilities of Assistant Accounts Officers in the department have not yet been delineated to distinguish the same from the duties of Section Officer(A) and the nature of the duties of the two designations is the same; that on account of that "the contention of the applicant that he worked on the promoted post is of no avail" and "his promotion did not involve any additional duties and responsibilities and he continued to work in the same capacity" and the "applicant discharged the same duties which he was discharging prior to his said promotional order"; that the applicant had earned adverse remarks in the year 1982 and 1983 which were duly communicated to him and his probation period was time and again extended from 1980 upto 23.5.84; that the applicant's juniors having been confirmed earlier than the applicant, they, as per rules, become senior to him and the applicant lost his original seniority in the SO(A) grade from place 687 to 921-R; that the LDO(R) Jamnagar's letter dated 15.12.1988 to the applicant in fact conveyed the decision of the Controller General of Defence



Accounts; and that the applicant came to be promoted wrongly on the basis of his place 687 in seniority list and the same was an administrative lapse. Regarding recovery order, the reply avers that the applicant has not worked on the promotional post and therefore not entitled to retain the higher emoluments of the promotional post.

4. Though the signatory of the respondents' reply claims to have read the application and perused the record, no documents, not even the seniority lists showing the original and the changed place of the applicant in the seniority and order, if any, which the change in seniority adverse to the applicant came to be made, is annexed. Thus the reply is in the position of a shoe that tries to suspend itself by its own string and not on any document for support as a peg. With reply not filed by any one of the respondents but filed by a much lower official than the respondents, absence of documents to support the averments in it should detract its evidentiary value. When reply has not been filed by any of the respondents and is filed on ^{their} / behalf, becomes greater the need for supporting at least key averments with documentary evidence especially when, as in this case, a major career benefit like an eligible normal next step promotion first came to be given to an employee only to be withdrawn later on the ground that the order of promotion was issued by mistake is involved.



5. In the above state of the reply for the respondents, the applicant submitted his rejoinder which, rightly in our view, questions entitlement of LAO(A) who is not a respondent and is a mere Group B Gazetted Officer to file reply on behalf of any of the respondents and pleads that such a reply deserves to be excluded from consideration. The applicant has asserted that he was promoted in accordance with his seniority and 110 other persons were also promoted at the same time as he with retrospective effect as he. He has further averred that his promotion was in fact an upgradation to the higher scale of Rs. 2000-3200 prescribed for Section Officer (SG) and 80% of the Section Officers were to be in scale Rs. 2000-3200 and only 20% in the lower scale of Rs. 1640-2900 in accordance with circular dated 12.6.87 of the Government of India, Ministry of Finance, Department of Expenditure (Annexure A-8) and Section Officer (SG) is equivalent to AAO in rank and pay. He asserts that the 110 others promoted performed the same duties as the applicant (which in fact it should be in accordance with the provisions of the circular dated 12.6.1987 of Government of India). The applicant has pointed out that his probation period completed on 23.11.82. But the communication of extension of probation period was sent to him on 5.10.83, after ten months of that. He asserts that his promotion was ordered by the Controller General of Defence Accounts but the order

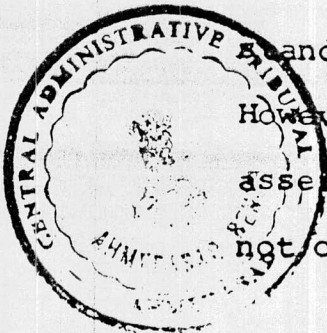


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of reversion is issued by a lower authority. He says that promotion being on nonselection method question of comparative assessment of service records did not arise for determining suitability. He has also averred that his adverse seniority shift from place 687 to 921 was carried out without any prior notice to him and violated the principles of natural justice. He has claimed that he received no adverse remarks since 1984 and promotion order was issued in 1988.

6. Both sides made their respective written submissions in which, by and large, their known grounds and facts in pleadings came to be repeated. However, the applicant - questions the respondent's assertion that no junior to the applicant who was not confirmed earlier than him is working as AAO by pointing out that in Annex. 2

the applicant figures at OA/687 whereas S.N. Deshpande, A.C. Pathrose and R.S. Gaur figure at OA 739, OA 777 and OA 797 respectively and occupy positions as his juniors and that they were not confirmed at the time of their promotion. He has explained that OA stands for Officiating Accountant. The respondents say that the post of Unit Accountant to Garrison Engineering Nadiad, the post the applicant held during promotion was never upgraded to the rank of AAO and that the applicant's say that his juniors are working as AAO is not correct.

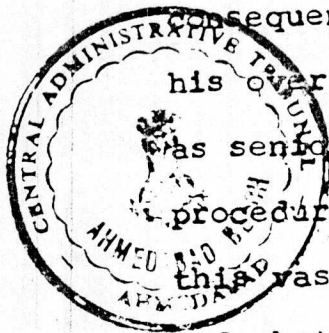


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7. Even if we accept for the sake of facility of understanding that there has been, though as viewed earlier it is not satisfactorily proved, a mistake in promoting the applicant, an inference that derives from the respondents' stands is that the applicant would have been due for and would have been correctly promoted had his seniority not been shifted adversely to him from point 687 to point 921, a drastic slide by 234 points, because of the extension of his period of probation and the consequential delay in his confirmation which placed his over two hundred juniors confirmed before him as senior to him. Then the question arises what procedure is required to be adopted for finalising this vast adverse seniority shift of the applicant and whether the respondents adopted it. The respondents have thrown no light on it even in the face of the applicant's allegation that he was neither put on notice about the adverse shift of seniority nor heard. The record of the case is consistent with the view that as if the applicant came to know about the shift for the first time only from the respondents' reply to the ^{original application} ~~the~~ _{original application}. We are of the view that this gross adverse shift of applicant's seniority by neither informing him about it nor giving him opportunity to be heard is grossly unfair and violative of the ^{service} ~~rights~~ of the applicant to persevere in his appointed place of seniority.



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Length of continuous service in the promoted post should reasonably be an important criteria for confirmation in that post. When extension in confirmation in such a post is advanced as ground for adverse seniority shift, it is all the more necessary that prior notice of change and reasons for it and giving opportunity to the employee to represent against the change ^{should be} a prerequisite. The respondents have not even averred that they published a seniority list showing the applicant's name shifted down below so that the applicant could represent against it. There is no averment that any seniority list exists and published. As is



Inevitable, a Government servant stand in a queue at a given place with people ahead and people behind in his rank in his department. Fairness and natural justice enjoin that if the department has come to possess any satisfactory material, reasons or grounds warranting an adverse shift in this position depriving the employee of his legitimate right to be to the adverse consequence on his career, in the given place in the queue, the department should speakingly inform the concerned employee about it, hear him and then decide what the position should be. None of this is shown to have been done in the case before us despite which the promotion given to the applicant came to be snatched. This should naturally be a matter of serious consequence and concern to the applicant. His representation against it elicited only a routine reply and even the reply to this OA is filed by a lower functionary who cannot

even state that he has verified the connected documents and annex them respondents ignoring which resulted in the promotion of the applicant which,

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but for the alleged mistake, appears as accrued at normal time.

8. When the adverse shift in the seniority of the applicant has been illegally made, the change is void and nonest and his original position at serial number 687 is deemed to have continued. With that happening, the order of cancellation of promotion issued on the basis of seniority of the applicant at serial number 921 cannot survive. When that cannot survive, survives the order of promotion which came to be cancelled. With that happening, the recovery order cannot survive and the respondents reply to the applicant's representation has to be considered as unsustainable.



9. In view of our above reasoning, we do not take up for consideration the respondent's other arguments like nondelineation of duties of AAO and SO, on account of which the applicant, despite his promotion as AAO did the work of SO and the applicant's contest to the same. To any one conversant with administrative and personnel matters in Government departments, such an arguments should be absurd on its very face. Instances of Government upgrading posts and incumbents of the posts before upgradation doing the same work in the upgraded posts are common.

10. As a consequence, the application is liable to succeed and we hereby so order with following directions to the respondents :

(1) The respondents are directed to cancel orders No. 460 dated 10.8.1988 (Ann.A-4) and No. 463 dated 12.8.1988 (Annexure A-5) within fifteen days of this order. They shall, within the same fifteen days, restore the applicant to the rank of AAO from the date the order of cancellation of his promotion become effective. This restoration shall be on the basis that the order of cancellation of promotion was never issued.



(ii) The respondents shall, within two months of the date of this order, pay to the applicant all consequential benefits like difference of salary, allowances and emoluments as if the applicant was not reverted and continued as AAO ever since his promotion as AAO.

(iii) In case the respondents have affected any recovery from the applicant pursuant to order No. 463 dated 12.8.88 (Ann.A-5), the amount so recovered shall be paid to the applicant within two months of this order.

(iv) Respondents shall pay Rs. 500 (Rupees five hundred only) to the applicant within two months of this order towards the cost of the suit.

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We clarify that this order does not preclude the respondents from taking legal steps to shift the seniority of the applicant if so advised.

Sd/-
(N.R.Chandran)
Judicial Member

Sd/
(M. M. Singh)
Administrative Member

Prepared by : P.F.F.
Compared by : 108/90

TRUE COPY
K.B.Sane
(K. B. SANE) 28/08/90
Section Officer (J)
Central Administrative Tribunal,
Ahmedabad Bench.

C. T. e.

[Signature]
A to ic

Tourey
Dr

B.D.PATEL HOUSE,
Nr. Sardar Patel Colony,
Ahmedabad-380 014.

Issued on 6th day of December 1989

REGN. No. 483 1989

Shri E.I. Joseph

APPLICANT (S)

ADM. MR.

B.P.Tanna

V/s.

Union of India and Ors.

RESPONDENT (S)

ADV. MR.

J.D.Ajmera

- To,
01. The Controller of Defence Accounts,
✓ Southern Command, No.1 Finance Road, Pune-1, Maharashtra State.
 02. Controller, General of Defence Accounts, West Block Vth,
R.K.Puram, New Delhi-110 066.
 03. Union of India, through Secretary, Ministry of Finance
(Defence), Government of India, New Delhi.

Whereas Shri E.I. Joseph

applicant has made an application under section 19 of the Administrative Tribunals Act, 1985 in this Tribunal (Copy alongwith relevant annexures enclosed) bearing Regn. No. 483 / 1989 and when the same is put up for hearing on 06.12.89, the Hon'ble Tribunal has passed the order as mentioned below.

Whereas the Hon'ble Tribunal is of the opinion that a reply to the application is called for.

IT IS HEREBY ORDERED:

1. That you respondent No. / do file three complete sets of duly verified reply to the application alongwith documents in a paper-book form with the Registry of the Tribunal within days/week of the service of this notice.
2. That you should simultaneously endorse a copy of the reply alongwith documents as mentioned at S.No. (a) above, to the counsel for the applicant(s).

~~XXXXXXXXXXXXXXXXXXXX~~ Order passed on dtd.06.12.89

Mr.B.P.Tanna learned advocate for the applicant has sent a leave note. Mr.J.S.Yadav for Mr.J.D.Ajmera learned advocate for the respondents present. On perusing the application, it is noticed that the application requires consideration and is therefore admitted. Issue notices on the respondents to reply on merits within 30 days. Registry to take necessary action.

(Now the case be posted on 09.01.90 For Further Direction Before Registrar.)



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3. You are also directed to produce the records noted below for the perusal of the Hon'ble Bench of the Tribunal on the date fixed for hearing.

(I)

(II)

(III)

4. The above application has been fixed for hearing on 09.01.90 at 10.30 A.M. should you wish to argue anything, you are at liberty to do so on the date fixed, or any other date to which the case may be adjourned either in person or through the advocate appointed by you.

5. Also take notice, that in default of your/appearance on the date fixed, the case will be heard/proceeded ex-parte.

WITNES the Hon'ble Vice Chairman, Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad, this is the 6th day of December in the year 1989.

D-PL: 07.12.89

[Signature]
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Tong

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Before the Central Administrative Tribunal
Ahmedabad Bench at Ahmedabad.

Original Application No. 483 of 1939.

S. I. Vossah.

.. Applicant.

vs.

The Controller of Defence
Accounts, S.C. and ors. Respondents.

I N D E X

Sl. NO.	Annex.	Particulars	Pages
1--	--	Memo of application	1 to 14
2.	A/1	Copy of order dt. 7.1.31.	15
3.	A/2	Copy of order No. 332 dt. 7-6-33.	16-17
4.	A/3	Copy of order No. 340 dt. 13-6-33.	18-22
5.	A/4	Copy of order dt. 460 dt. 10-9-33.	23
6.	A/5	Copy of order No. 463 dt. 12-8-33.	24
7.	A/6	Copy of order dated 10.9.1933.	25-28
8.	A/7	Copy of order dtd. 2-1-1939. ✓	29

(81) (59) 30.
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD

Original Application No. /1989.

S.I. Joseph,

Section Officer (Accounts)

Office of the Controller of Defence

Accounts Southern Command,

Pune-1.

.. Applicant.

VERSUS

1. The Controller of Defence
Accounts, Southern Command,
No.1 Finance Rd.,
Pune-1, Maharashtra State,

2. Controller General of Defence
Accounts, West Block Vth,
R.A. Puram, New Delhi 110 066.

3. Union of India,
Represented by the Secretary,
Ministry of Finance (Defence),
Government of India,
New Delhi.

.. Respondents.

Application under Section 19 of the
Central Administrative Tribunal Act,
1985.

1. Particulars of the applicant:

- | | | |
|------|--|--|
| i) | Name of the applicant | - S.I. Joseph |
| ii) | Name of the father | - S.C. Ittyaviran |
| iii) | Designation and office in which employed | - Section Officer (accounts)
Controller of Defence Accounts,
Southern Command,
Rt Naliya, Kutch,
at present employed as
Section Officer (Accounts)
- CDA DC, Pune-1. |
| iv) | Office address | - As given above. |
| v) | Address for service of all notices | - As given above. |

2. Particulars of the respondents:

- | | | |
|------|---|--------------------------------------|
| i) | Name and designation of the respondents. | - As shown in the cause title above. |
| ii) | Office address of respondents | - As shown in the cause title above. |
| iii) | Address of the respondents for service of notices | - As shown in the cause title above. |

3. Particulars of the orders against which the application is made:

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This application is made against the following orders:

- i) Order No. CDA SC, Pune-1, Part II bearing No. 460 dated 10.8.1988 by which the applicant was reverted.
- ii) Order which is passed in pursuance of the earlier order of suspension for recovery of pay and allowances given to the applicant bearing No. 463 dated 12.8.1988 passed by Accounts Officer (AR/Pay/SC Pune-1)
- iii) Order rejecting appeal dated 2-1-1989 signed by IAO (A) Commr. Ager.

4. Jurisdiction of the Tribunal

The applicant is serving in the Defence Department (Accounts) on civil post. Therefore this Hon'ble Tribunal has jurisdiction. While the applicant was promoted and reverted he was at Naliya, Kutch-Bhuj, Gujarat State. Therefore also this Hon'ble Tribunal has jurisdiction.

5. Limitation

The appeal which was made against the impugned order was rejected on 2-1-1989

and, therefore, this application is within time limit prescribed under Section 21 of the Central Services Administrative Tribunal Act, 1955.

6. Facts of the case:

- a) The applicant joined as a Lower Division Clerk in the Defence Accounts Department, a Civil Department, under the administrative control of the Union Finance Ministry in the year 1966 and was posted at Pune in the office of the Pay Accounts Office (other Rank) BSO Kirkee.
- b) The first respondent is presently the Head of Office of the applicant. He is one of the subordinate officers of the Second respondent who is the Head of the Defence Accounts Department. The third respondent is the Secretary, Ministry of Finance (Defence), Government of India, New Delhi and is the administrative Ministry.
- c) The applicant was transferred from his Pune office and was posted to the office of the UA BSO Cochin and subsequently to the office of the UA GS Cochin. Prior to

his posting from Pune to Cochin the applicant had passed Part I of the Subordinate Accounts Service Examination (shortly known as 'SAS' Examination) in the year 1972 and was confirmed as a UDC with effect from the date of passing this examination. The applicant was again transferred to the office of the UA SOO Ahmedabad from Cochin. The applicant wrote his SAS Part II Examination from Cochin Centre and was declared successful by the first respondent vide his Part II Office Order No.163 dated 18.3.1980.

a) The first respondent thereafter appointed the applicant to the grade of Section Officer (Accounts) in the regular vacancies in an officiating capacity from the forenoon of 24-11-1980 on promotion under his Part II Office Order No.15 dated 7-1-1981. The applicant on his promotion was transferred to take an independent charge as Unit Accountant Garrison Engineer (shortly known as UA GE) (Air Force) at Jammu with effect from 24-11-1980 (28).

a) After passing SAS Part II Examination held in November, 1979 the applicant was given promotion on the post of SO (A) in

the re-regular vacancy and in officiating capacity from 24-11-1980. A copy of this order of promotion dated 7-1-1981 is annexed hereto and marked as Annexure A/1 to this application.

- f) By a covering transfer order bearing No. AM/1/1111(5)/11 dated 18-12-1982, the applicant was locally transferred to the office of the Local Audit Office (Army) Meeragar and reported there on 20-9-1982 forenoon and continued to serve in that office till he was transferred on 19-10-1983 to the office of the LAO (Army) Ahmedabad and took charge there on 30-10-1983. The applicant was again locally transferred from the office of the LAO (Army) 'A' Ahmedabad to LAO (Army) 'B' Ahmedabad. The applicant was again transferred from this office as WA GS (Project) Naliya in Gujarat State and took over as independent charge for the second time with effect from 14-5-1987.
- g) While functioning as WA GS (P) Naliya, the first respondent on the authority of the second respondent's Confidential/Post Immediate letter No. AM/XI/A/11051/1/Promotion/AOC-I dated 22-4-1988 issued his Pt. II Office Order No. 332 dated 7-5-1988, a copy of which

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Ann. A/2

is annexed hereto and marked as Annexure A/2 to this application. Thereafter in pursuance to the order dated 7.5.1968 by which the applicant was promoted on the post of Assistant Accounts Officer (Group B) from the post of Section Officer (Accounts) and the pay was fixed by order No. 340 dated 13.6.1968. A copy of this order No. 340 dated 13.6.1968 is

Ann. A/3

annexed hereto and marked as Annexure A/3 to this application. The applicant worked on the promoted post with sincerity. But all of a sudden, after two months he received an order dated 10.8.1968 stating that his promotion order has been cancelled and his name should be deleted from the promotion order dated 7.5.1968 (Annexure A/2). There was no reason mentioned in this reversion order. A copy of this order No. 460 dated 10.8.1968 is annexed hereto

Ann. A/4

and marked as Annexure A/4 to this application. It is important to note at this stage that when the applicant was promoted on the lower post of Section Officer in 1960 he was put on probation for two years. It was extended from time to time upto 1964. Thereafter there is no extension of probation period till 1966. There is

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no adverse remarks communicated to the applicant since last three years. Even though what was the justification in reverting the applicant was not mentioned. Thereafter second order dated 12.8.1988 bearing No.463 was passed for recovery of the pay and allowance which the applicant had received on the higher post. A copy of this order No.463 dated 12-8-1988 is annexed hereto and marked as Annexure A/5 to this application. This order is patently wrong when the applicant had actually worked on the promoted post and in fact the Government had no reason to hurriedly recover the pay and allowance which was given to the applicant as he had worked on the higher post. It may also be stated that till today his ^{who} uniform/are working on the post of AO have not been reverted.

- n) Thereafter the applicant made an appeal to the Controller General of Defence Accounts, New Delhi on 18.9.1988. A copy of this appeal is annexed hereto and marked as Annexure A/6 to this application. To the shock and surprise of the applicant, he received an order

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Ann. A/7

Dated 2-1-1939 from the Local Audit Officer (Army), Jamnagar without CDA SC (Controller of Defense Accounts, Southern Command) has intimated that the applicant was outside the zone of consideration and, therefore, the applicant was not eligible for promotion and his promotion will be considered in his turn. A copy of this order dated 2-1-1939 is annexed hereto and marked as Annexure A/7 to this application. It is important to note at this point that the applicant made appeal to the Controller General of Defense Accounts which is the highest authority and the appellate authority while his appeal is disposed of by the lower officer, that is, Controller of Defense Accounts, Southern Command, Pune. There is no reference regarding the Controller General that all what he has to say is the matter. Even this order is without reasons that why the case of the applicant was not coming in the zone of consideration and, therefore, it is not a speaking order. There is no denial or discussion about the appeal of the applicant. There is no mention of the

points, averments, etc., which the applicant have raised in the appeal. Therefore, there is non-application of mind on the part of the so-called appellate officer. Therefore, this order is also liable to be quashed and set aside.

11. The applicant herein approaches for redressal of his grievances on the following amongst other grounds which are without prejudice to one-another,

GROUND S

- A) That the order of the respondents cancelling the promotion of the applicant already granted to him by a duly constituted Departmental Promotion Committee that too without assigning any reason whatsoever is illegal, arbitrary, against the principles of natural justice and violative of Articles 14 and 16 of the Constitution of India.
- B) That the action of the first and second respondents and subsequent recovery of arrears of pay and allowances etc., from the applicant which promotion

was already granted is ultravires of the powers and without jurisdiction.

- C) That the first and second respondents are duty bound under the law to disclose the reasons why they have cancelled a promotion already granted to the applicant. The order now passed in cancelling the promotion of the applicant and the one ordering recovery of arrears already granted are errors on the face of the record and deserve to be quashed.
- D) That the order of the first and second respondent cancelling the promotion already granted to the applicant and their subsequent action in ordering recovery of arrears of pay and allowances in the absence of any lawful reasons will only amount to mala fide action based on extraneous considerations.
- E) That salary is property is a well settled law of the land. Though it ceases to be a fundamental right it continues to be a Constitutional right under Article 300 A of the Constitution, under which the property

of a citizen which includes a Government servant as well cannot be deprived without an authority of the law. The unilateral action in cancelling the promotion of the applicant with its monetary consequences is against this Constitutional mandate and cannot be sustained in the eyes of law.

7. Reliefs sought for:

- (A) quash and set aside the order or reversion dated 10.8.1988 (Annexure A/4) and also further be pleased to quash and set aside the order for recovery of pay and allowances vide order at Annexure A/5 and further be pleased to quash and set aside the order reflecting the appeal dated 2-1-1989 produced at Annexure A/7 to the application.

8. Interim reliefs prayer:

As the impugned orders are already implemented, no interim relief is prayed for.

9. Details of the remedy exhausted:

As the appeal made to respondent No. 2 was rejected by respondent No. 1.

10. Matter not pending with any Court, etc:

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

11. Particulars of bank draft in respect of the application fee:

A) Name of the bank on which drawn:

B) Demand Draft No.

12. Details of Index:

An index in duplicate enclosing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

- a) Application under Section 19 of the Act.
- b) Demand Draft for Rs. in favour of the Registrar, CAT, Ahmedabad.
- c) Typed set of papers containing Annexures.
- d) Index in duplicate.

Ahmedabad,

Date: -10-1989.

(B. P. Tanna)
Advocate for the applicant.

Tanna

In Verification

I, E.I. Joseph, son of Shri S.C. Ittyavira, aged about 42 years, serving at present as Section Officer (Accounts) in the office of the CDA, AC Pune and residing at Pune, do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any facts.

To

The Registrar,
Central Administrative Tribunal,
Chennai.

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, SOUTHERN COMMAND PUNE - 1.

PART II OFFICE ORDER NO: 15 DATED 7-1-81.

Sub: Promotion of S.A.S Part II Examination passed individuals to Offg. SO(A) grade in regular vacancies.

The C.D.A. SC Pune hereby appoints the undermentioned SAs Part II Examination passed individuals to the grade SO(A) in the regular vacancies in an officiating capacity with effect from the dates shown against each. They will be on probation for a period of two years, from the date of their promotion in the first instance.

Sl.No.	Name	A/c No.	Present grade	Section/office where serving	Date from which promoted
1.	Shri E.I. JOSEPH	8300986	Pt. Auditor	UAGE (AF) JAMNAGAR	24-11-80 (FN)
2.	Shri P.P. SHARMA	8306957	Pt. Auditor	LAO 6 FOD JODHPUR	24-11-80 (FN)
3.	Shri R.S. GAUR	8307035	Pt. Auditor	UAGE KOTA	25-11-80 (FN)

NO: AN/II/21131/Vol.II
DATE: 8-1-1981.

Sd/- (S.D.KASHIKAR)
ACCOUNTS OFFICER (AN) SC PUNE.

COPY TO :

1. The C.D.A.(P) Allahabad (2 copies)
2. All Sub-sections to 'AN' Sn
3. C.R.Task, Index Card Task, Personnel files
4. UAGE (AF) Jamnagar, LAO 6 FOD Jodhpur, UAGE Kota.
5. Officer in charge 'T', Grocery.

(S.D.KASHIKAR)
ACCOUNTS OFFICER (AN) SC PUNE .

In Verification

I, E.I. Joseph, son of Shri & C. Ittyavira,
aged about 42 years, serving at present as
Section Officer (Accounts) in the office of the
CPA EC Pune and residing at Pune, do hereby verify
that the contents of paras 1 to 13 are true to
my personal knowledge and belief and that I have
not suppressed any facts.

To

The Registrar,
Central Administrative Tribunal,
Ahmedabad.

14

45
A-2

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, S.C. PUNE-1.

PART II OFFICE ORDER NO. 332 DATED: 7-6-1988

Sub : Higher Functional Grade in Section Officer (A)
Grade in D.A.D.

.....

Having been selected for promotion to the grade of Assistant Accounts Officer, of the CDA S.C., Pune hereby appoints the SOs (A) mentioned in Annexure 'A' (Unreserved category) to this order as Assistant Accounts Officers (Group 'B') in the scale of Pay of Rs. 2000-3200 with effect from the dates shown against in the name of the individuals in the officiating capacity till successful completion of their probation. These Officers will be on probation for a period of 2 years with effect from 1-4-87/1-11-87 i.e., the date of their promotion.

On promotion to the Higher functional grade from 1-4-87/1-11-87 as the case may be. The pay of the affected individuals will be fixed under FR 22 C from 1-4-87/1-11-87 * the financial benefits would be given to him from the date of joining duty after leave. (* If any promotee was on leave on 1-4-87/1-11-87)

In case if any promotee was on leave on 1-4-87/1-11-87 other than C.L. the office where the promotee was serving during 4-87/11-87 is hereby directed to intimate to AN-PAY Section of Main Office the date of joining duty of such promotee after leave period.

If any of the Officer desires to have the pay fixed as A.A.O. in terms of DP & OM No. 1/2/87/Estt/Pay-I dt. 9-11-87 they should exercise an option within a period of one month from the date of issue of this order and the option once exercised will be final. No request for condonation of delay in exercising the option will be entertained.

The contents of this part I^I O.O. may please be brought to the notice of the concerned individuals and their initials obtained and recorded for having noted the contents. If any individual is on leave/Ty.duty a copy of the order may please be sent to his leave address by Regd. Post Ack.Due and his acknowledgement having noted the contents recorded at your end.

Please acknowledge receipt.

Authority : C.G.D.A. Confidential/Most Immediate No. AN/XI-A/11061/1/Promotion/AAO/I dated 22-4-88.

sd/-(T.S. NAYAR)
Dy.C.D.A. (AN) SC PUNE-1

No. AN/II/0268/VI
Dated: 7-6-1988

llb

1. The C.G.D.A., New Delhi
2. The C.D.A (P) Allahabad
3. U.A.G.E. Naliya
4. U.A.G.E. Kamptee
5. S.L.A. (A) Udaipur
6. AN-PAY Sn (Local)
7. PAO/GREF Sn (Local)
8. AN-I, II, III, IV, V/AN-PAY-I, II, III, IV
9. C.R. Task/Index Card Task/PF
10. AN-PAY (Pay Fixation Task Holder)
11. Spare copies.

(N.V. DESHMUKH)
Accounts Officer (AN) SC PUNE-1

ANNEXURE 'A'

Sl. No.	Roster No.	Name S/Shri	Date of Promotion	Station/Office where serving	Remarks
1	2	3	4	5	6
1.	OA/679	A.G. KULKARNI	1-4-87	U.A.G.E (I) Girinagar	
2.	OA/687	E.I. JOSEPH	1-4-87	U.A.G.E. Naliya	
3.	OA/739	S.N. DESHPANDE	1-4-87	AN-PAY M.O.	
4.	OA/772	A.O. PATHROSE	1-11-87	U.A.G.E. Kamptee	
5.	OA/797	R.S. GAUR	1-11-87	U.A.G.E Udaipur	

Five individuals only.

(N.V. DESHMUKH)
Accounts Officer (AN) SC Pune-1

Truest

OFFICE OF THE CONTROLLER OF DEF. ACCOUNTS SOUTHERN COMMAND PUNE -411 001.

PART II OFFICE ORDER NO.340

DATED : 13/6/88

SUB : Fixation of Pay under FR 22 C on promotion from SO(A) Grade to Offg. Assistant Accounts Officer grade.

REF : Part II Officer Order Nos. 242/88 and 332/88.

.....

On promotion as A.A.O. in a officiating capacity, the initial pay of the undermentioned individuals are fixed under FR 22 C in the time scale of Rs.2000-60-2300-EB-75-3200 as under with effect from the date of promotion shown against each in column 9.

(LOWER GRADE SCALE : 1640-60-2600-EB-75-2900)

Sl. No.	Account No.	Name S/Shri Smt.	S.D P.F. No.	Where Serving	Rate of pay in the SO(A) grade on the date of promotion as A.A.O.	Rate of pay initially fixed in the promotion grade from the date of promotion	Date from which pay is fixed in the promotion grade.	DMI if other wise admissible.	Financial effect w.e.f.	REMARKS (Whether opted or not in terms of Govt. OM Dtd. 9/11/87 Note. 2 also refers.	
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
1.	8270464	S.N. Deshpande	10125	AN/PAY	1820	1880	2000	1/4/87	1/4/88	1/4/87	Opted
2.	8299007	A.V. Bivalkar	9994	LAO(A)	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
3.	8303097	M.J. Hachai	6019	L.VO(A) Ahmedabad	1820	1880	2000	1/4/87	1/4/88	1/4/87	Not opted
4.	8303251	A.B. Datar	9693	'T' SN	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
5.	8269954	G.S. Shastri Budhe	10057	UNGE(C-12) Thugewadi	1820	1880	2000	1/4/87	1/4/88	1/4/87	Opted
6.	8253178	P.H. Dehpande	1641	UNGO(C-18) Thugewadi	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
7.	8269300	M.I. Pillay	8664	PA SN	2350	2420	2450	1/4/87	1/4/88	1/4/87	Opted
8.	8299170	V.C. Ramchandran	8613	R.VO(MES) Pune	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
9.	8283398	A.G. Anandraman	8266	PA SN	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
10.	8299377	R.Murallharan	5654	UNGE(W) Bombay	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
11.	8263484	S.M. Cutchhi	8121	UNGS(P) Thane	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
12.	8299423	M.D. Jagtap	8617	LAO(A) Ahmednagar	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
13.	8263521	R. Easwaran	4301	UNGS Karanja	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
14.	8283417	G.M. Shah	8452	PAO GREY	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
15.	8269870	M.R. Dangle	8615	UNGO(S) Pune	2240	2300	2375	1/4/87	1/4/88	1/4/88	Not opted
16.	8270221	A.V. Phasakar	8614	Fund Cell	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted

(11)

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1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
17.	8288910	M.Y. Phandis	9220	Pay 4	2240	2399	2375	1/4/87	1/4/88	1/4/87	Opted
18.	8303841	B.K.Chandane	10887	PAO Gref	1760	1820	2000	1/4/87	1/4/88	1/4/87	Not opted
19.	8283382	M.N.Kulkarni	1899	Pay 2	2240	2300	2375	1/4/87	1/4/88	1/4/87	Not opted
20.	8269658	A.G.Kulkarni	10058	UAGE(I)	1820	1880	2000	1/4/87	1/4/88	1/4/87	Opted
21.	8297307	M.Balasubramanian Ilan	88791	AAO Jalpur	2240	2300	2375	1/4/87	1/4/88	1/4/87	Opted
22.	82959681	Kishan Lal Singh	9807	BAO(A)Kota	1760	1820	2000	1/4/87	1/4/88	1/4/87	Not opted
23.	8295580	Girija Shankar Tewari	10278	AAO Jalpur	1820	1880	2000	1/4/87	1/4/88	1/4/87	Not opted
24.	8310794	Chandrasen	7675	UAGE(Af) Jodhpur	1820	1880	2000	1/4/87	1/4/88	1/3/88	Not opted
25.	8308199	A.O.Rathrose	9354	LAS(DAD) Dehu Road (Now UAGE Kamptee)	1880	1949	2000	1/4/87	1/4/88	1/4/87	Opted
26.	8307035	R.S. Gaur	8804	UAGE Udaipur	1880	1940	2000	1/11/87	1/11/88	1/11/87	-
27.	8300986	E.I.Joseph	7117	UAGE Naliya	1820	1880	2000	1/4/87	1/4/88	1/4/87	-
28.	8288145	P.N. Singh	10376	CDA Patna (Previously in UAGE 864 FMS C/099 APO)	1940	2000	2060	1/4/87	1/4/88	1/4/87	Not opted
29.	8282171	Indra Dev	8842	LAS Udaipur	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted
30.	8293186	James Jayaraj	8120	UAGE Dehu	2180	2240	2300	1/4/87	1/4/88	1/4/87	Not opted

- 4 -

Sl.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
31.	8298670	L.D. Gupta	9918	UAGE Alwar	2180	2240	2300	1/4/37	1/4/38	1/4/37	Not opted
32.	8297815	R.C. Sharma	9937	LAO Alwar	2180	2240	2300	1/4/37	1/4/38	1/4/37	Not opted
33.	8300949	P.Sundara Mohan	8345	UAGE (C) Deolali	2000	2060	2120	1/4/37	1/4/38	1/4/37	Not opted
34.	8284723	K.Ragharam	4892	UAGE Baroda	1880	1940	2000	1/4/37	1/4/38	1/4/37	Not opted
35.	8283280	M.A.Lajad	1767	UAGE (N4) Bombay	2180	2240	2300	1/4/37	1/4/38	1/4/37	Not opted

NOTE 1 : FR 22C provides for fixation of pay of Govt. servant in the time-scale of the promoted grade/post at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower grade/post by one increment at the stage at which such pay has accrued.

NOTE 2 : The fixation of pay has been done under FR 22C straight away the above individuals have either opted for fixation of pay under FR 22 C from the date of promotion straight away without any further review on accrual of increment in the pay scale on the above grade/post or have not opted so within the time limit of one month prescribed in terms of Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Dept. of Personnel & Training) OM No.1/2/87 - Estt (Pay-I) of 9/11/37 (Part I O.O. No. 275/87 refers)

(THIRTY FIVE (35) officers only.)

SD/- (K. KUMARASWAMY)
ACCOUNTS OFFICER (AN/PAY) SC PUNE - 1.

(7)

A/S

46
51

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, S.C. PUNE-1

PART II OFFICE ORDER NO.460 DTD.10/8/88

Sub : Amendment to Part II O.O.No,332 dtd. 7/6/88
on account of Higher Functional Grade in
Section Officer (AO Grade in D.A.D.

Ref : Part II O.O. No.332 dtd. 7/6/88

.....
The following amendment may please be carried out to the
Part II O.O. referred to above.

Sl. No. 2 of the Annexure 'A' of Part-II O.O.No.332 dtd
7/6/88 notifying the promotion to AAO's Grade in respect of Shri
E.I.JOSEPH, Roster No.OA/687 is hereby cancelled and Serial No.2
may be treated as blank. All other entries remain unchanged.

Authority : C.G.D.A Confidential No. AN/XI-A/11061/Promotion/AAO/II
dated 28-7-88.

sd/- (T.S. NAYAR) -
D.C.D.A. (AN) S C Pune-1

No. AN/II/0268/VII
Dated: 10/8/1988

Copy to :

1. C.G.D.A. , West Block - V, R.K.Puram, NEW DELHI-110066
2. C.D.A (P) Allahabad
3. LAO (B) Ahmedabad
4. UA GE Kamptee
5. SLA (A) Udaipur
6. UA GE Naliya
7. PAO/GREF (LOCAL)
8. AN-PAY-I, II, III, IV/AN-I, II, III, IV
9. AN-PAY (Pay-fixation Task holder)
10. CR Task/Index Card/PP No. 7117
11. Spare copies.

(N.V. DESHMUKH
Accounts Officer (AN) SC Pune-1

Treey

NO. AN/PAY/I/51154/Fixation/RPR86/IV

Dated: 22/6/88.

COPY TO:-

1. The CDA (Pensions) Allahabad (2 copies).
2. The Officer-In-Charge - AN-IV (local) (2 copies)
3. The Officer-In-Charge-AN-PAY I, II, III, IV (local) (2 copies).
4. File copy/File No. AN/PAY/I/0307/RPR86/Promotion/Option/C/II
5. P F Copy (as per PF Nos. shown in Col. 4 above).
6. Spare copies - 10
7. The A.A.O. (SC) Nala Garden Road, Near CME's office, Jaipur Cantt - 302003 (4 copies)
8. The A.O. (MES) C/O (Project), Port Blair (4copies)
9. All sections in Main office, CDA SC Pune (Local).
10. The UAGE, Naliya.
11. The UAGE (CME) Phugewadi/UABSO (CME) Phugewadi/~~near~~ LAS DAD Dehu Road/UAGE Dehu Rod
12. The RAO (MES) Pune/UABSO (S) Pune/UAGE (I) IAT, Girinagar
13. The UAGE (W) Bombay/UAGE (P) Thane/UAGE Karanj-a/UABSO (NW) Bombay
14. The LHO(A) Ahmednagar/UAGE Karmjee/UAGE (C) Deolali
15. The LAD (A) Kota/UAGE (AF) Jodhpur/UAGE Udaipur/LAS Udaipur/UAGE Alwar/LAO (A) Alwar
16. The CDA Patna
17. The UAGE 664 EMS C/O 99 APO.

(K.A. KUMARASAMY)
ACCOUNTS OFFICER (AN/PAY) S.C.PUNE-1.

53
OFFICE OF THE CONTROLLER OF DEF. ACCOUNTS SOUTHERN COMMAND PUNE - 411 001.

PART II O.O. No. 463 of 12/8/88.

SUB:- Fixation of Pay in AAO's grade on promotion - cancellation of

REF:- Part II O.O. Nos. 332/88, 340/88, 427/88 and 460/88.

Consequent on the cancellation of the promotion Order notified under our Part II O.O. No. 332 of 7/6/88 (Sl. No. 2) vide our subsequent Part II O.O. No. 460 of 7/6/88 ibid, the Pay fixed in respect of E.I. JOSEPH, SO(A) A/c No. 8300986 in AAO's grade vide this office Part II O.O. No. 340 of 13/6/88 (Sl. No. 27) (as amended vide Part II O.O. No. 427 of 21/7/88) is hereby cancelled. The Pay and Allowance paid to the individual in question in AAO's grade together with arrears paid thereof may please be recovered and corresponding deductions regulated accordingly. Sl. No. 27 of this Office Part II O.O. No. 340/88 may, therefore, please be treated as BLANK

(One (1) individual only.)

Sd/- (K.A. KUMARASWAMY)
ACCOUNTS OFFICER (AN/PAY) S.C. PUNE-1

No. AN/PAY/I/51154/Fixation/RPR86/IV
Dated:- 16-8-88.

COPY TO:-

1. The CDA (Pensions) Allahabad (2 copies).
2. The Officer In-Charge-AN-IV (Local) (2 copies).
3. The Officer In-Charge-AN-PAY-I, II, III, IV (Local).
4. File copy
5. PF 7117
6. Spare copies - 5.
7. The UAGS Naliya
8. The LAO (A) Jamnagar.

(K.A. KUMARASWAMY)
ACCOUNTS OFFICER (AN/PAY) S.C. PUNE -1.

A/5

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A-6.
By Read, A.D.

September 10, 1988.

From:-

E.I. Joseph, A/c. No. 8300986,
U.A.GEE. Project,
Naliya,
Gujarat State,
Pin - 370 655.

To:-

The Controller General of Defence Accounts,
R.R. Puram,
New Delhi.

(THROUGH PROPER CHANNEL)

Sub:- Appeal to set aside the Office Order Passed by CDA, Southern Command, Pune bearing Part. II Office Order No. 460 dated 10-8-1988, whereby my promotion to the Post of Assistant Accounts Officer at Naliya is Cancelled. AND

to set aside the order dated 10-8-1988 and to pass an order to treat me on the post of AAO from 1-4-1987.

.....

Respected Sir,

I am submitting this appeal so as to seek redressal of my grievance about the cancellation of my promotion as AAO during the tenure at Naliya as a Section Officer, on which post I am working since 1980, after I was promoted on clearance of the departmental examination.

2. I state that I am continuously serving as Section Officer under the CDA Southern Command, from 24-11-1980. The said promotion was on clearance of Subordinate Accounts Service Part II Examination and the result of the examination of Part II was declared in November, 1979 and the list of successful candidates under CDA, including my name at Sr. No. 53 of CDA (SC) Part II OO 163 of 18-3-1980 was prepared. I submit that I started working as Section Officer (Accounts) on 24-11-1980 with a posting at the office of Unit Accountant Garrison Engineering Project (Air Force), Jamnagar. I submit that I was posted on probation for a period of two years, i.e. till 24-11-1982, but due to certain extraneous reasons my probation period was extended for a period of one year. I state that when my extended probation was to come to an

end, I was communicated certain adverse remarks on 3-10-1983 stating that my probation was extended upto 24-11-1983 due to these adverse remarks. I submitted my representation against adverse remarks. The said representation was submitted to the Controller of Defence Accounts, Southern Command, Pune on 6-2-1984 and it was ^{submitted} ~~passed~~ through proper channel. I was glad to receive a reply from the Assistant Controller of Defence Accounts, Southern Command, Pune dated 24-2-1984 whereby I was informed that the adverse remarks relating to integrity had been expunged, but I was sorry to hear that the remarks relating to my performance were not expunged and I was asked to prefer an appeal to the Controller General of Defence Accounts at Delhi. I submit that I preferred an appeal to the said authority, vide representation made in the month of May 1984. But the same was rejected stating that the said adverse remarks cannot be expunged. I submit that thereafter on 25-1-1984, I was intimated on Office Order No. AN/II/21124/I/III issued by the office of the CDA, Southern Command, Pune, whereby my probation period was extended till 23-5-1984 and I was warned to be more careful and I was advised to earn good assessment reports during the extended period of probation. I say that after 23-5-1984 there was no correspondence between me and the office of the Southern Command. Therefore, I presume that my assessment for the years 1984 to 1987 was 'GOOD' and/or 'VERY GOOD', as no adverse remarks have been communicated to me till this date.

3. I submit for your kind consideration that I was considered suitable by the Departmental Promotion Committee when it cleared the names of Section Officers, and my name was placed at Sr. No. 2 of CDA (SC) Part II Order No. 332 of 8/88 in Roster No. OA/687. I was, therefore, considered eligible and suitable for promotion to the post of AAO from the post of Section Officer. I annex hereto a copy of my promotion order dated 7-6-1988. It says that I am promoted to the post of Assistant Accounts Officer in the unreserved category and it was to the post of Group B, in the pay scale of Rs. 2000-3200 and it was on officiating basis on probation for a period of two years, with retrospective effect from 1-4-1987, i.e. the date of my promotion.

4. I further submit that consequent on promotion as Asst. Accounts officer as notified in the Part II Office Order ~~dated~~

ibid, I started working as such on the said post at Naliya. I submit that after about two months. i.e. from the impugned order cancelling my promotion and reverting me to the post of Section Officer was passed.

5. I submit that the order of the reversion has been passed without any reasons. My confidential records, when I was working as Section Officer, are without any blemishes to the best of my knowledge as no adverse entries for the year 1984 to 1987 have been Communicated and the adverse entries entered earlier are deemed to be wiped off after I was promoted. This promotion given to me on merits, after the Departmental Promotion Committee had cleared my name. Therefore, the reversion given to me is bad and contrary to the rulings of the Hon'ble Court and the Hon'ble Administrative Tribunal. This would also amount to reduction in rank and therefore would be violative of the principles of natural justice, as I am not afforded enough opportunity so that my performance may be assessed in the said post. A simple order passed for amendment in the earlier order dated 7-6-1988 is not proper and is violative of the principles of natural justice.

6. I submit that the corresponding letter issued by the Accounts Officer whereby he has instructed that my pay and allowances already paid for the post of AAO be recovered from me is also a penal order and is without giving an opportunity of hearing to me and is against the principles of natural justice null and void. Therefore, I humbly submit and pray as under:-

- (a) Be pleased to quash and set aside the order dated 10-8-1988 whereby my promotion to the post of AAO has been cancelled and I am reverted to the post of Section Officer, with immediate effect.
- (b) Be pleased to revive the earlier order dated 7-6-1988, as it was passed after the Departmental promotion Committee had considered my case and had given retrospective effect and be pleased to implement the said order.
- (c) Be pleased to stay the order dated 12-8-1988, bearing No. PART II OO No. 463, wherein pay and allowances paid to me for the post of AAO

are to be recovered from my salary and
be further pleased to direct that no
deductions may be effected from my salary
till the disposal of this appeal.

I therefore request you to kindly consider my
appeal within a period of one month in my favour.

Thanking you, in anticipation.

Yours obediently,

(E.I. JOSEPH)

True
Dr

①
A-7
Shri E.I. Joseph,
The VAGE(P),
Naliya.

CONFIDENTIAL

JNR/E/Con/IV,
LAO (Army),
Jamnagar.

2/1/89

Sub: Higher functional Grade in SO(A)
Cadare in DAD Shri E.I. Joseph
SO(A) A/C No. 8300986.

It has been intimated by CDASC, Pune, vide their letter No. AN/II/0268/II, dt. 15/12/88, that you were not eligible for promotion to AAO's grade, since you were outside the zone of consideration and your promotion will be considered in your turn.

Please acknowledge receipt.

LAO(A), Jamnagar.

Shri E.I. Joseph,
The VAGE(P),
Naliya.

CONFIDENTIAL

JNR/E/Con/IV,
LAO (Army),
Jamnagar.

2/1/89

Sub: Higher functional Grade in SO(A)
Cadare in DAD Shri E.I. Joseph
SO(A) A/C No. 8300986.

It has been intimated by CDASC, Pune, vide their letter No. AN/II/0268/II, dt. 15/12/88, that you were not eligible for promotion to AAO's grade, since you were outside the zone of consideration and your promotion will be considered in your turn.

Please acknowledge receipt.

sd/-
LAO(A), Jamnagar.

True COPY

[Signature]
SO(A)

[Signature]

BEFORE THE CENTRAL ADMIN
TRIBUNAL AT AHMEDA

O.A.NO.483/89.

S.I. Joseph.

Applicant.

VS

Controller of Defence
Accounts and others.

Opponents.

REPLY ON BEHALF OF THE
OPPONENTS.

I, *M. I. Chaudhary*

do hereby verify and state in reply to the
application as under.

1. I have read the application and perused
the record and competent to file this reply. I do
not admit such of the averments made in the
application except which are specifically admitted
by me and I hereby deny the same.

2. At the outset, it is submitted that the
present application is misconceived and not
maintainable at law and deserves to be dismissed.
The orders passed by the opponents are legal and
valid. The applicant is not entitled to any
relief as prayed for and application deserves to
be dismissed.

2. Referring to para-4, it is submitted that the applicant has not exhausted all other remedies available under the rules and therefore the present application is premature in view of provisions of section 20 of the Act.

3. Referring to para-6-A to F, the applicant has narrated his service particulars. I do not admit any of the averment and contention raised in these sub-paras which are inconsistent with the orders passed by the respondents and also records of the case. It is submitted that promotion of the applicant was erroneously made. The applicant was not entitled to the promotion looking to his service record. The applicant has therefore no right to claim to continue on the said promotional post.

Referring to para 6-G, it is submitted that the applicant was promoted to the grade of Assistant Accounts Officer with effect from 1st April 1987 vide the Controller of Defence Accounts, Southern Command, Pune-II office order No.332, dated 7-6-1988 i.e. promotion was made with retrospective effect as far back as about 14 months. It is further submitted that duties and responsibilities of the Assistant Accounts Officers in the department have yet not been delineated to distinguish it with that of Section Officer (A). It is submitted that nature of duties of S.O.(A) and that of A.A.O. are the same. The contention of the applicant that he worked on the promoted post is of no avail because nature of duty of both the posts are same. It is

(89) 64 (76) 72
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submitted that his promotion did not involve any additional duties or responsibilities and he continued to work in the same capacity. The Unit Accountant, Carlson Engineer's post at Nalia was neither upgraded nor re-named so as to require any extra duty or to add new charge to the post. It is submitted that therefore the applicant discharged the same duties which he was discharged prior to his said promotional order.

It is further submitted that the applicant earned adverse remarks in his annual confidential report for the years 1982 and 1983 which was communicated to him timely and acknowledged by the applicant and therefore his probation period was time and again extended finally upto 23-5-1984 when he was considered to have successfully completed the probation period on promotion as S.O.(A) with effect from November 1980. It is submitted that seniority depends upon the confirmation. As his juniors' record was clear and who cleared their probation period earlier, they were confirmed and therefore his juniors became senior to him, as the applicant did not complete his probation period successfully and his confirmation was made late. It is submitted that in view of the aforesaid facts and circumstances of the case and due to delayed confirmation of the applicant, he had lost his original seniority in the S.O.(A) grade. The statement made by the applicant that his juniors

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are working in the post of A.A.O. is not factually correct in view of the aforesaid position.

Referring to para 6-H, it is submitted that against the impugned order, the applicant had made appeal to the Controllor General of Defence Accounts, which is an appellate authority. It is submitted that after considering merits of the case, the appellate authority has rejected his appeal and communicated the decision to the lower authority, who in turn communicated the applicant that his appeal has been rejected. The contention of the applicant that his appeal has been rejected by the lower authority is not correct and hereby denied and the said contention has no force. It is further submitted that the applicant's application dated 10-9-1988 was forwarded to the Controllor General of Defence Accounts by the Controllor of Defence Accounts, Southern Command, Pune vide his letter dated 21-10-1988. The applicant was also informed vide the intimation issued through the Local Audit Officer (A) Jamnagar vide the letter dated 28-11-1988. The decision of the appellante authority was informed to the applicant by the Controllor of Defence, ~~Southern~~ Accounts, Southern Command, Pune vide his letter dated 21-11-1988 and same was conveyed through the Local Audit Officer(A) Jamnagar vide his letter dated 15-12-1988. It is submitted that therefore it is clear that appeal was decided by the higher authority and the said

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authority has rejected the same. The appellate authority has communicated the decision to the lower authority and the lower authority in turn conveyed the decision of the higher authority through proper channel. It is further submitted that the decision of the competent authority stated that since the applicant had lost his original seniority in S.O.(A) grade by virtue of his supersession in confirmation in the S.O.(A) grade by his juniors, the S.O.(A) was out side the zone of consideration for promotion to the A.A.O. grade and his promotion to A.A.O. will be considered in his turn. It further submitted that the applicant had lost his original seniority in S.O.(A) grade from Roster No. Officiating Accountant-687 to J.A. 921-R in the Officiating S.O.(A) by virtue of his supersession in confirmation on S.O.(A) grade by his juniors. It is submitted that as contended above, the applicant was not within the zone of consideration. It is submitted that originally his number was J.A.687, but subsequently it was brought down to J.A. 921-R because his confirmation was delayed and therefore he was not within the zone of consideration and therefore he could not have been promoted. As it was wrongly considered that his ~~xxx~~ number remains at J.A. 687 and therefore his case was considered. This was administrative lapse.

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Referring to grounds, same are legal contentions and are untenable and deserve to be rejected. It is submitted that the applicant's service record was not satisfactory and therefore his probation period was extended from time to time. It is submitted that the applicant was given erroneous promotion and therefore he has no right to enjoy the same. It was bonafide error on the part of the administration. The impugned reversion is therefore simpliciter and only with a view to correct the error, which was committed by the department. It has no adverse effect on the applicant. It is denied that the said action is malafide or otherwise illegal as alleged. It is submitted that the applicant has not worked on the promotional post and therefore he was not entitled to retain the difference of salary paid to him of the promotional post and therefore the said amount has rightly been recovered from the applicant. It is denied that there is any violation of the applicant's fundamental right guaranteed under the Constitution as alleged. It is submitted that the impugned orders are legal and valid and in accordance with rules.

4. Referring to para-7, the applicant is not entitled to any relief as prayed for and the application deserves to be rejected.

DATE: _____

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VERIFICATION

I, M. I. Chauda

do hereby verify and state that what is stated
hereinabove, is true to my knowledge, information
and belief and I believe the same to be true.

DATE: 11.1-90

M. I. Chauda
L.A.O. CAJ
Attn: Subord

Tony
In

Before the Central Administrative Tribunal
Ahmedabad Bench at Ahmedabad.

Original Application No.483 of 1989

E.I. Joseph. .. Applicant

versus

The Controller of Defence
Accounts and others. .. Respondents

WRITTEN STATEMENT

1. The applicant has filed this Application challenging his reversion order from the post of Assistant Accounts Officer (Group B) to the post of Section Officer (Accounts) vide order dated 10-8-88 (Annexure A/4). Thereafter, the order of recovery of pay was also passed on 12-8-88 (Annexure A/5).
2. The applicant has passed SAS Part I and Part II. Thereafter, he was promoted to the post of Section Officer (Accounts) with effect from 24-11-80 and his promotion order dated 7-1-81 is annexed as Annexure A/1.
3. Thereafter, on 7-6-88 when the applicant was working as UA GS (Project) Naliya in Gujarat State he was promoted to

/2/

the post of Assistant Accounts Officer (Group B) with retrospective effect from 1-4-87 (Annexure A/2), vide order No. Confidential/Asst Immediate No. AN/XI-A/11061/1/Promotion/AAC/1 dated 22-4-88.

4. The applicant had worked on the post of Assistant Accounts Officer with sincerity but all of a sudden after two months on 10-8-88 he received the letter that his promotion order has been cancelled and that his name should be deleted from promotion order (Annexure A/2). This letter dated 10-8-88 is annexed herewith as Annexure A/4 to this application.

5. This order is very cryptic order and without showing any reason and without any application of mind. Immediately on the foot steps of the earlier order dated 10-8-88, applicant order received another dated 12-8-88 in which the pay and allowances which was received by him was sought to be recovered from him. This order of recovery dated 12-8-88 is annexed as Annexure A/5 in the Application. both

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/3/

Both these orders are without rhyme or reason and on the face of it non-application of mind is explicit. Though the applicant had worked on the post sincerely, the authority wanted to recover the pay and allowances given to him. This is nothing else but arbitrariness on the part of authority concerned.

6. Being aggrieved by the same the applicant made Appeal to the appellate authority (Annexure A/6). To the utter shock and surprise of the applicant, the appellate authority behaved in the same bleak manner and shown their prejudice against the applicant. The appellate authority had turned down the appeal without giving any reasoned order and one line cryptic order has been made as can be seen from Annexure A/7. By this order it has been intimated that "you were not eligible for promotion to AAO's grade, since you were outside the zone of consideration and your promotion will be considered in your turn." There was no mention that what was the criteria for considering him eligible for promotion.

7. It is also pertinent to note that

/4/

there is nothing to show that what was the consideration applied when the applicant was promoted by the earlier order (Annexure A/2). It is also pertinent to note that there is nothing to show that why applicant's name was not coming in that zone of consideration.

8. The cancellation order is arbitrary and without giving any opportunity of hearing to the applicant. It is well known that when a person is benefited by an order, it can not be cancelled without giving any opportunity of being heard. This is violative of principles of natural justice and this principle has been confirmed time and again by several judgments of the Hon'ble Supreme Court, High Court and Central Administrative Tribunals.

9. It is pertinent to note that the pay was fixed in the promoted post at Annexure A/3 after taking all the relevant circumstances into consideration and one can not say that the order of promotion was passed without application of mind.

/5/

10. The cancellation order (Annexure A/4) does not reflect any reason that why the cancellation order has been passed, and why the promotion, which has already been given, is being cancelled.

11. In the recovery order (Annexure A/5) it is not mentioned that even though the applicant has worked on the higher post, why the authority wants to take away the pay and allowances received by him. This is also against the principle of natural justice and violative of the principles laid down by several judgments of the Hon'ble Supreme Court and High Court.

12. I deny that my juniors were confirmed prior to me, and, therefore, they are continuing in the job (reason given by the authority on page 32 of affidavit in reply) and my denial is supported by Annexure A/2 when it is mentioned on page 17 column No.2 as under:-

OA/739 S.N. Deshpande

OA/772 A.O. Pathrose

OA/797 R.S. Gaur

It is pertinent to note that ~~gattix~~ applicant's name is shown as :

OA/687 E.I. Joseph.

The letters OA connote the meaning Officiating Accountant. Therefore, the applicant can say that his juniors were not confirmed at the time of promotion.

/6/

13. It is not true to say that the applicant has not exhausted the appellate authority. The applicant has exhausted the same (Annexure A/7). Therefore, the respondents' say in the affidavit-in-reply is quite wrong on the face of it.

14. The applicant was promoted on 10-6-88 with retrospective effect of 1-4-87 (Annexure A/1 and Annexure A/2 and Annexure A/3) relying upon the seniority list and on non-selection basis and about 110 persons were promoted with him.

15. This promotion is technically upgradation to the higher pay scale (Annexure A/8). The applicant would fall in the category of higher pay scale i.e. ~~that~~ Section Officer (S.O.) 2000-3200 in which 80% of the Section Officers were required to be promoted.

16. In the affidavit-in-reply on continuous page 32 internal page 3 it is mentioned that the applicant earned adverse remarks in his annual confidential report for the years 1982 and 1983, which

/7/

were communicated to the applicant and, therefore, probation was extended upto 23-5-84. It is patently wrong . According to the affidavit-in-rejoinder (Page 40) the periods of adverse remarks, which were communicated to him, were as under:

Period of adverse remarks.	Communication	Delay
1982	20-10-83	8 months
1983	6-4-84	2 months

The probation period completed on 23-11-82. The communication of the extension of probation period was conveyed to the applicant on 5-10-83, when 10 months have already been passed and extended period of probation was about to be completed. The effect was that on 5-10-83 the applicant was conveyed that probation period was extended from 23-11-82 to 23-11-83.

17. Since 1984 there is no adverse remarks against the applicant.

18. The applicant's seniority list number 687 was changed to 921. How it has happened, the applicant doesnot know. In this case also, the principle of natural justice has not #been followed.

19. The applicant was promoted to the post

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of Assistant Accounts Officer (Annexure A/1) on regular vacancy and his reversion has been made without informing the applicant.

20. Since 1984 to 1988 there is no adverse remarks against the applicant. His juniors are still working in the higher scale and higher post. Therefore, this Application deserves to be allowed and impugned order of reversion as well as recovery of pay and allowances ought to be cancelled.

Date: /7/1990 _____

True
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92 Annex 1
168 77 74

CHAPTER II- RECRUITMENT, APPOINTMENT, PROMOTIONS AND
CONFIRMATIONS

100. The following procedure will be adopted in regard to confirmation in Section Officers (Accounts grade) :-

- a) An SAS passed S.G.A./Auditor who begins to officiate as Section Officer (Accounts) earlier than his seniors (otherwise than as a purely local arrangement in a temporary vacancy) because the promotion of S.A.S. passed /SGA/Auditors senior to him is deferred (i.e. they are adjudged, unfit for promotion for the time being), by the Departmental Promotion Committee, will be eligible for confirmation in the order of promotion to the officiating Sections Officer's (Accounts) grade.
- b) Where an Officiating Section Officer (Accounts) who has been adjudged unfit for confirmation or whose case has been deferred by the Departmental Promotion Committee, is subsequently adjudged fit for confirmation. Such Section Officer (Accounts) will, on confirmation, take seniority in that grade after all other officiating Section Officer (Accounts) who have earlier been found fit for confirmation.

CHAPTER X-MISCELLANEOUS

SECTION OFFICERS(ACCOUNTS) ROSTER

466. A General Roster of Section Officers (Accounts) of the Subordinate Accounts Service of the Defence Accounts Department is prepared every five years by the C.G.D.A. and amendments thereto are issued whenever necessary.

TRUE EXTRACT

[Signature]

(N V DESHMUKH)
ACCOUNTS OFFICER(AN) S.C.PUNE - 1.

True

STRICTLY CONFIDENTIAL/

MOST IMMEDIATE

No. AN/XI-A/11061/1/Promotion/AAO/I

Office of the Controller
General of Defence Accounts

NEW DELHI - 110 066

DATED : APRIL 22nd, 1988.

To

All CsDA (By name), *Shri. Gian Suvrup IDAs.,*
C of A (Fys.) Calcutta (By name) *CDA (Sc) Pune.*
including C of A (Fys.) Jabalpur, Kanpur, Ishapore,
Kirkee (By name).

SUB: Higher Functional grade in S.O.(A) grade
in DAD.

REF: In continuation of this office circular
letter No. AN/XI/11060/1/Vol.I dt. 5.12.87.

The decisions taken in regard to the appointing authority for the cadre of AAOs (Gp. B) in modification of the decision already conveyed under our circular letter quoted above have been communicated to you under this office D.O. letter No. AN/XI/11060/1/Vol.II, dated 22-4-1988.

1.2. In view of the above, the following instructions/procedures for release of the promotion of the S.Os(A) to the grade of AAOs are conveyed for information / guidance and compliance.

2. Within the ambit of the instructions issued in our circular No. AN/XI/11060/1/Vol.I dated 5.12.87 we had held a central Group 'B' DPC in this HQrs. to adjudicate the fitness of the S.Os(A) upto Roster No. OA/677 of Offg S.O.(A) Roster as on 1/1/83. The DPC has completed its deliberation barring in respect of few cases (about 46 cases) which could not be adjudicated for want of complete ACRs etc. Though, as per the revised decisions, the CsDA will be the appointing authority and as such they are normally required to hold the DPC as per the practice in vogue, it has been decided as an expedient and one time measure that the proceedings of the DPC already held will be forwarded to the CsDA for their acceptance in their capacity of appointing authority and for issue of promotion orders in the name of CDA in respect of all fit cases. Some of the vacancies against which adjudication has been done from unreserved category required de-reservation, for which dereservation orders have been obtained. This necessitates the issue of promotion orders in the following sequence from the DPC proceedings enclosed at Annexure 'A' (unreserved category) Annexure 'B' (S/C Category) and Annexure 'C' (S/T category), after their acceptance by CDA.

2.2. (I) Promotions to be released by the CsDA
with effect from 01.4.1987.

(a) Un-reserved category:

All fit cases from Roster No.A/963 to A/3124
of Pt. S.O.(A) Roster and also OA/01 to OA/200 of Offg.

contd...2.

S.O.(A) Roster against regular vacancies as per Annex.'A'.
All fit cases from Roster No. OA/201 to A/677 of Offg.
S.O.(A) Roster in respect of U/R categories in Annexure
against De-reserved vacancies.

(b) Reserved Categories:

All fit cases between Roster Number OA/453C and upto and inclusive of OA/1567 in respect of S/C categories as per Annex'B' and between Roster No. OA/1092 and upto and inclusive of OA/1469 in respect of S/T categories as per Annex'C'.

II Promotions to be released by the CsDA w.e.f. 01.11.1987.

Reserved Categories:

All fit cases from Rosteor No. OA/1616 to OA/1685 of S/C category mentioned at Annexure ~~B~~ and Roster No. OA/1639 of S/T category as per Annex 'C'.

2.3. It is stated that notwithstanding the release of promotions as above, some more vacancies are available for being filled up from U/R category against the De-reserved post as on 1.4.87 and also beyond 1.4.87. However, the S.Os(A) upto Roster No. OA/677 already adjudicated do not provide adequate S.Os(A) to cover the balance of vacancies. Hence adjudication of further S.Os(A) for promotions to AAO's grade will be required and the same is covered in para 4 below:

3. Instructions for notification of promotion and allied matters : These are given below

3.1. The promotion orders covered by the para 2.2 above may be issued / released duly incorporating the following points provided no disciplinary action has been instituted involving vigilance angle (violation of Rule 3(1)(i) of CCS(CCA) Conduct Rules 1964), nor such a decision was taken by the Disciplinary Authority prior to issue of Promotion Orders. It may also please be ensured that promotions are not released in respect of S.Os(A) who are undergoing penalty, till the expiry of the period of penalty, even though they are found fit.

- (i) The promotion order will indicate that they have been selected for promotion to AAO's grade by the CsDA.
- (ii) The promotion order will indicate that the promotion to the grade of ASSISTANT ACCOUNTS OFFICER (GROUP B) in the scale of Pay of Rs.2000 - Rs.3200 is in the Offg. Capacity till successful completion of the probation period. The word "Gezatted" should be avoided.
- (iii) The promotion order will indicate that promotees will be on probation for a period of TWO years from the date of their promotion (i.e. w.e.f. 1.4.87 or 1.11.87 as the case may be).
- (iv) The date of effect of promotion will also be indicated by 1.4.87 or 1.11.87 as the case may be.
- (v) The promotion order will also indicate that they should exercise an option within a period of one month as per DP &T O.M. No. 1/2/87 Estt. Pay I dt. 9.11.87.

Contd....3.

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A specimen form for notification of promotion in respect S.Os(A) for promotion to AAO's grade is given below to ensure uniformity:-

" Having been selected for promotion to the grade of ASSISTANT ACCOUNTS OFFICER the CDA hereby appoints the undermentioned S.Os(A) as ASSTT ACCOUNTS OFFICER (GROUP B) in the scale of pay of Rs.2000 - Rs.3200 with effect from _____ in the Offg. capacity till successful completion of their probation. These Officers will be on probation for a period of 2 years w.e.f. _____ "

If any of the Officers desire to have their Pay fixed as AAO in terms of DP & T OM No.1/2/87 Estt/ Part I dt. 9.11.87, they should exercise an option within a period of one month from the date of issue of this order and the option exercised is final. No request for condonation of delay in exercising the option will be entertained.

Please ensure while releasing the promotion orders as above, that promotions are released only in respect of those who were serving in the Department in your organisation on the Crucial date (i.e on 1.4.87 or 1.11.87 as the case may be). In respect of those who were on deputation on the crucial dates, you may take necessary action as indicated in Para 6 of our circular dt. 5.12.87 mentioned in reference. If any of the promotees who are shown in Annexure but have been transferred out to other organisation, a copy of the promotion orders may please be endorsed to the CDA to whose organisation the S.O.(A) was transferred and is serving at present. Action to issue amendment to LPC may also be taken.

Please also issue suitable instructions to your Sections/Sub Offices in the orders notifying the promotion to have the orders noted by the individual or send copy of the same to their leave / Ty. duty address, if they are on leave etc. through Registered Post Ack. Due and also to send acknowledgement to your orders. Action to watch acknowledgement and certificate that the orders have been noted / sent to the concerned officers at their leave/temporary duty address may also please be taken.

3.2. NOT YET FIT CASES:

The 'not yet fit' cases included in the DPC proceedings at Annex A to C will be taken down in a Register (called "Register of Review case") for review by the DPC to be held in 1988 alongwith other fresh cases that may come up for consideration.

3.3. SEALED COVER CASES:

(i) The revised procedure to be followed in the Sealed cover cases is outlined in DP & T OM No. 22011/2/86 Estt(A) dated 12.1.88 circulated under our confidential No.AN/XI/11004/0/Vol.II dated 15.3.88.

(ii) The separate DPC proceedings in respect of each of the sealed cover cases duly signed by the Members are enclosed at Annexure 'D'.

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PB

- (iii) After due acceptance by the CsDA of the DPC proceedings ~~at~~ the same proceedings may please be placed in a sealed cover in respect of each S.O.(A) and the cover should be subscribed as under:

" Findings regarding suitability for promotions to the grade of AAO (Group B) in respect of Shri _____ S.O.(A) Roster No. _____ as on _____, and not to be opened till the termination of the disciplinary case / criminal prosecution against Shri _____ S.O.(A) vide File No. _____ "

- (iv) The sealed covers duly superscribed above will be kept under safe custody but their names will be noted down in a separate Register (Register of Sealed cover cases for promotion to AAO's Grade w.e.f. _____) to facilitate a monthly review to check up the position of the disciplinary cases so as to take a decision on the sealed cover cases. The Register will be put up to the CsDA on first of every month indicating the latest position of the Sealed Cover cases.

This Register should also be made use of for inclusion of those cases in the subsequent DPCs as and when held as a Review case in the manner laid down in Para 2.2. of DP&T-OM No. dt. 12.1.88.

- (v) As soon as the Disciplinary cases are finalised, action to implement the sealed cover procedure as laid down in para 3 and 3.1. of the above said DP&T OM No. dt. 12.1.88 will be taken to facilitate such an action. Suitable measures for keeping constant liaison with the Group task dealing with discipline cases may please be evolved to avoid delay in implementation of the sealed cover procedure. If the promotions are ordered in terms of para 3 of DP&T OM memo dt. 12/1/88, this office may please be informed immediately alongwith a copy of your Part II O.O. Notifying their promotion. It is mentioned for your information that we have kept adequate vacancies for sealed cover cases.

The above register will also be made use of for carrying out six monthly review as indicated in para 4 of the above cited DP&T OM dt. 12.1.88, and also for proposing action as per para 6, to para 6.2 of the memo thereof. The proposals for adhoc promotions if considered necessary as per these orders may please be submitted to this office.

3.5. There are as many as 46 deferred cases which could not be considered by the DPC held in this office due to non-receipt of ACRs / full details of disciplinary cases / information whether a charge sheet has been issued / or proposed to be issued. Such cases (i.e. upto Roster No. OA/677 of Offg. S.O.(A) Roster) (vide list enclosed as Annexure E) will however, be adjudicated by the DPC which will be held in this office, and proceedings of their cases will be sent to the CsDA for acceptance by the respective CsDA and release of promotions in respect of fit cases.

4.1. Further adjudications for promotion to AAOs:

As already indicated in para 2.3. of this memo further adjudication regarding filling up of residual vacancies not covered by the adjudication already carried out (i.e. upto Roster No.OA/677) the same may now be carried out by you in respect of the cases mentioned below as per Para 4.2. below

(i) Balance of vacancies de-reserved as on 1.4.87.

Those S.Os(A) falling between Offg. SOs(A) Roster No. OA/678 and OA/761 are to be adjudicated and fit cases promoted from 1.4.87.

(ii) Vacancies arising after 1.4.87 but before 31.12.87

Those S.Os(A) falling between Offg. S.O(A) Roster No. OA/762 to OA/828 in respect of 'U/R' category are to be adjudicated and fit cases promoted from 1.11.87.

(iii) Balance of vacancies de-reserved after 1.4.87 to 31.12.87

Those falling between Roster No. OA/829 to and inclusive of Roster No. OA/837 are to be adjudicated and fit cases promoted from 1.11.87.

4.2. Adjudication of the S.Os(A) mentioned in para 4.1.

(a) DPC:- You may constitute a Group 'B' DPC consisting of CDA as Chairman, two DyCsDA/ACDA and one officer belonging to Reserved category as Member.

(b) Criteria:

The criteria to be adopted for adjudicating the S.Os(A) are as under & the same may be followed by you to ensure uniformity in adjudication by the various CSDA.

(i) The DPCs which would be held in future may generally take into account the record of the last five years. Individuals may not be recommended for promotion in cases where the ACRs for the last two years are not free from adverse remarks. However, in cases where adverse remarks exist in any of the proceedings three ACRs or the record of service is otherwise unsatisfactory, the overall service records of the officer may be taken into account while determining his fitness or otherwise for promotion.

(ii) If any disciplinary case was instituted after 1.4.87 or 1.11.87 as the case may be, for non-vigilance lapses, the same may be ignored for purposes of adjudication. However, disciplinary cases involving vigilance lapses will be taken into account even if the case was instituted after 1.4.87 or 1.11.87, as the case may be. This will include cases under investigation by the CBI and similar agencies, in terms of para 2(iii) of Department of Personnel O.M. No. 22011/2/86-Estt(A) dt. 12.1.88 circulated under this office No. AN/XI/11004/o/Vol.II dt. 15.3.88.

(iii) If any disciplinary case was instituted on or before 1.4.87 or 1.11.87 as the case may be, such cases and the cases covered by clause (ii)

above (i.e. the vigilance disciplinary cases instituted after these dates) will be placed in sealed cover.

(iv) The fact that an individual is undergoing penalty on the crucial/(1.4.87/1.11.87) will not be /date a bar to find him fit, but promotion will be given effect to after expiry of the penalty.

(c) The DPC proceedings in respect of "unfit" cases and sealed cover cases may please be forwarded to this office along with their dosiers and full details, cases necessitating the adoption of the sealed cover procedure.

5. Future DPCs to be held by the CsDA.

As has been the practice so far, in respect of DPCs held by the CsDA, suitable instructions covering the zone of eligibility etc. for consideration of the DPC will be intimated by this office every year taking into account yearly vacancies for each year for constituting the DPC.

6. Promotion orders/Part II O.O. etc.:

CsDA are requested to forward a copy of their Part II Office order notifying the promotions made to AAOs grade in terms of para 2.2 and 4 above to enable this office to link the All India Seniority Rosters.

7. Target dates for completion of action:-

- ✓(i) Release of promotions as per para 2.2. above By 15.5.88 at the latest.
- ✓(ii) Release of promotions as per para 4 above and forwarding unfit and sealed cover cases thereunder By 31/5/88 at the latest.
- ✓(iii) Forwarding a copy of your orders of promotion to CGDA in respect of cases covered by Para 2.2. above By 20/5/88
- (iv) Order in respect of cases covered by para 4 above By 5/6/88

Please acknowledge receipt of this memo through telex / telegram.

This has the approval of the CGDA.

Hindi version will follow.

(SMT. H.K. PANNU),
DEPUTY C.G.D.A. (ADMIN).

18/8/83

(11)

ROSTER OF OFFG SECTION OFFICERS (ACCOUNTS)

AS ON 1.1.1983

Roster No.	Name	Date of birth/ apptt. in DdD.	Date of apptt. or promotion/ pt. apptt. as Auditor.	Year of passing SAs/ date of apptt. as Offg. S.O.(A)	Controller's Organisation where serving.	1983	1984	1985	1986	1987	Remarks/other chert/ as/reference to v's casualty reports.
1	2	3	4	5	6	7	8	9	10	11	

Note :- Nothing in this publication may be taken as conveying any sanction or authority or may be held to supersede any standing rule or other order of the Government of India with which it may be at variance.

Treasury

3885

39

9 10 11

Authority: C.A.D.A. conf. NO AN/11/11056/I/Ottg 50(A) Vol II
 Authority: C.A.D.A. Confidential NO AN/11/11056/I/Ottg 50(A)
 Vol-II Dt 19-8-88

Sub: Relaxation of Seniority in the Roster at
 Ottg 50(A) as on 1-1-83: Amendment thereof

The following amendments may please be carried
 out in the Roster of Ottg 50(A) as on 1-1-83

Amended 19/13/90
 22/09/90

Sl No	Name	For existing Roster No	Revised Roster No	Organization
1)	N. Shanmugham	OA/684	OA/921-Q	C of A (Fykalenda)
2)	E. I. Joseph	OA/687	OA/921-R	SC
3)	Mangad Prasad	OA/694	OA/921-S	CC
4)	Miss. Valsala Kumari	OA/834	OA/921-T	Navy
5)	M. P. Mokalshi	OA/838	OA/921-U	CRS (South)
6)	Sudhir Bhattacharyya	OA/890	OA/921-V	Patna
7)	A. L. Sethi	OA/895	OA/921-W	ISC
8)	Yash Raja	OA/909	OA/921-X	(CRS) North

The existing Roster number shown above in column no
 3 may please be treated as blank

True copy
 (I. K. Jain)
 for C.A.D.A.
 SO (A) (HIV) SC

19-3-90
 29/90

19/13/90

St 575/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

RA/M.A/O.A./T.A./_____ 1980 in RA/22/90
in
OA/283/89
Controller of defence, Accounts Applicant (s).
(Orig. Respondent)
— Mr. P. M. Raval Adv. for the
Petitioner (s).

Versus

E. I. Joseph Respondent (s).
(Orig. Applicant)
— Mr. B. P. Tanna Adv. for the
Respondent (s).

SR. NO.	DATE.	ORDERS,
		for stay in Judgment (Copy served to otherside)
	24.6.91	BR. 24/6 declared as holiday & shifted to 28/6.
	28/6/91	BR None present. Office objection not complied. matter be placed for appropriate order.
	2/7/91	For 28/6. the Registrar. D. H. Rao 2/7/91

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted ;

C.A.T./JUDICIAL SECTION.

Original Petition No.: _____ of _____.

Miscellaneous Petition No.: _____ of 1990.

Shri Controller of Defense Accounts Petitioner(s).
Versus.

E I Joseph Respondent(s).

This application has been submitted to the Tribunal by
Shri P. M. Raval

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned
in the check list in the light of the provisions contained in
the Administrative Tribunal Act, 1985 and Central Administrative
Tribunals (Procedure) Rules, 1985.

~~The Applications has been found in order and may be given
to concerned for fixation of date.~~

✓ The application has not been found in order for the reasons
indicated in the check list. The applicant may be advised to
rectify the same within 14 days/draft letter is placed below
for signature.

Asstt. :

S.O.(J) :

D.R. (J):

① Application is not sign by the advocate

② Copy of Judgment not filed

we may inform accordingly.

Pm
14/12

Asstt

So

Dyp

[Signature]

14/12/90

10 B Sahu
14. Dec. 90

14/12/90

We may issue obj letter

17/12
ASH
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opta
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1/13 Sane
12 Dec 90
J. J. J. J. J.
17/12/90

We may issue reminder

22/1/91
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J. J. J. J. J.
23/1/91

in my fax the del for obj board

24/1
Dr
S
J. J. J. J. J.

1/13 Sane
30/1/91
J. J. J. J. J.
30/5/91

St. 515/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD

MISC. APPLICATION NO. OF 1990

in

Review Petition No. ⁴²(41) of 1990

1. The Controller of Defence,
Accounts, Southern Command,
No. 1 Finance Road,
Pune -1, Maharashtra State.
2. Controller / General of Defence,
Accounts, West Block with V,
R.K. Puram,
New Delhi - 110066
3. Union of India,
Represented by the Secretary,
Ministry of Defence Finance
Government of India,
New Delhi.

... ..PETITIONERS
(Orig. Respondents)

V/s

E.I. Joseph,
Section Officer,
Office of the Controller of Defence,
Accounts Southern Commands,
Pune - 1.

... ..RESPONDENT
(Orig. Petitioner)

An application for stay
The Humble Petition of the
Petitioners abovenamed

Recd Cops
Pld clerk
Mr B B Faur
5/12/90

(P.M. Lancher)

MOST RESPECTFULLY SEHWETH:

1. The petitioners are the original respondents viz. Respondents Nos. 1, 2 and 3 in the Original Application No. 483/1989 filed by Shri E.I. Joseph before this Hon'ble Tribunal. The petitioners have filed Petition for review of the order passed by this Hon'ble Tribunal on 27th August, 1990 in Original Application No.483/1989 for reviewing the said order.

2. The facts leading to this Petition are as under :

The applicant, a civilian employee of the Defence Accounts Department, was promoted as Officiating Assistant Accounts Officer (Group B) retrospectively from 1-4-1987 by order No. 332 dated 7-6-1988 (Annexure A-2) issued by DCDA (AN) SC Pune on the authority of CGDA's confidential most immediate No.AN/XI-A/11061/1 Promotion AAO/I dated 22-4-1988. But close on the heels of the order of promotion DCDA (AN) Pune issued order No. 460 dated 10-8-1988 (Annex-A-4) by which applicant's name in the promotion order No. 332 dated 7-6-88 was cancelled on the authority of CGDA Confidential No. AN/XI-A/11061/Promotion/AAO/II dated 28-7-88 and order No. 463 dated 12-8-1988 (Annex.A-5) ordered recovery of higher than due-in-the-lower post emoluments paid to the applicant on account of his promotion. The applicant submitted representation dated 10-9-1988 (Annex-A-6) to the Controller General

of Defence Accounts (CGDA) through proper channel stating why the order of cancellation of promotion and the order of recovery are bad and untenable. This representation elicited reply dated 2-1-1989 from LAO(A) Jamnagar on the authority of CDASC that the applicant was not eligible for promotion to AAO's grade being not in the Zone of consideration and that his promotion to AAO's grade will be considered in turn. The applicant has challenged the three orders, namely of cancellation of his promotion, of recovery and the reply to his representation.

3. The applicant's grounds of challenge appearing in the application are that he was promoted by a duly constituted departmental promotion committee, that no reasons were advanced for cancellation of the order of promotion and that the order was unspeaking and that the recovery order violates his property rights over his salary and thus infringe his constitutional rights. The representation of the applicant made refers to the plus and the minus side of his service career and assets that he was promoted because the Departmental Promotion committee found him suitable for promotion and the order of cancellation of promotion in fact reduced him in rank without following the principles of natural justice. Similarly, the order of recovery though penal in nature was issued without giving him an opportunity to be heard.

4. Before dealing with the various contentions, the petitioners herein crave leave to

refer and rely upon the copy of the Original Application No.483/1989 and the Written Statement filed by the Respondents. Copy of the original Application No. 483/1989 is annexed at Annex.A and Copy of the Written Statement filed by the respondents alongwith the annexures is annexed at Annex.'B' to the review Petition. The petitioners would like to point out the following facts, which facts are admitted by the original petitioners, as is evident from the application itself:-

- (1) That the petitioner joined as a Lower Division Clerk in the Year 1966.
- (2) The petitioner passed Subordinate Accounts Service Examination Part-I in the year 1972 and was promoted and confirmed as Upper Division Clerk;
- (3) The petitioner passed Part-II of S.A.S. Examination on 18th March, 1980.
- (4) On 24-11-1980, the petitioner was promoted as Section Officer(Accounts) on probation period for 2 years.
- (5) The probation period of 2 years was extended upto the year 1984.
- (6) That the petitioner's place in seniority was shifted from place 687 to 921 R.

In the reply on behalf of the oponents, it has been pointed out that the seniority depended upon the confirmation and as the applicant did not complete his probation period successfully, his confirmation as made late. However, it appears that on account of a bonafide mistake

the relevant Rule does not appear to have been pointed out to the Hon'ble Tribunal, presumably on account of a communication gap. The petitioners crave leave to refer and rely upon the relevant provision of para 100 from Chapter : Recruitment, Appointment, Promotion and Confirmation from Office Manual, Part-I. A copy of the said Para 100 is annexed at Annex.'C' to the Review Petition. It appears that though the facts depending upon these para are mentioned, the Para itself is not mentioned, which apparently shows how the mistake has occurred. In the present case, the petitioner was promoted to the post of Section Officer (Accounts) w-e-f- 24-11-1980. His probation period was for a period of two years. This Probation period was extended upto 23rd May, 1984. It appears that by a mistake his seniority was shown at Serial No. 687 on the assumption that the petitioner has completed satisfactorily, his probation period of two years and that he is confirmed. It appears that on account of a bonafide mistake, the fact about extension of period of probation upto 23rd May, 1984 appears to have been lost sight off. Para-100 referred hereinabove will operate and therefore, he will get his rank and seniority only on the date of confirmation and that number would be 921-R. Thus this was merely a bonafide mistake in giving the number in the seniority list which in fact and reality on account of the operation of Para 100 referred hereinabove would be at Serial No. 921-R. That the seniority list originally appears to have been passed on the basis of the completion of the

:6:

2 year's probationary period without taking into consideration Para 100 which would operate in the case of extended probation period and as far as 26 such persons were wrongly mentioned and all of them have been given serial Nos. as per para 100, this was sheer mistake. The petitioners crave leave to refer and rely upon the copy of the order in respect of such 26 persons which show that there was a bonafide mistake in allotting the serial numbers in Roster of Officiating Section Officer. A copy of the said order is annexed at Annex.D.

The individual was correctly placed in the seniority Roster at Sl.No.687 on his promotion to the grade of SO(A), probation period of which is two years from the date of promotion. SOs(A) who had completed their probation period of two years successfully did not warrant any change in their placement in seniority roster. However, the SOs(A) whose probation period is extended beyond two years, Shri E.I. Joseph being a case of this kind, warrant revision/review regarding their placement in the seniority roster, as they take seniority in that grade after all other officiating section officers (A) who have earlier been found Fit for confirmation by virtue of their successful completion of probation period of two years. Correct application of the above provision of para 100 of office Manual Part-I brought down the seniority of Shri E I Joseph, SO(A) from Roster No. 687 to 921-R. However, this action, though correct, was delayed. Not taking timely action in this regard was a bonafide mistake, of the department.

This delay resulted in adjudication of the individual by the D.P.C. with his Roster No. as 687 which underwent a change. His ultimate placement at Sl. No. 921-R was outside the zone of consideration by the D.P.C.

5. The petitioners crave leave to refer and rely upon the facts and grounds stated in extenso in the Review Petition and the same may be treated as part of this application. The petitioners submit that they have reasonably good chances of success in the review Petition. The petitioners further submit that they will suffer substantial loss and irreparable injury if the stay is not granted till and pending the hearing and final disposal of the review petition. The petitioners respectfully submit that the impugned order is required to be stayed till and pending the hearing and final disposal of the review petition and that the same is in the interest of justice. The petitioners submit that if the operation and implementation of the order is not stayed, the petitioners are likely to be exposed to the contempt proceedings.

:8:

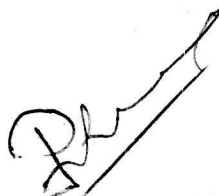
6. The petitioners, therefore, pray:

- (A) That this Hon'ble Tribunal will be pleased to stay the operation and implementation of the order passed by this Tribunal in Original Appln. No. 483 of 1989, till the Review Petition No. ⁴²(41) of 1990 is decided;
- (B) That this Hon'ble Tribunal will be pleased to pass such other and further order as the nature and circumstances of the case may require;

AND FOR THIS ACT OF KINDNESS THE PETITIONERS
AS IN DUTY BOUND SHALL EVER PRAY.

AHMEDABAD.

DATED : -11-1990



(P. M. RAVAL)

ADVOCATE FOR THE PETITIONERS
CENTRAL GOVT. STANDING COUNSEL

:9:

VERIFICATION

I, P. S. RAMAN, ACDA (AN)
CDAS SC Pune Representative of the petitioner No. One
herein, do hereby solemnly affirm and state
that what has been stated above in
paragraphs 1 to 6 are true to
my knowledge and what has been stated in the
rest of the paragraphs are true to my
information and belief and I believe the same
to be ~~true~~. and that I have not suppressed any
facts.

Verified ~~at Ahmedabad~~ on this 30th,
day of November, 1990.

P. S. Raman
DEPONENT

Filed by Mr... P. M. Raval
Learned Advocate for Petitioners
with second set & spares
copies copy served/not served to
other side

Michael
Dt. 13/12/90 Dy. Registrar C.A.T.(I)
A'bad Bench