

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 244 of 1998

4-2-2000

DATE OF DECISION.....

Tripura Civil Service Officers
Association, Tripura, Agartala
and others.

PETITIONER(S)

Mr. B.K. Sharma, Shri S. Sarma
Shri U.K. Nair

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

RESPONDENT(S)

Union of India & Ors

A. Deb Roy, Mr. B.P. Kataky
Mr. G.N. Sahewalla, Mr. P. Bora
Mr. J.L. Sarkar, Mr. M. Chanda

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

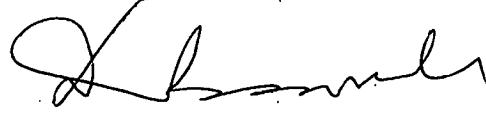
THE HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN

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

DATE OF DECISION.....

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

Judgment delivered by Hon'ble VICE-CHAIRMAN



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2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

4. Whether the Judgment is to be circulated to the other Benches ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.244 of 1998

Date of Order : This the 4th Day of February, 2000.

The Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman
The Hon'ble Mr. G.L. Sanglyine, Administrative Member

Tripura Civil Service Officers
Association, Tripura, Agartala
and others. - Applicants

By Advocates Shri B.K. Sharma,
Shri S. Sarma,
Shri U.K. Nair.

- Versus -

Union of India and others - Respondents

By Advocates Shri A. Deb Roy for Respondents No.1 and 2
Shri B.F. Kataky, Government Advocate,
Tripura, for Respondent No.3,
Shri G.N. Sahewalla and
Shri P. Bora, Government Advocate for
Respondent No.4,
Shri J.L. Sarkar and
Shri M. Chanda for Respondents No.5, 6,7 and 8.

ORDER

BARUAH, J. (V.C.)

24 applicants have approached this Tribunal by
filing this single application. Permission to proceed
in this single application has been granted under the
provision of Rule 4(5)(a) of the Central Administrative
Tribunal (Procedure) Rules 1987.

2. The applicant No.1 of the original application
is an Union registered under the Societies Registration
Act. The society is represented by its Secretary. He is
also a Joint Secretary to the Government of Tripura.



The other applicants are the aggrieved persons in this case. The applicants have challenged Annexure-2 letter dated 25.3.98 and Annexure-3 letter dated 24.8.98. The applicants further seek other order or orders that may be just and proper in the present facts and circumstances of the case. The brief facts emerge from the pleadings are :-

The applicants No.2 to 24 are Class-I officers of the State Civil Service of Tripura and the applicant No.1 represents all of them. The applicants have common grievance with common cause of action. They are also asking similar reliefs. They have challenged the Annexure-2 and Annexure-3 letters which according to them are contrary to the rules and the professed norm. The applicants state that the method of recruitment to the IAS is governed by the provisions of IAS (Recruitment) Rules, 1954 (for short 1954 (Rules)). Under Rule 4 of 1954 Rules, the recruitment to IAS is by the following method. We quote the Rule 4(a) :

- *(a) by a competitive examination.
- (b) by selection of persons from among the Emergency Commission Officers and Short Service Commissioned Officer of the Armed Forces of the Union.
- (c) by promotion of Member of State Civil Service and
- (d) by selection in special cases from amongst persons who hold in substantive capacity gazetted posts in connection with the affairs of the State and who are not members of State Civil Service."

Rule 9 of "the 1954 Rules" prescribes the procedure for fixation of quota of the posts to be filled up as per Rule 8 of "the 1954 Rules". Under Rule 9(1), the number of persons recruited under Rule 8 in any State shall not

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at any time exceed 33½% of the number of those posts as are shown against items 1 and 2 of the cadre in relation to the State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. However, proviso to Rule 9(1) envisages that the number of persons recruited under Rule 8(2) shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. Thus the total number of persons to be recruited to IAS under Rule 8 is 33½% of the number of posts but the number of persons recruited under sub-rule (2) of Rule 8 cannot exceed 15% of the total number of posts. The provision contained under Rule 8(2) is however, only directory and not mandatory. The authority is not bound to follow the said rule. Compliance of such provision is exclusively under the discretion of the Central and the State Governments. Again such discretion can be exercised only in special circumstances. If such special circumstances do not exist recruitment under Rule 8(2) of the 1954 Rules cannot be made by the Central Government or the State Government. The contention of the applicants is that even though Rule 8(2) of 1954 Rules existed for last 40 years but at no point of time there was occasion to exercise the power vested in the authorities concerned for making recruitment to IAS in the cadre under the provision of Rule 8(2). Non-exercise of such power only shows that there was no such circumstances warranting invocation of the power under Rule 8(2) of the 1954 Rules.

The applicants also state that power conferred under Section 3 of the All India Services Act 1951 and

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in pursuance of sub-rule (2) of Rule 8 of the IAS (Recruitment) Rules 1954 and in supersession of the IAS (Appointment by Selection) Regulation 1956, the Central Government in consultation with the State Government and the Union Public Service Commission made the IAS (Appointment by Selection) Regulations 1997. Regulation 4 of the said Regulations provides that the State Government may consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State for recruitment the persons fulfilling the following conditions :-

"(i) is of outstanding merit and ability; and
(ii) holds a Gazetted post in a substantive capacity and
(iii) has completed not less than a year of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year."

It is further provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken for the consideration of the Committee. It is again provided that the State Government shall not consider the case of a person who having been included in an earlier select list and has not been appointed by the Central Government in accordance with the provisions of regulation 9 of these regulations.

4. The applicants state that in order to send proposal for recruitment to IAS in terms of Rule 8(2) of 1954 Rules the conditions laid down shall have to be fulfilled. In other words the fulfilment of the conditions indicated above is a condition precedent for sending the proposal. The applicants further state that the State Government did not issue any notification showing the nature of post equivalent to the post of Deputy Director besides according to the applicants there are other problems making it impossible on the part of the Government of Tripura to send necessary recommendation to the Central Government for the purpose of recruitment under the provisions of Rule 8(2) of the 1954 Rules (as amended). To send such recommendations as prescribed under Rule 8(2) of the 1954 Rules, the Government of Tripura was in duty bound to fulfil the standards laid down in regulation 4 of 1997 Regulations. This was not the case in the State of Tripura. The applicants sought clarifications regarding this. However, according to them, the answer to the queries were wholly untenable.

5. The 1997 Regulations came into effect from 1.1.1998. Prior to 1997 Regulations induction of non SCS officer recruited in-to IAS was under the provision of (Appointment by Selection) Regulation 1956 which was framed under the provision of Sub-rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the IAS (Appointment by Promotion) Regulation, 1955 framed under the provision of sub-rule (1) of Rule 8 of IAS (Recruitment) Rules 1954 was applicable. From this it is clear that prior to 1997 regulation governing the induction of non SCS

officers into IAS by the method of selection, the method of exercise of discretion by the State of Tripura was governed under 1956 Regulation. The 1997 Regulation coming into force with effect from 1.1.1998. The chapter relating to induction of non-SCS officers prior to 1.1.1998, therefore, came to an end and the same would not be reopened for the purpose of fixation of quota of for calculating vacancies to be filled up by non SCS officers on or after 1.1.1998. Because of non-exercise of discretion by the Government of Tripura, those vacancies which had not been filled up by non SCS officers prior to 1.1.1998, could not be taken into consideration in calculating the number of IAS vacancies to be filled up by non SCS officers in terms of 1997 Regulation. 1997 Regulation being prospective in nature, cannot give jurisdiction to the authority to give appointment prior to 1.1.1998.

6. It is further stated by the applicants that the Government of India, Ministry of Personnel, Public Grievance and Pension, Department of Personnel and Training vide letter dated 25.3.1998 issued to the Government of Manipur and Tripura drew the attention of the Governments in regard to recruitment to the IAS in terms of Rule 8(1) and 8(2) of the 1954 Rules. It is further stated in para 3 of the letter that the Government of Manipur and Tripura were required to send proposals for preparation of 1998 select list in terms of amended Promotion and Selection Regulations i.e. 1997 Regulations, limiting the recruitment in 1998 in such a way that the total number of posts in the Joint Cadre filled under Rule 8(1) and (2) of 1954 Rules would not exceed 45 and 7 respectively. In the said letter it was observed that including latest appointment notification

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dated 24.3.1998 there had been 50 officers in position holding the promotion posts in the IAS Manipur-Tripura Joint Cadre (+5) and the persons appointed by selection in the Joint Cadre is 1 (-6) only. The letter further stated that in order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, further recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8(1) and (2) of 1954 Rules during the 3 years might be regulated in the manner indicated. Thereafter it is laid down in the letter the manner in which further recruitment to IAS Manipur-Tripura Joint Cadre was to be regulated. It was specified that one vacancy arising in 1998 was to be filled up by non SCS officer. With regard to preparation of 1999 select list, recruitment might be carried out in such a manner that the total recruitment under Rule 8(1) and (2) of 1954 Rules are limited to 55 posts in all and the total promotion post does not exceed 47 during 1998. The total recruitment under promotion and Selection Regulation should be limited to 60 and the total promotion post should not exceed 51.

7. The contention of the applicants is that if the direction given by Annexure-2 letter dated 25.3.98 is to be given effect in totality then in real terms it would lead to filling up of most of the future vacancies by the non SCS officers and would take away the quota of SCS officers. As for example in 1998 there was only one vacancy in IAS and the same would be filled by non SCS officer. Moreover out of the three vacancies in 1999 and the five vacancies in the year 2000 that would arise in IAS, most of these vacancies would be filled up by non SCS officers irrespective of the fact whether or not special circumstances

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exist as envisaged under Rule 8(2) of 1954 Rules. Though under the scheme of the Rules the total three vacancies which would arise in 1999 all would go to SCS officers and out of five vacancies which would arise in the year 2000 four should go to SCS officers and only one should go to non-SCS officer that too only when the special circumstances exist.

8. The basic idea of Annexure-2 letter dated 25.3.98 is to earmark the quota of 15% of total number of posts to be filled by non-SCS officers in compliance of the Rule 8(2) of 1954 Rules from the future vacancies. If the Annexure-2 letter is to be implemented in full, it amounts to eating into the quota of State Civil Service Officers. Besides the Annexure-2 letter said that the only vacancy that would arise in 1998 in IAS was to be filled up by non SCS officer overlooking the claim of the SCS officers. It also amount to 100% quota instead of 15% as envisaged under the rule. The Government of Tripura in response of Annexure-2 letter dated 25.3.98 issued Annexure-5 letter dated 24.8.98. In the said letter the Government proposed to fill up the only vacancy in IAS by selection regulation under rule 8(2) of IAS (Recruitment) Rules. This letter was issued following the method prescribed in IAS (Recruitment by Selection) Regulation in accordance with direction of Ministry of Personnel, Government of India. Pursuant to the said letter all the Heads of the departments, Government of Tripura were asked to confirm if there were suitable officers not belonging to State Civil Service but equivalent in rank and pay and responsibility to the Deputy Collector and above who merit consideration for such promotion to IAS. Pursuant to Annexure-2 and 3 letters the Government of Tripura had



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already moved towards the direction of filling up the only vacancy in IAS arising in 1998 by the non-SCS officers in terms of the aforesaid 8(2) Rule. According to the applicants the Annexure-2 and 3 letters compelled them to file the present application. According to them this move was not only illegal and arbitrary but contrary to the Rule 8(2) of the 1954 Rules. Rule 8(2) having conferred discretionary power that can be exercised only in a special circumstances, the existence of special circumstance is a condition precedent to exercising that power. The applicants further state that the Regulation 4 of 1997 Regulation the conditions are to be fulfilled which however is not the case of the State of Tripura. In short the contention of the applicants is that the proposed move of the State Government was in utter violation of the provisions contained in Rule 8(2) of 1954 Rules and total disregard to the object behind framing the aforesaid rule 8(2). Feeling aggrieved the President of the first applicant's Association submitted representation dated 12.5.1998 to the Chief Secretary to the Government of Tripura. This representation of the applicants Association was followed by a detail memorandum dated 18.5.1998 to the Chief Minister of Tripura. Having failed to get any redress the General Secretary of the applicant Association submitted representation dated 3.6.1998 to the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India. But till now nothing has been heard from the competent authority. The applicants further contended that the Annexure-2 and 3 letters had been issued in colourable exercise of power inasmuch as the purpose behind this exercise is to ensure entry of certain persons to the liking of some influential persons. Hence the present application.



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9. In due course the respondents have entered appearance. The first respondent, Union of India has filed written statement. The 3rd respondent, State of Tripura and the private respondents No.5, 6, 7 and 8 have also filed their written statements. Both the first and third respondents have denied the claim of the applicants and tried to justify the action. The first respondent in the written statement has stated that the scheme of recruitment to the IAS by channel of promotion and selection from amongst the State Civil Service Officers and non State Civil Service Officers in the commission respectively is in the manner prescribed. The number of vacancies by which recruitment by promotion and selection is made in a year is subject to the over all ceiling of the quota of 33 $\frac{1}{3}$ % of the aggregate of Senior Duty posts, Central Deputation Reserve, State Deputation Reserve and Training Reserve in the schedule to IAS Fixation of Cadre Strength Regulations. The Recruitment by Selection is further subject to the condition of ceiling of 15% of the total promotion post in the State IAS cadre worked out under Rule 9(1) of the Recruitment Rules. In terms of Rule 8(2) of the Recruitment Rules the Central Government may in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with the Selection Regulations may make recruitment to any person of outstanding ability and merit serving in connection with the affairs of the State Government who is not a member of the State Civil Service. The first respondent further states that the action taken by Union of India in consultation with the State Government is just and proper and not arbitrary. The third respondent also similarly tried to justify the actions. We have heard all

Before we discuss the case on merit it will be apposite to look to some of the relevant provisions of the rule. We quote Rule 8(2) of the I.A.S.(Recruitment) Rules 1954 as under :

"The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission from time to time, make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post in a substantive capacity."

The rule 8(1) envisages that the Central Government may on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission make recruit of persons by promotion from amongst the State Civil Service. Rule 8(2) empowers the Central Government to make recruit to IAS any person of outstanding merit and ability serving in connection with the affairs of the State, who is not a member of the State Civil Service of that State but who holds a gazetted post in substantive capacity. This sub rule empowers the Central Government to exercise the recruitment to the IAS who are not in the State Civil Service of the State. To invoke this rule by the Central Government certain conditions are to be fulfilled. There must exists special circumstance and the persons to be promoted must have outstanding ability and merit and serving in the State.

In other words rule 8(2) does not empower even if in consultation with the State Government and Commission to promote an officer not belonging to the State Civil Service

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without fulfilling the said conditions. In order to invoke this provisions the existence of the conditions like special circumstances, person having outstanding ability and merit are to be fulfilled and for this purpose the Central Government must apply its mind regarding existence of those conditions. The expression special condition has not been defined in this rule. It has to be understood in the way which normally a person understands. If the Central Government feels that such special condition thus exists then the Government has to see whether there are persons not belonging to the State Civil Service with proved outstanding ability and merit for recruitment to the IAS. In this case also the Central Government will have to decide from the available records and then also such conditions are to be fulfilled. Again Rule 9 of the said I.A.S.Recruitment Rules provides that the number of persons recruited under Rule 8 in any State or group of States shall not, at any time exceed $33\frac{1}{2}$ percent of the number of those posts as are shown against items 1 and 2 of the cadre in relation to that State or to the group of States, in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations 1955. Rule 9 further envisaged that persons recruited under sub-rule (2) of Rule 8 shall not at any time exceed 15 per cent of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. From the above rules it is clear that persons not belonging to the State Civil Service having outstanding merit and ability and there being special circumstances for such appointment that can be made only to the extent of 15% of the total number of posts. All conditions are to be fulfilled before the Central Government decides

to recruit non State Civil Service officers and that too on the recommendation of the State Government concerned and in consultation with the Commission. In the written statement the respondents have reiterated the provisions of the various rules. It is stated in the written statement that the number of posts in the promotional quota inclusive of selection quota taken together will be worked out as 33½% of the number of posts. The number of posts that can be filled up by selection is worked out as 15% of the posts included in the promotion quota. Posts that can be filled up by selection thus stands carved out of the total promotion posts and is flexible depending upon the recruitment needs of the State Government concerned and the State Government has to look into the special circumstances and special cases i.e. case of officers of outstanding ability and merit holding substantive posts in services not belonging to the State Civil Service. It is further stated in the written statement that pursuant to sub-clause (b) of sub-rule (2) of Rule 4, the Central Government consulted the State of Manipur and Tripura. The impugned letter dated 25.3.1998 was issued in the process of consulting the State Government/Joint Cadre Authority concerned pursuant to the mandatory provisions contained in the Recruitment Rules. It is further stated that the number of posts that could be filled up by promotion and selection as on 31.12.1997 in respect of IAS Manipur-Tripura Joint Cadre was 49 only. With the amendments to Rule 9(1) of the Recruitment Rules and IAS (Fixation of Cadre Strength) Regulations 1955, the number of posts that can be filled by promotion and selection in the Joint Cadre was raised to 60 in all. It is further stated that as an increase of number of promotional posts cannot be brought into effect overnight



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for the reason that the additional posts have to be transferred from the direct recruitment quota and the posts in question were held by the RR Officers in position. It was decided to effect the increase in a phased manner over a period of 3 years so that by 1st January, 2001 the optimum figures in respect of each quota specified in the schedule to the Cadre Strength Regulations are wholly achieved. In the written statement it is further referred to a decision of Jaipur Bench of the Tribunal given in O.A.No.206/98 (G.N.Purohit vs. U.O.I and others) decided on 23.7.1998 which upheld the policy of the Government.

10. We have perused the Annexure-2 and 3 impugned letters. In Annexure-2 letter issued by the Government of India, Ministry of Personnel addressed to the Chief Secretary to the Government of Manipur and Tripura it is stated that the number of persons appointed to the IAS by promotion and selection under Rules '9*0 and 8(2) of the IAS (Recruitment) Rules from State Civil Service and Non-SCS officers, in position, in respect of the Manipur and Tripura segments of the Joint Cadre, after the issue of the Government of India Notifications dated 24.3.1998 are 25 and 1, 25 and Nil respectively. In terms of para (L) of the Government of India Circular dated 11.2.1998 the Govt. of Tripura has to take a decision on the status of the provisionally included officer at sl.No. 1 of the 1997 Select List in consultation with the UPSC as to whether or not he has to be made unconditional and recommended for appointment to the IAS on or before 26.3.1998. It is further stated that the Government of Manipur and Tripura were required to send proposals for preparation of the 1998 Select List in terms of the amended promotion and selection Regulations limiting the recruitment

in 1998 in such amendment that the total number of posts in the Joint Cadre filled under sub-rule (1) and (2) of Rule 8 do not exceed 45 and 7 respectively. Further it is seen that including latest appointment notification dated 24.3.1998 on date, there are 50 officers in position holding the "promotion" post in the IAS Manipur-Tripura Joint Cadre (plus 5) and the persons appointed by selection in the Joint Cadre is 1 (minus 6) only. In order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, it is suggested that further recruitment to IAS Manipur-Tripura Joint Cadre under Rules 8(1) and (2) of the IAS (Recruitment) Rules 1954 during the three years may be regulated as below :

In view of the fact the number of persons recruited under Rule 8(1) of the Recruitment Rules on date is 50, there may be no recruitment by promotion from the SCS during 1998 and recruitment by selection may be considered for one post during 1998. The Joint Cadre Authority for Manipur-Tripura may process recruitment to the IAS under the amended Promotion Regulations and Selection Regulations in a combination such that the total recruitment under the aforesaid promotion and Selection Regulations are limited to 55 in all and the total "promotion" posts (i.e. posts filled by promotion from MCS-TCS) does not exceed 47 during 1999. For preparation of 2000 Select list policy as above may be adopted by the JCA Manipur-Tripura for recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8 of the Recruitment Rules during 2000 limiting the total recruitment under the promotion and selection Regulations to 60 and the total promotion posts does not exceed 51. Again in Annexure-3 letter issued by the Government of Tripura to all the Heads

of Departments, Government of Tripura it was proposed to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulations in accordance with direction of Ministry of Personnel, Government of India, in their letter dated 25.2.1998. The relevant provisions of the rules/regulations allow for promotion of a non-State Civil Service Officers of outstanding merit and ability to IAS subject to fulfilment of certain criteria. Therefore the departments were asked to confirm if there were any suitable officers in their department not belonging to State Civil Service but equivalent in rank, pay and responsibility to Deputy Collector and above who merit consideration for such promotion to Indian Administrative Service. If so, name of atleast one candidate (but not exceeding file) might be sent to the Joint Secretary (A&S) to the Government of Tripura alongwith ACRs for last five years and bic-data in the prescribed proforma. The Annexure-2 letter issued by the Government of India directed the State Governments to see that whether the recruitment was possible from Non State Civil Service Officers. Annexure-2 letter also referred to the backlog inasmuch as the persons recruited by promotion from State Civil Service had already reached 50 and their attempt ought to make for recruitment from the non State Civil Service Officers. Annexure-2 does not indicate anything regarding the special circumstances as referred to in the rule. Besides, these the Annexure-2 also indicates how to clear the backlog in a phased manner from 1999, 2000 and 2001. These shows that the appointment will have to be made from the non SCS officers to clear



out the backlog. Rule says that the appointment and promotion should be only to the extent of 33½% and for non SCS maximum quota is 15%. The letter issued by the State Government does not indicate anything about the existence of the special circumstances. No attempt was made by the Government to recruit persons to the extent permissible from the non SCS officers. Therefore not taking any steps in this regard only indicates that in the past there was no such special circumstances as is understood from the common knowledge. In future also it is the State Government who has to come to a conclusion as to whether there is any such special circumstances exist in particular date which enable the State Government to make a recommendation for appointment to the non SCS person. We understand the rule 8(2) which has been incorporated with a view to give promotion to the non SCS Officers in case of necessity arises. From the record we find that nothing was done in the past and steps ought to have been taken by the State Government in the shape of a recommendation. It is the State Government who is in a position to ascertain as to whether a special condition exists or not and if such special condition exists and the quota permits for such appointment this is for the State Government to make recommendation to the Central Government and then the Central Government may pass order in consultation with the UPSC. But in the impugned notification we do not see anything regarding special circumstances as is understood from the common knowledge. It is really an unfortunate state of affair that prevails in the State of Tripura for not taking steps or explore the possibility of giving appointment to those deserving non SCS officers. There could be a special circumstances in the past but as nothing was indicated it is not possible for this Tribunal to consider that aspect of

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the matter. Again the Annexure-2 letter issued by the Government of India shows that only endeavour is made to fill up the quota totally ignoring the fact as to whether special circumstance do exist or not.

11. From the above it is abundantly clear that the rule provides for recruitment of non-SCS officers, but only in case when there exists special circumstances. Special circumstances has, however, not been explained in the rule. Therefore, the special circumstances has to be understood which a reasonable man would consider. However, such appointments cannot exceed the percentage prescribed. We do not find in the rule anything to give appointment just to fill up the backlogs. This, however, is our tentative view. We however feel that endeavour should be made to give appointment in future as and when such special circumstances exist. The manner in which appointments are to be made indicates that the authority concerned did not apply its mind to all these aspects. Therefore, we feel that the matter should be considered afresh, by the authorities giving full opportunity to the parties concerned. While considering these aspects of the matter the authorities shall strictly follow the rules prescribed to fulfil the rule making authorities desire to give appointment to the non-SCS officers.

12. Accordingly we dispose of this application with direction to the respondents to consider those aspects and dispose of the entire matter as early as possible not later than four months from the date of receipt of this order and communicate the same to the parties concerned. If the parties are aggrieved by the decision of the authority they are at liberty to approach this Tribunal.

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In the facts and circumstances of the case we make
no order as to costs.


4-2-2000
(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN