

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 115/2000.....

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 115/2000 OF 199

Applicant(s) Sri. Purnan Kanta Hazarika.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. P. S. Sharma
Mr. S. Sarma.

Advocate for Respondent(s) Mr. U. K. Nair.
C. G. S.

Notes of the Registry	Date	Order of the Tribunal
<p>492885 23.2.2000 NY 29/3/2000 trd 31/4/2000 3.5.2000</p> <p>Not - Regisrable filed.</p>	3.4.00	<p>Present : Hon'ble Mr. G.L.Sanglyine, Administrative Member.</p> <p>Mr. S. Sarma, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C.</p> <p>Application is admitted. Issue notice on the respondents by registered post. Written statement within four weeks. Notice returnable on 3.5.2000.</p> <p>List on 3.5.2000 for written statement and further orders.</p> <p>62 Member</p>

15/5 has not been filed. There is
no 27/3. Adm'd on 26.5.2000.

1376
L.

Notes of the Registry

Date

Order of the Tribunal

5-4-2000

Service of notices
prepared and
sent to D. Section
for issuing of the
same to the
respondants through
Regd. post with
A/D vide Nos.
1001 to 1006 Dtd.
5-4-2000

26.5.00

There is no Bank today.
Adjourned to 22-6-00.

10/0
h

22-6-00

There is no Bank today.
Adjourned to 18-7-00.

10/0
h

18-7-00

There is no Bank today.
Adjourned to 8-8-00.

10/0
h

8-8-00

There is no Bank. Adjourned
to 14-9-00.

10/0
h

14-11-2000

Written Statement
has been filed by
the respondents.

14-9-00

no Bank. To be listed on
21-11-00.

10/0
h

21.11.00

Written statement has been filed.
List for hearing on 21.3.01. The
applicant may file rejoinder if any,
within two weeks.

Vice-Chairman

lm

2/11/11

21.3.01

On the prayer of learned counsel
for the applicant case is adjourned to
16.5.01 for for hearing.

Member

Vice-Chairman

lm

No. Rejoinder has
been filed

20.3.01

Notes of the Registry	Date	Order of the Tribunal
<p>Written Statement has been filed.</p> <p><u>31</u> 12.6.01</p>	<p>16.501</p> <p>bb</p>	<p>On the prayer of Mr. S. Sarma, learned counsel for the applicant, the case is adjourned to 13.6.2001 for hearing.</p> <p><i>K. K. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Written statement has been filed.</p> <p><u>31</u> 9.7.01</p>	<p>13.6.2001</p> <p>nkm</p>	<p>Present: Hon'ble Mr Justice R.R.K. Trivedi, Vice-Chairman</p> <p>Hon'ble Mr K.K. Sharma, Administrative Member</p> <p>It appears that the applicant has challenged the seniority list, Annexure 1, without impleading the persons likely to be affected by the order. By the representation dated 16.10.1998, copy of which has been filed as Annexure 2, the applicant has challenged that R.K. Paswan has been wrongly shown senior to him. In our opinion such a dispute cannot be resolved without hearing the persons who are likely to be affected by the order. As a consequence, the applicant's prayer for four weeks time is granted for impleading the persons likely to be affected by the order of the Tribunal in case the O.A. is to be allowed.</p> <p>List for hearing on 10.7.01.</p> <p><i>K. K. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>10.7.01</p> <p>pg</p>	<p>A prayer has been made on behalf of Mr S.Sarma, learned counsel for the applicant for adjournment of the case. Mr A.Deb Roy, learned Sr.C.G.S.C has no objection. Prayer allowed.</p> <p>List on 24.8.2001 for hearing.</p> <p><i>K. K. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

(4)

✓

Notes of the Registry	Date	Order of the Tribunal
<p>Written statement has been filed.</p> <p><u>24</u> 12.9.01</p>	<p>24.8.</p> <p>13.9.2001</p>	<p>There is no written judgment today. The case is adjourned to 13/9/2001.</p> <p>mls A. K. Dey 24/8.</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p>nk m</p> <p>16. Sharma Member</p> <p>Vice-Chairman</p>

25.9.2001
Copy of the judgment
has been sent to the
Office for issuing the
same to the applicant
as well as to the Dr.
CGSC for the response
etc

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXX~~ No. . 115. of 2000

DATE OF DECISION . 13.9.2001

Shri Purna Kanta Hazarika

APPLICANT(S)

Mr B.K. Sharma, Mr S. Sarma, Mr U.K. Nair and
Mr U.K. Goswami.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

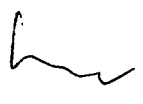
THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

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

5.

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.115 of 2000

Date of decision: This the 13th day of September 2001

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Purna Kanta Hazarika,
Working as Senior S.S. in the Office of the
C.T.O., Guwahati.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr U.K. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication,
New Delhi.
2. The Director General,
Telecommunications, New Delhi.
3. The Chief General Manager (Telecom),
Assam Circle, Guwahati.
4. The General Manager, Telecom,
Kamrup Telecom District,
Guwahati.
5. The Divisional Engineer (Admn.),
Office of the General Manager (Telecom),
Kamrup Telecom District,
Guwahati.
6. The Divisional Engineer,
Central Telegraph Office,
Guwahati.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This application under Section 19 of the Administrative
Tribunals Act, 1985 has arisen and is directed against the decision of
the respondents in fixing the inter se seniority of the applicant vis-a-
vis his juniors. The basic challenge is confined to the fixation of seniority
in the following circumstances:

The applicant entered into service of the composite Posts and Telegraph Department in the year 1960. Thereafter he was appointed in the feeder cadre of Telegraph Assistant/TDA (TG) Grade I with effect from 18.7.1966. He was promoted to Grade II under the Time Bound One Promotion Scheme which was introduced to provide promotion on completion of sixteen years of service. He was again promoted to Grade III on completion of twenty-six years of service under the Biennial Cadre Review Scheme. The aforementioned two promotions under the Time Bound One Promotion Scheme and Biennial Cadre Review Scheme were given to him with effect from 30.11.1983 and 1.1.1994 respectively.

2. A draft gradation list was prepared as on 1.1.1998 and the same was published accordingly. In the said draft gradation list the name of the applicant was shown at serial number 21 and his seniority was placed below N.N. Deka (Sl.No.15), N. Talukdar (Sl.No.16), S.C. Deka (Sl.No.17), Charu Ch Talukdar (Sl.No.18), Nagendra Nath (Sl.No.19), R.K. Paswan (Sl.No.20). In the said draft seniority list the respondent authority showed the date of entry into service of the applicant as 1.9.1960 and his date of entry into Grade I as 18.7.1966, whereas the date of entry into Grade I of N.N. Deka was shown as 20.6.1967, Shri N. Talukdar as 28.6.1967, Shri S.C. Deka as 19.12.1967, Shri Charu Ch Talukdar as 19.12.1967, Shri Nagendra Nath as 18.3.1968 and Shri R.K. Paswan as 6.4.1968. Aggrieved by the aforementioned inter se seniority the applicant submitted his representation on 16.10.1998. Instead of attending to his representation the respondents issued an order granting 10% Biennial Cadre Review Grade in the scale of pay of Rs.6500-10,500 to the officials working in the Restructured Cadre as Sr. TDA (TG) on promotion of their junior Shri R.K. Paswan, TDA (TG) Grade III, with effect from 1.1.1998 as per seniority in the basic grade vide order dated 17.8.1999. The applicant again submitted a representation before the authority claiming for review of the inter se seniority as well as for giving him the benefit of the 10% Biennial Cadre Review Grade in the scale as given to the persons junior to him. By the impugned order dated 1.12.1999,

Annexure 7.....

Annexure 7, his representation was turned down by the respondents. Hence this application.

3. The respondents submitted their written statement in support of their action. In the written statement the respondents agreed that the principle of seniority was revised after the Judgment rendered by the Supreme Court in Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra and others, reported in (1990) 2 SCC 715 disposed of on 2.5.1990 and the seniority of the persons were revised accordingly. In the written statement it was asserted that the gradation list in question was prepared in accordance with the O.M.No.9/11/55/RPS dated 22.12.1959. As per the said O.M. seniority was to be fixed as per the date of confirmation and not as per the date of entry.

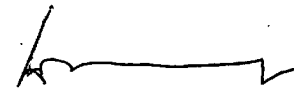
4. We have heard Mr S. Sarma, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. The key issue required to be adjudicated upon is as to the fixation of inter se seniority. The respondents admittedly, fixed the inter se seniority of the parties as on 1.1.1998 on the basis of the date of confirmation and not on the basis of the date of entry. This principle is no longer an accepted principle in view of the decision of the Supreme Court in Direct Class II Engineering Officers' Association case (Supra). As per the said decision the seniority was to be counted from the date of appointment and not according to the date of confirmation. Admittedly, the applicant was appointed in Grade I on 18.7.1966, whereas the persons at serial numbers 15, 16, 17, 18, 19 and 20 were appointed later in point of time. Therefore, the question that the aforementioned persons were of higher merit than the applicant also cannot be accepted. The respondents, in the instant case, faulted in determining the inter se seniority and downgraded the applicant to serial number 21. The applicant, as a matter of fact, was to be placed above N.N. Deka who was placed at serial number 15 since the date of entry of the said N.N. Deka in the grade was 20.6.1967 whereas that of the applicant was 18.7.1966. In that view of the matter the inter se seniority and the impugned order dated 1.12.1999 determining the inter se seniority of the applicant vis-a-vis the persons cited at serial

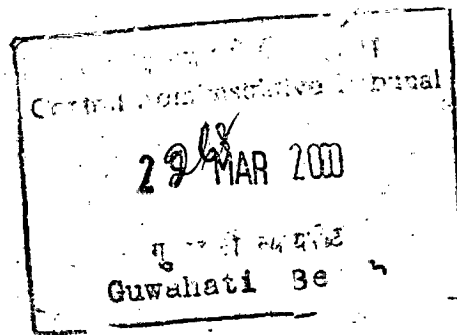
number.....

numbers 15 to 20 cannot be sustained. The applicant by this time has attained superannuation. The respondents are accordingly directed to refix the inter se seniority of the applicant vis-a-vis the aforementioned persons for the purpose of giving the benefits including the benefit of the 10% Biennial Cadre Review Grade which was given to the persons who were junior to the applicant like N.N. Deka, N. Talukdar, S.C. Deka and Nagendra Nath. The respondents are accordingly ordered to refix the seniority of the applicant and give all consequential benefits and also provide him the financial benefits as he would have been entitled to had he been in service. The respondents are directed to give effect to this decision within three months from the date of receipt of the order.

5. The application is accordingly allowed. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI-BENCH

(An application under Section 10 of the Administrative
Tribunals Act, 1985.)

Original Application No. 115 2000

Sri Purna Kanta Hazarika

- Versus -

U.O.I. & Ors.

I N D E X

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Filed by :


Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 115 of 2000

Filed By '12
The Applicant
Through Advocate.
U.K. NAIR,

BETWEEN

Shri. Purna Kanta Hazarika, presently
working as Senior S.S. in the office of
the C.T.O., Guwahati-1.

... Applicant

AND

1. The Union of India, represented by
the Secretary to the Government of
India, Ministry of Communications,
New Delhi.
2. The Director General,
Telecommunications, New Delhi.
3. The Chief General Manager (Telecom),
Assam Circle, Guwahati-7.
4. The General Manager, Telecom, Kamrup
Telecom District, Ulubari, Guwahati-
7.
5. The Divisional Engineer (Admn.),
Office of the General Manager
(Telecom), Kamrup Telecom District,
Ulubari, Guwahati-7.
6. The Divisional Engineer, Central
Telegraph Office, Guwahati-1.

... Respondents

pb

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The application is directed against the provisional gradation list as per basic cadre seniority of the in respect of feeder cadre of Telegraph Assistants/TDA (TG), Gr.-I working under Telegraph Activity Areas of Kamrup SSA as on 1.1.98 and the wrong placement of the Applicant thereon and the order of promotion dated 7.8.99 promoting the juniors of the Applicant granting 10% DCR grade and the rejection of the representation of the Applicant by communication dated 1.12.99.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India and as such, is entitled to all the rights, protections and privileges guaranteed by the Constitution of India. He being a member of the S.C. community, is also entitled to the rights, protections and privileges admissible to such community under the law.

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4.2 That the Applicant had entered into the services of the then composite Posts & Telegraph Department way back in 1960. He entered into Grade-I w.e.f. 18.7.66. Thereafter, he was promoted to Grade-II under time bound one promotion scheme (TBOP) which was introduced to provide promotion on completion of 16 years of service. He was again promoted to Grade-III on completion of 26 years of service under the Bi-ennial Cadre Review Scheme. These two promotions i.e. TBOP and BCR were given to him with effect from 30.11.83 and 1.1.94 respectively.

4.3 That a draft gradation list as per basic cadre seniority in respect of feeder cadres of Telegraph Assistants/TOA (TG) Gr-I working under the Telegraph Activity Area of Kamrup SSA as on 1.1.98 was published placing the Applicant at Sl. No. 21 of the said list. As will be evident from the various entries made in the said list, the Applicant was wrongly placed at Sl. No. 21 inspite of the fact that his initial entry into the service and for that matter, as per basic cadre seniority, he was much senior to many others in the said gradation list.

A copy of the said gradation list as on 1.1.98 (extract only) is annexed as ANNEXURE-1.

4.4 That on receipt of the said gradation list, the Applicant made a representation to the Divisional Engineer, CTO, Guwahati on 16.10.98 stating interalia that his entry into Grade-I having been 18.7.66, he could not have been placed at Sl. No. 21 below the

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persons whose dates of entry in the Grade-I was much after 18.7.66. Be it stated here that the basic cadre seniority is counted from the date of entry in Grade-I. As per the said entry date, the Applicant's position should have been above the incumbent at Sl. No. 15 Shri N.N. Deka whose date of entry in that grade is 20.6.67. Similarly all other incumbents below said Shri Deka upto Sl. No. 20 are later entrants to grade-I than the Applicant.

A copy of the representation dated 16.10.98 is annexed as ANNEXURE-2.

4.5 That surprisingly enough before taking any action on the representation submitted by the Applicant, the Divisional Engineer, CTO, Guwahati certified to the Divisional Engineer (Admn.) by his letter dated 23.11.98 that the gradation list in question was widely circulated amongst the staff and service union and that there was no objection against the same and accordingly, the same be treated as final. In the said letter, it was further stated that the seniority of persons appointed on or after 22.12.59 should be determined according to the date of confirmation in the particular grade.

A copy of the said letter dated 23.11.98 is annexed as ANNEXURE-3.

4.6 That the Applicant states that thereafter by letter dated 15.3.99 issued from the office of the General Manager (Telecom), Kamrup Telecom District and

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addressed to the Asstt. Director, Telecom (Staff), it was intimated that the aforesaid gradation list was circulated and there was no complaint from any side.

A copy of the said letter dated 15.3.99 is annexed as ANNEXURE-4.

4.7 That the Applicant states that the above contentions raised in the Annexures-3 and 4 letters are not at all sustainable both on fact as well as on law. The Applicant had duly submitted his objection against the provisional gradation list and the seniority is to be determined on the basis of the date of entry into the particular grade and not on the basis of the date of confirmation. On both the points, misleading information were furnished but for which the Applicant could not have been deprived of his promotion to Grade-IV.

4.8 That the Applicant states that based on the above wrong information, the persons junior to the Applicant have been promoted by an order dated 17.8.99.

A copy of the order of promotion dated 17.8.99 is annexed as ANNEXURE-5.

4.9 That being aggrieved, the Applicant submitted yet another representation dated 23.8.99 referring to his earlier representation. In the said representation, the Applicant also mentioned about the decision of the Apex Court on the issue.

A copy of the said representation dated 23.8.99 is annexed as ANNEXURE-6.

4.10 That the Applicant states that without considering the merit of the case, the Respondents have disposed of the said representation of the Applicant by a non-speaking order by its communication dated 1.12.99 stating the decision contained therein to be the decision of the General Manager, Telecom, KTD, Guwahati whose letter No. GMT/EST-384CTO/14 dated 25.11.99 has been mentioned in the said communication. However, the Applicant has not been furnished with the copy of the said letter dated 25.11.99.

A copy of the said letter dated 25.11.99 is annexed as ANNEXURE-7.

4.11 That the Applicant states that his seniority has been wrongly assigned because of wrong appreciation of factual as well as legal position, but for which he would have been promoted to Grade-IV which has been granted to his juniors by Annexure-5 order dated 17.8.99. The Applicant is at the verge of retirement, his date of birth being 1.7.40. Thus he does not have anything to do with seniority for future prospect of promotion. However, he is aggrieved by his non-promotion on account of wrong appreciation of factual and legal position involved in his case. His seniority having been counted from the date of his delayed confirmation for which he is not at all responsible and not from the date of his entry in Grade-I, naturally, he has been pushed down in the gradation list and accordingly, he has been deprived of his promotion to

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Grade-IV even by ignoring the quota reserved for SC candidates. In this facts situation, he has not arrayed his juniors as party Respondents. Further, he does not have any grievance against any of his juniors, but he is aggrieved by the wrong decision taken by the administration, but for which he would have been assigned his correct seniority and consequent promotion.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that on the face of the facts narrated above, the impugned orders are not sustainable and liable to be set aside.

5.2 For that the Applicant having made representation against the draft gradation list, it was wrong on the part of the administration to say that there was no complaint against the said gradation list and to act upon the same giving promotion to the juniors to the deprivation of the Applicant.

5.3 For that the Respondents having taken a wrong decision regarding fixation of seniority on the basis of date of confirmation and not on the basis of the date of entry into Grade-I, same is not at all sustainable and liable to be set aside and quashed granting the consequential benefits to the Applicant.

5.4 For that the Applicant has got nothing to do with the date of his confirmation and he has got no hand on it and as such, the Respondents taking recourse to the date of confirmation of the Applicant could not have

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pushed down in the seniority position.

5.5 For that the Applicant has not been given any reason as to why his confirmation has been delayed and as stayed above, he having no hand towards his delayed confirmation, the Respondents are precluded both under fact as well as on law to assign him bottom seniority on the basis of the date of confirmation.

5.6 For that there being no departmental examination etc. towards earning confirmation, the confirmation of the Applicant could not have been delayed by the Respondents and in any case, the date of confirmation being not the criteria for fixation of seniority, the Applicant is entitled to get his seniority fixed as per the date of entry in Grade-I.

5.7 For that the Applicant has been illegally deprived of his promotion on account of fixation of his seniority and accordingly, the impugned orders are not sustainable and liable to be set aside and quashed.

5.8 For that the impugned orders having been passed on the basis of wrong information furnished by the authorities, the said orders are liable to be reviewed and the Applicant is entitled to get his promotion with all consequential benefits.

5.9 For that in any view of the matter, the impugned orders are not sustainable and liable to be set aside and quashed.

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6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order at Annexure-7 dated 1.12.99 ;

8.2 To direct the Respondents to grant the promotional benefit to the Applicant (10% BCR Grade) in the scale of Rs.6500-10500/- as has been granted to his juniors vide Annexure-5 order dated 17.8.99 with retrospective effect and with all consequential benefits of arrear salary etc. ;

8.3 To direct the Respondents to assign correct

seniority to the Applicant on the basis of his date of entry in Grade-I and to place him above the incumbent at Sl. No. 15 of the Annexure-1 gradation list ;

8.4 Cost of the application ;

8.5 To grant any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper by the Hon'ble Tribunal under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant does not pray for any interim relief at this stage.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 09 492 885
- ii) Date : 23.2.2000
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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

I, Purna Kanta Hazarika, aged about 59 years, son of Late Sarukar Hazarika, resident of Kharghuli, Guwahati-4, the Applicant, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4.1, 4.2, 4.4, 4.7, 4.9, 4.11 and 5 to 12 are true to my knowledge ; those made in paragraphs 4.3, 4.5, 4.6, 4.8 & 4.10 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 20 th day of February 2000.

Purna Kanta Hazarika

Department of Telecommunication
Office of the Divisional Engineer, CTO, Guwahati.

Annexure-1

DRAFT DIVISIONAL G/L AS PER BASIC CADRE SENIORITY IN RESPECT OF FEEDER CADRES OF TELEGRAPH ASSTS/TDA(TG)GR.I
WORKING UNDER TELEGRAPH ACTIVITY AREA OF KAMRUP SSA AS ON 01-01-1998.

Sl. Names of the : Edu. qua- : Caste : Date of : Date of : Date of : Date of : Date of : Date of : REMARKS
No. officials : lification : : birth. : Entry in : Entry in : Confirma : Entry in : Entry in : Entry in :
: : : : : in Dépt : Grade-I : tion. : Grade-II : Grade-III : Grade-IV :

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
01.	Sri	S.C. Roy.	MA	OC	01.02.40	01.08.55	12.03.64	12.04.66	09.12.81	24.10.90	01.01.98	1/3rd quota
02.	Sri	R.C. Mali	Non-Matric	SC	14.11.41	25.09.56	12.04.65	12.04.66	30.11.83	01.07.90	01.01.98	-
03.	Sri	S.K. Paul	Matric	OC	01.03.40	01.03.56	12.04.65	12.04.66	30.11.83	01.07.91	01.01.98	-
04.	Sri	J.N. Bez	Matric	OC	28.07.40	01.03.56	12.04.65	12.04.66	30.11.83	01.07.91	-	-
05.	Sri	K.K. Medhi	Non-matric	OC	31.01.41	01.03.56	12.04.65	12.04.66	30.11.83	01.07.91	-	-
06.	Sri	M.R. Deka	B.A.	OC	01.09.45	01.03.65	01.03.65	01.03.67	16.07.76	01.07.91	01.01.98	1/3rd quota
Annexure-2												
07.	Sri	S.Kalita	B.A.	OC	01.08.42	10.07.65	10.07.65	01.03.67	30.11.83	01.01.93	-	-
08.	Sri	A.C. Nath	B.Sc 3rd Yr	OBC	01.03.46	20.07.65	20.07.65	01.03.67	30.11.83	01.01.92	01.07.95	-
09.	Sri	J.N. Dutta	P.U. Sc	OC	31.03.47	15.01.66	15.01.66	01.03.67	30.11.83	01.01.94	-	-
10.	Sri	B.N.Mazumdar	I.Sc	OC	01.03.47	15.01.66	15.01.66	01.03.67	30.11.83	01.07.93	-	-
11.	Sri	T.B. Roy	P.U. Sc.	OC	15.08.45	15.01.66	15.01.66	01.03.67	09.12.81	01.07.92	01.01.98	1/3rd quota
12.	Sri	Osman Ali	B.A.	OC	01.03.46	20.01.66	20.01.66	01.03.67	30.11.83	01.07.92	-	New working GMT Off
13.	Sri	D.C.Mazumdar	B.A.1st Yr	OC	09.04.43	14.02.66	14.02.66	01.03.67	30.11.83	01.07.92	-	-
14.	Sri	H.K.Deb	Matric	OC	11.03.41	01.04.66	01.04.66	01.03.67	30.11.83	01.07.92	-	-
15.	Sri	N.N. deka	B.A.	OBC	01.08.45	20.06.67	20.06.67	01.01.70	30.11.83	01.07.93	-	-
16.	Sri	N.Talukdar	B.A.	OC	01.02.47	28.06.67	28.06.67	01.01.70	30.11.83	01.07.93	-	-
17.	Sri	S.C. Deka	Matric	OC	13.03.42	10.07.56	19.12.67	01.01.70	19.12.83	01.01.94	-	-
18.	Sri	Charu Ch.Talukdar	do	OC	01.01.42	01.11.57	19.12.67	01.01.70	19.12.83	01.01.94	-	-
19.	Sri	Nagendra Nath	B.A.	OBC	01.01.49	18.03.68	18.03.68	01.03.71	18.03.84	01.01.94	-	-
20.	Sri	R.K.Paswan	B.A.	SC	16.10.46	06.04.68	06.04.68	01.03.71	16.12.81	01.01.93	01.01.98	1/3rd quota
21.	Sri	P.K.Hazarika	Non-matric	SC	01.07.40	01.09.60	18.07.66	01.03.72	30.11.83	01.01.94	-	-

- 13 -

To
The DE/CTO
Guwahati

Dated at Guwahati the 16.10.98

Sub : Draft gradation list (Final) prepared by the office
on Basic cadre seniority, as on 01.01.98 and
complaints thereof.

Sir,

With due respect I beg to lay before you the
following few lines for your kind consideration and
favourable action please.

That sir, as per the gradation list prepared by
the office shown my name in Sl. No. 21 below Sri R. K.
Paswan.

That sir, my entry in the grade-1 was on 18.7.66
where as Mr. Paswan was on 06.04.68. The seniority of
an official should be counted from the date of
appointment instead of date of confirmation.

That sir, in an historic Judgement the Hon'ble
Supreme Court has ruled out that a Govt. servant
seniority should be counted from the date of
appointment and not confirmation. The Judgement was
duly published in all the leading news paper both
regional and National. (A Xerox copy of the Judgement
duly published by the esteemed English daily of North
East Indias "Assam Tribune" in its Vol.III no 129 dtd.
15th May 1990 for favour of your ready reference)

On this contex you are requested to revise the
Draft gradation list prepared by the office and I shall
be placed in a proper place in the gradation list.

With Thanks,

Yours Faithfully

(P.K. Hazarika)
Sr.S.S.
CTO Guwahati.

(5)

Annexure-3

Govt. of India.
Department of Telecommunications,
Office of the Divisional Engineer, CTO, Guwahati.

NO.STA-11/GL/Corr/Pt.IV/09 Dated at Guwahati, the
23.11.98

To
The Divisional Engineer (Admn.),
O/O the GMT, KTD, Ulubari,
Guwahati-781007.

Sub : Gradation list of TDA(TG).

Ref : Your letter No.GMT/EST-38/GL/CTO/98-99/5
dtd. 13.10.98(Received on 16.11.98).

With reference to quarries made vide your letter cited above, some portions of Departmental Orders/Guidelines are quoted below for your kind perusal.

It is laid down in Serial No. 7 of Annexure-II of D.O.No.4-1/78-ST dtd. 04.01.79 issued by the Director of Telecom(S), O/O the G.M. N.E. Circle, Shillong as "The seniority of persons appointed on or after 22.12.59 will be determined according to the date of CONFIRMATION in the particular grade."

(Seniority between Sri P.K. Hazarika & Sri Nagendra Nath will come under the perview of the above orders.)

In Srl. 22(b)(iii) of D.G. P&T New Delhi letter No.1-71/83-NCG dtd. 17.12.83 issued regarding One Time Bound Promotion Scheme it has been laid down as "The in reduction of the scheme will not affect Officials who have already been promoted on regular basis from the basic grades to the next higher grades before 30.11.83 under existing rules. The Officials who have already been promoted to the next higher scale of pay before 30.11.83 will rank onblock senior to the officials who are placed in the next higher scale in pursuance of the new scheme."

(The case of R.K. Paswan promoted to the LSG under 1/3rd quota and Sri R.C. Mali promoted to the LSG under 20% promotion scheme will come under the perview of the above order. Sri R.K. Paswan was promoted to LSG earlier than Sri R.C.Mali. Sri S.K.Paul was promoted to the next higher grade as a later stage under 16 years OTBP scheme.)

Regarding last para of your letter it may be stated that the latest draft G/L issued on the basis of Basic Cadre Seniority has already been widely circulated amongst the staff and service unique and there was no objection against the said G/L. As such, the same may kindly be treated as final.

Sd/-

(H.B. Deb)
Divisional Engineer,
CTO, Guwahati-781007.

Copy to :
01. STA-39/BCR/Pt.II File.

Annexure-4

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
KAMRUP TELECOM DISTRICT
GUWAHATI-781007.

No.GMT/EST-382/STBP/DE-CTO/98-99/79

Dated at GH. the 15th March '99.

To

Shri A.K. Pathak,
Asstt. Director Telecom (Staff).
O/O CGMT/Assam Circle,
Guwahati-781007.

Sub : Promotion of Grade-IV of TOA(TB) of CTO
Guwahati.

Ref : Your letter No.STES-10/22/Pt.III/7
Dtd.12.02.99.

In response to your letter No. cited above, the Gradation list by you. In this connection it is stated that the DE/CTO/Guwahati has circulated the Gradation List to all concerned and there is no complain from any side. A copy of the DE/CTO letter No.STA-11/GL/Corr/Pt.IV/09 Dtd.23.11.98 regarding the gradation list is also enclosed herewith for your perusal. An early action is solicited.

Encl: As above Sub-Divisional Engineer (Admn)
Office of the General Manager Telecom.
Kamrup Telecom District.
Guwahati-781007.

Annexure-5

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
KAMRUP TELECOM DISTRICT
GUWAHATI-781007.

Memo No.GMT/EST-382/STBP/CS.CTO/98-99/99
Dated at GH. the 17th Aug '99.

In accordance with DOT/ND. letter No.27-4/87-TE-II(Pt.) dated 16.6.97 conveyed vide CGMT/GH.letter No. STES-35/2/PT.1/114 dtd.30.08.97, the General Manager telecom. Kamrup Telecom District, Guwahati is pleased to grant 10% BCR grade in the scale of pay Rs.6500-200-10500/- provisionally to the following officials, working in Restructured Cadre as Sr. TOA(TG) consequent on promotion of their junior Shri R.K. PASWAN TOA(TG) grade-III, (Non optee) with effect from 01.01.98 as per seniority in the basic grade.

The pay of the officials will be fixed under FR-22(I)(a)(i).

S1. No.	Name of the Official	Design- ation	Commu- nity	Working Unit.
01.	SHRI J.N. BEZ	SR.SS.(TG)	OC	DE/CTO/GH
02.	SHRI K.K. MEDHI	DO	OC	DO
03.	SHRI S. KALITA	DO	OC	DO
04.	SHRI J.N. DUTTA	DO	OC	DO
05.	SHRI B.N. MAZUMDER	DO	OC	DO
06.	SHRI OSMAN ALI	DO	OC	O/o GMT/GH
07.	SHRI D.C. MAZUMDER	DO	OC	DE/CTO/GH
08.	SHRI N.N. DEKA	DO	OC	DO
09.	SHRI N. TALUKDAR	DO	OC	DO
10.	SHRI S.C. DEKA	DO	OC	DO
11.	SHRI NAGENDRA NATH	DO	OC	DO

Sd/-
(A.S. Choudhury)
Divisional Engineer (Admn)
O/O the general Manager Telecom
Kamrup Telecom District
Guwahati-781007.

Copy forward for information and necessary action to :

01. The Chief General Manager Telecom/Assam Circle, Guwahati.
- 02-03. The Accounts Officer, O/o DE/CTO/GH. O/o GMT/KTD/GH.
04. The DE/CTO/GH.
05. The CSS/Paybill.
- 06-16. The Official concerned.
- 17-38. Service Book and Personal File of the official.
39. Fixation file.
40. Office copy.
41. Spare copy.

Sd/-
(A.S. Choudhury)
Divisional Engineer (Admn)
O/O the general Manager Telecom
Kamrup Telecom District
Guwahati-781007.

Annexure-6

To
The general Manager
Kamrup Telecom District
Ulubari, Guwahati-781007

dtd. 23.08.99

(Through proper channel)

Sub : Prayer for grant of 10% TOA(TG) Grade-IV
Promotion.

Sir,

With due respect I beg to state that the following few lines on the above subject before you for favour of your kind necessary action please.

That sir, Vide your office letter No. GMT/EST/382/STBP/CS.CTO/98-99/99 Gr.-IV dtd. 17th August/99 has granted 10% TOA(TG) Grade-IV promotion to as many 11(Eleven) officials in the grade of TOA(TG) Grade-IV irregularly.

Sir, most of there promoted officials have superseded their senior ones. The Gradation list to be followed for TOA(TG) Grade-IV promotion has been set aside and a fresh G/L was prepared over right and promotion granted on the basis of the new one. This has resulted denial of TOA(TG) Grade-IV promotion to me, being senior to most amongst the promoted officials.

Sir, In respect of that previous G/L prepared by DE/CTO Guwahati and supplied to your office my name was wrongly placed and I objected to it vide my representation dtd. 16.10.98. But to my utter surprise the DE/CTO Guwahati has not corrected the G/L and rather reported to your office vide letter No. STA.II/G.L/Cor/Pt.IV/09 dtd. 23rd November '98 that no complaints or objection on the G/L was received from the staff (Xerox copies enclosed)

Sir, my claim was denied with malafied intention to promote some other juniors officials on the basis of a new G/L which is unacceptable to many officials for wrong placements.

Sir, it is worthwhile to mention here that a Supreme Court order which was widely circulated was denied to have been received by DE/CTO Guwahati vide letter NO. STA-II/GL/Corr/Pt.IV dtd. 18.11.98 which is necessarily to be complied in preparation of G/L (Copy enclosed).

Therefore, your kind necessary intervention is solicited on the issue and grant me 10% TOA(TG) Gr-IV promotion as per DeT's norms.

With Thanks,

Yours Faithfully

N.B. Advance copy to
GMT Kamrup for
information
Encl-3(Three)

(P.K. Hazarika)
TOA(TG) Grade-III
CTO Guwahati

Annexure-7

Corr-7

DEPARTMENT OF TELECOMMUNICATIONS
Office in the Divisional Engineer,
C.T.O., Guwahati-781001.

To _____

NO. STA-11/GL/Corr/Pt.IV/14 Dated at Guwahati, the
01.12.99.

To

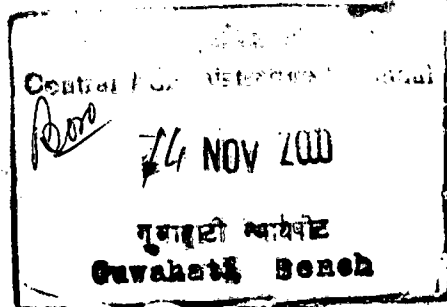
Shri P.K.Hazarika, Sr. SS(O),
C.T.O., Guwahati-1.

Sub : Representation against Divisional Gradation List
of initial grade of TOA(TG)- case of Shri P.K.
Hazarika.

The General Manager Telecom., K.T.D., Guwahati vide his
letter No. GMT/EST/38/CTO/14 dated 25.11.99 has initiated
that your position in the Divisional Gradation list of
initial grade of TOA(TG) is correct as per the existing
rules. This is for your information please.

Sd/- Illegible
(J.M. Basumatary
Sub-Divisional Engineer(Admn.),
C.T.O., Guwahati-781001.

*Attested
mini bond
(u.k. name)
Advocate*



Filed by
Aq Pellia

19
14/11/2000
(A. DEB ROY)
Sr. C. S. J.
C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

O.A. No. 115 OF 2000 .

Shri P.K. Hazarika

- VS -

Union of India and others.

- And -

In the matter of :

The respondents beg to submit the
written statement as follows :

Before submitting para wise written statements,
the respondents beg to submit a breif of the case which
may be treated as a part of written statement.

(BRIEF OF THE CASE)

Through this O.A. the applicant attacked the
Gradation List as on 01.01.98 published by D.E./C.TD.,
Guwahati. According to the applicant, the criteria for
fixation of relative seniority adopted in compiling the
Gradation List is incorrect.

According to the applicant, the seniority should
be fixed on the basis of the date of initial entry in the
grade. He has not cited any departmental rules/order in
support of his argument. He has, however, mentioned about
a judgement reported to have been passed by the Apex Court
~~but did not furnish the title of the~~

but did not furnish the title of the case nor any copy of the judgement.

Persuant upon a judgement passed by Hon'ble Supreme Court on 2.5.90 the Govt. of India DOPT under their letter No. 200-11/5/90-Estt(D) dated 4.11.92 revised the principle of seniority. According to the revised principle, the seniority is to be fixed according to the order of merit indicated at the time of appointment to a post on regular basis. It is also made clear in the letter that the revised order would take effect from the date of issue and past cases need not be re-opened.

The revised guidelines as above will not help the case of the applicant as he was appointed on 18.7.66. His case is to be regulated under the orders prevailing at the relevant time.

The seniority of the applicant is fixed in accordance with O.M. No. 9/11/55/RPS dated 22.12.69. The basic principle enunciated in the said O.M. is that seniority follows confirmation and consequently permanent officials in grade shall rank senior to those who are officiating in that grade.

The Gradation List, under dispute, was prepared on the basis of the principle laid down in O.M. dated 22.11.59. Accordingly all officials who were confirmed at an earlier date were positioned above the applicant. The applicant was confirmed on 01.03.1972 and rightly placed at Sl. No.21 below all officials who were confirmed earlier

than 01.03.72.

The Gradation List is a correct one prepared on the basis of orders in force at the relevant time. The position assigned to the applicant is in order and the promotion made on the basis of the Gradation List is flaw less.

1. That with regard to paras 4, 2, 3, 4.2 and 4.2 the respondents beg to offer no comments.
2. That with regard to the statement made in para 4.3 the respondents beg to state that the placement of the applicant at serial No.21 in Draft Gradation List as on 1.1.98 is correct as per the criteria of fixation of seniority i.e. the date of confirmation.
3. That with regard to the statement made in para 4.4 the respondents beg to state that the seniority of an official belonging to cadre of clerk is determined in accordance with the general principles contained in M.H.A O.M. No. 9/11/55-RPS dated 22.12.1959. One of the basic principles enunciated in the said O.M. is that seniority follows confirmation and subsequently permanent officers in each grade shall rank senior to those who are officiating in that grade. The officials who were placed above the serial of Shri Hazarika were confirmed in the grade earlier than Shri P.K. Hazarika. The seniority was not determined on the basis of date of entry in the Department/grade.

Contd.....

-4-

4. That with regard to the statement made in para 4.5 the respondents state that the representation dated 16.10.98 of the applicant was duly examined by the DE (CTO), Guwahati and the action intimated by this letter No. STA-11/GL/Corr/Pt.IV/8 dated 18.11.98.

Copy of letter dated 18.11.98 is annexed hereto and marked as Annexure - 1.

5. That with regard to the statement made in para 4.6, the respondent beg to offer no comment.

6. That with regard to the statement made in para 4.7, the respondents beg to state that the contention of the petitioner is not correct. No misleading information was furnished to the applicant and complete deposition of this para is found based on applicant's wrong notion.

7. That with regard to para 4.8 and 4.9 the respondents state that no junior official Shri Hazarika was promoted.

The decision of the Apex Court on the issue is not relevant in the case of the applicant.

8. That with regard to the statement made in para 4.10 the respondents beg to state that the letter dated 01.12.99 was issued from the office of the DE CTO Guwahati as per direction of CMT/GH letter No. GMT/EST/38/CTO/14 dated 25.11.99 both letters enclosed as Annexure - II and III) respectively.

-5-

9. That with regard to para 4.11 the respondents state that the seniority of the official was determined as per Departmental Rules and no wrong procedure ~~as~~ was followed.
10. That with regard to paras 5.1 and 5.2 the respondents beg to offer no comment.
11. That with regard to para 5.3 the respondents state that seniority was fixed up as per existing Departmental procedures.
12. That with regard to the statement made in para 5.4 the respondents state that date of confirmation was the basis for fixing relative seniority as such the contention of the applicant is misleading.
13. That with regard to the statement made in para 5.5 the respondents beg to state that the confirmation case was done long back by the circle office of the then undivided N.E. Circle Head Quarter at Shillong. Hence No comments.
14. That with regard to the statement made in para 5.6 the respondents beg to state that it is reiterated that the date of confirmation is the criteria for fixation of relative seniority irrespective of the fact of holding Departmental confirmation Examination.
15. That with regard to the statement made in para 5.7 to 5.9, the respondents beg to offer no comments.

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

I, G.C. Sarma, Asstt. Director, Telecom (Legal),
Guwahati, being authorised do hereby solemnly declare
that the statements made in this show cause reply is
true to my knowledge, information and believe.

And I sign this verification on this 10th day
of ^{November} October, 2000.

Ganesh Ch. Sarma.
Declarant.



कोर7/Corr-7

भारतीय दूरसंचार/DEPARTMENT OF TELECOMMUNICATIONS

कार्यालय/Office of the

TO

Divisional Engineer,

Central Telegraph Office,

Guwahati-781001.

No.

STA-11/GL/Corr/Pt. IV/8

Dated

Dated at Guwahati the 18.11.98

To

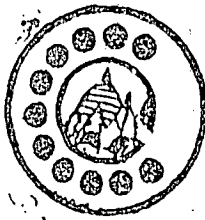
Shri P.K. Hazarika, Sr.SS(O),
C.T.O., Guwahati.

Sub:- Draft G/L prepared on basic cadre seniority
basis as on 01.01.98 - complaint thereof.
Ref:- Your representation dated 16.10.98.

With reference to above, this is to intimate
you that no departmental orders on judgement of Hon'ble
Supreme Court for counting of Govt. servants' ~~xxxxx~~
seniority has been received by this office. Your case
cannot be considered till such an order is available.

(C.R. CHAKRABORTY)

Sub-Divisional Engineer(G);
C.T.O., Guwahati-1.



कॉर7/Corr-7

भारतीय दूरसंचार/DEPARTMENT OF TELECOMMUNICATIONS
कार्यालय/Office of the Divisional Engineer,
TO C.T.O., Guwahati-781001.

No. STA-11/GL/Corr/Pt.IV/14 Dated at Guwahati, the 01.12.99.

To

Shri P.K. Hazarika, Sr.SS(O),
C.T.O., Guwahati-1.

Sub:-Representation against Divisional
Gradation List of initial grade of
TOA(TG) - Case of Shri P.K.Hazarika.

The General Manager Telecom., K.T.D., Guwahati
vide his letter No.GMT/EST-38/CTO/14 dated 25.11.99 has
intimated that your position in the Divisional Gradation
list of initial grade of TOA(TG) is correct as per the
existing rules. This is for your information please.

(J.M. BASUMATARY)
Sub-Divisional Engineer(Admn.),
C.T.O., Guwahati-781001.

no 1645

(11)

9

Annexure - III

27

37

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM
KAMRUPTELECOM DISTRICT
GUWAHATI-781007

To

The Divisional Engineer,
C.T.O. Guwahati-781001.

No. GME/EST-38/CTO/14

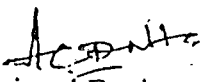
Dated at GH. the 25-Nov-99.

Sub:- Representation against Divisional Gradational List of initial grade of
TOA(TG). Case of shri P.K. Hazarika.

Ref:- Your letter No. STA-11/GL/Cor/PT-1V/13 Dtd. 05-11-99.

The case of Shri P.K. Hazarika, Sr. SS(TG) of your office has been examined
based on the records and information received from your end. It is seen that his position
in gradation list is correct as per the existing Rules.

The official may be informed accordingly.


Sub- Divisional Engineer (Admn)
Office of the General Manager Telecom
Kamrup Telecom District
Guwahati-781007.

SENIORITY

Order effective from 4th November, 1992
 [Government of India, Department of Personnel and Training, Office Memorandum No. 20011/5/90-Estt (D), dated the 4th November, 1992]

Seniority to be determined by the order of merit indicated at the time of initial appointment.—The seniority of Government servants is determined in accordance with the general principles of seniority contained in M.H.A., O.M. No. 9/11/55-RPS, dated the 22nd December, 1959 (see Section II). One of the basic principles enunciated in the said OM is that seniority follows confirmation and consequently permanent officers in each grade shall rank senior to those who are officiating in that grade.

2. This principle has been coming under judicial scrutiny in a number of cases in the past; the last important judgment being the one delivered by the Supreme Court on 2-5-1990, in the case of Class II Direct Recruits Engineering Officers' Association v. State of Maharashtra. In para. 47 (A) of the said judgment, the Supreme Court has held that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment, and not according to the date of his confirmation.

3. The general principle of seniority mentioned above has been examined in the light of the judicial pronouncement referred to above and it has been decided that seniority may be delinked from confirmation as per the directive of the Supreme Court in para. 47 (A) of its judgment, dated 2-5-1990. Accordingly, in modification of the General Principle 3, proviso to General Principle 4 and proviso to General Principle 5 (i) contained in O.M. No. 9/11/55-RPS, dated the 22nd December, 1959 and para. 2.3 of OM, dated the 3rd July, 1986, it has been decided that seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of confirmation.

4. These orders shall take effect from the date of issue of this Office Memorandum. Seniority already determined according to the existing principles on the date of issue of these orders will not be reopened even if in some cases seniority has already been challenged or is in dispute and it will continue to be determined on the basis of the principles already existing prior to the date of issue of these orders.

II

Consolidated Orders on Seniority

Government of India, Department of Personnel and Training, Office Memorandum No. 22011/7/86-Estt. (D), dated the 3rd July, 1986.

Instructions issued from time to time laying down the principles for determining seniority of persons appointed to services and posts under the Central Government have been consolidated in this Office Memorandum. The original communications consolidated here are reproduced (items I to VII) at the end of this OM.

Seniority of Direct Recruits and Promotees

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.

2.2 Where promotions are made on the basis of selection by a DPC, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority, subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior such persons shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him.

2.3 Where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit.

2.4.1 The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

2.4.2 If adequate number of direct recruits do not become available in any particular year, rotation of quotas for the purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees.

In other words, to the extent direct recruits are not available the promotees will be bunched together at the bottom of the seniority list below the last position up to which it is possible to determine seniority, on the