

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-238/2000 order sheet pg-1 to 2
deposited date-24/01/2001

INDEX

O.A/T.A No. 331/2000
R.A/C.P No.
E.P/M.A No. 238/2000

1. Orders Sheet. O.A. 331/2000 Pg. 1 to 15
2. Judgment/Order dtd. 4/09/2009 Pg. 1 to 6 *Dismissed*
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 331/2000 Pg. 1 to 27
5. E.P/M.P. 238/2000 Pg. 1 to 5
6. R.A/C.P. XII Pg. to
7. W.S. Pg. 1 to 6
8. Rejoinder. Pg. 1 to 6
9. Reply. Pg. 1 to 9
10. Any other Papers. 02 free letters Pg. 1 to 5
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply. How Cause - pg-1 to 5

Calcutta Bench. Pg. 1 to 5
order copy- pg-1 to 5

SECTION OFFICER (Judl.)

25
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 331/2000

... J. J. Singh, K. K. ... APPLICANTS
versus.

Union of India & ors Respondents.

1. FOR THE APPLICANT(S) Mr. B.K. Sharma, Mr. S. Sharma
ADVOCATE
Mr. U.K. Nair, Mr. U.K. Goonam

FOR THE RESPONDENT(S) C.G.S.C
Dr. Y.K. Phukan.
Mr. M. Das, G.A.A.

Notes of the Registry

DATE

COURT'S ORDER

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

Heard Mr B.K.Sharma, learned Sr.
counsel for the applicant and Mr A.Deb
Roy, learned Sr.C.G.S.C for respondents
No.1 and Dr.Y.K.Phukan, learned Sr.Govt.
Advocate for respondents No.2 and 3.

List on 8.12.2000 for admission along
with M.P.238/2000.

Vice-Chairman

Let the case be listed on 9.1.2001
for admission along with M.P. 238/2000.

Vice-Chairman

Let the case be listed on 24.1.01
for admission along with M.P.238/2000.

Member (A)

Vice-Chairman

in form
of
M.P. 238/2000 C.F.
for As. S. / deposited vide
IPO/BO No. 493836
Dated 8.3.2000

Dy. Registrar

8.12.2000

21-12-2000

"Nakalatma" des
by filed by Respondent
No. 6.

9.1.01

mk

24.1.01

Heard learned counsel for

parties. Application is admitted.
Issue notice on the respondents.
Call for records. List on 23.2.01
for orders.

W. L. Sharma
Member

[Signature]
Vice-Chairman

31-1-2001

*Service of notices
Copies of notices have been*

in

23.2.01

List on 19.3.01 to enable the
respondents to file written statement.

W. L. Sharma
Member

[Signature]
Vice-Chairman

*and prepared for
issuance of notices
vide D.No. 382-92 of
3.2.01.*

*2) Two copies service
of notice short.*

19.3.01

Respondent No.8 has filed written
statement. Union of India is yet to file
written statement and sought for time.
Prayer allowed.

List on 26.4.01 for order.

16-3-01

*No W/S has been filed
in response*

W. L. Sharma
Member

[Signature]
Vice-Chairman

26.4.01

List on 30.5.01 to enable the
respondents to file written statement.

20.3.2001

*W/S has been
submitted on behalf
of respondent No. 8.*

W. L. Sharma
Member

[Signature]
Vice-Chairman


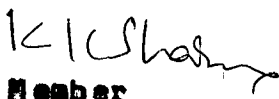



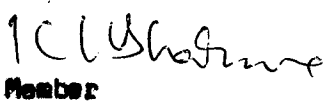

*No written statement
filed by the R.No. 1 of 7.*

[Signature]

OA 331/2001

(3)

77

Notes of the Registry	Date	Order of the Tribunal
<p><u>30.4.2001</u></p> <p>w/s has been submitted on behalf of Respondent No. 5 and 5A.</p> <p><u>17.7.2001</u></p> <p>No. w/s has been submitted except Respondent No. 5, 5A and 8.</p> <p>No. w/s filed on R No. 1 and 4.</p> <p><u>3y</u> 13.9.01</p> <p>Written statement filed on behalf of R. No. 5, 5A and 8, other respondents not yet filed.</p> <p><u>3y</u> 10.10.01</p>	<p>30.5.01</p> <p>18.7.01</p> <p>bb</p> <p>13.8.01</p> <p>mb</p> <p>14.9.2001</p> <p>bb</p>	<p>Respondent No.5 and 5A have filed written statement. The other respondents may file written statement, if any, within six weeks from today.</p> <p>List the matter on 18-7-2001 for orders.</p> <p> Vice-Chairman</p> <p>Written statement has so far been filed by the respondent Nos.5, 5A and 8. Other respondents, namely, respondent Nos. 1 to 4 have not yet file any written statement.</p> <p>The respondents are allowed to file written statement, if any, within three weeks from today. List on 13.8.2001 for further order.</p> <p> Member</p> <p> Vice-Chairman</p> <p>Written statement has been filed by respondents nos. 5, 5A and 8. The respondent nos. 1 and 4 has not filed written statement. The other respondents save and except respondent 5, 5A and 8, further 3 weeks time is allowed to file written statement.</p> <p>List on 14/9/01 for order.</p> <p> Member</p> <p> Vice-Chairman</p> <p>Further three weeks time is allowed to the respondents to file written statement, if any.</p> <p>List on 11.10.2001 for order.</p> <p> Member</p> <p> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

No. written statement filed by the state respondents.

By
22.11.01

11.10.01

3 weeks time is allowed to the State respondents for filing written statement as prayed for by Dr Y.K.Phukan learned Sr.Government Advocate, Assam. List on 23.11.01 for order.

IC Ushang
Member

Vice-Chairman

pg

23.11.01

Heard Mr.A.Deb Roy, learned Sr. C.G.S.C for respondent No.1, Mr.Y.K.Phukan learned Sr.Advocate, Govt. of Assam and also Mr.S.Sarma, learned counsel for the applicant.

The respondent Nos. 5, 5A and 8 have already filed written statement. ~~Others~~ Despite time granted the other respondents did not file written statement till now.

Post the case for hearing on 13.12.2001. Those who have not filed written statement may file written statement within two weeks from today.

No. wls filed by the state respondent.

By
16.1.02

bb.

13/12.

There is no division bench today. The case is adjourned to 17.1.2002.

By
A.K. Jyoti
13/12

17.1.02

On the prayer of Sri S.Sarma, learned counsel for the applicant, the case is adjourned. List again on 12.2.02 for hearing.

IC Ushang
Member

Vice-Chairman

mb

Notes of the Registry	Date	Order of the Tribunal
<p>The matter has been transferred from CAT Guwahati Bench to CAT, Cal. Bench vide letter dated 22/26.402</p> <p>The case no. is re-allotted as O.A. NO 812/2002. Notice be issued to both the parties concerned for hearing.</p> <p>sg</p> <p><u>SO (J)</u></p>	<p>12.2.02</p> <p>mb</p>	<p>Put up before a bench excluding Hon'ble Vice-Chairman.</p> <p><i>K. V. Mahanta</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No. 812 of 2002

Date of order: 4.09.2009

Mr. Jones Ingti Kathar

...Petitioner

Mr. S.K. Dutta,

.....

Advocate for the petitioner

- VERSUS -

Union of India and Ors.

.....

.. Respondents

Mrs M. Bhattacharjee,

.....

Advocate for the Respondents

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, VICE-CHAIRMAN.
HON'BLE MR. CHAMPAK CHATTERJI, MEMBER (A).

1. Whether reporters of local papers may be allowed to see the judgement ?
2. To be referred to the reporter or not ?
3. Whether it needs to be circulated to other Benches of Tribunal ?



**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A.No. 812 of 2002

Present: **HON'BLE MR. K.V. SACHIDANANDAN, VICE-CHAIRMAN**
HON'BLE MR. CHAMPAK CHATTERJI, MEMBER (A)

Mr. Jones Ingti Kathar, IAS, Deputy
Commissioner, Kokrajhar,

- V E R S U S -

1. Union of India service represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievance And Pension, New Delhi.
2. The State of Assam, represented by The Chief Secretary to the Government Of Assam, Dispur, Guwahati-6.
3. The Commission & Secretary to the Government of Assam, Personnel (A) Department, Dispur, Guwahati-6.
4. The State of Meghalaya, represented by The Chief Secretary to the Government Of Maghalaya, Shillong.
5. The Union Public Service Commission, Represented by the Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
- 5A. The Selection Committee, constituted under Regulation 3 of the IAS (Appointment by Promotion) Regulation, 1955 for preparing the list of members State Civil Service for nomination to IAS for the year 1994-95, represented by its Chairman, C/O Chief Secretary to the Government of Assam, Dispur, Guwahati-6.
6. Mr. Debabrata Chakraborty,
7. Ms. Gayatri Baruah.
8. Mr. Santanu Bhattacharjee,
9. Ms. Sunanda Sengputa,
10. Mr. Bhudev Basumatary.
11. Mr. Anup Daolagopu and
12. Mr. Dibakar Saikia

All ACS Officers, C/O Chief Secretary,
Government of Assam, Dispur, Guwahati-6.

.....Respondents

For the applicant : Mr. S.K. Dutta, counsel.

For the respondents : Mrs. M. Bhattacharjee, counsel.



Date of Order: 04.09.2009

9

ORDER**Per Mr. Champak Chatterji, AM**

This case was transferred from the Guwahati Bench of this Tribunal to Calcutta Bench and allotted O.A. No. 812/2002.

2. The applicant in this case is an IAS officer who was posted in Assam. He is aggrieved by order dated 11.8.98 of the Ministry of Personnel Govt. of India and as communicated by Govt. of Assam dated 20.10.98 in that he was not included in the selection list of 1994 for promotion to the IAS from the Assam Civil Services. The applicant was finally promoted to the IAS in 1996 and, therefore, this O.A. is for antedating his date of promotion.

3. The case of the applicant is that he belonged to the 1975 batch of the Assam Civil Service and was in the zone of consideration for promotion to the IAS in 1993. In the selection list of 1993 his name appeared at Sl. No. 9. However, in spite of vacancies he was not appointed.

4. Thereafter his name was not included in the 1994 list also. The grievance of the applicant is that the Selection Committee meeting of 29.3.1994 prepared a list of officers for appointment to the IAS for 1994. He came to know from a local newspaper called 'Sentinel' that from out of a list of 21 officers, a list of seven officers have been recommended to fill up five vacancies. However, in this list of seven officers the name of the applicant did not feature. Instead the name of officers who are private respondents Nos. 6 to 10 in the present O.A. featured in the list. The officers are junior to the applicant as per the Assam Civil Service Gradation list of 1.1.94 (Annexure-'A'). The applicant has also stated that the private respondents Nos. 6 to 10 are also corrupt officers whose names should not have been included for consideration.

5. The case of the applicant is that the Selection Committee for consideration of officers for promotion in 1994 overlooked cases of corruption and disciplinary proceedings as also the service records. The applicant was at Sl. No. 9 in the 1992 list for consideration of promotion in 1993. He, therefore, expected that his name would feature in the 1994 list since there was nothing adverse against him and only one year's



time had elapsed since the previous year. However, his name was excluded and the Selection Committee had, therefore, not considered the entire matter in the correct way as a result of which the applicant's case had suffered.

6. Thereafter vide notification of the Govt. of Assam dated 27.3.95 which followed on the Govt. of India notification dated 24.3.95 the respondents Nos. 7, 8, 9 and 11 were appointed to the IAS whereas the applicant's name was left out.

7. The applicant filed O.A. 181/94. The Tribunal directed vide order dated 17.3.98 that the applicant's representation should be considered by the respondents. Inter-alia the Tribunal also observed that the sudden change of position of the applicant vis-à-vis the private respondents should be looked into in respect of their rating.

8. The applicant as per directions of the Tribunal then filed a representation on 30.3.98. On 11.9.98 the Govt. of India rejected the applicant's representation (Annexure-E/E1). The applicant had come before this Tribunal being aggrieved by the rejection order and because of non-application by the Selection Committee of their mind to the case of the applicant vis-à-vis the other respondents as a result of which the applicant could not be promoted in 1994. He was finally promoted in 1996 and, therefore, his case is for antedating his date of promotion.

9. In reply the Union Public Service Commission has stated that the UPSC was a constitutional body under Art. 315 to 323 of the Indian Constitution and was discharging its function as per Art. 320 of the Constitution.

10. Under the All India Service Act, 1951 separate recruitment rules have been framed for the IAS/IPS/IFS. In pursuance of these Rules, the IAS (Appointment by Promotion) Regulations, 1955 have been made. In accordance with the provisions of the said regulations, the Selection Committee presided over by the Chairman/Member of the Union Public Service Commission makes selection of State Civil Service Officers for promotion to the IAS. In making such selection the UPSC take into consideration records received from the State Government under Regulation 6A of the Promotion Regulations and accord their approval to the recommendations of the Selection Committee in accordance with the provisions of Regulations 7 of the aforesaid Regulations. The selections so done, were done in a just and equitable manner keeping




in view the records and the rules and regulations and are not open to interference by any authority as this would curtail or modify the constitutional powers of the UPSC.

11. The UPSC has stated that in so far as the Selection Committee for 1992-93 was concerned, the meeting of the Selection Committee was held on 31.3.93. A list of ten State Civil Service officers was prepared for promotion to the Assam Segment of the IAS of the Joint Assam Meghalaya cadre. The name of the applicant featured at Sl. No. 14 of the eligibility list. The applicant was rated as 'Very Good' and his name was included at Sl. No. 9. However, the applicant could not be appointed to the IAS from the gradation list as there was no vacancies to accommodate him.

12. The name of the applicant was again considered by the Selection Committee which met on 29.3.94. This time based on overall relative assessment of his service records the applicant was graded as 'Good' only. Based on this assessment his name was not included in the select list due to the statutory limit on the size of the select list. Officers with better overall gradings were included in the Select List. The UPSC further submitted that the select list of 1992-93 and 1993-94 were reviewed on 18.9.97 in pursuance of the orders of the Tribunal dated 20.3.95. This committee did not include his name in the select list of 1993-94 as he was graded as 'Good'.

13. The UPSC has strongly contested the contention of the applicant that since his name was included in the list of 1992-93 his name ought to have been listed in the 1993-94 also. The UPSC has submitted that these Select Lists for different years are independent of each other. The Selection Committee assessed the ACRs relevant for the selection list and thus for consecutive years, one new ACR is added from the CR dossier and the addition of the same would have a bearing on the overall grading of the officer. In the applicant's case though he was assessed as 'Very Good' in 1992-93 the addition of one more year ACR in the succeeding year affected the overall grading and in 1993-94 this became 'Good' only. The contention of the applicant is that since he was assessed as 'Very Good' for the year 1992-93 and thereafter should be assessed as 'Very Good' for 1993-94 is untenable and devoid of merit as the applicant has substituted his own assessment over that of a statutorily constituted Selection Committee.



14. The UPSC have also cited numerous judgments given by the Apex Court to the effect that the work of a Selection Committee could not be reviewed by a court. The case of **Nutan Arvind Vs. UOI & Ors.**, 1996(2) SCC 488 was referred to where the Apex Court has observed that-

“ When a high level committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority.”

The same position was held in the matter of **UPSC Vs. H.L. Dev and Ors.** AIR 1988 SC 1069 where the court ruled that assessment was exclusively the function of the Selection Committee. The same position was reiterated in the case of **Dalpat Abasaheb Solunke Vs. B.S. Mahajan**, AIR 1990 SC 434 and in the case of **Anil Katiyar Vs. UOI & Ors.**, 1997 (1) SLR 153 where the Hon'ble Supreme Court categorically held that the Tribunal cannot sit in judgment over a DPC unless there is malafide or arbitrariness.

15. Keeping all things in view the UPSC who is a respondent in this case has stated that the applicant has no case.

16. We have also gone through the detailed speaking order given on 11.8.98 by the Ministry of Personnel, Public Grievance and Pensions rejecting the representation of the applicant. The speaking order is a comprehensive one. The speaking order covers the assessment and grading of State Civil Service officers as finally approved by the UPSC, the relative grading of officers given by such Selection Committee from year to year, where it has been stated that each annual proceeding is independent of each other and that no continuity can, therefore, be imputed to the proceedings of the various Selection committees. The Ministry of Personnel has also stated that the Selection Committee arrives at its recommendations after going through the service records of each of the eligible officers. It has also cited the case of **Abdul Khalid Rizvi Vs. Union of India** decided by the Supreme Court to the effect that it is not permissible to invoke Residuary Matters Rules, in matters incidental to recruitment to the All India Services.


17. We have also gone through the written statement by Respondent No. 8 where the respondent No. 8 has strongly denied that there was any corruption charge against

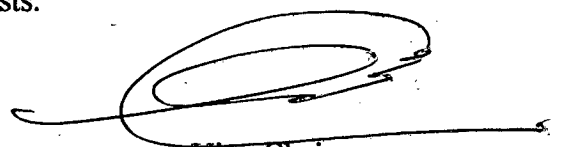
him. It has also been stated that news published in a newspaper like the 'Sentinel' was irrelevant to the matter at issue.

18. Heard counsel for the applicant and the respondents.

19. The short point to be determined here is whether or not the applicant has a legal right to be considered for promotion to the IAS from the State Civil Service in 1994. It is seen that the applicant has based his claim for selection in 1994 based on his performance in 1993. It is seen that both the UPSC and the Department of Personnel have emphasized the fact that there cannot be any continuity in assessment by a Selection Committee from one year to the next. This is self-evident because there is a new ACR every year. The ACR rating may change also because of the comparative rating of one person with respect to another.

20. The applicant has not stated or given any proof other than the conjecture that the Selection Committee acted in a wrongful manner in rejecting his case for promotion in 1994. There is no substance in his allegation regarding the fact that some of the respondents who have been promoted are corrupt. No tangible evidence has been given. We do not consider that a newspaper item can be admitted as matters relevant for the purpose of adjudication. Courts go by records, facts and the law in the matter. On careful consideration of the pleadings and the speaking order given by DOP&T of 11.9.98 and the reply given by the UPSC we hold that the O.A. lacks merit and is, therefore, dismissed. There will be no order as to costs.


Member (A)


Vice-Chairman



केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, KOLKATA

Gram : CATRIBUNALCAL

Phone : 2287-9061 & 2287-9071

Fax : (033) 2287-1098

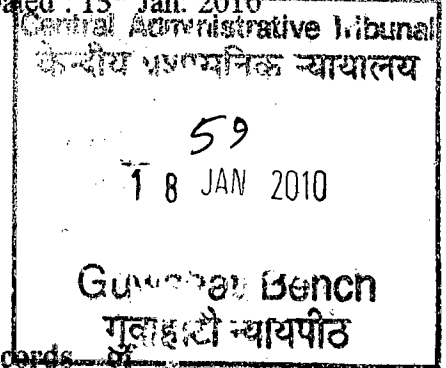
E-mail : catcalbench@yahoo.co.in

2nd M.S.O. Building
(11th & 12th Floor),
C.G.O. Complex, Nizam Palace,
234/4, A. J. C. Bose Road,
Kolkata - 700 020

CAT/CAL/JUDL/ OA 812-02/ 76

Dated : 13th Jan. 2010

To
The Registrar,
Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road,
Bhangagarh,
Guwahati - 781005.



Sub : Transfer of Complete Records of
OA No. 812 of 02, MA No. 465 of 02,
and PT No. 257 of 09.

Ref. : Principal Bench Letter No. 23038/(J)
dated 22.12.09.



Jones Ingti Kather

Vs.

U O I & Ors. (Home Affairs)

Sir,

With reference to Principal Bench Letter No. 23038/(J), dated 22.12.09, I am directed to send herewith the complete records of O.A. 812 of 2002 (containing Original Application, Replies, Written arguments, Rejoinder submitted by the Applicant and the Respondents as well and one above cited M.A. along with connected order /records of all the matters for further necessary action at your end.

Kindly acknowledge receipt.

Yours faithfully,

Deputy Registrar (J.)

Encl. : As above.

Copy to :

1. Principal Registrar, CAT, : With reference to your letter
Principal Bench, dt. 22.12.09 for kind information.
61/35, Copernicus Marg,
New Delhi - 110 001.

2. Mr. S K Dutta, CAT, CAL, Bar Assn., Nizam Palace.
3. Ms. M Bhattacharjee, CAT, CAL, Bar Assn., Nizam Palace.

Judl

2303915

3

CENTER ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

61/35, Copernicus Marg,
New Delhi.
Dated 22/12/2009

F. No. PT -257/09 in OA No.812/Kolkatta/2002

To

✓ The Registrar/Deputy Registrar (Judl),
Central Administrative Tribunal,
Calcutta Bench

Sub: Forwarding of Records in PT -257/09 in OA No.812/2002 of Calcutta Bench of
CAT, (Jones Ingti Kathar Vs UOI)

Sir,

I am directed to say that PT -257/09 in OA No.812/ Calcutta /2002 has been filed and the Hon'ble Chairman allowed the PT -257/09 vide order dated 18/12/2009. You are therefore requested to forward the complete records of the OA No.812/2002 of Calcutta Bench (Jones Ingti Kathar Vs UOI) to the Guwahati Bench. A certified copy of order dated 18/12/2009 is enclosed herewith.

Yours faithfully,

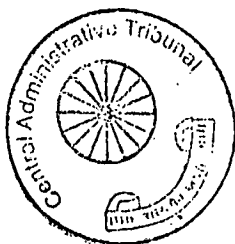
[Signature]

Encl: Copy of order dated 18/12/2009

(Section Officer J-I)
For Principal Registrar

Copy to:

1. Ms. Manjula Das, Counsel for applicant in PT -257/09 in OA No.812/ Calcutta /2002 (Jones Ingti Kathar Vs UOI), State of Assam. CAT, Guwahati Bench. Guwahati.



ARCTJ / 1985
[Signature]

31/12
Mibae

Item-3

18.12.2009

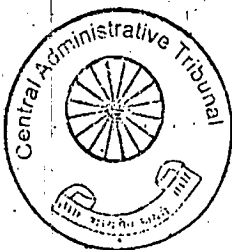
PT 257/2009

OA 812/Kolkatta/2002

Present: Ms. Manjula Das, counsel for applicant.

Despite notice, nobody has chosen to appear to oppose the prayer made in the application-for transfer. For the reasons mentioned in the application, the same is allowed.

(V.K. Bali)
Chairman



Free Copy U/R 22 of CAT
(Procedure Rules)
प्रमाणित प्रतिलिपि
CENTRAL ADMINISTRATIVE TRIBUNAL
विधि न्याय

29-12-09
Secretary, CAT
केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
प्रधान न्यायालय, नई दिल्ली
Principal Bench, New Delhi

OA 812/02

फॉर्म संख्या-४
Form No.-4

केन्द्रीय प्रशासनिक अधिकरण
(CENTRAL ADMINISTRATIVE TRIBUNAL)

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s) Jones Ingti Kather

आवेदक का बोकिल
Advocate for the Applicant(s) Mr. S. K. Dutta

प्रत्यर्थी
Respondents M. H. A.

प्रत्यर्थी का अधिवक्ता
Advocate for the Applicant(s) Resp. Mr. B. K. Das
Ms. M Bhattacharjee

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

Hon'ble Chairman has been
pleased to forward the Records
of OA No. 812/02 vide ~~the~~
Lordship's order dt. 18/12/09
in PT No. 257/09 under section
25 of A.T. Act. 1985.

Submitted Pl.

S.O. (J.)

DR (J)

Before sending the
file to CAT/Cumwale
Bench, it may be
placed before HVC for
order.

PPS to HVC

O.A. 812 of 2002

Draft order is put up for perusal and concurrence
of Hon'ble Vice-Chairman.


(C. Chatterji)
MEMBER(A)

Hon'ble Vice-Chairman pl.



C.A.V

27.07.2009
Dated..... Court No.I/D.B.

Application No. 812 7 2002

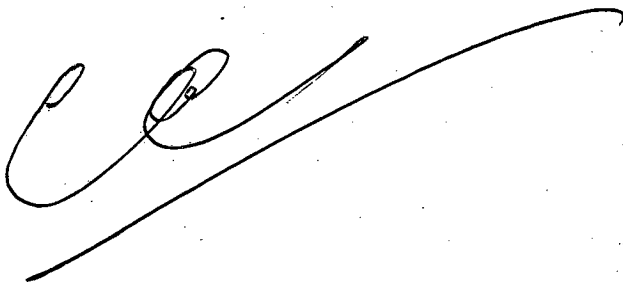
Jones Ingt Kathar — Mr S.K. Datta
Vs

In O.D.A.s — Mrs M. Bhattacharjee

- 812/2002
1. Reply to O.A. No. filed on 17.05.04
 2. Rejoinder, if any, filed on 28.11.2005
 3. Written argument filed on
 4. Direction for filing written argument Yes No.

8. Written Statement submitted by Respondent No. 8 (Mrs. Santanu Bhattacharjee) on 20.02.2004 kept in file.

✓



फार्म सख्या-४
Form No.-4
केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

O.A. NO. 812/2002

आवेदन सख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

आवेदक का बोकिल

Advocate for the Applicant(s)

प्रत्यर्थी

Respondents

प्रत्यर्थी का अधिवक्ता

Advocate for the Applicant(s)

रजिस्ट्री को टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

27.07.09 (C-2) BTB

Heard both sides. The matter
is reserved for order.

HCC(AM)

HKV8(PC)

आदेश पत्र (जारी.....)
ORDER SHEET (Contd.....)

रजिस्ट्रे को टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

0A812/02

ORDER SHEET

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

20/7/2009 (C-I) D.B.

Ld. Counsel for Appl. is Present/Absent

Ld. Counsel for Resp. is Present/Absent

On prayer made by the Ld. Counsel for the
applicant/respondents matter is adjourned
to 20/7/09 for Admission/Order/
Hearing

(C. Chatterji)
Member(A)

(K.V. Sachidanandan)
V.C.

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

OA 8/2/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

6/14/2009: DD

Since Court No. I / II is not sitting today,

matter is adjourned to

4/5/09

for Admn. Hg./Orders/Hearing.

By order

6/10

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

ORDER SHEET

Application No.

of 200_

OA 812/02

Applicant(s)

Respondent(s)

Advocate for the Applicants(s)

Advocate for the Respondent(s)

Notes of the Registry

Orders of the Tribunal

27 / 2 / 2009, (C - I / II), S.B. / D.B.

Since DB is not sitting today,matter is adjourned to 6/4/09

for Admn. Hg. / for Orders/ Hearing.

BY ORDER

22

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

ORDER SHEET

OA 812/02

Application No.

of 2000

Applicant(s)

Respondent(s)

Advocate for the Applicants(s)

Advocate for the Respondent(s)

Notes of the Registry	Orders of the Tribunal
	21.17 / 2009, (C-1/H), S.B. /D.B. ✓ Since <u>D/B</u> is not sitting today. matter is adjourned to <u>27/2/09</u> for Admn. Hg. / for Orders/ Hearing.
	BY ORDER <u>C</u>

FORM NO. 4

23

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

DA 8/2/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry	Order of the Tribunal
	<p>11 / 2008, (C-1/41), S.B. / D.B.</p> <p>Since, <u>D/V</u> is not available today, matter is adjourned to <u>21.1.09</u> for Admn. Hg. / orders / Hearing.</p> <p>BY ORDER <u> </u></p>

21

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

OA 812/02

APPLICATION NO.

OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

27/11/2008, (C-11/11), S.B. / D.B.

Since, 11/11 is not available today,

matter is adjourned to 11/11/09

For Admn. Hg. / orders / Hearing.

BY ORDER

27/11/08

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)


NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

6-11-2008 :

Since Court No. 11 is not sitting today,
matter is adjourned to 27-11-08
for Admn. Hg./Orders/Hearing.

By order


6/11/08

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

20
OA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

19/8/2008, (C-1/11), S.B. / D.B.

Since, no ^{D/B}~~S/B~~ is not sitting today,

matter is adjourned to 6/11/08

for Admn. Hg. / Orders / Hearing.

P. K. Das

BY ORDER

19/8/08

फार्म संख्या-४
FORM NO.-4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

0A812/02

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)
आवेदक का बोकिल
Advocate for the Applicant(s)

प्रत्यर्थी
Respondents
प्रत्यर्थी का अधिवक्ता
Advocate for the Applicant(s)

रजिस्ट्री के टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

Memo filed
on 13.6.08

3-06-08(C-11)/DIB

the Both sides Amr. on Mr.
the matter is 3.6.19/8/08 for
ns.

Dr. DUS
(C-11)

Mr. PKE
(Am)

आदेश पत्र (जारी.....)
ORDER SHEET. (Contd.....)

रजिस्ट्री की टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

By Hand

Central Administration Tribunal
Calcutta Bench, Calcutta

2nd M.S.O. Building, Nizam Palace,
11th & 12th Floors, Kolkata- 700 020.

No. CAT/CAL/OA812/02/393

Date: 25.03.2008.

To
Shri S. K. Dutta,
Advocate,
CAT/CAL/Bar Association,
Nizam Palace, 12th floor,
Kolkata - 700 020.

In ref : OA No. 812 of 2002

J P Kathar
VS
UOI & Ors.

Sir,

This refers to the Order of the Hon'ble Tribunal dated 11.03.2004 (copy enclosed) in the above matter.

Please send immediately 12 (twelve) copies of the Original Application for service upon the Respondents including Private Respondents.

Encl: as above.

Yours faithfully,

Mis
Court Officer. 2573118

96

AK
25/3
PKM

ISSUED
Date 25/3/08
Signature: *AK*

फार्म संख्या-४
FORM NO.-4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

00812/2002

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

आवेदक का बोकिल
Advocate for the Applicant(s)

प्रत्यर्थी
Respondents

प्रत्यर्थी का अधिवक्ता
Advocate for the Applicant(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

10.3.08 (C-11) (D/B):

None for the applicant.
Mr. B.K. Das, Lt. Counsel for
the respondent (UPSE) is
present. On request, adj.
to-morrow i.e. on 11.3.08
for hearing.

Drh

(D.K.S.)
M(J)

(P.K.C.)
M(A)

As per order of the Tribunal dt.
11.3.04, a letter sent to Mr. S.K. Dutta,
Adv. for S.P.

10/3/08

NR/20/108
Sofco

आदेश पत्र (जारी.....)
ORDER SHEET (Contd.....)

रजिस्ट्रार की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

फार्म संख्या-४
FORM NO. 4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

आवेदक का बोकिल
Advocate for the Applicant(s)

प्रत्यर्थी
Respondents

प्रत्यर्थी का अधिवक्ता
Advocate for the Applicant(s)

रजिस्ट्री के टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

रजिस्ट्री की टिप्पणियाँ
Notes of the Registryन्यायपीठ का आदेश
Orders of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No.O.A.812 of 2002

Date of order : 11.03.2004

Present : Hon'ble Mr. P.K. Chatterji, Administrative Member
Hon'ble Dr. D.K. Sahu, Judicial Member

JONES INGTI KATHAR
VS.
UNION OF INDIA & ORS.

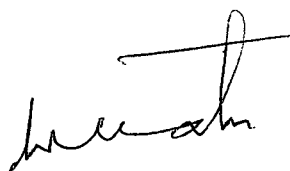
For the applicant : Mr. S.K. Dutta, counsel
For the respondents : Mr. B.K. Das, counsel(No.5,UPSC)

ORDER

When the matter was taken up for hearing, we observed that amongst the six official respondents only respondent NO.5 i.e. the UPSC is represented by Mr. B.K. Das. Mr. S.K. Dutta, ld. counsel for the applicant says that he has served copies of the O.A. to the other respondents also including the private respondents.

2. This O.A. was earlier filed before the Guwahati Bench of the Tribunal but later it was transferred to this bench. When the case was filed before Guwahati Bench, all the respondents were served copies of the O.A. However, no reply has been filed by the other respondents i.e. Government of Assam, D.O.P.T. etc. Only the respondent No.5, UPSC has filed reply.

3. As the replies from other respondents are necessary for proper adjudication of the matter, we direct the Registry to obtain copy of the O.A. from the counsel for the applicant and send the same to the other respondents including the private respondents by registered post. The respondents shall file replies within 2 months from receipt of the

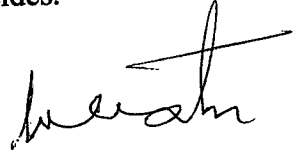


copy of the O.A. If no reply is received within 2 months, it would be construed that they have nothing to say in the matter and the case would be disposed of accordingly. Let the matter be listed on 12.06.2008 for hearing.

3. Plain copy of this order be handed over to the ld. counsel for both sides.



MEMBER(J)



MEMBER(A)

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

00 812/2002

APPLICATION NO.

OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

2212/2008, C-II, D/B

Ld. Advocate for the Appl. is present / ~~absent~~ ✓

Ld. Advocate for the Resp. is present / ~~absent~~ ✓

On prayer made on behalf of Ld. Counsel
for applicant/respondents, matter is adjourned
to 19/3/08 for Admn. Hg/Hearing/Orders. ✓

MR. C CHATTERJI
MEMBER(A)

DR. D K SAHU
MEMBER(J)

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

28 / 07 / 2008, C-II, D/3

Ld. Advocate for the Appln. is present/absent.

Ld. Advocate for the Resp. is present/absent.

On prayer made on behalf of Ld. Counsel
for applicant/respondents, matter is adjourned to

22/2/08 for Admn. Hg/Hearing/ Orders.

MR. J P SHUKLA
MEMBER (A)

MR. K B S RAJAN
MEMBER (J)

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

OA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

4 1/2/2007, C-1, D/B

Ld. Advocate for the Appl. is present/absent ✓

Ld. Advocate for the Resp. is present/absent ✓

by Mr SK Dutta

On prayer, matter is adjourned to

29/11/08

for Admn. Hg./Hearing/Orders.

(C CHATTERJI)
MEMBER(A)

(K V SACHIDANANDAN)
VICE-CHAIRMAN

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

OA 8/2/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

16/10/2007 (C-I) D/B :

Ld. Counsel for Appl. is Present/Absent ✓

Ld. Counsel for Resp. is Present/Absent ✓

On prayer matter is adj. to4/12/07

for A hg/order/hearing. ✓

(Dr. A.P. Dasu)
Member (A)

(Mr. K.V. Sachidanandan)
V.C

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

17/8/2007, C-I, D/B

Ld. Advocate for the Appl. is present/absent.

Ld. Advocate for the Resp. is present/absent.

On prayer, matter is adjn. to

16/10/07

for Admn. Hg./Hearing/Orders.

DR. A. R. BASU
MEMBER (A)

MR. B. V. RAO
MEMBER (J)

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

41
OA-812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY	ORDER OF THE TRIBUNAL
	16/8/2007 (C-I) D/B: Ld. Counsel for Appl. is Present/Absent Ld. Counsel for Resp. is Present/Absent On prayer, matter is adj. to 17/8/07 for Admn. Hg./Hearing/Orders as Po matter
	(Dr. A.R. Basu) Member(A)
	(B.V. Rao) Member(J)

फॉर्म संख्या-४
FORM NO.-4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

प्रत्यर्थी
Respondents

आवेदक का बोकिल
Advocate for the Applicant(s)

प्रत्यर्थी का अधिवक्ता
Advocate for the Respondent(s)

रजिस्ट्री को टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

07-08-07 (D/B) (C-11)

None for respondents. D/B
for the applicant is present.
Let matter be listed for
hg. on 10-08-07.

Dr
DM
(D/KS)

Dr
DM
(D/B)

10.8.07: (C-11) (D/B):

None for the respondents.
He for the applicant is present.
Let the matter be listed
for hg. on 10.8.07 before
any available D/B.

Dr
(Dr. D.K. S.)
M(J)

Dr
(Dr. A.B.B.)
M(A)

43

आदेश पत्र (जारी.....)
ORDER SHEET (contd.....)

रजिस्ट्री को टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

20.06.02

आदेश पत्र
ORDER SHEET

आवेदक संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

प्रत्यर्थी
Respondents

आवेदक का वकील
Advocate for the Applicant(s)

प्रत्यर्थी का अधिवक्ता
Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal
	<p>20-06-02 (DRB/CRB)</p> <p>Mr S. N. Dutta, LK for the Applicant is present on the last date of hearing i.e. on 11-06-02 for both sides were present and a prayer being made the case was adj. to 20-06-02 i.e. today. Despite that none is present on behalf of the respondents. Mr Dutta LK for the Applicant is present. But today he is not present. Since the matter pertains to promotion to IAS rank, Union of India is to be heard. Registry to issue notice to the respondents mentioning the date of hearing, and directing them to deposit their Counsel to be present on the next date of hearing which is fixed on 7-08-02. It is made clear that if none is present on the next date of hearing, the Tribunal will decide the matter ex parte.</p> <p>DRB (DRB)</p>

45

आदेश पत्र (जारी.....)
ORDER SHEET (contd.....)

रजिस्ट्री की टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

CA 812/02

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

प्रत्यर्थी
Respondents

आवेदक का वकील
Advocate for the Applicant(s)

प्रत्यर्थी का अधिवक्ता
Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

11/6/07, CII, SB

Both sides are present.
on prayer the matter
is adj. to 20/6/07 for
hg. D/B not available.

Dr. AM
AM

रजिस्ट्री को टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal
<p>1. The first part of the order is in Hindi and the second part is in English.</p> <p>2. The order is dated 10/11/2011.</p> <p>3. The order is signed by the Registrar.</p> <p>4. The order is signed by the Registrar.</p> <p>5. The order is signed by the Registrar.</p> <p>6. The order is signed by the Registrar.</p> <p>7. The order is signed by the Registrar.</p> <p>8. The order is signed by the Registrar.</p> <p>9. The order is signed by the Registrar.</p> <p>10. The order is signed by the Registrar.</p>	

FORM NO. 4

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA**

ORDER SHEET

8/8 8/12/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the respondent(s)

Notes of the Registry	Order of the Tribunal
	13/4/2007, C-I O/B
	Ld. Advocate for the appn. is present/absent. ✓
	Ld. Advocate for the resp. is present/absent. ✓
	Court II is not sitting today.
	On prayer, matter is adjourned to 11/6/07
	for Admn. Hg./Hearing/Orders. ✓
	J M (BVR)

FORM NO. 4

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA**

00 8/2/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry	Order of the Tribunal
	<p>3013 /2007, C-II, S/B</p> <p>Ld. Advocate for the Appl. is present/absent- ✓</p> <p>Ld. Advocate for the Resp. is present/absent. ✓</p> <p>Since, Division Bench is not available On prayer of Ld. Applicant, in court no II, matter is adjn. to <u>13/4/02</u> for Admn. Hg./Hearing/Orders- ✓</p> <p>DR. D K SAHU MEMBER (J)</p>

फॉर्म संख्या-4
FORM NO.-4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL
कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

आवेदन संख्या

Application No.

812/02

का २००
of 200

आवेदक

Applicant(s)

आवेदक का वकील

Advocate for the Applicant(s)

प्रत्यर्थी

Respondents

प्रत्यर्थी का अधिवक्ता

Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

20.03.07 (C-II/D.B.)

Heard ld. counsel
for the applicant. None
appears for the respondents.
Mr. S.K. Dutta, ld. counsel
for the applicant submits
that with consent of Mr.
B.K. Das, ld. counsel for
the respondents the matter
may be fixed in the
last week of March, 07.
Let the matter be listed
on 30.3.07 for hearing.

J.M.
(DKS)

7
A.M
(MDD)

आदेश पत्र (जारी.....)
ORDER SHEET (contd.....)

रजिस्ट्री की टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

6/12/2007, C-I, D/B

Ld. Advocate for the Appl. is present/absent:

Ld. Advocate for the Resp. is present/absent.

Since no Division Bench is available in Court II

today, matter is adj. to 20.3.07

for Admn. Hg./Hearing/Orders.

DR. D K SAHU
MEMBER(J)

DR. AIR BASU
MEMBER(A)

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 212/02

ORDER SHEET

APPLICATION NO. OF

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

14.11.06 2006 (C-II) D/B :

Ld. Counsel for Appl. is Present/Absent ✓

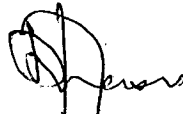
Ld. Counsel for Resp. is Present/Absent ✓

On prayer from/being prayed on behalf of

Ld. Counsel for applicant/respondents matter

is adjourned to 6.2.07 for

Order / Direction / For Orders / Hearing ✓



(Dr. A.R. Basu)
Member(A)



(Mr. G. Shantappa)
Member(J)

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

OA 812/02

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

28 / 8 / 2006, C-II, S/B

Ld. Advocate for the Appln. is present/absent.

Ld. Advocate for the Resp. is present/absent. ✓

Since Division Bench is not available

today, matter is adjourned to

14/11/06

for Admn. Hg/Hearing/ Orders.


MR. A R BASU
MEMBER (A)

OA 812/02

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

APPLICATION NO.

OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the Respondent(s)

Notes of the Registry

Order of the Tribunal

PUC is an application from Mr.
J. N. Kathar, applicant of the OA 812/02.
has prayed for early hearing of his pending
OA. The next date of the above OA is
28.8.06.

In view of the above, Court Officer
may draw the attention of the Hon'ble Bench
during hearing of the above case. It appears.

ER(P) As proposed S.O. 23/8
24/8

13.6.2006, C-II, D/B

Ld. Advocate for the Appln. is present/absent.

Ld. Advocate for the Resp. is present/absent.

On prayer, matter is adjourned to 28/8/06
for Admn. Hg/Hearing/ Orders.

weeks time to file reply and weeks.

time to file rejoinder, if any.

MR. A R BASU
MEMBER(A)

MS. S. DOGRA
MEMBER(J)

50
FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 8/2/02

ORDER SHEET

APPLICATION NO. OF

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the respondent(s)

Notes of the Registry

Order of the Tribunal

28.13/2006, C-I D.B

Ld. Advocate for the appl. is present/absent.

Ld. Advocate for the resp. is present/absent.

Since Court II is not available today,

matter is adjourned to 13/6

for Admn. Hg./Hearing/Orders.


J.M.
(BVR)


V.C.
(BNS)

फार्म संख्या-४
FORM NO.-4

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

CA 812/02

का २००
of 200

आवेदक

Applicant(s)

आवेदक का वकील

Advocate for the Applicant(s)

प्रत्यर्थी

Respondents

प्रत्यर्थी का अधिवक्ता

Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

21.2.06 (C-II) / DB

None for app. Request has been made on his behalf for an adjournment. Ye for resp. is pr. He submits that he has no brief today and prays for time. Matter is adjd. to 28.3.06 for lg.


(DB)


IM
(ASK)

आदेश पत्र (जारी.....)

ORDER SHEET (contd.....)

रजिस्ट्री को टिप्पणियाँ Notes of the Registry	न्यायपीठ का आदेश Orders of the Tribunal

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

CA 812/02

ORDER SHEET

APPLICATION NO. OF :

APPLICANT(S)

RESPONDENT(S)

Advocate for the Applicant(s)

Advocate for the respondent(s)

Notes of the Registry

Order of the Tribunal

5 / 12 / 2005, C-I D/B

Ld. Advocate for the appln. is present/absent. ✓

Ld. Advocate for the resp. is present/absent. ✓

Since Court-II is not sitting today,

matter is adjourned to 21/2/06

for Admn.-Hg./ Hearing /Orders. ✓

J.M.
(BVR)

(N.D.D.)
V.C. (I.A.M.)

FORM - 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

0A812/02

ORDER SHEET

APPLICATION NO. OF 200

APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE
APPLICANT(S)

ADVOCATE FOR THE
RESPONDENT(S)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

Rejoinder filed on
28-11-05.

N.S.

59 .2005 (C-I) D/B :

Ld. Counsel for Appl. is Present/Absent

Ld. Counsel for Resp. is Present/Absent

On being prayed by/on behalf of Ld. Adv. for
Appl/Respts, matter is adj. to 5/12/05 for
A/hearing/Hearing/Order. Rejoinder in the
meantime.

(A.K.Bhatt)
Member (A)

(Kuldip Singh)
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA
.....

ORDER SHEET
.....

APPLICATION NO.

OF 2004

0A 812/05

APPLICANT (s)

RESPONDENTS

Advocate for

Advocate for

Applicant (s)

Respondent (s)

Notes of the Registry

Order of Tribunal

27-7-2004 (C-I) (S/B)

Court No. II is not available today.

Matter is adjd. to 5.9.05 for hearing/

~~order~~

Ld. Counsel for Appl. is Present/~~Absent~~.

Ld. Counsel for Resp. is ~~Present~~/Absent.

B.

ve

केन्द्रीय प्रशासनिक अधिकरण
CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता
CALCUTTA BENCH, CALCUTTA

OA 812/02

आदेश पत्र
ORDER SHEET

आवेदन संख्या
Application No.

का २००
of 200

आवेदक
Applicant(s)

प्रत्यर्थी
Respondents

आवेदक का वकील

प्रत्यर्थी का अधिवक्ता

Advocate for the Applicant(s)

Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

3-5-05(C-I)/D/O

present: Mr. S.K. Das M.Chr. applr.
Mr. B.K. Das M.Chr. respdt.
on pgrs, the matter is adj.
to 9/6/05 for lg.

A.M.
(ANS)

J.M.
(JMK)

9-6-05(C-II)/D/O

Both sides present. on pgrs, the
matter is adj. to 27/7/05 for
lg.

J.M.
(Morse)

A.M.
(N.D.D.)

Vakalatnama filed
on 3/5.

MS

S.O.

63

आदेश पत्र (जारी.....)

ORDER SHEET (contd.....)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal



BY REGISTERED POST.

PHONE : OFF. :
RES. :

सं०/No. CAT/GHY/JUDL/63/12

केन्द्रीय प्रशासनिक अधिकरण.

गुवाहाटी न्यायपीठ, गुवाहाटी,

राजगढ़ रोड, गुवाहाटी-५

Central Administrative Tribunal

Guwahati Bench,

Rajgarh Road, Bhangagarh,

GUWAHATI-781005

दिनांक/Date 22.04.2002.

To

The Deputy Registrar,
Central Administrative Tribunal,
Kolkata Bench,
Kolkata.

Sub:- Case records in O.A. 100/98 with M.P. 266/2001,
O.A. 383/2000, O.A. 25/2000 with M.P. 196/2001 and
M.P. 53/98 (O.A. 63/94). OA 331/2000

Ref:- P.B. letter No. 13/1/95(JA) dated 5.9.2001.

Sir,

I am directed to send herewith the original case records of above mentioned O.A. and M.P. with ~~connected~~ connected letters in M.P. 266/2001(O.A. 100/98) relating to Gauhati Bench for placing it before the Hon'ble Administrative Tribunal, Calcutta Bench for further necessary orders.

Kindly acknowledged the receipt.

Yours faithfully,

I/C DEPUTY REGISTRAR.

Copy for information to:-

1. The Deputy Registrar, Principal Bench, New Delhi for information.
2. Office copy.

Enclo:

1. M.P. 266/2001 with O.A. 100/98 (A+C) = 3 Nos.
2. O.A. 383/2000 (A+C) = 2 nos.
3. O.A. 25/2000 (A+C) = 3 Nos.
4. M.P. 53/98 with O.A. 63/94 (A+C) = 4 Nos.

I/C DEPUTY REGISTRAR.

Total 12 Nos file.

7/5/2002
D R (J) and 7/5/2002

SD/MS
2/5/02

OA 331/2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

APPLICATION NO. OF 200

CA 812/02

Applicant(s)

Respondent(s)

Advocate for the
Applicant(s)

Advocate for the
Respondent(s)

Notes of the Registry

Orders of the Tribunal

19/11.2005 (C-I) D/B :

Ld. Counsel for Appl. is ~~Present~~/Absent

Ld. Counsel for Resp. is ~~Present~~/Absent

On prayer, matter is adjd. to
3.5.05...for A/hearing/hearing/order.

A.M.
(GRP)

V.C.
(Dev)

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

OA 812/02

APPLICATION NO.

OF 200

Applicant(s)

Respondents

Advocate for the
Applicant(s)

Advocate for the
Respondent(s)

Notes of the Registry

Orders of the Tribunal

S-10-on (e-11) / DIB

None for a ppe. A/c for
Vspat is prnt. Due to
lack of courts hie, the
matter is adj to 19-1-05
for hie.

J.M.
(Mull)

S. M.

A.M.
(S.J.)

Order sheet (contd)

Notes of the Registry

Notes of the Tribunal

O.A. 812 of 2002

फार्म संख्या-४
FORM NO.-4

b7

केन्द्रीय प्रशासनिक अधिकरण

CENTRAL ADMINISTRATIVE TRIBUNAL

कलकत्ता न्यायपीठ, कलकत्ता

CALCUTTA BENCH, CALCUTTA

आदेश पत्र

ORDER SHEET

आवेदन संख्या

Application No.

का २००

of 200

आवेदक

Applicant(s)

प्रत्यर्थी

Respondents

आवेदक का वकील

Advocate for the Applicant(s)

प्रत्यर्थी का अधिवक्ता

Advocate for the Respondent(s)

रजिस्ट्री की टिप्पणियाँ
Notes of the Registryन्यायपीठ का आदेश
Orders of the Tribunal

17-05-04 (D/B)/e-II

Nobody appears on behalf of the applicant. Mr B.K. Das, Ld. Sr Counsel leading Mr S. Chatterjee, LIC for the ~~applicant~~ respondents (UPSE) file reply in Court to-day. But copy of the same could not be served on the LIC for the applicant since he is not available today. In view of above, matter is adj. to 5.10.04 for arg.

AM
AM
(MBM)

JM
(NP)

69

पृष्ठ सं. ०-२

Page No.—2

आदेश पत्र (जारी.....)

ORDER SHEET (contd.....)

रजिस्ट्री को टिप्पणियाँ
Notes of the Registry

न्यायपीठ का आदेश
Orders of the Tribunal

20

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET
.....

OA 812/02

APPLICATION NO.

OF

APPLICANTS

RESPONDENTS

Advocate for

Advocate for

Applicant(S)

Respondent(S)

.....
NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL
.....

12-01-2004, (C-II)

C-II is not available today.

Matter is adj. to 17/5 for Hg.

Ld. Counsel for Appl. is Present/Absent. ✓

Ld. Counsel for Resp. is Present/Absent. ✓

A. M.

V.C.

~~(S.B.)~~
(S.B.)

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

OA 812/02

ORIGINAL APPLICATION NO. OF

APPLICANT (S)

RESPONDENTS

Advocate for

Advocate for

Applicant (s)

Respondent (s)

Notes of the Registry

Order of Tribunal

19.8.03 (C-II) S/B

Ld. Adv. for Applicant: ~~Present~~/Absent

Ld. Adv. for Respondent: Present/~~Absent~~

No D/B is A available today. Matter
is adjourned to 9.1.04 for Hearing.

7
MEMBER(A)
(N.D. D.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

ORDER SHEET

OA. APPLICATION NO. 8/2 OF 2002

APPLICANT (S)

Jones Engli Kathar

RESPONDENTS

V. O. S.

Advocate for

Advocate for

Applicant (s)

Respondent (s)

Notes of the Registry :

Order of Tribunal

Hon'ble Mr. B.P. Singh, H(A):
has directed to list the
case in C.No. II for hearing.

Fair Notice to concerned
parties is put up for
signature please.

11.7.03 (C-II/S.B.)

D.B. is not available
None appears for the
applicant or the respondent.
Let the matter be list
on 18.8.03 for hearing.

trans
26/6/03

26/6/03
C.O.

14/7

B
V.C.

Order sheet (contd....)

Notes of the Registry

Order of Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

REGISTERED A/D

234/4, A.J.C. BOSE ROAD,
2ND M.S.O. BUILDING,
C.G.O. COMPLEX,
11TH & 12TH FLOORS,
NIZAM PALACE,
KOLKATA 700 020.

No. CAT/CAL/JUDL./O.A. NO. 812/2002/1170-72 Dated : 26.06.2003.

N O T I C E

Please take notice that the following case will be listed for
Admission Hearing/Preliminary Hearing/Hearing/Orders on 11.07.2003.
before the Hon'ble Court No. 11 of this Tribunal.

Ref : O.A./T.A./R.A. No. 812/2002(OA.331 of
Guwahati Bench)
Jones Ingti Kathar

Versus

U.O.I. & cro.



By Order

COURT OFFICER

Distribution :

1. Ld. Counsel(s) for the Applicant :

1. Mr. Jones Ingti Kathar,
IAS, Deputy Commissioner,
Kokrajhar.

2. Ld. Counsel(s) for the Respondents :

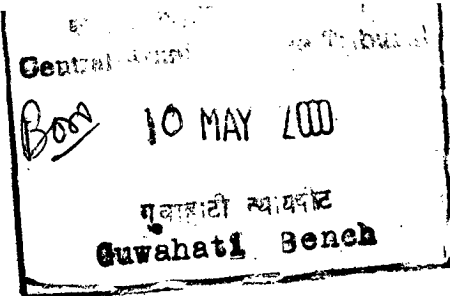
2. The Chief Secretary to the
Govt. of Assam,
Dispur, Guwahati - 6.

3.

3. The Union Public Service
Commission, represented by
the Secretary, U.P.S.C.,
Dholpur House, Shahjahan Rd.
New Delhi

bcs/NOT3

26/6/03



80

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

O.A. No. 331 of 1999

Shri Jones Ingti Kathar ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

I N D E X

Sl. No. =====	Particulars of the documents =====	Page No. =====
1.	Application ...	1 to 12
2.	Verification ...	12
3.	Annexure-A ...	13
4.	Annexure-B ...	14, 15
5.	Annexure-C ...	16
6.	Annexure-D ...	17 to 20
7.	Annexure-E ...	21 to 26
8.	Annexure-E1 ...	27
10.	Annexure-F1 ...	

Filed by

: Uk Goswami
Advocate

Date of filing :

Registration No. :

DATE OF FILING

OR

DATE OF RECEIPT

BY

REGISTRATION NO.

Registrar

(GATY Ben no. 331/2000)

RECEIVED

Filed by
the Applicant
through
9/
Ujjal Kr. Gowan
Associate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 331 of 1999

BETWEEN

Mr. Jones Ingti Kathar, IAS, Deputy
Commissioner, Kokrajhar.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievance and Pension, New Delhi. ✓
2. The State of Assam, represented by the Chief Secretary to the Government of Assam, Dispur, Guwahati-6.
3. The Commission & Secretary to the Government of Assam, Personnel (A) Department, Dispur, Guwahati-6.
4. The State of Meghalaya, represented by the Chief Secretary to the Government of Meghalaya, Shillong.
5. The Union Public Service Commission, represented by the Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi. ✓
- 5A. The Selection Committee, constituted under Regulation 3 of the IAS (Appointment by Promotion) Regulation, 1955 for preparing the list of members State Civil Service for nomination to IAS for the year 1994-95, represented by its Chairman, C/O Chief Secretary to the Government of Assam, Dispur, Guwahati-6. ✓
6. Mr. Debabrata Chakraborty,
7. Ms. Gayatri Baruah,
8. Mr. Santanu Bhattacharjee, ✓
9. Ms. Sunanda Sengupta,
10. Mr. Bhudev Basumatary,
11. Mr. Anup Daolagopu and
12. Mr. Dibakar Saikia

All ACS officers, C/O Chief
Secretary, Government of Assam,
Dispur, Guwahati-6.

.... Respondents

he

- # -

DETAILS OF APPLICATION

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

The present application is directed against an order dated 11.8.98 passed by the Government of India Ministry of Personnel, Public Grievance and Pension and as communicated by the Government of Assam, Department of Personnel by letter dated 20.10.98. The application is directed against improper consideration of the case of the Applicant for inclusion of his name in the selection list of 1994 and his supersession in the such promotion.

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 could not filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985 and as such an application praying for condonation of delay is being filed alongwith this original application.

4. FACTS OF THE CASE :


4.1 That the Applicant was an Assam Civil Service, Class-I officer belonging to 1975 batch. He has been promoted to IAS pursuant to his selection in 1996 for promotion to IAS. Presently he is holding the post of Deputy Commissioner, Kokrajhar.

4.2 That in view of his distinguished and unblemished service career and in terms of his

RC

seniority, the Applicant was within the zone of consideration for promotion to IAS in 1993. The Selection Committee in its meeting held in 1993 drew up a select list consisting of 10 ACS officers for promotion to IAS for the year 1993. In the said select list, the Applicant's name appeared at Sl. No. 9. However, inspite of existing vacancies, the Applicant was not appointed to service.

4.3 That it was the reasonable expectation of the Applicant that in the select list of 1994, his position improved. However, belying such an expectation, his name was not included in the 1994 select list. Nothing adverse had happened to the service career of the Applicant within one year warrant and assumption that there was a perceptible fall in the efficiency and competence of the Applicant. The Selection Committee meeting on 29-3-94 drew a selection list of officers from nomination to IAS for the year 1994. The Applicant through local news daily "The Sentinel" came to know about the selection of ACS officers for nomination to IAS. In the issue of the Sentinel dated 15.5.94, a news item was published under the caption "Resentment grips ACS". In the news item, it was stated that the State Government had short-listed 21 officers for nomination to the IAS for the year 1994-95. It was also stated that to fill up five vacancies, the Government had finally prepared a list of seven ACS officers for referring it to the UPSC Selection Committee. As per the news item, those 7 ACR officers were (1) Mr. Debabrata Chakraborty, (2) Ms. Gayatri Baruah, (3) Mr. Santanu Bhattacharjee, (4) Ms. Sunanda Sengupta, (5)



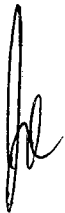
Mr. Bhudev Basumatary, (6) Mr. Anup Daolagopu and (7) Mr. Dibakar Saikia (Respondents No. 6 to 12 in this application).

A copy of the news item is annexed herewith and marked ANNEXURE-A.

4.4 That the short-listing of 21 officers which was finally reduced to select list of 7 ACS officers dismayed the Applicant inasmuch as not only four of these 7 ACS officers viz. A.K. Daolagopu, D. Saikia, D. Chakraborty and Ms. Gayatri Baruah (Respondents No. 11, 12, 6 and 7 respectively) whose names appeared in the select list were juniors to the Applicant, but also against the Respondents No. 6 to 10 corruption cases and departmental enquiries were pending. It is stated that in the gradation list of ACS officers, as on 1.1.94, the Applicant was placed at Sl. No. 18 while the aforesaid four ACS officers were placed at Sl. Nos. 19, 20, 39 and 42 respectively.

Copy of the relevant portion of the gradation list of ACS officers as on 1.1.94 is annexed herewith and marked as ANNEXURE-B.

4.5 That it is stated that the Selection Committee failed to act in conformity with the relevant rules and regulations. The Selection Committee while finalising the select list failed to take into account the relevant consideration and acted upon irrelevant consideration. For example, the Selection Committee overlooked/ignored the relevant fact that the Respondents No. 6 to 10 were facing serious cases of



corruption and malpractices and some of them have disciplinary proceeding pending against them. The Selection Committee did not even consider the overall service records of the incumbents including those of the Respondents No. 6 to 10 and that of the Applicant, but for which the name of the Applicant would have been included in the select list.

4.6 That the Applicant's name appeared at Sl. No. 9 of the 1992 select list and thus it was the legitimate expectation that his name would be included in the select list of 1994, more particularly, when nothing adverse had happened to the service career of the Applicant warranting down-gradation of grading by the Selection Committee than that of 1993.

4.7 That the Government of Assam by its notification dated 27.3.95 republished the Government of India's notification dated 24.3.95 appointing the private Respondents No. 7, 8, 9 and 11 to the IAS pursuant to the aforesaid impugned selection.

A copy of the notification dated 27.3.95 is annexed as ANNEXURE-C

4.8 That being aggrieved by illegal supersession of the Applicant, he filed O.A. No. 181/94 before the Hon'ble Tribunal. The official Respondents produced the relevant records on perusal of which it was revealed that there was improper consideration of the case of the Applicant, but for which his name would have been included in the select list of 1994. It was revealed before the Hon'ble Tribunal that as against the grading

46

earned by the Respondents No. 8 and 9 during 1993 selection as "unfit" and "good", the Applicant was graded as "very good". However, for the year 1994 i.e. within a span of one year, as against the grading given to those Respondents as "very good", the Applicant was assigned the grading as "good". Such a position is not at all conceivable.

4.9 That the Hon'ble Tribunal upon hearing the parties and on perusal of the records was pleased to dispose of the said O.A. by its order dated 17.3.98 with the direction to the Applicant to file a representation and the Respondents were directed to consider the grievance of the Applicant and to pass a speaking order. Naturally same was to be done in the light of the findings recorded by the Hon'ble Tribunal. By the said order, liberty was also granted to the Applicant to approach the appropriate authority in case of any grievance pursuant to such consideration of his case as was directed by the Hon'ble Tribunal.

A copy of the order dated 17.3.98 is annexed as ANNEXURE-D

4.10 That the Applicant states that the Hon'ble Tribunal in para 5 of the order recorded its finding as follows :

"On hearing the learned counsel for the parties, we find that the Applicant who was graded "very good" was suddenly down-graded to "good" without assigning any reason. Similarly, Respondents No. 8 and 9 who were graded "unfit" and "good" had been graded as "very good" in the next year. We find it difficult to accept



the same. It requires proper scrutiny of the matter."

(emphasis added)

4.11 That pursuant to the aforesaid order of the Hon'ble Tribunal, the Applicant submitted a detailed representation, dated 30.3.98 which was duly forwarded by the Government of Assam by its letter No. AAP/198/94/Pt/70 dated 2.6.98. The Government of India by its order dated 11.8.98 as communicated to the Chief Secretary, Government of Assam and as communicated by the Government of Assam to the Applicant by its letter dated 20.10.98 have rejected the representation of the Applicant dated 30.3.98.

A copy of the order dated 11.8.98 alongwith the forwarding letter dated 20.10.98 is annexed as ANNEXURE-E and E1 respectively.

4.12 That the Applicant states that on a mere perusal of the order dated 11.8.98, it is revealed that there is total non-application of mind inasmuch as apart from emphasising the legal position in the matter of selection, nothing has been stated about the factual matrix of the case and also the findings recorded by this Hon'ble Tribunal which has been emphasised above, but for which results of the representation dated 30.8.98 would have been different. the Applicant's grievances are in two scores, viz. his non-promotion pursuant to 1993 selection and exclusion of his name from 1994 select list on extraneous consideration. It is the definite case of the Applicant that the ACRs of the different officers and other service records were not properly evaluated by the Selection Committee but

for which the Applicant's name would have been included in the 1994 select list and many of the Respondents could not have been included in the said select list. In view of the finding recorded by the Hon'ble Tribunal, it was only proper on the part of the Respondents either to ante-date the promotion of the Applicant to IAS and/or to order for a review Selection Committee as of 1994.

4.13 That being aggrieved by the aforesaid order, the Applicant has once again approached this Hon'ble Tribunal seeking redressal of his long standing grievance.


5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that after the clear cut findings recorded by the Hon'ble Tribunal which has been emphasised above, the impugned order could not have been passed which depicts total non-application of mind.

5.2. For that Selection Committee while preparing the select list of 1994 failed to take into account the relevant consideration and acted upon irrelevant considerations.

5.3 For that Articles 14 and 16 of the Constitution of India give rights to the Applicant to be treated fairly, reasonably and impartially in the matter relating to his service career. The Selection Committee while preparing the select list of 1994 violated the fundamental right of the Applicant under Article 14 and 16 of the Constitution of India.

5.4 For that the Selection Committee acted contrary to



principles of service jurisprudence and administrative fair play while preparing the select list of 1994.

5.5 For that there being categorical finding of this Hon'ble Tribunal that the down-gradation of the Applicant was improper and that the matter requires scrutiny, the Respondents could not have acted in a mechanical manner merely repeating the positions relating to promotions instead of complying with the directions of the Hon'ble Tribunal which was based on the records produced by the Respondents in the earlier O.A.

5.6 For that in the impugned order apart from reciting the rules and regulations and the decisions of the Apex Court, the Respondents have not done anything towards compliance of the order dated 17.3.98 passed in O.A. No. 181/94.

5.7 For that the Respondents who could be included in the select list of 1994 even after having earned their gradings just one before as "unfit" and "good" could not have been suddenly found to be graded as "very good" and as against that the Applicant could not have been graded as "good" contrary to his "very good" grading just one year before, more particularly, when there was nothing adverse in his ACR and other service records.

5.8 For that there being total non-application of mind and arbitrary exercise of power in passing the impugned order, same is not sustainable and liable to be set aside and quashed.

5.9 For that in any view of the matter, the impugned order is not sustainable and the Applicant's case is required to be considered afresh.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that he has got no other efficacious remedy than to approach this Hon'ble Tribunal.

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

The Applicant further declares that he has not filed any application, writ petition or suit in respect of the impugned order in the instant application before any other Court, authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them. However making a grievance against non-inclusion of his name in the 1994 select list and his non-promotion pursuant to 1993 select list, he had filed O.A. No. 181/94 which was disposed of by an order dated 17.3.98 with a direction to dispose of the representation of the Applicant to be preferred by him. The Hon'ble Tribunal had granted the liberty to the Applicant in the said order to approach this Hon'ble Tribunal in case of any further grievance. The representation submitted by the Applicant pursuant to the said order of the Hon'ble Tribunal has since been disposed of by the impugned order making grievance against which the instant O.A. has been filed.

al

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances of the case, 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 on perusal of the Records and after hearing the parties on the causes that may be shown, the following reliefs be granted :

- 8.1 To set aside and quash the impugned order dated 11.8.98 as communicated by letter dated 20.12.98 (Annexure-F and F1) respectively.
- 8.2 To direct the Respondents to promote the Applicant pursuant to his selection in 1993 to IAS.
- 8.3 To direct the Respondents to reconsider the case of the Applicant as of 1994 by constituting a review Selection Committee.
- 8.4. Cost of the application
- 8.5 Any other relief or reliefs to which the Applicant is entitled and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

The Applicant does not pray for an interim order at this stage.

10.

The Application is filed through Advocate



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

- (i) I.P.O. No. : 06 493836
(ii) Date : 8/3/2000
(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Shri Jones Ingti Kathar. aged about 48 years, son of Shri Basa Ingti Kathar, presently working as Deputy Commissioner, Karimganj, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.5, 4.6, 4.8, 4.10, 4.12, 4.13 are true to my knowledge and those made in paragraph 4.3, 4.4, 4.7, 4.9, 4.11 are true as per legal advice. I have not suppressed any material facts.

And I sign this verification on this the 8th day of ~~August~~ ^{May} 2000 at Guwahati.

Jones Ingti Kathar.

nel

THE SENTINEL,
SUNDAY,
MAY 15, 1994.



Late city edition

5 paise air surcharge

Rs 1.50

Govt list for nomination to the IAS Resentment grips ACS

By a Staff Reporter

GUWAHATI, May 14: The Sentinel had published a report under the caption "Resentment prevails in bureaucratic circles" on April 28 wherein the State Government's scheme of screening officers (who had put in 25 years of service or had attained 50 years of age and whose integrity was doubtful or had outlived their utility) for weeding them out of service was said to have been motivated by the refusal of many officers to follow the telephonic or verbal instructions of higher ups after what they had seen happening to treasury and veterinary officials.

The Government of Assam promptly issued a contradiction to the news item, which was published in the "Letters to the Editor" column on May 2. All the Government had said about the screening committees was that the Government had the "prerogative" in forming such committees, as if the report had ever questioned that prerogative.

However, the Government also said in the report an "attempt to bring about a rift between the Assamese and non-Assamese IAS officers which is very unfortunate." The report had only mentioned how several IAS officers, both Assamese and non-Assamese, had already left the State or were queuing up for postings outside. Far from making any attempt to drive a wedge between Assamese and non-Assamese IAS officers, the report had only highlighted the fact that the various acts of omission and commission of the Government in the matter of administration of the State had forced the IAS officers to seek postings outside.

However, it is the latest act of the Government in the matter of nomination of ACS officers to the IAS which has drawn the serious charge of driving a continual wedge into the State bureaucracy. Almost the entire ACS cadre officers are contemplating massive protest

against the way the seven officers were shortlisted, recently for nomination to the IAS under Regulation 5(3) of the Indian Administrative Services (Recruitment by Promotion) Rules, 1955 for the year 1994-95.

It may be mentioned here that the State Government shortlists a group of ACS officers for nomination to the IAS every time some vacancy arises. The shortlisting is done according to the formula — the number of vacancies plus two into three. Thus, if in a given year the vacancy is, say, two, then the Government will shortlist the names of 12 officers. Their ACRs (annual confidential reports) during the past five years alone would be the basis for nominations. Under the rules, the ACRs making only three grades for the officers, "outstanding," "very good" and "good" would be considered for the nomination.

This year, the Government had shortlisted 21 officers to fill up five vacancies and has readied a final list of seven officers for referring it to the UPSC selection committee. They are: (i) Mr Debabrata Chakravorty, (ii) Ms Gayatri Baruah, (iii) Mr Shantanu Bhattacharjee, (iv) Ms Sunanda Sengupta, (v) Mr Bhudev Basumatary, (vi) Mr Anup Daolagopu and (vii) Mr Dibakar Saikia.

Almost the entire ACS officers are sore at the way these officers were selected for nomination to the IAS. Their complaint is that considerations other than merit and efficiency had gone into their selection for nomination to the IAS.

In the first place, two cases, one in the Gauhati High Court and the other in the Central Administrative Tribunal are pending against Mr Chakravorty on the question of his seniority. Several of his batch-mates have moved the courts challenging the Government's decision to leave them out of the "zone of consideration" for nomination to the

IAS. Under the rules, no officer, who has attained the age of 54 on the first day of April in the year when the selection committee meets, would be selected for nomination.

In the case of Ms Gayatri Baruah, cases by the CBI and the Vigilance and Anti-corruption Branch are pending against her for her alleged involvement in the Janaki cloth scheme scandal vis-à-vis Mr Jagannath Sarma of the Brahmaputra Valley Weavers' Cooperative Society. However, the Government has also taken care to see that the cases against her are dropped, official sources said.

In the case of Ms Sunanda Sengupta also the ACS officers are sore because she had been once dismissed from service and later placed under suspension for a long time. Mr Shantanu Bhattacharjee was once charged by the Calcutta Police for indulging in espionage activities in collaboration with the CIA in Calcutta.

The selection of Mr Bhudev Basumatary, however, has literally raised a storm. He was recently indicted by the Chief Minister's Vigilance Cell for involvement in a scandal in the Tourism department.

Sources said, the selection of Mr Anup Daolagopu and Mr Dibakar Saikia was made as a cover to confuse the ACS officers that justice and fairplay had gone into making the list.

A close look into the list also reveals the Personnel department's bias towards a particular linguistic group, official sources said. This has added to the resentment among the ACS officers. But the most serious charge they have made relates to alleged manipulation of the ACRs in the case of these officers who would not have been otherwise brought into the purview of the "zone of consideration." Several officers today threatened to launch an agitation if the list was not corrected immediately.

20

-124-

ANNEXURE - B

94

GRADATION LIST OF A.C.S. OFFICERS
AS ON 1.1.1994

Sl. No.	Name in order of merit	Date of birth	Remarks
1	2	3	4
1.	Shri Umesh Chandra Datta	1.5.1937	
2.	Shri Entreswar Basumatary, 1.2.5 ✓	1.4.1941	Promoted to IAS w.e.f. 9.3.1994
3.	Shri Santanu Bhattacharjee	1.3.1946	-
4.	Shri Jiban Ch. Tegu, 1.2.5 ✓	1.2.1945	Promoted to IAS w.e.f. 9.3.1994
5.	Shri Padma Kanta Das	1.9.1937	-
6.	Shri Hassan Ali, 1.2.5 ✓	27.2.1945	Promoted to IAS w.e.f. 9.3.1994.
7.	Shri Gokul Ch. Sharma	1.3.1946	-
8.	Shri Monoranjan Das, 1.2.5 ✓	1.7.1946	Promoted to IAS w.e.f. 9.3.1994
9.	Shri Pranab Kumar Khound, 1.2.5 ✓	28.2.1947	Promoted to IAS w.e.f. 9.3.1994
✓ 10.	Sh. Fatahir Ali Borbhuyan	31.12.1940	-
✓ 11.	Shri. Ganapati Sen Gupta	11.12.1947	-
12.	Shri Aftabuddin Ahmed, 1.2.5 ✓	1.9.1945	1.4.5
✓ 13.	Shri Ananta Kumar Malakar	1.6.1947	-
✓ 14.	Shri Bhudev Basumatary	1.12.1950	-
15.	Shri Kamal Krishna Hazarika, 1.2.5 ✓	1.1.1948	-
16.	Shri Gura Prasad Chatterjee	1.3.1945	-
17.	Shri Bir Bhadra Hazjer, 1.2.5 ✓	18.2.1951	Promoted to IAS w.e.f. 9.3.1994
✓ 18.	Shri Jones Ingty Kathar	2.2.1951	-
19.	Shri Anup Kumar Dholagupta	31.1.1951	-
20.	Shri Dipakar Sankia	2.1.1945	-
21.	Shri Ibrahim Ali	1.1.1936	-
22.	Syed Md. Hameed Rahman	1.1.1946	-
23.	Shri Prafulla Ch. Borah	1.10.1936	Expired on 15.1.1994.

Contd.

1	2	3	4
---	---	---	---

24. Shri Jyotish Chandra Dutta 1.4.1937
25. Shri Kanak Chandra Sarma 1.2.1938
- ✓26. Shri Mahitosh Bhattacharjee 1.7.1939
27. Shri Ganapati Chakravorty 1.4.1938
28. Shri Prabhakar Bhuyan 1.1.1938
29. Shri Codeswar Chutia 1.4.1937
30. Shri Nawab Akramul Hussain 1.2.1938
- ✓31. Shri Jitendra Nath Goswami 1.1.1940
- ✓32. Shri Keshabananda Dihingia Deka 1.9.1939
- ✓33. Shri Kalini Charan Sarma 1.5.1940
34. Shri Maknan Lal Nath 15.3.1938
- ✓35. Shri Mriganka Mohan Das 1.1.1939
36. Shri Fatiul Hussain 1.4.1938
37. Shri Faranath Gogoi 1.7.1936
- ✓38. Shri Trailokya Nath Borkakati 1.8.1939
- ✓39. Shri Debabrata Chakravorty 1.6.1939
40. Shri Sushil Kr. Das 1.1.1937
- ✓41. Shri Dimbeswar Bora 1.10.1939
- ✓42. Smt. Gayatri Baruah 26.6.1952
- ✓43. Shri Ritendra Nath Sarma 17.1.1952
- ✓44. Shri Abhay Kumar Verma 27.7.1953
- 1994 → ✓45. Shri L. N. Tamuly 6.5.1950
46. Shri Lall Chand Singhi 20.12.1951
- 1993 → 47. Shri Bimalendu Bhattacharjee ✓ 1.8.1946
48. Shri Harindra Nath Bhuyan 25.2.1946
49. Shri Khagendra Nath Buragohain 6.4.1940
50. Shri Mandeswar Nath 1.5.1950

Contd.....

94

15-0
ANNEXURE-C

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : A)
ASSAM SECRETARIAT(CIVIL) DISPUR
GUWAHATI :: 781 006

GOVERNMENT
ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 27th March, 1995.

NO.AAI.42/93/309 : The following Notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi is republished for general information.

" Notification No.14015/12/94-AIS(I)
dated 24-3-1995.

In exercise of the powers conferred by Sub-rule(1) of Rule 8 of the Indian Administrative Service(Recruitment) Rules, 1954 read with sub-regulation(1) of Regulation 9 of the Indian Administrative Service(Appointment by Promotion) Regulations, 1955, the President is pleased to appoint(1) Smti. Gayatri Barua (2) Sh. Santanu Bhattacharjee, (3) Smt. Sunanda Sengupta and (4) Sh. A. Daolagupu, members of the State Civil Service of Assam to the Indian Administrative service on Probation with immediate effect and to allocate them to the Joint Cadre of Assam-Meghalaya under Sub-Rule(1) of Rule 5 of the Indian Administrative Service(Cadre) Rules, 1954.

Sd/- R. VAIDYANATHAN
DESK OFFICER "

Sd/- R.S. CHAKRABORTY
Deputy Secretary to the Govt. of Assam

MEMO NO.AAI.42/93/309-A ; Dated Dispur, the 27th March, 1995.
Copy to :-

1. The Accountant General(A & E)/(Audit), Meghalaya, Shillong.
2. The Accountant General(A & E), Assam, Bhangagarh, Guwahati-5.
3. The Chairman, Assam Administrative Tribunal, Guwahati.
4. The Chairman, Assam Board of Revenue, Guwahati.
5. The Chairman, Assam State Electricity Board, Guwahati.
6. All Spl. Commissioners & Spl. Secretaries/Commissioners & Secretaries to the Govt. of Assam.
7. The Chief Electoral Officer, Assam, Dispur.
8. The Resident Commissioner, Govt. of Assam, Assam House, Sardar Patel Marg, New Delhi.
9. The Agricultural Production Commissioner, Assam, Dispur.
10. The Commissioner & Secretary to the Governor of Assam, Dispur.
11. All Commissioners of Division, Assam.
12. The Chief Secretary to the Govt. of Meghalaya, Shillong.
13. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G & Pensions, Deptt. of Personnel & Training, New Delhi.

Contd.....2

ATTESTED
ADVOCATE

17 - Annexure - D 97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.181 of 1994

Date of decision: This the 17th day of March 1998

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Jones Ingti Kathar,
Managing Director,
Small Industries Development Corporation Ltd.,
Guwahati.Applicant

By Advocate Mr B.K. Sharma.

- versus -

1. The Union of India, represented by the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India, Department of Personnel & Training, Central Secretariat, New Delhi.
 2. The State of Assam, represented by the Chief Secretary, Government of Assam, Guwahati.
 3. The Commissioner & Secretary, Personnel (A) Department, Government of Assam, Guwahati.
 4. The State of Meghalaya, represented by the Chief Secretary, Government of Meghalaya, Shillong.
 5. The Union Public Service Commission, Represented by the Secretary, Union Public Service Commission, New Delhi.
 - 5 A. The Selection Committee, constituted under Regulation 3 of the IAS (Appointment by Promotion) Regulation, 1955 for preparing the list of members of State Civil Service for nomination to the IAS for the year 1994-95, represented by its Chairman, C/o Chief Secretary to the Government of Assam, Guwahati.
- And 7 others.Respondents
- By Advocates Mr A.K. Choudhury, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam,
and Mr P.K. Roy.

82

.....

-19-

O R D E R

BARUAH.J. (V.C.)

The applicant has filed this application challenging the Annexure D Notification dated 24.3.1995 by which his juniors had been promoted to the Indian Administrative Service (IAS for short) overlooking his case and also prays for direction to the respondents to promote him to the IAS Cadre as per 1993 Select List.

2. Facts for the purpose of disposal of this application are:

The applicant entered in the Assam Civil Service (ACS for short) Grade I in April 1976 and discharged his duties in the said service till 1991. On 31.3.1993 a Selection Committee Meeting was held for preparation of a Select List of ten officers for nomination to IAS for the year 1993 and the applicant's name appeared at serial No.9. In his application the applicant has stated that as there were only eight vacancies he could not be appointed. However, from the records the applicant has now come to know that there were ten vacancies and the applicant could have been appointed in one of the said vacancies in that year. However, he was not promoted to the IAS Cadre for 1993 on the basis of the selection held in 1993. For the next year the Selection Committee held its meeting on 29.3.1994, but the applicant's name did not find place in the Select List. Accordingly he was not promoted. However, ultimately, in the year 1997 the applicant was promoted to the IAS Cadre from 1996. The grievance of the applicant is that the Selection Committee made the selection most arbitrarily and.....

82

and thereby deprived the applicant of his legitimate due. Hence the present application.

3. Heard Mr B.K. Sharma, learned counsel for the applicant, Mr A.K. Choudhury, learned Addl. C.G.S.C., Dr Y.K. Phukan, learned Sr. Government Advocate, Assam and Mr P.K. Roy, learned counsel for respondent No.8. The main contention of Mr Sharma is that since there were ten vacancies, the applicant being placed at serial No.9, he could have been promoted. However, without assigning any reason this was not done for the year 1993. In 1994 the Selection Committee did not select the applicant, and therefore, his name was not in the 1994 Select List. Mr Sharma further submits that the records, which have been produced by the State of Assam, show that in the 1993 selection the overall grading given to the applicant was 'very good', whereas the gradings in respect of respondent Nos. 8 and 9 were 'unfit' and 'good' respectively. However, in 1994 Select List these two officers' gradings were given as 'very good' and the applicant's grading was shown as only 'good'. According to the learned counsel this down gradation was not possible within such a short period of one year. The down gradation of the applicant from 'very good' to 'good' and upgradation of respondent Nos.8 and 9 to 'very good', according to Mr Sharma, shows that the decision was taken by the Selection Committee in a most arbitrary manner, and therefore, the selection cannot sustain.

4. Mr A.K. Choudhury, Dr Y.K. Phukan and Mr P.K. Roy do not dispute the factual aspect so far the records are concerned. However, Mr P.K. Roy submits that it was the

Selection.....

82

: 3 :

Selection Committee which made the gradings as the Selection Committee only has the power to make the gradings. Mr Roy further submits that because of the fact that the applicant was downgraded and the respondent Nos.8 and 9 were upgraded, it cannot be said that the action was arbitrary.

5. On hearing the learned counsel for the parties we find that the applicant who was graded 'very good' was suddenly downgraded to 'good' without assigning any reason. Similarly, respondent Nos.8 and 9 who were graded 'unfit' and 'good' had been graded as 'very good' in the next year. We find it difficult to accept the same. It requires proper scrutiny of the matter. Therefore, we feel it expedient that the applicant may file a representation within fifteen days from today giving details of his case and if such representation is filed within the prescribed time, the respondent No.1 shall consider the grievances of the applicant and take a decision in this regard by passing a reasoned order. This must be done as early as possible, at any rate within a period of three months from the date of receipt of this order. If the applicant is still aggrieved he may approach the appropriate authority.

6. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.

Sd/VICECHAIRMAN

Sd/MEMBER (A)

MOST IMMEDIATE /BY SPEED POST

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training
North Block, New Delhi

F. 14015/20/98-AIS(I)

Dated the 11th August, 1998

The Chief Secretary
Government of Assam
Department of Personnel (Personnel A)
Assam Secretariat (Civil)
DISPUR GUWAHATI

(Kind Attn: Shri S.R. Islam, Deputy Secretary)

Subject:- IAS - Assam-Meghalaya Joint Cadre - Representation by
Shri J.I. Kathar, IAS, pursuant to the observation of
CAT, Guwahati Bench dated 17.3.1998 in OA No. 181/94 -
directions - regarding.

Sir,

I am directed to refer to Government of Assam Letter
No. AAP/198/94/Pt./70 dated the 2nd June, 1998, on the above
subject, forwarding representation dated 30.3.1998 submitted by
Shri J.I. Kathar, IAS and to say as follows.

2. The representation submitted by the officer has been
considered in the GOI in consultation with the Union Public
Service Commission and a detailed order has been passed rejecting
the contentions made in the representation. The GOI Order of even
number and date addressed to Shri J.I. Kathar, IAS, is enclosed
herewith alongwith a spare copy for the information and record of
the State Government.

3. It is requested that the order dated 11.8.1998 may
kindly be delivered on Shri J.I. Kathar, IAS, under
acknowledgement of service and the fact intimated to this
Department at an early date.

4. Receipt of this communication with enclosures may
kindly be acknowledged.

Yours faithfully,

R. Vaidyanathan
(R. VAIDYANATHAN)
Desk Officer

PMD
18/8/98

176
1528
6009
19/8/98

72
100

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training
North Block, New Delhi

No.F.14015/20/98-AIS (I)

Dated the 11 Aug., 1998

PREAMBLE

Shri J.I. Kathar, formerly a State Civil Service Officer of Assam, was initially considered by the 1992-93 Selection Committee which met on 31.3.1993 and was included at Sl.No. 9 of the list, on the basis of an overall relative assessment of the service records by the Selection Committee, in terms of Regulation 5(4) of (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as "Promotion Regulations"). The select list was approved by the Union Public Service Commission on 8.7.1993. This select list was operated by the State Government only upto Serial No. 7. Rest of the officers in the Select List including the petitioner at S.No.9, were not recommended for appointment to IAS from the 1992-93 select list by the Government of Assam. The applicant was again considered by the 1993-94 Selection Committee for Assam which met on 29.3.1994. In view of the relatively lower grading obtained by this officer and the statutory size of the select list in terms of Regulation 5 (1) of the Promotion Regulations, the Selection Committee did not recommend his inclusion in the 1993-94 select list. The subsequent Selection Committee for Assam met on 6.2.1996 to prepare the 1995-96 select list for promotion to Assam segment of the IAS Assam - Meghalaya Joint Cadre. The petitioner was included at Sl. No. 4 of the select list and was promoted to IAS by Notification dated 30.12.1996, on the recommendations of the State Government in terms of Regulation 9(1) of the Promotion Regulations.

92-93
93-94

2. Consequent to the revision of seniority of the Assam Civil Service officers pursuant to the judgement of the Hon'ble Guwahati High court in Civil Rule No. 1079/93, proposals were sent by the Govt. of Assam for review of the 1992-93 & 1993-94 select lists. A Review Selection Committee was convened by the Union Public Service Commission on 18.9.1997 to prepare the Review select lists for 1992-93 and 1993-94 in place of the original select lists. The review select lists prepared by the review committee for the two select-list years were approved by the Commission on 18.11.1997, in terms of Regulation 7(3) of the Promotion Regulations. In the 1992-93 review select list, the petitioner was included at serial No. 10. His name could not be included in the 1993-94 select list due to statutory size of the select list and the relatively lower grading accorded to him by the selection committee, on the basis of an overall relative assessment of the service records in terms of Regulation 5(4) of the Promotion Regulations. In terms of the law settled by the Supreme Court, the recommendations of the Selection Committee, once approved by the Union Public Service Commission, become final.

3. The officer has submitted a representation making the following submissions :-

(1) that the grading accorded to him by the Selection Committee with reference to his service records is not justified as seen with reference to the grading accorded by the Selection Committee to other State civil service officers considered for inclusion in the 1993-94 select list.

(2) that the grading given by the 1994 Selection committee is at variance with the grading given by the 1993 Select Committee, in respect of other officers as also the petitioner.

..3..

(3) that in view of (1) & (2) above, the Central Government may relax the relevant rules and regulations to order review of the select list by invoking the All India Services (Conditions of Service - Residuary Matters) Rules 1960.

(4) that his promotion to IAS may be dated back, from 1996 to 1993 and his year of allotment / seniority in IAS revised on that basis.

4. The submissions of the officer as above have been considered in terms of the statutory provisions and the law settled by the various Benches of the Central Administrative Tribunal and the Supreme Court in regard to the application of the provisions contained in the rules and regulations relating to recruitment to the IAS. The assessment and grading of the State Civil Service officers is done by the Selection Committee and the recommendations of the committee are finally approved by the UPSC. In regard to any issue raised in the matter of overall relative assessment of the candidates and the grading given to them by the Selection Committee, the Union Public Service Commission is entirely concerned.

5. As regards the relative grading given by the Selection Committee from year to year, the recommendations of the Selection Committee become final, once approval is given by the Commission thereto in terms of Regulation 7(3) of the Promotion Regulations. In a case, where the grading given by the selection committee differed with a grading given by the committee in the subsequent year, which was taken up before the Hon'ble CAT, Chandigarh Bench in OA No. 463/HP/97 (JR VERMA Vs. State of Himachal Pradesh and others), the Bench by order dated 17.2.1998 observed thus :-

" The law on the aspect of judicial review of the proceedings of the Selection Committees either through DPCs or the one which have been impugned by the applicant is quite well settled. It is not in dispute that the Selection committee for consideration of officers for promotion to IAS

is a high powered committee headed by a member of UPSC as its President and it included this time the Chief Secretary, the Financial commissioner-cum-Secretary Industries, Food and Supplies, Secretary Personnel, commissioner-cum-Secretary Home of the Govt. of H.P. and Joint Secretary and F.S. Home from Govt. of India. We are conscious of the judgments of the Hon'ble Supreme Court in the cases of Dalpat Abasaheb Solunke vs. Dr. B.S. Mahajan - AIR 1990 SC 434 and State of Madhya Pradesh vs. Srikant Chaphekar - 1993 SCC (L&S) 48, and a recent judgment in the case of Durga Devi and another vs. State of H.P. and another - 1997 SCC (L&S) 982, holding that it is not the function of the Tribunal to assess the service record of the employees, which is the job of the DPC/Selection committees. The Tribunal does not sit in position of an appellate court to hear appeals against orders/decisions of Selection committees to scrutinise relative merits. The Tribunal can only consider whether the Selection committee has followed the rules and the regulations while assessing the comparative merits of the candidates and their suitability and as to whether such appreciation is fair and not tainted."

6. In terms of the judgment of the Hon'ble Supreme court (in Shri Abdul Khalid Rizvi Vs. Union of India) the Supreme Court has held that it is not permissible to invoke the Residuary Matters Rules in matters incidental to recruitment to the All India Services. In view of this, it is not permissible to accede to the request of the officer for relaxation of the rules in as much as that the same cannot be done in a matter incidental to recruitment to the IAS.

7. The U.P.S.C., who are entirely concerned in the matter of preparing of select list and giving final approval to the select list, have also been consulted in this matter. The observations of the Commission read thus :

" The essence of holding Selection Committee Meeting annually is that each annual proceeding is independent of the other. This is clear from the Proviso to Regulation 7(4) of the IAS (Appointment by Promotion) Regulations, 1955 which lays down that no appointment to the service under Regulation 9 shall be made after the meeting of fresh Committee to draw up a fresh list under Regulation 5 is held. No continuity can, therefore, be imputed to the proceedings of the various Selection Committees. Further, each year, one more ACR is added to the ACR file of the officer, which can have a substantial bearing on the officer's overall assessment. The officers' overall grading can accordingly go up or come down, depending upon the ACR so added.

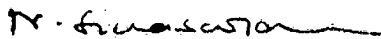
Further, the Selection Committee goes through the Service Records of each of the eligible officers with special reference to the performance during the

last five years preceding the year in which the Selection Committee meets."

8. In view of the statutory rules and regulations applicable to the case of the petitioner and the legal principles applicable in respect of the grievances expressed by the officer in his representation and narrated in the preceeding paragraphs, the prayer of the officer does not merit acceptance.

ORDER

In view of the foregoing, the representation dated 30.03.1998 of the representationist - officer is rejected. Ordered accordingly.



N. SIVASAILAM
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

To

✓
Shri J.I. Kathar IAS
c/o The Chief Secretary.
Government of Assam.
Dispur, Guwahati.

- 28-
- 27-

✓ ANNEXURE E-1 F
ANNEXURE-E1

BY REGISTERED A/D

NO. AAP. 198/94/pt/82
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL ::A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI -781006
0000

Dated Dispur, the 20th October, 1998.

✓ Shri J.I.Kathar, IAS
Deputy Commissioner,
Kokrajhar

Sub :-

Representation submitted by Shri J.I.Kathar,
IAS pursuant to the observation of Central
Administrative Tribunal, Guwahati Bench dated
17.3.98 in O.A. No. 181/94.

Sir,

In forwarding herewith order No. F.14015/20/
98-AIS(I) dated 11.8.98 issued by Govt. of India on your
representation dated 30.3.1998 on the above subject, I am
directed to say that receipt of the said order may kindly be
acknowledged.

Yours faithfully,

(S.R.ISLAM)

Deputy Secretary to the Govt. of Assam

...

Memo No. AAP. 198/94/Pt/82-A::Dated Dispur, the 20th Oct./98.
Copy to :-

The Desk Officer, Govt. of India, Ministry of
Personnel, Public Grievances & Pensions, Deptt. of Personnel
& Training, North Block, New Delhi with reference to his
letter No. F. 14015/20/98-AIS(I) dated 11.8.1998.

By order etc.,

sdf-

(S.R.ISLAM)

Deputy Secretary to the Govt. of Assam

...

... ..

✓ 17/15
108

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA.

REPLY STATEMENT ON BEHALF OF RESPONDENT Nos. 5 & 5A

IN

O. A. No. 812/2002

IN

OA No. 331/2000

IN THE MATTER OF :

JONES INGTI KATHAR

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

Reply Statement of (Ms.) Molly Tiwari, Under Secretary in the office of Union Public Service Commission, New Delhi.

2. I solemnly affirm and state that I am an officer in the office of the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and am authorised to file the present reply statement on behalf of Respondent No.5 & 5A. I am fully acquainted with the facts of the case stated below:

3.1 That I have read and understood the contents of the above Application and in reply I submit as under:

At the outset, it is submitted that the Union Public Service Commission, being a Constitutional body, under Articles 315 to 323 Part



A handwritten signature in dark ink, consisting of a stylized 'M' followed by a long horizontal stroke and a small flourish.

XIV (Service under the Union and the States) Chapter-II of the Constitution, has to discharge its functions, duties and constitutional obligations assigned to it under article 320 of the Constitution. Further, by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment Rules have been framed for IAS/IPS/IFS. In pursuance of these rules, IAS (Appointment by Promotion) Regulations 1955 have been made. In accordance with the provisions of the said Regulations, the Selection Committee, presided over by the Chairman/Member of the Union Public Service Commission makes selection of State Civil Service officers for promotion to the Indian Administrative Service.

3.2 Thus in the discharge of their Constitutional obligations, the Union Public Service Commission after taking into consideration the records received from the State Government under Regulation 6 and observations of the Central Government received under Regulation 6A of the Promotion Regulations, accord their approval to the recommendations of the Selection Committee in accordance with the provisions of Regulation 7 of the aforesaid Regulations. The selections so done, in a **just and equitable** manner on the basis of relevant records and following the relevant Rules and Regulations, are not open to interference by any authority whatsoever in as much as it would tantamount to curtailment or modification of the Constitutional powers of the Union Public Service Commission.

4. This application has been filed against the Order dated 11.08.1998 passed by the Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training rejecting his representation dated 30.03.1998. The Applicant has also challenged the allegedly improper consideration of his case for inclusion in the Select List of 1994; he is also aggrieved about his supersession in the matter of promotion to the Indian Administrative Service.



A handwritten signature in black ink, consisting of stylized cursive letters.

5. The applicant had submitted a representation to the Government of India making the following submissions:-

- i) That the grading accorded to him by the Selection Committee with reference to his service records is not justified as seen with reference to the grading accorded by the Selection Committee to other State Civil Service officers considered for inclusion in the 1993-94 Select List;
- ii) That the grading given by the 1994 Selection Committee is at variance with the grading given by the 1993 Selection Committee in respect of other officers as also the petitioner;
- iii) That in view of (i) & (ii) above, the Central Government may relax the relevant Rules and Regulations to order review of the Select List by invoking the All India Services (Conditions of Service – Residuary Matters) Rules, 1960;
- iv) That his promotion to the IAS may be dated back from 1996 to 1993 and his year of allotment/seniority in IAS revised on that basis.

The Government of India rejected the representation of the Applicant vide order dated 11.8.1998.

6. As regards the Applicant's grievance regarding rejection of his request to the Central Government to order review of the Select List by invoking the All India Services (Conditions of Services – Residuary Matters) Rules, 1960 and to refix his seniority in the IAS, it is most respectfully submitted that these subjects pertain to the Government of India. They may be making detailed submissions in this regard.



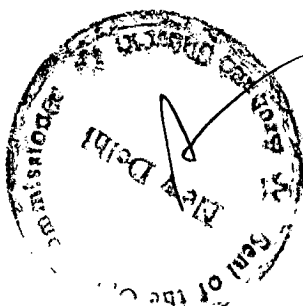
A handwritten signature in black ink, possibly reading "M. S. Ghosh".

7.1 As regards, the applicant's contention that the Selection Committee did not assess him properly, it is most respectfully submits that a meeting of the Selection Committee was **held on 31-03-1993** for preparation of a List of 10 SCS officers for promotion to Assam segment of IAS of Assam-Meghalaya Joint Cadre, during 1992-93. The name of the applicant was included at S. No. 14 of the Eligibility List furnished by the State Government. On an overall relative assessment of his service records, the applicant was graded as 'Very Good' and on the basis of this assessment his name was included at S.No.9. However, the applicant could not be appointed to the IAS from the said Select List as there were no vacancies to accommodate him. The Govt. of India may be making separate submissions in this regard.

7.2 The name of the applicant was again considered by the Selection Committee, which met on 29-03-1994 at S.No. 7 of the eligibility list. On an overall relative assessment of his service records, the applicant was graded as 'Good' only. Based on this assessment, his name could not be included in the Select List due to the statutory limit on the size of the Select List, and that officers with better overall gradings were included in the Select List.

7.3 It is further submitted that the Select Lists of 1992-93 and 1993-94 were reviewed on 18-09-1997 in pursuance of the orders of the Hon'ble Tribunal dated 20-03-1995 in Civil Rule No. 1079/93. The Review Committee included the name of the applicant in the Select List of 1992-93 at S.No. 10 as he was graded as 'Very Good'. This Committee did not include his name in the Review Select List of 1993-94 as he was graded as 'Good'.

7.4 Regarding the contention of the applicant that since his name was included in the Select List of 1992-93, his name ought to have been included



[Handwritten signature]

112
in the Select List of 1993-94 also, it is submitted that these Select Lists are independent of each other. The Selection Committee assesses the ACRs relevant for the year of the Select List and thus for consecutive years, one new ACR is assessed from the CR dossier and the addition of the same would have a bearing on the overall grading of the officer. In the applicant's case, though he was assessed as 'Very Good' for the year 1992-93, the addition of one more CR in the next year may have affected the overall grading of the applicant and the Selection Committee assessed him as 'Good' only. Therefore, the contention of the applicant that since he was assessed as 'Very Good' for the year 1992-93, he should have been assessed 'Very Good' for 1993-94 is untenable and devoid of merit, as the applicant cannot substitute his own assessment over that of a statutorily constituted Selection Committee as brought out in para 8 below.

7.5 As regards the contention of the applicant that there was nothing adverse in his ACRs to warrant his omission from the Select List and to include junior officers against whom charges were pending, it is submitted that the **Hon'ble Supreme Court in the case of Mir Ghulam Hussain and Others Vs. UOI & Others** have held as under: -

"Promotion is not made on the basis of absence of complaint but on the basis of positive merit. Absence of adverse remarks is not the criteria of the quality of an officer. Therefore, the claim that since there was nothing adverse against him and the applicant was entitled to be selected for promotion is completely misconceived."

Further, the pendency of departmental enquiries cannot be held as a reason for disqualifying any officer from being included in the list for promotion. There is a provision in the Promotion Regulations for provisional inclusion of such officers in the list, if they are otherwise found suitable for inclusion in the Select List.



A handwritten signature in black ink.

8.1 It is most respectfully submitted that selections of State Civil Service Officers for promotion to IAS are governed by IAS (Appointment by Promotion) Regulations 1955 framed by the Government of India in consultation with the State Governments and approved by the President of India. Regulation 3 of the said Regulations provides for a Selection Committee consisting of the Chairman of the Union Public Service Commission or where the Chairman is unable to attend, any other Member of the Union Public Service Commission representing it and in respect of the States of Assam and Meghalaya the following officers as members:

- i) Chief Secretary to Government of Assam.
- ii) Chief Secretary to Government of Meghalaya.
- iii) Chairman, Board of Revenue, Government of Assam.
- iv) Commissioner of Division, Government of Meghalaya.
- v) Two nominees of Central government not below the rank of Joint Secretary to Govt. of India.

The meeting of the Selection Committee is presided over by the Chairman/Member, UPSC.

8.2 In accordance with the provisions of Regulation 5(4) of the said Regulations, the aforesaid Committee duly classifies the eligible SCS officers included in the zone of consideration as 'Outstanding' 'Very Good' 'Good' or 'Unfit' as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(5) of the said Regulations, the Selection Committee prepares a list by including the required number of names first from the officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names inter-se within each category is maintained in the order of their respective seniority in the State Civil Service.



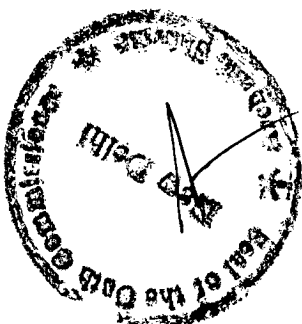
A handwritten signature in black ink.

8.3 The ACRs of eligible officers are the basic inputs on the basis on which eligible officers are categorised as 'Outstanding', 'Very Good', 'Good' and 'Unfit' in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. The Selection Committee is not guided merely by the overall grading that may be recorded in the ACRs but **in order to ensure justice, equity and fair play makes its own assessment on the basis of in-depth examination of service records of eligible officers, deliberating on the quality of the officer on the basis of performance as reflected under various columns recorded by the Reporting/Reviewing Officer/Accepting Authority in ACRs for different years and then finally arrives at the classification to be assigned to each eligible officer in accordance with provisions of Promotion Regulations.** While making overall assessment, the Selection Committee takes into account orders regarding appreciation for **meritorious work done by the concerned officer.** Similarly, the Selection Committee also keeps in view orders awarding penalties or any **adverse remarks communicated to the officer, which, even after due consideration of his representation have not been completely expunged.**

8.4 The matter relating to assessment made by the Selection Committee has been contended before the Hon'ble Supreme Court in number of cases. **In the case of Nutan Arvind Vs. UOI & Ors., the Hon'ble Supreme Court have held as under:**

"When a high level committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority."

[(1996) 2 SUPREME COURT CASES 488]



8.5 In the matter of UPSC Vs. H.L. Dev and Others., the Hon'ble Supreme Court have held as under: -

"How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee."

[AIR 1988 SC 1069]

8.6 In the case of Dalpat Abasaheb Solunke Vs. B.S. Mahajan, the Hon'ble Supreme Court have held as under: -

"It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject."

[AIR 1990 SC 434]

8.7 In the case of Smt. Anil Katiyar Vs. UOI & Others, the Hon'ble Supreme Court have held as under: -

"Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service of civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of it being arbitrary."

[1997(1) SLR 153]



[Handwritten signature]

It is most respectfully submitted that in view of the aforementioned authoritative pronouncements of the Hon'ble Supreme Court, the assessment made by the Selection Committee constituted under regulation 3 of the Promotion Regulations is final and not open for scrutiny by any authority/institutions or an individual.

9. This respondent most respectfully reiterates that the selections have been made by the Selection Committee strictly in accordance with the provisions of the Promotion Regulations and no mala fide or impropriety has been committed by the Selection Committee.

10. In view of the above, the averment of the applicant that the Selection Committee did not follow the proper procedure in evaluating his ACRs is baseless and factually incorrect. That on the facts and circumstances stated above, and also taking into consideration the detailed reply filed by the Central Government in the matters pertaining to them, the Hon'ble Tribunal may be pleased to dismiss the OA.

RESPONDENT

VERIFICATION

I, (Ms.) Molly Tiwari, Under Secretary, U.P.S.C., do hereby verify and state that the statements made in paras 01-10 above are true to the best of my knowledge, belief and information and based on facts.

Verified at New Delhi on 13th day of February, 2004.
 I, the undersigned, do hereby certify that the statements made above are true to the best of my knowledge, belief and information and based on facts.

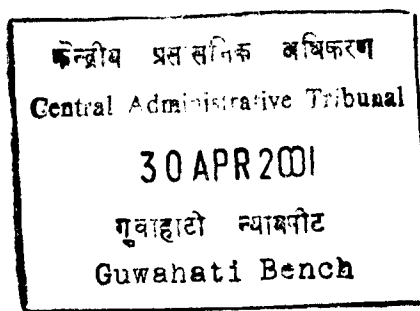


RESPONDENT

Certified that the respondent
 I/O Shri Molly Tiwari
 R/o U.P.S.C.
 Identified by Shri [Signature]
 has been duly identified by me at New
 Delhi on 13/2/04 to state
 of the affidavits read over
 and explained to him are true & correct
 to his knowledge.

Joint Commissioner, New Delhi.

Identified by me
 to 13/2/04
 Sr. Comm (Gr-1)
 D.O.I.



FILED BY - JAWAD
 (with k) 20/10/2011
 ADDITIONAL JUDGE, Standing Counsel
 (New Administrative Tribunal)
 Guwahati Bench, Guwahati

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI.

REPLY STATEMENT IN OA No. 331/2000

ON BEHALF OF RESPONDENT No. 5 & 5A

IN THE MATTER OF

JONES INGTI KATHAR ----- APPLICANT

Vs.

UNION OF INDIA & OTHERS ---- RESPONDENTS

Reply Statement of (Ms.) Molly Tiwari posted as Under Secretary in the Union Public Service Commission, New Delhi.

2. I solemnly affirm and state that I am an officer in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and am authorised to file the present Reply Statement on behalf of Respondent No.3. I am fully acquainted with the facts of the case stated below:

3.1 That I have read and understood the contents of the above Application and in reply I submit as under:

At the outset, it is submitted that the Union Public Service Commission, being a Constitutional body under Articles 315 to 323 Part XIV (Services under the Union and the States), Chapter-II of the Constitution, discharge their functions, duties and constitutional obligations assigned to them under Article 320 of the Constitution. Further, by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment Rules have been framed for the IAS/IPS/IFS. In pursuance

() में निवासी/Molly Tiwari)
अधीनस्थ/Under Secretary
राज्य लोक सेवा आयोग
Jalgaon District Services Commission.
बुंद दिल्ली/New Delhi.

of these Rules, the IAS (Appointment by Promotion) Regulations, 1955 have been made. In accordance with the provisions of the said Regulations, the Selection Committee, presided over by the Chairman/Member of the Union Public Service Commission, makes selection of State Civil Service officers for promotion to the Indian Administrative Service.

3.2 Thus, in discharge of their Constitutional obligations, the Union Public Service Commission, after taking into consideration the records received from the State Government under Regulation 6 and observations of the Central Government received under Regulation 6A of the Promotion Regulations, accord their approval to the recommendations of the Selection Committee in accordance with the provisions of Regulation 7 of the aforesaid Regulations. The selections so done in a just and equitable manner on the basis of relevant records and following the relevant Rules and Regulations, are not open for interference by any authority whatsoever, inasmuch as, it would tantamount to curtailment or modification of the Constitutional powers of the Union Public Service Commission.

4. This Application has been filed against the Order dated 11.8.1998 passed by the Government of India, Min. of Personnel, Public Grievances & Pensions, Department of Personnel & Training rejecting his representation dated 30.3.1998. The Applicant has also challenged the allegedly improper consideration of his case for inclusion in the Select List of 1994; he is also aggrieved about his supersession in the matter of promotion to the Indian Administrative Service.

5. The Applicant had submitted a representation to the Government of India making the following submissions:-



(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi

- (i) that the grading accorded to him by the Selection Committee with reference to his service records is not justified as seen with reference to the grading accorded by the Selection Committee to other State Civil Service officers considered for inclusion in the 1993-94 Select List;
- (ii) that the grading given by the 1994 Selection Committee is at variance with the grading given by the 1993 Selection Committee in respect of other officers as also the Petitioner;
- (iii) that in view of (i) & (ii) above, the Central Government may relax the relevant Rules and Regulations to order review of the Select List by invoking the All India Services (Conditions of Service – Residuary Matters) Rules, 1960;
- (iv) that his promotion to the IAS may be dated back from 1996 to 1993 and his Year of Allotment/Seniority in IAS revised on that basis.

The Government of India rejected the representation of the Applicant vide Order dated 11.8.1998.

6. As regards the Applicant's grievance regarding rejection of his request to the Central Government to order review of the Select List by invoking the All India Services (Conditions of Service – Residuary Matters) Rules, 1960 and to refix his seniority in the IAS, it is most respectfully submitted that these subjects pertain to the Government of India. They may be making detailed submissions in this regard.



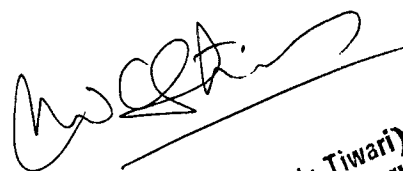
(मॉली तिवारी/Molly Tiwari)
जूनियर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

10

7.1 As regards the Applicant's contention that the Selection Committee did not assess him properly, it is most respectfully submitted that a meeting of the Selection Committee was **held on 31-03-1993** for preparation of a List of 10 SCS officers for promotion to Assam segment of the IAS of Assam-Meghalaya Joint Cadre, during 1992-93. The name of the Applicant was included at S. No. 14 of the Eligibility List furnished by the State government. On an overall relative assessment of his service records, the Applicant was graded as 'Very Good' and on the basis of this assessment his name was included at S.No.9. However, the Applicant could not be appointed to the IAS from the said Select List as there were no vacancies to accommodate him. The Govt. of India may be making separate submissions in this regard.

7.2 The name of the Applicant was again considered by the Selection Committee, which met on 29-03-1994 at S.No. 7 of the eligibility list. On an overall relative assessment of his service records, the Applicant was graded as 'Good' only. Based on this assessment, his name could not be included in the Select List due to the statutory limit on the size of the Select List, and that officers with better overall gradings were included in the Select List.

7.3 It is further submitted that the Select Lists of 1992-93 and 1993-94 were reviewed on 18-09-1997 in pursuance of the orders of the Hon'ble Tribunal dated 20-03-1995 in Civil Rule No. 1079/93. The Review Committee included the name of the Applicant in the Select List of 1992-93 at S. No. 10 as he was graded as 'Very Good'. This Committee did not include his name in the Review Select List of 1993-94 as he was graded as 'Good'.

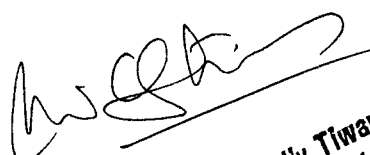


(मॉली तिवारी/Mally Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

7.4 Regarding the contention of the Applicant that since his name was included in the Select List of 1992-93, his name ought to have been included in the Select List of 1993-94 also, it is submitted that these Select Lists are independent of each other. The Selection Committee assesses the ACRs relevant for the year of the Select List and thus for consecutive years, one new ACR is assessed from the CR dossier and the addition of the same would have a bearing on the overall grading of the officer. In the Applicant's case, though he was assessed as 'Very Good' for the year 1992-93, the addition of one more CR in the next year may have affected the overall grading of the Applicant and the Selection Committee assessed him as 'Good' only. Therefore, the contention of the Applicant that since he was assessed as 'Very Good' for the year 1992-93, he should have been assessed 'Very Good' for 1993-94 is untenable and devoid of merit, as the Applicant cannot substitute his own assessment over that of a statutorily constituted Selection Committee as brought out in para 8 below.

7.5 As regards the contention of the Applicant that there was nothing adverse in his ACRs to warrant his omission from the Select List and to include junior officers against whom charges were pending it is submitted that the Hon'ble Supreme Court in the case of **Mir Ghulam Hussain and Others Vs. UOI & Others** have held as under: -

"Promotion is not made on the basis of absence of complaint but on the basis of positive merit. Absence of adverse remarks is not the criteria of the quality of an officer. Therefore, the claim that since there was nothing adverse against him and the Applicant was entitled to be selected for promotion is completely misconceived."


(मौली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

122

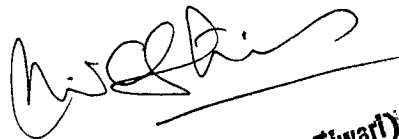
Further, the pendency of departmental enquiries cannot be held as a reason for disqualifying any officer from being included in the list for promotion. There is a provision in the Promotion Regulations for provisional inclusion of such officers in the list, if they are otherwise found suitable for inclusion in the Select List.

8.1 It is most respectfully submitted that selections of State Civil Service Officers for promotion to the Indian Administrative Service are governed by the IAS (Appointment by Promotion) Regulations, 1955 framed by the Government of India in consultation with the State Governments and approved by the President of India. Regulation 3 of the said Regulations provides for a Selection Committee consisting of the Chairman of the Union Public Service Commission or where the Chairman is unable to attend, any other Member of the Union Public Service Commission representing it and in respect of the Joint Cadre of Assam - Meghalaya the following officers as members:

- i) Chief Secretary to Government of Assam.
- ii) Chief Secretary to Government of Meghalaya.
- iii) Chairman, Board of Revenue, Government of Assam.
- iv) Commissioner of Division, Government of Meghalaya.
- v) Two nominees of Central government not below the rank of Joint Secretary to Govt. of India.


The meeting of the Selection Committee is presided over by the Chairman/Member, UPSC.

8.2 In accordance with the provisions of Regulation 5(4) of the said Regulations, the aforesaid Committee duly classifies the eligible SCS officers included in the zone of consideration as 'Outstanding' 'Very Good'


(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi

'Good' or 'Unfit' as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(5) of the said Regulation, the Selection Committee prepares a list by including the required number of names first from the officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the State Civil Service.

8.3 The ACRs of eligible officers are the basic inputs on the basis on which eligible officers are categorised as 'Outstanding', 'Very Good', 'Good' and 'Unfit' in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. The Selection Committee is not guided merely by the overall grading that may be recorded in the ACRs but **in order to ensure justice, equity and fairplay makes its own assessment on the basis of an in-depth examination of service records of eligible officers, deliberating on the quality of the officer on the basis of performance as reflected under various columns recorded by the Reporting/Reviewing Officer/Accepting Authority in ACRs for different years and then finally arrives at the classification to be assigned to each eligible officer in accordance with provisions of Promotion Regulations. While making an overall assessment, the Selection Committee takes into account orders regarding appreciation for meritorious work done by the concerned officer. Similarly, the Selection Committee also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which, even after due consideration of his representation have not been completely expunged.**


(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

8.4 The matter relating to assessment made by the Selection Committee has been contended before the Hon'ble Supreme Court in number of cases. In the case of **Nutan Arvind Vs. UOI & Ors.** the Hon'ble Supreme Court have held as under:

"When a high level committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority."

[(1996) 2 SUPREME COURT CASES 488]

8.5 In the matter of **UPSC Vs. H.L. Dev and Others.** Hon'ble Supreme Court have held as under: -

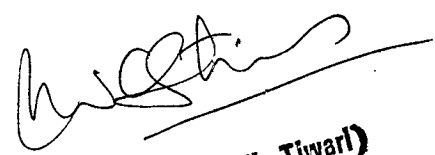
"How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee."

[AIR 1988 SC 1069]

8.6 In the case of **Dalpat Abasaheb Solunke Vs. B.S. Mahajan,** the Hon'ble Supreme Court have held as under: -

"It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject."

[AIR 1990 SC 434]


(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

8.7 In the case of Smt. Anil Katiyar Vs. UOI & Others, the Hon'ble Supreme Court have held as under: -

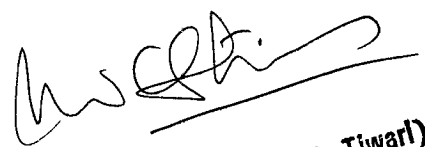
"Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service of civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of it being arbitrary."

[1997(1) SLR 153]

It is most respectfully submitted that in view of the aforementioned authoritative pronouncements of the Hon'ble Supreme Court, the assessment made by the Selection Committee constituted under regulation 3 of the Promotion Regulations is final and not open for scrutiny by any authority/institutions or an individual.

9. This Respondent most respectfully reiterates that the selections have been made by the Selection Committee strictly in accordance with the provisions of the Promotion Regulations and no mala fide or impropriety has been committed by the Selection Committee.

10. In view of the above, the averment of the Applicant that the Selection Committee did not follow the proper procedure in evaluating his ACRs is baseless and factually incorrect. That on the facts and circumstances stated above, and also taking into consideration the detailed reply filed by the


(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

Central Government in the matters pertaining to them, the Hon'ble Tribunal may be pleased to dismiss the OA.



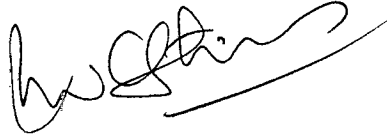
RESPONDENT

(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

VERIFICATION

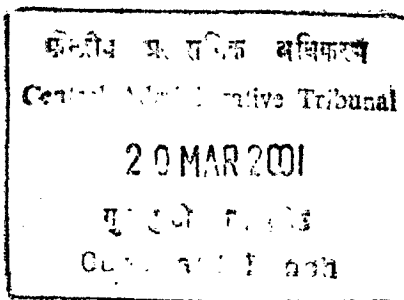
I, (Ms.) Molly Tiwari, Under Secretary, U.P.S.C., do hereby verify and state that the statements made in paras 01-10 above are true to the best of my knowledge, belief and information and based on facts.

Verified at New Delhi on 24th April, 2001.



RESPONDENT

(मॉली तिवारी/Molly Tiwari)
अवर सचिव/Under Secretary
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.



File by Mr. Supadant Das
128
P. K. Roy
Advocate
19.3.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

O.A. No. 331 of 2000.

In the matter of -

Written Statement by the Respondent
No. 8.

-And-

In the matter of -

O.A. No. 238/2000.

Sri J.I.Kathar, I.A.S.

-Versus-

Union of India & ors.

WRITTEN STATEMENT ON BEHALF OF
RESPONDENT NO. 8.

I, Sri Santanu Bhattacharjee, I.A.S., son of
Sri S.C. Bhattacharjee, presently working as the Joint
Secretary to the Govt. of Assam, Science Technology,
Environment Department, do hereby solemnly affirm and
state as follows :-

1.

128

1. That I have been served with a copy of the Original Application filed by Shri J.I.Kathar, I.A.S., the applicant in O.A No. 238/2000. I have gone through the same and understood the contents thereof. Save and except what are specifically admitted in this written statement, other statement made in the applicant should be deemed to have been denied. Statements that are not borne on records are also denied and disputed.

2. That with regard to the statement made in paragraph 4.1 and 4.2 of the application the answering respondent has no comment to offer. However, any statement made therein which are not borne by the records are denied and disputed.

3. That with regard to the statement made in paragraphs 4.3, 4.4. and 5.5 of the application, the answering respondent denies and disputes the same, save and except those which are borne by the records. It is stated that the selection is made by the selection committee, on the basis of overall relative merits of the officers who come within the zone of consideration. Since a select list is drawn every year on the basis of A.C.Rs. including of the recent one and other service records of the officers concerned and each selection is

independent.....

129

independent of the other, the statement made by the applicant that he has reasonable expectation of improving his position in 1994 select list is wholly mis-conceived. It is further stated that the assessment is made not on the basis of ^{absence of adverse remarks/records, but on the basis of} positive merit of the officers who comes within the zone of consideration. The statement made by the applicant in the said para about the news item published in 'The Sentinel' dated 15.5.94 is wholly irrelevant in the context of the present case, apart from the fact that the contents of the news item are totally baseless, fabricated and published at the instance of some interested persons, designed with sole motive to ^{derive} drive some benefit out of it. It is categorically denied that there was any ~~some~~ corruption case and malpractices and/or any departmental enquiries against the answering respondent. The statements made by the applicant that the Selection Committee while finalising the select list had failed to take into account the relevant consideration and acted upon irrelevant consideration is wholly without any basis. It is stated that the selection committee which consist of high level officers/experts, the assessment made by them cannot be questioned in a cavalier manner, as has been done by the applicant in the instant case.

4. That with regard to the statements made in
5. paragraph 4.6 of the application the answering respondent states that since the select list for appointment to the I.A.S. is drawn separately for every year and one is independent of the other, empanelment in a particular year itself cannot give right and/or entitle anybody for selection in the subsequent year and as such the statement made by him^{that} he had legitimate expectation to be included in the select list of 1994 is wholly misconceived.

5. That with regard to the statement made in paragraph 4.7 of the application, the answering respondent admits the same being matters of record.

6. That with regard to the statement made in paragraph 4.8, 4.9 and 4.10 of the application, the answering respondent admits the same to the extent to which the same are in conformity with the records. It is denied that on perusal of the record it was revealed that there was improper consideration of the case of the applicant, but for which his name would have been included in the select list of 1994. It is reiterated that selection committee, which is consisting of high level officers made the relative assessment of the service record of all

the.....

131

the officers and upon such assessment being made, graded "very good", "good" as the case may be and such assessment made by the expert cannot be found fault with. Since from the record produced by the State Govt. the allegation of the applicant for down-grading him remained to be unclear, the Hon'ble Tribunal after perusal of the same thought it proper to direct the authority to consider the grievances of the applicant and take a decision in this regard by passing a ^{reasonable} ~~reasonable~~ order.

7. That with regard to the statement made in paragraph 4.11 and 4.12 of the application the answering ^{respondent} ~~dependent~~ denies and disputes the same save and except those which are borne by records. It is stated ^{that} the Govt. of India after considering the case of the applicant and in terms of the ~~order and~~ ^{and order} judgement passed by the Hon'ble Tribunal rightly rejected the same. It is categorically denied that the applicant's name was excluded from 1994 select list on extraneous consideration. It is also denied that ACR's of different officers and other Service Records were not properly ^{evaluated} ~~evaluated~~ by the Selection Committee. If the contentions of the applicant is accepted, then it would mean that a high power selection committee would not be

required.....

required and the grounds given in the ACR's can be mechanically added to arrive at a result and assessment of the officers, which would be given illogical and untenable in law,

8. That in view of the facts and circumstances stated above, none of the grounds taken by the applicant is sustainable and as such the application filed by the applicant is liable to be dismissed.

9. That the statements made in paragraphs 1 to 7 are true to my knowledge and those made in paragraphs 8 to 10 are true to my information derived from the record and the rest are my humble submissions before this Tribunal and I sign this Verification today the 16th day of March 2001 at Guwahati.

(Jantani
Signature.

15/3/2001
LAS

5/12
O.A. No. 812/02
P.A./M.A./B.A./C.P.S., Eo.
Reply/Rejoinder/Suppl. Appl/Suppl. Reply
Vakalatnama/Affidavit of Service
Filed on 28/11
in Registry/Court
contents not Verified
N.S.
Signature

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

Rejoinder to the reply of the Respondent No. 8 in O.A. No. 812/2002

133
Jones Ingti Kathar

Sri Jones Ingti Kathar

... Applicant.

-Vs-

Union of India & Ors.

... Respondents.

REJOINDER ON BEHALF OF THE APPLICANT ABOVE NAMED.

Sri Jones Ingti Kathar , the applicant to the above original application states as follows :-

1. This deponent being the applicant to the above mentioned original application is duly competent to verify and submit this rejoinder.
2. This deponent has read and fully understood the contents of the reply filed on behalf of the Respondent No. 8 (hereinafter referred to as the said reply). Save what are matters of records and save what are expressly admitted herein all other allegations/ contentions made in the said reply shall be deemed to have been emphatically and specifically denied.

3. Statements made in paragraph 1 of the said reply are matters of records and save what appear from records all other statements made in the paragraphs under reference are denied.
4. Statements made in paragraph 2 of the said reply are matters of records and save what appear from records all other statements made in the paragraphs under reference are denied.
5. With regard to the statements made in paragraph 3 of the said reply it is stated that the representation of this deponent was arbitrarily rejected by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training by letter dated 11.8.98 as there was a sudden down fall in the gradation of this deponent in the year 1994 without communication any adverse remarks and/or without making any communication regarding such down fall in the grade. Moreover, this deponent was placed in the select list of 1993 for promotion to IAS and his position was against Sl. No. 9 and the said select list consist of ten officers. There were already eight vacancies for promotion to IAS and so far as 9th vacancy is concerned one Sri N. B. Deb was being continued against the said vacancy on extension although he retired on superannuation on 30.10.93 and there was another vacancy in the same year due to expiry of Sri I. Gupta, IAS. As such, there was no good reason for denial of promotion to this deponent to IAS in the year 1993 and such denial was totally arbitrary and malafide with a view to deprive this deponent of his due promotion to IAS in the year 1993 and his bench mark was also down graded without making any adverse remarks against him and without any communication to that effect in the year 1994 which was totally arbitrary and

134
Joshi
Srigti Kathar.

Jones Ingle Kathar

illegal and not sustainable in the eye of law. This deponent made a categorical representation dated 21.11.97 divulging detailed fact regarding his placement in the select list vis-à-vis the vacancy position as well as his performance as State Civil Service Officer and the applicant craves kind leave of this Hon'ble Tribunal to refer to the said representation dated 21.11.97 at the time of hearing of the original application and a copy of the same is annexed hereto and marked as **Annexure-R-1** to this rejoinder. It is further stated that the Hon'ble Guwahati Bench while disposing of the O.A. No. 181/94 categorically observed at paragraph 5 of its order dated 17th March, 1998 as follows :-

"5. On hearing the learned counsel for the parties we find that the applicant who was graded 'very good' was suddenly downgraded to 'good' without assigning any reason. Similarly, respondent Nos. 8 and 9 who were graded 'unfit' and 'good' had been graded as 'very good' in the next year. We find it difficult to accept the same. It requires proper scrutiny of the matter. Therefore, we feel it expedient that the applicant may file a representation within fifteen days from today giving details of his case and if such representation is filed within the prescribed time, the respondent No.1 shall consider the grievances of the applicant and take a decision in this regard by passing a reasoned order. This must be done as early as possible, at any rate within a period of three months from the date of receipt of this order. If the applicant is still aggrieved he may approach the appropriate authority."

From the aforesaid observation it is clear that the Hon'ble Guwahati Bench did not accept the down grading of this deponent from very good to good without assigning any reason and, as such, the respondents ought to have reviewed the case of the deponent by convening the review DPC ignoring the

said down grading of bench mark of this deponent instead of rejecting his claim by the impugned communication dated 11th August, 1998.

6. With regard to statements made in paragraph 4 of the said reply this deponent reiterates his statements made with regard to paragraph 3 of the said reply.
7. With regard to the statements made in paragraph 5 of the said reply this deponent reiterates his statements made with regard to paragraph 3 of the said reply.
8. With regard to the statements made in paragraph 6 of the said reply this deponent humbly submits that not only there was nothing adverse against this deponent in the year 1994 but the Hon'ble Guwahati Bench was pleased to clearly observe that his down grading was not acceptable and, as such, this deponent was entitled to be reconsidered in review DPC by ignoring the down grading in his bench mark from very good to good. Moreover, in the year 1993 this deponent was wrongly excluded by showing the vacancies for promotion to IAS as eight instead of ten as discussed in details with regard to the paragraph 3 of the said reply hereinabove.
9. Statements made in paragraph 7 of the said reply are totally incorrect and baseless and those are denied.
10. With regard to the paragraph 8 of the said reply this deponent reserves his right to make submission at the time of hearing of the original application and he also reiterates his statements made with regard to paragraph 3 of the instant

Singh Kathar. 136
Jones

application. It is further stated that the allegations and submissions made in paragraph 8 of the said reply are vague, baseless and motivated as well as misconceived and those are denied.

VERIFICATION

I, Jones Ingti Kathar, son of Late B. S. Kathar aged about 54 years,
Working as Registrar of Co-operative Societies, Assam
residing at Capital Complex, Dispur, Guwahati-6
do hereby verify that the statements made in paragraphs 1 to 10 are true to my
knowledge and I have not suppressed any material facts.

Jones Ingti Kathar
Signature of the Deponent.

Date: 13-11-05

Place: ~~Kolkata~~ Guwahati

Prepared in my Office,

SV

Advocate.

Confidential

No. JIK/97/17,
Dated 21.11.1997.

To
The Chief Secretary to the Govt. of Assam,
Dispur.

Subject:- Prayer for fixing Year of Allotment in I.A.S.
at 1989 or earlier.

Sir,

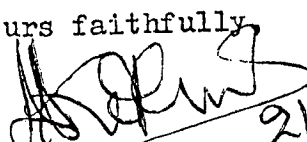
I have the honour to lay before your goodself the following
prayer for your judicious consideration and favourable orders : -

That Sir, in the I.A.S. Selection Meeting held on 31.3.93, I
was selected for promotion to IAS and was placed at Sl.No.9 to be appointed
against the vacancy caused by retirement of Sri N.B.Deb, which may be seen
at Annexure-I. But I was not promoted and the Select List was caused to be
lapsed. In 1994 my named was altogether dropped from the Select List. In
1995 I was not even selected.

That Sir, I humbly submit that neither have the Govt. made
known to me nor have I found any reasonable and justified ground for not
promoting me to the IAS in 1993, 1994 and 1995. My ACRs could not have
stood in the way. Because in 1989, '90 and '91, as the Chief Executive
Officer, Assam Tribal Development Authority, I performed much better than
any of the C.E.O.s who work there till today. It was during my tenure
ATDA was activated. Your honour may like to see my achievement in ATDA in
Annexure-II. While I was the Deputy Commissioner, Kamrup in 1991, '92 and
'93, I was commended twice - once from the then Chief Secretary, Assam, at
Annexure-III and the other from the Hon'ble Chief Justice, Guwahati High
Court, written to me through the Addl. Advocate General of Assam (Copy
enclosed with my earlier petition No. JIK/94/19, dated 3.6.94). Besides, my
good performance was also seen during floods in Chaygaon area where embank-
ment was nearly breached at night, and during Babri Masjid incident. Riot
could not occur anywhere in Kamrup District. Situation warranting imposi-
tion of curfew could not occur. I patrolled day and night wherever tension
arose, on foot, although there was a mischievous information that I would
be kidnapped.

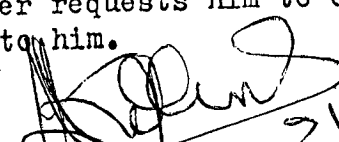
I, therefore, submit to your goodself to review my case
favourably and take up the matter with the competent authority for fixing
my Year of Allotment in I.A.S. at 1989 or earlier than that. For which act
of your kindness I shall always remain deeply grateful to you.

Yours faithfully,

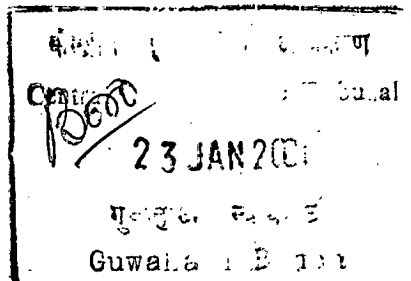

(Jones Ingti Kathar, IAS)

Joint Secretary, Deptt. of P & D, Assam, Dispur.

Copy forwarded to the Secretary to the Govt. of India, Ministry
of Personnel, Public Grievance and Pension, Deptt. of Personnel and
Training, New Delhi. His humble petitioner requests him to consider his
case sympathetically and render justice to him.


(Jones Ingti Kathar, IAS)

Joint Secretary to the Govt. of Assam, Deptt.
of P & D and Director, Monitoring & Evaluation, Assam,
Dispur.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :
GUWAHATI.

M.P. No. 238/2000

In OA No. 331/2000

IN THE MATTER OF :

Reply to the show cause notice
issued vide order dated 24.10.2000
against application for condonation
of delay filed by Sri J.I.Kathar,
IAS in MP No. 238/2000, arising
out of OA No. 331/2000.

-And -

IN THE MATTER OF :

MP No. 238 /2000

In OA No. 331/2000

Shri J.I.Kathar, IAS

....Applicant.

-Vs-

Union of India and Ors.

.....Respondents.

SHOW CAUSE REPLY FILED ON BEHALF OF
RESPONDENT NO. 8 SHRI SANTANU BHATTACHARJEE
IAS, AGAINST APPLICATION FOR CONDONATION OF
DELAY .

contd. 2

I, Shri Santanu Bhattacharjee, IAS, Son of Shri S.C. Bhattacharjee, aged about 54 years, presently holding the post of Joint Secretary to Govt. of Assam, Science ~~Teacher~~ Technology Environment Department, do hereby solemnly affirm and state as follows :-

1. That I have received a notice from this Hon'ble Tribunal, in connection with the instant miscellaneous petition by which this Hon'ble Tribunal vide order dated 24.10.2000, directed me to show cause against an application filed by Shri J.I. Kathar, IAS, the applicant in OA 331/2000, for condonation of delay. I have gone through the application and understood the Contents thereof. Save and ~~except~~ those which specifically admitted in this show cause reply other statements made in the said application should be deemed to have been denied, statement which are not borne by records are also denied.
2. That with regard to the statements made in para 1 & 2 of the application, I deny and dispute each and every allegation made therein save and except those which are borne by records. I say that under section 20 of the Administrative Tribunal Act 1985, the period of limitation runs from the date of the order i.e. 11.8.98 and not from the date of knowledge as claimed by the applicant. It is therefore denied that there is delay of about 6(six) months in filing the original Application by the applicant. Infact the total period of delay is 8 months and 27 days and the applicant having failed to explain the said period of delay in his application, his application is liable to be dismissed.

8
141

3. That with regard to the Statements made in paragraph 3 to 8 of the said application, I deny and dispute the same, save and except those which are borne by the records. I say that the causes shown in support of his claim for condition of delay are not sufficient to condone the delay of long 8 months and 27 days. The grounds taken in the application that the applicant remained engaged with official work, tackling law and order problem organising peace march etc. and matters relating to finance budget of the District which he was to undertake, for which he hardly got time to attend to his personal things can not justify the delay in approaching the Court in time. The applicant in his application has further stated that on receipt of the impugned order dated 26.10.98, the applicant was at a loss as to what should be done in the matter and due to the prevailing law and order situation at Kokrajhar he could not consult his lawyer at Guwahati regarding the impugned order, and it was only in the month of January, 99 the order was sent to his lawyer through his messenger with a request to study the same and advice accordingly. The applicant failed to explain the reason as to what prevented him to send his messenger earlier or even send instructions by post to his lawyer. The applicant therefore is guilty of laches. The applicant in para 4 of the application has stated that he could ^{meet} ~~see~~ his lawyer at Guwahati only in the month of May/99 and discussed to the matter with him. This statement made by the applicant is quite unsatisfactory in view of the fact that, the

hr

9
142

applicant being the Deputy Commissioner of the District, ^{and he} ~~was~~ required to come to Dispur at least once in a month for periodical meeting in the Secretariat when he could ~~ex~~ easily meet his lawyer at Guwahati to discuss his case. Since the applicant has his own residence at Dispur, it is unlikely that he did not visit his home for ~~x~~ 1 year 8 months. None of the grounds taken by the applicant therefore are good grounds to justify the delay in filing the Original application and or such the said Misc. application for condonation of delay is liable for be dismissed.

W

4. That by a notification issued by the Govt. of India dated 24.3.95, I was appointed to the IAS, cadre on promotion from the Assam Civil Service following, selection made by the Selection Committee for the year 1994-95 and on my appointment as such any year of allotment has been fixed as 1990 under the relevant service Rules. Pursuant to the said appointment I was posted in various Departments and I am presently holding the charge of Joint Secretary to the Govt. of Assam, Science Technology Environment Department. By holding the post in the IAS Cadre over the last few years, I have acquired a vested right and if the application for condonation of delay filed by the applicant is allowed on the legally untenable ground taken by him, I would be divested of that right acquired by me. The applicant did not file this application bonafide and is therefore liable to be dismissed. I have recently been promoted to the Junior Administrative Grade also.

verification

I, Shri Santanu Bhattacharjee, IAS, Son of Shri S.C. Bhattacharjee, Presently holding the posts of Joint Secretary to the Govt. of Assam Science Technology Environment Department do hereby solemnly affirm and State as follows that statement made in this show cause notice from 1 to 3 are true to my knowledge.

And I sign this verification on this the day of ₂₃ January, 2001 at Guwahati.

Santanu Bhattacharjee IAS

J/S STE

Govt of Assam

DISPVR. GAV-6