

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-202/2000 ordered Pg-1 to 2 INDEX

Disposed Date- 16/03/2001

O.A/T.A No. 92/2000

R.A/C.P No.....

E.P/M.A No. 202/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 92/2000 OF 199

Applicant(s) *See Hareendra Narayan Singha*Respondent(s) *Union of India and others.*Advocate for Applicant(s) *Mr. G.K. Bhattacharyya**Mr. G. N. Das.*Advocate for Respondent(s) *Mr. N. Devi**C.G.S.*

Notes of the Registry	Date	Order of the Tribunal
Steps received today Service of notice Prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.P.D. vide S.No. 7806 to 811 Dtd. 22.3.00	7.3.2000 1m AB 8/3/2000	Heard Mr.G.K.Bhattacharjee learned counsel for the applicant and Mr.A.Deb Roy, Mr.C.G.S.C. for the respondents. Perused the application. Application is admitted. Issue notice to the respondents by registered post. Returnable by 4 weeks. List for on 7.4.2000 for filing of written statement and further orders. Member (J) <i>JB</i>
	7.4.00 1m AB 8/3/2000	On the prayer of Mr.B.S.Basumatary learned Addl.C.G.S.C. two weeks time is allowed for filing of written statement. List for 28.4.00 for filing of written statement and further orders. Member (A) <i>AB</i> Member <i>AB</i>

(2)

of 92/2000

Notes of the Registry	Date	Order of the Tribunal
6-4-2000	28.4.00	On the prayer of Mr. B.S. Basumatary, learned Addl.C.G.S.C. two weeks time is allowed for filing of written statement. List on 19.5.00 for filing of written statement and further orders.
(1) Service report are still awaited. (2) No. w/statement has been filed.	1m	<i>62</i> Member
<i>By</i> <u>17.5.00</u> W/S has not been filed.	17.5.00 19.5.00	Further four weeks time allowed for filing of written statement on the prayer of Mr A. Deb Roy, learned Sr.C.G.S.C. List on (23.6.2000) for order.
<i>7.6.2000</i> written statement has been filed by the respondents.	pg	<i>870</i> Member (J)
<i>Notice duly served on respondent No 1</i> <u>17/7/00</u>	23.6.00 20.7.00	There is no hearing today. Adjud 1-20.7.00
W/S has been filed	18.8.00 1-29.9.00	There is no hearing. Adjud 870 h
<i>The case is ready for hearing.</i> <u>9.11.00</u>	29.9.00	Heard Mr G.N.Das, learned counsel for the applicant and Mr B.S.Basumatary, learned Addl.C.G.S.C for the respondents List on 9.2.2000 for hearing.
<i>By</i> <u>9.2.2000</u>	pg 9-2	Adjourned to 16.2.2001. <i>BMS</i> <i>16-2-9-2</i>

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
15-2-2001	15.3.01	Heard learned counsel for the parties. Hearing concluded. Judgement delivered in open court, kept in separate sheets. The application is allowed to the extent indicated in the order. No costs.
As affidavit in reply for and on behalf of the applicant to the v/s filed by the Respondents.		K. I. C. Shetty Member
15-2-2001	trd	Vice-Chairman
The case is ready for hearing.		
15.3.01		
11.5.2001		
copy of the judgement has been sent to the D/Sec for sending the same to the applicants as well as to the Dr. C.G. S.C.		
11.5.2001		

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~Exx~~ No. 92/2000 . . . of

DATE OF DECISION 16.3.01....

-- Sri. Harendra Narayan Singh -- PETITIONER(S)

Mr. G.N.Das

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS

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

THE HON'BLE MR. K.K.SHARMA, MEMBER(A).

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

Judgment delivered by Hon'ble Vice-Chairman.

X

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 92 of 2000.

Date of order : This the 16th day of March, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

Shri Harendra Narayan Singha
Son of Late Girish Ch. Singha
Area Organiser
Special Service Bureau
(SSB), Bomdila West Kameng District,
Arunachal Pradesh

...Applicant.

By Advocate Mr. G.N.Das.

-versus-

1. Union of India
(Represented by the Secretary to the
Government of India,
Ministry of Cabinet Affairs,
New Delhi).
2. Director General of Security,
Bikaner House, Shahjahan Road,
New Delhi-110011.
3. Principal Director,
S.S.B., East Block-V,
R.K.Puram,
New Delhi-110066.
4. Director, S.S.B.,
Block V East, R.K.Puram,
New Delhi-110066.
5. Divisional Organiser
North Assam Division,
S.S.B., Tezpur
District-Sonitpur(Assam).
6. D.I.G., S.S.B.,
North Assam Division,
SSB, Tezpur
District-Sonitpur(Assam)

....Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

This application has been filed under Section 19
of the Administrative Tribunals Act, 1985 assailing the
adverse remarks recorded in the Annual Confidential Report

for the year 1993-94 and promoting the respondent no. 3 and thereby superseding the applicant from promotion and also the order dated 29.12.1999 passed by the respondent no. 3 rejecting the representation of the applicant. The basic facts relevant for the purpose of adjudication are summed up below :

The applicant is presently holding the post of Area Organiser in the Special Service Bureau (hereinafter referred to as SSB). The applicant initially joined this organisation on 27.4.1967. Circle Organiser. Subsequently he was promoted to the post of Sub Area Organiser on 24.4.1995 and thereafter he was promoted to the post Area Organiser on 5.3.84. As per the SSB (Senior Executive) Service Rules, 1977 the Area Organiser with a minimum of 8 years of regular service is required to be promoted to the rank of Deputy Director/D.I.G.. The applicant became eligible for promotion in the year 1992. During the year 1994-95 the applicant was posted at Kokrajhar as Area Organiser for the period between April 1991 and July 1995. The post of Deputy Inspector General (hereinafter referred to as D.I.G.) heading the North Assam Division at Tezpur was vacant and consequently the Inspector General/Divisional Organiser at Tezpur was holding both the posts concurrently. Shri S.K. Sharma was the Inspector General/Divisional Organiser at Tezpur at that time. Sri Sharma while function as Deputy Inspector General at Tezpur in addition to his own duties as Inspector General/Divisional Organiser had initiated the A.C.R. of the applicant for the year 1993-94 in the absence of the DIG. It was stated that the reporting officer graded the applicant very good in the ACR of the applicant for the year 1993-94 and in the general remarks column it was shown by Sri Sharma, reporting officer remarked that the applicant was fit to get promotion in turn. The same Sri

in this case acted as Reviewing Officer as he was the Inspector General/Divisional Organiser at Texpur at that relevant time. He summed up his remark that the performance of the applicant was not up to the expectation. The Reviewing Officer made the adverse remark for the ACR of 1993-94 against the applicant in the absence of the D.I.G. The said adverse remark was communicated to the applicant vide memorandum No. NAD/CON/ACR-7/94(73) dated 27.6.1994 by the Divisional Organiser. The full extract of the said communication is reproduced below :

" In his ACR for 1993-94 in respect of Shri H.N.Singha, Area Organiser, it has been commendted upon that he is an experienced officer but his performance has not been upto expectation. The officer has been finally grades as 'Average.'

2. Shri H.N.Singha is expected to make efforts to improve upon and make good of the deficiencies. However he may like to represent to the competent against the aforesaid remarks within 30 (thirty) days of the receipt of this memorandum.

3. This memo is issued in duplicate - one copy of which should be returned promptly to this office duly accepted and signed by Shri H.N.Singha, AO."

The applicant submitted a representation dated 12.8.1994 with ^{the} prayer for expunction of the adverse remarks. The applicant referred a certificate issued by the Area Organiser, Kokrajhar testifying that the representation of the applicant, Area Organiser, SSB, Kokrajhar on his A.C.R. for the year 1993-94 was sent to New Delhi, vide A.O. SSB, Kokrajhar office No. 432 dated 12.8.94 under Registered letter Receipt No. 2234 dated 14.8.1994 of Kokrajhar Post Office. The applicant thereafter also submitted a representation to the Principal Director, SSB, New Delhi through proper channel. The said representation of the applicant was forwarded by the Dy Deputy Director General on 18.10.1996 to the Divisional Organiser, Manipur and Nagaland Division, Imphal. Failing to get any appropriate response the applicant finally submitted a representation dated 25.6.1997 directly to the Director

General of Security, Cabinet Secretariat praying for expunction of adverse remarks made in the ACR of 1993-94.

The applicant thereafter moved the Tribunal by way of the instant O.A. challenging the adverse entry and also praying for a direction for consideration of promotion to the post of DIG from the date when his juniors were so promoted. By order dated 17.3.1998 the representation dated 6.12.1997 submitted by the applicant was rejected during the pendency of the O.A.. The Tribunal finally disposed of the O.A. by order dated 16.11.1999 setting aside the order dated 17.3.1999 and directing the respondents to dispose of the representation of the applicant by a reasoned order. The Tribunal also disapproved the conduct of the respondents in disposing the representation pending disposal of the application on the face of the provisions of the Administrative Tribunals Act. By the impugned order dated 29.12.99 the aforesaid representation dated 25.6.97 was finally rejected by the Principal Director, Director General of Security, New Delhi. Hence the application.

2. Mr. G.N.Das, learned counsel for the applicant submitted that on 9.4.1997 two junior officers were promoted to the post of DIG superseding the claim of the applicant. Mr. G.N.Das submitted that the respondents could not have bypassed the case of the applicant for promotion on the basis of purported ACR for the year 1993-94, against which representations were pending before the authority. The learned counsel for the applicant further submitted that the adverse entry in the ACR for the year 1993-94 was reviewed by the same officer who also happened to be the reporting officer. The learned counsel submitted that the reporting officer (the same officer) found the applicant fit for promotion and after three months the same officer found fault with the applicant and made the aforesaid adverse entry. The learned counsel

Contd....

further submitted that the conduct of the Reviewing Officer - Sri S.K.Sharma was improper since the same authority also happened to be the reporting officer. Mr. G.N.Das lastly assailing the impugne order dated 29.12.99 issued by th respondent No.2 submitted that while disposing the representation of the applicant did not apply its mind to the material facts as pointed out in his representation and mecahnically passed the impugned order. Mr. A.Deb Roy, learned Sr. C.G.S.C. countering the submission of the learned counsel for the applicant submitted that the case of the applicant was duly considered by the Departmental Promotion Committee and since the applicant did not obtain the bench mark the DPC could not considered him fit for promotion. Mr. Deb Roy further submitted that since it was the slection post other junior officer who had higher bench mark were considered for promotion. He further submitted that respondent no.3 did not find any merit in the representation of the applicant dated 6.12.9177 and accordingly rejected.

3. Admittedly the represenation of the applicant for the first time disposed of on 17.3.1998 which was set aside bythe Tribunal on 16.11.1999 in O.A. No. 213/97. The DPC held on 1.4.97. The DPC could not have acted on the alleged adverse entry made in the ACR for the year 1993-94. The law in this regard is well settled in view of the decision rendered in the case of Gurdial singh Fijis (AIR 1979 SC 1622) followed in relied upon in the case of Amar Kant Choudhary vs. State of Bihar & Ors (1984 SC 531). That apart the aCR recorded by Sri S.K.Sharma the then IG/Divisional Organiser,Tezpur who was also holding the charge of DIG of the Division could not have acted as Reviewing Officer. For that ground also the ACR of the applicant for the year 1993-94 ought not to have been acted upon. The respondents could have remedied the situation by placing the ACR before the superior officer which was not

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done in this case.

5. The respondent No.2 while rejecting the representation of the applicant pursuant to the direction of the Tribunal did not go into those aspects of the matter and passed the order without taking into account the relevant facts. We held that the respondents were not justified in overlooking the case of the applicant for promotion in the year 1997 on the basis of ACR of 1993-94 and accordingly direct the respondents to hold review DPC to consider the case of the applicant on the basis of the available records without taking into account the ACR for the year 1993-94. In the circumstances the order dated 29.12.1999 cannot be upheld and accordingly the same is set aside. The respondents are also directed to complete the aforesaid exercise within a period of three months from the date of receipt of a certified copy of this order.

6. The application is allowed to the extent indicated above. There shall, however no order as to costs.

K K Sharma
(K.K.Sharma)
Member

(D.N.CHOWDHURY)
Vice-Chairman

trd

Central Administrative Tribunal
Guwahati Bench
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.

O.A. NO. 92 /2000.

Shri Harendra Narayan Singha.

... Applicant.

-Versus-

Union of India and others.

... Respondents.

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Filed by:-

(Advocate)

.....
Harendra Mr. Singha

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

GUWAHATI.

(An application U/s 19 of the Administrative Tribunals Act, 1985).

O.A. NO.

92/2000.

Shri Harendra Narayan Singha
Son of Late Girish Ch. Singha
Area Organiser
Special Service Bureau
(SSB.) Bomdila West Kameng
District:-Arunachal Pradesh.

.... Applicant.

- Versus -

- 1) Union of India (represented by the Secretary to the Govt. of India , Ministry of Cabinet Affairs, New Delhi).
- 2) Director General of Security, Bikaner House, Shahjahan Road, New Delhi-110011.
- 3) Principal Director, S.S.B. , East Block-V, R.K. Puram , New Delhi-110066.
- 4) Director, S.S.B. , Block-V East, R.K. Puram, New Delhi-110066 .

contd....

Filed By the Petitioner
Harendra Narayan Singha
Through - Nirmala Devi
6.3.2000 A.M.

2.

5) Divisional Organiser,

North Assam Division,

S. S. B., Tezpur

District:-Sonitpur (Assam).

6) D. I. G., SSB,

North Assam, Division,

SSB, Tezpur

District:-Sonitpur (Assam).

... Respondents.

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

1) Office memorandum No. NAD/CON/ACR-7/94 (73) dated 27.6.94 issued by the Divisional Organiser, North Assam Division, S. S. B., Tezpur (Respondent No.5) whereby some adverse remarks recorded in the A.C.R. of the applicant for the year 1993-94 were communicated to the applicant.

2) Office memorandum No. 22/SSB/A-82(18)-II-3667-69 dated 29.12.99 issued by the Principal Director of the SSB, New Delhi (Respondent No. 3) whereby the representation dated 25.6.97 submitted by the applicant against the adverse remarks recorded in his A.C.R. for the year 1993-94 was rejected by taking into consideration 3 (three) alleged warnings issued to the applicant in writing which

contd...

Harendra N. Singh

3.

were not received by the applicant. It appeared from the memorandum that the representation dated 12.8.94 filed by the applicant praying for expunction of the said adverse remarks was not received in the Directorate, although the Area Organiser, SSB, Kokrajhar, by his certificate dated 29.8.97, had confirmed that the said representation was duly sent to the Director, SSB, Block-V, R.K.Puram, New Delhi under Registered letter Receipt No.2334 dated 14.8.94 of Kokrajhar Post Office.

2: JURISDICTION OF THE TRIBUNAL:-

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

3: LIMITATION:-

The applicant further declares that the application is within the limitation prescribed U/s 21 of the Administrative Tribunals Act, 1985.

4: FACTS OF THE CASE :-

1) That the applicant was duly selected and appointed as the Circle Organiser in the Special Service Bureau (S.S.B. in short) and he joined this august organisation as such on 27.4.67. He was subsequently promoted to the rank of Sub-Area Organiser

contd...

Harendra Mr. Sushil

4.

on 24.4.75 and , thereafter, he was further promoted to the rank of Area Organiser on 5.3.84 and since then he has been functioning as such in various places. Since the date of his joining service , the applicant had been discharging his duties sincerely, honestly and to the best of his ability. As per the existing provisions of the SSB (Senior Executive) Service Rules, 1977, an Area Organiser with a minimum of 8 years' of regular service is eligible to be promoted to the rank of Deputy Director /D. I. G. and the applicant became eligible to be promoted to the rank of D. I. G. in 1992 .

2) That there are five different areas in the North Assam Division of the SSB, namely, Tinsukia, North Lakhimpur, Tezpur, North Kamrup and Kokrajhar of which Kokrajhar is considered to be the most difficult area and during the period in question , the applicant was heading the area as the Area Organiser from April, 1991 to July, 1995. There are four Divisions, namely, 1) Manipur and Nagaland Division (2) Meghalaya Division (3) Arunachal Pradesh Division and (4) North Assam Division in the North-East Zone of the Organisation. In the North-Eastern Zone, the Kokrajhar area secured the third position in the Zone during 1993-94. Apart from the above, the applicant achieved double the annual target in respect of National Integration Camps .

3) That during 1993-94, the applicant was posted in Kokrajhar area as the Area Organiser .

The post of Deputy Inspector General (D.I.G. in short) heading the North Assam Division at Tezpur was lying vacant and consequently the Inspector General/Divisional Organiser at Tezpur was holding both the posts concurrently. Shri S.K. Sharma was the Inspector General/Divisional Organiser at Tezpur at the relevant time. It subsequently appeared that Shri S.K. Sharma, while functioning as the Deputy Inspector General at Tezpur in addition to his own duties as the Inspector General/Divisional Organiser at Tezpur had initiated the A.C.R. of the applicant for the year 1993-94 in the absence of the D.I.G. and that he had also acted as the Reviewing Officer. It was highly arbitrary, illegal and unjustified that Shri S.K. Sharma, being the Reviewing Officer had initiated the A.C.R. of the applicant for the year 1993-94 and he recorded the adverse entries, as stated above, as the Reviewing authority without recording any reason although he disagreed with his own recordings in the A.C.R. as the Initiating Officer without recording any reasons whatsoever specially when the downgrading the remarks by the reviewing authority had specific bearing on the promotional prospects of the applicant.

It would be pertinent to mention here that the object of making and communicating adverse remarks recorded in the A.C.R. of an Officer is to give him an opportunity to improve his performances, conduct or character and it should not be understood in terms of punishment. It should act as an advice

Harrida Nr. Longza.

to the Officer concerned so that he can act in accordance with the advice and improve his career prospects.

4) That the applicant became shocked and surprised to have received, on 20.7.94, the confidential memo No. NAD/Con/ACR/7/94(73) dated 27.6.94 issued by the Divisional Organiser S.S.B., (North Assam Division) Tezpur whereby certain adverse remarks were recorded in the A.C.R. of the applicant for the year 1993-94. It was commented upon that the applicant was an experienced Officer but his performance had not been up to expectation. The applicant has been finally graded as "Average".

Copy of the said memorandum dated 27.6.94 is annexed herewith and marked as
Annexure -I.

5) That, immediately on receipt of the said adverse remarks the applicant, on 12.8.94, submitted a representation addressed to the Director, S.S.B., New Delhi (Respondent No.4) praying for expunction of "adverse" entry recorded in his A.C.R. for the year 1993-94, which was within ~~three~~ ^{thirty} days from the date of receipt of the communication. The aforesaid representation was duly forwarded to the Director, SSB, New Delhi ^{vide} Area Organiser's, SSB., Kokrajhar office memo ~~no~~ 432 dated 12.8.94 under registered letter receipt No.2334 dated 14.8.94 of Kokrajhar Post Office.

Copy of the said representation dated 12.8.94 and the receipt of the forwarding letter is annexed herewith and marked as Annexure-II and II(A) respectively.

Harinder Singh

6) That, as there was no response as to the fate of the representation submitted by the applicant as far back ^{as} on 12.8.94, the applicant again submitted a representation, on 9.9.96 addressed to the Principal Director, S.S.B., New Delhi (Respondent No. 3) with reference to his earlier representation of 12.8.94 addressed to the Director S.S.B. New Delhi (Respondent No. 4) . praying for expunction of the "Adverse" remarks. The representation was duly forwarded by the D.I.G., S.S.B., Kohima, by his Office memo No. DIGK/HNS/AOS/PF/98/738 dated 18.10.96, to the Divisional Organiser, S.S.B. Manipur and Nagaland Division, Imphal for onward submission to the Principal Director, S.S.B., New Delhi (Respondent No. 3).

A copy of the forwarding letter 18.10.96 forwarding the representation dated 9.9.96 is annexed herewith and marked as Annexure-III .

7) That, the applicant, was wondering as to why no action whatsoever was taken by the competent authority to consider the representation submitted by the applicant in this regards. Finding no way out, the applicant submitted another representation on 25.6.97, addressed the Director General of Security, S.S.B., New Delhi (Respondent No.2) on the subject .

Copy of the representation dated 25.6.97 addressed to the Director General of Security is annexed herewith and marked as Annexure- IV.

8) That, during the pendency of the said representations praying for expunction of the adverse remarks recorded in the ACR of the applicant for the year 1993-94, as stated above, the D.P.C. for selection of candidates for promotion to the rank of D.I.G./Dy. Director was held on 9.4.97 and in terms of the Select list prepared by this D.P.C., Shri Lebsang Rinchin and G.S. Sayana who were junior to the applicant were promoted to the rank of D.I.G. superseding the applicant in 1997. It would be relevant to mention here that the name of the applicant appeared at serial No.2 while the names of Shri L.Rinchin and G.S. Sayana were reflected against serials No.4 and 6 respectively in the Seniority List of Area Organisers in S.S.B. as on 30.11.95, as circulated by the Divisional Organiser, SSB, Manipur and Nagaland Division, Imphal .

It would be relevant to point out that, the representation filed by the applicant against the adverse remarks recorded in his A.C.R. for 1993-94 was kept pending by the authority till the D.P.C. met on 9.4.97 . The principles of natural justice warrant that an adverse report recorded in A.C.R. cannot be acted upon unless the representation filed against it is finally disposed of and as such non-inclusion of the applicant in the Select List by the D.P.C. is not sustainable in law.

Copy of the said seniority list is annexed herewith and marked as
Annexure-V.

contd...

9) That the applicant begs to state and submit that, as stated above, the respondent-authorities placed the A.C.R. of the applicant for five years, namely, 1992-93, 1993-94, 1994-95, 1995-1996 and 1996-1997 before the D.P.C. which met on 9.4.97 and the A.C.R. for the year 1993-94 containing the adverse entries was also considered by the D.P.C. for which the applicant could not get through in the Selection. It would be pertinent to mention here that immediately on receipt of the copies of the adverse entries, he, on 12.8.94, submitted the representation against the adverse entries which was followed by representations dated 9.9.96 and 25.6.97 but surprisingly, the authorities, for reasons best known to them only, did not dispose of the said representation. The authorities, on the one hand, kept the representations pending while, on the other hand, the ACR containing the adverse entries ^{for} / from the year 1993-94 was placed before the D.P.C. although such adverse entries could not be acted up when the representations filed by the applicant against these entries were pending with the authorities.

10) That the applicant begs to state and submit that Shri G.S. Sayana, who was much junior to the applicant joined as the D.I.G., SSB at Kohima in October, 1997 where the applicant was functioning as the Area Organiser (Staff). The applicant prayed for his transfer from Kohima

contd...

Harminder Mr. Lohka

with a view to avoiding an embarrassing situation to work under a junior Officer and the authorities considered his case and transferred him to Arunachal Pradesh Division, SSB and posted as Area Organiser, SSB, Bomdila where he joined on 5.1.98 and since then the applicant has been functioning as such.

11) That the applicant begs to state and submit that the authorities had also circulated a seniority list of Area Organisers as on 1.1.94 earlier by memorandum No. 11/1(1)/94/301-02 dated 10.1.94. The name of the applicant appeared at serial No. 2 in this seniority list also. The names of Shri S.K.Chakraborty and T.Namgial were reflected against ^{social} senior No.5 and 7 respectively. Although Shri S.K.Chakraborty and Shri T.Namgial were junior to the applicant, both of them were promoted to the rank of Dy. Inspector General in 1995 itself superseding the applicant.

It would be relevant to mention here that the authorities, by memorandum dated 21.12.89, the S.S.B. (Senior Executive) Service Rules, 1977 were amended whereby an Area Organiser with minimum of 8 years' regular service in the grade would be eligible for promotion to the rank of D.I.G. and as such the applicant also became eligible for such promotion at the relevant time.

Copy of the seniority list of Area Organisers as on 1.1.94 circulated by memorandum dated 10.1.94 and a copy

of the memorandum dated 21.12.89 amending the SSB (Senior Executive) Service Rules, 1977 are annexed herewith and marked as Annexure-VI and VII respectively.

12) That the applicant begs to state and submit that the applicant, while functioning as the Area Organiser, SSB, Kokrajhar had achieved double the annual target in respect of conducting National Integration Camps during the year 1993-94. The applicant conducted 202 National Integration Camps as against the target of 100.

A copy of the certificate dated 29.8.97 issued by Shri G.N.Deka, Area Organiser, SSB, Kokrajhar in this regard is annexed herewith and marked as Annexure-VIII.

13) That the applicant begs to state and submit that the Kokrajhar Area of the SSB, while it was being headed by the applicant, was adjudged as the Best Area of the S.S.B. of North Assam Division in the North Eastern Region (Zonal) Best Area competition held at Group Centre, SSB, Debendranagar w.e. from 5.10.93 to 13.10.93.

A certificate dated 29.8.97 issued by Shri G.N.Deka, Area Organiser, SSB, Kokrajhar in this regard is annexed herewith and marked as Annexure-IX.

contd...

Hemanta Mr. Singh

14) That the applicant became highly aggrieved with the action of the respondent-authorities and as such he, in September, 1997, filed an application before this Hon'ble Tribunal challenging the adverse remarks and seeking a direction to the respondents to consider the case of the applicant for promotion to the rank of D. I. G. with other consequential benefits which was numbered ~~28~~ and admitted as O. A. No. 213/1997. The respondents submitted written statements wherein, among others, it was specifically stated that the applicant was issued with a written warning and displeasure of the Director, SSB, New Delhi by his letter dated 4.9.93. No mention whatsoever was made in the said reply as regards issuance of any other warning to the applicant. (The applicant craves leave of this Hon'ble Tribunal to produce and rely on the affidavit at the time of hearing).

15) That during the pendency of the application before this Hon'ble Tribunal, the applicant received a copy of the extract of memorandum dated 6.3.98 issued by the Director, SSB, New Delhi from the Divisional Organiser, SSB, A.P. Division, as communicated by him in memorandum dated 17.3.98 informing him that, after going through the records, it was felt that there was no justification in amending the remarks.

Copy of the said extract, as communicated by the D. I. G., A. P. Division, S. S. B., Itanagar by his office memo No. AP/CONF/A-1 (8) 98 dated 17.3.98 is annexed herewith and marked as Annexure-X.

16) That the applicant begs to state that the department had produced the relevant A.C.R. of the applicant at the time of hearing and this Hon'ble Tribunal was pleased to peruse the same.

17) That this Hon'ble Tribunal, after hearing all concerned, by order dated 16.11.99, held that the order dated 17.3.98 ought not to have been issued since the application was pending before this Hon'ble Tribunal. This Hon'ble Tribunal, after perusing the ACR for 1993-94, held that the grading obtained by the applicant was "very good" and that in the general remarks Section, it was shown that the applicant was fit to get promotion in turn but that the Reviewing Officer had summed up his remark as "a experienced Officer but his performance has not been upto expectation". This Hon'ble Tribunal held that there was no explanation as to why the applicant deserved such adverse remarks from the Reviewing Officer and it was not known on what basis the Reviewing Officer came to such a conclusion. Accordingly, the order dated 17.3.98 was set aside and the Respondents were directed to dispose of the representation of the applicant by a reasoned order as to how the adverse remarks could be made.

Copy of the order dated 16.11.99 is annexed herewith and marked as Annexure-XI.

18) That, in compliance with the said order dated 16.11.99 passed by this Hon'ble Tribunal, the

contd...

Harminder Mr. Singh

Principal Director, S.S.B., New Delhi (Respondent No. 3) disposed of the representation dated 25.6.97 (Annexure-IV) submitted by the applicant. The applicant has now received the said impugned order dated 29.12.99 passed by the Respondent No. 3 whereby the representation was disposed of by rejecting the same by taking into consideration 3 (three) further alleged warnings which was never received by the applicant and about which no mention had been made in the earlier communications and also in the affidavit filed by the department earlier.

It would be pertinent to mention here that the Principal Director (Respondent No. 3) had denied to have received the representation dated 12.8.94 (Annexure-II) challenging the adverse remarks recorded in the A.C.R. of the applicant during 1993-94.

Copy of the said impugned order dated 29.12.99 is annexed herewith and marked as Annexure-XII.

19) That the applicant begs to state that he has reason to believe that Shri S.K.Sharma, the then Divisional Organiser, SSB, North Assam Division, Tezpur was also holding the charge of the post of D.I.G., SSB, North Assam Division, Tezpur as the said post was lying vacant at the relevant time. Shri S.K.Sharma, as D.I.G., had initiated the A.C.R. of the applicant and also reviewed the same in his capacity as the Divisional Organiser which

contd...

Amulya N. Lingle

is highly arbitrary and irregular that the same Officer made contradictory report against the applicant and this fact would be apparent from the A.C.R. which may kindly be called for by this Hon'ble Tribunal .

20) That the applicant has become highly aggrieved by the aforesaid impugned order dated 29.12.99 and as such he is approaching this Hon'ble Tribunal praying for relief .

5 : GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

I) For that the respondent -authority is required to dispose of the representation filed by the applicant within the prescribed time limit of 3 months and that not having been done, the action of the authority in denying promotion to the applicant is bad in law and liable to be set aside.

II) For that the impugned order dated 29.12.99 passed by the Respondent No.3 does not contain any reason in rejecting the pending representation although this Hon'ble Tribunal specifically directed, by order dated 16.11.99, the respondents to dispose of the representation of the applicant by a reasoned order as to how the adverse remarks could be made and therefore the action of the respondent-authority in summarily rejecting the representation is bad in law and liable to be set aside.

contd...

Harinder Mr. Justice

III) For that non-consideration of the representation filed by the applicant in strict compliance of the direction dated 16.11.99 given by this Hon'ble Tribunal amounts to malice in law and as such the action of the authority is bad in law and liable to be set aside.

IV) For that the authority has taken extraneous matters into consideration while rejecting the representation of the applicant and as such the action of the authority is bad in law and liable to be set aside.

V) For that in accordance with the rules of natural justice, an adverse report in the A.C.R. of the applicant cannot be acted upon to deny promotional opportunities to the applicant without deciding, while considering the explanation offered by the applicant in his representation, whether the impugned adverse report is justified or not and as such the D.P.C. committed a serious illegality by not including the applicant in the select list for his promotion to the next higher grade of D.I.G.

VI) For that the DPC is required to consider the case of the applicant for promotion to the next higher grade of D.I.G. without taking the impugned adverse entries into consideration as the representation against the adverse remarks for 1993-94 was pending till then and that not having been done, the action of the authority in denying/promotion to the applicant

contd..

is bad in law and liable to be set aside.

VII) For that the I.G.P., SSB, (Shri S.K. Sharma), while holding dual charge of the D.I.G. SSB, temporarily, initiated the A.C.R. of the applicant and nothing adverse had been recorded but surprisingly, the same Officer, while functioning as the Reviewing Officer as the I.G.P., recorded the impugned adverse remarks contradicting his ^{earlier} own recordings and as such the action of the Officer is illegal, arbitrary and malicious which cannot be sustained in law and the entire exercise leading to the exclusion of the applicant from the select list prepared by the D.P.C. on 9.4.97 should be struck down on this ground alone.

VIII) For that the applicant has been subjected to untold sufferings in the matter of his promotion to the next higher grade of D.I.G. for no fault on his part and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.

IX) For that, in any view of the matter, the impugned action of authority in denying promotion to the applicant illegally is bad in law and liable to be set aside.

contd...

6 : DETAILS OF REMEDIES EXHAUSTED :-

The applicant filed a representation against the adverse remarks recorded in A.C.R. of the applicant in 1993-94 and it has been disposed of now by a non-speaking order as directed by this Hon'ble Tribunal.

7 : MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :-

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench or the Tribunal nor any such application, writ petition or suit is pending before any of them.

8 : RELIEF SOUGHT:-

It is, therefore, prayed that your Lordships would be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the impugned orders dated 27.6.94 and 29.12.99 should not be set aside and quashed and after perusing the causes shown, if

contd...

Harinder Mr. Singh

any, and hearing the parties, set aside and quash the impugned orders dated 27.6.94 (Annexure-I) and 29.12.99 (Annexure-XII) and further direct the respondents that the case of the applicant ^{by a Review D.P.C} be considered/for promotion to the next higher rank of D.I.G. from the date when his juniors, namely, Lebsang Rinchin and G.S. Sayana were so promoted on the basis of select list prepared by the D.P.C. which met on 9.4.97 with all consequential benefits and/or pass any other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant, as in duty bound, shall ever pray.

9 : INTERIM ORDER, IF ANY, PRAYED FOR:-

It is further prayed that pending disposal of this application, the respondents may kindly be directed not to promote any Officer junior to the applicant to the next higher grade of D.I.G.

10 : Does not arise. The application will be presented personally by the advocate of the applicant.

11: PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :-

OG 453408
I.P.O. No. OG 45 dated 30.9.99
issued by the Guwahati Post Office payable at Guwahati is enclosed.

12: LIST OF ENCLOSURES:

Handwritten Note:

As stated in the index.

contd..

VERIFICATION

I, Shri Hari Narayan Singha, son of Late Girish Chandra Singha, aged about 57 years, presently working as the Area Organiser, S.S.B., Bomdila, West Kameng district:- Arunachal Pradesh do, hereby, verify that the contents in paragraphs No. 1, 2, 3, 9, 10, 14, 16, 19 + 20 are true to my personal knowledge and those in paragraphs No. 4 to 8, 11 to 13, 15, 17 + 18 are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 6th day of March, 2000 at Guwahati.

Place :- Guwahati.

Date :- 6.3.2000:

Hari Narayan Singha

Signature of the applicant.

(21)

Annexure - I

CONFIDENTIAL

No. NAD/CON/ACR-7/94(73)
GOVT. OF INDIA

DIRECTORATE GENERAL OF SECURITY,
OFFICE OF THE DIVISIONAL ORGANISER, SSB
NORTH ASSAM DIVISION, TEZPUR

P.O. TEZPUR
Dist.: SONITPUR (Assam)
PIN-784001

Dated Tezpur the 27 June 1994

MEMORANDUM

ANNEXURE -

16.392 dt. 20.7.94
In his ACR for 1993-94 in respect of
Shri H.N.Singha, Area Organiser, it has been
commented upon that he is an experienced officer
but his performance has not been upto expecta-
tion. The officer has been finally graded as
'Average'.

Received Copy

29/7
2. Shri H.N.Singha is expected to make
efforts to improve upon and make good of the
deficiencies. However he may like to represent
to the competent authority against the aforesaid
remarks within 30 (thirty) days of the receipt of
this memorandum.

3. This memo is issued in duplicate - one
copy of which should be returned promptly to
this office duly accepted and signed by Shri
H.N.Singha, AO.

27/6/94
Divisional Organiser.
N A Division : SSB

To

Shri H. N. Singha,
Area Organiser, SSB
Kokrajhar.

-0-

*19.7.94 84-3
S...*

*Affsted
Gill
(G. N. Das)
Advocate*

CONFIDENTIAL

No./PF-4-67/93-94/432

Dated 12.8.94.

To

The Director, SSB.
 Block-V (East), R.K.Puram,
New Delhi- 110066.

Subject :- PRAYER FOR EXPUNCTION OF "AVERAGE" A.C.R. FOR 1993-94.

Sir,

Kindly refer to D.O., NAD Memo No. NAD/CON/ACR-7/94 (73) dated 27.6.94 issued to the undersigned regarding "AVERAGE ACR for the year 1993-94" and with due respect, I have the honour to submit the following points for favour of your kind personal and sympathetic consideration .

AREA INTRODUCTION

1. That Sir, Kokrajhar Area consists of 2 (two) Sub-Areas -Kokrajhar and Bongaigaon, Kokrajhar Sub-Area comprises of the following 3 Circles .

- 1) Kokrajhar .
- 2) Gossaigaon and
- 3) Dhubri .

Similarly Bongaigaon Sub-Area comprises of 2 (two) Circles :-

- (1) Bongaigaon and
- (2) Mankachar .

2. That, Kokrajhar Area consists of Civil Districts- Kokrajhar, Bongaigaon and Dhubri, become the hotbed of ABSU

contd...

(All Assam Boro Student Union) agitation since 1987 which will be revealed from different reports of important development and Demographic changes till date the "Bodo Autonomous Council Accord" signed by the Govt. of Assam and ABSU Leaders in February, 1993.

SHARTAGE POSTING OF OFFICERS

3. That Sir, during the period of 1993-94, the following post were lying vacant in the Kokrajhar Area .

- (1) C.O., Mankachar since 1987.
- (2) C.O., Kokrajhar -long back .
- (3) C.O., Bongaigaon-Long back .
- (4) C.O., Gossaigaon from July/98.

4. That, in the field only 3 (three) Officers were present/posted i.e. S.A.O.-2 and C.O.-1 against 2 S.A.O. and 5 (five) C.Os in the Area during the period under report. The C.O., Dhubri being a freshar one, he was also detailed on various Training Courses. Besides, the immediate authority paid no heed for the posting of the vacant post during the period although fully knowing well the strategic location of Kokrajhar Area which has International Boundary-(1) Indo - Bangladesh and (2) Indo-Bhutan Bordar .

5. That, similarly against the sanctioned post of 9 (Nine) SFA(M) in Kokrajhar Area only 4 (four) were posted and 5 (five) posts continued to be vacant. On promotion transfer of SFA(M), Bongaigaon and Dhubri, they were released in January/94. The post of SFA(M), Dhubri Circle and Bongaigaon Circle consisting of Indo-Bangladesh and Indo-Bhutan border

respectively vacant posts although earlier 5 (five) vacant posts- total -7 (seven) posts of FSAS(M) continued to remain vacant in Kokrajhar Area till date . No rationality has been maintained in posting of SFA(M) in comparison to other 4 (four) Area of North Assam Division even repeated note made by the D.M.O., NAD as learnt .

A.O.'s FUNCTION CRIPPLED.

6. Out of 3 (three) Stenos , only 2 (two) Stenos one each of A.O. , Kokrajhar and S.A.O. , Kokrajhar were posted . The post of Steno, Bongaigaon continued to remain vacant since 1987.

7. That, the Steno of A.O. , Kokrajhar was initially transferred and posted in Tinsukia Area (Vide Order No. 1/2(6) NGO / 92-337-56 dated 9.4.92, copy enclosed with a substitute but perhaps on personal affinity, Cate and Creed, he was posted to S.A.O. Office, Rangia of North Kamrup Area without any representation and that to without a substitute (Order No.1/2(6) NGO/92/ 3828-34 dated 2.8.92 copy enclosed overlooking the importance of A.O.'s Office Kokrajhar, The Steno has been released on transfer in January '93 on constant pressure from the Div. Hqrs. by sig and since then no substitute has been posted .

Aimilarly, the Steno of S.A.O. , Kokrajhar has also been transferred and released in January/93 without a substitute rather revising the transfer order of Steno of Comdt., Wats to S.A.O. North Kamrup instead of S.A.O. Office.,Kokrajhar .

Thus the functioning office A.O. ,Kokrajhar has been crippled by the immediate controlling authority not only in the field but also in the Ministerial Ranks during the period under report .

KOKRAJHAR SELECTED AS THE BEST AREA OF NAD FOR THE BEST RESTAREA EASTERN ZONE COMPETITION.-1993-94.

8. That Sir, North Assam Division Consists of 5 (five) Areas-Tinsukia, North Lakhimpur, Tezpur, North Kamrup and Kokrajhar, Area, has been selected as the "BES AREA" for the Best Area Eastern Zone Duty Meet competition during the period under report. The D.O. NAD has also admitted the fact and he has kindly "approved the entire Tour of the undersigned for September/93 commenting as a "SPECIAL CASE" which is enclosed in photostat .

ANNUAL ADMINISTRATIVE PERFORMANCE -1993-94.

9. That Sir, having being the after mentioned deficiencies/difficulties, your humble petition has achieved all the targets as far as practicable an even conducted 102 (one hundred two) nos excess N.I.P. Camps against a total target of 100 (one hundred) nos N.I.P.s during the period under report in addition to Best Area Eastern Zone Competition. The Annual Administrative Report has been submitted vide this office No. 992 dated 17.4.94 under Redg. cover No. 4334 dated 18.4.94 which may also kindly be referred to .

G R O U N D S

1. That Sir, What I personally feel is that the respected D.O., NAD has kindly visited/Inspected A.D. Office .,Kokrajhar from 16.6.92 to 19.6.92 with all his family members and it is perhaps due to this fact that I could not looket into their all type of family welfare/need during the period. The Comdt., G.C., Bongaigaon provided his car during the entire

5.

visit period (16.6.92 to 21.6.92) right from Bongaigaon to all the Circles of Kokrajhar, Area which may be revealed from his (Comdt's) Tour Diary of June/92 while I could not due to my limited resources and preengangement in the Inspection, Field activities, public meetings in different places of Bongaigaon, Gossaigaon, Dhubri and Mankachar Circles as also various/multifarious management like accommodation, fooding etc. for such a considerable number of members of the contingent that too on mobile besis day to day. In this regard 7 (seven) different photographs are appeared with brief Resume for favour of your kind perusal and consideration .

2. That Sir, there was a news Item in column No.5 (five) of page-8 (eight) of Leading English Daily- "THE ASSAM TRIBUNE" dated 20th July/92, and Memo No. 254-60 dated 7.3.94 (photocopy enclosed which may be added factor of the foregoing para .
3. That Sir, the undersigned belongs to "Other Class of Rajbangshi Community" simple by nature and the Officer who has recorded the performance as "AVERAGE" is of Higher Cape/ Community and he was not looked into the future of the Employee of a "WEAKER SECTION" .
4. That, during my service life from 4/67, I have never been graded as "AVERAGE" Officer in my Superior/Senior Officer either by A.C.S. (Assam Civil Service) or I.P.S. Officers.
5. That, I also served as Instructor at F.A. Gwadom, T.O. Haflong in Survival Course, in a strategic Area like Sikkim where the Honourable Cabinet Secretary Sri B. G. Deshmukh has kindly visited and even as a Staff Officer in

(27)

40

6.

NAD and no "AVERAGE" grading has been reflected and communicated to me.

6. That Sir, I am in the promotion Zone and if my A.C.R. is not reflected precisely, my future will be marred and a WEAKER SECTION OFFICER will remain as a WEAKER only.

Under the circumstances of the foregoing paras, I earnestly request your Honour to look into the matter to expunge the adverse remark of my A.C.R., 1993-94 for which act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

Sd/- (H. N. Singha)

AREA ORGANISER, KOKRAJHAR.

....

(28)

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF SECURITY
AREA ORGANISER SSB KOKRAJHAR AREA
KOKRAJHAR JARANI.

Dated the 29th August 1994.



CERTIFICATE :

Certified that the Representation of
Shri H.N. Singha, Area Organiser, SSB, Kokrajhar on his
A.C.C.R. for the year 1993-94 has been sent to the Director,
SSB, Block-V, R.K. Puram, New Delhi vide A.O., SSB, Kokrajhar
Office No. 432 dated 12.8.94 under Registered letter
Receipt No. 2334 dated 14.8.94 of Kokrajhar Post office.

(G.N. Deka)
Area Organiser, SSB,
Kokrajhar,
AREA ORGANISER,
SSB (KOKRAJHAR)

670KA
27.8.94

NOT INSURED

10/-
P.

2334

Postage Paid
Date Stamp

Received a registered letter
dated 21.8.94
Addressed to
Block-V

M. Deka
Signature of Receiving Officer

(29)

Annexure-III

Annexure-III.

NO. DIGK/HNS/ADS/PF/98/738
Directorate General of Security
Office of the Dy. Inspector ~~Gen~~
General SSB Post Box No.210
Kohima-797001, Nagaland.

Dated the 18th October, 1996.

To,

The Divisional Organiser, SSB
Manipur and Nagaland Division,
Imphal.

Sir,

Enclosed please find herewith the Representation
addressed to the Principal Director, SSB by Shri H.N.
Singha, Area Organiser D.I.G. Hqs., SSB, Kohima which is
self explanatory .

It is for favour of your kind perusal and necessary
action, please .

Yours faithfully,

Enclo:- As above (In
duplicate)

sd/- (J.S.SANDHU)

Dy. INSPECTOR GENERAL.

....

contd...

TO,

The Principal Director , SSB

East Block-V,

R.K.Puram ,

New Delhi-110066.

(through the proper channel).

Subject :- EXPUNCTION OF MY A.C.R. FOR THE PERIOD 1993-94.

Sir,

Kindly refer to my representation addressed to the Director, SSB vide No. PF-4-67/93-94/432 dated 12.08.94 in continuation of Divisional Organiser , NAD memo No. NAD/CON/ACR-7/94(23) dated 27.06.1994 on the subject cited above, I have the honour to submit the following few lines for favour of your kind perusal and justice .

1. That Shri S.K.Sharma the then Divisional Organiser, NAD has reflected in my ACR for the period 1993-94 commenting that he is "an experienced Officer ", but his performance has not been up to expunction and finally graded my ACR as "AVERAGE".

2. That the remains endorsed by Shri S.K.Sharma, Ex.Divisional Organiser,NAD has been strongly represented by the under signed to Director ,SSB vide my representation No. PF-4-67/93-94/432 dated 12.08.1994 as been provocative, malicious, biased and vindictive proving with the following documentary proof .

i. 8 (eight) Nos. of photographs of Shri S.K. Sharma, Ex.Divisional Organiser,NAD with all his family members (i.e. his Mrs. Daughters-2 and son-1, total -5

contd...

3.

including the Divisional Organiser) who visited Bongaigaon, Kokrajhar, Dhubri and Goalpara area Districts for and during the inspection of Area Office, Kokrajhar w.e.f. 16.06.1992 to 19.06.1992 using the car of Divisional Organiser, NAD and car of Commandant, G.S., Bongaigaon to accommodate his entire family members and Battalion personnel in additional vehicles in the assumed plea as Security Guards numbering about 34/35 in total that too in mobile i.e. from Bongaigaon to Kokrajhar, Gossaigaon, Dhubri (Alamganj-Suparighat) Florican Garden, Bilashipara-Pancharatna/Goalpara and Mankachar having organising 4 (four) NIP Camps/Public Meetings, Group Discussions and Inspection of 4 (four) G.I.A. Projects and as a result, I could not look after them properly having busy in field schedules.

ii. The Memoranda, transfer orders of Officials issued/amended and memo No. 754-60 dated 07.03.1994 regarding visit of Officers/Officials in Divisional Organiser residence "taking liberty for or attempt or gratification".

iii. Photocopy of news item published in a leading Daily English News Paper of Assam "The Assam Tribune", 20th July, 1992 regarding allegation against Shri S.K. Sharma Ex. Divisional Organiser, NAD for placing of supply order with two Delhi based firms, whose owners alleged to be his relatives and neither any re-joinder nor a "Defamation case" could be filed by him till date which shows that the allegation was correct and accepted by Shri S.K. Sharma.

3. That, during my service period as Area Organiser, SSB I had served under the following Divisional

(32)

15

Organisers of different Divisions :-

Sl. No.	Name/Designation of post held by me	Period	Name of the Divisional Organiser
		From	To
01.	Area Organiser Hqs.. North Assam Divn.	3/84	2/87
			Shri N.Natarajan, IPS IG/D.O., NAD & Director, SSB
02.	Area Organiser Sikkim/Darjeeling (Duel charge)	2/87	1/97
			i. Shri H.N.Biswas, IPS, Ph.D. D.I.S./DO North Bengal & Sikkim Divn.
			ii) Shri M.Gopal, IPS, I.G./D.O., NB & S.Divn.
03.	Area Organiser, Tezpur/Area (Hqs), NAD and Area North Lakhimpur, (Concurrently)	13/97 1990	26/4/91 (i) Shri V.N.Negi, IPS, I.G./D.O., NAD

4. That, from the foregoing para (3), it is pertinent to note that, I had served as Area Organiser in different Divisions under 3 (three) different I.P.S. Officers of I.G.P./D.G.P. rank and 1 (one) I.P.S./D.I.G./D.O. who has also been conferred Ph.D. in sociology, now Joint Director of C.B.I., Eastern Region, Calcutta.

5. That, during my service as an Area Organiser under the aforementioned 4 (four) senior I.P.S. Officers my, service career has been "Very Good", but it is not understood as to how I became an "AVERAGE" Officer under a solitary "Non-I.P.S. "Officer (Shri S.K. Sharma, Divisional Organiser, NAD) by overnight, which is nothing, but due to the aforementioned personal gimmicks .

5.

Besides, Shri S.K. Sharma, Ex-Divisional Organiser has clearly admitted and incorporated the undersigned "as an Officer".

6. That, I was very busy with the field commitments because, it was period of peak Bodoland Agitation by the All Bodo Students Union (ABSU) which ultimately lead to signing a "Tripartite Accord" by the Govt. of Assam, herded by the then Chief Minister Hiteswar Saikia, Shri Sanjuma Bismuttiary, President, ABSU under the supervision of the then Union Home Ministry leading to "Bodo-land Autonomous Council" (BAC) in 1993 .

7. That, Shri S.K. Sharma did not offer his comments while down grading my ACR written by D.I.G., which is a mandatory for the reviewing Officer because of this malicious, biased and vindictive attitude of Shri S.K. Sharma against me has resulted in a great damage to my career and I have not been considered for further promotion. Once I am adjudged as an "experienced Officer", by Shri S.K. Sharma, then how I am an "AVERAGE" graded by the same Officer.?

Under the prevailing circumstances and the foregoing paras, I would request you kindly to look into the matter and expunge the "AVERAGE" grading ACR 1993-94 on the analogy of my ACR written by the 4 (four) senior I.P.S. Officers and my ACR may be up-graded as "very GOOD" to award the proper justice as my experience work and length of service, I rendered in SSB .

It is for your sympathetic consideration, please . With full expectation of justice from your gracious honour .

yours faithfully,

Sd/- (H.N.SINGHA)
Area Organiser (staff)

Area Organiser SSB.Kohima,
Nagaland.

TO,

The Director General of Security,
 Cabinet Secretariat,
 Government of India
 Bikaner House (Annexe)
 Shahjahan Road, New Delhi-11
 Through the proper channel
 Dated Kohima the 25th June, 1997.

Subject:- PRAYER FOR EXPUNCTION OF AVERAGE REMARKS IN
THE ACR OF 1993-94 AND UP-GRADING TO "VERY
GOOD" AND STAYAL OF DPC OPERATION FOR REVIEW
OF THE D.P.C.

Sir,

This Appeal is made by your humble petitioner to your honour being the Appellate Authority on the subject cited above for favour of your kind perusal and legal consideration.

ACR PROFILE OF 1993-94 AND ADVERSE REMARKS
THEREON RECORDED BY SHRI S.K.SHARMA, D.O.
SSB NAD FOR EXPUNCTION AND UP-GRADING TO
"VERY GOOD":-

1. That, your humble petitioner is serving as the Area Organiser, SSB, Kokrajhar Area of North Assam Division during the period 1993-94.
2. That, there are 5 (five) different Areas namely (i) Tinsukia, (ii) North Lakhimpur, (iii) Tezpur, (iv) North Kamrup, and (v) Kokrajhar Area-which consist of 4 (four) Districts-(i) Kokrajhar (ii) Bongaigaon, (iii) Dhubri and (iv) Goalpara where the ABSU (All Bodo Students Union) agitation on Bodo Land issue since 1987 remained to continue in endless series of violence, crippling the socio-Economic and Political life in acute crisis.

contd...

2.

3. That, out of the 5 (five) Areas, Kokrajhar Area, headed by your humble petitioner had been selected and declared as "the best Area" by the D.O., SSB., NAD for "ALL INDIA SSB DUTY MEET" Competition during the period of 1993-94 and participated in "the best Area Competition" of North Eastern Zone at Group Centre Debendranagar in the month of September, 1993. This has been reflected/incorporated in your humble petitioner representation No. PF-4-67/93-94/432 dated 12.8.1994 at para-8 (eight) submitted to the Director, SSB R.K. Puram, New Delhi .

4. That, your humble petitioner in addition to normal duties achieved the Annual Target for 1993-94 and conducted 202 (two hundred two) numbers of "National Intregretion Camps (NIP)" against a Annual Target of 100 (one hundred) Nos NIPS and thereby achieved " double" the Annual Target under Head Training for 1993-94. This has also been incorporated in my representation No. PF-4-67/93-94/432 dated 12.8.1994 at para-9 (nine) and as well as in the "Annual Administrative Report- 1993-94" of Kokrajhar Area and submitted to the higher Hrzs. vide No. 997 dated 17.4.94.

5. That, having being performed so much so as stated the foregoing paras, the then D.O., SSB,North Assam Division Shir S.K.Sharma recorded in C.R. of your humble petitioner of 1993-94 and commented upon that "he is an experienced Officer" but his performance has not been up to the expectation and finally graded as "AVERAGE" which inspired malice, incorrect, false, unfounded, flattering, prejudicious, bias and inconsistent. It is clearly founded and aimed at to detriment the career of your petitioner and cent percent violative and defeatative of the established, existing Rules

3.

and all norms and quite contradictory to C.R. -" Objectives, result/performance oriented appraisal system" and "Principles", Your kind attention is invited to chapter-20 on C.R. Rule -1, 6,1,2,4 and Rule-15 (2) as also as emphasised in Government Orders .

i) C.S.-O.M. No. 51/5/72-Ests. (A) dated the 20th May ,1972 para-2.1.

(ii) C.S.-O.M. No. 51/5/72-Ests. (A) dated the 20th May ,1972 of para -7 and

(iii) Para-174(9) of P & T. Manual Vol-III.

6. That, having received the adverse ACR communication on 20.7.1994 for the period 1993-94 from the D.O.,SSB, NAD VIDE No. NAD/CON/ACR-7/94(73) dated 27th June,1994. Your humble petitioner represented to the Director, SSB R.K.Puram, New Delhi vide No. PF-4-67/93-94/432 dated 12.8.94 i.e. within 22 days from the date of receipt on 20.7.94, but before the "TIME LIMIT" of 30 (THIRTY) days, adducing all the facts, result/performance oriented appraisal as stated in the foregoing para 5 for disposal of your humble petitioner representation but till 9.9.96 (9.9.1996) no "disposal information" whatever has been communicated/received by the representor/petitioner for the reason best known to them and it is still "PENDING DISPOSAL".

7. That , finding no other alternative, your humble petitioner also submitted an Appeal to the Principal Director through proper channel on 9.9.1996 and the same has been forwarded by the D.I.G. , SSB, Kohima, Nagaland vide his No.DIGK/HNS/ADS/PF/96/7381 dated 18th October 1996 to the higher Hqrs. but its "disposal", too, still "PENDING DISPOSAL" for the reason best known to them .

4.

8. That, in so far as para-6 and para-7 above are concerned, your humble petitioner doth hereby draws your kind perusal attending towards C.R. Rule-8.3 and 11 for the expunction of the said adverse remarks-upgrading it to "VERY GOOD" reading with Rule 8.6.11 interalia and taking into consideration of -

- i) Rule-22 and
- ii) Rule-174(12) of P & T Manual -Vol-III.
- iii) Rule-23 and

G. L. D. P. & A.R. O.M. NO. 21011/1/77 Est. dated the 30th January, 1997, since the adverse remarks on the petitioner's C.R. for the year 1993-94 "should not be deemed to be operating" being representation filed within the mandatory time of 3 (three) months is over.

9. That, notwithstanding anything contained in the foregoing paras-para-1 to para-8., a doubt has also arose to your humble petitioner and it become imperative to have a clear idea/knowledge of the "overall grading" of his C.R. for the year 1992-93 recorded by the same Officer, the D.O., SSB, NAD for "summing up the legal aspect and position" in regard to the petitioner C.R. reading with C.R. Rule-10.13 (S.S.S. Venkata Rao -Vs-State of Orissa, 1975, SI-J.266 (F.B.)Orissa).

OPERATION STAYAL OF DPC HELD IN APRIL, 1997 FROM A. DS/COMDTS.

TO D. I. C. AND REVIEW DPC THEREON.

10. That, your humble petitioner reliably learnt that a DPC was held for the promotion of ADS/COMDTS to D.I.G. sometimes in the month of April, 1997 and that your petitioner being

contd...

the "Senior most" amongst the A.Os in SSB as per the "Seniority List of A.Ds" circulated vide D.O. SSB, Manipur and Nagaland Division No.1/8(1)-E/95/MD/13174-76 dated 19.12.95. Your humble petitioner name should have figured in the promotion panel of the said DPC.

11. That , a doubt has also arose to your humble petition that if the C.Rs of 1992-93 (non communicated) and that of 1993-94 (communicated and pending disposal/decision) are taken into consideration, the petitioner may not likely to award the require "Bench mark" since C.Rs are the "BASIS" and the "Primary" record of a DPC in so far as "Seniority and promotion Rules" in Central Government Service is concerned vis a vis "non production of material facts to the notice of the DPC and thereby commission of grave errors in the procedure of followed by the DPC vide Rule-18(1).

12. That, Sir, your humble petitioner belongs to Schedule Tribe of Koch Rajbongshi community as per (Scheduled Tribes) order (Amendment) ordinance No.9 of 1996 and your petitioner claimed S.T. status and furnished ST certificate as per Appendix 14 and Appendix-15 as appeared in the Brochure on the reservation for SC/ST. Having protected correspondence "on the plea of the other" right from 27.2.1996 to 8.4.1997, your humble petitioner has been asked by the SSB Directorate to furnish again the original and the photocopy, of ST certificate only on 9.4.97 vide their No.22/SSB/A2/82(18)-11/1340 dated 9.4.97 that to at a time when the DPC was due to held during the said month-April 1997, just to deprive your petitioner from the Constitutional Rights as advisaged in the case of SC/ST Officer(s) in Rule-6.2.3 (i) of the "Senioritypromotion" in Central Govt.

Service. The modes operandi appears to have done for some vested interest to promote the juniors to the petitioner in the said DPC in serial No. 4 (four) and serial No.6 (six) of the seniority list of A.Os in SSB .

13. That, notwithstanding anything contained in the foregoing paras , para-1 to 12, "to sum up of the legal aspect/position" in regard to C.R.Rule-10, it is pertinent that your humble petitioner has been adversely affected by the prejudicial C.R. recorded without fullest consideration under Rule-15 (2) and thereby deprived of all the legal aspects and Constitutional Rights to your petitioner and therefore humbly prays for :-

1) Exunction of his C.R. 1993-94 and awarding/upgrading to "Very GOod" pertaining to C.R. Rules as elucidated in the foregoing paras, para-1 to 9, reading with C.R.Rules chapter-20 -

(1) Rule-6.1.2.4.

(2) C.S.O.M. NO.51/5/72-Ests (A) dated the 20th May,1972, para-2.1.

(3) C.S.O.M. No. 51/5/72 Ests(A) dated 20th May,1972,para-7.

(4) Rule-8.3.6.11.

(5) Rule-22 & Rule-174(12) of P & T Manual Vol-III.

(6) Rule-23 reading with G.I.D.P. & A.R. Q.M. No.21011/1/77 dated the 30th June,1978.

2. To uphold the operation of the DPC held in April, 1997 for the promotion of A.O.S/Comdts. to D.I.G. reading with "Seniority and promotion in Central Govt. Service .

(40)

7.

(1) Rule-23.

(2) Rule-6.3.2., G.O.I Dept of Personnel and Training O.M.
No.22011/

(3) Rule-18.1. 5/86-Estt. (D) dated the 10th April, 1989.,
for upholding a "Review DPC".

And for this act of your kindness, your humble
petitioner will remain ever grateful to your precious and of
justice for the legal welfare to a "downtrodden" and "Socially
Weaker section of Official".

Yours faithfully,

Sd/- (H.N. SINGHA)

Area Organiser, SSB(Staff),
of D.I.G. HQRS. OFFICE, KOHIMA
NAGALAND .

.....

(41)

Annexure- V.

No. 1/8(1)-E/95/MD/13174-76

Directorate General of Security

Office of the Divisional Organiser

SSB Manipur and Nagaland Division

Imphal-795001.

Dated the, 19.12.95.

MEMORANDUM

Subject :- Seniority list of Area Organiser in SSB as on
30.11.1995.

While forwarding herewith draft seniority list of Area Organiser in SSB, as on 30.11.1995, it is requested to point out any discrepancy, objection etc., if any at the earliest so as to point out the same to the SSB Directorate by 31.12.1995.

Enclo:- As above.

Area Organiser (Admn).

To

1. Shri H.N. Singha
Area Organiser(S) O/o D.I.G., SSB Kohima.
2. Ms. Kamala Das
Area Organiser, SSB Imphal .
3. Shri (~~Prakash~~ Shandilya) M.V. B.C.
Area Organiser (Admn) Div. HQ.

contd....

TENTATIVE SENIORITY LIST OF AREA ORGANISERS AS ON 15.11.95.

Name	SC/ST	date of birth	Educational Qualificati- on.	Date of appoint- ment in the grade of Area Organiser.
1. 2.	3.	4.	5.	6.
S/Shri				
1. S. S. Thakur	-	14.1.39	B. Sc	3.3.84
2. H. N. Singha	-	31.3.42	B. A.	5.3.84
3. B. C. Bora	-	1.1.38	B. A.	20.2.84
4. Lebsang Rinchin	ST	2.2.51	Inter	27.2.84
5. P. S. Kaintura	-	10.9.39	B. A.	14.2.82 (AN)
6. G. S. Sayana	ST	12.2.47	B. Sc	13.7.87
7. Romesh Lal	ST	9.6.44	B. A. B. Ed	1.2.87
8. A. K. Bhardwaj	-	1.6.43	B. Sc (Agri)	30.3.88
9. K. D. Singh	-	4.4.45	M. Sc	4.4.88 (AN)
10. D. Bharali	St	1.2.40	B. A.	30.4.88 (AN)
11. N. R. Guha	-	23.2.38	B. A.	8.11.91 (AN)
12. J. S. Chambial	-	20.11.45	B. A. B. Ed.	7.11.91
13. S. N. Sharma	-	15.1.39	Inter(Hons in Hindi)	28.11.91
14. B. K. Anand	-	1.11.41	F. A.	6.11.91
15. G. R. Marwaha	-	20.11.46	B. A. ,LLB.	26.11.91 on depu. to NSG.
16. G. N. Deka	ST	24.3.48	M. A.	12.12.91
17. I. C. Sharma	-	17.4.45	B. Sc. LLB.	4.11.91 (AN)

contd...

1. 2.	3.	4.	5.	6.
18. Kishori Lal	SC	26.1.48	B.Sc.	7.11.91
19. R.S. Gill	-	6.6.48	B.A.	23.11.91
20. S.S. Katoch	-	23.9.41	B.A.	7.11.91
21. A.K.Chakraborty	-	18.10.38	B.A.B.T	11.12.91
22. B.Bandopadhyaya	-	9.7.47	B.A.	26.5.93
23. Jatinder Singh	-	15.8.46	B.Com	27.5.93
24. H.C.Pande	-	10.9.48	B.A.	26.5.93
25. Ganesh Choudhury	-	9.7.43	B.A.	26.5.93
26. P.C.Shah	-	7.10.45	M.A.	7.6.93
27. B.P.Semwal	-	14.5.43	B.A.	27.5.93
28. R.S.Negi	ST	27.3.39	B.A.	29.6.93
29. K.C.Sarkar	SC	9.1.48	B.A.B.Ed	28.5.93
30. Ms.Kamala Das	"	23.5.47	B.A.	16.8.93
31. Bhagwan Das	"	4.8.48	B.A.	5.7.93
32. T.C. Shandle	"	14.6.46	M.A.	6.11.95
33. R.D.Sharma	"	11.12.46	B.A.,B.Ed	25.9.95
34. N.Pal Choudhury	"	1.10.47	B.A.	12.9.95
35. C.B. Oli	"	15.4.40	M.A.	28.7.95
36. Amarjeet	SC	4.11.48	B.A.	29.8.95
37. S.K. Rawat	-	19.5.48	B.Sc.	31.7.95

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Annexure - VI.

9

NO. 11/1/(7)/94/301-02

DIRECTORATE GENERAL OF SECURITY,
OFFICE OF THE DIVISIONAL ORGANISER/SSB,
NORTH ASSAM DIVISION::: TEZPUR.

Dated 10.1.94.

MEMORANDUM .

Subject :- seniority list of Area Organiser as on 1.1.94.

A copy of seniority list received from SSB Dte. is sent herewith for your perusal. If any discrepancy is detected it may be pointed out and correction thereof if may be forwarded to this office before 20.1.94, for further necessary action .

The receipt of the list may please be acknowledged .

Enclo: As above .

Area Organiser (staff),
North Assam Division ,
Tezpur .

To,

sri H.N.Singha ,
Area Organiser,SSB,
Kokrajhar .

smti Kamala Das ,
Area Organiser,SSB,
Tinsukia .

.....

TENTATIVE SENIORITY LIST OF AREA ORGANISER AS ON 1.1.94.

Name	SC/ST	date of birth	Educational Qualifica- tion.	Date of app- ointment in the grade of Area Orgsni- ser.
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1. 2.	3.	4.	5.	6.
-------	----	----	----	----

S/Shri

1. S.S.Thakur	SC	14.1.39	B.Sc.	3.3.84
2. H.N.Singha	"	31.3.42	B.A.	5.3.84
3. B.C.Bora	"	1.1.38	B.A.	31.12.96
4. T.N. Shahoo	"	2.3.46	B.Sc.	6.2.84
5. S.K.Chakraborty	"	1.10.41	B.A.	9.2.84
6. Lebsang Rinchin	"	2.2.51	Inter	27.2.84
7. T.Namgial	ST	12.6.46	M.A.	27.2.84
8. P.S.Kaintura	"	10.9.39	B.A.	14.1.87(AN)
9. G.S.Sayana	"	12.2.47	B.Sc.	13.7.87
10. Ramesh Lal	"	9.6.44	B.A.B.Ed.	1.2.87
11. A.K.Bhardwaj	"	1.6.43	B.Sc.	30.3.88
12. K.D.Singh	"	4.4.45	M.Sc.	4.4.88(AN)
13. D.Bharali	"	1.2.40	B.A.	30.4.88(AN)
14. L.Ahao	ST	1.3.38	B.A.	11.4.88
15. Km. Shanta Khunnu	"	4.2.37	B.A.	6.12.91
16. N.R.Guha	"	23.2.38	B.A.	8.11.91(AN)
17. J.S.Chamiyal	"	20.11.45	B.A.B.Ed.	7.11.91
18. S.N.Sharma	"	15.1.39	Inter (Hons in Hindi).	28.11.91

contd...

19. B.K.Anand	ST	1.11.41	F.A.	6.11.91
20. G.R.Marwaha	"	20.11.46	B.A.,LLB.	26.11.91
21. G.N.Deka	"	24.3.48	M.A.	12.12.91
22. I.C.Sharma	"	17.4.45	B.Sc.,LLB.	4.11.91 (AN)
23. Kishari Lal	SC	26.1.48	B.Sc	7.11.91
24. R.S.Gill	"	6.6.48	B.A.	23.11.91
25. S.S.Katach	"	23.9.91	B.A.	7.11.91
26. A.K.Chakraborty	"	18.10.38	B.A.B.T	11.12.91
27. B.Bandopadhyaya	"	9.7.47	B.A.	26.5.93
28. Jatinder Singh	"	15.8.46	B.Com	27.5.93
29. H.C.Pande	"	10.9.48	B.A.	26.5.93
30. Ganesh Choudhury	"	9.7.43	B.A.	26.5.93
31. P.C.Shah	"	7.10.45	M.A.	7.6.93
32. B.P.Samwal	"	14.5.43	B.A.	27.5.93
33. R.S.Negi	ST	27.3.39	B.A.	29.6.93
34. K.C.Sarkar	SC	9.1.48	B.A.,BED.	28.5.93
35. Ms. Kamala Das	"	23.5.47	B.A.	16.8.93
36. Bhagwan Das	"	4.8.48	B.A.	5.7.93

.....

13.12.1989.

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Annexure-VII

No. 2/SSB/A-2/85(3).
Directorate General of Security
Office of the Director : SSB,
Block -V(East) R.K.Puram
New Delhi-110066

Dated 21.12.89

MEMORANDUM

Subject :- Amendment in the SSB (Sr. Executive) Service Rules, 1977.

Please find enclosed a copy of Cabinet Sectt. Notification No. A- 12018/13/88-DO.I dated 13.12.1989 on the above subject for information and necessary action.

At Your earliest convenience.

sd/-

Assistant Director (EA)

To

1. The D.O.s UP/HP/AP/NB/NA/MANIPUR ETC.

2. The D.I.G Sarahan/Salonibari/Haflong.

3. The Commandant TC Faridabad/ CSD&W Bhopal.

4. The Commandant (EB), SSB, Dte.

5. The Assistant Director (NGO) SSB Dte.

sd/-

25th Decm 1989

NOTE :- The present document is a copy of Cabinet Sectt. Notification No. A- 12018/13/88-DO.I dated 13.12.1989 on the above subject.

1. Nos. 12018/36, 12018/37, 12018/38.

2. Nos. 11/13/88-DO.I, 12018/39.

3. Nos. 12018/40, 12018/41, 12018/42.

4. Nos. 12018/43, 12018/44, 12018/45.

5. Nos. 12018/46, 12018/47, 12018/48.

25th Decm

1. The present document is a copy of Cabinet Sectt. Notification No. A- 12018/13/88-DO.I dated 13.12.1989 on the above subject.

2. The present document is a copy of Cabinet Sectt. Notification No. A- 12018/13/88-DO.I dated 13.12.1989 on the above subject.

3. The present document is a copy of Cabinet Sectt. Notification No. A- 12018/13/88-DO.I dated 13.12.1989 on the above subject.

(Copy)

SECRET

No. A-12018/13/88-DO.I
 Government of India,
 Cabinet Secretariat,
 Shahjahan Road.

New Delhi, the 13-12-1989

NOTIFICATION.

In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the SSB (Senior Executive) Service Rules, 1977 namely

1. i) These rules may be called the SSB (Senior Executive) Service (Amendment) Rules, 1989.
 ii) They shall come into force at once.
2. In Schedule II to the SSB (Senior Executive) Service Rules, 1977, against serial number 3 relating to the post of Deputy Director /Deputy Inspector General in column 7, in the entries for the items (i) and (ii), the following items shall be substituted namely.
 - i) 37 $\frac{1}{2}$ % by promotion of SSB Battalion Commandants with minimum of 8 years regular service in the rank of Commandant.
 - ii) 37 $\frac{1}{2}$ % by promotion of Area Organisers belonging to SSB (Senior Executive) Service with minimum of 8 years regular service in the grade. (priority will be given to the Area Organisers and next to the Commandants while rounding off to the higher integer, in the event of equal fractions in the distribution of the posts of Deputy Inspector General).

Sd/- R.K. GANGAR
 Deputy Secretary to the Govt. of
INDIA

Note :- The Principal rules were notified vide Notification No. EA/SE-191/74 dated 1-3-1977 and subsequently amended vide the following notification :-

1. No. A-12018/38/81-DO.I dated 10-6-1982.
2. No. 21/71/80-DO.I dated 2-12-82
3. No. A-12018/6/86-DO.I dated 7.1.1987.
4. No. A-12018/21/86-DO-I dated 16-1-1987.
5. No. A-12018/5/88-DO.I dated 4-8-1988.

Copy to :-

1. Shri R. Swaminathan, Principal Director, DGS.
2. Shri H.B. Johri, Director, SSB.
3. Shri S.H. Manghani Director of Accounts, Cab. Sectt.
4. Shri P.K. Sinha, Director Finance (S.I) Cab. Sectt.
 New Delhi.

(49)

Annexure —

VIII

v



GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF SECURITY
AREA ORGANISER SSB KOKRAJHAR AREA
KOKRAJHAR : ASSAM.

Dated the 29th August 1997.

CERTIFICATE :

Certified that Shri H.N. Singha, Area Organiser, SSB, Kokrajhar conducted 202 (Two hundred and two) Nos. NIP Camps during the year 1993-94 as against the Target of 100 Nos. NIP Camps for the year as per D.O., SSB, NAD, Memo No. VII/5/Trg/93/4368 dated 29.4.93 and thereby achieved double the Target of NIP camps.

It is also certified that the Target achievement report of A.O., SSB, Kokrajhar - Annual Administrative Report - 1993-94 has been sent to Area Organiser, SSB, Trg., NAD, Tezpur vide No. 1/16/Estt/87/992 dated 16.4.1994.

(G.N.Deka)
(G.N.Deka)
Area Organiser, SSB,
Kokrajhar.

AREA ORGANISER
(SSB) : KOKRAJHAR.

(50)

Annexure - IX

b3



GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF SECURITY
AREA ORGANISER SSB KOKRAJHAR AREA
KOKRAJHAR : ASSAM.

Dated the 27th August 1997.

CERTIFICATE :

Certified that Shri H.N. Singha, Area ^{declared} Organiser, SSB, Kokrajhar has been selected and participated as the Best Area of SSB of North Assam Division in the North Eastern Region (Zonal) Best Area Competition at Group Centre, SSB, Debadranagar w.e.f. 5.10.97 to 19.10.97.

(G.N.Deka)
29.8.97
(G.N.Deka)
Area Organiser, SSB,
Kokrajhar.

AREA ORGANISER
SSB (1) KOKRAJHAR.

CONFIDENTIAL.

EXTRACT FROM SSB DIRECTORATE CONFIDENTIAL MEMO NO. 22/SSB/A2(18)

10.30 DATED 06.3.98 ADDRESSED TO DIVISIONAL ORGANISER, M & N.
DIVISION, IMPHAL, A.P. DIVISION, ITANAGAR, N.A. DIVN. TEZPUR AND
OTHERS :-

Subject :- Expunction of adverse remarks on ACR for the year
1993-94.

Please refer to your Memo No. HNS/AO-95/MD/1022-25
dated 6.12.97 forwarding representation of Shri H.N. Singha,
A.O. Kohima (now posted to Bomdila A.P.) regarding expunction
of adverse remarks recorded in his ACRs for the year 1993-94.

2. The representation of Shri H.N. Singha, A.O. has
been carefully considered by the Director, SSB. The order passed
by Director SSB in this regard are re-produced below :-

"After going through the record it is felt there is
no justification in any way amending the remarks recorded in
the ACR, as they are warranted by record on the subject".

3. Shri H.N. Singha, Area Organiser may be informed
accordingly.

Memo No. AP/CONF/A-1(8)98 Itanagar the 17th March/98.

Copy to :-

1. Shri H.N. Singha, Area Organiser, SSB, Bomdila.
2. The Divisional Organiser, Manipur and Nagaland Division,
Imphal for information.

Sd/-T. Namgial
Dy. Inspector General
A.P. Division, SSB, Itanagar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No.213 of 1997

Date of decision: This the 16th day of November 1999

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

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

Shri Harendra Narayan Singha,
 Area Organiser (Staff),
 S.S.B., Kohima, Nagaland.

.....Applicant

By Advocates Mr B.K. Sharma,
 Mr. M. K. Choudhury and Mr S. Sarma.

- versus -

1. The Union of India, represented by the
 Secretary to the Government of India,
 Ministry of Cabinet Affairs,
 New Delhi.

2. The Director General of Security,
 New Delhi.

3. The Principal Director, S.S.B.,
 New Delhi.

4. The Director, S.S.B.,
 New Delhi.

5. Shri S.K. Sharma, Retired Divisional Organiser,
 S.S.B.,
 C/o Director, S.S.B.,
 New Delhi. Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

ORDER

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexure 2 Memorandum dated 27.6.1994 communicating the adverse remarks to the applicant and also seeks direction to the respondents to consider his case for promotion to the next higher grade of DIG within a time frame and also other consequential benefits.

AB

2. Facts of the case are:

The applicant joined service as Circle Organiser in the year 1967. Thereafter he was promoted to the rank of Sub Area Organiser in 1975. In 1984 he was further promoted to the post of Area Organiser. In 1992 his next promotion to the rank of DIG/Deputy Director became due on completion of eight years of service as Area Organiser. According to the applicant he is the seniormost Area Organiser. During his tenure he performed his duties diligently and earned reputation as a meritorious officer. According to him in addition to his normal duties, he achieved double the annual target in respect of National Integration Camp. All these have been reflected in his ACR for the period 1993-94.

3. On 27.6.1994 the applicant received a communication about the adverse remarks as mentioned in the Annexure 2 Memorandum. Because of the adverse remarks the applicant, though he was the seniormost and had otherwise a good reputation, was not promoted. According to the applicant the adverse remarks made by the Reviewing Authority was without any basis. There is nothing in the record to show that he deserved such adverse remarks. Being aggrieved, the applicant submitted Annexure 3 representation dated 12.8.1994. But the said representation was not disposed of within the period of six months. Situated thus, the applicant filed the present application on or about 29.7.1997. The application was admitted and notice was issued.

4. In due course the respondents have entered appearance and filed written statement.

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5. During the pendency of the application the 4th respondent disposed of the representation rejecting the claim of the applicant and it was communicated to the applicant by Annexure 8 order dated 17.3.1998 issued by the Deputy Inspector General, A.P. Division, SSB, Itanagar.

6. The subject matter of this application is mainly for expunction of the adverse remarks against which the representation was filed, but not disposed of and also for subsequent promotion. We do not understand how the 4th respondent could dispose of the representation pending disposal of this application in view of the provisions contained in Section 19 (4) of the Administrative Tribunals Act, 1985.

We have heard both sides. Mr S. Sarma, learned counsel for the applicant submits that there was no meaning in disposing of the representation in view of the fact that as per provision of Section 19. (4) of the Administrative Tribunals Act, 1985, after admission of the application, every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate. Mr Sarma further states that the adverse remarks were entered into the ACR without any reason and not supported by records. Mr B.S. Basumatary, learned Addl. C.G.S.C. very fairly submits that there is no record available to come to that conclusion. If according to the Reviewing Officer the applicant deserved such adverse remarks, at least, there should be some explanation for that.



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8. We have perused the contents of the ACR and the adverse remarks. The ACR shows the summary of the courses attended by the applicant and the grading obtained by him is 'very good'. Besides, the ACR also shows that the applicant can read, write and speak a number of languages including Bodo language. In the general remarks section it is shown that the applicant is a fit person to get promotion in turn. The Reporting Officer also found him an experienced officer with average quality. Besides the applicant belongs to the Other Backward Community. The Reviewing Officer has opined that the applicant's performance has been made very objectively by the Reporting Officer. However, the Reviewing Officer summed up his remark as "A experienced officer, but his performance has not been upto expectation". On what basis the Reviewing Officer came to this conclusion is not known. The Annexure 8 order dated 17.3.1998 disposing of the representation of the applicant is also not a speaking order and it does not indicate anything.

9. In view of the above we find it difficult to accept the adverse remarks made by the Reviewing Officer. Accordingly we set aside the Annexure 8 order dated 17.3.1998 and direct the respondents to dispose of the representation of the applicant by a reasoned order as to how the adverse remarks could be made. This must be done as early as possible at any rate within a period of one month from the date of receipt of this order.

10. The application is accordingly disposed of. No order as to costs. Certified to be true Copy

স্বামী প্রতিষ্ঠা

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

Deputy Registrar (A)
Central Administrative Tribunal

Guwahati Bench 18/3/1998

No. 22/SSB/A-82(18)-II-3667-69.

DIRECTORATE GENERAL OF SECURITY.

(Cabinet Secretariat).

East Block-V, R.K. Puram .

New Delhi -110066.

Dated the 29.12.99.

MEMORANDUM .

In compliance of the order dated 16.11.99 of Central Administrative Tribunal, Guwahati Bench, in O.A. No. 213/97 filed by Shri H.N. Singha, the applicant -Vs- UOI & others, the undersigned has carefully considered the representation dated 25.6.97, submitted by the applicant, which is annexed as Annexure-V to the above O.A. A certified copy of the CAT order dated 16.11.99 was received by Respondent No.4 on 2.12.99.

2. The applicant has raised the following points in the representations for consideration:

a) Out of five Areas, Kokrajhar Area headed by the applicant was declared as " the Best Area" by the D.O. North Assam Division during All India Duty Meet competition.

b) That, in addition to his normal duties, he achieved the annual target for 1993-94 and conducted 202 NIP Camps.

c) That , D.O. North Assam Division gave him 'Adverse' remarks and also graded him as "Average" which was inspired by malice, prejudice, bias and inconsistency against him. It was intended to harm his career .

d) That, he made representation against "Adverse" remarks within the stipulated period of 30 days .

*Attested
S. N. Das
(G. N. Das)
Advocate*

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e) That, DPC held in April, 1997 for promotion of Area Organiser to the rank of DIG, took into account these remarks and he, being the seniormost Area Organiser in the SSB, should have figured in the promotion list.

f) That, he belongs to ST and that he has been adversely affected due to prejudicial recording of adverse remarks.

He has, therefore, prayed the "Adverse" remarks recorded in his ACR be expunged and his report upgraded to "very Good".

3. That, the Respondent No.4 in pursuance of the order of the Hon'ble CAT, Guwahati Bench, perused official records and after careful consideration of the points raised above, by the applicant, observes that.

a) With regard to the points raised in para 2 (a) to para 2 (c), Respondent No.4 has gone through the following correspondences which were issued by the D.O., SSB, North Assam Division to the applicant relating to his performance in the field during the year 1993-94 and applicant having been warned in writing on three different occasions about the shortcomings in his functioning and attitude, the adverse remarks given in the ACR for 1993-94 are awarded objectively and are fully justified.

I) D.O. NAD's Memo No. 9488 dated 15.9.93.

Overall working needs to be improved.
The performance of Kokrajhar needs to be improved.

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Officer is advised to concentrate on operational preparedness and checking of field work/targets etc. Also he needs to supervise and guide his subordinates properly".

II) Memo No. 11313 dated 4.11.93.

" . . . There seems to be no effect or change in the attitude of Area Organiser and his working needs still lot of improvement The progress of the Area has not been satisfactory. It seems that AO has (not) been taking my Inspections/observations seriously and continuing to flout the orders"

III) Memo No. 12250 dated 2.12.93.

" . . . Officer is advised to do his job rather than doing his subordinate's job AO is also required to bring about more effective improvement in Area's Int. net work and reporting "

The Best Area competition was conducted for the Eastern zone in October, 1993 by a Board of Offices detailed by the SSB Dte, in which out of four Areas, the Kokrajhar Area secured only third position, not first as claimed by shri singha .

B) With regard to points raised at para 2 (d), Respondent No.4 had not received any representation, now annexed as Annexure-III to the OA.

C) With regard to points raised at para 2 (e) above, the applicant was duly considered by the DPC held in the

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year 1997, alongwith others, but he could not make the grade due to his overall performance , which was considered by the DPC .

D) With regard to points raised at para 2 (f), it is correct that the applicant belongs to ST community . However, no prejudice has been caused to the applicant on account of his belonging to ST community, as the remarks in the ACR have been reviewed by the Reviewing Officers, who has also assessed the overall performance of the applicant as 'Average' during the period covered in the ACR, with-out any prejudice or malice .

4. That, the present incumbent working as Respc-ndent No.4 is only holding current charge of Director, SSB and therefore, the Principal Director, who is Res-pondent No.3 in the above mentioned OA, is vested with the statutory powers and in exercise of the said power , I have considered the points raised by the applicant as mentioned in para 2 supra , and the Official communica-tions mentioned in para 3 above and after careful consid-eration of the representations and the objective assess-ment made in the ACR of the applicant during the period 1993-94 , by the Initiating Officer and Reviewing Officer on the overall persormance of the applicant. I do not find any justification for amending the remarks endor-sed in the ACR by the Reviewing Officer .

5. In view of the foregoing, the undersigned has come to the conclusion that there is no merit in the representation of the applicant and, therefore, upholds the remarks already endorsed by the reviewing authority

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in the ACR of the applicant for the year 1993-94 .

Sd/- Illegible,

28.12.99

TO (N.S. SANDHU)
shri H.N.Singha Principal Director.
Area Organiser,
Through D.O.A.P.
Division, Itanagar (A.P.)

N.O.O.

copy forwarded for information to :-

1. The Divisional Organiser ,SSB, A.P. Division
Itanagar .
2. The Divisional Organiser, SSB, NA Division ,Tezpur .

Sd/- Illegible,

Principal Director .

.....

Central Administrative Tribunals (Act)
7 JUN 2000
7/6/2000
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. 92 OF 2000

Shri H.N.Singha Applicant

-VS-

Union of India & Others Respondents

IN THE MATTER OF:

Written statement submitted by the Respondents 1
to 6

WRITTEN STATEMENT.

The humble Respondents beg to submit their written statement as follows :

1. That with regard to paras 1 to 4(1) of the O.A., the respondents beg to state that the contents of these paras are matter of record and therefore need no reply. However, anything contrary to the record is vehemently denied.
2. That with regard to para 4(2) of the O.A., the respondents beg to state that it is admitted that there are five Areas including Kokrajhar in North Assam Division. The

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applicant was posted to Kokrajhar in North Assam Division from April, 1991 to July, 1995. The applicant had earlier claimed in OA No. 213/97 that his area i.e. Kokrajhar which participated in the competition had secured First position which is not correct.

The Best Area Competition was conducted by the Eastern Zone in October, 1993 by a Board of Officers detailed by the SSB Directorate, in which out of four Areas the Kokrajhar Area secured only Third position. The applicant was accordingly informed vide Memo dtd. 29-12-93. Further, participating in SSB Duty Meet has nothing to do with the ACR grading. The competent authority under whom the applicant was working, after making objective assessment of the work for the whole year, i.e. 1993-94 has recorded assessment against each col. of his ACRs.

3. That with regard to para 4(3) and 4(4) of the OA, the respondents beg to submit that it is correct that the applicant was working as Area Organiser at Kokrajhar during 1993-94. As the post of D.I.G. of North Assam Division was lying vacant, it was ordered that Shri S.K.Sharma, DO, NAD will hold the additional charge of DIG, NAD in addition to his own duties. As such, Shri S.K.Sharma, the then D.O., NAD had initiated his ACR for the period of 1993-94. On the

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basis of overall performance and after making objective assessment of work done by the applicant, assessment has been recorded in the ACR. The said ACR was further reviewed and accepted by the next higher authorities. It is also mentioned here that displeasure of Director,SSB and recordable warning was conveyed to the applicant during 1993-94 which is enclosed as Annexure- "B" for ready reference.

4. That with regard to para 4(5) of the OA, the respondents beg to submit that the representation dated 12-08-94 (Annexure -II of the said OA) has not been received in the office of the Director,SSB.

5. That with regard to para 4(6) and 4(7) of the OA, the respondents beg to submit that regarding the representations dated 12-08-94 and 25-06-97 submitted by the applicant against adverse remarks, it is reiterated that the representations of the applicant have not been received by the respondents. However, one legal notice sent by the applicant through his Advocate was received at SSB Directorate, in which he had raised grievances regarding non-disposal of his representation for expungtion of adverse remarks recorded in his ACR for the year 1993-94 and non consideration of his case for promotion by the DPC held during the month of April, 1997 and other connected matters pertaining to his

service career. The competent authority after due consideration of the said legal notice vis-a-vis relevant records, ignored the same as the issue raised in the notice were found to be devoid of merit.

6. That with regard to para- 4(B) of the DA, the respondents beg to state that the applicant on his being eligible for consideration for promotion to the next higher grade, has duly been considered along with others in all DPCs held during and after 1992 till date. Further, since the applicant could not obtain the minimum prescribed bench mark, his case was not recommended for promotion to the rank of D.I.G. by the DPC held for this purpose. On the other hand, both S/Shri.Rinchin and S.S.Sayana, the ST Officers though juniors to the applicant obtained the required bench mark and were accordingly promoted to the rank of DIG on the basis of recommendations of the DPC.

7. That with regard to para-4(9) of the DA, the respondents beg to state that it is again reiterated that representations dated 12-09-94, 09-09-96 and 25-06-97 as mentioned by the applicant against adverse remarks of the year 1993-94 have not been received in the SSB Directorate. However, the DPC which met on 09-04-97 has also considered the promotion of the applicant along with others but as the

applicant could not obtain~~s~~ the minimum bench marks he was not recommended for promotion to the rank of DIG.

8. That with regard to para-4(10) of the DA, the respondent beg to state that Shri G.S.Sayana, though junior to the applicant has been promoted to the rank of DIG on the basis of recommendation of DPC. As the applicant could not obtain the minimum prescribed bench marks he was not recommended for promotion by DPC. On receipt of his application for transfer the competent authority had posted the applicant at Bomdila in A.P.Division to avoid embarrassment as agitated by him.

9. That with regard to para-4(ii) of the DA, the respondents beg to state that it is admitted that the applicant was placed at Sl.2 of the seniority list. According to SSB (Sr.Executive Service Rule 1997) Area Organiser with eight years service is entitled for consideration of promotion to the rank of DIG. Though S/Shri S.K.Chakraborty and T. Namgial were junior to the applicant they were promoted on the basis of merit list drawn by the DPC for promotion to the rank of DIG. It is again reiterated that as the applicant could not make the grade for promotion to the rank of DIG, he could not be promoted as DIG though his juniors have been promoted as DIG.

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10. That with regard to para-4(12) of the OA, the respondents beg to submit that as regards contention of the petitioner, pertaining to the achievement of annual target during 1993-94, the assessment of good work has been recorded in the col. of ACR meant for this purpose. Therefore, the good work done by the applicant has been appreciated and recorded in the ACR relevantly and for lapses the assessment has been made accordingly in the ACR of 1993-94 by the concerned authorities.

11. That with regard to para-4(13) of the OA, the respondents beg to submit that the position has already been explained in para- 4(2). However, the Kokrajhar Area of NA Division has secured only Third position and not the First position as claimed by the applicant out of four Areas.

12. That with regard to para-4(14) of the OA, the respondents beg to submit that in compliance to the judgement of CAT Guwahati dated 16-11-99 in OA No. '213/97, the representation of the applicant has been disposed off by a reasoned order under the signature of the Principal Director, respondent No.3 vide the Dte. Memo dated 29.12.99 (Appendix A to the OA).

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13. That with regard to para 5(15) of the DA , the respondents beg to submit that contents of this para is matter of record and therefore needs no reply.

14. That with regard to paras 4(16) , 4(17) and 4(18) of the DA, the respondents beg to submit that during the course of arguments in DA No.213/97, the ACR dossiers of the Applicant were submitted before the Hon'ble Court and the same were perused by the Hon'ble court before disposing off the case. On the basis of judgement of CAT, Guwahati in DA No.213/97, the respondent No.3 has disposed off the representation of the applicant by a reasoned order issued under Memo No.22/SSB/A2/B2 (18)-II 3667 dtd 29-12-99 (Annexure -A to the DA).

15. That with regard to para 4(19) and 4 (20), to the DA, the respondents beg to submit that the allegations levelled by the applicant against Shri S.k.Sharma are unfounded and untrue. It is pertinent to mention that Shri S.K.Sharma has since superannuated from Govt. service w.e.f. 31-07-1997. It is again reiterated here that the displeasure of Director ,SSB and recordable warning were issued to the applicant in the year 1993-94.

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16. That with regard to para 5(1) of the OA, the respondents beg to submit that it is a matter of record and calls for no reply on behalf of respondents.

17. That with regard to para 5(2) of the OA, the respondents beg to submit that the position explained by the applicant is not correct and highly misconceived and misleading. As per judgement delivered by Hon'ble Court on 16-11-99, the Principal Director, the respondent No.3 has carefully considered the representation submitted by the applicant and passed order which have been communicated to the applicant vide SSB Dte. Memo No.22/SSB/ A2/BB(1B)-II 3667 dated 29-12-99 (Annexure-A to the OA).

18. That with regard to para 5(3) and 5(4) of the OA, the respondents beg to submit that the contents of these paras are highly misconceived, misleading and devoid of merit. Position regarding the same has already been explained in above paras.

19. That with regard to para 5(5) of the OA, the respondents beg to submit that the position mentioned by the applicant is not correct. In addition to the adverse entry in the ACR for the year 1993-94, the applicant was awarded

19. the displeasure of the Director,SSB and written warning for the year 1993-94 for failure in the capacity as Supervisory Officer / Drawing and Disbursing Officer. Though the applicant was awarded adverse remarks during 1993-94, he has been considered for promotion along with other but he could not obtain required bench marks and hence could not be promoted.

20. That with regard to para 5(6) of the DA, the respondents beg to submit that the factual position is that the applicant was considered for promotion along with others, but as he could not obtain the required bench marks he was not promoted.

21. That with regard to para 5(7) of the DA, the respondents beg to submit that the allegation levelled by the applicant against Shri S.K.Sharma are un-founded, highly misconceived, wrong and denied. The factual position has already been explained in para-5(2). The applicant along with others was considered for promotion by the duly constituted DPC. The said DPC did not take into account the adverse remarks recorded in the ACR of the applicant. However, despite ~~that~~ the applicant could not obtain the required bench marks which is absolutely necessary for the promotion to the next grade and hence he could not be promoted.

22. That with regard to para 5(B) and 5(9) of the DA, the respondents beg to submit that the factual position regarding these paras are as follows. The applicant not only earned adverse remarks but also received displeasure of Director SSB and written warning during the period 1993-94. He was considered for promotion along with others but could not obtain the required bench marks. Therefore, no injustice has been done to the applicant.

23. That with regard to para 6 of the DA, the respondents beg to submit that it is denied that the representation of the applicant has been disposed off by a non speaking order by respondent No.3. The respondent No.3 had taken note of the whole case and after careful consideration passed a reason and speaking order in compliance to the direction of the Hon'ble CAT Guwahati given on 16-11-99 in DA No. 213 of 1997.

24. That with regard to para 7 of the DA, the respondents beg to submit that it is pertinent to mention here that the applicant had earlier filed an DA No.213 of 1997 before the Hon'ble CAT Guwahati which was disposed off on 16-11-99.

25. That with regard to para 8 of the OA, the respondents beg to submit that in light of the factual position as narrated in the reply furnished to forgoing paras of the OA, it is prayed that the instant OA be dismissed being devoid of merit. The applicant failed to obtain required bench marks meant for promotion to the rank of DIG and hence he could not be promoted as DIG.

26. That with regard to para 9 of the OA, the respondents beg to submit that as the applicant could not make the grade due to his overall performance he could not be promoted as DIG. It is prayed that in future the DPCs as and when convened to consider for promotion to the rank of DIG as per the available vacancies will consider the applicant along with other eligible candidates and in case he attains the required grade he will be promoted subject to fulfillment of overall qualifications. In light of the above submission interim relief as sought by the applicant may not be granted to him.

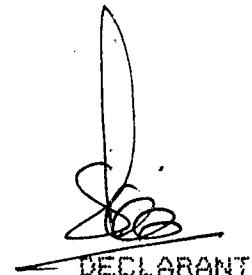
27. That with regard to para 10, 11 & 12 of the OA, the respondents beg to submit that the contents of these paras are matter of record and need no reply.

In light of the position narrated above, there is no merit in the case and it is prayed that the same may be dismissed being devoid of merit.

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

I, Shri S.P.Kaushal, Deputy Inspector General, SSB, North Assam Division, Tezpur do hereby verify that the contents stated in the written statement are true to my knowledge, belief and information and no material fact has been suppressed.

AND I sign this verification to-day on this day the 17 th Day of May, 2000.



DECLARANT
Dy. Inspector General
N. A. Division : S. S. B.
Tezpur.

ANNEXURE - B 238

Confidential

AN/II/110
No. 22/SSB/A-2/82(10) 2882 11-2-13

Directorate General of Security,
Office of the Director, SSB,
East Block-V, P.K. Puram,
New Delhi-110066.

Dated, the

4/9/93.

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MEMORANDUM

Shri H.N. Singha, Area Organiser, Kokrajhar, who took over the charge of the office of the Area Organiser, Kokrajhar on 27.4.91, has failed in his capacity as Supervisory Officer/Drawing and Disbursing Officer on the following grounds.

(i) That Shri Singha was aware of the fact that a surplus amount of Rs. 1835/- was in existence in the cash book. But he did not take any corrective measures to settle the discrepancies of the excess amount in government cash and continued to reflect the excess amount in the monthly cash analysis statement from May, '91 to June, '92. and

(ii) He has also failed to ensure that the prescribed accounting procedure in the maintenance of government cash book is being followed by the dealing assistant, Shri Das, the then cashier. Therefore, he has failed to ensure proper maintenance of government account & cash book as a supervisory officer.

2. Director, SSB after considering all the facts, has conveyed his displeasure and desired that a written warning should be given to Shri Singha for the above lapses.

3. Shri H.N. Singha, Area Organiser, Kokrajhar is, therefore, warned to be careful in future.

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(B.D. ADHIKARI)
ASSISTANT DIRECTOR (EAY)

To

Shri H.N. Singha,
Area Organiser,
Kokrajhar.

Copy to Divisional Organiser, SSB, North Eastern
with reference to his letter No. D/Accounts/92-93/73
dated 1.2.93.

(B.D. ADHIKARI)
ASSISTANT DIRECTOR (EAY)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

GUWAHATI.

O.A. NO. 92/2000.

Shri Harendra Narayan Singha .

... Applicant.

-Versus-

Union of India and others.

... Respondents.

AN AFFIDAVIT-IN-REPLY FOR AND ON BEHALF OF THE
ABOVE-NOTED APPLICANT TO THE WRITTEN STATEMENT
FILED BY THE RESPONDENTS:-

I, Shri Harendra Narayan Singha, son of Late Girish Chandra Singha, aged about 58 years , resident of Kokrajhar Town in the district of Kokrajhar, Assam and presently serving as the Area Organiser,SSB,Kokrajhar,Assam do, hereby, solemnly swear and affirm as follows :-

1. That the copy written statement filed for and on behalf of the respondents has been served on my advocate. I have gone through the same and understood the contents thereof.
2. That the statements made in paragraph 4(3) and 4(4) in OA NO. 92/2000 have been admitted to be correct that the applicant was working as the Area Organiser,SSB at Kokrajhar during 1993-94 .

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It is specifically admitted that the post of DIG of North Assam Division, SSB, Tezpur was lying vacant and as such it was ordered that Shri S.K. Sharma, Divisional Organiser, SSB, NAD, Tezpur would hold the additional charge of DIG, SSB, NAD, Tezpur in addition to his own duties .

It is further specifically admitted that, as such, Shri S.K. Sharma, the then Divisional Organiser, SSB, NAD, Tezpur (while holding additional charge of DIG SSB, Tezpur) had initiated the A.C.R. of the applicant for the period of 1993-94 .

While stating, in paragraph 3 of the written statement , that the said A.C.R. was further reviewed and accepted by the next higher authorities, the respondents have wilfully refrained from admitting the fact the next authority who reviewed the A.C.R. for 1993-94 and recorded averse entries was none other than Shri S.K. Sharma, the then DO, NAD, Tezpur. There was no explanation as to why the Reviewing Authority (DO, SSB, Tezpur) disagreed with his own recordings in the A.C.R. as the Initiating Officer without recording any cogent reason whatsoever specially when the down-grading of the remarks recorded even after a month or so by the Reviewing Authority had specific and far-reaching bearing on the promotional prospects of the applicant .

It has been specifically alleged that Shri S.K. Sharma acted both as the Initiating Officer and the Reviewing Officer but the respondents have admitted the initiation of the ACR by Shri Sharma while, avoiding the review part, the respondents

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have said that "the said A.C.R. was further reviewed and accepted by the next higher authorities". In the absence of specific denial, it is to be construed that the respondents have admitted the same .

A perusal of the Annexure-B to the written statement has revealed that displeasure of the Director,SSB,New Delhi with warning was conveyed to the applicant at the instance of Shri S.K. Sharma who was the Divisional Organiser,SSB,North Assam Division,Tezpur. In the context of what is stated above, it has become palpably clear that Shri S.K. Sharma was determined to finish the career prospects of the applicant for reasons best known to him only. The applicant became shocked and surprised that the displeasure of the Director,SSB,New Delhi with warning was conveyed to the applicant who never received such a communication till date. In fact, the petitioner was not aware of any displeasure/warning having been ever communicated to him.

3. That the applicant, begs to state and submit that he had submitted the first representation dated 12.08.94 against the remarks recorded in his ACR for 1993-94 and thereafter he had submitted several reminder -representations addressed to the Director,SSB,New Delhi. While the applicant was functioning as Area Organiser (Staff) in the office of the DIG, SSB , Kohima, he had submitted another detailed representation dated 25.06.97 to the Director, SSB, New Delhi (Respondent No. 4) through proper channel and the same was duly forwarded to the Director, SSB by the Divisional Organiser, S.S.B., Imphal under cover of his office memo No. HNS/AO-96/MD/5254-55 dated 10.7.97. The copy of the said forwarding letter dated 10.7.97 was also endorsed to the D.I.G. , SSB, Kohima with reference to his letter No. 1511 dated 7.7.97 .

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In paras 4 and 5 of the written statement, the respondents have categorically denied to have received the representations- one dated 12.08.94 (Annexure-II of the OA at page 22) and the other dated 25.06.97 (Annexure.IV of the O.A. at page 34) and there is no satisfactory explanation as to why the representations filed by the application to safeguard his career prospects had missed the destination .

The applicant further begs to state that,during the pendency of the OA 213/97 filed by the applicant before this Hon'ble Tribunal, the applicant received an extract of confidential memo No. 22/SSB/A 2/(18) 10/30 dated 06.03.98 issued by the SSB Directorate to the DO,SSB,M & N Division, Imphal and others whereby it was conveyed with reference to memo No. HNS/AO-95/MD/1022-25 dated 06.12.97 forwarding the representation submitted by the applicant (posted to Bomdila as A.O. at that time) praying for expunction of adverse remarks received in his ACR for 1993-94, that the said representation had been carefully considered by the Director, SSB,New Delhi and passed the following order :-

" After going through the record, it is felt there is no justification in any away amending the remarks recorded in the A.C.R. , as they are warranted by record on the subject". The above-noted order passed by the Director,SSB was communicated by the D. I. G. ,SSB,A. P. Division, Itanagar by his office memo No.AP/CONF/A-1(8) 98 dated 17.03.98.

From what is stated above, the respondents have missed their own official record dated 17.3.98(Annexure-X of OA)and continued to reiterate,till submission of their

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written statement on 7.6.2000, that the respondents had not received any of the representations except a legal notice on the subject. The applicant has reason to believe that the impugned adverse remarks were inspired by malice and were illegal and unfounded and deserve expunction. Some vested interests are at work to ruin the career prospects of the applicant.

A copy of the forwarding letter dated 10.7.97 of the DO, SSB, Imphal forwarding the representation dated 25.06.97 to the Director, SSB and memo dated 17.3.98 are annexed herewith and marked as Annexure- "A" and "B" respectively.

4. That, with regard to para 6 of the written statement, the applicant begs to state that the respondents have admitted that S/Shri L.Rinchin and G.S.Sayana were Junior to the applicant and that they were promoted to the rank of D.I.G. superseding the applicant (in 1997).

As stated by the respondents, the applicant might be considered alongwith other eligible candidates by the D.P.C. which met on 9.4.97 and thereafter but the respondents have avoided a direct reply to the allegation that the candidature of the applicant alongwith his A.C.R. dossier including one for the year 1993-94 was placed before the D.P.C. during pendency of his representations praying for expunction of the adverse remarks recorded in his ACRA for 1993-94. It is pertinent to point out that

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all such representations against adverse remarks should be decided as expeditiously as possible by the competent authority and in any case, within 3(three) months from the date of submission of the representations. Adverse remarks should not be deemed to be operative and cannot be acted upon if any representation filed within the prescribed limit is pending .

5. That, with regard to para 7 of the written statement, the applicant begs to state that although the respondents have taken shelter on the plea of non-receipt of the representations dated 12.8.94, dated 09.09.96 and 25.06.97, the fact/s remains that the ACR dossier of the applicant including one for the year 1993-94 containing adverse remarks was placed before the D.P.C. for which the applicant could not get selected for promotion.

6. That, with regard to the statement made in para 13 of the written statement, the applicant states that the position regarding disposal of one of the representations by the Director, SSB, New Delhi has been explained fully in fore-going para 3 of this affidavit.

It is reiterated that the order of the Director, SSB, New Delhi, as communicated by the D.I.G., SSB, A.P. Division, Itanagar by his memo dated 17.3.98, during the pendency of OA 213/97 before this Hon'ble Tribunal, after admission of the OA, has contravened the provisions contained in Section 19(4) of the A.T.Act, 1985.

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7. That, with regard to para 14 of the written statement, the applicant begs to state that after perusing the A.C.R.'s placed before this Hon'ble Tribunal, this Hon'ble Tribunal was pleased to record the findings at para 8 of the order dated 16.11.99.

This Hon'ble Tribunal, by order dated 16.11.99, disposed of the OA 213/97 whereby the Hon'ble Tribunal set aside the order dated 17.3.98 (Annexure-X or OA 92 at page 51) and directed the respondents to dispose of the representation of the applicant by a reasoned order as to how the adverse remarks could be made.

In compliance of the order dated 16.11.99 passed in OA 213/97, the Principal Director, SSB, New Delhi (Respondent No.3) disposed of the representation dated 25.6.97 (Annexure-IV at page 34) by the impugned order No. 22/SSB/A 2/82(18)-II-3667 dated 29.12.99 whereby the representation was rejected by taking into consideration 3 (three) further alleged "Warnings" which were never received by the applicant and about which no mention had been made in earlier communications. Inspite of specific order dated 16.11.99 at serial 9, (Annexure-XI at page 52) the impugned order dated 29.12.99 (Annexure-XII at page 56) has not contained any reason as to how the adverse remarks could be made.

8. That, with regard to the statement made in para 15 of the written statement, the petitioner begs to state

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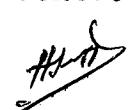


that no unfounded and untrue allegations have been levelled against Shri S.K.Sharma in paras 4(19) and 4(20) of the O.A.

What has been alleged was that Shri S.K.Sharma, being the Reviewing Officer as the IG/DO, held the additional charge of the post of DIG,SSB,Itanagar who is the Initiating Officer of the ACR of the applicant and as such Shri Sharma initiated the ACR for 1993-94 marking and recording "very good" and in the general remarks column, it was further recorded that the applicant is a fit person to get promotion in his turn. Shri S.K.Sharma, being the Reviewing Officer, reviewed his own recordings as the Initiating Officer and recorded, after one month or so of the initiation of the A.C.R. recording as "a experienced Officer but his performance has not been upto expectation ". The applicant was finally graded as "Average". This Hon'ble Tribunal, by order dated 16.11.99 (Annexure-XI at page 52) has observed that on what basis the Reviewing Officer came to this conclusion is not known .

The respondents have neither admitted nor denied that Shri S.K.Sharma acted both as the Initiating Officer or the ACR of the applicant for 1993-94 and as the Reviewing Officer which supports the case of the applicant. The respondents want to get away only by stating that the allegations levelled against Shri S.K.Sharma (since superannuated with effect from 30.07.1997) are unfounded and untrue , Facts borne on record should have been specifically admitted or denied.

The respondents have reiterated that the displeasure of the Director,SSB,New Delhi with "warning" was conveyed to

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the applicant in terms of memo dated 4.9.93(Annexure- "B" of the written statement at page 13) but it is not properly reflected that the Director ^{allegedly} conveyed his displeasure with warning to the applicant only at the instance of the same Officer, namely, Shri S.K. Sharma, as he then was. As stated above, the applicant had never received such a communication conveying displeasure of the Director, ssB.

9. That the applicant begs to state and submit that this Hon'ble Tribunal, by order dated 16.11.99 (Annexure-XI of the OA at page 52), at para 8, had observed, "we find it difficult to accept the adverse remarks made by the Reviewing Officer" and directed the respondents to dispose of the representation of the applicant "by a reasoned order as to how the adverse remarks ~~and~~ could be made. The impugned order dated 29.12.99(Annexure-XII at page 56) does not contain any reason as to how the adverse remarks could be made.

10. That , being highly aggrieved by the impugned order dated 29.12.99, the applicant has filed this original application No. 92/2000 praying for relief.

11. That the applicant begs to state and submit that, in view of the attending facts and circumstances of the case, the applicant is entitled to the reliefs prayed for in OA 92/2000 with ^{all} consequential benefits .

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12. That the statements made in paragraphs 1 to 11 of this affidavit are true to my knowledge and belief and that I have not suppressed any material fact.

Identified by me:

G.N. Das
(G.N. Das)

Advocate. 14/2/01

Harendra N. Singh
DEPONENT

Solemnly affirmed before me by the deponent who is identified by me Shri

G.N. Das

, Advocate on this

14th day of February, 2001 at Guwahati.

14/2/2001

ADVOCATE:GUWAHATI.

REGISTERED

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No. HNS/AO-96/MD/ 5254555
 Directorate General of Security,
 Office of the Divisional Organiser,
 SSB, Manipur & Nagaland Division,
 Imphal - 795001

Dated, the 10/7/97

To

The Director, SSB,
 SSB Directorate,
 East Block - V
 R.K. Puram, New Delhi - 66

Subject :- Submission of representation
 in respect of H.N. Singh,
 Area Organiser(Staff).

Sir,

I am directed to forward herewith a self explanatory representation addressed to the D.G.(S) received from Shri H.N. Singha, Area Organiser(Staff) in the office of the D.I.C., Kohima regarding expunction of adverse remarks recorded in the ACPs for the year 1993-94 of the officer for favour of further necessary action please.

2. The decision/orders of the competent authority may kindly be conveyed at an early date please.

10/7/97 Encl :- As stated

Yours faithfully,

Sd/-

Area Organiser(Admn)

Copy to :- The D.I.C., Kohima with ref.
 to his letter No. 1511 dated 7-7-97
 for favour of information, please.

10/7/97
 Area Organiser(Admn)

CONFIDENTIAL

EXTRACT FROM SSB DIRECTORATE CONFIDENTIAL MEMO NO.22/SSB/A 2(18) 10.30 DATED 06.3.95 ADDRESSED TO DIVISIONAL ORGANISER, M & N. DIVISION, IMPHAL, A. P. DIVISION, ITANAGAR, N. A. DIVN. TEZPUR AND OTHERS :-

Subject :-Expunction of adverse remarks on ACR for the year 1993-94.

Please refer to your memo No.HNS/AO-95/MD/1022-25 dated 6.12.97 forwarding representation of Shri H.N. Singha, A.O.Kohima (now posted to Bomdila A.P.)regarding expunction of adverse remarks recorded in his ACRs for the year 1993-94.

2. The representation of Shri H.N. Singha,A.O. has been carefully considered by the Director,SSB.The order passed by Director SSB in this regard are re-produced below:-

"After going through the record it is felt there is no justification in any away amending the remarks recorded in the ACR ,as they are warranted by record on the subject."

3. Shri H.N. Singha,Area Organiser may be informed accordingly.

Memo No,AP/CONF/A-1(8)98 Itanagar the 17th March/98.

Copy to:

1. Shri H.N. Singha,Area Organiser,SSB,Bomdila.
2. The Divisional Organiser,Manipur and Nagaland Division, Imphal for information.

Sd/-T.Namgaiyal

Dy. Inspector General

A.P. Division,SSB., Itanagar.

H.N.