

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

C.P-53/2002 (DESTRUCTION OF RECORD RULES, 1990)  
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## FORM NO. 4

(See Rule 42)

## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO.

103 OF 2000

Applicant(s) Sri S. P. Singh

Respondent(s) Union of India &amp; Ors

Advocate for Applicant(s) Mr. B.K. Sharma  
Mr. S. Basumatary

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
Case application is in form and within time. C. F. is Rs 50 deposited vide IPO Bld No. 493842 Dated 9-3-2000	15.3.00	Application is admitted. Issue notice on the respondents by registered post. Written statement within four weeks. Notice returnable on 24.4.2000.
9N/14/3/00 24/3/2000 14/3/2000 14/3/2000		List on 24.4.2000 for written statement and further orders.
23 - 3 - 2000 Service of notices prepared and sent to D. Section 705 issuing of The same to the respondents through Regd. post with A/D. Vide D.No. 837 to 8-40 dt. 23-3-2000. No W/S has been filed. 18-4-2000	trd 16/3/2000 24.4.00	On the prayer of Mr. B.S. Basumatary, learned Addl. CGSC, the case is adjourned to 16.5.00 for filing of written statement and further orders.

## Notes of the Registry

## Date

## Order of the Tribunal

<u>9-5-2000</u> ① Notice duly served on R.No. 1 & 2. ② No W.Ls. has been filed.	16.5.00 trd <u>9.5.</u> <u>15-5-00</u> No W.Ls. has been filed.	Mr. B.S. Basumatary, learned Addl. C.G.S.C. seeks time to file written statement. Prayer allowed. List on 19.6.2000 for written statement and further order.  <i>8/11</i> Member(J)
<u>10-7-2000</u> No. W.Ls has been filed.	19.6.00 11.7.00 <u>14-8-00</u> No. W.Ls has been filed.	There is no Bench today; Adjourned to 11.7.00 Present: Hon'ble Mr S. Biswas, Administrative Member None for the applicant. Mr B.S. Basumatary, learned Addl. C.G.S.C. wants further time for filing written statement. The case is adjourned and posted on 14.8.00 for filing written statement.  <i>S-B</i> Member(A)
<u>21-9-2000</u> <u>27-10-2000</u> No. W.Ls has been filed.	nkm 22.9.2000 nkm	There is no Bench and adjourned to 22-9-00. On the prayer of Mr B.S. Basumatary, learned Addl. C.G.S.C. list the case on 30.10.00 to enable the respondents to file written statement.  <i>h</i> Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
Respondent No.3. Registration, CAT. Ghy Bench, Reg. No. 4 is still awaited from the date of 23/3/2000. To 9/11/2000.	30.10.00	Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman  Office Note dated 9.5.00 shows that the service of notice on Respondents No.1 and 2 is complete. Office has not indicated about the service of notice on Respondents No.3 and 4.  Mr. B.S. Basumatary, learned Addl. C.G.S.C. appearing on behalf of the Respondents No.1 and 2 prays for six weeks time to enable him to file written statement. Prayer allowed. Office to indicate about the service of notice on Respondents No.3 and 4.  List on 12.12.00 for written statement and further orders.
<u>11-12-2000</u>  No. written statement has been filed by the respondents.  R.D.		
No. W.S. has been filed.  2.1.2001	31/10/2000	Vice-Chairman
No. written statement has been filed.  19.2.2001	12.12.00	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 3.1.2001 for filing of written statement and further orders.
	1m	Member
	3.1.01	Vice-Chairman
<del>No. written statement has been filed.</del>  14.8.01	2.2.	On the prayer of learned counsel for the respondents 4 weeks time is allowed for filing of written statement.  List on 2.2.01 for filing of written statement and further orders.
	1m	Vice-Chairman
	2.2.	W.C.W. been at Phillips. Adjourned to 20.2.2001. R.D. 2.2.

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Notes of the Registry	Date	Order of the Tribunal
No written statement has been filed	20.2.01	List on 22.3.01 to enable the respondents to file written statement.  K C Sharma Member
<i>By 21.3.01</i>	22.3.01	No written statement has been filed. Three weeks time is granted for filing of written statement. List on 27.4.01 for orders.  K C Sharma Member
No written statement has been filed	1m	
<i>By 26.4.01</i>	27.4.2001	Four weeks time allowed to file written statement. List for orders on 1.6.01.  K C Sharma Member
	1.6.01	No written statement has been filed. The respondents is allowed time for the last time for filing of written statement. The applicant may file rejoinder, if any, within two weeks from today. List the case on 5-7-2001 for orders hearing.  K C Sharma Member
	bb 11.7.01	Prayer has been made by Ms.U.Das appearing on behalf of Mr.B.K.Sharma, learned counsel for the applicant for adjournment of the case. Respondents have also not filed written statement.  The case is accordingly adjourned to 16-8-2001 for hearing. Respondents may file written statement, if any, within two weeks from today.  K C Sharma Member
	bb	

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O.A. 103/2000

Notes of the Registry	Date	Order of the Tribunal
WLS has been filed.	16.8.01	<p>Prayer is made by Mr. B.C.Pathak, learned Addl.C.G.S.C. for adjournment. Mr. B.K.Sharma, learned counsel for the applicant has no objection for adjournment.</p> <p>Prayer <del>all</del> is allowed. List on 23/8/01 for hearing.</p>
<i>22.8.01</i>		<p><i>U.U. Sharma</i> Member</p> <p><i>Vice-Chairman</i></p>
ets has been filed.	23.8.	<p>There is no learned counsel today. The case is adjourned to 10.9.2001.</p> <p><i>23.8</i></p>
<i>22.8.01</i>		
10.9.2001		<p>Passed over for the day. List on 11.9.2001 for hearing.</p>
		<p><i>U.U. Sharma</i> Member</p> <p><i>Vice-Chairman</i></p>
11.9.2001		<p>The case was posted for hearing today and the learned counsel for the parties made their arguments at length. The respondents despite opportunities granted did not file any written statement nor they preferred to produce any record. Even the orders referred to in the impugned order dated 6.10.1999 by the Deputy Registrar of the Principal Bench could not be made available to us by Mr. B.C. Pathak, learned Addl. C.G.S.C. Situated thus, Mr Pathak prayed for an adjournment for producing the connected records. Mr Pathak also prayed</p>

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O.A.No.103/2000

Notes of the Registry

Date

Order of the Tribunal

11.9.2001

for a little accommodation for giving him further opportunity to submit the written statement. At the instance of Mr Pathak we reluctantly grant further two weeks time to the respondents to file the written statement and to produce the connected records, if any.

The case be listed for hearing on 1.10.01. No further time shall thereafter be given to the respondents for filing written statement/records.

K. ICSHARMA

Member

Vice-Chairman

nkm

1.10.

There is no division bench today.  
The case is adjourned to 9.10.2001.

Dh  
Abd  
1/10.

5.10.2001

Additional documents have been submitted by the applicant in support to the O.A.

No written statement has been filed.

Zy  
19.11.01

9.10.2001

The matter pertains to some monetary benefit to an employee who had since retired. Though opportunity granted to the respondents had not yet filed written statement.

Mr. B.C.Pathak, learned Addl.C.G.S.C for the respondents stated that the written statement is awaiting for vetting. He sought for some time for filing of written statement. We express our <sup>earliest</sup> disapproval on the action of the respondents. We <sup>earliest</sup> allow three weeks further time to the respondents to file written statement, if any.

The matter shall be again listed for hearing on 20.11.2001.

K. ICSHARMA

Member

Vice-Chairman

bb

(7)

X

Notes of the Registry	Date	Order of the Tribunal
	20.11.2001	<p>The case was fixed for hearing today. Earlier the case was heard at length on 11.9.2001. At the instance of Mr.B.C.Pathak the case was adjourned. However, for production of records, since written statement was not filed we allowed by our order dated 11.9.2001 the respondents to file written statement within two weeks time. Since there was no Division Bench and the case was adjourned on 9.10.2001 we allowed further three weeks time to the respondents to file written statement.</p> <p>again</p> <p>The case was listed for hearing today. Mr. B.C.Pathak, learned Addl.C.G.S.C again sought for adjournment for filing of written statement on the basis of instructions received from the respondents. Mr.Pathak referred to two communications sent by Deputy Registrar, C.A.T, Principal Bench as well as by the Deputy Registrar, C.A.T., Guwahati Bench praying for time for filing written statement.</p> <p>It seems that the respondents are standing in the O.A. of expeditious disposal. However, for the ends of justice we grant further four weeks time to the respondents for filing written statement as a last chance subject to the payment of cost of Rs.1,000/-.</p> <p>List the case for hearing on 21.12.2001. In the meantime respondents are ordered to file written statement.</p>
18.12.2001 WTS on behalf of Respondt. No-1 to 4, have been submitted.	21.12.01 bb	<p><i>I C Usha</i> Member</p>
18.12.2001 Rejoinder on behalf of the applicant has been submitted.	15/1. mb	<p><i>I C Usha</i> Member</p> <p>Heard in part. List on 16.1.2002 P.W. A.K.Jay</p>

Q6

Notes of the Registry	Date	Order of the Tribunal
The Case is ready for hearing.	16.1.02	Heard Mr. A. I. Bhargava, learned Counsel for the applicant Mr. S. C. Patnaik, Addl. C. I. A. S. C. for the respondent.
<i>20.1.2002</i>		Hearing concluded. Judgment reserved.
<i>21.1.2002</i>	25.1.02	Judgment delivered in open court, kept in separate sheets. The application is dispe- sed of in terms of the order. No order as to costs.
<i>Copy of the Order</i> has been sent to the Office of Secretary to the Ministry of Home Affairs and to the Respondent 203 and Addl. and to the applicant by hand.		<i>U. I. Bhargava</i> Member
		<i>Vice-Chairman</i>

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 103 of 2000.

Date of Decision 25.1.2002

----- Suresh Prasad Singh

----- Petitioner(s)

----- Mr. B.K. Sharma, Sr. Advocate & Mr. S. Sarma

----- Advocate for the  
Petitioner(s)

----- Versus -----

----- Union of India & Others.

----- Respondent(s)

----- Mr. B.G. Pathak, Addl. C.G.S.C.

----- Advocate for the  
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Administrative Member.

*KK Sharm*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.103 of 2000.

Date of Order : This the 25th of January, 2002.

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

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

Suresh Prasad Singh  
S/O Late Munshi Prasad Singh  
Resident of 3rd Bye-Lane  
Tarun Nagar, Dispur  
Guwahati-781005  
District : Kamrup (Assam).

... . Applicant.

By Mr.B.K.Sharma, Sr.Advocate & Mr.S.Sarma.

- Versus -

1. Union of India

Represented by the Secretary to the  
Government of India, Department of Personnel  
Training, Public Grievances etc., North Block  
New Delhi-110 001.

2. The Registrar

Central Administrative Tribunal  
Principal Bench  
Faridkot House, Copernicus Marg  
New Delhi- 110 001.

3. The Registrar

Central Administrative Tribunal  
Guwahati Bench  
Guwahati-781 005.

4. The Registrar

Central Administrative Tribunal  
Patna Bench  
SSA, Sri Krishna Nagar  
Patna - 800 001.

... . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

K.K.SHARMA, ADMN.MEMBER :

In this application under Section 19 of the  
Administrative Tribunals Act, 1985 the applicant has  
claimed the following reliefs :

1C (Ushan)

Contd.. 2

I. Deputation Allowance @ 10% subject to a maximum of Rs500/- w.e.f.11.12.89 to 30.10.1990.

II. Payment of Special pay of Rs100/- and Medical Allowance of Rs.100/- w.e.f.11.12.1989 to 30.10.1990.

III. Fixation of pay w.e.f.1.11.1990 under FR 22.

IV. Payment of arrears of pay and revision of pensionary benefits.

The applicant was working as Senior Grade Stenographer in the pay scale of Rs.1200-50-1450-EB-60-2050/- in the Gauhati High Court. The applicant joined as Private Secretary in the Patna Bench of Central Administrative Tribunal on 1.12.1989. While working as Private Secretary the applicant opted to draw his pay in the pay scale of his parent department. The applicant worked as Private Secretary in the said Bench upto 30.10.1990 when he was released to join the post of Deputy Registrar in the Guwahati Bench of Central Administrative Tribunal. The applicant joined as Deputy Registrar in the Guwahati Bench of Central Administrative Tribunal on 5.11.1990. As Deputy Registrar in the Guwahati Bench of the Tribunal the applicant opted for the Central pay scale. The applicant was allowed to draw the basic pay of Rs.3000/- in the pay scale of Rs.3000-4500/- on joining as Deputy Registrar though the applicant was drawing basic pay of Rs.3950/- in his parent department.

2. The applicant's claim to the Deputation Allowance at 10% of pay subject to a maximum of Rs.500/- is

1C 11/Chm

Contd.. 3

based on the Govt. of India Office Memorandum No. 6/20/86-Estt(Pay)-II dated 9.12.1986 and 4.6.1987. It is also stated that as the applicant was drawing a special pay of Rs.100/- p.m. while working as Private Secretary in the Gauhati High Court and as the same was treated as basic pay in the parent department the applicant is entitled to the same. The applicant was also drawing a Medical Allowance @ 100/- p.m. while working in the Gauhati High Court. While working in the Patna Bench of Central Administrative Tribunal the applicant did not avail of C.G.H.S. facility and he is entitled to Rs.100/- p.m. which he was drawing as Medical Allowance in his in his parent department.

3. The applicant has challenged his fixation of pay at the minimum scale of Deputy Registrar i.e. Rs.3000/- while the applicant was drawing higher pay in <sup>the</sup> scale of Rs.2975-4750/-. It is stated that on account of wrong fixation of pay as Deputy Registrar the applicant continued to draw the provisional pension. The applicant had filed an application before this Tribunal being O.A.No.84 of 1996 for redressal of his grievances. The application was disposed of by an order dated 20.4.1999 directing the respondents to consider the case of the applicant and to dispose of the same by a reasoned order. The applicant submitted a fresh representation dated 26.4.1999 stating his grievances which was disposed of by an order dated 6.10.1999 (Annexure-I to the O.A.). Still

*Umesh*

Contd.. 4

being aggrieved the applicant has filed this application.

4. Mr.B.K.Sharma, learned Sr.counsel appeared on behalf of the applicant and elaborated the argument made in the application. The main submission of the learned counsel for the applicant was that the respondents had wrongly rejected the claim of the applicant for Deputation Allowance relying on Govt. of India Office Memorandum No.1/4/84-Est.(P-II) dated 26.12.1984. Under this O.M. the Deputation Allowance of employees of Public Sector Undertakings and State Govt. on deputation to Govt. of India is restricted to 10% of the grade pay subject to a maximum of Rs.250/-. The learned Sr.counsel submitted that in para 17 of the written statement filed in O.A. 84 of 1996 the respondents had admitted that Deputaion Allowance which the applicant was entitled was @ 10% subject to a ceiling of Rs.500/- p.m. He relied on Govt. of India O.M.No.2/12/87-Est.(Pay-II) dated 29.4.1988 to support his claim of Deputation Allowance @ 10% subject to a maximum of Rs.500/- p.m. He also submitted that as special pay was part of the applicant's pay in his parent department the same was also to be paid to the applicant. The claim for Medical Allowance was also supported on the same ground. Mr.Sharma referred to the Service Book entry dated 24.4.1991 regarding the fixation of pay of the applicant.

5. The respondents have filed written statement. Mr.B.C.Pathak, learned Addl.C.G.S.C. appearing for the respondents supported the argument made in the written

*BC Pathak*

statement. The main thrust of his argument was that as the applicant had joined on deputation from Gauhati High Court he was governed by the Circular of 1984 which applied to the employees of Public Sector Undertakings and State Governments on deputation to the Central Government. He argued that the Circular of 1988 does not apply to the applicant as it is applicable to the Central Government employees going <sup>on</sup> deputation to other departments. It was argued by the learned Addl.C.G.S.C. that as the applicant was paid Deputation Allowance he was not entitled to the payment of special pay. As the C.G.H.S. Scheme was applicable to the Central Government employees in Patna the applicant was also not entitled to the Medical Allowance.

6. We have heard the learned counsel for the parties at length and have perused the record. We are not impressed by the argument made by the learned Sr.Counsel for the respondents that the Govt. of India Circular dated 26.12.1984 is applicable in the case of the applicant. The circular applies to the employees of Public Sector Undertakings and State Governments on deputation to Central Government. Obviously the applicant was neither an employee of Public Sector Undertaking nor he was a State Govt. employee. The applicant was an employee of Gauhati High Court before he proceeded on deputation. As such the said circular dated 26.12.1984 is not applicable in the case of the applicant. The circular dated 29.4.1988 which is issued under F.R.9 (25) refers to

*IC Usha*

the Central Govt. employees on deputation to ex-cadre post under Central Govt. The circular applies to all Central Govt. employees who are regularly appointed on deputation. It deals with all the matters related to deputation. Under this circular the Deputation Allowance is fixed at 5% of basic pay subject to a maximum of Rs.250/- when the transfer is within same station. In other cases, the Deputation Allowance is 10% subject to a maximum of Rs.500/-. The terms and conditions of deputation offered to the applicant have not been placed before us. However, it is seen from the written statement filed by the respondents in O.A.84 of 1996 that the Deputation Allowance admissible to the applicant was admitted to be subject to the ceiling of Rs. 500/- p. m. As seen from the Circular dated 29.4.1988, mentioned above, it applies to all Central Govt. employees who are regularly appointed on deputation. The applicant was regularly appointed as P.S. in C.A.T. Patna. The post of P.S. in C.A.T. Patna was undoubtedly a Central Govt. post and by virtue of his appointment, the applicant became a Central Govt. employee. With the view that we have taken, the applicant becomes entitled to the Deputation Allowance @ 10% subject to a maximum of Rs.500/-. We direct the respondents to pay deputation allowance to the applicant @ 10% subject to a maximum of Rs.500/-. In so far as the applicant's claim for special

*U C U Shahnawaz*

Contd.. 7

pay is concerned, we are of the view that the same is not admissible. Para 7.2 of the circular No.2/12/87-Est.(Pay-II) dated 29.4.1988 is reproduced below :

" Any other special pay drawn by an employee in the parent department should not be allowed in addition to the deputation (duty) allowance provided, however, the Government may, by general or special order, suitably restrict the deputation (duty) allowance where, under special circumstances, the special pay drawn by an officer in a non-tenure post in his parent cadre is allowed to be drawn, in addition to basic pay, in his deputation post. This will require the specific prior concurrence of the Department of Personnel and Training."

No order of the competent authority authorising special pay to the applicant has been produced before us. As such the applicant's claim for special pay in addition to Deputation Allowance is not accepted. In fact the Deputation Allowance itself is treated as a special allowance in addition to pay. Similarly, as the applicant was posted at Patna, which was covered under the C.G.H.S. Scheme, the Medical Allowance which he was getting as an employee, of Gauhati High Court, is not admissible to him.

7. Another relief claimed by the applicant/with regard to, the fixation of pay w.e.f.1.11.1990 in terms of FR 22. The applicant had joined as Deputy Registrar w.e.f.5.11.1990 and opted to draw the Central Pay scale. As the last Pay Certificate was not received he was allowed payment at the minimum of Rs.3000/- in the pay

*1.11.1990*

pay scale of Rs.3000-4500/- . In the written statement the respondents have stated that the applicant opted to retain his parent pay scale of deputation post vide his option dated 15.5.1991. The applicant, on the otherhand, submitted that his pay was never fixed either under normal rules or as per O.M. dated 26.12.1984. The applicant's pay was provisionally fixed at Rs.3000/- whereas his pay should have been <sup>based on</sup> fixed in the revised pay scale of Rs.2975-4750/- at w.e.f.1.1.1989 with the next increment on 1.9.1989. It is stated that though the applicant vide his letter dated 15.5.1991 had exercised to retain his parent pay scale and withdrew his earlier option for Central pay scale and though order was passed in the file the same was never implemented as in the meanwhile, the applicant had applied for permanent absorption.

8. From the papers filed with the O.A. the Service Book record dated 31.10.1990 is reproduced as under:

" The pay of Shri S.P.Singh, Senior Grade Stenographer of this Registry and now on deputation to C.A.T. shall be fixed at Rs.3825/- on 1.1.89 in the revised scale of Rs.2975-100-3575-125-3825-EB-125-4450-150-4750/- as recommended by Assam Pay Commission 1988 and accepted by the Govt. of Assam. His date of next increment will fall due on 1.9.89."

Thus even if the submission of the respondents is accepted that the applicant had opted for the parent department pay scale, the applicant's pay had been fixed

1C (Usha)

Contd.. 9

at Rs.3825/- on 1.1.1989 and the next increment was due on 1.9.1989. Even on the basis of these records the applicant's pay could not have been fixed at the minimum of scale of Rs.3000-4500/-. FR 22 lays down the procedure for fixation of pay. As per FR 22(I)(a)(1) "The initial pay in the higher post is to be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued.

9. From the submissions made before us, we find no reason as to why the applicant's pay should not be fixed under FR 22. The respondents are directed to re-fix the applicant's pay w.e.f. 5.12.1990 under FR 22 by taking his pay as Rs.3950/- in the revised scale of Rs.2975-4750/-, which he was drawing w.e.f. 1.9.1989. The respondents are also directed to re-fix the applicant's pension and other retirement benefits on the basis of the refixation of pay under FR 22. The respondents shall complete the exercise within three months from the receipt of the order.

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

*K.K.Sharma*  
( K.K.SHARMA )  
ADMINISTRATIVE MEMBER

*D.N.Chowdhury*  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

FILED BY

Shri Suresh Prasad Singh  
20

Mr. Krishnan Nair,  
Advocate,

16.01.02.

O.A. No. 103/2000  
Suresh Prasad Singh ... Applicant  
-Versus-  
Union of India & ors ... Respondents

Patna part

Applicant joined as P.S., Patna Bench on 11.12.89 and opted to draw the pay scale of his parent department and was allowed Basic pay/Deputation Duty Allowances/ and DA/HRA/CCA as admissible under the Rules, Pay scale of the applicant in the parent department was Rs. 1200-2050- P.M. (un-revised). The applicant was disallowed special pay of Rs. 100/- and Medical Allowance of Rs. 100/-. The applicant continued as P.S. till 30.10.90 in Patna Bench. During this period Assam Government revised pay of its employees with retrospective effect from 1.1.89 [ 2975/- to 4750 (revised)] and accordingly Patna Bench fixed pay of the applicant (Annexure:-D to O.A) on receipt of the Last Pay Certificate (LPC) from Gauhati High Court and paid accordingly.

Note: DA paid as per State pattern.

HRA & CCA paid as per Central Govt. pattern

Relief sought (i)

11-12-89. Basic Pay @ Rs. 3950.00  
Deputation Duty  
Allowances @ 10% of the Grade Pay subject to a ceiling of Rs. 500/- and not Rs. 250/- as allowed and already paid by the Patna Bench.

DA/HRA/CCA- As admissible under the Rules had been paid.

Special Pay -Rs. 100/- NOT PAID X  
Claim ( 11.12.89 upto 30.11.90 and not after joining as Deputy Registrar of Guwahati Bench)

Medical Allowances - Rs. 100/- NOT PAID X

Claim (11.12.89 to 30.10.90 and not after joining as Deputy Registrar of Guwahati Bench)

5.11.90 → To DR.

## GUWAHATI PART

Applicant joined as Deputy Registrar Guwahati Bench on 5.11.90 and opted to draw Central Pay Scale. On that day no last Pay Certificate (LPC) of the applicant was received and as an interim measure for payment of salary to the applicant the Guwahati Bench allowed the applicant to draw provisional pay on the basis pay of Rs. 3000/- in the pay scale of Rs. 3000/- to 4500/- for the post of Deputy Registrar, subject to fixation on receipt of Last Pay Certificate from the Patna Bench. The applicant continued to draw pay at the provisional rate, but allowed increments from time to time from basic pay of Rs. 3000 onwards and retired as such on 31.1.98. The pension of the applicant is also fixed provisionally and he is drawing the provisionally fixed pension till today since his retirement on 31.1.98

It may be stated herein that once a deputationist opts to draw pay of the deputation post, Deputation duty Allowance, Medical Allowances Special Pay etc discontinues and he is entitled to get what is admissible to him in the deputation post.

### REFIEF SOUGHT (ii)

w.e.f. 5.11.90 the Basic Pay of applicant would be Rs. 4075 on calculation, and his pay should be fixed in the central pay scale in terms of FR 22(2)- (and not in terms of Office Memorandum dated 26.12.84 as ordered) and released arrear pay and allowances revised the pension and pensionary benefits etc. To be precise the recommendation at Annexure-E to the OA, be implemented, which still holds the field.

Fixation of pay of Shri Gautam Roy D.R. Calcutta Bench and other similarly situated persons has been drawn accordingly.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.

O.A. NO. 103/2000

Shri S.P.Singh ... Applicant  
- vs -  
Union of India &ors ... Respondents.

LIST OF DATES SUBMITTED BY THE RESPONDENTS

1974	-Joined as P.S. in the Gauhati- High Court	<u>O.ANo.84/96- W.S.</u>	- <u>O.A.No.103/2000</u>
1.1.86	-Pay scales Rs.1125-1975(unrev - ised)(and revised w.e.f. 1.1.89 asRs.2275-4450/- (scales of <u>Private Secretary</u> )		
20.9.86	-Promoted as Selection Gr.P.S.- in the pay scale-Rs.1200- 2050/-		
1.1.89	-Pay scale revised(4th Pay Commission) Rs.2975-4750/- for <u>Selection Gr. P.S. (Assam)</u>		page 4, para 4.6 " " , para 4.22
30.11.89	-Released from Gauhati High Court.		page 3, para 4.2
1.12.89	-Appointed as P.S. in CAT Patna Bench		page 3, para 4.2
11.12.89	-Joined in CAT, Patna Bench (in pay scale of parent Deptt)		page 4, para 4.8
30.10.90	-Released from Patna Bench to join as Dy.Registrar, CAT, Guwahati Bench on <u>15.11.90</u> (Opted for central Pay scale -para6.3p.5		- do para 4.4
15.5.91	-Option revised & again opted for pay scale of Parent Deptt.		- page 4, para 4.5
20.5.91	- Vice-chairman, CAT, Guwahati - Bench accepted the option (payment released on 25.5.95)-Ann.L/p.61		-
25.7.91	-CAT Guwahati wrote to the Principal Bench, Delhi for fixation of pay	-Ann.E/p12	- page 10, para 4.21 Ann. E. (Not 27.7.91)
16.8.91	-LPC issued by the Gauhati High Court	-	- page 4, para 4.7 " 4.8
	- CAT, Patna Bench to draw arrear pay from 11.12.89 to 30.10.90		
23.10.91	-CAT, Patna sent the LPCetc to the Principal Bench, Delhi for doing the needful	-Ann.A/p6	- page 5, para 4.9 Ann. A.

13

6.11.92 - CAT Principal Bench replied - Ann.F/p12 -  
and advised to regulate pay  
as per Office Memo. dated  
26.12.84

27.1.93 - CAT Principal Bench gave - Ann.B/p.7 -  
clarification and fixed  
pay as provided in O.M. dt. para 6.17/p10  
26.12.84.  
(at page 494-Swamy's Compil -  
ation)

9.2.93 - CAT Guwahati Bench wrote to - Ann.C/p7 -  
CAT, Patna

FIXATION OF PAY

28.9.93 - Allowed Grade pay + Duty allowance in scale of pay - Ann.D/p7 -  
Rs.2975 -4750/-  
(alleged fixation to be incorrect - applicant comes under Category-(d))

Special pay of Rs.100/- P.M. -para 6.14 & Medical Allowance @Rs.100/- per month not considered.

17.11.93 - V.C, CAT, Guwahati Bench - para 6.28  
alleged to be hostile to the p/10  
applicant

18.11.93 - Letter of Court Officer - Ann.J -

25.11.93 - Absent from Office - Ann.K -  
letter to V.C.CAT, Guwahati

26.11.93 - Applicant allowed to go on Voluntary retirement, Gauhati High Court-order.

30.11.93 - V.C, CAT, Guwahati directs the -  
applicant to report to Gauhati High Court Registry -

1.12.93 - Applicant went on Voluntary -  
retirement -

15.12.93 -  
22.12.93 - Applicant was directed to -  
handover the keys Rs.190/- being cost of opening the Almirah.

14.2.94 - Applicant was directed to - para 6.32 -  
collect pay for Nov.'93 for which his son was sent

Son's authority to draw pay - para 6.29/  
-locked almirah break opened 6.30 where ACRs were kept.

21.4.94 - CAT, Patna sent Draft of Rs. 9,688/- being arrear of revised pay 3 - para 6.16 - - page 7, para 4.16

12.1.95 - Representation submitted pending - Ann. I para 6.27 - - page 12, para 4.24

- Provisions of FR9(32) mis-conceived/denied (time scale) - para 6.20 - -

- 11.12.89 to 30-10-90 the period of deputation is not concerned with the parent Deptt. pay/post - para 6.24 - -

- Civil Rule No. 1019/94 filed in the Gauhati High Court - disposed of as his case could not be considered as he re-tired. - - - - page 8, para 4.18

- Writ appeal filed - allowed to join in service. Appeal to Supreme Court (H.C. Jmt Affirmed) - - - - do -

20.5.95 - V.C. CAT, Guwahati accept the revision- allowed payment ~~fixxx~~ for Rs. 4,353/- after deduction of Rs. 697/- as over-drawn but dispensed with the recovery of Rs. 190/- - Ann. M - -

25.5.95 - CAT, Guwahati informed the applicant that his representation dt. 12.1.95 has been considered & allowed his revised option to retain his pay & allowances of parent Deptt. - Ann. L - -

- revised payment released on fresh calculation

6.9.95 - Applicant accept-ed the amount - Ann. M of Rs. 4,353/-

- Applicant not entitled ~~Spl.~~ pay - para 7.1 - para 12/13- to be considered ~~wi~~ in pay & 7.3 page.3 fixation as per rules

- Deputation allowance entitled to (Rs. 500/- limit) - para 7.13 - para 16 - page 7, para 4.17

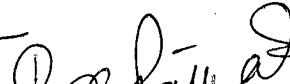
20.6.96 - O.A. No. 84/96 filed 31.1.98 - Retired from Service - - - - page 12, para 4.25

20.4.99 - Disposed of (O.A. 84/96) - Ann. G (p.12) - - - - page 4, para 4.52

26.4.99 - Representation submitted 6.10.99 - - - - Ann. H p.13. - " 8, " 4.18

10.3.00 - Present O.A. No. 103/2000 filed - page 12, para 4.27 Ann. I

19.5.97 - Joined as Dy. Registrar, - page 8, para 4.18

Filed by: 

(B.C. Pathak) 23/8/2001  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI

O.A. 103/2000

Suresh Prasad Singh ...Applicant

versus

Union of India and others... Respondents.

SYNOPSIS.

WRITTEN SUBMISSION ON BEHALF OF THE APPLICANT :

1. That the applicant has filed the aforesaid O.A for issue of a direction to the respondents to draw the arrears of the applicant's pay with effect from 1.12.1998 to 31.10.90 after revising the Order No.32/93 issued under No.17/29/89-Estt/1216(A) dated 28.9.93 by the Patna Bench of the Tribunal including therein Deputation (/duty) Allowance @ 10% of the Grade Pay subject to a ceiling of Rs. 500/- plus special Pay of Rs. 100/- and Medical Allowance of Rs. 100/- per month each, as the applicant had not been issued card or attending medical cover for CGHS during the period the applicant was on deputation to the Patna Bench of the Tribunal and for a direction to the Respondents to fix the applicant's pay in the Central Pay Scale with effect from 1.11.1990 onwards in terms of FR 22 as has been done in the case of Shri Gautam Ray, the then Deputy Registrar of the Calcutta Bench (now Registrar, Principal Bench, and not in terms of OM dated 26.12.1984 as was proposed by the FA & CAO, PB, New Delhi, release of the arrears, revision of pension and pensionary benefits and for payment of interest at the Bank's rate on the dues payable to the applicant.

2. That for proper appreciation of the factual events leading to the filing of the present OA, the following sequence of events are narrated :-

11.12.1989

The applicant opted to draw pay in the pay scale of his parent department and, accordingly, he was allowed to draw his Basic Pay, Deputation (Duty) Allowance and DA/HRA/CCA as admissible under the Rules. The applicant continued as PS till 30.10.90. /

5.11.90

Para 4.4 The applicant joined the post of Deputy Registrar in the Guwahati Bench of the Tribunal on 5.11.90 and opted to draw his pay in the Central pay Scale of the deputation post.

On opting to draw pay in the

pay scale of Deputy Registrar, the applicant was allowed the initial Basis Pay of Rs. 3000/- in the pay scale of Rs. 3000-4500/- p.m. subject to fixation of his pay on receipt of LPC which was not revised.

15.5.91

Para 4.5

Application submitted representation revising his opinion to draw pay in the pay scale of the parent department. Though orders were passed in the file, the same was not implemented as, in the meantime, the applicant had applied for and was permanently absorbed in the CAT.

Para 4.6

In the meantime, with effect from 1.1.1989, the pay scales of the Assam Government employees as well as of the Gauhati High Court was revised on Central pattern for analogous posts- whereafter the pay scale of the applicant stood at Rs. 2975-4750/- pm.

16.8.91

4.7 para

Registry of the Gauhati High Court issued revised LPC and addressed the same to the Registrar, CAT, Guwahati Bench for doing the needful.

Para 4.8 Guwahati Bench of the CAT, in turn, forwarded the revised LPC to Patna Bench for computation and payment of the arrears as during 11.12.89 to 31.10.90, the applicant was on deputation to that Bench.

23.10.91

Para 4.9 On receipt of the revised LPC, Patna Bench of the CAT sought for clarification from the PB, New Delhi and forwarded the Service Book, Pay Fixation Order and the revised LPC in original.

..Annexure-A, Page-22

Letter dated 23.10.91.

27.1.93

Para 4.10 PB New Delhi forwarded the clarifications sought for to the Registrar CAT Patna Bench.

...Annexure-B. Page-24

Letter dt. 27.1.93.

9.2.93

...Annexure-C, page 26

29

letter dated 9.2.93

28.9.93

Para 4.12 Patna bench of the CAT allowed grade pay and deputation (duty) allowance in the revised scale of pay of Rs. 2975-4750/-

Annexure-D Page 2727

Office Order dt. 28.9.93. ✓

Para 4.13 In item No.2 of the Office Order (Annexure-D) hereinabove, regular pay of the applicant with effect from 1.12.89 was computed and allowed as hereunder :-

"Basis Pay- @ Rs. 3950/-

Dep. Allowance -@ 10% of the Grade Pay subject to a ceiling of Rs.250/- p.m. DA/HRA/CCA as admissible under the Rules". ✓

Para 4.14 Fixation of pay as enumerated in item No.2 (Annexure-D) is wrong in view of office Memorandum NO.6/20/86-Estt (Pay-II) dated 9.12.86 and 4th June, 1987 (page 468 of the Swamy's Compilation of ER/SR) which sets out revised rate of Deputation (Duty) Allowance as hereunder :-

\*\*\* \* \* \* \* \*

New Rates.

(a) 5% of the employee's basis pay subject to a maximum of Rs. 250/- when the transfer is within the same station; and

(b) 10% of the employee's Basis Pay subject to a maximum of Rs. 500/- in all other cases;

Provided that the basic pay plus the Deputation (duty) Allowances shall at no time exceed Rs. 7,300/- p.m.

The case of the applicant is covered by Category (b) as his deputation was outside Guwahati, i.e at Patna.

Para 4.15

Applicant, in addition to the above, was also entitled to the following:-

(i) Special pay of Rs. 100/- p.m. since the date of his appointment as PS in the Gauhati High Court in the year 1974. This 'Special Pay' is to be treated as Basic Pay.

(ii) Rs. 100/- p.m. by way of Medical Allowance in lieu of medical reimbursement bills.

Para 4.16.

In view of the above discrepancy, the Registrar, CAT, Guwahati Bench requested the Patna Bench to issue a

revised fixation order.

21.4.94

Para 4.16

Patna Bench forwarded to the applicant a Bank Draft for Rs. 9688.00 on account of arrears of revised pay without revising the earlier fixation pay order dated 28.9.93. (Annexure-D).

Para 4.7

Applicant was singled out in the matter of Deputation (Duty) Allowance by imposing a ceiling of Rs. 250/- p.m. in terms of OM No. 1/4/84-Estt(Pay-II) dated 26.12.84 which was not applicable to the applicant as his pay had been revised on Central Pattern for analogous posts which entitled him to be treated at par with the Central Government employees. It was also discriminatory in the sense that the employees taken on deputation from outside stations were not subjected to such ceiling and, instead, were paid Deputation (Duty) allowance @ 10% of the employee's Basis Pay subject to a maximum of Rs. 500/-.

Para 4.18.

While the process for permanent absorption of the applicant was

going on in the CT in the post of DR his deputation was brought to an end on 30.11.1993 and the applicant was arbitrarily released with effect from 1.12.93.

Para 4.18

Application filed civil Rule No.1019/94. before the Gauhati High Court challenging the above action. The High Court granted some of the reliefs prayed for.

Para 4.13

Applicant filed Writ Appeal against the judgment and order of the Hon'ble Single Judge. In appeal, the reliefs prayed for were granted and the Union of India was directed to extend all consequential reliefs.

Para 4.18

SLP filed by the Union of India against the judgment of the Division Bench of the Gauhati High Court was dismissed.

19.5.97

Para 4.18

The application rejoined the post of Deputy Registrar.

31.1.98

The applicant retired from service.

Para 4.19 & 4.20.

Fixation of pay of the applicant in terms of the OM dated 26.12.1984 as

ordered by the PB of the Tribunal was arbitrary and illegal inasmuch as the said OM was clearly not applicable to him.

Even otherwise though computation in terms of the OM dated 26.12.84 is not acceptable to the applicant, even the same was not done and the applicant continued to draw his pay at the minimum of the pay scale of the Deputy Registrar, i.e. Rs. 3000-4500/- with annual increments and retired as such. The applicant was entitled to fixation of his under the normal rules.

Para 4.25

In view of the above grievances, the applicant filed an application before the Guwahati Bench of the Tribunal which was registered as OM 84/96.

20.4.99

Para 4.25

The Hon'ble Tribunal disposed of the application directing the respondents to consider the case of the applicant and dispose of the representation (which the applicant was allowed to file) by a reasoned order within a period of three months.

.... Order dated 20.4.99

26.4.99

Para 4.26

The applicant submitted a fresh representation in terms of the Hon'ble Tribunal order.

Annexure-II, Page-34-39

21.9.99

Para 4.27.

Respondent No.1 disposed of the representation without touching all the contentions raised by the applicant.

15.10.99

Para 4.23, 17.11.99

The applicant addressed letters to the Respondent No.1 with a request to communicate his decision on his representation on all the points raised by him as directed by the Hon'ble Tribunal.

3/6.12.99

Para 4.28

Reply by the Respondent No.1 reiterating the earlier stand and, inter alia, intimating that the OM dated 26.12.84 was applicable in the case of the applicant.

#### CONTENTIONS

1. The applicant as a deputationist having opted to

draw his pay in the pay scale of his parent department, he is entitled to get : (a) the Basis Pay of his parent department; (b) Dearness Allowance as admissible to him in his parent department; (c) HRA and CCA as admissible to a Central Government employee according to the place of his posting and not HRA/CCA as admissible in his parent department and, therefore, the denial thereof to the applicant is illegal and unconstitutional and is violation of his fundamental rights guaranteed under Article 14 and 16 of the Constitution of India.

II. As the OM dated 26.12.84 was not applicable to the applicant, his pay having been revised on the Central Pattern for analogous posts, the decision of the Respondents in making the said OM applicable to him- has resulted in denial of his legal entitlement- is grossly arbitrary and unconstitutional besides being unfair and discriminatory leading to inequality in the matter of employment under the State.

III. In the facts and circumstances of the case, the Basis Pay of the applicant is required to be maintained and fixed on the Central Pattern in terms of FR 22, as was done in the case of Shri Gautam Ray, the then Deputy Registrar, Calcutta Bench of the Tribunal (presently Registrar Principal Bench) whose pay in the Sikkim High Court (wherefrom he came on deputation) was not even revised on Central Pattern and was drawing pay in a lower scale of pay than the applicant.

IV. The failure on the part of the Respondent to

correctly fix the pay of the applicant under the normal Rules is without any justification as the same amounts to a failure on their part to discharge a public and statutory duty, the applicant is entitled to an appropriate direction from this Hon'ble Tribunal directing the Respondents to fix his pay on the Central Pattern in terms of FR 22 and grant him all consequential benefits on the basis thereof.

1984 Circular not applied - It is a ~~Special Case~~  
See p.29.

\* Annex F. p31. - in terms, more due 26.12.89  
presently

1987 due 26.12.89. This is their final year.

1988 due 3.1.90 on completion of service period.

1989 due p372 - Review of the situation of the

annex and the revised basic pay scale.

Annex A p22-23. ~~3.930~~  
~~3.000~~

Reans B p24-25

3.930  
3.000  
930

28 9.93 Annex D p27.

\* 27.7.91 Circular 2 (AT) to Dines  
Rao re I

Annex E p28.

What is the basic pay can be  
reduced?

Court No. 228  
14 MAR 2000  
228  
Guwahati Bench

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985.

Title of the Case :- Original Application No. L 03 /2000.

Suresh Prasad Singh .... Applicant.  
-versus-  
Union of India & ors ... Respondents.

I N D E X :

Sl.No.	Description of documents relied upon	Page No.
1.	Original Application	1 to 20
2.	Verification	21
3.	<u>Annexure-A</u> : ( Letter No. 17/29/89/ Estt/759 dt'd. 23.10.1991	22-23
4.	<u>Annexure-B</u> : ( Letter No. DCA/AT/ 10(1)/92-93/1123 dated 27.1.1993	24-25
5.	<u>Annexure-C</u> : (CAT/GHY/Pay/103/90/ 176 dated 9.2.93	26-
6.	<u>Annexure-D</u> : ( Letter No. 27/25/93- Estt/1216(A) dated 28.9.93	27
7.	<u>Annexure-E</u> : ( Letter No. DCA/AT/ Guwahati/3010 dated 27th July, 1991	28-30
8.	<u>Annexure-F</u> : ( Letter No. DCA/AT/ 10(1)/92-93/9831(A) dated 6th Nov' 1992	31
9.	<u>Annexure-G</u> : ( Order dated 20th April, 1999 passed in OA No.34/96 passed by the Guwahati Bench of the Tribunal).	32-33
10.	<u>Annexure-H</u> : ( Representation dated 26.4.99 )	34-39
11.	<u>Annexure-I</u> : ( Letter No. PB/15/1/ 97-Estt/9830/A dated 6th October, 1999.	40-41
12.	<u>Annexure-J</u> : ( Letter No. P-26012/23/ 96-AT dated 3/12/99/06 Dec 1999.	42

Suresh Prasad Singh  
(Signature of the Applicant).

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39  
FED BY  
The Applicant  
Through  
Mr. Ram  
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
BENCH : GUWAHATI.

Original Application No. 103/2000

BETWEEN

Suresh Prasad Singh,  
son of late Munshi Prasad Singh,  
resident of 3rd Bye-Lane,  
Tarun Nagar, Dispur  
Guwahati-781005, District-Kamrup  
(Assam). .... APPLICANT.

AND



1. Union of India, represented by  
the Secretary to the Government of India,  
Department of Personnel, Training,  
Public Grievances etc.  
North Block, New Delhi - 110 001.
2. The Registrar,  
Central Administrative Tribunal,  
Principal Bench,  
Faridkot House,  
Copernicus Marg,  
New Delhi - 1100 01.
3. The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati-781005.
4. The Registrar,  
Central Administrative Tribunal,

11

Patna Bench,  
38A, Sri Krishna Nagar,  
Patna -800 001.

... Respondents.

**I. Order against which the application is filed :**

The application is directed against the Order No.PB/15/1/97-Estt.I/9881/A dated 6th October, 1999, issued under the signature of the Deputy Registrar(E), Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi, rejecting the representation of the applicant praying for correct fixation of pay and the letter No. P-26012/23/96-AT dated 3.12.99 received 6.12.99 from the Under Secretary to the Government of India, Department of Personnel & Training, New Delhi reiterating the stand in the order dated 6.10.99.

**2. Jurisdiction :**

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

**3. Limitation :**

The applicant states that the application is being filed within the period of limitation.

**4. FACTS OF THE CASE :**

That the applicant was working as Senior Grade Stenographer ( Selection Grade Private Secretary) in the pay Scale of Rs. 1200-50-1450-EB-60-2050/- p.m. (unrevised) in the Gauhati High Court at Guwahati. In response to an advertisement issued by the Principal Bench of the Central Ad-

*18* ministrative Tribunal(CAT) for

3.

filling up the posts of Private Secretaries in different Benches of the Tribunal, the applicant applied for the post giving his preference of posting in the Patna Bench of the Tribunal. His application was duly forwarded by his parent department and he was selected for the post.

4.2 That, accordingly, the services of the applicant was placed at the disposal of the CAT for a period of one year with effect from 1.12.1989 - on being released with effect from 30th November, 1999 (AN). The applicant joined the Patna Bench of the Tribunal on 11.12.1989(FN).

4.3 That on being appointed as Private Secretary, the applicant opted to draw his pay in the pay scale of his parent department and, accordingly, he was allowed to draw his Basic Pay, Deputation Allowance and DA/HRA/CCA as admissible under the Rules.

4.4 That the applicant continued as Private Secretary in the Patna Bench of the Tribunal till 30.10.90 when he was released from the Patna Bench to join the post of Deputy Registrar in the Guwahati Bench of the Tribunal, which post he joined on 5.11.90. → Join as DR in 5.11.90

4.5 That on joining the post of Deputy Registrar in the Guwahati Bench of the Tribunal, the applicant opted for the Central pay scale.

On opting to draw pay in the Central Pay Scale of Deputy Registrar, the applicant was allowed the initial

Basic Pay of Rs. 3000/- in the scale of pay of Rs. 3000-4500/- of the Deputy Registrar, subject to fixation of his pay on receipt of the Last Pay Certificate (LPC) which never came to be revised even though the applicant has retired from service with effect from 31.1.1998(AN) as Deputy Registrar (CAT).

It may be stated herein that the applicant had revised his option vide representation dated 15.05.1991 to draw pay in the pay scale of his parent department. Though orders were passed in the file allowing the applicant to draw pay in the pay scale of his parent department, but before the same could be implemented, the applicant had applied for permanent absorption which was duly recommended and he was ultimately absorbed and has since retired, as already stated.

4.6. That the pay scales of the Assam Government employees as also the Gauhati High Court stood revised on Central Pattern for analogous posts with effect from 1.1.1989 on the recommendations of the Assam Fourth Pay Commission. The revised pay scale of the applicant is Rs. 2975-100-3575-125-3825-EB-125-4450-150-4750/- p.m.

4.7 That the Registry of the Gauhati High Court issued a revised LPC vide No.HC.VIII-3/34/17371/AC dated 16.8.1991 addressed to the Registrar, CAT, Guwahati Bench for doing the needful.

The applicant craves leave of this Hon'ble Tribunal to refer to the Last Pay Certificate mentioned hereinabove.

4.8 That, as the applicant was on deputation to the Patna Bench of the Tribunal with effect from 11.12.1989 to 30.10.90, Guwahati Bench of the Tribunal forwarded the revised LPC to Patna Bench for drawing arrears of pay pertaining to the period the applicant was attached to the Patna Bench of the Tribunal.

13

5.

4.9 That, on receipt of the revised LPC, Patna Bench asked for a clarification from the Principal Bench vide their letter No.17/29/89-Estt/759 dated 23.10.1991 and sent the Service Book, Pay Fixation Order and the revised LPC in original for doing the needful.

A copy of the aforesaid letter dated 23.10.91 is annexed hereto and is marked as Annexure - A.

4.10 That after protracted correspondence spread over for a period of two years from the applicant both to the Patna Bench as also the Principal Bench of the Tribunal, the Principal Bench vide letter No.DDA/AT/10(1)/92-93/1123(A) dated January 27, 1993 clarified the matter.

A copy of the aforesaid letter dated 27.1.93 is annexed hereto and is marked as Annexure-B.

4.11 That on receipt of the aforesaid clarification, the Guwahati Bench of the Tribunal vide letter No.CAT/GHY/Pay/103/90/176 dated 9.2.1993 wrote to the Patna Bench of the Tribunal requesting the latter to send the Service Book of the applicant duly completed in all respects at an early date.

A copy of the aforesaid letter dated 9.2.1993 is annexed hereto and is marked as Annexure-C.

4.12 That after a long lapse of time, the Patna Bench of the Tribunal vide Office Order No.32/93 dated 28.9.93 under No.17/29/89-Estt/1216(a) allowed the grade pay plus Deputation (Duty) Allowance in the revised scale of pay of Rs. 2975-4750/-.

A copy of the order dated 28.9.93 is annexed hereto and is marked as Annexure-D.

4.13 That it would be seen from Annexure-D above, against item No.2, that the applicant has been allowed regular pay with effect from 11.2.89 as follows : -

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" Basic Pay - @ Rs. 3950/-

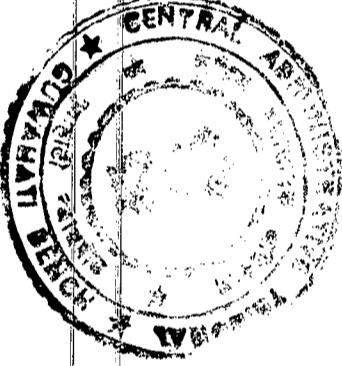
Dep. Allowance - @ 10% of the Grade Pay subject to a ceiling of Rs. 250/- p.m.

DA/HRA/CCA - as admissible under the rules".

4.14 That in this connection the applicant begs to state that the above fixation is palpably wrong because the Government of India, Department of Personnel and Training vide OM No.6/20/86-Estt(Pay-II) dated 9.12.86 and 4th June, 1987 (page 468 of the Swamy's Compilation of FR/SR) have revised the Deputation Allowance as follows :-

\*\*\*      \*\*\*

New Rates.



(a) 5% of the employee's basic pay subject to a maximum of Rs. 250/- when the transfer is within the same station; and

(b) 10% of the employee's Basic pay subject to a maximum of Rs. 500/- in all other cases;

Provided that the basic pay plus the Deputation (Duty ) Allowance shall at no time exceed Rs.7,300/- p.m. "

The case of the applicant comes under Category(b) as the deputation was outside Guwahati, i.e. at Patna.

4.15 That the applicant begs to state that the applicant in addition to his regular pay was also drawing Rs. 100/- as " Special Pay" per month since the date of his appointment as Private Secretary in the Gauhati High Court in the year 1974. This " Special Pay" of Rs. 100/- p.m. is for all intents and purposes treated as Basic Pay in the parent department of the applicant and is reckoned for the purpose of calculating

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pension on superannuation. This has been conveniently left out without assigning any reason.

In addition, the applicant was also drawing a sum of Rs. 100/- per month by way of medical allowance in lieu of medical reimbursement bills, which has also been left out.

In this connection, it is stated that the applicant during his deputation at Patna did not draw any medical bill - either for himself or for the members of his family, nor did he avail of CGHS facility and, as such, the amount of Rs. 100/- per month as medical allowance, was disallowed without any valid reason.



4.16 That the applicant states that, as aforesaid, as there was discrepancy in the fixation of the pay of the applicant, the Registry of the Gauhati Bench requested the Patna Bench to issue a revised fixation order for the period he was working in the Patna Bench. But the Patna Bench maintained complete silence and did not take any action and ultimately vide letter No.62/1/89-Cash/2341 dated 21.4.94 addressed to the applicant, the Registrar, Patna Bench, sent a Bank Draft No. R-063011 dated 22.3.1994 for Rs. 9,638.00 only on account of arrears of revised pay obviously without revising the earlier fixation of pay.

4.17 That at this stage, it would be relevant to state that both at Guwahati Bench and Patna Bench, the employees taken on deputation from outside stations are being paid deputation allowance at the rate of 10% of the employee's basic pay subject to a maximum of Rs.500/- and the applicant has been singled out for unequal treatment by restricting his

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Deputation Allowance to a ceiling of Rs. 250/- p.m. in terms of OM No. 1/4/84-Estt.(P.II) dated 26.12.1984 ( hereinafter referred to as the OM dated 26.12.1984 ), incorporated in the Swamy's compilation of FR/SR, which is no longer applicable in the case of the applicant - his pay having been revised on Central Pattern for analogous posts which entitled him to be treated at par with the Central Government employees.

**4.18** That the applicant had opted for permanent absorption in the CAT in the post of Deputy Registrar and while the absorption process of the applicant was going on, the extended period of deputation for completing the absorption process came to an end on 30.11.1993 and the Hon'ble Vice -Chairman of the Guwahati Bench arbitrarily released the applicant with effect from the Forenoon of 1.12.1993 - as against which the applicant moved the Hon'ble Gauhati High Court in Civil Rule No. 1019/1994. While disposing of the aforesaid Civil Rule, the Hon'ble Gauhati High Court allowed some of the reliefs prayed for and disallowed some but on Writ Appeal being filed against the aforesaid judgment, it allowed all the reliefs directing the Union of India to extend all consequential reliefs. The Union of India went in appeal against the aforesaid judgment of the High Court before the Hon'ble Supreme Court which affirmed the judgment of the High Court. Consequently the applicant was reinstated in service and he joined the post of Deputy Registrar on 19.5.97 and retired on 31.1.1998 ( AN ).

**4.19** That on account of the aforesaid reasons the fixation of pay of the applicant could not be done in the

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in the Central Pay Scale even as per the terms of the OM dated 26.12.1984 as ordered by the Principal Bench of the Tribunal and the applicant continued to draw his pay at the minimum of the Basic Pay of Deputy Registrar i.e. Rs. 3000/- in the Tribunal with annual increments as and when due and he has since retired from the post of Deputy Registrar. His pension has not yet been properly fixed even though two years have elapsed and he and his family members are suffering a lot.

4.20 That the applicant begs to state that the fixation of pay in the Central Pay scale of Deputy Registrar in terms of OM dated 26.12.1984 as ordered by the Principal Bench of the Tribunal is arbitrary, illegal and void for the simple reason that the Assam Government having revised the pay scales of its employees on Central Pattern for analogous posts. The terms of OM dated 26.12.1984 finding place at page 494 of the Swamy's Compilation of FR/SR is applicable only in cases of employees of Public Sector Undertakings, or those State Government employees whose scales of pay have not been revised on the Central Pattern.

4.21 That the applicant begs to state that unlike the applicant a few other employees of the Gauhati High Court were sent on deputation to the Guwahati Bench of the Tribunal and they opted for permanent absorption and they were absorbed in their respective posts. The need for fixation of their pay ( after acceptance of the recommendations of the Assam Fourth Pay Commission with effect from 1/1/1989) in the Central Pay Scales arose and the matter was referred to the

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Principal Bench for fixation. On scrutiny of the cases referred by the Guwahati Bench, it was opined by the Principal Bench that the provisions of the OM dated 26.12.1984 are not applicable in the cases of the employees of the Assam Government/Gauhati High Court taken on deputation and later on absorbed in the Tribunal as the Assam Government had revised the pay scales of their employees with effect from 1.1.1989 merging Dearness Allowance upto 776 Point as on 31.12.88, whereas the Central Government revised the pay scales of its employees with effect from 1.1.1986 merging Dearness Allowance upto 608 Point as on 31.12.1985 and as such, it was recommended, inter alia, to the Department of Personnel & Training, A.T.Division, North Block, New Delhi, vide letter dated 25th July, 1991, that the pay of the Assam Government/Gauhati High Court employees should be fixed under the normal rules by working out the pay at 608 Point in the pay scales of parent cadre and then with reference to such basic, the pay in the Central scale, i.e. in the Central Administrative Tribunal fixed under normal rules. It was, inter alia, stated that the pay proposed to be fixed by Guwahati Bench is not as per rules.

Under these circumstances, it was requested that suitable guidelines for fixing the pay of State Government employees on deputation to CAT who were subsequently absorbed be issued clearly stating whether the provisions of OM dated 26.12.1984 are still applicable or not and, if not, then as to how their pay may be regularised. It was alongside also stated that the Principal Bench was receiving many references from the Outlying Benches of the CAT on this point and hence it was requested to issue the clarification early.

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A copy of the aforesaid letter dated 25.7.1991 is annexed hereto and is marked as Annexure-E.

4.22. That a Senior Grade Stenographer (Selection Grade Private Secretary) is the ex-officio Under Secretary to the Government of Assam. The post of Deputy Registrar in the CAT is equal to the Under Secretary to the Government of India. The applicant was holding an analogous post in his parent Department as would be evident from the revised pay scale of the applicant with effect from 1.1.1989 (Rs. 2975-4750/-). The revised pay scale of the Deputy Registrar as per the Recommendations of the Central Fourth Pay Commission is Rs. 3000-4500/- p.m.

4.23. That thereafter the Principal Bench vide letter No.CCA/AT/10(1)/92-93/983(A) dated the 6th November, 1992 addressed to the Registrar, CAT, Guwahati Bench, as an interim measure, directed to regulate the pay of the Assam Government employees in accordance with the provisions of OM dated 26.12.1984 after obtaining undertaking from the concerned employees that over-payment, if any, will be recovered from the employees concerned as their cases had been referred to the Department of Personnel & Training.

A copy of the aforesaid letter dated 6th November, 1992 is annexed hereto and is marked as Annexure-F.

4.24. That as already stated the fixation of the pay of the applicant could not be done either in terms of OM dated 26.12.1984 or under the normal rules and faced

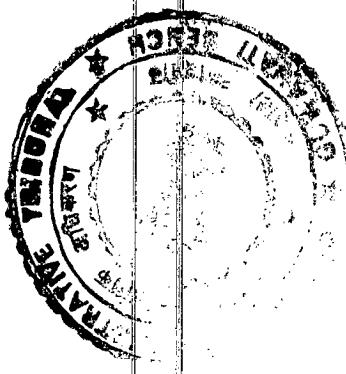
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with this situation he made various representations to the authorities including the one dated 12th January, 1995 addressed to the Respondent No.1, but nothing could come out of it.

The applicant craves leave of this Hon'ble Court to refer to and rely on the aforesaid representation and undertakes to produce the representation dated 12th January, 1995 at the time of hearing, if necessary.

4.25 That under these circumstances, the applicant moved the Guwahati Bench of the Tribunal for redressal of his grievances vide OA No.84/96, which came up for hearing on 20th April, 1999, and the Hon'ble Tribunal disposed of the application on the prayer of the learned counsel for both the parties that there are certain disputed facts and it may not be possible for the Hon'ble Tribunal to decide the disputed facts and directed the respondents to consider the case of the applicant and dispose of the representation by a reasoned order as early as possible at any rate within a period of three months from the date of receipt of the order dated 20th April, 1999. The applicant was also allowed to submit a fresh representation within a period of 15 days and directed the Respondents to dispose of the representation if filed within the period mentioned above.



A copy of the order dated 20th April, 1999 passed in OA 84/1996 is annexed hereto and is marked as Annexure-5.

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6.26 That, accordingly, the applicant submitted a fresh representation dated 26th April, 1999, stating all his grievances therein. For the sake of brevity, the applicant is not stating all the statements and submissions made in the representation mentioned above. However, the applicant craves indulgence of this Hon'ble Court to urge all the statements and submissions made in the representation at the time of hearing.

A copy of the aforesaid representation dated 26th April, 1999 is annexed hereto and is marked as Annexure-H.

4.27 That the Respondent No.1 disposed of the representation dated 26th April, 1999 of the applicant vide Department of Personnel & Training's letter No. P-26012/23/96-AT dated 21.9.99 addressed to the Principal Bench of the Tribunal, which was conveyed to the applicant vide letter No.PB/15/1/97-Estt.I/9831/A dated 6th October, 1999.

A copy of the letter dated 6th October, 1999 is annexed hereto and is marked as Annexure-I.

4.28 That the applicant states that the Respondent No.1 dealt with only para 2 of the representation dated 26.4.99 (Annexure-I) concerning his deputation in the Patna Bench of the Tribunal where he had opted to draw his pay in the pay scale of his parent department and left out paras 3 to 6 of the aforesaid representation concerning conversion of his pay in the Central Pay Scale. The applicant addressed a letter dated 15.10.99 followed by

another reminder dated 17.11.99 addressed to the Respondent No.1 and copy endorsed to the Registrar, CAT, Principal Bench, New Delhi and also CAT, Guwahati Bench to communicate his decision as ordered by the Hon'ble Tribunal. In response to the same a letter No.P-26012/23/96-AT dated 3-12-99 has been issued to the applicant reiterating the stand taken in the impugned order dated 6.10.99.

A copy of the letter dated 3/6-12.99 is annexed as Annexure-I.

4.29 That it would appear from the letter dated 6.10.99 that the applicant has been allowed to maintain the grade pay of the parent cadre post plus deputation (duty) allowance @ 10% subject to a maximum of Rs.250/- without restricting the maximum of the scale of pay of the post on deputation as per the OM dated 26.12.1984. In this connection, it is stated that the Respondents cannot restrict the Deputation (duty) Allowance upto a ceiling of Rs.250/- p.m. as, the moment the Deputation (Duty) Allowance came to be revised and specifically a ceiling of Rs.500/- has been fixed, the terms of OM dated 26.12.1984 ceased to exist and as such the aforesaid restriction is arbitrary and illegal. Moreover, other deputationists were being paid - both at Guwahati as also at Patna Benches, Deputation (Duty) Allowance without such restrictions.

4.30 That in the letter dated 3/6-12-99, there is no discussion regarding the contentions raised by the applicant in para 3 of the representation dated 26.4.99 wherein it has been represented that on joining the post of

Deputy Registrar in the Guwahati Bench of the Tribunal, the applicant opted ~~open~~ for the Central Pay scale. As already pointed out in para 4.5 of this application that though the applicant had revised his option vide representation dated 15.05.91 and orders were passed allowing him to do so in file, but the same could not be implemented as, in the meantime the applicant applied for permanent ~~repxe~~ absorption in the CAT which was duly recommended and ultimately he was absorbed and he has since retired from service as Deputy Registrar and so para 3 of the representation has been considered with - out applying mind.

4.31 That, as to paras 4 to 6 of the representation of the applicant, it has been intimated that the applicability of O.M. dated 26.12.1984 has been discussed which has been replied to by the Principal Bench in their letter dated 6.10.1999 bearing No.PB/15/1/97-Estt-I.@@@ (Annexure- 1).

In this connection, it is stated that the representation of the applicant has been disposed of without touching any of the points raised by the applicant in his representation and no reason has been mentioned for fixing the pay of Shri Gantam Ray ( Presently Registrar of the Principal Bench) with the aid of FR 22 even though Shri Gantam Ray was drawing pay in a lower scale of pay in the Sikkim High Court than that of the applicant and whose pay had not been revised on the Central Pattern for analogous posts. The employees of the two High Courts should not be treated differently by the same authority.

5. G R O U N D S :

I. For that the impugned orders are illegal and arbitrary inasmuch as it has not been taken into account the points raised in the detailed representation and the

has been passed with a pre-conceived notion of the matter.

II. For that, if a deputationist opts to draw his pay in the pay scale of his parent department, he is entitled to get : (1) his basic pay of his parent department; (2) Dearness Allowance (DA) what is admissible in his parent department from time to time; (3) House Rent Allowance (HRA); and (4) City Compensatory Allowance (CCA) what is admissible to a Central Government employee according to the place of posting and not HRA, CCA etc as admissible in his parent Department.

III. For that the terms of OM dated 26.12.1984 is not applicable in the case of the applicant - his pay having been revised on the Central Pay Pattern for analogous posts and the terms of OM dated 26.12.1984 is admissible only in cases of those employees who have come on deputation from the Public Sector Undertakings and those State Government employees whose pay have not been revised or under the process of revision on the Central Pay pattern and the moment it came to be revised on Central Pay pattern the terms of OM dated 26.12.1984 ceased to exist.

IV. For that in the totality of the circumstances, the basic pay of the applicant is required to be maintained and his pay be fixed on the Central pattern

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in terms of FR 22 as has been done in the case of Shri Gantam Ray, the then Deputy Registrar, Calcutta Bench, presently the Registrar, Principal Bench) whose pay in the Sikkim High Court (wherefrom he came on deputation) was not even revised on the Central Pay scale pattern and he was drawing his pay in a lower scale of pay than that of the applicant.

V. For that the impugned orders ~~are~~ not sustainable inasmuch as it has not taken into consideration the formula as suggested by the Principal Bench by its communication dated 27th July, 1991.

VI. For that, the impugned order ~~is~~ not sustainable so far as it deals with the questions of Special Pay being treated as a part of the Basic Pay and the Medical Allowance.

VII. For that the impugned order and the fixation in respect of the applicant are discriminative and violative of Article 14 of the Constitution of India

VIII For that in any view of the matter the impugned order ~~is~~ not sustainable and liable to be set aside and quashed.

6. Matters not previously filed or pending:

The applicant declares that the impugned order in respect of which the present application has been filed was not assailed and/or pending before this Hon'ble Tribunal

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and/or any other Court. The applicant had earlier filed OA No.84/96 praying for correct fixation of his pay which was disposed of by an order dated 20th April, 1999 with a direction to consider the case of the applicant, pursuant to which the applicant filed a representation and the same has been disposed of by the impugned order rejecting the claim of the applicant. Hence, the present OA.

7. Departmental remedies exhausted.

The applicant declares that he has exhausted the Departmental remedy and there is no any other alternative remedy than to approach this Hon'ble Tribunal.

8. Relief sought for : -

Under the facts and circumstances stated above, it is most respectfully prayed that the O.A. be admitted, records be called for, and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs : -

(1) To set aside and quash the impugned orders dated 6.10.99 (Annexure-I) and 3.12.99 (Annexure-J).

(2) declare the decision contained in the letter dated 27.1.93 (Annexure-B) with regard to computation of the pay and allowances of the applicant with reference to the OM dated 26.12.1984 as illegal, null and void.

(3) directing the respondents to draw the arrear of the applicant's pay with effect from 1.12.1989

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to 31.10.90 after revising the Order No. 32/93 issued under No.17/29/89-Estt/1216(A) dated 28.9.93 by the Patna Bench of the Tribunal including therein deputation allowance @ 10% of the Grade Pay subject to a ceiling of Rs. 500/- plus special pay of Rs. 100/- and Medical Allowance of Rs. 100/- per month as the applicant had not been issued card for attending medical cover from CGHS during the period the applicant was attached to Patna Bench of the Tribunal.

(4) directing the respondents to fix the applicant's pay in the Central Pay scale with effect from 1.11.1990 onwards in terms of FR 22 as has been done in the case of Shri Gautam Ray, the then Deputy Registrar of the Calcutta Bench, now the Registrar Principal Bench, and not in terms of OM dated 26.12.1984 as proposed by the FA&CAO, Principal Bench, New Delhi.

(5) directing the respondents to release the arrear pay and allowances of the applicant as calculated in terms of the prayer made in Clauses (3) and (4) hereinabove.

(6) Revise the pension and pensionary benefits and pay the arrears;

(7) To pass an order directing the Respondents to pay interest at Bank's norms on the dues payable to the applicant.

(8) Cost of the application.

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(9) Grant any other relief or reliefs to which the applicant may have been entitled to in justice, equity and law.

9. INTERIM RELIEF :

The applicant does not pray for any interim relief at this stage. However, being a retired Central Government servant he prays for an early hearing of the OA.

10. Particulars of Bank Draft/Postal Order filed in respect of the application fee.

I.P.O. No. 06493842

Date - 10-3-2000

Place : Guwahati.

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Filed through Advo-cate.

12. List of Enclosures

As mentioned in the Index.

VERIFICATION -

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VERIFICATION:

I, Shri Suresh Prasad Singh, son of late Munshi Prasad Singh, aged about 60 years, resident of Tarun Nagar, 32d Bye-lane, Tarun Nagar, Guwahati-781005 do hereby verify that the contents of paragraphs 1, 2, 3, 4.16, 4.5, 4.14 & 4.22, 4.24, 4.26, 4.28 to 4.30, 6 and 7 are true to my personal knowledge and in paragraphs 4.6 to 4.13, 4.16, 4.23, 4.25, 4.27

are believed to be true to my knowledge as those are based on records and I have not suppressed any material facts.

Date : 10-3-2000

Place : Guwahati.

Suresh Prasad Singh  
Signature of the applicant.

.....

Annexure:- A.

Regd. with Ad/ Insured for Rs.

No. 17/29/89-Estt./759  
Central Administrative Tribunal  
Patna Bench

38-A, Sri Krishna Nagar, Patna  
Date 23.10.91

To

The Financial Adviser & CAO,  
Central Administrative Tribunal,  
Principle Bench,  
B-2 W-4, Cufzan Road Barracks,  
Kustarba Gandhi Marg.  
New Delhi.

Sub:- Pay fixation of Shri S.P. Singh as Private Secretary  
of Patna Bench (New Dy. Registrar at Guwahati  
Bench).

Sir,

Shri S.P. Singh was on the strength of this Bench  
as Private Secretary with effect from 30.11.89 to 31.10.90  
on deputation from Gauhati High Court (now he is on the  
strength of Gauhati Bench of Central Administrative Tribunal)  
At that time he was in receipt of his grade pay in the  
scale of Rs. 1200-50-1430-38-60-2050 plus deputation allow-  
ances. Now, the grade pay scale of Shri Singh has since  
been revised raising from Rs. 1200-2050 to Rs. 2975-100-  
3575-125-3825-38-125-4450-130-4750/- fixing his pay at  
the stage of Rs. 3950/- as on 30.11.89 vide their order  
dated 12.8.91 at Appendix VII & revised L.P.O. issued  
accordingly. The accounts Officer of this Bench has raised  
the following points to be clarified before allowing the  
pay of Rs. 3950/- from 11.12.89 to 31.8.90 & Rs. 4075/-  
from 1.9.90 to 31.10.90 in the revised scale of Rs. 2975/-  
to Rs. 4750/- plus deputation allowances which comes in  
force after joining the tribunal on deputation:-

i) As per deputation Rule, one cannot be deputed to a lower scale as in this case i.e. deputed in the scale of Rs.2000-3500 from 2975-4750/- ✓

ii) Pay plus deputation allowance should be limited to the maximum of the pay scale of deputation post i.e. Rs. 3500/- in this case. ✓

2. It is, therefore, requested to clarify whether we may restrict the pay of Rs. 3500/- in his revised grade of pay or we may allow him the pay of Rs. 3950/- from 11.12.89 to 30.3.90 and Rs. 4075/- from 1.9.90 to 31.10.90 plus deputation allowance.

3. Accordingly, the pay of Shri S.P Singh, who is on deputation basis at Gauhati Bench as Dy. Registrar is required to be fixed in the light of his revised scale of pay.

4. The service Book, Pay fixation order & revised L.P.C in original of Shri S.P. Singh are sent herewith for getting & returns.

Yours faithfully,

(Md Qutbuddin)  
Registrar

Copy for information to the Registrar, Central Admn. Tribunal Gauhati Bench w.e.f. his letter No. CAT/GHY/PF/S.P.Singh/103/90/1115 dt.21.8.91.

(Md Qutbuddin)  
Registrar

Annexure-B.

No.DCA/ATM10(1)92-93/1123  
 Central Administrative Tribunal  
 Principal Bench  
 ( Finance Branch)

27.1.1993

To

The Registrar  
 Central Admn. Tribunal,  
 Patna/Guwahati.

Sub:

Pay fixation of Shri S.P.Singh as Private Secretary,  
 Patna and Deputy Registrar, Guwahati regarding.

Sir,

I am directed to refer to Guwahati Bench's D.O.  
 letter No.SPS/Pay/13 dated 11.1.93 on the captioned subject  
 and to clarify the position as under :-

1. If the Officer on joining as Private Secretary had opted to draw his parent pay plus deputation duty allowance the same may be permitted in terms of Deptt of Personnel & Training OM dtd 26.12.84 because revision of scale had taken place after the joining of the officer.
2. On joining of Sh.Singh as Deputy Registrar at Guwahati Bench the pay of the officer be fixed in the pay scale of the Central scale in terms of OM dated 26.12.84 @@@@ @@@@ @@@@ @@@@ 34; if so opted, by adding one increment in the lower scale at the same stage if available in the Central S-scale; if the same stage is not available then to the next higher stage.
3. After above exercise, the final fixation proposal be sent to this Division after having

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all the entries of his parent Deptt. pay fixation made in the Service Book and option etc. exercised, and fixation duly examined by local Accounts Officer of your Bench, to this Division for concurrence.

This issues with the approval of FA&CAO.

Yours faithfully,

Sd/- ( M.S.Rawat)  
Jr Accounts Officer.

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Annexure-C.F/No. CAT/GHY/Pay/103/90/176 SPEED POST

( . " . ( % )

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To

The Registrar,  
 Central Administrative Tribunal,  
 Patna Bench, 98A Sri Krishna Nagar,  
 Patna -800 001.

Sub: Pay fixation of Shri S.P.Singh as Private Secretary of Patna Bench ( now Deputy Registrar) at Guwahati Bench).

Ref: Your Office letter No.17/29/89-Estt/759 dated 23.10.91 addressed to FA&CAO, CAT New Delhi and copy to this Bench.

Sir,

I am directed to invite a reference to your aforesaid communication and to draw your attention to FA&CAO's letter No.DCA/AT/10(1)/92-93/1123(A) dated 29th January, 1993 addressed to you and the undersigned whereby the clarification sought for has been conveyed; and to request you to send the Service Book of Shri S.P. Singh duly completed in all respects either after drawing his arrears for the period when he was on deputation to Your Bench as Private Secretary or after preparing a Due and Drawn Statement to enable this Bench to make payment for that period and the period during which he is on deputation to this Bench as Deputy Registrar. *Pay*

Needful may please be done early as his Service Book and other allied documents are urgently required for completing entries and to know his leave entitlement.

Please accord priority.

Yours faithfully,

Sd.

Registrar.

Annexure-D

No. 27/25/93-Estt/1216(A)  
 Central Administrative Tribunal  
 Patna Bench  
 88-A, Shri Krishna Nagar,  
 Patna -300 001

Dated 28.9.93

OFFICE ORDER No. 32/93.

Consequent upon the revision of his pay scale by the Gauhati High Court w.e.f. 1.1.1989 and revised L.P.C. issued accordingly, Shri S.P.Singh ( Senior Grade Stenographer) Pvt. Secretary in the Patna Bench is allowed to draw his grade pay plus deputation allowance in the scale of Rs. 2975-100-3575-125-3825-~~125~~-125-4450-150-4750/- as under :-

1. Joining time pay w.e.f. <u>1.12.89 to 10.12.89</u>	- Basic Pay @ Rs. 3950/- p.m. Special Pay @ Rs. 100/- p.m. ✓ DA/HRA/CCA - As admissible under the rules.
2. Regular Pay w.e.f. <u>11.12.89</u>	Basic Pay - @ Rs. 3950- Dep. Allow - @ 10% of the Grade. Pay subject to a ceiling of <u>Rs. 250/- p.m. (50)</u> ✓ DA/HRA/CCA - As admissible under the Rules.
3. Increment w.e.f. 1.9.90 -  <u>5.11.90</u>	Raising his B.Pay from 3950/- to Rs.4075/- per month.  ✓ ( Mohd. Qutubuddin) Registrar.

## Copy to :

1. FA&CAO, Central Admin Tribunal, New Delhi with reference to their letter No.DCA/AT/15(1)/92-93/1124(A) dated 27.1.93.

2. Accounts Officer, Central Admin Tribunal Patna Bench.  
 Section Officer(A)-II CAT Patna Bench alongwith LPC in original for drawal of arrear and issue of revised LPC.

3. Shri S.P.Singh, Pvt. Secretary presently as Deputy Registrar, Central Admin. Tribunal, Gauhati Bench, Rajgarh Road, Bhangagarh, Guwahati-5.

4. Accounts Officer, CAT, Gauhati Bench, Guwahati.

( Mohd. Qutbuddin)  
 Registrar

1.9.90/ 1

Appl F.R 22 5.11.90

Annexure-E.

No.DCA/AT/Guwhati/3010  
 Central Administrative Tribunal  
 Principal Bench, New Delhi.

B-2, W-4 Curzon Road Barracks,  
 Kasturba Gandhi Marg,  
 New Delhi.

27th July, 1991.

To

The Director (AT)  
 Department of Personnel & Training,  
 North Block, New Delhi.

Sub: Refixation of pay of High Court & Assam Govt  
 Officials consequent upon revision of pay scale  
 w.e.f. 1.1.1989.

Sir,

The Assam Government have revised the pay scales  
 of their employees w.e.f. 1.1.1989 merging D.A. upto 776  
 Point as on 31.12.88 whereas the Central Govt. revised the  
 pay scales of its employees w.e.f. 1.1.86 merging D.A.  
 upto 608 Point on 31.12.1985.

2. In Guwahati Bench of the Central Administrative  
 Tribunal employees of Assam State Govt. and Assam High  
 Court with suitable experience of working of courts were  
 taken on deputation initially and subsequently absorbed  
 in Central Administrative Tribunal w.e.f. 1-11-89. Their  
 pay and allowances were regulated in accordance with the  
 provision of GOI MHA Deptt of Personnel & A.R. OM No. 1/  
 4/84-Estt/P.II ) dated 26.12.84 during the period of  
 deputation. On their absorption, their pay was fixed in  
 accordance with the provisions of O.M.No. P.1(11)E.III  
 (B)/67 dated 20.1.1979 of the Govt of India M.O.F. Deptt.  
 of Expenditure and No.A-27015/1/90-AT dated 31.10.1990  
 of the DoPT.

Annexure-B Contd.

3. The occasion for refixation of pay of these employees arose on revision of their pay scales in parent department cadres w.e.f. 1.1.89 i.e. before the date of their absorption in CAT i.e. 1.11.1989.

4. It is felt that the orders dated 26.12.84 are not applicable now in their cases as their pay scales have been revised merging D.A. upto 776 Points as compared to Central pay scales where D.A. upto 608 points was merged. The S-state Govt has given better pay scales than that of Central scales for comparable posts.

5. The pay in these revised pay scales should be fixed under normal rules by working out the pay at 608 Points in these scales of parent cadre and then with reference to such scale of pay, the pay in the Central Scale i.e. in CAT fixed under normal rules. In the case of posts not involving higher duties and responsibilities the pay be fixed under FR 22-(1)(ii) ( now revised FR 22(2) and in other cases under FR 22(c) ( now revised FR 22(1). The pay proposed to be fixed by Guwahati Bench is not as per Rules.

6. It is therefore requested that suitable guidelines for fixing the pay of State Govt employees on deputation to CAT who were subsequently absorbed may please be issued clearly stating whether the provisions of order dated 26.12.84 are still applicable or not and, if not, then as to how their pay may be regularised. We have been receiving many references from the outlying Benches of the Central Administrative Tribunal on this point.

*Not applicable*

Contd....

The clarification will be issued only receipt of instructions from you which may kindly be given at the earliest.

Yours faithfully,

Sd.( N.K.Saha)  
Financial Adviser and CAO

Copy to the Registrar, Central Administrative Tribunal, Rajgarh Road, Bhangagarh, Post Box No. 53, GPO Guwahati-781 001 with reference to his letter No.CAT/GHY/Fixation/34/1/86/999 dated 9.7.91 with the request that a copy of notification of Assam Government and Assam High Court issued for revision of pay scales from 1-1-89 may please be made available. Annexure contained 1 to 4 pages has been received but at page 4 it has been stated continued on page 5. Page No.5 may be sent. Further the copies of pay fixation statements of all these employees approved by their parent department alongwith their service books may also be sent to this office for scrutiny and approval of revised pay fixation proposed in their cases in the light of instructions to be issued by the Department of Personnel & Training with whom the matter has already been taken up.

Sd. xxx  
Deputy Controller of Accounts.

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No.DCA/AT/10(1)/92-93/9831(A)  
 Central Administrative Tribunal  
 Principal Bench  
 ( Finance Branch)

6th Nov' 1992.

To

The Registrar,  
 Central Administrative Tribunal,  
 Guwahati Bench,  
Guwahati.

Subject: Refixation of pay of High Court and Assam Govt  
 Officials consequent upon revision of pay scales  
 w.e.f. 1.1.1989.

Sir,

I am directed to refer to your letter No.CAT/GHY/  
 Fixation/34/1/86/1079 dated 7.8.91 on the captioned subject  
 and to say that the Pay Fixation of State Government/High  
 Court officers/staff during the terms of deputation, on  
 revision of pay scale in the State Government w.e.f. 1.1.89  
 may kindly be regulated in accordance with the provisions  
 of Ministry of Home Affairs OM No.1/4/84-Estt(P-II) dt.

26.12.84 presently and the arrear etc be paid after obtaining  
 an undertaking that over-payment if any will be recovered  
 from the employee concerned. If the same is pointed out  
 at any stage by Deptt of Personnel & Training or Audit as  
 their cases have been referred to Deptt of Personnel &  
 Training.

2. In future taking person on deputation holding the  
 posts on higher scale of pay in their parent deptt be avoided.

3. Service Books of 7 employees are returned herewith.

Kindly acknowledge the receipt.

This issues with the approval of FA&CAO.

Yours faithfully,

Sd/ ---  
 ( M.S.Rawat)

Encl. 7 Service Book. Jr Accounts Officer.

Annexure- G.

Central ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

Original Application No.84 of 1996.

Date of Order : This the 20th day of April, 1999.

Justice Shri D.N.Baruah, Vice-Chairman

Shri G.L.Sanglyine, Administrative Member.

Shri Suresh Prasad Singh,  
 Son of late Munshi Prasad Singh  
 Resident of 3rd Bye-Lane, Tarun Nagar,  
 Dispur, Guwahati-781005. ... Applicant

By Advocate Shri B.K.Sharma.

-VERSUS -

1. Union of India,  
 represented by the Director,  
 A.T.Division,  
 Department of Personnel & Training,  
 Government of India,  
 New Delhi-1.
2. Secretary to the Government of India,  
 Department of Personnel, Training,  
 Public Grievances etc.  
 North Block, New Delhi-1.
3. Financial Adviser & Chief Accounts Officer,  
 Central Administrative Tribunal,  
 Principal Bench,  
 Kasturba Gandhi Marg,  
 New Delhi-1.
4. Registrar,  
 Central Administrative Tribunal,  
 Patna Bench,  
 38-A Sri Krishna Nagar,  
 Patna- 800 001.
5. The Registrar,  
 Central Administrative Tribunal,  
 Guwahati Bench,  
 Guwahati-5.

.... Respondents.

By Advocate Shri B.C.Pathak, Addl.C.G.S.C.

O R D E R :BARUAH J.( V.C. )

Applicant's grievance before this Tribunal/ that he was denied the benefit of correct fixation of pay. Being aggrieved the applicant submitted representations. The

representations have not yet been disposed of. Hence the present application.

2. Heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicant and Mr B.C.Pathak, learned Addl. C.G. S.C. for the respondents. The counsel for the parties have submitted before us that there are certain disputed facts and it may not be possible for this Tribunal to decide the disputed facts. Both the parties submit that the matter may be sent back to the authority to dispose of the representations and to consider the case of the applicant by a reasoned order. As agreed by the parties we dispose of this application with direction to the respondents to consider the case of the applicant and dispose of the representation by a reasoned order as early as possible at any rate within a period of 3 months from the date of receipt of this order. Mr Sharma, learned counsel for the applicant submits that the applicant may be allowed to submit a fresh representation giving details of his grievance. Mr Pathak has no objection. Therefore, we allow the applicant to submit a fresh representation giving details of his grievance within a period of 15 days from today and if such representation is filed the authority shall consider and dispose of that representation also within the period mentioned above.

The application is disposed of with the above directions. Considering the entire facts and circumstances of the case we however make no order as to costs.

Sd. Vice-Chairman

Sd. Member(Admn).

...

Annexure-H.

From : S.P.Singh,  
 Ex-Deputy Registrar(CAT)  
 3rd Bye-Lane, Tarun Nagar,  
 Dispur, Guwahati-781005.

Dated the 26th April, 1999.

To

1. The Secretary to the Government of India,  
 Department of Personnel & Training, Public  
 Grievances etc. Government of India,  
 New Delhi-1100 01.
2. The FASCAO  
 CAT, New Delhi.

Subject: O.A.84/96.

Suresh Prasad Singh ..... Applicant.

<sup>versus</sup>  
 Union of India and others ... Respondents.

Sir,

The aforesaid OA 84/96 filed by me before the Guwahati Bench of the Central Administrative Tribunal has been heard and disposed of by the Tribunal vide order dated 20th April, 1999, (Photo copy of the order enclosed) with the direction "to dispose of the representations by a reasoned order as early as possible at any rate within a period of 3 months from the date of receipt of this order". The Hon'ble Tribunal has further allowed me to submit a fresh representation giving details of the grievances, within a period of 15 days from the date of the order and if such representation is filed the authority will consider and dispose of that representation within the period mentioned above. Accordingly, I am making this representation for your doing the needful.

It may be stated herein that the aforesaid order dated 20.4.99 passed by the Hon'ble Tribunal has already been communicated to you on 21.4.99 for taking necessary action.

Annexure-H Contd.

2. That I reiterate what I have stated in my representations dated 12th January, 1996 ( Annexure-I to the OA 84/96) addressed to you and dated 18.3.1993 addressed to the FA&CAO, CAT, New Delhi( Annexure-G) and wish to add the following :

(a) In his written statement the Registrar, Patna Bench ( Respondent No.4 in the OA) has admitted that I was not allowed to draw Medical Allowance @ Rs. 100/- p.m., as also Deputation (Duty) Allowance @ 10% of the Basic Pay subject to a maximum of Rs. 500/- which I was entitled to get lawfully.

(b) As to non-drawal of Special Pay @ Rs. 100/- p.m. it has been contended by the Registrar Patna Bench that the Special Pay could not be given owing to the fact that the incumbent was a Senior Grade Stenographer in his parent Department- which was a lower post in comparison to the post of Private Secy in the CAT which was higher in pay and post - is factually incorrect and misleading. I was a Senior Grade Stenographer ( Selection Grade Private Secy) in the Gauhati High Court and was appointed as a Private Secretary in the CAT which was a lower post.

In this connection, it may be relevant to point out here that the nomenclature of the posts in the Gauhati High Court as also in the Assam Government are identical and as per the Assam Stenographers' Service Rules, a Senior Grade Stenographer is the ex-officio Under Secretary to the Government of Assam. The post of Private Secretary in the CAT is much below the post of Under Secretary both in status as well as in the scale of pay.

Annexure-H contd.

The scale of pay of Rs. 1200-2050/- p.m. in my parent department was the unrevised pay scale which came to be revised as Rs. 2975-4750/- with effect from 1.1.1989 which was much higher than the pay scale of Rs. 2000 -3500/- p.m. The unrevised pay scale of the PS in the CAT was only Rs. 600-1200/- which was much lower than the pay scale of Rs. 1200-2050/- p.m. in my parent department.

(c) In view of the aforesaid, I am entitled to get grade pay and allowances plus a Special Pay of Rs. 100/- p.m., Medical Allowance @ Rs. 100/- p.m. and Deputation (Duty ) Allowance @ 10% of the basic pay subject to a maximum of Rs. 500/- p.m. for the period from 1.12.89 to 20.10.90 with interest from the date of its falling due till the date of payment.

3. I joined the Guwahati Bench of the Tribunal as Deputy Registrar on 5.11.90, and on my joining the post of Deputy Registrar, I opted for the Central Pay Scale.

4. Vide order dated 27.1.1993(Annexure-B to the OA 84/96), the FA&CAO, CAT, New Delhi has directed to fix my pay in terms of OM dated 26.12.1984 ( finding place at page 494 of the Swamy's compilation of FR/SR Part -I) The same is not maintainable in law as well as on facts.

5. My pay having been revised in my parent department on the Central Pattern for identical posts with effect from 1.1.1989, my pay ought to have been fixed under the normal rules by working out the pay by merging Dearness

Annexure :- H Contd.

Allowance upto 608 Point in the pay scale of the parent cadre and then with reference to such Basic Pay in the Central scale i.e. in the Central Administrativr Tribunal, as suggested by the FA&CAO vide his letter dated 27the July 1991 Annexure(E) addressed to the Director (AT), Department of Personal and Training, North Block, New Delhi. The reason for deviation from the aforesaid stand later on is not understandable.

It may be pointed out here that Shri Gautam Ray, the present Registrar of the Guwahati Bench of the Tribunal was taken on deputation as Deputy Registrar in the Culcutta Bench of the Tribunal from the Sikkim High Court. His pay has been fixed with the aid of FR 22 by the FA&CAO even though Shri Gautam Ray was drawing lower scale of pay in his parent department than that of mine in my parent department ans whose pay had not been revised on the Central Pattern for for analogous posts. The employees of the two High Courts should not be treated differently by the same authority.

6. Apart from what I have stated in my earlier representations, I have the honour to bring to your Mind notice that the terms of OM dated 26.12.84 is not applicable in my case for the following reasons also :-

(a) For conversion of pay scale from the State Government pay scale to the Central Pay Scale on deputation to Central Government, Dearness Allowance, Additional Dearness Allowance and

Annexure :- HContd.

Interim Relief which are allowed only when the pay Commission is sitting for fixation of Pay Scales of the employees and not when the recommendations of the Pay Commission have been accepted by the respective Government are taken into account for fixing the Basic Pay in the Central pattern and the above allowances are the determining factor in arriving at the Basic scale of pay in the Central Pay scales.

- ( b ) Though the Assam Government accepted the recommendations of the Assam Fourth Pay Commission to release Dearness Allowance to its employees on Central Pattern as and when it fell due, but the State Government is not in a position to do so due to financial constraints and it is lagging far behind the Central Government in releasing Dearness Allowance on Central Pattern, say a year or two.
- ( c ) I was getting less percentage of Dearness Allowance over my Basic Pay than my counterpart in the Central Government which would result in a considerable reduction of the Basic Pay.
- ( d ) The formula suggested by the FA&CAO in the facts and circumstances of my case will be the most suited as in the absence of which o

Annexure :- H Contd,

On release of every instalment of Dearness Allowance by the Government of Assam, the Necessity of a fresh fixation of pay in the Central Pattern would arise till such time the Dearness Allowance of the State Government employees is equated with the Central Government employees in the identical posts which is impracticable.

Before closing, I most respectfully bring to your kind notice that I have already retired from service with effect from the afternoon of 31st January, 1993 and my pension has not yet been fixed and due to which my family is suffering. I, therefore, most humbly pray that this matter may kindly be resolved favourably at an early date.

Thanking you.

Yours faithfully

Sd/-

Encl. Order dated  
20.4.99 passed  
in O.A.84/96

( S.P. Singh )  
Ex- Deputy Registrar(CAT)  
3rd Bye-Lane, TarunNagar,  
Dispur, Guwahati- 781005.

Annexure-I.CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.Most Immediate  
By Speed Post.Faridkot House  
Copernicus Marg,  
New Delhi 110 001

No.PB/15/1/97-Estt/9880/A Dated 6th October'99.

To

Shri S.P.Singh  
Ex-Deputy Registrar(CAT)  
3rd Bye-Lane, Tarun Nagar,  
Dispur, Guwahati-781005.Sub: OA No.84/96-Suresh Prasad Singh vs Union of India  
& Others.

Sir,

I am directed to refer to your representation dated 26th April, 1999 on the above subject and to say that the matter has been examined in consultation with Establishment Pay Unit of Department of Personnel and Training who have agreed to allow you to draw grade pay of your parent cadre post plus deputation duty allowance @ 10% subject to maximum of Rs. 250/- and without restricting w.r.t. maximum of the scale of pay of the post on deputation as per Department of Personnel and Training OM No.1/4/84-Estt(P.II) dated 26.12.1984. However, this is subject to the condition that you will be allowed to draw HRA, CCA and DA etc during the period of deputation as admissible to you from time to time in your parent departt. You will not be allowed to draw HRA, CCA, and DA etc as admissible to the Central Govt employees in the Central Government offices.

2. As regards to your claim of Special Pay, drawn in parent Department, it is also not admissible under Para 1(ii) of the aforesaid O.M. dated 26.12.1984, referred to above, since allowances of the parent Department are

*Attn:*

Annexure-I contd.

admissible, if the same allowances are available to the officers of comparable status in the Government, and this special pay is not admissible to the officers of this Tribunal. Moreover, your parent Deptt. i.e. Guwahati High Court vide their letter No.H C/V-19/86/2583 Estt dt. 7.2.90(copy enclosed) has already clarified the position that the Special Pay will not be treated as part of the Basic Pay as per provision of FR 9(21)(a) while on deputation in the Tribunal.

3. Regarding Medical allowance, it is stated that the same could not be allowed to you as CGHS facilities are available at the place of your posting in the Tribunal and any Government officer/employee either direct recruit or deputationist on foreign service or reverse foreign service basis can avail the facilities by contributing prescribed rate of contribution.

4. This speaking order is issued with the ~~ap~~roval of Hon'ble Chairman.

Yours faithfully,

Encl. As above.

Sd. ( A.K. Ajmani)  
Deputy Registrar(E)

Copy to :

1. The Deputy Registrar, Central Administrative Tribunal Guwahati Bench for information and necessary action.
2. The Under Secretary(AT), Department of Personnel & Training, NorthBlock, New Delhi, wrt. their letter No.P-26012/23/96-AT dated 21.9.99.

....

Annexure-J.

20

Government of India  
 Ministry of Personnel, Public Grievances and Pensions  
 Department of Personnel & Training  
New Delhi.

No.P-26012/23/96-AT

Dated 3.12.99

, 06 Dec 1999

To

Shri S.P.Singh,  
 Ex-Deputy Registrar, CAT  
 3rd Bye-Lane, Tarun Nagar,  
 Guwahati-781005.

Subject: OA No.84/96-Shri Suresh Prasad Singh vs. UOI and  
 Ors before the Guwahati Bench of the Tribunal - reg.

Sir,

I am directed to refer to your letters dated 15.10.99  
 and 17.11.99 on the above subject and to say that the matter  
 was examined in consultation with Pay Unit of the Department  
 of Personnel and Training who are of the opinion that this  
 Department O.N. No.1/4/84-Estt(P.II) dated 26.12.1984 is  
 applicable in your case. Accordingly a reply was sent by the  
 Principal Bench of the CAT on 6.10.99 after obtaining necessary  
 approval from this Department.

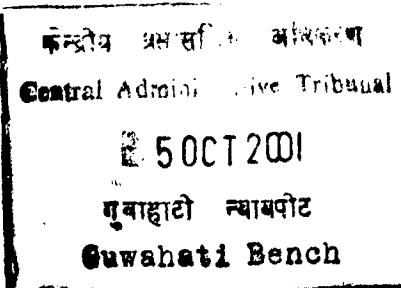
2. Regarding para 3 of your representation, it may be  
 pointed out that you had revised your option vide your letter  
 dated 15.05.1991 addressed to the Registrar, Guwahati Bench.  
 In para 4 to 6 of your representation, the applicability of  
 the Office Memorandum cited above has been discussed which  
 has been replied to by the Principal Bench in their letter  
 No.PB/15/1/97-Estt.I dated 6th October, 1999.

Yours faithfully,

Sd. xxx  
 ( B.S.A.Padmanabha)  
 Under Secretary to the Govt of India.

*MS/estt*  
 10/12/99

... ...



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI.

O.A. 103/2000

Suresh Prasad Singh .... Applicant.

versus  
Union of India and others... Respondents.

And

In the matter of :

103/2001  
Filing of documents in support of the  
contentions made in the application.

The applicant Most Respectfully  
begs to file the following addl. documents in support of the  
contentions made in the application :-

- 1). A photo copy of the relevant extract  
from the Service Book of the applicant  
wherein it has been mentioned that the  
pay of Sri S.P.Singh, DR(A) has been pro-  
visionally fixed at Rs. 3000/- w.e.f. 5.11.90  
vide CAT/GHY/Fixation/34/1/86 at page 71/N.
2. A photo copy of the letter No.HC.VIII-3/84/  
17370/AC dated 16.8.91 from the Registry  
of the Gauhati High Court, Guwahati.
3. Relevant extract from the Assam Stenographers'  
Rules that the post of Senior Grade Steno-  
grapher is ex-officio Under Secretary to  
the Government of Assam.
4. Written Statement of Respondent No.4 filed  
in O.A. 84/96 on the self-same matter parti-  
cularly paras 6 and 17 of the WS.

44/82

2.

5. A certificate dated 10.3.93 issued by the Superintendent (Accounts), Gauhati High Court as to what would have been the pay on the Central Pattern had it been fixed on 1.1.86 as has been done in the case of Central Government employees.

Under the circumstances, it is  
most Respectfully prayed that this Hon'ble  
Tribunal would be pleased to accept the  
aforesaid documents for the just decision  
of the case.

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

VERIFICATION.

I, Shri Supresh Prasad Singh, son of late Munshi  
Prasad Singh, resident of 3rd Bye-lane, Tarunnagar, Guwahati  
do hereby state that the statements made in the application  
are true to my knowledge, information and belief.

And I sign this verification today the 1st  
day of October, 2001 at Guwahati.

*Supresh Prasad Singh*

Declarant.



THE GUWAHATI HIGH COURT

Annexure- L.

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA, MIZORAM & ARUNACHAL PRADESH )

No. HC.VIII-3/84/ 17370 MC.

From Smti UH Hug,  
Deputy Registrar (A/CS.),



GAUHATI HIGH COURT, GUWAHATI-781001

To

The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati-5.

Dated Guwahati, the 16/8/91. 19

Subject:— Fixation of pay of Shri S.P.Singh, Senior Grade Stenographer  
on deputation to CAT.

Reference:— Your letter No.CAT/GHY/A/CS/3B/48/87, dtd. 4.7.91.

Sir,

Consequent upon the revision of pay scales of the officers and staff of this High Court w.e.f. 1.1.89 as per recommendation of the Assam Pay Commission, the pay of Shri S.P.Singh, the then Senior Grade Stenographer of this Registry (on deputation to your Tribunal) has been fixed at Rs. 3,825/- on 1.1.89 in the revised scale of Rs. 2975-100-3575-125-3825-ED-125-4450-150-4750/-. His date of next increment falls due on 1.9.89.

I am, therefore, to send herewith a revised L.P.C. in respect of the aforesaid officer for your needful. His service Book received with your letter under reference is also returned herewith.

P.T.O. ....

offices appointed to the service either before or after the commencement of these rules;

(i) "Schedule" means a schedule appended to these rules;

(j) "Secretariat" means the Assam Secretariat including the Chief Minister's Secretariat;

(k) "Select List" means the list referred to in clause (d) of sub-rule (1) of Rule 6 and sub-rule (6) of Rule 12;

(l) "Service" means the Assam Stenographers' Service;

(m) "Year" means the calendar year;

3. Cadre and status — (1) The service shall consist of the following cadres :-

(i) Special Officer and Ex-Officio Deputy Secretary to the Government of Assam, Secretariat Administration Establishment Department

(ii) Senior Grade Stenographer and Ex-Officio Under Secretary to the Government of Assam.

(iii) Stenographer Grade-I.

(iv) Stenographer Grade-II.

(v) Stenographer Grade-III.

(2) Senior Grade Stenographer & Ex-Officio Under Secretary to the Government of Assam, Stenographer Grade-I, Stenographer Grade-II and Stenographer Grade-III appointed in the Secretariat and other State Government offices shall be deemed to constitute separate cadres in the respective grades in respect of each such office.

(3) The service may also include any post equivalent to a post in any of the cadres mentioned in sub-rule (1) and any cadre or post laid down by Government from time to time to be included in a cadre of the service.

(4) Members of the cadres of Special Officer & Ex-Officio Deputy Secretary to the Government of Assam, Secretariat Administration Establishment Department, Senior Grade Stenographer and Ex-Officio Under Secretary to the Government of Assam and Stenographer Grade-I shall have gazetted status. Members of the cadre of Stenographer- Grade II and Stenographer Grade-III shall have non-gazetted status.

4. Strength of Service — The strength of each cadre of Service shall be such as may be determined by the Government from time to time. The strength of the cadre of the service as on the date of commencement of these rules shall be notified by the respective Appointing Authorities within three months from the date of commencement of these rules or within such time as may be extended by the Government. Provided that the Government may hold in abeyance any post as and when considered necessary.

5. Method of Recruitment — Recruitment to the various cadres in the service shall be made in the manner prescribed hereinafter, namely :-

(i) Special Officer & Ex-Officio Deputy Secretary by promotion from senior Grade-I

Stenographer & Ex-Officio Under

to the Government of Assam, Secretariat Administration Establishment Department

Secretaries in accordance with Rules 11 & 12.

by promotion from Stenographers Grade-I in accordance with Rules 11 & 12.

(3) Stenographer Grade-I

(4) Stenographer Grade-II

(5) Stenographer Grade-III

by recruitment in accordance with Rule 6 and Schedule—I, Part—B.

by recruitment in accordance with Rule 6 and Schedule—I, Part—B.

by direct recruitment in accordance with the provision of Rule 6 and Schedule—I, Part—A.

6. Direct recruitment in the cadre of Stenographer Grade-III and recruitment in the cadres of Stenographer Grade-II and Stenographer Grade-I — (1) Appointment to the cadre of Stenographer Grade-III shall be made by direct recruitment and the cadre of Stenographer Grade-II and Stenographer Grade-I shall be filled up by recruitment in accordance with the procedure as provided in this rule. For appointment to the Stenographer Grade-I from Stenographer Grade-II, one should complete 6 years of continuous service in either or in both the cadre of Stenographer Grade-II or/ and Grade-III. The appointing Authority shall make the appointment on the basis of the recommendations made by the Commission in accordance with the procedures hereinafter provided, namely :-

(a) Before the end of each year the Appointing Authority shall make an assessment regarding the likely number of vacancies in the cadre of Stenographer Grade-III to be filled up by direct recruitment and in the cadre of Stenographer Grade-II and Grade-I to be filled up by recruitment during the next year and shall intimate the same through the Government in the Secretariat Administration Establishment Department to the Commission or the Board, as the case may be together with the details about reservation for candidates belonging to Scheduled Castes, Scheduled Tribes or any other category as laid down by the Government as provided under Rule 15 and about the carry forward of such reservation.

(b) The Government shall simultaneously request the Commission or the Board, as the case may be to recommend a list of candidates in respect of each of the concerned cadre, separately for direct recruitment and for recruitment, in the order of preference.

1/ Received copy Service Copy A.R. 48/IV 80  
21/11/2017

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI

In the matter of :-

C.A. No. 84 of 1988

Birendra Prasad Singh, ... Applicant

-Versus-

Union of India & others... Respondents.

The humble written statement on behalf of the  
Respondent No.4.

MOST RESPECTFULLY SHEREETH

- 1) That with regard to the averments made in paragraph 6 of the application, it is submitted that Shri B.P. Singh was appointed as Private Secretary in the Patna Bench of the Tribunal vide order No.2/11/85-Estt./1970, dated 14-12-89 initially for the period of one year w.e.f. 11-12-89 PM and the term of deputation of Shri Singh was governed by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) OM No.2/12/87-Estt. (Part-II) dated 29-4-90 as amended from time to time. He was also allowed to draw his grade pay in the parent department plus other allowances admissible thereon. Shri Singh continued as Private Secretary in the Patna Bench till 30-11-90.
- 2) That averments made in paragraph 6.5 of the application are admitted.
- 3) That the averments made in paragraph 6.11 of the application are admitted. The applicant was given the Grade pay plus deputation allowances in the scale of Rs.2975/-4750/- per month.
- 4) That the averments made in paragraph 6.12 of the application are admitted.
- 5) That the averments made in paragraph 6.13 of the application are admitted. The applicant comes in category 'B' as mentioned in para 5.3 as the deputation was out side of station.

6) That the averments made in paragraph 6.14 of the application are not fit to be rejected. The special pay means an addition, of the nature of the pay, to the emoluments of a post of a Government servant, granted in consideration of :-

- (a) The special arduous nature of the duties or
- (b) A specific addition to the work of the responsibility. The special pay drawn by a Government servant in his lower post is taken into account subject to following condition :-

(i) If the lower post in which special pay is drawn by the Government servant is held by him in substantive capacity of.

If the special pay has been drawn in the lower post continuously or intermittently for a minimum period of 3 years on the date of promotion, the special pay will be treated as part of basic pay for the purpose of fixation of pay in the higher post. If the above conditions are not fulfilled it will not be included as part of the basic pay. The fixation of pay in the higher post will be drawn, with reference to the basic pay in the lower post (excluding special pay). The special pay drawn either on tenure post will neither be protected on a promotion to a higher post, nor treated as forming part of basic pay for fixation of pay in the higher posts. It may however, be stated that Shri S.P. Singh was appointed as a Private Secretary in the scale of Rs.2000/- 3200/- in the Patna Bench of the CAT and he had been drawing 1000 pay i.e. 1200-2000 per month, before his deputation, in his parent office. Thus, the special pay could not be given to Shri Singh on account of the fact that Shri Singh was a senior Grade Stand in his parent Department which was the lower post in comparison to the post of Private Secretary CAT, which was higher in pay and posts.

7) That the averments made in paragraph 6.15 of the application need no comment since the matter relates to FA & CAO, Principal Bench, New Delhi.

8) That the averments made in paragraph 6.18 of the application also relates to Principal Bench for comment.

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9) That the averments made in paragraph 6.19 of the application need no comment as the matter relates to Principal Bench.

10) That the averments made in paragraph 6.20 of the application are erroneous and misconceived hence denied.

11) That the averments made in paragraph 6.21 of the application require no comment in as much as the matter relates to the deputation period in the C.A.T i.e. within 17-12-89 to 31-10-90 and does not concerned with his parent post/pay.

12) That the averments made in paragraph 6.22 to 6.37 of the application need no comments.

13) That the contents of paragraph 7.1 of the application is admitted except computing the basic pay of the application, a sum of Rs.100/- which he was drawing as special pay per month in his parent Department.

14) That the averments made in paragraph 7.3 of the application is admitted except special pay amounting to Rs.100/- per month in his basic pay for which rules does not provide.

15) That the averments made in paragraph 7.4 of the application need no comment.

16) That the averments made in paragraphs 7.5 to 7.10 of the application need no comment.

17) That the averments made in paragraphs 7.11 to 7.13 of the application appear to be erroneous and hence denied except deputation allowance @ 10% for which was entitled to subject to ceiling, Rs.800/- P.M. and Residential allowances.

18) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

#### VERIFICATION

I, S/o  
resident of Village P.O. I-  
P.S.- Dist- presently posted  
no In the office of the C.A.T. Patna Bench do  
hereby solemnly affirm & verify that the contents of the

Contd.p/4

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Written statement are true to the best of my knowledge  
derived from the records of the case which I believe  
to be true.

I sign this verification of this the  
day of December, 1990 at Paines.

L-F-P-24N-E-N-J

-000-

The pay of Mr.S.P.Singh, Stenographer, Grade I, Gauhati High Court, would have been fixed at Rs. 3700/- on 1.1.86 in the revised scale of Rs. 2275-60-2395-80-2875-EB-100-2575-125-4450/- and at Rs. 3825/- on 21.9.86 i.e. the date of his promotion to the post of Senior Grade Stenographer in the revised scale of Rs. 2555-80-2875-100-3275-EB-100-3575-125-4450-150-4600/- had the scales of pay of the above two posts been revised w.e.f. 1.1.86.

REPORT OF THE (ACCOUNTS)  
GAURI NARAYAN HOSPITAL  
GUWAHATI

13 EC 2001  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench GUWAHATI BENCH

al

OA No.103/2000

Shri S.P. Singh .. Applicant  
Vs.  
Union of India & Others .. Respondents

(Written statements on behalf of the respondents No.1 to 4)

The written statements of the above noted respondents are as follows :-

- 1) That the copy of the OA No.103/2000 (hereinafter referred to the "Application") has been served on the respondents. The respondents have gone through the same and understood the contest thereof. The interest of all the respondents being similar, the respondents have filed their common written statements.
- 2) That the statement made in the application, which are not specifically admitted and those which are contrary to records, are directly denied by the respondents.
- 3) That before traversing the various paragraphs of the application, a brief history of the case is given below :-

The applicant was a Senior Grade Stenographer of the Gauhati High Court in the scale of Rs.1200-50-1400-EB-60-2050/-pm (pre-revised). He was selected for Private Secretary in the Central Administrative Tribunal and joined in the Patna Bench on 11.12.89. He had opted parents scale of pay & was allowed. He was allowed deputation pay, DA/HRA/CCA etc. as admissible under the rules. Subsequently, the applicant joined as Deputy Registrar in the Guwahati Bench of the CAT on 5.11.90 and opted Central Pay Scale. Then his pay was fixed as Deputy Registrar at Rs.3000/- in the scale of Rs.3000-4500/-.

✓  
Ov

On representation dated 15.5.1991, the applicant revised his option and opted to draw his parent deptt's scale. The pay scale of the analogous post of the High Court was Rs.2975-100-3575-125-3825-EB-125-4450-150-4750/- and the High Court also issued revised LPC to the Deputy Registrar, CAT, Guwahati Bench. The Guwahati Bench sent the revised LPC to the Patna Bench for drawing arrears of the pay of the applicant. The Patna Bench referred the matter to Principal Bench for clarification. After clarification he was allowed the grade pay plus deputation (duty) allowance in the revised scale of Rs.2975-4750/- w.e.f.1.12.89 i.e. from the date of joining in Patna Bench as Private Secretary plus deputation allowance @ Rs.10% subject to the maximum of Rs.250/- pm plus DA/HRA/CCA etc. as admissible under the rules. As per SR/FR the new rates are as follows :-

a) 5% of the employees basic pay subject to a maximum of Rs.250/- when the transfer is within same station.

And

b) 10% of the employees basic pay subject to a maximum of Rs.500/- in all the other cases.

Provided that the basic pay plus the deputation (duty) allowance shall at no time exceed 7300/-pm.

The applicants' claim in his case is of category no.(b) as he had joined on deputation outside Guwahati i.e. at Patna Bench.

The applicant while working as Senior Grade Stenographer in his parent department, he was drawing Rs.100/-pm as special pay and this left out at the time of fixation and also the medical allowance Rs.100/- was left out.

The Patna Bench has issued a Bank Draft No.R-063011 dated 22.3.94 for Rs.9688/- in favour of the applicant as an arrear pay of revised scale after fixation of pay at Patna Bench.

The applicant claims that his case has been considered like from the same station though he joined from Patna Bench as Deputy Registrar.

The applicant state that during the process of absorption, he was arbitrary released on 1.12.92 from the Guwahati Bench of the CAT and therefore, he moved a case before the Hon'ble High Court and the Court allowed with all consequential benefits which was also affirmed by the Supreme Court. Subsequently, the applicant reinstated in his service on 19.5.97 and retired on 31.1.1998. His fixation was not done and the applicant continued to draw his pay at minimum of basic pay of Rs.3000/-pm as Deputy Registrar. Also his pension is not yet been properly fixed.

The applicant further claims that the Sr. Senographer (Selection Grade) Private Secretary, is the ex-officio Under Secretary to the Govt.of Assam and the post of Deputy Registrar is equivalent to the post. Therefore, he is entitled the scale of Deputy Registrar from the date of joining as Private Secretary in Patna Bench i.e. from 1.1.89 in the scale of Rs.2975-4750/-.

Therefore the applicant prays for refixation of his pay w.e.f.1.12.89 as per the revised scale effected from 1.1.89 in his parent department. Hence the present application.

4. That with regard to the statements made in para 1 and 2 of the application, the respondents offer no comments.

5. That with regard to the statements made in para 3, the respondents state that the subject matter of the application is barred by limitation and hence the application is liable to be dismissed.

6. That the contents of para 4.1 and 4.2 of the application being matter of records, the respondents have no comments to offer as the same be limited to such records only.

7. That in reply to para No.4.3 ~~and~~ of the OA it is stated that the applicant opted for the pay scale of his parent department on being appointed as Private Secretary in the Patna Bench of the Central Administrative Tribunal on 11.12.89(FN). His pay and allowances were regularised in accordance with the OM dated 26.12.84. ✓

A copy of the OM dated 26.12.1984 is annexed as Annexure-R-1.

8. That the contents of para 4.4 of the OA are matter of records and nothing is admitted beyond such records.

9. That in reply to para 4.5 of the OA it is respectfully stated that the applicant opted for the pay scale of the deputation post ~~as~~ in CAT vide his option dated 5.11.90. His pay was fixed at the minimum of the pay scale of Rs.3000-4500/- as per OM dated 26.12.84. The applicant vide his letter dated 15.5.91 exercised fresh options to retain ~~of pay and withdraw~~ <sup>\*</sup> his earlier option ~~as~~ his parent ~~as~~ scale. The copy of option dated 15.5.91 is annexed as ANNEXURE-R-2. ✓

*to*  
\* of pay and withdraw  
his earlier option ~~as~~ his parent ~~as~~ scale. The copy of option dated 15.5.91 is annexed as ANNEXURE-R-2.

10. That the contents of para 4.6 to 4.13 of the OA are matter of records and need no comments and are limited to such records.

11. That ~~km~~ in reply to para 4.14 of the OA it is submitted that the applicant has been allowed to draw grade pay of his parent cadre post plus deputation allowance @ Rs.10% subject to the ceiling of Rs.250/- per month and without restricting w.r.t. maximum of the scale of pay of the post on deputation as per Deptt. of Personnel & Training OM dated 26.12.84 applicable to him. The DP&T OM 6.12.86- Estt(Pay-II) dated 9.2.86 and 4.6.87 are not applicable to the applicant.

12. That in reply to para 4.15 of the OA it is submitted that the parent office of the applicant clarified vide their letter dated 7.2.90 that the special pay which he was drawn in High Court before coming to the Tribunal on deputation may not be treated as part of basic pay as per provision of FR 9(21)(a). Therefore, the special pay drawn by the applicant in his parent department was not allowed during the period of deputation in CAT. Further, there being CGHS facility available at Patna, the applicant is not entitled to Medical allowance of Rs.100/- per month.

13. That the contents of para 4.16 of the OA are matter of record and hence nothing is admitted being such records.

14. That the contents of para 4.17 of the OA are wrong and denied. The applicant has been allowed deputation allowance subject to the ceiling of Rs.250/- per month in terms of OM dated 26.12.84. The applicant having opted for pay scale of his parent cadre, he is not entitled to revise his option again and again. The rule is clear that the option once exercised shall be final.

15. That the contents of para 4.18 of the OA are matter of record and as such nothing is admitted beyond such records.

Contd...6.

16. That in reply to para 4.19 of the OA, it is submitted that the applicant himself revised his option on 15.5.91 consequent upon revision of the pay scale in his parent department. His pension has been fixed vide order No.49801 9900033 dated 18.5.99.

A copy of order No.PAO/CAT/Pension dated 18.5.99 is annexed as ANNEXURE-R-3.

17. That the contents of para 4.20 of the OA are wrong and denied. The applicants' pay has been fixed in term of OM dated 26.12.84 as applicable in this case.

18. That the contents of para 4.21 of the OA are matter of records, therefore, nothing is admitted beyond such records.

19. That in reply to para 4.22 of the OA , it is submitted that the post of Stenographer held by the applicant in his parent office is not analogous to the post of Deputy Registrar in CAT, therefore, such contentions are denied.

20. That the contents of para 4.23 of the OA are matter or records, hence nothing is admitted beyond such records.

21. That in reply to para 4.24 of the OA, it is submitted that the representations of the applicant have been considered and a detailed reply given to the applicant vide letter dated 6.10.99.

A copy of letter dated 6.10.99 is annexed as ANNEXURE R-4.

22. That the contents of para 4.25 of the OA are matter of records, hence nothing is admitted beyond such records.

23. That in reply to para 4.26 to 4.34 of the OA, it is submitted that the applicants' representations have been considered and decision communicated to him vide letter dated 6.10.99.

Contd...7.

24. That the grounds taken by the applicant in para 5 of the OA are irrelevant and not applicable in the circumstances of the present case. Hence, the application is liable to be dismissed with cost.

25. That with regard to the contents of para 6 and 7 of the OA, the respondents have no comments of offer.

The respondents crave the leave of this Hon'ble Tribunal to allow them to rely upon and produce any such records at the time of hearing if so required to do so.

26. That in the circumstances mentioned above, the applicant is not entitled to the reliefs w sought for by him in para 8 of the OA and the OA is liable to be dismissed with costs as the same has been filed without any merits.

In the premises aforesaid, it is therefore, prayed that your Lordships would be pleased to hear the parties, perused the records and after hearing the parties and perusing the records, shall also be pleased to dismiss the case with cost.

*[Signature]*  
Deputy Registrar (A)  
Central Administrative Tribunal  
Gauhati

Verification....

VERIFICATION

I, Shri R K Jain  
presently working as the Deputy Registrar, Central  
Administrative Tribunal, at Guwahati, being  
duly authorised and competent to sign this Verification,  
do hereby solemnly affirm and state that the statements  
made in para

are true to my knowledge and belief,  
these made in para

being matter of records, are true to my  
information derived therefrom and the rest are my humble  
submission before this Hon'ble Tribunal. I have not  
suppressed any material facts.

And I sign this Verification on this      day  
of      , 2001 at Guwahati.

  
DEPONENT

Deputy Registrar (A)  
Central Administrative Tribunal  
Guwahati

*R-I U K-1*

3. On receipt of the proposals referred to in the preceding para. they will be examined by Associate Finance in consultation with Establishment Division of the Ministry of Finance and Bureau of Public Enterprises.

## SECTION V

### Employees of Public Sector Undertakings on reverse of Foreign Service in the Government of India

[ G.I. M.H.A., Dept. of Per. & A.R., O.M. No. 1/4/84-Est. (P-II), dated the 26th December, 1984 ]

At present in individual cases of employees of public sector undertakings on reverse foreign service, the terms of appointment are regulated on the analogy of the provisions contained in the Ministry of Finance, O.M. No. F. 1 (11) E. III (B)/75, dated 7-11-1975 (Section II, item 'A' in this Appendix) which governs the terms to be allowed to Central Government employees appointed on foreign service in public sector undertakings, etc. One of the provisions of the O.M. mentioned above is that in a case where the employee on foreign service opts to receive during the period of foreign service his grade pay *plus* deputation (duty) allowance, the total of such grade pay and deputation allowance should not exceed the maximum of the pay scale of the deputation post. Consequent on the revision of the pay scales of the employees of public sector undertakings practical difficulties are being experienced in the application of the abovementioned condition. With a view to get over these difficulties, the President is pleased to decide that the employees of public sector undertakings who are in receipt of industrial rates of Dearness Allowance and who are appointed on deputation under the Central Government may be offered the following terms in respect of their pay and allowances, etc.

(i) *Pay.*—The employee will have an option to draw either (a) pay in the scale of the post held by him on reverse foreign service under the Central Government or (b) to draw his grade pay in the public sector undertaking *plus* deputation (duty) allowance at 10% of the grade pay subject to a ceiling of Rs. 250 per month, without restriction with reference to the maximum of the scale of pay of his post.

Where the employee has opted for the alternative at (a) above, his initial pay will be fixed by raising his grade pay in the public sector undertaking by one increment in his pay scale and equating the pay so raised *plus* appropriate dearness allowance, additional dearness allowance and interim relief, if any, admissible in the public sector undertaking to the pay *plus* the dearness allowance, additional dearness allowance, *ad hoc* dearness allowance and interim relief admissible under the Government and fixing the pay at the appropriate stage in the pay scale of the post in the Government. If there is no stage equal to that pay in the pay scale of the post under the Government, his pay will be fixed at the next stage in the scale. The pay so fixed will, however, be restricted to the maximum of the pay scale under the Government.

A few illustrative cases of pay fixation under this O.M. are given in the enclosed Annexure.

(ii) *Allowances.*—Where the option is in favour of the alternative at (a) above, the allowances and perquisites will be regulated in accordance with those applicable to the post under the Central Government. In respect of those who opt for the alternative at (b) above, the allowances and perquisites at rates admissible in the parent public sector undertaking may be allowed, provided allowances and perquisites of the same character are available to officers of comparable status in the Government, subject to the fulfilment of the conditions, if any, prescribed by the public sector undertaking for drawal of such allowances, etc. In respect of perquisites and allowances of a character which are not available to officers of corresponding status in the Government, the clearance of the Department of Personnel and Administrative Reforms shall be obtained before settling the terms. The facility of limited use of Government vehicle for private purposes on payment of normal charges will not, however, be available during the period of reverse foreign service even if similar facility is admissible to the employee in the public sector undertakings.

(iii) *Encashment of leave.*—During the period of reverse foreign service, the employee will, unless otherwise specified, be governed by the leave rules of the public sector undertakings concerned as leave salary contributions are payable to the public sector undertaking. Hence encashment of leave will be regulated as per the rules of the public sector undertaking and the liability in this regard will be that of the lending organisation.

(iv) *Employees of public sector undertaking who are in receipt of DA at Central Government rates.*—The cases of employees of public sector undertakings, who are in receipt of Central Government rates of DA and who are appointed on deputation under the Central Government may be referred to the Department of Personnel and Administrative Reforms before finalising their terms.

(v) *State Government employees on deputation to the Government of India.*—According to para 43 of the Ministry of Finance, O.M., dated 7-11-1975, referred to above, the terms laid down therein as modified by the Department of Personnel and A.R., *vide* O.M. No. 2 (23) Estt. (Pay. II)/81, dated 29-9-1981, are at present applicable to the employees of the State Governments appointed on deputation in the Government of India. Since many State Governments have revised the pay scales of their employees after 1-1-1973, it has been decided that the terms as contained in paragraph 1 of this O.M. in respect of pay and allowances as admissible to the employees of public sector undertakings on reverse foreign service may also be extended to the State Government employees during their deputation to the Government of India.

(vi) *Date of effect and option.*—These orders will take effect from the 1st of the month in which these are issued. Employees of public sector undertakings already on reverse foreign service and State Government

To

The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench,  
Guwahati-5.

Subject:- Withdrawal of option.

Sir,

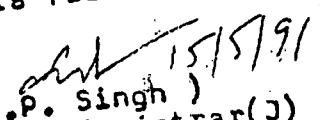
Most respectfully I beg to state that consequent upon my appointment as Deputy Registrar I had exercised option to draw my pay in the Central Pay scale. Since the pay scale of my post in my parent department is higher than that of the post of Deputy Registrar in this department, I withdraw my option exercised earlier and opt to retain my own pay scale.

Even on my deputation to Patna Bench as Private Secretary, I had not opted for the Central Pay scale and was continuing in the pay scale of my parent department.

As during the period I was working in the Patna Bench, the new pay scale of the Assam Government was not introduced, even though effective with effect from 1.1.1989, my Service Book etc. may please be sent to the High Court in order to fixing pay in the new pay scale and issue revised L.P.C to the Patna Bench for drawing and paying my arrear pay etc. during the period I worked there.

Date... 15/5/91

Yours faithfully,

  
( S.P. Singh )  
Deputy Registrar (J)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati-5.

A/o

To please put up  
with notes

Meier  
15/5/91

Administrative Tribunal  
Delhi Division

No. PRO/CAT/Pension/RS/98-99/ 105  
PAY AND ACCOUNTS OFFICE  
CENTRAL ADMINISTRATIVE TRIBUNAL  
'B' WING LOK NAYAK BHAVAN  
KHAN MARKET, 3rd FLOOR  
NEW DELHI - 110003

R-3

Regd

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R-3

Bawali Bawali  
guru gauri

To

The Sr. Accounts Officer,  
Min. of Finance,  
Central Pension Accounting Office,  
Trikoot-II, Complex, Brikaji C ma Palace,  
(Behind Hyatt Regency) New Delhi -66.

Sir,

A pension payment order No. 49801 99 00033 whose details are given below, in favour of Shri Suresh Prasad Singh, Retd. on 31-01-1998 (AN) is forwarded herewith for arranging payment at Allahabad Bank Khodaganj, P.O. Khodaganj, Distt. Nalanda, Bihar S.B. Account No. 1110.

DETAILS

1. P.P.O. No.	:	49801 99 00033
2. Category of Pension	:	Superannuation Pension
3. Gross Pension	:	Rs. 5537/- (Rs. Five thousand five hundred & thirty seven only)
4. Commuted Pension	:	Rs. 2214/- (Rs. Two thousand two hundred & fourteen only)
5. Balance Pension	:	Rs. 3323/- (Rs. Three thousand three hundred & twenty three only)
6. Relief in Pension	:	No admissible from time to time.
7. Personal Pension	:	Nil
8. Place of payment	:	Allahabad Bank, Khodaganj, P.O. Khodaganj, Distt. Nalanda, Bihar S.B. A/c No. 1110
9. Date of commencement	:	01-02-1998 Gross pension and balance pension w.e.f. 1-4-99.
10. Family pension in the event of death of pensioner (In addition relief/adhoc relief sanctioned from time to time	:	Family pension at higher rate i.e. <del>xxxxxx82x81x2888xxxx</del> Rs. 5537/- upto 01-01-2005 or 7 years from the date of following the date of death whichever is earlier & thereafter @ Rs. 3390/- p.m..

....2/-

R

24/3/00  
R

577.1

Condition attached to the pension:

Payment may be made subject to the condition specific in the pension well as CCS (Pension) rules & Central Treasury Rules.

A declaration regarding non-receipt of provisional pension may please be obtained from the pensioner before making the first payment.

Receipt of this letter may please be acknowledged.

Yours faithfully

- Sd -

Pay & Accounts Officer

Enclos:

- i) PPO (Both halves)
- ii) Photograph
- iii) Specimen Signature
- iv) Mark of Identification

Copy to:-

1. Dy. Registrar, CAT, Guwahati Bench w.r.t. their letter No. CAT/GHY/SP/PF/103/90 date 11/12/98. dt. 7-10-98.
2. Sh. Surash Prasad Singh, Village - Makhdumpur, P.O. Kochera via Islampur, Distt. Nalanda, Bihar for information.
3. Dy. Registrar (E) CAT (PB) for information w.r.t. their letter No. 17(1)/98-Eatt. I dated 15-10-98.

*Kaur*  
Pay & Accounts Officer

..... 2/-

गणराज्य भारत सरकार  
CENTRAL ADMINISTRATIVE TRIBUNAL  
प्रधान न्यायपाठ, नई दिल्ली  
Principal Bench, New Delhi

R-4  
R-4  
102  
Most Immediate  
By Speed Post

Faridkot House, Copernicus Marg  
New Delhi-110001

Dated 8 October '99

MS. PB/15/1/97-Estt. I

To

Smti S.P. Singh,  
Ex-Deputy Registrar (CAT)  
3rd Bypass Lane, Terun Nagar,  
Dibrugarh, Guhati 781005.

Sub: OA No. 84/96- Suresh Prasad Singh Vs. Union of India  
& Others.

Sir,

I am directed to refer to your representation dated 26th April, 1999 on the above subject and to say that the matter has been examined in consultation with Establishment Pay Unit of Department of Personnel and Training who have agreed to allow you to draw grade pay of your parent cadre post plus deputation duty allowance @ 10% subject to maximum of Rs.250/- and without restricting w.r.t. maximum of the scale of pay of the post on deputation as per Department of Personnel and Training JN No. 1/4/84-Estt. (P. II) dated 26.12.1984. However, this is subject to the condition that you will be allowed to draw HRA, CCA and DA etc. during the period of deputation as admissible to you from time to time in your parent Deptt. You will not be allowed to draw HRA, CCA and DA etc. as admissible to the Central Govt. employees in the Central Government offices.

Re  
1/10/99  
2. As regards to your claim of special pay, drawn in parent Department, it is also not admissible under Para 1 (ii) of the aforesaid J.M. dated 26.12.1984, referred to above, since allowances of the parent Department are admissible, if the same allowances are available to the officers of comparable status in the Government, and this special pay is not admissible to the officers of this Tribunal. Moreover, your parent Deptt. i.e. Guhati High Court vide their letter No. HC/4/13/86/2383-Estt. dt. 7.2.98 (copy enclosed) has already clarified the position that the special pay will not be treated as part of the Basic Pay as per provisions of FRG(21)(a).

Cont.

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11/10/99  
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Please  
to the  
copy  
S.B.

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4/4  
5/5

6/6  
7/7  
8/8  
9/9  
10/10

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while on deputation in the Tribunal.

3. Regarding Medical allowance, it is stated that the same could not be allowed to you as CGHS facilities are available at the place of your posting in the Tribunal and any Government officer/employee either direct recruit or deputationist on foreign service or reverse foreign service basis can avail the facilities by contributing prescribed rate of contribution.

4. This speaking order is issued with the approval of Hon'ble the Chairman.

Yours faithfully,

Omra  
(A.K. AJPANI)  
DEPUTY REGISTRAR (E)

Copy to:-

1. The Deputy Registrar, Central Administrative Tribunal, Guhasthi Branch for information & necessary action.
2. The Under Secretary (AT), Department of Personnel & Training, North Block, New Delhi. wrote their letter No. P-26012/23/96-AT dated 21.9.93

केन्द्रीय प्रशासनिक अधिकारण  
Central Administrative Tribunal

10 DEC 2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
BENCH : Chairman, Guwahati Bench  
GUWAHATI

104  
Filed by  
Advocate  
19/12/2001

In the matter of :

O.A. No.103/2000

Suresh Prasad Singh .... Applicant.

versus

Union of India and others

... Respondents.

And

In the matter of :

A rejoinder on behalf of the  
applicant to the Written Statement  
filed by the Respondents Nos. 1 to 4.

The applicant begs to state as  
follows :-

1. That the contentions made on behalf of the  
Respondents Nos. 1 to 4 as are contrary to and inconsistent  
with those made in the application are categorically  
denied. The respondents have suppressed the material  
facts with a view to mislead this Hon'ble Tribunal.

2. That the statement made in para 5 of the Written  
Statement is not correct and the same is hereby denied.  
The applicant states that the application has been filed  
within the period of limitation.

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3. That the statements made in para 9 of the Written Statement is erroneous and the same has been made only to mislead the mind of the Hon'ble Tribunal. In this connection, the applicant reiterates and reaffirms the statements made in para 4.5 of the application. The pay of the applicant never came to be fixed either under the normal rules or as per the terms of OM dated 26.12.84, as has been averred in the counter. The pay of the applicant was provisionally fixed at Rs. 3,000/- with effect from 5.11.90, vide Central Administrative Tribunal, Guwahati Bench, Order No.CAT/GHY/Fixation/34/1/86 at page 71/N, whereas the pay of the applicant should have been fixed at Rs. 3825/- on 1.1.89 in the revised scale of pay of Rs. 2975-100-3575-125-3825-BB-125-4450-150-4750/- p.m as recommended by the Assam Fourth Pay Commission, 1988, and accepted by the Government of Assam and the next increment of the applicant had fallen due on 1.9.89.

It is a fact that the applicant vide his letter dated 15.5.90 exercised fresh option to retain his parent scale of pay and withdrew his earlier option for Central Pay Scale. But, though orders were passed in the file, the same never came to be implemented, as in the meantime the applicant had applied for permanent absorption which was duly recommended and he was ultimately absorbed and has since retired and is drawing <sup>on</sup> ~~provisional~~ pension calculated on the Basic Pay/which he was drawing his pay and allowances on the date of retirement.

  
A photo copy of the relevant extract from the Service Book of the applicant is annexed hereto for perusal of the Hon'ble Tribunal and the same is marked as Annexure-K.

A photo copy of the letter No.HC.VIII-3/84/17370/AC dated 16.8.91 from the Registry of the Gauhati High Court to the Registrar, CAT, Guwahati Bench is annexed hereto and is marked as Annexure-L.

4. That the statements made in para 11 of the W.S. is erroneous and misleading. The terms of DoPT O.M. No.6/20/86-Estt.(Pay.II) dated 9.2.86 and 4.6.87 are fully applicable in the case of the applicant. The moment the aforesaid OM dated 9.2.86 and 4.6.87 came to be issued on the subject, the terms of OM dated 26.12.84 ceased to exist and the applicant is entitled to get all the benefits admissible to him as per the OM dated 9.2.86/4.6.87 and the respondents cannot deprive him of the same at their whims and caprice by substituting one item from the OM dated 26.12.84 and the other item from OM dated 9.2.86/4.6.87.

It may be stated herein that all other deputationists in the Patna Bench of the Tribunal were being allowed deputation allowance @ 10% of the Basic Pay, subject to a maximum of Rs. 500/- and the respondents cannot be allowed to single out the applicant for unequal treatment.

The applicant had moved this Hon'ble Tribunal on an earlier occasion on the self-same matter in OA 84/96 and in reply to a similar averment in the aforesaid OA 84/96, the Respondent No.4 had averred as follows in para 17 of the Written Statement which is quoted hereinbelow for Your Lordships' kind perusal :-

" 17. That the averments made in paragraphs 7.11 to 7.15 of the application appear to be erroneous and hence denied except deputation allowance for which was entitled to subject to ceiling of Rs. 500/- P.M. and Medical Allowance .

Now the respondents cannot come around and take an altogether different stand to suit their convenience.

5. That the statements made in para 12 of the W.S. are not correct and the same are hereby denied. 'Basic Pay' of a Government servant is " Basic Pay" and " Special Pay " of a Government servant is " Special Pay " and by mere writing by the parent department of the applicant that 'Special Pay ' may not be treated as the Basic Pay as per the provisions of FR 9(21)( a) cannot disentitle him from drawing Special Pay when he is discharging the same nature of duties in his deputation post and when he had opted to draw the pay scale of his parent department on deputation.

In addition, he was also entitled to get Medical Allowance of Rs. 100/- per month as the applicant did not avail of the CGHS facilities at Patna and no Card for availing of the same was issued to him. As already stated, the Respondent No.4 has admitted in para 17 of the Written Statement filed in the earlier OA 84/96, which is already quoted in the preceding paragraph.

6. That the statements made in para 14 of the Written Statement are not correct and the same are hereby denied.

5.

The applicant reiterates and reaffirms the statements made in para 4.17 of the application. The contentions raised in this para have already been dealt with in para 4 of this rejoinder and the applicant refrains from repeating it over again for the sake of brevity. The applicant, though revised his option to draw pay in the pay scale of his parent department, the same never came to be implemented and he continued to draw his pay provisionally in the Central Pay scale and his pension and pensionary benefits have been calculated provisionally. To the knowledge of the applicant, there is no rule of the Central Government which allows a Central Government servant to draw pension and pensionary benefits at the rate admissible in a State Government on absorption. The statement made in this connection by the Respondents is devoid of any substance and carries no sense.

7. That the statements made in para 16 of the Written Statement is erroneous and misleading. As already stated, though the applicant had revised the option but it was never implemented because of his absorption in the CAT as Deputy Registrar and the applicant continued to draw provisional pay in the Central Pay Scale till he retired on 31.1.98(AN) and his pension and pensionary benefits have been calculated provisionally and his final pension and pensionary benefits are yet to be calculated and paid after proper fixation of his pay in the Central Pay Scale.

8. That the statements made in para 17 of the counter is incorrect. The pay of the applicant has not been fixed in terms of OM dated 26.12.84 as would be evident from the relevant extract of the Service Book enclosed as Annexure-K to this rejoinder.

*[Signature]*

9. That the statements made in para 19 of the Written Statement is incorrect and the same is hereby denied and the applicant reiterates and reaffirms the statements made in para 4.22 of the application and annexes hereto a photo copy of the Assam Stenographers' Rules in support of the contentions made in para 4.22 of the application and mark the same as Annexure-M.

10. That the statements made in para 21 of the Written Statement is not correct and the same are hereby denied. None of the points raised in the representation has been touched and the same has been disposed of in a slipshod manner without touching the fringe of the matter.

11. That the statements made in para 23 of the W.S. is erroneous and the applicant reiterates and reaffirms the statements made in paras 4.26 to 4.34 of the application.

12. That the statements made in para 24 of the written statement are not correct and the applicant reiterates and reaffirms the grounds taken para 5 of the application.

13. That the applicant states that the respondents cannot adopt two codes of discipline as regards fixation of pay of the staff of the High Courts taken on deputation in the Central Administrative Tribunal. For example, the pay of Shri Gautam Pay, the then Deputy Registrar of Calcutta Bench, now the Registrar, Principal Bench, has been

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fixed with the aid of FR 22 and not in terms of OM dated 26.12.84 as was proposed by the FA&CAO, CAT, Principal Bench, though not implemented. This is a clear case of discrimination amongst the staff of two High Courts taken on deputation and later on absorbed in the Central Administrative Tribunal.

The applicant is entitled to all the reliefs prayed for in the application and this Hon'ble Tribunal may be pleased to allow the same.

14. The applicant reserves his right to file any further rejoinder, if the need so arises. The applicant has already filed additional documents on 5.10.2001, which may be treated as a part of this rejoinder.

#### VERIFICATION:

I, Shri Suresh Prasad Singh, son of late Munshi Prasad Singh, resident of Tarun Nagar, Guwahati, the applicant in the case, do hereby state that I have verified the statements made above and those are true to my knowledge and belief.

And I sign this verification today the 19th day of December, 2001 at Guwahati.

  
Suresh Prasad Singh  
Declarant.



THE GUWAHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA, MIZORAM & ARUNACHAL PRABESH)

No. DC.VIII-3/84/ 17370/PC.

From Smti UH-Hug,  
Deputy Registrar (A/Cs.),



GAUHATI HIGH COURT, GUWAHATI-781001

To

The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati-5.

Dated Guwahati, the 16/8/91.

Subject:- Fixation of pay of Shri S.P. Singh, Senior Grade Stenographer  
on deputation to CAT.

Reference:- Your letter No. CAT/GHY/A/CS/3B/48/87, dt'd. 4.7.91.

Sir, Consequent upon the revision of pay scales of the officers  
and staff of this High Court w.e.f. 1.1.89 as per recommendation of  
the Assam Pay Commission, the pay of Shri S.P. Singh, the then Senior  
Grade Stenographer of this Registry (on deputation to your Tribunal)  
has been fixed at Rs. 3,825/- on 1.1.89 in the revised scale of  
Rs. 2975-100-3575-125-3825-ED-125-4450-150-4150/-, its date of next  
increment falls due on 1.9.89.

I am, therefore, to send herewith a revised L.P.C. in  
respect of the before-mentioned officer for your kindful. His service  
book received with your letter under reference is also returned  
herewith.

2.

Further, I am sending herewith Assam Govt's office Memorandum regarding sanctioning of dearness allowance to its employees from time to time.

Yours faithfully,

Sd. XXX 23.3.91

Deputy Registrar (A/Cs)

Memo No. HC.VIII-3/84/                    /R. Dt.

Copy to Mr S.P.Singh, Deputy Registrar, Central Administrative Tribunal, Gauhati, Bench, Gauhati.

Deputy Registrar (A/Cs).

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offices appointed to the service either before or after the commencement of these rules;

(i) "Schedule" means a schedule appended to these rules;

(j) "Secretariat" means the Assam Secretariat including the Chief Minister's Secretariat;

(k) "Select List" means the list referred to in clause (d) of sub-rule (1) of Rule 6 and sub-rule (6) of Rule 12;

(l) "Service" means the Assam Stenographers' Service;

(m) "Year" means the calendar year;

3. Cadre and status — (1) The service shall consist of the following cadres :-

(i) Special Officer and Ex-Officio Deputy Secretary to the Government of Assam Secretariat Administration Establishment Department

(ii) Senior Grade Stenographer and Ex-Officio Under Secretary to the Government of Assam

(iii) Stenographer Grade-I.

(iv) Stenographer Grade-II.

(v) Stenographer Grade-III.

(2) Senior Grade Stenographer & Ex-Officio Under Secretary to the Government of Assam; Stenographer Grade-I, Stenographer Grade-II and Stenographer Grade-III appointed in the Secretariat and other State and Government offices shall be deemed to constitute separate cadres in the respective grades in respect of each such office.

(3) The service may also include any post equivalent to a post in any of the cadres mentioned in sub-rule (1) and any cadre or post laid down by Government from time to time to be included in a cadre of the service.

(4) Members of the cadres of Special Officer & Ex-Officio Deputy Secretary to the Government of Assam, Secretariat Administration Establishment Department, Senior Grade Stenographer and Ex-Officio Under Secretary to the Government of Assam and Stenographer Grade-I shall have gazetted status. Members of the cadre of Stenographer Grade-II and Stenographer Grade-III shall have non-gazetted status.

4. Strength of Service — The strength of each cadre of Service shall be such as may be determined by the Government from time to time. The strength of the cadre of the service as on the date of commencement of these rules shall be notified by the respective Appointing Authorities within three months from the date of commencement of these rules or within such time as may be extended by the Government. Provided that the Government may hold in abeyance any post as and when considered necessary.

5. Method of Recruitment — Recruitment to the various cadres in the service shall be made in the manner prescribed hereinafter, namely :-

(i) Special Officer & Ex-Officio Deputy Secretary by promotion from Senior Grade-I.

## Annexure M

### CODIFIED ACTS, RULES & NOTIFICATIONS OF ASSAM

to the Government of Assam, Secretariat Administration Establishment Department

Secretaries in accordance with Rules 11 & 12.

(2) Senior Grade Stenographer & Ex-Officio Under Secretary to the Government of Assam.

by promotion from Stenographers Grade-I in accordance with Rules 11 & 12.

(3) Stenographer Grade-I.

by recruitment in accordance with Rule 6 and Schedule—I, Part—B.

(4) Stenographer Grade-II.

by recruitment in accordance with Rule 6 and Schedule—I, Part—B.

(5) Stenographer Grade-III.

by direct recruitment in accordance with the provisions of Rule 6 and Schedule—I, Part—A.

6. Direct recruitment in the cadre of Stenographer Grade-III and recruitment in the cadres of Stenographer Grade-II and Stenographer Grade-I — (1) Appointment to the cadre of Stenographer Grade-III shall be made by direct recruitment and the cadre of Stenographer Grade-II and Stenographer Grade-I shall be filled up by recruitment in accordance with the procedure as provided in this rule. For appointment to the Stenographer Grade-I from Stenographer Grade-II, one should complete 6 years of continuous service in either or in both the cadre of Stenographer Grade-II or Grade-III. The appointing Authority shall make the appointment on the basis of the recommendations made by the Commission in accordance with the procedures hereinafter provided namely :-

(a) Before the end of each year the Appointing Authority shall make an assessment regarding the likely number of vacancies in the cadre of Stenographer Grade-III to be filled up by direct recruitment and in the cadre of Stenographer Grade-II and Grade-I to be filled up by recruitment during the next year and shall intimate the same through the Government in the Secretariat Administration Establishment Department to the Commission or the Board as the case may be together with the details about reservation for candidates belonging to Scheduled Castes, Scheduled Tribes or any other category as laid down by the Government as provided under Rule 15 and about the carry forward of such reservation.

(b) The Government shall simultaneously request the Commission or the Board, as the case may be to recommend a list of candidates in respect of each of the concerned cadre, separately for direct recruitment and for recruitment, in the order of preference.