

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

GP12/17

FORM NO. 4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO188.....OF 2001.

Applicant (S) Sri A. Som, /As

Respondent (S) Union of India.

Advocate for Applicants (s) Mr. P.K. Roy, S. LA Chakraborty

Advocate for Respondent (s) CASC
Court. Adm. Meghalaya.

Notes of the Registry

Date

Order of the Tribunal

22.5.01

The application is admitted, Call for records. List on 5-7-01 for orders.

Application in form
Petition filed vide
M. P. N. C. F.

for Rs. 50/- deposited vide

IPC/ED No. 64 792430

Dated 11.5.2001

bb

05.07.01

List on 09-08-2001 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

09.08.01

Union of India has filed the written statement. Mr. B. Dutta, learned counsel for the respondents, Govt. of Meghalaya, has sought for accommodation for filing written statement.

List on 13/9/01 for order.

Member

Vice-Chairman

Requisites 2 copies has been filed in my.

21/5/01

Notice has been sent to
S/S for filing the petition
No. 182 by Regd A/D vide
D/No 2011/2012 dtd 30/5/01

30/5/01

Service report
Still awaited.

N
By
4.7.01

13.9.01

Written statement has already been filed by respondent No.1. Mr. A.Sarma, learned Advocate for State of Meghalaya, stated that the State is not necessary to file written statement. In this circumstances, pleadings are complete and the matter now be listed for hearing. The applicant may file ~~written statement~~ rejoinder, if any, within 10 days.

List on 15/10/01 for hearing.

IC (Sharma)
Member

Vice-Chairman

W/S has been submitted on behalf of the Respondent No. 1. mb

15/10 → There is no prisoner present today. The case is adjourned to 6.12.2001.
mb
A.K. Jena
15/10

No Rejoinder has been filed.

By
5.12.01

6.12.01

Reference is made on behalf of Mr. P.K. Roy, learned counsel for the applicant that he is unwell. Request for adjournment is accepted.

List the case again for hearing on 7.1.2002.

Member (J)

Member (A)

7.1.02

Heard in part. List again on 30.01.02 for further hearing.

IC (Sharma)
Member

Vice-Chairman

30.1.02

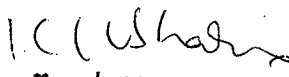
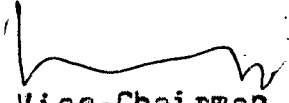
None appears for the applicant to press the application. List again on 31.1.2002 for hearing.

IC (Sharma)
Member

Vice-Chairman

31.1.

Heard Mr. P.K. Roy, learned Counsel for the applicant, Mr. A. Debroy S.O.C.G.S. appearing on behalf of Respondent No.1 & Mrs. B. Dutta, G.A. Meghalaya. Hearing concluded. Judgment reserved.
mb
A.K. Jena
31/1

Notes of the Registry	Date	Order of the Tribunal
<p>8.3.2002</p> <p>Copy of the Judgment has been sent to the office for recording the same to the applicant as well as to the Court Adv by him.</p> <p>14/3</p>	12.2.2002	<p>Judgment delivered in open court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.</p> <p>  Member </p> <p>  Vice-Chairman </p>

mb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 188 of 2001.

Date of Decision. 12-2-2002.

Sri Arindam Som

Petitioner(S)

Sri P.K.Roy

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

Sri A. Deb Roy, Sr. C.G.S.C. for Resp-
ondent No. 1 and Mrs B. Dutta, Govt.

Advocate for the
Respondent(s)

Advocate Meghalay for respondent No.2.

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 : Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 188 of 2001.

Date of Order : This the 12th Day of February, 2002.

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

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

Shri Arindam Som, IAS
Secretary to the Govt. of Meghalaya,
Information, Public Relations and
Tourism Department, Shillong,
Meghalaya.

. . . Applicant

By Advocate Shri P.K.Roy.

- Versus -

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Personnel,
public Grievance & pensions,
Department of Personnel & Training,
North Block, New Delhi-110001.
2. State of Meghalaya,
represented by the Chief Secretary to
the Govt. of Meghalaya, Shillong. . . . Respondents.

By Shri A.Deb Roy, Sr.C.G.S.C for respondent
No. 1 and Mrs B.Dutta, Govt. Advocate Meghalaya
for respondent No.2.

O R D E R

CHOWDHURY J.(V.C)

The fixation of seniority vis-a-vis the year of allotment on promotion to the Indian Administrative Service (IAS for short) is the controversy requiring adjudication in this proceeding.

2. The applicant first entered into the Meghalaya Civil Service as an Extra Assistant Commissioner. He was promoted to Senior Grade Time Scale of Meghalaya Civil Service in the year 1985. The steps for recruitment to the All India Services by promotion of Members of State Civil Service under the Indian Administrative Service (Recruitment Rules) 1954 read with Indian Administrative Service

contd...2

(Appointment by Promotion) Regulations 1955 was taken up in the year 1995. The Selection Committee amongst others also selected the applicant. Pursuant to the said selection the applicant was appointed to the IAS in accordance with Rule 8(1) of the IAS (Recruitment Rules) 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations 1955 vide Notification No. 14015/4/96-AIS(I) dated 18.12.96 issued by the Government of India, Ministry of Personnel, Public Grievance & Pensions, Department of Personnel & Training. The applicant was assigned with the 1990 as his year of allotment. The applicant objected to it and submitted a representation before the Secretary, Government of India dated 6.5.99. In the representation the applicant asserted that he had completed 21 years of service in the State Civil Service in the rank of Deputy Commissioner prior to his appointment to IAS on the basis of 1996 Select List. In terms of the IAS Regulation of seniority rules 1987 he was entitled for 7 years ^{weightage} ~~weightage~~ and consequently his year of allotment ought to have been fixed in 1989. The Government of India by its Notification dated 12.8.99 ~~regretted its~~ inability to accede to the prayer of the applicant. In the communication it was mentioned that ^{officers} senior to the applicant in the 1994-95 Select List were entitled for 6 years ~~weightage~~ on the basis of service rendered by them in the State Civil Service and accordingly they were allotted 1990 as the year of allotment. The applicant being junior to aforesaid 2 officers he could not be granted year of allotment earlier to them in 1990 assigning to the above two officers, in view of the proviso to Rule 3(3) (ii) of the Indian Administrative Service (Regulation of Seniority) Rules 1987. The Selection Committee met again in the year 1996 and considered

the case of the eligible State Civil Service Officers of Meghalaya junior to the applicant in the State Civil Service. On the basis of the selection held in 1996-97 3 officers were appointed to the IAS on 31.3.98. These two officers were assigned 1990 as year of allotment. In their case weightage to the 7 years was allowed for 21 years completed State Civil Service. It may be mentioned here that seniority rule was further amended and IAS Regulation of Seniority/^{Amendment} Rules 1997 came into force on 1.1.98. The applicant again submitted a representation before the respondents pointing out the anomalies. The Government of India ~~rejected~~ on the representation of the applicant again and communicated the same to the Chief Secretary, Government of Meghalaya vide a communication dated 17/18.1.2000. The Government of India also ~~repelled~~ on another representation submitted by the applicant through the Chief Secretary, Government of Meghalaya to the Secretary, Personnel vide a communication dated 21.9.2000. The legitimacy of the action of the respondents in not assigning the year of allotment in terms of the rules is assailed in this proceeding as arbitrary and discriminatory.

3. The respondents submitted its written statement opposing the claim of the applicant. In the written statement the respondents asserted that the year of allotment of the applicant was assigned in terms of the provision of the Seniority Rules. The respondents did not dispute that applicant completed ^{twenty one} 21 years of service in the State Civil Service but since the senior officers in the Civil Service in their credit had completed ^{twenty eight} 28 years of service in the State Civil Service they were entitled 6 years weightage and therefore 1990 was assigned as year of allotment to the two senior officers above him. The applicant therefore could not be assigned a year of allotment earlier than the year of allotment assigned to officers senior to him in that

Select List in view of the proviso to Rule 3(3) (ii) of the Seniority Rules. The respondents also contended that the seniority of officers was to be determined in terms of the seniority rules as it existed on the date of appointment to the service. Therefore question of giving benefit of the amended rules of 1997 did not arise.

4. We have heard learned counsel for the parties at length. Mr P.K.Roy, learned counsel appearing on behalf of the applicant strenuously urged that a serious injustice was caused to the applicant in assigning the year of allotment without taking note of the completed years of service in the State Civil Service. Mr Roy, the learned counsel for the applicant submitted that ~~emphasis of 77 years~~ was given to the persons appointed to the IAS from the said Civil Service whereas the similar benefit was denied to the applicant by the respondents in a most illegal fashion. The learned counsel contended that the seniority rule as such is not amended, a part of the rule is amended i.e. rule 3(3) of the seniority rules. The learned counsel submitted that the year of allotment of an officer appointed to the service after commencement of the 1987 Rules are to be determined. By 1997 Rules it only amended clause 2 and 3 of sub-rule 3. According to Mr Roy in terms of the amended rule also the applicant was entitled to get the full benefit. Mr A.Deb Roy, learned Sr.C.G.S.C appearing on behalf of the respondent No.1 refuting the contention of Mr Roy submitted that no injustice was caused to the applicant requiring interference under Section 19 of the Administrative Tribunals Act. Mr Deb Roy, the learned Sr. C.G.S.C submitted that the respondents althroughout acted as per law and there is no infirmity in the decision making process. Mr Deb Roy also took the plea of limitation and submitted that the applicant's representation for fixation of his seniority vis-a-vis year of allotment was turned

down as far back as 12.8.99 in terms of Section 21 of the Act. As per Section 21 of the Administrative Tribunals Act the applicant was to prefer the application within one year from the date of communication of the aforementioned order whereas the present application was filed before this Tribunal only in May 2001. Mrs B.Dutta, learned Government Advocate, Meghalaya appearing on behalf of respondent No. 2 also endorsed the argument of Mr. A. Deb Roy. We are not inclined to dismiss the application on the ground of limitation and decide to dispose the application on merit. The wrong alleged to have committed was of continuing nature.

5. The communication dated 12.8.99 rejecting the first representation of the applicant is not directly under challenge. Even otherwise no illegality as such is discernible in view of the proviso to Rule 3(3) (ii) of the Seniority Rules. Two of the senior officers were assigned with the year of allotment 1990 and therefore the said act of the respondents cannot be faulted. The next question for determination is as to whether the respondents faltered in its decision making process in not giving seven years weightage in view of the amendment of the Seniority Rules made in the year 1997. It is now settled that seniority of an officer appointed into the IAS is determined according to Seniority Rules applicable on the date of appointment to the IAS. Weightage of seniority cannot be given with retrospective effect unless it was specifically provided in the Rule in force at the material time. The Supreme Court of India declared in clear terms its view in the Pronouncement made in Union of India vs. S.S.Uppal and another, reported in AIR 1996 SC 2340.

6. For the reasons stated above we are not inclined to intervene in the matter in exercise of power of judicial review. The materials on record indicate that no Selection Committee meeting was ever held for selecting persons from the Meghalaya segment prior to the Selection Committee meeting held in the year 1995. Meghalaya attained Statehood on and from 21.1.1972 in terms of the North Eastern areas re-organisation of 1971. There was considerable delay in preparing the select list in the Meghalaya segment in accordance with the Indian Administrative Service (Appointment by Promotion) Regulation 1955. Under Rule 5(1) of the Regulation each year the select list was to be prepared. Selection Committee was required to meet every year for the purpose of making selection from amongst the State Civil Service Officers who fulfil the condition regarding eligibility on the first date of January of the year in which the Committee meets and fall within the zone of consideration. Failure on the part of the Selection Committee to meet during a particular year could not be dispensed with the requirement of preparing select list for that year. Whatever be the reason may be the eligibility persons from the Meghalaya segment were not considered for promotion as per the statutory scheme. If the Selection Committee meeting would have held timely as prescribed by the statute the State Officers including the applicant would have earned appointment much earlier in the IAS and thereby would have earned higher year of allotment and seniority. These are the matters which could have been addressed by the concerned authority. We are not inclined to delve with the matter any further leaving the matter to be decided by the concerned parties.

Subject to the observation made above, the application stands dismissed. There, shall, however be no order as to costs.

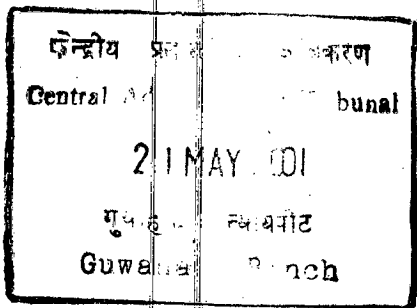
K.K. Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

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

PG

Filed by the applicant
Through
P. K. Ray
Assist.
17.5.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.



O.A. No.....188..... OF 2001

Shri Arindam Som, IAS
.....Applicant

-Versus-

Union of India & others
.....Respondents.

I N D E X

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For use in Tribunal Office

Date of Filing -

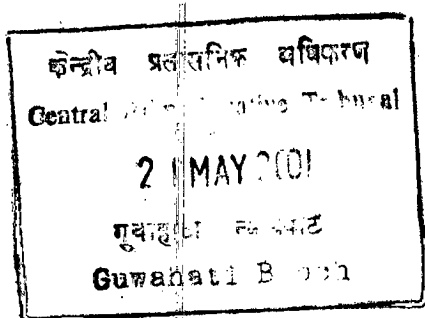
Signature
for Registrar

(1996)
1990

Filed by the applicant,
through
P. K. Nayak
Advocate,
17-5-2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI

O.A. No. 188 OF 2001



BETWEEN —
Shri Arindam Som, I.A.S.
.....Applicant

-AND-

Union of India & others
.....Respondents.

Details of Application

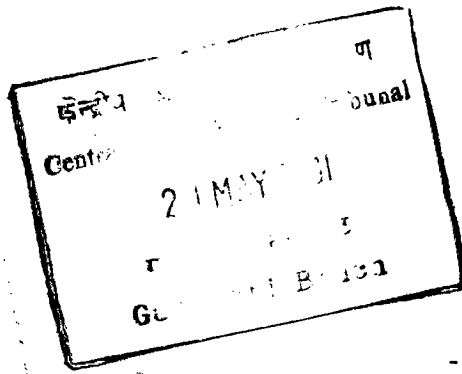
1. Particulars of the applicant

Shri Arindam Som, I.A.S.
Son of Late S. B. Som
Secretary to the Govt. of Meghalaya,
Information, Public Relations and
Tourism Department, Shillong,
Meghalaya.

2. Particulars of the Respondents

- 1) Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Personnel,
Public Grievance & Pensions,
Department of Personnel & Training
North Block, New Delhi - 110001.

2).....



- 2 -

- 2) State of Meghalaya,
represented by the Chief Secretary to the
Govt. of Meghalaya, Shillong.

3. **Particulars of order against
which application is made.**

Order passed by the Under Secretary to the Govt.
of India, Ministry of Personnel, P.G. & Pensions,
Department of Personnel & Training, North Block
New Delhi, vide No. 14014/97-AIS(1) dated
20th September, 2000, rejecting representation of
the applicant for antedating his year of allotment in
the IAS.

4. **Jurisdiction of the Tribunal**

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


5. **Limitation**

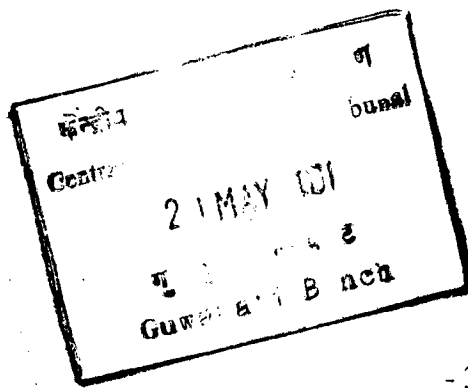
The applicant further declares that the application
is within the period of Limitation prescribed in
section 21 of the Administrative Tribunal Act, 1985.

6. **Facts of the Case**

- 6.1 That applicant is a member of the Indian Administrative
Service (IAS) appointed by promotion from the Meghalaya

civil.....





- 3 -

Civil Service (MCS) under Rule 4 (1) (b) of the Indian Administrative Service (Recruitment) Rules, 1954.

He is a citizen of India and a permanent resident of Shillong, Meghalaya.

6.2 That the applicant joined the Meghalaya Civil Service on 24.11.75, initially as an Extra Assistant Commissioner, on being recruited after selection through the Competitive Examination conducted by the Meghalaya Public Service Commission. In 1985, he was promoted to the Senior Grade Time Scale of the M.C.S. The applicant is presently holding the post of Secretary to the Govt. of Meghalaya, Information, Public Relations and Tourism Department, Shillong.

6.3. That the Meghalaya Civil Service was recognised by the Govt. of India in 1985 as a feeder service for appointment by promotion into the Indian Administrative Service, as required under the I.A.S. (Recruitment) Rules, 1954. Under the Indian Administrative Service (Appointment by promotion) Regulation, 1955 a member of recognised State Civil Service becomes eligible for consideration for appointment into I.A.S. by promotion on completion of 8 years of substantive service in the State Civil Service.

That the applicant, along with many other officers of Meghalaya Civil Service who were appointed to the Service in 1975, thus, became eligible for simultaneously with the aforesaid recognition of the M.C.S. as a feeder service for I.A.S.; but their services were not considered for such promotion in time mainly because of inaction on the part of the Respondent authorities to constitute and hold

selection.....

[Handwritten signature]

Selection Committee meeting for appointment against vacancies earmarked for Meghalaya Wing of the Assam-Meghalaya Joint Cadre of the I.A.S. and the vacancies meant for Meghalaya under the I.A.S. (Fixation of Cadre strength) Regulation, 1955 were irregularly and illegally filled up by appointing/promoting A.C.S./M.C.S. Officers against those posts in violation of Rule 7 (6) read with Rule 11-A of the IAS (Cadre) Rules, 1954.

6.4. That the applicant states that his case along with the cases of other eligible MCS officers were ultimately considered by the Selection Committee, constituted under Regulation 3 of the IAS (Appointment by promotion) Regulations, 1955 in the year 1995 (1994-95 select list - continued also in 1995-96 select list) and selected the following MCS officers including the applicant to the IAS by promotion -

1. Shri Micky Diengdoh.
2. Shri W.S. Mawlong.
3. Shri Arindam Som (Applicant)

6.5.....

6.5. That the applicant states that pursuant to the aforesaid selection made by the Selection Committee, Shri Mickey Diengdoh and Shri W. S. Mawlong were appointed to the IAS on 1.10.96 against two existing vacancies in the I.A.S. Cadre. Later the applicant was also appointed to the IAS on 18.12.96 vide Govt. of India notification dated 18.12.96 which was republished by the Govt. of Meghalaya vide notification dated 21.12.96.

(Copy of the notification dated 21.12.96 is annexed as Annexure- 'A' to this application.)

6.6 That on their appointment in the IAS as aforesaid, the Govt. of India by an order passed on 19.9.97 assigned 1990 as the Year of their Allotment in the following manner -

Sl. No. in the order of select list.	Names	Dates of appointment to IAS	Completed years of SCS Services in the post of Deputy Deputy Collector or Equivalent.
1.	Shri Mickey Diengdoh	1.10.1996	20
2.	Shri W.S. Mawlong	1.10.96	20
3.	Shri A. Som	18.12.96	20

A copy of the order dated 19.9.97 is annexed as Annexure - 'B' to this application.

6.7 That the applicant states that above fixation of year of allotment in respect of two seniors i.e. Shri Mickey Diengdoh and Shri W.S. Mawlong is based on an apparent

mis-interpretation.....

mis-interpretation of the relevant provision of the Rule and/or founded on reasons which are wrong in law inasmuch as Rule 3 (3) (ii) (c) of the Indian Administrative Service (Regulation of Seniority) Rules, 1987 provides that weightage as mentioned in sub-clause (b) therein shall be calculated with effect from the year in which the officer is appointed to the service, which means the 'year' and not the 'date' of appointment to be the point for the purpose of calculation of the weightage as mentioned therein. In view of this, the total year of service rendered by the aforesaid two senior officers being 21 years calculated from the year of appointment to the IAS, they were entitled to 7 years weightage and not 6 years as given to them and therefore their year of allotment ought to have been fixed in 1989 and not 1990 as fixed by the respondent authority. As a result of the above wrong fixation in respect of his two seniors, the applicant, though entitled to the benefits of 7 years weightage under the said rule, was restricted to 6 years weightage only under the proviso to Rule 3(3) (ii) of the said rule, being junior in service to the above two officers and thereby he was denied of his legitimate claim for 1989 as his year of allotment. The applicant therefore filed a representation before the Govt. of India on 6.5.99 to re-fix his year of allotment in

appropriation.....

appropriate year by giving him and his seniors the 7 years weightage to which they were entitled. This representation was duly forwarded by the Govt. of Meghalaya, vide their letter dated 29.7.99.

(A copy of the said representation dated 6.5.99 is annexed as Annexure- 'C' to this application.)

6.9. That the applicant states that in response to said representation the Govt. of India vide their letter dated 12.8.99 informed the Govt. of Meghalaya that the prayer made by the applicaiton in his representation cannot be accepted in view of the fact that his seniors i.e. Shri M. Deingdoh and Shri W.S. Mawlong were allotted 1990 as their year of allotment, the applicant cannot be assigned 1989, because of the bar provided under rule 3(3) (ii) of the Seniority Rules which was upheld by the Hon'ble Supreme Court in IAS(CSC) Association -vs- Union of India (1993-SCC (L &S) 252). This communication made by the Govt. of India ex-facie was based on misapplication of law inasmuch as the above decision of the Supreme Court was rendered on an altogether different context where the proviso to the Rule 3(3) (ii) of the seniority rule was the point of dispute and was under challenge. But the Applicant's claiming was only based on the ground that the very fixation of the year of allotment of

his.....

his seniors based on the wrong manner of computation of the total length of SCS service which unmistakably comes to 21 years and not 20 years as computed by the Govt. of India.

(A copy of Govt. letter dated 12.8.99 is annexed as Annexure - 'D' to this application).

6.9. That in the meantime by a notification issued by Ministry of Personnel, Public Grievance & Pensions under the Department of Personnel & Training, Govt. of India on 31.12.97, amended Clause (ii) and (iii) of Sub-Rule 3 of Rule 3 of the Indian Administrative Service (Regulation of Seniority) Rules, 1987 by the Indian Administrative Service (Regulation of Seniority) Amendment Rules, 1997. The relevant part of the amendment rule is quoted below :-

"NOTIFICATION"

G.S. R. 736 (E) - In exercise of the powers conferred by section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government after consultation with the State Governments concerned and the Union Public Service Commission hereby makes the following Rules further to amend the Indian Administrative Service (Regulation of Seniority) Rules, 1987, namely :—

1. (1).....

1. (1) These rules may be called the Indian Administrative Service (Regulation of Seniority) Amendment Rules, 1997).
- (2) They shall come into force on the first day of January, 1998.
2. In the Indian Administrative Service (Regulation of Seniority) Rules, 1987 (hereinafter referred to as the principal rules), in rule 3, in sub-rule (3), for clauses (ii) and (iii), the following clauses shall be substituted namely :—
 - (ii) The year of allotment of a promotee officer shall be determined with reference to the year in which the meeting of the Committee to make selection, to prepare the select list on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in the State Civil Service not below the rank of a Deputy Collector or equivalent, up to the 31st day of December of the year immediately before the year in which meeting of the Committee to make selection was held to prepare the select list on the basis of which he was appointed to the Service, in the following manner :-

(a) for.....



- (a) for the service rendered by him upto twenty one years, he shall be given a weightage of one yers for every completed three years of service, subject to a minimum of four years;
- (b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation : For the purpose of calculation of the weightage under this clause, the fraction, if any, are to be ignored :

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list”.

(A copy of the aforesaid Indian Administrative Service (Regulation Seniority) Amendment Rules, 1997, is annexed as Annexure - “E” to this Application.)

6. That the applicant states that the Selection Committee thereafter again met in the year 1996 and considered the case of some fo the eligible MCS officers who are juniors to the applicant in the civil services and

after.....



after consideration as such, selected the following officers in the 1996-97 Select list. These officers were later appointed to the IAS on 31. 3. 98.

1. Shri D. K. Dkhar.
2. Shri B. Purkayastha.
3. Smt. D. Marak

6.10. That the applicant states that all the above named MCS officers viz. Shri D. K. Dkhar, Shri B. Purkayastha, Smt. D. Marak, who are junior to the applicant, were appointed in the MCS in Nov. 1975, and their inter-seniority in the State Civil Service were determined in the order in which their names appeared in the select list prepared by the Meghalaya Public Service Commission while recruiting them as EAC following the competitive examination conducted by the Meghalaya Public Service Commission.

6.11 That by virtue of the amendment of the seniority rule, the year of allotment of the applicant (1990) assigned to him and 2 (two) of his seniors appointed from the 1995-96 select list, were required to be refixed giving them the benefit provided under the amendment rules.

6.12 That following their appointment to the IAS on 31.3.98 Shri Donkumar Dkhar, Shri B. Purkayastha and Smt. D. Marak, who are juniors to the applicant, were assigned 1990 as their year of allotment by computing 21 years of SCS service as on 31.12.96 under the aforesaid amended Indian Administrative Services (Regulation of Seniority) Amendment Rules, 1997 in the following manner :—

Sl. No. in the order of select list.	Names	Dates of appointment to IAS	Completed years of SCS Services in the post of Deputy Deputy Collector or Equivalent.
1.	Donkumar Dkhar	31.03.1998	21
2.	B. Purkayastha	31.03.1998	21
3.	Smt. D. Marak	31.03.1998	21

(Copy of the order dated 19.9.98 is annexed as Annexure - 'B' to this application.)

6.13. That the applicant states that while assigning the Year of Allotment of the above-named officers, the Govt. of India had given 8 (eight) years weightage in consideration of their 22 years 4 months State Civil Service instead of requisite 24 years by allowing 1 year of additional weightage for rendering only 1 year 4 months of service in the State

Civil.....

Civil Service besides 7 years weightage, but the said benefit was denied to his two seniors viz. Shri Diengdoh and W. S. Mawlong, resulting to loss of 1 year of weightage to them and to the applicant in view of the proviso to Rule 3(3) (ii) of the Rules. While granting the said benefits to the juniors, the Govt. of India apparently was oblivious of the fact that all the above juniors were appointed to the State Civil Service in November, 1975, i.e. in the same year in which the applicant and his seniors were appointed and the purpose of the amending rule could not have been to deny the same/equal benefits who are similarly placed and any other construction to the rule would only render the rule to be arbitrary and opposed the provisions contained in Article 14 and 16 of the Constitution of India, which would be beyond comprehension of a reasonable man of prudence.

6.14 That the applicant, therefore, after having found that his juniors were given some benefits towards fixation of their year of allotment which were denied to his seniors including the applicant resulting in loss of 1 year weightage to them and consequently to the applicant, filed a fresh representation on 9.12.99, which was duly forwarded to the Govt. of India by the Chief Secretary, to the Govt. of Meghalaya on 10.12.99; but the Govt., of India

by.....



by a reply issued on 18.1.2000 rejected the same on the ground that the juniors viz. - Shri D. Dkhar, Shri B. Purkayastha and Smt. D. Marak, being appointed to the IAS on 31.3.98 i.e. after the Amendment Rules, the year of allotment was fixed under the new rule which gave benefit of such computation, The Govt. of India, also added that there was no question of determining the seniority of the applicant and his seniors in terms of the ammended rules "as Rule 3 (2) of clearly states as below :-

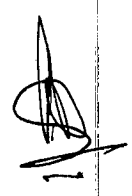
" 3 (2) The years of allotment of an officer in service at the commencement of these rules shall be the same as has been assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules".

(Copy of representation dated 9.12.99 and the reply dated 18.1.2000 are annexed as Annexures - "G" and "H" to the application).

6.15. That the applicant states that the above reply of Govt. of India was given without application of mind to the relevant provisions of the Rules as they stand after incorporating the 1997 amendment. The Rules, as amended, in explicit terms extended the benefits laid down therein to all the officers appointed to the IAS after the commencement of the seniority Rules, 1987, and under the said amended rule, the applicant and his seniors viz. - Shri M. Diengdoh and Shri W.S. Mawlong are entitled to 1988 as their year of allotment. The applicant, therefore, filed a representation on 21.8.2000 to cause a review of their decision and re-assign 1988 as his add his aforesaid seniors years of allotment in accordance with the seniority Rules, 1987, as amended under the Amendment Rules, 1997.

(Copy of the representation dated 21.8.2000 is annexed as Annexure- 'I').

6.18.....



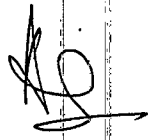
6.17 That the Govt. of India thereafter vide their letter dated 21.9.2000 intimated to the Govt. of Meghalaya that the request made by the applicant, cannot be acceded to in view of the amendment of the rule and the decision of the Hon'ble Supreme Court in Union of India -Vs-S.S. Uppal (JT 1996) (1) SC 258) which has held that the seniority of an office is to be determined in terms of the seniority rules as they exist on the date of appointment, though the ratio laid down therein does not apply to the facts of the present case of the applicant at all.

The applicant crave leave of the Hon'ble Tribunal to make appropriate legal submission in this regard at the time of hearing of the instant application.

(A copy of the said order dated 21.9.2000 issued by the Govt. of India is annexed as Annexure-*J* to this application).

6.17. That the applicant states that Rule 3 (3) (3) of the Indian Administrative Service (Regulation of Seniority) Rules, 1987 provides that the year of allotment of an officer appointed to the service after the commencement of this Rule (1987 Rules) shall be determined as provided

under.....



under sub-rule 3(ii) of the said rule. Therefore, the applicant having been appointed after the commencement of the said 1987 Rule, year of allotment though fixed as 1990, prior to amendment, is required to be refixed in view of the aforesaid provision made under Rule 3 (3) (3) above. The purpose of the amending rule of 1997 is to grant benefits to all officers appointed after 1987. While amending the rule, the Legislature deliberately kept the provisions of sub-rule 3 intact which has not formed part of the amendment of the 1997 rule. The provisions of date of effect of the said amended part of the rule as being from 1.1.1998, made in the amendment rule, is with regard to the manner of computation only and does not affect/alter the eligibility clause contained in Rule 3, sub. rule 3 of the principle rule. Further, rule 3 (2) of the IAS (Regulation of Seniority) Rules, 1987 is attracted in cases of determination of seniority of those, appointed on promotion to IAS from State Civil Service prior to commencement of the Rules ibid (- the date of commencement being 6-11-87) & not to such I.A.S. officers like the applicant who were so appointed to I.A.S. after commencement of these Rules and that the Govt. of India's contention to the contrary is incorrect & untenable. Therefore, the contention of the Govt. of India that the 1997 amendment to the Rule having come into effect from 1.1.98, the applicant cannot get the benefit of the said rule, is wholly mis-conceived and as such the applicant is entitled for a direction for re-fixation of year of allotment. The relevant provision of the Indian administrative Service (Regulation of Seniority) Rules, 1987 is given hereunder :-

“ 3. Assignment of year of allotment - 3(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in these rules.

3 (2).....



3 (2) The year of allotment of an officer in service at the commencement of these rules shall be same as has been assigned to him or may be assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules.

3 (3) The year of allotment of an officer appointed to the Service after the commencement of these rules shall be as follows :—

3 (3) (i) the year of allotment of a direct recruit officer shall be the year following the year in which the competitive examination was held :

Provided that if a direct recruit officer is permitted to join probationary training under rule 5 (1) of the IAS (Probation) Rules, 1954, with direct recruit Officers of a subsequent year of allotment, then he shall be assigned that subsequent year as the year of allotment.

3 (ii) The year of allotment of a promotee officer shall be determined in the following manner :-

- (a) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy Collector or equivalent, he shall be given a weightage of your year towards fixation of the year allotment.

(b).....



- (b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in sub-clause (a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored.
- (c) The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service :

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list.

(A copy of the Indian Administrative Service (Regulation of Seniority Rule) 1987 is annexed as Annexure - 'K' to this application).

6.18. That the applicant states that the 1997 amendment did not amend the entire Rule 3 with regard to assignment of year of allotment; it only substituted the provisions of Rule 3 (3) (ii) and (iii) as to the manner of computation by the

amendment.....



amendment rules of 1997, thereby making its intention clear that the year of allotment of an officer appointed to the service after 1987 (i.e. after commencement of the Rules *ibid*) has to be refixed as per the manner provided under the amendment rules of 1997 to make the assignment of the year of seniority conform to the Rules, as amended. The position of the Principal rule under Rule 3 (3) (ii) (c) provided that "The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service", which under the amendment rule of 1997 was deleted thereby making it clear that irrespective of the date of appointment, the benefits of the amendment rules of 1997 shall be given to all the officers appointed to the service after 1987 and any other interpretation to the said rule shall render the provision of 3(3) of the principal rule surplusage or ungatory. It is the settled canon of constructions that every word, phrase or sentence in a statute and the provisions read together shall be given full force and effect and no authority can refuse to give effect to it. The language of the rules being clear intending to grant benefit to the applicant and other similarly situated officers of the service, the Govt. of India ought not to have adopted a different construction which is not just, reasonable and sensible at all. There is no scope either, to proceed upon the assumption that the legislature has made any mistake by not amending the provision under rule 3 (3) of the principle rule, and the



- 20 -

authority must only proceed on the footing that the legislature intended to refix the year of allotment of all officers appointed after 1987, specially when it has power under section 3 (1-A) of the All India Services Act to give retrospective effect to any rule.

6.19. That the applicant states that the amendment rule of 1997 says under clause (ii) of sub-rules (3) of rule 3 that "The year of allotment of a 'promotee officer' shall be determined.....' and the 'promotee officer' as defined under Rule 2 (2) (j) of the Indian Administrative Service (Regulation of Seniority) Rules, 1987, means an officer appointed to the service in accordance with the provision of the Indian Administrative Service (Appointment by promotion) Regulation, 1955 and the applicant being also a 'promotee officer' as defiend under the said rule, is entitled to get the said benefit. - more so, as rule 3 (2) of the Rules is not attracted in the case of the applicant, he being appointed on promotion to IAS after commencement of the Rules ibid in 1987. The Govt. of India, therefore, was not legally right to deny the said benefit to the applicant and his two senior officers.

6.20 That the applicant states that most of the officers appointed to the IAS by promotion from the M.C.S. after 1987 have already been retired except the following officers, some of whom are also on the verge of retirement.

Name.....



- 21 -

	<u>Name</u>	<u>Date of Birth</u>
1.	Shri P. C. Chakraborty	1.12. 43
2.	Shri G. J. Shadap	1.12.44
3.	Shri R. Chyne	1.9.42
4.	Shri L. Roy	31. 5. 50
5.	Smti. C. Lamin	15.9.43
6.	Shri Micky Diengdoh	1.10.43
7.	Shri W. S. Mawlong	1.1.42

6.21. That since promotion in various grades/scales in the I.A.S. are time bound, there is also no question of any officer being affected in case of refixation of year of allotment of the applicant and such refixation would not give any unjust result or unsettling any position in any manner. The respondents, therefore, without reading down the the rule and interpreting it in its true perspective, rejected the representation of the application in an arbitrary and unfair manner.

7) **GROUND S**

1. For that when the object of the amendment to the seniority rules of 1987 is clear from the language of the amendment rule of 1997 and extending therein the benefits of refixation of ^{year of}~~year~~ allotment to the members of the

service.....



service appointed after the commencement of the principal Rules, the year of allotment of the applicant was required to be refixed in accordance with the amended provision of Rule 3 (3) (ii) of the said rule and the respondents acted quite illegally and unfairly in denying the same to the applicant and his two seniors.

2. For that while amending the seniority^{rule} the legislature deliberately avoided to bring Rule 3 (3) of the Rules containing eligibility Clause within the purview of the amendment in order to grant the same benefit to the officers appointed to the service after 1987 like the applicant. The incorporation of the words 'promotee officers' in Clause 2 of Rule 2 of the IAS (Regulation of Seniority) amendment Rules, 1997, made the position more clear and, therefore, the respondents acted unfairly and unreasonably in denying the said benefits to the applicant.

3. For that while rejecting the representation filed by the applicant, the Respondent No. 1 did not apply its mind to the purpose and the object for which the amendment rule is framed and the juxtaposition in which the amending rule is placed below rule 3 (3) of the principal rule making the intention of the legislature clear and speaking its mind

to.....

to refix the year of allotment of all the membes of service appointed after the commencement of the rule in 1987 and therefore denying the said benefits to the two seniors of the applicant and to him is quite unfair, unreasonable and arbitrary.

4. For that the respondents - Union of Indian without applying its mind to the provisions of relevant rules, rejected the representation of the applicant by relying on the decision rendred by the Supreme Court in Union of India - vs- S. S. Uppal (JT 1996 (1) SC 258 = AIR 1996 SC 2340, though the ratio laid down therein does not apply to the facts and circumstances of the case of the applicant.

5. For that when all the juniors officers who are granted benefits of the amendment rules 1997, were appointed in the State Civil Service, in the same month and year in which the applicant and his two seniors were appointed and when the selection of juniors were also made prior to the amendment rule of 1997, respondents could not have ^{fracted} ~~tened~~ the applicant and his two seniors differently on grounds which are legally not tenable at all.

6. For that by not amending the provision of Rule 3 Clause 3 of the Principle rule, the legislative have made the rule retrospective by implication, to be taken effect from the date of the commencement of the principle rule bringing within its ambit the cases of the applicant and all other similarly situated person for refixation of their year of allotment.

7. For that in any view of the matter the order dated 20.09-2000, passed by the Govt. of India is unsustainable in law and is liable to be set aside and the applicant is entitled for a direction to the Govt. of India for refixation of his year of allotment in terms of the provisions of amendment rules, 1997.

8. **Details of the remedies exhausted.**

The applicant declares that he has exhausted all the remedies available to him and he has no other remedy other than filing the instant application u/s. 19 of the Administrative Tribunal Act.

9. **Matters not pending with any other Court.**

The applicant declares that the instant matter is not taken in any court of law for adjudication.

10) PRAYER.....



10. **PRAYER :** In the premises aforesaid it is humbly

prayed the Hon'ble Tribunal may be
graciously pleased to admit this application
call for the records, issue notice on the
respondents and on hearing the parties -

- (i) set aside the Order dated 21.9.2000,
passed by the Under Secretary, Govt. of India,
Ministry of Personnel P.G. &
Pension, Department of Personnel &
Training, New Delhi; (AnnexureJ)
- (ii) direct the respondent No. 1 to re-fix
the applicant year of allotment in terms of the
provision of Indian Administrative
(Regulation of Seniority) Rule, 1987,
as amended by the Indian Administrative
Service (Regulation of Seniority)
Amendment Rules, 1997 and fix 1988 as
his year of allotment into the IAS.

11. **INTERIM RELIEF PRAYED :**

In view of the facts and circumstances of the case the
applicant does not pray for any interim relief but prays
for an order so that pendency of the original application may
not be a bar for the respondents to consider the case of the
applicant for re-fixation of his year of allotment, as prayed for.

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12. Particulars of postal Order in respect of the application

Postal Order No. : 6 G - 792430
 Date : 11.5.2001
 Issued from : G.P.O. Guwahati
 Payable at : G.P.O. Guwahati

13. Documents :

As mentioned in the Index

VERIFICATION

I, Shri Arindam Som, I.A.S., son of late S. B. Som, aged about 47 years presently working as the Secretary to the Govt. of Meghalaya, Information, Public Relations and Tourism etc. Departments, Shillong, do hereby verify that the contents of paragraphs 1.5, 5, 6.1, 6.5, 6.7, 6.9, 6.10, 6.11, 6.13, 6.14, 6.15, 6.17, 6.18, 6.21, 8 and 9 are true to my knowledge and

those made in paragraphs 6.6, 6.8, 6.12 and 6.16

are true to my information

derived from the records and the rest are my humble submissions before this Hon'ble Tribunal and I sign this Verification to-day the.....11.....day of.....May.....2001 at Shillong.


 Applicant

NOTIFICATION

Dt. Shillong, the 21st December, 1996.

No. PER.38/94/142 - The following Notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi is re-published for general information.

" Notification No. 14015/4/96-AIS(I), dt. 18.12.96. ✓

In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint Shri A. Som, a member of the State Civil Service of Meghalaya to the Indian Administrative Service on probation with immediate effect and to allocate him to the Joint Cadre of Assam-Meghalaya under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

Sd/-
(R. VAIDYANATHAN)
Desk Officer "

Sd/- Chettri,
Deputy Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Department.

Memo. No. PER.38/94/142-A, Dt. Shillong, the 21st December, 1996.
Copy to :-

1. The Commissioner and Secretary to the Governor of Meghalaya, Shillong.
2. The Commissioner and Secretary to the Chief Minister, Meghalaya, Shillong.
3. The Accountant General (A&E), Meghalaya, Shillong.
4. The Chief Secretary to the Govt. of Assam, Dispur, Guwahati - 781006.
5. The Desk Office, Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi - 110001.
6. The Under Secretary, Union Public Service Commission, Dholpur House, New Delhi - 110011.
7. The Chairman, Meghalaya Public Service Commission, Shillong.
8. Shri A. Som, IAS., Director of Information and Public Relations, Meghalaya, Shillong.
9. Personnel & A.R. (B) / Sectt. Adm. (Accounts) / I.F.R. / Tourism Departments.
10. Director of Printing and Stationery, Shillong for publication of the notification in the Meghalaya Gazette.
11. Guard file/Personal file.

By Order etc.,

Attended

P. K. Roy

Advised

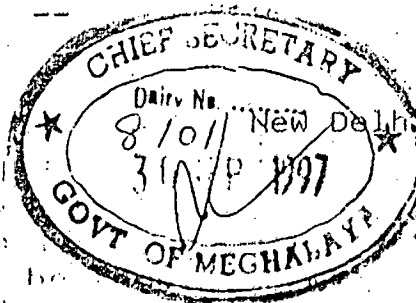
14/5/2001

Deputy Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Department.

NO:14014/43/97-AIS(1)
Govt. of India.

ANNEXURE 'B'

Ministry of Personnel, PG and Pensions
Department of Personnel & Training



Dt: 19.9.97.

19 SEP 1997

To

The Chief Secretary,
Govt. of Meghalaya,
Personnel & A.R. (A) Department,
SHILLONG.

Sub: IAS- Fixation of Seniority - SCS Officers appointed on the basis of 1995 Select List.

Sir,

I am directed to say that three SCS officers of the State of Meghalaya have been appointed to IAS on the basis of the 1995-96 Select List. Their names, their dates of appointment to IAS, their completed years of SCS which is reckonable for purposes of fixation of Year of Allotment are given below:-

S.No.in the order of Select List	Names	Dt.of appointment to IAS	Completed yrs of SCS services in the post of Dy. Collect.or equivalent
S/Shri			
1.	Mickey Diengdoh	1.10.1996	20
2.	W.S. Mawlong	1.10.1996	20
3.	A.Som	18.12.1996	21

2. The question of fixation of their Years of Allotment in accordance with the Rule 3(3)(ii) of the IAS (Regulation of Seniority) rules, 1987, as amended on 18.1.88, has been considered. The last of the SCS officers who was appointed to IAS on the basis of previous Select List, Smt. C. Lawin has been assigned

Personnel & Admin Reform

Dy No 4981

Date 1/10/97

By A.S.

Alkair

P. A. M.
Ad. word.
14.5.2001

1989 as her Year of Allotment. Therefore, none of the officers mentioned in the table in para 1 can be given a Year of Allotment earlier than 1989.

3. S/Shri Mickey Diengdoh and W.S. Mawlong (S.No. 1&2 in the table) are assigned 1990 as their Year of Allotment in terms of Rule 3(3)(ii) of the Seniority Rules with regard to the relevant years of service rendered in the State Civil Services. The seniority of Shri A. Som will be regulated with regard to the proviso to Rule 3(3)(ii) of the Seniority Rules and accordingly he is assigned 1990 as his Year of Allotment.

4. For purposes of inter-se seniority, in the Joint Cadre S/Shri Mickey Diengdoh, W.S. Mawlong and A. Som shall be placed in the same order immediately below Shri Dibakar Saikia, IAS(SCS:1990) and above Shri M.A. Borbhuyan, IAS (SCS:1990).

Yours faithfully,



(BHARAT PRASAD)

Under Secretary to the Govt. of India
Tele. No. 301-2285

Copy to: AIS(III)/EO(PR)/RO(CM)/NIC, DOP&T/Guard File

Attended
p. h. day
(12.5.2001)

11/12/01
11/12/01
11/12/01

-30-

ANNEXURE "C"

DAE. 15/95/73
DATED 6TH MAY 1999

From : Shri A. Som, IAS.,
Director of Information & Public Relations,
Government of Meghalaya
Shillong.

To : The Secretary to the Government of India
Ministry of Personnel, Public Grievances &
Pensions, Department of Personnel & Training,
North Block, New Delhi - 110 001.

- through -

The Chief Secretary to the Government of
Meghalaya, Shillong.

Sub : IAS - FIXATION OF SENIORITY - SCS OFFICERS
APPOINTED ON THE BASIS OF 1995 SELECT LIST

Ref : Government of India, MOP, PG & P, DOPT letter
No. 14014/43/97-AIS(I), dated 19.09.1997.

Sir,

In referring to the captioned communication, the undersigned begs to represent for your gracious consideration and sympathetic orders, as indicated hereinafter -

[01]. That the undersigned is a State Civil Officer of the State of Meghalaya appointed to the IAS on the basis of the 1995-96 Select List.

[02]. That as clearly admitted vide para 1 of the communication under reference, the undersigned had completed 21 years of service in the SCS in the rank of Deputy Collector or equivalent prior to his appointment to the IAS on the basis of the 1995-96 Select List.

[03]. That Rule 3(3) (ii) of the IAS (Regulation of Seniority) Rules, 1987 specifies that -

The year of allotment of a promoted officer shall be determined in the following manner -

(i) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy Collector or equivalent, he shall be given a weightage of four year towards fixation of the year of allotment;

(ii) He shall be given a weightage of one year for every complete three years of service beyond the period of twelve years, referred to in sub-clause (a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored;

(iii) The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the Officer is appointed to the service:

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an Officer senior to him in that select list or appointed to the service on the basis of an earlier Select List.

[3]. That in the premises stated above, the undersigned is entitled to $\{ 4 + (21 - 12) / 3 \} = \{ 4 + 3 \} = 7$ years of weightage while determining the year of his allotment.

[4]. Consequently, the year of allotment of the undersigned who was promoted to the IAS during 1996 should have been fixed as $(1996 - 7) = 1989$.

[5]. Para 2 of the communication under reference states that since the last SCS promoted to the IAS on the basis of the 1994 Select List, namely Smti. C. Lamin has been assigned 1989 as her year of allotment, none of the Officers promoted on the basis of the 1995 Select List can be given a year of Allotment earlier than 1989.

[6]. In the emerging premises, the undersigned should rightly have been assigned 1989 as his Year of Allotment, with the benefit of similar Year of Allotment namely 1989 being extended to Shri Mickey Diengdoh and Shri W. S. Mawlong both of whom were senior to the undersigned in the 1995 Select List. In doing so, Shri Mickey Diengdoh, Shri W. S. Mawlong and the undersigned could have been placed in the same order immediately below Smti G. Lamin (SCS : 1989) and above Shri Paramesh Dutta (Non - SCS : 1989). While such action would not have caused any adverse effect on the career prospects of any of the SCS Officers of the State, it would have ensured fairness and justice to your humble petitioner.

[7]. However, para 3 of the communication under reference states that the year of allotment of the undersigned has been fixed as 1990 on the basis of the provision to Rule 3(3) (ii). This decision in effect, deprives the undersigned of one year's weightage,

for reasons well beyond his control, and negates the benefit of weightage guaranteed by Rule 3(3) (i) and (ii) of the Rules aforesaid.

[8]. That the undersigned has accordingly been deeply aggrieved by the decision contained in your communication under reference as it will adversely affect his service interests both financially and in terms of career prospects. Every subsequent promotion to higher scale(s) of the IAS will get delayed at every stage. It will also affect his post-retirement and pensionary benefits.

In the circumstances, the undersigned prays most fervently that the relevant records may kindly be called for your gracious honour's kind consideration and sympathetic orders granting 'weightage' admissible to the undersigned in terms of Rule 3(3) (i) and (ii) of the Rules aforesaid, and assigning his Year of Allotment as 1989 with consequential placement, instead of 1990.

For such gracious act of kindness, justice and equity, the undersigned shall ever pray.

Yours faithfully

(ARINDAM SOM)

Attested.

P. K. Singh
Adm. Secy.
14/5/2001

Government of India
Ministry of Personnel, P.G. & Pension
Department of Personnel & Training
North Block, New Delhi

70 Aug 1999

GOVT. OF MEGHALAYA

10 AUG 1999

F. No. 14014/37/97-AIS(I)

Dated, the 12th August, 1999.

To The Chief Secretary,
Government of Meghalaya,
Personnel & A.R.(A) Department,
SHILLONG.

(Kind Attn: Shri G.W.Syngai, Under Secretary)

Subject:- Fixation of seniority of officers appointed to the IAS by promotion.

Sir,

I am directed to refer to the State Government letter No. PER.197/IAS/AS/186 dated 7.7.1999 on the above subject forwarding a copy of representation dated 6.5.1999 submitted by Shri A. Som, IAS (SCS:1990) and to say as follows.

2. It is observed that Shri Som has submitted that he is entitled to 7 years weightage on the basis of service rendered by him in the State Civil Service and thus entitled to the year of allotment of 1989. It is, however, seen that the seniors to Shri Som in the 1994-95 select list for Meghalaya, S/Shri Mickey Diengdoh and W.S. Mawlong were entitled for 6 years weightage on the basis of service rendered by them in the State Civil Service and thus eligible for year of allotment of 1990 only. Having been placed junior to the two officers in the Select List, Shri Som cannot be granted year of allotment earlier than the year of allotment of 1990 assigned to the two senior Select List officers in view of the statutory provisions contained in the proviso to Rule 3(3)(ii) of the IAS (Regulation of Seniority) Rules, 1987, that was upheld by the Hon'ble Supreme Court in IAS (SCS) Assn. VS. UOI [1993 SCC (L&S) 252].

3. In the circumstances, it is regretted that the prayer of the officer cannot be accepted in terms of the statutory rules and regulations and settled case law in this regard.

Yours faithfully,

R. Vaidyanathan

R. VAIDYANATHAN

Under Secretary to the Government of India

Agreed
P. G. Argy
14-5-2001

(PUBLISHED IN PART II, SECTION-3, SUB-SECTION (1) OF THE GAZETTE OF INDIA - EXTRA ORDINARY DT. 31.12.1997)

F.No.14015/54/96-AIS(I)-A

Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi, the 31st December, 1997.

Notification

G.S.R. 736 (E). - In exercise of the powers conferred by section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments concerned and the Union Public Service Commission hereby makes the following rules further to amend the Indian Administrative Service (Regulation of Seniority) Rules, 1987, namely:-

1. (1) These rules may be called the Indian Administrative Service (Regulation of Seniority) Amendment Rules, 1997.

(2) They shall come into force on the first day of January, 1998.

2. In the Indian Administrative Service (Regulation of Seniority) Rules, 1987 (hereinafter referred to as the principal rules), in rule 3, in sub-rule (3), for clauses (ii) and (iii), the following clauses shall be substituted, namely:-

[(ii) The year of allotment of a promotee officer shall be determined with reference to the year in which the meeting of the Committee to make selection, to prepare the select list on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in the State Civil Service not below the rank of a Deputy Collector or equivalent, up to the 31st day of December of the year immediately before the year in which meeting of the Committee to make selection was held to prepare the select list on the basis of which he was appointed to the Service, in the following manner:-

(a) for the service rendered by him upto twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years;

(b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation: For the purpose of calculation of the weightage under this clause, the fractions, if any, are to be ignored:

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list;

1999
Meeting held

Adm.
P.H.M.
12.5.2001

(iii) the year of allotment of an officer appointed by selection shall be determined with reference to the year in which the meeting of the Committee to make the selection to prepare the select list, on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in a post equivalent to the post of Deputy Collector or a higher post, upto the 31st day of December of the year immediately before the year in which the meeting of the Committee to make the selection was held to prepare the select list on the basis of which he was appointed to the service, in the following manner:-

(a) for the service rendered by him upto twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years;

(b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation: For the purpose of calculation of the weightage under this clause, the fractions if any, shall be ignored;

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the Service on the basis of an earlier select list;

Provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the recruitment rules, whose length of Class I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the State.

Explanation:- The length of the relevant Class I continuous service in either case shall be with reference to the 31st day of December of the year immediately before the year in which the meeting of the Committee to make selection was held to prepare the select list on the basis of which appointments were made in the respective cases.

(ARVIND VARMA)
Secretary to the Government of India.
(No:14015/54/96-AIS(I)-A)

Foot-Note:- The principal rules were notified vide NOTification No. 14014/76/84-AIS(I) dated

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(4.5.2001)

268

6.11.1987 and amended vide Notification No.
14014/17/86-AIS(I) dated 18.1.1988 and
14014/107/87-AIS(I) dated 3.2.1989.

R. Vaidyanathan

(R. VAIDYANATHAN)
Desk Officer

To The Manager,
Government of India Press,
Mayapuri, Ring Road,
New Delhi.

E.No.14015/54/96-AIS(I)-A

Dated the 1st January, 1998.

Copy forwarded for information to:

1. The Chief Secretaries of all the State Governments.
2. The Secretary, Union Public Service Commission, New Delhi with 25 spare copies.
3. Lok Sabha Secretariat (Committee Branch).
4. Rajya Sabha Secretariat (Committee Branch).
5. The Comptroller & Auditor General of India, New Delhi.
6. Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, New Delhi (IFS Division) with 5 spare copies.

R. Vaidyanathan

(R. VAIDYANATHAN)
Desk Officer

AIS(III)/AIS(II) Sections with 10 spare copies.

250 spare copies.

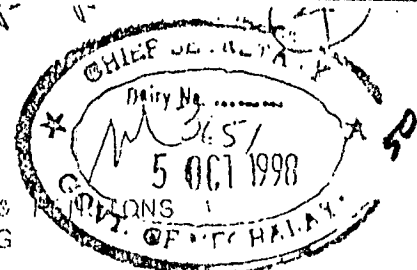
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A. V. Ag.
14.5.2001

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F.No. 14014/35/98-AIS(I)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING



ANNEXURE "F"

New Delhi, the 18th Sept., 1998.

To

The Chief Secretary,
Government of Meghalaya,
SHILLONG.

18 SEP

Sub:-IAS- Fixation of Seniority - SCS Officers appointed on the basis of UPSC approved Select List.

Sir,

I am directed to say that 3 SCS officers of Assam-Meghalaya Cadre have been appointed to IAS on the basis of the Select List approved by the UPSC. Their names, dates of appointment to IAS, completed years of SCS which is reckonable for purposes of fixation of Year of Allotment are given below:-

S.No.in the order of Select List	Names	Dt.of appoint-ment to IAS	Completed yrs of SCS services in the post of Dy. Collect.or equi-valent
S/Shri			
1.	Donkupan Dkhar	31.03.1998	21
2.	B. Purkayastha	31.03.1998	21
3.	Smt. D. Marak	31.03.1998	21

2. The question of fixation of their Year of Allotment in accordance with the Rule 3(3)(ii) of the IAS (Regulation of Seniority) rules, 1987 as amended by Notification No.14015/54/96 - AIS(I) -A dated 31.12.97, has been considered. In accordance with the rules the completed years of service have been reckoned with reference to 31st December 1996, i.e. the year preceeding the year in which the Selection Committee met (1997) and approved the Select List in which S/Shri Donkupan Dkhar, B. Purkayastha and Smt. D. Marak's name occurs at Sl.no.1, 2 & 3. In terms of the new rules, weightage to the extent of 7 years is allowed for 21 completed years of SCS service. Thus, a total weightage of 7 years is allowed to S/Shri Donkupan Dkhar, B. Purkayastha and Smt. D. Marak in the fixation of their seniority. This weightage is to be reckoned against the Year in which the Selection Committee met, i.e. 1997 in the instant case. Thus the Year of Allotment of the officer assignable by weightage after giving a weightage of 7 years is, 1990. The last SCS officer of the Meghalaya segment who was appointed to IAS, Shri Arindam Som has been assigned 1990 as his Year of Allotment and therefore, the Year of Allotment of S/Shri Donkupan Dkhar, B. Purkayastha and Smt. D. Marak is 1990.

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6.11.98

3. For purposes of inter-se seniority in the Assam-Meghalaya Joint Cadre, all these officers will be placed in the same order below Shri Lall Chand Singhi, IAS (SCS:1990).

Yours faithfully,

Shankari Murali

(Shankari Murali)
Under Secretary to the Govt. of India
T.No.301-2285

Copy to: AIS(III)/EO(PR)/RO(CM)/NIC, DOP&T/D.O.(V)/Guard File

2nd Representation

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ANNEXURE "G"

DAE. 15/95/100

Dated 9th December, 1999.

From:- SHRI A. SOM, IAS.
Additional Secy. to the Govt. of Meghalaya,
Information & Public Relations Department,
Shillong - 793 001.

To:- The Secretary to the government of India.
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi - 110 001.

(Through the Chief Secretary to the
Government of Meghalaya, Shillong.)

Sub:- Fixation of Seniority of Officers appointed
to the IAS by promotion.

Ref:- Government of India, MOP, P. G. & Pension,
Deptt. of Personnel & Training letter
F. No. 14014/37/97- AIS (1)
dt. the 12th August 1999.

Sir,

The undersigned begs to invite your kind attention to the decision on fixation of his Batch Seniority (or year of allotment) as contained in the above captioned communication-conveyed vide letter No. Per. 197/IAS/AS/296 dt. 3rd Sept. 1999 of the Personnel & AR (A) Deptt. of the Government of Meghalaya, and fervently prays that the decision conveyed may kindly be reviewed in consideration of the following :-

1. That the earlier prayer of the undersigned for fixing his allotment year in the IAS to 1989 (instead of 1990) has been turned down stating that two of his seniors (viz. Sarvashri M. Diengdoh & W.S. Mawlong promoted to IAS on the basis of Select list for 1994-95) were entitled to 6 (six) years weightage on the basis of Service rendered by them in State Civil Service hence were eligible for allotment year of 1990 only; and that as such the case of the undersigned was covered by proviso to rule 3 (3) (ii) of the AIS (Regulation of Seniority) Rules, 1987 according to which he could not be included in the allotment year 1989 and required inclusion in the allotment year 1990 only.
2. That in this connection, the undersigned begs to invite your kind attention to the case of allotment year fixed in respect of 3 (three) of his juniors (Viz. Shri D. K. Dkhar, Shri B. Purkayastha & Smti D. Marak) promoted to IAS on 31st March 1998 on the basis of 1997-98 Select list for Meghalaya. These officers have also been assigned 1990 as the year of allotment as may be observed from the notification issued by the Government of India in the Department of Personnel & Training in this regard.

contd.....2/-

AH2A
P.R.M.
A.L.M.
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All the three above named juniors of the undersigned had joined State Civil Service in appropriate rank in November 1975, and that after rendering Service as such for 22 (twenty two) years 4 (four) months were promoted to IAS on 31st March 1998. Fixation of their allotment year as 1990 shows that they were allowed weightage of 8 (eight) years in consideration of their Service of 22 years 4 months in State Civil Service, instead of the requisite period of 24 (twenty four) years. Thus they were allowed additional weightage of 1 (one) year for rendering another 1 year 4 months service in the State Civil Service besides 7 (seven) years weightage for 7 (seven) completed 3 (three) yearly periods of State Civil Service, as admissible under rule 3 (3) (ii) (a) & (b) of the Rules *ibid*.

3. That the two seniors of the undersigned named in para (1) above had also rendered service (in State Civil Service in appropriate rank) for 20 years 11 months prior to their promotion to IAS with effect from 1st October 1996 (having joined State Civil Service in November 1975).

Hence on the basis of their length of Service in State Cadre they were entitled to 6 (six) years weightage against service for 18 (eighteen) years in the State Civil Service under rule 3(3) (ii) (a) & (b) of the Rules and also on the basis of the principle followed in the case of allotment year of the three juniors of the undersigned named in para (2) hereinabove-an extra 1 year weightage for the fraction of Service of 2 years 11 months i.e. a total weightage of 7 (seven) years.

The above-named two Seniors of the undersigned, therefore, were entitled to the allotment year 1989 on the principle of equality before Law and or non-discrimination under Article 14 of the Constitution of India.

The undersigned, therefore, prays that his just prayer for allotment year 1989 based on his more than 21 years of completed Service in the State Civil Service may be allowed after allowing the same 1989 allotment year to his above-named two seniors.

For such purposes as justice and equity, the undersigned shall

4. That without prejudice to and also irrespective of above submissions on the basis of principle of equality before Law, the undersigned begs to state that the proviso to rule 3 (3) (ii) in fact and Law amounts to depriving the undersigned (and others similarly situated ones) from a part of his rightful claim to weightage (in matters of fixation of allotment year on promotion to IAS from State Civil Service) otherwise admissible under rule 3 (3) (ii) (a) & (b) of the Rules *ibid*. The provision in fact seeks to limit the principal provision of the Rules *ibid* by seeking to lower the weightage admissible under principal rules by introducing a restrictive factor which did not find any mention in the Rules *ibid*. The applicability and/or enforceability of the provision *ibid* may, therefore, kindly be considered on the basis of the law on the point of validity of a proviso as laid down by the Supreme Court of India in *Dwarka Prasad - v- Dwarka Das* (AIR 1975 SC 1758) that a proviso cannot expand or limit the principal provision of an Act or Statutory rule.

5. That the guiding policy/principle behind introducing the proviso *ibid* seems to be to protect the Seniority of an earlier promoted one to IAS over a subsequently promoted one to IAS. Here your kind attention may be invited to decision below FR 22 (c) to ensure that pay of a Senior is never less than that of a junior on fixation under Fundamental Rule 22 (c) on the juniors promotion to same post/scale subsequent to that of the Senior. In such a contingency, the provision under the rule does not provide for any lowering of the pay of the junior on such fixation. On the contrary, the provision in Fundamental Rules requires allowing full benefits of fixation of pay to a junior under FR 22 (c) on promotion even at a stage at which the Senior was

contd.....3/-

For P.
A. M.
14.5.2001

drawing his pay; and that, on fixation of pay of a junior at such stage higher than that of the senior, the pay of the senior is also raised at the same stage in the time scale at which pay of the junior is fixed. This procedure is justified and reasonable as it protects the pay of the senior being lower than that of the junior while at the same time ensures that on promotion, the junior gets the full benefit of fixation of pay under the Rules without attempting at placing any limit not found in the main Fundamental Rule 22 (c)

Likewise the seniority of a Senior over that of a Junior, on the junior's subsequent promotion to IAS, could well be protected by changing the allotment year of a Senior to that of a subsequently promoted Junior on the basis of allowing full weightage admissible to the junior under the principal provision of rules 3 (3)(ii) (a) & (b) of the Rules and not by placing a limit of doubtful legal validity of such total weightage, inconsistent with the principal provisions in the aforesaid rules.

6. That the undersigned has been deeply aggrieved by the denial of his earlier representation as conveyed by your communication under reference as it will adversely affect his service interests both financially and in terms of career prospects. Every subsequent promotion to higher scale (s) of the IAS will get delayed at every stage. It will also affect his post retirement and pensionary benefits.

In the circumstances the undersigned fervently prays that his prayer, based on the principal provision of rules 3 (3) (ii) (a) & (b) be considered favourably (i.e. to allow him 7 years weightage and fixation of his year of allotment to IAS as 1989), simultaneously changing the existing allotment year of 1990 of his two seniors (viz. Sarvashri M. Diengdoh & W.S. Mawlong) also to the year 1989 in the interest of reasonableness, law & justice.

For such gracious act of kindness, justice and equity the undersigned shall ever pray.

Yours faithfully,

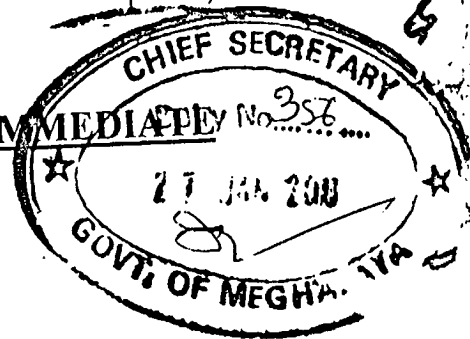
(ARINDAM SOM)

Arindam
P.K. Som
14/5/2007

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ANNEXURE - "H"

OST IMMEDIATE

Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training
North Block, New Delhi.



Dated, the 17th January, 2000

F. No. 14014/3797-AIS(I)

To

The Chief Secretary,
Government of Meghalaya,
Personnel & A.R. Department
Shillong - 793001.

(Kind Attn. Shri G.W. Syngai, Under Secretary, Personnel)

Subject: IAS - Revision of Seniority- Shri A. Som, IAS - Representation
reg. -

Sir,

I am directed to refer to the D.O. No. CS/PER/99 dated 10.12.1999 from Shri J.P. Singh, Chief Secretary, Government of Meghalaya to Shri B.B. Tandon, Secretary (Personnel) and your letter no. Per.197/IAS/AS/309 dated 10th January, 2000 regarding the representation made by Shri A. Som in the matter of his seniority in the IAS and to say as follows.

2. Shri Som, was appointed to the IAS, by promotion, on 18.12.1996. Accordingly, his seniority in the service was determined in terms of the provisions of the Rule 3 (3)(ii) of the IAS (Regulation of Seniority) Rules, 1987 as amended on 18.1.1988. He was entitled to a weightage of 7 years and assignment of 1989 as his year of allotment on the basis of service rendered by him in the State Civil Service. However, Shri Som's seniors in the 1994-95 select list for Meghalaya, S/Shri Mickey Diengdoh and W.S. Mawlong, who were appointed to the service on 1.10.1996, were entitled to only 6 years weightage on the basis of service rendered by them in the State Civil Service and thus eligible for year of allotment of 1990. This seniority assigned to his seniors in the Select List, went towards restricting the seniority assignable to Shri Som in terms of the proviso to the above rule and the representationist officer was correctly assigned 1990 as his seniority in the cadre. In the present representation, Shri Som has sought higher seniority on the grounds that three officers appointed to the cadre from a subsequent Select List from the Meghalaya segment, S/Shri D. Dkhar, P. Purkayastha and Smt. D. Marak have also been assigned 1990 as their year of allotment in the service and accordingly has claimed higher seniority for himself and his seniors.

3. The IAS (Regulation of Seniority) Rules, 1987, were further amended on 31.12.1997, on the basis of the recommendations of the Fifth Pay Commission. The 3 officers, S/Shri D. Dkhar, P. Purkayastha and Smt. D. Marak were appointed to the service on 31.3.1998, on the basis of the 1996-97 Select List. The relevant seniority rules as on their date of appointment to the IAS were the amended rules and therefore, their seniority was determined under the IAS (Regulation of Seniority) Rules, 1987 as amended on 31.12.1997. Under the amended rules, the calculation of completed number of years of service in the feeder service in respect of all officers of a Select List has been standardised and is now reckoned upto the 31st of December of the year preceding the year in which the Selection Committee has met. The year of allotment is now to be fixed with reference to the year in which the Selection Committee met, irrespective of the actual date of appointment. The assignment of 1990 as the year of allotment to his juniors does not confer any right to higher seniority on either Shri Som or his seniors.

There is also no question of determining the seniority of the representationist officer or his seniors in terms of the amended rules as Rule 3 (2) clearly states as below:

"3(2) The year of allotment of an officer in service at the commencement of these rules shall be the same as has been assigned to him or may be assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules."

3. As for the case-law cited by Shri Som (Dwarka Prasad vs. Dwarka Das- AIR 1975 SC 1758), the IAS (Regulation of Seniority) Rules, 1987, has been upheld in its entirety by the Hon'ble Supreme Court in IAS (SCS) Assn. VS. UOI [1993 SCC (L&S) 252]. As there is no merit in the representation in terms of the rules and the officer is not entitled to any relief on grounds of equity, the representation is hereby rejected.

Yours faithfully,

Shankari Murali

(SHANKARI MURALI)

Under Secretary to the Government of India

*Adm
14.5.00*

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ANNEXURE "I"

DAE 15/95/140

21st August 2000

From : Shri Arindam Som, IAS

Secretary to the Government of Meghalaya,
Information & Public Relations and Tourism Department, Shillong.

To,

The Secretary to the Government of India,
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training,
North Block, New Delhi - 110001.

(Through the Chief Secretary to the Government of Meghalaya, Shillong)

Sub : Fixation of Seniority of Officers appointed to the I.A.S. by promotion -
Revision of Seniority of Shri A. Som, IAS - Representation reg. :-

Sir,

The undersigned begs to draw your kind attention to your Department's letter F.No. 14014/37/97-AIS (I) dt the 17th January 2000 on the above subject addressed to the Chief Secretary to the Government of Meghalaya & to pray for a re-consideration of the decision contained therein in view of the following facts in the light of latest amendments to IAS (Regulation of seniority) Rules, 1987 :-

1.01.00 That, first sub-paragraph of paragraph 3 of your letter ibid stated that the assignment of 1990 as the allotment year to three juniors of the undersigned named therein was made as per IAS (Regulation of Seniority) Rules, 1987 as amended on 31.12.97. The sub-paragraph also added:-

"Under the amended rules, the calculation of completed number of years of service in the feeder service in respect of all officers of a Select List has been standardised and is now reckoned upto the 31st of December of the year preceding the year in which the Selection Committee has met. The year of allotment is now to be fixed with reference to the year in which the Selection Committee met, irrespective of actual date of appointment."

1.02.00 That the undersigned joined State Civil Service — the Feeder Service for promotion to I.A.S. — on the 24th November 1975; and that he was promoted to IAS with effect from 18-12-96 on the basis of Select List for 1994-95; and that on 31st December preceeding the meeting of the relevant Selection Committee, the undersigned had rendered 18 completed years of service in the feeder service. So, under Rule 3 (3) (ii) (a) of Indian Administrative Service (Regulation of Seniority) Rules, 1987 — as amended with effect from 1st January 1998, — the undersigned is entitled to have 6 years of weightage and hence to assignment, for the purpose of seniority, to the allotment year 1988 — as against the existing allotment year 1990, assigned on the basis of pe-amended rule 3 (3) (ii) (a) of the Rules.

1.03.00 That under amendment to rule 3 (3) (ii) (a) of the Rules ibid, as aforesaid, the allotment year of four immediate seniors of the undersigned shall be 1988 — as against their existing allotment years of 1988, 1989, 1990 & 1990 respectively, assigned on the basis of pre-amended rule 3 (3) (ii) (a) of the Rules.

(vide details at Annexure I)

1.04.00 That assigning the allotment year 1988 to the undersigned under the latest amendment to rule 3 (3) (ii) (a) of the Rules shall not attract the prohibition in proviso to amended rule 3 (3) (ii) of the Rules; for, under the rules ibid, his seniors shall also be assigned the same allotment year (i.e. year 1988) as detailed in sub-paragraph 1.3 hereinabove.

Ans.
P.M.
15.8.2000

[2]

It will, therefore, be evident that assigning the allotment year 1988 to the undersigned (with simultaneous assigning of the same year of allotment to all his seniors) shall be strictly as per rule 3 (3) (ii) (a) *ibid*, as amended with effect from 1st January 1998. Such assignment of allotment year is also required under the Rules read with unamended part or rule 3 (3) *ibid* - more particularly the words "after the commencement of these rules" (i.e. after 6th November 1987).

2.00.00 That in the second sub-paragraph of the pen-ultimate paragraph of your Department letter dated 17th January 2000, however, it has been stated :-

"There is also, no question of determining the seniority of the representationist officer or his seniors in terms of amended rules as Rule 3 (2) clearly states as below :-

"3(2) the years of allotment of an officer in service at the commencement of these rules shall be the same as has been assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules".

The aforesaid decision of your Department against determining the seniority (—more precisely in this case, the year of allotment) of the undersigned and his seniors in terms of the amended rules is unjust, discriminatory and illegal, being inconsistent with rule 3(2) of the Rules *ibid*; for :-

2.01.01 Rule 3(2) of the Rules *ibid* was/is not a part of the amendment(s) introduced with effect from 1st January 1998. The amendment *ibid* merely substituted clauses (ii) & (iii) of sub-rule (3) of rule 3 of AIS (Regulation of Seniority) Rules, 1987 (described as "The principal rules" in the amendment notified vide F. No. 14015/54/96-AIS (1) - A dated the 31st December 1997).

Hence, Rule 3 (2) of the Rules *ibid* is, in fact & law, continues to be the unamended part of AIS (Regulation of Seniority) Rules, 1987.

2.01.02 AIS (Regulation of Seniority) Rules, 1987 came into force (or "commenced" — the word which occurs in rule 3 (2) of the Rules *ibid*) with effect from 6th November 1987 under DP & T Notification No. 14014/76/84 AISI dt. 6-11-87. Rule 3(2) of the Rules *ibid* being an unamended part of AIS (Regulation of Seniority) Rules, 1987, the words (a) "at the commencement of these rules" & (b) "immediately before commencement of these rules" which occur in the rule *ibid* clearly mean and cover the date when these rules came into force (i.e 6-11-87) and the period prior to 6th November 1987 respectively (and not any period after 6th November 1987). It is apparent, therefore, that Rule 3 (2) of the Rules *ibid* debars any change in allotment year assigned to officers in service "at the commencement of these rules" (i.e. on 6th November 1987) by the Central Government "in accordance with the orders and instructions in force immediately before the commencement of these rules" (i.e. before 6th November 1987). It has no application in case of others who joined IAS after 6th Nov. 1987.

2.01.03 That the undersigned having joined the Indian Administrative Service on 18th December 1996 (i.e. long after commencement of these Rules), the provision of rule 3 (2) of the Rules *ibid* is not attracted in his case. His allotment year, therefore, requires re-fixation in the light of rule 3 (3) (ii) (a) of Rules *ibid*, as amended with effect from 1st January 1998; hence the undersigned may kindly be assigned the allotment year 1988 (vide details in the Annexure, as required under rule 3 (3) (ii) (a), as amended with effect from 1st January 1998.

2.01.04 That the provision of rule 3 (2) *ibid* is not applicable in the case of the undersigned is further confirmed by the words "in accordance with the orders and instructions in force immediately before the commencement of these rules." in rule 3 (2) *ibid* itself.

Aud-
P.K. M
14.5.2000

[3]

For, the allotment year of 1990 was assigned to the undersigned in terms of pre-amended rule 3 (3) (ii) of the IAS (Regulation of Seniority) Rules, 1987 and not in accordance with any orders & instructions in force and in fact, the Rules *ibid* is the first set of Rules framed and issued to regulate seniority of officers in IAS; and that these Rules, on its own strength, would have superseded all orders & instructions on the subject, issued prior to coming into force of the Rules *ibid* vide principle of Law laid down by the Supreme Court of India in S.L. Sachdev -Vs- Union of India (AIR 1981 S.C. 411, etc.).

Hence to protect the allotment year assigned to pre-November 1987 entrants to IAS under then operative orders and instructions (not rules which in fact was non-existent then), the protective provision in rule 3 (2) of the Rules *ibid* was necessary and introduced. This provision of rule 3 (2) of the Rules *ibid* has no application — in fact has no relevance to the aspects of determination of allotment year(s) to entrants to IAS after the Rules *ibid* came into force with effect from 6th November 1987.

- 2.02.01 Apart from the point of non-applicability of rule 3 (2) *ibid* in case of the undersigned due to restrictive scope of the rule *ibid* [i.e. limited to entrants in IAS prior to 6th Nov. 1987], this rule is not applicable in this case also because the rule is about allotment year determined in the terms of "orders and instructions in force". The rule, therefore, does not cover allotment year assigned in accordance with "rules" e.g. AIS (Regulation of Seniority) Rules, 1987.

Incidentally "orders & instructions" are different from "rules". This aspect stands detailed by the Supreme Court of India in Sukhdeo Singh-Vs- Bhagat Ram (AIR 1975 S.C. 1331, etc.)

In fact, rule 3 (2) *ibid* itself, in its language, maintained this difference vide the words "at the commencement of these rules" & "in accordance with orders & instructions in force immediately before the commencement of these rules". (underlined by the undersigned).

- 2.02.02 That the determination of allotment year in the case of the undersigned on his promotion to IAS on 18-12-96 was not made in accordance with any orders and instructions — the words which occur in rule 3 (2) of the Rules *ibid* — but in terms of rules in force then (i.e. rule 3 (3) (ii) of the Rules *ibid*).

- 2.02.03 That the protection of year of allotment, as initially assigned (or bar against change/revision/re-determination against initially assigned allotment year) in rule 3 (2) *ibid*, is specifically for such already made determination(s) in terms of "orders and instructions"; hence the same is not applicable in the case of undersigned whose allotment year as stated above, not determined in terms of any "orders and instructions" but made in terms of rules as in force then.

- 3.00.00 In the above premises, the undersigned requests your kind self to cause (1) a review of decision contained in the last sub-paragraph of pen-ultimate paragraph of your Department's letter F. No. 14014/37/97-AIS (I) dt the 17th January 2000 on the subject, (ii) re-assign the allotment year of the undersigned and his seniors to the year 1988, in accordance with rule 3 (3) (ii) (a) of All India Services (Regulation of Seniority) Rules, 1987, as amended with effect from 1st January 1998 read with rule 3 (1) of the Rules *ibid*.

For such act of kindness, justice & equity, the undersigned shall ever pray.

Yours faithfully

(ARINDAM SOM)

Secretary to the Govt. of Meghalaya,
Information and Public Relations etc.

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(4.5.2000)

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[4]
Annexure I

(Ref :- Paragraph 1.03.00 of this representation)

Position of allotment year of Shri A. Som, IAS, his four seniors and 3 juniors in accordance with rule 3(3) (ii) (a) of AIS (Regulation of Seniority) Rules, 1987, as amended with effect from 1st January 1998.

Sl. No.	Name	Date of joining Meghalaya Civil Service	Year of Relevant meeting of Selection Committee (with preceding 31st December in the bracket)	No. of Completed years of service in feeder service on preceding 31st December (with weightage admissible in bracket)	Year of allotment (or Batch Seniority)
1.	Shri L. Roy	November 1975	1993-94 (31st Dec. '92)	17 years (5 years)	1988*
2.	Smt. C. Lamin	November 1975	1994-95 (31st Dec. '93)	18 years (6 years)	1988
3.	Shri M. Diengdoh	November '75	1994-95 (31st Dec. '93)	18 years (6 years)	1988
4.	Shri W. S. Mawlong	November '75	1994-95 (31st Dec. '93)	18 years (6 years)	1988
5.	Shri A. Som	November '75	1994-95 (31st Dec. '93)	18 years (6 years)	1988
(Representationist)					
6.	Shri D.K. Dkhar	November '75	1997-98 (31st Dec. '96)	21 years (7 years)	1990*
7.	Shri B. Purkayastha	November '75	1997-98 (31st Dec. '96)	21 years (7 years)	1990*
8.	Smti D. Marak	November '75	1997-98 (31st Dec. '96)	21 years (7 years)	1990*

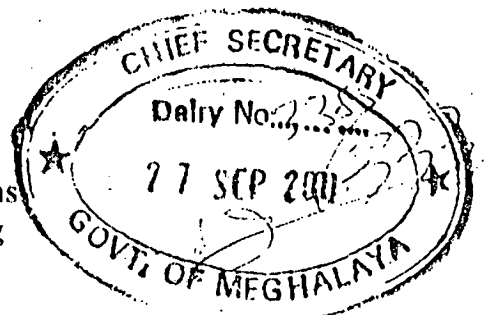
* Same as Allotment year already assigned and needs, no revision.

(A. Som)

And
A. Som
Per 5-10-2001

48-
ANNEXURE "J"

Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
North Block, New Delhi



F. No. 14014/37/97-AIS(I)

Dated, the 20th September, 2000
4/1/00

To

The Chief Secretary
Government of Meghalaya
Shillong- 793001.

21 SEP 2000

(Kind Attention: Shri G.W. Syngai, Under Secretary, Personnel)

Subject: IAS- Revision of seniority- Shri A.Som, IAS (SCS:AM:1990)- representation regarding-

Sir,

I am directed to refer to the d. o. letter No. NV-CS/Personnel-2000-44 dated 22.8.2000 from Shri JP Singh, Chief Secretary, Meghalaya addressed to Shri BB Tandon, Secretary (Personnel) forwarding the representation of Shri Arindam Som, IAS (SCS:1990) and to say as follows.

2. Shri Som was appointed to the IAS by Promotion on 18.12.1996 and was accordingly assigned 1990 as his year of allotment in the service in terms of the provisions of Rule 3 (3) (ii) of the IAS (Regulation of Seniority) Rules, 1987 as amended on 18.1.1988. The determination of seniority of officers appointed to the IAS is governed by the Seniority rules extant at the time of their appointment to the service. The officer represented against the seniority so assigned to him first in July 1999 on the grounds that his entitled seniority of 1989, based on his completed years of SCS were denied to him in contravention of the Rules. The officer was informed vide this Department's letter of even number that the rule 3(3)(ii) has to be read in its entirety along with the proviso thereunder which clearly stipulates that no officer can be assigned a seniority higher than the seniority assigned to his seniors appointed to the service from either that or the previous Select List. In the present representation, the officer has claimed that his seniority has been determined incorrectly in terms of the IAS (Regulation of Seniority) Rules, 1987, as amended on 31.12.1997. His claim for determination of seniority in terms of the Seniority Rules, as it stood after the amendment on 31.12.1997 is not tenable as the amendment came into effect only from 1.1.1998 and the officer was appointed to the IAS on 18.12.1996.

3. The position that the seniority of an officer is to be determined in terms of the Seniority Rules as they exist on the date of appointment has also been upheld by the Hon'ble Supreme Court in its judgement dated 9.1.1996 in the case of UOI vs. SS Uppal [JT 1996 (1) SC 258]. In that case, the officer had sought his seniority to be determined in terms of the Seniority Rules, 1987, prior to its amendment dated 3.2.1989. In the operative part of the Order, it is held that the question of seniority of the respondent has to be determined by the rules in force on the date of his appointment to the IAS.

4. It is therefore regretted that the request for higher seniority to Shri Arindam Som can not be acceded to as there is no basis for review of the seniority previously assigned to him. The officer may be informed accordingly.

Yours faithfully,

Shubha Thakur

(Shubha Thakur)

Under Secretary to the Government of India

Personnel

Dy. No.

Date

D.O. No.

Reforms (A)
52746
28.9.2000
AS

ANNEXURE "K"

10. THE INDIAN ADMINISTRATIVE SERVICE (REGULATION OF SENIORITY) RULES, 1987

1.1 Short title and commencement.— 1(1) These rules may be called the Indian Administrative Service (Regulation of Seniority) Rules, 1987.

(2) They shall come into force on the date of their publication in the official gazette.

1.2. Definitions.— In these rules, unless the context otherwise requires,—

2 (a) 'Cadre' means the Indian Administrative Service Cadre constituted in accordance with rule 3 of the Cadre Rules;

2 (b) 'Cadre Rules' means the Indian Administrative Service (Cadre) Rules, 1954;

2 (c) 'Cadre Schedule' means the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955;

2 (d) 'Commission' means the Union Public Service Commission;

2 (e) 'competitive examination' means the examination referred to in rule 7 of the Recruitment Rules;

2 (f) 'direct recruit officer' means an officer appointed to the service through a competitive examination in accordance with rule 7 of the Recruitment Rules;

2 (g) 'gradation list' means the gradation list prepared under rule 5 of these rules;

2 (h) 'officer' means a member of the Service;

2 (i) 'officer appointed by selection' means an officer appointed to the service in accordance with the provisions of the Indian Administrative Service (Appointment by Selection) Regulations, 1956;

2 (j) 'promotee officer' means an officer appointed to the service in accordance with the provisions of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955;

2 (k) 'Recruitment Rules' means the Indian Administrative Service (Recruitment) Rules, 1954; Regulations, 1955;

2 (l) 'Select List' means the Select List prepared in accordance with the Indian Administrative Service (Appointment by Promotion) Regulations, 1955;

2 (m) 'senior post' means a post included and specified under item I of the Cadre of each State in the Cadre Schedule, and when held on

the senior scale of pay of the Service by a direct recruit officer, means a post specified under items 1, 2 and 5 of the said Schedule and also a post temporarily added to the Cadre under the second proviso to sub-rule (2) of rule 4 of the Cadre Rules;

2 (n) 'Service' means the Indian Administrative Service;

2 (o) 'State Cadre' and 'Joint Cadre' have the meanings respectively assigned to them in the Cadre rules;

2 (p) 'State Deputation Reserve' means a deputation reserve specified in item 5 of each State in the Cadre Schedule;

2 (q) 'State Government concerned', in relation to a Joint cadre, means the Joint cadre Authority.

1.3. Assignment of year of allotment.— 3(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in these rules.

3(2) The year of allotment of an officer in service at the commencement of these rules shall be the same as has been assigned to him or may be assigned to him by the Central Government in accordance with the orders and instructions in force immediately before the commencement of these rules.

3(3) The year of allotment of an officer appointed to the Service after the commencement of these rules shall be as follows:—

3(3)(i) the year of allotment of a direct recruit officer shall be the year following the year in which the competitive examination was held;

Provided that if a direct recruit officer is permitted to join probationary training under rule 5 (1) of the IAS (Probation) Rules, 1954, with direct recruit officers of a subsequent year of allotment, then he shall be assigned that subsequent year as the year of allotment.

3(3)(ii) The year of allotment of a promotee officer shall be determined in the following manner:—

(a) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy collector or equivalent, he shall be given a weightage of four year towards fixation of the year allotment;

¹Substituted vide DP&T Notification No. 14014/76-84 AISI dated 6-11-1987

²Substituted vide DP&T Notification No. 14014/77-87 AISI dated 3-2-1989

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(b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in sub-clause (a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored.

(c) The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service:

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier Select List.

33(3)(iii) The year of allotment of an officer appointed by selection shall be determined in the following manner:—

(a) for the first 12 years of gazetted service, he shall be given a weightage of 4 year towards fixation of the year of allotment;

(b) he shall also be given a weightage of one year for every completed 3 years of service beyond the period of 12 years, referred to in sub-clause (a), subject to a maximum weightage of 5 years. In this calculation, fractions are to be ignored;

(c) the weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service:

Provided that he shall not become senior to another non State Civil Service officer already appointed to the service.

Provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the Recruitment Rules, whose length of class I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the State.

4. Inter-se seniority of the officer who are assigned the same year of allotment.— The inter-se seniority of the officers appointed to the Service shall be in the following order and in each category the inter-se seniority shall be determined in the following manner:—

(i) direct recruit officers shall be ranked inter-se in the order of merit as determined in accordance with rule 10 of the Indian Administrative Service (Probation) Rules, 1954;

(ii) promotee officers shall be ranked inter-se in the order of their dates of appointment to the Service:—

Provided that is the date of appointment of more than one officer is the same, their inter-se seniority shall be in the order in which their names are arranged in the Select List on the date of appointment to the Service;

(iii) officers appointed by selection shall be ranked inter-se in the order in which their names are arranged by the Commission for the purpose of appointment to their Service by selection.

5. Gradation List.— There shall be prepared every year for each State Cadre and Joint Cadre a gradation list consisting of the names of all officers borne on that cadre arranged in order of seniority.

6. Fixation of the seniority of officers transferred to another cadre.—6(1) If a direct recruit officer is transferred from one cadre to another in public interest, his year of allotment shall remain unchanged and his inter-se position among the direct recruits having the same year of allotment in the cadre to which he is transferred shall remain the same as determined in accordance with rule 10 of the Indian Administrative Service (Probation) Rule, 1954.

6. (2) If a promotee officer or officer appointed by selection is transferred from one cadre to another in public interest, his year of allotment shall remain unchanged and he shall be ranked inter-se with promotee officers or officers appointed by selection, as the case may be having the same year of allotment in the cadre to which he is transferred with reference to the date on the basis of which he was assigned the year of allotment under these rules.

6. (3) If an officer is transferred from one cadre to another at his request he shall be assigned a position in the gradation list of the cadre to which he is transferred below all the officers of his category borne on that cadre who have the same year of allotment:

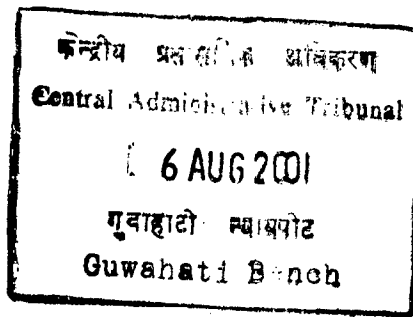
Provided that in the case of a direct recruit officer transferred from one cadre to another at his request, his seniority in the list prepared under rule 10 of the Indian Administrative Service (Probation) Rules, 1954 shall remain unaffected for the purposes of the said list.

7. Seniority of officers appointed under sub-rule (3) of rule 4 of the Indian Administrative Service (Recruitment) Rules, 1954.—Notwithstanding anything contained in any of the provisions of these rules, the seniority of officers appointed to the

[Amended vide DP&T Notification No. 14014/17-86 AISI dated 15-1-88]

2. Amended vide DP&T Notification No 14014/17-86 AISI (I)-A dated 31-12-97 (effective from 1st January 1998)

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14/5/01



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

O.A No. 188 OF 2001

Arindam Som, IAS

.....Applicant

-Versus-

Union of India & others

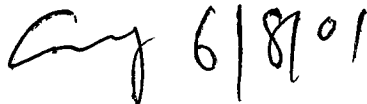
.....Respondents.

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Through :


(Arunesh Deb Ray)
Advocate
Senior Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench: Guwahati.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

O.A. NO. 188/2001

BETWEEN :

Shri Arindam Som

APPLICANT

AND :

Union of India & anr.

RESPONDENT

REPLY FILED ON BEHALF OF THE FIRST RESPONDENT UNDER
RULE 12 OF THE CAT (PROCEDURE) RULES 1987.

Most Respectfully Sheweth.-

I, K.S. Achar, aged about 51 years, working as Under Secretary to the Government of India in the Department of Personnel and Training (Ministry of Personnel, Grievances and Pensions), North Block, New Delhi-110001, do hereby state as follows.

2. That I am conversant with the facts of the case as borne from the official records pertaining to the matter and am competent to file this reply.

3. That I have read the copy of the Application filed by the applicant herein and have understood the contents thereof. I beg to state that all the contentions made therein, unless those which are expressly and specifically admitted, are hereby denied.

4. That I further submit that the application is devoid of any merit or substance for which reason this deserves to be rejected outright by the Hon'ble Tribunal.

5. That before replying parawise to the averments made in the application, I crave leave of this Hon'ble Tribunal to make the following preliminary submissions pertaining to the factual position relevant to the case.

BACKGROUND NOTE

6. That the applicant was a member of the State Civil Service of Meghalaya. In terms of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955 (hereinafter referred to as 'the Promotion Regulations'), the applicant was eligible to be considered for promotion to the

(के. एस. अचार)
(K. S. ACHAR)

अवर सचिव
Under Secretary

व्यक्ति, लोक सेवा
Personnel, Govt of India

Min. of Personnel & Pensions
Govt of India

अवर सचिव
Under Secretary

Assam-Meghalaya Joint cadre of the Indian Administrative Service, subject to his fulfilling the requisite conditions prescribed.

7. That the applicant was considered for promotion to the Indian Administrative Service, at a meeting of the Selection Committee constituted in terms of the provisions of the Promotion Regulations and was included in a Select List drawn up and approved by the Union Public Service Commission. The applicant was placed at Sl. No. 3 in the said Select List. While officers at Sl. No. 1 & 2 in the aforesaid Select List were promoted to the IAS w.e.f. 1.10.1996, the applicant was promoted w.e.f. 18.12.96 vide notification at Annexure 'A' to the application.

8. That on his promotion to the Indian Administrative Service, the applicant's seniority was to be determined by fixation of an Year of Allotment (hereinafter referred to as 'YOA'), in terms of the Indian Administrative Service (Regulation of Seniority) Rules, (hereinafter referred to as 'the Seniority Rules of 1987') (at Annexure 'K' to the application). In terms of the Seniority Rules of 1987, the provisions which governed the assignment of YOA of the applicant herein stood as under :-

"3. Assignment of Year of Allotment

3(1)	XXXX	XXXX	XXXX
3(2)	XXXX	XXXX	XXXX
3(i)	XXXX	XXXX	XXXX

3(ii) The year of allotment of a promotee officer shall be determined in the following manner :-

(a) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy collector or equivalent, he shall be given a weightage of four year towards fixation of the year allotment;

(b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in sub-clause (a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored.

(c) The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service.

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier Select List."

The question of assignment of YOA to the applicant was considered in terms of the above provisions of the Seniority Rules of 1987. It was observed that in the computation of the YOA, the completed years of service of the officers

Min. of Person
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in the State Civil Service, up to the date of their appointment by promotion to the India Administrative Service, was to be taken into account. The position in this behalf, obtaining in respect of the 3 officers including the applicant, as relevant to the proposal for determination of YOA was as under :-

Sl. No.	Name S/Shri	Date of appt. To IAS	To SCS	Completed Years in SCS	Weightage admissible	Year of Allotment Eligible/To be assigned	
1.	M. Diengdoh	1.10.96	15.11.75	20	6	1990	1990
2.	W.S. Mawlong	1.10.96	29.11.75	20	6	1990	1990
3.	A. Som	18.12.96	25.11.75	21	7	1989	1990

9. That in terms of the above provisions the YOA of the applicant was determined as 1990 by restriction to that of his seniors appointed to the Indian Administrative Service from the same Select List and the applicant together with the two officers higher to him in the Select List were placed in that year below the officers promoted earlier to the Indian Administrative Service.

10. That the applicant has raised the following main contentions in support of his plea for being assigned 1988, instead of 1989 as the YOA :-

1. that the provisions of the Seniority Rules as amended by Govt. of India notification dt. 31.12.97, to take effect from 1.1.1998 (hereinafter referred to as the Amendments of 1998), should apply to determination of his YOA;
2. that officers promoted to the Indian Administrative Service from the Meghalaya State Civil Service much later than the applicant were also assigned 1990 as their YOA after being allowed the benefit of being covered by the provisions in the Amendments of 1998 and, therefore, the applicant himself should not be denied the benefit;
3. that the applicant's YOA should not be restricted to that assigned to officers senior to him in the Select List in which he was placed at Sl. No. 3.

11. That the applicant had submitted representations to the answering respondent which were duly considered and replied to. The applicant has referred to his representations and the replies there to, in the present application. The answering respondent begs to place the factual position in this behalf as under, ad-seriatum :-

(के. एस. आचार)
(K. S. ACHAR)

अवर सचिव
Under Secretary

कारिक, लोक निर्माण विभाग

पे.

Min. of Personnel, P. & Pensions

भारत सरकार
Govt. of India

That it has been settled by the Hon'ble Supreme Court of India in their judgement in case titled Union of India Vs S.S. Uppal JT.1996 (1) Supreme

Court 258 that the seniority of an officer is to be determined in terms of the Seniority Rules as they exist on the date of the concerned officer's appointment to the Service.

On 18.12.1996 when the applicant was appointed to the Indian Administrative Service, the Rules existing were the 'Seniority Rules of 1987';

ii. the officers from the subsequent Select List were appointed by promotion to the Indian Administrative Service w.e.f. 31.3.1998. In terms of the Amendments of 1998 which had by then come into operation, the YOA of the officers was determined as 1990. In so far as these officers have been placed below him, the applicant can have no grievance against the seniority assigned to these officers.

iii. The veracity of restriction of an officer's YOA and thereby his seniority to that of an officer either from an earlier Select List or from the same Select List, but senior to the officer concerned, as contained in the proviso to rule 3(3)(ii) of the Seniority Rules has been upheld by the Hon'ble Supreme Court of India in case titled IAS (SCS) Association Vs UOI 1993 S.C.S (252)

PRELIMINARY OBJECTIONS :

12. That before adverting further to the present application parawise the answering respondent begs to state that the application is not maintainable for the following reasons among others viz.,

i) That the applicant first preferred a representation dated 6.5.1999, (Annexure 'C' to the application) which was replied to by the answering respondent by their letter dated 12.8.1999 (Annexure 'D' to the application).

In terms of the provisions of Section 21 of the Administrative Tribunal Act, 1985, for filing the present application, a time limit of one year from the date of the communication at Annexure 'D' applied. The present application has been filed in May, 2001 and is, therefore, barred under Section 21 of Administrative Tribunals Act, 1985.

In support of the contention that subsequent representations and replies thereto cannot have the effect of extension of the time period for filing the application, the respondents beg to make verbal submissions before the Hon'ble Tribunal,

ii) That the prayer of the applicant for revision of his YOA upward from 1990 to 1988 affects a number of directly recruited and also promoted Indian Administrative Service officers borne on the Assam-Meghalaya Joint cadre of

W.D. Choudhary

(के. एस. आचार्य)

(K. S. Acharya)

अवर सचिव

Under Secretary

आचार्य, जो न. १५

पे.

Min. of Personnel & Pensions

भारत सरकार

Govt. of India

the Indian Administrative Service. The application is, therefore bad on account of non-joinder of necessary parties to the petition.

PARAWISE REPLIES

13. That the averments in paragraph 1 require no comments.

14. That in so far as array of respondents in paragraph 2 impleaded is concerned, the present application suffers from non-joinder of necessary parties. A large number of officers borne on the Assam-Meghalaya Cadre of the Indian Administrative Service will be effected in case the prayer of he applicant for revision of his YOA is agreed to. Since they have not been impleaded, the application suffers from non-joinder of necessary parties.

15. That the applicant's plea in paragraph 3 that the present application is directed against the communication dt. 20/21.9.2000 is an attempt at misleading the Hon'ble Tribunal. The application is in fact directed against order dt. 19.9.1997, which is at Annexure 'B' to the application. The first representation which was filed by the applicant on 6.5.1999 (Annexure 'C') more than 1.1/2 ✓ years after the impugned orders were issued by the answering respondent, was rejected by communication dt. 12.8.1999 (Annexure 'D'). The applicant has sought to misrepresent that he is approaching the Hon'ble Tribunal for relief qua the communication dated 20.9.2000 only, in an attempt to get over the unpardonable laches and delay.

16. That the averments in paragraph 4 of the application are not denied.

17. That the statement made in paragraph 5 that the present application is within the period of limitation is false and incorrect. It is submitted that the application is barred by limitation and is liable to be dismissed in-limni on this ground alone.

18. That in reply to the averments in paragraph 6.1 it is admitted that the applicant is an officer promoted from the Meghalaya Civil Service to the Indian Administrative Service.

(के. एस. अचरि)

(K. S. ACHARI)

अवर

Under Secy

जायिक, २००१

पे.

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Govt. of India

That in reply to the averments in paragraph 6.2 relating to the applicant's service in the Meghalaya Civil Service it is submitted that these concern respondent No. 2 who will also meet the averments relating to the present pay scale of the applicant.

20. That it is submitted in reply to paragraph 6.3 that the contentions as to the recognition granted to the Meghalaya State Civil Service as a feeder for appointment by promotion to the Indian administrative Service will be met by respondent No. 2. In relation to the allegation of delay in consideration of the applicant for promotion to the Indian Administrative Service, it is submitted that the same is not tenable at this stage as the allegations of inaction pertain to the year 1985. The applicant is also to give proof of his having timely exhausted the administrative channels of remedy in relation to this grievance.

21. That it is admitted in reply to paragraph 6.4 of the application that the applicant was considered by a Selection Committee to consider the promotion of officers of the Meghalaya Civil Service for promotion to the IAS, which met on 11.3.96. The Selection Committee prepared a list in which the name of the applicant was included at Sl. No. 3. This list was approved by the Union Public Service Commission.

22. That the averments in paragraph 6.5 are not denied.

23. That in reply to the averment in paragraph 6.6 the contents of the order at Annexure 'B' to the application are admitted.

24. That the allegation of the applicant in the averments in paragraph 6.7 that there has been misreading or misinterpretation of the relevant provisions of the Rules is unfounded. At the point of time of appointment of the applicant to the Indian Administrative Service the Seniority Rules of 1987 were in force, in terms of which the service rendered in the State Civil Service was to be reckoned till the date of appointment of the officer to the Indian Administrative Service.

Further the assignment of YOA is subject to the restrictions in terms of the proviso under rule 3(3)(ii) of the Seniority Rules of 1987. The receipt of the representation at Annexure 'C' to the application is not denied.

That in reply to the averments in paragraph 6.8 of the application, it is submitted that the facts relevant to determination of YOA of the 2 officers senior to the applicant in the Select List are as under :-

Sl. No.	Name S/Shri	Date of appt. To IAS To SCS	Completed Years in SCS	Weightage admissible	Year of Allotment Eligible/To be assigned
1.	M. Diengdoh	1.10.96 15.11.75	20	6	1990 1990
2.	W.S. Mawlong	1.10.96 29.11.75	20	6	1990 1990

26. That the above table would amply demonstrate that the fixation of seniority and YOA of the two officers senior to him in the Select list is correct. In terms of the provisions of the Seniority Rules of 1987, the YOA of the applicant is to be restricted.

27. That the averment in paragraph 6.9 seek to reproduce the contents of a notification published in the Gazette of India vide GSR 736 (E), altering the provisions of the Seniority Rules of 1987 and introducing the Amendments of 1998. Save what is contained in the text of the notification nothing is admitted as correct.

28. That in reply to paragraph 6 of the applicant it is correct that the 3 officers mentioned therein were promoted to the Indian Administrative Service w.e.f. 31.3.98.

29. That the averments in paragraph 6.10 concern the respondent No. 2.

30. That in reply to the averments in paragraph 6.11 it is submitted that Amendments of 1998 took effect only from 1.1.98 and the provisions became applicable only to such officers as are appointed to the IAS on 1.1.98 or thereafter. It is submitted that this contention of this humble answering respondent derives from the judgment of the Hon'ble Supreme Court of India on 9.1.96 in case titled UOI Vs S.S. Uppal : (JT1996(1)Supreme Court-258).

31. That in reply to paragraph 6.12 of the application, nothing is admitted except what is contained in the order at Annexure 'F' to the application.

32. That in reply to paragraph 6.13, it is denied that any additional weightage was allowed to the 3 officers whose names figure in the Order at Annexure 'F'.

It is submitted that only 7 years' weightage is allowed to the officers but in computing the weightage reference has been drawn to the year of meeting of the Selection Committee in accordance with the provisions in the Amendments of 1998.

33. That in reply to the averments in paragraph 6.14, it is submitted that the contents of the representation dated 9.12.99 and the reply thereto dated 18.1.2000 are matters of record. It is submitted further that the fixation of YOA of S/Shri D. Dkhar, B. Purkayastha and Smt. Marak cannot give cause of action to the applicant, in so far as these officers have not been assigned seniority above the applicant himself.

Handwritten signature: M. S. Acharya
 (M. S. ACHARYA)
 Under Secretary
 to the Government of India
 Ministry of Personnel, Public Relations & Pension
 Govt. of India

34. That the allegations in paragraph 6.15 against the answering respondents that there has been no application of mind are denied. The contention that officers senior to the applicant were entitled to higher 'YOA' than as actually been assigned to them cannot be raised by them to applicant for reasons of locus-standi. That the contents of the representation dated 21.8.2000 are a matter of record.

35. That the contents of the communication dated 21.9.2000 referred to in paragraph 6.16 from the Union of India are a matter of record.

36. That it is submitted with reference to the averments in paragraphs 6.17, 6.18 and 6.19 that the amendments to the Seniority Rules of 1987 notified on 31.12.1997 took effect only from 1.1.98. These provisions are not applicable to officers appointed to the service prior to 1.1.98. The vires of this contention have been upheld in the judgment of the Hon'ble Supreme Court of India in the case of S.S. Uppal.

37. That it is submitted that the statement in paragraph 6.20 is one of fact which requires no comments.

38. That the contention of the applicant in paragraph 6.21 is denied in so far as it is patently in-correct on his part to suggest that no officer would be effected in case the applicant's prayer for revision of his YOA is accepted. It is also not correct that all promotion to the various grades/scales in the Indian Administrative Service are time bound. The contention of the applicant that the respondents have rejected the applicant's representation without application of mind is without any basis whatsoever.

REPLY TO GROUNDS

39. That in reply to the Ground adduced in paragraph 7.1, it is submitted that it is nowhere apparent from the contents of the notification dated 31.12.97 amending the Seniority Rules of 1987 that the application of the amended rule is sought to be extended retrospectively to appointees to the service from a date prior to 1.1.98. The answering respondent begs to rely upon the judgment of the Hon'ble Supreme Court of India in S.S. Uppal's case.

40. That it is submitted in reply to the Ground adduced in paragraph 7.2 that it is no where clear from the amending notification that the revised rules would apply to pre 1.1.98 appointees.

W. O. Achar
(K. S. ACHAR)
अवर सचिव
Under Secretary
जनसंख्या, लिंग व परिवार नियंत्रण विभाग
पे-१००
Min. of Personnel
भारत सरकार
Govt. of India

41. That the allegation of non application of mind or arbitrariness, in paragraph 7.3, 7.4 and 7.6 is denied.

42. That in reply to the Ground in paragraph 7.5 it is submitted that the benefit of the amendments notified on 31.12.97 is applicable only to officers appointed to the Service on or after 1.1.98. In so far as the officers referred to by the applicant herein were appointed to the Assalm-Meghalaya cadre of the Indian Administrative Service after 1.1.98 and further these officers have not been assigned seniority above the applicant and furthermore, have not been impleaded as respondents, the applicant can have no grievance against them.

43. That it is submitted that the contentions in Ground 7.7 are made without any logical basis and are unsustainable.

44. That it is submitted that the averments in paragraphs 8 and 9 require no comments.

That it is submitted that the applicant has not been able to bring forth any cogent ground or circumstance meriting intervention by this Hon'ble Tribunal.

WHEREFOR the Hon'ble Tribunal may be graciously pleased to dismiss this application with costs.

W. Acharya
for Respondent No. 1 (K. S. ACHAR)
Under Secretary

Verification :

I, K.S. Achar, Under Secretary to the Government of India in the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) do hereby verify and state that the contents of paragraph 1 to 44j of the above reply are true and correct to the best of my knowledge and belief, as derived from the official records of the case, nothing therein is false and nothing material has been concealed therefrom.

Verified at New Delhi this, the 27th day of July, 2001.

W. Acharya
For Respondent No. 1 (K. S. ACHAR)
Under Secretary

Through :

(Arunesh Deb Ray)
Advocate
Senior Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench: Guwahati.

W. Acharya
For Respondent No. 1 (K. S. ACHAR)
Under Secretary
Ministry of Personnel, Public Grievances & Pensions
Govt. of India

To

Shri P. K. Roy
Advocate

Sir,

Please find herewith a copy
of W.S. in O.A. 188/2001, which
is being filed today.

Please acknowledge receipt.

Yours Sincerely

Any 6/8/01
Sr. C. S. S. C.

Undertake to serve copy
to Shri P. K. Roy, Adv.

Any 6/8/01
Sr. C. S. S. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI.

75
File by
P. K. Nayak
Advocate
7-1-2001

O.A. No. 188 of 2001.

Sri Arindam som IAS

Applicant.

- Vs. -

Union of India & ors.

Respondents.

24.11.75 : The applicant joined the Meghalaya Civil Service (M.C.S.) as an Extra - Assistant Commissioner, through competitive examination conducted by the M.P.S.C.

1985 : The applicant was promoted to the Senior Time Scale of M.C.S.

1985 : M.C.S. was recognised by the Govt. of India as a feeder service for appointment into the IAS under IAS (Recruitment) Rules 1954.

The applicant became eligible for consideration for appointment under the IAS (Appointment by promotion) Regulation 1954. But his case was not considered.

21.12.96 : The applicant alongwith the following were considered for promotion to the IAS (Appointment by promotion) Regulation 1995 in the 1994-95 select list and were appointed on the date noted against each.

1. Sri Micky Diengdoh 1.10.96
2. Sri W.S. Mawlong 1.10.96
3. Shri A. Som (Applicant) 18.12.96

- (Annexure - A/27)

19.9.97 : The Govt. of India assigned the year of allotment of the applicant with others on the basis of completed year of services as Deputy Collector or equivalent as noted below

Name	Date of appointment.	Completed year of SCS Service.	years of allotment fixed.
1. Micky Diengdoh	1.10.96	20 years	1990
2. W.S. Mawlong	1.10.96	20 years	1990
3. A. Som	18.12.96	21 years	1990.

ANNEXURE - B /28

6.5.99 Since the applicant was aggrieved by his year of allotment 1990 , he filed an representation on 6.5.99 before the Govt. which was rejected by the Govt. of India on 12.8.99.

ANNEXURE - C, D /30 , 33

31.12.97 That the Govt. of India in the mean time amended Clause (ii) and (iii) of Sub- Rule 3 of Rule 3 of IAS (Regulation of Seniority) Rules 1987 , ~~amended~~ by the IAS(Regulation of Seniority) Amendment Rules 1997.

ANNEXURE - E/34.

31.3.98 The Selection Committee met and considered the cases of the following MCS officers who are juniors to the applicant in the 1996-97 select list and appointed on 31.3.98.

1. Sri D.K. Dkhar,
2. Shri B. Purkayastha,
3. Smt. D. Marak.

18.9.98 The above junior officers were also allotted 1990 as their year of allotment by counting 21 years of their SCS service as on 31.12.96.

... Annexure 'F' /37.

9.12.99 Since the applicant was ~~entitled~~ to get the benefit of the ~~amended~~ rule of 1997, he filed a representation before the Govt. for refixation of his year of allotment.

.. Annexure 'F' /39.

10.1.2000 The Govt. rejected the applicant's representation on the ground that the applicant is not entitled to the benefit of the amended Rule of 1997.

.. Annexure - 'H' /42.

contd..

21.8.2000 The applicant submitted another representation
21.9.2000 to cause a review of its decision . But the
same was rejected.

.. Annexure 'I' , 'J' /44,48.

CONTENSION OF THE APPLICANT

1. Rule 3(3) (3) of the IAS (Regulation of Seniority) Rules 1987 provides that the year of allotment of an officer appointed to the service after the commencement of this Rule (1987 rule) shall be ~~amended~~ as provided under sub- Rule 3(ii) of this said rule.
2. The sub Rule 3(ii) of Rule 3(3) (3) was amended and as a result of this amendment, the year of allotment of all officer appointed after the commencement of the 1987 rule ought to have been refixed. Since the applicant was appointed ~~before~~ the commencement of the 1987 Rule, his year of allotment is therefore regularised required to be refixed.
3. The Govt. did not ~~amend~~ the entire rule 3 and thereby the year of allotment of these ^{officers} appointed prior to commencement of 1987 rule as provided under Rule 3(2) of the said rule shall not change. The legislative therefore made its intension clear. *while amending the rule*

contd..

4. The position of the 1987 rule under Rule 3(3)(ii) (e) provided that "The weightage mentioned in Sub Clause (b) shall be calculated with effect from the year in which the office is appointed to the service". Which under the amendment rule of 1997 was deleted, which clearly means that irrespective of the date of appointment, this benefits of the amendment rule of 1997 shall be given to all the officers to the service after 1987 and any other interpretation to the said rule shall render the provision of Rule 3(3) of the 1987 rule surplusage or nugatory.

4. Amendment Rule of 1997 says under clause (ii) of sub-rule (3) of rule 3 "The year of allotment of a 'Promotee officer' shall be determined....." and the 'Promotee officer' as defined under Rule 2(2)(j) of the 1987 rule means an officer appointed to the service in accordance with the provision of the IAS (Appointment by provision) Regulation 1955 and the applicant being also a promotee officer as defined under the said rule, is entitled to get the said benefit.

Contention of the respondents

1. Since the applicant is appointed to the IAS after 1.1.98, he is not entitled to the benefit of the amendment rule.

2. The Supreme Court in Union of India Vs. S.S. Uppal JT 1996 (1) Supreme Court 256 has held that the

Security of the officer is to be determined in term
of the Security Rule as they exist on the date of
appointment.

.....

18. THE INDIAN ADMINISTRATIVE SERVICE (REGULATION OF SENIORITY)
RULES , 1987.

'1.1 Short title and commencement - 1(1) These rules may be called the Indian Administrative Service (Regulation of Seniority) Rules, 1987.

'(2) They shall come into force on the date of the their publication in the official gazette.

'2. Definitions . - In these rules, unless the context otherwise requires , -

2(a) 'Cadre' means the Indian Administrative Service Cadre constituted in accordance with the rule 3 of the Cadre Rules ;

2(b) 'Cadre Rules ' means the Indian Administrative Service (Cadre) Rules, 1954;

2(c) 'Cadre Schedule' means the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955;

2(d) 'Commission' means the Union Public Service Commission;

2(e) 'competitive examination' means the examination referred to in rule 7 of the Recruitment Rules ;

contd..

- 2(f) 'direct recruit officer' means an officer appointed to the service through a competitive examination in accordance with rule 7 of the Recruitment Rules ;
- 2(g) 'gradation list' means the gradation list prepared under rule 5 of these rules ;
- 2(h) 'officer' means a member of the Service ;
- 2(i) 'officer appointed by selection' means an officer appointed to the service in accordance with the provisions of the Indian Administrative Service (Appointment by Selection) Regulation, 1956;
- 2(j) 'promotee officer' means an officer appointed to the service in accordance with the provisions of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955;
- 2 (k) 'Recruitment Rules' means the Indian Administrative Service (Recruitment) Rules, 1954; Regulations, 1955;
- 2(l) 'Select List ' means the Select List prepared in accordance with the Indian Administrative Service (, Appointment by promotion) Regulations, 1955;

2(m) 'senior Post' means a post included and specified under item I of the Cadre of each State in the Cadre Schedule, and when held on the senior scale of pay of the Service by a direct recruit officer, means a post specified under items 1, 2 and 5 of the said Schedule and also a post temporarily added to the Cadre under the second proviso to sub-rule(2) of Rule 4 of the Cadre Rules ;

2(n) 'Service' means the Indian Administrative Service;

2(o) 'State Cadre' and 'Joint Cadre' have the meanings respectively assigned to them in the Cadre rules ;

2(p) 'State Deputation Reserve' means a deputation reserve specified in item 5 of each State in the Cadre Schedule ;

2(q) 'State Government concerned', in relation to a Joint cadre, means the Joint cadre Authority.

3. Assignment of year of allotment .-3(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in these rules.

3(2) The year of allotment of an officer in service at the commencement of these rules shall be the same as has been assigned to him or may be assigned to him by the Central Government in accordance

with the orders and instructions in force immediately before the commencement of these rules.

3(3)(i) the year of allotment of a direct recruit officer shall be the year following the year in which the competitive examination was held;

Provided that if a direct recruit officer is permitted to join probationary training under rule 5(1) of the IAS (Probation) Rules, 1954; with direct recruit officers of a subsequent year of allotment, then he shall be assigned that subsequent year as the year of allotment.

²3(ii) The year of allotment of a promotee officer shall be determined in the following manner :-

(a) For the service rendered by him in the State Civil Service upto twelve years, in the rank not below that of a Deputy Collector or equivalent, he shall be given a weightage of four year towards fixation of the year allotment ;

(b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in sub-clause(a), subject to a maximum weightage of five years. In this calculation, fractions are to be ignored.

- (c) The weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service;

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier Select list.

- 3(3) (iii) The year of allotment of an officer appointed by selection shall be determined in the following manner :-

- (a) for the first 12 years of gazetted service, he shall be given a weightage of 4 years towards fixation of the year of allotment ;
- (b) he shall also be given a weightage of one year for every completed 3 years of service beyond the period of 12 years, referred to in subclause (a), subject to a maximum weightage of 5 years, In this calculation, fractions are to be ignored;
- (c) the weightage mentioned in sub-clause (b) shall be calculated with effect from the year in which the officer is appointed to the service ;

Provided that he shall not become senior to another non State Civil Service officer already appointed to the service.

Provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the Recruitment Rules, whose length of class I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the State.

4. Inter-se seniority of the officer who are assigned the same year of allotment. - The inter-se-seniority of the officers appointed to the Service shall be in the following order and in each category the inter-se seniority shall be determined in the following manner:-

(i) direct recruit officers shall be ranked inter-se in the order of merit as determined in accordance with rule 10 of the Indian Administrative Service (Probation) Rules, 1954;

(ii) promotee officers shall be ranked inter-se in the order of their dates of appointment to the Service.

contd..

Provided that if the date of appointment of more than one officer is the same, their inter-se seniority shall be in the order in which their names are arranged in the Select List on the date of appointment to the Service ;

(iii) officers appointed by selection shall be ranked inter-se in the order in which their names are arranged by the Commission for the purpose of appointment to the service by Selection.

5. Gradation List.- There shall be prepared every year for each State Cadre and Joint Cadre a gradation list consisting of the names of all officers borne on that cadre arranged in order of seniority.

6. Fixation of the seniority of officers transferred to another cadre . - 6(1) If a direct recruit officer is transferred from one cadre to another in public interest, his year of allotment shall remain unchanged and his inter-se position among the direct recruits having the same year of allotment in the cadre to which he is transferred shall remain the same as determined in accordance with rule 10 of the Indian Administrative Service (Probation) Rule, 1954.

contd..

6.(2) If a promotee officer or officer appointed by selection is transferred from one cadre to another in public interest, his year of allotment shall remain unchanged and he shall be ranked inter-se with promotee officers or officers appointed by selection, as the case may be having the same year of allotment in the cadre to which he is transferred with reference to the date on the basis of which he was assigned the year of allotment under these rules.

6(3) If an officer is transferred from one cadre to another at his request he shall be assigned a position in the gradation list of the cadre to which he is transferred below all the officers of his category borne on that cadre who have the same year of allotment ;

Provided that in the case of a direct recruit officer transferred from one cadre to another at his request, his seniority in the list prepared under rule 10 of the Indian Administrative Service (Probation) Rules, 1954 shall remain unaffected for the purposes of the said list.

7. Seniority of officers appointed under sub - rule (3) of rule 4 of the Indian Administrative Service (Recruitment) Rules, 1954 . - Notwithstanding anything contained in any of the provisions of these rules, the seniority of officers appointed to the

service in accordance with the provisions of Sub-rule (3) of rule 4 of the Indian Administration Service (Recruitment) Rules, 1954 shall be determined in accordance with such principles as the central Government may after consultation with the State Governments and the Commission, from time to time, determine.

8. Interpretation - If any question arises as to the interpretation of these rules, it shall be referred to the Central Government for decision.

9. Repeal and saving - (1) The Indian Administrative Service (Regulation of Seniority) Rules, 1954 and all other rules corresponding to the said rules in force immediately before the commencement of these rules are hereby repealed.

(2) The seniority of the officers appointed to the service prior to the coming into force of these rules shall be determined in accordance with the Indian Administrative Service (Regulation of Seniority) Rules, 1954 in force on the date of their appointment for the service.

contd..

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-10 -

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

...

1.1.98
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(PUBLISHED IN PART II , SECTION -3, SUB-SECTION(i)
OF THE GAZETTE OF INDIA - EXTRA ORDINARY DT. 31.12.1997)

F. No. 14015/54/96-AIS(I) - A

Government of India

Ministry of personnel, Public Grievances and Pensions
(Department of Personnel and Training)

.....

New Delhi, the 31st December, 1997.

N O T I F I C A T I O N

GIS.R 736(E) - In exercise of the powers conferred by section 3 of the All India services Act, 1951 (61 of 1951), the Central Government after consultation with the State Governments concerned and the Union Public Service Commission hereby makes the following rules further to amend the Indian Administrative Services (Regulation of Seniority) Rules , 1987 , namely -

- (1) These rules may be called the Indian Administrative Service (Regulation of Seniority) Amendment Rules , 1997.
- (2) They shall come into force on the first day of January, 1998.
2. In the Indian Administrative Service (Regulation of Seniority) Rules, 1987(hereinafter referred to as the Principal rules), in rule 3, in sub-rule (3), for Clauses (ii) and (iii), the following clauses shall be substituted, namely :-

contd...

"(ii) The year of allotment of a promotee officer shall be determined with reference to the year in which the meeting of the Committee to make selection, to prepare the select list on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in the State Civil Service not below the rank of a Deputy Collector or equivalent, up to the 31st day of December of the year immediately before the year in which meeting of the Committee to make selection was held to prepare the select list on the basis of which he was appointed to the service, in the following manner :-

- 2 1
- (a) for the service rendered by him upto twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years :
 - (b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years.

Explanation : For the purpose of calculation of the weightage under this clause , the fractions , if any, are to be ignored :

contd..

- 3 -

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list ;

(iii) the year of allotment of an officer appointed by selection shall be determined with reference to the year in which the meeting of the Committee to make the selection to prepare the select list, on the basis of which he was appointed to the Service, was held and with regard to the continuous service rendered by him in a post equivalent to the post of Deputy Collector or a higher post, upto the 31st day of December of the year immediately before the year in which the meeting of the Committee to make the selection was held to prepare the select list on the basis of which he was appointed to the service, in the following manner :-

(a) for the service rendered by him upto twenty one years, he shall be given a weightage of one year for every completed three years of service, subject to a minimum of four years!

(b) he shall also be given a weightage of one year for every completed two years of service beyond the period of twenty one years, referred to in sub-clause (a), subject to a maximum of three years,

contd..

Explanation : For the purpose of calculation of the weightage under this clause, the fractions if any, shall be ignored :

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list, or appointed to the Service on the basis of an earlier select list :

Provided further that he shall not be allotted a year earlier than the year of allotment assigned to an officer already appointed to the service in accordance with sub-rule (1) of rule 8 of the recruitment rules, whose length of Class I continuous service in the State Civil Service is equal to or more than the length of Class I continuous service of the former in connection with the affairs of the State.

Explanation :- The length of the relevant Class I continuous service in either case shall be with reference to the 31st day of December of the year immediately before the year in which the meeting of the Committee to make selection was held to prepare the select list on the basis of which appointments were made in the respective cases.

Sd/-

(ARVIND VARMA)
Secretary to the Government of India,
(No: 14015/54/96-AIS(I)-A)

Foot - Note : The principal rules were notified vide
Notification No.14014/76/84-AIS(I) dated

6.11.1987 and amended vide Notification No.
14014/17/86-AIS(I) dated 18.1.1988 and
14014/107/87-AIS(I) dated 8.2.1989.

Sd/- Illegible
(R. VAIDYANATHAN)
Desk Officer.

To

The Manager,
Government of India Press,
Mayapuri, Ring Road,
New Delhi.

E.NO. 14015/54/96-AIS(I)-A Dated the 1st January, 1998.

Copy forwarded for information to :

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(1993) SCC 252

A 1996 SC 2390

* 12.8.99 Air DP33

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* 20.9.21 Air JP 48-49