

GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO.4  
(See Rule 42)

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

ORDER SHEET  
APPLICATION NO .....191.....OF 2001.

Applicant (S) Khaw Khhu Tanga.

Respondent (S) UOI 2 OTS.

Advocate for Applicants (s) Mr. K.P. Pathak, S.K. Sharma

Advocate for Respondent (s) and S. Kar.

Cfsc.

Notes of the Registry	Date	Order of the Tribunal
<p>25.5.01</p> <p>This application is in form but not in the form of a Petition is filed vide M.P. No. .... C.F. for Rs. 5/- deposited vide IPO/BD No 66 792496 Dated.....21/5/2001.....</p> <p><i>Dy. Registrar?</i></p> <p>Requisite has been filed.</p> <p>NS 22/5/01</p> <p>Notice prepared and sent to DIS for issuing the respondent No 182. by Regd A.D. vide SINO 2038/34 dtd 7/6/01</p> <p><i>4/6/01</i></p>	25.5.01	<p>Present : The Hon'ble Mr Justice A. Agarwal, Chairman and The Hon'ble Mr K.K.Sharma, Administrative Member.</p> <p>The applicant who was employed as DIGP(Training) supernuated by an order passed on 31.12.2000 at Annexure -5. He was re-employed as DIGP (Training) in Mizoram Police by an order dated 19.1.2001 at Annexure-6. By the impugned order passed on 15.3.2001 he has been demoted to the post of SP, Fire Service. The aforesaid order of demotion has been issued without putting the applicant to notice and without assigning any reason. Though the pay of the applicant for the post of DIGP(Training) has been protected by the aforesaid order dated 15.3.2001 the same has been superseded by the impugned order dated 16.4.2001 whereby the pay protection has been revoked and excess payment made to him is sought to be recovered. The aforesaid order at Annexures 7 and 9 are impugned in the present O.A.</p>

25.5.01

Issue notice to show cause as to why this application shall not be admitted.

List on 26.6.2001 for filing reply to the show cause and admission.

Member

Chairman

pg  
VTB  
25/5/01

By order  
P.S.S.

26.6.01

We have heard Mr.K.P.Pathak, learned counsel for the applicant and also learned counsel for the respondent.

Application is admitted. Issue notice on the respondents.

We have heard also the learned counsel for the applicant on the question of <sup>as DIGP (Training)</sup> ~~as DIGP (Training)~~. After hearing the learned counsel for the applicant and perusal of the order of dated 15th March 2000 which permits the applicant to draw his pay against the post of DIGP(Training) temporarily as stop-gap arrangement, The recovery of the alleged excess payment is stayed till the next date. List on 8th August 2001 for further orders.

K. Ushara  
Member

Vice-Chairman

8.8.01

No written statement so far been filed. In the meanwhile, the interim order dated 26.6.01 shall continue until further.

List on 11/9/01 for order.

K. Ushara  
Member

Vice-Chairman

Order dtd. 26/06/01  
Communicated to the  
Rasties Council vide  
DINo \_\_\_\_\_

dtd \_\_\_\_\_  
by 28/6/01

No. reply has been  
filed.

by  
7.8.01

Order dtd 8/8/01 Communicated  
to the Rasties Council.

by  
9/8/01

Notes of the Registry	Date	Order of the Tribunal
<p>7.9.2001  of Respondent No. 2.  w/s on behalf  of Respondent No. 2.  No. Rejoinder has been  filed.  5.2.01  No. rejoinder has been  filed.  2.1.02</p>	<p>11.9.01  mb  15/10</p>	<p>Written statement has been filed. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from today.  List on 15/10/01 for hearing.  K U Shaha  Member  Vice-Chairman  There is no decision on bench today, the case is adjourned to 6.12.2001  15/10</p>
	<p>6.12.01  bb</p>	<p>On the prayer made by the learned counsel for the applicant the hearing of the case is adjourned.  List for hearing on 4.1.2002.  Member (J)  K U Shaha  Member (A)</p>
	<p>@.*.)"  4.1.02  pg</p>	<p>None appears for the applicant to press the application.  List again on 29.1.2002 for hearing.  K U Shaha  Member  Vice-Chairman</p>
	<p>29.1.02  mb</p>	<p>Pass over for the day. List on 30.1.2002 for hearing.  K U Shaha  Member  Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
<p>4</p> <p>13.2.2002</p> <p>Copy of The Judgt has been put to the Ofc. for security the dir. to the apphd as well as to the R. G. S. C. for the Resps.</p> <p>trd</p> <p>15/2</p>	<p>30.1.02</p>	<p>Heard learned counsel for the parties. Hearing concluded. Judgment delivered in the open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p>K. C. Khan Member</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.A. No. . . . . O.A. No. 191/2001  
OF

DATE OF DECISION 30.1.2002

Sri Khawl Thanga. . . . . APPLICANT(S)

Mr. S.K.Sharma. . . . . ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors. . . . . RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C. . . . . ADVOCATE FOR THE  
RESPONDENTS.

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

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

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

5. Judgment delivered by Hon'ble Vice-Chairman.

Wc

X

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 191 of 2001

Date of decision : This the 30th day of January, 2002.

Sri Khawlchhu Thanga,  
Son of Late Liansiama,  
Resident of Saikhama Kawn  
District : Aizawl, Mizoram

...Applicant

By Advocate Mr. S.K.Sharma.

1. The Union of India  
Represented by the Secretary,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi-1.

2. The State of Mizoram,  
Represented by the Secretary  
Department of Personnel and  
Administrative Reforms,  
Civil Service Wing,  
P.O. Aizawl-796001.

...Respondents

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

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O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The applicant is an officer of the Indian Police Service in terms of the Indian Police Service (Appointment by Promotion) Regulation 1955 and allocated in the cadre of AGMU. By an order dated 29.9.2000 the applicant was promoted to the post of Deputy Inspector General of Police (Training) in the scale of pay of Rs.16400-450-20900 with effect from the date of taking over charge. The applicant attained the age of superannuation on 31.12.2000 and to that effect a Notification was issued on 13.12.2000. The applicant was however re-appointed by the Government of

Mizoram vide order dated 19.1.2001. By an order dated 15.3.2001 the earlier order dated 29.9.2000 was superseded. The full text of the order dated 15.3.2001 is reproduced below :

"In supersession of this Department's Notification No. A.22012/7/94-Pers(2)/Pt/145, dt. 29.9.2000 the Governor of Mizoram is pleased to order transfer and posting of Pu K.C.Thanga, IPS (AGMU :87), S.P., Fire Service Organisation as DIGP (Training) Mizoram with effect from the date of taking over charge of the post.

The Officer is however, allowed to draw his pay against the post of DIGP (Training) temporarily and as a stop gap arrangement. He will draw his own grade pay and will not claim promotion or higher scale of pay on the ground of this adhoc arrangement."

Consequent thereto the Director of Accounts and Treasuries took steps for recovery of the amount paid to the applicant pursuant to the order dated 29.9.2000. Hence this application assailing the legitimacy of the impugned action of the Respondents.

2. The State of Mizoram has submitted its written statement. In the written statement it was asserted by the respondents that the applicant was promoted to the post of DIGP (Training) (Ex-Cadre) post on officiating basis. At the same time he was allowed to hold the charge of S.P., Fire Service Organisation. The Accounts and Treasuries raised an objection to issue pay slip by way of demanding approval the Ministry of Home Affairs, Government of India, the cadre Controlling Authority. The authority reconsidered the matter and found that since the applicant did not render fourteen years service in the cadre of IPS, the promotion was erroneous and his promotional order was modified with retrospective effect by Government Notification No. 22012/7/94-PERS(B) Pt dated 15.3.2001. The respondents stated that since the initial promotion was

Contd...

erroneous the measures was taken.

3. Heard Mr. S.K.Sharma, learned counsel appearing on behalf of the applicant and Mr. A.Deb Roy, learned Sr.C.G.S.C. for the respondent no.1.

4. From the facts narrated above it thus appear that the applicant was in fact promoted to the post of higher responsibilities. The said act was a conscious act, if the authority felt it otherwise to revert him it was open for the authority to take necessary measures as per law by following a prescribed methodology. An act consciously taken by the competent authority cannot be set at naught only at the instance of another authority alien to the decision making authority for not adhering to the guidelines, without following the procedures prescribed. Mere infraction of the Guideline, ipso facto will not invalidate an order passed by the Competent authority. On that count alone the impugned order dated 15.3.2001 is not sustainable and accordingly the same is set aside and consequently the Notification dated 16.4.2001 stands quashed.

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

  
(K.K.SHARMA)

  
(D.N.CHOWDHURY)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
( An application under Section 19 of the Central Administrative  
Tribunal Act, 1985.

Title of the Case : O.A. NO. 191 OF 2001

Sri Khawlekhv Thanga ..... Applicant.

-VERSUS-

The Union of India &ors ..... Respondents.

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For use in Tribunal's Office

Registration NO.
Date of Filing.

Khawlethu Thanga

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. ....OF 2001

BETWEEN

1. Sri Khawlethu Thanga,  
Son of Late Liansiama,  
Resident of Saikhama Kawn,  
District : Aizawl, Mizoram.

...Applicant.

AND

1. The Union of India,  
Represented by the Secretary,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi-1.
2. The State of Mizoram,  
Represented by the Secretary,  
Department of Personnel and Administrative Reforms,  
Civil Service Wing,  
P.O. Aizawl-796001.

.....Respondents.

DETAILS OF APPLICATION

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

Contd....p/

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Khaulchhu Thanga

(i) Notification under Memo NO.A.22012/7/94-Pers(B)/Pt dated 15/3/2001 issued by the Secretary, Government of Mizoram, Department of Personnel and Administrative Reforms, showing the applicant as S.P. Fire Service organisation under the Govt. of Mizoram and then transferring and posting him as DIGP (Training) Mizoram w.e.f. date of taking over charge of the Post of D.I.G.P. (Annexure 7 Page No. 19.)

(ii) Pay slip under Memo No.DAT/PS/434 dated 16/4/2001 issued by the Assistant Director(Entt), Accounts and Treasuries, Government of Mizoram directing recovery of pay and allowances from the applicant as D.I.G.P. w.e.f. 29/9/2000 to 31/12/2000. (Annexure 9 Page No. 21.)

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE:-

4.1 That the applicant is a citizen of India and permanent resident of Aizawl, Mizoram and as such he is entitled to all the rights and protection guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That the applicant was appointed as the Deputy Superintendent of Police, Assam Police in the year 1966 on selec-

Khawdelchhu Thanga

tion by the APSC and he completed his training at Police Training College, Dergaon on 9/1/68 and served as Deputy Superintendent of Police at Tezpur on probation till 27/9/1968. Thereafter, the applicant served in various capacities in the Assam Police Service till November, 1988 when he was serving as Commandant, 6th A.P.Bn., Kathal, Silchar.

4.3. That after the formation of Mizoram a new State, the applicant thereafter, in November 1988 was sent on deputation to the Mizoram Police Service and by Order under Memo No.A.19020/33/88-HMP dated 26/6/1990 the applicant was permanently absorbed in the Mizoram Police Service with immediate effect in the Junior Administrative grade as AIG-I

A copy of the Order dated 26/6/1990 is annexed herewith and marked as ANNEXURE-1.

4.4 That the applicant states that in the year 1991, the Government of India in the Ministry of Home Affairs appointed the applicant to the Indian Police Service vide its Notification Memo No. I-i/IC 13/18/91-IPS-I dated 31/12/1991 under the provisions of Indian Police Service (Appointment by promotion) Regulation 1955 and allocated him to the cadre of AGMU in the Indian Police Service and his year of allotment was fixed as 1987.

A copy of the Notification dated 31/12/1991 is annexed herewith and marked as ANNEXURE-2.

4.5 That the applicant states that in the year 2000, the applicant was appointed to the Selection Grade of the Indian Police Service with effect from 1/1/2000 vide Order Under Memo No.14016/44/2000-UTS dated 13/11/2000 issued by the Ministry of Home Affairs, Government of India.

A copy of the Notification dated 13/11/2000 is annexed

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Khaulehthanga

herewith and marked as ANNEXURE-3.

4.6 That the applicant states that the Government of Mizoram by notification under Memo No.A.22012/7/94-PERS(B)/Pt/145 dated 29/9/2000 promoted the applicant, then serving as Superintendent of Police, Fire Service Organisation to the post of Deputy Inspector General of Police (Training) in the scale of pay of Rs. 16400-450-20900/= w.e.f. the date of taking over charge. The applicant was allowed to hold the additional charge of Superintendent of Police (Fire Service Organisation) in addition to his duties as DIGP (Training) by the same notification and the applicant immediately assumed charge of his new post of DIGP (Training).

A copy of the aforesaid notification dated 29/9/2000 is annexed herewith and marked as ANNEXURE-4.

4.7 That the applicant states that on attainment of the retirement is of 60 years, the Government of Mizoram was pleased to release the applicant from government service on superannuation pension as Deputy Inspector General of Police (Training) w.e.f. 31/12/2000 (AN) by notification under Memo No. A.19011/108/92-P & AR(CSW) dated 13/12/2000 issued by the Secretary, DP&AR, GOM.

A copy of the Notification dated 13/12/2000 is annexed herewith and marked as ANNEXURE-5.

4.8 That the applicant states that thereafter, by Notification under Memo No.A.38012/2/2001-P&AR(CSW), dated 19/1/2001, the applicant was reemployed in the post of DIGP (Training) with immediate effect upto 31/3/2001 and on his reemployment. The applicant was requested to hold the charge of SP (FSO) in addition to his duties as DIGP (Training) by the same Notification.

Contd....p/

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A copy of the aforesaid order dated 19/1/2001 is annexed herewith and marked as ANNEXURE-6.

4.9 That the applicant states that while he was serving as DIGP (Training) on reemployment, the Government of Mizoram issued another Notification under Memo No. 22012/7/94-Pers(B)/Pt dated 15/3/2001 by which the earlier notification dated 29/9/2000 promoting the applicant was superseded and by the said notification, the applicant has been shown as an S.P. (Fire Service) and transferred and posted as DIGP (Training) with effect from the date of taking over charge. It is further stated in the notification that the applicant is allowed to draw his pay against the post of DIGP (Training) temporarily and as a stop gap arrangement.

A copy of the Notification dated 15/3/2001 is annexed herewith and marked as ANNEXURE-7.

4.10 That the applicant states that by Notification under Memo NO. A.19011/108/92-P&AR(CSW) dated 4/4/2001, the reemployment period of the applicant as DIGP (Training) was extended for another period of 3 months w.e.f. 1/4/2001.

A copy of the Notification dated 4/4/2001 is annexed herewith and marked as ANNEXURE-8.

4.11 That the applicant states that thereafter the Directorate of Accounts and Treasuries issued a pay slip to the applicant bearing memo No. DAT/PS/434 dated 16/4/2001 superseding the earlier pay slip dated 5/3/2001 with a note that since the earlier promotion order in respect of the applicant dated 29/9/2000 has been cancelled by the subsequent order dated 15/3/2001, excess drawal of pay and allowances w.e.f. 29/9/2000 to 31/12/2000 as D.I.G.P. (Training) may be recovered from the applicant.

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Khandeher Thanga

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A copy of the aforesaid pay slip dated 16/4/2001 is annexed herewith and marked as ANNEXURE-9.

4.12 That the applicant states that the impugned orders dated 15/3/2001 and dated 16/4/2001 are illegal and unsustainable in law in as much as the applicant was promoted as per the rules to the post of DIGP(Training) vide Notification dated 29/9/2000 and the applicant assumed charge of the said post on the same day and thereafter discharged his duties as DIGP (Training) till his retirement from the Indian Police Service on 31/12/2000 as D.I.G.P.. The impugned notification dated 15/3/2001 has the effect of reduction in rank and pay of the applicant after retirement with retrospective effect and thus amounts to imposition of punishment/penalty without following the procedure established by law and in violation of the principles of natural justice and hence the impugned orders are liable to be set aside and quashed. It may be stated herein that there is/was no Departmental proceedings pending against the applicant.

4.13 That the applicant states that the impugned orders have the effect of unilaterally changing the conditions of service retrospectively and without disclosing any reason, thereby causing prejudice to the applicant without providing him any opportunity of hearing and hence, the same are liable to be set aside and quashed.

4.14 That the applicant states that as the applicant had been serving in the substantive post of DIGP(Training) from 29/9/2000 and drawing pay and allowances applicable to the said post, he cannot be again promoted to the same post by a subsequent order and as such, the impugned order dated 15/3/2001 is the result of non-application of mind. In that view of the matter, the same is liable to be set aside and quashed.

Contd....p/

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Khowlethu Thangga

4.15 That the applicant states that the applicant had submitted a representation dated 24/4/2001 before the Chief Secretary, Government of Mizoram praying for withdrawal of the impugned orders but till date the applicant has received no reply.

A copy of the representation dated 24/4/2001 is annexed herewith and marked as ANNEXURE-10.

4.16 That it is respectfully submitted that it is a fit case where this Hon'ble Tribunal may be pleased to interevene in the matter in an appropriate manner and grant the reliefs as prayed for by the applicant. If the same is denied the applicant would suffer irreparable loss and injury.

4.17 That there is no other adequate equally efficacious alternative remedy available and the reliefs sought for, if granted would be just, proper and adequate.

4.18 That the applicant demanded justice and the same was denied to him.

4.19 That this application is filed bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, the Respondent Authority by the impugned order dated 15/3/2001 has reduced the applicant in rank and pay from the post of DIGP to SP without holding any inquiry and without informing the applicant of the charges against him, if any, and without giving any opportunity of being heard and the said action is directly violative of Article 311 of the Constitution of India.

5.2 For that, the impugned order dated 15/3/2001 reverting the applicant from a higher post to a lower post is in the nature of <sup>major</sup> penalty and no reason for imposition of the same having been disclosed, the impugned order is arbitrary and illegal.

5.3 For that, the impugned order has effected a reduction in rank and pay of the applicant in the Indian Police Service after he had retired from the said service and thereby retrospectively altered his condition of service which is illegal and unsustainable in law.

5.4 For that, the impugned order dated 15/3/2001 has been passed as a result of non-application of mind as it seeks to transfer and promote the applicant with effect from a later date to a post which the applicant was already holding substantively from an earlier date and drawing pay and allowances applicable to the same.

5.5 For that, the impugned order dated 15/3/2001 has been passed without following any procedure prescribed by law and without adhering to the principles of natural justice.

5.6 For that, the direction in the pay slip dated 16/4/2001 for recovery of purported excess drawal of pay and allowances from the applicant is also illegal, in as much as, the said direction has been issued as a consequence of the illegal impugned order dated 15/3/2001.

5.7 For that, the applicant having rendered service in the rank of DIGP was entitled to draw pay and allowances applicable to the said post and as such, there is no question of excess drawal of pay and allowances even in the face of the impugned order dated 15/3/2001 and hence, the direction for recovery of the same is illegal.

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Khowelcheu Thanga

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

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

The applicant further states that no application, writ petition or suit regarding the grievances made in this instant application is pending before any Court or any other bench of this Hon'ble Tribunal.

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, it is most respectfully prayed that your Lordships would be pleased to admit this petition, call for the records and upon hearing the parties and on perusal of the records be pleased to grant the following reliefs :

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(i) An order setting aside and quashing the Notification under Memo NO.A.22012/7/94-Pers(B)/Pt dated 15/3/2001 issued by the Secretary, Government of Mizoram, Department of Personnel and Administrative Reforms, transferring and posting the applicant as DIGP (Training) Mizoram w.e.f. date of taking over charge. (Annexure 7 Page No. ...).

(ii) An Order directing the Directorate of Accounts and Treasuries, Mizoram not to recover any amount from the applicant in respect of pay and allowances drawn by the applicant w.e.f. 29/9/2000 to 31/12/2000 during his services as DIGP (Training), Mizoram.

(iii) cost of the application.

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Khowlchhu Thanga

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(iv) Any other relief/reliefs that the applicant is entitled to in the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application, it is further prayed that the Hon'ble Tribunal may be pleased to stay the operation of the impugned Notification under Memo NO.A.22012/7/94-Pers(B)/Pt dated 15/3/2001 issued by the Secretary, Government of Mizoram, Department of Personnel and Administrative Reforms, transferring and posting the applicant as DIGP (Training) Mizoram w.e.f. date of taking over charge. (Annexure 7 Page No. 19.) and may further be pleased to direct the Directorate of Accounts and Treasuries, Mizoram not to recover any amount from the applicant in respect of pay and allowances drawn by the applicant w.e.f. 29/9/2000 to 31/12/2000 during his services as DIGP (Training), Mizoram.

10. ....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. NO. : 66792496

(ii) Date : 21-5-2001

(iii) Payable at : Guwahati.

12. List of Enclosures:

As stated in the Index.

VERIFICATION.

Contd. on p.

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

I, Sri Khawlchhu Thanga, Son of Late Liansiama, Resident of Saikhama Kawn, District : Aizawl, Mizoram aged about .... years, presently DIGP (Training), Mizoram do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs ...1 to 12..... are true to my knowledge and those made in paragraphs ...XXX..... being matter of records are true to my information.

I have not suppressed any material fact.

And I sign this verification on this 22<sup>nd</sup> day of May 2001 at Guwahati.

*Khawlchhu Thanga*

Sri KHAWLCHHU THANGA,

GOVERNMENT OF MIZORAM  
HOME DEPARTMENT

Dated Aizawl, the 26th June '90.

NOTIFICATION

In the interest of public service, the Governor of Mizoram is pleased to order permanent absorption of Pu K.C. Thanga in the Mizoram Police Service with immediate effect.

The Governor of Mizoram is further pleased to order that Pu K.C. Thanga will continue to function as AIG - I.

Sd/-

RIN SANGA  
Home Commissioner.

Memo No.A.19020/33/88-HMP Dated Aizawl, the 26th June '90.

Copy to :

- 1) Secretary to Governor.
- 2) P.S. to Chief Minister.
- 3) P.S./P.A. to Ministers/Speaker.
- 4) P.S./P.A. to Minister of State/Deputy Speaker.
- 5) P.A. to Chief Secretary.
- 6) All Secretaries.
- 7) Inspector General of Police with 5 spare copies.
- 8) All Heads of Department.
- 9) Chief Controller of Accounts, Mizoram, Aizawl (2 copies).
- 10) Controller, Printing & Stationery for publication in the Mizoram Gazette with 5 spare copies.
- 11) Pu K.C. Thanga, AIG-I.
- 12) Guard File.
- 13) Personnel File of Office concern.

*Vanengmlawli*

( VANENGM LAWLI )  
Deputy Secretary to the Govt. of Mizoram  
Home Department.

*Certified to be true copy*

*llh*  
*Advocate*

*Handed to 27/6/90*  
*28/6*

*bc-26/6/90*

*(8)*  
*2*  
*12*

No. 1-1013/10/91-119-1  
Government of India/Pranab Sarkar  
Ministry of Home Affairs/Brh Mantralaya

New Delhi, the 30-12-1991

NOTIFICATION

In exercise of the powers conferred by sub-rule (i) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, (read with sub-regulation (1) of regulation 2 of the Indian Police Service (Recruitment & Promotion) Regulation, 1955, the President is pleased to appoint the following members of Mizoram Police Service to the Indian Police Service on probation and to allocate them to the cadre of AGMU under sub-rule (1) of rule 5 of the Indian Police Service (Cadre) Rules, 1954. The appointments will take effect from the date of issue of this notification.

No.	Name of the Officer	Date of Birth
1.	K. D. Changa	1-1-1941
2.	Chandrabhawan Chandra	1-3-1944
3.	Jalsangzuala Sailo	1-5-1949

2. The above appointments shall be subject to the order of S.O. No. 222/91 filed by Shri Kewal Singh, CAT, Principal Bench, New Delhi.

(S. N. JAIN)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

To  
The Manager  
Government of India Press  
P. R. DEWARAN

Mr. NONA: DCP. + 1/2

6865641

Certified to be true copy  
llh  
Advocate

Annexure-3  
 Jan 22 (R) MOST IMMEDIATE  
 329/40/15/20  
 3/11/11  
 -14-

No. I-15016/27792-IPS. I  
 Government of India/Bharat Sarkar  
 Ministry of Home Affairs/Grih Mantralaya  
 =. =. =. =.

New Delhi, the 12/3/93

ORDER

The seniority and year of allotment of Officers appointed to Indian Police Service by promotion in 1991 and allotted to AGMU Cadre shall be as follows in the Gradation list of IPS Officers of AGMU Cadre.

2. The details of service in respect of the State Police Service Officers appointed to the Indian Police Service by promotion are as follows:-

No. Officer	Name of the Officer	Date from which holding rank not below that of Dy.S.P. or equivalent.	Date of appointment to IPS.	Completed years of service rendered in the rank not below that of Dy.S.P. or equivalent.	Total weight-age in years in terms of rule 3(3) (ii) of the IPS (Regulations of Seniority) Rules, 1988.	Year of allotment
2	3	4	5	6	7	
	S/shri					
	A.S. Toor	3.4.71	24.10.91	20	6	1985
	N.S. Randhawa	3.4.73	24.10.91	18	6	1985
	S. Prakash	3.4.73	24.10.91	18	6	1985
	K.D. Singh	3.4.73	24.10.91	18	6	1985
	D.A. Prabhu Desai	27.2.75	13.11.91	16	5	1986
	P.K. Srivastava	29.5.76	3.12.91	15	5	1986
	M.S. Upadhya	15.6.77	3.12.91	14	4	1987
	P.K. Loreng	31.7.75	3.12.91	16	5	1987
	S.S. Grewal	19.5.76	31.12.91	15	5	1987
	M. Ponnian	24.5.76	20.12.91	15	5	1987
	Ujjwaleshwar Mishra	15.6.77	20.12.91	14	4	1987
	K.C. Thanga	10.12.66	31.12.91	25	0	1987
	Hming dailova Khinagte	20.11.74	31.12.91	17	5	1987
	Salsangzuala Galle	8.1.75	31.12.91	16	5	1987

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*[Signature]*  
 Advocate

year of allotment of S/Shri P.K. Loreng, S.S. Grewal, K.C. Thanga, Hmingdailova Khiangte and Lalsangzuala Sailo is restricted in terms of proviso to Rule 3(3)(ii)(c) of the Regulation of Seniority) Rules, 1986.

In terms of Rule 4(ii) of the IPS(Regulation of Seniority) Rules, 1986 their inter-se-seniority will be as follows in the gradation list of AGMU cadre:-

S/Shri

Kishan Kumar (RR-85)

A.S. Toor (SPS-85)

N.S. Randhawa (SPS-85)

S. Prakash (SPS-85)

K.D. Singh (SPS-85)

Rajesh Malik (RR-86)

T.N. Mohan (RR-86)

S. Vasudeva Rao (RR-86)

S. Nithyanandam (RR-86)

D.A. Prabhu Desai (SPS-86)

P.K. Srivastava (SPS-86)

S.K. Garg (RR-87)

Pradcep Kumar Bhardwaj (RR-87)

P. Kamraj (RR-87)

M.S. Upadhaya (SPS-87)

P.K. Loreng (SPS-87)

M. Pennion (SPS-87)

Ujjaleshwar Mishra (SPS-87)

K.C. Thanga (SPS-87)

Hmingdailova Khiangte (SPS-87)

Lalsangzuala Sailo (SPS-87)

S.S. Grewal (SPS-87)

The concerned officers may please be informed accordingly.

(P. S. PILLAI)

UNDER SECRETARY TO THE GOVT. OF INDIA.

No.A.22012/7/94-PERS(B)/Pt/145  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

NOTIFICATION

Aizawl, the 29th Sept., 2000.

In the interest of public service, the Governor of Mizoram is pleased to order promotion of Pu K.C. Thanga, IPS (AGMU : 87), Superintendent of Police, Fire Service Organisation to the post of Deputy Inspector General of Police (Training) (Ex-Cadre post) on officiating basis in the scale of pay of Rs.16720-450-20900/- with effect from the date of taking over charge of the post sanctioned vide retention of temporary posts No.A. 11011/1/85-HMP/Pt dt.29.3.2000.

The officer is further allowed to hold the charge of Superintendent of Police (Fire Service Organisation) in addition to his duties as Deputy Inspector General of Police (Training) without any extra financial benefit.

Sd/- L.R. LASKAR  
Secretary to the Govt. of Mizoram

Memo No.A.22012/7/94-PERS(B)/Pt/145 : Aizawl, the 29th Sept., 2000.  
Copy to :-

1. Secretary to Governor, Mizoram.
2. Secretary to Chief Minister, Mizoram.
3. P.S. to Speaker/all Ministers, Mizoram.
4. P.S. to Vice Chairman, State Planning Board, Mizoram.
5. P.S. to Chief Secretary, Govt. of Mizoram.
6. All Commissioners/Secretaries, Mizoram.
7. Secretary, Mizoram Legislative Assembly with 25 spare copies for the MLAs.
8. Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
9. Accountant General, Mizoram etc. Shillong.
10. All Administrative/Heads of Department, Mizoram.
11. Director, Accounts & Treasuries, Mizoram.
12. Director General of Police, Mizoram.
13. Treasury Officer, Aizawl South.
14. Under Secretary, Home Department, Mizoram.
15. Officer concerned.
16. Controller, Printing & Stationery with 6 spare copies for publication in the Mizoram Gazette.
17. Guard file/Personal file.

*Certified to be true copy*

*Advocate*

*29.9.2000*

( LAWMTANGA )

Under Secretary to the Govt. of Mizoram

NO.A.19011/108/92-P&AR(CSW)  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

Dated Aizawl, the 13th Dec. 2000

NOTIFICATION

On his attainment of the retirement age of 60 years, the Governor of Mizoram is pleased to release Pu K.C.Thanga, IPS (AGMU:87) DIGP(Trg) from Government Service on superannuation pension with effect from 31.12.2000(AN).

Sd/- LALMALSANMA  
Secretary to the Govt. of Mizoram,  
DP & AR

Memo No.A.19011/108/92-P&AR(CSW):Dated Aizawl, the 13th Dec.2000.  
Copy to:-

1. Secretary to Governor, Mizoram.
2. Secretary to Chief Minister, Mizoram.
3. P.S. to Speaker/Deputy Speaker, Mizoram.
4. P.S. to all Ministers, Mizoram.
5. Vice Chairman, Planning Board, Mizoram.
6. P.S. to Chief Secretary, Govt. of Mizoram.
7. Accountant General, Mizoram etc., Shillong.
8. All Commissioner/Secretaries, Govt. of Mizoram.
9. All Administrative/Heads of Departments, Govt. of Mizoram.
10. Deputy Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
11. Director General of Police, Mizoram.
12. Director, Accounts & Treasuries, Mizoram.
13. Officer concerned.
14. Treasury Officer, Aizawl South
15. Controller, Printing & Stationery with 6 spare copies for publication in the Mizoram Gazette.
16. Guard File.

*Lth* 13.12.2000

( LALMTHANGA )

Under Secretary to the Govt. of Mizoram.  
DP & AR(CSW)

Certified to be true copy

*llh*  
Advocate

Annexure 6

No.A.38012/2/2001-P&AR(CSW)  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

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NOTIFICATION

Aizawl, the 19th Jan., 2001.

In the interest of public service, the Governor of Mizoram is pleased to re-employ Fu K.C. Thanga, IPS who retired as DIGP (Trg) against the sanctioned post of DIGP (Trg) with immediate effect and upto 31.3.2001.

The pay of Fu K.C. Thanga on his re-employment as DIGP (Trg) shall be regulated under CCS (Fixation of pay of re-employed pensioners) Orders, 1986.

The officer is further allowed to look after the charge of S.P., F.S.O. in addition to his duties without any extra financial benefit.

Sd/- S.K. JAIN  
Secretary to the Govt. of Mizoram

Memo No.A.38012/2/2001-P&AR(CSW) : Aizawl, the 19th Jan., 2001.  
Copy to :-

1. Secretary to Governor, Mizoram.
2. Secretary to Chief Minister, Mizoram.
3. P.S. to Speaker/Dy. Speaker, Mizoram.
4. P.S. to all Ministers, Mizoram.
5. P.S. to Vice Chairman, Planning Board, Mizoram.
6. P.S. to Chief Secretary, Govt. of Mizoram.
7. Accountant General, Mizoram etc. Shillong.
8. All Commissioners/Secretaries, Govt. of Mizoram.
9. All Administrative/Heads of Department, Mizoram.
10. Director General of Police, Mizoram.
11. Director, Accounts & Treasuries, Mizoram, Aizawl.
12. Officer concerned.
13. Treasury Officer. Aizawl South.
14. Controller, Printing & Stationery with 6 spare copies for publication in the Mizoram Gazette.
15. Guard file No. 3.

*(L. Thanga)*  
(LAWMTHANGA)

Under Secretary to the Govt. of Mizoram.

*Certified to be true copy*  
*[Signature]*  
Advocate

Annexure 7

NO.A.22012/7/94-Pers(B)/Pt  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

Dated Aizawl, the 15th Mar/01.

NOTIFICATION

In supersession of this Department's Notification NO.A.22012/7/94-Pers(B)/Pt/145, dt.29.9.2000 the Governor of Mizoram is pleased to order transfer and posting of Pu K.C.Thanga, IPS (AGMU:87), S.F., Fire Service Organisation as DIGP(Training) Mizoram with effect from the date of taking over charge of the post.

The Officer is however, allowed to draw his pay against the post of DIGP(Training) temporarily, and as a stop-gap arrangement. He will draw his own grade pay and will not claim promotion or higher scale of pay on the ground of this adhoc arrangement.

S/- S.K.JAIN  
Secretary to the Govt. of Mizoram,  
D.F & A.R.

Memo No.A.22012/7/94-Pers(B)/Pt: Dated Aizawl, the 15th March, 01.  
Copy to:-

1. Secretary to Governor, Mizoram.
2. Secretary to Chief Minister, Mizoram.
3. P.S. to Speaker/all Ministers, Mizoram.
4. P.S. to Vice Chairman, State Planning Board, Mizoram.
5. P.S. to Chief Secretary, Govt. of Mizoram.
6. All Commissioners/Secretaries, Govt. of Mizoram.
7. Secretary, Mizoram Legislative Assembly with 25 spare copies for the MLAs.
8. Under Secretary, Govt. of India, Ministry of Home Affairs, New Delhi.
9. Accountant General, Mizoram etc., Shillong.
10. All Administratives/Heads of Departments, Mizoram.
11. Director, Accounts & Treasuries, Mizoram, Aizawl.
12. Director General of Police, Mizoram
13. Treasury Officer, Aizawl South.
14. Under Secretary, Home Department.
15. Controller, Printing & Stationery with 6 spare copies for publication in the Mizoram Gazette.
16. Officer concerned.
17. Guard File/Personal File.

15.3.2001  
(S.K.JAIN)  
Under Secretary to the Govt. of Mizoram,  
D.F & A.R.(DSE)

Certified to be true copy

Alber  
Advocate

No.A.19011/108/92-PSAR(CSW)  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

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

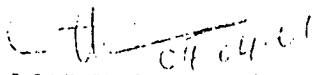
Aizawl, the 4th April, 2001.

In the interest of public service, the Governor of Mizoram is pleased to extend the re-employment period of Pu K.C. Thanga, IPS as DIG (Training) for another period of 3(three) months w.e.f. 1.4.2001.

Sd/- S.K. JAIN  
Secretary to the Govt. of Mizoram


Memo No.A.19011/108/92-P&AR(CSW) : Aizawl, the 4th April, 2001.  
Copy to :-

1. Secretary to Government, Mizoram.
2. Secretary to Chief Minister, Mizoram.
3. P.S. to Speaker/Dy. Speaker, Mizoram.
4. P.S. to all Ministers, Mizoram.
5. P.S. to Vice Chairman, Planning Board, Mizoram.
6. P.S. to Chief Secretary, Govt. of Mizoram.
7. Accountant General, Mizoram etc. Shillong.
8. All Commissioners/Secretaries, Govt. of Mizoram
9. All Administrative/Heads of Department, Mizoram.
10. Director General of Police, Mizoram.
11. Director, Accounts & Treasuries, Mizoram, Aizawl.
12. Officer concerned.
13. Treasury Officer, Aizawl South.
14. Controller, Printing & Stationery with 6 spare copies for publication in the Mizoram Gazette.
15. Guard file No. 3.

  
( LALMI THANGA )

Under Secretary to the Govt. of Mizoram

*Certified to be true copy*

  
Advocate

COMMISSIONER OF ACCOUNTS & TREASURIES  
 PAY/LEAVE SALARY SLIP

No. DA/PS/134  
 Dated: Aizawl, the 16 APR 2001

To/Pu K. C. Thanga, IPS,  
Deputy Inspector General of Police, Mizoram

is informed that he/she is authorized to draw pay/leave salary and allowances at the monthly rates as shown below from the dates specified

(Less the amount already drawn.)

Particulars		on transfer	incl.		
	1.7.2000	29.9.2000	1.12.2000	1.1.2001	
Basic/Offe. Pay	16700=	16700=	17100=		NB:- A fresh P/s is prepared/issued since the previous order has been cancelled by Government of Mizoram vide No.A.22012/7/94 - Pexs (6)/Acd 7153 2001.
Joint/Time Pay					
Leave Salary					
Special Pay	800=	-	-	N	
Personal Pay				1	
Sp. Duty Pay	2088=	2088=	2138=	L	
Non Prac. All.					
Dearness All.	6847=	6847=	7011=		
Sp. Com. All.	750=	750=	750=		
House Rent All.	1253=	1253=	1283=		
Interim Rele. <sup>KMA</sup>	150=	150=	150=		
Grand Total	28588=	27788=	28432=		

Note: This P/s supersedes the previous P/s issued vide no DA/PS/1284 dt 5-3-2001. Excess dearness pay & allowances w.e.f 29.9.2000 to 31.12.2000 may be processed by a treasury challan and an original copy may be sent to this office.

Notes: It is particularly requested that this payslip may be attached to the first pay bill drawn at these rates and that No 014(IPS) may be entered as the Audit Number at the top of every pay bill.  
 2) Deductions of fund subscriptions & recovery of Govt. dues as noted in the Last Pay Certificate should be effected unless otherwise stated.

No. DA/PS/ \_\_\_\_\_ Dated: Aizawl, the \_\_\_\_\_

- Copy forwarded to:-
- 1) The Treasury Officer, Aizawl 'S' for information. He should insert the details of pay given in any Last Pay Certificate issued by him in favour of this Government servant.
  - 2) The Executive Engineer, Building Division, PWD \_\_\_\_\_ for information and necessary action.

Certified to be true copy  
llh  
 Advocate  
 Assistant Director, (Ext) Accounts & Treasuries.

To,

The Chief Secretary,  
Government of Mizoram.

(Through : Proper Channel)

Subj :- Your Notification No. A-22012/7/94-Pers(B)/Pt.  
dated 15.3.2001.

Sir,

With reference to the above Notification, I have the honour to bring the following facts for favour of your kind consideration and notification :-

I have been promoted to the post of DIG of Police (Training) an ex-cadre post, vide your Notification No. S.22012/7/94-PERS(B)Pt/146 dt. 29.9.2000 and joined the post on 29.9.2000. By the same Notification, I was allowed to hold the post of S.P. (Fire) in addition to my duties as DIG(Training), and without any addition to pay as admissible under the Rules for holding dual charges.

2. On attaining the age of superannuation pension on 31.12.2000, I was formally released from service vide your Notification No. A-19011/108/92-P&AR(CSW) dt. 13.12.2000.

3. After retirement I have been re-employed as DIG(Training) w.e.f. 19.1.2001 vide Notification No. A.38012/2/2001-P&AR(CSW) dt. 19.1.2001 and the same Notification further allowed me to look after the charge of S.P. (Fire) without any extra financial benefit. It was also made conditional that my pay on re-employment as DIG(Training) would be regulated under CCS (Fixation of pay of Reemployed Pensioners) Order, 86.

4. But suddenly and without any opportunity given to me to represent, the Govt., long after my retirement from the I.P.S., issued an order vide No. A.22012/7/94-Pers(B)/Pt. dt. 15.3.2001 transferring and posting me, from the post of S.P. Fire Service Organisation, as DIG(Training) with effect from the date of taking over the charge of the post. It was further ordered as follows :-

*Certified to be true copy*  
*[Signature]*  
*Advocate.*

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"The officer is, however, allowed to draw his pay against the post of DIG(Training) temporarily as a stop-gap arrangement. He will draw his own grade-pay and will not claim promotion or higher scale of pay on the ground of this adhoc arrangement".

This rider is not only against all the principles of natural justice and the Fundamental Rules governing fixation of pay etc. but also not warranted or permissible long after retirement, thereby unilaterally changing conditions of my service in IPS after my retirement from the same. The order in any case cannot be retrospective in effect and cannot be unilaterally done.

5. Subsequently, the period of my re-employment was extended further for another period of 3(three) months from 1.4.2001 vide Notification No. A.19011/108/92-P&AR(CSW) dt. 4.4.2001.

6. In fact, in compliance with your order dated 29.9.2000 I joined and held the post of DIG of Police (Training) since 29.9.2000 till the date of my attaining the age of superannuation i.e. 31.12.2000.

It is wondered as to how the Government could transfer me to the post which I had already been holding.

7. My promotion order vide Notification No. A-22012/7/94-PERS(B)Pt/145 dated 29.9.2000 is legally valid and is not defective in any form, as it was within the power of the State Govt. under the Rules and no objection was raised from any corner to my knowledge. Even if there were any, I was not given any chance to explain.

8. The Govt. Notification No. A.22012/7/94-PERS(B)/pt. dt. 15.3.2001 is defective on the following points :-

1) Transfer of an officer to the post he is presently holding is illegal and cannot be maintained in law.

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ii) I was not holding the post of S.P. (Fire) substantively but it was an additional charge in addition to my duty as DIG of Police (Training).

iii) The Govt. Notification dated 15.3.2001 is violative of the provisions of Article 311 of the Constitution and the F.R.

iv) As a result of this Notification I have to refund huge amounts of money arising out of pay fixation and re-fixation which is against the provisions of Pension Rules.


v) If a Govt. servant is required to be reduced in rank and pay, it should have been done while he was in regular service but not after his retirement of service or during re-employment period. This violates the provisions of Article 14 and 16 read with Article 311 of the Constitution.

vi) Reversion of Govt. servant officiating in a higher service, grade or post to a lower service, grade or post is in the nature of minor penalty as per AIS (CCA) Rules as well as CCS (CCA) Rules have been awarded after due completion of prescribed procedures under these Rules.

9. This appeal is submitted as per provision of Rule 23(v)(b) of CCS(CCA) Rules, as at present, on re-employment by the State Govt., I am governed by these Rules.

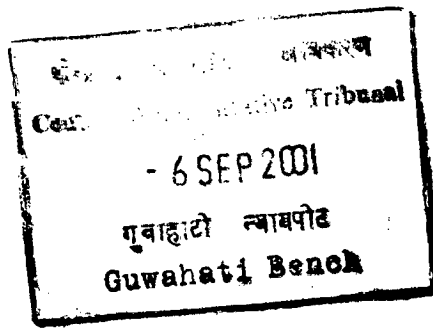
10. In view of the foregoing paras, I would like to request you kindly to withdraw Govt. Notification dated 15.3.2001 immediately; otherwise for the ends of Justice I would be compelled to seek justice in the appropriate Court of Law.

Yours faithfully,

 24.4.2001

( K.C. THANGA ) IPS  
Dy. Inspector General of Police (Trg)  
Police Hqrs., Aizawl.

Dated Aizawl,  
the 24th April, 2001.



*Filed by the Respondent No. 2  
through -  
Beddyant Charkhy  
B. A. Mijam  
6/9/2001*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BENCH

IN THE MATTER OF :-

O.A No.191 of 2001

Sri K.C Thanga

... Applicant

-Versus-

Union of India and ors

... Respondents

-And-

IN THE MATTER OF :-

Written Statement for and on behalf  
of Respondent No.2 in the aforesaid  
case.

The humble Written Statement of the  
Respondent No:-2 in the aforesaid  
case

MOST RESPECTFULLY SHEWETH :-

1. That the Respondent No.2 in the aforesaid case is the Secretary, Department of Personnel & Administrative Reforms, Civil Service Wing, P.O Aizawl, representing the State of Mizoram, and a copy of the aforesaid application has been served upon the said Respondent and further authorised the Liason Officer, Mizoram House, Guwahati Govt. of Mizoram to answer the said application on behalf of the

Respondent No.2 who is competent to answer the instant Written Statement.

2. That the Respondent No.2 in the aforesaid case states that save and except what has been specifically stated in this Written Statement all the statements which are not specifically dealt with in this instant Written Statement and the statements which are not borne out by the records of the case and those which are in consistent and contrary to what appears from the records of the case shall be deemed to have been denied.

3. That with regard to the statement made in paragraph 1 to 4.8 of the application the Respondents has no comments to offer.

4. That with regard to the statement made in paragraph 4.9 the Respondents states that K.C Thanga, IPS who was holding the post of S.P., Fire Service Organisation was promoted to the post of DIGP (Training) (Ex-Cadre) post on officiating basis in the pay scale of Rs.6400-450-20900 which is attached to the said Ex-Cadre post under Government Notification NO.A.22012/7/94-PERS(B)/Pt/145 dated 29.9.2000 and while promoting to the DIG (Training) he was further

allowed to continue holding the charge of S.P., Fire Service Organisation. However, the Director, Accounts & Treasuries raised an objection to issue pay slip by way of demanding approval of the Ministry of Home Affairs, Govt. of India which is the Cadre Controlling Authority in respect of IAS and IPS borne on the joint AGMUT Cadre. Therefore, on further scrutiny of the guidelines for promotion of IPS to higher grade issued vide No.45020/11/97-IPS.II dated 15.1.99 wherein completion of 14 years of service is necessitate for promotion to the DIGP grade, it was observed that officiating promotion given to the said K.C.Thanga, 1987 batch who has not yet rendered service for 14 years was erroneous. Hence, his promotion order was modified with a retrospective effect by Government Notification No.A.22012/7/94-PERS(B)/Pt dated 15.3.2001. However, he was thereby authorised to function as DIGP (Training) drawing his own grade pay.

A copy of the guidelines dated 15.1.99 is annexed herewith and marked as Annexure :-A.1

5. That with regard to the statement made in paragraph 4.10 to 4.11 the Respondent has no comment.

6. That with regard to the statement made in paragraph 4.12 the Respondent states that the Govt. Notification No.A.22012/7/94-PERS (B)/Pt dated 15.3.2001 which supersedes

Notification No.A.22012/7/94-PERS(B)/Pt/145 dated 29.9.2000 really has the effect of reduction in pay of the applicant but does not amount to imposition of punishment/penalty, because the Notification revising appointment of K.C. Thanga as DIGP (Training) in the pay scale of Rs. 16400-450-20900 by way of posting to the same post in his grade pay of IPS is required on the ground of administrative reasons as he has not yet in required qualifying service for promotion to the grade of DIG vide explanation No.4 below Rule 6 of the AIS (Discipline & Appeal) Rules, 1969.

An extract copy of Rule 6 of the AIS (Discipline & Appeal) Rules, 1969 is enclosed hereto and marked as Annexure:-II.

7. That with regard to the statement made in paragraph 4.13 the reverting to his own grade pay of IPS from the pay scale of DIGP (Training) is not on the ground of penalty but rather on the ground of erroneous promotion, it is not obligatory to give any opportunity of hearing to the applicant.

8. That with regard to the statement made in paragraph 4.14 the applicant was not promoted again to the post of DIGP (Training) but his erroneous promotion was rather rectified and he was thereby authorised to take charge and

dispose the duties of DIGP (Training) in his own grade pay of IPS i.e Selection Grade as he was promoted to the Selection Grade of IPS with a retrospective effect from 1.1.2000 vide Ministry of Home affairs order No.14016/44/2000-UTS dated 13.11.2000.

A copy of the Ministry of Home Affairs letter dated 13.11.2000 is annexed herewith and marked as Annexure:-III.

9. That with regard to the statements made in paragraph 4.15 that the representation dated 24.4.201 submitted by the applicant for withdrawal of the impugned order was examined at length and a reply was given to him vide No.A.22012/7/94-PER(B)/Pt dated 27.6.201.

A copy of the letter No. A22012/7/94-PERS(B)/Pt dated. 27.6.2001 is annexed hereto and marked as Annexure:-IV.

10. That with regard to the statement made in paragraph 4.16 to 4.19 the Respondent has no comment.

11. That with regard to the statement made in paragraph 5.1 of the application the respondent states that the

applicant's interpretation of the impugned order dated 15.3.2001 is not literally correct. He was holding the post of S.P., Fire Service organisation before he was given erroneous promotion to the DIGP(Training) (Ex-Cadre) in the pay scale of Rs.16400-450-20900. Hence, the order was modified by Notification dated 15.3.2001 by way of transfer and posting to the post of DIGP(Training) (Ex-Cadre) in his own grade pay. And in the meanwhile he was further authorised to take charge of S.P., Fire Service Organisation in addition to his main duty as DIGP (Training).

12. That with regard to the statement made in paragraph 5.2 of the application the respondent states that the applicant was not reverted from higher post to lower post by the impugned order dated 15.3.201. But his entitlement of pay only was modified as the applicant has not yet put in required qualifying service for promotion to grade of DIG.

13. That with regard to the statement made in paragraph 5.3 of the application the respondent states that though the applicant has retired from IPS he is still re-employed as DIGP (Training) and as such retrospective alteration of his entitlement pay for such a short period of five (5) months due to erroneous promotion causing recovery of excess drawal of pay and allowances may not amount to serious loss to the applicant. But he is made to earn a

considerable pay and allowances on his re-employment which is extended upto 30th November, 2001.

14. That with regard to the statement made in paragraph 5.4 of the application the respondent states that had the applicant not made a pressure for his erroneous promotion through the Police Department he shall not be given promotion to the pay scale of Rs.16400-450-20900. But due to pressure of the applicant he was given undue salary which necessitated modification when the promotion to the higher grade was found erroneous.

15. That with regard to the statement made in paragraphs 5.5. to 5.6 of the application the respondent states that the impugned order dated 15.3.2001 not being made on the ground of penalty but for administrative reasons to rectify the wrong done earlier, there is no violation of principles of natural justice.

16. That with regard to the statement made in paragraph 5.7 of the application the respondent states that the officiating promotion of the applicant is erroneous and as such there is excess drawal of pay and allowances on modification of his pay and allowances which he is entitled according to the Notification dated 15.3.201. Hence, order for

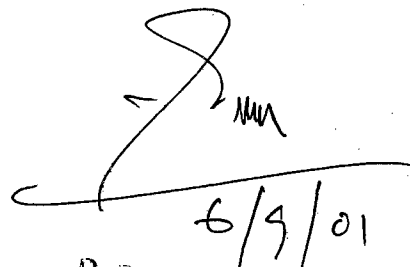
recovery of excess drawal is not illegal.

17. That with regard to the statement made in paragraph 6,7,8 and 8 the Respondent has no comment.

VERIFICATION

I, Sri C. Thatkhunga, son of ~~Talupa~~ Talupa, aged about 25 years, presently the Liason officer, Mizoram house, at Guwahati and an Officer of the Govt. of Mizoram being authorised by the Respondent No.2 i.e the Secretary Department. of Home, Govt. of Mizoram do hereby solemnly affirm and verify that the statements made in the accompanying Written statement and paragraphs 1 to 3, 5, 7, 10 to 17 are true to my knowledge and those made in paragraph 4, 6, 9 being matter of records are true to my information.

And I sign this verification on this 6th of Sept, 2001 at Guwahati.

  
6/9/01  
D. D. F.L.C.S. - C/M - I.O.  
Government of Mizoram,  
C. E. Road, Guwahati - 5

No. 45020/11/97-IPS-II  
Ministry of Home Affairs/Grih Mantralaya  
Government of India/Bharat Sarkar

New Delhi dated 15/1/99

To

The Chief Secretaries of all States

Sub:- Indian Police Service-Promotion to Senior Scale, Junior Administrative Grade, Selection Grade, Supertime Scale and above Supertime Scales-Guidelines regarding.

Sir,

I am writing this to invite your attention to guidelines on the above subject circulated vide this Ministry's letter No. 16011/39/89-IPS-II, dt. 28.4.88; 16011/1/89-IPS-II dt. 4.9.89 and 16011/61/90-IPS-II, dt. 28.12.90. Taking into consideration of certain difficulties brought to the notice of this Ministry from different quarters from time to time and the encadrement of post of Additional Director General of Police in the police hierarchy, Govt. have decided to modify the existing guidelines and have consolidated them in one place for the sake of reference. Further, in order to ensure uniformity of procedure in the matter of promotion, formation of DPC and their functioning etc., general principles of promotion are also being suggested for guidance.

2. In order to ensure uniformity of procedure in the matter of appointment and promotion to various grades in the Indian Police Service in all the State Cadres in the country, it would be desirable to adhere to the revised guidelines and follow and impose stricter standards of selection as envisaged in the revised guidelines.

3. A copy of the revised guidelines is sent herewith which may please be acknowledged.

Yours faithfully,

( O.P. ARYA )  
Joint Secretary (Police)

P.B. of Secretary.  
U.P. & A.R.

2445  
Receipt No. 23/3/99

Send  
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Deptt. of Personnel & Trg. ( All India Service Division ) with reference to their no. 20011/4/92-AIS(II) dated 12.1.99.

2. Joint Secretary (UT)

3. Card file

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23/3/99

Deptt. of Personnel & Admin. Services (C.S.W.)  
Receipt No. 756  
Date 23/3/99

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44

PRINCIPLES REGARDING PROMOTION OF MEMBER OF IPS IN THE  
STATE CADRE

**I. PROMOTION TO SENIOR TIME SCALE**

Director General and Inspector General of police and where no cadre post of DG exists, the Addl. DG of Police may evaluate the performance of those members of the service who have completed 4 years of service, for deciding their suitability for promotion to Senior Time Scale posts, keeping in view the provisions of rule 6A of the I.P.S. (Recruitment) Rules, 1954 and make suitable recommendations to the State Government. This Scale shall be available from or after the 1<sup>st</sup> January of the relevant year and subject to availability of vacancies in this grade.

**II. PROMOTION TO THE JUNIOR ADMINISTRATIVE GRADE**

This grade is non-functional and shall be admissible without any screening to all the officers working in the Senior Time Scale who have completed 9 years of service, from 1<sup>st</sup> January of the relevant years.

**III. PROMOTION TO THE SELECTION GRADE**

A Committee consisting of the Chief Secretary, the Secretary-in-charge of the Police Department and the Director General and Inspector General of Police (Addl. Director General of Police where there is no cadre post of DG) may screen the cases of those officers in the Junior Administrative Grade who have completed 13 years of service, for promotion to the Selection Grade as per the provisions of the IPS (Pay) Rules, 1954. On the basis of merit with due regard to seniority selection grade will be available from or after 1<sup>st</sup> January of the relevant year subject to the availability of vacancies in the said grade.

**IV. PROMOTION TO SUPER-TIME SCALE AND THE ABOVE SUPERTIME SCALE POSTS**

(A) Composition of the Screening Committees

(i) for Supertime Scale posts :-

NO. 15020/11/97-IPS.II

Dated 15-01-99

3 The Screening Committee for this purpose (for promotion to the grades of DIG and IG) would be the same, as the one constituted for Screening of officers for promotion in the selection grade. Committee for the Union Territories Cadre would comprise the Union Home Secretary as Chairman, with Additional Secretary or the Joint Secretary in the Ministry of Home Affairs who is incharge of UT Police Cadre and Commissioner of Police, Delhi as members.

(ii) for the above Supertime Scale posts -

The Screening Committee for promotion of an officer to the grade of Director General as well as Addl. Director General of Police and /or equivalent post, would consist of (i) Chief Secretary, (ii) one non-IPS officer of the rank of Chief Secretary and working in the State Government (iii) Director General of Police and (iv) an additional member in case there is a senior officer available who is holding independent charge of Home Secretary and is in the rank of Addl. Chief Secretary or Chief Secretary (with rank not less than that of Additional Secretary to Government of India).

**(B) Zone of Consideration**

The zone of consideration of officers for promotion to various grades, would be as follows, depending upon the availability of posts :

- |  |   |
|--|---|
| 1. For promotion to the Grade of DIG       | Officers who have completed 14 years of service |
| 2. For promotion to the Grade of IGP       | Officers who have put in 18 years of service    |
| 3. For promotion to the Grade of Addl. DGP | Officers who have put in 26 years of service    |
| 4. For promotion to the Grade of DGP       | Officers who have put in 30 years of service    |

**(C) Method of Selection**

i) Selection should be based on merit with due regard to seniority as provided in sub-rule 2A of Rule (3) of the Indian Police Service (Pay) Rules, 1954.

- 12 (13)
- ii) Suitability of officers to hold posts of and above the Selection Grade may be adjudged by evaluating their character roll record as a whole and general assessment of their work. 46
- iii) An officer who has not been included in the panel other than DG in the first instance should be eligible for reconsideration after earning two more annual confidential reports. For DG level, reconsideration could be after earning at least one more ACR.
- iv) Special review may be done in cases where adverse remarks in an officer's annual confidential reports are expunged subsequently as a result of his representation/ memorial.

(D) Period of validity of the panel

- i) A fresh panel should be prepared as soon as all the officers in the earlier panel have been provided for. Empanelment of officers shall be considered batch-wise. Care shall be taken to ensure that officers are suggested/ considered for appointment to various grades in the order of their interse position in the panel. The record of the officers who have been empanelled for promotion but are yet to be promoted despite a lapse of 2 years, may be screened to see if in the last two years, there had been any deterioration in their standard as would warrant their delisting from the panel.
- ii) If a vigilance or departmental inquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted, pending the result of inquiry.

General Principles for promotion would be as given in Annexure.

NO. 45020/11/97-IPS.II

Dated 15-01-99

(Sd/-)  
AGBIR SINGH  
15/01/99

ANNEXURE

GENERAL PRINCIPLES REGARDING MODE OF SELECTION ETC. FOR PROMOTION AND FUNCTIONS OF SCREENING COMMITTEES ETC.

<p><b>FUNCTIONS OF SCREENING COMMITTEES</b></p>	<p>1.1 : It should be ensured while making promotions that suitability of candidates for promotion is considered in an objective and impartial manner. For this purpose, Screening Committees (hereafter referred to as Committees) should be formed for different grades whenever an occasion arises for making promotions/ confirmations etc. The committees so constituted shall adjudge the suitability of officers for :-</p> <ul style="list-style-type: none"> <li>(a) Promotions of officers in various grades;</li> <li>(b) Confirmation; and</li> <li>(c) Assessment of the work and conduct of probationers for the purpose of determining the suitability for retention in Service or their discharge from Service or extending their probation.</li> </ul>
<p><b>FREQUENCY AT WHICH COMMITTEES SHOULD MEET</b></p>	<p>2.1 Meetings of the Committees should be convened at regular intervals to draw panels for filling up the vacancies arising during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like ACRs, integrity certificates, seniority list etc. for placing before the Committees. Meetings of the Committees could be convened every year and if necessary, on a fixed date, e.g., 1<sup>st</sup> of May or June. All the cadres should lay down a time schedule for holding the Committee meetings and the same should be monitored by making one of their officers responsible for keeping a watch to ensure that they are held regularly. Holding of these meetings need not be delayed or postponed on one or the other administrative ground or on the ground that the necessary material for placement before the Committees is not ready. The requirement of convening regular meetings of the Committee should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for promotion/ confirmation during the year in question.</p>

<p>3. DETERMINATION OF VACANCIES</p>	<p>3.1 It is essential that the number of vacancies in respect of which a panel is to be prepared should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a grade due to death, retirement, resignation, promotions and deputation. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding 3 years should be taken into account taking due note of the number of deputationists likely to return to the cadre. Purely short term vacancies created as a result of the officers proceeding on leave, training or on deputation for a short-term period etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding the Committee meetings for a year or more, vacancies should be indicated year-wise separately.</p>
<p>4. PAPERS TO BE PUT UP FOR CONSIDERATION BY COMMITTEES</p>	<p>4.1 The proposals should be completed and submitted to the Committee well in time. No proposal for holding a Committee should be sent until and unless at least 90% of the ACRs (up-to-date and complete) are available. Every effort should be made to keep the ACR dossiers up-to-date lest this aspect is advanced as the reason for not holding the Committee meetings in time. The officer referred in para 2 should also be responsible for monitoring the completion of the ACR dossiers.</p> <p>4.2 The ACR folder should be checked to verify whether the ACRs for individual years are available. If the ACR for a particular year is not available and for valid/ justifiable reasons, it cannot be made available, a certificate should be recorded to that effect and placed in the folder.</p> <p>4.3 The integrity certificate on the lines indicated below should be furnished to the Committees constituted to consider cases for promotion or confirmation:-</p> <p>“The records of service of the following officers who are to be considered for promotion/ confirmation in the grade have been carefully scrutinised and it is certified that there is no doubt about their integrity.”</p> <p>If there are names of persons in the list of eligible candidates, whose integrity is suspect or has been held in doubt at one stage or the other, the fact should specifically be recorded by the officer in-charge of the Personnel</p>

Department and brought to the notice of the Committee. It should be ensured that the information thus furnished is factually correct and complete in all respects. Cases where incorrect information has been furnished should be investigated and suitable action taken against the person responsible for it.

5.	CONSIDERATION OF OFFICERS ON DEPUTATION	5.1 The names of officers who are on deputation should also be included in the list submitted to the Committee for consideration in case they come within the zone of consideration and fulfil the prescribed eligibility conditions. Similarly, the names of the officers on deputation should also be included in the list of names to be considered for confirmation in case they are eligible and come within the range of seniority. In cases where a certain number of years of service to be put in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to the higher grade and/or for confirmation, the period of service rendered by an officer on deputation should be treated as comparable service in his cadre for the purposes of promotion as well as confirmation. This is subject to the condition that the deputation is with the approval of competent authority and it is certified that but for deputation, the officer would have continued to be in the relevant grade in his cadre. The same would apply in cases of officers who are on study leave or training under the various training schemes which are treated as duty for all purposes.
6.	PROCEDURE TO BE OBSERVED BY COMMITTEES	6.1 Each Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course but should be earned by dint of hard work, good conduct and result oriented performance as reflected in the annual confidential report and based on strict and rigorous selection process. The misconception about "Average" performance also requires to be cleared. While "Average" may not be taken as adverse remark in respect of an officer, it cannot also be regarded as complimentary to the officer as such performance should be regarded as routine and undistinguished. It is only the performance that is above average and performance that is really noteworthy which should entitle an officer to recognition and suitable rewards.

7.	CONFIDENTIAL REPORTS	<p>7.1 The annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each Committee. The evaluation of ACRs should be fair, just and non-discriminatory. The Committee should consider ACRs for equal number of years in respect of all officers falling within the zone of consideration for assessing their suitability for promotion. Where one or more ACRs have not been written for any reason, the Committee should consider the available ACRs. While making the assessment, the Committee should not be guided merely by the overall grading that may be recorded in the ACRs but should make its own assessment on the basis of the overall entries made in the ACRs. If the Reviewing Authority or the Accepting Authority, as the case may be, has overruled the Reporting officer or the Reviewing Authority respectively, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment provided it is apparent from the relevant entries that the higher authority has come to a different assessment consciously after due application of mind. If the remarks of all these authorities are complementary to each other, then the remarks should be read together and the final assessment made on that basis.</p> <p>7.2 In the case of each officer, an overall grading should be given which will be either "Fit" or "Unfit". There will be no benchmark for assessing suitability of officers for promotions.</p> <p>7.3 Before making the overall grading, the Committee should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any higher authority has been conveyed to him. Similarly, the Committee would also take note of the commendations received by the officer during his service career. The Committee would also give due regard to the remarks indicated against the column of integrity.</p> <p>The list of candidates considered by the Committee and the overall grading thus assigned to each candidate would form the basis for preparation of the panel for promotion.</p>
8.	PREPARATION OF YEAR-WISE PANELS WHERE THE COMMITTEE HAVE NOT MET FOR A	<p>8.1 Where for any reasons beyond control, the Committee has not met in a year(s) even though vacancies arose during that year(s), the first Committee that meets thereafter should follow the procedures indicated below.</p>

NUMBER OF YEARS

- (a) Determine the actual number of vacancies that arose in each of the previous year(s) immediately preceding and the actual number of vacancies proposed to be filled in the current year separately.
- (b) Consider in respect of each of the years those officers only who would be within the zone of consideration with reference to the vacancies of each year starting with the earliest year onwards.
- (c) Prepare a panel by placing the panel of the earlier year above the one for the next year and so on.

8.2 Where a Committee has already met in a year and further vacancies arise during the same year, the following procedure should be followed:-

- (a) For vacancies due to death, voluntary retirement, new creations etc. belonging to the category which could not be foreseen at the time of placing the facts and the matter before the Committee, another meeting of the Committee should be held for drawing up a panel for the vacancies thus arising. If for any reason, the Committee cannot meet for the second time, the procedure of drawing up of year-wise panel may be followed when it meets next for preparing panels in respect of vacancies that arise in the subsequent year.
- (b) In cases of non reporting of vacancies due to error or omission, since the wrong whereby such an error artificially restricted the zone of consideration cannot be undone, a Review DPC should be held keeping in mind the total vacancies in the year.
- (c) For the purpose of evaluating the merit of the officers while preparing year-wise panels, the scrutiny of the record of the service of the officer should be limited to the records that would have been available had the Committee met at the appropriate time. However, if on the date of such meeting, departmental proceedings against an officer are in progress and the sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the vacancy related. The officers' name should be kept in the sealed cover till the proceedings are finalised.

(d) While promotions will be made in the order of the

		consolidated panel, such promotions will have only prospective effect even in cases where the vacancies relate to earlier years.
9.	CONFIRMATION	9.1 In the case of confirmation, the committee should not determine the relative merit of officers but it should assess the officers as "Fit" or "Not Yet Fit" for confirmation in their turn on the basis of their performance as assessed with reference to their records of service.
10.	PROBATION	10.1 In the case of probation, the Committee should not determine the relative grading of officers but only decide whether they should be declared to have completed the probation satisfactorily. If the performance of any probationer is not satisfactory, the Committee may advise whether the period of probation should be extended or whether he should be discharged from service.
11.	PROCEDURE TO BE FOLLOWED IN RESPECT OF OFFICERS UNDER CLOUD	<p>11.1 At the time of consideration of the cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned Screening Committees:-</p> <ul style="list-style-type: none"> <li>(a) Officers under suspension;</li> <li>(b) Officers in respect of whom a charge-sheet has been issued and disciplinary proceedings are pending;</li> <li>(c) Officers in respect of whom prosecution for criminal charge is pending.</li> </ul> <p>11.2 The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned above, along with other eligible candidates, without taking into consideration the disciplinary case/ criminal prosecution which is pending. The assessment of the Committee including "unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE SCALE OF ..... IN RESPECT OF SHRI..... NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/ CRIMINAL PROSECUTION AGAINST ..... SHRI .....". The proceedings of the Committee need only contain the note</p>

	<p>"THE FINDINGS ARE CONTAINED IN THE ATTACHED SEALED COVER." The same procedure will be adopted by the subsequent Screening Committees till the disciplinary case/ criminal prosecution against the officer concerned is concluded.</p>
<p>12. ADVERSE REMARKS</p>	<p>12.1 Where adverse remarks in the Confidential Report of the officer concerned have not been communicated to him, this fact should be taken note of by the Committee while assessing the suitability of the officer for promotion/ confirmation. In a case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the Committee may defer the consideration of the case until a decision on the representation is arrived at.</p> <p>12.2 An officer whose increments have been withheld or who has been reduce to a lower stage in the time-scale, cannot be considered on that account to be ineligible for promotion as the specific penalty of withholding promotion has not been imposed on him. The suitability of the officer for promotion should be assessed by the Committee as and when occasions arise. They will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of overall service records of the officer and the fact of the imposition of the penalty, he should be considered suitable for promotion. Even where the Committee considers that despite the penalty the officer is suitable for promotion, the officer should not actually be promoted during the current year of the penalty.</p>
<p>13. VALIDITY OF THE COMMITTEE PROCEEDINGS WHEN ONE MEMBER IS ABSENT</p>	<p>13.1 In such cases and provided that the Chairman was not absent, the proceedings of the Committee shall be legally followed and can be acted upon. It should however be ensured that the member was duly invited but absented himself for one reasons or the other and there was no deliberate attempt to exclude him from the Committee's deliberations and provided further that the majority of the members constituting the Committee are present in the meeting.</p>
<p>14. PROCESSING OF RECOMMENDATIONS OF THE COMMITTEES</p>	<p>14.1 The recommendations of the Committee are advisory in nature and should be duly placed before the appointing authority for approval. There may, however, be occasions when the appointing authority may find it necessary to disagree with the recommendations. In any case,</p>

		<p>however, the decision to agree or disagree with the recommendations should be taken within a period of 3 months from the date of the meeting of the Committee.</p> <p>14.2 Where the appointing authority proposes to disagree with the recommendations of the committee, it may refer the matter again to the Committee for reconsideration of their earlier recommendations. If the Committee reiterates its earlier recommendations giving also the reasons in support thereof, the appointing authority will take a decision either to accept or to vary the recommendations of the committee and such a decision shall be final.</p>
15.	<b>VIGILANCE CLEARANCE WHILE IMPLEMENTING THE COMMITTEE RECOMMENDATIONS</b>	<p>15.1 A clearance from vigilance angle should be available before making actual promotion or confirmation of officers approved by the committee to ensure that no disciplinary proceedings are pending against the officers concerned.</p>
16.	<b>ORDER IN WHICH PROMOTIONS TO BE MADE</b>	<p>16.1 The officers placed in the approved panels for promotion are to be considered for appointment to higher grades in the order of their inter-se position in the respective panels, except in cases where disciplinary/ court proceedings are pending against an officer. The procedure to be adopted in cases of officers against whom disciplinary/ court proceedings are pending has been laid down in the succeeding paragraphs.</p>
17.	<b>PROMOTION OF OFFICERS ON DEPUTATION</b>	<p>17.1 If a panel contains the name of an officer who is away from the cadre and is on deputation in public interest, including an officer who has gone on study leave/ training, provisions should be made for his regaining the temporarily lost promotion in the higher grade on his return to the cadre. It has to be borne in mind that seniority of members of All India Services which is fixed at the time of their completion of probation period, is not to undergo any change throughout their career and early or late promotion of an officer vis-à-vis other officer(s) is to have no impact on their seniority. Therefore, such an officer need not be reconsidered by a fresh Committee, if subsequently held, while he continues to be on deputation/ study leave/ training. This would be irrespective of the fact whether or not he has got the benefit of proforma promotion under the NBR.</p> <p>17.2 In case an officer is away on deputation on his own</p>

volition by applying in response to some advertisement, he should be required to revert to his parent cadre immediately when due for promotion, failing which his name shall be removed from the panel. On his reverting to the parent cadre after a period of 2 years, he will have no claim for promotion to the higher grade on the basis of that panel. In that case, he should be considered in the normal course along with other eligible officers when the next panel is prepared and he should be promoted to the higher grade according to his position in the fresh panel.

<p>18. SEALED COVER CASES ACTION AFTER COMPLETION OF DISCIPLINARY/ CRIMINAL PROSECUTION</p>	<p>18.1 If the proceedings of the Committee for promotion contain findings in a sealed cover, on conclusion of the disciplinary case/ criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the Screening Committee kept in sealed cover/ covers and with reference to the date of promotion of his next junior on the bass of such findings. The officer may be promoted, if necessary, by reverting the junior most officiating person. Such promotion would be with reference to the date of promotion of his junior and in these cases, the officer will be paid arrears of salary and allowances.</p> <p>18.2 If any penalty is imposed on the officer as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/ covers shall not be acted upon. His case for promotion may be considered by the next Screening Committee in the normal course and having regard to the penalty imposed on him. In such cases, the question of arrears will be decided by the Central Government by taking into account all the facts and circumstances of the disciplinary/ criminal proceedings. Where the Government denies arrears of salary or a part of it, the reasons for doing so shall be recorded.</p>
<p>9. SIX MONTHLY REVIEW OF SEALED COVER CASES</p>	<p>19.1 It is necessary to ensure that the disciplinary case/ criminal prosecution instituted against an officer is not unduly prolonged and all efforts to expeditiously finalise the proceedings are taken so that the need for keeping the cases of officers in sealed cover/covers is limited to the barest minimum. The appointing authorities concerned should comprehensively review such cases on the expiry</p>

		of six months from the date of convening of the first Screening Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also after every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/ criminal prosecution and further measures required to be taken to expedite their completion. The same procedure is to be followed for considering the cases of confirmation.
20.	<b>AD HOC PROMOTIONS IN CASES WHERE DISCIPLINARY PROCEEDINGS/ CRIMINAL PROSECUTIONS ARE PROLONGED</b>	20.1 As appointment of the members of the All India Services to various grades is made on regular basis and the concept of one-time confirmation exists in their cases, the concept of grant of ad hoc promotion is alien to them. Unlike Central Government Servants, ad hoc promotions are not be allowed in their cases even if the disciplinary cases/ criminal prosecutions instituted against them are found to have been prolonged. In their cases, only six-monthly review of their disciplinary/ criminal cases is to be undertaken and efforts are to be made to expedite their completion.
21.	<b>SEALED COVER PROCEDURE APPLICABLE TO OFFICERS COMING UNDER CLOUD BEFORE PROMOTION</b>	21.1 In the case of an officer recommended for promotion by the Screening Committee where any of the circumstances mentioned in Para 11 above arise before actual promotion, sealed cover procedure would have to be followed. The subsequent Committee shall assess the suitability of such officers along with other eligible candidates and place their assessment in sealed cover. The sealed cover/ covers will be opened on conclusion of the disciplinary case/ criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in Para 18 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover shall not be acted upon, as outlined in Para 18.2 above.
22.	<b>VALIDITY OF THE PANEL</b>	22.1 A panel for promotion recommended by the Committee and approved by the appointing authority shall be valid till all the officers placed in the panel have been promoted. This will, of course, exclude officers who are away on deputation or are on study leave or are on training.

23. REVIEW COMMITTEE MEETING

23.1

The proceedings of any Committee may be reviewed only if the Committee had not taken all the material facts into consideration or if material facts were not brought to their notice or if there were grave errors in the procedure followed by them. Special review may also be done in cases where adverse remarks in the officers' ACRs are expunged as a result of their reports. The Review Committee should consider only those officers who were eligible as on the date of meeting of the Original Committee. They should also restrict their scrutiny to the ACRs for the period relevant to the first Committee. If any adverse remarks relating to the relevant period were toned down or expunged, the modified ACRs should be considered as if the original adverse remarks did not exist at all. Before doing so, the appointing authority would scrutinize the relevant cases with a view to decide whether or not a review by the Committee is justified, taking in mind the nature of the adverse remarks toned down or expunged. While considering a deferred case or review of the case of a superseded officer, if the Committee finds the officer fit for promotion/ confirmation, it would place him at the appropriate place in the relevant panel after taking into account the toned down remarks or expunged remarks.

23.2

If the officers placed junior to the officer concerned have been promoted, the latter should be promoted immediately and if there is no vacancy, the junior-most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed at the stage it would have reached had he been promoted from the date the officer immediately below him was so promoted, but no arrears for the past periods would be admissible. In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of review, he should be confirmed from the due date.

*[Handwritten Signature]*  
15/1/99  
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No.45020/11/97-IPS.II Dated 15-01-99

to the selection grade or to a post carrying pay above the time-scale of pay.

(v) reversion of a member of the Service officiating in a higher grade or post to which promotions are made by selection, to a lower grade or post after a period of trial not exceeding three years on the ground that he is considered unsuitable for such higher grade or post, or on any administrative ground unconnected with his conduct;

(v) reversion of a member of the Service, appointed on probation to the Service, to State Service, during or at the end of the period of probation, in accordance with the terms of appointment or the rules and orders governing such probation;

(vi) replacement of the services of a member of the Service whose services have been borrowed from a State Government at the disposal of the State Government concerned;

(vii) compulsory retirement of a member of the Service under the Provisions of the All India Services (Death-cum-retirement Benefit) Rules, 1958;

(viii) termination of the service of a member of the Service, appointed on probation, during or at the end of the period of probation in accordance with the terms of the service or the rules and orders governing such probation.

6(2) <sup>19</sup>[ ]

7. Authority to institute proceedings and to impose penalty—<sup>20</sup>(1) Where a member of the Service has committed any act or omission which renders him liable to any penalty specified in rule 6—

7(1)(a) if such act or omission was committed before his appointment to the Service—

(i) the State Government, if he is serving in connection with the affairs of that State, or is deputed for service in any company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Government of that State or in a local authority set up by an Act of the Legislature of that State; or

(ii) the Central Government, in any other case, shall alone be competent to institute disciplinary proceedings against him and, subject to the provisions of sub-rule (2), to

impose on him such penalty specified in rule 6 as it thinks fit;

7(1)(b) If such act or omission was committed after his appointment to the Service—

(i) while he was serving in connection with the affairs of a State, or is deputed for service under any company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Government of a State, or in a local authority set up by an Act of the Legislature of that State, the Government of that State; or

(ii) while he was on training, the Government which deputed him for such training; or

(iii) while he was on leave, the Government which sanctioned him the leave; or

(iv) while he was under suspension, the Government which placed him or is deemed to have placed him under suspension; or

(v) if such act or omission is wilful absence from duty after the expiry of leave, the Government which sanctioned the leave; or

(vi) while he was absent from duty otherwise than on leave, the Government which would have been competent to institute disciplinary proceedings against him, had such act or omission been committed immediately before such absence from duty; or

(vii) the Central Government, in any other case, shall alone be competent to institute disciplinary proceedings against him and, subject to provisions of sub-rule (2), to impose on him such penalty specified in rule 6 as it thinks fit, and the Government, company associations, body of individuals or local authority, as the case may be under whom he is serving at the time of institution of such proceedings shall be bound to render all reasonable facilities to the Government instituting and conducting such proceedings.

*Explanation.*— For the purposes of clause (b) of sub-rule (1) where the Government of a State is the authority competent to institute disciplinary proceedings against a member of the Service, in the event of a reorganisation of the State, the Government on whose cadre he is borne after such reorganisation shall be the authority competent to institute disciplinary proceedings and, subject to the provisions of sub-rule (2), to impose on him any penalty specified in rule 6.

<sup>19</sup>Omitted vide DP&AR Notf. No. 31/7/72-AIS(III) dt. 22/5/72.

<sup>20</sup>Substituted vide Deptt. of Per. & Notification No. 6/9/72-AIS(III), dt. 5-7-75. (GSR No. 872, dt. 15-7-75).

period of suspension shall not be treated as a period spent on duty, unless the authority competent to order reinstatement specifically directs that it shall be so treated for any specified purpose.

Provided that if the member of the Service so desires such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the member of the Service.

5B(8) The payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible.

5B(9) The proportion of the full pay and allowance determined under the proviso to sub-rule (3) or under sub-rule (5) shall neither be equal to full pay and allowances nor shall it be less than the subsistence allowance and other allowances admissible under rule 4.

### PART III—PENALTIES AND DISCIPLINARY AUTHORITIES

6. Penalties.—(1) The following penalties may, for good and sufficient reasons and as hereinafter provided be imposed on a member of the Service, namely:—

#### Minor Penalties:

- (i) censure;
- (ii) withholding of promotions;
- <sup>16</sup>(iii) recovery from pay of the whole, or part of any pecuniary loss caused to Government, or to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by Government, or to a local authority set up by an Act of Parliament or of the Legislature of a State, by negligence or breach of orders;
- (iv) withholding of increments of pay;

#### Major Penalties: Same as provided in clause (v) (vii)

- (v) reduction to a lower stage in the time scale of pay for a specified period <sup>not exceeding three years</sup> with further directions as to whether or not the member of the Service will earn increments during the period of reduction and whether, on the expiry of such period, the reduction will or will not have the effect of postponing future increments of his pay;
- (vi) reduction to a lower time scale of pay, grade or post which shall ordinarily be a bar to promotion of the member of the Service to the

time scale of pay, grade or post from which he was reduced, with or without further direction regarding conditions of restoration to the grade or post from which the member of the Service was reduced and his seniority and pay on such restoration to that grade or post;

- (vii) compulsory retirement:

Provided that, if the circumstances of the case so warrant, the authority imposing the penalty may direct that the retirement benefits admissible to the member of the Service under the All India Services (Death-cum-Retirement Benefits) Rules, 1958, shall be paid at such reduced scale as may not be less than two-thirds of the appropriate scales indicated in Schedules 'A' and 'B' of the said rules;

- (viii) removal from Service which shall not be a disqualification for future employment under the Government;
- (ix) dismissal from Service which shall ordinarily be a disqualification for future employment under the Government.

<sup>17</sup>Provided that in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or for bearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed.

Provided further that in any exceptional case, and for special reasons recorded in writing any other penalty may be imposed.

*Explanation*—The following shall not amount to a penalty within the meaning of this rule; namely:—

- (i) Withholding of increments of pay of a member of the Service for failure to pass a departmental examination in accordance with the rules or orders governing the service;
- (ii) Stoppage of a member of the Service at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- <sup>18</sup>(iii) non-promotion of a member of the Service, whether in a substantive or officiating capacity, to a post in the senior time-scale of pay on the ground of lack of adequate length of service and experience or non-confirmation in the service, or failure to pass the departmental examination;
- (iii-a) non-promotion of a member of the Service, whether in a substantive or officiating capacity, after due consideration of his case

<sup>16</sup>Substituted vide DP & AR Not. No. 6/5/74-AIS(III), dt. 28-7-75. (GSR No. 988 Gazette, dt. 9th Aug. 75)

<sup>17</sup>Inserted vide AP & T Notification No. 11016/7/87-AIS(III), dt. 26-2-88.

<sup>18</sup>Substituted vide Department of Personnel Notification No. 12/2/69-AIS(III), dt. 13-7-71. (GSR No. 588 dt. 24-4-71)

New Delhi-1, the 13<sup>th</sup> November, 2000

ORDER

The following IPS officers of Arunachal Pradesh-Goa-Mizoram-Union Territories Cadre (1986 and 1987 Batches) are appointed to the Selection Grade of Indian Police Service (Rs.14300-400-18300) with effect from the dates mentioned against their names :-

1.	S/Shri T.N. Mohan (86)	1/1/99	
2.	Satyendra Garg (87)	1/1/2000	
3.	P.K. Bhardwaj (87)	-do-	NBR
4.	P. Kamraj (87)	-do-	
5.	Taj Hassan (87)	-do-	
6.	Mr. Dilip Kumar (87)	-do-	NBR
7.	M.S. Upadhyaya (87)	-do-	
8.	P.K. Loreng (87)	-do-	
9.	Dr. M. Ponnian (87)	-do-	
10.	K.C. Thanga (87)	-do-	
11.	L. Sailo (87)	-do-	
12.	S.S. Grewal (87)	-do-	

(K.K. Kalra

Under Secretary to the Govt. of India

Copy to :

- The Chief Secretary, Government of NCT of Delhi with 8 spare copies for the officer concerned.
- The Chief Secretary, Government of Mizoram, Aizawl with two spare copy for S/Shri K.C. Thanga and Sailo.
- The Director, Intelligence Bureau, New Delhi with one spare copy for Shri P.K. Bhardwaj, IPS.
- The Director, Central Bureau of Investigation, Delhi with one spare copy for Shri N. Dilip Kumar, IPS.
- The Commissioner of Police, Delhi, Police Headquarters, I.P. Estate, New Delhi.
- File No. 14016/14/2000-UTS
- Guard File.

Deptt. of Personnel & Admn. Reforms (C.S.W.)  
Receipt No. 37  
Date... 17/11/00

(K.K. Kalra

Under Secretary to the Govt. of India

INTERNAL DISTRIBUTION:

RS to HM / PPS to HS / PPS to AS(H)

Dy. Secy. D.P. & A.R.  
CSW/TRG/SAD  
Receipt No. 1445  
Date... 16/11/00



P.O. of Secretary  
D.P. & A.R.  
Receipt No. 1472  
Date... 15/11/2000

P.O. of OSD  
D.P. & A.R.  
Receipt No. 92  
Date... 15/11/00

Deptt. of Personnel & Admn. Reforms (C.S.W.)  
Receipt No. 37  
Date... 17/11/00

MSD  
K. K. Kalra  
15/11/00  
Dy. Secy. D.P. & A.R.  
CSW/TRG/SAD

27

ANNEXURE--IV

b1

NO.A.22012/7/94-PERS(B)/Pt  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
CIVIL SERVICE WING

Dated Aizawl, the 27th June, 2001

To,

Ku K.C.Thanga, IPS,  
Police HQ, Aizawl.

Ref:- No. Nil, dt.24.4.2001.

Sir,

With reference to above, I am directed to inform you that the Director of Accounts & Treasuries cannot issue your Pay Slip based on order No.A.22012/7/94-PERS(B)/Pt/145 dt.29.9.2000 as the approval of the Cadre Controlling Authority i.e. Ministry of Home Affairs was not obtained for the same. Accordingly the case was reviewed and a careful examination of the same indicated that the State Government is not competent to give you the Pay Scale of DIG of Police without the approval of the Cadre Controlling Authority. It is noted that you were appointed to the selection grade of IPS with effect from 1.1.2000 in terms of order No.14016/44/2000-UTS Dt.13.11.2000 issued by the Government of India in the Ministry of Home Affairs. Since your services were governed by the relevant AIS Rules and the IPS (Pay) Rules, the orders issued by the Ministry of Home Affairs in relation to your case are final. Accordingly there was no reduction either in rank or Pay and the order against which you have made your representation was only rectification of the mistake committed earlier.

Yours faithfully,

*Lth* 27.6.01.

( LAWATHANGA )  
Under Secretary to the Govt. of Mizoram,  
D.P & A.R(CSW)

Memo No.A.22012/7/94-PERS(B)/Pt Dated the 27th June, 2001  
Copy to:-

Director General of Police, Mizoram for information.

*Lth* 27.6.01

( LAWATHANGA )  
Under Secretary to the Govt. of Mizoram.

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