

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 326/2001

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SECTION OFFICER (Judl.)

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

ORIGINAL APPLICATION NO. 326 OF 2001

APPLICANT (S) Bandhu Das

RESPONDENT (S) : H.O; I qom

ADVOCATE FOR APPLICANT(S) M. Chandra Mrs. N. D. Goswami

ADVOCATE FOR RESPONDENT(S) *Case* *G. N. Chakraborty, 12-Buth*

Notes of the Registry	dated	Order of the Tribunal
<p>Application for admission of the applicant filed vide Petition No. 79548543 C.F. for Rs 50/- deposited vide IPO/BD No 79548543</p> <p>Dated 11.8.2001</p> <p>By Mr. Registrar</p>	22.8.01	<p>Heard Mr. M. Chanda, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 24/9/01 for further order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p> <p>24.9.01</p> <p>4-</p> <p>ce file closed and sent to for cross the respondent to-3 by Regd AD vide 0 3260 K 62 dtd 29/8/01</p>	24.9.01	<p>List on 12/11/01 to enable the respondents to file written statement.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>mb</p> <p>12.11.2001</p> <p>Written statement has been filed.</p> <p><i>[Signature]</i> 12.12.01</p>	12.11.2001	<p>Four weeks further time is allowed to the respondents to file written statement as prayed for by Mr. A. Deb Roy, learned Sr. C.G.S.C..</p> <p>List on 13.12.2001 for further order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>bb</p>		

✓  
No written statement  
has been filed.

By  
16.1.02.

13.12.01

At the request of learned  
counsel for the respondents 4 weeks time  
is allowed to file written statement.

List on 17.1.02 for order.

IC/Whar  
Member

mb

17.1.02

Pleadings are complete. The case  
may now be listed for hearing. The  
applicant may file rejoinder, if any,  
within 2 weeks from today.

List on 26.2.2002 for hearing.

N/s has been filed  
on behalf of the  
respondents at  
p. 33-54.

N3  
17/01/02

IC/Whar  
Member

                      
Vice-Chairman

mb

26.2.02

Heard learned counsel for the  
parties. Hearing concluded. Judgement  
delivered in the open court, kept in  
separate sheets. The application is  
disposed in terms of the observations  
made in the order. No order as to  
costs.

IC/Whar  
Member

                      
Vice-Chairman

22.2.2002

Rejoinder submitted  
by the applicant in reply  
to the N/s.

                      
trd

27.2.2002

Copy of the Judgt  
has been sent to the  
Office for issuing the  
fine to the applicant  
as well as to the  
AGSC for the Respondent

                      
27/2/02

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CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.A. No. 326/2001 . . . of

DATE OF DECISION 26.2.2002

Sri Bandhu Das

APPLICANT(S)

Mr. M.Chanda.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C. (for Respondent Nos. 1 & 3)  
Mrs. Rita Das Mazumder (for Respondent No. 2)

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 ?

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

104  
hr

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 326 of 2001.

Date of decision : This the 26th day of February, 2002.

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

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

Sri Bandhu Das  
Son of Sri P.C.Das,  
Tarun Nagar, Bye Lane 4,  
Dorothi Apartment,  
Guwahati-781005

...Applicant

By Advocate Mr. M.Chanda.

-versus-

1. The Union of India  
Represented by the Secretary to  
the Government of India,  
Ministry of Finance,  
New Delhi.
2. The Chief Commissioner of Income Tax,  
Saikia Commercial Complex (2nd Floor),  
Sreenagar, G.S.Road,  
Guwahati-781005.
3. Additional Commissioner of  
Income Tax, Hqrs. Office of the  
Chief Commissioner of Income Tax,  
Saikia Commercial Complex,  
Sreenagar, G.S.Road,  
Guwahati-781005.

...Respondents

By Advocate Mr. A.Deb Roy, Sr.C.G.S.C. (for Respondent Nos. 1 & 3)  
and Mrs. Rita Das Mazumder (for respondent no. 2).

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The issue relates to the promotion of the applicant under the category reserved for physically handicapped persons in the following circumstances :

The applicant was appointed as Upper Division Clerk under the respondents through Staff Selection Commission under reserved quota for physically handicapped

persons. He was promoted as Tax Assistant in the month of August, 1997. Thereafter he was promoted to the post of Senior Tax Assistant on 13.7.2001. The applicant also pleaded in his application that he passed the Ministerial Staff Examination in the year 1994 and in the year 1996 he qualified in the Income Tax Inspectors' Examination which is a pre-requisite for promotion to the cadre of Income Tax Inspector. In this application the applicant sought for a direction for consideration of his case for promotion to the post of Income Tax Inspector against the quota reserved for physically handicapped persons. It is contended that against 3% reserved quota earmarked for the physically handicapped persons the applicant is entitled to be considered for promotion to the post of Income Tax Inspector. But the respondent authority indiscriminately promoted persons to the rank of Income Tax Inspector without considering his case for promotion against the reserved quota.


2. The respondents submitted its written statement. In the written statement it was stated that the applicant has acquired eligibility for promotion to the post of Income Tax Inspector. It was also asserted that initially reservation of 3% for the physically handicapped introduced under DOPT circular dated 4.11.1977 and 30.12.1980 was confined to only direct recruitment. Thereafter the same was extended by DOPT circular dated 20.11.1989 to all the physically handicapped persons in Group C and D posts. According to the respondents the post of Inspector of Income Tax was identified as fit to be manned/hled by only Orthopaedically handicapped persons available in the feeder grade. The respondent however, in the written statement

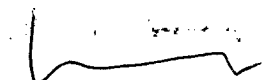
Contd...

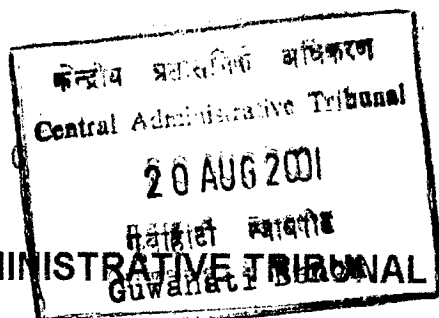
stated that the representation of the applicant dated 18.10.2000 was not disposed of but the same is under active consideration. The controversy is confined only promotion against the statutory reserved quota under the Disabilities (Equal Opportunities, Full Participation and Protection of Rights) Act, 1995 meant for providing freedom of participation to persons with disabilities in all walks of life. The opportunities of career enhancement was assured by way of according 3% reservation in promotion to persons with disabilities and for this purpose Department of Personnel and Training issued an Office Memorandum dated 20.11.1989. Under Section 33 of the Act provides for reservation for persons suffering from blindness or low visions, hearing impairment and locomotor disability and cerebral palsy in the post identified for each disability.

3. From the factual matrix reflected in the written statement it appears that the case of the applicant for promotion to the rank of Income Tax Inspector is under active consideration against the reserved quota. In the said set of circumstance we are not inclined to intervene in this matter instead we direct the respondents to do the needful in the light of the statements made in the written statement as early as possible and take necessary steps in the matter of promotion of the applicant to the post of Income Tax Inspector as per statutory provision. It is expected that the respondents shall act with utmost despatch and take necessary steps.

4. With the observations made above the application stands disposed of. There shall however, be no order as to costs.

  
(K.K.SHARMA)  
Member

  
(D.N.CHOWDHURY)  
Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

Title of the case : O.A. No. 326/2001  
Shri Bandhu Das : Applicant  
- Versus -  
Union of India & Others : Respondents.

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Filed by

Date

Advocate

Bandhu Das

Filed by the applicant  
through advocate Shri  
G. N. Chakravarty for no. 326/2001.



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

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

O.A. No. 326/2001

**BETWEEN**

Sri Bandhu Das

Son of Late p.C. Das

Tarun Nagar,

Bye Lane-4,

Dorothi Apartment,

Guwahati-781005.

.....Applicant

**-AND-**

1. The Union of India,  
  
Represented by the Secretary to the  
  
Government of India,  
  
Ministry of Finance,  
  
New Delhi.
  
2. The Chief Commissioner of Income Tax,  
  
Saikia Commercial Complex (2<sup>nd</sup> Floor)  
  
Sreenagar, G.S.Road,  
  
Guwahati-781005
  
3. Additional Commissioner of Income Tax, Hqrs.

*Bandhu Das*

Office of the Chief Commissioner of Income Tax  
Saikia Commercial Complex  
Sreenagar, G.S.Road,  
Guwahati-781005

.....Respondents.

#### DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made against the impugned order No. E-151/Promotion(ITI)/CCIT/GHY/2001-02/4004-119 dated 13.07.2001 issued by the Respondent No.3 whereby 40 (Forty) persons were promoted to the post of Inspector of Income Tax on temporary basis without considering the case of promotion of the applicant in spite of the fact that the applicant belongs to the category of physically handicapped persons and that there are reserved quota for such physically handicapped person for promotion which was violated by the Respondents in the instant case of promotion. The applicant therefore prays for a direction upon the respondents to promote the applicant to the post of Inspector of Income Tax against the reserved quota for physically handicapped persons with effect from the date of promotion of the 40 persons who were promoted under the order dated 13.07.2001.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

*Barrell Durr*

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant passed B.Com in the year 1990 from Dibrugarh University, Assam, Consequent upon his selection by the Staff Selection Commission (SSC), under the reserved quota for physically handicapped persons, the applicant was initially appointed as Upper Division Clerk (U.D.C.) in the office of the Assistant Commissioner of Income Tax, Investigation Circle, Dibrugarh. Subsequently he was promoted to the post of Tax Assistant in the month of August, 1997 and thereafter promoted as Senior Tax Assistant vide order dated 13.07.2001. The applicant suffers from the disability of one leg and as such is a physically handicapped person. ✓

4.3 That the applicant passed the Ministerial Staff examination in the year 1994 which was required for getting confirmation in his services. Eventually he also qualified in the Income Tax Inspectors' examination in the year 1996 which is a pre-requisite for promotion to the cadre of Income Tax Inspector (ITI), on the basis of his passing ITI examination, the applicant was promoted as Tax Assistant in 1997. As such, the applicant attained all eligibilities for being promoted to the post of Income Tax Inspector.

4.4 That further to above, the applicant was initially recruited under the reserved quota for physically handicapped persons and such reservation does exist in case of promotion also in all Groups of posts. Initially, the provisions of reservation of posts for the physically handicapped persons in case of promotion of Group 'C' and Group 'D' were laid down by the Government of India, Department of Personnel & training (DOPT) vide its O.M. bearing No. 36035/1/89-Estt(sCT), dated 20.11.1989. As incorporated in "Swamy's Compilation on Reservations and Concessions in Government Services" - (C-45, 1999, Page 596), the O.M. dated 20.11.1989 provided for reservations for the

Sr Tax Asst  
Tax Insp Ex 1996

Bondhu Dm

physically handicapped in Group 'C' and 'D' posts filled by promotion in "identified posts" for three categories of the physically handicapped persons, namely,

- a) The visually handicapped
- b) The hearing handicapped and
- c) The orthopaedically handicapped

Each of the three categories of the physically handicapped persons will be allowed reservation at one percent each.

The above O.M. dated 20.11.1989 was subsequently modified by the O.M. No. 36035/7/95-Estt(SCT) dated 18.2.1997 which categorically mentioned that there would be 3% of posts reserved for promotion of the physically handicapped persons for which a separate Register of 100 points would be maintained. Thereafter the O.M. dated 18.2.1997 was also modified by another O.M. bearing No. 36025/03/97-Estt(Res) dated 04.06.1997 which specifically earmarked the reserved posts for the physically handicapped and notified that point no. 1, 34 and 67 in cycle of 100 vacancies in the 100 point Register would be earmarked for reservation for physically handicapped.

Further to above, the Government of India, vide its Corrigendum No. 36035/7/95-Estt(SCT) dated 16.1.1998 issued by the DOPT, extended the provision of reservation for the physically handicapped in promotion to all Groups of posts and to all grades and services.

Copy of O.M. dated 18.2.1997, O.M. dated 04.07.1997 and Corrigendum dated 16.1.1998 are annexed hereto as Annexure-I, II, and III respectively.

4.5 That from the above mentioned orders and circulars of the Government it is abundantly clear that in case of promotions of all Groups of posts (i.e. A,B,C

Banellu Das.

D), not less than 3% of the posts are reserved for the physically handicapped persons and to be more precise, point no. 1,34 and 67 in cycle of 100 vacancies in the 100 point Register would go to the physically handicapped persons only, the only limitation being that such reservation will apply in case of "identified posts".

4.6 That the post of Income Tax Inspector falls under the category of "identified post" for the purpose of reservation in promotion for the physically handicapped which is evident from the Notice of Advertisement published by the Staff Selection commission (for short SSC) in the "Employment News" dated 21-27 October, 2000 wherein under item Serial number 2(iii) relating to vacancies, reservation of the posts of Income Tax Inspectors for physically handicapped persons have been specified. This is also evident from the Appendix -2 pertaining to the list of 'jobs identified for being held by physically handicapped' incorporated in "Swamy's Compilation on Reservation" and Concessions in Government Services" wherein under item Serial Number 91 (Page 623) the post of Inspectors has found place. Appendix-2, read with Appendix-3 and Appendix-4 in the said book (Swamy's Compilation) stipulates the physical requirements and categories of disabled suitable for the job. In Appendix-2, under item serial number 91, it has been indicated that the post of Inspector is an "identified post" for the purpose of reservation for physically handicapped and the physical requirements are - S, W, H, SE, whereas the categories of disabled suitable for the job are - OL, OA. The abbreviations indicated herein have been expanded in their full form in Appendix-3 and Appendix-4 as under :

#### Appendix-3

- S- Works performed by sitting (Sl.No.6)
- W- Works performed by walking (Sl. No. 8)
- H- Works performed by hearing/speaking (Sl. No. 10)

*Banethu Dis*

SE- Works performed by seeing (Sl. No.9)

Appendix-4

OL- One leg affected (R and /or L) -( Sl. No. iv)

OA One Arm affected (R or L) - (Sl. No. V)

- a) impaired reach
- b) weakness of Grip
- c) ataxia

Copy of Advertisement in "Employment News" dated 21-27 October'2000 is annexed hereto as Annexure-IV.

4.7 That having qualified in Income Tax Inspectors' examination in 1996 and as per the avowed policy of the Government, making provision of reservation in promotion for the physically handicapped, the applicant was not only eligible for promotion to the post of Income Tax Inspector but had acquired a legal right for the said promotion under the 3% reserved quota of the physically handicapped since he satisfied all the conditions and pre-requisites detailed above for his promotion to the post of Income Tax Inspector. In view of this the applicant, submitted one representation on 18.10.2000 to the Respondent No.2 enclosing therewith the relevant Government Office Memoranda and praying for consideration of his case for promotion as Income Tax Inspector under the reserved quota for physically handicapped.

Copy of application dated 18.10.2000 is annexed hereto as Annexure-V.

4.8 That surprisingly, the Respondent No.3, issued on behalf of Respondent No.2, an impugned order of promotion under order No. E-151/Promotion (ITI)/CCIT/GhY/2001-02/4004-119 dated 13.07.2001 promoting 40 (Forty) persons to the post of Inspector of Income Tax on temporary basis without considering the case of this applicant, showing utter disregard to the reservation quota for physically handicapped, laid down by the Government.

*Banellu Desai*

Copy of the impugned order dated 13.07.2001 is annexed hereto as Annexure-VI.

4.9 That your applicant begs to state that as per the O.M. dated 04.07.1997 (Annexure-II), the post No.1 and 34 in the promotion list dated 13.07.2001 are reserved slots for the physically handicapped and the case of the applicant ought to have been considered against these slots.

It is relevant to mention here that pursuant to the declared policy of the Government, the Chief Commissioner for disabilities vide his judgment and order dated 24.12.1999 in case No. 237 of 1999 clearly directed to enforce 3% reservation in promotion under physically handicapped quota for all categories.

Further, the Principal Bench of Central Administrative Tribunal, New Delhi, vide its Judgment and order dated 18.7.2000 in O.A. No. 1807 of 1999 (National Federation of Blind Vs Govt. of NCT Delhi & Ors.) was pleased to direct for enforcing reservation in promotions to the extent of 3% for physically handicapped persons, distributed to the extent of 1% each for persons with visual impairments, hearing impairment and locomotor disabilities.

Copy of Judgment and order dated 24.12.1999 of CCD and Judgment and order dated 18.7.2000 of CAT, New Delhi are annexed hereto as Annexure VII and VIII respectively.

4.10 That the applicant begs to state that in spite of having all eligibilities, and in spite of the existence of a clear policy of reservation spell out by the Government for the physically handicapped persons, this applicant was denied his legitimate promotion to the post of Income Tax Inspector by the Respondents which they did arbitrarily, capriciously, unfairly, illegally and showing utter disregard to the Government policy.

*Bachan Das*

As such finding no other alternative the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of this applicant directing the Respondents to promote the applicant to the post of Income Tax Inspector at least with effect from 13.07.2001, i.e. the date of issue of the impugned promotion order of 40 promotees.

4.11 That this application is made bona fide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that 40 (Forty) persons have been promoted as Income Tax Inspector vide order dated 13.07.2001 without considering the case of promotion of the applicant.
- 5.2 For that the applicant was initially appointed under physically handicapped quota and he is entitled for promotion to the post of Income Tax Inspector under reserved vacancies for physically handicapped.
- 5.3 For that as per the declared policy of the Government, vacancy to the extent of 3% in promotion are reserved for the physically handicapped in all classes of posts.
- 5.4 For that in accordance with the roster point stipulated by the Government, the points 1,34 and 67 in cycle of 100 vacancies in promotion are reserved for physically handicapped and as such in the instant case, the post Sl. No. 1 and 34 in the list of 40 promotees are reserved for physically handicapped.
- 5.5 For that the claim of the applicant gains support from the Judgment and order dated 24.12.1999 in case No. 237 of 1999 passed by Chief Commissioner of disabilities and also the Judgment and order dated 18.7.2000 in O.A. No. 1807/99 passed by the Hon'ble CAT, Principal Bench, New Delhi (both judgment annexed).

*Banethu Ds.*



5.6 For that the applicant is not only entitled for promotion under the physically handicapped quota but also qualified in the Income Tax Inspectors examination in 1996.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. His representation and approach could not yield any result.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the relief sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

8.1 That the impugned promotion order issued by the Respondent NO.3 under No. E-151/Promotion(ITI)/CCIT/GHY/2001-02/4004-119 dated 13.07.2001 be set aside and quashed.

8.2 That the Respondents be directed to promote the applicant to the post of Income Tax Inspector under the 3% reserved posts in promotion for the physically handicapped as per policy laid down by the Government, by holding a review DPC, with all consequential benefits.

*Baneth*

8.3 Costs of the application.

8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following reliefs :-

9.1 That the respondents be directed that the pendency of this application shall not be a bar in considering the promotion of the applicant in the meantime to the post of Income Tax Inspector.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

- |      |               |   |                   |
|------|---------------|---|-------------------|
| i)   | I.P.O. No.    | : | 79548543          |
| ii)  | Date of issue | : | 11-8-2001         |
| iii) | Issued from   | : | G.P.O., Guwahati. |
| iv)  | Payable at    | : | G.P.O., Guwahati. |

12. List of enclosures.

As stated in the index.

Bareilly Dm.

## VERIFICATION

I, Shri Bandhu Das, Son of Late P.C. Das, aged about 37 years, resident of Tarun Nagar, Bye Lane-4, Dorothi Apartment, Guwahati-781005, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 20th day of August, 2001.

Bandhu Das.

-12-  
No. 36035/7/95-Estt. (SCT)  
Government of India  
Ministry of Personnel, Public Grievances  
and Pensions  
Department of Personnel and Training

Annexure-I  
New Delhi, the 18<sup>th</sup> Feb. 1997

OFFICE MEMORANDUM

Subject: Reservation for the physically handicapped in the posts filled by promotion. \*\*\*\*\*

The undersigned is directed to invite attention to O.M. No. 36035/8/89-Estt. (SCT) dated 20.11.1989 of the Department of Personnel and Training on the subject noted above. Subsequent to the issue of the aforesaid Office Memorandum, a number of references were received from Ministries and Department regarding difficulties being faced in calculating/ operating the posts reserved for the physically handicapped as per the Office Memorandum. The matter has been examined in the light of the problems being faced by Ministries/ Departments and it has been decided that:

- (i) For providing reservation to the physically handicapped in promotion, which would be 3% of such posts, a separate register of 100 points will be maintained for a post identified to be manned by the physically handicapped, in which point No. 33, 67 and 100 will be reserved for the Physically Handicapped. The Heads of Departments may start the point No. 33 with any kind of disability depending on the availability of feeder grade officer i.e. if senior most officer in the feeder grade belongs to Orthopaedically Handicapped category, he may utilise the point by promoting the officer. However, he must ensure that there is proper rotation of reservation among the different categories of disabilities. The Physically Handicapped persons promoted under the reservation provided for them as per the point in the above mentioned register should be placed in the appropriate category viz. SC/ST/General candidates depending upon the category to which they belong in the promotion roster. To illustrate, if in a given year there are two vacancies reserved for the Physically Handicapped and out of two Physically Handicapped candidates promoted, one belongs to the Scheduled Castes and the other to general category then the Physically Handicapped SC candidate will be adjusted against the SC point in the reservation roster and the other general candidate against general category point in the relevant reservation roster. In case the number of vacancies against which promotion is made is less and none of the vacancies falls on points reserved for the SC or the ST but one of the vacancies is to be reserved for the Physically Handicapped (as per the point in the register) and the officer promoted belongs to a reserved community, the next available reserved point in the reservation roster for that category will be utilised for adjusting the reserved candidate, e.g. if there are three vacancies falling under point 5, 6 & 7 which are to be treated as unreserved as per the promotion roster out of which one vacancy has to be reserved for Physically Handicapped as per the point in the register and if the

*Attested  
Name  
Advocate*

33  
67  
100

21

-13-

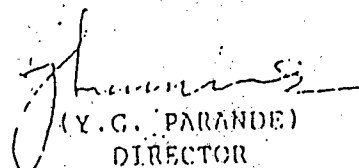
officer selected under the quota reserved for Physically Handicapped belongs to SC, he would be adjusted against the next available SC point i.e. Point No. 0.

(ii). In the cases where the percentage of posts filled by Direct Recruitment is 75% or more, no reservation will be provided for any category including the Physically Handicapped while filling up the posts by promotion.

(iii). While filling posts by promotion, by selection, against vacancies reserved for the Physically Handicapped, the Physically Handicapped candidates who are within the normal zone of consideration will be considered. Where adequate number of Physically Handicapped candidates of the appropriate category of handicap are not available within the normal zone, the zone of consideration may be extended to five times the normal size and the Physically Handicapped persons falling within the extended zone may be considered. In the event of non availability of an officer even in the extended zone the posts could be exchanged with other categories of handicap, identified for the relevant post and the reservation carried forward for the next three recruitment years, whereafter it will lapse.

(iv). In posts filled by promotion by non-selection, the eligible Physically Handicapped candidates can be considered for promotion against the reserved vacancies and in case no eligible Physically Handicapped candidate of the appropriate category of handicap, is available, the post will be exchanged with other categories of handicap, identified for it, and reservation carried forward for the next three recruitment years whereafter it will lapse.

2. All Ministries/Departments are requested to bring the above instructions to the notice of all Heads of Department and appointing authorities under their control for compliance.

  
(Y.G. PARANDE)  
DIRECTOR

To

All Ministries/Departments  
of Government of India.

*Attested*  
*W. M. E.*  
*Advocate*

FAX : 011-3012432 (N.B.)  
011-3013142 (E.O.)  
011-4624821 (L.N.B.)  
011-4360862 (Trg Div.)  
011-4361230 (P.E.S.B.)

Telex : 62826 (N.B.)  
66366 (Trg. Div.)

भारत सरकार  
GOVERNMENT OF INDIA  
कामिक, लोक शिकायत तथा पेंशन मंत्रालय  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
कामिक और प्रशिक्षण विभाग  
DEPARTMENT OF PERSONNEL & TRAINING  
नई दिल्ली  
NEW DELHI

No. 36025/03/97-Estt.(Res) Dated the 4th July, 1997

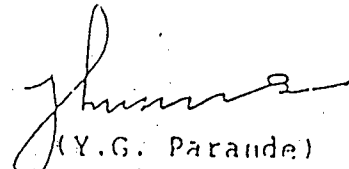
OFFICE MEMORANDUM

Subject: Reservation for the physically handicapped in the posts filled by promotion.

The undersigned is directed to invite attention to this Department's O.M. No. 36035/7/95-Estt.(SCT) dated 18.2.97 on the above subject and to say that it has been represented before the Government that the earmarking of points No. 33, 67 & 100 in the prescribed register for reservation for the physically handicapped would mean that the physically handicapped candidates may have to wait for a long time to get their turn for promotion. The suggestion has been considered and it has now been decided, in partial modification of the O.M. cited above, that the points number 1, 34 & 67 in cycle of 100 vacancies in the 100 point register may be earmarked for reservation for physically handicapped. The other instructions contained in the aforesaid O.M. remain unchanged.

2. It is also clarified that the manner of calculation of the vacancies for the physically handicapped shall be as laid down in this Department's O.M. No. 36035/8/89-Estt.(SCT) dated 20.11.89 so far as Group 'C' and 'D' posts are concerned.

Attested  
M. S. S.  
Advocate  
To

  
(Y.G. Parande)  
Director

All Ministries/Departments of Government of India

1  
34  
67

New Delhi, the 16<sup>th</sup> Jan. 1998

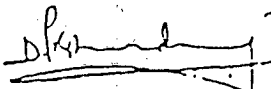
CORRIGENDUM

Subject: Reservation for the physically handicapped in the posts filled by promotion. ....

The undersigned is directed to invite reference in this Department's O.M. of even number dated 18.02.97 on the subject mentioned above and to say that the existing sub-para (ii) thereof may be replaced as under:-

"(ii) The existing policy of reservation for SCs/STs, including for the physically handicapped in promotion in all Groups is applicable to all grades and services, where the element of direct recruitment does not exceed 75%".

2. All Ministries/Departments are requested to bring the above instructions to the notice of all Heads of Department and appointing authorities under their control for compliance.

  
(D.P. Bhardwaj)  
Desk Officer

To

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi.
3. Department of Economic Affairs (Insurance Division), New Delhi.
4. Department of Public Enterprises, New Delhi.
5. Railway Board.
6. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat. P.M.'s Office/Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi.

*attested*  
*M. S. E.*  
*Advocate*

शुद्धि-पत्र

विषय : शारीरिक रूप से विकलांग व्यक्तियों के लिए पदोन्नति और भरे गए पदों में आरक्षण।

अधोहस्ताक्षरी को इस विभाग के दिनांक 18.02.97 के सम्बंधित कार्यालय ज्ञापन की ओर ध्यान आकृष्ट करते हुए यह कहने का निदेश हुआ है कि उपर्युक्त कार्यालय ज्ञापन के विद्यमान उप-पैरा 1.1 के स्थान पर निम्नलिखित पैरा प्रतिस्थापित किया जाए:-

"1.1 शारीरिक रूप से विकलांग व्यक्तियों सहित अनुमति प्राप्त जातियों/अनुसूचित जनजातियों के लिए सभी नमूनों में पदोन्नति में आरक्षण की वर्तमान नीति, जो सभी ग्रेडों तथा सेवाओं में लागू है जहाँ सीधी भर्ती का अंश 75% से अधिक नहीं है।"

2. सभी मंत्रालयों/विभागों से अनुरोध है कि वे उक्त अनुदेशों को, अनुपालनार्थ, अपने नियंत्रणाधीन सभी विभागाध्यक्षों और नियुक्ति प्राधिकारियों के ध्यान में ला दें।

डी०पी० भारद्वाज  
 डेस्क अधिकारी

सेवा में,

1. भारत सरकार के सभी मंत्रालय/विभाग।
2. आर्थिक कार्य विभाग/वैकींग प्रभाग, नई दिल्ली।
3. आर्थिक कार्य विभाग/बीमा प्रभाग, नई दिल्ली।
4. लोक उद्यम विभाग, नई दिल्ली।
5. रेलवे बोर्ड।
6. संघ लोक सेवा आयोग/भारत का उच्चतम न्यायालय/निर्वाचन आयोग/लोक सभा सचिवालय/राज्य सभा सचिवालय/मंत्रिमण्डल सचिवालय/केन्द्रीय सतर्कता आयोग/राष्ट्रपति सचिवालय/प्रधान मंत्री कार्यालय/योजना आयोग।
7. कर्मचारी कर्म आयोग, एम.जी.ओ. कॉम्प्लेक्स, लोदी रोड, नई दिल्ली।





# STAFF SELECTION COMMISSION

## NOTICE

### COMBINED GRADUATE LEVEL EXAMINATION - 2001

F.No. 3/4/2000-P&P-I. Staff Selection Commission will hold on Sunday, the 25th February, 2001, a combined preliminary examination for selecting candidates for the Main examination. The Main examination 2001 is likely to be held in September 2001. The recruitment for the Combined Preliminary Examination and the main examination shall be as follows:

A. Assistant Grade, 2001 (Group 'B' Non-Gazetted) in the pay scale of Rs. 5500-9000 for the groups of services/offices like AFHQ, CSS, Railway Board, IFS(B) and Posts in offices like Research Designs & Standards Organisation, Central Vigilance Commission, Election Commission etc.

B. Inspectors of Central Excise/Income Tax, Preventive Officer in Custom Houses, Assistant Enforcement Officers, Examiner (Ordinary Grade) in Custom Houses, 2001 in the pay scale of Rs. 5500-9000.

C. Sub-Inspectors in CBI, 2001 in the pay scale of Rs. 5500-9000.

D. Sub-Inspectors of Police in Central Police Organizations (BSF, CRPF, CISF & ITBP), 2001 in the pay scale of Rs. 5500-9000 (for Male Candidates).

E. Sub-Inspectors in Delhi Police, 2001 in the pay scale of Rs. 5500-9000.

F. Divisional Accountants/Auditors/Junior Accountants/UDCs, 2001 in various Central Govt. Departments.

Pay Scale of Divisional Accountants in the various offices of Accountant Generals (A&E) under C&A G. is Rs. 5000-8000.

Pay scale of Auditors/Junior Accountants/UDCs is Rs. 4000-6000.

APPLICATIONS ARE HEREBY INVITED FOR THE COMBINED PRELIMINARY EXAMINATION ONLY. CANDIDATES WHO WILL BE DECLARED BY THE COMMISSION TO HAVE QUALIFIED FOR ADMISSION TO THE WRITTEN (MAIN) EXAMINATION, ON THE BASIS OF THIS COMBINED PRELIMINARY EXAMINATION WILL HAVE TO APPLY AGAIN IN THE DETAILED APPLICATION FORM. THE FORMAT OF WHICH WILL BE SENT BY THE CONCERNED REGIONAL OFFICE OF THE COMMISSION. THE DATES OF MAIN (WRITTEN) EXAMINATION FOR VARIOUS POSTS/SERVICES INDICATED IN PARA. 1 WILL BE PUBLISHED IN THE EMPLOYMENT NEWS/ROZGAR SAMACHAR SEPARATELY LATER ON.

NOTE: SCHEME AND SYLLABUS OF MAIN EXAMINATION WILL BE PUBLISHED SEPARATELY LATER ON IN EMPLOYMENT NEWS/ROZGAR SAMACHAR.

#### 2. VACANCIES

- From number of vacancies will be determined in due course.
- Reservation as per instructions of DOPST will be made for Scheduled Castes, Scheduled Tribes, Other Backward Classes, Ex-servicemen, PH Candidates.
- Vacancies for Ex-S shall be reserved as per Govt. Orders for post of SIs in CPOs, Inspector of IT/CE etc. and recruitment of Divisional Accountants/UDCs etc. only. Vacancies for PH candidates (Orthopaedically handicapped only) shall be reserved for posts of Inspectors of Income Tax in different charges of the Commissioner of Income Tax only and vacancies for PH candidates (OH and Deaf only) shall be reserved for recruitment of Divisional Accountants/UDCs etc.

NOTE I: Candidates selected for appointment are liable to serve anywhere in India.

NOTE II: Only male candidates are eligible for the post of Sub-Inspectors in Delhi Police. Female candidates are not eligible as no vacancies have been reported.

#### 3. AGE LIMITS

- (a) 20 to 27 years as on 1.8.2001 for Assistants Grade, SIs in Delhi Police and SIs in CBI (i.e. born not earlier than 2.8.74 and not later than 1.8.81).
- (b) 18 to 27 years as on 1.8.2001 for Inspectors of CE/IT etc. and Divisional Accountants/Auditors/UDCs etc. (i.e. born not earlier than 2.8.74 and not later than 1.8.83).
- (c) 20 to 25 years as on 1.8.2001 for SIs in CPOs (i.e. born not earlier than 2.8.76 and not later than 1.8.81).

NOTE I: CANDIDATES SHOULD NOTE THAT ONLY THE DATE OF BIRTH AS RECORDED IN THE MATRICULATION/SECONDARY EXAM. CERTIFICATE OR AN EQUIVALENT CERTIFICATE ON THE DATE OF SUBMISSION OF THE EXAMINATION FORM WILL BE ACCEPTED BY THE COMMISSION AND NO SUBSEQUENT REQUEST FOR ITS CHANGE WILL BE CONSIDERED OR GRANTED.

- The Upper age limit, as prescribed above will be relaxable:
  - Upto a maximum of 5 years if a candidate belongs to SC or ST category.
  - Upto a maximum of 3 years if a candidate belongs to OBC category.
  - Age concession for Ex-S for the posts other than Assistants will be allowed in accordance with the orders issued by the Government from time to time and they will be allowed to deduct military service from their actual age and such resultant age should not exceed the prescribed age limit by more than three years.
  - Upto a maximum of 5 years (8 years for OBC & 10 years for SC/ST) for the posts of Assistants in case of Ex-servicemen & Commissioned Officers including ECOs/SSCOs who have rendered at least 5 years Military Service as on 1.8.2001 and have been released:
    - on completion of assignment (including those whose assignment is due to be completed within six months) otherwise than by way of dismissal or discharge on account of misconduct or inefficiency; or
    - on account of physical disability attributable to military service; or
    - on invalidment.

An ex-serviceman means a person who has served in any rank whether as a combatant or non-combatant in the Regular Army, Navy, Air Force of the Indian Union and

- who has been released from such service on Medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or
- who has been released, otherwise than on his own request from such service as a result of reduction in establishment; or
- who has been released from such service after completing the specific period of engagements, otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency, and has been given a gratuity; and includes personnel of the Territorial Army of the following categories, namely:
  - Pension holders for continuous embodied service,
  - Persons with disability attributable to military service,
  - Gallantry award winners.

NOTE I: Ex-Servicemen who have already joined Government job in civil side after availing of the benefits given to ex-servicemen for their re-employment are also eligible to the age concession. However, such candidates will not be eligible for the benefit of reservation as Ex-servicemen or for fee concession.

NOTE II: The period of 'call-up service' of an ex-serviceman in the Armed Forces shall also be treated as service rendered in the Armed Forces for purpose of para 3 (i) (c) above.

NOTE III: For any serviceman of the three Armed Forces of the Union to be treated as Ex-serviceman for the purpose of securing the benefits of reservation, he must have already acquired, at the relevant time of submitting his application, for the post/service, the status of ex-serviceman and/or is in a position to establish his acquired entitlement by documentary evidence from the competent authority that he would be released/discharged from the Armed Forces within the stipulated period of one year from the closing date on completion of his assignment.

EXPLANATION: The persons serving in the Armed Forces of the Union who on retirement from service, would come under the category of 'ex-serviceman' may be permitted to apply for re-employment one year before the completion of the specified terms of engagement and avail themselves of all concessions available to ex-servicemen but shall not be permitted to leave the uniform until they complete the specified term of engagement in the Armed Forces of the Union.

#### NOTE IV:

This concession of applying one year before the completion of specified terms of engagement is not available in respect of Educational Qualification i.e. the non-graduate Ex-S are required to complete 15 years of service (and not 14 years) as on 1.8.2001 for becoming a deemed graduate. Thus, those non-graduate EXS who have not completed 15 years of service as on this date for recruitments as stated in note III under para 3 are not eligible.

- Group 'C' personnel recruited from the Bhutan Hydel Project Authority in Bhutan will be allowed age relaxation to the extent or regular service rendered by them with the Authority for purposes of appointment to Group 'C' posts under the Govt. of India on the basis of certificate issued by that Authority regarding the period of regular service rendered by them in each individual case.
- Upto the maximum of 5 years to candidates of J&K who had ordinarily been domiciled in the state of J&K during the period from 1.1.80 to 31.12.89. Any person intending to avail of the aforesaid relaxation shall submit a certificate at the time of applying for Main Exam from either District Magistrate within whose jurisdiction he had ordinarily resided or any other authority so designated in this behalf by the Govt. of J&K to the effect that he had ordinarily been domiciled in the State of J&K during the period 1.1.80 to 31.12.89.
- Upto a maximum of ten years if the candidate is a physically handicapped person (Orthopaedically Handicapped and Hearing Handicapped only). For candidates belonging to SC/ST/OBC/Ex-S who are physically handicapped, the maximum relaxation of ten years permissible for physically handicapped persons (Orthopaedically Handicapped & Hearing Handicapped only) shall be in addition to the age relaxation provided in terms of item 3(ii) above.
- Upto the age of 35 years (upto 40 years for members of Scheduled Castes/Scheduled Tribes and 38 years for members of OBC) in the case of widows, divorced women and women judicially separated from their husbands, who are not remarried.

NOTE: Para (g) is not applicable to Assistant's Grade.

#### (ii) AGE RELAXATION TO DEPARTMENTAL CANDIDATES

##### (i) FOR ASSISTANT GRADE

The Upper age limit will be relaxable upto the age of 32 years (37 years for SC/ST and 35 years for OBC) in respect of all Central Govt. Servants with not less than 3 years continuous and regular service on 1st August, 2001 in the various Departments/Offices of the Govt. of India including those under the Union Territories Administration or in the office of the Election Commission and the Central Vigilance Commission or in the Lok Sabha/Rajya Sabha Secretariat.

NOTE: Departmental candidates applying under this sub-para would be required to submit a certificate from their office, in case they qualify to appear in the Main Examination.

(ii) FOR THE POST OF INSPECTORS OF CENTRAL EXCISE, INCOME TAX ETC., SIs in CBI, ACCOUNTANTS/AUDITORS/UDCs ETC.

Upper age limit is relaxable upto the age of 42 years (47 years for SC/ST, 45 years for OBCs) to all Central Govt. Employees who have rendered not less than 3 years continuous and regular service as on 1.8.2001.

(iii) FOR SIs in ITBP & CRPF

Continued

*Advocate*

To

The Chief Commissioner of Income-tax,  
Saikia Commercial Complex, Sreenagar,  
G.S.Road, Guwahati.

Dated, Guwahati the 18th October, 2000

( Through Proper Channel )

Sub : Reservation for the Physically Handicapped in the  
Posts filled by Promotions - regarding -

Sir,

.....

I would like to inform you that I have joined this department on 05.08.1993 as UDC in Physically Handicapped category. In this connection, I am to inform you that I have qualified the Ministerial Staff Examination in the year 1994 for confirmation and accordingly I have also qualified the Departmental Examination for the ITI's in the year 1996. As such, I was promoted to the post of Tax Assistant on 1997. Now, I would like to state that of-late, I have come across an Office Memorandum No.36025/03/97-Estt(Res) dated 04.07.1997 issued by the Ministry of Personal & Public Grievance and Pensions, Department of Personal & Training, New Delhi, wherein it is stated that there is a provision of earmarking the 1, 34 & 67 in cycle of 100 vacancies in the 100 point register for Physically Handicapped ( photocopy of the letter dated 04.07.1997 is enclosed ).

In view of the above, I fervently request you to kindly look into the matter and for the act of which I shall remain ever grateful to you.

Encls :

- 1) OM No.36025/03/97/Estt(Res) dt.4.7.97
- 2) OM No.36035/95-Estt(SCT) dt.18.2.97
- 3) Corrigendum dt.16.1.98.

Yours faithfully,

( Bandhu Das )

Tax Assistant,

O/O the Commissioner of Income-tax,  
Guwahati.

Copy to : The Branch Secretary, Income-tax Employees Federation,  
Guwahati Branch, Guwahati.

( Bandhu Das )

Tax Assistant,

O/O the Commissioner of Income-tax,  
Guwahati.

*Attested  
WME  
Advocate*

Government of India : Ministry of Finance  
Department of Revenue  
**OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX**  
"Saikia Commercial Complex"  
(2nd Floor) : 'Sreenagar' : G. S. Road : Guwahati - 781 005

**O R D E R**

Dated, Guwahati the 13th July, 2001

ESTABLISHMENT : : : : : NON-GAZETTED

The undermentioned officials are, hereby, temporarily promoted to officiate as Inspector of Income-tax in the scale of pay Rs.5,500 - 175 - 9000/- plus usual allowances as admissible under the Rules from time to time. On promotion as Inspector of Income-tax, they are posted in their respective offices until further orders -

<u>Sl. No.</u>	<u>Names of the officials</u>	<u>Office to which attached</u>
01.	Shri Sarajit Kumar Mukherjee, Steno, Gr.I	O/o the ACIT, Circle-Jorhat
02.	Shri Dalim Ch. Das (SC), OS	O/o the ACIT, Circle-Tezpur
03.	Syed Sher Mohammed, Steno, Gr.II	O/o the ACIT, Inv.Cir-1, Guwahati
04.	Shri Ashutosh Sarkar, Assistant	O/o the ITO, W-Bongaigaon
05.	Shri Biman Das Choudhury, Steno, Gr.II	O/o the ACIT, Inv.Cir-1, Guwahati
06.	Shri Kutubuddin Ahmed, Assistant	O/o the ITO, W-Nalbari
07.	Shri Balin Patowali (ST), Steno, Gr.II	O/o the ACIT, Circle-Tinsukia
08.	Shri Saradindu Roy Choudhury, Assistant	O/o the ITO, W-North Lakhimpur
09.	Smt. Manika Dhar, Assistant	O/o the Sr.AR, ITAT, Guwahati
10.	Shri Dipak Ch. Sarkar, Steno, Gr.II	O/o the JCIT(A), Spl.R-1, Guwahati
11.	Smt. Pampa Chakraborty (Debroy), Steno-II	O/o the ACIT, Inv.Circle-Silchar
12.	Shri Kumaresh Dutta, Assistant	O/o the ACIT, Inv.Circle-Silchar
13.	Shri Subhash Ch. Roy, Assistant	O/o the CCIT, Guwahati
14.	Shri Priya Ranjan Chakraborty, Assistant	O/o the CIT (Appeals)-I, Guwahati
15.	Shri Sarifuddin Ahmed, Assistant	O/o the CIT-I, Guwahati
16.	Shri Abdul Odud Choudhury, Assistant	O/o the CCIT, Guwahati
17.	Sk Amzed Ali, Assistant	O/o the ITO, W-Golaghat
18.	Shri Pijush Kanti Saha, Assistant	O/o the Sr.AR, ITAT, Guwahati
19.	Shri Nirmalendu Das, Assistant	O/o the JCIT, Range-2, Guwahati
20.	Shri Partha Bikash Deb, Steno, Gr.II	O/o the ITO, W-Karimganj
21.	Shri Subrata Sutradhar (SC), Steno, Gr.II	O/o the ACIT, Inv.C-1, Guwahati
22.	Shri Kiran Ch. Gogoi, Assistant	O/o the ACIT, Circle-Jorhat
23.	Shri Satya Ranjan Sarkar, Assistant	O/o the ITO, W-1, Dhubri

- : ( 2 ) : -

24.	Smt. Hemoprabha Baroi (SC), Assistant	O/o the ITO, W-1, Digboi
25.	Shri Ashok Ranjan Dewan, Assistant	O/o the JCIT, R-2, Ghy (for MSTU)
26.	Shri Kiran Sankar Basak, Assistant	O/o the JCIT (Audit), Guwahati
27.	Shri Bhupesh Ch. Nandi, Assistant	O/o the ACIT, Inv. C-1, Guwahati
28.	Shri Paritosh Ch. Saha, Assistant	O/o the ITO, W-1, Nagaon
29.	Shri Bapi Das (SC), Assistant	O/o the CCIT, Guwahati
30.	Smt. Vijaya Venkateswaran, Steno, Gr. II	O/o the CIT-I, Guwahati
31.	Shri Matilal Paul, Tax Assistant	O/o the JCIT, Silchar Range (on Ad-hoc basis)
32.	Shri Nidhuban Ghosh, Tax Assistant	O/o the JCIT, Range-Shillong
33.	Shri Safkat-Ul-Alam, Tax Assistant	O/o the ACIT, Circle-Jorhat
34.	Shri Digendra Ch. Das (I), Tax Assistant	O/o the JCIT, Range-1, Guwahati
35.	Shri Parimal Das, Tax Assistant	O/o the JCIT (Audit), Guwahati
36.	Shri Karunamay Paul, Tax Assistant	O/o the JCIT, Range-Silchar
37.	Shri Rabindra Chakraborty, Tax Assistant	O/o the ACIT, Inv. C-2, Guwahati
38.	Shri Amarendra Nath Bhattacharjee, TA	O/o the ITO, W-1, Dhubri
39.	Shri Someswar Phukan, Tax Assistant	O/o the JCIT(A), Spl. R-Dibrugarh
40.	Shri Manoranjan Saha (SC), Tax Assistant	O/o the DIT (Inv.), NER, Guwahati

Attested  
Wd/E  
Advocate


Sd/-  
( V. Tochhawng )  
Chief Commissioner of Income-tax,  
Guwahati

Memo No. E-151/Promotion (ITI)/CCIT/GHY/2001-02/4004-119

Dt. 13th July, 2001

Copy forwarded to :-

1. The C. C. I. T, Shillong.
2. C.I.Ts Guwahati/Shillong
3. C.I.T (Appeals), Guwahati/Shillong
4. D.I.T (Inv.), NER, Guwahati
5. All Heads of Offices. They are requested to send the joining report of the above officials by Fax immediately.
6. G.S, ITGSF / ITEF, Guwahati.
7. Vigilance Section, O/O CCIT, Guwahati.
8. The AD (OL), Shillong
9. The AD (OL), Guwahati for hindi version.
9. The ZAO, CBDT, Shillong.
10. All Field Pay Units of NER.
11. Officials Concerned.

  
( A.M. Sangma )  
Addl. Commissioner of Income Tax, Hqrs.,  
For Chief Commissioner of Income Tax  
Guwahati

(Under the Persons with Disabilities (Equal Opportunities,  
Protection of Rights and Full Participation Act, 1995)

Case No. 37 of 1999

153 Mr. J.L. Kaul, Secretary General

All India Confederation of the Blind

Versus

154 Services III Department

Govt. of NCT of Delhi

Respondent No. 1

And

155 Department of Personnel and Training,

Respondent No. 2

Government of India

IN THE COURT OF B.L. SHARMA, THE CHIEF COMMISSIONER

Present:

For Petitioner

Dr. Anil Aneja

For Respondents

Mr. R.K. Tandon, Joint Secretary

Mr. D.P. Bhardwaj, Under Secretary

Date of Hearing, 13 October 1999

Date of Judgement and Order, 1999 – 24<sup>th</sup> December 1999

Benefits in employment to persons with disabilities as per the provisions of the  
Persons with Disabilities Act 1995 and other Executive Orders and Govt. rules

JUDGEMENT AND ORDER

1. Mr. J.L. Kaul, Secretary, All India Confederation of the Blind, filed a complaint, under Sec. 59 of the Persons with Disabilities (Equal Opportunities, Full



Participation and Protection of Rights) Act, 1995 against Govt. of National Capital Territory of Delhi and Department of Personnel and Training, Govt. of India

2. It is estimated that about 5 to 6% Indians are afflicted with a physical, intellectual or sensory disability. There is hardly any ambiguity about the fact that whereas disability can impose a range of temporary to permanent limitations in a person's ability to perform such functions which are critical to daily life but the handicap occurs due to the barriers created by negative attitudes and unfriendly infrastructure.
3. Society and Govt. in the recent past has taken several measures to allow freedom of participation to persons with disabilities in all walks of life. Several enabling provisions has today increased the access of persons with disabilities to education, employment, social, cultural and political life
4. Persons with disabilities have given evidence to the world of their latent talents by meaningfully contributing to the field of art, culture, science, education, literature, technology, management and likewise. In order to protect the interests of this vulnerable section, Govt. of India in the year 1977 brought the provision of reservation in job up-to 3%, for persons with disabilities.
- \* 5. The opportunities of career enhancement were assured by way of according 3% reservation in promotion to persons with disabilities vide O.M. No. 36035/1/89-Estt(SCT) dated 20.11.1989. of Department of Personnel and Training.
- \* 6. It is pertinent to mention that the opportunities of reservation in job and promotion were limited to posts in group 'D' and 'C', till 7<sup>th</sup> February 1996. Thereafter, the reservation in job got extended to group 'A' and 'B' services due to the passage of Disabilities Act 1995. Department of Personnel and Training, Govt. of India vide O.M. No. 36035/7/95-Estt(SCT), dated 18.2.1997, notified this provision.
7. The reservation to persons with disabilities, as per Sec. 33 of the Disabilities Act,

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provided on identified posts. Govt. of India was 23  
Estt(Res) dated 28.8.1998 revalidated the list of identified jobs as required  
under Sec. 32, in group 'A' and 'B' which were earlier identified and prepared by  
an Expert Committee in the Govt. of India in 1986.

8. The passage of Disabilities Act has also provided for to promotion to persons with disabilities as Sec. 47 of this Act states, "No promotion shall be denied to a person merely on the ground of his disability." Provisions of this Section are in force as the reservation in jobs has been extended for the disabled in group 'A' and 'B' services as per the list of identified jobs. Also, Sec. 33, stipulates that

*Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from -*

- (i) *blindness or low visions;*
  - (ii) *hearing impairment;*
  - (iii) *locomotor disability or cerebral palsy,*
- in the posts identified for each disability:*

*Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section'.*

9. It is pertinent to mention that the reservation for the disabled is provided horizontally which means that persons with disabilities belonging to SC, ST, OBC and General categories would be placed under these vertical categories as per DOPT O.M No. 36035/7/95-Estt (SCT), dated 18.2.1997.

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10. The petitioner's grievance is that Persons with disabilities are facing problems with regard to reservation in promotion due to 2 different communications issued by DOPT on the subject of promotion.

11. The petitioner pointed out that

- a) DOPT vide a Corrigendum dated 16.1.98 in modification of sub para (ii) of O.M. No. 36035/7/95-Estt(SCT) dated 18.2.97 states that "The existing policy of reservation of SC/STs including for the Physically Handicapped in promotion in all groups is applicable to all grades and services, where the element of direct recruitment does not exceed 75%."
- b) Further that the Under Secretary, DOPT offered a clarification vide letter No. 36035/1/98-Estt(Res), dated 10.3.99, to Deputy Secretary (Services), Govt. of National Capital Territory of Delhi on the above corrigendum and stated that "The existing policy of the reservation in promotion in all groups would be applicable to all grades and services, where it is in vogue, provided the element of direct recruitment does not exceed 75%."
- c) On the basis of this clarification, Govt. of National Capital Territory of Delhi issued instructions to all Heads of the Departments vide letter No. F.19/18/98/S-III/952, dated 4.5.99 forwarding the copy of the O.M. No. 36025/03/97-Estt(Res), dated 4.7.97, Corrigendum No. 36035/7/95-Estt(SCT) dated 16.1.98 and O.M. No. 36025/03/97-Estt(Res) dated 24.6.98.
- d) An Executive Order cannot be interpreted differently by way of a clarification and the clarification offered by Under Secretary, Department of Personnel and Training vide letter No. 36035/1/98-Estt(Res), dated 10.3.99, is in contravention of the Corrigendum issued in modification of DOPT O.M. No. 36035/7/95-Estt(SCT), dated 16.1.98.

14. The respondent No. 1, vide letter no. F. 19/18/98/S.III/2616, dated 19.7.99, submitted that a clarification was sought from DOPT whether reservation to

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to the disabled is given in group 'C' and 'D' posts, as per DOPT O.M. No 36035/1/89-Estt(SCT) dated 20.11.89, yet in the light of Indra Sawhney Case reservation cannot be given in promotion.

b) Benefit of reservation in promotion is available to SC and ST categories to which 64<sup>th</sup> Amendment was made to the Constitution and this is applicable up to the lowest rung of group 'A' posts

\*15. Having perused the material on record and upon hearing the parties at length and upon perusal of the relevant Sections of the Disabilities Act and Govt. orders issued time to time regarding reservation in recruitment and promotion for persons with disabilities, it is observed that the reservation for persons with disabilities is limited to Group C & D posts only in so far as promotion is concerned. It is also a fact that yet, no person with a disability upon having necessary experience and qualification can be denied promotion to next higher grade in any group of service. It is accepted that persons with disabilities can hold post in Group A&B services also as a list of 416 jobs have been identified to be held by such persons as notified by Department of Personnel and Training, Govt. of India vide O.M.No 36035/5/84-Estt (SCT) dated 28.2.1986.

Therefore, the fact that persons with disabilities are capable of holding identified posts in all the Groups A,B,C & D in various services is fully established. In light of these facts and provisions of the P.W.D. Act, following directions are issued:

a) Section 33 provides that every appropriate Govt. shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability. This reservation is not subjected to mode of appointment whether it is through direct recruitment, promotion, selection etc. Therefore, not providing reservation in promotion in any group of posts would tantamount to depriving persons with disabilities the right of reservation on that number of posts on which appointments are made through method of promotion. This is contravention of letter and spirit of Section 33 of Persons with Disabilities Act.

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physically handicapped is admissible in group 'A' & 'B' promotional posts where the element of direct recruitment does not exceed 75%. DOPT in its response to this, vide letter dated 10.3.99, informed that the benefit of reservation in promotion to physically handicapped candidates is given within group 'D', from group 'D' to 'C' and within group 'C' only, on identified posts only. Based on this, the Govt. of National Capital Territory of Delhi issued instructions to all departments.

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15. Based on the record available, Chief Commissioner, Disabilities summoned parties for the hearing on 13.10.99. The complainant authorised Dr. Anil Aneja to submit his views before the Chief Commissioner, Disabilities, on his behalf, who made following submissions:

- a) As per Sec.33 of the Disabilities Act, every appropriate Govt. shall appoint in every establishment not less than 3% for persons with disabilities on identified posts. The respondent's denial of reservation in promotion is in violation of Sec.33. He also pointed out that since DOPT vide its O.M. dated 18.2.97 announced extension of reservation in recruitment to group 'A' & 'B' posts for the disabled, it would be logical to extend reservation in promotion to persons with disabilities in group 'A' and 'B' posts simply because now they could be recruited on group 'A' and 'B' identified posts.
- b) Govt., by issuing a Corrigendum dated 16.1.98, took the right step in the direction of proper implementation of Sec. 33 of the Disabilities Act. In doing so, the element of 3% reservation would be truly maintained.
- c) Reservation under Sec. 33 is related to the mode of appointment. Therefore, the element of 3% reservation is to be maintained in an organisation using both, the modes of recruitment viz. direct recruitment as well as promotion.

14. The respondent No. 2 submitted the following:

- a) The intention of DOPT while issuing the corrigendum dated 16.1.98 to an O.M. dated 18.2.97 was not to make any change in the policy of the Govt. Reservation

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Therefore, Clause 2 of OM No 36035/7/95-Estt (SC/IT) DU 18-2-97 which reads as  
Instructions to all Ministries and Departments (M.O. 36035/7/95-Estt (SC/IT) DU 18-2-97) under:-  
Person with disability is not denied promotion upon having necessary

"In the cases where the percentage of posts filled by Direct Recruitment is 75% or more, no reservation will be provided for any category including the physically handicapped while filling up the posts by promotion."

contravenes the provision of Section 33 as it deprives the persons with disabilities the right to appointment wherever percentage of post which have been filled by direct recruitment is 75% or more. Therefore, it is set aside.

b) It has been observed that establishments in Govt. and Public sector use both promotion and direct recruitment method for filling up vacancies in various groups. Certain percentage of vacancies are filled through promotion and certain percentage through direct recruitment. It may be clarified to all Govt., Public Sector, Undertakings and Autonomous bodies that the 3% appointments, under all circumstances, must be filled up by candidates with disabilities. Where it is not possible to ensure 3% reservation in one particular mode such as promotion then, the total number of vacancies which are filled through other mode of appointment like direct recruitment, 3% of promotion posts should be clubbed with 3% of those posts which are filled through direct recruitment. By doing so, the element of 3% reservation would be ultimately achieved.

Therefore, in order to maintain element of reserving at least 3% posts in every establishment, for persons with disabilities, it is necessary that irrespective of method of appointment such as direct recruitment, promotion etc., the provision of reservation up-to 3% at least for persons with disabilities, as per Sec.33 of the Disabilities Act, is maintained in letter and spirit by all the establishments covered under the Act.

c) In order to remove the existing ambiguity and doubts, as have been brought out during the hearing before the Court in this case and other similar cases, clear



Instructions to all Ministries and Departments must be issued to ensure that a person with disability is not denied promotion upon having necessary experience, qualification or upon qualifying the selection test merely on grounds of disability.

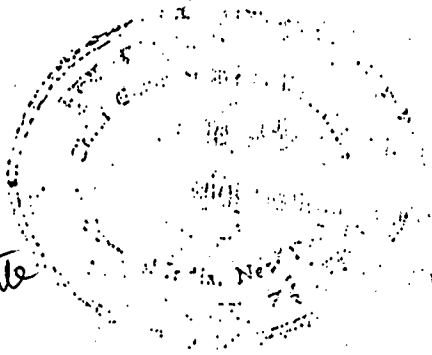
- d) Further that if an officer cannot be promoted to the next post due to the nature of job being such that its functions cannot be performed by an officer due to his disability, under such circumstances, the officer should be posted on promotion on such a job whose functions can be performed by the disabled officer and the post should be equivalent to the post which the officer would have been promoted to. This protection is provided under Sec. 47 of the Persons with Disabilities Act.

*(B.L.Sharma)*

(B.L.Sharma)  
Chief Commissioner for Disabilities

Dated 24.12 99  
New Delhi

*Attested  
W.L.E.  
Advocate*



CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH

Faridkot House,  
Copernicus Marg,  
New Delhi - 110 001.

Date : 19-7-2000

From

The Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi.

- To
1. Sh. S.K. Rungta, General Secretary, N.F.B.,  
2721, Sang Tarashan Chowk, RKX Paharganj, New Delhi.
  2. Ms. Jasmine Ahmed, Counsel for the Respondents, No. 1 & 2  
B-41, Kaveri Apartments, Pusa Campus, N. Delhi-12.
  3. Sh. V.S.R. Krishna, Counsel for the Respondent No. 3  
CA Bar Room, New Delhi.

Regn. No. O.A. 1807/99

National Federation of Blind

(Through S.K. Rungta, Gen. Secy) Applicant

Versus

Govt of N.T. Delhi & Ors Respondent

Sir,

I am directed to forward herewith a copy of  
Judgement/Order Dt. 18-7-2000 passed by this Tribunal in  
the above mentioned case for information and necessary action, if  
any.

Please acknowledge the receipt.



Encl. :

Yours faithfully,

(SECTION OFFICER)  
JUDL. - I  
FOR REGISTRAR

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New Delhi: this the 1<sup>st</sup> day of July, 2004

HON'BLE MR. S.R. ADIGE VICE CHAIRMAN(A).

HON'BLE MR. KULDIP SINGH, MEMBER(J)

1. National Federation of Blind registered under Societies Registration Act, through its General Secretary, Shri S.K. Rungta, having its office at 2721, Sang Tarashan Chowk, Paharganj, New Delhi.
2. Shri Inder Singh, TGT, S/o Late Shri Makhan Singh, 1818, Sher Singh Bazar, Kotla Mubarakpur, New Delhi. .... Applicants.

(By Advocate: Shri S.K. Rungta )

Versus

1. NCT Govt. of Delhi, through Secretary Education, Old Secretariat, Delhi.
2. NCT Govt. of Delhi through Secretary Services, Old Secretariat, Delhi.
3. Union of India through Secretary Personnel, North Block, New Delhi .... Respondents.

(By Advocate: MS. Jasmine Ahmed for R-1 & R-2.  
Shri V.S.R. Krishna for R-3).

ORDER

Mr. S.R. Adige, VC(A):

Applicants imough respondents dated 14.1.99 (Annexure-A) and seek quashing of all orders not continuing reservation to persons with disabilities in promotion from TGT to PGT/ Lecturers to the extent of 3% distributed to the extent of 1% <sup>each</sup> persons with visual impairment, hearing impairment, and persons with locomotor disabilities in terms of Section- 33 The Persons with Disabilities (Equal Opportunities, Full Participation & Protection of Rights) Act, 1995.

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2. Heard both sides.

3. This issue was examined inter alia in Case No. 37/99 Mr. J.L. Kaul Vs. Services III Deptt. Govt. of NCT of Delhi (Respondent No.1) and Deptt. of Personnel & Training, GOI (Respondent No.2) in the Court of the Chief Commissioner for Disabilities. By his judgment & order dated 24.12.99 he held inter alia thus

"Therefore, in order to maintain element of reserving at least 3% posts in every establishment, for persons with disabilities, it is necessary that irrespective of method of appointment such as direct recruitment, promotion etc., the provision of reservation up to 3% at least for persons with disabilities, as per sec. 33 of the Disabilities Act, is maintained in letter and spirit by all the establishments covered under the Act."

Directions have also been issued in the judgment & order to those respondents to issue clear directions to all Ministries & Deptts. in this regard.

4. Nothing has been shown to us to establish that respondent Organisations are outside the purview of the Act.

5. Section 63(2) of the Disabilities Act lays down that every proceeding before the Chief Commissioner / Commissioner shall be a judicial proceeding within the meaning of sections 193 & 228 IPC and the Chief Commissioner/Commissioner/Competent Authority shall be deemed to be a Civil Court for the purpose of Section 195 and Chapter XXVI Cr.PC.

In view of the above, the aforesaid judgment & order dated 24.12.99 is a valid judicial order.

7. Nothing has been shown to us to establish

- 3 -

that the aforesaid judicial order dated 24.12.99 has been stayed, modified or set aside by a Court of competent jurisdiction. It is therefore binding on the respondents in the present OA, who were also respondents in Case No. 37/99.

9. This OA is therefore disposed of with a direction to respondents to consider the claim of applicants for providing reservation in promotions from IGTs to PGTs/ Lecturer to the extent of 3% distributed to the extent of 1% each for persons with visual impairment, hearing impairment and locomotor disabilities, in terms of the judgment order dated 24.12.99 in aforementioned case No. 37/99 and pass appropriate order in this regard in accordance with law, rules and instructions as expeditiously as possible and preferably within 4 months from the date of receipt of a copy of this order. No costs.

( MULDIP SINGH )  
MEMBER(J)

( S. RADGE )  
VICE CHAIRMAN(A)

/ug/

*Attested  
Wale  
Advocate*

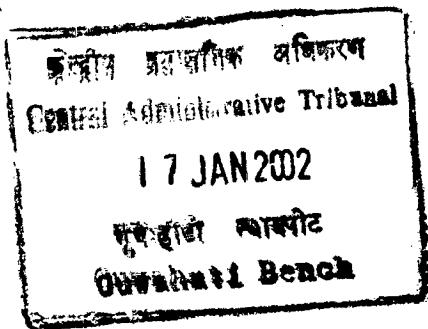


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DATE ..... 12/15

*[Signature]*

Section Officer (J-1)  
Central Administrative Tribunal  
Principal Secret, New Delhi





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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

OA No. 326 OF 2001

Shri Bandhu Das,  
Son of Late P.C.Das,  
Tarun Nagar,  
Bye Lane-4,  
Dorothi Apartment,  
Guwahati - 781 005.

..... Applicant.

-Vs-

1. The Union of India,  
Represented by the Secretary to  
the Govt. of India,  
Ministry of Finance,  
New Delhi.
2. The Chief Commissioner of Income-tax,  
Saikia Commercial Complex (2nd Floor),  
Sreenagar, G. S. Road,  
Guwahati - 781 005.
3. The Addl. Commissioner of Income-tax, Hqrs.,  
Office of the Chief Commissioner of Income-tax,  
Saikia Commercial Complex (2nd Floor),  
Sreenagar, G.S.Road,  
Guwahati - 781 005.

..... Respondents.

-And-

In the matter of:

Written Statements submitted by the respondents.

The respondents beg to submit the written statements as follows:-

Contd.. P/2..

Filed by:-  
Shri Das  
Advocate  
17/1/02

1. That with regard to the statements made in Para 1, the respondents beg to state that following cadre restructuring in the Department, and sanction of new posts, huge vacancies arisen in various grades to be filled by promotion. In the first phase, against the vacancies for the Recruitment year 2000-01, 40 (forty) promotions were made to the grade of Inspector of Income-tax by the Respondent No.2 under order dated 13-07-2001 issued under Memo No. E-151/Promotion(ITT)/CCIT/GHY/2001-02/4004-119 (vide Annexure VI of the OA).

In this context, it is mentioned here that the promotion process has not yet been completed/over. The job is voluminous. The promotion process which started only in July, 2001, is still going on and some more promotions (additional nearly 50) against vacancies for the same Recruitment year 2000-01 are yet to be made in the grade of Inspector of Income-tax alone, besides promotions to other grades. For this purpose, the process is going on. Total reservation for the physically handicapped in promotion is only 3% of vacancies @ 1% for each category of Orthopaedically handicapped, Visually handicapped (Blind) and Hearing handicapped (deaf & dumb). As per Board's (CBDT) extant Circular, the post of Inspector is identified as fit to be manned/held only by the orthopaedically handicapped officials available in the feeder grades, and NOT by other categories of the physically handicapped, such as the visually handicapped (blind) or the hearing handicapped (deaf & dumb). Hence, it implies that the reservation for the physically handicapped in the promotion to the identified post of Inspector (being fit to be manned by the orthopaedically handicapped only) is only 1% of vacancies. That is, out of 100 vacancies to be filled by promotion, only one vacancy is to be kept reserved for the PH for promotion as Inspector.

However, the case of the applicant (Shri Bandhu Das) in the instant OA for promotion to the post of Inspector against 1% quota of reservation for the PH is under

active consideration of the Respondent No.2. Hence, it is not factually correct that promotions were made to the grade of Inspector without considering the case of the applicant, inasmuch as the promotion process is still going on.

The filing of the OA by the applicant is premature.

2. That with regard to the statements made in para - 2, 3 & 4.1, of the application, the respondents beg to offer no comments.

3. That with regard to the statements made in para - 4.2, the respondents beg to state that the applicant, a Commerce Graduate, was initially recruited as UDC through Staff Selection Commission against reserved quota for PH. Thereafter, he was promoted as Tax Assistant (pre-restructured grade) on 29.08.1997. Thereafter, the applicant was again promoted to the post of Sr. Tax Assistant only recently by the Respondent No. 2 under order dated 23.07.2001 ( Sl. No. 47 of the order). And, on promotion as Sr. Tax Assistant, he joined on 24.07.2001.

4. That with regard to the statements made in para - 4.3, the respondents beg to state that the years of passing the Departmental Examinations by the applicant are as under :-

Ministerial Staff Examination	-	In 1994.	✓
Inspectorship Examination	-	In 1996.	✓

Passing of the Departmental Examination for Inspectors is a pre-requisite for promotion to the post of Inspector. And the applicant acquired the eligibility for promotion to the post of Inspector, no matter - whether he belongs to the PH category or not.

5. That with regard to the statements made in para - 4.4, the respondents beg to state that initially, reservation at 3% for the PH, introduced under DOPT's Circular dated 04.11.1977 and 30.12.1980, was confined to only direct recruitment. Thereafter, DOPT under OM No. 36035/1/89-Estt.(SCT) dated 20.11.1989 extended the reservation for the PH @ 3% of vacancies in promotion also in Group-C & D posts.

There are many feeder grades for promotion to the grade of Inspector (Rs.5500 - 9000/-). The feeder grades are as under :-

a. Ministerial Cadres :

- i. Office Superintendent - (Rs. 5500 - 9000/-)
- ii. Assistant ( now renamed as Sr. Tax Assistant ) - ( Rs.5000 - 8000/-)
- iii. Tax Assistant ( pre-restructured grade ) - ( Rs. 4500 - 7500/-)
- iv. UDC - ( Rs. 4000 - 6000/-)

b. Stenographer Cadre :

- i. Stenographer, Grade - I - (Rs. 5500 - 9000/-)
- ii. Stenographer, Grade - II - ( Rs. 5000 - 8000/-)
- iii. Stenographer, Grade-III - ( Rs. 4000 - 6000/-)

As per DOPT's aforesaid OM dated 20.11.1989, where there is more than one feeder cadre, the quota of reservation to be filled by the PH is to be equally divided among the different feeder cadres.

As regards the DOPT's circulars on reservation for the PH in promotion, the Respondent No. 2 requires Board's (CBDT) clarification on certain points of doubt/confusion. The Respondent No. 2 has already written a letter dated 08-11-2001 to the Board seeking their clarification on the points of doubt. Board's reply is still awaited.

A copy of the letter dated 08.11.2001 is annexed herewith  
and marked as Annexure - A.

The spread over of the total reservation of 3% for the PH in promotion will be @ 1% for each category of orthopaedically handicapped, visually handicapped and hearing handicapped (deaf and dumb).

DOPT's subsequent circulars OM No. 36035/7/95-Estt.(SCT) dated 18.02.1997 & OM No. 36035/3/97-Estt.(RES) dated 04.07.1997 contain the "Procedure" to be followed for reservation to the PH in cases of promotion to the posts identified as capable to be held by the specified category of the PH.

Subsequently, DOPT vide its OM No. 36035/7/95-Estt.(SCT) dated 16.01.1998 made the provision of reservation for the PH in promotion applicable to all grades and services, where the element of direct recruitment was not more than 75%.

6. That with regard to the statements made in para 4.5, the respondents beg to state that based on 3% quota of reservation for the PH, three slots ( point nos. 1, 34 & 67 ) in the cycle of 100 vacancies ( in 100 - point register ) in each identified posts/grades are earmarked for promotion for the three categories of the PH at the rate of 1% for each category of the PH ( i.e. Orthopaedically handicapped, visually handicapped and hearing handicapped ).

But the post of Inspector of Income-tax is identified as fit to be manned/held by only Orthopaedically handicapped persons available in the feeder grades, and NOT by the other categories of the PH such as the Visually handicapped or the hearing handicapped ( deaf & dumb ). Hence, it entails that the quota of reservation for the PH in

promotion to the identified post of Inspector ( being identified as fit to be manned/held specifically only by the Orthopaedically handicapped ) is only 1% of the vacancies. That is, in the cycle of 100 vacancies to be filled by promotion, only one vacancy is to be kept reserved for the PH ( Orthopaedically handicapped ) for promotion as Inspector. Hence, the 3 slots ( point no. 1, 34 & 67 ), which are based on 3% reservation, cannot be made applicable in the case of promotion to the post of Inspector. A particular slot, based on 1% quota of reservation for the PH ( Orthopaedically handicapped ) is required to be earmarked in the cycle of 100 vacancies for promotion to the post of Inspector.

In all circulars regarding reservation for the PH, the 3-categories of the PH are found arranged in the following order -

- i. The Visually handicapped ( blind ),
- ii. The Hearing handicapped ( deaf & dumb ),
- iii. The Orthopaedically handicapped.

If we go by the chronological order as above, for promotion of the PH to the post of Inspector, the slot No. 67 ( in the cycle of 100 vacancies ) can be treated as earmarked to be filled by the specified category of the PH ( i.e. Orthopaedically handicapped). However, the matter required Board's clarification, for which a letter has already been written to the Board on 24.12.2001 for necessary clarification as to which slot ( point no.) in the cycle of 100 vacancies to be earmarked/fixed for the PH ( Orthopaedically handicapped ) in promotion to the post of Inspector.

A copy of the letter dated 24.12.2001 is annexed herewith  
and marked as Annexure - B.

Contd ... P/7..

7. That with regard to the statements made in para 4.6, the respondents beg to state that the post of Inspector is filled partly by Direct Recruitment and partly by promotion at the ratio of 1:2. The post of Inspector has since been identified by the CBDT as fit to be manned/held only by the Orthopaedically handicapped persons, reservation for the PH ( Orthopaedically handicapped only ) at the rate of 1% of vacancies is applicable in both in Direct Recruitment and promotion.

As regards reference of Appendix - 2 ( Sl. No. 91 of page 623 of the "Swam y's compilation or reservation" ) made in the OA, it is added here that the following posts are mentioned therein as "identified posts" for the purpose of reservation for the PH :-

Job Title	Physical Requirement	Categories of disabled suitable for the job.
Inspector & Supervisors	Work performed by sitting/walking/hearing & speaking/seeing.	One leg affected/one arm affected. (i.e. Orthopaedically handicapped).
Other (Clerical)		

In the Appendix - 2, there is no specific mention of the post of "Inspector of Income-tax". The duties of Inspector are not of "clerical" nature. The post of Inspector of Income-tax is a " Non-ministerial Executive Post ", and NOT a "Clerical Post". As per Income-tax Act, Inspector of Income-tax is one of the " Income-tax Authorities". The term "Inspector" as mentioned in the aforesaid Appendix - 2 is a wide term. Nature of work/duties and responsibilities attached to the post of "Inspector" and its "rank" differ from Department to Department.

In any case, the CBDT had identified the post of Inspector of Income-tax for the purpose of reservation for the PH ( Orthopaedically handicapped only ).

8. That with regard to the statements made in para 4.7, the respondents beg to state that the applicant is eligible for promotion to the post of Inspector of Income-tax against 1% quota of reservation for the PH ( Orthopaedically handicapped ). The quota is to be equally distributed among the different feeder cadres/grades ( as mentioned above against para 4.4 ). On the point as to which feeder cadre/grade should first get the quota, Board's clarification is required. In this context, it is mentioned that there are some more eligible PH candidates available in different feeder grades for promotion as Inspector.

The order of promotion to the grade of Inspector was passed on 13.07.2001, and the order of promotion to the grade of Sr. Tax Assistant was passed on 23.07.2001. The applicant did not file the instant OA soon after the Inspectors' promotion order dated 13.07.2001, but he filed the OA after taking promotion to the grade of Sr. Tax Assistant on 23.07.2001 and the benefit of fixation of pay in the grade of Sr. Tax Assistant, thereby to gain and reap further benefit of fixation of pay again on subsequent promotion to the next higher grade i.e. Inspector of Income-tax.

As regards the applicant's representation dated 18.10.2000 (Annexure - V of the OA) addressed to the Respondent No. 2, it is informed that the Respondent No. 2 has not yet disposed off the said representation. When the applicant filed the said representation, there was no vacancy for promotion in the grade of Inspector of Income-tax. Hence, the question of disposing the applicant's representation dated 18.10.2000 at that point of time did not arise at all. Vacancies arose only in June, 2001 when new posts were sanctioned, and the promotion process started only in July, 2001 and is still going on. However, the representation of the applicant is under active consideration of the Respondent No. 2.



In this context, it is mentioned here that the applicant has not provided the Respondent No. 2 with a reasonable time to dispose off his representation dated 18.10.2000.

The applicant had also neither specifically mentioned in his said representation that he would take recourse to legal action in the Court of Law against the Respondent No. 2 and others, for redressal of his grievances, if his representation was not disposed off within a specific time frame.

The applicant has not exhausted all the departmental/official channels to redress his grievances before taking recourse to file the instant OA before the Hon'ble CAT and thereby -

- i) caught by the limitations under section 20 of the Administrative Tribunal Act, 1985, and
- ii) the applicant has contravened the official propriety and discipline, as enunciated in Govt. of India's Decision No. 11 below Rule 3 of the CCS(Conduct) Rules, 1964.

9. That with regard to the statements made in para 4.8, the respondents beg to state that it is not correct that the Respondent No. 2 has shown utter disregard to the Govt. of India's reservation Policy in respect of the PH. The applicant's contention is misleading and hence not at all tenable, inasmuch as he has recently been promoted to the next higher grade ( Sr. Tax Assistant ) against the quota for the PH ( joined on 24.07.2001 ). Three more PH candidates were also promoted to the post of Sr. Tax Assistant against the PH quota ( vide sl. 53, 67 & 101 of the Annexure - II of the OA ).

However, the applicant's case alongwith the cases of other qualified and eligible candidates available in the feeder cadres for promotion to the post of Inspector against 1% quota of reservation is under active consideration of the Respondent No. 2.

10. That with regard to the statements made in para 4.9, the respondents beg to state that as mentioned against para - 1 above, in the first lot, 40 promotions to the grade of Inspector have been made against the vacancies for the Recruitment year 2000-01 and further promotions ( additional nearly 50 ) against the vacancies for the same Recruitment year 2000-01 are yet to be made, and for this purpose, the process is going on.

The applicant wants to mean that since as per DOPT's OM dated 04.07.97 ( vide Annexure - II of the OA ), 3- slots- point no. 1, 34 & 67 ( based on 3% reservation ) in a cycle of 100 vacancies for promotion are earmarked for the PH and since 40 promotions in the grade of Inspector have already been made, two PH candidates should have been promoted against the slots no. 1 & 34, which are within the cycle of 40 promotions.

In this context, it is mentioned here that as per extant rules, promotions are made chronologically from the panel of candidates drawn by the DPC and the panel is prepared as per the guiding principles of General Seniority i.e. the panel is prepared as per gradings of the DPC vis-a-vis the inter-se-seniority of the candidates ( General, PH, SC/ST candidates ) in the lower grade ( i.e. feeder grade ).

As per normal rule ( guiding principle of General Seniority ), the empanelled PH candidates, as per quota of reservation, so promoted is to be shown as utilised in the Vacancy Register against slots/points earmarked for the PH, as is also the procedure and done in the case of SC/ST candidates. Earmarking of the slots for the PH in the Vacancy

Register in the cycle of 100 vacancies does not mean that the names of the PH candidates selected and empanelled for promotion should be at Serial 1, 34 and 67 in the Select Panel and they should be promoted accordingly.

The material point is whether the required number of PH candidates, according to the quota of reservation for them, have been selected and empanelled for promotion, or not. Once the quota of reservation for the PH is fulfilled, they should have nothing to grudge.

After promotion of the qualified and eligible PH candidates as per quota of reservation for them in the particular and concerned grade, they will be shown against the slots ( Point No. 1, 34 & 67 as the case may be ) in the Vacancy Register only. The applicant in the instant OA is pretty junior and he cannot expect his name at Serial - 1 in the select panel, and cannot expect promotion accordingly.

It is further mentioned here that 3% quota of reservation for the PH in promotion is at the rate of 1% for each category of the PH ( Visually Handicapped, Hearing Handicapped and Orthopaedically Handicapped ). The reservation in the post of Inspector is available only for the Orthopaedically Handicapped, and it entails that the reservation for the PH in the post of Inspector is 1% only. And in that case, only one slot in the cycle of 100 vacancies is to be earmarked for the PH. For this purpose, which slot/point is to be earmarked has to be got clarified from the Board. A letter has already been written to the Board in this matter.

A copy of the letter is annexed herewith

and marked as Annexure - B.

Moreover, in the circumstances, it is not clear as to how 3% reservation in promotion for the PH is to be effected in the grade of Inspector. A reference in this regard has already been made to the Board seeking their clarification which is still awaited.

11. That with regard to the statements made in para 4.10, the respondents beg to state that no disregard, as alleged by the applicant in the OA, has been shown to the Reservation Policy for the PH, nor the claim of the applicant for promotion to the post of Inspector against quota for the PH has been refused or rejected by the Respondent No. 2.

In this context, it is mentioned here that the applicant has recently been promoted as Sr. Tax Assistant ( joined on 24.07.2001 ) against the quota for the PH. As stated in the foregoing paras, the applicant's case for promotion to the post of Inspector against PH quota is, however, under active consideration of the Respondent No. 2. The Respondent No. 2 is waiting for Board's clarification on certain points of doubt/confusion.

As regards the applicant's claim for promotion with retrospective effect i.e. from 13.07.2001 ( i.e. the date of order of 40 promotions ), it is mentioned here that the applicant has already got one promotion on 23.07.2001 from the grade of Tax Assistant to the grade of Sr. Tax Assistant. The post of Sr. Tax Assistant is an intermediary grade between Tax Assistant and Inspector. When the applicant is already holding the post of Sr. Tax Assistant w.e.f. 24.07.2001, how can he be promoted to the next higher grade ( i.e. Inspector ) against the quota for PH with retrospective effect from 13.07.2001 is beyond comprehension. In that case, his promotion to the post of Sr. Tax Assistant will be non-est, and he will have to be first reverted back to the post of Tax Assistant ( from which he was promoted to the post of Sr. Tax Assistant on 24.07.2001 ) for promoting him to the post of Inspector with retrospective effect from 13.07.2001 against the quota for the PH.

The applicant is a pretty junior official. If his name is considered for promotion to the post of Inspector against the quota for the PH, his name will be at bottom of the Consolidated Select Panel of nearly 90 ( ninety ) prospective candidates, to be drawn by

the DPC for the vacancies for the Recruitment year 2000-01. Hence, his claim for promotion to the post of Inspector with retrospective effect has got no merit and justification whatsoever.

12. That with regard to the statements made in para 4.11, of the application, the respondents beg to offer no comments.

13. That with regard to the statements made in para 5.1, of the application, the respondents beg to state that the comments have already been given in the foregoing paras.

14. That with regard to the statements made in para 5.2, 5.3, the respondents beg to offer no comments.

15. That with regard to the statements made in para 5.4, the respondents beg to state that the detailed comments with facts and figures have already been given in the foregoing paras.

16. That with regard to the statements made in para 5.5 and 5.6 of the application, the respondents beg to offer no comments.

17. That with regard to the statements made in para 6, the respondents beg to state that the applicant's recourse to legal action by filing the instant OA before the CAT is premature and unjust and he has also contravened the official propriety and discipline as enunciated in GOI's Decision No. 11 below rule 3 of the CCS ( Conduct ) Rules, 1964 and is also caught by the limitation under section 20 of the Administrative Tribunal Act, 1985, as he has not exhausted all the official channels for remedies.

18. That with regard to the statements made in para 7 of the application, the respondents beg to offer no comments.

19. That with regard to the statements made in para 8, the respondents beg to state that for reasons detailed in the foregoing paras, the instant OA is liable to be set aside.

20. That with regard to the statements made in para 8.1, the respondents beg to state that the promotion order dated 13.07.2001 ( in respect of 40 candidates ) passed by the Respondent No. 2 can not be set aside or quashed, as none of the official promoted to the post of Inspector was ineligible or unqualified, and that too, when it has been assured that the case of the applicant is under active consideration. All the officials promoted as Inspector under the aforesaid order dated 13.07.2001 were eligible and qualified for promotion to the post of Inspector. The order of promotion passed by the Respondent No.2 was very much in order.

If the aforesaid promotion order is set aside or quashed, it will be an utter injustice to 40 officials so promoted, and such action may bring in further litigation and the affected official may, file counter case in the Court of Law, thus making the matter further complicated.

21. That with regard to the statements made in para 8.2, the respondents beg to state that the claim of the applicant for promotion to the post of Inspector against the quota for the PH is under active consideration of the Respondent No. 2, along with other eligible and qualified PH candidates available in the feeder grades.

22. That with regard to the statements made in para 8.3, the respondents beg to state that since the very filing of the OA by the applicant is premature, unjust, and in

contravention and limitation of the GOI's Decision No. 11 below Rule 3 of the CCS  
( Conduct ) Rules, 1964 and Section 20 of the Administrative Tribunal Act, 1985, the  
cost of the application, as prayed for by the applicant, should not be allowed to him.

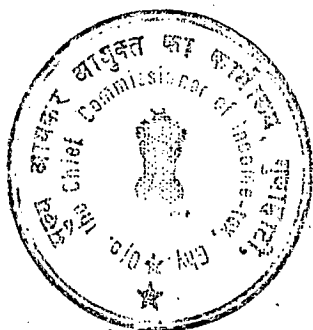
23. That with regard to the statements made in para 9, 10, 11 and 12, the respondents  
- beg to offer no comments.

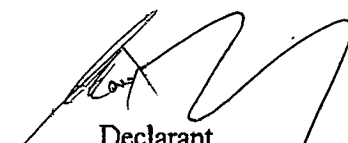
- 48- 30

VERIFICATION

I, Shri GOULEN HANGSHING being  
authorised do hereby solemnly affirm and declare that the statements made in this written  
statement are true to my knowledge and information and I have not suppressed any  
material fact.

And I sign this verification on this 15th day of January, 2002.



  
Declarant.  
Joint Commissioner of Income-tax, Vigilance,  
O/o, the Chief Commissioner of Income-tax,  
Guwahati.





भारत सरकार

मुख्य आयकर आयुक्त का कार्यालय, गुवाहाटी  
सेकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड, गुवाहाटी - 781 005

GOVERNMENT OF INDIA

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX, GUWAHATI

Saikia Commercial Complex, Sreenagar, G. S. Road, Guwahati - 781 005

Ph. : 0361 - 225

Fax : 0361 - 225

F.No.E-128/Reservation/CCIT/GHY/2000-01/12360

November 08, 2001.

To  
The Deputy Secretary (Ad.VII),  
Central Board of Direct Taxes, North Block,  
New Delhi - 110 001.

Speed Post

Sir,

Sub :- Reservation for the Physically handicapped  
in promotion - Request for clarification on certain points -

Initially, reservation at 3% for the Physically handicapped introduced under DOPT's Circulars dated 04-11-77 and 30-12-80 was confined only in direct recruitment. Subsequently, Govt. of India extended the benefit of reservation at 3% in promotion also. Reservation at 3% for the three categories of physically handicapped persons [viz., the visually handicapped, the hearing handicapped (deaf and dumb) and the orthopaedically handicapped at 1% for each category] in Group 'C' and 'D' posts filled by promotion was first introduced under DOPT's OM No.36035/a/89-Estt.(SCT) dated 20-11-1989. And the DOPT's OM No.36035/7/ 95-Estt.(SCT) dated 18-02-1997 and OM No. 36035/3/97-Estt.(Res) dated 04.07.1997 contain the procedures to be followed for effecting reservation for the physically handicapped in cases of promotion.

2. Some doubts have arisen on certain confusing points which require clarification. The points are as under :-

- (i) With the introduction of "Post-based Roster" in place of "Vacancy-based 40-Point Roster" for reservation of SC/ST candidates in promotion under the DOPT's OM No.36012/2/ 96-Estt.(Res.) dated 02-07-1997, a confusion has arisen as regards the method of computation of vacancies for reservation for the physically handicapped in promotion. Clarification is required as to -
  - (a) whether the 3% reservation in promotion for the physically handicapped is "vacancy-based" [i.e., 3% of vacancies in a grade] OR "Post-based" [i.e., 3% of the posts in a grade], like the reservation in the case of SC/ST introduced under the DOPT's aforesaid circular dated 02-07-1997 (Post-based Roster).
  - (b) and, if the 3% reservation quota in promotion for the physically handicapped is "vacancy-based" [i.e., 3% of vacancies], whether the total vacancies for reservation for the physically handicapped are to be computed Group-wise occurring in all Group 'C' and Group 'D' posts respectively and distributed the said reserved vacancies to the identified posts in all Group 'C' and Group 'D' cadres, as is the procedure in the case of direct recruitment, OR the vacancies to be reserved for the physically handicapped are to be worked out grade-wise separately for each grade/post in Group 'C' and 'D' cadres.

(Contd...Page...2/-)

- (c) whether the account of vacancies for the purpose of reservation for the physically handicapped in promotion should be maintained on year-to-year basis separately for Group 'C' and Group 'D' posts/services and closed annually on the 31st December of each year, OR a continuous account should be maintained.
- (ii) The post of Inspector of Income-tax is identified as fit to be manned / held by only the orthopaedically handicapped officials available in the feeder grade, and not by other categories of the physically handicapped - such as, the visually handicapped or the hearing handicapped (i.e., deaf and dumb). That means, in the post of Inspector of Income-tax (to be filled by promotion) only 1% [NOT 3%] of vacancies/posts, as the case may be, are to be kept for the physically handicapped (orthopaedically handicapped) only. In that case, it is not clear as to how 3% reservation in promotion for the physically handicapped be effected in the grade of Inspector of Income-tax.

As the promotion to the grade of Inspector is under process, Board's early clarification on the points raised above may kindly be communicated.

Yours faithfully,

( K. R. DAS )

Addl. Commissioner of Income-tax, IIqrs.,  
for Chief Commissioner of Income-tax : Guwahati

Memo No.E-128/Reservation/CCIT/GHY/2000-01/ 12361

November 08, 2001.

Copy to :

Spec Post

The Under Secretary ( V & L ), Central Board of Direct Taxes, 258, North Block, New Delhi - 110 001, for information and necessary action.

This has also reference to the Board's letter F.No.C-18012/47/2001 - V & L dated 30-10-2001.

( K. R. DAS )

Addl. Commissioner of Income-tax, Hqrs.,  
for Chief Commissioner of Income-tax : Guwahati



भारत सरकार

मुख्य आयकर आयुक्त का कार्यालय, गुवाहाटी  
सैकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड, गुवाहाटी - 781 005

GOVERNMENT OF INDIA

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX, GUWAHATI

Salkia Commercial Complex, Sreenagar, G. S. Road, Guwahati - 781-005

Ph. 0361-25105  
Fax. 0361-25116

F. No. E-128/Reservation/CCIT/GHY/2000-01/

Dated 21-12-2001.

To

The Deputy Secretary ( Ad. VII ),  
Central Board of Direct Taxes,  
North Block,  
New Delhi- 110 001.

Sir,

**Subject : Reservation for the Physically Handicapped  
in promotion - Request for clarification on  
certain points -**

\*\*\*\*\*

Kindly refer to this office letter F. No. E-128/Reservation/CCIT/GHY/2000-01/12360 dated 08-11-2001, in the above matter.

2. Under this office letter dated 08-11-2001 quoted above, clarifications on certain points of doubt/ confusion, as regards the reservation for the Physically Handicapped in promotion, were sought. But the Board's clarifications on the points raised there have not yet been received. In this context, it is mentioned here that these are urgently required in connection with the CAT cases filed by some P.H. candidates and to consider their cases ( P.H. candidates) for promotion to various grades/ posts, against the quota of reservation for the P.H. I would, therefore, request you to kindly communicate the Board's clarifications on the points raised, at the earliest.

3. Besides above, further clarifications on the following points are also required :-

- (a) As per extant rules, the quota of reservation for the P.H. in promotion is 3% of vacancies and that too, at the rate of 1% for each category of the three categories of the P.H., such as, Visually handicapped, Hearing handicapped and Orthopaedi-

Contd. page-2

-52- 68

(2)

cally handicapped. And the vacancies for the purpose of reservation are to be computed taking into account the vacancies of both "identified" as well as "non-identified" posts that may arise for being filled by promotion in a recruitment year, but the applicability of the reservation for the P.H. will be limited to only those posts that are "identified" as being capable of being filled/ held by the appropriate category of the P.H.

The post of Inspector of Income-tax has been "identified" as fit to be filled/ held only by the orthopaedically handicapped ( and **NOT** by other *two* categories of the P.H. ). Hence, it seems that only 1 percent reservation ( **Not** 3%) is applicable in the identified post of Inspector of Income-tax. And as such, in the event of non-availability of the particular category of the P.H. ( i.e Orthopaedically handicapped ) in the feeder grades, the post reserved for the P.H. in the grade of Inspector cannot be filled up even by inter-se exchange with other two categories of the P.H. ( i.e. Visually Handicapped & Hearing handicapped). In the circumstances, 3% reservation for the P.H. cannot be effected in the "identified" post of Inspector.

Under DOPT's OM No. 36025/03/97-Estt.(Res) dated 04-07-1997, 3-slots ( Point Nos. 1, 34 & 67), based on 3% reservation, in the cycle of 100-vacancies in the 100 point Vacancy Register, are earmarked for reservation for the P.H. Now, since the post of Inspector is identified as fit to be manned only by the orthopaedically handicapped and only 1% reservation is applicable, the 3-slots ( Point Nos. 1, 34 & 67), which are based on 3% reservation - cannot be made applicable in the case of promotion to the post of Inspector. Only one particular slot, based on 1% reservation for the P.H. ( Orthopaedically handicapped ) is required to be earmarked

Contd.....page-3

(3)

for the P.H. in the cycle of 100-vacancies ( in the 100- Point Vacancy Register) for promotion to the post of Inspector. And in that case, Board's clarification is required as to which slot ( Point No.) in the cycle of 100-vacancies is to be earmarked/ fixed for the P.H. (Orthopaedically handicapped) in promotion to the post of Inspector.

In this context, it is mentioned here that in all circulars regarding reservation for the P.H., the three categories of the P.H. are found arranged in the following order :-

- i) The visually handicapped( Blind ),
- ii) The Hearing handicapped( Deaf & dumb),
- iii) The Orthopaedically handicapped.

If we go by the aforesaid chronological order, for the purpose of reservation for the P.H. (based on 1% quota ) in promotion to the post of Inspector, out of the three fixed slots of 1, 34 & 67, only the Slot No. 67 ( in the cycle of 100- vacancies) can be treated as earmarked to be filled by the specified category of P.H. ( i.e. orthopaedically handicapped). Board's confirmation/ clarification on this point ( as detailed above ) is urgently required.

b) There are many feeder grades/ cadres for promotion to the grade of Inspector of Income-tax. The feeder grades are as under :-

- ( I ) Ministerial Cadre :
- i) Office Superintendent ( Rs. 5500-9000/-)
  - ii) Assistant ( now re-named ( Rs. 5000-8000/-)  
as Sr. Tax Assistant )
  - iii) Tax Assistant ( Rs. 5000-8000/-)  
( Pre-restructured)
  - iv) Upper Division Clerk ( Rs. 4000-6000/-)

(4)

— (II.) — Stenographer-Cadre:

- i) Stenographer, Grade-I (Rs. 5500- 9000/-)
- ii) Stenographer, Grade-II (Rs. 5000-8000/-)
- iii) Stenographer, Grade-III (Rs. 4000-6000/-)

As per DOPT's O.M. No. 36035/1/89-Estt.(SCT) dated 20-11-1989, where there is more than one feeder cadre/grade for promotion to the higher post, the quota of reservation to be filled by the P.H. is to be equally divided among the different feeder cadres/ grades.

Since the post of Inspector is identified as fit to be held only by the Orthopaedically handicapped, it is assumed that the quota of reservation for P.H. for promotion to the post of Inspector is only 1% and NOT 3%. Now, in any case, if eligible & qualified P.H. candidates are available in all the aforesaid feeder grades for promotion to the higher grade of Inspector, it is not clear as to how the quota of reservation for the P.H. is to be distributed among the different feeder cadres/ grades i.e. the incumbent of which feeder grade would get the preference. AND, in case a qualified P.H. candidate is not available in the particular feeder grade/ cadre, whether the P.H. candidate available in other feeder grades can be considered for promotion to the post of Inspector against the quota meant for the P.H. i.e. whether the inter-se exchange of the feeder cadre is permissible.

Board's clarification on these points of doubt raised at (a) and (b) above may kindly be communicated at the earliest.

Yours faithfully,

( K. R. Das )

Addl. Commissioner of Income-tax, Hqrs.  
for Chief Commissioner of Income-tax, Guwahati.

Memo No: E-128/Reservation/CCIT/GHY/2000-01/ 15 152-53

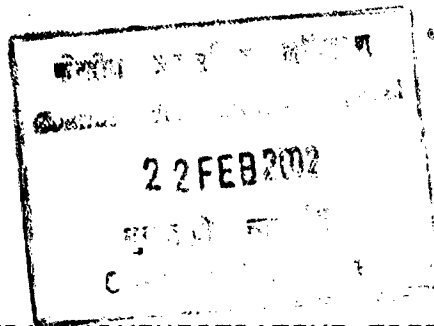
Date 21-12-2001

Copy to : 1) The Under Secretary (V&L), CBDT, North Block, New Delhi-110001, for information and necessary action. This has also reference to the Board's letter No. C-18012/47/2001-V&L dated 30-10-2001 and this office Memo No.E-128/Reservation/CCIT /GHY/2000-01/12361 dated 08-11-2001.

2) The JCIT(Vig.), CCIT's office, Guwahati.

( K. R. Das )

Addl. Commissioner of Income-tax, Hqrs.  
for Chief Commissioner of Income-tax, Guwahati.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

In the matter of :

O.A. No. 326 of 2001

Shri Bandhu Das

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the  
applicant in reply to the written  
statement submitted by the  
Respondents.

The applicant above named most humbly and respectfully  
begs to state as under :

1. That he has gone through the written statements and has understood the contents thereof.
2. That the applicant categorically denies the statements made in paragraphs 1,5,6 and 10 of the written statement and begs to state that the Respondents, besides promoting 40(forty) persons to the post of Income Tax Inspectors vide their impugned order dated 13.07.2001 (Annexure-VI of the OA), have further promoted another 32 (Thirty two) persons to the post of Income Tax Inspectors vide their order bearing No. E-151/promotion (III)/CCIT/CHY/2001-02/16601-16721 dated 23.01.2001 without considering the case of the applicant.

As per the procedure to be followed to reservation to the physically handicapped in cases of promotion, stated under various Government orders as quoted in page 609 of the

*Filed by the applicant  
through advocate Mr  
G. N. Chakravarty on 22-2-02  
[Signature]*

"Swamy's Compilation on Reservations and Concessions for SC and ST" the point No.1, 34 and 67 in a cycle of 100 vacancies will be reserved for Physical Handicapped and the Heads of Departments may start the point No.1 with any kind of disability depending on the availability of Feeder grade officer i.e. if senior most officer in the feeder grade belongs to orthopaedically handicapped category, he may utilize the point by promoting the officer. This means that in the instant case, the point no.1 should be filled in by the Orthopaedical candidate since there is no other category of Physically Handicapped candidate available in the feeder cadre. Hence the applicant being the only Orthopaedically Handicapped candidate automatically comes at slot No.1 (Not 67)) reserved for the Physically Handicapped candidate and no other chronological order or equal distribution of Physically handicapped candidates as stated by the Respondents are applicable in the present case, since out of the three different categories of Physically Handicapped is eligible for the post of Income Tax Inspector.

Copy of Promotion Order of 32 promotees dated 23.1.2002 is annexed as **Annexure-A.**

3. That in reply to para 3 and 4 of the written statement the applicant begs to state that the applicant having passed the Inspector ship Examination in 1996 has qualified for promotion to the post of Income Tax Inspector and this apart, he being the only Orthopaedically Handicapped in the feeder cadre, is entitled to get the promotion under point No.1 reserved for the Physically Handicapped category and as such it is surprising why he could not be promoted while as many as 72 (40+32) persons have been promoted to the post of Income tax Inspector which includes the point No.1, 34 and 67



also which are reserved for Physically Handicapped candidates.

4. That the applicant categorically denies the contentions made in para 7 of the written statement and begs to state that the CBDT has identified the post of Income Tax Inspector for the purpose of reservation for the Physically Handicapped (Orthopaedically Handicapped) and as such the applicant is clearly entitled to get the promotion as Physically Handicapped (Orthopaedically Handicapped).
5. That the applicant categorically denies the statements made in paragraph 8, 17 and 22 of the written statement and begs to state that the equal distribution of different physically handicapped (and not other two categories of physically handicapped) who is eligible for promotion to the post of Income Tax Inspector under the Reserved slots for physically handicapped.

The question of filing OA by the applicant before the issuance of promotion order of the Senior Tax Assistants on 23.07.2001 does not arise since it is only after the said order dated 23.07.2001, that the applicant could know that his case was not considered for the post of Income Tax Inspector and in lieu he was promoted only too the post of Senior Tax Assistant.

Further, the applicant exhausted departmental channels for redressal of his grievance but being failed to get justice, he had filed the instant OA and hence there is no question of limitation or official impropriety as stated. It is a strange contention of the respondents that the applicant did not mention in his representation about the possibility

of a legal action in the court of law in case his representation is not disposed within a specific time frame.

6. That the applicant categorically denies the statements made in paragraph 9, 11 of the written statement and begs to state that non-consideration of promotion of the applicant to the post of Income Tax Inspector under paragraph quota is contrary to the laid down rules of reservation for physically handicapped in promotions and as such he should be promoted to the post of Income Tax Inspector with retrospective effect i.e. from the date of order of 40 promotions since he was deprived of promotion against point No.1 as an Orthopaedically Handicapped candidate which he ought to have got. The Respondents, by now has given 72 promotions to the post of Income Tax Inspector but did not consider the case of applicant although stated to be under "Active consideration".
7. That the applicant denies the statements made in para 13 and 15 of the written statement as replied in the foregoing paras of this Rejoinder.
8. That with reference to para 19 of the written statement, the applicant reiterates that the O.A. deserves to be allowed with costs.
9. That the applicant categorically denies the statements made in paragraph 20 and 21 of the written statement and begs to state that the applicant was not only qualified as those of the 40 promotees promoted under the impugned order dated 13.07.2001 but was also entitled for promotion under physically handicapped quota as per professed norms of the Government and as such the impugned order dated 13.07.2001 is liable to be set aside. The consideration of the applicant by

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the Respondents for future promotion will not cure the injustice done on him.

10. That in the facts and circumstances stated above, the O.A. deserves to be allowed with costs.

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VERIFICATION

I, Shri Bandhu Das, Son of Late P.C. Das, aged about 37 years, resident of Tarun Nagar, Bye Lane-4, Dorothi Apartment, Guwahati-781005, Assam, do hereby verify that the statements made in Paragraph 1 to 10 in this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 20th day of February, 2001.

Bandh Das.

Bandh Das.

7

ANNEXURE - A

69

Government of India : Ministry of Finance  
Department of Revenue  
**OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX**  
"Saikia Commercial Complex"  
(2nd Floor) : 'Sreenagar' : G. S. Road : Guwahati : 781 005

**ORDER**

Dated, Guwahati the 23rd January, 2002

**ESTABLISHMENT : : : : : NON-GAZETTED**

The undermentioned officials are, hereby, temporarily promoted to officiate as Inspector of Income-tax in the scale of pay Rs. 5,500 - 175 - 9,000/- plus usual allowances as admissible under the Rules from time to time. On promotion as Inspector of Income-tax, they are posted as mentioned against their names in column no. 3 until further order.

Sl. No.	Name & Designation of the official & office to which attached	Office to which posted on promotion
01	02	03
01.	Shri Biswajit Bhattacharjee, Steno, Gr.I, O/o JCIT, R-Silchar	O/o the DIT (Inv.), NER, Guwahati
02.	Shri Biswajit Roy, Steno, Gr.I, O/o JCIT, R-1, Guwahati	O/o the DIT (Inv.), NER, Guwahati
03.	Shri Ratul Bora, Steno, Gr.I, O/o JCIT, R-Jorhat	O/o CIT, Jorhat.
04.	Shri Bimalendu Dutta, OS O/o JCIT, R-2, Guwahati	DIT (Inv.), NER, Guwahati
05.	Shri Siddhartha Sankar Bhattacharjee, Steno, Gr.II, O/o CCIT, Guwahati	O/o JCIT, R-1, Guwahati (For TDS)
06.	Shri Bikash Biswas, Steno, Gr.II O/o JCIT, R-1, Guwahati	Same office
07.	Shri D.N. Borpujari, OS O/o JCIT, R-Jorhat	Same office
08.	Shri Manoranjan Barman, OS O/o ACIT, Cir-Dhubri	Same Office
09.	Smt. Moushumees Lahkar, OS O/o JCIT, R-Jorhat	O/o CIT, Jorhat
10.	Shri Santanu Saikia, OS O/o JCIT, R-1, Dibrugarh	Same Office
11.	Shri D. N. Tapadar (SC), OS O/o DIT (Inv.), NER, Guwahati	Same Office
12.	Smt. Sarulata Mushahari (ST), Steno, Gr.II, O/o ITO, W-1 Digboi	O/o ITO, W-1, Duliajan
13.	Shri Siddhartha Sankar Nandi, Steno, Gr.II, O/o CIT, Guwahati-I	Same Office

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14.	Shri Babul Pd. Verma, Steno, Gr. II, O/o CCIT, Guwahati	Same Office
15.	Shri Manash Choudhury, Sr. TA O/o JCIT, R-Silchar	Dir (Inv.), NER, stationed at Silchar
16.	Shri Mirzahan Sheikh, Sr. TA O/o JCIT, R-1, Guwahati	Same Office
17.	Shri Subhash Ch. Baruah, Sr. TA O/o the ITO, W-1, Digboi	O/o ITO, W-1, Dimapur
18.	Shri Tapadir Dutta, Sr. TA O/o JCIT, R-1, Dibrugarh	Same Office
19.	Shri Mrinal Kanti Chanda, Sr. TA O/o JCIT, R-1, Dibrugarh	O/o ITO, W-1, Duliagan
20.	Shri Amitava Sanyal, Sr. TA O/o CIT, Guwahati-I (UOP CCIT, Guwahati)	O/o CCIT, Guwahati
21.	Shri Paresh Ch. Nath, OS, O/o JCIT, R-1, Dibrugarh	O/o JCIT, R-Tinsukia
22.	Shri Rajendra Pd. Upadhyay, Sr. TA O/o JCIT, R-4, Guwahati	Same Office
23.	Shri Prabhat Ranjan Bhattacharjee, Sr. TA O/o JCIT, R-Silchar	Same Office
24.	Smt. Tapati Bhattacharjee, Sr. TA O/o JCIT, R-2, Dibrugarh	Same Office
25.	Smt. Deepa Sen Sharma, Sr. TA O/o JCIT, R-3, Guwahati	Same Office
26.	Smt. Wanda Philamon Syiem (ST) Sr. TA, O/o CIT, Shillong	Same Office
27.	Shri Arijit Kumar Deb, Sr. TA O/o CCIT, Shillong	O/o the JCIT, R- Shillong
28.	Shri Khain Singh Dkhar (ST), Sr. TA, O/o JCIT, R-Shillong	JCIT, R- Imphal
29.	Shri Pratap Das (SC), OS O/o JCIT, R-4, Guwahati	O/o CIT, Guwahati-II, Ghy
30.	Shri Bharat Ch. Das (SC), OS O/o JCIT, R-1, Dibrugarh	Same Office
31.	Shri Mridul Karmakar (SC), Sr. TA, O/o CCIT, Guwahati	O/o the JCIT, R-1, Guwahati (for TDS)
32.	Shri Parimal Ch. Das (SC), Sr. TA O/o ITO, Karimganj	O/o ITO, W-Dharmanagar

1. Shri Amitava Sanyal, attached to the O/o the CIT, Guwahati-I, Guwahati is allowed to join as Inspector in the same office and he may be released accordingly.

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2. The inter-se-seniority of the above appointees will be fixed in accordance with the instructions contained in the Govt. Of India , DOP &T O.M No. 20011/1/96/-Estt.(D) dated 30-01-97.
3. All the above persons are hereby asked to exercise their options within one month of the date of promotion in the matter of fixation of pay on such promotion in terms of Para-3 of the Ministry of Personnel , Public Grievance and Pension (DOP&T) OM No. 1/2/87-Estt.(Pay-I) dated 09-11-87.

Sd/-

( J.K. Goyal )

Chief Commissioner of Income Tax,  
Guwahati

Memo No. E-151/Promotion (IIT)/CCIT/GHY/2001-02/16601-16721 dated 23rd January, 2002

Copy to :-

1. The CCIT, Shillong.
2. All Cs.IT/Cs.IT (A)/D.IT(Inv.) in N.E. Region.
3. All Addl. CsIT / Sr. A.R. ITAT / JC'sIT in this Region.
4. All others Heads of Offices in NER.
5. The ZAO, CBDT, Shillong.
6. Field Pay Units, Guwahati/Shillong/Dhubri/Silchar/Imphal/Dibrugarh/Agartala.
7. The AD (OL), Guwahati for Hindi version.
8. Officers concerned.
9. The General Secretary, ITGSF/ITEF, Guwahati.

( K.R. Das )

Addl. Commissioner of Income-tax, Hqrs.  
For Chief Commissioner of Income-tax, Guwahati