

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 367/2001

Applicant (s) Rajini Kalita

Respondent(s) U.O.T. 9003

Advocate for the Applicant: M. Chanda, Ms. N.D. Goswami, C. & Chatrian

Advocate for the Respondent: CAC

Notes of the Registry	Date	Order of the Tribunal
Application is in form. Information for issue is filed vide M.P. No. C.R. for issue is filed vide IP/4/66788/07. Date: 12/9/2001	18.9.01	Heard Mr. M. Chanda, learned counsel for the applicant. The application is admitted. Call for the records. Returnable by four weeks. List on 17/10/01 for order.
<i>By Mr. Chanda</i> <i>DR</i>	<i>13/9/2001</i> <i>WB</i> <i>mb</i>	<i>CC Usha</i> Member
<i>Steps taken</i> <i>Without developments</i> <i>DR</i>	<i>17.10.01</i>	<i>Vice-Chairman</i> Mrs R.D. Mazumdar, learned counsel has entered appearance on behalf of respondents No. 2 and 3. Four weeks time allowed on the prayer of the respondents to file written statement. List on 28.11.01 for order.
<i>No notice issued and sent to DLS for issuing the Respondent No. 1 in 3/2001 Legal AFD</i> <i>DR</i> <i>21/11/01</i>		<i>CC Usha</i> Member
<i>DINo. 350165593</i> <i>extd 24/12/01</i>		

① Service segment case still
audit.

No written statement
has been filed.

27/11/01

No written statement
has been filed.

30/11/01

28.11.01 Heard Mr. M. Chanda, learned
counsel for the applicant and
also Mr. A. Deb Roy, learned Sr. C.C.S.C.
for the respondent no. 1 as well as Mrs. R.
Das Mazumdar, learned counsel for the
respondent nos. 2 and 3.

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

List on 4.1.2002 for written
statement.

I C U. Shan
Member Vice-Chairman

mb

7.01.02

4.1.02

W/s has been filed on
behalf of the respondents
at P- 41-62.

NS
7/01/02

Written statement has been filed.
The case may now be listed for hearing
on 7.2.02. In the meantime the applicant
may file rejoinder if any within two
weeks.

I C U. Shan
Member

Vice-Chairman

lm

7.2.2002

No rejoinder has
been filed.

6.2.02

Rejoinder has been
filed by the
applicant at
P- 63-73

NS
6/2/02

26.2.02

bb

Heard counsel for the parties.
Hearing concluded. Judgment delivered
in open Court, kept in separate sheets.

The application is disposed of in
terms of the order. No order as to costs.

I C U. Shan
Member

Vice-Chairman

py

15.3.2002
Copy of the Judgment
has been sent to the
Office for issuing
the same to the applicant
as well as to the other
in the Repondents
15/3/02

15/3/02

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 369 of 2001.

Date of Decision. 26.2.2002.

Sri Rajani Kalita and others.

Petitioner(s)

Sri M.Chanda.

• Versus -

Advocate for the
Petitioner(s)

Union of India & Ors.

Respondent(s)

Sri A.Deb Roy, Sr.C.G.S.C for respondent No.1

Mrs R.D.Mazumdar, Advocate for respondents 2 and 3.

Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman

NO

h

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 369 of 2001.

Date of Order: This the 26th Day of February, 2002.

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

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

1. Sri Rajani Kalita,
2. Smt. Swapna Bhattacharjee,
3. Sri Rakesh Biswas and
4. Sri Deben Das Applicants

By Advocate Sri M.Chanda.

- Versus -

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

By Sri A.Deb Roy, Sr.C.G.S.C for respondent No.1
and Mrs Rita Das Mazumdar, Advocate for respondents
No. 2 and 3.

O R D E R

CHOWDHURY J.(V.C)

Heard Mr M.Chanda, learned counsel for the
applicant, Mr A.Deb Roy, learned Sr.C.G.S.C for respon-
dent No.1 and Mrs R.D.Mazumdar, learned counsel for the
respondents No. 2 and 3. It appears that during the
pendency of this proceeding the applicants No.1 and
4 were appointed as Office Superintendent and
and in the written statement the respondents also stated

that Smt. Swapna Bhattacharjee was empanelled by the DPC and would be promoted to the post of Senior Tax Assistant against the physically handicapped quota very shortly. In the written statement the respondents also stated that the case of the applicant No.3 Sri Rakesh Biswas is to be looked into, so much so when the said applicant was initially appointed as UDC in the department he was appointed against OBC quota vide order dated 28.10.97 and not against physically handicapped quota. Mr M.Chanda, learned counsel for the applicant stated that the applicant No.3 was appointed against the quota of orthopaedically handicapped (OPH) on 26.3.98 when he was appointed UDC in the Income Tax Department by the respondents and referred to Annexures A, B and C to the rejoinder and other connected documents. In the circumstances the respondents stated that his case is to be looked into and examine the relevant materials to resolve the issues on evaluation of the facts and thereafter only his case could be considered for promotion against physically handicapped quota. Mr M.Chanda, learned counsel for the applicant relied on the number of documents annexed with the rejoinder in support of his claim as a OPH person. All these aspects can only be looked into by the authority who is required to be satisfied as to whether he is physically handicapped. Since the matter is under examination we are of the view that ends of justice will be met if the respondents are allowed to examine the matter and thereafter consider his case as per law.

2. The application of applicants No. 1 and 4 is dismissed as infructuous leaving the respondents to

take necessary steps as per law. Subject to the observations made above, the application of the applicants No. 2 and 3 stands disposed of.

There shall, however, be no order as to costs.

(K.K. SHARMA)
ADMINISTRATIVE MEMBER

(D.N. CHOWDHURY)
VICE CHAIRMAN

pg

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

In the matter of :

OA No. 369/2001.

File No. : 2001/2/6
Date : 06/02/2002
By : *Das Mohanlal & Associates*

Shri Rajani Kalita & Ors.

-Vs-

Union of India & Ors.

And

In the matter of :

Reply to the Rejoinder petition submitted by the applicant
on 6th. day of February, 2002 in reply to the written
statements submitted by the Respondents.

The Respondent No. 2 on behalf of UOI & Ors. named above
most humbly and respectfully begs to submit point-wise replies to the
rejoinder petition by the applicants as under : -

Point No. 1 : Applicants stated to have understood the Written Statement :

Nothing to reply.

Point No. 2 : Applicants categorically denies the written statement in paras
1 to 8 , 12, 13, 15, 16, 22 & 24 stating that the respondents did
not implement the reservation policy in promotion :-

The Respondents categorically denies the charges

and states that Reservation Policy has been meticulously followed and implemented in all promotions as and when they occurred. Out of 131 promotions made to the post of Sr. Tax Assistant, 4 PH persons (viz. Shri Bandhu Das, Shri Purnendu Dutta Choudhury, Shri Deben Deka (Applicant No. 4 in the instant OA) & Shri Rajani Kalita (Applicant No. 1 in the instant OA) vide Sl. 47, 53, 62 & 101 of Annexure -II of the OA) . Thereafter, Shri Rajani Kalita & Shri Deben Deka , Applicant No. 1 & 4 respectively were again promoted to the post of Office Superintendent against the quota meant for the PH vide Respondent No. 2's order dated 31.01.2002. In this regard, it may be mentioned that Shri Rajani Kalita (Applicant No. 1) in his representation dated 13.11.2001 sought for promotion to the next higher grade i.e. Sr. Tax Assistant but in the instant OA he has mentioned to have claimed for promotion to the post of Office Superintendent and he has got both the promotion in normal time. Similarly Shri Rakesh Biswas (Applicant No. 3) in his representation dated 19.10.2000 did not make any specific claim for promotion to any post but in the instant OA he has mentioned to have claimed his promotion as Sr. Tax Assistant. The case of Shri Rakesh Biswas was sponsored for appointment to the post of UDC on the basis of Examination held in 1995 vide their No. SSCD.A-11011/61/97-NOM./2313 dated 28.10.1997 as OBC quota by the Staff Selection Commission but not against PH quota. After examining the certificates and identity card submitted by the applicant in the rejoinder petition it is noticed

that he obtained PH certificates on 05.07.1997 and Identity Card on 08.08.1997 i.e. much after the recruitment year 1995.

His rejoinder is also silent since when he acquired physical disability if it is not since birth. As regards mention of PH against his name in the Appointment Letter it will be necessary to examine the relevant dossiers to ascertain the factual position and prior to that there is no question of considering his name for promotion against PH quota. Further more the Respondent No. 2 has already promoted 4 PH candidates and 1 more is being promoted very shortly to the post of Sr. Tax Assistant to which post Shri Rakesh Biswas is also a candidate but does not qualify by his seniority since no promotion in excess of prescribed quota for PH can be made. Another PH candidate, viz. Smt. Sawpna Bhattacharjee (Applicant No. 2) whose name has been empanelled by the DPC, will be promoted to the post of Sr. Tax Assistant against the PH quota very shortly. She moved her representation for promotion to the post of Inspector on 30.05.2001 i.e. prior to creation of vacancies for the post which was created only during July, 2001. Her filing of OA on the ground of being deprived is premature and may be rejected.

The other applicant, Shri Deben Deka (Applicant No. 4), Shri Deben Deka in his representation dated 03.11.2000 sought for promotion to the next higher grade i.e. Sr. Tax Assistant and not for Inspector but mentioned to have claimed for promotion as Inspector in the instant OA. On this ground alone the case of Shri Deben Deka deserved to be rejected.

On the question of policy matter and some conflicting circulars relating to promotion in various grades and particularly to the post of Inspector some clarifications has been sought for from the Board vide this office letters dated 8.11.2001 & 24.12.2001 respectively filed along with the written statement. The clarifications from the Board are still awaited and on receipt of the same their entitlement will be examined.

In view of the aforesaid facts, the contention of all the applicants as made in their OA that - " being deprived of their legitimate promotions due to non-application of reservation for the PH category, they submitted representations to the Respondent praying for consideration of their promotions as per declared policy of reservation for the PH" does not hold good and is misleading and not tenable inasmuch the question of their "being deprived" at that point of time did not at all arise as because the promotion to various grades took place in "July, 2001" i.e. much after the submission of their aforesaid representations to the Respondent No. 2 and on the ground that their cases have duly considered and promotions made in various cadres on their normal entitlement.

Point No. 3 : As regards filling up the post in various cadres as mentioned in para 10, 18 & 21 of the written statement against the OA are correct and the submissions of the applicants in the rejoinder petition are simply misleading .

It is to clarify that Respondent No. 2 has filled up the

2

P/5.

post of Sr. Tax Assistant & Office Superintendent fulfilling all the prescribed conditions and reservation quota for the PH candidates without any violation. These two categories are fit to be manned by all categories of PH candidates and hence inter-exchangability of different PH categories is permissible for these posts. But the post of Inspector is specifically identified for the Orthopaedically Handicapped candidates only and not for any other categories and hence the question of inter-exchangability with other categories of PH candidates does not arise.

Point No. 4 : In view of explanations and replies to the rejoinder petition as indicated above, Respondent No. 2 humbly re-iterated the statements made in paragrpahs 17, 19, 20 & 23 of the written statements and the claims made by the applicants are not factually correct and not tenable in law.

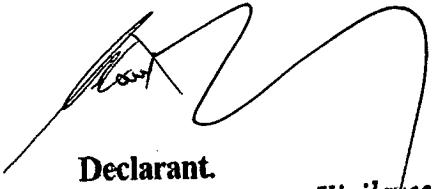
In the facts and circumstances, the OA deserves to be dismissed with cost.

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VERIFICATION

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

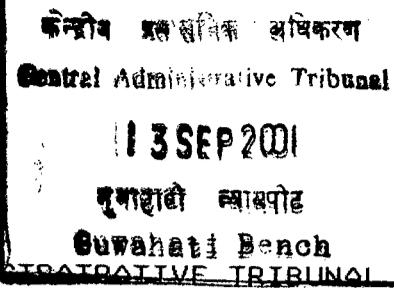
And I sign this verification on this 25th day of February, 2002.



Declarant.

Joint Commissioner of Income-tax, Vigilance.
Off. the Chief Commissioner of Income-tax,
Cooch Behar.





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. 369 /2001

Sri Rajni Kalita & Ors. : Applicant

Versus -
Union of India & Others: Respondents.

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Filed by

Date: 30.08.2001 Advocate: _____

24
Filed by the applicant
through advocate in
G. N. Chakraborty
11-9-2001

Rajni Kalita

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

BETWEEN

1. Shi Rajani Kalita,
2. Smti Swapna Bhattacharjee,
3. Shri Rakesh Biswas,
4. Shri Deben Das

O.A. No. /2001

OA 326/01

..... Applicants

(Applicants are working in the Income Tax Department in the capacity of Sr. Tax Assistant/UDC and posted at different places in Assam, all of whom were recruited under the Physically Handicapped Quota).

~AND~

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

..... Respondents.

Rajani Kalita

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.
This application is ~~not~~ made against any particular order but is made praying for a direction upon the Respondents to implement the policy of reservation to the extent of 3% of posts for the physically handicapped persons in promotions as laid down by the Govt. of India, deptt. Of Personnel and Training (DOPT) vide O.M. No. 36035/1/89-Estt(SCT), dated 20.11.1989, O.M. No. 36035/7/95-Estt(SCT) dated 18.2.1997 and O.M. No. 36035/03/97-Estt (Res) dated 04.07.1997 and to promote the applicants under physically handicapped quota, in the posts as prayed for, in accordance with the policy avowed in the aforesaid Memoranda.
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.
 - 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. Further, all the applicants are working in the Income Tax department and were initially recruited under the physically handicapped category.
 - 4.2 That your applicants beg to state that the grievances and reliefs sought for in this application are common and working under the same Department, therefore, the applicants humbly pray for grant of permission to move the Hon'ble Tribunal under section 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 this application jointly before the Hon'ble Tribunal.
 - 4.3 That the applicant No. 1 is a Science Graduate from Gauhati University who was initially recruited under the physically handicapped category and joined as UDC in the Income Tax Department

Rajani Kalita

on 27.8.1992 and subsequently promoted as Sr. Tax Assistant with effect from 23.07.2001 and working in the office of the Assistant Commissioner, Income Tax Investigation Circle II, Guwahati. Applicant No.2 also a physically handicapped person, was recruited as LDC in 1978 and subsequently promoted and posted as UDC at the office of the Assistant Commissioner of Income Tax, Investigation Circle, Silchar since 1995.

Similarly, the applicant No.3, a Science Graduate from the North Eastern Hill University, Shillong was appointed under the physically handicapped category and joined as U.D.C. on 27.3.1998 in the office of the Commissioner of Income Tax, Guwahati, and;

The applicant no.4 a Commerce Graduate from the Gauhati University, was also recruited under the physically handicapped quota and joined as U.D.C. on 20.4.1993 and eventually promoted as Sr. Tax Assistant with effect from 23.07.2001 and working in the office of the Assistant Commissioner of Income Tax, investigation Circle II, guwahati-1.

4.4 That the applicant no.1 became eligible for promotion to the cadre of Office Superintendent after completion of six years of regular service as U.D.C. and more so when he had passed the Ministerial Staff Examination in 1999 for confirmation in the cadre of UDC.

The applicant No.2 has also fulfilled all the criteria for promotion to the post of Income Tax Inspector under physically handicapped quota.

Similarly, the applicant NO.3 has also attained eligibility for promotion to the grade of Sr. Tax Assistant in the month of March, 2001 and he had also passed the ministerial staff examination in 2000 which is prerequisite for promotion to the grade of Sr. Tax Assistant and;

The applicant No.4 passed the Ministerial Staff Examination in 1997 and further qualified in the Departmental Examination for Inspector of Income Tax held in 1999 and as such attained the eligibility for promotion to the post of Income Tax Inspector under the existing Recruitment Rules/Service Rules.

4.5 That in spite of attaining eligibility for promotions to the higher grades as stated above, the applicants were not promoted aper their entitlements due to non-application of the benefit of physically handicapped quota which they are entitled to get as per the avowed policy of the Government of India. Consequently, the case of the applicants were not considered for promotion at the time of issuing the promotion orders for their respective posts which were issued in July, 2001 for other persons in different categories of posts.

Copy of promotion order dated 13.7.01 for Superintendents order dated 23.7.2001 for Sr. Tax Assistants and order dated 13.07.01 for Income Tax Inspectors are annexed hereto as **Annexure-I, II, and III** respectively.

4.6 That being deprived of their legitimate promotions due to non application of reservations for physically handicapped category, the applicants submitted representations to the Respondents praying for consideration of these promotions as per declared policy of reservation for physically handicapped as notified by the Government of India.

Copy of one representation of each of the four applicants are annexed hereto as **Annexure-IV** series.

4.7 That the Govt. of India, Deptt. Of Personnel & Training (DOPT), vide its O.M. bearing No. 36035/1/89-Estt(SCT), dated 20.11.1989 laid down the specific provision of reservation of posts for the physical handicapped persons in case of promotion of 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" posts. 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 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 **Annexure-V, VI and VIII** respectively.

- 4.8 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 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”.
- 4.9 That further to above, the applicant was initially recruited under the reserved quota for physically handicapped persons and such

Rajani Nalini

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 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-V, VI, and VII respectively.

4.10 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 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".

4.11 That the post of the Superintendent, Sr. Tax Assistant and Income Tax Inspector to which the present applicants are claiming to be promoted, fall under the category if "identified posts" for the purpose of reservation in promotion for the physically handicapped which is 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 these have been shown as follows :

Sl. No.	Title of posts	Physical requirements	Categories of disabled suitable for the post
90	Office Supdts. etc.	SWH	OL, OA, B, PB, BL, BA
91	Inspector & Supervisors etc.	SWH SE	OL, OA
93	Assistant etc.	SWSTH SE	OL, OA

The abbreviations indicated herein have been expanded in their full form in Appendix-3 and Appendix-4 in the said "Swamy's Compilation" 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)
- 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

- B = Blind

PB = Physically blind

BL = Both legs affected but not arms

BA = Both arms affected (a) Impaired

(b) Weakness of Grips

4.12 That considering their qualifications/eligibility and their physical disabilities as per the above mentioned criteria, all the present applicants have fulfilled the requirements for their promotion to the posts sought for, i.e.

The applicant no. 1 is eligible for promotion to the post of Office Superintendent, whereas he has been promoted to the post of Sr. Tax Assistant vide order dated 23.07.2001.

The applicant No. 3 is eligible for promotion to the post of Sr. Tax Assistant, and

The applicant NO.4 is eligible for promotion to the post of Income Tax Inspector, whereas he has been promoted as Sr. Tax Assistant vide order dated 23.07.2001.

4.13 That 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 the Central Administrative Tribunal, New Delhi, vide its judgment dated 18.7.2000 in O.A. No. 1807/99 (National Federation of Blind - Vs. - Govt. of NCT, Delhi & Ors.) was pleased to direct for enforcing reservation in promotions of the extent of 3% for physically handicapped persons, distributed to the extent of 10% each for persons with visual impairments, hearing impairments and locomotor disabilities.

* Copy of judgment & order dated 24.12.1999 of CCD and Judgment and order dated 18.7.2000 of CAT, New Delhi are annexed hereto as Annexure - VIII and IX respectively.

Rajani Kalita

4.14 That the applicants beg to state that in spite of having all eligibilities, and in spite of the existence of a clear policy of reservation spelt out by the Government for physically handicapped persons, the case of the applicants, were not considered for promotion to their respective posts as mentioned in the preceding paragraph while issuing relevant promotion orders shown herewith as Annexure-I, II and III, which the Respondents issued arbitrarily, capriciously, unfairly, illegally and showing utter disregard to the Government policy.

As such, finding no other alternative, the applicants are approaching this Hon'ble Tribunal for protection of their 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 applicants directing the Respondents to promote the applicants to the posts prayed for, at least w.e.f. the ~~dates~~ when the relevant promotion orders under Annexure-I, II, and III herewith were issued.

4.15 That this application is made bonafide and for the cause of justice.

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

- 5.1 For that similarly situated persons have been promoted to the posts of Office Supdt/Sr. Tax Assistant/Income Tax Inspector vide promotion orders annexed herewith as Annexure-I,II, and III, without considering the case of promotion of the applicants.
- 5.2 For that the applicants were 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

Rajani Narlila

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 99 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).

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

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 respondents be directed to enforce/implement the policy of 3% reservations in promotion for the physically handicapped in all categories and classes of identified posts as prayed for by the applicants.
- 8.2 That the Respondents be directed to promote the applicant No. 1,2,3 and 4 to the posts of Office Superintendent; Income Tax

Rajani Kalita

Inspector, Sr. Tax Assistant and Income Tax Inspector respectively 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 with effect from the dates of issuance of the promotion orders annexed herein as Annexure-I, II, and III respectively.

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 relief :-

9.1 That the respondents be directed that the pendency of this application shall not be a bar in considering the promotion of the applicants as prayed for.

10. Advocates.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 62 7880/07
 ii) Date of issue : 12/9/07
 iii) Issued from : G.P.O., Guwahati.
 iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

VERIFICATION

I, Sri Rajani Kalita, Son of Late Harakanta Kalita, resident of Krishnagar, Japorigog, Guwahati-5, now working as Sr. Tax Assistant in the office of the Assistant Commissioner, Income Tax Investigation Circle - II, Guwahati-1, one of the applicants in this Original Application, duly authorized by all other applicants to verify the statements made in this application, 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 11th day of September, 2001.

Rajani Kalita

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 Assistants, Tax Assistants and Upper Division Clerks are, hereby, temporarily promoted to officiate as Office Superintendent 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 Office Superintendent, 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 Bidhu Bhusan Paul, Asstt.	O/O the ACIT, Inv. Cir.-1, Guwahati
02.	Shri Rajani Gogoi, Asstt.	O/o the ACIT, Circle- Tinsukia
03.	Shri Basuram Boro (ST), Asstt.	O/O the Addl. C.I.T, Rg-1, Guwahati
04.	Smt. Magdelena Marbaniang (ST) Asstt.	O/O the C.I.T, Shillong
05.	Shri Sarbananda Das, Asstt.	O/O the ACIT, Inv. Cir.II, Guwahati
06.	Shri Parimal Ch. Das, Asstt.	O/O the I.T.O, W-1, Agartala
07.	Shri Rabindra Kumar Paul, Asstt.	O/O the A.C.I.T, Inv. Cir.2, Guwahati
08.	Shri Ranjan Kr. Das, Asstt.	O/O the ACIT, Inv. Cir.-1, Guwahati
09.	Shri Girish Ch. Das, Asstt.	O/O the I.T.O, Nalbari
10.	Shri Kuladhar Hazarika (ST), Asstt.	O/O the ACIT, Inv. Cir. Dibrugarh.
11.	Smt. Rambha Das (ST), Asstt.	O/O the DCIT, Central Cir. Dibrugarh
12.	Shri Khumalambam Kr. Singh, Asstt.	O/O the I.T.O, Ward -Karimganj
13.	Smt. Sumita Das Lala, Asstt.	O/O the C.I.T, Shillong
14.	Shri Bijit Kumar Chakraborty, Asstt.	O/O the I.T.O, Duliajan
15.	Shri Sunil Kr. Chanda, Asstt.	O/O the C.I.T, Shillong
16.	Shri Sadananda Saikia, Asstt.	O/O the C.I.T-1, Guwahati
17.	Smt. Amrita Bhadra, Asstt.	O/O the ACIT, Circle- Tezpur
18.	Shri H. Maipak Sharma, Asstt.	O/O the ACIT, Circle- Imphal
19.	Smt. Gauri Dutta, Asstt.	O/O the Addl. CIT, R-1, Guwahati
20.	Shri Mukuta Doley (ST), Asstt.	O/O the I.T.O, North Lakhimpur
21.	Shri Sukharanjan Das (SC), Asstt.	O/O the T.R.O, Dibrugarh
22.	Shri Jogesh Ch. Das (SC), Asstt.	O/O the Addl.CIT, Rg. Dibrugarh
23.	Shri Hiranmay Chakraborty, Asstt.	O/O the T.R.O, Guwahati

*Alastair
Dr. Andrew*

(2):-

<u>Sl. No.</u>	<u>Names of the officials</u>	<u>Office to which attached</u>
24.	Shri Bikash Nag ,Asstt.	O/O the ACIT, Circle-Tinsukia
25.	Shri Pradip Kumar Bist, Asstt.	O/O the C.I.T, Shillong
26.	Smt. Gauri Rani Dhar, Asstt.	O/O the ACIT, Inv. Cir-2,Guwahati
27.	Shri Bimalendu Dutta , Asstt.	O/O the ACIT, Inv. Cir-2,Guwahati
28.	Shri Dwijendra Nath Barpujari,Asstt.	O/O the JCIT, Range- Jorhat
29.	Shri Samiruddin Ahmed,Asstt.	O/O the D.C.I.T, Circle-Jorhat
30.	Shri Badal Kumar Mitra,Asstt.	O/O ACIT, Inv. Cir- Dibrugarh
31.	Shri Manoranjan Barman,Asstt.	O/O the I.T.O, W-1, Dhubri
32.	Smt. Moushumei Lahakar,Asstt.	O/O the D.C.I.T, Circle- Jorhat
33.	Shri Dipankar Dutta Choudhury, Asstt.	O/O the ACIT, Inv. Circle- Shillong
34.	Shri Santanu Saikia, Asstt.	O/O the Addl.CIT, Rg. Dibrugarh
35.	Smt. Udit Sarkar, Asstt.	O/O the I.T.O, Bongaigaon
36.	Shri Jaharlal Kanungoe, Asstt.	O/O the JCIT, Spl. Range, Dibrugarh
37.	Shri Nakul Dev Sharma (SC),Asstt.	O/O the JCIT, Spl. Range, Guwahati
38.	Shri Dhirendra Nath Tapadar (SC) Asstt.	O/O the D.I.T (Inv.), Guwahati
39.	Shri S. Edison (ST), U.D.C	O/o the A.C.I.T, Circle-Imphal
40.	Shri Kularam Saikia (ST),UDC	O/O the DCIT, Circle-Jorhat
41.	Shri Arifit Kr. Deb , T.A	O/O the C.I.T, Shillong
42.	Smt. Fullara Chakraborty,U.D.C	O/O the A.C.I.T, Cir. Tinsukia
43.	Shri Sirazul Haque, T.A,	O/O the JCIT, Spl. Range, Shillong
44.	Smt. Patrica Kharuban (ST),UDC	O/O the JCIT, Spl. Range-Shillong
45.	Shri Ranendra Ch. Barman, T.A	O/O the ACIT, Inv. Cir. 1, Guwahati
46.	Shri Pares Ch. Nath, T.A	O/O the Addl. CIT, Rg.- Dibrugarh
47.	Smt. Sibani Dhar, U.D.C	O/O the ACIT, Inv. Cir. 2, Guwahati
48.	Shri Ghanashyam Medhi, T.A	O/O the ACIT, Inv. Cir.2, Guwahati
49.	Shri Lokeswar Sonowal (ST),UDC	O/O the ACIT, Inv. Cir-Dibrugarh
50.	Smt. Bijay Laxmi Paul, T.A	O/O the ACIT, Circle- Tinsukia

Sd/-

(V. Tochhawng)

Chief Commissioner of Income-tax,
Guwahati

Contd.... Pg..3

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 23rd July, 2001

ESTABLISHMENT : NON-GAZETTED

The undermentioned Tax Assistants and Upper Division Clerks are, hereby, temporarily promoted to officiate as Senior Tax Assistants in the scale of pay Rs.5,000 - 150 - 8000/- plus usual allowances as admissible under the Rules from time to time. On promotion as Senior Tax Assistant 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	Sri Manash Choudhury, T.A.	- O/o the ACIT, Circle-Silchar
02	Sri Mirzahan Sheikh, T.A.	- O/o the ACIT, Inv. Circle-2, Guwahati
03	Sri Subhash Chandra Baruah, T.A.	- O/o the ITO, W-1, Digboi
04	Sri Tapadhir Dutta, T.A.	- O/o the DCIT, Inv. Cir-Dibrugarh
05	Sri Minal Kanti Chanda, T.A.	- O/o the DCIT, Inv. Cir-Dibrugarh
06	Sri Amitava Sanyal, T.A.	- O/o the CIT-I, Guwahati
07	Sri Rajendra Prasad Upadhyay, T.A.	- O/o the Addl. CIT, Spl. Rg. Guwahati
08	Sri Prabhat Ranjan Bhattacharjee, T.A.	- O/o the ACIT, Inv. Cir-Silchar
09	Smti. Tapati Bhattacharjee, T.A.	- O/o the JCIT(A), Spl. Range, Dibrugarh
10	Smti. Deepa Sen Sharma, T.A.	- O/o the ACIT, Inv. Circle-2, Guwahati
11	Smti. Wanda Philamon Syiem (ST), T.A.	- O/o the CIT, Shillong
12	Sri Arijit Deb, T.A.	- O/o the CCIT, Shillong
13	Sri Sajal Kanti Das, T.A.	- O/o the CIT, Shillong
14	Sri Tejen Roy, T.A.	- O/o the CCIT, Guwahati
15	Sri Chittaranjan Saha, T.A.	- O/o the ACIT, Inv. Circle-2, Guwahati
16	Sri Utpal Debnath, T.A.	- O/o the JCIT, Range-2, Guwahati
17	Sri Matindra Kishore Singh, T.A.	- O/o the CIT, Shillong
18	Sri Bhadreswar Bora (ST), T.A.	- O/o the ITO, W-Golaghat
19	Sri Sujay Barua, T.A.	- O/o the DIT (Inv.), NER, Guwahati
20	Sri Asit Ranjan Paul, T.A.	- O/o the JCIT, Spl. Range- Shillong
21	Sri Sailesh Dhanwar, T.A.	- O/o the Addl. CIT, Range-Dibrugarh
22	Sri Santosh Chakraborty, T.A.	- O/o the ITO, W-Karimganj
23	Sri K. Biren Singh, T.A.	- O/o the ACIT, Circle-Imphal
24	Smt. Arati Bhattacharjee, T.A.	- O/o the ITO, W-1, Agartala
25	Sri Amarendra Nath Sarma, T.A.	- O/o the ACIT, Inv. Cir- Shillong
26	Sri Jayanta Lal Das, T.A.	- O/o the CIT, Shillong

*After 1st
2nd
3rd
4th*



		(2)	
27	Sri Ranabir Roy, T.A.	- O/o the ACIT, Inv.Cir-1, Guwahati	
28	Sri Surojit Bhattacharjee, T.A.	- O/o the DCIT, Circle-Tinsukia	
29	Sri Premadhar Narzary, T.A. ST	- O/o the ACIT, Inv.Cir-1, Guwahati	
30	Sri Jibon Kumar Chakraborty, T.A.	- O/o the ITO, W-1, Agartala	
31	Sri Krishna Govinda Kar, T.A.	- O/o the CIT, Shillong	
32	Sri Durgeswar Saikia, T.A. ST	- O/o the Addl.CIT, Range-Dibrugarh	
33	Sri Jahar Lal Saha, T.A.	- O/o the ITO, W-1, Agartala	
34	Sri Pranabananda Roy, T.A.	- O/o the ITO, W-1, Agartala	
35	Sri Chapal Kumar Ganguly, T.A.	- O/o the ITO, W-1, Dhubri	
36	Sri Birendra Kumar Das, T.A.	- O/o the CIT-I, Guwahati	
37	Sri Sirish Kumar Dey, T.A.	- O/o the ACIT, Inv.Cir-2, Guwahati	
38	Sri Khain Singh Dkhar, T.A. ST	- O/o the ACIT, Inv.Cir-Shillong	
39	Sri Dulal Ch. Saha, T.A.	- O/o the ACIT, Inv.Cir-1, Guwahati	
40	Sri Amitava Dey, T.A.	- O/o the ACIT, Inv.Cir-1, Guwahati	
41	Sri Panchajanya Das, T.A.	- O/o the ITO, W-Karimganj	
42	Sri Dulal Kr. Barua, T.A.	- O/o the ACIT, Inv.Cir-2, Guwahati	
43	Sri Bomkesh Das Gupta, T.A.	- O/o the CCIT, Guwahati	
44	Smt Uttara Choudhury, T.A.	- O/o the TRO-Silchar	
45	Sri Supratim Purkayastha, T.A.	- O/o the ITO, W-1, Digboi	
46	Sri Subash Ch.Roy, T.A.	- O/o the ITO, W-1, Agartala	
47	Sri Bandhu Das, T.A. (P/H)	- O/o the CIT-I, Guwahati	
48	Smt Beautiful Nongkynrih, T.A. (ST)	- O/o the CIT, Shillong	
49	Sri Sibnath Sonowal, T.A. (ST)	- O/o the ITO, W-1, Sibsagar	
50	Sri Samiron Bhattacharjee, T.A.	- O/o the ACIT, Inv.Cir-Silchar	
51	Sri Pijush Kanti Chakraborty, T.A.	- O/o the ACIT, Inv.Cir-Silchar	
52	Sri Kalyan Mitra, T.A.	- O/o the DCIT, Cir-Tinsukia	
53	Sri Parnendu Dutta Choudhury (P/H)	- O/o the ACIT, Inv.Cir-1, Guwahati	
54	Sri Islamuddin Choudhury, T.A.	- O/o the ACIT, Inv.Cir-Silchar	
55	Sri Khanindra Ch. Das, T.A.	- O/o the TRO, Tezpur	
56	Sri Amal Kanti Dutta, T.A.	- O/o the ITO, W-1, Agartala	
57	Sri Angom Guniindra Singh, T.A.	- O/o the CIT, Shillong	
58	Sri Madhuram Bhuyan, T.A.	- O/o the JCIT(A), Spl.R-1, Guwahati	
59	Sri Bidhan Purkayastha, T.A.	- O/o the DCIT, Central Cir-Dibrugarh	
60	Sri Tapan Kumar Ghosh, T.A.	- O/o the ACIT, Inv.Cir-1, Guwahati	
61	Sri Ashim Choudhury, T.A.	- O/o the Addl.CIT, Range-Silchar	
62	Sri Deben Deka, T.A.	- O/o the ACIT, Inv.Cir-2, Guwahati	
63	Sri Ram Charan Singh Laisram, T.A.	- O/o the ACIT, Cir-Tezpur	

- (3) :-

64	Sri Chungkhan Tiken Singh, T.A.	- O/o the ACIT, Circle- Imphal
65	Sri Ratan Das, T.A.	- O/o the DCIT, Cir-Tinsukia
66	Sri Ajoy Dutta, T.A.	- O/o the I.T.O, W-1, Digboi
67	Sri Tirtha Sonowal, UDC (ST)	- O/o the ACIT, Inv. Cir. Dibrugarh
68	Sri Prasanna Hazarika, UDC (ST)	O/o the T.R.O, Dibrugarh
69	Sri B.C. Talapatra, UDC	- O/o the ITO, W-1, Digboi
70	Sri Abdul Majid Faroque, UDC	- O/o the ITO, W-1, Nagaon
71	Sri Satya Brata Das, UDC	- O/o the DCIT, Inv. Cir-Shillong
72	Sri Shanti Ranjan Saha, UDC	- O/o the ITO, W-1, Nagaon
73	Sri Raj Shekhar Marandi, UDC (ST)	- O/o the CIT-I, Guwahati
74	Sri Safiur Rahman, UDC	- O/o the ITO, W-1, Dhubri
75	Sri Shyamacharan Das, UDC	- O/o the JCIT, R-1, Guwahati
76	Sri Benode Ch. Ramsiary, UDC (ST)	- O/o the ACIT, Cir-Tezpur
77	Sri Upendra Sangma, UDC (ST)	- O/o the Sr.AR, ITAT, Guwahati
78	Sri Bhupen Ch. Hazarika, UDC (ST)	- O/o the I.T.O, W-1, Dibboi
79	Sri Baikantha Kalita, UDC	- O/o the ITO, W-Nalbari
80	Sri Peter Sunn, UDC (ST)	- O/o the ACIT, Inv. Cir-Shillong
81	Sri Sourendra Brahma (ST)	- O/o the JCIT, R-1, Guwahati
82	Sri S. Kula Chandra Singh, UDC	- O/o the ITO, W-1, Dimapur
83	Sri Nikhil Ch. Das, UDC	- O/o the ITO, W-1, Agartala
84	Sri Makhdul Islam Barlaskar, UDC	- O/o the ACIT, Inv. Cir-Silchar
85	Smti. T.M.W. Roy Thabah, UDC (ST)	- O/o the DCIT, Inv. Cir-Shillong
86	Sri Amulya Kr. Sinha, UDC	- O/o the CCIT, Guwahati
87	Sri J. K. Roy Marak, UDC (ST)	- O/o the ACIT, Inv. Cir-2, Guwahati
88	Smti. Emiwanmaya Blah, UDC (ST)	- O/o the CIT, Shillong
89	Sri Milaram Deori UDC (ST)	- O/o the DCIT, Inv. Cir-Dibrugarh
90	Sri Narayan Das, UDC	- O/o the DCIT, Cir-Tinsukia
91	Smti. Jubeline Pynigrope UDC (ST)	- O/o the CCIT, Shillong
92	Sri Thagendra Nath Saikia, UDC (ST)	- O/o the ACIT, Inv. Cir. Dibrugarh
93	Sri Someswar Brahma, UDC (ST)	- O/o the ACIT, Inv. Cir. Guwahati
94	Sri Pavan Kumar Saikia, UDC (ST)	- O/o the ITO, W-1, Digboi
95	Smti. Yeowanka Laloo, UDC (ST)	- O/o the CIT, Shillong
96	Sri Arun Kr. Chanda, UDC	- O/o the ACIT, Inv. Cir-1, Guwahati
97	Sri Bidhan Sinha, UDC	- O/o the ACIT, Inv. Cir-1, Guwahati
98	Sri Jagadish Dhar Choudhury, UDC	- O/o the ITO, W-1, Nagaon
99	Smti. Madhumita Sinha, UDC	- O/o the JCIT(A), Sp.I.R-1, Guwahati
100	Sri Biplab Kr. Kar, UDC	- O/o the ACIT, Inv. Cir-2, Guwahati

-:(4):-

101	Sri Rajani Kalita, UDC	- O/o the ACIT, Inv.Cir-2, Guwahati
102	Sri Rabindra Bhattacharjee, UDC	- O/o the ACIT, Cir-Jorhat
103	Smt. Merica Mary Lyngdoh, UDC (ST)	- O/o the DCIT, Inv.Cir-Shillong
104	Md. Tamizul Haque, UDC	- O/o the DCIT, Central Cr-Dibrugarh
105	Smt. Bandana Sarkar, UDC	- O/o the ACIT, Inv.Cir-1, Guwahati
106	Sri B. M. Bhattacharjee, UDC	- O/o the ITO, W-1, Agartala
107	Smti. Merlibon Shabong, UDC (ST)	- O/o the CIT, Shillong
108	Sri Kaikho Pun, UDC (ST)	- O/o the TRO, Guwahati
109	Smti. Madalyne Rapsang, UDC (ST)	- O/o the DCIT, Inv.Cir-Shillong
110	Smt Devojyoti Das, UDC (ST)	- O/o the Addl.CIT, R-Dibrugarh
111	Smt Anima Konich, UDC (ST)	- O/o the Addl.CIT, R-Dibrugarh
112	Sri Jahar Jyoti Choudhury, UDC	- O/o the CIT, Shillong
113	Smt Binapani Phukan, UDC	- O/o the ACIT, Cir-Jorhat
114	Sri Shyamal Dey(I), UDC	- O/o the ACIT, Inv.Cir-1, Guwahati
115	Sri Sambir Brahma, UDC (ST)	- O/o the DIT(Inv.), NER, Guwahati
116	Sri Ujjal Bhanu Sen, UDC	- O/o the DCIT, Cir-Tinsukia
117	Sri Shyamal Dey(II), UDC	- O/o the CCIT, Guwahati
118	Smt. Pallavi Chakraborty, UDC	- O/o the DCIT, Cir-Tinsukia
119	Sri Debasish Ghosh, UDC	- O/o the Addl.CIT, Range-Dibrugarh
120	Smt. Pronoti Deb, UDC	- O/o the ACIT, Inv.Cir-Silchar
121	Sri Saibal Das Gupta, UDC	- O/o the CIT, Shillong
122	Sri Subrata Chatterjee, UDC	- O/o the ITO, W-1, Dhubri
123	Smt Panna Sen, UDC	- O/o the DCIT, Cir-Tinsukia
124	Sri Gouri Sankar Paul, UDC	- O/o the JCIT, R-2, Guwahati
125	Sri Steward Singh Warjari, UDC (ST)	- O/o the CIT, Shillong
126	Sri Rono Bijoy Dey, UDC	- O/o the ACIT, Inv.Cir-Silchar
127	Sri Dipankar Bisbarad, UDC	- O/o the ITO, W-Dharmanagar
128	Sri Mridul Karmakar, UDC (SC)	- O/o the CCIT, Guwahati
129	Sri Parimal Das, UDC (SC)	- O/o the ITO, W-Karimganj
130	Sri Narayan Das, UDC (SC)	- O/o the ACIT, Cir-Tezpur
131	Smt. Sunita Hazarika, UDC (SC)	- O/o the CIT-I, Guwahati

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

Attn: Sd/-

19- 19
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Annexure VI
Annexure - III

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 Bijan 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 Kumaresha 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.	Shri 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 Sufkat-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

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.
10. The ZAO, CBDT, Shillong.
11. All Field Pay Units of NER.
12. Officials Concerned.


(A.M. Sangma)

Addl. Commissioner of Income Tax, Hqrs.,
For Chief Commissioner of Income Tax
Guwahati

Annexure-IV(Series)

To
 The Chief Commissioner of Income Tax
 Saikia Commercial Complex
 Sree Nagar, G.S.Road,
 Guwahati-781005

Dated Guwahati the 13th November,
 2000

(Through Proper Channel)

Sub : Reservation for the physically handicapped in the posts filled by Promotion-regarding.

Sir,

Most humbly and respectfully, I would like to submit the following for favour of your kind and sympathetic consideration.

That Sir, I joined the Income Tax Department on 27.8.1992 in the cadre of UDC under the category of Physical Handicapped.

That Sir, I passed the Ministerial Staff Examination held in the year 1999 for confirmation in the cadre of U.D.C.

That Sir, it has come to my knowledge that the Government of India has already decided to earmark the points number, 1,34 and 67 in the cycle of hundred vacancies in the hundred point register for reservation for physically handicapped vide office memorandum of the Department of Personal and Planning, Ministry of Personnel, Public Grievances and Pensions, Government of India, New Delhi No. 36025/03/97-Estt(Res) dated 4th July, 1997.

In view of the facts stated above and that I am a physically handicapped person, I fervently request your honour kindly to consider my case in the reserved category for the physically handicapped for promotion to the next grade/post at the time of restructuring/modernisation of the Department as per the prevailing rules and norms in such matter and for the act of which I shall ever pray.

Thanking you,

Enclo (1) O.M. No. 36025/03/97/Estt(Res)
 Dated 4.7.1997.
 (2) O.M. No. 36035/7/95-Estt(SCT)
 dated 18.2.97.
 (3) Corrigendum dated 16.1.1998.

Yours faithfully,
 Sd/-

(Rajni Kalita)
 O/o the Assistant Commissioner
 of Income Tax, Investigation
 Circle 2 Guwahati.

*Alles gut
 D. A. Adw*

Rajni Kalita

Annexure-IV(Series)

To :

The chief Commissioner of Income Tax
 2nd floor of Saikia Commercial Complex
 Sree Nagar, G.S.Road,
 Guwahati-781005

Dated Guwahati the 30th May, 2001
 (Through Proper Channel)

Sub : Reservation for the physically handicapped in the posts filled by
 Promotion req-

Sir,

I have the honour to lay before you the following for favour of your Kind consideration

That Sir, I was recruited under the Physically handicapped quota in the year 1978 as LDC and at present posted at the Office of the Asstt. Commissioner of Income Tax, Inv. Circle, Silchar as U.D.C., since 1995.

That Sir, I am also drawing conveyance allowance granted for the Orthopaedically handicapped vide CIT's order Memo No. IV-E-59/59-60/4034-37 dated May 79.

That Sir, it is learnt that 1% reservation for promotion for Orthopaedically handicapped person have been made by the Government of India vide its order O.M. No. 36035/02/98 Estt(Res) dated 4.6.1998.

In view of the above facts I would request you to kindly consider my case for promotion in the cadre of Inspector under said quota in the forthcoming DPC, and for this act of kindness I shall remain ever grateful to you.

Yours faithfully,

Sd/-

(Swapan Bhattacharjee)
 o/o the Assistant Commissioner
 of Income Tax, Inv.Circle
 Silchar.

Swapan Bhattacharjee
Sd/-

Rajani Kalita

Annexure-IV (Series)

To
 The chief Commissioner of Income Tax
 2nd floor of Saikia Commercial Complex
 Sree Nagar, G.S.Road,
 Guwahati-781005

Dated Guwahati the 19th October, 2000
 (Through Proper Channel)

Sub : Reservation for the physically handicapped in the posts filled by
 Promotion-red-
 Sir,

I would like to inform you that I have joined this department on
 27.3.1998 as UDC in Physically Handicapped category. In this connection, I
 am to inform you that I have cleared 1st, 2nd & 3rd papers of the
 Ministerial Staff Examination this year (result not yet declared.).

Now I would like to state that, I have come across a Office
 Memorandum No. order O.M. No. 36035/02/98 Estt(Res) dated 4.7.1998 issued
 by the Ministry of Personnel & Public Grievance & Pensions, Department of
 Personnel & 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 roster for PH. (Photocopy of the letter dated 4.7.1997 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.

Enclo :

1. OM No. 36025/03/97/Estt(Res) dated 4.7.1997
2. OM No. 36035/7/35-Estt(SCT) dated 18.2.1997
3. Corrigendum dated 16.1.1998

Yours faithfully,

Sd/-

(Rakesh Biswas)

U.D.C.

O/o the Assistant Commissioner
 of Income Tax, Guwahati.

Rajani Kalita

Annexure-IV(Series)

To
 The chief Commissioner of Income Tax
 2nd floor of Saikia Commercial Complex
 Sree Nagar, G.S.Road,
 Guwahati-781005

Dated Guwahati the 3rd November, 2000
 (Through Proper Channel)

Sub : Reservation for the physically handicapped in the posts filled by
 Promotion-retd

Sir,
 Most humbly and respectfully, I would like to submit the following for
 favour of your kind and sympathetic consideration.

That Sir, I joined the Income Tax Department on 20.4.1993 in the
 cadre of UDC. I have also qualified in the Departmental Examination for
 Inspector of Income Tax held in the year 1999.

That Sir, I was promoted to the post of Tax Assistant in the year
 1999 and I am working in that post till now.

That Sir, it has come to my knowledge that the Government of India
 has already decided to earmark the points number, 1,34 and 67 in the cycle
 of hundred vacancies in the hundred point register for reservation for
 physically handicapped vide office memorandum of the Department of
 Personal and Planning, Ministry of Personnel, Public Grievances and
 Pensions, Government of India, New Delhi No. 36025/03/97-Estt(Res) dated
 4th July, 1997.

In view of the facts stated above and that I am a physically
 handicapped person, I fervently request your honour kindly to consider my
 case in the reserved category for the physically handicapped for promotion
 to the next grade/post at the time of restructuring/modernisation of the
 Department as per the prevailing rules and norms in such matter and for the
 act of which I shall ever pray.

Thanking you,

Enclo (1) O.M. No. 36025/03/97-Estt(Res)

Dated 4.7.1997.

(2) O.M. No. 36035/7/95-Estt(SCT)

dated 18.2.97.

(3) Corrigendum dated 16.1.1998.

Yours faithfully,

(Deben Deka)

O/o the Assistant Commissioner
 of Income Tax, Investigation
 Circle 2 Guwahati.

Deben Deka
AS/SL

Rajani Kalita

Annexure-V

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

New Delhi, the 18th Feb. 1997

Sub : 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 utilize 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

Albert
SDA

Razani Nahata

general category point in the relevant reservation roster. In case the number of vacancies against which promotion made is less and name of the vacancies falls on points reserved for the SC or the ST but ~~or~~ of the vacancies is to be reserved community, the next available reserved point in the reservation roster for that category will be utilized 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 officer selected under the quota reserved for Physically Handicapped belong to SC, he would be adjusted against the next available SC point i.e. Point No. 8.

(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 filling 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.

Sd/- Illegible
(Y.C.PARANDE)
Director

To
All Ministries/Departments of
Government of India.

*Attested
S.C.A.*

Rajani Kalita

Annexure-VI

Government of India
 Ministry of Personnel, Public Grievances and Pensions
 Department of Personnel & Training
 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. 36035/7/95Estt.(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 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 roster 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. 36035/8/89Estt(SCT) dated 20.11.1989 so far as
 Group C and D posts are concerned.

Sd/- Illegible

(Y.G. PARANDE)
 Director

To

All Ministries/Departments of Government of India.

*Alwest
 D. A. G.*

Rajini Nalini

Annexure-VII

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

New Delhi the 16th Jan. 1998

CORRIGENDUM

Sub : 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 18.02.1997 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 Head of Department and appointing authorities under their control for compliance.

Sd/- Illegible
 (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/Central Vigilance Commission/President's Secretariat. P.M.'s Office/ Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi.

Atul Bhardwaj
DSO

Rajani Kailash

ANNEXURE-VIII

(UNDER THE PERSONS WITH DISABILITIES/EQUAL OPPORTUNITIES, PROTECTION OF
RIGHTS AND FULL PARTICIPATION ACT, 1955)

Case No. 937 of 1999

Mr. J.L. Kaul, Secretary General
All India Confederation of the Blind

V_S

Services II Department
Govt. of NCT of Delhi

And

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 Ansari

For the Respondents : Mr. R.K.Tandon, Joint Secretary
Mr. D.P.Bhardwaj, Under Secretary

Date of hearing : 13th October 1999

Date of Judgment and Order 1999-24 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 Section 59 of the Persons with Disabilities (Equal Opportunities, Full Participation and Protection of Rights) Act, 1995 against Government of National (Cap) 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

Revised 10/10/01

Rajini Kalita

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 upto 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 7th 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, 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. Sec. 17 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

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 vision;
- 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.
10. The petitioner's grievance is the Persons with disabilities are facing problem 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 16.1.1998 in modification of sub para (ii) of O.M. No. 36035/7/95Estt(SCT) dated 18.2.1997 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 10.3.1999 to Deputy Secretary (Services), Govt. of National Capital Territory of Delhi in 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/SIII/952 dated 4.5.99 forwarding the copy of O.M. No. 36025/03/97-Estt(Res), dated 4.7.97, Corrigendum No. 36035/95-Estt(SCT) dated 16.1.1998 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 Training vide letter No. 36035/1/98-Estt(Res), dated 10.3.1999, is in contravention of the Corrigendum issued in modification of DOPT O.M. No. 36035/7/95-Estt(SCT), dated 16.1.1998.

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 the disabled is given in Group C and D posts as per DOPT O.M. No. 36035/1/89Estt(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 in which 64th Amendment was made to the Constitution and thus is applicable upto 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 thus acceded that persons with disabilities can hold post in Group A & B services also as a list of 416 jobs have been defined to be held by such persons as notified by the Department of Personnel and Training, Government of India, vide O.M. No. 36035/6/84-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. The 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 in contravention of letter and spirit of Section 33 of Persons with Disabilities Act, 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 10.3.1991, 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.

15. Based on the record available, Chief Commissioner, Disabilities summoned parties for the hearing on 13.10.1999. The complainant authorized 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 respondents denial of reservation in promotion is in violation of Sec.33. He also pointed out that since DOPT vide its O.M. dated 18.2.1997 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 organization 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 16.1.1998 to an O.M dated 18.2.1997 was not to make any change in the policy of the Govt. Reservation. Therefore Clause 2 of OM No. 36035/7/95(SCT) Dt. 18.2.97 which reads as under :

“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 establishment 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 Section, 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 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.

Dated 24.12.1999
New Delhi

Sd/- Illegible
(B.L.Sharma)
Chief Commissioner of Disabilities.



Annexure-IX

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Faridkot House
Copernicus Marg,
New Delhi - 110 001

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, Paharganj, New Delhi.
2. Ms. Jasmina Ahmed, Counsel for the Respondents
B+41, Kavari Appartments, Pusa Campus,
New Delhi-12.
3. Sh. V.S.R. Krishna, Counsel for the Respondent No.3,
CAT Bar Room, New Delhi.

Regn. No. O.A. 1807/99

National Federation of Blind .. Applicant

Govt. of NCT Delhi & Ors. .. Respondent

Sir,

I am directed to forward herewith a copy of judgment/order dated 18.7.2000 passed by this Tribunal in the above mentioned case for information and necessary action, if any.

Please acknowledge the receipt.

Yours faithfully,

Sd/- Illegible

(SECTION OFFICER)
judicial
for Registrar

*Alles fair
SS Advo. sole*

O R D E R

New Delhi this the 18th day of July, 2000

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, New Delhi.
2. Shri Inder Singh, TCT, 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)

O R D E R

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

Applicants impugn respondents dated 14.1.199 (Annexure-A) and seek quashing of all orders not continuing reservation to persons with disabilities in promotion from TCT to PGT/Lecturers to the extent of 3 % distributed to the extent of 1%....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.

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. P.C.
6. In view of the above, the aforesaid judgment and order dated 24.12.99 is a valid order.
7. Nothing has been shown to us to establish that the aforesaid judicial order dated 24.12.1999 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.937 of 1999.
8. This OA is therefore disposed of with a direction to respondents to consider the claim of applicants for providing reservation in promotions from TG's to PGT/Lecturer to the extent of 3% distributed to the extent of 1% each for persons with visual impairment, bearing impairment and locomotor disabilities, in terms of the judgment and order dated 24.12.1999 in aforementioned case No. 937/99 and pass appropriate orders 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.

Sd/-

(KULDIP SINGH)
Member (J)

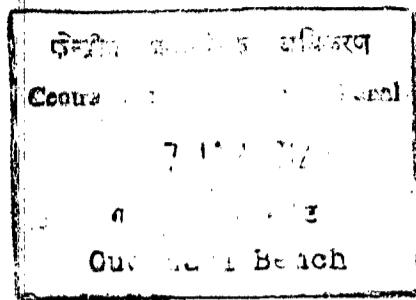
Sd/-

(S. ADIGE)
VICE CHAIRMAN(A)

Attestation
S. Adige

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
AT GUWAHATI

ORIGINAL APPLICATION NO. 369 / 2001



1. Shri Rajani Kalita
2. Smti Swapna Bhattacharjee
3. Shri Rakesh Biswas
4. Shri Deben Deka

..... APPLICANT

- VERSUS -

1. The Union of India,
Through the Secretary to Govt. of India,
Ministry of Finance, New Delhi,
2. The Chief Commissioner Of Income Tax,
Saikia Commercial Complex,
Sreenagar, G.S. Road, Guwahati – 5
3. Addl. Commissioner of Income Tax. Hqrs.
Office of the Chief Commissioner of Income
Tax Saikia Commercial Complex,
Sreenagar, G.S. Road, Guwahati – 5

.....RESPONDENTS

Written Statement for and on behalf of the respondents above mentioned.

The above named respondents most humbly beg to state as follows: -

1. That with regards to the statements made in para 1 of the application the respondents would like to submit that the respondents are following the directions and are implementing the policy of reservation for the physically handicapped persons in promotions as laid down by the Govt. of India. That the two physically handicapped officials Shri Rajani Kalita, UDC and Shri Deben Deka, Tax Assistants (pre-restructured grade) were duly considered by the Respondent No. 2 and their names were placed before Departmental Promotion Committee for consideration of their case for promotion to the next higher grade (Sr. Tax Assistant) and they were promoted to the next higher grade i.e. Sr. Tax Assistant (post – restructured grade) vide serial Nos. 101 and 62 respectively by the order of respondent No. 2 as annexed in Annexure No. – II of the O.A.

It is pertinent to mention here that Shri Kalita and Shri Deka joined on promotion as Senior Tax Assistant on 23/07/2001 & 26/07/2001 respectively.

21/10/2001
Guwahati Bench
Central Admin. Tribunal
Guwahati Bench

That the case of Smti Swapna Bhattacharjee, UDC for promotion to the post of Inspector of Income tax is under active consideration of the Respondent No. 2.

That as far as Shri Rakesh Biswas, UDC is concerned he was recruited to the post of UDC by Staff selection Commission and not as a physically handicapped candidate. That is he was recruited against the quota for the OBC (i.e. Other Backward Class). In this context a copy of the SSC's letter dated 28/10/1997 is enclosed herewith.

Xerox of the letter dt. 28/10/97 is annexed & marked as **ANNEXURE – I**.

2. That as regards para 3 of the application the respondents would like to state that applicant No. 1 and 4 got their promotion to next higher post in July 2001 when following restructuring, vacancies in the grades of Sr. Tax Assistant and Inspector of Income-tax arose in June 2001 when new posts were sanctioned by the Board (CBDT) and guidelines to fill up the vacancies / posts were issued by the board. As such applicant no. 1 and 4 have no cause to appear before this Hon'ble Tribunal. The case of applicant No. 2 viz. Smti Swapna Bhattacharjee, UDC for promotion to the post of Inspector of Income tax is under active consideration of the respondent No. 2. Moreover, the process of promotion is still on. As such applicant no. 2 has filed a premature O.A. As far as applicant no. 3 is concerned, he was not recruited under the quota of physically handicapped person. He was recruited against the quota for the OBC. Annexure – I of this w/s is ample proof of the same. As such the case of all the four applicants cannot be joined together in the same application for the same relief. Thus the O.A. fails due to misjoinder of the parties.
3. That as regards to para 4.1 the respondents would like to state that not all the applicants were recruited under the physically handicapped category. Applicant no. 3 was recruited under the quota of OBC category.
4. That as regard to para 4.2 the respondents would like to pray the permission to the applicants to move this Hon'ble Tribunal under the same application should not be given. That is so because firstly applicant no. 3 was not recruited under the physically Handicapped quota like the other applicants.

Secondly the applicants no. 1 and 4 got their promotion to the next higher grade on the basis of their representation dated 13/11/2000 and 03/11/2000, only in the month of July 2001 when the posts were created after the post restructured grade. As far as applicant no. 2 is concerned her case is under active consideration for promotion to the post of Inspector of Income tax.

5. That as regard to para 4.3 the respondents would like to state that they are matters of records as far as applicants 1, 2 and 4 are concerned. Any averments contrary to records are denied. But as far as applicant no. 3 is concerned, he was not recruited under the quota for physically handicapped. Rather he was recruited under the quota of OBC.
6. That as regard to para 4.4 the respondents would like to state that as regards eligibility, only the applicants no. 2 & 4 who qualified in the departmental examination for inspectors in the years 2000 and 1999 respectively, hence acquired the eligibility for consideration for promotion to the grade of inspector of Income – tax. The other two applicants i.e. no. 1 and 3 have not qualified in the departmental examination for inspectors. *Applicant no. 1 is eligible for promotion Office Suptd. and Applicant no. 3 is eligible for promotion as Sr. Tax Ass'tt. as an unreserved candidate.*
7. That as regards para 4.5 the respondents would like to state that the representations dated 13/11/2000 and 3/11/2000 of the two physically handicapped officials, applicant no. 1 and 4 viz. Shri Rajani Kalita, UDC and Shri Deben Deka Tax Assistant (pre-restructured grade) were duly considered by the Respondent No. 2 and their names were placed before the Departmental Promotion Committee for consideration of their cases for promotion to the next higher grade (Sr. Tax Assistant) and they were promoted to the next higher grade i.e. Sr. Tax Assistant (post- restructured grade) vide Sl. No. 101 & 62 respectively by the order of the respondent No. 2 as seen in Annexure – II of the O.A. Both Shri kalita and Deka joined on *and 26.07.2001 respectively.* They have filed this application after joining in their respective promoted posts. The case of Smti. Swapna Bhattacharjee, UDC for promotion to the post of Inspector of Income Tax is

under active consideration of the respondent No. 2. The promotion process began in June 2001 and is still going on. As such the applicants have 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.

8. That as regards to para 4.6 the respondents would like to state that the applicants 1,2,3 and 4 in their O.A have filed before the Respondent No. 2 the under mentioned representation which are annexed at Annexure IV series of he O.A. Sri Rajni Kalita, UDC filed his representation dt. 13/11/2000 for promotion to the next grade/post. Smti Swapna Bhattacharjee, UDC filed her representation dt. 30/05/2001 for promotion to the grade of Inspector. Shri Rakesh Biswas, UDC filed his representation dt. 19/10/2000 for looking into the matter/circulars regarding reservation for the physically handicapped in promotion. Shri Deben Deka then Tax Assistant filed his representation DT. 03/11/2000 for promotion to the next grade/post.

It is pertinent to mention here that when the aforesaid applicants filed the said representations to the respondents No. 2, there was **no vacancy** for promotion either in the post of Sr. Tax assistant (their next higher grade) or in the **grade of Inspector of Income tax**. Hence, the question of disposing off their representation at that point of time did not arise at all. Following restructuring of the department, vacancies in the above grades of Sr. Tax Assistant and Inspector of Income –tax arose only in June, 2001 when new posts were sanctioned by the Board (CBDT) and guidelines to fill up the vacancies/posts were issued by the Board. The letter F.N. 48/1/2001-AP/DOMS in annexed with this w/s. And accordingly the promotion process to fill up the vacancies was started only in July 2001. And the first lot of promotion orders in the grades of Sr. Tax Assistant (131 Nos.) and Inspectors of Income Tax (40 nos.) were passed by the respondent No. 2 on 23/7/2001 and 13/07/2001 respectively as shown in Annexure – I and Annexure III of the O.A. That the said representations dated 13/11/2000 and 3/11/2000 of the two physically handicapped officials Shri Rajni Kalita, UDC and Shri Deben Deka, Tax Assistants (pre-restructured grade) were duly considered by the Respondent No. 2 and their names were placed before Departmental

Promotion Committee for consideration of their case for promotion to the next higher grade (Sr. Tax Assistant) and they were promoted to the next higher grade i.e. Sr. Tax Assistant (post – restructured grade) vide serial Nos. 101 and 62 respectively by the order of respondent No. 2 as annexed in Annexure No. – II of the O.A. Both Shri Kalita and Shri Deka joined on ~~and 26.07.2001 respectively~~ promotion as Sr. Tax Assistant on 23/07/2001. The representation dated 30/05/2001 of the physically handicapped official Smti Swapna Bhattacharjee, UDC for promotion to the post of Inspector of Income tax is under active consideration of the Respondent No. 2. AS regards the representation-dated 19/10/2000 of Applicant no. 3 Viz. Shri Rakesh Biswas, UDC for looking into his case for promotion against the quota for physically handicapped, it is mentioned here that said Sri Biswas was recruited to the post of UDC by the Staff Selection Commission not as a physically handicapped candidate i.e. not against the quota meant for the physically handicapped, but was recruited against the quota for the OBC (i.e. Other Backward Class). In this context the copy of SSC's letter dated 28/10/1997 is enclosed herewith as Annexure – I. Hence the said representation dated 19/10/2000 of Shri Biswas has got no basis or merit whatsoever. Thus Shri Biswas not being ~~recruited~~ under P.H. quota cannot be a party/applicant in this O.A. before this Hon'ble Tribunal. However, his case for promotion to the next higher grade (i.e. Sr. tax Assistant) as a general Category Candidate against the Unreserved quota (there being no quota for the OBC in promotion) will be considered in due course, along with other eligible qualified General candidates, when his turn, on the basis of his inter-se seniority in the feeder grade, comes.

Xerox of the letter F.NO.48/1/2001-AP/DOMS is annexed herewith and the same is marked as **ANNEXURE - II**

9. That as regards para 4.7, these are matters of records.
10. That as regards para 4.8 the respondents would like to state that total reservation for the physically handicapped in promotion is only 3% of vacancies - @ 1% for each category of orthopadically handicapped, visually handicapped and hearing handicapped (deaf and dumb).

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORIGINAL APPLICATION NO.

369

/2001

1. a) Name of the Applicant :- Rajni Kalita
b) Respondents :- Union of India & Ors.
c) No. of applicant :-

2. Is the application in the proper form:- Yes/No.

3. Whether name & Description and address of all the papers been furnished in cause file :- Yes/No. :-

4. Has the application been duly Sined :- Yes/No.

5. Have the copies duly sined and Verified :- Yes/ No.

6. Have sufficient number of copies of the application been filed:- Yes/No.

7. Whether all the annexures parties are impleaded :- Yes/ No.

8. Whether English translation of documents in the language :- Yes/No.

9. Is the application is in time:- Yes/No.

10. Has the Vakalatnama/Memo/ of the appearance/Authorisation filed:- Yes / No.

11. Is the application is mentable / Yes No.

12. Is the application by IPO/ Bu/ For Rs. 50/- 66788/07

13. Has the impugned order original duly attested been filed :- Yes No.

14. Has the legible copies of the annexures duly attested filed:- Yes/No.

15. Has the Index of documents been filed all available :- Yes/No.

16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/No.

17. Has the declaration as required by item 17 of the form:- Yes/No.

18. Whether the relief sought for arises out of the single :- Yes/ No.

19. Whether the Interim relief is prayed for :- Yes / No.

20. In case of condonation of delay is filed is it supported :- Yes/ No.

21. Whether this case can be heard by SINGLE BENCH/DIVISION BENCH;

22. Any other points:-

23. Result of the scrutiny with initial of the scrutiny clerk:-
The application is in order

SECTION OFFICER

13/9/2001

DEPUTY REGISTRAR

13/9/01

11. That as regards para 4.9 the respondents would like to submits that they are matters of records and the respondents deny any averments from records.
12. That with regard to para 4.10 and 4.11 the respondents would like to submit that the said representations dated 13/11/2000 and 3/11/2000 of the two physically handicapped officials Shri Rajani Kalita, UDC and Shri Deben Deka, Tax Assistants (pre-structured grade) were duly considered by the Respondent No. 2 and their names were placed before Departmental Promotion Committee for consideration of their case for promotion to the next higher grade (Sr. Tax Assistant) and they were promoted to the next higher grade i.e. Sr. Tax Assistant (post – restructured grade) vide serial Nos. 101 and 62 respectively by the order of respondent No. 2 as annexed in Annexure No. – II of the O.A. Both Shri Kalita and Shri Deka joined on ^{and 26/07/2001 respectively} promotion as Sr. Tax Assistant on 23/07/2001. The representation dated 30/05/2001 of the physically handicapped official Smti Swapna Bhattacharjee, UDC for promotion to the post of Inspector of Income tax is under active consideration of the Respondent No. 2. As regards the representation-dated 19/10/2000 of Applicant no. 3 Viz. Shri Rakesh Biswas, UDC for looking into his case for promotion against the quota for physically handicapped, it is mentioned here that said Sri Biswas was recruited to the post of UDC by the Staff Selection Commission not as a physically handicapped candidate i.e. not against the quota meant for the physically handicapped, but was recruited against the quota for the OBC (i.e. Other Backward Class). In this context the copy f SSC's letter dated 28/10/1997 is enclosed herewith as Annexure – I. Hence the said representation dated 19/10/2000 of Shri Biswas has got no basis or merit whatsoever. Thus Shri Biswas not being a recruitment under P.H. quota cannot be a party/applicant in this O.A. before this Hon'ble Tribunal. However, his case for promotion to the next higher grade (i.e. Sr. tax Assistant) as a general Category Candidate against the Unreserved quota (there being no quota for the OBC in promotion) will be considered in due course, along with other eligible

qualified General candidates, when his turn, on the basis of his inter-se seniority in the feeder grade, comes.

13. That with regard to para 4.12 the respondents would like to submit that barring the claim of Shri Rakesh Biswas, the claims of other three applicants namely Shri Rajani kalita, Smti Swapna Bhattacharjee and Shri Deben Deka for promotion to the grades of Office Superintendent/Inspector against quota for the Physically Handicapped as made out in the O.A. are under active consideration of the respondent No. 2 and are being examined with reference to the Recruitment Rules, Reservation Rules / Circulars and clarifications etc.
14. That the facts mentioned in para 4.13 of the O.A. are matter of records. The respondents deny any averments from record.
15. That with regard to para 4.14 the respondents would like to relies to the reply given in para 13 of this written statement.
16. That with regards to para 5.1 these respondents would like to submit that barring the claim of Shri Rakesh Biswas, the claims of other three applicants namely Shri Rajani kalita, Smti Swapna Bhattacharjee and Shri Deben Deka for promotion to the grades of Office Superintendent/Inspector against quota for the Physically Handicapped as made out in the O.A. are under active consideration of the respondent No. 2 and are being examined with reference to the Recruitment Rules, Reservation Rules / Circulars and clarifications etc.
17. That with regards to para 5.2 these respondents would like to submits that not all the applicants were appointed under the physically handicapped quota. Moreover the process of promotion is going on which started in July 2001. Therefore filing of the O.A by the applicants is premature.
18. That with regard to para 5.3 of the O.A. the respondents would like to submit that the total reservation for the physically handicapped in promotion is only 3% of vacancies - @ 1% for each category of orthopadically handicapped, visually handicapped and hearing handicapped (deaf and dumb).
19. That with regards to para 5.4 and 5.5 the respondents would like to relies on para 17 of this written statement.
20. That with regards to para 6 the respondents would like to submit that the applicants have not exhausted all the departmental / official channels to

redress their grievances before taking recourse to file the instant O.A. before this Hon'ble Tribunal and are therefore caught by the limitations under Section 20 of the Administrative tribunal Act, 1985.

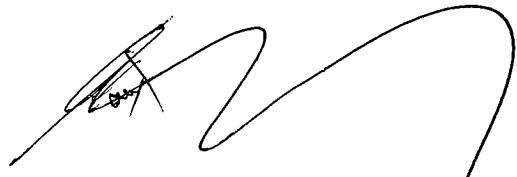
21. That in reply to para 8.1 of the O.A. the respondents would like to submit that the policy of 3% reservations in promotion for physically handicapped is being followed.
22. That in reply to para 8.2 of the O.A. the respondents would like to rely on the reply given in para 9, 13 and on the fact that the representation dated 30.5.2001 of the Applicant No. 2 the other three applicants' representations addressed to the Respondent No. 2 were not for their promotion to the grades as mentioned in the O.A. As regards eligibility, only applicants 2 and 4 who qualified in the departmental examination for Inspectors in the years 2000 and 1999 respectively have acquired the eligibility for consideration for promotion to the grade of Inspector of Income-tax. The other two applicant's no. 1 and 3 have not qualified in the departmental examination for Inspectors. Hence they are not eligible for promotion to the post of Inspector of Income Tax.
23. That with regards to para 8.3 the respondents would like to submit that the applicants have filed a premature application before this Hon'ble Tribunal.
24. That with regard to para 9 of the O.A. the respondents would like to submit that barring the claim of Shri Rakesh Biswas, the claims of other three applicants namely Shri Rajani kalita, Smti Swapna Bhattacharjee and Shri Deben Deka for promotion to the grades of Office Superintendent/Inspector against quota for the Physically Handicapped as made out in the O.A. are under active consideration of the respondent No. 2 and are being examined with reference to the Recruitment Rules, Reservation Rules / Circulars and clarifications etc.

VERIFICATION

I, Shri GULEN HANGSHING.....

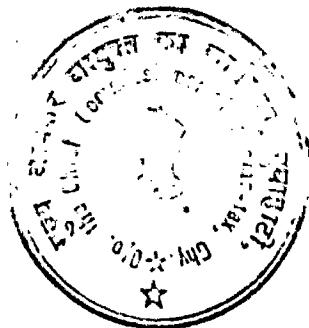
being authorized do hereby solemnly affirm and declare that the statements made in this Written Statement are true to my knowledge and information and I have not suppressed any material fact.

And I sign this verification on this 3rd day of January 2002, at Guwahati.



(GULEN HANGSHING)
DECLARANT

Joint Commissioners of Excise-tax, Assam,
C/o. the Comptroller of Income-tax,
Guwahati.



ANNEXURE - I

10 - 50-
(310) ✓

A 023111

क्रम नं.

Serial No.

गोपनीय

CONFIDENTIAL

फाईल नं.

File No.

F.No. SSCG.A-11011/61/97-Nom./2313



संघमंडपम्

भारत सरकार

GOVERNMENT OF INDIA

कर्मचारी चयन आयोग

STAFF SELECTION COMMISSION

कार्यिक एवं प्रशिक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

कार्यिक, लोक शिकायत तथा पेंशन मन्त्रालय

M/o Personnel, Public Grievances & Pensions

क्षेत्रीय कार्यालय

North Eastern Regional Office
Rukmini Nagar : Guwahati-6.

दिनांक

Dated 28.10.1997.

सेवा में
To

Shri S. Kharpper,
Asstt. Commissioner of Income Tax (HQ),
for Commissioner of Income Tax (NER),
Shillong - 793001.

विषय : परीक्षा 19

नियुक्ति के लिए सिफारिश किए गए उम्मीदवारों का नामांकन

SUBJECT : DA/Auditors/UDC Examination 19 95.

Nomination of candidates recommended for appointment.

संदर्भ : पत्र सं० दिनांक वेतनमान रु०

पद वेतनमान रु०

REF. : Letter No. E-25/92-93/CT/SSC/11279 dt. 21.8.96.
Post U.D.C. Scale Rs. 1200 - 2040/- (Pre-Revised).

महोदय/महोदया,
Sir/Madam,

आपके उपर्युक्त पंत्र के संदर्भ में कथित पद के लिये
अनारक्षित अ० जा० अ० ज० जा० अ० पि० वर्ग शा० वि०
तथा भूतपूर्व सैनिक उम्मीदवारों को आपकी आवश्यकता पूरी करने के लिए
मैं उम्मीदवारों के डोजियर, जिनमें उनके मूल आवेदन पत्र एवं अन्य
सम्बद्ध दस्तावेज हैं (अनुबन्ध I) (एम्बाल शीट के, पृष्ठ सं० 1 से तक) आपके पास भेज रहा हूँ। ज्यों ही
और उम्मीदवार अनारक्षित अ० जा० अ० ज० जा० अ० पि० वर्ग शा० वि०
..... उपलब्ध हो जाएंगे, आपकी शेष रिक्तियों के लिए उन्हें नामित किया जाएगा।

With reference to your letter referred to above, I am sending herewith the dossiers, containing the original application(s) and other relevant document(s), of 17 (Seventeen) candidates (Annexure-I) (Embossed Sheet of Page 1 to) against your requirement of UR SC for the said post.

ST OBC Ex-S. PH for the said post.
The remaining candidates i.e. UR SC ST OBC Ex-S. PH will be nominated as and when they become available.

A 023111

क्र सं
Serial No.....

अनुबन्ध I

ANNEXURE I

(यह शीट तभी मान्य है जब नीचे दिये गये स्थान पर हस्ताक्षर हों तथा ऐम्बास की सील भी लगी हो।)
(This sheet is valid if duly authenticated by the signature and embossed seal at space provided)कर्मचारी चयन आयोग
STAFF SELECTION COMMISSION

परीक्षा के परिणाम पर नामित किए गए

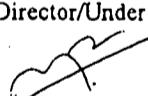
अनारक्षित , अ० जा०
अ० पि० वं० भू० सै० शा० वि०)

2. महीने के अन्ते उनके डोमिनेट उम्मीदवारों की संख्या (Total) 17, UR 04, SC 03, ST 03, OBC 07, EX-S. X, PH. X,) on the results of
Within 2 months of the examination of Auditors/UDC Examination 1995.

संख्या No.	उम्मीदवार का नाम व श्रेणी Name of the Candidate and Category	रोल नं० Roll No.	रैंक नं० Rank No.	अन्युक्तियां Remarks
1.	SRI L.SHARATKUMAR SHARMA (OBC)	4410137	SLB/15/002	93 95
2.	" SHIBASHIS CHAKRAVORTY (UR)	4510253	SLB/16/002	
3.	" SUMIT ACHARYA (UR)	4210332	SLB/14/003	21 1.95
4.	" RAJIB CHAUDHURY (UR)	4510379	SLB/16/004	2.2.95
5.	SANASAM SACHIDANANDA SINGH (OBC)	4410070	SLB/15/005	
6.	MS. HOITING VAIPEI (ST)	4410167	SLB/15/006	
7.	SRI DEEASISH GHOSH (OBC)	4210073	SLB/14/012	28.1.95
8.	MS. MITHU SINHA (OBC)	4510356	SLB/16/024	31
9.	SRI DUANGDISINPOU KAMEI (ST)	4510256	SLB/16/025	23 3.95
10.	" RAKESH BISWAS (OBC)	4510076	SLB/16/027	
11.	" DIPANKAR CHAKRABORTY (UR)	4210741	SLB/14/027	17.2.95
12.	" SHARAD RANA (OBC)	4510053	SLB/16/031	16.1.95

डोजियरों की संख्या :
No. of Dossiers :शब्दों में :
In Words :
अंकों में :
In Figures :

Contd ..2.

(क्षेत्रीय निदेशक/अवर सचिव)
(Regional Director/Under Secretary)

 Regional Director (R.D.)
 Staff Selection Commission
 Govt. of India
 Gewahat.
ऐम्बास सील
Embossed Seal

12 - 52 - 64
- 2 -

13.	MS.	SHIULI DEY ✓	(OBC)	4210225	SLB/14/033	19.2.98
14.	SRI	DIPTA RANJAN DAS	(SC)	4211144	SLB/14/036	✓
15.	"	CHALLANG R MARAK	(ST)	4510358	SLB/16/037	24.2.98
16.	"	NARAYAN DAS ✓	(SC)	4210762	SLB/14/041	25.2.98
17.	MS.	SUIT HAZARIKA	(SC)	4211106	SLB/14/066	✓

No. of Dossiers : 17. In Words : 17.

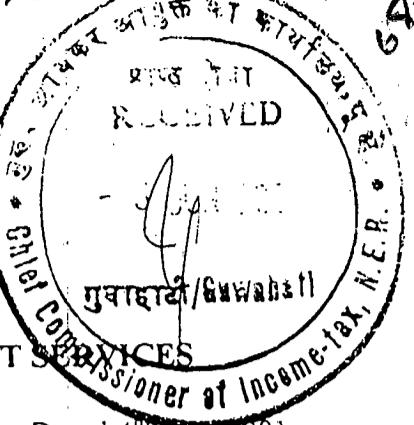
In Figure : SEVENTEEN.

REGIONAL DIRECTOR(NER).

Regional Director (NER),
Staff Selection Commission,
Govt. of India
Guwahati.

ANNEXURE - II

53



F.NO. 48/1/2001- AP/DOMS/ 1
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES
DIRECTORATE OF ORGANISATION AND MANGEMENT SERVICES

Dated 4th June 2001

To

All the Chief Commissioners of Income Tax/Directors General of Income Tax
All the Cadre Control Authorities in the Income Tax Department

Subject: Filling up of posts in Group "B", 'C' & 'D' consequent to
restructuring plan approved by the Union Cabinet-instructions- reg.

Sir,

The Union Cabinet had approved the Restructuring Plan in its meetings held on 31.08.2000. conveyed vide Cabinet Secretariat's U.O. No.29/CM/2000(I) dated 06.09.2000. The Board vide F.No. A-11013/3/98-Ad.VII dated 24.10.2000. had notified the revised sanctioned strength at different levels in the Income Tax Department with the concurrence of the Department of Expenditure vide their diary No. F-9708/JS (Per.)/2000 dated 20.10.2000. In continuation to the aforesaid, the region-wise allocation of the posts at different levels has also been decided by the Board, as per F.No. 11013/3/98-Ad.VII dated 30.3.2001.

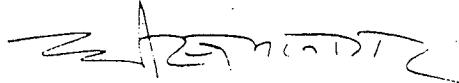
2. Detailed instructions regarding the manner of filling up of the vacancies in various cadres of Group "B", 'C' & 'D' are as per Annexure "A" (Pages 1-23) enclosed herewith.

3. The meeting of the Departmental Promotion Committee for the purpose of promotion to the cadre of the Income Tax Officers (ITO) should be held on the same date, i.e., 18th June 2001 by all the cadre-controlling authorities. The concerned cadre-controlling authorities are requested to advise the Chairman of the Departmental Promotion Committees to ensure that the minutes are also signed on 18th June 2001 itself.

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M SK

4. All vacancies earmarked for direct recruitment at all levels as indicated in the enclosed Annexure "A" and any other vacancy which cannot be filled up on account of non-availability of eligible candidates or any other reasons should be reported to this office for appropriate action by 15th July, 2001.
5. This issues with the approval of the Chairman, Central Board of Direct Taxes.

Yours faithfully,


(Dr. DHEERAJ BHATNAGAR)
Deputy Director

Copy forwarded for information to:

1. PPS to Chairman (DT) and Members, CBDT.
2. All Joint Secretaries in the CBDT.
3. All directors of Income Tax attached with the Board.
4. Convener, Implementation Cell.
5. President, IRS Association.
6. President, I.T.G.S.F.
7. Secretary General, I.T.E.F.
8. All Sections in the Board.
9. Guard File.


(Dr. DHEERAJ BHATNAGAR)
Deputy Director

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Explanatory Note on OA No.369/2001 - Shri Rajani Kalita & Ors.

- Vs - UOI & Ors. in addition to the Written Statement.

5.4 In the 1st lot, 40-promotions were made to the grade of Inspector against the vacancies for the recruitment year 2000-01, and further more promotions (nearly 50) are yet to be made against the vacancies for the same recruitment year.

The applicants wants to mean that since as per DOPT's OM dated 4.7.1997, 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 to the grade of Inspector have already been made, two PH candidates should have been promoted against the slots Nos. 1 & 34 which are within the cycle of 40-promotions.

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

As per the guiding principles of the general seniority, the empanelled PH candidates, as per quota of reservation, so promoted is to be shown as utilised in the Vacancy Register against the 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 so selected and empanelled for promotion should be at the serial 1, 34 & 67 in the select panel and they should be promoted accordingly. The material point is whether the number of PH candidates, according to the quota of reservation for them, have been selected and empanelled for promotion, or not. And after their promotion, they

will be shown against the slots (point no. 1, 34 & 67) in the Vacancy Register only. The two qualified applicants (applicant No. 2 & 4) are pretty juniors and hence they cannot expect their names at Sl. 1 & 34 in the select panel, and cannot expect promotion accordingly.

Para 4.6 of OA & W.S. Para - 8 :

In view of the facts, their contention that - "being deprived of their legitimate promotions due to non-application of reservation for the PH category, they submitted representations to the Respondent praying for consideration of their promotion as per declared policy of reservation for the PH." does not hold good and is misleading and not at all tenable, in as much as the question of their "being deprived" at that point of time did not arise at all as because the promotions to the various grades, on cadre restructuring, took place (in July, 2001) much after the submission of their aforesaid representations to the Respondent No. 2.

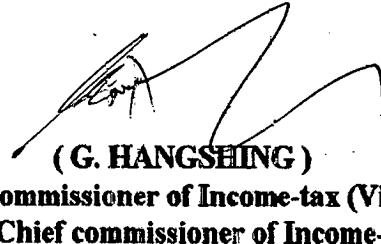
General:

As regards application of reservation for the PH @ 3% of vacancies, some clarifications are required on certain points of doubt/confusion. the Respondent No. 2 has already written letters to the Board for their clarifications on the points of doubt/confusion. The Respondent No. 2 is waiting for Board's clarification, for considering the cases of the applicants for their promotion against the quota for the PH.

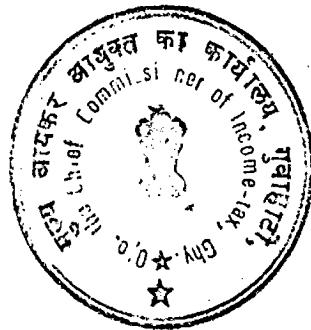
(Page - 3)

The two letters dated 08.11.2001 and 24.12.2001 of the
Respondent No. 2, addressed to the Board, are enclosed herewith.

Submitted this 3rd day of January, 2002 as above.


(G. HANGSHING)

Joint Commissioner of Income-tax (Vigilance),
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

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

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

Ph. : 0361 - 225106

Fax : 0361 - 225118

November 08, 2001.

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

Sir,

Speed Post

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 (dcaf 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, Hqrs.,

for Chief Commissioner of Income-tax : Guwahati

Memo No. E-128/Reservation/CCIT/GHY/2000-01/ 12.361

November 08, 2001.

Copy to :

Speed 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

50.5



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मुख्य आयकर आयुक्त का कार्यालय, गुवाहाटी
सेक्रियां कमरिंगल 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 - 21106
Fax : 0361 - 21118

F. No. E-128/Reservation/CCIT/GHY/2000-01/ 15951

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

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60-

(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/-)

Contd...page-4

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(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.

केन्द्रीय प्रशासन विभाग
Central Admin. Service Tribunal
- 6 FEB 2002
गুৱাহাটী বিধায়ক
Guwahati Bench

1

- 63 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A. No. 369 of 2001

Shri Rajni Kalita and Ors.

-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 the applicants have gone through the written statements and has understood the contents thereof.
2. That the applicants categorically deny the statements made in paragraphs 1,2,3,4,5,6,7,8,12,13,15,16,22 and 24 of the written statement and beg to state that the Respondents did not implement the Reservation policy for the physically handicapped candidates in promotions as laid down by the Government. The applicant no. 2 Smti Swapna Bhattacharjee and applicant no.4 Sri Deben Deka are eligible and qualified for promotion to the post of Income Tax Inspector under the reserved quota of Physically Handicapped which they did not get. Their eligibility has been admitted by the Respondents in para 6 of their written statement.

Further, the statement that Shri Rakesh Biswas, Applicant No.3 was recruited not as a physically handicapped candidate but as an OBC candidate is not true. Shri Rakesh Biswas was recruited very

Rajni Kalita
Filed by the applicant
through advocate
G.N. Chakravarty on
6-2-2002

Rajni Kalita

much as a physically handicapped candidate under the category of Orthopaedically Handicapped (OH) candidate which is clearly indicated in the very first line of his appointment letter dated 26.03.1998. Even his application for the job was forwarded/processed as a physically handicapped candidate by the Vocational Rehabilitation Centre for physically handicapped (VRC), Rehabari, Guwahati which is the competent organisation for handling the cases of physically handicapped candidates. This apart, the relevant format of medical certificate of the Staff Selection commission and the Identity Card issued by the VRC also indicate Shri Biswas as an OH candidate and not as an OBC candidate. As such, he is entitled to get the promotion as Senior Tax Assistant under PH quota which has not been given to him as yet.

Copy of the appointment letter dated 26.3.1998, medical certificate of SSC and Identity Card of VRC are annexed herewith as Annexure A,B and C respectively. and letter dated 5-01-2002 as Annexure-D

3. That in reply to the statements made in paragraphs 10, 18 and 21 of the written statement, the applicants beg to state that as per rule, the total reservation for the physically handicapped on promotion is 3% of vacancies @ 1% for each category of orthopaedically handicapped, visually handicapped and hearing handicapped persons.

The Rules as compiled in page 609-610 of "Swamy's Compilation on Reservations and Concessions" also provide that in a cycle of 100 vacancies, point NO.1,34 and 67 will be reserved for the physically handicapped candidates 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 OH category, he may utilize the point by promoting the officer.

The Rules further provides that 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 posts.

Rafani Kalita

4. That the applicants categorically deny the statements made in paragraphs 17,19,20 and 23 of the written statement and beg to state that all the four applicants were appointed under the physically handicapped quota. Further the applicants exhausted all their channels and approaches for departmental remedies of their grievances before filing the instant O.A. and as such it is not premature.
5. That in the facts and circumstances stated above, the O.A. deserves to be allowed with costs.

Rajani Kalita

VERIFICATION

I, Sri Rajani Kalita, Son of Late Harakanta Kalita, resident of Krishnagar, Japorigog, Guwahati-5, now working as Sr. Tax Assistant in the office of the Assistant Commissioner, Income Tax Investigation Circle - II, Guwahati-1, one of the applicants in this Original Application, duly authorized by all other applicants to verify the statements made in this application, do hereby verify that the statements made in Paragraph 1 to 5 of this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 6th day of February, 2002.

Deponent

Rajani Kalite

5
ANNEXURE - A
67

GOVERNMENT OF INDIA
MINISTRY OF FINANCE

OFFICE OF THE COMMISSIONER OF INCOME TAX,
RED CROSS BHAWAN, M.G.ROAD,
UZANBAZAR, GUWAHATI - 781 001.

O R D E R

ESTABLISHMENT : NON-GAZETTED

Dated : 26-03-98

Shri Rakesh Biswas (OH) is appointed in a temporary vacancy as an Upper Division Clerk in the Income-tax Department, North Eastern Region, in the scale of pay Rs.4,000/--100-6,000/- plus other usual allowances as admissible from time to time, and posted to the office of the Commissioner of Income-tax, Uzanbazar, Guwahati. If he/she accepts the offer on the conditions detailed below, he/she should report himself/herself for duty within 10 (ten) days of receipt of this appointment letter to the Office of the Commissioner of Income-tax, Guwahati. If he/she fails to do so, he/she should consider this offer as cancelled. He/She should intimate his/her acceptance of this offer to the undersigned within 7 days (seven days) of receipt of this appointment letter.

CONDITIONS OF SERVICE

1. The appointment is made on an entirely temporary and provisional basis and is liable to termination (i) on one month's notice on either side without assigning any reason therefor, Or, (ii) without notice on the expiry of the period of sanction of the temporary post held by the person concerned if such period is not extended.
2. He/She will be on probation for a period of two years. Unless exempted by an order from the Competent Authority, the appointee will have to pass by the required standard, the All India Examination (i.e. Departmental Examination for Ministerial Staff) for Upper Division Clerks (including Hindi Test) in the Income-tax Department held annually, within the normal and prescribed consecutive chances. He/She will not be eligible for quasi-permanency/ confirmation in the grade till he/she qualifies in the said Departmental Confirmatory Examination fully. Passing of the aforesaid Departmental Examination by the required standard is an essential condition for confirmation in the grade and for promotion to higher grades. Passing the Departmental Examination and Hindi Test will not, however, confer any right whatsoever to the continuance in the post or to confirmation or promotion.
3. The appointee should note that the failure to join within the specified date, the appointment will automatically be cancelled. No extension of time will be granted under any circumstance.
4. The appointment is subject to the production of Medical Certificate of fitness from the Authorised Medical Attendant in the prescribed form "A" enclosed.
5. He/She must produce two certificates of Good Character in the enclosed Form "B" not more than three months old from two different Gazetted Officers who are not related to him/her. His/Her retention in service is further subject to his/her being found suitable for Govt. Service in all respects.
6. The period of probation, initial pay, increments, etc. will be governed by the Rules and Regulations prescribed by the Government which are in force at present and which may be prescribed from time to time.
7. He/She must give a statement in writing giving full particulars and information of his/her previous employment, if any, in the last three years under the Government of India or under any State Government or under any autonomous body/public sector undertakings/semi-Govt. organisation/institution/private sector etc.

8. Refugee appointee will be required to produce in due course a certificate of eligibility from the Ministry of Home Affairs and should in the meantime furnish an "undertaking" in form 'D' annexed herewith. A certificate of citizenship under the provisions of the Citizenship Act, 1955 shall also be required and produced within one year from the date of appointment, failing which the service, after the expiry of the said period, shall be liable to termination.
If the appointee is a subject of Nepal, he/she must produce a certificate to that effect.

9. If the appointee claims to be a member of Scheduled Caste/Tribe, he/she should state specifically to which of the castes or tribes he/she belongs and a certificate to this effect from the following authorities in the prescribed form in Appendix 14 of the brochure on Reservation for Scheduled Castes/Schedules Tribes (Seventh Edition) will only be accepted :

- (1) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/1st Class Stipendiary Magistrate/Sub Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.
- (2) Chief presidency Magistrate/Additional Chief presidency Magistrate/presidency Magistrate.
- (3) Revenue Officer not below the rank of Tehsildar; and
- (4) Sub-Divisional Officer of the area where the candidate and/or his/her family normally resides.

10. The appointment is provisional and is subject to the castes/tribes certificates being verified through the proper channel and if the verification reveals that the claim to belong to the Scheduled Caste/Tribe, as the case may be, is false, the service will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of Indian Penal Code for production of false certificates.

11. He/She should note that he/she has to conform to the Rules, Discipline and Conduct prevailing in this Department and those imposed by the Government of India on all their employees.

12. He/She is warned that furnishing of incorrect information on any point will render him/her liable to disciplinary action/proceedings.

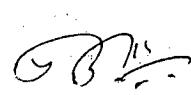
13. He/She should take an oath of allegiance to the Constitution of India in Form "F" enclosed.

14. He/she should note that for a period of two years no request for change in posting will be entertained. He/She is liable to be transferred/posted for duty to any of the offices in the Income-tax Department under the control/jurisdiction of the Commissioner of Income-tax, Shillong.

15. The Head of the Department has full discretion to forward or withhold any of his/her application for appointment/employment in other Government Departments/Offices or elsewhere.

16. No travelling or daily allowances will be given to the appointee by the Department for journey and halt in connection with this appointment.

17. He/She should not have more than one spouse living.



(P. K. SINGH)
Income-tax Officer, HQrs., Guwahati.

Appointing Authority

Enclo : As stated above.

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Memo No.E-70/(Apptt.)/CIT/GHY/97-98/5173-77.

Dated : 26-03-98

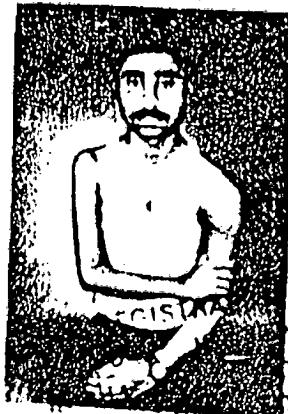
Copy to : 1. Shri Rakesh Biswas, C/o. Late Phani Bhusan Biswas,
Belderpara, Tura - 794 001. He is requested to submit the
Employment Exchange Registration Card (X-10) at the time of joining.
2. The Commissioner of Income-tax, P.B.No.20, Shillong-793 001, in triplicate,
with reference to his letter F.No.E-5/76-77/Pt-I/CT/33749 dated 18.3.98.
3. The Zonal Accounts Officer, CBDT, Shillong.
4. Personal file/Vigilance Section.
5. Field Pay Unit, Red Cross Bhawan, M.G.Road, Uzanbazar, Guwahati-1.


(P. K. SINGH)
Income-tax Officer, HQs., Guwahati
Appointing Authority

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APPENDIX-VI

Government of India
Staff Selection Commission
FORMAT OF CERTIFICATE FOR O.H.

Medical Certificate in respect of Orthopaedically candidate for the purpose of Selection to Group "C"/'B' non technical posts through the Staff Selection Commission's Examinations/ Selection through Interviews (Note an Orthopaedically Handicapped person is one who has a minimum of 40% physical defect or deformity which causes an interference with normal functioning of bones, muscles or joints as mentioned in the Annexure to the Department of Personal & Training's O.M.No. 36035/5/88 Estt. (SCT) dated (04.05.90).

certified that I Dr. _____ Registration No. _____ or/we* the Members of the Medical Board attached to the Special Employment Exchange for the Physically Handicapped/ Vocational Rehabilitation Centre for Physically Handicapped have this day _____ dated 199_____ examined the applicant whose particulars are given below and that he/she falls within the above definition.

1. Name of the Candidate	No. _____
2. Identification Mark	_____
3. Sex	Male
4. Father's Name	_____
5. Approximate age	_____
6. (A) NATURE OF DISABILITY	Photograph of Candidate clearly showing face with affected portion of the body.

(a) Clinical Diagnosis _____
(b) Brief description _____

(c) How far disability is likely to interfere in the normal discharge of duties of Group 'C'/Group 'B' non-technical posts in a Government office.

(d) The degree of permanent disability according to the Manual (manual for Orthopaedically Surgeon in Evaluating permanent physical impairment published by Artificial Limbs Manufacturing Corporation India, G.T. Road, Kanpur 208016).

*Strike out whichever is not applicable.

B. Use appliance.
(Tick relevant from following list)

CALLIBER, CRUTCH, ABOVE KNEE, PROSTHESIS, CANE, UNILATERAL, BILATERAL, ABOVE ELBOW, BELOW ELBOW, HEMI-ELVETOM, SHOULDER DISARTI-CULATION.

9/10
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7. Any operation done or indicated

8. Any other particulars to clarify the nature and extent of disability that the Surgeon might like to point out:

Middle to left the knee due to previous fracture of the (C) bone.

Signature of Candidate:-

Rakesh Biswas.

Signature of Orthopedic Surgeon

Designation Head of Orthopedics, B.M.C.

Office Stamp

Address Secunderabad Medical College.

REGISTRAR

DEPT OF ORTHOPAEDICS
IN CHARGE P. L. P. O.

DAUHATI MEDICAL COLLEGE

Signature of Chairman:

Member:

Member:

Place:

Medical Board attached to Special Employment Exchange for the Handicapped or vocational Rehabilitation Centre for the Physically Handicapped

Dated:

Official Stamp

Note (i): Medical certificate submitted by the candidates from Orthopaedic Surgeon would be referred to Medical Board for clearance.

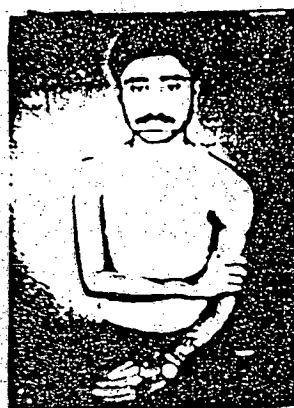
Note (ii): Medical certificate submitted by the candidate from the Medical Board attached to Special Employment Exchange for PH or attached to V.H.C. for PH persons (address given below) will be accepted straightway.

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ANNEXURE-'C'

GOVERNMENT OF INDIA
MINISTRY OF LABOUR (D.G.E&T.)
VOCATIONAL REHABILITATION CENTRE FOR
REHABARI, GUWAHATI-781008



Date 8-8-97



No 1966

IDENTITY CARD

Name SRI RAKESH BISWAS Intake No. 650/0H/94
Address BELDARPARA Deformity P.P.P.P. of right
WEST GARO HILLS Up per Limb
TURA- MEGHALAYA Qualifications:
Date of Admn 9-9-94 (a) B.Sc. passed
Date of Birth 25-3-74 (b)
Date of Validity 8-9-2000 (c)
(Next date of Renewal)

Signature of Client Rakesh Biswas

Superintendent
Superintendent,
V.R.C for H. Rehabard, Guwahati



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Annexure D

लूरशार्ट/Phone : 0361-543776

भारत सरकार श्रम मंत्रालय, डी.जी.ई.टी.

Government of India, Ministry of Labour, D.G.E.&T.

विकलांग व्यावसायिक पुनर्वास केन्द्र

VOCATIONAL REHABILITATION CENTRE FOR HANDICAPPED

व्यापक

NO. VRCG-F.13/1/2000-Ref/ 1855

To,

The Commissioner of Income Tax,
Guwahati-II, Guwahati, Assam,
Saikia Commercial Complex,
Sree Nagar, G.S. Road,
Guwahati-781005.

रेहाबारी, गुवाहाटी-781008

Rehabari, Guwahati-781008

Date..... 5/02/2002

Subject:- Clarification sought by Shri Rakesh Biswas, orthopaedically handicapped for his promotion from UDC to a Higher post - regd.

Sir,

I am forwarding herewith a representation (in original) alongwith its enclosures submitted by Sh. Rakesh Biswas, UDC of your office and a genuine Orthopaedically handicapped client of this centre bearing Intake no. 650/0H/94 regarding his recruitment based to the post of UDC for promotion to a higher post in the line of promotion. At the time of his application and his selection to the post of UDC Shri Biswas's application was forwarded to the SSC (NER) Guwahati and selection was done accordingly based on his category i.e. orthopaedically handicapped belonging to OBC community (relevant appointment order, etc enclosed).

You are, therefore, requested to kindly look into the matter giving priority in the matter so as to enable him not to deprive of his benefit as an orthopaedically handicapped belonging to OBC community.

Yours faithfully

(L.K. VARTE)

Rehabilitation Officer for
Supdt.

Encl:- As stated.

Copy to:-

The Regional Director(NER),
Staff Selection Commissioner,
Rukmini Nagar,
PO- Assam Sachivalaya,
Guwahati-6.

2) Shri Rakesh Biswas, (650/0H/94).

(L.K. VARTE)
Rehabilitation Officer for
Supdt.