

30/600

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 37/01

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI-5

ORIGINAL APPLICATION NO. 37/2001

..... Inshad Ali Nazimdar ..... Applicant.

Union of India & Ors ..... Respondents.

For the Applicant(s) Adil Ahmed

Mr. B. C. Paltak,

For the Respondents. Adil C. A. S. L. .....

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form  
but not in proper form

to be filed in the form of

IPR

to be filed in the form of

IPR

Dated 30.12.2000

30.12.2000

30.12.2000

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30.1.01

Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman and Hon'ble Mr. K.K. Sharma, Administrative Member.

Heard learned counsel for the parties.

Application is admitted. Issue notice on the respondents. Call for records. List on 2.3.01 for orders.

Member

Vice-Chairman

lm

2.3.01

List on 29.3.01 to enable the respondents to file written statement.

Member

Vice-Chairman

pg

29.3.01

List on 30.4.01 to enable the respondents to file written statement.

Member

Vice-Chairman

pg

① Service report are still awaited.

By 13.01

No written statement has been filed.

By 28.3.01

30.4.01

On the prayer of learned counsel  
for the respondents case is adjourned to  
30.5.01 for filing of written statement.

List on

*K.C. Sharma*  
Member

*[Signature]*  
Vice-Chairman

in

30.5.01

List on 11-7-2001 to enable the res-  
pondents to file written statement.

No. written statement  
has been filed

*[Signature]*  
10.7.01

bb

11.7.01

Four weeks time is granted to the  
respondents for filing of written statement  
as prayed for by Mr. B.C. Pathak, learned  
Addl. C.G.B.C. for the respondents.

List on 14-8-2001 for order.

No. written statement  
has been filed.

*[Signature]*  
15.8.01

*K.C. Sharma*  
Member

*[Signature]*  
Vice-Chairman

bb

14.08.01

List again on 18/9/01 to enable the respon-  
dents to file written statement.

No. written statement  
has been filed.

*[Signature]*  
17.9.01

*K.C. Sharma*  
Member

*[Signature]*  
Vice-Chairman

mb

18.9.01

Pleadings are complete. The case now  
be listed for hearing. The applicant may  
file rejoinder, if any.

List on 16/11/01 for hearing.

19.9.2001

w/s on behalf  
of Respondent No. 1, 2 & 3  
has been submitted.

mb

*K.C. Sharma*  
Member

*[Signature]*  
Vice-Chairman

No. rejoinder has been  
filed.

*[Signature]*  
15.11.2001

Notes of the Registry

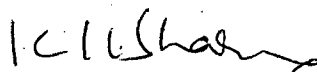
Date

Order of the Tribunal

16.11.2001

It appears that the applicant was promoted vide order No.28/7-C/2001-EC-III dated 16.2.2001, i.e. after institution of the O.A. Mr. A. Ahmed, learned counsel for the applicant, however submitted that his promotion was to be antedated in view of the fact that he was unjustly ignored for promotion when he was due for promotion. In view of the final pronouncement made by this Bench by order dated 30.8.1999 in O.A. No.272 of 1998 we are not in a position to go into the issues raised in this application. We have also heard Mr B.C. Pathak, learned Addl. C.G.S.C.

Since the applicant obtained the relief he sought for this application stands disposed of as infructuous. No order as to costs.



Member



Vice-Chairman

nkm

Pl. Comply order dtd  
16/11/2001.

NS  
16/11/2001.

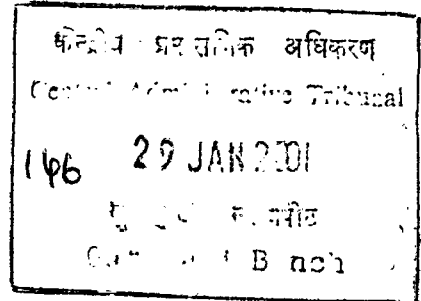
20.11.2001

Copy of the order  
has been sent to the  
Office for issuing  
the order to the L/Os  
for the parties.  
NS

Notes of the Registry

Date

Order of the Tribunal



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 37 OF 2001.

Sri Irshad Ali Mazumdar

- Applicant.

-Versus-

Union of India & Others

- Respondents.

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Filed by

Advocate.

(ADK AHMED)

Filed by  
Shri Irshad Ali Mazumdar  
Applicant  
through  
Self  
(ADIL AHMED)  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 37 OF 2001:

B E T W E E N

Sri Irshad Ali Mazumdar,  
S/o late Yasin Ali Mazumdar,  
Presently working as Junior  
Engineer(Civil), Office of  
the Executive Engineer,  
Tezpur Central Division,  
Central Public Works Depart-  
ment, Mahabhairab Market,  
Tezpur-784001.

- Applicant

-AND-

- 11 Union Of India,  
represented by the Secretary  
to the Government of India,  
Ministry of Urban Development  
Nirman Bhawan, New Delhi-11.
- 21 The Director General of Works  
Central Public Works Depart-  
ment, Nirman Bhawan,  
New Delhi-11.

31. The Superintendent Engineer,  
Assam Central Circle, No. 1,  
Central Public Works Department,  
Bamunimaidan,  
Guwahati-781021.

- Respondents.

DETAILS OF THE APPLICATION:

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

This instant application is for seeking a direction from this Hon'ble Tribunal to the Respondents to promote the applicant to the Post of Assistant Engineer and also to give the benefit of Assured Career Progression (ACP) Scheme for Central Government Civilian Employees as the applicant has already completed more than 29 years service as Junior Engineer in the Central Public Works Department.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

A

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

#### 4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.11 That your humble applicant is citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.21 That your applicants beg to state that he was appointed as junior Engineer (Civil) on 13-12-1971 in the Central Public Works Department under the Ministry of Urban Development. Now he is posted as Junior Engineer (Civil) under the Office of the Executive Engineer, Tezpur Central Division, Central Public Works Department, Tezpur.

4.3 That your applicant begs to state as per seniority list of Junior Engineer Civil as on 1990 his position was at Serial No. 448. He was due for promotion in the year 1995.

Annexure-A is the photocopy of the Seniority List of Junior Engineers, C.P.W.D. (Civil) as on 1990.

13/12/71  
Appointed as J.E.s

Seniority list 448  
1995 promotion

11

4.4 That your applicant begs to state that a vigilance case was initiated against him for his work when he was posted at Imphal as Junior Engineer in the year 1983-84. But the Department started the proceeding of the said Vigilance Case after 10(ten) years, i.e., in the year 1992. The final hearing of the vigilance case was completed in the year 1997. The final order of the Vigilance Case was issued vide Order No. F. No. 7(54)/ACC-1/E-1/1361 dated Guwahati 30<sup>th</sup> July 1999. The punishment imposed on him was a minor punishment. His scale was reduced by one stage from Rs. 9100/ to Rs. 8900/- in the time scale of pay for a period of six months w.e.f. 01-08-1999. The punishment came to end after six months, i.e., on 31-01-2000. Now there is no vigilance case is pending against the applicant.

Annexure-B is the photocopy of Order No. F. No. 7(54)/ACC-1/E-1/1361 dated Guwahati 30<sup>th</sup> July 1999.

4.5 That your applicant begs to state that now there are no vigilance cases or Departmental proceedings are pending against the applicant. He is now eligible for promotion from 01-02-2000 but till now no promotion has been made for promoting him to the post of Assistant Engineer (Civil). He has already completed more than 29 years service but till now not a single promotion Order has been issued by the Respondents to the

applicant. He is now also entitled for the Assured Career Progression Scheme for Central Government Civilian Employees vide letter Office Memo. No. August 9, 1999 issued by the Govt. of India, Ministry of Personnel and Public Grievances & Pensions (Department of Personnel & Training).

Annexure-C is the photocopy of the Assured Career Progression Scheme for Central Government Civilian Employees vide letter Office Memo. No. August 9, 1999.

4.6] That your applicant begs to state that he had submitted representation before the authority against non-promotion from Junior Engineer (Civil) to Assistant Engineer (Civil). It is pertinent to mention here that many of his Juniors have already been promoted to the Higher post by superseding your applicant. The Respondents have already taken 15 (fifteen) years to impose a minor punishment against the applicant for a vigilance case initiated against him. As such, your applicant is a victim of hostile discrimination. Hence, your applicant is compelled to approach before this Hon'ble Tribunal for seeking justice.

Annexure-D is the photocopy of the Representation dated 04-07-2000 submitted by the applicant.

A

4.7] That your applicant submits that the action of the Respondents is mala fide, illegal, arbitrary and whimsical and also with a motive behind. As such, the applicant is compelled to approach this Hon'ble Tribunal for seeking justice.

4.8] That your applicant submits that the Respondents have resorted the colourable exercise of power to deprive the applicant. The action of the Respondents is arbitrary and whimsical.

4.9] That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, on the reasons and facts which are narrated above, the action of the respondents, is prima facie illegal and without jurisdiction.

5.2 For that, the Respondents are being model employer cannot be allowed to adopt a discriminatory treatment to the applicant.

5.3 For that, the Respondents haave taken 15 (fifteen) years time to complete a vigilance case against applicant by giving a minor punish-

ment vide Order F No. 7(54)/ACC-1/E-I/1361 dated 30th July 1999. Hence, action of the Respondents are illegal, arbitrary, mala fide also with a motive behind to deprive your applicant from his legitimate rights guaranteed under the Constitution of India.

5.4 For that due to the fault of the Respondents the applicant has lost his valuable 15 years of service in the name of the departmental proceeding. As such, the applicant can not be victimised for the fault of the Respondents.

5.5 For that, the junior of the App has already been given the benefit of promotion and as such the Respondents cannot deny the same to the applicant.

5.6 For that the applicant has already completed 29 years of service as such he is entitled for the benefit of the Assured Career Progression Scheme for Central Government Civilian Employees vide letter Office Memo. No. August 9, 1999.

5.7 For that, the applicant is a victim of hostile discrimination and thereby

the respondents violated the principle of administrative fair play and Article 14 & 16 of the Constitution of India.

5.8 For that, due to negligence of the respondents, the applicant has not been promoted in due time and as such, the applicant should be promoted immediately with retrospective effect.

5.9 For the, in any view of the matter the action of the respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED :

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

Al

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition, records may be called for and after hearing the parties on the cause or causes that may be show and on perusal of the records grant the following relief to the applicant.

8.1 To direct the respondents to promote the applicant to the post of Assistant Engineer (Civil) from the date of promotion of his juniors with retrospective effect with all consequential service and monetary benefits.

8.2 To pass any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of

the case as deem fit and proper by  
the Hon'ble Tribunal.

8.4 Cost of the application.

8. INTERIM ORDER PRAYED FOR :

The applicant prayed for an interim order from this Hon'ble Tribunal directing the respondents not to give any further Promotion to the Post of Assistant Engineer (Civil) who are juniors to the applicant.

11. Application Is Filed Through Advocate.

12. Particulars of I.P.O.:

I.P.O. NO. 6G771912  
Date Of Issue 30.12.2000  
Issued from GUWAHATI  
Payable at GUWAHATI

12. LIST OF ENCLOSURES:

As stated above.

.. Verification.

As

## VERIFICATION

I, Sri Irshad Ali Mazumder, S/o late Yasin Ali Mazumdar, Presently working as Junior Engineer(Civil), Office of the Executive Engineer, Tezpur Central Division, Central Public Works Department, Mahabhairab Market, Tezpur-784001, the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.6, — are true to my knowledge

, those made in paragraphs 4.3, 4.4, 4.5 — are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 29th day of January 2001 at Guwahati.

Irshad Ali Mazumder  
Declarant

~~ANNEXURE - 2~~

ANNEXURE - A

GOVERNMENT OF INDIA  
DIRECTORATE GENERAL OF WORKS  
CENTRAL PUBLIC WORKS DEPARTMENT

No.A-23021/1/91-EC.VI

OFFICE MEMORANDUM

Nirman Bhawan, New Delhi  
Date : 27-4-94

Subject : Issue of provisional Seniority List of JUNIOR ENGINEERS (Civil) of CENTRAL PUBLIC WORKS DEPARTMENT as on 31-12-1990

The undersigned is directed to forward herewith a provisional seniority list of Junior Engineer (Civil) in the Department as on 31-12-1990. The list includes names of the Junior Engineers (Civil) promoted on adhoc basis to the grade of Assistant Engineer and Assistant Engineers from the Limited Departmental Competitive Examination. The Seniority List may be checked to ensure that no Junior Engineer is omitted from this list including those who have gone on deputation/lien.

The seniority list may be circulated to all the Junior Engineers (Civil) in Central Public Works Department, including those who have gone on deputation/lien etc. The discrepancies noticed/omissions detected etc., after verification from personal dossiers/service books MAY BE SENT TO THE CONCERNED SUPERINTENDING ENGINEERS (COORDINATION) ONLY AND COPY TO THIS DIRECTORATE DIRECT within a period of 45 days from the date of issue of this provisional seniority list. All the Chief Engineers/Superintending Engineers and Executive Engineers must send a certificate to the concerned Superintending Engineer (Coordination) that none of the Junior Engineer in their circle as on 31-12-90 has been omitted from this provisional list. The Superintending Engineer (Coordination) concerned should submit the corrected, updated copy of the seniority list with all the objections to this Directorate for further examination and decision. Such updated list should be made available to this Directorate by the Superintending Engineer (Coord.) within a period of two months from the date of issue of this O.M. so that the list is finalised by this Directorate as early as possible.

It may be brought to the notice of all Junior Engineers (Civil) that the position shown in this list is provisional and subject to verification/correction and no representation against the position given in this list will be entertained by the Superintending Engineers (Coordination) after the stipulated period of 45 days from the date of issue of this Office Memorandum.

( M. RAMALINGAM )  
Deputy Director of Administration

- To
- 1.All Chief Engineers in Central Public Works Department including Valuation and Appropriate Authority.
  - 2.All Superintending Engineers(Coordination).
  - 3.The Superintending Engineer, Malda Central Circle, Central Public Works Department, Malda
  - 4.The Superintending Engineer, Cooch Behar Central Circle, Central Public Works Department, Cooch Behar
  - 5.The Superintending Engineer, Murshidabad Central Circle, Central Public Works Department, Murshidabad
  - 6.The Superintending Engineer, Bhopal Central Circle, Central Public Works Department, Bhopal
  - 7.The Superintending Engineer, Allahabad Central Circle, Central Public Works Department, Allahabad
  - 8.The Superintending Engineer, Agra Central Circle, Central Public Works Department, Agra
  - 9.The Superintending Engineer, Jaipur Central Circle, Central Public Works Department, Jaipur

**DIRECTORATE GENERAL OF WORKS  
CENTRAL PUBLIC WORKS DEPARTMENT**

**SENIORITY LIST OF JUNIOR ENGINEER**

(CIVIL)

Date: 23/02/94  
Page No. 20

Sl.No.	FIRST NAME	LAST NAME	CATEG.	Date of Birth	Date of Entry	Sen.No. S9 list	Date of Confirm.	Circle	Division	Status	Reg.
0438	S.K.	MUKHOPADHYAH	GEN	02/10/44	07/06/71	0764	/ /	CCC-I	RCD	JE	B
0439	JHAR	MUKHERRJEE	GEN	30/07/44	07/06/71	0765	/ /	VEL.CAL		JE	B
0440	SHYAMALENDU	RAY	GEN	05/04/45	07/06/71	0766	/ /	VEL. CAL.		JE	B
0441	DIBAS KUMAR	RAY	GEN	01/08/46	24/02/69	0767	/ /	BCC-I	bcd-i	JE	C
0442	P.K.	SENGUPTA	GEN	23/11/40	07/06/71	0768	/ /	BCC-I	BOD-I	JE	C
0443	SUBRATA	CHANDA	GEN	21/08/45	09/06/71	0769	/ /	CCC-II	SW	JE	B
0444	BALDEV SARUP	GUPTA	GEN	22/07/46	12/07/71	0770	/ /	BCC-IV	CD-VII	JE	A
0445	THOMAS	KUZHAKOMBIL.T	GEN	05/01/48	01/12/71	0771	/ /	TRIUNIVURUM	COCHIN	JE	D
0446	AJIT KUMAR	SEN	GEN	05/12/46	10/12/71	0772	/ /	CCC-III	GCD	JE	B
0447	SUBRATA KUMAR	ROY	GEN	15/04/52	11/12/71	0773	/ /	ACC	ACD	JE	B
0448	IRSHAD ALI	MAZUMDER	GEN	01/10/47	13/12/71	0774	/ /	VEL.CAL.		JE	B
0449	PRANAB	ROY	GEN	01/12/48	13/12/71	0775	/ /	MDP	EXHIBID-I	JE	A
0450	MANINDRA KUMAR	PAUL	GEN	23/08/50	13/12/71	0776	/ /	CCC-II	CCD-VI	JE	B
0451	TAPAN	CHAKRABORTY	GEN	01/12/45	16/12/71	0777	/ /	CCC-I	SW	JE	B
0452	LAKHASWAR	DUTTA	GEN	01/02/48	16/12/71	0778	/ /	ACC	SW	JE	B
0453	DIGENDRA NATH	MAJHERBHUIYA	GEN	02/04/49	16/12/71	0779	/ /	ACC	TCD	JE	B
0454	NIRMALENDU	DAS	S.C	01/11/48	17/12/71	0780-P	01/04/81	ACC	MCD	JE	B
0455	PRABIN KUMAR	BORUAH	GEN	17/11/48	20/12/71	0781	/ /	ACC	GCD	JE	B
0456	M.K.	DUTTA	GEN	07/05/49	20/12/71	0782	/ /	BCC-II	B	JE	A
0457	AFTAB UDDIN	MAZUMDAR	GEN	01/02/48	20/01/72	0783	/ /	VEL. CAL.		JE	B
0458	KULA CHANDRA	SINGHA	GEN	01/04/50	20/01/72	0784	/ /	ACC	MCD	JE	B
0459	ARDHENDU KUMAR	BHATTACHERJEE	GEN	03/02/49	24/01/72	0785	/ /	ACC	TCD	JE	B
0460	B.N. SHARMA	MAZUMDER	GEN	01/06/49	03/02/72	0786	/ /	ACC		JE	B

F.No.7(54)/ACC-I/E-I/1361  
 Government of India  
 O/O Superintending Engineer,  
 Assam Central Circle No. I  
 Central Public Works Department  
 Bamunimaidan, Guwahati - 781 021.

Dated, Guwahati, the 30th July, 1999.

### ORDER

WHEREAS disciplinary proceedings under [Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965] were instituted against Shri I.A. Mazumdar, J.E.(C) vide this Office Memo No.7(54)/ACC/E-I/1274 dated 20.4.94 on the following articles of charge.

#### Article I

13.3.84 to 31.10.84

That during the aforesaid period and while functioning in the aforesaid office the said Shri I.A. Mazumdar, exhibited lack of care and devotion to duty in that he issued cement on work from 13.3.84 to 31.10.84 without the signature of the contractor. Shri I.A. Mazumdar, also got 3.00 M.T. of steel against indent No.B-950103/T-IV dated 13.9.84 without the signature of the authority competent to place the indent. Thus he was negligent of his duties.

#### Article II

That during the aforesaid period and while functioning in the aforesaid office the said Shri I.A. Mazumdar, prepared indents for cement and steel which were in excess of and much in advance of requirement which finally resulted in loss to the Government.

#### Article III

That during the aforesaid period and while functioning in the aforesaid office the said Shri I.A. Mazumdar, failed to propose full recovery of the materials issued in each R.A. bill even though he did not indicate in the bills that certain items including use of cement and steel were left unmeasured.

#### Article-IV

That during the aforesaid period and while functioning in the aforesaid office the said Shri I.A. Mazumdar, failed to get balance materials returned from the contractor. Shri I.A. Mazumdar, also failed to report the matter about removal of Departmental Stores by the contractor to the Police authorities as well as to his higher officers. On account of these lapses on the part of Shri I.A. Mazumdar, JE(C) the Govt. had incurred a loss of Rs.48,957.30.

A statement of imputations of Misconduct or Misbehaviour on which the Articles of charge were based, together with a List of Documents by which, and a List of Witnesses by whom, the charges were proposed to be sustained, were also forwarded to him along with the above said Memorandum dated 20.4.94.

2. Shri I.A. Mazumdar, J.E(C) denied the charge(s) and requested to be heard in person vide his letter dated 25.4.94. Accordingly, Shri Mahesh Chandra, Superintending Engineer (Inquiry) was appointed as the Inquiring Authority to inquire into the charges vide Order No. 7(54)/ACC/E-I/1314 dated 22.4.94 ammended vide

30/7/99  
 Advocate

Office Order No.7(54)/ACC/E-I/2555 dated 31.5.94. On transfer of Shri Mahesh Chandra from the post of Superintending Engineer (Inquiry), Shri Anant Ram, Superintending Engineer (Inquiry) was appointed as the Inquiring Authority vide Order No.7(54)/ACC/E-I/5748 dated 22.11.94. On transfer of Shri Anant Ram, from the post of Superintending Engineer (Inquiry), Shri R.D. Aggarwal, Superintending Engineer (Inquiry) was appointed as the Inquiring authority to inquire into the charges vide Order No.7(54)/ACC/E-I/2350 dated 22<sup>nd</sup> November, 1995.

3. AND WHEREAS the Inquiring authority vide his Report No. SE (Inquiries)/13/94 dated 9<sup>th</sup> September, 1997 gave a finding that the charges under Articles - I, II, III & IV are **PROVED**.

4. AND WHEREAS a copy of the report of inquiry was sent to Shri I.A. Mazumdar, JE(C) vide this Office Memo No.3954/7(54)/ACC/E-I dated 10<sup>th</sup> February, 1998 and he was given an opportunity of making such submissions on the report of inquiry as he desired. His submissions on the Report of inquiry were received vide his letter dated 24.2.98. The said representation of Shri I.A.Mazumdar, JE(C) has been carefully considered. The various points raised by him were examined in the light of records of the case and on examination of charged officer briefs, it is observed that the charged officer failed to maintain absolute integrity and exhibited lack of devotion to duty and thus made himself liable for penalty under Rule-14 of the CCS (CCA) Rules, 1965.

5. AND WHEREAS on careful consideration of the report of the Inquiry officer and other records of the case in the light of the submissions made by Shri I.A.Mazumdar, JE(C) in his observations on report of the inquiry and during his personal hearing, the undersigned has decided to accept the findings of the Inquiry Officer.

6. NOW, THEREFORE, after carefully considering the records of the inquiry and the facts and circumstances of the case, the undersigned has come to the conclusion that Shri I.A.Mazumdar, JE(C) failed to maintain absolute integrity becoming of a Govt. servant and exhibited lack of devotion to duty and thus rendered himself liable for penalty. The undersigned is of the view that ends of justice would be met if the penalty of reduction to lower stage in the time-scale of pay for a period of six months from 1.8.99 is imposed on him.

It is, therefore, ordered that pay of Shri I.A. Mazumdar, JE(C) be reduced by one stage from Rs.9100/- to Rs.8900/- in the time scale of pay for a period of six months with effect from 01.08.1999.

It is further directed that Shri I.A. Mazumdar, JE(C) will not earn increments of pay during the period of reduction, and that on the expiry of this period, the reduction will not have effect of postponing his future increments of pay.

7. A copy of this order may be added to the Confidential Rolls of Shri I.A.Mazumdar, JE(C).

(K. P. ABRAHAM)  
(Disciplinary Authority)  
Superintending Engineer  
Assam Central Circle No. I  
C.P.W.D., Bamunimaidan  
Guwahati - 781 021.

To  
Shri I.A. Mazumdar,  
Junior Engineer (Civil)  
O/O the Superintending Engineer  
Assam Central Circle No. I  
C.P.W.D., Bamunimaidan  
Guwahati - 781 021.

Attested  
Advocate

North Block, New Delhi 110001  
August 9, 1999OFFICE MEMORANDUMSubject: THE ASSURED CAREER PROGRESSION SCHEME FOR  
THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES.

The Fifth Central Pay Commission in its Report has made certain recommendations relating to the Assured Career Progression (ACP) Scheme for the Central Government civilian employees in all Ministries/Departments. The ACP Scheme needs to be viewed as a 'Safety Net' to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Accordingly, after careful consideration it has been decided by the Government to introduce the ACP Scheme recommended by the Fifth Central Pay Commission with certain modifications as indicated hereunder:

2. GROUP 'A' CENTRAL SERVICES

2.1 In respect of Group 'A' Central services (Technical/Non-Technical), no financial upgradation under the Scheme is being proposed for the reason that promotion in their case must be earned. Hence, it has been decided that there shall be no benefits under the ACP Scheme for Group 'A' Central services (Technical/Non-Technical). Cadre Controlling Authorities in their case would, however, continue to improve the promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre review, etc. as per prescribed norms.

3. GROUP 'B', 'C' AND 'D' SERVICES/POSTS AND ISOLATED POSTS IN GROUP 'A', 'B', 'C' AND 'D' CATEGORIES

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant non-financial upgradations (as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)) under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years (subject to condition no.4 in Annexure 4) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad-hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure 4.

.....2/-

Attd  
S.S. Acharya

eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules.

29

4. Introduction of the ACP Scheme should, however, in no case affect the normal (regular) promotional avenues available on the basis of vacancies. Attempts needed to improve promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre review etc as per prescribed norms should not be given up on the ground that the ACP Scheme has been introduced.

5. Vacancy based regular promotions, as distinct from financial upgradation under the ACP Scheme, shall continue to be granted after due screening by a regular Departmental Promotion Committee as per relevant rules/guidelines.

6. SCREENING COMMITTEE

6.1 A departmental Screening Committee shall be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme.

6.2 The composition of the Screening Committee shall be the same as that of the DPC. It shall be the same as prescribed under the relevant Recruitment/Service Rules for regular promotion to the higher grade to which financial upgradation is to be granted. However, in cases where DPC as per the prescribed rules is headed by the Chairman/Member of the UPSC, the Screening Committee under the ACP Scheme shall, instead, be headed by the Secretary or an officer of equivalent rank/joint secretary or an officer of the concerned Ministry/Department. In respect of isolated posts, the composition of the Screening Committee (with modification as noted above, if required) shall be the same as that of the DPC for promotion to analogous grade in that Ministry/Department.

6.3 In order to prevent operation of the ACP Scheme from resulting into undue strain on the administrative machinery, the Screening Committee shall follow a time-schedule and meet twice in a financial year - preferably in the first week of January and July for advance processing of the cases. Accordingly, cases maturing during the first-half (April-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committee meeting in the first week of January of the previous financial year. Similarly, the Screening Committee meeting in the first week of July of any financial year shall process the cases that would be maturing during the second-half (October-March) of the same financial year. For example, the Screening Committee meeting in the first week of January, 1999 would process the cases that would attain maturity during the period April 1, 1999 to September 30, 1999 and the Screening Committee meeting in the first week of July, 1999 would process the cases that would mature during the period October 1, 1999 to March 31, 2000.

6.4 To make the Scheme operational, the Cadre Controlling Authorities shall constitute the first Screening Committee of the current financial year within a month from the date of issue of these instructions to consider the cases that have already matured or would be maturing upto March 31, 2000 for grant of benefits under the ACP Scheme. The next Screening Committee shall be constituted as per the time-schedule suggested above.

3/-

Attested  
Sd/-  
Advocate

Ministries/Departments are advised to explore the possibility of effecting savings so as to minimise the additional financial commitment that introduction of the ACP Scheme may entail.

24

8. The ACP Scheme shall become operational from the date of issue of this Office Memorandum.

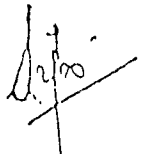
9. In so far as persons serving in the Indian Audit and Accounts Departments are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

10. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Assured Career Progression Mechanism" for different streams of doctors. It has been decided that the said recommendation may be considered separately by the administrative Ministry concerned in consultation with the Department of Personnel and Training and the Department of Expenditure.

11. Any interpretation/clarification of doubt as to the scope and meaning of the provisions of the ACP Scheme shall be given by the Department of Personnel and Training (Establishment-D).

12. All Ministries/Departments may give wide circulation to these instructions for guidance of all concerned and also take immediate steps to implement the Scheme keeping in view the ground situation obtaining in services/cadres/posts within their administrative jurisdiction.

13. Hindi version would follow.



(K.K. JHA)

Director (Establishment)

To

1. All Ministries/Departments of the Government of India
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/  
Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/  
UPSC/CVC/C&AG/Central Administrative Tribunal (Principal Bench), New Delhi
3. All attached/subordinate offices of the Ministry of Personnel, Public  
Grievances and Pensions
4. Secretary, National Commission for Minorities
5. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
6. Secretary, Staff Side, National Council (ICM), 13-C, Ferozeshah Road, New Delhi
7. All Staff Side Members of the National Council (ICM)
8. Establishment (D) Section - 1000 copies

.....4/-

Attest  
[Signature]  
Advocate

CONDITIONS FOR GRANT OF BENEFITS  
UNDER THE ACP SCHEME

25

1. The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose;
2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available will be Rs.14,200-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions;
3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later;
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc. this would have consequential effect on the second upgradation which would also get deferred accordingly;
- 5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;
- 5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit;
6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.), for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme;

....5/-

Attd  
Advocate

Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay-scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme;

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(1) a(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training Office Memorandum No.1/6/97-Pay.I dated July 5, 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

.....6/-

*[Signature]*  
Annexure

In the matter of disciplinary/penalty proceedings, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS(CCA) Rules, 1965 and instructions thereunder;

12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional (actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly;
13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department -- not the employees -- shall have the option in the matter to choose between the two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme, for various categories of employees. However, in case of switch-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties, etc) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality;
14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme; and
15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.

*[Signature]*

(K.K. JHA)

Director (Establishment)

....7/-

*[Signature]*  
Advocate

ANNEXURE-II

STANDARD/COMMON PAY-SCALES  
As per Part-A of the First Schedule Annexed to the Ministry of Finance  
(Department of Expenditure) Gazette Notification dated September 30 1997

[REFERENCE PARA 7 OF ANNEXURE I OF THIS OFFICE MEMORANDUM]

S.No.	Revised pay-scales (Rs)	
1.	S-1	2550-55-2660-60-3200
2.	S-2	2610-60-3150-65-3540
3.	S-3	2650-65-3300-70-4000
4.	S-4	2750-70-3800-75-4400
5.	S-5	3050-75-3950-80-4590
6.	S-6	3200-85-4900
7.	S-7	3800-100-6000
8.	S-8	4560-125-7000
9.	S-9	5300-150-8000
10.	S-10	5500-175-9000
11.	S-12	6500-200-10500
12.	S-13	7450-225-11500
13.	S-14	7500-250-12000
14.	S-15	8000-275-13500
15.	S-19	10000-325-15200
16.	S-21	12000-375-16500
17.	S-23	12000-375-18000
18.	S-24	14300-400-18300

*Atty*  
*Shan*

- 24 -

ANNEXURE - D  
dt 4-7-2000

29

To The Superintending Engineer

Assam Central Circle - I

C.P.W.D - Guwahati - 21.

From Promotion from JE (C) A.C. (Civil)

With due respect, I am to state that The Penalty imposed on me vide order no-7 (SU)/ACC-1/L-1/1361 dt 30.7.1999 is completed on 31-1-2000. At present no vigilance case against me is Pending.

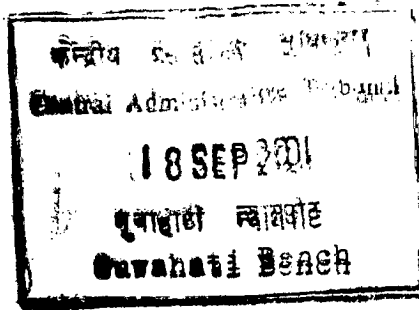
Therefore it is requested to kindly take action for my Promotion at the earliest as I am superseded from May 1995.

Yours faithfully  
(I.A. Hazarika)  
JE (C)

under A.C.C. - I

C.P.W.D - Guwahati - 21.

Atty  
Advocate



Filed by  
Refined  
18/9/01  
(B. C. P. Thakur)  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 37/2001.

Shri Irshed Ali Mazumdar

..... Applicant.

- Vs -

Union of India and others.

..... Respondents.

( Written Statements on behalf of the respondents No. 1, 2 and 3 ).

The Written Statements of the abovenoted respondents are as follows :

1. That the copy of the O.A. No. 37/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, they have filed the common written statements for all of them.
2. That the statements made in the application, which are not specifically admitted, are hereby denied.
3. That before traversing the various para of the application, the respondents give a brief history of the case as under :-

*H. K. R. KONDAL*  
(V. K. KONDAL)  
Deputy Director (Admn II)  
D. G. (W. C. P. W. D.)  
Nirman Bhawan, New Delhi.

When? |  
Shri I.A. Mazumdar, Junior Engineer (Civil) was considered for promotion to the post of Assistant Engineer (Civil) along with other eligible officials but as disciplinary proceedings were pending against him, the recommendations of the Selection Committee were kept in a Sealed Cover. The disciplinary proceedings against him were finalised and the penalty of reduction to lower stage in time scale of pay for a period of six months w.e.f. 01.08.1999 was imposed on the applicant. As penalty was imposed on him, therefore, recommendations of Selection Committee kept in Sealed Cover were not implemented in his case as per rules even if he was found eligible for promotion.

The applicant had filed a case in this Tribunal for his promotion vide O.A. No. 272/1998 earlier also but the same was dismissed vide Tribunal's order dated 30th August 1999.

However, in the meantime, Shri I.A. Mazumdar, Junior Engineer (Civil) has since been promoted as Assistant Engineer (Civil) vide O.O. No. 31 of 2001 dated 16th February 2001, there is no cause of action for this instant application. The copies of the order dated 30.8.99 passed in O.A. No. 272/98 and the office order dated 16.2.2001 are annexed as Annexure - R<sub>1</sub> and R<sub>2</sub> respectively.

4. That with regard to the statements made in para 1 of the application, the respondents state that Shri I.A. - Mazumdar, Junior Engineer (Civil) has already been promoted as Assistant Engineer (Civil). As regards granting of

W. K. KONDAL  
Deputy Director (Admn-II)  
D. G. (W), C.P.W.D.  
Nirman Bhawan, New Delhi.

of benefits to him under ACP Scheme, the case is being examined separately after the effect of penalty imposed him is over.

5. That with regard to the statements made in para 2, 3, 4.1, 4.2 and 4.3, the respondents have no comments to offer except the fact that the applicant has already been promoted vide order dated 16.2.2001 .

6. That with regard to the statements made in para 4.4, the respondents deny the correctness of these statements. In fact, Shri I.A. Mazumdar was issued a charge sheet for major penalty by the disciplinary authority vide O.M. No. 7(54)/ACC/E1/1274 dated 20.04.94. The disciplinary authority imposed major penalty on Shri I.A. Mazumdar by an order dated 30.07.99. The relevant portion of the order is quoted as follows

" The pay of Shri I.A. Mazumdar JE (C) be reduced by one stage from Rs. 9100/- to Rs. 8900/- in the Time Scale of pay for a period of six months w.e.f. 01.08.99. It is further directed that Shri I.A. Mazumdar will not earn increments of pay during the period of reduction, and that on expiry of this period, the reduction will not have effect of postponing his further increments of pay".

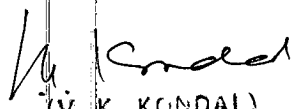
7. That the statements made in para 4.5 of the application are denied by the respondents. The applicant has already been promoted as Assistant Engineer (Civil) on 16.02.2001. However, it is clarified that disciplinary

-4-

proceedings against Shri Mazumdar were initiated under Major Penalth Rules. The applicant's case for promotion was considered along with other eligible persons by the Selection Committee but due to pendency of Departmental inquiry against him, he could not be promoted and the recommendations of DPC were kept in a Sealed Cover. Finally the charges against him were found proved during the disciplinary proceedings and a penalty of reduction to lower stage in time scale of pay for period of six months w.e.f. 1.8.99 was imposed on him vide Order dated 30.07.1999 . Hence in accordance with the extent Rules on the subject, he could not be promoted even if he was found eligible for promotion. After the expiry of penalty period, he has now been promoted as AE (Civil) vide Office Order No. 31/2000 dated 16.2.2001. As regards ACP, the position has been explained as stated above.

8. That with regard to the statements made in para 46, the respondents re-iterate and re-assert the statements made in this written statements.

9. That the allegations made in para 4.7 and 4.8 of the application are hereby denied as baseless and false. There was no malafide intention nor any motive behind this as he was considered for promotion along with other eligible persons. He could not be promoted due to pendency of Departmental inquiry against him. This was done as per provisions of rules.

  
(V. K. KONDAL)  
Deputy Director (Admin-II)  
D. G. (W), C.P.W.D.  
Nirman Bhawan, New Delhi.

-5-  
-10-

10. That with regard to the statements made in para 4.9, the respondents have no comments to offer.

11. That with regard to the statements made in para 5.1 to 5.9 of the application, the respondents state that in view of the facts of the case, the grounds as shown cannot sustain in law. The respondents acted as per provisions of rules and hence there was no illegality in their action. The irregularities were committed by Shri I.A. - Mazumdar during 1983. The case was investigated and a major penalty charge sheet was issued to him on 20.04.94. The penalty was imposed on Shri I.A. Mazumdar vide an order dated 30.07.99. There was another officer whose conduct was also investigated and disciplinary proceedings were initiated against him. There was some delay on account of involvement of more than one officer. However, there is no delay of 15 days as stated by the applicant as disciplinary proceedings were started on 20.04.94 and were completed on 30.07.99, under these circumstance, the application being devoid of any merit is liable to be dismissed with cost.

11 yrs in  
investigation

12. That with regard to the statements made in para 6 to 7 of the application, the respondents state that these statements are false and misleading and hence the same are denied. The applicant earlier had filed another case for the same cause of action vide O.A. No. 272/98 and involving the same parties. The applicant has filed this

*V. K. Kondal*  
(V. K. KONDAL)  
Deputy Director (Admn-II)  
D. G. (W), C.P.W.D.  
Nirman Bhawan, New Delhi.

application by suppression of the said vital informations and hence the application is liable to be dismissed ~~in that~~ in that count alone.

13. That with regard to the statements made in para 8.1 to 8.4 of the application, the respondents state that in view of the facts and circumstances of the case, the provisions of law and rules, the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall further be pleased to dismiss the application with cost.

verification.....

*V. K. Kondal*  
(V. K. KONDAL)  
Deputy Director (Admn-II)  
D. G. (W), C.P.W.D.  
Mirman Bhawan, New Delhi.

## VERIFICATION

I, Shri V.K. Kondal presently working as Deputy Director(Administration-II), CPWD, Nirman Bhawan, New Delhi being duly authorized and competent to sign this verification, do hereby solemnly affirm and declare that the statements made in para 1, 2, 4 to 13. are true to my knowledge and belief, those made in paragraph 3. being matter of records are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 12<sup>th</sup> day of September 2001.

*V. K. Kondal*

Deponent  
(V. K. KONDAL)  
Deputy Director (Admn-II)  
D. G. (W), C.P.W.D.  
Nirman Bhawan, New Delhi.

-8- R-#

Annexure - K,

37

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.272 of 1998

Date of decision: This the 30th day of August 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Irsad Ali Mazumder,  
Junior Engineer (Civil),  
Assam Central Circle-1,  
Central Public Works Department,  
Guwahati.

.....Applicant

By Advocate Mr A. Ahmed.  
- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Urban Development, New Delhi.
2. The Director General (Works), C.P.W.D. Nirman Bhawan, New Delhi.
- 3) The Chief Engineer (N.E.Z.), C.P.W.D., Shillong.
4. The Superintending Engineer, Assam Central Circle-1, C.P.W.D., Guwahati.

.....Respondents

Mr B.S. Basumatary, Addl. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

The present application has been filed by the applicant seeking certain directions to the respondents.

2, Facts of the case are:

Certain charges were framed against the applicant

in connection with misappropriation and breach of trust.

A copy of the charges alongwith statements of

the respondents were served on the applicant asking him to

reply to the charges. The applicant submitted his reply to

the charges. The proceedings commenced in the year 1984.

Photocopy  
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In the year 1995 there was a meeting of the Selection Committee to select the eligible candidates, including the applicant, for promotion to the post of Assistant Engineer (Civil). As the disciplinary proceeding was pending against the applicant, the sealed cover procedure was adopted in his case and so he was not given any promotion. The disciplinary proceeding came to an end in July 1999. The Disciplinary Authority found him guilty of the charges and accordingly punishment was imposed on him. According to the applicant his case was not opened.

3. We have heard Mr A. Ahmed, learned counsel for the applicant and Mr B.S. Basumatary, learned Addl. C.G.S.C. appearing on behalf of the respondents.

4. On hearing the learned counsel for the parties, we feel that as the penalty was imposed on the applicant he would not get the benefit of the sealed cover procedure even if he was found eligible for promotion.

5. In view of the above the application is dismissed. However, the applicant may choose to take up his grievance to the Appellate or the Revisional Authority and his promotion would be dependendent upon the result of his appeal.

No order as to costs.

SD/- VICE-CHAIRMAN  
SD/- MEMBER (A)



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Deputy Registrar (D)  
Central Administrative Tribunal  
Gurgaon Haryana

-10- R-2 Annexure R 2

**GOVERNMENT OF INDIA  
DIRECTORATE GENERAL OF WORKS  
CENTRAL PUBLIC WORKS DEPARTMENT**

No.28/7-C/2001-EC-III

Nirman Bhavan, New Delhi  
Dated the 16<sup>th</sup> February 2001.

**OFFICE ORDER No. 31 of 2001**

The Director General of Works, CPWD is pleased to promote the under mentioned Junior Engineers (Civil) to the grade of Assistant Engineers (Civil) in the Central Engineering Group 'B' Services on a regular basis with effect from date they take over as Assistant Engineers (Civil). On their promotion they will be on probation for a period of two years with effect from the date they assume charge as Assistant Engineers (Civil). The promotion of these officers to the post of Assistant Engineers (Civil) would be subject to the outcome of OA No.1895/1995 in the matter of Shri Ram & Ors. Vs Union of India & Ors.

S. No.	Name (S/Shri) & Seniority No.	Date of Birth
1.	B.S. Nadgir 239	24.07.44
2.	M. Paul 263	01.08.43
3.	Manjit Kumar Puri 422	02.07.50
4.	Irshad Ali Mazumdar 448	01.10.47
5.	D.K. Chowdhary 558	20.04.46
6.	Radha Krishnan P.K. 794	29.07.53
7.	Gur Sahai 795	31.05.56
8.	Smt. M.V. Omana 796	12.02.52
9.	S. Muralidharan 797	09.03.52
10.	Lal Chand Gupta 798	25.09.53
11.	T.K. Ashokan 799	15.12.53
12.	P.M. Subramanian 800	01.02.54

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contd...2.

He. B. S. Nadgir

कार्यपालक इंजीनियर (सु.)

एकम केन्द्रीय परिमंडल

६० एम. वि. वि. गंगावाटी-२

S. No.	Name (S/Shri) & Seniority No.	Date of Birth
13.	N.S. Tanwar 801	07.11.54
14.	Ramoday Singh 802	11.11.54
15.	Gulshan Kr. Pruthi 803	01.03.55
16.	Jai Prakash Verma 804	10.07.52
17.	Vinay Kr. Saxena 805	27.12.52
18.	S. Shakthivel 806	11.01.55
19.	M.V. Pathrose 808	14.12.52
20.	Vijay Kr. Aggarwal 809	26.01.53
21.	Praveen Chandra 810	15.12.54
22.	Mahendra Kumar 811	10.07.53
23.	Wasim Ahmed Khan 812	12.07.54
24.	T.P. Sukumaran 813	25.08.54
25.	J.K. Gajanand Rao Mudkey 814	15.01.55
26.	Sudama Prasad Sharma 815	01.07.52
27.	Thomas Varghese 816	08.04.55
28.	Hans Raj Sharma 818	05.04.56
29.	B. Loganathan 819	05.09.53
30.	Jagdish Dhayani 820	29.10.55
31.	Swatanter Kr. Jain 821	12.02.53
32.	Anil Kumar Jain 822	17.02.55

1/11/2001

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amtm 12/9/01

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कायदाक इकाईकर (डु.)  
कायदा केन्द्रीय परिमंडल  
डे. डी. वि. वि. गवाहाटी-2.



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विनीतः परिश्रमः

०. ६० पि. वि. वि. वि. वि.

-13-

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S. No.	Name (S/Shri)	FROM	TO
2	M. Paul 263	JE, Eastern Region	To report to ADG (ER) for further posting on promotion as AE.
3	Manjit Kumar Puri 422	JE, Delhi Avn. DN. ND U/P PWD Dn.4	AE, Shimla CD-1, against an existing vacancy.
4	Irshad Ali Mazumdar 448	JE, Eastern Region	To report to ADG (ER) for further posting on promotion as AE.
5	D.K. Chowdhary 558	JE, Eastern Region	To report to ADG (ER) for further posting on promotion as AE.
6	Radha Krishnan P.K. 794	JE, On deputation to DTTDC.	AE, Lucknow CD-1, against an existing vacancy.
7	Gur Sahai 795	JE, Faridabad CD	AE(P), Jalandhar CC, against an existing vacancy.
8	Smt. M.V. Omana 796	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
9	S. Muralidharan 797	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
10	Lal Chand Gupta 798	JE, PWD Dn.16, ND	AE, PWD Dn.10, ND, against an existing vacancy.
11	T.K. Ashokan 799	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
12	P.M. Subramanian 800	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
13	N.S. Tanwar 801	JE, Jodhpur CD	AE, Jodhpur CD-1, against an existing vacancy.
14	Ramoday Singh 802	JE, Valuation, Agra	AE, Delhi Avn. Dn., ND, against an existing vacancy.
15	Gulshan Kr. Pruthi 803	JE, PWD Circle-2, ND	AE(P), PWD Circle-2, ND, against an existing vacancy.

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कायदाकार इवानियर (मु.),  
कलम केन्द्रीय परिमंडल  
डि. ऑ. डि. डि. गवाहाटी-2.

S. No.	Name (S/Shri)	FROM	TO
16	Jai Prakash Verma 804	JE, PWD Dn.18, ND	AE, Faridabad CD-1, against an existing vacancy.
17	Vinay Kr. Saxena 805	JE, Dehradun Cent. Circle	AE(P), DCC-1, ND, against an existing vacancy.
18	S. Shakthivel 806	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
19	M.V. Pathrose 808	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
20	Vijay Kr. Aggarwal 809	JE, PWD Circle-5, ND	AE(P), PWD Circle-5, against an existing vacancy.
21	Praveen Chandra 810	JE, 'R' Divn., ND	AE(P), O/o CE(Vig.), ND, against an existing vacancy.
22	Mahendra Kumar 811	JE, 'I' Divn., ND	AE, Parlt. Works Dn.3, against an existing vacancy.
23	Wasim Ahmed Khan 812	JE, PWD Dn.17, ND	AE(P), DCC-6, ND, against an existing vacancy.
24	T.P. Sukumaran 813	JE, Western Region	To report to ADG (WR) for further posting on promotion as AE.
25	J.K. Gajanand Rao Mudkey 814	JE, Western Region	To report to ADG (WR) for further posting on promotion as AE.
26	Sudama Prasad Sharma 815	JE, PWD Dn.4, ND	AE(P), DCC-3, ND, against an existing vacancy.
27	Thomas Varghese 816	JE, Western Region	To report to ADG (WR) for further posting on promotion as AE.
28	Hans Raj Sharma 818	JE, CDO, ND	AE, Faridabad CD-1, against an existing vacancy.
29	B. Loganathan 819	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.

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नगरपालिका कार्यालय (मु.)  
नगर केन्द्रीय परिमलक  
०० नं. वि. दि. गवाहीदी

S. No.	Name (S/Shri)	FROM	TO
30	Jagdish Dhayani 820	JE, UFWs Divn., ND	AE(P), Shimla Cent. Circle, against an existing vacancy.
31	Swatantar Kr. Jain 821	JE, PWD Circle-4, ND U/P Noida Dn.	AE(P), PWD Zone-II, ND, against an existing vacancy.
32	Anil Kumar Jain 822	JE, PWD Circle-4 U/P Jaisalmer	AE(P), O/o CE(NZ)-III, Jaipur, against an existing vacancy.
33	Raj Pal Rohila 823	JE, CCU, M/o E&F, Dehradun	AE, PWD Zone-I, ND, against an existing vacancy.
34	A.G. Mohan 823-A	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
35	Virendra Kumar 824	JE, M/o E&F, Shimla	AE(P), M/o E&F, Dehradun, against an existing vacancy.
36	M. Thomas Paul 825	JE, Southern Region	To report to ADG (WR) for further posting on promotion as AE.
37	Deepak Belapurkar 826	JE, Western Region	To report to ADG (WR) for further posting on promotion as AE.
38	Pradeep Kr. Gupta 827	JE, Agra Cent. Dn. U/P Faridabad	AE(P), O/o CE(ODZ), ND, against an existing vacancy.
39	P.C. Tripathi 828	JE, PWD Dn.17, ND	AE, PWD Zone-III, ND, against an existing vacancy.
40	P.P. Das 829	JE, Eastern Region	To report to ADG (ER) for further posting on promotion as AE.
41	S.P. Bajpai 830	JE, 'N' Divn., ND	AE, Parlt. Lib. Proj., ND, against an existing vacancy.
42	Fateh Bahadur Singh 831	JE, Lucknow CD-1	AE, Lucknow CD-2, against an existing vacancy.
43	Gopal Krishan Grover 832	JE, Dhaula Kuan Flyover Proj., PWD, ND U/P Dehradun CD-1	AE, Dehradun CD-2 against an existing vacancy.

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M. K. S. S. S.

12/9/01

कावयलक इकायनर (कु.)

कावय केन्द्रीय परिसडल

के. के. नि. दि. गव. याने-२१

S. No.	Name (S/Shri)	FROM	TO
44	Ram Bali Kanaujia (SC) 1778	JE, PWD Dn.25, ND	AE, PWD Zone-II, ND, against an existing vacancy.
45	S.K. Roy Choudhary (SC) 1779	JE, Eastern Region	To report to ADG (ER) for further posting on promotion as AE.
46	Kanwar Bhushan Singh (SC) 1787	JE, Hi-Tech. Proj., PWD, ND	AE(P), Agra Cent. Circle, against an existing vacancy.
47	Sunil Kumar Saha (SC) 1788	JE, PWD Dn.11, ND U/P CE (CDO), ND	AE(P), Jodhpur Cent. Circle, against an existing vacancy.
48	Ashok Dasarath Kamble (SC) 1791	JE, Western Region	To report to ADG (WR) for further posting on promotion as AE.
49	Shakal Ram (SC) 1905	JE, PWD Circle-2, ND	AE(P), Allahabad Cent. Circle, against an existing vacancy.

3. The position in the seniority list will be intimated later on.

4. The Executive Engineers/Superintending Engineers should ensure that no vigilance/disciplinary case is either pending or contemplated against any of the Officers being promoted now before they are relieved to take up the post of Asstt. Engineers (Civil) on promotion. It may also be ensured that no penalty has been awarded to them, which may stand in the way of promotion. In such event, the fact may be brought immediately to the notice of this Office. A certificate to this effect may also be sent by the controlling officers along with the relieving order of the officers on promotion. The officer-in-charge under whom they are working may ensure that the concerned officer may be relieved within 45 days from the date of issue of this order without waiting for the substitute. Their orders of promotion are liable to be treated to have been withdrawn on the expiry of stipulated period of 45 days. They should join immediately on relief.

5. The Officers under orders of posting and transfers should immediately proceed to their respective places after having been relieved by their superior officers and send two copies of TR-1 Form with their names in capital letters to the Section Officer, EC-III Section giving reference to these orders. The Officer-in-Charge, under whom they are working should ensure that the concerned officer are relieved immediately without waiting for their substitute.

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कारिगल इन्जीनियर (गु.)  
एन एन केन्द्रीय परियोजना  
क. ए. सि. वि. ग्याङ्गादी-३

6. The Junior Engineers on promotion may exercise their option under FR 22-I (a) (i) for pay fixation within a period of one month from the date they assume the charge of the higher post. However, those who have already got the higher scale as personal to them will neither be entitled to re-fixation of pay nor for exercising the option on promotion. Further, those who have availed ACP Scheme and exercised the option for pay fixation under FR-22-1(a) (i), will not be entitled for exercising this option again on their regular promotion.

7. They should send a certificate having written their self-appraisal and the CR in respect of officers under them in the prescribed form vide para (3) of this Office Memo No.15/5/79-CR Cell dated 16.6.90.

8. In case of vacancy at a station against which posting orders have been issued, has already been filled up by the CE concerned by making internal adjustment under his own powers, the AE concerned may be given another posting at the same station within the zone in the field/planning as per this order.

*V.K. Kondal*  
(V.K. KONDAL)

DY. DIRECTOR OF ADMN.-II

To

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कार्यवाहक दफ्तर (मु.)  
राज्य केन्द्रीय परिमंडल  
दे. जी. वि. वि. गुवाहाटी-2