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B

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Dismissed date-03/10/02

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO.

405/2001

Applicant (S) A. K. Bhawanik

Respondent (S) H. O. I Town

Advocate for the Applicant: B. K. Sharma, S. Sarma, U. K. Nath

Advocate for the Respondent: CASE

Notes of the Registry

Date

Order of the Tribunal

9.10.01

Heard Mr. B.K. Sharma, learned
Sr. counsel for the applicant.

The application is admitted. Cal-
for the records.

Issue notice as to why interim
order as prayed for shall not be
passed. Returnable by three weeks.

List on 15/11/01 for further
order.

Member

Vice-Chairman

15.11.01

Awaited service report. List on
11/12/01 for order.

Member

Vice-Chairman

11.12.01

4 weeks time is allowed to the
respondents to file written statement.
List on 17.1.02 for order.

Member

Member

Application is in form
of Interim Contention
on is filed vide
N. C. F.

for S. D. G. d. vid.

PO/B No 66 788502

Dated 27-9-2001

Dy. Registrar.

pe. commg.

NB
9/11/01

mb

Notice prepared and sent to D/S
for copy the Respondent No 1 to
8 by Regd AID. In
12/10/01.

D No 3986 to 3993

Dtd 17-10-2001

① Service report are
still awaited.

MA 13/11/01

mb

Service report are still awaited.

17.1.02

List on 10.2.2002 to enable the respondents to file written statement.

11-12-01

No. Written statement has been filed.

Member

Vice-Chairman

16.1.02

mb

18.2.02

Written statement is yet to be filed. Mr.M.R.Pathak learned counsel has submitted that they are filing written statement within 6 weeks. However, Mr.A. Deb Roy, Sr.C.G.S.C. has prayed for time to file written statement. List on 21.3.02 for orders.

Respondent No.6 notice returned by 11.02.07 on a/c of address. Reft. 20/2

Member Vice-Chairman

lm

18.2.02

Written statement is yet to be filed. Mr.M.R.Pathak learned counsel has submitted that they are filing written statement within this week. However, Mr.A.Deb Roy, Sr.C.G.S.C. has prayed for six weeks time to file written statement. List on 21.3.02 for orders.

No. Written statement has been filed.

20.3.02

Member

Vice-Chairman

lm

21.3.02

List on 29.4.2002 to enable the Respondents to file written statement.

No. Written statement has been filed.

Member

Vice-Chairman

26.4.02

mb

29.4.02

The Respondent No.2 State of Tripura has filed the Written statement. The Central Govt. is yet to file written statement. List on 27/5/2002 to enable the Respondents to file Written statement.

29.4.2002
10/5 Submitted by The Respondent No.2.

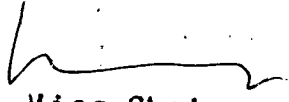
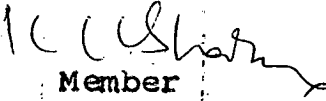
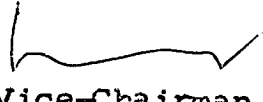
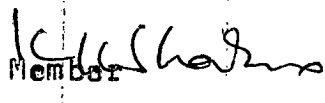




Member

Vice-Chairman

mb

6.5.2002
15/5 Submitted by the Respondent No.4.

Notes of the Registry	Date	Order of the Tribunal
<p>Notices Issued to The The respondents vide D.No- 2092 & 2100 Dtd- 1-8-02</p> <p>Mo 4.9.02 :</p>	<p>2.9.02</p> <p>mb</p>	<p>Office to indicate about the service of notices.</p> <p>List on 5.9.2002 for orders.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>5.9.2002</p> <p>bb</p>	<p>List the case again on 23.9.2002 in the presence of the counsel for the State of Tripura. Office to show also the name of the Standing counsel for the State of Tripura.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>23.9.02</p> <p>pg</p>	<p>Heard Mr S.Sarma, learned counsel for the applicant and also learned counsel appearing on behalf of the State of Tripura. Mr Sarma has stated that he has already taken steps for service of notice on the respondents. He will take fresh steps whose address is changed.</p> <p>List on 27.9.02 for order.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>27.9.02</p> <p>mb</p>	<p>Put up on 3.10.2002 for orders in presence of counsel for the State of Tripura.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
	27.5.02	The case is ready as regards pleadings. Let the matter be listed for hearing on 25.6.2002.
29.5.2002 Rejoinder submitted by the applicant in reply to the W/s.	mb 25.6.02	 Vice-Chairman On the prayer of learned counsel for the parties the case is adjourned and the matter be listed at Agartala.
	mb 4.7.2002 (Agartala)	 Member  Vice-Chairman In view of the order passed in Misc. Petition No.89 of 2002 allowing the amendment of the O.A. the case is adjourned and the matter may now be listed for orders on 10.8.02.
15.7.2002 Consolidated application has been filed by the applicant.	nkm 12.8.02	 Member  Vice-Chairman Consolidated application has been filed on 12.7.2002. It is also seen that the application has been sent to the Respondents. List again on 2.9.2002 after completion of service report.
Steps taken against the Consolidated application and Notice prepared and sent to the Section for issuing of the respondents. Vide D.No-2092 to 2100 Dtd. 1-8-02	mb 3.10.02	 Member List on 6.11.02 for fixing a date of hearing. The respondents may file written statement, if any.
30.7.02		 Member  Vice-Chairman

03.02.2003 . . . Perused the office note. Put up the matter again on 25.2.2003 for orders.

4.2.03

An additional mb

W/S submitted by the 25.2.2003 Respondent No. 2.

Member

Vice-Chairman

Pleadings are complete. The Official respondents have filed the written statement. The private respondents are yet to file written statement though time granted. Put up the matter on 9.4.2003 for hearing.

Vice-Chairman

mb

9.4.03 List on 08.5.03 For Hearing

By order

8.5.03

Adjourned. Listed on 18.6.03 for hearing with M.P. 273/01

By order

21.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Member (A)

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. M. Khataniar, learned Counsel on behalf of Mr. B.P. Katak, learned Sr. counsel for the respondents.

On 8.5.2003 the case was adjourned. It was, however, indicated the date of hearing is 18.6.2003. The matter was came up today. In presence of learned counsel for the parties, the case is fixed for hearing on 28.5.2003.

Member

Vice-Chairman

6.11.02 The respondent No.4 as well as respondent No.2 has filed the written statement. The other respondents are yet to file written statement till now. Mr. M.R.Pathak, learned standing counsel for the State of Tripura respondent No.2 stated that the respondent is filing additional written statement/narrating all the facts. List again on 9.12.2002 to enable the respondent to file additional written statement. The other respondents may also file written statement, if any.

K. Ushar

Member

K. Ushar

Vice-Chairman

mb

9.12.02 None appears for the parties. List on 2.1.2003 for orders.

K. Ushar

Member

mb

Written statement filed by the respondent No-2 and 4, other respondent has not yet filed.

2.1.2003 Due to vacation, the case is adjourned to 7.1.2003.

M. Aggarwal

24/1/03

7.1.03 Present : The Hon'ble Mr Justice V.S. Aggarwal, Chairman.

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

Learned counsel for the applicant states that respondent No.9 had been added. Notice has been issued. The Registry may indicate if report regarding the service has been received or not. Meanwhile by way of abundant caution fresh notice may be issued by registered post.

List on 3.2.03 for order.

K. Ushar

Member

M. Aggarwal

Chairman

pg

Ad. comply the order dated 7.1.03.

24/1/03

Shk taken. Fresh notice prepared in b/o hereditant No.9. and sent to DLS for using the same by Regd. A.D.

24/1/03

D/No. 126

Dtd 24/1/03

21.5.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra,
Member (A).

Heard Mr. S. Sarma, learned
counsel for the applicant and also Mr.
M. Khataniar, learned counsel on behalf
Mr. B.P. Katak, learned Sr. counsel
for the respondents.

On 8.5.2003 the case was adjourned.
It was, however, indicated the date of
hearing is 18.6.2003. The matter was
came up today for hearing. In presence
of learned counsel for the parties,
the case is ^{now} again fixed for hearing on
28.5.2003.

Wks filed by The R.No. 2
and 4,

My
27.5.03.

Received from Dy. Registrar
CAT Bangalore Bench
Judg. & order vide no.
P.14/2003 dated 19.6.03

JS
24/6/03

mb

Member

Vice-Chairman

28.5.2003

Heard the learned counsel for
the parties. Hearing concluded.
Judgment delivered in open court,
kept in separate sheets. The
application is dismissed. No order as
to costs.

15.7.2003

Copy of the Judgment
has been sent to the
Office for issuing
the same to the
applicant as well
as to the L/s advocates
to the Responders.

nkm

Member

Vice-Chairman

a

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.405 of 2001

Date of decision: This the 28th day of May 2003

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

The Hon'ble Mr S.K. Hajra, Administrative Member

Shri Ajit Kumar Bhaumik
S/o Late Hridaya Chandra Bhaumik,
Presently working as Director, Small Savings,
Group Insurance & Institutional Finance,
Government of Tripura,
Agartala.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Personnel, Public Grievance
and Pension
(Department of Personnel & Training),
New Delhi.
2. The State of Tripura, represented by the
Chief Secretary,
Agartala, Tripura.
3. The State of Manipur, represented by the
Chief Secretary,
Imphal, Manipur.
4. The Union Public Service Commission,
Represented by the Chairman,
Dholpur House, New Delhi.
5. Shri Bhagirath Reang,
Director, Research,
Government of Tripura,
Agartala.
6. Shri Manik Lal Reang,
Director, Relief,
Government of Tripura,
Agartala.
7. Shri Arabinda Guha,
Director, Settlement & Land Records,
Government of Tripura,
Agartala.
8. Shri L. Darlong,
Additional D.M. & Collector,
North Tripura, Kailashahar.
9. Shri Hiralal Chakraborty,
Director, Social Welfare &
Social Education,
Agartala, Tripura.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr A.K. Chaudhuri, Addl. C.G.S.C.,
Mr B.P. Kataki, Sr. Government Advocate,
Tripura and Mr M.R. Pathak, Government Advocate,
Tripura.


.....

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O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The following are the reliefs prayed for in this
O.A. :

- 1) To quash and set aside the letter No.F.14015/28/2001-AIS(I) dated 29/30.5.2001 of the Government of India.
 - 2) To quash and set aside the letter No.F.2(11)-GA (P&T)/2001 dated 18.6.2001 and its reminder dated 24.7.2001 issued by the Government of Tripura
 - 3). To quash and set aside the Notification No.14015/16/98-AIS dted 19.4.2000 of the Government of India appointing Shri A. Guha to the IAS illegally
 - 4) To quash and set aside the Notification No.14015/20/2000-AIS(1) dated 28.5.2001 appointing Shri L. Darlong illegally
 - 5) To quash and set aside the appointment of Shri B. Reang and Shri M.L. Reang appearing in Notification No.14025/20/2000-AIS(1) dated 27.4.2001 of the Government of India
 - 6) Treat letter No.F.14015/16/98-AIS(1) dated 13.4.2000 as violation of the Tribunal's order dated 4.2.2000
 - 7) To direct holding separate review selection committee meetings for vacancies arising in 1998, 1999 and 2000
- 

- 8) To set aside and quash the Notification dated 10.6.2002 and Notification dated 31.5.2002
- 9) To set aside and quash the selection and appointment made to the respondent No.9 along with the consequential notification dated 10.6.2002 and 31.5.2002.
- 10) To direct the respondents to consider the case of the applicant for promotion to IAS with retrospective effect with all consequential service benefits invoking the Rules guiding the field, including Rule-3 of All India Services (Condition of Service Residuary Matters) Rule, 1960.

2. The applicant, who is a State Civil Service (SCS for short) officer, in this application raised issues pertaining to appointment to the Indian Administrative Service (IAS for short) in the Tripura segment of the Manipur-Tripura Joint Cadre in aid of the provisions contained in the IAS (Appointment by Promotion) Regulations, 1955, read with the IAS (Recruitment) Rules, 1954. In this O.A. the applicant is primarily concerned with his case for consideration for promotion within the ambit of the statutory provisions. One of the basic grievances of the applicant is as to the recruitment to the Service by selection from amongst the persons other than the SCS officers in aid of Clause (c) of Rule 4(1) of the Recruitment Rules, 1954 read with Rule 8(2) of the same Rule. In this application, the applicant contended that Rule 9 of the 1954 Rules prescribed the number of persons recruited under Rule 8 in any State which at any time was not to exceed $33\frac{1}{3}\%$ of the number of those posts as were shown against items 1 and 2 of the cadre in relation.....

relation to the State in the schedule to the IAS (Fixation of Cadre Strength) Regulations, 1955. The proviso to Rule 9(1) prescribed that the number of persons recruited under Sub-rule (2) of Rule 8 was not to exceed 15% of the total number of posts calculated in the manner indicated in Sub-rule (3) for filling up by such promotion and selection. According to the applicant, in the instant case the State of Tripura - respondent No.2, exceeded the quota of the total number of posts. The applicant contended that in a most arbitrary fashion the authority exercised discretion and without convincing itself as to the existence of special circumstances, recruited persons under Rule 4(1)(c) read with Rule 8(2) of the Rules. The applicant referred to the vacancy position of 1998, 1999, 2000 and 2001. It was stated that in the year 1998 there was only one vacancy of IAS and the same was filled by a non-SCS person. The three vacancies that fell vacant were, however, filled up by persons of the SCS and in the year 2000 out of the three posts, two posts only went to the SCS and one post went to the non-SCS. Similarly, in the year 2001, the lone post went to a non-SCS officer. According to the applicant also the quota is 15% of the total number of posts in terms of Rule 8(2), but in the instant case, by the methodology adopted by the respondents the posts of SCS were eaten up by the non-SCS officers. Citing the vacancies of 1998 and 2000 the single post was filled up by non-SCS officers and thereby the non-Civil Service quota was allowed to soar up to 100% in those years.

3. In this application the applicant also assailed the appointment of respondent Nos.5 and 6 belonging to the SCS and contended that though they were much junior

to.....

to the applicant, they were considered fit for promotion overlooking the case of the applicant. The action of the respondents in appointing respondent Nos.8 and 9, non-SCS persons, were also challenged as unlawful.

4. The respondents contested the claim of the applicant and submitted their written statement. The State of Tripura in their written statement contended that the authority all throughout acted lawfully and persons were recruited as per the statutory rules. The respondents contended that selection to the IAS under Rules 8(1) and 8(2) of the IAS Recruitment Rules was of a continuous process where one was to take into account the vacancies in the respective years. The respondents contended that the authority rightly exercised discretion in filling up the posts in consultation with the competent authority. The State Government being the Cadre Controlling Authority sent its proposal to the Central Government to allot the vacancies in the respective years for promotion to the IAS from SCS and non-SCS officers. The Government thought it fit to fill some of the vacancies by selection from amongst the outstanding non-SCS officers to infuse strength in the administration. The State Government contended that the authority duly considered all the aspects of the matter and thereafter it lawfully exercised its discretion.

5. The Union Public Service Commission (UPSC for short), respondent No.4, also filed its written statement. The UPSC in its written statement asserted that the Selection Committee meeting for promotion of SCS officers of Tripura to the IAS cadre of Manipur-Tripura Joint Cadre was held on 27.3.1997. The State

Government.....

had intimated one vacancy in the promotion quota. As per the provisions of Regulation 5(1) of the Promotion Regulations prevailing during 1997, the size of the select list was determined as 3. The zone of consideration was determined as three times the size of the select list. Four officers were considered under proviso to Regulation 5(3) of the Promotion Regulations. Thus a total of thirteen officers were considered. The applicant was also considered. On an overall assessment of his service records, the applicant was adjudged 'very good'. However, on the basis of his assessment he could not be selected due to the statutory limit of the size. Since the Government of India by its communication dated 11.6.1998, determined nil vacancy in the promotion quota of Tripura segment of the Manipur-Tripura Joint Cadre for the year 1998, no meeting of the Selection Committee was required to be held during the year 1998. In 1999, the competent authority had not determined the vacancies as the select list of 1998 relating to selection of non-SCS officers could not be acted upon due to stay orders passed by the Tribunal in O.A.No.244 of 1998 and subsequently, the IAS Promotion Regulations, 1955 was amended. In consequence to the amendment, the Government of India determined three vacancies for the year 1999 and two vacancies for the year 2000. For the year 1999, the applicant was considered at serial No.8 in the eligibility list of 1999. However, on the basis of his service records, the applicant could not be included in the Select List due to the statutory limit on the size of the Select List. For the year 2000, the applicant was considered at serial No.4 in the eligibility list. He was graded 'very good', but his name could.....

could not be included in the Select List due to the statutory limit on the size. It was asserted that the Government of India determined one vacancy each for the years 1999, 2000 and 2001 for being filled up from amongst the non-SCS Officers of Tripura. The Selection Committee accordingly selected one non-SCS officer in each of the years 1998, 2000 and 2001.

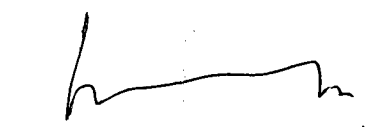
6. We have heard Mr S. Sarma, learned counsel for the applicant, Mr A.K. Chaudhuri, learned Addl. C.G.S.C., appearing on behalf of the UPSC, and Mr M.R. Pathak, learned counsel appearing on behalf of the State of Tripura- respondent No.2. On consideration of the materials on record, it cannot be said that the applicant's case was not duly considered. The materials on record itself indicated that the applicant's case was fairly considered, but on the basis of the grading, other persons were appointed. The authority duly considered the case of the applicant also, but he could not be appointed because of the statutory limit on the size of the list as sufficient officers, senior to the him were selected on the basis of the overall grading. The Selection Committee which itself was a high level committee, considered the respective merits of the case and assessed the gradings and considered their cases on merit. No illegality as such is discernible. The Selection Committee was entrusted with the duty to assess the respective merit. It made evaluation and made its recommendations based on such evaluation. No infirmity as such was discernible. We also found it difficult to accept the contention of the learned counsel for the applicant that no special circumstances existed for taking aid of Rule 4(1)(c) read with Rule 8(2) of the Rules.

7. We have perused the scheme of the Rules and Regulations. Rule 4(1) indicates the source of recruitment. Rule 4(1)(c) postulates recruitment to the IAS by selection in special cases from amongst persons who hold in a substantive capacity gazetted posts in connection with the affairs of a State and who are not members of a State Civil Service. Rule 8(2) enjoins on the authorities concerned to make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service. As alluded, initiation has to be taken by the State Government, but finally, it is the Central Government who is to make recruitment to the Service. In the instant case as per the statutory mechanism, the State Government sent its proposal duly considered by the Selection Committee and the recommendations were placed before the State Government. As per the statutory mechanism, recommendations were forwarded to the UPSC for approval and final appointments were made by the Central Government under the Rules. The special circumstances, at the first instance is to be judged by the State Government concerned. The Central Government as being the appointing authority is required to put its approval thereon which reaches it through the process of selection. On bare perusal of the materials on record, it leaves no doubt as to the legitimacy of the exercise made by the statutory bodies. On the face of the records, it is difficult to hold that the authority flawed in its decision making process in recruiting persons without being satisfied itself as to the special circumstances and.....

and that those persons were not of outstanding ability and merit. The competent authority on consideration of all the relevant factors considered to be special circumstances and in the absence of any contrary circumstances, it is difficult to hold that no special circumstances existed. The materials on record also indicated that there was no encroachment on the State Civil Service quota in appointing persons under special circumstances.

8. ON consideration of all the aspects of the matter, we find no merit in this application. The application is accordingly dismissed. There shall, however, be no order as to costs.


(S. K. HAJRA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

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18

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

O.A. No.--405--of 2001

Shri Ajit Kumar Bhaumik
...Applicant
-Versus-
Union of India & Others
...Respondents

- CONSOLIDATED APPLICATION -

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Filed By :

Asha Das.

Advocate

9
Filed by
the applicant
through
Clerk's box.

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

O.A. No.--405--of 2001

BETWEEN

**Shri Ajit Kumar Bhaumik
Son of Late Hridaya Chandra Bhaumik,
Presently working as Director, Small Savings,
Group Insurance & Institutional Finance,
Government of Tripura, Agartala.**

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievance and Pension (Department of Personnel & Training), New Delhi.
2. The State of Tripura, represented by its Chief Secretary, Agartala, Tripura.
3. The State of Manipur, represented by its Chief Secretary, Imphal, Manipur.
4. The Union Public Service Commission, represented by its Chairman, Dholpur House, New Delhi
5. Shri Bhagirath Reang, Director, Research, Government of Tripura, Agartala.
6. Shri Manik Lal Reang, Director, Relief, Government of Tripura, Agartala.

7. Shri Arabinda Guha, Director, Settlement & Land Records, Government of Tripura, Agartala.

8. Shri L. Darlong, Additional D.M. & Collector, North Tripura, Kailashahar.

9. Shri Hiralal Chakraborty, Director, Social Welfare & Social Education, Agartala, Tripura.

....RESPONDENTS.

DETAILS OF APPLICATION

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

The present application is directed against the illegal deprivation of the Applicant from being promoted to IAS by way of promoting non-State Civil Service officers and the State Civil Service Officers not eligible for such promotion and the decisions of the Respondents pertaining thereto.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE:

4.1. That the Applicant is a State Civil Service officer and is presently holding the post of Director, Small Savings, Group Insurance and Institutional Finance, Government of Tripura. By now the Applicant has rendered 25 years of sincere and devoted service as a State Civil Service officer shouldering many responsible positions.

4.2. That as per the provisions of the IAS (Appointment by promotion) Regulations, 1955, the Applicant is eligible and suitable for promotion to IAS in the Tripura segment of Manipur- Tripura Joint Cadre.

[In the year 1994, the Government of Tripura by its letter addressed to the secretary, UPSC had forwarded a list of State Civil Service Officers for consideration in which the names of the Respondents No. 5 & 6 were there. During earlier years also, specially since 1991, as and when there was a Selection Committee meeting, their names were considered. In the year 1996, the Government of Tripura by its letter dated 20.12.96 addressed to the secretary, UPSC had forwarded a list of 17 officers including Respondent Nos. 5 & 6 for consideration to be included in the select list of 1996. The name of the Applicant was also forwarded in that year.

A copy of the said letter dated 20.12.96 is annexed as Annexure-1.

4.3. That although in the said lists as forwarded by the Government of Tripura, the names of the Respondents No. 5 & 6 , reflecting their seniority positions in the Tripura Civil Service were there, they could not get selection for those years due to their poor service

records. Their cases attracted consideration by the Selection Committee since 1991 and up to 1997. In all the meetings of the Selection Committee during the aforesaid period, their cases were not found suitable for inclusion in the Select List. Time and again, many of their juniors superseded them in the matter of promotion to IAS. Although, their case was considered they could not be promoted to IAS due to their poor service records. Both of them were superseded by their juniors. While Shri Bhagirath Reang (Respondent No.5) was superseded by his juniors namely, Shri S.K. Das, Shri S.S. Datta, Shri B.K. Roy, Shri K.P. Goswami, Shri P. Debbarma & Shri D.K. Dey, Shri D.K. Chakaborty, Shri Harihar Das, Shri B.K. Chakraborty and Shri S.R. Paul in the years of 1994, 1995, 1996 & 1997, Shri Manik Lal Reang (Respondent No. 6) was superseded by his juniors namely, Shri S.S. Datta, Shri B.K. Roy, Shri K.P. Goswami, Shri P. Debbarma & Shri D.K. Dey, Shri D.K. Chakaborty, Shri Harihar Das, Shri B.K. Chakraborty and Shri S.R. Paul in the years of 1995, 1996 & 1997. They were so superseded because of their poor service records and annual confidential records.

4.4. That after the year 1997, there was no selection committee meeting to consider the cases of SCS officers, which naturally deprived the Applicant from being considered.

4.5. That the method of recruitment to the Indian Administrative Service is governed by the provisions of IAS (Recruitment) Rules, 1954, hereinafter referred to as "the 1954 Rules". Under Rule 4 of 1954 Rules, the recruitment to IAS is done by the following methods viz, (a) by a competitive examination (aa) by selection of persons from among the

Emergency Commissioned Officers and Short Service Commissioned Officers of the Armed Force of the Union (b) by promotion of member of State Civil Service and (c) by selection in special cases from amongst persons who hold in substantive capacity gazetted posts in connection with the affairs of the State and who are not members of State Civil Service.

4.6. That in the present case, the Applicant is concerned primarily with the recruitment to IAS by the method of promotion of substantive members of State Civil Service and by the method of selection in special cases from amongst persons who are not members of State Civil Service i.e. method of recruitment prescribed by Rule 4(b) and (c) of the 1954 rules. In the line of Rule 4(b) and (c), there is rule 8(i) and (2) of the 1954 Rules laying down broadly the modus operandi to be followed in respective cases. In this regard, Rule 8(1) provides for recruitment of IAS officers by promotion from amongst the substantive members of the State Civil Service while Rule 8(2) is an extension of Rule 4(c) and makes provision for appointment to IAS cadre under special circumstances from amongst persons of outstanding ability and merit serving in connection with the affairs of the State who is not the member of the State Civil Service.

4.7. That Rule 8(2) which is highly relevant in the present case, reads as follows :

"The central Government may, in special circumstances and on the recommendation of the State Government and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation

with the State Government and the Commission, from time to time, make recruit to the service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post on a substantive capacity."

4.8. That Rule 9 of the 1954 Rules contains the provisions in regard to fixation of quota of the posts to be filled up. Under Rule 9(i), the number of persons recruited under Rule 8 in any state shall not at any time exceed 33 1/3% of the number of those posts as are shown against items 1 and 2 of the cadre in relation to the State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. However, proviso to Rule 9(1) states that the number of persons recruited under Rule 8(2) shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection.

4.9. That it is therefore, seen that although total quota of the persons to be recruited to IAS under Rule 8 is 33 1/3% of the number of posts, but the number of persons recruited under sub-rule 3 of the Rule 8 cannot exceed 15% of the total number of posts. It is also pertinent to mention that the provision contained under Rule 8(2) is merely directory and not mandatory. Its compliance is exclusively to the discretion of Central and State Government. Moreover, such a discretion is to be exercised only in special circumstances, meaning thereby that the Special circumstances do not exist, it is not incumbent upon the Central and State

Governments to carry out recruitment to IAS in terms of Rule 8(2) of the 1954 Rules.

4.10. That the provision of Rule 8(2) of 1954 Rules though were in force since last 40 years, but the Government of Tripura, at no point of time, exercised the discretion vested in it for making recruitment to IAS in terms of rule 8(2). Both the Union of India and the UPSC were also parties to this non- exercise of discretion in the matter of Rule 8(2) of 1954 Rules.

4.11. That in exercise of the powers conferred by section 3 of the All India Services Act, 1951 and in pursuance of Sub- rule (2) of Rule 8 of the Indian Administrative Services (Recruitment) Rules, 1954 and in super session of the Indian Administrative Service (Appointment by Selection) Regulation, 1956, the Central Government in consultation with the State Government and the Union Public Service Commission made the Indian Administrative Service (Appointment by selection) Regulations, 1997. Regulation 4 of the said Regulations provides that the State Government shall consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who -

- (i) is of outstanding merit and ability and
- (ii) holds a Gazetted post in a substantive capacity and
- (iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration by the Committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year. Provided

that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee.

Provided also that the State Government shall not consider the case of a person who having been included in an earlier select list, has not been appointed by the central Government in accordance with the provisions of regulation 9 of these regulations.

4.12. That it is therefore, seen that to carry out the recruitment to IAS in terms of Rule 8(2) of 1954 Rules, the standard laid down in 1997 Regulation has to be followed. However, in the case of the State of Tripura, the State Government has not made any rational order/notification declaring the nature of posts equivalent to the post of Deputy Collector except for a partial and highly confusive order. It was therefore, arbitrary for the Government of Tripura to send necessary recommendation to the Central Government for the purpose of making recruitment to IAS in terms of Rule 8(2) of the 1954 Rules. To send such recommendations as prescribed under Rule 8(2) of the 1954 rules, the Government of Tripura was duty bound to fulfill the standards laid down in regulation 4 of 1997 Regulations which was not the case in the State of Tripura. In this connection, the clarifications were also sought for from the Government of Tripura and the answer to the queries raised therein were wholly unsatisfactory.

4.13. That having the ground realities as above, the Government of Tripura recommended the names of non SCS officers in 1998 and 2000 in

utter violation of the provisions of Rules and have been successful in getting the non SCS officers like Respondents no.7 & 8 appointed in IAS on 19.4.2000 & 28.5.2001 respectively. Orders appointing them are annexed as Annexures-2 & 3 respectively.

The Applicant craves leave of this Hon'ble Tribunal to refer to the materials pertaining to the clarification given by the Government of Tripura in regard to the queries made towards implementation of Regulation 4 of 1997 Regulations.

4.14. That it is worthy to note here that 1997 Regulations came into effect from 1.1.98. Prior to 1997 Regulation, the induction of non-SCS officers into IAS by the process of selection was governed by IAS (Appointment by Selection) Regulation, 1956 which was framed under the provision of Sub-Rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the same is governed by IAS (Appointment by promotion) Regulation, 1955 framed under provision of Sub-rule (i) of Rule 8 of IAS (Recruitment) Rules, 1954. It is therefore, seen that prior to 1997 Regulation governing the induction of non-SCS officers into IAS by the method of selection, the exercise or non-exercise of discretion by the State of Tripura in the matter of inducting non-SCS officer into IAS was under 1956 Regulation. With 1997 regulation coming into force with effect from 1.1.98, the Chapter relating to induction of non-SCS officers into IAS prior to 1.1.98, therefore, has come to an end and the same cannot be reopened for the purpose of fixation of quota or for calculating backlog vacancies to be filled up by non-SCS officers. Moreover, because of non-exercise of discretion by the Government of Tripura, those vacancies of IAS which

could not be filled up by non- SCS officers prior to 1.1.98, could not be taken into consideration while calculating the number of IAS vacancies to be filled up by non-SCS officers in terms of 1997 Regulation. This position of law, as stated herein, is highly relevant for the purpose of present case because the official Respondents, for the purpose of filling up existing vacancies of IAS by non- SCS officers in terms of 1997 Regulation, have considered even those vacancies of IAS prior to 1.1.98 which could have been filled up under 1956 Regulation by non-SCS officers under the stipulated quota of 15% but were not filled up by them because either the special circumstances did not exist or for certain other relevant consideration there was no exercise of discretion by the Government of Tripura.

4.15. That the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training vide letter No. F. 1415/58/96-AIS (I) dated 25.3.98 which was issued to the Government of Manipur and Tripura drew the attention of the State Governments in regard to making of recruitment to IAS in terms of Rule 8 (1) and (2) of 1954 Rules. In paragraph 3 of this letter, it was stated that Government of Manipur and Tripura were required to send proposals for preparation of 1998 select list in terms of the Amended Promotion and Selection regulations (meaning thereby 1997 Regulation), limiting the recruitment in 1998 in such a way that the total number of posts in the Joint cadre filled under Rule 8(1) and (2) of 1954 Rules, do not exceed 45 and 7 respectively. The letter went on to observe that it was seen that including the latest appointment notification dated 24.3.98 on date there were 5 officers in position holding the promotion post in the IAS Manipur

Tripura Joint cadre (+5) and the persons appointed by selection in the Joint cadre is 1 (-6) only. The letter stated that in order to phase out the surplus in the number of incumbents in the promotion posts and filling up of the deficit in the selection posts, further recruitment to IAS in Manipur-Tripura Joint cadre under Rule 8(1) and Rule 8(2) of the 1954 Rules during the three years may be regulated. Thereafter, the letter laid down the manner in which the further recruitment to IAS in Manipur-Tripura Joint Cadre was to be regulated. It specified that the one vacancy arising in 1998 was to be filled up by non-State Civil Service Officers. In regard to preparation of 1999 select list, it was stated that the recruitment may be carried out in such a manner that the total recruitment under Rule 8(1) and rule 8(2) of 1954 Rules are limited to 55 posts in all the total promotion post (i.e. posts filled up by promotion from State Civil Service) does not exceed 47 during 1998. In regard to preparation of select list during the year 2000, it was stated that the total recruitment under promotion and Selection Regulation should be limited to 60 and the total promotion post should not exceed 51.

Copy of the letter dated 25.3.98 is annexed as Annexure -4.

4.16. That the Government of Tripura quite arbitrarily proposed to the Government of India to allot the single vacancy occurring in the year 2001 for promotion to IAS for the non SCS officers vide their letter dated 23.5.2001. The Government of India also agreed to the proposal of the State Government quite arbitrarily and in violation of the provisions of Rules issued letter dated 29/30.5.2001 to the Government of Tripura communicating the decision to fill up the said lone vacancy by way of recruitment of non-SCS officers. By the said notification the vacancy

against promotion quota has been stated to be Nil. This is a very serious move to deprive the Applicant for life long. Mentionable that the Government of Tripura could not sponsor the required number of eligible candidates i.e., 5:1, in the year 2000 from amongst the non SCS officers for being considered. This is because of the fact that officers with outstanding ability & merit from amongst the non SCS officers were hardly available. Even then when the Government of Tripura has decided to earmark the single vacancy of 2001 for the non SCS officers it goes to prove that they are deliberately doing so in order to put their man of choice whatever is his caliber or whether or not there is the existence of special circumstances. A copy of the letter dated 29/30.5.2001 is annexed as Annexure-5.

4.17. Pursuant to the said letter dated 29/30.5.2001 of the Government of India, the Government of Tripura, by its letter dated 18.6.2001 addressed to the Principal Secretaries/ Commissioners/ Secretaries to the Government of Tripura, has taken steps to complete the process.

Copy of the letter dated 18.6.2001 is annexed as Annexure-6.

4.18. That it was apprehended that if the letter dated 25.3.98 (Annexure-4) was given effect to by way of filling up of the 1998 vacancy and the future vacancies by the non SCS officers on the basis of backlog vacancies which does not in fact exist, this would make deep inroads into the quota of SCS officers. As stated earlier, in 1998 there was only one existing vacancy in IAS and the same was proposed to be filled up by non-SCS officer. Moreover, out of the three vacancies in 1999 and the three

vacancies in the year 2000 which would arise in IAS, most of these vacancies were to be filled up by non-SCS officers irrespective of the fact whether or not special circumstances exist as envisaged under Rule 8(2) of 1954 Rules. Though under the scheme of the Rules the total three vacancies which would arise in 1999 should go to the SCS officers and the three vacancies which would arise in the year 2000, should go to the SCS officers as per Rules, the letter of the Government of India dated 25.3.1998 is contrary to this.

4.19. That the basic theme of letter dated 25.3.98 (**Annexure-4**) and letter dated 29/30.5.2001 (**Annexure-5**) revolves round earmarking the quota of 15% of total number of posts to be filled by non-SCS officers in terms of rule 8(2) of 1954 Rules. To fulfill the said purpose, it goes to the extent of eating into the quota of State Civil Service officers. Moreover, these categorically say that the only vacancies arising in 1998 & 2001 in IAS is to be filled up by non-SCS officers, overlooking the fact that under proviso to Rule 9, only 15% of the total number of vacancies arising in a given year can be filled up by non-SCS officer in terms of Rule 8(2) of 1954 Rules. Giving single posts of 1998 & 2001 to non SCS officers means allotting 100% quota for them in those years which is not at all permissible.

4.20. That the Government of Tripura in response to the **Annexure-4**- letter of the Government of India dated 25.3.98, issued the letter No. F. 32 (I) -GA/98 (L) dated 24.3.98 proposing to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection)

Regulation in accordance with direction of Ministry of Personnel, Government of India. Pursuant to this letter, all the Heads of the Departments, Government of Tripura were asked to confirm if there were suitable officers not belonging to State Civil Service but equivalent in rank pay and responsibility to the Deputy collector and above who merit consideration for such promotion to Indian Administrative Service.

Copy of the letter dated 24.8.98 is annexed as Annexure-7.

4.21. That from **Annexure -7**, letter dated 24.8.98, it is clear that the same was in response to the letter of the Government of India dated 25.3.98. And in pursuance of the aforesaid letter, the Government of Tripura moved towards the direction of filling up the only vacancy in IAS arising in the year 1998 through the non-SCS officers in terms of Rule 8(2) of the 1954 Rules.

4.22. That the letter of the Government of India dated 25.3.98 and the letter of Government of Tripura dated 24.8.98 which was issued in response to the earlier letter gave rise to the situation wherein the applicant & other similarly situated persons were faced with the threat of deprivation. The applicant was concerned over these developments because power under Rule 8(2) of 1954 Rules is discretionary which is meant to be used in a special circumstances. *Recruitment to IAS by method of promotion of State Civil Service officers under rule 8(1) of the 1954 Rules is the normal course of events whereas recourse to rule 8(2) of 1954 Rules for recruiting non- SCS officers to IAS is an exception which should only take place in a special circumstances.* Moreover, to carry out recruitment in terms of Rule 8(2) of 1954 Rules, the standard and

parameter laid down under Regulation 4 of 1997 Regulation is to be fulfilled which is not the case in the State of Tripura. As stated earlier, in the State of Tripura, no rational notification has been issued by the Government showing the nature of posts which are equal in status to Deputy Collector which is one of the requirements of considering the case of suitable non SCS officers for the purpose of recruitment to IAS. The notification dated 26.10.98 issued by the Government of Tripura which is annexed at Annexure-8, specifies the equivalent posts of Deputy Collectors as (i). Joint Director & above, (ii). Executive Engineer and above, and (iii). Chief Inspector of Factories & Boilers. Officers in other services having administrative experiences have been excluded. This is a partial order and there is no scope under the notification to make a holistic appreciation of the performance of the wide range of non SCS officers serving in the affairs of the state. In fact, this notification dated 26.10.98 of the Government of Tripura has put a stigma to the assessment of comparative skill and merit from amongst the large number of non SCS officers remaining outside its purview. This is also indicative that the Government have without going for fixing parameters for selecting the best from amongst the non SCS officers and also not setting the criteria for determining the "special Circumstances", quite whimsically and arbitrarily identified a fraction of the services and posts in non SCS in order to bring in particular persons of their choice into IAS. It seems that the finding of persons with "outstanding ability and merit" under "special circumstances" has nothing to do with the government. Moreover, what the Applicant found baffling is the fact that since last 40 years, discretion under Rule 8(2) of 1954 rules, was never exercised in favour of non-SCS officers, may be because, since last 40 years special circumstances as specified under Rule

8(2) never really existed for the Government of Tripura. Now in pursuance of the letter of the Government of India dated 25.3.98, the move was initiated to clear the so called backlog by calculating the number of vacancies that ought to have been filled up by non-SCS officers had recruitment in terms of Rule 8(2) of 1954 Rules been made. It is as a result of this exercise, that the only vacancy in the year 1998 in IAS is to be filled by non-SCS officer in terms of Rule 8(2) of 1954 Rules and even in the year 1989 and the year 2001, the State Civil Service officers are not getting their dues.

A copy of the Notification dated 26.10.98 is annexed as Annexure-8.

4.23. That being aggrieved by all these developments the Tripura Civil Service Officers' Association submitted the representation dated 12.5.98 to the Chief Secretary to the Government of Tripura. This representation of the Association was followed by a detailed Memorandum dated 28.5.98 to the Chief Minister of the State of Tripura. Lastly, General Secretary of the Association submitted the representation dated 3.6.98 to the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India. However, notwithstanding submissions of all these representations, no redressal of the grievances was made by the competent Authority. Instead, they filled up the lone vacancy of 1998 by non-SCS officer. Subsequently one of the three vacancies of 2000 was also given to the non SCS. All these were done in violation of the rules.

Copies of the representation dated 12.5.98, 18.5.98 and 3.6.98 as submitted by the TCS Officers' Association are annexed as Annexure-9A, 9B and 9C respectively.

4.24. That it is stated that the letter dated 25.3.98 issued by the Government of India and the letter dated 24.8.98 of the Government of Tripura have been issued in colourable exercise of power in as much as the purpose behind this exercise is to ensure the entry or certain blue-eyed persons close to influential people. By taking recourse to this method, the efforts are on to bring in rank outsiders who otherwise, neither have the ability and talent nor the eligibility to be an IAS officer within the fold of IAS.

4.25. That the expression "Special Circumstances" as used in rule 8(2) of 1954 rules was interpreted by the Hon'ble Supreme Court in one of its decisions as "the selection in special cases of the persons who have established their outstanding merits and ability while serving the State. Members of the State Civil Service who are not "outstanding" but are only "good" and "very good" are also eligible to be considered for appointment to IAS, but under Rule 8(2) of the Rules it is only an outstanding officer who is eligible. It is the outstanding merit and ability which makes him a "Special Case" in terms of Rule 8(2) of the Rules."

4.26. That while interpreting regulation 3 of 1956 Regulations along with Rule 8(2) of the 1954 Rules, the Hon'ble Supreme Court in its judgment held that the Central Government being the appointing authority of the IAS has to be finally satisfied about the existence of the "special circumstances" as a condition precedent for making special recruitment. According to the Hon'ble Supreme Court, the "special circumstances" are to be spelled from Rule 8(2) of the 1954 Rules read with Regulation 3 of the 1956 Regulations. According to the Hon'ble Court, Rule 8(2) which

talks of "outstanding ability and merit" when read with regulation 3(1) and 3(4-A) of the Regulations makes it clear that the "special circumstances" required it clear that the "special circumstances" required to be seen are (i) the existence of required years of continuous service in a Gazetted post under the State Government other than State Civil Officers -who are of outstanding merit and ability and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS. It is, therefore, clear that selection of non-SCS officer for appointment to the IAS by no stretch of imagination can be held to be mandatory. The provision in regard to the same is only directory and the same is dependent upon the various factors and circumstances. It is important that the special circumstances as required under the Rules and Regulations have to be seen by the State Government. The Central Government being the appointing authority have to finally approve the State Government's proposal which reach the Central Government through the process of selection. Hence the satisfaction in regard to special circumstances is not only of the State Government but the same extends to Central Government also. In the present case, all these relevant factors have given a go bye and the Respondents have adopted a mechanical approach towards carrying out a process of selection and filling up the existing vacancies in the IAS by non- SCS officers.

4.27. That the **Annexure-4** letter dated 25.3.98 goes contrary to the very scheme of 1954 Rules and the amended Regulation because by putting a ceiling on the number of posts to be filled up by promotion from State Civil Service officers in the years 1999 and 2001, it makes it mandatory that the remaining vacancies have to be filled up by the non-

SCS officers. It is as if that there is a mandatory requirement that the special circumstances must exist, come what may, so as to necessitate filling up of vacancies by non- SCS officers.

4.28 That the finalization of the select list of 1998 for the purpose of filling up the lone vacancy arising in that year has been done, and the post has also been filled up by a non-SCS officer by wrongly interpreting Rule 8(2) of 1954 Rules. The letter of the Government of India dated 25.3.98 and the letter of the Government of Tripura dated 24.8.98 are ex-facie in flagrant violation of the provisions of 1954 rules and amended Regulation, 1997. The appointment has been given in contravention of the very nature of the scheme of recruitment of non- SCS officer to IAS as specified under Rule 8(2) of 1954 Rules.

4.29. That situated thus, the Applicant along with other members of the Association had filed OA NO. 244/98 before this Hon'ble Tribunal and the same was disposed of by judgment and order dated 4.2.2000.

A copy of the said judgment and order dated 4.2.2000 is annexed as Annexure-10.

4.30. That in terms of the said judgment the Government of India, by its order dated 13.4.2001 disposed of the matter as directed by the Hon'ble Tribunal. Although as per the order of the Hon'ble Tribunal, the order was to be communicated to the parties concerned, it appears that the Government of Tripura by its letter dated 12.5.2001, communicated the decision of the Government of India to the Secretary of the Association only without endorsement of copy of the same to the other Applicants in

the said OA which includes the Applicant. It was only through the Secretary of the said Association that the Applicant could come to know about the said order dated 13.4.2001, recently.

A copy of the said order dated 13.4.2001 along with the letter dated 12.5.2001 is annexed as Annexure-11.

4.31. That a bare perusal of the order dated 13.4.2001 will reveal that the same is contrary to the findings recorded in the judgment dated 4.2.2001 referred to above. By the said order dated 13.4.2001, the Government of India have misinterpreted and misread the provisions of the Rules reference of which will be made at the time of hearing of the OA.

4.32. That adding insult to the injury the official Respondents committed irregularities even in the matter of promotion to IAS from amongst the SCS officers also. The Respondents No. 5 & 6 who were not found suitable for promotion to IAS on a number of occasions since 1991 started to be superseded by the juniors in a chain manner since 1994 onwards, because of their poor service records, suddenly could make to the grading against 1999 vacancies considered in December, 2000, so as to get promotion to IAS. It was prominently highlighted in newspapers that the ACRs of the said 2 Respondents were manipulated in order to giving them a birth in the IAS. Such manipulation was carried out in their ACRs for the years from 1997 to 1999 in such a way so that the said 2 Respondents could earn their bench mark at least as "Very Good". Be it stated here that the said 2 officers were regarded as not fit for promotion to IAS on the basis of poor ACRs and service records on many earlier occasions, but suddenly

could rise to the slot, due to manipulation. The illegalities committed towards their promotion was widely reported in various newspapers.

A copy each (extract) of the issue of daily newspaper "Trans Bengal News" dated 16.2.2001 and "Syandan Patrika" dated 16.2 2001 is annexed as Annexure-12 and Annexure-13. The Applicant craves leave of the Hon'ble Tribunal to produce the copies of the newspapers in original if and when required.

4.33. That the Government of Tripura maintained absolute silence in respect of the said newspaper reports and did not come up with contradiction / clarification and thereby accepted the allegations made.

4.34. That it is pertinent to make a mention that the selection committee meeting was held on 19.12.2001 and the appointments were made on 27.4.2001 and 28.5.2001(**Annexure-3**) taking unusually a long time. It is confidentially learnt that the Chairman, UPSC was not satisfied with the recommendations of the Committee .He held it up for this long period in an unprecedented manner and once again called for the ACRs of the officers in the consideration zone.

Copy of the appointment order dated 27.4.2001 is annexed as **Annexure-14**.

4.35. That from the aforesaid factual position in the matter of consideration for promotion to IAS from amongst the SCS officers, it is crystal clear that the Respondents No 5 & 6 have been illegally selected & promoted by manipulating the records who are otherwise considered to be

unfit for such promotion continuously over the years. As such, their such selection and appointment are liable to be set aside.

4.36. That as already stated above, there was no selection of SCS officers after 1997 i.e., during the years 1998, 1999 and 2000. Against the accumulated vacancies of those 3 years, appointment for SCS was made only in 2001 following the selection committee's meeting held on 19.12.2001. Instead of preparing select list annually after holding yearly meetings of the Selection Committee as necessitated by vacancies, the selection committee prepared the select list pertaining to all these years against the accumulated vacancies only in 2001 by way of mechanically fitting their names against the annual vacancies in a single order dated 25.4.2001. The select list for 1999 and 2000 together in a single order dated 25.4.2001. The select list for 1999 and 2000 was clubbed together in a single order dated 25.4.2001. It was during the gap of these 3 years, the ACRs of the Respondent No. 5 & 6 were manipulated to bring them back to the zone of selection, but for which as before they would not have been selected.

A copy of the order dated 25.4.2001 is annexed as Annexure-14A.

4.37. That when the selection committee sat on 19.12.2001, 6 vacancies were taken into consideration. There was one anticipated vacancy due to the retirement of Shri B.K. Chakraborty, IAS on 31.7.2001. The committee ought to have taken into consideration the said vacancy so that another deserving officer could be covered. Had that vacancy been taken into consideration as it was done by the Official Respondents in the year 1997 vide Notification dated 22.10.97. It is the bonafide & legitimate

expectation of the Applicant that he would have been selected & promoted against the said post. The 3 vacancies each during 1999 and 2000 were however, filled up by five SCS and one non-SCS officer namely, Shri L. Darlong.

A copy of the Notification dated 22.10.97 is annexed as Annexure-15.

4.38. That the selection of the Respondent No 7 as a non-SCS officer is highly illegal and irregular, in as much as the reasons assigned in the impugned order dated 13.4.2001 for inducting non-SCS officers to IAS are not at all sustainable more particularly in view of the findings recorded by this Hon'ble Tribunal in the aforesaid judgment. Accordingly the appointment of the Respondent No. 7 is liable to be set aside. It may be mentioned here that Respondent No.7 worked as subordinate to junior colleagues of the Applicant who are in SCS. It will bring about serious indiscipline in the administration if such persons are selected for IAS before promotion of the SCS officers under whom non SCS officers served.

4.39. That in the impugned order dated **13.4.2001** the Government of India accepted on principle that as per the provisions of the Selection Regulations, a conscious decision is required to be taken every year. As to whether the reasons assigned in the impugned order is the conscious decision is the subject matter of dispute in this proceeding to the appointment of non-SCS officers. As already stated above the persons assigned in the impugned order do not reflect any such conscious decision.

4.40. That the illegality committed in 1998 was further perpetuated by appointing the Respondent No.7, Shri L. Darlong by the notification dated 28.5.2001 in as much as no decision whatsoever, not to speak of a conscious decision justifying such appointment, was taken and / or reflected in the impugned order dated 13.4.2001 which was also conferred only to the 1998 appointment. Such action of the official Respondents without there being any special circumstances as contemplated under the Rules also frustrated the cause of the Applicant. Had the non-SCS officers not been considered and inducted to IAS in violation of the provisions of IAS (Appointment by Selection) Regulations, both amended and pre-amended, the Applicant would have been considered and promoted against one of the said posts. Thus on that occasion also, the Applicant was deprived of his promotion in a most arbitrary and illegal manner.

4.41 That for the year 2001 there is only one vacancy for promotion to IAS. It appears that the Government of India by its letter dated 29/30.5.2001 addressed to the Government of Tripura in reference to their letter dated 23.5.2001 communicated the decision to fill up the said lone vacancy by way of recruitment of non-SCS officers. By the said notification the vacancy against promotion quota was stated to be nil. As it has been stated earlier, pursuant to the said letter dated 29/30.5.2001, the Government of Tripura by its letter dated 18.6.2001, addressed to the Principal Secretaries/ Commissioners/ Secrétaries to the Government of Tripura has asked for confirmation regarding availability of suitable officers in their departments not belonging to State Civil Service, but holding positions equivalent in rank, pay and responsibility of Deputy collector and above etc. Neither in the letter dated 20.5.2001 nor in letter

dated 18.6.2001 the conscious decision as contemplated in the impugned order dated 13.4.2001 is reflected and no reason has been assigned as to why the lone vacancy should be filled up only through the non-SCS officers to the deprivation of the SCS officers.

4.42. Be it stated here that the Applicant has got an exceptionally brilliant service career and as such it is his legitimate expectation that if the said lone vacancy is filled up from amongst the SCS officers, he will get the selection and appointment against the said post. Now he is the only suitable officer who could stake claim against the said post and his seniority position also favours his case. The services rendered by the Applicant was highly appreciated by his superiors and he was although regarded as an efficient and reliable officer.

4.43 That in view of the aforesaid position, the aforesaid two letters dated 29.5.2001 and 18.6.2001 are not sustainable. Similarly the Government of Tripura letter dated 23.5.2001 as mentioned in the letter dated 29.5.2001 is also not sustainable. Upon setting aside of all these impugned letters, a suitable direction is required to be issued to consider the case of the Applicant and other eligible officers coming within the zone of consideration against the said lone vacancy for the year 2001.

4.44 That in view of the above, the Applicant made a grievance against the aforesaid move to fill up the lone vacancy by non-SCS officer, by submitting a representation on 10.7.2001. In the said representation the Applicant has highlighted as to how he is going to be deprived of his

promotion to IAS, if his case is not considered during the year 2001 against the said lone vacancy.

4.45. That it will be pertinent to mention here that the Applicant will be closing the statutory age limit during the year 2001 and had his name been considered and included in the select list for 2001, even if he is not appointed to IAS he will be considered for selection in the next year when 4 more clear vacancies will arise. Thus this is the last chance for the Applicant either to earn his promotion in 2001 itself or continue to be within the zone of consideration in 2002 pursuant to his selection in the year 2001. The Applicant is deprived of his service prospects stands to be adversely affected.

4.46. That the Applicant states that he has been deprived of his legitimate promotion to IAS, firstly, by not holding the regular selection for SCS officers as stated above during the period after 1997 although there were vacancies in 1998, 1999 & 2000, secondly, by not preparing year wise select list by way of holding yearly meeting of the selection committee in the presence of vacancies and by way of preparing belated select list, thirdly, by inducting non- SCS officers without there being any special circumstances as contemplated under the Rules, fourthly, by promoting ineligible and unsustainable officers of the SCS to IAS and lastly, by the impugned decisions he is again sought to be deprived of his last chance for promotion to IAS seeking to fill up the lone vacancy by a non-SCS officer.

4.47. That the aforesaid facts & circumstances have forced the Applicant to come under the protective hands of this Hon'ble Tribunal seeking redressal of his grievances, pursuant to the impugned letters dated 29.5.2001 and 18.6.2001. Now the process is on to send the list of non-SCS officers for the purpose of selection and the selection is being held shortly. Once the selection is held and the lone vacancy is filled up by the selected candidate, the issues raised in this OA will only be academic and the case of the Applicant would be frustrated and he will suffer irreparable loss and injury. Thus it is a fit case for passing an interim order as has been prayed for.

4.48. That the Applicant states that as per the provisions of IAS (Appointment by Selection) Regulations, 1955 the requirement for consideration of non-SCS officers to IAS is that the officer considered shall be of outstanding merit and ability and there must exist special circumstances for consideration of the case of the non-SCS officer. No such circumstances exist in the instant case and there is also no such officer who can be termed as of outstanding merit and ability, which is also reflected in the impugned letter dated 29.5.2001 and 18.6.2001 in as much as in the said 2 letters no such special circumstances has been indicated and apparently no suitable officer of outstanding merit and ability has been found out. In fact, having failed to collect the name of non SCS officers of outstanding ability within the stipulated period, the Government of Tripura had to issue reminder to the concerned Principal Secretaries, Commissioners & Secretaries by way of extending time up to July 31, 2001 for sending such names by the extended time limit.

A copy of the letter dated 24.7.2001 is annexed as Annexure-16.

4.49. By the impugned letter dated 18.6.2001 it has only been communicated that the lone vacancy of 2001 will be filled up by non-SCS officer and for that purpose only, confirmation about officers belonging to non-SCS was sought for. Apparently the selection will be carried out on the basis of the names forwarded by the Department without finding out first as to who is the officer of outstanding merit and ability requiring his induction to IAS and as to what are the special circumstances for doing so. It appears that the only ground to induct non-SCS officers is to clear the so called back-log, which cannot be the grounds as contemplated under the aforesaid Rules.

4.50. That the Applicant begs to submit that the Respondent Nos.1 to 4 deliberately violated the orders of the Hon'ble Tribunal in as much as they have not carried out the orders dated 25.2.99 which warranted them to process the selection for both the SCS & non SCS together against the 1998 vacancy and not to issue appointment until further orders. But the above mentioned Respondents completed the selection process for the non SCS only and also went for issuing appointment in respect of non SCS officer Respondent no. 7. The aforesaid Respondents also violated order dated 4.2.2000 of the Hon'ble CAT as at **Annexure-10** in appointing Respondent Nos.7 & 8 and also going for earmarking the lone vacancy of 2001 for the non SCS.

Copies of the said orders dated 25.2.99 in OA No.244 of 98 are annexed as **Annexures-17 & 18** respectively.

4.51 That the respondents even after admission of this OA issued a notification dated 10.6.02 by which the respondent No.9 Shri Hiralal Chakraborty, Executive Engineer, PWD, a non-State Civil Service Officer, has been promoted to IAS and was posted as Director, Social Welfare and Social Education, Tripura (IAS Cadre post). It is stated that the respondents have issued the aforementioned order dated 10.6.02 illegally and same is in direct violation of **annexure-10** judgment dated 4.2.00 passed by this Hon'ble Tribunal.

A copy of the said order dated 10.6.02 is annexed herewith and marked as **ANNEXURE-19**.

4.52 That the applicant begs to state that the selection as well as the appointment made promoting the respondent No.9 to IAS is pre-se illegal, arbitrary and same is violative of the **Annexure-10** judgement of the Hon'ble Tribunal. That apart, after the admission of this OA as per section 19(4) of Administrative Tribunal Act., 1985, there has been a complete bar of all proceedings in respect of the subject matter of this OA, but the respondent illegally selected and appointed the respondent No.9 to IAS without taking leave of this Hon'ble Tribunal. Till date the respondents have not intimated the Hon'ble Tribunal regarding the aforementioned development and this shows their non-application of mind and their ulterior motive. On this score alone, the action of the respondent including the selection as well as the appointment made to the respondent No.9 is required to be set aside and quashed.

4.53 That the applicant begs to state that the instant case is a case of hardship being faced by the applicant due to the illegal deprivation of his

legitimate promotion to IAS. It reveals from the facts and circumstances of the case that the respondents have acted contrary to the provision contained in the rules as well as the judgment of this Hon'ble Tribunal which have attained the finality. From the sequence of events of the case it is crystal clear that applicant has been made to suffer illegally even though there were adequate room to accommodate him granting him the relief. The respondent being a model employer ought to have extended the promotional avenues to the applicant even by invoking the rule-3 of All India Services (Condition of Service Residuary Matters) Rules, 1960 taking into consideration the un-foreseen and undue hardship being faced by the applicant.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the letter dated 25/3/98 of the Government of India and the letter issued in response to the same by the Government of Tripura dated 24/8/98 is in contravention of the very scheme of recruitment to the IAS by promotion of State Civil Service officers in terms of Rule 8 (1) and the scheme of recruitment to IAS by selection of non-SCS under Rule 8(2) of 1954 Rules. Recourse to Rule 8(2) can only be taken in special circumstances. Therefore, existence of special circumstances is a necessary pre/condition for making recruitment to IAS by the process of selection of non-SCS officer in terms of Rule 8(2) of 1954 Rules. Moreover, the 1997 Regulation has laid down the parameter and standard in regulation 4, which is to be followed while making such a selection. However, in the present case nothing has been done towards compliance of the fulfillment of standard laid down in regulation 4 of 1997 Regulations.

Moreover, no such special circumstances have been shown to exist warranting undertaking of an exercise as has been sought to be done in pursuance of the letter dated 25/3/98 and 24/8/98.

5.2 For that proviso to Rule 9(1) clearly lays down that the number of persons recruited under 8(2) shall not at any time exceed 15% of the total number of posts. The expression "Post" used in proviso to Rule 9(1) of 1954 Rules cannot be interpreted in isolation and has to be harmoniously construed with Rule 8(3)(a) of 1954 Rules. Moreover, the very scheme of 1954 Recruitment Rules has to be borne in mind while appreciating the meaning of the expression "shall not at any time exceed 15% of the total number of posts." Moreover, the calculation of the posts as referred to above has to be in the manner laid down in 9(3) of 1954 Rules for filling up by such promotion and selection. Bare perusal of the letter dated 25/3/98 shows that the expression "shall not at any time exceed 15% of total number of posts of IAS filled by the method of promotion and selection throughout the period. This can never be the interpretation of proviso to Rule 9(i). It is submitted that in effect expressed "post" is to be construed as vacancy and only 15% of the total number of vacancies in IAS arising in a given year can be filled up by taking recourse to Rule 8(2) of 1954 Rules. Moreover, even such a thing can only happen, when special circumstances are shown to exist. Since the letter dated 25/3/98 wrongly interprets the proviso to Rule 9(1), the same is illegal and as such liable to be set aside.

5.3 For that the provision of induction non/SCS officers into AIS (Rule 8(2) of the IAS (recruitment) Rules, 1954) is a discretionary power

provided to the State Govt. from the very inception of the framing of Rules. Such induction by selection may be considered only on special circumstances against specific recommendation of the State Government concerned. While induction of officers into IAS, against vacancy arose from time to time from the very inception of the Rules, the concerned State Govt. had exercise their discretion provided under Rule 8(2) which were concurred jointly by Ministry of Personnel and UPSC from time to time. Since the discretion during the relevant point of time arising out of vacancy-vacancies had been exercised, these cases cannot be reopened computed and carried forward for calculating percentage of quota of induction of non-SCS officers unless new vacancies are created due to superannuation, resignation, removal, dismissal, increase of cadre strength etc. In short, this provision relating to appointment by selection may be applied prospectively against vacancy, which is available now and in future.

5.4 For that provision of Rule 8(2) of 1954 Rules has been in force since last 40 years, but the Government of Tripura never exercised its discretion as neither the special circumstances envisaged in Rule 8(2) existed nor possibly non-SCS officer of outstanding merit was available for selection. Since recourse was never taken to Rule 8(2) of 1954 Rules till 31/12/97, no backlog can be calculated in respect of exercise or non-exercise of discretion under Rule 8(2). If at all such a recourse is to be taken, it can only be prospectively and not retrospectively, therefore, from 1998 onwards only 15% of the total number of vacancies arisen can be filled by non-SCS officer in terms of Rule 8(2) of 1954 Rules. Since the letter dated 25/3/98 of the Government of India and of the Government of

Tripura dated 24/8/98 run counter to what is stated above, the same are liable to be set aside and quashed.

5.5 For that since only one vacancy is arising in 2000 the same cannot be filled by non-SCS officer by taking recourse to Rule 8(2) inasmuch as only 15% of the total number of vacancies arisen in a given year can be filled by non-SCS officer in terms of Rule 8(2) and the Government of India, Ministry of Home Affairs letter No.1/2/62-AIS(1) dated 26.9... has clearly held that with reference to proviso to Rule 9(1), it has been decided that since the number of persons promoted under Rule 8(2) is not exceed to 15% of the total number of posts available for promotion in a State Cadre, any fraction even it is more than one-half should be ignored. In the present case, since only one vacancy has arisen in the year 2001, the 155 of one is less than one-sixth and as such the aforesaid one vacancy cannot be filled in terms of Rule 8(2) of 1954 Rules.

5.6 For that the provision of Rule 8(2) for appointment of non-SCS officers by selection need be read and interpreted according to the proviso of Rule 9(1), Rule 8(3) and government of India's decision below proviso of Rule 9(1). Under this, it would be clear that quota of induction of non-SCS officer in particular year should be computed on the basis of vacancy/vacancies subject to ceiling limit of 15% of the vacancies arising in a given year.

5.7 For that the original provision of the Rule (Rule 8(2) for induction of officers into IAS by appointment and selection is discretionary and not at all obligatory. This Rule and its provisions have

remained unchanged. In fact, the amended Regulation is a corollary of the said provision of the parent rules. So under all reasoning the provision cannot be interpreted as mandatory or obligatory.

5.8 For that provision for induction of non-SCS officers into IAS up to the ceiling percentage of 15% is a discretionary power provided to the State Government to consider induction of non-SCS officers into IAS. The word "Consider" cannot be interpreted as mandatory or obligatory for filling up of the vacancies up to the ceiling limit percentage. The subsequent details of the Regulation support this interpretation. Hence, the unilateral decision of the Ministry of Personnel for identification of posts, computing total cadre strength, ignoring the chapter of officers already inducted is discretionary, unjust and as such not tenable in the eye of law.

5.9 For that in the 1997 Regulation, it is clearly mentioned that an officer who has completed not less than 8 years of continuous service in the State Government holding Gazetted substantive post which has been declared equivalent to the post of Deputy Collector in the State Civil Service may be considered for sending proposal, but in the letter State Government conspicuously distorted the exact provision of the Regulation by using words "equivalent" in the rank, pay and responsibility to Deputy Collector and above". This distortion is deliberate and impermissible and does not conform with the requirement of Regulation 4 of the 1997 Regulation. As such, the letter of the Government of Tripura dated 24/8/98 is illegal and liable to be set aside.

5.10 For that the letter of the Government of India dated 25/3/98 and of the Government of Tripura 24/8/98 have been issued in colorable exercise of power and the sole purpose behind this exercise is to benefit the chosen few of the higher echelons of administration. By holding recourse to illegal and arbitrary action in violation of the provisions of the Rules, as is the case here, the efforts are being made to bring in rank outsiders in the fold of IAS.

5.11 For that the letter of the Government of India dated 25/3/98 by putting a ceiling on number of IAS posts to be filled up by State Civil Service Officers makes it mandatory that the remaining vacancies in IAS posts have to be filled up by non-SCS officer. The letter dated 25/3/98 therefore, makes the existence of special circumstances for all time to come a compulsory event, which must take place every year. The special circumstances therefore, ceases to become the special circumstances and instead acquired the form of a necessary event which has to take place every year because the letter of the Government of India dated 25/3/98 desires it. The letter dated 25/3/98, therefore, contravenes the very scheme of 1954 Rules and violates Article 14 and 16 of the Constitution of India.

5.12 For that non holding of selection committee meeting every year has deprived the applicant of an opportunity of hearing his case considered for promotion to IAS.

5.13 For that non holding of separate selection committee meeting for the vacancies available in the years 1998, 1999 and 2000 and non-preparation of separate select list for each of the said years, highly

prejudiced the case of the applicant, but for which he would have been promoted to IAS against a vacancy in either of the said years.

5.14 For that, but for the clubbing of vacancies available for the period 1998-2000 and the manipulation effected in the ACRs of the Respondents No.5 & 6, they would not have been promoted to IAS.

5.15 For that non taking into consideration the anticipated vacancy due to retirement of Shri B.K. Chakraborty on 31/7/2001 by the selection committee which sat on 19/12/2001 has deprived the applicant an opportunity of promotion to IAS.

5.16 For that the Applicant has been deprived of his legitimate promotion to IAS, firstly, by not holding the regular selection for SCS officers as stated above during the period after 1997 although there were vacancies in 1998, 1999 and 2000, secondly, by not preparing year wise select list by way of holding yearly meeting of the selection committee in the presence of vacancies and by way of preparing belated select list, thirdly, by inducting non-SCS officers without there being any special circumstances as contemplated under the Rules, fourthly, by promoting ineligible and unsustainable officers of the SCS to IAS and lastly, by the impugned decisions he is again sought to be deprived of his last chance for promotion to IAS seeking to fill up the lone vacancy by a non-SCS officer.

5.17 For that the findings recorded by this Hon'ble Tribunal in its judgment and order dated 4/2/2000 passed in OA 244/98 has been totally

ignored by the Respondents while disposing the matter vide its order dated 13/4/2001.

5.18 For that in any view of the matter impugned actions on the part of the official respondents is not sustainable and liable to be set aside.

5.19 For that impugned notification dated 10.6.02 and the order mentioned therein dated 31.5.02 are illegal, arbitrary and violative of **Annexure-10** judgment and order passed by this Hon'ble Tribunal and hence same are liable to be set aside and quashed.

5.20 For that the respondents ought not to have issued the impugned notifications dated 10.6.02 and 31.5.02 during the pendency of this OA in view of section 19(4) of Administrative Tribunal Act, 1985. On this score alone impugned orders are not sustainable and liable to be set aside and quashed.

5.21 For that respondents before issuing impugned orders ought to have taken into consideration the case of the applicant invoking All India Services (Condition of Service Residuary Matters) Rules, 1960 as the applicant admittedly suffering from un-due hardship. Hence appropriate direction need be issued to the respondents for invoking aforementioned Rule in case of present applicant.

6. DETAILS OF REMADIES EXHUSTED

That the Applicant states that he has no other alternative remedy except by way of approaching this Hon'ble Tribunal.

7. MATTERS PREVIOUSLY FILED OR PENDING BEFORE ANY COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is pending before any other Court, Authority or any other Bench of the Hon'ble Tribunal. The Applicant also states that on the subject matter of this application another OA was earlier registered bearing No.244 Of 1998 before this Hon'ble Bench which was disposed of vide Judgment & order dated 4.2.2000 with specific directions upon the Respondents No. 1 to 4 which has not been taken care of by them.

8. RELIEFS SOUGHT FOR:

8.1. Quash and set aside the letter No.F.14015/28/2001-AIS(I) dated 29/30.5.2001 of the Government of India (Annexure-5)

8.2. Quash and set aside of letter No.F.2(11)-GA(P&T)/2001 dated 18.6.2001 (Annexure-6) and its reminder dated 24.7.2001 (Annexure-16) issued by the Government of Tripura

8.3. Quash and set aside of Notification No.14015/16/98-AIS (I) dated 19.4.2000 of the Government of India appointing Shri A. Guha to IAS illegally (Annexure-2)

8.4. Quash and set aside Notification No. 14015/20/2000-AIS(I) dated 28.5.2001 appointing Shri L. Darlong illegally.

8.5. Quash and set aside the appointment of Shri B.Reang and Shri M.L.Reang appearing in Notification No. 14025/20/2000-AIS(I) dated 27.4.2001 of the Government of India (**Annexure-14**).

8.6. Treat letter No.F.14015/16/98-AIS(I) dated 13.4.2000 (**Annexure-11**) as violation of Hon'ble Tribunal's order dated 4.2.2000(**Annexure-10**).

8.7. To direct holding separate review selection committee meetings for vacancies arising in 1998,1999 and 2000.

8.7(A) To set aside and quash **Annexure-19** notification dated 10.6.02 and notification dated 31.5.02.

8.7(B) To set aside and quash the selection and appointment made to the respondent No.9 along with the consequential notifications dated 10.6.02 and 31.5.02.

8.7(C) To direct the respondents to consider the case of the applicant for promotion to IAS with retrospective effect with all consequential service benefits invoking the Rules guiding the field, including Rule-3 of All India Services (Condition of Service Residuary Matters) Rule, 1960.

8.8. Pass such other order/ orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.

9. INTERIM ORDER PRAYED FOR:

In the facts and circumstances of the case, the Applicant prays that operation and effect of letters of the Government of India dated, 13.4.2000 & 29/30.5.2001 and of the Government of Tripura dated 23.5.2001 & 18.6.2001 be kept in abeyance.

10.

Particulars of IPO

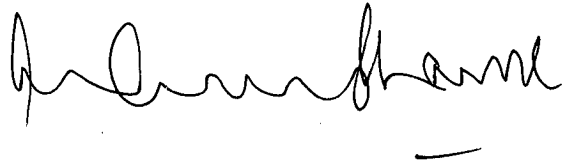
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|-------|------------|
| (i) | IPO No. |
| (ii) | Date |
| (iii) | Payable at |

Verification

VERIFICATION

I Shri Ajit K. Bhaumik, Son of Late Hridaya Chandra Bhaumik, aged about 55 Years, presently working as Director, Small Savings, Group Insurance & Institutional Finance, Government of Tripura, Agartala, do hereby very that the contents in paragraphs 1,2,5,4.2,4.3,4.6,4.8 to 4.10,4.12 to 4.14,4.16 to 4.36,4.37,4.38,4.39,4.40 to 4.53 and 5 to 10 are true to my knowledge, and those made in paragraphs 4.1,4.5,4.7,4.11,4.15 are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 4th day of July, 2002.



CONFIDENTIAL
SPEED POST

NO. F.2(12)-GA/96
GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

Dated, Agartala, the 20th December, 1996.

To
The Secretary,
Union Public Service Commission
Dholpur House, Shahjahan Road,
New Delhi - 110011.

Subject :- Selection Committee Meeting for selection of State Civil Services Officers for promotion to IAS (MT).

Sir,

I am directed to refer to your D.O. letter No.F.4/11/96-AIS dated 23-09-1996 on the subject noted above and to furnish the following information / documents in respect of State Civil Service Officers of Tripura part who are eligible for consideration for promotion to IAS as on 01-04-1996.

- i) Seniority list giving particulars of 17 (seventeen) S.C.S. Officers eligible for promotion to IAS as on 01-04-1996 (Annexure - I).
- ii) C.R. Dossiers of 17 (seventeen) eligible S.C.S. Officers whose cases are to be considered.
- iii) The number of senior duty post borne in Tripura part of Joint IAS (MT) Cadre is 55 vide item - I of Cadre Schedule of Joint IAS (MT) Cadre and the number of senior duty post shown against item - II of Tripura part is 22 (twentytwo).
- iv) There is one substantive vacancy and one anticipated vacancy due to retirement of Shri S.S. Dutta, IAS (MT : 90) will be available w.e.f. 1st November, 1996 in the Tripura part of Joint IAS(MT) cadre.
- v) There are 2 (two) L.C. and 3 (three) S.T. candidates among the eligible 17 (seventeen) S.C.S. Officers.

Contd...Page/2...

Attended
u/s
Adw

(2)

vi) The Integrity Certificate in respect of 17 (Seventeen) eligible S.C.S Officers is enclosed vide Annexure - II & III.

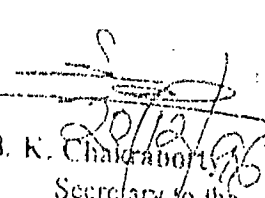
vii) Certificate in respect of adverse entries in the C.R of the eligible Officers.

2. It is, therefore, requested that the Selection Committee Meeting for selection of S.C.S Officers for preparation of Select List for promotion to IAS may kindly be conveyed accordingly at an early date.

3. The receipt of the above documents may kindly be acknowledged.

Yours faithfully,

Encls :- As stated.


(B. K. Chakraborty)
Secretary to the
Government of Tripura.

Attested
W.Das
Adv.

ANNEXURE - I

**PARTICULARS OF STATE CIVIL SERVICE OFFICERS ELIGIBLE FOR INCLUSION IN THE SELECT LIST
FOR PROMOTION TO THE IAS FOR 1996 STATE OF TRIPURA.**

Sl. No	Name of Officers	Date of birth	Whether held substantive appointment in the S. C. S. on 01-04-1996.	Date of confirmation in State Civil Service	Date of continuous officiation as Deputy Collector or equivalent post.	Date of Continuous officiation in the IAS cadre post.	Remarks
1	2	3	4	5	6	7	8
1.	Shri S. K. Adhikari	04-02-1942	Yes confirmed in T.C.S.	09-06-1978	09-06-1976		
2	Shri M. K. Deb Barma	15-01-1943	-do-	08-06-1978	08-06-1976		
3.	Shri S.K. Sarkar	02-01-1945	-do-	09-06-1978	09-06-1976		
4.	Shri R.C. Choudhury	01-10-1948	-do-	24-07-1979	24-07-1977		
5.	Shri Bagirath Reang	01-08-1947	-do-	11-06-1978	11-06-1976		
6.	Shri Manik Lal Reang	04-11-1946	-do-	11-06-1978	11-06-1976		
7.	Shri Harihar Das	15-07-1941	-do-	07-07-1979	07-07-1977		
8.	Shri B.K. Chakraborty	03-05-1940	-do-	28-08-1981	01-10-1979		
9.	Shri P.K. Bhattacharjee	01-09-1940	-do-	28-08-1981	01-10-1979		W.E.F. 07-10-94 for 3 (three) months.
10.	Shri S. R. Paul	13-04-1941	-do-	28-08-1981	01-10-1979		
11.	Shri M. C. Dutta	28-02-1947	-do-	28-08-1981	01-10-1979		
12.	Shri S. K. Choudhury	13-07-1950	-do-	28-08-1981	01-10-1979		
13.	Shri R. K. Dey Choudhury	01-11-1947	-do-	28-08-1981	01-10-1979		
14.	Shri Ajit Kumar Bhowmik	20-06-1947	-do-	28-08-1981	01-10-1979		
15.	Shri Swapan Saha	16-11-1951	-do-	28-08-1981	01-10-1979		
16.	Shri M. S. Bhattacharjee	12-03-1949	-do-	28-08-1981	01-10-1979		
17.	Shri Tapan Bhattacharjee	16-05-1945	-do-	28-08-1981	01-10-1979		

Attested
W.D. as
Adm.

NO. 3344-15/0

Annexure-2

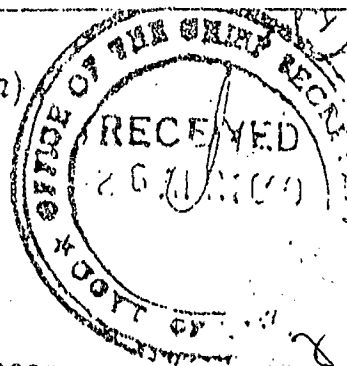
(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No. 14015/16/98-AIS (I)

Government of India

Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)New Delhi, the 19th April, 2000

NOTIFICATION



Approved
by
Nurses
Ghar

In exercise of the powers conferred by sub-rule (2) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 8 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is pleased to appoint Shri Arabinda Guha, a member of the Non-State Civil Service of the State of Tripura to the Indian Administrative Service on probation with immediate effect until further orders and to allocate him to the Joint Cadre of Manipur-Tripura under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

(R. VAIDYANATHAN)

Under Secretary to the Government of India

To The Manager
Government of India Press
Faridabad (Haryana)

No. F.14015/16/98-AIS(I)

New Delhi, the 19th April, 2000

1. The Chief Secretary, Government of Tripura, AGARTALA, with a spare copy for onward transmission to the officer concerned. Officers below the age of 50 years may be advised to exercise their option for membership of CGEIS or SIS failing which they will be treated as deemed to have opted for CGEIS
2. The Chief Secretary, Government of Manipur, IMPHAL.
3. The Accountant General, Tripura, AGARTALA.
4. The Secretary, Union Public Service Commission, Dholpur House, New Delhi
5. E.O. to the Government of India, New Delhi.

(R. VAIDYANATHAN)

Under Secretary to the Government of India

INTERNAL DISTRIBUTION: RO(CM)/TRG.DIV/SO(AIS.II)/AVD.I/10 Spare copies

9/10

 Shri Arabinda Guha

Attested
 by
 Adv.

64
Annexure-3

46-
NO.14015/20/2000-AIS(I)
Government of India
Ministry of Personnel, Public Grievances & Pensions,
(Department of Personnel & Training,
.....

New Delhi, the 28th May, 2001.

NOTIFICATION

In exercise of the powers conferred by sub-rule (2) of Rule-3 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 8 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is pleased to appoint Shri L. Darlong, a member of the Non-State Civil Service of Tripura to the Indian Administrative Service on probation with immediate effect until further orders and to allocate him to the Manipur-Tripura Joint Cadre under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954,

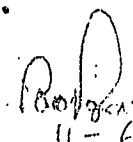
Sd/-
(R.Vaidyanathan)
Under Secretary to the Government of India.

No.F.2(8)-GA(P&T)/2000
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (P & T) DEPARTMENT

Dated, Agartala, the 11th June, 2001.

Copy to :-

1. Chief Secretary, Tripura/Manipur, Agartala/Imphal.
2. Principal Secretary to Governor, Tripura, Rajbhawan, Agartala.
3. Secretary to Chief Minister, Tripura.
4. Offices of all Ministers, Tripura, Agartala.
5. All Principal Secretaries/Commissioners/Secretaries, Tripura.
6. Shri R. Vaidyanathan, Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, North Block, New Delhi - 110001.
7. Accountant General (A & E), Tripura, Agartala.
8. Finance (Estt.Br.)/Industries & Commerce Deptt., Tripura.
9. Director, Industries & Commerce, Tripura, Agartala.
10. Manager, Govt. Press, Agartala for publication.
11. Confidential Section, O/O the Chief Secretary, Tripura.
12. Shri L. Darlong, Addl. Director, Industries & Commerce, Tripura.
13. Treasury Officer, Agartala T.O.No.I & II.
14. Personal file/Guard file.


11-6-2001
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.
.....

Attested
Wages
Adv

MOST IMMEDIATE

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

No. F.14015/58/96-AIS(I)

Dated, the 23th March, 1998

To (1) The Chief Secretary
Government of Manipur
Department of Personnel & A.R.
(Personnel Division)
IMPHAL.

[Kind Attn. : Shri Kh. Raghumani Singh, Deputy Secretary (DP)]

(2) The Chief Secretary
Government of Tripura
Appointment & Services Department
AGARTALA.

[Kind Attn. : Shri S. C. Deb, Under Secretary]

Ref :

- (1) Government of Manipur letter No. 3/21/95-IAS/DP(Pt.) dated 26th February, 1998.
- (2) Government of Tripura letter No. 2(12)-GA/96 dated 10th March, 1998.
- (3) Government of Manipur letter No. 3/21/95-IAS/DP dated 26th February, 1998.

Subject : Selection Committee Meeting for promotion of officers to the IAS Cadre of Manipur-Tripura parts of the Manipur-Tripura Joint Cadre during 1998.

Sir,

I am directed to refer to the proposals for appointment of the State Civil Service officers of Manipur and Tripura included in the 1996-97 Select List for promotion to IAS from the State Governments concerned in the references cited and dated 24.03.1998 issued in acceptance of the proposals of the State Government concerned.

Contd..Page/2

Attested
Adv.

2. It is observed that number of persons who are appointed to the IAS by promotion and selection under Rules 8(1) and 8(2) of the Recruitment Rules from State Civil Service and Non-SCS officers, in position, in respect of the Manipur and Tripura segments of the Joint Cadre, after the issue of the GOI India Notifications dated 24.03.1998, are 25 and 1, 25 and NIL respectively. In terms of para (L) of the GOI Circular dated 11.02.1998, the Govt. of Tripura has to take a decision on the status of the provisionally included officer at Sl.No. 1 of the 1997 Select List in consultation with the UPSC as to whether or not he has to be made unconditional and recommended for appointment to the IAS, on or before 26.03.1998.

3. Thereafter, Governments of Manipur and Tripura were required to send proposals for preparation of the 1998 Select List in terms of the amended Promotion and Selection Regulations, limiting the recruitment in 1998 such that the total number of posts in the Joint Cadre filled under Sub-Rules (1) and (2) of Rule 8 of the IAS (Recruitment) Rules, do not exceed 45 and 7 respectively. However, it is seen that including latest appointment notification dated 24.03.1998, on date, there are 50 officers in position holding the "promotion" posts in the IAS Manipur-Tripura Joint Cadre (plus 5) and the persons appointed by selection in the Joint Cadre is 1 (minus 6) only. In order to phase out the surplus in the number of incumbents in the promotion posts and fill the deficit in the selection posts, it is suggested that further recruitment to IAS Manipur-Tripura Joint Cadre under Rules 8(1) and 8(2) of the IAS (Recruitment) Rules, 1954, during the three years may be regulated as under :

(a) Preparation of 1998 Select List : In view of the fact, the number of persons recruited under Rule 8(1) of the recruitment Rules on date is 50, there may be no recruitment by promotion from the SCS during 1998 and recruitment by Selection may be considered for one post during 1998.

Contd..Page/3

Attended
USAS
Adv

- 49 -

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Page/3

(b) Preparation of 1999 Select List : The Joint Cadre Authority for Manipur-Tripura may process recruitment to the IAS under the amended Promotion Regulations and Selection Regulations in a Combination such that the total recruitment under the aforesaid promotion and Selection Regulations are limited to 55 in all and the total "Promotion" posts [i.e. posts filled by promotion from MCS-TCS] does not exceed 47 during 1998.

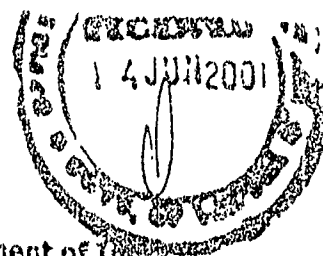
(c) Preparation of 2000 Select List : Policy as in (a) and (b) above may be adopted by the JCA Manipur-Tripura for recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8 of the Recruitment Rules during 2000 limiting the total recruitment under the promotion and selection Regulations to 60 and the total promotion posts does not exceed 31.

4. Kindly communicate your comments / concurrence on the proposal as above, those at para 3(a) in particular within 15 days so that the Union Public Service Commission may be communicated about the decision of the Central Government in the matter.

Sd/- (N. SIVASAILAM)
Deputy Secretary to the Govt. of India

Attested
USAS,
Adm.

No. 4683/28/01
15/6



Annexure-5

MOST IMMEDIATE

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

No.E.14015/28/2001-AIS(L)

Dated the 29th May, 2001

31 MAY 2001

TO ✓ The Chief Secretary
Government of Tripura
General Admn. (P&T) Department
AGARTALA

[Kind Attention: Shri A Jindal, Joint Secretary]

Subject: IAS Manipur-Tripura Joint Cadre (Tripura Segment) -- Determination of vacancies for recruitment by promotion / selection during 2001- regarding.

Sir,

I am directed to refer to State Government Letter No. F.2(4)-GA(P&T)/2000(L-1), dated 23.05.2001 on the above subject and to say as follows.

2. It is observed that there is one existing vacancy in the promotion quota of the Tripura Segment of the IAS Joint Cadre that may be filled from among the SCS/ Non-SCS officers in the State during the year and the State Govt. has proposed in terms of Rule 8(2) of the IAS (Recruitment) Rules, 1954 and subject to the limits prescribed in proviso to Rule 9(1) of the said rules, that the existing vacancy may be filled from among Non-SCS officers in the State of Tripura.

3. In the circumstances in terms of the provisions contained in Rule 4(2)(b) of the IAS (Recruitment) Rules, 1954 read with Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997, it has been decided that recruitment under Rule 8(2) of the Recruitment Rules may be considered upto one post in the Tripura Segment of the IAS Joint Cadre during 2001. In view of this, that number of posts against which recruitment by promotion may be made under Rule 8(1) of the Recruitment Rules during the year shall be NIL. It is requested that further necessary action in terms of the relevant provisions in the Selection Regulations may kindly be taken at an early date.

DO (B:G/P)

Most urgent. Pl. we need to ask Departments to sponsor names.

Yours faithfully,

R. Vaidyanathan

(R. VAIDYANATHAN)

Under Secretary to the Government of India

Ag. 15/6/01

T. Bhowmik

Attested
u/s
Adv.

Annexure-6

CONFIDENTIAL

NO. F. 2(17)-GA(127)/2001
GOVERNMENT OF TRIPURA
CENTRAL ADMINISTRATION (P & T) DEPARTMENT

Dated, Imphal, the 18th June, 2001.

To
The Principal Secretary/
Commissioner/Secretary,
Government of Tripura,

Department, Imphal.

Subject :- Selection of Non-SGS Officers to IAS - Recommending
Name.

Sir,

I am directed to state that it has been decided by Govt. to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment) Regulations.

2. The relevant provisions of the rules/regulations allow for promotion of a Non-State Civil Service Officers of outstanding merit and ability to IAS subject to fulfillment of certain criteria.

3. I would, therefore, request you to kindly confirm if there are any suitable officers in your Department not belonging to State Civil Service but holding positions equivalent in rank, pay and responsibility of Deputy Collector and above (i.e. Joint Director and above or Executive Engineer & above, who has outstanding merit consideration for promotion to IAS and who are below 54 years as on 01-01-2001. Name of at least one candidate (but not exceeding five) may be sent to this Department alongwith the upto-date ACRs and Biodata in enclosed proforma. A brief statement of the Secretary, duly signed, recording the reasons for suggesting the name of a candidate may also be enclosed. It may also be confirmed if the officer was ever charge-sheeted in his career. If no, a brief account of the same may be included mentioning the punishment awarded, if at all. In case the officer was never charge-sheeted, a certificate confirming the same may be enclosed with the proposal.

4. The proposal with relevant particulars may kindly be sent to this Department latest by the 15th July, 2001 positively.

Encls :-As stated.

Yours faithfully,

(Mrs B. Debbarma)
Under Secretary to the
Government of Tripura

Attested
was
Adv.

U I U U A I A

1. Name of Officer : -
- (a) Father's Name : -
- (b) Official address : -
- (c) Residential address : -
2. Date of Birth : -
3. Present Designation : -
4. Pay scale : -
5. Posts occupied in last eight years : -

Sl.No.	Name of Posts	Period	Gratified	Class I
			Year or Mo	Class II

6. Educational Qualification (Higher Secondary & above)

Sl.No.	Institution	Degree received	% scored	Remarks
--------	-------------	-----------------	----------	---------

7. Any other achievements (Academic or Professional) worthy of special mention

Attested
u.s.s.
Adv.

NO.F.32(1)-GA/98(L)
GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

Annexure-7

Dated, Agartala, the August 24, 1998.

✓ To
The Pr. Secretary to the Govt. of Tripura,
RD/Panchayat/Agric etc. Departments,
Civil Secretariat, Agartala.

✓ in 1998

Subject : Selection of Non-SCS Officers to IAS- recommending names.

Sir,

It is proposed to fill up one vacancy in IAS by Selection regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulations in accordance with direction of Ministry of Personnel, Government of India, in their letter dated 25th March, 1998.

2. The relevant provisions of the Rules/Regulations allow for promotion of a non-State Civil Service Officers of **outstanding** merit and ability to IAS subject to fulfillment of **certain** criteria. A copy of the said Regulation is appended herewith for your kind perusal.
3. You are requested to confirm if there are any suitable Officers in your Department not belonging to State Civil Service but equivalent in rank, pay and responsibility to Deputy Collector and above, who merit consideration for such promotion to Indian Administrative Service. If so, name of at least one candidate (but not exceeding five) may be sent to the undersigned along with ACRs for last five years and bio-data in the enclosed pro-forma. A brief statement of the Secretary, duly signed, recording the reason for suggesting the name of a candidate may also be enclosed. It may also be confirmed if the Officer was ever charge-sheeted in his career and if so, a brief account of the same may be included mentioning if any punishment was awarded or not. In case the officer was never charge-sheeted, a certificate confirming the same may be sent.
4. The proposal with relevant particulars may be sent to the undersigned by 4.9.98 positively.

Yours faithfully,

(M. Kumar)

Joint Secretary (A & S)

Attested
as per
Adm.

BIO-DATA

1. NAME OF THE OFFICER :

a) FATHER'S NAME:

b) OFFICIAL ADDRESS:

c) RESIDENTIAL ADDRESS:

2. PRESENT DESIGNATION :

3. PAY SCALE :

4. POSTS OCCUPIED IN LAST EIGHT YEARS

SL NO	NAME OF POSTS	PERIOD	GAZETTED (yes or no)	CLASS I or II

5. EDUCATIONAL QUALIFICATIONS (HIGHER SECONDARY & ABOVE) :

SL NO	INSTITUTION	DEGREE RECEIVED	% SCORED	REMARKS

6. ANY OTHER ACHIEVEMENTS (ACADEMIC OR PROFESSIONAL) WORTHY OF SPECIAL MENTION :

Attested
Ld As.
Adm.

GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

Annexure-8

NQ.E 32(1)-GAV96(I).

Dated, Agartala, the 26th October 1998

NOTIFICATION

The following posts in Government of Tripura are declared as equivalent to the post of Deputy Collector in Tripura Civil Service on for the purpose of IAS (Appointment by Selection) Regulations, 1997:

- I. Joint Director and above.
- II. Executive Engineer and above.
- III. Chief Inspector of Factories & Boilers.

By order of the Government,

(Manish Kumar)

Joint Secretary to the Govt. of Tripura

*Attested
Alsha Das.
Advocate*

To
The Chief Secretary,
Government of Tripura,
Agartala

Subject:- Sponsoring of names of TCS Officers for
induction into IAS.

Sir,

I, on behalf of the Tripura Civil Service Officers' Association like to draw your kind attention on the following points involving the urgent interest of the members of the Association for immediate redressal.

(i) That from the very beginning of the constitution of the Tripura - Manipur Cadre of the Indian Administrative Service, only Tripura Civil Service officers have been considered for induction into IAS against promotion and selection quota. This policy has been consistently followed by the Government of Tripura, Ministry of Personnel and UPSC from very inception.

(ii) That in the year, 1998, there was a move to induct non-civil service officers into IAS against promotion quota. This move was originated in reference to the letter of the Ministry of Personnel vide No.F.14015/58/96-AIS(ii) dated 25-3-1998. On going through the contents of the letter, our Association found that the contention made in the letter is in contravention of the provision made in the regulation named IAS (Appointment by Selection Regulation) 1997 which came into force from 1998. The inference drawn in the letter goes totally against the interest of the members of our Association. Observing this point, our Association had submitted a number of representations to the Government for redress. But unfortunately, no action was taken in reference to our representations and deputation. As a result, we had no other option but to seek redress on the matter from the Central Administrative Tribunal (CAT), Guwahati. Our petition was registered by the CAT, Guwahati Bench as case No. OA-244/98

Attested
u/s
Adv.

(iii) On consideration of the petition of our Association, Hon'ble CAT had passed an interim order on 26-10-98 staying the operation of the contention made by the Ministry of Personnel in its letter No.F.14015/58/96-AIS(I) dated 25-3-98. This order of the Hon'ble CAT was communicated duly to the State Government, Govt. of India and UPSC vide our Association Memo No.F.1(103)/TCSOA/CAT/98 dated 27-10-98. Subsequently, Hon'ble CAT vide its order dated 25-2-1999 modified its original order to the extent that selection process for the Non-civil service Officers and Tripura Civil Service Officers should be initiated simultaneously. But no appointment should be made till disposal of the petition. Our Association had forwarded a copy of the aforesaid order of the Hon'ble CAT to the Govt., Government of India and UPSC for initiating selection process of the Tripura Civil Service Officers for promotion to the IAS. But unfortunately, the representation of our Association for initiating the selection process of the Tripura Civil Service Officers for promotion into IAS as per order passed by the Hon'ble CAT has not been acted upon as yet.

(iv) For initiating the process of selection of the members of the Tripura Civil Service Officers for promotion into IAS, our Association likes to submit the following factual position for providing quick redress :-

(a) The total authorised promotion quota of the Tripura part of the Manipur - Tripura cadre under revised formula as communicated by the Ministry of Personnel is 27 in the year 1998, 29 in 1999 and 31 in the year 2000. So in the current calendar year, the total authorised strength under promotion quota is 29. Against this quota, the total men in position is 25. A list containing names of Officers who are occupying the promotion quota in the Tripura - part of M-T cadre is enclosed herewith as Annexure-A. It is learnt that although only 25

Attested
Asst. Secy.
Adm.

-3-

Officers are in position (against promotion quota), the Government of India is calculating this figure as 27. The discrepancy in this respect occurs due to appearance of name of late Om Prakash at serial No.25 and double appearance of name of Shri S.R.Paul against Serial No.141 and 145 in the latest civil list of 1999 published by Ministry of Personnel. So effectively there are 4 (four) clear vacancies in the year 1999. Hence it is incorrect to show clear vacancies available as less than 4(four).

(b) The Hon'ble CAT in its latest order has given clear direction that selection for promotion to IAS from amongst the members of the State Civil Service should be initiated. However, no appointment shall be made till disposal of the case. This order does not affect / modify the original stay order issued on the contention of the letter of Ministry of Personnel communicated vide No.14015/58/96-AIS(ii) dated 25-3-98. Since appointment on promotion to IAS is subject to disposal of the CAT case and in view of the continuation of stay order on the letter of Ministry of Personnel dated 25-3-98, our Association strongly demand that the process of selection from amongst the members of the Tripura Civil Service should be initiated taking all 4(four) clear vacancies of the current calendar year into consideration.

In view of the above, we draw your kind attention to look into the matter for providing redress on this long standing grievance of the members of . . our Association.

Dated, Agartala,
the 2nd May, 1999

Yours faithfully,


(B.B. DAS)
President,

T.C.S. Officers' Association

Attested
as
Adv.

TRIPURA CIVIL SERVICE OFFICERS' ASSOCIATION
TRIPURA : AGARTALA

The Tripura Civil Service Officers' Association conveys its gratitude and thanks to the Hon'ble Chief Minister for sparing some of his valuable time to meet a deputation of the representatives of the Association. At the outset, the Association likes to congratulate the Government for its innovative decision for setting up a High Power Administrative Reforms Committee with a view to improve the efficiency and functioning of the Administration which was a long due in the context of the State and also for appointment of 10 officers from Grade - II to Grade - I.

2. The Association takes this opportunity to place before the Hon'ble Chief Minister the following important demands under present juncture and draw his sympathetic attention for providing redress to the members of the Service.

Purported move for Induction of Non-Civil Service Officers into Indian Administrative Service

The Association has come to know in the recent past that some individual Officers of different services had submitted a representation for consideration of their cases for their induction into IAS. It is observed that this type of attempts were made by some interested individuals in the past also. But those were rejected at the preliminary stage by the State Government on the ground that those attempts would have been detrimental to the general interest of the State Civil Service as a whole. The Association has now noted with great concern that although the attempt is against the general interest of the members of the State Civil Service and have very weak legal backing, yet some interested persons / circles are making all out attempts to implement such step. In this respect the Association like to ventilate following points :

Contd..Page/2

Attested
by
Adv.

2. In the year 1975 (first time of attainment of the Statehood), a General Examination was conducted for filling up of accumulated direct recruit vacancies in the State Civil Service and Police Service. In the process, total 42 Officers were recruited in the State Civil Service and 13 Officers were recruited in the Tripura Police Service, single For recruitment of Officers in both Civil and Police Service, single examination was conducted and results were announced in a single panel based on option exercised by the concerned officers. Some of the candidates who had opted for the Police Service and recruited accordingly have now elevated to the post at the level of DIG. Moreover, all the eligible Officers of Police service recruited under said examination have been inducted in the IPS. Not to speak of their cases, even the Officers of 1984 Batch have also been inducted in the IPS of late. In case of candidates who have opted for Civil Service as many as 12 Officers have now been elevated to the Post of Secretary to the State Government. But unfortunately, the avenues of Induction of Officers into IAS is relatively less compared with the total strength of eligible Officers waiting for induction. As a result, as many as 30 Officers of 1975 batch who have already rendered more than 22 years of service have been stagnating in the maximum available ladder of Joint Secretary / Director / Additional Director etc. In this respect, it is mentioned here that an officer of State Civil Service who had rendered 8 years of service in the Cadre is eligible for induction into IAS as per IAS Rules, 1954. Taking this factor into consideration, total number of eligible Officers of State Civil Service who may be considered for induction into IAS at right at this stage is more than 80.

3. The above position is extremely frustrating for the State Civil Service Officers specially on the ground that their counterparts in other States and their Counterparts in Police Service in the Tripura Police Service itself are getting scope for induction into All India Service i.e. IAS, IPS etc. generally within a span of 10-14 years.

4. Regarding the rules and regulations for induction into the IAS, it is pertinent to mention here that normally all promotion vacancies in the IAS are to be filled up from the Officers of the concerned State Civil Service. These norms and tradition have been consistently being followed not only in this State but also in the other States. This system of induction from the State Civil Service Officers is done under Rule 8(1) of the IAS (Cadre) Rules, 1954.

Contd..Page/3

Attested
Cus.
Adm.

(i) There is however a provision in Sub-rule 2 of Rule 8 for induction of a very limited Officers having outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service into the IAS. But this provision is subject to the following conditions :

(ii) Maximum number of officers (officers not belonging to the State Civil Service) who may be inducted under this provision "shall not at any time exceed 15% of the total number of vacancies in the particular year". In respect of calculating vacancies the Sub-rule 3 of Rule 8 (vacancies arising in a particular year) need be followed rigidly.

(iii) Under Government of India's decision on Rule - 9 of the said rules, the computation formula of 15% has been defined which inter-alia clarifies and confirms that any fraction even itself more than one half should be ignored. Taking this decision of the Government of India into view, maximum number of vacancies which should be available in a particular year for induction of only one officer of other service is 7 (seven). In the democracy, the functioning of the Government is always benevolent. Clarity, reasonability, impartiality and equality are some of the basic yardsticks under which a democratic Government functions. For determination of Officers of outstanding ability and merit, a welfare Government is expected to follow certain distinct policies. Picking up of 1/2 officers based on their personal representation will go against the said principles.

5. It is learnt that some isolated instances of a few States are being cited in support of the purported move by some interested persons / circles. But, such instances are cited in a distorted manner. In those States, State Civil Service Officers have promotional avenues even upto the level of Principal Secretary of the State Government. There are counter instances also about the refusal of the offer of induction to the IAS on the part of State Civil Service Officers of other States as normal promotional avenues available for them is more beneficial than that of induction into IAS. But the picture is opposite in our State. Hence, if any instance of other States is considered, it should be considered in totality along with promotional avenues available for the Officers of those State Civil Services.

Attested
was
Adv.

6. It would be illogical and arbitrary to make any attempt to provide isolated individual benefit to a particular Officer jeopardising the general interest of all the Officers of the State Civil Service. Moreover, such action is likely to invite strong resentment among the members of other services whose number are in thousands.

7. In light of facts stated above, the Association strongly urges that such attempt of lateral induction of Non-TCS Officers into the IAS should be scrapped immediately forever.

Increase of avenues of induction in the IAS

The Government of India has recently taken decision for increasing the serving age of officers and employees upto 60 years. As a result, the vacancies which were going to be created against promotion quota in the IAS owing to superannuating will be delayed by two years for each individual case. This has resulted further shrinkage of avenues of officers who are already stagnating in the feeder service, (TCS) as referred above. The Association therefore urges for taking following immediate actions with a view to provide a little more scope for the stagnating officers for their induction into the IAS.

2. Under IAS Rules 1954, there is a provision (Rule-42) for review of the Cadre strength. As per original Rule, such review can be undertaken once in three years. As per amended Rules, the span of period has been increased to five years. In our state last review meeting was due in the year 1991. But actually the review meeting was held later and formal notification was issued in the year 1993. The due year for calling next review meeting is to be calculated from 1991. In that case, the review was due in 1996. However, if the year 1993 is taken for calculation of such review, then also the next review meeting is due in 1998.

Attested
WAS.
Adv.

3. The Cadre review is necessitated for various reasons such as mainly for expansion of administration, requirement of posting of IAS officer in some important posts which are traditionally manned by IAS officers as Ex-cadre post etc. In the recent past, i.e. after 1993, one new District has been set up in the State. As a result, two IAS posts, one D.M, one ADM / PD has been created. Further, IAS officers are posted in some important Directorates as Directors. These includes Fisheries, Panchayat, Printing & Stationeries Department etc. It is observed that some posts in the level of Joint Secretary and Addl. Secretary are also required to be earmarked for IAS officer. In fact, at present IAS officers holding these posts as Ex-Cadre posts. So, in reality, atleast 7/8 posts of above categories practically occupied by the IAS officers which may be formally included in the cadre schedule of IAS in the process of next cadre review. If this is done atleast 5 promotion vacancies would be created. The TCS Association will be obliged and extremely happy if this step is taken immediately without further loss of time.

Review of TCS Cadre strength.

Reorganisation of TCS cadre was last done in 1987. After that many significant changes had taken place in the administration of the Government such as (1) Creation of one new District (Dhalai) (2) Creation of 5 new Sub-Division (3) Creation of 5 new Blocks and 1 Sub-block etc.

2. Further expansion in the senior level of post in different Departments is also taken place in different Department during the period. The posts created as a result of such expansion, are mostly filled up by TCS officers as per tradition and policy of the Government. While the world of change has taken place in Tripura Administration in last 15 years, a comprehensive review has been necessitated for updating the duty posts of the cadre. Taking these factors into consideration, the Government of Tripura had constituted a High Power Committee from the A & S Department under the Chairmanship of the Chief Secretary on 1-8-96. The Committee had met for a number of sittings and after taking all materials circumstances into consideration, submitted its detailed report to the Government in the first part of 1997. But surprisingly, the Association observed with great concerned that although the High Power Committee could find time to submit this important report quite quickly, the Finance Department delayed the proposal

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for a long time and ultimately gave some flimsy objection to stall the process of implementation of the report. The Association requests the Hon'ble Chief Minister to intervene into the matter for quick implementation of the report submitted on the review of the cadre.

Post of TCS Officer as Director

The Association has observed that many of its senior members who were appointed in the Grade-I about 10 years back are even now being posted as Addl. Director, In-charge of Director. While the services of these officers are utilized for all practical purposes as Director and Rs.300/- as Special Allowance is also paid, it is not understood, why these officer are being deprived of regular scale of Director and status. In fact by implementing this proposal, the financial liabilities of the Government is likely to be reduced rather than any escalation owing to the fact that in the event they would not be entitled to get the Special allowance.

2. The Association strongly opposes the said practice which has led to a demoralising situation for the officers on various scales. In this connection, the Association would like to make it clear that it is not insisting on posting of officers in higher level post like Director solely on the arithmetical order of seniority. The Government may post a senior officer of the cadre as Director / Head of Department on consideration of administrative requirements. What the Association wants to emphasis is that in this process, if a few senior officers are lift out, they may be considered to provide scale benefit of Rs. 4000/- to 5,900/- (Director scale) in order to protect their financial interest.


18/5/98
 General Secretary,
 Tripura Civil Service Officers' Association,
 Tripura Agartala.

To
 The Hon'ble Chief Minister
 Govt of Tripura.

Attested
 Asas,
 Adm.

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Annexure-90

TRIPURA CIVIL SERVICE OFFICERS' ASSOCIATION
TRIPURA : AGARTALA
(Registered under the Societies Registration Act, 1860)

No.F.32(53)-TCSOA/79.

Dated, June 8rd, 1998.

To
The Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances & Pension,
Department of Personnel & Training,
North Block, New Delhi.

Sub : Induction of SCS Officers into IAS (Manipur - Tripura Cadre).

Sir,

I would like to state that there is a duly constituted and recognised Association of the State Civil Service Officers of the State of Tripura named as Tripura Civil Service Officers' Association. On behalf of this Association, I am directed to draw your kind attention on the following issues involving urgent interest of the members of the Association, for redressal.

1. That, after framing of the Tripura Civil Service Rules in 1967, a competitive examination was held for the first time in the year 1975 to fill up accumulated vacancies. In the process, 42 Officers in total were recruited in the State Civil Service and 13 Officers were recruited in the State Police Service. Since then, only 12 Civil Service Officers of the said batch could get entry into the IAS, although all eligible Officers belonging to the State Police Service up to 1984 batch could get entry into the corresponding All India Service i.e. IPS.

2. The above position is extremely frustrating for the State Civil Service Officers specially on the ground that their counter part in other State and their counter parts in State Police Service of Tripura have been getting scope for induction into the All India Service i.e. IAS / IPS, generally within a span of 10-14 years.

3. That, while the avenues of induction into the IAS is highly limited in the State owing to its insignificant expansion, the position in respect of induction into the IPS is far better owing to its substantial expansion. Keeping these factors in view especially the interest of providing small channel of avenues for the stagnating Officers of the Civil Service, the State Government has been following a norm of filling up all the promotional vacancies of IAS by SCS Officers only. Such induction has been made from time to time on the recommendation of the State Government and with concurrence of the Ministry of Personnel and the UPSC.

Yours faithfully

Contd..Page/2

Attested
Adv.

TRIPURA GOVERNMENT SECRETARIAT
TRIPURA, Page/2, ARFAL A

4. (i) The Association has learnt that a communication has been made from the Ministry of Personnel to the State Government of Tripura and Manipur unilaterally proposing to fill the 18% of total promotion quota of the IAS Cadre by non-SCS Officers keeping the induction of SCS Officers in abeyance until the above percentage is reached.

The Secretary to the Govt of India.

(ii) The Association could not well make out how there could be surplus in the number of incumbents in the promotion post and deficit in the selection post when the State Govt. had lawfully exercised its discretion on justifiable grounds and not to induct non-SCS Officers into the Indian Administrative Service with concurrence of Union Government / UPSC.

(iii) The Association feels that this communication has an apparent bearing towards Non-SCS Officers and that there is a scope of its being misconstrued by the concerned officers of the State Government.

(iv) The Rule provides that, only, in special circumstances and on the special recommendation of the concerned State Government, Officers having outstanding ability and merit, serving in the affairs of the State may be inducted into the IAS up to a ceiling percentage of 15% of the vacancies. The contents of the Rules reveals that such induction is permissible only on special circumstances as per discretion and specific recommendation of the concerned State Government and can not be treated as a mandatory or an obligatory provision to fill up certain percentage. The Association is of the opinion that the discretion exercised / decision taken by the State / Union Govt. / UPSC in the past should not affect the interest of the present incumbents of the State Civil Service adversely.

(v) The Association apprehends that this communication being viewed by a Superior Authority (Union Government), though in the form of suggestion, may be mistaken by the State Government as a direction / compulsion.

6. The Association had presented the matter to the State Government and during the discussion the State Government authorities had informed that no proposal has been initiated from the State Government for induction of non-SCS Officers into the IAS.

In the premises stated above, the Association strongly urges that your department would be kind enough to take necessary measures after reviewing the whole issue, at your earliest convenience so that the said ambiguous communication is either withdrawn or modified suitably to protect the interest of the members of the Association.

Yours faithfully,
(Santanu Das)
Hon'y. General Secretary
[Joint Secretary, Civil Secretariat,
Agartala - 799 001]

Attested
was
Adm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.244 of 1998

Date of Order : This the 4th Day of February, 2000.

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

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

Tripura Civil Service Officers
Association, Tripura, Agartala
and others.

- Applicants

By Advocates Shri B.K. Sharma,
Shri S. Sarma,
Shri U.K. Nair.

- Versus -

Union of India and others

- Respondents

By Advocates Shri A. Deb Roy for Respondents No.1, 2, 3, 4, 5, 6, 7 and 8.

Tripura, for Respondent No.3,
Shri G.N. Sahewalla and
Shri P. Bora, Government Advocate for
Respondent No.4,
Shri J.L. Sarkar and
Shri M. Chanda for Respondents No.5, 6, 7 and 8.

ORDER

BARUAH, J. (V.C.)

24 applicants have approached this Tribunal by
filing this single application. Permission to proceed
in this single application has been granted under the
provision of Rule 4(5)(a) of the Central Administrative
Tribunal (Procedure) Rules 1987.

2. The applicant No.1 of the original application
is an Union registered under the Societies Registration
Act. The society is represented by its Secretary. He is
also a Joint Secretary to the Government of Tripura.

Attested
Asst. Secy.
Adm.

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The other applicants are the aggrieved persons in this case. The applicants have challenged Annexure-2 letter dated 25.3.98 and Annexure-3 letter dated 24.8.98. The applicants further seek other order or orders that may be just and proper in the present facts and circumstances of the case. The brief facts emerge from the pleadings are :-

The applicants No.2 to 24 are Class-I officers of the State Civil Service of Tripura and the applicant No.1 represents all of them. The applicants have common grievance with common cause of action. They are also asking similar reliefs. They have challenged the Annexure-2 and Annexure-3 letters which according to them are contrary to the rules and the professed norm. The applicants state that the method of recruitment to the IAS is governed by the provisions of IAS (Recruitment) Rules, 1954 (for short 1954 Rules). Under Rule 4 of 1954 Rules, the recruitment to IAS is by the following method. We quote the Rule 4(a) :

- "(a) by a competitive examination.
- (b) by selection of persons from among the Emergency Commission Officers and Short Service Commissioned Officer of the Armed Forces of the Union.
- (c) by promotion of Member of State Civil Service and
- (d) by selection in special cases from amongst persons who hold in substantive capacity gazetted posts in connection with the affairs of the State and who are not members of State Civil Service."

Rule 9 of "the 1954 Rules" prescribes the procedure for fixation of quota of the posts to be filled up as per Rule 8 of "the 1954 Rules". Under Rule 9(1), the number of persons recruited under Rule 3 in any State shall not

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Attested
Asst. Secy.
Adv.

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at any time exceed $33\frac{1}{2}\%$ of the number of those posts as are shown against items 1 and 2 of the cadre in relation to the State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. However, proviso to Rule 9(1) envisages that the number of persons recruited under Rule 8(2) shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. Thus the total number of persons to be recruited to IAS under Rule 8 is $33\frac{1}{2}\%$ of the number of posts but the number of persons recruited under sub-rule (2) of Rule 8 cannot exceed 15% of the total number of posts. The provision contained under Rule 8(2) is however, only directory and not mandatory. The authority is not bound to follow the said rule. Compliance of such provision is exclusively under the discretion of the Central and the State Governments. Again such discretion can be exercised only in special circumstances. If such special circumstances do not exist recruitment under Rule 8(2) of the 1954 Rules cannot be made by the Central Government or the State Government. The contention of the applicants is that even though Rule 8(2) of 1954 Rules existed for last 40 years but at no point of time there was occasion to exercise the power vested in the authorities concerned for making recruitment to IAS in the cadre under the provision of Rule 8(2). Non-exercise of such power only shows that there was no such circumstances warranting invocation of the power under Rule 8(2) of the 1954 Rules.

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The applicants also state that power conferred under Section 3 of the All India Services Act 1951 and

Attested
IAS,
Adm.

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in pursuance of sub-rule (2) of Rule 8 of the IAS (Recruitment) Rules 1954 and in supersession of the IAS (Appointment by Selection) Regulation 1956, the Central Government in consultation with the State Government and the Union Public Service Commission made the IAS (Appointment by Selection) Regulations 1997. Regulation 4 of the said Regulations provides that the State Government may consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State for recruitment the persons fulfilling the following conditions :-

- "(i) is of outstanding merit and ability; and
- (ii) holds a Gazetted post in a substantive capacity and
- (iii) has completed not less than a year of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year."

It is further provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken for the consideration of the Committee. It is again provided that the State Government shall not consider the case of a person who having been included in an earlier select list and has not been appointed by the Central Government, in accordance with the provisions of regulation 9 of these regulations.

Attested
Alsha Das,
Adv.

The applicants state that in order to send proposal for recruitment to IAS in terms of Rule 8(2) of 1954 Rules the conditions laid down shall have to be fulfilled. In other words the fulfilment of the conditions indicated above is a condition precedent for sending the proposal. The applicants further state that the State Government did not issue any notification showing the nature of post equivalent to the post of Deputy Director besides according to the applicants there are other problems making it impossible on the part of the Government of Tripura to send necessary recommendation to the Central Government for the purpose of recruitment under the provisions of Rule 8(2) of the 1954 Rules (as amended). To send such recommendations as prescribed under Rule 8(2) of the 1954 Rules, Tripura was in duty bound to fulfill the standards laid down in regulation 4 of 1997 Regulations. This was not the case in the State of Tripura. The applicants sought clarifications regarding this. However, according to them, the answer to the queries were wholly untenable.

5. The 1997 Regulations came into effect from 1.1.1998. Prior to 1997 Regulations induction of non SCS officer recruited in-to IAS was under the provision of (Appointment by Selection) Regulation 1956 which was framed under the provision of Sub-rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the IAS (Appointment by Promotion) Regulation, 1955 framed under the provision of sub-rule (1) of Rule 8 of IAS (Recruitment) Rules 1954 was applicable. From this it is clear that prior to 1997 regulation governing the induction of non SCS

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officers into IAS by the method of selection, the method of exercise of discretion by the State of Tripura was governed under 1956 Regulation. The 1997 Regulation coming into force with effect from 1.1.1998. The chapter relating to induction of non-SCS officers prior to 1.1.1998, therefore, came to an end and the same would not be reopened for the purpose of fixation of quota of for calculating vacancies to be filled up by non SCS officers on or after 1.1.1998. Because of non-exercise of discretion by the Government of Tripura, those vacancies which had not been filled up by non SCS officers prior to 1.1.1998, could not be taken into consideration in calculating the number of IAS vacancies to be filled up by non SCS officers in terms of 1997 Regulation. 1997 Regulation being prospective in nature, cannot give jurisdiction to the authority to give appointment prior to 1.1.1998.

6. It is further stated by the applicants that the Government of India, Ministry of Personnel, Public Grievance and Pension, Department of Personnel and Training vide letter dated 25.3.1998 issued to the Government of Manipur and Tripura drew the attention of the Governments in regard to recruitment to the IAS in terms of Rule 8(1) and 8(2) of the 1954 Rules. It is further stated in para 3 of the letter that the Government of Manipur and Tripura were required to send proposals for preparation of 1998 select list in terms of amended Promotion and Selection Regulations 1.0. 1997 Regulations, limiting the recruitment in 1998 in such a way that the total number of posts in the Joint Cadre filled under Rule 8(1) and (2) of 1954 Rules would not exceed 45 and 7 respectively. In the said letter it was observed that including latest appointment notification

Attested
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Adv.

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dated 24.3.1998 there had been 50 officers in position holding the promotion posts in the IAS Manipur-Tripura Joint Cadre (+5) and the persons appointed by selection in the Joint Cadre is 1 (-6) only. The letter further stated that in order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, further recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8(1) and (2) of 1954 Rules during the 3 years might be regulated in the manner indicated. Thereafter it is laid down in the letter the manner in which further recruitment to IAS Manipur-Tripura Joint Cadre was to be regulated. It was specified that one vacancy arising in 1998 was to be filled up by non SCS officer. With regard to promotion...

...it might be carried out in such a manner that the total recruitment under Rule 8(1) and (2) of 1954 Rules are limited to 55 posts in all and the total promotion post does not exceed 47 during 1998. The total recruitment under promotion and selection Regulation should be limited to 60 and the total promotion post should not exceed 51.

7. The contention of the applicants is that if the direction given by Annexure-2 letter dated 25.3.98 is to be given effect in totality then in real terms it would lead to filling up of most of the future vacancies by the non SCS officers and would take away the quota of SCS officers. As for example in 1998 there was only one vacancy in IAS and the same would be filled by non SCS officer. Moreover out of the three vacancies in 1999 and the five vacancies in the year 2000 that would arise in IAS, most of these vacancies would be filled up by non SCS officers irrespective of the fact whether or not special circumstances

Attested
ASAS,
Adv.

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exist as envisaged under Rule 8(2) of 1954 Rules. Though under the scheme of the Rules the total three vacancies which would arise in 1999 all would go to SCS officers and out of five vacancies which would arise in the year 2000 four should go to SCS officers and only one should go to non-SCS officers that too only when the special circumstances exist.

2. The basic idea of Annexure-2 letter dated 25.3.98 is to earmark the quota of 15% of total number of posts to be filled by non-SCS officers in compliance of the Rule 8(2) of 1954 Rules from the future vacancies. If the Annexure-2 letter is to be implemented in full, it amounts to eating into the quota of State Civil Service Officers. Besides the Annexure-2 letter said that the only vacancy that would arise in 1998 in IAS was to be filled up by non SCS officer overlooking the claim of the SCS officers. It also amount to 100% quota instead of 15% as envisaged under the rule. The Government of Tripura in response of Annexure-2 letter dated 25.3.98 issued Annexure-5 letter dated 24.8.98. In the said letter the Government proposed to fill up the only vacancy in IAS by selection regulation under rule 8(2) of IAS (Recruitment) Rules. This letter was issued following the method prescribed in IAS (Recruitment by Selection) Regulation in accordance with direction of Ministry of personnel, Government of India. pursuant to the said letter all the Heads of the departments, Government of Tripura were asked to confirm if there were suitable officers not belonging to State Civil Service but equivalent in rank and pay and responsibility to the Deputy Collector and above who merit consideration for such promotion to IAS. pursuant to Annexure-2 and 3 letters the Government of Tripura had

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already moved towards the direction of filling up the only vacancy in IAS arising in 1998 by the non-SCS officers in terms of the aforesaid 8(2) Rule. According to the applicants the Annexure-2 and 3 letters compelled them to file the present application. According to them this move was not only illegal and arbitrary but contrary to the Rule 8(2) of the 1954 Rules. Rule 8(2) having conferred discretionary power that can be exercised only in a special circumstances, the existence of special circumstance is a condition precedent to exercising that power. The applicants further state that the Regulation 4 of 1997 Regulation the conditions are to be fulfilled which however is not the case of the State of Tripura. In short the contention of the applicants is that the proposed move of the State Government was in utter violation of the provisions contained in Rule 8(2) of 1954 Rules and total disregard to the object behind framing the aforesaid rule 8(2). Feeling aggrieved the President of the first applicant's Association submitted representation dated 12.5.1998 to the Chief Secretary to the Government of Tripura. This representation of the applicants Association was followed by a detail memorandum dated 18.5.1998 to the Chief Minister of Tripura. Having failed to get any redress the General Secretary of the applicant Association submitted representation dated 3.6.1998 to the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India. But till now nothing has been heard from the competent authority. The applicants further contended that the Annexure-2 and 3 letters had been issued in colourable exercise of power inasmuch as the purpose behind this exercise is to ensure entry of certain persons to the liking of some influential persons. Hence the present application.

Attested
Asst. Secy.
Adv.

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9. In due course the respondents have entered appearance.

The first respondent, Union of India has filed written

statement. The 3rd respondent, State of Tripura and the

private respondents No.5, 6, 7 and 8 have also filed their

written statements. Both the first and third respondents

have denied the claim of the applicants and tried to justify

the action. The first respondent in the written statement

has stated that the scheme of recruitment to the IAS by

channel of promotion and selection from amongst the State

Civil Service Officers and non State Civil Service Officers

in the commission respectively is in the manner prescribed.

The number of vacancies by which recruitment by promotion

and selection is made in a year is subject to the over all

ceiling of the quota of 33 1/3% of the aggregate of Senior

Duty posts, Central Deputation Reserve, State Deputation

Reserve and Training Reserve in the schedule to IAS Fixation

of Cadre Strength Regulations. The Recruitment by Selection

is further subject to the condition of ceiling of 15% of

the total promotion post in the State IAS cadre worked out

under Rule 9(1) of the Recruitment Rules. In terms of Rule

8(2) of the Recruitment Rules the Central Government may in

special circumstances and on the recommendation of the State

Government concerned and in consultation with the Commission

and in accordance with the Selection Regulations may make

recruitment to any person of outstanding ability and merit

serving in connection with the affairs of the State Govern-

ment who is not a member of the State Civil Service. The

first respondent further states that the action taken by

Union of India in consultation with the State Government

is just and proper and not arbitrary. The third respondent

also similarly tried to justify the actions. We have heard all.

Attested
as
Adv.

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Before we discuss the case on merit it will be apposite to look to some of the relevant provisions of the rule. We quote Rule 8(2) of the I.A.S.(Recruitment) Rules 1954 as under ,

"The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission from time to time, make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post in a substantive capacity."

The rule 8(1) envisages that the Central Government may on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission make recruit of persons by promotion from amongst the State Civil Service. Rule 8(2) empowers the Central Government to make recruit to IAS any person of outstanding merit and ability serving in connection with the affairs of the State, who is not a member of the State Civil Service of that State but who holds a gazetted post in substantive capacity. This sub rule empowers the Central Government to exercise the recruitment to the IAS who are not in the State Civil Service of the State. To invoke this rule by the Central Government certain conditions are to be fulfilled. There must exist special circumstance and the persons to be promoted must have outstanding ability and merit and serving in the State. In other words rule 8(2) does not empower even if in consultation with the State Government and Commission to promote an officer not belonging to the State Civil Service.

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without fulfilling the said conditions. In order to invoke this provisions the existence of the conditions like special circumstances, person having outstanding ability and merit are to be fulfilled and for this purpose the Central Government must apply its mind regarding existence of those conditions. The expression special condition has not been defined in this rule. It has to be understood in the way which normally a person understands. If the Central Government feels that such special condition thus exists, then the Government has to see whether there are persons not belonging to the State Civil Service with proved outstanding ability and merit for recruitment to the IAS. In this case also the Central Government will have to decide from the available records and then also such conditions are to be fulfilled. Again Rule 9 of the said I.A.S. Recruitment Rules provides that the number of persons recruited under Rule 8 in any State or group of States shall not, at any time exceed $33\frac{1}{2}$ percent of the number of those posts as are shown against items 1 and 2 of the cadre in relation to that State or to the group of States, in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations 1955. Rule 9 further envisaged that persons recruited under sub-rule (2) of Rule 8 shall not at any time exceed 15 per cent of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. From the above rules it is clear that persons not belonging to the State Civil Service having outstanding merit and ability and there being special circumstances for such appointment that can be made only to the extent of 15% of the total number of posts. All conditions are to be fulfilled before the Central Government decides

Attended
by
Adv.

to recruit non State Civil Service officers and that too on the recommendation of the State Government concerned and in consultation with the Commission. In the written statement the respondents have reiterated the provisions of the various rules. It is stated in the written statement that the number of posts in the promotional quota inclusive of selection quota taken together will be worked out as 33 1/2% of the number of posts. The number of posts that can be filled up by selection is worked out as 15% of the posts included in the promotion quota. Posts that can be filled up by selection thus stands carved out of the total promotion posts and is flexible depending upon the recruitment needs of the State Government concerned and the State Government has to look into the special circumstances and special cases i.e. case of officers of outstanding ability and merit, holding substantive posts in services not belonging to the State Civil Service. It is further stated in the written statement that pursuant to sub-clause (b) of sub-rule (2) of Rule 4, the Central Government consulted the State of Manipur and Tripura. The impugned letter dated 25.3.1998 was issued in the process of consulting the State Government/Joint Cadre Authority concerned pursuant to the mandatory provisions contained in the Recruitment Rules. It is further stated that the number of posts that could be filled up by promotion and selection as on 31.12.1997 in respect of IAS Manipur-Tripura Joint Cadre was 49 only. With the amendments to Rule 9(1) of the Recruitment Rules and IAS (Fixation of Cadre Strength) Regulations 1955, the number of posts that can be filled by promotion and selection in the Joint Cadre was raised to 60 in all. It is further stated that as an increase of number of promotional posts cannot be brought into effect overnight

Attested
IAS,
Advocate

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for the reason that the additional posts have to be transferred from the direct recruitment quota and the posts in question were held by the RR Officers in position. It was decided to effect the increase in a phased manner over a period of 3 years so that by 1st January, 2001 the optimum figures in respect of each quota specified in the schedule to the Cadre Strength Regulations are wholly achieved. In the written statement it is further referred to a decision of Jaipur Bench of the Tribunal given in O.A.No.206/98 (G.N.Purohit vs. U.O.1 and others) decided on 23.7.1998 which upheld the policy of the Government.

10. We have perused the Annexure-2 and 3 impugned letters. In Annexure-2 letter issued by the Government of India, Ministry of Personnel addressed to the Chief Secretary to the Government of Manipur and Tripura it is stated that the number of persons appointed to the IAS by promotion and selection under Rules 19(0) and 8(2) of the IAS (Recruitment) Rules from State Civil Service and Non-SCS officers, in position, in respect of the Manipur and Tripura segments of the Joint Cadre, after the issue of the Government of India Notifications dated 24.3.1998 are 25 and 1, 25 and Nil respectively. In terms of para (L) of the Government of India Circular dated 11.2.1998 the Govt. of Tripura has to take a decision on the status of the provisionally included officer at sl.No. 1 of the 1997 Select List in consultation with the UPSC as to whether or not he has to be made unconditional and recommended for appointment to the IAS on or before 26.3.1998. It is further stated that the Government of Manipur and Tripura were required to send proposals for preparation of the 1998 Select List in terms of the amended promotion and selection Regulations limiting the recruitment

Attested
Listed
Adv.

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➤ In 1998 in such amendment that the total number of posts in the Joint Cadre filled under sub-rule (1) and (2) of Rule 8 do not exceed 45 and 7 respectively. Further it is seen that including latest appointment notification dated 24.3.1998 on date, there are 50 officers in position holding the "promotion" post in the IAS Manipur-Tripura Joint Cadre (plus 5) and the persons appointed by selection in the Joint Cadre is 1 (minus 6) only. In order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, it is suggested that further recruitment to IAS Manipur-Tripura Joint Cadre under Rules 8(1) and (2) of the IAS (Recruitment) Rules 1954 during the three years may be regulated as below :

number of persons recruited

under Rule 8(1) of the Recruitment Rules on date is 50, there may be no recruitment by promotion from the SCS during 1998 and recruitment by selection may be considered for one post during 1998. The Joint Cadre Authority for Manipur-Tripura may process recruitment to the IAS under the amended Promotion Regulations and Selection Regulations in a combination such that the total recruitment under the aforesaid promotion and Selection Regulations are limited to 55 in all and the total "Promotion" posts (i.e. posts filled by promotion from MCS-TCS) does not exceed 47 during 1999.

For preparation of 2000 Select list policy as above may be adopted by the JCA Manipur-Tripura for recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8 of the Recruitment Rules during 2000 limiting the total recruitment under the promotion and selection Regulations to 60 and the total promotion posts does not exceed 51. Again in Annexure-3 letter issued by the Government of Tripura to all the Heads

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Attested
u/s
Adv.

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of Departments, Government of Tripura it was proposed to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulations in accordance with direction of Ministry of Personnel, Government of India, in their letter dated 25.2.1998. The relevant provisions of the rules/regulations allow for promotion of a non-State Civil Service Officers of outstanding merit and ability to IAS subject to fulfilment of certain criteria. Therefore, the departments were asked to confirm if there were any suitable officers in their department not belonging to State Civil Service but equivalent in rank, pay and responsibility to Deputy Collector and above who merit consideration for such promotion to Indian Administrative Service. If so, name of atleast one candidate (but not exceeding five) might be sent to the Joint Secretary (A&S) to the Government of Tripura alongwith ACRs for last five years and bio-data in the prescribed proforma. The Annexure-2 letter issued by the Government of India directed the State Governments to see that whether the recruitment was possible from Non State Civil Service Officers. Annexure-2 letter also referred to the backlog inasmuch as the persons recruited by promotion from State Civil Service had already reached 50 and their attempt ought to make for recruitment from the non State Civil Service Officers. Annexure-2 does not indicate anything regarding the special circumstances as referred to in the rule. Besides, these the Annexure-2 also indicates how to clear the backlog in a phased manner from 1999, 2000 and 2001. These shows that the appointment will have to be made from the non SCS officers to clear

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out the backlog. Rule says that the appointment and promotion should be only to the extent of 33 1/2% and for non SCS maximum quota is 15%. The letter issued by the State Government does not indicate anything about the existence of the special circumstances. No attempt was made by the Government to recruit persons to the extent permissible from the non SCS officers. Therefore not taking any steps in this regard only indicates that in the past there was no such special circumstances as is understood from the common knowledge. In future also it is the State Government who has to come to a conclusion as to whether there is any such special circumstances exist in particular date which enable the State Government to make a recommendation for appointment to the non SCS person. We understand the rule 8(2) which has been incorporated with a view to give promotion to the non SCS officers in case of necessity arises. From the record we find that nothing was done in the past and steps ought to have been taken by the State Government in the shape of a recommendation. It is the State Government who is in a position to ascertain as to whether a special condition exists or not and if such special condition exists and the quota permits for such appointment this is for the State Government to make recommendation to the Central Government and then the Central Government may pass order in consultation with the UPSC. But in the impugned notification we do not see anything regarding special circumstances as is understood from the common knowledge. It is really an unfortunate state of affair that prevails in the State of Tripura for non taking steps or explore the possibility of giving appointment to those deserving non SCS officers. There could be a special circumstances in the past but as nothing was indicated it is not possible for this Tribunal to consider that aspect of

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the matter. Again the Annexure-2 letter issued by the Government of India shows that only endeavour is made to fill up the quota totally ignoring the fact as to whether special circumstance do exist or not.

11. From the above it is abundantly clear that the rule provides for recruitment of non-SCS officers, but only in case when there exists special circumstances. Special circumstances has, however, not been explained in the rule. Therefore, the special circumstances has to be understood which a reasonable man would consider. However, such appointments cannot exceed the percentage prescribed. We do not find in the rule anything to give appointment just to fill up the backlogs. This, however, is our tentative view. We however feel that endeavour should be made to give appointment in future as and when such special circumstances exist. The manner in which appointments are to be made indicates that the authority concerned did not apply its mind to all these aspects. Therefore, we feel that the matter should be considered afresh by the authorities giving full opportunity to the parties concerned. While considering these aspects of the matter the authorities shall strictly follow the rules prescribed to fulfil the rule making authorities desire to give appointment to the non-SCS officers.

12. Accordingly we dispose of this application with direction to the respondents to consider those aspects and dispose of the entire matter as early as possible not later than four months from the date of receipt of this order and communicate the same to the parties concerned. If the parties are aggrieved by the decision of the authority they are at liberty to approach this Tribunal.

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In the facts and circumstances of the case we make
no order as to costs.

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Sd/-VICECHAIRMAN
Sd/MEMBER (A)

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Annexure-11

NO.F.23(37)-GA/98
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (P&T) DEPARTMENT

Dated. Agartala, the 10th May, 2000.

To
The Secretary,
Tripura Civil Service Officers' Association,
Agartala.

Subject :- O.A. No.244/1998 filed by the TCS Officers' Association.

Sir,

I am directed to forward herewith the copy of Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, North Block, New Delhi communication No.F.14015/16/98-AIS(1) dated the 13th April, 2000 for favour of your kind information.

Yours faithfully,

(Signature)
12/5/2000
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.

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was.
Adv.

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GOVERNMENT OF INDIA
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
North Block, New Delhi

No. P.14015/16/98-AIS(I)

Dated the 13th April, 2000

WHEREAS the selection of Non-State Civil Service (Non-SCS) officers of Tripura for appointment to IAS was carried out by the selection committee in its meeting held on 28.10.1998 and 1.3.1999 and the Union Public Service Commission approved the recommendations of the selection committee without any modification. The Commission further stated that, in terms of the interim order dated 17.12.1998 of the CAT, Guwahati Bench, the selection process was completed but the final orders for the appointment be deferred until further orders of the Tribunal.

2. AND WHEREAS the Tripura Civil Service Association filed OA No.244/98 challenging the recruitment from among Non-SCS officers of Tripura during 1998 and by order dated 4.2.2000, the CAT Guwahati Bench disposed of the Original Application with the following observations:-

"11. From the above it is abundantly clear that the rule provides for recruitment of non-SCS officers, but only in case when there exists special circumstances. Special circumstances has, however, not been explained in the rule. Therefore, the special circumstances has to be understood which a reasonable man would consider. However, such appointment cannot exceed the percentage prescribed. We do not find in the rule anything to give appointment just to fill up the backlogs. This, however, is our tentative view. We however feel that endeavor should be made to give appointment in future as and when such special circumstances exist. The manner in which appointments are to be made indicates that the authority concerned did not apply its mind to all these aspects. Therefore, we feel that the matter should be considered afresh by the authorities giving full opportunity to the parties concerned. While considering these aspects of the matter the authorities shall strictly follow the rules prescribed to fulfil the rule making authorities desire to give appointment to the non-SCS officers.

12. Accordingly, we dispose of this application with direction to the respondents to consider those aspects and dispose of the entire matter as early as possible not later than four months from the date of receipt of this order and communicate the same to the parties concerned. If the parties are aggrieved by the decision of the authority they are at liberty to approach this Tribunal."

Pursuant to the directions of the Hon'ble Tribunal the recruitment in question was de novo considered by the Government of India taking into account all the facts and circumstances involved in the matter.

3. AND WHEREAS the matter relating to recruitment by promotion and selection to the IAS Manipur-Tripura Joint Cadre during 1998 came up for the consideration of the Central Government, pursuant to Letter No. 10(2)-GA/86 dated 25.2.1998 of Government of Tripura intimating the decision of the Joint Cadre Authority apportioning the cadre posts in IAS among the two cadre segments of the Joint Cadre, after enabling an increase in the promotion quota with corresponding decrease in the Direct Recruit posts of the Joint Cadre vide Government of India Notification dated 31.12.1997, with effect from 1.1.1998

4. AND WHEREAS Rule 4(2) of the IAS (Recruitment) Rules, 1954 (hereinafter referred as 'Recruitment Rules') reads as under.

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4 (2) Subject to the provisions of these rules,

(a) the method or methods of recruitment to be adopted for the purpose of filling up any particular vacancy or vacancies as may be required to be filled during any particular period of recruitment, shall be determined by the Central Government in consultation with the Commission and the State Government concerned,

(b) the number of persons to be recruited by each method shall be determined on each occasion by the Central Government in consultation with the State Government concerned

Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997 (hereinafter referred to as 'Selection Regulations'), framed pursuant to Rule 8(2) of the Recruitment Rules, provides as under:-

"3. *Determination of vacancies to be filled:* Central Government shall, in consultation with the State Government concerned, determine the number of vacancies for which recruitment may be made under these regulations each year. The number shall not exceed the number of substantive vacancies, as on the 1st day of January of the year in which the meeting of the Committee to make the selection is held."

Regulation 4 of the Selection Regulations casts a mandate on the State Government to send proposals for consideration of eligible Non-State Civil Service officers by the selection committee, towards preparation of the select list against the vacancies determined by the Central Government under Regulation 3 in consultation with the State Government.

5. WHEREAS the recruitment from among Non-State Civil Service officers envisaged by the IAS (Appointment by Selection) Regulations, 1997 were framed pursuant to Rule 8(2) of the Recruitment Rules, where a question arose in *P.A.L. Nayak's case (1993 (3) SCC 319* as to the manner in which the existence of "special cases and special circumstances" are to be ensured, the Hon'ble Supreme Court interpreted the provisions of the Recruitment Rules as under:-

".....Rule 8(2) which talks of "outstanding ability and merit" when read with Regulation 3(1) and 3(4A) of the Regulations makes it clear that the "special circumstances" required to be seen are (i) the existence of officers with 12 years of continuous service in a gazetted post under the State Government - other than State Civil Service officers - who are of outstanding merit and ability and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS."

6. WHEREAS in view of the statutory provisions contained in the relevant rules and regulations and the settled case law in regard to the provisions of the Recruitment Rules, the Central Government addressed the Government of Manipur and Government of Tripura by letter No. F.14015/58/96-AIS(1) dated 25.3.1998 indicating the statutory limits within which the decision on recruitment by promotion and selection in the two segments of the IAS Manipur - Tripura Joint Cadre may be considered during the years 1998 to 2000. After consideration of the matter in consultation with the State Governments concerned, the recruitment by promotion and selection to the IAS Joint Cadre was determined vide GOI Lr. No.F.14015/16/98-AIS(1) dated 11.6.1998 (copy enclosed) and the State Governments informed accordingly.

7. WHEREAS the Government of Tripura had clarified and confirmed that the State Government had gone through the process of identifying existence of Non-State Civil Service officers of outstanding merit and ability in the State being satisfied that,

- (i) There were officers of outstanding merit and ability; and,
- (ii) Public interest would be served by their selection to IAS

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8. AND WHEREAS in the light of the observations of the Hon'ble Tribunal and after due consideration of the contention of the Tripura Civil Service Officers Association *inter-alia* taking into account the relevant statutory provisions in the Recruitment Rules and the Selection Regulations, the matter has been considered in detail. The channel of recruitment from the category of Non-State Civil Service officers provided in the Recruitment Rules subject to the ceiling prescribed in proviso to Rule 9(1) of the Recruitment Rules, cannot be ignored in order to accommodate the channel of promotion from among State Civil Service officers of Tripura altogether forever and it was the duty of the Central Govt. to ensure recruitment to the service from different channels as provided in the rules in consultation with the State Government. It is observed that in terms of the judgement of the Supreme Court, it is primarily the State Government concerned that has to be satisfied as to the existence of "special circumstances" for the purpose of recruitment by selection during a year. In case of non-availability of officers of outstanding merit and ability and in the absence of "special cases and special circumstances", it is open to the State Government to consider filling up the remaining vacancies in the promotion quota from among State Civil Service officers. However, in terms of the provisions in the Selection Regulations, a conscious decision is required to be taken every year in the matter of recruitment by selection from among Non-State Civil Service officers, in terms of provisions contained in Regulation 3 of the Selection Regulations lest this channel of recruitment is ignored altogether. In the instant case, the Government of Tripura has confirmed the fulfillment of conditions precedent to recruitment from among Non-SCS officers of Tripura to IAS during 1998.

9. AND NOW, THEREFORE, after looking to the facts and circumstances of the case, the statutory provisions and settled case law, the Central Government has concluded that the determination of vacancies for appointment by selection against one post in the Tripura Segment, and one post by promotion in the Manipur Segment of the Joint Cadre during 1998 vide Government of India Order No. 14015/16/98-AIS(1) dated 11.6.1998 has been carried out by the Government only in accordance with law and the decision do not suffer from any infirmity in terms of the statutory provisions. The Tripura Civil Service Association may also be informed accordingly.

R. Vaidyanathan

(R. VAIDYANATHAN)
Under Secretary to the Government of India

To ✓
The Chief Secretary,
Government of Tripura,
AGARTALA.

Attested
As an
Adv.

TRANS BENGAL NEWS

A Leading English Daily Newspaper of Tripura

No. 128, 10th February 2001, Price Rs. 10.00, Tel: 0381-223770, Fax: 0381-223770, Founder

Selection to IAS Against Vacancies of 1999 & 2000 made a mockery

Biggest scam in Administrative history of the Tripura State

By S. K. Dey

Agartala, Feb, 15: In Complete deviation from the existing Rules for selection of candidates according to Merit Cum Seniority, the conniving trio—the State Government represented by the Chief Secretary, the Government of India represented by the Additional Secretary in the Department of Personnel and the Union Public Service Commission represented by one of its Senior Members, have create an unprecedented history in selecting five State Civil Service Officers for alleviation to the Indian Administrative Service (IAS) against the six vacancies arising in 1999 & 2000 in the Tripura Part of the Manipur-Tripura Joint Cadre of IAS, of which one was earlier taken out for the Non Civil Service Officers. The lucky five TCS officers to enter into the by blood aristocratic Indian Administrative Service (IAS) are: Bhagirath Reang, Manik Reang and Madhab Chandra Datta (all against the vacancies of 1999) and Subinoy Kumar Choudhury and Rajibendra Kumar De Chowdhury (against the vacancies of 2000). The meeting of the Selection Committee Chaired by a senior Member of the Union Public Service Commission and represented as Members by the Chief Secretaries of Manipur and Tripura and also the Additional Secretary to the Government of India, Department of Personnel in which the above names were cleared, was held on December

19, 2000 at New Delhi after a gap of three years since the last meeting was held. Amazingly, the meeting for the purpose of selecting 6 candidates from Tripura and a few others from Manipur lasted for hardly 10 minutes indicating thereby that everything was present and that the much awaited meeting of the Selection Committee was a mockery of Selection.

The inside story however, is alarming and one would definitely wonder as to how the State Chief Secretary Mr. V Thulasidas missed the Republic Day honour-Padma Bhushan for faithfully subscribing to the criminalization of the Administration in generating life into at least two dead bodies which were earlier abandoned by the same Selection Committee for their having declared unfit and were thus superseded. The Chief Secretary having exerted tremendous pressure upon the Officers below him who generally initiates the ACRs of such level of officers, got those rewritten by way of replacing the earlier ones and for himself also manipulated the ACRs of those two officers for the years from 1997 to 2000 in such a way that their ACRs get the Bench Marking of at least 'Very Good' for the required number of years.

This system of 'Bench Marking' which substituted the criterion of 'Seniority Cum Merit' is the brain child of a Tripura based sympathizing Member of UPSC who had very carefully completed the exercise under the new concept intro-

duced for the first time in the selection process of State Civil Service officers for IAS, long before the meeting was held. Under the normal Rules, officers with outstanding officers superseded the seniors. Instance are many. Shri A.N. Datta (IAS-1982 & SI No.9 in the 1989 Seniority List) superseded 5 of his seniors like, a SI-8 Nareswar Chakraborty, SL-6 L.C.Das, SI-5 Birahari Dey, SI-3 S.B. Chakraborty. Likewise, SI No. 17-Shri H.M. Chowdhury (1984) superseded SI No. 19 M. Roy and SI No. 13 M.L. Das. SI No. 55 Shri Sailen Das (1994) superseded SI No. 51, 52, 53 & 54 M.K. Debbarna, S.K. Sarkar, R.C. Choudhury & Bhagirath Reang respectively. SI No. 59 S.S. Datta superseded SI Nos. 51, 52, 53, 54, 55, 56, 57 & 58 M.K. Debbarna, S.K. Sarkar, R.C. Choudhury, Bhagirath Reang, Manik Lal Reang, J.C. Bose and A.B. Datta respectively while SI No. 60, B.K. Roy superseded above mentioned SI No. 51, 52, 53, 54, 56, 57 & 58. Not only this, SI No. 65-K.P. Goswami, SI No. 66-Pallab Debbarna, SI No. 77 D.K. Dey, SI No. 82 B.K. Chakraborty & SI No. 83 S.R. Paul also superseded the stewards before their names. Thus, SI Nos. 54-Bhagirath Reang was earlier superseded by officers at SI Nos. 55, 59, 60, 65, 66, 67, 82 & 89 namely: Sailen Kumar Das, S.S. Datta, Bijoy Roy, K.P. Goswami, Pallab Debbarna, D.K. Dey, B.K. Chakraborty

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Annexure-12

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History of the Tripura State

Contd. from page 1

and S.R. Paul in the same manner, Sl. No. 56. Shri Manik Lal Reang was also superseded by the officers at Sl. Nos. 59, 60, 65, 66, 77, 82 & 89 namely, S.S. Datta, Bijoy Roy, K.P. Goswami, Pallab Debbarma, D.K. Dey, B.K. Chakraborty and S.R. Paul and such supersession was not done in a day. It was done over the years. The reasons behind such supersession were simply performance. The performances of Shri Manik Reang and Shri Bhagirath Reang were so horrible that they were considered unfit by the Select Committee till 1997 when the last officer Shri S.R. Paul who was junior to them by more than 40 officers at the time of joining, superseded them. Shri SK Das, IAS, superseding Shri Bhagirath Reang is a Secretary to the Government of Tripura at present.

Now a question arises as to how these two officers having an all time unimpressive record suddenly topped the list of 1999. The reply is very simple Connivance. Connivance of the State Chief Secretary with the UPSC and the Government of India under extraneous influence.

This year the following names were sponsored for being considered: Against 3 vacancies of 1999 as per 1:3 formula, 9 names such as, Santosh Sarkar, R.C. Choudhury, Bhagirath Reang, Manik Lal Reang, Madhab Chandra Datta, Subinoy Kumar Choudhury, Rajibendra Kumar De Choudhury, Ajit Kumar Bhaumik and Swapan Saha.

Again against 2 vacancies of 2000, as per above formula, 6 names as below were sent: Madhab Chandra Datta, Subinoy Kumar Choudhury, Rajibendra Kumar De Choudhuri, Ajit Kumar Bhaumik, Swapan Saha and Madhusudan Bhattacharjee. The name of M.S. Bhattacharjee was first dropped as in total only 15 names could be accommodated against 5 vacancies. Later on his name was included for the reasons that Santosh Kumar Sarkar became age barred for getting consideration during 2000.

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Though confidential, yet, one could easily imagine that the rejected persons above Madhab Chandra Datta would never appear to get any fresh consideration unless there was a miracle or magic. Because, it was not possible to turn one outstanding overnight. Since those officers were declared unfit till 1997, it was never possible for them to stand the competition with the fresh officers under the existing Rule of Merit Cum Seniority. So the new formula was introduced to protect the unfit in detriment to the interest of the fittest. Under the new Scheme of Bench Marking if any officer could some how get Very Good on average for 5 years, then his seniority could not be disturbed. Through this conspiracy against the outstanding officers, the State Chief Secretary has not only inducted atleast two unfit officers into IAS but also created a criminal instance in which no officer will ever try to improve his performance. This way he has become instrumental in losing charm for getting selection into IAS.

The inside story is again very dangerous when a few ministers of the State Government publicly pleaded for giving promotion of the officers belonging to their community and threatened of community chaos if they were not given. This Such an attempt was earlier indicated by a member of the UPSC in a community discussion when it was held that nobody would be able to stop induction of Shri Bhagirath Reang into IAS this year. But the case of Manik reang was altogether different. No body ever thought that he would be accommodated in IAS. Shri Manik Reang still does not believe his ears that he has been elevated.

It may be mentioned here that Shri Bhagirath Reang was once charged for looting the Dumbur nagar Block when he was BDO there.

Shri Manik Lal Reang was found in a photograph with some hardcore extremists in their base camp and was about to lose his job. This benevolent Chief Secretary ultimately rescued them.

The outcome of the meeting of 19th December, 2000 was kept in strict confidence by the Chief Secretary and the State Government but in the same night of 19th December, 2000 the result was conveyed to the concerned persons from the sympathisers of Delhi. The writer of this column himself was present in Delhi at that time and he could collect lot of dazzling news about fun.

(The information's regarding the seniority etc. has been collect from Govt. documents like seniority list of officers of Tripura Civil service and serial list of Govt. India.)

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Adv

ভাল মানের বসবাসের জন্য

Bose Furniture

অত্যাধুনিক ডিজাইন ও সুদৃঢ়
কাঠের দ্বারা নির্মিত প্রাচীন

শোরুম : জিমনিয়া, ব্লক টৌমহনী

ফোন : ৩২-২৬৭, ৬২-৮৬৭

স্বাধীন

৪ ফাল্গুন, ১৩৩৭, ১৪০৭, বাংলা :

১৯৯৯ ও ২০০০ সালের শূন্যপদে আই এ এস নিবর্তন নিয়ে প্রহসন

রাষ্ট্রের প্রশাসনিক ইতিহাসে বৃহত্তম ঝগড়াকারি

বিশেষ প্রতিবেদন, আগস্ট ১৯৭৭, ১৫ ই ফেব্রুয়ারী।। রাষ্ট্রের পাঁচজন সিভিল সার্ভিসভুক্ত অফিসারকে ইন্ডিয়ান এডমিনিস্ট্রিটিভ অফিসার (আই এ এস)-এ উন্নীত করার ক্ষেত্রে প্রচলিত
তাবৎ দীর্ঘ-মুদ্রিত ও অফিসিয়ালদের মাধ্যমে পাদুকা-প্রদান করে প্রবল প্রতাপশালী তিন-মুদ্রিত মিলে এক নতুনবিহীন ইতিহাস গড়েছেন। আই এ এস-এর মণিপুর-ত্রিপুরা যুগ
কাড়ার অতীত ত্রিপুরা পূর্বে-এ ১৯৯৯ ও ২০০০ সালে শূন্যপদের সংখ্যা ছিল মোট ৬টি। ইতোপূর্বে সিভিল সার্ভিস অফিসার বহির্ভূত একজনকে ওই ৬টি পদের ১টিতে নিয়োগ
করা হয়েছে। যাকি ৫টি পদের জন্য প্রার্থী পাছাইয়ের ক্ষেত্রে যেই 'তিন মুদ্রিত' পদার আড়ালে খেল' দেখিয়েছেন তাঁরা হলেন — জিপুরা সরকারের মুখ্যসচিব, দেব সরকারের
পার্সোনাল দপ্তরের অতিরিক্ত সচিব এবং ইউনিয়ন পার্সোনাল সার্ভিস কমিশন (ইউ পি এন্ড সি)-র জনৈক সিনিয়র সদস্য। আর যে পাঁচজন টি সি এস অফিসারের ভাণ্ডে শিক্তে ছিড়েছে
ওই ভাণ্ডার অফিসারগণ হলেন — উদীপ্ত রায়, মানিক রায়, মাধব চন্দ্র দত্ত (তাঁরা সবাই ১৯৯৯ সালের শূন্যপদে), সুবিনয় কুমার চৌধুরী ও রাজীবেন্দ্র কুমার দে-চৌধুরী
(এরা দু'জন ২০০০ সালের শূন্যপদে)। গত ১৯৭৭ ডিসেম্বর (২০০০ ইং) নব্বাতিমুদ্রিত অনুষ্ঠিত নিবর্তনী কমিটির যে বৈঠকে ওই পাঁচটি নাম ছাড়পত্র পেয়ে যায় তাতে পৌরোহিত্য
করেন ইউ পি এন্ড সি-র জনৈক সচিব সদস্য। বৈঠকে উপস্থিত ছিলেন ত্রিপুরা ও মণিপুরের মুখ্যসচিব এবং ভারত সরকারের পার্সোনাল দপ্তরের অতিরিক্ত সচিব। ঠিক তিন
বছর পর কমিটির ওই বৈঠকটি অনুষ্ঠিত হলো। বিশ্বের বিষয় হলো, ত্রিপুরার জন প্রার্থীকে ও মণিপুরের কয়েকজন প্রার্থীর নিবর্তন সংক্রান্ত বৈঠকটি মাত্র ১০ মিনিটের মধ্যেই
শেষ হয়ে যায়। তার অর্থ পুরোটিই ছিল পূর্ব পরিকল্পিত ও ছক-কাটা। এভাবেই নিবর্তনী কমিটির বহু প্রতিষ্ঠিত বৈঠকটি নিবর্তনের নামে প্রহসনে পরিণত হয়।
আশঙ্ক্য বরফটি অবশ্য খুবই উদ্ভগজনক। তা জানার পর যে কেউ বিশ্বাস্যবিশিষ্ট হয়ে ভাববেন প্রশাসনের অপরাধকরণের ক্ষেত্রে এমন বিস্তৃত ভাবে সেবাদানের ভূমিকা গ্রহণ করার
পরেও এবং অন্তত দু'জনের মৃতদেহে প্রাণ সংহার করার পরও (ওই দু'জনকে এই নিবর্তনী কমিটিই অযোগ্য বলে ঘোষণা করেছিল ও তাঁদেরকে ডিসমিসে অন্য অযোগ্য বলে ঘোষণা
করেছিল ও তাঁদেরকে ডিসমিসে অন্যদের উন্নীত করেছিল) রাষ্ট্রের মুখ্যসচিব বাহাদুর ব্রীকু ভি তুলসীদাস কী করে প্রজাতন্ত্র দিবসের অন্যতম খেতাব 'পদ্মভূষণ' থেকে বঞ্চিত
হলেন? জানা গেছে, মুখ্যসচিব মহাশয় অধীনস্থ অফিসারদের উপর প্রচণ্ড চাপ সৃষ্টি করেছিলেন ওই দুই অফিসারের এ সি আর নতুন করে লিখিয়ে নেবার জন্য ও ইতোপূর্বকার
এ সি আর খাতিশ করার জন্য। শ্রীতুলসীদাসের চাপের মুখেই ওই দুই অফিসারের এ সি আর এমনভাবে কাট করা হয় যাতে প্রয়োজনীয় সময়-সীমার জন্য, অর্থাৎ ১৯৯৭ সাল
থেকে ২০০০ ইং পর্যন্ত সময়ের তাঁদের 'বেফ মার্কিং' অর্থাৎ 'খুবই ভালো' ব'লে এ সি আরে লেখা যেতে পারে।
'সিনিয়রটি কম মেরিট' অর্থাৎ বয়োজ্যেষ্ঠতা ভণ্ডা প্রভা-র বদলে অনুরূপ 'বেফ মার্কিং' করার প্রথাটি ইউ পি এন্ড সি-র ত্রিপুরাভিত্তিক জনৈক সচিবপদে সন্তোষ
মানসপূর্ণ। নিবর্তনী কমিটির ওই বৈঠকটি অনুষ্ঠিত হবার অনেক আগেই অবশ্য ওই সদস্যটি সমগ্র জাতিগত পার্শ্বকারি মাধ্যমে আই এ এস পদে রাষ্ট্র সিভিল সার্ভিস অফিসারদেরকে
নিয়োগের ক্ষেত্রে এই প্রথমবারের মতো নতুন ধ্যান-ধারণা প্রবর্তনের লক্ষ্যে প্রয়োজনীয় কার্যক্রম অতি দক্ষতার সঙ্গে শেষ করে দেখান। সাধারণত, অস্বাভাবিক ক্রটিদের
অফিসারী অফিসারগণ অন্যান্যদের চেয়ে নিবর্তনের ক্ষেত্রে অগ্রাধিকার পেয়ে থাকেন এবং বহু ক্ষেত্রেই তাঁরা তাঁদের সিনিয়র অফিসারদের জিঙ্গে উচ্চতর পদে উন্নীত হন।
এর উদাহরণ অনেক রয়েছে। শ্রী এ এস দত্ত (১৯৮২-র আই এ এস ও ১৯৮৯-র সিনিয়রটি আধিকার ৯নং ক্রমিকভুক্ত)

Attested
Asst.
Adv.

ইতিহাসে বৃহত্তম কেলেকারি

প্রথম পাতায় পর

তার একটা সিনিয়র অফিসারকে ডিসমিসে উচ্চতর পদে উন্নীত হয়েছিলেন। তাঁদের মধ্যে ছিলেন — ৮নং ক্রমিক ভুক্ত নরেন্দ্র চক্রবর্তী, ৬ নং ক্রমিক ভুক্ত এল সি দাস, ৫নং ক্রমিক ভুক্ত গীতবর্ধি দে, ৩নং ক্রমিক ভুক্ত এস বি চক্রবর্তী প্রভৃতি। অনুসরণভাবে ১৭নং ক্রমিক ভুক্ত এইচ এম চৌধুরী (১৯৮৪) ডিসমিসে হয়েছেন ১০ নং ক্রমিক ভুক্ত এম দাস ও ১৩ নং ক্রমিক ভুক্ত এম এল দাসকে; ৫৫নং ক্রমিক ভুক্ত জীশৈলেন দাস (১৯৯৪) ডিসমিসে হয়েছেন ৫১, ৫২, ৫৩ ও ৫৪ নং ক্রমিক ভুক্ত যথাক্রমে এম কে দেবনর্মা, এস কে সরকার, আর সি চৌধুরী ও ভগীরথ রিয়াং-কে; ৫৯ নং ক্রমিক ভুক্ত এস এম হুজুড়িসিয়ে হয়েছেন ৫১, ৫২, ৫৩, ৫৪; ৫৬, ৫৭ ও ৫৮ নং ক্রমিক ভুক্ত যথাক্রমে ৫১, ৫২, ৫৩, ৫৪, ৫৬, ৫৭ ও ৫৮ নং ক্রমিক ভুক্ত যথাক্রমে এম কে দেবনর্মা, এস কে সরকার, আর সি চৌধুরী, ভগীরথ রিয়াং, মানিকলাল রিয়াং, জে সি বোস ও এ বি দত্তকে। বেশ কিছু বছর ধরেই উচ্চতর অফিসারদেরকে ডিসমিসে যাবার এসব ঘটনা ঘটে চলেছে। এসব ডিসমিসে যাবার প্রধান কারণ হলো যিনি ডিসমিসে হন তাঁর কর্মদক্ষতা। কিন্তু মানিক রিয়াং ও ভগীরথ রিয়াংয়ের কর্মদক্ষতা এতই উন্নত যে কয়েক বছর ১৯৯৭ সাল পর্যন্ত নিম্নাটিনী কমিটি তাঁদেরকে অনুপস্থিত বলে বিবেচনা করেছিল। ওই বছরই উল্লিখিত দু'জনের ডিসমিসে হয়েছেন জী এম আর পাল, যিনি কর্মজীবন শুরু করত ৪০ জনেরও বেশী অফিসারের নীচে ছিলেন। জীভ গীতবর্ধি রিয়াংকে ডিসমিসে আসা আশেপাশে অফিসার জী এল কে দাস, আই এ এস বর্তমানে যিপুরা সরকারের সচিব পদে রয়েছেন। বর্তমানেই প্রায় উঠতে পারে, মোদু'জন অফিসারের কাজের দেকর্ড কোনও নয়কেই ভালো নয়, বরং সব সময়ই খারাপ, তাঁরা সহসা ১৯৯৯ সালের ডিসেম্বর মাসে চলে এসেছেন কেমন করে? বহুটা কী? উত্তরে একটাই— নোদোষ। রাজ্যের মুখ্যমন্ত্রী, ইউ সি এম সি-র ওই সদস্য এবং ভারত সরকারের ওই প্রতিনিধি-এই কথী নোদোষ। ১৯৯৯-এর ৩টি শূন্যপদে ১০০ কর্মীরা অনুযায়ী চলতি বছরে যে ৯টি নাম পাঠানো হয়েছিল সেগুলি হলো সন্তোষ সরকার, আর সি চৌধুরী, ভগীরথ রিয়াং, মানিকলাল রিয়াং, মাধব চন্দ্র বসু, সুবিনয় কুমার চৌধুরী, রাজীবেন্দ্র কুমার দে চৌধুরী, অজিত কুমার লৌকিক ও ব্রজেন সান্না। অনুসরণভাবে ২০০০ সালের ২টি শূন্যপদে উল্লিখিত কর্মীরা অনুযায়ী ৩টি নাম পাঠানো হয়েছিল। যথা — মাধবচন্দ্র বসু, সুবিনয় কুমার চৌধুরী, রাজীবেন্দ্র কুমার দে চৌধুরী, অজিত কুমার লৌকিক,

ব্রজেন সাহা ও মনুসুন্দর ভট্টাচার্য। শেষ নামটি প্রক্টেই বাদ পড়েছিল যেহেতু সর্বমোট ৫টি শূন্যপদে ১৫ জনের বেশী প্রার্থীর নাম বিবেচনা করা সম্ভব নয়। পরবর্তী কালে জী এম এস ভট্টাচার্যের নাম অন্তর্ভুক্ত করা হয়েছিল যেহেতু কুমার সাহা'র বয়স প্রতিবন্ধকতার সৃষ্টি করেছে। অনুমান করা যেতে পারে উপরের বাতিল প্রার্থীদের মধ্যে মাধবচন্দ্র দত্তের নাম নতুন করে বিবেচনার জন্য উঠবে না যদি কোনও অস্টিন না খটে। কারণ, সহসা কোনও অফিসারকে 'মানক দক্ষ' বলে ঘোষণা দেওয়া নয়। যেহেতু ১৯৯৭ সাল পর্যন্ত এসব অফিসারগণকে অযোগ্য বলে ঘোষণা করা হয়েছিল সেহেতু প্রচলিত 'সেরিটি কাম সিনিয়রিটি' নীতিতে তাঁদের নাম নতুন অফিসারদের সঙ্গে বিবেচিত হতে পারে না। তাই অযোগ্যকে রক্ষা করার এবং যোগ্যতাকে বাতিল করার লক্ষ্যেই নতুন নীতির প্রবর্তন করতে হয়েছে। নতুন এই 'বৈক যার্কিং' নীতিতে বলা হয়েছে, যদি কোনও অফিসার ৫ বছরের গড়ে যে-কোনও উপায়ে 'বুই ভালো' কথাগুলি এ সি আরে লেখাতে পারেন তাহলে তাঁদের সিনিয়রিটিকে নড়ানো যাবে না। সৎ ও বিনোদ দক্ষ অফিসারদের বিরুদ্ধে এই সড়সড়ের মাধ্যমেই রাজ্যের মুখ্যমন্ত্রীর বাহাদুর অজ্ঞাত দু'জন অযোগ্য অফিসারকেই আই এ-এন-এ উন্নীত করেন সি, উপরন্তু এমন একটি অপরাধমূলক দৃষ্টান্ত স্থাপন করেছেন যাতে কোনও অফিসারই কাজকর্মের উন্নতি ঘটানোর চেষ্টা করবেন না। আরও বিপদের কথা হলো, রাজ্যের কতিপয় মন্ত্রী অজ্ঞাতভুক্ত অফিসারদেরকে উন্নতি দেবার সুপারিশ প্রকাশ্যেই করেছেন ও পদোন্নতি না ঘটালে সমস্যার পাত গোলামাণ ঘটিবে বলে ব'লে ধমকি দিয়েছেন। এতদ্ব্যতীত মুখ্যমন্ত্রীর দিগে ওই দুই অফিসারের এ সি আর নতুন করে লেখানো হয়েছিল। প্রসঙ্গত উল্লেখ্য, জীভ গীতবর্ধি রিয়াং সি ডি ও থাকাকালীন সময়ে ছু'বছরপর ব্রজ থেকে অর্ধ সোপার্টের ঘটনায় অভিযুক্ত হয়েছিলেন। জাফা মানিকলাল রিয়াংকে কতিপয় কটির উপস্থিতিতে সত্রে তাসের গোপন ভেদেই কর্মসমরান করা হয়েছিল। এ অশ্রুতে তাঁর চাকুরী জীবনের উপক্রমও ঘটেছিল। বদান্য ও মহানুভব মুখ্যমন্ত্রীর তাঁদের দু'জনেরই বক্ষা করেছেন। (সিনিয়রিটি ইজ্যুটি সজেনও তথ্যগুলি সরকারী দলিলপত্র — যথা, রাজ্য সরকারের অফিসারদের সিনিয়রিটি তালিকা ও ভারত সরকারের সিনিয়রিটি তালিকা থেকে সংগৃহীত)।

Attested
as
Adv

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Annexure-14 A

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No.14015/20/2000-AIS (I)

Government of India

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

New Delhi, the 25th April, 2001

NOTIFICATION

In terms of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the Select Lists of 1999 and 2000 for Tripura containing the names of the following State Civil Service officers of the State of Tripura prepared by the Selection Committee in its meeting held on the 19.12.2000, towards filling up three vacancies during 1999 and two vacancies during 2000, in the Tripura segment of the Indian Administrative Service of the Manipur-Tripura Joint Cadre.

S.No	Select List	Name of the officer(S/Shri)	Date of Birth
1.	1999	B. Reang (ST)	01.08.1947
2.	1999	M.L. Reang (ST)	04.11.1945 &
3.	1999	M.C. Datta	28.02.1947
4.	2000	S.K. Choudhuri	13.07.1950 &
5.	2000	R.K. Dey Choudhury	01.11.1947

R. Vaidyanathan

(R.VAIDYANATHAN)

Under Secretary to the Government of India

To The Manager
Government of India Press
Faridabad (Haryana)

No.F.14015/20/2000-AIS(I)

New Delhi, the 25th April, 2001

1. The Chief Secretary, Government of Tripura, with 5 spare copies for onward transmission to the officers concerned.
2. The Secretary, Union Public Service Commission, Dhoolpur House, New Delhi. (Shri Manjit Kumar, Under Secretary)

R. Vaidyanathan

(P.VAIDYANATHAN)

Under Secretary to the Government of India

Internal Distribution: Under Secretary (S.II)/10 spare copies

Attested
UAS,
Adv.

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)
No. 14015/58/96-AIS(1)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)
.....

New Delhi, the 22nd Oct., 97.

NOTIFICATION

In exercise of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission, have approved the Select List containing the names of the following members of the State Civil Service of the State of Tripura prepared by the Selection Committee in its meeting held on 27.3.1997, for one anticipated vacancy in the Tripura segment of the Indian Administrative Service Manipur-Tripura Joint Cadre, during 1997-98.

<u>S.No.</u>	<u>Name of the officer</u> S/Shri	<u>Date of Birth</u>
1.	S.K. Adhikari	04.02.1942
2.	D.K. Chakraborty	08.07.1940
3.	S.R. Paul	18.06.1941

* The name of S.No.1 has been included provisionally subject to the outcome of disciplinary proceedings pending against him and also grant of integrity certificate by the State Government.

R. Vaidyanathan
(R. VAIDYANATHAN)
DESK OFFICER.

To
The Manager,
Govt. of India Press,
Faridabad (Haryana)

No. P. 14015/58/96-AIS.1

New Delhi, the 22nd Oct., 97.

1. Chief Secretary, Govt. of Tripura, Agartala with spare copies for onward transmission to the Govt. of Meghalaya for intimating the officers concerned.
2. Chief Secretary, Government of Manipur, Imphal.
3. The Secretary, UPSC, Dhoolpur House, New Delhi (Sh. N. Namasivayam, Under Secretary), for information.

R. Vaidyanathan
(R. VAIDYANATHAN)
DESK OFFICER.

INTERNAL DISTRIBUTION

Under Secretary (S.II)/Guard file/Spare copies.

Attested
as per
Adv.

98

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Annexure-16

CONFIDENTIAL

NO.F.2(11)-GA(P&T)/2001
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT

.....
Dated, Agartala, the 24th 23rd July, 2001.

To
The Principal Secretary/Commissioner/Secretary,
.....Deptt.,
Government of Tripura,
Agartala.

Subject : Selection of Non-SCS Officers to IAS - recommending names.

Sir,

I am directed to refer to this Department letter of even number dated the 18th June, 2001 on the subject noted above and to request you kindly to expedite the reply alongwith the proposal to this Department latest by the 31st July, 2001 positively.

Yours faithfully,

Signature
24-7-2001
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.

.....

Attested
As
Adv.

In The Central Administrative Tribunal
GUWAHATI BENCH GUWAHATI

ORDER SHEET

Misc. Application No. 16/99 (in O.A. 244/98)

Applicant(s) Tripura Civil Service Officer
Asso. ors.

Respondent(s) Union of India.

Advocate for Applicant(s) Mr. B. K. Sarma, Mr. S. Sarma
Mr. U. K. Nair.

Advocate for Respondent(s) Mr. B. S. Brahmachary
Mr. C. Y. S.

2.99 This petition has been filed by the Tripura Civil Service Officers Association praying inter alia that the Tripura Civil Service Officers should also be assessed for the purpose of promotion to IAS.

Heard Mr S.Sarma, learned counsel for the petitioner, Mr P.Bora, Govt. Advocate, Manipur, Mr B.P.Kataki, Govt. Advocate, Tripura, Mr A.Deb Roy, learned ASrl.C.G.S C and Mr J.L.Sarkar for some of the private respondents in the O.A. On hearing the counsel for the parties we direct the opposite party/respondents to assess the eligible Tripura Civil Service Officers separately for the purpose of promotion to IAS. However, no final result shall be published until further orders. We make it clear that the assessment shall be made separately for TCS and non TCS officers.

Misc. Petition is disposed of.

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMIN)

Certified to be true Copy
23/6/99
Section Officer (I),
Central Administrative Tribunal,
Guwahati Bench, Guwahati.

Attested
Adm.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET

Misc APPLICATION NO. 2/99(244/98) OF 199

Applicant(s) Chief Secretary
Govt of Manipur. (R. No. 4)

Respondent(s) Tripura Civil Services Officer.
Asst.

Advocate for Applicant(s) Mr. G. N. Saha Walla, Mr. P. Bora

Advocate for Respondent(s) Mr. B. K. Sharma,
Mr. S. Samra.

25.2.99

This petition has been filed by the petitioner - Chief Secretary, Government of Manipur praying inter alia for an order to allow the petitioner to prepare a select list for promotion of Manipur Civil Service Officers to the Indian Administrative Service for the year 1998.

Heard Mr P. Bora, learned counsel for the opposite party/applicants, Mr J.L. Sarkar learned counsel for respondents 5-8 and Mr B.P. Katakli for respondents No.3. On hearing the counsel for the parties we direct the petitioner/respondents to process the selection. However no appointment shall be made until further orders.

TRUE COPY
নকল

Certified to be true Copy. Misc. Petition is disposed of.

স্বাক্ষরিত নকল

Section Officer 23/6/99

অসম প্রশাসনিক আয়তন
Central Administrative Tribunal
গুৱাহাটী কেন্দ্রীয় আয়তন
Guwahati Bench, Guwahati
অসম প্রশাসনিক আয়তন

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMIN)

Attested
Asst. Adv.

Annexure-19

GOVERNMENT OF TRIPURA GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT *****

Dated, Agartala, the 10 June, 2002

NOTIFICATION

Consequent upon the appointment of Shri Hiralal Chakraborty, Executive Engineer, P.W. Department (Non-SCS) to the Indian Administrative Service in Joint Cadre of Manipur-Tripura, Tripura Segment vide Govt. of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, New Delhi Notification No.14015/20/2001-AIS(I) dated 31st May, 2002, the Governor is pleased to order that Shri Hiralal Chakraborty is posted as Director, Social Welfare & Social Education (IAS Cadre post) with immediate effect and until further orders.

By order of the Governor,

(Signature)
10-6-2002
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.

Copy to :-

1. The Chief Secretary, Manipur, Tripura, Imphal, Nagaland.
2. Principal Secretary, Government of Tripura, Agartala.
3. Secretary to Chief Minister, Tripura.
4. Offices of all Ministers, Tripura.
5. All Principal Secretaries/Commissioners/Secretaries, S.T. welfare Tripura, Agartala.
6. Establishment Officer, Additional Secretary, Govt. of India, Deptt. of Personnel, Training, North Block, New Delhi.

Contd..... to P/2.....

Attested
W.D.
A.V.

5 OCT 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

D.A. No. 405 of 2001

Shri Ajit Kumar Bhowmik

... Applicant

- Versus -

Union of India & Ors.

... Respondents

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Filed by : U.K. Nair

Advocate

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FILED BY:
Shri A.K. Bhaumik
... Applicant
Through
Shri Krishnan Nair
Union
Advocate

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

O.A. No.-----of 2001

BETWEEN

**Shri Ajit Kumar Bhaumik
Son of Late Hridaya Chandra Bhaumik,
Presently working as Director, Small Savings,
Group Insurance & Institutional Finance,
Government of Tripura, Agartala.**

... Applicant

- AND -

- 1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Personnel, Public Grievance and
Pension (Department of Personnel & Training),
New Delhi.**
- 2. The State of Tripura, represented by its
Chief Secretary, Agartala, Tripura.**
- 3. The State of Manipur, represented by its
Chief Secretary, Imphal, Manipur.**
- 4. The Union Public Service Commission,
represented by its Chairman, Dholpur House,
New Delhi**
- 5. Shri Bhagirath Reang, Director, Research,
Government of Tripura, Agartala.**
- 6. Shri Manik Lal Reang, Director, Relief,
Government of Tripura, Agartala.**
- 7. Shri Arabinda Guha, Director, Settlement
& Land Records, Government of Tripura, Agartala.**

8. Shri L. Darlong, Additional D.M. & Collector,
North Tripura, Kailashahar.

...RESPONDENTS.

DETAILS OF APPLICATION

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

The present application is directed against the illegal deprivation of the Applicant from being promoted to IAS by way of promoting non-State Civil Service officers and the State Civil Service Officers not eligible for such promotion and the decisions of the Respondents pertaining thereto.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE:

✓ 4.1. That the Applicant is a State Civil Service officer and is presently holding the post of Director, Small Savings, Group Insurance and Institutional Finance, Government of Tripura. By now the Applicant has rendered 25 years of sincere and devoted service as a State Civil Service officer shouldering many responsible positions.

4.2. That as per the provisions of the IAS (Appointment by promotion) Regulations, 1955, the Applicant is eligible and suitable for promotion to IAS in the Tripura segment of Manipur- Tripura Joint Cadre. In the year 1994, the Government of Tripura by its letter addressed to the Secretary, UPSC had forwarded a list of State Civil Service Officers for consideration in which the names of the Respondents No. 5 & 6 were there. During earlier years also, specially since 1991, as and when there

was a Selection Committee meeting, their names were considered. In the year 1996, the Government of Tripura by its letter dated 20.12.96 addressed to the secretary, UPSC had forwarded a list of 17 officers including Respondent Nos. 5 & 6 for consideration to be included in the select list of 1996. The name of the Applicant was also forwarded in that year.

A copy of the said letter dated 20.12.96 is annexed as Annexure-1.

4.3. That although in the said lists as forwarded by the Government of Tripura, the names of the Respondents No. 5 & 6, reflecting their seniority positions in the Tripura Civil Service were there, they could not get selection for those years due to their poor service records. Their cases attracted consideration by the Selection Committee since 1991 and up to 1997. In all the meetings of the Selection Committee during the aforesaid period, their cases were not found suitable for inclusion in the Select List. Time and again, many of their juniors superseded them in the matter of promotion to IAS. Although, their case was considered they could not be promoted to IAS due to their poor service records. Both of them were superseded by their juniors. While Shri Bhagirath Reang (Respondent No.5) was superseded by his juniors namely, Shri S.K. Das, Shri S.S. Datta, Shri B.K. Roy, Shri K.P. Goswami, Shri P. Debbarma & Shri D.K. Dey, Shri D.K. Chakaborty, Shri Harihar Das, Shri B.K. Chakraborty and Shri S.R. Paul in the years of 1994, 1995, 1996 & 1997, Shri Manik Lal Reang (Respondent No. 6) was superseded by his juniors namely, Shri S.S. Datta, Shri B.K. Roy, Shri K.P. Goswami, Shri P. Debbarma & Shri D.K. Dey, Shri D.K. Chakaborty, Shri Hariher Das, Shri B.K. Chakraborty and Shri S.R. Paul in the years of 1995, 1996 & 1997. They were so superseded because of their poor service records and annual confidential records.

4.4. That after the year 1997, there was no selection committee meeting to consider the cases of SCS officers, which naturally deprived the Applicant from being considered.

4.5. That the method of recruitment to the Indian Administrative Service is governed by the provisions of IAS (Recruitment) Rules, 1954, hereinafter referred to as "the 1954 Rules". Under Rule 4 of 1954 Rules, the recruitment to IAS is done by the following methods viz. (a) by a competitive examination (aa) by selection of persons from among the Emergency Commissioned Officers and Short Service Commissioned Officers of the Armed Force of the Union (b) by promotion of member of State Civil Service and (c) by selection in special cases from amongst persons who hold in substantive capacity gazetted posts in connection with the affairs of the State and who are not members of State Civil Service.

4.6. That in the present case, the Applicant is concerned primarily with the recruitment to IAS by the method of promotion of substantive members of State Civil Service and by the method of selection in special cases from amongst persons who are not members of State Civil Service i.e. method of recruitment prescribed by Rule 4(b) and (c) of the 1954 rules. In the line of Rule 4(b) and (c), there is rule 8(i) and (2) of the 1954 Rules laying down broadly the modus operandi to be followed in respective cases. In this regard, Rule 8(1) provides for recruitment of IAS officers by promotion from amongst the substantive members of the State Civil Service while Rule 8(2) is an extension of Rule 4(c) and makes provision for appointment to IAS cadre under special circumstances from amongst persons of outstanding ability and merit serving in connection with the affairs of the State who is not the member of the State Civil Service.

4.7. That Rule 8(2) which is highly relevant in the present case, reads as follows :

"The central Government may, in special circumstances and on the recommendation of the State Government and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission, from time to time, make recruit to the service any person of

outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post on a substantive capacity."

4.8. That Rule 9 of the 1954 Rules contains the provisions in regard to fixation of quota of the posts to be filled up. Under Rule 9(i), the number of persons recruited under Rule 8 in any state shall not at any time exceed 33 1/3% of the number of those posts as are shown against items 1 and 2 of the cadre in relation to the State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. However, proviso to Rule 9(1) states that the number of persons recruited under Rule 8(2) shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection.

4.9. That it is therefore, seen that although total quota of the persons to be recruited to IAS under Rule 8 is 33 1/3% of the number of posts, but the number of persons recruited under sub-rule 3 of the Rule 8 cannot exceed 15% of the total number of posts. It is also pertinent to mention that the provision contained under Rule 8(2) is merely directory and not mandatory. Its compliance is exclusively to the discretion of Central and State Government. Moreover, such a discretion is to be exercised only in special circumstances, meaning thereby that the special circumstances do not exist, it is not incumbent upon the Central and State Governments to carry out recruitment to IAS in terms of Rule 8(2) of 1954 Rules.

4.10. That the provision of Rule 8(2) of 1954 Rules though were in force since last 40 years, but the Government of Tripura, at no point of time, exercised the discretion vested in it for making recruitment to IAS in terms of rule 8(2). Both the Union of India and the UPSC were also parties to this non-exercise of discretion in the matter of Rule 8(2) of 1954 Rules.

4.11. That in exercise of the powers conferred by section 3 of the All India Services Act, 1951 and in pursuance of Sub- rule (2) of Rule 8 of the Indian Administrative Services (Recruitment) Rules, 1954 and in super session of the Indian Administrative Service (Appointment by Selection) Regulation, 1956, the Central Government in consultation with the State Government and the Union Public Service Commission made the Indian Administrative Service (Appointment by selection) Regulations, 1997. Regulation 4 of the said Regulations provides that the State Government shall consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State who -

(i) is of outstanding merit and ability and

(ii) holds a Gazetted post in a substantive capacity and

(iii) has completed not less than 8 years of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration by the committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year. Provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken to propose the names for the consideration of the Committee.

Provided also that the State Government shall not consider the case of a person who having been included in an earlier select list, has not been appointed by the central Government in accordance with the provisions of regulation 9 of these regulations."

4.12. That it is therefore, seen that to carry out the recruitment to IAS in terms of Rule 8(2) of 1954 Rules, the standard laid down in 1997 Regulation has to be followed. However, in the case of the State of Tripura, the State Government has not made any rational order/notification declaring the nature of posts equivalent to the post of Deputy Collector except for a partial and highly confusive order. It was

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therefore, arbitrary for the Government of Tripura to send necessary recommendation to the Central Government for the purpose of making recruitment to IAS in terms of Rule 8(2) of the 1954 Rules. To send such recommendations as prescribed under Rule 8(2) of the 1954 rules, the Government of Tripura was duty bound to fulfill the standards laid down in regulation 4 of 1997 Regulations which was not the case in the State of Tripura. In this connection, the clarifications were also sought for from the Government of Tripura and the answer to the queries raised therein were wholly unsatisfactory.

4.13. That having the ground realities as above, the Government of Tripura recommended the names of non SCS officers in 1998 and 2000 in utter violation of the provisions of Rules and have been successful in getting the non SCS officers like Respondents no.7 & 8 appointed in IAS on 19.4.2000 & 28.5.2001 respectively. Orders appointing them are annexed as Annexures-2 & 3 respectively.

The Applicant craves leave of this Hon'ble Tribunal to refer to the materials pertaining to the clarification given by the Government of Tripura in regard to the queries made towards implementation of Regulation 4 of 1997 Regulations.

4.14. That it is worthy to note here that 1997 Regulations came into effect from 1.1.98. Prior to 1997 Regulation, the induction of non-SCS officers into IAS by the process of selection was governed by IAS (Appointment by Selection) Regulation, 1956 which was framed under the provision of Sub-Rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the same is governed by IAS (Appointment by promotion) Regulation, 1955 framed under provision of Sub-rule (i) of Rule 8 of IAS (Recruitment) Rules, 1954. It is therefore, seen that prior to 1997 Regulation governing the induction of non-SCS officers into IAS by the method of selection, the exercise or non-exercise of discretion by the State of Tripura in the matter of inducting non-SCS officer into IAS was under 1956 Regulation. With 1997 regulation coming into force with effect from 1.1.98, the Chapter relating to

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induction of non-SCS officers into IAS prior to 1.1.98, therefore, has come to an end and the same cannot be reopened for the purpose of fixation of quota or for calculating backlog vacancies to be filled up by non-SCS officers. Moreover, because of non-exercise of discretion by the Government of Tripura, those vacancies of IAS which could not be filled up by non-SCS officers prior to 1.1.98, could not be taken into consideration while calculating the number of IAS vacancies to be filled up by non-SCS officers in terms of 1997 Regulation. This position of law, as stated herein, is highly relevant for the purpose of present case because the official Respondents, for the purpose of filling up existing vacancies of IAS by non-SCS officers in terms of 1997 Regulation, have considered even those vacancies of IAS prior to 1.1.98 which could have been filled up under 1956 Regulation by non-SCS officers under the stipulated quota of 15% but were not filled up by them because either the special circumstances did not exist or for certain other relevant consideration there was no exercise of discretion by the Government of Tripura.

4.15. That the Government of India, Ministry of personnel, Public Grievances and Pension, Department of Personnel and Training vide letter No. F. 1415/58/96-AIS (I) dated 25.3.98 which was issued to the Government of Manipur and Tripura drew the attention of the State Governments in regard to making of recruitment to IAS in terms of Rule 8 (1) and (2) of 1954 rules. In paragraph 3 of this letter, it was stated that Government of Manipur and Tripura were required to send proposals for preparation of 1998 select list in terms of the Amended Promotion and Selection regulations (meaning thereby 1997 Regulation), limiting the recruitment in 1998 in such a way that the total number of posts in the Joint cadre filled under Rule 8(1) and (2) of 1954 Rules, do not exceed 45 and 7 respectively. The letter went on to observe that it was seen that including the latest appointment notification dated 24.3.98 on date there were 5 officers in position holding the promotion post in the IAS Manipur Tripura Joint cadre (+5) and the persons appointed by selection in the Joint cadre is 1 (-6) only. The letter stated that in order to phase out the surplus in the number of incumbents in the promotion posts and filling up of the deficit in the selection posts,

further recruitment to IAS in Manipur- Tripura Joint cadre under Rule 8(1) and Rule 8(2) of the 1954 Rules during the three years may be regulated. Thereafter, the letter laid down the manner in which the further recruitment to IAS in Manipur- Tripura Joint Cadre was to be regulated. It specified that the one vacancy arising in 1998 was to be filled up by non-State Civil Service Officers. In regard to preparation of 1999 select list, it was stated that the recruitment may be carried out in such a manner that the total recruitment under Rule 8(1) and rule 8(2) of 1954 Rules are limited to 55 posts in all the total promotion post (i.e. posts filled up by promotion from State Civil Service) does not exceed 47 during 1998. In regard to preparation of select list during the year 2000, it was stated that the total recruitment under promotion and Selection Regulation should be limited to 60 and the total promotion post should not exceed 51.

Copy of the letter dated 25.3.98 is annexed as Annexure -4.

4.16. That the Government of Tripura quite arbitrarily proposed to the Government of India to allot the single vacancy occurring in the year 2001 for promotion to IAS for the non SCS officers vide their letter dated 23.5.2001. The Government of India also agreed to the proposal of the State Government quite arbitrarily and in violation of the provisions of Rules issued letter dated 29/30.5.2001 to the Government of Tripura communicating the decision to fill up the said lone vacancy by way of recruitment of non-SCS officers. By the said notification the vacancy against promotion quota has been stated to be Nil. This is a very serious move to deprive the Applicant for life long. Mentionable that the Government of Tripura could not sponsor the required number of eligible candidates i.e., 5:1, in the year 2000 from amongst the non SCS officers for being considered. This is because of the fact that officers with outstanding ability & merit from amongst the non SCS officers were hardly available. Even then when the Government of Tripura has decided to earmark the single vacancy of 2001 for the non SCS officers it goes to prove that they are deliberately doing so in order to put their man of choice whatever is his caliber or whether or not there is the existence of special circumstances.

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A copy of the letter dated 29/30.5.2001 is annexed as Annexure-5

4.17. That pursuant to the said letter dated 29/30.5.2001 of the Government of India, the Government of Tripura, by its letter dated 18.6.2001 addressed to the Principal Secretaries/ Commissioners/ Secretaries to the Government of Tripura, has taken steps to complete the process.

Copy of the letter dated 18.6.2001 is annexed as Annexure-6.

4.18. That it was apprehended that if the letter dated 25.3.98 (**Annexure-4**) was given effect to by way of filling up of the 1998 vacancy and the future vacancies by the non SCS officers on the basis of backlog vacancies which does not in fact exist, this would make deep inroads into the quota of SCS officers. As stated earlier, in 1998 there was only one existing vacancy in IAS and the same was proposed to be filled up by non-SCS officer. Moreover, out of the three vacancies in 1999 and the three vacancies in the year 2000 which would arise in IAS, most of these vacancies were to be filled up by non-SCS officers irrespective of the fact whether or not special circumstances exist as envisaged under Rule 8(2) of 1954 Rules. Though under the scheme of the Rules the total three vacancies which would arise in 1999 should go to the SCS officers and the three vacancies which would arise in the year 2000, should go to the SCS officers as per Rules, the letter of the Government of India dated 25.3.1998 is contrary to this..

4.19. That the basic theme of letter dated 25.3.98 (**Annexure-4**) and letter dated 29/30.5.2001 (**Annexure-5**) revolves round earmarking the quota of 15% of total number of posts to be filled by non-SCS officers in terms of rule 8(2) of 1954 Rules. To fulfill the said purpose, it goes to the extent of eating into the quota of State Civil Service officers. Moreover, these categorically say that the only vacancies arising in 1998 & 2001 in IAS is to be filled up by non-SCS officers, overlooking the fact that under proviso to Rule 9, only 15% of the total number of vacancies arising in a given year can be filled up by non-SCS officer in terms of Rule 8(2) of 1954 Rules. Giving

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single posts of 1998 & 2001 to non SCS officers means allotting 100% quota for them in those years which is not at all permissible.

4.20. That the Government of Tripura in response to the **Annexure-4**- letter of the Government of India dated 25.3.98, issued the letter No. F. 32 (I) -GA/98 (L) dated 24.3.98 proposing to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulation in accordance with direction of Ministry of Personnel, Government of India. Pursuant to this letter, all the Heads of the Departments, Government of Tripura were asked to confirm if there were suitable officers not belonging to State Civil Service but equivalent in rank pay and responsibility to the Deputy collector and above who merit consideration for such promotion to Indian Administrative Service.

Copy of the letter dated 24.8.98 is annexed as **Annexure-7**.

4.21 That from **Annexure -7**, letter dated 24.8.98, it is clear that the same was in response to the letter of the Government of India dated 25.3.98. And in pursuance of the aforesaid letter, the Government of Tripura moved towards the direction of filling up the only vacancy in IAS arising in the year 1998 through the non-SCS officers in terms of Rule 8(2) of the 1954 Rules.

4.22 That the letter of the Government of India dated 25.3.98 and the letter of Government of Tripura dated 24.8.98 which was issued in response to the earlier letter gave rise to the situation wherein the applicant & other similarly situated persons were faced with the threat of deprivation. The applicant was concerned over these developments because power under Rule 8(2) of 1954 Rules is discretionary which is meant to be used in a special circumstances. *Recruitment to IAS by method of promotion of State Civil Service officers under rule 8(1) of the 1954 Rules is the normal course of events whereas recourse to rule 8(2) of 1954 Rules for recruiting non- SCS officers to IAS is an exception which should only take place in a special*

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circumstances. Moreover, to carry out recruitment in terms of Rule 8(2) of 1954 Rules, the standard and parameter laid down under Regulation 4 of 1997 Regulation is to be fulfilled which is not the case in the State of Tripura. As stated earlier, in the State of Tripura, no rational notification has been issued by the Government showing the nature of posts which are equal in status to Deputy Collector which is one of the requirements of considering the case of suitable non SCS officers for the purpose of recruitment to IAS. The notification dated 26.10.98 issued by the Government of Tripura specifies the equivalent posts of Deputy Collectors as (i). Joint Director & above, (ii). Executive Engineer and above, and (iii). Chief Inspector of Factories & Boilers. Officers in other services having administrative experiences have been excluded. This is a partial order and there is no scope under the notification to make a holistic appreciation of the performance of the wide range of non SCS officers serving in the affairs of the state. In fact, this notification dated 26.10.98 of the Government of Tripura has put a stigma to the assessment of comparative skill and merit from amongst the large number of non SCS officers remaining outside its purview. This is also indicative that the Government have without going for fixing parameters for selecting the best from amongst the non SCS officers and also not setting the criteria for determining the "special Circumstances", quite whimsically and arbitrarily identified a fraction of the services and posts in non SCS in order to bring in particular persons of their choice into IAS. It seems that the finding of persons with "outstanding ability and merit" under "special circumstances" has nothing to do with the government. Moreover, what the Applicant found baffling is the fact that since last 40 years, discretion under Rule 8(2) of 1954 rules was never exercised in favour of non-SCS officers, may be because, since last 40 years special circumstances as specified under Rule 8(2) never really existed for the Government of Tripura. Now in pursuance of the letter of the Government of India dated 25.3.98, the move was initiated to clear the so called backlog by calculating the number of vacancies that ought to have been filled up by non-SCS officers had recruitment in terms of Rule 8(2) of 1954 Rules been made. It is as a result of this exercise, that the only vacancy in the year 1998 in IAS is to be filled by non-SCS officer in terms of

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Rule 8(2) of 1954 Rules and even in the year 1989 and the year 2001, the State Civil Service officers are not to get their dues.

A copy of the notification dated 26.10.98 is annexed as Annexure-8

4.23. That being aggrieved by all these developments the Tripura Civil Service Officers' Association submitted the representation dated 12.5.98 to the Chief Secretary to the Government of Tripura. This representation of the Association was followed by a detailed Memorandum dated 28.5.98 to the Chief Minister of the State of Tripura. Lastly, General Secretary of the Association submitted the representation dated 3.6.98 to the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India. However, notwithstanding submissions of all these representations, no redressal of the grievances was made by the competent Authority. Instead, they filled up the lone vacancy of 1998 by non SCS officer. Subsequently one of the three vacancies of 2000 was also given to the non SCS. All these were done in violation of the rules.

Copies of the representation dated 12.5.98, 18.5.98 and 3.6.98 as submitted by the TCS Officers' Association are annexed as Annexure-9A, 9B and 9C respectively.

4.24. That it is stated that the letter dated 25.3.98 issued by the Government of India and the letter dated 24.8.98 of the Government of Tripura have been issued in colourable exercise of power in as much as the purpose behind this exercise is to ensure the entry of certain blue-eyed persons close to influential people. By taking recourse to this method, the efforts are on to bring in rank outsiders who otherwise, neither have the ability and talent nor the eligibility to be an IAS officer within the fold of IAS.

4.25. That the expression "Special Circumstances" as used in rule 8(2) of 1954 rules was interpreted by the Hon'ble Supreme Court in one of its decisions as "the selection in special cases of the persons who have established their outstanding merits and ability while serving the State. Members of the State Civil Service who are not "outstanding" but are only "good" and "very good" are also eligible to be

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considered for appointment to IAS, but under Rule 8(2) of the Rules it is only an outstanding officer who is eligible. It is the outstanding merit and ability which makes him a "Special Case" in terms of Rule 8(2) of the Rules."

4.26. That while interpreting regulation 3 of 1956 Regulations along with Rule 8(2) of the 1954 Rules, the Hon'ble Supreme Court in its judgment held that the Central Government being the appointing authority of the IAS has to be finally satisfied about the existence of the "special circumstances" as a condition precedent for making special recruitment. According to the Hon'ble Supreme Court, the "special circumstances" are to be spelled from Rule 8(2) of the 1954 Rules read with Regulation 3 of the 1956 Regulations. According to the Hon'ble Court, Rule 8(2) which talks of "outstanding ability and merit" when read with regulation 3(1) and 3(4-A) of the Regulations makes it clear that the "special circumstances" required it clear that the "special circumstances" required to be seen are (i) the existence of required years of continuous service in a Gazetted post under the State Government other than State Civil Officers -who are of outstanding merit and ability and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS. It is, therefore, clear that selection of non-SCS officer for appointment to the IAS by no stretch of imagination can be held to be mandatory. The provision in regard to the same is only directory and the same is dependent upon the various factors and circumstances. It is important that the special circumstances as required under the Rules and Regulations have to be seen by the State Government. The Central Government being the appointing authority have to finally approve the State Government's proposal which reach the Central Government through the process of selection. Hence the satisfaction in regard to special circumstances is not only of the State Government but the same extends to Central Government also. In the present case, all these relevant factors have given a go bye and the Respondents have adopted a mechanical approach towards carrying out a process of selection and filling up the existing vacancies in the IAS by non-SCS officers.

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4.27. That the Annexure-4 letter dated 25.3.98 goes contrary to the very scheme of 1954 Rules and the amended Regulation because by putting a ceiling on the number of posts to be filled up by promotion from State Civil Service officers in the years 1999 and 2001, it makes it mandatory that the remaining vacancies have to be filled up by the non- SCS officers. It is as if that there is a mandatory requirement that the special circumstances must exist, come what may, so as to necessitate filling up of vacancies by non- SCS officers.

4.28. That the finalization of the select list of 1998 for the purpose of filling up the lone vacancy arising in that year has been done, and the post has also been filled up by a non-SCS officer by wrongly interpreting Rule 8(2) of 1954 Rules. The letter of the Government of India dated 25.3.98 and the letter of the Government of Tripura dated 24.8.98 are ex-facie in flagrant violation of the provisions of 1954 rules and amended Regulation, 1997. The appointment has been given in contravention of the very nature of the scheme of recruitment of non- SCS officer to IAS as specified under Rule 8(2) of 1954 Rules.

4.29. That situated thus, the Applicant along with other members of the Association had filed OA NO. 244/98 before this Hon'ble Tribunal and the same was disposed of by judgment and order dated 4.2.2000.

A copy of the said judgment and order dated 4.2.2000 is annexed as Annexure-10.

4.30. That in terms of the said judgment the Government of India, by its order dated 13.4.2001 disposed of the matter as directed by the Hon'ble Tribunal. Although as per the order of the Hon'ble Tribunal, the order was to be communicated to the parties concerned, it appears that the Government of Tripura by its letter dated 12.5.2001, communicated the decision of the Government of India to the Secretary of the Association only without endorsement of copy of the same to the other

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Applicants in the said OA which includes the Applicant. It was only through the Secretary of the said Association that the Applicant could come to know about the said order dated 13.4.2001, recently.

A copy of the said order dated 13.4.2001 along with the letter dated 12.5.2001 is annexed as Annexure-11.

4.31. That a bare perusal of the order dated 13.4.2001 will reveal that the same is contrary to the findings recorded in the judgment dated 4.2.2001 referred to above. By the said order dated 13.4.2001, the Government of India have misinterpreted and misread the provisions of the Rules reference of which will be made at the time of hearing of the OA.

4.32. That adding insult to the injury the official Respondents committed irregularities even in the matter of promotion to IAS from amongst the SCS officers also. The Respondents No. 5 & 6 who were not found suitable for promotion to IAS on a number of occasions since 1991 started to be superseded by the juniors in a chain manner since 1994 onwards, because of their poor service records, suddenly could make to the grading against 1999 vacancies considered in December, 2000, so as to get promotion to IAS. It was prominently highlighted in newspapers that the ACRs of the said 2 Respondents were manipulated in order to giving them a birth in the IAS. Such manipulation was carried out in their ACRs for the years from 1997 to 1999 in such a way so that the said 2 Respondents could earn their bench mark at least as "Very Good". Be it stated here that the said 2 officers were regarded as not fit for promotion to IAS on the basis of poor ACRs and service records on many earlier occasions, but suddenly could rise to the slot, due to manipulation. The illegalities committed towards their promotion was widely reported in various newspapers.

A copy each (extract) of the issue of daily newspaper "Trans Bengal News" dated 16.2.2001 and "Syandan Patrika" dated 16.2 2001 is annexed as Annexure-12 and Annexure-13.

The Applicant craves leave of the Hon'ble Tribunal to produce the copies of the newspapers in original if and when required.

4.33. That the Government of Tripura maintained absolute silence in respect of the said newspaper reports and did not come up with contradiction / clarification and thereby accepted the allegations made.

4.34. That it is pertinent to make a mention that the selection committee meeting was held on 19.12.2001 and the appointments were made on 27.4.2001 and 28.5.2001 (Annexure-3) taking unusually a long time. It is confidentially learnt that the Chairman UPSC was not satisfied with the recommendations of the Committee. He held it up for this long period in an unprecedented manner and once again called for the ACRs of the officers in the consideration zone.

Copy of the appointment order dated 27.4.2001 is annexed as **Annexure-14**.

4.35 That from the aforesaid factual position in the matter of consideration for promotion to IAS from amongst the SCS officers, it is crystal clear that the Respondents No 5 & 6 have been illegally selected & promoted by manipulating the records who are otherwise considered to be unfit for such promotion continuously over the years. As such, their such selection and appointment are liable to be set aside.

4.36 That as already stated above, there was no selection of SCS officers after 1997 i.e. during the years 1998, 1999 and 2000. Against the accumulated vacancies of those 3 years, appointment for SCS was made only in 2001 following the selection committee's meeting held on 19.12.2001. Instead of preparing select list annually after holding yearly meetings of the Selection Committee as necessitated by vacancies, the selection committee prepared the select list pertaining to all these years against the accumulated vacancies only in 2001 by way of mechanically fitting their names against the annual vacancies in a single order dated 25.4.2001. The select list for 1999 and 2000 was clubbed together in a single order dated 25.4.2001. It was during the gap of these 3 years, the ACRs of the Respondent No. 5 & 6 were

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manipulated to bring them back to the zone of selection, but for which as before they would not have been selected.

A copy of the order dated 25.4.2001 is annexed as Annexure-14A.

4.37. That when the selection committee sat on 19.12.2001, 6 vacancies were taken into consideration. There was one anticipated vacancy due to the retirement of Shri B.K. Chakraborty IAS on 31.7.2001. The committee ought to have taken into consideration the said vacancy so that another deserving officer could be covered. Had that vacancy been taken into consideration as it was done by the Official Respondents in the year 1997 vide Notification dated 22.10.97. It is the bonafide & legitimate expectation of the Applicant that he would have been selected & promoted against the said post. The 3 vacancies each during 1999 and 2000 were however, filled up by five SCS and one non-SCS officer namely, Shri L. Darlong.

A copy of the notification dated 22.10.97 is annexed as Annexure-15.

4.38. That the selection of the Respondent No 7 as a non-SCS officer is highly illegal and irregular, in as much as the reasons assigned in the impugned order dated 13.4.2001 for inducting non-SCS officers to IAS are not at all sustainable more particularly in view of the findings recorded by this Hon'ble Tribunal in the aforesaid judgment. Accordingly the appointment of the Respondent No. 7 is liable to be set aside. It may be mentioned here that Respondent No.7 worked as subordinate to junior colleagues of the Applicant who are in SCS. It will bring about serious indiscipline in the administration if such persons are selected for IAS before promotion of the SCS officers under whom non SCS officers served.

4.39. That in the impugned order dated 13.4.2001 the Government of India accepted on principle that as per the provisions of the Selection Regulations, a conscious decisions is required to be taken every year. As to whether the reasons assigned in the impugned order is the conscious decision is the subject matter of dispute in this proceeding to the appointment of non-SCS officers. As already stated above the persons assigned in the impugned order do not reflect any such conscious decision.

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4.40. That the illegality committed in 1998 was further perpetuated by appointing the Respondent No.7, Shri L. Darlong by the notification dated 28.5.2001 in as much as no decision what so ever, not to speak of a conscious decision justifying such appointment, was taken and / or reflected in the impugned order dated 13.4.2001 which was also conferred only to the 1998 appointment. Such action of the official Respondents without there being any special circumstances as contemplated under the Rules also frustrated the cause of the Applicant. Had the non-SCS officers not been considered and inducted to IAS in violation of the provisions of IAS (Appointment by Selection) Regulations, both amended and pre-amended, the Applicant would have been considered and promoted against one of the said posts. Thus on that occasion also, the Applicant was deprived of his promotion in a most arbitrary and illegal manner.

4.41 That for the year 2001 there is only one vacancy for promotion to IAS. It appears that the Government of India by its letter dated 29/30.5.2001 addressed to the Government of Tripura in reference to their letter dated 23.5.2001 communicated the decision to fill up the said lone vacancy by way of recruitment of non-SCS officers. By the said notification the vacancy against promotion quota was stated to be nil. As it has been stated earlier, pursuant to the said letter dated 29/30.5.2001, the Government of Tripura by its letter dated 18.6.2001, addressed to the Principal Secretaries/ Commissioners/ Secretaries to the Government of Tripura has asked for confirmation regarding availability of suitable officers in their departments not belonging to State Civil Service, but holding positions equivalent in rank, pay and responsibility of Deputy collector and above etc. Neither in the letter dated 20.5.2001 nor in letter dated 18.6.2001 the conscious decision as contemplated in the impugned order dated 13.4.2001 is reflected and no reason has been assigned as to why the lone vacancy should be filled up only through the non-SCS officers to the deprivation of the SCS officers.

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4.42 Be it stated here that the Applicant has got an exceptionally brilliant service career and as such it is his legitimate expectation that if the said lone vacancy is filled up from amongst the SCS officers, he will get the selection and appointment against the said post. Now he is the only suitable officer who could stake claim against the said post and his seniority position also favours his case. The services rendered by the applicant was highly appreciated by his superiors and he was although regarded as an efficient and reliable officer.

4.43 That in view of the aforesaid position, the aforesaid two letters dated 29.5.2001 and 18.6.2001 are not sustainable. Similarly the Government of Tripura letter dated 23.5.2001 as mentioned in the letter dated 29.5.2001 is also not sustainable. Upon setting aside of all these impugned letters, a suitable direction is required to be issued to consider the case of the Applicant and other eligible officers coming within the zone of consideration against the said lone vacancy for the year 2001.

4.44 That in view of the above, the Applicant made a grievance against the aforesaid move to fill up the lone vacancy by non-SCS officer, by submitting a representation on 10.7.2001. In the said representation the Applicant has highlighted as to how he is going to be deprived of his promotion to IAS, if his case is not considered during the year 2001 against the said lone vacancy.

4.45 That it will be pertinent to mention here that the Applicant will be closing the statutory age limit during the year 2001 and had his name been considered and included in the select list for 2001, even if he is not appointed to IAS he will be considered for selection in the next year when 4 more clear vacancies will arise. Thus this is the last chance for the Applicant either to earn his promotion in 2001 itself or continue to be within the zone of consideration in 2002 pursuant to his selection in the year 2001. The Applicant is deprived of his service prospects stands to be adversely affected.

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4.46 That the Applicant states that he has been deprived of his legitimate promotion to IAS, firstly, by not holding the regular selection for SCS officers as stated above during the period after 1997 although there were vacancies in 1998, 1999 & 2000, secondly, by not preparing year wise select list by way of holding yearly meeting of the selection committee in the presence of vacancies and by way of preparing belated select list, thirdly, by inducting non- SCS officers without there being any special circumstances as contemplated under the Rules, fourthly, by promoting ineligible and unsustainable officers of the SCS to IAS and lastly, by the impugned decisions he is again sought to be deprived of his last chance for promotion to IAS seeking to fill up the lone vacancy by a non-SCS officer.

4.47 That the aforesaid facts & circumstances have forced the Applicant to come under the protective hands of this Hon'ble Tribunal seeking redressal of his grievances, pursuant to the impugned letters dated 29.5.2001 and 18.6.2001. Now the process is on to send the list of non- SCS officers for the purpose of selection and the selection is being held shortly. Once the selection is held and the lone vacancy is filled up by the selected candidate, the issues raised in this OA will only be academic and the case of the Applicant would be frustrated and he will suffer irreparable loss and injury. Thus it is a fit case for passing an interim order as has been prayed for.

4.48 That the Applicant states that as per the provisions of IAS (Appointment by Selection) Regulations, 1955 the requirement for consideration of non-SCS officers to IAS is that the officer considered shall be of outstanding merit and ability and there must exist special circumstances for consideration of the case of the non- SCS officer. No such circumstances exist in the instant case and there is also no such officer who can be termed as of outstanding merit and ability, which is also reflected in the impugned letter dated 29.5.2001 and 18.6.2001 in as much as in the said 2 letters no such special circumstances has been indicated and apparently no suitable officer of outstanding merit and ability has been found out. In fact, having failed to collect the name of non SCS officers of outstanding ability with in the

stipulated period, the Government of Tripura had to issue reminder to the concerned Principal Secretaries, Commissioners & Secretaries by way of extending time up to July 31, 2001 for sending such names by the extended time limit.

A copy of the letter dated 24.7.2001 is annexed as Annexure-16.

4.49 By the impugned letter dated 18.6.2001 it has only been communicated that the lone vacancy of 2001 will be filled up by non-SCS officer and for that purpose only, confirmation about officers belonging to non-SCS was sought for. Apparently the selection will be carried out on the basis of the names forwarded by the Department without finding out first as to who is the officer of outstanding merit and ability requiring his induction to IAS and as to what are the special circumstances for doing so. It appears that the only ground to induct non-SCS officers is to clear the so called back-log, which cannot be the grounds as contemplated under the aforesaid Rules.

4.50 That the Applicant begs to submit that the Respondent Nos.1 to 4 deliberately violated the orders of the Hon'ble Tribunal in as much as they have not carried out the orders dated 25.2.99 which warranted them to process the selection for both the SCS & non SCS together against the 1998 vacancy and not to issue appointment until further orders. But the above mentioned Respondents completed the selection process for the non SCS only and also went for issuing appointment in respect of non SCS officer Respondent No. 7. The aforesaid Respondents also violated order dated 4.2.2000 of the Hon'ble CAT as at Annexure-10 in appointing Respondent Nos.7 & 8 and also going for earmarking the lone vacancy of 2001 for the non SCS.

Copies of the said orders dated 25.2.99 passed in OA No.244 of 98 are annexed as Annexures-17 & 18 respectively.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

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5.1 For that the letter dated 25.3.98 of the Government of India and the letter issued in response to the same by the Government of Tripura dated 24.8.98 is in contravention of the very scheme of recruitment to the IAS by promotion of State Civil Service officers in terms of Rule 8(1) and the scheme of recruitment to IAS by selection of non-SCS under Rule 8(2) of 1954 Rules. Recourse to Rule 8(2) can only be taken in special circumstances, Therefore, existence of special circumstances is a necessary pre-condition for making recruitment to IAS by the process of selection of non SCS officer in terms of Rule 8(2) of 1954 Rules. Moreover, the 1997 Regulation has laid down the parameter and standard in regulation 4, which is to be followed while making such a selection. However, in the present case nothing has been done towards compliance of the fulfillment of standard laid down in regulation 4 of 1997 Regulations. Moreover, no such special circumstances have been shown to exist warranting undertaking of an exercise as has been sought to be done in pursuance of the letter dated 25.3.98 and 24.8.98.

5.2 For that proviso to Rule 9(1) clearly lays down that the number of persons recruited under 8(2) shall not at any time exceed 15% of the total number of posts. The expression "post" used in proviso to Rule 9(1) of 1954 Rules cannot be interpreted in isolation and has to be harmoniously construed with Rule 8(3) (a) of 1954 Rules. Moreover, the very scheme of 1954 Recruitment Rules has to be borne in mind while appreciating the meaning of the expression "shall not at any time exceed 15% of the total number of posts." Moreover, the calculation of the posts as referred to above has to be in the manner laid down in 9(3) of 1954 Rules for filling up by such promotion and selection. Bare perusal of the letter dated 25.3.98 shows that the expression "shall not at any time exceed 15% of total number of posts of IAS filled by the method of promotion and selection through out the period. This can never be the interpretation of proviso to Rule 9(i). It is submitted that in effect expressed "post" is to be construed as vacancy and only 15% of the total number of vacancies in IAS arising in a given year can be filled up by taking recourse to Rule 8(2) of 1954 rules. Moreover, even such a thing can only happen, when special

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circumstances are shown to exist. Since the letter dated 25.3.98 wrongly interprets the proviso to Rule 9(1), the same is illegal and as such liable to be set aside.

5.3 For that the provision of induction of non-SCS officers into AIS (Rule 8(2) of the IAS (Recruitment) Rules, 1954) is a discretionary power provided to the State Govt. from the very inception of the framing of Rules. Such induction by selection may be considered only on special circumstances against specific recommendation of the State Government concerned. While induction of officers into IAS, against vacancy arose from time to time from the very inspection of the Rules, the concerned State Government had exercised their discretion provided under Rule 8(2) which were concurred jointly by Ministry of personnel and UPSC from time to time. Since the discretion during the relevant point of time arising out of vacancy-vacancies) had been exercised, these cases cannot reopened computed and carried forward for calculating percentage of quota of induction of non-SCS officers unless new vacancies are created due to superannuation, resignation, removal dismissal, increase of cadre strength etc. In short, this provision relating to appointment by selection may be applied prospectively against vacancy, which is available now and in future.

5.4 For that provision of Rule 8(2) of 1954 Rules has been in force since last 40 years, but the Government of Tripura never exercised its discretion as neither the special circumstances envisaged in Rule 8(2) existed nor possibly any non SCS officer of outstanding merit was available for selection. Since recourse was never taken to Rule 8(2) of 1954 rules till 31.12.97, no backlog can be calculated in respect of exercise or non-exercise of discretion under Rule 8(2). If at all such a recourse is to be taken, it can only be prospectively and not retrospectively, therefore, from 1998 onwards only 15% of the total number of vacancies arisen can be filled by non-SCS officer in terms of Rule 8(2) of 1954 Rules. Since the letter dated 25.3.98 of the Government of India and of the Government of Tripura dated 24.8.98 run counter to what is stated above, the same are liable to be set aside and quashed.

5.5 For that since only one vacancy is arising in 2000 the same cannot be filled by non-SCS officer by taking recourse to rule 8(2) inasmuch as only 15% of the total number of vacancies arisen in a given year can be filled by non-SCS officer in terms of Rule 8(2) and the Government of India, Ministry of Home Affairs letter No. 1/2/62-AIS(I) dated 26.9. has clearly held that with reference to proviso to Rule 9(1), it has been decided that since the number of persons promoted under Rule 8(2) is not exceed to 15% of the total number of posts available for promotion in a State cadre, any fraction even it is more than one-half should be ignored. In the present case, since only one vacancy has arisen in the year 2001, the 15% of one is less than one-sixth and as such the aforesaid one vacancy cannot be filled in terms of Rule 8(2) of 1954 Rules.

5.6 For that the provision of Rule 8(2) for appointment of non-SCS officers by selection need be read and interpreted according to the proviso of Rule 9(1), Rule 8(3) and government of India's decision below proviso of Rule 9(1). Under this, it would be clear that quota of induction of non-SCS officer in particular year should be computed on the basis of vacancy/vacancies subject to ceiling limit of 15% of the vacancies arising in a given year.

5.7 For that the original provision of the Rule (Rule 8(2)) for induction of officers into IAS by appointment and selection is discretionary and not at all obligatory. This Rule and its provisions have remained unchanged. In fact, the amended Regulation is a corollary of the said provision of the parent rules. So under all reasoning the provision cannot be interpreted as mandatory or obligatory.

5.8 For that provision for induction of non-SCS officers into IAS up to the ceiling percentage of 15% is a discretionary power provided to the State Government to consider induction of non-SCS officers into IAS. The word "Consider" cannot be interpreted as mandatory or obligatory for filling up of the vacancies up to the ceiling limit percentage. The subsequent details of the Regulation support this interpretation.

Hence, the unilateral decision of the Ministry of Personnel for identification of posts, computing total cadre strength, ignoring the chapter of officers already inducted is discretionary, unjust and as such not tenable in the eye of law.

5.9 For that in the 1997 Regulation, it is clearly mentioned that an officer who has completed not less than 8 years of continuous service in the State Government holding Gazetted substantive post which has been declared equivalent to the post of Deputy Collector in the State Civil Service may be considered for sending proposal, but in the letter State Government conspicuously distorted the exact provision of the Regulation by using words "equivalent" in the rank, pay and responsibility to Deputy Collector and above". This distortion is deliberate and impermissible and does not conform with the requirement of Regulation 4 of the 1997 Regulation. As such, the letter of the Government of Tripura dated 24.8.98 is illegal and liable to be set aside.

5.10 For that the letter of the Government of India dated 25.3.98 and of the Government of Tripura dated 24.8.98 have been issued in colourable exercise of power and the sole purpose behind this exercise is to benefit the chosen few of the higher echelons of administration. By holding recourse to illegal and arbitrary action in violation of the provisions of the Rules, as is the case here, the efforts are being made to bring in rank outsiders in the fold of IAS.

5.11 For that the letter of the Government of India dated 25.3.98 by putting a ceiling on number of IAS posts to be filled up by State Civil Service Officers makes it mandatorily that the remaining vacancies in IAS posts have to be filled up by non-SCS officer. The letter dated 25.3.98 therefore makes the existence of special circumstances for all time to come a compulsory event, which must take place every year. The special circumstances therefore ceases to become the special circumstances and instead acquired the form of a necessary event which has to take place every year because the letter of the Government of India dated 25.3.98 desires it. The letter dated 25.3.98, therefore, contravenes the very scheme of 1954 Rules and violates Article 14 and 16 of the Constitution of India.

5.12 For that non holding of selection committee meeting every year has deprived the applicant of an opportunity of hearing his case considered for promotion to IAS.

5.13 For that non holding of separate selection committee meeting for the vacancies available in the years 1998, 1999 and 2000 and non-preparation of separate select list for each of the said years, highly prejudiced the case of the applicant, but for which he would have been promoted to IAS against a vacancy in either the said years.

5.14 For that, but for the clubbing of vacancies available for the period 1998-2000 and the manipulation effected in the ACR's of the Respondents No. 5 & 6, they would not have been promoted to IAS.

5.15 For that non taking into consideration the anticipated vacancy due to retirement of Shri B.K. Chakraborty on 31.7.2001 by the selection committee which sat on 19.12.2001 has deprived the applicant an opportunity of promotion to IAS.

5.16 For that the Applicant has been deprived of his legitimate promotion to IAS, firstly, by not holding the regular selection for SCS officers as stated above during the period after 1997 although there were vacancies in 1998, 1999 & 2000, secondly, by not preparing year wise select list by way of holding yearly meeting of the selection committee in the presence of vacancies and by way of preparing belated select list, thirdly, by inducting non- SCS officers without there being any special circumstances as contemplated under the Rules, fourthly, by promoting ineligible and unsustainable officers of the SCS to IAS and lastly, by the impugned decisions he is again sought to be deprived of his last chance for promotion to IAS seeking to fill up the lone vacancy by a non-SCS officer.

5.17 For that the findings recorded by this Hon'ble Tribunal in its judgment & order dated 4.2.2000 passed in OA 244/98 has been totally ignored by the Respondents while disposing the matter vide its order dated 13.4.2001.

5.18 For that in any view of the matter the impugned actions on the part of the official respondents is not sustainable and liable to be set aside.

6. DETAILS OF REMEDIES EXHUSTED

That the Applicant states that he has no other alternative remedy except by way of approaching this Hon'ble Tribunal.

7. MATTERS PREVIOUSLY FILED OR PENDING BEFORE ANY COURT:

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is pending before any other Court, Authority or any other Bench of the Hon'ble Tribunal. The Applicant also states that on the subject matter of this application another OA was earlier registered bearing No.244 Of 1998 before this Hon'ble Bench which was disposed of vide Judgment & order dated 4.2.2000 with specific directions upon the Respondents No. 1 to 4 which has not been taken care of by them.

8. RELIEFS SOUGHT FOR:

- 8.1. Quash and set aside the letter No.F.14015/28/2001-AIS(I) dated 29/30.5.2001 of the Government of India (Annexure-5)
- 8.2. Quash and set aside of letter No.F.2(11)-GA(P&T)/2001 dated 18.6.2001 (Annexure-(6) and its reminder dated 24.7.2001(Annexure-16) issued by the Government of Tripura

- 8.3. Quash and set aside of Notification No.14015/16/98-AIS (I) dated 19.4.2000 of the Government of India appointing Shri A. Guha to IAS illegally (Annexure-2).
- 8.4 Quash and set aside Notification No. 14015/20/2000-AIS(I) dated 28.5.2001 appointing Shri L. Darlong illegally.
- 8.5 Quash and set aside the appointment of Shri B.Reang and Shri M.L.Reang appearing in Notification No. 14025/20/2000-AIS(I) dated 27.4.2001 of the Government of India (Annexure-14).
- 8.6. Treat letter No.F.14015/16/98-AIS(I)13.4.2000 (Annexure-11) as violation of Hon'ble Tribunals order dated 4.2.2000(Annexure-10).
- 8.7. To direct holding separate review selection committee meetings for vacancies arising in 1998, 1999 & 2000
- 8.8. Pass such other order/ orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.

9. INTERIM ORDER PRAYED FOR:

In the facts and circumstances of the case, the Applicant prays that operation and effect of letters of the Government of India dated, 13.4.2000 & 29/30.5.2001 and of the Government of Tripura dated 23.5.2001 & 18.6.2001 be kept in abeyance.

10.

PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 66 788502
- (ii) Date : 27.9.01
- (iii) Payable at : Ganhahi

Verification.....

50

- 30 -

VERIFICATION

I Shri Ajit Kumar Bhaumik, Son of Late Hridaya Chandra Bhaumik, aged about __ years, Presently working as Director, Small Savings, Group Insurance & Institutional Finance, Government of Tripura, Agartala, do hereby verify that the contents in paragraphs 1,2,3,4'2,4'3,4'6,4'8 to 4'10,4'12 to 4'14,4'16 to 4'36,4'37,4'38,4'39,4'40 to 4'49 and 5 to 12 are true to my knowledge; and those made in paragraphs 4'1,4'5,4'7,4'11,4'15 are believed to be true on legal advice and that I have not suppressed any material fact.

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



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CONFIDENTIAL
SPEED POST

NO. F.2(12)-GA/96
GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

Dated, Agartala, the 20th December, 1996.

To
The Secretary,
Union Public Service Commission
Dholpur House, Shajahan Road,
New Delhi - 110011.

Subject :- Selection Committee Meeting for selection of State Civil Services
Officers for promotion to IAS (MT).

Sir,

I am directed to refer to your D.O. letter No.F.4/11/96-AIS dated 23-09-1996 on the subject noted above and to furnish the following information / documents in respect of State Civil Service Officers of Tripura part who are eligible for consideration for promotion to IAS as on 01-04-1996.

- i) Seniority list giving particulars of 17 (seventeen) S.C.S Officers eligible for promotion to IAS as on 01-04-1996 (Annexure - I).
- ii) C.R. Dossiers of 17 (seventeen) eligible S.C.S Officers whose cases are to be considered.
- iii) The number of senior duty post borne in Tripura part of Joint IAS (MT) Cadre is 55 vide item - I of Cadre Schedule of Joint IAS (MT) Cadre and the number of senior duty post shown against item - II of Tripura part is 22 (twentytwo).
- iv) There is one substantive vacancy and one anticipated vacancy due to retirement of Shri S.S. Dutta, IAS (MT : 90) will be available wef. 1st November, 1996 in the Tripura part of Joint IAS (MT) cadre.
- v) There are 2 (two) S.C and 3 (three) S.T candidates among the eligible 17 (seventeen) S.C.S Officers.

Contd...Page 2..

Attoked
Anni book
Advocate

vi) The Integrity Certificate in respect of 17 (Seventeen) eligible S.C.S Officers is enclosed vide Annexure - II & III.


vii) Certificate in respect of adverse entries in the C.R of the eligible Officers.

2. It is , therefore , requested that the Selection Committee Meeting for selection of S.C.S Officers for preperation of Select List for promotion to IAS may kindly be convayed accordingly at an early date.

3. The receipt of the above documents may kindly be acknowledged.

Encls :- As stated.

Yours faithfully,


(B. K. Chakraborty)
Secretary to the
Government of Tripura.

ANNEXURE-IPARTICULARS OF STATE CIVIL SERVICE OFFICERS ELIGIBLE FOR INCLUSION IN THE SELECT LIST FOR PROMOTION TO THE IAS FOR 1996 STATE OF TRIPURA.

Sl. No.	Name of Officers	Date of birth	Whether held substantive appointment in the S. C. S. on 01-04-1996.	Date of confirmation in State Civil Service	Date of continuous officiation as Deputy Collector or equivalent post.	Date of Continuous officiation in the IAS cadre post.	Remarks
1	2	3	4	5	6	7	8
1.	Shri S. K. Adhikari	04-02-1942	Yes confirmed in T.C.S.	09-06-1978	09-06-1976		
2	Shri M. K. Deb Barma	15-01-1943	-do-	08-06-1978	08-06-1976		
3.	Shri S.K. Sarkar	02-01-1945	-do-	09-06-1978	09-06-1976		
4.	Shri R.C. Choudhury	01-10-1948	-do-	24-07-1979	24-07-1977		
5.	Shri Bagirath Reang	01-08-1947	-do-	11-06-1978	11-06-1976		
6.	Shri Manik Lal Reang	04-11-1946	-do-	11-06-1978	11-06-1976		
7.	Shri Hanhar Das	15-07-1941	-do-	07-07-1979	07-07-1977		
8.	Shri B.K. Chakraborty	08-07-1940	-do-	28-08-1981	01-10-1979		
9.	Shri P.K. Bhattacharjee	01-09-1940	-do-	28-08-1981	01-10-1979		W.E.F. 07-10-94 for 3 (three) months.
10.	Shri S. R. Paul	18-06-1941	-do-	28-08-1981	01-10-1979		
11.	Shri M. C. Dutta	28-02-1947	-do-	28-08-1981	01-10-1979		
12.	Shri S. K. Choudhury	13-07-1950	-do-	28-08-1981	01-10-1979		
13.	Shri R. K. Dey Choudhury	01-11-1947	-do-	28-08-1981	01-10-1979		
14.	Shri Ajit Kumar Bhowmik	20-01-1947	-do-	28-08-1981	01-10-1979		
15.	Shri Swapan Saha	16-11-1951	-do-	28-08-1981	01-10-1979		
16.	Shri M. S. Bhattacharjee	12-13-1949	-do-	28-08-1981	01-10-1979		
17.	Shri Tapan Bhattacharjee	16-03-1945	-do-	28-08-1981	01-10-1979		

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NO. 3344-13/4

Annexure-2

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No. 14015/16/98-AIS (I)

Government of India

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

New Delhi, the 19th April, 2000

NOTIFICATION

In exercise of the powers conferred by sub-rule (2) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 8 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is pleased to appoint Shri Arabinda Guha, a member of the Non-State Civil Service of the State of Tripura to the Indian Administrative Service on probation with immediate effect until further orders and to allocate him to the Joint Cadre of Manipur-Tripura under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

(R. VAIDYANATHAN)

Under Secretary to the Government of India

To The Manager
Government of India Press
Faridabad (Haryana)

No.F.14015/16/98-AIS(I)

New Delhi, the 19th April, 2000

The Chief Secretary, Government of Tripura, AGARTALA, with a spare copy for onward transmission to the officer concerned. Officers below the age of 50 years may be advised to exercise their option for membership of CGEIS or SIS failing which they will be treated as deemed to have opted for CGEIS

1. The Chief Secretary, Government of Manipur, IMPHAL..
2. The Accountant General, Tripura, AGARTALA..
3. The Secretary, Union Public Service Commission, Dholpur House, New Delhi
4. E.O. to the Government of India, New Delhi.

(R. VAIDYANATHAN)

Under Secretary to the Government of India

INTERNAL DISTRIBUTION: RO(CM)/TRG.DIV/ SO(AIS.III)/AVD.1/10 Spare copies

Attested
Advocate

NO.14015/20/2000-AIS(I)
Government of India
Ministry of Personnel, Public Grievances & Pensions,
(Department of Personnel & Training)
.....

New Delhi, the 28th May, 2001.

NOTIFICATION

In exercise of the powers conferred by sub-rule (2) of Rule-4 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 8 of the Indian Administrative Service (Appointment by Selection) Regulations, 1997 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is Pleased to appoint Shri L. Darlong, a member of the Non-State Civil Service of Tripura to the Indian Administrative Service on probation with immediate effect until further orders and to allocate him to the Manipur-Tripura Joint Cadre under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954,

Sd/-
(R.Vaidyanathan)
Under Secretary to the Government of India.

No.F.2(8)-GA(PAT)/2000
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (P. & T) DEPARTMENT

Dated, Agartala, the 11th June, 2001.

Copy to :-

1. Chief Secretary, Tripura/Manipur, Agartala/Imphal.
2. Principal Secretary to Governor, Tripura, Rajbhawan, Agartala.
3. Secretary to Chief Minister, Tripura.
4. Offices of all Ministers, Tripura, Agartala.
5. All Principal Secretaries/Commissioners/Secretaries, Tripura.
6. Shri R. Vaidyanathan, Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, North Block, New Delhi - 110001.
7. Accountant General (A & E), Tripura, Agartala.
8. Finance (Estt.Br.)/Industries & Commerce Deptt., Tripura.
9. Director, Industries & Commerce, Tripura, Agartala.
10. Manager, Govt. Press, Agartala for publication.
11. Confidential Section, O/O the Chief Secretary, Tripura.
12. Shri L. Darlong, Addl. Director, Industries & Commerce, Tripura.
13. Treasury Officer, Agartala T.O.No.I & II.
14. Personal file/Guard file.

*Attested
Anni Bora
Advocate*

*(Mrs. B. Deb Dharma)
Under Secretary to the
Government of Tripura.*

22
MOST IMMEDIATE

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

No. F.14015/58/96-AIS(I)

Dated, the 23th March, 1998

To (1) The Chief Secretary
Government of Manipur
Department of Personnel & A.R.
(Personnel Division)
IMPHAL.

[Kind Attn. : Shri Kh. Raghumani Singh, Deputy Secretary (DP)]

(2) The Chief Secretary
Government of Tripura
Appointment & Services Department
AGARTALA.

[Kind Attn. : Shri S. C. Deb, Under Secretary]

Ref :

- (1) Government of Manipur letter No. 3/21/95-IAS/DP(Pt.) dated 26th February, 1998.
- (2) Government of Tripura letter No. 2(12)-GA/98 dated 10th March, 1998.
- (3) Government of Manipur letter No. 3/21/95-IAS/DP dated 26th February, 1998.

Subject : Selection Committee Meeting for promotion of officers to the IAS Cadre of Manipur-Tripura parts of the Manipur-Tripura Joint Cadre during 1998.

Sir,

I am directed to refer to the proposals for appointment of the State Civil Service officers of Manipur and Tripura included in the 1996-97 Select List for promotion to IAS from the State Governments concerned in the references cited and dated 24.03.1998 issued in acceptance of the proposals of the State Government concerned.

Contd..Page/2

Attested
Ann. Adv. Advocate

2. It is observed that number of persons who are appointed to the IAS by promotion and selection under Rules 8(1) and 8(2) of the Recruitment Rules from State Civil Service and Non-SCS officers, in position, in respect of the Manipur and Tripura segments of the Joint Cadre, after the issue of the GOI India Notifications dated 24.03.1998, are 25 and 1, 25 and NIL respectively. In terms of para (L) of the GOI Circular dated 11.02.1998, the Govt. of Tripura has to take a decision on the status of the provisionally included officer at Sl.No. 1 of the 1997 Select List in consultation with the UPSC as to whether or not he has to be made unconditional and recommended for appointment to the IAS, on or before 26.03.1998.

3. Thereafter, Governments of Manipur and Tripura were required to send proposals for preparation of the 1998 Select List in terms of the amended Promotion and Selection Regulations, limiting the recruitment in 1998 such that the total number of posts in the Joint Cadre filled under Sub-Rules (1) and (2) of Rule 8 of the IAS (Recruitment) Rules, do not exceed 45 and 7 respectively. However, it is seen that including latest appointment notification dated 24.03.1998, on date, there are 50 officers in position holding the "promotion" posts in the IAS Manipur-Tripura Joint Cadre (plus 5) and the persons appointed by selection in the Joint Cadre is 1 (minus 6) only. In order to phase out the surplus in the number of incumbents in the promotion posts and fill the deficit in the selection posts, it is suggested that further recruitment to IAS Manipur-Tripura Joint Cadre under Rules 8(1) and 8(2) of the IAS (Recruitment) Rules, 1954, during the three years may be regulated as under :

(a) Preparation of 1998 Select List : In view of the fact, the number of persons recruited under Rule 8(1) of the recruitment Rules on date is 50, there may be no recruitment by promotion from the SCS during 1998 and recruitment by Selection may be considered for one post during 1998.

Page/3

(b) Preparation of 1999 Select List : The Joint Cadre Authority for Manipur-Tripura may process recruitment to the IAS under the amended Promotion Regulations and Selection Regulations in a Combination such that the total recruitment under the aforesaid promotion and Selection Regulations are limited to 55 in all and the total "Promotion" posts [i.e. posts filled by promotion from MCS-TCS] does not exceed 47 during 1998.

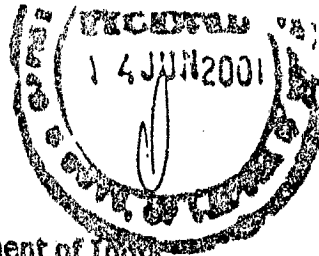
(c) Preparation of 2000 Select List : Policy as in (a) and (b) above may be adopted by the JCA Manipur-Tripura for recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8 of the Recruitment Rules during 2000 limiting the total recruitment under the promotion and selection Regulations to 60 and the total promotion posts does not exceed 51.

4. Kindly communicate your comments / concurrence on the proposal as above, those at para 3(a) in particular within 15 days so that the Union Public Service Commission may be communicated about the decision of the Central Government in the matter.

Sd/- (N. SIVASAILAM)
Deputy Secretary to the Govt. of India

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No. 4683/18/01
1576



Annexure-5

MOST IMMEDIATE

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

No.E.14015/28/2001-AIS(I)

Dated the 29th May, 2001

30 MAY 2001

TO ✓ The Chief Secretary
Government of Tripura
General Admn. (P&T) Department
AGARTALA

[Kind Attention: Shri A.Jindal, Joint Secretary]

Subject: IAS Manipur-Tripura Joint Cadre (Tripura Segment) - Determination of vacancies for recruitment by promotion / selection during 2001- regarding.

Sir,

I am directed to refer to State Government Letter No. F.2(4)-GA(P&T)/2000(L-1), dated 23.05.2001 on the above subject and to say as follows.

2. It is observed that there is one existing vacancy in the promotion quota of the Tripura Segment of the IAS Joint Cadre that may be filled from among the SCS/ Non-SCS officers in the State during the year and the State Govt. has proposed in terms of Rule 8(2) of the IAS (Recruitment) Rules, 1954 and subject to the limits prescribed in proviso to Rule 9(1) of the said rules, that the existing vacancy may be filled from among Non-SCS officers in the State of Tripura.

3. In the circumstances in terms of the provisions contained in Rule 4(2)(b) of the IAS (Recruitment) Rules, 1954 read with Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997, it has been decided that recruitment under Rule 8(2) of the Recruitment Rules may be considered upto one post in the Tripura Segment of the IAS Joint Cadre during 2001. In view of this, that number of posts against which recruitment by promotion may be made under Rule 8(1) of the Recruitment Rules during the year shall be NIL. It is requested that further necessary action in terms of the relevant provisions in the Selection Regulations may kindly be taken at an early date.

Yours faithfully,

R. Vaidyanathan

(R. VAIDYANATHAN)

Under Secretary to the Government of India

DO (DUP)

Most urgent pl. use need to ask Departments to sponsor names.

Agreed
15/6/01

T. Bhattacharya

Attended
Mini. Adv.
Advocate

Annexure-6

CONFIDENTIAL

NO. P. 2(111)-GA(277)/2001
GOVT. SECRETARY, TRIPURA
GENERAL ADMINISTRATION (P & T) DEPARTMENT

Dated, Asantala, the 18th June, 2001.

To
The Principal Secretary/
Commissioner/Secretary,
Government of Tripura,

Department, Asant.

Subject: 1- Selection of Non-SCS Officers to IAS - Recommendation.
Name.

Sir,

I am directed to state that it has been decided by Govt. to fill up one vacancy in IAS by Selection Regulation under Rule B(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment) Regulations.

2. The relevant provisions of the rules/regulations allow for promotion of a Non-State Civil Service Officers of outstanding merit and ability to IAS subject to fulfillment of certain criteria.

3. I would, therefore, request you to kindly confirm if there are any suitable officers in your Department not belonging to State Civil Service but holding positions equivalent in rank, pay and responsibility of Deputy Collector and above (i.e. Joint Director and above or Executive Engineer & above or Chief Inspector of Factories & Boilers) for last 8 years or above, who has outstanding merit consideration for promotion to IAS and who are below 54 years as on 01-01-2001. Name of at least one candidate (but not exceeding five) may be sent to this Department alongwith the upto-date ACRs and Biodata in enclosed proforma. A brief statement of the Secretary, duly signed, recording the reasons for suggesting the name of a candidate may also be enclosed. It may also be confirmed if the officer was ever charge-sheeted in his career. If so, a brief account of the same may be included mentioning the punishment awarded, if at all. In case the officer was never charge-sheeted, a certificate confirming the same may be enclosed with the proposal.

4. The proposal with relevant particulars may kindly be sent to this Department latest by the 15th July, 2001 positively.

Encls: -As stated.

Yours faithfully,

(Mrs B. Debbarma)
Under Secretary to the
Government of Tripura

*Attended
Anirudh
Jelencate*

B I O D A T A

1. Name of Officer : -
 - (a) Father's Name : -
 - (b) Official address : -
 - (c) Residential address : -
2. Date of Birth : -
3. Present Designation : -
4. Pay scale : -
5. Posts occupied in last eight years : -

Sl.No.	Name of Posts	Period	Gazetted	Class
			Yes or No	I or II

6. Educational Qualification (Higher Secondary & above)

Sl.No.	Institution	Degree received	% scored	Remarks
--------	-------------	-----------------	----------	---------

7. Any other achievements (Academic or Professional) worthy of special mention

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NO.F.32(1)-GA/98(L)
GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

162
Annexure-7

Dated, Agartala, the August 24, 1998.

✓ To
The Pr. Secretary to the Govt. of Tripura,
RD/Panchayat/Agri. etc. Departments,
Civil Secretariat, Agartala.

Subject : Selection of Non-SCS Officers to IAS- recommending names.

Sir,

It is proposed to fill up one vacancy in IAS by Selection regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulations in accordance with direction of Ministry of Personnel, Government of India, in their letter dated 25th March, 1998.

2. " The relevant provisions of the Rules/Regulations allow for promotion of a non-State Civil Service Officers of **outstanding merit and ability to IAS** subject to **fulfillment of certain criterias**. A copy of the said Regulation is appended herewith for your kind perusal.
3. You are requested to confirm if there are any suitable Officers in your Department not belonging to State Civil Service but equivalent in rank, pay and responsibility to Deputy Collector and above, who merit consideration for such promotion to Indian Administrative Service. If so, name of at least one candidate (but not exceeding five) may be sent to the undersigned along with ACRs for last five years and bio-data in the enclosed pro-forma. A brief statement of the Secretary, duly signed, recording the reason for suggesting the name of a candidate may also be enclosed. It may also be confirmed if the Officer was ever charge-sheeted in his career and if so, a brief account of the same may be included mentioning if any punishment was awarded or not. In case the officer was never charge-sheeted, a certificate confirming the same may be sent.
4. The proposal with relevant particulars may be sent to the undersigned by 4.9.98 positively.

Yours faithfully,

(M.Kumar)

Joint Secretary (A & S)

*Attended
Mini
Advocate*

BIO-DATA

1. NAME OF THE OFFICER :

a) FATHER'S NAME:

b) OFFICIAL ADDRESS:

c) RESIDENTIAL ADDRESS :

2. PRESENT DESIGNATION :

3. PAY SCALE :

4. POSTS OCCUPIED IN LAST EIGHT YEARS

SL NO	NAME OF POSTS	PERIOD	GAZETTED (yes or no)	CLASS I or II

5. EDUCATIONAL QUALIFICATIONS (HIGHER SECONDARY & ABOVE) :

SL NO	INSTITUTION	DEGREE RECEIVED	% SCORED	REMARKS

6. ANY OTHER ACHIEVEMENTS (ACADEMIC OR PROFESSIONAL) WORTHY OF SPECIAL MENTION :

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5

GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

Annexure-8

NO.E 32(1)-GA/96(I).

Dated, Agartala, the 26th October 1998

NOTIFICATION

The following posts in Government of Tripura are declared as equivalent to the post of Deputy Collector in Tripura Civil Service on for the purpose of IAS (Appointment by Selection) Regulations, 1997:

- I. Joint Director and above.
- II. Executive Engineer and above.
- III. Chief Inspector of Factories & Boilers.

By order of the Governor,

(Manish Kumar)
Joint Secretary to the Govt. of Tripura.

*Attested
Anni, bml
Advocate*

To
The Chief Secretary,
Government of Tripura,
Agartala

Subject:- Sponsoring of names of TCS Officers for
induction into IAS.

Sir,

I, on behalf of the Tripura Civil Service Officers' Association like to draw your kind attention on the following points involving the urgent interest of the members of the Association for immediate redressal.

(i) That from the very beginning of the constitution of the Tripura - Manipur Cadre of the Indian Administrative Service, only Tripura Civil Service officers have been considered for induction into IAS against promotion and selection quota. This policy has been consistently followed by the Government of Tripura, Ministry of Personnel and UPSC from very inception.

(ii) That in the year, 1998, there was a move to induct non-civil service officers into IAS against promotion quota. This move was originated in reference to the letter of the Ministry of Personnel vide No.F.14015/58/96-AIS(ii) dated 25-3-1998. On going through the contents of the letter, our Association found that the contention made in the letter is in contravention of the provision made in the regulation named IAS (Appointment by Selection Regulation) 1997 which came into force from 1998. The inference drawn in the letter goes totally against the interest of the members of our Association. Observing this point, our Association had submitted a number of representations to the Government for redress. But unfortunately, no action was taken in reference to our representations and deputation. As a result, we had no other option but to seek redress on the matter from the Central Administrative Tribunal (CAT), Guwahati. Our petition was registered by the CAT, Guwahati Bench as case No. OA-244/98

*Attested
Anil Kumar
Advocate*

(iii) On consideration of the petition of our Association, Hon'ble CAT had passed an interim order on 26-10-98 staying the operation of the contention made by the Ministry of Personnel in its letter No.F.14015/58/96-AIS(I) dated 25-3-98. This order of the Hon'ble CAT was communicated duly to the State Government, Govt. of India and UPSC vide our Association Memo No.F.1(103)/TCSOA/CAT/98 dated 27-10-98. Subsequently, Hon'ble CAT vide its order dated 25-2-1999 modified its original order to the extent that selection process for the Non-civil service Officers and Tripura Civil Service Officers should be initiated simultaneously. But no appointment should be made till disposal of the petition. Our Association had forwarded a copy of the aforesaid order of the Hon'ble CAT to the Govt., Government of India and UPSC for initiating selection process of the Tripura Civil Service Officers for promotion to the IAS. But unfortunately, the representation of our Association for initiating the selection process of the Tripura Civil Service Officers for promotion into IAS as per order passed by the Hon'ble CAT has not been acted upon as yet.

(iv) For initiating the process of selection of the members of the Tripura Civil Service Officers for promotion into IAS, our Association like to submit the following factual position for providing quick redress :-

(a) The total authorised promotion quota of the Tripura part of the Manipur - Tripura cadre under revised formula as communicated by the Ministry of Personnel is 27 in the year 1998, 29 in 1999 and 31 in the year 2000. So in the current calendar year, the total authorised strength under promotion quota is 29. Against this quota, the total men in position is 25. A list containing names of Officers who are occupying the promotion quota in the Tripura - part of M-T cadre is enclosed herewith as Annexure-A. It is learnt that although only 25


Officers are in position (against promotion quota), the Government of India is calculating this figure as 27. The discrepancy in this respect occurs due to appearance of name of late Om Prakash at serial No.25 and double appearance of name of Shri S.R.Paul against Serial No.141 and 145 in the latest civil list of 1999 published by Ministry of Personnel. So effectively there are 4 (four) clear vacancies in the year 1999. Hence it is incorrect to show clear vacancies available as less than 4(four).

(b) The Hon'ble CAT in its latest order has given clear direction that selection for promotion to IAS from amongst the members of the State Civil Service should be initiated. However, no appointment shall be made till disposal of the case. This order does not affect / modify the original stay order issued on the contention of the letter of Ministry of Personnel communicated vide No.14015/58/96-AIS(ii) dated 25-3-98. Since appointment on promotion to IAS is subject to disposal of the CAT case and in view of the continuation of stay order on the letter of Ministry of Personnel dated 25-3-98, our Association strongly demand that the process of selection from amongst the members of the Tripura Civil Service should be initiated taking all 4(four) clear vacancies of the current calendar year into consideration.

In view of the above, we draw your kind attention to look into the matter for providing redress on this long standing grievance of the members of . . . our Association.

Dated, Agartala,
the 2nd May, 1999

Yours faithfully,


(B.B.DAS)
President,

T.C.S. Officers' Association

TRIPURA CIVIL SERVICE OFFICERS' ASSOCIATION
TRIPURA : AGARTALA
...

The Tripura Civil Service Officers' Association conveys its gratitude and thanks to the Hon'ble Chief Minister for sparing some of his valuable time to meet a deputation of the representatives of the Association. At the outset, the Association likes to congratulate the Government for its innovative decision for setting up a High Power Administrative Reforms Committee with a view to improve the efficiency and functioning of the Administration which was a long due in the context of the State and also for appointment of 10 officers from Grade - II to Grade - I.

2. The Association takes this opportunity to place before the Hon'ble Chief Minister the following important demands under present juncture and draw his sympathetic attention for providing redress to the members of the Service.

Purported move for induction of Non-Civil Service Officers into Indian Administrative Service

The Association has come to know in the recent past that some individual Officers of different services had submitted a representation for consideration of their cases for their induction into IAS. It is observed that this type of attempts were made by some interested individuals in the past also. But those were rejected at the preliminary stage by the State Government on the ground that those attempts would have been detrimental to the general interest of the State Civil Service as a whole. The Association has now noted with great concern that although the attempt is against the general interest of the members of the State Civil Service and have very weak legal backing, yet some interested persons / circles are making all out attempts to implement such step. In this respect the Association like to ventilate following points :

Contd..Page/2

Attested
Luni, Mr
Advocate

2. In the year 1975 (first time of attainment of the Statehood), a General Examination was conducted for filling up of accumulated direct recruit vacancies in the State Civil Service and Police Service. In the process, total 42 Officers were recruited in the State Civil Service and 13 Officers were recruited in the Tripura Police Service. For recruitment of Officers in both Civil and Police Service, single examination was conducted and results were announced in a single panel based on option exercised by the concerned officers. Some of the candidates who had opted for the Police Service and recruited accordingly have now elevated to the post at the level of DIG. Moreover, all the eligible Officers of Police service recruited under said examination have been inducted in the IPS. Not to speak of their cases, even the Officers of 1984 Batch have also been inducted in the IPS of late. In case of candidates who have opted for Civil Service as many as 12 Officers have been elevated to the Post of Secretary to the State Government. But unfortunately, the avenues of induction of Officers into IAS is relatively less compared with the total strength of eligible Officers waiting for induction. As a result, as many as 30 Officers of 1975 batch who have already rendered more than 22 years of service have been stagnating in the maximum available ladder of Joint Secretary / Director / Additional Director etc. In this respect, it is mentioned here that an officer of State Civil Service who had rendered 8 years of service in the Cadre is eligible for induction into IAS as per IAS Rules, 1954. Taking this factor into consideration, total number of eligible Officers of State Civil Service who may be considered for induction into IAS at right at this stage is more than 80.

3. The above position is extremely frustrating for the State Civil Service Officers specially on the ground that their counterparts in other States and their Counterparts in Police Service in the Tripura Police Service itself are getting scope for induction into All India Service i.e. IAS, IPS etc. generally within a span of 10-14 years.

4. Regarding the rules and regulations for induction into the IAS, it is pertinent to mention here that normally all promotion vacancies in the IAS are to be filled up from the Officers of the concerned State Civil Service. These norms and tradition have been consistently being followed not only in this State but also in the other States. This system of induction from the State Civil Service Officers is done under Rule 8(1) of the IAS (Cadre) Rules, 1954.

(i) There is however a provision in Sub-rule 2 of Rule 8 for induction of a very limited Officers having outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service into the IAS. But this provision is subject to the following conditions :

(ii) Maximum number of officers (officers not belonging to the State Civil Service) who may be inducted under this provision "shall not at any time exceed 15% of the total number of vacancies in the particular year". In respect of calculating vacancies the Sub-rule 3 of Rule 8 (vacancies arising in a particular year) need be followed rigidly.

(iii) Under Government of India's decision on Rule - 9 of the said rules, the computation formula of 15% has been defined which inter-alia clarifies and confirms that any fraction even itself more than one half should be ignored. Taking this decision of the Government of India into view, maximum number of vacancies which should be available in a particular year for induction of only one officer of other service is 7 (seven). In the democracy, the functioning of the Government is always benevolent. Clarity, reasonability, impartiality and equality are some of the basic yardsticks under which a democratic Government functions. For determination of Officers of outstanding ability and merit, a welfare Government is expected to follow certain distinct policies. Picking up of 1/2 officers based on their personal representation will go against the said principles.

5. It is learnt that some isolated instances of a few States are being cited in support of the purported move by some interested persons / circles. But, such instances are cited in a distorted manner. In those States, State Civil Service Officers have promotional avenues even upto the level of Principal Secretary of the State Government. There are counter instances also about the refusal of the offer of induction to the IAS on the part of State Civil Service Officers of other States as normal promotional avenues available for them is more beneficial than that of induction into IAS. But the picture is opposite in our State. Hence, if any instance of other States is considered, it should be considered in totality along with promotional avenues available for the Officers of those State Civil Services.

6. It would be illogical and arbitrary to make any attempt to provide isolated individual benefit to a particular Officer jeopardising the general interest of all the Officers of the State Civil Service. Moreover, such action is likely to invite strong resentment among the members of other services whose number are in thousands.

7. In light of facts stated above, the Association strongly urges that such attempt of lateral induction of Non-TCS Officers into the IAS should be scrapped immediately forever.

Increase of avenues of induction in the IAS

The Government of India has recently taken decision for increasing the serving age of officers and employees upto 60 years. As a result, the vacancies which were going to be created against promotion quota in the IAS owing to superannuating will be delayed by two years for each individual case. This has resulted further shrinkage of avenues of officers who are already stagnating in the feeder service (TCS) as referred above. The Association therefore urges for taking following immediate actions with a view to provide a little more scope for the stagnating officers for their induction into the IAS.

2. Under IAS Rules 1954, there is a provision (Rule-42) for review of the Cadre strength. As per original Rule, such review can be undertaken once in three years. As per amended Rules, the span of period has been increased to five years. In our state last review meeting was due in the year 1991. But actually the review meeting was held later and formal notification was issued in the year 1993. The due year for calling next review meeting is to be calculated from 1991. In that case, the review was due in 1996. However, if the year 1993 is taken for calculation of such review, then also the next review meeting is due in 1998.

3. The Cadre review is necessitated for various reasons such as mainly for expansion of administration, requirement of posting of IAS officer in some important posts which are traditionally manned by IAS officers as Ex-cadre post etc. In the recent past, i.e. after 1993, one new District has been set up in the State. As a result, two IAS posts, one D.M, one ADM / PD has been created. Further, IAS officers are posted in some important Directorates as Directors. These includes Fisheries, Panchayat, Printing & Stationeries Department etc. It is observed that some posts in the level of Joint Secretary and Addl. Secretary are also required to be earmarked for IAS officer. In fact, at present IAS officers holding these posts as Ex-Cadre posts. So, in reality, atleast 7/8 posts of above categories practically occupied by the IAS officers which may be formally included in the cadre schedule of IAS in the process of next cadre review. If this is done atleast 5 promotion vacancies would be created. The TCS Association will be obliged and extremely happy if this step is taken immediately without further loss of time.

Review of TCS Cadre strength.

Reorganisation of TCS cadre was last done in 1987. After that many significant changes had taken place in the administration of the Government such as (1) Creation of one new District (Dhalai) (2) Creation of 5 new Sub-Division (3) Creation of 5 new Blocks and 1 Sub-block etc.

2. Further expansion in the senior level of post in different Departments is also taken place in different Department during the period. The posts created as a result of such expansion, are mostly filled up by TCS officers as per tradition and policy of the Government. While the world of change has taken place in Tripura Administration in last 15 years, a comprehensive review has been necessitated for updating the duty posts of the cadre. Taking these factors into consideration, the Government of Tripura had constituted a High Power Committee from the A & S Department under the Chairmanship of the Chief Secretary on 1-3-96. The Committee had met for a number of sittings and after taking all materials circumstances into consideration, submitted its detailed report to the Government in the first part of 1997. But surprisingly, the Association observed with great concern that although the High Power Committee could find time to submit this important report quite quickly, the Finance Department delayed the proposal

for a long time and ultimately gave some flimsy objection to stall the process of Implementation of the report. The Association requests the Hon'ble Chief Minister to Intervene into the matter for quick Implementation of the report submitted on the review of the cadre.

Post of TCS Officer as Director

The Association has observed that many of its senior members who were appointed in the Grade-I about 10 years back are even now being posted as Addl. Director, in-charge of Director. While the services of these officers are utilized for all practical purposes as Director and Rs.300/- as Special Allowance is also paid, it is not understood, why these officer are being deprived of regular scale of Director and status. In fact by implementing this proposal, the financial liabilities of the Government is likely to be reduced rather than any escalation owing to the fact that in the event they would not be entitled to get the Special allowance.

2. The Association strongly opposes the said practice which has led to a demoralising situation for the officers on various counts. In this connection, the Association would like to make it clear that it is not insisting on posting of officers in higher level post like Director solely on the arithmetical order of seniority. The Government may post a senior officer of the cadre as Director / Head of Department on consideration of administrative requirements. What the Association wants to emphasis is that in this process, if a few senior officers are left out, they may be considered to provide scale benefit of Rs. 4000/- to 5,900/- (Director scale) in order to protect their financial interest.

To
The Hon'ble Chief Minister
Govt of Tripura.

[Signature]
18/5/98
General Secretary,
Tripura Civil Service Officers' Association,
Tripura Agartala.

TRIPURA CIVIL SERVICE OFFICERS' ASSOCIATION
TRIPURA : AGARTALA
[Registered under the Societies Registration Act, 1860]

No.F.32(53)-TCSOA/79.

Dated, June 3rd, 1998.

To
The Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances & Pension,
Department of Personnel & Training,
North Block, New Delhi.

Sub : Induction of SCS officers into IAS (Manipur - Tripura Cadre).

Sir,

I would like to state that there is a duly constituted and recognised Association of the State Civil Service Officers of the State of Tripura named as Tripura Civil Service Officers' Association. On behalf of this Association, I am directed to draw your kind attention on the following issues involving urgent interest of the members of the Association, for redressal.

1. That after framing of the Tripura Civil Service Rules in 1967, a competitive examination was held for the first time in the year 1970 to fill up accumulated vacancies. In the process, 42 Officers in total were recruited in the State Civil Service and 13 Officers were recruited in the State Police Service. Since then, only 12 Civil Service Officers of the said batch could get entry into the IAS, although all eligible Officers belonging to the State Police Service up to 1984 batch could get entry into the corresponding All India Service i.e. IPS.

2. The above position is extremely frustrating for the State Civil Service Officers specially on the ground that their counter part in other State and their counter parts in State Police Service of Tripura have been getting scope for induction into the All India Service i.e. IAS / IPS, generally within a span of 10-14 years.

3. That, while the avenues of induction into the IAS is highly limited in the State owing to its insignificant expansion, the position in respect of induction into the IPS is far better owing to its substantial expansion. Keeping these factors in view especially the interest of providing small channel of avenues for the stagnating Officers of the Civil Service, the State Government has been following a norm of filling up all the promotional vacancies of IAS by SCS Officers only. Such induction has been made from time to time on the recommendation of the State Government and with concurrence of the Ministry of Personnel and the UPSC.

Contd..Page/2

Attested
Anni Imh
Advocate

4. (i) The Association has learnt that a communication has been made from the Ministry of Personnel to the State Government of Tripura and Manipur unilaterally proposing to fill the 15% of total promotion quota of the IAS Cadre by non-SCS Officers keeping the induction of SCS Officers in abeyance until the above percentage is reached.

The Secretary to the Govt. of India.

(ii) The Association could not (well make out how there could be surplus in the number of incumbents in the promotion post and deficit in the selection post when the State Govt. had lawfully exercised its discretion on justifiable grounds and not to induct non-SCS Officers into the Indian Administrative Service with concurrence of Union Government / UPSC.

(iii) The Association feels that this communication has an apparent bearing towards Non-SCS Officers and that there is a scope of its being misconstrued by the concerned officers of the State Government.

(iv) The Rule provides that, only, in special circumstances and on the special recommendation of the concerned State Government, Officers having outstanding ability and merit, serving in the affairs of the State may be inducted into the IAS up to a ceiling percentage of 15% of the vacancies. The contents of the Rules reveals that such induction is permissible only on special circumstances as per discretion and specific recommendation of the concerned State Government and can not be treated as a mandatory or an obligatory provision to fill up certain percentage. The Association is of the opinion that the discretion exercised / decision taken by the State / Union Govt. / UPSC in the past should not affect the interest of the present incumbents of the State Civil Service adversely.

(v) The Association apprehends that this communication being viewed by a Superior Authority (Union Government), though in the form of suggestion, may be mistaken by the State Government as a direction / compulsion.

5. The Association had presented the matter to the State Government and during the discussion the State Government authorities had informed that no proposal has been initiated from the State Government for induction of non-SCS Officers into the IAS.

In the premises stated above, the Association strongly urges that your benignity would be kind enough to take necessary measures after reviewing the whole issue at your earliest convenience so that the said ambiguous communication is either withdrawn or modified suitably to protect the interest of the members of the Association.

norm of filling up all the promotional vacancies of IAS by the induction has been made from time to time on the recommendation of the Government and with concurrence of the Ministry.

Yours faithfully,

(Santanu Das)

Hony. General Secretary

[Joint Secretary, Civil Secretariat,
Agartala - 790 001]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.244 of 1998

Date of Order : This the 4th Day of February, 2000.

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

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

Tripura Civil Service Officers
Association, Tripura, Agartala
and others,

- Applicants

By Advocates Shri B.K. Sharma,
Shri S. Sarma,
Shri U.K. Nair.

- Versus -

Union of India and others

- Respondents

By Advocates Shri A. Deb Roy for Respondents No. 1, 2, 3, 4, 5, 6, 7 and 8, Tripura, for Respondent No.3, Shri G.N. Sahewalla and Shri P. Bora, Government Advocate for Respondent No.4, Shri J.L. Sarkar and Shri M. Chanda for Respondents No.5, 6, 7 and 8.

ORDER

BARUAH, J. (V.C.)

24 applicants have approached this Tribunal by filing this single application. Permission to proceed in this single application has been granted under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987.

2. The applicant No.1 of the original application is an Union registered under the Societies Registration Act. The society is represented by its Secretary. He is also a Joint Secretary to the Government of Tripura.

Attested
Luni, 10/2
Advocate

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The other applicants are the aggrieved persons in this case. The applicants have challenged Annexure-2 letter dated 25.3.98 and Annexure-3 letter dated 24.8.98. The applicants further seek other order or orders that may be just and proper in the present facts and circumstances of the case. The brief facts emerge from the pleadings are :-

The applicants No.2 to 24 are Class-I officers of the State Civil Service of Tripura and the applicant No.1 represents all of them. The applicants have common grievance with common cause of action. They are also asking similar reliefs. They have challenged the Annexure-2 and Annexure-3 letters which according to them are contrary to the rules and the professed norm. The applicants state that the method of recruitment to the IAS is governed by the provisions of IAS (Recruitment) Rules, 1954 (for short 1954 Rules). Under Rule 4 of 1954 Rules, the recruitment to IAS is by the following method. We quote the Rule 4(a) :

- "(a) by a competitive examination.
- (b) by selection of persons from among the Emergency Commission Officers and Short Service Commissioned Officer of the Armed Forces of the Union.
- (c) by promotion of Member of State Civil Service and
- (d) by selection in special cases from amongst persons who hold in substantive capacity gazetted posts in connection with the affairs of the State and who are not members of State Civil Service."

Rule 9 of "the 1954 Rules" prescribes the procedure for fixation of quota of the posts to be filled up as per Rule 8 of "the 1954 Rules". Under Rule 9(1), the number of persons recruited under Rule 8 in any State shall not

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at any time exceed $33\frac{1}{2}\%$ of the number of those posts as are shown against items 1 and 2 of the cadre in relation to the State in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations, 1955. However, proviso to Rule 9(1) envisages that the number of persons recruited under Rule 8(2) shall not at any time exceed 15% of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. Thus the total number of persons to be recruited to IAS under Rule 8 is $33\frac{1}{2}\%$ of the number of posts but the number of persons recruited under sub-rule (2) of Rule 8 cannot exceed 15% of the total number of posts. The provision contained under Rule 8(2) is however, only directory and not mandatory. The authority is not bound to follow the said rule. Compliance of such provision is exclusively under the discretion of the Central and the State Governments. Again such discretion can be exercised only in special circumstances. If such special circumstances do not exist recruitment under Rule 8(2) of the 1954 Rules cannot be made by the Central Government or the State Government. The contention of the applicants is that even though Rule 8(2) of 1954 Rules existed for last 40 years but at no point of time there was occasion to exercise the power vested in the authorities concerned for making recruitment to IAS in the cadre under the provision of Rule 8(2). Non-exercise of such power only shows that there was no such circumstances warranting invocation of the power under Rule 8(2) of the 1954 Rules.

The applicants also state that power conferred under Section 3 of the All India Services Act 1951 and

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In pursuance of sub-rule (2) of Rule 8 of the IAS (Recruitment) Rules 1954 and in supersession of the IAS (Appointment by Selection) Regulation 1956, the Central Government in consultation with the State Government and the Union Public Service Commission made the IAS (Appointment by Selection) Regulations 1997. Regulation 4 of the said Regulations provides that the State Government may consider the case of a person not belonging to the State Civil Service but serving in connection with the affairs of the State for recruitment the persons fulfilling the following conditions :-

- "(i) is of outstanding merit and ability; and
- (ii) holds a Gazetted post in a substantive capacity and
- (iii) has completed not less than a year of continuous service under the State Government on the first day of January of the year in which his case is being considered in any post which has been declared equivalent to the post of Deputy Collector in the State Civil Service and propose the person for consideration of the Committee. The number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancies proposed to be filled during the year."

It is further provided that the State Government shall not consider the case of a person who has attained the age of 54 years on the first day of January of the year in which the decision is taken for the consideration of the Committee. It is again provided that the State Government shall not consider the case of a person who having been included in an earlier select list and has not been appointed by the Central Government in accordance with the provisions of regulation 9 of these regulations.

4. The applicants state that in order to send proposal for recruitment to IAS in terms of Rule 8(2) of 1954 Rules the conditions laid down shall have to be fulfilled. In other words the fulfilment of the conditions indicated above is a condition precedent for sending the proposal. The applicants further state that the State Government did not issue any notification showing the nature of post equivalent to the post of Deputy Director besides according to the applicants there are other problems making it impossible on the part of the Government of Tripura to send necessary recommendation to the Central Government for the purpose of recruitment under the provisions of Rule 8(2) of the 1954 Rules (as amended). To send such recommendations as prescribed under Rule 8(2) of the 1954 Rules, the Government of Tripura was in duty bound to fulfil the standards laid down in regulation 4 of 1997 Regulations. This was not the case in the State of Tripura. The applicants sought clarifications regarding this. However, according to them, the answer to the queries were wholly untenable.

5. The 1997 Regulations came into effect from 1.1.1998. Prior to 1997 Regulations induction of non SCS officer recruited in-to IAS was under the provision of (Appointment by Selection) Regulation 1956 which was framed under the provision of Sub-rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the IAS (Appointment by Promotion) Regulation, 1955 framed under the provision of sub-rule (1) of Rule 8 of IAS (Recruitment) Rules 1954 was applicable. From this it is clear that prior to 1997 regulation governing the induction of non SCS

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officers into IAS by the method of selection, the method of exercise of discretion by the State of Tripura was governed under 1956 Regulation. The 1997 Regulation coming into force with effect from 1.1.1998. The chapter relating to induction of non-SCS officers prior to 1.1.1998, therefore, came to an end and the same would not be reopened for the purpose of fixation of quota of for calculating vacancies to be filled up by non SCS officers on or after 1.1.1998. Because of non-exercise of discretion by the Government of Tripura, those vacancies which had not been filled up by non SCS officers prior to 1.1.1998, could not be taken into consideration in calculating the number of IAS vacancies to be filled up by non SCS officers in terms of 1997 Regulation. 1997 Regulation being prospective in nature, cannot give jurisdiction to the authority to give appointment prior to 1.1.1998.

6. It is further stated by the applicants that the Government of India, Ministry of Personnel, Public Grievance and Pension, Department of Personnel and Training vide letter dated 25.3.1998 issued to the Government of Manipur and Tripura drew the attention of the Governments in regard to recruitment to the IAS in terms of Rule 8(1) and 8(2) of the 1954 Rules. It is further stated in para 3 of the letter that the Government of Manipur and Tripura were required to send proposals for preparation of 1998 select list in terms of Amended Promotion and Selection Regulations 1.9. 1997 Regulations, limiting the recruitment in 1998 in such a way that the total number of posts in the Joint Cadre filled under Rule 8(1) and (2) of 1954 Rules would not exceed 45 and 7 respectively. In the said letter it was observed that including latest appointment notification

Dated 24.3.1998 there had been 50 officers in position holding the promotion posts in the IAS Manipur-Tripura Joint Cadre (+5) and the persons appointed by selection in the Joint Cadre is 1 (-6) only. The letter further stated that in order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, further recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8(1) and (2) of 1954 Rules during the 3 years might be regulated in the manner indicated. Thereafter it is laid down in the letter the manner in which further recruitment to IAS Manipur-Tripura Joint Cadre was to be regulated. It was specified that one vacancy arising in 1998 was to be filled up by non SCS officer. With regard to promotion

it might be carried out in such a manner that the total recruitment under Rule 8(1) and (2) of 1954 Rules are limited to 55 posts in all and the total promotion post does not exceed 47 during 1998. The total recruitment under promotion and Selection Regulation should be limited to 60 and the total promotion post should not exceed 51.

7. The contention of the applicants is that if the direction given by Annexure-2 letter dated 25.3.98 is to be given effect in totality then in real terms it would lead to filling up of most of the future vacancies by the non SCS officers and would take away the quota of SCS officers. As for example in 1998 there was only one vacancy in IAS and the same would be filled by non SCS officer. Moreover out of the three vacancies in 1999 and the five vacancies in the year 2000 that would arise in IAS, most of these vacancies would be filled up by non SCS officers irrespective of the fact whether or not special circumstances

exist as envisaged under Rule 8(2) of 1954 Rules. Though under the scheme of the Rules the total three vacancies which would arise in 1999 all would go to SCS officers and out of five vacancies which would arise in the year 2000 four should go to SCS officers and only one should go to non-SCS officer that too only when the special circumstances exist.

8. The basic idea of Annexure-2 letter dated 25.3.98 is to earmark the quota of 15% of total number of posts to be filled by non-SCS officers in compliance of the Rule 8(2) of 1954 Rules from the future vacancies. If the Annexure-2 letter is to be implemented in full, it amounts to eating into the quota of State Civil Service Officers. Besides the Annexure-2 letter said that the only vacancy that would arise in 1998 in IAS was to be filled up by non SCS officer overlooking the claim of the SCS officers. It also amount to 100% quota instead of 15% as envisaged under the rule. The Government of Tripura in response of Annexure-2 letter dated 25.3.98 issued Annexure-5 letter dated 24.8.98. In the said letter the Government proposed to fill up the only vacancy in IAS by selection regulation under rule 8(2) of IAS (Recruitment) Rules. This letter was issued following the method prescribed in IAS (Recruitment by Selection) Regulation in accordance with direction of Ministry of personnel, Government of India. Pursuant to the said letter all the Heads of the departments, Government of Tripura were asked to confirm if there were suitable officers not belonging to State Civil Service but equivalent in rank and pay and responsibility to the Deputy Collector and above who merit consideration for such promotion to IAS. Pursuant to Annexure-2 and 3 letters the Government of Tripura had

already moved towards the direction of filling up the only vacancy in IAS arising in 1998 by the non-SCS officers in terms of the aforesaid 8(2) Rule. According to the applicants the Annexure-2 and 3 letters compelled them to file the present application. According to them this move was not only illegal and arbitrary but contrary to the Rule 8(2) of the 1954 Rules. Rule 8(2) having conferred discretionary power that can be exercised only in a special circumstances, the existence of special circumstance is a condition precedent to exercising that power. The applicants further state that the Regulation 4 of 1997 Regulation the conditions are to be fulfilled which however is not the case of the State of Tripura. In short the contention of the applicants is that the proposed move of the State Government was in utter violation of the provisions contained in Rule 8(2) of 1954 Rules and total disregard to the object behind framing the aforesaid rule 8(2). Feeling aggrieved the President of the first applicant's Association submitted representation dated 12.5.1998 to the Chief Secretary to the Government of Tripura. This representation of the applicants Association was followed by a detail memorandum dated 18.5.1998 to the Chief Minister of Tripura. Having failed to get any redress the General Secretary of the applicant Association submitted representation dated 3.6.1998 to the Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India. But till now nothing has been heard from the competent authority. The applicants further contended that the Annexure-2 and 3 letters had been issued in colourable exercise of power inasmuch as the purpose behind this exercise is to ensure entry of certain persons to the liking of some influential persons. Hence the present application.

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9. In due course the respondents have entered appearance.

The first respondent, Union of India has filed written

statement. The 3rd respondent, State of Tripura and the

private respondents No.5, 6, 7 and 8 have also filed their

written statements. Both the first and third respondents

have denied the claim of the applicants and tried to justify

the action. The first respondent in the written statement

has stated that the scheme of recruitment to the IAS by

channel of promotion and selection from amongst the State

Civil Service Officers and non State Civil Service Officers

in the commission respectively is in the manner prescribed.

The number of vacancies by which recruitment by promotion

and selection is made in a year is subject to the over all

ceiling of the quota of 33 1/3% of the aggregate of Senior

Duty posts, Central Deputation Reserve, State Deputation

Reserve and Training Reserve in the schedule to IAS Fixation

of Cadre Strength Regulations. The Recruitment by Selection

is further subject to the condition of ceiling of 15% of

the total promotion post in the State IAS cadre worked out

under Rule 9(1) of the Recruitment Rules. In terms of Rule

8(2) of the Recruitment Rules the Central Government may in

special circumstances and on the recommendation of the State

Government concerned and in consultation with the Commission

and in accordance with the Selection Regulations may make

recruitment to any person of outstanding ability and merit

serving in connection with the affairs of the State Govern-

ment who is not a member of the State Civil Service. The

first respondent further states that the action taken by

Union of India in consultation with the State government

is just and proper and not arbitrary. The third respondent

also similarly tried to justify the actions. We have heard all.

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Before we discuss the case on merit it will be apposite to look to some of the relevant provisions of the rule. We quote Rule 8(2) of the I.A.S.(Recruitment) Rules 1954 as under :

"The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission from time to time, make recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State but who holds a gazetted post in a substantive capacity."

The rule 8(1) envisages that the Central Government may on the recommendations of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission make recruit of persons by promotion from amongst the State Civil Service. Rule 8(2) empowers the Central Government to make recruit to IAS any person of outstanding merit and ability serving in connection with the affairs of the State, who is not a member of the State Civil Service of that State but who holds a gazetted post in substantive capacity. This sub rule empowers the Central Government to exercise the recruitment to the IAS who are not in the State Civil Service of the State. To invoke this rule by the Central Government certain conditions are to be fulfilled. There must exist special circumstance and the persons to be promoted must have outstanding ability and merit and serving in the State. In other words rule 8(2) does not empower even if in consultation with the State Government and Commission to promote an officer not belonging to the State Civil Service.

without fulfilling the said conditions. In order to invoke this provisions the existence of the conditions like special circumstances, person having outstanding ability and merit are to be fulfilled and for this purpose the Central Government must apply its mind regarding existence of those conditions. The expression special condition has not been defined in this rule. It has to be understood in the way which normally a person understands. If the Central Government feels that such special condition thus exists, then the Government has to see whether there are persons not belonging to the State Civil Service with proved outstanding ability and merit for recruitment to the IAS. In this case also the Central Government will have to decide from the available records and then also such conditions are to be fulfilled. Again Rule 9 of the said I.A.S. Recruitment Rules provides that the number of persons recruited under Rule 8 in any State or group of States shall not, at any time exceed $33\frac{1}{2}$ percent of the number of those posts as are shown against items 1 and 2 of the cadre in relation to that State or to the group of States, in the Schedule to the Indian Administrative Service (Fixation of Cadre Strength) Regulations 1955. Rule 9 further envisaged that persons recruited under sub-rule (2) of Rule 8 shall not at any time exceed 15 per cent of the total number of posts calculated in the manner laid down in sub-rule (3) for filling up by such promotion and selection. From the above rules it is clear that persons not belonging to the State Civil Service having outstanding merit and ability and there being special circumstances for such appointment that can be made only to the extent of 15% of the total number of posts. All conditions are to be fulfilled before the Central Government decides

to recruit non State Civil Service officers and that too on the recommendation of the State Government concerned and in consultation with the Commission. In the written statement the respondents have reiterated the provisions of the various rules. It is stated in the written statement that the number of posts in the promotional quota inclusive of selection quota taken together will be worked out as 33 1/2% of the number of posts. The number of posts that can be filled up by selection is worked out as 15% of the posts included in the promotion quota. Posts that can be filled up by selection thus stands carved out of the total promotion posts and is flexible depending upon the recruitment needs of the State Government concerned and the State Government has to look into the special circumstances and special cases i.e. case of officers of outstanding ability and merit, holding substantive posts in services not belonging to the State Civil Service. It is further stated in the written statement that pursuant to sub-clause (b) of sub-rule (2) of Rule 4, the Central Government consulted the State of Manipur and Tripura. The impugned letter dated 25.3.1998 was issued in the process of consulting the State Government/Joint Cadre Authority concerned pursuant to the mandatory provisions contained in the Recruitment Rules. It is further stated that the number of posts that could be filled up by promotion and selection as on 31.12.1997 in respect of IAS Manipur-Tripura Joint Cadre was 49 only. With the amendments to Rule 9(1) of the Recruitment Rules and IAS (Fixation of Cadre Strength) Regulations 1955, the number of posts that can be filled by promotion and selection in the Joint Cadre was raised to 60 in all. It is further stated that as an increase of number of promotional posts cannot be brought into effect overnight

for the reason that the additional posts have to be transferred from the direct recruitment quota and the posts in question were held by the RR Officers in position. It was decided to effect the increase in a phased manner over a period of 3 years so that by 1st January, 2001 the optimum figures in respect of each quota specified in the schedule to the Cadre Strength Regulations are wholly achieved. In the written statement it is further referred to a decision of Jaipur Bench of the Tribunal given in O.A.No.206/98 (G.N.Purohit vs. U.O.I and others) decided on 23.7.1998 which upheld the policy of the Government.

10. We have perused the Annexure-2 and 3 impugned letters. In Annexure-2 letter issued by the Government of India, Ministry of Personnel addressed to the Chief Secretary to the Government of Manipur and Tripura it is stated that the number of persons appointed to the IAS by promotion and selection under Rules 9*0 and 8(2) of the IAS (Recruitment) Rules from State Civil Service and Non-SCS officers, in position, in respect of the Manipur and Tripura segments of the Joint Cadre, after the issue of the Government of India Notifications dated 24.3.1998 are 25 and 1, 25 and Nil respectively. In terms of para (1) of the Government of India Circular dated 11.2.1998 the Govt. of Tripura has to take a decision on the status of the provisionally included officer at sl.No. 1 of the 1997 Select List in consultation with the UPSC as to whether or not he has to be made unconditional and recommended for appointment to the IAS on or before 26.3.1998. It is further stated that the Government of Manipur and Tripura were required to send proposals for preparation of the 1998 Select List in terms of the amended promotion and selection Regulations limiting the recruitment

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In 1998 in such amendment that the total number of posts in the Joint Cadre filled under sub-rule (1) and (2) of Rule 8 do not exceed 45 and 7 respectively. Further it is seen that including latest appointment notification dated 24.3.1998 on date, there are 50 officers in position holding the "promotion" post in the IAS Manipur-Tripura Joint Cadre (plus 5) and the persons appointed by selection in the Joint Cadre is 1 (minus 6) only. In order to phase out the surplus in the number of incumbents in the promotional posts and fill the deficit in the selection posts, it is suggested that further recruitment to IAS Manipur-Tripura Joint Cadre under Rules 8(1) and (2) of the IAS (Recruitment) Rules 1954 during the three years may be regulated as below :

... number of persons recruited

under Rule 8(1) of the Recruitment Rules on date is 50, there may be no recruitment by promotion from the SCS during 1998 and recruitment by selection may be considered for one post during 1998. The Joint Cadre Authority for Manipur-Tripura may process recruitment to the IAS under the amended Promotion Regulations and Selection Regulations in a combination such that the total recruitment under the aforesaid promotion and Selection Regulations are limited to 55 in all and the total "promotion" posts (i.e. posts filled by promotion from MCS-TCS) does not exceed 47 during 1999. For preparation of 2000 Select list policy as above may be adopted by the JCA Manipur-Tripura for recruitment to IAS Manipur-Tripura Joint Cadre under Rule 8 of the Recruitment Rules during 2000 limiting the total recruitment under the promotion and selection Regulations to 60 and the total promotion posts does not exceed 51. Again in Annexure-3 letter issued by the Government of Tripura to all the Heads

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of Departments, Government of Tripura it was proposed to fill up one vacancy in IAS by Selection Regulation under Rule 8(2) of IAS (Recruitment) Rules and following the method prescribed in IAS (Recruitment by Selection) Regulations in accordance with direction of Ministry of Personnel, Government of India, in their letter dated 25.2.1998. The relevant provisions of the rules/regulations allow for promotion of a non-State Civil Service Officers of outstanding merit and ability to IAS subject to fulfilment of certain criteria. Therefore the departments were asked to confirm if there were any suitable officers in their department not belonging to State Civil Service but equivalent in rank, pay and responsibility to Deputy Collector and above who merit consideration for such promotion to Indian Administrative Service. If so, name of atleast one candidate (but not exceeding five) might be sent to the Joint Secretary (A&S) to the Government of Tripura alongwith ACRs for last five years and bio-data in the prescribed proforma. The Annexure-2 letter issued by the Government of India directed the State Governments to see that whether the recruitment was possible from Non State Civil Service Officers. Annexure-2 letter also referred to the backlog inasmuch as the persons recruited by promotion from State Civil Service had already reached 50 and their attempt ought to make for recruitment from the non state Civil Service Officers. Annexure-2 does not indicate anything regarding the special circumstances as referred to in the rule. Besides, these the Annexure-2 also indicates how to clear the backlog in a phased manner from 1999, 2000 and 2001. These shows that the appointment will have to be made from the non SCS officers to clear

B.

out the backlog. Rule says that the appointment and promotion should be only to the extent of $33\frac{1}{2}\%$ and for non SCS maximum quota is 15%. The letter issued by the State Government does not indicate anything about the existence of the special circumstances. No attempt was made by the Government to recruit persons to the extent permissible from the non SCS officers. Therefore not taking any steps in this regard only indicates that in the past there was no such special circumstances as is understood from the common knowledge. In future also it is the State Government who has to come to a conclusion as to whether there is any such special circumstances exist in particular date which enable the State Government to make a recommendation for appointment to the non SCS person. We understand the rule 8(2) which has been incorporated with a view to give promotion to the non SCS officers in case of necessity arises. From the record we find that nothing was done in the past and steps ought to have been taken by the State Government in the shape of a recommendation. It is the State Government who is in a position to ascertain as to whether a special condition exists or not and if such special condition exists and the quota permits for such appointment this is for the State Government to make recommendation to the Central Government and then the Central Government may pass order in consultation with the UPSC. But in the impugned notification we do not see anything regarding special circumstances as is understood from the common knowledge. It is really an unfortunate state of affair that prevails in the State of Tripura for non taking steps or explore the possibility of giving appointment to those deserving non SCS officers. There could be a special circumstances in the past but as nothing was indicated it is not possible for this Tribunal to consider that aspect of

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the matter. Again the Annexure-2 letter issued by the Government of India shows that only endeavour is made to fill up the quota totally ignoring the fact as to whether special circumstance do exist or not.

11. From the above it is abundantly clear that the rule provides for recruitment of non-SCS officers, but only in case when there exists special circumstances. Special circumstances has, however, not been explained in the rule. Therefore, the special circumstances has to be understood which a reasonable man would consider. However, such appointments cannot exceed the percentage prescribed. We do not find in the rule anything to give appointment just to fill up the backlogs. This, however, is our tentative view. We however feel that endeavour should be made to give appointment in future as and when such special circumstances exist. The manner in which appointments are to be made indicates that the authority concerned did not apply its mind to all these aspects. Therefore, we feel that the matter should be considered afresh by the authorities giving full opportunity to the parties concerned. While considering these aspects of the matter the authorities shall strictly follow the rules prescribed to fulfil the rule making authorities' desire to give appointment to the non-SCS officers.

12. Accordingly we dispose of this application with direction to the respondents to consider those aspects and dispose of the entire matter as early as possible not later than four months from the date of receipt of this order and communicate the same to the parties concerned. If the parties are aggrieved by the decision of the authority they are at liberty to approach this Tribunal.

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In the facts and circumstances of the case we make
no order as to costs.

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

THIRU V. K. RAO
JUDGE

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Annexure-1/

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NO.F.23(37)-GA/98
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (P&T) DEPARTMENT

Dated, Agartala, the 10th May, 2000.

To
The Secretary,
Tripura Civil Service Officers' Association,
Agartala.

Subject :- O.A. No.244/1998 filed by the TCS Officers' Association.

Sir,

I am directed to forward herewith the copy of Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, North Block, New Delhi communication No.F.14015/16/98-AIS(I) dated the 13th April, 2000 for favour of your kind information.

Yours faithfully,

(Mrs. B. Deb Barma)
12/5/2000
Under Secretary to the
Government of Tripura.

Attested
Am: for
advocate

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N.O. 3137/19/94
J.S. 6111/12
IMMEDIATE / By Special Officer
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
North Block, New Delhi

No. P.14015/16/98-AIS(I)

Dated the 13th April, 2000

WHEREAS the selection of Non-State Civil Service (Non-SCS) officers of Tripura for appointment to IAS was carried out by the selection committee in its meeting held on 28.10.1998 and 13.1999 and the Union Public Service Commission approved the recommendations of the selection committee without any modification. The Commission further stated that, in terms of the interim order dated 17.12.1998 of the CAT, Guwahati Bench, the selection process was completed but the final orders for the appointment be deferred until further orders of the Tribunal.

2. AND WHEREAS the Tripura Civil Service Association filed OA No.244/98 challenging the recruitment from among Non-SCS officers of Tripura during 1998 and by order dated 4.2.2000, the CAT Guwahati Bench disposed of the Original Application with the following observations:-

"11. From the above it is abundantly clear that the rule provides for recruitment of non-SCS officers, but only in case when there exists special circumstances. Special circumstances has, however, not been explained in the rule. Therefore, the special circumstances has to be understood which a reasonable man would consider. However, such appointment cannot exceed the percentage prescribed. We do not find in the rule anything to give appointment just to fill up the backlogs. This, however, is our tentative view. We however feel that endeavor should be made to give appointment in future as and when such special circumstances exist. The manner in which appointments are to be made indicates that the authority concerned did not apply its mind to all these aspects. Therefore, we feel that the matter should be considered afresh by the authorities giving full opportunity to the parties concerned. While considering these aspects of the matter the authorities shall strictly follow the rules prescribed to fulfil the rule making authorities desire to give appointment to the non-SCS officers.

12. Accordingly, we dispose of this application with direction to the respondents to consider those aspects and dispose of the entire matter as early as possible not later than four months from the date of receipt of this order and communicate the same to the parties concerned. If the parties are aggrieved by the decision of the authority they are at liberty to approach this Tribunal."

Pursuant to the directions of the Hon'ble Tribunal the recruitment in question was de novo considered by the Government of India taking into account all the facts and circumstances involved in the matter.

3. AND WHEREAS the matter relating to recruitment by promotion and selection to the IAS Manipur-Tripura Joint Cadre during 1998 came up for the consideration of the Central Government, pursuant to Letter No. 10(2)-GA/86 dated 25.2.1998 of Government of Tripura intimating the decision of the Joint Cadre Authority apportioning the cadre posts in IAS among the two cadre segments of the Joint Cadre, after enabling an increase in the promotion quota with corresponding decrease in the Direct Recruit posts of the Joint Cadre vide Government of India Notification dated 31.12.1997, with effect from 1.1.1998.

4. AND WHEREAS Rule 4(2) of the IAS (Recruitment) Rules, 1954 (hereinafter referred as 'Recruitment Rules') reads as under:-

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(4) Subject to the provisions of these rules,

(a) the method or methods of recruitment to be adopted for the purpose of filling up any particular vacancy or vacancies as may be required to be filled during any particular period of recruitment, shall be determined by the Central Government in consultation with the Commission and the State Government concerned,

(b) the number of persons to be recruited by each method shall be determined on each occasion by the Central Government in consultation with the State Government concerned

Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997 (hereinafter referred to as 'Selection Regulations'), framed pursuant to Rule 8(2) of the Recruitment Rules, provides as under:-

"3: Determination of vacancies to be filled: Central Government shall, in consultation with the State Government concerned, determine the number of vacancies for which recruitment may be made under these regulations each year. The number shall not exceed the number of substantive vacancies, as on the 1st day of January of the year in which the meeting of the Committee to make the selection is held "

Regulation 4 of the Selection Regulations casts a mandate on the State Government to send proposals for consideration of eligible Non-State Civil Service officers by the selection committee, towards preparation of the select list against the vacancies determined by the Central Government under Regulation 3 in consultation with the State Government.

5. WHEREAS the recruitment from among Non-State Civil Service officers envisaged by the IAS (Appointment by Selection) Regulations, 1997 were framed pursuant to Rule 8(2) of the Recruitment Rules, where a question arose in *P.M. Bhasu's case (1993 (3) SCC 319* as to the manner in which the existence of "special cases and special circumstances" are to be ensured, the Hon'ble Supreme Court interpreted the provisions of the Recruitment Rules as under:-

".....Rule 8(2) which talks of "outstanding ability and merit" when read with Regulation 3(1) and 3(4A) of the Regulations makes it clear that the "special circumstances" required to be seen are (i) the existence of officers with 12 years of continuous service in a gazetted post under the State Government - other than State Civil Service officers - who are of outstanding merit and ability and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS."

6. WHEREAS in view of the statutory provisions contained in the relevant rules and regulations and the settled case law in regard to the provisions of the Recruitment Rules, the Central Government addressed the Government of Manipur and Government of Tripura by letter No. F.14015/58/96-AIS(1) dated 25.3.1998 indicating the statutory limits within which the decision on recruitment by promotion and selection in the two segments of the IAS Manipur - Tripura Joint Cadre may be considered during the years 1998 to 2000. After consideration of the matter in consultation with the State Governments concerned, the recruitment by promotion and selection to the IAS Joint Cadre was determined vide GOI Lr. No.F.14015/16/98-AIS(1) dated 11.6.1998 (copy enclosed) and the State Governments informed accordingly.

7. WHEREAS the Government of Tripura had clarified and confirmed that the State Government had gone through the process of identifying existence of Non-State Civil Service officers of outstanding merit and ability in the State being satisfied that,

- (i) There were officers of outstanding merit and ability; and
- (ii) Public interest would be served by their selection to IAS

8. AND WHEREAS in the light of the observations of the Hon'ble Tribunal and after due consideration of the contention of the Tripura Civil Service Officers Association *inter-alia* taking into account the relevant statutory provisions in the Recruitment Rules and the Selection Regulations, the matter has been considered in detail. The channel of recruitment from the category of Non-State Civil Service officers provided in the Recruitment Rules subject to the ceiling prescribed in proviso to Rule 9(1) of the Recruitment Rules, cannot be ignored in order to accommodate the channel of promotion from among State Civil Service officers of Tripura altogether forever and it was the duty of the Central Govt. to ensure recruitment to the service from different channels as provided in the rules in consultation with the State Government. It is observed that in terms of the judgement of the Supreme Court, it is primarily the State Government concerned that has to be satisfied as to the existence of "special circumstances" for the purpose of recruitment by selection during a year. In case of non-availability of officers of outstanding merit and ability and in the absence of "special cases and special circumstances", it is open to the State Government to consider filling up the remaining vacancies in the promotion quota from among State Civil Service officers. However, in terms of provisions in the Selection Regulations, a conscious decision is required to be taken every year in the matter of recruitment by selection from among Non-State Civil Service officers, in terms of provisions contained in Regulation 3 of the Selection Regulations lest this channel of recruitment is ignored altogether. In the instant case, the Government of Tripura has confirmed the fulfillment of conditions precedent to recruitment from among Non-SCS officers of Tripura to IAS during 1998.

9. AND NOW, THEREFORE, after looking to the facts and circumstances of the case, the statutory provisions and settled case law, the Central Government has concluded that the determination of vacancies for appointment by selection against one post in the Tripura Segment, and one post by promotion in the Manipur Segment of the Joint Cadre during 1998 vide Government of India Order No. 14015/16/98-AIS(1) dated 11.6.1998 has been carried out by the Government only in accordance with law and the decision do not suffer from any infirmity in terms of the statutory provisions. The Tripura Civil Service Association may also be informed accordingly.

R. Vaidyanathan

(R. VAIDYANATHAN)
Under Secretary to the Government of India

To ✓
The Chief Secretary,
Government of Tripura,
AGARTALA.

History of the Tripura State

Contd. from page 1

and S.R. Paul in the same manner, Sl. No. 56. Shri Manik Lal Reang was also superseded by the officers at Sl. Nos. 59, 60, 65, 66, 77, 82 & 89 namely, S.S. Datta, Bijoy Roy, K.P. Goswami, Pallab Debbarna, D.K. Dey, B.K. Chakraborty and S.R. Paul and such supersession was not done in a day. It was done over the years. The reasons behind such supersession were simply performance. The performances of Shri Manik Reang and Shri Bhagirath Reang were so horrible that they were considered unfit by the Select Committee till 1997 when the last officer Shri S.R. Paul who was junior to them by more than 40 officers at the time of joining, superseded them. Shri SK Das, IAS, superseding Shri Bhagirath Reang is a Secretary to the Government of Tripura at present.

Now a question arises as to how these two officers having an all time unimpressive record suddenly topped the list of 1999. The reply is very simple Connivance. Connivance of the State Chief Secretary with the UPSC and the Government of India under extraneous influence.

This year the following names were sponsored for being considered: Against 3 vacancies of 1999 as per 1:3 formula, 9 names such as, Santosh Sarkar, R.C. Choudhury, Bhagirath Reang, Manik Lal Reang, Madhab Chandra Datta, Subinoy Kumar Choudhury, Rajibendra Kumar De Choudhury, Ajit Kumar Bhaumik and Swapan Saha.

Again against 2 vacancies of 2000, as per above formula, 6 names as below were sent : Madhab Chandra Datta, Subinoy Kumar Choudhury, Rajibendra Kumar De Choudhuri, Ajit Kumar Bhaumik, Swapan Saha and Madhusudan Bhattacharjee. The name of M.S. Bhattacharjee was first dropped as in total only 15 names could be accommodated against 5 vacancies. Later on his name was included for the reasons that Santosh Kumar Sarkar became age barred for getting consideration during 2000.

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Though confidential, yet, one could easily imagine that the rejected persons above Madhab Chandra Datta would never appear to get any fresh consideration unless there was a miracle or magic. Because, it was not possible to turn one outstanding overnight. Since those officers were declared unfit till 1997, it was never possible for them to stand the competition with the fresh officers under the existing Rule of Merit Cum Seniority. So the new formula was introduced to protect the unfit in detriment to the interest of the fittest. Under the new Scheme of Bench Marking if any officer could some how get Very Good on average for 5 years, then his seniority could not be disturbed. Through this conspiracy against the outstanding officers, the State Chief Secretary has not only inducted atleast two unfit officers into IAS but also created a criminal instance in which no officer will ever try to improve his performance. This way he has become instrumental in losing charm for getting selection into IAS.

The inside story is again very dangerous when a few ministers of the State Government publicly pleaded for giving promotion of the officers belonging to their community and threatened of community chaos if they were not given. This Such an attempt was earlier indicated by a member of the UPSC in a community discussion when it was held that nobody would be able to stop induction of Shri Bhagirath Reang into IAS this year. But the case of Manik reang was altogether different. No body ever thought that he would be accommodated in IAS. Shri Manik Reang still does not believe his ears that he has been elevated.

It may be mentioned here that Shri Bhagirath Reang was once charged for looting the Dumbur nagar Block when he was BDO there.

Shri Manik Lal Reang was found in a photograph with some hardcore extremists in their base camp and was about to lose his job. This benevolent Chief Secretary ultimately rescued them.

The outcome of the meeting of 19th December, 2000 was kept in strict confidence by the Chief Secretary and the State Government but in the same night of 19th December, 2000 the result was conveyed to the concerned persons from the sympathires of Delhi. The writer of this column himself was present in Delhi at that time and he could collect lot of dazzling news about him.

(The information's regarding the seniority etc. has been collect from Govt. documents like seniority list of officers of Tripura Civil service and serial list of Govt. India.)

ভাল ফার্নিচার বলতেই—
Bose Furniture
 অত্যাধুনিক ডিজাইন ও সুদক্ষ
 কারুকার্যের নির্ভরযোগ্য প্রতিষ্ঠান
 শোরুম : জিরানিয়া, ব্লক চৌমুহনী
 ফোন : ৬২-২৬৭, ৬২-৮৬৭

স্বাধীন

৪ ফাল্গুন, শুক্রবার, ১৪০৭ বাংলা :

১৯৯৯ ও ২০০০ সালের শূন্যপদে আই এ এস নির্বাচন নিয়ে প্রহসন

রাষ্ট্রের প্রশাসনিক ইতিহাসে বৃহত্তম ক্রোড়োৎসর্গ

বিশেষ প্রতিনিধি, আগরতলা, ১০ ই ফেব্রুয়ারী। রাষ্ট্র পাঁচজন সিভিল সার্ভিসভূক্ত অফিসারকে ইন্ডিয়ান এডমিনিস্ট্রিটিভ অফিসার (আই এ এস)-এ উন্নীত করার ক্ষেত্রে প্রচলিত জাতি-নীতি ও আইন-কানুনগত মাধ্যম পাল্টা প্রহার করে প্রবল প্রজাপ্রাণী তিন মূর্তি মিলে এক নজিরবিহীন ইতিহাস গড়েছেন। আই এ এস-এর মণিপুর-ত্রিপুরা যুগ করা হয়েছে। নাকি এটি পনের জন্য প্রার্থী বাছাইয়ের ক্ষেত্রে যেই 'তিন মূর্তি' পদার আড়ালে খেঁইল দেখিয়েছেন তাঁরা হবেন — ত্রিপুরা সরকারের মুখ্যসচিব, কেন্দ্র সরকারের পার্সোনেল দপ্তরের অতিরিক্ত সচিব এবং ইন্ডিয়ান পাব্লিক সার্ভিস কমিশন (ইউ পি এন্ড সি)-র ভর্তুকি সিনিয়র সদস্য। আর যে পাঁচজন টি সি এস অফিসারের ভাগ্যে শিকি ছিড়েছে সেই ভাগ্যবান অফিসারগণ হলেন — ভগীরথ রিম্মা, যানিক রিম্মা, মাধব চন্দ্র দত্ত (তাঁরা সগাই ১৯৯৯ সালের শূন্যপদে), সুবিনয় কুমার চৌধুরী ও রাতীবেশ কুমার দে চৌধুরী (এরা দু'জন ২০০০ সালের শূন্যপদে)। গত ১৯শে ডিসেম্বর (২০০০ ইং) ন্যায়াধীশত অনুষ্ঠিত নির্বাচনী কমিটির যে বৈঠকে ওই পাঁচটি নাম ছাড়পত্র পেয়ে যায় তাতে নীরোহিত্য করেন ইউ পি এন্ড সি-র সিনিয়র সচিব। বৈঠকে উপস্থিত ছিলেন ত্রিপুরা ও মণিপুরের মুখ্যসচিব এবং ভারত সরকারের পার্সোনেল দপ্তরের অতিরিক্ত সচিব। ঠিক তিন বছর পর কমিটির ওই বৈঠকটি অনুষ্ঠিত হলো। নিম্নের বিষয় হলো, ত্রিপুরা ও মণিপুরের মুখ্যসচিব এবং ভারত সরকারের পার্সোনেল দপ্তরের অতিরিক্ত সচিব। ঠিক তিন শেষ হয়ে যায়। তার অর্থ পুরোটিই ছিল পূর্ব পরিকল্পিত ও ছক-কাটা। এভাবেই নির্বাচনী কমিটির বহু প্রতিদ্বন্দ্বিতা বৈঠকটি নির্বাচনের নামে প্রহসনে পরিণত হয়। আগল ব্যবটি অবশ্য শুবই উদ্বেগজনক। তা জানার পর যে কেউ বিশ্বাসিষ্টি হয়ে ভাববেন প্রশাসনের অপসারণের ক্ষেত্রে এমন বিধাতা ভাবে সেবাদানের ভূমিকা গ্রহণ করার লক্ষ্যে এবং অন্তত দু'জনের মতামতে প্রাণ সঞ্চার করার পরও (ওই দু'জনের একই নির্বাচনী কমিটিই অযোগ্য বলে ঘোষণা করেছিল ও তাঁদেরকে ডিসমিস করেছিল) রাষ্ট্রের মুখ্যসচিব বাহাদুর শ্রীযুক্ত ডি তুলসীদাস কী করে প্রজাতন্ত্র দিবসের অন্যতম খেতাব 'পদ্মভূষণ' থেকে বঞ্চিত হলেন? জানা গেছে, মুখ্যসচিব মহশয় অধীনস্থ অফিসারদের উপর প্রচণ্ড চাপ সৃষ্টি করেছিলেন ওই দুই অফিসারের এ সি আর নতুন করে লিখিয়ে দেবার জন্য ও ইতোপূর্বেকার থেকে ২০০০ ইং পূর্ব সময়ে তাঁদের 'বেঞ্চ মার্কিং' অন্তত 'শুবই ভালো' বলে এ সি আরে লেখা যেতে পারে। নির্দিষ্টকটি কাম্ মেসিট' অর্থাৎ বয়োমোচর্চা ও প্রজ্ঞা-র বদলে অনুরাগ 'বেঞ্চ মার্কিং' করার প্রথাটি ইউ পি এন্ড সি-র ত্রিপুরাভিত্তিক সিনিয়র সচিব মহশয় সমস্যা মানসপূর্ণ। নির্বাচনী কমিটির ওই বৈঠকটি অনুষ্ঠিত হবার অনেক আগেই অবশ্য ওই সদস্যটি সমগ্র প্রচলিত পরিচর্যা মাধ্যমে আই এ এস পদে রাষ্ট্র সিভিল সার্ভিস অফিসারদেরকে অধিকারী অফিসারগণ অন্যান্যদের চেয়ে নির্বাচনের ক্ষেত্রে অগ্রাধিকার পে'য় থাকেন এবং বহু ক্ষেত্রেই তাঁরা তাঁদের সিনিয়র অফিসারদের ডিসমিস উচ্চতম পদে উন্নীত হন। এর উদাহরণ অনেক রয়েছে। শ্রী এ এম দত্ত (১৯৮২-র আই এ এস ও ১৯৮৯-র সিনিয়রিটি তালিকায় ৯নং ক্রমিকভুক্ত) ৬-এর পাতার ৬৪ কলামে দেখুন

Attested
 Anni
 Advocate

ইতিহাসে বৃহত্তম কেনেফারি

প্রথম পাতার পর

জায় এখন সিনিয়র অফিসারকে ডিসমিসে উচ্চতর পদে উন্নীত হয়েছিলেন। তাঁদের মধ্যে ছিলেন — ৮নং ক্রমিক ভূক্ত নরেশ্বর চক্রবর্তী, ৬ নং ক্রমিকভূক্ত এল সি দাস, ৫নং ক্রমিকভূক্ত গীর্জাধর দে, ৩নং ক্রমিকভূক্ত এস বি চক্রবর্তী প্রভৃতি। অনুসরণভাবে ১৭নং ক্রমিকভূক্ত এইচ এম চৌধুরী (১৯৮৪) ডিসমিসে হইলেন ১০ নং ক্রমিকভূক্ত এম রায় ও ১৩ নং ক্রমিকভূক্ত এম এল দাসকে; ৫৫নং ক্রমিকভূক্ত শ্রীশৈলেন দাস (১৯৯৪) ডিসমিসে হইলেন ৫১, ৫২, ৫৩ ও ৫৪ নং ক্রমিকভূক্ত যথাক্রমে এম কে দেববর্মা, এস কে সরকার, আর সি চৌধুরী ও ভগীরথ রিয়াং-কে; ৫৯ নং ক্রমিকভূক্ত এসএস নন্দাডিসমিসে হইলেন ৫১, ৫২, ৫৩, ৫৪; ৫৬, ৫৭ ও ৫৮ নং ক্রমিকভূক্ত যথাক্রমে ৫১, ৫২, ৫৩, ৫৪, ৫৬, ৫৭ ও ৫৮ নং ক্রমিকভূক্ত যথাক্রমে এম কে দেববর্মা, এস কে সরকার, আর সি চৌধুরী, ভগীরথ রিয়াং, মানিকলাল রিয়াং, জে সি খোসা ও এ বি দত্তকে। বেশ কিছু বছর ধরেই উচ্চতর অফিসারদেরকে ডিসমিসে যাবার এলাব ঘটনা ঘটে চলেছে। এসব ডিসমিসে যাবার প্রধান কারণ হলো যিনি ডিসমিসেছেন তাঁর কর্মক্ষমতা। কিন্তু মানিক রিয়াং ও ভগীরথ রিয়াংয়ের কর্মক্ষমতা এতই উন্নত যে, নতুনদের নাম যে, ১৯৯০ সাল পর্যন্ত নিবর্তনী কমিটি তাঁদেরকে অনুপস্থিত বলে বিবেচনা করেছিল। ওই বছরই উল্লিখিত দু'জনকে ডিসমিসে হইলেন শ্রী এম আর পাণ্ডা, যিনি কর্মজীবন গুরুত্ব সময় ৪০ বছর ও বেসী অফিসারের নীচে ছিলেন। শ্রীভগীরথ রিয়াংকে ডিসমিসে আলা আরেক অফিসার শ্রী এস কে দাস, আই এ এস বর্তমানে ত্রিপুরা সরকারের সচিব পদে রয়েছেন। স্বভাবতই প্রশ্ন উঠতে পারে, যে-দু'জন অফিসারের কাছের বেকর্ড কোনও সময়েই ভালো নয়, বরং সব সময়ই খারাপ, তাঁরা সহসা ১৯৯৯ সালের তালিকায় শীর্ষস্থানে চলে এলেন কেন? কই ? রহস্যটা কী ? উত্তর একটাই— যোগসাজস। রাজ্যের মুখ্যসচিব, ইউ পি এস সি-র ওই সদস্য এবং ভারত সরকারের ওই প্রতিনিধি—এই ত্রয়ী যোগসাজস। ১৯৯৯-এর ৩টি শূন্যপদে ১:৩ কর্মী অনুযায়ী চলতি বছরে যে ৯টি নাম পাঠানো হয়েছিল সেগুলি হলো সন্তোষ সরকার, আর সি চৌধুরী, ভগীরথ রিয়াং, মানিকলাল রিয়াং, মাধব চন্দ্র দত্ত, সুবিনয় কুমার চৌধুরী, রাজীবেন্দ্র কুমার দে চৌধুরী, অজিত কুমার ভৌমিক ও বপন সাহা। অনুসরণভাবে ২০০০ সালের ২টি শূন্যপদে উল্লিখিত কর্মীরা অনুযায়ী ৬টি নাম পাঠানো হয়েছিল। যথা— মাধবচন্দ্র দত্ত, সুবিনয় কুমার চৌধুরী, রাজীবেন্দ্র কুমার দে চৌধুরী, অজিত কুমার ভৌমিক,

বপন সাহা ও মহম্মদন ভট্টাচার্য। শেষ নামটি প্রথমেই বাদ পড়েছিল যেহেতু সর্বমোট ৫টি শূন্যপদে ১৫ জনের বেসী প্রার্থীর নাম বিবেচনা করা সম্ভব নয়। পরবর্তী কালে শ্রী এম এস ভট্টাচার্যের নাম অন্তর্ভুক্ত করা হয় যেহেতু সন্তোষ রিয়াং সাহা'র বয়স প্রতিবন্ধকতার সৃষ্টি করেছে। অনুমান করা যেতে পারে উপরের বাতিশ প্রার্থীদের মধ্যে মাধবচন্দ্র দত্তের নাম নতুন করে বিবেচনার জন্য উঠবে না যদি কোনও অফিসার না ঘটে। কারণ, সহসা কোনও অফিসারকে 'দক্ষ' বলে দেখানো সম্ভব নয়। যেহেতু ১৯৯৭ সাল পর্যন্ত এসব অফিসারগণকে অযোগ্য বলে ঘোষণা করা হয়েছিল সেহেতু প্রচলিত 'মেরিট কাম সিনিয়রিটি' নীতিতে তাঁদের নাম নতুন অফিসারদের সঙ্গে বিবেচিত হতে পারে না। তাই অযোগ্যকে রক্ষা করার এবং যোগ্যতমকে বাতিশ করার লক্ষ্যেই নতুন নীতির প্রবর্তন করতে হয়েছে। নতুন এই 'বেধ মার্কিং' নীতিতে যথা হয়েছে, যদি কোনও অফিসার ৫ বছরের গড়ে যে-কোনও উপায়ে 'খুবই ভালো' কথাতুলি এ সি আরে পোষাতে পারেন তাহলে তাঁদের সিনিয়রিটিকে নড়ানো যাবে না। সং ও বিশেষ দক্ষ অফিসারদের বিরুদ্ধে এই বড়যন্ত্রের মাধ্যমেই রাজ্যের মুখ্যসচিব বাহাদুর আশুত দু'জন অযোগ্য অফিসারকেই আই এ এস-এ উন্নীত করেন নি, উপরন্তু এমন একটি অপরাধমূলক দৃষ্টান্ত স্থাপন করেছেন যাতে কোনও অফিসারই কাজকর্মের উন্নতি ঘটানোর চেষ্টা করবেন না। আরও বিপদের কথা হলো, রাজ্যের কতিপয় মন্ত্রী বহুতাত্ত্বিক অফিসারদেরকে উন্নতি দেবার সুপ্রাণি প্রকাশ্যেই করেছেন ও পদোন্নতি না ঘটালে নাস্ত্যমায় গত গোলমাল বাঁধানো হবে বলে চমক দিয়েছেন। এজাবেই মুখ্যসচিবের দিগে ওই দুই অফিসারের এ সি আর নতুন করে দেখানো হয়েছিল। প্রসঙ্গত উল্লেখ্য, শ্রীভগীরথ রিয়াং বি ডি ও থাকাকালীন সময়ে ছুঁড়নগর ব্লক থেকে অর্ধ গোপাটের ঘটনায় অভিযুক্ত হয়েছিলেন। তাছাড়া মানিকলাল রিয়াংকে কতিপয় কটর উপপত্নীর সঙ্গে তাদের গোপন ভেদায় কানোরাবন্ধ হয়েছিলেন। এ অপরাধে তাঁর তাকুরী চ্যুতির উপক্রমও ঘটেছিল। বদান্য ও মহানুভব মুখ্যসচিব তাঁদের দু'জনকেই রক্ষা করলেন। (সিনিয়রিটি ইত্যাদি সংক্রান্ত তথ্যগুলি সরকারী দপ্তরপত্র — যথা, রাজ্য সরকারের অফিসারদের সিনিয়রিটি তালিকা ও ভারত সরকারের সিনিয়রিটি তালিকা থেকে সংগৃহীত)।

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Annexure-14

No. 14015/20/2000-AIS(I)
Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)
.....

New Delhi, the 27th April, 2001.

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is pleased to appoint S/Shri (1) B. Reang, (2) M.L. Reang, (3) M.C. Datta, (4) S.K. Choudhury and (5) R.K. Dey Choudhury, member of the State Civil Service of Tripura to the Indian Administrative Service on probation with immediate effect and until further orders and to allocate them to the Manipur-Tripura Joint Cadre under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

Sd/-
(R. Vaidyanathan)
Under Secretary to the
Government of India.

No. F.2(4)-GA(P&T)/2000
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (P & T) DEPARTMENT

Dated, Agartala, the 5th May, 2001.

Copy to :-

1. Chief Secretary, Tripura/Manipur, Agartala/Imphal.
2. Principal Secretary to Governor, Tripura, Agartala.
3. Secretary to Chief Minister, Tripura, Agartala.
4. Offices of all Ministers, Tripura.
5. All Principal Secretaries/Commissioners/Secretaries.
6. Shri R. Vaidyanathan, Under Secretary to the Govt. of India, Department of Personnel & Training, New Delhi - 110001.
7. Under Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi - 110001.
8. Accountant General (A & E), Tripura, Agartala.
9. Finance (Estt. Br.)/G.A.(S.A.) Deptt. Tripura.
10. Director, Tribal Welfare/Tribal Research Institute/Youth Affairs & Sports/Higher Education/Planning & Coordination.
11. Manager, Govt. Press, Agartala for publication.
12. Treasury Officer, Agt. T.O. No. I & II, West Tripura.
13. Officers concerned.
14. Personal files/Guard file.

5-5-2001
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.
.....

*Attested
Luni Prb
Sd/-*

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Annexure-14 A

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART 1 SECTION 2)

No.14015/20/2000-AIS (I)

Government of India

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

New Delhi, the 25th April, 2001

NOTIFICATION

In terms of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the Select Lists of 1999 and 2000 for Tripura containing the names of the following State Civil Service officers of the State of Tripura prepared by the Selection Committee in its meeting held on the 19.12.2000, towards filling up three vacancies during 1999 and two vacancies during 2000, in the Tripura segment of the Indian Administrative Service of the Manipur-Tripura Joint Cadre.

S.No	Select List	Name of the officer(S/Shri)	Date of Birth
1.	1999	B. Reang (ST)	01.08.1947
2.	1999	M.L. Reang (ST)	04.11.1946 &
3.	1999	M.C. Datta	28.02.1947
4.	2000	S.K. Choudhuri	13.07.1950 &
5.	2000	R.K. Dey Choudhury	01.11.1947

R. Vaidyanathan

(R.VAIDYANATHAN)

Under Secretary to the Government of India

To The Manager
Government of India Press
Faridabad (Haryana)

No.E.14015/20/2000-AIS(I)

New Delhi, the 25th April, 2001

1. The Chief Secretary, Government of Tripura, with 5 spare copies for onward transmission to the officers concerned.
2. The Secretary, Union Public Service Commission, Dholpur House, New Delhi. (Shri Manjit Kumar, Under Secretary)

R. Vaidyanathan

(P.VAIDYANATHAN)

Under Secretary to the Government of India

Internal Distribution: Under Secretary (S.II)/10 spare copies

*attested
Luni book
Advocate*

(TO BE PUBLISHED IN THE GAZETTE OF INDIA, PART I SECTION 3)
 No. 14015/58/96-AIS(I)
 Government of India
 Ministry of Personnel, P.G. & Pensions
 (Department of Personnel & Training)

New Delhi, the 22nd Oct., 97.

NOTIFICATION

In exercise of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission, have approved the Select List containing the names of the following members of the State Civil Service of the State of Tripura prepared by the Selection Committee in its meeting held on 27.3.1997, for one anticipated vacancy in the Tripura segment of the Indian Administrative Service Manipur-Tripura Joint Cadre, during 1997-98.

<u>S.No.</u>	<u>Name of the officer</u> S/Shri	<u>Date of Birth</u>
1.	S.K. Adhikari	04.02.1942
2.	S.K. Chakraborty	08.07.1940
3.	S.R. Paul	18.06.1941

* The name of S.No.1 has been included provisionally subject to the outcome of disciplinary proceedings pending against him and also grant of integrity certificate by the State Government.

R. Vaidyanathan
 (R. VAIDYANATHAN)
 DESK OFFICER.

To
 The Manager,
 Govt. of India Press,
 Faridabad (Haryana)

No. F.14015/58/96-AIS.I

New Delhi, the 22nd Oct., 97.

1. Chief Secretary, Govt. of Tripura, Agartala with spare copies for onward transmission to the Govt. of Meghalaya for intimating the officers concerned.
2. Chief Secretary, Government of Manipur, Imphal.
3. The Secretary, UPSC, Dhoolpur House, New Delhi (Sh. N. Namasivayam, Under Secretary), for information.

R. Vaidyanathan
 (R. VAIDYANATHAN)
 DESK OFFICER.

INTERNAL DISTRIBUTION

Under Secretary (S.III)/Guard file/Spare copies.

*Attested
 Luni Bahr
 Advocate*

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Lot
Annexure-16

CONFIDENTIAL

NO.F.2(11)-GA(P&T)/2001
GOVERNMENT OF TRIPURA
GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT

.....
Dated, Agartala, the 24th July, 2001.

To
The Principal Secretary/Commissioner/Secretary,
..... Deptt.,
Government of Tripura,
Agartala.

Subject : Selection of Non-SCS Officers to IAS - recommending names.

Sir,

I am directed to refer to this Department letter of even number dated the 18th June, 2001 on the subject noted above and to request you kindly to expedite the reply alongwith the proposal to this Department latest by the 31st July, 2001 positively.

Yours faithfully,

18.7.2001
24-7-2001
(Mrs. B. Deb Barma)
Under Secretary to the
Government of Tripura.
.....

Attested
Amr. Bork
Advocate

In The Central Administrative Tribunal
GUWAHATI BENCH GUWAHATI

ORDER SHEET

~~Misc. Application No. 10/99~~ (in 04-244/98)

Applicant(s) Tripura Civil Service Officer.
Asso. ors.

Respondent(s) Union of India.

Advocate for Applicant(s) Mr. B. K. Sarma, Mr. S. Sarma
Mr. U. K. Nair.

Advocate for Respondent(s) Mr. B. S. Brahmachary
Addl. C. G. Secy.

P. 2.99

This petition has been filed by the Tripura Civil Service Officers Association praying inter alia that the Tripura Civil Service Officers should also be assessed for the purpose of promotion to IAS.

Heard Mr S. Sarma, learned counsel for the petitioner, Mr P. Bora, Govt. Advocate, Manipur, Mr B. P. Katak, Govt. Advocate, Tripura, Mr A. Deb Roy, learned Asst. C. G. S. C and Mr J. L. Sarkar for some of the private respondents in the O.A. On hearing the counsel for the parties we direct the opposite party/respondents to assess the eligible Tripura Civil Service Officers separately for the purpose of promotion to IAS. However, no final result shall be published until further orders. We make it clear that the assessment shall be made separately for TCS and non TCS officers.

Misc. Petition is disposed of.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (AJMN)

Attested
Ami Bora
Advocate

Certified to be true Copy
23/6/99
Section Officer (I),
Central Administrative Tribunal,
Guwahati Bench, Guwahati.
18/3/6

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Annexure-18

NO.

(See Rule 42)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET

Misc APPLICATION NO. 2/99(244/98) OF 199

Applicant(s) Chief Secretary

Govt of Manipur (R. No. 4)

Respondent(s) Tripura Civil Services Officer.

Asst.

Advocate for Applicant(s)

Mr. G. N. Saha Walla, Mr. P. Bora

Advocate for Respondent(s)

Mr. B. K. Sharma,
Mr. S. Samra.

25.2.99

This petition has been filed by the petitioner - Chief Secretary, Government of Manipur praying inter alia for an order to allow the petitioner to prepare a select list for promotion of Manipur Civil Service Officers to the Indian Administrative Service for the year 1998.

Heard Mr P. Bora, learned counsel for the opposite party/applicants, Mr J.L. Sarkar, learned counsel for respondents 5-8 and Mr B.P. Katakli for respondents No.3. On hearing the counsel for the parties we direct the petitioner/respondents to process the selection. However no appointment shall be made until further orders.

Certified to be true Copy. Misc. Petition is disposed of.

प्रमाणित प्रतिलिपि

Section Officer 23/6/99

प्रमुख अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण

Guwahati Bench, Guwahati

গুৱাহাটী বেঞ্চ, গুৱাহাটী

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Accepted
Tuni Bork
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 405 OF 2001

Shri Ajit Kumar Bhaumik

.....APPLICANT.

- VS -

Union of India and Others

.....RESPONDENTS.

- AND -

IN THE MATTER OF:

Written Statement submitted for and on behalf of
the Respondent No. 2, the State of Tripura to the
application filed by the Applicant in O.A. 405 of
2001.

The humble Respondent begs to submit the Written Statement as follows:

- 1) That saves and except what has been specifically admitted herein below in this Written Statement, all other statements made by the Applicant in the Original Application may be treated as denied by the answering Respondent and further, does not admit the statements made by the Applicant, which are contrary to, and/or inconsistent with the records of the case.
- 2) That with regard to the statements made in paragraph 1 of the application, the answering Respondent states that the position as far as they are concerned will be explained in the subsequent/below given paragraphs.
- 3) That with regard to the statements made in paragraph 2 of the application, the jurisdiction of the Hon'ble Tribunal is not disputed.
- 4) That with regard to the statements made in paragraph 4.1 of the application, the Respondent puts the Applicant in the strictest proof thereof. Presently a vigilance case is pending against the Applicant and has been charge sheeted thereof.
- 5) That with regard to the statements made in paragraph 4.2 of the application, the Respondent states that the case of the Applicant for promotion to IAS have been considered by the Selection Committee along with others during the year

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Filed by
the
State of Tripura
through
Manish Ranjan Patil
Advocate
29-04-2001

1994, 1996, 1999 and 2000. But as the Selection Committee did not find him suitable as per records of ACRs, therefore, he was not included in the Select List for those years for promotion to IAS.

6) That the contentions of the statements made by the Applicant in Para 4.3 of the Application are admitted.

7) That the statements made in Para 4.4 of the Application are denied. That the Respondent states that in the year 1998 proposal was sent for convening the Selection Committee Meeting and accordingly the date of the said Meeting was also fixed on 28-10-1998. But due to an Interim Order dated 26-1-1998 passed by this Hon'ble Tribunal in O.A. 244 of 1998 (Tripura Civil Service Officers Association -VS- Union of India & Others), the said Meeting could not be held on 28-10-1998. After vacating the said Interim order dated 26-10-1998, the Selection Committee Meeting for finalising the Select List for 1998 was held on 1st March 1999 and after disposal of the said O.A. No. 244/98 by this Hon'ble Tribunal on 4th February 2000, the appointment from Select List for the year 1998 was made in the year 2000. Due to non-appointment from the Select List for the year 1998, the Selection Committee Meeting could not be held during the year 1999. That after disposal of the said O.A. 244/98 and appointment of Shri A. Guha, a Non-SCS Officer from the 1998 Select List, the Selection Committee Meeting was held during the year 2000 for finalising the Select List for the years 1999 and 2000. That in both the Select Lists for 1999 and 2000, the name of the Applicant was considered along with others, but he was not found suitable to be included in both the Select Lists.

8) That the contentions of the Paragraphs 4.5 to 4.8 of the Application being records of the relevant provisions of the IAS (Recruitment) Rules, 1954, the Respondent have no comments to offer.

9) That the answering Respondent denies the correctness of the statements made in Para 4.9 of the Application and states that the Proviso contained under Rule 8 (2) of the IAS (Recruitment) Rules, 1954 is merely directory in nature and not mandatory as stated Petitioner. That any provision of rules, when implemented, requires consideration. To that extent it is mandatory, otherwise a section of the administration comprising of Non-SCS Officers may be deprived. As regards existence of Special Circumstances, as mentioned by the Applicant, it may be stated herein that the expression "Special Circumstances" as used in Rule 8 (2) of IAS Recruitment Rules, 1954, as interpreted by the Hon'ble Apex Court in P.M. Baya's case { 1999(3) SCC-319 } is reproduced below: -

1999(3) SCC

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"..... Rule 8 (2) which talks of 'Outstanding ability and merit' when read with Regulation 3 (1) and 3 (4A) of the Regulations makes it clear that the "Special Circumstances" required to be seen are (i) the existence of officers with 12 years of continuous service in a Gazetted post under the State Government other than State Civil Services Officers who are of outstanding ability and merit and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS".

10) That as regard the statements made in Para 4.10 of the Application, the Respondent states that the question of exercising the particular method during the last 40 years as mentioned by the Applicant does not arise since the State of Tripura came to existence in the year 1972 only. The nature of job in the IAS requires experience with outstanding merit and ability and Officers not belonging to State Civil Service on fulfilling these requirements become eligible for consideration for Selection to IAS. The fact that in the past that is before 1998 no recruitment was made following the above procedure does not preclude the Government of Tripura from resorting to this method in future.

11) That the contentions made by the Applicant in Para 4.11 of the Application is the record of the relevant Rules.

But the contentions of the Applicant that the State Government shall not consider the case of a person who having being included in an earlier Select List has not been appointed by the Central Government in accordance with the provisions of Regulation 9 of these Regulations is not correct as because proposal for appointment in IAS for the three Officers included in the earlier Select List i.e. of 1997 were sent to the Government of India. Out of these three Officers, two have already been appointed in IAS before the Selection Committee Meeting and for other, the proposal was under consideration of the Government of India. It may also be added here that during the year 1998 for filling-up of single vacancy, it was decided to fill-up the same from amongst the Non-SCS Officers. Therefore, the question does not arise to consider the case of a person who having been included in an earlier Select List has not been appointed by the Central Government, as they were all Civil Service Officers.

12) That with regard to the statements made in Pars 4.12 and 4.13 of the Application the Respondent states that the State Government wrote a letter to all the Heads of the Departments, Government of Tripura for suggesting the names of Non-SCS Officers to the General Administration (Personnel and Training) Department (formerly Appointment and Services Department) for preparing a panel of names that

would be placed before the Selection Committee Meeting. This was the first time the State Government was making recruitment by Selection. The provision of 4(iii) of Selection Regulation speaks of "posts, which have been declared as equivalent to the post of Deputy Collector in the State Civil Service". The letter dated 24-08-1998 of the State Government contained instructions using words "equivalent in rank, pay and responsibility to Deputy Collector and above" for defining such posts. By the letter dated 24-08-1998, clear declaration was made to the effect that the nature and characteristics of posts held by the officers were desirable. The rank of the officer implies that the incumbent should be a Grade-I Officer. The pay of the officer implies that he should be having pay not less than that if the lowest pay for Deputy Collector in TCS i.e. Rs.2100 - 5000/- (pre-revised). The responsibility of the officer implies that the nature of works being undertaken by the officer and authority enjoined upon him should be equivalent to that of the Deputy Collector in the State Civil Service. The assessment of these requirements was to be objectively done by the Secretaries of the concerned Department. The words "Deputy Collector and above" have been used on the analogy that a person, if fit because of his equal to the rank of Deputy Collector, then obviously another who is above that rank would fit for the same position. As regards Rational Order/Notification declaring the nature of posts equivalent to the posts of Deputy Collector, it may be stated herein that for smooth discharging of the Administration and in the interests of Public Services, the State Government has every right to declare the nature of any posts equivalent to the post of Deputy Collector by using its own discretionary power. It may also be added here that the State Government have fulfilled the standards laid down in Regulation 4 of 1997 Regulations for sending the proposal for appointment in IAS under Rule 8(2) of the 1954 Rules. The Selection Committee only proceeds for recommendation on the proposal when the members of the Committee are fully satisfied with said proposal. As the Selection Committee during the year 1998 and 2000 had finalized the Select List for the relevant years, it is revealed that the State Government sent proposals fulfilling the standards laid down in the relevant rules.

Further, the State Government sent proposal for Appointment in IAS in accordance the provisions of the relevant Rules. The Selection Committee only proceeds for recommendation on the proposal when the members of the Committee are fully satisfied with the proposal. As the Selection Committee during the year 1998 and 2000 had finalized the Select Lists for the relevant years, it is revealed that the State Government sent proposals in accordance with the provisions of the rules. It may also be added here that a Selection Committee headed by a member of the UPSC prepared the Select List. Therefore, the question of violation of the provisions of Rules by the

State Government does not arise. The question of the clarification sought by the Government of India on the proposals of the Government of Tripura in regard to Selection of Non-SCS to IAS is fully baseless and hence denied.

13) That with regard to the statements made in Para 4.14 of the Application the Respondent states that the exercise of promotion/selection to IAS under Rule 8(1) and 8(2) of IAS Recruitment Rules is based on a continuous process taking into account the vacancies in a respective year. The vacancy in a year is based on the Cadre Strength as on the first day of the year in which the Selection Committee meets. The decision to fill up the single vacancy by selection is based on the discretion of the Joint Cadre Controlling Authority of Manipur - Tripura in consultation with the Central Government. It is not a backlog vacancy for selection but merely the existence of latent possibility under the guiding Rule 9(1) of IAS Recruitment Rules, which is being made use of in acceptance of the suggestion of the Central Government. This decision was arrived at after being satisfied of the special circumstances towards favourable consideration of the cases of Non-SCS officer for selection to IAS.

14) That the contentions of the statements made in Para 4.15 of the Application are the contents of the Government of India letter No. F 14015/58/96/AIS (I) dated 25-03-1998 regarding Selection Committee Meeting for promotion of Officers to the IAS Joint Cadre of Manipur - Tripura of Tripura segment during 1998.

15) That with regard to the statements made in Para 4.16 of the Application the Respondent states that the process of promotion/selection to IAS under Rule 8(1) and 8(2) of the IAS Recruitment Rules is a consultative process between the Central Government and the State Government. The decision to fill up the vacancy, which arises in a respective year, is the discretionary power of the Joint Cadre Authority of Manipur-Tripura in consultation with the Central Government. In exercising this power, the State Government being a Cadre Controlling Authority has proposed to the Central Government to allot the single vacancy occurring in the year 2001 for promotion to IAS for the Non-SCS Officers. It was also felt by the State Government of Tripura that selection of outstanding Non-SCS officers shall be beneficial to the State Administration with infusion of their capabilities. That the State Government has rightly considered the provision as prevailing in the relevant rules on the line of "Special Circumstances" for filling up of vacancies in IAS by promotion from Non-SCS Officers. That the Government of India is the soul authority to consider the criteria stipulated for such appointment in consultation with the UPSC. It is reiterated that at the time of selection of Non-SCS Officer for consideration for appointment to IAS on

promotion, due consideration is being given to merit and ability of the concerned Non-SCS Officers. That there is a provision in the IAS (Appointment by Selection) Regulation that the number of persons proposed for consideration of the Committee shall not exceed five times the number of vacancy proposed to be filled-up during the year. As such it does not mean that the proportion requires to be nominated 5:1. As per DPC procedure only limit has been prescribed. Before sending the proposal for consideration for selection to IAS, the names of the Non-SCS Officers recommended by their respective Departments were short listed by a Screening Committee consisting of the Chief Secretary and two senior most Principal Secretaries next to the Chief Secretary of the State Government verifying all essential documents including last five year's ACRs of the concerned officers in accordance with the relevant provisions of Selection Regulation. As such, in that case the number of persons coming in the zone of consideration prescribed in the DPC may or may not fulfil. Therefore, it is not a fact that there is scarcity of officers of outstanding merit and ability. It may also be added here that a Selection Committee headed by a member of UPSC has prepared the Select list. It is, therefore, not within the jurisdiction of the State Government to take any unilateral action in this matter. Therefore, the contention of the Applicant that the Government of Tripura is trying to put their men of choice whatever is his calibre or whether or not there is the existence of special circumstances is not correct and fully baseless and hence denied.

16) That the answering Respondent admits the statements made in Para 4.17 of the Application.

17) That with regard to the statements made in Para 4.18 of the Application the Respondent states that the exercise of promotion/selection to IAS under Rule 8(1) and 8(2) of the IAS Recruitment Rules is a continuous process taking into account the vacancies in respective years. The vacancy in a year is based on the Cadre Strength as on the first day of the year in which the Selection Committee meets. The decision to fill up the single vacancy by selection is based on the discretion of the Joint Cadre Authority of Manipur-Tripura in consultation with the Central Government. That it is not a backlog vacancy for selection but merely the existence of latent possibility under the guiding Rule 9(1) of IAS Recruitment Rules which is being made use of in acceptance of the suggestion of the Central Government. The Government of India's letter dated 25-03-1998; seeking comments/concurrence of the State Government being a Cadre Controlling Authority was a part of the consultative process. It was not any instruction to the State Government. It may also be stated herein that during the year 1998 single vacancy was filled up from Non-SCS Officers. In the year 1999, all the

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three vacancies were filled up from SCS Officers. In the year 2000, out of the three vacancies, two were filled up from SCS Officers and another from Non-SCS Officers and in the year 2001, it was proposed to fill up the vacancy from Non-SCS Officers.

18) That with regard to the statements made in Para 4.19 of the Application the Respondent states that the process of recruitment by promotion and selection to the IAS is governed by the provisions contained in Rule 4 of the IAS Recruitment Rules, 1954 under the All India Services Act, 1951. Separate provisions are incorporated for the two channels of recruitment from among the State Civil Service Officers and other Officers serving in connection with the affairs of the State Government not belonging to the State Civil Service respectively in the following manner. The number of vacancies by which recruitment by promotion and selection is made in a year is subject to the overall ceiling of the quota to 33 and 1/3rd percent of the aggregate of (i) Senior Duty Post (ii) Central Deputation Reserve (iii) State Reserve and (iv) Training Reserve, in the schedule to the IAS (Fixation of Cadre Strength) Regulations, 1955, under Rule 9(1) of the Recruitment Rules. The recruitment by selection is further subject to the condition of ceiling of 15% of the total promotion post in the State IAS Cadre worked out under Rule 9(1) of the Recruitment Rules. In terms of Rule 8(2) of the Recruitment Rules, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with the Selection Regulation, make recruitment to the Service, any person of outstanding ability and merit serving in connection with the affairs of the State government who is not a member of the Civil Service. The nature of job for promotion to the IAS requires experience with outstanding ability and merit of the Officers not belonging to the State Civil Service. On fulfilling these requirements one Officer becomes eligible for consideration for selection to IAS. The fact that in the past i.e. before 1998 no recruitment was made following this procedure does not preclude the State Government from resorting to this method in future. The decision for selection of Non - SCS Officers to IAS was taken as sequel to the consultative process between the Central Government and the Joint Cadre Controlling Authority of Manipur-Tripura. The State Government of Tripura felt that selection of outstanding Non-SCS Civil Service Officers shall benefit the State Administration by infusion of their capabilities. Further, the officers of those categories have also been demanding for consideration of their cases for promotion to IAS as done in many other States of the Country. Having analysed the matter in its entirety, the State Government of Tripura concluded that for the interest of public, outstanding Officers of Non-SCS category should be given opportunity for promotion to IAS as envisaged in Rule 8(2) of the IAS Recruitment Rules, 1954. In view of the Statutory Rules' provisions of which

are already explained above, it is respectfully submitted that the contention of the Applicant earmarking the quota of 15% of the total number of posts to be filled up by Non- SCS Officers goes to the extent of cutting into quota of State Civil Service Officers and the interpretation of 15% of the total number of vacancies arising in a given year can be filled up by Non-SCS Officers is not correct and mis-leading.

19) That with regard to the statements made in Para 4.20 & 4.21 of the Application the Respondent states that the letter of the Central Government dated 25-03-1998 seeking comments/concurrence of the State Government was part of the consultative process. The State Government agreed to the suggestion of the Central Government and after due consideration of all aspects, requested all the Heads of Departments to send the names of suitable officers not belonging to the State Civil Service equivalent in rank, pay and responsibility to the Deputy Collector and above who possess outstanding merit and ability, for sending proposal for promotion of Non-SCS Officers to IAS for filling up the vacancy arises in the year 1998.

20) That with regard to the statements made in Para 4.22 of the Application the Respondent states that the Government of India's letter dated 25/3/1998 seeking comment/concurrence of the State Government being a Cadre Controlling Authority was a part of the consultative process. It was not any instruction to the State Government as alleged by the Applicant, since there is existence of latent possibility under the guiding Rule 9(1) of IAS Recruitment Rules that is being made use of in acceptance of the suggestion of the Central Government. The State Government agreed to the suggestion of the Central Government and after due consideration of all the issues, a proposal was processed for promotion of Non-SCS Officers to IAS. The State Government in its letter dated 24/8/1998 asked all the Heads of the Departments, Government of Tripura for suggesting the names of Non-SCS Officers to the Appointment and Services Department presently General Administration (Personnel and Training) Department for preparing a panel of names of Officers meriting to be in the zone of consideration, for placing the same before the Selection Committee Meeting. This was the first time the State Government was making recruitment by Selection. The provision of 4(iii) of Selection Regulation speaks of "posts, which have been declared as equivalent in rank, pay and responsibility to Deputy Collector and above in the State Civil Service" for defining such post. The State Government after consideration of all aspects and with due consideration the responsibilities involved in the relevant post has specified the posts equivalent to status etc. of the post of Deputy Collector. These words defined elaborately the characteristics of officers who may be considered for promotion to IAS. The rank of

the officer implies that the incumbent should be a Grade-I Officer. The pay of the officer implies that he should be having pay not less than that of the lowest pay for Deputy Collector in the TCS i.e. Rs.2100 - 5000/- (pre-revised). The responsibility of the officer implies that the nature of works being undertaken by the officer and authority enjoined upon him should be equivalent to that of the Deputy Collector in the State Civil Service. The assessment of these requirements was to be objectively done by the Secretaries of the concerned Department. The words "Deputy Collector and above" have been used on the analogy that a person, if fit because he is equal in rank to Deputy Collector, then obviously another who is above that rank would be fit for the same position. As regards Rational Order / Notification declaring the nature of posts equivalent to the posts of Deputy Collector, it may be stated herein that this notification was issued receiving the assessment report of the Secretaries concerned of different Departments with regard to the nature of work being undertaken by the Non-SCS Officers as mentioned above. It may also be stated herein that for smooth discharging of the Administration and in the interests of Public Services, the State Government has every right to declare the nature of any posts equivalent to the post of Deputy Collector. As regards setting the criteria for determining the "Special Circumstances" as mentioned by the Applicant in this paragraph, it may be stated here that the expression "Special Circumstances" as used in Rule 8(2) of IAS Recruitment Rules, 1954 was interpreted by the Hon'ble Supreme Court in P.M. Baya's Case [1993(3) SCC: 319] has been reproduced below :-

"..... Rule 8 (2) which talks of 'Outstanding ability and merit' when read with Regulation 3 (1) and 3 (4A) of the Regulations makes it clear that the "Special Circumstances" required to be seen are (i) the existence of officers with 12 years of continuous service in a Gazetted post under the State Government other than State Civil Services Officers who are of outstanding ability and merit and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS".

The nature of job in the IAS requires officers having experience with outstanding ability and merit who do not belong to State Civil Service. On fulfilling these requirements, one becomes eligible for consideration for selection. The fact that in the past no recruitment was following the procedure provided under Rule 8(2) of the IAS Recruitment Rules, 1954 does not preclude that the State Government should stick to this method in future also. The decision for selection of Non-SCS Officers to IAS was taken as a sequel to the consultative process between the Central Government and the Joint Cadre Controlling Authority of Manipur-Tripura. It was also felt by the State Government of Tripura that selection of outstanding Non-SCS Officers shall be beneficial to the State Administration. Therefore, the contention of the Applicant reflected in this paragraph is not correct.

21) That with regard to the statements made in Para 4.23 of the Application the Respondent states that the representation submitted by the Applicant have duly been considered by the State Government and it was found to be devoid of any merit.

22) That the statements made in Paragraph 4.24 of the application are denied. That the Respondent states that it was specifically mentioned in the State Government's letter dated 24-8-1998 requesting all the Heads of Departments, Government of Tripura to suggest names of Gazetted Officers of the concerned Departments keeping conformity with the relevant provision of Rule 8(2) of IAS Recruitment Rules. It is reiterated that the letter of the Central Government dated 25-3-1998 seeking comments/concurrence of the State Government was part of the consultative process and therefore, correct. The suggestion of the Central Government was agreed to by the State Government after due consideration of all aspects. Before sending the proposal, the names of the Non-SCS Officers recommended by their respective Departments were short listed by a Screening Committee consisting of Chief Secretary and two senior-most Principal Secretaries, next to the Chief Secretary, of the State Government after verifying all essential documents including last five years' ACRs of the concerned officers. A Selection Committee headed by a member of the UPSC and consisting of representatives of Tripura, Manipur and the Central Government has prepared the Select List. It is, therefore, not within the jurisdiction of the State Government to influence the Selection Committee. As such, there is no scope for colourable exercise of power as alleged by the Applicant in his Petition.

23) That with regard to the statements made in Paragraphs 4.25 and 4.26 of the Petition, the Respondent states that the contents stated by the Applicant are expression of "Special Circumstances" as used in Rule 8(2) of the IAS Recruitment Rules, 1954 as interpreted by the Hon'ble Apex Court in one of its decision. That in Selection of Non-SCS Officers of Tripura to IAS all aspects were considered by the State as well as by the Central Government in consultation with the UPSC.

24) That with regard to the statements made in Para 4.27 of the Application the Respondent states that the exercise of the promotion/selection to IAS under Rule 8(1) and 8(2) of IAS Recruitment Rules is based on a continuous process taking into account the vacancies in respective years. The vacancy in a year is based on the Cadre Strength as on the first day of the year in which the Selection Committee meets. The decision to fill up the single vacancy by selection is based on the discretion of the Joint Cadre Controlling Authority of Manipur-Tripura in consultation

with the Central Government. It is not a backlog vacancy for selection but merely the existence of latent possibility under the guiding Rule 9(1) of IAS Recruitment Rules, which is being made use of the suggestion of the Central Government. This decision was arrived at after being satisfied of the Special Circumstances that necessitated favourable consideration of the cases of Non-SCS officers for selection to IAS. In this connection it may be stated here that during the year 1998 single vacancy was filled-up from Non-SCS officers. In the year 1999, all the three vacancies were filled up from SCS officers. In the year 2000, out of the three vacancies, two were filled-up from the SCS officers and another from Non-SCS officer and in the year 2001, steps being to fill up the single vacancy from Non-SCS officers. Therefore, the contention of the Applicant that all the remaining vacancies arises from the year 1998 will be filled up from the Non-SCS officer to fulfil the quota of Non-SCS officer is not correct.

25) That with regard to the statements made in Para 4.28 and 4.29 of the Application, the Respondent states that it was specifically mentioned in the State Government letter dated 24-8-1998 requesting all the Heads of Departments, Government of Tripura to suggest names of Gazetted Officers of the concerned Departments keeping conformity with the relevant provision of Rule 8(2) of IAS (Recruitment) Rules, 1954. It is reiterated that the letter of the Central Government dated 25-3-1998 seeking comments/concurrence of the State Government was part of the consultative process and therefore, correct. The suggestion of the Central Government was agreed to by the State Government after due consideration of all the issues. Before sending the proposal to the Selection Committee, the names of the Non-SCS Officers as recommended by their respective Departments were short-listed by a Screening Committee consisting of Chief Secretary and two senior-most Principal Secretaries, next to the Chief Secretary of the State Government verifying all essential documents including last five years' ACRs of the concerned officers. It may also be added here that the Applicant along with other members of the Association has filed OA No. 244/98 before this Tribunal against the finalisation of the Select List of 1998 for the purpose of filling up of the lone vacancy arising in that year and same was disposed of by the Judgment and Order dated 4-2-2000. Before finalising the said Select List for the year 1998 the direction of this Hon'ble Tribunal issued by the said order dated 4-2-2000 was also taken into account by the UPSC, Government of India and the Government of Tripura. In this connection setting the expression "Special Circumstances" as used in Rule 8(2) of IAS (Recruitment) Rules, 1954 as interpreted by the Hon'ble Supreme Court in P.M. Baya's Case [1993(3) SCC: 319] has been reproduced below: -

"..... Rule 8 (2) which talks of 'Outstanding ability and merit' when read with Regulation 3 (1) and 3 (4A) of the Regulations makes it clear that the "Special Circumstances" required to be seen are (i) the existence of officers with 12 years of continuous service in a Gazetted post under the State Government other than State Civil Services Officers who are of outstanding ability and merit and (ii) the satisfaction of the State Government that, in public interest, it is necessary to consider such officers for promotion to the IAS".

Therefore the contention of the Applicant that in the year 1998 the single post has been filled up by a Non-SCS Officer by wrong interpreting the Rule 8(2) of 1954 Rules, is not correct.

26) That the Respondent admits the contention made in paragraph 4.30 of the application. The Respondent further like to mention herein that the State Government vide letter dated 12-5-2000, has only forwarded the copy of the Government of India, Ministry of Personnel, PG and Pensions, Department of Personnel & Training, New Delhi to Secretary, Tripura Civil Service Association, Agartala only as because in the said Government of India's letter/communication, it was mentioned that this was to be informed to Tripura Civil Service Officers Association and as because the said Association was the main petitioner in that case.

27) That the statements made in Paragraph 4.31 of the application relates with the Central Government and as such the answering Respondent does not like to put forward any reply to the same.

28) That with regard to the statements made in paragraph 4.32 of the application, the Respondent states that the performance of an individual officer is assessed year-wise by the concerned superior officer as per procedure and is recorded in the Annual Confidential Report which forms the basis of the performance of the individual officer for the year. The Select List has been prepared on the basis of overall performance of the officer concerned as reflected in the ACRs, which were gone through by a Selection Committee headed by a member of UPSC. The UPSC after going through the records of all the officers falling in the zone of consideration (i.e. whose names recommended by the Selection Committee to be included in the Select List and those who have been superseded) approved the Select List. Thereafter, the Government of India have approved the Select List finally. Therefore, it is not within the jurisdiction of the State Government to take any unilateral action in this matter. As such, the contention of the Applicant that the Official Respondents committed irregularities in the matter of promotion of to IAS from amongst the SCS officers is baseless.

29) That with regard to the statements made in paragraph 4.33 of the application, the Respondent states that it is not obligatory for the State Government to make any comment on any statement/report reflected in News Papers.

30) That with regard to the statements made in paragraph 4.34 of the application, the Respondent states that the State Government does not deem it proper to respond to this preposterous statement of the Applicant. However, it is pertinent to note that only after being fully satisfied, the Chairman of UPSC has duly approved the recommendations of the Selection Committee.

31) That with regard to the statements made in paragraph 4.35 of the application, the Respondent states that the performance of an individual officer is assessed year-wise by the concerned superior officer as per procedure and is recorded in the Annual Confidential Report which forms the basis of the performance of the individual officer for the year. The Select List has been prepared on the basis of overall performance of the officer concerned as reflected in the ACRs, which were gone through by a Selection Committee headed by a member of UPSC. The UPSC after going through the records of all the officers falling in the zone of consideration (i.e. whose names recommended by the Selection Committee to be included in the Select List and those who have been superseded) approved the Select List. Thereafter, the Government of India have approved the Select List finally. Therefore, it is not within the jurisdiction of the State Government to take any unilateral action in this matter.

32) That the statements made in Paragraph 4.36 of the application are denied. That the Respondent states that, with regard to the vacancy position mentioned by the Applicant, that 3 years vacancies have been accumulated and considered in 2001, is not correct. That, the Selection Committee met on 19-12-2000, for preparing Select List for the year 1999 and 2000 in accordance with the amended provision of IAS Promotion as communicated by the Government of India by its Notification No. 14015/2799-AIS(I) dated 25-7-2000. Therefore, the contention of the applicant that Selection Committee prepared the Select List pertaining to all these years against the accumulated vacancies only in 2000 by way of mechanically filling names of officers against the annual vacancies in a single order dated 25-4-2001 is not correct and totally baseless.

33) That with regard to the statements made in paragraph 4.37 of the application, the Respondent states that the IAS (Appointment by Selection) Regulations, 1997 that came into force from 01-01-1998 replacing the earlier IAS

(Appointment by Selection) Regulations, 1956 framed pursuant to Sub-rule (2) of Rule 8 of the Recruitment Rules. That in terms of Rule 4(2)(b) of the Recruitment Rules read with Regulation 3 of the IAS (Appointment by Selection) Regulations, 1997, "The Central Government shall, in consultation with the State Government concerned, determine the vacancies for which recruitment may be made under these Regulations, each year and the number of the vacancies shall not exceed the number of the substantive vacancies as on the 1st January of the year for the meeting is held to make the selection'. From the above position it is clear that in the amended provision there is no scope to take an account of the anticipated vacancy. Therefore, the contention of the Applicant as reflected in this paragraph is not correct.

34) That the statements made in Paragraph 4.38 of the application are denied. That the Respondent states that, in compliance with the Judgment and Order dated 4-2-2000 of this Hon'ble Tribunal passed in OA No. 244 of 1998, the Respondent No.7, Shri Arabinda Guha was appointed in IAS. It may also be added here that the Selection Committee finalised the Select List on the basis of merit, which included taking into account of the performances as reflected in the ACRs, but not on the basis of seniority. Therefore, contention of the Applicant as reflected in this paragraph is not correct.

35) That the statements made in Paragraph 4.39 of the application relates with the Central Government and as such the answering Respondent does not like to put forward any reply to the same.

36) That with regard to the statements made in paragraph 4.40 and 4.41 of the application, the Respondent states that the Government of Tripura in compliance with all the relevant regulations has sent the proposal for filing up of the posts during the year 1998 and 2000 from the Non-SCS officers and accordingly Government of India in consultation with the UPSC had filled up the same. Therefore, the question of any illegality/violation of provisions of IAS (Appointment by Selection) Regulations does not arise. All aspects, towards filling up of the vacancy in IAS occurred in 2000, were taken into account by the State Government in consultation with the Government of India.

37) That with regard to the statements made in paragraph 4.42 of the application, the Respondent states that the case of the Applicant was considered along with others by the Selection Committee during the years 1994, 1996, 1999 and 2000. But the Selection Committee did not find him suitable as per records of ACRs

and, therefore, he was not included in the Select List for those years. It is pertinent to mention herein that a vigilance case has been instituted against the Applicant and has already been chargesheeted.

38) That the statements made in Paragraph 4.43 of the application are denied. That the Respondent states that the Government of Tripura had issued the letter dated 29-05-2002 and 18-06-2001 in accordance with the relevant provisions of IAS (Appointment by Selection) Regulations.

39) That with regard to the statements made in paragraph 4.44 of the application, the Respondent states that as mentioned earlier in this written statement, the representation as started had duly been considered by the State Government and but it did not found any merit in the same.

40) That with regard to the statements made in paragraph 4.46 of the application, the Respondent states that as regards non-holding the Selection Committee Meeting year wise after 1997 as mentioned by the Applicant, it may be stated that in the year 1998 proposal was sent for convening Selection Committee Meeting during the year 1998 and accordingly the date for Selection Committee Meeting was also fixed on 28-10-1998. But due to the Interim Order passed by this Hon'ble Tribunal dated 26-10-1998 on OA No. 244 of 1998, the said meeting could not be held on 28-10-1998. After vacating the said Interim Order dated 26-10-1998, the Selection Committee Meeting for finalising the Select List for 1998 was held on 01-03-1999 and after disposal of the said OA No.244/98 filed by the TCS Officer's Association, the appointment from the Select List for the year 1998 was made in the year 2000. Due to non-appointment from the Select List for the year 1998, the Selection Committee Meeting could not be held during the year 1999. After disposal of OA No. 244/98 and appointment of Shri A.Guha, a Non-SCS Officer from the 1998 Select List, the Selection Committee Meeting was held during the year 2000 for finalising the Select List for the years 1999 and 2000 in accordance with the amended provisions of IAS (Appointment by Promotion) Regulations and IAS (Appointment by Selection) Regulations.

41) That with regard to the statements made in paragraph 4.47 of the application, the Respondent states that the promotion/selection in IAS is based in the provisions of IAS (Appointment by Promotion) Regulations/IAS (Appointment by Selection) Regulations framed by the Government of India. To make any proposal for filling up of the vacant post, the State Government has to abide by the relevant

provisions of Promotion/Selection Regulation as framed by the Government of India. Therefore, the State Government is not in a position to take any unilateral action in this regard. As the State Government has taken necessary steps keeping in conformity with the relevant Promotion /Selection Regulations, therefore, the contention of the Applicant reflected in this paragraph is not based on fact and hence denied.

42) That with regard to the statements made in paragraph 4.48 of the application, the Respondent states that the process of promotion/selection to IAS under Rule 8(1) and 8(2) of the IAS (Recruitment) Rules is a consultative process between the Central Government and the State Government. The decision to fill up of the vacancy arises in a respective year is the discretionary power of the Joint Cadre Authority of Manipur-Tripura in consultation with Central Government. In exercising this power, the State Government being a Cadre Controlling Authority has proposed to the Government of India to allot the single vacancy occurring in the year 2001 for promotion to IAS for the Non-SCS Officers. It was also felt by the Government of Tripura, that selection of outstanding Non-SCS officers shall be beneficial to the State Administration with infusion of their capabilities. State Government has rightly considered the provision as prevailing in the relevant rules on the line of "Special Circumstances" for filling up of vacancies in IAS by promotion from Non-SCS Officers. Government of India is the soul authority to consider the criteria stipulated for such appointment in consultation with the UPSC. It is reiterated that at the time of selection of Non-SCS officers for consideration for appointment to IAS on promotion, due consideration is being observed in regard to merit and ability of the concerned Non-SCS Officers.

43) That the statements made in Paragraph 4.49 of the application are denied. That the Respondent states that in respect of Non-SCS Officers, no vacancy has been considered against backlog vacancy by the State Government. The vacancy for a year is based on the cadre strength as on the beginning date of that calendar year. The vacancy to be filled up in any year by promotion/selection is based on the discretion of the Joint Cadre Controlling Authority of Manipur-Tripura in consultation with Central Government. Therefore, the contention of the Applicant in this paragraph is factually not correct.

44) That with regard to the statements made in paragraph 4.50 of the application, the Respondent states that the question of violating the Order of this Hon'ble Tribunal dated 4-2-2000 does not arise at all, since in case of violation of the Order of this Hon'ble Tribunal, the TCS Officer's Association has every opportunity to

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take shelter of this Hon'ble Tribunal seeking redress. That on the contrary, the State Government in consultation with the Government of India and UPSC proceeded towards filling up of vacancies in the IAS that aroused during the year 1998 to 2000 as per relevant rules.

45) That as regards the grounds taken in Paragraph 5 of the application the answering Respondent states and submits that those are not tenable in law as well as in facts and circumstances of the present case. That the Respondent further submits that as indicated in the specific paragraphs, contention of the Applicant that he has been deprived from consideration for promotion to IAS by misinterpretation of the provisions of Rule 8(2) of IAS (Recruitment) Rules and in violation of Judgment and Order of this Hon'ble Tribunal by ear-marking the lone vacancy during the year 2001 by filling up from Non-SCS Officers. Though the lone vacancy of 2001 has been ear-marked for filling up of the same from Non-SCS Officers, but only keeping in conformity of relevant provisions of IAS (Recruitment) Rules / IAS (Appointment by Selection) Regulation.

46) That as regards the final relief sought for in Paragraph 8 and the interim relief at paragraph 9 of the application, the answering Respondent submits that in view of the facts and circumstances stated above, the applicant is not entitled to any such relief as prayed for and therefore, the application is liable to be dismissed.

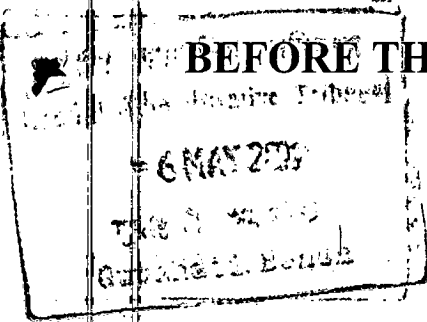
VERIFICATION

I, Shri Rabisankar Bhattacharya, Son of Radhika ~~Ranjan~~ Bhattacharjee, Liaison Officer, Government of Tripura, Tripura Bhavan, Guwahati do hereby verify that the statements made in paragraphs 1 to 46 of the Written Statement are true to my knowledge, information and belief derived from the relevant records and the rests are my humble submission before this Hon'ble Tribunal and I sign this verification on this the 26th day April, 2002.

Rabisankar Bhattacharya

Sd/- *G. N. A. T. U. R. E. awan*
G. N. A. T. U. R. E. awan

Ranjan Bhattacharjee
26/4/02



O.A. No. 405 OF 2001

IN THE MATTER OF

A.K. BHOWMIK

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

REPLY STATEMENT ON BEHALF OF RESPONDENT No. 4

I, G.C. Yadav son of Shri Kamal Singh Yadav solemnly affirm and state that the Deponent is an officer in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and is authorised to file the present reply on behalf of Respondent No. 4. The Deponent is fully acquainted with the facts of the case deposed below.

2 That the deponent has read and understood the contents of the above Original Application and in reply he submits as under:

3 At the outset, the Deponent most respectfully submits that the Union Public Service Commission, being a Constitutional body, under Articles 315 to 323 Part XIV (Services under the Union and the States) Chapter-II of the Constitution, discharge their functions, duties and Constitutional obligations assigned to them under Article 320 of the Constitution. Further, by virtue of the provisions in the All India Services Act, 1951, separate Recruitment Rules have been framed for the IAS/IPS/IFS. In pursuance of these Rules, the IAS (Appointment by Promotion) Regulations, 1955 have been framed. In accordance with the provisions of the Regulations, the Selection Committee, presided over by

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Subby

(सुभाष आहुजा)
(S. C. AHUJA)
संयोजक अधिकारी (Selection Officer)
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi

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the Chairman/Member of the Union Public Service Commission makes selection of State Civil Service officers for promotion to the Indian Administrative Service.

4. Thus in the discharge of their Constitutional obligations, the Union Public Service Commission accord their approval to the recommendations of the Selection Committee after duly considering the views and opinion of the State Govt. and the Govt. of India. The selection so done, in a **just and equitable** manner on the basis of relevant records and following the relevant Rules and Regulations, are not open to interference by any authority whatsoever in as much as it would tantamount to curtailment or modification of the Constitutional powers of the Union Public Service Commission.

PRAYER & CONTENTIONS OF THE APPLICANT

5. Shri A.K. Bhowmik, a State Civil Service officer of Tripura has filed the instant Original Application before the Hon. Tribunal praying that Hon. Tribunal may be pleased to quash and set aside letter dated 30.5.2001 of the Govt. of India, DOP&T, wherein they have decided to fill up one post from Non-SCS category during the year 2001. He has also prayed that the notification appointing S/Shri B. Reange & M.L. Reange may be quashed. A direction for preparation of year wise select list has also been sought. The applicant has contended that:-

- (i) After the year 1997, there was no meeting of the Selection Committee for promotion of SCS officers to the IAS, which deprived the applicant from being considered.
- (ii) Instead of preparing select list annually, the Selection Committee which met on 19.12.2000 prepared a Select List by clubbing the vacancies of three years.
- (iii) Non-SCS officers have been inducted into the IAS without there being any special circumstances as contemplated under the Rules.

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(सुधी अहुजा)
S. O. AHUJA

संयोजक अधिकारी/Section Officer
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

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- (iv) Respondent No. 5 & 6 who were not found suitable for promotion to the IAS on a number of occasions since 1990-91 and were superseded by their juniors since 1994 onwards suddenly could make it to the grading in December 2000.
- (v) Chairman, UPSC was not satisfied with the recommendations of the Selection Committee which met on 19.12.2000. He held it up for a long time in an unprecedented manner and once again called for the ACRs of the officers in the zone of consideration.

BACKGROUND OF THE CASE

6. The Deponent most respectfully submits that a meeting of the Selection Committee for promotion of SCS officers of Tripura to the IAS cadre of Manipur-Tripura joint cadre was held on 27.3.1997. The State Government had intimated one vacancy in the promotion quota. Thus as per the provisions of Regulation 5(1) of the Promotion Regulations prevailing during 1997, the size of the select list was determined as 3. The zone of consideration was determined as three times the size of the select list. Four officers were considered under proviso to Regulation 5(3) of the Promotion Regulations. Thus a total of 13 officers were considered. The applicant Sh. A.K. Bhowmik was considered at S.No. 13 in the eligibility list of 1996-97. As per the provisions of Regulation 5(4) of the Promotion Regulations, on an overall relative assessment of his service records, he was assessed by the Selection Committee as "Very Good". However on the basis of this assessment his name could not be included in the Select List due to the statutory limit on the size of the select list.

REPLY TO THE CONTENTIONS

7.1 As regards the contention of the applicant that after the year 1997, there was no meeting of the Selection Committee for promotion of SCS officers to the IAS, it is humbly submitted that the Govt. of India, DOP&T, vide their notification dated 31.12.1997 amended the IAS (Appointment by Promotion) Regulations 1955 so as to provide holding of the meetings of the Selection

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(S. C. AHUJA)
संयोजक अधिकारी (Section Officer)
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली New Delhi. 3

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Committee on calendar year basis instead of financial year basis as was prevailing till then. The amended Regulations also provided for preparation of the select list for the vacancies existing as on 1st January of the year for which the select list pertains. The amended Regulations further provided that the number of posts for which recruitment by promotion is to be made during a particular year shall be determined by the Central Government. In consequence, the Govt. of India, DOP&T vide their letter dated 11.6.1998, determined nil vacancy in the promotion quota of Tripura segment of Manipur-Tripura joint cadre for the year 1998. Accordingly no meeting of the Selection Committee was required to be held during the year 1998 for promotion of SCS officers to the IAS cadre of Manipur-Tripura joint cadre (Tripura segment) in absence of vacancies.

7.2 For the year 1999, the Govt. of India, DOP&T had not determined the vacancies as the select list of 1998 relating to selection of non-SCS officers could not be acted upon due to stay orders passed by the Hon. Tribunal in O.A. No. 244/1998. Subsequently the Govt. of India DOP&T vide their notification dated 25.7.2000 further amended the IAS (Appointment by Promotion) Regulations 1955 so as to provide preparation of yearwise select lists if the meeting could not be held in previous years. In consequence to the amendments, the Govt. of India DOP&T vide their letter dated 08.11.2000, determined 3 vacancies for the year 1999 and 2 vacancies for the year 2000, and the Government of Tripura forwarded the requisite proposals to the Commission for convening a meeting of the Selection Committee. Thereafter the Selection Committee met on 19.12.2000 for preparation of yearwise select lists for the years 1999 & 2000 for promotion of SCS officers of Tripura to the IAS cadre of Manipur-Tripura joint cadre.

7.3 For the year 1999, the applicant Sh. A.K. Bhowmik was considered at S.No. 8 in the eligibility list of 1999. As per the provisions of Regulation 5(4) of the Promotion Regulations, on an overall relative assessment of his service records, he was assessed by the Selection Committee as Very Good". However on the basis of this assessment his name could not be included in the Select List due to the statutory limit on the size of the Select List as sufficient number of officers

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S. C. Ahuja

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(S. C. AHUJA)
सहायक अधिकारी (Section Officer)
राज्य लोक सेवा आयोग
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New Delhi. 4

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senior to him and who had earned overall grading as "Very Good" were available and in accordance with the provisions of the Regulation 5(5) of the Promotion Regulations, their names were included in the Select List.

7.4 For the year 2000, the applicant was considered at S.No. 4 in the eligibility list of 2000, and he was graded by the Selection Committee as "Very Good". His name could not be included in the Select List due to the statutory limit on the size of the select list as two officers senior to him with overall grading as "Very Good" were available in the zone of consideration and in accordance with the provisions of Regulation 5(5) of the Promotion Regulations, their names were included in the Select List. Thus the contention of the applicant that the Selection Committee which met on 19.12.2000 prepared a Select List by clubbing the vacancies of the three years is *factually incorrect and is perhaps due to his ignorance of the provisions of the Rules & Regulations.*

7.5 Regarding the contention of the applicant that non-SCS officers have been inducted into the IAS without there being any special circumstances, it is mentioned that Rule 8(2) of the IAS (Recruitment) Rules provides that the Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Government and the Commission, from time to time, make, recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service of that State, but who holds a gazetted post in a substantive capacity. The submissions of the Central Government and the State Government in this regard may kindly be referred to.

7.6 The Govt. of India, DOP&T had separately determined one vacancy each for the years 1998, 2000 & 2001 for being filled under IAS (Appointment by Selection) Regulations 1997 from among non-SCS officers of Tripura. Accordingly, the Selection Committee selected one non-SCS officer in each of the

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(S. C. AHUJA)
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नई दिल्ली - 110 055

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years 1998, 2000 & 2001 in its meetings held on 20.10.1998; 19.12.2000; and 19.12.2001 respectively, under Selection Regulations for appointment to the IAS cadre of Manipur-Tripura joint cadre (Tripura segment). The Central Government and the Govt. of Tripura may be making further necessary submissions in this regard.

7.7 Regarding the contention of the applicant that Respondent Nos. 5 & 6, who were not found suitable for promotion to the IAS on a number of occasions and were superseded by their juniors since 1994 could make it to the grading in December 2000, the Deponent submits that the assessment made by the Selection Committee each year in respect of eligible officers is independent of its assessment made in previous year because for every selection year one more ACR is added to the dossiers for assessment by the Selection Committee. On account of this addition of one more ACR each year, the overall grading in respect of concerned officer may vary in subsequent years as compared to the previous years. Further there would be changes in the eligibility list due to the appointments made to the IAS in the previous years. Further as is brought out in the following paras, the assessment made by the statutorily set up Selection Committee which consists of very high ranking responsible officers is not open for challenge.

8 The matter relating to assessment made by the Selection Committee has been contended before the Hon. Supreme Court in number of cases. In the case of Nutan Arvind Vs. Union of India and others the Hon. Supreme Court have held as under:-

“When a high level Committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this court cannot sit over the assessment made by the DPC as an appellate authority.”

[(1996) 2 SUPREME COURT CASES 488]

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(सुनील भादुजा)
(S. C. BHADJIA)
सहायक सचिव (Section Officer)
जब्त, निस लेखा अधिकारी
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नं. 11, अहमदाबाद - 380 015

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8.1 In the case of Durga Devi and another Vs. State of Himachal Pradesh and others, the Apex Court have held as under:-

“In the instant case, as would be seen from the perusal of the impugned order, the selection of the appellants has been quashed by the Tribunal by itself scrutinising the comparative merits of the candidates and fitness for the post as if the Tribunal was sitting as an appellate authority over the Selection Committee. The selection of the candidates was not quashed on any other ground. The Tribunal fell in error in arrogating to itself the power to judge the comparative merits of the candidates and consider the fitness and suitability for appointment. That was the function of the Selection Committee. The observations of this court in Dalpat A Basaheb Solunke case are squarely attracted to the facts of the present case. The order of the Tribunal under the circumstances cannot be sustained. The appeal succeeds and is allowed. The impugned order dated 10.12.1992 is quashed and the matter is remitted to the Tribunal for fresh disposal on other points in accordance with the law after hearing the parties.”

[1997 – SCC (L&S) – 982]

8.2 In the matter of UPSC vs. H.L. Dev and others Hon. Supreme Court have held as under:-

‘How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee.’

[AIR 1988 SC 1069]

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(सहाय माहक)
(S. C. AHUJA)
सहाय अधिकारी (Section Officer)
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi.

8.3

In the case of State of Madhya Pradesh Vs. Shri Shrikant Chapekhar, the Hon. Supreme Court has held as under:

"We are of the view that the Tribunal fell into patent error in substituting itself for the DPC. The remarks in the annual confidential report are based on the assessment of the work and conduct of the official/officer concerned for a period of one year. The Tribunal was wholly unjustified in reaching the conclusion that the remarks were vague and of general nature. In any case, the Tribunal outstepped its jurisdiction in reaching the conclusion that the adverse remarks were not sufficient to deny the respondent his promotion to the post of Deputy Director. It is not the function of the Tribunal to assess the service record of a Government Servant, and order his promotion on that basis. It is for the DPC to evaluate the same and make recommendations based on such evaluation. This court has repeatedly held that in a case where the Court/Tribunal comes to the conclusion that a person was considered for promotion or the consideration was illegal then the only direction which can be given is to reconsider his case in accordance with the law. It is not within the competence of the Tribunal, in the fact of the present case, to have ordered deemed promotion of the respondent.:

[JT 1992 (5) SC 633]

8.4

In the case of Dalpat Abasaheb Solanke Vs. B.S. Mahajan, the Hon'ble Supreme Court have held as under:

"It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly

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(S. C. ARUNJA)

उपस्थान अधिकारी/Section Officer

संघ लोक सेवा आयोग

Union Public Service Commission

पुणे, महाराष्ट्र

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constituted Selection Committee which has the expertise on the subject.

[AIR 1990 SC 434]

8.5 In the case of Smt. Anil Katiyar Vs. UOI & others, the Hon. Supreme Court have held as under:-

“Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service or a civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not set in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by malafides or on the ground of it being arbitrary. It is not the case of the appellant that the selection by the DPC was vitiated by malafides.”

[1997 (1) SLR 153]

It is humbly submitted that this Honourable Tribunal would kindly appreciate that in view of the aforementioned authoritative pronouncements of the Hon. Supreme Court, the assessment made by the Selection Committee constituted under Regulation 3 of the Promotion Regulations is not open for scrutiny by any authority/institutions or an individual.

9 The contention of the applicant that the Chairman, UPSC was not satisfied with the recommendations of the Selection Committee which met on 19.12.2000 is **baseless** and the same is vehemently denied. As regards obtaining of ACRs of the officers, it is mentioned that as per the provisions of Regulation 6 of the Promotion Regulations, the State Government is required to furnish the records of all members of the State Civil Service included in the list and the records of all

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S. C. Ahuja

(सुभाष आहुजा)
(S. C. AHUJA)
अनुमानित अधिकारी (Section Officer)
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली, भारत

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members of the State Civil Service who are proposed to be superseded by the recommendations made in the list along with their observations on the recommendations of the Selection Committee. The Govt. of Tripura vide their communication dated 15.1.2001 had conveyed their approval to the recommendations of the Selection Committee. The views of the Central Government on the recommendations of the Selection Committee as required under Regulation 6(A) of the Promotion Regulations were received only on 04.04.2001. On 04.04.2001 it was also observed that as required under Regulation 6, the Govt. of Tripura had not furnished the ACRs of the officers included in the list and of those proposed to be superseded by the recommendations of the Selection Committee. The Govt. of Tripura was, therefore, in Commission's letter dated 4.4.2001 requested to furnish the ACRs of the officers included in the list and of those proposed to be superseded by the recommendations of the Selection Committee. It is humbly submitted that the observations of the Central/State Government and the records (including ACRs) provided by the State Government are **statutorily required** to be placed before the Commission for their consideration **before** the Select List can be approved by them. The said ACRs were received in the Commission's office on 12.04.2001. As required under Regulation 7 of the Promotion Regulations, the records received from the Govt. of Tripura, observations of the Joint Cadre Authority Manipur, observations of the Central Government on the recommendations of the Selection Committee and the recommendations of the Selection Committee which met on 19.12.2000 were placed before the Commission for their consideration. The Commission approved the recommendations of the Selection Committee as contained in the minutes of its meeting held on 19.12.2000 and the approval of the Commission was conveyed to the Govt. of India, DOP&T on 23.4.2001. The averment of the applicant that the Hon. Chairman held up the recommendations of the Selection Committee for a long time in an unprecedented manner is, perhaps due to the ignorance of the Rules and Regulations by the applicant is, therefore, **baseless and the same is not tenable.**

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(मुन्नाज अहुजा)
(S. C. AHUJA)

अनुसंधान अधिकारी / Section Officer
राज्य लोक सेवा आयोग
Union Public Service Commission
राज्य लोक सेवा आयोग

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10 That taking into consideration the facts and circumstances of the case and also taking into consideration the detailed reply filed by the State Government & the Central Government, Hon. Tribunal may be pleased to dismiss the Original Application being devoid of merit.


DEPONENT


VERIFICATION

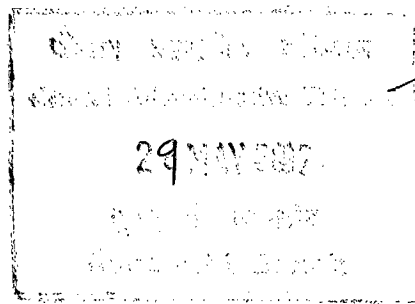
I, the deponent named above, do hereby declare that the contents of the above Reply Statement are believed by me to be true and based on the records of the case. No part of it is false and nothing material has been concealed therefrom.

Verified this on the 30th day of April, 2002 at New Delhi.


DEPONENT

Attested


(सुभाष बाहुजा)
(S. C. AHUJA)
एक्स्प्रेस अधिकारी (Section Officer)
सर्व लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली - 110 061.



Filed by
Usha Das
Advocate
29/5/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI

OA NO.405/2001

A.K. Bhowmik

-VERSUS-

U.I.O. & Ors

Rejoinder to the Written statement filed by the Respondent
No.2

1. That the No.2 applicant has received the copy of the Written Statement filed by the Respondent No.2 and has gone through the same. Save and except the statements which are specifically admitted herein below, rests may be treated as total denial.

2. That with regard to the statement made in para 1, 2, 3 of the Written Statement the applicant does not admit anything contrary to record.

3. That with regard to the statement made in para 4 of the Written Statement the applicant begs to state that

4. That with regard to the statement made in para 5 of the Written Statement the applicant begs to state that regarding sincere and devoted service as a State Civil

Service officer shouldering many responsible positions the applicant relies on records maintained in the government. It is the responsibility of the Government to disprove the statement of the applicant by adducing proof of 25 years of service where and when he was not sincere and devoted. Giving reference to the pendency of a vigilance case against the applicant is an irresponsible comment to mislead the Tribunal. Mere pendency of a vigilance case is no bar for being considered for promotion. Moreover, the Government can give a better reply as to why after long 7 years of leaving an office on transfer such a vigilance case was initiated at a most crucial juncture of the applicant's career. It was a calculated conspiracy, a design to deprive the applicant from being promoted to IAS. The applicant has already made representation against such a conspiracy. The Government is yet to consider the representation.

As to proving the sincerity and devotion of the applicant in service, a few in thousands are cited below so that the authorities in the Government can remember. (i) The applicant joined Government service on 27.8.1971 as a Sub Divisional Public Relations Officer. The applicant cites two documents from very senior IAS Officers who certified his devotion and sincerity. the entire span of his service in the post is a hard labour & sincerity without any blemish for which he was regard as on of the most outstanding officer in that Department. (ii) The applicant served the Press

Information Bureau under the Ministry of I & B as a CIS officer. During the time of emergency, he was posted to Press Information Bureau, Agartala. At that time, the PIB functioned round the clock. With a skeleton staff, the PIB functioned so well that it earned appreciation of then Secretary to the GOI in the Ministry of I & B Syed Mujaffar Hossain Burney. (iii) In the state Civil Service, the applicant contributed substantially in the making of legislation for the Sales Tax Organisation when he was posted there. The National Institute of Public Finance & Policy, New Delhi published one of his papers on tax structures in Tripura. (iv) In the Panchayat Department, while posted as Deputy Director (Head of Office), he broke through about 16 years' stagnancy and arranged three meetings of DPC, arranged for the promotion of the deserving candidates in all ranks, regularised the services of a good number of employees and helped in creating & filling up about 500 posts of Panchayat Secretaries.

(v) As Treasury Officer, he drafted the relevant portion of the Memorandum to the 8th Finance Commission on Public Places of Worship and helped in obtaining additional funds. As Treasury Officer in the South District, he made his Treasury the 1st in the State to computerize its accounts wholly.

(vi) As Land Acquisition Collector, he unearthed a big tacked and saved the State from incurring loss by way of winning a case in the Hon'ble High Court.

(vii) In the Relief and Rehabilitation Department, he con-

tributed substantially in repatriation of the Chakma Refugees. For the 1st time, he compiled a volume styled as "The Profile of Chakma Refugees" which was treated as a comprehensive reference paper on the issue. He also saved the Government from paying about Rs.9.00 crores as compensation by throwing new light on a case which the Government lost in tree forums earlier. The Advocate General's appreciation for this is annexed.

(viii) As Central Observer in UP during the 1996 Parliamentary Election, he earned appreciation of the Election Commissioner of India (copy annexed)

(ix) As Managing Director, he lifted a dying PSU from scratch and ensured its development. Appreciation by the then Chief Secretary for some of the actions taken by the applicant is enclosed.

(x) As Joint Secretary in the Rural development Department, he represented the State on at least 5/6 occasions in the Empowerment Committee headed by the Cabinet Secretary, GOI and kept useful submissions. He also maintained continuous liaison with the Government of India and brought for the State additional funds. The appreciation of the Government is annexed. He also streamlined the Rural Development Engineering Cell by way of facilitating recruitment of more than 100 Engineers. In one of the Interview Boards for recruitment of Junior engineers, he was appointed a Chairman by the Government. He represented the State in a number of meetings addressed, apart from other dignitaries, by the Prime Minister of India.

(xi) As Director, Small Savings, Group Insurance and Institutional Finance, he broke all records of net collection in Small Savings consecutively for the last two years. In Group Insurance, for the 1st time since its introduction in 1984, he evaluated the scheme and got the interest posted on accumulation. In Institutional Finance, he ensured proper monitoring of credit delivery in the State. He represented the State in big forums including those organised by the RBI & NABARD. He also organised big meetings of credit institutions and banks which were attended to by the CM, FM & CS of the State. He drafted the Tripura Protection of Interests of Depositors (in Financial Establishments) Act, 2000 and the PDR Rules, 2001. The Law Department appreciated the works. Copy enclosed.

4. That with regard to statement made in para 5 of the Written Statement the applicant begs to state that in the years of 1994 and 1996 there was no scope for the applicant to be considered for promotion as he was at the bottom of the seniority list. In fact he does not have any grievance for this. It is not true that he was rejected in consideration of his performance. The statement is totally untrue. The Government is to show proof to substantiate the rejection of the applicant. But in the years of 1999 and 2000, the applicant had the chances if the irregularities were not committed in the selection process firstly, by illegally allotting SCS vacancies to Non SCS candidates and

secondly, by reviving the earlier rejected cases who were however, senior to the applicant. The applicant seriously objects to the contention that he was rejected due to unsuitability. The applicant's one of the main contention was that he could be very well considered in 2001 when there was a lone vacancy. But the Government had, only with a view to deprive him illegally allotted this vacancy for the Non SCS and it is now learnt that the Government have almost completed the selection process and one Shri Hiralal Chakraborty, Executive Engineer is going to be appointed to IAS against the 201 vacancy in ignoring the applicant who is in the rank of Chief Engineer in SCS.

5. That with regard to the statement made in para 6 of the Written Statement the applicant begs to state that the Respondents have admitted the fact reflected in para 4.3 of the OA.

6. That with regard to the statement made in para 7 of the Written Statement the applicant begs to state that the Government has partly admitted this para which indicates that after the year 1997, there was no selection committee meeting to consider the cases of SCS officers, which naturally deprived the Applicant from being considered. The 1998 meeting of the Selection Committee was not for the SCS officers. It could not help Respondent Nos.5 & 6 any way. If a meeting for SCS could be held in 1998, then obviously, the respondent nos. 5 & 6 could not find place in the select list

because. they were rejected in 1997 for the last time and within this 1 year, there was least possibility of projecting their manipulated performance.

7. That with regard to statement made in para 8 of the Written Statement the applicant begs to state that the Government have not replied to these paragraphs. Vital interpretation of the rules governing recruitment from Non SCS in special circumstances' subject to reservation of vacancies was made in those paras.

8. That with regard to the statement made in para 9 of the Written Statement the applicant begs to state that the Government have quoted Hon'ble Supreme Court's interpretation of 'Special Circumstances'. The words 'outstanding ability and merit' is a relative one. When the officers from the grade equivalent to just Deputy Collectors (SCS post & rank) from Non-SCS are equated with SCS Officers mostly in the rank of Directors in much higher scale of pay and rank, it is likely to bring about serious administrative imbalance. Here, when an Executive Engineer who served under one of the juniors of the applicant as a Junior Engineer and now being promoted to IAS before the SCS officer under whom he served, such a judgment of outstanding ability and merit becomes costly. The SCS officers who are not being considered for promotion to IAS are in the status of Chief Engineers. An Executive Engineer has to cross 3 levels to be equated with them. Is officers of outstanding merit and

ability are available from Non SCS only in the rank of Executive Engineer, Superintending Engineer or Joint Directors? The question of satisfaction of the State Government about considering promotion of such officers to the IAS by unfairly equating them with far senior and superior SCS officers should perhaps, be viewed rationally. Satisfaction of the State Government in public interest is required to have a legal parameters.

9. That with regard to statement made in para 10 of the Written statement the applicant begs to state that the Government have misinterpreted the contention of the applicant. The provision of Rule 8(2) of 1954 Rules was in force since last 40 years, but the Government of Tripura, at no point of time, exercised the discretion vested in it for making recruitment to IAS in terms of rule 8(2). Both the Union of India and the UPSC were also parties to this non-exercise of discretion in the matter of Rule 8(2) of 1954 Rules. The question of attaining statehood by the Union Territory of Tripura does not interfere here. The IAS Rules were applicable even when Tripura did not attain Statehood. The question pertinent is whether the Government can go beyond the provisions in calculating backlog in vacancies.

10. That with regard to statement made in para 11 of the Written Statement the applicant beg to state that the contention of the Government is not tenable in law & facts.

11. That with regard to statement made in para 12 of the Written Statement the applicant begs to state that the reply given by the State Government conceals the bare truth. The letter of the State Government calling names from Heads of Departments were questioned by some of the Secretaries as regard posts in Non-SCS equivalent to Deputy Collectors. In fact, as in practice, from the SCS, Deputy Collectors are never selected for promotion to IAS. Officers of at least two stages above the Deputy Collectors in SCS have so far been selected. But in equating with the Deputy Collectors, the State Government have brought in Non-SCS officers from Junior posts, selection from which will not only degrade the IAS, it will also frustrate the administrative transparency. If one Executive Engineer can be selected from the Non-SCS, then why not a Deputy Collector in SCS with qualifying 8 years of serviced is promoted to IAS ? However, the applicant altogether objects to the criteria under which "outstanding merit & ability" in the Non-SCS officers is determined and comparatively much higher officers with proven ability in SCS are neglected that too taking recourse to wrong interpretation of the Rules.

12. That with regard to statement made in para 13 of the Written Statement the applicant begs to state that they are totally untrue. There can not be any vacancy for a Non-SCS officer in a particular year if the number of vacant posts in that year is less than 7 in the Tripura part of the

MT Cadre of IAS. The Government of Tripura and the Union Government have consciously calculate the back log vacancies as apparent in Annexure-4 & Annexure 11 to the OA. This is contrary to the provisions of Rules. That it is worthy to note here that 1997 Regulation came into effect from 1.1.98. Prior to 1997 Regulation, the induction of non-SCS officers into IAS by the process of selection was governed by IAS (Appointment by Selection) Regulation, 1956 which was framed under the provision of Sub-Rule 2 of Rule 8 of IAS (Recruitment) Rules, 1954. In so far as induction of SCS officers into IAS by the method of promotion is concerned, the same is governed by IAS (Appointment by promotion) Regulation, 1955 framed under provision of Sub-Rule (i) Rule 8 of IAS (Recruitment) Rules, 1954. It is therefore, seen that prior to 1997 Regulation governing the induction of non-SCS officers into IAS by the method of selection, the exercise or non-exercise of discretion by the State of Tripura in the matter of inducting non-SCS Officer into IAS was under 1956 Regulation. With 1997 regulation coming into force with effect from 1.1.98, the Chapter relating to induction on non-SCS officers into IAS prior to 1.1.98, therefore, has come to an end and the same cannot be reopened for the purpose of fixation of quota or for calculating backlog vacancies to be filled up by non-SCS officers. Moreover, because of non-exercise of discretion by the Government of Tripura, those vacancies of IAS which could not be filled up by non-SCS officers prior to 1.1.98, could not be taken into consideration while calculating the number of IAS vacancies

to be filled up by non-SCS officers in terms of 1997 Regulation. This position of law, as stated herein, is highly relevant for the purpose of filling up existing vacancies of IAS by non-SCS officers in terms of 1997 Regulation, have considered even those vacancies of IAS prior to 1.1.98 which would have been filled up under 1956 Regulation by non-SCS officers under the stipulated quota of 15% but were not filled up by them because either the special circumstances did not exist or for certain other relevant consideration there was no exercise of discretion by the Government of Tripura.

13. That with regard to the statement made in para 14 of the Written Statement the applicant begs to state that non denial of the para substantiates that the contentions of applicant is correct and also that backlog vacancies have been counted at the instance of the Union Government.

14. That with regard to the statement made in para 15 of the Written Statement the applicant begs to state that this decision to allot the single vacancy to Non-SCS is arbitrary and not in accordance with Rules. The Rules have not permitted the Government to allot a single vacancy to Non-SCS if it is beyond 15%. By saying that it is discretionary for the Government, the Government erred in law and facts. The Government of Tripura quite arbitrary proposed to the Government of India to allot the single vacancy occur-

ring in the year 2001 for promotion to IAS for the non SCS officers vide their letter dated 23.5.2001. The Government of India also agreed to the proposal of the State Government quite arbitrarily and in violation of the provisions of Rules issued dated 29/30.5.2001 as at Annexure-5 of the OA, to the Government of Tripura communicating the decision to fill up the said lone vacancy by way of recruitment of non-SCS officers. What ever claim of short listing of recommendations received from various Departments are made, the fact remains that the State Government did not find even five names even after extending the date of submission of recommendations thrice to sponsor to the Selection Committee. The State Government's reply seems to be a face saving one.

15. That with regard to statement made in para 16 of the Written Statement the applicant begs to state that since admitted by the Government, no comments.

16. that with regard to the statement made in para 17 of the Written Statement the applicant begs to state that the contention of the Government that the "decision to fill up the single vacancy by selection is based on the discretion of the Joint Cadre Controlling Authority of Manipur-Tripura in consultation with the Central Government" is contrary to the provisions of Rules. There exists no scope of any discretion to be prayed by the aforesaid authorities to identify posts for SCS & Non-SCS beyond the prescribed limit of earmarking by the Rules, In absence of earmarked

vacancy, a post can not be identified as such.

That it was apprehended that if the letter dated 25.3.98 (Annexure:-4) was given effect to by way of filing up the 198 vacancy and the future vacancies by the non SCS offices on the basis of backlog vacancies which do not in fact exist, this would make deep inroad into the quota of SCS Officers. As stated earlier, in 1998 there was only one existing vacancy in IAS and the same was filled up by non-SCS officer. Out of the three vacancies in 2000, one was filled up by Non-SCS Officer. In 2001, the single vacancy is once again given to the Non-SCS irrespective of the fact whether or not special circumstances exist as envisaged under Rule 8(2) of 1954 Rules.

17. That with regard to the statement made in para 18 of the Written Statement the applicant begs to state that the interpretation of the State Government is misleading. Any vacancy beyond the earmarked quota of 15% of total number of vacancies is to go to the SCS in terms of Rule 8(2) of 1954 Rules. Giving single posts of 1998 & 2001 to non SCS offices means allotting 100% quota for them in those years which is not at all permissible. The contrary to it will mean eating into the quota of State Civil Service officers.

18. That with regard to the statement made in para 19 of the Written Statement the applicant begs to state that the applicant had questioned the legality of the letter of

the Government of India dated 25.3.98 as at Annexure:-4 to the OA. So, action taken by the State Government pursuant to that letter is also not tenable in law. The letter dated 24.8.98 issued by the Government of Tripura as at Annexure:-7 of the O A is liable to be quashed.

19. That with regard to the statement made in para 20 of the Written Statement the applicant begs to state that the contention of the Government is misleading. There exists no scope of override the statutory obligations through "consultative process" between the Cadre controlling Authority of Manipur-Tripura and the Government of India. The applicant is not against selection of Non-SCS officers with outstanding merit and ability if done legally and without encroaching upon the SCS offices. The applicant was concerned over these developments because power under Rule 8(2) of 1954 Rules is discretionary which is meant to be used in a special circumstances,. Recruitment to IAS by method of promotion of State Civil Service Officers under rule 8(1) of the 1954 Rules is the normal course of events whereas recourse to rule 8(2) of 1954 Rules for recruiting non-SCS offices to IAS is an exception which should only take place in a special circumstance. Moreover, to carry out recruitment in terms of Rule 8(2) of 1954 Rules, the standard and parameter laid down under Regulation 4 of 1997 Regulation is to be fulfilled which is not the case in the State of Tripura, As stated earlier, in the State of Tripura, no rational notification has been issued by the Government showing

the nature of posts which are equal in status to Deputy Collector which is one of the requirements of considering the case of suitable non SCS officers for the purpose of recruitment to IAS. The notification dated 26.10.98 issued by the Government of Tripura which is annexed at Annexure:-8 to the OA, specifies the equivalent posts of Deputy Collectors as (i) Joint Director & above, (ii) Executive Engineer and above, and (iii) Chief Inspector of Factories & Boilers, Officers in other services having administrative experiences have been excluded. This is a partial order and there is no scope under the notification to make a holistic appreciation of the performance of the wide range of non-SCS offices serving in the affairs of the state. In fact, this notification dated 26.10.98 of the Government of Tripura has put a stigma to the assessment of comparative skill and merit from amongst the large number of non SCS officers remaining outside its purview. This is also indicative that the Government having without going for fixing parameters for selecting the best from amongst the non SCS officers and also not setting the criteria for determining the "special circumstances", quite whimsically and arbitrarily identified a fraction of the services and posts in non SCS in order to bring in particular persons of their choice into IAS. It seems that the finding of persons with "outstanding ability and merit" under "special circumstances" has nothing to do with the government. Moreover, what the Applicant found baffling is the fact that since last 40 years, discretion under Rule 8(2) of 1954 rules was never exercised in favour

of non-SCS officers, may be because, since at 40 years special circumstances as specified under Rule 8(2) never really existed for the Government of Tripura, Non in pursuance of the letter of the Government of India dated 25.3.98, the Government started clearing the so called backlog by calculating the number of vacancies that ought to have been filled up by non-SCS officers, had recruitment in terms of Rule 8(2) of 1954 Rules been made. It is as a result of this exercise which is on, that the only vacancy in the year 1998 in IAS was filled up by a non-SCS officer in terms of Rule 8(2) of 1954 Rules and even in the year 2000, out of 3 vacancies 1 was given to the Non-SCS which is not permissible under Rule and also in the year 2001, the lone vacancy has been taken out from the share of the State Civil Service Officers.

20. That with regard to the statement made in para 21, 22, 23 of the Written Statement the applicant while denying the contentions made therein begs to reiterate and affirm the statement made above as well as in the OA.

21. That with regard to the statement made in para 24 of the Written Statement the applicant begs to state that the comments of the State Government is misleading. The Annexure-4 to the OA (letter dated 25.3.98) goes contrary to the very scheme of 1954 Rules and the amended Regulation because, by putting a ceiling on the number of posts to be filled up by promotion from State Civil Service Officers in

the years 1999 and 2001, it makes it mandatory that the remaining vacancies have to be filled up by the non-SCS offices. It is, as if, there is a mandatory requirement that the special circumstances must exist, come what way, so as to necessitate filling up a vacancies by non-SCS officers.

~~1999-2001~~ The comments of the State Government is misleading. The "consultative process" as insisted upon had taken away the single vacancies arising in the years of 1998 & 2001 together with one vacancy out of three during 2000 from the SCS in contravention of the statutory provisions of earmarking of 15% of vacancies arising in a particular year. Such overriding of Rules cannot be given legality through any cover. Moreover, it can not be blindly said that there is "Special Circumstances" every year particularly after the arbitrary earmarking of posts for the Non-SCS offices by the Central Government and accepted by the State Government. The letter of the Government of India dated 25.3.98 and the letter of the Government of Tripura dated 24.8.98 are ex-facie in flagrant violation of the provisions of 1954 rules and amended Regulation, 1997. The appointments have been given in contravention of the very nature of scheme of recruitment of non-SCS officer to IAS as specified under Rule 8(2) of 1954 Rules.

22. That with regard to the statement made in para 25 of the Written Statement the applicant begs to state that the comments of the State Government is misleading. The 'consultative process' as insisted upon had taken away the

single vacancies arising in the years of 1998 & 2001 together with one vacancy out of Three during 2000 from the SCS in contravention of the statutory provisions of earmarking of 15% of vacancies arising in a particular year. Such overriding of rules can not be given legality through any cover. Moreover it can not be blindly said that there is "Special Circumstances" every year particularly after the arbitrary earmarking of posts for the Non-SCS officers by the Central Government and accepted by the State Government. The letter of the Government of India dated 25.3.98 and the letter of the Government of Tripura dated 24.8.98 are ex-facie in flagrant violation of the provisions of 1954 Rules and amended Regulation, 1997. The appointments have been given in contravention of the very nature of the scheme of recruitment of non-SCS officer to IAS as specified under Rule 8(2) of 1954 Rules.

23. That with regard to the statement made in para 26 of the Written Statement the applicant begs to state that the fact remains that the order dated 13.4.2001 was not communicated to the applicant even though he was a party.

24. That with regard to the statement made in para 27 of the Written Statement the applicant begs to state that the State Government has commented that this para will be replied to by the Government of India. The applicant reiterates that the order dated 13.4.2001 is contrary to the findings recorded in the judgement dated 4.2.2001. By the

said order dated 13.4.2001, the Government of India have misinterpreted the provisions of the Rules.

25. That with regard to the statement made in para 28 of the Written Statement the applicant begs to state that the State Government has commented on the procedure required to be followed. How far this has been followed in the question,. The applicant reiterates that the Respondents No. 5 & 6 who were not found suitable for promotion to IAS and were supreseeded by the juniors in a chain manner since 1994 onwards because of their poor service records, suddenly could come out as toppers in the 1999 select list thus giving scope to suspect. Moreover, news paper reports revealed that the ACRs of the said 2 Respondents were manipulated in order to giving them a birth in the IAS. Such manipulation was carried out in their ACRs for the years from 1997 to 1999 in such a way so that the said 2 Respondents could earn their benchmark at least as very good. Be it stated here that the said 2 officers were regarded as not fit for promotion to IAS on the basis of poor ACRs and service records on many earlier occasions, but suddenly could rise to the slot, due to manipulation. The illegalities committed towards their promotion was widely reported in various newspapers. The reply of the State Government in the para-wise comments does not remove the clouds.

26. That with regard to the statement made in para 29 of the Written Statement the applicant begs to state that

the Government of Tripura maintained absolute silence in respect of the said newspaper reports and did not come up with contradiction/clarification and thereby accepted the allegations made. The Government now states that it is not obligatory on its part to comment on news paper reports. There will be a total end of transparency in the Government if such a plea is taken on such serious allegations published in leading newspapers.

27. That with regard to the statement made in para 30 of the Written Statement the applicant begs to state that it is pertinent to make a mention that the selection committee meeting was held on 19.12.2001 and the appointment were made on 27.4.2001 and 28.5.2001 taking unusually a long time. It is true that the ACRs of the officers in the consideration zone were once again called for by the UPSC. Had there been no reasons, it would have not been necessary to once again call for the records long after the Selection Committee meeting and such ACRs were earlier returned to the State Government after the said meeting. The reply of the State Government is silent about it.

28. That with regard to the statement made in para 31 of the Written Statement the applicant begs to state that the reply of the Government does not establish anything, Nor does it remove the suspicion. From the factual position in the matter of consideration for promotion to IAS from amongst the SCS offices during 1999, it is crystal clear

that the Respondents No. 5 and 6 have been illegally selected & promoted by manipulating the records who are otherwise considered to be unfit for such promotion continuously over the years.

29. That with regard to the statement made in para 32 of the Written Statement the applicant begs to state that the reply of the State Government is contrary to the actual state of affairs. It is once again submitted that, there was no selection of SCS offices after 1997 i.e. during the years 1998, 1999 and 2000. In 1998, the single vacancy was allotted to the Non-SCS. Against the accumulated vacancies of these years, appointment of SCS was made only in 2001 following the selection committee's meeting held on 19.12.2001. Instead of preparing select list annually after holding yearly meetings of the Selection Committee as necessitated by vacancies, the selection committee prepared the select list pertaining to all these years against the accumulated vacancies only in 2001 by way of mechanically fitting their names against the annual vacancies in a single order dated 25.4.2001.

30. That with regard to the statement made in para 24 of the Written Statement the applicant begs to state that the reply given by the State Government is not true. In the Selection Committee's meeting dated 19.12.2001 3 vacancies each during 1999 and 2000 were considered together instead of holding annual meetings. The posts were filled up by five

SCS and one non-SCS officer.

31. That with regard to the statement made in para 34 of the Written Statement the applicant begs to state that whatever is the reply of the State Government, the bare truth is that the selection order is perfectly in accordance with the seniority which does not indicate any reflection of the performance, i.e. merit.

32. That with regard to the statement made in para 35 of the Written Statement the applicant begs to state that the reply to this para has been avoided by the State Government. The para is vital. That in the impugned order dated 13.4.2001 the Government of India accepted on principle that as per the provisions of the Selection Regulations, a conscious decisions is required to be taken every year, Swishy conscious decision can not override the provisions of Rules.

33. That with regard to the statement made in para 36 of the Written Statement the applicant begs to state that the reply of the State Government indicates that the Government of India, in consultation with the UPSC had filled up the posts. Therefore, there is no illegality. The contention of the applicant is that there is illegality in allotting the vacancies of 1998, 2000 and 2001 to the Non-SCS.

34. That with regard to the statement made in para 37

of the Written Statement the applicant begs to state that the reply of the State Government is not true. In the 1994 and 1996 selection his name was at the bottom in order of seniority. The question of his selection in those years does not arise at all. Moreover, the applicant has not ventilated any grievance about his non selection in those years. In the question of unsuitability of the applicant as per records of ACRs, the Government is to show evidence in the minutes of the Selection Committee meeting. Giving reference to the pendency of a vigilance case against the applicant is an irresponsible comment to mislead the Tribunal. Mere pendency of a vigilance case puts no stigma to the selection. Moreover, the Government is aware as to why after long 7 years of leaving an office by the applicant, such a vigilance case was initiated at a most crucial juncture of the applicant's career. It was a design to deprive the applicant from being promoted to IAS. The applicant has already made representation against such a conspiracy. The applicant is set to prove such a conspiracy in appropriate Forum. None is above law. Mere hearsay about the origin of any newspaper report against any authority can not be attributed to the fault of any loyal, devoted & laborious officer. And what the so called vigilance case and charge sheet meant for. Interested corners have attempted to falsely implicate the applicant without any financial charge and in the name of procedural lacuna in a particular issue. The instant OA is not to discuss any vigilance case. If the Government so likes, they may submit the vigilance or other records to be discussed.

The curious part is that the Chief Secretary himself informed this applicant that there was nothing in the case and that he was hopeful that the case would be dropped.

35. That with regard to the statement made in para 38 of the Written Statement the applicant while denying the statement made therein begs to reiterate and reaffirm the statement made above as well as in the OA.

36. That with regard to the statement made in para 39, 40 and 41 the applicant begs to state that the Government have not considered the representation, otherwise, the result would have been known to the applicant and he would have the opportunity to move the next authorities for redress, if required.

The reply is not in uniformity with the facts. There has been serious violation of the Rules, It will be pertinent to mention here that the Applicant has crossed the statutory age limit after the year 2001. Had his name been considered and included in the select list for 2001, even if he is not appointed to IAS, he would have been considered for selection in the next year when 4 more clear vacancies will arise. This 2001 chance was the last chance for the Applicant either to earn his promotion in 2001 itself or to be within the zone of consideration in 2002 pursuant to his selection in the year 2001.

The contention of the applicant is also that the Selection Committee's meetings were not held for SCS officers after 1997. The accumulated vacancies were considered

in the meeting dated 19.12.2001 giving scope for repair of the ACRs of Respondents 5 & 6. The Applicant has already stated that he has been deprived of his legitimate promotion to IAS, firstly, by not holding the regular selection for SCS officers as stated above during the period after 1997 although there were vacancies in 1998, 1999 & 2000, secondly, by not preparing year wise select list by way of holding yearly meeting of the selection committee in the presence of vacancies and by way of preparing belated select list thirdly, by inducting non-SCS officers without there being any special circumstances as contemplated officers of the SCS to IAS and lastly, by the impugned decisions he is again sought to be deprived of his last chance for promotion to IAS seeking to fill up the lone vacancy by a non-SCS officer.

The statement of the State Government is theoretically correct. In reality, the opposite happened.

37. That with regard to the statement made in para 42 of the Written Statement the applicant begs to state that the reply of the State Government speaks of discretionary powers to decide vacancies of SCS & Non SCS irrespective of whether the State, the Centre or the UPSC can go beyond the Rules or not. The State Government claim that it had rightly considered the provisions as to the existence of "special Circumstances" which is not true. Special Circumstances will arise as soon as there is a clear vacancy. A vacancy earmarked for the SCS can not just be withdrawn and awarded to

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Non-SCS.

38. That with regard to the statement made in para 43 of the Written Statement the applicant begs to state that the statement of the State Government is just untrue and misinterpretation of the Rules. There can not be any discretion in determining a vacancy beyond the provisions of the Rules.

39. That with regard to the statement made in para 44 of the Written Statement the applicant begs to state that the reply of the State Government is a deviation from truth. The applicant begs to submit that the Respondent Nos 1 and 4 deliberately violated the orders of the Hon'ble Tribunal in as much as they have not carried out the orders dated 25.2.99 which warranted them to process the selection for both the SCS & non SCS together against the 1998 vacancy and not to issue appointment until further orders. But the above mentioned Respondents completed the selection process for the non SCS only and also went for issuing appointment in respect of non SCS officer Respondent no. 7. The said orders of the Hon'ble Central Administrative Tribunal in OA No.244 of 98 has been annexed as Annexures-17 and 18 of the OA. The aforesaid Respondents also violated order dated 4.2.2000 of the Hon'ble CAT as at Annexure-10 of the OA in appointing Respondent Nos 7 & 8 and also going for earmarking the lone vacancy of 2001 for the non SCS.

40. That with regard to the statement made in para 45 and 46 the applicant while denying the contention made there-

in begs to state that taking into consideration the afore-said fact and circumstances of the case the application is deserved to be allowed with cost.

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

I Sri Ajit Kumar Bhowmik, s/o Late Hridaya Chandra Bhowmik, aged about years, presently working as Director, Small Savings, Group Insurance & Institutional , do hereby verify that the statements made in paragraph 1 to 4, 5-13, 15, 17, 18, 20 to 40 are true to my knowledge and those made in paragraphs 4(a), 11, 12, 14, 16 & 19 are based on records.

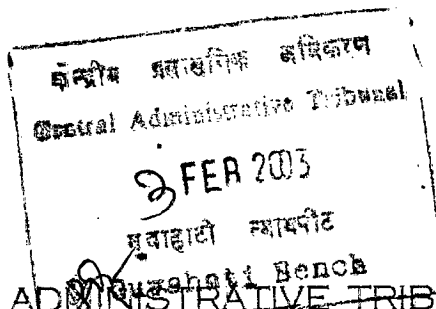
And I sign this verification on this the 20th day of May, 2002 at Guwahati.

Place : Guwahati

DEPONENT

Date

✓ 
(AJIT K BHOWMIK)



Filed by +ve
State of Tripura
+ bench
Dhanash Ranjan Pattik
Advocate
03/02/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 405 OF 2001

Shri Ajit Kumar Bhaumik

..... APPLICANT.

- VS -

Union of India and Others

..... RESPONDENTS.

- AND -

IN THE MATTER OF:

An Additional Written Statement submitted on
behalf of the Respondent No. 2, the State of
Tripura to submit the subsequent events.

The humble Respondent begs to submit the subsequent events as follows:

1) That the Respondent No. 2, the State of Tripura has already filed its Written Statement to the Application filed by the Applicant in O.A. 405 of 2001. The Respondent No. 2 would now like to file this Additional Written Statement stating the subsequent events that took place after filing their previous Written Statement and during the pendency of the O.A. 405 of 2001.

2) That the Respondent No. 2 has already stated in their Written Statement that a vigilance case was pending against the Applicant and has been charge sheeted thereof. That now with regard to the said case, vide Order dated 18-9-2002 passed by the Government of Tripura, the applicant has been imposed with a Major Penalty of reduction of pay to one stage below the time scale of TCS Grade-I (Selection Grade), which he was drawing immediately before he was appointed to hold the post of Director in the higher scale of Rs. 14,150 – 20,000 for a period of 2 (two) years from the date of issue of the said order and also ordered that the same will have the effect of postponing future increments of pay of the applicant.

Further, by the said Order dated 18-9-2002, it has been also directed to recover an amount of Rs. 36,610.90 (approximately) from the Applicant @ 1/3rd of his gross monthly emoluments with immediate effect and till full recovery is made, being the cost of 1220.37 cft. of Dust of Coal, which the Applicant unduly paid to the supplier(s), while he was serving under the Tripura Small Industries Corporation Limited and which had amounted to financial loss to the said Department.

Contd.....

3) That the Respondent No. 2 states that by an Order dated 26-9-2002 the Applicant was transferred from the post of Director of Small Savings, Group Insurances & Institutional Finance, Government of Tripura, Agartala to the Post of Joint Director, Animal Resource Development Department, Agartala.

4) That the Respondent No. 2 states that the Applicant filed a Writ Petition, being W.P.(C) No. 377 of 2002 before the Agartala Bench of the Hon'ble Gauhati High Court challenging the said punishment order dated 18-9-2002 and transfer order dated 26-9-2002 along with a Miscellaneous Case being C.M.Application No. 430 of 2002 in the said W.P.(C) No. 377 of 2002 for stay of the said two orders. The Hon'ble High Court after hearing the parties vide its Order dated 15-11-2002 passed in the said C.M.Application No. 430 of 2002 in W.P.(C) No. 377 of 2002 stayed the punishment Order dated 18-9-2002 but did not interfere with the said transfer order dated 26-9-2002. Thereafter, the applicant joined as Joint Secretary of Animal Resource Development Department, Government of Tripura, Agartala on 16th November 2002. It is pertinent to mention herein that the said W.P.(C) No. 377 of 2002 filed by the Applicant is still pending for final disposal before the Agartala Bench of the Hon'ble Gauhati High Court.

5) That the Respondent No.2 submits that this Additional Written Statement may kindly be read together with the Written Statement filed earlier by it, for proper adjudication of the matter.

6) That this Additional Written Statement has been filed bonafide and for the interest of justice.

VERIFICATION

I, Shri Rabisankar Bhattacharya, Son of Radhika Mohan Bhattacharjee, Liaison Officer, Government of Tripura, Tripura Bhawan, Guwahati do hereby verify that the statements made in paragraphs 1 to 4 and 6 of the Additional Written Statement are true to my knowledge, information and belief derived from the relevant records and the rests are my humble submission before this Hon'ble Tribunal and I sign this verification on this the 2nd day of January, 2003.

Rabisankar Bhattacharya

S I G N A T U R E

Rabisankar Bhattacharya
3/2/03