

5/100

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

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 454/2001

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. O.A. - 454/2001 Pg. 1 to 4
2. Judgment/Order dtd. 21/08/2002 Pg. 1 to 6 *dismissed*
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 454/01 Pg. 1 to 62
5. E.P/M.P. Nil Pg. to
6. R.A/C.P. Nil Pg. to
7. W.S. *submitted by the respondents* Pg. 1 to 4
8. Rejoinder *submitted by the Applicant* Pg. 1 to 4
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 454 /2001

Applicant(s) :- K.C. Paul

Respondant(s) :- W.O.I Form

Advocate for the Applicant :- M. Chanda, Mrs. N.D. Goswami
G.N. Chakrabarty

Advocate for the Respondant :- CAGE

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IP No. <u>1687888/01</u> Dated <u>20.11.2001</u> By Registrar <u>[Signature]</u></p> <p><i>Steps taken</i></p>	27.11.01	<p>Heard Mr.M.Chanda, learned counsel for the applicant. The application is admitted. Call for the records. List on 2.1.2002 for written statement and further order.</p> <p>Member Vice-Chairman</p>
<p><i>Notices prepared and sent to SIs for filing the responses by Regd A/S.</i></p> <p><u>[Signature]</u> <u>4/12/01</u></p>	2.1.02	<p>List on 31.1.2002 to enable the respondents to file written statement.</p> <p>Member Vice-Chairman</p>
<p><i>D/No <u>448/06</u> Dtd <u>7/12/01</u></i></p>	31.1.2002	<p>List the case on 23.2.2002 enabling the respondents to file written statement.</p> <p>Member Vice-Chairman</p>
<p><i>No. W.O.I has been filed.</i></p> <p><u>[Signature]</u> <u>30.1.02</u></p>	28.2.02	<p>List on 27.3.2002 to enable the Respondents to file written statement.</p> <p>Member Vice-Chairman</p>
<p><i>No. W.O.I has been filed.</i></p> <p><u>[Signature]</u> <u>26.2.02</u></p>		<p>Member Vice-Chairman</p>

No. written statement
has been filed

27.3.02 List on 1.5.2002 to enable the
Respondents to file written statement.

311
30.4.02

Member mb Vice-Chairman

1.5.02 List on 28.5.02 to enable the
respondents to file written statement.

18.5.2002

Member Vice-Chairman

W/s submitted
by the Respondent
Nos. 1 to 5.

28.5.02 Written statement has been filed.
List the matter on 28.6.2002 for hearing.
The applicant may file rejoinder, if any,
within two weeks from today.

27.5.2002

Rejoinder submitted
by the applicant is
to the W/s.

28.5.02 Vice-Chairman
On the prayer of Mr. M.Chanda,
learned counsel for the applicant the
case is adjourned. List again on
13.8.2002 for hearing.

Member mb Vice-Chairman

13.8.02 Hear Mr. M.Chanda, learned counsel
for the applicant and Mr. A. Deb Roy,
learned Sr. C.G.S.C. Hearing concluded.
Judgment reserved. Mr. Deb Roy to
produce the connected records within 10
days from today.

Member Vice-Chairman

4

Notes of the Registry Date Order of the Tribunal

21.8.02

Judgment delivered in open Court.
Kept in separate sheets. Application
is disposed of. No costs.

Judgment dtd 21/8/02
Communicated to the
Parties Counsel & the
Applicant

[Signature]

[Signature]
Member

[Signature]
Vice-Chairman

lm

Notes of the Registry Date (Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~ NO. 454 of 2001 ~~xxx~~

DATE OF DECISION. 21/8/002.....

Sri Kartick Chandra paul APPLICANT(S)

Mr.M.Chanda, G.N.Chakraborty &
Mrs.N.D.Goswami. ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Others. RESPONDENT(S)

Mr.A.Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S)

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.454 of 2001.

Date of Order : This the 21st Day of August, 2002.

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

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

Sri Kartick Chandra Paul
S/o Late Chuni Lal Paul
Senior Engineering Assistant
All India Radio
Itanagar
Arunachal Pradesh. . . . Applicant.

By Advocates Mr.M.Chanda, G.N.Chakraborty &
Mrs.N.D.Goswami.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Information & Broad Casting
All India Radio & Doordarshan
New Delhi.
2. The Director General
All India Radio, Akashvani Bhawan
Parliament Street
New Delhi.
3. The Director General
Doordarshan, Mandi House
New Delhi.
4. The Chief Engineer (E/Z), Maintenance
All India Radio & Doordarshan
Akashvani Bhawan
Eden Garden, Kolkata-700 001.
5. The Deputy Director of Administration (E)
All India Radio, Akashvani Bhawan
New Delhi.
6. Shri Joyram Prasad Bharti
Assistant Engineer, All India Radio
Doordarshan Kendra
Daltonganj.

7. Sri Manglesh Kumar Gandhi
Assistant Engineer
All India Radio
Low Power Television Centre
Kusalgarh

8. Sri Rajiv Kulshreshta
Assistant Engineer
All India Radio
Doordarshan Kendra
Jammu.

. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

This application under section 19 of the Administrative Tribunal's Act, 1985 has arisen and is directed against the communication dated 23.10.2001 issued by the respondent No.5 the Deputy Director of Administration (E), All India Radio, Akashvani Bhawan, New Delhi in the following circumstances :

1. The applicant is serving under the respondent No.2 the Director General, All India Radio. He was first appointed on 28.9.1983 as Engineering Assistant and thereafter he was promoted as Senior Engineering Assistant on 14.4.1989. In the application the applicant pleaded that as per the Recruitment Rule he was eligible to be considered for promotion to the post of Assistant Engineer. The Recruitment Rules provide for two modes of promotion from the post of Senior Engineering Assistant to the post of Assistant Engineer namely, (i) 25% by way of selection in accordance with provisions laid down in Appendix-I to

these rules and (ii) 75% by way of selection on the basis of Departmental Competitive Examination as laid down in Appendix-II and III to these rules. According to the applicant, he was a senior officer and senior to respondent Nos.6, 7 and 8. The applicant was not considered for promotion, he was left out of consideration ^{and} /allowed his juniors to supercede his claim vide promotion orders dated 20.5.2000 and 18.7.2001. The applicant submitted representation before the authority and by letter dated 23.10.2001 the respondent No.5 the Deputy Director of Administration (E), AIR informed the Station Director, AIR, Itanagar to communicate the applicant that his case was considered by DPC for promotion from Senior Engineering Assistant to the rank of Assistant Engineer but he was not found suitable for promotion. Hence this application assailing the legitimacy of the action of the respondents in overlooking his case for promotion.

2. The respondents filed its written statement denying and disputing the claim of the applicant. In the written statement the respondents stated that the eligibility list of Senior Engineering Assistant for the year 1999, 2000 & 2001 for promotion to the grade of Assistant Engineer were prepared by applying the method of interlacing. One senior most Senior Engineering Assistant from each zone was taken by rotation and arranged as ^{per} /his seniority. The next seniormost candidate from each zone was taken and he was also arranged as per his seniority and placed below the

first four candidates in a cycle and so on. The procedure was followed every year based on the seniority list of four zones. The respondents stated that the case of the applicant was considered alongwith the other candidates by a duly constituted DPC, but he was not found fit for promotion as his grading based on his CRS was not upto the Bench Mark prescribed for promotion. The respondents asserted that the post of Assistant Engineer is a selection post and the prescribed Bench Mark of CR grading for promotion is GOOD.

3. Mr.M.Chanda, learned counsel for the applicant stated and contended that the case of the applicant was not justly and fairly considered. Mr.Chanda submitted that most of his CRs had been graded above the Bench Mark and at any point of time he was not communicated that he was downgraded. Mr.Chanda submitted that in the matter of promotion the respondents authority ought to have acted justly and fairly and at any rate he ought to have been intimated as to his grading to enable him to improve his CRs.

4. Opposing the claim of the applicant Mr.A.Deb Roy, learned Sr.C.G.S.C. submitted that the case of the applicant was justly, fairly and reasonably considered by the DPC, but he was not found suitable. The applicant could not attain the necessary Bench Mark and therefore, he could not be promoted to the post of Assistant Engineer, the selection post. Mr.Chanda, the

learned counsel for the applicant, in support of his contention, referred to a decision of the Lucknow Bench of CAT in O.A.523 of 1998 in Kalyanesh Kumar Bajpai Vs. Union of India & Others disposed on 10.10.2000. The learned counsel for the applicant also referred to the decision of the Hon'ble Supreme Court in U.P.Jal Nigam and Others vs. Prabhat Chand Jain and Others reported in (1996) 2 SCC 363.

5. The materials on record did not indicate that the applicant was not considered because of ^{any} ~~adverse remarks~~ ^{adversity}. His case was duly considered by a duly constituted DPC. ^{In} ~~the~~ Annual Confidential Report ~~his~~ ^{the} Bench Mark was Good, where as the applicant's CR was not upto the ~~Mark~~ ^{Mark}. From the pleadings it cannot be said that the CRs of the applicant ^{was} ~~ever~~ downgraded. There was no requirement in law to communicate the ACR to the applicant, more so, when he was not downgraded. In Kalyanesh Kumar Bajpai vs. U.O.I. & Others (Supra) the adverse remarks in ACRs for the year 1994-95 and 1996-97 were not communicated to the applicant. The decision rendered by the Hon'ble Supreme Court in Prabhat Chand Jain (Supra) is a decision on facts.

6. On overall consideration of the matter, it appears to us that the case of the applicant was duly considered, but he was not found suitable on the basis of the materials on record. In the facts and circumstances of the case, we therefore, find it difficult to hold that the case of the applicant was

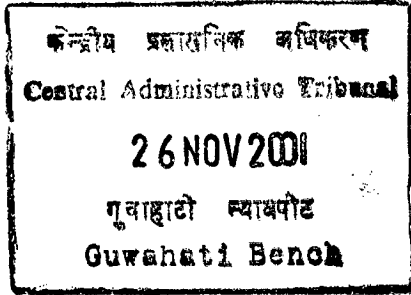
overlooked for promotion. We, however, feel that the case for promotion of the applicant has become overdue in as much as the applicant has been stagnating in the same post for the last thirteen years. It is, therefore, expected that the respondents authority shall consider the case of the applicant in future vacancies alongwith the persons, similarly situated keeping in mind the length of ^{their} services in a particular post.

Subject to the observations made above, the application stands dismissed.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 454/2001

Sri Kartick Chandra Paul : Applicant

- Versus -

Union of India & Others: Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Application	1-12
02.	----	Verification	13
03.	I	Compilation of Recruitment Rules for various posts in AIR	14-25
04.	II	Representation dated 12.4.2001 and forwarding letter dated 23.4.2001	26-29
05.	III	Order dated 20.5.2000	30
06.	IV	Order dated 20.5.2000	31-32
07.	V	Order dated 20.5.2000	33-34
08.	VI	Letter dated 18.7.2001	35-37
09.	VII	Representation dated Nil	38
10.	VIII	Letter dated 23.10.2001	39
11.	IX	Seniority & Promotion Rule	40-62

Date : 26.12.2001

Filed by

Advocate

Kartick Chandra Paul

Filed by the applicant through advocate Sri G.N. Chakravarty on 26.11.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 454/2001

BETWEEN

Sri Kartick Chandra Paul
S/o Late Chuni Lal Paul
Senior Engineering Assistant
All India Radio
Itanagar,
Arunachal Pradesh

.....Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Information & Broad Casting,
All India Radio & Doordarshan
New Delhi.
2. The Director General,
All India Radio, Akashvani Bhawan,
Parliament Street,
New Delhi.
3. The Director General,
Doordarshan, Mandi House,
New Delhi.

4. The Chief Engineer (E/Z), Maintenance,
All India Radio & Doordarshan,
Akashvani Bhawan,
Eden Garden, Kolkata-700 001
5. The Deputy Director of Administration (E),
All India Radio,
Akashvani Bhawan,
New Delhi.
6. Shri Joyram Prasad Bharti,
Assistant Engineer,
All India Radio,
Doordarshan Kendra,
Daltonganj
7. Sri Manglesh Kumar Gandhi
Assistant Engineer,
All India Radio,
Low Power Television Centre,
Kusalgarh
8. Sri Rajiv Kulshreshta,
Assistant Engineer, All India Radio
Doordarshan Kendra
Jammu

.....Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned letter No. 1/12/2001-SIV(B)/839 dated 23.10.2001 issued by the Respondent no.5 and non-consideration of promotion of the applicant to the _____

Rishi Chandra Pat.

post of Assistant Engineer in spite of his seniority and eligibility whereas the persons junior too the applicant have been promoted under 25% quota, and praying for a direction upon the respondents to promote the applicant from the post of Sr. Engineering Assistant to the post of Assistant Engineer under the aforesaid 25% quota with all consequential service benefits at least from the date of promotion of his juniors.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant was initially appointed as Engineering Assistant on 28.9.1983 under All India Radio. Subsequently, he was promoted to the post of Senior Engineering Assistant on 14.4.1989 and is continuing in the same post till filing of this application.
- 4.3 That as per the existing avenues of promotion under the All India Radio, the applicant is entitled to get the next promotion to the higher post of Assistant Engineer. The post of Assistant Engineer is a selection post which is filled up by way of promotion from

02
1989
13

Kartick Chandra Paul

amongst the eligible persons who are working as Senior Engineering Assistant under the department of All India Radio. As per the existing Recruitment Rules of All India Radio, there are two modes of promotion from the post of Senior Engineering Assistant to the post of Assistant Engineer viz. (1) 25% by way of selection in accordance with provisions laid down in Appendix-I to these rules; and (2) 75% of by way of selection on the basis of Departmental Competitive Examination as laid down in Appendix-II and III to these Rules.

As per Appendix - as mentioned above, promotion by selection against 25% quota shall be governed as follows :

"Appendix-I

Promotion by selection against 25% quota :

(1) The promotion by selection shall be made by the Departmental Promotion Committee. The eligibility for consideration for promotion by the Departmental Promotion Committee shall be as follows :

(a) Senior Engineering Assistants with 3 years' regular service in the grade; failing which Senior Engineering Assistants with 8 years combined regular service in the grades of Senior Engineering Assistant and Engineer Assistant and;

(b) Possessing education qualifications not lower than those prescribed for direct recruits to the post of Engineering Assistant in the Akashwani and Doordarshan.

(2) The eligibility for promotion shall be determined as on the 1st January of the year in which the Departmental Promotion Committee meets.

Ravinder Chandra Pal.

(3) The eligibility list for promotion shall be prepared as under :

(a) As on the date of commencement of these rules, the existing All India seniority list would form the basis in relation to officers included therein.

(b) In respect of those appointed to the grade of Senior Engineering Assistant thereafter, the names of officers will be added on the basis of the dates of their regular appointment to the grade of Senior Engineering Assistant, subject to maintenance of their inter se seniority in the respective regional cadres. In case of officers appointed in different regions on the same date the date of their regular appointment to the grade of Engineering Assistant shall determine their inter se position."

Copy of Recruitment Rules, March, 1993 edition is annexed herewith and marked as Annexure-I.

4. That the applicant passed Higher Secondary in 1974 and is holder of Diploma in Electrical Engineering and as such is qualified for the post of Assistant Engineer as per prescribed rules. This apart, he has been serving in the cadre of Sr. Engineering Assistant since 14.4.1989 and therefore, in all fitness of the prescribed rules as quoted above, the applicant is qualified and acquired full eligibility for promotion to the grade of Assistant Engineer. The Department of All India Radio published their list All India Seniority list (Draft) on 2.8.1991 vide No. 1/4/91 SIV(A) dated 2.8.1991 indicating therein the position of All India Seniority of all Senior Engineering Assistants wherein the name of the applicant appeared under Sl. No. 512. Since the said seniority list is a voluminous document, the applicant craves leave of the Hon'ble Tribunal for producing the same at the time of hearing, if so desired.

Ravinder Chandra Pal

- 4.5 That Basing on the All India Seniority list, the Department of All India Radio, published Draft eligibility lists for promotion of Senior Engineering Assistant to the grade of Assistant Engineer from time to time and the position of last three years eligibility lists wherein the name of the applicant figured are as follows :

Sl. No.	Eligibility List Ref.	Position of the applicant
1	Eligibility list as on 1.1.99 published vide No. 1(28)/99-S dated 27.9.99	Sl. No. 112
2	Eligibility list as on 1.1.2000 published vide No. Z CADRE-1(28)-2000-S dated 23.3.2001	Sl. No. 100
3	Eligibility list as on 1.1.2001 published vide Z-CADRE-1(28)-2001-S dated 28.8.2001	Sl. No. 44

The applicant craves leave of the Hon'ble Tribunal to produce the above eligibility lists before the Hon'ble Tribunal at the time of hearing, if so desired.

- 4.6 That in all the eligibility lists indicated above, there were some discrepancies in respect to the seniority of the applicant. Every time, it was found that the names of some juniors were placed above the name of the applicant in the eligibility lists of 1999, 2000 and 2001 aforesaid, thus placing the name of the applicant below the names of the persons junior to him, for the reasons best known to the respondents. The applicant brought these discrepancies to the notice of the department and submitted on representation dated 17.4.2001 to the Respondent No.4, through proper channel praying for correction of the eligibility lists, but with no results.

Copy of the representation dated 17.4.2001 is annexed herewith and marked as Annexure-II.

Ranick chandra pad.

4.7 That the Respondents department published three nos. of promotion orders i.e. order No. 29/2000, No. 31/2000 and No. 33/2000 on 20.5.2000 and another i.e. order No. 28/2001 on 18.7.2001 promoting a total of as many as 123 Sr. Engineering Assistants to the grade of Assistant Engineers under 25% quota. Surprisingly, the name of the applicant did not appear in any of the above orders whereby a number of persons junior to him have been promoted. Since the persons who superseded the applicant and were promoted as Assistant Engineers vide the aforesaid promotion orders are large in number, only three such persons have been impleaded herein as the private respondents nos. 5,6, and 7 and their comparative seniority positions as per the All India Seniority list are shown hereunder :-

Sl. No	Name S/Shri	Seniority position in the seniority list published on 2.8.1991
1	Kartick Chandra Paul (Applicant)	<u>Sl.No. 512</u>
2	Joyram Prasad Bharti (Respondent No.5)	<u>Sl. No. 524</u>
3	M.K. Gandhi (Respondent No.6)	<u>Sl. No. 593</u>
4	Rajiv Kulshresta (Respondent No.7)	<u>Sl. No. 853</u>

Copy of Promotion orders dated 20.5.2000 (3 Nos.) and dated 18.7.2001 are annexed herewith as Annexure-III, IV, V and VI respectively).

4.8 That subsequent to the issuance of the above mentioned promotion orders and non-consideration of the case of the applicant for promotion to the grade of Assistant Engineer, the applicant became highly aggrieved and submitted representation through proper

Kartick Chandra Paul

channel to the Respondent No. 2 praying for consideration of his case but to no effect.

Copy of representation is annexed herewith as Annexure-VII.

- 4.9 That the Respondent No.5 vide his impugned letter No. 1/12/2001-SIV(B)/839 dated 23.10.2001, addressed to the Station Director, AIR, Itanagar, has informed that the name of the applicant was considered by the DPC for promotion from SEA to AE but the applicant was not found fit for promotion. Surprisingly, no reason has been assigned in the letter for which the applicant was found unfit by the DPC and as such there is every reason for the applicant to suspect the fairness and cleanliness of selection and prays for a direction upon the respondents to produce all relevant records of the proceedings of selection conducted by the DPC before the Hon'ble Tribunal for proper examination of the facts and event leading to the non-selection of the applicant for promotion.

Copy of the impugned letter dated 23.10.2001 is annexed hereto and marked as **Annexure-VIII**.

- 4.10 That the applicant begs to submit that he is eligible and fully entitled to get promotion to the grade of Asstt. Engineer under 25% quota in accordance with his position in the All India seniority list which forms the basis of consideration for eligibility as per the existing rules. Unfortunately, although his name figured at Sl. No. 512 in the All India seniority list, his case was not considered for promotion whereas those who are much junior to him in the said seniority list have been promoted.

It is relevant too mention here that the applicant, throughout his service tenure, has been serving with all his sincerities and devotion and has been performing to the satisfaction of his superiors. He had served in difficult stations

Ravi Chandra P. S.

like, Tawang, Gangtok for considerable periods, and was appreciated/admired for his performances by his superior officers on different occasions. At no point of time he was cautioned/warned for any lapses in his works nor any adverse remarks in his ACRs (if any) had been communicated to him and all the time he was given to understand that his performances were satisfactory and above the bench mark and there was no tangible reason whatsoever for the DPC for non-consideration of his case of promotion. It is also relevant to mention that as per rule 6.3.1(i) of seniority and promotion rules in Central Government service, the grading as "Good" in the ACR would be treated as the Bench mark for Group 'C', 'B' and 'A' posts (the post of Assistant Engineer in the instant case is a Group 'B' post) and it is presumed that the applicant's ACR had been graded above the Bench Mark since nothing otherwise was communicated to him at any point of time and the procedure laid down by the Government as well as the Apex Court stipulates that any adverse remarks in the ACR or down grading of ACR, if any, must be communicated to the concerned officer, which was not done in the case of the applicant at any point of time.

Copy of Seniority and promotion Rules is annexed herewith as
Annexure-IX.

4.11 That the applicant begs to state that promotion is a valuable right in service career of an employee and denial of the same goes against the doctrine of legitimate expectation. This apart, by excluding the applicant in the matter of his legitimate promotion, the respondents have discriminated and acted in an unfair, arbitrary and capricious manner which is violative of Article 14 and 16 of the Constitution of India particularly when there is no adverse communication made to the applicant or the applicant is not disqualified in any other way. Therefore, the applicant, finding no other way, is approaching the Hon'ble Tribunal through

Ravindra chandra pal.

this application for protection of his legitimate rights and interests.

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

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

5.1 For that the applicant has been discriminated in the matter of promotion to the post of Asstt. Engineer when large number of his juniors including the respondent nos. 5,6 and 7 have been promoted.

5.2 For that the applicant's name figures at Sl. No. 512 in All India seniority list which is above the name of others who have been promoted and particularly when the All India seniority list forms the basis of eligibility for promotion.

5.3 For that the applicant is fully eligible for being promoted to the post of Asstt. Engineer under the 25% quota as per existing rules.

5.4 For that non-consideration of the promotion of the applicant is a sheer discrimination and is a violation of Article 14 and 16 of the Constitution of India, particularly when the applicant is not otherwise disqualified or ineligible in any way.

5.5 For that the applicant has served as Senior Engineering Assistant for more than 12 years and as such has acquired a valuable right for promotion to the cadre of Assistant Engineer.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. Representations through proper channel submitted by the applicant could not yield any result.

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

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

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to grant the following reliefs.

8.1 That the respondents be directed to promote the applicant by holding Review DPC to the post of Assistant Engineer with retrospective effect at least from the date of promotion of his juniors i.e. w.e.f. 20.5.2000 with all consequential service benefits including seniority and monetary benefits.

8.2 That the impugned letter No. 1/12/2001SIV(B)/839 dated 23.10.2001 be set aside and quashed.

8.3 Costs of the application.

Kartick Chandra Pal.

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

9. Interim order prayed for.

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

9.1 That pending disposal of this application an observation be made that pendency of this application shall not be a bar for the respondents to grant the benefit of promotion to the applicant by the respondents and further prays that the instant application be disposed of expeditiously.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. : EG 788838
- ii) Date of issue : 20-11-07.
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Ratik Chandra Pat.

VERIFICATION

I, Sri Kartick Chandra Paul, S/o Late Chuni Paul, aged about 44 years, working as Senior Engineering Assistant, All India Radio, Itanagar, Arunachal Pradesh, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of November, 2001.

Kartick chandra Paul

COMPILATION OF RECRUITMENT RULES FOR VARIOUS POSTS IN AIR

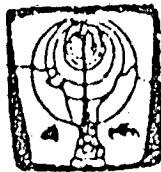
ZONAL OFFICE
RECORD.

[Signature]
19/01/94

Including

GENERAL/SUPPLEMENTARY
INSTRUCTIONS RELATING TO
RECRUITMENT/DEPARTMENTAL
PROMOTION COMMITTEE MEETINGS,
ETC. ISSUED BY GOVERNMENT OF INDIA
AND DG, AIR.

Edition: March, 1993



ARTEE

SOCIATION OF RADIO & TELEVISION ENGG. EMPLOYEES

*Approved
for
Publication*



DIRECTORATE GENERAL, ALL INDIA RADIO
NEW DELHI

SCHEDULE 2

- | | |
|---|---|
| 1. Name of the post | Assistant Engineer |
| 2. Number of post | 371 (1982) Subject to variation dependent on workload |
| 3. Classification | General Central Service Group 'B' gazetted non-ministerial |
| 4. Scale of pay | Rs. 650-1200 (now revised to Rs. 2000-60-2300-EB-75-3200-100-3500) |
| 5. Whether selection post or non-selection post | Selection post |
| 6. Age limit for direct recruits | Not applicable |
| 6a. Whether benefit of added years of service admissible under Rule 30 of the Central Civil Service (Pension) Rules, 1972 | Not applicable |
| 7. Educational qualification and qualifications required for direct recruits | Not applicable |
| 8. Whether age and educational qualifications prescribed for direct recruits will apply in case of promotion | Not applicable |
| 9. Period of probation if any | 2 (Two) years |
| 10. Method of recruitment whether by direct recruitment or by promotion or by deputation transfer and percentage of the vacancies to be filled by various methods | By promotion |
| 11. In case of recruitment by promotion/deputation/transfer, grades from which promotion/transfer to be made | <p><i>Promotion</i></p> <p>(a) 25% of the promotion quota
By selection in accordance with provisions laid down in Appendix I to these rules</p> <p>(b) 75% of the promotion quota
By selection on the basis of Departmental Competitive Examination conducted in accordance with provisions laid down in Appendix-II and III to these rules</p> |

*Alleged
JCA
Advocate*

Note: The inter-se seniority of officers who are selected under the above quotas shall be

fixed on the basis of rotation of vacancies in ratio of 1:3 starting with the officers selected against 25% promotion quota —

Appendix I

Promotion by selection against 25% quota:

- (1) The promotion by selection shall be made by the Departmental Promotion Committee. The eligibility for consideration for promotion by the Departmental Promotion Committee shall be as follows:
 - (a) Senior Engineering Assistants with 3 years' regular service in the grade; failing which Senior Engineering Assistants with 8 years combined regular service in the grades of senior Engineering Assistant and Engineering Assistant; and
 - (b) Possessing educational qualifications not lower than those prescribed for direct recruits to the post of Engineering Assistant in the Akashwani and Doordarshan.
- (2) The eligibility for promotion shall be determined as on the 1st January of the year in which the Departmental Promotion Committee meets.
- (3) The eligibility list for promotion shall be prepared as under:
 - (a) As on the date of commencement of these rules, the existing all India seniority list would form the basis in relation to officers included therein.
 - (b) In respect of those appointed to the grade of Senior Engineering Assistant thereafter, the names of officers will be added on the basis of the dates of their regular appointment to the grade of Senior Engineering Assistant, subject to maintenance of their inter-se seniority in the respective regional cadres. In case of officers appointed in different regions on the same date the date of their regular appointment to the grade of Engineering Assistant shall determine their inter-se position.

Appendix II

Promotion on the basis of Departmental Competitive Examination against 75% quota:

- (1) (a) The promotion shall be made from a panel containing the names of candidates arranged according to the sum total of highest marks obtained in the Departmental Competitive Examinations and on the assessment of the CRs.
- (b) The maximum marks for the written paper and in the CRs. will be in the ratio of 7:3.
- (2) The following shall be eligible to participate in the Departmental Competitive Examination:
 - (a) Senior Engineering Assistant with 8 years' regular service in the grade of Senior Engineering Assistant and Engineering Assistant combined together, as on 1st of January of the year in which the examination is held; and

*Accepted
Date
Advocate*

- (b) possessing qualifications not lower than those prescribed for direct recruits to the post of Engineering Assistant in the Akashwani and Doordarshan.

Note: The above eligibility criteria shall be reviewed after a period of 5 years from the date of commencement of these rules.

Appendix III

Standard and syllabus of Departmental Competitive Examination:

The subjects for the Departmental Competitive Examination shall be as follows:

- (i) One paper on Broadcast Engineering of general standard in 100 marks
 - (a) Sound Broadcasting or
 - (b) Television Broadcasting.
- (ii) One paper of Specialised Subjects-100 marks.
 - (a) Sound transmitters and aerials, or
 - (b) Sound studios, audio recording, receiving centres and outside broadcasts, or
 - (c) Television transmitters and aerials, or
 - (d) Television studios, video recordings, TV receivers and outside broadcasts.
- (iii) One paper on General Subjects-100 marks.
 - (a) Safety precautions including first aid, store purchase rules and fire fighting-50 marks.
 - (b) Principles of power supply systems, airconditioning and ventilation and diesel generators-50 marks.

Note: If a candidate takes paper (i) (a) he will have to take papers (ii) (a) or (ii) (b). If he takes (i) (b) then he will have to take (ii) (c) or (ii) (d). Paper (iii) will be Compulsory.

- (2) The standard and syllabus of the examination shall be such as Directorate General, Staff Training Institute (Technical) of Akashwani may specify from time to time.

(Substituted vide Min. of I&B Notification No. 310/10/79-B(D) dated 3.5.1985 circulated vide DG, AIR Memo. No. 17/10/85-S-IV dated 3.11.1985).

12. If a departmental Promotion Committee exists, what is its composition
- | | |
|---|----------|
| Group 'B' Departmental Promotion Committee | |
| 1. Chief Engineer | Chairman |
| 2. An Engineer in Junior Administrative Grade | Member |
| 3. Director Personnel or Director (A&F) in Doordarshan or Akashwani | Member |

*Alles Ted
leg
Advocati*

Recruitment Rules for Various Posts in AIR

Note: The chairman and Members shall be nominated by the Engineer-in-chief Akash-wani. The Chairman or at least one of the members shall be from Doordarshan.

13. Circumstances in which UPSC Consultation with the UPSC- not is to be consulted in making necessary while making selection recruitment for appointment to the post

Authority: Notified vide Min. of I&B Notification No. GSR/488(E) dated 7.7.1982 (Extraordinary Gazette of India Part II Section III Sub-section (i) No. 208 dated 7.7.1982 circulated vide DG, AIR Memo. No. 3/6/81-S-III (Pt. III) dated 14.9.1982 and amended vide notification No. 310/10/79-B(D) dated 3.5.1985.

Accepted
Law
Advocate

SCHEDULE 3

- | | |
|---|---|
| 1. Name of the post | Senior Engineering Assistant |
| 2. No. of posts | 608 (as on 1.7.74) subject to variation dependent on workload |
| 3. Classification | General Central Services Group 'B' non-gazetted non-ministerial |
| 4. Scale of pay | Rs. 550-25-750-EB-30-900 (now revised to Rs. 1640-60-2600-EB-75-2900) |
| 5. Whether selection post or non-selection post | Non-selection |
| 6. Age limit for direct recruitment | Not applicable |
| 7. Educational and other qualifications required for direct recruitment | Not applicable |
| 8. Whether age and educational qualifications prescribed for the direct recruitment will apply in the case of promotees | Not applicable |
| 9. Period of probation, if any | Two years |
| 10. Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods | By promotion on seniority-cum-fitness basis |
| 11. In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made | Promotion
Engineering Assistants working in the region with at least 3 years approved service in the grade |
| 12. If a Departmental Promotion Committee exists, what is its composition | Class II Departmental Promotion Committee |
| 13. Circumstances which UPSC is to be consulted in making recruitment | Not applicable |

*Alleged
less
provid*

Note: A common seniority list will be maintained for Senior Engineering Assistants working at all India Radio Stations and offices located in a group of states comprising a Region as indicated below and transfers will be made within the respective Regions on the basis of said list.

Eastern Region: States of Assam, Orissa, West Bengal, Bihar, Meghalaya, Manipur and Tripura and Union Territories of Mizoram and Arunachal Pradesh.

Northern Region: States of Jammu and Kashmir, Punjab, Haryana, Uttar

Pradesh, Himachal Pradesh and Rajasthan and Union Territories of Chandigarh and Delhi.

Western Region: States of Maharashtra, Gujarat and Madhya Pradesh and Union Territories of Goa, Daman and Diu and Dadra and Nagar Haveli.

Southern Region: States of Tamil Nadu, Andhra Pradesh, Karnataka, and Kerala and Union Territories of Lakshadweep, the Andaman and Nicobar Islands and Pondicherry.

Authority: Notified vide Min. of I&B Notification No. 1/1/71-S-IV dated 30.6.1976 circulated vide DG, AIR Memo. No. 1/1/71-S-IV dated 19.11.1976.

Extracts of supplementary instructions issued by the Government and DG, AIR.

1. The Regional Engineers (now Chief Engineers) have been delegated powers to transfer (i) Ministerial Staff from one project to another within the same region (ii) Maintenance and Project Staff up to the rank of Senior Engineering Assistant within the same region.

(Govt. of India, Min. of I&B Memo No. 1/1/71-S-IV dated 5.11.1976)

The following instructions will be observed regarding the procedure for promotion, transfers, seniority, etc. in the grade of Senior Engineering Assistant in All India Radio.

Promotion

2. The Promotion to the grade of Senior Engineering Assistants will hereafter be made from amongst the eligible Engineering Assistants belonging to the respective regions. The select list for promotion will be drawn up by the regional Departmental Promotion Committee and submitted to the Directorate for approval. The orders of promotion will also be issued from the Directorate. The posting of persons so promoted will be made by the Regional Engineer of the region concerned.

Regional D.P.C.

3. The following will be the composition of the Departmental Promotion Committee to be constituted for each region for selection of candidates for promotion to the grade of Senior Engineering Assistants against the available vacancies in the region.

- | | |
|---|----------|
| (1) Regional Engineer (Now Chief Engineer) | Chairman |
| (2) Two Senior Engineers/Engineers-in-charge from the Region nominated by the Chief Engineer from outside the Regional Engineers Office | Member |

Seniority

4. With effect from the date of the above mentioned Notification (No. 1/1/71-S-IV dated 30.6.76), the seniority list of Senior Engineering Assistants will be maintained region-wise by the Regional Engineer of

*Assisted
for
Advice*

the region concerned. The existing Senior Engineering Assistants will be given the option in regard to the region where they wish to serve. Each one of them should state three preferences. It must be made clear that the option exercised by a Senior Engineering Assistant does not, in-so-facto, confer on him any right unless the option so exercised, is accepted by the Directorate General. If a particular Senior Engineering Assistant cannot be accommodated according to his first preference, he will have to accept allotment to another region according to his second or third preference or even to any other region. The final allotment will be at the discretion of the Directorate. The names of the persons concerned will be included in the seniority list of Senior Engineering Assistants of the regions to which they are so allotted. The process of transferring persons to the regions to which they are allotted will be completed gradually.

Transfer

5. The Regional Engineers have been delegated powers to transfer the Senior Engineering Assistant from one Station/office to another within their respective regions, vide Ministry of I&B Lr. No. 1/1/71-SIV dated 5.11.76 (Copy reproduced above). The delegation is subject to condition that procedural and other general or specific instructions issued by Government and DG, AIR from time to time will be observed while exercising the delegated power. No inter-regional transfers will ordinarily be permitted, excepting in the following circumstances:

- (a) For administrative reasons, i.e. when the transfer is in the interest of Service, for a specific period.
- (b) Mutual transfers or transfer on person's own request on compassionate grounds.

The persons transferred to another region in the circumstances mentioned at (b) above, will rank juniormost to all other Senior Engineering Assistants serving in that region on the date he joins the new region.

(DG, AIR Memo. No. 1/1/71-SIV dated 19.11.1976).

*Attested
by
Advocate*

SCHEDULE 4

1. S. No.
2. Name of the post
3. No. of posts
4. Classification
5. Scale of pay
6. Whether selection post or non-selection post
7. Age limit for direct recruitment

1
Engineering Assistant
2088 (1986) (subject to variation dependent on workload)
General Central Service, Group 'C'
non-gazetted, non-ministerial
Rs. 425-15-500-EB-15-560-20-640-
EB-20-700-25-750 (now revised to
Rs. 1400-40-1600-50-2300-EB-
60-2600)
Non-selection
18-25 years (relaxable up to the age of 35 years for Government servants in accordance with the instructions issued by the Central Government from time to time in this regard)

Note 1: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep)

Note 2: In the case of recruitment made through the Employment Exchange, the crucial date for determining the age limit shall be last date upto which the Employment Exchange is asked to submit the names.

Assistant
Secy
22/10/86

8. Educational and other qualifications required for direct recruits

Essential

Three years Diploma in Radio/Telecommunication/Electrical/Electronics/Electrical Communication Engineering recognised by the Govt. of India

or

Degree with Physics as one of the subjects from a recognised university

or

Degree in Electrical Engineering from a recognised University or equivalent degree

or

Diploma in Sound Recording and Sound Engineering awarded by

the Film and TV Institute of India, Pune

Desirable

Knowledge of Wireless or Radio Engineering

9. Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees

No

10. Period of probation if any---

Two years

11. Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods

80 percent by direct recruitment. 10 per cent by promotion on seniority-cum-fitness. 10 percent through limited departmental competitive examination

12. In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made

Promotion

Senior Technicians in All India Radio/Doordarshan with 5 years' service in the grade or in a higher grade, rendered after appointment to the grade on a regular basis

Limited Departmental Competitive Examination

Senior Technicians in All India Radio/Doordarshan with 5 years' service in the grade rendered after appointment thereto on a regular basis or, with 8 years total service in the grades of Technician and Senior Technician rendered after appointment to these grades on a regular basis or, Mast Technicians/Diesel Technicians with 8 years' service rendered in the grade after appointment thereto on a regular basis

(substituted vide MIR notification No. 310/82-B(D) dated 11.3.87)

13. If a Departmental Promotion Group 'C' Departmental Promotic

Altered for direct

Committee exists what is its composition

- Committee consisting of:
1. Director (Engineering) dealing with Administration Chairman
 2. An Engineering Officer of the level of Deputy Director (Engineering) from All India Radio/Doordarshan dealing with administration Member
 3. A Group 'A' Engineering Officer of another Department having requisite technical background Member
- Not applicable

14. Circumstances in which UPSC is to be consulted in making recruitment

Authority: Notified vide Ministry of I&B Notification No. 310/10/82-B(D) dated 18.8.86 and modified vide their notification No. 310/10/82-B(D) dated 11.3.1987 circulated vide DG, AIR OM No. 16/18/85-SIV(A) dated 22.5.87/3.6.87.

Extract of supplementary instructions issued by DG. AIR

1. The selection Committee for recruitment of Engineering Assistant in All India Radio/Doordarshan will comprise the following:
 - (i) Chief Engineer of Zonal Office Chairman
 - (ii) Station Director of the Local station of AIR/or Addl. SD if nominated by the SD Member
 - (iii) Professor of Physics, Electronics or Electrical Telecommunication Engineering Etc. in a University or I.I.T./Madras Institute of Technology Member
 - (iv) A senior Technical officer not lower in rank than Divisional Engineer or equivalent, from either P&T Department, or Civil Aviation (Communications Wing) or overseas Communication Service Member

(DG, AIR Memo. No. 3/14/76-SIV dated 25/27-7-1977)

Attested
Per
Advocate

--SCHEDULE 5

1. S. No.	5
2. Name of the post	Senior Technician
3. Classification, Character and status of the post	General Central Services Group 'C' non-gazetted, non-ministerial
4. Scale of pay of the post	Rs. 380-12-500-EB-15-560 (now revised to Rs. 1320-30-1560-EB-40-2040)
Method of recruitment and percentage of vacancies to be filled up by	
5. Direct recruitment	Not applicable
6. Promotion on selection	Not applicable
6. Promotion on seniority/fitness/transfer	100% by promotion failing which by transfer
	The promotion/transfer will be adhered to on zonal basis. Provided that transfer from one zone to another will be permissible only on the written request of the official concerned so transferred and on his agreeing to give his consent in writing that he has no objection to being treated as Junior to all the Senior Technicians already in the zone on the date of his joining the new zone
8. Age limit for direct recruitment	Not applicable
9. Educational and other qualifications required for direct recruitment	Not applicable
10. Period of probation if any	Two years
11. Whether age and educational qualifications for direct recruitment will apply in case of recruitment by promotion/transfer	Not applicable
12. In case of promotion/transfer, grades/sources from which promotion/transfer is to be made	<i>Promotion</i> Technicians with 3 years experience in the grade <i>Transfer</i> Persons working in similar and equivalent grade from other zone
13. If DPC exists, what is its composition	(1) Director (Engineering) dealing Chairman

Accepted
for
Approval

2/6

TO
The Chief Engineer(E/Z) Maintenance,
All India Radio & Doordarshan
Akashvani Bhavan
Eden Garden
Kolkata-700001

(Through Proper Channel)

Sub:- Anomalies of Draft Elligibility list for promotion of SEA to AE (25%) quota as on 1.1.2000,
D.G order no.-1/37/2000-S-IV(A)/71, Dated-7.2.2001.
CE. order no.-Z.Cadre-1(28)-2000-S, Dated-23.3.2001.

R/Sir,

With due respect , I like to draw your kind attention that , as per Draft Elligibility list for promotion SEA to AE DG. Order No.-1/22/99-S- IV(A) / 525 Dated -17.9.99 & CE Order No.-1(28) / 99-S Dated - 27.9.99, my name was Sr.No.-112. After publishing the promotion list of (25%) quota on 22.5.2000 and after eliminating the names of promoted persons , my position was 7th at All India basis and 2nd at East Zone basis.

Recently one Draft Elligibility list as on 1.1.2000 has been published on 7.2.2001 (DG Order No.-1/37/2000-S-IV(A)/71) and circulated by Zonal Office [Order No-1(28)-2000-S Dated-23.3.2001 CE (E/Z)]there my name is enlisted at Sr.No.-100. After eliminating the names of promoted persons, my position is 37th at All India basis and 2nd at East Zone basis.As per Sep-99 Elligibility list Sr.No.104 is the last man who got the promotion as per(25%)quota basis.

After verification of March -2001 Elligibility list, it has been clearly observed that suddenly 30 persons of others Zone have over taken my name/position at All India basis.It has also been observed that some junior persons who have not gotten the promotion have been shown senior to some persons who already got the promotion in previous list with comparing the Sep-99 Elligibility list.

AS per previous Elligibility list published on Sep-99 , the said 30 persons of others Zone, whose name and Sr. No was behind of my name and Sr.No. I think it is a great anomalies in the recent Elligibility list of SEA toAE published/circulated mentioned above.

So, it is my earnest request, necessary action may kindly be taken from your end for corrective measure. One comparative list between Sep-99 and March-2001 is attached herewith for ready reference.

Thanking you,

Yours Faithfully

Kartick Chandra Pal
(Kartick Ch. Pal)
SEA-AIR-KOLKATA
Dated- 17.4.2001

*Attested
Jee
Adwani*

Compare list between Eligibility list Sep-99 and March-2001

<u>Station</u>	<u>Zone</u>	<u>Eligibility List Sep-99</u> <u>SR.-No.</u>	<u>Eligibility List Mar.</u> <u>2001 SR.-No.</u>
Rajiv Kulshreshita CPC-TV Delhi(S.Fort)	North	105	6
N.V.Mathew FM-AIR Jhalwar	North	109	11
K.G.Srimali Lptv-Banswara	North	113	14
Kamlesh pacholi AIR-Udaipur	North	117	18
Sunil Kr. Tyagi CE(N/Z)AIR-Delhi	North	126	24
Rajkumar CPC-TV Delhi(S.Fort)	North	129	28
Ram Avtar Lptv-Karnal	North	133	30
Ved Prakash FM-AIR-Chittorgarh	North	138	33
Rabindra Kr. Ranjan Kingsway AIR-Delhi	North	141	38
Subrata Sen AIR-Gorakhpur	North	145	42
Sanjeev Kumar HPTV-Bhatinda	North	149	45
R.K.Sachdeva LPTV-Pithorgarh	North	153	50
Manohar Lal LPTV-Mehroni	North	157	54
Satyapal Singh Kingsway AIR-Delhi	North	165	57
Smt. Sushma Ahluwalia HPTV-Pitampura N.Delhi	North	173	61
S.R.Vedavalli DDK-Chennai	South	106	63
Vrishti CPC-TV(S.Fort)Delhi	North	177	65
Smt.Veena Khanna FM-AIR-Bhadarwah	North	185	70

*Attested
Jain
Advocate*

*Ravik Chandra Bala
17.4.2001*

Shasi K. a Puri LPTV-Pathankot	North	189	74
M.A.Rahim AIR-Hyderabad	South	115	75
S.L.Nilogi LPTV-Chikodi	South	118	78
Harish Sharma LPTV-Kesariyaji	North	193	80
Mukesh Kr.Sharma DDK-Lucknow	North	197	81
Smt. R.N.Geetha AIR-Bangalore	South	127	82
Smt. A.A.Nanjoshi CE(W/Z)Mumbai	West	107	83
K.M.Chourasia LPTV-Narsingpur	West	110	85
N.C.Sen LPTV-Sirohi	North	202	86
Susan Philip George LPTV-Adoor	South	131	87
Avinesh Kumar AIR-FM-Chittorgarh	North	206	89
R.B.Parmar DDK-Almedabad	West	119	91
G.M.Krishna PGF-Vijayawada	South	136	92
P.P.Choudhari LPTV-Nandurbar	West	122	93
* K.Tirunna! Mani LPTV-Tiruppathur	South	139	94
J.P.Ameta AIR-Udaipur	North	214	95
Rajesh Singhal BH-AIR-Delhi	North	218	98
M.Hymavati DDK-Hyderabad	South	142	99
Kartick Ch. Pal AIR-Kolkata	East	112	100

Alleged
Law
Advocate

Kartick Chandra Pal
17.4.2001

29

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
ALL INDIA RADIO : KOLKATA

No.Kol21(2)/93-S(KCP)

Dated 23rd April, 2001

To

The Chief Engineer(EZ) Maintenance,
All India Radio and Doordarshan,
Akashvani Bhawan,
Kolkata.

Sir,

Enclosed kindly find the representation submitted
by Sri K.C. Paul, Senioring Engineering Assistant of this
Station which is Self-explanatory.

Yours faithfully,

SAF

(A.K. Patney)
Sr. Administrative Officer
for Station Director

Encl : As above.

Copy to :-

✓ Sri K.C. Paul, SEA, AIR, Kolkata.

b. l. g.
for Station Director

*Alerted
Jen
Adrocali*

30

ANNEXURE - III

**PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
AKASHVANI BHAVAN: NEW DELHI**

No.1/5/2000-SIV (B)

Dated 20 May, 2000

ORDER NO.29/2000-SIV(B)

Director General, All India Radio hereby promotes the following Senior Engineering Assistants under 25% quota of promotion for 1998-99 and appoints them as Assistant Engineers in off class from the date they report for duty at the respective Stations of All India Radio, Deordarshan as indicated against them :

S.No.	Name	Posted at	Posted to
	S/Srini		
1.	Smt. Reem Ghidhar	DDK, Delhi	LPT, Jind
2.	M.M. Khare	RPTV, Gwalior	DDK, Gwalior
3.	Smt. Nishi Gadi	DDK, Delhi	LPT, Rewari
4.	M. Subramanian	LPT, Hospet	LPT, Hospet
5.	R. Jyotsnawati	LPT, Rani Bannur	LPT, Rani Bannur
6.	Manglesh Kr. Gandhi	LPT, Banswara	LPT, Kushalgarh
7.	S.K. Bassai	HPT, AIR, Phampur, Delhi	HPT, AIR, Khampur, Delhi
*8.	Smt. Arati Chatterjee	AIR, Shrawastipur	O/o CE(EZ)AIR & DDU, Calcutta
9.	M.H. Goel	AIR(ES) Delhi	O/o CE, Guwahati AIR Role
*10.	Prabir Kr. Sanyal	LPT, Ghatsila	DDK, Daiting, Guj
11.	S. F. Gupta	DDK, Jaipur	LPT, Hindaun
*12.	Swapan Kumar Nath	DDK, Guwahati	LPT, Padua
13.	Praveen Bhatia	DDK, Delhi	DDK, Mumbai
*14.	Tapan Kumar Bhattacharjee	LPT, Chaibasa	LPT, Chaibasa
15.	R.K. Sharma	LPTV Gangapur	LPTV, Hallong
*16.	Smt. Chitraki Lahiri	DDK, Calcutta	LPT, Krishnanagar

*Accepted
for
Advocate*

30

Contd.....

(2)

ANNEXURE - IV

**PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
AKASHVANI BHAVAN: NEW DELHI**

No.1/6/2000-SIV (B) (Pt.1)

Dated 26th May, 2000

ORDER NO.31/2000-SIV(B)

Director General, All India Radio hereby promotes the following Senior Engineering Assistants under 25% quota of promotion for the year 1999-2000 and appoints them as Assistant Engineers in officiating capacity from the date they report for duty at the respective Stations / Offices of All India Radio/Doordarshan as indicated against them :

S.No.	Name	Posted at	Posted to
	<u>S/Shri</u>		
1.	Madhuresh	AIR Kottak	LPT, Golaghat
2.	P.F. Jethwani	AIR Baroda	LPT, Una
*3.	Asish K. Guha Roy	LPT Dhubri	LPT, Gohpur
4.	Rajesh Panwar	LPTV Pali-Marwar	HPT, Jodhpur
5.	Vijay Kumar Pandey	AIR Rewa	LPT, Rewa
*6.	Smt. Aruna Kar	AIR Coimbatore	DDK, Jalpaiguri
7.	Smt. Rita Merve	DDK, Jalandhar	LPT, Mandi Dabwali
8.	Sabbiah	HPT AIR Aweil	LPT, Pavagadda
*9.	Smt. Barati Chowdhury	AIR Shillong	AIR, Shillong
10.	Smt. L. S. Upreti	DDK, Delhi	DDK, Delhi
*11.	Smt. Manjushree Chandra	DDK, Coimbatore	DI gartala
12.	Pratik Ray	AIR FM Delhi	R. Inagar (HQ, Jammu)
*13.	Ashvini Kumar	LPTV, Godda	LPTV, Godda
14.	Narayan Lal Sharma	AIR, Chittoargarh	LPT, Mandasaur
*15.	Smt. Sudarshan Mondal	AIR, Gangtok	HPT, Cuttack
16.	Hridayesh Sahu	AIR, Gaya	HPT, Bhuj
17.	Balakrishnan Nair W.	DDK, Trivandrum	HPT, Moh. Achung
18.	D.R. Verma	AIR, Ahmedabad	LPT, Tharad
*19.	Vinayak Joshi	LPTV, Joda	LPT, Joda
20.	Virendra Kumar	DDK, Bareilly	LPT, Bokahat

Attested for Advocates

SCO

Contd.

21.	Ram Saehi Rani	DDK, Bhopal	LPT, Chanderi
22.	Thomas P.G.	LPTV, Changanacherry	LPT, Medikeri
*23.	Kalyan Kr. Parmank	HPT, Gangtok	LPT, Dimapur
24.	Rajni Knt Jain	DDK, Jaipur	LPT, Bhadra
25.	Marudhavanan K.	AIR, Chennai	LPT, Deverkonda
26.	B.M.Mishra	DMC, Itarsi	LPT, Pachmarhi
27.	V.R.Sainake	DDK, Mumbai	DDK, Mumbai
*28.	Amiya Kr. Ray	AIR, Chinsurah	LPT, Kendrapara
*29.	Rhymal Kr. Naskar	DDK, Ranchi	DDK, Patna
*30.	Ravindranath Surman	AIR, Cuttack	AIR, Haripada
*31.	Jagdish Chandu Das	AIR, Hazaribagh	LPT, Gumla

2. These officers indicated in the above list may be relieved immediately. Engineering Heads may kindly ensure that CRs of the above officials are completed before relieving them from station. Date of relieving and joining may be intimated to this Directorate urgently.

3. These promotions are subject to decisions in O.A. NO. and O.A. No. and other such court cases lying in various Benches of Hon'ble CAT and High Courts/ Supreme Court

4. Hindi version follows.

S. C. D. W.

(G.C. DAS)
DY. DIR. OF ADMN.(E)
TELE. NO. 3710233

To:

1. Chief Engineer(NZ)/(WF)/(SZ)/(EZ)/(R&D), All India Radio and Doordarshan, New Delhi/Mumbai/Chennai/Calcutta/New Delhi.
2. Concerned Heads of Stations/Offices of AIR/Doordarshan.
3. Pay & Accounts Officer, IRLA-Ministry of I&B, AGCR Building, I.P. Estate, New Delhi-110002.
4. Officers concerned.
5. Personal files of officers concerned.
6. Director of HR (Joint R.S. House, CB, B(D)), Shastri Bhawan, New Delhi.

Contd.....

*Allocated
Approved*

- 33357

(4)

ANNEXURE - V

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
AKASHVANI BHAVAN: NEW DELHI

No.1/6/2000-SIV (B) (Pt.II)

Dated 22nd May, 2000ORDER NO.33/2000-SIV(B)

Director General, All India Radio hereby promotes the following Senior Engineering Assistants on Ad-hoc basis under 25% quota of promotion for the year 1999-2000 till 31.12.2000 or further orders whichever is earlier, and appoints them as Assistant Engineers in officiating capacity from the date they report for duty at the respective Stations / Offices of All India Radio/Doordarshan as indicated against them :

S.No.	Name	Posted at	Posted to
	<u>S/Shri</u>		
*1.	Ramakrishna Chatterjee	LPT, Jamshedpur	HPTV, Katihar
2.	N.K.Kansal	LPT, Tanakpur	LPT, Lakhimpur
3.	R.N.Mulkarni	LPT, Kanke - Kanpur	LPT, Rajshahi
4.	Smt S. Mathavale	AIR, Pondicherry	O/o CE(SZ), AIR and DDU., Chennai
*5.	Abjad Ali	LPT, Gopalganj	LPT, Forbesganj
6.	Smt. Rajni Pundir	AIR, Ayanagar, Delhi	LPT, Firozepur Jirka
7.	Ram Kalap S.Maurya	AIR, Bombay	DDK, Varanasi
8.	B.Sunder Rajan	LPT, Vaniyambadi	LPT, Madurai
*9.	Ms. Indra Patnaik	HPTV, Bhavanipatna	HPTV, Bhavanipatna
10.	Labh Chandra Swarnakar	DDK, Jaipur	LPT, Nagaur
11.	D.V.Patil	HPTV, Aurangabad	HPTV, Dwarka
12.	Smt.Soundari N.	AIR, Madhurai	LPT, Nattam
13.	Vijay Kumar Gupta	CE(R&D)	LPT, Palampur
	P. Secre	LPT, Jaipur	LPT, Shaba
15.	Smt. A. S. Devi	LPT, KGM	DDK, Bangalore

Sd/-

Contd.....2/-

*Attested
 New
 Advocates*

25

ANNEXURE - VI

प्रसार भारती
PRABAR BHARATI
भारतीय प्रसारण निगम
(BROADCASTING CORPORATION OF INDIA)
आयोजनाधीन सामान्यशाखा
DIRECTORATE GENERAL: ALL INDIA RADIO
आयोजनाधीन भवन : नई दिल्ली
AKASHVANI BHAVAN: NEW DELHI

No.10/2001-SIV(R)(P.II)

Dated the 18th July, 2001

ORDER NO.28/2001-SIV(R)

The Competent Authority hereby promotes the following Senior Engineering Assistants on Ad-hoc basis under 25% quota of promotion for the year 2000-2001 for a period of six months or until further orders whichever is earlier, and appoints them as Assistant Engineers on ad-hoc basis from the date they report for duty as Assistant Engineer:

Sl.No	Name	Present Place of Posting	Place of posting on promotion
1	R. Dhanaasmy	AIR, Tiruchirapalli	LPT, Pasolghat
2	R. Devanadane	DDK, Pondicherry	LPT, Hallong
3	Smt. S.R. Vedavalli	DDK, Chennai	LPT, Gangawati
4	Smt. A.A. Nanjooshi	CE(WZ), Mumbai	LPT, Surat
5	K.M. Chourasia	LPT, Narsingpur	LPT, Jowai
6	R.B. Parmar	DDK, Ahmedabad	LPT, Bantwa
7	P.P. Choudhary	LPT, Mandurbar	LPT, Rajpipla
8	S.L. Nilgaj	LPT, Chikodi	LPT, Hattihal
9	R.S. Upadhyay	DDK, Mumbai	LPT, Dimapur
10	Smt. R.N. Geetha	AIR, Bangalore	SPT, AIR, Bangalore
11	Smt. Susan Phillip George	LPT, Adoor	HPT, Cochin
12	W.C. Rahakwar	LPT, Panna	DDK, Shillong
13	G.M. Krishna	DDK, Vijayawada	LPT, Gidloor
14	Arjun Singh	LPT, Harda	LPT, Badamalohara
15	K. Tirumal Mani	LPT, Madanpalli	LPT, Cuddapah
16	Anurag Kr. Shrivastava	DDK, Bhopal	HPT, Poona
17	Smt. M. Hymavati	DDK, Hyderabad	LPT, Jagual
18	U.C. Gupta	AIR, Anbilapur	AIR, Lunglei
19	M. Munirathnam Naidu	LPT, Arcot	LPT, Machherla
20	P.S. Moharil	LPT, Dharambad	LPT, Umargaoi
21	Rajiv Kulshrestha	CFC-TV-Delhi	DDK, Jammu
22	Kaleem Ahmed	HPT, Kurnool	LPT, Amjapuram
23	Joyram Prasad Bharil	LPT, Nawada	DDK, Daltonganj

Contd.....2/-

*Attest
Law
Advocate*

36

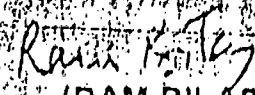
10:

2:

24	N.V. Mathew	FM, AIR, Jhalawar	AIR, Imphal
25	Smt. Neela Chandrasekhar	DDK, Bangalore	LPT, Sagara (Karnataka)
26	P.G. Gokhle	O/o CE (WZ), AIR & DDn., Mumbai	LPT, Una
27	Sanjay Sadhu Khan	DDK, Kolkata	LPT, Athamalk
28	K.G. Srimall	LPT, Banawara	LPT, Shahpura
29	Hari Chandra Das	DDK, Guwahati	HPT, Churachandpur
30	Smt. J. Vishwanathan	VBS, AIR, Mumbai	RW, AIR, Mumbai
31	Kamlesh Pacholi	LPT, Chittorgarh	HPT, Barmer
32	Ashim Kumar Debnath	AIR, Purnia	LPT, Purnia
33	V.D. Kasture	LPT, Nagda	LPT, Devgarhbaria
34	Ms. J. Jhanvi	DDK, Bangalore	LPT, Ariskere
35	Harindra Mohan Goswami	DDK, Guwahati	LPT, Hatsingmarl
36	D. Mukharjee	LPT, Bhavnagar	LPT, Dhari
37	Ms. B.G. Santha	AIR, Bhadravati	AIR, Hyderabad

2. This promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right on the persons concerned for continuance of ad-hoc promotion or regular promotion in the grade or seniority in the grade of Assistant Engineer. The appointing authority also reserves the right to cancel at any time the ad-hoc promotion and revert them to the post from which they are being promoted.

3. The above mentioned officials may be relieved from their present posting as Senior Engineering Assistant immediately. Engineering heads may kindly ensure that CRs of the above officials are completed before relieving them from station. Date of relieving and joining may be intimated to this Directorate urgently.


 (RAM BILAS)
 DEPUTY DIRECTOR OF ADMN.(E)
 Tele: 3713998

- To,
1. Chief Engineer, (NZ)/(WZ)/(SZ)/(EZ), All India Radio & Doordarshan, New Delhi/ Mumbai/ Chennai/ Kolkata.
 2. Pay & Accounts Officer, IRLA-Ministry of I&B, AGCR Building, I.P. Estate New Delhi-110002.
 3. Officers concerned.
 4. Personal files of officers concerned.

Contd.....3/-

*Attested
Secy
Advocate*

37

-3:-

- Concerned Heads of Stations/Offices of AIR/Doordarshan.
- Ministry of I&B (Shri B.S. Rawat, US, B(D)), Shastri Bhavan, New Delhi.
- A&G/Vigilance/Welfare/S.III/SIV(A)/D(S)Cell/EDP Cell.
- DB:Doordarshan (SIV Section), Mandi House, New Delhi
- DO:Doordarshan (Vig. Section), Mandi House, New Delhi-110001.
- Chief Engineer(TV), DG:Doordarshan, Mandi House, New Delhi.

Copy also to:

- PS to E-In-C/PS to CE(D)/PS to CE(M)/PS to CE(P)/PS to CE(MR)/Director (EPM)/Director(EA)/Dir.Engg. (HQ)/Dir. (A&F)/Dir. STI(T)/DDO(A)/DDA(E)
- Shri Despak Mahrotra, General Secretary, AIR & Doordarshan Engineers' Association, (Room No.333, Akashvani Bhavan) New Delhi - 110 001.
- Shri G.Verma, President, Graduate Engineers' Association, C-1, Radio Colony, Kingway Camp, Delhi - 110 009.
- Shri B.S. Meena, President, Association of Radio & Television Engineering Employees, Post Box No.422, New Delhi - 110 001.
- General Secretary, AIR & Doordarshan Technical Employees Association, Post Box No. 736, New Delhi-110 001.
- Shri N.S. Samar, General Secretary, All India Akashvani & Doordarshan SC/ST Employees Welfare Association, 2678-2680, Bagichi Raghunath, Sadar Thana Road, Delhi - 110 000.
- Guard file.
- Spere copies - 100.

Kumar [Signature]
 DY, DIRECTOR OF ADMN. (E)

Superintending Engineer
 DDK, Guwahati/Catania/Hyderabad

This 'Fax Message' may kindly be handed over to Sh. Dayal Tuli, VP (NE2), ARTEE, C/O. DDK, Guwahati, Sh. Manas Gupta, VP (E2), ARTEE, C/O. Sh. A. Raghuraj, Assn. Secy (Org), SZ, ARTEE, C/O. DDK, Hyderabad immediately.

*Alister
 Secy
 Assoc.*

[Signature]
 22/1/78
 M. CHOWDHURY
 Asst. General Secretary
 AIR & D. Delhi

3/6

ANNEXURE - VII

To,

The Director General,
(Kind attention Shri K. M. Pal E-in C)
Prasar Bharati,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi- 100 001

THROUGH PROPER CHANNEL

Sub :- By-pass in the promotion from SEA to AE.

Ref :- 1/9/2001-SIV(B)(Pt. II) Dt. 18.7.2001 order no. 28/2001-SIV(B)

Sir,

I have to honour to state that the above mentioned order has been issued by your good office regarding promotion from "Sr. Engg. Asstt. to Assistant Engineer" on Seniority-cum-fitness. It has been noticed that myself is not considered in the same order, though so many junior persons got promotion as per existing all India seniority list/eligibility list. As per my seniority position I expected the same promotion in this order. The cause of by-passing may be due to mistake or any other causes.

In this regard it is to be informed you that in my service career. I have tried my level best to serve this media. I have served so many difficult AIR, Stations like AIR, Tawang 2½ yrs. and AIR, Gangtok 2yrs with full ^{responsibility} ~~behaviour~~ & sincerity. I am satisfied with the behaviour of senior and junior colleague. I have never been received any C/R extract, warning or any other advise from the higher official for any deviation/lapse in my working field. On the contrary there are so many occasions higher officials apprise/admire me for taking initiative the job which was not assigned to me. So naturally this phenomenon is very disappointing, frustrating and painful to me.

"All India Seniority" list/eligibility list are being attached ^{here} ~~have~~ with for your ready reference. So, it is my earnest request that necessary action may kindly be taken in response to my appeal and undersigned also may kindly be informed accordingly as earliest to disappear the frustration & mental agony.

Thanking you,

Dated :-

Yours faithfully,

Kartick Chandra Pal

(KARTICK CH. PAL)

Sr. Engineering Assistant

~~Prasar Bharati~~

All India Radio, Itanagar

*Attested
Prasar
Advocate*

38

ANNEXURE - VIII

प्रसार भारती
 PRASAR BHARATI
 ..(भारतीय प्रसारण निगम)
 (BROADCASTING CORPORATION OF INDIA)
 आकाशवाणी महानिदेशालय
 DIRECTORATE GENERAL: ALL INDIA RADIO
 आकाशवाणी भवन ; नई दिल्ली
 AKASHVANI BHAVAN: NEW DELHI

No.1/12/2001-SIV(B) | 839

Dated 23.10.2001

Subject :- By-pass in the promotion from SEA to AE in respect of Shri Kartick Chand Pal, Senior Engineering Assistant, AIR, Itanagar.

Reference Station Director, AIR, Itanagar's letter No.Ita-21(2)/KCP/2001-S dated 24.09.2001 on the subject noted above.

2. The Station Director is requested to inform Shri Kartick Chand Pal, SEA, AIR, Itanagar that his name was considered by the DPC for promotion from SEA to AE but he was not found fit for the promotion.

Ram Bilas
 (RAM BILAS)
 DEPUTY DIRECTOR OF ADMN.(E)
 P : 3713996

The Station Director,
All India Radio,
ITANAGAR.

Kartick Chand Pal, SEA. from

*Attested
 Ram Bilas
 Advocate*

10/11

Swamy's Compilation on
SENIORITY
and
PROMOTION
in
Central Government Service
[Incorporating orders received up to July 2000]

MUTHUSWAMY
AND
BRINDA

SWAMY PUBLISHERS (P) LTD.
236, R. K. Mutt Road, Post Box No. 2468, CHENNAI — 600 028
Phone: 493 83 65 Fax: 493 83 63

Delhi Branch:

SWAMY PUBLISHERS (P) LTD.
4855, 24, Ansari Road, Daryaganj, NEW DELHI — 110 002
Phone: 325 92 56 Fax: 328 16 97

Ph: No-248 39

217 13

LAWPOINT

6C, R. K. Mutt Road, Chennai

*Alerted
Law
Advocate*

II

Consolidated Orders on Seniority

Government of India, Department of Personnel and Training,
Office Memorandum No. 22011/7/86-Estt. (D), dated the 3rd July, 1986

Instructions issued from time to time laying down the principles for determining seniority of persons appointed to services and posts under the Central Government have been consolidated in this Office Memorandum. The original communications consolidated here are reproduced (Items I to VII) at the end of this OM.

Seniority of Direct Recruits and Promotees

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.

2.2 Where promotions are made on the basis of selection by a DPC, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority, subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior, such persons shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him.

¹["Provided that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior General/OBC candidate who is promoted later to the said immediate higher post/grade, the General/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade."]

2.3 Where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority ²[would be determined by the order of merit indicated at the time of initial appointment and not according to the date of confirmation].

1. Added *vide* G.I., Dept. of Per. & Trg., O.M. No. 20011/1/96-Estt. (D), dated the 30th January, 1997 and takes effect from 30th January, 1997.

2. Modified *vide* G.I., Dept. of Per. & Trg., O.M. No. 20011/5/90-Estt. (D), dated the 4th November, 1992.

Accepted
As Associate

W

2.4.1 The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

2.4.2 If adequate number of direct recruits do not become available in any particular year, rotation of quotas for the purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees.

In other words, to the extent direct recruits are not available, the promotees will be bunched together at the bottom of the seniority list below the last position up to which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however, be carried forward and added to the corresponding direct recruitment vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number according to the usual practice. Thereafter in that year, while seniority will be determined between direct recruits and promotees, to the extent of the number of vacancies for direct recruits and promotees as determined according to the quota for *that year*, the additional direct recruits selected against the carried forward vacancies of the previous year would be placed *en bloc* below the last promotee (or direct recruit as the case may be), in the seniority list based on the rotation of vacancies for that year. The same principle holds good for determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in the subsequent year.

Illustration.— Where the Recruitment Rules provide 50% of the vacancies of a grade to be filled by promotion and the remaining 50% by direct recruitment, and assuming there are ten vacancies in the grade arising in each of the years 1986 and 1987 and that two vacancies intended for direct recruitment remain unfilled during 1986 and they could be filled during 1987, the seniority position of the promotees and direct recruits of these two years will be as under—

- | 1986 | 1987 |
|-------|--------|
| 1. P1 | 9. P1 |
| 2. D1 | 10. D1 |
| 3. P2 | 11. P2 |
| 4. D2 | 12. D2 |
| 5. P3 | 13. P3 |
| 6. D3 | 14. D3 |
| 7. P4 | 15. P4 |
| 8. P5 | 16. D4 |
| | 17. P5 |
| | 18. D5 |
| | 19. D6 |
| | 20. D7 |

Attested
for
Signature

In cases in which absorptions are not strictly in public interest, the absorbed officers will be placed below all officers appointed regularly to the grade on the date of absorption."

These orders will not be applicable to absorptions within the Indian Audit and Accounts Department which are governed by orders issued by the C & AG from time to time.]

8. Persons appointed on *ad hoc* basis to a grade without consultation with the UPSC under Regulation 4 of the UPSC (Exemption from Consultation) Regulations, 1958, are to be replaced by persons approved for regular appointment by direct recruitment, promotion or absorption, as the case may be. Until they are replaced, such persons will be shown in the order of their *ad hoc* appointment and below all persons regularly appointed to the grade.

EXPLANATORY MEMORANDUM

General Principle 4.— The Union Public Service Commission invariably indicate the order of preference at the time of selection and it will not, therefore, be difficult to determine the relative seniority of persons recruited through the Commission. In order to obviate difficulties on determining the relative seniority of direct recruits recruited otherwise than through the UPSC, the selecting authority should indicate the order of merit at the time of selection.

General Principle 5 (i).— Where promotions are made on the basis of selection by a Departmental Promotion Committee, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior, such person shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior person who had superseded him.

[If a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who is promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade.]

General Principle 5 (ii).— *Illustration.*— Where 75% of the vacancies in the grade of Head Clerks are reserved for promotion from the grade of Upper Division Clerks and 25% from the grade of Storekeepers, the eligible Upper Division Clerks and Storekeepers shall be arranged in separate lists

1. Added *vide* G.I., Dept. of Per. & Trg., O.M. No. 20011/1/96-Estt.(D), dated the 30th January, 1997.

Attested
Law
Advocate

with reference to their relative seniority in those grades. The DPC will make selection of three candidates from the list of UDCs and one from the list of Storekeepers. Thereafter the selected persons from each list shall be arranged in a single list in a consolidated order of merit assessed by the DPC which will determine the seniority of the persons on promotion to higher grade.

Clarification.— The above illustration relates to a situation where promotion is made by a single DPC from more than one stream and by selection. This principle cannot be applied to cases where there is a separate DPC for promotion from either stream and the method of selection from either stream may also vary. It is clarified that in such cases the principle of rotation of vacancies between different streams will have to be followed and not General Principle 5 (ii) referred to above. For instance, if promotion to a grade is made 50% from Grade 'A' and 50% from Grade 'B' through separate DPCs., vacancies in the promotion quota may be filled in the order A1, B1, A2, B2, A3, etc., assuming that A1, A2, A3 are the candidates included in the select list of Grade 'A' and B1, B2 are those included in the select list of Grade 'B'.

[G.I., Dept. of Per. & Trg., O.M. No. 20020/4/89-Estt. (D), dated the 7th February, 1990.]

General Principle 6.— A roster should be maintained based on the reservation for direct recruitment and promotion in the Recruitment Rules. Where the reservation for each method is 50%, the roster will run as follows:— (1) Promotion, (2) Direct Recruitment, (3) Promotion, (4) Direct Recruitment and so on. Appointments should be made in accordance with this roster and seniority determined accordingly.

Illustration.— Where 75% of the vacancies are reserved for promotion and 25% for direct recruitment, each direct recruit shall be ranked in seniority below 3 promotees. Where the quotas are 50% each, every direct recruit shall be ranked below a promotee. If for any reason, a direct recruit or a promotee ceases to hold the appointment in the grade, the seniority list shall not be rearranged merely for the purpose of ensuring the proportion referred to above.

General Principle 7 (i).— The Principle laid down in Para. 7 (i) will not present any difficulty where recruitment by absorption is made singly and at intervals but it will be found wanting in cases where two or more persons are selected from different sources on the same occasion and the selection is spread over a number of days. It will, therefore, be necessary for the authorities responsible for approving appointments by absorption to indicate the *inter se* order of merit of the selected person in such cases.

General Principle 8.— While the seniority of persons appointed on an *ad hoc* basis will be determined as indicated in Para. 8 of this Annexure, the seniority list should clearly show that a person is not eligible for promotion or confirmation.

Alles Ted
Jee
Advocate

4.2.4 The ACR folder should be checked to verify whether the ACRs for the individual years are available. For this purpose, the pro forma enclosed (Annexure-IV) should be filled in and sent to UPSC. If the ACR for a particular year is not available and for valid/justifiable reasons, it cannot be made available, a certificate should be recorded to that effect and placed in the ACR folder.

[While sending DPC proposals to the Union Public Service Commission, all Ministries/Departments should attach a statement showing the penalties imposed on the officers within the zone of consideration during a period of ten years preceding the year of DPC. Ministries/Departments are also requested to ensure that copies of orders imposing the penalties and decisions taken on appeals, if any, are kept in the respective CR dossiers, as required under the extant instructions.]

4.2.5 *Furnishing of integrity certificate.*— The integrity certificate on the lines indicated below should be furnished to the DPCs constituted to consider cases for promotion or confirmation—

“The records of service of the following officers who are to be considered for promotion/confirmation in the grade have been carefully scrutinized and it is certified that there is no doubt about their integrity.”

If there are names of persons, in the list of eligible candidates, whose integrity is suspect or has been held in doubt at one stage or other, this fact should also be specifically recorded by the Ministry/Department/Office concerned and brought to the notice of the DPC.

4.2.6 Where the UPSC is associated with the DPC, the certificate will be recorded by an officer not below the rank of a Deputy Secretary to the Government. Where UPSC is not associated, the officer-in-charge of the Administration section in the Ministry/Department/Office concerned who processes and submits names and particulars of eligible officers to the DPC should himself record the certificate.

4.2.7 It should be ensured that the information furnished to the UPSC/DPC is factually correct and complete in all respects. Cases where incorrect information has been furnished should be investigated and suitable action taken against the person responsible for it.

Consideration of officers on deputation

4.3.1 The names of the officers who are on deputation, either on their own volition or in public interest (including foreign service), should also be included in the list submitted to the DPC for consideration for promotion in case they come within field of choice for promotion and fulfil the prescribed eligibility conditions. Similarly, the names of the officers on deputation should also be included in the list of names to be considered by the DPC for confirmation, in case they are eligible for confirmation and come within the range of seniority.

Attested
for
deputation

4.3.2 Very often a certain number of years of service in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to a higher post/grade. In such cases, the period of service rendered by an officer on deputation/foreign service, should be treated as comparable service in his parent Department for purposes of promotion as well as confirmation. This is subject to the condition that the deputation/foreign service, is with the approval of the competent authority and it is certified by the competent authority that but for deputation/foreign service, the officer would have continued to hold the relevant post in his parent department. Such a certificate would not be necessary if he was holding the departmental post in a substantive capacity.

Consideration of officers on Study Leave

4.4 An officer proceeding on study leave should be treated on the same basis as an officer proceeding on deputation, if the study leave was duly sanctioned by the competent authority and the competent authority certified that he would have continued to officiate but for his proceeding on study leave. Such a certificate would not be necessary if he was holding the said departmental post substantively. These instructions would also apply in the cases of Government servants who are granted special leave for training abroad under the various training schemes.

Consideration of Direct Recruits

4.5 It may happen that a Government servant who is recommended for appointment to a post as a direct recruit may also be among those eligible for consideration for promotion to the same post. An officer does not lose his right of consideration for such promotion merely because he has been recommended for appointment against the direct recruitment quota. Therefore, such officers, if they are within the field of eligibility, should be included in the list of officers for consideration by the DPC, excepting where an officer was holding the lower post in a temporary capacity and has been appointed to the higher post as a direct recruit before the date of the meeting of the DPC.

Reservation for SCs/STs

4.6 Instructions have been issued from time to time by the Department of Personnel and Training regarding reservations and concessions to SCs and STs in the matter of promotions and confirmations. These instructions should be duly taken into account by the appointing authorities while formulating proposals for promotion/confirmation for consideration of the DPC.

PART - IV

PROCEDURE TO BE OBSERVED

5. *No personal interview unless specifically provided in the Rules.*— Each Departmental Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. No interviews should be held unless it has been specifically provided for in the

*Alleged
Jin
Advocate*

47

8: SWAMY'S—SENIORITY AND PROMOTION

Recruitment Rules for the post/service. Whenever promotions are to be made by the method of "Selection-cum-Seniority" and "Selection by Merit" by DPC and the Administrative Ministry desires that an interview should form part of the selection process, necessary provision should be made in the Recruitment Rules.

Selection Method

6.1.1 Where promotions are to be made by "Selection-cum-Seniority" and "Selection by Merit" method as prescribed in the Recruitment Rules, the DPC shall, for the purpose of determining the number of officers who will be considered from out of those eligible officers in the feeder grade(s), restrict the field of choice as under with reference to the number of clear regular vacancies proposed to be filled in the year:

No. of vacancies	No. of officers to be considered
1	5
2	8
3	10
4	10 + twice the number of vacancies in excess of three vacancies

(See statement below)

STATEMENT

Vacancies	Zone of consideration	Vacancies	Zone of consideration	Vacancies	Zone of consideration
1	5	10	24	19	42
2	8	11	26	20	44
3	10	12	28	30	64
4	12	13	30	40	84
5	14	14	32	50	104
6	16	15	34	60	124
7	18	16	36	70	144
8	20	17	38	80	164
9	22	18	40	90	184
				100	204
				(x)	2 x (x) + 4

The existing provision relating to extension of the field of choice to five times the number of vacancies in respect of SC/ST will, however, continue [Para. 6.3.2 (i)]. The intention is to have an extended zone of five times the number of vacancies in all cases where adequate number of SC/ST candidates

1. G.I., Dept. of Per. & Trg., O.M. No. 22011/1/90-Estt. (D), dated the 12th October, 1990 and 22nd April, 1992.

*Attested
New
Advocates*

are not available in the normal zone of a smaller size. For a single vacancy, there is no intention to extend the zone. The normal zone and the extended zone for vacancies will accordingly be as follows:—

No. of vacancies ..	Normal Zone	Zone for consideration for SC/ST
1	5	5
2	8	10
3	10	15
4	12	20
5 and above	Twice the number of vacancies + 4	5 times the number of vacancies

Guidelines for DPCs

6.1.2 At present DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them. In order to ensure greater selectivity in matters of promotions and for having uniform procedures for assessment by DPCs, fresh guidelines are being prescribed. The matter has been examined and the following broad guidelines are laid down to regulate the assessment of suitability of candidates by DPCs.

6.1.3 While merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance as reflected in the annual confidential reports and based on strict and rigorous selection process.

6.1.4 Government also desires to clear the misconception about "Average" performance. While "Average" may not be taken as adverse remark in respect of an officer, at the same time, it cannot be regarded as complimentary to the officer, as "Average" performance should be regarded as routine and undistinguished. It is only performance that is above average and performance that is really noteworthy which should entitle an officer to recognition and suitable rewards in the matter of promotion.

Evaluation of Confidential Reports

6.2.1 Confidential Rolls are the basic inputs on the basis of which assessment is to be made by each DPC. The evaluation of CRs should be fair, just and non-discriminatory. Hence—

- (a) The DPC should consider CRs for equal number of years in respect of all officers considered for promotion subject to (c) below.
- (b) The DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to

*Allected
New
Advocate*

W

SWAMY'S — SENIORITY AND PROMOTION

the CRs for 5 preceding years. However, in cases where the required qualifying service is more than 5 years, the DPC should see the record with particular reference to the CRs for the years equal to the required qualifying service. (If more than one CR has been written for a particular year, all the CRs for the relevant year shall be considered together as the CR for one year.)

[If two alternative eligibility conditions are prescribed and the officers satisfying these conditions are considered simultaneously instead of under a "failing which" clause, the DPC may consider the service record of all officers with particular reference to the ACRs (including ACRs in respect of service in the lower grade, if necessary) for the lesser number of years as between the two alternative periods of eligibility service or five years, whichever is longer. To cite an instance, if for promotion to a post in the scale of ²Rs. 5,900-6,700, it is prescribed in the Recruitment Rules that officers with 8 years' service in the scale of ²Rs. 3,700-5,000 or those with 17 years service in Group 'A' including four years service in the scale of ²Rs. 3,700-5,000 are eligible, the DPC may consider the service record of all officers with particular reference to the ACRs for 8 years (including Annual Confidential Report for service in the lower grade, if necessary).]

- (c) Where one or more CRs have not been written for any reason during the relevant period, the DPC should consider the CRs of the years preceding the period in question and if in any case even these are not available, the DPC should take the CRs of the lower grade into account to complete the number of CRs required to be considered as per (b) above. If this is also not possible, all the available CRs should be taken into account.
- (d) Where an officer is officiating in the next higher grade and has earned CRs in that grade, his CRs in that grade may be considered by the DPC in order to assess his work, conduct and performance, but no extra weightage may be given merely on the ground that he has been officiating in the higher grade.
- (e) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes.
- (f) If the Reviewing Authority or the Accepting Authority, as the case may be, has overruled the Reporting Officer or the Reviewing Authority, as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment, provided it is apparent from the relevant entries that the higher

1. G.I., Dept. of Per. & Trg., O.M. No. 22011/5/86-Estt. (D), dated the 20th June, 1989 and Corrigendum, dated the 13th July, 1989.

2. IV Pay Commission Pay Scale.

*Accepted
for
Advocate*

authority has come to a different assessment consciously after due application of mind. If the remarks of the Reporting Officer, Reviewing Authority and Accepting Authority are complementary to each other and one does not have the effect of overruling the other, then the remarks should be read together and the final assessment made by the DPC.

6.2.2 *Grading of officers.*— In case of each officer, an overall grading should be given. The grading shall be one among (i) Outstanding, (ii) Very Good, (iii) Good, (iv) Average, (v) Unfit excepting cases covered under Para. 6.3.1 (iii).

6.2.3 Before making the overall grading after considering the CRs for the relevant years, the DPC should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any superior officer or authority has been conveyed to him as reflected in the ACRs. The DPC should also have regard to the remarks against the column on integrity.

6.3.1 *Principles to be observed and preparation of panel.*— The list of candidates considered by the DPC and the overall grading assigned to each candidate, would form the basis for preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of the panel:—

SELECTION-CUM-SENIORITY AND SELECTION BY MERIT

- (i) Having regard to the levels of the posts to which promotions are to be made, the nature and importance of duties attached to the posts, a benchmark grade would be determined for each category of posts.

For all Group 'C', Group 'B' and Group 'A' posts (up to and excluding the level of Rs. 3,700-5,000), the benchmark would be 'Good' and will be filled by the method of Selection-cum-Seniority as indicated in sub-para. (iii).

- (ii) In respect of posts which are in the level of Rs. 3,700-5,000 and above, the benchmark grade should be 'Very Good' and will be filled by the method of Selection by Merit as indicated in sub-para. (iv).

- (iii) Each Departmental Promotion Committee while considering the suitability of officers for promotion to posts for which the benchmark has been determined as 'Good' would grade the officers as 'Good', 'Average' and 'Unfit' only. Only those officers who obtain the grading of 'Good' will be included in the panel in the order

1. IV Pay Commission Pay Scale.

*Accepted
J. V.
Advocate*

of their seniority in the lower grade, subject to availability of vacancies.

- (iv) Notwithstanding the provisions mentioned above, in the case of promotions made for induction to Group 'A' posts/services from lower groups, while the benchmark would continue to be 'Good', the DPC shall grade the officers as 'Outstanding', 'Very Good', 'Good', 'Average' and 'Unfit' as the case may be, and the officers will be arranged according to the grading obtained, placing the 'Outstanding' officers on top followed by those graded as 'Very Good' and so on in the select panel up to the number of vacancies, with the officers having the same grading maintaining their *inter se* seniority in the feeder grade.

AUTHORS' NOTE:— No need to scrutinize ACRs of all eligible candidates covered by the zone of consideration after the DPC has assessed the employees, equal to the number of vacancies, as 'Good'.— See O.M., dated 6-11-1998 (SL No. 4).

SELECTION BY MERIT

- (v) In respect of services/posts for which the benchmark has been determined to be 'Very Good', each DPC would grade the officers as 'Outstanding', 'Very Good', 'Good', 'Average' and 'Unfit' as the case may be. However, only those officers who are graded as 'Very Good' xxxxx and above will be included in the select panel, by placing the officers graded as 'Outstanding' on top followed by those graded as 'Very Good', subject to availability of vacancies, with the officers with the same grading maintaining their *inter se* seniority in the feeder grade.
- (vi) Appointments from the panel shall be made in the order of names appearing in the panel for promotion.
- (vii) Where sufficient number of officers with the required benchmark grade are not available within the zone of consideration, officers with the required benchmark will be placed on the panel and for the unfilled vacancies the appointing authority should hold a fresh DPC by considering the required number of officers beyond the original zone of consideration.

6.3.2 *In the case of SC/ST officers.*— (i) In promotions by "Selection-cum-Seniority" and "Selection by Merit" to posts/services within Group 'A' which carry an ultimate salary of ¹[Rs. 5,700 p.m. or less, in the IV PC pay scale], the SCs/STs officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included.

(ii) In promotion by "Selection-cum-Seniority" and "Selection by Merit" to posts/services in Group 'B' within Group 'B' and from Group 'B'

1. G.I., Dept. of Per. & Trg., Corrigendum No. 22011/5/86-Estt. (D), dated the 17th October, 1990.

*Alister
J. H. H. H. H.*

to the lowest rung in Group 'A', selection against vacancies reserved for SCs and STs will be made only from those SCs/STs officers, who are within normal zone of consideration. Where adequate number of SCs/STs candidates are not available within the normal field of choice, it may be extended to five times the number of vacancies and the SCs/STs candidates coming within the extended field of choice should also be considered against the vacancies reserved for them.

(iii) As regards promotions made by "Selection-cum-Seniority" and "Selection by Merit" in Group 'C' and Group 'D' posts/services, Select Lists of SCs/STs officers should be drawn up separately in addition to the general select list, to fill up the reserved vacancies. SCs/STs officers who are within the normal zone of consideration, should be considered for promotion along with and adjudged on the same basis as others and those SCs and STs amongst them, who are selected on that basis may be included in the general Select List.

AUTHORS' NOTE.—All provisions providing for lower qualifying marks for Scheduled Caste/Scheduled Tribe candidates in departmental qualifying/competitive examinations for promotion have been withdrawn. Similarly, instructions providing for consideration of SC/ST candidates without reference to merit and the prescribed "benchmark" have also been rescinded *vide* O.M. No. 36012/23/96-Estt. (Res.), dated the 22nd July, 1997.

Preparation of Year-wise panels by DPC where they have not met for a number of years

6.4.1 Where for reasons beyond control, the DPC could not be held in a year(s), even though the vacancies arose during that year (or years), the first DPC that meets thereafter should follow the following procedures:—

- (i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.
- (ii) Consider in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.
- (iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on.

— Procedure to be followed by the Departmental Promotion Committees in regard to retired employees.— ***

2. Doubts have been expressed in this regard as to the consideration of employees who have since retired but would also have been considered for promotion, if the DPC(s) for the relevant year(s) had been held in time.

*Alister
for
approval*

83

SWAMY'S — SENIORITY AND PROMOTION

of 1978; the latest available records of service of the officers either up to December, 1977, or the period ending March, 1978, as the case may be, should be taken into account and not the subsequent ones. However, if on the date of the meeting of the DPC, departmental proceedings are in progress and under the existing instructions sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalized.

6.4.4 *Promotions only prospective.*— While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year(s).

Non-Selection Method

7. Where the promotions are to be made on 'non-selection' basis according to Recruitment Rules, the DPC need not make a comparative assessment of the records of officers and it should categorize the officers as 'fit' or 'not yet fit' for promotion on the basis of assessment of their record of service. While considering an officer 'fit', guidelines in Para. 6.1.4 should be borne in mind. The officers categorized as 'fit' should be placed in the panel in the order of their seniority in the grade from which promotions are to be made.

Confirmation

8. In the case of confirmation, the DPC should not determine the relative merit of officers but it should assess the officers as 'fit' or 'not yet fit' for confirmation in their turn on the basis of their performance in the post as assessed with reference to their record of service.

Probation

9. In the case of probation, the DPC should not determine the relative grading of officers but only decide whether they should be declared to have completed the probation satisfactorily. If the performance of any probationer is not satisfactory, the DPC may advise whether the period of probation should be extended or whether he should be discharged from service.

Efficiency Bar

* * * *

Procedure to be followed by DPC in respect of Government servants under cloud

[11.1 At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:—

- (i) Government servants under suspension;

I. G.I., Dept. of Per. & Trg., O.M. No. 22011/4/91-Estt. (A), dated the 14th September, 1992 — Paras. 2.2.1 and 2.2.

*Attested
for
Advocate*

- SM
- (ii) Government servants in respect of whom a charge-sheet has been issued and the disciplinary proceedings are pending; and
 - (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

11.2 *Sealed cover procedure.*— The DPC shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above along with other eligible candidate without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including "Unfit for Promotion", and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "Findings regarding suitability for promotion to the grade/post of in respect of Shri. (name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution against Shri.". The proceedings of the DPC need only contain the note "The findings are contained in the attached sealed cover". The authority competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

11.3 *Procedure by subsequent DPCs.*— The same procedure outlined in Para. 11.2 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.]

In case of *ad hoc* promotion also

It has been decided that the "Sealed Cover Procedure" prescribed in the Department of Personnel and Training, O.M. No. 22011/4/91/Estt. (A), dated 14-9-1992 referred to above may be followed at the time of consideration for *ad hoc* promotion also in the case of Government servants—

- (i) who are under suspension;
- (ii) in respect of whom a charge-sheet has been issued and the disciplinary proceedings are pending; and
- (iii) in respect of whom prosecution for a criminal charge is pending.

Ministries/Departments are requested to bring the aforesaid instructions to the notice of all concerned and to take action accordingly.

[G.I., Dept. of Per. & Trg., O.M. No. 28036/2/98-Estt. (D), dated the 23rd February, 1999.]

Adverse remarks in a CR

[12.1 Where the Departmental Promotion Committee find that the adverse remarks in the Confidential Report of an officer have not been communicated to him but the adverse remarks are of sufficient gravity to influence their assessment of the officer concerned, then the Committee shall defer

1. G.I., Dept. of Per. & Trg., O.M. No. 22011/3/88-Estt. (D), dated the 11th May, 1990.

Attested
for
Advocate

5

SWAMY'S — SENIORITY AND PROMOTION

consideration of the case of the officer, provided these remarks have been recorded in any of the CRs pertaining to three immediately preceding years prior to the year in which the DPC is held and direct the cadre controlling authority concerned to communicate the adverse remarks to the officer concerned so that he may have an opportunity to make a representation against the same. Where the uncommunicated adverse remarks pertain to a period earlier than the above or where the remarks are not considered of sufficient gravity to influence the assessment of the officer concerned, the DPC may proceed with the consideration of the case but may ignore the remarks while making the assessment.

12.2† After a decision is taken by the competent authority on the representation made by the Government servant or in the event of the Government servant not making any such representations, after the period therefor has expired, the DPC shall assess the suitability of the Government servant on the basis of the entries now contained in the CR. While considering the deferred case as above, if the DPC find the officer fit for promotion, the procedure prescribed in paragraphs 18.4.2 and 18.4.3 shall be followed.

12.3 In a case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the DPC may in their discretion defer the consideration of case until a decision on representation.

12.4 In both the cases referred to in Paragraphs 12.1 and 12.3 above, where the consideration of a case is deferred on account of adverse remarks contained in the Confidential Report, the concerned authority should intimate the result of the representation of the officer against the adverse remarks within a period of three months from the date of submission of the said representation, if any.]

13. *Punishment no bar in assessing suitability for promotion.*— An officer whose increments have been withheld or who has been reduced to a lower stage in the time-scale, cannot be considered on that account to be ineligible for promotion to the higher grade as the specific penalty of withholding promotion has not been imposed on him. The suitability of the officer for promotion should be assessed by the DPC as and when occasions arise for such assessment. In assessing the suitability, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of the general service record of the officer and the fact of the imposition of the penalty he should be considered suitable for promotion. However, even where the DPC considers that despite the penalty the officer is suitable for promotion, the officer should not be actually promoted during the currency of the penalty.

[Clarification.— It has now been decided in consultation with the Department of Personnel and Training that a Government servant, who is

1 C. & A.G. of India, New Delhi, Circular No. NGE/38/1990 (497-N. 2/39-90), dated the 30th August, 1990.

Attested
J. M. S. Rao
Secretary

found fit for promotion by the DPC held after the imposition of the penalty, need not be considered again for promotion by the subsequent DPCs merely because he could not be promoted during the life of panel due to currency of the penalty. After the expiry of period of penalty, the official concerned will be promoted from the same panel in which he was originally empanelled. On his promotion, his pay and seniority in the higher post will be fixed according to his position in the panel from which he is promoted. But the monetary benefit in the higher post will be admissibility only from the date of actual promotion.

As an illustration, an officer is undergoing a penalty of withholding of next increment for two years which will expire on 30-6-1992. The DPC which meets after the imposition of the above penalty for considering promotions during the panel year 1990 finds him fit for promotion in spite of the penalty and places him at position No. 2 in the panel for 1990. As the officer is undergoing penalty up to 30-6-1992, he can be promoted only thereafter. But on his promotion his pay and seniority in the higher post will be fixed according to his position in the panel for 1990 from which he stands promoted.]

14. *Recording of integrity certificate.*— The DPC should record in their minutes a certificate that the Department/Ministry/Office concerned has rendered the requisite integrity certificate in respect of those recommended by the DPC for promotion/confirmation.

Validity of the proceedings of DPCs when one member is absent

15. The proceedings of the Departmental Promotion Committee shall be legally valid and can be acted upon notwithstanding the absence of any of its members other than the Chairman, provided that the member was duly invited but he absented himself for one reason or the other and there was no deliberate attempt to exclude him from the deliberation of the DPC and provided further that the majority of the members constituting the Departmental Promotion Committee are present in the meeting.

PART - V

PROCESSING AND IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMITTEE

Processing of recommendations of DPC

16.1 The recommendations of the DPC are advisory in nature and should be duly approved by the appointing authority. Before the recommendations are so approved, the appointing authority shall consult all concerned as indicated below, without undue delay.

Consultation with UPSC

16.2 The recommendations of the DPC, whether it included a Member of the UPSC or not should be referred to the Commission for approval, if—

*Allotted
Joint
Associate*

Government servant; his case should be placed before the next DPC held in the normal course after the expiry of the two years period to decide whether the officer is suitable for promotion on *ad hoc* basis. Where the Government servant is considered for *ad hoc* promotion, the DPC should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

17.8.3 After a decision is taken to promote a Government servant on an *ad hoc* basis, an order of promotion may be issued making it clear in the order itself that—

- (i) the promotion is being made on purely *ad hoc* basis and the *ad hoc* promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel at any time the *ad hoc* promotion and revert the Government servant to the post from which he was promoted.

17.8.4 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the *ad hoc* promotion already made may be confirmed and the promotion treated as a regular one from the date of the *ad hoc* promotion with all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of this *ad hoc* promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in Para. 17.6.1 above.

17.8.5 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher Court or to proceed against him departmentally or if the Government servant is not fully exonerated in the departmental proceedings, the *ad hoc* promotion granted to him should be brought to an end.]

Sealed cover procedure applicable to officers coming under cloud after DPC meeting

17.9. A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in Para. 11.1 above arises after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted

Attested
Jain
Advocate

until he is completely exonerated of the charges against him and the provisions contained in this part will be applicable in his case also.

Date from which promotions are to be treated as regular

17.10 The general principle is that promotion of officers included in the panel would be regular from the date of validity of the panel or the date of their actual promotion, whichever is later.

17.11 In cases where the recommendations for promotion are made by the DPC presided over by a Member of the UPSC and such recommendations do not require to be approved by the Commission, the date of Commission's letter forwarding fair copies of the minutes duly signed by the Chairman of the DPC or the date of the actual promotion of the officers whichever is later, should be reckoned as the date of regular promotion of the officer. In cases where the Commission's approval is also required the date of UPSC's letter communicating its approval or the date of actual promotion of the officer, whichever is later, will be the relevant date. In all other cases the date on which promotion will be effective will be the date on which the officer was actually promoted or the date of the meeting of the DPC, whichever is later. Where the meeting of the DPC extends over more than one day the last date on which the DPC met shall be recorded as the date of meeting of the DPC.

Appointments to posts falling within the purview of ACC can, however, be treated as regular only from the date of approval of ACC or actual promotion, whichever is later, except in particular cases where the ACC approves appointments from some other date.

[*Relief of official on promotion.*— After careful consideration of the demand that a time-limit may be prescribed within which an official must be relieved of his duties from lower post on his promotion to higher post, and having regard to the relevant factors, it is directed that Government servants ordered for promotion should be relieved immediately on receipt of the relevant orders of promotion. In exceptional circumstances where the retention of the official in the lower post is felt absolutely necessary in exigencies of services, the fact may be brought to the notice of the controlling officers and orders sought for retention for a specific period ranging from 1-3 months depending on the merits of each case. While doing so it should specifically be brought to the notice of the controlling officer that the delay in relieving the officer will cause him pecuniary loss so that the retention may be avoided as far as possible.]

The matter has been raised again by the Staff Side in the National Council (JCM) and it has been decided to reiterate these instructions. It has

1. G.I., Dept. of Per. & Trg., O.M. No. 16/7/90-Estt. (Pay-I), dated the 9th September, 1992 and 20th March, 1995.

Attended
JCM
Advocate

also. However, it is directed that in the case of over-reporting of vacancies, a review DPC may be held only if the change in the number of vacancies would result in exclusion of any person(s) empanelled by the original DPC, on account of over-reporting of vacancies which led to inflated zone of consideration. As such, no review DPC need be convened where it may prove to be an infructuous exercise.

[G.I., Dept. of Per. & Trg., O.M. No. 22013/1/97-Estt. (D), dated the 13th April, 1998.]

AUTHORS' NOTE.— Non-reporting of vacancies due to error or omission — See Para. 6.4.2 (ii).

Scope and procedure

18.2 A Review DPC should consider only those persons who were eligible as on the date of meeting of original DPC. That is, persons who became eligible on a subsequent date should not be considered. Such cases will, of course, come up for consideration by a subsequent regular DPC. Further, the review DPC should restrict its scrutiny to the CRs for the period relevant to the first DPC. The CRs written for subsequent periods should not be considered. If any adverse remarks relating to the relevant period were toned down or expunged, the modified CRs should be considered as if the original adverse remarks did not exist at all.

18.3 A Review DPC is required to consider the case again only with reference to the technical or factual mistakes that took place earlier and it should neither change the grading of an officer without any valid reason (which should be recorded) nor change the zone of consideration nor take into account any increase in the number of vacancies which might have occurred subsequently.

Cases where adverse remarks have been expunged or toned down

18.4.1 In cases where the adverse remarks were toned down or expunged subsequent to consideration by the DPC, the procedure set out herein may be followed. The appointing authority should scrutinize the case with a view to decide whether or not a review by the DPC is justified, taking into account the nature of the adverse remarks toned down or expunged. In cases where the UPSC have been associated with the DPC, approval of the Commission would be necessary for a review of the case by the DPC.

18.4.2 While considering a deferred case, or review of the case of a superseded officer, if the DPC finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant select list/list of officers considered fit for confirmation or promotion after taking into account the toned down remarks or expunged remarks and his promotion and confirmation will be regulated in the manner indicated below.

*Attended
Shri
Advocate*

18.4.3 If the officers placed junior to the officer concerned have been promoted, he should be promoted immediately and if there is no vacancy, the juniormost person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed under FR 27 at the stage it would have reached, had he been promoted from the date the officer immediately below him was promoted but no arrears would be admissible. The seniority of the officer would be determined in the order in which his name, on review, has been placed in the select list by DPC. If in any such case a minimum period of qualifying service is prescribed for promotion to higher grade, the period from which an officer placed below the officer concerned in the select list was promoted to the higher grade, should be reckoned towards the qualifying period of service for the purpose of determining his eligibility for promotion to the next higher grade.

18.4.4 In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of review by the DPC, he should be confirmed and the seniority already allotted to him on the basis of review should not be disturbed by the delay in confirmation.

2

G.I., Dept. of Per. & Trg., O.M. No. 22011/9/98-Estt. (D),
dated the 8th September, 1998 read with O.M. of even number, dated the
13th October, 1998

Model Calendar for DPCs and related matters

The undersigned is directed to invite reference to the Department of Personnel and Training Office Memorandum No. 22011/5/86-Estt. (D), dated April 10, 1989 containing consolidated instructions on DPCs. These instructions *inter alia* provide that the DPCs should be convened at regular intervals (by laying down a *time schedule* for this purpose) to draw panels which could be utilized for making promotions against the vacancies occurring during the course of a year. This enjoins upon the concerned authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like seniority list, Annual Confidential Reports (ACRs), integrity certificates, etc., for placing before the DPCs. The instructions further provide that the DPCs should consider ACRs for equal number of years in respect of all officers considered for promotion. The DPCs should assess the suitability of the officers for promotion on the basis of their service records and with particular reference to the ACRs for five preceding years. However, in cases where the required qualifying service is more than five years, the DPCs should see the records with particular reference to the ACRs for the years equal to the required qualifying service. Instructions further provide that no proposal for holding a DPC or Selection Committee should be sent to the UPSC until and unless all the ACRs, complete and up-to-date, are available.

Attested
Signature
Adro wali

all concerned, including Attached/Subordinate Offices, for guidance and compliance.

4

G.I., Dept. of Per. & Trg., O.M. No. 22011/9/98-Estt. (D),
dated the 16th June, 2000

Relevant year up to which ACRs are to be considered

1. * * *

2. In regard to operation of the Model Calendar for DPCs, a doubt has been raised by certain quarters as to the question of the relevant year up to which ACRs are required to be considered by the DPCs. In this connection, it is once again clarified that only such ACRs should be considered which became available during the year immediately preceding the vacancy/panel years even if DCPs are held later than the schedule prescribed in the Model Calendar. In other words, for the vacancy/panel year 2000-2001, ACRs up to the year 1998-99 are required to be considered irrespective of the date of convening DPC.

3. Ministries/Departments are requested to give wide circulation to these clarifications for general guidance in the matter and also to ensure strict adherence to the time-schedule prescribed as per the Model Calendar for DPCs.

5

G.I., Dept. of Per. & Trg., O.M. No. 22011/8/98-Estt. (D),
dated the 6th November, 1998

Procedure to be observed by the DPC when mode of
promotion is Selection-cum-Seniority

The undersigned is directed to invite reference to Department of Personnel and Training O.M. No. 22011/5/91-Estt. (D), dated 27-3-1997 on the subject cited above. These instructions *inter alia* provide that in cases where mode of promotion is "Selection-cum-Seniority" and the prescribed benchmark is "Good", the employees are to be graded as "Good", "Average" and "Unfit" only. In such cases no supersession can take place and the employee who possess the benchmark "Good" are to be included in the panel in the order of their seniority in the lower grade. In this connection, it has been suggested by the Union Public Service Commission that there should be no need to scrutinize ACRs of all eligible candidates covered by the zone of consideration, after the DPC has assessed the employees, equal to the number of vacancies, as "Good".

2. The suggestion of the Commission has been considered by the Government and it has been decided to accept it. Accordingly, while the zone of consideration would remain as already prescribed, the DPC, in the aforesaid category of cases, may assess the suitability of employees in the zone of consideration for inclusion in the panel for promotion up to a number which is considered sufficient against the number of vacancies. With regard to the

Attested
Signature
Advocate

number of employees to be included in the panel, the DPC may also be required to keep in view the instructions issued *vide* Department of Personnel and Training O.M. No. 22011/18/87-Estt. (D), dated 9-4-1996 relating to norms for preparing extended panel for promotion. In respect of the remaining employees, the DPC may put a note in the minutes that "the assessment of the remaining employees in the zone of consideration is considered not necessary as sufficient number of employees with prescribed benchmark have become available".

3. Ministries/Departments are requested to bring these instructions to the notice of all concerned including their Attached/Subordinate Offices.

6

G.I., Dept. of Per. & Trg., O.M. No. 22011/9/98-Estt. (D),
dated the 1st February, 1999

Strict observance of Instructions on revised crucial date for determining the eligibility for promotion and Model Calendar for DPCs, reiterated

The undersigned is directed to invite reference to the Department of Personnel and Training Office Memorandum of even number, dated September 8, 1998, on the subject cited above.

2. It is brought to the notice of Ministries/Departments that in terms of Paragraph 10 of the aforesaid Office Memorandum, the MODEL CALENDAR FOR DPCs would become effective from April 1, 1999 in relation to the financial year-based vacancy year (2000-2001) commencing from April 1, 2000. In the case of calendar year-based vacancy year (2000), commencing from January 1, 2000, the Model Calendar for DPCs has already taken operational effect from January 1, 1999. Besides, instructions contained in Paragraph 9 of the aforesaid Office Memorandum which was further reiterated/clarified separately *vide* the Department of Personnel and Training Office Memorandum No. 22011/3/98-Estt. (D), dated September 17, 1998, prescribe January 1, as the crucial date for determining eligibility for promotion. Accordingly, it has also been provided that January 1, 2000 may be adopted as the crucial date in relation to the vacancy years commencing from January 1, 2000/April 1, 2000.

3. Ministries/Departments are requested to ensure strict compliance of the aforesaid instructions and time-schedule indicated in the Model Calendar for DPCs so that the desired objectives of convening DPC meetings/preparation of approved select panels within the prescribed time-frame may be achieved.

4. In accordance with the spirit of the direction contained in Cabinet Secretary's D.O. Letter No. DoP & T/39022/7/97-Estt. (B), dated November 19, 1997 addressed to all Secretaries to the Government of India [reiterated in Paragraph 4 of the aforesaid Office Memorandum, dated September 8, 1998 (Model Calendar for DPCs) read with DoP & T Office Memorandum No. 22011/9/98-Estt. (D), dated October 13, 1998], Joint Secretary/Additional Secretary, who may be administratively concerned in the matter are also

Attested
[Signature]
[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:::GUWAHATI.

O.A.NO.454 OF 2001

Shri K.C.Paul.

- Vs -

Union of India & Ors.

- AND -

IN THE MATTER OF:

Written statement submitted by
the Respondents. ^{to} 105

The Respondents beg to submit written statement as follows:-

1. That with regard to paras-4.1,4.2,4.3 & 4.4 of OA, the respondents beg to offer no comments.
2. That with regard to para- 4.5 of OA, the respondents beg to state that the eligibility lists of SEAs for the year 1999,2000 & 2001 for promotion to the grade AE were prepared by applying the method of interlacing. One senior most SEA from each zone was taken by rotation and arranged as per his seniority. The next seniormost candidate from each zone was taken and he was also arranged as per his seniority and placed below the first four candidates.

Contd.....P/2

Filed by

6/5/02

(M. DEB ROY)

Sh. G. G. G. C.

G. A. P. Guwahati Bench

in a cycle and so on, This procedure is followed every year based on the seniority list of 4 zones.

Since due to promotion of a few SEAs under 75% quota the yearwise seniority list of Zones changes, therefore the combined eligibility list sometimes, results in changing the relative position of some SEAs in subsequent year but his zonal seniority is not changed.

3. That with regard to para-4.6 & 4.7 of OA, the respondents beg to offer no comments.

4. That with regard to para-4.8 of OA, the respondents beg to state that it is submitted that the representation of applicant was considered for promotion alongwith the other eligible officers but the competent DPC and the appointing authority has not found him fit for promotion. Concerned office (i.e. AIR, Itanagar) had been informed vide DG, AIR's O.M.No.1/12/2001-SIV(B) dated 23.10.2001 and this has also been admitted by applicant in this statement in para-4.9 of the O.A.

5. That with regard to para-4.9 of CA, the respondents beg to state that the matter is of record. Vide DG, AIR's O.M.No.1/12/02001-SIV(B) dated 23.10.2001 AIR, Itanagar was requested to inform the applicant that he was considered for promotion but he was not found fit for promotion. There appears to be no reason on the face of the above memo. to suspect the fairness and clean-liness of selection. Further is submitted that the

Contd....P/3

applicant was considered for promotion along with other eligible officers but he was not found fit for promotion because his grading based on his CRs was not upto the Bench Mark prescribed for promotion. The post of AE is a selection post and the prescribed Bench Mark of CR grading for promotion is GOOD.

6. That with regard to para-4.10 of OA, the respondents beg to state that it is submitted that Average grading in CR is not treated as aderse remarks. There is no rule/instruction to communicate the average grading to concerned officer. The presumption of the applicant seems to be devoid of reason.

7. That with regard to para- 4.11 of OA, the respondents beg to state that in view of the position explained in above paragraphs it may be observed that there is no discrimination unfairness and arbitrariness on the part of respondents which can be constructed as vionation of Article 14 & 16 of the constitution of India. It is humbly prayed that O.A. may be dismissed with cost.

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

VERIFICATION.

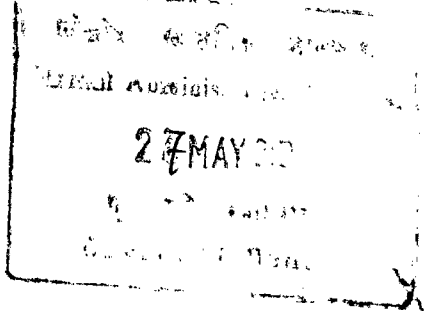
4

I, Shri **H.Thangluaia, AIR, Guwahati** presently
working as **Station Director** duly authorised and competent
(S.G.)
to sign this verification, do hereby solemnly affirm and
state that the statements made in para **1 to 7**
are true to my knowledge and belief, those
made in para
being matter of records, are true to my information
derived therefrom and the rest are my humble submission
before this Hon'ble Tribunal, I have not suppressed any
material facts.

and I sign this verification on this **2nd** day
of **May** 2002 at Guwahati.


(**H.THANGLUAIA**)
Declarant.

केन्द्र निदेशक
Station Director
बाराकबाणो, गुवाहाटी
All India Radio, Guwahati.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A. No. 454 of 2001

Sri Kartick Chandra Paul

-vs-

Union of India & Ors.

And

In the matter of :

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

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

1. That the applicant categorically denies the contentions made in paragraph 2 of the written statement and begs to submit that in each of the eligibility lists of SFA's for the year 1999, 2000 and 2001 published by the Respondents, some juniors were placed above the name of the applicant each time, which the applicant prayed for correction. Placing of juniors above senior is not tenable or sustainable under any procedure established by law, no matter whether it is the method of interlacing or whatsoever as stated by the respondents.
2. That the applicant categorically denies the statements made in paragraphs 4,5 and 6 of the written statement and begs to state that the Respondents while replying to the representation of the applicant, ^{vide their letter dtd-23.10.01 only informed that the applicant} was not promoted since the

13 yrs

Kartick Chandra Paul

*Filed by the applicant
through G.N. Chakravarty
Advocate on 17-5-01*

DPC and the appointing authority did not find him fit for promotion but no reason was assigned in that letter for which the applicant was found unfit. Now from the written statement of the Respondents, it transpires that the applicant was not promoted because his grading on CRs was not up to the Bench Mark prescribed for promotion and the Respondents further contended that since the Average grading in CR is not treated as adverse remarks, so it was not communicated to the applicant. Such a contention is opposed to the settled procedure of law and as such it only attracts suspicion on the fairness and cleanliness of selection for promotion adopted by the DPC/Respondents.

It is pertinent to mention here that it is a settled position of law that adverse remarks in ACR have to be communicated to the Officer concerned within 30 days of being recorded so and the un communicated adverse ACR cannot be acted upon by the DPC resulting to non-selection ^{for} of promotion of the concerned Officer. Further, as regards Average grading in ACR, it has been held in several judgments that even such average grading, if falls short of satisfying the required Bench Mark, amounts to Adverse Remarks and hence cannot be acted upon without being communicated to the Officer concerned. The Lucknow Bench of this Hon'ble Tribunal vide its judgment dated 10.10.2000 in O.A. No. 523/98 (Kalyanesh Kumar Bajpai Vs. U.O.I. & Ors.), under similar facts have held that -

"We are inclined to agree that a "good " or "average" grading in the ACR though not per se adverse would assume the character of adverse remarks in the context of the requirement of Bench

Partick chandra pal.

mark of "very good" to qualify for empanelment for promotion."

The principles quoted above apply in the case of this applicant as well who is similarly situated. The required bench mark for promotion of the applicant in this instant case is "Good" and since even this bench mark was not fulfilled/satisfied by the grading made in the ACR of the applicant, there cannot be any doubt that the remarks recorded in the ACR were adverse which was not communicated to the applicant at any point of time and eventually was acted upon by the DPC/respondents in an illegal and clandestine manner leading to non-selection of the applicant for promotion to the post of Assistant Engineer. The Hon'ble Tribunal be pleased to direct the respondents to produce all the records of DPC proceeding including the relevant ACRs considered by the DPC before the Hon'ble Tribunal for perusal and adjudication.

3. That the applicant emphatically denies the statements made in paragraph 7 of the written statement and begs to submit that the denial of promotion to the applicant on the basis of an un communicated adverse ACR by the DPC/Respondents is unfair, illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India.
4. That in the facts and circumstances, the applicant humbly submits that he is entitled to all the reliefs prayed for, and the O.A. deserves to be allowed with costs.

Ravindra Chandra Pal

VERIFICATION

I, Sri Kartick Chandra Paul, S/o Late Chuni Paul, aged about 44 years, working as Senior Engineering Assistant, All India Radio, Itanagar, Arunachal Pradesh, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of May, 2002.

Kartick chandra Paul,