

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: _____

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - B. Saanzalang

Respondants: - K.C. Mishra & Ors.

Advocate for the Applicants: - R.P. Mishra, B. Chakraborty, Mr. Upal Day
Mr. A. Deb Roy,

Advocate for the Respondants: - G. Chel

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the applicant praying for willful and deliberate violation and non-compliance of order dt. 4.2.02 passed by this Hon'ble Court in O.A 195/01 mb	21.5.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Member (A). None appears for the applicant. Put up again on 23.6.2003 for orders in present of learned counsel for the applicant.
laid before this Hon'ble Court for further order.	23.6.2003	None appears for the applicant. Put up again on 23.7.2003 for orders.
Section Officer. mb		

Notice prepared & sent to all for this the respondents
No 182 by Legd. A/P.
D/Mo 1668/66
Add 6/8/03
25/7

23.7.2003 Present : The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Member(A).

Heard Mr. U. Das, learned counsel for the applicant.

Issue notice to show cause as to why contempt petition shall not be initiated.

List on 25.8.2003 for orders.

Member

Vice-Chairman

mb

25.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

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

Mr. A. Deb Roy, learned Sr. C. G.S.C. stated that he has been instructed to appear on behalf of the respondent No.1 and prays for time for filing reply. Prayer is allowed. List on 24.9.2003 for orders.

Member

Vice-Chairman

mb

24.9.2003

Mr.A.Deb Roy, learned Sr.C.G.S.C. appearing on behalf of respondent no.1 prays for more time for filing of reply.

Prayer allowed. List the case on 28.10.2003 for reply.

Member

Vice-Chairman

bb

28.10.2003

List the case on 18.11.2003 for order. In the meantime respondents may file reply.

Member

Vice-Chairman

bb

No reply has been filed.

22.8.03

No written statement has been filed.

23.9.03

No reply has been filed.

27.10.03

17.11.03
no reply has been filed so far.

lms

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C.P. 28/2003 (In O.A. 195/2001)

Office Note	Date	Tribunal's Order
	18.11.2003	<p>Present : The Hon'ble Smt. Lakshi Swaminathan, Vice-Chairman.</p> <p>The Hon'ble Sri S.K. Naik, Administrative Member.</p> <p>None for the petitioner. Sri A. Deb Roy, learned Sr. C.G.S.C. for the respondents. Reply affidavit not filed. However, Sri A. Deb Roy, learned Sr. C.G.S.C. submits that Writ Petition has been filed by the respondents against the orders of the Tribunal dated 04.02.2002 in O.A. No. 195/2001 which is pending before the Hon'ble Gauhati High Court.</p> <p>It is further noted that none appeared for the petitioner on several dates when the C.P. has been listed excepting on 23.07.2003 when notices were issued on the C.P.</p> <p>In the above circumstances and noting the submissions of the learned Sr. C.G.S.C., it appears that the petitioner is not interested in pursuing the C.P. We further note that the issues raised in the C.P. are sub-judice before the Hon'ble Gauhati High Court. In the facts and circumstances of the case we do not consider it appropriate to continue with the C.P. at this stage. C.P. is accordingly dismissed. Notice to the alleged contemners are accordingly discharged.</p>
<p>19.11.2003</p> <p>Copy of the order has been sent to the office for issuing the same to the applicant as well as to the Sr. C.G.S.C. for the Respondent</p> <p>HS</p>		<p><u>Jack</u> Member</p> <p><u>Lakshi Swaminathan</u> Vice-Chairman</p>

C.P. 28/2003 (In O.A. 195/2001)

Office Note	Date	Tribunal's Order
	18.11.2003	<p>Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman. The Hon'ble Sri S.K. Naik, Administrative Member.</p> <p>None appeared for the applicant. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.</p> <p>Orders passed separately.</p> <p>Member Vice-Chairman</p>
	18.11.2003	<p>Orders passed separately.</p> <p>Member Vice-Chairman</p>

3.12.03

Copy of the order has been sent to the Dy Sec. for issuing the order to the applicant as well as to the R.C.G.S.C.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No. 28 of 2003 (In O.A.195/2001).

Date of Order : This the 18th Day of November, 2003.

The Hon'ble Smt. Lakshi Swaminathan, Vice-Chairman.

The Hon'ble Shri S.K.Naik, Administrative Member.

Sri B. Suanzalang, I.F.S.

Divisional Forest Officer, Aizwal
Forest Division, Aizwal, Mizoram

...Petitioner

None present for the petitioner.

- Versus -

1. Shri K.C.Mishra, IAS,
Secretary to the Govt. of India,
Ministry of Environment & Forests,
Pariyavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi-3.

2. Shri M.K.Sharma, IFS,
Director General of Forests-
cum Special Secretary, Govt. of
India, Ministry of Forests &
Environment, Pariyavaran Bhavan,
CGO Complex, Lodhi Road, New Delhi-3.

...Respondents

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

O R D E R (ORAL)

SMT.LAKSHMI SWAMINATHAN (V.C)

None for the petitioner. Sri A.Deb Roy, learned Sr.C.G.S.C for the respondents. Reply affidavit not filed. However, Sri A.Deb Roy, learned Sr.C.G.S.C submits that ^aWrit Petition has been filed by the respondents against the orders of the Tribunal dated 04.02.2002 in O.A.No.195/2001, which is pending before the Hon'ble Gauhati High Court.

2. It is further noted that none has appeared for the petitioner on several dates when the C.P. has been listed excepting on 23.07.2003 when notices were issued on the C.P.

3. In the above circumstances and noting the submissions of the learned Sr.C.G.S.C, it appears that the petitioner is not interested in pursuing the C.P. We further note that the

contd..

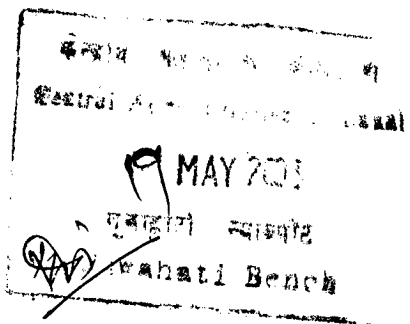
issues raised in the C.P. are sub-judice before the Hon'ble Gauhati High Court. In the facts and circumstances of the case, we do not consider it appropriate to continue with the C.P. at this stage. C.P. is accordingly dismissed. Notice to the alleged contemners are accordingly discharged.

S.K. Naik

(S.K.NAIK)
ADMINISTRATIVE MEMBER

Lakshmi Swaminathan

(LAKSHMI SWAMINATHAN)
VICE CHAIRMAN



Filed by the petitioner
through:
Sri Uttal Das, Advocate
12/5/2003.

IN THE HON'BLE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH - GUWAHATI

CIVIL CONTEMPT PETITION NO. 28 /2003

In O.A No. 195/2001

Sri B. Suanzalang, I.F.S.

Divisional Forest Officer, Aizwal
Forest Division, Aizwal, Mizoram .

.....Applicant/Petitioner

Versus

1. Shri K. C. Mishra, IAS,

Secretary to the Govt. of India,
Ministry of Environment & Forests,
Pariyavaran Bhavan, CGO Complex,
Lodhi Road, New-Delhi-3.

2. Mr. M.K.Sharma; IFS.

② The Director General of Forests-
cum-Special Secretary, Govt. of
India, Ministry of Forests &
Environment, Pariyavaran Bhavan,
CGO Complex, Lodhi Road, New-Delhi-
3.

.....Respondents

In the matter of :-

An application under Article 17 of
the Administrative Tribunal Act, 1985
for Contempt of Court.

.....Contd.

-And-

In the matter of :-

Willful and deliberate violation and non-compliance of order dated 4.2.2002 of this Hon'ble Central Administrative Tribunal, Guwahati Bench passed in O.A No. 195/2001.

The humble petition of the petitioner above named-

MOST RESPECTFULLY SHEWETH:

1. That the petitioner is presently posted as Divisional Forest Officer, Aizwal Forest Division, Aizwal Mizoram.
2. That the petitioner approached this Hon'ble Tribunal by filing a petition which was registered as O.A No. 195/2001 claiming therein that he having joined the service as Assistant Conservator of Forest in the year 1979, he was entitled to be appointed on promotion to the Indian Forest Services in the year 1987. But due to various reasons such as delay in confirmation, non-holding of annual Selection Committee meeting as envisaged under Rule 5 of the IFS (Appointment by Promotion) Regulation, 1966 and non-reviewing the cadre after every three years as par IFS (Cadre) Rules, 1966, the petitioner was denied of promotion in time. The petitioner carves leave to rely on the O.A. No. 195/2001 if required so at the time of hearing of this application.

.....Contd.

3. That the Hon'ble Tribunal upon hearing the parties vide an order dated 4.2.2002 disposed of the said application with a direction that the petitioner should not suffer for delay in confirmation and for non holding the Annual Selection Committee meeting. This Hon'ble Tribunal accordingly passed a direction for deciding the case of the petitioner afresh as done in the case of J & K state SFS officers and the entire process was to be completed within three months from the date of receipt of the order.

A copy of the said order dated 4.2.2002 passed in O.A. 195/2001 is annexed herewith as **Annexure-A.**

4. That the petitioner after obtaining the certified copy of the said order dated 4.2.2002 submitted the same before the Respondents in the first week of March, 2002 and when no action followed even after repeated pursuance, the petitioner served a legal notice through his advocate on 28th of March, 2003..

A copy of the said legal notice dated 28.3.2003 is annexed herewith as **Annexure B.**

5. That it is stated that the respondents till date have not comply with the order dated 4.2.2002 passed in O.A No. 195/2001 and for same the Respondents are liable to be prosecuted as per provisions of law. The said order dated 4.2.2002 have not been challenged in any appeal or any other proceeding before any forum.

.....Contd.

6. That by not taking any decision as per order dated 4.2.2002 of this Hon'ble Tribunal in O.A No. 195/2001, the action of the Respondents is a clear violation of the Hon'ble Tribunal's orders and direction. The respondents have willfully violated and flouted the order of the Hon'ble Tribunal. By willfully not complying the Respondents have shown scant regard to this Hon'ble Tribunal's order and by such willful flouting of the order, has shown disrespect to the authority of this Hon'ble Tribunal.
7. That the Respondents are guilty of offense of contempt of court under the Contempt of Court Act read with the relevant rules and procedures under the Central Administrative Tribunal Act, 1985 for willful and negligent act and for violating the Tribunal's order dated 4.2.2002 and for same, the Respondents are liable to exemplary punishment and to be prosecuted for the same.
8. That this petition is made bonafide and in the interest of justice.

In the premises aforesaid it is therefore humbly prayed that your Lordships will be pleased to admit this application, call for records of the case, peruse the same and issue notice upon the Respondents asking them to appear personally before this Tribunal to show cause as to why they should not be proceeded against for offence of contempt of court under the Contempt of Court Act read with

.....Contd.

relevant provisions of the Administrative Tribunal Act, 1985 and why an exemplary punishment should not be passed on them for willful violation of the order dated 4.2.2002 passed in O.A No. 195/2001 by this Hon'ble Tribunal, and after hearing the parties, punish the Respondents accordingly and/or pass such and/or other order/orders/ directions as your Lordships deem fit and proper.

And for this act of your kindness the humble petitioner shall ever pray.

.....Contd.

DRAFT CHARGE

That the petitioner states that the Respondents named herein this petition are liable to be prosecuted under the relevant provisions of the Administrative Tribunal Act, 1985 read with the relevant provisions of the Contempt of Court Act, 1971 for willful defiance of the order dated 4/2/2002 passed in O.A. No. 195/2001 by this Hon'ble Tribunal.

.....Contd.

AFFIDAVIT

I, Sri B. Suanzalang, presently working as Divisional Forest Officer, Aizwal Forest Division, Aizwal, aged about 48 years, by profession Govt. servant do hereby solemnly and state as follows:

1. That I am the petitioner in the instant case as thus competent to swear this affidavit.
 2. That the statements made in this petition from paragraphs 1, 2 and 5 to 7 are true to my knowledge and belief and those in paragraphs 3 and 4 are being matters of information derived from records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.
- And I sign this verification on this 12/11 day of May, 2003.

Identified by

B. Chakraborty

Advocate.

solemnly affirmed and declared by the above named deponent identified by B. Chakraborty, Advocate on the date as mentioned above.

Gautam Bikkal Rao.
12/5/03
Advocate Guwahati.

..... Could

B. Suanzalang
(B. Suanzalang)

Original Application No. 195 of 2001.

Date of Order : This the 4th Day of February, 2002.

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

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

Sri B.Suanzalang, I.F.S.
Divisional Forest Officer
Aizawl Forest Division, Aizawl
Mizoram.

. . . Applicant.

By Advocate Mr.R.P.Sharma, Mr.B.Chakrabarty
& Mr.A.Nath.

- Versus -

1. Union of India
Through the Secretary
Ministry of Forest & Environment
Govt. of India, Paryavaran Bhawan
C.G.D.Complex, Lodhi Road
New Delhi-110 003.

2. State of Mizoram
Through the Secretary
Forest & Environment
Govt. of Mizoram, Aizawl.

3. The Union Public Service Commission
Dholpur House, Sajhan Road
New Delhi-110001 (Through its Secretary).

. . . . Respondents.

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

ORDER

CHOWDHURY J.(V.C.) :

The applicant is a member of Indian Forest Service and was appointed as such in terms of sub-rule (1) of Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966 read with sub-regulation (1) of regulation 9 of the Indian Forest Service (Appointment by promotion) Regulations, 1966 in the Mizoram segment of AGMUT cadre. The applicant came from the State Forest Service, Mizoram wherein he was initially appointed as Assistant Conservator of Forests in 1979. He was confirmed in the State

Contd.. 2

Certified of the True Copy

[Signature]
Advocate

- 2 -

- 8 -

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Forest Service of Mizoram in the post of Assistant Conservator of Forests, with effect from 19.10.1984 vide order dated 9.1.1989. In the seniority list of the State Forest Officers his name was placed at Sl. No.2. The applicant in this application, claimed that since he completed the required length of service in 1987 in the State Forest Service and became eligible for consideration for promotion he ought to have been promoted in the year 1987. For reasons not known the respondents did not consider the applicant for promotion in the year 1987 and he was only promoted in the year 1996.

2. The respondents submitted its written statement contesting the claim of the applicant. In the written statement, it was asserted that with the conferment of statehood on a number of UTs in the late eighties the erstwhile Union Territories Cadre of IFS was reconstituted as Arunachal Pradesh-Goa-Mizoram - Union Territories (AGMUT) joint Cadre of IFS and notified vide Department of Personnel and Training Notification No. 11031/35/88-AIS (II)B dated 28.12.1988. With this Notification, the UT Cadre of IFS ceased to exist and the last time promotion of State Forest Service (SFS) officers to the UT cadre of IFS was made in 1987. Consequent on the reconstitution of the UT cadre of IFS as joint AGMUT cadre of IFS, several vital issues had to be addressed and sorted out before further promotion of State Forest Service Officers to any of the constituent units of the joint cadre could be made. It had constituted the Joint Cadre Authority for all the three All India Service of the Joint AGMUT vide D.O.P.T-Notification No.13013/1/89-AIS(I) dated 3.4.1989. While the powers and functions was to be exercised by each of the constituent units of the joint cadre, the Joint Cadre Authority and the Cadre Controlling Authority at the centre

Contd.. 3

namely Ministry of Environment & Forests were considered by the Ministry, the Department of Personnel & Training reconstituted the Joint Cadre Authority exclusively for IAS and IPS of the Joint AGMUT cadre vide Notification No.14015/40/92-AIS(1) dated 11.12.1992 and advised the respondents to suggest revised constitution of JCA exclusively for IFS of the Joint Cadre. The matter was taken up before the Central Administrative Tribunal, Principal Bench and the Hon'ble Bench of the Tribunal by its judgment dated 2.6.94 in O.A.222/94 ruled that the JCA constituted for the IFS of the Joint AGMUT cadre vide Notification dated 3.4.89 continued to exist and that set all the doubts at rest. Thereafter it had to undertake the exercise of notional allocation of the promotion quota posts for IFS to the units of the Joint cadre in proportion to their sanctioned Senior Duty Posts as was done in other two All India Services of Joint Cadre. The JCA also had to undertake the notional allocation of the promotee IFS Officers of the Joint Cadre to the constituent Units, after which only a clear picture could emerge about the number of promotion quota vacancies in each constituent unit of Joint Cadre. There was also the cadre review of the Joint AGMUT Cadre of IFS in 1995, resulting in increase in the number of posts in the cadre as also in the promotion quota for the constituent Units. For all these developments it took a long time, as a result of which no meeting of the Selection Committee as provided in the IFS (Appointment by Promotion) Regulations, 1966 could be held after 1987 till 1995 and the first meeting of the Selection Committee after the UT cadre was reconstituted as Joint AGMUT cadre of IFS was held in 1996 on the basis of which the applicant was appointed on promotion to the Indian Forest Service.

Contd.. 4

3. The respondents also in the written statement indicated that in the year 1987, when promotion to the UT Cadre of IFS was last made from the eligible State Forest Service (SFS) Officers, there was no proposal from the Govt. of Mizoram for promotion to IFS. The applicant was considered by the Selection Committee in its next meeting held in 1996 and as a result of which he was promoted to IFS and his seniority/year of allotment was fixed as per rules.

4. We have heard Mr. B. Chakrabarty, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents at length. The materials on record clearly indicated that no Selection Committee meeting was held from 1987 till 1996. Whatever the reason may be, no selection was made to the IFS during the aforesaid period though there were clear vacancies. Holding of the Selection Committee meeting each year is a duty on the respondents. Selection Committee is required to meet every year for the purpose of making selection from amongst the State Civil Service Officers who fulfil the conditions regarding eligibility on the first day of January of the year in which the Committee meets and fall within the zone of consideration. Failure on the part of the Selection Committee to meet during a particular year would not dispense with the requirement of preparing the Select List for that year. If for any reason the Selection Committee was not able to meet during a particular year, the Committee when it met next would, while making the selection, have prepared a separate list for each year keeping in view the number of vacancies in that year after considering the State Civil

Contd.. 5

Service Officers who were eligible and fell within the zone of consideration for selection in that year. The statute ^{imposed} a mandatory duty. By not holding the Selection Committee meeting for a long period unfairly affected the career progress of the State Civil Service Officers. Delay in holding the Selection Committee meeting caused undue hardship on the applicant. If the Selection Committee meeting would have held timely as prescribed by statute, the applicant would have earned appointment much earlier in the Indian Forest Service and thereby would have got higher year of allotment and seniority. Mr. B. Chakrabarty, learned counsel for the applicant referred to earlier decision of this Bench dated 1.1.2002 rendered in case of State Forest Service and Govt. of Arunachal Pradesh in O.A. 266/2000, wherein this Bench took notice of the Govt. of India decision relating to IFS J & K cadre vide Memorandum No. 18014/07/95-IFS.II dated 28.2.1997. In the J & K case the Govt. of India took a decision in terms of the All India Services (Conditions of Services Residuary matters) Rules, 1960 to mitigate the hardship that arose due to the delay in holding the meeting of the Selection Committee. In the case of Arunachal Pradesh also this Bench took note of the said decision and accordingly directed the respondents to take up the matter afresh in conformity of law and to pass a reasoned order.

Considering the facts and set of circumstances of the case, we are of the opinion that it is a case in which the respondent authority is required to examine the matter afresh in accordance with the provisions of law. We are also of the view that the applicant ought to have been considered for selection

when he became eligible for promotion. The act of delay in confirming the applicant and similarly situated persons cannot deprive them from consideration for promotion to IFS in due time. The applicant could not be penalised for not issuing the formal confirmation order to the applicant in appropriate time.

In the circumstances, we accordingly direct the respondents to take up the matter of the applicant and also of the persons similarly situated of the AGMUT Cadre of Mizoram segment for determining the date of appointment on the basis of existing vacancies and for allotting year of allotment as per law taking aid of the All India Services (Conditions of Services Residuary matters), Rules, 1960. The respondents shall complete the aforesaid exercise as expeditiously as possible preferably within three months from the date of receipt of the order.

The application is allowed to the extent indicated above.

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

Sd/VICE CHAIRMAN
Sd/MEMBER (adm)

Certified to be true copy

प्रमाणित प्रतिनिधि

bb

Section Officer (A),

Central Administration Tribunal
New Delhi
22/2/82

Ofc
RIPLAV CHAKRAVARTY

Advocate

Guwahati High Court

c 13 -
-B-
20
: 25, G.K. Das Lane,

Krishna Nagar, Near Rajmahal Hotel,

Guwahati-1 Ph: 2548037, 2 630823,

Dated 28th March, 2003

To,

The Secretary,

Govt of India, Ministry of Environment & Forests,

Puriyabaran Bhavan, CGO Complex,

Lodhi Road, New-Delhi-110003.

SUB- Notice.


Ref: Hon'ble CAT, Guwahati Bench's judgement and order

dated 4.2.2002 passed in O.A. No. 195/2001.

Sir,

Under the instructions and authority from my client, Mr. B. Suazalang, IFS, Divisional Forest Officer, Aizwal Forest Division, Aizwal, Mizoram, and on his behalf I have to state here under as follows :

1. That being aggrieved with the year of allotment to the IFS and fixation of seniority, my client approached the Hon'ble Central Administrative Tribunal (hereinafter the Tribunal in short), Guwahati Bench vide O.A. NO. 195/2001 and the Hon'ble Tribunal vide judgement and order dated 4.2.2002 allowed the application with a direction upon the Respondents to take a fresh decision on the date my client became eligible for promotion to the IFS in terms of Rule 3 of the All India Services (Conditions of Service & Residuary Matters) Rules, 1960 and the entire process was to be exercised within three months from the date of receipt of the order.
2. That the copy of the said order dated 4.2.2002 was duly furnished to you by my client in time but till date no communication has been received by him intimating him about the decision taken as per the direction given by the Hon'ble Tribunal.


Certified of the True Copy
Advocate

● Page 2

3. That by not taking any decision/action as per the direction dated 4.2.2002 as stated above, the action, amounts to clear defiance and violation of Hon'ble Tribunal's order passed in O.A. No. 195/2001

Under such circumstances, I hereby through this notice request you to comply as per the direction so passed in O.A. No. 195/2001 by passing appropriate order as directed by the Hon'ble Tribunal within four weeks from the date of issue of this letter failing which may constrain my client to file contempt petition before the Hon'ble Tribunal and the same shall be done without making any further reference.

PLEASE NOTE.

Yours truly,

Advocate

Copy for necessary information to:

1. The Secretary, Govt. of Mizoram, Department of Environment and Forests, Aizwal.

GURANATI GPO (781001)

RI 1892

PA : SRR

To: SECY M. ENVIRONMENT, FOREST
NEW DELHI 03, P.D.

भारतीय डाक



WT: 10gms

PS: 0.00, Amt: 0.00, 02/04/2003, 10:00:11

HAVE A GOOD DAY

GURANATI GPO (781001)

RI 1873

PA : SRR

To: SECY GOVT OF MIZORAM,
AIZWAL, P.D.

भारतीय डाक



WT: 10gms

PS: 0.00, Amt: 0.00, 02/04/2003, 10:25:50

HAVE A GOOD DAY