

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Shabils
28/11/17

FROM No. 4
(SEE RULE 42)

SENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 217/2002

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s). Son L. Hatzou

-Vs-

Respondent(s) WOI & OAS.

Advocate for the Applicant(s) Dr. M. Pathak & D. Barreah

Advocate for the Respondent(s) Clisc.

Notes of the Registry	Date	Order of the Tribunal
28/7/02	12.7.02	Heard learned counsel for the parties.
28/7/02	13.8.2002	Issue notice on the respondents to show cause as to why the application shall not be admitted. List on 13.8.02 for Admission.
16-7-02	13.8.2002	Put up after four weeks to enable the respondents to file reply. List on 11.9.2002 for admission.
Notice prepared and Sent to D. Section for issuing of the same to the Respondents through Regd. post with Afp. Vide- D.No- 1967 to 1971 Dtd- 17.7.02.	bb	I.K. Usha Member Vice-Chairman

Heard learned counsel for the

parties.

Issue notice on the respondents to show cause as to why the application shall not be admitted.
List on 13.8.02 for Admission.

I.K. Usha
Member

Vice-Chairman

Copy not yet
submitted by the
applicant.

25
10/8/02

1m

13.8.2002

Put up after four weeks to enable
the respondents to file reply.

List on 11.9.2002 for admission.

I.K. Usha
Member

Vice-Chairman

16-7-02
Notice prepared and
Sent to D. Section for
issuing of the same to
the Respondents through
Regd. post with Afp.
Vide- D.No- 1967 to 1971
Dtd- 17.7.02.

bb

① Service report case
still awaited.

11.9.02 Service is completed. The
Respondents may file reply if any,
within four weeks from today.

3/3
12.9.02

No reply has been
filed.

List again on 9.10.2002 for
admission.

Vice-Chairman

3/3
10.9.02

No reply has been
filed.

mb

9.10.02 Heard Dr. (Mrs.) M. Pathak,
learned counsel for the applicant.
Mr. A. Deb Roy, learned Sr. C.G.S.C.
appearing for the respondents prayed
for time for filing reply. Prayer is
allowed. List again on 12.11.2002
for admission.

3/3
11.11.02

KC Shar

Member

Vice-Chairman

mb

12.11.02 Heard learned counsel for the
parties. The application is admitted.
The respondents has also filed the
written statement. ~~Maxxx~~ List the
matter on 27.11.2002 for hearing
accordingly. The applicant may file
rejoinder, if any, within two weeks
from today.

12.11.02

W/c informed
by the Respondents

3/3

KC Shar

Member

Vice-Chairman

No rejoinder has been
filed.

27.11. Division bench did not sit today.
The case is adjourned to 23/12/2002.

3/3
26.11.02

Applicant in reply
to the W/C has been
admitted.

3/3

23.12.02 Prayer has been made on behalf of
~~the~~ Dr. (Mrs.) M. Pathak, learned counsel
for the applicant for adjournment of the
case. Accordingly, the case is adjourned.
List on 20.1.2003 for hearing.

KC Shar

Member

Vice-Chairman

Ms
A.K.G.
27/11.

20.1.2003. Heard Dr. M. Patnaik, learned Counsel for Appellant Mr. A. Debroy, S.C.C.U.S.C. for the Respondent.

Hearing Concluded,
Judgment reserved.

9.6.03.

A. Debroy

24.1.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

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

Received copy

M. Patnaik
Adv.
29/1/03

Judgment delivered in open Court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.

Samir Kumar Hajra
Member

Vice-Chairman

29.1.2003
Copy of the Judgment
has been sent to the
Secty for issuing the
summons to the applicant
as well as to

mb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXX. No. 217 of 2002 ~~xxxfxx~~

DATE OF DECISION 24th of January 2002

— VERSUS —

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

THE HONORABLE MR S. K. HAJRA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see Yes the judgment ?
2. To be referred to the Reporter or not ? Yes by
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 ? Yes by

Judgment delivered by Hobble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 217 of 2002.

Date of Order : This the 24th day of January, 2003.

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

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

Shri L.Hatzaw,
Son of Late Neng Tual Hatzaw,
F. 304, Kailash Apartment,
Ranibagan Housing Estate,
Beltola Tiniali,
Guwahati-28.

...Applicant

By Advocate Dr Mrs M.Pathak.

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Textiles,
Udyog Bhawan, New Delhi-1.
2. Union Public Service Commission,
represented through the Secretary,
Dholpur House, Shahjahan Road,
New Delhi.
3. Development Commissioner for Handicrafts,
West Block-VII, R.K.Puram, New Delhi-66.
4. Sri Susheel Kumar,
Addl.Development Commissioner (Handicrafts)
Office of the Development Commissioner,
West Block-VII, R.K.Puram, New Delhi.
5. Sri Ravi Kapoor, I.A.S.,
Addl.Development Commissioner (Handicraft)
West Block-VII, R.K.Puram, New Delhi-66. ...Respondents

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

This is an application under Section 19 of the
Administrative Tribunals Act 1985 assailing the legality
and validity of the impugned order dated 19.9.95 against
the representation submitted by the applicant as well as
the order dated 16/21.9.99 abolishing the post of Joint

Development Commissioner (Handicraft) and also seeking for a direction to promote the applicant to the next higher grade.

2. Facts - The applicant was initially appointed as Extension Officer (Industries), Government of Manipur in pursuance to order dated 28.6.1965. He was thereafter sent for job training at Rajendra Nagar, Hyderabad. He was also deputed as Assistant Project Officer (Socio Economics) in the Central Social Welfare Board at Imphal. The applicant was thereafter appointed as Deputy Director(Co-operative) (officiating) in the scale of pay of Rs.1100-50-1600/- with effect from 11.2.80 in the Ministry of Industries, New Delhi. The applicant was some ^{time} ~~after~~ by ^A an order dated 20.3.87 transferred alongwith his post to Sub-Regional office, Guwahati. It seems that one post of Regional Director (Handicraft) in the scale of Rs.3700-5000/- was created in the North Eastern Regional office of Development Commissioner (Handicraft), Guwahati with the Presidential sanction. The applicant was appointed as Regional Director of Handicraft in the N.E.Regional office of the Development Commissioner (Handicraft), Guwahati vide order dated 17.4.90 on the recommendation of the Departmental Promotion Committee. Applicant pleaded that as per the Recruitment Rules known as "Development Commissioner (Handicrafts) (Gazetted Group 'A') Recruitment Rules, 1985" the applicant was entitled to be considered

contd..3

for promotion to the post of Joint Development Commissioner (Handicrafts) level against existing clear two vacant posts with effect from 24.4.93 on completion of three years of service as Regional Director (Handicrafts). According to applicant since he belongs to Scheduled Tribe community of the State of Manipur and rendered 36 years of sincere dedicated and unblemish service under the Government of India and schedule to retire on 31.3.2003 he was entitled for being considered for the post of Joint Development Commissioner (Handicrafts). The applicant submitted his representation. By impugned order dated 19.9.95 the authority communicated its decision. The relevant part of the order is re-produced below :

"There are two posts of JDC (Level-I) in the pay scale of Rs.4100-5300 in the Headquarters Office of the DC (Handicrafts), New Delhi. These two posts are higher than the grade of Regional Director (HC) in the pay scale of Rs.3700-5000/- . These post of JDC (L-I) alongwith one post of JDC (H) (Level-II) in the pay scale of Rs.3700-5000/- have all along been fileed by Officers of All India Services and other Organsided Central Services. in order to formalise the existing arrangement, a proposal for filling up these posts under the Central Staffing pattern, one at the level of Director as ADC (HC) and the other at the level of Deputy Secretary as JDC (HC), has been approved by the Government.

The above changes have been made i the overall public interest and also keeping in view the exact organisational need for upliftment of the Handicrafts sector."

According to applicant on receipt of reply dated 19.9.95 he gave up all hopes till the impugned order dated

contd..⁴

16/21.9.99 was passed by the respondents abolishing one post of Joint Development Commissioner in the office of the Development Commissioner, Handicrafts subject to the upgradation of remaining one post of Joint Development Commissioner to the level of Additional Development Commissioner in the scale of pay of Rs.16,400-450-20,000/- in the office of the Development Commissioner (Handicrafts). The applicant thereafter moved this Tribunal by this O.A. assailing the impugned communication and also for not considering the case of the applicant for promotion, more so in view of the fact that the applicant belongs to a Constitutionally protected class in aid of Article 16(4) (a) of the Constitution.

3. The respondents contested the claim of the applicant and among others raised the issue of limitation. It was contended that in the O.A. the applicant assailed the order dated 19.5.95 as well as the order dated 16/21.9.99 though such application under Section 21 of the Administrative Tribunals Act required to be moved within the time specified therein. The application is time barred, contended the respondents. The respondents also contended that the 1985 Rules stood superseded and replaced by a new set of Recruitment Rules known as Regional Director (Handicrafts) Recruitment Rules 1995 which was notified in Part-II Section-3 Sub-section(i) of Gazette of India dated 2.5.1995. The amended rule provide for a post of Joint Development Commissioner (Handicrafts) which is classified as General central Service, Group 'A' Gazetted. The post is a selection post. The respondents

also stated that though rule was amended formally in 1995 steps for amendment was initiated and finalised in the year 1992 itself. In order to formalise the existing arrangement a proposal for filling up these post under the central staffing pattern, one at the level of Director as ADC(HC) and the other at the level of Deputy Secretary as JDC(HC) had been approved by the Government. These changes have been made in the overall public interest and also keeping in view the exact organizational need for upliftment of the Handicrafts sector. The respondents also stated that the post in question was a sanctioned post in Group 'A' and the roster for SC and ST was not applicable.

4. We have heard Dr. Mrs. M.Pathak, learned counsel appearing on behalf of the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. In reply to the contention of Mr Deb Roy on the point of limitation, Dr Mrs Pathak, learned counsel for the applicant submitted that under the Constitutional scheme as enjoined in Article 16 in the area of public employment also the authority is required to maintain equality. Right to be considered ^{for promotion} is a fundamental right guaranteed by the Constitution, contended Dr Pathak. Dr Mrs Pathak in support of her contention referred to the decisions of the Supreme Court in Ashok Kumar Gupta and another vs. State of U.P. and others, reported in (1997) 5 SCC 201 and in Delhi Jal Board vs. Mahinder Singh, reported in (2000) 7 SCC 210. Mrs Pathak, learned counsel further submitted

that to generate efficiency in service there must be a scope of upgradation/promotion. Learned counsel in support of her contention referred to the decision of the Supreme Court in Delhi Administration & ors. vs. Nand Lal Pant & another, reported in 1998(1) SLJ SC 166 and submitted that in the absence of regular avenue of promotion the authority is duty bound to promote the applicant by granting a supernumerary post. The learned counsel for the applicant also referred to the decision rendered by the Supreme Court in Dr. Ms. O.Z.Hussain vs. Union of India, reported in A.T.R. 1990(1) SC 437. Mr A.Deb Roy, learned Sr.C.G.S.C countering the submission of the applicant besides the plea of limitation submitted that no injustice was caused to the applicant. The scheme of financial upgradation under ACP Scheme of 1999 is due to a Government servant on completion of 12 and 24 years of service in the cadre, where applicant worked. The applicant was initially joined as Deputy Director(Co-operative) and was promoted to the post of Regional Director in 1990. Since his date of joining in the organisation as such he would be entitled for second financial upgradation on completion of 24 years only in February 2004, which falls after the date of his superannuation. Mr Deb Roy further contended that the plea of stagnation raised by the applicant was also unsustainable. The applicant presently drawing the basic pay of Rs.15,375/- with effect from 1.4.2002 in the scale

of pay of Rs.12000-375-16,500/- which shows that he was not stagnating in his cadre. Mr. Deb Roy, learned Sr.C.G.S.C submitted that the applicant was given a fair treatment at all relevant time and therefore the question of discrimination or unfair treatment did not arise. The learned counsel contended that in the absence of any illegality question of interference by the Tribunal did not arise.

5. We have given our anxious consideration on the matter. We have also taken note of the contention of Dr.(Mrs.) M.Pathak as to the methodology adopted by the Government in filling up of the two posts of JDC(Level-I) by officers of All India Services etc. Arrangement made by the Government for posting of officials belonging to the All India Service for smooth functioning of the work cannot be labelled ~~as~~ ^{as} ~~per se~~ arbitrary unless the same is violative of any Constitutional or statutory provisions. Needless to state that the employer in the public field of employment is also entrusted with the responsibility of manning and staffing the administration keeping in mind the efficiency and public interest. Materials those were made available did not indicate any illegality or impropriety in the action of the respondents in filing up of the posts by Central Staffing pattern. Article 14 and 16 applies among the equals. Even as between the members of the same class the question whether the conditions of ^{are similar} service or not may surface. If they are not the question ^{of} denial of equal opportunity may ^{not} require serious consideration. The question of equality will only furnish

cosideration. The question of equality will apply amongst the equals not amongst the unequals. In the circumstances the impugned communication No.HB/AD/58(206)79/8900/9596 dated 19.9.1995 (Annexure-Q) communicated by the Assistant Director(Admn-I), Government of India, Ministry of Textiles of the Development Commissioner (Handicrafts) as well as the impugned order bearing No.A-12025/3/96-Admn.I dated 16/21.9.1999 (Annexure-R) issued by the Government of India, Ministry of Textiles, Office of the Development Commissioner (Handicrafts) abolishing the post of Joint Development Commissioner(Handicrafts) cannot be held to be unlawful. It must be said that the concept of equality in the matter of employment apply as between the similar classes of employees and not between the different classes. The concept of equality will not apply except with reference to the matters which are common and between the individuals between whom equality can predicated. The equal opportunity in the matter of employment arise only between persons who are similarly situated and not amongst the persons distinctly situated. In this set up maning of the posts in question by the all India Service persons cannot be held to be arbitrary and unlawful. In the set of facts and circumstances the appointment and posting given by the respondents cannot be said to be illegal and unconstitutional.

6. As regards the other grounds of Mr (Mrs) Pathak as to the admissibility of promotion of the applicant in ~~concerning~~

conformity with the Assured Career Progression Scheme (ACP Scheme) it would be appropriate to refer to the Scheme. The Scheme has been introduced by the Government of India on the recommendations of the Fifth Central Pay Commission to deal with the problem of genuine stagnation and hardship of the employees due to lack of adequate promotional avenues. It is operational from 9th of August 1999. The relevant provisions of the scheme are reproduced below :

"1. Envisages grant of two financial upgradations to Groups 'B', 'C' and 'D' employees on completion of 12 years and 24 years of regular service respectively. Isolated posts in Groups 'A', 'B', 'C' and 'D' categories which have no promotional avenues are also eligible for the benefits of the Scheme.

Conditions for grant of benefits :

(i) The Scheme envisages merely placement in the higher pay scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose.

(ii) The highest pay scale up to which the financial upgradation shall be available will be Rs.14,300-18,300.

(v) If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service. In case two prior promotions on regular basis have already been received by an employee, no benefit under the Scheme shall accrue to him.

(vi) The period of regular service for grant of benefits under the Scheme will be counted from the grade in which an employee was appointed as a direct recruit."

7. On consideration of the materials on record as well as the contents of the ACP Scheme, it is also difficult to uphold the contention of Dr (Mrs) Pathak and therefore the question of issuing directions upon the respondents for consideration of the case of the applicant in the light of the ACP Scheme does not arise.

For all the reaaons stated above, the application is liable to be rejected and thus dismissed. There shall, however, be no order as to costs.

Sunil Kumar Hajra
(S.K.HAJRA)
ADMINISTRATIVE MEMBER

D.N.CHOWDHURY
(D.N.CHOWDHURY)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the
 Administrative Tribunals Act :1985)

Title of the case O.A.M 217/2002

Shri L. Hatzaw Applicant
 U.O.I. & ors. Respondents

10th July 2002

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Date : 10.7.2002

L. Hatzaw

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI

(An application under section 19 of the Administrative
Tribunals Act, 1985).

Filed by Shri L.Hatzaw
Petitioner:
Through:
Divip Baruah
Advocate. /X
10-7-2002

Original Application No. /2000.

BETWEEN

Shri L.Hatzaw

Son of Late Neng Tual Hatzaw

Permanent Address : New Lamka (G)

P.O. Churachandpur

Dist. Churachandpur

Manipur state

Present Address : F. 304, Kailash Apartment
Ranibagan Housing
Estate, Beltola Tiniali
Guwahati - 28

.....Applicant

AND

- 1) Union of India, Represented
Through the Secretary to the Govt. of India,
Ministry of Textiles
Udyog Bhawan, New Delhi-1
- 2) Union Public Service Commission
represented through the Secretary
Dholpur House, Shahjahan Road
New Delhi
- 3) Development Commissioner for Handicrafts,
West Block -VII, R.K. Puram, New Delhi-66

L.Hatzaw

4) Sri Susheel Kumar
Addl. Development Commissioner (Handicraft)
Office of the Development Commissioner,
West Block-VII, R.K. Puram
5) Sri Ravi Kapoor, I.A.S.
Addl. Development Commissioner (Handicraft)
West Block-VII, R.K. Puram, New Delhi-66

----- Respondents .

DETAILS OF APPLICATION :

1. Particulars of orders against which this application is made:

This application has been made against the communication contained in letter No. HB/AD/158(206)79/8900/9596 and office order no. 12025/3/96-Admn. 1 dated 20.4.99 dated 19.09.95. The application relates to long pending issue relating to the promotion of the applicant as provided under the Recruitment Rules.

2. Jurisdiction :

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

3. Limitation :

The applicant further declares that the application is within the period of limitation prescribed under section 21 of the Central Administration Tribunals Act, 1985.

S. Hargaw

4. Facts of the case:

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

4.2 That your applicant was appointed as Extension Officer (Industries) by the Director of Industries, Government of Manipur vide letter no. B-309/IND-65 dated 28.06.1965. After joining as Extension Officer (Industries) he undergone job training at Rajendra Nagar, Hyderabad w.e.f. 10.01.1966 to 09.01.1967. Then he was deputed as Assistant project Officer (Socio-Economics) to the Central social Welfare Board at Imphal in the scale of 650-1200/- (6500-13500) vide letter no. 4.22/74-Admn, dated 07.02.1974.

Copies of the appointment letter dt. 28.06.65, training certificate and letter dt. 07.02.78 are annexed as Annexure- A, B and C respectively.

4.3 That the applicant who was a permanent Extension Officer under the Directorate of Industries, Manipur, was appointed as Deputy Director (Co-operatives) (officiating) in the scale of pay of Rs. 1100-50-1600 w.e.f. 11.02.80 (FN) in the Ministry of Industries, New Delhi. On 20.03.87 the applicant was transferred alongwith his post to sub-Regional Office, Guwahati and was relieved from his duties

S. Hafizan

in the Headquarters Office ~~of~~ the w.e.f 31.03.87(AN) vide letter no. 22/07/86-Admn-I dated 20.03.1987.

Copies of the letters dated 14.2.80, 12.11.84 and 20.3.87 Annexure-D, E & F respectively.

4.4. That the applicant had undergone various training programme from time to time. Some of them are :

- i) 11th Appreciation Programme on Reservation and services.
- ii) Cranfield school of Management in promotion of small scale Enterprises in Developing Countries in U.K. in 1982 under Colombo plan.
- iii) Training on Management Development programme w.e.f. 19.8.1996 to 31.8.1996

Copies of training Certificate are annexed as Annexure G, H and I respectively.

4.5 That the post of Deputy Director (co-operative) was subsequently upgraded to the post of Regional Director (Handicrafts) vide order no. 20/1/89-Admn-1 dated 06.04.1990 under the plan in the North-Eastern Regional Office of the Development Commissioner (Handicrafts), Guwahati. The applicant was placed in that post vide order No. 1/14/89-Admn-I(Vol-II) dated 17.4.90 .

185 Copies of the letter dated 6.4.90 and 17.4.90 are annexed as Annexure J & K respectively.

R. Hazar

the Recruitment Rules

4.6 That in the meantime the Government framed and that had been notified vide No. 18/1/81-Admn-1 dated 23.04.1985, The rules provides method of recruitment to the posts of Joint Development Commissioner (Handicrafts) Level-1, Regional Director of Handicrafts and Joint Development Commissioner (Handicrafts), Level-II in the office of the Development Commissioner (Handicrafts). The rule provides for promotion from the post of Regional Director and Joint Development Commissioner (Handicrafts) Level-II to Joint Development Commissioner) Level-I at the ratio of :

i) 50% by promotion, failing which by transfer on deputation and

ii) 50% by transfer on deputation.

The copy of the Rule dated 23.4.85 is Annexure-L

4.7 That after the recruitment Rules came into force, the applicant became eligible for his promotion to the post of Joint Development Commissioner (Handicrafts) Level - I, against the existing two clear vacant posts w.e.f. 24.4.93. on completion of three years of services as Regional Director (Handicrafts). Inspite of the existing Recruitment Rules and clear vacancies, the respondents Nos. 1,2 and 3 took no. steps to promote the applicant.

4.8 That the applicant belongs to Scheduled Tribes Community of the state of Manipur and is a constitutionally protected class for various purposes including the conditions of services. The applicant has rendered about 36 years of sincere dedicated and unblemished services to

S. Atangaw

the cause of the Government of India and is scheduled to retire from service on 31.03.2003 on superannuation.

A copy of the scheduled Tribe certificate issued by the competent authority is annexed as Annexure-M.

4.9 That the applicant submitted several representation to promote him to the post of Joint D.C. (HC) Level-I. On 17.05.94 he submitted a representation to the Development Commissioner for Handicrafts, New Delhi. On 24.06.94 another representation was submitted to the Secretary (Textiles) through proper channel. Having no sign of redressal forthcoming from this above two competent authorities, the applicant was compelled to make a representation to the Chairman, National Commissioner for Scheduled Caste/Scheduled Tribes, New Delhi on 03.02.95 highlighting therein his right to promotion to the grade of Joint Development Commissioner (JDC) Level-I/Additional Development Commissioner. The said representation dated 03.02.95 was attended by the office of the Chairman, National Commission for SC/ST and was pleased to forward the same to the Secretary, Department of Textile, New Delhi vide letter no. H-2/Textile/Sc-2/95SSWV dated 17.07.95.

On receipt of the said representation from the National commission SC/ST, the Development Commissioner, Handicrafts, issued a reply vide No. HB/AD/58/(206) 79/8900/9516 dated 19.09.95. By that reply, the authority clearly admitted that there are two posts of Joint Development Commissioner (HC) Level-I. These two posts are higher than the post of Regional

S. Halgan

Director (HC). It has also been admitted that these two posts have been all along filled up from the officers brought from the all India services or other organised Central services from the beginning i.e. from 1985 to 1995, for last 10 years. By the said reply letter it was also indicated that the patterns of posting of such posts has also been proposed to be changed and as said to have approved by the Government. But unfortunately, the authority in his reply made no whisper as to whether the applicant had any right to get his promotion as applied for or whether this case was being considered or rejected. The approach of the competent authority was out and out negative and the reply was evasive only to show that they have clearly violated the provisions of Recruitment Rules.

On Receipt of the copy of the reply dated 19.09.95., the applicant lost his all hopes and being dedicated Government servant resigned to his fate and continue to serve the government. But he was again shocked to notice the office order communicated vide No.A-12025/3/96 Admn.-I dated 20.09.99, by which it has been stated that one post of Joint Development Commissioner Handicrafts in the pay scale of Rs. 12000 to 16000/- is abolished with immediate effect. Subject to the upgradation of remaining one post to the level of Additional Development Commissioner, Handicrafts in the pay scale of 16400-20000/- ^{But if} is surprising to note here that the conditions of abolition of the post of JDC(H) is subject to

L. Hafizaw

upgradation of another post as ADC(H).

Copies of representation dated 17.05.94, 24.06.94 and 03.02.95 alongwith letter dt. 17.07.95 reply dated 19.09.95 and letter dated 20.09.1999 are annexed as Annexure-N, O, P, Q and R respectively.

4.10. That the right to promotion is a statutory right so far the right of an employee belonging to general caste. But the right of an employee who belongs to ST, SC and OBC community such right to promotion is a fundamental right under article 14, 16(1) and 16(4) and 16(4A). So any action on the part of the government which come into interfere with such fundamental right is illegal and unconstitutional and as such void. Therefore, the reply dated 19.9.95 (Anex.-Q) and order dated 20.9.99 (Anex-R) are directly violative of the provisions of Article 14,16,(1), 16(4) and 16(4A) of the constitution of India and as such the same are illegal, unconstitutional and are liable to be set aside and quashed.

4.11. That it is pertinent to mention here that from the very beginning one Mr. D. K. Mukhopadhyay, I.E.S was on deputation in the post of JDC (H) Level-1. Another Mr. K.S. Mehra, I.A.S., was also on deputation against the other post, who was there up to 10.8.98. After that one Mr. Alok kumar Verma, IPS assumed the charge as Additional Development Commissioner (Handicrafts) on 28.8.98. and another Mr. Susheel Kumar, I.A.S. was

L. N. Nagesw

appointed as Additional Development Commissioner (H) w.e.f. 7.11.2000. Subsequently one Mr. Ravi Kapoor, I.A.S has been posted in place Mr. Alok Kumar Verma. Both Mr. Susheel Kumar (Respd. No. 4) and Mr. Ravi Kapoor (Respd. No. 5) are working as Additional Development Commissioner Handicraft. From the above exercise it is apparent that the erstwhile post of joint Development Commissioner - (H) level -1 has not been abolished, but the said posts were redesignated by changing the nomenclature by colourable exercise of power. Such action of the authority government is illegal and arbitrary and also violative of the fundamental rights of the applicant.

Copies of the appointment letter dated 22.9.98 & 7.11.2000 and circular dated 2.4.2002 are annexed as Annexure-S, T and V respectively.

4.12. That the applicant being a member of the ST Community he is protected by the provisions of the Constitution of India including the fundamental rights. The Hon'ble Apex Court in a plethora of decision has again and again reiterated that right to promotion for SC, ST and OBC is a Fundamental Right, where their representation is inadequate. Law is a social Engineering to remove social imbalances and to further the progress. In such situation not only ~~denure~~ but also de facto equality is required. In the instant case the applicant is the seniormost Regional Director and who is going to retire by 31.3.2003. Under this given fact the action of the respondents as outlined herein above is out

S. Hatgaw

and out illegal and he has been deprived of his legitimate dues of promotion to the grade of Joint Development Commissioner (H) L - 1/ADC(H). Such action therefore , can not sustain in law. Hence, it is a fit case where this Hon'ble Tribunal would be pleased to admit this application and also be pleased to set aside and quashed the impugned reply and order dated 19.9.95 and 20.9.99 in (Annexure Q & R) and also consequently set aside and quashed the appointment/posting on deputation of the respondent on 4 and 5 and also be pleased to give effect of promotion to the applicant w.e.f. 24.3.1993 and Joint Development Commissioner (H) Level -1 and all such consequential benefit thereafter.

4.13. That, it is stated that the applicant has fulfilled all the required norms under the Recruitment Rules. But the respondents have not taken any steps to promote him to the next higher post, which is total violation of doctrine of legitimate expectation.

4.14. That your applicant begs to state that he has not other alternative but to approach this Hon'ble Tribunal for such illegal and arbitrary action of the respondents. It is a fit case for the Hon'ble Tribunal to interfere with to protect the rights and interests of the applicant. The action of the respondents is also violative of the provisions of Article 21 of the constitution of India.

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

L. Attagaw

5. Ground for relief with legal provisions

5.1. For that the respondents acted malafide and illegally while issuing the impugned reply and order dated 19.9.1995 (Anx. Q) and 20.9.1999 (Anx.R) and such action being illegal and arbitrary, the said impugned reply and order are liable to be set aside and quashed.

5.2. For that the right of promotion of the applicant is a fundamental right in addition to legal right as he belongs to ST. Community. This is the established law as laid down by the Hon'ble Supreme Court as reported in Ashok Kumar Gupta v/s State of U.P. 1997(2) SLR 656 (SC), 1997(5), SCC 2001, 1997(4) J.T 251, 1997(3) SCALE 289, 1997(3) SLJ, 210 (SC).

5.3. For that the actions of the respondents for not promoting the applicant is illegal and violative of the provisions of Article 14, 16(4), 16(4A), 21 read with Article 38 and 46 of the constitution of India.

5.4. For that the applicant acquired a valuable and enforceable right by the notification of Recruitment Rules dated 23.4.1985 (Anx -L) for the promotion from Regional Director (H) to the post of Joint Development Commissioner (H) L-1 and avenues open even thereafter. But the denial and the action of the respondents to deprive the applicant from his legitimate and rightful promotion violated the principles of natural justice and the very provisions of the Recruitment rules, dated 23.4.1985 (Anx-L).

S. Hafizan

5.5 For that the publication of notification of Recruitment Rules and on completion of three years service as Regional Director (H), the applicant duly became eligible for the promotion to the post of Joint Development Commissioner Level -1 way back on 24.4.1993. By acquiring the eligibility qualification and being the seniormost Regional Director and also being a member of ST community, the applicant have the legitimate expectation to be the first person to be promoted, which has been deprived to him.

5.6. For that the ² posts of Joint Development Commissioner (H) level-1 was created by the Recruitment Rule w.e.f. 23.4.1985. But contrary to the provisions of Recruitment Rules and deliberately depriving the persons in the feeders grade of Regional Directors (H), the respondents as admitted by themselves went on filling up this two posts by out siders on deputation basis. This is out and out illegal and this applicant is entitled to all the benefits of promotion w.e.f. 24.4.1993 with all respective effect and with all consequential benefit.

5.7. For that the applicant is legally entitled to get the promotion to the post of Joint Development Commissioner (H) level-1 w.e.f. 24.4.1993 and as and when he is promoted, who would also be entitled to the next ^{promotion} ~~provision~~ to the grade of ADC (H) and so and so forth.

5.8. For that the appointment/deputation Mr. D.K. Mukhopadhyay, IES, Mr. K.S. Mehra, IAS etc. and Mr. Alok

S. Hatgaw

Verma I.P.S, Mr. Susheel Kumar, IAS (Respd. No4) and Mr Ravi Kapoor IAS (Respd. No. 5) are illegal and liable to be set aside and quashed.

6. Details of remedies-exhausted

The applicant declare that he has no other alternative or efficacious remedy except by way of filing this application before this Hon'ble Tribunal.

7. Matter not previously filed/or pending with any other court/Tribunal

The applicant further declare 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. Relief sought for:

In view of the facts and circumstances stated above in paragraph 4 of this application and the grounds, the applicant prays for the following reliefs:

8.1. That the impugned reply dated 19.9.1995 and order dated 20.9.1999 be set aside and quashed as illegal, void and unconstitutional.

8.2. That the respondents be directed to promote ~~w.e.f 24.4.1993~~
^{W.e.f 24.4.1993} this applicant against 50% post of promotion as per

S. Hatzaw

Recruitment Rule dated 23.4.85 as he is the senior most Regional Director (HC). and a member of ST community.

8.3. All the appointments/deputation of person from All India Services to the post of JDC (h) L-1 and ADC(H) including the appointment and posting of Respd. No.4 and 5 as in Annexure (7&4) be declared illegal and unconstitutional and also be set aside and quashed.

8.4 To direct the respondents to restore the two posts of JDC(H) Level -T in terms of the Recruitment Rules with retrospective effect from 20.9.1999.

8.5. Costs of the application:

8.6. 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:

In the Interim pending disposal of this application, the applicant be allowed to officiate in the next higher post as he is going to retire on 31.3.2003 on superannuating.

10. This application has been filed through Advocate

11. Particular of the I.P.O

(i) I.P.O No	:	7G547808
(ii) Date of Issue	:	28.2.2002
(iii) Issued from	:	G.P.O.
(iv) Payable at	:	Guwahati

12. List of enclosures : As stated in the Index.

S. H. Hazarika

VERIFICATION

I, Shri Lian Za Go Hatzaw, son of Late Nong Tual Hatzaw, aged about 59 years, permanent resident of New Lamka (G), P.O. Churachandpur, District. Churchandpur, Manipur, presently resides at F. 304, Kailash Apartment, Ranibagan, Housing Estate, Beltola, Tiniali, Guwahati-28 working as Regional Director (Handicraft), do hereby verify that the statements made in paragraph 1, 2, 3, 4, 4, 7, 4, 10, 4, 12, 4, 11, 9, 1, 2, are true to the best of my knowledge, those made in paragraphs 4, 2, 4, 6, 4, 8, 4, 9, 4, 11 being matter of records are true to my information derived therefrom legal advice and I have not suppressed any materials fact.

And I sign this verification on this....10....th day of July, 2002.


Signature

16-
ANNEXURE-A
B2

No.B.309/IND-65
GOVERNMENT OF MANIPUR
OFFICE OF THE DIRECTOR OF INDUSTRIES: MANIPUR.

ORDERS BY THE DIRECTOR OF INDUSTRIES : MANIPUR.

Imphal, the 28th June, 1965.

Shri Lianzagow Hatzaw of Churachandpur is appointed as Extension Officer (Industries) under the Industries Department, Manipur in the scale of Rs. 180-150-200-Con-10-250/- P.M. with usual D.A. as admissible under rules against the post originally created vide Manipur Government's Order No. F.DPC/9/55-11 dated 7.12.65 and extended vide Order No. 57/B/65-IND dated 15.4.65 in a temporary capacity with effect from the date of joining the duties until further orders.

Sd/- Md. Abdul Bari,
DIRECTOR OF INDUSTRIES : MANIPUR.

IMMEDIATE.

Memo No. B.309/IND-65.

Imphal, the 28th June, 1965.

Copy to :- 1. The Accountant General, Assam & Nagaland, Shillong.

2. The Treasury Officer, Imphal.

3. Shri Lianzagow Hatzaw, Village Sunchinym, Churachandpur for information and necessary action. He is informed to join his duties in the Head Quarter Office of Industries Department at Imphal immediately.

4. The Assistant Director (Mech), for information and necessary action.

5. The Accounts Section for information and necessary action.

6. Personal File of Shri Lianzagow Hatzaw.

7. Spare Copy for Bill Assistant.

28.6.65
(Md. Abdul Bari.)
DIRECTOR OF INDUSTRIES, MANIPUR.

Amber-Singha
28-6-65



ANNEXURE-B

भारत सरकार

GOVERNMENT OF INDIA

औद्योगिक विकास एवं कम्पनी कार्य-मंत्रालय
(औद्योगिक विकास विभाग)

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS
(DEPARTMENT OF INDUSTRIAL DEVELOPMENT)

एकीकृत प्रशिक्षण केन्द्र

उद्योग प्रसार अधिकारियों के लिये राजीन्द्रनगर हैदराबाद

Integrated Training Centre

FOR EXTENSION OFFICERS (INDUSTRIES) Rajendranagar Hyderabad

यह प्रमाणित किया जाता है कि मणिपुर राज्य के श्री एल. हत्जां ने द्वितीय एकीकृत सद्वर्ष में पूरा कर लिया है, जिसका संचालन औद्योगिक विकास एवं कम्पनी कार्य-मंत्रालय (औद्योगिक विकास विभाग) नई दिल्ली ने १०-१-१९६६ से २५-१-१९६८ तक किया।

This is to certify that Shri L. Hatzaw of Manipur State has completed the JOB TRAINING of Block Level Extension Officers (Industries) in Second INTEGRATED COURSE conducted by the Ministry of Industrial Development & Company Affairs (Department of Industrial Development) New Delhi, from 10-1-1966 to 9-1-1967.

प्रशिक्षण के विषय थे।

- १ औद्योगिक विकास
- २ औद्योगिक तकनीकी
- ३ औद्योगिक व्यवस्था
- ४ औद्योगिक सहकारिता
- ५ आयोजन कार्यक्रम

दिनांक Date:- 26.10.68.

A.H. Patel
Advocate

The subjects covered during training were:-

INDUSTRIAL DEVELOPMENT
INDUSTRIAL TECHNOLOGY
INDUSTRIAL MANAGEMENT
INDUSTRIAL COOPERATION
PROGRAMME PLANNING

A. L. Khan
प्रधानाचार्य Principal

18

CENTRAL SOCIAL WELFARE BOARD

ANNEXURE-C 34

Telegram:

"SANGAT SEVA", New Delhi.

No. 422/71-Adm

For appointment to permanent staff.

Jeovon Des,
Parliament Building,
New Delhi, etc.

Dated:

7 Feb 1958

MEMORANDUM

The undersigned hereby offers Shri/ ~~Mr~~ Manzagow Hatzaw a temporary post of Assistant Projects Officer under the Central Social Welfare Board on a pay of Rs. 650/- p.m. in the scale of pay of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200. Shri/ ~~Mr~~ Manzagow Hatzaw will also be entitled to draw

dearness and other allowances as admissible to Central Government employees working in the same area and subject to conditions laid down in rules and orders governing the grant of such allowances in force from time to time.

2. The terms of appointment are as follows:-

(i) The post is purely temporary for the present but is likely to continue.

(ii) His/her appointment shall be treated as provisional for the first six months from the date of appointment; and his/her continuance beyond the period shall be determined only after obtaining a special report on his/her work during this period.

(iii) The appointment may be terminated at any time by one month's notice on either side, without assigning any reasons.

The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment to him/her of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

(iv) The appointment carries with it the liability to serve in any part of India.

(v) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

(i) production of a certificate of fitness from a competent medical authority i.e. civil surgeon of the State Govt.

(ii) submission of a declaration in the form enclosed and in the event of the candidate being married to a person having more than one wife living the appointment will be subject to his/her being exempted from the enforcement of the requirement in this behalf;

*Attested
R. S. D.
R. S. D.
R. S. D.*

R. S. D.

19

B5

(iii) taking of an oath of allegiance to the Constitution of India; and

(iv) Production of the following original certificates:-

(a) degree/diploma/certificates of educational and other technical qualifications;

(b) certificate of age;

(c) character certificate from two Gazetted Officers of the Central/State Government or stipendiary registrars in the prescribed form attached; and

(d) discharge certificate in the prescribed form of previous Government appointment, if any.

work of lifetime od case if he / she is not accepted

4. If any declaration given or information furnished by

Shri/Smt/Smt Lianzagoi Hatzaw proves to be false or if he /

she is found to have wilfully suppressed any material information,

he/she will be liable to removal from service and such other action

as Board may deem necessary.

5. If Shri/Smt/Smt Lianzagoi Hatzaw accepts the

offer on the above terms and conditions he/she should report for duty

latest by 20-2-1978 to The Chairman, Manipur

Welfare Advisory Board, Imphal, PAWNA BAZAR, IMPHAL.

under instructions to the effect that if he/she fails to report

for duty within the time limit mentioned above

for duty by the prescribed date, without prior intimation the offer

will be treated as cancelled and his/her application for (iii)

other posts will be rejected, traveling allowance will be allowed for

different categories and to cover the distance from the

place of birth to the place of joining the appointment.

On his/her arrival at the place of joining the appointment he/she will be

entitled to receive the following allowances.

The jurisdiction of A.P.O.(SE), at Manipur, Imphal will

be Manipur and Nagaland.

Additional note: The

offer of appointment is not to be accepted unless he/she

will be given a chance to make his/her choice

between the following posts:

1. Chairman, Manipur State Social Welfare

Advisory Board, Imphal (f)

2. P.O. (SE&P) Central Social Welfare Board.

3. P.O. (SE&P) Central Social Welfare Board.

4. The Chairman, Nagaland State Social Welfare

Advisory Board, Kohima.

5. Personal file.

(S. L. CHOPRA)
(SECRETARY)

SECRETARY

Attested
S. L. CHOPRA
Advocate

ANNEXURE-D

TO BE PUBLISHED IN PART II SECTION 2 OF THE GAZETTE OF INDIA.

Government of India
Ministry of Industry
All India Handicrafts Board

West Block No.7, R.K.Puram,
New Delhi-110022.

Dated 15 February, 1980.

NOTIFICATION

No.HB/AD-I/58 (206/79). On the recommendations of the Union Public Service Commission, the President is pleased to appoint Shri Lianzagow Hatzew, a permanent Extension Officer, Directorate of Industries, Manipur to officiate as Deputy Director (Cooperatives) in the scale of pay of Rs. 1100-50-1600 with effect from the forenoon of 11th February, 1980 in the Ministry of Industry, All India Handicrafts Board, New Delhi, and until further orders.

(Bharat Sahay 14/2/80)
(Bharat Sahay)
Development Commissioner (Handicrafts)

To
The Manager (with Hindi Version),
Government of India Press,
Faridabad (Haryana).

Copy to:-

1. The Secretary, Union Public Service Commission, Dholpur House, New Delhi-110011. With reference to his letter No. F 1/672/78-(RB) dated 14/2/79.
2. Shri Lianzagow Hatzew, Deputy Director (Cooperatives), All India Handicrafts Board, New Delhi.
3. Accounts Officer, Pay & Accounts Office, A.I.H.B., New Delhi.
4. Accounts Officer, A.I.H.B., New Delhi.
5. Ministry of Industry, Deptt. of Industrial Development (E.I. Section), Udyog Bhawan, New Delhi.
6. Vigilance Officer, (Dept. of Industrial Development, Udyog Bhawan, New Delhi).
7. Office Order Book/Notice Board/Returns file/O.G.H.S. file/Passion file/Passion file/Passion file to DC(I).
8. Director of Industries, Manipur (Imphal). With reference to his Memo No.B-363/IND/65-80 dated 1st February, 1980.

*21st Feb
J. V. Sahay
Advocate*

21
3X

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

Government of India
Ministry of Commerce
Office of the Development Commissioner(Handicrafts)

West Block No.7, R.K. Puram,
New Delhi, the 12 Dec., 1984.

NOTIFICATION

No.36/1/83-Admn.-I : - The President is pleased to appoint the following Group 'A' Officers, of the Office of the Development Commissioner(Handicrafts) in a substantive capacity to the posts and with effect from the dates shown against each:-

<u>Sl. No.</u>	<u>Name of the Officer</u>	<u>Post against which confirmed</u>	<u>Date from which confirmed.</u>
1.	Shri S.N. Schgal	Deputy Director (Exhibition)	4.6.1983.
2.	Shri R.P. Chugh	Deputy Director (Technology)	29.3.1980.
3.	Shri L.Hatzaw	Deputy Director (Cooperative)	11.2.1982.
4.	Shri T.Lokanadha Sarma	Deputy Director DCMI, Madras.	31.7.1981.
5.	Shri D.D. Mano	Deputy Director (WR), Bombay.	31.1.1981.
6.	Shri V.D. Francis	Deputy Director (NR), New Delhi.	12.2.1982.
7.	Shri S.K. Sinha	Director(RD&TDC)	1.7.1982.
8.	Shri Tapan Ghosh	Director(RD&TDC)	1.7.1982.

Attested
Shri Ram
Advocate

(Shiromani Sharma)
Development Commissioner for Handicrafts.

To
The Manager,
Government of India Press,
Fridabad. (Haryana)

....2/-

No.36/1/33-Admn.I

Copy forwarded to:-

1. Accounts Officer, Central Pay & Account Office, Office of the Development Commissioner(Handicrafts), New Delhi.
2. Accounts Officer, Office of the DC(Handicrafts), New Delhi.
3. All Officers concerned.
4. All Regional Offices/RD&TDCS including DCMI, Madras.
5. Office Order Register.
6. The Secretary, Union Public Service Commission, Dholpur House, New Delhi, with reference to his letter Nos:-
 - i) 12/23(1)/84-AUI dated 4-6-84.
 - ii) 12/23(10)/84-AUI dated 27-6-84.
 - iii) 12/23(9)/84-AUI dated 26-7-84.
 - iv) 12/23(4)/84-AUI dated 27-6-84.
 - v) 12/23(2)/84-AUI dated -12-84. (10 copies).
 - vi) 12/23(5)/84-AUI dated 4.9.84.
 - vii) 12/23(6)/84-AUI dated 25.6.84.

Exhibit

Section Officer(Admn.I)
for Development Commissioner(Handicrafts).

*Attested
D. Basu
Advocate*

23/3/9

No. 22/7/86-Admn. I.
 Government of India
 Ministry of Textile
 Office of the Development Commissioner (Handicrafts)

West Block-7, R.K.Puram,
 New Delhi, 30th March, 1987

OFFICE ORDER

Shri L.Hatzaw, Deputy Director (Cooperative) is transferred alongwith his post to Sub-regional office, Gauhati in the public interest with immediate effect.

Shri Hatzaw stands relieved from his present duties in the Headquarters office (w.e.f. 31.3.87) and instructed to take charge of the sub-regional office at Gauhati immediately.

P.K. Datta

(P.K. Datta)
 Development Commissioner (Handicrafts)

1. Accounts Officer, CPAO, Office of the DC (Handicrafts), R.K.Puram, New Delhi.
2. Shri L.Hatzaw, Deputy Director (Cooperative).
3. Asstt. Director, FAC, Gauhati.
4. All Regional Office/RDTDCs including DCMI, Madras.
5. FAC, Bangalore, Varanasi and Srinagar.
6. Officer-in-Charge, BCDE, Agartala.
7. All Officers/Sections in the Office of the DC (Handicrafts).
8. All Marketing and Service Extension Centres.
9. PS. to DC(H)/PAs to ADC(NY)/JDC(GP)/JDC(M)/ Sr. Director (NHHM)/Director (Marketing).

*Attested
Dinesh
Advocate*

29/1
ANNEXURE - G
40



भारत सरकार

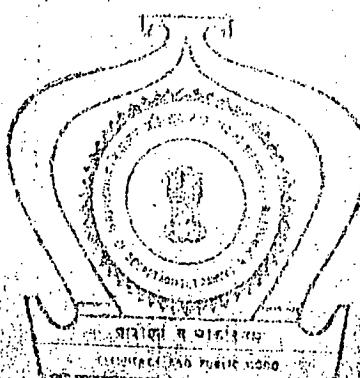
GOVERNMENT OF INDIA

सचिवालय प्रशिक्षण तथा प्रबन्ध संस्थान

INSTITUTE OF SECRETARIAT TRAINING & MANAGEMENT

कार्यक्रम तथा प्रशासनिक सुधार विभाग (गृह मंत्रालय) नई दिल्ली

DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS (MINISTRY OF HOME AFFAIRS)
NEW DELHI



सचिवालय

CERTIFICATE

प्रमाणित किया जाता है कि मुलू. हर्तां

ने सेवाओं में आश्वासन पर 11वें व्यूल्यांकन प्रशिक्षण कार्यक्रम

में 18.3.1982 से 24.3.1982 तक

प्रशिक्षण प्राप्त किया ।

This Certifies that L. Harshaw

has attended

11th Appreciation Programme on Reservation in Services
conducted from 18.3.1982 to 24.3.1982

दिनांक/Date 24.3.1982

(B. S. Yadav)

निदेशक/Director

RT/Ex-25
D. B. S.
R. D. S. C. A. C. E.

ANNEXURE H

Cranfield School of Management



This is to certify that

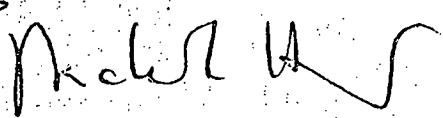
LIANZAGOW HATZAW

Has completed the following
programme of
Continuing Studies for Managers
In Cranfield School of Management

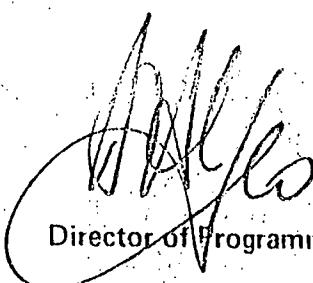
PROMOTION OF SMALL-SCALE ENTERPRISES IN DEVELOPING COUNTRIES

13TH SEPTEMBER TO 5TH NOVEMBER, 1982

Attested
Dr. S. M. A. Khan
Administrator



Programme Tutor



Director of Programme Administration

No

4456

ANNEXURE-I

26/
THE INDIAN INSTITUTE OF PUBLIC ADMINISTRATION



MANAGEMENT DEVELOPMENT PROGRAMME
TRAINING PROGRAMME

GROUP 'A' OFFICERS (11-15 YEARS)

This is to certify that L. Hatzaw
Regional Director (Handicraft), Guwahati
participated in the above mentioned training programme conducted
by the Institute from August 19 to August 31, 1996

Attn:
S. B. Sharma
Advocate

H. K. Sharma
PROGRAMME DIRECTOR

NEW DELHI, dated the 31st August, 1996.

M. Wadhwa
DIRECTOR

12

12.1
Sub-National Commissioner
D.C. (Handicrafts)
Govt. of India
Ministry of Textiles
GOURAHLATI.

No. 20/1/89-Admn. I
Government of India
Ministry of Textiles
Office of the Development Commissioner (Handicrafts)

West Block No. 7, R.K. Puram,
New Delhi-110066

Dated : 6.4.1990

O. R. D. E. R

Subject: Creation of Plan post of Regional Director of Handicrafts, Guwahati.

I am to convey the sanction of the President to the creation of one post of Regional Director, (Handicrafts) in the pay scale of Rs. 3700-5000 with effect from 1.4.1990 (F/N) under plan in the North Eastern Regional Office of the Development Commissioner (Handicrafts), Guwahati (Assam) in lieu of the Non-Plan post of Deputy Director (Cooperatives) in the pay scale of Rs. 3000-4500/- which stand abolished with effect from the same date.

The expenditure in connection with the creation of the above post will be met out of the Budget grant under Major Head 2851-Village and Small Industries-B(2)-Handicrafts Industries-B 2 (4)-Marketing and Service Extension Centres (Plan).

This issues with the approval of Secretary (Expenditure), Department of Expenditure, Ministry of Finance, as conveyed vide his U.O.No. F.299/SE/90 dated 26.3.90 and the I.F.W. Ministry of Textiles U.O.No. 6270 FD(T)/90 dated 26.3.1990.

Hindi version of this order will follow.

Guwahati, 6.4.10

(Smt. K. Gupta Menon)
Development Commissioner (Handicrafts)
Ex-Officio, Joint Secretary, Ministry
of Textiles.

Copy to :

1. Minister of Textiles, Udyog Bhawan, New Delhi.
2. Secretary (Expenditure), Ministry of Finance,
Department of Expenditure, New Delhi.
3. Secretary (Textiles), Ministry of Textiles,
Udyog Bhawan, New Delhi.

Attested
S. Bhattacharya
Advocate

Contd. . .

1. AS&FA, Ministry of Textiles, Udyog Bhawan, New Delhi.
5. AU, CPMO, Office of the Development Commissioner (Handicrafts), New Delhi.
6. Deputy Director, Budget & Accounts, Office of the Development Commissioner (Handicrafts), New Delhi.
7. Director, I.P.W., Ministry of Textiles, Udyog Bhawan, New Delhi. DCMI, Madras.
8. All Regional Directors/Deputy Directors RDTDCs.
9. FAC (Carpets), Varanasi/Srinagar/FAC, Bangalore/BCDI, Agartala.
10. All Other Officers/Sections in the Office of the Development Commissioner (Handicrafts), New Delhi.
11. All M&SECs.
12. Guard file.
13. Hindi Officer, for Hindi version please.
14. P.S. to DC(H)/ JDC's.

S.K.Chakrabarti
(S.K.Chakrabarti)
Assistant Director (Admin. I)

/M.Nimje/

*Attested
D.Banerjee
Advocate*

No.1/14/89-Admn.I(Vol.II)
Government of India
Ministry of Textiles

Office of the Development Commissioner(Handicrafts)

Recd. No.
Date 24-4-90-25

Sub Regional Officer (NER)
D/o the D.C. (Handicrafts)
Govt. of India.
Ministry of Textiles
GUWAHATI.

29/.....
West Block No.7, R.K.Puram,
New Delhi-110066

Dated : 17.4.1990

O R D E R

On the recommendations of the Departmental Promotion Committee, the following Officers are appointed as Regional Director of Handicrafts, Office of the Development Commissioner(Handicrafts), Ministry of Textiles in the pay scale of Rs. 3700-125-4700-150-5000 on regular basis w.e.f. the date they assume charge. This has reference to letter No.1/23 (14)/89-AUI dated 4.4.1990 of the Union Public Service Commission.

Sl. No. Name & Designation

Office where posted as
Regional Director of
Handicrafts.

1. Shri L.Hatzaw,
Deputy Director(Cooperatives),
North Eastern Regional Office
of the Development Commissioner
(Handicrafts), Guwahati.
2. Shri K.K.Sirangi,
Deputy Director(Handicrafts),
Southern Regional Office
of the Development Commissioner
(Handicrafts), Madras.

Hindi version of these orders will follow.

Menon 17.4.90.

(Smt. K.Gupta Menon)
Development Commissioner(Handicrafts)
& Ex-Officio Joint Secretary, Ministry
of Textiles.

Attested
Y. Basu
Advocate

Copy to :-

1. Accounts Officer, Central Pay & Accounts Office, Office of the Development Commissioner(Handicrafts), New Delhi.

Contd...

2. Shri L.Hatzaw, Deputy Director (Cooperatives), North Eastern Regional Office of the Development Commissioner(Handicrafts), Guwahati.

3. Shri K.K.Sirangi, Deputy Director (Handicrafts), Southern Regional Office of the Development Commissioner(Handicrafts), Madras.

4. Minister(Textiles), Ministry of Textiles, Udyog Bhawan, New Delhi.

5. Secretary(Textiles), Ministry of Textiles, Udyog Bhawan, New Delhi.

6. AS&F.A, Ministry of Textiles, (IFW), Udyog Bhawan, New Delhi.

7. Secretary, UPSC : Kind attention Shri N.P.S.Gujral, Under Secretary; with reference to their letter No. 1/23(14)/89-AU-I dated 4.4.1990.

8. PS to DC(H)/PAs to JDC(SKM)/JDC(GS)/JDC(DKM).

9. Sr. Director, NHHM, New Delhi.

10. All Regional Directors/Deputy Directors, RDTDCs/DCMI, Madras/FACs Varanasi, Srinagar, Bangalore/BCD, Agartala.

11. All Other Sections/Officers of the Office of the Development Commissioner(Handicrafts), New Delhi.

12. All M&SECs.

13. Guard file/personal files.

14. Hindi Officer: for Hindi version please.

S.K.Chakrabarti
(S.K.Chakrabarti)
Assistant Director (Admn. I)

/M:Nimje/

*Attested
S. Kumar
Advocate*

ANNEXURE - L

TO BE PUBLISHED IN PART II SECTION I SUB SECTION (1)
OF THE GAZETTE OF INDIA

Government of India
Ministry of Commerce & Supply
Office of the Development Commissioner (Handicrafts)

West Block No.7, R.K.Puram,
New Delhi-110 066.

Dated the 23rd April, 1985.

465

NOTIFICATION

G.S.R. In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the posts of Joint Development Commissioner (Handicrafts) Level-I, Regional Director of Handicrafts and Joint Development Commissioner (Handicrafts), Level-II in the Office of the Development Commissioner (Handicrafts), namely : -

1. Short title and commencement : (1) These rules may be called the Office of the Development Commissioner (Handicrafts) (Gazetted Group 'A') Recruitment Rules, 1985.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Number of posts, classification and scale of pay : The number of the said posts, their classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed hereto.
3. Method of recruitment, age limit and qualifications etc. : - The method of recruitment to the said posts, age limit, qualifications and other matters relating thereto shall be as specified in columns 5 to 13 of the said Schedule.
4. Disqualification : - No person :-
 - (a) who has entered into or contracted a marriage with a person having a spouse living, or
 - (b) who having a spouse living, has entered into or contracted a marriage with any person, shall not be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

....2/-

Attested
D. Banerjee
Advocate

5. Power to relax :-

Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of those rules in respect of any class or category of persons.

6. Saving :-

Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the categories belonging to the Scheduled Castes, the Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

(Scheduled enclosed)

Sd/-
(Neera Yadav)
Joint Development Commissioner

File No.18/1/81-Admn.I

To

The Manager,
Government of India Press,
Ring Road,
Maya Puri,
New Delhi.

(alongwith Hindi version)

Attested
J. I. Banerjee
Advocate

File No.F.3/1(5)/84-RR

MENT RULES FOR : THE POSTS OF JOINT DEVELOPMENT COMMISSIONER(HANDICRAFTS) LEVEL - I & REGIONAL DIRECTOR OF HANDICRAFTS & JOINT DEVELOPMENT COMMISSIONER (HANDICRAFTS), LEVEL - II IN THE OFFICE OF THE DEVELOPMENT COMMISSIONER FOR HANDICRAFTS..

Post	No. of Posts	Classification	Scale of Pay	Whether Selection post or non-selection post.	Age limit for direct recruitment.
Development Commissioner (Handicrafts)	2* (1925)	General Service	Rs. 1800-100-2000-125/2-2250..	Selection.	N.A.

Subject to variation dependent on workload..

Attended
T. S. M. M.
Advocate

Whether benefit of Educational and other added years of service admissible for direct recruits under rule 30 of the C.C.S.(Pension) Rules, 1972.

Whether age and qualifications required for direct recruits.

Period of probation if any.

Method of rectt. whether by direct rectt. or by promotion or by deputation transfer & percent of the filled by various methods.

6a.

N.A.

7.

N.A.

8.

N.A.

9.

N.A.

10.

i) 50% by promotion sailing which b transfer on deputation.

ii) 50% by transfer deputation.

Amended
1.2000
also care

50 ... 3

5
In case of rectt. by promotion/deputation/ transfer, grades from which promotion/deputation/transfer to be made.

3
If a DPC exists, what is its composition.

Circumstances in which UPSC is to be consulted in making rectt.

13.

12.

11.

PROMOTION

Regional Director of Handicrafts and Joint Development Commissioner (Handicrafts); Level-II with three years' regular service in the grade.

Transfer on deputation : Officers, under the Central/State Govts./Union Territories :-

(a) (i) holding analogous posts; or
(ii) with 3 years' service in posts in the scale of Rs.1500-1800 or equivalent; and
(b) possessing experience in the field of Handicrafts/Small and Cottage Industries/Economic Surveys.

(The departmental officers in the cadre category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly deputationists shall not be eligible for consideration for appointment by promotion. Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/department shall not exceed 4 years).

Group 'A' DPC

(for considering promotion)
i) Chairman/Member, UPSC - Chairman.
ii) Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts).
iii) Development Commissioner for Handlooms, Office of the Development Commissioner (Handlooms). Member

Group 'A' DPC (for considering confirmation)

i) Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts). - Chairman.
ii) Development Commissioner for Handlooms, Office of the Development Commissioner (Handlooms). Member.
iii) Joint Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts). Member

Note:- The proceedings of the DPC relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission a fresh meeting of the DPC to be presided over by the Chairman or a Member of the UPSC shall be held.

Consultation w/ the UPSC nacs while selecting officer for EPP sent on deputat

Joint Dev. Com.

Attested
D. B. M.
Advocate

36

Name of post	No. of post.	Classification	Scale of pay	Whether Selection post or non-selection post.
1.	2.	3.	4.	5.
2. Regional Director of Handicrafts	5*	General Central Service Group 'A' Gazetted Non-Ministerial.	R. 1500-60-1800.	Selection
Joint Development Commissioner (Handicrafts)	1985			
- 4.				

*Subject to variation dependent on workload.

*Attached
J. B. M.
Parashuram*

Whether being Educational and other fit of added qualifications required for direct recruitment for 30 years of service and for direct recruitment under rule 30 of the C.C.S. (Pension) Rules, 1972.

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

Period of educational qualifications prescribed for promotion of direct recruits if any.

Method of recruitment by direct recruitment or by promotion or by deputation/transfere & percentage of the vacancies to be filled by various methods.

6a.

7.

N.A.

N.A.

8.

N.A.

9.

a) 80% by promotion
transfer on deputation.

b) 20% by transfer on deputation.

Atulendra
D. Soni
Advocate

...3/-

53

6
In case of rectt. by promotion/deputation/ transfer, grades from which promotion/deputation/transfer to be made.

Circumstances in which UPSC is to be consulted in making rectt.

11. 12.
Promotion
Deputy Director(Carpet) Deputy Director (Textiles Printing), Deputy Director(Technology), Deputy Director(Credit Fund), Deputy Director(Marketing), Deputy Director (Exhibition), Deputy Director(Cooperative), Deputy Director(Export Promotion), Deputy Director(Production Food Technology), Deputy Director in Regional offices and Publicity Officer with 5 years regular service in the respective grade.

Transfer on deputation
Officers of the Central/State Govts./Unic

Territories:-

(a) holding analogous posts; or
(i) with 5 years' service in posts in the scale of Rs.1100-1500 or equivalents; and
(b) possessing experience in the field of handicrafts/small and cottage industries/economic surveys.

(The departmental officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation.

Similarly deputationists shall not be eligible for promotion for consideration for appointment by deputation.

Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same organisation/department shall ordinarily not exceed 3 years.

If a DPC exists, what is its composition?

13.
1. Group 'A' DPC (for considering promotion)

i) Chairman/Member, UPSC - Chairman.
ii) Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts).
iii) Development Commissioner for Handlooms, Office of the Development Commissioner (Handlooms).
Member.

2. Group 'A' DPC (for considering confirmation)

i) Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts).
ii) Development Commissioner for Handlooms, Office of the Development Commissioner (Handlooms).
Member.

ii) Joint Development Commissioner for Handicrafts Office of the Development Commissioner (Handicrafts). Member.

3. N otc:- The Proceedings of the DPC*

Consultation with the Union Public Service Commission necessary while selecting an offi for appointment & deputation.

(Necr Yed
Joint Development Commisso

Attested
D. Kumar
Havasall

FORM OF CERTIFICATE TO BE PRODUCED BY A CANDIDATE BELONGING
TO SCHEDULED CASTE/TRIBE IN SUPPORT OF HIS/HER CLAIM.

No 1310

This is to certify that Shri/Smt/Km Lian Za Go Hatxaw
s/o, d/o, w/o, g/o, h/o Late Neng Tual of New Lamka
Village/Town in the Churachandpur Sub-Division of the Churacha-
ndpur District, Manipur State belongs to Sukte Caste/Tribe
which is recognised Scheduled Caste/Tribe under :-

The Constitution (Scheduled Caste/Tribe) Order, 1990.
The Constitution (Scheduled Caste/Tribe) Union Territory
Order 1951 as amended by the Scheduled Caste/Tribe
(Modification) Order 1956.

Shri/Smt/Km Lian Za Go Hatxaw and his/her family
ordinarily reside in New Lamka Village/Town in
the Churachandpur Sub-Division, Churachandpur District in
Manipur.

Place: Churachandpur.

The 23-6-89

Signature
Designation
Seal.

Executive Magistrate
Churachandpur

9/89

Attested
A. Bum
Advocate

W
50

The Development Commissioner for Handicrafts,
Office of the Development Commissioner (Handicrafts),
West Block No.7, R.K.Puram,
New Delhi-110066.

Subject:- Representation for promotion to the post of
Joint Development Commissioner (Level-I)/Additional
Development Commissioner submitted by L. Matkaw,
Regional Director (NRI) to the Government of India.

S i r,

I have the honour to submit the following facts
and figures of my particulars for kind consideration for
promotion to the post of Joint Development Commissioner
(Level-I)/ Additional Development Commissioner for Handi-
crafts.

That, I was appointed to the post of Regional
Director vide order No. 1/14/89-Admn.-I (Vol-II) dt. 7.4.90
on regular basis (copy enclosed). I had been posted in
North Eastern Region since April, 1987 as Deputy Director
and looked after the North Eastern States which was upgraded
to Regional Office under Order No.20/1/89-Admn.-I dt.16.4.1990
(copy enclosed).

That, the Government of India has been extending
allowances and facilities under O.M.No.20014/3/83-R.IV
dt. 14-12-1983 in (a) promotion in Cadres posts(b) Deputation
to Central tenure posts and (c) Courses of Training abroad
which was extended by O.M.No.20014/16/86/R-II(B)
dt. 1-12-88 (copy enclosed). I have been posted in North East
for more than seven years.

That, I belong to S.T. and I am eligible for
promotion to the above post as per O.M.No.36012/102/88-ESTT (SCT)
dt. 21.9.1988 from the Ministry of Personnel, P.M and P(DOPR)
(copy enclosed).

That, I have now completed more than four years as
Regional Director and posted in North East and Organized three
Craft Bazaar, Four Product Promotion Programmes, and three
Market Meet R in North East which was never held before my
joining.

Attested
D.S. Biju
Advocate

contd. page 2.....

In the light of the facts stated above, I humbly request your honour to consider my case for promotion to the post of Joint Development Commissioner (Level-I)/ Additional Development Commissioner for Handicrafts in the Office of the Development Commissioner for Handicrafts, New Delhi.

For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

(L. Hattaw) 17/5/94

REGIONAL DIRECTOR

Date: 17-05-1994.

Enclos:- as above.

Attached
by "3mm"
Advocate

To

The Secretary (Textiles),
 Ministry of Textiles,
 Government of India.

(Through Proper Channel)

Subject:- Representation for Promotion to the post of Joint Development Commissioner (Level-I)/Addl. Development Commissioner submitted by L. Hatzaw, Regional Director (NER) O/O the DC (Handicrafts), Govt. of India.

Sir,

In continuation to my representation dated 17-05-1994, I have the honour to submit the following facts and figures of my particulars for kind consideration for promotion to the post of Joint Development Commissioner (Level-I)/Additional Development Commissioner for Handicrafts.

That, I was appointed to the post of Regional Director vide Order No. 1/14/89-Admn. I dtd. 16-5-90 on regular basis w.e.f. 23-04-1990 (Copy enclosed). I had been posted in North-Eastern Region since April, 1987 as Deputy Director and looked after the North-Eastern States which was upgraded to Regional Office under Order No. 20/1/89-Admn. I dated 16-04-1990.

That, the Government of India has been extending allowances and facilities under O.M. No. 20014/3/83-E.IV dated 14-12-1983 in (a) promotion in cadre posts (b) Deputation to Central tenure posts and (c) Course of Training abroad which was extended by O.M. No. 20014/16/86/E-IV/E.II(B) dated 01-12-1988 (Copy enclosed). I have been posted in North-Eastern Region for more than 7 (Se. 7) years.

That, I belong to S/T and I am eligible for promotion to the above post as per O.M. No. 36012/102/88-Estt. (SCT) dt. 21-9-1988 from the Ministry of Personnel, P.G and P (DOPT).

That, I have now completed more than four years as Regional Director and posted in North-East and organised 3 (three) Craft-Bazaars, 4 (four) Product Promotion Programmes and 3 (three) Market-Meet in North-East which was never held before by joining.

In the light of the facts stated above, I humbly request your honour to consider my case for promotion to the post of Joint Development Commissioner (Level-I)/Additional Development Commissioner for Handicrafts, New Delhi. Two posts are lying vacant since reversion of S/Shri G. Sudhir and L. S. M. Selina.

For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

— (L. Hatzaw) 24/6/94
 (L. Hatzaw),
 REGIONAL DIRECTOR (NER).

Advance Copy to :- The Secretary (Textiles),
 Ministry of Textiles,
 Govt. of India.
 Camp. : GUWAHATI.

9/ C NO - NLR/1/9/1 Admn/ Vol - VI / dt. 24-6-94. 655

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

ANNEXURE - P

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

(OY)

DIARY No. 1812
Date 3.2.95
To NER Office, O/o the DC (H)
Kalyanpur, Guwahati-781006पाँचवीं मंजिल, लोकनायक भवन
नई दिल्ली-110003
Floor V, Loknayak Bhawan
New Delhi-110003
Dated: 17-7-95The Secretary,
Dept't. of Textiles,
Udyog Bhawan, New Delhi.Subject: Representation from Shri L. Hatzaw, Regional
Director, o/o the D.C. Handicrafts, ~~Guwahati~~
Guwahati, regarding promotion.

Sir,

I am enclosing photocopy of a representation
dated 3.2.95 from Shri L. Hatzaw on the subject
mentioned above and to request you to send your
comments on the points raised in the representation.

Yours faithfully,

(R.K. Meena)
Section OfficerCopy for information to Shri L. Hatzaw, Regional
Director (NER) O/o the D.C.(Handicrafts) Kalyanpur,
Guwahati-6. Final outcome of the case will be
intimated in due course.(R.K. Meena)
Section OfficerR.Hatsec
D. 10/95
Advscall

TO

The Chairman,
National Commission for Scheduled Castes/
Scheduled Tribes
Loknayak Bhavan,
Khan Market,
New Delhi - 110003

ANNEXURE

b6
b7c

Sub:- Representation for promotion to the post
of Joint Development Commissioner (Level - I)/
Additional Development Commissioner for
Handicrafts - submission thereof.

Sir,

I am constrained to approach you with the following facts
for favour of your kind consideration.

That Sir, as per existing Recruitment Rules (Copy enclosed)
one post of Joint Development Commissioner (Level-I)/Additional
Development Commissioner is to be filled up by promotion from
officers of the rank of Regional Directors/Joint Development
Commissioner (Level-II) of the office of the Development Commi-
ssioner for Handicrafts, Ministry of Textile.

That, I belong to the ST Community and I am the seniormost
eligible officer from the office of the Development Commissioner
for Handicrafts, Ministry of Textile for promotion to the post
of Joint Development Commissioner (Level-I)/Addl. Development
Commissioner.

However, my repeated representation to this effect are yet
to be acted upon. In this connection, I am enclosing herewith
copies of my representation dt. 24.6.94 addressed to the
Secretary (Textile) which is self-explanatory.

I may kindly be allowed to add here that I have already
completed more than seven years of service in North-Eastern
Region as Deputy Director/Regional Director with effect from
April, 1987 till date. This is against the normal tenure of
three years/two years. I am, therefore, entitled for special
consideration in the matter of (a) Promotion in Cadre posts
(b) Deputation to central tenure posts (c) Courses of training
abroad as laid down in the Ministry of Finance (Dept. of
Expenditure) O.M. dt. 14.12.83 as extended from time to time.

I, therefore, request your benign office to intervene in
the matter and redress the injustice suffered by me till this
day.

Yours faithfully,

NO. N.Y.D.Q/119/Admin/Vol-V/98-99/376-777 (L. HATZAW)
dt. 3-2-95 *[Signature]*
Regional Director (NER)
O/o the D.C. (Handicrafts)
Kalyanpur, Guwahati - 6

Attested
Dipendra
Adasent

[Signature]

py to:-

(1) The Secretary (Textile),
Udyog Bhavan, New Delhi - 110001

(2) The Development Commissioner (H)
West Block - VII
R.K. Puram, New Delhi - 110066

(3) The A.D.C. (K.S.M)
O/o the D.C. (H)
West Block - VII
R.K. Puram
New Delhi - 66

Any 29/10/93
Regional Director (NER)

Attested
D. V. M.
Kanduram

ANNEXURE - Q

(31)

DIARY NO. 2322
 Date 26.9.95
 NER Office 01/09/95
 Kalyanpur, Guwahati-781001
 O/o the DC (H) of the Development Commissioner (Handicrafts)

No. HB/AD/58(206)79 /8900/8576
 Government of India
 Ministry of Textiles
 the Development Commissioner (Handicrafts)

West Block VII
 R K Puram
 New Delhi 110 066

19th Sep 1995

To,

Shri R K Meena
 Section Officer
 National Commission for SC & ST.,
 5th Floor, Lok Nayak Bhavan
 New Delhi 110 003.

46

Subject : Representation from Shri L. Hatzaw, Regional Director, Office of the DC (Handicrafts), Guwahati regarding promotion.

Sir,

I am directed to refer to your letter No.H-2/Textiles/SC-2/95 SSWV, dated 17.7.95. on the above mentioned subject, forwarding therewith a representation from Shri L. Hatzaw, Regional Director (Handicrafts), Office of the DC (Handicrafts), North-eastern Region, Guwahati, in connection with his promotion to the post of Joint Development Commissioner (Handicrafts).

There are two posts of JDC (Level-I) in the pay scale of Rs.4100-5300 in the Headquarters Office of the DC (Handicrafts), New Delhi. These two posts are higher than the grade of Regional Director (HC) in the pay scale of Rs.3700-5000/- . These posts of JDC (L-I) alongwith one post of JDC (H) (Level-II) in the pay scale of Rs.3700-5000/- have all along been filled by Officers of All India Services and other Organsided Central Services. In order to formalise the existing arrangement, a proposal for filling up these posts under the Central Staffing pattern, one at the level of Director as ADC (HC) and the other at the level of Deputy Secretary as JDC (HC), has been approved by the Government.

The above changes have been made in the overall public interest and also keeping in view the exact organisational need for upliftment of the Handicrafts

ATTACHED
 D. B. M.
 Adm. Scale

TWO PCS 2
 JDC (Level-I)
 Yours faithfully,

Regional Dir.

Kushal Kumar
 (Kushal Kumar)
 Asst. Director (Admn.I)

per

Copy to : Shri L. Hatzaw, RD (H), O/o DC (HC), NER, Guwahati for
 information.

No. A-12025/3/96-Admn. I
 Government of India
 Ministry of Textiles
 Office of the Development Commissioner (Handicrafts)

West Block 7, R.K. Puram,
 New Delhi - 110066.

Dated 16th Sept., 1999.

ORDER

One post of Joint Development Commissioner (Handicrafts) in the pay scale of Rs.12,000-375-16,000/- in the Office of the Development Commissioner (Handicrafts) is abolished with immediate effect subject to the upgradation of the remaining one post of Joint Development Commissioner (Handicrafts) to the level of Additional Development Commissioner (Handicrafts) in the pay scale of Rs.16,400-450-20,000/- in the Office of the Development Commissioner (Handicrafts).

(ALOK KUMAR VERMA)
 Additional Development Commissioner (B)

To,

CPAO, Office of the DC(B),
 New Delhi.

J DC (H)

Abc/w

Copy to :-

1. All Regional Directors. (NFF)
2. PS to Minister (Textiles), Udyog Bhawan, New Delhi.
3. PPS to Secretary (Tex), Udyog Bhawan, New Delhi.
4. JS(RH), Ministry of Textiles, Udyog Bhawan, New Delhi.
5. PS to DC(B)
6. PA to ADC(B)
7. All Deputy Directors & Sections in the Office of the DC(B), New Delhi.
8. Hindi Officer for Hindi Version.
9. CCIC, HHBC, NEEBDC.
10. Office Order file.
11. Guard file.

Attested
 D. Verma
 Advocate

1810
17.9.98
File No. 11010 the DC(H)
VER Office, Gwalior, Madhya Pradesh
Gwalior: Guwahati, Assam

No. D-25012/2/97-Admn-IV

Government of India

Ministry of Textiles

Office of the Development Commissioner(Handicrafts)

West Block No. VII, R.K. Puram
New Delhi-110066

Dated: 22.9.1998

CIRCULAR

Shri Alok Kumar Verma, IPS(UT:79) has assumed the charge of Additional Development Commissioner(Handicrafts) with effect from 28.8.98 (F/N). His addresses and telephone number are as follows:-

OFFICE:

Shri Alok Kumar Verma,
Addl. Development Commissioner(H),
Office of the DC(Handicrafts),
West Block No. VII, R.K. Puram,
New Delhi-110066.
Telephone No: 6103206

RESIDENCE:

D-4/7 Vasant Vihar,
New Delhi.
Telephone No. 6149680

All Official Communication may kindly be sent to the above address in future.

B. Shah

(Ashok Shah)

Sr. Asstt. Director(Admn.IV)

To

1. PS to Minister(Textiles), M/o Textiles, Udyog Bhawan, New Delhi.
2. PPS to Secretary(Textiles), M/o Textiles, Udyog Bhawan, New Delhi.
3. PS to chief Secretary, Delhi Administration, Delhi.
4. PS to Commissioner of Police, Delhi, ITO, New Delhi.
5. PS to DC(H)/PS to ADC(CKM), Office of the DC(H), New Delhi.
6. All Corporation..
7. All Regional Director/RD&TDC/FACs, O/O the DC(H), New Delhi.
8. All Sections in Hqrs. Office.
9. Hindi Officer for Hindi version.

*Attested
S. Verma
Advocate*

2480
17/11/2000
Office of the DC(H)
2000

BE PUBLISHED IN PART I section II OF THE GAZETTE OF INDIA)

Government of India
Ministry of Textiles
Office of the Development Commissioner(Handicrafts)

West Block VII, R.K. Puram,
New Delhi-110066

7th November, 2000

NOTIFICATION

No.A.19014/4/2000-Admn.I. /6291

appoint Shri Susheel Kumar, IAS(UP:82) as Additional Development Commissioner(Handicrafts) in the Office of Development Commissioner(Handicrafts), Ministry of Textiles, New Delhi with effect from 7.11.2000(Forenoon) for a period of five years or until further orders.

Jana
(S.K. Jana)
Deputy Director(Admn. I)

The Manager,
Govt. of India Press,
Faridabad(Haryana)
(With Hindi version)

Copy to:-

1. Sr. AO, CPAO, Office of the DC(H), New Delhi.
2. Shri Susheel Kumar, IAS(UP:82), ADC(HC), New Delhi.
3. Establishment Officer, Department of Personnel & Training, New Delhi-w.r.t. their Fax Message No.10/9/2000-EO(MM-II) dated 16.10.2000.
4. Deputy Secretary (Estt.), M/o Textiles, Udyog Bhawan, New Delhi-w.r.t. their fax message No.A.12022/8/98-Es19.10.2000
5. Deputy Secretary to Govt. Appointment Department, Govt. of UP, Lucknow.
6. All Regional Director(H), Office of the DC(H) & O/o DC(H), New Delhi
7. Hindi Unit

Notified
13-Nov-2000
Avtar Singh

No. A-11016/1/2000-Admn-I
 Government of India
 Ministry of Textiles
 Office of the Development Commissioner (Handicrafts)

West Block No. 7, R.K. Puram,
 New Delhi-110 066.
 Dated: 02.04.2002.

CIRCULAR

It has been decided with the approval of Development Commissioner (Handicrafts) to allocate the work between the two Additional Development Commissioners (Handicrafts) of this Office as under:

I. Shri Susheel Kumar

1. Administration & Establishment
2. Ambedkar Hastshilp Vikas Yojana (Central Region, Southern Region & Eastern Region),
3. Planning & Research / Indian Institute of Carpet Technology (Administration & Development)
4. Vigilance
5. Marketing (Central Region, Southern Region, Eastern Region)
6. Export, Exhibition & Publicity
7. Design and National Center for Design & Product Development
8. Parliament
9. General, R&D and Coordination
10. Library
11. UNDP (other than Cane & Bamboo),
12. Hindi, and
13. Any other work assigned by Development Commissioner (Handicrafts).

II. Shri Ravi Kapoor

1. Ambedkar Hastshilp Vikas Yojana (North Eastern Region, Western Region, Northern Region)
2. Marketing (North Eastern Region, Western Region, Northern Region)
3. Legal Cell
4. International Collaboration
5. Marketing Support
6. Public Sector Undertakings (Administration & Development)
7. Training
8. Welfare & National Award
9. Budget & Accounts/ Carpet Policy
10. Organisation & Methods
11. Monitoring Cell (Collection, Analysis of data & Computerization)
12. UNDP (Cane & Bamboo), and
13. Any other work assigned by Development Commissioner (Handicrafts)

*Attached
D.P.W.
reference*

To

1. All Regional Directors
2. All Deputy Directors of Regional Design & Training Development Centers
3. All Marketing & Service Extension Center/Carpet Weaving Service Centers
4. All AD/DD, Hqrs. Office, New Delhi
5. PS to DC(H), O/o the DC(H), New Delhi.
6. PS to ADC(SK), O/o the DC(H), New Delhi.
7. PS to ADC(RC), O/o the DC(H), New Delhi.

S.K. Jana
 Deputy Director (A&E)

Nov 2002
Gurabati, Bengal

1911-12 H. A. Phillips

卷之三

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O. A. NO. 217 OF 2002

Shri L. Hatzaw.

- V6 -

Union of India & Ors.

- And -

IN THE MATTER OF :

Written statement submitted

by the respondents.

The respondents beg to submit written statements
as follows :-

1. That with regard to para - 1 and 2, the respondents beg to offer no comments.
2. That with regard to para - 3, the respondents beg to state that the applicant in the instant OA has made reply dated 19.5.95 and order dated 20.9.1999 as impugned and challenged the same for quashing before the Hon'ble CAT. Since the section 21 of CAT Act 1985 provides the limit of one year for challenging the order from the date of issue as such both the orders made impugned are time

barred as per provision and the OA may be summarily dismissed for falling short of limitations. It is a well settled maxim in law that "Delay defeats Enquiry" i.e. who has slept over his right cannot claim the same at a belated stage .

3. That with regard to para - 4.1 to 4.5 the respondents beg to offer no comments .

4. That with regard to para - 4.6, the respondents beg to state that the RRs dated 18.4.85 stands amended vide Gazette Notification dated 2nd May 1995 a copy of which is annexed as annexure - 1, This is further to clarify the proposal for amendment of the RRs was initiated and finalized in the year 1992 itself when the applicant was not eligible for the promotion to the post of Joint Development Commissioner (level - 1)/Additional Development Commissioner .

5. That with regard to para - 4.7, the respondents beg to state that It is once again clarified that the policy decision for amending RRs of 1985 was initiated and finalized in the year 1992 though it was finally notified in the Gazette of India in 1995. Thus the claim of the applicant is not on legal and equitable footing.

6. That with regard to para - 4.8, the respondents beg to offer no comments being irrelevant because roster for reservation for senior post of Group A is not applicable as per Government Rules.

7. That with regard to para - 4.9, the respondents beg to state that the respondents have not received several representations as alleged by the applicant. However, the representation dated 3.2.1995 was responded vide respondents letter dated 19.9.1995. Wherein, it has been categorically mentioned that in order to formalize the existing arrangement a proposal for filling up these posts under the Central staffing pattern, once at the level of Director as ADC(HC) and the other at the level of Deputy Secretary as JDC(HC) has been approved by the Government. These changes have been made in the overall public interest and also keeping in view the exact organizational need for upliftment of the Handicrafts sector. As such the contention of the applicant that his representation was neither considered nor rejected, is wholly incorrect. As regard to the order dated 20.9.1999, whereby the post of JDC (HC) to the level of ADC in the

pay scale of Rs. 16400 - 20000 is concerned, it was ample clear that the post for which the applicant was claiming promotion has ceased to exist. In case the applicant was aggrieved by the said order, he was at his liberty to challenge it in the CAT within the limitation of one year as provided in the Section 21 of CAT Act 1985. Raising this issue at such a belated stage is barred by limitation. It is further to clarify that the order dated 20.9.99 was not issued by the respondents on their own. Rather, it has been issued in compliance to the instruction of Department of Expenditure, Ministry of Finance as contained in OM No. 7 (3) (Coord)/99 dated 5.8.1999, whereby 10% cut was imposed in view of the downsizing/rightsizing of the staffing pattern in Government Organisations.

A copy of the above O.M. is annexed as Annexure -II.

8. That with regard to para 4.10, the respondents beg to state that it has already been clarified in the fore-going para that the roster for SC/ST is not applicable for the senior post in the Group A for which applicant is staking his claim.

9. That with regard to para - 4.11, the respondents beg to state that the incumbents as stated by the applicant have been appointed under the central staffing pattern as approved by the Government. The latest incumbents Mr. Ravi Kapoor, I.A.S. is presently holding the post of ADC (H) as a consequent to his appointment on personal basis against the said by the DPOT vide its letter No. 10/22/2001 E (MM - 11) dated 21/2/2002. The photocopy of the said letter is Annexed as Annexure - III .

10. That with regard to para - 4.12, the respondents beg to state that it is further to stress that the applicant's contentions for quashing the reply dated 19.9.95 and order 20.9.99 at his belated stage are not logical nor having any judicial force barred by limitations as provided under section 21 CAT Act - 1985 .

11. That with regard to para - 4.13, the respondents
in content of this para are
beg to state that ^{was} not relevant at this point of time
since the post for which applicant is seeking promotion does not exist in view of the order dated 16.9.99. Moreover, the RR of 1985 stands amended by the Notification dated 2nd May 1995.

12. That with regard to para - 4.14, and 4.15, the
respondents beg to state that are denied on the grounds
that the instant O A is devoid of any merit and also barred
and also barred for limitation as provided under Section 21
CAT act 1985 .

In view of the facts are given above, the Hon'ble
CAT Guwahati Bench may graciously be pleased to dismiss the
instant OA at the stage of admission itself being devoid
of any merit and also as barred by limitations .

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

VERIFICATION

I, Shri PS. Babu, presently working as Dy. Director (NER) be duly authorised and competent to sign this Verification, do hereby solemnly affirm and declare that the statement made in para - 1, 2, 3, 5, 6, 8 and 10 are true to my knowledge, these made in paras 4, 7, 9, 11 and 12 are true to my information derived therefrom and rest are my humble submission before the Hon'ble CAT, I have not suppressed any material facts.

And I sign this Verification on this 11 th day of November, 2002.

DECLARANT

PS
Babu
Dy. Director

Regional Design Tech Devt Centre
Of The Dy. Commissioner (H)
Mo Textiles Govt. of India
Housefed fibre Complex
Gwahati 781003

Arunesh Deb Ray, B.A. (Distn) LLB

Advocate, Gauhati High Court
Central Administrative Tribunal
Sr. Central Govt. Standing Counsel
Guwahati Bench, Guwahati - 781 005

Residence

Hengrabari Housing Colony
L.I.G. - 3 (Top floor)
Guwahati - 781 006
Phone : 265334(R), 221358 (C)

Ref. No.

Date.

To,

Shri Dr (Mrs) M. Pathak
Advocate.

Sub: Copy to written statement in O.A M.P. No 217/2002

Sir,

of WS
Please find herewith a copy which is being filed today.

Please acknowledge receipt.

Yours Sincerely,

Ady 12/11/02

(A.Deb Roy)

Sr.C.G.S.C.

C.A.T., Guwahati Bench.

Undertake to serve copy to *Shri Dr (Mrs) M. Pathak, Adv.*

Ady 12/11/02

(A.Deb Roy)

Sr.C.G.S.C.

C.A.T., Guwahati Bench.

भारत का वार्तालाल

The Gazette of India

असाधारण EXTRAORDINARY

Part II—Section 3—Sub-Section (1)
PART II—Section 3—Sub-section (1)

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PUBLISHED BY AUTHORITY

No. 195]

तदे विश्वी नगरायार; वर्ष 2, 1995/वैशाख 12, 1917

No. 195]

NEW DELHI, TUESDAY, MAY 2, 1995/VAISAKHA 12, 1917

महात्मा गांधी

विकास आमूल्य (हस्तालिल) कायदानि

प्राधिकार

तदे विश्वी, 27 अप्रैल, 1995

सा.फा. नि. 575(अ)।—दावपति संकिधान के प्रस्तुति 309 के दरावक द्वाद्य बदलन याचितयों का प्रथीत करते हुए तथा विकास आमूल्य (हस्तालिल) कायदानि (वर्ष "वा" पद) विश्वी विश्वी, 1995, जहां तक संयुक्त विकास आमूल्य (हस्तालिल) वर्ष-2 के पद का संबंध है, ता. प्रधिकारमण करते हुए, इस प्रधिकारमण से युवा की गई कार्रवाई या त यी गई कार्रवाई को छोड़कर एवं द्वारा विकास आमूल्य (हस्तालिल) कायदानि में संयुक्त विकास आमूल्य (हस्तालिल) के पद की जर्ती यी प्रदृष्टि का विनियमन करते हुए निम्नलिखित नियम दर्शाते हुए, घोषित—

1. इनीश्वर शीर्षक एवं प्रारम्भ : (1) ये नियम संयुक्त विकास आमूल्य (हस्तालिल) वर्षी विश्वी, 1995 का जा जाएंगे।

(2) ये नियम संस्कारी राजपत्र में प्रकाशित होते रही कार्रवाई से प्रवृत्त होते हैं।

2. पदों की संख्या, वर्गीकरण एवं वैतनमान : एकत्र पदों की संख्या वर्गीकरण द्वारा इससे संबंधित वैतनमान पूर्ण नियमी संस्कार संस्कारी के कानून 2 से 4 में दिए गए समुदाय होगी।

3. युवा की प्रदृष्टि, यात्रा सीमा तथा शब्द प्रहीताएं आदि : चर्चत पदों पद-धर्ती की प्रदृष्टि, यात्रा सीमा, अहंताएं और इनके संबंधित शब्द विश्व उपर संस्कारी के कानून 5 से 14 तक में दिए गए समुदाय होगी।

4. निरंदहारण : ऐसा कोई व्यक्ति :

(ए) जिसने दिए व्यक्ति से जिसका पति या पत्नी जीवित है, विद्याह विद्या है या

(ब्ब) जिसने दिए व्यक्ति या अपनी पत्नी के जीवित होते हुए किसी व्यक्ति से विद्याह विद्या है,

उक्त पद पर नियुक्ति का पालन नहीं होगा।

9

THE GAZETTE OF INDIA: EXTRAORDINARY. (PART II—SEC. 3(1)).

परन्तु यहि ग्रेम्डीम राखार था सामाजिक शो जाएँ कि ऐसा विवाह प्रेते व्यक्ति और दिनांक के अन्य पश्चात का दायरा वैयक्तिक विधि के प्राचीन अनुयोग है और देता करने के लिए अप्य सामाजिक विवाह है वो शो किसी व्यक्ति को हाँ नियम ये राखना है क्षमता है।

६. व्यापूरितः : इन गियरों को कोई भी दाग ऐसे आक्रमण, आपूर्तीमा में सूख और अल्प रवायतों पर प्रभाव नहीं लायेगी, जिसका कानूनी उत्तराधार द्वारा इस संबंध में संबंध समय पर यारी भिंग गए गाइरों के अनुसार अनुसूचित गात्रियों, अनुभूतित गतियों और अन्य विशेष गवारों के व्यवस्थायों के लिए उपयोग करना योग्यता है।

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पद का नाम	पदों की संख्या	वर्गीकरण	वेतनमात्र
1	2	3	4
संयुक्त विकास प्राधिकरण (हस्तांशिलम्)	1 st (1996)	जामान्य क्रियावीय सेवा कार्य "क"	3700 - 125 - 4700/-
	"कार्यभार पर निर्भार प्रियशिवान्ता दायरप्रतिक्रिया अधिकारीय के पदधर्याल	"कार्यभार पर निर्भार प्रियशिवान्ता दायरप्रतिक्रिया अधिकारीय	150-6000/- प्रथम

प्रधरण पर अधिकार अधिकारण पर सीधी भर्ती वाले उम्मीदवारों के लिए केन्द्रीय सिविल सेवा (वेंशन) सीधी भर्ती वाले उम्मीदवारों सिए आद्य सीधा नियम 1972 के नियम 30 के लिए अपेक्षित गोलिक एवं आनंदालू विधित सेवा वर्षों का अध्य अर्हतार्थ नाम प्रदूषन है।

5 नागू नहीं होता 6 नागू नहीं होता 7 नागू नहीं होता 8 नागू नहीं होता

फरा ही ही भर्ती बाते उम्मीदवारों के लिए
निर्धारित आयु एवं योग्यता धर्मात्मा द्वीपस्थि
ती दृश्य में सारा दौरी था नहीं

भर्ती की पहुँचि, सीधी भर्ती हारा प्रथमा
प्राप्तिनिधि हारा प्रथमा प्रतिनिधित्व/स्वातान्त्र्यरण
हारा हारा विधिन वक्ताओं हारा घरे
वाले दिव्य पदों का प्रतिगत

9	10	11
जागृ नहीं होता	जागृ नहीं होता	प्रतिनिष्पक्ति पर व्यानात्तरण द्वारा

प्रहितिमणितं परं स्मारणात्मकम् ।

अखिलः पारसीष्म लेखा तुम्हा आदतीय एतत्त्वाम् लेखा की प्रशिक्षणीः

(क) (1) लिखित भाषाएँ पर हमेशा उम्हीं पर आर्योत्तम भव्या

(2) 3000-4800/- संघर्ष के दैत्यराज के पांडे ने 5 लाख रुपये का संग्रह करके संघर्ष तक

(ए) इस प्रणाली की भौमि में विशेषताएँ सर्वेषां, यिकोनात्मक स्त्रीयों की व्येषना एवं कार्यान्वयन समा राज्य धर्मवा उच्च स्तरों पर उन्निति विषयान कार्यनीति संभार करने से संशोधित प्रश्नाओं का प्रयोग भवति रखते हैं।

यही भ्रष्टाचार कीमतीय सरकार के किसी प्रांगण/प्रियांग से- किसी भ्रष्ट संवर्ती वाक्यः पद-पद प्रतिनियुक्ति की भ्रष्टाचार भविता, भ्रष्ट-भ्रियुक्ति परी भ्रष्टाचार के एकांश भ्रष्टाचार चार भर्षः ते भ्रष्टाचार नहीं होणी ।

प्रतिनियोगिता ग्रन्थालय द्वारा नियमित के लिए शीर्षक आय सीमा, प्राप्तेवत् प्राप्तों की भागीदारी, अंतिम नियम

10

मा/11-प्रक. 3(1)

भारत सरकार, अमीरपाल

सभि विभागीय ग्रन्थालय समिति विभागात हि तोहनका ग्रन्थ प्रयोग 'वे परिस्थितिया, जितमें खाली करते समय धन्द गौल गोथ धार्यांग से प्राप्तप्रा' भाला प्रतिवार्ष है।

13

14

लागू नहीं होता

हम तोका सेवा धार्यांग से प्राप्तप्रा फरता प्रतिवार्ष है।

[मिति नं. 0/12/92-प्रा. 1]

Kund Attn:- Sh. S. Banerjee, IAS, BSL, M/o Textiles

MINISTRY OF TEXTILES

Office of the Development Commissioner (Handlooms)

NOTIFICATION

New Delhi, the 27th April, 1995

O.S.R. 376(E) :—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Office of the Development Commissioner (Handlooms), (Group 'A' posts) Recruitment Rules, 1985, so far as they relate to the post of Joint Development Commissioner (Handlooms) Level-II, except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Joint Development Commissioner (Handlooms) under the Office of the Development Commissioner (Handlooms), namely :—

1. Short title and commencement.—(1) These rules may be called the Joint Development Commissioner (Handlooms) Recruitment Rules, 1995.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Number of post, classification and scale of pay.—The number of the said post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit and qualifications etc. The method of recruitment to the said post, age limit, qualifications, and other matters relating thereto shall be as specified in columns 5 to 14 of the Schedule aforesaid.

4. Disqualification.—No person,—

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person, shall not be eligible for appointment to the said post :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by Order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of these rules in respect of any class or category of persons.

6. Saving.—Nothing in these rules shall affect reservations, relaxation of age limit; and other concessions required to be provided for, the categories belonging to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of the Post	Number of post(s)	Classification	Scale of Pay
	2	3	4
Joint Development Commissioner (Handlooms) (1995)	1*	General Central Service, Group 'A', Gazetted, Non-Ministerial.	Rs. 3700-125-4700-150. 5000.

*Subject to variation dependent on work load.

Whether Selection post or non-selection post.	Age limit for direct recruit.	Whether holder of added years of Service admissible under rule 30 of the Central Civil Service (Pension) Rules, 1972.	Educational and other qualifications required for direct recruit.
5	6	7	8
Not applicable	Not applicable	Not applicable	Not applicable

Kum. Admin., Sh. S. Banerjee, I.I.S. (Estt.), M/o Textiles

THE GAZETTE OF INDIA : EXTRAORDINARY

[PART II—SEC. 3(i)]

Whether age and educational qualifications prescribed for direct recruits will apply in the case of Promotees.	Period of probation, if any.	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.
9 Not applicable	10 Not applicable	11 By transfer on deputation.

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

13
If a Departmental Promotion Committee exists, what is its composition.

14
Transfer on deputation : Officers of the All India Services and the Indian Economic Services.

Not applicable.

(a) (i) Holding analogous posts on regular basis;

OR

(ii) With five years regular service in posts in the scale of Rs. 3000-4500 or equivalent; and

(b) possessing experience in the handicrafts sector especially in aspects relating to conduct of surveys, planning and implementation of developmental schemes and drawing up appropriate marketing strategies at the State or higher levels :

Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the case of some other organisation/department of Central Government shall ordinarily not exceed four years. The maximum age limit for appointment by transfer on deputation shall be "Not exceeding 55 years" as on the closing date for receipt of applications.

15
Circumstances in which Union Public Service Commission is to be consulted in making recruitment.

16

Consultation with Union Public Service Commission necessary.

[F. No. 6/1/92—Admin. II]

K.S. MEERA, Addl. Development Commissioner (Handicrafts)

संधिसूचना

नवे दिसंबर, 27. अक्टूबर, 1995.

सा. का. नि. 377(अ) :— राष्ट्रपति, संविधान एवं संतुष्टिक्रम 309 के परामुख द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए लक्ष्य विकास आयोजन (हस्तांशिल) कार्यालय, (या "क") भर्ती नियम, 1988, जहाँ तक क्षेत्रीय निदेशक (हस्तांशिल) के पद का लाभ है, का प्राधिकरण करते हुए, इस अधिकारण के दूर्वा की गई कार्रवाई की छींकट एवं द्वारा विकास आयोजन (हस्तांशिल) कार्यालय में क्षेत्रीय निदेशक (हस्तांशिल) के पद की भर्ती की प्रक्रिया का नियमन करते हुए निम्नलिखित नियम बनाए जाएं :

1. संक्षिप्त शीर्षक एवं शास्त्रम् : (1) वे नियम क्षेत्रीय निदेशक (हस्तांशिल) भर्ती नियम, 1988 कहे जा सकें।

(2) वे नियम संस्कारण व्यवस्था में प्राप्ताधिकार होने की हारीज से प्रवृत्त होंगे।

2. पदों की संख्या, वर्गीकरण एवं वेतनकाल : उक्त पदों की संख्या, वर्गीकरण और इनके संबंधित वेतनपान इन नियमों के तीन उन्नासी के कानून 5 से 4 में विषय गण करुद्धार होगी।

3. भर्ती की प्रविधि, आयु-सीमा तथा अन्य संरोक्त प्राविधि : उक्त पदों पर भर्ती की प्रविधि, आयु-सीमा, अवृत्ताएं भार या संबंधित व्यवस्था का कानून 6 से 14 तक में विषय गण करुद्धार होगी।

4. निरक्षाएँ : ऐसा कोई व्यक्तिः

(क) जिसने ऐसे व्यवित हो, जिसका नाम या पत्ती जीवित है, विवाह किया है, या

(ख) जिसने अपने पति/या पत्नी के जीवित होने हुए किसी "स्मरण" से "विवाह" किया है,

उक्त पद पर नियुक्ति का वाला नहीं होगा;

THE GAZETTE OF INDIA: EXTRAORDINARY

प्रतिनियुक्ति पर स्थानान्तरणः

केन्द्रीय/राज्य लोकार्योक्ति विभाग के विभिन्न प्रधिकारीः

(क) (1) नियमित योग्यार पर समकाल पदों पर कार्यरत प्रधिकारी, अध्यक्ष

(2) 3000-4500 रुपये के वेतनमात्र से वहाँ पर 5 वर्ष की नियमित सेवा अवधि इसी सम्बन्ध सम्भव

(ग) वृत्तिशिल्प/वैद्युत उद्योग तथा युद्धीर उद्योग/प्राधिक सर्वेक्षण के द्वारा में भवन रखते हैं।

(घ) वृत्तिशिल्प/वैद्युत उद्योग तथा युद्धीर उद्योग/प्राधिक सर्वेक्षण के द्वारा में भवन रखते हैं, प्रतिनियुक्ति पर नियुक्ति के लिए योग्य संचारक अधिकारी, जो शोलांति के लिए सोधी, लाइन में जाते हैं, प्रतिनियुक्ति पर नियुक्ति के लिए योग्य

नहीं जाते गए हैं।

इसी रखार प्रतिनियुक्ति पर कार्य कर रहे अधिकारी जो भी शोलांति द्वारा नियुक्ति के लिए पात्र नहीं जाएगा। उसी अध्यक्ष केन्द्रीय राज्यालय के किसी संगठन/विभाग में उसी अध्यक्ष वाहूप्र पद पर प्रतिनियुक्ति को अवधि सहित, प्रतिनियुक्ति की अवधि इस नियमित के तत्काल परवात चार वर्ष से अधिक नहीं होगी।

प्रतिनियुक्ति पर स्थानान्तरण इस नियुक्ति के लिए अधिकार सम्बन्धीय भावितव्य पदों की आवश्यकीय अवधि तथा 5 वर्ष से अधिक नहीं।

प्रतिनियुक्ति पर स्थानान्तरण इस नियुक्ति के लिए अधिकार सम्बन्धीय भावितव्य पदों की आवश्यकीय अवधि तथा 5 वर्ष से अधिक नहीं।

कानूनी विभागीय शोलांति समिति :

(शोलांति के लिए)

1. अध्यक्ष/सदस्य

संघ सौक देवा भायोग

—प्रध्यक्ष

2. विकास भायुक्त (वृत्तिशिल्प)

विकास भायुक्त (वृत्तिशिल्प) कामालय

—सदस्य

3. विकास भायुक्त (वृत्तिशिल्प)

विकास भायुक्त (वृत्तिशिल्प) कीर्तिलय

—सदस्य

प्रतिनियुक्ति पर स्थानान्तरण योग्यार पर नियुक्ति के लिए किसी प्रधिकारी का अध्यक्ष करते समय संघ सौक देवा भायोग से परामर्श करना अवश्यक है।

[नियम सं. 8/13/92 - प्रति. 1]

क. पद. नेहरा, अपर विकास भायुक्त (वृत्तिशिल्प)

NOTIFICATION

New Delhi, the 27 April, 1993

G.S.R. 377(B):—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Office of the Development Commissioner (Handicrafts), (Group 'A') Recruitment Rules, 1985, so far as they relate to the post of Regional Director (Handicrafts), except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Regional Director (Handicrafts) under the Office of the Development Commissioner (Handicrafts), namely:—

Short title and commencement: (1) These rules may be called the Regional Director (Handicrafts) Recruitment Rules, 1993.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Number of posts, classification and scale of pay: The number of the said post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit and qualifications etc.: The method of recruitment to the said post, age limit, qualifications, and other matters relating thereto shall be as specified in columns 5 to 14 of the Schedule aforesaid.

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[VR. I-1977 4(1)]

[VR. I-1977 4(1)]

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4. Disqualification—No person—

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who having a spouse living, has entered into or contracted a marriage with any person, shall not be eligible for appointment to the said post;

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing, and in consultation with the Union Public Service Commission, relax any of the provisions of these rules in respect of any class or category of persons.

6. Savings.—Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the categories belonging to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SCHEDULE

Name of the Post	Number of Post(s)	Classification	Scale of pay
Regional Director (Handicrafts)	2 (1995)	General Central Service, Group 'A' Gazetted, Non-Ministerial.	Rs. 3700-125-4700 150- 5000.

*Subject to variation dependent on workload.

Whether Selection post or non-selection post.	Age limit for direct recruits	Whether benefit of added years of service admissible under rule 30 of the Central Civil Service (Pension) Rules, 1972,	Educational and other qualifications required for direct recruits.
Selection	6	7	8
	Not Applicable	Not Applicable	Not Applicable
Whether age and educational qualifications prescribed for direct recruits will apply in the case of Promotees.	Period of probation if any.	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.	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made.
9	10	11	12
Not Applicable	NII	Promotion, failing which by transfer on deputation.	Promotion : Deputy Director (Design), Deputy Director (Regional Design and Technical Development Centre), Deputy Director (Textiles), Deputy Director (Handicrafts), Deputy Director (Technology), Deputy Director (Administration and Coordination), Deputy Director (Budget & Accounts) with 5 years regular service in the respective grade.

Note : The eligibility list for promotion shall be prepared with reference to the date of completion by the officers of the prescribed qualifying service in the respective Grade/Post.

Transfer on Deputation :

Officers under the Central/State Govts./Union Territories :

- (i) Holding analogous posts on regular basis; or
- (ii) with 5 years regular service in the scale of Rs. 3000-4500/- or equivalent; and

15

82/3

THE GAZETTE OF INDIA: EXTRAORDINARY

[PART II.—Sec. 11.]

12

(b) Possessing experience in the field of Handicrafts/Small Scale Industries and Cottage Industries/Economic Survey.

The departmental officers in the higher category who are in the direct line of promotion shall not be eligible for consideration for appointment on deputation.

Similarly, deputationists shall not be eligible for consideration for appointment by promotion.

Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of Central Government shall ordinarily not exceed four years.

The maximum age limit for appointment by transfer on deputation shall be "Not exceeding 56 years", as on the closing date of receipt of applications.

If a Departmental Promotion Committee exists, what is its composition.

Circumstances in which Union Public Service Commission is to be consulted in making recruitment.

13

14

Group 'A' Departmental Promotion Committee.
(For Promotion)

Consultation with the Union Public Service Commission necessary while selecting an officer for appointment on Transfer on Deputation.

1. Chairman/Member, Union Public Service Commission —Chairman
2. Development Commissioner for Handicrafts, Office of the Development Commissioner (Handicrafts) —Member
3. Development Commissioner for Handlooms, Office of the Development Commissioner (Handlooms) —Member

K.S. MEHTA, Addl. Development Commissioner (Handicrafts) (No. 6/13/B2—Admn. I)

7. OCT. 2002 .18:36

Secretary/Ministry

dy. No. 376. Date 6/8/99
Min. of Textiles/वस्त्र मंत्रालय

(16)

NO. 938/IV/P.15

ANNEXURE-II

No. 7(3)/E(Coord)/99
Government of India
Ministry of Finance
Department of Expenditure

4231/85/R/29
9/8/99

New Delhi, 5th August, 1999

Office Memorandum

Subject : Guidelines on Expenditure Management - fiscal prudence and austerity.

In continuation of this Department's O.M. No. 19(1)-E.II(A)/98 dt. 20th August, 1998 and 10th February, 1999 on the subject cited above, it has been decided to implement the following additional austerity measures with immediate effect:-

2) ~~1. Ban on creation of Plan and Non-Plan posts~~

1) ~~2. Ban on filling up of vacant posts~~
The existing ban on creation of Non-Plan posts will continue and should be strictly enforced. Any unavoidable proposals for the creation of plan posts including Groups 'B', 'C' and 'D' posts shall continue to be referred to the Ministry of Finance (Department of Expenditure) for approval.

2) ~~3. Ban on filling up of vacant posts~~

8
8/8
8/8/99
Every Ministry/Department shall undertake a review of all the posts which are lying vacant in the Ministry/Department and in its Attached and Subordinate Offices, etc., in consultation with the Ministry of Finance (Dept. of Expenditure). It will ensure that the review is completed in a time bound manner and full details of vacant posts in their respective Ministries etc. are available. Until the review is completed no vacant post shall be filled up except with the approval of the Ministry of Finance (Department of Expenditure).

3) ~~4. 10% cut in posts~~

2) ~~5. 10% cut in posts~~
Those Ministries/Departments which have not fully implemented Government's decision to achieve 10% reduction in the number of posts (as on 1.1.92) shall implement the said decision immediately.

9/8 1) ~~6. Purchase of new vehicles~~

1) ~~7. Purchase of new vehicles~~
Purchase of new vehicles is banned until further orders. Exceptions will be allowed only for meeting the operational requirements of Defence, Central Para Military Forces, etc.

8) ~~8. 10% mandatory cut on Non-Plan non-salary expenditure~~

Every Ministry/Department shall make a 10% mandatory cut during the current year (1999-2000) on Non-Plan, non-salary expenditure, i.e., on TA, Office Expenses, POL, OTA, honorarium, etc. No re-appropriation of funds to augment

from Branch
from ~~under~~

leve to ~~under~~
10/8

Dis/CD) ~~Immobilized~~
Project

1F4

(17)

(2)

These heads of expenditure would be allowed during the current financial year. Austerly must be reflected in functions organised by the Govt. of India (meetings, conferences, inaugurations, etc.) and in furnishing of offices/offices at residences. The expenditure limit prescribed for these purposes shall be strictly enforced.

(6) Foreign Travel

Foreign travel funded by the Govt. of India, unless it is absolutely unavoidable, shall not be undertaken till the end of the current financial year.

(7) New expenditure proposals

No new expenditure proposals will be entertained during the current financial year except those announced in the budget.

(8) Expenditure on existing schemes/programmes

Any unavoidable increase in expenditure on existing schemes/projects shall be met out of savings; no additional funds will be provided for this purpose. Proposals for inter State transfer of funds in respect of schemes covering all the States will not normally be entertained.

2. All existing instructions on austerity/economy in expenditure issued by the Ministry of Finance (Department of Expenditure) from time to time shall be strictly enforced.

3. Secretaries to the Govt. of India and Financial Advisers are requested to ensure strict compliance of the above instructions.

(C.M. Venkatesh)

Secretary to the Govt. of India

To:

All Secretaries to the Govt. of India (By name)

All Heads of Public Sector Enterprises

All FAs (By name)

All Chief Secretaries of State Governments with the request that they may consider issuing similar instructions in respect of their State Governments.

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**FROM : THE ESTABLISHMENT OFFICER
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL AND TRAINING
NEW DELHI**

**TO : THE CHIEF SECRETARY
GOVERNMENT OF ASSAM
DISPUR.**

18
 26/2/2002

22 FEB 2002

NO. 10/22/2001-EO(MM-II), NEW DELHI, DATED FEBRUARY 21, 2002

SHRI RAVI CAPOOR, IAS (AM:86) HAS BEEN APPROVED FOR APPOINTMENT AS ADDITIONAL DEVELOPMENT COMMISSIONER (HANDICRAFTS) IN THE OFFICE OF DEVELOPMENT COMMISSIONER (HANDICRAFTS) UNDER THE MINISTRY OF TEXTILES ON CENTRAL DEPUTATION BASIS AT THE LEVEL OF DIRECTOR FOR A PERIOD OF FIVE YEARS FROM THE DATE OF HIS TAKING OVER CHARGE OF THE POST OR UNTIL FURTHER ORDERS, WHICHEVER EVENT TAKES PLACE EARLIER(.)

D.C.(1) 2. THE OFFICER MAY KINDLY BE RELIEVED OF HIS DUTIES IMMEDIATELY WITH INSTRUCTIONS TO TAKE UP HIS NEW ASSIGNMENT(.)

Copy by post in confirmation.

Upma Srivastava

504 / JS(SG) / 02 (UPMA SRIVASTAVA)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

22/02

NO. 10/22/2001-EO(MM-II), NEW DELHI, DATED FEBRUARY 21, 2002

Copy to :-

1. Ministry of Textiles (Shri Sudhir Bhargava, Joint Secretary), New Delhi-110011 w.r.t. their letter No.A-12022/7/98-Estt, dated 18.2.2002.

The proposal to appoint Shri Ravi Capoor, IAS (AM:86) as Additional Development Commissioner (Handicrafts) in the Office of Development Commissioner (Handicrafts) on Central deputation basis has been approved at the level of Director for a period of five years from the date of his taking over charge of the post or until further orders, whichever event takes place earlier.

2. Chief Secretary, Government of Meghalaya, Shillong.

3. PS to MOS(PP)/Sr.PPS to Secretary(P)/PS to EO/RO(CM)/EO(MM-II)/ PS to DS(MM)/Guard File.

Copy forwarded to

7. DC(HC), R.K.B.

for n.o.

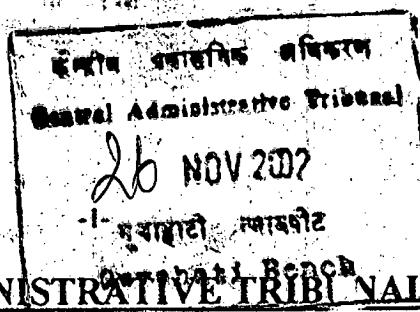
Upma Srivastava

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

7. DC(HC), R.K.B.
(Mr. T. K. Jha, DC)

26/2/2002
 25

26/2/2002
 25



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

OA NO. 217/2002

Shri L.Hatzaw..... Applicant

vs

Union of India & others..... Respondent

Filed by the Applicant

Tronghi-

Dipan Basumatary
Advocate

26/11/02
86

(Affidavit in reply to the written Statements submitted by the respondents)

I, Shri L.Hatzaw, son of Neng Tual Hatzaw age about 59 yrs, resident of F-304, Kailash Apartment, Rani Housing Complex, Bellola Tiniali, Guwahati-28, do hereby solemnly affirm and state as follows:-

- 1) That a copy of the written statements submitted by the respondents in the Hon'ble Tribunal, has been served on me. I have gone through the same and understood the contents thereof.
- 2) That the written statements has been sworn in and signed by a person who has no authority and power to do so. Therefore, the written statements filed have no validity in the eye of law. In this case only the Development Commissioner (Handicraft) or Addl. Development Commissioner (Handicrafts) has the power to sign the written statements.

Contd.page.2...



3) That with regard to the statements made in Para 2 and 10 the written statements (referred to as the "WS") I say that in this case, the law of limitation including the provisions of section 20 and 21 of the CAT, Act, 1985, does not apply. The matter of promotion is a fundamental right. Moreover, the matter of promotion is linked with the entitlement and fixation of higher pay and allowances etc. Therefore, denial of such promotion is a continuing cause of action, which runs day by day till such time of granting promotion. The law is well-settled in this regard by virtue of catena of decisions rendered by Hon'ble Courts including the Supreme Court. Moreover the respondents are showing that there is no further avenue of promotion for the applicant from the post of Regional Director (Handicraft) as Recruitment Rules do not provide for any further promotion. In that case it is an admitted fact that there is stagnation so far the case of promotion of the applicant is concerned. In that event also, I have a right to approach this humble Tribunal for issuance of direction to the respondents for considering my promotion by removing the stagnation and to promote me to higher post, if necessary by creating a supernumerary post. The Hon'ble Supreme Court in "Raghunath Prasad Singh-vs-state of Bihar", reported in ATR 1988 Supreme Court, 1033, held that reasonable promotional opportunities should be available in every wing of Public service and for foster the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. By the said decision the Hon'ble Supreme Court even allowed the scope of promotion by merging two different

Contd.p[age.3...



Cadres. In another case, reported in 1998 (I) SLJ, 166(SC) (Delhi Administration, Delhi & others vs Nandlal Pant and others) held that one can demand promotion when there is no channel of promotion. The Hon'ble Apex Court even directed the authority to promote the petitioners by creating supernumerary post and to allow the petitioners to continue in that post. In another case as in Dr. (Ms). OZ Hussain vs Union of India, reported in ATR 1990(I) SC 437, the three Judges Bench of the Hon'ble Supreme Court held that there cannot be disparity in promotional avenues and pay scale of similarly situated persons in two different Ministries of the Govt., and therefore, the said Hon'ble Court directed to frame appropriate rules in the pattern of other ministry to throw open the promotional avenues. In Zin-Ud-Din -vs- Delhi administration and others, reported in 1990(13) ATC 812 the three Member Bench of the CAT, New Delhi, held that there must be reasonable promotional opportunities in public services. The said Hon'ble Tribunal relying upon the case of Raghunath Prasad Singh Vs State of Bihar, directed the authority to en- cadre a post which was not having promotional avenue to the cadre of main-stream and to give effect to promotion. The law of limitation also does not apply as the applicant is entitled to promotion under ACP scheme of 1999, which is a continuing right of the application giving rise to continuing cause of action.

Contd. Page 4...



Therefore, in this instant case also the applicant has been stagnating in the same post of Regional Director (Handicraft) since 23/4/1990 without any promotional avenue up-till now, which cannot be allowed to continue in view of the above law laid down by the Hon'ble Apex Court. For the reasons above, the law limitation does not apply to this instant case.

4) That with regard to the Statements made in paragraph 4 and 5, I say that the amendment as in "Annexure - I" of the written statements, has been made in gross violation of the provisions of Article 311 read with 14, 16 and 21 of the Constitution of India. Hence, the said amendment is illegal, unconstitutional and liable to be declared as void. By the said amendment the post of Regional Director (Handicraft) and the post of Joint Development Commissioner (Level-II) have been segregated by suppressing the Recruitment Rule of 1985 (Annexure- L of the application). In the Recruitment Rule of 1985, the post of Regional Director (Handicraft) and Joint Development Commissioner (Level-II) were in the same footing and similarly circumscribed with the same pay scales, grade and as "selection" category. In the same Recruitment Rule, there were another category of post, namely, Joint Development Commissioner (H) (Level-I) which was the next higher post and a "selection" category. 50% of these posts were to be filled up by promotion from the feeder grade of Regional Director (Handicraft) /Joint Development Commissioner (H) (Level-II). But contrary to all Government policies and the rule of service jurisprudence, the so called amendment

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Recruitment Rules of 1995 has brought in a demarcation thereby de-linking and separating the post of Regional Director (Handicraft) from the post of Joint Development Commissioner (Level-II). According to the Recruitment Rule of 1995, the post of Joint Development Commissioner (H) (Level-II) has been re-designated as Joint Development Commissioner(H) by deleting the "Level-II" and it has been made a "non selection" post. But with a clear intention to block the promotional avenues from the post of Regional Director (Handicraft), the amended Recruitment Rules of 1995 has made the post of Regional Director (Handicraft) as a "selection post". On the other hand the amended Recruitment Rules of 1995 is clearly silent about the two posts of Joint Development Commissioner (H) (Level-I). That is to say, the said posts were very much in existence, while the case of promotion of the applicant was not considered. Under this circumstances, the amended Recruitment Rules has no relevance so far the right of the applicant is concerned for his promotion to the post of Joint Development Commissioner (H) (Level-I) or to the post of Additional Development Commissioner (H). It is pertinent to mention here that the Respondents instead of showing the rules relating to the promotion to the post of Joint Development Commissioner (Level-I) / Additional Development Commissioner(H) from the post of Regional Director (Handicraft) /Joint Development Commissioner (Level-I), have filed the Annexure-I, Recruitment Rules of 1995 which has no nexus with the promotion of the applicant. Hence, denial of promotion to the applicant is illegal and violation of his legal and fundamental rights.



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5) That with regard to the Statements made in paragraph 6 and 8, I reiterate the statements made in the application and also to state that the applicant has a constitutional as well as fundamental right as provided by the amending Act of Article 355 (82nd Amendment) with the amendment of Article 16(4A) of the constitution of India. By virtue of that constitutional provision, the applicant is entitled to get his promotion to the higher grade even by the provision of relaxation as provided by such Constitutional amendment. These Constitutional provisions are circulated by the Government of India, in Office Memorandum No. 35012/23/96- Estt. (RES) dated 22/7/1997, No. 3612/23/1996- Estt (RES)- VOL-II dated 3/10/2000 and No. 20011/1/2001 - Estt. (D) dt. 21/1/2002.

The photo copies of the aforesaid O.Ms dated 22/7/97, 3/10/2000 and 21/1/2002 are annexed as Annexure-V, W and X respectively.

6) That with regard to the statements made in paragraph 7, I say that the statements are made by wrong interpretation of provisions of law and rules and therefore the same are denied. So far the letter dated 19/9/95 (Anx-Q in O.A) is concerned, it is very much vague and uncertain and there is nothing to show as to how and when the Government of India extended its approval for filling up the posts of Joint Development Commissioner (Level-I) by the officers of All India Services in the central staffing pattern. It is also admittedly an illegal action done by the respondent by filling up the post of Joint Development Commissioner (Level-II) by the officers of All India Services. This is strait way violative of the

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earlier Recruitment Rules of 1985. This applicant therefore craves leave of this Hon'ble Tribunal to direct the respondents to produce all such proofs of alleged Central Government approval by which the respondents were permitted to fill up the posts of Joint Development Commissioner (Level-I) and Joint Development Commissioner (Level-II). Even if, there is such approval, such approval cannot sustain in law, more particularly in violation of the provisions of Recruitment Rules and other law and service jurisprudence. I also say that the action of the Respondents in abolishing one post of Joint Development Commissioner (Level-I) and up-gradation of the other post to the Level of Additional Development Commissioner is directly illegal and aimed at to deprive the applicant from his legitimate claim of promotion, which violates the provisions of Article 14,16,21 and 311 of the Constitution of India. It is also clear from the Annexure - R in O.A. that the post to which the respondents Nos 4 and 5 have been appointed are the promotional post by virtue of up-gradation and the applicant is entitled to be promoted to one of such post of Joint Development Commissioner (Level-I) which has been upgraded as Addl. Development Commissioner. It is also stated that there is no other rule to show that the applicant is not entitled to be promoted to the post of Addl. Development Commissioner. It is also not known while one of the post of Joint Development Commissioner (Level-I) has been abolished and the other is upgraded as Addl. Development Commissioner, how there could be two numbers of post of Addl. Development Commissioner. There is nothing to

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show that the promotion of the applicant has been stagnated having no further avenue for promotion in "public interest". Rather the applicant is more experienced in the analogous Services so far the work of the Department is concerned involving public interest. On the other hand, the appointment of the Respondent Nos. 4 and 5 have been made only for the interest of the service and not for public interest. Moreover, appointing officers from All India Services from Administration and Police Services depriving the General Central Service officers cannot be a public interest.

The office Memorandum dated 5/8/99, (Annexure-II in WS pertains to the Group-B,C and D only. But the applicant is already in Group -A Service who is outside the provision of the said office Memorandum.

7) That with regard to the statements made in Para 9, I reiterate the foregoing statements made in the O.A and say that there is no such rule or Govt. policy or approval for direct appointment of persons from the IAS or IPS Cadre in the post of Addl. Development Commissioner or Joint Development Commissioner (Handicraft) Level-I and II by depriving the departmental Group-A officers thereby sealing their promotional avenues. The statements that the respondent No. 5 has been appointed on " personal basis", is a vague and misleading statement . The respondents are all along adopting such illegal devices without any provisions of recruitment rules and filling up the post from outside.


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There is no other department of the Govt. of India where person in Group-"A" post are stagnating for about 13 yrs. without any promotion for the reasons of no promotional avenues. The applicant is to retire from service on 31/3/2003 i.e. after a few months from now.

8) That with regard to the statements made in Para 11, it is stated that from these statements the respondents are trying to show that there is no promotional avenues from the posts of Regional Director (Handicraft) to any higher post. But the new Recruitment Rules of 1995 dos not say anything about the existence of the post of Joint Development Commissioner (Handicraft) Level-I. The Recruitment Rules framed under Art. 309 of the Constitution of India can not be changed by any administrative order.

9)

Even if there is no promotional avenue, (if it is presumed and not admitted) which is being asserted/admitted by the respondents, the Govt. of India is bound by the provisions of ACP scheme which has been implemented with effect from 9/8/99. The aim and objectives of the ACP scheme, which is best known as the "Safety Net", is to provide promotion where there is no promotional avenue for Central Govt. employees including the Group 'A' post. By the same scheme, the Govt. of India is duty bound to improve the promotion prospect in organizations/ Cadres on functional grounds as per prescribed norms. In case of isolated post of

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Group "A" where there is no promotional prospect, the same benefit of financial up-gradation is available. But this benefit has also not been given to the applicant by the respondents. For granting benefit under ACP scheme, the application is not time barred as stated herein above. Copy of the ACP Guidelines is enclosed.

The applicant craves the leaves of the Hon'ble tribunal to allow him to rely upon and produce the ACP schemes at one time of hearing the case.

9) That with regard to the Statements made in Para 12 and the prayer portion of the written statements, I say that the respondents have miserably failed to show any cogent evidence or ground or any provisions of law as to why the applicant should not be promoted to the post of Joint Development Commissioner (Handicraft) Level-I and /or to the post of Addl. Development Commissioner (Handicraft) and /or why the applicant should not be given any alternative promotional benefit by creating a supernumerary post of Joint Development Commissioner (Handicraft) Level-I or a financial up-gradation under ACP schemes of 1999.

Under the above facts and circumstances and the provisions of law, the applicant is entitled to be promoted to the post of Joint Development Commissioner (Handicraft) Level-I and/or Addl. Development Commissioner (Handicraft) or he may be promoted as Joint Development Commissioner (Handicraft) Level-I by creating a supernumerary post or he may be given the

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financial up-gradation equivalent to the post of JDC (H) or ADC (H) under the ACP scheme of 1999 and or pass such further other order that your Lordships may deem fit and proper.

10) That by the written statements, the respondents have introduced some new facts which may warrant to amend the O.A. Therefore, the applicant craves the leave of this Hon'ble Tribunal to allow the applicant to amend the OA if so required.

11) That the statements made in this affidavit in Para 1, 2, 3, 7, 8, 9, 10 and 11 are true to my knowledge and belief, those made in Para 4, 5, 6, being matter of records, are true to my information derived there-from and rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this affidavit on this 26th day of November, 2002 at Guwahati

Lean Kelo Halgaw

Deponent

Identified by me

Dilip Borthakur
Dilip Borthakur
Advocate 26/11/02

Solemnly affirmed and signed before me by the deponent, who is identified by Shri ...Joy...Das, Advocate, in this 26. th day of November, 2002, at Guwahati.

Joy Das
Joy Das
Magistrate/ Advocate

No. 36012/23/96-Estt. (Res)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(DEPARTMENT OF PERSONNEL & TRAINING)

North Block, New Delhi
Dated the 22nd July, 1997

OFFICE MEMORANDUM

Subject: Reservation in promotion.. Prescription of lower qualifying marks/ lesser standard of evaluation.

The undersigned is directed to say, that in terms of instructions noted in the margin, certain relaxations/concessions in the matter of qualifying marks/standards of evaluation of performance are to be made in favour of candidates belonging to the Scheduled Castes and the Scheduled Tribes while considering them for promotion.

1) O.M. No. 8/12/69-
2. The validity of such lower qualifying marks/lesser standards of evaluation was called into question in Courts in the context of the judgement of the Supreme Court in the Estt. (SCT) case of Indira Sawhney Vs. Union of India. The Supreme Court, dated 23.12.70. (2) S.C.643) has held that the provision for lower qualifying marks/lesser level of evaluation, in the matter of promotion, the Scheduled Tribes under Government's instructions, is not permissible under Article 16(4) in view of the command contained in Article 315 of the Constitution. The Court has further observed that even if it is assumed for the sake of argument that reservation is permitted by Article 16(4) in the matter of promotion, a provision for lower qualifying marks or lesser level of evaluation is not permissible in the matter of promotion, by virtue of Article 335. The Court also held that the protection for reservation in promotion for five years, given by the Supreme Court, vide para 829 of the judgement in Indira Sawhney's case, did not save the provisions for lower qualifying marks/lesser level of evaluation.

3) Para 6.3.2
of the DPC guidelines circulated vide O.M. No. 36021/10/76-Estt. (SCT) dated 21.1.77, in so far as these provide for lower qualifying marks for Scheduled Castes/ Scheduled Tribes.

4.22011/3. It has accordingly been decided to withdraw the instructions contained in this Department's O.M. No. 8/12/69- Estt. (SCT) dated 23/12/70 and O.M. No. 36021/10/76-Estt. (SCT) dated 21.1.1977, in so far as these provide for lower qualifying marks for Scheduled Castes/ Scheduled Tribes.

4.89. Qualifying marks for departmental qualifying/competitive examinations for promotion. Similarly, the relevant portions of para 6.3.2 of the DPC guidelines circulated vide this Department's O.M.

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No. 22011/5/86-Estt. (D) dated 10.4.1989, to the extent that they provide for consideration of Scheduled Castes/ Scheduled Tribes candidates without reference to merit and the prescribed "benchmark", are hereby rescinded.

4. It is clarified that the effect of these instructions is that henceforth there shall be no separate standards of evaluation for candidates of the Scheduled Castes/ Scheduled Tribes for promotion, and assessment of all candidates for this purpose will be with reference to uniform standards. Any other instructions of the Government, which provide for lower qualifying marks/ lesser standards of evaluation in matters of promotion for candidates belonging to the Scheduled Castes/ Scheduled Tribes, may also be treated as having been modified to this extent.

5. These instructions take immediate effect.

6. All Ministries/ Departments are also requested to bring these instructions to the notice of their Attached/ Subordinate offices and Autonomous Bodies/ Public Sector Undertakings under their control for compliance.

Sd/-

(Y.G. PARANDE)
DIRECTOR.

To

1. All Ministries/Departments of the Government of India.
2. Union Public Service Commission, Dholpur House, New Delhi.
3. Staff Selection Commission, C.G.O. Complex, Lodi Road, New Delhi.
4. Department of Economic Affairs (Banking Division), New Delhi.
5. Department of Economic Affairs (Insurance Division), New Delhi.
6. Department of Public Enterprises, New Delhi.
7. National Commission for SC & ST, Lok Nayak Bhavan, New Delhi.
8. National Commission for Backward Classes, Trikoot-I, Bhikaji-cama-place, R.K. Puram, New Delhi.
9. Ministry of Welfare, Shastri Bhavan, New Delhi.

No.36012/23/96-Estt.(Res)-Vol.II

Government of India

Ministry of Personnel, Public Grievances & Pensions
THE MINISTRY OF PERSONNEL (DEPARTMENT OF PERSONNEL & TRAINING)

6/2000
Ministry of Labour
Dated: 3rd October, 2000
C. R. Dy. No.

North Block, New Delhi
Dated: the 3rd October, 2000

OFFICE MEMORANDUM

Subject: Reservation in promotion – Prescription of lower qualifying marks/lesser standard of evaluation.

The undersigned is directed to refer to Department of Personnel & Training's OM No. 36012/23/96-Estt.(Res) dated 22nd July, 1997 vide which various instructions of the Government providing for lower qualifying marks/lesser standards of evaluation in matters of promotion for candidates belonging to the Scheduled Castes and Scheduled Tribes had been withdrawn, on the basis of the Supreme Court's judgement in the case of S. Vinod Kumar Vs. Union of India.

2. The undersigned is further directed to say that the matter has been reviewed, consequent to which the following proviso to Article 335 has been incorporated in the Constitution by the Constitution (Eighty-Second Amendment) Act, 2000:-

"Provided that nothing in this Article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State."

3. In pursuance of the enabling proviso of Article 335 of the Constitution, it has now been decided to rescind, with immediate effect, the relaxations/concessions in matters of promotion for candidates belonging to SCs/STs by way of lower qualifying marks, lesser standards of evaluation that existed prior to 22.7.1997 and as contained in the instructions issued by the Department of Personnel and Training from time to time including OM No.8/12/69-Estt.(SCT) dated 23/12/1970; No.36021/10/76-Estt.(SCT) dated 21/12/1976 and para 6.3.2 of the DPC guidelines contained in Department of Personnel and Training's OM No.22011/5/86-Estt.(D) dated 10/27/1986. In other words, the effect of these

Coord.

Mr. ...
Dy. No.
Section
Date: 16/10/2000

(Bb)

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instructions would be that the Department of Personnel and Training's OM No.36012/23/96-Estt.(Res) dated 22nd July, 1997, becomes inoperative from the date of issue of this OM.

4. These orders shall take effect in respect of selections to be made on or after the date of issue of this OM and selections finalised earlier shall not be disturbed.

5. All Ministries/Departments are requested to bring these instructions also to the notice of their Attached/Subordinate Offices and Autonomous Bodies/ Public Sector Undertakings under their control for compliance.

Arvind
(J. Kumar)

Deputy Secretary to the Government of India

Tel. No. 301 1797

To:

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi.
3. Department of Economic Affairs (Insurance Division), New Delhi.
4. Department of Public Enterprises, New Delhi.
5. Railway Board.
6. Union Public Service Commission/Supreme Court of India / Election Commission/ Lok Sabha Secretariat / Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/President's Secretariat/ Prime Minister's Office/Planning Commission.
7. Staff Selection Commission, CCO Complex, Lodi Road, New Delhi.
8. Ministry of Social Justice & Empowerment, Shashi Bhawan, New Delhi.
9. National Commission for SCs & STs, Lok Nayak Bhawan, New Delhi.
10. National Commission for Backward Classes, Trikoot-I, Bhikaji Cama Place, R.K. Puram, New Delhi.

REC'D on 15/1/02
by M/s. L.P.C. on 15/1/02

NEC Secretariat

Shifting

ANNEXURE - X

Dy. No.
Date 10/01/02

SO (A) ✓
No. 20011/1/2001-Estt.(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

1/2/02/2
New Delhi, dated the 21st January, 2002.

OFFICE MEMORANDUM

SUBJECT: Seniority of SC/ST Government servants on promotion by virtue of rule of reservation/roster.

The Seniority of a person appointed to a post is determined according to the general principle 5(i) contained in MHA OM No.9/11/55-RPS dated 22.12 1959 and para 2.2 in DOPT OM No.22011/7/86-Estt.(D) dated 3.7.1986 read with DOPT OM No.20011/5/90-Estt.(D) dated 4.11.1992 (copy enclosed). Seniority of such persons is determined by the order of merit indicated at the time of initial appointment and seniority of persons promoted to various grades is determined in the order of selection for such promotion. Thus, as per the aforementioned instructions, persons appointed through an earlier selection would en bloc be senior to those promoted through subsequent selection.

2. This position was reviewed subsequent to the judgment of the Supreme Court dated 10.10.1995 in the case of Union of India Vs. Virpal Singh Chauhan etc. (JT 1995(7) SC.231) and it was decided vide DOPT OM No. 20011/1/96-Estt.(D), dated 30.1.1997, to modify the then existing policy by addition of the proviso to general principle 5(i) contained in MHA (now DOPT) OM No.9/11/55-RPS dated 22.12 1959 and para 2.2 in DOPT OM No.22011/7/86-Estt.(D) dated 3.7.1986, which stipulated 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.

3. The Government have now decided to negate the effects of the DOP&T OM dated 30th January, 1997 by amending Article 16(4A) of the Constitution right from the date of its inclusion in the Constitution i.e. 17th June, 1995, with a view

to allow the Government servants belonging to SCs/STs to retain the seniority in the case of promotion by virtue of rule of reservation. In other words, the candidates belonging to general/OBC category promoted later will be placed junior to the SC/ST Government servants promoted earlier even though by virtue of the rule of reservation.

4. Therefore, in pursuance of the aforementioned Constitution (Eighty-fifth) Amendment Act, 2001, it has been decided as follows:

- (i) (a) SC/ST Government servants shall, on their promotion by virtue of rule of reservation/roster, be entitled to consequential seniority also; and
(b) the above decision shall be effective from 17th June, 1995.
- (ii) The instructions contained in DOPT O.M.No20011/1/96- Estt.(D) dated 30.1.1997 as well as the clarifications contained in DOPT O.M.No.20011/2/97-Estt.(D) dated 21.3.1997 shall stand withdrawn w.e.f. 30.1.1997 itself.
- (iii) Seniority of Government servants determined in the light of O.M. dated 30.1.1997 shall be revised as if that O.M. was never issued.
- (iv) (a) On the basis of the revised seniority, consequential benefits like promotion, pay, pension, etc. should be allowed to the concerned SC/ST Government servants (but without arrears by applying principle of 'no work no pay').
(b) For this purpose, senior SC/ST Government servants may be granted promotion with effect from the date of promotion of their immediate junior general/OBC Government servants.
(c) Such promotion of SC/ST Government servant may be ordered with the approval of Appointing Authority of the post to which the Government servant is to be promoted at each level after following normal procedure of DPC (including consultation with UPSC).
- (v) Except seniority other consequential benefits like promotion, pay etc. (including retirement benefits in respect of those who have already retired)

allowed to general/OBC Government servant by virtue of implementation of O.M. dated 30.1.1997 and/or in pursuance of the directions of CAT/Court should be protected as personal to them.

5. All Ministries/Departments are requested to bring the above decisions to the notice of all concerned for guidance and compliance. Necessary action to implement the decisions contained in para 4 (iii) above may be completed within three months from the date of issue of these instructions and necessary action to implement the decision at para (iv) above may be completed within 6 months from the date of issue of these instructions.

6. Hindi version will follow.

Attn: [Signature]

(Alok Saxena)

Deputy Secretary to the Government of India

To

All Ministries/Departments of the Govt. of India

Copy to:

1. The Comptroller and Auditor General of India.
2. The Secretary, Union Public Service Commission.
3. Rajya Sabha Secretariat
4. Lok Sabha Secretariat
5. All State Governments/Union Territory Administrations
6. All Attached/Subordinate offices under the Department of Personnel and Training/Ministry of Home Affairs.
7. Ministry of Railways (Railway Board).
8. National Commission for SCs/STs, New Delhi
9. National Commission for OBCs, New Delhi.
10. The Secretary, Staff Side, National Council
11. The Registrar General, The Supreme Court of India
12. All Officers/Sections of DOP&T.
13. Principal Information Officer, Ministry of I&B.
14. Facilitation Centre, DOP&T-20 spare copies.
15. NIC (DOPT Branch) for placing this O.M. on the web site of DOPT.
16. Establishment (D) Section (500 copies).