

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kalish
21/11/17

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 29/2002

Applicant(s) P.K. Choudhury

Respondent(s) UOI & ORS.

Advocate for Applicant(s) Mr S. Ali & Miss B. Seal

Advocate for Respondent(s) Case-

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C.F. No. 50/- deposited vide IP/100 6079/837 Dated <u>29/01/02</u> <u>[Signature]</u> Dy. Registrar 29/01/02</p>	30.1.02 mb	<p>Pass over for the day. List on 31.1.2002 for admission.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>
<p>Steps Taken, Notice prepared and sent to DPs for filing the Respondent No 1 to 5 by Regd. A/D.</p>	31.1.2002 bb	<p>The application is admitted, call for the records. List on 28/2/02.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>
<p><u>DINo 353 W 387</u> <u>Dtd 8/2/02</u></p>	28.2.02 <u>31/01/02</u> mb	<p>List on 2.4.2002 to enable the Respondents to file written statement.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>
	2.4.02	<p>At the request of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents four weeks time is allowed to file written statement. List on 3.5.2002 for orders.</p> <p><u>[Signature]</u> Member</p>

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O.A. 29 of 2002

22-4-02 3.5.02

W/s filed by
-the Respondent no. 1 to 3.

Written statement has been filed.
The case may now be listed for hearing
on 3.6.02. The applicant may file
rejoinder if any, within two weeks.

K. C. Sharma
Member

Vice-Chairman

lm

No rejoinder has been
filed.

3.6.2002

None appears for the applicant.
List the matter for hearing tomorrow,
4.6.02 before Mr S. Ali, learned
counsel for the applicant.

30
31.5.02

K. C. Sharma
Member

Vice-Chairman

nkm

4.6.2002

List the case again on 5.5.2002
as prayed for by Mr.S.Ali, learned Sr.
counsel for the applicant.

K. C. Sharma
Member

Vice-Chairman

bb

5.6.02

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

K. C. Sharma
Member

Vice-Chairman

trd

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 29/2002 . . . of

DATE OF DECISION 5.6.2002.....

Sri Pradeep Kr. Choudhruy

APPLICANT(S)

Mr. S.Ali.

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

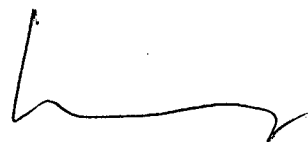
THE HON'BLE Mr. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE Mr. K.K.SHARMA, MEMBER (A).

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

5.

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 29 of 2002.

Date of decision : This the 5th day of June, 2002.

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

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

Sri Pradeep Kumar Choudhury,
Sub-Area Organiser, SSB, Barpeta,
Office of the Area Organiser,
North Kamrup, Area Howly,
District-Barpeta,
Assam.

....Applicant

By Advocate Mr. S. Ali.

-versus-

1. Union of India,
represented by the Cabinet Secretary,
New Delhi.
2. Director General, SSB,
New Delhi.
3. The Divisional Organiser, SSB,
Tezpur.
4. Sri Kamal Baruah,
Joint Area Organiser,
Khunsa, Tirap District,
Arunachal Pradesh.
5. Shri N.C. Jhingta,
Joint Area Organiser,
on deputation in S.P.G.,
C/o Director General, SSB,
New Delhi.

...Respondents

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

O R D E R

CHOWDHURY J. (V.C.).

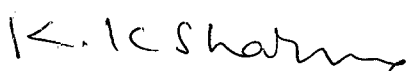
This is the second round of litigation. The
applicant moved this Tribunal earlier by filing of O.A. No.

260/99 assailing the selection to the post of Joint Area Organiser. This Bench by order dated 18.6.2001 in O.A. No. 260/99 directed the respondents to hold a Review D.P.C. meeting for consideration of the claim of the applicant from promotion from Sub-Area Organiser to the post of Joint Area Organiser within the period prescribed. Pursuant to the aforesaid order a Review D.P.C. held on 22.8.2001 and the applicant was informed that he could not get the promotion from Sub Area Organiser to Joint Area Organizer. Hence this application assailing the legitimacy of the Review D.P.C.

2. The respondents submitted its written statement and stated that the Review DPC was held on 22.8.2001 and the case of the applicant was also assessed on the basis of available records. The DPC did not find him suitable for promotion to the rank of Joint Area Organiser even after expunging the adverse remarks for the year 1995-96. The result of the Review D.P.C. was placed before us including the minutes of the Review D.P.C..

3. From the materials on record it appears that the person promoted to the cadre of Joint Area Organiser was of higher merit and therefore we are not inclined to interfere with. In course of hearing it was however pointed out by the respondents that the applicant was subsequently found eligible for promotion in the D.P.C. held in the month of April 2002 and found suitable for promotion and in fact promotion and posting orders are being issued very shortly. Mr. S.Ali, Sr. Counsel however submitted that he is not aware of such things.

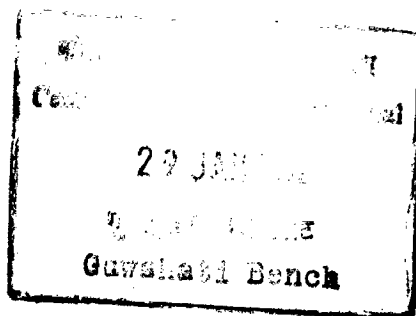
4. On consideration of all aspects of the matter, we do not find any merit in this application and accordingly the application is dismissed. There shall, however, be no order as to costs.



(K.K.SHARMA)
Member(A)



(D.N.CHWODHRUY)
Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

O.A. No. 29 /2002.

Shri Pradip Kumar Choudhury Applicant.

-VRS-

The Union of India & Ors Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
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2	Annexure-1	- 10 to 11
3	Annexure-2	- 12 to 15
4	Annexure-3	- 16 to 17
5	Annexure-3(1)	- 18 to 21
6	Annexure-4	- 22
7	Annexure-5	- 23

Filed by:-

Baspari Lal
24/11/2002.
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

O.A. NO. _____/2002

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

- In Between -

Shri Pradeep Kumar Choudhury

..... Applicant.

-VRS-

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

1. PARTICULARS OF THE APPLICANT :-

Shri Pradeep Kumar Choudhury,
Sub-Area Organiser, SSB, Barpeta,
Office of the Area Organiser, North
Kamrup, Area Howly, Dist. Barpeta, Assam.

2. PARTICULARS OF THE RESPONDENTS :-

1. Union of India, represented by the
Cabinet Secretary, New Delhi.
2. Director General, SSB, New Delhi.
3. The Divisional Organiser, SSB, Tezpur.
4. Sri Kamal Baruah,
Joint Area Organiser, Khunsha, Tirap
District, Arunachal Pradesh.
5. Shri N.C. Jhingta,
Joint Area Organiser, on deputation in
S.P.G., C/o Director General, SSB,
New Delhi.

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Filed by Mr. Prady
Petitioner
Mr. Barman
Advocate.
Pradeep K. Choudhury

3. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:-

Order contained in Memo No.35/SSB/A2/99(3)/2588-89 dated 18.9.2001 (signed on 17.9.2001) by the Deputy Inspector General (EA), Ministry of Home Affairs Office of the Director General, SSB, East Block-V, R.K. Puram, New Delhi-110066.

4. JURISDICTION :-

The applicant declares that the application is within the jurisdiction of the Hon'ble Central Administrative Tribunal.

5. LIMITATION :-

The application is filed within the time limit as prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :-

6.1. That your applicant was initially appointed as Circle Organiser by the Director General, Security vide letter No.10/Esstt/SSB/A/74(21) dated 17.4.76 and posted at Udalguri under Tezpur area, North Assam Division. He joined on 7.5.76 and since then he served there till 4.2.1980 and thereafter he served in different places of Assam and Arunachal Pradesh.

Annexure-1 is the photocopy of the appointment letter dated 17.4.76.

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Pradip K. Choudhury

6.2. That the Department prepared a seniority list of Sub-Area Organisers on All India Basis in 1998 wherein your applicant's name is put under serial No.5 out of 129.

Annexure-2 is the photocopy of the said seniority list.

6.3. That it is worth mentioning in this connection that since the date of his initial joining in service he has been working to the utmost satisfaction of the higher authority and without any blemish from any quarter. Nothing was found against him.

6.4. That due to anomalies caused by the concerning officers ACR of the applicant was not completed in time and also adverse remarks against the applicant was not communicated in time to the applicant.

6.5. That thereafter the applicant on receipt of the adverse remarks in the year 1996 filed a representation before the authority and the reply thereof communicated to the applicant after holding the D.P.C. and the D.P.C. did not consider the case of the applicant and as many as 15 junior Sub-Area Organisers junior to the applicant was selected and recommended for appointment of Joint Area Organiser. In fact due to the fault of the Department the applicant could not be promoted in the D.P.C. held on 21.1.98 and 7 8.98 and as such the applicant was compelled to file O.A. No.262/99 before the Hon'ble Tribunal at Guwahati.

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Pradip K. Choudhury

6.6. That the Hon'ble Tribunal after hearing both sides allowed O.A. No.262/99 with a direction that the review D.P.C. to be held to consider the case of the applicant and accordingly review D.P.C. was held on 22.8.2001 to consider promotion of the applicant from Sub-Area Organiser to the rank of Joint Area Organiser and the result of the D.P.C. was communicated to the applicant by the Deputy Inspector General(EA), vide his letter No.35/SSB/A2/99(3)/2588-89 dated 18.9.2001.

Annexure-3 is the photocopy of the said memo dated 18.9.2001 issued by the Deputy Inspector General (EA).

Annexure-3(1) is the photocopy of the order passed in O.A. No.262/99 by this Hon'ble Tribunal.

6.7. That from the Annexure-3 it appears that the applicant was graded as 'GOOD' only and the applicant being gazetted officer Class-I as per Central 5th Pay Commission he has been drawing the pay scale of Rs.8,000/- to Rs.13,500/- p.m. By drawing of salary of Rs.8,000/- to Rs.13,500/- p.m. he has inducted to Class-I officer and for Class-I Officer securing of 'GOOD' grade in the D.P.C. is sufficient for promotion to the next higher grade.

6.8. That your applicant begs to state that he has secured 'GOOD' grade in the D.P.C. So he is entitled to be promoted to the next higher post of Joint Area Organiser in SSB against the vacant post.

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Graded: Mr. Chandray

6.9. That Sri N.C. Jingta, Joint Area Organiser is on deputation with S.P.G. for a long time but he has not yet been repatriated to the parent Department and as such he is still on deputation with SPG and consequent upon this the post of Joint Area Organiser is still lying vacant in the department against which your applicant can be easily promoted. It is likely that Mr. Jingta may not go to his parent department.

6.10. That the Respondent No.4 Sri Kamal Baruah who has been promoted as Joint Area Organiser in the DPC held on 21.1.98 and 7.8.98 filed a representation on 20.7.98 to the Director of SSB and on receipt of the said representation the Joint Director (EA) of the Directorate of the SSB informed him vide letter No.14/SSB/A2(23)-11/3402 dated 5.8.98 that his name alongwith others were placed before the DPC for consideration of promotion to the rank of Joint Area Organiser but he could not make the grade for promotion to the rank of Joint Area Organiser.

Annexure-4 is the type copy of the letter dated 5.8.98 issued by the Joint Deputy Director(EA) of the Directorate of SSB to Sri Kamal Baruah.

6.11. That from the W.T. Message issued from the Directorate of SSB dated 23.12.98 it appears that several junior Sub-Area Organiser junior to the applicant have been promoted and placed in different places.

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Graded. Mr. Chandra

Annexure-5 is the type copy of the
W T. Message sent by Directorate of
SSB vide No.19449-50 dated 23.12.98.

6.12. That your applicant begs to state that vide Annexure-4 Respondent No.4 Sri Kamal Baruah was intimated by the Directorate that he could not make the grade for promotion from Sub-Area Organiser to Joint Area Organiser but from Annexure-5 it appears that he has also be promoted to the Joint Area Organiser to Khunsha of Arunachal Pradesh Division. This is a serious contradiction in between Annexure-4 and 5 and this casts a doubt that Shri Kamal Baruah has been promoted subsequently without any basis superseding the applicant. It is necessary to call for the ACR of Respondent No.4 Kamal Baruah along with the ACR of the applicant to ascertain the truth by this Hon'ble Tribunal.

6.13. That the Respondent No.5 Sri N.C. Jingta though has been promoted to the post of Joint Area Organiser and posted to T.C. SLB but upto now he is on deputation and he has not yet been repatriated to the Parent Department and the applicant has come to know that he has not likely to come to join as Joint Area Organiser and as a matter of fact since 1998 this post is lying vacant against which the applicant can be accommodated as promotion as Joint Area Organiser.

7. GROUND WITH LEGAL PROVISIONS:-

7.1. For that the applicant having secure 'GOOD' grade is entitled to be promoted to the next

Contd.....7

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Pradip - N.Y. Choudhury

higher rank from Sub-Area Organiser to the Joint Area Organiser.

7.2. For that the applicant being gazetted officer Class-I having drawing his monthly salaries of Rs.8,000/- to 13,500/- p.m. w.e.f. 1.1.96 is entitled to be promoted to the rank of Joint Area Organiser.

7.3. For that from the Annexures-4 and 5 it appears that the D.P.C. has not been properly scrutinised the ACR of the applicant and the ACRS of Respondent Nos.4 and 5 and as a result anomaly situation have been created for which it needs to call for the ACR of Respondent No.4 and 5 alongwith the ACR of the applicant for proper adjudication of the matter.

7.4. For that the applicant is entitled to get promotion from the post of Sub-Area Organiser to the post of Joint Area Organiser but he has been likely deprived of from his legitimate promotion to the rank of Joint Area Organiser.

7.5. For that at any rate the applicant is entitled to be promoted to the rank of Joint Area Organiser.

7.6. For that the Hon'ble Tribunal in its judgement at Annexure-3(1) at Para-6 made certain observation against Sri P.C. Dangawal expressing unhappiness against the irresponsible statements made in written statement by Sri P.C. Dangawal, Divisional Organiser, SSB, Tezpur and the Hon'ble Tribunal leave it to the Departmental authority to take action in future

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Gradip. rev. Chandung

and to avoid such happenings and the department has not yet taken any action against him.

8. DETAILS OF REMEDIES EXHAUSTED:-

The applicant begs to state that ^{as} he has secured 'GOOD' grade so he has not submitted any representation because good grade is a bench mark which he has secured.

9. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT/TRIBUNAL:-

No case before the Hon'ble Tribunal of any Court of Law has been filed or is pending in any Court of Tribunal.

10. RELIEF SOUGHT FOR:-

In view of the facts and circumstances narrated above the applicant prays for the following reliefs:-

i) Respondent Nos.1 to 3 be directed to promote the applicant from the rank of Sub-Area Organiser to the rank of Joint Area Organiser w.e.f. date of securing bench mark by the applicant;

ii) Record may be called for particularly the ACR of the applicant, Kamal Baruah the Respondent No.4 and Shri N.C. Jingta the Respondent No.5.

11. INTERIM RELIEF IF ANY PRAYED FOR:-

In the interim, the applicant prays that the Respondents No.1 to 3 may be directed to promote the applicant to the rank of Joint Area Organiser against the vacant post of Sri N.C. Jingta Joint Area Organiser who is on deputation with S.P.G.

12. DETAILS OF POSTAL ORDERS:-

Postal order No.

Date:

Issued by:-

Payable at Guwahati

13. List of Enclosures:- As per Index.

15
Grass rev. Choudhury

VERIFICATION

I, Sri Pradeep Kumar Choudhury, at present working as Sub-Area Organiser, at Barpeta in the office of the Area Organiser, North Kamrup, Area Howly, Barpeta aged about 51 years, do hereby solemnly declare that the statements made in paragraphs

are true to my knowledge and those made in paragraphs 1, 2, 3, 6.3, 6.4, 6.8, 6.9, 3, 4, 5, 6, 6.1, 6.2, 6.5, 6.6, 6.7, 6.10, 6.11, 6.12, 6.13, 8, 9 are true to my information being matter of records and the rests are my humble submissions made before this Hon'ble Tribunal. And I have not suppressed any material facts in this case.

And I sign this verification on this the 1st day of Januar , 2002 at Guwahati.

Pradeep K. Choudhury

Signature.

-17- -10-

Annexure - T

SSB BN

Personal of
P. U. Choudhury

IMMEDIATE/REGISTERED/ACK.DUE

No. 10/ESH.1/SSB/A/74(2)
DIRECTORATE GENERAL OF SECURITY
OFFICE OF THE DIRECTOR SSD
BLOCK NO.V(EAST)R.K.PURAM
NEW DELHI-110022

Dated: 17 APR 1976

Memorandum

The undersigned hereby offers Shri Pradip Kumar Choudhury a temporary post of Circle Organiser (Gazetted Class II) in the SSB Organisation on a pay of Rs.550/- in the scale of Rs.550-25-750-20-30-200/-. The appointee will also be entitled to draw dearness and other allowances at the rates admissible under and subject to the 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 appointment is temporary and he will be on probation for a period of two years. His permanent appointment to the post if and when it is made permanent, however, will depend on various factors governing permanent appointment to such posts in force at the time, and will not confer on him the title to confirmation from the date the post is converted as permanent.
 - (ii) The appointment is purely provisional pending the issue of eligibility certificate in the candidate's favour and shall stand cancelled in the event of such certificate being refused. The candidate is required to give a written undertaking in the form attached.
 - (iii) The appointment may be terminated at any time by a month's notice given by either side viz., the appointee or the appointing authority, without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
 - (iv) The appointment carried 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 (wherever applicable):-
 - (i) Production of a certificate of fitness from the Competent Medical authority (viz. Medical Board). He will not be allowed to join unless he produces this certificate.
 - (ii) Submission of a declaration in the form enclosed therewith has not more than one wife living.
 - (iii) Taking of an oath of allegiance/faithfulness to the Constitution of India in the prescribed form (copy enclosed)

Contd.2.

Attested
Gashari Seal
Advocate

12 :

- (iv) Production of the following original certificates:-
 - (a) Certificates of educational and other technical qualifications (with one attested copy each).
 - (b) Character certificates from two Gazetted Officers.
 - (c) Certificate of age.
 - (d) Certificates in the prescribed form in support of candidate's claims belonging to a reserved (Scheduled Caste/Scheduled Tribe) or Anglo-Indian community.
 - (e) Discharge certificates in the prescribed form of ~~examination~~ of previous employment, if any.
 - (f) Any Other documents (to be specified).

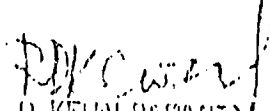
(v) While serving in this office, he will not be allowed to apply for posts elsewhere.

4. If any declaration given or information furnished by the candidate, proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.

5. If Shri Pradip Kumar Choudhury accepts the offer on the above terms, he should report for duty as Circle Officer, Udalguri on or before the 10th May, 1976. If he fails to report for duty by the prescribed date, the offer will be treated as cancelled.

6. Within 7 days of his joining, he would be required to apply for Government quarter (where applicable).

7. No travelling allowance will be allowed for joining the appointment.


 (R.D. KEWALRAMANI)
 UPA DIRECTOR
 FOR DIRECTOR GENERAL (SECURITY)

To
 Shri Pradip Kr. Choudhury (JCO),
 C/o Commandant, XXVI Bn.,
 BORPETTA ROAD (ASSAM)

- Copy forwarded to :
- 1. The Divisional Officer, SSU HA Division, Guwahati.
 - 2. Command. XXVI Bn Borpetta Road, Assam
 - 3. P.F. of Shri Pradip Kr. Choudhury.

Handwritten notes:
 1-5-74
 1-5-74
 1-5-74

(R.D. KEWALRAMANI)
 UPA DIRECTOR

attested by
Bashari Seal
Advocate

21-12-
Annexure - 3-2-
SENIORITY LIST OF SUB AREA ORGANISER AS ON 1.1.1998 9

Sl. No.	Name	Date of birth.	Edu. quali.	Date of joining in Govt. service.	Date of joining as SAO	Date of con-firma-tion.	Remarks
<u>S/Sree</u>							
1.	B.S.Thakur	23.1.44	BA Bed	8.6.73	23.6.84	29.3.99	PQ
2.	Dillip Paul	11.3.53	B.Com.	17.4.78	1.4.87	12.11.88	PQ as C.O
3.	M.C.Kakati (SC)	31.9.46	BA	23.9.88	1.4.87	-do-	"
4.	V.Laloo	1.3.43	HSLC	1.5.76	17.3.87	-do-	"
✓5.	P.K.Choudhury	1.7.48	M.A	7.5.76	4.4.87	-do-	"
6.	Smt.Susila Sarmah	14.10.49	B.A	4.2.69	26.10.87	-do-	"
7.	A.K.Ghosh	11.10.48	B.Sc	2.7.76	11.4.88	-do-	"
8.	N.Burag hain	1.10.56	B.Sc	6.9.76	21.3.88	-do-	"
9.	L.R.M.Singh	1.3.43	B.A	5.6.67	20.4.88	-do-	"
10.	K.K.Baruah	1.3.42	B.A	5.11.73	25.4.88	-do-	"
11.	S.Karmakar	10.9.52	B.Com	18.4.78	23.6.88	-do-	"
12.	Subhosh Kumar	4.6.56	M.Sc	10.4.78	4.4.88	-do-	"
13.	S.L.Janartha	6.6.51	B.Com	11.5.73	10.2.88	-do-	"
14.	Kamal Baruah	14.1.51	B.Sc	4.5.73	12.4.88	-do-	"
15.	R.K.Sarmah	6.9.52	M.A	30.1.81	7.4.88	-do-	"
16.	P.K.Roy	11.7.47	B.A	3.4.81	10.5.88	-do-	"
17.	P.Singman (ST)	1.3.47	B.A	1.5.76	16.7.90	-do-	"
18.	Ananda Saikia	1.9.52	B.A	28.2.81	15.12.90	-do-	"
19.	M.Sunil Singh	1.3.51	B.A	6.3.81	21.7.90	-do-	"
20.	V.C.Jhingta	3.10.63	B.A LLB	2.2.89	23.6.90	Temporary DQ	
21.	Dr.PremSingh Thakur	14.4.51	MA PhD	1.5.81	28.6.90	12.11.88 PQ as CO	
22.	Girchand (SC)	28.6.51	MA	2.9.82	15.12.90	-do-	"
23.	R.C.Dobhal	1.6.55	MA Part I	16.10.82	21.7.90	-do-	"
24.	Jageep Pal Singh	26.6.65	BALLB	23.1.91	23.1.91	Temporary DQ	
25.	S.Purkayastha	28.2.58	BA	1.1.83	16.7.90	12.11.88 PQ as CO	
26.	Rup Singh (ST)	1.4.56	BA	6.5.89	26.7.90	-do-	"
27.	R.S.Rana	19.7.54	BA	19.10.82	1.8.90	-do-	"
28.	Rajinder Khmar	3.8.63	BSC LLB	11.1.91	15.1.91	Tempo. DQ	
29.	R.S.Balel	5.4.49	MA	14.10.82	20.7.90	12.11.88 PQ as CO	
30.	PS Mehara	2.8.56	MSc	11.12.82	30.7.90	-do-	"
31.	R.C.Sarmah	2.8.47	BA LLB	8.8.82	5.7.90	-do-	"
32.	Chance Keishing (ST)	1.4.63	BA(H)	23.3.83	20.6.90	Temporary DQ.	

Attested by
Burhan Paul
Advocate

1.	2.	3.	4.	5.	6.	7.
33. Ramesh Lal Redi	7.3.48	BA(III-1)	28.8.82	19.7.90	12.11.88	as C.O.
34. S.S. Thakur	10.8.56	BA III	20.1.82	28.6.90	-do-	
35. Shyam Singh(ST)	15.11.56	BA	2.2.82	27.8.90	-do-	PQ
36. Sansar Chand	8.5.55	PA	15.1.77	8.8.90	-do-	PQ
37. Smt. D. Chauhan	28.9.40	IUC	20.11.64	13.3.91	-do-	PQ
38. Vinod Kumar Sharma	2.6.57	BSc.	20.8.82	22.2.91	-do-	PQ
39. Alphonse Brahmin	19.4.52	BA	2.7.83	23.2.91	-do-	PQ
40. Thomas Chacko	30.1.69	PA	9.10.91	9.10.91	Temp.	DQ
41. A.K. Das	31.7.58	BA, IIB	12.10.83	12.2.91	12.11.88	PQ
42. Bhupal Singh Rawat	25.4.56	P.Sc.	27.9.83	12.4.91	-do-	PQ
43. Pakhtwar Singh	28.2.50	BA	6.5.83	11.2.91	-do-	PQ
44. Apurbh Kumar Nath	25.8.56	P.Sc.	2.7.83	8.2.91	-do-	PQ
45. A.K. Kharayat	30.4.55	MA-IV Semister	18.5.83	22.4.91	-do-	PQ
46. R.C. Manori	11.6.50	MA(ST)	22.9.83	16.2.91	-do-	PQ
47. N.K. Pandey	15.6.65	MA	7.4.80	17.10.91	Temp.	DQ
48. Smt. Sulekha Das	31.1.57	PA (Hons)	15.4.83	11.2.91	12.11.88	PQ
49. P.K. Chakraborty	26.1.54	PA(III-1)	2.5.82	15.3.91	-do-	PQ
50. Aniya Kumar Nath	10.1.58	P.Sc.	4.7.83	7.2.91	-do-	PQ
51. Mohan Lal Shah	25.5.52	MSc.	20.9.82	20.3.91	-do-	PQ
52. Deena Nath Verma	5.9.52	B. Com	5.1.83	30.3.91	-do-	PQ
53. B.D. Thakur	11.4.50	BA III	7.5.83	29.7.91	12.11.88	PQ
54. J. D. Vashist	15.3.69	B.Com	20.10.91	20.10.91	Temp.	DQ
55. Smt. Leena Gupta(ST)	31.3.56	PA	13.1.84	2.3.91	12.11.88	PQ
56. Smt. Urmila Sartaj	1.9.56	BA IIB	2.8.84	22.3.91	-do-	PQ
57. R.K. Sen	1.1.44	P.Sc. IIB	20.12.66	6.2.91	-do-	PQ
58. Debasis Patnaik	23.1.68	P.Sc(II)	12.5.92	12.5.92	Temp.	DQ
59. Kuldeep Singh Parmar	4.2.46	PA, IIB	-	21.6.91	12.11.88	PQ
60. Ms. Sonam Yedron(ST)	15.8.59	MA	12.11.84	18.2.91	-do-	PQ
61. Lham Thinley(ST)	1.6.60	PA	19.10.84	11.2.91	-do-	PQ
62. S.K. Sarangi	8.12.68	P.Sc.	20.4.92	20.4.92	Temp.	DQ
63. Wangchung Norbu(ST)	3.12.60	PA	2.11.84	2.4.91	12.11.88	PQ
64. Dorjee Ranzhu Thongar(ST)	15.1.60	PA	5.11.84	15.2.91	-do-	PQ
65. Dehra Lama(ST)	1.10.50	PA	25.10.84	8.2.91	-do-	PQ
66. Sonam Dobi	12.2.48	PA	14.5.82	14.5.82	Temp	DQ

Contd...31-

Narad Sam Duti (ST)		18.10.56	PA	29.11.85	19.8.91	17.11.88	P
68.	Sarat Adhikari (SC)	12.12.51	PA	19.11.85	4.4.91	-do-	P
69.	V.P.S. Rawat	1.2.52	P.Sc.	11.10.83	20.1.92	-do-	P
70.	K.S. Rautela	9.7.45	P.Sc.	-	15.2.92	-do-	P
71.	Santosh Kr. Dhar	1.3.58	BA	19.11.85	1.3.92	12.11.88	P
72.	Satish Kr. Sood	23.2.57	BA	29.11.85	30.1.92	-do-	P
73.	Devinder Singh	28.6.59	BA	21.11.85	10.2.92	-do-	P
74.	B.P. Gairola	5.4.52	BA	19.11.85	13.12.91	-do-	P
75.	L.R. Sharma	10.12.50	BA	15.11.85	1.1.92	-do-	P
76.	M.M. Kandpal	17.6.61	M.Sc.	14.11.85	30.12.91	-do-	P
77.	Kuldeep Singh	25.6.58	M.Sc.	29.11.85	9.1.92	-do-	P
78.	Attar Singh Panwar (ST)	1.1.58	BA	19.11.85	8.1.92	-do-	P
79.	P. Kamui (ST)	1.3.49	BA	10.5.78	20.9.93	Temp.	P
80.	Anuj Thapliyal	1.1.65	BA	20.4.89	3.9.93	Temp.	P
81.	Shekhar Ch. Sharma	1.6.63	M.Com.	1.2.89	3.9.93	-do-	P
82.	Anil Kr. Saha	12.11.64	P.Sc.	10.9.90	18.2.94	-do-	P
83.	Om Prakash Sharma	10.10.60	BA	27.2.89	27.9.93	-do-	P
84.	Mohan Mathpal	26.1.64	BA	19.4.89	2.9.93	-do-	P
85.	Ajay Uniyal	12.10.66	M.Sc.	15.4.89	27.8.93	-do-	P
86.	Ashok Kr. Srivastava	5.2.64	BA	9.7.84	9.7.94	-do-	P
87.	Joseph Hmar (ST)	24.2.59	BA	1.2.89	27.8.93	-do-	P
88.	D.S. Bhandari	3.5.64	BA	15.1.89 (AN)	28.8.93	-do-	P
89.	K.L. Buri	20.2.62	PA	1.2.89	10.9.93	-do-	P
90.	P.P.K. Srivastava	30.6.63	P. Com	16.11.93	16.11.93	-do-	P
91.	B.S. Tharkoti	11.4.61	BA	31.1.89	5.10.93	-do-	P
92.	Jagdish Ch. Singh	5.10.62	BA	31.1.89	20.9.93	-do-	P
93.	P.B. Chetri	3.9.62	(Hons)	1.2.89	21.8.93	-do-	P
94.	Deepak Joshi	12.9.65	BA	21.2.94	23.2.94	-do-	P
95.	Anand Bhardwaj	27.11.61	M.Sc.	11.2.89	21.9.93	-do-	P
96.	S.S. Thapa	26.10.63	P. Com	29.2.89	23.8.93	-do-	P
97.	Prabhat Pal Thakur	27.3.64	BA	1.2.89	20.8.93	-do-	P
98.	Kaushik Kr. Mitra	1.1.66	P. Com	2.2.94	6.2.94	-do-	P
99.	V.K. Bohali	11.12.61	M.Sc.	29.1.89	29.8.93	-do-	P
100.	Ms. Anrita Mitra	14.3.65	PA	6.8.89	2.9.93	-do-	P
101.	Ranj Singh Hood	10.12.64	PA	21.1.89	16.9.93	-do-	P
102.	K.V. Harayana Rao	22.7.60	P. Com	29.1.94	29.1.94	-do-	P

C. entd. ... 41/-

Washed
Bashari Seal
Advocate

2.	3.	4.	5.	6.	7.
103. L.P. Nautiyal	12.12.89	PA	29.1.90	17.9.93	Temp.
104. N.S. Negi	20.1.62	PA	31.1.89	23.8.93	-do-
105. Pradeep Singh Bhatt	18.12.79	MSc.	16.11.89	24.8.93	-do-
106. E.G. Joshi	2.5.65	MSc.	23.2.91	1.12.93	-do-
107. Ravinder Nath	8.1.60	PA	17.11.89	30.9.93	-do-
108. Subodh Kr. Bajwan	27.12.62	PA, MSc	3.11.89	11.12.93	-do-
109. Subhendu Saha	7.12.66	PSc (Pt-1)	30.10.89-30.1.93	-do-	-do-
110. Kiran Razel (SC)	25.5.68	PSc.	27.5.92	27.5.94	-do-
111. Tulsi Ram Gore	15.2.62	HTC	4.11.89(AN)	14.8.93	-do-
112. T.D. Komu (ST)	6.7.65	PA	25.1.90	6.9.93	-do-
113. Gyan Chand (ST)	11.10.56	PA	2.11.89	30.9.93	-do-
114. Dushvant Kumar (SC)	20.9.57	PA	15.12.92	15.12.93	-do-
115. Bimal Kr. Roy (SC)	30.12.60	Lapsed.	17.10.89	2.9.93	-do-
116. R.D. Choudhary (SC)	2.2.52	Hr. Sec.	29.8.89	6.9.93	-do-
117. Harish Ram Arya (SC)	1.3.59	PA	3.11.89	30.8.93	-do-
118. Rajesh Bhardwaj	12.6.65	PA (H)	28.7.94	28.7.94	-do-
119. Jai Ram Bhardwaj (SC)	9.8.55	PA	21.4.90(AN)	27.8.93	-do-
120. Shilesh Kr. Roy (SC)	31.12.62	PA	22.10.90	25.8.93(AN)	-do-
121. Pransajit Koch (ST)	19.4.60	PA	11.1.90	CTC awaited	-do-
122. R.P. OLI	1.6.42	PA	12.11.89	19.2.94	Temp.
123. S.C. Biswas	1.7.46	P. Sec	13.77	10.5.95	-do-
124. D.S. Sahota	6.1.94	PA	2.2.92	12.5.95	-do-
125. Loden T. Dupa (ST)	28.3.66	P. Sec	5.1.90	26.4.95	-do-
126. K.F. Baduni	21.2.54	PA	12.11.89	CTC awaited	Temp.
127. M.K. De	13.3.51	P. Sec.	12.11.89	CTC awaited	Temp.
128. G.S. Sharma	4.2.77	P. Sec. (H)	12.11.89	CTC awaited	Temp.
129. P.D. Nautiyal	23.8.51	PA, MSc	12.11.89	CTC awaited	Temp.

23

No.35/SSB/A2/99(3) 2588-89
Ministry of Home Affairs,
O/o the Directorate General, SSB,
East Block-V, R.K.Puram,
New Delhi-110066.

Dated the, 18 Sept. 2001.

MEMORANDUM

SUBJECT:- OA No.262/99 titled P.K. Choudhury, SAO Vs. UOI & Others- Holding of Review DPC for consideration of Promotion to the rank of Joint Area Organiser in compliance With CAT Guwahati judgement dated, 18.6.2001.

In pursuance of Hon'ble CAT, Guwahati judgement dated, 18.6.2001, in the above mentioned OA filed by Shri P.K. Choudhury, SAO, a review DPC was held on 22.8.2001 to consider promotion of Shri P.K. Choudhury, SAO to the rank of JAO. The said DPC reviewed the minutes of the DPC held on 21.1.98 and 7.8.98 for promotion of Sub Area Organisers to the rank of Joint Area Organisers and considered the case of Shri P.K. Choudhury on the basis of available records without taking into account the adverse remarks expunged from his ACRs pertaining to the period 1995-96 as directed by the Hon'ble CAT.

2. The review DPC which met on 22.8.2001 in compliance of the CAT Guwahati judgement has graded Shri Choudhury as "Good" only whereas SAOs junior to him who superseded him in the DPCs held on 21.1.98 & 7.8.98 were graded as "Very Good" and hence have correctly been promoted. Accordingly, the Review DPC on the basis of available records did not find Shri P.K. Choudhury, suitable for promotion to the rank of JAO, even after expunging the adverse remarks for the year, 1995-96.

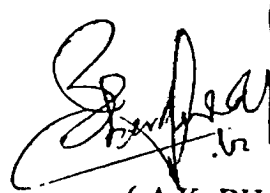
Attested
Bashari Seal
Advocate.

Contd...2/-

2. 17

29

3. The recommendations of the Review DPC have been approved by the MHA, Govt. of India vide their Dy. No. RL/723/MHA/2001 dated 31.8.2001.


(A.K. BHARDWAJ)

DEPUTY INSPECTOR GENERAL (EA)

To,

✓ Shri P.K. Choudhury, SAO (through DO, NAD, Tezpur).

Copy forwarded to :-

DO, NAD, Tezpur for information and handing the above memo to Shri P.K. Choudhury, SAO under proper acknowledgement. His acknowledgement may be sent to this Dte. at the earliest. The CGSC in this case may also be informed about the compliance of CAT Order.


DEPUTY INSPECTOR GENERAL (EA)

Witnessed by
Bashari Saúl
Advocate

18
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Ammaxme - 3 (1)
vs.

Original Application No.262 of 1999

Date of decision: This the 18th day of June 2001

The Hon'ble Mr Justice R.R.K. Trivedi, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Pradeep Kumar Choudhury,
Sub-Area Organiser, SSB, Barpeta,
Office of the Area Organiser,
North Kamrup, Area Howly,
District- Barpeta.

.....Applicant

By Advocates Mr S. Ali and Mr I. Hussain.

- versus -

The Union of India and others


.....Respondents

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

.....

O R D E R (ORAL)

TRIVEDI.J. (V.C.)



By means of this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to the respondents to hold review DPC to consider the case of the applicant to promote him to the post of Joint Area Organiser, Special Security Bureau (hereinafter referred to as SSB). It has been further claimed that the respondents may be further directed to promote the applicant from the date his juniors were promoted as Joint Area Organiser.

2. The facts, in short, giving rise to the dispute are that the applicant, P.K. Choudhury, joined as circle Officer on 17.4.1976. On 14.4.1987, the applicant was

*Attested by
Barpeta
Advocate*

promoted as Sub-Area Organiser and posted at Daporijo, Upper Subansiri District, Arunachal Pradesh. The order dated 20.2.1987 promoting the applicant to the post of Sub-Area Organiser has been filed as Annexure 2. From Sub-Area Organiser the next promotion is to the post of Joint Area Organiser. It appears that on 18.12.1997 DPC was convened for considering the names of the persons who were serving as Sub-Area Organiser for promotion to the post of Joint Area Organiser. However, the applicant was not recommended for promotion, aggrieved by which the applicant has filed this application.

3. Written statement has been filed, wherein it has been stated that the panel recommended by the DPC did not include the name of the applicant, hence he was not promoted. It appears that in respect of the period from 1.4.1995 to 20.4.1995 the applicant was given adverse remarks against which he filed representation on 11.10.1996, which was pending before the competent authority for consideration. It appears that the DPC did not recommend the name of the applicant on account of the adverse remarks communicated to him for the aforesaid period. The representation filed by the applicant, however, was allowed on 15.2.1999. A copy of the order has been filed as Annexure 6. The fact has been admitted in para 6 of the written statement. In para 20 of the written statement, however, it has been stated that the applicant's submission that he submitted a representation to the Directorate against the adverse remarks is not correct. No such representation was received. The applicant has not given any reference by which he has submitted his representation. It is difficult to reconcile the averments

made.....

made in para 6 and para 20 of the written statement. The existence of the order dated 15.2.1999 has been admitted, which specifically refers the representation dated 11.10.1996 against the adverse remarks recorded in his part ACR for the period from 1.4.1995 to 20.7.1995. The officer who has filed the written statement could not have stated in para 20 of the same written statement that no representation against the adverse remarks was filed. The statement in para 20 of the written statement appears to be incorrect.

4. In para 20 of the written statement it has also been stated that ~~promotion to~~ Sub-Area Organiser, with six years service in the grade and who has successfully passed the Executive Officers Training course, can be considered for promotion to the rank of Joint Area Organiser. In the present case, as the applicant was promoted and appointed as Sub-Area organiser on 4.4.1987 he had already completed more than ten years service as Sub-Area Organiser on 18.12.1997 when the DPC held its meeting. So far the adverse remarks are concerned the settled legal position is that either the DPC should wait for the result of the representation made by the concerned officer or it should itself consider the representation of the applicant against the adverse remarks. In the present case the DPC failed to adopt either of the two courses open. It appears that on account of adverse remarks, ~~the claim of~~ the applicant was not considered suitable for the next promotional post. In our opinion, in view of the fact that adverse remarks had been expunged the applicant is entitled for the relief claimed in the O.A.



—

Organiser

5. The O.A. is accordingly allowed. The respondents are directed to hold a review DPC meeting for consideration of the claim of the applicant for promotion from Sub-Area Organiser to the post of Joint Area Organiser within a period of three months from the date a copy of this order is filed. If the applicant is found suitable for promotion by the DPC he shall be entitled for ^{noted} promotion from the date ^{however monetary benefit} his juniors were promoted to the post. ^{he shall get from the date of actual promotion.}

6. Before parting with this case we express our unhappiness against the irresponsible statements made in the written statement by Shri P.C. Dangwal, Divisional Organiser, Special Security Bureau, North Assam Division, Tezpur. It is difficult to reconcile para 6 and para 20 of the written statement. Verification clause of the written statement is also defective. Paragraphs 6 ^{and} 20 have been verified as correct on basis of information. The official respondents always file the written statement and affidavits on the basis of information received from the records and their correctness should be verified with reference to the record only. Though, initially we intended to take action ourselves against the officer, however, as it has been noticed for the first time by this Tribunal, we are leaving it to the Departmental Authorities to take care in future and to avoid such happenings.

7. A copy of this order shall be forwarded to the Director General, Special Security Bureau, New Delhi, for information and follow-up action in the matter.

No order as to costs.

TRUE COPY

Section Officer (J)

कायदा विभाग (न्यायिक)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-2
गुवाहाटी न्यायालय, गुवाहाटी-2

Sd/VICE CHAIRMAN
Sd/MEMBER (Adm)

ANNEXURE-4

(COPY)

NO.14/SSB/A2/80(23)-II/3462
Directorate General of Security
Office of the Director, SSB
East Block-V, R.K. Puram,
New Delhi-110066,

Dated 5.8.98.

MEMORANDUM

Sub :- Representation of Shri Kamal Baruah, SAO for
promotion to the rank of Jt.A.O.

Please refer to your Memo No.1/9/(177)/98/7010-11
dated 20.7.98 on the subject mentioned above.

It may be mentioned that the name of Sri Kamal
Baruah, SAO alongwith other eligible SAOs were submitted
before the DPC for consideration of promotion to the rank
of Jt.A.O. but Shri Baruah, SAO could not make the grade
for promotion to the rank of Jt. A.O.

3. Shri Baruah, SAO may be informed suitably.
- 4 This issues with the approval of Dte.SSB.

Sd/-

(S.S.Bora)

Jt. Deputy Director(EA)

To,

The Divisional Organiser,SSB.

North Assam Division, Tezpur.

*Attested
Bashir Sult
Advocate*

IMDT.

TO DO(NAD) OTHERS

FM SSB DTE.

R.NO. 3587

NO. 19449-50

DT. 23/12/98

GOVT. APPROVAL TO THE PROMOTION OF FOLLOWING SAO TO THE RANK OF JAO IN THE PAY SCALE OF RS.3000-4500/- (.) PRE-REVISED HAS BEEN RECD. (.) DG(S) HAS APPROVED THEIR POSTING ON PROMOTION TO PLACES INDICATED AGAINST EACH FROM THE DATE THEY ASSUME CHARGE AT THE ASSIGNED PLACE OF POSTING (.) ✓ KAMAL BARUAH OF NAD ON PROMOTION WILL TAKE OVER CHARGE OF JAO KHONSA OF AP DIVN. (.) (2) A. SAICIA OF SHG DIV. ON PROMOTION WILL TAKE OVER CHARGE OF JAO AT DIV. HQ. ITA (.) (3) M. SUNIL SING OF AP DIV. ON PROMOTION WILL TAKE OVER CHARGE OF JAO AT DIV. HQ. IMPHAL (.) (4) N.C. JHINGTA PRESENTLY ON DEPUTATION WITH S.P.G. ON REDEPUTATION IS POSTED TO TC SLB. ON PROMOTION (.) (5) DR. P.S. THAKUR OF GDM ON PROMOTION WILL TAKE OVER AS JAO FA GDM AGAINST PRECENTLY TRANSFERRED POST (.) (6) K.C. DHOBAL OF JSK DIV. WILL TAKE OVER AS JAO CHAMOLI OF HP DIV. (.) IT HAS ALSO APPRVED TRANSFER OF L.K. GOHAIN JAO KHONSA AP DIV. TO JAO DIV. HQ. SHG WITH IMMEDIATE EFFECT IN PUBLIC INTEREST (.) FORMAL ORDER SENT BY POST (.) DO NAD MSG. FOR TC SLB ALSO PSE (.)

187/23

2030

Attested
Bashari
Advocate

22
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI-BENCH

O.A. NO. 29 OF 2002

IN THE MATTER OF

Written statement filed by Respondents No. 1 to 3
AND

IN THE MATTER OF

O.A. NO. 29/2002

Titled Shri P.K.Choudhury, SAO

-VS-

Union of India and Others

Written statement filed by Respondents No. 1 to 3.

I, R.D.thongchi, Divisional Organiser, SSB, North Assam Division, Tezpur do
hereby solemnly affirmed and state as follows :

Para- 1 That I R.D.Thongchi, Divisional Organiser, SSB , North Assam
Division, Tezpur have gone through the O.A., understood the contents
thereof, as such I am well acquainted with the facts and circumstances
of the instant case. Thus I am competent to verify and sign the written
statement on my own behalf as well as on behalf of Union of India and
others officials respondents.

Contd...P/2....



Divisional Organiser SSB
N, A. Division Tezpur

31
Filed by
22/4/02

(A. DEB ROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

Para-2 That this deponent does not admit any of the facts, statements, allegations and averments made in the said OA, save and except those have been specifically admitted and this written statement as under :

Para-3 On the basis of the judgement delivered by CAT, Guwahati vide order dated 18/6/01, a review DPC was held on 22/8/01 to consider the promotion of Shri P.K. Choudhary, SAO to the rank of JAO. However, he could not made the grade. The decision of the review DPC regarding his promotion was communicated to him vide our memo No.35/SSB/A2/99(3)2588-89 dated 18/9/01 in compliance with the judgement of CAT, Guwahati.

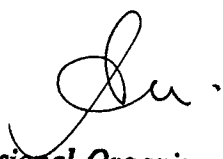
Para-4 & 5 Calls for no reply being matter of record.

6. FACTS OF THE CASE

Para 6.1 & 6.2 Admitted being matter of record.

Para 6.3 & 6.4 The claim of the applicant that he was not communicated the adverse remark in time is not correct. The adverse remarks were duly communicated to him and the matter remained under correspondence and was finally disposed off on 15/2/99.

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Para 6.5

Adverse remarks recorded in the ACR of Shri P.K.Choudhury, SAO pertains to the period from 1/4/94 to 20/7/95 and was communicated to the officer by DIG, NAD vide memo dated 4/5/96. The officer had submitted representation against the adverse remarks on 11/10/96. The matter remained under correspondence and finally DO, NAD had expunged all the adverse remarks recorded in his ACRs for the period 1995-96 vide his memo No. NAD/CON/ACR-7/VOL-II/98 dated 15/2/99. Subsequently a DPC was held on 21/1/98 and 9/8/98 to consider the promotion of SAO to the rank of JAO. Shri Choudhury was also considered along with others for promotion to the rank of JAO but he could not make the grade for his promotion on merit basis thereby resulting in promotion of his junior to the rank of JAO.

Para 6.6

It is admitted that Shri P.K.Choudhury, SAO had filed a O.A. in the Hon'ble CAT, Guwahati bearing O.A. No.262/99 for his promotion to the rank of JAO. The Hon'ble CAT had delivered judgement on 18/6/01 with the direction to the respondent to hold the review DPC for considering the claim of the applicant for promotion from the post of SAO to the rank of JAO within a period of three months from the date, a copy of this order is filed. If the applicant is found suitable for promotion by the DPC he shall be entitled for notional promotion from the date his juniors were promoted to the post. However, monetary

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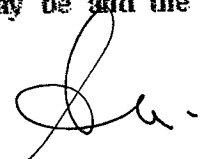
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benefits he shall get from the date of actual promotion. In compliance to the direction of the CAT, a review DPC was held on 22/8/01. The review DPC on the basis of the available records did not find the applicant suitable for promotion to the rank of Joint Area Organiser even after expunction of adverse remarks for the year 1995-96. The decision of the review DPC was accordingly conveyed to the applicant under the signature of DIG(EA), SSB Hqrs vide letter No.35/SSB/A2/99(3)2588-89 dated 18/9/01 (Copy enclosed by applicant as Annexure 3)

Para 6.7

It may be mentioned that the post of SAO which was a Group B post has been reclassified as Group A post under Cabinet Secretariat order No.A-11011/6/99-DO-1-889 dated 20/9/99 whereas DPC was held on 21/1/98, 7/8/98 for promotion of SAO to the rank of JAO i.e. which was much earlier than the reclassification of the post of SAO as Group A post. Therefore, the contention of the applicant is not correct for promotion made for induction to Group A service from lower group, the benchmark would continue to be "Good". According to rule provided at that time the DPC shall grade the officer as "Outstanding", "Very Good" and "Good", "Average" and "Unfit" as the case may be and the officer will be arranged according to the

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grading obtained placing the outstanding on top followed by Very Good and so on in the select penal upto the number of vacancies available in the feeder grade.


Para 6.8

We have already explained in our earlier paras that the post of SAO had been reclassified as Group A post vide Cab.Secretariat Order dated 20/9/99. Whereas, the promotion were held much earlier. As such, the contention of the applicant that he has secured 'Good' in the DPC and entitled for promotion to the next higher rank i.e.JAO is not correct. Besides, Recruitment Rules indicating the SAO as Group A post is to be amended which is still consideration.

Para 6.9

Shri N.C.Jhingta, SAO who was on deputation to SPG was promoted to the rank of JAO. SPG has requested to issue NBR to accommodate Shri Jhingta on deputation which was approved by the DG, SSB and NBR was issued to him on 8/6/99. It may be added that on the recommendation of the Review Committee, 7 areas of UP & HP divisions are closed immediately resulting surrender of four posts of JAO reducing the sanctioned strength of JAO. The four officers holding the post of JAO at that time has been adjusted subsequently including the vacancy available due to issue of NBR to Shri Jhingta.

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Para 6.10 The position explained by the applicant is not at all correct. Shri Kamal Baruah, SAO now JAO had submitted a representation to the Director, SSB mentioning that his junior has been promoted to the rank of JAO and he has been ignored. The DPC which held on 21/1/98 to consider promotion of eligible SAO to the grade of JAO against 4 vacancies pertaining to the period 1996-97 and 9 vacancies against 1997-98. Shri K.Baruah stands at Sl.No.16 of the seniority list circulated at that time and his name was also submitted before the DPC. However, he could not make the grade for promotion to the rank of JAO. The DPC which was held on 7/8/98 to consider the promotion of SAO to the rank of JAO against 6 vacancies pertains to the period 1998-99 has recommended Shri Baruah for promotion to the rank of JAO. Accordingly, Shri Baruah has been promoted as Joint Area Organiser.

Para 6.11 The DPC which was held on 7/8/98 to consider the promotion of eligible SAOs to the grade of JAO against six vacancies of JAO of 1998-99, the name of Shri P.K.Choudhury, was also placed before the DPC alongwith others for consideration of promotion but his name has not been recommended for promotion as Joint Area Organiser, resulting his junior have been promoted to the rank of JAO.

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Para 6.12

The contention of the applicant is not clear as to why he has mentioned the name of Shri Kamal Baruah, who was promoted to the rank of JAO. He could not make the grade for promotion to the rank of JAO for which DPC was held on 21/1/98. But he was subsequently, recommended for promotion by the DPC held on 7/8/98 in which he had made the grade for the promotion to the rank of JAO.

Para 6.13


We had mentioned in our earlier para that Shri N.C.Jhingta promoted to the rank of JAO has been given NBR w.e.f. 9/8/99. Subsequently, on the recommendation of the Review Committee, 7 areas of HP & UP division had been closed and four JAOs holding the post of JAO in the closed areas have been adjusted in the future vacancies including the vacancy available due to issue of NBR to Shri Jhingta. Therefore, no post of JAO was lying vacant since 1998 as claimed by the applicant.

Para 7

Grounds with legal provisions.

Para 7.1 & 7.2 The administrative control of SSB has been transferred from Cabinet Secretariat to MHA and all the recruitment rules in this regard are being amended and his case for promotion to the rank of JAO will be submitted before the DPC for consideration of promotion to the rank of JAO as per availability of vacancies.

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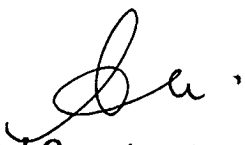
Para 7.3 The contention of Shri P.K.Choudhury, SAO that the DPC has not properly scrutinized the ACRs of Respondent No.4 & 5 i.e. Shri K.Baruah and Shri N.C. Jhingta is not correct. The ACRs folders of S/Shri Baruah and Jhingta were submitted before the DPC, and the DPC after considering all aspects have recommended their promotion to the rank of JAO.

Para 7.4 & 7.5 It is reiterated that the name of Shri P.K.Choudhury, SAO was submitted before the DPC which was held on 21/1/98 and 7/1/98 but he could not make the grade. However, his name will be submitted before the future DPCs for consideration for promotion to the rank of JAO.

Para 7.6 We do not have any comments as the officer Shri P.C.Dangwal, DO, NAD has already superannuated from Govt. service and no further action called for at this stage.

Para 8 Details of remedies exhausted – It need no comments. However, We have already mentioned that the administrative control of SSB has been transferred from Cabinet Secretariat to MHA, and the recruitment rules in each grade are being amended accordingly. His case for promotion to the rank of JAO will be considered along with others in the future DPC, which are being convened shortly.

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Para 9

The factual position regarding this para is as follows. It is denied that the applicant had not filed any case before the tribunal. In fact the applicant Shri P.E. Choudhury, SAO had earlier filed a OA No.262/99 in the Hon'ble CAT, Guwahati for his promotion to the rank of JAO a mention of which has already been made by the applicant. The Hon'ble CAT after going through all aspects had delivered judgement on 18/6/01 directing the respondent to hold the review DPC for consideration for promotion to the rank of JAO if found suitable by DPC. It was further ordered that he shall be entitled for notional promotion from the date of his junior were promoted to the rank of JAO. The review DPC was convened on 22/8/01 in compliance of the judgement passed on OA No.262/99. The recommendation of the DPC which was approved by MHA was communicated to Shri P.E.Choudhury, SAO under the signature of DIG(EA) vide memo dated 18/9/01.

Para 10 & 11 In view of the position narrated above, there is no merit in the pleas of the applicant and same requires to be dismissed being devoid of merit.

Para 12& 13 Calls for no reply on behalf of respondents.

In view of facts mentioned herein above, it is prayed that this OA be dismissed with cost.

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VERIFICATION

I, R.D.Thongchi presently working as the Divisional Organiser, SSB, North Assam Division, under Ministry of Home Affairs duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in paras 3, 6.3, 6.4 to 6.13, 7.1 to 7.6, 8 & 9 being matter of record are true to my knowledge and belief, and those made in paras 4, 5, 6.1, 6.2 being matter of record are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

AND I signed this verification on this 10th April day of March, 2002.



DEPONENT
Divisional Organiser SSB
N. A. Division Tezpur