

50/600  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 293/02  
R.A/C.P No. ....  
E.P/M.A No. ....

1. Orders Sheet..... 64 ..... Pg. .... to ..... 5 .....
2. Judgment/Order dtd. 26.1.9.2003 ..... Pg. .... to ..... 6. 8. 2003 .....
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. .... 293/02 ..... Pg. 1 ..... to ..... 31 .....
5. E.P/M.P. .... Pg. .... to .....
6. R.A/C.P. .... Pg. .... to .....
7. W.S. 2/11/03 ..... Pg. .... to .....
8. Rejoinder ..... Pg. .... to .....
9. Reply ..... Pg. .... to .....
10. Any other Papers ..... Pg. .... to .....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Gahlot  
29/11/17

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

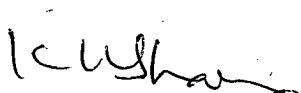
ORDER SHEET

Original Application No : 293 / 2002  
Misc. Petition No. \_\_\_\_\_ /  
Contempt Petition No. \_\_\_\_\_ /  
Review Application No. \_\_\_\_\_ /

Applicant (s) Abul Hassan

Respondent (s) Levi & Ans. -V-s-

Advocate for the Applicant (s) Mr K. M. Choudhury, I.C. Choudhury  
Miss R. S. Choudhury -  
Advocate for the Respondent(s) RSC -

Notes of the Registry	Date	Order of the Tribunal
<p>for video Debk</p> <p>1PO 79576823 23/8/02 R.B.</p> <p>Dy. Registrar</p> <p>Steps taken. NJ 6/9/02</p> <p>Notice disappeared and sent to O. Section for issuing of the same to the respondents through Regd. Post with A.D.</p> <p>3 Dw. 9.02</p>	9.9.2002 mb	<p>Hear Mr. I. Choudhury, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 8.10.2002 for orders.</p> <p> Vice-Chairman</p>
	8.10.02 mb	<p>Hear Mrs. R.S. Choudhury, learned counsel for the applicant. and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.</p> <p>List again on 18.11.2002 for to enable the respondents to file written statement.</p> <p> Member</p>
		<p> Vice-Chairman</p>

(3)

18.11.02 Heard Mrs. R.S.Choudhury, learned counsel for the applicant. Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents prayed for time to obtain necessary instructions on the matter. Prayer is allowed. List on 16.12.2002 for orders.

16 Usha  
Member

Vice-Chairman

mb

16.12.02 Heard Mrs. R.S.Choudhury, learned counsel for the applicant. On the prayer of Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement. List on 22.1.2003 for orders.

3  
21.1.03.

Vice-Chairman

mb

22.1.03 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.

The respondents are yet to file written statement though time granted earlier. However, on the prayer of learned counsel for the respondents further four weeks time is allowed to the respondents for filing written statement as a last chance. List again on 19.2.2003 for written statement.

Member

Vice-Chairman

mb

19.2.03  
W/S. Submitted  
by the Respondent No. 1, 2, 3,  
4, 5 & 6.

3

19.2.2003 Present to The Hon'ble Mr. Justice  
D.N. Chowdhury,  
Vice-Chairman.

The Hon'ble Mr. S. Biswas  
Administrative Member.

19.2.03

Wfs submitted  
by the respondent Mrs.

1, 2, 3, 4, 5 Feb.

2

No rejoinder has  
been filed.

27.3.03

No rejoinder has  
been filed.

21.5.03

No rejoinder has  
been filed.

21.7.03

Written statement has been  
filed. The case may now be listed for  
hearing on 28.3.2003. The applicant  
may file rejoinder, if any, within  
two weeks from today.

S.B.

Member

Vice-Chairman

mb

28.3.2003 On the prayer of Mrs. R.S. Choudhury,  
learned counsel for the applicant  
case is adjourned. List on 22.5.2003  
for hearing.

S.B.

Member

Vice-Chairman

mb

22.5.03

Heard Mrs R.S. Choudhury, learned  
counsel for the applicant and Mr B.C.  
Pathak, learned Addl.C.G.S.C for the  
respondents at length.

put up again on 24.6.03 to enable  
Mr Pathak to obtain the connected records

S.B.  
Member

Vice-Chairman

pg

24.6. Division Bench did not sit today.  
The case is adjourned to 22.7.2003.

26

A.D.

22.7.2003

On the prayer of Mrs. R.S. Choudhury,  
learned counsel for the applicant the case  
is adjourned. List again on 18.8.2003 for  
hearing.

K.B.  
Member

Vice-Chairman

mb

18.8.2003 Present: The Hon'ble Mr.K.V.Prahala-  
dan, Administrative Member.

The case is adjourned and again  
listed for hearing on 26.8.2003.

*K.V.Prahala-  
dan*  
Member

bb

26.8.2003 Present : The Hon'ble Mr. Justice D.N.  
Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahala-  
dan, Member (A).

On the prayer of Mrs. R.S.  
Chowdhury, learned counsel for the appli-  
cant, the case is adjourned. List again  
on 29.8.2003 for hearing.

*K.V.Prahala-  
dan*  
Member

*Vice-Chairman*  
Vice-Chairman

mb

29.8.2003 Present: The Hon'ble Mr.Justice D.N.  
Chowdhury, Vice-Chairman

The Hon'ble Mr.K.V.Prahala-  
dan, Administrative Member.

The matter came up for hearing today  
also. This case earlier also came up for  
for hearing on 22.5.2003 and the case was  
adjourned to enable Mr.B.C.Pathak, learn-  
ned Addl.C.G.S.C. to obtain the necessary  
record. Mr.Pathak stated that he is yet  
to get hold of record save and except  
some photocopies which are not relevant  
for the purpose of adjudication.

Mr.R.S.Choudhury, learned counsel for  
the applicant, placed before us the judg-  
ment rendered by the Magistrate 1st Class  
Aizawl District, Aizawl acquitting the  
applicant and other co-accuseds for want  
of evidence. The Order Sheet itself indi-  
cated that the prosecution witnesses did  
not turn up to adduce evidence and hence  
the applicant and other accuseds were  
acquitted on default of prosecution. The  
written statement was filed on behalf of  
the respondents 1 to 6 by the Deputy Co-  
missioner, Central Excise, Guwahati

Contd.

Office Note	Date	Tribunal's Order
	Contd.	
Orderdld. 29/8/03 Communicated to Respondent No 1 to 3 & also Mr. B.C. Pathak, Addl. C.A.O. Vide D/No. _____ Dtd. _____  Jn/3/03.	29.8.2003	<p>Division. The verification are all based on knowledge though the matter pertains to record.</p> <p>The respondents are ordered to place full record of the case to enable us to adjudicate the matter. Put up the matter agains on 24.9.2003 for production of record. Send the copy of the order to respondent Nos.1 to 3 with a copy to Mr. B.C.Pathak, learned Addl.C.G.S.C. appearing for the respondents.</p> <p>The respondents are also ordered to place before us as to the intimations those were required to be sent to the Audit Office in respect of the alleged embezzlement of the Govt. money.</p> <p>List the case on 24.9.2003 for hearing.</p>
	bb	<p>KV Pathak Member</p> <p>Vice-Chairman</p>
	24.9.2003	<p>Heard in part. List again on 26.9.2003.</p>
	bb	<p>KV Pathak Member</p> <p>Vice-Chairman</p>
22/10/2003  Copy of the Order has been sent to the Office for issuing to one to the applicants as well as to the Addl. C.G.S.C. for the Regt.	26.9.2003	<p>Heard counsel for the parties. Judgement delivered in open Court, kept in separate sheets.</p> <p>The application is dismissed in terms of the order. No costs.</p>
Received B.C. Pathak 28/10/03	bb	<p>KV Pathak Member</p> <p>Vice-Chairman</p>

Office Note	Date	Tribunal's Order

5

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. /XXXX No. 111293 of 2002.

DATE OF DECISION 26.9.2003

..... Md. Abul Hussain ..... APPLICANT(S).

..... Mr. K. N. Choudhury, I. Choudhury & Mrs. R. S. Choudhury ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

..... Union of India & Others ..... RESPONDENT(S)

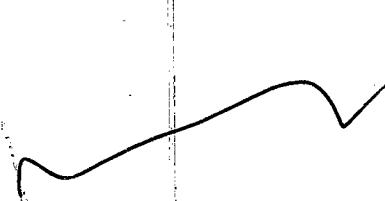
..... Mr. B. C. Pathak, Addl. C. G. S. C. ..... ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE K.V.PRAHALADAN, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble XXXXX Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.293 of 2002.

Date of Order : This the 26th Day of September, 2003.

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

THE HON'BLE MR. K.V.PRAHALADAN, ADMINISTRATIVE MEMBER.

Md. Abul Hassan  
S/o Md.Jamaluddin  
Tax Assistant  
Office of the Assistant Commissioner  
Central Excise, Tinsukia  
R.G.Road, Tinsukia-786125. . . . . Applicant.

By Sr.Advocate Mr.K.N.Choudhury, Mr.I.Choudhury &  
Mrs. R.S.Choudhury.

- Versus -

1. The Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Finance  
North Block, New Delhi-2.
2. The Chief Commissioner of Customs &  
Central Excise, Eastern Zone  
15/1 Strand Road, Calcutta-700 001.
3. The Commissioner of Customs &  
Central Excise, N.E.Region  
Shillong, Meghalaya.
4. The Joint Commissioner (P & V)  
Customs and Central Excise  
Morello Compound, Shillong  
Meghalaya.
5. The Assistant Commissioner  
Customs Division, Aizwal  
Mizoram.
6. The Pay and Accounts Officer  
Customs and Central Excise  
Shillong, Meghalaya. . . . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY, J.(V.C.):

The issue pertains to promotion to the grade of Inspector of Customs and Central Excise in the following circumstances :

1. The applicant, at the relevant time, was working as Upper Division Clerk ( UDC in short) in the Office of the Assistant Commissioner, Customs Division, Aizawl, Mizoram.

By order dated 15.3.2000, the applicant alongwith thirty two others were promoted to the grade of Tax Assistant in the scale of pay of Rs.4500-125-7000/- . The DPC meeting was held on 25.4.2000 including the applicant which recommended thirteen officers fit for promotion to the grade of Inspector, Customs and Central Excise. According to the applicant, promotion order was issued on 26.4.2000 and he joined in the said post, Customs and Central Excise, Aizawl Customs Division on 1.5.2000. However, the said order was subsequently cancelled vide order dated 12.7.2000. The applicant was arrested for alleged misappropriation of govt money. Consequently, he was placed under suspension w.e.f. the date of detention under Sub Rule (2) of Rule 10 of the CCS (CCA) Rules, 1965. In the application the applicant submitted that the DPC meeting was held and by order dated 24.7.2001 twenty three Tax Assistants/Stenographers G.III were promoted to the post of Inspector, Customs and Central Excise. The applicant was also called for fitness test and interview for the aforesaid promotion and he attended the same. But for the reasons best known to the respondents, he was not promoted though the suspension order was revoked as far back on 2002. By this application the applicant prayed for a direction for opening the sealed cover and promote the applicant to the grade of Inspector, Customs and Central Excise w.e.f. 26.4.2001 with all consequential benefits.

2. The respondents contested the case and stated that along with others since the applicant/were promoted by order dated 26.4.2000 on the basis of a fake letter to be received from the CBEC, all the officers were reverted to their original posts. As regards the promotion of the applicant, the DPC assessed the suitability, but since the applicant was placed under suspension pending disciplinary proceeding, he was not promoted and the matter was kept in sealed cover. Mrs.R.S.Choudhury, learned counsel for the applicant, in course of the argument placed before us the order of the

Trial Court which acquitted the applicant from the charges.

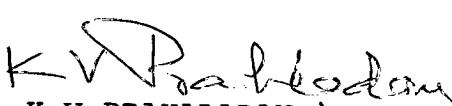
3. We have given our anxious consideration in the matter. The respondents in its reply also did not specifically stated the actual situation. On the records it appears that the applicant was acquitted from the criminal charges by the judgment and order of the Trial Court dated 10.12.2002 passed by the Magistrate 1st Class Aizawl District, Aizawl in connection with Gr.No.1383/2000 Aizawl P.5. Case No.466/2000 U/S 420/465/468/471/380 IPC. The records also shows that in Criminal Revision Petition No.12 of 2003 the Gauhati High Court, Aizawl Bench, Aizawl vide order dated 17.4.2003 set aside the order of acquittal dated 10.12.2002 passed by the Trial Court and directed for retrial as per law.

4. We have heard Mrs.R.S.Choudhury, learned counsel for the applicant and Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents at length and also perused the materials on record. Records, those were made available now clearly indicate that judgment and order of acquittal dated 10.12.2002 acquitting the accused applicant has already been set aside and quashed. The criminal case initiated against the accused applicant stood revived. The applicant is facing now a criminal trial involving embezzlement/ loss of public money. The contention of the learned counsel for the applicant Mrs.R.S.Choudhury to the effect that the applicant accused was exonerated from the criminal case thus was not sustainable. In the set of circumstances we do not find any justification for exercising Judicial Review under Section 19 of the Administrative Tribunal Act, 1985 as amended and issue direction for promotion as prayed for. No injustice is caused to the applicant for involving Judicial Review. The O.A. is thus liable to be dismissed and thus dismissed.

5. Before concluding the matter, we would like to point out as to the casual stand taken by the persons in

✓  
authority in conducting the case. A written statement was filed on behalf of the respondents by Deputy Commissioner, in the office of the Deputy Commissioner, Central Excise, Guwahati Division in a lackadaisical manner. It did not indicate and disclose the real facts of the case. Material facts were seemingly suppressed. It seems to us that the case was conducted in a very casual fashion as if to protect some one sacrificing public interest. Only after going through the records, we could assess the facts. We hope and trust that the respondents authority will take note of the observations made above, and take appropriate measure in conducting such cases involving public interest and public money.

The application thus stands dismissed. There shall, however, be no order as to costs.

  
( K.V.PRAHALADAN )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

bb

13

6

THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

D.A. NO. 293 OF 2002

Md. Abul Hassan ..... Applicant

-Versus-

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

I N D E X

SL.NO.	PARTICULARS	PAGE NOS.
1.	Application	1 to 13
2.	Verification	14
3.	Annexure - A	15 to 17
4.	Annexure - B	18 - 19
5.	Annexure - C	20 - 21.
6.	Annexure - D	22
7.	Annexure - E	23 to 25
8.	Annexure - F	26
9.	Annexure - G	27
10.	Annexure - H	28 to 30
11.	Annexure - I	31.

Filed by:

  
Advocate

Fees By:  
The Applicant  
THROUGH  
Mr. R. S. Choudhury  
Advocate <sup>1/2</sup>  
8/9/102

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI

(Application under Section 19 of the Administrative  
Tribunal Act, 1995)

O. A. NO. 07 of 2002

BETWEEN

Md. Abul Hassan  
S/o Md. Jamaluddin,  
Tax Assistant, Office of the Assistant  
Commissioner, Central Excise, Tinsukia,  
R.G. Road, Tinsukia-786125.

.., APPLICANT

-AND-

1. The Union of India,  
represented by the Secretary to the Government of  
India, Ministry of Finance  
North Block, New Delhi-2.
2. The Chief Commissioner of Customs &  
Central Excise, Eastern Zone,  
1571 Strand Road, Calcutta - 700001.
3. The Commissioner of Customs &  
Central Excise, N.E. Region,  
Shillong, Meghalaya.

Contd.. P/-

4. The Joint Commissioner (P&V),

Customs and Central Excise,

Morello Compound, Shillong,

Meghalaya.

5. The Assistant Commissioner,

Customs Division, Aizawl, Mizoram.

6. The Pay and Accounts Officer,

Customs and Central Excise,

Shillong, Meghalaya.

#### ..RESPONDENTS

#### DETAILS OF APPLICATION.

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

This application is not directed against any Order but has been filed making a grievance against denial of promotion to the applicant to the grade of Inspector of Customs and Central Excise.

##### 2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter in respect of which the application is made, is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and as such is entitled to all the rights, protections and privileges guaranteed to the citizens of India under the Constitution of India and the laws framed thereunder.

4.2 That the applicant is at present working as Tax Assistant under the Aizawl Customs Division in the Department of Customs and Central Excise.

4.3 That while the applicant was discharging his duties in the aforesaid office of the Respondent No. 5, an Upper Division Clerk, the Respondent No. 4 vide order under memo No. C.NO.II(3)7/ET.III/95/10449-524 dated 15.3.2000 promoted the applicant along with 32 others to the Grade of Tax Assistant in the scale of pay of Rs. 4500 - 125-7000. It is pertinent to mention herein that as per the list dated 15.3.2000 the seniority of the applicant was at Sl. No. 1.

A copy of the said order dated 15.3.2000 is annexed herewith and marked as Annexure-A.

4.4 That vide letter under memo No. 11(3)2/COM/R2/510-28 dated 3.4.2000, the Respondent No. 4 intimated the respondent No. 5 regarding the physical fitness test as well as the interview for the promotion of Tax Assistants/Stenos and in this connection, the application was also directed to appear for the said test and interview on 25.4.2000.

A copy of the said letter dated 3.4.2000 is annexed herewith and marked as Annexure - B.

4.5 That the applicant duly appeared in the (said test and interview on 25.4.2000 and subsequently the Departmental Promotion Committee in its meeting held on 25.4.2000 recommended 13 Officers fit for promotion to the grade of Inspector, Customs and Central Excise. Consequently vide order dated 26.4.2000 issued under memo No. C.No.II.(3)19/ET.III/R2/7444-70, the Respondent No. 4 was pleased to promote 13 persons who had been working as Tax Assistants and Stenographers Grade III to the grade of Inspectors of Customs and Central Excise in the scale of pay of Rs.5500-175-9000 w.e.f. the date of assuming of charge. It is pertinent to mention herein that as per the said order dated 26.4.2000, the seniority of the applicant was at Sl.No. 9.

A copy of the said order dated 26.4.2000 of the respondent No. 4 is annexed herewith and marked as Annexure - C.

4.6 That the applicant states that as per the promotion order dated 26.4.2000, applicant joined in the post of Inspector, Customs and Central Excise, Aizawl, Customs Division on 1.5.2000 and vide order dated 5.5.2000 his pay was fixed in the higher grade of Rs.5500/- by the Deputy Commissioner, Customs Division, Aizawl.

A copy of the said order dated 5.5.2000 is annexed herewith and marked as Annexure - D.

4.7 That however, to the utter shock of the applicant, respondent No.4 vide order No.B/Con/2000 dated 12.7.2000 acting on instructions/directions issued by the Under Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs in his letter dated 22.6.2000 ordered that the promotion of TA's/UDC's/Steno's as promoted vide order dated 26.4.2000 (Annexure - C) should be treated as null and void and the 13 officers who were promoted to the grade of Inspector are to be reverted to their original posts.

A copy of the order of reversion dated 12.7.2000 is annexed herewith and marked as Annexure - E.

4.8 That to add to the grievance of the applicant, he was detained in custody on 26.7.2000 by the Aizawl police for a period exceeding 48 hrs., on allegations of misappropriation of Government's money. Consequently the respondent No. 4 vide order under memo No. C.No.II(8)23/CIU-VIG/2000/728-33 dated 3.8.2000, in terms of Sub Rule (2) of Rule 10 of the CCS (CCA) Rules, 1965, was pleased to hold that the applicant is deemed to have been suspended w.e.f. the date of detention and shall remain under suspension until further orders.

A copy of the order dated 2.8.2000 is annexed herewith and marked as Annexure - F.

4.9 That the applicant deems it pertinent to mention herein that despite the fact that he was placed under suspension, no departmental proceeding was drawn up against the applicant. While the situation remained thus, no action being taken by the Respondent authority in connection with the suspension of the applicant, the respondent No.5 vide order under memo No.C.No.II(39)5/ET/AC-AIZ/96/742 dated 13.7.2001, directed the applicant to attend the physical fitness test and interview for selection to the grade of Inspectors, Central Excise and Customs.

A copy of the said order dated 13.1.2001 of the respondent No. 5 is annexed herewith and marked as Annexure - G.

4.10 That the applicant duly appeared before the Departmental Promotion Committee and attended the physical fitness test and interview for selection to the grade of Inspectors, as directed by the Respondent No.5.

4.11 That subsequently vide establishment order No. 116/2001 dated 24.7.2001, the Respondent No. 4 was pleased to promote 23 Tax Assistants/ Stenographers Grade-III to the post of Inspector, Customs and Central Excise. It may be pertinent to mention herein that in the said promotional order dated 24.7.2001, it was categorically specified that in the event of cases under sealed covered being opened, the junior most promotede would be reverted.

A copy of the said order dated 24.7.2001 is annexed herewith and marked as Annexure-H.

4.12 That the applicant states that after a long period of 2 years, the suspension order of the applicant was revoked by the Respondent No. 4 in exercise of powers conferred by Clause (c) of Sub Rule(5) of rule 10 of the CCS(CCA) Rules 1965, vide order No. 13/CIU-VIG/2002 dated 1st March, 2002.

A copy of the said order dated 1.3.2002 is annexed herewith and marked as Annexure-I.

4.13 That the applicant states that despite of the elapse of 5 1/2 months since the date of revocation of the suspension order of the applicant, no positive action has been forth coming from the Respondent authorities regarding the promotion of the applicant to the grade of Inspector, Customs and Central Excise. This inaction on the part of the Respondent authorities is not only whimsical and arbitrary but at the same time is illegal in view of the 'sealed cover procedure' which ought to have been adopted and implemented in the case of the applicant.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

5.1 For that prima facie the inaction on the part of the respondents is not legally sustainable and the applicant is entitled to the reliefs sought for in this original application.

5.2 For that in case of Govt. employees under suspension, the procedure of "sealed cover" has to be adopted by the Departmental Promotion Committee and the applicant alone can not be deprived of this legally binding procedure and consequently his promotion.

5.3 For that the respondent authorities are duty bound to consider the case of the applicant for promotion after opening of the 'sealed cover' in view of the revocation of the suspension order vide order dated

1.3.2002, and thus cannot discriminate against the applicant alone.

5.4 For that the applicant having been recommended for promotion by the D.P.C. held on 25.4.2000 to the grade of Inspector, Customs and Central Excise and the said promotion having been granted but subsequently cancelled due to the order dated 12.7.2000 (Annexure - E herein), the respondent authorities therefore cannot apply a different yardstick for promotion of the applicant now and ought to grant the promotion to the applicant which is his legitimate due.

5.5 For that there being a clear NOTE in a promotional order dated 24.7.2001 to the effect that 'in the event of cases under sealed cover being opened, the junior most promotee will be reverted', the respondent authorities can not deny the promotion due to the applicant in view of the revocation of the suspension order.

5.6 For that all other 12 employees whose names had figured in the promotional order dated 26.4.2000 having been promoted to the higher grade of Inspector, Customs and Central Excise vide order dtd. 24.7.2001, the applicant alone cannot be discriminated against, in violation of the governmental laws and the law laid down by the Apex Court.

5.7 For that the applicant states that the Apex Court has laid down the law in this regard time and again that at the time of consideration of the case of government servants for promotion, the details of government servants who are under suspension or in respect of whom any disciplinary proceedings are pending, who otherwise fall in the zone of consideration for promotion, should specifically be placed before/brought to the notice of the Departmental Promotion Committee, to enable the D.P.C. to adopt the 'sealed cover procedure'. In the case of the applicant too, the same procedure ought to have been resorted to and since his suspension order has been revoked vide order dated 1.3.2002, the applicant ought to have been promoted to the grade of Inspector, Customs and Central Excise as per the earlier departmental promotional order dated 26.4.2000 (wherein he was placed at Sl. No. 9 in the seniority list). However, no action has been initiated by the respondent authorities for opening the 'sealed covered' as regards the applicant and granting him the promotion which is his legitimate due. The same is a gross violation of Articles 14 and 16 of the Constitution of India and this Hon'ble Tribunal would intervene into the matter and direct the authorities concerned to open the 'sealed cover' and consider the applicant's case for promotion.

5.8 For that the applicant states that if while considering the candidates for promotion to the grade of Inspector, Customs and Central Excise, the procedure of 'sealed cover' was not adopted in the case of the applicant by the respondent authorities, the same would amount to gross injustice being meted out to the applicant besides being arbitrary, capricious and malafide. The Respondent authorities, in particular the respondent No. 4 ought to have promoted the applicant to the grade of Inspector, especially in view of the revocation order dated 1.3.2002. The fact that the respondent authorities have been sleeping over the matter reflects malice in law as well as malice in fact.

5.9 For that the inaction/inordinate delay on the part of the respondent authorities to promote the applicant may adversely affect the seniority of the applicant especially if the Departmental Promotion Committee holds its meeting prior to the promotion being granted to the applicant, which would amount to grave injustice being meted out to the applicant.

5.10 For that in any view of the matter, the inaction towards denial of promotion to the applicant (despite the elapse of more than 5 1/2 months since the revocation of the applicant's suspension order) is not sustainable.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

B.1 To direct the Respondents to forthwith open the 'sealed cover' of the applicant and promote the applicant to the grade of Inspector, Customs and Central Excise w.e.f . 26.4.2001.

B.2 To grant all consequential benefits upon granting the relief above.

B.3 Cost of the application.

B.4 Any other relief/ reliefs that the applicant may be entitled to under the facts and circumstances of the case and/or as may deem fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

The applicant respectfully prays for an order that the pendency of the present Original Application shall not be a bar for considering the case of the applicant for promotion to the post of Inspector, Customs and Central Excise.

10.\*\*\*\*\*

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.:

i) I.P.O. No. : 7G 57 6823.

ii) Date : 23.08.02.

iii) Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Md. Abul Hassan, aged about 32 years, Son of Md. Jamaluddin, Tax Assistant, office of the Assistant Commissioner, Central Excise, Tinsukia, R.G. Road, Tinsukia-786125, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case. The statements made in paragraphs 1 to 4, 6 to 12 are true to my knowledge and those made in paragraphs — 10 — are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this day of September, 2002 at Guwahati.

Md. Abul Hassan.

## OFFICE OF THE COMMISSIONER CENTRAL EXCISE :: SHILLONG.

ESTABLISHMENT ORDER NO.29/2000

DATED, SHILLONG THE 15TH MARCH 2000.

Subject:- Estt. Promotions, Transfer and postings in the grade of Tax Assistant - Order Reg. -

.....

PART-I.P R O M O T I O N S

The following Upper Division Clerks of Customs & Central Excise are hereby promoted to the grade of Tax Assistant in the scale of pay of Rs.4500-125-7000 with effect from the date they assume charge of higher post.

Sl.No.	Name	Pr. Place of posting.
	<u>S/Shri</u>	
1.	Abdul Hassan (ABUL HASSAN)	Aizwal Customs Divn.
2.	Biplab Ghosh	Guwahati Customs Divn.
3.	Jogesh Singh Sain	General Branch Hqrs.
4.	Jayanta Goswami	Office Shillong.
5.	Chandrabanu Bhattacharjee	Guwahati Customs Divn.
6.	Sumita Deb.	Estt. Hqr. Office Shillong.
7.	Bandana Choudhury	Guwahati Central Excise.
8.	Rajiv Kumar	Division.
9.	Rupa Kar	Agartala Customs Divn.
10.	Partha Sarathi Choudhury	Tezpur Central Excise Divn.
11.	Ghana Kanta Nath	Customs Hqrs. office
12.	Iyolis Kurkalang	Shillong.
13.	Fondila Daimai	Accts. Br. Hqrs. office
14.	Khamkhanmaun Munshong	Shillong.
15.	Dombidhar Sonowal	Revenue Br. Hqrs. office
16.	John Amo	C. Ex. Shillong.
17.	Shyamalendu Sinha	Aizwal Customs Divn.
18.	Potsangbam Surjit Singh	Dibrugarh C. Ex. Divn.
19.	Devendra Rana	Revenue Br. Hqrs. Office
20.	Salil Chakraborty	C. Ex. Shillong.
21.	Narayan Ch. Paul	Accts. Br. C. Ex. Hqrs.
22.	Richard Grand Lyngdoh	Shillong.
23.	Satyabrata Chakraborty	Shillong.
24.	Sofiana Toi	Appeal br. C. Ex. Hqrs.
25.	Dhira Medhi	Shillong.
26.	Tapan Barua	Guwahati C. Ex. Divn.
27.	Bijoy Basumatary	Accts. C. Ex. Hqrs.
		Shillong.
		Guwahati C. Ex. Divn.

Certified to be true copy

R. S. Choudhury  
Advocate

Contd....B/2....

S/Shri

28.	Bhudeb Bhattacharjee	Confl. Br. Hqrs. C. EX. office Shillong
29.	W.Jayanta Kr. Meitei	Dimapur Customs Divn.
30.	Shuddhartha Shankar Roy	Estt. Br. Hqrs. C. EX. office Shillong.
31.	Josephine T. Lanong	Confl. Br. Hqrs. Office C.Ex. Shillong.
32.	Krishna Karmakar	O/O Commr.(Appeal) Guwahati.
33.	Nayan Basumatary	Hqrs. Customs N.E.R. Shillong

The seniority of the above officers in the grade will be in the order shown above.

They are hereby asked to exercise option within one month of the date of the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of F.R.22(I)(a)(1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion should be fixed initially in the manner as provided vide under F.R. 22(a)(i) which may be refixed under the provision of F.R.22(I)(a)(1) on the date of accrual of next increment in the scale of pay of lower post. Option once exercised shall be final.

In the event of refusal of promotion they would be debarred from promotion for a period of one year.

PART-II

TRANSFERS AND POSTINGS

All the promotees are retained at their respective present places of postings. Final postings as Tax Assistant will be issued later on.

NOTE: This promotion order is issued against the vacancies arising out of the recent promotion to the grade of Inspector vide this office Order No. 17/2000 dated 08.02.2000, which was subject to note (a) and (b).

In the event of the officer(s) promotee vide above mentioned order being reverted back to his/her/their present cadre, the junior most officer(s) promoted vide this order will also be liable to be reverted back to the present cadre.

*15.3.2000*  
( B. THAMAR )  
JOINT COMMISSIONER (P & V)  
CUSTOMS & CENTRAL EXCISE  
SHILLONG.

C.NO.II(3)7/ET.III/95/10449-524

Dated:- 15/3/2000

10

Copy forwarded for information and necessary action to:-

1. The Commissioner, Customs (N.E.R.), Shillong.
2. The Commissioner (Appeal) Customs & Central Excise, Guwahati.
3. The Jt. Commissioner (Tech), Central Excise, Shillong.
4. The Assistant Commissioner  
The copy meant for the concerned officer is /are enclosed.
5. The P.A.O./C.A.O. of Central Excise Hqrs. Shillong.
6. The A.C.A.O. (Accts), Customs / Central Excise, Shillong.  
The copy meant for the concerned officer is/are enclosed
7. Shri/Smti Abedne Hazarika, U.D.C. Aizawl for compliance.
8. Accounts I & II/ET-I & II/Confl./CIU-cum-VIG/ Br.
9. The General Secretary, Group 'C' (Ministerial) Officers' Association, Customs & Central Excise, Shillong.
10. Guard file.

*15.3.2000*  
( B. THAMAR )  
JOINT COMMISSIONER (P & V)  
CUSTOMS & CENTRAL EXCISE  
SHILLONG.

केन्द्रीय उत्पाद शुल्क  
Government of India

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE

SHILLONG-793001

Ph: 2226681  
223030 (Control Room)  
Post Box No. 8  
Tele: Cenexcise

गोप्ता संभा

C. No. 17(3)2/CON/92/510 ... 26

दिनांक

Date 3rd April 2000. 11

To

*A.O.*

*Q.D.*

1. The Assistant Commissioner,  
Customs & Central Excise,  
Gauhati CE/Appeal/Customs, T. & A./Nizam/Kej/Agt/Tin/Jan.
2. The CAO/Supdt./AO/Branch-in-Charge,

3/4/2000 Subject:- Physical Fitness Test and Interview for  
selection of Tax-Assistants/Stenographers to  
the grade of Inspectors.

.....

The physical fitness test for promotion of TA/Steno  
will be held on the 25th April 2000 from 9.15 AM onwards at Hqrs.  
Office, Morelly Compound, Shillong and the Interview will also be  
held on the same day at 1.30 PM. Hence you are requested to direct  
the officers who are under your charge in the enclosed list to  
appear for the said test and interview on the above mentioned date  
and time.

Enclo :- As above.

6/4/2000  
3  
( B. THAMAR )  
JOINT COMMISSIONER(P&V)

Certified to be true Copy  
R. S. Chowdhury  
Advocate

## Names of the Officers

1. Arun Chandra Basu (ST), TA
2. Smt. Ruma Mukherjee, Szeno. (J)
3. Sanjoy Bhattacharjee, TA.
4. Smt. Ristila Narbaniang (ST), TA. (A)
5. Dipak Kr. Das, TA.
6. Smt. Phildian Dharjanay (ST), TA.
7. Smt. Bharati Das, TA.
8. Samit Nandi, TA
9. Shyamal Nath, TA
10. Sharwan Saurabh, TA.
11. Neel Kr. Singh, TA
12. Joydeep Mukherjee, TA.
13. Abdul Hassan, TA.
14. Moni Paul, TA.
15. Arup Bhattacharjee, TA.
16. Dipen Ch. Das (SC), UDC,
17. Debangshu Chakrabarty, Szeno.
18. Smt. Lakhya Kira Deori (ST), Szeno.

Juliet labrennei. (Mysore)

Gp. Beakiana, (Sonam Singh)

Police - S.I.

Ramkham South

Ph. 340793

326484.

**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE :: SHILLONG.**

**ESTABLISHMENT ORDER NO. 50/2000**

DATED, SHILLONG THE 26<sup>th</sup> April, 2000

Subject : Estt. Promotion, Transfer and posting to the grade of Inspectors – order regarding.

**PART – I**

**PROMOTION**

The following Tax Assistants and Stenographers Gr. III of Customs & Central Excise are hereby promoted to the grade of Inspectors in the scale of pay of Rs. 5500-175-9000, w.e.f. the date they assume charge of the higher post in their respective places of postings :

Sl.No.	Name	Present place of posting
01.	Shri Arun Chandra Bora (ST)*	Jorhat, Central Excise Division
02.	Shri Dipak Kumar Das	GL Branch, Central Excise Hqrs., Shillong.
03.	Smt. Bharati Das	Tinsukia Central Excise Division
04.	Shri Samit Nandi	Guwahati Central Excise Division
05.	Shri Shyamal Nath	Agartala Customs Division
06.	Shri Shravan Saurabh	GL Branch, Central Excise Hqrs., Shillong
07.	Shri Alok Kumar Singh	Tech. Branch, Central Excise Hqrs. Shillong.
08.	Shri Joydeep Mukherjee	Tczpur Central Excise Division
09.	Shri Abdul Hassan	Aizawl Customs Division
10.	Shri Moni Paul	Accounts Br. Central Excise Hqrs. Shillong.
11.	Shri Arup Bhattacharjee	Estt. Br. Central Excise Hqrs. Shillong.
12.	Shri Debangshu Chakraborty	O/o The Commr. (Appeals), Guwahati.
13.	Smt. Lakhayhira Deori (ST)	Guwahati Customs Division.

\* Sl. No. 1, Shri Arun Chandra Bora's promotion will take effect only after 15.03.2001. On promotion, his pay and seniority in the higher post will be fixed according to his position in the Panel from which he is promoted. But the monetary benefit in the higher post will be admissible only from the date of actual promotion.

The Seniority of the above officers in the grade of Inspector will be in the order shown above.

They are hereby asked to exercise option within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of F.R. 22(I) (a) (1) straightway without any further review on accrual of increment in the pay scale of the lower post in their pay on promotion should be fixed initially in the manner as provided under F.R. 22(a) (1) which may be refixed under the provisions of F.R. 22(I)(a) (1) on the date of accrual of next increment in the scale of pay of the lower post. Option once exercised shall be final.

In the event of refusal of promotion they would be debarred from promotion for a period of 1 (one) year.

**PART – II**

**TRANSFER AND POSTING**

On promotion all the above officers are hereby retained temporarily at their respective present places of posting. Final postings in the grade of Inspector will be issued at a later date.

NOTE: This promotion order is issued subject to the following conditions:

- In the event of cases under Sealed Cover(s) being opened the junior most promotee(s) will be reverted.
- In the event of any deputationist (s) being reverted to parent Commissionerate, the juniormost officer (s) in the above promotion order will be reverted.

Sd/-

( BROJEN THAMAR )  
JOINT COMMISSIONER (P & V)

CUSTOMS & CENTRAL EXCISE : SHILLONG.

*Certified to be true copy*  
R. S. Choudhury  
Advocate

C.No. II(3)19/Et.III/92/ (W.M. 90)

34  
Dated:

21/5/1992

Copy forwarded for information and necessary action to :-

1. The Commissioner of Customs N.E.R. Shillong.
2. The Assistant Commissioner, Central Excise/Customs Division, ----- Copy meant for the concerned officer is enclosed for delivery.
3. The Assistant Commissioner (Tech.), Central Excise, Hqrs. Office, Shillong. Copy meant for the concerned officer is enclosed for delivery.
4. The Chief Accounts Officer, Hqrs. Office, Shillong. Copy meant for the concerned officer is enclosed for delivery.
5. The Administrative Officer (Estt./ Hqrs), Customs & Central Excise, Shillong. Copy meant for the concerned officer (s) is/are enclosed for delivery.
6. The P.A.O./A.C.A.O.(Accts.), Hqrs. Office, Shillong.
7. Shri/Smti Abdul Hassan, TA ----- for compliance.
8. Accounts I & II/ ET. I & II/Comfdl. Branch/CIU-cum-VIG Br., Hqrs. Office, Shillong.
9. The General Secretary, Group 'C' Ministerial / Group 'C' Officers' Association, Customs & Central Excise, Shillong.
10. Guard File.

*CCJ 26.5.1992*  
( BROJEN THAMAR )  
JOINT COMMISSIONER (P & V)  
CUSTOMS & CENTRAL EXCISE : SHILLONG.

*Forwarded as required  
on 13th May 1992  
G.C.J.  
17/5/92*

DEPT. OF FINN.  
OFFICE OF THE DEPUTY COMMISSIONER  
CUSTOMS DIVISION: AIZAWL

O - R - D - E - R

Dated Aizawl the 5th May, 2000

Sri. Md. Abul Hassan, Tax Assistant, drawing a pay of Rs.4625/- in the pay scale of Rs.4500-125-7000/- has been promoted to the grade of Inspector in the pay scale of Rs.5500-175-9030/- vide Establishment order No.50/2000 dtd. Shillong the 26th April, 2000 issued by the Joint Commissioner(P&V), Customs & Central Excise, Shillong.

Consequent upon his promotion, his pay has been fixed in the letter or order under the provision of F.R.22(1)(v)(i) according to his option dated 2nd May, 2000 and he will draw a pay of Rs.5600/- w.e.f. 01.05.2000 (i.e. the date of joining) in the higher scale with the date of next increment, to Rs.5675/- on 01.05.2001, if otherwise admissible.

6/1-

( S.T. SUNGTE )  
DEPUTY COMMISSIONER  
CUSTOMS DIVISION: AIZAWL

C.NO.11(24)10/ET/AC-AZL/99/1354

DATED: 08/05/2000

Copy forwarded for information and necessary action to:-

1. The P.C.O. Customs & Central Excise, Shillong.
2. The C.G.O. Customs & Central Excise, Shillong.
3. The Administrative Officer, Customs Division, Aizawl.
4. The Bill section of Customs Division, Aizawl.
5. Sri. Md. Abul Hassan, Inspector.
6. Service book of Sri. Md. Hassan, Inspector.
7. Guard file.

6/1-  
( S.T. SUNGTE )  
DEPUTY COMMISSIONER  
CUSTOMS DIVISION: AIZAWL

5.5.2000

Certified to be true copy  
R.S. Choudhury  
Advocate

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE :: SHILLONG

ORDER No.8/CON/2000

Dated Shillong the 12<sup>th</sup> July 2000

Vide letter F.NO.B.12034/63/98-AD.111.A dated 7.2.2000, purported to have been issued by Shri Lakhbir Singh, Under Secretary to the Government of India, Ministry of Finance, Deptt. of Revenue, Central Board of Excise and Customs, diversion of vacancies in the grade of Inspectors from Direct recruitment quota to promotion quota has been ordered. It was directed in the said letter that all Heads of the Department may take appropriate action to identify vacancies available for diversion and divert them to promotion quota. It was also clarified that such diversion will strictly be a one time measure for 3(three) months w.e.f. the date of issue of the said letter. ✓

2. Acting in good faith the Central Excise Commissionerate, Shillong undertook an exercise for verification of vacancies, in the grade of Inspector, readily available for diversion from Direct quota to Promotion quota taking into account all relevant factors including the indent of vacancies already submitted to the Ministry for direct recruitment in the grade of Inspectors. Based on this exercise the Commissioner, Central Excise, Shillong approved diversion of 20(twenty) posts of Inspector from DR quota to PR quota as a one time measure as directed by the said letter dated 7.2.2000. Accordingly the Departmental Promotion Committee meeting was held on 25.4.2000 for promotion of TAs/ UDCs/Stenos to the grade of Inspector Customs and Central Excise, Shillong under the chairmanship of Commissioner, Central Excise, Shillong and Joint Commissioner(P&V) Central Excise, Shillong and Deputy Commissioner, Income Tax as Members. All the eligible 17 (seventeen) candidates were called for physical fitness test and interview. The DPC held on 25.4.2000 recommended 13(thirteen) officers as fit for promotion to the grade of Inspector, Customs and Central Excise. Consequently vide Estt. Order No.50/2000 dated 26.4.2000 the 13 TAs/UDCs/Stenos were promoted to the grade of Inspectors in the scale of pay of Rs.5500-175-9000/- w.e.f. the date they assume charge of their higher posts in their respective place of postings.

3. Shri Lakhbir Singh, Under Secretary to the Govt. of India Ministry of Finance, Deptt. of Revenue, Central Board of Excise and Customs vide F.NO.A.12034/59/2000.AD.111.B dated 22nd June, 2000 informed that the said letter dated 7.2.2000 issued vide F.NO.B.12034/63/98-AD.111.A has not been issued by the Board.

Certified to be true copy  
R. S. Choudhury  
Advocate

Contd.....P/2

I was also directed not to take any action on the said letter dated 7.2.2000 and in case any action has been taken intentionally or wrongly or otherwise such action is to be rectified urgently.

4. In view of the directions contained in the Board's letter dated 22.6.2000 and as a measure of corrective action to be taken now it is hereby ordered that the promotion of TAs/UDCs/Stenos as promoted vide Establishment Order No.50/2000 dated 26.4.2000 should be treated as null and void in view of the fact that the letter F.NO.B.12034/63/98.AD.111.A dated 7.2.2000 was not issued by the Board. Therefore the following 13(thirteen) officers are hereby ordered to be reverted to their original posts of TAs/UDCs/Stenos as the case may be with immediate effect.

<u>Sl.No.</u>	<u>Name</u>	<u>Present place of Posting</u>
	<u>S/Shri</u>	
1.	Arun Ch. Bora(ST)	Jorhat Central Excise Div.
2.	Dipak Kr. Das	Karimganj Range, Silchar CE, Div.
3.	Smt. Bharati Das	Tinsukia Central Excise Div.
4.	Samit Nandi	Gauhati Central Excise Div.
5.	Shyamal Nath	Agartala Customs Div.
6.	Sharwan Saurabh	GL Br. Central Excise, Hqrs.
7.	Alok Kr. Singh	Tech. Br, Central Excise, Hqrs.
8.	Joydeep Mukherjee	Tezpur Central Excise, Div.
9.	Abdul Hassan	Aizawl Customs Div.
10.	Moni Paul	Accounts Br. Central Excise, Hqrs.
11.	Arup Bhattacherjee	Estd. Br. Central Excise, Hqrs.
12.	Debangshu Chakraborty	O/o Commr. (Ap, also), Gauhati.
13.	Smt. Lakhya Hira Deori(ST)	Gauhati Customs Div.

5. Consequential action be taken by the controlling officers concerned to ensure that these officers are reverted to their earlier posts in their present place of postings. Excess payment by way of salaries and allowances may also be recovered from them as a measure of rectification.

*CJ* 7.7.2000  
(B. THAMAR)  
JOINT COMMISSIONER(P&V)  
CENTRAL EXCISE : SHILLONG

Contd....P/3

C.NO.11(3)2/CON/92 PT.1/3786-822

13 JUL 2000

Dated:-

Copy forwarded for information and necessary action to:-

1. The Commissioner of Customs, N.E.R. Shillong.
2. Deputy Commissioner/Asstt. Commissioner, Central Excise/Customs Division (All) \_\_\_\_\_, compliance report to be submitted immediately on receipt of this order. Representation against this order should not be entertained at any level.
3. The Assistant Commissioner(Tech), Central Excise, Shillong.
4. The Chief Accounts Officer, Hqrs. Office Shillong.
5. The AO(ET)/AO(Hqrs) Central Excise, Shillong.
6. The PAO/ACAO (Accts.), Hqrs. Office Shillong.
7. Shri/ Smt. A. B. Gul Hassan for compliance.
8. Accts. I & II/ ET. I & II/ CIU-VIG. Hqrs. Office Shillong.
9. The General Secretary, Group 'C' Ministerial Group 'C' Officers' Association, Customs and Central Excise, Shillong.
10. Guard File.

Received on 19/07/2000  
for filing by P&V  
19/07/2000

12.7.2000  
JOINT COMMISSIONER (P&V)  
(B. TH. MAR)

- 26 -

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE: SHILLONG.

ORDER

NO/ 46/2000.

DATED SHILLONG, THE 2nd AUG, 2000

WHEREAS a case against Shri MCHAHMAD ABUL HASSAN, Tax-Assistant in respect of a Criminal offence involving misappropriation of Govt. money amounting to Rs. 4,51,200/- is under investigation.

AND WHEREAS the said Shri M.A. Hassan, T.A. was detained in custody on 26.7.2000 by Aizawl Police station for a period exceeding forty-eight hours.

NOW THEREFORE, the said Shri M.A. Hassan, is deemed to have been suspended with effect from the date of detention, i.e., the 26th July, 2000 in terms of Sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeals) Rules, 1965, and shall remain under suspension until further orders.

It is further ordered that during the period of suspension the Headquarters of Shri M.A. Hassan, T.A., should be Aizawl and the said Shri M.A. Hassan, shall not leave the headquarters without obtaining prior permission of the undersigned.

7.8.2000,  
at 13<sup>00</sup> hrs.

sd/-

( B. THAMAR )

JOINT COMMISSIONER (P&amp;V)

CUSTOMS &amp; CENTRAL EXCISE: SHILLONG.

C.N.C.II(8)23/CIU-VIG/2000/ 728-33

Dated: - 3.8.2000

Copy to:-

1. The Commissioner of Customs, N.E.R., Shillong.
2. The Deputy Commissioner, Customs Division, Aizawl for information and necessary action. Copy meant for Sh. M.A. Hassan is enclosed and should be delivered to him under a dated acknowledgement receipt, which may be sent to this end for record.
3. Shri M.A. Hassan, T.A., Customs Division, Aizawl.
4. The P.A.C., Customs & Central Excise, Shillong.
5. The C.A.O., Customs & Central Excise, Shillong.
6. Guard File.



( B. THAMAR )

JOINT COMMISSIONER (P&amp;V)

CUSTOMS &amp; CENTRAL EXCISE: SHILLONG.

Certified to be true Copy

R.S. Choudhury  
Advocate

OFFICE OF THE  
ASSISTANT COMMISSIONER  
CUSTOMS DIVISION: AIZAWL

O - R - D - E - R

Dated, Aizawl the 15<sup>th</sup> July/2001.

40

In pursuance of the Order dtd.11-07-2001 vide  
C.No.II(3)2/CON/92/798-17 issued by the Additional Commissioner(P & V)  
Central Excise & Customs, Shillong, S/Shri K.M. Guite, T.A. and  
Abul Hassan, T.A., Customs Division, Aizawl is hereby directed  
to proceed to Hqrs. Office, Morello Compound, Shillong to attend  
the Physical Fitness test and Interview for selection to the  
grade of Inspectors which will be held from 18.7.01 to 19.7.01.  
And hence they will be relieved of their duties w.e.f.13-7-2001(....).

Sd/-

(L.S. VANCHHAWING)  
ASSISTANT COMMISSIONER,  
CUSTOMS DIVISION: AIZAWL.

C.No.II(39)5/ET/AC-AIZ/96/ 742 /Date:- 13/7/2001.

Copy for information and necessary action to:-

1. The Additional Commissioner(P & V), Central Excise & Customs, Shillong.
2. The Administrative Officer, Customs Division, Aizawl.
3. Bill Section, Customs Division, Aizawl.
4. S/Shri K.M. Guite, T.A. Customs Division, Aizawl, Abul Hassan, T.A. Customs Division, Aizawl.

L.S. VANCHHAWING  
(L.S. VANCHHAWING)  
ASSISTANT COMMISSIONER,  
CUSTOMS DIVISION: AIZAWL.

Certified to be true copy

R.S. Chowdhury  
Advocate



GOVERNMENT OF INDIA

**OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE**  
M.G.ROAD, SHILLONG - 793 001

**ESTABLISHMENT ORDER NO 118 /2001**  
DATED, SHILLONG THE 24<sup>th</sup> JULY 2001

**Subject:** Establishment Promotion, Transfer and posting to the grade of Inspectors-order regarding.

**PART-I**

**PROMOTION**

The following Tax Assistants and Stenographers Gr. III of Customs & Central Excise are hereby promoted to the grade of Inspectors in the scale of pay Rs. 5500-175-9000, w.e.f the date they assume charge of the higher post in their respective places of postings. :

SI No	Name	Place of posting
1.	Sri Arun Chanda Bora(ST)	Jorhat Central Excise Division
2.	Sri Dipak Kumar Das	Silchar Central Excise Division
3.	Smti Bharati Das	Tinsukia Central Excise Division
4.	Sri Samit Nandi,	Guwahati Central Excise Division
5.	Sri Shyamal Nath	Karimganj Customs Division
6.	Sri Shravan Saurabh	General Branch, C.Ex. Hqrs Office, Shillong
7.	Sri Alok Kr. Singh	Technical Branch, C.Ex. Hqrs. Office, Shillong
8.	Sri Joydeep Mukherjee,	Tezpur C.Ex. Division
9.	Sri Moni Paul	Accts. Branch, Hqrs. Office, Shillong
10.	Sri Arup Bhattacharjee	Estd. Branch, Hqrs. Office, Shillong
11.	Sri Debangshu Chakraborty	O/o the Commr. (Appeals), Guwahati
12.	Smt. Lakhyahira Basumatary	Guwahati Customs Division.
13.	Sri Jogesh Singh Sain	General Branch, C.Ex. Hqrs. Office, Shillong
14.	Sri Jayanta Goswami	Guwahati Customs Division.
15.	Sri Chandrabhanu Bhattacharjee	Estd. Branch, Hqrs. Office, Shillong
16.	Smt. Bandana Choudhury	Agartala Customs Division.
17.	Sri Rajiv Kumar	Tezpur C.Ex. Division
18.	Smt. Rupa Kar	Customs Hqrs. Office, Shillong
19.	Sri Partha Sarathi Choudhury	Accts. Branch, Hqrs. Office, Shillong
20.	Smt. Iyolis Kurkalang (ST)	Accts. Branch, Hqrs. Office, Shillong
21.	Sri Khamkhanmuang Munsong (ST)	Aizawl Customs Division
22.	Sri Gautam Das Choudhury, (SC)	Agartala Customs Division.
23.	Sri Debasish Baidya, (SC)	Appeal Br. C.Ex. Hqrs. Office, Shillong.

The seniority of the above officers in the grade of Inspector will be in the order shown above.

They are hereby asked to exercise option within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of F.R.22(I)(a)(1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion should be fixed initially in the manner as provide under F.R22(a)(1) which may be refixed under the provisions of F.R 22(I)(a)(1) on the date of accrual of next increment in the scale of pay of the lower post. Option once exercised shall be final.

In the event of refusal of promotion they would be debarred from promotion for a period of 1(one) year.

*Certified to be true copy  
R. S. Chowdhury  
Advocate*

PART-II

TRANSFER AND POSTING

The following transfer and postings in the grade of Inspectors are hereby ordered with immediate effect and until further orders.

SI No	Name	From	To
1.	Sri Arun Chanda Bora	Jorhat Central Excise Division	RBC Range, Digboi C.Ex. Divn.
2.	Smti Bharati Das	Tinsukia Central Excise Division	Doom Dooma-II, Digboi C.Ex. Divn.
3.	Sri Samit Nandi	Guwahati Central Excise Division	Tezpur Range, Tezpur C.Ex. Divn.
4.	Sri Shrawan Saurabh	General Branch, C.Ex. Hqrs Office, Shillong	Retained
5.	Sri Alok Kr. Singh	Technical Branch C.Ex. Hqrs. Office, Shillong	BRPL-I Range, Dhubri C.Ex. Divn.
6.	Sri Joydeep Mukherjee,	Tezpur C.Ex. Division.	Dhekiajuli Range, Tezpur C.Ex. Divn.
7.	Sri Arup Bhattacharjee	Estt. Branch, Hqrs. Office, Shillong	IOC Sub-Range, Tinsukia C.Ex. Divn.
8.	Sri Debangshu Chakraborty	O/o the Commr. (Appeals), Guwahati	Jorhat C. Ex. Divnl. Office
9.	Sri Jogesh Singh Sain	General Branch, C.Ex. Hqrs. Office, Shillong	Retained
10.	Sri Chandrabhanu Bhattacharjee	Estt. Branch, Hqrs. Office, Shillong	Dibrugarh-I Range, Dibrugarh C.Ex. Divn.
11.	Sri Rajiv Kumar	Tezpur C.Ex. Division	Digboi C.Ex. Divnl. Office
12.	Sri Partha Sarathi Choudhury	Accts Branch, Hqrs. Office, Shillong	Dibrugarh-II Range, Dibrugarh C.Ex. Divn.
13.	Smt. Iyolis Kurkalang	Accts. Branch, Hqrs. Office, Shillong	Retained

The following officers are hereby placed at the disposal of Commissioner of Customs, NER, Shillong.

1.	Sri Dipak Kumar Das	Silchar Central Excise Division
2.	Sri Shyamal Nath	Karimganj Customs Division
3.	Sri Moni Paul	Accts. Branch, Hqrs. Office, Shillong
4.	Smt. Lakhya Hira Basumatary	Guwahati Customs Division.
5.	Sri Jayanta Goswami	Guwahati Customs Division.
6.	Smt. Bandana Choudhury	Agartala Customs Division.
7.	Smt. Rupa Kar	Customs Hqrs. Office, Shillong.
8.	Sri Khamkhanmuang Munsong	Aizawl Customs Division
9.	Sri Gautam Das Choudhury,	Agartala Customs Division.
10.	Sri Debasish Baidya,	Appeal Br. C.Ex. Hqrs. Office, Shillong.

NOTE: This promotion order is issued subject to the following conditions:

(a) In the event of cases under Sealed Cover(s) being opened the junior most promotee(s) will be reverted.

(b) The officers whose names appear at Sl.No 01 to Sl.No 12 of this Order were earlier promoted vide Establishment Order No 50/2000 dated 26.04.2000 but were reverted as their promotion was treated as null and void in view of the Ministry's letter F.NO. A.12034/59/2000.A.D.III.B dated 22. 06. 2000.

Without prejudice to the outcome of the Writ Petition No. 3857 of 2000 in Guwahati High Court and O.A. No. 436/2000 in CAT Guwahati, the officers whose names appear at Sl.No 01 to Sl.No 12 of this order will be treated as having been promoted to the grade of Inspector from the date of this Order. Excess payments enjoyed by way of pay and allowances which accrued since the date of the Order No 50/2000 dated 26.04.2000 should be recovered to regularise the excess payments.

*20/01*  
( B. THAMAR)  
ADDITIONAL COMMISSIONER(P&V)  
CUSTOMS & CENTRAL EXCISE  
SHILLONG

C.NO.II(3)19/ET.III/92/

*4120 4-48*

Dated : *24 JUL 2001*

Copy forwarded for information and necessary action to :-

1. The Commissioner of Customs (NER), Shillong.
2. The Additional Commissioner (Tech), C.Ex Hqrs. Office ; Shillong.
3. The Deputy /Assistant Commissioner Central Excise/Customs Division *Jigaw*. Copy meant for the concerned officer(s) is/are enclosed.
4. The CAO/PAO of Customs and Central Excise ,Shillong.
5. The Branch-in-charge *Br. C.Ex. Hqrs. Office, Shillong.* The copy meant for the concerned officer(s) is /are enclosed.
6. Sri/Smti *for compliance.*
7. Accts I&II/ET.I&II/Confld Br./CIU-cum-VIG Br. ,Hqrs. Office ,Shillong.
8. The General Secretary ,Group 'C' Ministerial/Group 'C' Executive Officers Association, Customs & Central Excise ,Shillong.
9. Guard file.

*20/01*  
( B. THAMAR)  
ADDITIONAL COMMISSIONER(P&V)  
CUSTOMS & CENTRAL EXCISE  
SHILLONG



GOVT. OF INDIA  
OFFICE OF THE COMMISSIONER  
OF CENTRAL EXCISE, MORELLLOW COMPOUND

ORDER NO.13 /CIU-VIG/2002  
DATED SHILLONG, THE 1<sup>ST</sup> MARCH, 2002.

Whereas an order for suspension of Shri Md Abul Hassan, T.A., Customs Division, Aizawl was issued vide Order No.4/2000 dated 2.8.2000 by the undersigned w.e.f. 2.7.2000.

Now, the undersigned, in exercise of the powers conferred by Clause (c) of Sub-Rule (5) of rule 10 of the CCS(CCA) Rules, 1965, hereby revokes the said suspension Order with immediate effect and the said Shri D.P. Haokip, U.D.C. is hereby ordered to report to the Assistant Commissioner, Customs Division, Aizawl for duty.

*s/*  
(B. THAMAR)  
ADDITIONAL COMMISSIONER (P&V)  
CUSTOMS & CENTRAL EXCISE: SHILLONG.

C.NO.II(8)25/CIU-VIG/2000

Dated:- 11.3.2002

Copy to:-

1. Assistant Commissioner Customs Division, Aizawl for information & necessary action. The letter meant for Shri Md. Abul Hassan, T.A.. is enclosed for delivery at his end under a dated acknowledgement receipt, to be sent to this end for record.
2. Shri Md. Abul Hassan, T.A.
3. Chief Accounts Officer, Customs & Central Excise, Shillong.
4. Pay & Accounts Officer, Customs & Central Excise, Shillong.
5. Administrative Officer (Estt.), Central Excise, Shillong.
6. Confidential Branch, Central Excise, Shillong.
7. Guard file.

*83.02*  
(B. THAMAR)  
ADDITIONAL COMMISSIONER (P&V)  
CUSTOMS & CENTRAL EXCISE: SHILLONG

Certified to be true copy  
R. S. Chowdhury  
Advocate

19 FEB 2003

~~19 FEB 2003~~  
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI**

OA No. 293 /2002

Md. Abul Hassan ... Applicant

-Vs-

Union of India & Others ... Respondents.

(Written statements filed by the respondent No.1,2,3,4,5 and 6)

Written statements of the respondents are as follows :-

1. That a copy of the OA No. 293/2002 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That the statements made in the application which are not specifically admitted, are hereby denied by the respondents.
3. That with regard to the statements made in para 4.1 to 4.6, the respondents state that these being matter of facts, nothing is admitted beyond such given facts.
4. That with regard to the statements made in para 4.7, the respondents state that since the said promotion order dated 26.04.2002 was issued on the basis of a letter purported to be received from the CBEC, but later it was found that the letter was a fake one, hence all the officers who were promoted on the basis of that letter, were reverted to their original post of TA/UDC/Steno-III, as directed by the CBEC.

*File No: 917/03*  
*Date: 19/2/03*  
(B. C. Pathak)  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench: Guwahati

5. That with regard to the statements made in para 4.8, the respondents state that these being matter of facts, the respondents have no comments.

6. That with regard to the statements made in para 4.9, the respondents state that as per the existing instruction the Departmental Promotion Committee (DPC) assesses the suitability of the Govt. servant, who is under suspension, alongwith the other eligible candidates without taking into consideration the Disc. Case. Pending the disciplinary proceeding, however, the findings of the DPC in respect of such officer are kept under sealed cover and the sealed cover is not opened till the termination of Disc. case. The same procedure has been followed in respect of the applicant also.

7. That with regard to the statements made in para 4.10, 4.11 and 4.13, the respondents state that these are matter of facts. In this connection, the respondents also state that the sealed cover may be opened after termination of the disc. case pending against the concerned officer and in the instant case only the suspension has been revoked whereas the disc. case is still pending/contemplating against the applicant.

8. That with regard to the statements made in para 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9 and 5.10 showing as the grounds, the answering respondents state that the contentions are not correct. The applicant can not be promoted by opening the sealed cover, at this stage as mentioned in the foregoing para. The respondents also state that no different "yardstick" has been applied in respect of the applicant because all other 12 officers promoted vide order dated 26.04.2000 were also reverted alongwith the applicant. All the 13 officers who were promoted vide order dated 26.04.2000 (later reverted vide Order No. 8/CON/2000 dated 12.07.2000) were considered by the DPC held on 18.07.2002, including

the applicant. However, 12 of them were promoted to the post of Inspector, vide order dated 24.07.2001, but the findings in respect of the applicant has been kept under the sealed cover since he was under suspension. The DPC was held as per the existing instructions and as already stated in para 4.11 the sealed cover can not be opened at this stage due to pendency of disciplinary case against the applicant. In the instant case the question of "inaction/inordinate delay" does not arise since the department is following the existing rules/instruction laid down vide Para 2(i) & 2.1 of O.M. No. 22011/4/91 Estt.(A) dated 14.09.92. The respondents crave the leave to produce the O.M. at the time of hearing.

9. That with regard to the statements made in para 6 and 7, the respondents have no comments to offer.

10. That with regard to the statements made in para 8.1 to 8.4 and 9 of the application, the respondents that in view of the above facts and circumstances of the case and the provisions of law as applicable to the applicant, the applicant is not entitled to any relief whatsoever, as prayed for and the application is liable to be dismissed with cost as devoid of any merit.

In the premises aforesaid, it is therefore, prayed that your Lordships would be pleased to hear the parties peruse the records and after hearing the parties and perusing the records also be pleased to dismiss the application with cost.

## VERIFICATION

I, Shri Amanur Hussain, presently working as the Deputy Commissioner in the office of the Deputy Commissioner Central Excise at Guwahati, taking steps in court cases and being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 9 and 10 are true to my knowledge and belief, those made in para \_\_\_\_\_ being matter of records, are true to my information derived therefrom and the rest are my humble submission in before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 19 th day of <sup>February</sup> December, 2003 at Guwahati.

Amanur Hussain  
DEPONENT  
(A. HUSSAIN)  
Deputy Commissioner  
CENTRAL EXCISE  
GUWAHATI DIVISION