

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 321/1002

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SECTION OFFICER (Judl.)

(SEE. RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 321/02
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant (s) Mamish Kumar Singh

-Vs-

Respondent (s) N. O. I. Tomy

Advocate for the Applicant (s) A. M. Bora & Bona, K. L. Solo

Advocate for the Respondent(s) A. K. Chaudhury, Addl. CAO

Notes of the Registry	Date	Order of the Tribunal
Notice of motion filed in due and due time Information filed is not in order Date 25.9.02 No. 76575309 Dated 25.9.02 <i>D. Register</i>	11.10.02 1m	Heard learned counsel for the parties. Issue notice of motion. Returnable by four weeks. List on 22.11.02 for Admission. <i>I C Usha Member</i>
Steps along with envelope taken <i>PPN</i>	22.11.02 1m <i>RB 27/11/02</i>	Service is not yet comple- ted. List on 20.12.02 for Admission <i>I C Usha Member</i>
Notice forwarded and sent to T/S for giving the respondent No 1 to 5 by Regd A/D. <i>6/11/02</i> DINo <u>30385642</u> Dated <u>7/11/02</u>	20.12.02 1m	List on 7.1.2003 to enable the respondents to file written state- ment. <i>Vice-Chairman</i>

No. written statement has been filed.

3/1
6.1.03.

No. WTS has been filed.

3/2
6.2.03.

20/3/03

No W/S has been filed.

WTS
20/3/03.

7.1.2003 Heard Mr. A.M. Bujarbaruah, learned counsel for the applicant. The respondents are yet to file written statement. Shri A.K. Choudhury, learned Addl. C.G.S.C. for the respondents is directed to file written statement within four weeks from today. List again on 7.2.2003 for admission.

IC (Chairman)
Member

mb

7.2.2003 Heard Mr. D.C. Natha, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C.

The application is admitted. The respondents may file written statement within four weeks.

List the case for order on 21.3.2003.

Vice-Chairman

bb

21.3.2003

The respondents are yet to file written statement. Put up again on 25.4.2003 enabling the respondents to file written statement.

Vice-Chairman

bb

25.4.2003

No written statement is forthcoming. Put up again on 23.5.2003 enabling the respondents to file written statement as prayed by Mr. A.K. Chaudhuri, learned Addl. C.G.S.C.

No written statement has been filed.

3/2
22.5.03.

Written statement filed
On behalf of The
Respondant Nos. 1, 2, 3, 4 & 5.

bb

Vice-Chairman

3/2
25.9.03.

23.5.2003 Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents prayed for time to file written statement. Prayer is allowed. List on 27.6.2003 for written statement.

No. 1015 has been filed.

26.6.03

Vice-Chairman

mb

27.6.03 put up on 1.8.2003 for filing written statement on the prayer made by Mr A.K. Choudhury, learned Addl. C.G.S.C.

No. 1015 has been filed.

27

3.7.03

Vice-Chairman

pg

1.8.2003 Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents stated that he has received instructions. Accordingly, three weeks time is allowed to the respondents to file written statement.

List again on 29.8.2003 for orders

No. 1015 has been filed.

28.8.03

Vice-Chairman

mb

29.8.2003 A agreed by the parties, the case is posted for hearing on 26.9.2003. The respondents may file written statement, in the meantime.

Written statement filed
On behalf of the

R. No - 1, 2, 3, 4 & 5, mb

Vice-Chairman

26.9.2003 The case is adjourned on the prayer of learned counsel for the parties.
List on 7.11.2003 for hearing.

25.9.03

Vice-Chairman

mb

7.11.03 No Bench today.
Adjourned to 2.12.2003. 370

⑨

Case No. 321/2002

D.A.321/2002

18.12.2003 None appears for the applicant.
put up again on 12.1.2004 for
hearing.

KV Balakrishnan
Member (A)

mb

W/S has been filed.

12.1.04 There was a reference
Advised to 27.1.04

370
a

27/01
8.3.04

16.2.2004 None for both the parties were present
Accordingly case is adjourned. List the
case on 9.3.2004 again for hearing.

KV Balakrishnan
Member

bb

9.3.2004 On the plea of learned counsel for
the applicant, the case is adjourned. List
on 18.3.2004 for hearing.

W/S has been
filed.

27/03
17.3.04

mb

18.03.2004 Heard learned counsel for the
parties.

27.3.04
Copy of the
direction has been
sent to the Office
for issuing the
summons to the applicant
as well as to
the Addl. C.G.S.
Relevant
AP/Ch 25/3/04

The application is disposed of
for the reasons recorded in
separate sheets. No order as to
cost.

KV Balakrishnan
Member (A)

mb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 1111 321 of 2002.

DATE OF DECISION 18.03.2004.

.....Sri M.K. singh.....APPLICANT(S).

.....Mr. A.M. Bujorbarua, Mr. K.L. Solo.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

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

.....Mr. A.K. Chaudhury, Addl. C.G.S.C.....ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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 Member (A).

DW

Original Application No. 321 of 2002.

Date of Order : This the 18th Day of March, 2004.

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

Sri Manish Kumar Singh
A G E B/R II
GE, Jorhat,
Jorhat, Assam,
PIN - 785 005.

... Applicant.

By Advocates Mr. A.M. bujor Borua, Mr. K.M. Solo.

- VERSUS -

1. The Union of India,
(Through the Secretary to the Govt. of India,
Ministry of Defence)
New Delhi - 110 001.

2. The Chief of Army Staff
Sena Bhawan, New Delhi.

3. The Chief Engineer,
Camp Hanuma
Ahmedabad - 380 003.

4. The Chief Engineer,
Southern Command,
Pune - 411 001.

5. The Chief Engineer,
EAstern Command,
Kolkata.

... Respondents.

By Mr. A.K. Chaudhury, Addl. C.G.S.C.

O R D E R

K.V. PRAHLADAN, MEMBER (A):

In this application the applicant prays for fixation of his pay at Rs.8825/- in the pay scale of Rs.8000-15500/-.

2. The applicant was initially appointed as Group A Officer in Central Water Commission, New Delhi. while he was posted as such he appeared in the Engineering Service Examination through proper channel conducted by Union Public Service Commission and came out successful. He was subsequently appointed as Assistant Engineer in MES in the pay scale of Rs.8000-275-13500/-. He resigned from Central Water Commission and resignation was accepted by the competent

authority. He was entitled to draw a pay where the initial pay shall not be less than the earlier pay under the proviso to FR 22(B)(1)(a). He filed representation dated 05.10.2000 which was turned down. His last representation dated 15.03.2001 is yet to be decided. Hence this application for fixation of his pay.

3. The respondents filed its written statement and in para 12 of the written statement they have admitted the prayer of the applicant to fix his pay at Rs.8825/-.

4. Heard Mr. A.M. Bujorbarua, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the respondents.

5. Considering the facts and circumstances of the case, the respondents are directed to fix the pay of the applicant as per FR 22(B)(1)(a). His initial pay shall also be fixed taking into consideration the pay drawn in the Central Water Commission which was Rs.8825/- in the scale of Rs. 8000-13500/-.

The application is accordingly disposed of. No order as to costs.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER

25
25/9/02

25 SEP 2002
SECRET COUNSEL
GUWAHATI BENCH

Filed by
Manish Kumar Singh
Advocate

Through
Kengnini Meas S/o
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

©. A No 321/02

BEWTEEN

MANISH KUMAR SINGH --- APPLICANT

AND

UNION OF INDIA & ORS --- RESPONDENTS

DETAILS OF APPLICATION :

1. Particulars of the applicant:

Manish Kumar Singh

AGE B/R II

GE, JORHAT,

Jorhat, Assam

PIN-785005

2. Particulars of the respondent :

(i) Union of India

(Through the secretary to the Govt. of India,

Ministry of Defence)

New Delhi -110001

(ii) Chief of Army staff

Sena Bhavan, New Delhi

Manish

(iii) Chief Engineer,
Camp Hanuma
Ahmedabad -380003

(iv) Chief Engineer,
Southern Command,
Pune-411001

(v) Chief Engineer,
Eastern command,
Kolkata

3. Particulars of the order against which application is made-

The claim of the petition for pay protection under F R 22 was rejected by the wrong interpretation vide order No.145301/606/2/EIB(O) dated 21-11-2000 from the Chief Engineer, Southern command to the Chief Engineer, Ahmedabad, by interpreting that the case of the petitioner is covered by an office memorandum of the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) dated 10-07-98 .The said memorandum concern only with those Govt. servants serving in Public sector unit. As the present applicant was serving in a Central Government Department and not a Public Sector unit, therefore, his case is covered by F.R.22 and not by the aforesaid memorandum. Accordingly the applicant made a representation dated 15-03-01 indicating that his case was rejected upon wrong interpretation of the memorandum dated 10-07-98 . Therefore a prayer was made for considering of the pay protection at the earliest.

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But the subsequent representation has neither been accepted nor rejected inspite of several request and approaches by the applicant,hence this application before the Tribunal.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal .

5. Limitaiton:

The applicant declares that the application is within the limitation prescribed in Section 21 of the Administration Tribunals Act,1985.

6. Facts of the case:

The facts of the case are given below:-

(a) That the applicant is an Engineering Graduate and he is duly qualified to hold any Engineering post under any Department of the Government of India. The applicant appeared in the Engineering Service Examination,1994, conducted by the UPSC and he was declared to have been selected in the same. Accordingly, the applicant was appointed as "Group A" officer in the Central Water Commission, New Delhi. It may be stated herein, that the Central Water Commission is a Government Department /Govt. of India. The applicant worked in the aforesaid capacity from 02-02-96 to 21-07-2000.

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(b) That while the applicant was serving as a "Group A" officer in the Central Water Commission, he applied through the proper channel and appeared in the Engineering Services Examination conducted by the UPSC. This time also the applicant was declared selected but his position was higher this time in the merit list.

(e) That by the order No. PC/3(1)/97/MES/D(Appts) dated 26-04-2000 issued by the Government of India, Ministry of Defence under the signature of Deputy Secretary to the Government of India, the applicant was offered a "Group A" post of Assistant Executive Engineer in the Military Engineering service under Ministry of Defence in the revised pay scale of Rs. 8000-275-13500. It was stated that the pay would be fixed of the minimum pay scale or as per rules on the subject, as the case may be and also entitled to draw any other allowances as may be admissible. The appointment order further states that the applicant would be in probation for a period of two years from the date of appointment.

A copy of the order dated 26-04-2000 is annexed herewith and marked as Annexure-I

(d) That the applicant accordingly accepted the offer of appointment made by the aforesaid order dated 26-04-2000 and duly communicated his acceptance to the appropriate authority as required under clause 5 of the Terms and Conditions of the aforesaid offer of appointment. The applicant further submitted his resignation to the appropriate authority of the Central Water Engineering (Group-A) service, wherein the applicant was serving as Assistant Director, Central Water Commission.

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(e) That by the order No.30/4/2000-E.I dated 22-06-2000 under the signature of the Assistant Secretary to the Govt. of India, Ministry of Water Resources, the applicant was informed that the President was pleased to accept the resignation of the applicant as Assistant Director, Central Water Commission, in the Central Water Engineering Group-A service with effect from the date he is actually relieved of his duties from the Central Water Commission. In the said office order it was further stated that since the applicant has tendered his resignation to take up another appointment with proper permission the benefit under Rule 26(2) of the CCS (Pension) Rules, 1972 would be admissible to him.

A copy of the order dated 22-06-2000 is annexed here with and marked as Annexure-II

(f) That by order No.1/29/96-E.111/2812-18 dated 21-07-2000 issued by the Government of India, Central Water Commission, under the signature of Under Secretary -IV, the applicant was relieved of his duties from the Central Water Commission with effect from the afternoon of 21-07-2000. The said office order further stated that the applicant was relieved consequent upon the acceptance of his office resignation by office order dated 22-06-2000. It further stated that Rule 26(2) of the Pension Rules would be applicable to the applicant, and that there is nothing outstanding against the applicant.

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A copy of the order dated 21-07-2000 is annexed here
with and marked as Annexure-III

(g) That upon acceptance of his resignation and upon being relieved, the applicant joined in the post of Assistant Executive Engineer in the Military Engineering Service on 24-07-2000. The petitioner duly completed his two years of probation as required under the appointment order and his period of probation was over on 24-07-2002.

(h) That under the proviso to FR22(b), the applicant being appointed through proper channel and thereafter having resigned and having substantively held a permanent post on the same time scale, is entitled to draw a pay where the initial pay shall not be less than the pay, which he drew on the last occasion, and he shall count the period during which he drew that pay on such last and any previous occasions for increment in the stage of the time scale equivalent to that pay. In other words, under the proviso to FR 22(b), ^{he is entitled to} the pay he last received while he was holding the post of Assistant Director in the Central Water Commission.

(i) That on his appointment through proper channel as an Assistant Executive Engineer in the Military Engineering service, the applicant is entitled to draw the last pay drawn by him as an Assistant

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Director, Central Water Commission, and not the minimum pay in the pay scale as his initial pay. As per the last pay certificate issued by the authorities of the Central Water Commission the pay drawn by the applicant was Rs 15,927 per month, the basic pay of the applicant as an Assistant Director in the Central Water Commission was Rs. 8,825. Therefore the initial pay of the applicant as an Assistant Executive Engineer in the Military Engineering Service under the pay protection under FR22 should be Rs 8,825 per month as basic and Rs 15,927/- as the overall pay.

A copy of the last pay certificate is annexed herewith and marked as Annexure-IV

(j) That on his appointment as an Assistant Executive Engineer in the Military Engineering Service, the applicant was given as an initial basic pay of Rs.8,000 per month which is the minimum of the pay scale of Rs 8,000 – 13500/- . As the applicant was drawing the Basic pay of Rs.8,825 in the same pay scale of Rs. 8000-13,500/-, the applicant being entitled to the pay protection under FR22 made a representation dated 05-10-2000 to the appropriate authority through proper channel making a request for pay protection under FR22. In his representation, the applicant stated that he had assumed appointment as Assistant Executive Engineer in the Military Engineering Service and his initial basic pay has been fixed at Rs8,000 in the scale of Rs 8,000 – 13,500/. It was stated that prior to his appointment he was drawing the basic pay of Rs 8,825 in the same pay scale while he was working as an Assistant Director in the

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Central Water Commission, therefore he claim his basic pay of Rs8,825 be protected under FR22

A copy of the representation dated 05-10-2000 is annexed herewith and marked as Annexure-V

(k) That the said application of the applicant for pay protection was forwarded to the Chief Engineer, Southern Command under office communication No PF/MKS/AEE B&R/II/EIR(O) dated 18-10-2000, issued by the Chief Engineer(AF), Camp Hanuman, Ahmedabad, under the signature of AO-II

A copy of the communication dated 18-10-2000 is annexed herewith and marked as Annexure-VI

(l) That the Chief Engineer HQ Southern Command Engineers Branch consider the application of the applicant for pay protection, but the same was rejected. From the office No. 145301/606/2/EIB(O) dated 21-11-2000, from the Chief Engineer (A/F) Ahmedabad , it transpires that the representation of the applicant was rejected on the basis of an office memorandum No 10/1/96-Estt(pay I) dated 10-07-98 issued by the Deputy secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training). From the communication dated 21-11-2000, that in a similar case of one MES/608504 the claim for pay protection was rejected on the basis

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of office Memorandum dated 10-07-98 and therefore the claim of the applicant was also rejected on the same ground. The applicant was informed about the rejection of his representation and was also communicated with the office communication letter dated 21-11-2000.

A copy of the communication dated 21-11-2000 is annexed herewith and marked as Annexure-VII

(m) That the office memorandum dated 10-07-98 of the Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) lays down the guidelines for protection of pay in respect of candidates appointed to Govt. service on their recruitment by selection through UPSC, who were earlier working in Central PSU's/ State PSU's/ Universities /semi-Government Institutions) Autonomous Bodies etc.

A copy of the office memorandum dated 10-07-98 is annexed herewith and marked as Annexure-VIII.

(n) That from a bare perusal of the office memorandum dated 10-07-98 it would transpire that the same is applicable in respect of those Government servants only who were earlier employed in Central PSU's/State PSU's/ Universities/semi-Government Institutions/Autonomous Bodies etc. The said memorandum is not applicable in case of those Government servant who were earlier

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employed in another Government Department. Therefore, the office memorandum dated 10-07-98 does not lay down the guidelines for pay protection in respect of those Government servants who were earlier employed in another Government Department.

(o) That in such view of the matter the claim of the applicant for pay protection was wrongly rejected by applying the guidelines of the office memorandum 10-07-98.

(p) That being aggrieved the applicant made another representation dated 15-03-2001 to the Secretary, Ministry of Defence with reference to the earlier letter dated 18-10-2000, 21-11-2000, and the office memorandum dated 10-07-98. In this representation the applicant stated inter alia that his earlier representation was wrongly rejected on the basis of the office memorandum dated 10-07-98, in as much as, the said office memorandum is applicable to those candidates who were earlier working in public sector undertaking, whereas, the applicant was working in Central Water Commission, which is a Central Government Department. Therefore a request was made for pay protection of the applicant.

A copy of the representation dated 15-03-2001 is annexed herewith and marked as annexure-IX.

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(q) That the aforesaid representation of the applicant dated 15-03-01 was forwarded to the Secretary, Ministry of Defence by office communication No PF/MKS/AEE(B/R)/20/EIR(O) dated 03-04-01.

A copy of the communication dated 03-04-01 is annexed herewith and marked as Annexure-X.

(r) That the aforesaid representation of the applicant dated 15-03-01 was neither been considered nor order was passed by the appropriate authority.

(7) Relief(s) sought

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs :-

(i) That the respondent authorities be directed to give the pay protection to the applicant. The respondents may be directed that the applicant is entitled to receive his basic pay at Rs8,825/- per month in the pay scale of Rs8,000-13,500/- as his initial pay in the post of Assistant Executive Engineer in the Military Engineering Service, as the applicant was paid Rs8,825 as basic pay in the pay scale of Rs. 8000-13,500/- while he was serving ^{as} Assistant Director in the Central Water Commission, which is a Central Government Department. The respondents be directed that the case of applicant is covered by FR22 and not by Office Memorandum dated 10-07-98 (Annexure-VIII).

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(8) Interim order, if prayed for:

no interim order is sought for in this application.

(9) Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules,

(i) ~~By representation dated 05-10-2000, the applicant requested the Secretary, Ministry of Defence, for pay protection under FR22, but the same was rejected by the HQ Southern Command, Engineers Branch on the wrong interpretation of the guidelines contained in office Memorandum dated 10-07-98.~~

(ii) ~~The applicant made another representation dated 15-03-2001 to the Secretary, Ministry of Defence stating that his earlier representation was wrongly rejected on the basis of the office memorandum dated 10-07-98, which is not applicable in case of the present applicant. The said representation was neither considered nor disposed of by the concerned authorities.~~

(10) Matter not pending with any other court:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

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(11) Particulars of Bank Draft / Postal order in respect of the Application Fee:

I.P.O. NO. 74 575309

(12) Details of Index:

Same as list of enclosures.

(13) List of enclosures:

- (i) Order dated 26-04-2000
- (ii) Order dated 22-06-2000
- (iii) Order dated 21-07-2000
- (iv) Last pay certificate
- (v) Representation dated 05-10-2000
- (vi) Office communication letter dated 18-10-2000
- (vii) Office communication letter dated 21-11-2000
- (viii) Office memorandum dated 10-07-98
- (ix) Representation dated 15-03-2001
- (x) Communication letter dated 03-04-2001

Verification

I, Shri Manish Kumar Singh, working as AGE B/R II, GE Jorhat, resident of Jorhat in the district Jorhat, Assam, do hereby verify that the contents from 1 to 13 are true to my personal Knowledge and belief and that I have not suppressed any material facts.

Manish Kumar Singh
Signature of the applicant.

Place- Jorhat

Date- 25/9/02

Manish

Annexure - I

REGISTERED A.D

No. PC/3(1)/97/ MES /D (Appts)
 Government of India
 Ministry of Defence

New Delhi, the dated 9/6 April 11, 2000

To

✓ Shri Manish Kumar Singh,
 c/o Shri K.S. Arneja,
 H.No. 18-C/1, Jha Sarai,
 New Delhi-110016.

(S/R)

Sub: Recruitment to the post of Assistant Executive Engineer in Military Engineering Service under Ministry of Defence.

Sir,

On the basis of the results of the Engineering Services Examination 1998, the President is pleased to offer you a Group 'A' post of Assistant Executive Engineer in the Military

Engineering Service under Ministry of Defence in the revised pay scale of Rs. 8000-275-13500. Your pay will be fixed at the minimum of the pay scale or as per rules on the subject, as the case may be and you will also be entitled to draw any other allowances at the rates admissible under and subject to the conditions laid down in rules and order governing the grant of such allowances in force from time to time.

2. The terms and conditions of the appointment are as follows:-

- i) The post is permanent but initial appointment will be on temporary basis. Your claim for permanent absorption will be considered in accordance with rules in force.
- ii) You will be on probation for a period of two years from the date of your appointment which may be extended by the competent authority for unsatisfactory performance during the period of probation OR for failure to pass the departmental examination OR for non-completion of training OR for any other reasons to be recorded in writing. Failure to complete the period of probation to the satisfaction of the competent authority, will render you liable to be discharged from service OR to be reverted to your parent department in the case you have been allowed to hold a lien against a post in that department.

Certified to be true copy
 K.L.Solo
 Advocate

(iii) Unless you have been medically declared fit. You are required to undergo a medical examination by Civil Medical Board including fitness for field Service liability. You will be required to pay prescribed fee to the medical Board at the time of Medical Examination and your appointment will not be effected until and unless you are declared medically fit. The date, time and exact place of medical examination will be communicated to you directly by the Medical Board Authorities. No travelling allowances will be admissible to you in respect of journeys perform in connection with the Medical Examination.

(iv) The appointment may be terminated at any time on one month's notice given by the either side. Viz. The appointing authority OR by you without assigning any reasons, OR by reverting you to your parent department in case you are holding a lien. The appointing authority, however, reserves the right of terminating your service forthwith OR before the expiry of the stipulated period of notice by making payment to you a sum equivalent to the pay and unexpired portion thereof.

(v) You will be subject to the conditions of service as applicable to temporary civilian Government Servants paid from Defence Services Estates in accordance with the orders issued by the Govt. of India from time to time. You will also be subject to the Field Service Liability Rules, 1957.

(vi) You will be required to serve anywhere in India.

(vii) You will not be entitled to any travelling allowances for joining the appointment unless you are already employed under the Central or state government in a substantive capacity.

(viii) Your appointment will be governed by the relevant Rules and Orders issued from time to time.

(ix) You will be required to take oath/affirm in the following form:

"I do swear and solemnly affirm that I will be faithful and bear allegiance to India and to the Constitution of India as by Law established and that I will uphold the Sovereignty and integrity of India and I will carryout the duties of my Office loyally, honestly and with impartiality (so help me God.)

(v) In accordance with the Central Civil Services (Conduct) Rules, 1964 you will not be eligible for appointment under Govt of India:

- (a) If you have entered into or contracted a marriage with a person having a spouse living, OR
- (b) If you have a spouse living, have entered into or contracted a marriage with any person.

In requirement thereof, you are, therefore, requested to complete the declaration in the attached form and forward it to this Ministry alongwith your acceptance.

(xi) If at present you are an employees of Central Public Enterprise of an autonomous body wholly or substantially owned, financed/controlled by Central Govt and have executed a bond, the terms of which have not expired, you will have to execute a fresh bond to serve with MES/INAS/Corps of EME to serve for the balance of the original bond period and in case you fail to serve MES/INAS/Corps of EME or leave before the completion of the original bond period for a job, where the exemption from bond obligation is not available the proportionate bond money shall be realized from you and refunded to the department/organization etc. with whom you, originally, had executed the bond.

(xii) If any declaration given or information furnished by you proves to be false or if you are found to have willfully suppressed any material information, you will be liable to removal from Service and such other action as the Govt. may deem necessary.

(xiii) * Since you have claimed to be belonging to Scheduled Caste/Scheduled Tribe/Other Backward Class Community, your appointment will be provisional and will be subject to the caste/tribe/Class certificates being verified through proper channels and if the verification reveals that the claim to belong to Scheduled Caste, or Scheduled Tribe OR OBC as the case may be, is false, your service will be, terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provision of the Indian Penal Code for production of false certificates.

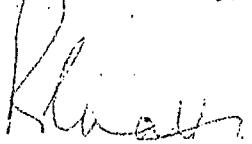
1. You are required to produce character vouching certificate in the enclosed form from two gazetted Officers while communication acceptance of this offer to this Ministry.

2. You are required to produce the following original certificates before you are allowed to join duty:-

17

5. If you accept the offer on the terms and conditions detailed above, you should intimate your acceptance of the offer alongwith the documents mentioned above, within 10 days of the receipt of this letter to (1) The Director(Pers-B), E-in-C's Branch/ELB, Kahanur House, New Delhi-11. (2) Joint Director(EME), EME(Civ-I), B-Block, New Delhi-11. (3) The Director (Civilian Personnel), Naval HQs/GP(G), D-Wing, Seawise Bhawan, New Delhi-11 with a copy endorsed to this Ministry. Posting orders will be issued by the above authority after the receipt of your acceptance of the offer of appointment.

Yours faithfully,



(RITA CHATTERJEE)

Deputy Secretary to the Government of India.

* Applicable only to candidates belonging
to SC/ST/OBC community.

Copy to :-

ED/NHQ/EME - 2 copies - for information & necessary action.

It is requested that the Assessment Reports on the work & performance of the candidate should be made available to the Commission every year for a period of 5 years subsequent to their appointment.

copy also to :-

The Secretary:

UPSC

Dholpur House

Shahjahan Road,

New Delhi.

w.r.t their letter No. F.1/4(14)/98/E.VII dated 6-8-99

Railway Board, New Delhi

w.r.t their letter No. 99/E(CR)/1/2/1 dated
30-11-99

In case of other circumstances, if the individual is willing to join the new post he may kindly be relieved immediately
from the present post.

No. 00/4/2000-E.1
 Government of India
 Ministry of Water Resources

New Delhi, the 22-6-2000

ORDER

The President is pleased to accept the resignation tendered by Shri Manish Kumar Singh, Junior Time Scale Officer of the Central Water Engineering (Group- A) Service, and presently posted as Assistant Director, Central Water Commission, with effect from the date he is actually relieved of his duties from Central Water Commission.

Since Shri Manish Kumar Singh has tendered his resignation to take up another appointment with proper permission, the benefits under Rule 26(2) of COS (Pension) Rules, 1972 would be admissible to him.

Attn: Addressee
 (A.K. BARUA)
 UNDER SECRETARY TO THE
 GOVT. OF INDIA
 Tel: 3716928

Copy to:-

1. The Secretary, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi with reference to their Letter No.1/29/96-E.III/7131 dated 29.5.2000. It is requested that a copy of the charge relinquishment report of Shri Manish Kumar Singh may be sent to this Ministry for record.
2. The Pay & Accounts Officer, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
3. Shri Manish Kumar Singh, Assistant Director, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
4. Order file.

Attn: Addressee
 (A.K. BARUA)
 UNDER SECRETARY TO THE
 GOVT. OF INDIA
 Tel: 3716928

certified to be true copy
 K. L. S. S.
 Advocate

No. 1/29/96-E. J.I/2.3/2-78
Government of India
Central Water Commission

New Delhi, dated 21.07.2000

OFFICE ORDER

Consequent upon acceptance of his resignation vide Ministry of Water Resources Office Order No.30/4/2000-E.I dated 22.06.2000 Shri Manish Kumar Singh, AD/AEE is relieved of his duties from Central Water Commission with effect from the afternoon of 21.07.2000

Since Shri Manish Kumar Singh has tendered his resignation to take up appointment in the Military Engineering Services on the post of Asstt. Executive Engineer with proper permission, the benefits under 26(2) (Pension) Rules, 1972 will be admissible to him.

There is nothing outstanding against Shri Manish Kumar Singh, AD/AEE, CWC.

D. Vidyarthi
(D. VIDYARTHI)
UNDER SECRETARY-IV
TEL: 6101094

Copy to:-

1. Pay & Accounts Officer, CWC.
2. Ministry of Water Resources (Attn: Sh. A.K. Barua US), S.S. Bhawan, New Delhi, with respect to MoWR letter No.30.4.2000-E.I dated 22.06.2000. A Copy of the Charge Relinquishment Report in respect of Sh. Manish Kumar Singh, AD/AEE, CWC is enclosed.
3. Director, P&D Directorate, CWC, New Delhi.
4. Section Officer, A/cs-III Section, CWC along with a copy of the No Demand Certificate of Sh. Manish Kumar Singh, AD/AEE, CWC.
5. Section Officer, CM&V Section, CWC.
6. Sh. Manish Kumar Singh, AD/AEE, CWC.
7. Sh. Sameer Mistry, LDC, E.J.II Section, CWC.

Entitled to be true copy

K. L. Sato

Advocate

TYPE (A)
REVERSE

અસ્થિરિ વા વિવર Details of recoveries

Total sum received in £ 600/- (Rupees Twenty-Five thousand only)

out of which a sum of Rs. 6,000/- (Six thousand only) has been recovered and balance (Rs. 20,000/- (Rs. Twenty Thousand only) to be recovered in 20 instalments of Rs. 1,000/- P.M. w.e.f. August, 2000.

2000.

छवि के सर्वांग में से किसी एक वर्तीयिति में ।

Dr. Accrued w.e.f. 1.7.2000 to 21.7.2000 amounting Rs.108/-
(One Hundred Eighty Eight only) Rs.108/- is being paid by CRD
From to on account of Rs.

From to on account of Rs.

प्राचीन विद्यालयों की विवरणीय संस्कृत विद्यालयों की विवरणीय

to on account of Rs.

¹⁰ See, for example, the discussion of the 'right to be forgotten' in the European Union's General Data Protection Regulation (GDPR), Article 17(1).

Yours : I.E.S/602097

Shri Manish Kumar Singh,
AEE B/R, SO- III (Planning),
O/O Chief Engineer (A&E),
Ahmedabad -- 380003.

To,

The Secretary,
Ministry of Defence,
New Delhi -- 110011.

Sub : REGARDING PROTECTION OF PAY

(Through Proper Channel)

Respected Sir,

1. Refer Min of Defence Appointment letter No. I.C/3(1)/37/I.MES/D(Appnts) dt. 23 April 2000.
2. With reference to the above appointment letter, I have assumed the appointment of AEE B/R (MES) in the office of Chief Engineer (Air Force) Ahmedabad on 24th Jul 2000 (FN). The initial Basic Pay has been fixed at Rs. 8000/- in the pay scale of Rs. 8000-13,500.
3. Prior to the above appointment I had worked in Central Water Commission, New Delhi a Central Government Department as Assistant Director (Group 'A' Post) from 2nd Dec, 1996 to 21st July, 2000 (A/N). I was drawing the Basic Pay of Rs. 8325/- in the Scale of Pay Rs. 8000-13500/-.
4. In terms of PR 22, my basic Pay already drawn in Central Water Commission, New Delhi of Rs. 8,325/- is to be protected. A copy of Last Pay Certificate issued by my previous Department i.e. CWC, New Delhi is enclosed.
5. I request you to kindly issue orders for pay protection of Rs. 8,325/- in MES at the earliest.

Thanking you,

Yours faithfully,

Manish Kumar Singh

(Manish Kumar Singh)

I.E.S/602097

AEE B/R, SO- III (Planning)

Dated: 5/10/2000

Title : Sheets

Certified to be
true copy
K. L. S. A.
Advocate

-23-

Annexure

Tele : 2867805

Chief Engineer (AE)
Camp Hanuman
Ahmedabad - 380 003

PF/MKS/AEE BGR/ 11

/EIR(O)

8 Oct 2000

Chief Engineer
Southern Command
Pune - 411 001

REGARDING PROTECTION OF PAY

F/10

1. An application dated 05 Oct 2000, submitted by MES/OC2007
Shri. MANISH KUMAR SINGH, AEE B/R of this office regarding pay
protection in MES is forwarded herewith in triplicate for
further action please.

(S. A. TADVI)
AO-II
For Chief Engineer

Encls :- (As above)

BR/10

FR

Certified to be true copy

K. L. Soto

Advocate

Tele : 6361734

24-

Annexure - VI

Dakshin Kaman 'Mukhyalaya'
Engineer Shakha
HQ Southern Command
Engineers Branch
Pune - 411 001

145301/606/2 /E1B(O)

21 Nov 2000

Chief Engineer (AF)
Camp Hanuman
Ahmedabad - 380 003

APPLICATION REQUESTING FOR PROTECTION OF
PAY IN R/O 602097 SHRI MANISH KUMAR SINGH
AEE B/R OF CE(AP) AHMEDABAD

F/II 1. Reference your letter No. PF/MKS/AEE B&R/11/E1B(O) dt 18 Oct 2000.

2. An application in respect of above officer received under your letter at reference is returned herewith.

3. In this connection please refer to E-in-C's Br HQ New Delhi letter No. 75628/3178/E1B(Cadre) dt 24 Oct 2000 added to this HQ and copy endorsed to your office under which a copy of Govt of India, Min of Personnel, Public Grievances and Pension (Department of Personnel and Training) OI No. 12/1/96-Est.(Pay-I) dt 10 Jul 1998 has been forwarded by E-in-C's Br in connection with a similar case of MES/608504 Shri Manish Kumar, AEE B/R of your office. Please confirm the receipt of the same and also MES/602097 Shri Manish Kumar Singh, AEE B/R may be informed accordingly.

Encl : As above

Dr. J. A. D.
(MK Jain)
Lt Col
SO 1 (Pars)
for Chief Engineer

Certified to be true copy

*K. L. Soto
Advocate.*

*BR / 11
AFR / 13. 15*

New Delhi, the 10.07.1998

OFFICE MEMORANDUM

Subject : Guidelines for fixing of pay of candidates working in Public Sector Undertakings etc/ recommended for appointment by the UPSC by the method of Recruitment by Selection - Regarding:

The undersigned is directed to refer to this department's OMs No. 12/1/88- Estt. (Pay.I) dated 7.8.89, 28.2.92 and 8.6.93 on the subject mentioned above which lay down guidelines for protection of pay in respect of the candidates working in Public Sector Undertakings etc, on their appointment as Direct Recruits on selection through a properly constituted authority including Departmental authorities. The O.M dated 7.8.89 was issued on the initiative of the U.P.S.C.

2. This department has received certain cases seeking clarification as to the exact scope of this department's O.M. dated 7.8.89 and the conditions under which benefit under that O.M. is admissible. The matter has been examined in consultation with the UPSC and the position is clarified as under:

3. The benefit of pay protection is available to the Government servants on their recruitment by selection through UPSC, subject to fulfilment of certain conditions. The benefit under the O.M. dated 7.8.89 was extended to the candidates working in central PSUs / State PSUs / Universities / Semi-Government Institutions / Autonomous Bodies etc. with a view to drawing talent, which is available in those organisations. The question whether the objective underlying the above orders could be achieved through open competitive examination in which the employees from Public Sector Undertakings etc. also appear, has been considered. It is clarified that the benefit of pay protection under the above orders is available only if the selection is through interview and not through an open competitive examination. Wherever the protection under the above orders is to be given, the Commission will indicate in its recommendation letter to the Ministry concerned that pay of such candidate(s) should be fixed as per the guidelines laid down in the above orders. Further, the benefit would be available to an officer coming from PSU etc. only if the officer has completed the period of probation successfully for being regularised / confirmed in the post in the parent organisation.

25/7/98

Certified to be true copy

K. L. Sato

Advocate

mind in fixing the pay in such cases. The cases already decided otherwise in consultation with this Department need not be re-opened.

-26-

5. In so far as the persons working in the Indian Audit and Accounts Department are concerned, this classification issues in consultation with the Comptroller & Auditor General of India.

(J. WILSON)
DEPUTY SECRETARY TO THE GOVT OF INDIA

To

All Ministries / Departments of the Govt. of Ind.
(As per standard list).

No.12/1/96-Estt.(Pay I)

Dated the 10.07.1996

Copies also forwarded to:

1. The Comptroller & Auditor General of India and all States under his control (with 400 spare copies)
2. Registrar General, Supreme Court of India.
3. Secretaries to Union Public Service Commission/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Vice President's Secretariat/Prime Minister's Office/Planning Commission.
4. Comptroller General of Accounts/Controller of Accounts, Ministry of Finance.
5. Department of Personnel & Training (AIS Division)/JCA/Admin. Section
6. Additional Secretary (Home), Ministry of Home Affairs.
7. Joint Secretary (Union Territories), Ministry of Home Affairs.
8. Secretary, National Council (Staff Side), 13-C, Feroz Shah Road, New Delhi.
9. All Officers/Sections of the Department of Personnel & Training/Department of Administrative Reforms & Public Grievances/Department of Pension & Pensioner's Welfare.
10. Joint Secretary (Per.) Ministry of Finance, Department of Expenditure.
11. 300 Spare sets.

(J. WILSON)
Deputy Secretary to the Govt of India.

From : MES-602097
Shri Manish Kumar Singh
AEE B/R, SO III (Plg)
C/O Chief Engineer (AF)
Ahmedabad-380 003

Annexure - IX

-27-

TO : The Secretary,
Min of Defence
New Delhi -110011

SUB : REGARDING PROTECTION OF PAY
(Through Proper Channel)

1. Reference :-

- (a) CE (AF) Ahmedabad letter No PF/MKS/AEE B&R/11/E1R(O) dated 18 Oct 2000.
- (b) CE, Southern Command, Pune letter No 145301/606/2/E1B(O) dt 21 Nov 2000.
- (c) GOI, DOPT OM No 12/1/96 - Estt (Pay-I) dt 10 Jul 1998.

Sir ,

2. I had earlier applied for pay protection in MES & it was sent to CE, Southern Command vide letter referred at 1 (a) above. Consequently, I got reply from CE, SC Pune office vide letter referred at 1(b) above.

3. My application has been returned citing the letter referred at 1(c.) above which is completely wrong in my case. This GOI, DOPT, office Memorandum is applicable for those candidates which were earlier working in Public Sector Undertakings before joining MES. Whereas, I was working in Central Water Commission , New Delhi, a Central Government Department as a Group 'A' Officer from 2nd Dec, 1996 to 21st Jul, 2000 , after being selected by UPSC at Engineering Services Exam '94 (Refer para 3 of my application for pay protection referred at 1(a) above). So, it is crystal clear that before joining MES, I was working in a Central Govt Department in group 'A' service. So, the GOI, DOPT O.M quoted at 1(c.) above is not applicable in my case.

4. Moreover, the first sentence of para 3 of GOI, DOPT, O.M referred at 1(c) above quite clearly says that the benefit of pay protection is available to the Govt servants.

5. So, I request you to kindly consider my case for pay protection at the earliest.

Thanking you.

Yours faithfully,

Manish Kumar Singh

(MANISH KUMAR SINGH)
MES-602097

AEE B/R, SO-III (PLG)

Dated : 15 MAR 2001

Certified to be

true copy

L.L.S. 506

Advocate

Annexure - X

Tele: 2867805

28-

Chief Engineer (AF)
Camp Hanuman
Ahmedabad - 380 003

PF/MKS/ACE(B/R)/20/E1R(O)

13 Apr 2001

The Secretary
Min of Defence
New Delhi - 110 011

REGARDING PROTECTION OF PAY

1. An application dated 15 Mar 2001 received from MES/602097 Shri Manish Kumar Singh, AEE (B/R) regarding protection of pay is forwarded herewith.
2. It is requested that an early action may please be taken at your end.

Encls.:- (One)

(S A TADVI)
AO-II
For Chief Engineer

W*

Certified to be true copy

K. S. S. S. S.

Advocate

Decoultion
(D Tolikar)
Major
Garrison Engineer (AF)

SEP 2013
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. No.321 of 2002

Shri M.K. Singh, ... Applicant

- Versus -

Union of India ' Ors.

... Respondents

WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS
NOS.1,2,3,4 & 5.

I, Major D. Tolikar, Garrison Engineer (AF), Chabua, P.O.-Chabua Airfield, do hereby solemnly affirm and say as follows :-

1. That I am the Garrison Engineer (AF) Chabua, P.O.-Chabua Airfield and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I am authorised to file the written statements on behalf of all the respondents.

2. That with regard to the statement made in paragraph 3 of the application, the respondent beg to state that from the documents submitted by the applicant it is confirmed that he served in a Central Govt. Organisation.

3. That the respondent have no comment to the statement made in paragraph 4 & 5 of the application.

4. That with regard to the statement made in paragraph 6(a) &(b) of the application, the respondent beg to state that the applicant has served in Central Water Commission a Central Govt. Organisation being a Engineer Graduate through UPSC and subsequently has been appointed by Ministry of Defence in Military Engineering Service after resigning from the Central Water Commission after getting through in Engineering service, examination conducted by the UPSC and the applicant issued by Govt. of India.

Contd..p/2-

Filed by
Anup Kumar Choudhury
addl. Garrison Engineer
Guwahati Bench
25/9/03

(2)

5. That with regard to the statement made in paragraph 6(c) of the application, the respondent beg to state that the same are confirmed as per Govt. of India letter dated 26 Apr 2000.

6. That with regard to the statement made in paragraph 6(d) of the application, the respondent beg to state that the same are confirmed as per approval of resignation given vide Govt. of India Central Water Commission letter No.1/29/96-E 111/2812-18, dtd. 21 Jul 2000.

7. That with regard to the statement made in paragraph 6(e) of the application, the respondent beg to state that the same are confirmed as per copy of Govt. of India, Ministry of Water Resources letter No.30/4/2000-EI dtd. 22 June 2000 signed by the Under Secretary to Govt. of India.

8. That with regard to the statement made in paragraph 6(f) of the application, the respondent beg to state that the same are confirmed as per copy of Govt. of India Central Water Commission letter No.1/29/96-E DI/2812-18, dtd. 21 Jul 2000.

9. That the respondent have no comments to the statement made in paragraph 6(g) of the application.

10. That the respondent have no comments to the statement made in paragraph 6(h) of the application. However it is agreed that the indls who are transferred/join the department from a Central Govt. organisation to another Central Organization protection of pay is granted as per FR 22.

11. That the respondent have no comments to the statement made in paragraph 6(i) of the application. However, it is felt that the indl can be granted Rs.8,825/- w.e.f. the date of appointment in the deptt. Keeping in view of the protection of Pay under FR 22.

12. That the respondent have no comments to the statement made in paragraph 6(j) of the application. However, it is felt that the indl having been appointed to the CWC in the Pay & scale Rs.8000-13500/- and drawinf the basic salary of Rs.8825/- and having been appointed in the MES in the same scale and both being a Central Govt. Organisation the basic pay of the indl is to be fixed at Rs.8825/- based on the protection of pay as per FR 22.

(33)

13. That the respondent have no comments to the statement made in paragraph 6(k), 6(l), 6(m), 6(n), 6(o), 6(q), 6(u), 6(r), 7 to 13 of the application.

VERIFICATION

I, Major D. Tolikar, presently working as Garrison Engineer(AF), Chabua, P.O.-Chabua Airfield, being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statement made in paragraphs 1 of the application are true to my knowledge and belief, those made in paragraphs 2 - 13 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 30th day
of Aug, 2003

DEPONENT

Tolikar

(D Tolikar)
Major
Garrison Engineer (AF)