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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

[Signature]
24.12.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 381/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): M. Mani Singh

- Vs. -

Respondent(s): U.O.I. Gomti

Advocate for the Applicant(s): B.K. Sharma, S. Sarma, U.K. Nain

Advocate for the Respondent(s): Adv. Case A.K. Choudhary

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. No. 50/- deposited vide 18 / 29.6.02.42 Dated 26.11.02</p> <p>Dy. Registrar</p> <p>29/11/02</p> <p>Pl. comply the order dated 2/12/02.</p> <p>NTS 5/12/02</p> <p>Notice prepared and sent to D/S for giving the response along No 1 to 4 by Regd. A/D.</p> <p>DIN. 4th 7th 11/6/03</p> <p>No reply has been filed.</p> <p>5.2.03.</p>	<p>29.11.02</p> <p>mb</p> <p>2.12.02</p> <p>mb</p> <p>8.1.03</p>	<p>List on 2.12.2002 for admission</p> <p>Vice-Chairman</p> <p>Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks List on 8.1.2003 for admission</p> <p>Member</p> <p>Vice-Chairman</p> <p>present : The Hon'ble Mr Justice V.S. Aggarwal, Chairman. The Hon'ble Mr K.K. Sharma.</p> <p>Mr S. Sarma, learned counsel for the applicant is present. At the request of Mr B.C. Rathak on behalf of Mr A. Deb Roy, learned Sr.C.G.S.C it is directed that reply if any be filed within four weeks. List on 6.2.03 for admission.</p> <p>Member</p> <p>Chairman</p>

6.2.03

List again on 7.3.03 to enable the parties to submit their written statement.

Member

Vice-Chairman

pg

7-3-2003 Court did not set today. The case is adjourned to 25/3/2003.

No. written statement has been filed

25.3.2003

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

The application is admitted.

Call for the records.

List on 29.4.2003 for orders.

Member

Vice-Chairman

mb

29.4.2003

Written statement has been filed by the respondent No.2. List the case on 28.5.2003 for further order.

In the meantime the other respondents may file written statement, if any.

Vice-Chairman

bb

28.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra, Member (A).

No written statement so far filed save and except respondent No.2. The case may now be listed for hearing on 23.6.2003. In the meantime, the other respondents may file written statement.

Member

Vice-Chairman

mb
23.6.03

Adjourned. List for hearing on 31.7.03.

By order.

24.4.03

Wks submitted by the respondent No.2.

Wks filed by the R. No-2, other respondent not yet filed.

27.5.03.

No. wks filed by The R. No-1, 3 & 4.

30.7.03.

31.7.2003 On the prayer of Miss U. Das,
learned counsel for the applicant the
case is adjourned. Put up on 26.8.2003
for hearing.

Member

Vice-Chairman

mb

26.8.2003 Present : The Hon'ble Mr. Justice D.
N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan,
Administrative Member.

Wls filed on behalf
of the R.No-2, Other
Respondent not yet
filed.

On the prayer of Mr. S. Sarma,
learned counsel for the applicant the
case is adjourned. List again on
23.9.2003 for hearing.

No
22.9.03

Member

Vice-Chairman

mb

23.9.2003 On the prayer made by Mr.S.Sarma,
learned counsel for the applicant, the
case is adjourned. Mr.A.K.Chaudhuri,
learned Addl.C.G.S.C. has no objection.
List the case again on 23.10.2003
for hearing.

Member

Vice-Chairman

bb

23.10.03 There is no Bench today.
Adjourned to 14.11.03.

14.11.03 no Bench today,
Adjourned to 21.11.03.

21.11.03 Letter in. put in when
next O/S available.

24.12.03

Heard counsel for the parties.
Hearing concluded. Judgment delivered in
open Court, kept in separate sheets.

The application is disposed of in
terms of the order. No order as to costs.

Mr S.Sarma, learned counsel for the
applicant in course of hearing has submit-
ted that the documents in which official
respondents have asked for Integrity
certificate from the Director (Vigilance),
Govt. of Manipur those may be kept in
the record.

K. Pralhadam

Member

B.

Vice-Chairman

pg

*Recd. copy
AK Chandra 5/1/04*

13.1.04

*Copy of the Judgment
has been sent to the
D/Sec. for issuance
the same to the applicant
by post.*

etc

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~RC~~ No. 111381 of 2002.

DATE OF DECISION 24.12.2003.

M. Mani Singh, MPS.

.....APPLICANT(S).

Sri S. Sarma.

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

U.O. I. & Ors.

.....RESPONDENT(S)

Sri A.K. Chaudhury.

.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE B. PANIGRAHI, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, 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 ~~Member~~ Vice-Chairman.

-VERSUS-

.....RESPONDENT(S)

.....ADVOCATE FOR THE
RESPONDENT(S).

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 381 of 2002.

Date of Order : This the 24th Day of December, 2003.

The Hon'ble Mr Justice B.Panigrahi, Vice-Chairman

The Hon'ble Mr K.V.Prahladan, Administrative Member.

M.Mani Singh, MPS
Son of M.Bidhu Singh,
Superintendent of Police,
Vigilance and Anti Corruption,
Manipur . . . Applicant

By Advocate Sri S.Sarma.

- Versus -

1. The Union of India,
represented by Secretary to the
Govt. of India,
Ministry of Home, New Delhi.
2. The Union Public Service Commission,
represented by the Chairman,
Dholpur House, Sahjahan Road,
New Delhi.
3. The State of Manipur,
represented by the Chief Secretary to
the Govt. of Manipur,
Imphal.
4. The State of Tripura,
represented by the Chief Secretary
Govt. of Tripura, Agartala. . . . Respondents.

By Shri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R (ORAL)


PANIGRAHI J.(V.C)

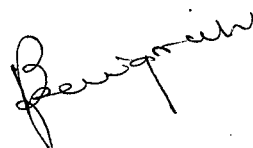
In this application the applicant has challenged the validity of the list prepared by the Selection Committee for promotion to Indian Police Service (IPS) by including the names of Sri L.K.Haokip and N.Ngaraipam. In the meantime the life span of the Committee has expired although the two candidates, namely, L.K.Haokip and N.Ngaraipam have filed two separate cases justifying their inclusion and those two cases had been dismissed by the Tribunal in

O.A.34/2002 and 482/2001. Several correspondances were made by the respondent authorities as to what will happen to the old panel after expiry of its period. But at any rate they deemed it proper to prepare a fresh panel and the matter is in progress. It appears that the authorities have called the detail datas of 13 candidates including the present applicant. Since the preparation of panel is in progress it shall not be proper to deal with the case on merit and it is left to the discretion of the Committee.

2. We hope and trust the Committee shall prepare the panel in accordance with the rules.

With the above direction the application is disposed of. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(B.PANIGRAHI)
VICE CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No...38.1 of 2002

BETWEEN

Shri M.Mani Singh..... Applicant.

AND

Union of India & ors..... Respondents.

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Filed by : *Asha Das*,
File :-C:\WS7\MANI

Regn.No.:

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A.No. of 2002

BETWEEN

M.Mani Sing,MPS.
S/o M.Bidhu Sing.
Superintendent of Police
Vigilance and Anti Corruption
Manipur.

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Home.New Delhi
2. The Indian Public Service Commission,
represented by The Chairman,
Dholpur House,Sahjahan Road,New Delhi-1
3. The State of Manipur,represented by
The Chief Secretary to the Govt.of Manipur
Imphal
4. The State of Tripura,represented by
The Chief Secretary,Agartala

..... Respondents..

PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not selecting the applicant to the grade of IPS pursuant to the selection for the vacancies for the block year 99-2000. This application is also directed against the order dated 16/11/2002 by which the representation preferred by the applicant for inclusion of his name in the select panel of 2000, has been rejected.

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Filed by
Siddhanta Sarma
Advocate
29/11/02

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant is a member of Manipur Police Service (MPS) and presently posted as Superintendent of Police, Vigilance and Anti Corruption of the State Vigilance Commission at Imphal. He entered the services of Manipur Police way back in the year 1964 as Sub Inspector of Police. On 27/12/78 he was promoted as Inspector of Police on ad-hoc basis which was subsequently regularise w.e.f. 9/3/79. There after he was promoted to the post of Dy. Supdt. of Police (Legal) w.e.f. 11/2/81. He was regularise in the Manipur Police Service w.e.f. 2/12/81. Riding on the Leader of promotion the applicant became Addl. Supdt. of Police w.e.f. 19/12/86 and there after Supdt. of Police w.e.f. 19/9/94.

4.3. That the applicant in the capacity as Supdt. of Police had occasions to work as Commandant 5th Battalion Manipur Rifles w.e.f. 19/9/94 to 13/8/96. There after he was posted as SP Bishnupur w.e.f. 13/8/96 to 10/2/97 and similarly w.e.f. 10/2/97

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to 10/3/98 he was given the post of SP Senapati Hills District. That apart the applicant during his service tenure had occasions to perform duties of high responsibilities which eventually helped him in earning a distinguished service carrier.

Since the distinguished service carrier of the applicant is not in dispute, the applicant craves leave of the Hon'ble Tribunal to produce the relevant documents at the hearing of the case.

4.4. That as per provisions of the IPS (Appointment by Promotion) Regulation, 1955 the members of the State Police Service are entitled to be promoted to IPS on fulfillment of the criteria laid down in the said Regulations. In terms of Regulation 5(3) the selection Committee shall not consider the cases of those members who have attained the age of 54 years on the 1st day of January of the year in which the selection committee meets. The Applicant has already attained the age of 54 years and thus will not be eligible to be considered for such promotion hereafter. His only chance was in the last selection on 20/12/2000 in which he has been illegally left out due to improper consideration of his case.

4.5. That already stated above the applicant has a distinguished a service carrier and at no point of time there was any occasion to communicate him any adverse remark. To the best of the knowledge of the applicant he has a better service record than other officers who were considered for promotion to IPS including Sri L.K. Haokip and Sri N.Ngaraipam for which selection committee make on 20/12/2000. The said selection committee considered the cases of following six officers of MPS cadre,

Name.	Date of Birth
1.Rajendra Singh	28/6/50
2.S.Tualchinkham (ST)	1/3/47

3.N.Ngaraipam (ST)	5/3/47
4.L.K.Haokip (ST)	1/3/53
5.M.Mani Singh	1/2/46
6.S.Mangelemjao Singh	1/3/56

The selection was held for 2 posts and the applicant was the only candidate having 5 outstanding in his ACRs for the last 5 years which were taken into consideration by the selection committee. On the other hand other candidates namely Mr.Haokip and Mr.N.Ngaraipam did not have such outstanding gradings in their ACRs. However the selection committee included the names of said Mr.Haokip and Mr.N.Ngaraipam in the select list of 2000.

4.6.That as per the minutes of the selection committee held on 20/12/2000 both Mr.Haokip and Mr.N.Ngaraipam have been selected for promotion to IPS from the select of 2000-2001. Unfortunately although applicant was the meritorious and unblemish service carrier has been left out from the select list due to improper consideration of his case along with the others. It is pertinent to mention here that the State of Manipur did not forward the full service record of their service to the selection committee, but for which the things would have been different and name of the applicant would have been included instead of Mr.Haokip and Mr.N.Ngaraipam. Apart from that the full ACRs of the candidates were not send to the selection committee which eventually resulted improper consideration of the case of the applicant. The selection committee in the event of such an act had to proceed with the matter with some incomplete service records of the candidates. Be it stated here that the selection committee should have taken into consideration the ACRs for the last 5 years that is 94-95, 95-96, 96-97, 97-98 and 98-99. The State of Manipur did not intimate anything regarding the pendency of disciplinary and criminal proceedings of vary serious nature involving the very

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integrity of the candidates. To that effect mention may be made of said Mr.Haokip and Mr.N.Ngaraipam against whom there are number of disciplinary and criminal proceedings were pending at that relevant point of time. Since those facts were never apprised to the selection committee by the State of Manipur, the selection committee approved the cases of said Mr.Haokip and Mr.N.Ngaraipam for inclusion of the name in the select list prepared for promotion to IPS.

4.7. That Mr.Ngaraipam who was nominated as selectee No.1 was placed under suspension by order dated 21/7/93 in connection with FIR No.368(7)/93 of Imphal Police Station registered under section 120(B)/409/466/468/471 IPC and section 13(20) read with section 13(C) of prevention of corruption Act 1988 which is now pending in the court of special Judge Manipur East, being registered as Special Trial No.1/2000. The case has been registered alleging misappropriation of Rs.55,03,605/- which was sanctioned for the purpose of purchasing uniform items for Jawans of Manipur Rifles. The incident has come to light as uniform scam.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the suspension order, revocation order, chargesheet etc. at the time of the hearing of the case.

4.8. That similarly in case of Mr. Haokip who has been nominated as selectee No.2 was placed under suspension by an order dated 16/2/98 although the same was subsequently revoked without prejudice to the departmental proceeding pending against him. A regular FIR case No.322(B) 98-IPS, U/S 121/121-A/400/212 IPC, 13 UA(P) Act and 2591-B) Arms Act was registered at Imphal P.S. against him and a chargesheet No. 32/IPS/99 dated 12/5/99 has already been submitted in the Court of the Chief Judicial Magistrate, Imphal against him. The charge relates to harboring

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in his house the members of KNF(P) one of the active Extremist organisations operating in Manipur. 6 persons were arrested from his house and arms and ammunition were recovered as reflected in the charge sheet which has been registered as Cril(P) 10/99 in the Court of CJM, Imphal. further a departmental proceeding is also pending against him initiated vide memorandum being No.4/59/76-MPS/DP(Pt) dated 22/4/99 for committing acts of misconduct, misobservation and financial impropriety, mismanagement of Home Guard involving a sum of Rs.23,17,700/- sanctioned by the Home Department vide order No.315(64)/97-H dated 9/2/98. The proceeding is now pending before the Commissioner of Departmental Enquiries being DE No.1/4/CDE/2000.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the suspension order, revocation order, chargesheet etc. at the time of the hearing of the case.

4.9. That apart from the above prosecution has been accorded in case of Mr.Haakip and Mr.Ngaraipam vide orders dated 28/9/98, 12/4/99 and 22/8/2000 in respect of their involvement in connection with the offenses mentioned in the order of sanction itself.

Copies of the orders dated 28/9/98, 12/4/99 and 22/8/2000 are annexed herewith and marked as ANNEXURE 1,2 and 3 respectively.

4.10. That the above facts were very serious nature involving the integrity of said Mr.Haakip and Mr.Ngaraipam who have been selected for appointment to IPS were never brought to the notice of the selection committee and those informations were deliberately withheld from the selection committee, but for which they would not have been selected. It is pertinent to mention here that although the Govt. of Manipur in the Department of

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Personal and Administrative Reforms (Personal Division,) had asked for informations as to whether any case pending against the above mentioned six Officer's and the concerned Department had clearly indicated about the pending cases, mentioned above against Sri Haokip and Ngaraipam but however to the best of the knowledge of the applicant inspite of receipt of the said informations, same were not furnished and/or made known to the selection committee and the same were deliberately withheld facilitating selection of said Mr. Haokip and Ngaraipam

4.11. That the applicants state that as per the information gathered said Mr. Haokip and Ngaraipam has been selected for promotion to IPS as selectee No.1 and 2. against the two available vacancies for the block year 2000. The applicant also gathered information that along with Mr. Haokip and Ngaraipam the applicant and one Sri S.M.Singh were graded as very good and only due to seniority factor said Mr. Haokip and Ngaraipam have been selected. As regard the other two Officers, they have been graded as good and thus naturally could not compete with the other four officers who have been graded as very good. Going by the ACRs Officers the applicant has got five outstanding right from 1994-2000 and he is the only recipient of Presidential award (twice) among the six officials mentioned above. From the comparative reading of the ACRs of the six officers including the applicant, it appears that there was a down gradation so far as ACRs of the applicant are so as to exclude him from perview of selection. Such down gradation was done by the respondents without affording any opportunity to the applicant and thus in a nutshell it is a case of improper consideration of the case of the applicant and same has resulted total miscarriage of justice.

The minute of the selection committee meeting held on 20/12/2000 has not been made public and as such the applicant

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prays for a direction from this Hon'ble Tribunal for production of records by the respondents at the time of hearing of this case.

4.12. That the applicant states that as per the requirements of the above mentioned promotion regulation the selection committee in respect of a joint cadre must be comprised of the Director General of Police of the State whose officers are being considered. In the instant case the DGP, Manipur who was better person to know the service credentials of the officers was not included in the committee and the DGP of the State of Tripura was included. Thus in absence of the DGP, Manipur the selection committee was not properly constituted and the relevant consideration were left out from the purview of the selection committee.

4.13. That the applicants state that the at that point of time the applicant challenging the legality and validity and about his deprivation submitted a representation on 22/1/2001 before the UPSC with a prayer to review the select list prepared by the selection committee in its meeting held on 20/12/2000. As per the requirement of provision contained in the promotion regulation the select list will attain its finality only when the UPSC will consider the said select list and give its final approval to the same. Keeping in view of the said provision the applicant preferred the above mentioned representation to the UPSC. However the applicant taking into consideration the sequence of events and action on the part of the respondents in dealing with the matter had a reasonable apprehension that UPSC may approve the select list and at that juncture the applicant praying for quashing and setting aside of the selection committee's minute and with a prayer to hold a review selection for the said two vacancies, preferred O.A. 63/2001 before this Hon'ble Tribunal.

B

The Hon'ble Tribunal admitted the O.A. and issued notice to the respondents to place their say in the matter. Accordingly respondents entered appearance and have filed written statement.

A copy of the representation dated 22/1/2001 is annexed herewith and marked as Annexure-4.

4.14. That during the pendency of the O.A. the respondents issued a notification dated 29/10/2001 by which Mr. Haakip and Ngaraipam have been included in the 2000 select list as approved by the UPSC. However as indicated in the notification dated 29/10/2001 it is clear that both Mr. Haakip and Ngaraipam have been included in the said select list subject to clearance from criminal and departmental proceeding.

A copy of the notification dated 29/10/2001 is annexed herewith and marked as Annexure-5.

4.15. That the notification dated 29/10/2001 however could not be produce before the Hon'ble Tribunal at the time of hearing of O.A. 63/2001. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dismissed the said O.A. vide its judgment and order dated 28/3/2002. It is stated that had the respondents produced the notification dated 29/10/2001 the Hon'ble Tribunal would have come to a different conclusion and would have allowed the O.A.

A copy of the judgment and order dated 28/3/2002 passed in O.A. 63/2001 is annexed herewith and marked as Annexure-6.

4.16. That the respondents however acting on the notification dated 29/10/2001 and after taking into consideration the pendency

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of criminal as well as departmental proceeding against Mr. Haokip and Ngaraipam canceled the select list prepared pursuant to the select committee's meeting held on 20/12/2000 for preparing the select list of 2000 for promotion to IPS. Mr. Haokip and Ngaraipam preferred Original Applications before Hon'ble Tribunal against the said action of the respondents and both the Original Applications (No. 38/2002 and 482/2001) have been dismissed by the Hon'ble Tribunal.

The applicant craves leave of this Hon'ble Tribunal to produce the copies of the judgment and orders dated 22/8/2002 and 11/10/2002 passed in O.A. Nos. 482/2001 and 38/2002 at the time of hearing of this case.

4.17. That the applicant states that in the year 2001 there was no vacancy in cadre of IPS and thus the meeting of selection committee was not held. In the year 2002 one vacancy in the cadre of IPS surfaced and the applicant praying for his inclusion of said select list of three MPS officers preferred a representation dated 16/10/2002 highlighting the fact that among these three vacancies two vacancies are carried forward from the block year 2000 as the selection was canceled by the respondents. As per the provision contained in the regulation the respondents ought to have convene a review selection taking into consideration the two vacancies available in the year 2000.

A copy of the representation dated 16/10/2002 is annexed herewith and marked as Annexure-7.

4.18. That the applicant bags to state that the controversy of preparation of select list for the block year 2002 for one vacancy and the remaining unfilled two vacancies of the year 2000 has been a matter of discussion amongst the respondents. The Under Secretary Dept. of Personal Govt. of

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Manipur sent a letter to the Secretary Govt. of India Ministry of Home Affairs dated 22/6/2002 seeking clarification as to how the two unfilled vacant posts of 2000 select list can be carried forward and clubbed together with a single vacancy of 2001.

A copy of the said communication dated 22/6/2002 is annexed herewith and marked as Annexure-8.

4.19. That in the mean time the respondents have issued the impugned order dated 16/11/2002 rejecting the representation filled by applicant praying for inclusion of his name in the zone of consideration for preparation of select list of 2001. The reasons mentioned in the said impugned order more particularly regarding clubbing of vacancies of both the years are not maintainable.

A copy of the said order dated 16/11/2002 is annexed herewith and marked as Annexure-9.

4.20. That the applicant bags to state that taking into consideration his date of birth (1/2/46), he was very much within the eligibility criteria (54 years of age) when the 2000 select list was prepared. However if the vacancies are carried forward, he will be over aged for being considered for the said selection as mentioned in the impugned order dated 16/11/2002. It is stated that in the year 2000 since the vacancies could not be filled up by the respondents due to the reasons mentioned above, the respondents ought to have convene the review selection as of 2000 for the said two vacancies instead of carried it forward. From the sequence of events it is crystal clear that the vacancies of 2000 could not be filled up due to the fact that the relevant informations as required under the law were suppressed by the State Respondents with some ulterior motive regarding pendency of

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disciplinary and criminal proceeding against Mr. Haokip and Ngaraipam and same has resulted cancellation of the entire selection process as well as the minutes of the meeting held on 20/12/2000. Had the respondents acted in a fair manner in supplying those informations to the selection committee in time the applicant being one of the eligible candidate, would have been promoted to IPS in the year 2000 itself. The respondents being a model employer ought to have acted fairly without causing undue hardship to the present applicant.

4.21. That the applicant states that as per the minutes of the selection committee meeting held on 20/12/2000, the applicant was graded as very good along with three other officials including Mr. Haokip and Ngaraipam. but due to seniority factor said Mr. Haokip and Ngaraipam were declared selected subject to further clearance from State Govt. As per the provision contain in the regulation, the State Govt. is duty bound to provide all the informations regarding pendency of criminal as well as disciplinary proceeding against the persons come under the zone of consideration. However in the instant case the respondents deliberately withheld those informations and same has resulted serious prejudice to the present applicant and also has caused undue hardship in the matter of his promotion. It is stated that the respondents now by issuing the impugned order shought to clubbed the two unfilled vacancies of 2000 along with the signal vacancy of 2001. The respondents pursuant to the proposal of clubbing the vacancies now started the process of selection excluding the name of the applicant and as per the informations the respondents within a short time going to fill up those three vacancies. In such a circumstances the applicant having no other alternative has come before this Hon'ble Tribunal seeking an immediate relief by way of an interim order directing the

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respondents not to finalise the selection process for preparation of IPS select list for the year 2001-2002.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents in not following the procedure in the selection of MPS officers for promotion to IPS is not sustainable and liable to be set aside and quashed.

5.2. For that the State of Manipur having not placed the adverse materials of Mr. Haokip and Ngaraipam and the selection committee having being kept in dark about those materials and subsequently which resulted cancellation of the select list, is per-se illegal.

5.3. For that the applicant having scored over all grading of outstanding in all his ACRs, the selection committee ought to have selected instead of Mr. Haokip and Ngaraipam, and same has resulted down gradation of his ACRs and thus same is not sustainable and liable to set aside.

5.4. For that the respondents instead of carrying forward the two vacancies of 2000 to the year 2001-2002 could have constitute a review selection for those two vacancies and having not done so the respondents have acted illegally and on this score alone the impugned order dated 16/11/2002 is liable to be set aside and quashed.

5.5. For that the selection being not comprised of the most important member that is the DGP of the State of Manipur who was in the know how of the things, in proper consideration crept up in the process of selection in which vital aspect of the matter

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were withheld, but for which applicant would have got his selection.

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the 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:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority 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 most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to include the name of the

applicant in the select list of 2001 prepared for promotion to IPS in MT cadre, treating it to be a review selection as of 2000 and to promote him to the grade of IPS.

8.2. To direct the Respondents not to finalise the selection process as indicated in the impugned order dated 16/11/2002 with a further direction to renotify the vacancies specifying the fact that two of such vacancies will be filled up as if a review selection of 2000 and thereafter to consider the case of the applicant applying the same yard stick as of 2000 and to promote him to IPS with retrospective affect with all consequential service benefits etc.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays for an interim order directing the Respondents not to finalise the selection process for promotion to IPS from the MPS officers for years 2001 and 2002, or alternatively to keep one post vacant for the applicant, during the pendency of the application.

10.

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

1. I.P.O. No. 74- 606247
2. Date : 26/11/02
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Sri Moirangthem Mani Singh, MPS, son of M. Bidhu Singh presently working as Superintendent of Police, Vigilance and Anti Corruption, Manipur, Imphal, aged about 56 years, do hereby solemnly affirm and verify that the statements made in paragraphs 1-3, 41-48, 410-412, 416, 419 to 421 and 5-12..... are true to my knowledge and those made in paragraphs 49, 413, 414, 415, 417, 418 & 419 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 28th day of November 2002.

Signature.

M. Mani Singh

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ANNEXURE-12

IN THE COURT OF THE DISTRICT MAGISTRATE: IMPHAL
MANIPUR

O R D E R - S

Imphal, the 28th September, 1998.

No. DM(IW)/1/22/CON/94(Pt) : Seen the Police report dated 28-9-98 submitted by O.C. N. Gourakishwar Singh of Imphal Police Station I.O. of the case praying for according sanction for prosecuting the accused persons namely Thongkhohun Lupheng @ Kansha (26) s/o (L) Thangboi Lupheng of Nongdam Village, (2) Saikhotingam @ Ngamcha @ Ngamboma (23) s/o late Sohen Lupho of Maphou Dam and (3) Yangminthang Haokip @ Thangboi @ Wilson (23) s/o late Lethkohen Haokip of Bonghal Khullen who were arrested on 1-8-98 at 8.45 AM from the house of Commandant Home Guard Mr. L. K. Haokip at New Lambulane, Imphal and seized one .32 Pistol (Lama) bearing No. 830991 (on slide inside) and 839591 (on barrel) with Magazine. from the possession of accused No. 1, six nos of .32 live round of ammunitions seized from the possession of accused No. 2 and one live round of AK 47-539/88 seized from the possession of accused No. 3. The seized .32 Pistol and ammunitions were produced before me by the police.

I have perused the Police report and its relevant paper in connection with FIR No. 322(8)98 IPS U/S 400/212 IPC and 25 (1-B) Arms Act. I am satisfied that it is a fit case to accord sanction for prosecuting the above accused persons for recovery of the arm and ammunitions from their unauthorised possession of the said above accused persons.

I, therefore, accord sanction for prosecution of the above accused persons U/S 39 of the Indian Arms Act, 1959.

(H. Imocha Singh)
District Magistrate, Imphal
West District, Manipur

- Copy to :-
1. The P.S. to the Chief Secretary, Govt. of Manipur.
 2. The Superintendent of Police, Imphal West District, Manipur.
 3. The O.C. Imphal Police Station.
 4. The relevant file.

...

Arrested

Advocate.

No. 18/19/88-MCS/DP
GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

ANNEXURE-2

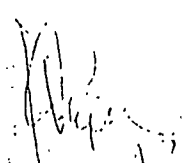
ORDERS BY THE GOVERNOR : MANIPUR

Imphal, the 12th April, 1999.

Whereas it is alleged that Shri Lulkhel Khajiamang Haokip, MPS aged about 45 years S/O Sonkhajao Haokip of New Lambulane, Imphal, formerly Commandant Home Guard, Manipur committed harbouring of K.N.F(P) members knowingly in his residential house at New Lambulane, Imphal on 31-07-1998 at about 0100 hrs. during his service as Commandant Home Guard which is punishable under section 212 I.P.C.

2. And whereas, it is alleged that on 31-07-1998 at about 0100 hrs. Sub. Jai Bir Singh, J.C. No. 20672 of 57 mountain Division and his party conducted a raid in the house of Shri Lulkhel Khajiamang Haokip (L. K. Haokip), MPS, the then Commandant Home Guard, Manipur at New Lambulane, Imphal and apprehended 6 (six) K.N.F. (P) activities namely (1) Thangkholun Lupheng of Nongdam Village, Chief of the KNF (P) army, (2) Seikhotingam alias Ngamcha alias Ngambou of Maphou Dam, Self Styled Captain, (3) Yangminthang alias Thangboy alias William of Bongbal Khullen, S/S 2nd Lt., (4) Manglun Haokip of Mongbung, Singhat (Finance Cell), (5) Thangsonmuon alias Jonathan alias Maomon, (Finance Cell) of Sumchinvum, Churachandpur District and (6) Manlun Jamkhomang alias Mang of Khongkhajang A/P Tuibung Churachandpur and recovered (1) one .32 Service Pistol (I.L.A.M.A) bearing No. 830991 and No. 839591 with one magazine, (2) Two live rounds of .32 ammunitions (3) 6 (six) rounds of .32 ammunitions and (4) One live round of AK-47. The arrested members of the underground organisation of KNF(P) along with arms and ammunitions were handed over to O.C. Imphal P.S. who registered a regular case being F.I.R. No. 322(S)98-IPS U/S 121/121/A/400.212 I.P.C., 13 U.A.(P) Act & 25(I-B) Arms Act and investigated into.
3. And whereas, the investigation so far reveals prima facie evidence against Shri Lulkhel Khajiamang Haokip (L. Haokip), MPS, the then Commandant Home Guard for knowingly harbouring K.N.F(P) members which is punishable U/S 212 I.P.C.
4. Now, Therefore, the Governor, of Manipur is pleased to accord sanction under section 197 Cr P.C. for prosecution of the said Shri Lulkhel Khajiamang Haokip (L. Haokip), MPS for the aforesaid offences and any other offences punishable under the provision of Law in respect of the facts aforesaid and for taking cognizance of the said offences by a Court of competent jurisdiction.

By orders & in the name of the Governor


(H. Jel Shyam)

Chief Secretary, Government of Manipur.

- Copy to :
- 1) The Director General of Police with reference to his letter No. IC1(42)/98-PHQ9008 dated 16-12-98
 - 2) The Commissioner(Finance), Govt of Manipur
 - 3) The Secretary(Law), Govt of Manipur
 - 4) The Special Secretary/Addl Secretary(Home), Govt of Manipur
 - 5) The Deputy Secretary(Home), Govt of Manipur with reference to letter No.6/1(22)/94-11/166 dated 23-1-99
 - 6) The A.I.G. (Admin), Govt of Manipur.
 - 7) The Superintendent of police/Imphal West District, Manipur
 - 8) Guard File/Order Book.

Master
p
/thocan.

ORDERS BY THE GOVERNOR MANIPUR
Imphal, the 22nd August, 2000.

No. 13, 29/3/2000, P/DP: Whereas it is alleged that Shri N. Ngarapam Tangkhul S/O (1) N. Yangshung Tangkhul of Ningehow Village while posted and functioning as the Commandant of 2nd MR (2) Shri K. Pishak Singh S/O (1) K. Ibombi Singh of Kamabam Teikok as AC Quarter Master and Shri N. Jasobanta Singh S/O (1) N. Tombi Singh of Kunao Makhong Tera, Haze, as Store in-charge of 2nd MR during the year 1990 to 1993 entered into a criminal conspiracy in the matter of misappropriation of uniform items of the Director General of Police, Manipur's Pool worth Rs.53,01,605.94 paise.

And whereas it is alleged that the DGP, Manipur with the approval of Government of Manipur purchased large quantity of uniform items through suppliers by floating tender vide approval letter No. 35(12/90-11 dated 27-11-1991 of Government of Manipur, Home Department. The Commandant, 1st Bn Manipur Rifles and the Commandant 2nd Bn Manipur Rifles were appointed as the consignee of the uniform items supplied by the supplier firms appointed in this regard.

And whereas it is alleged that Shri N. Ngarapam Tangkhul, Commandant, 2nd Bn Manipur Rifles failed to issue various uniform items allotted by the DGP, Manipur to the Manipur Rifles Battalions and District Civil Police in the State of Manipur for which complaints have been received in the office of the DGP, Manipur regarding short supply of uniform items against the quantity allotted by the DGP, Manipur to the Manipur Rifle Battalions as well as to the District Police in the State of Manipur.

And whereas the DGP, Manipur vide his office letter No. PR/13/15/93-PHQ dated 22-4-1993 constituted a Committee headed by Shri W.K. Lenggen, the then DIG(OPS), Manipur to verify the uniform items actually issued by the Commandant 2nd Bn Manipur Rifles and the District Police. The DGP, Manipur vide his another letter No. 13/14/90-PHQ dated 25-1-91. Constituted another Committee headed by Shri A. Pradeep Singh, the then AIG(Prov. & Housing) to verify the Book balance for the uniform items held by CO 2nd Bn Manipur Rifles.

And whereas it is alleged that in the verification made by a Committee headed by Shri W.K. Lenggen, the DIG(OPS), it was found that uniform items worth Rs.21,58,113.15 paise were not issued to the MR Bns and the District Police of Manipur. In the verification of the stock of uniform items held by CO 2nd Bn Manipur Rifles by the Committee headed by Shri A. Pradeep Singh it was found that there was shortage of uniform items worth Rs.14,11,779.45 paise against the Book balance.

And whereas Shri W.K. Lenggen-DIG(OPS), Manipur lodged a written complaint to the OC/Imphal Police Station about the mis-appropriation of uniform items worth Rs.35,69,892.60 paise by Shri (1) N. Ngarapam, CO 2nd MR, (2) A. Thianpuia, Dy. CO 2nd MR, (3) K. Pishak Singh, AC Quarter Master. The OC/Imphal Police Station on the basis of the said complaint registered a criminal case against (1) N. Ngarapam CO 2nd MR, (2) A. Thianpuia, Dy. CO 2nd MR (3) K. Pishak Singh, AC Quarter Master 2nd MR (4) N. Jasobanta Singh, Inv. Store-in-charge, 2nd MR vide FIR No. 368(7)93 IPS u/s 409/468/468/120-B IPC and Section 13(1)(c) P.C. Act for investigation. The case was transferred to the CID Crime Branch for investigation.

And whereas the investigation reveals that Shri N. Ngarapam Tangkhul was posted as the Commandant 2nd MR during 1990-92 and Shri A. Thianpuia was posted as Dy. Commandant 2nd MR and Shri K. Pishak Singh was posted as the AC 2nd MR holding the charge of Quarter Master of the said Battalion and Shri N. Jasobanta Singh, Inv. of 2nd MR was the store in-charge of the Battalion during the above said period. However Shri A. Thianpuia, Dy. CO 2nd MR had no role in the receipt and disbursement of the uniform items from the DGP Pool being held by the CO 2nd MR and as such he did not committed the alleged offence.

Attested

Advocate.

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And whereas the investigation further reveals that the DGP, Manipur vide his office letter No. 13/14/90-PHQ dated 24-5-1989 entrusted Shri N. Ngamipam, CO 2nd MR as the consignee of the uniform items purchased through supplier Firm as per Supply Order No. as below:-

Sl.No.	Supplier Firms	Items	Quantity	Supply Order No.
1.	M/S Shree Durga Trader Corporation Calcutta.	1. Woolen Sock(OG)	28,000 prs.	13/14/90-PHQ, dated 7-1-1992
2.	M/S Bhaurilal Agarwal, 1st MR Canteen.	1. P.T. Shoe(Brown)	50,130 prs.	13/14/90-PHQ, dated 1-6-1991
		2. White Drill Cotton	6,663 mtrs.	-do-
		3. Hunting Boot(OG)	10,617 prs.	-do-
		4. Leather Cross Belt(Brass)	300 nos.	-do-
		5. Attachment Brass	3,010 prs.	-do-
		6. Web Belt (Khaki)	1,961 nos.	13/14/90-PHQ, dated 11-7-1991
		7. Woolen Blanket	5,617 nos.	-do-
3.	M/S Arbind Emporium, Thangal Bazar.	1. Rifle Oil(Bottle)	6,581 nos.	13/14/90-PHQ dated 7-1-92
		2. Bayonet(Frog)	3,010 nos.	-do-
		3. Jungle Hat	7,463 nos.	-do-
		4. Haver Sack(OG) small	2,574 nos.	-do-
		5. Cloth Drab mixture (Khaki).	6,286 nos.	13/14/90-PHQ, dated 4-7-91
4.	M/S Abdul Ganikhan Khetri Bengoon.	1. Boot Polish(Black)	2,858 Coz.	13/14/90-PHQ, dated 19-12-91.
5.	M/S Shrutika Sales Corporation Delhi.	1. Woolen Jersey (OG)	3,339 nos.	13/14/90-PHQ, dated 1-8-91.
		2. Woolen Jersey(Khaki)	2,328 nos.	-do-
		3. Ankle Boot (Black)	10,800 prs.	-do-
		4. Cotton Cellular (Khaki)	12,210 mtrs.	13/14/90-PHQ, dated 11-7-91.
6.	M/S Sardar Brotheg, Thangal Bazar.	1. Cotton Drill (OG)	32,700 mtrs.	13/14/90-PHQ, dated 4-7-91
		2. Cotton Cellular(OG)	20,523 mtrs.	-do-
		3. Cotton Drill(Khaki)	12,210 mtrs.	-do-
		4. Cloth Drab Angola	9,580 mtrs.	-do-
		5. Cotton Cellular (White)	2,492 mtrs.	13/14/90-PHQ, dated 9-8-91
7.	M/S O.B. Agarwal 2nd MR Canteen	1. Rifle Sling (OG)	4,045 nos.	13/14/90-PHQ, dated 11-7-91
		2. Hat Badge(MP)	4,038 nos.	13/14/90-PHQ, dated 1-8-91

The supplier firms supplied the following items for the quantity noted against each of the items to the CO 2nd MR which is evident from the records and the items were shown duly received in the stock receipt and issue register maintained by the CO 2nd MR particularly for those items noted above.

And whereas the investigation further reveals that the DGP, Manipur issued order constituting Line Committee headed by Shri A. Pradeep Singh, the then AIG(Prov./II), Manipur for physical checking of the items supplied by the Suppliers which were in the custody of the CO 2nd MR. The Line Committee after checking had submitted a report about the supply and receipt of the quantity in good condition and as per the specification in the supply order.

(Contd . . . 3/-)

Attested

-: (A) :-

And whereas the DGP, Manipur vide his office letter No. PR/1 VI/5291-PHO dated 16-4-92 allotted the uniform items of DGP Pool to the MR Bns and District Police of Manipur for the uniform items held by the CO 2nd MR.

And whereas the investigation further reveals that the CO 2nd MR issued the uniform items to the Manipur Rifle Battalions and District Police short of the quantity allotted by the DGP, Manipur to the respective Battalions and Districts.

And whereas the investigation further reveals that Shri N. Ngaraipam Tangkhul, CO 2nd MR, (2) Shri K. Pishak Singh, AC(QM) and (3) Shri N. Jasobanta Singh, Hav. Store incharge of 2nd MR manipulated the quantity of uniform items issued to the MR Bns and District Police by preparing false receipt and forging the signature of the official authorised by the MR Bns and District Police to collect the uniform items allotted from the 2nd MR, thereby inflating the quantity more than the quantity issued to the MR Bns and District Police.

And whereas during investigation the total quantity of uniform item received by CO 2nd MR during 1991-92 being supplied by the above mentioned suppliers and the quantity actually available with the CO 2nd MR and the quantity actually issued to the MR Bns and District Police of Manipur were calculated and quantity of uniform items misappropriated would be calculated as Rs. 55,03,605.94 paise. Thus it has been established that Shri (1) N. Ngaraipam Tangkhul, CO 2nd MR, (2) K. Pishak Singh, AC(QM) 2nd MR, (3) N. Jasobanta Singh, Hav. Store incharge 2nd MR entered into a criminal conspiracy and in pursuance thereof they had misappropriated various uniform items of DGP Pool held by CO 2nd MR worth Rs. 55,03,605.94 paise during the year 1991-92.

Now, therefore the Governor of Manipur being the authority competent to remove Shri (1) N. Ngaraipam Tangkhul, CO 2nd MR, (2) K. Pishak Singh, AC(QM) 2nd MR, (3) N. Jasobanta Singh, Hav. 2nd MR from office, after carefully examining the materials and circumstances in regard to the allegation of the case, considers that the said Shri (1) N. Ngaraipam Tangkhul, (2) K. Pishak Singh, AC(QM) 2nd MR and (3) N. Jasobanta Singh, Hav. Store incharge 2nd MR should be prosecuted in the Court of law for commission of the offences u/s 120-B/409/466/468/471 IPC and Section 13(2) read with Sec. 13(1)(c) of P.C. Act 1988.

Now, therefore, the Governor of Manipur do hereby accord sanction under Section 197 Cr.P.C. and also under section 19(1)(b) P.C. Act for prosecution of the said (1) N. Ngaraipam Tangkhul (54) s/o (L.) N. Yangshung Tangkhul of Ningchow village, now CO 6th MR, (2) K. Pishak Singh (57) s/o (L.) K. Ibotombi Singh of Kangabam Leikai, now Addl.SP/UKhul and (3) N. Jasobanta Singh (37) s/o (L.) N. Tombi Singh of Kurao Mukhong Tera, Hav. 2nd MR for the said offences committed by them and any other offences mentioned above and for taking cognisance of the said offence/offences by a Court of competent jurisdiction.

By orders & in the name of the
Governor

[Signature]
(RAKESH)

Chief Secretary to the Government of Manipur

Copy to:-

1. The Director General of Police, Manipur.
2. The Commissioner Home, Government of Manipur.
3. The Secretary (Law), Government of Manipur.
4. The DGP (Adm.), PHO, Imphal.
5. The SP/CHD (CH) -- with reference to his letter No. 4/SP/CHD (CH) Imp dated 19-5-2000.
6. The Superintendent of Police, Imphal West, Manipur.
7. Guard File/Orders Book.

[Handwritten signature]
Att. Secy.

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No. SP/V/PIR/2000/
Government of Manipur
The State Vigilance Commission
Office of the S.P. Vigilance & Anti Corruption

Imphal, the 22nd January, 2001.

To

**The Chairman,
Union Public Service Commission,
Dholpur House, Shahajahan Road,
New Delhi - 110 001.**

Through Proper Channel.

**Subject :- Appointment by promotion to the Indian
Police Service against 2 (two) vacant posts
of I.P.S. for the State of Manipur in 2000.**

A representation of Shri M.Mani Singh, MPS, the undersigned for reviewing the proceedings of the D.P.C. meeting held on 20-12-2000 in the Office of Union Public Service Commission, New Delhi for full facts as to the Department proceedings and Criminal Prosecutions pending against N. Ngaraipam, MPS and L.K. Haokip, MPS were not placed before the D.P.C. meeting for promotion of 2 (two) MPS Officers to the I.P.S.

Sir,

I, the undersigned have the honour to refer to the above subject and to state and submit the following few facts and points of law for reviewing the proceedings of the D.P.C. meeting held in the Office of the Union Public Service Commission, New Delhi on 20-12-2000.

1. That, the following Police Officers in order of seniority being within the zone of consideration for appointment by promotion to the I.P.S. against two vacant posts of I.P.S. for the State of Manipur were considered by the meeting of the D.P.C. held on 20-12-2000 in the Office of the Union Public Service Commission, New Delhi.

Attested

Advocate.

The names of the M.P.S. Officers are as follows:

1. A. Rajendra Singh, MPS.
2. S. Tualchinkham, MPS.
3. N. Ngaraipam, MPS.
4. L.K. Haokip, MPS.
5. M. Mani Singh, MPS.
6. S. Manglemjao Singh, MPS.

2. That, I beg to state and submit that Shri N. Ngaraipam (Sl.No.3 above) in contemplation of a disciplinary proceeding against him was placed under suspension by the orders of the Governor of Manipur being No. 18/20/93-MPS/DP(A) dated Imphal, the 21st July, 1993 in connection with FIR No. 368(7)93 Imphal P.S. U/S 120-B/409/466/468/471 I.P.C. and Section 13(2) r/w Section 13(c) P.C. Act, 1988 which is now pending in the Court of Special Judge, Manipur East being registered as Spl. Trial No.1 of 2000.

Subsequently, the suspension order of Shri N. Ngaraipam was revoked without prejudice to the case pending against him by the orders of the Governor of Manipur being No. 18/20/93-MPS/DP dated Imphal, the 13th April, 1995.

The facts of the above case were for misappropriation of Rs. 35,698,92,601/- which was sanctioned for purchase of Uniform items for jawans of Manipur Rifles (Uniform Scam).

The charge sheet of the above FIR was issued on 25/9/2000 and it was received by the Special judge, Manipur East on 17-10-2000.

Photostat copies of the above suspension order, revocation order and the charge sheets are enclosed herewith as Annexures-A/1, A/2 and A/3 respectively.

In connection with the above, I beg to submit that Sealed Cover procedure is applicable in the case of N. Ngaraipam in the D.P.C. meeting as the charge sheet was submitted before the Special Judge, Manipur East on 25-09-2000.

3. That, I beg to state and submit that Shri L.K. Haokip (Sl.No.4 above) in contemplation of a disciplinary proceeding against him was placed under suspension by the Governor of Manipur under his order No. 4/59/76-MPS/DP(Pt.) Imphal, the 16th February, 1998. However, the said suspension order was revoked without prejudice to the Departmental proceedings pending against him by the Governor of Manipur under his order No. 4/59/76-MPS/DP(Pt.) Imphal, the 5th March, 1998.

Shri L.K. Haokip (Sl.No. 4) above a regular FIR case No. 322(8)98-IPS U/S 121/121-A/400/212 I.P.C., 13UA(P) Act and 25(1-B) Arms Act was registered at Imphal P.S. against the said L.K. Haokip and 6(six) others and a charge sheet No. 32/IPS/99 dated 12/5/99 has been submitted in the court of Chief Judicial Magistrate, Imphal against Lupkholet Khaijamang Haokip (L.K. Haokip) appearing at Sl.No.7 column No.3 of the charge sheet for harbouring members of K.N.F.(P), one of the active extremist Organisation operated in the State of Manipur in the house of L.K. Haokip where his house was heavily guarded by Manipur Rifles Jawans when he was Commandant Home Guards. The accused person in column No.3 from Sl.No.1 to 6 were arrested from his house and recovered arms ammunitions mentioned at column No.5 of the charge sheet. The said charge sheet has been registered as Cril(P)10/99 has been registered in the Court of Chief Judicial Magistrate, Imphal for hearing. Subsequently L.K. Haokip's suspension order was revoked without prejudice to the Departmental Enquiry pending by the Governor of Manipur under order No. 4/59/76-MPS/DP(Pt.) Imphal, the 25th May, 1999.

Photostat copies of the above suspension and revocation orders are enclosed herewith as Annexures- A/4, A/5, A/6 and A/7 respectively.

Photostat copy of F.I.R. and the charge sheet is enclosed herewith and marked as Annexures A/8 and A/8(1)

It is also submitted that a Departmental proceeding is pending in respect of the Memorandum being No. 4/59/76-MPS/DP(Pt.) dated 22nd April. 1999 for committing acts of misconduct, in subordination and financial impropriety, mismanagement of the Home Guard involving a sum of Rs. 23,17,700/- sanctioned by the Home Department vide order No. 315(64)/97-H dated 09-02-1998 of the Home Department for functioning Home Guard Organisation before the Commissioner, Departmental Enquiries, Manipur Shri I.S. Laishram, I.A.S. being D.E. No. 1/4/CDE/2000.

Photostat copy of the Memorandum dated 22-04-1999 is enclosed herewith as Annexure A/9.

In view of the above, I beg to submit that the sealed cover procedure is applicable in the case of L.K. Haokip as the charge sheet was submitted on 12-05-1999 and Departmental proceedings initiated on 22-04-1999 and Departmental proceedings is still pending before the Commissioner, Departmental Enquiries.

Arrested
4/5/99

4. That, I beg to state and submit that the Hon'ble Supreme court in Union of India & Others - Vs- Dr. (Smt) Sudha Salham reported in A.I.R. 1998 S.C. 1094, held that

"If on the date of which the name of a person is considered by the Departmental Promotion Committee for promotion to the higher post, such person is neither under suspension nor has any departmental proceedings been initiated against him, his name, if he is found meritorious and suitable, has to be brought on the select list and the "sealed cover" procedure cannot be adopted. The recommendation of the Departmental Promotion Committee can be placed in a "sealed cover" only if on the date of consideration of the name for promotion, the departmental proceedings had been initiated or were pending or on its conclusion, final orders had not been passed by the appropriate authority".

Further, in Union of India -Vs- K.V. Jankiraman reported in A.I.R. 1991 S.C. 2010, the Supreme Court in respect of Promotion-sealed cover procedure -Resort to-when permissible, agreed with the decision of the Full Bench of the Tribunal that it is only when a charge-memo in a disciplinary proceedings or a charge sheet in a Criminal prosecution is issued to the employee that it can be said that the Departmental proceedings/Criminal prosecution is initiated against the employee and the sealed cover procedure is to be resorted to only after the charge memo/charge sheet is issued.

In view of the above, it is submitted that if the above Criminal prosecution cases and the Departmental proceedings pending against N. Ngaraipam, MPS and L.K. Haokip, MPS are brought before the D.P.C. meeting held on 20-12-2000 the sealed cover procedure would have been resorted to and their names should not be included in the select list prepared by the selection committee and the said concealment of facts before the D.P.C. had denied my right to promotion which is my fundamental rights under the Constitution of India.

5. That, I beg to state and submit that the Department concerned has not prepared the ACRs of the MPS Officers eligible according to the service record maintained in the Department.

I as an M.P.S. have been serving with dedication to my duties and as such I was awarded (i) President's Medal for Meritorious Service on the occasion of Independence day vide No. 4-HA/86/CA(II) dated 14-08-1986, (ii) Manipur Chief Minister's Police Medal for meritorious vide notification

No.8/14(2)/85-H dated 12-08-1993, (iii) President's Police Medal for distinguish service in the occasion of Independence day 1997 vide Govt. of India, Ministry of Home, New Delhi vide No.11019/11/97-PMA-CELL dated 14-08-1997. The then I.G.P., D.G.P. and Governor of Manipur wrote appreciation letters for awarding such meritorious medals.

The above awards are reflected in the ACR and the other MPS Officers eligible for promotion are not awarded as much as I was awarded. As a matter of fact, I am expecting that my grading is outstanding for 6(six) years continuously commencing from 1994 onwards.

True copies of the above awards and appreciation letters are enclosed herewith and marked as Annexures - A/10, A/11, A/12, A/13, A/14, A/15 and A/16 respectively.

6. That, I beg to state and submit that if the selection committee in the D.P.C. meeting held on 20-12-2000 classified the eligible officers as outstanding, very good, good or unfit as the case may be on the over all relative assessment of their service record as per Rule No. 5(4) of the Indian Police Service (Appointment by Promotion) Regulations, 1955, my name, I believe ought to have been listed as No.1 in the list prepared by the selection committee in as much as my service career or record is much better than the other eligible officers but the correctness of the memo prepared by the Department in this regard is very much doubted for the reasons not known to me and the sealed cover procedure is applicable to them in the present DPC.

7. That, I beg to state and submit that having regard to my eligibility to the promotion to I.P.S. according to which the selection Committee cannot consider a member of the MPS who has attained the age of 54 years on the 1st day of January of the year in which it meets under Rule No. 5(3) of the Regulation, 1955 as my date of birth is 1st February, 1946 and having reported that N. Ngaraipam, MPS and L.K. Haokip, MPS against whom Departmental proceeding and Criminal Prosecution as mentioned above, are pending have been selected by the selection committee in the DPC meeting held on 20-12-2000, the present representation for reviewing the DPC meeting held on 20-12-2000 is filed for not placing the facts relating to the suspension, departmental proceedings and criminal prosecution pending against them at the time of consideration by DPC. And the said fraudulent acts of the department concerned have deprived my rights of promotion as guaranteed and envisaged by the Constitution of India. Not only that, the rule of Natural justice has been denied to me.

8. That, it may not be out of place to submit that in a case reported in ATR 1987(1) CAT 547 it is held that the proceeding of the DPC can be reviewed if full facts were not placed before it earlier. Relying on the above point I beg to submit that the DPC proceeding of the DPC meeting held on 20-12-2000 should be reviewed for not placing the departmental proceedings and Criminal prosecutions pending against N. Ngaraipam, MPS and L.K. Haokip, MPS before the DPC and the sealed cover procedure is applicable to them.

9. That, I beg to state and submit that the fraudulent acts above-said of the Department and intentional concealment of facts by the Department concerned has rendered denial of my right of promotion and denial of the Rule of law and the Principles of Natural Justice as well.

10. That, I beg to state and submit that if the DPC proceedings of 20-12-2000 is not reviewed as stated above my chance of being promoted to I.P.S. shall be denied in my life which is an irreparable loss to me and the proceedings of the D.P.C. held on 20-12-2000 may be reviewed on compassionate ground.

11. That, I beg to state and submit that the commission in exercise of the power under Rule 7 of the Regulation, 1955 may be pleased to pass an order for review of the DPC for taking into consideration of the facts as given above relating to N. Ngaraipam, MPS and L.K. Haokip, MPS.

Regard being had to the above, the undersigned pray that the proceedings of the DPC meeting held on 20-12-2000 be reviewed in the interest of justice and public policy.

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

Yours faithfully,

Dated/Imphal
The 22nd January, 2001.

(M. Mani Singh)
Superintendent of Police,
Vigilance & Anti Corruption,
Manipur, Imphal.

Advanced copy to :-

1. Shri Surinder Nath,
Lt.General (Rtd.),
Chairman,
Union Public Service Commission,
Enolpur House, Sahajahan Road,
New Delhi - 110011.
2. The Chief Secretary,
Government of Manipur.

- for favour of information.

Attested
Advocate.

No. I-14011/14/2000-IPS.I
Government of India / Bharat Sarkar
Ministry of Home Affairs / Grih Mantralaya

New Delhi, the October, 2001

NOTIFICATION

29 OCT 2001

In exercise of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the 2000 Select List containing the names of the following members of the State Police Service of Manipur, prepared by the selection committee in its meeting held on 20.12.2000, towards filling up 2 substantive vacancies in the Manipur segment of the Joint Manipur - Tripura IPS Cadre during 2000.

Sl. No.	Name (S / Shri)	Date of Birth
1.	* N. Ngaraipam (ST)	05.03.47
2.	* L. K. Haokip (ST)	01.03.53

* The name at Sl. No. 1 has been included in the list provisionally subject to clearance in the criminal case pending against him before the Hon'ble Court of Special Judge Manipur East. The name at Sl. No. 2 has been included in the list provisionally subject to clearance in the disciplinary proceedings pending against him and grant of Integrity certificate by the State Government.

(S.P. Verma)

Under Secretary to the Government of India
Tele No. 301 1527

New Delhi, the October, 2001

29 OCT 2001

1. The Chief Secretary, Government of Manipur, IMPHAL. (Attn: Shri H Gyan Prakash, Deputy Secretary-DP) with 2 spare copies with the request that the officers concerned may be intimated of their status in the Select List alongwith a copy of the Notification.

2. The Secretary, Union Public Service Service, Dholpur House, Shahjahan Road, NEW DELHI. (Attn: Sh. Manjit Kumar, Under Secretary, AIS) for information.

(S.P. Verma)

Under Secretary to the Government of India

Arrested
Advocate.

Original Application No. 63 of 2001

With

Original Application No. 150 of 2001

Date of decision: This the 24th day of March 2002

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

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

O.A.No.63/2001

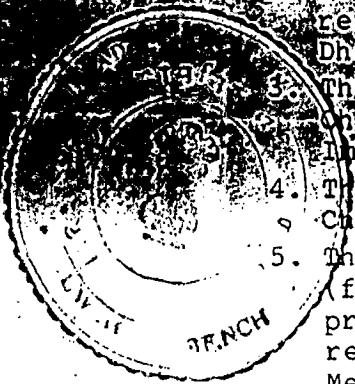
Moirangthem Mani Singh, MPS,
Working as Superintendent of Police,
Vigilance & Anti Corruption,
Manipur, Imphal.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Home, New Delhi.
 2. The Union Public Service Commission, represented by its Chairman, Dholpur House, New Delhi.
 3. The State of Manipur, represented by the Chief Secretary to the Government of Manipur, Imphal.
 4. The State of Tripura, represented by the Chief Secretary, Agartala.
 5. The Selection Committee (for selection of MPS officers for promotion to IPS, held on 20.12.2000), represented by Shri Mata Prasad, Member, UPSC, Dholpur House, New Delhi.
 6. Shri D.L. Vohra, Director General of Police, Government of Tripura, Agartala.
 7. Shri V.C. Goul, Inspector General Border Security Force, Government of India, New Delhi.
 8. Shri N. Nagaraipam, MPS, Commandant, Home Guard (Valley), Manipur, Imphal.
 9. Shri L.K. Haokip, Superintendent of Police, Crime Branch, Manipur, Imphal.Respondents
- By Advocates Mr A. Deb Roy, Sr. C.G.S.C., Mr R.K. Lalit and Ms V. Gyanpati Singh for respondent No.9.



O.A.No.150/2001

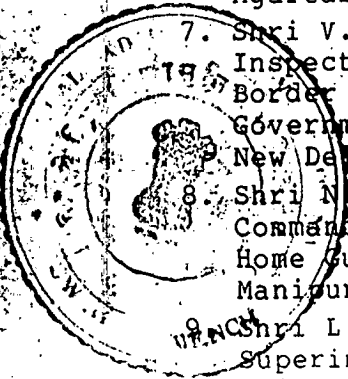
Shri A. Rajendra Singh,
Working as Commandant,
9th Battallion, Manipur Rifles,
District- Senapati, Manipur.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Nair.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Home, New Delhi.
 2. The Union Public Service Commission, represented by its Chairman, Dholpur House, New Delhi.
 3. The State of Manipur, represented by the Chief Secretary to the Government of Manipur, Imphal.
 4. The State of Tripura, represented by the Chief Secretary, Agartala.
 5. The Selection Committee (for selection of MPS officers for promotion to IPS, held on 20.12.2000), represented by Shri Mata Prasad, Member, UPSC, Dholpur House, New Delhi.
 6. Shri D.L. Vohra, Director General of Police, Government of Tripura, Agartala.
 7. Shri V.C. Goul, Inspector General, Border Security Force, Government of India, New Delhi.
 8. Shri N. Nagaraipam, MPS, Commandant, Home Guard (Valley), Manipur, Imphal.
 9. Shri L.K. Haokip, Superintendent of Police, Crime Branch, Manipur, Imphal.
 10. S. Manglemjao Singh, MPS, (under suspension)
C/o The Director General of Police, Manipur, Imphal.
-Respondents
- By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
N. Kumarjit Singh and N. Surendrajit Singh for
respondent No.8.



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O R D E R

CHOWDHURY.J. (V.C.)

The equity and legitimacy of the selection from amongst the State Police Service officers to the Indian Police Service (IPS for short) in respect of Manipur segment of the Joint Cadre of the States of Manipur and Tripura is the core issue raised in both the applications. In view of the commonality of the issues the two applications were taken up for consideration together.

2. The facts in brief relevant for the purpose of adjudication of the proceeding are given herein below:

The committee set up in accordance with Regulation 3 of the IPS (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as the Regulations) met for preparing a list of members of the State Police Service found suitable for promotion to the IPS on 20.12.2000 against two vacancies. According to the applicant in O.A. No. 63/2001 he possessed the highest merit amongst the persons selected, but the respondents in a most unjust manner overlooked his case and selected respondent Nos. 8 and 9 who were of lesser merit. Above all, the respondent Nos. 8 and 9 were placed under suspension in connection with criminal cases. The applicant contended that serious charges of misappropriation of public money by abuse of power was brought against the respondent No. 8 on the basis of FIR No. 368 (7)/1993 of Imphal Police Station and a case under Section 120(B)/409/466/468/471 IPC read with Section 13(20) M/W Section 13(C) of the Prevention of Corruption Act, 1988 is pending before the Special Judge, Manipur East. Similarly, the respondent No. 9, selected as No. 2, was placed.....

Attested
Advocate.

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placed under suspension on 16.2.1998, though subsequently the suspension order was revoked without prejudice to the departmental proceeding pending against him. A regular case namely FIR case No.322 (8) 98-IPS, under Section 121/121-A/400/212 IPC, 13 UA(P) Act and 25(1-B) Arms Act was registered at Imphal Police Station against the said respondent and chargesheet was published in the Court of the Chief Judicial Magistrate, Imphal against the said person. Despite the above facts, the Selection Committee selected the aforesaid two persons overlooking relevant considerations. The applicants thus assailed the process of selection of respondent Nos.8 and 9 and further sought for a direction from this Tribunal for a review selection and to consider the case of the applicants lawfully.

3. The respondents contested the claim of the applicant and written statement has been filed on behalf of respondent Nos.2 and 5 in both the cases. Written statement has also been filed on behalf of the Union of India apart from the private respondents. The respondent No.8 in his written statement while contesting the claim of the applicant stated that the allegations made against him are reckless. It was also mentioned that the concerned Government had already taken a decision to drop the prosecution against the respondent No.8. The respondent No.9, similarly, in his written statement referred to the judgment and order passed by the Chief Judicial Magistrate in the criminal case discharging the accused persons including the applicant vide order dated 21.4.2001.

4. Mr. B.K. Sharma, learned Sr. Counsel for the applicant, in O.A.No.63/2001 submitted that the decision making process of the Selection Committee was vitiated

since.....

Attested
Advocate.

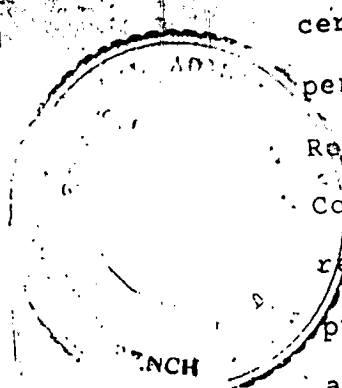
since all relevant materials were not placed before the Selection Committee as to the integrity and other matters of the respondent Nos.8 and 9. The learned Sr. Counsel referring to the Regulations, more particularly as to the provisions regarding preparation of the list of suitable officers mentioned at Regulation 5 submitted that the Selection Committee under the law is required to consider the question of suitability of the officers for selection with reference to their integrity and should specifically record in their proceedings that they were satisfied from the remarks in the confidential reports of the officers selected by them for inclusion in the Select List that there was nothing against their integrity. Admittedly, the Selection Committee on the date of selection since not made aware of the proceedings mentioned, relevant materials were kept away from the Selection Committee and thereby affected the decision making process, contended Mr B.K. Sharma. The learned Sr. Counsel also submitted that particularly in the case of O.A.No.63/2001, the officer had a brilliant track record. Mr B.K. Sharma further contended that there was down gradation in the ACR of the applicant without adequate notice and therefore, the applicant in O.A.No.63/2001 did not receive fair consideration before the Selection Committee and thereby the applicant was denied the protection guaranteed under Articles 14 and 16 of the Constitution.

5. Countering the arguments of Mr B.K. Sharma, Mr A. Deb Roy, learned Sr. C.G.S.C., contended that under the constitutional and statutory scheme the eligible officers are only entitled for consideration of their case and there is no fundamental right for being appointed. The Selection Committee duly assessed the service records and thereafter.....

Amended
etc.

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thereafter on assessment of individual merit the high-powered committee selected the persons in accordance with law. Mr Deb Roy submitted that the State Government intimated the fact of sanctioning of prosecution in respect of respondent No.8. However, the fact of chargesheet filed in the Court of Law was not brought to the notice of the Commission before the meeting of the Selection Committee. In respect of respondent No.9 it was mentioned that some vigilance/criminal cases were pending against him and chargesheet was filed against him in the Court of Law. There is no embargo for inclusion of officers in the Select List whose integrity certificate is withheld by the State Government or against whom departmental/criminal proceedings are pending. Their inclusion in the Select List remain provisional subject to furnishing of the integrity certificate by the State Government. The officers are eligible to be appointed to the IPS if they are exonerated from the disciplinary/criminal proceeding etc and integrity certificate is issued by the State Government during the period the Select List remain operative in terms of Regulation 7(4). Mr Deb Roy submitted that the Selection Committee which met on 20.12.2000 also included the respondent No.9 in the Select List at serial No.2 provisionally subject to grant of integrity certificate and clearance of disciplinary/criminal proceeding pending against him. Mr Deb Roy submitted that the Selection Committee on the basis of materials on record could not treat the disciplinary/criminal proceeding pending against respondent No.8 as the said fact was not brought to the notice of the Selection Committee and therefore, he was included unconditionally. Till the filing of the written statement.....



Noted

statement the Select List was not approved. If before the approval of the Select List the State Government would have brought into the notice of the authority the Select List could have been modified and the name of respondent No.8 might have been made provisional in the Select List at the time of approval of the Commission in terms of the provisions of Regulation 7.

6. In this proceeding we are basically concerned with the process of selection. From the facts alluded, the State Government intimated that the prosecution sanction was accorded in respect of respondent No.8, but the Commission was not made aware that chargesheet was filed in the Court of Law against the said respondent before the meeting of the Selection Committee. The integrity certificate of respondent No.8 was issued by the State Government, whereas the integrity certificate in respect of respondent No.9 was withheld. The Selection Committee could not be faulted in considering the cases of respondent Nos.8 and 9 in the situation. As per the Government of India decision vide M.H.A. letter No.28/38/64-AIS (III) dated 5.1.1965, the Selection Committee is required to consider the question of suitability of the officers for selection with reference to their integrity and is required to consider record the satisfaction from the remarks of the confidential report of the officers selected. They are to act only on the basis of the materials furnished. On the materials available it is difficult to upset the assessment of the merits of the persons selected. No malafide or arbitrariness is discernible. There is no allegation of malafide against the Selection Committee. On consideration of the materials on record we are of the opinion that the Selection Committee fairly considered the case of the eligible.....



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eligible officers on the basis of the service records. The Regulation is a complete code by itself, which has provided due safeguard.

7. In the set of circumstances we do not find any merit in these applications. Accordingly both the applications are dismissed. There shall, however, be no order as to costs.

Sd/VICE CHAIRMAN

Sd/MEMBER (A)

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Amended
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No.SP/V/PER/2002 / 1311
Government of Manipur
The State Vigilance Commission
Office of the Supdt. of Police (Vigilance) & Anti Corruption, Manipur.

Imphal, the 16th October, 2002.

To

The Chief Secretary,
Government of Manipur, Imphal.

(Through Proper Channel).

Subject :- Humble representation for inclusion of the name of the undersigned in the list of the Eligible M.P.S. Officers to be prepared under Regulation 5(2) of the I.P.S. (Appointment by promotion) Regulation, 1955 by the State Government for consideration for preparation of select list of 3 (three) suitable M.P.S. Officers for appointment by promotion to the 3 (three) substantive vacancies for the State of Manipur in the joint cadre of I.P.S. (M.T.)

Sir,

I, the undersigned, have the honour to put up the following facts for your kind perusal and favourable actions :-

1. That, under Rule 4(1)(b) of the Indian Police Service (Recruitment) Rules 1954 members of a State Police Service are appointed by promotion to the Indian Police Service after following the procedures prescribed in the Rule No.9 of the I.P.S. (Recruitment) Rules 1954 and I.P.S. (Appointment by promotion) Regulation, 1955 which has been made by the Central Government in pursuance of Sub Rule (1) of Rule 9 of I.P.S. (Recruitment) Rules 1954.
2. That, Regulation 3 of I.P.S. (Appointment by promotion) Regulation, 1955 speaks about the constitution of a committee to make selection of the eligible members of the State Police Service for appointment by promotion to I.P.S. The committee constituted under Regulation 3 of I.P.S. (Appointment by promotion) Regulation, 1955 has to follow strictly the procedures and requirements prescribed in Regulation 5 of the I.P.S. (Appointment by promotion) Regulation, 1955 for preparation of the list of suitable State Police Officers for appointment by promotion.

Attested
Advocate.

3. That, according to Regulation 5(1) of I.P.S. (Appointment by promotion) Regulation, 1955, the committee constituted under Regulation 3 shall ordinarily meet at intervals not exceeding one year and prepare a list of such members of the State Police Service, as are held by them to be suitable for promotion to service (I.P.S.). The number of members of the State Police Service to be included in the list shall be calculated as the number of substantive vacancies anticipated in the course of the period of 12 (twelve) months. The relevant portions of the Regulation 5(2) and (3) of the I.P.S. (Appointment by promotion) Regulation, 1955 are quoted hereunder :-

5(2) *The Committee shall consider for inclusion in the said list, the cases of members of the State Police Service in the order of seniority in that service of a number which is equal to three times the number referred to in Sub Regulation(1) ;*

5(3) *The Committee shall not consider the cases of the members of the State Police Service who have attained the age of 54 years on the first day of January of the year in which it meets ;*

Provided that a member of the State Police Service whose name appears in the select list in force immediately before the date of the meeting of the committee shall be considered for inclusion in the fresh list, to be prepared by the committee, even if he has in the mean while attained the age of 54 years.

Provided further that a member of the State Police Service who has attained the age of fifty four years on the first day of January of the year in which the committee meets shall be considered by the committee, if he was eligible for consideration on the first day of January of the year or any of the years immediately preceding the year in which such meeting is held but could not be considered as no meeting of the committee was held during such preceding year or years.

4. That, the committee constituted under Regulation 3 held its last meeting on 20/12/2000 for preparation of select list of the suitable officers for 2 (two) substantive vacancies in I.P.S. for Manipur State In the joint cadre of I.P.S. (M.T.) arose (1) one on 04/03/1999 due to voluntary retirement of Shri

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P.C. Sharma, I.P.S. and (2) another on the enhancement of promotion quota of I.P.S. w.e.f. 01/01/2000 ; and the committee in compliance of the requirements of Regulation 5(2) considered 6 (six) eligible M.P.S. Officers (number of vacancies x three times the number of vacancies) in order of seniority. The said six eligible M.P.S. Officers are :-

Sl.No.	Name	Date of birth
1.	A. Rajendro Singh	28/06/1950
2.	S. Tualchinkham(ST)	01/03/1947
3.	Ngaraipam (ST)	05/03/1947
4.	L.K. Haokip (ST)	01/03/1953
5.	M. Mani Singh (undersigned)	01/02/1946
6.	S. Manglemjao Singh	01/03/1956

The name of the undersigned was included in the said list of 6 (six) eligible officers by virtue of the first and second provisos to Regulation 5(3) of the I.P.S. (Appointment by promotion) Regulation, 1955 which had been quoted above. But, unfortunately, the select list prepared by the last committee in its meeting held on 20/12/2000 which could not be effectively utilised by appointing the said selected officers is to be reviewed and revised every year in compliance with Regulation 5(6) of the I.P.S. (Appointment by promotion) Regulation.

5. That, it is reliably learnt that a selection committee is going to hold its meeting very shortly within this year for promotion to I.P.S. against 3 (three) substantive vacancies arose on (i) one vacancy on 04/03/1999 due to voluntary retirement of Mr. P.C. Sharma, I.P.S., (ii) one vacancy on 01/01/2000 on the enhancement of promotion quota and (iii) one vacancy on 20/12/2000 on the retirement of Shri L. Jugeshore, I.P.S. By virtue of 1st and 2nd provisos to Regulation 5(3) and Regulation 5(2) of the I.P.S. (Appointment by promotion) Regulation, 1955 my name should be included in the said list of 9 (nine) eligible M.P.S. Officers in order of seniority to be prepared by the State Government for consideration by the selection committee for preparation of the select list of suitable officers for appointment by promotion to the said 3 (three) substantive vacancies in I.P.S. inasmuch as I did not attain the age of 54 years for consideration on the 1st day of January of the respective years in which the said 3 (three) substantive vacancies had arisen. Therefore, any preparation of list of 9 (nine) eligible M.P.S. Officers in order of seniority without my name for the said 3 (three) substantive vacancies in I.P.S. will be violative of the mandates of 1st and 2nd provisos to Regulation 5(3) of the I.P.S. (Appointment by promotion) Regulation, 1955.

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6. That, further, it has been learnt that the State Government prepared a list of eligible 9 (nine) M.P.S. Officers under Regulation 5(2) of I.P.S. (Appointment by promotion) Regulation, 1955 for consideration for selection of suitable officers for appointment by promotion to the said 3 (three) substantive vacancies in I.P.S. and in that list of 9 (nine) M.P.S. Officers my name is not included. The name of the said 9 (nine) eligible officers are

Sl.No.	Name	Date of birth
1.	A. Rajendro Singh	28/06/1950
2.	S. Tualchinkham(ST)	01/03/1947
3.	Ngaraipam (ST)	05/03/1947
4.	L.K. Haokip (ST)	01/03/1953
5.	S. Manglemjao Singh	01/03/1956
6.	Y. Bimolchandra Singh	
7.	Kh. Chandramani Singh	
8.	S. Ibocha Singh	
9.	S. Manaobi Singh	

There is no any reason or justification under the I.P.S. (Appointment by promotion) Regulation, 1955 and I.P.S. (Recruitment) Rules, 1954 for excluding my name in the said list prepared in compliance with Regulation 5(2) and 1st & 2nd provisos to Regulation 5(3) of I.P.S. (Appointment by promotion) Regulation, 1955 for the said 3 (three) substantive vacancies in I.P.S. while the names of (I) Shri S. Tualchinkham(ST) whose date of birth is 01/03/1947 and (II) Shri Ngaraipam(ST) whose date of birth is 05/03/1947 are included in the said list. Over and above, my Fundamental Rights guaranteed under Article 16 of the Constitution of India will be violated in the event of inclusion of the said two M.P.S. Officers and exclusion of my name in the said list of 9 (nine) eligible M.P.S. Officers for consideration for selection of suitable officers for appointment to the said 3 (three) substantive vacancies in I.P.S.

7. That, it is reiterated that according to 1st and 2nd provisos to Regulation 5(3) and Regulation 5(2) of the I.P.S. (Appointment by promotion) Regulation, 1955 my name should be included in the list of 9 (nine) eligible M.P.S. Officers in order of seniority for consideration for selection of suitable officers for appointment to the said 3 (three) substantive vacancies in I.P.S.

In the above premises, I, therefore, most graciously and respectfully request your goodself to include my name in the list of eligible M.P.S. Officers in order of seniority to be prepared by the State Government in compliance with the provisions of Regulation 5(2) and 1st and 2nd provisos to Regulation 5(3) of the I.P.S. (Appointment by promotion) Regulation, 1955 for consideration for selection of suitable officers to the said 3 (three) substantive vacancies in I.P.S. for the Manipur State in the joint cadre of I.P.S. (M.T.) for the ends of justice and public policy and also in order to avoid legal complications.

Yours faithfully,

16/10/02
(M. Mani Singh), MPS
Superintendent of Police,
Vigilance & Anti Corruption,
Manipur, Imphal.

Dated/Imphal,

The 16th October, 2002.

Advance copy to :- NO. SP/V/PER/2002/1311-2

1. The P.S. to the Chairman,
Union Public Service Commission,
Dholpur House, Sahajahan Road,
New Delhi - 110011.

for kind attention and
favourable follow up
action.

2. The Chief Secretary,
Government of Tripura.
3. Shri S. P. Verma,
Under Secretary,
Ministry of Home Affairs,
New Delhi

16/10/02
(M. Mani Singh), MPS
Superintendent of Police,
Vigilance & Anti Corruption,
Manipur, Imphal.

-42-

GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

No. 3/5/2001-IPS/DP.

Imphal, the 22nd June, 2002.

To

The Secretary,
Government of India,
Ministry of Home Affairs,
New Delhi.

Sub:- Preparation of IPS Select List
to be held during 2002.

Sir,

I am directed to say that the UPSC in their D.O. letter No. 4/2/2002-AIS, dt. 29-5-2002 have intimated to send proposal for preparation of IPS Select List for the year 2001 and 2002.

The State Government under letter of even number dt. 28-12-2001 (copy enclosed) had already intimated that there will be vacancies as under:-

1) 2(two) posts are to be carried forward from the 2000 Select List as appointment of the Officers provisionally included in the 2000 Select List namely, S/Shri N. Ngaraipen and S/Shri L.K. Haakip cannot be made as the validity of the Select List may now expire in terms of the provisions of regulation 7 of the IPS (Appointment by promotion) Regulation, 1955.

2) 1(one) post is available due to retirement of Shri L. Jugeshwor Singh, IPS &c. dt. 31-12-2000.

It is, therefore, requested kindly to clarify as to whether the 2(two) carried forward vacancies for the 2000 can be treated for the year 2001 and if so the eligibility of the candidature can be determined as on 1-1-2001 in as much as the vacancy vice Shri L. Jugeshwor Singh, IPS (MT:1969) retired on 31-12-2000 can also be clubbed together for the year 2001 or to be treated separately as vacancy of 2002 changing thereby the eligibility of the candidature for 1(one) post as on 2002.

On receipt of Govt. of India's decision/clarification, necessary proposal for preparation of IPS Select List to the UPSC will be sent expeditiously.

P.T.O.

Accepted

Advocate.


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- 2 -

It may also be mentioned here that the question of preparation of IPS Select List for the year 2002 may not arise if the single vacancy vice Shri T L. Jugeshwor Singh is clubbed together with those of the carried forward 2(two) vacancies of 2002, i.e., there will be 'nil vacancy' in the year 2002.

Encl:- As above.

Yours faithfully,


(Th. Dhananjay Singh)
Under Secretary (IP), Govt. of Manipur.

Copy to:- 1) The Secretary,
Union Public Service Commission,
Dholpur House, New Delhi with
reference to D.O. No. 4/2/2002-AIS,
dt. 29-5-2002.

2) The Chief Secretary,
Government of Tripura,
Agartala.

Attested

ate.

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ANNEXURE - 2

IMMEDIATE

No.3/5/2001-IPS /DP
GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

Imphal, the 16th November, 2002.

To

Shri M. Mani Singh, MPS
Superintendent of Police,
Vigilance and Anti Corruption
Manipur.

Subject:- *Humble representation for inclusion of the name of the undersigned in the list of the Eligible M.P.S. Officers to be prepared under Regulation 5(2) of the IPS (Appointment by Promotion) Regulation, 1955 by the State Government for consideration for preparation of select list of 3(three) suitable M.P.S. Officers for appointment by promotion to the 3(three) substantive vacancies for the State of Manipur in the Joint Cadre of IPS(MT).*

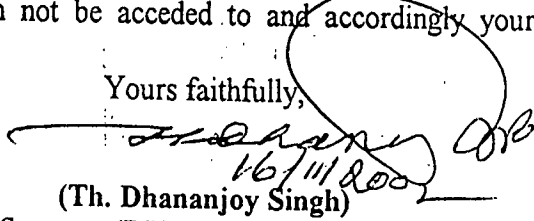
Sir,

With reference to your representation/letter No.SP/V/PER/2002/1311 dated 16/11/2002 on the above subject, I am directed to say that your representation has been duly examined and found that you are not eligible for inclusion in the list of eligible Officers to be placed before the Selection Committee for preparation of Select List of 2001 under the provisions contained in Regulation 5(2) and 1st and 2nd proviso to Regulation 5(3) of the IPS(Appointment by Promotion), Regulations, 1955 on the following grounds:-

- (i) Though your name was included in the consideration zone placed before the Selection Committee for preparation of the 2000 Select List, your name was not included in the 2000 Select List approved by the UPSC and published in the Gazette of India by the Government of India vide Government of India, Ministry of Home Affairs Notification No.I-14011/14/2000-IPS.I dated 29-10-2001(copy enclosed).
- (ii) Your date of birth as per your service record is 01-02-1946 and as such you have already attained the age of 54 years on the crucial date i.e. 01-01-2001 for preparation of subsequent Select List of 2001.
- (iii) As your name was not included in the previous Select List of 2000, you are not eligible for inclusion in the consideration zone for preparation of Select List of 2001 under the statutory provisions of the IPS (Appointment by promotion) Regulations, 1955 as amended from time to time.

2. In view of the above clarification, your request for inclusion of your name in the zone of consideration for preparation of Select List of 2001 can not be acceded to and accordingly your representation is disposed of.

Yours faithfully,


(Th. Dhananjoy Singh)

Under Secretary(DP), Government of Manipur.

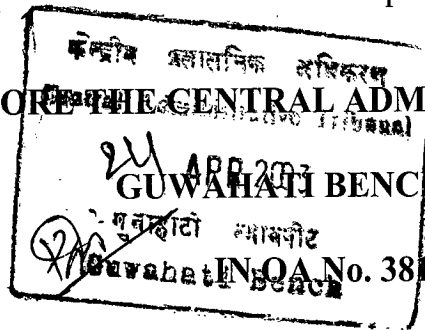
Copy to:-

1. The Secretary to the Government of India,
Department of Personnel and Training, New Delhi.
2. The Secretary, Union Public Service Commission,
Dholpur House, Sahajahan Road, New Delhi.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL



GUWAHATI BENCH, GUWAHATI

IN OA No. 381 OF 2002

IN THE MATTER OF :

M. MANI SINGH

VERSUS

... APPLICANT

UNION OF INDIA & OTHERS

... RESPONDENTS

WRITTEN STATEMENT ON BEHALF OF THE UPSC (RESPONDENT NO. 2)

1. I, G.C. Yadav son of Shri Kamal Singh Yadav, solemnly affirm and state that the Deponent is an officer in the office of the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and is authorised to file the present reply on behalf of Respondent No. 2. The Deponent is fully acquainted with the facts of the case as gathered from the records of the Commission and deposed below.

2. That the deponent has read and understood the contents of the above application and in reply he submits as under:

3.1 At the outset, the deponent respectfully submits that the Union Public Service Commission being a Constitutional Body under Articles 315 to 323 of the Constitution discharge their functions, duties and Constitutional obligations assigned to them under Article 320 and other relevant Articles of the Constitution of India as per the Rules/Regulations in force.

3.2 Under Article 312 of the Constitution, the All India Services Act, 1951 was passed by the Parliament. In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act 1951, the Central Government after consultation with the State Governments have framed various Recruitment Rules for recruitment/promotion to the IAS/IPS/IFS. In pursuance of these rules, the IPS

Union Public Service Commission
- Reply to No. 2
through
Mr. Mani Singh
24/4/03
C.A. 381 OF 2002
C.A. 381 OF 2002

(Appointment by Promotion) Regulations, 1955 (Promotion Regulations, in short), have been framed by the Government of India as per provisions of the Constitution of India (Article 309). In accordance with the provisions of these Regulations, the Selection Committee presided over by the Chairman or a Member of the Union Public Service Commission make selections of the State Police Service (SPS, in short) officers for promotion to the Indian Police Service based on the proposal sent by the concerned State Government.

3.3 Thus, in discharge of their Constitutional obligations, the Union Public Service Commission, after taking into consideration the records/received from the State Government under Regulation 6 and observations of the Central Government received under Regulation 6A of the Promotion Regulations, accord their approval to the recommendations of the Selection Committee in accordance with the provisions of Regulation 7 of the aforesaid Regulations. The selections so done, in a just and equitable manner on the basis of relevant records and following the relevant Rules and Regulations, are not open for interference by any authority whatsoever, inasmuch as, it would tantamount to curtailment or modification of the Constitutional powers of the Union Public Service Commission.

PRELIMINARY OBJECTIONS

4. The Deponent respectfully submits that aggrieved by his non-selection for promotion to the IPS, the applicant had earlier filed O.A. No. 63/2001 before this Hon'ble Tribunal. In the aforesaid Original Application, the counsel of the applicant, Sh. M.Mani Singh had submitted that the officer had a brilliant track record and the ACRs of the applicant were downgraded without adequate notice and therefore the applicant in (O.A. No. 63/2001) did not receive fair consideration before the Selection Committee. The Original Application filed by the applicant and the OA No. 150/2001 filed by Shri A. Rajendra Singh were dismissed by the Hon. Tribunal by their common order dated 28.03.2002 holding that on consideration of the material on record, the Hon'ble Tribunal were of the opinion that the Selection Committee fairly considered the cases of the eligible officers on the basis of the service records. The Hon. Tribunal also held that the Regulation is a complete code by itself which has provided due safeguard. Since

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the issues raised in the instant OA are similar and the same have already been considered by this Hon'ble Tribunal in OA No. 63/2001 filed by the applicant, the instant Original Application is not maintainable on account of the principle of *res judicata* and the same deserves to be dismissed by this Hon'ble Tribunal in limine. This reply is, however, being filed by this Respondent so as to bring the factual position to the notice of this Hon'ble Tribunal.

PRELIMINARY SUBMISSIONS

5.1 Most respectfully, the deponent submits that the selection of State Police Service Officers for promotion to the IPS are governed by the IPS (Appointment by Promotion) Regulations 1955. Regulation 3 of the said Regulations provides for a Selection Committee consisting of the Chairman of the Union Public Service Commission or where the Chairman is unable to attend, any other Member of the Union Public Service Commission representing it and in respect of the Joint cadre of the States of Manipur and Tripura the following officers as members: -

- i) Chief Secretary to Government of Manipur
- ii) Chief Secretary to Govt. of Tripura
- iii) D.G. & I.G. of Police, Govt. of Manipur
- iv) D.G. & I.G. of Police, Govt. of Tripura
- v) A nominee of the Government of India not below the rank of Joint Secretary.

The meeting of the Selection Committee is presided over by either the Chairman or a Member of the UPSC.

5.2 In accordance with the provisions of Regulation 5(4) of the said Regulations, the aforesaid Committee duly classifies the eligible SPS officers included in the zone of consideration as 'Outstanding', 'Very Good', 'Good' or 'Unfit' as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(5) of the said Regulations, the Selection Committee prepares a list by including the required number of names first from amongst the officers finally classified as 'Outstanding' then from amongst those similarly classified as 'Very Good' and thereafter from



amongst those similarly classified as 'Good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the State Police Service.

5.3 The ACRs of eligible officers are the basic inputs on the basis of which eligible officers are categorised as 'Outstanding', 'Very Good', 'Good', or 'Unfit' in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. The Selection Committee is **not guided merely by the overall grading that may be recorded in the ACRs but in order to ensure justice, equity and fair play, makes its own assessment on the basis of an in-depth examination of the service records of the eligible officers, deliberating on the quality of the officer** on the basis of their performance as reflected under various columns recorded by the Reporting/Reviewing officer/Accepting Authority in the ACRs for different years and then finally arrives at the classification to be assigned to each eligible officer in accordance with the provisions of the Promotion Regulations. While making an overall assessment, the Selection Committee takes in to account orders regarding appreciation for meritorious work done by the concerned officer. Similarly, the Selection Committee also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which, even after due consideration of his representation have not been completely expunged.

5.4 The matter relating to assessments made by the Selection Committee has been contended before the Hon'ble Supreme Court in number of cases. In the case of Nutan Arvind Vs. Union of India and others the Hon'ble Supreme Court have held as under:-

"When a high level Committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this court cannot sit over the assessment made by the DPC as an appellate authority."

[(1996) 2 SUPREME COURT CASES 488]

5.5 In the case of Durga Devi and another Vs. State of Himachal Pradesh and others, the Apex Court have held as under:-



“In the instant case, as would be seen from the perusal of the impugned order, the selection of the appellants has been quashed by the Tribunal by itself scrutinising the comparative merits of the candidates and fitness for the post as if the Tribunal was sitting as an appellate authority over the Selection Committee. The selection of the candidates was not quashed on any other ground. The Tribunal fell in error in arrogating to itself the power to judge the comparative merits of the candidates and consider the fitness and suitability for appointment. That was the function of the Selection Committee. The observations of this court in Dalpat A Basaheb Solunke case are squarely attracted to the facts of the present case. The order of the Tribunal under the circumstances cannot be sustained. The appeal succeeds and is allowed. The impugned order dated 10.12.1992 is quashed and the matter is remitted to the Tribunal for fresh disposal on other points in accordance with the law after hearing the parties.”

[1997 – SCC (L&S) – 982]

5.6 In the matter of UPSC vs. H.L. Dev and others Hon’ble Supreme Court have held as under:-

‘How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee.’

[AIR 1988 SC 1069]

5.7 In the case of State of Madhya Pradesh Vs. Shri Shrikant Chapekhar, the Hon’ble Supreme Court has held as under:

“We are of the view that the Tribunal fell into patent error in substituting itself for the DPC. The remarks in the annual confidential report are based on the assessment of the work and conduct of the official/officer concerned for a period of one year. The Tribunal was wholly unjustified in reaching the conclusion that the remarks were vague and of general nature. In any case, the Tribunal outstepped its jurisdiction in reaching the conclusion that



the adverse remarks were not sufficient to deny the respondent his promotion to the post of Deputy Director. It is not the function of the Tribunal to assess the service record of a Government Servant, and order his promotion on that basis. It is for the DPC to evaluate the same and make recommendations based on such evaluation. This court has repeatedly held that in a case where the Court/Tribunal comes to the conclusion that a person was considered for promotion or the consideration was illegal then the only direction which can be given is to reconsider his case in accordance with the law. It is not within the competence of the Tribunal, in the fact of the present case, to have ordered deemed promotion of the respondent.

[JT 1992 (5) SC 633]

5.8 In the case of Dalpat Abasaheb Solanke Vs. B.S. Mahajan, the Hon'ble Supreme Court have held as under:

"It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject.

[AIR 1990 SC 434]

5.9 In the case of Smt. Anil Katiyar Vs. UOI & others, the Hon'ble Supreme Court have held as under:-

"Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service or a civil post, the Tribunal has rightly proceeded on the basis that it is not expected to play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not set in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by malafides or on the ground of it being arbitrary. It



is not the case of the appellant that the selection by the DPC was vitiated by malafides.”

[1997 (1) SLR 153]

The Hon'ble Tribunal would appreciate that in view of the aforementioned authoritative pronouncements of the Hon'ble Supreme Court, the assessment made by the Selection Committee constituted under Regulation 3 of the Promotion Regulations is not open for scrutiny by any authority/institution or an individual.

CONTENTIONS OF THE APPLICANT

6. The applicant, Sh. M. Mani Singh, a State Police Service officer of Manipur has filed the instant application before the Hon'ble Tribunal praying that the respondents be directed to include his name in the Select List of 2001 for promotion to the IPS treating it to be a review selection for the Select List of 2000. The applicant has contended that:

- (i) He was illegally left out in the selection held on 20.12.2000. The State Government did not forward the full service records of the eligible officers, which eventually resulted in improper consideration of the his case.
- (ii) He has a distinguished service career and at no point of time there was any occasion to communicate any adverse remarks to him.
- (iii) He has a better service records than the officers who were considered for promotion to the IPS including Sh. L.K. Haokip and Sh. Ngaraipam. According to the applicant his ACRs for the last 05 years, which were taken into consideration by the Selection Committee are “Outstanding” and he is the only recipient of Presidential Award twice among the six officers considered by the Selection Committee. It appears that there was a down-gradation in so far as ACRs of the applicant are concerned so as to exclude him from purview of selection.
- (iv) The State of Manipur did not intimate anything regarding the pendency of disciplinary/criminal proceedings involving the very



integrity of the candidate. Had the State Government acted in a fair manner in supplying the said information to the Selection Committee in time, the applicant would have been promoted to the IPS in the year 2000 itself.

- (v) The DGP Manipur who was a better person to know the service credential of the officers was not included in the Committee and the DGP Tripura was included. In the absence of the DGP Manipur, the Selection Committee was not properly constituted.
- (vi) Taking into consideration the pendency of criminal as well as departmental proceedings against Sh. L.K. Haokip and Sh. N. Ngaraipam, the respondents cancelled the Select List prepared pursuant to the meeting held on 20.12.2000. Since the vacancies could not be filled up, the respondents ought to have convened the Review Selection Committee Meeting as of 2000 for the said 02 vacancies instead of carrying forward the same.

FACTUAL POSITION OF THE CASE

7.1 The Deponent most respectfully submits that a meeting of the Selection Committee for preparation of the Select List of 2000 for promotion of SPS officers to the IPS of Manipur-Tripura Joint Cadre (Manipur Segment) was held on 20.12.2000. Against the 2 (two) vacancies determined by the Govt. of India (MHA), the zone of consideration was determined as 06. The name of the applicant was considered at S.No. 5 in the eligibility list of 2000 and on an overall relative assessment of his service record he was assessed as 'Very Good' but his name could not be included in the Select List of 2000 due to the statutory limit on the size of the Select List. The names of S/Sh. N Ngaraipam and L K Haokip were considered at S.No.3 and 4 respectively in the eligibility list and both the officers were graded as 'Very Good' and on the basis of this assessment, in accordance with the provisions of Regulation 5(5) of the Promotion Regulations, their names were included in the Select List of 2000 at S.No. 1 & 2 respectively. The officers at Sl. Nos. 1 and 2 in the eligibility list were assessed as "Good" by the Selection Committee and could not be included as officers with a higher grading were available for inclusion. The Govt. of Manipur at the time of the



meeting had informed that disciplinary and criminal proceedings were pending against Sh. L.K. Haokip. Accordingly as per the provisions of proviso to Regulation 5(5), the inclusion of the name of Shri L.K. Haokip at S.No. 2 in the Select List of 2000 was made provisional subject to clearance of disciplinary and criminal proceedings pending against him and grant of integrity certificate by the State Govt.

7.2 Subsequently the applicant Sh. M Mani Singh submitted a representation contending that a charge sheet has already been filed in the Court against Sh. N. Ngaraipam. The State Govt. was requested by the Commission to clarify the position regarding disciplinary/criminal proceedings against S/Sh. N. Ngaraipam and L K Haokip. The State Govt. vide their letter dated 18.09.2001 clarified that the criminal case pending against Sh. LK Haokip has already been disposed by learned Chief Judicial Magistrate, Imphal holding that there is no material for framing charges. However a departmental enquiry is still pending against Sh. Haokip and a charge sheet in this case was issued to him on 22.04.1999.

7.3 As regards Sh. N Ngaraipam, the State Govt. vide their letter dated 04.10.2001 informed that the Investigating Officer had submitted a Charge Sheet before the Court of Special judge Manipur East and the Court has registered a case being as a Special Trial Case No. 01/2000. Since a charge sheet had been filed before the Court as per Explanation-1 under Regulation 5(5) of the Promotion Regulations, the criminal proceedings instituted against Sh. N. Ngaraipam were treated as pending. The record received from the Government of Manipur and observations of JCA Tripura received under Regulation 6, observations of the Central Government received under Regulation 6(A) and the recommendations of the Selection Committee were placed before the Commission for their consideration. The Union Public Service Commission approved the recommendations of the Selection Committee as contained in the Minutes of its meeting held on 20.12.2000 with the modification that the name at S.No. 1 in the Select List (i.e. Sh. Ngaraipam) has been included in the list provisionally subject to clearance in the criminal case pending against him before the Hon'ble Court of Special Judge Manipur East. Further that the name at S.No. 2 in the Select List



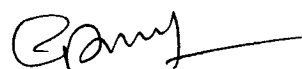
✓ (i.e. Sh. Haokip) has been included in the list provisionally subject to clearance in the disciplinary proceedings pending against him and grant of integrity certificate by the State Government.

7.4 The approval of the Commission was conveyed to the Govt. of India, Ministry of Home Affairs and the Govt. of Manipur vide Commission's letter dated 15.10.2001. Since the names of both the officers were included provisionally and the proceedings could not be finalized during the validity period, they could not be appointed. Thus in accordance with the provisions of Regulation 7(4) of the Promotion Regulations, the Select List of 2000 lapsed after 60 days from the date of approval i.e. on 15.10.2001. Thereafter, no Selection Committee Meeting has been held for the years 2001 & 2002 as the State Govt. did not forward the necessary proposals to the Commission.

REPLY TO CONTENTIONS

8. In reply to the contentions made by the applicant in the Original Application, the Deponent submits as follows:-

8.1 The allegation that he was illegally left out in the selection held on 20.12.2000 **is baseless and the same is denied**. The applicant was duly considered by the Selection Committee which met on 20.12.2000. On an overall relative assessment of his service records, he was assessed as 'Very Good' by the Selection Committee. **Two officers senior to the applicant** namely S/Sh. N. Ngaraipam and L.K. Haokip were on an overall relative assessment of their service records also assessed as 'Very Good' by the Selection Committee. In accordance with the provisions of Regulation 5(5) of the Promotion Regulations, the names of the aforementioned two officers were included in the Select List. The name of the applicant could not be included in the Select List due to the statutory limit on the size of the Select List. Regarding the grievance of the applicant that the State Government did not forward the full service records of the eligible officers, the Deponent submits that being cadre controlling authority of the State Police Service officers, the subject matter of writing of ACRs of the SPS officers and maintenance of the same come under the purview of the State Government



✓ and the Selection Committee relies on the information/documents furnished by the State Government. The Govt. of Manipur, the cadre controlling authority of the SPS officers may be making necessary submissions in this regard and the same may kindly be referred to.

8.2. Regarding the contention of the applicant that he has a distinguished service career and at no point of time there was any occasion to communicate any adverse remarks, the Deponent submits that for making an overall relative assessment, the Selection Committee as per the procedure followed in the Union Public Service Commission examines the service records of each of the eligible officers, with special reference to the performance of the officers during the last five years (preceding the year in which the Select List is being prepared.). The Selection Committee deliberates on the quality of the officer as indicated in the various columns recorded by the reporting/reviewing officer/accepting authority in the ACRs for different years and then after a detailed mutual deliberation and equitable discussion finally arrives at a classification assigned to each officer. While doing so, the Selection Committee also reviews and determines the overall grading recorded in the CRs to ensure that the overall grading in the CRs is not inconsistent with the grading/remarks under various specific parameters or attributes. The Selection Committee takes into account orders regarding appreciation for the meritorious work done by the officers concerned and also keeps in view orders awarding penalties or any adverse remarks duly communicated to the officer, which, even after due consideration of his representation by the competent authority are not expunged. The procedure adopted by the Selection Committee is uniformly and consistently applied to all States/Cadres for induction into the All India Services. Regarding the contention of the applicant there was no occasion to communicate any adverse remarks to him, the Deponent submits that as per the provisions of the Promotion Regulations, the promotion of State Police Service officers to the IPS are made on merit. The Hon'ble Supreme Court in the case of Mir Ghulam Hussan versus Union of India & other [AIR 1971 SC 1138] have held as under:-



"Promotion is made on the basis of positive merit. Absence of adverse remarks in the confidential roll is no criterion of the quality of an officer."

Thus in respect of selection where merit is the nucleus of selection, the applicant cannot claim promotion on the ground that at no point of time there was any occasion to communicate him any adverse remarks because promotion is made on the basis of positive merit and not on the basis of absence of adverse remarks.

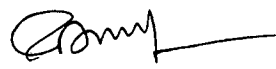
8.3 As regards the contention of the applicant that he has a better service record than the officers who were considered for promotion to the IPS for the year 2000, the Deponent submits that the applicant is substituting his own judgement to that of a statutorily set up Selection Committee which consists of very high ranking responsible officers. As submitted in the preceding paragraphs, in order to find out whether the final grading given by the reporting/reviewing officer is consistent with the performance of the officer, the Selection Committee examines the service records of each eligible officer and on the basis of the performance as reflected under various columns of his ACRs in respect of various functions assigned to him, arrives at the final grading to be given to the officer for that year. Thus the overall grading assigned by the Selection Committee may not be the same as given by the reporting/reviewing authority. In order to ensure equity, justice and fair play in the assessment of ACRs, the Selection Committee adopts uniform norms and consistent yardstick which are applicable to all States/Cadres.

8.4. Regarding the contention of the applicant that his ACR were downgraded by the Selection Committee, the Deponent submits that the grading given by the reporting/reviewing officer in the ACR reflects the absolute merit of the officer reported upon, whereas the classification made by the Selection Committee on the basis of a deep examination of the service records of all the eligible officers in the zone of consideration reflects the merit of the officer in comparison with the other officers in the zone of consideration. In view of authoritative pronouncements of the Hon'ble Supreme Court as mentioned in paras 4.4 to 4.9, the assessment made by the Selection Committee constituted under Regulation 3 of the Promotion Regulations is not open for scrutiny by any institution or individual.

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8.5 As regards the contention at 5(iv), the Deponent submits that at the time of the meeting the State Government had informed that disciplinary proceeding and criminal proceeding instituted against Sh. L.K. Haokip (the officer included at Sl.No.2 in the Select List) were pending, and thus as per the provisions of proviso to Regulation 5(5) of the Promotion Regulations, the inclusion of the name of Sh. L.K. Haokip was made provisional subject to clearance of disciplinary and criminal proceedings pending against him and grant of integrity certificate by the State Government. As regards the proceedings against Sh. N. Ngaraipam (the officer included at Sl. No. 1 in the Select List), the Deponent submits that the Govt. of Manipur vide their letter dated 06.02.2001 submitted their observation on the representation dated 22.01.2001 of the applicant. The State Government stated that the fact of filing of charge-sheet against Sh. N. Ngaraipam was not intimated to the Commission as it was reportedly not known to the Department at that time. Subsequently the Govt. of Manipur vide their letter dated 04.10.2001 clarified that in respect of Sh. N. Ngaraipam, the investigating officer had submitted a charge sheet before the Court of Special Judge, Manipur (East) and the Court had registered a case being Special Trial Case No. 01/2000. The submissions of the State Govt. in this regard may also kindly be referred. The record received from the State Government, observation of JCA Manipur-Tripura received under Regulation 6 and the views of the Central Government received under Regulation 6(A) and the recommendations of the Selection Committee were placed before the Commission for their consideration. The Commission approved the recommendations of the Selection Committee as contained in the minutes of its meeting held on 20.12.2000 with the modification that the name of Sh. N. Ngaraipam at S.No. 01 is also made provisional subject to clearance in the criminal case pending against him before the Hon. Court of Special Judge, Manipur (East). The approval of the Commission was conveyed to the Govt. of India, Ministry of Home Affairs and the State Government vide Commission's letter dated 15.10.2001.

8.6 The assertion of the applicant that had the State Government acted in a fair manner in supplying the information regarding pendency of disciplinary/criminal



proceedings, he would have been promoted to the IPS in the year 2000 itself is incorrect because assessment made by the Selection Committee on the basis of ACRs of the eligible officers and the pendency of disciplinary/criminal proceedings have no effect on the overall assessment of the concerned officer. However, if an officer on the basis of the grading assigned by the Selection Committee on an overall relative assessment of his service records, find a place in the suitability list, proviso to Regulation 5(5) of the Promotion Regulations comes into picture. The said proviso reads as under:-

"Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government."

In accordance with the provisions of the aforementioned proviso, the name of an officer against whom disciplinary/criminal proceedings are pending or if the State Government withholds the integrity certificate, the selection of such officer is made provisional subject to clearance in the disciplinary/criminal proceedings or grant of integrity certificate as the case may be.

8.7) As regards the contention at para 5(v), the Deponent submits that the Selection Committee for selection of SPS officers for promotions to the IPS is constituted under Regulation 3 of the IPS Promotion Regulations. Regulation 3(3) clearly provides that the absence of a member other than the Chairman or the Member of the Commission shall not invalidate the proceedings of the Committee if more than half of the members of the Committee had attended its meetings. **Thus, the absence of Director General of Police, Manipur who was a member of the Selection Committee does not entail any illegality or vitiate the selections made by the Selection Committee.** The meeting of the Selection Committee was held in the office of the Union Public Service Commission at New Delhi and it was attended by the Chief Secretary, Govt. of Manipur, the Chief



Secretary, Govt. of Tripura, DGP, Govt. of Tripura and I.G., Border Security Force, a Govt. of India nominee. Thus, the argument that only DGP, Govt. of Manipur could have furnished proper information to the Selection Committee relating to the work and service credentials of the officers in the zone of consideration has no force as the Selection Committee is not guided by personal predilections. The Selection Committee is required to make assessment on the basis of the service records which are placed before the Selection Committee. Even though, the DGP, Manipur is a member of the Selection Committee, it cannot be argued that his absence has affected the assessment of the officers by the Selection Committee which comprised of five other senior members including the Member of the UPSC who presided over the meeting of the Selection Committee. It is further submitted that the Selection Committee Meeting for preparing the Select List of the year 2000 was required to be convened by 31.12.2000 as per the provisions of the IPS Promotion Regulations. The proposal from the State Govt. for convening the meeting of the Selection Committee was received only on 12.10.2000. The proposal was scrutinised and deficiencies were called for from the State Govt. and after duly examining the same, the Commission fixed the meeting for 20.12.2000. The State Govt. were requested by the Commission vide Fax message dated 1.12.2000 to make it convenient to attend the meeting of the Selection Committee as per the schedule alongwith other members of the Selection Committee. However, the DGP, Govt. of Manipur could not attend this meeting scheduled on 20.12.2000 and for which the State Govt. may be making necessary submissions. As the quorum of the meeting was complete in terms of the provisions of the IPS Promotion Regulations, the Selection Committee proceeded to prepare the Select List of the year 2000. This Hon'ble Tribunal may kindly appreciate that the Commission have other Constitutional duties to perform and their schedules are prepared well in advance and it is not possible for the Commission to postpone the meetings without valid reasons. Moreover, the framers of the IPS Promotion Regulations have provided for a quorum keeping in view such eventualities and have not made any exception for the absence of a member of the Selection Committee other than the Chairman or the Member of the Commission. As such, it is submitted that this contention of the Applicant is based on his own perception and is without any merit.



8.8 The perception of the applicant that taking into consideration the pendency of criminal as well as departmental proceedings against Sh. L.K. Haokip and Sh. N. Ngaraipam, the respondent cancelled the Select List prepared pursuant to the meeting held on 20.12.2000 **is factually incorrect**. The validity period of the Select List has been provided in Regulation 7(4) of the Promotion Regulations. The said Regulation reads as under:-

"The Select List shall remain in force till the 31st day of December of the year in which the meeting of the Selection Committee was held with a view to prepare the list under sub-regulation (1) of regulation 5 or up to 60 days from the date of approval of the Select List by the Commission under sub-regulation (1) or as the case may be finally approved under sub-regulation (2) whichever is later:

Provided also that where the select list is prepared for more than one year pursuant to the second proviso to sub-regulation (1) of regulation 5, the Select Lists shall remain in force till the 31st day of December of the year in which the meeting was held to prepare such lists or up to 60 days from the date of approval of the Select Lists by the Commission under this regulation, whichever is later."

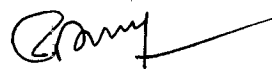
In the instant case, the recommendations of the Selection Committee which met on 20.12.2000 were approved by the Commission and the approval of the Commission was conveyed to the Central Government and the State Government on 15.10.2001, thus as per the provisions of the aforementioned Regulation the Select List of 2000 lapsed after 60 days from 15.10.2001 i.e. on 14.12.2001. Regarding the contention of the applicant that the respondents ought to have convened the Review Selection Committee Meeting as of 2000 instead of carrying forward of the same to 2001, the Deponent submits that there is no provision in the Promotion Regulations for convening a review meeting of the Selection Committee in lieu of provisionally included officer. Since the vacancies of 2000 could not be filled up on the basis of the Select List prepared in 2000, the said



✓ vacancies automatically get carried forward to the next year. The Govt. of India, Ministry of Home Affairs who are concerned with the determination of vacancies may be making further submissions in this regard and the same may kindly be referred to.

9. The Hon'ble Tribunal would appreciate that the selections have been made by the Selection Committee strictly in accordance with the provisions of the Promotion Regulations in just and equitable manner. There is no force in the contentions of the applicant and as such the O.A. filed by the applicant deserves to be dismissed.

10. That taking into consideration the factual position as submitted in the preceding paragraphs and also taking into consideration the detailed reply filed by the Govt. of Manipur and the Govt. of India, Ministry of Home Affairs, the Hon'ble Tribunal be pleased to dismiss the Original Application being devoid of merit.



DEPONENT

VERIFICATION

I do hereby declare that the contents of the above Statement are believed by me to be true based on the records of the case. No part of it is false and nothing material has been concealed.

Verified at New Delhi on the 7th day of April, 2003.



DEPONENT