

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4  
(See Rule 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Orginal No. 125/2002  
Misc. Petition No. /  
Contempt Petition No. /  
Review Application No. /

Applicant(s) P.K. Pathak

Respondent(s) H.O. T. Gomes

Advocate for Applicant(s) S. Ali, Mrs K. Chettri

Advocate for Respondent(s) Adv. C. A. K. Choudhury

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
	12.4.02 10.4.2002 Dy. Registrar <i>DR</i>	Heard Mr. S. Ali, learned Sr. counsel for the applicant. The application is admitted. Call for the records. List on 14/5/2002 for further orders.
Copy and get served on Respondents.		<u>I.C. Ushan</u> Member
W 11/4/02		<i>DR</i> Vice-Chairman
Stamps taken. Notice prepared and sent to DR for my the respondent No 1 to 6 by Regd. A.D. <i>DR</i> 22/4/02	14.5.02 mb	Await service report. List on 5.6.2002 for further orders.
DINo 1261 W 64 Dtd 30/4/02		<u>I.C. Ushan</u> Member
① Service report are still awaited.		<i>DR</i> Vice-Chairman
		<i>DR</i> 4.6.02

5.6.02 Service is completed. On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. prays for four weeks time to file written statement. List on 25.6.02 alongwith O.A. No. 134 of 2000, 135 of 2000 and 136 of 2002 for orders.

IC (U) Shar  
Member

Vice-Chairman

1m

25.6.02 Written statement has been filed by the respondents today. The case is ready for hearing. Accordingly, the same is posted for hearing on 24.7.2002. The applicant may file rejoinder, if any, within two weeks from today.

No rejoinder has been filed.

3/0  
23.4.02

IC (U) Shar  
Member

Vice-Chairman

24.7. The case is adjourned to 24.8.2002 as defendant learned did not appear today.

NO M/S. & rejoinder  
has been filed.

M/s  
A.K.S.

24/7

24.8. Heard Mr. S. H. learned Counsel for the applicant & Mr. A. K. Choudhury, Addl. C.G.S.C. for the respondent, hearing concluded.

16/8/02

24/8. Heard Mr. S. H. learned Counsel for the applicant & Mr. A. K. Choudhury, Addl. C.G.S.C. for the respondent, hearing concluded.

19.8.02 On the prayer of learned counsel for the parties the case is adjourned. List the matter for hearing on 21.8.2002.

IC (U) Shar  
Member

Vice-Chairman

21/8. Heard Mr. S. H. learned Counsel for the applicant & Mr. A. K. Choudhury, Addl. C.G.S.C. for the respondent, hearing concluded. Judgment reserved.

M/s  
A.K.S.

21/8

O.A. 125/2002

Notes of the Registry Date Order of the Tribunal

29.8.02

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

Judgment dtd 29/8/02  
Communicated to  
the applicant.

DR  
28/8

mb

IC Usha  
Member

  
Vice-Chairman

4

Notes of the Registry Date Order of the Tribunal

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./~~XXX~~ No. 125.....of 2002, O.A.No.134 of 2002,  
O.A.No.135 of 2002 and O.A.No.136 of 2002

Shri Pramod Kumar Pathak (O.A.No.125/2002)

Shri M.K. Karki (O.A.No.134/2002)

Shri P. Deka (O.A.No.135/2002) DATE OF DECISION. 29.08.2002

Shri Someswar Sonowal (O.A.No.136/2002)

APPLICANT(S)

Mr. S. Ali and Ms K. Chetri

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

The Union of India and others

RESPONDENT(S)

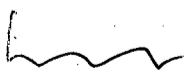
Mr. A. Deb Roy, Sr. C.G.S.C. ADVOCATE FOR THE  
RESPONDENT(S)

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

THE HON'BLE MR K.K. SHARMA, 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 Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.125 of 2002  
Original Application No.134 of 2002  
Original Application No.135 of 2002  
Original Application No.136 of 2002

Date of decision: This the 29<sup>th</sup> day of August 2002

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

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

O.A.No.125/2002

Shri Pramod Kumar Pathak,  
Junior Telecom Officer,  
Office of the Telephone Exchange,  
Biswanath Chariali, Assam

O.A.No.134/2002

Shri Manoj Kumar Karki,  
Junior Telecom Officer,  
Office of the Telephone Exchange,  
Tezpur, Assam.

O.A.No.135/2002

Shri Pulakesh Deka,  
Junior Telecom Officer,  
Office of the Divisional Engineer(OCB),  
Tezpur, Assam.

O.A.No.136/2002

Shri Someswar Sonowal,  
Junior Telecom Officer,  
Office of the S.D.O.(P),  
North Lakhimpur, Assam.

.....Applicants

By Advocates Mr S. Ali and Ms K. Chetri.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Communication Department, New Delhi.
2. The Assistant Director General (Pers-II), Bharat Sanchar Nigam Ltd., New Delhi.
3. The Chief General Manager, Bharat Sanchar Nigam Ltd., Assam Circle, Ulubari, Guwahati.
4. The Telecom District Manager, Tezpur, District-Sonitpur, Assam. ....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

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O R D E R

CHOWDHURY. J. (V.C.)

The four O.A.s were taken up together for consideration since all these applications involve common question of law, namely holding over the promotion of the applicants consequent to a disciplinary proceeding.

2. The four applicants are working as Junior Telecom Officer (hereinafter referred to as JTO for the sake of brevity). By Office order No. STES-5/2/loose/9 dated 1.1.2002, in pursuance to Bharat Sanchar Nigam Limited Headquarter, New Delhi letter No. 1-16/2001-Pers-II dated 19.12.2001, the Chief General Manager, Assam Telecom Circle, Guwahati ordered for promotion of a number of JTOs, mentioned in the Annexure to the aforementioned order to the grade of TES Group 'B' in the scale of pay of Rs.7500-250-12000/-. The said order also included the names of these four applicants. Though these applicants were found suitable for promotion they have not been promoted till now and the same has been deferred on the ground of pendency of the disciplinary proceedings instituted against them. Hence these applications assailing the legitimacy of the action of the respondents in withholding their promotions.

3. The respondents submitted their written statement and contended that in view of the pendency of the disciplinary proceeding against all these four applicants, the authority did not give effect to the order of promotion on the basis of the policty laid down by the Government of India in O.M.No.22011/4/91-ESTT (A) dated 14.9.1992.

4. Mr S. Ali, learned Sr. counsel, assisted by Ms K. Chetri, learned Advocate, appearing on behalf of the applicants strenuously assailing the action of the respondents as illegal contended that the applicants who were working as JTO for about a decade were promoted at long last could not have been denied the fruits of promotion on the purported ground of pendency of the disciplinary proceeding. Disdainfully decrying the O.M. dated 14.9.1992 the learned Sr. counsel submitted that the executive instructions cannot supersede the statutory law. Referring to the Discipline and Appeal Rules, Mr S. Ali submitted that the rules by itself is a complete code and therefore, such matters are to be regulated by the rules. The executive instructions as mentioned by the respondents cannot arrogate. In support of his contention the learned Sr. counsel also referred to the decision of the Supreme Court in State of Mysore Vs. C.R. Seshadri and others, reported in AIR 1974 SC 460 and the Full Bench decision of the Central Administrative Tribunal, New Bombay Bench in O.A.No.169/1987 and others (Abraham Titus and Others Vs. Union of India and others) decided on 23.8.1990.

5. Mr A. Deb Roy, learned Sr. C.G.S.C., appearing on behalf of the respondents submitted that there is no infirmity in the O.M. dated 14.9.1992, which was issued by the Government of India on review of the earlier instructions in the light of the decision rendered by the Supreme Court in Union of India and others Vs. K.V. Jankiraman and others, reported in AIR 1991 SC 2010.

6. There is no dispute as to the principles enunciated by Mr S. Ali, learned Sr. counsel to the effect that the executive instructions cannot supersede statutory provisions. Statutory rules will prevail over the executive instructions.....

instructions, but where statutory rules are silent, executive instructions can fill up the gap. In the instant case, by the executive instructions the Central Government has only sought to plug the hole. By the aforementioned O.M. the Central Government issued instructions to meet the eventualities of promotion of Government servants against whom disciplinary/criminal proceedings were pending in the context of the decision of the Supreme Court in Union of India Vs. K.V. Jankiraman and others (Supra). The said instructions, therefore, cannot be said to be unlawful on the facts and circumstances of the case. Admittedly, as on 19.12.2001 when the Bharat Sanchar Nigam Limited decided to promote the officers, which also included the names of these applicants the disciplinary proceedings were pending against the applicants. On our enquiry the learned counsel for the parties stated that, in fact, in some cases the disciplinary proceedings are nearing completion and in some cases the proceedings are under progress.

6. Mr S. Ali, the learned Sr. Counsel reacting to the submissions made by the learned Sr. C.G.S.C. submitted that the disciplinary proceedings initiated by the respondents suffers from the vice of malafide. The learned Sr. Counsel submitted that the purported disciplinary proceedings relate to certain events that took place in 1996 when these applicants were working in their respective fields. In the disciplinary proceedings the only allegation against these applicants is pertaining to countersignature in experience certificates of casual workers. The learned Sr. counsel submitted that the certificates were prepared by the concerned competent authority and they only countersigned on verification of the matter. There is no illegality on this issue. The learned Sr. counsel also questioned the initiation of the proceedings after a long lapse of time as malafide. We are not making any comments on this issue at

this stage since the disciplinary proceedings are not directly under challenge before us. As a matter of fact, the proceedings are nearing completion. Therefore, it would not be appropriate for us to make any comment on the nature of the disciplinary proceedings at this stage. It would always be open for the applicants to assail the legitimacy of the disciplinary proceedings if occasion arises. We also deplore the action of the respondents in keeping alive the disciplinary proceedings for such a long period. The executive instructions of the Government of India vide O.M. dated 14.9.1992 was issued to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and directed that all efforts should be taken to finalise expeditiously the proceedings. The executive instructions of the Government of India, which are equally binding on the respondents, itself indicated for the review of such cases for promotion on the expiry of six months from the date of convening of the first DPC which adjudged the suitability.

7. Taking into consideration all the facts and circumstances of the case including the nature of the disciplinary proceedings as well as the materials produced before us as to the progress of the proceedings, we direct the respondents to conclude the disciplinary proceedings initiated against the applicants with utmost expedition and take appropriate decision in the matter. The respondents are also directed not to drag the matter beyond three months from the date of receipt of the order. The applicants are also ordered to cooperate with the authority for expeditious completion of the proceedings. On conclusion of the disciplinary proceedings, the respondents

are.....

are ordered to take necessary follow-up action as per law.

8. Subject to the observations made above, the applications are disposed of. There shall, however, be no order as to costs.

K. K. Sharma  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

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

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI. 13

O.A. No. 125 /2002.

Shri Pramod Kumar Pathak .... Applicant.

-VRS-

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

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Original Application	- 1 to 12
2	Annexure-1	13
3	Annexure-2	14-17
4	Annexure-3	18 - 21
5	Annexure-4	22
6	Annexure-5	23
7	Annexure-6	24
8	Annexure-7	25
9.	Annexure - 8.	34.

Filed by:-

Krishna Chatterji  
11/4/2002  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

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

O.A. No. 125 /2002.

-Inbetween-

Sri Pramod Kumar Pathak

.... Applicant.

-VRS-

The Union of India & Ors.

..... Respondents.

**1. PARTICULARS OF THE APPLICANT:-**

Sri Pramod Kumar Pathak working as  
Junior Telecom Officer in the office  
of the Telephone Exchange, Biswanath  
Chariali, Dist. Sonitpur, Assam.

**2. PARTICULARS OF THE RESPONDENTS:-**

1. The Union of India, represented by the  
Secretary to the Govt. of India,  
Communication Department, Sancher Bhawan,  
New Delhi.
2. The Assistant Director General (Pers-II),  
Bharat Sancher Nigam Ltd., Ashoka Road,  
New Delhi-110001.
3. The Chief General Manager, Bharat Sancher  
Nigam Ltd., Assam Circle, Ulubari,  
Guwahati-7, Dist. Kamrup, Assam.

Filed by the  
Applicant  
Pramod Kumar Pathak, through  
Kishore Heller,  
me -

4. Telecom District Manager, Tezpur,  
District - Sonitpur, Assam.

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

i) Non promotion of the applicant from the post of Junior Telecom Officer(JRO) to the post of Telecom Engineering Service Group-B(TES, Gr.B) though he has been selected for the same, in All India basis.

ii) Letter No.TES-5/2/Loose/51 dated 8.3.2002 issued by the Assistant Director Telecom(Staff) addressed to the Telecom District Manager, Tezpur with a copy to the applicant.

4. JURISDICTION:-

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

5. LIMITATION:-

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

6. FACTS OF THE CASE :-

6.1. That your applicant is an Indian citizen and permanent resident in the district of Sonitpur, Assam and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.

6.2. That your applicant was appointed on 16.2.91 by the Telecom District Engineer, Tezpur vide

his letter No.E-2/JE/TFR/90-91/249 dated 6.2.91 and posted at Biswanath Chariali and he joined in his post as J.T.O. on 7.2.91 and since then he has been working there to the entire satisfaction of the authority and without any belimish.

Annexure-1 is the photocopy of the said appointment letter No.E-2/JE/TFR/90-91/249 dated 6.2.91 of the applicant.

6.3. That in the promotion list prepared by the Bharat Sancher Nigam Ltd., New Delhi there are 3000 J.T.Os. The Chief General Manager, BSNL, Assam Circle has prepared the said promotion list of JT0 to the post of the TES Gr.B vide his memo No. STES-5/2/Loose/9 dated 1.1.2002 wherein your applicant's name is not there.

Annexure-2 is the photocopy of the said promotion list dated 1.1.2002.

6.4. That the Bharat Sancher Nigam Ltd., New Delhi vide Memo No.1-16/2001-Pers-II dated 19.12.2001 prepared a promotion list on All India Basis wherein your applicant's name has been put under Staff No.108343 at Sl.No.34 alongwith others JT0.

Annexure-3 is the photocopy of the office order alongwith Promotion List dated 19.12.2001 issued by the Asstt. Director General (Perse-II).

6.5. That after knowing about the inclusion of the name of the applicant in promotion list prepared by the Bharat Sanchar Nigam Ltd., Head Quarter, New Delhi and having not promoted to the post of TES Gr.B, the applicant submitted a representation on 1.2.2002 to the Chieg General Manager, BSNL, Assam Circle, at Guwahati requesting to consider the case of the applicant for promotion at an early date.

Annexure-4 is the photocopy of the representation dated 1.2.2002 submitted by the applicant to the Chief General Manager, BSNL, Assam Circle, Guwahati.

6.6. That in response to Annexure-4 the Assistant Director, Telecom(Staff) office of the Chief General Manager, Assam Circle, Guwahati informed the applicant alongwith 3 others that due <sup>to</sup> pendency of the vigilence case against the applicant, he has not been promoted to the post of TES Gr.B.

Annexure-5 is the photocopy of the letter No. STES-5/2/Loose/51 dated 8.3.2002 issued by the Asstt. Director Telecom(Staff) addressed to the Telecom Dist. Manager, Tezpur, with a copy to the applicant alongwith others.

*That*  
*your* 6.7. your applicant begs to state that at Annexure-5 the applicant was informed by the Assistant Director Telecom (Staff) ~~that~~ the applicant is not entitled to be promoted due to pendency of the vigilence case against him.

6.8. That your applicant begs to state that  
vide Memo No.Vig/Assam/DISC-III/2000-01/4 dated 31.7.2000  
issued by the Chief General Manager issued charge sheet  
against the applicant with statement of imputation of  
misconduct or misbehaviour in support of the Article of  
charges framed against the applicant. The charges are -  
i) The applicant during the year 1996 failed to maintain  
absolute integrity and devotion of duty as much as he has  
counter signed 13 Numbers of false and fabricated experience  
certificates issued by Shri Rajendra Rai, Sub-Inspector,  
Lambodar Jha, Sub-Inspector, Rambilash Rai, line Inspector,  
Sakaldeo Singh, Sub-Inspector, Deonath Rai, Sub-Inspector  
in favour of Shri Prabhat Sarma, Biren Das, Biren Bora,  
Pranjal Kataki, Maina Bora, Dharmendra Kr. Rai, Ambika  
Barman, Basanta Bhuyan, Prabhat Kalita, Dwipen Bhuyan,  
Kishore Kr. Pathak, Cheniram Sarma and Govinda Bora without  
going through any documentary evidence and verification. On  
the basis of his countersignature the Telecom District  
Engineer, Tezpur has regularised all the 13 person vide  
order No.X-1/CMPT/96-97/Con-7 dated 27.5.96 as temporary  
Status Mazdoors and thereby the above acts, the contravened  
the provision of Rule 3(1) and (2) of CCS(Conduct) Rule,  
1964.

Annexure-6 is the photocopy of the  
forwarding letter dated 7.8.2000 vide  
No.X-2002/Disc/P.Pathak/2000-2001/2  
issued by the Division Engineer(P&A),  
O/O the T.D.M., Tezpur addressed to the  
applicant.

Pramod Kumar Paloi

Annexure-7 is the photocopy of the memorandum No.Vig/Assam/Disc-III/2000-01/4 dated 31.7.2000 issued by the Chief General Manager, Telecom Guwahati, Assam Circle to the applicant alongwith statements of Article of charges and statements of imputation.

6.9. That the charge sheet at Annexure-7 has been served on the applicant on 7.8.2000 and the applicant on receipt of the same submitted his show cause reply to the Chief General Manager, Assam Circle, Guwahati on 17.8.2000.

Annexure-8 is the photocopy of the said show cause reply submitted by the applicant dated 17.8.2000.

6.10. That at Annexure-8, the applicant vehemently denied the charges brought against him.

6.11. That now it is more than 1½ years passed there is no progress in the departmental proceedings against the applicant and it is not known when the proceedings against the applicant will end or will be closed.

6.12. That after submission of show cause reply to the show cause notice in the departmental proceedings as many as 85 selected candidates have been listed for promotion to the post of Tes Gr.B. The applicant stands under Sl. No.34 of the Assam Circle List but he has not been promoted to the post of TES Gr.B in Assam Circle. It may be mentioned in this connection that several selected candidates from this list of Assam Circle have been promoted to the post of TES Gr.B under the District

Telecom Circle, Tezpur. The following JTOs have been promoted against whom charge sheet has also been issued:-

1. Sri Pitambar Sarma, now working as FSDE(P) at Jamuguri.
2. Shri D. Saha, working as S.D.O.(P-II) at Tezpur.
3. Shri S. Sargiari, working as S.D.E. Group at Odalguri.
4. Sri G. Mukherjee (Retd), worked as S.D.E.(TT) at Tezpur.
5. G. Chakravorty, working as SDE(TT) at Tezpur.
6. B.C. Baishya (Retd). as S.D.E.(HRD) at Tezpur.

6.13. That all the above named promoted TES Gr.B officers are now facing vigilence cases pending against them like applicant though they have been promoted from the promotion list.

6.14. That few of them are junior to the applicant.

6.15. That though the above named promoted JTOs have been promoted to the post of TES Gr.B and working in the promoted post they have also not been suspended nor they have been down graded in view of the pendency of the vigilence case. Similarly the applicant is also working in the present post of JTO without promotion but there has been a discrimination in promotion of the above named persons and the present applicant as they are similarly situated persons.

6.16. That though the vigilence case is pending against the applicant yet he has been regularly working

Pramod Kumar Palsh

in the present post of JTO. He has neither been suspended nor been down graded. He is also not transferred from the present post to any other places. In fact, he has been working normally without any disturbance. In fact, the applicant's case and other promoted persons stand in similar voting.

6.17. That the applicant begs to state that the pendency of the departmental proceedings against the applicant cannot be a bar for his promotion to the next higher post, if he is found otherwise suitable.

6.18. That your applicant begs to state that the pendency of the disciplinary proceedings against the applicant cannot be a ground for overlooking the claim of the applicant if he was found otherwise suitable. In the instant case except the departmental proceedings/disciplinary proceedings nothing against him. So it is a fit case for promotion of the applicant to his next higher post of TES Gr. B.

6.19. That your applicant begs to state that he has not been placed under suspension after drawal of the departmental proceedings after long 4 years.

#### 7. GROUND WITH LEGAL PROVISIONS:-

7.1. For that the pendency of the departmental proceedings against the applicant cannot be a bar for promotion to the applicant to the next higher post.

7.2. For that the applicant has not been placed under suspension after drawal of the departmental proceeding after long 4 years against him.

7.3. For that pendency of the disciplinary proceeding or vigilence case against the applicant cannot be a ground for overlooking the claim of the applicant when he has been found otherwise suitable.

7.4. For that the applicant has been found suitable and as such he has been listed for promotion and so he is entitled to be promoted.

7.5. For that the applicant is working now normally without any disturbance.

7.6. For that the pendency of enquiry in the disciplinary proceedings cannot prevent the applicant from promotion.

7.7. For that non ~~promotion~~ of the applicant from the post of JTO to the next higher post of TES Gr.B is a discrimination case as the other similarly situated officers mentioned above have already been promoted and they are now enjoying higher pay scale.

7.8. For that non promotion of the applicant though he is found suitable in all respects and select<sup>ed</sup> for promotion he has been deprived of his promoted post and from higher pay scale by the authority.

7.9. For that the above named promoted officers are also facing vigilence case and disciplinary proceedings after their promotion but they have not been suspended in their higher post and as such it is a case for serious discrimination in promotion.

7.10. For that in any view of the matter as stated above, the applicant is entitled to be promoted to the post of TEST Gr.B.

**8. DETAILS OF REMEDIES EXHAUSTED:-**

The applicant filed representation before the Chief General Manager, Assam Circle, Ulubari, Guwahati-7 requesting him to promote to the post of TES Gr.B but he has refused to promote him on the ground that a vigilence case is pending against him.

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

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

**10. RELIEF SOUGHT FOR :-**

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

- i) The respondents No.1 to 4 particularly the Respondent No.3 be directed to promote the applicant from the post of JTO to the post of TES Gr.B with effect from the date of other JTOs who have been promoted by the *Chief* Respondent No.3. after quashing the *unsigned orders* -
- ii) Any other relief or reliefs entitled to the applicant.

**11. INTERIM RELIEF IF ANY PRAYED FOR:-**

In the interim, the applicant prays that the

Pramod Kumar Palai

the respondents be directed to consider the case of the applicant for promotion to the next higher post of TES Gr.B till dispose of this application.

12. DETAILS OF POSTAL ORDERS:-

- i. Postal order No. 7G 549720.
- ii. Date of issue: 10.4.2002.
- iii. Issued By: Guwahati post office
- iv. Payable at Guwahati.

13. LIST OF ENCLOSURES:-

As per Index.

Verification.....

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

I, Shri Pramod Kumar Pathak S/o Late Jogendra Nath Pathak, at present working as J.T.O. in the office of Telephone Exchange, Biswanath Charilia, P.O. Biswanath Charilia, Dist. Sonitpur, Assam, do hereby solemnly affirm and verify the statements made in paragraphs 1, 2, 6.1, 6.2, 6.5, 6.7, 6.10, 6.11, 6.13, 6.14, 6.15, 6.16, 6.17, are true to my knowledge and those made in paragraphs 4.5, 6.3, being 3, 6.4, 6.6, 6.8, 6.9, 6.12, matter of record are true to my information derived therefrom which I believe to be true and the rests are my humble submissions/grounds before this Hon'ble Tribunal. And I have not suppressed any material facts of this case.

And I sign this veification on this the 11 th day of April, 2002 at Guwahati.

*Pramod Kumar Pathak*  
Signature.

DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM. DISTRICT ENGINEER: TEZPUR

NO. E-2/J.E./TFR/90-91/249

Dated at Tezpur, the 6-2-91.

In pursuance of the Area Director Telecom, Guwahati letter No. AMT-GH/STD/1-8/90/J.T.O/150 dtd. 24-1-91, the following J.T.O. Trainees of being relieved from the respective Training Centre after successful completion of training are hereby posted to the places as J.T.O. mentioned against their names given below:-

Sl. No.	Name of J.T.O. Trainees	Name of the Training Centre	Place of posting
1)	Sri Debojit Barthakur	RTTC, Ahmedabad	Dhemaji
2)	" Dilip Ghose	RTTC, Kalyani	Jonai
3)	" Manoj Kr. Karki	RTTC, Ahmedabad	Tangla
4)	" Fulakesh Deka	-do-	Rangpura
5)	" Pramod Kr. Pathak	-do-	Biswanath Chariali

sd/-  
Telecom. District Engineer  
Tezpur-784001.

Copy for information & n/a to :-

- 1) The C.O.M. Telecom., Guwahati -7.
- 2) " Area Director Telecom., Guwahati
- 3) " S.D.O. Telegraphs, Manganjoi
- 4) " S.D.O. Telegraphs, North Lakhimpur.
- 5) " S.D.O. Telegraphs, Tezpur.
- 6) " A.E. Phones, Tezpur.

(iv) 26/11) J.T.Os concerned :- Sri Fulakesh Deka, J.T.O | Rangpura  
III. DOB: 11/11/1968

- 17) A.E., C/O TDE/Tezpur.
- 18) JAO (Cash), C/O TDE/Tezpur.
- 19) S.S. Paybill Section.
- 20) S.S. Staff Section, C/O TDE/Tezpur.
- 21) SSO, C/O TDE/Tezpur.
- 22) Spare.
- 23) Office copy.

Telecom. District Engineer  
Tezpur-784 01.

Attested by  
Parbat Chakraborty  
Adm Secy  
11/11

By AE(T)

-14-

*Bharat Sanchar Nigam Limited*  
*(A Government of India Enterprise)*  
*Office of The Chief General Manager, Assam Telecom Circle*  
*Ulubari Guwahati-781007*

No. STES-5/2/loose/9

Dated at Guwahati the 1-1-2002

OFFICE ORDER

Sub:- Posting of TES Group B on their promotion from JTO

In pursuance of BSNL(H/Q) New Delhi letter no. 1-16/2001-Pers-II Dated 19-12-2001, the Chief General Manager, Assam Telecom Circle, Guwahati is pleased to promote the JTOs mentioned in the Annexure, to the grade of TES Group 'B' in the pay scale of 7500-250-12000/- and the promoted officers are hereby posted in the SSA/Units indicated against their names as per list enclosed.

2. The officers shall not be promoted to the higher grade by the concerned SSA/Units.
  - i) In case of disciplinary/Vigilance case is pending or contemplated against him/her.
  - ii) If the officer is under currency of any penalty.
3. The officers are required to join their promotional assignment within a period of 30 days from the date of issue of this order. All SSA Heads may ensure that the stations of postings in respect of officers are issued with a period of 7 days from the date of issue this order and the officers are relieved within the prescribed time period.
4. In case the officer concerned fails to join the promotional assignment within the prescribed time periods of 30 days, he/she should not be allowed to be relieved or join the post thereafter. In such cases, the promotion order shall become inoperative and the matter shall be reported to this office for further necessary action.
5. The leave, if any, requested by the officer should not be allowed. If any officer desires leave, he/she can apply for leave to the new Heads of SSA/Units under whom he/she has been posted only after joining the new post.

*Attested by  
Kishore Chelluri  
Advocate  
11/1/2002*

Contd to page 2

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6. The JTOs who have been promoted to TES Gr. B on purely officiating arrangement basis will automatically stand reverted to their original cadre before their joining on promotional posts under this office order
7. The postings at RTTC, Guwahati shall be on temporary basis till postings are made through selection procedures
8. The date on which the above order is given effect to may be intimated and a consolidated report of the officers who have been relieved/joined their new postings may also be sent immediately on expiry of 30 days from the issue of this order.

*82/—*  
(A.K. Chelleng)  
Asstt. General Manager(Admin.)

Copy to:-

1. The ADG(Pers-II); BSNL Corporate office , New Delhi-110001
- 2-5 The General Manager, Telecom, Guwahati/Dibrugarh/Silchar/Jorhat
- 6-8. The Telecom Dist. Managers, Bongaigaon/Tezpur/Nagaon
9. The Deputy General Manager, RTTC, Guwahati
10. The Deputy General Manager(Installation), C.O, Guwahati
11. The Deputy General Manager(Planning), C.O, Guwahati
12. The Deputy General Manager(Operation), C.O, Guwahati
13. The Chief General Manager Telecom , Task Force,  
NE, Region Guwahati- He is requested to ensure before release of the officer for  
his promotional post that no vigilance /disciplinary case is  
pending against him
14. The Director Mtce, Eastern Telecom Region, Guwahati
15. The Asstt. General Manager(TT), C.O, Guwahati
- 16-17. The Circle Secretary TESA/JTOA, Guwahati
18. Guard File
19. Spare

*CC*  
(G.C. SARMA) 1/1/02  
Asstt. Director Telecom(Staff)

C/Gr 'B' Promotion

Attested by  
Anishta Chelleng  
11/4/2002

ANNEXURE-I

Sl. No	Staff No	Name of JTO	Presently working	Posting on promotion
1	2	3	4	5
1	105764	Sri J. N. Sarma	C.O/ GH	C.O/GH
2	108466	Mrs. Aradhana Chakraborty	KTD/GH	C.O/GH
3	108631	Miss Gitanjali Nath	KTD/GH	C.O/GH
4	107715	Sri Ramkrishna Newar	ETR	C.O/GH
5	106190	Sri Madan Ch. Bania	KTD/GH	KTD/GH
6	107685	Sri K.N. Barman	KTD/GH	KTD/GH
7	107722	Sri Syamal Dutta	KTD/GH	KTD/GH
8	107812	Sri Amitava Nandi	KTD/GH	KTD/GH
9	108113	Sri Gopal Ch. Sarma	KTD/GH	KTD/GH
10	108397	Sri Hiranaya Kr. Das	KTD/GH	KTD/GH
11	108565	Sri Vivekanda Nath	C.O/ GH	KTD/GH
12	108793	Sri Maloy Chanda	KTD/GH	KTD/GH
13	109065	Mrs. Niva Baruah	KTD/GH	KTD/GH
14	108294	Sri Biren Ch. Kumar	C.O	KTD/GH
15	107877	Sri Rajib Lochan Bora	GMT/JRT	GMT/JRT
16	108088	Sri Hemen Hazarika	GMT/JRT	GMT/JRT
17	108924	Sri A.K. Roy	GMT/JRT	GMT/JRT
18	108919	Miss Papori Baruah	GMT/JRT	GMT/JRT
19	109464	Sri Rajesh Kr. Choudhary	GMT/JRT	GMT/JRT
20	109032	Sri A.K. Nath	KTD/GH	GM/JRT
21	109142	Sri Sarbeswar Kalita	KTD/GH	GM/JRT
22	108956	Sri Nirmal K.L. Chakraborty	ETR	GMT/JRT
23	108973	Sri Rajib Kr. Barman	ETR	GMT/JRT
24	109190	Sri Jayanta Kr Biswas	TASK FORCE	GMT/JRT
25	106375	Sri B.S. Paul Mazumdar	GMT/DR	GMT/DR
26	108563	Sri Sunil Mishra	GMT/DR	GMT/DR
27	109088	Sri Lakhi Prasad Sarkar	GMT/DR	GMT/DR
28	109155	Mrs. Pushpanjali Bora	GMT/DR	GMT/DR
29	109353	Sri Open Ch. Bora	TDM/NGG	TDM/NGG
30	109515	Sri Promananda Nath	TDM/NGG	TDM/NGG
31	109459	Sri Suresh Ch. Bora	TDM/NGG	TDM/NGG
32	106537	Sri Swapnil Kr. Paul	KTD/GH	TDM/NGG
33	108446	Sri G.R. Seikh	KTD/GH	TDM/NGG
34	109184	Sri S. S. Das	C.O/ GH	TDM/NGG
35	106551	Sri Bijil Nag Choudhary	GMT/SC	TDM/NGG
36	107280	Sri Bhabatosh Das	GMT/SC	TDM/NGG
37	106220	Sri C.L. Biswas	TDM/TZ	TDM/TZ
38	108677	Sri A.H. Laskar	TDM/TZ	TDM/TZ
39	109166	Sri Pradip Gohain	TDM/TZ	TDM/TZ
40	109376	Mrs. M.M. Karki	TDM/TZ	TDM/TZ
41	109073	Sri Arup Kr. Dutta	RTTC/GH	TDM/TZ

CONT'D ..PAGE 2

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42	108277	Sri Seikh Sayed Ahmed	TDM/BGN	TDM/BGN
43	109170	Md. Gazi Rahman Ahmed	TDM/BGN	TDM/BGN
44	109184	Sri S.K. Sutradhar	TDM/BGN	TDM/BGN
45	109236	Sri J. K. Dhar	TDM/BGN	TDM/BGN
46	109331	Sri Chandan Kr. Choudhary	TDM/BGN	TDM/BGN
47	109432	Sri Mrinal kr. Mishra	TDM/BGN	TDM/BGN
48	109385	Sri Mridul Ch Kalita	RTTC/GH	RTTC/GH
49	106539	Sri Dinesh Ch. Barman	RTTC/GH	RTTC/GH
50	106959	Sri D.K. Sarma	GMT/GH	RTTC/GH
51	107879	Sri Bijoy Singha	RTTC/ GH	RTTC/GH
52	108174	Sri Aditya kr. Jha	RTTC/GH	RTTC/GH
53	107693	Sri Dimbeshwar Baishya	ETR	RTTC/GH

W-5

Entered by  
Krishna Chellie  
Almoede  
11/4/2002

No. 1-16/2001-Pers.II  
 Bharat Sanchar Nigam Limited  
 (Pers.II Section)  
 Sanchar Bhawan Ashok Road New Delhi-110001.

Dated, 19<sup>th</sup> December, 2001.

OFFICE ORDER

Sub : Posting of TES Group 'B' on their promotion from JTO.

In pursuance of Department of Telecommunications Order No.2-82/2000-STG.II dated 14/12/2001 regarding promotion from JTO to the grade of TES, Group 'B' in the pay scale of Rs.7500-250-12000, the promoted officers are hereby posted in the Circles/Districts indicated against their names as per list enclosed, from the date they take over the charge of the post.

2. The officers shall not be promoted to the higher grade by the concerned circles/units:

- i. In case of disciplinary/vigilance case pending against him/her and VC is withheld in terms of instructions contained in GOI (DOP&T) OM No.22011/4/91-Estt (A) dated 14/9/1992.
- ii. If the officer is under currency of any penalty; or
- iii. The officer is on deputation to TCH or any other organization.

Such cases will be decided by this office on receipt of information from concerned Telecom Circles in consultation with Department of Telecom. Information in this regard may be brought to the notice of this office immediately and the concerned officer should not be promoted or relieved for posting without specific orders from this office.

3. The officers are required to join their promotional assignment within a period of 30 days from the date of issue of these orders. All CGMs concerned may ensure that the stations of postings in respect of officers are issued within a period of 7 days from the date of issue of this order and the officers are relieved within the prescribed time period.

4. In case the officer concerned fails to join the promotional assignment within the prescribed time period of 30 days, he/she should not be allowed to be relieved or join the post thereafter. In such a case, the promotion order shall become inoperative and the matter shall be reported to this office for further necessary action.

Enclosed

- 19 -

6.6. The leave will be unopposed by the majority who will have occupied a proportionality of the seats available in the Assembly and will desire to see him stay. They will be no middle ground here. The leader will be the only possible leader of the majority and will be elected with a large majority. If no one else is available, he will be elected.

7. 7. The above article will be published in the first issue of the new magazine, but will be followed by a consolidated article, the author's name in the title being replaced by each of the new postulates, and also frank acknowledgment of the author's right to the use of his name, which he may repeat, but only by the name of his postulate.

(M.K. Srivastava)  
Int. General (Pers. II)  
Tele/Fax. 3372554

ii

All CGMs of BSNL Circles/Districts/Project Regions/ALERTC/BRBRATI Circles/Maintenance

**Copy to:**

1. PS to MOC/MOS (U).
2. CMD, BSNL.
3. Director (HRD), BSNL.
4. Member (S)/Adv. (HRD)/DDG (Est.)/Dir (Staff)/ADG(SGT),DoT
5. Sr.DDG (Pers.)/Lt. DDG (Pers.)/ADG (Pers.II) BSNL CO, N.Delhi.
6. CS to Adv. (HRD), DoT.
7. General Secretary TESA/ITO Association.
8. S.O. (STG.I)/SO(STG.II)
9. Guard file/Order Bundle/spare copies.

Attested by  
Anitha Chellai  
Advocate  
11/4/2002

BSNL (H/Q) New Delhi memo No 1-16/2001 - Part II dttd, 19-12-2001.

33

PROMOTION LIST OF TES GR. B  
ASSAM CIRCLE & NETF  
(ASSAM CIRCLE INCLUDES ETR)

1)	105784 J.N.SARMA	G.H.Y.	AS	BSNL	AS
2)	106002 TUSAR KANTI BOSE	B.N.	AS	BSNL	AS
3)	106190 MADAN CH. BANIA	G.H.Y.	AS	BSNL	A.S.
4)	106220 C.L.BISWAS	T.Z.	AS	BSNL	AS
5)	106381 ASHOK NATH CHOWDHURY	G.H.Y.	NETF	BSNL	NETF
6)	106537 S.K.PAL	G.H.Y.	AS	BSNL	A.S.
7)	106539 DINESH CH.BARMAN	G.H.Y.	AS	BSNL	A.S.
8)	106551 BIJIT NAG CHOWDHARY	Sc.	AS	BSNL	A.S.
9)	106673 SIB CHARAN GHOSH		NETF	BSNL	NETF
10)	106681 SUNIL CH. SAHA	G.H.Y.	NETF	BSNL	NETF
11)	106875 B.S.PAUL MAZUMDER		AS	BSNL	A.S.
12)	106959 D.K.SARMA	G.H.Y.	AS	BSNL	A.S.
13)	107051 ABHIJIT DAS		NETF	BSNL	NETF
14)	107268 KAUSTAV CHAKRABORTY		NETF	BSNL	NETF
15)	107280 BHABOTOSH DAS	SCI.	AS	BSNL	A.S.
16)	107515 PULAKESH DEKA		AS	BSNL	A.S.
17)	107684 KAILASH CH. THAKURIA	G.H.Y.	NETF	BSNL	NETF
18)	107685 K.N.BARMAN	G.H.Y.	AS	BSNL	A.S.
19)	107693 DIMBESHWAR BAISHYA		AS	BSNL	A.S.
20)	107715 RAMKRISHNA NEWAR	G.H.Y.	AS	BSNL	A.S.
21)	107722 SHIYAMAL DUTTA	G.H.Y.	AS	BSNL	A.S.
22)	107766 NITYANANDA SARMA	G.H.Y.	NETF	BSNL	NETF
23)	107812 AMITAVA NANDI	G.H.Y.	AS	BSNL	A.S.
24)	107830 SUBHABRATA GUPTA		NETF	BSNL	NETF
25)	107877 RAJIB LOCHAN BORA		AS	BSNL	A.S.
26)	107879 BIJOY SINGHA	G.H.Y.	AS	BSNL	A.S.
27)	107934 ASHIS KR. GHOSE	G.H.Y.	NETF	BSNL	NETF
28)	108073 ARUP KR. DUTTA	G.H.Y.	AS	BSNL	A.S.
29)	108083 MONOJ KR. KARKI		AS	BSNL	A.S.
30)	108088 HEMEN HAZARIKA		AS	BSNL	A.S.
31)	108113 GOPAL CH. SARMA	G.H.Y.	AS	BSNL	A.S.
32)	108174 ADITYA KR.JHA	G.H.Y.	AS	BSNL	A.S.
33)	108277 SEIKH SAYED AHMED		AS	BSNL	A.S.
34)	108343 PROMODH KR. PATHAK		AS	BSNL	A.S.
35)	108380 MRINMOY BHUYAN	G.H.Y.	NETF	BSNL	NETF
36)	108397 HIRANYA KR. DAS	G.H.Y.	AS	BSNL	A.S.
37)	108446 G.R. SEIKH		AS	BSNL	A.S.
38)	108466 MRS. ARADHANA CHAKRABORTY	G.H.Y.	AS	BSNL	A.S.
39)	108563 SUNIL MISHRA		AS	BSNL	A.S.
40)	108565 VIVEKANANDA NATH	G.H.Y.	AS	BSNL	A.S.
41)	108618 DHIRAJ DAS		NETF	BSNL	NETF
42)	108631 MISS GITANJALI NATH	G.H.Y.	AS	BSNL	A.S.
43)	108677 A.H LASKAR		AS	BSNL	A.S.
44)	108772 S.K.SUTRADHAR		AS	BSNL	A.S.
45)	108793 MOLOY CHANDA	G.H.Y.	AS	BSNL	A.S.

46)	108837 MD MANAFUDDIN AHMED	GHF	NETF	BSNL	NETF
47)	108894 BIREN CH. KUMAR	GHY	AS	BSNL	AS
48)	108919 MISS PAPORI BARUAH		AS	BSNL	AS
49)	108924 AJOY KR. ROY	JRF	AS	BSNL	AS
50)	108956 NIRMAL KT. CHAKRABORTY		AS	BSNL	AS
51)	108973 RAJIB KR. BARMAN	GHY	AS	BSNL	AS
52)	109065 MRS. NIVA BARUAH	GHY	AS	BSNL	AS
53)	109088 LAKHI PRASAD SARKAR	X	AS	BSNL	AS
54)	109096 MD. ISLAMUL HAQUE MANDAL	GHI	NETF	BSNL	NETF
55)	109155 MRS. PUSHPANJALI BORA		AS	BSNL	AS
56)	109166 PRADIP GOHAIN	T2	AS	BSNL	AS
57)	109170 MD GAZI RAHMAN AHMED		AS	BSNL	AS
58)	109184 SUKHENDU SEKHAR DAS	GHY	AS	BSNL	AS
59)	109190 JAYANTA KR. BISWAS	SI	AS	BSNL	AS
60)	109236 J.K. DHAR		AS	BSNL	AS
61)	109331 CHANDAN KR. CHOUDHURY	X	AS	BSNL	AS
62)	109353 UPEN CH. BORA	X	AS	BSNL	AS
63)	109376 MRS M.M. KARKI	N	AS	BSNL	AS
64)	109385 MRIDUL CH. KALITA	GHY	AS	BSNL	AS
65)	109392 A.K. NATH	GHY	AS	BSNL	AS
66)	109432 MRINAL KR. MISHRA		AS	BSNL	AS
67)	109442 SARBESWAR KALITA	GHY	AS	BSNL	AS
68)	109448 SUDIP NATH		AS	BSNL	AS
69)	109459 SURESH CH. BORA		AS	BSNL	AS
70)	109464 RAJESH KR. CHOUDHARY		AS	BSNL	AS
71)	109515 PREMANANDA NATH		AS	BSNL	AS
72)	109530 DULAL CH. KAR		AS	BSNL	NE-I
73)	109538 NIRODH CH. BHAGABATI		AS	BSNL	NE-I
74)	109552 L.L. BHAR		AS	BSNL	NE-I
75)	109625 NABAJYOTI KAKOTTI	GHY	AS	BSNL	NE-I
76)	109626 B.R. DAS	GHY	AS	BSNL	NE-I
77)	109649 JYOTIRMOY DAS		AS	BSNL	NE-I
78)	109884 SOMESWAR SONOWAL		AS	BSNL	NE-I
79)	109892 NIREN CH. RABHA		AS	BSNL	NE-II
80)	109916 UTTAM BASUMATARI		AS	BSNL	NE-II
81)	109959 SONARAM RAJKHOWA		AS	BSNL	NE-II
82)	109992 BIRAJ BORO		AS	BSNL	NE-II
83)	109993 PRAFULLA KHAKHLARY		AS	BSNL	NE-II
84)	109994 ANANTA DEKA BARUAH		AS	BSNL	NE-II
85)	109995 AMBIKA DEORI		AS	BSNL	NE-II

26) 109891 Total ca. 80000 LTR BSNL - ETR

NE1 → Meghalay, Tripura, Mizoram,  
NE2 → Tripura, Arunachal, Assam, Nagaland.

SLN<sup>o</sup> 16, 29, 34, 78

Handled by  
Abishege Chettu  
Advocate  
11/4/2002

To,

The Chief General Manager:  
BSNL, Assam Circle, Guwahati - 781005  
Through proper channel.  
Dated at Biswanath Chariali, the 01/02/2002

Sub : Prayer for promotion from the Cadre of J.T.O. to the Cadre of TES Group 'B' in the pay Scale of Rs. 7500 - 250 - 12000 /- in respect of P.K. Pathak J.T.O. Biswanath Chariali.

Sir,

With due respect and humble submission I would like to lay the following few lines for favour of your kind Cosideration and sympathetic action please.

That Sir, I am a J.T.O. working at Biswanath Chariali. My name was found in the promotion list published from New Delhi as per the BSNL ( H/Q ) New Delhi memo No. 1-16/2001-pers II dtd. 19-12-2001. bearing the serial No. 108343. But unfortunately while I have gone through the promotion list published from the CGMT office / GH. Assam Circle as per the memo No. STES - 5/2/Loose/9 dtd. 1-1-2002 my name was not found in the list.

I, therefore, request you to kindly consider the case of my promotion at an early date and oblige.

Copy to.

1. Advance copy to CGMT/GH, Assam Circle for favour of information.
2. T.D.M / Tezpur for favour of information and necessary action.
3. SDEP. ( Group ) for information.
4. Personal Copy.

Sincerely yours.

*P.K. Pathak*  
( P.K. Pathak )

Received  
1/2/2002  
Sub - Divisional Engineer Phones (Group)  
Biswanath Chariali

Attested by  
Bishnu Chettri  
Advocate  
11/4/2002

ANNEXURE-5

Bharat Sancher Nigam Limited  
(Government of India Enterprise)  
Office of the Chief General Manager, Assam Telecom Circle  
Ulubari, Guwahati-781007.

No. STES-5/2/Loose/51 Dated Guwahati the 08.3.2002.

To,

The Telecom Dist. Manager, Tezpur.

Sub: Promotion to the cadre of TES Group-B

Kindly refer to your letter No. E/TGA/01-02/17 dated 12.2.2002 on the above mentioned subject. The following JTOs are not promoted to the cadre of TES Group-B due to pendency of vigilence cases. Against them.

<u>Sl. No.</u>	<u>Staff No.</u>	<u>Name of the JTOs</u>
1	107515 6A 135/02	Sri Pulakesh Deka
2	108083 0A 134/02	Sri Manoj Kr. Karki
3	108343 0A 125	Sri Promodh Kr. Pathak
4	109884 0A 136	Sri Someswar Sonowal

Sri J.C. Sarma, JTO has not been promoted to the cadre of TES Group-B in the BSNL, Head Quarter, New Delhi memo No. 1-16/2001-Pers-II dated 19.12.2001.

This is for favour of your kind information please.

Sd/- Illegible,  
(G.C.SARMA) 3/3  
Asstt. Director Telecom(Staff).

Memo No. 01-02/27 dated 21.3.2002.

Copy forwarded to:- 1. Sri Pulakesh Deka, JTO  
2. Sri Manoj Kr. Karki, JTO  
3. Pramod Kr. Pathak, JTO  
4. Someswar Sonowal, JTO  
5. Sri J.C. Sarma, JTO

for kind information please.

Attested by  
Kishore Chelli  
Adviser  
11/4/2002

Sd/- Illegible,  
SDE(HRD) BSNL  
O/O TDM Tezpur-784001.

CONFIDENTIAL

GOVT. OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE TELECOM. DISTRICT MANAGER, TEZPUR.

W.

SRI P. P. Pathak,  
J.T.O., Biswanath Chariali.

No. 2002/Dis/ P. P. Pathak/ 2000-2001/2

Dated at Tezpur, the

7-8-2000.

Sub:- Charge sheets under Rule 14 of CCS(CCA)  
Rules 1965 - case of Sri P. P. Pathak, JTO.

The memorandum received from the CGMT/GH memo No. Vig/Assam/Dis/III/2000-2001/6 dtd. 31-7-2000 along with the annexure under File mark No. Vig/Assam/Dis/III/4 dtd. 31-7-2000 on the subject against you.

Please acknowledge the receipt of the following documents, with the following enclosure.

Enclo:- 1) Memorandum alongwith the (in original)  
annexure I to IV in respect  
of you.

2) One format of acknowledgement should be  
returned after duly signed with date.

S. S. S. S.

( P. Das ),

Divisional Engineer(P&A),  
O/O the T.D.M., Tezpur-784001.

Attested by  
Prithvi Chettri  
Advocate  
11/4/2002.

Government of India  
Dept. Of Telecommunications,  
O/O the Chief General Manager,  
Assam Telecom Circle, Ulubari,  
Guwahati- 781007.

Dated the 20<sup>th</sup> July 2000

31<sup>st</sup>

MEMORANDUM

The President/undersigned proposes to hold an inquiry against Shri P.Pathak JTO under SDE(P) Biswanath Chariali under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehavior in respect of which the Inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witness by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Sri P.Pathak JTO is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence, and also to state whether he desires to be heard in person.
3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specially admit or deny each articles of charge.
4. Sri P.Pathak JTO is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provision of Rule-14 of the CCS(CCA) Rules 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of Sri P.Pathak JTO is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri P.Pathak JTO is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.
6. The receipt of the Momorandum may be acknowledged.

(By order and in the name of the President)

(J.K.CHHABRA)

Chief General Manager Telecom  
Guwahati-781007

Encl: a:a

To  
Sri P.Pathak JTO ,

*Attested by*  
*Nishtha Chatterjee*  
*Advocate*  
*11/4/2002*

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST Sri P.PATHAK  
JTO , UNDER SDE(PHONES), BISWANATH CHARAILI, SONITPUR, ASSAM.

While Shri P.Pathak JTO was posted and functioning as JTO under SDE(P), Biswanath Charali during the year 1996 failed to maintain absolute integrity and devotion to duty as much as he had countersigned 13 Nos. of false and fabricated experience certificates issued by S/sh Rajendra Rai, Sub-Inspector, Lambodar Jha, Sub-Inspector Rambilash Rai, line Inspector, Sakaldeo Singh, Sub-Inspector Deonath Rai, Sub-Inspector in favour of S/Sh Prabhat Sarma, Biren Das, Biren Bora , Pranjal Kataki, Maina Bora , Dharmendra Kr. Rai , Ambika Barman , Basanta Bhuyan , Prabhat Kalita , Dwipen Bhuyan , Kishore Kr. Pathak ,Cheniram Sarma and Govinda Bora without going through any documentary evidence and verification and on the basis of his countersignature, the TDE Tezpur has regularized all the 13 persons vide order No. X-1/CMPT/96-97/Con-7 dtd. 27/5/96 as Temporary Status Mazdoors and thereby the above acts, he contravened the provision of Rule 3(1) and (2) of CCS(Conduct) Rule, 1964.

পূর্ণ পাতামুক্ত দৃশ্যমান  
Ch. 1 General Manager, Tlcom  
ম.ন.স.স.ব.র.প.১৭৭৩৩, মুবাহিলা-৭  
Tlcom Circle, Shy-7

Filed by  
Kishore Chatterjee  
Advocate  
11/4/2002

**STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MISBEHAVIOUR  
IN SUPPORT OF THE ARTICLE OF CHARGE FRAMED AGAINST Sri. P  
PATHAK, JTO UNDER SDE ( PHONES ) BISWANATH CHARIALI ,  
SONITPUR, TEZPUR, ASSAM**

Sh. P. Pathak was posted and functioning as JTO under Sub-Divisional Engineer(Phones), Biswanath Chariali, Sonitpur, Assam during the year 1996.

It is alleged that the DoT had banned the engagement of casual labourers in project circles/electrification circles by a circular/letter No. 270/6/84-STN, New Delhi dtd. 30/3/85 of S. Krishnan, Director(STN) Posts and Telegraph.

It is alleged that a circular/letter vide No. 269/4/93-STN-II dtd. 17/12/93 was issued by the Assl. Director General(STN), Depl. of Telecom, New Delhi in the subject matter of " Casual labourers(grant of temporary status and regularisation) Scheme, 1989 engaged in circles after 30/3/85 and upto 22/6/88." This circular/letter extending the temporary status to all those casual mazdoors who were engaged by the project circles/electrification circles during the period from 31/3/85 to 22/6/88 and who are still continuing for such works where they were initially engaged by violating banning order dt. 30/3/85 and who are not absent for more than 365 days counting from the date of issue of this order be brought under this scheme.

It is alleged that incorporating all the conditions in circular/letter dt. 17/12/93 of DoT S/Sh. Rajendra Rai, Sub-Inspector, Lambodar Jha, Sub-Inspector, Rambilash Rai, Lines Inspector, Radharam Deka, Lines Inspector, Deonath Rai, Sub Inspector all under SDE(P), Biswanath Chariali had issued 27 Nos. false and fabricated experience certificates in favour of 27 persons wherein they have been shown Casual Labours and working from 1988 to 1996(February) continuously and No. of days they worked shown in the said certificates.

It is alleged that Sh. Rajendra Rai had issued 7 Nos. of false and fabricated certificates to 7 persons, they are :

- 1) Sh. Pawan Kataki, S/o Loknath Kataki of Biswanath Chariali.
- 2) Ms. Juri Sarma, D/o Golap Ch. Sarma, Biswanath Chariali.
- 3) Sh. Jitu Sarma alias Ralul Sarma, S/o Late Rabiram Sarma, Bongaon, Biswanath Chariali.
- 4) Sh. Gagan Bhuyan, S/o Late Phuleswar Bhuyan of Barobhuyan, Biswanath Chariali.
- 5) Smt. Tunmoni Saikia, D/o Late Rabi Saikia, Kashgaon, Biswanath Chariali.
- 6) Sh. Maina Bora, S/o Late Laburam Bora of Rangamali, -do-
- 7) Sh. Dharmendra Kr. Rai, S/o Sh. Rajendra Kr. Rai, -do-

2) Sh. Lambodar Jha, the then S.I. had issued 6 Nos. of false and fabricated certificate in favour of 6 persons. They are :

- 1) Sh. Prabhat Sarma, S/O Late Gargeswar Sarma of Soolea,
- 2) Sh. Biren Bora, S/O Lokeswar Bora of Soolea,
- 3) Sh. Basanta Bhuyan, S/O Late Dhaloram Bhuyan of Gopalpur, Sonitpur.
- 4) Sh. Prabhat Kalita, S/o Late Dhiradutta Kalita of Naharani, Sonitpur,
- 5) Sh. Dwipen Bhuyan, S/o Sh. Sandhan Bhuyan of Barochuk,
- 6) Sh. Cheniram Sarma, S/O Late Nareswar Sarma of Naharani.

*Alleged by  
Kishore Chettri  
Advocate  
11/4/2002*

Contd.....

Sh. Ram Bilash Ray had issued 4 Nos. of false and fabricated certificate in favour of 4 persons.  
They are :-

- 1) Sh. Abani Baruah, S/O Late Bhola Baruah, of Baruachuburi, Soolea.
- 2) Sh. Govinda Bhuyan, S/o Late Tarini Bhuyan of Bamungaon, Biswanath Chariali.
- 3) Sh. Ambika Barman, S/o Late Praneswar Barman, Milonpur, Biswanath Chariali and
- 4) Sh. Kishore Kr. Pathak, S/O late Jogendra Nath Pathak of Milanpur, Biswanath Chariali.

4) Sh. Radharam Deka , Line Inspector had issued 2 Nos. of false and fabricated certificates in favour of the following 2 persons :-

- 1) Sh. Jilen Sarma, S/O Late Nilyananda Sarma of Borbhogia, Jamugurihat,
- 2) Sh. Rainji Bhagat, S/O late Juri Bhagat of Jamugurihat, Sonitpur.

5) Sh. Sakaldeo Singh had issued 7 Nos of false and fabricated certificates in favour of the following 7 persons :-

- 1) Sh. Biren Das, S/O Dolon Das, Geruabari, Sonitpur.
- 2) Sh. Pranjal Kataki, S/O Jogen Kaloki, of Pallarchuk, Jamugurihat.
- 3) Sh. Dhanpad Swargiary, S/O Bholaram Swargiary, Bheleuguri, Soolea
- 4) Sh. Jholiprasad Saikia, S/O Sh. Jewram Saikia, Dagaon, Biswanath Chariali.
- 5) Sh. Tilak Bora, S/O Laburam Bora of Bongaon, Biswanath Chariali.
- 6) Sh. Babul Saikia, S/O Dambaru Saikia of Dagaon, Biswanath Chariali,
- 7) Sh. Pulin Bora, S/O Puma Bora, Mazgaon, Tezpur.

6) Sh. Deonath Ray, the then S.I had issued one false and fabricated certificate in favour of Sh. Gavinda Bora, S/o Late Sivanta bora of Telecom Colony, Biswanath Chariali.

It is alleged that Sh.P. Pathak, the then JTO had countersigned 13 Nos. of false and fabricated certificates as a token of correctness without going through any documentary evidence and verification and sent these certificates to the TDE, Tezpur for regularisation as Temporary Status Mazdoor(TSM) to the said 13 persons on the basis of his certification, the TDE, Tezpur had awarded the Temporary Status to all 13 persons vide letter No. X-1/CMPT/96-97/Con-7 dtd. 27/5/96 with immediate effect and all the 13 persons had joined as TSM and drawing salary/wages etc. till date. The person in whose favour the said certificates were countersigned are as under :

- 1) Sh. Prabhat Sarma, ✓
- 2) Sh. Biren Bora, ✓
- 3) Sh. Biren Das, ✓
- 4) Sh. Pranjal Kataki, ✓
- 5) Sh. Maina Bora,
- 6) Sh. Dharmendra Kr. Rai,
- 7) Sh. Ambika Barman, ✓
- 8) Sh. Basanta Bhuyan, ✓
- 9) Sh. Prabhat Kalita, ✓
- 10) Sh. Dwepen Bhuyan, ✓
- 11) Sh. Kishore Kr. Pathak, ✓
- 12) Sh. Cheniram Sarma and ✓
- 13) Sh. Govinda Bora, ✓

Contd.....

On the basis of his certification, the TDE, Tezpur had awarded the Temporary Status to all 13 persons vide letter No. X-1/CMPT/96-97/Con-7 dtd. 27/5/96 with immediate effect and all the 13 persons had joined as TSM and drawing salary/wages etc. till date.

Thereby all the above acts of Sh. P. Pathak contravened the provision of rule 3 (1) and (2) of CCS (Conduct) Rule, 1964.

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Attested by  
Kishore Chettri  
Advocate  
11/4/2002

Contd.....

Calendar of evidences ( List of Documents )

- 1) Letter No. G-1/Genl corr/95-96 dt 12-03-96 of Sri. G.S Mathur, SDE (Phones) (Gps) Biswanath Chariali addressed to Telecom District Engineer, Tezpur in r/o forwarding of 27 nos. of Certificates issued in favour of 27 nos Casual labourers /Mazdoors
- 2) List of 27 casual labourers recommended by selection committee for conferring Temporary Status ( Total 7(seven) sheets )
- 3) Certificate dated 10-03-96 issued in favour of. Prabhat Sarmia S/o Late Gargeswar Sarmia by Sri. Lambodar Jha S I
- 4) Certificate dated 09-03-96 issued in favour of. Biren Bora S/o Lokeshwar Bora i by Sri. Lambodar Jha S I
- 5) Certificate dated 09-03-96 issued in favour of. Biren Das S/o Dolon Das by Sri. Sakaldeo Singh S I
- 6) Certificate dated 09-03-96 issued in favour of. Pranjal Kataki S/o Jogen Katoki by Sri. Sakaldeo Singh S I
- 7) Certificate dated 08-03-96 issued in favour of. Maina Bora S/o Late Laburam Bora by Sri. Rajendra Rai S I
- 8) Certificate dated 08-03-96 issued in favour of. Dharmendra Kr. Rai S/o Rajendra Kr. Rai by Sri. Rajendra Rai S I
- 9) Certificate dated 08-03-96 issued in favour of. Ambika Barman S/o Late Praneswar Barman by Sri. Ram Bilash Ray L I
- 10) Certificate dated 08-03-96 issued in favour of. Basanta Bhuyan S/o Late Dhatrum Bhuyan by Sri. Lambodar Jha S I
- 11) Certificate dated 08-03-96 issued in favour of. Prabhat Kalita S/o Late Dhiradutta Kalita by Sri. Lambodar Jha S I
- 12) Certificate dated 08-03-96 issued in favour of. Dwipen Bhuyan S/o Sandhan Bhuyan by Sri. Lambodar Jha S I
- 13) Certificate dated 08-03-96 issued in favour of. Kishore Kr. Pathak S/o Late Jogendra Nath Pathak by Sri. Ram Bilash Ray L I
- 14) Certificate dated 08-03-96 issued in favour of. Cheniram Sarma S/o Late Nareswar Sarma by Sri. Lambodar Jha S I
- 15) Certificate dated issued in favour of. Govinda Bora S/o Late Sivanta Bora by Sri. Deonath Ray S I
- 16) Letter No : X-1/RMPT/96-97/CON-7 dtd 27-3-96 of TDE/Tezpur i.r.o regularization of casual labourers as TSM ( Total sheets 7 Nos relevant page at 03).
- 17) Attested photocopy of B.A. Part-II passed certificate passed in 1992.
- 18) Attested photocopy of B.A. Part-II passed mark sheet in the year 1992.
- 19) Attested photocopy of Higher Secondary passed certificate dtd 7-7-90 of Chatia H.S. School passed in 1990.
- 20) Attested copy of certificate No.16 dtd 3-8-93 issued in favour of Sri Dharmendra Kr.Ray, S/O Rajendra Ray who passed HSLC Examination in 1993 and ADMIT CARD.
- 21) Attested photocopy of pass certificate of Dakshin Kolabari H.E. School, Sonapur issued in favour of Sri Dipen Bhuyan, S/O Debeswar Bhuyan who passed HSLC Exam in 1992.

22) Attested photocopy of H.S Exam passed certificate of Sri Basanta Bhuyan, S/O Dhaturam Bhuyan, who passed in 1992. -31-

23) Joining Report dtd 30-5-96 of Sh. Kishore Kr. Pathak as TSM.

24) Joining Report dtd 30-5-96 of Sri Khageswar Borah as TSM( Maina Bora). 44

25) Joining Report dtd 30-5-96 of Sri Biren Das as TSM.

26) Joining Report dtd 30-5-96 of Sri Gobinda Borah as TSM.

27) Joining Report dtd 30-5-96 of Sri Cheniram Sarma as TSM.

28) Joining Report dtd 30-5-96 of Sri Prabhat Sarma as TSM.

29) Joining Report dtd 30-5-96 of Sri Pranjal Kataki as TSM.

30) Joining Report dtd 30-5-96 of Sri Biren Borah as TSM.

31) Joining Report dtd 30-5-96 of Basanta Bhuyan as TSM.

32) Joining Report dtd 30-5-96 of Dharmendra Kr. Ray as TSM.

33) Joining Report dtd 30-5-96 of Sri Ambika Barman as TSM.

34) Joining Report dtd 30-5-96 of Sri Prabhat Kalita as TSM.

35) Joining Report dtd 30-5-96 of Sri Dwipen Bhuyan as TSM.

36) Letter No.E-198/OTBP/93-94/197 dtd 15-5-93 of TDE/Tezpur i.r.o Promotion order as LM-II of Sri Sakaldeo Singh w.e.f. 29-1-92.

37) Letter No. 210/BCR/Scheme/93-94 /108 dtd 5-5-93 of TDE,Tezpur i.r.o. promotion of Sri Ram Bilash Ray, Lineman-III/Line. Insp.. w.e.f. 1-7-92.

38) Promotion order as Lineman of Sri Lambodar Jha w.e.f. 27-2-86 vide No.E-198/OTBP/88-89/149 dtd 20-7-88 of TDE/Tezpur.

39) Promotion order as Sub-Insp. Of Sri Rajendra Ray (at Sl. No. 29) vide L/No E-198/OTBP/90-91/15 dtd 7-6-90.

40) Forwarding letter (Carbon copy) of Sri G.S.Mathur, SDE(P) , Biswanath Charali addressed to TDE/Tezpur with proforma of 27 Casual Mazdoors and attested copies of documents of all 27 candidates vide L/No. E-20/CM/CLI/96-97/2 dtd 13-5-96. (Total 03 sheets).

41) Gradation List of 27 Casual labourers of Biswanath Charali Sub-Divn.(Telecom) with recommendation for regularization of casual labourers as TSM of Selection Committee. (Total-02 sheets)

42) Letter No. E-38/CMPT/Vol-II/96-97/15 dtd 30-3-96 of TDE/Tezpur addressed to Dy. G.M.(Admn), O/O the CGMT/Guwahati regarding engagement of casual labourers (no casual labour was engaged in the division). (File No. X-1/CMPT/Tz/Confsl,1996,relevant page-72.Original in case No. RC-10(A)/97-SHG at Sl. No. 24)

43) Letter No. X-1/CMPT/Tz/95-96/Confsl/1 dtd 25-3-96 of TDE/Tezpur i.r.o. constitution of Selection Committee for confirming casual labours to TSM(File No. X-1/CMPT/Tz./Confsl/1996 relevant page15 original in case No. RC-10(A)/97-SHG at listed document Sl. No. 26)

44) Letter No: I /CMPT/94-95/168 dtd 17-2-95 of TDE/Tezpur addressed to Asstt. Director Telecom(E&R), O/O the CGMT/Guwahati i.r.o. NIL report of Casual Mazdoors w.e.f. 31-12-93 onwards(File No. Rectt-3/10(Part Loose,Rectt-3/10/part-III of o/o the CGMT/Guwahati relevant page-117,original in RC-10(A)/97-SHG at listed document Sl. No. 28)

45) Letter No. E-38/CMPT/Vol-II/123 dtd 7-12-93 of TDE/Tezpur addressed to Asstt. Director Telecom(E&R), O/O the CGMT/Guwahati i.r.o. NIL Report of recruitment of Casual Labours after 31-3-1985. ( File No. Rectt-3/10(Part-II)/Loose,Rectt-3/10/part-III, o/o the CGMT,Guwahati relevant page - 76, original in RC-10(A)/97-SHG at listed document Sl. No. 29)

46) Original letter No. 269-4/93-STN-II dtd 17-12-93 of Asstt. Director General(STN) ,New Delhi i.r.o. regularization of casual labourers engaged in Circles after 30-3-1985 and upto 22-6-88.(File No. Recd-3/10/Part-II)/Loose,Recd-3/10/part-III of O/o the CGMT,Guwahati,relevant page-35. Original in RC-10(A)/97-SHG. Document listed SI. No. 30)

47) Letter No. 289-8/93-STN dated 27-7-93 of Asst Director Genl ( STN ), New Delhi ( original in case no. RC-10(A)/97-SHG, document listed sl no .31 ).

48) Letter No. Recd-3/10/part-III/3 dtd 26-8-93 of ADT(E&R), o/o the CGMT,Guwahati addressed to TDE/Tezpur (Original in case No. RC-10(A)/97-SHG SI. No. 32 ) SI no 47 & 48 are relevant with SI. No. 45 above).

49) Letter No. E-38/CMPT/Vol-III/96-97/15 dtd 30-8-96 of TDE,Tezpur addressed to Dy. GM(Admn), o/o the CGMT,Guwahati i.r.o. engagement of casual labours (NIL report) ( File No. Recd-3/10/Part-V of CGMT/Guwahati relevant page-4, original in RC-10(A)/97-SHG document listed SI. No.33)

50) Joining report dtd 12-2-95 of Ram Bilash Ray as LI addressed to SDE,Biswanath Charali.

51) Joining report dtd 26-3-95 of Sri Lambodar Jha, as SI addressed to SDE(Gp),Charali.

52) Joining report dtd 18-6-95 of Sri Sakaldeo Singh as SI(O) addressed to SDE(G),B/Charali.

53) Joining report dtd 3-3-95 of Sri Rajendra Ray-II as SI addressed to SDE(G), B/Charali.

54) Seizure Memo dtd 11-9-98.

55) Seizure Memo dtd 29-8-98

56) Seizure Memo dtd 21-4-98.

57) Seizure Memo dtd 01-8-97.

58) Seizure Memo dtd 1-8-97 in RC-10(A)/97-SHG.

59) Seizure Memo dtd 6-11-98.

60) Attendance Register of TSM under SDE(P),Gr.B/Charali from June/1996 to March/1998(Charali Incharge)

61) Attendance Register of TSM from June'96 to Jan'98.

62) --do-- of TSM from March'97 to Dec'97.

63) --do-- of TSM under JTO Gr. (West) Pavoi from June'96 to Dec'97.

64) Attendance Register of TSM of Sootea Ezchange from june to Dec'97.

65) Attendance Register of TSM under Gohpur telephone Exchange from June'96 to April'98.

66) Attendance Register of TSM under GHG Exchange from june'96 to April'98

67) Attendance Register of TSM of o/o SDE(P), B/Charali from June'96 to March'98.

68) Attendance Register of TSM of Bargang Exchange from July'96 to April'98.

69) --do-- of TSM of Bedeli Telephone Exchange from June'96 to April'98.

70) --do-- of TSM of Jamuguri Exchange from June'96 to Dec'97.

71) FIR of Case No. RC 11(A)/97-SHG.

72) Letter No. TDM/Tez/1005/CBI dtd 11-898 of Sri B.K.Goswami, TDM/Tezpur i.r.o. non-availability of ACG-17 with enclosure (two sheets) (original in RC-10(A)/97-SHG. Document listed SI. No. 58)

73) Rule 11 (Part-III of CCS Rules) i.r.o. sanctioning authority of Prosecution Sanction Order.

## Calender of evidence (Oral)

4b

- 1) Sri B.K.Goswami,TDM/Tezpur R/O 100/, Jessore Road, DumDum,Bhagabati Park, Calcutta-700074.---He will prove that no ACG-17 (Payment voucher of casual labourers) are available in his division which communicated vide document listed Sl. No.102).
- 2) Md. Islam Ahmed, S/O Late Basiruddin Ahmed, Chief Accounts Officer, o/o the TDM,Tezpur---He will prove that payment are made to casual labours, if engaged on ACG-17 farm and AO (Cash) is the custodian of the same. He will also prove that ACG-17 are not available for the period from 1988 to 1996(Feb). He will also prove documents seized from him vide seizure memo dtd 11-9-98.
- 3) Sri Sandhan Ch. Deka, Sr. TSO under SDE(P),Biswanath Charali R/O Nabapur, Biswanath Charali ,Dist: Sonitpur(Assam)(Primary witness)—He will identify the signatures of Sri G.S.Mathur,SDE(P),RPChakrabarty, the then JTO, P.Pathak,JTO, Rajendra Rai, Lambodar Jha, Sakaldeo Singh all Sub-Insp. , Ram Bilash Ray, Radha Ram Deka both Line Insp. And Deonath Ray ,Sl on certificates issued in favour of 27 persons now TSMs, wrking under SDE(P),B/Charali; Sri Deka will also prove documents seized from him on 29-8-98.
- 4) Sri Girish Saikia,JTO under SDE(P),B/Charali R/O Nabapur ,B/Charali, Dist:Sonitpur(Assam) (Primary witness)—He will prove the same fact as will prove by witness at Sl. No.3 above.
- 5) Sri Open Swargiary, Sr. Accts. Officer,o/o the TDM,Tezpur R/O Indira Nagar,Tezpur, Dist:Sonitpur(Assam).
- 6) Sri Ajit Kr. Sarkar, the then SDE(HRD),now SDOT/Tezpur R/O Vill & P.O.:Dhekiajuli, Ward No.6 Dist:Sonitpur (Assam)
- 7) Sri Dhartneswar Payeng , the then SDO(P),Tezpur now DE(Phones),Jorhat R/O Town Bantu, North Lakhimpur, Ward No.14 Dist:Lakhimpur(Assam)—Sl No. 5,6&7 will prove that they were the members of selection committee for conferring temporary status to casual mazdoors/labours, constituted b Sri M.K.Gogoi, the then TDE,Tezpur and they had recommended to 27 Nos. casual labourers for TSM.
- 8) Sri H.S. Debnath, JAO,o/o the TDM/Tezpur(seizure witness,not examined) seizure memo dtd 1-8-97.
- 9) Sri B.C.Pal,Asstt.Director Telecom(E&R),o/o the CGMT/Guwahati(seizure witness ,not examined)
- 10) Sri Anil Ch. Dutta, Phone Mechanic under SDE(P), B/Charali(not examined)--- He will prove the documents seized vide seizure memo dtd 21-4-98.
- 11) Sri Barman, Inspector, CBI,Guwahati(I.O. of the case).

*Witnessed by*  
*Prishno Chatterjee*  
*Advocate*  
*11/4/2002*

✓X

To,

The Chief General Manager,  
Assam Telecom Circle, Guwahati -781007  
Dated at Biswanath Chariali, the 17.8.2000

**Sub:** Denial of charges framed under rule 14 of CCS(CCA) Rules 1965

**Ref:** Your memo no vig /Assam /DISC- III/2000-0.1/4 Dated the 31-7-2000

Sir,

With due respect and humble submission I beg to intimate you that the charges framed against me vide your memo. under reference is totally denied. The charges, that I have countersigned 13 nos of false and fabricated experienced certificates issued by S1/L1 working under me are without any proper/valid evidence.

In this regard I would like to mention here that I had joined in the department in February 1991 and after my joining I never came across any such letter from DOT regarding conferring temporary status to casual mazdoors engaged before 22/6/88.

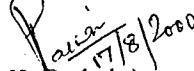
That sir, after joining in the department as per departmental norms I was entrusted to carry out certain works like maintenance and construction of L & W works, laying of U/G cables, erection of D.P.Boxes, installation of new exchanges and so on. For these types of works detailed estimates were prepared keeping provision of engagement of labour which were approved by the competent authority. Accordingly mazdoors were engaged for the jobs entrusted on me and as soon as the work was over they were terminated. The period of engagement of mazdoors was specified on the basis of work load and the payments were made through the LJ/SI from time to time from the temporary advance received against the approved work.

In fact I could remember that during my period I have countersigned certain certificates issued by some SI/LI after proper verification and right now of course I cannot remember how many certificates were countersigned by me after a lapse of 4 years which I can well confirm after going through the original certificates. But I am sure that those certificates were never forwarded to any kind of authority for appointment under any reference.

Moreover in this regard I would like to bring to your kind notice that in annexure IV of the charge sheet some oral witnesses are included and through some of the state witnesses the prosecution wanted to prove that no ACG-17 (payment vouchers of casual labours) are available in Tezpur Division. In this situation it is not possible to justify how the prosecution will prove the case of countersigning false and fabricated certificates by the charged officials. Hence I cannot understand that during the preliminary inquiry the officers conducting the events in question whether made proper verification to ascertain the reason of non-availability of account particulars which were to be with the Account section of the department. The charge thus framed against me may vitiate natural justice for me.

Sir, in this circumstance considering all the facts mentioned above I would like to request you to kindly drop the charge framed against me to avoid any wastage of departmental mandays and to relieve me from further anxiety

Yours Faithfully

  
( P. K. Pathak )  
J.T.O., Biswanath Chariali

Attested by  
Partha Chatterjee  
Advocate  
11/4/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

LS  
Union of India + Ors.  
through  
Pramod Kumar Pathak  
25/6/62  
Ass. Central Circle  
Standing Counsel

In the matter of :

O.A. No. 125 OF 2002

Pramod Kumar Pathak

..... Applicant.  
- Vs -

Union of India & Ors.

..... Respondents.

Written Statements for and on behalf on Respondents

No. 1, 2, 3 and 4.

I, S.C. Das, Asstt. Director Telecom (Legal)

Bharat Sanchar Nigam Ltd, Office of the Chief General Manager, Assam Telecom Circle, Guwahati do hereby solemnly affirm and say as follows :-

1. That I am the Asstt. Director Telecom (Legal) Bharat Sanchar Nigam Ltd, Office of the Chief General Manager, Assam Circle, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in the written statements the other contention and statements may be deemed to have been denied. I am competent and authorised to file this written statements on behalf of all the respondents.

2. That with regard to the statements made in paragraph 3 of the application the respondents beg to state that the applicant was empanelled for promotion to the cadre of SDE, subject to the condition that there was no disciplinary case pending against him. It was incumbent on the CGMT, Guwahati (Respondent No.3), under whom the applicant has been working to ensure that the condition of promotion is satisfied before actually effecting the promotion order.

Since a formal disciplinary proceedings had been initiated by the competent disciplinary authority for good and sufficient reason and the same have remained inconclusive up to the relevant period of time, deemed sealed cover procedure was adopted against the applicant and he was not allowed to take up the charge of promotional post.

The action of the Respondent No.3 is in conformity with the rules and there is no illegality.

3. That the respondents have no comments to the statements made in paragraph 4, 5, & 6.1 of the application.

4. That with regard to the statements made in para 6.2 of the application, it is stated that the same are matters of records.

5. That with regard to the statements made in para 6.3 and 6.4 of the application the respondents beg to state that the applicant is *prima facie* found to have involved himself in irregular engagement of casual labourers in defiance of strict prohibitory order. The materials available on departmental records also suggest that he has issued false

certificates with malafide intention of providing undue and illegal benefits to unauthorised person for absorption in the department. The applicant's conduct is not above board.

The conditional promotion list prepared by BSNL includes the name of the applicant. The same does not confer any absolute right on the applicant or his promotion to SDE. According to condition laid down in para-2, if a case of the type mentioned in GOI OM No. 22011/4/91-ESTT(A) dated 14.09.92 is pending against any Govt. Servant, such official should not be promoted to the higher grade even through his name is included in the list.

6. That with regard to the statements made in para 6.5 of the application the respondents beg to state that the representation of the applicant was duly considered and he was communicated the compelling reason for withholding his promotion.

7. That with regard to the statements made in para 6.6 and 6.7 of the application the respondents beg to state that in reply to his representation, the applicant was categorically informed that due to the pendency of the disciplinary case against him it was not lawfully possible to promote him to the cadre of SDE. The decision against promotion of the applicant was a conscious one based on the approved guidelines of the G.O.I. as contained in OM No. 22011/4/91-ESTT(A) dated 14.09.92. (*Annexure A*)

8. That with regard to the statements made in para 6.8 of the application the respondents beg to state that there has been large scale irregular engagement of casual labourer and subsequent grant of Temporary Status in contravention of Departmental Rules in Tezpur SSA. The CBI made through investigation in the matter and submitted their final report. According to the report some of the departmental officials including the applicant issued false and fabricated certificates to show that the casual mazdoors had been working for years making them eligible for grant of Temporary Status when in fact, these person put on duty for the period recorded in these certificates. Based on this false certificates the person were granted Temporary Status.

The appropriate departmental authority examined the CBI report and the materials collected during the investigation. It prima facie appeared that the applicant has indulged in corrupt practice with malafide intention to provide employment to outsiders through fraudulent means. The authority also consulted with CVC and arrived at a decision to conduct departmental enquiry under the provision of Rule-14 of CCS(CCA) Rules. Accordingly a memorandum of charges were framed and served on the applicant on 31.07.2000.

9. That with regard to the statements made in para 6.9 and 6.10 of the application the respondents beg to state that the applicant has denied the charges framed against him and desired to be heard in person. Since the charged Govt. servant denied the charges a duly appointed I.O. will conduct the enquiry as per provision of the rules after

affording the opportunity to the applicant to defend his case.

10. That with regard to the statements made in para 6.11 to 6.15 of the application the respondents beg to state that the SDE named in para 6.12 were promoted to SDE as there was no Disciplinary case against them at the relevant point of time. These officers were promoted to SDE in 2000 before the completion of the CBI investigation. All these officers are senior to the present applicant.

The case of the applicant is not comparable to those SDEs as they belong to earlier batch and disciplinary proceedings had not been initiated up to the date of their promotion. In the case of applicant a disciplinary proceedings have been initiated by issuance of a formal charge sheet on 31.07.2000 and the same was pending at the time when the promotion fell otherwise due. The charge sheet in the instant case was issued on 31.7.2000 and the written statement of the applicant was received on 09.11.2000. Since the applicant denied the charges an enquiry officer of the level of DE was appointed on 8.11.2001 to enquire into the charges.

However, before the I.O. could complete the enquiry he had to be transferred to another post on administrative exigency. The disciplinary authority appointed a new I.O. on 11.01.2002 and the newly appointed I.O. has since completed the regular hearing on 23.05.2002. The presenting office and the charged Govt. servant have been directed to submit their respective brief on receipt of which the I.O. will prepare his report and submit to the disciplinary authority.

In the fact and circumstances of the case as above there was no avoidable delay in conducting the enquiry.

11. That with regard to the statements made in para 6.16 of the application the respondents beg to state that it is a case of adoption of sealed cover procedure during the pendency disciplinary case. The question of imposing penalty etc. will arise after the conclusion of the on going departmental enquiry in the event of the charges are established.

12. That with regard to the statements made in para 6.17 of the application the respondents beg to state that according to the guidelines issued by the G.O.I Deptt. of P & T vide OM dated 14.11.92 Govt. Servant against whom a charge sheet has been issued and the disciplinary case is pending should not be promoted until he is fully exonerated from the charges.

13. That with regard to the statements made in para 6.18 of the application the respondents beg to state that the claim of the applicant is not overlooked. He has been duly considered for the promotion to the cadre of SDE. However, since the adverse situation has arisen before he was actually promoted to the higher post, deemed sealed cover procedure is adopted as para para 7 of the OM dated 14.11.92 . His case will be reviewed after the conclusion of the disciplinary proceedings on the basis of the outcome of the case.

14. That with regard to the statements made in para 6.19 of the application the respondents beg to state that it is not mandatory to place all charge-sheeted Govt. servant under suspension. In the fact and circumstances of the case the authority did not consider it essential to place the applicant under suspension. The non-suspension is not a valid ground for waiving the sealed cover procedure against the applicant.

15. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

Verification .....

### VERIFICATION

I, S.C. Das, Asstt. Director, Telecom (legal),  
B.S.N.L, O/O the Chief General Manager Assam Telecom  
Circle, Guwahati being duly authorised and competent to  
sign this verification do hereby solemnly affirm and  
state that the statements made in paragraphs  
of the application are true to my knowledge  
and belief, those made in paragraphs  
being matter of record are true to my information derived  
therefrom and those made in the rest and humble submission  
before the Hon'ble Tribunal. I have not suppressed any  
material facts.

And I sign this verification on this 24 th day  
of June, 2002, at Guwahati.

  
(S.C. Das)

~~Depponent~~

সুজিৎ দাশ (বিধি)  
Asstt. Director, Telecom (Legal)  
কার্যালয়, পদ্ম প্রস্থ রামপুর  
O/o Chief General Manager, Assam Telecom  
অসম প্রযোগ বিভাগ, গুৱাহাটী-১  
Assam Telecom Circle, Guwahati

North Block, New Delhi - 110001  
 Dated, the 14th Sept., 1992.

**OFFICE MEMORANDUM**

**Subject: Promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation - Procedure and guidelines to be followed.**

O.M.No.  
 38/3/88-Estt.A dt.31.8.88  
 7/2/83-Estt.A dt.22.12.84  
 22011/3/77-Estt.A  
 dt.14.7.77  
 22011/1/79-Estt.A  
 dt.31.1.82  
 22011/2/86-Estt.A, review  
 dt.12.1.88  
 22011/1/91-Estt.A  
 dt.31.7.81

Cases of Government servants to whom Sealed Cover Procedure will be applicable.

The undersigned is directed to refer to Department of Personnel & Training OM No.22011/2/86-Estt.(A) dated 12th January, 1991 and subsequent instructions issued from time to time on the above subject and to say that the procedure and guidelines to be followed in the matter of promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation have been reviewed carefully. Government have also noticed the judgement dated 27.08.1991 of the Supreme Court in Union of India etc. vs. K.V. Jankimman etc. (AIR 1991 SC 2010). As a result of the review and in supersession of all the earlier instructions on the subject (referred to in the margin), the procedure to be followed in this regard by the authorities concerned is laid down in the subsequent para of this OM for their guidance.

2. At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:-

- I) Government servants under suspension;
- II) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- III) Government servants in respect of whom prosecution for a criminal charge is pending.

Procedure to be followed by DPC in respect of Government servants under cloud.

2.1 The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above alongwith other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including 'Unfit for Promotion', and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed 'Findings regarding suitability for promotion to the grade/post of ..... In respect of Shri .....(name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution against Shri .....'. The proceedings of the DPC need only contain the note 'The findings are contained in the attached sealed cover'. The authority competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

2.2. The same procedure outlined in para 2.1 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

Procedure by subsequent DPCs.

Action after completion of disciplinary case/criminal prosecution.

3. On the conclusion of the disciplinary case/criminal prosecution which results in dropping of allegations against the Govt. servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of national promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denial of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.

3.1 If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

3.2 It is also clarified that in a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'warning' should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the Government servant, at least the penalty of 'censure' should be imposed.

Six Monthly review of 'Sealed Cover' cases.

4. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalise expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be

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done subsequently also every six months. The review should, *inter alia*, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion.

5. In spite of the six monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him *ad-hoc* promotion keeping in view the following aspects:-

- a) Whether the promotion of the officer will be against public interest;
- b) Whether the charges are grave enough to warrant continued denial of promotion;
- c) Whether there is any likelihood of the case coming to a conclusion in the near future;
- d) Whether the delay in the finalisation of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Government servant concerned; and
- e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after *ad-hoc* promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau.

5.1. In case the appointing authority comes to a conclusion that it would not be against the public interest to allow *ad-hoc* promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on *ad-hoc* basis. Where the Government servant is considered for *ad-hoc* promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

5.2. After a decision is taken to promote a Government servant on an *ad-hoc* basis, an order of promotion may be issued making it clear in the order itself that:-

- i) the promotion is being made on purely *ad-hoc* basis and the *ad-hoc* promotion will not confer any right for regular promotion; and
- ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserves the right to cancel the *ad-hoc* promotion and revert at any time the Government servant to the post from which he was promoted.

5.3. If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the *ad-hoc* promotion already made may be confirmed and the promotion treated as a regular one from the date of the *ad-hoc* promotion with all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of his *ad-hoc* promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 3 above.

5.4. If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the *ad-hoc* promotion granted to him should be brought to an end.

6. The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension, etc. A permanent vacancy should be reserved for such an officer when his case is placed in sealed cover by the DPC.

7. A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him and the provisions contained in this OM will be applicable in his case also.

8. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned, these instructions have been issued after consultation with the Comptroller and Auditor General of India.

9. Hindi version will follow.

*Manoj Singh*  
(M.S. BALI)  
DIRECTOR

To

All Ministries and Departments of the Government of India with usual number of spare copies.  
No. 22011/4/91-Estt(A) Dated the 14th Sept., 1992.

Copy forwarded for information to:-

1. Central Vigilance Commission, New Delhi.
2. Central Bureau of Investigation, New Delhi.
3. Union Public Service Commission, New Delhi.
4. Comptroller and Auditor General, New Delhi.
5. President's Secretariat/Vice-President's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat and Prime Minister's Office.
6. Chief Secretaries of All States and Union Territories.
7. All Officers and Administrative Sections in the Ministry of Personnel, Public Grievances and Pensions and Ministry of Home Affairs.

*Attested*  
*M.S. BALI*  
COMPTROLLER AND AUDITOR GENERAL  
STANDING COMMITTEE

*Manoj Singh*  
(M.S. BALI)  
DIRECTOR