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

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed Date- 5/5/03

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O.A/T.A No. OA-134/02

R.A/C.P No. 03/03

E.P/M.A No. 26/03

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SECTION OFFICER (Judl.)

M.P-26/03 in OA-125/02 134/02 135/02 and 136/02



5.6.02

The matter was listed for Admission. Though opportunity was granted to the respondents, the respondents have not filed any written statement. However, on the prayer of Mr.A.Deb Roy, Sr.C.G.S.C. further three weeks time is granted to file written statement as a last chance. List on 25.6.02 for Admission. Endeavour shall be made to dispose of the application at the admission stage.

*K. Usharma*  
Member

*[Signature]*  
Vice-Chairman

lm

25.6.02

No reply so far filed by the respondents. List again on 25.7.2002 for admission.

No reply has been filed.

30  
24.7.02

*K. Usharma*  
Member

*[Signature]*  
Vice-Chairman

mb

25.7.2002

Heard Mr.S.Ali, learned Sr.counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. No objection or written statement filed. The case is accordingly admitted and the matter is posted for hearing on 13.8.2002. The respondents may file written statement, if any, before the date of hearing.

*K. Usharma*  
Member

*[Signature]*  
Vice-Chairman

bb

14.8.02

W/S submitted by the Respondents.

*[Signature]*

13/8

Name appeared for the applicant, list again on 13/8.

*[Signature]*  
13/8

Notes of the Registry	Date	Order of the Tribunal
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19.8.02

On the prayer of learned counsel for the parties, the case is adjourned. List the matter for hearing on 21.8.02

*K. Ushar*  
Member

*[Signature]*  
Vice-Chairman

mb

21/8

Heard Mr. S. Ali (learned Counsel for the applicant & Mrs. A. Rehman, Sr. C.A. & C.V. for the respondent.

Hearing concluded.

Judgment reserved.

Mrs.

*A. Rehman*  
21/8

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.

*K. Ushar*  
Member

*[Signature]*  
Vice-Chairman

mb

Judgment dtd 29/8/02  
Communicated to  
the applicant  
*[Signature]*



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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. Choudhury, 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.

By Advocates Mr S. Ali and Mr A. Chetri.

.....Applicants

- versus -



The Union of India, represented by the  
Secretary to the Government of India,  
Communication Department, New Delhi.

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.

.....

# 15

ORDER

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.

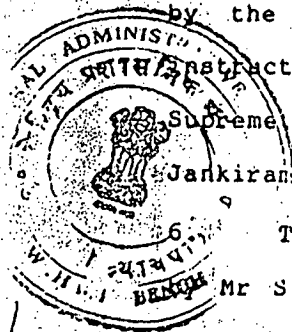
3. The respondents submitted their written statement and contended that in view of the pendency of the disciplinary proceeding against all these four applicants, the authority did not give effect to the order of promotion on the basis of the policy laid down by the Government of India in O.M.No.22011/4/91-357F (A) dated 14.9.1992.

: 2 :

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.163/1987 and others (Abraham Titus and Others Vs. Union of India and others) decided on 23.8.1990.

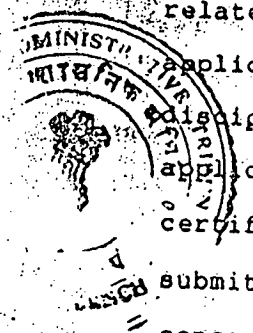
5. Mr A. Deb Roy, learned Sr. C.G.S.C., appearing on behalf of the respondents submitted that there is no infirmity in the O.M. dated 14.9.1992, which was issued by the Government of India on review of the earlier instructions in the light of the decision rendered by the Supreme Court in Union of India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



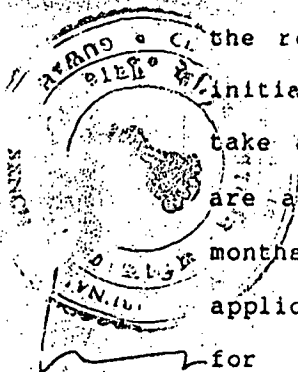
instructions, but where statutory rules are silent, executive instructions can fill up the gap. In the instant case, by the executive instructions the Central Government has only sought to plug the hole. By the aforementioned O.M. the Central Government issued instructions to meet the eventualities of 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 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.....



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 deprecate 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 indicate 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 on 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.....



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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.



Sd/VICE CHAIRMAN  
Sd/MEMBER (A)

T/K  
Banna  
24/9/12  
CA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

12  
Filed by the  
Applicant  
Shri Manoj Kumar Karki  
through me - Krishna Chellai  
Advocate 29/4/2002.

O.A. No. 134 /2002.

Shri Manoj Kumar Karki ..... Applicant.

-VRS-

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

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
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2	Annexure-1	- 12
3	Annexure-2	- 13 to 16
4	Annexure-3	- 17 to 20
5	Annexure-4	- 21
6	Annexure-5	- 22
7	Annexure-6	- 23 to 29
8	Annexure-7	- 30

Filed by:-

Krishna Chellai  
29/4/2002.  
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. \_\_\_\_\_/2002.

-Inbetween-

Sri Manoj Kumar Karki

..... Applicant.

-VRS-

The Union of India & Ors.

..... Respondents.

1. PARTICULARS OF THE APPLICANT:-

Sri Manoj Kumar Karki, at present  
working as Junior Telecom Office in the  
office of the Telephone Exchange,  
OCB Building Jaymati Pathar, Tezpur,  
District - 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, Ulubafi, Guwahati-7.

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Sri Manoj Kumar Karki

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

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

1) Non promotion of the applicant from the post of Junior Telecom Officer(JTO) to the post of Telecom Engineering Service Group-B (JES Gr.B) though he has been selected for promotion 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 ~~Act~~ 1985, 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 State of 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 6.2.91 by the Telecom District Engineer, Tezpur vide letter No.E-2/JE/TFR/90-91/249 dated 6.2.91 and posted at Tangla

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Sri Monoj Kumar Karler

and he joined on 6.2.91 and thereafter he was transferred to Tezpur in 1993 and since then he has been working there to the entire satisfaction of the authority and without any belemish.

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 JTO 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 prepared by Bharat Sancher Nigam Ltd.

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 (Assam Circle) on All India Basis wherein your applicant's name has been put under Staff No.108083 at Sl. No.29 alongwith others JTO.

Annexure-3 is the phtocopy of the office order alongwith promotion list dated 19.12.2001 issued by the Assistant 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 Sancher Nigam Ltd.. Head Quarter, New Delhi

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Sri Manoj Kumar Kartri

and having not promoted to the post of TES Gr.B, the applicant submitted a representation on to the Chief 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 represented dated 31.1.2002 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 pendency of the vigilance 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 District Manager, Tezpur, with a copy to the applicant alongwith others.

6.7. That 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 vigilance case against him.

6.8. That your applicant begs to state that vide Memo No.Vig/Assam/DISC-IX/00-01/4 dated 27.2.2001 issued by the Chief General Manager, Assam Telecom Circle, Guwahati issued charge sheet against the applicant with statement

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Smt Manoj Kumar Kar

Delhi

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 acted in a manner unbecoming of his position in as much as he countersigned 6 Nos. of certificates issued by Sri Hemendra Bora, TTA/PRX and Sri Sukan Rai, S.I. in favour of casual mazdoors knowing/or having reasons to believe that the said certificate/certificates issued as aforesaid in favour of the casual mazdoors were bogus as they had never been appointed in the office by SDE(P), Tezpur and thereby contravened Rule 3(1)(i)(ii) and (iii) of CCS Conduct Rule, 1964.

Annexure-6 is the photocopy of the memorandum No.Vig/Assam/Disc-IX/00-01/4 dated 27.2.2001 issued by the Chief General Manager, Assam Circle, Guwahati alongwith statements of Article of charges and statements of imputation.

6.9. That the charge sheet at Annexure-6 has been served on the applicant on the applicant on 27.2.2001 and the applicant on receipt of the same submitted his show cause reply vehemently <sup>n</sup>deying the charges brought against him to the Chief General Manager, Assam Circle Guwahati on 3.4.2001.

Annexure-7 is the photocopy of the said show cause reply submitted by the applicant dated 3.4.2001.

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Sri Manoj Kumar Parke

6.10. 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.

6.11. 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 <sup>and Staff No. 108083</sup> under Sl. No.29 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 Udalguri.
4. Sri G.Mukherjee(Retd), worked as S.D.E.(TT) at Tezpur.
5. G. Chakravorty, working as <sup>SDOT Mangalaloi</sup> SDE(TT) at Tezpur.
6. B.C.Baishya (Retd), worked as S.D.E.(HRD) at Tezpur.

6.12. That all the above named promoted TES Gr.B officers are now facing vigilance cases pending against them like applicant though they have been promoted from the promotion list. Few of them are junior to the applicant.

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The Manoj Kumar Karde

Delhi

Delhi

6.13. 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 vigilance 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.

6.14. That though the vigilance case is pending against the applicant yet he has been regularly working 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 ~~xxx~~ similar voting.

6.15. 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.

6.16. 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 to the applicant to his next higher post of TES Gr.B.

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Sri Mary Kurman Karan

6.17. 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.  GROUNDS 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 vigilance case against the applicant cannot be a ~~bar~~ 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 to the next higher post.

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.

*Sri Mang Kumar Banker*

*20*

7.8. For that non promotion of the applicant though he is found suitable in all respects and selected for promotion he has been deprived of his promoted post and from her pay scale by the authority.

7.9. For that the above named promoted officers are also facing vigilance 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 TES 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 vigilance case is pending against him.

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

No case before this Hon<sup>ble</sup> Tribunal or in any 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

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The Manoj Kumar Karer

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 Respondent No.4.

ii) Any other relief or reliefs entitled to the applicant may be granted.

11. INTERIM RELIEF IF ANY PRAYED FOR:-

In the interim, the applicant prays that the respondents be directed to consider the case of the applicant for promotion to the next higher post of TES Gr.B till disposal of this application.

12. DETAILS OF POSTAL ORDERS:-

1. Postal Order No. 76549718 .
2. Date of issue: 10.4.2002 .
3. Issued by:- Post Master
4. Payable at Guwahati.

13. LIST OF ENCLOSURES:-

As per Index.

Veirification.....

12  
Sri Manoj Kumar Barua

VERIFICATION

I, Shri Manoj Kumar Karki S/o Sri Til Bahadur Karki, aged about 37 years, at present working as Junior Telecom Officer in the office of the Telephone Exchange, OCB Building, Jaymati Pathar, Tezpur in the district of Sonitpur, Assam, do hereby solemnly affirm and verify the statements made in paragraphs 1, 2, 3, 4, 5, 6.1, 6.2, 6.5, 6.10, 6.11, 6.13, 6.14, 6.15, 6.18, 8, 9, are true to my knowledge and those made in paragraphs 6.3, 6.4, 6.6, 6.7, 6.8, 6.9, 6.12, being matter of record are true to my information derived therefrom which I believe to be true and therests are my humble submissions/grounds before this Hon'ble Tribunal. I have not suppressed any material facts in this case.

And I sign this verification on this the 29 th day of April, 2002 at Guwahati.

*Shri Manoj Kumar Karki*

Signature.

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Annex - I (1)

**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/STB/1-8/90/J.T.O/150 dtd. 24-1-91, the following J.T.O. Trainees on 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 Barthekur	RTTC, Ahmedabad	Dhemaji
2)	" Dilip Ghose	RTTC, Kalyani	Jonsai
3)	" Manoj Kr. Karki	RTTC, Ahmedabad	Tangla
4)	" Pulakesh Deka	-do-	Rangpara
5)	" Pramod Kr. Pathak	-do-	Biswanath Cherali

sd/-  
Telecom. District Engineer  
Tezpur-784001.

Copy for information & n/a to :-

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

(iv) 7) J.T.Os concerned to Sri Pulakesh Deka, J.T.O. Rangpara

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

Telecom. District Engineer  
Tezpur-784001.

Attested by  
 Advocate  
 25/4/2002

**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 Chellai  
Advocate  
25/4/2002

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.

*(Signature)*

(A.K.Chelleng)  
Asstt. General Manager(Admu.)

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 Mtee, Eastern Telecom Region, Guwahati
15. The Asstt. General Manager(IT), C.O, Guwahati
- 16-17. The Circle Secretary TESA/JTOA, Guwahati
18. Guard File
19. Spare

*(Signature)*

(G.C.SARMA)  
Asstt. Director Telecom(Staff)

*Attended by  
Krishna Chelbi  
Advocate  
25/4/2002*

## ANNEXURE-I

Sl. No 1	Staff No 2	Name of JTO 3	Presently working 4	Posting on promotion 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	108894	Sri Biren Ch. Kumar	C.O	KTD/GH
15	107877	Sri Rajib Lochan Bora	GMT/JRT	GMT/JRT
16	108088	Sri Homen Hazarika	GMT/JRT	GMT/JRT
17	108924	Sri A.K.Roy	GMT/JRT	GMT/JRT
18	108919	Miss Papor 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	109442	Sri Sarbeswar Kalita	KTD/GH	GM/JRT
22	108956	Sri Nirmal Kt. Chokraborty	ETR	GMT/JRT
23	108973	Sri Rajib Kr. Barman	ETR	GMT/JRT
24	109190	Sri Jayanta Kr Biswas	TASK FORCE	GMT/JRT
25	106875	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 Upen Ch. Bora	TDM/NGG	TDM/NGG
30	109515	Sri Premananda Nath	TDM/NGG	TDM/NGG
31	109459	Sri Suresh Ch. Bora	TDM/NGG	TDM/NGG
32	106537	Sri Swapan 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 Bijit Nag Choudhary	GMT/SC	TDM/NGG
36	107280	Sri Bhubotosh 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

Attested by  
 Krishna Chatterjee  
 Adhoc  
 25/4/2002.

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

WS

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②  
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Annex - 3

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

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

Sub : Posting of TFS 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 TFS 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 TCI, 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.

Attested by  
 Krishna Chelbi  
 Adversate  
 25/4/2002

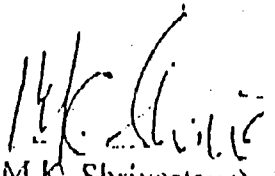
*(Signature)* Conditioned /

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5. Postings on promotion of JIOs in Chattisgarh, Uttaranchal, NE-I & NE-II circles have been shown against MP, UP(W) and NE circles respectively. Accordingly, CGMs of MP, Chattisgarh, UP(W), Uttaranchal, NE-I & NE-II hereby requested to identify the present circle of such officers and allow them to assume charges of their new assignments there. The circle-wise lists of such officers may be endorsed to this office at the earliest for issue of formal orders on their postings.

6. The leave, if any, requested by the officer, who has been posted on promotion to different circles, should not be allowed. If any officer desires leave he/she can apply for leave to new Head of Circle under whom he/she has been posted only after joining the new post and new CGMF will sanction leave, if it is considered justified in normal course.

7. 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 date of issue of this order. Charge reports need not be endorsed to this office.

  
(M.K. Shrivastava)

Asstt. Director General (Pers. II)  
Tele/Fax. 3372554

To

All CGMs of BSNL Circles/Districts/Project Circles/Maintenance Regions/ALLTC/BRBRATFI

Copy to:

1. PS to MOC/MOS (C)
2. CMD, BSNL.
3. Director (HRD), BSNL.
4. Member (S)/Adv. (HRD)/DDG (Estt.)/Dir (Staff)/ADG (SGT), DoT
5. Sr. DDG (Pers.)/H. 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.

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

Attested by  
Kishore Chelbi  
Associate  
28/1/2002

2  
PKP  
32 Copies

46)	108837 MD MANAFUDDIN AHMED	G.H.	NETF	BSNL	NETF
47)	108894 BIREN CH. KUMAR	G.H.	AS	BSNL	AS
48)	108919 MISS PAPORI BARUAH		AS	BSNL	AS
49)	108924 AJOY KR. ROY	J.R.	AS	BSNL	AS
50)	108956 NIRMAL KT. CHAKRABORTY		AS	BSNL	AS
51)	108973 RAJIB KR. BARMAN	G.H.	AS	BSNL	AS
52)	109065 MRS. NIVA BARUAH	G.H.	AS	BSNL	AS
53)	109088 LAKHI PRASAD SARKAR	λ	AS	BSNL	AS
54)	109096 MD. ISLAMUL HAQUE MANDAL	G.H.	NETF	BSNL	NETF
55)	109155 MRS. PUSHPANJALI BORA	✓	AS	BSNL	AS
56)	109166 PRADIP GOHAIN	72	AS	BSNL	AS
57)	109170 MD GAZI RAHMAN AHMED		AS	BSNL	AS
58)	109184 SUKHENDU SEKHAR DAS	G.H.	AS	BSNL	AS
59)	109190 JAYANTA KR. BISWAS	Sl.	AS	BSNL	AS
60)	109236 J.K. DHAR		AS	BSNL	AS
61)	109331 CHANDAN KR. CHOUDHURY	✓	AS	BSNL	AS
62)	109353 UPEN CH. BORA	✓	AS	BSNL	AS
63)	109376 MRS M.M. KARKI	✓	AS	BSNL	AS
64)	109385 MRIDUL CH. KALITA	G.H.	AS	BSNL	AS
65)	109392 A.K. NATH	G.H.	AS	BSNL	AS
66)	109432 MRINAL KR. MISHRA		AS	BSNL	AS
67)	109442 SARBESWAR KALITA	G.H.	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	NET-1
73)	109538 NIRODH CH. BHAGABATI		AS	BSNL	NET-1
74)	109552 L.L. BHAR		AS	BSNL	NET-1
75)	109625 NABAJOYI KAKOTI	G.H.	AS	BSNL	NET-1
76)	109626 B.R. DAS	G.H.	AS	BSNL	NET-1
77)	109649 JYOTIRMOY DAS		AS	BSNL	NET-1
78)	109884 SOMESWAR SONOWAL		AS	BSNL	NET-1
79)	109892 NIREN CH. RABHA		AS	BSNL	NET-1

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To ✓

The Chief General Manager  
Assam Telecom Circle  
Guwahati - 781007.

(Through proper channel)

Dated at Tezpur the 31<sup>st</sup> January, 2002.

Sub: Prayer for promotion from the cadre of JTO to the cadre of TES Gr. 'B' in the cadre pay scale of 7500-250-12000.

Sir,

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

That sir, I am a JTO presently working at O/o the DE(OCB)/Tezpur. My name was appeared in the promotion list published from New Delhi vide the BSNL(HQ) memo no.1-16/2001-Pers-II dtd.19-12-01 bearing sl. No. 108083. But while I had gone through the promotion list published from the O/o the CGMT Assam Circle vide memo no. STES-5/2/LOOSE/9 dtd. 1-1-02, my name was not found in the list.

I, therefore request your good self to kindly consider the case of my promotion at an early date and thus obliged

Thanking you.

Yours faithfully



(MANOJ KARKI)  
JTO, O/o the DE(OCB)  
Tezpur 784001

Copy to,

1. Advance copy to the CGMT Assam Circle for information.
2. The TDM/Tezpur for information and n/a please.
3. The SDE(FRS)/Tezpur
4. Personal copy

Attested by  
Bishu Chelbi  
Advocate  
25/1/2002

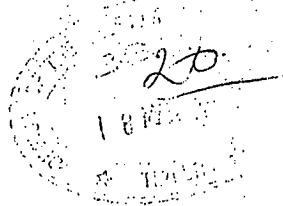
confidential

**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/51  
To

Dated at Guwahati the 08-3-2002

The Telecom Dist. Manager,  
Tezpur



Sub:- Promotion to the cadre of TES Group 'B'

Kindly refer to your letter no. E/IG.C. /01-III/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 vigilance  
cases. Against them...

Sl No.	Staff no	Name of the JTOs
1	107515	Sri Pulakesh Deka
2	108083	Sri Monoj Kr. Karki
3	108343	Sri Promodh Kr. Pathak
4	109884	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 19-2-2001.

This is for favour of your kind information please.

*SDE/HRD  
19032  
17/03/02*

*W.P.F*  
(G.C.SARMA) 3/3  
Asstt. Director Telecom (Staff)

*4. 1/6/01 VO. 2 / 01-01/27*

*DTT Tezpur, the 21-03-2002*

*Copy forwarded to*  
1) Sri Pulakesh Deka, JTO, SDE (FRS) T2  
2) Sri Monoj Kr. Karki, JTO.  
3) Promodh Kr. Pathak, JTO.  
4) Someswar Sonowal, JTO.  
5) Sri J.C. Sarma, JTO

*Attended by  
Kaitha Chelbi  
Advocate  
25/4/2002*

*for kind information please*

*[Signature]*  
SDE HRD) BSNL  
O/O TDM, Tezpur-784001

Bharat Sanchar Nigam Ltd.  
( a Govt. of India Enterprise )  
O/O The Chief General Manager,  
Assam Telecom Circle,  
Guwahati-781007.

No : Vig/Assam/Disc-IX/00-01/4

February 27, 2001

**MEMORANDUM**

- 1) Shri Manoj Karki, JTO(OCB), Tezpur formerly JTO under SDE(P), Tezpur is hereby informed that it is proposed to hold an inquiry under Rule-14 of Central Civil Services( Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of 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 misbehaviour 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) Shri Manoj Karki 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, specifically admit or deny each articles of charge.
- 4) Sri Manoj Karki 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 provisions of Rule-14 of CCS(CCA) Rules, 1965, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him exparte.
- 5) Attention of Sri Manoj Karki is invited to Rule 20 of the Central Civil Services(Conduct) Rules, 1964 under which no Govt. 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 Manoj Karki 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 memorandum may be acknowledged.

To

Sri Manoj Karki,  
JTO(OCB),  
Tezpur.

( J.K.CHHABRA )  
Chief General Manager  
Assam Telecom Circle,  
Guwahati

Attested by  
Kishore Chellai  
Advocate  
25/4/2002

Annexure - I

Statement of Article of Charge framed against Sri Manoj Karki, JTO, OCB, Tezpur  
the then JTO under SDE(P), Tezpur

That Sri Manoj Karki while working as jTO under SDE(P), Tezpur during 1996, failed to maintain absolute integrity and acted in a manner unbecoming of his position in as much as he countersigned 6 Nos. of certificates issued by :

- 1) Sri Hemendra Bora, TTA/PRX.
- 2) Sri Sukan Rai, S.I.

In favour of casual mazdoors knowing /or having reasons to believe that the said certificate/certificates issued as aforesaid in favour of the casual mazdoors were bogus as they had never been appointed in the office by SDE(P), Tezpur and thereby contravened Rule 3(1) (i)(ii) & (iii) of CCS Conduct Rule, 1964.

মুখ্য মহাপ্রবন্ধক তুর্গম্বাৰ  
Chief General Manager  
মহাপ্ৰবন্ধক তুর্গম্বাৰ  
Assam Telecommunication

Attested by  
Hridaya Cheloi  
Advocate  
25/4/2002

Annexure - II

**STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF  
ARTICLE OF CHARGE FRAMED AGAINST SRI MANOJ KARKI, JTO (OCB)  
THE THEN JTO UNDER SDE(P), TEZPUR**

1. That Sri Manoj Karki was working as Junior Telecom Officer(JTO), under SDE(Phones), Tezpur during 1996.
2. That said Sri Manoj Karki countersigned 6 Nos of certificates issued in favour of the following persons, without verifying the facts stated in the certificate or causing the same verified, with malafide intention, for favouring those persons, by abusing his official position knowingly or having reasons to believe that those certificates were false.
3. The following certificates issued in favour of casual mazdoors were countersigned by said Sri Manoj Karki, JTO:

Sl No.	Name of Casual	Period of Certificate	Issued by
1	Sri Debashish Das	1993 to 1996	Sri Hemanta Bora TTA/PRX
2	Sri Swadesh Shil	1992 to 1996	Sri Hemanta Bora TTA/PRX
3	Sri Abdul Karim	1991 to 1996	Sri Hemanta Bora TTA/PRX
4	Sri Mahesh Baroi	1992 to 1996	Sri Hemanta Bora TTA/PRX
5	Sri Anil Kr. Das	1991 to 1996	Sri Hemanta Bora TTA/PRX
6	Sri Reba Kanta Saikia	1988 to 1996	/ Sri Sukan Rai, SI

4. That as consequence of having these certificates countersigned by said Sri Manoj Karki all the aforesaid persons got themselves appointed as TSMs by the TDE, Tezpur, Sri M.K.Gogoi on the basis of order/letter issued vide X-1/CMPT/96-97/Con-7 dated 27-5-96.

That due to the above acts of gross negligence done with obvious fraudulent/malafide intention the Telecom Deptt. suffered huge financial loss by paying salaries to the aforesaid persons who were not entitled to such appointments.

6. That Sri Manoj Karki in the manner aforesaid contravened rule 3(1)(i) (ii) & (iii), of CCS conduct Rule, 1964.

Attested by  
Krishna Chelbi  
Advocate  
25/9/2002

V. rek Matt

Annexure - III

List of documents by whom the Articles of Charge framed against Sri Manoj Karki, JTO(OCB), Tezpur the then JTO under SDE(P), Tezpur are proposed to be sustained.

1. Certificates issued in favour of Smt. Chintamoni Bora, D/O Purna Bora by A.B.Dutta, P.I.
2. Certificate issued in favour of Sh. Nayan Kalita, S/O Lt. Dhaniram Kalita by Jiten Barua, L.M.
3. Certificate issued in favour of Abdul Jabbar S/O Lt. Equisuf Ali by Baiju Rai C/S.
4. Certificate issued in favour of Nanki Devi D/O Bharat Ray by Medini Baruah, Tech.
5. Certificate issued in favour of Dinen Ch. Deka S/O Lt. Surya Deka by Jiten Baruah L.M.
6. Certificate issued in favour of Ranjan Adhikary S/O C.Adhikary by A.B.Dutta, P.I. for 1988,1989
7. Certificate issued in favour of Ranjan Adhikary by Medini Baruah, Tech from 1989 to 1996.
8. Certificate issued in favour of Ajit Das S/O Jogen Ch. Das by Jogen Ch. Baruah, S.I. for 1988 to 1995.
9. Certificate issued in favour of Ajit Baruah by D.Saha, JTO for 1996.
10. Certificate issued in favour of Shivjyoti Mazumdar S/O Lt. Arun Kr. Mazumdar by A.B.Dutta, P.I. for 1988 to 1991.
11. Certificate issued in favour of Shivjyoti Mazumdar by D.Saha, JTO from 1991 to 1996.
12. Certificate issued in favour of Dipak Deka S/O Rupkanta Deka by A.B.Dutta, PI for 1988 to 1991.
13. Certificate issued in favour of Dipak Deka by D.Saha, JTO for 1991 to 1996.
14. Certificate issued in favour of Satya Ranjan Kalita S/O Lt. Rupeswar Kalita by Jogen Ch. Baruah S.I. for 1988 to 1996.
15. Certificate issued in favour of Debasis Das S/O A.K.Das by Jogen Ch. Baruah for 1988 to 1993.
- ✓16. Certificate issued in favour of Debasis Das for 1993 to 1996.
17. Certificate issued in favour of Shades Seal S/O Lt. Paresh Seal by Jogen Ch. Baruah, S.I. for 1988 to 1992.
- ✓18. Certificate issued in favour of Shades Seal by Hemanta Bora for 1992 to 1996.
- ✓19. Certificate issued in favour of Reba Kanta Saikia S/O Lt. Hari Kanta Saikia by Sukan Ray, S.I. for 1988 to 1996.
20. Certificate issued in favour of Abdul Karim S/O Lt. Equisuf Ali by A.B.Dutta, PI for 1988 to 1991.
- ✓21. Certificate issued in favour of Abdul Karim by Hemanta Bora, TTA (PRX) for 1991 to 1996.
22. Certificate issued in favour of Jadav Deka S/O Jagnu Deka by Baiju Rai C/S for 1988 to 1996.

✓ Collected by  
Krishna Chatterjee  
Advocate  
25/4/2002

23. Certificate issued in favour of Mahesh Baroi by Hemanta Bora for 1992 to 1996.
24. Certificate issued in favour of Mahesh Baroi by Hemanta Bora for 1992 to 1996.
25. Certificate issued in favour of Rashmi Acharjee D/O Sushil Acharjee by A.B.Dutta, PI for 1988 1989.
26. Certificate issued in favour of Reshmi Acharjee by Sarat Hazarika, S.S(O) for 1990 to 1996.
27. Certificate issued in favour of Anil Kumar Das S/O Kanak Ch Das by A.B.Dutta, PI for 1988 to 1991.
28. Certificate issued in favour of Anil Kr. Das by Hemanta Bora, TTA(PRX) for 1991 to 1996.
29. Certificate issued in favour of Nabajyoti Deka S/O Kamaleswar Deka for 1988 to 1996 by Baiju Rai, C/S.
30. Certificate issued in favour of Shiva Prasad Sharma, S/O Lt. Hari Prasad Sharma by A.B.Dutta, PI for 1988 to 1996.
31. Recommendation sheet of Selection Committee in respect of casual labourers of 22 Nos.
32. SDO(Phones) letter No. E-27/DRM/95-96/9 dtd 1-3-96.
33. Request letter of Sri Siba Prasad Sharma for temporary status mazdoor with No. of days he worked yearwise from 1988 to 1996, duly certified and recommended by Sh. Prantosh Das, SDE(Phones), Tezpur.
34. Letter No. E-27/CM/96-97/2 dated 13-5-96 of P. Das, SDE(Phones), Tezpur.
35. Gradation list of 22 Nos. of casual labourers duly recommended by Selection Committee.
36. Proforma of 22 Nos. casual labourers submitted by P. Das, SDE(Phones), Tezpur.
37. H.S.L.C. Examination passed certificate of Sh. Ajit Das, passed in 1992 from Vivekananda Vidyapeeth H.S.School, Tezpur(attested copy).
38. H.S.L.C. Exam. Passed certificate of Abdul Jabbar passed in 1989 from Barmi High School, Barmi, Kamrup, now Dist. Nalbari(Attested copy).
39. ADMIT Card to HSLC Exam - 1995 of Chintamani Bora of SEBA No. 62573 (attested copy).
40. ADMIT Card No. 128702 and certificate to HSLC Exam. In 1991 of Nayan Kalita (2 Nos. attested copy).
41. HSLC passed certificate of Sh. Navajyoti Deka passed in 1990 as a regular candidate from Tezpur Govt. H.S. School (attested copy).
42. Certificate No. 480 dtd 12-3-96 of HSLC Exam. 1991 passed certificate of Sh. Jadav Deka.
43. Promotion/Posting order of Sh. Sarat Ch. Hazarika w.e.f. 20-4-88 vide order No. E-148/OTBP/90-91/45 dtd 25-9-90 of TDE, Tezpur.
44. Joining report dtd 17-7-96 of Sh. Hemanata Bora as TTA (PRX), Tezpur.
45. Posting order No. E-4/PI/TFR/83-84/218 dtd 30-7-83 of DET, Tezpur in r/o posting of Sh. Ashim Bijoy Dutta, as Phone Inspector (PI) w.e.f. 9-7-83.
46. Joining report dtd 9-7-83 of Sh. Ashim Bijoy Dutta, as P.I.

47. Posting order No. E-12/LM/84-85/223 dtd 18-10-84 of Sri Jiten Barma as Lineman at Tezpur.
48. Letter No. X-1/CMPT/96-97/CON-7 dtd 27-5-96 of TDE, Tezpur in r/o order for regularization of casual labourers under SDE(P), Tezpur as TSM.
49. Joining report of Sh. Shibjyoti Mazumdar dtd 30-5-96 as TSM.
50. Joining report of Sh. Nanki Devi dtd 30-5-96 as TSM.
51. Joining report of Sh. Ujjal Mahanta dtd 30-5-96 as TSM.
52. Joining report of Sh. Ajit Das dtd 30-5-97 as TSM.
53. Joining report of Sh Shades Shil dtd 30-5-96 as TSM.
54. Joining report of Smt. Reshmi Acharjee dtd 30-5-96 as TSM.
55. Joining report of Miss Chintamoni Bora dtd 30-5-96 as TSM.
56. Joining report of Debasis Das dtd 30-5-96 as TSM.
57. Joining report of Reba Kanta Saikia dtd 30-5-96 as TSM.
58. Joining report of Jadav Deka dtd 30-5-96 as TSM.
59. Joining report of Abdul Jabbar dtd 30-5-96 as TSM.
60. Joining report of Dinen Deka dtd 30-5-96 as TSM.
61. Joining report of Nayan Kalita dtd 30-5-96 as TSM.
62. Joining report of Ranjan Adhikary dtd 30-5-96 as TSM.
63. Joining report of Mahesh Baroi dtd 30-5-96 as TSM.
64. Joining report of Satya Ranjan Kalita dtd 30-5-96 as TSM.
65. Joining report of Abdul Karim dtd 30-5-96 as TSM.
66. Joining report of Dipak Deka dtd 30-5-96 as TSM.
67. Joining report of P. Baspahre dtd 30-5-96 as TSM.
68. Joining report of Anil Kr. Das dtd 30-5-96 as TSM.
69. Joining report of Nabajyoti Deka dtd 30-5-96 as TSM.
70. Acquittance Roll in r/o TSM under SDE(Phones), Tezpur for June, July and August, 1996.
71. Attendance Register of TSM under SDE(P), Tezpur for June'96 to Nov'97 in r/o Tezpur Telephone TK Exge.
72. Attendance Register of TSM under SDE(P), Tezpur for June'96 to Feb'98 in r/o Tezpur Telephone Exge.
73. Attendance Register of TSM under SDE(P) Tezpur for June'96 to Nov'97 in r/o O/O SDE(P), Tezpur.
74. Letter No. E-38/CMPT/VOL-III/96-97/15 dtd 30-8-96 of TDE, Tezpur.
75. Letter No. X-1/CMPT/TZ/95-96/Confdl/1 dtd 25-8-96 of TDE, Tezpur.
76. Letter No. E-38/CMPT/94-95/168 dtd 17-2-95 of TDE, Tezpur.
77. Letter No. E-38/CMPT/Vol-III/123 dtd 7-12-93 of TDE, Tezpur.
78. Original letter No. 269-4/93-STN-II dtd 17-12-93 of Asstt. Director General (STN), New Delhi.
79. Letter No. 289-8/43-STN dtd 29-7-93 of Asstt. Director General (STN), New Delhi.
80. L/No. rectt.3/10/Part-III/3 dated 26-8-93 of Asstt. Director Telecom(E&R), O/O CGMT, Guwahati.
81. Letter No. E-38/CMPT/VOL-III/96-97/15 dtd 30-8-96 of TDE/Tezpur.
82. L/No. TDM/TEZ/1005/CBI dtd 11-8-98 of Sri B.K.Goswami, TDM, Tezpur in r/o non-availability of ACG-17 documents.

Annexure - IV

*Witnesses*  
List of documents by whom the articles of Charge framed against Sri Manoj Karki, JTO(OCB), Tezpur the then JTO under SDE(P), Tezpur are proposed to be maintained.

1. Md. Islam Ahmed S/O Lt. Basiruddin Ahmed, Chief Accounts Officer, O/O TDM/Tezpur.
2. Sri B.K.Goswami, TDM, Tezpur, Resident of 100/5, Jessore Road, Dum Dum, Bhagabati Park, Calcutta-74.
3. Sri B.C.Paul, Asstt. Director Telecom(E&R), O/O CGMT, Assam Circle, Guwahati.
4. Sri Babul Ch. Nath, S/o Lt. Upen Ch. Nath, Telecom Office Asstt. (TDA) O/O TDM, Tezpur.
5. Sri Badal Saha, SS(O) O/O the TDM/Tezpur, S/O Radha Raman Saha, Vill: Tengabari, P.O & P.S: Mangaldai, Dist: Darang(Assam).
6. Sri K.Barman, Inspector, CBI, ACB, Guwahati.
7. Sri Maheswar Bhuyan, SDE(Cable), Tezpur.
8. Sri H.S.Debnath, JAO, O/O TDM, Tezpur.

*Attested by  
Bishoo Chatterji  
Advocate  
25/4/2002*

Annex - 7

- 30 -

42(6)

To  
The Chief General Manager, Telecom  
Assam Telecom Circle  
Ulubari  
Guwahati - 7

Dated at Tezpur the 3rd April 2001

THROUGH PROPER CHANNEL

Ref. Your No. Vig./Assam/Disc.-IX/00-01/4 dated 27/02/2001.

Sub. Statements of defence and entreaty for dropping the article of charges.

Sir,

With due respect and humble submission I beg to state that the charges framed against me vide your memo under reference is totally denied by me. The charges that I have countersigned six numbers of certificates issued by (1) Sri H.Bora, TTA and (2) Sri Sukan Rai, SI without verifying the facts with malafied intension is not correct.

In this regard I would like to bring to your notice that, as per departmental norms I was entrusted to carry out the construction and maintenance works of out door plants, installation and maintenance of exchanges (i.e. PRX, CDOT SBM, CDOT 256) with MDF, Power Plants, E/A and also running the Engine Alternator round the clock for an interrupted power supply. Accordingly the said Mazdoors were engaged by P.Das, the then SDEP, Tezpur on the basis of work load and payments were made through ACG.-17 from Temporary Advance received by the then SDEP, Tezpur against the work and there are sufficient records in the concern office which speaks the truth. Further I want to mention that the payment particulars and other records available in the Accounts Section of O/O, Telecom District Manager, Tezpur may be referred which will prove that the said Mazdoors were not bogus and they were actually engaged.

With the instruction of the then SDEP, Tezpur the said Mazdoors were engaged for the execution of different developmental works and all records were physically verified by me from the then SDEP, Tezpur. In fact I could remember that I had countersigned six numbers of certificates issues by Sri H.Bora, TTA and Sri S.Rai, SI after proper verification of records shown by the then SDEP, Tezpur. and those records may be verified from concerned office. Further I would like to mention that I had never forwarded those certificates to any kind of authority for obtaining any appointment under any reference. So the statement of Para 2 of Annexure II that "the certificates issued in favour of said Mazdoors without verifying the facts stated or causing the same verified, with malafied intention for favouring those persons by abusing official position knowingly or having reasons to believe that those certificates were false" is totally denied by me. Thus I had not favoured any persons under any reference. So the charges of failing to maintain absolute integrity and acted in a manner of my position of unbecoming of a Government servant is not true.

Further the charges made in Para 4 and 5 of Annexure II is totally denied by me. In this regard I have already mentioned that I had never forwarded any certificates countersigned by me to any kind of authority for appointment under any reference. So I am not at all responsible in any way for the appointment of the said Mazdoors as TSMS. Moreover at the time of appointment the relevant record available with the concerned office might have satisfied the competent authority and hence the said Mazdoors might have appointed as TSM.

Further, I want to mention here that due to the engagement of the Mazdoors during the specified period, the project work like installation, expansion of exchanges and it's relevant environments could be completed within the targeted period which in turn earned considerable revenue to the department. So the question of financial loss to the department does not arise.

In the entire process it is clear that I am always maintaining absolute integrity, maintaining devotion to duty and doing nothing which is unbecoming of a Government servant and did not contravene the provision of Rule 3(1)(i), (ii) & (iii) of CCS Conduct Rule 1964 and therefore I do not agree the article of charges framed against me in Annexure - I.

Under the above circumstances I do hereby earnestly request your honour to consider my act not as blameworthy and drop the article of charges framed against me. I further desire to be heard in person if article of charges framed against me are not dropped.

Thanking you sir,

With regards,

Yours faithfully,

*(Signature)*  
31/4/2001

(Manoj Kr. Karki)  
JTO, Computer & RSU OCB  
Tezpur

*Received in  
duplicate on 4/4/2001  
SDE (VIA)*

*Attested by  
Kishor Chelbi  
Advocate  
25/4/2002*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI.

43  
Filed by  
(A. DEB ROY)  
13/8/02  
Sr. C. G. S. C.  
C. A. T., Guwahati Bench

O.A. NO.134 OF 2002

Shri M.K.Karki.

- vs -

Union of India & Ors.

- And -

IN THE MATTER OF ::

Written statement submitted by the  
respondents.

The respondents beg to submit written statements  
as follows :-

1. That with regard to para - 3 of O.A., 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 CHMT, Guwahati (Res.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 normal 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.

2. That with regard to paras - 4 to 6.2 of O.A., the respondents beg to offer no comments.

3. That with regard to para - 6.3 of O.A., 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 issued false certificates with mala fide intention providing undue and illegal benefits to unauthorized person for absorption in the department. The applicant's conduct is not above board.

4. The conditional promotion list prepared by BSNL includes the name of the applicant. The same does not confer any absolute right on the applicant of his promotion to SDE. According to condition laid down in para - 2, it a case of the type mentioned in G.O.I. O.M.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.

4. That with regard to para - 6.4 of O.A., the respondents beg to state that the facts are same as para- 6.3 above.

5. That with regard to para- 6.5 of O.A., 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.

6. That with regard to para - 6.6 of O.A., 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 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 O.M. No-22011/4/91-ESTT(A) dated 14.09.92.

7. That with regard to para - 6.7 of O.A., the respondents beg to state that the facts are same as above para no- 6.6.

8. That with regard to para- 6.8 of O.A., 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 outside 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 CCA(CCA) Rules. Accordingly a memorandum of charges were framed and served on the applicant on 31.7.2000.

9. That with regard to para - 6.9 & 6.10 of O.A., 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 para- 6.11 to 6.15 of O.A., 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~~ applicant a disciplinary proceedings was initiated by issuance of a formal charge sheet on 27.02.2001 and the same was pending at the relevant time when the promotion fell otherwise due. The charge sheet in the instant case was issued on 27.02.2001 and the written statement of the applicant was received on 20-04-2001.

Since the applicant denied the charge the authority considered it necessary to appoint an Enquiry Committee to enquire into the charge. According an Inquiry Officer was appointed on 8.11.2001 to conduct enquiry under the provision of Rule 14 of CCA(CCA) Rules, Preliminary hearing of the case was conducted on 29.5.2002 and the case has been posted for regular hearing. Action is being taken for completion of the enquiry as expeditiously as possible.

11. That with regard to para - 6.16 of O.A., the respondents beg to state that it is a case of adoption of sealed cover procedure during the pendency of 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 para + 6.17 of O.A., the respondents beg to state that according to the guidelines issued by the G.O.I. Deptt. of P.&T vide O.M. dtd.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 exonerated from the charges.

13. That with ~~xx~~ regard to para - 6.18 of O.A., 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 per Para - 7 of the O.M. dtd 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 para - 6.19 of O.A., 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.

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

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

I, Shri Shanmukh Chandra Das presently  
working as Asstt. Director Telecom (Legal) be duly authorised and  
competent to sign this verification, do hereby solemnly  
affirm and state that the statements made in para 1, 3, 9,  
10, 11, 13, 14 are true to my knowledge and belief, these  
made in para 4, 5, 6, 8, 10 and 12 being matters  
of records, are true to my information derived therefrom  
and the rest are my humble submission before this Hon'ble  
Tribunal, I have not suppressed any material facts.

And I sign this verification on this 5th  
day of August, 2002.

Shanmukh Chandra Das

Declarant.

सहायक निदेशक

Assistant Director Telecom

कार्यालय, मुख्य मंत्रालय, गुरुदासपुर

O/o The Chief General Manager Telecom.

असम दूरसंचार परिषद, गुवाहाटी-७

Assam Telecom Circle, Guwahati-7

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.

The undersigned is directed to refer to Department of Personnel & Training OM No.22011/2/86-Estt.(A) dated 12th January, 1988 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. Jankarman 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 paras 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.

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.

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 notional 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 denials 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.

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

O.M.No.  
39/2/86-Estt.A dt.21.8.80  
7/28/89-Estt.A dt.23.12.84  
22011/2/77-Estt.A  
dt.14.7.77  
22011/1/78-Estt.A  
dt.21.1.82  
22011/2/88-Estt.A  
dt.12.1.88  
22011/1/81-Estt.A  
dt.21.7.81.

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

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

Procedure by subsequent DPCs.

Action after completion of disciplinary case/criminal prosecution.

Six Monthly review of "Sealed Cover" cases.

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 reserve 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.

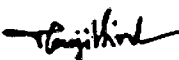
5.4 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, 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.

  
(M.S. BALI)  
DIRECTOR

To

All Ministries and Departments of the Government of India with usual number of spare copies.  
No. 22011/4/91-Est(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.

  
(M.S. BALI)  
DIRECTOR

Sealed cover procedure for confirmation.

Sealed cover procedure applicable to officers coming under cloud after holding of DPC but before promotion.