

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 136/02

R.A/C.P No.

E.P/M.A No.

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16. Counter Reply.

SECTION OFFICER (Judl.)

6

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 136/2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) S. Sonowal

Respondent(s) U.O.T. Gans.

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

Advocate for Respondent(s) Case

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

30.4.02

Heard learned counsel for the parties. Issue notice of motion. Mr. A. Deb Roy, Sr. C.G.S.C. accepts notice on behalf of all the Respondents. Endeavour shall be made to dispose of the application.

List on 30.5.02 for orders.

K. Kishan
Member

Vice-Chairman

1m

30.4.02

Heard Mr. S. Ali, learned Sr. counsel for the applicant.

List again on 5.6.2002 for admission.

Vice-Chairman

mb

① Service are still awaited.

30/5/02

Form
C. No. 129549/2002
Dated 30.4.02
Dy. Registrar
Kishan
Notice free hand and sent to Dls for filing the respondent No. 1 to 4 to Sri A Deb Roy, Sr. C.S.C.
4/5/02
DINo 1296499
Dtd 3/5/02

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.

[Signature]
Member

[Signature]
Vice-Chairman

lm

No. Reply filed
by the respondent.

31
24.7.02.

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

[Signature]
Member

[Signature]
Vice-Chairman

mb

~~25.7.2002~~ ~~No objection or written statement filed. The case is accordingly admitted and the matter is posted for hearing on 13.8.2002.~~

25.7.2002

Heard Mr.S.Ali, Sr.counsel for the applicant and also Mr.A.Deb Roy, 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.

[Signature]
Member

[Signature]
Vice-Chairman

No. Written statement
has been filed.

31
12.8.02

14.8.02

W.S. Submitted
by the Respondents.

[Signature]

13/8. Name appears for the applicant.
List again on 19/8.

[Signature]
13/8

9 3
O.A. 136/2002

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.


Member


Vice-Chairman

mb

2118

Heard Mr S. Ali, learned Counsel for the applicant & Mr. A. Debroy, for the respondent.
Hearing concluded.
Judgment reserved.

mb,
A.A. 21/8

Notes of the Registry

Date _____

Order of the Tribunal

O.A. 136/2002

Notes of the Registry	Date	Order of the Tribunal
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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.

Received copy

For Advocate
4/9/2002

IC Lusham
Member


Vice-Chairman

mb

Judgment dtd. 29/8/02
Communicated to the
applicant and the
other party.
28/9

Notes of the Registry	Date	(Order of the Tribunal
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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 29th 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.

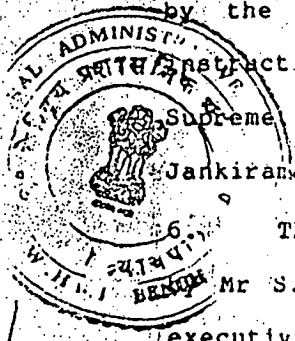
3. The respondents submitted their written statement and contended that in view of the pendency of the disciplinary proceeding against all these four applicants, the authority did not give effect to the order of promotion on the basis of the policy laid down by the Government of India in O.M.No.22011/4/91-5011 (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.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.

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.....



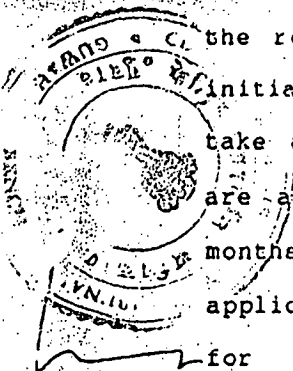
instructions, but where statutory rules are silent, executive instructions can fill up the gap. In the instant case, by the executive instructions the Central Government has only sought to plug the hole. By the aforementioned O.M. the Central Government issued instructions to meet the eventualities of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

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.



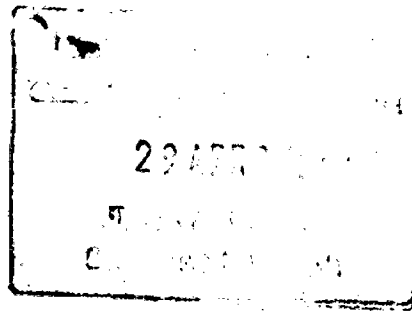
SO/ VICE CHAIRMAN

SS/MEINER (A)

T/C

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CAT



14
Filed by

Someswar Sonowal
Through me - Krishna Chellai
Advocate 29-4-2002.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

O.A. No. 136 /2002.

Shri Someswar Sonowal 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 11
2	Annexure-1	- 12 to 13
3	Annexure-2	- 14 to 17
4	Annexure-3	- 18 to 21
5	Annexure-4	- 22
6	Annexure-5	- 23
7	Annexure-6	- 24 to 30
8	Annexure-7	- 31 to 32

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. 136 /2002.

- Inbetween-

Shri Someswar Sonowal

.... Applicant.

-VRS-

The Union of India & Ors.

..... Respondents.

1. PARTICULARS OF THE APPLICANT:-

Shri Someswar Sonowal at present working
as Junior Telecom Officer(JTO) in the
office of the S.D.O.(P), North Lakhimpur
District - Lakhimpur, Pin-787001.

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.

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(JTO) to the post of Telecom Engineering Service Group-B (TES Gr.B) though he has been selected for promotion on All India basis.

ii) Letter No.BTES-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 Lakhimpur and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.

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6.2. That your applicant was appointed on 29.1.93 by the Deputy General Manager (Admn) O/O the Chief General Manager, Assam Telecom Circle, Guwahati-7 vide No. STES-5/43/Pt-I/218 dated 30.8.93 and posted at D.E.(E-10-B), Jorhat and he joined on 29.1.93 there and then he was transferred to North Lakhimpur in May, 1995 and since then he has been working as JTO thereto the entire satisfaction of the authority and without any blemish.

Annexure-1 is the photocopy of the said appointment letter dated 30.8.93 of the applicant.

6.3. That in the promotion list prepared by the Bharat Sancher Nigam Ltd., New Delhi there are 3000 JTOs. 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 phtocopy of the said promotion list dated 1.1.2002 prepared by the Bharat Sancher Nigam Ltd.

6.4. That the Bharat Sancher Nigam Ltd., New Delhi vide Memo No.1-16/2001/Oers-II dated 19.12.2001 prepared a promotion list on All India Basis wherein your applicant's name has been put under Staff No.109884 at Sl.No.78 alongwith other JTO.

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

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Sancher Nigam Ltd.

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 and having not promoted to the post of TES Gr.B, the applicant submitted a representation on 1.2.2002 to the Chief General Manager, BSNL, Assam Circle, at Guwahati requesting him 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-7.

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 to 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-VIII/2000-01/8 dated 27.12.2000 issued by the Chief General Manager, Assam Telecom Circle, Guwahati 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 acted in a manner unbecoming of his position in as much as the countersigned 31 nos of certificates issued by Shri Guneswar as Sub-Inspector, Shri Maheswar Roy, Sub-Inspector and Md. Taslim, Sub-Inspector in favour of casual Mazdoors knowing and/or having reasons to believe that the said certificates issued as aforesaid in favour of the Casual Mazdoors were bogus as they had never been appointed in the office by SDOT, North Lakhimpur and thereby contravened Rule 3(1)(i)(ii) & (iii) of CCS(Conduct) Rules, 1964.

Annexure-6 is the photocopy of the said memorandum dated 27.12.2000 issued by the CGMT, Assam Circle, Guwahati alongwith articles of charges and state ment of imputation to the applicant.

6.9. That the charge sheet at Annexure-6 has been served on the applicant on 27.12.2000 and the applicant on receipt of the same submitted his show cause reply to the Chief General Manager, Assam Circle, Guwahati on

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25.1.2001 vehemently denying all charges brought against him.

Annexure-7 is the photocopy of the said show cause reply submitted by the applicant dated 25.1.2001.

6.10. That at Annexure-7, the applicant vehemently denied the charges brought against him and requested to drop all the charge and to do justice, to 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 proceeding 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. 78 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 PSDE(P) at Jamuguri.
2. Shri D. Saha, working as SDO(P-II) at Tezpur.
3. Shri S. Sargiari, working as S.D.E. Group at Odalguri.

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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 selected 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 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 narrated 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 the applicant 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.

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

No case before the Hon'ble 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 respondent 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 Respondent No.4 as the applicant has already been selected for promotion to the post of TES Gr.B.

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

11. INTERIM RELIEF IS 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 TESGr.B till final disposal of this application.

12. DETAILS OF POSTAL ORDER:-

- i. Postal order No. 76549717
- ii. Date of issue:- 10.4.2002.
- iii. Issued by:- Post Master
- iv. Payable at Guwahati.

13. LIST OF ENCLOSURES:-

As per Index.

24
Somnath Sonowal

V E R I F C A T I O N

I, Shri Someswar Sonowal S/o Sri Khiru Nath Sonowal, aged about 31 years, at present working as Junior Telecom Officer in the office of the S.D.O.(P), North Lakhimpur in the district of Lakhimpur, Assam, do hereby solemnly affirm and verify the statements made in paragraphs 1, 2, 3, 4, 5, 6.1, 6.5, 6.10, 6.11, 6.13, 6.14, 6.15, 6.16, 8, 9, are true to my knowledge and those made in paragraphs 6.2, 6.3, 6.4, 6.6, 6.7, 6.8, 6.9, 6.12, being matter of records are true to my information derived therefrom which I believe to be true and the rests are my humble submissions made before this Hon'ble Tribunal. I have not suppressed any material facts in this case.

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

Someswar Sonowal

Signature.

Annexure - 1 12

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, ASSAM TELECOM CIRCLE
GUWAHATI- 781007.

NO.STES-5/43/Pt-I/218

Dated at Guwahati, the 15/8/93.

The departmental candidates particularised in Annexure 'A' hereto are hereby appointed as Temporary Junior Telecom Officers in the scale of Rs.1640-60-2600-EB-75-2900/- from the date shown against their names on the following terms and conditions against the vacancies of 1990 and 1991.

- (a) The appointment is temporary but likely to be made permanent.
- (b) The appointment carries with it the liability to serve in any place within the jurisdiction of Assam Telecom Circle.
- (c) The appointment is liable to be terminated at any time without assigning any reason with one month's notice or one month's salary in lieu thereof.
- (d) The official ^{is} under compulsion to serve the Telecom department, unless terminated by the employer, for a minimum period of 5 (five) years. If ^{any} official fails to fulfil the condition he/she may quit the service with ~~prior~~ prior approval of the employer on payment of proportionate amount equivalent to the expenditure incurred by the department for the initial training.
- (e) The officials will be liable for field service during the time of emergency.
- (f) The service condition of the officials will be governed and regulated under the rules of the Government in force and as may be amended from time to time.

Encls:- Annexure 'A'.

(G. C. DEB)
Deputy General Manager (Admn)
o/o. the Chief General Manager,
Assam Telecom Circle, Guwahati-7.

* * * * *

Copy forwarded for information and necessary action to:-

1. The Chief G.M. (Task Force)/Guwahati.
2. The Director Mtee., ETR, Guwahati.
- 3-4. The Area Director Telecom/Dibrugarh/Guwahati.
5. The T.D.M./Guwahati.
6. The D.E. (E10B)/Jorhat.
- 7-10. The T.D.E./Bongaigaon/Tezpur/Jorhat/Nagson.
- 11-12. The A.D.T. (E&R)/(HRD), C.O./Guwahati.
- 13-28. Officials concerned. *Sm. Somowar Jorhat*
29. Guard file. *DE (E10B) Jorhat*

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

*for Chief General Manager,
Assam Telecom Circle, Guwahati-7.*

NO. STES-5/43/Pt-I/218

Dated at Guwahati, the 24/8/93.

ANNEXURE 'A'

<u>Sl. No.</u>	<u>Name of the candidate</u>	<u>Year of Rectt.</u>	<u>Date of appointment</u>	<u>Working under</u>
1.	Sri Bhiman Chakraborty	1990	30.12.92.	Task Force/Guwahati.
2.	" Bwijendra Prasad Sinha,	1990	29.12.92	T.D.E./Bongaigaon.
3.	" Billip Kr. Nath	1990	28.12.92	Director Mtce., Guwahat
4.	" Deepak Kr. Das,	1990	27.12.92	-do-
5.	" Dulal Chandra Paul	1990	20.01.93	Task Force/Guwahati.
6.	" Mihir Kanti Paul	1990	19.01.93.	-do-
7.	" Gadhadhar Mahanta	1991	31.12.92	T.D.E./Tezpur.
8.	" Ranadhir Chakraborty	1991	02.01.93	T.D.E./Jorhat.
9.	" Ratan Kr. Ghosh	1991	03.01.93	Task Force/Guwahati.
10.	" Malay Kanti Chakraborty,	1991	31.12.92	A.M.T./Dibrugarh.
11.	" Manojit Kr. Deb	1991	30.12.92	Task Force/Guwahati.
12.	MR. Mosfiqur Rahman	1991	29.12.92	-do-
13.	Sri Birendra Sarma	1991	01.01.93	Director Mtce./Guwahat
14.	" Someswar Sonowal	1991	29.01.93	D.E.(E1GB)/Jorhat.
15.	" Ashok Kr. Chowdhury	1991	20.01.93	Task Force/Guwahati.
16.	" Guna Kanta Gogoi	1991	12.03.93	T.D.E./Nagaon.

(D. K. NATH)

Asstt. Director Telecom(Staff)
for Chief General Manager ,
Assam Telecom Circle, Guwahati:17.

Attested by
Bishwa Chelbi
Advocate
11/4/2002

14

Annexure - 2

28

28

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.

Contd to page 2

Witnessed by
Kishore Chellai
Advocate
11/4/2002

- 29 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.

Sa/—

(A.K.Chelleng)

Asstt. General Manager(Admn.)

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(TT), C.O, Guwahati
- 16-17 The Circle Secretary TESA/JTOA, Guwahati
18. Guard File
- 19 Spare

G.C. SARMA

Asstt. Director Telecom(Staff)

ANNEXURE-I

Sl. No 1	Staff No 2	Name of JTO 3	Presently working 4	Posting on promotion 5
1	105764	Sri J. N. Samra	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. Samra	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 Malay 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 Hemen Hazarika	GMT/JRT	GMT/JRT
17	106924	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	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 Bhobotosh 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	108073	Sri Arup Kr. Dutta	RTTC/GH	TDM/TZ

CONTD..PAGE 2

Attested by
 Bishe Chatterjee
 Advocate
 11/4/2002

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-11

Annexure - 3

18

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

Dated, 19th December, 2001.

OFFICE ORDER

Sub : Posting of TTS 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 TTS 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.

Continued

19 2

5. Postings on promotion of HOs 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 CGMT 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
(M.K. Shrivastava)

Asstt. Director General (Pers.II)

Tele/Fax. 3372554

To

All CGMs of BSNL Circles/Districts/Project Circles/Maintenance Regions/ALL TC/BRB/ATTI

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.)/Jt. DDG (Pers.)/ADG (Pers.II) BSNL CO, N.Delhi.
6. CS to Adv. (HRD), DoT.
7. General Secretary TESAITO 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.S.N.	AS	BSNL	AS
3)	106190 MADAN CH. BANIA	G.H.Y.	AS	BSNL	AS
4)	106220 C.L.BISWAS	T2	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 DMBESHAR 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



46)	108837 MD MANAFUDDIN AHMED	Grty	NETF	BSNL	NETF
47)	108894 BIREN CH. KUMAR	Grty	AS	BSNL	AS
48)	108919 MISS PAPORI BARUAH		AS	BSNL	AS
49)	108924 AJOY KR. ROY	JRt	AS	BSNL	AS
50)	108956 NIRMAL K.T. CHAKRABORTY		AS	BSNL	AS
51)	108973 RAJIB KR. BARMAN	Grty	AS	BSNL	AS
52)	109065 MRS. NIVA BARUAH	Grty	AS	BSNL	AS
53)	109088 LAKHI PRASAD SARKAR	x	AS	BSNL	AS
54)	109096 MD. ISLAMUL HAQUE MANDAL	Grty	NETF	BSNL	NETF
55)	109155 MRS. PUSHPANJALI BORA	x	AS	BSNL	AS
56)	109166 PRADIP GOHAIN	12	AS	BSNL	AS
57)	109170 MD GAZI RAHMAN AHMED		AS	BSNL	AS
58)	109184 SUKHENDU SEKHAR DAS	Grty	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	x	AS	BSNL	AS
62)	109353 UPEN CH. BORA	x	AS	BSNL	AS
63)	109376 MRS M.M. KARKI	x	AS	BSNL	AS
64)	109385 MRIDUL CH. KALITA	Grty	AS	BSNL	AS
65)	109392 A.K. NATH	Grty	AS	BSNL	AS
66)	109432 MRINAL KR. MISHRA		AS	BSNL	AS
67)	109442 SARBESWAR KALITA	Grty	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 KAKOTI	Grty	AS	BSNL	NE-I
76)	109626 B.R. DAS	Grty	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-D
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

86) 109391 Lohi Ch. Bora

Grty BSNL - EIR

NE-I -> Meghalay, Tripura, Mizoram,
NE-II -> Tripura, Assam, Manipur, Nagaland.

SL No-16, 29, 34, 78

To

The Chief General Manager (BSNL)
Assam Circle, Guwahati.

(Through Proper channel)

Dated at NMP the 01.02.2002.

Sub:- Prayer for promotion from the Cadre of J.T.O. to the Cadre of T.E.S. Gr. 'B' in the Scale of Rs. 7500/- 250-12000 in respect of Sri Someswar Sonowal J.T.O./NMP.

Sir,

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

That Sir, I am a J.T.O. working at North Lakhimpur. My name was found in the promotion list published from New Delhi Memo No.1-16/2001-Pers-II dtd. 19.12.2001 bearing the Serial No. 109884.

But unfortunately while I was gone through the promotion list published from the CGMT Offic/GHY. Assam Circle as per the memo no. STES-5/2/Loose/9 dt. 01.01.2002, my name was not found in the list.

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

Yours faithfully,

(S. SONOWAL)

Advance copy to:-

- ✓ 1. The Chief General Manager (BSNL) Ghy. for favour of your information.
- ✓ 2. The T.D.M./Tazpar for favour of your information.
- ✓ 3. The S.D.O. Phone/NMP for favour of your information.

Attested by
Kishor Chandra
Advocate
11/4/2002

(S. SONOWAL)

ANNEXURE-5

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

No. STEZ-5/2/Loose/51 Dated at 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/IGO/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.

<u>Sl.No.</u>	<u>Staff No.</u>	<u>Name of the JTOS</u>
1	107515	Sri Pulakesh Deka
2	108083	Sri Manoj Kr. Karki
3	108348	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 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 TEZpur the 21.01.2002.
Copy forwarded to:- 1. Sri Pulakesh Deka, JTO, SDE(FRS)

2. Sri Manoj Kr. Karki, JTO
3. Sri Promod Kr. Pathak, JTO
4. Sri Someswar Sonowal, JTO
5. Sri J.C. Sarma, JTO

for kind information and n/a.

Attested by
Bhishu Chatterjee
Advocate
11/4/2002

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

Annexure - 6

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



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Pr...

38

No : Vig/Assam/Disc-VIII/2000-01/8

Dated the 27-12-2000

MEMORANDUM

1. Shri Someswar Sonowal, JTO(P), North Lakhimpur, the then JTO under SDOT North-Lakhimpur is hereby informed that it is proposed to hold an Inquiry under Rule-14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour 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 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. Sri Someswar Sonowal 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 Someswar Sonowal 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 Someswar Sonowal 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 Someswar Sonowal is aware of such a representation and that it has been made at is 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.

(J.K.CHHABRA)

Chief General Manager Telecom.
Assam Telecom Circle, Guwahati

To
✓ Sri Someswar Sonowal,
JTO (P), North Lakhimpur,
(Through TDM/Tezpur)
Copy forwarded to :

1) The Telecom District Manager, Tezpur. The enclosed Memorandum may be served to Sri Someswar Sonowal and his dated acknowledgement may be sent to this office. His defence statement in triplicate in original may be forwarded to this office immediately on its receipt. Service particulars of Sri Someswar Sonowal may be furnished in the enclosed proforma please.

(J. K. CHHABRA)

Chief General Manager Telecom,
Assam Telecom Circle, Guwahati-7.

*Attested by
Krishna Chellai
Advocate
11/4/2002*

ANNEXURE-IARTICLE OF CHARGE AGAINST SHRI SOMESWAR SONOWAL, JTO(P), NORTH LAKHIMPUR, THE THEN JTO UNDER SDOT, NORTH LAKHIMPUR.

That Shri, Someswar Sonowal while working as JTO under SDOT, North Lakhimpur during 1996, failed to maintain absolute integrity and acted in a manner unbecoming of his position in as much as he countersigned 31 nos. certificates issued by

1. Sh. Guneswar as Sub-Inspector.
2. Sh. Maheswar Roy, Sub-Inspector.
3. Md. Taslim, Sub-Inspector.

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

महानगरपालिका, धरमपुर
 () महानगरपालिका, धरमपुर
 महानगरपालिका, धरमपुर, धरमपुर, धरमपुर
 Mahanagar Telecom, Dharampur, Dharampur

Attested by
 Krishna Chellai
 Advocate
 11/4/2002

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR IN
SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI SOMESWAR
SONOWAL JTO(P), NORTH LAKHIMPUR, THE THEN JTO UNDER SDOT,
NORTH LAKHIMPUR.

1. That Shri Someswar Sonowal was working as Junior Telecom Officer (JTO), under SDE(Phones), Tezpur/SDOT North Lakhimpur during 1996.
2. That said Shri Someswar Sonowal countersigned 31 nos. 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 infavour of casual Mazdoors were countersigned by said Shri Someswar Sonowal, JTO

<u>Sl.No.</u>	<u>Name of Casual Labourers</u>	<u>Period of certificate</u>	<u>Issued by.</u>
1.	Sh.Ghana Kt.Sonowal	1988to 96	Guneswar
2.	Sh.Maheswar Saikia	1988 to 96	-Do-
3.	Sh.B.Balo Saikia	1988 to 96	-Do-
4.	Sh.Ratneswar Sonowal	1988 to 96	-Do-
5.	Sh.Rohit Sonowal	1988 to 96	-Do-
6.	Sh. Dambaru Chutia	1988 to 96	-Do-
7.	Sh.Dilip Neog	1988 to 96	-Do-
8.	Sh. Maina Sonowal	1988 to 96	-Do-
9.	Sh.Jogeswar Barah	1988 to 96	-Do-
10.	Sh.Gohin Sonowal	1988 to 96	-Do-
11.	Sh. Dimbeswar Sonowal	1988 to 96	M.Roy, SI
12.	Sh.Jiten Thangal	1988 to 96	-Do-
13.	Sh.Mahendra Challeng	1988 to 96	-Do-
14.	Sh.Dhaniram Basumatary	1988 to 96	-Do-
15.	Sh.Rebat Sonowal	1988 to 96	-Do-
16.	Sh.Dimbeswar Saikia	1988 to 96	G.Das, SI
17.	Sh.Motilal Mili	1988 to 96	-Do-
18.	Sh.Gobin Sonowal	1988 to 96	-Do-
19.	Sh.Lohit Bora (Sonowal)	1988 to 96	-Do-
20.	Sh.Ghana Sonowal	1988 to 96	-Do-
21.	Sh.Lokeswar Sonowal	1988 to 96	-Do-
22.	Sh.Niju Hazarika	1988 to 96	-Do-
23.	Sh.Dibya Sonowal	1988 to 96	Md.Taslim, SI
24.	Sh.Atul Sonowal	1988 to 96	-Do-
25.	Sh.Prafulla Sonowal	1988 to 96	-Do-
26.	Sh.Giridhar Saikia	1988 to 96	-Do-
27.	Sh.Upendra Nath Saikia	1988 to 96	-Do-
28.	Sh.Siba 'Gogai	1988 to 96	-Do-
29.	Sh.Nirmal Pawe	1988 to 96	-Do-
30.	Sh.Jogen Sonowal	1988 to 96	-Do-
31.	Sh Rudra Thengai	188 to 96	G.Das, SI

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

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SRI SOMESWAR SONOWAL, JTO(P) NORTH LAKHIMPUR, THE THEN JTO UNDER SDOT, NORTH LAKHIMPUR ARE PROPOSED TO BE SUSTAINED.

1. Gradation list of casual labours under SDO(T), North Lakshimpur, recommended for regularization (Three pages).
2. Letter No. A-20/96-97/88 dtd 1-5-96 of SDO(T), North Lakshimpur addressed to TDE/Tezpur alongwith proforma of 34 Nos. of casual labours for consideration as TSM (Total - 4 pages).
3. Attested copy of School certificate No. 21 dtd 23-8-91 of Gagaldubi Janajati high School, Gogaldubi of Sh. Gohin Sonowal, S/o Khatiram Sonowal (Attested copy).
4. HSLC passed School Certificate of Miss Niju Hazarika, D/o Suren Hazarika passed from Badhakara High School vide Sl. No. 48 dtd 2-5-96 (Attested copy).
5. School Leaving Certificate No. 44 dtd 10-2-91 (attested copy) of Ruddhar Tengal, S/o Haliram Tengal of Bhurbandha Jalbhari M.E. School, Gereki.
6. Attested copy of transfer certificate No. 433 dtd Nil of Gagamukh Nagar High School, Moinapara of Sh. Anil Nath.
7. List of 33 casual mazdoors under SDOT/ North Lakshimpur duly recommended for conferring the status of TSM by selection committee (Total - 7 sheets).
8. Letter No. A-20/95-96/87 dtd 15-3-96 of ADOT, North Lakshimpur addressed to TDE/Tezpur in r/o casual labours engaged after 30-3-85 to 22-6-88 (Carbon copy).
9. Certificate to Ghanakanta Sonowal issued by G. Das, S.I.
10. Certificate to Maheswar Saikia issued by G. Das, S.I.
11. Certificate to Bolo saikia issued by G. Das, S.I.
12. Certificate dtd 11-3-96 to Ratneswar Sonowal issued by G. Das, S.I.
13. Certificate dtd 11-3-96 issued to Rohit Sonowal issued by G. Das, S.I.
14. Certificate dtd 11-3-96 to Dambru Chetia by G. Das, S.I.
15. Certificate dtd 11-3-96 to Dilip Neog by G. Das, S.I.
16. Certificate dtd 11-3-96 to Maina Sonowal by G. Das, S.I.
17. Certificate dtd 11-3-96 to Jogeswar Borah by G. Das, S.I.
18. Certificate dtd 11-3-96 to Gohin Sonowal by G. Das, S.I.
19. Certificate dtd 11-3-96 to Dimbeswar Sonowal by Maheswar Ray, S.I.
20. Certificate dtd 11-3-96 to Jiten Thengal by Maheswar Ray, S.I.
21. Certificate dtd 11-3-96 to Mahendra Chelleng by Maheswar Ray, S.I.
22. Certificate dtd 11-3-96 to Dhaniram Basumatary by Maheswar Ray, S.I.
23. Certificate dtd 11-3-96 to Rebot Sonowal by Maheswar Ray, S.I.
24. Certificate dtd 11-3-96 to Dimeswar Saikia by G. Das, S.I.
25. - do - -do- to Motilal Mili by G. Das, S.I.
26. -do- -do- to Gobin Sonowal by G. Das, S.I.
27. -do- -do- to Lohit Bara (Sonowal) by G. Das, S.I.
28. -do- -do- to Ghana Sonowal by G. Das, S.I.
29. -do- -do- to Lokeswar Sonowal by G. Das, S.I.
30. -do- -do- to Miss Niju Hazarika by G. Das, S.I.

Attested by
Bishoo Belli
Advocate
11/4/2002

31. Certificate dtd 11-3-96 to Dibya Sonowal by Md. Taslim.
32. -do-- -do- to Atul Sonowal by Md. Taslim.
33. -do-- -do- to Prafulla Sonowal by Md. Taslim.
34. -do-- -do- to Giridhar Saikia by Md. Taslim.
35. -do-- -do- to Upendra Nath Saikia by Md. Taslim.
36. -do-- -do- to Siba Gogoi by Md. Taslim.
37. -do-- -do- to Nirmal Pawel by Md. Taslim.
38. -do-- -do- to Jogen Sonowal by Md. Taslim.
39. -do-- -do- to Radha Thengal by G. Das, S.I.
40. -do-- -do- to Tulon Thengal by G. Das, S.I.
41. -do-- -do- to Khargeswar Sonowal by G. Das, S.I.
42. -do-- -do- to Babul Nath (a), Anil Nath by M. Ray, S.I.
43. Absentee statement of TSM under SDO(T), North Lak. himpur for the month Of June'96 to October'97 (Total - 17 sheets)
44. Absentee statement of TSM under SDO(P), N/L for the month of Sept'96 to Oct'97 (Total - 15 sheets).
45. Statement of salary of TSM under SDO(P), North Lak himpur for June, July & August, 1996. (Total - 08 sheets).
46. Attendance Register of TSM under SDO(T), North Lak. himpur (04 Nos).
47. Joining Reports of TSMs (34 Nos).
48. Promotion order of Sh. Guneswar Das and Md. Taslim order No. E-198/OTBP/88-89/149 dtd 20-7-88 of TDE/Tezpur
49. Promotion order of Sh. Guneswar Das and Md. Taslim as Lineman vide order No-E-198/OTBP/III dtd 24-3-97 of TDE, Tezpur.
50. Promotion order of Sh. Maheswar Ray as Sub-Insp. Vide order No. E-198/OTBP/90-91/15 dtd 7-6-90 of TDE/Tezpur.
51. Joining Report dtd 22-4-89, 26-6-90 & 23-2-97 Earned Leave Application dtd 30-12-89, 6-9-90, 1-6-96 & C.L. application dtd 2-1-96 of Sh. Maheswar Ray, S.I. under SDOT, North Lak. himpur.
52. Joining Report dtd 21-1-81 and E/L application for 5 days w.e.f. 5-3-95 dtd Nil. & dtd 27-2-86 of Sh. Guneswar Das, SI under SDOT, N/Lak himpur.
53. Joining Order dtd 5-12-90 & E/L applications dtd 6-12-89, 26-10-90, 15-5-97 & 23-1-98 of Md. Taslim the then SI under SDOT, N/Lak. himpur.
54. Seizure Memo dtd 20-11-97.
55. -d0- dtd 6-6-98.
56. -do-- dtd 23-7-98.
57. -do-- dtd 8-9-98.
58. -do-- dtd 16-11-98.
59. Order No. X-1/CMPT/96-97/Con-7 dtd 27-5-96 of TDE, Tezpur in re regularization of casual labours under SDOT, N/Lak. himpur as TSM.(Total page-7, relevant page-6).
60. L/No. E-38/CMPT/Vol-III/96-97/15 dtd 30-8-96 of TDE, Tezpur add to Dy. G.M.(Admn), O/O CGMT, Assam Circle, Guwahati regarding engagement of casual labours(File No. X-1/CMPT/Tz/Confdl 1996-relevant page-72).

61. L/No. X-1/CMPT/TZ/95-96/confdl/1 dtd 25-3-96 of TDE, Tezpur.
62. L/No. E-38/CMPT/94-95/168 dtd 17-2-95 of TDE, Tezpur.
63. L/No. E-38/CMPT/Vol-II/123 dtd 7-12-93 of TDE/Tezpur.
64. Original Letter No. 269-14/93-STN.II dtd 17-12-93 of Asstt. Director General (STN), NGO-Delhi.
65. Letter No. 289-8/93-STN dtd 29-7-93 of Asstt. Director General (STN) New Delhi.
66. Letter No. Rectt. 3/10/Part.III/3 dtd 26-8-93 of Asstt. Director Telecom(E&R O/O the CGMT, GHY
67. Letter No. TDM/Tez/1005/CBI dtd 11-8-98 of Sh. B.K. Goswami, TDM/Tz.
68. Letter No. 270/6/84-STN, New Delhi dtd 30-3-1985 of Sh. S. Krishnan, Director(STN), Posts & Telegraph.

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ANNEXURE - IV

LIST OF WITNESS BY WHOM THE ARTICLES OF CHARGE FRAMED
AGAINST SRI SOMESWAR SONOWAL, JTO(P) NORTH LAKHIMPUR, THE
THEN JTO UNDER SDOT NORTH LAKHIMPUR ARE PROPOSED TO BE
SUSTAINED.

1. Md. Islam Ahmed, S/o Late Basiruddin Ahmed, Chief Accounts Officer, O/o the TDM/Tezpur.
2. Sh. B.K. Goswami, TDM/Tezpur, R/O 100/5 Jessore Road, Dumdum, Bhagabati Park, Calcutta-74.
3. Sh. M.K. Gogoi, the then TDE/Tezpur now DGM/Siliguri.
4. Sh. Upen Swargeshwary, Sr. Acc'ts Officer, o/o the TDM/Tezpur, R/o Indira Nagar, PS & PO- Dhekiajuli, Ward No.5, Dist: Sonitpur.
5. Sh. Ajit Kr. Sarkar the then SDE(HRD) now SDO(T), Tezpur R/O Vill & PO - Dhekiajuli, Ward No. 5, Dist: Sonitpur.
6. Sh. Dharmeswar Payeng, the then SDO(P)/Tezpur now DE(Phones), Jorhat R/O Town Bantu, North Lak: himpur, Ward No:14.
7. Sh. P. Das the then SDE(Phones), Tezpur.
8. Sh. R.C. Pal, Asstt. Director Telecom (E&R), o/o CGMT, Guwahati.
9. Sh. Gajanan Deuri, Sr. Section Supervisor(S.S.S.) under SDOT, North Lakshimpur S/O late Maya Singh Deuri R/O Nakari Nagar, Baptist Mission Path, PO & PS : N/Lak: himpur.
10. Sh. N.C. Kakati, JSO under SDOT, North Lak: himpur.
11. Sh. K. Barman, I.O. of the case.
12. Sh. Gunja Ram Deuri, Sr. Telecom Supervisor, O/O the SDO(P), N/Lak: himpur.
13. Sh. H.S. Debnath, JAO, O/O TDM/Tezpur.

*Attested by
Kishore Chellai
Advocate
11/4/2002*

ANNEXURE-7

From: Someswar Sonowal,
JTO(P),
North Lakhimpur.

Dated at N.Lakhimpur, the 25th Jan'2001.

To,

The Chief General Manager Telecom,
Bharat Sanchar Nigam Ltd.,
Assam Circle, Ulubari, Guwahati-7.

Sub: Statement of Defence and Prayer for dropping the
articles of charges.

Ref: Memorandum No.Vig/Assam/DKsc-VIII/2000-01/8
dated 27.12.2000.

Respected Sir,

With reference to the MEMORANDUM No. cited above, I beg to state that the following few lines in my defence for favour of your kind and sympathetic consideration. I also state that I desire to be heard in person. I shall not bring any political or outside influence which is against Rule 20 of the-CCS(Conduct) Rules, 1964.

ANNEXURE-1

That Sir, since the date of my appointment in the departmental I have been discharging my duties with utmost devotion, sincerity, honestly obeying the instructions of my superiors with full responsibilities and maintained absolute integrity, I have been contributing my sincere effort in the nations growth and excellence of service for the performance of Telecom Department. As has been charged with giving bogus certificates in favour of casual mazdoors, it is denied that I never given any such certificates for any documents were given to the higher authority for their appointment in the department under any reference, only few ~~authority for their app~~ countersignatures were given on the certificates issued by Sri Gurneswar Das, SI, Sri Moheswar Roy, SI and Md. Taslim, SI, after proper verification. Hence, I deny the articles of charges framed against me and state that I have not contravened Rule 3(1)(i)(ii) & (iii) of CCS

Attended by
Kishor Chandra
29/1/2002

- 2 -

(Conduct) Rules, 1964 in any manner.

ANNEXURE-II

That Sir, after joining in the department as JTO, I was entrusted to carry out certain works like maintenance and construction of L & W works laying of U/G cable, erection of D.P.Boxes, installation of new exchanges and so on in order to execute these works detailed estimates were prepared keeping provisions of engagement of labourers which were approved by the competent authority. Accordingly, mazdoors were engaged for the jobs entrusted on me as per the approved estimates and as soon as the work was over they were terminated. The period of engagement was specified on the basis of work load and payments were made through the SI in ACE-3 bills only from time to time so the question of malafide intention and any favouritism does not arise at all. Sir, I could remember that during my period I have countersigned certificates issued by the SI (Stated in Annexure-1) after proper and careful verification only and I never forwarded those certificates to any authority for appointment under any reference.

Under the circumstances, you are kindly requested to drop all the charges framed against me and do the justice to me.

Thanking you

Yours faithfully,

Sd/- S. Sonowal,

JTO, North Lakhimpur.

Attested by
Kishor Chelbi
Advocate
11/4/2002

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O.A. NO 136 OF 2002

SHRI S. SONU^{pal}

- 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 CGMT, 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 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 Respondents No- 3 is in conformity
with the rules and there is no illegality.

contd....P/2

Filed by

(A. DEB ROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

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 has issued false certificates with malafide intention of providing undue and illegal benefits to unauthorized person for ~~xxx~~ 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 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.

contd....P/3

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 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 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.

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 Rule 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 outsider 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 31/5/2000.

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 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 upto the date of their promotion.

In the case of applicant disciplinary proceedings was initiated by issuance of a formal charge sheet on 27.12.2000 and the same was pending at the time when the promotion fell or otherwise due.

The charge sheet in the instant case was issued on 27-12-2000 and the charged Govt. servant submitted his written statement on 05.02.2001. Since the applicant denied the charge, the competent authority considered it necessary to appoint an Enquiry Officer to enquire into the charge. Accordingly an Inquiry Officer was appointed on 08.11.2001 to conduct enquiry under the provision of Rules- 14 of CCS(CCA) Rules.

However, since the appointed Inquiry Officer was ~~irx~~ transferred out before completion of the enquiry a new I.O. has been appointed on 17.1.2002. The Enquiry is still incomplete. Action is being taken to complete 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 ongoing 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.&F vide O.M. dated 14.09.92 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.

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13. That with 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 ^{to be} promoted to the higher post, deemed sealed cover procedure is adopted as per para - 7 of the O.M. dated 14.09.92. 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.

VERIFICATION

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

I, *Sari Shankar Chandra Das* presently working as *Assistant 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, the these made in para 4, 5, 6, 8, 10 and 12 being matter of records, are true to my information derived therefrom and the rest are my humble submission before the Hon:ble Tribunal, & I have not suppressed any material facts.

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

Shankar Chandra Das

Declarant

सहायक निदेशक :

Assistant Director

कार्यालय, असम दूरसंचार निगम लि.

Old The Circle, Assam Telecom.

असम दूरसंचार निगम लि., गुवाहाटी-7

Assam Telecom Circle, Guwahaty

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.

G.M.No.
35/2759-Est.IA dt.31.8.80
7/28/83-Est.IAdt.23.12.84
22011/1/77-Est.IA
4L14.7.77
22011/1/79-Est.IA
4L31.1.82
22011/2/86-Est.IA
dt.12.1.88
22011/1/81-Est.IA
4L31.7.91.

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.

The undersigned is directed to refer to Department of Personnel & Training OM No.22011/2/86-Est.(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. Janakuman 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

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.

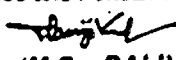

(M.S. BALI)
DIRECTOR

To

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


(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.