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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

ORDER SHEET

Original Application No. 154 /2002Misc Petition No. /Contempt Petition No. /Review Application No. /Applicants. S. P. Singh Yadav

-Vs-

Respondant(s) H.O.I. 7058Advocate for the Appellant(s) B.K. Sharma, S. Sharma, Min U.D.A.Advocate for the Respondant(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
This is application for P. 50/- dip IP / 76574.609 4.5.2002 Dy. Regd. No PL	15.5.02	Heard Mr. B.K. Sharma, learned Sr. counsel for the Applicant. Issue notice to show cause as to why the application shall not be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by two weeks. List on 30.5.2002 for admission.
Steps taken along with envelop 16/5/02		<u>1C1 (Sharma)</u> Member
Notice prepared and sent to DIs for giving the respondent No. 1 to 5 by Regd AD 21/5/02 DINo. 1480584 Dtd 27/5/02	30.5.02 mb	Written statement has been filed. Considering the facts of the case, the application is admitted. The respondents may now produce records, if any. Let the matter be listed for hearing on 5.6.2002. Since the matter posted for hearing on 5.6.2002 we do not feel to pass interim order at this stage.

mb

Vice-Chairman

4-6-2002
WJS has been called
from post N 1-2-3-4
and 5.

WJS
4/6/02

(2)

5x5x82

Prayer has been made on behalf
of Mr. K. Sharma.

5.6.02

Mr. P. K. Tiwari learned counsel on behalf of Mr. B. K. Sharma prays for adjournment to file rejoinder. Prayer is allowed. List on 28.6.02 for hearing.

No rejoinder has been filed.

27.6.02

1. C. M. Sharma
Member
(SEE RULE 14)

Vice-Chairman

1m JAMIA CENTRAL ADMINISTRATIVE BOARD
COMMITTEE

28.6.02

It has been stated by Mr. A. K. Choudhury, learned Addl. C. G. S. C. that he has received the rejoinder in the Court today.

On the prayer of the counsel for the parties the case is adjourned to 12.7.02.

1. C. M. Sharma
Member

Vice-Chairman

pg

11-7-2002

Rejoinder has been
filed by Mr. S. Samanta
for the respondent

12.7.02

Mr. S. Samanta learned counsel prays for little accommodation on behalf of Mr. P. K. Tiwari learned counsel for the applicant. Let this case be listed for hearing on 15th July 2002.

(SEE RULE 14)

1. C. M. Sharma
Member
(SEE RULE 14)

Vice-Chairman

1m

15.7.2002

Heard Mr. P. K. Tiwari, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C. G. S. C. for the respondents at length. List the case again for further hearing on 20.8.2002.

In the meantime the learned Sr. counsel for the respondents ~~also~~ is directed to obtain necessary instruction on the matter.

1. C. M. Sharma
Member

Vice-Chairman

bb

20.8.2002 LIST SET FOR HEARING.

A. K. Sharma
2002

3/N

OA 154/2002.

Notes of the Registry	Date	Order of the Tribunal
	21/8	Heard in part. Listed again on 6/9/2002. M/s A. K. Jay 21/8.
	6/9/2002	Heard Mr. P. K. Tiwari, named Counsel for the applicant Mr. A. Debjay, Dr. C. G. Sircar the Respondent. Hearing concluded. Judgment reserved. M/s. A. K. Jay 6/9.
	23.9.02	Judgment pronounced, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.
<p>Received copy of Judge's new Order for the Respondent. Laxmi 23/9/02.</p> <p>K. R. Kapoor S. I. Am. Secy Dy.</p>	pg	<p>L. C. U. Shar</p> <p>Member</p> <p>Vice-Chairman</p>
<u>30.10.2002</u>		
<p>Copy of the Judgment has been sent to the D/secy for issuing the same to the applicant by post.</p> <p>AT</p>		

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. NO. 154 of 2002

DATE OF DECISION 23.9.2002

Shri Suresh Pal Singh Yadav

APPLICANT(S)

Mr B.K. Sharma, Mr P.K. Tiwari and
Mr S. Sarma and Ms U. Das

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT.

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

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

5. Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.154 of 2002

Date of decision: This the 23rd day of September 2002

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

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

Shri Suresh Pal Singh Yadav,
Inspector,
Central Bureau of Investigation,
Office of the Superintendent of Police,
Central Bureau of Investigation,
Guwahati.Applicant

By Advocates Mr B.K. Sharma, Mr P.K. Tiwari,
Mr S. Sarma and Ms U. Das.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Personnel and Training,
New Delhi.

2. The Director,
Central Bureau of Investigation,
New Delhi.

3. The Selection Committee headed by
Mr Y.P. Singh,
Deputy Inspector General,
Special Crime Branch,
Central Bureau of Investigation,
New Delhi.

4. Deputy Inspector General,
Central Bureau of Investigation,
North East Region,
Guwahati.

5. The Superintendent of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
Guwahati.Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R R

CHOWDHURY. J. (V.C.)

"Justitia est constans et perpetua voluntas jus suum
cuique tribuens - Justice is the constant and perpetual
wish to render to every one his due."

Emperor Justinian
Institutiones

Is it lawful? Is it right? The legitimacy and correctness of the decision making process in the area of absorption of a deputationist is the key question raised in this application in this proceeding.

2. The basic facts leading to the institution of the present proceeding is usefully simulated from the following passages of the Judgment and Order of the Hon'ble Gauhati High Court dated 5.2.2002 in WP(C) NO.3420 of 2001:

The petitioner who was working in the U.P. Traffic Police as S.I. He was sent on deputation to the CBI in the year 1993. In 1996 options were sought from those who were on deputation with the CBI whether they wanted to be considered for absorption in the CBI. The petitioner gave his option for being considered for absorption in the CBI. However, before any final decision could be taken on his option he withdrew the option by writing as follows on 8.9.98.

"To
The Superintendent of Police
CBI/ACB/Guahati.

Sir,

I had joined the CBI/ACB/ Shillong Branch on deputation from U.P. Police for an initial period of three years in September, 1993. As the said period is already over in 1996 and I was not relieved despite my earlier representation in this regard. It is therefore requested that I may kindly be relieved at the earliest."

From the aforesaid letter it is quite clear that prior to 8.9.98 the petitioner had also requested that he be relieved but since he had not been relieved he made a request again on 8.9.98 to be relieved to join his parent Department. It is the case of the petitioner that later on he withdrew his request dated 8.9.98 for repatriating

him.....

him to join the parent Department. He wanted that his case be considered for absorption in the CBI. This having not been done the petitioner filed an O.A. before the Central Administrative Tribunal. It may be observed here that in the year 1998, to be precise on 29.9.98, the petitioner was conveyed the adverse remark which are to the following effect:

- "(i) He has tendency to finalise cases without selecting clinching evidence.
- (ii) He is an indisciplined officer and exhibits insubordination occasionally."

The Central Administrative Tribunal dismissed the O.A. holding that petitioner has no right to be absorbed while on deputation and further found nothing wrong in the recording of the adverse remarks. Hence the present writ petition."

3. By the Judgment and Order mentioned above, the Hon'ble High Court disposed of the Writ Petition with the following directions:

- "(i) If the representation of the petitioner against the adverse remarks for the year 1998 communicated to him on 20.9.98 has so far not been decided by the competent Authority the decision on the same be taken within a month.
- (ii) While deciding the representation as aforesaid the observations made regarding the correctness of the adverse remarks made by the Central Administrative Tribunal should not be taken into consideration and the Authority deciding the representation should form its own opinion and came to independent findings.
- (iii) After the decision on the representation is taken as aforesaid the case of the petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the petitioner. The result of the representation and any other relevant considerations including the petitioner's application dated 8.9.1998 or any previous application to

the.....

the effect that he may be repatriated back to his parent Department and withdrawal of that request after 8.9.98 may also be taken into consideration. This may be done within one month of taking of the decision on the representation of the petitioner against his adverse remarks."

Consequent to the order of the High Court the respondents communicated the decision of the competent authority in respect of the adverse comments in the ACR for the year 1998 vide letter dated 4.3.2002. By letter dated 26.3.2002, the S.P., CBI enclosed the Fax Message dated 22.3.2002 sent by the Administrative Officer, CBI, New Delhi advising the applicant to appear before the Screening Committee on 28.3.2002 at New Delhi in connection with his permanent absorption in the CBI. The applicant by his letter dated 28.3.2002 expressed about his difficulty to reach New Delhi before the Screening Committee on 1.4.2002 and accordingly sought for time enabling him to make necessary preparation to appear before the Screening Committee at New Delhi. By a Fax Message dated 11.4.2002 the applicant was advised to appear before the Screening Committee on 19.4.2002. The applicant wrote back to the respondents questioning the legality of the action of the respondent authority in disposal of his representation/appeal as to the recording of the adverse remarks. The applicant also mentioned about the adverse entries in his ACR for the year 2000 and also as to the factum of his submission of representation against the adverse entries. In the said communication he also mentioned for rescheduling the Selection Committee meeting to enable him to reach New Delhi and appear before the Screening Committee. The applicant finally appeared before the Screening Committee on 29.4.2002. By the impugned order dated 12.5.2002 the

applicant.....

applicant was informed that on due consideration the Screening Committee did not recommend the case of the applicant for permanent absorption and the recommendations of the Screening Committee was approved by the Director, CBI, New Delhi. By the impugned order the applicant was relieved from CBI with immediate effect. Hence this application assailing the legality and validity of the action of the respondents in repatriating the applicant to his parent department with lawfully considering his case and thereby refusing to absorb the applicant permanently in the CBI.

4. The respondents contested the application and submitted their written statement. In the written statement the respondents stated that the respondents acted lawfully and the applicant's case was considered by the Screening Committee. The applicant was called for an interview and assessment was made in terms of the criteria laid down by the Head Office to assess his suitability. Considering all the aspects the committee did not find the applicant suitable for being recommended for permanent absorption in the CBI. The competent authority on consideration of all aspects of the matter declined to absorb the applicant. The respondents also stated that the recommendations of the Screening Committee was approved by the Director, CBI, the competent authority and accordingly the applicant was repatriated to his parent department.

5. Mr P.K. Tiwari, learned counsel for the applicant argued the matter at length. The learned counsel contended that though a person on deputation does not

have.....

have a right to be absorbed in the borrowing department, he has a right to be considered in conformity with the professed norms and instructions issued from time to time. The learned counsel more particularly emphasised that the circular dated 17.12.1997 which indicated a scheme for consideration. The learned counsel took pain to bring to our attention the circulars issued by the authority from time to time and emphasised on the entitlement for a fair consideration on the strength of the decision rendered by the Hon'ble High Court in WP(C) NO.3420. The learned counsel submitted that the direction issued by the High Court was not sedulously adhered to by the respondents which ultimately affected their decision on the matter. The learned counsel in support of his contention also relied upon a decision rendered by the Supreme Court in Rameshwar Prasad Vs. Managing Director, U.P. Rajkiya Nirman Nigam Limited and others, reported in (1999) 8 SCC 381.

6. Opposing the claim of the learned counsel for the applicant, Mr A. Deb Roy, learned Sr. C.G.S.C. submitted that the applicant was an out and out deputationist and the right to work on deputation emanated from a consensual decision. The applicant was brought on deputation with his and with the consent by the parent department and the borrowing department brought him on deputation for a period prescribed. The applicant as a deputationist claimed more right than the terms of deputation. The learned counsel for the respondents, however, submitted that the case of the applicant was considered for absorption with due deference to the Judgment and Order of the High Court and on consideration the borrowing

department.....

department did not consider him suitable for absorption. The learned counsel invited our attention to the proceedings of the Screening Committee that met on 29.4.2002 for assessing the case of the applicant and stated that on consideration of all different aspects, the committee did not find the applicant suitable for being recommended for permanent absorption in the CBI and the competent authority on assessment of all the aspects of the matter ordered for repatriation of the applicant to his parent department. The applicant was relieved from the CBI.

7. As per the pleadings, the applicant was appointed as Inspector of Police in Delhi Special Police Establishment Division of CBI for a period of three years in the first instance with effect from the forenoon of 24.9.1993 until further orders. At the relevant time the applicant was holding a substantive post of Sub-Inspector of U.P. Traffic Police and he was brought on deputation. By communication dated 16.10.1997 the respondent authority in response to the communication of the parent department dated 30.7.1993 sought for necessary sanction for extension of the period of deputation of the applicant for three years, i.e. upto 23.9.1999 in the existing terms and conditions and accordingly requested for according the necessary approval on that matter. According to the applicant he was a much sought after officer in the department during that period. However, the situation was reversed and relationship between the applicant and his senior officers got strained. The applicant also submitted an application before the S.P. for his release at the earliest. The ACR of the

applicant.....

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applicant was also besmirched. The authority accordingly passed an order for his repatriation in a most illegal fashion. The applicant assailed the same as indicated earlier before this Tribunal. His application in O.A. No.338 of 1999 was dismissed, but then the High Court intervened and issued direction for his consideration. According to the applicant he did not receive a fair consideration. The Delhi Special Police Establishment and for that matter the CBI is a deputationist oriented organisation. There is no such statutory rules for absorption, but the department from time to time used to issue guidelines for absorption of the Inspectors on deputation in the CBI. In the Judgment and Order of the High Court the circular 17.12.1997 and the circular dated 25.11.1999 were mentioned. The full text of the circulars dated 17.12.1997 and 25.11.1999 are reproduced below:

"The matter of deputation of Inspector and their absorption in CBI has been examined in the Head Office and following instructions are issued in order to streamline the procedure.

1. Inspectors, who come on deputation, do not have any inherent right of absorption and the discretion to absorb rests solely with the CBI.
2. The Inspectors can be taken on deputation in CBI under the "deputation quota", which is 50% of the total posts for the period of 5 years extendable upto a maximum period of 10 years. Under the Recruitment Rules, there is no provision for extension of the deputation period after ten years. In case an Inspector is not absorbed before completion of his deputation period, he/she must be repatriated to the parent organisation on expiry of his deputation period. No requests for any extension would be entertained by the Head Office in this regard.
3. However, in case of Inspectors, who have completed maximum deputation period of 10 years, it has been decided that those, who are not considered suitable for absorption should be repatriated. The Inspectors, who come on deputation in the year 1997 or earlier should be repatriated by April 1998 positively.



4. Henceforth SsP of CBI are required to consider the request from Inspectors after they have served in CBI for at least five years as per criteria mentioned in the subsequent paragraphs. They would forward their names of suitable Inspectors in the prescribed proforma with their willingness (enclosed) to the Head Office along with the recommendations of their respective DIG and JD. The recommendations should reach the Head Office by 31st December 1997, so that the onward process can be completed by 31st March 1998. the SsP will certify that the Inspectors recommended for absorption process the prescribed qualification and fulfil other laid down criteria.

5. Scheme of Examination
An examination will be held for selecting Inspectors for absorption which will consist of 2 papers containing objective type and descriptive type questions i.e. (1) General Knowledge (2) Law/IPC.Cr.PC and Evidence Act, Prevention of Corruption Act.

6. Candidates equal to twice the number of vacancies to be filled up for absorption will be interviewed by a committee consisting of 1 JD, 2 DIGs and 1 SP. The Committee shall make recommendations taking into account of the results of written examinations (85% weightage) and Interviews (15% weightage) conducted by them which will be approved by DCBI through JD(A).

7. The following basic minimum qualifications are necessary for recommending the cases of Inspectors for absorption.

Essential Qualifications:

- a) Bachelor Degree from a recognised University or equivalent standard.
- b) A minimum experience of 5 years serving in CBI.
- c) No Objection Certificate from the parent Organisation/Department.
- d) Certificate of no punishment during deputation tenure in CBI.
- e) An undertaking from the Inspector for accepting the liability of transfer to any Branch of CBI, as a condition of service (Specimen Enclosed)

Note: Preference will be given to Inspectors having proficiency in basic data operation working on operating systems like DOS/Windows as Windows NT, RDBMS other ORACLE and applications Software like Lotus Approach, Freelance, Word Pro, 123 or MS Word, MS Excel, MS Power Point, MS Access.

Director, CBI will be the final authority for deciding absorption/non-absorption of any Inspector in CBI and may relax any of the prescribed conditions for absorption as Inspector in CBI."

"CIRCULAR"

The matter of deputation of Inspector and their absorption in the CBI has been reviewed in Head Office in view of existing Recruitment Rules and following instructions are issued.

2. Inspectors, who come on deputation, do not have any inherent right of absorption. The discretion to absorb them rests solely with the CBI.
3. The Inspectors can be taken on deputation in the CBI under "deputation quota", for a period of 5 years extendable upto a maximum period of 10 years.
4. Inspectors of Police who have completed maximum deputation period of 10 years, if not considered suitable for absorption, will be repatriated to the parent state/cadre.
5. Branch SSP will consider the request for permanent absorption of Inspectors of Police only after they have served the CBI for at least four years & subject to fulfilment of conditions as laid down in the following paragraphs.
6. The willing candidates will be considered & recommended for permanent absorption by a committee in Head Office duly constituted by the DCBI.
7. The following qualifications are necessary to recommend the cases of Inspectors of Police for absorption:-

Essential Qualifications:

- a) Bachelor Degree from a recognised University or equivalent standard with 3 years regular service in States/CPOs.
OR
Matriculation with minimum 10 years of regular service in states/CPOs.
- b) A minimum experience of 4 years service in CBI.
- c) No Objection Certificate from the parent Organisation/Department.
- d) Certificate of no punishment during deputation tenure in CBI and clearance from vigilance angle.
- e) An undertaking from the Inspector of Police to accept transfer to any Branch of CBI, as a condition of service.
- f) Consistently good service record.

8. The willing and eligible Inspector of Police may send their willingness to Head Office as per the proforma enclosed through their concerned Branch Office/Regional DIGs so as to reach HO by December 10, 1999.

9. This issues with approval of the DCBI."

8. A Corrigendum was issued against the Circular dated 24/25.11.1999 vide Memo No.DPAD11999/04267/A.21021/5/99 dated 30.11.1999/2.12.1999, but the same is not reproduced since it is not relevant for the purpose of adjudication of this case.

9. The respondents in the written statement annexed the proceedings of the Screening Committee for consideration of permanent absorption of the applicant on 29.4.2002. The Deputy Inspector General of Police, CBI, Special Crimes Division was the Chairman, the Deputy Director (Admn.), CBI, Head Office and the Deputy Inspector General of Police, CBI, Special Unit, New Delhi were the two Members of the Committee. The Head Office laid down the following guidelines to assess the suitability of the candidates:

"(i)	Assessment on the basis of ACRs for the last 4 years	-	40 marks
(ii)	Good entries including grant of rewards for the last 4 years	-	20 marks
(iii)	Technical Qualifications	-	5 marks
(iv)	Personal Interview	-	35 marks
			<hr/>
	TOTAL	-	100 marks
			<hr/>

As per the criterian fixed by the Head Office a minimum of 60 marks was to be obtained by a candidate for being recommended for permanent absorption in the CBI. The Screening Committee on its own also decided to evaluate the ACRs in the following manner:

"(i)	Outstanding	-	10 marks
(ii)	Very Good	-	7 marks
(iii)	Good	-	5 marks
(iv)	Average	-	3 marks
(v)	Below Average	-	NIL

A good entry and grant of cash reward were considered at par and it was decided to grant marks in the following manner:

- (i) Rewards upto 3 per year - 1 mark
- (ii) 4 - 7 rewards - 2 marks
- (iii) 8 - 11 rewards - 3 marks
- (iv) 12 - 15 rewards - 4 marks
- (v) 16 and above - 5 marks

From a maximum of 35 marks set aside for Personality Test the officer was granted marks on the basis of his performance in the personal interview."

10. The Screening Committee took into consideration the four years ACRs of the applicant for the period from 1.1.1997 to 31.12.1997 and likewise upto 31.12.2000. In 1997 in the ACR the applicant was assessed as 'Outstanding', in 1998 'Good', in 1999 'Average' and in 2000 'Below Average'. Out of 40 marks of ACR account, the applicant was awarded 18 marks. Marks were also allotted for the rewards earned by the applicant. In 1997, the applicant earned 4 rewards, in 1998 the applicant earned two rewards, in 1999 he earned 1 reward and in the year 2000 no rewards were earned by him. 4 marks were accordingly awarded to the applicant out of 20 marks for rewards. Out of 5 marks for Technical qualification the applicant did not get any marks. Out of 35 marks earmarked for personality test, the applicant was awarded 20 marks. Accordingly out of a total of 100 marks, the applicant secured 42 marks. Since the applicant could not secure the Bench Mark of 60 the Committee did not recommend his case for permanent absorption in the CBI. The Committee in its note also mentioned about imposition of minor penalty on the applicant. Because of the minor penalty of stoppage of three increments with cumulative effect imposed on the applicant on 2.2.2001

and.....

and a chargesheet for major penalty served on him in another matter on 22.5.2000, the applicant was not recommended for absorption. In the note the Committee also mentioned that the case of the applicant was not recommended by his Branch S.P., his Regional DIG and his Zonal Joint Director for absorption. The Committee also noted that the Chief Vigilance Officer, CBI (Policy Division) also did not give vigilance clearance for absorption of the applicant in the CBI. It also took note of the adverse entries in the ACR for the year 1998.

11. Mr P.K. Tiwari, learned counsel for the applicant, strenuously urged that the Committee fell into error in its decision making process by taking irrelevant considerations. Mr Tiwari submitted that the order of imposition of minor penalty of stoppage of three increments having cumulative effect imposed on 2.2.2001 was not operative in view of the order passed by the DIG, CBI, NER, Guwahati vide letter No.CBI.ID.No.2045/A/20/157/93-NER communicated to the applicant by the S.P., CBI, ACB, Guwahati on 2.8.2001. The learned counsel also submitted that against the finding in the ACR, the applicant submitted an O.A. before this Tribunal and the O.A. was under active consideration. The Committee could not have taken into account the adverse entries in the ACR. As per the High Court's order, the authority was to consider the applicant's case in the light of the Circulars. Mr P.K. Tiwari is partly justified in his criticism. Obviously, the minor penalty imposed on the applicant was kept in abeyance by the order of the authority. Similarly, the legality and validity of the adverse entries in the ACR of 1998 were under challenge before the Tribunal in O.A.No.127 of 2002 on the date when the Screening Committee met and in fact by Judgment

and.....

and order dated 11.9.2002 the Tribunal allowed the application and the adverse remarks recorded in the ACR for the year 1998 were set aside and quashed. But, that by itself will not invalidate the merits of the decision reached by the Screening Committee. The reason being that it was not a case of subjective satisfaction, where on failure on one of the grounds it will be impossible to predicate whether the authority would have reached its satisfaction on the basis of the rest of the grounds. The test here was an objective one and if some of such tests failed, but others are sufficient, the order would still be sustained. Admittedly, in the year 1998 the applicant was graded 'a good officer'. Taking into consideration the total marks received by the applicant out of 60, the expunction of the adverse entries in the ACR would not have made any improvement in the Bench Marks, which required 60 marks. Even otherwise, the ACR was not the sole input for absorption in this matter.

12. Admittedly, the applicant was not recommended for absorption by the Branch S.P., the Regional DIG and the Zonal Director, which was one of the essential requirement insisted upon by the Directorate of CBI vide memo dated 26.4.2000. In its conclusion the authority only referred to the adverse entries in the ACR of 1998 in addition. On the face of the other reasons, the recommendation of the Screening Committee cannot be said to be arbitrary or perverse. No malafide alleged against the members of the Screening Committee. The Screening Committee, in our opinion acted fairly. They have assiduously assessed the merits of the applicant for absorption in the light of the policy laid down by the Directorate. In the absence of any legal constraints, the Director and for that matter the Screening Committee was

within.....

within its jurisdiction to regulate its own affair in the area of assessment and awarding marks.

13. Mr P.K. Tiwari, the learned counsel for the applicant, submitted that the respondents failed to carry out the direction issued by the High Court to take note of the relevant circulars including the circular of 17.12.1997. In our opinion the circular of 1997 is not to be taken literally. The said circular though prescribed the scheme of examination, the scheme did not work as is revealed by the communication No.DPAD12002/2002/A.20014/1609/93 dated 29.5.2002 wherein the authority clarified the decision and mentioned that the said policy could not be materialised and no absorption was made against the circular. The absorption policy of deputationists was subsequently reviewed in the year 1999 and a fresh circular to that effect incorporating the revised criteria for absorption and constitution of a Screening Committee dated 24/25.11.1999 followed by a Corrigendum dated 2.12.1999 with the approval of the Director, CBI was issued. As per the said scheme absorption of Inspectors was being done according to the policy guidelines contained in the Head Office Circular dated 24/25.11.1999.

14. We have given our anxious consideration in the matter. In our view the applicant's case was fairly considered and thereafter the authority thought it fit not to retain the applicant. The scheme of deputation is well known. The officer retains his lien in the parent department. The entire scheme of deputation is based on consentaneity. The approval and/or assent of the employer is essential. One cannot claim to be absorbed as of right. The very

scheme of absorption is based on consent and harmony. No master can be compelled to employ a servant, any more than a servant can be compelled to serve a master. The applicant is a permanent Government servant having a lien on the post in the State service. Therefore, he is entitled to all the rights available under the law in the parent service. In the CBI, the applicant came on deputation and he cannot claim any right of being absorbed or continue to be in service in the borrowing department unless the borrowing department has agreed to absorb or retain him under it. In this context it would be appropriate to recall the following passage from the decision of the Supreme Court rendered in State of Punjab and others Vs. Inder Singh and others, reported in (1997)

8 SCC 372:

"The concept of "deputation" is well understood in service law and has a recognised meaning. "Deputation" has a different connotation in service law and the dictionary meaning of the word "deputation" is of no help. In simple words "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law on deputation and repatriation is quite settled as we have also seen in various judgments which we have referred to above. There is no escape for the respondents now to go back to their parent departments and working there as Constables or Head Constables as the case may be."

The aforesaid decision was referred to and relied upon by the Supreme Court in C. Rangaswamaiah and others Vs.

Karnataka.....

Karnataka Lokayukta and others, reported in (1998) 6 SCC 66.

15. The decision of the Supreme Court in Rameshwar Prasad (Supra) referred to by the learned counsel for the applicant is not applicable in the instant case. In the aforesaid case the borrowing Undertaking specifically pointed out about the excellent service record of the petitioner there, wherein it was stated that "he was useful in service and recommended to pass appropriate order for his absorption. His application for absorption was within three years as provided in Rule 5. There is nothing on record to indicate that for any reason whatsoever, he was not required or fit to be absorbed or the power under Rule 5(1) of the U.P. Absorption of Government Servants in Public Undertakings Rules, 1984 was not required to be exercised in his favour." On the strength of the Rule, the petitioner in the aforementioned case was asked to exercise his option and the petitioner accordingly exercised his option for absorption in December 1987. As per the rules, no Government servant was to ordinarily be permitted to remain on deputation for a period exceeding five years. The delay or inadvertent inaction on the part of the officers of the Nigam in not passing appropriate order, the Supreme Court observed, would not affect the appellant's right to be considered for absorption in the service of the Nigam as provided in Rule 16(3) of the recruitment rules. On consideration of the materials on record, the Supreme Court in the aforementioned case, found that the appellant was absorbed from 19.11.1990 because from that date his deputation allowance was also discontinued.....

discontinued. The Supreme Court observed that on the basis of the statutory rules as well as the policy, the appellant stood absorbed in the service of the Nigam. In the instant case, the facts are totally different. On consideration of all the materials on record, in our opinion the authority fairly considered the case of the applicant and thereafter it reached its decision not to absorb the applicant in the department.

16. The rules of recruitment framed under Article 309 of the Constitution of India statutorily indicated the methodology of filling up of the post of Inspector of Police in the CBI. The post of Inspector of Police is classified as General Central Service, Group 'C' Non-Gazetted, Non-Ministerial post as indicated in the Central Bureau of Investigation Group 'C' Executive Posts Recruitment Rules, 1996. As per the Recruitment Rules 50% of the posts are to be filled up by promotion failing which by deputation/transfer and the remaining 50% by deputation/transfer. As per the Recruitment Rules the period of deputation, including the period of deputation in another ex-cadre post held immediately preceding the deputation is ordinarily not to exceed five years, which may be extended for a further period of five years out of which sixth, seventh and eighth years with the recommendations of the Board consisting of the Joint Director (Administration), CBI, the Deputy Secretary (Vigilance), Department of Personnel and Training and the Deputy Director (Administration), CBI. The rule also provided for ninth and tenth years extension of deputation, approval of the Secretary, Department of Personnel and Training is mandatory. There is no provision for absorption in the Recruitment Rules. The

competent.....

competent authority, however, introduced a methodology for absorption in the administrative exigency. In the backdrop, the rights and liability of the deputationist for being absorbed in the borrowing department is to be adjudged. Admittedly, a deputationist is not entitled to claim as of right for being absorbed. His right to be considered for absorption is to be viewed in the context of the public employment as well as the public interest. The legal policy of absorption in absorbing an ad hoc employee is obviously distinct from the right of absorbing a deputationist. Absorption of a deputationist is consensual and discretion exercised for absorption must subserve the public interest as well as in public purpose. It is the administration, who is the best judge of its requirement and the quality of the officer to be fitted in their set up.

17. On the conspectus it emerges that the applicant was not recommended for absorption by any of the authority prescribed under any of the circulars. No infirmity as such is discernible if the authority failed to adhere to the 1997 circular as was indicated by the respondents in their written statement. Admittedly, the circular was meant for the year in question. The authority also explained that the circular was not workable. At any rate, even under the old circular, qualifying in the examination was not the sole crieteria. Apart from that the deputationist was to be recommended for absorption with the recommendations of the respective DIG and the Zonal Director prior to SsP of CBI was required to consider requests from Inspectors who are authority to forward the names of suitable Inspectors in the prescribed proforma with the recommendations of the

respective.....

respective DIG and Zonal Director. Records clearly indicated that selections were made on the basis of the subsequent circular. Seemingly, the authority adopted the same standard in the matter of absorption since 1999-2000. It would thus not be appropriate for us to find fault with the process of absorption in not adhering to the 1997 circular as argued on behalf of the applicant. No malafide or improper notice is imputed on any of the members of the Screening Committee. The Screening Committee consisted of persons with experience in the field with the knowledge of job requirement. They assessed the merits. We do not find any room to find fault with the process of selection. The Screening Committee found the applicant not eligible. As stated earlier the claim of a person serving under deputation is to be viewed in the light of the statutory mechanism provided in the recruitment rules. In this context it would be apt to recite the following observations of the Supreme Court in Kunal Nanda Vs. Union of India and another, reported in (2000) 5 SCC 362:

"It is well settled that unless the claim of the deputationist for a permanent absorption in the department where he works on deputation is based upon any statutory rule, regulation or order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in the substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation. The reference to the decision reported in Rameshwar Prasad v. M.D., U.P. Rajkiya Nirman Nigam Ltd. is inappropriate since the consideration therein was in the light of the statutory Rules for absorption and the scope of those Rules....."

18. The reach and range in the sphere of absorption of deputationist was cogitated by the Supreme Court in Union of India Vs. S.N. Panikar, reported in 2002 SCC (L&S) 905. The claim of an employee under deputation in the legal framework as delineated in the statutory provisions of the Recruitment Rules came to the fore, and the Supreme Court held that such employee cannot claim any right to such post for being absorbed. In the context of the terms of deputation, the right and the status of a deputationist as is understood in the service jurisprudence as well as statutory rules regulating to the post of Inspector of CBI, the impugned action of the respondents cannot be flawed as arbitrary, unreasonable and unlawful. No illegality or irrationality is discernible in the action of the respondents in declining to permanently absorb the applicant in the CBI.

19. In judicial review the court is not sitting on the judgment on merits of the administrative decisions. In the decision making area, the administration has a wide choice in selecting persons for absorption as per their own conception of ends. It is not for us to impose our choice, in the garb of Judicial Review. The court is to confine itself to the recognizable principles of law and at all costs we are not inclined to expose ourselves to the charge of usurping the executive province on the fact situation. In judicial review the court is basically concerned with the decision making process and to see whether powers are exercised reasonably and in good faith and correct grounds.

20. All in all and all added up we do not find any merit in this application. Accordingly the same is dismissed. There shall, however, be no order as to costs.

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

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

nkm

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 154 of 2002
(S.P. Singh Yadav -vs- Union of India & Ors.)

List of dates with brief facts

14.10.93 : Applicant is a Post Graduate in Chemistry from Agra University and was sent on deputation from Uttar Pradesh Police to CBI for a period of 3 years vide office order No. 1621/93 dated 14.10.93 passed by the Assistant Director, CBI, New Delhi. The appointment was made effective from 24.9.93.

12.8.94 : While working in CBI the applicant also attended special course on computer awareness programme and in this connection he was issued with a certificate dated 12.8.94 by the Joint Director/Special Inspector General of Police, CBI -
(Annexure-A/1 page 25)

*** In course of his service in CBI the applicant earned 17 rewards and 8 commendation certificates for his excellent investigation in various cases. (Documents pertaining to rewards and certificates are part of the record in OA No. 127/2002

wherein the hearing has been done and the judgment has been kept reserved.

23.12.96 - While working in CBI the applicant expressed his willingness vide letter dated 23.12.96 for absorption in CBI. However, there was no proper consideration of the case of the applicant for his absorption in terms of the various circulars and orders of the CBI.

16.10.97 - The CBI authority on completion of the deputation period of the applicant intimated the DIG (personal) UP Police that the services of the applicant are required by the department and it is not possible to relieve him. It was requested that necessary sanction extending the period of applicant in deputation for 3 years more i.e. upto 23.9.99 may be accorded and conveyed to the CBI office - (Annexure-A/2 page 26) ✓

*** - That thereafter applicant continued working in CBI. However, from September, 1998 onwards there were series of happenings which resulted in strained official relationship between the Applicant and his senior officers. The facts pertaining to strained relationship with senior officers are part of the records in OA No. 127/2002 which dealt with adverse remarks in the ACR of the Applicant for the year 1998. Hearing

in the aforesaid case has been done and the judgment has been kept reserved.

8.9.98 - Being humiliated by the then DIG CBI the Applicant submitted a letter on the spot requesting the SP, CBI, Guwahati to repatriate him to his parent department in the State of UP.

11.9.98 - SP, CBI forwarded the letter of the Applicant.

11.9.98 - The then DIG, CBI on receiving the letter of SP, CBI on 11.9.98, same day recommended the repatriation of the Applicant to Joint Director, East Zone, CBI, Calcutta and while doing so he made an adverse remark about the Applicant that "Sri Yadav who was a deputationist from UP Police completed his deputation period and further it is found that his conduct is unbecoming of a CBI Officer."

30.10.98 - The uncalled for observations of the then DIG, CBI while recommending the Applicant's requests for repatriation resulted in Applicant changing his mind of going back to his parent department. The Applicant instead decided to remain in CBI and to leave it only with clean image. Hence the Applicant wrote a letter dated 30.10.98 to the Joint

Director (Administration), CBI withdrawing his request for repatriation and stating that he was willing to continue in CBI.

3.11.98 - Letter of Administrative Officer, CBI, New Delhi intimating the SP, CBI, Guwahati that the repatriation of the Applicant is approved by the competent authority and the Applicant is directed to be relieved on repatriation.

16.11.98 - Letter of the Applicant dated 30.10.98 withdrawing his request for repatriation was rejected by the competent authority vide Wireless Message dated 16.11.98.

18.12.98 - Since at the relevant point of time the Applicant was an Investigating Officer in a case relating to Fraudulent Drawal of advance T.A. against the Hon'ble Judges of the High Court as well as the establishment staff of the said court from the Kamrup Treasury, therefore, when the Hon'ble High Court came to know that the Applicant is likely to be repatriated soon, on 18.12.98 the matter of Applicant's repatriation was suo moto taken up by the Division Bench and the SP CBI was directed to ensure that till the investigation is complete and the charge sheet is filed the Applicant shall not be repatriated.

(S) Subrata
Loy back
(S) Mr. P. C. Tewari

21.12.98 - The SP, CBI wrote to the then DIG, CBI, Guwahati in regard to the desire of the Hon'ble Court and as a result the repatriation of the Applicant was postponed till the filing of the chargesheet in the aforesaid case.

March'99 - Some time after March the Head Office, CBI asked the present DIG, CBI, North East Region for re-examination of the repatriation case of the Applicant

16.9.99 - The present DIG, CBI, vide letter No. 1444/142/99-NER dated 16.9.99 which was addressed to Administrative Officer (E), CBI, New Delhi, stated that the Applicant is handling number of cases and his repatriation at this stage would not be appropriate.

29.9.99 - The Applicant was communicated with the adverse remarks made in his ACR for the year 1998.

*** - Immediately thereafter some time in October, 1999 the move was made to repatriate the Applicant.

October'99 - The Applicant preferred OA No. 338/99 wherein he raised a issue of his absorption in CBI in terms of the scheme contained in

various circulars.

29.10.99 - The Applicant submitted a representation against the adverse remark made in his ACR for the year 1998.

9.5.2001 - This Hon'ble Tribunal dismissed the OA No. 338/99 on the ground that the deputationist does not have a right to continue on deputation if the borrowing authority wants to repatriate him on completion of his tenure.

May, 2001 - The Applicant preferred WP(C) No. 3420/2001 before the Hon'ble Gauhati High Court against the order of the Hon'ble Tribunal dated 9.5.2001 passed in OA No. 338/99.

5.2.2002 - The Hon'ble Gauhati High Court disposed of *Ch. Subarni*¹³ WP(C) No. 3420/2001 by giving certain directions to the CBI. It was directed that the representation of the Applicant against the adverse remarks for the year 1998 communicated to him on 29.9.99 should be decided by the competent authority and the decision on the same be taken within a month. It was also directed that after the decision on the representation is taken the case of the Applicant for absorption in CBI may be considered in accordance with the relevant circulars on the subject with

entire service records of the Applicant. It was also directed that certain observations made by this Hon'ble Tribunal in regard to correctness of the observations of the then DIG that the conduct of the Applicant is "unbecoming of a CBI Officer" should not be taken into consideration and the authority deciding the representation should formed its own opinion and come to independent findings. The Hon'ble Court disposed of the writ petition with the observations that if the Applicant is adversely effected by any order that may be passed by the competent authority he would have liberty to challenge the same before a appropriate forum -

(Annexure-A/3 page 27 to 33) ✓

4.3.2002 - SP, CBI, communicated the Applicant the final decision of the authority in respect of the adverse comment.

26.3.2002 - Letter enclosing the Fax Message dated 23.2.2002 of the Administrative Officer, CBI, New Delhi, was sent directing the Applicant to appear before the Screening Committee in connection with his permanent absorption in CBI, on 28.3.2002 which was subsequently altered to 1.4.2002.

28.3.2002 - Applicant wrote the letter informing the competent authority about the practical

difficulties in immediately rushing to Delhi and to appear before the Screening Committee on 1.4.2002.

11.4.2002 - Fax Message was issued by the CBI directing the Applicant to attend the personal interview before the Screening Authority/Board in connection with his permanent absorption in CBI on 19.4.2002 - (Annexure-A/4 page 35)

16.4.2002 - In response to the aforesaid Fax message the Applicant gave a reply wherein at para 7 of his letter he specifically stated that the matter for absorption is to be considered in the light of terms and conditions as laid down in CBI Circular dated 17.12.97, 25.11.99 and 26.4.2000. It was also made clear by the Applicant that he is appearing before the Interview Board/Screening Committee in pursuance to the order of the competent authority and his submission to the said order may not be construed as his acquiescence to the proceedings which are apparently contrary to the scheme of the circulars governing the field. It was also stated by the Applicant that he would not be bound by any result which flows from such irregular proceeding in the matter pertaining to his absorption

in CBI - (Annexure-A/5 Page 36).

23.4.2002 - Letter of the CBI authority directing the Applicant to appear before the Screening Committee on 29.4.2002 - (Annexure-A/6 Page 40)

29.4.2002 - Applicant appeared before the Screening Committee which was headed by Deputy Inspector General, Special Crime Branch, Sri Y.P. Singh. It had two other members .

1st week of May'2002 - Applicant returned to Guwahati from Delhi.

12.5.2002 - Applicant received the impugned office order No. 101/2002 passed by the SP, CBI, Guwahati relieving the Applicant from CBI, Guwahati with immediate effect in the afternoon of 12.5.2002 itself with direction to report to his parent department - (Annexure-A/9 Page-49)

14.5.2002 - OA No. 154 of 2002 was filed assailing the legality of the office order dated 12.5.2002.

Additional Annexures and dates

17.12.97 - Circular of CBI laying down the methodology to be followed in absorbing the deputationist - (Annexure-A/7 Colly Page 41-42)

25.11.99 - Another circular reviewing the earlier circular (Annexure-A/7 Colly, Page 43-44)

26.4.2000 - Another circular issued by CBI authority (Annexure-A/7 Colly, Page 45-47)

2.8.2001 - The only punishment given to the Applicant in course of his career in CBI, has been suspended by the Appellant Authority by its order dated 2.8.2001 pending disposal of the Applicant's appeal. (Annexure-A/8 Page-48)

*** - 3 different disciplinary proceedings were initiated against the Applicant and the same were subject matter of OA No. 30, 31 and 61/2001. Disposing these OAs by common order dated May, 2001, the Hon'ble Tribunal directed changing of disciplinary authority and also observed that the impugned departmental proceedings can be said to be legally unsustainable (Annexure-R/5 Page 29 of Rejoinder)

*** - Out of the 3 disciplinary proceedings one had been closed and the two are presently pending.

L-K Jiwani
Advocate
6/9/02

Case No. 14

Central Appellate

14 MAY 19

Guwahati

Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 154 of 2002

S.P. Singh Yadav Applicant

- Versus -

Union of India & Ors. Respondent

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Filed by - Usha Das For use in Tribunal's Office
Advocate

Date of filing :

Registration No.

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 154 of 2002

BETWEEN

Shri Suresh Pal Singh Yadav, Inspector
Central Bureau of Investigation, office
of the Supdt. of Police, Central Bureau
of Investigation, R.G. Baruah Road,
Sundarpur, Guwahati-781005.

..... Applicant

AND

1. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Director, Central Bureau of Investigation, CGO Complex, Lodhi Road, New Delhi.
3. The Selection Committee headed by Mr. Y.P. Singh, Deputy Inspector General, Special Crime Branch, Central Bureau of Investigation, C.G.O. Complex, Lodhi Road, New Delhi, which had its sitting on 29.4.2002 for consideration of Applicant's case for permanent absorption in CBI.
4. Deputy Inspector General, Central Bureau of Investigation North East Region, Chenikuthi, Nabagraha Hill Side, Guwahati-3.
5. The Supdt. of Police, Central Bureau of Investigation, Anti-Corruption Branch, Guwahati.

..... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the office order No. 101/2002 dated 12.5.2002 passed by the

filed by
the applicant through
Jyoti Das (39)
Advocate
14/5/02

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Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati (Respondent No. 5) relieving the Applicant from CBI, Anti-Corruption Branch, Guwahati with immediate effect from 12.5.2002 (afternoon) repatriating the Petitioner to his parent department i.e. Director General of Police, Uttar Pradesh.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

That the present application is within the statutory period of limitation as provided under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant in the present case is aggrieved by the office order No. 101/2002 dated 12.5.2002 passed by the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati (Respondent No. 5) relieving the Applicant from CBI, Anti-Corruption Branch, Guwahati with immediate effect from 12.5.2002 (afternoon) repatriating the Petitioner to his parent department i.e. Director General of Police, Uttar Pradesh. The impugned order is in consequence of the recommendation of the Screening Committee headed by Mr. Y.P. Singh, DIG, Special Crime Branch, Central Bureau of Investigation, New Delhi which held its sitting on

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29.4.2002 for consideration of Applicant's case for permanent absorption in CBI. Not only the constitution and composition of the Screening Committee was in contravention of the circulars holding the field, but even the manner and method adopted by the Screening Committee for consideration of the Applicant's case for permanent absorption in CBI was in flagrant violation of the executive orders and circulars especially the circular dated 17.12.97. The Scheme of the aforesaid circular provides for holding of a written examination consisting of two papers containing both objective and descriptive type questions. As per the scheme of examination laid down in the said circular, 85% marks are allotted to the written examination and interview is given a weightage of 15%. In the case of the Applicant, no written examination was held and only interview was taken. When the Applicant was invited for interview before the Respondent No. 3 Screening Committee, the Applicant in writing raised the issue of the entire scheme of absorption laid down in the Circular dated 17.12.97 and made it clear that his appearing for interview before the Screening Committee should not be treated to be an act of waiver or acquiescence on his part and that he would be appearing before the Screening committee in deference to the orders issued by the competent authority. The Screening Committee held its sitting on 29.4.2002 and the Applicant returned to Guwahati in the first week of May 2002. Before the Applicant could file the original application before this Hon'ble Tribunal assailing the very legality of the Screening Committee which

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considered his case for absorption, the impugned order dated 12.5.2002 was passed by the Respondent No. 5 relieving the Applicant from CBI, Anti-Corruption Branch, Guwahati on the basis of the recommendation of the Screening Committee. It is noteworthy that the consideration of the Applicant's case for absorption by the Screening Committee is in contravention of the direction of the Hon'ble Gauhati High Court which was given in its order dated 5.2.2002 passed in W.P.(C) No. 3420/2001. Hence the present Original Application. Now the facts in detail.

4.2 That the Applicant is a post-graduate in Chemistry from Agra University. He was sent on deputation from Uttar Pradesh Police to CBI for a period of three years vide office order No. 1621/93 dated 14.10.93 passed by the Asstt. Director, CBI, New Delhi. The appointment was made effective from 24.9.93. Initially while working in U.P. Police and subsequently in CBI, the Applicant also attended special courses on computer awareness programme. In this connection, the Applicant was also issued with a certificate dated 12.8.94 by the Joint Director/Special Inspector General of Police, Central Bureau of Investigation. This special qualification of the Applicant has been stated herein in view of the fact that this is one of the relevant factors amongst others in a matter of permanent absorption in CBI.

Copy of the certificate issued by CBI authority pertaining to computer awareness of the Applicant is annexed as ANNEXURE-A/1.

4.3 That the performance of Applicant in CBI has been exemplary. In course of his service in CBI, the Applicant earned seventeen rewards and eight commendation certificates for his excellent investigation in various cases. Applicant also handled certain highly sensitive cases like a case relating to fraudulent withdrawal of advance T.A. against the Judges of the Hon'ble Gauhati High Court as well as the establishment staff of the Gauhati High Court from Kamrup Treasury. The amount was to the tune of more than Rs. 38 lacs. In this case also, the Applicant was given commendation certificate as well as cash reward for his effective investigation. Documents showing the meritorious performance of the Applicant and the awards received by him have been annexed in O.A. No. 127/2002 as Annexure-A/1 colly. The aforesaid O.A. is pending disposal before this Hon'ble Tribunal. The Applicant craves leave of this Hon'ble Tribunal to refer to Annexure-A/1 colly of O.A. No. 127/2002, if necessary.

4.4 That in view of the excellent performance given by the Applicant as Investigating Officer in CBI, the CBI on completion of the deputation period of the Applicant vide letter dated 16.10.97 intimated the DIG (Personnel), UP Police that the services of the Applicant are required by the Department and that it is not possible to relieve him. The CBI, therefore, requested that necessary sanction extending the period of Applicant's deputation for three years more i.e. upto 23.9.99 may be accorded and conveyed to the CBI office. Here it is noteworthy that prior to this, the

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Applicant expressed his willingness vide letter dated 23.12.96 for absorption in CBI. However, it appears that there was no proper consideration of the case of the Applicant for his absorption in terms of the various circulars and orders of the CBI.

Copy of the letter dated 16.10.97 is annexed as

ANNEXURE-A/2.

That pursuant to Annexure-A/1 letter dated 16.10.97, the Applicant continued working in CBI. From onwards, there were series of happenings which resulted in strained official relationships between the Applicant and his senior officers. The facts pertaining to strained relationship with senior officers are not relevant for the purpose of the present case. However, such facts have been stated in detail in O.A. No. 127/2002 pending before this Hon'ble Tribunal and the Applicant craves leave of this Hon'ble Tribunal to refer to some of the averments made in

resulting in victimisation of the Applicant by the senior officials and consequent order of Applicant's repatriation to his parent department, the Applicant raised the issue of his absorption in CBI in terms of the scheme contained in various circulars. In this connection, Applicant preferred O.A. No. 338/99 before this Hon'ble Tribunal which was heard by this Hon'ble Tribunal during May 2001 and vide order dated 9.5.2001,

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the Hon'ble Tribunal dismissed the O.A. No. 338/99 on the ground that a deputationist does not have a right to continue on deputation if the borrowing department wants to repatriate on completion of his tenure.

4.7 That against the order of the Hon'ble Tribunal dated 9.5.2001 passed in O.A. No. 338/99, the Applicant preferred W.P.(C) No. 3420/2001 before the Division Bench of the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court vide order dated 5.2.2002 disposed of the the W.P.(C) No. 3420/2001 by giving the following directions to the Respondent Central Bureau of Investigation :

"(i) If the representation of the Petitioner against the adverse remarks for the year 1998 communicated to him on 29.9.99 has so far not been decided by the competent authority, the decision on the same be taken within a month.

(ii) While deciding the representation as aforesaid, the observations made regarding the correctness of the adverse remarks made by the Central Administrative Tribunal should not be taken into consideration and the authority deciding the representation should form its own opinion and come to independent findings.

(iii) After the decision on the representation is taken as aforesaid, the case of the Petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the

subject and entire service record of the Petitioner. The result of the representation and any other relevant considerations including the Petitioner's application dated 8.9.98 or any previous application to the effect that he may be repatriated back to his parent department and withdrawal of that request after 8.9.98 may also be taken into consideration. This maybe done within one month of taking of the decision on the representation of the Petitioner against his adverse remarks.

With the aforesaid directions, the Hon'ble Gauhati High Court disposed of the writ petition with the observations that if the Applicant is adversely affected by any order that may be passed by the competent authority, he would be at liberty to challenge the same before an appropriate forum.

Copy of the order dated 5.2.2002 passed in W.P.(C) No. 3420/2001 is annexed as ANNEXURE-A/3.

4.8. That after the order of the Hon'ble High Court dated 5.2.2002 passed in W.P.(C) No. 3420/2001, the Supdt. of Police, CBI, Anti-Corruption Branch, Guwahati vide letter dated 4.3.2002 communicated the Applicant the final decision of the authority in respect of the adverse comment in his ACR for the year 1998. The aforesaid letter of Supdt. of Police, CBI dated 4.3.2002 was followed by another letter dated 26.3.2002 enclosing therewith a Fax message dated 22.3.2002 of Administrative Officer, CBI, New Delhi. In the Fax

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4.8 That on receipt of the Fax message dated 22.3.2002, the Applicant was directed to appear before the Screening committee in connection with his permanent absorption in CBI on 28.3.2002 at Delhi at 10 A.M. sharp. The Applicant was directed to report to the Deputy Director (Administration), CBI, New Delhi for the said purpose. Though the date given in the Fax message was 28.3.2002, but in the letter dated 26.3.2002, the same was altered to 1.4.2002.

4.9 That on receipt of the letter dated 3.2002 enclosing therewith a Fax message dated 22.3.2002, the Applicant vide letter dated 28.3.2002 informed the competent authority about the practical difficulties in immediately rushing to Delhi and to appear before the Screening Committee on 1.4.2002. In his letter, the Applicant requested that he may atleast be given 15 days' time so that he can make the necessary preparation for appearing before the Screening Committee/Selection Board.

4.10 That subsequently, in response to the letter of the Applicant dated 28.3.2002, the Fax message dated 11.4.2002 was issued by the CBI authority wherein the Applicant was directed to attend the personal interview before the Screening Committee/Selection Board in connection with his permanent absorption in CBI on 19.4.2002.

Copy of the Fax message dated 11.4.2002 is annexed as ANNEXURE-A/4.

4.11 That in response to the Fax message dated 11.4.2002, the Applicant gave his reply dated 16.4.2002

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wherein apart from raising certain issues pertaining to adverse entries in his ACR, the Applicant at para 7 of his letter specifically stated that the matter for absorption is to be considered in the light of terms and conditions as laid down in CBI circular dated 17.12.97, 25.11.99 and 26.4.2000 issued in this regard at the relevant point of time in past and not in the year 2002 inasmuch as the matter pertaining to absorption of the Applicant has to be considered as on 1997/1998. It was also made clear by the Applicant that he is appearing before the Interview Board/Screening Committee in pursuance to the order of the competent authority and his submission to the said order may not be construed as his acquiescence to the proceedings which are apparently contrary to the scheme of the circulars governing the field. It was also stated by the Applicant that he would not be bound by any result which flows from such irregular proceeding in the matter pertaining to his absorption in CBI.

Copy of the Applicant's letter dated 16.4.2002 is annexed as ANNEXURE-A/5.

4.12. That the Applicant accordingly went to Delhi for appearing before the Screening Committee. However as he could not reach Delhi on 19.4.2002, the CBI authority directed the Applicant vide letter dated 23.4.2002 to appear before the Screening Committee on 29.4.2002.

Copy of the letter dated 23.4.2002 is annexed as ANNEXURE-A/6.

4.13 That the Applicant accordingly appeared before the Screening Committee on 29.4.2002. The Screening Committee/Selection Board had three members viz. Sarvasree (1) Y.P. Singh, Deputy Inspector General, Special Crime Branch, (2) Nanda Kumar, Deputy Director (Administration) and (3) Gehlot, Deputy Inspector General, CBI. The Screening Committee was headed by Shri Y.P. Singh.

4.14 That the circular dated 17.12.97 lays down the manner and methodology to be followed in absorbing the deputationist Inspectors in CBI. As per para 2 of the circular, the Inspectors can be taken on deputation in CBI under the "deputation quota" which is 50% of the total posts for a period of five years extendible upto maximum period of 10 years. According to this circular under the Recruitment Rules, there is no provision for extension of the deputation period after 10 years (the Applicant by now has completed more than 8 years in CBI as a deputationist). Para 5 of the aforesaid circular lays down the scheme of examination and it states that an examination will be held for selecting Inspectors for absorption which will consist of two papers containing objective type and descriptive type questions i.e. (1) General Knowledge, (2) Law/IPC, CRPC, Evidence Act and Prevention of Corruption Act. As per para 6 of the circular, candidates equal to twice the number of vacancies to be filled up for absorption would be interviewed by a Committee consisting of one J.D., two DIGs and one Supdt. of Police. According to circular, the Committee shall

make recommendation taking into account the results of written examination (85% weightage) and interview (15% weightage). The circular also lays down basic minimum qualification which is necessary for recommending cases of Inspectors for absorption. These essential qualifications are :

- (a) Bachelor degree from a recognised university or equivalent standard ;
- (b) Minimum five years experience of serving in CBI ;
- (c) No objection certificate from the parent organisation/department ;
- (d) Certificate of no punishment during deputation tenure in CBI ;
- (e) An undertaking from the Inspector for accepting the liability of transfer to any Branch of CBI as a condition of service.

The circular dated 17.12.97 is followed by two subsequent circulars dated 25.11.99 and 26.4.2000.

Copies of the circular dated 17.12.1997 alongwith the circulars dated 25.11.99 and 26.4.2000 are annexed as ANNEXURE-A/7 colly.

4.15. That the Applicant has a necessary qualification for absorption in CBI as laid down in the circulars mentioned above. He holds a post-graduate degree in Chemistry from Agra University. He has already served in CBI for more than 8 years and the only punishment

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given to him during his service career is a subject matter of appeal before the Appellate Authority and the Appellate Authority has suspended the order of punishment pending disposal of the appeal vide communication contained in office order No. 214 dated 2.8.2001. The Applicant also has undergone necessary training in the field of computer awareness. It is, therefore, seen that the Applicant is otherwise eligible for absorption in CBI.

Copy of the office order No. 214 dated 2.8.2001 is annexed as ANNEXURE-A/8.

4.16 That the composition of the Screening Committee which held its sitting on 29.4.2002 at New Delhi for considering the case of Applicant for absorption in CBI is not in conformity with the circular dated 17.12.1997. The aforesaid circular provides for a Committee consisting of one J.D., two DIGs and one S.P. However, in the case of the Applicant, the Screening Committee consisted of only two DIGs and one Deputy Director (Administration) who is also of the rank of DIG. It is, therefore, stated that the Screening Committee which held its sitting on 29.4.2002 and before which the Applicant appeared for interview was improperly constituted and as such, the same lacked jurisdiction to consider the case of the Applicant for his absorption in CBI.

4.17 That the circular dated 17.12.97 provided for holding of written examination consisting of two papers. As per the circular, 85% weightage is to be

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given to written examination and interview has been given weightage of 15%. In the case of the Applicant, no written examination was conducted and he was directed to appear in interview. It is, therefore, seen that the case of the Applicant for absorption in CBI was considered solely on the basis of interview which was given 100% weightage by the Screening Committee which itself was improperly constituted. Hence, the case of the Applicant for absorption in CBI was considered by an improperly constituted Screening Committee lacking in jurisdiction.

4.18 That it is pertinent to mention that the Applicant was the only Inspector to be invited for appearing before the Screening Committee which held its sitting on 29.4.2002. Hence, it is the Applicant alone who has been affected by the decision/recommendation of the Screening Committee (Respondent No. 3).

4.19 That the Applicant in his letter dated 16.4.2002 drew the attention of the competent authority towards the irregularities likely to take place if Applicant is made to appear before the Screening Committee. However, the competent authority did not pay any heed to the issues raised by the Applicant in his letter dated 16.4.2002. In view of the stand taken by the Applicant, his appearance before the Screening Committee on 29.4.2002 cannot be treated to be an act of waiver or acquiescence.

4.20 That after appearing before the Screening Committee on 29.4.2002, the Applicant returned to

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Guwahati in the first week of May 2002. The Applicant intended to file original application before this Hon'ble Tribunal assailing the legality of the Screening Committee which held its sitting on 9.4.2002 for consideration of the case of the Applicant for absorption in CBI. However, before the Applicant could take appropriate step for filing the aforesaid original application, he received the impugned office order No. 101/2002 dated 12.5.2002 passed by the Respondent No. 5, relieving the Applicant from CBI/ACB, Guwahati with immediate effect in the afternoon of 12.5.2002 itself with direction to report to his parent department i.e. the Director-General of Police, U.P. The impugned order was issued on the basis of the recommendation of the Screening Committee which interviewed the Applicant on 29.4.2002.

Copy of the impugned order dated 12.5.2002 is annexed as ANNEXURE-A/9.

4.21. That since the case of the Applicant for absorption in CBI was considered by the Screening Committee which had no jurisdiction to do so and which was improperly constituted, therefore, its recommendation in regard to the Applicant are devoid of any legal sanctity. Since the impugned order dated 12.5.2002 has been passed on the basis of the recommendation of the Screening Committee, therefore, the same is also ab initio void. Moreover, in the present case, the entire process pursuant to which the Screening Committee made its recommendation in regard to Applicant is incurably vitiated inasmuch as no

written examination was held and the interview was given 100% weightage which was contrary to the scheme of the circular. Under these circumstances, the Applicant has no other alternative remedy but to approach this Hon'ble Tribunal for quashing and setting aside the impugned order and proceeding/recommendation of the Screening Committee dated 29.4.2002 and for direction to reconstitute a new Screening Committee in conformity with circulars holding the field and for taking a proper decision by following a process in conformity with the rules.

4.22. That after appearing before the Interview Board on 29.4.2002 at New Delhi, the Applicant reached Guwahati in the first week of May 2002. Before the Applicant could appropriate steps for filing the original application before the Hon'ble Tribunal, the impugned order dated 12.5.2002 was passed by the Respondent No. 5 and the same was served upon the Applicant on the night of 12.5.2002. Hence, the instant application is being filed at the earliest opportunity before this Hon'ble Tribunal.

4.23. That the impugned order dated 12.5.2002 has been passed by the Respondent No. 5 who has no competence to do so. The Respondent No. 5 is not the appointing authority of the Applicant. He is also not the authority who passed the order for appointment of the Applicant in CBI on deputation. The Respondent No. 5, therefore, acted without any jurisdiction in passing the impugned order dated 12.5.2002.

4.24 That the Screening Committee dated 29.4.2002 did not consider the case of the Applicant for absorption in CBI in terms of the direction of the Hon'ble Gauhati High Court given in its order dated 5.2.2002 passed in W.P.(C) No. 3420/2001 (Annexure-A/3). The Hon'ble Gauhati High Court in the aforesaid order specifically directed the CBI authority to consider the case of the Applicant for absorption in CBI in terms of the circulars holding the field. However, it is seen that the circulars holding the field were flagrantly violated and the case of the Applicant for absorption in CBI was considered in an arbitrary manner with a preconceived mind.

4.25 That the impugned order refers to the representation of the Applicant dated 29.10.99 against the adverse remarks made in his ACR for the year 1998 and rejection of the same by the competent authority. However, it is noteworthy that the rejection of the representation of the Applicant and finalisation of the adverse remarks for the year 1998 have been challenged before this Hon'ble Tribunal in O.A. 127/2002 wherein the Applicant has sought for expunction of the aforesaid adverse remarks.

4.26 That the impugned order dated 12.5.2002 speaks about the consideration of the Applicant's case for absorption in CBI by the Screening Committee in accordance with relevant circulars etc. However, it is stated that the aforesaid expression has been mechanically used while passing the impugned order.

inasmuch as it is seen that the relevant circulars holding the field were flouted and in an arbitrary manner, the case of the Applicant for absorption was considered. Moreover, the impugned order is silent about the status of the Applicant. He was placed under suspension by the borrowing Authority and till this very date, the disciplinary proceeding has not been completed. It is improper for the borrowing authority to repatriate the Applicant without concluding the disciplinary proceeding and without revoking the order of suspension passed against the Applicant.

4.27. That the present case is a fit case wherein this Hon'ble Tribunal may be pleased to stay the operation and effect of the impugned order dated 12.5.2002 inasmuch as the impugned order has been passed on the basis of recommendation of the Screening Committee which acted without any jurisdiction and considered the case of the Applicant for absorption in contravention of the circulars governing the field. The Applicant has made out a prima facie case of gross irregularity and violation of the circulars holding the field. The balance of convenience is in favour of the Applicant and he would suffer irreparable loss and injury if the interim order sought for by the Applicant is not passed by this Hon'ble Tribunal. In this connection, it is noteworthy that the impugned order was passed on Sunday i.e. 12.5.2002 and the same was served on the Applicant at around 1800 hours of Sunday. The hot haste with which the impugned order was passed shows the malice and vindictiveness of the official Respondents. The

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instant application has been filed at an earliest opportunity and as such, the Hon'ble Tribunal may be pleased to consider the Applicant's prayer for an appropriate interim order. If the impugned order is not stayed by this Hon'ble Tribunal, the present O.A. would be rendered infructuous and the Applicant would suffer irreparable loss and injury.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 Because the constitution and composition of the Respondent No. 3 Screening Committee is *per se* illegal and contrary to the scheme of the circulars holding the field. The Respondent No. 3 Screening Committee, therefore, lacks jurisdiction in deciding the case of the Applicant for absorption in CBI and as such, the recommendation of the Screening Committee is illegal and the impugned order passed on the basis of the same is *ab initio* void.

5.2 Because the circulars holding the field provide for holding written examination consisting of two papers. As per the scheme, 85% weightage is given to written examination and only 15% weightage is given to interview. Since no written examination was held, the case of the Applicant was decided solely on the basis of interview, therefore, the entire selection process was incurably vitiated which rendered the recommendation of the Screening Committee devoid of legal sanctity and impugned order passed on the basis of the said recommendation *ab initio* void.

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5.3 Because the Respondents have acted illegally, and arbitrarily in holding the selection process for consideration of the case of the Applicant for absorption in CBI. The impugned action and sitting of the Screening committee was in violation of the Article 14 of the Constitution and no cognisance of the same could have been taken by the borrowing authority while passing the order of repatriation of the Applicant.

5.4 Because the Applicant was the only Inspector to be invited for appearing before the Screening Committee. Under the scheme, the Respondents are expected to notify the vacancies and they are required to give opportunities to all the eligible deputationist Inspectors in CBI who intended to get themselves absorbed in CBI. However, the same was not done and the sitting of the Screening Committee was held with a preconceived mind of rejecting the case of the Applicant for absorption.

5.5 Because the selection process in the case of the Applicant was carried out in hot haste and in flagrant violation of the existing circulars holding the field and as such, the recommendation of the Screening Committee and impugned order passed on the basis of the same are not tenable in law.

5.6 Because the case of the Applicant for absorption in CBI was considered in contravention of the direction of the Hon'ble High Court given in its order dated 5.2.2002 passed in W.P.(C) No. 3428/2001. The Respondent No. 3 Screening Committee flouted with the

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in the direction of the Hon'ble Court and did not act in compliance of the circulars holding the field while considering the Applicant's case for absorption in CBI.

5.7 Because the Respondent No. 5 does not have the competence to pass the impugned order dated 12.5.2002 inasmuch as the Respondent No. 5 is not the borrowing/appointing authority of the Applicant and as such, the impugned order has been passed in gross jurisdictional error and the same is liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED :

That in the present case, no other adequate alternative remedy is available to the Applicant under law.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Quash and set aside the office order No. 1017/2002 dated 12.5.2002 passed by the Supdt. of Police, CBI, ACB, Guwahati.

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8.2 Quash and set aside the proceeding and recommendation of the Screening Committee/Selection Committee which held its sitting on 29.4.2002 at New Delhi for considering the case of the Applicant for absorption in CBI.

8.3 Direct the Respondents to reconstitute a new Screening Committee in conformity with the requirements of circular dated 17.12.97 with further direction to act in compliance of the procedure provided by the circulars for examining the case of absorption of a deputationist Inspector in CBI.

8.4 Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, be further pleased to stay the operation and effect of the office order No. 101/2002 dated 12.5.2002 passed by the Supdt. of Police, CBI, ACB, Guwahati with direction to the Respondents to desist from repatriating the Applicant from Central Bureau of Investigation and allow him to continue in his present capacity till consideration of his case for absorption in conformity with the existing circulars holding the field.

10.

The Application is filed through Advocate.

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

(i) I.P.O. No. : 76 574609

(ii) Date : 14/5/02

(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 48 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 2, 3, 4'5, 4'6, 4'8, 4'9, 4'13, 4'16-4'19, 4'21 4'27 are true to my knowledge ; those made in paragraphs 1, 4'1-4'4, 4'7, 4'10-4'12, 4'16, 4'15, 4'20 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 14th day of May 2002 at Guwahati.

Suresh Pal Singh Yadav



भारत सरकार
GOVERNMENT OF INDIA
नई दिल्ली
NEW DELHI

प्रमाण पत्र

CERTIFICATE No. 9077/94/1047

यह प्रमाणित विषया बाता है कि

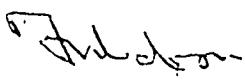
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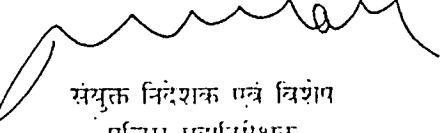
श्री
Shri Suresh Pal, Insp., CBI, Shillong.

केन्द्रीय अन्वेषण व्यायों द्वारा संचालित
attended the course No. 3 on Computer Awareness
Programme for CBI Officers

विषयक पाठ्यक्रम सं. में
from 8.8.94 to 12.8.94 organised
दिनांक से तक यामिलत हुए
by Central Bureau of Investigation.

दिनांक
DATED 12.8.94


पुलिस अधिकारी
SUPDT OF POLICE


संयुक्त किंदशक एवं विशेष
पूलिस अधिकारी
JOINT DIRECTOR & SPL.
INSPR. GEN. OF POLICE.


Advocate
W. M.
Advocate.

Registered 14

No. A-20014/1609/93.AD-I
 Central bureau of investigation
 Government of India
 Block 3, 4th floor
 CGO Complex, Lodhi Road
 New Delhi - 110003

Dated 16 Oct, 1997

To,

The Dy. Inspector General (Personal)
 Uttar Pradesh Police (HQ)
Allahabad (UP).

Sub : Extension of deputation period of Shri Suresh Pal Singh Yadav, Platoon Comdr., 30th Bn., PAC, Gonda, (UP) as Inspector in CBI on deputation basis.

Sir,

Please refer to your Letter No. 10-129-86(2) dated 30.07.93 on the subject mentioned above.

2. Services of Shri Suresh Pal Singh Yadav, who has been working as Inspector of Police in CBI on deputation basis since 24.09.93 are still required by this department and it is not possible to relieve him at present.

3. It is, therefore, requested that necessary sanction extending the period of his deputation for 3 years more i.e. upto 23.09.99 on the existing terms and conditions may kindly be accorded and conveyed to this office at an early date.

Yours faithfully,

(DR. TARSEM CHAND)
 ADMINISTRATIVE OFFICER(E)/CBI
 NEW DELHI

Copy for information to :-
 1. SP/CBI/Guwhati

ADMINISTRATIVE OFFICER(E)/CBI
 NEW DELHI

Arrested
W.D.
Advocate.

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	राश्य और फोलों की अपेक्षित राश्या रुचित कारों की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलों की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	अपेक्षक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
18/2/2002	18/2/2002	18/2/2002	18/2/2002	18/2/2002

IN THE GAUHATI HIGH COURT

COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR, TRIPURA,
MIZORAM & ARUNACHAL PRADESH)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

Copy

No. 3420 of 2001.

Sneak Pal Singh Yadav
Appellant
Petitioner

versus

Union of India & others

Respondent
Opposite-PartyFor Appellant
Petitioner Mr. B.K. Sanmukh
Mr. P.K. TiwariFor Respondent
Opposite-PartyC. C. S. &
Mr. D. Sinha

N. Upadhyay

Notified by officer or
AdvocateSerial
No.

Date

Office notes, Reports, orders
of proceedings with signatureAffested
W.D.
Chowdhury

AND -

IN THE MATTER OF :

Suresh Pal Singh Yadav, Inspector,
Central Bureau of Investigation,
Office of the SP, CBI, R.G. Baruah
Road, Sundarpur, Guwahati-5.

... petitioner

- VERSUS -

1. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi.
2. The Director, Central Bureau of Investigation, CGO Complex, Lodhi Road, New Delhi.
3. N.R. Roy, DIG (Operations), CID, Calcutta, the then DIG/CBI/North East Region, Chenikuthi, Guwahati.
4. The Deputy Inspector General, Central Bureau of Investigation, North East Region, Chenikuthi, Nabagraha Hill Side, Guwahati-3.

Attested
V.D. M.
Advocate

- 3 -

5. The Supdt. of Police, Central Bureau of Investigation, Anti Corruption Branch, Sundarpur, Guwahati.

6. The Deputy Inspector General of Police (P), PAC Headquarters, UP, Lucknow.

... Respondents

... above-named :

Antested
U. D. M.
Anuram

WP (C) No. 3420/2001

Noting by Officer or Advocate	Serial No	Date	Office notes, Reports, Order or proceeding with signature <u>BEFORE</u>
		5.2.2002	<p>HON'BLE THE CHIEF JUSTICE MR R.S MONGIA HON'BLE MR JUSTICE AMITAVA ROY</p> <p>whether an employee who is on deputation has a right to be absorbed in the Department to which he has been sent for deputation? The aforesaid question arises in the following circumstances :</p> <p>The petitioner who was working in the U.P.Traffic Police as S.I. He was sent on deputation to the CBI in the year 1993. In 1996 options were sought from those who were on deputation with the CBI whether they wanted to be considered for absorption in the CBI.. The petitioner gave his option for being considered for absorption in the CBI. However, before any final decision could be taken on his option he withdrew the option by writing as follows on 8.9.98.</p> <p>" To The Superintendent of Police CBI/ACB/Guwahati. Sir, I had joined the CBI/ACB/ Shillong Branch on deputation from U.P.Police for an initial period of three years in September, 1993. As the said period is already over in 1998 and I was not relieved despite my earlier representation in this regard. It is therefore requested that I may kindly be relieved at the earliest."</p>
<p>Received Order copy dt: 5.2.2002 B. B. Sharma Advocate</p> <p>For 175 Received the (01) dt: 5.2.2002 Re: The order dt: 5.2.2002 B. B. Sharma Advocate</p> <p>Attn: Mr. W. W. W. Anupam R.</p>			

iting by Officer
E. Advocate

serial
No Date Office notes, Reports, Order or
Proceeding with signature

5.2.2002

From the aforesaid letter it is quite clear that prior to 8.9.98 the petitioner had also requested that he be relieved but since he had not been relieved he made a request again on 8.9.98 to be relieved to join his parent Department. It is the case of the petitioner that later on he withdrew his request dated 8.9.98 for repatriating him to join the parent Department. He wanted that his case be considered for absorption in the CHI. This having not been done the petitioner filed an O.A. before the Central Administrative Tribunal. It may be observed here that in the year 1998, to be precise on 29.9.98, the petitioner was conveyed the adverse remark which are to the following effect :

"(i) He has tendency to finalise cases without selecting clinching evidence.

(ii) He is an indisciplined officer and exhibits insubordination occasionally".

The Central Administrative Tribunal dismissed the O.A. holding that petitioner has no right to be absorbed while on deputation and further found nothing wrong in the recording of the adverse remarks. Hence the present writ petition.

There cannot be any doubt that a deputationist has no right to be absorbed in the Department/ Organisation where he is sent on deputation.

Attested
V. S. S. M.
Advocate

ing by Officer
r. Advocate

Serial
No

Date

Office notes, Reports, Order or
proceeding with signature

5.2.2002

Of course if there is any Policy or instruction to that effect then the case might be considered for absorption. In the present case there are no statutory rules providing for consideration of the cases for absorption of deputationist. Reliance is placed on the circular issued by the respondents on this subject. One of them being dated 17th December 1997 and another dated 25.11.1999. The Paragraph 4 of the Circular dated 17th December 1997 reads as under :

"Henceforth SSPS of CBI are required to consider the request from Inspectors after they have served in CBI for at least five years as per criteria mentioned in the subsequent paragraph they would forward their names of suitable Inspectors in the prescribed proforma with their willingness (enclosed) to the Head office along with the recommendation of the respective DIG and JD. The recommendation to reach the Head office by 31st December/1997 so that the entire process can be completed by 31st March 1998. The SSP will certify that Inspectors recommended for absorption posses the prescribed qualification and fulfills other laid down criteria."

The case of the petitioner is that his case was never considered for absorption. Learned counsel argued that the petitioner had made a representation against the adverse remarks for the year 1998 but no decision so far has been taken and in any case none conveyed to the petitioner.

Even if no decision on the representation of the petitioner for absorption has been taken by the CBI, we are of the view that in presence of the adverse

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Advocate

ing by Officer
Advocate

Serial
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Office notes, Reports, Order or
proceeding with signature

5.2.2002

remarks for the year 1998 it will be futile to ask the Department to consider his case for absorption. Learned counsel argued that since the representation against the adverse remarks has so far been not decided and in any case no decision thereon has been conveyed to the petitioner yet the observations made by the learned Tribunal regarding the adverse remarks would prejudicially effect the consideration of the representation at the hands of the appropriate authority while deciding the same for expunging the adverse remarks. Under the aforesaid circumstances we think it appropriate to dispose of this writ petition by giving the following directions to the Respondent CBI.

(i) If the representation of the petitioner against the adverse remarks for the year 1998 communicated to him on 20.9.98

has so far not been decided by the competent Authority the decision on the same be taken within a month.

(ii) While deciding the representation as aforesaid the observations made regarding the correctness of the adverse remark made by the Central Administrative Tribunal should not be taken into consideration and the Authority deciding the representation should form its own opinion and come to independent findings.

ing by Officer
Advocate

Serial
No.

Date

Office notes, Reports, Order or
Proceeding with signature

From
Petition

5.2 2002

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felicitous

Entire Service Recd

[Whole Service Recd]

(iii) After the decision on the representation is taken as aforesaid the case of the petitioner for absorption in the CBI may be considered in accordance with the relevant circulars on the subject and entire service record of the petitioner. The result of the representation and any other relevant considerations including the petitioner's application dated 8.9.1998 or any previous application to the effect that he may be repatriated back to his parent Department and withdrawal of that request after 8.9.98 may also be taken into consideration. This may be done within one month of taking of the decision on the representation of the petitioner against his adverse remarks.

The writ petition stands disposed of accordingly. Needless to mention that if the petitioner is adversely affected by any order that may be passed by the Authority he would be at liberty to challenge the same before an appropriate forum.

Till the matter is decided as aforesaid the petitioner be not repatriated to his parent Department. Copy of this Judgment and order, attested by the Bench Assistant be given to the learned counsel of the parties for onward transmission.

minimale
1/2/02
001

Sd/R. S. Monga
Chief Justice

(complete) Whole
File

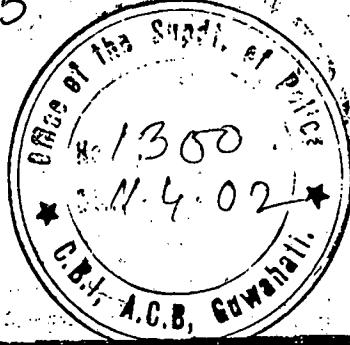
Service Record
An account in writing

CERTIFIED TO BE TRUE COPY
Date 29.12.2002
Superintendent (Copying Section)
Gauhati High Court
Authorized by S. 76, Act I, 1878

2387
5/2/02

Attested
V. D. D.
[Signature]

1/2/2002



COURT CASE

Do to arrange
Delivery of the message
11/4

FAX - MESSAGE

TO : SP, CBI, ACB, GUWAHATI
INFO. : DIG, CBI, NER REGION, GUWAHATI
FROM : AO (E), CBI, HO, NEW DELHI (.)

NO. DPAD1 2002/ 1212/A.20014/1609/93 DATED : 11/4/02

REFERENCE YOUR FAX MESSAGE NO. 0808/159/99/NER DATED 6.4.2002
REGARDING ABSORPTION OF SHRI S.P. SINGH YADAV, INSPECTOR (U/S),
CBI, ACB, GUWAHATI (.) SHRI S.P. SINGH YADAV, INSPECTOR MAY BE
DIRECTED TO ATTEND THE PERSONAL INVIEW BEFORE THE
SCREENING COMMITTEE IN CONNECTION WITH HIS PERMANENT
ABSORPTION IN CBI ON 19.04.2002 AT 10 AM SHARP REAPT 19.04.2002
(1) HE MAY BE DIRECTED TO REPORT TO THE DEPUTY DIRECTOR(ADMN.)
CBI, HO, NEW DELHI (.) ALSO SEND HIS SERVICE BOOK COMPLETE IN
ALL RESPECT BY SPEED POST SO AS TO REACH HO LATEST BY
15.04.2002 (.) MATTER MOST URGENT (.)

S. D. Bajal
(S. D. BAJAL)
ADMN. OFFICER (E),
CBI : HO : NEW DELHI.

COPY BY POST IN CONFIRMATION TO :

1. DIG, CBI, NER REGION, GUWAHATI (.)
2. SUPDT. OF POLICE, CBI, ACB, GUWAHATI (.)

Received

*new
11/4/2002
18/04/03*

*Arrested
W.D.
ACB*

alternatives available as per rule and without consulting the Reporting Authority or giving weightage to his remarks recycled the whole matter through private persons viz. the said Reviewing Authority and the Accepting Authority. The Reviewing Authority Sri N.R. Roy vide his recycled comments dtd. 21/1/2002 contrary to the aforesaid available options unlawfully and perversely created 4th category to the aforesaid alternatives by toning up his earlier remark, in as much as he made fresh addition to his earlier remark by appending that 'This type of officers must not be retained in CBI'. The accepting Authority vide his comments dtd. 28/2/2002 after superannuation and Appellate Authority i.e. DCBI vide his communication of memo dtd. 4/4/2002 concurring mechanically to the toned up remarks of said Reviewing Authority merely endorsed the patent illegality making the whole exercise of consideration of the representation not only improper in procedure but also unlawful, arbitrary, unreasonable, perverse and capricious. It is significant that the fresh toning up of remark and endorsement of said fact by none other than the head of the department i.e. DCBI has a direct bearing with the matter of consideration of my absorption in CBI for which interview / screening is being conducted pursuant to the Hon'ble Gauhati High Court's decision. It is needless to say that such fresh remark is bound to prejudice the interview board / screening committee while considering my case for absorption in CBI.

3. In this connection it is also submitted that the statement of the said Reviewing Authority that "This type of officers must not be retained in CBI" is a new addition of adverse remark vide his recycled comments dtd. 21/1/2002 from backdoor in the year 2002 against the adverse remark for the year 1998. Said remark is without competence besides being a remark from a private person who demitted office three years ago following his own repatriation from CBI. However the Accepting Authority and the Appellate Authority has made reliance on the said fresh remark in 2002 and therefore fresh opportunity to file representation against said adverse remark must be given before consideration of my case for absorption in the light of direction of the Hon'ble High Court in above said W.P(C) No. 3420/2001.
4. Further the said Reviewing Authority Sri N.R. Roy DIG/CBI was made a named respondent in OA No. 338/99 filed in the Guwahati Bench of CAT, as well as well in WP(C) 3420/2001 filed before the Division Bench of Hon'ble Gauhati High Court, however the said Reviewing Authority shied away from defending his remark by not filing any written statement in the matter before said judicial forums, where obviously I too had an opportunity to confront his said adverse remarks and any statement that might have been filed in this regard by him in person. However said Reviewing Authority instead of being fair, judicious, honest and transparent in the discharge of his public duties as a Police officer, and also as Reviewing Authority, in most unbecoming manner behoving to an officer in uniform, perversely, capriciously and maliciously toned up the adverse remark by adding fresh adverse remark behind my back and without giving me any opportunity to counter it.

Attested
W.D.
Addressed

5. Be that as it may, in view of further toning up of my adverse remark for the year 1998, by fresh addition of adverse remark thereto in the year 2002, it cannot be said by any reasonable argument that my representation dtd. 29/10/99 was disposed by the Director CBI. Whereas the fact remains that no fresh opportunity to file representation against additional adverse remark was offered, least to say the consideration of fresh representation.

In view of the above it is once again submitted that first direction of the Division Bench of Gauhati High Court in said writ petition has not been complied with, but second direction is hurriedly sought to be implemented with undue haste.

6. It is submitted that the matter was brought to the notice of the Head Office vide my letter dtd. 28/3/2002 in the light of knowledge of facts at that point of time that my representation dtd. 29/10/99 remains still pending for disposal by the DCBI who is the competent authority to decide in the matter. Subsequently, I received communication vide DPADI2002/1097/A20014/1609/9 dtd. 4/4/2002 of Deputy Director (Admn) CBI/New Delhi, stating therein that the DCBI being the Head of the department have considered all the grounds / justification explained in his above referred representation/ appeal with reference to the adverse remarks of the Reviewing and Accepting Authority given in his ACR for the year 1998 and has finally rejected the appeal. Here also no reasoned order of the Director CBI displaying his application of mind as regard disposal of said ACR was communicated to me as yet. Further again the DCBI mechanically concurred with the remarks of the Reviewing Authority and the Accepting Authority without mentioning the remarks of Reporting Authority sitting at arms length distance in his own office i.e. CBI:HO:New Delhi.

7. In this connection it is also requested that matter for absorption is to be considered in the light of terms and conditions as laid down in CBI circular dtd. 17 December 1997, 25/11/1999 and 26th April 2000 issued in this regard at relevant point of time in the past and not in the year 2002.

8. It is further submitted that the present Reviewing Authority Sri K.C. Kanungo DIG/CBI/NER Guwahati further communicated adverse entries in my ACR for the year 2000 (while actual period as per rule ought to be from 1/1/2000 to 26/4/2000 owing to period of suspension w.e.f. 26/4/2000) vide memo No. 2829/47/CBI/NER/2001 dtd. 13/10/2001, and representation dtd. 29/10/2001 and 31/12/2001 for better particulars in this regards, addressed to the competent authorities remained unheeded. Therefore representation against said adverse entries submitted on 15/4/2002 is pending for disposal before DCBI. Therefore said adverse entry for the year 2000, pending disposal of said representation should not be taken into account while considering my case for absorption.

9. That after receipt of letter No. DPSHL/2001/1955/WP3420/01 dtd. 26/3/02 of SP/CBI/Ghy on 27/3/2002, enclosing therewith Fax message dtd. 22/3/2002 of Administrative Officer (E), CBI, New Delhi intimating me to

Attested
U. D. D.
Advocate

appear before Screening committee, I, on 30/3/2002 itself secured earliest available reservation for journey to New Delhi on 21/4/2002, which is now confirmed. However in view of your letter dtd. 11/4/2002, in order to prepon the journey to enable myself to reach Delhi on 19/4/2002, I again approached Railway Reservation Counter, but no reservation of seat / berth is available at such short notice. It is therefore requested that I may be permitted to kindly reach New Delhi as per my original reservation of tickets etc. on 21/4/2002 for the purpose of interview, which may kindly be rescheduled on either of the day on 24th, 25th or 26th of April, 2002 at the convenience of H.O.

Last but not the least I have to submit most humbly that I am appearing before interview board / screening committee in pursuance to the order of the competent authority in this regard, however my submission to the said order may not be construed my acquisance to the proceedings conducted against, direction of the Hon'ble High Court, other terms & conditions reflected in aforesaid circulars pertaining to absorption and any other rule in this regard and I will not be bound by any result derived out of any such irregularity in this matter.

Submitted.

2002/16/4/2002

Suresh Pal Singh Yadav
Insp/CBI/NER/Ghy (U/S)
Guwahati

Attested
Suresh Pal Singh Yadav
Insp/CBI/NER/Ghy (U/S)
Guwahati

CENTRAL BUREAU OF INVESTIGATION
AD - I SECTION
NEW DELHI

Sub :- Permanent absorption of deputationist Inspector presently working as Inspector of Police in CBI.

Shri S.P. Yadav, Inspector (U/S) was directed to appear before the Screening Committee on 19.4.2002, but he failed to appear before the Committee on the date. Now the Screening Committee will meet on 29.4.2002 as one of the members of the Committee is out of Headquarters. Sh. Yadav is, hereby, directed to appear before the Screening Committee on 29.4.2002 (Monday) at 10 AM sharp.

This issues with the approval of DD(A).

S.D.BAIJAL
(S.D.BAIJAL)

ADMINISTRATIVE OFFICER (E)
CBI/HO/NEW DELHI.

Shri S.P. Singh Yadav,
Inspector (U/S), CBI,
ACB, Guwahati.
(Camp in Delhi on date)

CBI ID Note No. DPAD12002/20014/1609/93/ 1490 Dated: 23.4.2002

Copy by fax to SP/CBI/ACB/Guwahati.

Received /
23/4/2002
S. D. BAIJAL, M/s. Singh (T.D.M.)
TIME 13:00 hrs
Classified PD(E), CBI (H) NEW DELHI

Ansited
Under
Advocate

17 December, 1997

CIRCULAR

Time limit fixed

The matter of deputation of Inspector and their absorption in CBI has been examined in the Head Office and following instructions are issued in order to streamline the procedure.

31.3.98

1. Inspectors, who come on deputation, do not have any inherent right of absorption and the discretion to absorb rests solely with the CBI.
2. The inspectors can be taken on deputation in CBI under the "deputation quota", which is 50% of the total posts for the period of 5 years extendable upto a maximum period of 10 years. Under the Recruitment Rules, there is no provision for extension of the deputation period after ten years. In case an inspector is not absorbed before completion of his deputation period, he/she must be repatriated to the parent organisation on expiry of his deputation period. No requests for any extension would be entertained by the Head Office in this regard.
3. However, in case of Inspectors, who have completed maximum deputation period of 10 years, it has been decided that those, who are not considered suitable for absorption should be repatriated. The Inspectors, who came on deputation in the year 1997 or earlier should be repatriated by April 1998 positively.

Switched over for 54.
Henceforth SsP of CBI are required to consider the request from Inspectors after they have served in CBI for at least five years as per criteria mentioned in the subsequent paragraphs. They would forward their names of suitable Inspectors in the prescribed proforma with their willingness (enclosed) to the Head Office along with the recommendations of their respective DIG and JD. The recommendations should reach the Head Office by 31st December 1997, so that the onward process can be completed by 31st March 1998. the SsP will certify that the inspectors recommended for absorption process the prescribed qualification and fulfil other laid down criteria.

31.12.97
by 31.3.98
no change in
the m^o

5. Scheme of Examination : An examination will be held for selecting Inspectors for absorption which will consist of 2 papers containing objective type and descriptive type questions i.e. (1) General Knowledge (2) Law/IPC.Cr.PC and Evidence Act, Prevention of Corruption Act.

*Notified
N.D.
Advocate*

6. Candidates equal to twice the number of vacancies to be filled up for absorption will be interviewed by a committee consisting of 1 JD, 2 DIGs and 1 SP. The Committee shall make recommendations taking into account of the results of written examinations (85% weightage) and interviews (15% weightage) conducted by them which will be approved by DCBI through JD(A).
7. The following basic minimum qualifications are necessary for recommending the cases of inspectors for absorption.

Essential Qualifications :

- a) Bachelor Degree from a recognised University or equivalent standard.
- b) A minimum experience of 5 years serving in CBI.
- c) No Objection Certificate from the parent Organisation/Department.
- d) Certificate of no punishment during deputation tenure in CBI.
- e) An undertaking from the Inspector for accepting the liability of transfer to any Branch of CBI, as a condition of service (Specimen Enclosed)

Note : Preference will be given to Inspectors having proficiency in basic data operation working on operating systems like DOS/Windows as Windows NT, RDBMS other ORACLE and applications Software like Lotus Approach, Freelance, Word Pro, 123 or MS Word, MS Excel, MS PowerPoint, MS Access.

Director, CBI will be the final authority for deciding absorption/non-absorption of any Inspector in CBI and may relax any of the prescribed conditions for absorption as Inspector in CBI.

This issues with the approval of DCBI.

(N.R. WASAN)
Dy. Director (Admn.)
CBI/HO/New Delhi

Copy to :

1. PS to Director, CBI
2. PS to SDCBI, New Delhi
3. PS to ADCBI, New Delhi
4. Sr. Pas to all Joint Directors
5. All DIG, CBI, DD/Co.
6. All SsP, CBI
7. AIG(P)/AD (Interpol), CBI, New Delhi
8. AO(E), SP (Hqrs), CBI, New Delhi

Attested
Wilson
Aman

No.DPAD1999/04148/A-21021/5/99-AD-1
Central Bureau of Investigation
Government of India
Block 3, 4th Floor
CGO Complex, Lodhi Road
New Delhi - 110003.

25/11/1999

Time b/w 10/12/99

CIRCULAR

The matter of deputation of Inspector and their absorption in CBI has been reviewed in Head Office in view of existing Recruitment Rules and following instructions are issued:

2. Inspectors, who come on deputation, do not have any inherent right of absorption. The discretion to absorb them rests solely with the CBI.
3. The inspectors can be taken on deputation in the CBI under "*deputation quota*", for a period of 5 years extendable upto a maximum period of 10 years.
4. Inspectors of Police who have completed maximum deputation period of 10 years, if not considered suitable for absorption, will be repatriated to the parent state/cadre.
5. Branch SsP will consider the request for permanent absorption of Inspectors of Police only after they have served the CBI for at least four years & subject to fulfilment of conditions as laid down in the following paragraphs.
6. The willing candidates will be considered & recommended for permanent absorption by a committee in Head Office duly constituted by the DCB.
7. The following qualifications are necessary to recommend the cases of Inspectors of Police for absorption :-

Carried out dated 30.11.99

2/12/1999

Attested
W.D.S.
Amritpal

Essential Qualifications :

a) Bachelor Degree from a recognised University or equivalent standard with 3 years regular service in States/CPOs.
OR
Matriculation with minimum 10 years of regular service in states/CPOs.

b) A minimum experience of 4 years service in CBI.
c) No Objection Certificate from the parent Organisation/Department.
d) Certificate of no punishment during deputation tenure in CBI and clearance from vigilance angle.
e) An undertaking from the Inspector of Police to accept transfer to any Branch of CBI, as a condition of service.
f) Consistently good service record.

8. The willing and eligible Inspector of Police may send their willingness to Head Office as per the proforma enclosed through their concerned Branch Office/Regional DIGs so as to reach HO by December 10, 1999.

9. This issues with approval of the DCBI.

(VIVEK DUBE)
Dy. Director (Admn.)
CBI : New Delhi

Copy to :

1. PS to Director, CBI
2. PS to SDCBI, New Delhi
3. Sr. PAs to all Joint Directors, CBI
4. All DIG, CBI, DD(Coord.).
5. All SsP, CBI
6. AIG(P)/AD (Interpol), CBI, New Delhi
7. AO(Estt.), SP (Hqrs), CBI, New Delhi
8. CBI Control Room/CBI

Attested
Vivek
DUBE
Advocate.

IMMEDIATE

No. DPAD12000/1839/A-21021/5/99-AD-I
CENTRAL BUREAU OF INVESTIGATION
Government of India
Block 3, 4th Floor
CGO Complex, Lodhi Road
New Delhi - 110003.

Dated : 26/4/2000

Extn upto 22.5.2000

CIRCULAR

A circular was issued by H.O. vide No. DAPA51999/04148/A-21021/5/99 dated 24-25.11.99 followed by Corrigendum No. DPAD11999/04267/A.21021/5/99 dated 30.11.99 inviting proposals from all willing and eligible deputationist Inspectors to consider their cases for permanent absorption in CBI. The last date for the receipt of such proposals in HO was fixed as 10.12/99.

2. The proposal of Inspector duly forwarded and recommended by concerned SsP/DIG which were received in HO by 10.12.99 were considered by a Screening Committee constituted for the purpose. The proposals of following Inspectors, received in HO after 10.12.99, were not taken into consideration.

Sl.No.	Name of the Inspector with place of posting S/Shri.	Remarks
1	Surender Singh, Jaipur	
2	N.R. Nair, AC-III, Delhi	
3	Harshaan Singh, ACB, Chandigarh	
4	R.S. Jamwal, ACB, Chandigarh	
5	Hawa Singh, ACB, Chandigarh	

Attested
V. A. D.
Attestor

6	Dharamdev Negi, Simla Unit under ACB, Chandigarh	
7	Subhashish Kar, SU, Calcutta	
8	P.N. Sarkar, SU, Calcutta	
9	Jit Singh, SU, Delhi	
10	Smt. Jayashree Sanjeevarao, ACB, Mumbai	
11	C.S. Kalmal, SCB, Chennai	
12	M.S. Hazari, ACB, Calcutta	
13	S.K. Tripathi, ACB, Calcutta	
14	J.P. Sharma, CBI Academy, Ghaziabad	
15	Atul Hajela, Nagpur	
16	D.S. Dagar, SIC-II, Delhi	
17	K.S. Thakur, SIC-II, Delhi	
18	Sudama Prasad, SIC-II, Delhi	
19	M.C. George, ACB, Bangalore	
20	Smt. Chanda Rani, SIC-I, Delhi	
21	W.U. Siddiqui, ACB, Lucknow	
22	P. Haldar, EOW, Calcutta	
23	P.L. Chourasia, EOW, Delhi	
24	Ashok Kalra, SIU-XVI, Jammu	
25	Mrinal Sharma, ACB, Guwahati	
26	P.C. Sharma, SUI-XV, Chandigarh	
27	P.C. Joshi, CBI, ACB, Mumbai	
28	G.C. Adhikari, ACB, Calcutta	
29	Prem Singh, CBI, EOW-II, New Delhi	

3. Keeping in view the representations received from CBI branches/Units to condone the delay and considered the cases for absorption of 28 Inspectors, it has now been decided to call such proposals afresh from all the willing and eligible deputationist Inspectors through their controlling officers in the proforma prescribed (enclosed). The Inspectors who were already interviewed by the Screening Committee on April 4, 2000, will not be eligible to apply again.

4. It may be ensured that all such proposals of deputationist and eligible inspectors, duly completed in all respects, may be submitted to the Controlling Officers/DIG/JD latest by May 22, 2000. The controlling Officers/DIG/JD may kindly ensure that the proposals are recommended and forwarded in time to reach HO after the prescribed date, will not be entertained on any ground. The

Attest
V.P.D.
Advocate

proposals, which are not recommended for any reason may not be forwarded to the H.O.

5. The eligibility conditions are the same as already laid in HO circular/corrigendum dated 24-25.11.1999 and 2.12.1999, issued on the subject, as referred to above.

This issues with the approval of Special Director (S)/CBI.

(VIVEK DUBE)
Dy. Director (Admn.)
CBI : New Delhi

Copy to :

1. PS to Director, CBI
2. PS to SDCBI, New Delhi
3. Sr. PAs to all Joint Directors, CBI
4. All DIG, CBI, DD(Coord.).
5. All SsP, CBI
6. AIG(P)/AD (Interpol), CBI, New Delhi
7. AO(Estt.), SP (Hqrs), CBI, New Delhi
8. CBI Control Room/CBI

*Witnessed
Vishan
Advocate.*

Extract of the letter No. CBI.ID.No.2045/A/20/157/93-NER
of DIG,CBI,NER,Guwahati is reproduced below:-

"Shri S.P. Singh Yadav, Inspector, CBI, Guwahati (under suspension) was punished with stoppage of 3 (Three) increments with cumulative effect vide office order No. 39 dated 15.2.2001 communicated vide No. A/20/157/93/01066-70 dated 15.2.2001 of SP CBI, Guwahati. He has appealed before Addl. Director, CBI, Kolkata against the said order and ADCBI has ordered that punishment imposed be kept suspended till further orders."

Superintendent of Police
CBI/ACB/Guwahati.

28/01/01
Memo No.DPSHL.2001/ 15A/20/157/93

date 21/01/01

Copy to:-

1. Account Section, CBI, ACB, Guwahati for necessary action.
2. Person concerned.

39/1/01
Superintendent of Police
CBI/ACB/Guwahati.

6666

Anticsed
Wards
Ans.

Received
21/01/01
S.P. (Signature)

OFFICE OF THE SUPDT. OF POLICE
A.C.B : GUWAHATI

OFFICE ORDER NO. 101 /2002

Dated, 12/5 /2002

Pursuant to order dated 5.2.2002, passed by Hon'ble High Court of Judicature at Guwahati, in W.P.(C) 3420/2000, filed by Sri S.P.Singh Yadav Inspector (Under suspension), the DCBI, New Delhi being the competent Authority, considered the representation dated 29.10.99 of Sri S.P.Singh Yadav against the adverse remarks in his (Sri Yadav) A.C.R. for the year 1998 and finally rejected the appeal of Sri Yadav, after looking into all the grounds/justifications explained in his appeal with reference to the adverse remarks of the Reviewing and Accepting Authority

2. The matter of absorption of Sri S.P.Singh Yadav Inspector(U/S) in the CBI as Inspector of Police was considered by Screening Committee in accordance with relevant Circulars etc.. The Screening Committee also interviewed Sh. Yadav on 29.4.2002. After due consideration, the Screening Committee did not recommended the case of Sri Suresh Pal Singh Yadav Inspector(U/S) for his permanent absorption in C.B.I. The recommendation of the Screening Committee has been approved by the Director CBI, New Delhi, the competent Authority.

3. In view of the above, Sri Suresh Pal Singh Yadav Inspector (U/S) stands relieved from C.B.I.A.CB Guwahati Branch with immediate effect, from 12.05.2002(A/N). He should report to his parent deptt. i.e. DG(P) U.P. since he had joined CBI on deputation from U.P. Traffic Police.

(Narayan Jha)
Superintendent of Police
C.B.I: ACB:Guwahati.

Endst. No. DP GWH2002/ 2866-74 OA 3420/2000

Dated 12/5/ /2002

Copy to:

1. The Dy. Director(A) CBI H.O. New Delhi.
2. The Joint Director(EZ) CBI Kolkata
3. The Administrative Officer(F) CBI New Delhi
4. The Director General of Police, Uttar Pradesh, for favour of information.
5. The Dy. Inspector General of Police(Personnel) U.P. Police, H.Q., Allahabad for information.
6. The Dy. Inspector General of Police CBI NER Guwahati
7. The Accounts Section, CBI ACB Guwahati for n/a
8. Shri S.P.Singh Yadav, Inspector of Police(U/S)CBI Guwahati, he is directed to report to DGP, U.P. immediately.
9. Personnel file.

Narayan Jha /28/2002
Superintendent of Police
C.B.I: ACB:Guwahati

Received
W.M. 12/5/2002
12/5/2002
Addressed

30 MAY 2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH,
GUWAHATI.

Filed by

30/57
(A. DEB ROY)
Sr. C. G. S. C.
C. A. T., Guwahati Bench

In the matter of

O. A. No. 154 of 2002

S. P. Singh Yadav.....Applicant

-Vs-

Union of India & Others.....Respondents

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

I, Narayan Jha, Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Guwahati, do hereby solemnly affirm and say as follows :-

1. That, I am the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the other contentions and statements may be deemed to have been denied.

(contd.....)

I am competent and authorised to file this written statement for and on behalf of Respondents Nos. 1, 2, 3, 4 and 5.

2. That , with regard the statements made in paragraph 4.1 of the application, the deponent begs to state that, this application has been filed by the applicant being aggrieved by the Office Order No. 101/2002 dated 12/5/2002 issued by the Supdt. of Police, CBI, Guwahati(Respondent No. 5), relieving the applicant from CBI with immediate effect on 12.5.2002(A.N.), on account of repatriation to his parent Department. The applicant's case is that the above order dated 12/5/2002 was issued pursuant to the decision of the Screening Committee, which found the applicant not fit for absorption and that the said Screening Committee was not constituted in accordance with the Circular dated 17/12/1997 issued by the Deputy Director(Administration), CBI, New Delhi, with the approval of Director, CBI who is competent to constitute/after the composition of this Screening Committee, including the methodology to be adopted by the said Committee for selection which is liable to change/ alteration depending upon the prevailing situation. Likewise, the procedure to be adopted for such selection can also be modified with the approval of Director, CBI. The present Screening Committee held for consideration the case of the applicant for finding his suitability

(contd.....)

for absorption in CBI was also constituted with the approval of Director, CBI and the recommendation of the screening committee has also been approved by the Director, CBI, being the final authority to do so. Therefore, there is nothing illegality in the constitution of the Screening Committee and method of its selection which were done in a clear laid down manner, the proceedings of which are enclosed herewith as **ANNEXURE-A/1**

3. That, with regard the statements made in paragraph 4.2 of the application, the deponent begs to state that this relates to the applicant's joining the CBI for an initial period of 3 years, vide Office Order No. 1621/93 dtd. 14.10.93 etc. which is a matter of record, and requires no comments.
4. That, with regard the statements made in paragraphs 4.3 of the application, the deponent begs to state that, the applicant has highly exaggerated his own performance/achievement. However, this has got no relevancy here as the Screening Committee had laid down clear guidelines how to assess the performance of the candidate for the purpose of deciding for absorption in CBI laying down specific marks for good/bad entries in the ACR including grant of reward for which 20 marks were awarded out of total 100 marks.

(contd.....)

5. That, with regard the statements made in paragraph 4.4. of the application, the deponent begs to state that, there was nothing special in the performance of the applicant and the CBI being a deputationist oriented Organisation used to give extensions to the deputationist officers from time to time within the frame work of laid down rules and regulations.

6. That, with regard the statement made in paragraph 4.5 of the application, the deponent begs to state that, the applicant has stated that there was series of happening which lead to strained official relations between the applicant and his senior officers in CBI. Prima-facie, therefore, such an officer can not be considered suitable for the Organisation who is having strained relation with the Senior Officers. However, this had nothing to do by the Selection/Screening Committee while deciding the applicant's case for absorption.

7. That, with regard the statements made in paragraph 4.6 of the application, the deponent begs to state that, the applicant has not been victimised in any manner by the CBI as alleged by him. After completion of usual deputation period he was repatriated to his parent department vide Order dtd. 3.11.98 against which the applicant filed various petitions in the Hon'ble Central Administrative Tribunal and Hon'ble

Contd.....

6. Candidates equal to twice the number of vacancies to be filled up for absorption will be interviewed by a committee consisting of 1 JD, 2 DIGs and 1 SP. The Committee shall make recommendations taking into account of the results of written examinations (85% weightage) and interviews (15% weightage) conducted by them which will be approved by DCBI through JD(A).
7. The following basic minimum qualifications are necessary for recommending the cases of inspectors for absorption.

Essential Qualifications :

- a) Bachelor Degree from a recognised University or equivalent standard.
- b) A minimum experience of 5 years serving in CBI.
- c) No Objection Certificate from the parent Organisation/Department.
- d) Certificate of no punishment during deputation tenure in CBI.
- e) An undertaking from the Inspector for accepting the liability of transfer to any Branch of CBI, as a condition of service (Specimen Enclosed)

Note : Preference will be given to Inspectors having proficiency in basic data operation working on operating systems like DOS/Windows as Windows NT, RDBMS other ORACLE and applications Software like Lotus Approach, Freelance, Word Pro, 123 or MS Word, MS Excel, MS PowerPoint, MS Access.

Director, CBI will be the final authority for deciding absorption/non-absorption of any Inspector in CBI and may relax any of the prescribed conditions for absorption as Inspector in CBI.

This issues with the approval of DCBI.

(N.R. WASAN)
Dy. Director (Admn.)
CBI/HO/New Delhi

Copy to :

1. PS to Director, CBI
2. PS to SDCBI, New Delhi
3. PS to ADCBI, New Delhi
4. Sr. Pas to all Joint Directors
5. All DIG, CBI, DD/Co.
6. All SsP, CBI
7. AIG(P)/AD (Interpol), CBI, New Delhi
8. AO(E), SP (Hqrs), CBI, New Delhi

Attested
Wilson
Aman

I am competent and authorised to file this written statement for and on behalf of Respondents Nos. 1, 2, 3, 4 and 5.

2. That , with regard the statements made in paragraph 4.1 of the application, the deponent begs to state that, this application has been filed by the applicant being aggrieved by the Office Order No. 101/2002 dated 12/5/2002 issued by the Supdt. of Police, CBI, Guwahati(Respondent No. 5), relieving the applicant from CBI with immediate effect on 12.5.2002(A.N.), on account of repatriation to his parent Department. The applicant's case is that the above order dated 12/5/2002 was issued pursuant to the decision of the Screening Committee, which found the applicant not fit for absorption and that the said Screening Committee was not constituted in accordance with the Circular dated 17/12/1997 issued by the Deputy Director(Administration), CBI, New Delhi, with the approval of Director, CBI who is competent to constitute/after the composition of this Screening Committee, including the methodology to be adopted by the said Committee for selection which is liable to change/ alteration depending upon the prevailing situation. Likewise, the procedure to be adopted for such selection can also be modified with the approval of Director, CBI. The present Screening Committee held for consideration the case of the applicant for finding his suitability

(contd.....)

Guwahati High Court, which were all dismissed and finally pursuant to the order of the Hon'ble Guwahati High Court dtd. 5.2.2002, the applicant has been relieved from the CBI on repatriation to his parent Organisation. The applicant has no inherent right to continue in CBI on deputation according to his own will, far less any right for his absorption in CBI which depend on the CBI subject to applicant's suitability and other conditions..

8. That, with regard the statements made in paragraph 4.7 of the application, the deponent begs to state that , the applicant has referred to the Hon'ble Guwahati High Court Order dtd. 5.2.2002 disposing his petition WP(C) No. 3420/2001 and hence requires no comment.
9. That, with regard the statements made in paragraph 4.8 of the application, the deponent begs to state that, it is a fact that the applicant was asked to appear before Screening Committee of CBI on 1.4.2002 at New Delhi for deciding his case for absorption.
10. That, with regard the statements made in paragraph 4.9 of the application, the deponent begs to state that, the applicant has mentioned that he was unable to appear before the Screening

(contd.....)

CBI and was asked to appear before the Screening Committee on 29.4.2002 and hence requires no comment.

14. That, with regard the statements made in paragraph 4.13 of the application the deponent begs to state that, the applicant appeared before the Screening Committee on 29.4.2002 and has mentioned about the Constitution of Screening Committee and hence requires no comment.
15. That, with regard the statements made in paragraph 4.14 of the application, the deponent begs to state that, the applicant has referred to the Circulars dated 17.12.97, 25.11.99 and 26.04.2000 about the Constitution of the Screening Committee for selection of candidates for absorption in CBI which are all done with the approval of the Director, CBI who is the final authority in this regard. As such these Circulars are liable to change from time to time with the approval of the Director, CBI.
16. That, with regard the statements made in paragraph 4.15 of the application, the deponent begs to state that, in the said Circulars dated 26.4.2000 which is enclosed as ANNEXURE A/8 by the applicant, it is clearly mentioned that only those cases will be considered by the Screening Committee, whose

Contd.....

cases have been being forwarded by their Controlling Officer/DIG/Joint Director, while in the Circular dtd. 17/12/97 it is clearly stated that the final authority for deciding absorption or non-absorption in CBI will be the Director,CBI, who may relax any of the prescribed condition for absorption etc. In case of the applicant however, it is clear from the record of the Screening Committee that his case was not recommended for absorption by the Branch SP, Regional DIG, Zonal Joint Director, The C.V.O., CBI, also did not give Vigilance Clearance for his absorption, obviously because so many departmental enquiries are pending against him.

17. That, with regard the statements made in paragraph 4.16 of the application, the deponent begs to state that, as mentioned above, the Screening Committee is constituted on the approval of the Director, CBI, who is competent to change the constitution of the Screening Committee depending on the availability of the officers. In any case, it is not the case of applicant, that any of the members of the Screening Committee was having any bias towards the applicant.
18. That, with regard the statements made in paragraph 4.17 of the application, the deponent begs to state that the rules laying down the methodology to be adopted by the Screening

(contd.....)

95

21. That, with regard the statements made in paragraph 4.20 of the application the deponent begs to state that, the impugned Order dtd. 12.5.2002 was issued by the SP, CBI, Guwahati on the basis of the final decision regarding absorption of the applicant by the Director, CBI.
22. That, with regard the statements made in paragraph 4.21 of the application, the deponent begs to state that, the validity of the Order dtd. 12/05/2002 for repatriation of the applicant is beyond doubt as the applicant has no inherent right to continue in CBI on deputation for indefinite period. The question of absorption by applicant in CBI is an altogether separate issue about which also the applicant has got no inherent claim.
23. That, with regard the statements made in paragraph 4.22 of the application, the deponent begs to state that, it relates about the filing of the application by the applicant in the Hon'ble Central Administrative Tribunal, Guwahati and hence requires no comment.
24. That, with regard the statements made in Paragraph 4.23 of the application, the deponent begs to state that, Respondent No. 5 has communicated the official order of the Director, CBI. As

(Contd.....)

Guwahati High Court, which were all dismissed and finally pursuant to the order of the Hon'ble Guwahati High Court dtd. 5.2.2002, the applicant has been relieved from the CBI on repatriation to his parent Organisation. The applicant has no inherent right to continue in CBI on deputation according to his own will, far less any right for his absorption in CBI which depend on the CBI subject to applicant's suitability and other conditions..

8. That, with regard the statements made in paragraph 4.7 of the application, the deponent begs to state that , the applicant has referred to the Hon'ble Guwahati High Court Order dtd. 5.2.2002 disposing his petition WP(C) No. 3420/2001 and hence requires no comment.
9. That, with regard the statements made in paragraph 4.8 of the application, the deponent begs to state that, it is a fact that the applicant was asked to appear before Screening Committee of CBI on 1.4.2002 at New Delhi for deciding his case for absorption.
10. That, with regard the statements made in paragraph 4.9 of the application, the deponent begs to state that, the applicant has mentioned that he was unable to appear before the Screening

(contd.....)

Committee on 1.4.2002 as originally scheduled and wanted 15 days time for making necessary preparations and hence requires no comment.

11. That, with regard the statements made in paragraph 4.10 of the application, the deponent begs to state that, the applicant was subsequently asked to appear before the Screening Committee/Selection Board at New Delhi on 19/4/2002 in connection with his permanent absorption in CBI and hence requires no comment.
12. That, with regard the statements made in paragraph 4.11 of the application, the deponent begs to state that, once the applicant appeared before the Screening Committee, it therefore follows that he was bound to be guided by the decision of the Screening Committee and no plea or alibi of the applicant can be sustained/maintained in this regard as because the result of the Screening Committee was not favourable for the applicant.
13. That, with regard the statements made in paragraph 4.12 of the application, the deponent begs to state that, the applicant did not attend the Screening Committee again scheduled to be held on 19.4.2002. He was therefore, given another chance by the

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(contd.....)

CBI and was asked to appear before the Screening Committee on 29.4.2002 and hence requires no comment.

14. That, with regard the statements made in paragraph 4.13 of the application the deponent begs to state that, the applicant appeared before the Screening Committee on 29.4.2002 and has mentioned about the Constitution of Screening Committee and hence requires no comment.
15. That, with regard the statements made in paragraph 4.14 of the application, the deponent begs to state that, the applicant has referred to the Circulars dated 17.12.97, 25.11.99 and 26.04.2000 about the Constitution of the Screening Committee for selection of candidates for absorption in CBI which are all done with the approval of the Director, CBI who is the final authority in this regard. As such these Circulars are liable to change from time to time with the approval of the Director, CBI.
16. That, with regard the statements made in paragraph 4.15 of the application, the deponent begs to state that, in the said Circulars dated 26.4.2000 which is enclosed as ANNEXURE A/8 by the applicant, it is clearly mentioned that only those cases will be considered by the Screening Committee, whose

Contd.....

cases have been being forwarded by their Controlling Officer/DIG/Joint Director, while in the Circular dtd. 17/12/97 it is clearly stated that the final authority for deciding absorption or non-absorption in CBI will be the Director,CBI, who may relax any of the prescribed condition for absorption etc. In case of the applicant however, it is clear from the record of the Screening Committee that his case was not recommended for absorption by the Branch SP, Regional DIG, Zonal Joint Director, The C.V.O., CBI, also did not give Vigilance Clearance for his absorption, obviously because so many departmental enquiries are pending against him.

17. That, with regard the statements made in paragraph 4.16 of the application, the deponent begs to state that, as mentioned above, the Screening Committee is constituted on the approval of the Director, CBI, who is competent to change the constitution of the Screening Committee depending on the availability of the officers. In any case, it is not the case of applicant, that any of the members of the Screening Committee was having any bias towards the applicant.
18. That, with regard the statements made in paragraph 4.17 of the application, the deponent begs to state that the rules laying down the methodology to be adopted by the Screening

(contd.....)

Committee for selection is not static one, which is liable to be changed from time to time, with the approval of the competent authority i.e. the Director, CBI. In any case, as would be clear from the report of the Screening Committee, the case of the applicant does not fall within the four walls of selection, whose case was neither recommended by the Branch SP, Regional DIG and Zonal Joint Director nor Vigilance clearance given by the Chief Vigilance Officer, CBI, in the absence of which, no candidate can qualify for such selection. Moreover, the applicant also failed to secure the minimum qualifying mark and as such the applicant's case was rejected. ✓

19. That, with regard the statements made in paragraph 4.18 of the application, the deponent begs to state that, the applicant has stated that he was the only candidate interviewed by the Selection Committee and hence requires no comment.
20. That, with regard the statements made in paragraph 4.19 of the application, the deponent begs to state that, there has been no irregularity in the formation of the Screening Committee, which has been done with the approval of Director, CBI. The appearance of the applicant before the selection/Screening Committee would mean that the recommendation of the Screening Committee was to be accepted by the applicant.

(contd.....)

95

21. That, with regard the statements made in paragraph 4.20 of the application the deponent begs to state that, the impugned Order dtd. 12.5.2002 was issued by the SP, CBI, Guwahati on the basis of the final decision regarding absorption of the applicant by the Director, CBI.
22. That, with regard the statements made in paragraph 4.21 of the application, the deponent begs to state that, the validity of the Order dtd. 12/05/2002 for repatriation of the applicant is beyond doubt as the applicant has no inherent right to continue in CBI on deputation for indefinite period. The question of absorption by applicant in CBI is an altogether separate issue about which also the applicant has got no inherent claim.
23. That, with regard the statements made in paragraph 4.22 of the application, the deponent begs to state that, it relates about the filing of the application by the applicant in the Hon'ble Central Administrative Tribunal, Guwahati and hence requires no comment.
24. That, with regard the statements made in Paragraph 4.23 of the application, the deponent begs to state that, Respondent No. 5 has communicated the official order of the Director, CBI. As

(Contd.....)

such the order dated 12.5.2002 of Respondent No. 5 for repatriation of the applicant is not without jurisdiction.

25. That, with regard the statements made in paragraph 4.24 of the application, the deponent begs to state that, there is no arbitrariness on the part of the members of the Screening Committee in deciding the case of the applicant, as would be clear from the report of the Screening Committee enclosed as ANNEXURE A/1, which shows clearly that the assessment of the applicant by the Screening Committee has been done in systematic and methodical manner.
26. That, with regard the statements made in paragraph 4.25 of the application, the deponent begs to state that, even if the adverse entries made in the ACR of the applicant for the year 1998 were expunged still the applicant could not have qualified for absorption, in view of the grounds stated earlier.
27. That, with regard the statements made in paragraph 4.26 of the application, the deponent begs to state that, the allegation made by the applicant about the alleged arbitrary manner in the constitution of the selection/Screening Committee is baseless. Again departmental Proceedings initiated against the applicant for major Penalty, has got nothing to do with his continuation

Contd.....

in CBI, which can not be decided by the borrowing department i.e. CBI as the final decision in the matter can be taken by the applicant's parent department i.e. U.P. Police and the departmental proceeding will be completed by the parent department of the applicant and appropriate action as deemed proper will be taken by the parent department. There is no question of the applicant to continue in CBI for completion of departmental proceeding, which could have been completed long back had the applicant not put unnecessary hurdle and adopted delaying tactics for delaying the matter, for which the departmental proceeding is hanging. Such ground was advanced by the applicant before the Hon'ble High Court, Guwahati which found baseless and as such disposed of the petition of the applicant vide Order dtd. 5.2.2002, in which there is no mention for completion of the departmental proceedings against the applicant.

28. That, with regard the statements made in paragraph 4.27 of the application, the deponent begs to state that, from the aforesaid facts, it is clear that there is absolutely no valid ground on the part of the applicant for filing this petition before the Hon'ble Tribunal, which is without merit, and is baseless and frivolous, filed with the sole purpose of harassing CBI and delaying the

(contd.....)

matter so that the applicant can continue in CBI as long as possible.

29. *Ground for Relief:-*

That, with regard the statements made in paragraph 5.1 of the application the deponent begs to state that, there was no illegality in the constitution of Screening Committee which was constituted with the approval of the Director, CBI and can not be said to be lacking jurisdiction.

30. That, with regard the statements made in paragraph 5.2 of the application, the deponent begs to state that, the method adopted by the Screening Committee was done with the approval of Director, CBI, who is the final authority in deciding such matter and the case of the applicant after being considered, was finally rejected by the Screening Committee as well as by Director, CBI and as such is devoid of any merit warranting any further action.
31. That, with regard the statements made in paragraph 5.3 of the application, the deponent begs to state that, there is no illegality or arbitrariness in holding the Screening Committee for

(contd.....)

Selection of the applicant nor it violated Article 14 of the Constitution.

32. That, with regard the statements made in paragraph 5.4 of the application the deponent begs to state that, there is no vacancy for absorption. The Screening Committee was , constituted as a Special Case for the applicant in compliance to the order of the Hon'ble Guwahati High Court.
33. That, with regard the statements made in paragraph 5.5 of the application the deponent begs to state that, it is not a fact that selection was done in improper manner. The applicant has no ground to qualify for the selection, is clear from the result of the Screening Committee. No organisation will absorb an officer who is under suspension facing departmental proceedings on account of several charges; has been punished on proven charge and who is in the habit of filing false complaints/allegations against CBI officers for his own vested interest.
34. That, with regard the statements made in paragraph 5.6 of the application, the deponent begs to state that, it is not a fact that the case of the applicant for absorption in the CBI was considered in contravention of the directions of the Hon'ble

(contd.....)

High Court issued vide order dtd. 5.2.2002 passed in PW(C) No. 3420/2001.

35. That, with regard the statements made in paragraph 5.7 of the application, the deponent begs to state that, it is not a fact that Respondent No. 5 does not have any competence to pass order dtd. 12.5.2002 vide which he has merely conveyed the order of the CBI, Head office, i.e. Director, CBI.

It is worth mentioning that the applicant had filed WD 3198 of 2002 in the Hon'ble High Court against the Order of the Hon'ble Central Administrative Tribunal dtd. 15.5.2002 whereby Hon'ble Central Administrative Tribunal by entertaining the petition of the applicant against the relieving Order dtd. 12.5.2002 refuse to grant stay and fixed the case on 30.5.2002. The case of the applicant was heard by the Hon'ble High Court by Hon'ble Justice J. N. Sharma and Hon'ble Justice P. G. Agarwal and rejected by the Hon'ble Court in the motion stage being without merit. The relevant information in this regard furnished by the Retainer Counsel, CBI is enclosed as ANNEXURE A/2.

That the deponent begs to submit that the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.

(contd.....)

VERIFICATION

I, Narayan Jha, Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Guwahati, being authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphof the Written Statement are true to my knowledge, there made in paragraph..... being matters of record are true to my information derived therefrom which I believe to be true and there made in the rest are humble submissions before the Hon'ble Tribunal.

I have not suppressed any material fact.

And I sign this verification on theday of May, 2002 at Guwahati

Narayan Jha
Deponent
29.5.2002

(Contd.....)

SPEED POST/CONFIDENTIAL

No. DPAD12002/ 1911 /A.20014/1609/93
CENTRAL BUREAU OF INVESTIGATION

Government of India,
Block No. 3, 4th Floor,
CGO Complex, Lodhi Road,
New Delhi - 110 003

Dated :-

21 MAY 2002

To

The Supdt. of Police,
CBI, ACB,
Guwahati.

Sub :- OA No. 154 of 2002 filed by Shri S.P. Singh Yadav, Ex-Inspector, CBI, ACB, Guwahati in the CAT/Guwahati.

Sir,

Please refer to your Facsimile No. DPGWH2002/2998/3420/2000 dated 16.5.2002 on the subject noted above.

In this connection, it is to inform that the draft reply to the petition may please be got prepared by engaging a Govt. Counsel and forward the same immediately to Head Office for getting the same vetted through Director of Prosecution, CBI. A copy of the minutes of the Screening Committee relating to absorption case of Shri S.P. Singh Yadav, Ex-Inspector is enclosed for preparing of the reply.

This has the approval of DD(A)/CBI.

Yours faithfully,

Encl: As above.

S.D.BAIJAL
(S.D.BAIJAL)

ADMINISTRATIVE OFFICER (E)
CBI/NEW DELHI

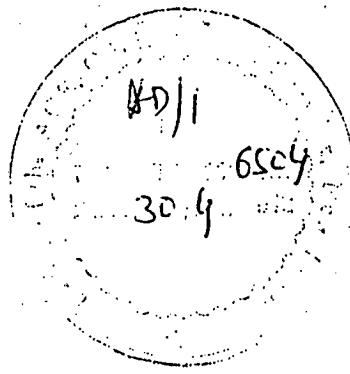
21/5/2002
FBI
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

CENTRAL BUREAU OF INVESTIGATION
SPECIAL CRIMES DIVISION/DELHI.

May please refer to ID No. DPAD12002/1509/A.20014/1609/93/Ad.I dated 24.4.2002 of Admn. Officer (E) regarding meeting of Screening Committee to consider case of deputationist Inspector Suresh Pal Singh Yadav for his permanent absorption in the CBI.

2. The meeting of the Screening Committee was convened on 29.4.2002. Proceedings of the Screening Committee is enclosed for further action.

ML
30/4
AO(E)
ADT



(Y.P. SINGH)
Dy.Inspr. Genl. of Police,
CBI, SCD, New Delhi.

Encl. as above.

Sh. Nand Kishore, Dy. Director (Admn.) CBI HO, New Delhi.
No. DIG/SCD/PF/2001/ 0439 Dt : 14/2002.

क्री. आई. ए. डी. 1 2002 3995
Dy. AD-1. 2002 115
दिनांक/Dated..... 29/5/2002 1304

Attested
Vivek
29/5/2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

PROCEEDINGS OF THE SCREENING COMMITTEE FOR
CONSIDERING PERMANENT ABSORPTION OF
DEPUTATIONIST INSPECTOR SURESH PAL SINGH YADAV IN
CBI.

Members of the Screening Committee :

1. Shri Y.P. Singh,
Dy.Inspr. Genl. of Police,
CBI, Special Crimes Divison,
Delhi. : Chairman
2. Shri Nand Kishore,
Dy.Director (Admn.)
CBI H.O., New Delhi. : Member
3. Shri O.P. Galhotra,
Dy.Inspr. Genl. of Police,
CBI , Special Unit, New Delhi : Member

The Screening Committee met on 29th April, 2002 for assessing the case of Inspector S.P.S. Yadav, including personal interview. The following criteria has been laid down by the Head Office to assess the suitability of the candidate :-

(i)	Assessment on the basis of ACRs for the last 4 years	-	40 marks
(ii)	Good entries including grant of rewards for the last 4 years	-	20 marks
(iii)	Technical Qualifications	-	5 marks
(iv)	Personal Interview	-	35 marks

TOTAL : 100 marks

*Attested
Date 29.5.2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5*

The Head Office has fixed a minimum of 60 marks to be obtained from a total of 100 marks by any candidate for being recommended for permanent absorption in the CBI.

It was further decided by the Screening Committee that evaluation of ACRs would be done in the following manner :-

- (i) Outstanding - 10 marks
- (ii) Very Good - 7 marks
- (iii) Good - 5 marks
- (iv) Average - 3 marks
- (v) Below Average - NIL

A good entry and grant of cash reward were considered at par and it was decided to grant marks in the following manner :-

- (i) Rewards upto 3 per year - 1 mark
- (ii) 4 - 7 rewards - 2 marks
- (iii) 8 - 11 rewards - 3 marks
- (iv) 12 - 15 rewards - 4 marks
- (v) 16 and above - 5 marks

From a maximum of 35 marks set aside for Personality Test the officer was granted marks on the basis of his performance in the personal interview.

Details of the marks obtained by Inspector S.P.S. Yadav are enclosed.

Attested
CAB-29-5-2007
Superintendent of Police
Central Bureau of Investigation
CBI, Guwahati-5

Inspector S.P. Singh Yadav not only failed to secure minimum of 60 marks from a total of 100, his record further discloses that a minor penalty of stoppage of three increments having cumulative effect has been imposed on him on 2.2.2001 and a charge sheet for major penalty has been served on him in another matter on 22.5.2000. The case of Inspector S.P. Singh Yadav has also not been recommended for absorption by his Branch S.P., his Regional DIG and his Zonal Jt. Director. The CVO, CBI (Policy Division) has also not given vigilance clearance for the absorption of Inspector S.P. Singh Yadav in the CBI. In addition, the Inspector has also got an adverse ACR for the year 1998.

In view of the above, the Committee does not find Inspector S.P. Singh Yadav suitable for being recommended for permanent absorption in the CBI.

M2902
(NAND KISHORE)
Dy. Director (Admn.)
CBI / New Delhi.
(Member)
29.4.2002

37 Jr
(O.P. GALHOTRA)
DIG / CBI /
Special Unit, New Delhi.
(Member)
29.4.2002

(Y.P. SINGH)
DIG, CBA,
SCD, Delhi
(Chairman)
29.4.2002

Attested
Mr
29.5.2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

- ① ACR 1998
- ② Stoppage 2 3
There are 3
C/C - issued
- ③
- ④ NO Recommendation
from The Regional
Director
- ⑤ NO Vigilance
by CVO

Minor part

101

Proposal of Absorption of Sh. S.P. Singh Yadav, Inspector(U/S), CBI, ACB Guwahati as per direction of the
Hon'ble High Court, Guwahati.

102

S. No	Name of the Inspector with place of posting.	Date of joining in CBI with rank.	Period of the ACR.	Assessment of the ACR.	Remarks.
1	Shri S.P. Singh Yadav, Insp., CBI, ACB, Guwahati	24.09.1993 as Inspector of Police from U.P. Armed Police.	1.1.1997 to 31.12.1997 1.1.1998 to 31.12.1998 1.1.1999 to 31.12.1999 1.1.2000 to 31.12.2000	Outstanding. 10 Good. 5 Average. 3 Below Average 0 <hr/> 18	

Approved
29/5/2021
Superintendent of Police
Central Reserve Police Force

80
3
101

711

List of rewards earned by Shri S.P. Singh Yadav, Insp. (U/S), CBI, ACB, Guwahati

SL No.	Name of the Inspector.	YEAR 1997	YEAR 1998	YEAR 1999	YEAR 2000	REMARKS
1	Shri S.P. Singh Yadav, ACB, Guwahati	4 3500 = 2	2 1600 - 1	1 1000 = 1	-	(4)

23

Approved
Date
29-5-2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

Detail of Marks obtained by the Inspector

S. N.	Name of the Insp. with branch	ACRs (40 Marks)	Rewards (20 Marks)	Technical Qual. (5 Marks)	Personality Test (35 Marks)	Total (100 Marks)	Final recommendations
1	Suresh Pal Singh Yadav (U/S), CBI, Guwahati	18	04	00	20	42	No recommended for absorption.

N.Kishore
(NAND KISHORE)
DD(A), CBI,
NEW DELHI
(Member)

O.P. Galhotra
(O.P. GALHOTRA)
DIG, CBI
SU, NEW DELHI
(Member)

Y.P. Singh
(Y.P. SINGH)
DIG, CBI,
SCD, NEW DELHI
(Chairman)

Attested
29.5.75
Central Bureau of Investigation
CBI, Guwahati-5

*35 - 20
1 - 25
1100*

*35 - 20 x 100
1 - 25 x 100
1100*

57.7

To

The Superintendent of Police,
CBI/ ACB/ Guwahati.

Dated 20.5.2002

Sub : Progress report in WP© 3198 of 2002 filed by S.P. Singh Yadav.

Sir,

On 20.5.2002 the above case was listed before Hon'ble Justice J.N. Sarma and Justice P.G. Agarwal in Court No.2 as item No.1.

The case was filed in the high Court against order of the CAT dated 15.05.02 whereby the Hon'ble CAT by entertaining the petition filed by Yadav against the reliving order dated 12.5.02 refused to grant stay and fixed the case on 30.5.02.

The case was heard and was rejected by the Court in the motion stage being without merit.

The report is sign by me for D. K. Das, Senior Advocate, and is sent by me, for him and on his behalf, under his guidance with his consent.

Yours faithfully,

(Miss Bandita Dey) Advocate
For D. K. Das, Jr. Advocate
Retainer Counsel (C.R.)

Miss Bandita Dey
29.5.2002
Silpukhuri Post Office
Silpukhuri, Guwahati-3, Assam

Attested
L.M.
29.5.2002
Superintendent of Police
Central Bureau of Investigation
ACB, Guwahati-5

28/7 JUL 2002
गुवाहाटी न्यायपाल
Guwahati Bench

Filed by
S. Debnath Ad.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 154/2002

S.P. Singh Yadav

- versus -

Union of India & Ors.

REJOINDER OF THE APPLICANT TO THE WRITTEN STATEMENT
FILED BY THE RESPONDENTS NO.1, 2, 3, 4 AND 5

The Applicant in the above mentioned O.A.

begs to state as follows :-

1. That the Applicant has gone through the copy of the W.S. filed by the Respondents No.1, 2, 3, 4 and 5 and has understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the W.S. are denied. Further the statements which are not borne on records are also denied and the said Respondents are put to the strictest proof thereof.
2. That with regard to the statements made in paragraph 2 of the W.S., it is stated that the constitution of Screening Committee and the methodology adopted by it is in contravention of the circular holding the field. From the facts it is apparent that the Screening Committee in question was constituted primarily for the purpose of rejecting the case of the Applicant for absorption. To achieve the said objective, the Screening Committee deliberately adopted

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such standards which were not required to be followed by the circular holding the field. Moreover, the case of the Applicant for absorption ought to have been considered as on 1998 in terms of the materials which were in existence till the aforesaid period. However, the Screening Committee took into consideration the materials which came into existence much after the year 1998. The Screening Committee was duty bound to follow the scheme of examination laid down by the circular dated 17.12.97 as no subsequent circular of the competent authority was issued superseding the circular dated 17.12.97. In this connection, it should be noted that the direction of the Hon'ble High Court was in reference to the circular dated 17.12.97. However, the direction of the Hon'ble High Court was not complied with both in letter and spirit. The proceeding of the Screening Committee clearly shows that the Screening Committee took into consideration all those materials which came into existence after 1998. It is noteworthy that in post 1998 period, the service career of the Applicant was disturbed by the present DIG Shri K.C. Kanoongo by wilfully and deliberately creating/manufacturing adverse materials against the Applicant and on the said basis adverse entries were made. Since the administrative/disciplinary actions of the present DIG Shri K.C. Kanoongo were the subject matter of number of Original Applications filed before this Hon'ble Tribunal, the reference to the same is not being made in this rejoinder to avoid repetition.

2/w.

PROCEEDING OF THE SCREENING COMMITTEE

In regard to the conclusion of the committee pertaining to the eligibility of the Applicant for absorption in CBI, it is stated that the Screening Committee could not have taken into consideration those very developments which came into being after 1998. The comments of the Screening Committee are required to be examined on the touchstone of the following developments which took place after 1998 :

2.1 The present DIG, CBI, North East Region, Guwahati Shri K.C. Kanoongo in response to the letter of the Administrative Officer (E), CBI Head Office for eliciting his comments for examination of Applicant's case for repatriation, vide letter No. 1444/142/99-NER dated 16.9.99, himself commented that "repatriation not recommended as he is doing investigation of important cases. There is nothing adverse against him on record as such at present." The aforesaid comment shows that there was nothing as such adverse against the Applicant on records at least upto 16.9.99 and all adverse entries against the Applicant came into existence after 16.9.99. It is significant that this period overlaps the period of adverse remarks for the period 1998 which is the subject matter of O.A. No. 127/2002.

The Respondents may be directed to produce the copy of the letter dated 16.9.99.

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2.2 The present DIG, Shri K.C. Kanoongo deliberately and consciously tried to sabotage the service career of the Applicant. In this connection, it is noteworthy that when the Applicant had approached the Hon'ble Tribunal through O.A. No. 338/99 in October 1999 in a matter related to his absorption in CBI, the present DIG Shri K.C. Kanoongo passed an order in Branch Inspection Report for the year 1999 on 14.1.2000 to the effect that "SP should stop giving reward indiscriminately which sometime puts the branch in awkward position as in case of Shri S.P. Singh Yadav who is using it to advantage while fighting his case in CAT, Guwahati."

Copy of the aforesaid observation dated 14.1.2000 is annexed as ANNEXURE-R/1.

2.3 It is stated that pursuant to the observation of DIG, CBI, NER Shri K.C. Kanoongo dated 14.1.2000, the rewards were stopped being given to the Applicant even though his performance passed the required test for getting such rewards in terms of guidelines of Director, CBI standing order No. 32 dated 27.12.96.

Copy of the Director, CBI's standing order No. 32 dated 27.12.96 is annexed as ANNEXURE-R/2.

2.4 There have been many occasions after the observation of DIG, CBI, NER, Guwahati dated 14.1.2000 when the Applicant deserved rewards for his commendable performance in service. To substantiate this, some of the examples are given below :

(i) Non-granting of reward and commendation certificate for securing conviction of 5 years RI and Rs.10,000/- fine against the accused from Court of Special Judge, Assam, Guwahati in CBI Case No. RC-32(A)/94-SHG. This case was exclusively investigated by the Applicant and charge sheet was filed by him in the said Court.

Reward roll in the matter of conviction submitted to SP, CBI, Guwahati for reward is annexed as ANNEXURE-R/3.

(ii) Non-granting of any reward for securing 6 convictions in departmental proceeding in CBI Cases No. RC-6(A)/91-SHG, RC-37(A)/91-SHG, RC-29(A)/92-SHG, RC-12(A)/93-SHG and RC-5(A)/94-SHG wherein cases were presented by the Applicant before Inquiring Authorities of various departments including CVC, even though the standing order of Director, CBI prescribes reward for performance of such nature.

(iii) Vide Endorsement No. 2219/120/97-NER dated 18.11.99, the DIG, CBI, NER Shri K.C. Kanoongo himself directed the Applicant including other investigating Officers to conduct surprise check with the promise that if the surprise checks result in registration of PE/RC etc. the same would be suitably rewarded. Even though the Applicant conducted three surprise checks which resulted in registration of five CBI cases viz. PE 5(A)/2000-SHG, RC-14(A)/2000-SHG, PE-15(A)/99-SHG, RC-1(A)/2000-SHG and PE-10(A)/2000-SHG, the DIG, CBI,

NER, Shri Kanoongo did not grant any reward to the Applicant.

Copy of the endorsement No. 2219/120/97-NER dated 18.11.99 is annexed as ANNEXURE-R/4.

2.5 It is significant to mention that the Director, CBI's standing order No. 32 dated 27.12.96, in order to curb making of arbitrary gradation by the reporting/reviewing authority while undertaking assessment of work conduct, performance etc. of subordinate executive personnel in their annual confidential report, prescribes that "one reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution if any." It is, therefore, clear that fair objective assessment of the performance by the superior and accordingly granting of reward/commendation certificate to the subordinate is vital for appropriate gradation in ACR and conversely, deliberate, conscious and malafide refusal to acknowledge outstanding performance in contravention of existing guidelines would have a deleterious effect on ACR. The facts and circumstances clearly demonstrate that to bring down the gradation of the Applicant, his outstanding performance was not deliberately acknowledged and the rewards were not given to him even though the performance of the Applicant deserved getting such reward in terms of the aforesaid standing order of the Director, CBI.

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2.6. Even if the standard adopted by the Screening Committee is properly applied as per the performance of the Applicant during the year 1998, then also the grading of the Applicant should be at least very good instead of simply "good" inasmuch as following rewards were conferred on the Applicant for outstanding performance in at least three quarter of the year 1998, viz. reward of Rs.300/- plus commendation certificate vide OO No. Nil dated 30.12.97, reward of Rs.1,000/- plus commendation certificate vide OO No. 91 dated 13.5.98 and reward of Rs.600/- plus commendation certificate vide OO No. 117 dated 25.6.98. Hence the Applicant deserved to be given seven marks instead of five under column of "assessment" of the ACR in the proceeding filed by the Screening Committee. Similarly during the period 1.1.99 to 31.12.99, the Applicant's gradation was under assessed as "average". As the Applicant was granted two rewards during two quarter of the year out of four in the year 1998, therefore, the overall performance of the Applicant during the said year could not have been assessed less than "very good". The two rewards given to the Applicant in the year 1998 are as follows :

- (i) CC vide O/O No. 23 dated 22.1.99 for good work in RC-34(A)/96-SHG.
- (ii) Reward of Rs.1000/- vide O/O No. 116 dated 22.6.99.

Hence, in view of the above, the Applicant deserves to be given seven marks for very good grading

instead of three marks for average grading which was marked in the ACR of the Applicant by the DIG, CBI, NER Shri K.C. Kanoongo who arrived on the scene in July 1999 as reviewing authority on his transfer from Jammu to Guwahati. In this connection, it is also significant to note that the Screening Committee was supplied with the wrong information that only one reward was given during the year 1999 whereas the Applicant was given two rewards during the year 1999. Due to vindictiveness and malice of DIG, CBI, NER, Guwahati towards the Applicant, the Applicant was ignored in the matter of granting of reward and commendation certificate despite registration of five PE/RC on the surprise check conducted by him and conviction secured by him in the Court of law in RC-32(A)/94-SHG including six convictions/penalty in six other cases of departmental proceedings wherein cases were presented by the Applicant before CVC and other inquiring authorities. It is stated that had the DIG and SP of Guwahati branch acted fairly towards the Applicant and granted him reward and commendation certificate in the light of Director, CBI's standing order, the grading of the Applicant in the year 2000 would certainly have been "very good" which would have earned the Applicant another seven marks by the Screening Committee. However, the same could not be possible due to unfair and arbitrary treatment meted out to the Applicant by the DIG, CBI, NER, Guwahati. The gradual sliding down of gradation of the Applicant from "outstanding" to "below average" within a period

of three years from 1997 to 2000 only demonstrates the vindictive and malafide exercise of power of the higher authority towards the Applicant.

2.7 It is noteworthy that both the DIG and the SP did not supply relevant information regarding technical knowledge of Applicant pertaining to computer operation for which he was given a certificate by the CBI. The Applicant was not awarded any mark on account of his technical knowledge, which was improper.

2.8 The Screening Committee took into account the adverse ACR for the year 2000 as "below average".
Not Represented However, the Screening Committee ought not to have taken the same into account as representation against the same is pending disposal before the Director, CBI.

3. That in regard to the statements made in paragraph 4 of the written statement, it is stated that rewards and commendation certificates were given by Applicant's superior officer which reflected their own bonafide assessment of the work conduct and performance of the Applicant at the relevant time. Therefore, there is no question of Applicant exaggerating his own performance/achievement. It is further stated that the Screening Committee ought to have been constituted in terms of the circular of 1997 and the parameter and standards laid down in the said circular ought to have been applied while considering the case of the Applicant for absorption in CBI. However, the

Respondents failed to act in terms of the circular of 1997.

4. That the statements made in paragraph 5 of the written statement are denied and the statements made in paragraph 4.4 of the O.A. are reaffirmed.

5. That in regard to the statements made in paragraph 6 of the written statement, it is stated that the strained relation with the senior officers may also be the result of the highhandedness and arbitrary nature of senior officers. It is not the case that the Applicant had strained relation with the senior officers from the very beginning. As stated earlier till the year 1997, the performance of the Applicant was rated "outstanding" and it was only thereafter when the present DIG, CBI, NER entered the scene alongwith few other senior officers, the scene changed in toto. Competence and professionalism in a subordinate comes along with sense of dignity and self respect. Any self-respecting officer who refuses to accept uncalled for and unbecoming attitude of a senior officer may land into trouble. Unfortunately this is what happened with the Applicant. The Screening Committee cannot allow itself to be swayed by extraneous considerations. It is duty bound to act in conformity with the circulars holding the field which in the case of the Applicant did not happen.

6. That in regard to the statements made in paragraph 7 of the written statement, the Applicant reiterates

and reaffirms the averments made in paragraph 4.6 of the application. The victimisation of the Applicant by the CBI is evident from the sequence of events. It is denied that the CBI authority has acted in conformity with the order of the Hon'ble Gauhati High Court while relieving the Applicant from the CBI. The Hon'ble Gauhati High Court in its order dated 5.2.2002 had emphasised the necessity of acting in compliance with the circulars holding the field while considering the case of the Applicant for absorption in CBI. However, the circulars holding the field were not complied with in the case of the Applicant and in an arbitrary manner and in contravention of the circular of 1997, the Applicant's case was considered. Moreover, while considering the case of the Applicant for absorption, the Screening Committee took into consideration extraneous materials. The case of the Applicant ought to have been considered as on 1998 which was not the case.

7. That in regard to the statements made in paragraph 12 of the written statement, it is stated that prior to appearing before the Screening Committee, the Applicant in his reply dated 16.4.2002 had specifically stated that his case for absorption is to be considered in conformity with the circular dated 17.12.97. It was also emphasised that the aforesaid circular was holding the field at the relevant point of time and the case of the Applicant was required to be considered as on 1997/1998. Moreover, in his letter, the Applicant had

made it clear that he is appearing before the Interview Board/Screening Committee in pursuance to the order of the competent authority and his submission to such an order cannot be construed as his acquiescence to the proceeding which are apparently contrary to the scheme of the circular governing the field. Hence, it is stated that the appearance of the Applicant before the Screening Committee cannot be treated to mean the acquiescence of the Applicant.

8. That in regard to the statements made in paragraphs 13 and 14 of the written statement, the Applicant has no comment to make. However, he does not admit anything that is not borne on record.

9. That the statements made in paragraph 15 of the written statement are denied and it is stated that the circular dated 17.12.97 is the main circular and the same has only been supplemented by the subsequent two circulars of November 1999 and April 2000. The case of the Applicant was required to be considered in terms of the circular dated 17.12.97 inasmuch as the absorption of the Applicant required consideration as on 1997/1998. Therefore, the Screening Committee could not have taken into consideration the materials that came into existence after 1997-98 while considering the case of the Applicant for absorption in CBI. It is also stated that the constitution of the Screening Committee was also illegal as the same was not in terms of the circular dated 17.12.97. It is also stated that the

CBI authority cannot whimsically change the circular time to time to suit their convenience.

10. That in regard to the statements made in paragraph 16 of the written statement, it is stated that the eligibility criteria for absorption is fulfilled by the Applicant. No penalty is in existence against the Applicant as on date. The scheme of examination vide circular dated 17.12.97 does not provide for the recommendation of the SP/Regional DIG/Joint Director etc. The Chief Vigilance Officer/CBI also cannot withhold vigilance clearance without cogent reason. Mere fact that the departmental enquiry is pending against the Applicant cannot be the ground for rejection of his case for absorption. Moreover, the departmental enquiries which are pending have been held to be not legally tenable by this very Hon'ble Tribunal in its common order dated May 14th 2001 passed in O.A. No.30/2001, 31/2001 and 61/2001. Moreover, despite the clear direction of the Hon'ble Tribunal, the competent authority is delaying the completion of the departmental proceeding. After change of the Disciplinary Authority in compliance of the order of the Hon'ble Tribunal, no progress so far has been made towards completion of the departmental proceeding. Moreover, out of the three departmental proceedings, one has already been closed.

Copy of the common order dated 4.5.2001 passed by this Hon'ble Tribunal in O.A. No. 30/2001, 31/2001 and 61/2001 is annexed as ANNEXURE-R/5.

11. That in regard to the statements made in paragraph 17 of the written statement, it is stated that the constitution of the Screening Committee was in contravention of the circular of December 1997. Since the Screening Committee was constituted in violation of the circular of December 1997, its proceedings are ab initio void. It is further stated that the Director, CBI is not competent to change the constitution of the Screening Committee whimsically or arbitrarily.

12. That the statements made in paragraph 18 of the written statement are denied and it is stated that the constitution of the Screening Committee has to be in conformity with the circular of December 1997. The methodology which is required to be followed has to be in terms of the circular of December 1997. The competent authority cannot to suit its convenience change the methodology and the parameters for considering the case of the Applicant for absorption in CBI. As the constitution of the Screening Committee itself was ab initio void, its findings in regard to the Applicant were devoid of any legal sanctity. In the case of the Applicant, the methodology for considering the case for absorption as laid down by the circular of December 1997 was not followed. Not only the constitution of the Screening Committee was in contravention of circular of December 1997, but it also took into consideration those very materials which it could not have taken into consideration for assessing the case of the Applicant for absorption.

13. That the statements made in paragraph 20 of the written statement are denied and the statements made in paragraph 4.19 of the Original Application are reiterated and reaffirmed.

14. That in regard to the statements made in paragraph 21 of the written statement, the Applicant has no comment to make on the same as it is part of the record.

15. That in regard to the statements made in paragraph 22 of the written statement, it is stated that it is not the case of the Applicant that he has an inherent right to continue in CBI on deputation for indefinite period. The case of the Applicant is that he has a right to be considered for absorption in CBI in terms of the circular of December 1997.

16. That in regard to the statements made in paragraph 25 of the written statement, it is stated that the constitution of the Screening Committee itself is illegal. Moreover, it considered the case of the Applicant for absorption in violation of the methodology laid down by the circular of December 1997. Hence, it is stated that the members of the Screening Committee acted arbitrarily while taking a decision in a matter pertaining to absorption of the Applicant in CBI. It is denied that the assessment of the Applicant by the Screening Committee was done in

systematic and methodical manner and as stated earlier, the Screening Committee considered the case of the Applicant for absorption by taking into consideration those materials which it ought not to have taken into consideration. The method adopted in considering the case of the Applicant for absorption in CBI was wholly illegal and arbitrary and was not in terms of the circular of December 1997.

17. That the statements made in paragraph 27 of the written statement are denied and the statements made in paragraph 4.26 of the Original Application are reiterated and reaffirmed. It is denied that the departmental proceeding against the Applicant could not be completed because the Applicant put unnecessary hurdle and adopted delaying tactics. The departmental proceeding against the Applicant could not be completed because the Disciplinary Authority found it impossible to proceed in the matter due to total lack of evidence. Moreover, the Hon'ble Tribunal in its judgment and order common dated May 14, 2001 passed in O.A. No. 30/2001, 31/2001 and 61/2001 had clearly opined that the disciplinary proceeding against the Applicant cannot be said to be legally tenable. Despite the direction of the Hon'ble Tribunal to complete the proceeding expeditiously, the CBI authority has failed to do so. The factum of Applicant going to the Hon'ble Tribunal for redressal of his grievance cannot be treated to be a case of putting unnecessary hurdle and adopting of delaying tactics on the way of completion

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of the disciplinary proceeding. In this connection, it is stated that the Division Bench of the Hon'ble Gauhati High Court in its interim order dated 16.5.2001 had stated that the Applicant shall not be repatriated to his parent department till the enquiry against him is completed.

18. That the statements made in paragraph 28 of the written statement are frivolous and vexatious. It is stated that there is a valid ground for the Applicant to file the instant application and the same has substantial merit. It is not the Applicant who is harassing the CBI, but it is the other way round.

19. That in regard to the submissions made under the heading "ground for relief", the Applicant reserves his right to make appropriate legal submissions at the time of hearing of this case.

2002

VERIFICATION

I, Suresh Pal Singh Yadav, son of Late Netra Pal Singh Yadav, aged about 48 years, resident of Dorothy Apartment, 4th Bye Lane, ABC, Tarun Nagar, G.S. Road, Guwahati, do hereby solemnly affirm and verify that the statement made in paragraphs 1, 2, 2.5, 2.6, 2.7, 2.8, 3 to 9, 11 to 19 are true to my knowledge ; those made in paragraphs 2.1 to 2.4, 10 being matters of records are true to my informations derived therefrom and the rests are my humble submissions. I have not suppressed any material fact.

And I sign this verification on this 27th day of June 2002 at Guwahati.

Suresh Pal Singh Yadav.

(XII) Actions are required to be taken for making recovery of excess expenditure from officers whose telephone bills at office and residence are abnormally high much above the ceiling. A clearcut ceiling needs to be laid down above which the officer has to pay from his pocket; instead of getting approval of higher Officers who routinely approve excess expenditure as they themselves are not free from such blemishes.

(XIII) Mileage given by vehicles of branch are poor which needs to be checked to find out the reasons for such poor mileage and corrective actions taken within a month.

(XIV) There are shortage of constable drivers. The H.O. may allow the Region to make few direct recruitment of constable driver to overcome the difficulties due to which vehicle are lying idle without being put to proper use.

(XV) SP should lay down clear cut target for each I.O and P.P. In consultation with D.I.G. in the beginning of the year for laying down time limit for disposal of old cases, new cases, collection of SIR of quality including trap and D.A. cases, disposal of cases from Trial RDA, Complaint etc.

(XVI) SP should stop giving reward indiscriminately which sometime puts the branch in awkward position as in case of Shri S.P. Singh Yadav who is using it to his advantage while fighting his case in CAT, Guwahati.

(XVII) SP should undertake itemwise verification of case properties in the Makhana which he has not done as yet which should be done without further delay

10 Dec 2000
 (K.C. Kanungo)
 DY.INSPECTOR GENERAL OF POLICE
 CBI NER GUWAHATI

Om. Prakash, Suptt. of Police, CBI, Guwahati
 CBI ID NO. _____

Dated. 13.1.2000

- 1. C. I. S. I.

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Besides attending to the above work, all the above three officers will be responsible for
settling all court matters concerning their Zones/Regions/Branches.

Administration Division, Special Units, Legal Division, CFSL and Training Academy will
function directly under the supervision of Director, CBI. Files related to CFSL, Legal Division
and Training Academy will be put up to Director, CBI through Dy. Director (Admn.)/Joint Director
(Admn.).

All officers of the rank of SP and above can tour within the jurisdiction of Special Director/
Addl. Director with the permission of Special Director/Addl. Director. But for tours beyond the
jurisdiction of Special Directors or Addl. Directors they will need prior permission of the Director.
No non-qualified officer will be permitted to travel by air unless there is extreme emergency and
which cannot be anticipated. In this case, Special Directors and Addl. Directors may permit
them to travel by air and then obtain ex-post-facto sanction from DCBI. No Jt. Director or other
officers are permitted to allow anybody's journey by air.

It is also made clear that all Central Branches are the responsibility of the Addl. Directors/
Special Directors within the respective area. But for the sake of uniformity all the cases of
Central Branches will be referred to DCBI for his approval/confirmation with the
recommendations of Spl. Director/Addl. Director by the respective JDs.

Sd/- (JOGINDER SINGH)
Director, CBI

60. DCBI Standing Order No. 30, dt. 12-12-96

It has been brought to my notice that some Superintendents of Police in the Branches are
conducting direct recruitments to the posts of Constables. This practice should be stopped
forthwith and recruitment should be done only centrally. Please indicate the total number of
vacancies that are lying in your Branches. No appointments should be made to this cadre
unless Hqrs approval is obtained.

Sd/- (JOGINDER SINGH)
Director, CBI

61. DCBI Standing Order No. 32, dt. 27-12-96

Subject: Sanction of Rewards and Honorarium.

The rewards and honorarium are given to the CBI Officers and the Ministerial staff as a
recognition of extraordinary efforts made by them and for acts of conspicuous initiative to
accomplish special tasks assigned to them. These incentives are also intended to motivate the
officers and staff to put in their best and achieve excellence and perfection in their task. Therefore,
the rewards and honorarium cannot be given for performing routine work and also cannot be
claimed as a matter of right. The grant of rewards/honorarium has been regulated by H.O.
orders issued from time to time in tune with the provisions of FR-48, FR-46(b), SR-9, FR-11.

2. Vide H.O. Letter No. 29/3/1970-Ad. III, dated 21-5-86, a comprehensive and consolidated Brochure containing up-to-date instruction for sanction of rewards has been issued to all the Branches/Regions. Following circulars were also issued by H.O. after the issue of this consolidated Brochure to make certain changes in the instructions :—

Sl. No.	Circular No. & Date	Subject
1.	No. 29/4/81-Ad. III, dated 3-2-87	Enhancement of powers with regard to grant of rewards—Control of Budget.
2.	No. 8/2/84-Ad. IV, dated 18-3-87	Re-delegation of powers in the field of honorarium.
3.	No. 29/4/86-Ad. III, dated 23-6-87	Enhancement of powers to grant rewards—Clarification.
4.	No. 8/6/89-PD, dated 25-1-89	Guidelines for grant of rewards to Informants and Government servants in respect of disproportionate assets cases.
5.	No. 29/4/81-Ad. III, dated 1-8-90	Enhancement of powers with regard to grant of rewards—Control of Budget.
6.	No. 8/1/90-Ad. IV, dated 21-9-90	Re-delegation of powers in the field of honorarium.
7.	No. 29/2/90-Ad. III, dated 1-11-90	Grant of rewards for accident-free driving to CBI Constables (Drivers).
8.	No. 29/4/81-Ad. III, dated 27-11-90	Sanction of rewards/honorarium.
9.	No. 8/1/90-Ad. IV, dated 21-9-90	Re-delegation of powers in the field of honorarium.
10.	No. 29/2/90-Ad. III, dated 4-12-90	Grant of rewards for accident-free driving to CBI Constables (Drivers).
11.	No. 8/1/90-Ad. IV, dated 20-12-90	Re-delegation of powers in the field of honorarium.
12.	No. 8/1/90-Ad. IV, dated 1-1-91	Regarding partial modification of H.O. Order No. 11023/90 (U.O. No. 8/1/90-Ad. IV, dated 21-9-90).

3. In supersession of all the orders quoted above, following instructions are issued for issue of rewards, commendations and honorarium :—

(a) Cases generally fit for sanction of reward

- (i) Where the officer has shown more than ordinary initiative to accomplish result which is instrumental to or very helpful for the detection of an offence/collection of very important clue to work out the case.
- (ii) Notable efforts of the officer/officers resulting in a breakthrough in a very difficult and blind case.

- (iii) Detection of the case in a very short span of time owing to painstaking efforts made by the officer or team of officers.
- (iv) Conviction of accused charge-sheeted without any adverse comments by the court against the investigation by CBI.
- (v) Arrest of absconding accused vital to the trial of the case filed by the CBI in the court etc.
- (vi) Successful traps of quality soon after the event.
- (vii) Disposal of long pending trial cases, tracing of absconding accused etc. apart from other cases mentioned above.

(b) Cases generally not fit for reward

- (i) Routine work by an officer in the investigation of the case in the field or in the office.
- (ii) Ordinary performance vis-a-vis investigation of cases.
- (iii) Cases where such action has been recommended against the accused persons in anti-corruption cases.
- (iv) Cases where investigation has led to closure for want of any breakthrough in the investigation.
- (v) Cases where conviction has been accompanied by adverse stricture against CBI investigation etc.

(c) Guiding Instructions for sanction of reward

- (i) Recommendation for rewards to the officers be submitted within one week from the date of completion of the task for the timely and prompt recognition of the commendable work done by the individual concerned.
- (ii) Rewards and commendation certificates should normally not be granted to the officers of the rank of SP and above as a matter of principle. However, appreciation letter may be issued to SsP/DLAs in appropriate cases by Director, CBI as Head of the Department. Therefore, cases deserving conspicuous recognition of the efforts made by the officers of the rank of SP and above can be submitted to Director, CBI.
- (iii) DIsG/SsP are not competent to sanction rewards to Gazetted Executive, prosecuting and officers of other Departments. These will be sanctioned by Director/Special Director/Addl. Director.
- (iv) Rewards should not be sanctioned by officer to the staff/officer working/posted under the administrative control of another officer. However, recommendation may be sent to their Controlling Officer under whose jurisdiction they are posted.
- (v) No commendation certificate/letter of appreciation will find place in Service Book/ACR of Gazetted Officer except it has been permitted by Director, CBI. However, for Non-Gazetted Officers entries for CC, appreciation letters, cash rewards should be made in Service Book which will be subject to rigid annual verification and certification.

(vi) Appreciation letters issued by other Departments to the Officers of CBI generally are not to be placed in the Personal File/Service Book except when it is so approved by Director, CBI.

(vii) Commendation certificate to Govt. servants other than that of CBI will be approved by Director/Special Director/Addl. Director, CBI.

(viii) The decision to issue commendation certificate/letter of thanks to private persons will be considered in Head Office by Director, CBI only in cases involving Gazetted Officers after conviction of the case.

(ix) Cash rewards to the outsiders will be sanctioned from SS Fund only and not from regular allowances and Honorarium Head. This reward is to be sanctioned by CBI Officers as per limit laid down for the sanction of rewards in respect of CBI Officers.

(x) Ministerial staff will not be sanctioned cash rewards.

The above guidelines for grant of rewards are only illustrative and not exhaustive. The sanctioning authorities should consider each case on merits.

4. Powers of CBI Officers to sanction rewards

SI/AD/AIG	Rs. 1000/-	Maximum amount of reward that can be given to an employee on a single occasion.
DIG/DD	Rs. 3000/-	
Joint Director	Rs. 5000/-	
Spl./Addl. Director	Rs. 6000/-	

*However, in the event of giving reward to the same employee beyond these limits on second and subsequent occasion, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

5. Normal ceiling for sanction of cash rewards

The ceiling within which rewards should normally be given to individual employees in different ranks are suggested as below :—

Designation of the Officer	Maximum amount of reward to be given to an employee on a single occasion
Deputy Supdt. of Police	Rs. 1000/-
Inspector	Rs. 750/-
Sub-Inspector	Rs. 650/-
Asstt. Sub-Inspector	Rs. 600/-
Senior Constable	Rs. 500/-
Constable	Rs. 400/-

 One reward to an individual officer per quarter would be sufficient to acknowledge his outstanding contribution, if any. However, in overall one individual officer should not be getting reward exceeding Rs. 5000/- per year per case unless it is approved by the Director/Special Director/Addl. Director, CBI. Any exception to it will have to be clearly justified by cogent and fair quid pro quo grounds in support thereof. This will require approval of Division Head, viz. Director/Special Director/Addl. Director, as the case may be.

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6. Reward for accident-free driving

In supersession of Order No. 29/2/90-Ad. III, dated 1-11-90, the following rewards will be admissible to the drivers for the accident-free driving :—

(a) *Hilly Areas*

For every 10,000 kms. accident-free driving (Silchar, Shillong, Shimla, Imphal, Itanagar, Agartala, Aizwal, Dehradun etc.)

Rs. 700/-

(b) *Plain Areas*

For every 15,000 kms. accident-free driving

Rs. 1,200/-

7. Accounting & budget control of reward

(a) SsP will restrict the rewards to average of last three years in this account.

(b) Amount of rewards exceeding three years average will be sent to H.O. for sanction with full justification thereof.

(c) Quarterly Returns will be sent to H.O. to limit the expenditure under this head to proportionate limits.

(c) Reward is to be shown separately in Budget estimates.

8. Honorarium

Honorarium is sanctioned to Ministerial staff of CBI as provision of FR-46(b) r/w Decision No. 13 of Govt. of India on the subject and SR-9. Honorarium is a recurring or non-recurring payment granted to the Govt. servant as remuneration for special work of an occasional and intermittent character. The following guidelines are to be kept in view by the Administrative authority in deciding each case for sanction of honorarium to the staff :—

- (i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to general principle, enunciated in FR-11.
- (ii) Honorarium should not be granted to officers engaged in work which forms part of their normal duties, even if they work after the office hours, vide Order (4) above.
- (iii) No honorarium should be given when a Government servant performs duties on another sanctioned post in addition to the normal duties attached to his own post, vide Order (6) above.
- (iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work.

9. Limit for sanction of honorarium by CBI Officers

SP/AD/AO/AIG

Rs. 400/-

DIG/DD

Rs. 500/-

Joint Director

Rs. 1000/-

Spl./Addl. Director

Rs. 1500/-

Director, CBI

Rs. 2500/-

Maximum amount of honorarium that can be given to an employee on a single occasion

*However, in the event of giving honorarium to the same employee beyond those limits on second and subsequent occasions, the case will have to be sent to DIG/JD/Addl. Director/Special Director, as the case may be.

10. Maximum honorarium that can be sanctioned by the Head of Deptt. is Rs. 2500/- in each case. In the case of recurring honorarium this limit applies to the total of recurring payment made to an individual in a year. Thus, upper ceiling of the total honorarium is Rs. 2500/- per year per case for individual employee/officer.

11. It has been observed that the Govt. instructions on the sanction of rewards and honorarium to the officers and staff are not being complied with by some officers properly. This may have serious repercussion in terms of audit objection and recovery of excess amount paid. Therefore, in order to ensure compliance with the Govt.'s instructions it is reiterated that all officers of the CBI should refer to these instructions while sanctioning reward and honorarium.

12. In addition to the existing instructions prescribed for grant of reward or honorarium, as mentioned above, the sanctioning authorities while sanctioning reward/honorarium should also bear in mind the following guidelines :—

- ✓ (i) The sanctioning authorities should use the powers of sanction of rewards only in respect of officers/staff working under their administrative control.
- ✓ (ii) If any authority intends to grant reward or honorarium to any officer or staff not working under his administrative control the proposal with full justification should be sent to concerned competent authority or Admn. Divn. of Head Office, as the case may be, for consideration and orders in regard to sanction of reward/honorarium to such officers.
- ✓ (iii) Drawing and Disbursing Officers should ensure whether the reward or honorarium to the concerned officer has been sanctioned by the competent authority. The DDO concerned will also maintain separate register for the honorarium/reward in respect of each staff/employee. Bills should be passed or presented to P&AO only when the DDO is fully justified about this.
- (iv) Whenever honorarium is sanctioned to an employee/officer, the amount of honorarium already granted to him/her on earlier occasions during the same financial year, may also be indicated clearly. As the sanctioning authority is not in a position to know these details, the officers initiating the proposal for sanction of honorarium should indicate it.
- ✓ (v) No officer shall sanction honorarium/reward to any individual in excess of his delegated financial powers as mentioned at paras 4 & 6. It shall be submitted to the competent authority through the Controlling Officer.

13. As laid down above budget for Reward and Honorarium shall be shown separately for each Branch. The budget amount for this purpose will be restricted to the average of last three years. Any departure from the budget limits shall be with prior sanction of the Head Office. Quarterly Return shall be sent to H.O. for monitoring of expenditure under the Heads : Honorarium & Rewards. All the DIsG and JDs shall comment upon grant of reward/honorarium during their inspection of Branches with a view to ensuring compliance of relevant instructions in their proper spirit.

Receipt of this circular may be acknowledged to DD(A)/CBI.

Sd/- (JOGINDER SINGH)
Director, CBI

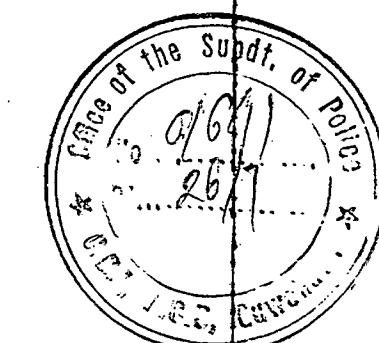
RC-32(A)/94-SHG
U/S 420, 409, 120B IPC & 13(2) R/W 13(1)(C) & (D)
of P.C. Act - 1908.

-26-

SPE BRANCH/OFFICE GUWAHATI		REWARD ROLL STATEMENT OF SPE GUWAHATI BRANCH.							
I) Case No.	II) Offence	Particulars of accused with Designation Class etc.	Facts of the case in brief	Result of trial	Result of appeal	Names & Designation of officers recommended for reward or commendation	Work done by each officers	Recommendation of the officer incharge of the Branch.	Order of the I.G.P.
1	KUSHAL CHANDRA DEKA Clerk/Shroff, Indian Bank Digboi Branch, district Tinsukia, Assam Class III	2	A case was registered against accused in column No.-2 vide case No & offences mentioned in column No. 1 alleging that the accused received deposits from customers to be credited in their respective SB & RD Accounts acknowledging the receipt but did not deposited the amount so received in the Bank and thereby misappropriated the said amount to the tune of Rs. 2.7 lacs (Approx.)	3	4	5	6	7	8
			5 years rigorous imprisonment and Rs. 10,000 fine vide judgement dt. 18.7.2K						9

Submitted
26/11/2011
26/11/2011

This case was investigated by Sri S.P. Singh Yadav, Insp/CBI who filed the instant chargesheet and regularly assisted the PP Sri M.V. Ramaniah and the PWS in briefing the case properly. The two constables also assisted the PP as court Naib and as a result the PP/CBI Sri Ramanaiha was able to produce all the facts & evidences in Court and thereby the whole team mentioned in column No. 6 was able to secure exemplary conviction of the accused in instant case.



130
Confidential

CENTRAL BUREAU OF INVESTIGATION N.E.REGION :: :: :: :: GUWAHATI

All I.Os must be aware that a Special drive has been launched by all Branches of CBI w.e.f. 15th of this month. During this drive all efforts should be focussed on conducting Surprise checks at cutting edge level and at places where there are scopes for indulging in corruptions such as in stores, booking counters, traveling train, post office etc. Keeping watch at Public Offices where there is scope of corruption, FCI Depots, weigh Bridges, Hotels where domestic LPG Cylinders are fused instead of commercial LPG Cylinders, If it constitutes offences under EC Act. should also be paid attentions.

2. Each I.O should organise one such joint surprise check which may be visible ending in actionable result, of registration of a PE/RC etc.

3. Efforts should also be made for organise raids in DA cases against Senior Officers on traps.

4. Result should be reported on daily basis to the Policy Division with copies to Regional DIG and JD(East).

5. Actions taken by each I.O. would be reviewed after a fortnight for marking assessment of his performance in this regard. While sincere efforts will be suitably rewarded, any slackness will have the opposite consequences.

6. SP should daily monitor the performances of I.Os and report to the undersigned.

Sd/-
DY.INSPECTOR GENERAL OF POLICE
CBI NER GUWAHATI

To
SP:CBI, CBI
Guwahati/Silchar

Endst. No. 2210 / 120/97 INR.

Did. 16-11-99

Copy to:

Sir: S. P. Singh ~~Handwari~~ ~~Inspr.~~ CBI, Guwahati/Silchar for
necessary action. This issues with the approval of DIG, CBI, NER, Guwahati

for RO CBI NER GUWAHATI

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for RO CBI NER GUWAHATI

Guwahati-781083

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos.30,31 & 61 of 2001

Date of Order: This is the Day of May 2001.

HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER

Surendra Pal Singh Yadav, Inspector
(Under suspension),
Central Bureau of Investigation,
Office of the Supdt. of Police,
Central Bureau of Investigation,
R.G.Baruah Road, Sunderpur,
Guwahati - 781 005. ... Applicant

By Advocate Mr. D.K.Sharma, Mr. P.K. Tiwari
Mr. U.K.Goswami

-V o-

1. K.C. Kamungo, Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
2. The Deputy Inspector General of Police, Central Bureau of Investigation, North Eastern Region, Guwahati-3
3. The Union of India through the Secretary to the Government of India, Ministry of Personnel & Training, New Delhi-2. ... Respondents

By Advocate Mr. A.D.M.B. Ray, Sr. C.G.S.C.

ORDER

CHOWDHURY J. (V.C.)

O.A. 30,31 & 61 of 2001 are taken up for consideration together since all these Applications embrace self same issues arising out of like situations appertaining to the propriety of initiation of the three departmental proceedings. The applicant assailed the legitimacy of the aforesaid actions of the respondents as well as the continuance of the departmental proceedings against him, in those O.A.s.

Contd.,2

2. We have heard learned counsel for the parties at length. After going through the materials on record and upon considering the submission on behalf of the parties, we are of the opinion that these are the cases where the impugned departmental proceedings can be said to be legally unsustainable. The articles of charges are framed against the applicant. He has already submitted his written statements denying and disputing the allegations. All things considered, we are not inclined to intervene and we are of the view that the departmental proceedings in question should proceed and come to its logical end as per law.

3. Enquiry Officer has already been appointed and from the conduct of Enquiry Officer and also from the materials on record, we do not perceive any disability in the Enquiry Officer and to debar him from the Enquiry. Considering all aspects of the matter we, however, feel that the respondent no.1 Shri K.C. Kanungo, Deputy Inspector General of Police should not act as a disciplinary authority. The applicant has specifically expressed his apprehension that he is not expecting to get treatment in hand of Respondent No.1 as the disciplinary authority.

4. Mr. B.K. Sharma, learned Senior counsel for the applicant particularly referred to us to the observations made by the aforementioned Officer of Police, in his order deciding to hold a formal enquiry after receipt of the written statement. Considering the findings and observations made in the aforesaid order read with the

written statement filed, we feel that it would not be appropriate for the said respondent to act as disciplinary authority and therefore he should be recused. We have adopted this course to excuse the Respondent No.1 to act as a disciplinary authority to avoid all misgivings. Justice not should only be done, but should manifestly and undoubtedly be seen to be done. Justice must be rooted in confidence. The concerned authorities including the Director, CBI, are ordered to act accordingly. The enquiry shall now proceed as per law. We expect that the enquiry shall be conducted with utmost expedition. We, however, make it clear that the applicant should entitled to raise all the legal issues those are raised in the O.A.s including the maintainability of the departmental proceedings before enquiry as well as the disciplinary authorities.

With the observation made above, the applications stand disposed of. There shall, however, be no order as to costs.

Certified to be true Copy
KAMAL KUMAR

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

Secretary Officer (S)
National Commission for
Central Administrative Tribunals
20, Lutyens' Marg, New Delhi - 110 001
Date: 27/7/2011

27/7/2011