

30/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH;

ORDER SHEET

Original Application No. 180/2002
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. Khagen Ch. Saikia

-Vs-

Respondant(s) H.O.T. Goms

Advocate for the Applicant(s) J.L. Sarika, A. Chakrabarty

Advocate for the Respondant(s) Case

| Notes of the Registry | Date | Order of the Tribunal |
|---|-----------|---|
| <p>7.6.02</p> <p>70549(674)</p> <p>10.4.2002</p> <p>1/c. NS</p> <p>5/6/02</p> <p>steps taken</p> <p>7.6.02</p> | 7.6.02 | <p>Heard Mr. A. Chakrabarty, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 5.7.2002 for orders.</p> <p><u>K. U. Sharma</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p> <p>mb</p> |
| <p>In the supplementary list an item was added today in handwriting for admission before O.A.No.180/2002. In the supplementary list that was sent to us in the afternoon of 5.6.2002 that case was not shown. In what circumstances, the same was inserted? Obtain explanation and place before one of us on 11.6.2002.</p> | 18.7.2002 | <p>5.7</p> <p>Due to circuit sitting at Tezpur, the case is adjourned to 18/7/2002.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p> <p>bb</p> |
| <p>Explanation submitted & may kindly be executed. JS</p> <p>10/6/02</p> | | <p>Awaits service report. List on 30.7.2002.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p> |

Perusal in explanation & accepted.

17.6.2002

19-6-2002

Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D. J.Nb-1780 to 1781 Dtd 19/6/02.

② O.A. 180/2002

30.7.02 List again on 27.8.2002 to enable Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents to obtain necessary instructions on the matter.

K. C. Ushar
Member

[Signature]
Vice-Chairman

mb

27.8.02 List on 25.9.2002 to enable the Respondents to file written statement.

K. C. Ushar
Member

[Signature]
Vice-Chairman

mb

25.9.02 List on 11.11.02 to enable the respondents to file written statement.

K. C. Ushar
Member

[Signature]
Vice-Chairman

lm

11.11.02 No written statement so far filed by the respondents. M.r A. Deb Roy, learned Sr. C.G.S.C. again prayed for time to file written statement. Prayer is allowed. List the matter on 12.12.02 for orders.

K. C. Ushar
Member

[Signature]
Vice-Chairman

mb

12.12.02 The respondents are yet to file written statement though time granted. List again on 14.1.2003 to enable the respondents to file written statement.

K. C. Ushar
Member

[Signature]
Vice-Chairman

mb

No written statement has been filed.

[Signature]
11.12.02

No wts has been filed.

[Signature]
24.1.03

14.1.2003 Due to vacation, the case's adjournment to 27.1.2003.

27.1.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra Administrative Member.

The respondents had failed to file written statement though time granted. Mr. A. Deb Roy, learned Sr. C.G. S.C. for the respondents again prayed for time. However, on the prayer of Mr. Deb Roy, further three weeks time is allowed to the respondents to file written statement. List again on 19.2.2003 for orders.

No written statement has been filed

30
18.2.03

S.K. Hajra
Member

[Signature]
Vice-Chairman

mb

19.2.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S. Biswas, Administrative Member.

Put up again on 20.3.2003 to enable the respondents to file written statement.

No. wks has been filed

30
18.3.03

S. Biswas
Member

[Signature]
Vice-Chairman

mb

20.3.2003 Written statement has been filed. The matter may now be listed for hearing on 30.4.2003. The applicant may file rejoinder, if any, within two weeks from today.

21.3.03
WS submitted by the respondents.

[Signature]

[Signature]

Vice-Chairman

No. rejoinder has been filed.

30
29.4.03

bb

30.4. Div'seen bench did not set today. The case is adjourned to 10.6.03.

~~to be heard Mr. S. Biswas, learned counsel for the applicant & Mr. A. Deb Roy, Sr. C.G. S.C. for the respondent. Hearing concluded. Judgment reserved.~~

[Signature]
A.K. Roy

0A180/2002
H/W

4.

10.6. heard in past.
heard again on 13/6/2003.

MLO
A.E. J.
10.6.2003

13.6.2003

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

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

19.6.2003

Copy of the judgment
has been sent to the
Office for issuance.
The fine to the applicant
as well as to the
Director of CS, SC of IE
- Responder



Member



Vice-Chairman

bb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 180 . . . of 2002.

DATE OF DECISION 13-6-2003.

..... Sri Khagen Ch. Saikia APPLICANT(S).

..... S/Sri J.L.Sarkar, A.Chakraborty ADVOCATE FOR THE APPLICANT(S).

- VERSUS -

..... Union of India & Ors. RESPONDENT(S).

..... Sri A.Débn Roy, Sr.C.G.S.C.. ADVOCATE FOR THE RESPONDENT(S).

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

THE HON'BLE MR R.K.UPADHYAYA, ADMINISTRATIVE MEMBER

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

Judgment delivered by Ho'ble Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. 7

Original Application No. 180 of 2002.

Date of Order : This the 13th Day of June, 2003.

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

The Hon'ble Mr R.K.Upadhyaya, Administrative Member.

Sri Khagen Ch. Saikia,
Assistant Accounts Officer,
P & T Accounts and Finance Service,
Telecom Wing, North Lakhimpur.

...Applicant

By Advocate S/Sri J.L.Sarkar, A.Chakraborty.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Telecommunications,
New Delhi-1.

2. The Chief General Manager Telecom,
Assam Circle, Ulubari,
Guwahati- 781 007.

...Respondents

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The issue pertains to promotion to the post of Accounts Officer in the following circumstances.

2. The applicant first joined under the respondents as Junior Accounts Officer on 13.5.1991. He was promoted to the post of Assistant Accounts Officer on 1.10.1995 in P&T Accounts and Finance Service, Telecom Wing, Group-B. The next promotional scope of the applicant is the Accounts Officer, Group-B Gazetted in the scale of Rs.7500-12500/-. According to the applicant he is entitled to be considered for promotion to the post of Accounts Officer though his juniors were promoted to the higher post as far back as 31.5.2000. Hence this application for a direction on the respondents for consideration of his case for promotion to the post of Accounts officer.

3. Contesting the claim of the applicant the respondents contended that in respect of some payment of OTA bills an enquiry was conducted by the CBI and on completion

of the enquiry CBI submitted its charge sheet against the applicant as far back as 18.3.98 before the Court of the Special Judge, Guwahati wherein a prima facie case under Section 120B, 420, 468, 471, 477A of IPC and Sec.13(2) read with 13(1) (d) of Prevention of Corruption Act 1988 was established against the applicant. The respondents also contended that the competent authority already accorded sanction under Section 19 of the Prevention of Corruption Act for prosecution in the court of law for the commission of the offences cited against the applicant. In the written statement the respondents asserted that a departmental committee met on 10.4.2000 to consider the promotion of the AAOs to the post of AO. The DPC considered all AAOs falling under the zone of consideration including the present applicant. Further in view of the fact that a prosecution for criminal charge against the applicant was pending the finding of DPC in respect of applicant was kept in sealed cover. The respondents in the written statement also asserted that on the basis of the DPC held on 10.4.2000 the competent authority approved the promotion of 369 AAOs to the cadre of AO and order to that effect was issued as far back as 5.5.2002. In view of the fact that the applicant in respect of whom a prosecution of criminal charge was pending the finding of the DPC was kept in sealed cover. However, one post of Accounts Officer was kept vacant for the applicant depending on the outcome of the court case and the finding of the DPC regarding suitability/fitness of the applicant.

4. We have heard Mr J.L.Sarkar, learned counsel appearing for the applicant and also Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. Mr Sarkar referring to the office memorandum dated 10.12.96 strenuously argued that in the instant case the applicant is only charge sheeted and since no charges are framed against

him the respondents authority faltered in resorting the sealed cover procedure so much so when there being a prosecution of criminal charge. According to the learned counsel prosecution for a criminal charge begins only after framing of the charge. The contention of the learned counsel goes contrary to the very scheme of the criminal procedure code. A criminal court takes cognizance of an offence under Section 190 of the Cr.P.C. The competent court under Section 190 is authorised to take cognizance of any offence, (a) after receiving a complaint of facts which constitute such offence, (b) upon a police report of such facts and (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed. There is nothing esoteric or mystic significance in the expression cognizance. Cognizance of an offence merely envisage of being aware of the facts stated. Taking cognizance of an offence is a continuous process which commence as soon as court applied its mind to the facts placed under section 190 of the Cr.P.C in aid of any of the methodology enjoined in clause (a), (b) and (c).

5. The Government of India sequel to the judgment of the Supreme Court in Union of India vs. K.V.Janakiraman and ors., AIR 1991 S.C 2010 an office memorandum was issued vide memo dated 14.9.92 mainly on the procedure guidelines to be followed in the promotion of the Government servant against whom disciplinary proceeding is pending or which is under investigation. As per clause 2 of the said circular which reads as follows :

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

(i) Government servants under suspension;

(ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceeding are pending; and
(iii) Government servants in respect of whom prosecution for a criminal charge is pending."

A sealed cover procedure may be adopted in either of the three conditions as mentioned in clause 2. In the instant case the case of the applicant was put up before the DPC for consideration and there was no disciplinary proceeding pending but then the prosecution for criminal charge was pending by the time the meeting of the DPC was held on 10.4.2000. After completion of the investigation the CBI submitted its report and sent him for facing trial in the court of law under the sections mentioned in the charge sheet. The said charge sheet was preceded by the order sanction for prosecution under section 19 of the Prevention of Corruption Act accorded by the competent authority. Therefore it cannot be said that there was no prosecution of criminal charge pending against the applicant. Clause 3 of the office memorandum dated 14.9.92 mentions to the category relating to the Government servant in respect of whom prosecution for a criminal charge is pending. The expression prosecution means "a criminal action; a proceeding instituted and carried on by due course of law, before a competent Tribunal, for the purpose of determining the guilt or innocence of a person charged with crime" (Black's Law Dictionary). Prosecution in the context means an initiation of a statutory proceeding of criminal nature before a court of law or a judicial Tribunal other than administrative or departmental Tribunal. The terms prosecution pertains to criminal action, a proceeding instituted and carried on by due course of law before a competent court for the purpose of determination of guilt or innocence of the person charged. The expression criminal pertains to or connected with law of crimes for the

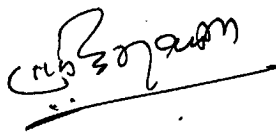
administration of penal justice. Admittedly, in the instant case the CBI submitted a charge sheet under Section 173 of the Cr.P.C. The prime attribute of police power is not only the power to investigate into commission of cognizable offence but also the power to prosecute the offender by filing a report or charge sheet. Taking cognizance as alluded earlier means to become aware of where it is used with reference to a Court or judge to take notice judicially. At the charge framing stage the Court per se takes into account the allegations made and evidence collected by police. By framing charge the accused is informed by the Court the exact nature of the charge brought against the accused. To attract sub-clause III of clause 2 of the office memorandum does not require to reach the stage of framing charge. It comprehends the case of a Government servant in respect of whom prosecution for criminal charge is pending i.e. a proceeding arraigning in respect of criminal charge is pending before the criminal court. The materials on record undoubtedly leads to the conclusion that on the date when the DPC considered the case of the applicant a criminal prosecution for a criminal charge was pending. In the circumstances the action of the respondents in resorting a sealed cover cannot be faulted.

6. Mr Sarkar, the learned counsel next submitted that even otherwise the case of the applicant could not be overlooked for all time to come and atleast in terms of policy decision, the applicant is entitled for consideration of his case by the DPC by resorting the procedure of review in terms of para 5 of the said circular. The object of the circular is to ensure that a disciplinary or criminal prosecution is instituted against the Government servant is

not unduly protracted and all out effort are to be made for expeditious disposal of the prosecution. In that view of the matter the authority is reminded of its duty to review the progress of the proceeding. In the instant case DPC was held on 10.4.2000 and the authority might have been reviewed the position of the prosecution in terms of para 5 of the circular. Mr Sarkar, the learned counsel also submitted that the applicant in fact is looking after a higher post and therefore there is no justification for not considering his case for ad hoc promotion. We have already indicated our mind as to the necessity of making a review of the case within the parametre of the policy and therefore when the authority will review the case in that event it would definitely take into account all the facts into consideration and pass order according to law.

7. In the circumstances the respondents are directed to review the case of the applicant as per the guidelines, rules and in conformity with the policy decision, keeping in mind the spirit of the public interest and pass appropriate order accordingly.

Subject to the observation the application stands disposed of. There shall, however, be no order as to costs.



(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN

13
Khagen Chandra Saikia

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O.A.NO. 180 of 2002

Sri Khagen Ch. Saikia
.....APPLICANT

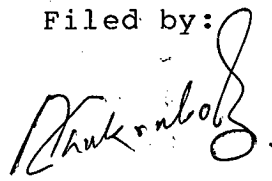
- Versus -

U.O.I. and Ors.
.....RESPONDENTS.

I N D E X

| SL.NO. | ANNEXURE | PARTICULARS | PAGE NO. |
|--------|----------------------|--------------|-----------------|
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| 3. | "A" | | 11 |
| 4. | "B" & "C" | | 12-15 & 16 |
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| 8. | "J" | | 23 - 24 |
| 9. | "K" | | 25 |

Filed by:


Anupam Chakroborty,
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O.A.NO. 180 /2002

BETWEEN

Sri Khagen Ch. Saikia
Working as Assistant Accounts
Officer in the P & T Accounts and
Finance Service, Telecom Wing, North
Lakhimpur.

.....APPLICANT

- AND -

1. Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Communication,
Department of Telecommunications,
New Delhi - 1.
2. The Chief General Manager Telecom,
Assam Circle, Ulubari,
Guwahati - 781 007.

.....RESPONDENTS.

contd...p/2

*Filed by the applicant
through A. Chakraborty
Advocate Khagen Chandra Saikia
5/6/02*

Khagen Chandra Sarkar

DETAILS OF THE APPLICATION :

1. Particulars of the Order against which the application is made :

The application is made for the promotion of the applicant to the grade of Accounts Officer in the Indian P & T Accounts and Finance Service, Group B, Gazetted (Telecom Wing) in the scale of Rs.7,500-12,000/-

2. Jurisdiction :

The applicant declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicant joined as Junior Accounts Officer (for short JAO) w.e.f. 13.05.1991 in the Department of Telecommunications in the Junior Accounts Officers Service, Telecom wing, Group-C. He was promoted

Khagen Ch. Saibia

as Assistant Accounts Officer w.e.f. 01.10.1995 in the Indian P&T Accounts and Finance Service, Telecom Wing, Group-B. The next promotional scope of the the applicant is to the grade of Accounts Officer (for short AO) Group B, Gazetted in the scale of Rs. 7500 - 12,500/-. It is stated that his promotion to the grade of AO is due for a long period.

4.3 That in September, 1995 the applicant was was JAO at Imphal. After his joining posted as JAO there, he was by an Office Order dated 26.09.95 locally promoted as Assistant Accounts Officer (for short AAO) and was asked to look after the charge of AO w.e.f. 09.10.95.

Copy of the Order dated 26.09.95 is enclosed as ANNEXURE-'A'.

4.4 That, thereafter, member (F) by an office memorandum dated 10.12.96 was pleased to appoint 118 JAOs, including the applicant to the grade of AAO w.e.f. 01.10.95. The name of the applicant was shown at serial No.92 of the said Memorandum, and in pursuance to this memorandum the Chief General Manager, N.E. Telecom Circle, Shillong was pleased to issue promotion Order dated 07.08.1997 in the cadre of AAO w.e.f. 01.10.95 to the applicant.

Copy of the memorandum dated 10.12.96 and promotion Order dated 7.8.97 are enclosed as ANNEXURE-'B' & 'C'.

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Khagen Chandra Saha

4.5 That the applicant begs to state that he has been discharging the duties of an AO since 18.3.1996. He was promoted locally on temporary basis to the cadre of AO w.e.f. 18.3.96 to 13.9.96 for a period of 180 days. The promotion was against regular vacancy and was not a stop-gap vacancy.

Copy of the sanction letter dated 6.1.97 is enclosed as ANNEXURE-'D'.

4.6 That thereafter, the applicant was again promoted to the cadre of AO w.e.f. 16.9.96 for 180 days by an Order dated 08.01.97. He was reverted to the cadre of AAO w.e.f. 14.3.1997 by an Order dated 19.08.97 and was again promoted locally to Officiate as AO w.e.f. 18.03.1997 for 180 days by the same Order; and w.e.f. 15.09.97 for another 180 days by an Order dated 02.12.97. At present the applicant has been posted to look after the work of Accounts Officer, North Lukhimpur under TDM/Tezpur on deputation basis by an Office Memorandum dated 20.12.2001. The said promotions were against regular vacancy and was not a stop gap arrangement.

Copy of the Orders dated 08.01.97, 19.08.97, 02.12.97 and 20.12.2001 are enclosed as ANNEXURE-'E', 'F', 'G' and 'H'. respectively.

contd...p/5

Khagen Ch. Saikia

4.7 That the applicant begs to reiterate that all the above mentioned promotion Orders were said to be on an adhoc and temporary basis but in actual the service of the applicant was taken against regular and permanent vacancies by giving some artificial break/gap in the promotions. It is stated that the applicant is eligible for promotion to the grade of Accounts Officer against 01.01.2000 DPC of Assam Telecom Circle. It is worthy mentioned that Circle Secretary, All India Accounts and Finance Service Officers Association, Assam Circle Branch by a letter dated 01.12.99 furnished the eligibility list for promotion to the grade of Accounts Officer with reference to DOT's letter No. 10-5/99-SEA dated 11.11.1999 to the General Secretary of the said Association. The name of the applicant appears at the top of the said eligibility list.

Copy of the letter dated 01.12.1999
is enclosed as ANNEXURE-I.

4.8 That the applicant begs to state that by a Memo No. STES-6/48/pt.1/2000-2001/94 dated 31.05.2000 the respondents have promoted 12 officers to the grade of Accounts Officer on temporary and adhoc basis in the scale of Rs.7500-12000/- w.e.f. 31.5.2000. The name of the applicant did not appear in the said promotion Order. It is also stated that a large number of Juniors to the applicant have been promoted to the grade of Accounts Officer, but the promotion of the applicant

has most unfortunately not yet been considered and given for the reason best known to the applicant.

Copy of the memo dated 31.05.2000 is enclosed as ANNEXURE-'J'.

4.9 That the applicant has been representing the respondent authorities for considering his case of promotion to grade of AO for a long period but no fruitful result has come yet. By a letter dated 25.2.2002 the applicant again prayed for review of his promotion to the grade of AO. In the said letter he also mentioned that a large number of his juniors have been promoted to the post of AO, and he does not know the reason for not promoting him. But most unfortunately the respondents have not given any reply to the said representation as yet, nor, he has been promoted to the post of AO.

Copy of the letter dated 25.2.2002 is enclosed as ANNEXURE-'K'.

4.10 That for aprisal of this Hon'ble Tribunal the applicant humbly begs to state that a charge was framed on 03.12.2001 in the Court of Special Judge, Guwahati against the applicant and the case in the said Court is pending. It is also stated that ~~a chargesheet dated~~ ^{have been} 07.01.2002 ~~has~~ issued against the applicant and the applicant filed an Original applicant against the ~~said~~

contd...p/7

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Khagan Chandra Sarkar

charge sheet dated 07.01.2002 before this Hon'ble Tribunal which has been registered and numbered as OA No. 37/2002 and is pending for disposal. It is humbly submitted that the promotion of the applicant to the grade of AO is due prior to the date of the aforesaid charges.

4.11 That the applicant begs to submit that his promotion to the post of AO has been with held by the respondents without assigning any reason. It is submitted that the applicant has been deprived of his promotion to the post of AO without any just cause, and his juniors have been promoted violating all the rules and administrative norms and procedures. Non-promotion of the applicant has caused mental agony to the applicant and he has been suffering financial loss continuously.

4.12 That the applicant demanded justice but the same has been denied to him and this application has been filed for the cause of justice.

5. Grounds for reliefs with legal provisions:

5.1 For that not promoting the applicant to the post of Ao is violative of Articles 14, 15 and 16 of the Constitution of India.

5.2 For that juniors of the applicant have been promoted through he is eligible for promotion against 01.01.2000 DPC.

Khagen Chandra Saikia

5.3 For that the promotion of the applicant has been held up by the respondents without assigning any reason to him, nor his representation has been disposed of.

5.4 For that the action of respondents is the result of whimsical and arbitrariness.

5.5 For that there is no just reason for withholding promotion of the applicant.

5.6 For that in any view of the matter the applicant deserves to be promoted with effect from the date his juniors were promoted.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant begs to state that there is no other alternative and efficacious remedy under any rule. The applicant has filed representation without any reply.

7. MATTERS NOT PENDING BEFORE ANY COURT:

The applicant declares that ^{he} ~~the applicant~~ has not filed any case in any other court, Forum or Tribunal on the subject matter. However he has filed an OA No.37/2002 before this Hon'ble Tribunal against charge sheet dated 07.01.2002 which is pending for disposal.

Khagen Chandra Saikia

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above the applicant prays for the following reliefs.

8.1 The applicant be promoted to the grade of AO with effect from the date his juniors were promoted i.e. 31.05.2000.

8.2 The applicant be given all the consequential benefits including monetary benefits with arrears.

8.3 Cost of the case.

8.4 Any other relief(s) as the Hon'ble Tribunal may deem fit and proper.

The above reliefs are prayed for on the ground stated in Para - 5 above.

9. INTERIM RELIEFS:

May be given as the Hon'ble Tribunal deem fit and proper.

10. This application has been filed through Advocate:

11. PARTICULARS OF POSTAL ORDER:

- i) IPO No.: 7G 549674,
- ii) Date of Issue: 01-04-2002
- iii) Issued from : P.O.
- iv) Payable at :

12. PARTICULARS OF ENCLOSURES:

As stated in the Index.

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

I, Khagen Ch. Saikia, son of Late Tilok Ch. Saikia, aged about 46 years, resident of North Lakhimpur do hereby verify that the statements made in Para 1,4,6 and 7 are true to my knowledge and those made in paras 2,3 and 5 are true to legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of this case.

And I, sign this verification on this 28th day of May, 2002.

Khagen Chandra Saikia

S I G N A T U R E

12
Annexure - A

— 11 —

Department of Telecommunications,
Office of the Telecom District Manager, Manipur,
Imphal-795001.

No. E-8/AO/TFR/Posting/

Dt. at Imphal, the 26-9-'95.

OFFICE ORDER.

Shri K. C. Saikia, J.A.O. who ^{has} have joined duty on the P/N of 12-9-'95 as J.A.O. has been locally promoted as A.A.O. and has been asked to look after the charge of A.O. w.e.f. 9-10-'95 till regular posting of A.O. is arranged by the Circle Office, Shillong.

Charge Report may be sent to all concerned.

Sd/-
(A. K. SRIVASTAVA)
Telecom District Manager,
Manipur, Imphal-1.

Copy to :-

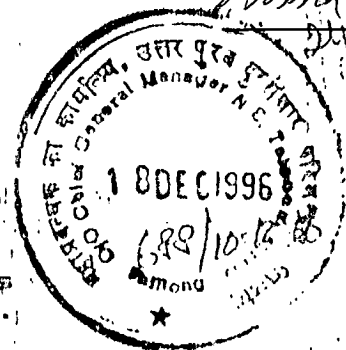
- 1) The Chief General Manager Telecom., N. E. Circle, Shillong-793001.
- 2) The General Manager (Development), N.E.Circle, Shillong.
- 3) The Dy. General Manager (Admn.), O/O C.G.M.T., N.E.Circle, Shillong.
- 4) The Director (Finance), O/O C.G.M.T., N.E.Telecom.Circle, Shillong-793001 - This is with reference to my telephonic discussion today. ~~maxxxx. xxxxxxxx~~ As no A.O. is posted here, Shri K. C. Saikia has been locally promoted as AAO and has been asked to look after the charge of A.O. to run this office properly. Case for approval of local promotion to AAO has been already sent to the Circle Office vide our letter No. E-87/JAO/TFR/203 dt. 15-9-'95.
- 5) A.O. (TA), O/O C.G.M.T., N.E.Circle, Shillong.
- 6) Shri K.C.Saikia, A.A.O., O/O T.D.M., Imphal.
- 7) P/F of Shri K. C. Saikia,
- 9) Spare.

Sd/-
(A. K. SRIVASTAVA)
Telecom District Manager,
Manipur, Imphal-1.

26/9/95

*Attended
Chakrabarti
Advocate*

हिन्दी में फाय करना
आसान है
हृद ही किल्ले



No.39-1/94-SEA
Government of India
Department of Telecommunications
Sanchar Bhawan, New Delhi-110001.

Dated the 10th December, 1996

OFFICE MEMORANDUM

Subj:- Promotions and posting in the grade of Asstt. Accounts Officers.

Member(F), Telecom Commission, is pleased to appoint the following Junior Accounts Officers belonging to the Junior Accounts Officers Service, Telecom Wing, Group "C" to the grade of Assistant Accounts Officers, in the P&T Accounts and Finance Service, Telecom Wing, Group "B" (Gazetted) in the scale of pay of Rs.2000-60-2300-EB-75-3200 with effect from 1-10-95:-

| Sl. No. | Name of the Official S/Shri/Smt. | Circle/Office, where working as JAO. |
|---------|-------------------------------------|---|
| 1. | F. SHANMUGAM | TN TELECOM. |
| 2. | TAPAN JYOTI HALDER | GMTS CALCUTTA |
| 3. | DEBASHIS MITRA | CALCUTTA PHONES |
| 4. | C.S. MAHAJAN | MTNL, BOMBAY |
| 5. | KIRATI ACHARYA | ORISSA TELECOM |
| 6. | A.N. KARACHE | MAHARASHTRA TELE |
| 7. | SUBHASHI CHAND | MTNL, DELHI |
| 8. | G.L. KAUL | J&K TELECOM. |
| 9. | K. BREERAMAMURTHY | AP TELECOM |
| 10. | S. ABDUL BATTAR | AP TELECOM. |
| 11. | SADASIYANI SIV KUMAR | ORISSA TELECOM |
| 12. | V.K. GOEL | UP TELECOM. |
| 13. | JAGADISH SINGH | UP TELECOM. |
| 14. | A.A. SADHU | GUJARAT TELECOM |
| 15. | RAJENDRA KUMAR AGNIHOTRI | UP TELECOM |
| 16. | V. LAKSHMAIAH | AP TELECOM |
| 17. | MD. FAROQUE | BIHAR TELECOM |
| 18. | P.P. FERNANDES | MH TELECOM |
| 19. | LALJI KESRI | UP TELECOM |
| | ROHINI | MADRAS PHONES |
| 21. | GODINDA BANERJEE | WB TELECOM |
| 22. | D.S. KATORE | MH TELECOM |
| 23. | LAL SINGH | UP TELECOM |
| 24. | RAMESH CHAND | NCES DELHI |
| 25. | RAMESH CHANDER SHARMA | MTNL DELHI |
| 26. | SWAPAN KR. KAR | GMM, CALCUTTA |
| 27. | M.S. KHAN | UP TELECOM |
| 28. | BRAN GOPAL BASAK | GMP, CALCUTTA |

Handwritten signature and initials:
A. K. S. K.
S. K. S. K.
S. K. S. K.

| | | | |
|-----|--------------------------|-------------------|--|
| 29. | R.C. MATHIAS | MH TELECOM | |
| 30. | YASH PAL GUPTA | J&K TELECOM | |
| 31. | HARJIT SINGH BAWA | MTNL DELHI | |
| 32. | MAHESH PRASAD | MTNL DELHI | |
| 33. | T.C. LAKSHMI BAI | MADRAS PHONES | |
| 34. | OM PARKASH JHA | UP TELECOM | |
| 35. | E. CHRISTE PARIMALA | TN TELECOM | |
| 36. | KANTI RANJAN GUHA | GMP CALCUTTA | |
| 37. | AMIT DAS GUPTA | GMP CALCUTTA | |
| 38. | MOHD MOHMOOD JANY | AP TELECOM | |
| 39. | NAND KISHORE | HARYANA TELECOM | |
| 40. | OM PARKASH SHARMA | RAJ. TELECOM | |
| 41. | M.R. BARBHAIYA | ASSAM TELECOM | |
| 42. | SHYAM NARAYAN THAKUR | BIHAR TELECOM | |
| 43. | P.V.V. BHAGIRATHI RAO | AP TELECOM | |
| 44. | P.S. NAGARAJA | MTNL BOMBAY | |
| 45. | RAM KRISHANA BAJPAI | UP TELECOM | |
| 46. | CH. YADAGIRI | AP TELECOM | |
| 47. | GORA CHAND DUTTA | GMP CALCUTTA | |
| 48. | MANBAR SINGH NAYAL | MTNL DELHI | |
| 49. | D.P. BHOLE | MH TELECOM | |
| 50. | T. MALLAIAH (SC) | AP TELECOM | |
| 51. | PHOOL SINGH CHAUHAN | MP TELECOM | |
| 52. | MOOL CHAND PRAJAPAT | RAJ TELECOM | |
| 53. | V. KRISHNAMURTHI | TN TELECOM | |
| 54. | VINOD KUMAR BAJAJ | GMP CALCUTTA | |
| 55. | K.N. PARASHURAMI | MTNL BOMBAY | |
| 56. | SURYA LAL | UP TELECOM | |
| 57. | SUBHASH CHANDRA DUBEY | BIHAR TELECOM | |
| 58. | MANU BHATTASALI | WB TELECOM | |
| 59. | U.D. PRABHU | MTNL BOMBAY | |
| 60. | S. VARALAKSHMI | AP TELECOM | |
| 61. | G. RAMAKRISHNA | GMM MADRAS | |
| 62. | A.B. CHAUDHURY | ASSAM TELECOM | |
| 63. | S.N. UPADHYAY | UP TELECOM | |
| 64. | D. PRABHAKARA RAO | AP TELECOM | |
| 65. | SOM NATH BASAK | GMP CALCUTTA | |
| 66. | BRAJENDRA SINGHU | GMM CALCUTTA | |
| 67. | VINAY MOHAN GUPTA | TELE DTE | |
| 68. | K.C. VENKATA REDDY | AP TELECOM | |
| 69. | K.S. VIJAYALAKSHMI | KERALA TELECOM | |
| 70. | LAKSHMI PREM KUMAR | MADRAS PHONES | |
| 71. | ALOK KUMAR CHATTOPADHYAY | GMM CALCUTTA | |
| 72. | BHEEM SINGH YADAV | GMP, UNZ | |
| 73. | KASHMIRI LAL | PUNJAB TELECOM | |
| 74. | RAM DEO PAL | UP TELECOM | |
| 75. | JALAJYOTHI CHAKRABORTHY | ASSAM TELECOM | |
| 76. | JIBOTOS BISWAS | TE GUWAHATI | |
| 77. | RADHEY SHAM SACHDEVA | HARYANA TELECOM | |
| 78. | R. USHA | KERALA TELECOM | |
| 79. | V. GUNASEKHARAN | GMM MADRAS | |
| 80. | KUSAI HARIJAN (SC) | UP TELECOM | |
| 81. | K. SHIVARAMA KARANTH | KARNATAKA TELECOM | |
| 82. | GURURAJ ROHIDEKAR | KARNATAKA TELECOM | |
| 83. | P. TAMILSELVAN T SAMUEL | TN TELECOM | |

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| | | |
|------|------------------------|-------------------|
| 85. | KACHHAP | MP TELECOM |
| 85. | ARUN KUMAR SHUKLA | UP TELECOM |
| 86. | J. BRAHMA CHARY | GUJARAT TELECOM |
| 87. | SANJAY GARG | PUNJAB TELECOM |
| 88. | P.L. MONDAL (SC) | MP TELECOM |
| 89. | D.S. PATHAK | UP TELECOM |
| 90. | T.B. MANOHARI | TN TELECOM |
| 91. | T. GOVINDA BHATT | KARNATAKA TELECOM |
| 92. | KHAJAN CH SAIKIA | ASSAM TELECOM |
| 93. | KRISHANANDAN SINGH | BIHAR TELECOM |
| 94. | KASHAR MAL (SC) | MTNL ND |
| 95. | M. PANNEERSELVAN-I | TN TELECOM |
| 96. | N.S. RAJALAKSHMI | MADRAS PHONES |
| 97. | SUBRATA ROY | TELE. DTE. |
| 98. | K. GURUMURTHY | GMP MADRAS |
| 99. | RAMA KANT LAL DAS | BIHAR TELECOM |
| 100. | BRIJESH KUMAR | RAJASTHAN TELECOM |
| 101. | AMAR DUTT LAKHERA | MTNL ND |
| 102. | MOHINDER NATH | PUNJAB TELECOM |
| 103. | HIRA LAL (SC) | MTNL ND |
| 104. | PROMATHA HALDER (SC) | WB TELECOM |
| 105. | KUMARI SUMITA ASH | WD TELECOM |
| 106. | PRANESH D. JOSHI | KARNATAKA TELECOM |
| 107. | S. HANUMANTHA RAO | GMP MADRAS |
| 108. | D.J. CHAUHAN (SC) | GUJARAT TELECOM |
| 109. | G. RAMESH | GUJARAT TELECOM |
| 110. | A.H. QUERESHI | RAJASTHAN TELECOM |
| 111. | S. JOHNSON RODRIGO | MTNL BOMBAY |
| 112. | M. VENKATESWARA RAO | GMTS CALCUTTA |
| 113. | RAM JUJAWAN RAM (SC) | UP TELECOM |
| 114. | R. AROKIASAMY | TN TELECOM |
| 115. | PITAM SINGH RAWAT (ST) | MTNL ND |
| 116. | SUMER RAM (SC) | BIHAR TELECOM |
| 117. | MOTI LAL | UP TELECOM |
| 118. | SHAILENDRA KR SHARMA | UP TELECOM |

2. All the officers mentioned above on promotion as Asstt. Accounts Officer are allotted to the same circles in which they are working at present and the Heads of circles may post them against the existing vacancies.

3. The promotion of the officers is further subject to the condition that no disciplinary/vigilance case is pending or contemplated against the officer. In case of any disciplinary/vigilance case of the type referred to in this office Letter No. 6-16/71-Disc. dated 25-3-72 read with this office Letter No. 56-13/76-Disc. 1 dated 8-9-76 and the DOP&Trg. OM No. 22011/4/91-Estt. (A) dated 14-9-92 is pending against the officer or some punishment like stoppage of increment is current, he should not be relieved on promotion and the matter should be reported to this office immediately.

4. The seniority of the officers will be communicated

22-9-72
 82/78
 926

seperately.

Compliance should be reported to this office immediately.

(SUNIL KUMAR CHUGH)
Asstt. Director General (SEA)

Copy to:

1. Chief General Manager, Telecom, AP/ASSAM/BIHAR/GUJARAT/HARYANA/HIMACHAL PRADESH/J&K/KARNATAKA/KERALA/MP/MAHARASHTRA/NE/ORISSA/PUNJAB/RT/TAMILNADU/UP(E)/UP(W)/WEST BENGAL/ALTTC/GZ/NCES, N.DELHI/TASK FORCE, GUWAHATI
2. Chief General Manager, Telephones, Calcutta/Madras.
3. Chief General Manager, Telecom Projects, New Delhi/Bombay/Calcutta/Madras.
4. Chief General Manager, Telecom Mtce., New Delhi/Bombay/Madras/Calcutta.
5. CGM. Telecom Stores, Calcutta
6. F.A.MTNL, Jeewan Bharti Bldg. New Delhi.
7. CGM, MTNL Bombay/New Delhi.
8. CGM Telecom Factory, Calcutta.
9. CGM REP Nagpur.
10. Sr. DDG(F)/Director(SEA), Telecom Dte.
11. PPS to Member(F)

(B.R. DHAWAN)
Accounts Officer (SEA)

— 16 — Annex - C

DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE
SHILLONG

Sl. No. SSK-137/Ch-VIII

Dated at Shillong the 07-08-97

In pursuance of DOT/MD letter No. 59-1/94-3EA dated 10.12.96 the Chief General Manager N.E. Telecom Circle Shillong is pleased to issue the following promotion order in the cadre of Asstt. Account Officer in P&T Accounts and Finance Service Telecom Wing Group 'B' (Gazetted) in the scale of pay of Rs 2000-60-2300-EB-75-3200 with effect from 1-10-1995.

| Sl No. | Name of the Official | Circle/ Office/ where working as J.A.O. |
|--------|----------------------|---|
|--------|----------------------|---|

1. Sri Khajan Ch Saikia

O/O TDM/Imphal under
N.E. Telecom Circle.

Seniority of the officer will be communicated separately. The pay of the officer may be fixed under normal rules.

Charge report may be sent to all concerned.

isct

(R.R. Ramasubramanian)
Chief Accounts Officer (IA)
O/O The Chief General Manager N.E.
Telecom Circle Shillong -793001

Copy to:-

- 1) DOT/MD w.r.to; his letter No. 59-1/94-3EA dtd 10.12.96 for information.
- 2) T.D.M. Imphal
- 3) Sr. AO(TA)/Shillong
- 4) Officer concerned
- 5) P/F of the officer
- 6) Spare.

*Attended
M. K. ...
Advocate*

For Chief General Manager N.E. Telecom
Circle Shillong -793001

Ammar - 1
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DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE
SHILLONG

No. STB-187/Ch-VIII

Dated at Shillong the 6-1-1997

Post facto sanction of Chief General Manager N.E. Telecom Circle Shillong is hereby conveyed for officiating promotion in the cadre of Accounts Officer as detailed below.

Sri K.C. Saikia AAO O/O The T.D.M. Imphal is promoted locally on temporary basis to the cadre of Accounts Officer with effect from 18-3-96 to 11-9-96 for a period of 180 days.

The above promotion is given temporarily on adhoc basis & stands reverted on expiry of 180 days in the cadre of Accounts Officer or any other order is issued from this office or on joining of regular incumbent which ever is earliest. The promotion will not bestow any claim on the official for regular absorption nor the service so rendered by him would count for the purpose of increment etc.

The pay of the official may be fixed under R-22(1) (a) &.

The Charge Papers may be sent to all concerned.

(R.R. Ramasubramanian)
Chief Accounts Officer
O/o The Chief General Manager NE.
Telecom Circle Shillong -I

Copy to:-

- 1) DGM/MD
- 2) DGM/Imphal
- 3) Sr. AO(TA) Shillong
- 4) Official concerned
- 5) P/r of the official
- 6) Spare.

For Chief General Manager N.E.
Telecom Circle Shillong -793001

DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE
SHILLONG

31

No. STB-187/Ch-VIII

Dated at Shillong th. 8-1-1997

The Chief General Manager N.E. Telecom Circle,
Shillong is pleased to issue the following officiating order
in the cadre of Accounts Officer purely on temporary and
adhoc basis from the date shown against the official below.

1. Sri K.C. Sarkia, AAO O/O TDM/Imphal is promoted locally on temporary basis to the cadre of Accounts Officer (C) with effect from 16-9-95 for 180 days.

The above promotion is given temporarily on adhoc basis & stands reverted on expiry of 180 days in the cadre of A.C(C) or any other order is issued from this office or on joining of regular incumbent which ever is earliest. The promotion will not bestow any claim on the official for regular absorption nor the service so rendered by him would count for the purpose of increment etc.

The pay of the official may be fixed under FR-22(1)(a) I.

Charge report may be sent to all concerned.

sd/-

(R.R. Ramasubramanian)
Chief Accounts Officer
O/O The Chief General Manager
N.E. Telecom Circle Shillong

Copy to:-

- 1) TDM/Imphal
- 2) Sr. AO(TA) Shillong
- 3) Official concerned
- 4) P/P of the official
- 5) STB/AO-I/Vol-VIII

U. (copy) 8(1997)

For Chief General Manager N.E.
Telecom Circle Shillong -793001

A. H. Sarkia
Ramasubramanian
Sarkia

19

D.D. 1002-F-5
32

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE
SHILLONG

26 AUG 1997

No. SMD/AG-1/Vol-VIII

Dated at Shillong the 19-1-97

The Director (P & A) N.E. Telecom Circle, Shillong
is pleased to issue the following reversion/officialiating promotion
order in the cadre of Accounts Officer from the date shown
below:

1. Sri K.C. Sainia, AAO O/O The T.D.M. Regional In-charge
who was ordered to officiate as A.O. w.o. from 16.9.96
for 180 days is reverted to the cadre of AAO w.o. from
14.3.97 A/H.

2. Sri K.C. Sainia AAO O/O The T.D.M. Regional In-charge is promoted
locally to officiate as A.O. w.o. from 14.3.97 for
180 days.

The above officialiating promotion is given temporarily
ad hoc basis and stands reverted on expiry of 180 days in the
cadre of A.O. or any other order is issued to this effect
whichever ever is the earlier. The promotion will not bestow any
benefit on the official for regular absorption nor the service
so rendered by him would count for the purpose of increment
and seniority etc.

Charge report may be sent to all concerned.

Sd/-
(R.R. Ramasubramanian)
Chief Accounts Officer (H)
O/O The Chief General Manager N.E.
Telecom Circle Shillong.

Copy to:-

- 1. T.D.M. In-charge
- 2. Mr. AG(SA) Shillong
- 3. P/P of the official
- 4. Official concerned
- 5. Spares

For Chief General Manager N.E.
Telecom Circle Shillong -793001

Attested
Rahul Singh
Secretary

D.O. No. 14/102-6
2
EE

OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE SHILLONG

No. ISD/AC-I/Vol-DI Dated at Shillong the 2-12-97

The Director Finance & Accounts N.E. Telecom Circle, Shillong is pleased to issue the following reversion/officiating promotion order in the cadre of A.O. from the date shown against the official below.

1. Sri K.C. Saikia, AAO Office of the TDM, Imphal was ordered to officiate as A.O. w.e. from 18.3.97 for 180 days is reverted to the cadre of AAO w.e. from 13.9. 97 A/N
2. Sri B.C. Paul JAO Office of the TDM, Dimapur was ordered to officiate as A.O. w.e. from 19.5.97 for 180 days is reverted to the cadre of JAO w.e. from 14-11-97 A/N
3. Sri K.C. Saikia AAO Office of the TDM, Imphal is promoted locally as to officiate as A.O. in the Office of the TDM, Imphal w.e. from 15.9.97 for 180 days.
4. Sri B.C. Paul JAO Office of the TDM, Dimapur is promoted locally to officiate as A.O. in the Office of the TDM, Dimapur w.e. from 17-11-97 for 180 days.

The above promotion is given temporarily on adhoc and temporary basis and officers stands reverted on expiry of 180 days in the cadre of A.O. or any other order is issued to this effect or on joining of regular incumbent which ever is the earlier. The promotion will not bestow any claim on the official for regular absorption not the service so rendered by them would count for the purpose of increment etc.

The pay of Sri B.C. Paul may be fixed under FR-35.
Charge report may be sent to all concerned.

10 TDM/PIP

Sd/-
(R.R. Ramasubramanian)
Chief Accounts Officer (HQ)
O/O The Chief General Manager N.E.
Telecom Circle Shillong -793001

Copy to:-

- 1) TDM/Dimapur/Imphal
- 2) Sr. AO(TA) Shillong
- 3) Official concerned
- 4) P/V of the officer
- 5) Spare.

Attested
Ramasubramanian
Advocate
For Chief General Manager N.E.
Telecom Circle Shillong -793001

27

By P. J. I. Perit
D. N. D. 19/12/01

37

1670

BIHARAT SANCILAR NIGAM LIMITED
(A Govt. Of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE GUWAHATI 781007

No. ASM/TR/Staff/01/2000-2001/94.


Dated at Guwahati the, 20.12.2001.

OFFICE MEMORANDUM

In pursuance of BSNI, New Delhi letter No. 6-51/2001-SEA BSNI, dated 03.09.2001 General Manager (Finance), office of the CGMT Guwahati is pleased to release Sri Pradyot kumar Halder Sr. Accounts officer, N. Lakhimpur under TDM / Tezpur, with immediate effect and to report to DGM (SEA) KTD, Kolkata. vide General Manager (Finance) KTD Kolkata letter No. ABB-3016/FA, dated 01.11.2001.

Sri K.C.Saikia AAO office of the GMT / Kamrup is posted to look after the work of Accounts officer N.Lakhimpur under TDM / Tezpur on deputation basis till further order.

Necessary charge report may be sent to all concerned.


Asstt. Chief Accounts Officer
O/o the CGMT / Guwahati, 7

Copy to :-

01. The Asstt. Dir. General (SEA), Sanchar Bhawan
20 Ashoka Road, New Delhi - 110001.
02. The General Manager (Finance) KTD.
03. The DGM (SEA) KTD.
- 04.05. The GM / Kamrup / TDM Tezpur.
06. DFA O/o the GM / Kamrup
- 07.08. The AO(A&P)/ AO(TA) Circle office Guwahati.
- 09.10. The personal file of the officer / officer concerned.
11. The guard file.

Sri K.C. Saikia,
AAO, GMT / Kamrup.

Attested
K. K. Saha
Advocate

To

Shri Ranaachandran,
General Secretary,
All India Accounts and Finance Service
Officers' Association,
Sanchar Bhawan, New Delhi.

Sub :- Eligibility list for promotion to the grade of Accounts Officer against 1-1-2000 DPC of Assam Telecom. Circle.

Ref :- DOT No. 10-5/99-SEA dated 11.11.99.

Dear Comrade,

With reference to the above cited DOT letter the eligibility list for promotion to the grade of Accounts Officer against 1-1-2000 DPC of Assam Telecom. Circle is furnished below for your disposal please.

| Sl. No. | Staff No. | Name of the officer | Whether complete CR is sent to DOT |
|---------|-----------|------------------------------|------------------------------------|
| 127 | 87925 | Khagen Chandra Saikia | Upto date CR sent |
| 130 | 88069 | Bhaskar Dey | Upto date CR sent |
| 164 | 88110 | Arunava Dutta | Upto date CR sent |
| 211 | 88178 | Mrinal Kanti Bhattacharjee | Upto date CR sent |
| 211 | 88182 | Ranjan Kr Gogoi | Upto date CR sent |
| 219 | 88187 | Smt. Sipra Chanda | Upto date CR sent |
| 221 | 88189 | Nishakar Roy | Upto date CR sent |
| 223 | 88191 | Deepak Gupta | Upto date CR sent |
| 230 | 88198 | Binil Chandra Saha(TF/GH) | Upto date CR sent |
| 271 | 88248 | Debendra Chandra Salaria | Upto date CR sent |
| 280 | 88272 | Sudhanoy Halder | Upto date CR sent |
| 351 | 88358 | Bikash Baruah | Upto date CR sent |
| 353 | 88360 | Bipin Chandra Kalita | Upto date CR sent |
| 402 | 88411 | Swapan Kumar Chakraborty | Upto date CR sent |
| 549 | 88578 | Bharat Chandra Deori (TF/GH) | Upto date CR sent |
| 622 | 88691 | Rudra Patidel | Upto date CR sent |
| 625 | 88694 | Bishnu Kumar Paul | Upto date CR sent |
| 657 | 88726 | Golap Chandra Nath | Upto date CR sent |

Dated at Guwahati, the 1st Dec., 1999.

(S K Chakraborty)
Circle Secretary, A.I. AFSSOA
Assam Circle Branch

Attested
Chakraborty
Deori

- 23 -

115
Annexure J

98

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOM SERVICES
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM
ASSAM TELECOM CIRCLE: GUWAHATI-781 007.

NO. PTE-6/46/Pt-I/2000-2001/04 Dated at Guwahati, the 31st May 2000.

In pursuance of TCHQ, New Delhi, Memo No. 10-5/99-SEA Dtd. 05.05.2000, the General Manager (Finance), O/O Chief General Manager Telecom, Assam Circle, Guwahati is pleased to appoint the following Asstt. Accounts Officer/Junior Accounts Officer of Indian P&T Accounts and Finance Service Gr. B: Gazetted/Gr. C. (Telecom Wing) in the grade of Accounts Officer in the Indian P&T Accounts and Finance Service, Gr. B, Gazetted (Telecom wing) on purely temporary and adhoc basis in the scale of pay of Rs. 7500-250-12000/- with immediate effect or from the date the officer actually assumes the charge of the post to the officer shown against each, whichever is later.

| Sl. No. | Names & Staff No. | Present Posting | Posting on prom/Transfer. |
|---------|----------------------------------|----------------------------------|---|
| 1. | Sri A. Dutta. (88110) | AO (SBP) CO/GH (ofg) | AO (I/C-II), C.O. GH. |
| 2. | .. Bhaskar Dey. (88069) | AO (Comp) (ofg) GMT/Kamrup | A.O. (Comp) O/O GMT/So vice Sri H. Sinha Transferred |
| 3. | .. Deepak Gupta. (88191) | AO (Cash) (ofg) TDM/Nagaon | A.O. (Cash) O/O GMT/So. vice Sri M.R. Choudhury Transfd. |
| 4. | .. M.K. Bhattacharjee (88178) | AO (CTSD) GH (ofg) | A.O. (Cash), O/O TDM/Bongn. vice Sri J. Das transferd. |
| 5. | .. R.K. Gogoi. (88182) | AO (Civil) (ofg) | A.O. (Civil) GH. |
| 6. | .. S.M. Halder (88272) | AO (SBP) (ofg) TDM/Nagaon | A.O. (Comp) O/O TDM/Tezpur |
| 7. | .. N.K. Roy. (88189) | AAO (Comp) O/O GMT/Kamrup | A.O. (Comp) O/O TDM/Bong. |
| 8. | .. D.C. Sahaia. (88248) | AAO (BCT) C.O./GH. | A.O. (TA) C.O./GH. vice Sri H. Chakraborty transfd. |
| 9. | Kalita. (88260) | AAO (TR) O/O GMT/Kamrup. | A.O. (TR) O/O GMT Kamrup vice Sri K.N. Sharma promoted. |
| 10. | Das (88180) | AAO (TR) O/O GMT/Kamrup | A.O. (TR) C.O. GH |
| 11. | .. S.K. Chakraborty. (88411) | AAO (TR) C.O. GH. | A.O. O/O Ex. Engr. (Plant) GH. vice Sri B.K. Das, prom. |
| 12. | Mrs. S. Chakraborty. (88107) | AAO (Bills) O/O GMT/Dibrugarh | A.O. (TR) O/O GMT/Dibrugarh vice Sri H.L. Sonapati Tfd |

The terms and conditions regarding promotion are as

1. The appointment on adhoc basis is purely on temporary basis and would not therefore, bestow any claim to the officers so promoted for promotion to the grade of Accounts Officer on regular basis or to the higher grade and also seniority for promotion to the grade of Accounts Officer or to the higher grade on the basis of such promotion.

contd. page-2

*Attended
Kalyanobol
Advocate*

2. The pay of the officers on promotion to the grade of Accounts Officer will be fixed under PR 22(1)(a)(i)
3. The heads or SSAs may ensure that the officers on promotion are relieved promptly on receipt of the station of postings without waiting for substitute to join and the process of joining and relieving is completed in all respect by 4.8.2000, and compliance reported to the Circle Office by 11.8.2000 positively, mentioning details of the officers so joined or relieved. Cases beyond 4.8.2000 may only be entertained with the specific approval of the Directorate.
4. No leave should be granted to the officers after being relieved without prior permission from the Directorate.
5. The officers now promoted, in case they are officiating on local arrangement basis in the grade of A.O., should be reverted to their substantive grade and be promoted afresh in compliance with this order.
6. All officers now promoted above must join in their new assignment not after 4.8.2000 unless specific approval of Directorate is accorded.
7. In case any officer promoted on adhoc basis fails to join by 4.8.2000 and also fails to obtain specific approval from the Telecom Directorate for late joining/relieving, it will be presumed that the officer is not interested for adhoc promotion, and the orders in respect of them shall be deemed to have been cancelled automatically without further communication. No such officer shall be given local officiating promotion to any higher post further.
8. TA/TP may be regulated as per the guidelines issued vide DOT order No. 33-51/99-SEA, dt. 10.11.99, No. 23-51/99-SEA, dt. 23.9.99 and No. 400-23/97-STG-III, dt. 9.12.99.
9. Charge Report may be sent to all concerned including A.O. (SEA), Telecom Directorate.

(A.K. Chelleng)
Asstt. General Manage (Admn)

Copy to:-

1. Asstt. Director General (SEA)/Accounts Officer (SEA) Deptt. of Telecom. (SEA Sec) Sanchar Bhawan, 20 Ashok Road, New Delhi-110001.
- 2-4. GMTD, Kamrup/Silchar/Dibrugarh.
- 5-8. TDM, Tezpur/Nagaon/Jorhat/ Bongaigaon/
- 9-11. CAO, A.O. (TA), A.O. (A&P), C.O. Guwahati.
- 12-23. r/r of the officers.
- 24-35. Officers Concerned.
36. D.E (CTSD) GH.
- 37-38. Ex. Engr. (C) GH/Rx. Engr. (E) CH.
39. Office Copy.
40. Office Copy.
41. Spare.

For Chief General Manager Telecom.

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1X6 Annexure-4
Reminder
K 38

To

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

Dated at North Lakhimpur the 25.02.00.

Sub:- Prayer for review of my promotion to
the post of Accounts Officer.

Ref:- My earlier representation dtd. 02.03.1999.

Sir,

With due honour and humble submission, I beg
to state the following few lines for favour of your
kind disposal and sympathetic consideration.

Sir, I have submitted one representation dtd.
02.03.1999 to consider my case of promotion to the post
of Accounts Officer where I had mentioned that a large
number of juniors got promotion to the post of Accounts
Officer. The Gradation List of AAO and promotion List
of Accounts Officers proved that I have been deprived
of promotion to Accounts Officer for what cause, I do
not know till date.

I, have been promoted to AAO w.e.f. 01.10.95
on regular basis and even I had discharged my duty as
AO(C), O/O the SDM/Imphal on officiating basis w.e.f.
Oct'95 to Aug'1998.

But I have not heard anything from you for
what cause I have not been promoted to Accounts Officer.

I pray you again to use your good office to
review my case and to order my promotion already due to
Accounts Officer.

With regards.



Attested by
Khagen Ch. Saikia
Advocate

Yours Faithfully,

Khagen Ch. Saikia,
(KHAGEN CH. SAIKIA, AAO,
O/O the DEPT/IMP
C/O DEPT. IMPHAR,
NORTH LAKHIMPUR.

1723

Central Administrative Tribunal
20 MAR 2002
Guwahati Bench

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Filed by 3/10/02
(A. DEB ROY)
Sr. C. S. J.
G. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 180 OF 2002

Shri Khagen Ch. Saikia.

..... Applicant.

- Vs -

Union of India & Ors.

..... Respondents

In the matter of :

Written Statement submitted by
the respondents.

The humble respondents beg to submit the para-wise
written statement as follows :

1. That with regard to the statement made in para 1
of the application the respondents beg to state that the
findings of the D.P.C. in respect of the applicant has been
kept in sealed cover as prosecution for criminal charge is
pending ~~kept~~ against him in the special Court, Guwahati .

The procedure as laid down in G.O.I. DOPT OM No.
22011/4/91-Estt(A) dated 14.09.1992 has been correctly
followed in the instant case. The applicant will be con-
sidered for promotion on the basis of the outcome of the
pending Court case as well as the departmental Disciplinary
Proceedings initiated on 19.02.2002.

2. That with regard to paras 2, 3 and 4.1, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in paras 4.2 and 4.3, of the application the respondents beg to state that the applicant entered the department as T.S.Clerk and was promoted to cadre of JAO w.e.f. 13.05.91. He was later promoted to the cadre of AAO w.e.f. 1.10.95, in the Indian P & T Accounts and Finance Service, Group 'B'.

While working as AAO, the applicant was promoted on local adhoc officiating basis to the cadre of AO for 180 days against short term vacancy.

It may be noted such local officiating adhoc promotion does not bestow on the applicant any right for regular absorption in the A.O. Cadre nor the period is counted towards seniority in the higher cadre.

These events show that the respondent department has spontaneously extended the benefit of due promotion from time to time till his conduct came under clout in 1998 when prosecution for criminal offence was initiated against him.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that by order dated 10.12.96 and 07.08.97 the applicant's temporary promotion to the cadre of JAO from 01.10.95 as mentioned in para 4.2 and 4.3 above was regularized.

5. That with regard to the statement made in paras 4.4 & 4.6, of the application the respondents beg to state that the applicant while holding the post of AAO on substantive

basis was promoted by the concerned circle to officiate on purely local adhoc basis as A.O. on different occasions for small specified duration not exceeding 180 days. Such local officiating arrangement are made on local consideration under the delegated power of the head of the circle without holding any DPC.

Local adhoc officiating arrangements made by circle does not confer any right for regular promotion to the cadre. Such promotion is liable to ~~xxx~~ be terminated at any time and the adhoc promotees may be reverted to the substantive grade without any notice and without assigning any reason thereof. It may be mentioned that the Telecom commission is the appropriate appointing authority for appointment in the grade of A.O.

6. That with regard to the statement made in para 4.7, of the application the respondents beg to state that there has been irregular payment of fraudulent OTA bills amounting to Rs. 1,37,5435/- . The inquiry conducted by the CBI prima-facie reveals that the applicant while working as JAO/AAO in the office of TDE, Nagaon from 1993 to 1995, in an unholy nexus with the cashier and another official of that office, have prepared and process fake OTA bills and also facilitated payment of the fraud bills and ultimately consumed the amount by forgoing the signature in the acquaintance Rolls.

7. On the basis of the CBI enquiry report and their recommendations the member (Finance) Telecom Commission sanctioned prosecution order against Shri K.C. Saikia vide 9-45/97-Vig.I dated 07.12.97.

The C.B.I. framed charge-sheet against the applicant on the basis of the evidences collected during investigation and filed before the Court of the special judge ~~Guwahati~~ Guwahati on 18.3.98. The case is still pending in the Court.

(Copies of the sanction order dated 07.12.97 and charge sheet dated 19.03.98 are placed as Annexure - 1 and 2 respectively).

Following the above filing of charge sheet in the Court for prosecution trial, the applicant attracted the provision outline in the G.O.I. DOPT OM No.22011-4/91-Estt(A) dated 14.09.1992. Accordingly sealed cover procedure was adopted by the DPC which meet in 2000 for the promotion to the cadre of AO on all India basis.

8. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the approved departmental promotion committee met on 10.04.2000 to consider the promotion to the grade of Accounts Officer. The DPC considered the case of all AAOs falling within the zone of consideration including the present applicant. As the CBI case explained in para 4.7 above was pending in the Court for prosecution trial, the findings of DPC in respect of the applicant has been kept in sealed cover.

The applicant has suppressed the fact of his involvement in CBI case No. 15(a)/95 and the charge sheet filed against him in the court in 1998.

10.4.2000/

On the basis of the recommendation of the DPC held on 10.04.2000 the contempt appointment authority approved the promotion of 369 JAO/AAO to the cadre of AO. Order to

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this effect was issued vide GOI, DOT OM No. 10-5/99-SEA dated 05.05.2002. Pursuant to that promotion order, the CGMT, Assam (Respondent No.2) issued the follow up orders in respect of 12 officers working in Assam Circle vide his memo No. STES-6/10/Part I/2000-2001/94 dated 21.05.2000 and implemented the promotion. The fact remains that the findings of the DPC in respect of the applicant remained in sealed cover and promotion order was not issued by the DOT. However, one post of AO have been kept vacant for the applicant depending on the outcome of the court case and the findings of the DPC regarding the suitability/fitness for promotion.

9. That with regard to the statement made in para 4.9, of the application the respondents beg to state that the applicant is also involved in a CBI case No. 19-1/97-SHG which is looking into the purchase of the sub-standard materials by different fields units of DOT. The CVC examined the CBI report and found that there is material against the applicant for initiating departmental proceedings for his lapses. Accordingly, the CVC advised the departmental authority to initiate RDA against the applicant. The CGMT, Assam, as the Disciplinary Authority as prescribed in Rule-11 of CCS(CCA) Rules, has applied his mind to the case keeping in mind the advice of CVC. It is his considered opinion that the materials on record suggest that the applicant by his wrongful action has contributed to the loss suffered by the department and there is sufficient materials against him to initiate a formal departmental proceedings against him.

Accordingly the CGMT, issued a charge sheet under Rule-14 of CCS(CCA) Rules vide No. Vig/Assam/Disc-xiii/42 dated 19.02.2002. The applicant has denied the charges vide his representation, dated 26.03.2002. On consideration of the representation it has been decided to conduct an inquiry under Rule-14 and I.O. and P.O. has been appointed on 18.06.2002. The Inquiry has remained inconclusive.

The applicant has deliberately suppressed the above fact.

10. That with regard to the statement made in para 4.10 of the application the respondents beg to state that the case referred to by the applicant in para 4.10 is not clear as he omitted to cite the case number. As already submitted in foregoing para a charge-sheet was filed against the applicant in the Court of Special Judge Guwahati in 1998 and the same is still pending. When the promotion of the applicant came up for consideration in 2000 in the Court case was pending against him and the sealed cover procedure was correctly adopted in his case in term of QM dated 14.09.92.

11. That with ~~regard~~ regard to the statement made in para 4.11, of the application the respondents beg to state that the case of the applicant was duly considered by the D.P.C. in correct prospective and the findings has been kept in sealed cover as the prosecution for criminal charge was pending in the court of law. The case has remained pending till the date of filing this reply. Moreover a departmental

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proceedings have been initiated against the applicant on a different charge by issuance of formal charge sheet on 22.03.02 and the inquiry has remained inconclusive.

The case of the applicant will be decided after the court case as well as the Departmental proceedings come to end. As a measure of abundant caution a post of AO has been kept vacant to accommodate the applicant in case he is exonerated in both the cases and there is still reason to give the benefit of retrospective promotion.

Verification.....

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

I, *Shri Shankar Chandra Das* , presently
 working as *Asstt. Director Telecom (Legal)* , being duly
 authorised and competent to sign this verification, do hereby
 solemnly affirm and state that the statements made in para
1 to 6 and 8 to 11 are true to my knowledge and belief and
 those made in para *7* being matter of records,
 are true to my information derived therefrom and the rest
 are my humble submission before this Hon'ble Tribunal. I
 have not suppressed any material fact.

And I sign this verification on this *28* th day of
 February, 2003.

Shankar Chandra Das

Declarant .
 सहायक निदेशक दूरसंचार (विधि)
 Assistant Director Telecom (Legal)
 कार्यालय, मुख्य तथा प्रमुख दूरसंचार,
 O/o The Chief Engineer, Telecom.
 असम दूरसंचार परामंडल, गुवाहाटी-7
 Assam Telecom Circle, Guwahati-7

OFFICE MEMORANDUM

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

The undersigned is directed to refer to Department of Personnel & Training OM No.22011/286-Estt.(A) dated 12th January, 1981 and subsequent instructions issued from time to time on the above subject and to say that the procedure and guidelines to be followed in the matter of promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation have been reviewed carefully. Government have also noticed the judgement dated 27.08.1991 of the Supreme Court in Union of India etc. vs. K.V. Jankinman etc. (AIR 1991 SC 2010). As a result of the review and in supersession of all the earlier instructions on the subject (referred to in the margin), the procedure to be followed in this regard by the authorities concerned is laid down in the subsequent paras of this OM for their guidance.

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

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

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

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

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

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

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

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

Prosecution for Col Charge
in pending

O.M.No.
39/39-Estt.A dt.31.8.80
728/63-Estt.A dt.22.12.84
22011/377-Estt.A dt.14.7.77
22011/179-Estt.A dt.31.1.82
22011/286-Estt.A dt.12.1.88
22011/191-Estt.A dt.31.7.91.

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

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

Procedure by subsequent DPCs.

Action after completion of disciplinary case/criminal prosecution.

Six Monthly review of "Sealed Cover" cases

S 169-Release
Accd. in
Ev. Dept.
S 170 cases to be sent to Mag when Ev. Supplm. S 190(a)(b)(c)

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

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

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

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

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

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

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

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

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

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

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

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

9. Hindi version will follow.

M.S. Bali
(M.S. BALI)
DIRECTOR

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

Copy forwarded for information to:-

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

M.S. Bali
(M.S. BALI)
DIRECTOR

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

(11)

Annexure-1

(36)

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No.9-45/97-VIG.I
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS

WEST BLOCK NO.1, WING-2,
GROUND FLOOR, R.K.PURAM,
NEW DELHI-110 066.

SANCTION ORDER

Whereas, it is alleged that while Shri Khagen Chandra Saikia posted and functioning as Junior Accounts Officer/ Assistant Accounts Officer (JAO/AAO) in the office of the Telecom. District Engineer, Nagaon, Assam, now AO(Cash), O/o the TDM, Imphal entered into a criminal conspiracy with Shri Monoranjan Nath, the then Senior Accountant and Shri Durlabh Chandra Das, the then bill clerk both posted under TDE, Nagaon and in pursurance thereof they committed the offence of cheating, forgery, criminal misconduct etc. The detailed facts are as under:-

2. It is alleged that Shri Durlabh Chandra Das, Bill Clerk during October, 1993 to March, 1995 has prepared false over time bills to the tune of Rs.1,37,435/- against 23 persons working in the office of the TDE, Nagaon and SDO(T) Nagaon. The persons against whom the OTA amounts are claimed did not perform over time duty. Shri D.C. Das prepared the OT bills and acquittance rolls. During the payment of genuine OT bills Shri Das included certain amounts with the genuine OTA amounts in the bills and sent for pre-checking to the accounts section ultimately for sanction from TDE, Nagaon. Shri Das also prepared acquittance rolls and showed the false OTA amounts against some selected persons from the office of the TDE, Nagaon and SDO(T), Nagaon.

(Signature)
(ए. प्रसाद/ A. PRASAD)
दस्य (वित्त) एवं सार्वजनिक विभाग, नई दिल्ली
Member (Fin.) & Secretary to the
Government of India
दूर संचार विभाग, नई दिल्ली
Deptt. of Telecom, New Delhi

It is alleged that Shri Khagen Chandra Saikia during the period from October, 1993 to March, 1995 posted and functioning as JAO/AAO under TDE, Nagaon. Shri Khagen Chandra Saikia conspired with Shri Monoranjan Nath the then Sr. Accountant did not check the OTA bills and acquittance rolls

Contd...

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though it was there prime duty to check 100% in accounts matters before sending to next higher authority for sanction. He facilitated to commit the fraud by putting his signatures on the rubber stamped seal impression "Pre-checked" on the body of the OTA bills and acquittance roll. The TDE, Nagaon on the basis of his certificate "Pre-checked" sanctioned the amounts showed in the compilation OTA bills and acquittance rolls and ultimately ordered for payment. Shri D.C. Das bill clerk received the defrauded amounts from the Cashiers Shri Mohan Chandra Deori and Shri Rudra Singh Deka worked under O/o the TDE, Nagaon and SDO(T), Nagaon by forging the signatures in acquittance rolls and distributed the ill gotten money among them. It is alleged that Shri Khagen Chandra Saikia facilitated to commit the fraud of Rs.1,37,435/- in respect of payment of OTA on ten different dates are as under:-

| Sl. No. | Date of Payment | Amount of false OTA |
|---------|-----------------|------------------------|
| 1. | 15.10.1993 | Rs. 4,918/- |
| 2. | 10.01.1994 | Rs. 2,563/- |
| 3. | 24.02.1994 | Rs.12,134/- |
| 4. | 29.03.1994 | Rs. 7,474/- |
| 5. | 13.05.1994 | Rs.13,587/- |
| 6. | 08.08.1994 | Rs.20,563/- |
| 7. | 01.10.1994 | Rs.19,832/- |
| 8. | 05.01.1995 | Rs.16,918/- |
| 9. | 09.01.1995 | Rs. 9,222/- |
| 10. | 29.03.1995 | Rs.30,224/- |

Total = Rs.1,37,435/-

(Signature)
 (ए० प्रसाद/A. PRASAD)
 सक्षय (वित्त) एवं सचिव भारत सरकार
 Member (Fin.) & Secretary to the
 Government of India
 दूर संचार विभाग, नई दिल्ली
 Deptt. of Telecom. New Delhi

Whereas, the aforesaid acts of Shri Khagen Chandra Saikia constitute offences punishable U/s 120B, 420 IPC and Sec. 13(2) r/w 13(1)(d) of PC Act, 1988.

5. And whereas, I, Akhileshwar Prasad, Member(Finance), Telecom. Commission, competent to remove Shri Khagen Chandra Saikia from service, on careful examination of facts, circumstances, evidences and materials produced before me

Contd...

भारोप-पत्र

CHARGE SHEET

S.P.E.C-V

19

18.3.98

| 1 Name and address of accused persons नाम और पता (अपराधी) के आरोपी | 2 Names and addresses of accused persons not sent up for trial whether arrested or not arrested, including absconders (show absconders in red ink) | 3 Property (including weapons) found with particulars of where, when and by whom found and whether forwarded or not to Magistrate | 4 Names and addresses of witnesses | 5 Charge or information, names of offence and circumstances connected with it, in concise details, and under what section of law charged |
|---|---|--|---------------------------------------|--|
| 1. Khagen Ch. Saikia, Lt. T. Lak. Ch. Saikia, -Uttar Patbaraha, -Phulaguri, -Raha, Nagaon (Assam). | NIL | As per enclosed list: ₹ 2,41,000/- -₹ 2,00,000/- -₹ 40,000/- -₹ 1,000/- | As per enclosed list. | The brief fact of the case as alleged is that while Sri. Durilabh Ch. Das, TAO Post and functioning as bill clerk in the O/O the Telecom District Engineer (TDE), Nagaon, Assam entered into a criminal conspiracy with S/ Sri. Mohan Ch. Deuri, Divisional Cashier in the O/O the TDE, Nagaon, Rudra Singh Deka, Cashier in O/O the SDO(T) Nagaon, Manoranjan Nath, the then Sr. Accountant in the O/O the TDE, Nagaon and Sri. Khagen Ch. Saikia, the then Junior Accounts Officer/Asstt. Accounts Officer (JAO/AAO) in the Office of the TDE, Nagaon now A.O. (C) O/O the TDE, Imphal and in pursuance thereof committed the offence of cheating, criminal misconduct etc. It is alleged that Sri. Durilabh Ch. Das, bill clerk during the period from Oct. 1993 to March, 1995 has prepared false overtime bills to the tune of Rs. 1,37,435/- against 23 persons working in the office of the TDE, Nagaon and SDO(T), Nagaon. The persons against whom the OTA amounts are claimed did not performed overtime duty. Sri. Durilabh Ch. Das prepared the O.T. bills and acquittance roll himself. During the preparation of genuine OT bills Sri. Das included certain amounts with the genuine OTA amounts in the bills and sent for pre-checking to the accounts Section ultimately for sanction from TDE, Nagaon. Sri. Das also prepared acquittance rolls and showed the false OTA |

Despatched at _____ बने घंटे/पं. में भेजा गया _____ a.m./p.m. _____

NATURE OF INVESTIGATING OFFICER _____

amounts against some selected persons from the office of the TDE and SDO(T), Nagaon.

It is alleged that Sri. Khagen Ch. Saikia during the period from Oct, 1993 to March, 1995 posted as JAQ/AAO under TDE, Nagaon. Sri. Saikia conspired with Sri. Durilabh Ch. Das and Sri. Manoranjan Ch. Das, the Sr. Accountant did not check the OTA bills and acquittance rolls though it was their prime duty to check 100% in accounts matters before sending to next higher authority for sanction. He facilitated to commit the fraud by putting his signatures on the rubber stamped seal impression "Pre-Checked" on the body of the OTA bills and acquittance rolls. The TDE, Nagaon on the basis of his certificates "Pre-Checked" sanctioned the amount showed in the compilation OTA bills and acquittance rolls and ultimately ordered for payment. Sri. Durilabh Ch. Das bill Clerk received the defrauded amounts from the Cashier Sri. Mohan Ch. Deuri and Sri. Rudra Singh Deo worked under office of the TDE, Nagaon and SDO(T), Nagaon by forging the signatures in acquittance rolls and distributed the ill-gotten money among them. It is alleged that Sri. Khagen Ch. Saikia facilitated to commit the fraud of Rs. 1,37,435/- in respect of payment of OTA on ten different dates as under.

| Sl. No. | Date of payment | Amount of false O.T.A. |
|----------------|-----------------|------------------------|
| 1. | 15/10/93 | Rs. 4,918/- |
| 2. | 10/01/94 | Rs. 2,553/- |
| 3. | 24/02/94 | Rs. 12,134/- |
| 4. | 29/03/94 | Rs. 7,474/- |
| 5. | 13/05/94 | Rs. 13,587/- |
| 6. | 08/08/94 | Rs. 20,563/- |
| 7. | 01/10/94 | Rs. 19,832/- |
| 8. | 05/01/95 | Rs. 16,918/- |
| 9. | 09/01/95 | Rs. 9,222/- |
| 10. | 29/03/95 | Rs. 30,224/- |
| Total:- | | Rs. 1,37,435/- |

The expenses incurred pertains to Criminal case - a proceeding instituted & carried on by the court before a competent court for the purpose & determine the guilt or innocence of the person named with law.

During the investigation a prima facie case U/S 120B, 420, 468, 471, 477A of IPC and Sec. 13(2) r/w 13(1) (d) of P.C. Act, 1988 is well established against the said suspect.

I therefore, sent him to face trial in the court of law under the said sections of law. The other accused namely S/Sri. Durilabh Ch. Das, S/O Lt. Sara Kanta Das, Mohan Ch. Deuri, S/O Lt. Uresh Ch. Deuri, Rudra Singh Deak, S/O Lt. Ganga Ram Deak and Manoranjan Nath, S/O Ly. Jogen Ch. Nath have already been sent them to face trial in the court wide charge sheet No. 34 dtd. 17/12/96 in the same F.I.R. No. RC.15(A)/95-SHO dtd. 16/08/95. The witnesses and documents as per list enclosed will prove the case. The accused is not arrested during investigation.

It is, therefore, prayed that process may kindly be issued to ensure his attendance in the Hon'ble Court along with other accused persons mentioned in Charge Sheet No. 34 dtd. 17/12/96 in F.I.R. No. RC.15(A)/95-SHO dtd. 16/08/95.

Prosecution sanction order given by competent authority against Sri. Khagen Saikia is enclosed herewith. Additional oral or/and documentary evidence if any found may be allowed to be adduced.

- Submitted
- Enclosed
- 1) List of witnesses.
- 2) List of documents.
- 3) Prosecution sanction order in original (3 Sheets).

The police officer & police power is not only the power to investigate into cognizable offences but also the power to prosecute the offenders by filing a report or charge sheet U/S 173 CrPC.

(K. Barua)
Inspector, CBI, CB, GHY.

The Criminal - pertains to or connected with the law crimes or the administration & process

Prosecution - in the context means an institution or starting of process of a civil nature before a court or a Tribunal or the main administration or do post-merit tribunal. The expression "charge" under the Criminal means accusation of a crime by a formal complaint information or indictment

Taking cognizance means to become aware of where it is used with reference to a court or judge to take notice judicially. At the time of charge framing stage, the court takes into account the allegations made of the evidence collected by police. By doing that the court is informed by the exact nature of the charges brought against the accused.