

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 20/03
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s): Abdul Bassate Md Fazna & Sons

- Vs. -

Respondent(s): H. O. I. Sons

Advocate for the Applicant(s): D. K. Das.

Advocate for the Respondent(s): C. G. S. L.

Notes of the Registry	Date	Order of the Tribunal
Application is filed but not in the form of a petition Date of filing : 1.2.2003 File No. : 76605383 Dated : 1.2.03 <i>Abdul Bassate Md Fazna & Sons</i> By : <i>Mr. Registrar</i>	7.02.2003	<p>Present : The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S. K. Hajra, Member (A).</p> <p>Heard Mr. D. K. Das, learned counsel for the applicants.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>List the matter on 10.3.2003 for admission.</p> <p>Pendency of this applica- tion shall not be a bar on the respondents for initiating the selection process.</p>

Steps taken without
envelope.

Abdul Bassate Md Fazna & Sons
Notice prepared and sent
to D. K. Das for calling the
respondent No. 1 to be
Regd. A.D. 13/2

mb

*Sub
Member*

Vice-Chairman

D/No. 239 to 242 ad. 12/2/03

No reply has been
recd.

7.3.03

10.3.2003

Heard Mr.D.K.Das, learned counsel for the applicant, Mrs.M.Das, learned Govt. Advocate for the State of Assam and Mr.A.K.Chaudhuri, learned Addl.C.G.S.C.

List again on 2.4.2003 enabling the respondents to obtain necessary instruction on the matter.

1.4.03

WJS informed
by the Reporter MJ

124.

bb

2.4.2003

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Q.C. comply order
dated 2.4.03.

WJS
7/4/03.

nkm

Vice-Chairman

10.4.2003

Copy of the Judgment
has been sent P to
the D/Secy. for issuing
the same to the applicant
as well as to the
L/AAdvocates for the
Respondents.

AB

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXXX~~ No. 20 of 2003

(At Admission Stage)

DATE OF DECISION 2.4.2003
LAW OF INDIA

Abdul Bassar Md Eunis, ACS and 5 others APPLICANT(S).

Mr D.K. Das ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others RESPONDENT(S).

Mr A.K. Chaudhuri, Addl. C.G.S.C. and
Mrs M. Das, Government Advocate, Assam ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see *7-4* 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 ?

AC
h

Judgment delivered by Ho'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.20 of 2003

Date of decision: This the 2nd day of April 2003
(At Admission Stage)

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

1. Abdul Bassar Md. Eunis, ACS
Director, Municipal Administration,
Assam.
2. Shri Gokul Ch. Sarma, ACS
Joint Secretary, Labour & Employment Department,
Government of Assam.
3. Shri Barendra Basumatary, ACS
Director, Tourism, Assam.
4. Shri Subhash Longmailai, ACS
Principal Secretary,
Lalung Tiwa Autonomous Council.
5. Dr Rafiquz Zaman, ACS
Director, Public Enterprise, Assam.
6. Syed Iftikar Hussain, ACS
Deputy Commissioner,
North Cachar Hills District.Applicants

By Advocate Mr D.K. Das.

- versus -

1. The Union of India through the
Secretary to the Government of India,
Department of Personnel & Training,
New Delhi.
2. The Union Public Service Commission,
Represented by its Chairman,
Dhalpur House, Shahjahanbad, New Delhi.
3. The State of Assam, through the
Chief Secretary,
Government of Assam, Dispur, Guwahati.
4. The Principal Secretary,
Personnel (A) Department,
Government of Assam,
Dispur, Guwahati.Respondents

By Advocates Mr A.K. Chaudhuri, Addl. C.G.S.C.
and Mrs M. Das, Government Advocate, Assam.

.....



O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The issue relates to appointment by promotion to the Indian Administrative Service (IAS for short) in conformity with the Provisions contained in the IAS (Appointment by Promotion) Regulations, 1955.

2. The six applicants in this application contended, inter alia that on the face of eight vacancies as on 1.1.2002, the respondents failed to take initiative for convening a meeting of the Selection Committee which was to be held in the year 2002, which seriously prejudiced the career progression of the applicants.

3. The Union Public Service Commission (UPSC for short) in its written statement stated that for the year 2002 no proposal was sent by the State Government upto 31.12.2002 when the Selection Committee meeting was to have been held. In the written statement the UPSC also stated that the State Government did not furnish the requisite proposal by 31.12.2002 and nor had the vacancies been determined by the Government of India. AS such, the meeting of the Selection Committee for preparation of the Select List of 2002 for selection of SCS officers of Assam for promotion to the IAS of Assam-Meghalaya Joint Cadre could not be held during the year 2002.

4. The State respondents filed their written statement and amongst others stated that steps are being taken for convening the meeting of the Selection Committee and the same is under process.

5. I have heard Mr D.K. Das, learned counsel for the applicants, Mr A.K. Chaudhuri, learned Addl. C.G.S.C. on behalf of the UPSC and Mrs M. Das, learned Government Advocate for the State of Assam. The learned counsel for the respondents stated that there was some delay also in processing the matter in view of the interim order passed by the High Court in a Writ Petition and subsequently steps have been taken for processing the case in view of the interim order of the High Court.

6. In view of the facts and circumstances of the case, I am of the opinion that it would not be proper to pass any order at this stage since the authority has assiduously taken steps for holding the Selection Committee meeting. Already, a considerable delay has taken place in not holding the meeting in time. Therefore, it is expected from all the respondents that they will discharge their statutory duties with utmost expedition, which will serve not only the interests of the applicants, but will also serve the public interest.

7. With the above observations the application stands disposed of.



(D. N. CHOWDHURY)
VICE-CHAIRMAN

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
8

5 FEB 2003

गुवाहाटी न्यायालय

Guwahati Bench

THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
AT GUWAHATI

C.A. NO. 20 /2003

Abdul Bassar Md Eunus & others,

...Applicants

-Versus-

The Union of India & Ors.

...Respondents

LIST OF DATES

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Filed by:

SKD
Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
AT GUWAHATI

Filed by applicants
through Subsidiary to the
Advocate 5/2/03

C. A. NO. 20 /2003

BETWEEN

1. Abul Bassar Md. Elias, ACS,
Director, Municipal Administration, Assam.
2. Sri Gokul Ch. Sarma, ACS, Joint Secretary,
Labour & Employment Deptt., Govt. of Assam.
3. Sri Balendra Basumatary, ACS, Director,
Tourism, Assam.
4. Sri Subhash Longmaitai, ACS, Principal Secretary,
Lalung Tura Autonomous Council.
5. Dr. Rafiquzz Zaman, ACS, Director,
Public Enterprise, Assam.
6. Syed Iftikar Hussain, ACS, Deputy Commissioner,
North Cachar Hills District.

..APPLICANTS

~VERSUS~

1. The Union of India,
through the Secretary to the Govt. of India,
Department of Personnel & Training, New Delhi.
2. The Union Public Service Commission, represented
by its Chairman, Bhalpur House, Sahibabad, New Delhi.
3. The State of Assam, through the Chief Secretary,
Govt. of Assam, Bisupur, Guwahati -6.

4. The Principal Secretary, Personnel (A) Deptt.,
Govt. of Assam, Dispur, Guwahati.

..RESPONDENTS

DETAILS OF APPLICATION

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

The present application is not directed against any specific order and the same is being preferred for a direction to the Respondents to convene a meeting of the selection committee towards preparation of the select list for the year 2002 for promotion to the Indian Administrative Service (IAS) from eligible officers of State Civil Service Class-I of Assam as envisaged under the Indian Administrative Service (Recruitment) Rules, 1954 and Indian Administrative Service (Appointment by Promotion) Regulation, 1955.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application for which they want redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATIONS:

The applicants further declare that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicants are Class-I Officers of the State Government and belong to the Assam Civil Service (ACS). In the present case, the Applicants have a common grievance arising out of a common cause of action. Hence, the Applicants have common interest in the matter. The Hon'ble Tribunal may be pleased to allow the applicants to file the present application jointly in terms of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.2 That the applicant No.1 belongs to ACS of 1977 batch and his position being at serial No. 5 of the seniority list of ACS Officer's and is at present holding the post of Director, Municipal Administration, Assam. The Applicant No. 2 belongs to ACS of 1975 batch and his position is a serial No.1 of the seniority list of ACS and is at present holding the post of Joint Secretary, Labour and Employment Deptt. Govt. of Assam. The Applicant No.3 belongs to the 1977 ACS batch and his position is at serial No.7 of the Seniority List of ACS Officers and is at present holding the post of Director, Tourism, Assam. The applicant No.4 belongs to ACS of 1977 batch and his position is at Serial No.9 of the Seniority List and is at present holding the post of Principal Secretary, Lalung Tiwa Autonomous Council. The Applicant No.5 belongs to the 1980 batch and his

position is 11 in the Seniority list and is at present holding the post of Director, Public Enterprise, Assam. The Applicant No.6 belongs to the 1980 batch and his position is a serial No.12 and is presently the Deputy Commissioner, North Cachar Hills, Assam.

4.3 That all the six applicants are eligible for promotion to the Indian Administrative Service in terms of the provisions of the IAS (Appointment by Promotion) Regulation, 1955, hereinafter referred to as "the Regulation".

4.4 That the present vacancy position of promotional posts for ACS to IAS (Assam Segment of Assam, Meghalaya Joint Cadres) is as follows:

9(Nine) vacancies have been filled up in 2001.

3(three) vacancies kept reserved for pendency of departmental proceeding against Sri G.C. Sarma, P.K. Das and Sri N. Haque.

5(five) vacancies due to retirement/death of officers.

Thus there are 8(eight) vacancies as on 1.1.2002.

A list showing the vacancy position of promotional posts for ACS to IAS(Assam Segment of Assam, Meghalaya Joint Cadre) is annexed herewith as Annexure - 1.

4.5 That the names of the present applicants were published in a draft gradation list of the State Civil Service officers circulated by notification dated 2nd July, 2002. In this gradation list, the name of the Applicant No.1 was shown at Sl. No. 5, the name of the Applicant No.2 at Sl. No.1, the name of the Applicant No.3 at Sl. No.7 and the name of the Applicant No. 4 was shown at Sl. No.9, the name of Applicant No. 5 Serial No.11 and Applicant No. 6 at Serial No. 12. Thus the following Applicants are within the zone of Consideration for promotion to the Indian Administrative Service (IAS).

A copy of the gradation list circulated vide notification dated 2.7.2002 is annexed hereto as Annexure - 2.

4.6 That the last meeting of the selection committee for promotion to Indian Administrative Service was held during the year, 2001. Hence, the next meeting of the said selection committee was to be held in the year 2002. However, till this very date, no process has been initiated so far for convening the meeting of the selection committee scheduled to be held in the 2002 and it is this that has greatly worried the present Applicants. These Applicants have been stagnated in their present posts for a very long time. Out of the present

applicants, the applicant No.3 is fast ^{approaching} of 54 years, he would not be eligible for consideration for promotion to Indian Administrative Service in terms of the provisions of the Regulation.

Copy of the various representation are annexed herewith as Annexure-3.

4.7 That the present applicants in their individual capacities submitted representations to the Principal Secretary to the Government of Assam, Personnel Department praying for promotion to the Indian Administrative Service and for taking appropriate steps for the year 2002. For that the Applicants No.5 and 6 submitted their respective representation on the same date i.e. 27.2.2003. The applicant No. 2,3,4 submitted their representation on 29.1.2003. The applicants in their representations ventilated their grievances in regard to non action of the competent authorities in convening the meeting of the selection committee under the provisions of the Regulations for the purpose of publication of the select list of eligible State Civil Service officers for promotion to Indian Administrative Service. The applicants stated in their representation that the meeting of the Selection Committee could not be held in 2002 because of non submission of the proposal by the State Government though there was eight promotional vacancies. From ACS to IAS for selection during 2002 and the said inaction on the part of the State Government has seriously jeopardized the promotional prospects of the applicants who are within the zone of

consideration and has entailed civil consequence and hence the applicant seeks this Hon'ble Tribunal intervention.

4.8 That Rule 8 of the IAS (Recruitment) Rules, 1954 provides for recruitment of the members of the State Civil Service to the Indian Administrative Service by method of promotion. The IAS (Appointment by Promotion) Regulation, 1955 provides for methodology for preparation of the select list of suitable State Civil Service Officers for the purpose of promotion to IAS. Under Rule 21(4) of the Regulation, year means the period commencing on the first day of January and ending on 31st day of December of the same year. The Rule 3 of the Regulation provides for constitution of the committee to make selection and the Rule 5 of the Regulation provides for preparation of the select list of suitable officers as per Rule 5(1) of the Regulation. Each committee shall ordinarily meet every year and prepare a select list of members of the State Civil Service officers as are held by them to be suitable for promotion to the service. As per Rule 5, the numbers of members of State Civil Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned and shall not exceed the number of substantive vacancy as on the 1st day of January of the year in which the meeting is held, in the post available for them under Rule 9 of the Recruitment

Rules. As per sub-rule (2) of Rule 5, the committee shall consider for inclusion in the said list the names of members of the State Civil Service in order of seniority. Proviso to sub-rule (2) states that the committee shall not consider the case of a member of the State Civil Service unless on the first January of the year in which it meets he has substantive year in the State Civil Service and has completed not less than 8 years of continuous service. Sub Rule (3) of Rule 5 also provides that the committee shall not consider the case of the members of the State Civil Service who have attained the age of 54 years on the first day of January of the year in which it meets. The Applicants crave leave of this Hon'ble Tribunal to refer to the relevant provisions of the IAS (Recruitment) Regulation, 1955 at the time of hearing of the instant case.

4.9 That it is incumbent on the official Respondents to take appropriate steps for convening the meeting of the selection committee every year to fill up the substantive vacancies in the IAS. It is stated that at present, 8 IAS posts are vacant and the vacancies are substantive vacancies within the meaning of the Regulation and the same are required to be filled up in conformity with the Recruitment Regulation. Unfortunately the official Respondents till this very date, have not taken any appropriate steps for convening the meeting of the selection committee.

4.10 That as stated earlier, out of the six applicants, the applicant No. 3 has completed 54 years of age on 1.8.2002 and if the since meeting of the selection committee was not held in the year 2002, the applicant No.2 would serious run the risk of losing the opportunity of promotion to IAS.

4.11 That all the six applicants are not only eligible for promotion to IAS in terms of the provisions of the Regulation, but they are also within the zone of consideration in terms of their seniority. The Annual Confidential Reports of the six applicants are good and if the meeting of the selection committee is held in terms of the provisions of the Regulation, then the present applicants stand a very good chance of being selected for the purpose of promotion to IAS.

4.12 That now it is a settled principle of service jurisprudence that if there are substantive vacancies and the Rules provide for holding of the selection committee every year to fill up these vacancies, then it is incumbent upon the competent authority to convene the meeting of the selection committee. Since at present there are substantive vacancies within the meaning of Regulation in the IAS posts, therefore, the official Respondents are under legal obligation to convene the meeting of the selection committee in coor-

formity with the provisions of the Regulation so that cases of the eligible State Civil Service officers who are in the zone of consideration for such promotion to the Indian Administrative Service may be considered.

4.13 That your applicant states, that, throughout the year 2002 is over and till this very date no steps have been taken by the official Respondents to convene the meeting of the selection committee for preparation of the select list for making promotion to the Indian Administrative Service and for filling up the substantive vacancies in the eight posts of Indian Administrative Service belonging to Assam Cadre, therefore, the present Applicants have come before this Hon'ble Tribunal seeking its intervention in the present case and for an appropriate direction to the official Respondents to act in conformity with the provisions of the Regulation and to convene the meeting of the selection committee for the year 2002 for making promotion to the IAS.

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4.14 That, in view of the facts and circumstances of the case, ~~expeditious~~ disposal of the O.A. is necessary inasmuch as only the year 2002 is already over and non holding of the select committee meeting during this year will seriously prejudice the interest of the present Applicants.

4.15 That the applicants file this application bonafide and for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1 Because the Official Respondents are under obligation to act in conformity with the provisions of the IAS (Recruitment) Rules and the IAS (Appointment by Promotion) Regulation.

5.2 Because it is incumbent upon the official Respondents to convene the meeting of the selection committee every year if there are substantive vacancies to be filled up. Since at present substantive vacancies are there to be filled up, the meeting of the selection committee is required to be convened in terms of IAS (Appointment by Promotion) Regulation.

5.3 Because the non action of the official respondents in the matter of convening the meeting of the selection committee tantamount to deemed refusal of acting in conformity with the provisions of IAS (Appointment by Promotion) Regulation and the same is illegal and arbitrary.

5.4 Because the Applicants have a right to be considered for promotion and the respondents have the corresponding obligation to act in conformity with the

provisions of the Regulation to fill up the substantive vacancies in the promoted posts and to consider the cases of the eligible officers for promotion who are within the zone of consideration.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants state that they have no other alternative and efficacious remedy except by way of approaching this Hon'ble Tribunal.

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

The applicants further declare 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. RELIEF SOUGHT FOR:

8.1 Direct the Respondents to convene the meeting of the selection committee in the year 2002 for carrying out the mandate of Rules 5,6, 6A, 7 and 9 of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955 so that the cases of the eligible officers (Applicants) of Assam Civil Service who are within the zone of consideration for promotion to if may be considered.

8.2 Pass such other order or orders as may be deemed fit and proper under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the O.A., be further pleased to observe that the pendency of the O.A. shall not be a bar for the official Respondents to take appropriate steps in convening the meeting of the selection committee in terms of the provisions of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955 for filling up the substantive vacancies in the Indian Administrative Service posts of Assam Cadre.

10.*****

The application is filed through Advocate.

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

(i)	I.P.O. No. :	7605383
(ii)	Date :	4.2.03
(iii)	Payable at :	Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Abul Bassar Md. Ehus, aged about 49 years, Son of Late Shamser Ali, at present Director, Municipal Administration, Assam, the applicant No. 1, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6 to 12 are true to the best of my knowledge, those made in paragraphs 4, 9, 45, 46, 47, 48 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal. I am also duly authorised to sign this verification on behalf of the other applicants and I have not suppressed any material fact.

And I sign this verification on this ^{5th day of February, 2003 at Guwahati.}

Abul Bassar Md. Ehus.

Vacancy position of promotional posts for ACS to IAS (Assam Segment of Assam Meghalaya Joint Cadres)

<u>Year</u>	<u>No. of Vacancy</u>
1998	2
1999	4
2000	4
2001	2

12

9 (Nine) vacancies have been filled up in 2001.

3 (three) vacancies kept reserved for pendency of departmental proceeding against Shri G.C.Sarma, P.K.Das and Shri N.Haque.

The following 5 (five) vacancies have arisen due to retirement/death of the following officers.

Shri D.C.Barman, IAS retired on 28.02.2001
 Shri P.Basumatary,IAS " " 31.03.2001
 Shri N.C.Barooah,IAS " " 31.5.2001
 Shri N.G.Barua,IAS " " 27.8.2001
 Shri N.K.Chetia,IAS expired on 21.7.2001

Thus there are 8 (eight) vacancies as on 1.1.2002

With regard
Sukanta
Sarkar
JG

H
Annexure 2
24

GOVERNMENT OF ASSAM
PERSONNEL (A) DEPARTMENT
ASSAM SECRETARIAT (CIVIL) DISPUR,
GUWAHATI - 781006

No. AAP.53/2002/pt/35

Dated Dispur, the 2nd July 2002.

OFFICE ORDER

The enclosed gradation list of ACS Officers revised in pursuance of the OM No. ABP.59/96/63, dated 12.3.2002 in the context of the 85th amendment of the Constitution of India is hereby published for general information.

Sd/- J. P. SAIKIA,
Commissioner & Secy. to the Govt. of Assam
Personnel (A) Department.

Memo No. AAP.53/2002/pt/35-A, Dated Dispur, the 2nd July 2002.
Copy forwarded to :-

1. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati - 29.
2. All ACS Officers.

By order etc.,

J. P. SAIKIA

(H. N. SARMA)

Under Secretary to the Govt. of Assam
Personnel (A) Department.

2/7/2002

Withdrew
Take copy

J. P. SAIKIA

17

Gradation list of A.C.S. Officers as on 1-5-2002
in pursuance of O.M.No.ABP.59/96/163 dtd. 12.3.2002

Sl. No.	Name	Qualification	Date of birth	Home Dist.	Date of entry in ACS	Caste	Remarks
1	2	3	4	5	6	7	8
1.	Shri Gokul Ch. Sarma	M.A.	1-3-48	Jorhat	13.11.75	G.	Subject to out- come of Civil Rule No. 3316/96 filled by him in the High Court.
2.	Shri Harendra Nath Bhuyan, -	M.A.	25.2.46	Lakhi pur.	1977	G.	
3.	Shri Pradip Kr. Das	M.A.	16.3.53	Cachar	1977	G.	
4.	Md. Naxul Haque	M.A.	28.2.46	Jorhat	1977	G.	
5.	A.B. Mahammad Eunus	M.A.	1.2.53	Kamrup	1977	G.	
6.	Shri Banikanta Pegu	M.A.	1.10.47	Jorhat	1977	ST(P)	
7.	Shri Balendra Basumatary	M.A.	1.8.48	Bongai- LLB.	7.5.77	(ST(P)) gaon.	
8.	Shri Bimal Kr. Hazarika	M.A.	1.3.45	Kamrup	1977	S.C.	
9.	Shri Subhash Longmai- lai.	B.A.	23.2.53	N.C. Hills	2.5.77	ST(H).	
10.	Shri Jyoti Prasad Das	B.A.	1.3.45	Kamrup	1977	S.C.	
11.	Dr. Rafiquz Zaman	M.Sc.	1.2.51	Jorhat	21.3.80	G.	
12.	Syed Iftikhar Hussain	LLB.	21.9.54	Golaghat	1980	G.	
13.	Shri Karuna Kantaw Kalita,	B.A.	1.1.50	Kamrup	10.3.80	G.	
14.	Md. Subbir Hussain	M.Sc. M.Phil.	1.1.55	Dibrugarh	1980	G.	
15.	Shri Apurba Kr. Phukan	M.A. LLB	1.4.52	Dibrugarh	1980	O.B.C.	
16.	Shri Swapnanil Barua	B.A.	21.7.56	Kamrup	8.3.80	G.	
17.	Smti. Sonmai Barua	LLB	1.1.52	Tinsukia	6.2.78	G.	
18.	Shri Santanu Thakur	B.Sc	4.11.55	Jorhat	24.3.80	G.	
19.	Shri Ganesh Ch. Kalita	M.A.	3.11.55	Sibsagar	20.3.80	G.	
20.	Shri Bhupendra Nath Das	M.A. LLB	1.11.48	Sibsagar	1980	SC.	
21.	Shri Sailendra Kumar Nath.	M.Sc.	1.1.54	Barpeta	1980	O.B.C.	

Contd. 2/-

16
be true (sp)
DX

To:

The Principal Secretary to the Govt. of Assam,
Personnel Department, Dispur, Guwahati-781006.

Sub: Promotion from ACS to IAS cadre.

Madam,

Most respectfully I beg to state that I belong to ACS of 1977 batch and my position being at serial 205 of the Seniority List of ACS Officers, there was every chance of my case being included in the select list if the selection committee meeting would have been held during the year 2002. Although there are eight promotional vacancies as on 01.01.2002, the selection meeting was not held due to non-submission of proposal from the State Government. For the above reason I have been deprived of my possible promotion on due time.

In view of the above, you are requested kindly to arrange for submission of necessary proposal to UPSC/Government of India early so that the selection committee meeting for the year 2002 could be held in the early part of 2003.

Yours faithfully,

mm
27.01.03

(A. Md. Enus)

Director, Municipal
Administration

Assam, Guwahati

Leveld to be
true (op)
AS

To:

The Principal Secretary to the Govt. of Assam,
Personnel Department, Dispur, Guwahati-781006.

Sub: Promotion from ACS to IAS cadre.

Madam,

Most respectfully I beg to state that I belong to ACS of 1975 batch and my position being at serial no / of the Seniority List of ACS Officers, there was every chance of my case being included in the select list if the selection committee meeting would have been held during the year 2002. Although there are eight promotional vacancies as on 01.01.2002, the selection meeting was not held due to non-submission of proposal from the State Government. For the above reason I have been deprived of my possible promotion on due time.

In view of the above, you are requested kindly to arrange for submission of necessary proposal to UPSC/Government of India early so that the selection committee meeting for the year 2002 could be held in the early part of 2003.

Yours faithfully,

Reee
29.1.2003.
(Dr. C. Sarma)

*St. Sury, Labour and
Employment Deptt.
SILPW*

*For W.F. to
be true copy*
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To

The Principal Secretary to the Govt. of Assam,
Personnel Department, Dispur, Guwahati-781006.

Sub: Promotion from ACS to IAS cadre.

Madam,

Most respectfully I beg to state that I belong to ACS of 1977 batch and my position being at serial 7 of the Seniority List of ACS Officers, there was every chance of my case being included in the select list if the selection committee meeting would have been held during the year 2002. Although there are eight promotional vacancies as on 01.01.2002, the selection meeting was not held due to non-submission of proposal from the State Government. In this connection, I further beg to state that I have attained 54 years of age on 1.8.2002. As such non-holding of the selection committee meeting within 31.12.2002 has affected my case of promotion and further delay in the matter is very likely to deprive me of my getting into IAS, as a candidate belonging to Scheduled Tribes Plains.

In view of the above, you are requested kindly to arrange for submission of necessary proposal to UPSC/Government of India early so that the selection committee meeting for the year 2002 could be held in the early part of 2003.

Yours faithfully,

29/11/03

(BALENDRA BASUMATARY,ACS)
DIRECTOR, TOURISM, ASSAM

*Wanted to be
true copy*

To:

The Principal Secretary to the Govt. of Assam,
Personnel Department, Dispur, Guwahati-781006.

Sub: Promotion from ACS to IAS cadre.

Madam,

Most respectfully I beg to state that I belong to ACS of 1977 batch and my position being at serial No 9 of the Seniority List of ACS Officers, there was every chance of my case being included in the select list if the selection committee meeting would have been held during the year 2002. Although there are eight promotional vacancies as on 01.01.2002, the selection meeting was not held due to non-submission of proposal from the State Government. For the above reason I have been deprived of my possible promotion on due time.

In view of the above, you are requested kindly to arrange for submission of necessary proposal to UPSC/Government of India early so that the selection committee meeting for the year 2002 could be held in the early part of 2003.

Yours faithfully,

Longmailai
(Sri S. C. Longmailai)
Principal Secy.

Tiwa Autonomous Council

Morigaon -

*With best regards
True copy*

To:

The Principal Secretary to the Govt. of Assam,
Personnel Department, Dispur, Guwahati-781006.

Sub: Promotion from ACS to IAS cadre.

Madam,

Most respectfully I beg to state the following few lines for your kind consideration and orders.

That Madam, I belong to ACS of 1980 batch. There are eight promotional vacancies from ACS to IAS for selection during 2002.

2. That Madam, the meeting for selection could have been held in 2002. But due to non-submission of the proposal by the Government the meeting is yet to be held.

3. That Madam, my name definitely comes in the zone of consideration and the selection committee could have considered my name also.

4. That Madam, delay causes injustice to everybody and as such, I request your honour to send the proposal at the earliest for holding the meeting of the selection committee for 2002 in the early part of 2003.

Yours faithfully,

R. Zaman 21-1-2003
(Dr. R. Zaman)
Director,
Public Enterprise

*Left out to be
true copy*

No. NCHG/E-SIH/2002-03/

Dated Haflong the 27th Jan/03

To

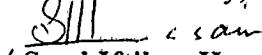
The Principal Secretary,
Personnel (A) Deptt.
Govt. of Assam
Dispur, Guwahati-6

Sub: *Request to expedite the sending of Selection Zone List for nomination to the IAS against vacancies.*

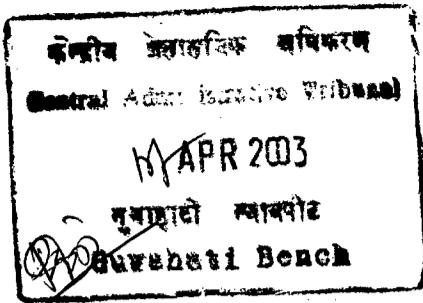
Mme.,

May I take this opportunity to apprise you that I joined the ACS-I in the year 1980 and since then I have been serving the Govt. in various capacities. Now perhaps I have become eligible for nomination to the IAS. But it is learnt that the selection zone list for nomination to the IAS against filling up of vacancies pertaining to the year 2001-2002 has not yet been sent to the UPSC for which reason the Selection Committee Meeting for nomination to the IAS couldn't be held by the last 31 Dec/2002. As a result, I feel, we have been deprived of the benefit.

Therefore, may I request you to send the list without further delay so that we are not deprived further. I shall be highly grateful if you kindly look into the matter and take necessary steps.

Yours Faithfully,

(Syed Iftikar Hussain)
Deputy Commissioner.
N.C. Hills. Assam.

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the top



In the Central Administrative Tribunal, Guwahati Bench
O.A. 20/2003.

In the matter of :

O.A. 20/2003

Abdul Bassar, Md. Eunus & ors.

.....Applicants

- VS -

Union of India & ors.

.....Respondents

- AND -

In the matter of :

Written statement on behalf of the state of Assam, Respondent No.1 (represented by the Chief Secretary to the Govt. of Assam) and the Principal Secretary, Personnel (A) Department Govt. of Assam, Respondent No.4.

(Written Statement on behalf of Respondent No.1 and 4 to the application filed by the applicant).

I, Shri Naresh Ch. Misra son of Late Basudev Misra, Deputy Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6 do hereby solemnly state as follows :-

1. That I am the Deputy Secretary to the Govt. of Assam, Personnel (A) Department. Copies of the aforesaid application have been served upon the respondent Nos. 1 and 4. I perused the same and understood the contents thereof. I have been authorised to file this written statement

N. Ch. Misra
31/03/03
Executive Magistrate,
Baras, Guwahati

Contd.....2

Filed by:-
The State of Assam & any
Respondent No.1 & No.4
through
Naresh Ch. Misra, Magistrate, D.A.P.
(Secty to the Govt. of Assam)
14/10/03

before this Hon'ble Tribunal . I do not admit any of the allegations/averments made in the application which are contrary to records. My statement which are not specifically admitted herein after are to be deemed as denied.

2. That in regard to the statements made in paragraphs 4.1 and 4.2 of the application the answering respondent has nothing to make comment on it as they are being matters of records and rules.

3. That in regard to the statements made in paragraph 4.3 of the application, it is stated that the selection will be made as per Rules of promotion of State Civil Service to Indian Administrative Service under the provisions of IAS (Appointment by promotion) Regulations, 1955.

4. That in regard to the statements made in paragraph 4.4 of the application the answering respondent has nothing to make comment on it as they are being matters of records.

5. That in regard to the statements made in paragraph 4.5 of the application, it is stated that names of eligible officers of state Civil Service will be included within the zone of consideration for promotion to IAS as per Rules.

6. That in regard to the statement made in paragraph 4.6 of the application it is stated that the matter for convening the

Bawali
31/03/03
Executive Magistrate
Kanpur, Gavahati

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- 3 -

selection committee is under process.

7. That in regard to the statements made in paragraph 4.7 of the application, the answering respondent begs to state that the matter for early disposal of representations are being in process and the proposal for promotion of SCS officers to IAS is being submitted.

8. That in regard to the statements made in paragraph 4.8 of the application the answering respondent has nothing to make comment on it. He, however, does not admit anything which is contrary to records.

9. That in regard to the statements made in paragraph 4.9 and 4.10 of the application, the answering respondent begs to state that, it is not true that the steps for convening the meeting for selection is not taken, in fact the steps are being taken for convening the meeting of the selection committee and the same is under process.

10. That in regard to the statements made in paragraphs 4.11 and 4.12 of the application, it is stated that the selection to IAS from SCS officers will be made from the eligible SCS officers who are in zone of consideration as per the provisions of IAS (Appointment by promotion) Regulations, 1955 and the appointment accordingly will be made who are found suitable.

B. Baruah
31/03/03
Executive Magistrate,
Kamrup, Guwahati

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Naren Ch. Mitra

- 4 -

Further for holding the selection meeting for promotion to IAS from SCS is under process.

11. That in regard to the statements made in paragraphs 4.13 and 4.14 of the application, it is humbly state that the process for holding the meeting of the selection committee for preparation of the select list for promoting the SCS officers is under process.
12. That in regard to the statements made in paragraph 4.15, the answering respondent has nothing to make comment on it.
13. That it is submitted that the instant application is a premature one and is liable to be dismissed.

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Bawal
31/03/03
Associate Magistrate
Kanrap, Guwahati

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VERIFICATION.

I, Shri Naresh Ch. Misra son of Late Basudev Misra, Deputy Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6 do hereby verify that the statements made in paragraphs 1, 3, 5, 6 to 12 are true to my knowledge ; those made in paragraph 2 and 4 are being matters of records of the case derived therefrom which I believe to be true and the rest are humble submissions before this Hon'ble Tribunal.

I have not suppressed any material facts and I have signed this verification on this the 31st - March, 2003.



Naresh Ch. Misra

Signature,

Sworn in my
presence
Naresh
31/03/03
Executive Magistrate
Kamrup, Guwahati

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA No. 20/2003

BETWEEN

ABDUL BASSAR MD EUNUS & OTHERS

... APPLICANTS

Vs.

UNION OF INDIA & OTHERS

... RESPONDENTS

SHORT REPLY STATEMENT ON BEHALF OF RESPONDENT NO.2

Reply Statement of (Ms.) Molly Tiwari posted as Under Secretary in the Union Public Service Commission, New Delhi.

2. I solemnly affirm and state that I am an officer in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and am authorised to file the present Reply on behalf of Respondent No.2. I am fully acquainted with the facts of the case as gathered from the records and stated below:

3.1 That I have read and understood the contents of the above Application and in reply I submit as under :

At the outset, it is submitted that this Reply is being filed by this Respondent to bring out the factual position in so far as it relates to the Union Public Service Commission. It is submitted that the Union Public Service Commission, being a Constitutional body, under Articles 315, to 323 of the Constitution, discharge their duties and functions assigned to them under Article 320 of the Constitution. Further, by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment Rules have been framed for the IAS/IPS/IFS. In pursuance of these Rules, the IAS (Appointment by Promotion) Regulations, 1955 (Promotion Regulations, in short) have been made. In accordance with the provisions of the said Regulations, the Selection Committee presided over by the Chairman/Member of the Union Public Service Commission,

38 makes selection of State Civil Service officers for promotion to the Indian Administrative Service. In accordance with the Promotion Regulations, the Select Lists for promotion of State Civil Service officers to the Indian Administrative Service for the years 1998, 1999, 2000 & 2001 was held on 09.04.2001. These Select Lists have since been approved and acted upon by the Govt. of India (Department of Personnel & Training). For the year 2002, no proposal had been forwarded by the State Govt. upto 31.12.2002 by when the Selection Committee Meeting was to have been held and the details of which are given in the following paragraphs.

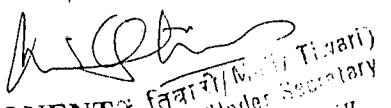
4. The main contention of the Applicants is regarding non convening of a meeting of the Selection Committee for selection of SCS officers of Assam for promotion to the IAS of Assam-Meghalaya Joint Cadre during the year 2002. In this regard it is most respectfully submitted that in terms of Rule 4(2)(b) of the IAS (Recruitment) Rules, 1954 read with Regulation 5(1) of the IAS (Appointment by Promotion) Regulations 1955 the Central Govt, in consultation with the State Government, determine the number of posts for recruitment by promotion of State Civil Service officers to the Indian Administrative Service each year. It is only after the vacancies have been determined by the Govt. of India that the State Government furnish a proposal to the Commission. Only after receipt of such a proposal that necessary steps are initiated by the Commission for convening a meeting of the Selection Committee. In the instant case, this Respondent had requested the State Government vide DO letter dated 29.05.2002 and subsequent reminders dated 05.09.2002 and 02.12.2002, to furnish the requisite proposal for promotion of State Civil Service officers to the Indian Administrative Service. It is also observed from our records that the Govt. of India, DOP&T did not determine the number of vacancies in the promotion quota of IAS for the year 2002. Further, the State Government vide their letter No. AAI.2/2002/24 dated 27.9.2002 intimated that the proposal relating to determination of vacancies and proposal for the year 2002 in respect of IAS(SCS) and IAS (Non-SCS) were delayed since the Hon'ble High Court had temporarily stayed the Assam Civil Service Gradation List. The State Government further informed the Commission in their letter dated 06.11.2002 that they were processing the case in view of the

Interim Orders of the Hon'ble High Court, Guwahati and the submissions of the State Government in this regard may also kindly be referred.

5. As brought out above, the State Government did not furnish the requisite proposal by 31.12.2002 and nor had the vacancies been determined by the Govt. of India. As such, it is humbly submitted that a meeting of the Selection Committee for preparation of the Select List of 2002 for selection of SCS officers of Assam for promotion to the IAS of Assam-Meghalaya Joint Cadre could not be held during the year 2002. The submissions of the Central Government and State Government in this regard may also kindly be referred to.

6. It is further submitted that in terms of the provisions of the amended Promotion Regulations, the Select List of 2002 will be prepared by the Selection Committee alongwith the Select List of 2003 after the vacancies have been determined and the necessary proposals are received from the State Government. As such, the submissions being made by the State Government and the Central Government in this regard may also kindly be referred to.

7. It is humbly submitted that in view of the above submissions as also the submissions made by the State Govt. and the Central Government in this regard, the Hon'ble Tribunal may be pleased to pass appropriate orders.


DEPONENT (Ms.) Molly Tiwari
 M.A. (Hons) / Under Secretary
 Ministry of Civil Aviation
 Government of India
 14th Floor, Safdarjung Enclave
 New Delhi - 110 050
 (Ms.) Molly Tiwari (New Delhi)

VERIFICATION

I, (Ms.) Molly Tiwari, do hereby declare that the contents of the above Short Reply Statement are believed by me to be true based on the records of the case. No part of it is false and nothing has been concealed therefrom.

Verified at New Delhi on 25th March, 2003.


DEPONENT