

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
CD MP 60/05 order page-1 dt 25.2.05 O.A/T.A No. 281/2003
R.A/C.P No.....
12) MP 61/05 order page-1 dt 25.2.05 E.P/M.A No.....

1. Orders Sheet..... O.A Pg. 1 to 5
2. Judgment/Order dtd 8/12/2004 Pg. 1 to 3 AD
3. Judgment & Order dtd Received from H.C/Supreme Court
4. O.A..... 281/03 Pg. 1 to 87
5. E.P/M.P. 60/05 Pg. 1 to 7
MP 61/05 page 1 to 6
6. R.A/C.P..... Pg. 1 to 11
- ✓ 7. W.S..... Pg. to
- ✓ 8. Rejoinder..... Pg. 1 to 12
9. Reply..... Pg. 1 to 3
10. Any other Papers..... Pg. to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Salil
20/11/17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Applection. No:- 281/03

Mise Petition No: _____

Contempt Petition No: _____

Review Applection No: _____

Name of the Applecant(s): P.R. Mishra

Name of the Respondant(s): U.O.I. Govt

Advocate for the Applecant:- M. Chanda, G.N. Chakrabarty

Advocate for the Respondat:- Case

S. N. S. S. Chaudhary

Notes of the Registry date Order of the Tribunal

Application
but not in time
admitted
ed to
in Rs
the IPO
Dated 11-11-03

96704652

Dr. Registrar
15-12-03

16.12.03 Present : The Hon'ble Sri K.V.
Prahlanan, Admn. Member.

Heard Mr M.Chanda, learned
counsel for the applicant.

Application is admitted. Issue
notice to show cause as to why this
application shall not be admitted.

List on 29.1.04 for written
statement and order.

It is ordered that status quo
shall be maintained till the return
able date.

10/12/03
Member

Notice & order dt. 16/12/03, pg
sent to D/Section for
issuing to respondent
No - 1 to 5.

Casey D/No 78-81
30/12/03
Dt. 13.1.04.

16.2.2004

Heard Mr. M. Chanda, learned counsel for the applicant.

Order dt-16/2/04
sent to the D/Section
for issuing to
both the parties.

Four weeks time is allowed to the respondents to file written statement.

List on 18.3.2004 for orders.

In the meantime, interim order dated 16.12.2003 shall continue.

K.V. Prasad
Member (A)

mb

23.2.04

Counter reply
on behalf of Respondent
Nos. 5. has been submitted

18.3.2004

List on 28.4.2004 for orders.

K.V. Prasad
Member (A)

mb

28.4.2004

Written statement has been filed by the respondent No. 5. Four weeks time is given to the other respondents to file written statement.

List on 27.5.2004 for orders.

No. 5 has been
filed.

23
26.5.04

K.V. Prasad
Member (A)

mb

27.5.2004

List again on 28.6.2004 for orders. Interim order dated 16.12.2003 shall continue.

K.V. Prasad
Member (A)

mb

21.7.04

Present: Hon'ble Mr.K.V.Sachidanandan
Judicial Member

Hon'ble Mr.K.V.Prahladan, Administrative
Member.

When the matter came up for hearing the learned counsel for the respondents submitted that he would like to file written statement.

contd/-

21.7.04. Four weeks time is granted to file written statement. Let it be done. Liberty is given to the applicant to file rejoinder if any, within two weeks. List on 25.8.04 for orders.

Interim order shall continue.

[Signature]
Member(A)

[Signature]
Member(J)

order dt. 21/7/04
Sent to D/Section
for issuing to
the learned counsel
for both parties.

lm

25.8.04.

Present: Hon'ble Mr.D.C.Verma,
Vice-Chairman.

Hon'ble Mr.K.V.Prahladan, Admini-
strative Member.

Heard learned counsel for
the parties.

Reply has been filed by the
Respondents.No.5. Mr.A.Deb Roy,
Sr.C.G.S.C. on behalf of Respondent
No.1 prays for time to file counter.
Prayer is allowed. List on 4.10.04.
for orders. Interim orders shall
continue.

[Signature]
Member

[Signature]
Vice-Chairman

NO counter has been
filed by the Respondents
No. 1 to 4.

1/10/04

1) Counter reply filed
on R-5.

2) S/R is awaited for
R-1-4.

3) NO A/D cards received
by this Registry.

lm

4.10.2004 Present : The Hon'ble Mr. Justice R.K.
Batta, Vice-Chairman.

The Hon'ble Mr. K.V.Prahladan,
Member (A).

Mr. M. Chanda, learned counsel for
the applicant and Mr. A. Deb Roy, learned
Sr. C.G.S.C. for the respondents were
present.

Mr. A. Deb Roy, learned Sr. C.G.S.C.
for the respondents states that written
statement has been handed over for vetting
to one of the official of Respondent No. 4
on 21st April, 2004 and he had made inquiry
with the same person on 1.9.2004 and was
informed that matter has been sent, but
the same has not ~~be~~ received. The matter is
pending from 16.2.2004 for the purpose of
filing written statement. Thereafter, the
matter came up for hearing on 28.4.2004,

[Signature]

Contd/-

Contd/-

4.10.2004 27.8.2004, 21.7.2004, 25.8.2004 and today. In spite of that no written statement has been filed so far by any respondents except Respondent No. 5. Mr. Deb Roy, learned Sr. C.G. S.C. for the respondents stated that respondent No. 4 shall file written statement on behalf of the respondents No. 1 to 4. In the circumstances, last and final adjournment is granted for filing written statement subject to payment of costs of Rs. 500/- by the Respondents to the applicant. Payment of cost is condition precedent for granting adjournment and costs are to be deposited/paid to the applicant on or before the next date. ~~If no written statement has been filed on or before the next date, the Respondents No. 1 to 4 shall not be permitted to file written statement.~~ *If cost are not paid/deposited*

Stand over to 10.11.2004. Interim order to continue till the next date.

[Signature]
Member (A)

[Signature]
Vice-Chairman

The learned counsel for the applicant has stated that a cost of Rs. 500/- has been paid. Learned Sr.C.G.S. C Mr. A. Deb Roy written statement will be filed ^{today}. The applicant in case so desires, may file rejoinder within four weeks from to-day with advance copy to the learned counsel for the respondents. Matter be listed for hearing on 8th December at Shillong.

[Signature]
Member

[Signature]
Vice-Chairman

Pl. comply order dated 4/10/04.

6/10/04

6/10/04

6/10/04

9-11-04

4 Counter reply filed
09-12-2005

mb

10.11.04.

5/12-2004

16-11-04

W/s Submitted by the Respondents.

7-12-04

W/S & Rejoinder filed
1m

1m

8.12.2004
Shillong

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

The Application is disposed of in terms of the order. No costs.

[Signature]
Member

[Signature]
Vice-Chairman

bb

3.5.05.

Present: Hon'ble Mr. Justice G. Sivarajan,
Vice-Chairman.
Hon'ble Mr. K. V. Prahladan, Administrative Member.

This application was disposed of by order dated 8.1.04 with certain directions and the case is posed for reporting compliance. The applicant has filed the M.P. to bring on records the cancellation of the order impugned in the application.

Mr. M. Chanda learned counsel for the applicant submits that in view of the cancellation of the impugned order by the Respondents themselves nothing survives.

We have heard Ms. U. Das learned Addl. C.G.S.C appearing for the Respondents also.

In the circumstances the matter is closed.

[Signature]
Member

[Signature]
Vice-Chairman

1m

23.12.04

Copy of the order has been sent to the office for issuing the order to the applicant as well as to the R.C.G.S.C for the Respondents.

2-5-05

Copy of the judgment at 8-12-04 served on the Respondents/ SR-C.G.S.C. Mr. A. Deb Roy, O.A. 5-1-05. No compliance report submitted so far.

[Signature]

Received
when
Addl C.G.S.C.
6/5/05

6.5.05

Copy of the order has been sent to the office for issuing the order to the L/Advocate for the Applicant.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./XXA.No. 281 of 2003.

DATE OF DECISION 8.12.2004.

Shri Prem Kumar Misra

APPLICANT(S)

Mr.M.Chanda, Mr.G.N.Chakraborty, Mr.S.Nath &ADVOCATE FOR THE
.....Mr.S.Choudhury.....APPLICANT(S).

-VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE R.K.BATTA, VICE CHAIRMAN.

THE HON'BLE MR. K.V.PRAHLADAN, 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 Hon'ble Vice-Chairman.

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 281 of 2003.

Date of Order : This, the 8th Day of December, 2004.
(At Shillong)

THE HON'BLE SHRI JUSTICE R. K. BATTA, VICE CHAIRMAN.

THE HON'BLE SHRI K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Prem Kumar Misra
AEE (QS&C), P-275/2, OMQ
Eastern Air Command Complex
Shillong.

. Applicant.

By Advocates M/s. M.Chanda, G.N.Chakraborty, S.Nath &
S.Choudhury.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence
New Delhi.

2. The Engineer-in-Chief
AHQ, DHQ PO
New Delhi.

3. The Chief Engineer
HQ, Eastern Command
kolkata.

4. The Chief Engineer (Air Force)
Shillong Zone
Shillong.

5. Union Public Service Commission
(Through it's Chairman)
11, Dholpur House
Shahjahan Road
New Delhi.

. Respondents.

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

O R D E R (ORAL)

BATTA, J.(V.C.) :

The applicant seeks restraint on operation and implementation of letter dated 9.10.2003 referred to in letter dated 18.11.2003 issued by the respondent no.2 and 4 Authority Commands holding that the applicant is not eligible for promotion to the Grade of ASW and directing deletion of name of the applicant and also the process of deleting the name of the applicant from the panel of Assistant Surveyor of Works.

2. We have heard Mr M.Chanda, learned counsel for the applicant as well asd Mr A.Deb Roy, learned Sr.C.G.S.C. for

R 11

Contd./2

the respondents.

3. Learned counsel for the applicant has submitted before us that the controversy in the present application is fully covered by the decision of the Division Bench of Madras Central Administrative Tribunal in as much as the order which was questioned in the matter before the Madras Bench is same i.e. to say letter dated 9.10.2003. First of all, no copy of letter dated 9.10.2003 which was in question before the Madras Bench, has been placed before us and in the absence of the same it will be difficult to come to a conclusion that the said letter dated 9.10.2003 in question before the Madras Bench was identical to the letter dated 9.10.2003 which is in question before us. Secondly, regarding essential qualification for promotion to the post of Assistant Surveyor of Works in respect of the applicant, some dispute has been raised by learned Sr.C.G.S.C. According to him, the applicant had not completed requisite 10 years experience before holding the DPC, whereas according to the learned counsel for the applicant, the applicant had already completed 10 years before holding the DPC and also passed the examination. The grievance of the applicant is also that he was not given any opportunity before a decision was taken by the Review DPC in deleting the name of the applicant. Infact, the applicant had approached this Tribunal even before his name was deleted pursuant to order dated 9.10.2003 and this Tribunal on 16.12.2003 had granted status quo and by virtue of which the applicant is continuing against the post of Assistant Executive Engineer (QS&C).

4. In the facts and circumstances, we are of the opinion that the application can be disposed of with directions that the applicant may make a detailed representation in respect of his grievances in relation to letter dated 9.10.2003 and the said representation be

R

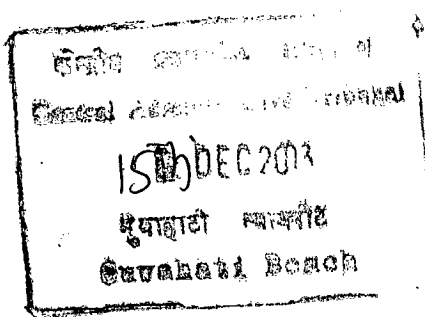
considered by the Review DPC. The applicant shall file a detailed representation within one month from today and he is free to place whatever materials deemed necessary in respect of his claim including the judgments and the Review DPC shall take a decision within a period of three months from the date of receipt of the representation by passing a reasoned and speaking order. The status quo granted by this Tribunal on 16.12.2003 shall continue till the final decision is taken by the Review DPC.

5. The application is disposed of in aforesaid terms with no order as to costs. The matter be listed for compliance to be filed by the respondents on 3.5.2005.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(R.K.BATTA)
VICE CHAIRMAN

BB



11
Filed by the
applicant through
advocate Sri G. S. Chakravarty on 15/12/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O. A. NO. 281 / 2003

Sri Prem Kumar Misra

... Applicant

-Versus-

Union of India & Others

... Respondents

Lists of dates and synopsis of the case

<u>Date</u>	<u>Synopsis of particulars in the application</u>
1980	The applicant was appointed as Surveyor, Assistant Grade-II.
09.11.87	Applicant was promoted as Surveyor Assistant Grade-I.
22.04.88	Applicant was posted at the Office of the Chief Engineer, Udampur Zone, Udampur.
Sep' 93	The applicant passed out the Final Examination in Building and Quantity Surveying from the Institute of Surveyors of India (ISI). (Annexure-B)
16.01.85	M.E.S (Surveyor of Works cadre) Recruitment Rule, 1985 was issued vide S.R.O 39. As per the said rule Surveyor Assistant Grade I is

the feeder cadre for the Assistant Executive Engineer (QS & C) (Annexure-D)

- 21.07.94 Some amendments were effected in the rules for promotion vide SRO No. 142/94 (Annexure-E).
- Oct. 1996- All India Seniority list of Surveyor Assistant Grade I was published.
(Annexure-F)
- 18.05.98- Hon'ble High Court of Jammu and Kashmir passed its order in W.P.c No. 1285/96 directing the respondents for determination of no. of vacancies which existed before the amendments of rules and to fill the same considering the writ petitioner as junior to the present applicant.
(Annexure-G).
- 11.06.01 Engineer in Chief (AHQ), DHQ issued promotion order of surveyor Assistant Grade I to the grade of Assistant Surveyor of Works. By the said promotion order the respondents authority promoted the persons junior to the applicant
(Annexure-H).
- 16.08.01 Applicant made a representation to the respondent authority for consideration of his seniority for promotion.
- 27.11.01 The applicant submitted representation to the respondent no.2. (Annexure-I).
- 06.11.01 CAT Allahabad Bench disposed O.A. No. 1229/01 filed by the applicant and other similarly situated persons, whereby the CAT directed the

respondents to dispose of the representations filed by those applicants by passing reasoned and speaking orders within a period of four months. (Annexure-J series).

27.9.02 The applicant filed C.P. No. 75/02 before the CAT, Allahabad Bench for non compliance of the order of the Tribunal dated 27.9.02. The Hon'ble CAT was pleased to grant four months time to the respondents for taking a final decision. (Annexure-J series).

21.1.03 The Engineer in Chief informed the applicant that the Review DPC fixed for 24/25.1.2003 and requested to wait for sometime. (Annexure-L).

11.2.2003 Review DPC selected 220 persons for promotion from the SA grade I to the Grade of assistant Surveyor of works against the vacancies of 1992-93 and 1993-94. (Annexure-M)

7.3.03 The applicant was promoted and posted CE (AF) Shillong as Assistant Executive Engineer (QS & C) (Annexure-N).

9.10.03 Respondent No.2 vide his order/letter held that the applicant is not eligible for promotion as recommended by the Review DPC and directed for deletion of the name of the applicant providing any opportunity to the applicant. The order

without

?

dated received by the applicant through CE (AP) Shillong's letter dated 18.11.03. (Annexure-A)

- 15.11.96 One Shri R.K. Gupta was reverted from the post of Surveyor of Works (SW) to the post of Assistant Surveyor of works on the ground that he had not passed Examination from ISI. Sri R.K.Gupta filed O.A. No. 1217- JK of 1994 before the Hon'ble CAT, Chandigarh Bench against the order of reversion and the Hon'ble CAT, Changigarh Bench in its order dated 15.11.1996 directed the respondents to promote Shri R.K.Gupta from the post of ASW to SW.

PRAYER

- 8.1 to quash the impugned Letter/Order dated 9.10.2003 received through CE(AF) Shillong vide letter dated 18.11.03 issued by the Respondent No.2 and 4 Authority Commands thereby holding the applicant not eligible for promotion to the Grade of ASW and also directing deletion of name of the applicant from the panel of promotion and also to quash the process in furtherance thereto contemplated by the Respondents for deletion of name of the applicant from the panel and/or.
- 8.2 to pass any further or other Order or direction in favour of the applicant as this Hon'ble Tribunal may

deem fit and appropriate in the interest of justice and
in the circumstances of the instant case.

8.3 Costs of the application.

16

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

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

Title of the case : O. A. No 281 /2003

Sri Prem Kumar Misra : Applicant

- Versus -

Union of India & Others : Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Application	1-26
02.	----	Verification	27
03.	A	Copy of the Order dated 9.10.03	-28-
04.	B	Copy of the Letters & Certificate	-29-30-
05.	C	Copy of the Order dated 11.4.94	-31-
06.	D	Copy of the S.R.O-39 (Extract)	32-37
07.	E	Copy of the S.R.O 142/94	38-40
08.	F	Copy of the Seniority List.	41-46
09.	G	Copy of the Order dated 8.5.98.	47-49
10.	H	Copy of the Order dated 11.6.01.	50-51
11.	I (Series)	Copy of the Letters dated 16.8.01 and 27.11.01.	52-55
12.	J (Series)	Copy of the Order dated 6.11.01 and 27.9.02	56-60
13.	K	Copy of the Letter dated 18.4.02	61-62-
14.	L	Copy of the Letter dated 21.1.03	-62-
15.	M	Copy of the Order dated 11.2.03 and List of Promotion.	63-74
16.	N	Copy of the Order dated 7.3.03	75-76
17.	O	Copy of the Order dated 1.4.03	-77-
18.	Q.	Copy of the judgment dated 16.11.96	78
19.	Q	Copy of the judgment dated 15.11.96	79-87

Date: 15.12.03.

Substantiated
Advocate

Prem Kumar Misra

17
Filed by the Applicant -
Through:- Subroda Xetia -
Advocate
15.12.17

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

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

O. A. No. 281 /2003

BETWEEN

Shri Prem Kumar Misra,
AEE (QS&C)
P-275/2,OMQ, Eastern Air Command Complex,
Shillong.

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence.
New Delhi.
2. The Engineer-in-Chief,
AHQ, DHQ PO
New Delhi.
3. The Chief Engineer
HQ, Eastern Command
Kolkata.
4. The Chief Engineer (Air Force)
Shillong Zone

Prem Kumar Misra

Shillong.

5. Union Public Service Commission
(Through it's Chairman)
11, Dholpur House
Shahajan Road,
New Delhi.

...Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

By filing the present application under Section 19 of the Administrative Tribunal Act, 1985, the Applicant challenge the impugned order/letter dated 09.10.2003 received under Chief Engineer (AF) Shillong dated 18.11.2003 of the Respondent No.2 and 4 whereby the Respondent No.2 observing that the name of the applicant and some other candidates were considered for promotion to the grade of Assistant Surveyors of Works (ASW) against the vacancies of 1992-93 and 1993-94 and wrongfully and erroneously holding that the Applicant is not eligible for promotion to the said grade as on 01.10.93 and also that the name was erroneously considered in the Review DPC and also directing to delete the name of the Applicant from the panel list. The letter herein, is annexed herewith and marked as ANNEXURE-'A'.

Raman Kumar 11/10/03

That since the competent Authority i.e. the Respondent No.5 in accordance with Recruitment Rules, guidelines and Regulations of DOPT already considered the Applicant for promotion and particularly in view of the Order dated 06.11.2001 passed by the Hon'ble CA Tribunal Allahabad Bench in O.A.No.1229/2001 and also Order dated 27.9.2002 in CP No.75/2002 in the case of Applicant, such act and conduct of the Respondent No.2 thereby directing deletion of name of the Applicant from the panel of Promotion to the Grade of Assistant Surveyors of Works (in short "ASW") is without any authority and suffers illegality and is without the sanction of law. Hence the Applicant is constrained to challenge the act of the Respondent No.1 and 2 creating device totally violative of Article 14, 16 and 19(1)(g) guaranteed in Part-III of the Constitution of India. That though the case of the applicant was considered as a special case for promotion to ASW Grade by the Respondents and time was sought before the Hon'ble Tribunal, Allahabad Bench for creating vacancies while in fact the Respondents Authorities considering the qualifications and experiences and following the notified Recruitment Rules and after due sanction of the Government has created 220 vacancies and have given the appropriate seniority to all the eligible candidates including the Applicant pursuant to the Review DPC conducted by the Respondent No.5. This fact demonstrate that initially the Respondent Authority stated having no vacancy and thereafter to

Prem Kumar Singh

hide its own lapses and to benefit the junior persons to the Applicant sanctioned/created the large of vacancies in one instance. This is merely an eye-wash because sanction/creation of 220 vacancies, all of a sudden, itself assumes that the Government was having the necessary gaps to fill up the posts during past also but because of reasons best known to it, the Government utterly failed to create the vacancies and fill the same timely, which blocked the entire pipeline Cadre for promotion including the Applicant, so it is a "Writ Large". It was the duty of the Government to create the vacancies in time and to fill up the gap in time for smooth functioning of the set up working under Respondent No.2 Authority.

The Applicant also challenge the device created by the Respondent No.2 Authority with malafide intentions on the behest of persons having vested interests despite the fact that the vacancies created by the Respondent No.2 were against the years 1992-93 and 1993-94 while the Applicant cleared his Degree in the Final Examination held in September 1993. Accordingly such act of proposed decision for demotion of the Applicant from ASW Grade is without any sanction of law.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the Order/Letter against which he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

Prem Kumar Sharma

3. Limitation.

The applicant further declares that the present O.A is being filed within the limitation period prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

That the brief facts giving rise of the present Application are detailed as hereunder:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the Applicant is employed and presently posted as Assistant Surveyors of Works (ASW) now redesignated as Assistant Executive Engineer (Quantity Surveyor & Contracts) Group-A Gazetted Post. The Applicant is presently posted under the control of Respondent No.3 and 4 at Shillong and the Respondent No.3 and 4 are directly in control and command of the Respondent No.2 Authority. The present O.A is being filed by the Applicant as the Respondent No.2 Authority by a common letter dated 09.10.2003 has directed deletion of name of the Applicant from the panel of promotions and the process is being initiated in this regard. It is categorically submitted that the Impugned Order had not

Prem Kumar

yet been executed till filing of this application and the applicant is still working as ASW.

4.3 That in the year 1980, the applicant was selected and was appointed as Surveyor Assistant Grade-II. That in pursuant to DPC held on 11.8.87 and amended subsequently on 09.11.87, the applicant was promoted as Surveyor Assistant Grade-I and was placed in position on 22.4.88 at Chief Engineer, Udhampur Zone, Udhampur in the said grade. That from time to time, the applicant was also posted to different commands and unit of Respondent Authority. During the course of employment, the applicant passed out the Final Examination in building & Quantity surveying from the Institution of Surveyors of India (ISI), New Delhi held in September 1993. The true copy of the letters and certificate issued by the Institution of Surveyors of India, New Delhi is annexed as ANNEXURE-'B'. The factum in this regard was also recorded in the records of the Respondent Authority and was specifically mentioned in Part-II Orders dated 11.4.94. The true copy of Part-II Orders dated 11.4.94 is annexed as ANNEXURE-C.

4.4 That the method of selection and recruitment to the post of Surveyor Cadre in the Military Engineering Services under the Ministry of Defence is governed by the notified Military Engineer Services (Surveyor of Works Cadre) Recruitment Rule, 1985 issued vide S.R.O No.39 dated 16.1.85 as per the said notified Rules, Surveyor Assistant Grade-I is the feeder cadre for the

Pram Kumar

Assistant Executive Engineer (QS&C), a Group-A post in the pay scale of Rs.8000-275-13500/-. The Surveyor Assistant Grade-I holding Degree in Civil Engineering from the recognized University or equivalent or having passed Final Examination of the Institute of Surveyors (India) with 5 years regular service in the grade or Surveyor Assistant Grade-I having passed Intermediate Examination Institutions of Surveyors of India or holding Diploma in Civil Engineering with 10 years regular service in the Grade are eligible for promotion for the post of ASW. The true copy of the extract of SRO-39 is annexed herewith and marked as ANNEXURE-D. It is also worth mentioning herein that under Rule 6 of the S.R.O-39, the Government was empowered to relax the Rules in consultation with UPSC. The Rule 6 is reproduced herein for the ready reference of this Hon'ble Tribunal as hereunder:

"6. Power to relax: Wherein the Central Government is of opinion that it is necessary for expedient so to do, it may by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provision of these rules with respect to any class or category of persons."

4.5 Subsequently in the said Recruitment Rule, some amendments were effected from 21.7.1994 vide S.R.O No.142/94 dated 21.7.1994 thereby amending the Rules for promotion. As per the amendment Rules, from SA-I to

Pram Kumar Singh

promotion was proposed to the post of Junior Surveyors of Works (JSW), which is a Group B post and an intermediate post, and the said post is now redesignated as Assistant Engineer (QS&C) in the scale of Rs.6500-200-10500. The next promotion was to the post of Assistant Surveyor of Works being a Group A Gazetted post and selection post. The selection is conducted by the DPC. The true copy of Extract of S.R.O.142/94 is annexed herewith and marked as ANNEXURE-E. That subsequently, the said Grades of Surveyor Assistant Grade-I and Grade-II were merged and redesignated as Junior Engineer (Quantity Surveying and Contracts).

- 4.6 That despite the applicant and various other Surveyor Assistant Grade-I were due for promotion to the post of Assistant Surveyors of Works (now Assistant Executive Engineer), the Respondents Authorities did not consider for promotion. Hence three persons namely Shri M.P.Sood, Shri Ramesh Chander and Shri Harjit Singh filed a Service Writ Petition No.1285/1996 in the Hon'ble High Court of Jammu & Kashmir as Harjit Singh & Others V/S Union of India and Others. That while allowing the said Writ Petition, vide order dated 18.5.1998, the Hon'ble High Court was pleased to direct the Respondents Authorities to determine the number of vacancies which existed before the amendment of Rules and to fill the same considering the said Writ Petitioners were juniors to the present applicant. In

Brown Kumar 14/8/98

the seniority list, the Respondents Authorities promoted them on the post of Assistant Surveyors of Works. True extract of Seniority List issued by the Respondents in October 1996 showing the Seniority of the Applicant and the said Writ Petitioner is annexed herewith as ANNEXURE-F (Extract). In the said List, the Writ Petitioners were at Serial No.351,352 and 354 while the applicant was at Serial No.251. The True copy of the Order dated 18.5.1998 passed by the Hon'ble High Court of Jammu & Kashmir is annexed herewith and marked as ANNEXURE-G.

- 4.7 That such administrative act of the Respondent Authorities promoting the persons juniors to the Applicant was a hostile discrimination on the part of the Respondents and it was in violation of the Recruitment Rules and guidelines of DOPT and fundamental rights guaranteed to the Applicants under the Constitution of India. The true copy of Order dated 11.6.2001 issued by the Respondent No.2 promoting four persons and other employees similarly placed with the applicant is annexed hereto as ANNEXURE-H. Having come to know such discrimination and anomalies being created by the Respondent Authority, the Applicant made a representation to the Respondent No.2 Authority for consideration his seniority for promotion. The true copies of the Letters dated 16.8.2001 and 27.11.2001 written by the applicant is annexed herewith as ANNEXURE-I (Series).

Prem Bana Mishra

4.8 That since the applicant did not receive any response from the Respondents regarding removal of anomalies, discrimination and considering the applicant and other similarly affected persons for promotion they were constrained to file an Application before the Hon'ble Central Administrative Tribunal Allahabad Bench vide O.A.No.1229/2001. That vide order dated 6.11.2001, the Hon'ble Tribunal, Allahabad Bench was pleased to dispose of the said O.A thereby directing the Respondents to dispose of the representations by passing reasoned and speaking Orders within a period of 4 months. However, despite the Order of the Hon'ble Tribunal, Allahabad Bench and reminders, the Respondents did not respond to the said representations thereby compelling the applicants to file Contempt Petition being CP No.75/2002. That in the contempt proceedings, the Respondent Authority admitted having submitted a case to the Ministry of Defence for making the vacancies available for promotion as Special case, being no vacancy was available against the year 1993-94 with them and the Respondent No.2 also submitted that the same is being proceeded in consultation with DOPT and Ministry of Finance. In view of the statement made before the Hon'ble Tribunal, Allahabad Bench, the Hon'ble Tribunal was pleased to grant to four months for taking a final decision and disposed of the said Petition vide Order dated 27.9.02. True copies of the Order dated 6.11.01 and 27.9.02 passed by the Hon'ble

Prasen Kumar Misra

Tribunal, Allahabad Bench are annexed herewith and marked as ANNEXURE-J (Series). True copy of the letter dated 18.4.2002 issued by the Respondent No.2 is also annexed herewith as ANNEXURE-K. Likewise other affected persons also filed similar applications before the different Hon'ble Benches of Central Administrative Tribunal.

4.9 That even despite having made the statement before Hon'ble Tribunal, Allahabad Bench the Respondent Authority did not take a decision and accordingly, the Applicant again made representation. However, vide letter dated 21.1.2003, the Respondent No.2 informed the applicant that the Review DPC is fixed for 24/25.1.2003 and requested to wait for some time. The true copy of the letter dated 21.1.2003 sent by the Respondent No.2 is annexed herewith as ANNEXURE-L. That after getting necessary approvals from the Government, Ministry of Finance and in consultation with DOPT set up by the Respondent No.5 proceeded the DPC and accordingly selected 220 persons for promotion from the SA Grade-I to the Grade of Assistant Surveyors of Works against the vacancies of 1992-93 and 1993-94. The true copy of the Order dated 11.2.2003 and list of promotions is annexed herewith as ANNEXURE-M (Extract). It is worth mention herein that in the panel 220, the names of four writ Petitioners were also included and they were given seniority accordingly in accordance with the Seniority List of 1.10.1996 and the names of

From Kumar 11/8/03

said Writ Petitioners are appearing after the names of the Applicant and the last name i.e. 220 is the First Writ Petitioner.

4.10 That after having verified all the qualifications, relevant documents and records etc. vide Order dated 7.3.2003, the applicant was promoted and posted to CE (AF) Shillong as Assistant Executive Engineer (QS&C). The true copies of the Orders are annexed herewith as ANNEXURE-N. The true copy of the Part-II Order dated 01.4.2003 concerning the applicant is also annexed herewith as ANNEXURE-O.

4.11 That all of sudden, the applicant has been informed through their respective Commands i.e. the Respondent No.3 and 4 that the Respondent No.2 Authority vide Order/Letter dated 9.10.2003 received through CE (AF) Shillong letter dated 18.11.03 held that the applicant is not eligible for promotion earlier recommended by Review DPC and has directed for deletion of name of the applicant and some other persons from the Panel of AEE (QS & C). The name of applicant is informed to have been placed at Serial No.7 in the said list. It is however submitted that the applicant is not given any copy of such Order/Letter and they are only informed about the extract of such Order/Letter. The applicant relies on the extract of said Order/Letter and craves leave of this Hon'ble Tribunal for summoning the original Order/Letter and relevant records from the Respondents Authorities. It is important to mention here that some

Pran Kumar Misra

other similar affected persons have also filed similar O.A before different Hon'ble Benches of Central Administrative Tribunal and the operation of the impugned Order/Letter and deletion of names/demotion has already been stayed. Copy of the Order of the Hon'ble CAT, Ernakulam Bench is annexed as ANNEXURE-P.

4.12 That such administrative act and conduct of the Respondent No.2 Authorities has shocked the applicant since the name of the applicant has been considered by Review DPC strictly as per Recruitment Rule, guidelines of DOPT and after due sanction approval from the Government and the concerned Ministries in accordance with law, the act of the Respondent No.2 Authority demonstrate that it has bent upon to brush aside all Rules and sanction of law and merely on the instance of some interested persons have contemplated such process thereby demoting the applicant. It is also not out of course to mention herein that in the whole process, the Respondent Authority even has not bothered to inform the applicant and give them an opportunity of being heard and/or to explain the correct position. Thus, such act of the Respondents is malafide, illegal and is in violation of settled principles of natural justice and equity and is nullity. Not only this, the Respondents Authorities has failed to consider the fact that for all exam even conducted by the Respondent No.5 Authority, the candidates appearing in the final

Prem Kumar

academic examination are considered eligible for the competitive Recruitment Examination/Tests.

4.13 It is also worth mentioning herein that the Respondent Authority has not even proposed any process for the persons who are Junior to the applicant and are in the said panel. That from mere perusal of the afore-referred facts and submissions, it is crystal clear that on one hand, the Respondents are promoting the Juniors just to benefit them over-lapping the Seniors and on the other hand are contemplating demotion of the applicant without sanction of law and without any authority in an arbitrary, illegal and hostile discriminatory manner and without any justification and reason. Such arbitrary and discriminatory act of the Respondents is in violation of the spirit of Article 14 and 19(i)(g) of the Constitution of India because the categorization is totally distorted by way of administrative act bye-passing the Policy resulting into creation of disparity between one personnel in status and category.

4.14 The applicant also submit that one Shri R.K.Gupta was also reverted from the post of Surveyor of Works (SW) to the post of Assistant Surveyor of Works on the ground that he had not passed the Final Examination/Direct Final Examination from Institution of Surveyors of India, New Delhi. He had filed O.A bearing No.1217-JK of 1994 before the Hon'ble Central Administrative Tribunal Chandigarh Bench circuit at

Pran Kumar Mittal

Jammu, which was decided in favour of Shri R.K.Gupta. The Hon'ble Tribunal had directed to promote Shri R.K.Gupta from the post of ASW to SW. It was further directed by Hon'ble Tribunal that the individual has been put to un-necessary litigation, mental harassment due to unwarranted and illegal action on the part of Respondent. The cost of Rs.1000.00 was awarded to Shri R.K.Gupta. The department had implemented the Judgment of Hon'ble CAT and promoted Shri R.K.Gupta as SW. A copy of the judgment is annexed as ANNEXURE-Q.

- 4.15 That it is stated that, in the instant case, the promotion order to the post of ASW has already been affected in favour of the applicant, at the instance of the Respondents. Therefore, applicant cannot be reverted, without following the procedure established by law. Moreover, panel for promotion to the post of ASW cannot be cancelled without providing any opportunity to the applicant, as such the impugned order dated 9.10.2003, communicated through letter dated 18.11.2003 is bad in law and the same are liable to be set aside and quashed.
- 4.16 That the applicant appeared in the departmental examination in the month of September 1993 i.e. well before the cut off date 1.10.1993. However, delay in publishing the result of the said Examination is beyond the control of the applicant.

Brom Kina M159

4.17 That it is stated that, the applicant is a qualified candidate declared selected and recommended by the Review DPC for promotion and as such the name of the applicant cannot be deleted at the instance of an Executive Order without following the procedure established by law, that too on a mere technical ground, without sanction of law.

4.18 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

That since the administrative action and conduct of the Respondent Authorities is highly discriminatory, unjustified, unwarranted and arbitrary and against the set principles of natural justice and equity and amounts to violation of fundamental rights guaranteed to the applicant under Article 14, 16 and 19(1)(g) of the Constitution of India, therefore, the applicant is constrained to challenge such act on the following amongst other grounds, without prejudice to each other.

5.1 Because the action of the Respondents regarding thereby holding the applicant not eligible for the promotion to the post of Assistant Surveyors of Works and directing deletion of their names from the panel is without any justification and is arbitrary, unjustified, erroneous, unwarranted and is in contravention of the Recruitment

Brem Kumar Nigam

Rules and procedures and probabilities of the case and accordingly such arbitrary action is liable to be set aside/quashed.

5.2 Because the Authorities below have failed to consider the fact that the name of the applicant was considered for the promotion as a special case and once the name was considered after due approval/sanction from the Government/concerned Ministry within the scope of notified Rules, Regulations and Guidelines, and the applicant was given promotion, the Respondents Authorities have no locus to disturb the seniority of the applicant. Thus despite the fact that the applicant has been given promotion strictly within the ambit of Rules, Regulations and Guidelines of DOPT, such Order directing deletion of names of the applicant from the panel is amounting to hostile discrimination and therefore, the impugned Order and implementation is liable to be quashed.

5.3 Because even before taking such step, the Respondents have not given any opportunity of being heard and even have not given the opportunity to explain the correct position and such conduct and act on the part of the Respondent Authority amply demonstrates that the Respondents have no justification while discriminating with the applicant as the facts of the case itself establish that the act of the Respondents is arbitrary, discriminatory and amounts to denial of fundamental rights guaranteed to the applicant under Article 14 and

Prem Kumar Mishra

19(i)(g) of the Constitution of India. Therefore, the act of the Respondents is unconstitutional and is liable to be set aside.

5.4 Because the Government/Respondent promoted the applicant and other similarly placed employees for the reason that they were suppressed by their Juniors and this anomaly had occurred to riggle out of the Contempt of the decision dated 8.5.1998 given by the Hon'ble High Court of Jammu & Kashmir is SWP No.1285/1998. Accordingly the applicant and others were promoted to remove such anomaly of suppression and also to correct the panel of ASW in accordance with the Seniority List maintained by the Respondent Authorities. It is also submitted that once the panel is reviewed by the competent Authority i.e. Respondent No.5 in accordance with the Rules, Regulations and guidelines and with the approval to disturb the same in any manner.

5.5 Because the impugned Order/Letter of the Respondent No.2 & 4 authority is otherwise also bad and unsustainable as the selection/promotion of the applicant is affected in accordance with the notified Service Rules and guidelines of DOPT. It is submitted that the promotion to the applicant is accordingly is given by exercising complete process, approval and Review DPC duly constituted by the Authority i.e., the UPSC which cannot be scuttled by an administrative act of the Respondent No.2. Thus such act and process contemplated by the Respondent No.2 is arbitrary.

Pran Kuma Mishra

illegal, malafide, unjustified and without any sanction of law and thus is nullity.

5.6 Because the administrative act of the Respondent Authority is bad and is liable to be quashed as in the case of the applicant before the Hon'ble Tribunal Allahabad Bench as submitted in the facts of the case herein above, the Respondent No.2 delayed the process of final decision of Hon'ble Tribunal, Allahabad Bench passed in O.A.No.1229/01 on 6.11.01 and CP.No.75/2002 dated 29.9.2002 and on representation the applicant relied that his case is being considered as a Special Case and the Respondent made statement before the Hon'ble Tribunal, Allahabad Bench and thereafter admitted that the process is taking time which is overlapping the span of period granted under the final orders of Hon'ble Tribunal, Allahabad Bench. Thus such conduct of the Respondents is otherwise also contemptuous act thereby defying the Orders of Hon'ble Tribunal, Allahabad Bench and also making false statements before the Hon'ble Tribunal. Therefore, the applicant craves leave of this Hon'ble Tribunal to take appropriate steps against the Respondents, if need arise.

5.7 Because the action of holding the applicant not eligible for promotion and also directing deletion of name of the applicant from the panel under the pretext that it is for rectifying the error committed by Review

From Kinner More

DPC is not legally sustainable. It is submitted that since no error is committed by Review DPC, there is no question of deletion of name of the applicant. Moreover, the Respondent No.2 is not the superior body over and above the Respondent No.5 to reverse the decision of the competent authority, which is duly approved by the Government.

- 5.8 Because of the act being taken by the Respondent Authority is liable be quashed/set aside as in the Hon'ble High Court of Jammu & Kashmir in SWP No.1285/1998, the Respondent No.2 submitted having existence of no vacancy against the year 1993-94 while the Respondent No.2 promoted the said Writ Petitioner vide Order dated 21.6.2001 while suppressing more than 200 persons superior to them. Not only this, when the applicant and other filed the application before Hon'ble Tribunal, pursuant to the decision, the Respondents states having requested the Ministry of creation of vacancy for considering the case of the applicant as a special case, the Respondents all of a sudden created 220 vacancies just to adjust the said Writ Petitioner being junior to the applicant in the said panel of ASW. Thus, the acts and conduct of the Respondents amply demonstrate that the Respondent Authority have adopted the policy of choose and pick and thus benefiting persons of its choice violating all the principles and Regulations. Thus act and conduct of the Respondents is liable to be struck down.

Ram Kumar Singh

5.9 Because even in another case being O.A.No.802/2001 before the Hon'ble Central Administrative Tribunal, Ernakulam Bench, the Respondents stated "No Vacancy" against the year 1993-94. Subsequently, the Authorities also informed that "For making vacancies available for promotion from SA Grade-I to ASW is under active consideration." Further, it is understood that the Respondent No.2 intimated the Respondent No.5 herein that the officers promoted as ASW have been considered as per judgment of the Hon'ble High Court of Jammu & Kashmir and therefore, they cannot be reverted if the review is restricted to the vacancy for the year 1992-93 and 1993-94. In its communication, the Respondent No.2 also admitted that "in order to accommodated the officers so recommended (Review DPC) in excess of the vacancies of 92-93 and 93-94". Thus it is clear that Juniors to the applicant were given promotion to the post of ASW in the vacancies available during the period 1992-93 and 1993-94.

5.10 Because when the Review DPC met, it is understood that the promotions have been approved to the grade of ASW for the vacancies 1992-93 and 1993-94. As per law laid down by different Hon'ble Court in number of judicial pronouncements, it is the time of occurrence of vacancy that should be relevant for determining the question of promotion and not the time of passing of Test. Since the amended rules came into force on 21.7.1994 whereby

Ram Kumar Mehta

upto that date ought to have been filled up by Review DPC by taking into account of all the persons who have appeared for final examination. Without prejudice to the above submissions, it is submitted that in this case, the applicant submitted passed the final examination conducted in September 1993 and result declared on 28.2.1994. Since the Academic year comes to an end by 31.3.1994, applicant have to be treated as eligible to be considered for promotion since the vacancies up to 31.3.1994 had to be filled as per the Rules even if the date is not extended up to 21.7.1994 i.e. the dates of revised rules vide SRO 142.

5.11 Because the act of the Respondents is liable to be quashed as no Show Cause notice has been issued to the applicant and even the applicant is not given any opportunity to represent his case and also opportunity to being heard. Thus denial of such opportunity itself proves that the Respondents are acting unconstitutionally thereby abusing the powers without any legal force.

5.12 Because the impugned Order/Letter and process thereof is liable to be quashed and set aside as in fact, the applicant is being punished without no fault of him by such demotion. It is submitted that demotion of an employee is a punitive measure and in the instant case, such act of the Respondent not only cause irreparable losses to the applicant but it will also damage the

Prem Kumar Mishra

reputation, goodwill of the applicant. Moreover, it will lead to adverse civil consequences.

5.13 Because the impugned Order/Letter dated 9.10.2003 received through CE (AF), Shillong vide letter dated 18.11.2003 and further action thereof of the Respondent No.2 Authority is otherwise also not sustainable and liable to be quashed as earlier the Respondent No.2 itself intimated the Respondent No.5 Authority to adjust the 200 persons by creating vacancies as approved by the Government, Ministry of Finance under the guidelines of DOPT and in accordance with notified Recruitment Rules. Thus it is clear that the Government relaxed the Rules while considering 220 persons and therefore, the Respondent No.2 Authority has no power to violate the said sanction/approval of the competent Authorities/Government while relaxing the Rules and promoting the applicant and especially in case of the applicant whose case was considered as a "Special Case" by the Respondents after the Order of the Hon'ble Tribunal, Allahabad Bench.

5.14 Because in the event the impugned Order/Letter is not quashed/set aside, there will be grave injustice with the applicant and the entire service career and inter se seniority of the applicant would be affected severely and the applicant will suffer irreparable losses and injuries, which cannot be compensated in any manner.

Poem Kumar Mishra

6. Details of remedies exhausted.

That the Applicant submits that since the Respondents Authorities without affording any opportunity of being heard to the Applicant have already taken the decision and have informed the respective Commands about deletion of name of the applicant from the panel of promotion with intimation to them and further since such act of the Respondents is without any legal sanctity and is prejudicial to the service career and fundamental rights of the applicant, the applicant is constrained to approach this Hon'ble Tribunal for seeking reliefs including interim reliefs thereby praying for stay of operation of the impugned Letter/Order dated 9.10.2003 received through CE(AF) Shillong vide letter dated 18.11.2003. Moreover, the applicant has no other equal, efficacious and alternative remedy but to file present application and seek indulgence of this Hon'ble Tribunal.

7. Matters not previously filed or pending with any other Court.

The applicant submit and state that he had not previously filed any other similar O.A or other proceedings against the Respondents regarding the cause raised in the present Application before any other

Prem Kumar Mishra

Hon'ble High Court, Hon'ble Supreme Court of India,
Tribunal or Authority in India.

8. Relief(s) sought for:

In view of the facts and submissions made herein above, it is humbly prayed by the Applicant that this Hon'ble Tribunal may graciously be pleased:

- 8.1 to quash the impugned Letter/Order dated 9.10.2003 received through CE(AF) Shillong vide letter dated 18.11.03 issued by the Respondent No.2 and 4 Authority Commands thereby holding the applicant not eligible for promotion to the Grade of ASW and also directing deletion of name of the applicant from the panel of promotion and also to quash the process in furtherance thereto contemplated by the Respondents for deletion of name of the applicant from the panel and/or.
- 8.2 to pass any further or other Order or direction in favour of the applicant as this Hon'ble Tribunal may deem fit and appropriate in the interest of justice and in the circumstances of the instant case.
- 8.3 Costs of the application.

9. Interim order prayed for.

Pending hearing and final decision of the Application, the applicant humbly pray that this Hon'ble Tribunal may graciously be pleased:

Prem Kumar Mishra

- 9.1 to restrain the operation of the impugned Order/Letter dated 9.10.2003 received through CE(AF) Shillong vide letter dated 18.11.03 issued by the Respondent No.2 Authority to the different Commands regarding deleting the name of the Applicant and also the process of deleting the name of the applicant from the panel of ASW.
- 9.2 to restrain the Respondent Authorities not to take any step for implementation of the impugned Order/Letter dated 9.10.2003 with the directions not to delete the name from the panel there by disturbing the promotion and inter-se seniority of the applicant.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 96704657 .
ii) Date of Issue : 11.11.03 .
iii) Issued from : S.P.O. Guwahati .
iv) Payable at : S.P.O. Guwahati .

12. List of enclosures.

As given in the index.

Hem Kumar Misra

VERIFICATION

I, Shri Prem Kumar Misra, S/O Shri A.L.Misra, aged about 47 years, working as AEE (QS&C) in the Office of Chief Engineer, Air Force, Elephant Falls Camp, Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 11th day of December, 2003.

Prem Kumar Misra

CONFIDENTIAL

Tele : 2561893

BY HAND

HQ CE (AF) Shillong Zone
Elephant Falls Camp
P.O. Nonglyer
Shillong - 793 009

87020/PKM/03/E7A

18 Nov 2003

MES/432713

Shri Prem Kumar Mishra ✓
AEE (QS&C)
HQ CE (AF) Shillong Zone
Shillong

PANEL FOR PROMOTION OF SURVEYOR ASSISTANT CDE I
TO THE GRADE OF ASSISTANT SURVEYOR OF WORKS IN
THE MILITARY ENGINEER SERVICES UNDER MINISTRY
OF DEFENCE AGAINST THE VACANCIES OF 92-93 & 93-94

1. You had been considered for promotion to the grade of Assistant Surveyor of Works against the vacancies of 92-93 and 93-94, since it was intimated that you have passed the direct Final Examination Sub-Division II (Building and Quantity Surveying) held in September 1993. The cut off date for attaining eligibility to be considered in the Revised DPC was 01 Oct 1993. The SA Gde I having five years service and holding Engineering Degree or having passed the direct Final Examination of ISI as on 01 Oct 1993 were only eligible for consideration in this DPC.

2. It is confirmed by the Institutions of Surveyors (India) that the result of Final Exam of ISI held in Sep 1993 has been declared on 28 Feb. 1994. ISI has also informed that the date of declaration of the result is required to be taken as date of passing the examination.

3. In view of the clarification now received from Institutions of Surveyors (India), you were not eligible for promotion to the grade of ASW as on 01 Oct 1993. Your name has been considered in the review DPC erroneously. Action is being taken to rectify the error by deleting your name from the panel by the competent authority.

4. This is for your information please.

5. Please acknowledge receipt.

(Signature)
(CS Tiwari)
Col
Addl Chief Engineer
For Chief Engineer (AF)

Copy to :-

Directorate General (Personnel)
Military Engineer Service
Engineer-in-Chief's Branch
Army Headquarters
New Delhi - 110 011

- for information please with reference to your HQ letter
No B.42033 RDPC/SA-I to ASW 92-93 & 93-94/E1 DPC
dt 09 Oct 2003.

Chief Engineer
HQ Eastern Command
Fort William
Mizoram

- for information please with reference to your HQ letter
No 1310054 Engrs 81 E1B dt 20 Oct 2003.

Certified to be true copy
Appended
for
15.12.03

THE INSTITUTION OF SURVEYORS

15/7, Institutional Area (South of I.I.T.)
New Mehrauli Road, New Delhi-110016

Results-Exam/1993

No. S/ 4247 /IS

Roll. No. 1683

Dated 21/11/1994

To

Shri P.K. Misra, SA Gde I
GE (E) Allahabad -4
PIN- 211 004

PROFESSIONAL EXAMINATIONS--SEPT 1993

Dear Sir,

I am glad to inform you that you have been declared successful
in the..... FINAL Examination
Sub-Division..... II (BUILDING & QUANTITY SURVEYING)
held in September 1993.

Yours faithfully,

(K.C. GARGA)

Registrar
for HONORARY SECRETARY

Certified to be true copy
Attested
15.12.03

The Institution of Surveyors

The Council
of the Institution of Surveyors

hereby makes it known that

Shri Prem Kumar Misra.....

has passed the Final Examination

conducted by the Institution

in the year 1993....

in

Building & Quantity..... Surveying

Given under the Seal of the Institution



NEW DELHI

Dated 5 March 1994

W. K. Lankar

.....President

R. N. Singh

.....Hon. Secretary

checked & to be
sent copy
14/3/94
15.12.93

PART I. A. 1. 1. 1. 1. 1.

HARRISON, ENGINEER (EAST)

SER NO : 15

DATED : 11 Apr 94

SHEET NO : ONE OF /

(Last page of ... = 94)

SER NO	NAME	DESIGN	DATE	CASUALTY
2	3	4	5	6

PART I : CIV OFFRS & SUBORDINATES HOLDING BT CL III SECTION A
(SERVICE BOOKS CENTRALISED)

SECTION 'B' (SERVICE BOOKS CENTRALISED)

- NIL -

- NIL -

PART II : CLASS III SELECTION GRADE PERS (PT/TY/2PT)

417610 Shri Tripathi, R/S 1 (B/S) 01-02-94 Sanctioned A/I @ Rs 50/-pm raising pay from Rs 2250/- to 2300/-pm in the scale of Rs 1400-40-1600-50-2300-EB-60-2 00/-
Auth : SPIC

412713 Shri ... 01-04-94 Sanctioned A/I @ Rs 60/-pm raising pay from Rs 2000/- to 2050/-pm in the scale of Rs 1640-60-2000-EB-75-2900/-
Auth : SPIC

412713 Shri P.K. Mishra, SL-1
passed Final Examination of Sub Divn-II (Building & Quantity Surveying) held in September 1993 conducted by Institution of Surveyors New Delhi vide certificate bearing NO S/4247/IS dt 21.12.93 (Roll NO 1683) Original certificate verified.

PART III : BASIC NON INDUSTRIAL PERS CL III SELECTION GRADE

41061 Shri Koney Ram, S Dala (mate) 01-04-94 Sanctioned A/I @ Rs 20/-pm raising pay from Rs 1010/- to Rs 1030/-pm in the scale of Rs 800-15-1010-EB-20-150/-
412061 Shri Tirath Nath, Chow (mate) 01-04-94
OTP

412593 Shri Ram Singh, Chow (mate) 01-04-94
OTP Auth : SPIC

412979 Shri BK Tiwari, Chow (mate) 01-04-94
OTP

418072 Shri Arjun Prasad, Duptry (OTP) 01-04-94 Sanctioned A/I @ Rs 14/-pm raising pay from Rs 997/- to 1011/-pm in the scale of Rs 775-12-955-EB-14-1025/-

418311 Shri SDP Mishra, Duptry (OTP) 01-04-94
413172 Shri Daya Prasad, Duptry (OTP) 01-04-94
412104 Shri Shiv Prasad, Duptry (OTP) 01-04-94
Auth : SPIC

411355 Shri SR Yadav, SK-I (OTP) 01-04-94 Sanctioned A/I @ Rs 25/-pm raising pay from Rs 1200/- to Rs 1225/-pm in the scale of Rs 950-20-1150-EB-25-150/-
415817 Shri ... SK-I (OTP) 01-04-94

Auth : SPIC

Sanctioned A/I @ Rs 25/-pm raising pay from Rs 1450/- to Rs 1475/-pm in the scale of Rs 950-20-1150-EB-25-150/-

Auth : SPIC

Harrison Engineer (East)

contd ... 2/-

Certified to be true copy
Attested
15.12.93

Recruitment Rules for the post of Chief Surveyor of Works in Ministry of Defence (P.S.)
SCHEDULE

1	2	3	4	5	6	7	8
Name of post	No. of post	Classification	Scale of pay	Whether selection post or Non-selection post	Age limit for direct recruits	Whether benefit of service admissible under rule 30 of the Central Civil Service (Pension) Rules 1972	
1. Chief Surveyor of Works (i) Senior Administrative Grade Level-I —1 post (ii) Senior Administrative Grade Level-II —2 posts	3* (1981 Subject to variation dependent on load)	Military Engineer Services Group 'A' Gazetted.	(i) Rs. 2500-125/2-2750 (when operated as Senior Administrative Grade Level-I) (ii) Rs. 2250-125/2-2500 (when operated as Senior Administrative Grade Level-II)	For Senior Administrative Grade Level-I Post Non-selection For Senior Administrative Grade Level-II posts selection.	Not applicable.	Not applicable.	Not applicable.
Whether age and educational qualifications prescribed for direct recruits will apply in the case of Promotees	Period of probation if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made	If a departmental Promotion Committee exists what is its composition.	Pro-Commission to be consulted in making recruitment.	Circumstances in which Urd Commission	
9	10	11	12	13	14		
Not applicable	Not applicable	By Promotion	For promotion to Senior Administrative Grade Level-I post (i) Chief Surveyor of Works Senior Administrative Grade Level-II, appointed on regular basis. (ii) For promotion to Senior Administrative Grade Level-II posts Superintending Surveyor of Works with 7 years regular service in the grade including service, if any, rendered in the grade of Superintending Surveyor of Works (Selection Grade)	Group 'A' Departmental Promotion Committee For considering Promotion to Senior Administrative Grade Level-II (a) Chairman/Member Union Public Service Commission—Chairman. (b) Secretary/Additional Secretary, Ministry of Defence—Member. (c) Engineer-in-Chief—Member. Group 'A' Departmental Promotion Committee For considering promotion to Senior Administrative Grade Level-I and confirmation (a) Secretary/Additional Secretary, Ministry of Defence—Chairman. (b) Engineer-in-Chief—Member.	Consultation with the Commission not necessary while making selection for appointment to the post.		

Note: The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission, a fresh meeting of the Departmental Promotion Committee to be presided over by the Chairman or a Member of the Union Public Service Commission shall be held.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Superintending Surveyor of Works (Selection grade) dependent on work-load).	4* (1985) Subject to variation dependent on work-load).	Military Engineer Services Group 'A' Gazetted Non-Ministerial.	Rs. 2000-125/2-2250	Non Selection.	Not applicable.	Not applicable.	Not applicable.	Not applicable.	Not applicable.	By Promotion	Promotion: Superintending Surveyor of Works who have reached the stage of Rs. 2000/- in the Junior Administrative Grade (Rs. 1500-2000) and have stagnated at the maximum for a period of two years.	Group 'A' Departmental Promotion Committee— (i) Joint Secretary, (P&W) Ministry of Defence—Chairman. (ii) Director of Personnel Engineer-in-Chief's Branch, Army Headquarters—Member.	Consultation with the Union Public Service Commission not necessary while making Selection for appointment to the post.

1	2	3	4	5	6	7	8
J. Superintending Surveyor of Works	31* (1985) Subject to variation dependent on work-load).	Military Engineer Services Groups 'A' Gazetted Non-Ministerial.	Rs. 1500-6*1500-100 2000 -	Selection	Not applicable	Not applicable.	Not applicable.

(34)

10	11	12	13	14
Not applicable	By Promotion	1. Surveyor of Works with 5 yrs. regular service in the grade.	1. Group 'A' Departmental Promotion Committee. (For considering Promotion) (i) Chairman/Member, Union Public Service Commission—Chairman appointment to the post. (ii) Joint Secretary (P&W) Ministry of Defence—Member. (iii) Engineer-in-Chief/Director General of Personnel, Engineer-in-Chief's Branch Army Headquarters—Member. 2. Group 'A' Departmental Promotion Committee (for considering confirmation) (i) Joint Secretary (P&W) Ministry of Defence—Chairman. (ii) Director of Personnel, Engineer-in-Chief's Branch Army Headquarters—Member.	Consultation with the Public Service Commission not necessary while making selection for appointment to the post.

Note: The proceedings of the Departmental Promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission, a fresh meeting of the Departmental Promotion Committee to be presided over by the Chairman or a Member of the Union Public Service Commission shall be held.

Name of post	No. of post	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for recruitment	Whether benefit of added years of service admissible under rule 30 of the Central Civil Service (Pension) Rules, 1971	Eligibility and other qualifications for direct recruitment
1	2	3	4	5	6	7	8
Surveyor of works	105* (1985)	Military Engineer Services Group 'A' Gazetted Non-Ministerial	Rs. 1100—(6th year or under) - 50-1600	Non selection	Not applicable	Not Applicable	Not Applicable

* Subject to variation dependent on workload.

35

36

49

5

10

11

12

13

Not applicable By promotion

Promotion : Assistant Surveyor of Works with 4 years regular service in the grade and having passed the Final examination of the Institution of Surveyors (India) or equivalent.

Note : For the purpose of counting the above period of eligibility for Promotion, the regular service rendered by the Assistant Surveyor of works in the equivalent post of Assistant Executive (Engineer Cadre) in Military Engineer Services prior to 4th January, 1941 shall also be taken into account.

Group A Departmental promotion Committee for considering promotion and confirmation

1. Joint Secretary, Ministry of Defence.
2. Director of Personnel—Manager.

Consultation with the Union Public Service Commission not necessary while making selection for appointment to the post.

1	2	3	4	5	6	7	8
S. Assistant Surveyor of works.	168* (1985) *Subject to variation dependent on workload.	Military Engineer Services Group 'A' Gazetted Non-Ministerial	Rs. 700-40-900-EB-40-1100-50-1300	Selection	Between 20 and 28 years on the first August of the year in which the Combined Engineering Services Examination is held.	No	Degree in Engineering from a recognised University or equivalent.
					Provided that the upper age limit mentioned above may be relaxed in respect of candidates belonging to the Scheduled Castes and the Scheduled Tribes and such other categories of persons as may from time to time be notified in this behalf by the Government to the extent and subject to the conditions notified in respect of each category.		

मर्तों काटने में किन परिस्थितियों में संचितों की सेवा मांगों से पराप्त न किया जाएगा।

1.

अथ महाविदेग, इंजानियर्स (कांमि) समुह इंजीनियर्स शाखा,
मैत्रा मुन्नालय

धनर सहायिदेवक प्रजोन्मिदतं (वामिक), प्रमुग
द्वयोन्मिदतं भासा, दया मुक्यातन --नाराय

[illegible][illegible]

S.R.O. 142.--In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Military Engineer Services (Survey) of Works Cadre Recruitment Rules, 1985, namely:—

1. (1) These rules may be called Military Engineer Services (Surveyor of Works Cadre) Recruitment (Amendment) Rules, 1984.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Military Engineer Services (Surveyors of Works Cadre) Recruitment Rules, 1985, for serial number 5 relating to the posts of Assistant Surveyor of Works and the entries relating thereto, the following serial number and entries shall be substituted, namely :—

Name of post	Number of post	Classification	Scale of pay	Whether Selection post or non-selection post
--------------	----------------	----------------	--------------	--

1	2	3	4	5
"5. Assistant Surveyor of Works	151* (994) *Subject to variation dependent on workload.	General Central Services, Group 'A', Gazetted, Non-Ministerial.	Rs. 2200-75-2800- EB-100-4000/-	Selection

Certified

tion post
on-selection
t

5

tion

Certified true & correct copy
Albion
Ind.
Admiral
15.12.13

Age limit for direct recruits	Whether benefit of added years of service admissible	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for direct recruits will apply in case of promotees
6		8	9
Between 20 to 28 years. As on the First August of the year in which the Combined Engineering Services Examination is held provided that the upper age limit mentioned above may be relaxed in respect of candidates belonging to the Scheduled Castes and Scheduled Tribes and such other Categories of persons as may, from time to time be notified in this behalf by the Government to the extent and subject to the conditions notified in respect of each category.	Not applicable.	Degree in Engineering from a recognised University or equivalent	Age : Not applicable Educational qualifications : To the extent indicated in column 12.
Period of probation, if any	Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made.	
10	11	12	
Two years.	50% Promotion. 50% Direct recruitment through the Engineering Services Examination conducted by the Commission.	Promotion: Junior Surveyor of Works holding degree in Civil Engineering from a recognised University or equivalent or having passed the final/direct final examination of the Institution of Surveyors (India) with 5 years' regular service in the grade. or Junior Surveyor of Works having passed the Intermediate Examination of the Institution of Surveyors (India) or holding Diploma in Civil Engineering from a recognised University/Institution or equivalent with 5 years' regular service in the grade.	

The Departmental Promotion Committee shall be constituted as follows:-	Circumstances in which the Union Public Service Commission is to be consulted in making recruitment
13	14
<p>Group 'A' Departmental Promotion Committee (for considering promotion):</p> <p>Chairman/Member, Union Public Service Commission—Chairman.</p> <p>Joint Secretary Army Purchase Organisation and Works/Joint Secretary (Establishment), Ministry of Defence—Member.</p> <p>Additional Director General of Engineers (Personnel), Engineer-in-Chief's Branch, Army Headquarters—Member.</p>	<p>Consultation with Union Public Service Commission necessary on each occasion".</p>
<p>Group 'A' Departmental Promotion Committee (for considering confirmation):</p> <p>Joint Secretary Army Purchase Organisation and Works/Joint Secretary (Establishment), Ministry of Defence—Chairman.</p> <p>Additional Director General of Engineers (Personnel), Engineer-in-Chief's Branch, Army Headquarters—Member.</p>	
<p>Note:—The proceedings of the Departmental Promotion Committee relating to confirmation of a direct recruit shall be sent to the Commission for approval. However, these are not approved by the Commission a fresh meeting of the Departmental Promotion Committee to be presided over by the Chairman or a Member of the Union Public Service Commission shall be held.</p>	

Note:—The principal rules were published in the Gazette of India vide number S.R.O. 39 dated 16th January, 85 and subsequently amended vide S.R.O. 242 dated 20 Oct. 85 and S.R.O. 32 dated 21 Jan 87.

[File No. F. 35604/1/ASW/CSCC]

A. K. SETHI, Under Secy.

14/11/1994

New Delhi, the 1st August, 1994

1. नि. प्र. 143.—प्रत्यक्ष, संविधान में अनुच्छेद 309 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय वायुसेना, भारत (रूसी/अंग्रेजी) रणनीति नियम, 1989 का संशोधन करने के लिए सम्बन्धित नियम बनाने हेतु, प्रस्तावित है—

S.R.O. 143.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Indian Air Force, Translator (Russian/English) Recruitment Rules, 1989, namely:—

1. (1) इन नियमों का संक्षिप्त नाम भारतीय वायुसेना, अनुवादक (रूसी/अंग्रेजी) रणनीति (संशोधन) नियम, 1994 रहेगा।

1. (1) These rules may be called the Indian Air Force, Translator (Russian/English) Recruitment (Amendment) Rules, 1994.

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

(2) They shall come into force on the date of their publication in the Official Gazette.

भारतीय वायुसेना, अनुवादक (रूसी/अंग्रेजी) रणनीति नियम, 1989 के अनुच्छेदों में, स्तम्भ 2 के संदर्भ में परिवर्तित के स्थान पर सम्बन्धित रणनीति नियम प्रस्तावित है—

2 In the Schedule to the Indian Air Force, Translator (Russian/English) Recruitment Rules, 1989, for the existing entry under column 2, the following shall be substituted, namely:—

1994, 1994)

परिष्कार के आधार पर परिवर्तित किया जा सकता है।

"6" (1994)

[का. ग. वा ने मु/23049/349/वि.सी. (सी.आर.सी.)]

*Subject variation dependent on workload".

म. के. से.टी. अवर सचिव

Note:—The principal rule were published in the Gazette of India vide S.R.O. 295 dated 4th Nov. 1989 and subsequently amended vide SRO 72 dated 14-4-90.

1. नि. प्र. 143.—प्रत्यक्ष, संविधान में अनुच्छेद 309 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय वायुसेना, भारत (रूसी/अंग्रेजी) रणनीति नियम, 1989 का संशोधन करने के लिए सम्बन्धित नियम बनाने हेतु, प्रस्तावित है—

[File No. Air Hq 23049/348/PTCRC]

A. K. SETHI Under Secy.

Annexure - 9F

Surveyor Assistant Grade-I
 01/10/96, No. 09-110011

A/41035/3A-1/1/96-97/EIR(O)

Oct 96

List. 1A

CIRCULATION OF ALL INDIA SENIORITY LIST OF
SURVEYOR ASSISTANT GRADE - I

1. Two copies of the All India Seniority List of Surveyor Assistant Grade-I are forwarded herewith.

2. The present seniority list sanctions the names of Surveyors Assistant Grade-I promoted/recruited upto 1993.

3. The seniority list will be circulated to all concerned for meticulous scrutiny and correctness of the following details will be ensured as to whether:-

(a) MES Number and date of birth as entered are correct.

(b) Educational/qualification and other qualification/courses are incorporated including procedure.

(c) Date of seniority assigned is correct and the individual is correctly interpolated.

(d) Discrepancies, whatever observed are corrected and the same will be attested by an Officer who authenticates its correctness.

4. After thorough scrutiny of above aspects, the seniority list will be authenticated to its correctness by an Officer not below the rank of an SO 1 (Pers) repeat not below the rank of an SO 1 (Pers). Any discrepancies on the seniority list, if found at a later date, the onus rests with the concerned Command.

5. Each Command shall order the following certificate in the seniority list:-

(a) Certified that the individuals of Ser No (mention number) in the seniority list are born on the strength of this Command and that their MES No and date of birth in respect of them as entered in the seniority list are correct.

(b) Certified that the details of educational qualifications and/or qualifying courses like MES procedure exam, Institution of Surveyors Exam etc., in respect of the individuals born on the strength of this Command have been verified and are incorporated in the seniority list wherever required.

.....2/-

Certified to be true copy
 Attested
 15.10.96

58

(c) Certified that the date of seniority assigned to the individuals born on the strength of this Command are correct.

(d) Certified that the individuals born on the strength of this Command have been correctly interpolated in the seniority list and.

(e) Certified that the seniority list have been shown to all affected individuals and their signature, in confirmation to this have been obtained and that the seniority list has been scrutinised at the Official level and all discrepancies noticed have been reconciled.

6. One copy of the seniority list duly verified and authenticated must be returned to this HQ by 31 Dec 96 to complete our records and held further DPCs in the cadre. Neither piecemeal replies will be sent nor lower formation will be directed to forward seniority list directly to this HQ.

7. For CE SC, CE WC, CE CC, and CE NC. Your report as called for vide this HQ letter No A/41033/SA-1/1/95/E1R(O) dated 23 Jul 96 due to this HQ reach this HQ by 15 Sep 96 is still awaited. Please expedite, integrity certificates and CR dossiers as called for, forthwith.

P. Mukherjee

(P. Mukherjee)
PAO
SO 1 Engrs(Pers)/E1R(O)
For Engineer-in-Chief

Encls : As above

Copy to :-

List 'B', 'C' & 'F' - with one copy of seniority list.

Internal :- E1R, E Coord-I, E1C(2 copies), E2 WPC, QMG/ADGTE E-8 CSCE and MIS(CIV).

MS/*

CE (WP) Annexes	
CE
ACE
SOI (Pers)
A.O
Date: 1-11-96	

1471
30/11/96

29/11

Handwritten signature and date
15.12.93

(Extract)

ALL INDIA SENIORITY LIST OF SURVEYOR ASSISTANTS GRADE-I

Sl No & Name of the Officer	Whether belongs to SC/ST if not, say, 'Neither'	Date of Birth	Date of regular apt to the govt	First Appt in MES with date	Post held substantively	Education/Technical qualifications
1. 232011 Prithvi Raj Mahajan	Neither	04 Jun 38	29 Apr 64	SA-II 29 Aug 90	8/R-II Pt 01 Apr 67	Inter Sc-56, DCE-58, Direct Fincl Exam-97.
2. 450151 Jatinder Nath	Neither	09 Dec 40	06 May 64	SA-II Pt 15 Oct 60	8/R-II 01 Apr 67	HS-57, DCE Adhoc Sd of Engr Edn Roorkee-59, 1st Exam ISI-63.
3. 309592 Kanya Lal	Neither	28 Apr 41	09 Sep 71	8/R-II 05 Sep 32	6/R-I 09 Sep 71	I Sc-57, DCE-61, MES Proce - 62.
4. 153034 Laxman B Narahari	Neither	01 Jan 39	24 Dec 75	8/R-II 04 Feb 63 8/R-I 24 Dec 75	8/R-II Pt 01 Apr 74	SSC-56, DCE-59, CBTE Mysore, AMIE 'A'-63, AMIE Sec 181-71, MES Proce Exam-65, AMIS Direct Fincl-81.
5. 148069 CR Ragothaman	Neither	28 May 43	31 Mar 84	8/R-II 30 Jul 63	8/R-II Pt 01 Apr 78	SSLC-58, DCE-63, MES Proce Exam-67, SW Direct Fincl-77, Inter Exam SD-II (Bldg & Qty)-74, PUC-59, LCE-63.
6. 445287 JK Jain	Neither	01 Oct 39	21 Jan 85 13 Aug 94	SA-II 05 Feb 63	8/R-II Pt 01 Apr 66	HS-56, DCE-59, MES Proce Exam-65, Intermediate Exam SD-II-73.
7. 304077 GK Sharma	Neither	10 Apr 41	31 Mar 84	SA-II 14 Jun 63	8/R-II Pt 01 Apr 74	Metric-55, DCE-59, MES Proce Exam-64, SW Direct Exam-71, SW 1st Exam-65, Inter Exam SD-II (Bldg & Qty)-69.

Certified to be true
After inspection
of original
18.12.04

1	2	3	4	5	6	7	8
244.	213433 Ajay Sankar Das	Neither	30 Mar 57	21 Apr 83	SA-II 26 Dec 79	SA-II QP 26 Dec 82	HDC-74, LCB-78
245.	423066 Pious Nirmal Mohru	Neither	07 May 53	22 Feb 83	SA-II 26 Dec 79	SA-II QP 26 Dec 82	SSIC-74, LCB-78, Inter Exam Sub Div-II-85
246.	215529 Prabir Gangopadhyay	Neither	02 Jan 53	01 Mar 88	SA-II 03 Jan 80	-	HSS-74, LCB-78, Inter Exam Sub Div-II-85
247.	435014 RK Sharma	Neither	25 Feb 50	07 Jan 80	SA-II 06 Feb 80	-	HS-66, LCB-78, SA-II Course- 84, Inter ISI Sub Div-II-85
248.	420141 Rajiv Kumar Singh	Neither	23 Feb 57	08 Jan 83	SA-II 10 Apr 80	-	Inter-75, DCE-79, Inter ISI Sub Div-II-85
249.	421152 PM Manoj Kumar	Neither	20 Dec 56	13 Jan 83	SA-II 15 May 83	-	HSSC-74, DCE-78, Inter Exam Sub Div-II-85
250.	454975 Rajiv Trivedi	Neither	30 Jul 58	14 Jan 83	SA-II 02 Aug 80	SA-II QP 02 Aug 83	HS 73, DCE-79, Passed Inter Exam ISI Sub-II-85
251.	432713 Prem Kumar Misra	Neither	13 Aug 56	26 May 83	SA-II 05 Aug 80	-	Inter-DCE-79, Inter Exam Sub Div-II-85
252.	468541 Sanjiv Agarwal	Neither	17 Apr 60	-	SA-II 05 Aug 80	SA-II QP 05 Aug 83	Inter-75, DCE-79, Inter Exam Sub Div-II-85
253.	470080 KS Rautela	Neither	19 Feb 57	12 Jan 83	SA-II 09 Aug 80	SA-II QP 09 Aug 83	Inter-75, DCE-78, SA-II Course 83, Inter Exam Sub Div-II-85
254.	205157 Karan Kumar Saha	Neither	10 Mar 59	22 Dec 57	SA-II 17 Nov 80	-	HSE(SC)-75, LCB-79, Inter Exam Sub Div-II-85
255.	137725 TS Ramaswamy	Neither	29 Jan 59	18 Nov 87	SA-II 27 Nov 80	SA-II QP 27 Nov 83	SSIC-75, DCE-78, Inter Exam Sub Div-II-85

....24/-

1	2	3	4	5	6	7	8
	S/Shri						
347.	533663 Sanjay Kaul (DR)	Neither	13 Jan 64	30 Mar 83	SA-I 30 Mar 83		
348.	125377 Chapte Mallikarjun	Neither	31 Dec 62	14 Jan 83	SA-I 14 Jan 83		
349.	149016 Suresh V Karehmani	Neither	15 May 63	02 Feb 83	SA-I 02 Feb 83		
350.	147431 V Nageshwar Rao	S/C	01 Jun 60	13 Jan 83	SA-I 13 Jan 83		
351.	505457 MP Sud	Neither	19 Apr 59	11 Apr 83	SA-I 11 Apr 83		
352.	505335 Ramesh Chander	Neither	17 Feb 63	03 Mar 83	SA-I 03 Mar 83		
353.	500690 Vikas Talwar	Neither	04 Jun 65	02 Mar 83	SA-I 02 Mar 83		
354.	509750 Harjit Singh	Neither	21 Mar 53	07 Mar 83	SA-I 07 Mar 83		
355.	203009 Ashini Kumar Maiti	Neither	25 Aug 58	09 Dec 89	SA-II 12 Sep 80	SA-II Pt 01 Apr 83	
356.	186058 Vijay Pal Singh	S/C	09 Jan 53	25 Oct 89	SA-II Qrt 01 Apr 81		
357.	124301 Kuttappan TK	S/C	03 Mar 60	25 Oct 89	SA-II Pt 04 Dec 80		
358.	124052 Mrs. Ruby Harbert	Neither	06 Apr 56	25 Oct 89	SA-II Qrt 09 Mar 84		

SSC Pt-I, BE Civ-75.

SSIC-75, PUC-80
ND (Civ)-84.

SSIC-75, PUC-80, BE Civ-84.

Inter-75, PUC-79, BE (Civ)-87.

PUC-79, MBS Procs-82, BE Civ
Engg-84.

BSC-81, BE (Civ)-85.

BE (Civ)-86.

BE (Civ)

BE (SC)-74, ICE-70, SA-II
Course-29.

HSE-70, BSc Pt-I-75, PUC (UT).
SA-II Pt. 01 Apr 88.

SSIC-75, PUC-79, Inter of ISI-73
Final exam. SD-II (Bldg & Qty)-93.
Pre Degree-75, PUC-79.

.....33/-

	1	2	3	4	5	6	7	8
		<u>57thri</u>						
528.	505931	Neither	20 Jan 62	30 Dec 83	SA-II	SA-II Pt.	BSa Pt-I-79.	
	Chandar Vadhan				30 Dec 83	01 Apr 88	Matric-77, DCE-82.	
529.	505943	Neither	16 Jan 60	04 Jan 84	SA-II	SA-II Pt.	Matric-76, DCE-82, ISI (SD-II)-	
	Daleep Kumar				04 Jan 84	01 Apr 88	791, SA-II Course No-36 (E).	
530.	507130	Neither	16 Mar 62	11 Jan 84	SA-II	SA-II C2t	R- Soc-79, DCE-82, ISI (SD-II)-	
	Karan Singh				11 Jan 84	11 Jan 83	89-	
531.	507111	Neither	01 Jul 59	13 Jan 84	SA-II	SA-II Pt	Inter-79, DCE-82.	
	Karam Pal Singh				13 Jan 84	01 Apr 83		

Station : New Delhi-110011

Dated : 01 Oct 96

SS/*

*Certified to be true copy
 Affected
 from
 Helwan
 15.12.03*

P. Matherjee
 (P. Matherjee)
 PAO
 SO-1 Engr (Pers)/P1R(O)
 For Engineer-in-Chief

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU.

PRESENT.

THE HON'BLE MR. JUSTICE T.S. DOANIA.

S.W. 1235/96

1. Harjit Singh s/o Sh. Jashbir Singh, R/o 8/5 Plot No. 52, Bakshi Nagar, Jammu (Age 34 years) -
2. Romesh Chander, s/o Sh. Girhari Lal, R/o XXXXX, Wazir House No. 259, Krishana Nagar, Canal Road, Jammu, (Age 34 years),
3. Mohinder Paul Sood, s/o Sh. M. C. Sood, R/o S.M.I.C. W.E. Mohinder Pathankote (Age 35 years). Petitioners.

Versus

1. Union of India, Ministry of Defence, Engineer-in-Chief, Army Headquarters, D.H.O. P.O. New Delhi.

2. Chief Engineer, North in Command, Udhampur
c/o 56 APO.

Respondents.

Whether appeared for reporting?
For the Appellants/Petitioners(s)

Mr. Anil Sethi
Petitioner in person also.

For the Respondent(s)

Mr. N.A. Choudhary.

This petition has come to be filed under the following circumstances.

The petitioners submit that they possessed degree in engineering from the recognised Universities. As per them, they joined the Military Engineering Service in the year 1988. They joined as Surveyor Assistant Grade-I. According to the petitioners, as per the Rules in force, they were entitled to promotion to the post of Assistant Surveyor Works. It is submitted that to this post they would have become entitled to promotion after having completed a period of five years of service as Surveyor Assistant Grade I. The grievance of the petitioners is that in the year 1994, rules were amended. One Inter-mediatory post was created. This post is of Junior Surveyor or Works. According to the petitioners by making the amendments, their rights to the post of Assistant Surveyor Works and consequently, their rights to

Certified to be true copy
Attested
Jans
15.12.93

Copy Attested
Registrar

48
64
promotion to the post which was there at the time of joining of service has been blocked. According to them, the vacancies existed in the hierarchy of service to which they could seek promotion under the unamended rules. The requisite averments in this regard are contained in para 10 of the petition. For facility of reference, this para is reproduced as under:

"That as after 1993 the posts of Assistant surveyor works were available with the respondent and as the petitioners eligible for promotion to the said posts so the respondents were under an obligation to consider their cases."

The further grievance of the petitioner is that even though the vacancies existed, steps were not taken with a view to fill the vacancies. They also submit that by making amendment in the rules the right which vested with petitioners were taken away.

The argument raised is that if the vacancies exist then those vacancies are to be filled as per the rules in existence. The amendment made in the rules as per the petitioners cannot be given effect to for filling the vacancies which existed before the coming into force of the rules. Reference in this regard is made to a decision of the Supreme Court of India reported as AIR 1983 SC 852.

(Y.P. Rangiah and ors versus J. Srinivasa Rao and Ors)

The relevant observations made in para 9 are as under:

"We have not the slightest doubt that the posts which fell vacant prior to the amended rules would be governed by the old rules and not by the new rules."

The above authority does support the proposition put across by the learned counsel appearing for the petitioners. Reliance is also being placed on another decision of the Supreme Court of India reported as P. Mahendran and Ors versus State of Karnataka and ors, AIR 1990 SC 405.

Attested
by the Registrar
High Court of J&K
J&K H.C. MU.
19/5

...4/-

amendment of the Rules and would fill them in accordance with un-amended Rule in line with the observations made by the Supreme Court of India.

That this be done within a period of three months. The period of three months to begin from the date copy of order passed by this court is made available to the respondents by the petitioners.

Disposed of accordingly.

Janani:
JS

8.5.98

(T.S. DOABIA-J)

W. S. Doabia

Certified to be True Copy

R. S. Doabia
Verifying Officer

High Court of Judicature
Dated the 18/5/98
Authorised by Section 75 of the
Evidence Act.

Application No.
Date of Application
Date of notifying the law
Chargeable
Date of deposit
Date when the copy
Date of filing
cc:
Date
Place
Stamp
Name
Sig. of Copying
W. S. Doabia

(M. S. S.)
J. C. S.
J. C. S.

W. S. Doabia
Advocate
15.12.93

3012687

Coord & Pers Directorate/EIR
 Engineer-in-Chief's Branch
 An HQ,
 DRQ PC, New Delhi - 110011

A/41053/ASW/92-93 & 93-94/EIR

11 MAR 2001

REF:

PANEL FOR PROMOTION OF SURVEYOR ASSISTANT
 CDE I TO THE GRADE OF ASSISTANT SURVEYOR OF
 WORKS IN THE MILITARY ENGINEER SERVICES
 AGAINST THE VACANCIES FOR THE YEAR 1992-93 &
 1993-94

1. In accordance with the directions in the judgements dated 18 May 98 and 11 Mar 99 passed by High Court of J&K at Jammu in SWP No. 1285/96 and WP No. 453/99, a DPC was held at UPSC on 23 Apr 2001 for promotion to the grade of Assistant Surveyor of Works against the vacancies of 1992-93 and 1993-94.

2. According to the recommendations of the above mentioned DPC, under mentioned 15 (fifteen) Surveyor Assistants Cde-I have been approved for promotion to the grade of Assistant Surveyor Of Works in the Military Engineer Services:-

<u>Ser No.</u>	<u>MES No.</u>	<u>Name of the Officer</u> <u>in Short</u>	<u>Date of the Birth</u>
01.	113265	MD Bapurao	15 May 41
02.	154371	AK Kulkarni	04 Mar 41
03.	400489	AK Khurana	26 May 42
04.	103971	V Ramaswara Reddy	01 Jun 45
05.	181022	TK Srinivas Rao	15 Jun 43
06.	17704	VV Purandare	15 Sep 47
07.	263274	S Karmakar	10 Jan 47
08.	110774	A Krishnamurthy	05 Jul 49
09.	311331	SC Kalra	07 May 48
10.	503668	Sanjay Kaul	13 Jan 64
11.	505457	MP Sud	19 Apr 59
12.	508385	Ramesh Chander	17 Feb 63
13.	165142	GJ Rao Desai	16 Feb 42
14.	238463	Shibabrata Sikdar	03 Jul 47
15.	503750	Harjit Singh	21 Mar 63

3. This panel shall be operative upto and including 22 Apr 2002 unless reviewed or modified by the Departmental Promotion Committee or specifically extended beyond this date by the Competent Authority.

Contd 2

Certified to be true copy
Attested
15.12.03

1. Actual appointment of officers included in this panel will be made in the order shown therein subject to the availability of vacancy and issue of orders for appointment.
2. Before placing in position on promotion it should be ensured that the officers not involved in any disciplinary case.

(AK Gauravdhay)
Principal Training Officer
SO 1 Engrs (Pers)/EIR
For E-in-C

Annexure

Secretary
UPSC/AP-3

Ministry of Defence/D (Aps)

List 'D', 'C' & 'F'

Internal:

EIA, EIB (05 Copies), EIC, EID, MIS (Civ), CSCC, E Coord-I, E2 WPC, E-
AGBR (Pers Dis)

Affected
Kant
Advocate
15.12.03

The Hon'ble
The Engineer-in-Chief (EIR)
Army Headquarters
DHQ PO Kashmir House
New Delhi - 110011.

(Through Proper Channel)

REQUEST FOR PROMOTION FROM SA Class TO ASW

Respected Sir,

1. Reference your Headquarters letter No. A/41033/ASW/92-93 & 93-94/EIR dated 11 Jun 2001 issuing a panel of 15 SAs to the post of ASW (photocopy of panel is enclosed for ready perusal).
2. The applicant most respectfully & benignly submit the following for your kind perusal and further necessary action:-

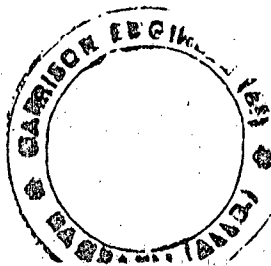
(a) I was appointed as SA II w.e.f 05 August 1980 and subsequently promoted to the post of SA I after having acquired the required qualification i.e. Intermediate Examination (Building & Quantity Surveying) from Institution of Surveyors (India). My seniority in the grade of SA I is 251 as per seniority list circulated by your Headquarters vide letter number A/41033/SAI/1 of 96-97/EIR (D) dated 01 October 1996.

(b) I have just come to know that 15 numbers of SA I have been approved for promotion to the post of ASW, out of which four are junior to me whose details are as under:-

- i. Sen. no. -347, MIES 508608 Sri Sanjay Kaul
- ii. Sen. no. -351, MIES 505457 Sri M P Sud
- iii. Sen. no. -352, MIES 508385 Sri Ramesh Chander
- iv. Sen. No. -354, MIES 508750 Sri Hrajit Singh

(c) In this connection it is submitted that I am senior than those promoted at serial number 10, 11, 12 & 15 of the panel list published by your Headquarters vide letter number A/41033/ASW/92-93 and are much junior than me. I understand that these individuals have been promoted on the basis of judgment delivered by Hon'ble High Court of J&K at Jammu decreed in Writ Petition No 1285/96 & 453/99.

(d) I further state that I am fully qualified for the post of ASW laid down in Recruitment Rules published vide Gazette of India Notification through S.R.O No 39 dated 16-1-1985. As per this Recruitment Rule the minimum qualifications for the promotion of ASW is that he should have minimum 5-Years of service in the category of SA I & have passed Final, Direct Final Examination from Institution of Surveyors (India). I am fulfilling all the required qualification for the



17/8/2001

MAJOR
G. E. (AF) BARRADU

Certified to be true copy
Attested
for
Signature
15.12.03

post of ASW. A copy of PTC and certificate having passed final examination in 1993 from Institution of Surveyors (India) is also enclosed for ready reference

3. That in view of the facts and circumstances stated above I most respectfully pray that I should be promoted to the post of ASW and grant me the seniority of ASW from retrospective effect as juniors to me at Srl No: 10,11,12&15 of the panel have already been promoted which is a clear violation of article 14,16 & 21 of Indian Constitutions as well as natural justice.

4. It is also prayed that consequent upon promotion of ASW my case for promotion to SW may also please be considered as I am fully qualified for that post of SW also as per Recruitment Rules published vide Gazette of India Notification S.R.O No. 59 dated 16-11-1985.

5. It is also submitted that I am at liberty to file a petition before the Hon'ble C.A.I Allahabad for redressal of my grievances for which I should be excused.

Thanking You,

Yours faithfully,



(P.K. Misra)
MES 432713
SA Gde I
G.E (Airforce) Bamrauli
ALLAHABAD-211012

Encl - 3 sheet
Dated: 16 August-2001

P.C in advance to
(Due to acute paucity of time)
By registered post

1. The Engineer-in-Chief (EIR) ---
Army HQ, D11010
New Delhi - 110011

With the request to take necessary action even without receiving the applications through proper channel which I am submitting as above

Accepted
Advocate
15.12.03

PART II ORDER

STATION : GE (EAST)

STATION : ALLAHABAD.

Sl. No. 17

DATED : 20 APR 1986

SHEET No. 2 of

(Last PTO No. 16 dated 29 APR 1985)

1 2 3 4 5 6

PART II : CLASS III SELECTION GRADE PERSONNEL OF GRADE III

- 8. 43150 Shri PRAMESHWARI Sdmt. 01.00.01 Appointed as Sdmt. E/M Sdmt-I
- 9. 43214 Shri PRASAD E/M Sdmt. 01.04.83
- 10. 430325 Shri RAMCHAND SINGH Sdmt. 01.04.86 (Sl. No. 55 of Appendix 'A')
- 11. 430134 Shri RS BALSIMAL Sdmt. 01.04.85
- 12. 435053 Shri SR SRIVASTAVA Sdmt. 01.04.85
- 13. 430040 Shri SK OBERAI Sdmt. 01.04.85
- 14. 430141 Shri GVS PUNDIR Sdmt. 01.04.85
- 15. 430077 Shri (M) JOSHI Sdmt. 01.04.85
- 16. 430073 Shri SMN GOSWAMI Sdmt. E/M-I
- 17. 431121 Shri D. MAZUMDAR Sdmt. E/M-I
- 18. 431121 Shri PRAMESHWARI Pd. Sdmt. E/M-I
- 19. 432502 Shri PS GUVEDI Sdmt. E/M-I
- 20. 432502 Shri R C GADI Sdmt. E/M-I
- 21. 432502 Shri C. JADOB Office Sdmt.

PART III : BASIC NON INDUSTRIAL SELECTION GRADE PERSONNEL OF GRADE III AND IV SERVICES

- 21. 432503 Shri PK MISHRA SA-II
 - 22. 432503 Shri CHANDAN CHAND CHAKRAVARTY
 - 23. 432503 Shri CHANDAN CHAND CHAKRAVARTY
 - 24. 432503 Shri FARZAN ALI P/
- Sanctioned cash equivalent of unavailed 62 days SL no on 31.12.05 on the date of retirement. Leave verified from the leave account of the individual removed from CE HQ CC LUCKNOW letter No. 905201/XXXXX CE (C) ALLD/74/EIR(A) dated 14 Apr 86

for GE (EAST) ALLAHABAD.

(Contd. P/3)

ALLAHABAD
15.12.83

The Hon'ble
The Engineer-in-Chief (EIR)
Army Headquarters
DHQ PO, Kashmir House
New Delhi

REGISTERED ACK DUE

SUBJECT : REQUEST FOR PROMOTION FROM SA GDE-I TO ASW
OA NO:1229 OF 2001

Respected Sir,

1. I have the pleasure to enclose herewith a photocopy of my representation dated 16 Aug 2001 alongwith copy of judgement of Hon'ble CAT Allahabad delivered in OA No-1229 of 2001.
2. The applicant most respectfully submits herein as follows:-
 - (a) Juniors to me at Serial No-347, 351, 352 and 354 of seniority list of Surveyor Assistant Gde I circulated vide your HQ letter No-A/41033/SA-I/1 OF 96-97/EIR (D) dated 01 Oct 1996 have been promoted to the post of ASW in the light of judgement delivered by Hon'ble J & K High Court in Writ Petition No-1285/96 and 453/99.
 - (b) As per judgement of the J&K High Court my name should also have been considered but the same was not done and therefore, I filed a Petition before Hon'ble CAT Allahabad bench Allahabad through OA No-1229/2001.
 - (c) The judgement of the Hon'ble CAT Allahabad bench Allahabad has since been delivered and the case has been decided with the direction to the respondent to decide the representation of the applicant in accordance with law and in the light of the judgement of J&K High Court mentioned above within a period of 4 months.
3. It is most respectfully prayed that Engineer-in-Chief may graciously be pleased to consider my case for promotion to the post of Assistant Surveyor of Works in the light of judgement delivered by Hon'ble J&K High Court and Hon'ble CAT Allahabad with all financial benefits from the date of my juniors have been promoted as soon as possible but within four months otherwise I shall be at liberty to file contempt petition against Union of India and others in that case all responsibility will lie on department.

Thanking you sir in anticipation.

Yours faithfully,



(P K Misra)
SA I
MES-432713
C/O CE (A/F) Allahabad

Dated : 27 Nov 2001

Attested
from
Advocate
15.12.03

upt
27/11
REMARKS :-

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

प्र. यु. न. प्रति. रि. वि.

Allahabad this the 06th day of November 2001

ORIGINAL APPLICATION NO. 1229 of 2001.

Hon'ble Mr Justice RRK Trivedi, V.C.
Hon'ble Maj Gen KK Srivastava, A.M.

Prem Kumar Mishra,
S/o Shri A.L. Mishra,
R/o P-161/1 P.A.C. Line,
Old Cantt. Allahabad.

... Applicant

By Adv : Shri S. Srivastava

Versus

1. Union of India, through the Secretary,
Ministry of Defence,
NEW DELHI.

2. Engineer-in-Chief,
Army Head Quarter,
Kashmiri House,
NEW DELHI.

3. Garrison Engineer, Air Force,
Bamrauli,
ALLAHABAD.

... Respondents

By Adv : Sri R.C. Joshi

...2/-

R →

Attested
for
Advocate
15.12.03.

ORDER

Hon'ble Mr. Justice RRK Trivedi, VC.

By this O.A. under section 19 of the AT Act, 1985, the applicant has prayed for a direction to the respondents to promote him to the post of Assistant Surveyor of Works from the date his juniors have been promoted with all consequential benefits. He has also prayed for direction to restore the seniority of the applicants amongst Assistant Surveyor of Works. It appears that promotions were granted in pursuance of the judgments dated 18.5.1998 & 11.3.1999 passed by Hon'ble High Court at Jammu & Kashmir in two separate WPs. The DPC was accordingly held by UPSC on 23.4.2001 for promotion to Assistant Surveyor of Works against the vacancies of 1992-93 & 1993-94. On the basis of recommendation of DPC 15 Assistant Surveyor Grade I were approved for promotion in MES. The applicant claims that he should also be considered for promotion, but he has been illegally ignored.

2. Before coming to this Tribunal, the applicant filed a detailed representation dated 16.8.2001, addressed to Engineer-in-Chief, Army Headquarter (respdt no.2). It is only one of the grievance of the applicant that his representation has not been decided.

3. In the circumstances, in our opinion the ends of justice will be served, if respondent no. 2 is directed ~~directed~~ to decide the representation of the applicant by a reasoned order within a specified time.

...3/-

:: 3 ::

4. The OA is accordingly disposed of finally, with the direction to the respondent no. 2 to decide the representation of the applicant in accordance with law and in the light of the judgment of Jammu & Kashmir High Court mentioned above within a period of 4 months from the date of communication of this order. To avoid delay it shall be open to the applicant to file a fresh copy of representation alongwith Jammu & Kashmir High Court's judgment.

5. There shall be no order as to costs.

TRUE
COPY

Ashish Kumar
21/11/01
Section Officer
Central Admin. Tribunal
Aizawl

Attested
from
Advocate
15.12.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABADContempt Petition No.75 of 2002
in

Original Application No.1229 of 2001

Allahabad this the 27th day of September, 2002

Hon'ble Maj Gen K.K.Srivastava, A.M.
Hon'ble Mrs. Meera Chhibber, J.M.Prem Kumar Misra
Son of Sri A.L.Misra
resident of P/161/1 P.A.C.Lines,
Old Cantt., Allahabad.

- Petitioner

(By Advocate - Shri S.Srivastava)

Versus1. Shri Yogendra Narain,
Secretary,
Ministry of Defence,
New Delhi.Lt. Gen. Hari Uniyal
Engineer-in-Chief (Army Hq.)
New Delhi.

- Respondents.

(By Advocate - Shri P.D.Tripathi)

ORDER (ORAL)By Hon'ble Mrs.Meera Chhibber, J.M.

It is stated by the respondent's counsel that the case is under consideration and necessary steps are being taken to comply with the direction. However, since the UPSC is involved, it will take some time.

2. It is brought to our notice by the applicant's counsel that in similar situation and same department for the same post another matter was pending in the Principal Bench also wherein contempt petition No.167/02

Contd...2.

Assessed
Ranks
Advocate
15-12-02

in OA No.139/02. ^{was filed a d R} The Principal Bench has passed the following orders :-

"Keeping in view the statement of learned counsel for respondents and as it is also reflected in the order dated 18.4.2002 vide which representation was disposed of, we grant 4 months time from the date of receipt of a copy of this order to take a final decision in this regard. No further time will be granted. CP stands disposed of, Notices discharged."

3. In view of the orders passed by the Principal Bench, the applicant's counsel submitted that the same direction be given in present contempt petition also, so that the respondents may pass final order within stipulated period.

4. We agree with the applicant's counsel and since the respondents have already given statement that they are implementing the orders, we granted 4 months time to respondent to take a final decision in the matter from the date of receipt of the copy of the order. The contempt petition is disposed of with above direction and notices are discharged.

5. The applicant ^{shall R} ~~has~~, however, be at liberty to approach the Court again in case the directions are still not complied with.

Phyl
27
22/10/02

Sd/-
JM

Sd/-
Am

V N. SHUKLA
Section Officer
Central Administrative Tribunal
Allahabad

Tele 3019687

Coord & Pers Directorate
Engineer-in-Chief's Branch
ARMY HEADQUARTERS
DHQ PO NEW DELHI- 11 0011

18 Apr 2002

No. A/41033/PKM /EIR

MES-432713 Shri P.K. Misra, SA Gde-I
CE (AF) Allahabad

(Through CE (AF) Allahabad)

**REPRESENTATION IN OA NO. 1229 /2002 IN CAT ALAHABAD BENCH
ALLAHABAD**

1. Reference your representation dated 27 Nov 2001 in pursuance to the directions dated 06 Nov 2001 of Hon'ble CAT Allahabad, Allahabad.
2. Your representation has been carefully considered by the competent authority in compliance with the order dated 06 Nov 2001 passed by Hon'ble CAT Allahabad, Allahabad in OA No. 1229 /2001. It is stated that no vacancy of ASW is presently available against the year 1993-94 to promote any Surveyor Assistant Grade-I.
3. Therefore, a case has been submitted to Ministry of Defence for making the vacancies available for promotion as a special case. The case is being processed in consultation with DOP&T and Ministry of Finance.
4. This is for your information please.

Bhupinder Singh
(Bhupinder Singh)
EE
SO 2 (Pers)
For E-in-C

Copy to:-

CE Central Command, Lucknow

CE (AF) Allahabad

Certified to be true copy
Shankar
Advocate
15.12.03

Tele: 23019687

SPEED POST

Coord & Pers Directorate/EIR
Engineer-in-Chief's Branch-
Army Headquarter
DHQ PO New Delhi-110011

No. A/41033/PKM/EIR

21 Jan 2003

~~MES-432713 Shri PK Migra, SA Gdo-I~~

C/o CE (AF) Allahabad

REVIEW DPC FOR PROMOTION FROM SA' GRADE-I
TO ASSISTANT SURVEYOR OF WORKS

1. Reference further to this HQ letter No. A/41033/PKM/EIR dated 18.04.02
2. This is to inform you that the date of Review DPC from SA Grade-I to ASW has been fixed on 24th Jan 2003 and 25 Jan 2003 at Union Public Service Commission, New Delhi.
3. In view of above, you are requested to wait for some more time and co-operate with the department.

Bhupinder Singh
(Bhupinder Singh)
EE
SO II (Pers)
For E-in-C

Copy to: -

CE CC Lucknow

CE (AF) Allahabad

Certified to be true copy
15.12.03

(Letter No B/42033/RDPC/SAI to ASW/92-93 & 93-94/EIR dated Feb 2003)

- (f) Hon'ble CAT Allahabad Judgement dated 12.12.2001 in OA 1476/2001
Filed by MRS-439033 Shri MIC Mudgal
- (g) Hon'ble CAT Allahabad Judgement dated 12.12.2001 in OA 1477/2002
Filed by MRS-454974 Shri MC Agnihotri
- (h) Hon'ble CAT Chandigarh Judgement dated 1.11.2001 in OA 1376/111/2001
Filed by MRS-305758 Shri RC Verma
- (i) Hon'ble CAT Allahabad Judgement dated 6.11.2001 in OA 1229/2001
Filed by MRS-432913 Shri RC Mitra
- (j) Hon'ble CAT Allahabad Judgement dated 20.3.2002 in OA/300/2002
Filed by MRS-313924 Shri Surande Pal Singh
- (k) Hon'ble CAT Bangalore Judgement dated 11.12.2002 in OA 1675, 1677 to 1682 of 2001 filed by MRS-112539 Vijayanath, MRS-102425 Shri G Nagaraj, MRS-150638 Shri SC Phadke, MRS-143293 Shri V Narayana, MRS-110980 Shri Jacob Verghese, MRS-600420 Shri Omkar Nath Mudda and MRS-124455 Shri MIC Jourd'homme
- (l) Hon'ble CAT Bangalore Judgement dated 11.12.2002 in OA 304/2002
Filed by MRS-134660 K Palanichami

Contd P 27.

16

Pol:

Continued on 20

Affect to
Sub. Advocate
15.12.07

66

82

2055

Winter
1995

add in the
figure

6000

1944

094401

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 84

70547

2034

[illegible]

1991

10

14

31

100

Alfred
Francis
Advocate
15.12.03

Appendix 'A' (contd)

: 2 :

PANEL FOR THE YEAR 1993-94

| 1 | 2 | 3 | 4 |
|----|--------|-----------------------|-----------------|
| 01 | 210223 | Hari Prayanna Pal | 15.12.32 (Retd) |
| 02 | 210135 | Gopal Hari Tiwari | 17.42 (Retd) |
| 03 | 206024 | Alok Kumar Basu | 19.41 (Retd) |
| 04 | 201290 | Bibekananda Dutta | 12.41 (Retd) |
| 05 | 237514 | VV Ambu | 15.44 |
| 06 | 242061 | P Madhavan | 14.43 |
| 07 | 108971 | V Ramaswara Reddy | 16.45 |
| 08 | 181022 | TK Srinivasa Rao | 15.6.43 (Expre) |
| 09 | 158744 | VV Purandare | 15.9.47 |
| 10 | 201179 | Amaruath Pal | 27.7.43 |
| 11 | 306974 | Jatendra Kumar Sood | 31.8.44 |
| 12 | 128056 | G N Ananthu | 8.10.40 (Retd) |
| 13 | 127582 | S Kannan | 6.6.43 |
| 14 | 125028 | S Kasturi | 1.4.40 (Retd) |
| 15 | 237666 | Nirmal Kanti Ghosh | 18.41 (Retd) |
| 16 | 435875 | Omkar Nath Thakur | 23.7.43 |
| 17 | 110774 | A Krishna Murthy | 5.7.49 |
| 18 | 311331 | Subhash Chandra Kulra | 7.5.48 |
| 19 | 304396 | Charaj Lal | 7.9.43 |

Contd P 3/-

Appendix "A" (Contd.)

| 1 | 2 | 3 | 4 | 5 |
|----|--------|---------------------------|------------------|----|
| 20 | 201333 | Parimal Chaudhury | 9.1.45 | 29 |
| 21 | 206326 | Pares Nath Ghosh | 29.11.44 | 10 |
| 22 | 101347 | K.J. Varghese | 18.6.40(Reid) | 20 |
| 23 | 165030 | A. Holt Viswanath Ghoshke | 16.40(Reid) | 30 |
| 24 | 306746 | Ashray Kumar Jyoti | 30.12.43 | 1 |
| 25 | 135102 | M.K. Sundaram | 1.4.42(Reid) | 40 |
| 26 | 146069 | C.R. Raghothaman | 20.5.43 | 20 |
| 27 | 166135 | Suresh Sukdaram Sarode | 21.5.41(Reid) | 30 |
| 28 | 151277 | K.K. Konnur | 26.3.42(Reid) | 20 |
| 29 | 307080 | Globan Lal Gupta | 8.5.41(Reid) | 30 |
| 30 | 412336 | Radhey Shyam Verna | 5.1.41(reid) | 30 |
| 31 | 127613 | G. Subramanya Sastry | 14.10.40(V/Reid) | 30 |
| 32 | 306064 | Vinod Kumar | 21.9.42(Reid) | 30 |
| 33 | 460221 | Shri Ram Kharbanda | 1.7.40(Reid) | 30 |
| 34 | 430787 | Ramesh Chandra Gupta | 8.6.38(Reid) | 30 |
| 35 | 144037 | Pranesh Rao | 20.1.43(Reid) | 30 |
| 36 | 305215 | T.H. Bhaskaran | 4.11.43(V/Reid) | 30 |
| 37 | 415184 | Kelpal Singh | 1.9.43 | 30 |
| 38 | 134060 | K.B. Gururajan | 7.7.44 | 30 |
| 39 | 154274 | G.R. Dixit | 27.7.42(Reid) | 30 |

Contd P 47

Appendix "A" (Contd)

| : 11 : | | | |
|--------|--------|-----------------------------------|---------|
| 1 | 2 | 3 | 4 |
| 184 | 170354 | Mrs Subhamony T | 30.5.60 |
| 185 | 164443 | Joy T Mathew | 30.5.58 |
| 186 | 109036 | Dula Rambabu (DR) | 10.6.62 |
| 187 | 600856 | Nitin Muralidhar Tambe (DR) | 15.5.62 |
| 188 | 600388 | Yashwanth Rao Satanoor (DR) (SC) | 1.6.60 |
| 189 | 113504 | Shankar P Chavan (DR) (SC) | 1.6.58 |
| 190 | 124300 | PV Dalau (DR) | 2.6.58 |
| 191 | 186158 | Sunder Singh (DR) (SC) | 31.5.61 |
| 192 | 147211 | Smt Dewesetti Surya Jyothi | 6.5.61 |
| 193 | 454975 | Rajiv Trivedi | 30.7.58 |
| ✓ 194 | 432713 | Prem Kumar Misra | 18.8.56 |
| 195 | 191695 | Arvind Kumar Aggarwal | 19.8.60 |
| 196 | 147477 | Pinuzameeti Chandra Sekhara Rao | 9.2.62 |
| 197 | 181488 | Kallidindi Lakshmi Narasimha Raju | 17.6.59 |
| ✓ 198 | 181506 | Dandu Venkata Rama Raju | 1.9.61 |
| 199 | 167026 | Sedu Ram Maui | 1.1.59 |
| 200 | 113369 | G Madhavan | 10.5.58 |
| 201 | 181489 | Bandaru Naga Raju | 1.7.59 |
| 202 | 465548 | Nand Gopal | 4.11.60 |
| ✓ 203 | 134170 | Yenkataram Macharain | 24.4.62 |
| 204 | 194132 | Mohd Shameem Ahmed | 20.5.62 |

Appendix "A" (Contd)

: 12 :

| 1 | 2 | 3 | 4 |
|-------|--------|---------------------------------|------------------|
| 205 | 187866 | Thampi CK | 18.2.61 (Resign) |
| 206 | 124455 | MK Jaganathan | 21.6.63 |
| ✓ 207 | 128070 | SK Vasundharan | 30.5.60 |
| 208 | 122464 | Subhash Babu K | 13.6.62 |
| 209 | 124660 | KA Palanichand | 16.4.59 |
| 210 | 140112 | Smt Prasanna KV | 25.5.59 |
| ✓ 211 | 209705 | Ashh Chowdhury(SC) | 28.6.59 |
| 212 | 199795 | Rajendra Janakirama Kukker | 25.3.64 |
| 213 | 314191 | Harish Kumar Arora | 17.8.63 |
| 214 | 1719 | T. Raju Chand Shishodia(DR)(SC) | 10.9.62 |
| 215 | 314686 | Ashok Kumar(DR) | 5.10.64 |
| 216 | 125377 | Chapte Malikarjun (DR) | 8.12.62 |
| 217 | 149016 | Suresh V Karemani (DR) | 15.5.63 |
| 218 | 503385 | Ramesh Chander(DR) | 17.2.63 |
| 219 | 508690 | Vikas Talwar(DR) | 4.6.65 (resig) |
| ✓ 220 | 508750 | Harjit Singh(DR) | 21.3.63 |

(Total two hundred Twenty, only)

(AK Gangopadhyay)
PAO
SO(P)/EIR
For Engineer-in-Chief

Attested
Rans
Adware
15.12.03

Tele: 23793276

Coord. & Pers Directorate/EB

Engineer-in-Chief's Branch

Army Headquarters

DIHQ PO, New Delhi - 110011

MES/ 15 /2003

2 Feb 2003

Chief Engineer:

Southern Command, Pune

Eastern Command, Kolkata

Western Command, Chandimandir

Central Command, Lucknow

Northern Command, C/O 56APO

ADG (OF & DRDO) Secunderabad

PROMOTION CUM POSTINGS OF AE (QS&C) JE (QS&C) TO AEE (QS&C)

1. Ref panel for promotion of AE (QS&C) JE (QS&C) to the grade of AEE (QS&C) issued vide EIR (O) letter No B/42033/R-DPC/SA-I to ASW/92-93 & 93-94/EIR (O) dt 11 Feb 2003.

| SNo | MES No and Name | From | To | Remarks |
|-----|---|-------------------------------|--|---------|
| (a) | MES-470973 Shri
Hitesh Kumar, JE (QS&C) | CWE (P) Jabalpur | CE (A&N) Zone
Port Blair as AEE
(QS&C) | EV |
| (b) | MES-109056 Shri
Dala Rambabu, JE (QS&C) | ADG (OF&DRDO)
Secunderabad | CE Delhi Zone as
AEE (QS&C) | EV |
| (c) | MES-600856 Shri
NM Tamhe, JE (QS&C) | CWE Pune | GE (I) R&D
Delhi as AEE
(QS&C) | EV |
| (d) | MES-600362 Shri
Vijay Kumar Hothi, JE (QS&C) | CWE (AF) Secbad | GE (I) (Fy)
Ambhajari as AEE
(QS&C) | EV |
| (e) | MES-175351 Shri
Anand J. J. JE (QS&C) | GE (S) Pune | CE New Bird New
Delhi as AEE
(QS&C) | EV |
| (f) | MES-181461 Shri
PPVSS Ram Rao, JE (QS&C) | CE (N) Vizag | CE SE Falls
Shillong as AEE
(QS&C) | EV |
| (g) | MES-124300 Shri
PV Balan, JE (QS&C) | GE Gomantak | CE Chennai Zone
as AEE (QS&C) | EV |
| (h) | MES-116664 Shri
VK Raj Krishna Swamy, JE
(QS&C) | GE (AI) Jamnagar | CE Pune Zone as
AEE (QS&C) | EV |
| (j) | MES-122006 Shri
Santesh S Seth, JE (QS&C) | CWE (A) Jamnagar | CE (I) Vizag as
AEE (QS&C) | EV |

LI Col

Chief (Pers) Dir, Army HQ

*Meeta
Sankar
Advocate
15-12-03*

27/12/03

| | | | | |
|------|---|----------------------------|---|-----------------------------------|
| (k) | MES-169269 Shri
PG Dandani, JE (QS&C) | CE (P) Asvini | CWE (N) Vizag as AEE
(QS&C) | EV |
| (l) | MES-169396 Shri
Sunil Kumar Soni, JE (QS&C) | CE Jaipur Zone | CE Jaipur Zone as AEE
(QS&C) | Tenure
Restd for
two years. |
| (m) | MES-147211 Shri
DS Jyothi, JE (QS&C) | GE (NR) Vizag | CE (R&D) Secunderabad as
AEE (QS&C) | EV |
| (n) | MES-181466 Shri
J Madhava Rao, JE (QS&C) | GE (AF)
Hyderabad | CE Delhi Zone as AEE
(QS&C) | EV |
| (o) | MES-420072 Shri
RP Pawar, JE (QS&C) | CWE Bhopal | CE (AF) Shillong as AEE
(QS&C) | EV |
| | MES-128067 Shri
M Krishna Moorthy, JE (QS&C) | CWE (A)
Bangalore | CE Jaipur Zone as AEE
(QS&C) | EV |
| (q) | MES-128066 Shri
PN Nehru, JE (QS&C) | CE Chennai
Zone | GE (I)(AF) Ozar as AEE
(QS&C) | EV |
| (r) | MES-454975 Shri
Rajiv Trivedi, JE (QS&C) | GE EAM Chakeri | CE SF Falls Shillong as
AEE (QS&C) | EV |
| (s) | MES-432713 Shri
Prem Kumar Mishra, JE (QS&C) | CE (AF)
Allahabad | CE (AF) Shillong as AEE
(QS&C) | EV |
| (t) | MES-470080 Shri
KS Rautela, JE (QS&C) | CWE (Hills)
Pithoragarh | GE (I)(P) Secunderabad as
AEE (QS&C) | EV |
| (u) | MES-170351 Shri
TB Sachidanandan, JE (QS&C) | CE Chennai
Zone | CE Pune Zone as AEE
(QS&C) | EV |
| (v) | MES-124310 Shri
S Sankaranarayana, JE (QS&C) | GE Coimbatore | HQ 135 V. E. as AEE
(QS&C) | EV |
| (w) | MES-191695 Shri
AK Aggarwal, JE (QS&C) | GE (P) Patiala | CWE Leh as AEE (QS&C) | EV |
| (x) | MES-147477 Shri
PCS Rao, JE (QS&C) | GE EAM
Secunderabad | CE Lucknow Zone as AEE
(QS&C) | EV |
| (y) | MES-147478 Shri
AK Rao, JE (QS&C) | CE (R&D)
Secunderabad | CE (AF) Ahmedabad as
AEE (QS&C) | EV |
| (z) | MES-181488 Shri
KLN Raju, JE (QS&C) | CE (N) Vizag | CE (AF) Ahmedabad as
AEE (QS&C) | EV |
| (aa) | MES-181506 Shri
DVR Raju, JE (QS&C) | GE (ND) Vizag | CE SC Pune as AEE
(QS&C) | EV |
| (ab) | MES-167026 Shri
Sedu Ram Kumawat, JE
(QS&C) | CE Jaipur Zone | DGNP Vizag as AEE
(QS&C) | EV |

2. Consequent on promotion to AEE (QS&C), the following postings are hereby approved in the interest of state: -

1. Col
SO-I (Pers) EIB
3/-

PC NO : ARES 15/2003 DT 13 FEB 2003

8. The officers will be on probation for a period of two years. Move of the officers will be implemented forthwith.

(A.K. Chaubey)
Lt Col
SO-1 (Pers) E1B
For Engineer-in-Chief

Copy to:

DCNF Vizag, CE Jabalpur Zone, CE(A&N) Zone, Fort Blair, CE Delhi Zone, CE Pune Zone, CE (AF) Bangalore, CE (Fy) Hyderabad, CE Sea Road New Delhi, CE (N) Vizag, CE SE Falls Shillong, CE (N) Mumbai, CE Chennai Zone, CE (AF) Ahmedabad, CE Jaipur Zone, CE (R&D) Secunderabad, CE Delhi Zone, CE (AF) Shillong, CE (AF) MG Nagpur, CE (AF) Allahabad, CE Bareilly Zone, CE Udhampur Zone, CE Bhatinda Zone, CE Srinagar Zone, CE Lucknow Zone, CWE (P) Jabalpur, CWE Pune, CWE (AF) Secunderabad, CWE Pune, CWE (AF) Secunderabad, CWE Pune, CWE (N) Vasco, CWE (AF) Bhuj, CWE (A) Jamnagar, CWE (P) (NW) Mumbai, CWE (N) Vizag, CWE Vizag, CWE (AF) Secunderabad, CWE Bhopal, CWE (A) Bangalore, CWE (AF) Lohagaon, CWE (Hills) Pithoragarh, CWE Nagpur, CWE Wellington, HQ 135 Wls Engrs, CWE (P) Patiala, CWE Loh, CWE Secunderabad, CWE Vizag, GE (I) (R&D) Dehradun, GE (I) (P) (Fy) Ambajhari, GE (S) Pune, GE Garantak, GE (AF) Jamnagar, GE (P) Asvini, GE (NB) Vizag, GE (AF) Hyderabad, GE (I) (AF) Ozhar, GE EAM Chakeri, Kanpur, GE (I) (P) Secunderabad, GE Coimbatore, GE (P) Patiala, GE EAM Secunderabad, GE (ND) Vizag, CRO (O) C/O CE Delhi Zone.

TS to DG (Pers), TS to DGW, EDGE (Pers 'A'), MIS ADP MIS Civ, MS-12, E2
E1, E2 (O), EEB Cadre, E-Coord-I, CE (QS&C), Master Folder and case file.

Attested
and
Adm. Secy
15-12-03

NO NO. 15 / 2003 DT 13 FEB 2003

3. Departure / arrival of the offrs will be reported to this HQ (EIB / MIS ADP / MIS) by signifier by the relieving/receiving units on the day of his SOS/TOS.

4. ACR of the officer will be initiated soon after his SOS dates, if he has completed three months or more in the current ACR year under any Initiating Officer.

5. Before the officer is placed and assumes his higher appt, it will be ensured that:

- (a) The offr is not under suspension.
- (b) No charge sheet has been issued to the offr and no disciplinary proceedings are pending against him.
- (c) No prosecution for a criminal charge is pending against him.

(d) The officer is required to exercise option in terms of fundamental Rule 22 within one month from date of promotion. This aspect shall be mentioned in the government order.

(e) Home station in respect of officers posted on executive/sensitve appointment shall be reconfirmed by the relieving unit and in case the home station and the duty station happen to be the same, the officer shall not be relieved and this HQ informed for further action.

(f) Before placing in position it should also be ensured that the officers included in this promotion-cum-posting order are Engg Degree holder before 01 Oct 1993 or passed Direct Final Exam of ISI before 01 Oct 93. In case any individual has not passed the above exam, they shall not be placed in position as ASW and matter may be intimated to this HQ forthwith.

6. DGN particulars of the offrs will be sent to this (EIB) along with his full name and present permanent rank.

7. The offrs will not be placed in higher appt, if involved in disciplinary/BI case without clearance from this HQ.

13 Feb
SG-I (Pers)/EIB
4/

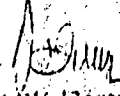
OFFICE OF THE COMMANDER WORKS ENGINEER (AIR FORCE) BAMRAULI - 711017MOVEMENT ORDER : SUBORDINATES

1. MES No & Name : MES/432713
Designation : Sh PK Misra, JE(QS&C)
Designate AEE(QS&C)
2. Date of Birth : 16 Jun 1956
3. Date of Appointment : 05 Aug 1980
4. Proceeding From : CWE (AF) Bamrauli
5. Proceeding To : CE (AF) Shillong- On promotion to take up appointment of AEE(QS&C)
6. Authority : Coord and Pers Directorate/EIB, E-in-C's Branch, AHQ New Delhi letter No MES/15/2003 dated 13 Feb 2003, CE(AF) Alld letter No. 951607/188/EIB DTF, 27 Feb 2003 and 951607/190/EIB dated 06 Mar 2003.
7. Date of SOS : 20 Mar 2003 (AN)
8. Date of arrival at new Station : By completion of joining/journey period.
9. Rate of Pay & Allowance : Basic Pay : Rs 85 00.00
DA : Rs 4420.00
HRA : - (Govt Md Accn allotted)
CCA : Rs 180.00
TPI Allos : Rs 200.00
Deduction :-
GPF subs - Rs 2345.00
GPF A/C No- 1051753L
CGEGBS - Rs 30.00
CGHS - Rs 70.00
10. Will be paid upto and for : 31 Mar 2003
11. Advance of TA : As admissable
12. CL/RH at credit : CL Bal - 06 - RH Bal - 02
13. Whether SC/ST : Neither
14. Date of next increment : 01 Aug 2003

Contd/-

Attested
Sub-
Admiral
15.12.03

15. The indl is not involved in any disciplinary / SPE case.
16. Indl will surrender his permanent pass to his new unit.
17. The indl will obtain clearance certificate from all concerned and submit to this office alongwith departure report before leaving the station.


(SK Darangia)
Adm Offr
For CWE(AF) Barravali

Case No : 11010/ASW/66/EIA


Dated : 07 Mar 2003

Distribution

1. E-in-C's Branch, AHQ(EIB/MIS ADP MIS CIV), New Delhi,
2. HQ CE,CC Lucknow
4. CE (AF) Shillong
5. CRO Office, C/O CE Delhi Zone, Delhi Cantt
6. HQ CE(AF) Allahabad
9. JCDA (Fund) Meerut
10. CDA, CC Lucknow
11. CDA, EC Panna
12. AAO, Allahabad
12. MES-432713 Shri PK Misra, IE(QS & C) - For compliance. Please submit your departure report and clearance certificate before departure.

Internal

E1 Sec, E1 (Com), E2, E3, E4, E5, E6 & E8 Sec


Advocate
15.12.03

PART II ORDER : OFFICERS

UNIT : HQ CHIEF ENGINEER (AF)

Present PTO No : 04/OFFRS

SHILLONG ZONE

Date : 01 APR 2003

STN : SHILLONG -09

(Last PTO No : 03/OFFRS/SPL

DATE : 15 MAR 2003)

| Ser No | MES NO | NAME | DESIG | DATE WEF | PARTICULARS OF CASUALTY |
|--|--------|----------------------------------|---------------|-------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| PART I(a) | | | | | |
| <u>STRENGTH INCREASE / POSTING IN</u> | | | | | |
| 01. | 432713 | SHRI P K MISRA
(SB NO : NYA) | AEE
(QS&C) | 21-3-2003
(FN) | ToS on permt posting from CWE (AF) Bamrauli wef 21-3-2003 (FN).
The period 21-3-2003 treated as Journey Period/Joining Time. |
| | | | | 22-3-2003
(FN) | Reported arrival physically on 22-3-2003 (FN)
Gtd SDA/HRA/HCA as admissible wef 22-3-2003.
AUTHY: Coord & Pers Dir/EIB, E-in-C's Br, AHQ, New Delhi Promotion-cum-Posting Order No MES/15/2003 dt 13-2-2003 and CWE (AF) Bamrauli MO No 11010/ASW/66/E1A dt 07-3-2003. |
| <u>PROMOTION</u> | | | | | |
| 02 | 432713 | SHRI P K MISRA
(SB NO : NYA) | AEE
(QS&C) | 22-2-2003
(FN) | Promoted from JE (QS&C) to the Gde AEE (QS&C) wef 22-2-2003 (FN) in the pay scale Rs. 8,000-275-13,500/- and placed in posn on probation for a period of two years wef the same date.

Certified that the offr is not involved in any Discp/C of I/SPE/Vig Case as per MO issued by CWE (AF) Bamrauli vide No 11010/ASW/66/E1A dt 07-3-2003.

Authy : E-in-C's Branch, AHQ New Delhi promotion-cum-posting order No MES/15/2003 dt 13-2-2003. |
| <u>AMDT - PROMOTION</u> | | | | | |
| 03. | 439053 | SHRI M K MODGIL
(SB NO : NYA) | AEE
(QS&C) | | Ref HQ CE (AF) Shillong Zone PTO No 03/OFFRS/02/2003 Dt 01-3-2003

In Col 6 the following be inserted after the words 'placed in posn' in Line 4 :-
"on probation for a period of 2 years".
All other entries will remain in toto. |

Capt
Adm OffrA. H. S. D.
Advocate
15.12.03

- 78.

Annexure: AP

CENTRAL ADMINISTRATIVE TRIBUNAL EARNACULAM BENCH

FRIDAY THE 14th Nov BER 2003

PRESENT

Hon'ble Mr A V Haridsun
Hon'ble Mr TNT Nayer

: Vice-Chairman
AND : Administrative member

ORIGINAL APPLICATION NO.916/2003

SK Vasundhayan

Applicant

Versus

UOI Through Secretary Ministry of Defence, Ne-w
Delhi and others. Respondent

Sri KP Dandapani

Counsel for applicants

Sri GC Abraham ACSC

Counsel for Respondents.

ORDER

Sri GC Abraham, ACSC takes notice on behalf of the Respondents.

Heard, the application is admitted.

Respondents shall file their reply statement within four weeks with a copy to the applicant which may file rejoinder, if any within two weeks thereafter.

List before RC for compilation of pleadings on 31.12.03.

The learned counsel for the applicant prays that respondents may be directed not to delete the name of the applicant from Annexure A-2 panel till the disposal of the application.

The learned counsel for the respondents seeks and is granted two weeks time to get instructions in the matter and to make a statement on the interim relief. Call the matter before the hearing for further direction on 01.12.03, till which date we direct that the applicants name shall not be deleted from Annexure A-2 panel on the basis of the Annexure A-4 order.

Sd-xxxx
Administrative Member

Sd/-xxx
Vice Charman

*Attested
Sd/-xxx
Advocate
15.12.03*

79
CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CIRCULAR AT JAMMU

Annexure-QR

OA No. 1217-JK of 1994

Date of decision 15-11-1996

R.K. Gupta, SN

MES NO. 305718

O/O CE Navy, Bombay
26, Assaye Bldg. Colaba,
Bombay 400 005

... Applicant

Versus.

1. Comm. & Pers Directorate /EIB
Engineer-in-Chief's Branch
New Delhi 10 New Delhi

2. Chief Engineer Navy Bombay
26, Assaye Building, Colaba,
Bombay 400 005

... Respondents

Commissionable Shri N.K. Verma, Administrative Member
Hon'ble Shri T.D. Prasad, Judicial Member

Present: Mr. A.K. Sharma, Counsel for the Applicant
Mr. Arun Datta, Counsel for the Respondents.

ORDER

(Hon'ble Shri N.K. Verma, JM)

In this case, received by transfer from Bombay Bench of the Tribunal, the applicant Shri R.K. Gupta has assailed the impugned order dated 6.9.93 by which he has been reverted to the post of Assistant Surveyor of works (ASN) with effect from 2.9.1993 from the post of Surveyor of works with a prayer to promote the applicant as Surveyor of works from the date he was reverted. The facts of the case are that the applicant who is a qualified Graduate in Civil Engineering joined MES Department as Superintendent B-2 Grade on 13.11.1963, and during the course of time, he was promoted to the gazetted post of Assistant Surveyor of works on 21.4.1983.

Certified true copy
Law Advocate
15.12.03

continued to work in that capacity till June, 1986. Thereafter he was asked to perform the duties of Surveyor of works which he continued to perform till 8.9.89. Thereafter, the applicant was transferred to Bombay under Respondent No. 3 where he worked in the capacity of Surveyor of works till September, 1991. He was promoted as Surveyor of works on 7.9.91 as per orders of the President placed at Annexure-K of the amended OA and was posted against the existing vacancy at Bombay itself as Annexure-D. His service as Surveyor of works was also verified and published through Part-II orders issued on 6.4.92 and 26.4.93. However, on 23.11.93, he was served with show cause notice wherein his promotion to the post of Surveyor of works was termed as irregular on the grounds cited in that letter and he was asked to show cause as to why he should not be reverted to the post of Assistant Surveyor of works. The applicant filed reply to the show cause notice as per directions of the respondents No. 2 and 3 and pointed out that he is a Degree holder in Engineering from Punjab University and therefore the question of his having been appointed/promoted irregularly does not arise. However, without taking his reply into consideration, the respondents vide their impugned orders, reverted him to the grade of Assistant Surveyor of works (For short 'ASW') with immediate effect followed by his transfer to the post of Chief Engineer, Srinagar Zone. The applicant made representations against this reversion without any success, and ultimately moved the Bombay Bench of the Tribunal with an OA filed on 4-10-1993. While the OA was admitted on 22.11.1993, the interim relief sought by the applicant was not granted and consequently, the applicant joined at Srinagar in the down graded post of A.S.W. The applicant has assailed the order of his down gradation on two grounds:-

- (i) the orders of reversion have been passed by an authority subordinate to the President who had ordered his promotion to the grade of

81

Surveyor of works and as such these orders should not have been passed without taking recourse to due process of rules/law.

(2) the reversion was totally illegal in view of the fact that the applicant possessed a degree in civil engineering which was an essential qualification for holding the post of Surveyor of works.

2. The respondents, on the other hand relied solely on the provisions of Recruitment Rules which were framed under by the Government under the provisions of Article 309 of the Constitution of India and SRO 39^{no.} dated 9.2.1985 which stipulated promotions from ASI to SI with 4 years regular service in the grade and having passed the final examination of Institution of Surveyors (India) equivalent. It was stated in their written reply that the applicant having^{not} passed the final examination of the Institution of Surveyors (India) his promotion to the post of S.I. on 6.4.91 was not in order and was erroneous and hence, the respondents had taken remedial action to correct that error. They further stated that as per the clarification sought by them from the Ministry of Science and Technology as per Annexures R-4 and R-5, it has been clarified that the Membership of Institution of Surveyors of India is a special qualification and is not equivalent to a Degree in Engineering. According to the respondents, the final examination of Institution of Surveyors of India is a superior qualification to that^{or} degree in Engineering, and since the applicant did not pass that examination, he was reverted through the impugned orders.

3. During the course of arguments, the learned Counsel for the applicant focussed our attention on the fact that the rules of recruitment required the ASI to have the basic qualification of Diploma holder or degree holder or having passed the final examination of

the Surveyors (India) with 5 years service as has been
(extract) is
1. down in SRO No. 39. The SRO 39 / reproduced as
follows:-

4. Surveyor of works

Promotion: Assistant Surveyor of works
with 4 years regular service in the grade
and having passed the final examination of the
Institution of Surveyors (India) or equivalent

Note: For the purpose of counting the
above period of eligibility for promotion,
the regular service rendered by the
assistant surveyor of works in the equivalent
post of Assistant Executive (Engineer Cadre)
in Military Engineer Services prior to
4th January, 1981 shall also be taken into account

Assistant Surveyor of works

(i) 50% by promotion

(ii) 50% by direct recruitment through the
Engineering Services Examination held by Union
Public Service Commission

Promotion: Surveyor Assistant Grade I
holding Degree in Civil Engineering from a
recognised University or equivalent or having
passed final, Direct Final Examination of the
Institution of Surveyors (India) with 5 years
regular service in the grade of Surveyor Assistant
Grade I having passed Intermediate Examination of
Institution of Surveyors (India) or holding Diploma in
Civil Engineering of a recognised University
/ Institution or equivalent with 10 years regular service
in the grade.

Note: For the purpose of counting the above period
eligibility for promotion, the regular service
rendered by Surveyor Assistant Grade I in the
equivalent grade in the Engineering Cadre, as Superintendent
Buildings/ and roads Grade I or Supdt. Buildings and
roads Grade I (Charge Holder) or Assistant Engineer
prior to 4th January, 1981 shall also be taken into
account.

4. The recruitment of Assistant Surveyor of works
is (i) 50% by promotion (ii) 50% by direct recruitment
through the Engineering Service Examinations held by
Union Public Service Commission. The educational
qualification required is Degree in Civil Engineering

09

from recognised University or equivalent or having passed final, Direct Final Examination of the Institution of Surveyors (India) with 5 years regular in the grade of Surveyor Assistant Grade I having passed Intermediate Examination of Institution of Surveyors (India) or holding Diploma in Civil Engineering of a recognised University or equivalent with 10 years regular service in the grade. These qualifications would indicate that there were three qualifications which make eligible for a pointment in the grade of ASA :

- (1) A degree in Engineering.
- (2) passed final, Direct Final Examination of the Surveyors (India) with 5 years regular service;
- (3) Diploma in Civil Engineering with 10 years regular service in the grade.

5. The applicant is a degree holder and, therefore, he was promoted as SA without having the requirement of passing the final examination of the Institution of Surveyors (India). Appointment to the grade of S.V. is totally by promotion from amongst the ASNs who are having 4 years of regular service in the grade and having passed the final examination of the Institution of Surveyors (India) or equivalent. The requirement of passing of final examination of the Institution of Surveyors (India) or equivalent is relevant only for those who are not degree holders and were appointed as ASNs on the basis of final/Direct Final examination of the Institution of Surveyors (India). This stipulation would indicate that while the Diploma holders in Civil Engineering were totally precluded for being considered for the post of SAs, the same ASN with the qualification of final examination of the Institution of Surveyors (India) could be considered for appointment if he

10

has 14 years regular service in the grade of ASW. The interpretation of the SRO 39 could not be taken to be that one would have to pass the final examination of Institution of Surveyors (India) or equivalent for being appointed to the grade of S. when he is already graduate/degree holder in Civil Engineering.

6. During the course of arguments, the learned counsel for the ~~Applicant~~ drew our attention to the letter issued by the UPSC on 31.1.94 wherein it has been stated that the passing of final examination of the Institution of Surveyors (India) has been recognised by the Government of India as equivalent to Degree in Engineering for purposes of superior service posts under the Central Government. The Ministry of Human Resources Development also had clarified that ~~Degree~~ Degree in Engineering awarded by the Panjab University Chandigarh for the purposes of employment under the Central Govt. as also a pass in final/direct final examination of the Surveyors (India) in Building and Quantity Surveying is recognised for the said purposes. Moreover it refers to the SRO-39 wherein a pass in final/direct final examination of Institution of Surveyors (India) with 5 years experience in the grade is placed at par with the Degree in Engineering for promotion to the post of ASW. Thus, according to this clarification, a degree in Civil Engineering at no time was ~~inferior~~ inferior to the qualification of passing of final examination of the Institution of Surveyors (India) and the question of

the applicant being denied the promotion to the grade of S. on the ground that he had not passed the final examination, is totally unlawful and unwarranted.

7. We have given our very serious consideration to the arguments on both sides. We are totally convinced that the action of the respondents in ordering the applicant's

Reversion from the post of SW to the post of ASM and transferring him thereafter, is illegal and unwarranted. The promotion of the applicant made after convening D.C meeting and ordered by the President was not a temporary or adhoc arrangement, and if any reversion, was to be ordered to rectify the mistake committed by the D.C, the same could have been done only by a reasoned order after observing due procedure. Reversion from the higher grade to the lower grade causes a person loss financially and otherwise, and therefore, it gets protection under Article 311 of the Constitution. It is a major penalty for which a proper inquiry had to be conducted. An order of reversion cannot be termed as rectification of a error. Promotion orders are made by the authorities concerned only after due application of mind by the authorities and if such authorities have made any mistake that requires to be rectified, it has to be rectified through an elaborate process enjoined under the rules. Reversion from higher post to a lower post on adhoc/temporary basis under the fortuitous circumstances has not been considered to be a penalty and had the situation being so, the applicant could not have any grievance. But the facts and circumstances of the case indicate that the applicant had worked on adhoc/temporary basis for a number of years at Shillong and other places before he was given regular promotion in 1991. He, therefore, hold that the action of the respondents in reverting the applicant was totally illegal and unwarranted.

6. So far as the merits of the case are concerned, we are also convinced that the applicant possessed educational qualifications to hold the post of SW as enjoined in SRO 3. SRO 3D clearly stipulates that

to
recruitment to the post of S.D. is/ be made from amongst
ASAs having 4 years service. In the case of officers not
holding Degree, qualification or pass in final examination
of the Institution of Surveyors (India) was considered to be
valid for promotion. The fact that Degree in Civil
Engineering is superior to the pass in final examination
of Institution of Surveyors (India), is itself borne out
by the R-5 which is a qualification from the Ministry of
Science and Technology which says that the member of the
Institution of Surveyors (India) is a special qualification
and is not equivalent to a Degree in Engineering. This
is precisely so because it has been laid down in SRO 39 that
anybody having this qualification must have 5 years
regular service for being eligible to be considered for the
post of ASA. There is no such stipulation of service in the
case of degree holders for promotion to the post of ASA.
The respondents themselves had promoted the applicant
to the level of S.D. It is not very clear to us how
they have interpreted SRO 39, as in the case of the applicant
promotion was given to him at two years back
under the orders of the President. A complaint made by
Shri K.C. Sharma could not have been the prime factor
twisting the interpretation of SRO 39 for reverting this
officer. In case there was any doubt in the minds of the
respondents, they should have consulted the Ministry concerned
and also the Ministry of Human Resource Development and the
UPSC in this regard which are two organisations involved
in the matter of recognition of degrees and recruitment
of superior services in the Military Engineers Service.
Instead of getting this confirmation from these two
organisations, Respondent No.2 got clarification from the
Ministry of Science and Technology which also did not say
that the final examination is equivalent to Degree in
Civil Engineering.

special qualification granted to professionals in that field by a duly recognised body but that qualification cannot be said to be equivalent to a degree conferred upon by a recognised University. The membership of Institution of Surveyors (India) after having passed final examination is a supplement to the Diploma conferred upon by the recognised University. We find that the action of the respondents in denying the applicant promotion to the grade of SA on the ground that he had not passed final examination of the Institution of Surveyors (India) is totally illegal and unwarranted.

9. In view of the above, the OA succeeds. The impugned order dated 6.9.1993 is quashed. The applicant shall be given promotion to the post of SA from the date the President had notified his promotion to the grade of SA and shall be deemed to have continued in that grade without interruption. He shall also be eligible for all the consequential benefits as a result of this order. The respondents are directed to comply with this order within 45 days from the date of receipt of copy of this order.

10. Since the applicant has been put to unnecessary litigation, mental harassment due to unwarranted and illegal action on the part of the respondents, we award costs of Rs.1,000/- to be paid by the officers of office of Respondent No.2 who have contributed to this unnecessary litigation. Registry shall ensure compliance of this within 3 months of passing of this order.

(T.N. BHATT) 15.11.96
Judicial Member

(N.K. VERMA)
Administrative Member.

Copy of this order to be sent to the
23/11/96

Attended
15.12.03

- 88 -

23 FEB 2004

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

O.A. NO. 281/2003

Shri Prem Kumar Misra

Applicant

Versus

Union of India & Ors.

Respondents.

**COUNTER REPLY ON BEHALF OF THE UNION
PUBLIC SERVICE COMMISSION,
RESPONDENT NO.5, TO THE ORIGINAL
APPLICATION OF THE APPLICANT.**

MOST RESPECTFULLY SHOWETH:

The answering respondent begs to submit that:

1. A Review DPC for considering promotion to the grade of Assistant Surveyor of Works in the Military Engineer Services (MES) under Ministry of Defence was held in the office of this Respondent on January 24 and 25, 2003.

2. The said DPC reviewed the proceedings of the original DPCs for the vacancy years 1992-93 and 1993-94. The Committee considered the applicant and recommended him for promotion at Sl.No.195 of the select panel for the year 1993-94. The recommendations of the Review DPC were made available to the Department on January 28, 2003.



Filed by

20/2/04
(A. DEB ROY)
Sr. C. A. T. C.
C. A. T. Guwahati Bench

4. The reversion of the applicant after having been promoted has been made by the Administrative Department who will be making separate submissions in this regard. This respondent was not consulted in his reversion.

5. Thus, the applicant has failed to make out any case against this Respondent. It is therefore, most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the OA of the applicant with costs as against the answering Respondent.

COUNSEL FOR RESPONDENT NO.5

RESPONDENT NO.5

(डी०सी०भट्ट/D C BHATT)
 वर सचिव, Deputy Secretary
 संघ सेवा आयोग
 Union Public Service Commission
 नई दिल्ली/New Delhi

VERIFICATION

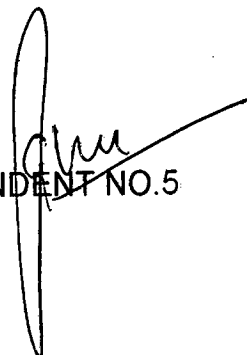
I, D.C. Bhatt, working as Deputy Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110 011 do hereby verify that the contents of paragraphs 1 to 4 of my reply are true and correct to the best of my knowledge and derived from the official records of the Commission and last para 5 is a prayer and that nothing material has been kept away or concealed therefrom.

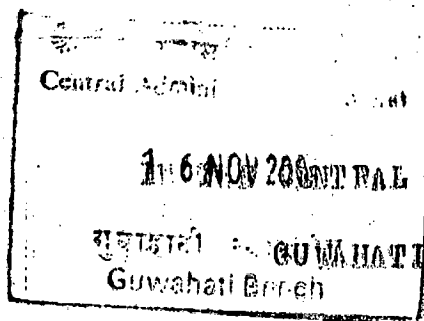
Verified at New Delhi on the day of
February, 2004.

NEW DELHI

DATED:

RESPONDENT NO.5





106

10/11/03

(A. DEBROY)

Sr. C. C. S. C.

G. A. T. Guwahati Bench

O.A. NO. 281 OF 2003

Shri P K MISHRA

..... Applicant.

- Vs -

Union of India & Ors.

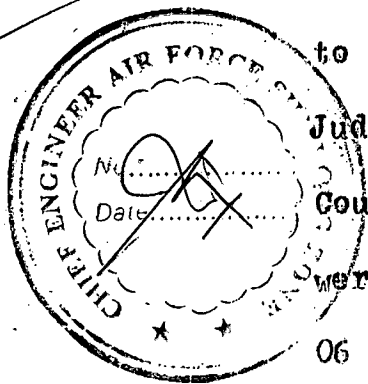
..... Respondents.

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 para is not agreed. Shri P.K. Mishra (applicant) was appointed as SA Grade-II w.e.f. 05 August 1980. He was further promoted to the Grade of SA-I w.e.f. 22 April, 1988. Consequent to the Judgements dated 18 May 1998 and 11 March 1999 passed by High Court of J & K at Jammu in SWP No. 1285/96 and WP No. 436/99 were made applicable to the applicant by the judgment dated 06 November, 2001 in O.A. No. 1229/2001 by CAT Bench Allahabad, Shri P.K. Mishra, was considered by a Review DPC for promotion from SA Grade-I to ASW against the vacancies of 1992-93 and 1993-94. In terms of SRO No. 39 dated 16 January, 1985



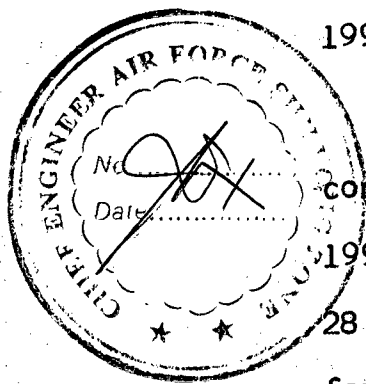
(Recruitment Rule) minimum qualification for promotion from SA Grade I to ASW is that :-

"Surveyor Assistant Grade-I holding Degree in Civil Engineering from a recognised University or equivalent or having passed final. Direct Final examination of the Institution of Surveyors (India) with 5 years regular service in the grade".

OR

"Surveyor Assistant Grade-I having passed intermediate examination of Institution of Surveyors (India) or holding Diploma in Civil Engineering of a recognized University Institution or equivalent with 10 years regular service in the grade".

In terms of Recruitment Rule, applicant should have passed direct final examination (being diploma holder) before 31 Oct 1993 i.e, Cut off date for holding the DPC to become eligible for promotion to ASW with 5 years of service in the grade of SA-1 against the vacancy for the year 1992-93 and 1993-1994.



The applicant appeared in Direct final examination conducted by the Institute of Surveyor held in September, 1993 for which result was declared by the Institute on 28 February, 1994. As such the applicant was not eligible for consideration by the Review DPC as on 31 October, 1993 the cut off date fixed for acquiring requisite qualification for consideration by DPC as he passed the examination on 28 February, 1994 i.e date of declaration of result by Institution of Surveyors. Since applicant is a diploma holder as such he was required either to complete 10 years of service in the grade of SA-I or should have passed the Direct Final Examination of Institution of Surveyor as on

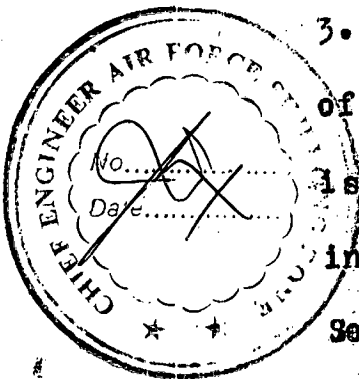
~~as on 31 October, 1993~~ for promotion to ASW under SRO-39.

A confirmation has now been given by the Institution of Surveyor (India) that the result of Final Examination of Institution held in September, 1993 was declared in 28 February, 1994 and date of declaration of result is the date of passing the examination. CAT Allahabad order dated 27 September, 2002 in OA No. 1229/2001 has not given any special dispensation to the applicant with regards to relax the conditions of Recruitment Rules. As such he was not eligible for promotion to ASW against the vacancies for the year 1992-93 being diploma holder and less than 10 year service in the Grade of SA-I as on 31 - October, 1993.

2. That with regard to paras 2, 3, 4.1 and 4.2, of the application the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the para is not agreed to the extent that as the applicant had appeared in Direct Final Examination of Surveyor of India held in September, 1993 for which result was declared on 28 February, 1994. He qualifies the examination on the date of declaration of Result and not on the date of appearing in the examination such applicant was not eligible for promotion as on 31st - October, 1993.

4. That with regard to the statement made in para 4.4, of the application the respondents beg to state that in terms of SRO 39, SA Grade-I with Degree in Engineering and having

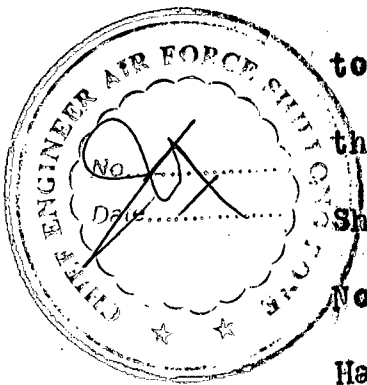


94-
109

passed Direct Final Examination of Institution of Surveyor (India with 5 years of service in the grade were eligible for promotion to ASW. Since the applicant is a diploma holder and he did not pass Direct Final Examination as on 31 October, 1993, he was not eligible for promotion as he appeared in Direct Final Examination held in September, 1993 for which result was declared on 28 February, 1994. In the case of SA Grade-I with Diploma in Engineering requires 10 year of Service in the grade for promotion to ASW. Applicant was having on 5 year and 6 months of service in the grade of SA-I as on 31 October, 1993 i.e. cut off date for holding the DPO for the vacancies for the year 1992-93.

5. That with regard to para 4.5, of the application the respondents beg to offer no comments.

6. That with regard to the statement made in paras 4.6 to 4.7, of the application the respondents beg to state that the para 6 is not agreed. Persons namely Shri M. P. Seed, Shri Ramesh Chander and Shri Harjeet Singh who filed SWP No. 1285/96 in the Hon'ble High Court of J & K at Jammu as Harjit Singh and others -Vs- Union of India and others were considered by the respondents for promotion to ASW against the vacancies of 1992-93 in implementation of judgement dated 18 May, 1998 as all the three applicants were holding Degree in Engineering (Ref. Annexure-G to OA) and they also passed Direct Final Examination prior to 31 October, 1993. As such applicant can not be equated with tjem as he passed the examination on 28 February, 1994.



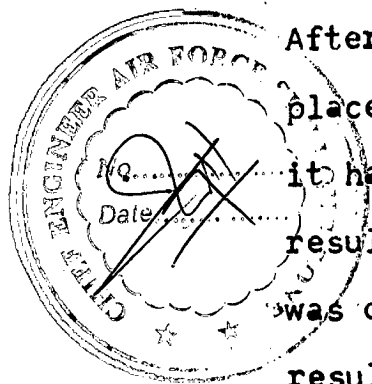
7. That with regard to para 4.8, of the application the respondents beg to offer no comments.

8. That with regard to the statement made in para 4.9, of the application the respondents beg to state that though the name of the applicant was included for consideration by review DPC and was declared fit by the review DPC but the error of his not meeting the requisite qualification as prescribed in the RRs till the cut off date was noticed later on the hence then directions were issued for deletion of the name of the applicant from the panel of AEE (QS & C).

9. That with regard to the statement made in para 4.10, of the application the respondents beg to state that the applicant was promoted through Review DPC in implementation of CAT Bench Allahabad order dated 06.11.2001 in OA No.1229/2001 presuming that date of appearing in the Direct Final Examination of Institute of Surveyor (India) is the date of passing examination.

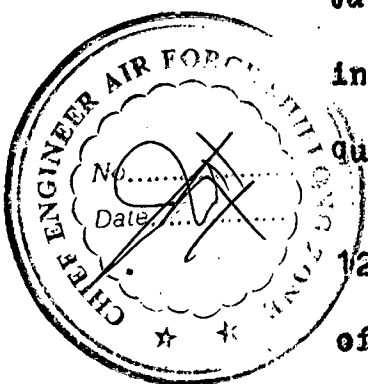
After the whole process was completed and the applicant was placed in position as AEE (QS & C) w.e.f 22 February, 2003 it has now been clarified by the Institution of Surveyor that result of Direct Final Examination held in September, 1993 was declared on 28 February, 1994 and date of declaration of result is date of qualifying the same. As such applicant was not eligible as on 31 October 1993.

10. That with regard to the statement made in paras 4.11 & 4.12, of the application the respondents beg to state that since it has now been clarified by Institution of Surveyor (India) that the date of declaration of result is the date of qualifying the examination as such applicant was not eligible on 31 October, 1993. Hence his name is required to be deleted from the panel being illegal promotion. Before



initiating such action applicant has been informed by OE(AF) Shillong under whom applicant has been placed for administrative control. As such there is no malafide in the action of the respondents as department has initiated the action to correct a bonafide mistake occurred due to wrong inputs to avoid the claim of other unqualified employees for promotion to Gazetted Class-I post & quoting the example of the applicant.

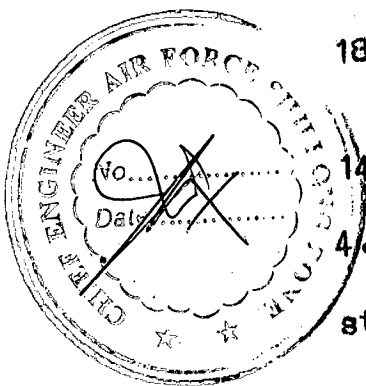
11. That with regard to the statement made in para 4.13, of the application the respondents beg to state that the para is not agreed. Proposed action is being initiated only for those officers who have been promoted due to wrong input and become ineligible due to clarification now given by the Institution of Surveyors. As such question does not arise to initiate similar action against those officers who were fully qualified and are meeting the required qualification.



12. That with regard to the statement made in para 4.14, of the application the respondents beg to state that the para is not agreed. Case of Shri R.K. Gupta can not be related to the case of applicant as Shri R.K. Gupta was holding Degree in Civil Engineering from Punjab University at the time of joining the department as Superintendent B/R Grade-I on 13.11.1963. He was further promoted to the grade of Assistant Surveyor of Works on 23 April, 1983. Thereafter officer performed the duties of SW till 8 Jun, 1989. Since Shri R.K. Gupta was Engineering graduate and in his case requirement of passing Direct Final Examination was at the time of

promotion from ASW to SW being degree holder. But in the case of applicant he is a Diploma holder and he requires to pass direct final, examination before 31 October, 1993 with ten year service in the grade of SA-I for promotion to ASW which is the feeder post for promotion to SW. These two cases are quite different and can not be related (Refer Annexure-Q to OA

13. That with regard to the statement made in para 4.15, of the application the respondents beg to state that the para is not agreed. Applicant has been given full opportunity to defend himself and entire process will be completed as per laid down procedure with due respect to the established law. Applicant has been informed with proposed action vide CE(AF) Shillong (Respondent No4) letter No. 87020/FHM/03/E7A dated 18 November, 2003.



14. That with regard to the statement made in paras 4.16 and 4.17, of the application the respondents beg to state that it is established law that date of declaration of result is the date of qualifying the examination and the same has also been clarified by the Institution of Surveyors. As such applicant was not eligible for promotion to ASW as on 31 October, 1993.

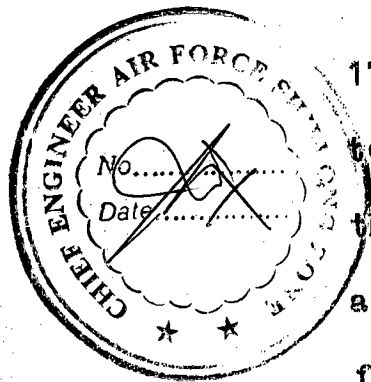
15. That with regard to para 4.18, of the application the respondents beg to offer no comments.

16. That with regard to the statement made in para 4.5.1 & 5.2 of the application the respondents beg to state that the para is not agreed. Applicant was promoted based

- 98 -
113

on the service record produced to the Review DPO in implementation of CAT Bench Allahabad judgement. Since it has come to the notice of the department after receipt of clarification from the Institution of Surveyor as such department has to take corrective action to revert the wrongly promoted officers to avoid claim from other unqualified employees quoting the example of the applicant which will open flood gate of illegale promotions.

16. That with regard to the statement made in para 4 5.3, of the application the respondents beg to state that due opportunity has been given to the applicant but he has not produced any documents evidence to the respondents that he was eligible for consideration by the DPO as on 31 October, 1993. As such action of the respondents is legal.



17. That with regard to the statement made in paras 5.4 to 5.6, of the application the respondents beg to state that the para is not agreed as action is being initiated to correct a bonafied mistake occurred in the absence of clarification from the Institution of Surveyors.

18. That with regard to the statement made in para 5.7, of the application the respondents beg to state that the para is not agreed to as any bonafied mistake occurred due to wrong/insufficient inputs needs correction immediately on detection. As such action is legal.

19. That with regard to the statement made in paras 5.8 to 5.10, of the application the respondents beg to state that the para is agreed to the extent that vacancies were created

99-
114

-3-

to accommodate eligible candidates as per Recruitment Rules. No special dispensation has been given by CAT Bench Allahabad to the applicant. Applicant was also considered by Review DPC with others, but since mistake has now been detected, it is the bonafied duty to the respondents to correct the mistake by deleting the names of unqualified candidates wrongly promoted to avoid representation from other employees by quoting the example of wrong promotion.

20. That with regard to the statement made in paras 5.11 to 5.14, of the application the respondents beg to state that due opportunity has been given to the applicant by the respondent through OE(AF) Shillong letter dated 9.10.2003. Applicant has been informed regarding action being initiated by the respondent to correct the bonafied mistake.

21. That with regard to the statement made in para 6, of the application the respondents beg to state that the para is not agreed. Proposed action to correct the bonafied mistake has been conveyed to the applicant by the competent authority through respondent No.4 under whom applicant is placed for administrative control. Till date neither any representation against the proposed action nor any evidence to the effect that he was qualified as on 31 October, 1993, has been received by the respondent from applicant. Applicant has filed the OA in violation of Govt. Decision No. 9(a) under Rule 3 of CCS (Conduct) Rules 1964 according to which every Govt. Employee has to exhaust the departmental channel before approaching to Court of law on any service matter.



21. That with regard to para 7, of the application the respondents beg to offer no comments.

22. That with ~~reg~~ regard to the statement made in para 8, of the application the respondents beg to state that since applicant was not qualified for promotion as on 31.10.1993 in terms of SRO 39 (Recruitment Rules) as such action by the respondents to delate his name from the panel by following the due procedure is just and legal.



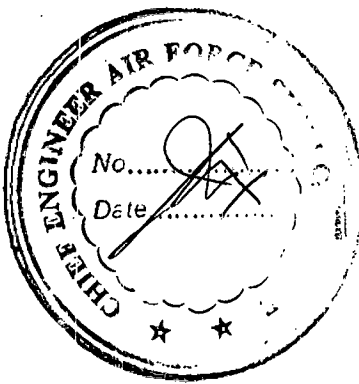
In view of the above it is prayed that OA be quashed without cost and direction be issued to respondents to correct the bonafied mistake to uphold the rule of law.

Verification.....

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

I, IC-43760W Lt Col Gurinder Singh, Offg Addl Chief Engineer of HQ CE (AF) Shillong Zone is being authorised do hereby solemnly affirm and declare that the statements made in this written statement are true to my knowledge and information and I have not suppressed any material fact.

And I sign this verification on this *Seven* th day
of *Sep* , 2004.



Declarant.

(Gurinder Singh)
Lt Col
Offg Addl Chief Engineer
for Chief Engineer

117
Filed by the applicant
through: Subroto Nath
Advocate
06/12/04.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

*Receiv
al-Shillong.
dy
6/14/04.*

In the matter of:

O.A. No. 281 /2003

Shri Prem Kumar Mishra.

-Vs-

Union of India & Ors.

-AND-

In the matter of :

Rejoinder submitted by the applicant in reply to the
written statement submitted by the respondents.

The humble applicant above named most humbly and respectfully state as
under: -

1. That with regard to the statements made in paragraph 3, 4 and 6 of the
written statement to the extent that the applicant did not pass in direct final
examination conducted by the Institute of Surveyor before 31st October,
1993 cannot be a ground declaring the applicant ineligible for consideration
for promotion. It is categorically submitted that the applicant had appeared
in the said examination in the month of September 1993 but the result was
declared on 28th February 1994, therefore the same cannot be a ground for
denial of promotion to the applicant. It is further submitted that the law laid
down by the Allhabad Bench of Central Administrative Tribunal in O.A.

No. 1229/2001 is also applicable in the instant case of the applicant since he is similarly circumstanced employee.

2. That the contention raised by the respondent in paragraph 9, 10, 11, 12 and 13 of the written statement are categorically denied and the applicant further reiterates the statements made in the Original Application. In this connection it may be stated that the Allahabad Bench in the aforesaid judgment rightly held that the date of appearing the examination should be treated as the criteria for the purpose of eligibility for consideration for promotion to the cadre of ASW even then the result has been declared at a later point of time.
3. That the applicant denies the correctness of the statement made in paragraph 14, 16, 17, 18, 19 and 20 and further begs to say that reversion order has been passed without providing any opportunity on that score itself the impugned order dated 09.10.2003 received through letter dated 18.11.2003 is liable to be set aside and quashed. It is further categorically submitted that the applicant was eligible for promotion and he was duly promoted following the procedure of law, mere declaration of result in February'2004 cannot be a ground to deny the legitimate promotion of the applicant, more so, in view of the applicant has appeared in the examination before the cut off date.
4. That with regard to the statements made in paragraph 21 and 22, it is stated that when the applicant has approached the Hon'ble Tribunal against the final order of reversion passed by the respondents without providing any opportunity to defend his case, as such there is no infirmity in approaching the Hon'ble Tribunal immediately after receipt of the reversion order. It is

submitted that the issue involved in the Original Application has already settled by the Hon'ble CAT Madras Bench by its judgment dated 13.07.2004 in O.A. No. 1038/2003. The applicant being similarly circumstanced therefore the Original Application deserves to be allowed with cost.

A copy of the order dated 13.07.04 in O.A. No. 1038/03 of CAT, Madras Bench is enclosed hereto as Annexure-A.

In the facts and circumstances the Original Application deserves to be allowed with cost.

120

4

VERIFICATION

I, Shri Prem Kumar Misra, S/O Shri A.L.Misra, aged about 47 years, working as AEE (QS&C) in the Office of Chief Engineer, Air Force, Elephant Falls Camp, Shillong, do hereby verify that the statements made in Paragraph 1 and 2 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the ____ day of December, 2004.

Prem Kumar Misra

Central Administrative Tribunal
Madras Bench

...
Tuesday, the 13th day of July, Two Thousand Four. (13.7.04)
...

Present: Hon'ble Shri S. Manickavasagam, Member(A) &
Hon'ble Shri G. Shanthappa, Member(J)

...
O.A.No.1038 of 2003

K. Prabhakaran Unni ... Applicant

...vs...

1. The UOI rep. by the
Engineer-in-Chief
Army Headquarters
New Delhi-11.

2. The Chief Engineer
Southern Command
Pune.

3. The Chief Engineer
Chennai Zone
Island Grounds
Chennai-9.

M/s. V. Vijay Shankar ... Applicant's Counsel

Mr. G. Nanmaran ... Respondents' Counsel

..2..


True Copy
for
Annexure

121
-6-
Order: Pronounced by Hon'ble Shri S. Manickavasagam,
Administrative Member.

122
...
The applicant joined service in 1971 as

Superintendent B/R Grade-II. He was promoted
as Surveyor Assistant Cadre I in November, 1983. He
appeared for the examination conducted by the
Institution of Surveyors in September, 1993 and
he was declared pass in February, 1994.

2. It is stated that the next promotional avenue
for Assistant Surveyor of Works(ASW) is 50% by
promotion from Surveyor Assistant Grade I with
5 years of service and a degree in Civil Engineering
or pass in the Institution of Surveyors examination, etc.
as per the recruitment rules. Pursuant to a number of
cases filed before the Tribunal, a direction was issued
to the respondents to consider promoting persons like
the applicant to the cadre of Assistant Surveyors of Works
as per SRO 39/85. In respect of the vacancies existed
prior to its amendment in July, 1994. Pursuant to
such directions, the department conducted review DPC and
prepared a panel of about 220 officers for filling up
the vacancies of Assistant Surveyors of Works for the
years 1992-93 and 1993-94. The applicant was promoted

 and his name appeared at Sl.NO.72 in the promotion list.

3. While this being the case, suddenly, the first respondent had issued an order dated 9.10.03 in which

it is stated that the applicant and 10 other persons are not eligible for promotion and that action is being taken to delete their names from the promotion list.

The applicant is challenging this order in this OA.

4. The main ground raised by the applicant is that

the applicant has been promoted in accordance with the

rules and as per the directions of the Tribunal and

therefore he cannot be reverted now all of a sudden.

Further, it is stated that the respondents have taken

1st October, 1993 as a cut off date for deciding

service as well as educational qualifications. There

is no basis for such cut off date. It is the stand of

the applicant that he fulfils all the requirement in so

far as educational qualification as well as service

eligibility is concerned. Moreover, it is the

stand of the applicant that the department was only

conducting a review DPC and therefore there was no

need to take a cut off date to a ^{back} postponed date. It is

Je..

14/
- 8 -

emphasised that DPC^{was} conducted in 2003 and therefore

there is no rationale in having a cut off date in 1993.

5. The respondents have filed a detailed reply. In so far as the cut off date is concerned, it is stated that according to a DOP&T's circular dated 19.7.1989, the cut off date for eligibility before 1996 was 1st October, of the vacancy year. It is admitted that the review DPC was conducted in January, 2003 and since there is no direction regarding dispensing with the cut off date, they had proceeded in the normal way. Further, it is stated that the applicant completes 10 years of service as Surveyor Assistant Gr.I in November, 1993 whereas the cut off date was fixed as 1st October, 1993 and therefore there was a shortage of one month in the qualifying years of service.

6. Heard both sides and perused the records.

7. The applicant's case is that pursuant to the directions of Tribunal/Court, the respondents were made to consider filling up of Assistant Surveyor of Works Post in accordance with the SRO 39 of 85 upto the year 1994.

However, this exercise of conducting a review DPC could

Is...

- 9 -

be done only in the year 2003. Thus it is very

obvious that this is an exercise conducted to regularise something which was not done at the appropriate time.

In other words, the normal DPC for each year should have considered the case like that of the applicant and when they completed 10 years of service or fulfil the eligibility criteria in accordance with the recruitment rules every year. Since that was not done, the review DPC was ordered.

8. While doing so, the respondents have stuck to the instruction of the DoP&T, as if it is a normal DPC conducted in a year. This may not be correct. The DoP&T instructions are valid only if the department conducts the DPC every year without fail in accordance with the rules and while doing so they are required to take the ^{cut off} ~~actual~~ date as 1st October of the year in which the vacancy is arising to determine the eligibility of candidates. Even while doing so, nothing prevents the respondents from including such of those persons who will be completing 10 years in the feeder cadre on a subsequent date ^{to} of the DPC and promotion can be only

when the ~~candidate~~ and the concerned officer will be promoted

10 - 10 -

on completion of 10 years.

9. In the instant case, it is admitted that

the applicant fulfills the eligibility criteria except

for the fact ^{h. regarding} ~~considering~~ completion of 10 years of

qualifying service in the feeder cadre one month after

the so called cut off date viz., 1st October, 1993. Since

he has not completed 10 years of service in accordance

with the recruitment rules, the respondents are now

proposing to revert him. We do not agree with this

proposal for the following reasons:-

1. The recruitment rules do not specify any cut off date

for determining the 10 years qualifying service in the

feeder cadre. This being so, the respondents ought to

have taken a decision on this and before implementing,

should have informed the employees. This was not done.

Even while doing so, nothing prevents the respondents

from granting promotion to the applicant, on completion

of 10 years i.e. from 1st November, 1993. Moreover, we

find the whole exercise of issuing the notice of reverting

the applicant is without any basis and arbitrary. More so

when it is viewed from the fact that the respondents are

Is.

only conducting a review DPC based on the direction of the Tribunal and Courts wherein no such guideline has been given in so far as the cut off date is concerned. We also observe that though the applicant and a number of others have been promoted to the grade of Assistant Surveyor of Works, it is not indicated as to from what date they are given this higher rank. It is true that they have been accommodated against the vacancies of 1992-93 and 1993-94 but there is no indication in the order dated 11.2.03 as to from which date the officers are granted promotion to the rank of Assistant Surveyor of Works.

10. Therefore, we find that the impugned order which is now issued by the respondents placing much reliance on the so called cut off date is without any basis and is therefore arbitrary. Under these circumstances, the action of the respondents in issuing the impugned order deserves to be set aside. Accordingly, the said order is set aside in so far as the applicant is concerned.

/8/

-12-

128

who is before us in this OA. OA is allowed. No

costs.

TRUE COPY

DEPUTY REGISTRAR



mb.

True Copy
Jms.
Adminstr