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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- 308/03

Mise Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Name of the Applicant(s): Bijan Kr Das

Name of the Respondent(s): MoI & Ors.

Advocate for the Applicant:- Mr M. Chanda, G. N. Chakrabarty
Hn S. Naik & S. Chaudhury.

Advocate for the Respondent:- C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time.	16.2.2004	Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.
Contd. application is filed / paid the sum of Rs. 50/- vide IPO/B/No. <u>JJG 387499</u> Dated <u>31/12/03</u> .		The application is admitted to call for the records, returnable by four weeks.
<i>Normal 16.2.2004 ACB, Registrar</i>		List on 17.3.2004 for order
Issue notice as per Court's order dated 16/2/04.	mb	<i>ACB, Member (A)</i>
17/2/04.		
Extra Charge, Rs. 20/- only (Twenty) received for respondent nos. 6, 7, 8 & 9, vide memo no. 1150, dt. 19/2/04.		
<i>19/2/04.</i>		

Notice & Order dt. 16/2/03,
Sent to D/Section for
issuing to respondent
nos - 1 to 9.

Leave
25/2/03.

A/D returned after
received by the R.
NOS. 3, 4 & 5.

NR

22.4.04
No W.S. filed
lcm

postal A/D card
received from
respondents No - 1, 2, 6
only.

Car
11/5.

Nb: written statement
has been filed.

22
25.5.04

19.7.04

W.S. submitted by
the Respondents.

Paper

10.8.04
cr/s - Mr. Seen filed
by ACI

17.3.2004 On the plea of counsel for
the respondents four weeks time
is given to the respondents to
file written statement. List on
23.4.2004 for orders.

I.C. Bhandarkar
Member (A)

mb
23.4.2004 On the plea of counsel for the
respondents four weeks time is
given to the respondents to file
written statement. List on 26.5.04
for written statement.

I.C. Bhandarkar
Member (A)

mb

26.5.2004 List on 2.7.2004 to enable
the respondents to file written
statement.

I.C. Bhandarkar
Member (A)

mb
11.8.2004 Written statement has been filed
Rejoinder, if any, may be filed within
three weeks from today.
List on 3.9.2004 for further
orders.

I.C. Bhandarkar
Member (A)

bb
3.9.2004 List the case for hearing on
22.9.2004. In the meanwhile applicant
may file rejoinder, if any.

I.C. Bhandarkar
Member (A)

bb

(3)

OA. 308/2003

Notes of the Registry

Date

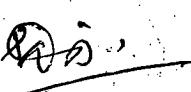
Orders of the Tribunal

20.9.04

22.9.04

Response submitted
by the applicant.

At the request of learned counsel
for the applicant case is adjourned
to 29th September, 2004. Mr. A. Deb
Roy, Sr. C.G.S.C. has no objection.
List the matter on 29.9.04.


Member

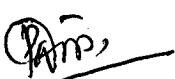

Vice-Chairman

lm

29.9.2004

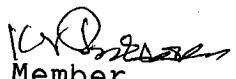
28.9.04

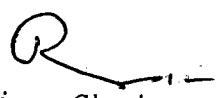
W/S and Response
filed. The case is
ready for hearing.


Member

nkm

Heard Mr. M. Chanda, learned
counsel for the applicant and Mr
A. Deb Roy, learned Sr. C.G.S.C.
Hearing concluded. Judgment
delivered in open court, kept in
separate sheets. The application
is disposed of with costs.

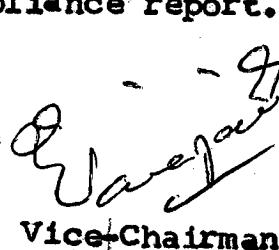

Member


Vice-Chairman

30.3.2005

Present : The Hon'ble Mr. Justice C.
Sivarajan, Vice-Chairman.

Ms. U. Bas, learned Addl. ~~Secy~~
C.G.S.C. for the respondents seeks
time for filing compliance report.
Post on 26.4.2005.


Vice-Chairman

mb

3.5.05

Compliance report
filed by the Respondent.

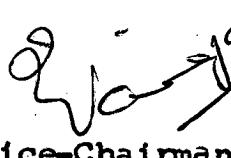

Member

mb

10.05.2005

In view of the order passed in
M.P. No. 94/2005 time is available
till 12.07.2005 for compliance,
post on 19.07.2005.


Member


Vice-Chairman

O.A. 308/2003

Notes of the Registry Date Orders of the Tribunal

20.7.05
19.07.2005

Copies of the order
handed over to the
L/Advocates for the
parties.

8th

Received
Usha Das
Addl. C.J.S.C.
22/7/05

Ms. U.Das, learned Addl.C.G.S.C.
submits that the direction in the
O.A. has already been complied with.
This is agreed to by the learned
counsel for the applicant Mr.M.
Chanda. Hence the O.A. is closed.

Parthasarathy
Member

Parthasarathy
Vice-Chairman

bb

B

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXXX No. 308 of 2003

DATE OF DECISION 29.9.2004

Shri Bijan Kr Das APPLICANT(S)

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

-VERSUS -

Union of India and others 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 ? Ys.
2. To be referred to the Reporter or not ? Ys.
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

NO

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.308 of 2003

Date of decision: This the 29th day of September 2004

The Hon'ble Justice Shri R.K. Batta, Vice-Chairman

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Bijan Kr Das
S/o Shri Bidhan Ch. Das,
Inspector,
O/o Assistant Commissioner,
Central Excise and Customs,
Tinsukia.Applicant

By Advocates Mr M. Chanda, Mr G.N. Chakraborty,
Mr S. Nath and Mr S. Choudhury.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. The Chairman
Central Board of Excise and Customs,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
3. The Chief Commissioner (EZ),
Central Excise & Customs,
15/1, Strand Road,
Customs House, Kolkata.
4. The Commissioner of Central Excise,
Morallow Compound,
Shillong.
5. Shri Jagadish Ch. Das,
Superintendent of Customs,
Land Custom Station,
P.O.- Golakganj, Dhubir, Assam.
6. Smt Kiranmoyee Das,
superintendent,
Office of the Assistant Commissioner,
Central Excise, Jorhat,
Jorhat, Assam.
7. Shri Gautam Bhuyan,
Superintendent,
Office of the Commissioner of Central Excise,
Lane F. Milan Nagar, P.O. Box- C.R. Building,
Dibrugarh, Assam.
8. Abdul Kader Zilani,
Inspector,
C/o- The Deputy Commissioner of Central Excise,
Guwahati.
9. Shri Meitaram Indramoni Singh,
Inspector,
O/o The Deputy Commissioner of Customs,
Izwal Customs Division,
Izwal, Mizoram.Respondents

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

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O R D E R (ORAL)

BATTA. J. (VICE-CHAIRMAN)

The applicant appeared for interview for the post of Inspector of Central Excise and Customs in the year 1984 before the Staff Selection Commission, Guwahati. The process of recruitment, consisting of written examination, viva-voce and physical fitness test were completed during October/November 1985. Appointment orders were issued in respect of other candidates who had appeared for recruitment to the said post in 1984, but no offer of appointment was received by the applicant. However, the applicant was appointed to the post of Inspector, Central Excise and customs vide order dated 6.1.1988. Pursuant to the said order of appointment, the applicant joined the post on 20.1.1988. In between November 1985 to January 1988, a number of direct recruits selected in subsequent selections as also promotees were appointed to the cadre of Inspector of Central Excise and Customs. According to the applicant, the delay in the appointment of the applicant was not on account of fault on his part due to which the seniority of the applicant cannot be affected. The other candidates who had appeared for selection in the year 1984 and were selected and appointed in October/November 1985 were placed higher in the gradation/seniority list and the applicant was placed much below since the candidates selected in subsequent years as also promotees were listed above him. Reliance has been placed on O.M.No.22011/7/86-Estt.(D) dated 3.7.1986. According to the applicant, respondents 5 to 7 who were selected in the subsequent years of selection, but were appointed on 6.6.1988, 2.6.1988 and 28.6.1988 respectively were shown

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as senior in the gradation list even though the applicant had, in fact joined on 21.1.1988. The applicant had likewise quoted instances where some candidates who were appointed or were promoted subsequently had been placed senior and above the applicant. Therefore, the applicant claims that he is entitled to be placed above respondents 5 to 9 by resetting the seniority list of Inspectors. The year of selection of respondents 5 to 7 is stated to be 1988 and that of respondents 8 and 9 is 1986, whereas that of the applicant relates to the year 1984. In the meantime, respondents 5 to 7 had been promoted to the cadre of Group 'B' Superintendent vide promotion order No.139 of 2002 dated 23.9.2002. The applicant's case is that vide said order dated 23.9.2002 respondents 5 and 6 and a large number of juniors had been promoted to the cadre of Group 'B' Superintendent ignoring the claim of the applicant due to wrong fixation of seniority. The applicant is said to have filed representation on 19.6.1989 with Deputy Collector of Central Excise and Customs, Shillong pointing out the discrepancies of the seniority list of Inspectors published as on 1.1.1989, but no decision was taken on this representation. It is further pointed out by the applicant that in similar facts and circumstances, the Office of the Commissionerate of Central Excise and Customs, Shillong refixed the seniority of Inspectors who were selected in the year 1983, but appointed in the year 1986, whereas the 1984 batch of Inspectors were appointed prior to the appointment of 1983 batch of officers. In this respect the applicant has cited the instance of one Shri Swapnatur Mahanta, Inspector who belonged to the 1983 batch but joined on 29.7.1985, his seniority was fixed as per the merit list of 1983.

Q

Therefore, the applicant has stated that the seniority of the applicant should have also been refixed accordingly. The applicant pointed out that in similar facts and circumstances this Bench of the Tribunal in S.S. Purkayastha Vs. Union of India and others (O.A.264 of 1998) gave directions to refix the seniority of the applicant therein alongwith his batch-mates, although the appointment of the applicant therein had been delayed. Subsequently also the applicant filed representations on 30.7.2002 and 27.10.2003, but no action was taken in the matter on account of which the applicant has approached this Tribunal.

2. The respondents have taken the stand that the applicant had, in fact, failed to meet the chest measurement conducted by the North Eastern Police Academy on account of which his appointment was rejected by the office. Subsequently, the Board had issued revised guidelines vide letter dated 10.9.1986 on the physical standard test with a direction to the Commissioner, Central Excise and Customs, Shillong, to review all such rejected cases in the light of instructions issued by the Board. Accordingly, the Board was asked on 23.9.1986 to identify the dossiers of rejected cases to review their cases for appointment as Inspectors where the name of the applicant also figured. On receipt of the rejected candidates' cases, the same were reviewed out of which five candidates including the applicant were found fit for appointment. The Board vide letter dated 16.11.1987 approved the offer of appointments provided they were fit in all other respects. This is how the applicant was appointed on 6.1.1988 and he joined on 20.1.1988. On the strength of the above averments it is urged by the

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respondents that the application is without any merit and the same is liable to be dismissed. It has been pointed out by the respondents that a candidate is not selected for appointment unless he passes the mandatory physical standard test and since the applicant had failed to qualify in the mandatory physical test, he could not be appointed and thus the question of seniority over the employees who are already in service does not arise. According to the respondents, the appointment of the applicant was made in exceptional circumstances in 1988, whereas the others had been selected and appointed in the year 1985 and onwards. According to the respondents the case of Swaapnatur Mahanta is totally different on facts and cannot be applied to the case of the applicant.

3. We have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. The learned counsel for the applicant after narrating the facts of the case and after placing reliance on the judgment of the Apex Court in Dalilah Sojah Vs. State of Kerala and others, (1998) 9 SCC 641, Full Bench judgment of the Tribunal at Jaipur in Udai Shankar Beena Vs. Union of India and others (O.A.No.121 of 1991) decided on 16.7.1996 and more particularly, judgment of this Tribunal in Subrata Chowdhury Vs. Union of India and others (O.A.No.39 of 2003) decided on 28.7.2004, has submitted that the case of the applicant is fully covered on all fours by the said rulings. He further pointed out that in the case of Subrata Chowdhury Vs. Union of India and others (Supra), the applicant therein was one of the five candidates similarly situated and the applicant was one of the said five candidates who had been rejected on account

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of physical fitness, but were subsequently appointed in the year 1988. He, therefore, contends that the seniority of the applicant is required to be recast and the applicant has to be placed above the candidates who were selected and promoted in subsequent selections.

4. Learned Sr. C.G.S.C. had nothing more to urge beyond what was stated in the written statement.

5. The rule of seniority which has a direct bearing in the matter is found in O.M.No.22011/7/86-Estt.(D) dated 3.7.1986. The said O.M. was issued consolidating orders on seniority and para 2.1 of the said consolidated orders which deals with seniority of direct recruits and promotees reads as under:

"2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection."

6. In Dalilah Sojah Vs. State of Kerala and others (Supra) the Apex Court had examined the case of selection of the appellant therein against the post of Legal Assistant wherein the select list was issued on 23.6.1971. The name of the appellant was included therein. On account of reservations made for OBC, the appointment of the appellant was not made. Requisition for two vacancies was made on 6.10.1972 and fresh selection was made and a new list was prepared on 22.3.1974. The respondents in the said case were included in the list prepared on 22.3.1974 and the name of the applicant was placed at serial No.1 as she had been passed over from the earlier list which had been prepared on 23.6.1971. The appointment of the appellant and her being placed at serial No.1 in the select list was challenged. The High Court did not disturb

(Q)

the appointment of the appellant therein but observed that the writ petitioners therein would rank senior to the appellant. The Apex Court found that the select list was still alive when the vacancies arose on 6.10.1972 and the appellant was made to suffer for no fault of hers. It was pointed out that when the vacancies arose on 6.10.1972 ~~one~~ ^{none} of the respondents had even been selected for appointment to the said post since their selection had been notified only in the second list which was prepared on 22.3.1974. It was held by the Apex Court that the appellant was selected earlier in point of time than the respondents and the decision of the High Court and the Government treating her junior than the respondents was obviously not correct. Thus from the above judgment it follows that an employee belonging to an earlier selection would rank senior to those selected in later selections.

7. The issue in question was also considered by the Full Bench of this Tribunal at Jaipur. In that case the Full Bench found that the applicant therein was declared successful in the qualifying examination for the year 1978 and should have been absorbed against the vacancies of that year or against carry forward vacancies considering his seniority amongst the candidates passing the qualifying examination in 1978 with him and not on the basis of his seniority among the qualifying candidates for subsequent year. In fact, the ruling in Subrata Chowdhury Vs. Union of India and others (Supra) is in all fours in so far as the case of the applicant is concerned. In that case the applicant was one of the five candidates alongwith the present applicant who were initially found unfit in the physical standard test, but subsequently in the light of the instructions issued were found to be fit.

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In this process the appointment was delayed till 6.1.1988 and in the meantime candidates from the subsequent selections and also promotees were promoted who were shown ranking senior to the applicant therein. In that case it was held that the applicant was selected from the select list of 1984-85 and relying on the principle that persons selected in the earlier selections being senior to the subsequent selections, it was held that the applicant was entitled to seniority in accordance with the year of his selection. The case in hand is identical in all respects with the said case of Subrata Chowdhury Vs. Union of India and others (Supra). Therefore, the stand taken by the respondents obviously cannot be accepted and the respondents should have on their own given benefit of fixation of seniority to the applicant, but since the department did not take action the applicant was forced to approach this Tribunal for redressal of his grievances. The applicant is, therefore, entitled to the relief in relation to the refixation of his seniority vis-a-vis the respondents 5 to 9 and others. In the light of this fixation of seniority, the case of the applicant for promotion shall have to be considered by the department and in case the department finds that the applicant is entitled to promotion, the department shall be entitled to review and modify the promotion orders already issued on 23.9.2002.

8. In view of the above, we direct that the respondents shall fix the seniority of the applicant taking into account the year of selection vis-a-vis respondents 5 to 9 and those who have been selected/promoted in subsequent years of selection after 1984 and after fixation of the

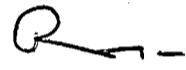
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seniority of the applicant to consider his case for promotion and in case the applicant is held entitled to promotion, the department shall be free to review/modify the order of promotion dated 23.9.2002. The respondents are directed to take action in terms of this order within a period of six months from the date of receipt of this order and report compliance of the order to this Tribunal after the expiry of six months and the matter be listed before this Tribunal in order to place the compliance report.

The application stands disposed of in the aforesaid terms with costs.



(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER



(R. K. BATT)
VICE-CHAIRMAN

nkm

30 DEC 2003

গুৱাহাটী মালী

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O. A. NO. 308 / 2003

Shri Bijan Kr. Das. ... Applicant

-Versus-

Union of India & Others ... Respondents.

Lists of dates and synopsis of the case (Recasting of
Seniority + claim
Synopsis of particulars in the application -for promotion)

Date Synopsis of particulars in the application

1984- The applicant appeared in the interview before the Staff Selection Commission, NER, Guwahati for appointment to the post of Inspector. (Annexure-1 series)

Oct/Nov, 1985- The respondents issued offer of appointment in favour of other batchmates of 1984 recruitment examination but surprisingly no offer of appointment was issued against the name of the applicant for the reasons best known to the respondents.

06.01.1988- The respondents offered appointment to the applicant for the post of Inspector after lapse of more than 2 years since the applicant appeared for interview. (Annexure-2)

20.01.1988- The applicant joined to the post of Inspector Central Excise at Digboi.

03.07.1986- D.O.P.T issued consolidated orders on seniority vide O.M.No.22011/7/86-Estt.(D). As per the rule of seniority a candidate selected in an earlier selection is senior to the candidates selected in a subsequent selection. (Annexure-3)

06.06.1988- Respondent no.5 was appointed to the post of Inspector after a later point of time than the applicant but declared senior to the applicant in the gradation list of Inspectors.

02.06.1988- Respondent no.6 was appointed to the post of Inspector at a later point of time than the applicant but declared senior to the applicant in the gradation list of Inspectors.

Bijan Kr. Das

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28.06.1988- Respondent no.7 was appointed to the post of Inspector at a later point of time than the applicant but declared senior to the applicant in the gradation list of Inspectors.

07.04.1986- Md. Abdul Kadir Zilani was appointed to the post of Inspector also shown senior to the applicant in the gradation list.

10.03.1986- Sri M. Indramoni Singh was appointed to the post of Inspector also shown senior to the applicant.

19.06.1989- The applicant submitted a representation addressed to the Deputy Collector, Customs and Central Excise, Shillong pointing out the discrepancies in the seniority list of the Inspectors published as on 01.01.1989. In the said representation the applicant stated that since he was a candidate of 1984 batch, therefore he is entitled to be placed in the gradation list along with his 1984 batch mates. (Annexure-7)

22.10.1959- Govt. of India vide M.I.I.A, O.M.No.9/11/55-RPS determined the seniority of the government servant. One of the basic principle of the said O.M is that seniority follows confirmation and consequently permanent officers in each grade shall rank senior to those who are officiating in that grade.

01.04.2002- Seniority list of Inspectors was published. (Annexure-4)

23.09.2002- Promotion order was issued under establishment order no.139 of 2002, wherein respondent no.6 and 7 and a large number of juniors have been promoted to the cadre of Group 'B' Superintendent ignoring the case of the present applicant. (Annexure-5)

12.04.1994- Commissionerate of Customs and Central Excise, Shillong re fixed the seniority of the Inspectors who were selected in the year 1983 but appointed during the year 1986. (Annexure-6)

30.07.2002- The applicant submitted representation to the Commissioner, Central Excise, Shillong pointing out discrepancies in the seniority list. (Annexure-8)

27.10.2003- The applicant submitted another representation to the Commissioner, Central Excise, Shillong, wherein he pointed out the discrepancies in the seniority list but the respondents are quite silent about the grievances of the applicant. (Annexure-9)

Hence this humble application before this Hon'ble Tribunal.

Bijan Kumar Das

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P R A Y E R

Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to re-fix the seniority of the applicant placing him above the respondent nos. 5 to 9 in the cadre of Inspectors and further be pleased to direct the respondents to refix his seniority in between sl.no.249 and 250 of the seniority list published as on 01.04.2002 and count for the same purpose of his promotion to the next higher grade.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned promotion order dated 23.09.2002.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to recast the seniority list of Inspectors published as on 01.04.2002 and the subsequent seniority list if published placing the applicant above the respondent nos. 5 to 9.
- 8.4 To promote the applicant to the grade of Group 'B' Superintendent at least with effect from the date of promotion of his immediate juniors with all consequential service benefits and monetary benefit.
- 8.5 Costs of the application.
- 8.6 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to recast the seniority of the applicant placing him above the respondent nos. 5 to 8.

- 9.1 That the Hon'ble Tribunal be pleased to restrain the respondents.

Bijan Khan Dm

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. /2003
Sri Bijan Kr. Das : Applicant
- Versus
Union of India & Others : Respondents.

Filed by the Applicant
Through Swagit Chaudhury
Advocate
on 31.12.2003

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Date 31.12.2003

Filed by
Swagit Chaudhury
Advocate

Bijan Kumar Das

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
6 DEC 2003
गुवाहाटी न्यायालय
Guwahati Bench

2

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

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

O. A. No. 308 /2003

BETWEEN

Sri Bijan Kr. Das
S/O- Sri Bidhan Ch. Das.
Inspector
O/O- Assistant Commissioner,
Central Excise & Customs,
Tinsukia.

Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Finance, Department of Revenue
North Block, New Delhi-110 002.
2. The Chairman,
Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi-110 002.
3. The Chief Commissioner (EZ)
Central Excise & Customs,
15/1, Strand Road,

Bijan Kumar Das

Customs House,
Kolkata.

4. The Commissioner of Central Excise
Morellow Compound,
Shillong-793001.
5. Sri Jagadish Ch. Das
Superintendent of Customs,
Land Custom Station,
P.O-Golakganj
Dt- Dhubri, Assam.
6. Smti. Kiranmoyee Das,
Superintendent,
Office of the Assistant Commissioner Central Excise,
Jorhat, Assam.
7. Sri Gautam Bhuyan,
Superintendent
Office of the Commissioner of Central Excise,
Lane F.Milan Nagar
P.O.Box- C.R.Building
Dibrugarh, Assam.
8. Abdul Kader Zilani,
Inspector,
O/O-The Deputy Commissioner of Central Excise,
Guwahati.
9. Sri Meitaram Indramoni Singh,
Inspector,
O/O- The Deputy Commissioner of Customs,
Izwal Custom Division,
Izwal, Mizoram.

...Respondents...

Binay Kumar Das

DETAILS OF THE APPLICATION

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

This application is made against the illegal suppression in the matter of promotion and also for arbitrary fixation of seniority of the applicant in the cadre of Inspector in total violation of rule of seniority laid down by the govt. of India from time to time and also praying for a direction upon the respondents to declare the applicant senior to the respondent no.5 to 9 and for a direction to recast the seniority in terms of the Rule of seniority in force and for a further prayer to promote the applicant to the post of group 'B' superintendent with all consequential service benefit at least from the date of promotion of his immediate junior and for setting aside and quashing of the impugned promotion order dated 23rd September, 2002.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

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4. Facts of the Case.

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. The applicant belongs to scheduled cast community as such he is entitled to special privilege under the Constitution of India.

4.2 That your applicant appeared in the interview in the year 1984 before the Staff Selection Commission, NER, Guwahati for appointment to the post of Inspector. The applicant although a candidate of 1984 recruitment examination, however the process of recruitment i.e. written examination, viva-voce, physical fitness were completed during October 1985.

Copy of the admit card and call letter for physical fitness test are enclosed herewith and marked as **Annexure-1 (Series)**.

4.3 That it is stated that after completion of process of interview the respondents issued offer of appointments in favour of other batch mates of 1984 recruitment examination in the month of October/November 1985 itself. But surprisingly no offer of appointment was issued against the name of the applicant for the reasons best known to the respondents.

4.4 That it is stated that the respondents offered appointment to the applicant for the post of Inspector

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vide office Memorandum No. C. No. II (3I) 1/ET-II/87 2-4(c) dated 6th January 1988 with a direction to report for duty within 15 days to the office of the Asstt. Collector, Digboi. The applicant accordingly joined on 20.01.1988 at Digboi.

A copy of the offer of appointment dated 06.01.1988 is enclosed and marked as **Annexure-2**.

4.5 That it is stated that the applicant after receipt of the offer of appointment immediately reported for duty on 20.01.1988 at Digboi after completion of necessary formalities without any delay.

It is relevant to mention here that in between November, 1985 to January 1988 a large numbers of direct recruits, of subsequent years, promotees, were appointed to the cadre of Inspector in the Central Excise and customs but the applicant being a selected candidate of 1984 recruitment year could able to join only in the month of January, 1988 without any fault on his part. It is submitted that abnormal delay in issuing the offer of appointment letter is caused due to laches and negligence of the respondents Union of India. It is a settled position of law that a Govt. employee cannot be allowed to suffer either in the matter of seniority or promotion due to laches and negligence of the respondents. The seniority and promotion is a very valuable right to a government employee and the said right cannot be taken away in

Bijam Khan Das

violation of the Govt. rules at the whims of the respondents.

4.6 That it is stated that the batch mates of the applicant who were selected and appointed in the month of October/November, 1985 out of the same selection, were placed in a much higher position in the gradation/seniority list in the cadre of Inspectors but the applicant is denied such position as because offer of appointment was issued after lapse of more than 2 years.

As per rule of seniority a candidate selected in an earlier selection is senior to the candidates selected in a subsequent selection. It would be evident from the consolidated orders on seniority issued by the DOPT from time to time more particularly in the O.M No.22011/7/86-Estt.(D), dated 3rd July, 1986. The relevant portion is quoted below:

"Seniority of Direct Recruits and Promotees

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection."

It is quite clear from above that as per rule an employee selected in an earlier selection being senior to those appointed as a result of subsequent selection.

Bigyan Kumar Das

Hence, the present applicant is senior as per rule than those who were recruited to the cadre of Inspector either by way of promotion or direct recruitment in the subsequent selection, as such, the seniority list is liable to be recasted following the rule of seniority indicated above.

A copy of the extract of seniority rule is enclosed herewith and marked as **Annexure-3**.

4.7 That it is stated that even some of the juniors who are recruited and appointed at a later point of time namely; Respondent No.5 to 7 appointed on 06.06.1988, 02.06.1988 and 28.06.1988 also declared senior to the present applicant in the gradation list of the Inspectors, whereas the present applicant joined in the service as per own showing of the respondents on 21.01.1988. Moreover, it would be evident from the impugned seniority list published as on 01.04.2002 one Md. Abdul Kadir Zilani, who was appointed on 07.04.1986 also shown senior to the applicant placing him at serial no.250. Similarly, Sri M.Indramoni Singh who is at serial no.251 but appointed on 10.03.1986 also shown above to the applicant in a most arbitrary and illegal manner in total violation of the seniority rule laid down by the Govt. of India. It is categorically submitted that all the Inspectors from serial no.250 to 335 of the seniority list of Inspectors published as on 01.04.2002 are juniors to the present applicant as because they were appointed to the cadre of Inspectors after the selection of the 1984 batch of candidates.

Rijan Varan Das

Therefore in view of the rule of seniority in force the applicant is entitled to be placed above the respondent no.5 to 7 by resetting the seniority list of Inspectors published as on 01.04.2002 by the Commissioner Central Excise, Shillong.

A copy of the extract of the seniority list of Inspectors published as on 01.04.2002 is enclosed as **Annexure-4**.

4.8 That it is stated that respondents Union Of India earlier on all occasion followed the rule of seniority issued by the Govt. of India, vide M.H.A, O.M No.9/11/55-RPS dated 22nd December, 1959, wherein the seniority of the government servant is determined in accordance with the General principles of seniority contained in the aforesaid O.M, one of the basic principle contemplated in said O.M is that seniority follows confirmation and consequently permanent officers in each grade shall rank senior to those who are officiating in that grade.

The aforesaid general principles of seniority in the light of the judicial pronouncement refer to above has been examined by the Government and it has been decided that seniority may be delinked from confirmation as per the directive of the Supreme Court. Accordingly, in modification of the General Principle 3, proviso to General Principle 4 and proviso to General Principle 4 and proviso to General Principle 5(i) contained in O.M.No.9/11/55-RPS, dated the 22nd December, 1959 and para 2.3 of O.M dated the 3rd

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July, 1986, it has been decided that seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of confirmation.

However the rule of seniority as per date of confirmation has been delinked since 1992 but the respondents Union of India, more particularly the Commissionerate at Shillong followed the date of joining as criteria, since 1994 and accordingly new panel, the seniority of past cases even before 1986 and recasted the seniority accordingly except the case of the present applicant. As per the prevailing rule the seniority of the applicant is liable to be fixed above the private respondents as because the applicant was selected in an earlier selection than the respondent no.8 and 9. Moreover, the respondent no.5 to 7 who were recruited in 1988 joined the service at a later point of time than the present applicant. It is quite clear from the impugned seniority list that the respondents in the instant case of the applicant neither followed the rule of seniority prescribed in the Ministry of Home Affairs O.M. dated 22.12.1959 nor followed the rule laid down by the DOPT in O.M. dated 3rd July 1986. As such the applicant is meted out with hostile discrimination in the matter of fixation of seniority and the said action of the respondents is also in violation of Article 14 of the Constitution.

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4.9 That it is stated that due to wrong fixation of the seniority of the applicant he has been superseded in the matter of promotion to the cadre of Group 'B' Superintendent in as much as 3 of his juniors who were appointed at a later point of time namely respondent no.5 to 7 have already been promoted to the cadre of Group 'B' Superintendent. It would be evident from promotion order issued under establishment order no.139 of 2002 dated 23.09.2002 wherein respondent no. 6 and 7 and a large number of other juniors have been promoted to the cadre of Group 'B' Superintendent ignoring the case of the present applicant and also due to wrong fixation of seniority of the present applicant in the grade of Inspector. As such the impugned promotion order dated 23.09.2002 is liable to be set aside and quashed.

A copy of the impugned promotion order dated 23.09.2002 is enclosed herewith and marked as **Annexure-5.**

4.10 That it is stated that the respondent no.5 has already been promoted in the month of November, 2002 to the cadre of Superintendent Group 'B'. But the applicant inspite of his best effort could not obtain the said impugned order of promotion, as such, the Hon'ble Court be pleased to direct the respondents to produce the impugned order of promotion issued in favour of the respondent no.5.

The promotion order of the respondent no.5 is liable to be set aside and quashed.

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4.11 That your applicant way back on 19.06.1989 submitted a representation addressed to the Deputy Collector, Custom and Central Excise, Shillong pointing out the discrepancies in seniority list of Inspectors published as on 01.01.1989. In the said representation the applicant inter-alia stated that since he was a candidate of 1984 batch, therefore he is entitled to be placed in the gradation list along with his 1984 batchmates. The applicant further submitted that there was no fault on his part in joining the department at a later point of time while the appointment order issued by the respondents after a long lapse of time and prayed for restoration of his seniority but to no result.

It is relevant to mention here that in the similar facts and circumstances the office of the Commissionerate of Customs and Central Excise, Shillong re fixed the seniority of Inspectors who were selected in the year 1983 but appointed during the year 1986 whereas 1984 batch of Inspectors were appointed at the relevant time prior to appointment of 1983 batch of selected candidates vide Commissionerate letter bearing No. C. No. II(34)10/ET-I/93/4964-69(A) dated 12.4.1994. It is pertinent to mention here that in a similar situation, the seniority of Sri Swapnatur Mahanta, Inspector whose name appear at Sl. No. 75 of the seniority list dated 1.4.2002, who belonged to 1983 batch but joined on 29.7.1985 was fixed as per the merit list of 1983. Therefore it is a fit case where

Bijankumar Das

the respondents ought to have re-fixed the seniority of the applicant treating the selected and qualified candidate of 1985 batch but the respondents arbitrarily did not take any step for correction of seniority of the applicant. Therefore it is a fit case for the Hon'ble Tribunal to interfere and protect the rights and interests of the applicant by passing an appropriate order upon the respondents for correction of the seniority of the applicant in the seniority list published on 01.04.2002.

Copy of the letter dated 12.04.1994 is annexed as
Annexure-6.

4.12 That it is stated that in the similar facts and circumstances this Bench of the Hon'ble Tribunal in O.A. 264 of 1998 (Sri S.S.Purkayastha Vs. U.O.I. & Ors.) decided the similar issue directing the respondents to re fix the seniority of the applicant concerned along with his batch mates although belatedly appointed. The instant case of the applicant is squarely covered by the decision passed by this Hon'ble Tribunal in O.A. 264 of 1998. Therefore the Hon'ble Tribunal be pleased to pass similar direction directing the respondents to restore the seniority of the applicant treating him the selected and qualified candidate of 1984 batch and further be pleased to direct the respondents to refix the seniority of the applicant above the respondent nos. 5 to 9 by

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recasting the impugned seniority list published as on 01.04.2002.

4.13 That it is stated that as per provision contained in the D.O.P.T. Office Memorandum No. 22011/7/86-Estt(D) dated 3.7.1986 which are as follows :

"Seniority of Direct Recruits and Promotees.

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the U.P.S.C. or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection."

It is quite clear from the aforesaid Memorandum dated 3.7.1986 that the applicant being a selected candidate of 1984 batch cannot be placed below the recruits of subsequent batches. As such, the seniority position of the applicant is required to be re fixed placing him above the respondent nos. 5 to 9.

4.14 That it is stated that the applicant submitted a series of representations after his representation dated 19.06.1989 on 30.07.2002, thereafter on 27.10.2003 pointing out the discrepancies in the seniority list. In the representation dated 27.10.2003 the applicant specifically shown the date of joining of the

Bijan Kumar Das

respondent no.5 to 7 and the position of seniority assigned to them by the impugned seniority list as on 01.04.2002 but the respondents are quite silent regarding the grievances of the applicant whereas as per the rule representation of a Government employee is required to be replied promptly but in the instant case the respondents are silent about the grievances of the applicant. As such the applicant approaching this Hon'ble Tribunal in the compelling circumstances stated above for enforcement of rule of seniority laid down by the Govt. of India from time to time and for redressal of the grievances of the applicant so far promotion and seniority is concerned.

Copy of the representation dated 19.06.1989, 30.07.2002 and representation dated 27.10.2003 are enclosed herewith and marked as **Annexure-7, 8 and 9** respectively.

4.15 That this application is made bona fide and for the cause of justice.

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

5.1 For that, the applicant was selected for appointment in the 1984 batch as such his seniority is required to be fixed along with his batch mates of 1984 in terms of the Office Memorandum dated 22.12.1959 and O.M dated 03.07.1986.

5.2 For that, offer of appointment letter to the applicant was issued by the respondents after a long lapse in the

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month of January, 1988 without any fault on the part of the applicant, however the applicant immediately on completion of formalities joined the department on 20th January, 1988, as such the applicant is entitled to re fix his seniority along with the 1984 batch of selected candidates.

5.3 For that, the applicant had no hand in issuing the offer of appointment letter in his favour as such seniority cannot be fixed below the subsequent recruits of Inspectors i.e. respondent nos. 5 to 9.

5.4 For that, fixation of seniority is made by the respondents in total violation of the relevant provision contained in the Office Memorandum dated 22.12.1959 and O.M dated 3.7.1986.

5.5 For that, the applicant repeatedly approached the authorities for redressal of his grievances but to no result.

5.6 For that, due to wrong fixation of seniority the applicant has suffered irreparable loss and injury in the matter of promotion and service prospect.

5.7 For that, Respondents No.5 to 7 although belonged to subsequent batch of 1984 recruits and also joined in service at a later point of time, therefore they cannot be placed above the applicant in the seniority list of Inspectors.

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5.8 For that, Respondents 5 to 9 being recruits of subsequent batches cannot be placed above the applicant in the seniority list of Inspectors.

5.9 For that, new refixation of seniority of the applicant is in violation of Article 14 and 16 of the Constitution.

5.10 For that, similarly placed employees of Central Excise has been granted the benefit of refixation of seniority following the approval of the Board of Central Excise and Customs, New Delhi, as such denial of the said benefit to the applicant is violative of Article 14 of the Constitution.

5.11 For that, the applicant is entitled to consequential benefits of promotion at least from the date of promotion of his immediate juniors.

5.12 For that, Respondents no.5 to 9 being junior to the applicant but even then promoted to the cadre of Group 'B' Superintendent.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit

Bijan Khan Das

before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to re-fix the seniority of the applicant placing him above the respondent nos. 5 to 9 in the cadre of Inspectors and further be pleased to direct the respondents to refix his seniority in between sl.no.249 and 250 of the seniority list published as on 01.04.2002 and count for the same purpose of his promotion to the next higher grade.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned promotion order dated 23.09.2002.

Bigyan Kumar Das

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to recast the seniority list of Inspectors published as on 01.04.2002 and the subsequent seniority list if published placing the applicant above the respondent nos. 5 to 9.

8.4 To promote the applicant to the grade of Group 'B' Superintendent at least with effect from the date of promotion of his immediate juniors with all consequential service benefits and monetary benefit.

8.5 Costs of the application.

8.6 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to recast the seniority of the applicant placing him above the respondent nos. 5 to 8.

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents ,

10.

B. Jay Kumar Das

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : J J G 387499
- ii) Date of Issue : 31.12.03
- iii) Issued from : G. P. O
- iv) Payable at : Guwahati

12. List of enclosures.

As given in the index.

Bijan Khan Das

VERIFICATION

I, Sri Bijon Kumar Das, Son of Sri Bidhan Chandra Das, aged about 45 yours, working as Inspector, office of central excise and custom, Tinsukia, applicant in the instant Original Application 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 21st day of December 2003

Bijon Kumar Das

भारत सरकर Government of India

कर्मचारी चयन आयोग STAFF SELECTION COMMISSION
प्रवेश पत्र ADMISSION CERTIFICATE

कर्मचारी चयन आयोग, भारत सरकर, इत्यादि नियमित परीक्षा, 1984/Inspectors of Central Excise, Income Tax etc. Examination 1984.

नाम/ Name of Candidate

रोल नंबर/Roll Number

प्राप्ति कार्यालय/Office of Inspector,
सेलेक्शन कमिटी/Selection Committee

CAS. EK

4250123

केन्द्र कार्यालय कोड/Centre code

GRAHAM BAZAR CITRUS SCHOOL,
GRAHAM BAZAR,
P.C-DIBRUGARH-786001.

48-001

समय सारणी/ TIME TABLE
भाग I /Part I

तिथि/ Date	विषय और पत्र/Subject & Paper	समय/ Timings
रविवार, 11 नवम्बर, 1984 Sunday the 11th November 1984	I सामान्य अध्ययन/General Studies II सामान्य अंग्रेजी/ General English III अंकगणित/ Arithmetic	प्रातः 9.30 बजे से दोपहर 12.00 बजे तक/ 9.30 AM-12.00 Noon दोपहर 1.00 बजे से रात 3.00 बजे तक/ 1.00 P.M. 3.00 P.M. सायं 3.30 बजे से रात 5.00 बजे तक/ 3.30 P.M. 5.00 P.M.

कार्यालय का स्वामित्व राज्य सरकार द्वारा है। Please see note and instructions overleaf.

कार्यालय का स्वामित्व राज्य सरकार द्वारा है। Please see note and instructions overleaf.

Al Desled
Sarjif Chawla
Advocate
on 31.12.03

10

"EXPIRE" from your Employer.

Telegraph:
STASELCOM
GUWAHATI

23

UNIVERSITY OF POKHARA
No. DATE OF POSITION
GOVERNMENT OF INDIA
STAFF SELECTION COMMISSION(NER)

R. K. CHOUDHURY ROAD, BHAKALUMUKH
GUWAHATI-781 009.

DATED: 25 MAR 1985

Bijan kr Dwar
S/o. Bidhan Ch. Dwar
Barpeta
P.O. Trinukia
PIN - 786125

With reference to your application for recruitment to the above mentioned post. I am directed to request you to present yourself at the office of the Income tax officer, Dibrugarh, on 12.4.85 at 9.00 A.M.

on 12-4-85 at 9:00 A.M. you are also requested to bring the following documents in ORIGINAL along with attested copies of the same (if not submitted earlier):

- i) Matriculation/High School/Higher Secondary Certificate showing your date of birth.
- ii) All other Academic degree/diploma showing your educational qualifications and also subject studied at various levels.
- iii) Certificates in support of your claim regarding experiences and certificates about extra curricular activities.
 - a) In case you belong to SC/ST, a certificate from a competent officer of your district in the prescribed proforma if the same has not been produced earlier.
 - b) In case of disabled Defence/BSF personnel, necessary disability certificate from the competent authority.
 - c) In case of Ex-Servicemen, discharge certificate to prove your claim as an Ex-Serviceman.
 - d) In case you are already serving in a Government Deptt. and your application has not been forwarded through proper channel a "NO OBJECTION CERTIFICATE" from your Employer.
 - e) Please also bring your pen/pencil etc.

No travelling or other expenses will be paid by the Commission for attending the interview. However, SC/ST candidate called for interview will be given ~~Rs~~ ^{Rs} according to Govt. orders and they will be required to furnish the details of journeys etc. mile, age, Ticket No. etc.

Please bring this letter with you when you come for the interview. Any change in your present address should be communicated to the Commission at once alongwith three slips showing your Roll No., name and new address in block capital letters.

1941 Commission.

For the consideration of the E.C. on 2/12/64

Admitted
Savji + Chaudhry
Admitted
on 31.12.03

0.42
You must quote roll No. name of the post in all correspondence with the commission.

Please acknowledge the receipt of this letter IMMEDIATELY.

In case you fail to attend the interview it will be presumed that you are not interested in the post and your candidature will be treated as cancelled. No further correspondence will be entertained in this regard.

✓ 10/12/65
for REGIONAL DIRECTOR

N.B:- 3 copies of Application form are enclosed herewith which are to be submitted at the time of interview.

OFFICE OF THE COLLECTOR OF
CUSTOMS AND CENTRAL EXCISE :: SHILLONG.

C.N.O. II (3) / ET-II 87

dated, Shillong

The JAN 15, 1988

OFFICE MEMORANDUM

With reference to his/her application/interview/recommendation of the Staff Selection Commission Shri/Smti/Kumari Brijen Kumar Das is hereby offered a temporary post of Inspector

in the scale of pay of Rs. 1640-60-2600-EB-75-2900/-

plus the usual allowances as sanctioned by the Government of India. His/Her appointment will be subject to the following terms and conditions :-

- (i) The appointment is purely temporary and will be governed by the CCS(T.S.) Rules 1965 and is liable to termination without assigning any reason under Rule 5 ibid.
- (ii) He/she will be on probation for a period of two years may, however, be extended at the discretion of the appointing authority.
- (iii) He/she will have to comply with requirements of the C.C.S.(Conduct) Rules, 1964 and the plural Marriage Act. All Rules or orders already in existence or issued from time to time regarding attendance, duties, discipline, conditions of services etc. will automatically be applicable to him/her.
- (iv) He/she should give a declaration of his/her home town for the purpose of L.T.C. within 6(six) months from the date of entry into service.
- (v) He must be willing to serve anywhere within the jurisdiction of this collectorate.
- (vi) He/she should pass the prescribed Departmental Examination within two years of his/her appointment failure to which may lead to his/her service being terminated.
- (vii) That the seniority of the candidate of direct recruits vis-a-vis promotes will be assigned according to the position of each candidate in roster.
- (viii) His/her retention in service is further subjected to his/her being found suitable for Government service in all respect.
- (ix) His/her appointment is subject to the production of Medical certificate of fitness from the civil surgeon/Assistant Surgeon (in case of group D staff only) and subject to his/her taking an oath of allegiance to the Constitution of India.

(contd..p.2..)

Addressed
Surya Sekharia
Adarsh
on 31.12.03

(x) He/she is liable to transfer/posting within the Collectorate to which he/she is nominated and under no circumstances his/her request for transfer to any other Collectorate will be entertained.

(xi) Applicable to candidates appointed as L.D.C. on compassionate ground.

(a) The appointment is purely provisional subject to satisfactory policy verification Report.

(b) The educational qualification has been relaxed as a special case. He/she has to required requisite educational qualification viz. _____ class within two years from the date of appointment.

(c) He/she should acquire the requisite speed in type writing as failure to pass the type writing test will debar him/her from drawing increments in the pay scale and he/she will not be entitled the confirmation.

2. If the offer is accepted by him/her, he/she should report for duty to the Office of the Assistant Collector of customs and central excise, Dighi immediately but in any case not later than 15 days (fifteen) days from the date of issue of this offer. If he/she fail to do so, offer of appointment will be treated as cancelled.

3. He/she should submit the following documents alongwith his/her joining report.

(i) The medical fitness certificate in the form enclosed obtainable from the Civil Surgeon/Assistant Surgeon on production of the enclosed letter to him.

(ii) The original matriculation certificate and or other certificate in support of age, educational qualification etc.

(iii) Two certificates of character (in the enclosed form) not more than three months old from two Gazetted Officer.

(iv) If he/she claims to be a member of scheduled caste/ scheduled tribes, he/she should submit the original certificate his/her statement in the enclosed form duly signed by the sub-divisional Officer/District Magistrate/Deputy Commissioner or by a Gazetted Officer of the central or a state Government and counter signed by the district magistrate/Deputy commissioner of the district to which the candidate belongs.

(v) A declaration in form enclosed regarding marriage.

(vi) No objection certificate from his/her previous employer and release order from his/her employer accepting his/her resignation from than service.

(vii) One certificate of character from District Magistrate or Sub-Divisional Magistrate or their superior office

(contd...p/3...)

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4. No travelling or emther allowances will be paid to him/her for obtaining the Medical or other certificates or for joining the post.

M. Prasad
5.1.88

(M. PRASAD)
DEPUTY COLLECTOR(PER & ESTT)
CUSTOMS AND CENTRAL EXCISE: :SHILLONG.

.....
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PIN - 786125 ASSAM.

II

Consolidated Orders on Seniority

Government of India, Department of Personnel and Training,
Office Memorandum No. 22011/7/86-Estt. (D), dated the 3rd July, 1986

Instructions issued from time to time laying down the principles for determining seniority of persons appointed to services and posts under the Central Government have been consolidated in this Office Memorandum. The original communications consolidated here are reproduced (Items I to VII) at the end of this OM.

Seniority of Direct Recruits and Promotees

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.

2.2 Where promotions are made on the basis of selection by a DPC, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority, subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior, such persons shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him.

1. ["Provided that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior General/OBC candidate who is promoted later to the said immediate higher post/grade, the General/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade."]

2.3 Where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority² would be determined by the order of merit indicated at the time of initial appointment and not according to the date of confirmation].

1. Added vide G.L. Dept. of Per. & Trg., O.M. No. 20011/1/96-Estt. (D), dated the 30th January, 1997 and takes effect from 30th January, 1997.

2. Modified vide G.L. Dept. of Per. & Trg., O.M. No. 20011/5/90-Estt. (D), dated the 4th November, 1992.

*Alkaed
Surya Choudhury
Advocate
on 31.12.03*

2.4.1 The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

2.4.2 If adequate number of direct recruits do not become available in any particular year, rotation of quotas for the purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees.

In other words, to the extent direct recruits are not available, the promotees will be bunched together at the bottom of the seniority list below the last position up to which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however, be carried forward and added to the corresponding direct recruitment vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number according to the usual practice. Thereafter in that year, while seniority will be determined between direct recruits and promotees, to the extent of the number of vacancies for direct recruits and promotees as determined according to the quota for that year, the additional direct recruits selected against the carried forward vacancies of the previous year would be placed *en bloc* below the last promotee (or direct recruit as the case may be), in the seniority list based on the rotation of vacancies for that year. The same principle holds good for determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in the subsequent year.

Illustration.— Where the Recruitment Rules provide 50% of the vacancies of a grade to be filled by promotion and the remaining 50% by direct recruitment, and assuming there are ten vacancies in the grade arising in each of the years 1986 and 1987 and that two vacancies intended for direct recruitment remain unfilled during 1986 and they could be filled during 1987, the seniority position of the promotees and direct recruits of these two years will be as under—

1986	1987
1. P1	9. P1
2. D1	10. D1
3. P2	11. P2
4. D2	12. D2
5. P3	13. P3
6. D3	14. D3
7. P4	15. P4
8. P5	16. D4
	17. P5
	18. D5
	19. D6
	20. D7

SENIORITY LIST OF INSPECTOR AS ON 01.04.2002.

Sl.No.	Name & Educational Qualification S/Shri	Date of Birth	Date of Apptt. In Govt. service	Date of confirmation in Govt. service	Date of appointment as Inspector	Whether DR/PR as Inspector	Remarks
01	02	03	04	05	06	07	08
1.	Sita Prasad Neog, B.A	29.08.52	22.07.76	10.10.81	22.07.76	DR	
2.	Bikash Kumar Sankha, (ST), B. Com.	01.01.57	08.03.82	13.05.87	08.03.82	DR	
3.	Pankajlal Singha, B.A	28.01.60	20.06.83	13.05.87	20.06.83	DR	
4.	Tarun Kr. Singha, B. Sc	01.02.57	22.10.83	13.05.87	22.10.83	DR	
5.	Pennalal Singha, B.Com	30.01.58	20.06.83	13.05.87	20.06.83	DR	
6.	Asok Kr. Das, B.A	10.06.53	10.04.78	01.08.83	15.07.83	PR	
7.	Smt. H. Mencha Devi, B.Sc	01.12.57	05.05.83	13.05.87	05.05.83	DR	
8.	Dileshita Hazarika, B.Com	22.01.57	02.05.83	13.05.87	02.05.83	DR	
9.	Jenkhojan Haokip, (ST), B.A	01.03.60	30.05.83	13.05.87	30.05.83	DR	
10.	Smt. Hilda Mary Syiem, (ST), PU	07.12.50	14.02.78	01.08.83	05.07.83	PR	
11.	Abdul Mutalib, B.Sc	01.01.57	31.12.80	13.05.87	07.07.83	DR	
12.	Sujit Mishra, B.Sc	17.01.59	08.09.83	13.05.87	08.09.83	DR	
13.	Syed Taffique Hussain, B.Sc	20.09.58	06.10.83	30.05.87	05.10.83	DR	
14.	Dilni Ram Das, PU	07.02.50	26.02.78	01.08.83	21.07.83	PR	
15.	Pacitra Kanta, B.Sc	25.12.57	02.05.83	13.05.87	02.05.83	PR	
16.	Cesabanta Mazumder, B.Sc	03.01.61	18.05.83	13.05.87	18.05.83	DR	
17.	Rajkumar Kanta, B.Sc	15.10.56	05.05.83	13.05.87	05.05.83	DR	
18.	Dis. Debajyoti Sinha, M.A	10.01.58	15.06.83	13.05.87	15.06.83	DR	
19.	Ganesh Ch. Sharma, B.Sc	01.03.59	04.08.83	13.05.87	04.08.83	DR	
20.	Jondeep Dutta, B.Com	01.09.56	01.09.83	13.05.87	01.09.83	DR	
21.	Hom Prasad Sharma, B.A	20.01.57	22.10.83	13.05.87	22.10.83	DR	
22.	Swapan Kr. Nath, B.Sc	01.01.58	07.09.83	13.05.87	07.09.83	DR	
23.	Tridip Ch. Roy, B.Sc	18.01.57	30.08.83	13.05.87	30.08.83	DR	On Deputation with DRI, New Delhi
24.	Pamul Sinha, B.Sc	29.11.58	13.05.83	13.05.87	13.05.83	DR	On Deputation with DRI, Silchar
25.	Imdadur Rehman, M.Sc	03.01.58	07.09.83	13.05.87	07.09.83	DR	
26.	Sarwar Kr. Dutta, B.Sc	31.08.57	11.07.83	13.05.87	11.07.83	DR	
27.	Dwivedendra Mohan Das, B.A	01.09.57	19.09.83	13.05.87	19.09.83	DR	
28.	Nikandra Singha, M.A	02.09.58	02.05.83	13.05.87	02.05.83	DR	
29.	Naziruddin, B.Sc	04.10.56	20.06.83	13.05.87	20.06.83	DR	
30.	Sutip Kr. Dutta, B.A	31.12.58	10.05.83	13.05.87	10.05.83	DR	
31.	Hem Chandra Kalita, B.Sc (H)	01.01.57	07.09.83	13.05.87	07.09.83	DR	On Deputation with DRI, Silchar
32.	Dambaru Borai, (ST)	01.07.55	08.06.83	13.05.87	08.06.83	DR	
33.	Deneswar Chandi (ST), B.A	01.03.58	17.09.83	13.05.87	17.09.83	DR	

*Admitted
Surya K. Chaudhury
Approved
on 31.12.03*

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01	02	03	04	05	06	07	08
74.	Md. Hanif Alam Boru, B. A	25.01.57	07.10.83	13.05.87	07.10.83	DR	
75.	Swapnatur Mahanta	01.10.60	29.07.85	29.07.87	29.07.85	DR	
76.	Harapada Roy, B. Sc	06.10.56	29.03.84	29.07.87	29.03.84	DR	
77.	Rabindra Kr. Borah	01.01.57	09.12.83	29.07.87	09.12.83	DR	
78.	Nijit Kr. Nandi, B. Sc	01.09.59	09.12.83	29.07.87	09.12.83	DR	
79.	Dharani Borah, B. A	01.01.57	19.12.83	29.07.87	19.12.83	DR	
80.	Md. Abdul Muneem, B. Sc.IIB	01.01.57	13.12.83	29.07.87	13.12.83	DR	
81.	Prahlad Borborah, B. Sc	01.03.58	10.10.83	29.07.87	10.10.83	DR	
82.	Rabindra Pathak, (SC), B. A	04.09.60	14.11.83	29.07.87	14.11.83	DR	
83.	Narendra Ch. Talukdar, (ST), B. A	02.07.51	06.01.84	29.07.87	06.01.84	DR	
84.	Lokhendra Nath Sonowal, (SC), B. Sc	30.10.58	01.10.83	29.07.87	01.10.83	DR	
85.	Jitendra Kr. Saikia, (ST), B. A	01.12.54	22.12.83	29.07.87	22.12.83	DR	
86.	Balaram Pegu, (ST), B. Sc	01.07.59	18.11.83	29.07.87	18.11.83	DR	
87.	Ratneswar Doley, (ST), B. Sc	01.02.56	29.11.83	29.07.87	29.11.83	DR	
88.	Jogesh Sonowal, (ST), B. A	01.03.56	07.09.83	29.07.87	07.09.83	DR	
89.	John Oscar Marak, (ST), B. A	01.02.56	31.10.83	29.07.87	31.10.83	DR	
90.	Priyoram Doley, (ST)	01.01.57	07.12.83	29.07.87	31.10.83	DR	
91.	Bishnu Ram Boro, (ST), B. A	23.03.57	13.11.83	29.07.87	13.11.83	DR	
92.	Ms. Laichanglani Saikia, (ST)	01.01.55	26.05.76	29.07.87	29.05.83	DR	
93.	Dambaro Bhaktiani, (ST), B. A	01.09.59	07.10.83	29.07.87	07.10.83	DR	
94.	Paul Peter Kujur, (ST)	05.06.58	08.09.83	29.07.87	08.09.83	DR	
95.	Ajit Debnath, B. A	31.01.58	07.09.84	29.07.87	07.09.84	DR	
96.	Rex Hungjo, (ST)	01.06.51	11.06.84	29.07.87	11.06.84	DR	
97.	R.K. Derendrajit Singh, B. A	01.01.59	22.03.84	29.07.87	22.03.84	DR	
98.	Panabir Chakraborty, B. Sc	24.02.53	08.01.79	05.03.86	05.03.84	PR	
99.	Harotosh Kr. Das, B. A	16.05.60	27.10.84	29.07.87	27.10.84	DR	
100.	Hareswar Goswami, B.Sc.IIB	01.09.58	28.09.84	29.07.87	28.09.84	DR	
101.	Sanjay Kr. Mazumder, B.Sc.	31.12.58	04.05.84	29.07.87	04.05.84	DR	
102.	Dipankar Dey, B.Com	27.01.53	26.05.71	02.02.81	05.03.84	PR	
103.	Buddha Pratim Dutta, B.Sc.	29.03.58	04.07.84	29.07.87	04.07.84	DR	On Deputation with DRI, Shillong
104.	Rajkumar Debendra Singh, B.Sc.	01.02.60	20.03.84	29.07.87	20.03.84	DR	
105.	Subir Dutta Choudhury, B.Sc.	02.12.59	17.05.84	29.07.87	17.05.84	DR	On Deputation with NEPZ, NOIDA
106.	Ms. Shibani Bhattacharjee, P.U.	01.09.55	28.07.76	13.03.86	14.03.84	PR	
107.	Rajkumar Surchandra Singh, B.Sc.	01.02.60	14.03.84	29.07.87	14.03.84	DR	
108.	Ms. Rustom Moni, (ST), MA	01.03.57	09.06.84	29.07.87	09.06.84	DR	
109.	Vungzakhung Hungzo, (ST), MA	01.03.57	24.04.84	29.07.87	24.04.84	DR	On Deputation with N.C.B. Imphal
110.	Ms. Rita Rani Bhownick, BA	01.07.57	31.07.76	13.03.86	12.03.84	PR	
111.	Sivaji Chanda B.Sc.	23.06.60	27.04.84	29.07.87	27.04.84	DR	
112.	Abhijit Dey (No.1) B.Sc.(H)	01.02.61	12.06.84	29.07.87	12.06.84	DR	
113.	Rathnangshu Chakraborty B.Sc.IIB.	24.12.61	10.04.84	29.07.87	10.04.84	DR	
114.	Ms. Champa Shome, BA	03.09.51	26.07.76	19.03.86	19.03.84	PR	

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01	02	03	04	05	06	07	08
240.	Nandeswar Basumatary, (ST) BA	16.08.60	14.10.85	01.04.88	14.10.85	DR	
241.	Sribas Dhar, (SC), B.Sc.	30.09.62	14.10.85	01.04.88	14.10.85	DR	
242.	Jayanta Kr. Hiwali, (SC) B.Com.	01.07.60	20.10.85	01.04.88	20.10.85	DR	
243.	Swapan Kr. Roy, (SC) B.Com.	20.11.56	20.10.85	01.04.88	20.10.85	DR	
244.	Rajkumar Bhuminjoy Singh B.Sc.	01.07.60	20.10.85	01.04.88	20.10.85	DR	On Deputation with D.R.I., Imphal
245.	Paokhokhai Neisial, (ST), BA	01.01.58	28.10.85	01.04.88	28.10.85	DR	
246.	Hawlun Haokip, (ST), B.Sc.	01.03.59	28.10.85	01.04.88	28.10.85	DR	
247.	Manik Lal Choudhury, (SC), B.Com	08.01.61	28.10.85	01.04.88	28.10.85	DR	
248.	Shehtinmong Sithiou, (ST), BA	01.03.61	28.10.85	01.04.88	28.10.85	DR	
249.	Suminthang Pularalte, (ST) BA	10.01.54	06.10.80	13.12.81	07.04.86	PR	
250.	Abdul Kader Zilani, B.Sc.	01.03.61	10.03.86	01.04.88	10.03.86	DR	
251.	Meitram Indramoni Singh, B.Sc.	01.09.58	05.01.87	05.01.89	05.01.87	DR	
252.	Sankar Pratim Deb, B.A.	04.01.55	10.07.81	13.12.81	29.12.86	PR	
253.	Santosh Sil, B.A.	06.01.60	10.03.86	05.01.89	10.03.86	DR	On Deputation with DGCEL, R. Unit, Sh
254.	Prabir Kr. Sen, B.Com.	16.10.59	07.05.86	05.01.89	07.05.86	DR	
255.	Manabendra Banik, M.Com.	28.12.58	12.03.86	05.01.89	12.03.86	DR	
256.	Sujit Bhattacharjee, M.Sc.	06.11.58	31.07.81	13.12.81	10.04.86	PR	
257.	Bhajahari Dutta, B.A.	01.03.60	10.03.86	01.04.89	10.03.86	DR	
258.	Ngalranghan Sanalal Singh, B.Sc.	01.01.60	10.03.86	05.01.89	10.03.86	DR	
259.	Dolan Ch. Choudhury, B.Com.	03.01.61	10.03.86	05.01.89	10.03.86	DR	
260.	Th. Madhai Singh, B.Sc.	01.09.51	01.06.74	13.12.81	11.08.86	PR	
261.	Dulal Ch. Sharmah, P.U.	29.04.59	10.03.86	05.01.89	10.03.86	DR	
262.	Debasish Chakraborty, B.Com(Hons.)	09.03.55	27.07.81	13.12.81	17.03.87	PR	
263.	Basudeb Bhattacharjee-II, B.Com.	01.04.50	14.03.74	13.12.81	21.04.86	PR	
264.	Sudhir Ch. Barman, (ST), HSLC	31.01.55	27.07.81	13.12.81	18.04.86	PR	
265.	Kartik Sarkar, B.A.	07.07.48	03.06.74	13.12.81	11.04.86	PR	
266.	Nirmal Ch. Sutradhar(SC), B.A.	01.11.55	14.10.81	13.12.81	14.04.86	PR	
267.	Ajit Bora, B.Sc.	08.03.57	01.02.82	01.02.82	10.04.86	PR	
268.	Sankar Sengupta, B.Com.	11.06.57	12.08.81	24.06.82	11.04.86	PR	
269.	Lakhinath Gogoi, B.Sc.	01.12.54	10.12.74	25.06.82	10.04.86	PR	
270.	Khirozuddin Ali Ahmed, B.A.	01.12.55	04.09.81	01.07.82	10.04.86	PR	
271.	Deba Prasad Bora, B.Sc.	01.03.52	11.03.74	01.07.83	15.04.86	PR	
272.	Surath Ch. Kalita, HSLC	01.07.56	19.08.81	01.10.83	11.04.86	PR	
273.	Kabin Borkataki, B.A.	01.03.57	26.09.75	01.03.84	07.04.86	PR	
274.	Jayanta Kr. Purkayastha, P.U.	01.03.55	23.11.81	01.03.84	25.04.86	PR	
275.	Chandra Kanta Baruah, B.Sc.	29.12.55	29.09.75	01.03.84	07.04.86	PR	
276.	Smt. Suchila Lyngdoh(ST), HSLC	12.04.55	10.11.75	01.03.84	07.04.86	PR	On Deputation with DRI, Kolkata
277.	Supriyo Chakraborty, P.U.	29.02.56	26.09.81	01.03.84	19.12.86	PR	
278.	Girindra Nath Haloi (SC), B.Sc.	12.09.55	28.09.81	01.03.84	07.04.86	PR	
279.	Niranjan Ch. Malakar, (SC), B.A.	01.01.55	21.10.76	01.03.84	11.04.86	PR	
280.	Nur Mohammed Sheikh, B.A.						

01	02	03	04	05	06	07	08
281.	Smt. K.M.Syiemleih, (ST), M.A.	19.05.56	27.07.81	01.03.84	07.04.86	PR	
282.	Mukunda Ram Das, HSLC	20.01.55	12.08.76	01.03.84	11.04.86	PR	
283.	Bidhan Hazarika, (ST), B.Sc.	01.01.53	04.12.81	01.03.84	10.04.86	PR	
284.	Smt. Sibani Lanong(ST), B.A.	01.05.55	01.02.82	01.03.84	07.04.86	PR	On deputation with CSI Airport
285.	Md. Abdur Rouf, B.A	25.03.52	13.08.76	01.03.84	15.04.86	PR	
286.	Bikash Kar, M.A	22.05.58	26.06.81	13.12.81	22.04.87	PR	
287.	Subir Kr. Dasgupta, B.A.	05.02.51	05.12.74	13.12.81	22.04.87	PR	
288.	Latit Chandra Doley, (ST) P.U.	01.01.50	07.06.74	01.02.82	27.04.87	PR	
289.	Babul Chandra Boro(ST), B.A.	01.01.59	29.09.81	01.03.84	29.04.87	PR	
290.	Dimbeswar Pegu, (ST), B.Com.	05.04.55	16.10.81	01.03.84	23.04.87	PR	
291.	Dipak Kr. Dey, B.Sc.	20.04.56	28.09.81	02.03.84	21.04.87	PR	
292.	Manindra Kumar Karmakar, B.A.(H)	01.12.58	19.01.82	02.03.84	21.04.87	PR	
293.	Lila Phukan, B.Sc.	01.09.59	16.11.81	02.03.84	28.04.87	PR	
294.	Ramesh Chandra Sharma, B.A.(H)	01.10.59	02.11.81	02.03.84	21.04.87	PR	
295.	Girindra Kalita, BA	01.01.58	03.12.81	21.08.85	21.04.87	PR	
296.	Lakhi Kanta Lora, (ST), HSLC	01.08.55	19.03.76	21.07.84	24.04.87	PR	
297.	Pradip Gohain, BA	29.11.55	18.11.81	21.07.84	27.04.87	PR	
298.	Gopal Ch. Das, (SC), B.Com.	01.04.54	16.03.76	21.07.84	27.04.87	PR	
299.	Kumud Ch. Bhuyan, B.Sc.	27.01.56	01.10.81	21.07.84	27.04.87	PR	
300.	Someswar Baruah, P.U.	10.03.48	23.03.76	21.07.84	27.04.87	PR	
301.	Nripendra Nath Deka, (SC), BA(H)	01.03.58	26.05.82	21.07.84	21.04.87	PR	
302.	Kuladhar Shyam, (ST), HSLC	01.01.54	17.03.76	21.07.84	29.04.87	PR	
303.	Samir Kumar Kundu, (SC), B.Sc.	29.10.51	22.01.82	21.07.84	24.04.87	PR	
304.	Kripal Ch. Phukan, PU	01.01.56	24.02.76	21.07.84	27.04.87	PR	
305.	Balendra Nath Uzir, (ST), BA	30.06.54	23.01.82	21.07.84	21.04.87	PR	
306.	Dulai Kr. Das, HSLC	30.12.55	28.12.76	12.08.84	26.06.87	PR	
307.	Ms. Diamond Mawtihoh, (ST), PU	27.08.50	10.05.76	21.07.84	24.09.87	PR	
308.	Ms. Neiphal Bhattacharjee, PU	01.03.59	14.07.79	01.08.81	10.02.88	PR	
309.	Sanjoy Chettri, BA	12.03.65	03.06.88	03.06.90	03.06.88	DR	
310.	Ramendra Prasad Chanda, B.A.	15.01.53	13.03.76	02.03.84	06.06.88	PR	
311.	Kapil N. Sharma, B.A. (Ex.S)	01.03.53	23.05.88	23.06.90	23.06.88	DR	
312.	Ng. R.K. Singh, B.Sc.	01.09.61	02.06.88	23.06.90	02.06.88	DR	
313.	Mukul Mahanta, BA	01.03.62	14.06.88	23.06.90	14.06.88	DR	
314.	Ms. Kiranmoyee Das (SC), HSLC	26.12.56	05.09.76	21.07.84	02.06.88	PR	
315.	L.J. Synrem, (ST), B.Com.(H)	03.10.64	22.06.88	23.06.90	22.06.88	DR	
316.	Gautam Kr. Bhuyan, (SC), B.Com.	26.09.59	28.06.88	28.06.90	28.06.88	DR	
317.	Andrew Nongrum, (ST) BA	01.03.56	23.07.82	03.12.84	03.06.88	PR	
318.	Biren Bhattacharjee, B.Sc.	01.01.60	26.12.88	26.12.90	26.12.88	DR	
319.	Muktipada Acharjee, B.A.	01.03.58	19.11.82	19.11.84	02.06.88	PR	
320.	Kh. Marjit Singh, B.A. (H)	01.03.64	22.12.88	26.12.90	22.12.88	DR	On Deputation with DRL Imphal
321.	Nirmalendu Bhattacharjee, PU	26.07.57	01.03.83	01.03.85	16.06.88	PR	
322.	Sangkhuma Mualchin, (ST) HSLC	23.12.58	20.05.83	21.05.85	03.06.88	PR	

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01	02	03	04	05	06	07	08
323.	Bidhu Bhusan Nath, HSLC	01.07.58	26.04.83	21.05.88	06.06.88	PR	
324.	Swapan Kr. Debnath, B.Sc.	08.01.58	05.09.83	05.09.85	08.06.88	PR	
325.	Tapan Bora, PU	01.12.50	27.01.77	05.09.85	08.06.88	PR	
326.	Jagadish Ch. Das, (SC) PU	15.01.56	27.01.77	05.09.85	08.06.88	PR	
327.	Debasish Bose, B.Com. (H)	16.01.62	08.02.83	05.09.85	06.06.88	PR	
328.	Jayanta Kr. Hazarika, B.A.	27.11.57	27.11.77	05.09.85	06.06.88	PR	
329.	Naklbur Rehaman, PU	01.02.52	14.03.77	05.09.85	08.06.88	PR	
330.	Tarak Ch. Majumder, BA	01.03.57	28.01.83	05.09.85	06.06.88	PR	
331.	Ratul Ch. Das, B.Sc. LLB	01.12.57	11.11.82	08.01.86	06.06.88	PR	
332.	Debasish Banerjee, B.Sc.	29.12.60	11.05.88	16.12.90	14.05.88	OR	
333.	Audesh Kr. Singh, B.Sc.	01.01.61	25.08.88	16.12.90	25.08.88	DR	
334.	Subrata Choudhury, BA	29.09.61	01.03.88	26.12.90	01.03.88	DR	
335.	S.K. Choudhury, B.Sc.	11.04.60	20.01.88	26.12.90	28.01.88	DR	
336.	Bijon Kr. Das, (SC), B.Com.	04.10.59	20.01.88	26.12.90	21.01.88	DR	
337.	Agar Ali Mullah, B.Sc.	30.10.56	18.12.81	02.03.84	10.01.89	PR	
338.	Debojyoti Bhattacharjee, B.Sc.(H)	19.06.57	20.02.89	20.02.91	20.02.89	DR	
339.	A. Thomas Livingstone, BA	12.02.66	09.03.89	11.04.91	09.03.89	DR	
340.	Leithankung Hmar, (ST) BA	02.08.66	24.01.89	20.02.91	24.01.89	DR	
341.	Smt. Maiei Gashnge, (ST) BA	01.07.59	02.03.82	24.08.86	06.01.89	PR	
342.	Ashok Kr. Bezborah, BA (Ex.S)	01.03.52	02.01.89	20.02.91	02.01.89	DR	
343.	R.N. Doley, (ST) BA	24.10.60	11.04.89	11.04.91	11.04.89	DR	
344.	Samir Kr. Majumdar, B.A., EXS	04.01.53	02.01.89	11.04.91	02.01.89	DR	
345.	Sarathi Bhusan Roy, B.Sc.	01.07.64	15.03.89	11.04.91	15.03.89	DR	
346.	Swapan Kr. Das, B. Sc (H)	29.10.64	12.04.89	12.04.91	12.04.69	DR	
347.	Jagadish Choudhury, M. Com	22.01.61	16.11.89	16.11.91	16.11.89	DR	
348.	Guncharan Deb Barman, (ST), B. Com.	02.01.55	22.01.77	03.12.84	09.01.89	DR	
349.	Nirmal Kanti Mitra, B. Sc. (H)	01.02.62	10.03.89	16.11.91	10.03.89	DR	
350.	Chungkholen (ST), B. A.	01.03.63	05.05.89	16.11.91	05.05.89	DR	
351.	Ms. Menus Chyne, ST, B. Sc.	26.03.55	13.12.82	05.09.85	06.01.89	PR	
352.	Amio Sonowal (ST), B.A.	31.12.57	16.03.89	16.11.91	16.03.89	DR	
353.	Pankaj Das (SC), B.Sc.	27.01.65	01.02.88	06.11.91	01.02.88	DR	
354.	Nilu Kanti Baishya (SC), P.U.	01.09.51	14.03.77	11.01.86	11.01.89	PR	
355.	P. Roben Singh, B.A. (Ex.S)	01.01.62	25.10.89	16.11.91	26.10.89	DR	
356.	Nizamuddin Ahmed, B.Com.L.L.B.	15.02.64	25.11.89	29.11.91	29.11.89	DR	
357.	Ms. Purabi Das, B.A.	29.11.59	26.08.83	26.08.85	10.01.89	PR	
358.	K.M. Maring (ST), B.A.	01.03.59	14.09.89	29.11.91	14.09.89	DR	
359.	Zamikithang (ST), B.A.	07.01.60	08.12.89	08.12.91	08.12.89	DR	
360.	Anjan Mahanta, B.A.	02.03.59	18.07.83	31.08.85	16.01.89	PR	
361.	Stephen Mangusuanthang (ST), B.Sc.	03.07.62	15.09.89	08.12.91	15.09.89	DR	
362.	L.N. Kham, (ST), M.A.	01.03.61	27.10.89	08.12.91	27.10.89	DR	
363.	L.Happyson (ST), B.A.	08.06.64	18.09.89	18.12.91	18.09.89	DR	
364.	Bidhu Bhusan Das (SC), B.A.	22.03.51	26.06.71	17.02.86	11.08.89	PR	

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ESTABLISHMENT ORDER NO.139/2002, DATED SHILLONG, 29th SEPTEMBER, 2002

Subject : Estt. Promotion, transfer and posting in the grade of Super. Gr. IV order regarding

PART - I

PROMOTION

The following Inspectors of Central Excise and Customs are hereby promoted to the grade of Superintendent, Group 'B' in the scale of pay of Rs. 6500-200-10,500/- with effect from the date they assume charge of the higher post at their places of posting, with immediate effect and until further orders.

Sl. No.	Name
1	Pankaj Singh
2	Tarun Kr. Singh
3	Parimal Singh
4	Arinok Kr. Dey
5	Smt. H. Memehn Devi
6	Bulbuliha Mazumdar
7	Jamkhugin Haokip(ST)
8	Smt. Hilda Mary Syiem(ST)
9	Abdul Mualib
10	Sujit Mishra
11	Syed Tafique Hussain
12	Dhani Ham Das
13	Fabitra Khatki
14	Jaswant Mazumdar
15	Rajkumar Kalita
16	Dilip Debajyoti Sinha
17	Ganesh Ch. Sharma
18	Joydeep Dutta
19	Hem Prasad Sharma
20	Swapan Kr. Naik
21	Tridip Ch. Roy
22	Rahul Sinha
23	Imdadur Rehman
24	Sagar Kr. Dutta
25	Dwigendra Mohan Das
26	Nikendra Singh
27	Naziruddin
28	Sudip Kr. Dutta
29	Hem Chandra Kalita
30	Debkumar Chandi (ST)
31	Pratulla Kr. Tora (ST)
32	Thangchhuilo (ST)
33	Tundhar Kandi Sen
34	Himanshu Nandi (SC)
35	Lalit Kr. Koki (ST)
36	S. Kullong (ST)
37	Dilip Kr. Gogoi
38	Bibuli Bhutanikarai
39	Shyamal Kr. Dutta
40	Arinok Kr. Chakraborty
41	Rhagen Borah
42	Bijoy Bhutanikarai
43	Phoni Bhutanikarai Choudhury
44	Dipak Kr. Deb
45	Basudeb Bhattacharya
46	Imranul Goni
47	Subhasish Gohain



Desed
Seng & Chaudhury
Advocates
on 31.12.03

48	Dilip Kr. Chettri
49	Parag Kr. Dardiah
50	Ashil Chakraborty
51	Binayak Bhattacharjee
52	Ashish Adhikary
53	Tiluwanlal Dey
54	Sulfi Das
55	Bikash Ch. Nabi
56	Nihar Ranjan Debroy
57	Bhaskar Kanti Bhattacharjee
58	Pannalal Dutt
59	Gopeshwar Ch. Paul
60	Ajit Mohan Paul
61	Mohit Kanti Dey
62	Mahendra Dutt
63	Minati Kanti Goswami
64	Sonakhu Sekhar Dutt, (SC)
65	Md. Muhibur Rahiman
66	Jaghdilindu Das
67	Ganesh Ch. Deka
68	Pijush Baruojee
69	Md. Hanif Alain Dora
70	Swapnulur Mahanta
71	Himrajnada Roy
72	Rabindra K. Deka
73	Nilit Kr. Nandi
74	Ucharani Dora
75	Md. Abdul Munazzam
76	Prahlad Borborah
77	Rabindra Palitak, (SC)
78	Narendra Ch. Talukdar, (ST)
79	Lokhondra Nath Sonowal, (SC)
80	Jitendra Kr. Sankha, (ST)
81	Balaram Pegu, (ST)
82	Ratneswar Doley, (ST)
83	Jugesh Sonowal, (ST)
84	John Oscar Marak, (ST)
85	Dishnu Ram Doro, (ST)
86	Ms. Lachanglami Gullo, (ST)
87	Dinmara Bhaktiari, (ST)
88	Paul Potot Kujuri, (ST)
89	Ajit Deka
90	Tex Hungzon, (ST)
91	R.K. Durendrajit Singh
92	Ronobir Chakraborty
93	Hariaboni K. Das
94	Hareswar Gourami
95	Sanjay Kr. Mazumdar
96	Dipankar Dey
97	Duldhari Pratim Dutt
98	Rajkumar Debendra Singh
99	Subir Dutta Choudhury
100	Ms. Shubam Bhattacharjee
101	Rajkumar Chandramitra Ghosh
102	Ms. Ritu Nahar Bhowmick
103	Sivaji Chanda
104	Abhilipi Dey (No. 1)
105	Raihenghlu Chakraborty
106	Ms. Champa Ghosh
107	Phanidhar Kukuri
108	Gobinda Nath Kalita
109	Jatindra Mohon Dora
110	Ms. K. Patricia Laloo, (ST)
111	Ashim Roy
112	Pallav Lochan Sarkar
113	Nirmal Kr. Das, (SC)

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114	Lobendu Sekhar Das (SC)
115	Dipen Ch Bania (SC)
116	Kshitindu Kr Malakar (SC)
117	C.L. Mato Gangle (SI)
118	Lalkhondi Simla (SI)
119	Kaizndal (SI)
120	Jayanta Kr Pathak (SC)
121	Laltawnlana (SI)
122	Gautam Ch Mandal (SC)
123	Stringsing Nongbet (SI)
124	Benu Ranjan Sutradhar (SC)
125	R Valentine Basumatary (SI)
126	Swapan Das (SC) ✓
127	Ms. Tannu Khan Shadip (SI) ✓
128	Tapan Kr Dukhrawi (SC) ✓
129	Tapan Ch Odayari (SC)
130	Anthony Palitumoni (SI)
131	K. Imai (SI)
132	Hiramba Basumatary (SI)
133	Mn T. Olya Thakur (SI)
134	Premnandan Chali (SI)
135	N.R. Das (SC)
136	Jyotich Ch Das (SC)
137	D.B. Guimukha (SC)
138	Goutam Das (SC)
139	Sribabu Dhar (SI)
140	J.K. Tiwali (SC)
141	S.K. Roy (SI)
142	M.L. Choudhury (SC)
143	N.C. Sutradhar (SI)
144	G.N. Habi (SC)
145	Golap Ch Das (SC)
146	H.N. Dehak (SC)
147	S.K. Kuridu (SI)
148	Ms. Kiranit Singh Das (SC)
149	G.K. Bhuyan (SC)

The seniority of the officers will be fixed in the order shown above.

The officers promoted vide this order are hereby asked to exercise options within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of FR22(i)(a) (1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion should be fixed initially in the manner as provided under FR22 (i) (i) which may be refixed under the provisions of FR 22(i) (a) (1) on the date of accrual of next increment in the scale of pay of lower post. Option once exercised shall be final.

In the event of refusal of promotion, they would be debarred from promotion for a period of one year.

PART - II

TRANSFER AND POSTING

On promotion the above mentioned officers are retained in their present places of posting. The postings of these officers in the grade of Superintendent will be decided at a later date.

NOTE:

1. In the event of reversion of any officer(s) to Central Excise Commissionerate, Shillong, who is (are) on deputation, the junior most officer (s) in the above promotion order will be converted as Inspector.

A. 81/-

(Z. TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE
SHILLONG.

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23 SEP 2002

Copy forwarded for information & necessary action to :-

1. The Joint Secretary (Admn.), Central Board of Excise & Customs, North Block, New Delhi 110 002. This has reference to the Ministry's letter dated 23rd Sept. 2002 issued under F No A-60012/23/2002/Ad.II(B).
2. The Chief Commissioner (EZ), Central Excise & Customs, 15/1, Strand Road, Customs House, Calcutta - 700 001. This has reference to the Ministry's letter dated 23rd Sept. 2002 issued under F.No.A-60012/23/2002/Ad.II(B).
3. The Commissioner of Customs NEIR, Shillong.
4. The Additional Director General, Directorate General of Revenue Intelligence, 'D' Block, I.P. Bhawan,(7th Floor), I.P. Estate, New Delhi - 110 002. (Copies meant for the concerned officers are enclosed).
5. The Commissioner (Appeals), Customs & Central Excise, Guwahati.
6. The Additional Commissioner (Tech.), Central Excise Hqrs. Office, Shillong.
7. The Additional Director, Directorate General of Audit, Room No-172, 107, C.R.Building, I.P.Estate New Delhi.
8. The Deputy Development Commissioner, Noida Export Processing Zone, Noida Dadri Road, Phase-II, Noida-201 305. Copy meant for the concerned officer is enclosed.
9. The Regional Director, Narcotics Control Bureau, Imphal Regional Unit, Paona Bazar, Imphal-795 001.
10. The Deputy Director, DRI Regional Unit, Shillong, Oak Hall, Oakland, Shillong - 793 001. Copies meant for the concerned officers is enclosed.
11. The Dy./Asstt. Commissioner of Central Excise/Customs _____ Division. The copy meant for the concerned officer is enclosed.
12. The CAO/PAO, Central Excise & Customs, HQRS. Office, Shillong.
13. The B.I.O. DRI, Intelligence Coll, Silchar Normal School Road, (Adjacent to Chakniborty Medical Centre), Terapora, Silchar.
14. Shri/Smt. _____ for compliance.
15. Accounts I & II/ETI & II/ Confld. Br./CIU.cum-VIG Br. Of Hqrs. Office, Shillong.
16. The General Secretary, Gr.'B' / 'C' Executive Officers' Association, Customs & Central Excise, Shillong.
17. Guard File.

(B. THAMAI)
ADDITIONAL COMMISSIONER (P&V)
CENTRAL EXCISE & CUSTOMS
SHILLONG.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, SHILLONG

11(34)10/ST-I/93

U.G.C. OS (A) Date :- 12/4/94

Assistant Collector of Central Excise,
Central Excise Division (A.M.).

Assistant Collector of Customs,
Customs Division (A.M.).

Branch-in-Charge of
Office, Shillong.

Subject :- Re-fixation of Seniority of
Inspectors of 1983 (Reserve list) and
1984 batch - regarding.

The Inspectors of 1983 batch (Reserve list) under normal circumstances, would have been appointed prior to the Inspectors of 1984 batch, were appointed in this department in 1986 whereas, the Inspectors of 1984 batch were appointed in 1985. The delay in appointing them was due to the decision to revive the life of the reserve panel of 1983 batch by the Staff Selection Commission and the Board only after the declaration of result of 1984 batch. Accordingly, the Inspectors appointed from 1983 batch (Reserve list) were placed below the Inspectors of 1984 batch in the seniority list of Inspectors.

However, considering a representation of Shri P. Deb, one of the Inspectors of 1983 batch (Reserve list), Board vide letter F.No.A-23020/4/93. Ad.IIIA. dated 30.03.93 it is now observed that Shri Deb, Inspector, being appointed from the panel (earlier examination i.e. 1983, should be senior to the Inspectors (D.R) appointed from the panel of subsequent examinations. i.e. 1984.

In view of the Board's letter mentioned above, it would follow that the Inspectors of 1983 batch (Reserve list) should now be placed above the Inspectors of 1984 batch. Accordingly, the seniority of Inspectors of both 1983 batch (Reserve list) and 1984 batch will now be re-fixed.

The Inspectors of 1983 batch (Reserve list) of 1984 batch (names enclosed), working under your charge, may be informed accordingly.

Re:- As above.

(EVA M.R.HYNIEWTA)
DEPUTY COLLECTOR (P & V)
CUSTOMS AND CENTRAL EXCISE,
SHILLONG.

Adarsh
Suraj Chaudhary
Advocate
on 31.12.03

LIST OF INSPECTORS OF 1983 BATCH (RESERVE PANEL)
6. SHRI

1. Probir Kr. Sen	2. Manabendra Banik
3. Sujit Bhattacharjee	4. Ngairanghon Sanalal Singh
5. Dolan Ch. Choudhury	6. Th. Macnai Singh
7. Debasis Chakravorty	8. Senkar Pratim Deb
9. Meitram Indramoni Singh	

LIST OF INSPECTORS OF 1984 BATCH

10. Tapan Kumar Dutta	2. Sisir Dey
11. Swapan Roy	3. Tapas Bhattacharjee
12. Amitava Bhattacharjee	4. Syed Ahmed Shah
13. Bijoy Thapa	5. Abdus Salam Rukunmuddin
14. Uttam Kumar Dey	10. Ratan Chandra Das
15. Asis Kumar Nandi	12. Dilip Kumar Sarma
16. Ananda Chandra Roy	14. Sheikh Anzad Hussain
17. Hiranmoy Dutta	16. Kamaniya Bhattacharjee
18. Abhijit Bhuyan	18. Bijen Lyngdoh
19. Jahar Kar	20. Atanu Roy Choudhury
20. Utpal Bhattacharjee	22. Smti. Tshering Tohnu Bhutiani
21. Ashwini Kumar Saishya	24. Nibash Ranjan Das
22. Rownel Martin Chyne	26. Manindra Sarania
23. Geheru Pegu	28. Prouap Kumar Daimary
24. Uttam Kumar Das	30. Jyotish Das
25. Bidhu Bhushan Karmarkar	32. Gautam Das
26. Nandeswar Basumatari	34. Sribas Dhar
27. Jayanta Kr. Hiwali	36. Swapan Kr. Roy
28. Rajkumar Bhuminjoy Singh	38. Paokhokhai Neisial
29. Hawlun Haokip	40. Manik Lal Choudhury
30. Shentinmong Sitiyu	42. Suninthang Pulamte
31. Subrata Choudhury	44. S. K. Choudhury
32. Bijen Kr. Das	

* * *

10th June, 1989

To,
The Deputy Collector (Per & Batt)
Customs and Central Excise,
Shillong
(Through Proper Channel)

Sir,

Sub : Discrepancies in Seniority
list of Inspectors

Kindly refer to the seniority list of Inspectors as
on 1.1.1989.

I, Shri Bijan Kumar Das, Inspector, Sl.No.670 joined
this department on 30.1.1988. I was recruited through Staff
Selection Commission, Written test for which was held during
the year 1984. Other candidates of the Selection joined in
last part of 1988. I was not issued appointment letter at
that time though I had no lapse on my part.

I wrote a letter to Staff Selection Commission, New
Delhi, Ministry of Home Affairs, to consider my case for
appointment. In January 1988, the appointment letter was
issued and I joined on 20.1.1988 at Digboi Divisional Office.

Now, my batch mates who were selected through the same
selection test joined in last part of 1985 and became far
senior to me and I do not understand why my seniority has not been
fixed as per the original recommendation of Staff Selection
Commission. So far my knowledge goes, and as appears from
the seniority list that the date of joining has no effects on
seniority and it is maintained only as per the merit list of
the selected candidates of the same batch.

It also appears from the seniority list that candidates
of my later batch and also joined at a later date to me, are
ahead of me in the seniority list, the reasons for which I
could not understand.

I am already looser in many ways, as pay, service expe-
-riences and provident fund accumulation etc. and can not accept
the loss of seniority for which I am not at all responsible.
With the above submissions, I beg to pray you
kindly attention to the above cases that necessary
seniority.

I am not enclosing the merit list and appointment
documents as those are readily available in
recruitment dossier.

... soliciting your kind attention and necessary action.

Yours faithfully,

Addressed
Swept Classify & File
of 31.12.83

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S. 6.8
(Bijan Kumar Das,
INSPECTOR,
Customs & Central Excise
Digboi, Assam.

FAX on 30.7.02 -41-

Annexure-8

30th July, 2002.

The Commissioner,
Central Excise,
Shillong
(Through Proper Channel)

Respected Sir,

Sub : Re-fixation of Seniority of
Inspectors - petition Reg...

I beg most respectfully refer to my earlier representation dated 19-6-1989 and subsequent letter(s) on the above subject.

Sir, being frustrated with the wrong fixation of seniority in the grade of Inspectors, in respect of Shri Bijan Kumar Das, this petition is made before your honour with an anticipation that correct and cogent view will be taken by your kindself with reference to the rules and instructions available on the subject and a long pending un-settled problem of wrong fixation of seniority will be solved.

"The seniority of a person appointed to a post is determined according to the general principle 5(i) contained in M.H.A OM No. 9/11/55 - RPS dated 22-12-1959 and 2.2 in DOPT OM No. 22011/7/86-Estt.(D) dated 3.7.1986 read with DOPT OM No.20011/5/90-Estt.(D) dated 4.11.1992. Seniority of persons is determined by the Order of merit indicated at the time of initial appointment and seniority of persons promoted to various grade is determined in the order of selection for such promotion". Thus as per the abovementioned instructions person appointed through an earlier selection would enbloc to senior to those appointed through subsequent selection."

Sir, against this anomaly, I beseech you with the following facts involved -

i) I was selected from the batch of 1984 Staff Selection Commission's Batch, but my appointment was not issued alongwith other batch-mates of 1984, who joined in a ~~xx~~ around 1985 (Oct - Nov.)

ii) Subsequently alerted by the situation, I personally wrote to the Staff Selection Commission, New Delhi, and appointment letter was issued in January, 1988, I have joined accordingly on 20-01-1988.

iii) My Seniority was therefore fixed by the Department on the basis of my date of joining. My credential as a member of 1984 Batch was totally ignored by the Deptt. for the reasons best known to them.

iv) Being disappointed with the above, I filed a petition on 19.6.1989, which itself remained un-settled till date.

Respectfully yours,

- 2 -

v) In the meanwhile the Department has forwarded an Order vide C.No. II(34)10/ET-I/93/4964 - 05 (A) dated 12-4-1994, wherein it was shown that the Batch of 1984 would be enbloc junior in the seniority list to the 1983 Batch persons (Revised list). In that Order itself my credential as 1984 Batch was admitted by the Deptt., as well as by the Board, but my seniority was not restored. In all it is on record that in my case there was a lapse from the Deptt. which delayed by appointment, would not disturb my Seniority.

vi) The Rule of Seniority says that the lapses for delay in joining must be from the part of the incumbents. Here, in this case, I had no fault of my own.

vii) Vide that Order dated 12-4-1994 (as referred above) it has been admitted that my seniority was with the 1984 Batch, but in the seniority list, matter remained unchanged.

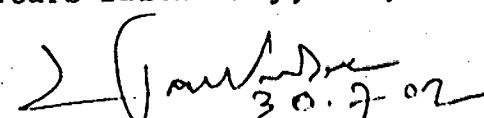
viii) In fact, I would become a worst sufferer as it is contemplated by the CBEC to restructure the caders and as a result a good number of additional post of Superintendent Gr-'B' would be sanctioned in the Commissionerate. I would being a member of Scheduled Cast Community, definitely make a place in the gradation list of newly promoted Gr-'B' Supdt.

ix) I shall be greatly deprived if overlooking my long pending request for re-fixation of seniority list, a junior colleague of my same community is promoted to the next higher grade, as per present seniority list, on or after 31-7-2002.

I therefore, fervently request your honour to consider my petition and kindly re-cast the Seniority list so that my seniority with the 1984 Batch is restored.

For this act of your kindness, your humble petitioner shall remain ever greatful to you.

Yours faithfully, Sir,


 30.7.02
 (Bijan Kr Das,)
 Inspector of Central Excise,
 Tinsukia

27th October, 2003,

The Commissioner,
Central Excise,
Shillong

(through Proper Channel)

Respected Sir,

Sub : Re-fixation of Seniority of
Inspectors - Petition Reg....

I beg most respectfully refer to my earlier representation dated 19-6-1989 (Copy enclosed, Annexure-A) & subsequent representation(s) on the above subject (last representation was on 30-7-02, FAX on 30-7-02), and lay before you the following few lines for your kind and sympathetic consideration -

that Sir, I have joined this Department on 20-01-88, as per appointment letter issued under Hqrs. Office, Shillong, vide C.No.II(31)1/ET-II/88/2 - 4(I) dtd 06-01-88, (copy enclosed, Annexure-B)

that Sir, the Physical fitness test was held at Shillong on 17-10-85 as per Hqrs. letter C.No.II(31)23/ET-II/85/27012(A) dtd 07-10-85 on recommendation from the Staff Selection Commission (Copy enclosed, Annexure-C)

that Sir, my Interview was held at Dibrugarh, Income-Tax Office on 12-4-85 conducted by Staff Selection Commission, from the 1984 Batch of 'Inspectors of Central Excise, Income Tax Examination - 1984' (Copy enclosed, Annexure-D)

that Sir, though I was selected from the 1984 Batch of Staff Selection Commission, but my appointment was not issued alongwith my other batch-mates who have joined in an around Oct/Nov, 1985. My appointment letter was issued on 06-01-1988, accordingly, I joined to the deptt. on 20-01-1988, and my Seniority was fixed by the deptt. on the basis of my date of joining, totally ignoring my credential as a member of 1984 Batch. Being dis-appointed with the seniority, I filed a petition on 19-6-89, which it self remained un-settled till date, inspite of my repeated and repeated representation(s).

In the mean time, the deptt. has forwarded an Order vide C.No.II(34)10/ET-I/93/4964 - 05 (A) dt 12-4-94, wherein my credential as 1984 batch was admitted by the Department as well as by the Board, but my seniority was not restored and remained un-changed in the seniority list of Inspector(s) till date. Sir, it is needless to mention that I do not have any lapses in delay in joining to the Department after issuance of Appoint letter. (ANNEXURE-E)

Contd.....P/2.

Ad Debet
Sengit Chaudhury
Advocate
on 31.12.03

Sir, it is utter surprise, that the Officers(Inspectors) of my Community, i.e. Scheduled Caste Community, who have joined to my latar date were ahead of me and subsequently they have got Promotion to the next higher grade i.e. Gr-B, Superintendent. Following are the examples of my Junior colleague, considering my date of joining i.e. 20-01-88, of my same Community, who have already been promoted to the next higher grade, i.e. Gr-B, Superintendent

Name of the Officer/Insp.	dt.of joining as Inspector	Sl.No.of Seniority list as on 01-4-2002
1) Ms.Kiranmoyee Das(SC) - PR	02-06-1988	314
2) Sri Chaitam Kr Bhuyan(SC)-DR	28-06-1988	316
3) Sri Jagadish Ch Das(SC)- PR	06-06-1988	326

Sir, in fact, I have lost my patience and frustrated, & in view of the fore-going facts and circumstances, I am the worst sufferers and also deprived from the promotion to the next higher grade, i.e. Gr-B, Superintendent, due to non-settlement of my long pending re-fixation of my seniority problem.

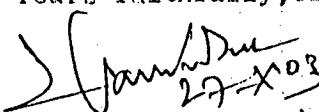
I therefore, fervently request your honour to kindly consider my prayer/petition and please effect my promotion to the next higher grade, i.e. Gr-B, Superintendent, alongwith its retrospective effect.

And for this act of your kindness, your humble petitioner shall remain ever greatful to you.

Yours faithfully, Sir,

Enclo : as above

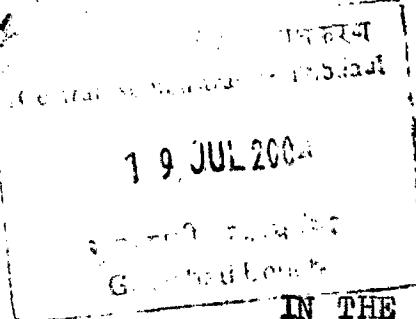
06 Pages


(Bijan Kumar Das)
Inspector of Central Excise,
Tinsukia-III Range

Copy to the Chief Commissioner of Customs and Central Excise, Crecenso Building, M.G Road, Shillong, for information and necessary action Please

Enclo : as above

(Bijan Kumar Das,)
Inspector of Central Excise
Tinsukia-III Range
Tinsukia



45

Filed by

(A. DESABY) 19/7/04
Sr. C. S. C.
C. A. T., Guwahati Bench

O.A. NO. 308 OF 2003

Shri Bijan Das.

..... Applicant.
- Vs -

Union of India & Ors.

..... Respondents.

In the matter of :

Written Statement submitted by
the respondents .

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

1. That with regard to paras 4.1, 4.2, 4.3 & 4.4, of the application the respondents beg to offer no comments.
2. That with regard to the statement made in para 4.5, of the application, the respondents beg to state that the contention of the applicant is not correct. As the Hon'ble CAT, is not aware of the factual position during the material period, it may be well assumed that the Tribunal has been kept in the dark by the applicant and so the application filed. It may be stated that in the year 1985, 102 candidates were called for Physical Test out of which 82 appeared and ultimately 62 candidates could qualify the physical test. The applicant has also appeared. That the applicant is well aware of, that

-2-

he failed to meet the chest measurement conducted by the North Eastern Police Academy and hence his case for appointment was rejected by this office. Subsequently, the Dossiers of the rejected candidates who failed to qualify the physical test were forwarded to the Board on May, 1986.

On receipt of the dossiers, the Board (C.B.E.C.) has issued a revised guidelines vide letter dated 10th Sept', 1986 on the physical standard test with a direction to Commissioner, Central Excise, Shillong (the then Collector) to review all such rejected cases in the light of the Instructions issued by the Board. This office took an earnest move and requested the Board on 23.9.86 to Identify and forward the dossiers of the rejected candidates to review their cases for appointment as Inspector where the name of the applicant also figured.

Accordingly, on receipt, the rejected candidates have been reviewed out of which 5 candidates including the applicant have been found fit for appointment which was forwarded to the Board on 14.8.87. The Board vide their letter dated 16.11.87 has approved to offer appointments provided they are found fit in all respect as per the Instruction of the Board. The attestation form of the above 5 candidates have been forwarded immediately to the concerned District Deputy Commissioners or previous employer for verification of character and antecedents. Subsequently, the appointment letter was issued to the applicant on

-3-

on 6.1.88 with a direction to join within 15 days and accordingly the applicant has joined the Department on 20.01.88.

Hence, the present application is without any merit and as such, same is liable to be dismissed .

3. That with regard to the statement made in para 4.6, of the application the respondents beg to state that the process of selection of Inspectors is 3 tier test viz., (i) written test (ii) Viva-Voce and (iii) Physical Test including Walking, Cycling etc.

That recommendees/selectees of SSC on the basis of written and viva-voce test are given appointment as Inspectors Central Excise provided they pass the mandatory Physical Standard Test. So final phase of selection is done through the said physical test. A recommendee/selectee of SSC is not selected for appointment unless he passes the mandatory physical standard Test. Now when the applicant had failed to qualify the mandatory Physical Standard Test he could not presume himself to be selected for appointment and thus question of seniority over the persons who were in service when the candidate himself was not appointed in this Department does not arise. It is in these circumstances that the applicant who, *prima-facie*, would not have a chance of appointment got the offer of appointment on exceptional circumstances in 1988 whereas the private respondents although selected on the basis of subsequent examination were offered appointment in 1985 and onwards. Hence, the present application is mis-

-4-

mis-conceived of law and ill-conceived of facts.

4. That with regard to para 4.7, of the application the respondents beg to offer no ~~f~~ comments as already discussed in para 4.5 & 4.6.

5. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the humble applicant is not well aware of the "seniority Rules". Para 4.6 is relevant in this aspect.

6. That with regard to para 4.9, of the application the respondents beg to state that as already discussed in paras 4.5 and 4.6. M.

7. That with regard to para 4.10, of the application the respondents beg to state that no comments as already discussed at earlier paras.

8. That with regard to the statement made in para 4.11, of the application the respondents beg to state that the case of Shri Swapnatur Mahanta relates to the fixation of inter-se-seniority between direct recruit Inspectors of 1983-84 batch. Shri Mahanta, Inspector joined the Department. In the year 1985, Ministry of Home Affairs O.M. No. 9/11/55-APS dated 22.12.59 may be referred to where the practice followed in the office as per the prevailing Instructions in force was to keep the slots meant for DRs and PRs which could not be filled up, vacant and when DRs or PRs were available through later examination or selection, such persons occupied

-5-

these vacant slots thereby becoming senior to some of the officers already in position. Hence, it is clear that this issue is totally independent and mutually different.

9. That with regard to the statement made in para 4.12, of the application the respondents beg to state that this office is not aware of the Hon'ble Tribunal's Judgement in O.A. No. 264 of 1998. The applicant may supply a copy for future action in this regard.

10. That with regard to para 4.13, of the application the respondents beg to offer no comments as already discussed at earlier paras.

11. That with regard to paras 4.14 & 4.15, of the application the respondents beg to offer no comments.

Verification

-6-

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

I , A.Hussain, Deputy Commissioner ,Central Excise ,Guwahati,
being authorised, do hereby solemnly affirm and declare that the
statements made in paragraphs 1 to 11 are true
to my knowledge and those made in paragraphs are
true to my information and I have not suppressed any material
facts.

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

Azam Hussain
Declarant.

20 SEP 2004

गुवाहाटी बैच १४
Guwahati Bench

51

69

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:

O.A. No. 308 /2003

Shri Bijan Kr. Das.

-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 your applicant categorically denies the statements made in paragraphs 2, 3 and 5 of the written statement and further begs to state that terms used by the respondents to the effect that the applicant was a "rejected candidate" is misleading. In this connection it may be stated that even assuming that the contention of the respondents is correct in that event also applicant was a qualified candidate but he was declared fit in the chest measurement test following the revised guideline issued by the Central Board of Excise and Custom vide letter dated 10.09.1986 as

Filed by the applicant
through advocate Sri
G. N. Chakravarty on
20-9-2003
LAW

stated in paragraph 1 of the written statement. Therefore it is abundantly clear that the applicant was declared qualified against the 1985 recruitment year. Moreover, the applicant is not responsible for delay in issuing the appointment order. It is a settled position of law that seniority is required to be determined taking into consideration of the year of recruitment examination, a candidate selected in an earlier examination. Moreover, the applicant can only be fitted against the 1985 examination quota. It is further evident from the own statements of the respondents Union of India that there was a direction in 1986 itself from the Central Board of Excise and Custom to "review" all those cases who could not qualify in the chest measurement in the physical standard test. Therefore when the word "review" is used automatically consequences shall follow, therefore applicant ought to have been treated a recruitee of 1985 batch and review ought to have been done immediately after issuance of revised guidelines dated 10.09.1986, and as such he is entitled to the benefit of seniority over the private respondents. Moreover when a statutory rule of seniority is inforce issued by the Govt. of India, the said rule cannot be violated at the whims of the authorities. Recruitment year/selection is the sole criteria of determining seniority and the similar policy respondents have followed in the case of other similarly situated employees and restored their seniority, therefore they

are barred by law of estoppel to advance such argument denying the legitimate benefit to the applicant as contended by the respondents.

2. That with regard to the statement made in paragraphs 8 and 9, it would be evident from the Swamy's Seniority Rule (Annexure-A) that a seniority of a direct recruit is determined in order of merit in which they were selected for such appointment on the recommendation of U.P.S.C or other selecting authority, persons appointed as a result of earlier selection being senior to those as a result of subsequent selection, when the said rule is in force there cannot be any other opinion or mode of fixation of seniority of the applicant in violation of the aforesaid rule. The applicant further relies upon the following decisions in support of the contentions raised by the applicant: -

1. Judgment and order dated 28.07.04 passed in ^{mt} O.A. No. 39/2003, Sri S. Choudhury Vs. Union of India and ors.
2. 2003 (1) ATJ 588 Para 21. Samyukta Arjuna Vs. Union of India and ors.
3. 2003 (2) GLT 626 (D.B) Gauhati High Court. Union of India Vs. IBOBI SINGH and ors.
4. 1998 (9) SCC 641 D. Sojah Vs. State of Kerala.
5. 2001 (2) SCC 118. S. Ramanathan Vs. Union of India and Ors.

Copies of the extract from Swamy's seniority Rule and Judgment dated 26.07.04 passed in O.A No. 39/2003 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-A & B respectively.

In the facts and circumstances stated above the application deserves to be allowed with cost.

VERIFICATION

I, Sri Bijon Kumar Das, son of Sri Bidhan Chandra Das, aged about 45 years, working as Inspector, in the office of Central Excise and Customs, Tinsukia, applicant in the instant rejoinder do hereby verify that the statements made in Paragraphs 1 and 2 are true to my knowledge and I have not suppressed any material facts.

And I sign this verification on this the 19th September 2003.

Bijan Kumar Das

II

A. Consolidated Orders on seniority

Instructions issued from time to time laying down the principles for determining seniority of persons appointed to services and posts under the Central Government have been consolidated in this Office Memorandum. The original communications consolidated here are reproduced (items I to VII) at the end of this OM.

Seniority of Direct Recruits and Promotees

2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.

2.2 Where promotions are made on the basis of selection by a DPC, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority, subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior such persons shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him.

2.3 Where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall [would be determined by the order indicated at the time of initial appointment and not according to the date of confirmation].

2.4.1 The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

2.4.2 If adequate number of direct recruits do not become available in any particular year, rotation of quotas for the purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees.

In other words, to the extent direct recruits are not available the promotees will be bunched together at the bottom of the seniority list below the last position up to which it is possible to determine seniority, on the basis of rotation of quotas with reference to the actual number of direct

1. Modified vide G.I., Dept. of Per. & Trg., O.M. No. 2001/5/90-Est. (D), dated the 4th December, 1992.

After 1st provacation

(57)
ASIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.39 of 2003

Date of decision: This the 28th day of July, 2004

The Hon'ble Smt Bharati Ray, Judicial Member

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Subrata Chowdhury

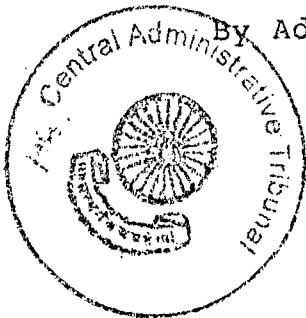
Inspector,
Headquarter Audit Unit,
Central Excise,
Bhangagarh, Guwahati.Applicant

By Advocates Mr M. Chanda and Mr G.N. Chakraborty.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi.2. The Chairman,
Central Board of Excise and Customs,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.3. The Commissioner of Central Excise,
Morello Compound, Shillong.4. The Regional Director,
Staff Selection Commission,
Rukminigaon, Guwahati.5. Sri Abdul Kader Zilani (PR),
Anti Evasion Division,
Central Excise, Guwahati.6. Sri Meitram Indramoni Singh (DR),
Customs Divisional Office,
Imphal, Manipur.7. Sri Sankar Pratim Deb (DR),
Office of the Commissioner of Customs,
Customs Headquarter,
Shillong.8. Sri Santosh Seal (PR),
Inspector,
Office of the Commissioner of Customs,
Customs Headquarter,
Shillong.Respondents

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



*Subrata
Chowdhury
Advocate*

O R D E R

BHARATI RAY, JUDICIAL MEMBER

Heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. None appeared for respondent Nos.5 to 8.

2. It is the case of the applicant that he alongwith others appeared in the examination for Inspector of Income Tax, Central Excise, conducted by the Staff Selection Commission in the year 1984 and was called for an interview (Viva) on 17.4.1985 vide letter dated 26.3.1985. The applicant appeared in the viva voce test on 17.4.1985. He was found suitable for the post of Inspector and accordingly selected by the Staff Selection Commission and his name was recommended by the Commission to the office of the Collector now redesignated as Commissioner. Thereafter, the applicant was asked by the Office of the Commissioner, Shillong to appear in the Physical test on 1.10.1985 vide letter dated 13.9.1985. Accordingly, the applicant appeared in in the physical test on 1.10.1985 alongwith the other batch mates. It is the grievance of the applicant that the other candidates who appeared in the interview alongwith the applicant were recruited in the month of October 1985, but the applicant was offered the appointment only in the month of January 1988 after a lapse of more than two years for no fault on the part of applicant. Accordingly, the applicant joined the post of Inspector on 1.3.1988 after completion of all necessary formalities. It is also the grievance of the applicant that respondent Nos.5 to 8 are either direct recruits of the subsequent batch of the applicant or promoted to the grade of Inspector after the applicant's batchmates were



appointed and all of them were placed above the applicant in the seniority list. As a result, the direct recruits and the promotees, namely the private respondent Nos.5 to 8 alongwith some others were placed above the applicant and they became appointees in between October 1985 and 28.2.1988. Consequently, the private respondent Nos.5 to 8 have been placed above the applicant in the seniority list of Inspectors published as on 1.5.2001 and placed at serial nos.256 to 259 and other juniors of the applicant have been placed thereafter in the said seniority list, whereas the name of the applicant has been shown at serial No.340. The seniority list published as on 1.5.2001 has been annexed as Annexure-1 to the O.A.

3. The applicant submitted a detailed representation on 10.1.2002 addressed to the Commissioner of Central Excise, praying inter alia for fixation of his seniority as per the merit list of 1985 panel with all consequential benefits. In the said representation he has also stated that a large number of direct recruits as well as promotee Inspectors including some of the Inspectors who were empanelled for recruitment in the year 1988 have been placed above the applicant in the seniority list published as on 1.5.2001. Reminders was also sent by the applicant on 8.3.2002 and 17.5.2002 praying for correct fixation of his seniority in the cadre of Inspectors placing him above the respondent Nos.5 to 8 in the seniority list published as on 1.5.2001. The applicant further submitted that the respondents without replying to the representation made by the applicant issued another seniority list of Inspectors as on 1.4.2002, wherein the name of the private respondent Nos.5 to 8 have been placed above the applicant serial Nos.250 to 253 and the other juniors of the applicant.....

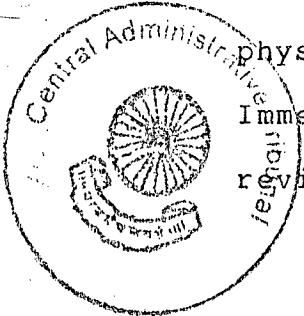


applicant have also been placed above the applicant in the impugned seniority list published as on 1.4.2002. In the same seniority list the applicant is placed at serial No.334. Being aggrieved by the wrong fixation of seniority of the applicant in the cadre of Inspectors, the applicant approached the authority for redressal of his grievance, but finding no favourable response from the respondents he has approached this Tribunal seeking the following reliefs:

1. To direct the respondents to refix the seniority of the applicant placing him above the respondent Nos.5 to 8 in the cadre of Inspectors and to further direct the respondents to count his seniority alongwith the recruits of 1985 batch for the purpose of his promotion to the next higher grade.
2. To direct the respondents to recast the seniority list of Inspectors published as on 1.5.2001 and the subsequent seniority list if published placing the applicant above the respondent Nos.5 to 8.
4. The respondents have contested the application by filing counter reply. It is the case of the respondents that in the year 1988, 102 candidates were called for physical test out of which 82 appeared and ultimately 62 candidates could qualify the physical test. The applicant who qualified the written as well as the viva voce test alongwith the others failed to meet the chest measurement conducted by the North Eastern Police Academy and his case for appointment was rejected. Subsequently, the Dossiers of the rejected candidates who failed to qualify the physical test were forwarded to the Board in May 1986.

Immediately on receipt of the dossiers, the Board issued revised guidelines vide letter dated 10.9.1986 on the

physical.....

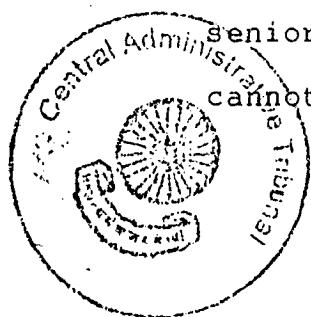


physical standard test with direction to the Commissioner, Central Excise, Shillong to review in the light of such instructions issued by the Board of all such rejected cases. Thereafter the case of the rejected candidates were reviewed, out of which five candidates including the applicant were found fit for appointment which was forwarded to the Board on 14.8.1987. The Board vide letter dated 16.11.1987 approved their appointments provided they were found fit in all respects as per the instructions of the Board. The appointment letter was issued to the applicant on 6.1.1988 and the applicant joined on 1.3.1988. It is, therefore, the contention of the respondents that in these circumstances when the applicant who, *prima facie* did not have a chance of appointment got the offer of appointment on exceptional circumstances in 1988 whereas the private respondents although selected on the basis of subsequent examination were offered appointment in 1985 and onwards. Hence the applicant could not claim seniority over the private respondents and the application deserves to be dismissed.

5. The learned counsel for the applicant strenuously argued that the seniority of the applicant had been fixed arbitrarily below his batch mates who were subsequently recruited directly to the post of Inspector as well as on promotion. It is the contention of the learned counsel for the applicant that the settled position of law is that seniority is required to be fixed on the basis of select list/recruitment year. XXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX It is his contention that seniority of a selected candidate of an earlier batch cannot be fixed below the recruits of subsequent batch

as.....



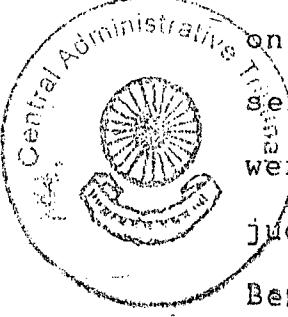
as per the relevant rule. In this context, the learned counsel for the applicant mentioned the provisions contained in D.P. & A.R. O.M. No.9/23/7/E & A. (1) dated 6.6.1978, according to which the applicant is entitled to be placed above the respondent Nos.5 to 8 in the seniority list in the grade of Inspector. The learned counsel for the applicant has drawn our attention to the relevant rules of Seniority of Direct Recruits and Promotees, i.e. para 2.1 and 2.2 enclosed as Annexure-6 to the O.A. Paras 2.1 and 2.2 are reproduced below:

"2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection.

2.2 Where promotions are made on the basis of selection by a DPC, the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority, subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered unfit for promotion and is superseded by a junior such persons shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him."

The learned counsel for the applicant has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of Dalilah Sojah Vs. State of Kerala and others, reported in (1998) 9 SCC 641, wherein it was held that the select list that was prepared earlier and was still alive when vacancies arose, the applicant could not be made to suffer on account of delay in her appointment and since she was selected earlier she has to be ranked senior to those who were selected subsequently. He has also relied upon the judgment of the Central Administrative Tribunal, Full Bench, Jaipur in O.A.No.121 of 1991 decided on 16.7.1996,

wherein.....



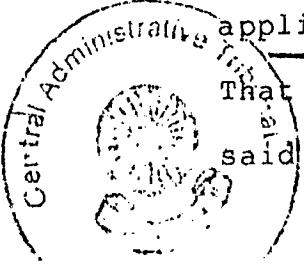
wherein it was held that refusal to grant the benefit of seniority to those officials who passed the examination in an earlier year is illegal and in violation of Articles 14 and 16 of the Constitution.

6. We have given our anxious consideration to the arguments put forth by the learned counsel for the parties. We have also gone through the materials placed before us and the judgments relied upon by the learned counsel for the applicant.

7. It can be seen from para 3 of the counter reply that the process of selection of Inspectors consists of three stages, i.e. (i) Written test, (ii) Viva voce test and (iii) Physical test including walking, cycling etc. It is not in dispute that the applicant qualified in the written test as well as in the viva voce test, but the applicant was not found fit in the physical test first time for selection to the post of Inspector. But, subsequently he was found fit in the physical test as per the revised guidelines issued on 10.9.1986. Thereafter the applicant was offered appointment on 6.1.1988 and he joined on 1.3.1988. It is not the case of the respondents that the applicant was subjected to appear in the written test and viva voce test in the subsequent selection proceedings. As mentioned above, there are three stages in the entire selection proceeding and it concludes when one qualifies in the three tests. The applicant was found suitable and was given appointment only when he was found fit in the three stages, i.e. after he qualified in the physical test. Therefore, there is no dispute that the applicant was appointed from the select list of 1984-85.

That being the position, in no way the applicant can be said to have been appointed from the subsequent select

list.....

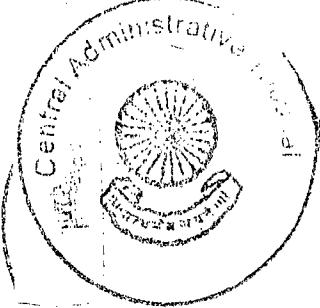


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list, i.e. select list prepared in between 1985 and 1988.

8. As per the rule of recruitment, the seniority of direct recruits and promotees are determined by the order of merit in which they are selected for such appointment on the recommendation of the Union Public Service Commission or any other selecting authority, the persons appointed as a result of an earlier selection being senior to those being appointed as a result of a subsequent selection. The applicant was not responsible for the delay in reviewing his physical fitness. As stated earlier, the applicant was selected and appointed from the 1984-85 selection. In this context we have seen that this Tribunal in O.A.No.264 of 1998 (Shri S.S. Purkayastha Vs. Union of India and others) decided on 25.1.2001, referred to by the learned counsel for the applicant, had considered the above rules of recruitment/seniority and also that the applicant was not responsible for the delay in sending the nomination, held that there was no justifiable reason for not giving the applicant therein the benefit of seniority as per the date of selection. The relevant paragraph of the above judgment is reproduced below:

"From the facts alluded above, it emerges that the applicant was a candidate recruited on the basis of the 1987 selection. Undoubtedly, there was delay in sending the nomination by the SSC so far the applicant was concerned, for which the applicant could not be blamed. According to the respondents also the applicant did not have any hand in the delay. In the circumstances there was no justifiable reason for not giving the applicant the benefit of the rule as per the date of selection since the applicant is one of the nominee selected on the basis of the 1987 Select List and considered his case for promotion before considering the promotion of the subsequent batch and seniority was also to be refixed on the basis of the earlier selection."



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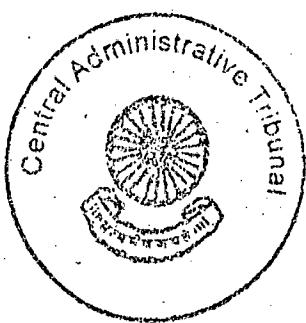
9. In view of the above facts and circumstances of the case and the judgments referred to above, we hold that the respondents were not justified in placing the applicant in the seniority list below respondent Nos.5 to 8, who, admittedly became appointees between October 1985 and 28.2.1988. Herein, in this case the applicant also cannot be held responsible for the delay in reviewing his physical fitness. We, therefore, direct the respondents to fix the seniority of the applicant by placing him above respondent Nos.5 to 8 in the seniority list in the cadre of Inspector and extend the consequential benefits that accrue from such refixation of his seniority as per rules.

The O.A. is allowed to the extent indicated above. However, there shall be no order as to costs.

Sd/MEMBER(J)

Sd/MEMBER(A)

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20/9/04
Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

*P. B. D. / 2004
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