

5/100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : 33/03

Misc. Petition No.

Contempt Petition No.

Applicant (s) Bholan Pradhan

-V S-

Respondent (s) H. O. T. Gates

Advocate for the Applicant (s) H.S.Thang Khiem B.W.P.

K. Khan, L. Khosiem  
Advocate for the Respondent(s) Adv. C. G. S. A. K. Chundury

Notes of the Registry	Date	Order of the Tribunal
<p>Rs. 116.095960 Dated 4.2.03 S. Register 24/2/03</p> <p>PS taken along with velopes</p> <p>Referred and sent to D/S the respondent No 1 to Regd. Ad.</p> <p>26/2 28/2/03</p>	25.2.2003	<p>Heard Mr. H.S.Thanzkhiew assisted by Mr. B.W.Phiva, learned counsel for the applicant and also Mr. A.Deb Roy, learned Addl. C.G.S.C. for the respondents.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by two weeks.</p> <p>Any promotion to the post of Superintendent shall be subject to the outcome of the application.</p> <p>List on 26.3.2003 for further orders. The respondents may file written statement with</p>

Conta/-

(2)

21.3.03

Contd/-  
25.2.2003 in four weeks from today.

W.L.S. submitted  
to the Respondent W.L.S.  
1, 2, 3, 4 & 5.

Vice-Chairman

mb

W.L.S.26.3.2003

Written statement has been  
filed. The case may now be listed for  
hearing on 12.5.2003. The applicant  
may file rejoinder, if any, within  
two weeks from today.

No. rejoinder has been  
filed.

239.5.03

Member

mb

Vice-Chairman

No. rejoinder has  
been filed.

12/5/03.

Division Bench is not available. The  
case is adjourned till 23/5/03

2322.5.0323.5.03

Adjourned. List again on 16.6.03  
for hearing.

No. rejoinder has  
been filed.

2313.6.03

Member

Vice-Chairman

pg

16.6.2003

Prayer has been made on behalf of  
Mr. B.W. Phiva, learned counsel for the  
applicant for adjournment. The case is  
accordingly adjourned. List again on  
14.7.2003 for hearing.

Ch. B. Jayaram

Member

Vice-Chairman

mb

O.A. 33/2003

Notes of the Registry

Date

Orders of the Tribunal

21.7.2003

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

The Hon'ble Mr. N.D. Dayal,  
Administrative Member.

Heard in part.

List again on 25.7.2003. On  
that day learned Addl. C.G.S.C. shall  
produce the records including all  
proceedings leading to the promotions  
to the rank of superintendent.

Member

Vice-Chairman

pb

25.7.2003 Heard no. B.W. Phiro, learned  
Counsel for the appellant  
(Mr. A.G. Chowdhury, learned  
Addl. C.G.S.C.) and for the  
respondents.

Hearing Concluded.  
Judgment reserved.

Also  
A.G.S.C.

8.8.2003

1.8.2003

Copy of the Judgment  
has been sent to the  
D/See. for issuing  
the same to the applicant  
as well as to the Addl.  
C.G.S.C. for the records.

4/8

Rec'd copy  
AMC 11/8/03

mb

Member

Vice-Chairman

Notes of the Registry

Date

Orders of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / XXXX No. 33 of 2003

DATE OF DECISION 15th August 2003

Shri Bhola Pradhan . . . . . APPLICANT(S).

Mr H.S. Thangkhiew, Mr B.W. Phira,  
Mr K. Khan and Mr L. Khyriem . . . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

The Union of India and others . . . . . RESPONDENT(S).

Mr A.K. Chaudhuri, Addl. C.G.S.C. . . . . ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE MR N.D. DAYAL, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.33 of 2003

Date of decision: This the 1<sup>st</sup> day of ~~July~~ 2003

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

The Hon'ble Mr N.D. Dayal, Administrative Member

Shri Bhola Pradhan  
Assistant,  
Office of the Director General,  
Assam Rifles, Shillong. ....Applicant  
By Advocates Mr H.S. Thangkhiew,  
Mr B.W. Phira, Mr K. Khan and Mr L. Khyriem.

- versus -

1. The Union of India, represented by  
The Director General,  
Assam Rifles, Shillong.
2. The Officiating Additional Director General,  
Assam Rifles, Shillong.
3. The Deputy Director General,  
Assam Rifles, Shillong.
4. The Assistant Director (A),  
Public Grievances Officer,  
H.Q. DGAR, Shillong.
5. Smt Purna Goswami,  
W/o Shri P.K. Goswami,  
Office of the Director General,  
Assam Rifles,  
Unit Pay and Accounts Office (UPAO),  
Shillong.
6. Smt Debjani Deb  
W/o Shri A.C. Deb,  
Office of the Director General,  
Assam Rifles,  
Unit Pay and Accounts Office (UPAO),  
Shillong.
7. Shri Rameswar Bhuyan,  
Office of the Director General,  
Assam Rifles, Shillong.
8. Smt Sipra Dutta  
Office of the Director General,  
Assam Rifles, Shillong. ....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R

CHOWDHURY. J. (V.C.)

The legality and validity of the action of the respondents in overlooking the case of the applicant for promotion to the post of Superintendent and the consequent supersession by his juniors is the subject matter of this O.A.

2. The applicant initially joined the service under the respondents in the then Office of the Inspector General, Assam Rifles as a Lower Division Clerk (LDC for short) on 13.5.1969 on being selected for the post of LDC vide order dated 10.5.1969. The applicant accordingly joined in the said post on 13.5.1969. The applicant was promoted to the post of Assistant on 23.7.1990. In terms of the policy laid down for career progression the applicant alongwith sixtysix others was accorded the second Assurance Career Progression (in situ) in the scale of pay of Rs.5500-175-9000/- per month with effect from 9.8.1999. The respondent Nos.5 and 6 were also given the benefit of the above Assurance Career Progression (ACP for short) and their names were shown below the applicant. The applicant at one point of time claimed seniority over Smt Anjana Kar by submitting a representation before the authority. The said representation was responded to and the department reiterated that Smt Anjana Kar was senior lawfully.

3. In this application, the applicant basically assailed the action of the respondents in promoting

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respondent Nos.5 to 8 vide orders dated 3.12.2002 and 1.1.2003. In addition, the applicant submitted an additional affidavit for bringing in record the subsequent events after filing the O.A., whereby the respondents promoted eleven persons junior to the applicant vide orders dated 3.2.2003 and 1.4.2003. The applicant being aggrieved by the action of the respondents, therefore, moved the High Court by way of a Writ Petition assailing the legitimacy of the action of the respondents in W.P.(C) No.429/2002. The High Court by its order dated 13.12.2002 issued notice of motion and the respondents were directed to consider the entitlement of the writ petitioner for promotion to the post of Superintendent and if he was found so entitled the pendency of the writ petition would not cause any impediment to the respondents to promote the applicant. By order dated 16.12.2002 the respondents informed the applicant that the applicant was not promoted in view of the fact that the DPC did not recommend the case of the applicant for want of eligibility criteria. The High Court finally by Judgment and Order dated 5.2.2003 disposed of the aforementioned Writ Petition on withdrawal leaving it to the applicant to approach the appropriate forum for redressel. The applicant accordingly moved the present O.A. assailing the action of the respondents in not considering the promotion of the applicant in the right perspective and allowing his juniors to march over him as arbitrary and discriminatory.

4. The respondents contested the claim of the applicant and submitted that as per the recruitment rules promotions from Assistant to Superintendent are made on selection-cum-seniority basis and the criteria for selection being six years regular service in the grade of Assistant. It was also asserted that as per the Government of India's policy/instructions, the DPC is to assess the suitability of officers for promotion on the basis of their service record and with particular reference to the Confidential Reports for five preceding years. It was also stated that as per the policy/instructions, for all Group 'C', 'B' and Group 'A' posts up to (and excluding) the level of Rs.3700-5000 (revised to 12000-375-16500) excepting promotions for induction to Group 'A' posts or service from lower groups, the bench mark is 'good'. In the instant case, the DPC did not recommend the case for promotion of the applicant to the post of Superintendent on the ground that he earned 'average' grading in his confidential report for the year 1999-2000 and this CR was related to the five years period as stipulated in the Government Orders. Therefore, his name did not figure in the panel of promotion and as a result the next juniors whose names figured in the panel were promoted. In answer to the contentions of the applicant to the effect that the applicant was denied with justice by relying upon the purported adverse entries in the CR without communicating the same to the applicant the respondents asserted that there was no adverse entry in the CR for communicating to the applicant. The applicant was only graded as 'average' which was not an adverse entry.

5. We have heard Mr B.W. Phira, learned counsel for the applicant as well as Mr A.K. Chaudhuri, learned Addl. C.G.S.C. at length. Mr A.K. Chaudhuri fairly placed before us the relevant records which were requisitioned by us. The learned counsel for the applicant urged before us that in view of the mandate of Article 16, the applicant is/was entitled for a fair consideration in the matter of promotion. The learned counsel for the applicant submitted that the applicant is a senior Assistant who served in different departments of the Establishment diligently and honestly. The respondents in the instant case superseded the genuine claim of the applicant by overlookking his merit and promoted juniors without assessing his merits. The learned counsel in course of his arguments also invited our attention to the numerous Government instructions indicating the nature of responsibility entrusted to the authority in preparing the confidential reports as well as the relevant consideration required to be made by the DPC. The learned counsel submitted that a public servant is entitled for a fair consideration of his case for promotion and the same was denied to the applicant which is per se unlawful and violative of Articles 14 and 16. The learned Addl. C.G.S.C. refuting the claim of the applicant submitted that the DPC meeting that was held on 21.1.2002 considered the case of the applicant and since the applicant did not fulfil the bench mark he was passed over and his juniors were promoted only on the basis of merit in the light of the recruitment rules.

6. We have perused the five years ACRs of the applicant. In the year 1997-98, the applicant was working in the Establishment (Nazir) Section. Against the 'Integrity' column he was endorsed as 'beyond doubt' and the grading was given as 'good' by the Reporting Officer. The Reviewing Officer graded the applicant as 'very good'. In the year 1998-99 the applicant was working in the Establishment Branch as well as EME Branch. In the 'Integrity' column he was endorsed as 'beyond doubt' and graded as 'good' by the Reporting Officer. The Reviewing Officer also endorsed the grading of the Reporting Officer and accordingly the applicant was graded as 'good' by the Reviewing Officer also. In the ACR for the year 1999-2000 the applicant was graded as 'average'. The full text of Part III and Part IV are reproduced below:

"PART III-ASSESSMENT OF THE REPORTING OFFICER

1. ....
2. ....
3. General Intelligence and keenness - average to learn.....
4. ....
5. ....
6. Knowledge of Rules, Regulations - average and Instructions in general and with particular reference to the work allotted to him.....
7. Quality of work:
  - (a) ability to apply the relevant - Average Rules and Regulations correctly
  - (b) Capacity for examining cases - Average thoroughly
  - (c) Quality of Noting and Drafting - Average
  - (d) Promptness in disposal of work - Average
8. Amenability to discipline..... - Average
9. Punctuality in attendance..... - Satisfactory
10. Relations with fellow employees/public Relations (wherever applicable) - Satisfactory

11. Integrity ..... - Average

12. Has the Officer been reprimanded for indifferent work or for other causes during the period under report. If any, please give brief particulars..... - No

13. Has the Officer done any outstanding or notable work meriting commendation? Briefly mention them..... - No

14. Grading (Outstanding/Very Good/ Good/Average/Below Average) - Average

.....  
.....

15. Effectiveness in the development and protection of Scheduled Castes and/or Scheduled Tribes:

(a) Attitude towards SCs and/ or STs..... - Cordial

(b) Sensitivity to social justice..... - Very much

(c) Ability to take quick and effective action to prevent and quell atrocities and ensure justice to SCs and/or STs..... - able

(d) Effectiveness in bringing about the development of SCs and/or STs..... - effective

Sd/-

Signature of Reporting Officer  
CAPT SURINDER SINGH

Place: Shillong

Dated 28 March 2000

PART IV-REMARKS BY REVIEWING OFFICER

1. Length of service under Reviewing Officer..... - 9 months

2. Is the Reviewing Officer satisfied that the Reporting Officer has made his/her report with due care and attention and after taking into account all the relevant material? - Yes

3. Do you agree with the assessment of the Officer given by the Reporting Officer? - Yes

4. If the Officer reported upon is a member of a Scheduled Caste/ Tribe please indicate specifically whether the attitude of the Reporting Officer in assessing the performance of the SC/ST Officer has been fair and just..... - OBC Yes

"5. General remarks with specific - The Assistant comments about the general has performed remarks lgiven by the satisfactorily Reporting Officer and with average remarks about the merit- working orious work of the Officer efficiency. including the grading.....

6. Has the Officer any special - No characteristics, and/or any abilities which would justify his/her selection for special assignment of/out-of-turn promotion? If so, specify.....

Sd/-

Signature of the Reviewing Offr

Place: Shillong

MAJOR P S RANA

Dated: 04 Apr 2000

JAD(EME)"

In the year 2000-01 the applicant was graded 'very good' by the Reporting Officer. Against the column for 'Integrity', the applicant was endoresed 'beyond doubt' and against column 5, 'General remakrs with specific comments.....' the Reviewing Officer endorsed that the 'assessment of the Reporting Officer was justified'. In the year 2001-02, against the 'Integrity' column, the applicant was endorsed as 'maintaining integrity'. The applicant was graded as 'good' and the Reviewing Officer endorsed the grading of the Reporting Officer.

7. We have also perused the proceedings of the Departmental Promotion Committee meeting which was held on 21.1.2002. The DPC indicated that it considered the ACRs of the last five years, i.e. 1996-97, 1997-98, 1998-99, 1999-2000 and 2000-01, though the ACR for the year 1996-97 was not made available before us. However, the DPC proceeding itself indicated that the applicant was graded as 'good' int he year 1996-97. The DPC, however, did not recommend the case of the applicant for lack of ACR criteria (minimum grading 'good').

8. Mr A.K. Chaudhuri, the learned Addl. C.G.S.C. also contended that the applicant was not promoted for want of bench mark on the basis of the ACR.

9. From the written statement as well as the stand that was taken by the respondents it thus appears that the DPC did not make any independent assessment on its own and mechanically accepted the ACRs without independently assessing the suitability of the applicant. The Departmental Promotion Committees are entrusted with the duty to consider the case for promotion of the eligible persons and determine the suitability of the candidates for promotion. The Constitutional scheme enjoins in Part III of the Constitution guaranteeing fundamental rights followed by Directive Principles enshrined in Part IV of the Constitution and contains the conscience of the Constitution. Disregard to the scheme would amount to upsetting the equilibrium (*Minerva Mills Ltd. and others Vs. Union of India and Others*, (1980) 3 SCC 625). The object is to provide unambiguity and impartial justice implying absence of unreasonable and unfair discrimination between individual and/or groups. Right to be considered for promotion is a fundamental right. The expression considered naturally implies a fair consideration. The DPC which is entrusted with the function of ensuring suitability of the candidate is required to make an objective and impartial assessment. The Annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each DPC. Recording of ACR is not an empty formality. Confidential Roll of an officer is mainly a performance appraisal of

an.....

an officer which constitutes the viable service records for career advancement. In writing ACR, one must act objectively, impartially and with fair assessment to improve the performance of the officer. The whole exercise is meant to facilitate the employee to be acquainted with inadequacy or shortcoming and to provide him with an opportunity to him. It is to be recorded with utmost care and caution devoid of any partiality and free from prejudices. In this context it would be appropriate to recall the observation of the Supreme Court in State of U.P. Vs. Yamuna Shanker Misra and another, reported in (1997) 4 SCC 7:

"..... the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51-A(j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency of administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon facts or circumstances. Though sometimes, it may not be part of the record, but the conduct, reputation and character acquire public knowledge or notoriety and may be within his knowledge. Before forming an opinion to be adverse, the reporting officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or conduct/corrupt proclivity. If, despite being given such an opportunity, the officer fails to perform the duty, correct his conduct or improve himself, necessarily the same may be recorded in the confidential reports and a copy thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved,

it.....

it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Thereby, honesty, integrity, good conduct and efficiency get improved in the performance of public duties and standard of excellence in services constantly rises to higher levels and it becomes a successful tool to manage the services with officers of integrity, honesty, efficiency and devotion."

The same view is expressed in P.K. Shastri Vs. State of M.P. and others, reported in (1997) 7 SCC 329.

10. We have already indicated the nature of the assessment of the Reporting Officer. In the ACR for the year 1999-2000, against column 5 as to 'knowledge of Office procedure' the officer recorded it to be 'adequate'. But columns 6, 7, 8 and 11 are shown as 'average'. The Reporting Officer found the knowledge of the applicant about office procedure as adequate, but as regards 'knowledge of Rules, Regulations and Instructions in general and with particular reference to the work allotted to him' it was found 'average'. Similarly, in column 11 as to 'Integrity' the officer recorded it as 'Average'. How can integrity be average? One can have integrity or no integrity, or it may be shown as nothing known against integrity. The Reviewing Officer endorsed the remark with the note that the Assistant had performed satisfactorily with average working efficiency. Apparently, the remarks made by the Reporting Officer are cryptic, vague and not sufficiently meaningful. Save and except the year 1999-2000 the applicant was found 'very good' in the year 1997-98 and 2000-01 and graded 'good' in 1996-97 as per the DPC and also graded 'good' in the year 2001-02. While making the adverse entries in respect of the official in question having consistently good record.....

record, a duty was cast on the Reporting Officer to furnish some details regarding the same. The Reviewing Officer mechanically accepted the same without applying his mind. A responsibility was cast on the Reviewing Officer also to ensure objectivity of the ACR and verify the correctness of the remarks of the Reporting Officer. The purported entries grading 'average' are seemingly arbitrary and unreasonable and therefore unsustainable in law. The DPC while considering the case of the applicant for promotion faltered in not considering his case in the right perspective. The terminology of consideration is not a mere incantation or jargon. The duty to consider envisages a fair consideration according to established norms governing service jurisprudence. As per the Government O.M. "the DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes." The DPC in the instant case faltered in its decision making process and mechanically passed over the case of the applicant on the basis of the purported entries in the ACRs for the year 1999-2000 without making any independent assessment.

11. For all the reasons stated above we are of the opinion that the DPC while refusing to recommend the applicant for promotion to the post of Superintendent failed to take into account the relevant considerations and took into consideration irrelevant considerations and thereby caused grave injustice to the applicant. In

the.....

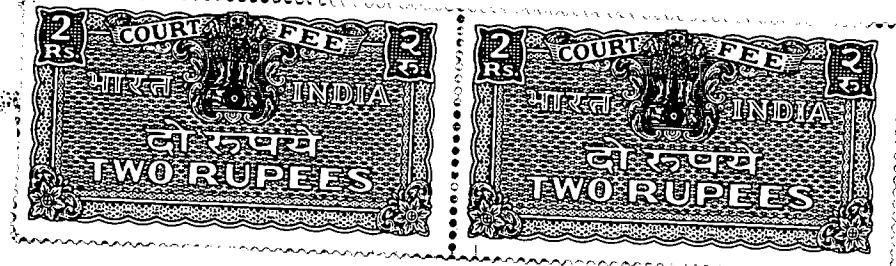
the set of circumstances the respondents are directed to hold a review DPC and consider the case of the applicant for promotion fairly as per law in the light of the observations made above and pass appropriate order as expeditiously as possible, preferably within two months from the date of receipt of the order. The promotion of all the promotees pursuant to the recommendations of the DPC dated 21.1.2002 shall be treated as ad hoc and shall be subject to the outcome of the review DPC as ordered.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

  
( N. D. DAYAL )  
ADMINISTRATIVE MEMBER

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

nkm



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI.

O.A. 33/2003

Shri Bhola Pradhan

.....Applicant

Versus

Director General, Assam Rifles Shillong and Others

.....Respondents

IN THE MATTER OF:

An Affidavit on behalf of the applicant bringing on record the factum before this Hon'ble Tribunal about the continued supersession of the petitioner by his juniors.

AFFIDAVIT

I, Bhola Pradhan, aged about 55 years, S/o (L) M.B. Pradhan, resident of Jhalupara, Shillong do hereby solemnly affirm and say as follows:

1. That I am the applicant in the instant case and am acquainted with the facts and circumstances of the case.
2. That the instant application was admitted on 25.2.2003 and notices were issued to the Union of India, Respondents. This Hon'ble Tribunal was please to fix the matter for show cause by the respondents and the matter was fixed for hearing.
3. That during the pendency of this instant application before this Hon'ble Tribunal, the respondents have continued with the process of promoting the incumbents who are junior to the



Filed by:

Bhola Pradhan

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(Bhola Pradhan) Applicant  
through : Bambumlang N. Phukan  
S/o (L) M.B. Pradhan

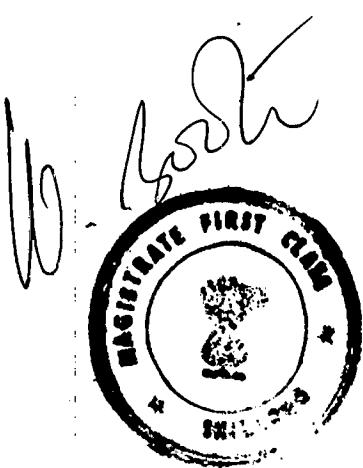
applicant. The process started with the issue of Order No. I. 11032/01/EST-2003 dated 3.2.2003 promoting the incumbents who are junior to the applicant.

Copy of Order dated 3.2.2003 is annexed hereto and is marked as Annexure A.

4. That your applicant states that vide another order No. I. 11032/01/EST-2003/27 dated 4.3.2003 the respondents promoted another 3 permanent Assistants who are junior to the petitioner thereby superseding the petitioner.

Copy of Order dated 4.3.2003 is annexed hereto and is marked as Annexure B.

5. That your applicant states that vide Order No. I. 11032/01/EST-2003/33 dated 1.4.2003, the respondents promoted yet some more junior incumbents superseding the applicant. It may be mentioned herein that the case of the applicant have been totally ignored by the respondents for promotion for reasons best known to the respondents. The case of one incumbent, Smti. Bernadette Kharmawphlang Dympep, was considered for promotion inspite of her initial rejection and also the rejection of representation against her supersession by reasoned order. The case of Smti. Bernadette Kharmawphlang Dympep is similarly placed as that of the petitioner.



C B Shoba Basheer

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-3-

Copies of Order dated 1.4.2003, letter dated

5.2.2003, Order dated 13.2.2003,

and 28.2.2003 are annexed hereto and

are marked as Annexures C, D, E, F,

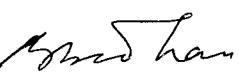
respectively.

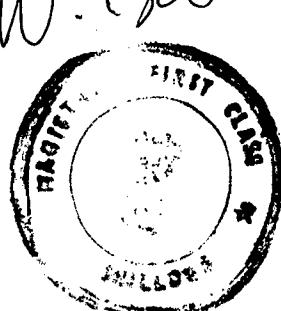
That this affidavit is being filed to bring on record the factum of supersession of the applicant by his juniors. Your applicant begs to rely on the official records produced by the respondents at the time of hearing.

That the statements made in paragraphs 1, 2, 3, 4, 5 are true to my knowledge which I belief to be true and those made in paragraph 3, 4, 5 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

Identified by:

  
(L. Kalyan Ram)  
Advocate.

  
(Bholu Krishnan)  
DEPONENT



- 4 -  
DIRECTORATE GENERAL ASSAM RIFLES : : SHILLONG-11

ORDER

No. I.11032/01/EST-2003/

Dated Shillong, the Jan 2003

1. Shri Jagatmoy Das, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Civilian Gazetted Officer (CGO) in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

2. Shri Amiendu Chowdhury, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

3. Shri Sushanta Kumar Purkayastha, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Record Officer in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

4. Shri Nikhilesh Dutta, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

5. Shri Ajit Kumar Dhar, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

6. The following permanent 'Assistants' of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Superintendent in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 5500-175-9000/- pm plus other allowances as admissible under rules :-

- (a) Shri Harold Shabong
- (b) Smti Nancybon Dkhar
- (c) Smti Bibiana Modi War
- (d) Shri Baldwin G Lariang
- (e) Smti Swapna Dutta Chowdhury

5. The following permanent Upper Division Clerk of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Assistant in the same Directorate until further order with effect from the forenoon of 01 Feb 2003 in the scale of pay of Rs 4500-125-7000/- pm plus other allowances as admissible under rules :-

- (a) Smti Sujata Deb
- (b) Shri Sona Ram Das
- (c) Shri Prasanta Kumar Das
- (d) Shri Jabbar Ali Ahmed
- (e) Shri Benoy Bhusan Deb Roy

(Arun Roye)

Maj Gen

Addl. Director General  
Assam Rifles

Memo No. I.11032/01/EST-2003/ Dated Shillong, the 1 Jan 2003

1. The Additional Accountant General  
(Central & Arunachal) Lachallette Building  
Shillong-3

2. The Accounts Officer,  
Pay and Accounts Office, Assam Rifles,  
Ministry of Home Affairs,  
Government of India,  
Laitumkhrah, Shillong-3

Internal

- 3. Establishment Branch (SB Section) - (10 copies)
- 4. Establishment Branch (Bill Section)
- 5. List 'D' & 'G' (Less Est Branch)
- 6. Individual Concerned
- 7. Office Copy

(V R Pal)

Comdt

OC ARASU

(DGAR)

DIRECTORATE GENERAL ASSAM RIFLES : : SHILLONG-11

ORDER

No. I.11032/01/EST-2003/ 27

Dated Shillong, the 04 Mar 2003

1. Shri Nikhilesh Dutta, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Mar 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
2. Shri Ajit Kumar Dhar, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Record Officer in the same Directorate until further order with effect from the forenoon of 01 Mar 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
3. Shri Abani Kumar Khatanior, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Mar 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
4. Smti Janet Jyoti, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Mar 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
5. The following permanent Assistants of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Superintendent in the same Directorate until further order with effect from the forenoon of 01 Mar 2003 in the scale of pay of Rs 5500-175-9000/- pm plus other allowances as admissible under rules :-

- ✓ (a) Shri Jung Bahadur Sunar
- (b) Smti Susan Maureen Tariang
- (c) Smti Sipra Dutta Purkayastha

( P R Barra )  
Brig  
Offg Addl. Director General  
Assam Rifles

Memo No. I.11032/01/EST-2003/ 27-4

Dated Shillong, the 04 Mar 2003

1. The Additional Accountant General  
(Central & Arunachal) Lachaliette Building,  
Shillong-3
2. The Accounts Officer,  
Pay and Accounts Office, Assam Rifles,  
Ministry of Home Affairs,  
Government of India,  
Laitumkhrah, Shillong-3

Internal

3. Establishment Branch (SB Section) - (10 copies)
4. Establishment Branch (Bill Section)
5. List 'D' & 'G' (Less Est Branch)
6. Individual Concerned
7. Office Copy

## DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG-11

ORDER

No. I.11032/01/EST-2003/33

Dated Shillong, the 01 Apr 2003

1. Shri Abani Kumar Khatanior, Addl Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Record Officer in the same Directorate until further order with effect from the forenoon of 01 Apr 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

2. Shri Rathindra Chakraborty, Superintendent, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Apr 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.

3. The following permanent Assistants of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Superintendent in the same Directorate until further order with effect from the forenoon of 01 Apr 2003 in the scale of pay of Rs 5500-175-9000/- pm plus other allowances as admissible under rules :-

- (a) Smti B Kharmplang
- (b) Shri Subhash Bhattacharjee
- (c) Shri Gopal Pradhan
- (d) Shri Kedo Nongrum

4. The following permanent Upper Division Clerk of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Assistant in the same Directorate until further order with effect from the forenoon of 01 Apr 2003 in the scale of pay of Rs 4500-125-7000/- pm plus other allowances as admissible under rules :-

- (a) Shri Chaman Singh Tomar
- (b) Shri Sibendu Bikash Dey
- (c) Shri Jyotirmoy Chakravorty
- (d) Shri Bharat Prasad Roy
- (e) Shri Arnarendra Kumar Das
- (f) Shri Radheshyam Bhattacharjee
- (g) Shri Nagendra Chandra Deb
- (h) Shri Kanak Chandra Bez Baruah
- (i) Shri Dayal Chandra Das
- (k) Shri Sailendra Kumar Chakravorty
- (l) Shri Shyama Pada Choudhury
- (m) Shri Santosh Kumar Paul
- (n) Shri Utsav Chandra Talukdar
- (o) Shri Prasanna Kumar Deka
- (p) Smti Marblelicia Langstieh
- (q) Shri Ivan Fabian Lynrah

(Arun Roye)  
Maj Gen  
Addl. Director General  
Assam Rifles

Contd....2

To:

8  
ANNEXURE - D

The Director General Assam Rifle.  
Shillong.

(Through Proper Channel)

SUBJECT: PROMOTION TO THE POST OF SUPERINTENDENT

Respected Sir,

With reference to the subject cited above, I have the honour to place the following request for your kind attention and sympathetic consideration, please.

1. That Sir, I belong to one amongst the Senior most Schedule Tribe Community of Meghalaya and working in the Directorate from 17th April 1972 without any break of Service and always discharged my duties to the full satisfaction always of my Superior Officers.
2. That Sir, amongst the Assistant (General Category) working in this Directorate, I am the No. 4 (four) in the Seniority list. Unexpectedly, I was disconcerted to note that though five Assistants have been promoted to the post of Superintendent vide Order Memo No. I.11032/01/EST-2003 dated Shillong the 03 Feb. 2003, my name has not been included in the Order and where as two of my Juniors have been considered for promotion for the above post.
3. That Sir, I do earnestly pray your goodself, kindly look into the matter, so that, due justice may not be denied to me.

Lastly, that Sir, your kind intervention in this matter is highly appreciated and I as duty bound, shall remain ever grateful.

Thanking you.

Yours faithfully,

Dated: Shillong

The 5th Feb. 2003

(BERNADETTE K. DYMPEP)

Assistant, Doc. IV.

ESTABLISHMENT BRANCHREPRESENTATION FOR PROMOTION  
TO THE POST OF SUPDT

1. Reference your ION No 1.36031/7/03/Rec(Coord)/67 dated 10 Feb 2003.
2. It is to inform that the application submitted by Smti B K Dympep (Smti Bernadette Kharmpahlang), Assistant of your Branch has been duly examined and it has been revealed that the case of applicant for promotion was not recommended by the DPC on the ground that she did not fulfill the eligibility criteria for selection, as the promotion to Superintendent are to be made on Selection-cum-Seniority basis and not merely on seniority basis and hence she has been superseded by her junior.
3. Smti Bernadette Kharmpahlang, Assistant may be informed accordingly.

  
(M S Yadav)  
Dy Comdt  
Establishment Officer

Record Branch

प्रथम दृष्टि डाक  
FIRST SIGHT DAK  
अभिलेख शास्त्र  
RECO'D BRANCH  
ग्राहनिक डाक 1112  
अपर भद्रानिक 1112  
फर्मल अभिलेख 1112  
एस डी १ अभिलेख 1112  
एस डी २ अभिलेख 1112  
एस डी ३ अभिलेख 1112  
दर्शक अधिकारी 1112  
दर्शक 1112  
क्रिक 1112

S. No. 1112 Date 1/2/03

1112 (14)

03/12/03 Pur

6/11/03

1/2/03

-10-

Tele : 705043

Mahanideshalaya Assam Rifles  
Directorate General Assam Rifles  
Shillong-793011

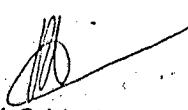
No. I.11032/01/2003-EST/ 26

28 Feb 2003

Smti Bernadette K Dympep,  
Assistant  
Record Branch (Doc-IV)  
HQ DGAR,  
Shillong-793011REPRESENTATION FOR PROMOTION  
TO THE POST OF SUPDT

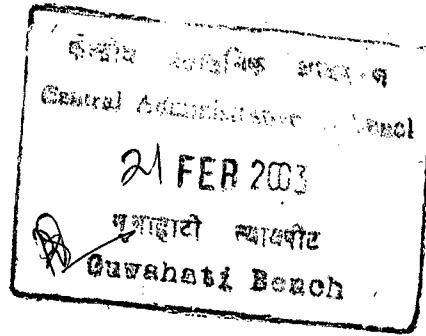
1. Reference your application dated 7<sup>th</sup> Feb 2003.
2. It is to inform you that the representation for promotion to the post of Superintendent dated 07 Feb 2003 submitted by you to the DGAR has been duly examined and it has been revealed that your name for promotion was not recommended by the DPC held for the year 2002-2003 on the ground that you did not fulfill the ACR eligibility criteria for selection as per Recruitment Rules, which stipulates inter alia that the promotion to the post of Superintendent are to be made on the basis of Selection-cum-Seniority and not merely on seniority basis. Hence you have been superseded by your juniors during last DPC.

प्रथम दृष्टि दाक  
FIRST SIGHT DAK  
अभिलेख शास्त्र  
RECORD BRANCH

  
(M S Yadav)  
Dy Comdt  
Establishment Officer  
For Director General  
Assam Rifles

महानिदेशक' DGAR.....  
अपर महानिदेशक' ADDL DGAR.....  
कर्नल अभिलेख' Col (Rec).....  
एस बी १ अभिलेख' SO 1 (Rec).....  
एस बी २ अभिलेख' SO 2 (Rec).....  
एस बी ३ अभिलेख' SO 3 (Rec).....  
एस बी ४ अभिलेख' SO 4 (Rec).....

692/1/21



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

**( AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985 )**

**O. A. No. 33 OF 2003**

**Shri Bhola Pradhan ...Applicant**  
**Versus**  
**Director General, Assam Rifles, Shillong and others ... Respondents**

**I N D E X**

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**Filed by :**

**B W Phukan**  
**Advocate**

SYNOPSIS AND LIST OF DATES

10.5.1969	Applicant appointed as Lower Division Clerk	<u>Annexure-1</u> Page 21
21.2.1973	Applicant granted Cash Award	<u>Annexure-2</u> Page 22
3.1.1985	Applicant granted increment	<u>Annexure-3</u> Page 23
28.12.1973	Applicant confirmed to the post of Lower Division Assistant	<u>Annexure-4</u> Page 24
4.0.11.1984	Representation for correction of Seniority List	<u>Annexure-5</u> Page 26
23.7.1990	Applicant promoted as Assistant	<u>Annexure-6</u> Page 27
2.12.1997	Gradation List of Assistants	<u>Annexure-7</u> Page 30
11.11.1999	Applicant accorded grant of 2nd Assured Career Progression	<u>Annexure-8</u> Page 34
4.1.2000	Applicant granted upgradation of Pay and name shown senior to respondents 5 and 6	<u>Annexure-9</u> Page 36
13.11.2002	Representation against supersession	<u>Annexure-10</u> Page 38
22.11.2002	Applicant's representation rejected	<u>Annexure-11</u> Page 39
3.12.2002	Respondents 5 and 6 promoted as Superintendent	<u>Annexure-12</u> Page 40-41
5.12.2002	Applicant filed representation	<u>Annexure-13&amp;14</u> Page 42-43
December 2002	Applicant filed WP(C) 429(SH)2002 before Hon'ble Gauhati High Court	<u>Annexure-15</u> Page 44-57
13.12.2002	Notice issued in WP(C) 429(SH)2002 Respondents directed to consider entitlement of applicant	<u>Annexure-16</u> Page 58

- B -

: 22 :

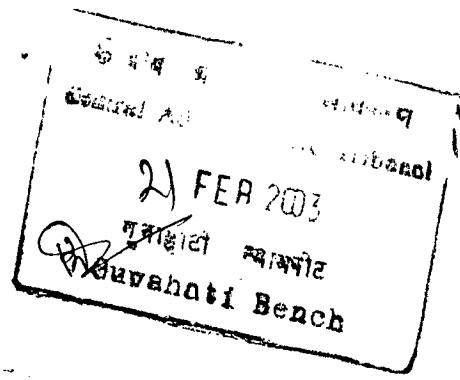
32

16.12.2002	Representation of Applicant rejected	<u>Annexure-17</u> Page 63
1.1.2003	Respondent Nos.7 and 8 promoted as Superintendent	<u>Annexure-18</u> Page 64-65
5.2.2003	WP(C) 429(SH) 2002 disposed of by Honb'le Gauhati High Court directing applicant to approach the Hon'ble Tribunal	<u>Annexure-19</u> Page 66

Filed by:

B. W. Phua  
21.2.2003

Advocate



Filed by Shri Bhola Pradhan  
Bhola Pradhan applicant  
through Wan Phua  
Baruah, Lawyer  
Advocate  
21.2.2003

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

**( AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985 )**

O. A. No. 83 of 2003

Shri Bhola Pradhan,  
S/o (L) M. B. Pradhan,  
Resident of Jhalupara, Shillong.  
At present serving as Assistant in  
the Office of the Director  
General, Assam Rifles, Shillong.

.....Applicant

-Versus-

1. Union of India represented by the Director General, Assam Rifles, Shillong.
2. Officiating Additional Director General, Assam Rifles, Shillong.
3. Deputy Director General Assam Rifles, Shillong.
4. Assistant Director (A), Public Grievances Officer, H. Q. DGAR, Shillong.
5. Smti. Purna Goswami,

recd on 3.12.02

R

- 2 -

W/o Shri P. K. Goswami,

Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.

6. Smti. Debjani Deb,

W/o Shri A. C. Deb,  
Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.

7. Shri Rameswar Bhuyan,

Office of the Director  
General Assam Rifles,  
Shillong.

8. Smti Sipra Dutta,

Office of the Director  
General Assam Rifles,  
Shillong.

...Respondents

3rd Dec 02 - R 5, R 6 were prov - 2

1st Jan 03 - R 7 + 8  
Harsad Shabir

3rd Feb 03 - MS Nancy Bon Dickey Sipra  
MS Bishwanath Dasgupta  
Baldwin Dasgupta Supra  
MS Swapna Dasgupta 9.

1st April 03 MS B. Karmplang  
Subash Pratimawar  
Gopal Pradhan  
Kade Noorwana

4

13 Supra

R

W/o Shri P. K. Goswami  
Office of the Director  
General, Assess Rilles, Unit  
P&A and Account Office  
(UPAO), Shimla  
e. Shiml Depaunit Dep  
W/o Shri A. C. Dep  
Offices of the Director  
General, Assess Rilles, Unit  
P&A and Account Office  
(UPAO), Shimla  
Shri Rameshwar Bhushan  
Office of the Director  
General, Assess Rilles  
Shimla  
e. Shiml Sipra Dutta  
Office of the Director  
General, Assess Rilles  
Shimla

...Response

**1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE:**

1. Order under Memo No. I.11022/06/EST-2002/74 dated 3.12.2002

issued by Brigadier P. R. Batra, Officiating Additional Director General, Assam Rifles promoting the respondents Nos. 5 and 6 as Superintendent in the Office of the Directorate General Assam Rifles, superseding the applicant who is senior to them in the Gradation List.

2. Order under Memo No. I.11022/06/EST-2002/81 dated 1.01.2003

issued by Brigadier P. R. Batra, Officiating Additional Director General, Assam Rifles, promoting the respondents Nos. 7 and 8 as Superintendent in the Office of the Directorate General Assam Rifles, superseding the applicant who is senior to them in the Gradation List.

**2. JURISDICTION OF THE HON'BLE TRIBUNAL:**

The applicant declares that the subject matter of the orders against which he wants redress is within the jurisdiction of this Hon'ble Tribunal.

**3. LIMITATION :**

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

**4. FACTS OF THE CASE :**

1. That your applicant is a citizen of India and a permanent resident of Shillong.

2. That your applicant states that he joined service in the Office of the respondent No. 1 as Lower Division Clerk on 13.5.1969 after being appointed vide Order dated 10.5.1969. He served in the post diligently and sincerely to the satisfaction of all concerned when he was promoted as Assistant on 23.7.1990 in the Record Branch of the Office of the respondent No. 1. In the course of his service, your petitioner had served as Nazir in the Establishment Branch and also as Branch In charge, Electrical Mechanical and Engineering Branch ( EME Branch ) in the year 2000. In the course of his service, your petitioner passed the Hindi Praveen Examination held in December, 1971, whereby vide Order No.

MBM/AR/13/70 dated 21.2.1973, your applicant was awarded a cash award of Rs. 100/- (one hundred only). That your applicant states that in recognition of his passing the Pragya Examination for Hindi Language, he was awarded one increment for the period from 12.9.1985 to 11.9.1986 vide letter No. I.11011/14/82-EST/189 dated 3.1.1986.

Copy of Orders dated 10.5.1969, 21.2.1973 ad 3.1.1986 are annexed hereto and are marked as Annexures 1, 2 and 3 respectively.

3. That your applicant states that vide Order No. EST/V-C/1-70/215 dated 28.12.1973, your applicant was confirmed in the posts of Lower Division Assistant, HQ Inspector General of Assam Rifles, Shillong in the scale of pay of Rs. 140-6-170-EB-7-205-EB-7-275/- per month with effect from 23.7.1973.

Copy of Order dated 28.12.1973 is annexed hereto and is marked as Annexure 4.

4. That your applicant states that your applicant made a representation dated 20.11.1984 to the respondent No. 1 regarding

the seniority list issued vide Est. branch letter No. I.11027/1/80-Est dated 17.4.1984 whereby your applicant was shown to be junior and below his two colleagues who had joined on the same day but is senior to them in age. However, the respondents did not reply to the representation and chose to remain silent over the same. On 23.6.1989, your applicant filed another representation to the respondent No. 1 through proper channel. However, no reply was given to the same.

Copy of letter dated 20.11.1984 is annexed hereto and is marked as Annexure 5.

5. That your applicant states that vide Order under memo No. I.11032/1/89-EST/50 dated 23.7.1990, your applicant who had then been serving as Upper Division Clerk, in the Office of the respondent No. 1 was promoted to officiate as Assistant in the same office until further orders. This promotion was effected along with the respondents Nos. 5 and 6.

Copy of Order dated 23.7.1990 is annexed hereto and is marked as Annexure 6.

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6. That your applicant states that a Gradation list of the Assistant/Nazir of Establishment of the Director General, Assam Rifles, Shillong as on 2. 12. 1997 was prepared by the respondents. In this list, your applicant name was shown at serial No. 59 whereas that of the respondent No. 5 at serial No. 60 and respondent No. 6 at serial No. 61. In this list your petitioner was clearly shown as being senior to the respondents Nos. 5 and 6.

Copy of the extract of the gradation list is annexed hereto and is marked as Annexure 7.

7. That your applicant states that vide Order under memo No. I.11022/08/99-EST/29 dated 11.11.1999, your applicant was accorded a grant of 2<sup>nd</sup> Assurance career progression (in situ) in the scale of pay of Rs. 5500-175-9000/- per month. In the list, your applicant's name was shown at serial No. 41 and the respondent No. 5 at serial No. 42 and respondent No. 6 at serial No. 43.

Copy of the Order dated 11.11.1999 is annexed hereto and is marked as Annexure 8.

8. That your applicant states that vide order under memo No. I.11023/5/99/EST/32 dated 4.1.2000, your applicant along with respondents Nos. 5 and 6 were granted initial pay of Rs. 5500-175-9000.00 following the upgradation of the post. In the list, your applicant's name had been shown at serial No. 7 whereas the names of respondent No. 5 was shown serial No. 8 and that of respondent No. 6 at serial No. 9.

Copy of order dated 4.1.2000 is annexed hereto and is marked as Annexure 9.

9. That your applicant states that with respect to Letter No. I.1122/06/ EST/T/363 dated 6.11.2002 promoting the respondent No. 6, your applicant wrote a representation to the respondent No. 1 stating that their appointments were of the same date but your applicant is senior in age to the respondent No. 6, therefore the seniority should be counted from the date of birth. Thereafter vide letter No. I.11022/06/2001/EST/72 dated 22.11.2002, the respondents rejected the claim of the applicant and observed that he should not raise such observation after a prolong period of 33 years.

Copy of representation dated 6.11.2002 and letter dated 22.11.2002 are annexed hereto and are marked as Annexures 10 and 11 respectively.

10. That your applicant states that all of a sudden vide order No. I.11022/06/EST-2002 dated 3.12.2002, the respondents promoted the respondents Nos. 5 and 6 as Superintendent against the existing vacancies in the Directorate ignoring the applicant who was more eligible to be promoted than the respondents Nos. 5 and 6 who are his juniors and who have superceded him. Being aggrieved by the action of the respondents in promoting the respondents Nos. 5 and 6, your applicant filed a representation dated 5.12.2002 before the respondent No. 1 which had not effected any response from the respondents.

Copies of the Order dated 3.12.2002 and representations dated 2.12.2002 and 5.12.2002 are annexed hereto and are marked as Annexures 12, 13 and 14 respectively.

11. That your applicant states that being unable to comprehend or understand the arbitrary action of the respondents as to the reasons for his not being considered for promotion enquired from his colleagues and immediate superiors to ascertain the facts and though no reason was forthcoming, it was speculated that this action could have only been warranted if there was some adverse entry in his record. However, even if there was any adverse entry the same was never communicated to him thus, depriving the petitioner of a chance of representing against the same. The action of the respondents therefore which is discriminatory and unwarranted has violated the settled principles of law and service jurisprudence and has caused grave injustice to the petitioner.

12. That your applicant thereafter approached the Honble Gauhati High Court, Shillong Bench vide W. P (C) 429 (SH) 2002 praying for quashing the Order dated 3.12.2002 and in the interim prayed for stay of the Order dated 3.12.2002. The Honble High Court was pleased to issue notice to the respondents vide Order dated 13.12.2002 and directed that in the meantime, the respondents shall consider the entitlement of the writ petitioner for promotion to

the post of Superintendent and if he is found so entitled the pendency of the writ petition shall not act as a bar to the respondents to so promote the writ petitioner.

Copies of the writ petition and Order dated 13.12.2002 are annexed hereto and are marked as **Annexures 15 and 16** respectively.

13. That your applicant states that the respondents vide order under Memo No. I.11022/06/EST-2002/78 dated 16.12.2002 rejected the representation of the applicant and had observed that **"as the promotion to Superintendent are to be made on Selection-cum-seniority basis and not merely on seniority basis and hence he has been superseded by his next junior Smti Debjani Deb."**

Vide Order under Memo No. I.11022/06/EST-2002/81 dated 1.1.2003 the respondents further promoted the respondents Nos. 7 and 8 to the post of Superintendent thereby superseding the applicant without citing any reasons whatsoever.

Copies of Orders dated 16.12.2002 and 1.1.2003 are annexed hereto and are marked as **Annexures 17 and 18** respectively.

14. That your applicant states that the writ petition came up for Orders before the Hon'ble High Court and the Hon'ble Court was pleased to dispose of the writ petition and direct the applicant vide Order dated 5. 2. 2003 to approach this Hon'ble Tribunal as the post he is holding is a civil post under the Administrative Tribunals Act, 1985. Therefore, the applicant is approaching this Hon'ble Tribunal by the instant application.

Copy of Order dated 5.2.2003 is annexed hereto and is marked as Annexure 19.

**5. GROUND FOR RELIEF WITH LEGAL PROVISION :**

1. For that respondents acted illegally, arbitrarily and discriminatorily in promoting the respondents Nos. 5 and 6 superseding the applicant without considering his service record thereby ignoring the seniority he had acquired and as such the action of the respondents is violative of the principles of natural justice and settled principles of service jurisprudence, therefore, the impugned orders dated 3.12.2002 and 1.1.2003 are liable to be set aside and

B

quashed and your applicant ought to be promoted as Superintendent in the Office he is serving.

2. For that the respondents acted illegally, arbitrarily and discriminatorily in ignoring the length of service of the applicant and allowed the respondents Nos. 5 and 6 to supersede the applicant in spite of representations which had been filed by the applicant since 1984 against the Gradation List and as such the impugned Orders are liable to be set aside and quashed and the respondents are liable to promote the applicant to the post of Superintendent.

3. For that the respondents acted illegally, arbitrarily and discriminatorily in not considering the promotion of the applicant to the post of Superintendent in spite of the applicant having worked for the past 33 years without any blemish in his record and service career and even during his service, he had been given several promotions duly and had been awarded for his performance and as such the impugned Orders are liable to be set aside and quashed and the respondents are liable to be directed to promote the applicant to the post of Superintendent.

4. For that the action of the respondents in allowing the respondents Nos. 5 and 6 who are junior to the applicant to supersede him is illegal, arbitrary and discriminatory and as such the impugned Orders are liable to be set aside and quashed and the applicant is liable to be promoted to the post of Superintendent.
5. For that the action of the respondents in not taking into account the fact that if adverse entries had been entered in the Confidential Report of the applicant they were not communicated nor did the applicant had a chance to represent against them and as such the impugned Orders are liable to be set aside and quashed and the applicant ought to be promoted to the post of Superintendent.
6. For that the respondents did not consider the case of the applicant in the light of the Hon'ble High Court's Order and the promotion of the respondents Nos. 7 and 8 is illegal and arbitrary and ought to be set aside and quashed.
7. For that the respondents acted illegally and arbitrarily in further promoting the respondents Nos. 7 and 8 by superseding the applicant and holding that selection-cum-seniority is the criteria for promotion and not merely on seniority basis and without

considering the length of service of the applicant and as such he impugned orders are liable to be set aside and quashed.

8. For that the respondents have not examined the case of the applicant and ignored his length of service in the post he had been serving and illegally superseded the applicant totally misappreciating the entire concept of merit cum seniority and as such the impugned orders are liable to be set aside and quashed and the applicant is liable to be promoted to the post of Superintendent.
9. For that from the facts and circumstances of the case, this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief.
10. For that in any view of the matter, the impugned Orders are liable to be set aside and quashed.

**6. DETAILS OF REMEDIES EXHAUSTED :**

The applicant has no relief under the service Rules.

R

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

The applicant had filed W.P(C) 429 (SH) 2002 before the Hon'ble Gauhati High Court, Shillong Bench. The Hon'ble High Court was pleased to issue notices on 13.12.2002 to the respondents and vide order dated 6.2.2003 was pleased to dispose of the Writ petition and direct the applicant vide Order dated 6.2.2003 to approach this Hon'ble Tribunal as the post he is holding is a civil post under the Administrative Tribunals Act, 1985. Therefore, the applicant is approaching this Hon'ble Tribunal by the instant application.

**8. PRAYER :**

It is therefore prayed that Your Lordships may be pleased to admit this application, call for records of the entire case and call upon the respondents to show cause as to why the impugned Orders under Memo No. I.11022/06/EST-2002/74 dated 3.12.2002 and Memo No. I.11022/06/EST-2002/81 dated 1.01.2003 ( Annexures 12 and 17 ) issued by Brigadier P. R. Batra, Officiating Additional Director General, Assam Rifles promoting the respondents Nos. 5 , 6, 7 and 8

as Superintendent in the Office of the Directorate General Assam Rifles, superseding the applicant who is senior to them in the Gradation List should not be set aside and quashed and on cause or causes being shown and after hearing the parties be pleased to set aside the impugned orders at Annexures 12 and 17 and/or may pass such further or other order or orders as Your Lordships may deem fit and proper.

And your applicant as in duty bound shall ever pray.

**9. INTERIM ORDER :**

It is therefore prayed that pending disposal of the application, Your Lordships would be pleased to stay the operation of the impugned Orders dated 3.12.2002 and 1.1.2003 (Annexures 12 and 17).

**10. DOES NOT ARISE :**

R

**11. PARTICULARS OF BANK DRAFT / POSTAL ORDER IN**

**RESPECT OF THE APPLICATION FEE :**

i) I. P. O. Nos : 21E - 320054  
21E - 320055  
22E - 428052 / 17E 592008  
21E - 320063

ii) Date : 21. February 2003.

iii) Issued by Post Office : Lachit Wagar P.O. Guwahati.

iv) Payable at : GPO, Guwahati.

**12. LIST OF ENCLOSURES :**

As stated in the index.

### VERIFICATION

I Shri Bhola Pradhan, S/o of (L) M. B. Pradhan, aged 55 years , resident of Jhalupara, Shillong and at present serving as Assistant in the office of the Director General Assam Rifles, Shillong do hereby verify that the statements made in paragraphs 1, 2, 3  
5, 6, 7, 8 + 9 are true to my knowledge and those made in paragraphs 4 are believed to be true on legal advise and that I have not suppressed material facts.

I sign this verification on this 21<sup>st</sup> day of February, 2003 at Shillong.

Place : Shillong

Date : 21. 2. 2003

*Bhola Pradhan* (Signature)

Signature of the Applicant



- 20 -



### A F F I D A V I T

I, Bhola Pradhan, son of (L) M. B. Pradhan, aged 55 years, resident of Jhalupara, Shillong, do hereby solemnly affirm and say as follows :

1. That I am the applicant in the instant case and am acquainted with the facts and circumstances of the case .
2. That the statements made in this application and in paragraphs 1, 2, 3, 5, 6, 7, 8 + 9 are true to my knowledge which I believe to be true and those made in paragraphs 4 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

Identified by :

( Advocate )

*Bhola Pradhan*

### DE PONENT

Solemnly affirmed and declared before me on being identified by L. KHYRIEM Advocate on this 13 day of February, 2003 at Shillong.



21  
INSPECTOR GENERAL OF ASSAM RIFLES : : : SHILLONG.

\*\*\*\*\*

O R D E R

NO. EST/III-M/20-69/

Dated Shillong, the

10 May 1969.

To

Shri/Shrimati Bhola Pradhan  
45, Jhalmu para Canal  
Guillay - 2

Subject :- SELECTION FOR THE POST OF LOWER DIVISION ASSISTANT.

You are selected for appointment as a temporary Lower Division Assistant in the Office of the Inspector General of Assam Rifles, Shillong in the scale of pay of Rs.140-6-170-EB-7-205-EB-7-275/- per month plus other allowances as admissible under the rules subject to the following conditions. You are directed to report for duty before 20.5.69 failing which this may be treated as cancelled.

- (a) No TA/DA will be admissible for your journey to join this Office.
- (b) You will produce a medical fitness certificate at your own expense from the Civil Surgeon, U K & J Hills/Superintendent, Ganeshdas Hospital, Shillong at the time of reporting for duty.
- (c) You will produce all certificates with regard to your educational qualification and age to the undersigned at the time of reporting for duty.
- (d) The appointment is purely temporary and may be terminated on one month's notice from either side. The appointment is also provisional subject to verification of Character and antecedents.
- (e) A blank form of Character certificate is enclosed for submission duly attested at the time of joining duties. You are liable to serve anywhere in NEFA, TRIPURA, ASSAM, MANIPUR and NAGALAND.

joined on  
13.5.69  
(R.N.)  
Date of Birth 14th March 1941

Place : As above.

Attested

W. K. Purkayastha  
Advocate.

*See D/C*  
R. K. PURKAYASTHA  
ESTABLISHMENT OFFICER,  
HQ INSPECTOR GENERAL OF ASSAM RIFLES,  
SHILLONG ( R. K. PURKAYASTHA )

GOVERNMENT OF INDIA  
ARUNACHAL PRADESH ADMINISTRATION  
SHILLONG

U N D E R  
Dated Shillong, February 21 '73.

No. HMB/AR/13/70: The Governor of Assam is pleased to accord sanction to the grant of a Cash award of Rs. 100/- (Rupees one hundred only) to Shri Bhola Pradhan, Lower Division Assistant in the office of the Inspector General of Assam Rifles, Shillong for passing the Hindi Praveen Examination held in December, 1971 under the Hindi Teaching Scheme.

The expenditure will be met from the sanctioned budget grant of the Inspector General of Assam Rifles under the head "Other Charges".

Sd/- B.P. Misra,  
Deputy Secretary (Pol),  
Arunachal Pradesh Administration.,  
Shillong.

Memo. No. HMB/AR/13/70 A Dated Shillong, February 21 '73.

Copy to:-

- 1) The Accountant General, Assam & Nagaland, Shillong. The sanction issues with the concurrence of the Financial Adviser, Arunachal Pradesh Administration vide Finance U/U No. Fin(Ah)3/73 dated 21.1.73.
2. The Financial Adviser, Arunachal Pradesh Administration, Shillong for information.
3. The HQ, Inspector General of Assam Rifles, Shillong for drawal and disbursement of the amount. This has a reference to the correspondence resting with their letter No. EST/II-T/2-72/64 dated 8.1.73. The mark sheet in original for passing Praveen examination is forwarded herewith the receipt of which may please be acknowledged.
4. Shri Bhola Pradhan, L.D. Asstt. HQ Inspector General of Assam Rifles, for information.

*B.M*

( B.P. Misra )  
Deputy Secretary (Pol)  
Arunachal Pradesh Administration.,  
Shillong.

pk

*16/2*

Attested  
*W. Bhola*  
Advocate.

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11011/14/82-EST/188

Dated Shillong, the 01 Jan 86

In pursuance of Govt of India, Ministry of Home Affairs (Dept of official Language) New Delhi OM No. 120131/3/76-OL (D) dated 21 May 77 sanction is hereby accorded for grant of personal pay equal in amount to one increment to the under mentioned staff of Directorate General Assam Rifles, Shillong as noted against each for the period of one year only with effect from 12 Sep 85 to 11 Sep 86 (both days inclusive) for passing of Pragya Examination conducted by Govt of India, Ministry of Home Affairs, Deptt of official Language office of the officer over all charge, H.T.S Laitumukhrah Police Point, Shillong vide letter No. HTS/Exams/5/ 84/832-857 dated 12 Sep 85 :-

- (a) Shri Prabir Kumar Goswami, UDC - @ Rs. 15/- in the scale of pay of Rs. 330-10-380-EB-12-500-EB-15-560/- per month
- (b) Shri Bhole Pradhan, UDC - @ Rs. 12/- in the scale of pay of Rs. 330-10-380-EB-12-500-EB-15-560/- per month
- (c) Smti Kalyani NE UDC - do-
- (d) Smti Dharitri Bhattacharjee, UDC - do-
- (e) Shri Umapada Bhattacharjee, UDC - @ Rs. 12/- in the scale of pay of Rs. 330-10-380-EB-12-500-EB-15-560/- per month. Amendment to order No. I. 11011/14/82-EST/174 dt 15 Nov 85 Sub para 1 (a) published on 15 Nov 85

( V S Kuppa )  
Lt Col  
Offg Director (Adm)

Memo No. I. 11011/14/82-EST/178(A)

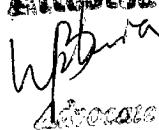
Dated Shillong, the 01 Jan 86

Copy to :-

1. The Pay & Accounts Office (Assam Rifles) Shillong -3
2. Bill Section, DGAR, Shillong - 2 copies
3. Individual concerned - (5 copies) *Shri Bhole Pradhan, UDC, Adm Br*
4. Hindi Section - with reference to their ION No. A/1-A/25/20/85/A (Hindi)-1 dated 8 Oct 85.
5. Finance/UPAO/Adm Branch
6. Personal file - 5 copies
7. Circulation file
8. Office copy

( R S Gurung )  
Dy Comdt  
Establishment Officer

Attested



Attestation

££££££££££  
**ORDER**

- 24 -

50

10 EST/N-C/1-70/215

Dated Shillong, the 28 Dec '73.

The undermentioned temporary Lower Division Assistants of HQ Inspector General of Assam Rifles, Shillong are hereby confirmed in the posts of Lower Division Assistant, HQ Inspector General of Assam Rifles, Shillong in the scale of pay of Rs 140-6-170-EB-7-205-EB-7-275/- per month with effect from the forenoon 23 JULY'73 as per details below:-

- 1) Sri C LAL SANGLUALA
- 2) Smti E WARJRI
- 3) Sri KANCHAN SHERPA
- 4) Sri J THANGDAILOVA
- 5) Smti B K PRADHAN
- 6) " JOYASHREE CHOUDHURY
- 7) Sri SUMIT KAR
- 8) Smti R KHARSYNTIEW
- 9) " MAYA KIM GURUNG (Nee Tamang)
- 10) " DHAN MAYA GURUNG
- 11) " DHANMATI GURUNG
- 12) Sri SIBAPADA CHOUDHURY
- 13) " S N KALITA
- 14) Smti ANJANA KAR
- 15) Sri PREM BDR SARKI
- ✓16) Sri BHOLA PRADHAN — Date of attainment 13 May 1969.
- 17) Smti PURNA CHAKRAVORTY
- 18) " DEVJANI CHOWDHURY
- 19) Sri RAMESWAR BHUYAN
- 20) Sri M K PURKAYASTHA
- 21) Miss A NONGKYNRIH
- 22) Smti SIPRA NAG ..vice Sri B P CHAKRAVORTY
- 23) Sri AMBAR BDR THAPA ..vice " M B PAUL
- 24) " DEVANANDA BARUA ..vice " NILANJAN DUTTA ROY
- 25) " SAROL DUTTA ..vice " SUKUMAR CHAND

## Attestation

W. B. Smith  
Advocate.

Cont'd

26) Smti SWAPNA DUTTA CHOWDHURY (nee DUTTA)	vice Smti A BHATTACHARJEE
27) Sri JANG BDR SUNWAR	vice Sri P K DASS GUPTA
28) " RANJIT CHOWDHURY	vice " M B PRADHAN
29) " B B BISWAS	vice " MANAKS BOSE
30) Smti SIPRA DEB	vice " RANJIT KR BHATTACHARJEE
31) Sri J K CHANDA	vice Smti NORIL RISAW
32) " BINAYAK GUPTA	vice Sri BALARAM CHETTRI

Authority:- AP A dmn order No EST/VII-P/1-70/70  
dated 23.7.73

Sd/-xxxxxxxxxx  
(A S ASSAR) Col.  
OFFG INSPECTOR GENERAL OF ASSAM RIFLES

SHILLONG

MEMO NO EST/V-C/1.70/215(A) dated Shillong, the 31 Dec 73

Copy forwarded to:-

- 1) The Addl. Accountant General (Central and Arunachal Pradesh)  
Lachatelleute Building, Shillong (793003)
- 2) The Treasury Officer, Shillong.
- 3) Staff concerned (32 copies)
- 4) Personal files of staff (32 copies)
- 5) Bill Section 'EST' Branch (2 copies)
- 6) List 'C'
- 7) Office copy.

Sd/-xxxxxxxxxx  
Establishment Officer

To

The Director General Assam Rifles  
Shillong-793011

( Through proper channel)

Dated Shillong, the 20<sup>th</sup> November, 1984.

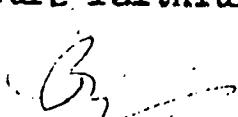
Sir,

With due humble submission I have the honour to state few lines for your information and necessary action please.

That Sir, as per the seniority list issued vide Est Branch letter No I:11027/1/80-Est dated 17 April 84, it is observed that having joined the service on the same date, I stand senior to Smti Anjana Kar (sr196) and Sri Prem Bahadur Serki ( sr1 97) by virtue of my age seniority as per rules.

In view of above I request your honour to amend the gradation list, wherein the above two individuals have been shown to me.

Yours faithfully,

  
( Bhola Pradhan )  
UDC, Records (Adm -I)  
HQ DGRI, Shillong-11

Attested

  
Advocate

## DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG

## O R D E R

No. I.11032/1/89-EST/50

Dated 23 Jul 90.

1. Shri Santap Hari Choudhury, Senior Accounts Officer, Directorate General Assam Rifles, Shillong now on deputation with the ARGIS Directorate, is hereby temporarily appointed to officiate as proforma Chief Accounts Officer in the Directorate General Assam Rifles, Shillong until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 2200-75-2800-EB-100-4000/- per month plus other allowances as admissible under rules vice Shri AB Choudhury, Chief Accounts Officer retired.
2. Shri Amiya Kumar Suklabaidya, Senior Accounts Officer, Directorate General Assam Rifles, Shillong is hereby temporarily appointed to officiate as Chief Accounts Officer in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 2200-75-2800-EB-100-4000/- per month plus other allowances as admissible under rules vice Shri SH Choudhury proforma appointed Chief Accounts Officer.
3. Shri Debal Chandra Bhowmick, Accounts Officer, Directorate General Assam Rifles, Shillong is hereby temporarily promoted to officiate as Senior Accounts Officer in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 2200-75-2800-EB-100-4000/- per month plus other allowances as admissible under rules vice Shri AK Suklabaidya, Senior Accounts Officer appointed as Chief Accounts Officer.
4. Smti Nisthoda Marbaniang, Additional Accounts Officer, Directorate General Assam Rifles, Shillong is hereby temporarily appointed to officiate as Accounts Officer in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500/- per month plus other allowances as admissible under rules vice Shri Debal Chandra Bhowmick, Accounts Officer promoted as Senior Accounts Officer.
5. Smti Nibedita Dutta Gupta, Superintendent, Directorate General Assam Rifles, Shillong is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500/- per month plus other allowances as admissible under rules vice Smti Nisthoda Marbaniang, Additional Accounts Officer appointed as Accounts Officer.
6. The undermentioned Assistants, Directorate General Assam Rifles, Shillong are hereby temporarily promoted to officiate as Superintendent in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 1640-60-2600-EB-75-2900/- per month plus other allowances as admissible under rules in the vacancies noted against each :-

Attested  
W. P. S.  
Advocate

.....2/-

(a) Shri Dwijendra Nath Sarma

vice Smti Nibedita Dutta  
Gupta, Superintendent  
promoted as Additional  
Accounts Officer.

(b) Shri Satyendra Nath Singh

against the existing  
vacancies.

(c) Smti Bibha Dey Purkayastha

(d) Shri Samiran Das

(e) Shri Samresh Chandra Dhar

(f) Shri P. Gopalan

7. The undermentioned Upper Division Clerks, Directorate General Assam Rifles, Shillong is hereby temporarily promoted to officiate as Assistant in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 1400-40-1800-EB-50-2300/- per month plus other allowances as admissible under rules against the vacancies noted against each :-

(a) Smti Anjana Kar

vice Shri DN Sarma,  
Assistant promoted as  
Superintendent.

(b) Shri Prem Bahadur Sarki

vice Shri Si Singh,  
Assistant promoted as  
Superintendent.

(c) Shri Bhola Pradhan

vice Smti Bibha Dey Purkayastha,  
Assistant promoted as  
Superintendent.

(d) Smti Purna Goswami

vice Shri Si Singh, Assistant  
promoted as Superintendent.

(e) Smti Devjani Deb

vice Shri P. Gopalan, Assistant  
promoted as Superintendent.

(f) Shri Rameswar Bhuyan

vice Shri P. Gopalan, Assistant  
promoted as Superintendent.

(g) Smti Sipra Dutta

against the existing  
vacancies.

(h) Shri Harold Shabong

against the existing  
vacancies.

(j) Smti Nancybon Dkhar

against the existing  
vacancies.

(k) Smti Bibiana Mudi War

against the existing  
vacancies.

(l) Smti Bernadette Karmawphlang

8. The undermentioned Lower Division Clerks, Directorate General Assam Rifles, Shillong is hereby temporarily promoted to officiate as Upper Division Clerk in the same Directorate until further orders with effect from the forenoon of 23 Jul 90 in the scale of pay of Rs. 1200-30-1560-EB-40-2040/- per month plus other allowances as admissible under the rules against the vacancies noted against each :-

- : 3 :-

(a) Shri Dilip Kumar Paul - vice Smti Anjana Kar, UDC  
promoted as Assistant.  
(b) Shri Biplab Kumar Gupta - vice Shri PB Sarki, UDC  
promoted as Assistant.

*R. V. Kulkarni*  
( R. V. Kulkarni )  
Lt. Gen.  
Director General Assam Rifles

Memo No. I.11032/1/89-EST/50A Dated Shillong, the 23 Jul 90.  
Copy to :-

1. The Accounts Officer,  
Pay & Accounts Office, Assam Rifles  
Shillong - 793 003.
2. The Additional Accountant General  
(Central & Arunachal Pradesh)  
Inchacellette Building,  
Shillong - 793 003.
3. Bill Section, D.G.A.R, Shillong - 2 copies.
4. Individual concerned. *Sri Mohan Pradhan, ASW, Relm*
5. Personal File - 24 copies.
6. List 'C' - 24 copies.
7. Circulation file.
8. Office copy.

*S. S. Sandhu*  
( S. S. Sandhu )  
Col  
Deputy Director (GS)

GRADATION LIST: ASSISTANT/NAZIR OF ESTABLISHMENT  
OF THE DIRECTOR GENERAL ASSAM RIFLES: SHILLONG

30

AS ON 02 DEC 1997)

Name of posts : Assistant/Nazir  
 No. of sanctioned posts : 131 (One hundred thirty one)  
 Scale of pay : Rs. 4500-125-7000/-

(Note: The post of Lower Division Assistant and Upper Division Assistant of FCAR have been re-designated as Upper Division Clerk and Assistant respectively vide MHA letter No.2/5/76, D.P. IV dated 07 May 76)

Serial No.	Name of Enclerk/Assistant	Educational Qualification	Date of birth	Date of regular appointment	Subsidiary post held	Whether belongs to DC/ST	Remarks	
							1	2
1	Shri Surendra Nath Bayan	Matric	01-02-47	LDA in unit-22-08-63 UDC in FCAR-08-04-65	Asstt- Asstt- Asstt-	Neither 15-09-89 -21-09-84	Promoted to Suptd Ref 03-11-97 (P)	8
2	Smti Nisha Bhattacharjee	FCU	02-05-45	UDC Asstt	-26-06-65 -21-09-84	Neither		
3	Smti Farul Hey	BA	01-02-43	UDC Asstt	-06-09-65 -21-09-84	Neither		
4	Shri Kina Ram Chetia	PU	01-01-45	UDC Asstt	-07-08-65 -01-12-84	Neither		
5	Shri Debasish Choudhury	PU	01-10-45	UDC Asstt	-12-08-65 -01-05-85	Asstt- 01-12-95	Neither	

Attestor

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
48.	Smti Bina Kumari Pradhan	④ PU 62	01-3-43 08	Typist UDC Asstt	- 05-5-67 - 22-3-69 - 17-7-99	Asstt - 01-12-95	Neither
49.	Shri Kanak Jyoti Dey	⑤ PU Sc Supt	~1-1-43 08	UDC Asstt	- 23-5-67 - 15-3-99	-do-	-do-
50.	Smti Jayashree Choudhury	⑥ B.A BT Supt	31-3-46 06	UDC Asstt	- 25-4-69 - 15-3-99	-do-	-do-
51.	Shri Sumit Kumar Kar	⑦ BSC Supt	25-7-47 07	UDC Asstt	- 25-4-69 - 01-11-99	-do-	-do-
52.	Smti Maya Gurung	⑧ PU Supt	03-1-49 09	Typist UDC Asstt	- 31-3-69 - 10-5-69 - 30-5-99	-do-	-do-
53.	Smti Dhan Maya Gurung	① PU Supt	18-9-46 06	UDC Asstt	- 10-5-69 - 30-5-99	-do-	-do-

(1) (2) (3) (4) (5) (6) (7) (8)  
54. Smti Dhan Mati Gurung (10) PU 08-10-49 UDC -12-05-69 Asstt- Neither  
Asstt -30-05-90 01-12-95  
S. Pd  
09 64

23 55. Shri Siba Fada Chouchury (11) B.Ccm 20-02-46 UDC -12-05-69 Asstt- Neither  
Supd- 06 Asstt -30-05-90 01-12-95

56. Smti Angelyne Nongkynrih BA 01-03-47 UDC -19-06-69 -do- ST  
Part I Asstt -30-05-90  
P. K. S. P. K. S.

26 57. Smti Anjana Kar (2) PU 17-03-49 UDC -13-05-69 UDC Neither  
Asstt -23-07-90 20-07-13  
09

27 58. Shri Prem Bahadur Sarki (13) PU 01-09-48 UDC -13-05-69 -do- Neither  
Asstt -23-07-90  
08

28 59. Shri Bhola Pradhan (14) BA 01-12-46 UDC -13-05-69 -do- Neither  
Part I Asstt -23-07-90  
06

60. Smti Purna Goswami (Nee Chakrabarty) (5) PU 01-04-51 UDC -13-05-69 -do- Neither  
Asstt -23-07-90  
11

RS

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
61. Smti Dévjaní Deb X5	1b	BA Part-I	01-09-50 UDC 10 Asstt	14-05-69 UDC 65	Neither	20-07-73	⑥
62. Shri Rameswar Bhuyan X5 (1)	⑦	PU	12-16-48 UDC 01-03-44 Asstt	20-05-69 do -23-07-90	Neither		⑦
63. Smti Sipra Dutta (Née Nag) ① (2)	⑮	PU	01-03-50 UDC 10 Asstt	19-06-65 do -23-07-90	Neither		⑧
64. Shri Harold Shabong 1b (3)	⑯	PU	01-03-47 07 Adm UPC in DC.R-14-12-71 Asstt -23-07-90	12-12-67 in AP 21-09-76			⑨
65. Smti Nancyben Dkhär 17 (4)	⑰	BA Part-I	26-09-46 UDC 06 Asstt	20-12-71 do -23-07-90	ST		⑩
66. Smti Bibiana Modi War 11 (5)	⑱	BA	18-03-45 UDC 05 Asstt	09-02-72 do -23-07-90	ST		⑪
67. Smti Bernadette Karmaphlang 19 (6)	⑲	PU	01-03-47 UDC 07 Asstt	17-04-72 do -23-07-90	ST		⑫

## DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG

## O R D E R

I.11022/08/99-EST/29

Dated Shillong, the 11 Nov 99

In pursuance of Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) Office Memorandum No.35034/1/97-Estt(D) dated 09 Aug 99 sanction is hereby accorded to grant of 2nd Assurance career progression (in situ) in the scale of Pay Rs. 5500-175-9000/- per month to the following Assistants of Directorate General Assam Rifles, Shillong with effect from the forenoon of the 09 Aug 99 :-

Ser No	Name
1.	Shri Achintaya Dutta Choudhury
2.	Shri Mani Lal Deb
3.	Smti Subrata Bhattacharjee
4.	Shri D William Nongkhla
5.	Shri Vijay Pratap Singh
6.	Smti Diana Sushil Goswami
7.	Smti Uma Devi Pradhan
8.	Shri Jagneswar Bhattacharjee
9.	Shri Abhijit Mitra.
10.	Smti Lakshmi Arjun Kanungo.
11.	Smti R S Synteng Umwi.
12.	Shri Rajat Chokraborty
13.	Smti Monica Rynjah
14.	Shri Groland S Mowrie
15.	Shri Kalpa Kumar Dutta
16.	Shri Nobendu Jyoti Roy
17.	Shri Ranadhir Das Choudhury
18.	Smti Havalianare Rane
19.	Smti Robeline Kharpmaphlang
20.	Shri Precious Primus Mohorlieh.
21.	Shri Durga Prasad Pradhan
22.	Shri Norway Khongmalai.
23.	Smti Sted Mary Basaiwmoit.
24.	Smti Krishna Chakraborty
25.	Smti Wantula Langrai
26.	Smti Altrisa Sohtun
27.	Smti Daimonglang Lyngdoh
28.	Smti Idrina Lyngwa
29.	Shri Utpal Purkaystha
30.	Shri Jndra Mohan Sharma
31.	Shri Padmeshwar Bhattacharjee
32.	Shri Swapnil Kumar Sarbjit
33.	Smti Farwell Roy Ryngha
34.	Smti Jayashree Choudhury
35.	Shri Sumit Kumar Kar
36.	Smti Dhan Maya Gurung
37.	Smti Dhanmati Gurung
38.	Shri Siba Pada Choudhury
39.	Smti Anjana Kar
40.	Shri Prem Bahadur Sarki
41.	Shri Bhola Pradhan
42.	Smti Furba Goswami
43.	Smti Devjani Deb.
44.	Shri Rameswar Bhuyan

Attested

H. Bhuyan  
Advocate

Ser Name  
No

45. Smti Sipra Dutta  
 46. Shri Harold Shabong  
 47. Smti Nancybon D'khar  
 48. Smti Bibiana Modi War  
 49. Smti Bernadetta Kharmpahlang  
 50. Shri Baldwin G Lartang  
 51. Shri Devananda Baruah  
 52. Shri Saral Kumar Dutta  
 53. Smti Swapna Dutta Choudhury  
 54. Shri Jang Bahadur Sunwar  
 55. Smti Susan Maureen Tariang  
 56. Shri Ranjit Choudhury  
 57. Shri Gopal Pradhan  
 58. Smti Kredo Nongrum  
 59. Smti Bina Pani Gupta  
 60. Smti Lila Devi Gurung  
 61. Shri Rathindra Bhattacharjee  
 62. Shri Nilaja Kanta Arjunkanungo  
 63. Smti Dharitri Bhattacharjee  
 64. Shri Rishot Stone Tron  
 65. Shri Marcel Kharkonger  
 66. Smti Karywell Kharbithai  
 67. Smti Diana Wallang

(S J B. Sharma)  
 Maj Gen  
 Offg Director General  
 Assam Rifles

Memo No I.11022/07/99-EST/29A Dated Shillong, the 11 Nov 99

1. The Additional Accountant General  
 (Central & Arunachal Pradesh)  
 Lachatellette Building  
 Shillong-793003
2. The Accounts Officer  
 Pay & Account Office, Assam Rifles  
 Shillong- 793003
3. List 'D' & 'G' (less Estt Branch)
4. Estt Branch (SB/Bill Sec)
5. Individual Concerned
6. Circulation file
7. Office Copy

(R S Jaisaria)  
 Commandant  
 DC AMTO (DSAR)

## DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG

## O R D E R

I.11023/5/99/EST/32

Dated Shillong, the 1<sup>st</sup> Jan '2000

The initial pay of undermentioned Assistants of this Directorate General Assam Rifles is hereby fixed as at Col 4 against the scale of Pay of Rs. 5500-175-9000.00 under the provisions of FR 22(1)(a)(i) with DNI 01 Aug 2000 following their upgradation of pay under the Assured Career Progression Scheme sanctioned vide DGAR order No. I.11022/08/99-EST/29 dated 11 Nov'99.

Ser No.	Name	Present pay as on 09 Aug 99	Pay after upgradation
1	2	3	4
1.	Shri Swapan Kumar Sarbajna	Rs. 6,500.00	Rs. 6,725.00
2.	Smti Dhan Maya Gurung	Rs. 6,500.00	Rs. 6,725.00
3.	Smti Danmati Gurung	Rs. 6,500.00	Rs. 6,725.00
4.	Shri Siba Pada Choudhury	Rs. 6,500.00	Rs. 6,725.00
5.	Smti Anjana Kar	Rs. 6,500.00	Rs. 6,725.00
6.	Shri Prem Bahadur Sarki	Rs. 6,500.00	Rs. 6,725.00
7.	Shri Bhola Pradhan	Rs. 6,500.00	Rs. 6,725.00
8.	Smti Purna Goswami	Rs. 6,500.00	Rs. 6,725.00
9.	Smti Debjani Deb	Rs. 6,500.00	Rs. 6,725.00
10.	Shri Rameswar Bhuyan	Rs. 6,500.00	Rs. 6,725.00
11.	Shri Harold Shabong	Rs. 6,500.00	Rs. 6,725.00
12.	Smti Nancybon Dkhar	Rs. 6,500.00	Rs. 6,725.00
13.	Smti Bibiana Modi War	Rs. 6,500.00	Rs. 6,725.00
14.	Smti Bernadetta Kharmpohlang	Rs. 6,500.00	Rs. 6,725.00
15.	Shri Devananda Baruah	Rs. 6,500.00	Rs. 6,725.00
16.	Shri Saral Kumar Dutta	Rs. 6,500.00	Rs. 6,725.00
17.	Smti Swapna Dutta Choudhury	Rs. 6,500.00	Rs. 6,725.00
18.	Shri Jang Bahadur Sunwar	Rs. 6,500.00	Rs. 6,725.00
19.	Shri Ranajit Choudhury	Rs. 6,500.00	Rs. 6,725.00
20.	Shri Gopal Pradhan	Rs. 6,375.50	Rs. 6,550.00

Attested

W. Bhiana  
Advocate.

.....2.

1	2	3	4
21.	Smti Kredo Nongrum	Rs. 6,250.00	Rs. 6,550.00
22.	Smti Bina Pani Gupta	Rs. 6,375.00	Rs. 6,550.00
23.	Smti Leela Devi Gurung	Rs. 6,375.00	Rs. 6,550.00
24.	Shri Rathindra Bhattacharjee	Rs. 6,375.00	Rs. 6,550.00
25.	Shri Nilaja Kanta Arjun Karungao	Rs. 6,375.00	Rs. 6,550.00
26.	Smti Dharitri Bhattacharjee	Rs. 6,375.00	Rs. 6,550.00
27.	Shri Rishot Stone Tron	Rs. 6,250.00	Rs. 6,550.00
28.	Shri Marshal Kharkongor	Rs. 6,250.00	Rs. 6,550.00
29.	Smti Karywell Kharbithai	Rs. 6,250.00	Rs. 6,550.00

*Amto*

( B S Jaikaria )  
Comdt  
OC AMTO (DGAR)

Memo No. I. 11020/5/99-EST/31(A)

Copy to ...

Dated Shillong, the 05 Jan 2000.

1. The Additional Accountant General (Central & Arunachal Pradesh)  
Lachatelle Building, Shillong - 793003
2. The Accounts Officer, Pay and Accounts Office, Assam Rifles,  
Shillong - 3
3. List 'D & 'G'
4. Est Branch (Gen/Bill Sec)
5. Personal file
6. Circulation file
7. Office copy.

*S K Chopra*  
( S K Chopra )  
Dy Comdt  
Establishment Officer

*Shri Phula Prachan, Asstt  
EME*

TO,

The D.G.R  
Shillong

( THROUGH PROPER CHANNEL )

Sir,

With due humble submission, I have the honour to lay few lines for your information and necessary action please.

That sir, the promotion order issued vide your letter No. I.1122/06/EST/T/363 dt 06 Nov 2002 striked me mentally disturbed, So in order to know the reason and to get rid of mental agony. I am submitting this representation on the following grievances.

That sir, it is surprised to know that the name of Smt Anjana Kar appeared in the aforesaid promotion order because the date of appointment and promoting as Asstt of both of us falls on the same date i.e date of appointment on 13-05-69 and promoted as Asstt on 23-07-90. And under such circumstances the seniority to be counted from the date of birth and by virtue of which my date of birth is earlier than Smt Anjana Kar.

That sir, the aforesaid promotion have caused a grave injustice to me for reason not known to me and have tarnished my prestige.

I would therefore, request your honour to review case for promotion and obliged.

Yours faithfully,

( B . PRADHAN )  
AssttDate : 13 Nov 2002.

Amritpal  
W. P. B.  
Asstt

No. I.11022/06/2001-EST/72

Dated Shillong, the 22 Nov 2002

ESTABLISHMENT BRANCHFORWARDING OF APPLICATION

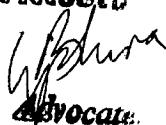
1. Reference your ION No I.11012/1/2002-UPA(Misc)/319 dated 14 Nov 2002.
2. Application dated 13 Nov 2002 submitted by Shri Bhola Pradhan, Assistant of your Branch has been examined with reference to relevant records. The applicant's name appeared below Smti Anjana Kar since his appointment. This position had been reflected in all subsequent orders issued, such as gradation list, ACP orders etc. The applicant never raised any observation all these years. Fixing of seniority according to date of birth as pointed out by him is not tenable in this case as the appointment letter issued in respect of the applicant contained names of 19 other LDA. Name of Smti Anjana Kar appears in ser No 9 whereas name of the applicant is at ser no 12.
3. The applicant may please be informed accordingly and advised not to raise such observation after a prolong period of 33 years.



(M S Yadav)  
Dy Comdt  
Establishment Officer

UPAO Branch

Received on 5<sup>th</sup> Dec 02

**Attested**


Advocate

## DIRECTORATE GENERAL ASSAM RIFLES : : SHILLONG-11

2

ORDER

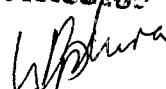
1.11022/06/EST-2002/

Dated Shillong, the 07 Dec 2002

1. Shri Dilip Kumar Suklabaidya, Record Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Accounts Officer in the same Directorate until further order with effect from the forenoon of 02 Dec 2002 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
2. Shri Sushil Kumar Sharma, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Record Officer in the same Directorate until further order with effect from the forenoon of 02 Dec 2002 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
3. Shri Bimal Kumar Goswami, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 02 Dec 2002 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
4. The following permanent Assistants of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Superintendent against the existing vacancies in the same Directorate until further order with effect from the forenoon of 02 Dec 2002 in the scale of pay of Rs 5500-175-9000/- pm plus other allowances as admissible under rules :-

- (a) Shri Prem Bahadur Sarki
- (b) Smti Purna Goswami
- (c) Smti Devjani Deb

Contd.....2

**Attested**
  
 Advocate

: 2 :

5. The following permanent Upper Division Clerk of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Assistant against the existing vacancies in the same Directorate until further order with effect from the forenoon of 02 Dec 2002 in the scale of pay of Rs 4500-125-7000/- pm plus other allowances as admissible under rules :-

- (a) Shri Mihir Kumar *[Signature]*
- (b) Shri Tapati Ranjan Deb
- (c) Shri T G Padmanabhan
- (d) Shri Pramatha Ranjan Dutta

*[Signature]*

(P R Batra)

Brig/

Offg Addl. Director General  
Assam Rifles

Memo No. I.11022/06/EST-2002/

Dated Shillong, the 03 Dec 2002

1. The Additional Accountant General  
(Central & Arunachal ) Lachallette Building,  
Shillong-3
2. The Accounts Officer,  
Pay and Accounts Office, Assam Rifles,  
Ministry of Home Affairs,  
Government of India,  
Laitumkhrah, Shillong-3

Internal

3. Establishment Branch (SB Section ) - (10 copies)
4. Establishment Branch (Bill Section)
5. List 'D' & 'G' (Less Est Branch)
6. Individual Concerned *Shri Pern Bahadur Sahi, UPAD*
7. Office Copy

(V R Pal)

Comdt

CC ARASU (DGAR)

The Director General of Assam Police  
S. L. Dhar

- 42 -

ANNEXURE-13

1. Ref your Information Order No 11022/66/  
EST/2002 dated 03 Dec 02

2. With due humbl submission I desire  
the honourable to say few lines for your  
information and necessary action.

That Sir, of late have been promotion  
to three posts of Sub-intendent on 03 Dec 2002  
and as ill luck would have it I have been  
overruled by my junior Smt Devjani Dib.

That Sir, the aforesaid promotion have  
caused a grave injustice to me for reason  
not known to me and I have furnished my  
handing in the office due to which I am  
mentally disturbed.

In view of above, other circumstances  
I would therefore request your honour to  
review the same at the earliest.

Attn: Sir

Writen and dictated 5th Dec 02  
in 2006

Yours faithfully  
S. L. Dhar  
(B. B. PRADHAN) D. M.

ANNEXURE 13-A

14

To

The Director General of Assam Rifles,  
Shillong.

1. Ref your promotion Order No. I.11022/06/EST/2002 dated 03 Dec, 02
2. With due humble submission I have the honour to lay few lines for your information and necessary action.
3. That Sir, of late have been promotion to three post of Superintendent on 03 Dec, 2002 and as ill luck would have it I have been superceded by my junior Smt. Devjani Deb.
4. That Sir, this aforesaid promotion have caused grave injustice to me for reason not known to me and have tarnished my prestige in this Office due to which I am mentally disturbed.
5. In view of above, I would therefore request your honour to review the same at the earliest.

Dated 5<sup>th</sup> Dec, 02

Yours faithfully,

Sd/-  
Bhola Pradhan

Attested

W. P. Dube  
Advocate

**DISTRICT : EAST KHASI HILLS**

**IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR :  
TRIPURA : MIZORAM AND ARUNACHAL PRADESH )**

**( SHILLONG BENCH )**

**( CIVIL EXTRAORDINARY JURISDICTION )**

**W. P. (C) No. 429/ (SH)2002**

**To**

**Shri P. P. Naolekar, B. Com., LL.B., the Hon'ble the Chief  
Justice of the Gauhati High Court and His Lordship's  
companion Justices of the said Hon'ble Court.**

**IN THE MATTER OF :**

An application under Article 226  
of the Constitution of India  
praying for a Writ in the nature of  
mandamus and/ or certiorari  
and/or any other appropriate  
writ, order or direction.

**-AND-**

**IN THE MATTER OF :**

Arbitrary and discriminatory  
action of the respondents in  
promoting the respondents Nos.  
5 and 6 as Superintendent in the  
Office of the Directorate General  
Assam Rifles superseding the

Attest:  
W. P. Naolekar  
Advocate

petitioner who is senior to them  
in the Gradation List.

-AND-

**IN THE MATTER OF :**

Order under Memo No.  
I.11022/06/EST-2002/74 dated  
3.12.2002 issued by Brigadier P.  
R. Batra, Officiating Additional  
Director General, Assam Rifles.

-AND-

**IN THE MATTER OF :**

Bhola Pradhan,  
S/o (L) M. B. Pradhan,  
Resident of Jhalupara, Shillong.

.....**Petitioner**

**-Versus-**

1. Union of India represented by the Director General, Assam Rifles, Shillong.
2. Officiating Additional Director General, Assam Rifles, Shillong.
3. Deputy Director General, Assam Rifles, Shillong.
4. Assistant Director(A) Public Grievances Officer H.Q. DGAR, Shillong.

5. Smti. Purna Goswami,  
W/o P. K. Goswami,  
Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.

6. Smti. Debjani Deb,  
W/o Shri A. C. Deb,  
Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.

The humble application on  
behalf of the petitioner  
abovenamed .....

**MOST RESPECTFULLY SHEWETH :**

1. That your petitioner is a citizen of India and a permanent resident of Shillong.
2. That your petitioner states that he joined service in the Office of the respondent No. 1 as Lower Division Assistant on 13.5.1969 after being appointed vide order dated 10.5.69. He served in the post diligently and sincerely to the satisfaction of all concerned and was promoted as Assistant on 23.7.1990 in the Record Branch of the Office of the

respondent No. 1. Your petitioner has served as Nazir in the Establishment Branch and also as Branch In charge, Electrical Mechanical and Engineering Branch ( EME Branch ) in the year 2000. In the course of his service, your petitioner passed the Hindi Praveen Examination held in December, 1971, whereby vide Order No. HBM/AR/13/70 dated 21.2.1973, your petitioner was awarded a cash award of Rs. 100/- (one hundred only). In recognition of his passing the Pragya Examination for Hindi Language, your petitioner was awarded one increment for the period from 12.9.1985 to 11.9.1986 vide letter No. I.11011/14/82-EST/189 dated 3.1.1986.

Copy of Orders dated 10.5.69, 21.2.1973 and 3.1.1986 are annexed hereto and are marked as Annexures 1,2 and 3 respectively.

3. That your petitioner states that vide Order No. EST/V-C/1-70/215 dated 28.12.1973, your petitioner was confirmed in the posts of Lower Division Assistant, HQ Inspector General of Assam Rifles, Shillong in the scale of pay of Rs. 140-6-170-EB-7-205-EB-7-275/- per month with effect from 23.7.1973.

Copy of Order dated 28.12.1973 is annexed hereto and is marked as Annexure 4.

4. That your petitioner states that your petitioner made a representation since 20.11.1984 to the respondent No. 1 regarding the seniority list issued vide Est. branch letter No. I.11027/1/80-Est dated 17.4.1984 whereby your petitioner was shown to be junior and below his two colleagues who had joined on the same day but to whom the petitioner is senior in age. However, the respondents did not reply to the representation and chose to remain silent over the same. On 23.6.1989, your petitioner filed another representation to the respondent No. 1 through proper channel. However, no reply was given to the same.

Copy of letter dated 20.11.1984 is annexed hereto and is marked as Annexure 5.

5. That your petitioner states that vide Order under memo No. I.11032/1/89-EST/50 dated 23.7.1990, your petitioner who had then been serving as Upper Division Clerk, in the Office of the respondent No. 1 was promoted to officiate as Assistant in the same office until further orders. This promotion was effected along with the respondents Nos. 5 and 6.

Copy of Order dated 23.7.1990 is annexed hereto and is marked as Annexure 6.

6. That your petitioner states that a Gradation list of the Assistant/ Nazir of Establishment of the Director General, Assam Rifles, Shillong as on 2. 12. 1997 was prepared by the respondents. In this list, your petitioner's name was shown at serial No. 59 whereas that of the respondent No. 5 at serial No. 60 and respondent No. 6 at serial No. 61. In this list your petitioner was clearly shown as being senior to the respondents Nos. 5 and 6.

Copy of the extract of the gradation list is annexed hereto and is marked as Annexure 7.

7. That your petitioner states that vide Order under memo No. I.11022/08/99-EST/29 dated 11.11.1999, your petitioner was accorded a grant of 2<sup>nd</sup> Assurance career progression in the scale of pay of Rs. 5500-175-9000/- per month. In the list, your petitioner's name was shown at serial No. 41 and the respondent No. 5 at serial No. 42 and respondent No. 6 at serial No. 43.

Copy of the Order dated 11.11.1999 is annexed hereto and is marked as Annexure 8.

8. That your petitioner states that vide order under memo No. I.11023/5/99/EST/32 dated 4.1.2000, your petitioner along with respondents Nos. 5 and 6 were granted initial pay of Rs. 5500-175-

9000.00 following the upgradation of the post. In the list, your petitioner's name had been shown at serial No. 7 whereas the names of respondent No. 5 was shown serial No. 8 and that of respondent No. 6 at serial No. 9.

Copy of order dated 4.1.2000 is annexed hereto and is marked as Annexure 9.

9. That your petitioner states that with respect to Letter No. I.1122/06/EST/T/363 dated 6.11.2002 promoting one Smti. Anjana Kar, your petitioner wrote a representation to the respondent No. 1 stating that their appointments were of the same date but your petitioner is senior in age to Smti Anjana Kar, therefore the seniority should be counted from the date of birth. Thereafter, vide letter No. I.11022/06/2001/EST/72 dated 22.11.2002, the respondents rejected the claim of the petitioner and observed that the petitioner should not raise such observation after a prolonged period of 33 years ignoring the fact that he had earlier represented against the same and that the grievances were never redressed.

Copy of representation dated 6.11.2002 and letter dated 22.11.2002 are annexed hereto and are marked as Annexures 10 and 11 respectively.

10. That your petitioner states that all of a sudden vide order No. I.11022/06/EST-2002 dated 3.12.2002, the respondents promoted the respondent Nos. 5 and 6 as Superintendent against the existing vacancies in the Directorate ignoring the petitioner, who was more eligible to be promoted than the respondents Nos. 5 and 6 who are his juniors and who have superceded him. Being aggrieved by the action of the respondents in promoting the respondents Nos. 5 and 6, your petitioner filed a representation dated 5.12.2002 before the respondent No. 1 which had not effected any response from the respondents.

Copies of the Order dated 3.12.2002 and representations dated 2.12.2002 and 5.12.2002 are annexed hereto and are marked as Annexures 12, 13 and 13-A respectively.

11. That your petitioner states that being unable to comprehend or understand the arbitrary action of the respondents as to the reasons for his not being considered for promotion enquired from his colleagues and immediate superiors to ascertain the facts and though no reason was forthcoming, it was speculated that this action could have only been warranted if there was some adverse entry in his record. However, even if there was any adverse entry the same was

never communicated to him thus depriving the petitioner of a chance of representing against the same. The action of the respondents therefore which is discriminatory and unwarranted has violated the settled principles of law and service jurisprudence and has caused grave injustice to the petitioner.

12. That your petitioner submits that the respondents acted illegally, arbitrarily and discriminatorily in promoting the respondents Nos. 5 and 6 superceding the petitioner without considering his service record thereby ignoring the seniority he had acquired and as such the action is violative of the principles of natural justice and settled principles of service jurisprudence, therefore the impugned Order dated 3.12.2002 is liable to be set aside and quashed and your petitioner ought to be promoted as Superintendent in the Office he is serving.

13. That your petitioner submits that the respondents acted illegally, arbitrarily and discriminatorily in ignoring the length of service of your petitioner and allowed the respondents Nos. 5 and 6 to supercede the petitioner in spite of representations which had been filed by the petitioner since 1984 against the gradation list and as such the impugned order is liable to be set aside and quashed and the

respondents are liable to be directed to promote the petitioner to Superintendent.

14. That your petitioner states that the respondents acted illegally, arbitrarily and discriminatorily in not considering the promotion of the petitioner to Superintendent in spite of the petitioner having worked for the last 33 years without any blemish in his record and service career and even during his service he had been given several promotions duly and had been awarded for his performance and as such the impugned order is liable to be set aside and quashed and the respondents are liable to be directed to promote the petitioner to Superintendent.
15. That your petitioner submits that the action of the respondents in allowing the respondents Nos. 5 and 6 who are junior to the petitioner to supersede the petitioner is illegal, arbitrary and discriminatory and as such the impugned Order is liable to be set aside and quashed and the petitioner ought to be promoted to the post of Superintendent.
16. That your petitioner submits that the action of the respondents in not taking into account the fact that if adverse entries had been entered in the Confidential Report of the petitioner they were not communicated and the petitioner had no chance to represent against

them as such the impugned order is liable to be set aside and quashed and the petitioner ought to be promoted to the post of Superintendent.

17. That your petitioner states that the action of the respondents is violative of Article 14 and 19 of the Constitution of India and the principles of natural justice.

18. That your petitioner states that during the pendency of this case unless the impugned Order under memo No. I.11022/06/EST-2002/74 dated 3.12.2002 issued by the respondent No. 2 is stayed your petitioner shall suffer irreparable loss and injury.

19. That there is no other alternative and efficacious remedy and the relief prayed for will be just, adequate and complete.

20. That your petitioner demanded justice and the same was denied.

21. That this application is made bonafide and in the interest of justice.

In the premises aforesaid, it is prayed that Your Lordships may be pleased to call for records, issue a Rule calling

upon the respondents to show cause as

to why a writ in the nature of

mandamus be not issue directing the

respondents to withdraw, recall or

otherwise forbear from giving effect to

the Order under memo No.

I.11022/06/EST-2002/74 dated

3.12.2002 ( Annexure 12 ) issued

by the respondent No. 2 and/ or why a

writ in the nature of certiorari be not

issued quashing and setting aside the

same and on cause or causes being

shown and after hearing the parties be

pleased to make the Rule absolute

and/or may pass such further or other

Order or Orders as Your Lordships may

deem fit and proper

-AND-

during pendency of the Rule be further

pleased to stay the operation of the

impugned Order under memo No.

I.11022/06/EST-2002/74 dated

3.12.2002 ( Annexure 12 ) issued by  
the respondent No. 2.

And your petitioner as in duty bound shall ever pray.

### **AFFIDAVIT**

I, Shri Bhola Pradhan, S/o (L) M. B. Pradhan aged 55 years, resident of Jhalupara, Shillong do hereby solemnly affirm and say as follows:-

1. That I am the petitioner in the instant case and am acquainted with the facts and circumstances of the case.

2. That the statements made in paragraphs are true to my knowledge which I believe to be true and those made in paragraphs being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Court.

Identified by :

### **DEPOSITION**

Advocate

## TIVACIUTA

## ТИПИЧНЫЕ

et se ouvbA

Date of application for copy.	Date fixed for calling the requisite number of stamps and tolls.	Date of delivery of the requisite stamps and tolls.	Date on which the copy was ready for delivery.	Date of making over copy to the applican
13-12-02	13-12-02	13-12-02	13-12-02	13-12-02

- 58 -

ANNEXURE - 16

IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND,  
MEGHALAYA, MANIPUR AND TRIPURA)  
SHILLONG BENCH  
CIVIL APPELLATE SIDE

Appeal from

Civil Rule No 429 B/02 of 20

Bhakta Pradhan

Versus

review of Bhakta & a/s

Appellant

Petitioner

Respondent

Opposite-Party

For Appellant Mr. H. Z. Shyamkumar  
Mr. B. D. Phukan  
Petitioner Mr. K. Khan  
Mr. L. Khilpi  
For Respondent Mr. P. Dey (Sub) C. C. S.C  
Opposite-Party

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
	1	2	3



Attested  
W. Bhakta  
Advocate.

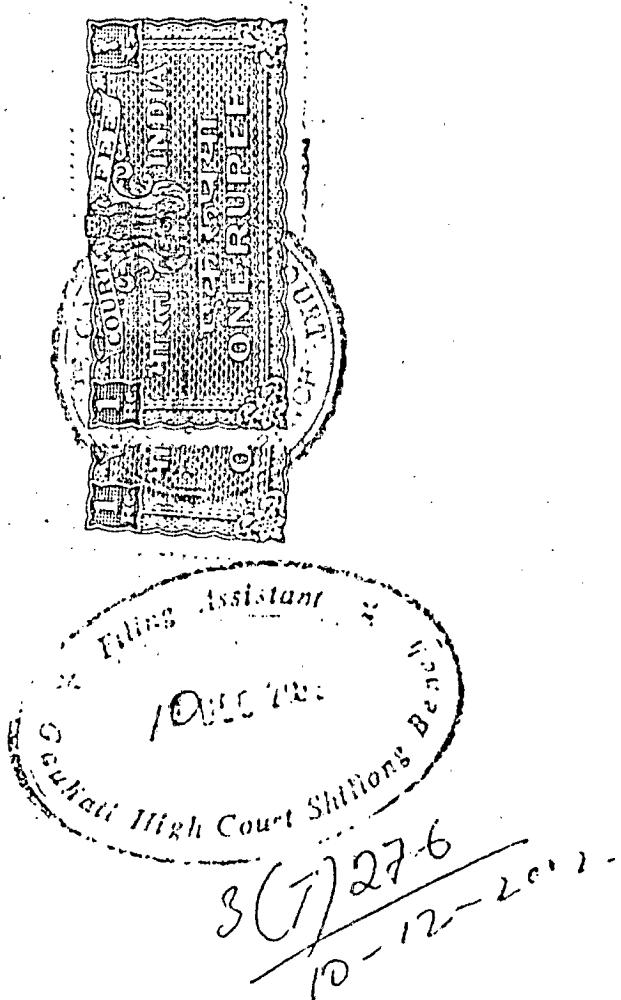
IN THE MATTER OF :

Bhola Pradhan,  
S/o (L) M. B. Pradhan,  
Resident of Jhalupara, Shillong.

.....Petitioner

-Versus-

1. Union of India represented by the Director General, Assam Rifles, Shillong.
2. Officiating Additional Director General, Assam Rifles, Shillong.
3. Deputy Director General Assam Rifles, Shillong.
4. Assistant Director(A) Public Grievances Officer H.Q. DGAR, Shillong



5. Smti. Purna Goswami,  
W/o SHRI P. K. GOSWAMI,  
Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.

6. Smti. Debjani Deb,  
W/o SHRI A. C. DHA,  
Office of the Director  
General, Assam Rifles, Unit  
Pay and Account Office  
(UPAO), Shillong.  
The humble application on  
behalf of the petitioner  
abovenamed .....

Noting by Office or Advocate

Serial  
No.

Date

Office notes, reports, orders or proceedings  
with signatures

4

1

2

3

BEFORE

THE HON'BLE MR JUSTICE RANJAN GOGOI

11.12.2002

Heard Mr HS Thangkhiew, learned counsel for the petitioner and Mr P Dey, learned Addl. CGSC for the respondents 1 to 4.

Notice on respondents 5 and 6 has been served personally and an affidavit to that effect has also been filed in Court. However, no appearance has been made on behalf of the said respondents.

Set a Rule issue calling upon the respondents to show cause as to why a writ as prayed for should not be issued; and or why such further order or orders should not be passed as this Court may deem fit and proper.

The Rule is made returnable on 3.2.2003. No fresh notices need be issued to the respondents No. 1 to 4 as Mr Dey, learned Addl. CGSC had already entered appearance on behalf of the said respondents. Fresh notices however be served on respondents 5 and 6 by Registered Post. Requisites be filed within three days.

Heard the learned counsel for the parties on the interim prayer. Pursuant to the order passed by this Court on 11.12.2002, Mr Dey has placed before this Court the relevant records including the minutes of the proceedings of the defendant to which the impugned petition

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Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4
		13.12.2002.....	- 2 -
			<p>has been made. Learned counsel has also submitted that the respondents No. 5 and 6 have joined in the post of Superintendent to which they have been promoted by the impugned order dated 3.12.2002. As the respondents have already been promoted to the higher post of Superintendent and they have joined in the said higher post, this Court does not consider it appropriate to interfere with the aforesaid promotion by means of an interim order. However, on perusal of the records produced by the learned Addl. CGSC, this Court is of the tentative view that the petitioner has a <i>prima facie</i> case in his favour which needs to be adjudicated at an early date. Consequently, the learned Addl. CGSC is directed to retain the records produced in Court today and file an affidavit if the same is considered necessary on or before the returnable date.</p> <p>In the meantime, the respondents shall consider the entitlement of the writ petitioner for promotion to the post of Superintendent and if he is found so entitled the pendency of the writ petition shall not act as a bar to the respondents to so promote the writ petitioner.</p> <p>List again on 3.2.2003.</p> <p style="text-align: right;">Sd/- R. Geog JUDGE</p> <p style="text-align: right;">(Signature)</p> <p>dr</p> <p style="text-align: right;">13.12.2002</p> <p style="text-align: right;">(Signature)</p>

No. I.11022/06/2001-EST/78

Dated Shillong, the 16 Dec 2002

ESTABLISHMENT BRANCH

FORWARDING OF APPLICATIONS

1. Reference your ION No I.11012/1/2002-UPO(Misc)/325 dated 05 Dec 2002.
2. It is to inform that the application submitted by Shri B Pradhan, Assistant of your Branch has been duly examined and it has been revealed that the case of applicant for promotion was not recommended by the DPC on the ground that he did not fulfill the eligibility criteria for selection, as the promotion to Superintendent are to be made on Selection-cum-Seniority basis and not merely on seniority basis and hence he has been superseded by his next junior Smti Debjani Deb.
3. Shri B Pradhan, Assistant may be informed accordingly.

*Not Recd by DPC*  
*Recd on 23/12*  
*Selvin Cum Seniority basis*  
*(M S Yadav)*  
*Dy Comdt*  
*Establishment Officer*

UPAO Branch

*Recd on  
23/12  
D.S.*

*Attested  
W. Bhattacharya  
Advocate*

**DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG-II**

**ORDER**

No. I.I1022/06/EST-2002/51

Dated Shillong, the 6 | Jan 2003

1. Shri Sushil Kumar Sharma, Record Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
2. Shri Bimal Kumar Goswami, Additional Accounts Officer, Directorate General Assam Rifles is hereby temporarily appointed to officiate as Record Officer in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
3. Shri Jagat Moy Das, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
4. Shri Aniendu Chowdhury, Superintendent, Directorate General Assam Rifles is hereby temporarily promoted to officiate as Additional Accounts Officer in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 6500-200-10,500/- pm plus other allowances as admissible under rules.
5. The following permanent Assistant of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Superintendent in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 5500-175-9000/- pm plus other allowances as admissible under rules :-

✓ (a) Shri Rameswar Bhuyan  
 (b) Smti Sipra Dutta

Contd. .... 2

**Attested**

*Subhra*  
Advocate

: 2 :

5. The following permanent Upper Division Clerk of Directorate General Assam Rifles are hereby temporarily promoted to officiate as Assistant in the same Directorate until further order with effect from the forenoon of 01 Jan 2003 in the scale of pay of Rs 4500-125-7000/- pm plus other allowances as admissible under rules :-

- (a) Md Ali Ansari
- (b) Shri Joy Ram Khatanor
- (c) Shri Samar Chandra Dutta

(P R Batra)  
Brig  
Offg Addl. Director General  
Assam Rifles

Memo No. I.11022/06/EST-2002/21/4

Dated Shillong, the 01 Jan 2003

1. The Additional Accountant General  
(Central & Arunachal) Lachallette Building,  
Shillong-3
2. The Accounts Officer,  
Pay and Accounts Office, Assam Rifles,  
Ministry of Home Affairs,  
Government of India,  
Laitumikhrah, Shillong-3

Internal

3. Establishment Branch (SB Section) - (10 copies)
4. Establishment Branch (Bill Section)
5. List 'D' & 'G' (Less Est Branch)
6. Individual Concerned
7. Office Copy

(V R Pal)  
Comdt  
OC ARASU (DGAR)

**ANNEXURE – 19**

W. P. (c) 429 (SH) 2002  
Bhola Pradhan ..... Petitioner  
Versus  
Union of India & Ors. ..... Respondents

**B E F O R E**

THE HON'BLE JUSTICE B. LAMARE

For the petitioner : Mr. H. S. Thangkhiew,  
Mr. B. W. Phira,  
Mr. K. Khan,  
Mr. L. Khyriem, Advocates  
For the respondents : Mr. P. Dey, Addl. CGSC.

Date of Order : 5.2.2003

Heard Mr. H. S. Thangkhiew, learned counsel assisted by Mr. Phira, learned counsel for the petitioner and also heard Mr. S. C. Shyam, learned CGSC.

At the first instance, Mr. Shyam raised the question of jurisdiction of this Court in entering the writ petition by filing a Misc. Case 5(SH) 2003.

The contention of Mr. Shyam is that as per section 14 of the Administrative Tribunals Act, 1985, the matter in this petition falls within the jurisdiction of the Central Administrative Tribunals. In support of his contention, Mr. Shyam referred a case reported in AIR 2002 SC 1295 – Kendriya Vidyalaya Sangathan and others, Appellants Vs. Dr. R. D. Vishwakarma and others, Respondents, wherein it was held that even the employees the Kendriya Vidyalaya which is an autonomous body controlled by the Govt. of India also falls within the jurisdiction of the Central Administrative Tribunals.

Mr. Thangkhiew, learned counsel for the petitioner fairly submits that in view of the above position he may be allowed to withdraw the petition with a liberty to file a fresh petition before the competent forum Central Administrative Tribunals. The prayer is allowed. The petition is disposed on withdrawal, the petitioner is at liberty to approach the competent forum for his grievances.

With the above directions, this petition is disposed of.

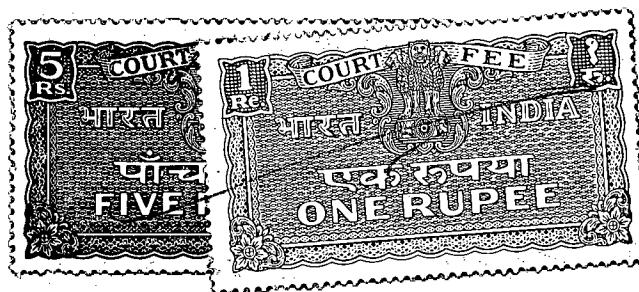
Sd/-

**B. LAMARE**

JUDGE

Attested

*W. Phira*  
Advocate



District: EAST KHASI HILLS (MEGHALAYA)

**VAKALATNAMA**

**IN THE GAUHATI HIGH COURT**

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,  
MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

O.A. No. 33 of 2003

*Bhola Pradhan*

Appellant  
Petitioner

Versus  
*Union of India & Ors.*

Respondent  
Opp. Party

Know all men by these presents that above named Permittee do hereby nominate, constitute and appoint Shri / Smti H. S. Thangkhiew; B. W. Phira, K. Khan & L. Khyiem Advocate and such of the undermentioned Advocate/Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act/plead for me/us in the matter noted above and in all Miscellaneous and interlocutory matters in connection therewith including review and execution of decree or order, if any, and compromise and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deed of composition etc. for me/us and on my/ours behalf and I/we agree to ratify and confirm all acts so done by the said Advocate/Advocates as mine/ours to all intents and purposes. In case of non payment of the stipulated fee in full, no Advocate will be bound to appear or act or to do such act for which he is so authorized.

In Witness whereof I/We hereunto set my/our hand this 20<sup>th</sup> day of February 2003

Shri. N. M. Lahiri(Sr. Adv)  
Shri. G. S. Massar(Sr. Adv)  
Shri. A. Massar  
Shri. T. T. Diengdoh

Shri. H. S. Thangkhiew  
Shri. B. W. Phira  
Shri. K. Khan  
Shri. L. Khyiem

Shri. E. C. Suja  
Shri. D. Thabah  
Smti. I. War  
Shri. P. Nongbri

Shri \_\_\_\_\_ Sr. Advocate will lead me in the case.

Advocate

Received from the executant  
Satisfied and accepted

*H. S. Thangkhiew*  
Advocate

*Khalid Khan*

And Accepted

*B. W. Phira*  
Advocate

And Accepted

*B. W. Phira*  
Advocate

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*Bhola Pradhan*  
(BHOLA PRADHAN)

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NOTE

FROM : B. W. PHIRIA,  
ADVOCATE,  
GAUHATI HIGH COURT,  
SHILLONG.

TO : CENTRAL GOVT STANDING COUNSEL,  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI.

RE : O.A. 2003  
BHOLA PRADHAN  
-vs-  
UNION OF INDIA & ORS

SIR,  
With reference to the above, kindly  
acknowledge receipt of the petition in the  
aforementioned case which is filed today.

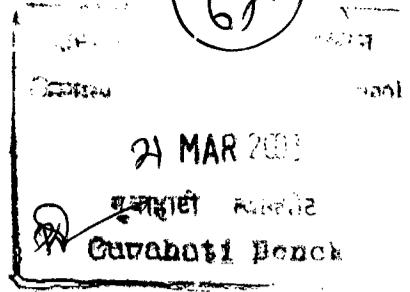
Thanking you:

Yours faithfully,

Dated 21 Feb 2003  
Guwahati.

B W Phiria  
Advocate

Received copy  
AK Choudhury  
Addl. G.G.C  
21/2/03



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH : GUWAHATI**

**OA NO 33/2003**

**Shri Bhola Pradhan..... Applicant**

**Versus**

**Union of India and Others..... Respondents.**

**WRITTEN STATEMENT FOR RESPONDENTS 1, 2, 3, 4 & 5**

1. That with reference to Para-1, to 4(3) of the O.A are admitted being matter of record.
2. That with regard to the statement made in Para-4(4) of the O.A, the deponent begs to submit that the statement made in this Para is unfounded in view of the fact that the petitioner submitted application regarding seniority on 13 Nov 2002 stating that his seniority be counted above Smti Anjana Kar. The application was duly considered and suitable reply was furnished to the petitioner clarifying his point of doubt( Annexure-11 of the O.A refers).
3. That with regard to the statement made in Para-4 (5) (6) (7) and (8) of the O.A, the deponent begs to offer no comments being matter of record.

Union of India & Ors  
- Respondents  
through  
Shri Hemanta Chanchal  
21/3/03

4. That with reference to the statement made in Para-4 (9) of the O.A, the deponent begs to offer no comments as the same have been stated in reply to Para 4(4) of the O.A.

5. That with reference to the statement made in Para 4 (10) of the O.A, the deponent begs to submit that promotion of employees are regulated by the Recruitment Rules and based on which the suitable candidates are selected by the Departmental Promotion Committee in accordance with the policy/instructions issued by the Government of India from time to time. It may be mentioned that the DPC enjoys full discretion for objective assessment of the suitability of candidates who are to be considered by them. While merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by didn't of hard work, good conduct and result-oriented performance as reflected in the annual confidential reports and based on strict and rigorous selection process. Government also has cleared the misconception about 'Average' performance. While 'Average' may not be taken as adverse remark in respect of an officer, at the same time, it cannot be regarded as complimentary to the officer, as 'Average' performance should be regarded as routine and undistinguished. It is only performance that is above average and performance that is really noteworthy which should entitle an officer to recognition and suitable rewards in the matter of promotion.

That the Recruitment Rules for Superintendent of the office of the Respondent No. 2 provides inter alia that the promotion from Assistant to Superintendent to be made on Selection –cum-Seniority basis and criteria for selection being 6 years regular service in the grade of Assistant. Further, the Govt of India's policy instructions on selection provides that

the DPC should assess the suitability of officers for promotion on the basis of their service record and with particular reference to the Confidential Reports for 5 preceding years. It is also provided in the policy instruction that for all Group C, B, and Group A posts up to ( and excluding) the level of Rs. 3700-5000 ( now (revised to 12000-375-16500) excepting promotions for induction to Group A posts or services from lower groups, the bench-mark would be "Good". All officers whose overall grading is equal to or better than the bench-mark should be included in the panel for promotion to the extent of the number of vacancies.

That, in the instant case of the petitioner, the DPC did not recommended his case for promotion to the post of Superintendent on the ground that he had earned " Average" grading in his Confidential Report for the year 1999-2000, and this CR falls with five years period as stipulated in the Government Orders. Hence his name was not figured in the panel for promotion and as a result his next juniors whose names figured in the panel were promoted.

That, the application dated 05-12-2002 submitted by the applicant has been examined taking into account all the relevant factors and has been processed for the decision of the competent authority. This would be disposed of as soon as the competent authority endorses decision in this matter.

6. That with reference to the statement made in Para 4(11) of the O.A, the deponent begs to submit that the statement made in this Para is baseless, unfounded and untenable in view of the fact that there was no arbitrary action on the part of the Respondents in the light of what have been stated in Para 5 above. The promotion was ordered strictly in compliance with the orders and procedures prescribed by the Recruitment

Rules and the Government of India. There was no requirement of communicating to the petitioner the grading of "Average" as the same is not an adverse entry and this has been elaborately discussed in Para 5 above.

7. That with reference to the statement made in Para 4 (12), (13) & (14) of the O.A, the deponent begs to offer no comments being matter of record.

8. That with regard to the statement made in paragraphs – 5(1) (2) (3) and (4) of the O.A, the deponent begs submit that the averments made in these paragraphs are untenable in view of what have been stated in the preceding paragraphs and as such no further comments are called for against those paragraphs.

9. That with reference to the statement made in Para-5 (5) of the O.A, the deponent begs to submit that since there was no adverse entry in the CR of the petitioner, there was no question of communicating the same to the petitioner. Grading "Average" is not an adverse entry. Since the promotion of Superintendent is to be made on Selection-cum-Seniority basis and bench mark "Good" is prescribed for consideration of promotion, as such the case of applicant was not recommended by the DPC. The statement made in this Para is therefore misrepresentation of fact and as such untenable.

10. That with regard to the statement made in Para 5 (6) (7) (8) (9) and (10) of the O.A, deponents beg to offer no comments being matter of record and as well averments made in these paragraphs have already been replied in preceding paragraphs.

That it is humbly submitted that there was no violation of Article 14 and 19 of the Constitution of India as the action of the Respondents were strictly

(H)

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in compliance to the Recruitment Rules which is Statutory Rule and also in accordance with the orders on the subject issued by the Government of India. Hence the contention of the petitioner is denied being unfounded, baseless and motivating.

11. That, with reference to the statement made in Para 6 to 12 of the O.A, deponent begs to offer no comments being matter of record.

That, with reference to the statements made O.A it is submitted that the petition does not merit any consideration in view of what have been stated in replies to statement made in the petition and as such liable to be dismissed with cost.

#### DEPONENT

#### VERIFICATION

I, Major K.S George, aged 35 years s/o Late Mr. K. M George, working as SO2 (Legal) in the Office of the Directorate General Assam Rifles being authorized by the Director General Assam Rifles to hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I, sign this verification on this 18<sup>th</sup> day of March 2003.

#### DEPONENT

*Henry*  
 एक. दो. २ (पिपि)  
 SO 2 (Legal)  
 दिग्गजसाल्य असम एस्सर्स  
 Directorate General Assam Rifles  
 शिलांग-793011  
 Shillong-793011

