

50/100

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 114 / 103

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - Kailash Barman & 2 O/S

Respondants: - Govt & O/S

Advocate for the Applicants: - Mr. S. Das & G. Pathak

Advocate for the Respondants: -

C. G. S. A. K. Choudhury for 324

Notes of the Registry	Date	File	Order of the Tribunal
-----------------------	------	------	-----------------------

This application is in
form but not in time

~~Contempt~~ Petition is

filed / not filed C. F.

for Rs. 100/- deposited

vide No. 84490483

Dated 22/5/03

30.5.2003

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

The Hon'ble Mr. S.K. Hajra,
Member (A).

Heard Mr. S. Das, learned counsel
for the applicants.

The application is admitted. Call
for the records.

List again on 30.6.2003 for orders.

Dr. Registrar

Member

Vice-Chairman

30.6.2003

Mr. A.K. Choudhury, learned Addl.

C.G.S.C. has entered appearance on behalf
of respondent Nos. 1, 2 and 3 and prayed
for time for filing written statement.

Prayer is allowed. List again on 4.8.2003
for written statement.

Vice-Chairman

mb

steps taken

Some
29/5/03

mb

Notice preferred and sent
to D/S for issuing the
respondent No. 1 to 21
to Legat. A/D.

D/N No 1130 to 1155

Dtd 31/6/03

2/6/03

Notice return in No Respondent
No. 5, 7 & 13 are return to
Refused by the address

2/6/03

(2)

2
No written statement
has been filed

28/8/03

4.8.2003 Present : The Hon'ble Mr. Justice D.
N. Chowdhury, Vice-Chairman
The Hon'ble Mr. N.D. Dayal,
Administrative Member.

Four weeks further time is allowed
to the respondents to file written
statement on the prayer of Mr. A.K.
Chowdhury, Vice-Chairman.

List on 1.9.2003 for orders.

No written statement
has been filed

29/8/03

mb
1.9.2003 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan,
Administrative Member.

Member

Vice-Chairman

Written statement has been filed.

The case may now be listed for hearing
on 28.9.2003. The applicant may file
rejoinder, if any, within two weeks
from today.

10/9/03
D/s filed
by the Respondent
Nos. 1, 2 & 3.
PAD
mb
10/9/03
Member

Vice-Chairman

~~28/~~
23.10.03 There is no Bench today.
Adjourned to 17.11.03.

14.11.03
no rejoinder filed
Case is ready for
hearing.

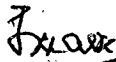

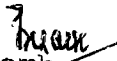

17.11.2003 Present : The Hon'ble Smt. Lakshmi
Swaminathan, Vice-Chairman
The Hon'ble Shri S.K. Naik
Administrative Member.

Adjourned. List the case on 19.11.
2003 for hearing.

19/11/03
Member

nkm

Vice-Chairman

Office Note	Date	Tribunal's Order
	19.11.2003	<p>Present: HOn'ble Smt Lakshmi Swaminathan, Vice-Chairman Hon'ble Shri S.K. Naik, Administrative Member.</p> <p>None for the applicants. Shri A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents, and None for the private respondents.</p> <p>We note that notices to all the respondents) including the private respondents have been issued on 3.6.2003. In the circumstances notice is deemed to be complete. We further note that by Tribunal's order dated 1.9.2003, the applicants were granted two weeks time to file rejoinder. That has also not been done till date.</p> <p>In the above circumstances list the case again on 20.11.2003 on which date if none appears for the applicants, it will be presumed that they are no longer interested to pursue the matter.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Vice-Chairman </div> </div>
<p style="text-align: right;">nkm</p>	20.11.03	<p>Sri S.Das, learned counsel for the applicant. Sri A.K. Choudhuri, learned Addl.C.G.S.C for the respondents.</p> <p>Reply affidavit on behalf of respondents has been filed on 1.9.2003 and is on record. However, learned counsel for the respondent applicant submits that he has received the copy of the same only today. He seeks two weeks to file rejoinder.</p> <p>List whenever DB meets for final hearing.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Vice-Chairman </div> </div>

Office Note	Date	Tribunal's Order
<p>Recd copy 18/3/04</p> <p>10.3.04</p> <p>Copy of the judgment has been sent to the Dy Sec. for issuing the rule to the applicant.</p> <p>27.6.08</p> <p>Flag 'A' of a W.P.(C) no. 5820/2004 received from the Hon'ble H.C. Gauhati.</p> <p>The writ petition has been heard by the Gauhati High Court vide order dt. 13.5.08 as flagged and remit back the same for fresh hearing in the CAT.</p> <p>Placed before the Bench</p> <p>placed before the Bench - as necessary orders.</p> <p>by 27.6.08</p> <p>10.7.08</p> <p>Pl. issue Notice to the Respondents in the add. given in OA</p> <p>Copies of this order be sent to the parties by Registered Post.</p>	<p>26.2.2004</p> <p>10.07.2008</p>	<p>Present: Hon'ble Shri Shanker Raju, Judicial Member</p> <p>Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>Heard the learned counsel for the parties. The O.A. stands disposed of for the reasons recorded separately.</p> <p>Member(A)</p> <p>Member(J)</p> <p>This case was disposed of on 26th February, 2004 by the Division Bench.</p> <p>2. By Judgment and order dated 13.05.2008, rendered by the Hon'ble Gauhati High Court, in W.P.(C) No.5820 of 2004, the matter has been remitted back for a fresh decision in accordance with the law.</p> <p>3. Notices be issued to each of the Applicants and to each of the Respondents in the address given in the O.A, intimating them that this matter shall appear for hearing on 26th August 2008, and that they should come ready to participate in the fresh hearing of the matter.</p> <p>4. Parties shall be at liberty to file their pleadings by the date of fresh hearing.</p> <p>5. Copies of this order be sent to the parties by Registered Post. With A/D.</p> <p>(M.R.Mphanty) Vice-Chairman</p>

nkm

Notices and order
send to D/Section
for issuing to
each of the applicants
and to each of the
respondents by regd.
A/D post.

Copies of this
order hand over to
learned advocate
for both the parties.

18/7/08.

D/No-3194 to 3219

D/-23/7/08.

① Service report
awaited.

25.08.2008

① Notice duly served
on R.No-2,3,4,5,6,
& 20.

22.9.08

26.08.2008

Mr. S. Das, learned counsel appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the official Respondents is on accommodation. Mr. A. Ahmed, Advocate, undertakes to appear for private Respondent Nos.18, 19 and 21. He undertakes to file 'Vakalatnama' in course of the day.

In the aforesaid premises, call this matter on 23.9.2008 for hearing.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

23.09.2008

Mr. S. Das, Advocate appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Union of India is absent for the reason of bereavement in his family. Mr. N. Ahmed, Advocate, is present representing the Respondent Nos.15,16, 18,19 and 21.

In the aforesaid premises, hearing of this case stands adjourned to be taken up on 25th November, 2008.

In the meantime, Mr. S. Das, learned counsel appearing for the Applicant may take steps to bring some ^{material} records, as desires by him.

(S.N.Shukla)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

24.10.08

1. Addl. Affidavit on behalf of the applicant - filed. However, Annexures are not marked & attested.

2. Copy served on R. No. 15, 16, 18, 19 & 21.

3. Undertaken to serve on CGSC.

for
24.10.08

12.01.2009

Copies of notices along with copies of OA 114/03 and order dt. 23/9/08 send to D/Section for issuing to Resp. No-4-21 except Bdy No-15, 16, 18, 19, 21 by speed post, A/D with at the cost of applicants.

nkm

Cert
5/11/08. P/NO-4315 to 4326
Dt. 6.11.08.

Service report awaited.

24.11.08.

W/S not filed.

9.1.09

25.11.2008

Mr S.Das, learned counsel for the Applicant Mr Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents are present. This matter has come on remand from the Hon'ble High Court.

Call this matter on 12.01.2009.

(M.R. Mohanty)
Vice-Chairman

pg

Mr S. Das, learned Counsel appearing for the Applicant, is present.

Call this matter on 19.02.2009.

(M.R. Mohanty)
Vice-Chairman


OA 114103

Notes of the Registry

① Notices received 19.02.2009

Back unserved ~~at~~
from R.No-3,5,7,8,
10,11,12,13,14 and 17.

Call this matter on 08.04.2009.


(M.R. Mohanty)
Vice- Chairman


/bb/

② ~~W/S~~ W/S b'led.

23
18.2.09.

08.04.2009

Call this matter on 21.05.2009 for
hearing.


(M.R. Mohanty)
Vice- Chairman

W/S b'led.

lm

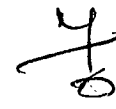
23
6.3.09.

21.05.2009

Mr S. Das, learned counsel for
the Applicant is present. Mr A.Ahmed,
learned counsel for Respondents No.15,
16, 18, 19 & 20 is also present. Mr M.U.
Ahmed, learned Addl. Standing counsel
for the official Respondents prays for
adjournment for 3 weeks.

Accordingly call this matter on
24.06.2009.

(N.D. Dayal)
Member(A)


(M.R. Mohanty)
Vice-Chairman

pg

2.7.09

W/S filed by
The Respondents against
The Additional Affidavit
filed by the Applicant.
with undertaking to
serve the same to the
Advocate for the Applicant.

2/7/09.

Remd a copy
of the order
to the
29/12/09

24.06.2009

Call this matter on
07.08.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

lm

21/01/2009

9

Notices received back unserved from Respondent No. 5, 7, 8, 10, 11, 13, in a posted remark No such person in the office hence return to sender
an another letter /lm/

Notices received back unserved from Resp. No. 3, 17, 5

15.09.2009

Call this matter for hearing on

18.11.2009 for hearing.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

21/11/09

an another letter
Notice received back unserved from Resp. No. 17, 14, 12, /bb/

(M.K. Chaturvedi)
Member (A)

① Notices received back unserved from R. No. 3, 5, 7, 8, 10, 11, 12, 13, 14, and 17.

② W/S not filed.

18.2.09.

W/S filed.

18.8.09.

Orders reserved.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

18.12.2009

Judgment pronounced in open court. For the reasons recorded separately O.A. stands allowed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/PB/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 114 of 2003

DATE OF DECISION: 18.12.2009

Shri Pankaj Kumar Bhattacharjee &
4 others

APPLICANT(S)

Mr S. Das

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Mr M.U. Ahmed, Addl. C.G.S.C. &
Mr A. Ahmed for respondent Nos.15,16,18,19 & 21.

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy
of the Judgment? Yes/No

Member (J)/Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.114 of 2003

Date of Order: This the 18th day of December 2009

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member


1. Shri Pankaj Kumar Bhattacharjee,
S/o Sri Prabodh Chandra Bhattacharjee,
Superintendent (Guwahati-IV Range),
Central Excise, Guwahati.
2. Shri Bhagirath Baruah,
S/o Late Bhabendra Baurah,
Superintendent of Customs, Imphal
3. Shri Kamal Narayan Choudhury,
S/o Late Karuna Choudhry,
Superintendent (Golaghat-II Range),
Central Excise, Golaghat.
4. Shri Kailash Barman,
S/o Late Chandra Kanta Barman,
Superintendent (Technical-II Section),
Central Excise, Guwahati.
5. Shri Binoy Kishore Sharma,
S/o Late Shri Bhabendra Nath Sarma,
Superintendent (Technical-III Section),
Central Excise, Guwahati.

.....Applicants

By Advocate Mr S. Das.

-versus-

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Finance, Deptt. Of Revenue,
New Delhi.
 2. The Chief Commissioner,
Customs and Central Excise,
Shillong.
 3. The Commissioner
Central Excise,
Morello Building, Shillong-1.
- 8

4. Shri LL. Mate
Superintendent (Statistics Branch),
Central Excise, Head Quarters Office,
Shillong.
 5. Shri Lalkhonah Simte
Superintendent,
Central Excise, Head Quarter Office,
Shillong.
 6. Shri Kalzadal
Superintendent (Dimapur Range),
Central Excise Division,
Nagaon.
 7. Shri Lilliawnlians
Superintendent,
Central Excise Head Quarters Office,
Shillong.
 8. Shri Stringsing Nongbet
Superintendent (Audit Branch),
Central Excise Head Quarters Office,
Shillong.
 9. Shri R. Velentile Basaianmolt
Superintendent,
Central Excise Head Quarter Office,
Shillong.
 10. Ms Zarina Khan Shandap
Superintendent (Inspection Cell),
Central Excise Division,
Shillong.
 11. Shri Anthony Pohthmilong
Superintendent,
Central Excise Head Quarters Office,
Shillong.
 12. Shri K. Hmar
Superintendent,
Aizawl Central Excise Division,
Silchar.
 13. Shri Hiramamba Basumatari
Superintendent,
Central Excise Head Quarters Office,
Shillong.
 14. Ms Ledyia Dutta
Superintendent (Guwahati-VI Range),
Central Excise,
Guwahati.
- 

15. Shri Premanandan Saikia
Superintendent (PRO),
Central Excise Head Quarters Office,
Dibrugarh.
16. Shri Girindra Nath Haloi
Superintendent (Anti-Evasion),
Central Excise, Nagaon.
17. Shri Golap Chandra Das
Superintendent (Technical-III Sec.),
Central Excise Division,
Dibrugarh.
18. Shri Nripendra Nath Deka
Superintendent,
Central Excise Head Quarters Office,
Dibrugarh.
19. Shri Samir Kumar Kundu
Superintendent (Goalpara Range),
Central Excise, Dhubri.
20. Ms Kiranmoyee Das
Superintendent (Sibsagar Range),
Central Excise, Jorhat.
21. Shri Gautam Kumar Bhuyan
Superintendent (Technical-II Sec.),
Central Excise Division,
Dibrugarh.

.....Respondents

By Advocates Mr M.U. Ahmed, Addl. C.G.S.C. And
Mr A. Ahmed for respondent Nos.15, 16, 18, 19 & 21.

.....

ORDER

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Initially present OA was disposed of issuing certain directions vide Order dated 26th Feb, 2004, which had been carried by UOI before Hon'ble High Court vide WP (C) No 5820 of 2004. Vide Judgment & Order dated 13th May, 2008 said Writ petition was allowed, order passed by this Tribunal was set-aside and matter was

2

remitted back to decide afresh with liberty to parties to file additional pleadings. Pursuant thereto, the matter was heard afresh. Applicants filed their additional affidavit, to which reply was filed by official respondents. No reply had been filed by private respondents, but they preferred their written arguments.

2. Five applicants in this OA challenge validity of Order dated 23rd September, 2003 whereby respondents No 4-21 were promoted to the grade of Superintendent Group B in the pay-scale of Rs. 6500-10,500. They also seek direction to the respondents to promote them from the date when their juniors were promoted with all consequential benefits. They also seek declaration that promotion of Respondents No 4-21 beyond their promotional quota is illegal and void.

3. Admitted facts are vide communication dated 19th July 2001 Central Government approved the restructuring of Customs & Central Excise Department. Consequently there had been change in the number and nomenclature of various grades/posts. The revised number and designation of various posts at different levels were detailed vide Annexure I appended to Ministry of Finance, Deptt. Of Revenue letter dated 19th July, 2001. In present case we are concerned with the grade of Superintendent & Inspector only and therefore, we would notice facts and figures relating to said cadre alone. In response to Deptt. of Expenditure letter, office of the Commissioner of Central Excise, Shillong vide letter dated 19th Sept, 2001, conveyed the staff strength allocated to Central Excise Collectorate Shillong. Against the cadre of Superintendent Gr. B as well as the detail provided were as follows:

8

STAFF STRENGTH ALLOCATED TO CENTRAL EXCISE COMMISSIONARATES SHILLONG AND DIBRUGARH & COMMISSIONARATE OF CUSTOMS SHILLONG (INCLUDES OFFICE OF THE CHIEF COMMISSIONARATE AND COMMISSIONER OF CENTRAL EXCISE (APPEALS), SHILLONG

SL. No	NAME OF THE POST	EXISTING			ALLOCATION OF STAFF TO CENTRAL EXCISE		ALLOCATION OF STAFF TO CUSTOMS	TOTAL ALLOCATION	VARIATION(Between S/S and allocation)
		S/S	W/S	Vacancy	SHILLONG	DIBRUGARH			
01	02								
09	SUPERINTENDENT GR.'B'	161	161	NIL	101	93	117	311	+150
10	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-	-	-
18	INSPECTOR	727	694	33	151	147	314	612	-115

S/S: Sanctioned Strength
W/S: Working Strength

4. The basic grievance of applicants is that the respondents have applied the principles of reservation while undertaking the exercise of restructuring which is illegal, unjust & arbitrary. They were initially appointed direct recruit Inspector and both promoted as Superintendent much after the restructuring. In total 150 posts were created due to cadre restructuring in the grade of Superintendent Group B and DPC was held in June 2002 to fill up said vacancies. Despite their eligibility & falling within zone of consideration, their claim had not been considered, while Respondents No 4-21, their juniors, were not only considered but also promoted to next higher grade vide impugned order. This was done merely for the reasons that they belong to SC/ST category. Thus it was canvassed that due to following wrong procedure, applicants were deprived of their promotion. In total 149 officials were promoted vide impugned order dated 23rd September, 2002. Perusal of said order would reveal that officials from Serial No 113 & onwards belong to either SC or ST category only. Applying the quota meant for SC/ST categories, only 33 candidates belonging to said categories could have been promoted but fact reveals that as many as 59 persons belonging to SC/ST categories were promoted, which is totally unjust, illegal & arbitrary. **Ld. Counsel** placing reliance on (1987) 4 ATC 385 **Ashok Kumar Srivastava Vs UOI** contended that the reservation is not applicable as and when employees are placed in upgraded post with better pay scale and no vacant post is left behind. Reference was also made to Coordinate Bench at Patna Order dated 6.2.2007 in OA No 36 of 2003 (**Sadanand Singh & Ors Vs UOI**), wherein **Ashok Kumar Srivastava (supra)** had been followed, and ultimately implemented by UOI, as reflected vide communication dated 5th August, 2009, addressed to Chief

p

Commissioner Patna. Similarly Chandigarh Bench vide Order dated 5th May, 2006 in OA NO 388/PB/2005 (**Rajesh Rai Vs UOI & Ors**) had occasion to consider the identical controversy from the same Deptt. For same very post. Vide para 14 thereof it was noticed that main point for determination is whether any reservation benefits will be applicable when the posts are simply upgraded on restructuring. In the above backdrop, it was emphasized that applicants being similarly situated are entitled to relief, as prayed for.

5. Official respondents have filed their reply as well as additional reply. They admit that 150 posts of Superintendent Group B were created during restructuring, and applicants being eligible were within zone of consideration. It was further admitted that Officials who figure from Sl. No 113 to 149 vide Order dated 23.9.2002 were junior to them, but it was projected that (Respondent Nos.4-21) they were promoted because of their belonging to SC/ST Communities. Reliance was also placed on DOPT OM dated 11th July, 2002 which provides that SCST officials promoted on their "own merits" would not be taken into consideration for the purposes of reservation roster. Reference was also made on **R.K.Sabharwal V/s State of Punjab** (1995) 2 SCC 745. Sh. M.U.Ahmed, Learned counsel appearing for official respondents placed reliance on (2008) 9 SCC 242 **UOI V/s Pushpa Rani & others** to contend that reservation would be applicable in restructuring also.

6. Neither reply filed by other respondents (No.4-21) nor any additional pleadings was raised by them. However written arguments were filed by respondents No 15,16,18,19& 21 which basically reiterated what has been contended by the officials respondents. It


was emphasized by Sh. A. Ahmed learned counsel appearing for said respondents that they were promoted as Superintendent Group B based on their own merit from the post of Inspector. Reliance was also placed on (1992) 22 ATC 903 **Indira Sawhney Vs UOI**, particularly para 811.

7. We have heard learned counsel for parties at length, perused the pleadings & other material placed on records. On query raised by the Bench, Ld. Counsel for official respondents fairly admitted that in the cadre of Superintendent Group B, 150 posts were created on restructuring. How such newly created posts on restructuring would be filled, had not been provided by the communication conveying sanction of newly created posts. It was further pointed out that besides creation of 150 posts, some more vacancies also came into existence.

8. The question which arises for consideration is whether principles of reservation could be applied while undertaking process of promotion on restructuring in the given facts?

9. As noticed hereinabove, we may observe at the cost of repetition that in present case the order regarding restructuring did not provide that while undertaking the task of filling newly created posts, it would be **"on the basis of functional, operational and administrative requirements."**, which had been the basic promise while deciding Pushpa Rani case (supra).

10. Perusal of aforementioned judgment would reveal that the basic legal issue involved therein was whether reservation for SCs and STs was applicable to restructuring of Grade 'C' and 'D' cadre.



Hon'ble Court observed that answer to said issue depended upon whether it was simply an upgradation of existing posts or not since it involved promotion, which attracted policy of reservation. Said judgment noticed that vide letter dated 09.10.2003 it was mentioned that cadre review was undertaken: "on the basis of functional, operational and administrative requirements". It further stated that restructuring involved: "duties and responsibility of greater importance". Furthermore, para 14 thereof provided that: "existing instructions with regard to reservation of SCs/STs wherever applicable will continue to apply". In the facts and circumstances of present case we may note that documents placed on record by the parties particularly order dated 19.07.2001 etc., no such criteria had been prescribed. Perusal of said communication read with subsequent communication would further reveal that as a result of restructuring there had been only change in the number and nomenclature of various grades/posts and nothing more. It further provided that wherever there is a reduction in the number of posts at any level, such reduction will be effective after the existing incumbents of the posts are promoted to the higher level or the posts fall vacant on account of retirement etc. Para 3 further thereof also provided that no direct recruitment may be made to various grades for the year 2001-2002 without approval of the Ministry/Department as the Cabinet has approved a one time relaxation for filling of all vacancies by promotion in all Cadres. The staff strength allocated to Central Excise and Customs, Shillong and Dibrugarh placed as Annexure-D filed by applicants would also reveal that the sanctioned strength in the grade of Inspectors stood reduced from 727 to 612. In other words 115 posts in said grade have been abolished/reduced, while in the cadre of




Superintendent Grade 'B' sanctioned strength has been increased from 161 to 311. In other words the strength of Inspectors which has been reduced is correspondingly added to grade of Superintendent Grade 'B', besides creating certain more posts. There is no provision under the communication dated 19.07.2001 that principles of reservation would be applicable in restructuring of said department. Thus there is a distinctive feature as far as restructuring of Central Excise and Customs Department is concerned vis-à-vis issue raised, facts and the decision in Pushpa Rani (Supra). On the other hand the precise point raised in present O.A had been agitated successfully before other coordinated Benches at Chandigarh, Patna etc. Vide communication dated 25.04.2007 (Annexure-G) placed on record by additional affidavit, Ministry of Finance, Department of Revenue addressed to all Chief Commissioners of Central Excise and Customs, and especially required to avoid contradictory decision in cases of similar litigation, effort should be made. Subsequently, as noticed hereinabove, aforesaid judgments were implemented by Union of India as revealed from communication dated 05.08.2009. It is not in dispute that said judgments had attained finality and therefore, we do not find any justified reason to have a different, contrary and inconsistent view on said subject. Admittedly, respondents have applied the principles of reservation to the upgraded posts in the cadre of Superintendent Grade 'B'. As far as number of posts which have been reduced in the feeder grade and corresponding increase in the higher cadre is concerned, to that extent, question of applying reservation to SC/ST will not arise. Said principle or reservation would be applicable only to the extent where additional posts are sanctioned. It is not in dispute that vide promotion order dated

b

29.09.2002, 149 officials were promoted which included SC/ST officers in one go from Sl.No.113 and onwards. Thus we find sufficient force raised in the contention of applicants that principles of reservation would not be applicable in the given facts and circumstances. The upshot of aforesaid discussion is that order dated 23.09.2002 cannot be sustained in law as principles of reservation were made applicable, which is against law of the land.

11. Accordingly O.A. is allowed. We may note that applicants have also been promoted as Superintendent 'B' and therefore, all of them have to be adjusted only. As such respondent Nos.1-3 are required to convene Review DPC and accordingly regulate the claim of applicants as well as respondent Nos.4-21 disregarding applicability of reservation to SC/ST. If applicants fall within consideration zone vis-a-vis the number of posts upgraded, they will be entitled to all consequential benefits i.e. pay fixation, seniority, etc. except arrears of pay. Said exercise shall be undertaken as expeditiously as possible but not later than three months from date of receipt of this order. Efforts should also be made by the respondent Nos.1-3 that as far as possible no one suffer on account of impending reversion, if any. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO 114 OF 2003

SHRI KAILASH BARMAN & ORS.

.....Applicants

-VS-

UNION OF INDIA & ORS.

.....Opposite parties

Additional Affidavit on behalf of the Applicants

LIST OF DATES / INDEX

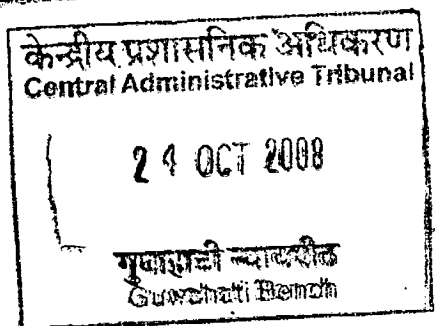
<u>Sl.No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page</u>
1	19-7-2001	Approval of Govt. of India regarding Restructuring of Customs & Central Excise Department	A	15-18
2	6.9.2001	Cadre Restructuring Plan – Implementation - Allocation of staff	B	19
3	19.9.2001	Letter regarding Cadre Restructuring Plan issued by Shillong Commissionerate	C	20-21
4		Staff strength allocated to Central Excise Commissionerate, Shillong and Dibrugarh and Commissionerate of Customs, Shillong and Commissionerate of Central Excise (Appeals), Shillong	D	22-23

5	7.2.2002	Letter issued to All cadre Controlling Authorities under CBEC by the Govt. of India	E	24
6	15.2.2005	Letter from Govt. of India regarding Reservation in promotion	F	25
7	31.1.2005	OM regarding Reservation in promotion issued by Govt. of India	F-1	26
8	25.4.2007	Letter to All Chief Commissioners of Central Excise and Customs in connection with orders of CAT Chandigarh & Patna Branch.	G	27 to 50

Filed by:

Sarbeswar Das

ADVOCATE

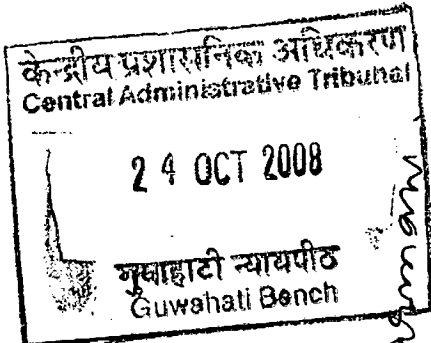


25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO 114 OF 2003



SHRI KAILASH BARMAN & ORS.

-VS-

UNION OF INDIA & ORS.

Additional Affidavit on behalf of the petitioners

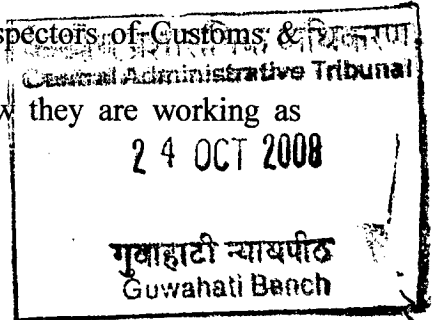
I, Shri Kailash Barman, S/o. Late Chandrakanta Barman,
aged about 47 years, working as Superintendent, Customs & Central
Excise, one ^{of} the petitioners, duly authorized by all the petitioners, do
hereby solemnly affirm and state as follows :

1. That, being the petitioner, I am well acquainted with the facts and
circumstances of the case. I have been duly authorized to file this
additional affidavit on behalf of the petitioners with a view to draw
the attention of the Hon'ble Tribunal to the following pleadings in
terms of the order passed by the Hon'ble High Court on 13.5.2008
in W.P.(c) No. 5820/2004. These pleadings in addition are taken in
our original application.

Contd .. P/2.

Kailash Barman

2. That the applicants are direct recruited Inspectors of Customs & Excise Department in 1984 batch and now they are working as Supdt. Group – "B" w.e.f. 30.12.2002.

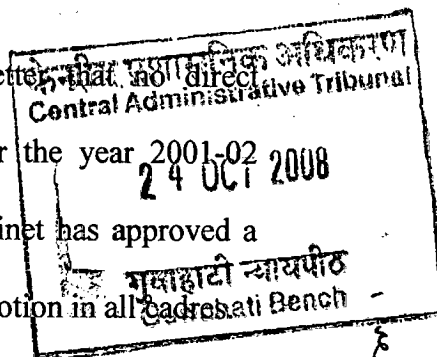


3. That the Govt. of India has approved the restructuring of Customs and Central Excise Department in 2001. This fact was informed to all Chief Commissioner of Customs & Central Excise etc. by the then Deputy Secretary to the Govt. of India, New Delhi : AD- IV vide letter F. No. A-11019 / 72/99-Ad-IV, Govt. of India, Ministry of Finance, Deptt. of Revenue Central Board of Excise & Customs, New Delhi dt. 19/7/2001. It was also intimated that as a result of restructuring there has been a change in the number and nomenclature of the various grades / posts. The revised number and designation of the various posts at different levels in Customs & Central Excise Department has been indicated in Annexure-I. Further it was also intimated that all the posts at different levels as per annexure – I stand sanctioned with immediate effect. Whenever there is a reduction in the number of posts at any level, such reduction will be effective after the existing incumbents of the posts are promoted to the higher level on the posts fall vacant on account of retirement etc.

Kailash Barmah

Contd .. P/3.

It was also intimated by the above said letter that no direct recruitment may be made to the various grades for the year 2001-02 without approval of the Ministry / Deptt. as the Cabinet has approved a one time relaxation for filling of all vacancies by promotion in all cadres at Bench



As per Annexure – I, revised number of posts for Superintendent Gr-“B” and Inspectors, Gr-“C” of Customs & Central Excise Department on restructuring were sanctioned as 11,957 (at Sl. No. 7 & 8 of Annexure-I) and 18,053 (at Sl. No. 10 of Annexure – I).

Copy of the letter F. No. A-11019/72/99-Ad-IV

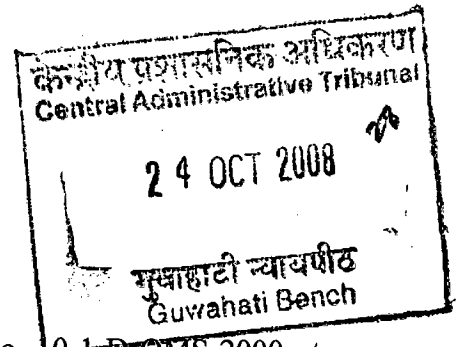
dt. 11/7/2001 and its Annexure – I are annexed

herewith and marked as Annexure – A.

4. That Shri K.K. Kabirpanths, the then Additional Commissioner, Member Implementation Cell, Directorate of O & M Services, Customs & Central Excise, New Delhi had intimated the Commissioner of Customs & Central Excise vide letter F. No. 10/1/D/OMS-2000 pt dt. 06.09.2001 and requested for sanction and working strength of permanent posts as on 01-7-2001 for implementation of cadre Restructuring plan, as approved by Govt. of India.

Contd .. P/4.

Karbach Barmar



Copy of letter F. No. 10-1-D-OMS-2000 pt

dt. 06-09-2001 is annexed & marked as

Annexure – B.

5. That Sri B. Thamar, the then Addl. Commissioner (P&V), Customs & Central Excise, Shillong vide his letter No. I(9)I/ET-I/2001/1167 dt. 19/9/2001 intimated Shri K.K. Kabirpanishi, Addl. Commissioner, Directorate of O & M Services, Customs & Central Excise, New Delhi about the sanctioned and working strength of various posts in the Commissionarate of Central Excise & Customs, Shillong as on 1-7-2001, in a enclosed list. As per enclosed list, sanctioned strength in the grade of Supdt and Inspectors in the Commissionarate of Customs and Central Excise, Shillong were 161 and 726 respectively shown at Sl No. 05 & 07 of the enclosed list.

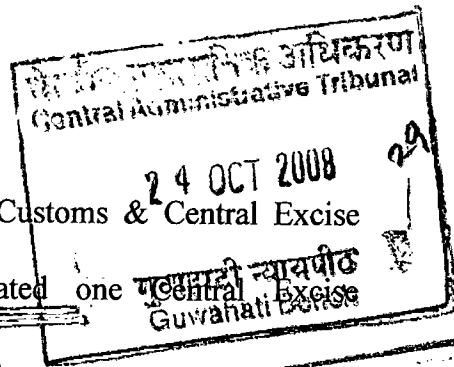
Copy of letter No. I(9)I/ET-I/2001/1167 dt.

19.9.01 and its enclosed list are annexed and

marked as **Annexure – “C”.**

Contd .. P/5.

Kailash Barmine



6. That as a result of Restructuring of Customs & Central Excise Department, the Ministry had created one Commissionerate at Dibrugarh (Assam).

7. That at cadre Restructuring of Customs & Central Excise Department, the total allocation of post of Supdt. in Customs & Central Excise, NER Zone, Shillong was fixed at 311 against the existing sanctioned strength of 161 Supdt. and redistributed, the number of posts as under :-

I) Allocation of Posts of Supdt. to Central Excise:

Shillong Commissionerate	-	101 Nos.
Dibrugarh Commissionerate	-	93 „
Customs Commissionerate	-	117 „

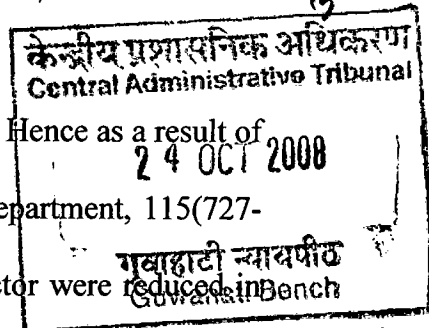
Total - 311 Nos.

Hence as a result of restructuring of Customs Central Excise Department, additional 150 ($311 - 161 = 150$) posts in the grade of Supdt. were allocated in the Customs & Central Excise, NER Shillong Zone.

Similarly, in the grade of Inspector existing sanctioned strength was 727, but new allocation of Inspector for Customs &

Contd .. P/6.

Kailash Barmar



Central Excise, NER, Shillong Zone were 612. Hence as a result of restructuring of Customs & Central Excise Department, 115(727-612= 115) No. of posts in the grade of Inspector were reduced in Customs & Central Excise, NER. Shillong Zone, and redistributed the allocated 612 Nos. of posts of Inspectors as under: -

- | | |
|--|-----------|
| I) Shillong Central Excise Commissionerate | -151 Nos. |
| II) Dibrugarh C. Ex. Commissionerate | - 147 „ |
| III) Customs Commissionerate | - 314 „ |

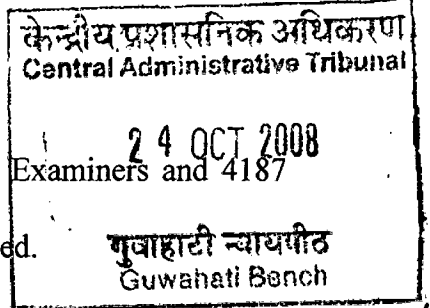
Total – 612 Nos.

Copy of staff strength allocation to Central Excise Commissionerate, Shillong, Dibrugarh and Customs Commissionerate worked out by the Deptt. is annexed and marked as Annexure – 'D'.

8. That Under Secretary to the Govt. of India (Ad –IIB) intimated vide letter F. No. A-12034/15/2002-Ad-IIIB, Govt. of India, Ministry of Finance, Central Board of Excise & Customs, New Delhi dt. 07.02.2002 that in terms of the approval of the Cabinet

Contd .. P/7.

Kailash Bhandari



3169 posts of Inspectors / Preventive Officer / Examiners and 4187

posts of Upper Division clerks have been abolished.

Copy of letter F. No.A-12034/15/2002-Ad-

IIB, dt. 7/2/2002 is annexed and marked as

Annexure – “E”.

9. That the Commissioner of Central Excise, Shillong, cadre controlling authority had issued the impugned promotion order No. 139/2002 dt. 23/9/2002 (Annexure -1 of OA) 149 Nos. of Inspectors from the seniority list of Inspector as on 01-04-2002 and 37 Nos. of Inspectors from the reserved category of SC & ST against the posts reserved for them were also promoted by depriving the senior, general and eligible Inspectors. The Commissioner of C. Ex. Shillong not only applied the principle of reservation in the promotion order but also misinterpreted the clarificatory office Memorandum dated 31-1-2005 which was circulated vide Circular No. 10/05.

The Circular dated 15-2-2005 and the OM dated 31-1-2005 are annexed herewith and marked as **Annexure – F & F-1** respectively.

10. That due to cadre restructuring of the Customs & Central Excise Department, 150 posts of Supdt. were allocated in addition to the existing sanctioned strength in customs & Central Excise, Shillong Zone, and posts of Inspector were upgraded to the post of Supdt.

Contd .. P/8.

and posts of Inspectors were abolished as per decision of the GOI of 2008
India vide letter F. No. A-11019/72/99-Ad-IV dt. 19.7.2001 issued in
C/w Restructuring of Customs & Excise Department, (Annexure - A)

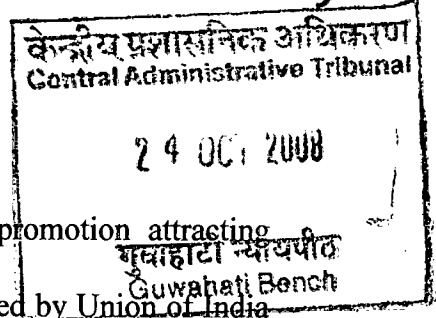
Moreover, it was one time relaxation for filling of all vacancies as approved by the Govt. of India.

So, naturally it is not a promotion for filling up of vacancies created or arisen due to retirement, resignation on death of the incumbent etc. In the instant case 150 posts of Supdt. were allocated and redistributed in various Commissionarate of Customs & Central Excise, Shillong zone as a result of restructuring of the Department and to fill up the said 150 posts of Supdt. by upgrading the post of Inspector from feeder grade, hence it can not be treated as promotion. It should be an upgradation from the posts of Inspectors to the post of Supdt. as per seniority maintained by the Deptt. as on 01-04-2002. Hence, the question of reservation for Schedule Caste and Scheduled Tribes is not applicable in the upgraded or redistributed posts on account of restructuring of the cadre.

11. That in the case of V.K. Sirothia -Vs- UOI, CA - 384 of 1986 decided on 01-10-86 by Allahabad Bench of the Tribunal while dealing with the matter of upgradation of Guards to Railway, it

Contd .. P/9.

Karl weh Rahman



was held that redistribution of post is not a promotion attracting reservation. Hon'ble Apex Court in the appeal filed by Union of India against the said judgment (1999 SCC (L & S) 938 has affirmed the judgment as follows : -

"The finding of the Tribunal that the so called promotion as a result of distribution of posts is not promotion attracting reservation on the facts of the case, appears to be based on good reasoning. On facts, it is seen that it is a case of up-gradation on account of restructuring of the cadre, therefore, the question of reservation will not arise. We do not find any ground to interfere with the order of the Tribunal. The Civil appeal is dismissed, No costs".

12. That the Jabalpur Bench of the Tribunal in case of Ashok Kr. Srivastava – Vs- UOI, 1987 (X) ATC 385 held that the reservation is not applicable as and when employees are placed in up-graded posts, with better pay –scale and no vacant post is left behind. This judgment is upheld by the Hon'ble Supreme Court in SLP No. 11801 of 1987, cited as UOI - vs- Ashok Kumar Srivastava.

Contd .. P/10.

Kailash Bhatnagar

24 OCT 2008

Guwahati Bench

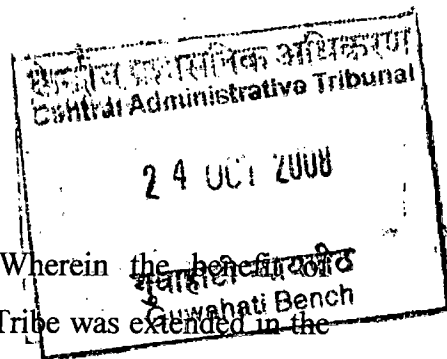
304/1999 in OA No. 1481 of 1996 (All India Non-Judicial Employees Association (Rly) -VS- V.K. Agarwal and Others

Kathleen Barber

The Union of India shall re-work the Seniority in the light of the clarification made today and report back within six weeks from today”.

14. That in case of Sri Sadananda Singh & Others – Vs- UOI and Other, OA No. 36 of 2003 was filed in Patna Bench of the Tribunal by the applicants challenging the promotion orders dt. 23-9-2002, 11-10-2002 and 31-10-2002 issued by the authority of Customs & Central Excise, Patna in connection with cadre Restructuring of

Contd .. P/11.



Customs & Central Excise Department. Wherein the reservation to Schedule Caste and Schedule Tribe was extended in the up-graded posts of Supdt. Gr-B from Inspectors on account of cadre restructuring scheme. This case was similar with the instant case on cadre restructuring of Customs & Central Excise Department. In this case Hon'ble Tribunal, Patna Bench has held on 06-02-2007 that –

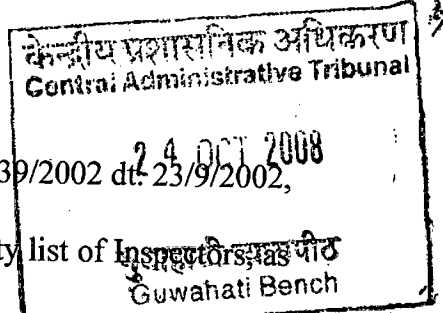
“ In the result the application is allowed. It is hereby declared that reservation in favour of SC/ST is not applicable in the up-gradation / restructuring scheme”.

15. That Govt. of India, Ministry of Finance, Deptt. of Revenue, New Delhi has accepted the judgment of the Hon'ble Tribunal, Patna Bench in O.A No. 36/2003 in the matter of Sri Sadananda Singh & Others – Vs- UOI & Others. Another Judgment dt. 5/5/2006 in OA No. 388/P-B/2005 in the matter of Sri Rajesh Rai & UOI & other of Hon'ble Tribunal, Chandigarh Bench was also accepted by the Ministry and communicated the facts to all Chief commissioner of Customs & Central Excise under Central Board of Excise & Customs (CBEC) vide F. No. A-32012/4/2000-Ad-IIB (Vol. IV) dt. 25.4.2007. Copy of the said letter dt. 25/4/2007 was also endorsed to the Joint Commissioner (P&V), Central Excise & Customs, Shillong for information and necessary action by the Chief Commissioner's office, Customs & C. Ex. NER, Shillong vide C. No. I(10)/CCO/SH/2007/4323 dt. 03-5-2007.

Copy of letter F. No. 32012(4) 2000-Ad-IIB dt. 25.4.2007 of Under Secretary to the Govt. of India, New Delhi is annexed and marked as Annexure – “G”.

Contd .. P/12.

R. C. Ail asst. Registrar



16. That in the impugned promotion order No. 139/2002 dt. 23/9/2002,

113 Inspectors were promoted as per seniority list of Inspectors, as on 01-4-2002 from serial No.01 to 120 except 07 officers at Serial No. 1, 32,57,61,90,108,109 were found unfit by Departmental Promotion Committee (DPC). Thereafter, 12 Officers from Scheduled Tribe (ST) and 25 officers from Scheduled Caste (SC) were promoted, out of 37 officers from SC & ST category 28 officers were promoted by the impugned order dt. 23-4-2007 from below serial No. 157 of the said seniority list which can not be promoted as held by the Hon'ble Supreme Court in various cases stated above paras, in up-graded posts on account of cadre restructuring scheme.

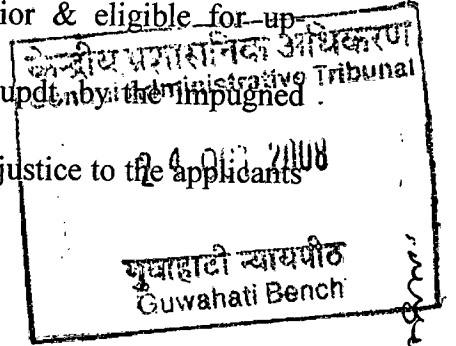
Copy of impugned ESH, Order No. 139 / 2002 dt..23/9/2002 & copy of seniority list of Insp. as on 1.4.2002 are annexed in the O.A. as Annexure - 1 and Annexure - 6 respectively.

17. That the name of the applicants are figured at serial No. 124,127,133, 134 and 136 of the said seniority list of Inspectors

Contd .. P/13.

Kailash Sarman

(Annexure – 6 of O.A). Applicants are senior & eligible for up-gradation but not up-graded to the posts of Supdt. by the impugned promotion order dt. 23-9-2002, which meted injustice to the applicants and violated the principle of Natural Justice.



18. That the applicants have been promoted to the post of Supdt., Gr – B subsequently vide promotion order No. 204/2002 dt. 30/12/2002 and placed their names in all India Seniority list of Supdt. below more than 5000 officers. However, by virtue of the earlier impugned order of 23rd September, 2002, they have lost more than 5000 position in All India Seniority list of Supdt. which should be rectified and status quo of seniority be maintained.

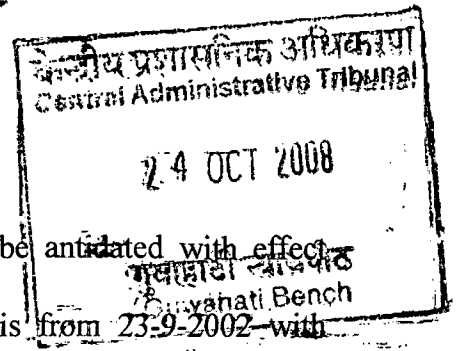
Kailash Barmine

Relief Sought

Under the facts and circumstances stated above, the applicants pray for the following reliefs ;

- (I) That the impugned promotion / ESH order No. 139/2002 dt. 23-9-2002 be set aside and quashed and necessary order be passed to declare for up-gradation of 150 Inspectors on the basis of Seniority maintained as per seniority list as on 01-4-2002 who are found fit to the posts of Supdt., Grade-"B" on account of cadre restructuring scheme.

Contd .. P/14



(II) That up-gradation of the applicants be ~~antedated~~ ^{retrospectively} with effect from the date of up-gradation that is from 23-9-2002 with consequential benefit etc.

(III) That the Hon'ble Tribunal be pleased to declare that the reservation for SC & ST officers is not applicable for upgradation post of Supdt. on account of cadre restructuring scheme.

(IV) To pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal.

(V) Cost of the case.

19. That the statements made in this affidavit in paragraph Nos. 1,5,8,9,10,11,12,13,16 & 17 are true to the best of my knowledge and belief, those made in paragraph Nos.2, 3,4,6,7,14 & 15 are true to my information derived from records which I believe to be true and rest are my humble submissions made before this Hon'ble Court.

And I sign this affidavit on this 22nd day of September, 2008, at Guwahati.

Identified by:

Sarbeswar Das

Advocate's ~~Signature~~

Kailash Basman

(DEPONENT)

F.NO.A-11019/72/99.Ad.IV.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 19th July, 2001

24 OCT 2008
39
Central Administrative Tribunal
Gauhati Bench

To

All Chief Commissioners of Central Excise & Customs,
All Chief Commissioners of Customs,
All Directors General,
All Commissioners of Central Excise/Customs/Directors under CBEC.

Subject:- Restructuring of Customs & Central Excise Department

Sir,

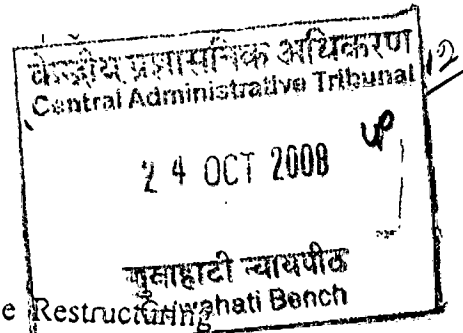
I am directed to say that the Central Government has approved the restructuring of Customs & Central Excise Department. As a result of restructuring there has been a change in the number and nomenclature of the various grades/posts. The revised number and designation of the various posts at different levels in Customs and Central Excise Department has been indicated in Annexure - 'I'

2. All the posts at different levels as per Annexure - 'I' stand sanctioned with immediate effect. Wherever there is a reduction in the number of posts at any level, such reduction will be effective after the existing incumbents of the posts are promoted to the higher level or the posts fall vacant on account of retirement etc. The number of categories of the posts other than those referred to in Annexure 'I' have been kept in their existing strength and in their existing pay scales only.

3. No direct recruitment may be made to the various grades for the year 2001-2002 without approval of Ministry/ Department as the Cabinet has approved a one time relaxation for filling of all vacancies by promotion in all Cadres.

4. The formation-wise distribution of posts at different levels will be notified separately.

Contd.....2/-



- 2 -

5. The details of the Other Posts* that have been included in the Restructuring Proposal but have not been proposed to be altered on the scale or strength are indicated in Annexure-II

6. The Cadres/ Posts which have not been included in the Restructuring Proposal are indicated in Annexure-III

7. This issues in pursuance to the approval conveyed vide Cabinet Secretariat Note.No. 28/CM/2001 (i) dated 16.07.2001.

Encl.: As above

Yours faithfully,

(K.C.Jain)

Dy. Secretary to the Govt. of India
Tel.No. 3742469

Copy for information to:-

1. PS to Finance Minister
2. PS to MOS (R)/ MOS(EE&I)/MOS(PER.)
3. PPS to Finance Secretary/ Secretary (E)/ Secretary (EA)/CEA
4. Chairman and Members, CBEC.
5. All Joint Secretaries in CBEC
6. J.S. (E), DOPT
7. FA(F)/ J.S.(Per)
8. Commissioner, DOMS, Customs & Central Excise
9. Principal CCA, CBEC
10. All CAOs, CBEC
11. President, IRS Association
12. All Staff Associations/ Federations
13. Convener Implementation Cell

(K.C.Jain)

Dy. Secretary to the Govt. of India

24 OCT 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE-I

REVISED NUMBER OF POSTS AT DIFFERENT LEVELS IN THE CUSTOMS AND CENTRAL EXCISE DEPARTMENT ON RESTRUCTURING

NO.	Post	Existing pay scale	Post Redesignated as	Pay Scale	Sanctioned Strength
EXEC					
1	Chief Commissioner	22400-24500	Chief Commissioner	22400-24500	47 - 21
2	Commissioner	18400-22400	Commissioner	18400-22400	290 - 147
3	Additional Commissioner	14300-18300	Additional Commissioner	14300-18300	300 - 192
4	Joint Commissioner	12000-16500	Joint Commissioner	12000-16500	276 - 26
5	Deputy Commissioner	10000-15200	Deputy Commissioner	10000-15200	701 - 808
6	Assistant Commissioner	8000-13500	Assistant Commissioner	8000-13500	690 - 232
EXEC					
7	SUPDT.CEX/S.I.O./I.O./A.A.D	6500-10500	SUPDT.	6500-10500	9437
8	SUPDT.CUS	6500-10500	SUPDT.	6500-10500	2520
9	Appraiser	6500-10500	Appraiser	6500-10500	809
EXEC.					
10	INSPECTOR/PO/EXAMINER	5500-9000	INSPECTORS	5500-9000	18053
IN					
11	CAO	8000-13500	CAO	8000-13500	155
IN					
12	AO/ACAO/EAO	6500-10500	AO	6500-10500	972
13	Sr.PA	6500-10500	Sr.PA	6500-10500	337
14	PROGRAMMER	NEW		6500-10500	20
15	OTHERS*				177
MIN					
16	DOS L-I	5500-9000	DOSL-I	5500-9000	631
17	DOS L-II	5000-8000	DOS L-II	5000-8000	1353
18	DEO GR. D	5500-9000	ASSTT. PROG.	5500-9000	60
19	Sr. TAX ASSISTANT		NEW	5000-8000	3152
20	TAX ASSISTANT		NEW	4000-6000	5525
21	LDC	3050-4590	LDC	3050-4590	717
22	STENO GR-I	5500-9000	STENO GR-I	5500-9000	244
23	STENO GR-II	5000-8000	STENO GR-II	5000-8000	490
24	STENO GR-III	4000-6000	STENO GR-III	4000-6000	490
25	OTHERS*				803

(+)/(=)
26 +
143 +
108 +
180 +
107
458

42
8

- 18 -

महाराष्ट्र प्रशासनिक आधिकारिका
Central Administrative Tribunal

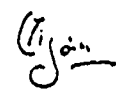
24 OCT 2008

गुवाहाटी न्यायाधीश
(Guwahati Bench)

C' EXEC (OTHERS)					
26	DRIVERS-I	4500-7500	DRIVERS-I	4500-7500	414
27	DRIVERS-II	4000-6000	DRIVERS-II	4000-6000	525
28	DRIVERS-III	3200-4900	DRIVERS-III	3200-4900	1130
29	ARMOURER	3200-4900	ASI(weapons)	3200-4900	51
30	OTHERS*				55
D'					
31	HAVALDAR	2650-4000	HAVALDAR	2650-4000	4326 ✓
32	SEPOY	2550-3540	SEPOY	2550-3540	9339 ✓
33	OTHERS*				1071
TOTAL					6516

NOTES:

1. The posts in the grade of Supdts. also include posts of S.I.O. , A.A.D. I.O. of various directorates(SI.No.7)
2. The posts in the grade of Inspectors also include the posts of P.O. and Examiner and Intelligence Officers. (SI. No. 10)
3. The posts in the grade of A.O. also include the posts of A.C.A.O and E.A.O.(SI. No.12.)
4. The existing posts in the cadres of Asstt, Tax Asstt, UDC(Sp Pay), DEO Gr.(C) and DEO Gr.(B) have been merged into and redesignated as SR. Tax Asstt.(SI.No.19)
5. The existing posts in the cadres of UDC, DEO(A) and LDC[except 717 posts of LDC for the purpose of promotion of Group D] have been merged and redesignated as Tax Asstt.(New) (SI.No.20)
6. The cadre of O.S. has been abolished and the posts have been merged in the posts of A.O. (SI. No. 13)
7. Other posts which exist in the department and are not reflected in the above table have been kept in their existing strength in the existing pay scales only
8. Details of Other* posts are given in Annexure 'II' (SI.Nos.15,25,30 & 33)


 (K.C.Jain)
 Dy. Secretary to the Govt. Of India

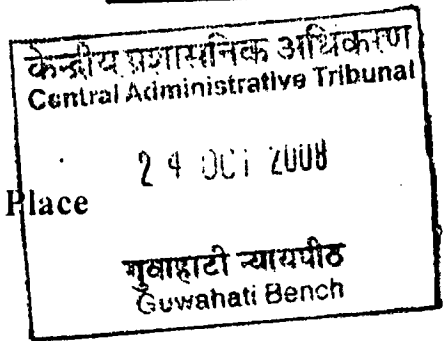
ANNEXURE - I

49
BY E-MAIL/FAX

E-MAIL: doms@vsnl.net

Telfax: 5823723

F.No.10/1/D/OMS-2000-Pt
Directorate of O&M Services
Customs and Central Excise
407/8, Deepshikha Building, Rajendra Place
NEW DELHI-110008



Dated:- 6th September, 2001

To

The Commissioner of Customs,
The Commissioner of Central Excise.

Sir,

Subject: Cadre Restructuring plan - Implementation - Allocation of staff

Implementation of Cadre Restructuring plan as approved by the Govt. of India is under way, and allocation of the posts in various cadres as per the approved norms, has to be undertaken. In this context, it is requested that the **Sanctioned and Working Strength** of permanent posts as on 1.7.2001 including the post diverted to other field formations, but excluding the posts diverted from other field formations and Cost Recovery Posts may kindly be provided to the undersigned urgently latest by 14th September, 01 as per the enclosed chart.

Yours faithfully,

Encl.: As above

(K.K.Kabirpanthi)
Additional Commissioner &
Member Implementation Cell



GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
M.G. ROAD, SHILLONG - 793 001

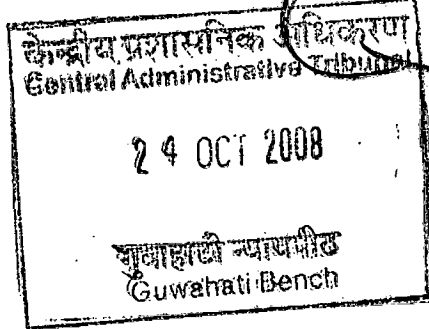
ANNEXURE - C

C.No. I(9)1/ET-I/2001/ 1147.

Dated: 19 SEP 2001

To

Shri K. K. Kabirpanthi,
Additional Commissioner,
Directorate of O&M Services,
Customs & Central Excise,
407/8, Deepshikha Building,
Rajendra Place,
New Delhi - 110008.



Subject: Cadre Restructuring Plan - Implementation- Allocation of Staff-
Corres. - regd.

Please refer to your E-mail F. No. 10/1/D/OMS-2000-Pt. Dated 6th September, 2001 on the above mentioned subject.

The Sanctioned and Working strength of various posts in the Commissionerate of Central Excise & Customs, Shillong as on 01.07.2001 is enclosed. Further, it may be mentioned that there is no post sanctioned by the Ministry for this Commissionerate on Cost Recovery Basis.

This is for your information and further necessary action at your end.

Encl: As above

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

SANCTIONED STRENGTH OF PERMANENT POSTS IN VARIOUS GRADES AS ON 01.07.2001

SL.No.	POSTS	SANCTIONED STRENGTH	WORKING STRENGTH	REMARKS
01.	Chief Commissioner	--	--	
02.	Commissioner	03	02	
03.	Addl./Joint Commissioner	02	02	
04.	Dy.Asstt.Commissioner	19	13	
05.	Superintendent	161	160	
06.	Appraiser	01	--	
07.	Inspector	726	672	
08.	Prev.Officer	--	--	
09.	Examiner	--	--	
10.	Sr.P.A	02	01	
11.	Steno.-I	--	--	
12.	Steno.-II	06	02	
13.	Steno.-III	32	08	
14.	C.A.O.	01	01	
15.	A.O./A.C.A.O/E.O.A	17	17	
16.	O.S.	08	08	
17.	D.O.S.-L-I	23	21	
18.	D.O.S.-L-II	27	19	
19.	Tax Assistant	64	49	
20.	U.D.C.(Spl.Pay)	13	--	
21.	U.D.C.	114	70	
22.	D.E.O.-D	--	--	
23.	D.E.O.-C	--	--	
24.	D.E.O.-B	06	06	
25.	D.E.O.-A	20	19	
26.	LDC	106	75	
27.	Driver-I	10	08	
28.	Driver-II	13	11	
29.	Driver-III	34	36	
30.	Armourer	--	--	
31.	Havaldar	44	40	
32.	Sepoy	473	429	

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 24 OCT 2008
 गुवाहाटी न्यायाधीश
 Guwahati Bench

NOTE : A new Establishment like Commissioner (Appeals) was created in 1997 without any supporting Staff, hence some posts were diverted from the existing sanctioned strength of Central Excise which needs to be sanctioned afresh.

Although the officers when already over-burdened, the additional work-load of "Service Tax Sector" which is an ever increasing sector has also been introduced without any Staff to man the work.

ANNEXURE - D

-22-

STAFF STRENGTH ALLOCATED TO CENTRAL EXCISE COMMISSIONERATES SHILLONG AND DIBRUGARH & THE COMMISSIONERATE OF CUSTOMS SHILLONG (INCLUDES OFFICE OF THE CHIEF COMMISSIONER AND COMMISSIONER OF CENTRAL EXCISE (APPEALS), SHILLONG)

SL.NO.	NAME OF THE POST	EXISTING			ALLOCATION OF STAFF TO CENTRAL EXCISE		ALLOCATION OF STAFF TO CUSTOMS.	TOTAL ALLOCATION.	VARIATION (Between S/S and allocation.)
		S/S	W/S	VACANCY	SHILLONG	DIBRUGARH			
01	02	03	04	05	06	07	08	09	10
01	CHIEF COMMISSIONER	NIL	NIL	NIL	01		NIL	01	+1
02	COMMISSIONER	02	02	NIL	01	01	01	03	+1
03	COMMISSIONER (APPEALS)	01	01	NIL	01		NIL	01	00
04	ADDL./JT. COMMISSIONER	02	02	NIL	04	03	03	10	+8
05	DY./ASST. COMMISSIONER	19	19	—	09 ✓	07 ✓	09 ✓	25	+6
06	ASSISTANT DIRECTOR (COST)	01	NIL	01	NIL	NIL	NIL	00	-1
07	CHIEF ACCOUNTS OFFICER	01	01	NIL	01	01	01	03	+2
08	CHEMICAL EXAMINER GR. II	01	NIL	01	NIL	NIL	NIL	NIL	-1
09	SUPERINTENDENT GR. 'B'	161	161	NIL	101	93	117	311	+150 ✓
10	SUPERINTENDENT EXPERT	02	NIL	02	NIL	NIL	NIL	NIL	-2
11	APPRAISER	01	NIL	01	NIL	NIL	01	01	00
12	ASSISTANT DIRECTOR (OL)	01	NIL	01	01	NIL	NIL	01	00
13	PRIVATE SECRETARY	02	01	01	03-01	01	01	05	+3
14	A.O./A.C.A.O./E.A.	17	15	02	07	07	11	25	+8
15	OFFICE SUPERINTENDENT	08	08	NIL	NIL	NIL	NIL	NIL	-8
16	D.O.S. - I	23	23	NIL	06	05	06	17	-6
17	D.O.S. - II	27	24	03	13	11	12	36	+9
18	INSPECTOR	727	694	33	151	147	314	612	-115 ✓
19	T. A. (NOW SR. T. A.)	64	62	02	25	24	18	67	+3
20	U. D. C. (NOW T. A.)	127	28	99	38	35	10	83	-44
21	L. D. C.	106	74	32	08	07	05	20	-86
22	CHEMICAL ASSISTANT GR. - I	01	01	NIL	NIL	NIL	NIL	NIL	-1
23	LABORATORY ATTENDENT	01	01	NIL	NIL	NIL	NIL	NIL	-1
24	STENOGRAPHER - I	NIL	NIL	NIL	09	08	08	25	-13
25	STENOGRAPHER - II	06	06	NIL					
26	STENOGRAPHER - III	32	04	28					
27	HINDI TYPIST	01	01	NIL	01	NIL	01	02	+1
28	DR. A. L. S. MANI	01	01	NIL	01	NIL	NIL	01	00

01	02	03	04	05	06	07	08	09	10
29	JR. HINDI TRANSLATOR	01	01	NIL	01	NIL	01	02	+1
30	D. E. O. GRADE - 'B'	06	06	--	--	--	--	--	-6
31	D. E. O. GRADE - 'A'	20	19	01	--	--	--	--	-20
32	TELEX OPERATOR	02	NIL	02	NIL	NIL	NIL	NIL	-2
33	DRIVER SPECIAL GRADE	03	03	NIL	14 10 45 69 +12				
34	DRIVER SPECIAL GRADE - I	20	09	11					
35	DRIVER SPECIAL GRADE - II	17	06	11					
36	DRIVER O. G.	17	33	-16					
37	RECORD KEEPER	02	01	01	01	01	01	03	+1
38	SERANG JUNIOR	02	NIL	02	NIL	NIL	NIL	NIL	-2
39	SEAMAN GR. II	14	11	03	NIL	NIL	NIL	NIL	-14
40.	HAVILDAR (RECORD)	15	07	08	NIL	NIL	NIL	NIL	-15
41.	HAVILDAR	44	42	02	28	26	98	152	+108
42.	GESTETNER OPERATOR	08	04	04	04	03	01	08	00
43.	SEPOY	473	418	55	49	40	162	251	-222
44.	MALI	01	01	NIL	02	01	02	05	+4
45.	SAFAIWALA	03	02	01	04	03	02	09	+6
46.	FARASH	05	04	01	NIL	NIL	03	03	-2

NEW ALLOCATION

01	02	03	04	05	06	07	08	09	10
47.	ASSTT. PROGRAMMER	--	--	--	02	NIL	NIL	02	
48.	ASI (WEAPONS)	--	--	--	NIL	NIL	04	04	
49.	LADY SEARCHER	--	--	--	NIL	NIL	02	02	
50.	HEAD HAVILDAR	--	--	--	14	13	50	77	
51.	CANER	--	--	--	01	NIL	01	02	

126/1812

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Priority

F.No. A-12034/15/2002-Ad-III-B
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Immediate

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

24 OCT 2008

गुवाहाटी न्यायाधीश
Guwahati Bench

New Delhi the 7th February, 2002

To

All Cadre Controlling Authorities under CBEC.

Subject : - Cadre Restructuring of Customs & Central Excise
Department- Abolition of posts- Vacancy position in the
grade of Inspectors/Preventive Officers/Examiners and
UDC - Information Reg.

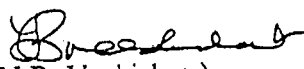
Sir,

I am directed to refer to Ministry's letter F.No. A-11019/72/99-Ad.IV dated 19.7.2001 conveying the sanctioning of Restructuring of Customs and Central Excise Department and to say that in terms of the approval of the Cabinet 3169 posts of Inspectors/Preventive Officers/Examiners and 4187 posts of Upper Division Clerks have been abolished. It is, therefore, requested that the following information in respect of the Cadres of Inspectors/Preventive Officers/Examiners and UDCs may please be furnished to the Board in respect of Commissionerates under your cadre control.

Sanctioned Strength	Working Strength	Vacancy Position	
		DR Quota	Promotion Quota

2. Apart from this information, a separate note indicating the position of stagnation and age profiles of the feeder cadres of the grade of Inspector/Preventive Officer/Examiner and UDCs may also be furnished immediately.

Yours faithfully

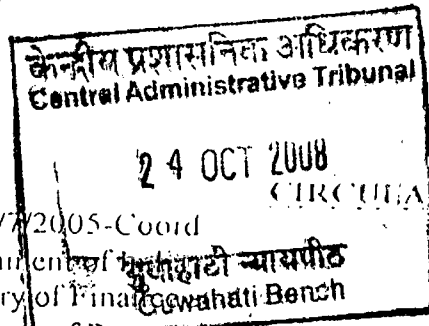
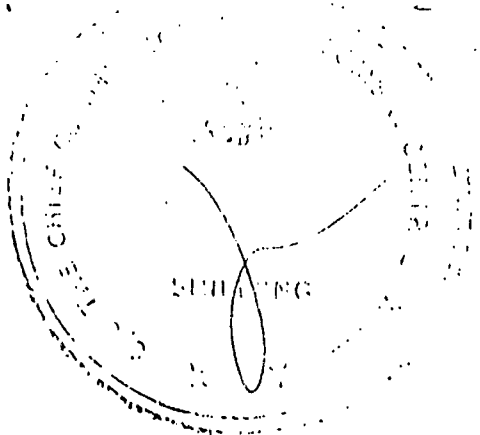

(Y.P. Vashishat)

Under Secretary to the Govt. of India

Annexure F

25

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24 OCT 2008

CIRCULAR NO. 10/2005

F No. 12/7/2005-Coord

Government of India

Ministry of Finance

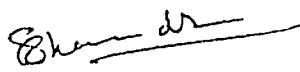
Department of Revenue

Room No. 227-D, North Block, New Delhi,

Dated, the 15th February, 2005

Subject:- Reservation in promotion- Treatment of SC/ST candidates promoted on their own merit.

A copy of O.M. No. 36028/17/2001-Estt.(Res.) dated 31.1.2005 received from Ministry of Personnel, Public Grievances and Pensions on the above subject is forwarded for information and necessary action.


(SUBHASH CHANDER)
SECTION OFFICER(COORD.)
Tel: 23092395

Encl: As above.

- 1 All Officers and Sections in the Department of Revenue.
- 2 All Heads of Attached and Subordinate Offices in CBDT.
- 3 All Heads of Attached and Subordinate Offices in CBEC.
- 4 All Heads of Attached and Subordinate Offices in Hqrs.(Admn.).
- 5 Pay & Accounts Officer, Deptt. of Revenue, Church Road, New Delhi.
- 6 Directorate of Income-tax (RSP & PR), 2nd Floor, Hans Bhawan, Bahadur Shah Jafar Marg, New Delhi
- 7 Directorate of Publicity & Public Relations, Customs & Central Excise, C R Building, New Delhi.
- 8 All Staff Federations under the CBDT/CBEC.
- 9 Secretary, Chaturthi Shreni Karmchari Samitti.
- 10 Guard file(two copies).

M. A. B. J. 17/3/05

Annexure F-I

No.36028/17/2001-Estt.(Res.)

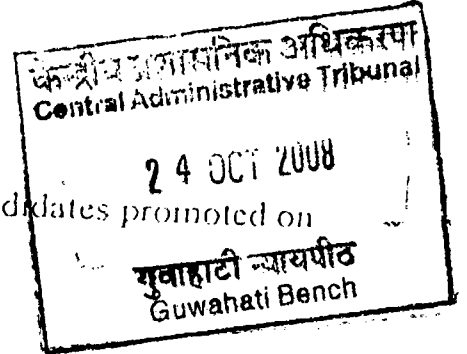
Government of India

Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, dated the 31st January, 2005.

OFFICE MEMORANDUM

Subject Reservation in promotion -- Treatment of SC/ST candidates promoted on their own merit.



The undersigned is directed to refer to this Department's O.M.No.36028/17/2001-Estt.(Res.), dated 11th July, 2002 whereby it was clarified that the Scheduled Caste and Scheduled Tribe candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualifications will be adjusted against unreserved points. References have been received seeking clarification on the following points:

- (i) The date of effect of the O.M. No.36028/17/2001-Estt.(Res.), dated 11.7.2002; and
- (ii) Whether the orders will apply in case of promotions made by non-selection method.

2 It is clarified that the O.M. No.36028/17/2001-Estt.(Res.), dated 11.7.2002 takes effect from the date of its issue i.e. with effect from 11.7.2002. However, the cases where SC/ST candidates promoted on their own merit before 11.7.2002 have been adjusted against unreserved points need not be re-opened.

3 It is also clarified that since in the case of promotions by non-selection, promotions are made on the basis of seniority-cum-fitness and the concept of merit is not involved in such promotions, the O.M. dated 11.7.2002 does not apply to the promotions made by non-selection method.

4 Contents of this O.M. may be brought to the notice of all concerned.

(K.G. Verma)
Deputy Secretary to the Govt. of India

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~~Annexure~~

ANNEXURE - G

BY SPEED POST

F.No.A-32012/3/2000-Ad.II-B (Vol.- IV)

Government of India

Ministry of Finance

Department of Revenue

New Delhi, dated the 25th April, 2007

To.

All Chief Commissioners of Central Excise & Customs.

Subject: Promotion to the post of Superintendent, Central Excise - Orders of Chandigarh and Patna Bench - regarding.

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
CAT,

24 OCT 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

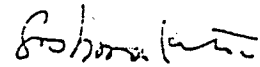
Sir,

I am directed to enclose copies of under mentioned orders of CAT (Chandigarh Bench) & CAT (Patna Bench) on the issue of applicability of reservation on promotion to the grade of Superintendent, Central Excise against the posts that have become available as a result of Cadre restructure for information and for placing them before the CAT of appropriate jurisdiction in case of similar litigation in an effort to avoid contradictory decisions:-

- (i) CAT (Chandigarh Bench) order dated 5.5.2006 in O.A. 388/PB/2005 in the matter of Sh. Rajesh Rai Vs. UOI & ors.
- (ii) CAT (Patna Bench) order dated 6.2.2007 in O.A. 36/2003 in the matter of Shri Sadanand Singh & Ors. Vs. UOI & Ors.

This issues with the approval of Chairman, CBEC.

Yours faithfully,



(SUSHMA KATARIA)
UNDER SECRETARY TO THE GOVT. OF INDIA

Encs: As above.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O. A. No. 36 of 2003

Date of order : 6.2.2004

केन्द्रीय प्रशासनिक अपील
Central Administrative Tribunal

24 OCT 2004

गुवाहाटी न्यायपीठ
Guwahati Bench

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Shri S.N.P.N. Sinha, Member (A)

1. Sadanand Singh, S/o Shri Brajnandan Singh, resident of village Pakaria, P.O. Oranpur, P.S. Akauna, District -Nawada.
2. K.N. Prasad, S/o Shri Baijnath Prasad, R/o at & P.O. Barkagaon, Bhojpur.
3. Putul Mishra, W/o Late Anand Mishra, at D 3 P.C. Colony, Kankarbagh, Patna.
4. N.D. Singh, S/o Shri Hem Narayan Singh, R/o Mohalla West rabhunath Nagar, Chhapra.
5. Umesh Kumar Singh, S/o Shri Vishwanath Singh, residing at Ramhari Apartment, North S.K. Puri, Patna.
6. Shailendra Kumar, S/o Suraj Deo Singh, R/o village + P.O. Arak Dhibaria, P.S. Tekari, Gaya.
7. Srikanth Pandey, S/o Late R.N. Pandey, r/o village Karaja, P.O. Umraoganj, Bhojpur.

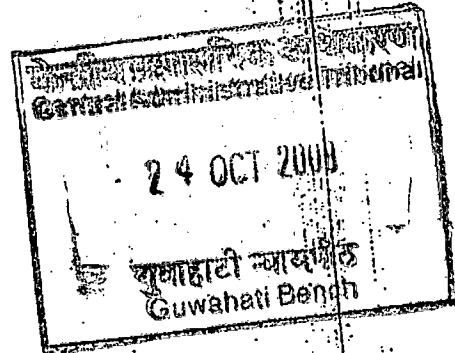
Applicants.

By Advocate : Shri S.K. Mishra with Shri Chandra Naval Kishore.

Versus

1. The Union of India through the Revenue Secretary, Ministry of finance, Government of India, New Delhi.
2. The Central Board of Excise and Customs through its Chairman, Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
3. The Under Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
4. The Chief Commissioner, Customs & Central Excise, Patna

- Central Revenue Building, Birchand Patel Path, Patna.
5. The Commissioner Central Excise, Patna Central Revenue Building, Birchand Patel Path, Patna.
6. The Additional Commissioner (P&V), Central Excise, Patna Central Revenue Building, Birchand Patel Path, Patna.
7. Om Prakash Madhukar
8. Vijay Kumar Gupta
9. Ram Lakhan Ram
10. Abha Bara
11. Krishna Chodhary
12. Sunil Baitha
13. Kanti Prasad
14. Smt. Urmila Khalkho
15. Gyan Singh tigga
16. Bali Ram Paswan
17. Shrikant Choudhary
18. Anil Kumar Das
19. R.P. Gond
20. Lallu Choudhary
21. Kishun Paswan
22. S. Ekka
23. Bhagwat Choudhary
24. Smt. Maxima Demta
25. Puna Das
26. Jai Shankar Prasad
27. Ramdeo Paswan
28. Shiv Narain Ram
29. Kishore Barwa
30. Ashok Kumar
31. Harish Chandra
32. Kumar Santosh Lal
33. Birendra Kumar
34. D.N. Singh
35. Ashok Kumar Das
36. Naayan Kunkar
37. Kartik Mahtha
38. Ajit Kumar Das



- 30 -
3
OA 36 of 03

39. Raj Kumar Mandal
40. Vijay Kumar

All the respondents at Sr. No. 7 to 40 are working as Superintendent Group -B under Cadre Control of the Commissioner, Central Excise, Patna, and they are being made parties through the Commissioner, Central Excise, Patna, Central Revenue Building, Bir Chand Patel Path, Patna-1.

By Advocate : Shri M.K. Mishra.

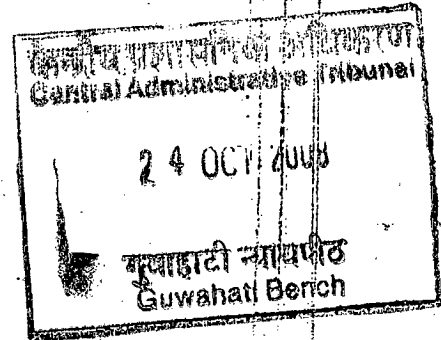
Respondents

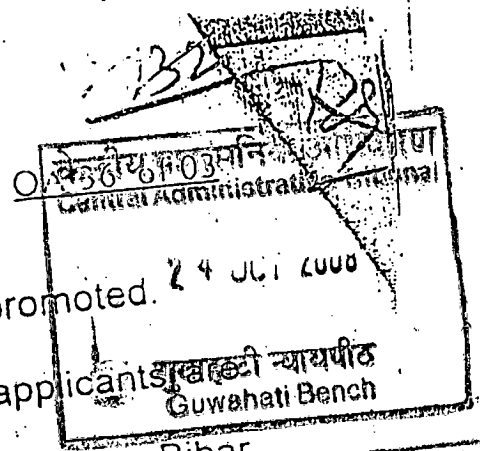
ORDER

By Sadhna Srivastava, M [J] :-

The prayer of the applicants (7 in number) for joining together is allowed.

2. By means of this OA the applicants claim relief for quashing the orders dated 23.9.2002, 11.10.2002 and 31.10.2002 (Annexure A/4 series) whereby the benefits of reservation policy has been extended to Scheduled Castes and Scheduled Tribes in case of restructuring and upgradation of posts of Inspector to the grade of Superintendent Group B. They further pray for directions upon the respondents to consider the case of the applicants for promotion in the grade of Superintendent Group B with





effect from the date on which their juniors were promoted.

3. The facts, in brief, are that all the applicants working as Inspectors in Central Excise and Customs, Bihar and Jharkhand. The applicants have given the details of the posts which were upgraded under the restructuring cadre. In

para 4 of the supplementary petition they have stated that

134 posts of Inspector were upgraded to the grade of Superintendent Group B and accordingly 134 posts of Inspectors were abolished. 26 new posts were created

besides 10 existing vacancies in the cadre of Superintendent Group B. Therefore, the total posts of the Superintendent Group B to be filled up at the time of restructuring were 134 (upgraded posts) plus 26 (on account of creation of posts) plus 10 on account of existing vacancies).

Out of 170 posts 36 were promoted on the basis of reservation policy although only against the new created 26 posts plus 10 existing

vacancies (total 36 posts), 22 % posts were to be filled up by way of reservation and accordingly only 8 posts of Superintendent Group B were available for applying the



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reservation roster. The persons whose names appears 120 to 149 in the order dated 23.9.2002 (Annexure A/42 series) are junior to the applicants No. 6 & 7 and the persons appearing at Sr. Nos. 142 to 149 are junior to all the applicants. They further allege in the OA that applying reservation in restructuring scheme is against the decision of the Hon'ble Supreme Court as well as different Benches of the Tribunal in the Country. According to them, the question is no longer res integra. They allege that the law has been settled by the catena of decisions

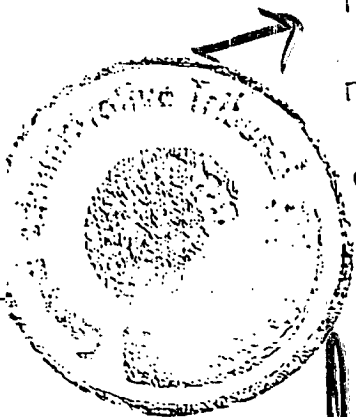
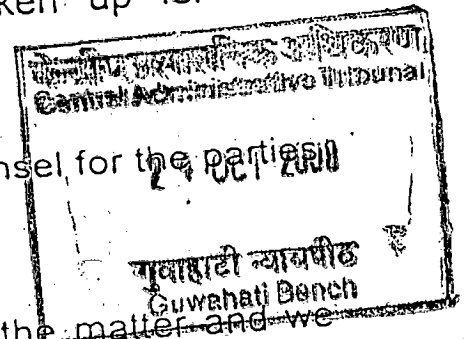
4. The respondents have filed written statement as well as supplementary written statement. In the supplementary written statement they have admitted that 134 posts of Inspector were upgraded to Superintendent Group B and therefore, 134 posts from Inspector cadre have been abolished. They further stated that all the vacancies arising out of restructuring and vacancies existing in normal course were filled up according to rules after applying reservation roster.

5. Private respondents have failed to file reply. The disposal of the case at an early date has already been ordered by the Hon'ble Patna High court, the Principal Bench of the Tribunal. The case has been taken up for final disposal.

6. We have heard the learned counsel for the parties and perused the pleadings.

7. We have carefully considered the matter and we agree with the proposition of law that there cannot be any reservation in the matter of restructuring or up-gradation of posts. The promotion is distinguishable from up-gradation. The test is whether additional posts have been created or not. If the number of posts remain the same and restructuring of cadre is done with the purpose of removing stagnation by placing the incumbents in the higher scale of pay, such a restructuring scheme does not carry reservation point for SC/ST candidates.

8. Thus, the reservation roster was not applicable in respect of 134 posts of Superintendent Group B. The same



were required to be filled according to seniority of persons placed as Inspectors in the department. The reasons are as follows:-

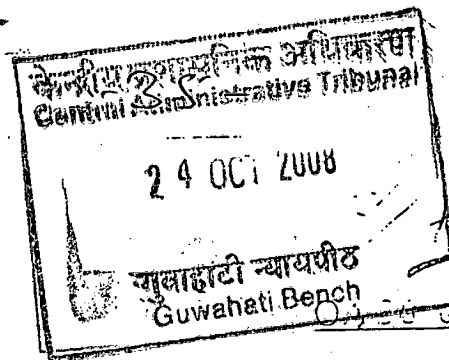
उत्तरांच प्रशासनिक अधिकार
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9. In the case of V.K. Sirothia vs. UOI, OA 384 of 1986 decided on 1.X.1986 by Allahabad Bench of the Tribunal while dealing with the matter of up-gradation of Guards in Railway, it was held that redistribution of post is not a promotion attracting reservation. The Apex Court in the appeal filed by Union of India against the said judgment (1999 SCC (L&S) 938) has affirmed the judgment as follows;

" The finding of the Tribunal that the so called promotion as a result of redistribution of posts is not promotion attracting reservation on the facts of the case, appears to be based on good reasonings. On facts, it is seen that it is case of up-gradation on account of restructuring of the cadres, therefore, the question of reservation will not arise. We do not find any ground to interfere with the order of the Tribunal. The Civil Appeal is dismissed. No. Costs"



10. The Jabalpur Bench of the Tribunal in case of Ashok Kumar Srivastava vs. UOI, 1987 (4) ATC 385 held that the reservation is not applicable as and when employees



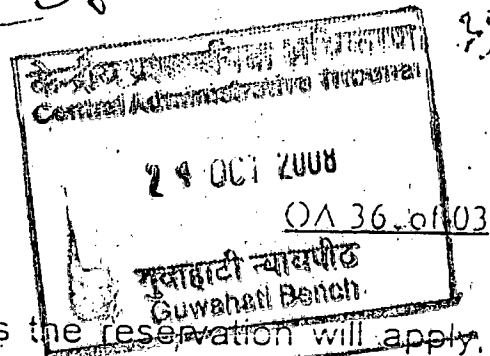
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are placed in upgraded post with better pay scale and no vacant post is left behind. This judgment is approved by the Hon'ble Supreme Court in SLP No. 11801 of 1987, titled UOI vs. Ashok Kumar Srivastava.

11. This issue again cropped up in contest petition (Civil) No. 304 /99 in OA No. 1481 of 1996 (All India Non SC/ST Employee Association (Rly) vs. V.K. Agrawal and others before the Hon'ble Apex Court and it was held on 31.01.2001 that:-

".....It appears from all the decisions so far that if as a result of reclassification or readjustment there is a case of up-gradation, the principle of reservation will not be applicable. It is on this basis that this court on 19th November, 1988 had held that reservation for SC & ST is not applicable in the up-gradation of existing posts and Civil Appeal No. 1481/1996 and the connected matters were decided against the Union of India. The effect of this is that where the total number of posts remained unaltered, though in different scales of pay, as a result of re-grouping and the effect of which may be that some of the employees who were in the scale of pay of Rs. 550-700/- will go into the higher scales, it would be a case of up-gradation of posts and not a case of additional vacancy or post being created to which the reservation principle would apply. It is only in addition to the total number of existing posts some additional posts are created that in



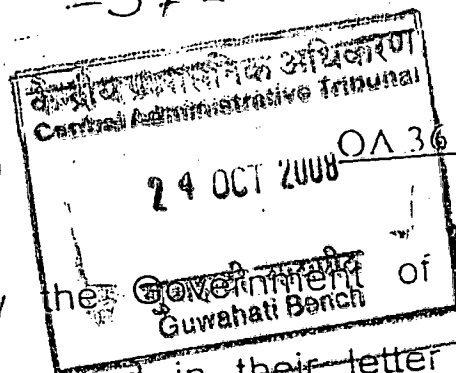


respect of those posts the reservation will apply, but with regard to those additional posts the dispute does not arise in the present case. The present case is restricted to all existing employees who were redistributed into different scales of pay as a result of the said up-gradation.

The Union of India shall re-work the seniority in the light of the clarification made today and report back within six weeks from today."

12. The Chandigarh Bench of the Tribunal in the case of Unreserved Employees Association (Registered) Rail Coach; 2005 ATJ Vol I page 1 has already declared para 14 of the Circular dated 9.X.2003 as bad in law and quashed the same in the light of judgments of Apex Court and judgments of various Benches of the Tribunal. The case before the Chandigarh Bench was filed by an Association of Unreserved categories of candidates challenging the action of respondents in providing reservation to SC/ST candidates under the above restructuring Scheme. We are in complete agreement with the view taken by the Chandigarh Bench on the issue in question, and there is no reason for us to take a different view.

13. We may also make a mention of the recent



clarification/direction given by the Government of India, Ministry of Personnel, as contained in their letter dated 25.X.2004. This letter was in reply to a letter received from the Ministry of Railways. However, it relates to the same controversy as involved in the instant case. Therefore, we reproduce the said letter below:-

" Subject: Restructuring of Group 'C' and Group 'D' cadres in the Railways - Application of reservation to Scheduled Castes/Scheduled Tribes.

The undersigned is directed to refer to the Ministry of Railways U.O. Note No. 2004-E (SCT) 1/25/1 dated 7th May, 2001 on the subject noted above and to say that the Supreme Court in the matter of Union of India versus V.K. Sirothia has held that reservation for SC and ST will not be applicable when making promotions to the posts upgraded on account of restructuring of cadres. The Hon'ble Court in the Contempt Petition No. 304 of 1999 (All India Non SC/ST Employees Association Versus V.K. Agarwal and others) further clarified that where the total number of posts remained unaltered, though indifferent scales of pay, as a result of re-grouping, it would be a case of up-gradation of posts and not a case of additional vacancy or post being created to which the reservation principle would apply. If the case is restricted to all existing employees who were redistributed into different scales of pay as a result of up-gradation, there cannot be any reservation.



2. The matter has been examined keeping in view the observations of the Supreme Court. The Ministry of Railways are advised to implement the directions of the Supreme Court and not to apply reservation while filling the posts upgraded on account of restructuring, by the existing employees."

14. In the result, the application is allowed. It is hereby declared that reservation in favour of SC/ST is not applicable in the upgradation/ restructuring scheme. The respondents are directed to consider the promotions of the applicants for those of 134 posts of the Superintendent Group B which are covered by restructuring scheme without applying reservation roster for those posts, from due date with all consequential benefits within a period of three months from the date of receipt of copy of this order. No order as to the costs.

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[S.N.P.N. Sinha] M [A]

[Sadhna Srivastava] M [J]

True Copy

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Verified that this is a true and accurate copy of the document/order as in the case file (OA/MRA/TA/CP/ISA/PT No. 536/03 199) and that all the matters appearing therein have been legally and faithfully copied with care.

Anu
1/12/07

Section Officer (JAC)
CENTRAL ADMN. TRIBUNAL
PATNA BENCH, PATNA

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

OA No. 383/PB/2005.

Chandigarh: this

5th day of May 2006.

ON'BLE MR. L.M. GOYAL, VICE CHAIRMAN.
ON'BLE MRS. SHYAMA DOGRA, MEMBER (J).

Rajesh Rai s/o Shri Raghuvansh Rai
Superintendent Central Excise, Chandigarh
Commissionerate, posted at Mandi Gobindgarh
Punjab.

R.S. Mann s/o Shri Bhagwan Singh
Superintendent, Central Excise Commissionerate
Ludhiana, posted at Bhatinda, Punjab.

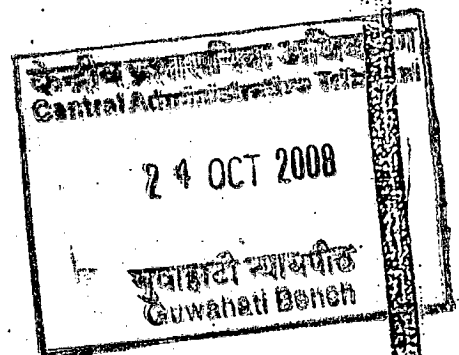
Shri V.K. Sharma, advocate)

Versus

1. Union of India through Secretary to Govt.
Ministry of Finance, Department of Revenue
Govt. of India, New Delhi.
2. Chairman, Central Board of Excise & Customs
North Block, New Delhi.
3. Chief Commissioner, Chandigarh Zone
Central Excise & Customs, C.R. Building
Sector 17, Chandigarh.
4. Commissioner, Central Excise
Chandigarh, C.R. Building, Sector 17
Chandigarh.

(By: Shri Aman Chaudhary, advocate)

.....Applicants.



.....Respondents.

A. J.

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ORDER

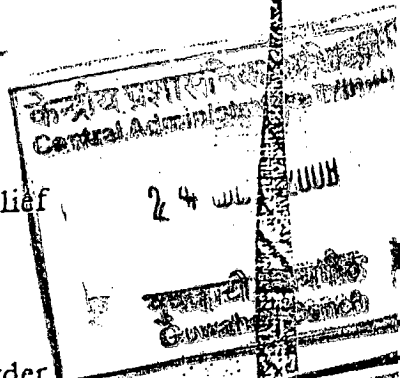
(By: Hon'ble Mrs. Shyama Dogra, Member (J).)

Since both the applicants have common cause of action and the relief prayed for is also the same, they are allowed to file joint Application.

2. In the present OA, the applicants have challenged the impugned order, dated 6.4.2005 (Annexure A/1) whereby the seniority list of Superintendents have been redrawn by conducting review DPCs held on 22.2.2005 and 31.3.2005 to review the select panels already prepared by the DPCs held on 26/27.6.1997 to 28.6.2004.

3. While challenging this impugned order, the plea of the applicants is that by virtue of holding of earlier DPCs in 1997, they were promoted to the post of Superintendents when 134 posts of Inspectors were upgraded in the Chandigarh Commissionerate on the basis of restructuring of Group 'B' and 'C' posts. As a result of this restructuring, total 913 posts of Inspectors were upgraded to the level of Superintendents in the pay scale of Rs. 2000-3500 on all India basis. Copy of the said order of upgradation has been placed on record as Annexure A/3, dated 29.5.1997. On the basis of their seniority and on the recommendations of DPC, the applicants were promoted as Superintendents on 1.8.2001 and 8.10.2001 respectively vide orders Annexures A/5 and A/6.

4. During this period, one Roop Singh, Superintendent Group 'B' belonging to reserved category filed OA 539/PB/2003 claiming therein that



the respondents have not followed the judgment of the Hon'ble Supreme Court and the Govt. instructions dated 2.7.97 (Annexure A/7) further clarified on 11.7.2002 to the effect that SC/ST candidates appointed by promotion on their own merit and not owing to the reservation, would not be adjusted against the reserved point of roster and would be treated as un-reserved candidates. The applicants, however, were not arrayed as respondents in the said OA as they were already promoted in the year 2001. The said OA of Roop Singh was allowed while giving directions to the respondents to reconsider the issue and count reserved category candidates against general posts who have been promoted on their own seniority and merit and not by virtue of any rule of reservation, in view of law laid down by Hon'ble Supreme Court in the case of R.K. Sabharwal. Relevant para of the said order passed in Roop Singh's case is as under:-

"5. Finding that the case of the applicant is fully covered at all four by the decision of the Principal Bench of C.A.T. (Annexure A-15) in the case of C.P. Jayant (supra), this O.A. is allowed to the extent that Annexure A-13 is quashed and set aside. Since the order of promotion 29.8.1997 (Annexure A-2) is neither under challenge nor any promoted person has been impleaded as a party in this O.A., we refrain ourselves from quashing the same. However, official respondents are directed to re-consider the issue in terms of directions as contained in the case of C.P. Jayant (supra) i.e. they shall count the reserved category candidates against general category posts who have been promoted on their own seniority and merit and not by virtue of any rule of reservation as per law enunciated by the Supreme Court in the case of R.K. Sabharwal (supra) and after making such adjustments, they shall determine the number of reserved posts that should be filled up by SC/ST officers in the grade of Superintendents as per rules of reservation (in addition to the posts against which the officers of these communities were promoted on their own merit) and

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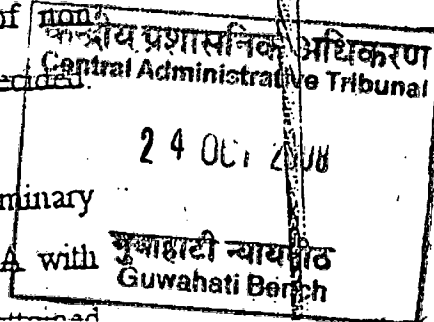
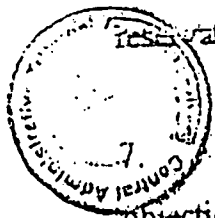
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make offers of appointment/promotion in terms of rules and regulations on the subject. No costs."

5. It is pleaded by applicants' counsel that it is settled law of the land that rules of reservation is not applicable against upgraded posts under the restructuring scheme and since this point has neither been raised nor decided by the court in Roop Singh's case, therefore, said order/judgment is per incuriam and the respondents have erred while disturbing the entire seniority and unsettling the position already settled with regard to applicants' promotion made in the year 2001 itself after lapse of almost 4 years and showing them promoted on 23.9.2002 instead of their actual date of promotion on 1.8.01 and 8.10.01 respectively.

6. Learned counsel for the applicants has also given reference of various decisions rendered by different Benches of the Tribunal particularly, in the case of Ashok Kumar Srivastava & Another Vs. Union of India & others, reported in 1987(4) ATC 385 on the same point. Annexure A/9 is a copy of decision rendered by this Bench in a bunch of cases relating to Railways bearing OA No. 124/PB/04 wherein the same point of non-reservation in the matter of restructuring/upgradation of a cadre was decided.

7. The respondents have filed written statement and raised preliminary objection of non-joinder of necessary and effective parties in the OA with further submissions that OA filed by Roop Singh has already attained finality and the applicants are now estopped to rake up the issue all over again. The respondents have issued this impugned order (Annexure A/1) in order to implement the said decision dated 10.2.04 in Roop Singh's case.

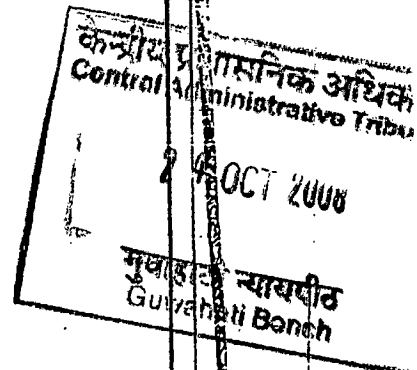


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Therefore, applicants' case has no merit to take a different view by this court. The respondents have further submitted that the present issue now raised by the applicants was not raised by them earlier at the time of upgradation of post of Inspector to the post of Superintendent in the year 1997 as well as in the year 2002. However, they have admitted the factum of promotion of the applicants in the year 2001 as per their seniority in the grade of Inspectors and availability of vacancies in the grade of Superintendents in the DPC held on 27.6.2001.

8. The respondents have also admitted that in OA filed by Roop Singh, he has pleaded that out of 130 posts of Inspectors upgraded as Superintendents, 104 posts were meant for general category and remaining 30 were meant for SC/ST category. However, they have denied that there cannot be any reservation in the upgraded posts under the restructuring scheme. The reason for such denial is that during restructuring of Group 'B' and 'C' posts, 134 posts of Inspectors were upgraded to the level of Superintendents in respect of Chandigarh Commissionerate and the corresponding posts in the grade of Inspectors were simultaneously abolished with the filling up of 134 upgraded posts of Superintendents. The sanctioned strength in the grade of Superintendents was thus increased by 134 thereby creating 134 additional posts/vacancies. Similarly, during the cadre restructuring in 2002, sanctioned strength in the cadre of Superintendents was increased from 320 to 376, thus, creating 56 posts/vacancies in the grade of Superintendents which has resulted into giving benefit of reservation on the additionally created posts. Hence, the

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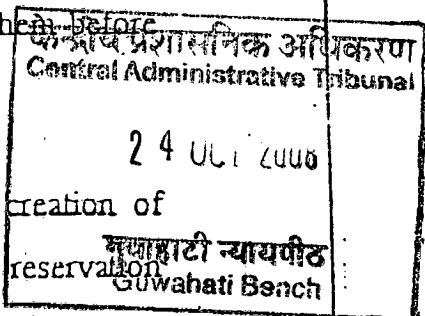
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respondents have acted as per law on reservation policy since on creation of additional posts, rule of reservation is applicable.

9. In rejoinder to the submission of the respondents, the applicants have reiterated their averments made in the OA with further contention that since in the present OA, applicant does not seek to revise the original seniority to the disadvantage of other officials/personnel and quashing of impugned order would only restore the actual and correct seniority to get the error rectified. Therefore, there was no need to implead any other person as party and applicants cannot be non suited on this ground.

10. It is further contended by learned counsel for the applicants that in the OA filed by Roop Singh, applicants were not made party and the court has noticed this lacuna and has not quashed the promotions made in the year 1997 and merely gave directions to reconsider the issue and count reserved candidates against the general posts as per law laid down in the case of R.K. Sabharwal. Therefore, grave miscarriage of justice and violation of principles of natural justice has taken place while issuing this impugned order as the applicants who had been promoted in 2001 have been condemned unheard since no notice whatsoever was issued to them before disturbing their seniority position.

11. The applicant has further denied that there was any creation of additional posts in the grade of Superintendents to give the reservation benefits to the persons concerned. Only 134 posts of Inspectors were upgraded in 1997 and 56 posts were upgraded to the post of Superintendent



Signature

in the year 2001 and 2002. Equal number of posts in the grade of Inspectors were abolished, therefore, there was no addition of posts as alleged by the respondents to give reservation benefit to the candidates of reserved category.

12. We have heard learned counsel for the parties and carefully gone through the record.

13. So far as the plea of the respondents for non joining affected persons as party is concerned, we find no substance in their plea as the applicants have simply prayed for restoring the original seniority list on the basis of law laid down by the Hon'ble Supreme Court.

14. The main point to be determined in this case is as to whether any reservation benefit can be given when the posts are simply upgraded on restructuring. The second point for reconsideration is whether the judgment rendered in the case of Roop Singh is per incuriam, keeping in view the law on the subject as well as having regard to the fact that issue of non reservation to upgrade posts was neither raised nor decided in the said case.

15. The respondents have also not denied this fact that in the scheme of restructuring the policy of reservation does not apply and they have held review DPC in 2005 only for implementation of the orders passed by this court in Roop Singh's case though they have pleaded in their reply that there was creation of additional posts of Superintendents, therefore, they have held review DPC; but, they have failed to convince this court on this point as

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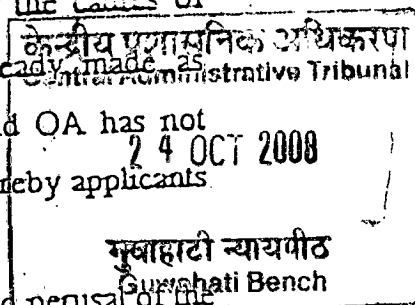
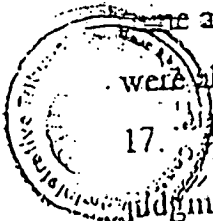
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Guwahati Bench

no relevant documents have been placed on record in this regard to show creation of new posts. Thus, the fact remains that this impugned order has particularly been issued in order to comply with the order passed by this court in Roop Singh's case which cannot be held to be applicable in rem to disturb the seniority already fixed long time back.

16. After perusal of decision rendered in Roop Singh's case, we find that since the order of promotion made on 29.8.97 was not challenged by the said Roop Singh nor any promoted person was impleaded as a party, the said order of promotion was not quashed by the court and court has given general directions to reconsider the issue of reservation in terms of directions as contained in the case of R.K. Sabharwal. It has also been categorically mentioned in the said order that after determining the number of reserved posts that should be filled up by SC/ST officials in the grade of Superintendents as per rules of reservation in addition to the posts against which the officers of these communities were promoted on their own merit. The said directions clearly manifest that this order was applicable for the additional posts, if any, created during the restructuring of the cadres of Superintendents and without disturbing the promotions already made as admitted, the said Roop Singh who had preferred the said OA has not come against the promotion order made in the year 2001 whereby applicants were also promoted.

17. After careful consideration of the matter as above, and perusal of the judgment, we have also found that this point with regard to non reservation of upgraded posts has not been raised by either of the parties, though said Roop Singh had categorically pleaded in his application that 134 posts of



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Inspectors were upgraded as Superintendent Gr. B post. Therefore, in our considered opinion, the said order is per incuriam and is based on different points or issue raised by the said applicants relating to the promotion of SC/ST candidates appointed by promotion on their merit and not having reservation or relaxation of qualifications for their adjustment against the unreserved/general candidates. We have also found that he has alleged that since this principle was not followed while making promotions in 1997, he could not be appointed in 1997 itself. Thus Roop Singh's grievance is only confined to 1997 and not to the year 2001 when applicants were promoted under restructuring scheme to the post of Superintendent.

18. We have also found that this court has already decided this point with regard to non reservation in restructuring of cadres while decided the bunch matters relating to Railways vide Annexure A/9. While deciding this point, their decision is based on decision rendered by the Apex Court in the clarificatory order dated 31.1.2001 which reads as under:-

"It appears from all the decisions so far that, if as a result of reclassification or re-adjustment, there are not additional posts which are created and it is a case of upgradation, then the principle of reservation will not be applicable. It is on this basis that the court on 19th November, 1998 had held that reservation for SC & ST is not applicable in the upgradation of existing posts and civil Appeal No. 1481/1996 and the connected matter were decided against the Union of India. The effect of this is that where the total number of posts remained unaltered, though in different scales of pay, as a result of re-grouping and the effect of which may be that some of the employees who were in the scales of pay of Rs. 550-700 will go into the higher scales, it would be a case of upgradation of posts and not a case of additional vacancy or post being created to which the reservation principle would apply. It is only if in addition to the total number of

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existing posts some additional posts are created in respect of those additional posts, the reservation will apply, but with regard to those additional posts the dispute does not arise in the present case. The present case is restricted to all existing employees who were redistributed into different scales of pay as a result of said upgradation.

Thus, the Hon'ble Supreme Court, as per judgments, Annexures A-4 to A-6, held that there will be no reservation in restructuring or upgradation of the posts in the restructuring for the obvious reason that in the restructuring of cadres, the overall strength of the category falling in one category remains the same and it undergoes a change categorywise and in each category, before restructuring, appropriate reservation is followed."

19. Similarly, in the case of Ashok Kumar Srivastava Vs. Union of India, 1987 (4) STC 385 decided by Jabalpur Bench of Central Administrative Tribunal, it has been held in paras 27 and 28 as under:-

"27. Consequently, we are of the view that in the present case the upgradation of ADMOs to DMOs involve neither a selection nor a promotion. It is simply nomination or placing of some seniors to the upgraded posts with better pay scale, on the basis of seniority, subject to suitability. In the circumstances of this case placing of these few seniors to their upgraded posts with better pay scale does not amount to any fresh appointment by promotion and moreover, these persons, so nominated to the higher grade, do not leave behind vacant their earlier posts.

28. For the above reasons and on the basis of facts of this case we hold that placing of ADMOs to the higher scale of DMOs in the 300 upgraded posts is neither promotion nor appointment and so reservation policy cannot be applied to this upgradation process. As no element of promotion or appointment is involved in upgradation of these 300 posts of ADMOs and since the policy of reservation for SC and ST can be applied only in the case of fresh appointment or promotion, it cannot be applied to these 300 upgraded posts. Under the circumstances the question of reserving percentages for SCs and

Dr. S.

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Guwahati Bench

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STs insofar as these 300 upgraded posts are concerned, in regard to their incumbents including petitioners, and those similarly placed does not arise. We are in respectful disagreement with the views of Hon'ble M.P. High Court in their decision in Dr. V.K. Vyas Vs. Union of India as also of the Hon'ble Andhra Pradesh High Court, cited in para 16 earlier, for the above reasons."

20. The said decision of Jabalpur Bench was further upheld by Apex Court in SLP No. 11901/87, decided on 8.12.1987 and reference thereof is also found in the bunch matters decided vide Annexure A/9 (supra).

21. Thus, after overall analysis and discussion of the matter as above, we are of the view that by passing impugned order Annexure A/1, the respondents have erred while disturbing the whole seniority list of the persons already promoted and position thereof was settled long time back which cannot be allowed to be unsettled after lapse of almost 4 years that too without giving any opportunity of being heard to the affected persons as such action on the part of the respondents admittedly involves civil consequences. We are also of the view that no such directions were issued by the court while deciding Roop Singh's case, therefore, in our considered opinion, the respondents have just tried to unsettle the settled position in the garb of plea of implementation of the orders passed by this court in Roop Singh's case without appreciating the real point involved in the matter.

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22. Be that as it may be, keeping in view the fact that other persons shown in the seniority list, since not before us, and in case the relief sought for by the applicants is allowed, they may likely to be affected. Therefore, we are of the opinion that the matter needs fresh consideration by the respondents, as discussed hereinabove. Thus, in the interest of justice, we find it

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

WRIT PETITION (C) NO. 5820 OF 2004

- R 1. Union of India, represented by the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
- R 2. The Chief Commissioner, Customs & Central Excise, Shillong.
- R 3. The Commissioner, Central Excise, Shillong.
- ... Petitioners.

-Versus-

- ①. Shri Pankaj Kumar Bhattacharjee, Superintendent (Guwahati-IV Range), Central Excise, Guwahati.
- ②. Shri Bhagirath Baruah, Superintendent of Customs, Imphal.
- ③. Shri Kamal Narayan Choudhury, Superintendent (Golaghat II Range), Golaghat.
- ④. Shri Kailash Barman, Superintendent (Technical II Section), Central Excise, Guwahati.
- ⑤. Shri Binoy Kishore Sharma, Superintendent (Technical II Section), Central Excise, Guwahati.
- R 6. Shri L.L.Mate, Superintendent (Statistics Branch), Central Excise, Head Quarter Office, Shillong.
- R 7. Shri Lalkhonah Simte, Superintendent, Central Excise, Head Quarters Office, Shillong.
- R 8. Shri Kalzadal, Superintendent (Dimapur Range), Central Excise Division, Nagaon.
- R 9. Shri Lalliawnliana, Superintendent, Central Excise Head Quarters Office, Shillong.
- R 10. Shri Stringsing Nongnet, Superintendent (Audit Branch), Central Excise Head Quarters Office, Shillong.
- R 11. Shri R. Velentile Basaianmolt, Superintendent, Central Excise, Central Excise Head Quarters Office, Shillong.
- R 12. Ms Zarina Khan Shandap, Superintendent (Inspection Cell), Central Excise Division, Shillong.
- R 13. Shri Anthony Pahthmilong, Superintendent, Central Excise, Central Excise Head Quarters Office, Shillong.
- R 14. Shri K. Hmar, Superintendent, Aizawl Central Excise Division, Silchar.

- R15. Shri Hiramba Basumatary, Superintendent, Central Excise, Central Excise Head Quarters Office, Shillong.
- R16. Ms Ledyia Dutta, Superintendent (Guwahati-VI) Range, Central Excise, Guwahati.
- (R17. Shri Premananda Saikia, Superintendent (PRO), Central Excise, Central Excise Head Quarters Office, Shillong.
- R18. Shri Girindra Nath Haloi, Superintendent (Anti-Evasion), Central Excise, Nagaon.
- R19. Shri Golap Chandra Das, Superintendent (Technical -III Sec), Central Excise Division, Dibrugarh.
- R20. Shri Nripendra Nath Deka, Superintendent, Central Excise, Central Excise Head Quarters Office, Dibrugarh.
- R21. Shri Samir Kumar Kundu, Superintendent (Goalpara Range), Central Excise, Dhubri.
- R22. Ms Kiranmoyee Das, Superintendent (Sibsagar Range), Central Excise, Jorhat.
- R23. Shri Gautam Kumar Bhuyan, Superintendent (Technical-II Section) Central Excise Division, Dibrugarh.

... Respondents.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR
HON'BLE JUSTICE SMTI A. HAZARIKA

For the petitioners : Mr. K.N. Choudhury,
 Mr. I. Choudhury, Advocates.

For the Respondents : Mr. A.Dasgupta,
 Mr.S.Das,
 Mr. G.Pathak, Advocates.

Date of hearing & order: 13.05.2008

JUDGMENT AND ORDER
(ORAL)

[Chelameswar, CJ]

Aggrieved by the judgment of the Central Administrative Tribunal dated 26.02.2004 in O.A. No.114/2003 the Union of India has preferred this writ petition.

2. The order under challenge does not contain the detailed factual position of the case. The Respondents herein, who are applicants in the Original Application, were initially appointed as Inspectors by way of direct recruitment in the Central Excise Department and were posted to the Shillong Commissionerate. According to the writ petitioners, when re-structuring exercise was carried on in the Department of Central Excise, as a consequence of which 150 posts of Superintendent in Group-B were created in the Shillong Commissionerate of the Central Excise Department. It appears that the Superintendent in Group-B post is the next promotional post for those who are serving as Inspectors in the Department.

3. Consequent upon creation of abovementioned 150 posts of Superintendent in the Central Excise under the Shillong Commissionerate, the cases of those who are within the zone of consideration under the relevant rules, was placed before the Departmental Promotion Committee. The Respondent/applicants in the Departmental Promotion Committee were not successful in the said exercise, therefore, they approached the Administrative Tribunal by way of original application, the judgment of which is under challenge in this writ petition.

4. The substance of the grievance of the applicants/respondents in the original application is that as per the seniority list of Inspectors published by the Department on 01.04.2002, their names appeared at Serial Nos. 124, 127, 133, 134 and 136 respectively and in view of the creation and availability of 150 posts, the applicants ought to have been promoted automatically. Secondly, it was the contention of the applicant that some of the non-official respondents in the Original Application, who were also working as Inspectors in the Shillong Commissionerate, figured at lower position in the seniority list referred to earlier to the applicants in the Original Application No.114/2003, such non-official respondents (Respondent No.6 to 21 herein), do not belong to either Scheduled Caste or Scheduled Tribe community, were promoted consequent upon the Departmental Promotion Committee's proceeding for the posts of Superintendent, in excess of the quota of posts available for such categories as per the relevant rules applicable to the service.

5. It is the case of the Union of India that the abovementioned non-official Respondents (No.6 to 21) are no doubt candidates belonging to Scheduled Castes or Scheduled Tribes and though they were promoted against corresponding vacancies, the

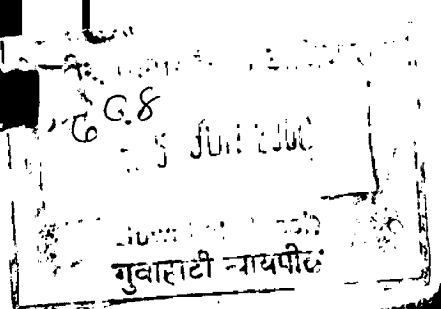
applicants' claim that there was excess promotion of candidates belonging to those categories, is not tenable in view of the fact that some of candidates belonging to the abovementioned categories, who are not parties to this proceeding, are promoted because of their merits as assessed by the Departmental Promotion Committee and consequentially such candidates belonging to those two categories were promoted against general category vacancies as per the requirement of law laid down by the Apex Court in R.K.Sabrewal vs. Union of India (1995) 2 SCC 745 and, therefore, the applicants have no right to complain that those candidates belonging to Scheduled Caste and Scheduled Tribe were promoted in excess of the quota provided for such categories.

6. As a matter of fact, candidates from these two categories promoted are larger than the number of posts reserved for such categories. Such a situation occurred due to promotion of some of the candidates belonging to that categories not on the basis of reservation as mentioned above.

7. Learned counsel for the Respondents Mr.A.Dasgupta submitted that such existence of 150 posts of Superintendent is because of restructuring of the Department on an administrative decision of the Union of India to upgrade the existing posts of

Inspectors in the Commissionerate at Shillong to the category of Superintendent. Therefore, the question of selection in case of such up-gradation and consequential rule of reservation, while filling up/ re-designating the posts does not arise. Whereas, the stand of the Appellant Union of India is that these posts in question so far the Commissionerate at Shillong is concerned, have been (created) for the first time due to re-structuring of the cadre.

8. Learned counsel for the respondent Shri A. Dasgupta has brought notice of this Court to a judgment of the Central Administrative Tribunal, Chandigarh Bench in O.A. No.388/PB/2005 dated 05.05.2006, wherein identical questions came to be considered by the Tribunal. Broadly stated, it is a case where consequent upon restructuring of the Department in the Chandigarh Commissionerate, 134 posts of Inspector were upgraded to Superintendent in Group-B cadre. Consequently, the corresponding posts in the grade of Inspectors were abolished. According to the applicants therein 26 new posts of Superintendent were created beside the existing 10 vacancies in the cadre of Superintendent making total of 170 posts of Superintendent in the Excise Department. It is in the context of the above factual background the Tribunal came to the conclusion that insofar as 134 posts which were upgraded, the question of selection does not arise. Insofar as the existing 10 posts and the newly



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BY SPEED POST

URGENT

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created 26 posts, a total of 36 posts, would necessarily involve selection from the feeder category. The decision of the Gauhati Bench of the Central Administrative Tribunal, unfortunately (does not) contain any detailed particulars of posts or the number of existing posts or any further details in this regard.

9. In the circumstances, we deem it appropriate to set aside the order under challenge and remit the matter back to the Central Administrative Tribunal, Guwahati Bench for fresh decision in accordance with law.

10. The parties shall be at liberty to file their pleadings before the Central Administrative Tribunal.

sd/- A. Hazarika.
JUDGE.

sd/- J. Chelameswar.
CHIEF JUSTICE.

Memo No. HC.MI. 12, 617-21 /R.M. to. 2/6/08

Copy forwarded for information and necessary action to:-

1. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, New Delhi.
2. The Chief Commissioner, Customs and Central Excise, Shillong.
3. The Commissioner, Central Excise, Shillong.
4. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench Rajgarh Road, Bhangagarh, Guwahati- 781005.
5. The Section Officer (J) Central Administrative Tribunal Guwahati Bench Rajgarh Road, Bhangagarh, Guwahati-781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. CA7/GHY/68/01/Jud1/495 Date 01.07.05.

Encls:-

1. O.O. 114/02 Part 'A'.

By order

Asstt. Registrar ()
Guwahati High Court, Guwahati.

Clk
30/5/08

50(T)
5/6/08

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.114 of 2003

Date of decision: This the 26th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

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

1. Shri Pankaj Kumar Bhattacharjee
 2. Shri Bhagirath Baruah
 3. Shri Kamal Narayan Choudhury
 4. Shri Kailash Barman
 5. Shri Binoy Kishore Sharma
-Applicants

All the applicants are working as
Superintendent, Customs and Central Excise.

By Advocates Mr S. Das and Mr G. Pathak.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Finance, Department of Revenue,
New Delhi.
 2. The Chief Commissioner
Customs and Central Excise,
Shillong.
 3. The Commissioner
Central Excise,
Shillong.
 4. Shri L.L. Mate
 5. Shri Lalkhonan Simte
 6. Shri Kalzadal
 7. Shri Liliawnliana
 8. Shri Stringsing Nongbot
 9. Shri R. Valentile Bassianmolt
 10. Ms Zarina Khan Shandap
 11. Shri Anthony Pohthmilong
 12. Shri K. Hmar
 13. Shri Hiramba Basumotari
 14. Ms Ladya Dutta
 - ✓15. Shri Premananda Saikia
 - ✓16. Shri Girindra Nath Haloi
 17. Shri Golap Chandra Das
 - ✓18. Shri Nripendra Nath Deka
 - ✓19. Shri Samir Kumar Kundu
 20. Ms Kiranmoyee Das
 - ✓21/ Shri Gautam Kumar Bhuyan
-Respondents

Respondents 4 to 21 are working as
Superintendent, Central Excise and Customs.

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

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O R D E R (ORAL)

SHANKER RAJU, MEMBER (J)

Private respondents despite service have not appeared. As such they are unrepresented and we are of the view that they are not interested in pursuing the remedy.

2. The question to be decided in this case is that in a non-selection post once the seniority has been finalised if a ST/SC candidate is qualified on his own merit whether he is to be promoted ignoring the seniority of his seniors.

3. From the pleadings it transpires that the respondents in the light of the Government of India Instructions vide DOPT O.M. dated 11.7.2002 treated SC/ST candidates as general category who were promoted on their own merit in the reservation roster.


4. The applicant who was promoted as Inspector, Central Excise seeks antedating his promotion with seniority as Superintendent, Central Excise.

5. The present controversy is in all four covered by a decision in O.A.141 of 1997 decided on 30.8.1999 where holding that any promotion by selection of SC/ST candidates in non-selection post cannot be adjusted other than the roster point meant for them, reconsideration regarding seniority has been ordered with all consequential benefits.

6. We are of the considered view that if in a non-selection post if a general candidate is fit and senior to SC/ST candidate he cannot be superseded and is to be promoted even if a SC/ST candidate qualifies on his own merit. The only scope for SC/ST candidate for promotion in non-selection post is through the roster point. They cannot jump over the seniority of general candidates and cannot be

treated as qualified on their own merit.

7. In this view of the matter the O.A. is disposed of with directions to extend to the applicants the benefit of the decision (Supra) and refix the seniority of the applicants as Superintendents with all attending consequential benefits within a period of three months from the date of receipt of a copy of this order.



(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER



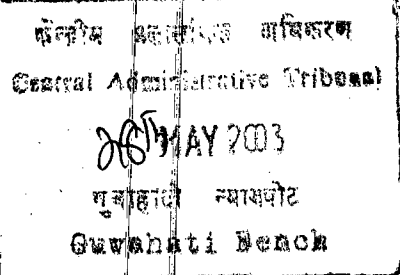
(SHANKER RAJU)
JUDICIAL MEMBER

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

O.A. 114 /03



Sri Kailash Barman & Others,

-Versus -

Union of India & Others,

List of Dates :

Date	Particulars	Annexure	Page No.
23-9-02	Promotion Order No.139/02	1	18-21
--	Seniority List of Inspectors as on 1.4.02	6	26-33
--	Policy/Principle towards reservation of S C & S T particularly in case of promotion.	2	22
--	Treatment of SC/ST candidates promoted on their own merit in the reservation rosters	3	23
--	Reservation of SC/ST in posts filled by promotion/Promotions on the basis of seniority subject to fitness.	4	24
--	Calculation of ratio for General, SC & ST candidates as per the principle laid down by the authority as evident from Annexures 2,3 & 4. Accordingly 12 members of ST candidates and 6 members of SC candidates have been wrongly promoted.	5	25

Contd....P/2.

Filed by
Sanjay Kumar
Advocate

Date	Particulars	Annexure	Page No.
	Representations and Reminder, submitted by the applicants/ petitioner of this case.	8 Series	36-46
9-1-03	Forwarding letter of Administrative Officer, Central Excise, Guwahati	7	34-35
30.12.02	Subsequent promotion order of the applicants/ Petitioners, but as they were deprived by the promotion order dt-23-9-2002(Annexure-1), they become junior to about 5000 members of similarly situated employees on the all India basis.	9	47-48
30-8-99	Order passed by this Ho'ble Tribunal in a very similar case (O.A. 141/97)	10	49
--	Relief sought-	Paragraphs 8	Page-14

Filed by
[Signature]
Advocate.

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In the Central Administrative Tribunal Guwahati Bench.

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

O.A. 114 /2003.

Sri Kailash Barman & others.

-Versus -

Union of India & others.

I N D E X

<u>Sl. No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Pages.</u>
1.	-	Application ...	1-16
2.	-	Verification ...	17
3.	1	Order dated 23.9.02 ...	18-21
4.	2	O.H. dated 20.7.74 (extract)	22
5.	3	G.I. Dept. (P & T) OM No. 36028/17/2001-Estt(Res) Dt. 11.7.02.	23
6.	4	OM dt. 25.3.1970 ...	24
7.	5	Calculation sheet ...	25
8.	6	Seniority list of ... Inspectors as on 1.4.2002.	26-33
9.	7	Forwarding letter of Asstt. Comm. CE dated 9.1.2003.	34-35
10.	8 (series)	Representations and reminders of the applicants.	36-46
11.	9	Promotion order of ... applicants dt. 30.12.02	47-48
12.	10	Order dated 30.8.99 ... passed by the Hon'ble CAT, Guwahati B ench.	49-52

Filed by -

[Signature]
Advocate.

Kailash Barman.

1. Particulars of the Applicants :

- (1) Shri Pankaj Kumar Bhattacharjee,
Son of Sri Prabodh Chandra Bhattacharjee,
Superintendent (Guwahati-IV Range),
Central Excise, Guwahati.
- (2) Shri Bhagirath Baruah,
Son of Late Bhabendra Barua,
Superintendent of Customs, Imphal.
- (3) Sh. Kamal Narayan Choudhury,
Son of Late Karuna Choudhury,
Superintendent (Golaghat-II Range),
Central Excise, Golaghat.
- (4) Sh. Kailash Barman,
Son of Late Chandra Kanta Barman,
Superintendent (Technical-II Section),
Central Excise, Guwahati.
- (5) Sh. Binoy Kishore Sharma,
Son of Late Sri Bhabendra Nath Sarma,
Superintendent (Technical-III Section),
Central Excise, Guwahati.

2. Particulars of the Respondents :

- (1) Union of India,
Represented by the Secretary to the Govt. of
India, Ministry of Finance, Deptt. of Revenue,
New Delhi.
- (2) The Chief Commissioner,
Customs and Central Excise, Shillong.
- (3) The Commissioner,
Central Excise, Morello Building, Shillong-1.

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Railash Babson

- (4) Shri L.L.Mate,
Superintendent(Statistics Branch), Central
Excise, Head Quarters Office, Shillong.
- (5) Sh. Lalkhonah Simte,
Superintendent, Central Excise, Head Quarter
Office, Shillong.
- (6) Sh. Kalzadal,
Superintendent(Dimapur Range), Central Excise
Division, Nagaon.
- (7) Sh. Lilliawnliana,
Superintendent, Central Excise, Head Quarters
Office, Shillong.
- (8) Sh. Stringsing Nongbet,
Superintendent (Audit Branch),
Central Excise Head quarters Office, Shillong.
- (9) Sh. R. Velentile Basaiammolt,
Superintendent, Central Excise, Head quarter
Office, Shillong.
- (10) Ms. Zarina Khan Shandap,
Superintendent(Inspection Cell), Central Excise
Division, Shillong.
- (11) Sh. Anthony Pohthmilong,
Superintendent, Central Excise, Head Quarters
Office, Shillong.
- (12) Sh. K. Hmar,
Superintendent, Aizawl Central Excise Division,
Silchar.
- (13) Sh. Hiramba Basumetari,
Superintendent, Central Excise, Head Quarters
Office, Shillong.

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Kailash Basman

- (14) Ms. Ledya Dutta,
Superintendent (Guwahati-VI Range), Central
Excise, Guwahati.
- (15) Sh. Premananda Saikia,
Superintendent (PRO), Central Excise Head
Quarters Office, Dibrugarh.
- (16) Sh. Girindra Nath Haloi,
Superintendent (Anti-Evasion), Central Excise,
Nagaon.
- (17) Sh. Golap Chandra Das,
Superintendent (Technical-III Sec.), Central
Excise Division, Dibrugarh.
- (18) Sh. Nripendra Nath Deka,
Superintendent, Central Excise Head Quarters
Office, Dibrugarh.
- (19) Sh. Samir Kumar Kundu,
Superintendent (Goalpara Range), Central
Excise, Dhubri.
- (20) Ms. Kiranmoyee Das,
Superintendent (Sibsagar Range), Central Excise,
Jorhat.
- (21) Sh. Gautam Kumar Bhuyan,
Superintendent (Technical-II Sec), Central
Excise Division, Dibrugarh.

3. Particulars for which this application is made :

This application is made against the Establishment
Order bearing No. 139/2002 dated Shillong the 23rd
September, 2002 of the Commissioner, Central Excise,
Shillong whereby the applicants/are illegally superseded

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Kailash Babbar

in the matter of promotion in the grade of Superintendent Gr-B in the Customs and Central Excise Department by respondent Nos. 04 to 21 who are junior to the applicants due to adoption of incorrect procedure of reservation quota of Scheduled Caste and Scheduled Tribe by the authorities, resulting in excess allotment of vacancies of promotional post of Superintendent (Gr.B to the reserved category candidates and also praying for a direction upon the respondents to promote the applicants with retrospective effect with all consequential service benefit and monetary benefit including seniority above the respondent Nos. 04 to 21.

4. Limitation :

That the applicants declare that this application is within the period of limitation as prescribed under the Administrative Tribunals Act, 1985.

5. Jurisdiction :

That the applicants is well within the jurisdiction of this Hon'ble Tribunal.

6. Fact of the Case :

6.1. That your applicants are citizens of India and as such they are entitled to all the rights and privileges as guaranteed by the Constitution of India.

6.2. That your applicants were initially appointed as direct recruit in the cadre of Inspectors in the

pay scale of Rs. 425/- - Rs. 700/- and joined in the Shillong Collectorate (later on became Shillong Commissionerate).

6.3. That as a result of restructuring of the Customs and Central Excise Department, a total of 149 posts to the Grade of Superintendent Gr-B are created in Shillong Commissionerate. The applicants in the meantime had attained the eligibility in terms of recruitment rules for promotion to the post of Superintendent Gr-B in the pay Scale of Rs. 6,500/- - Rs. 10,500/- as the same is next avenue of promotion from the grade of Inspectors.

6.4. That a Departmental Promotion Committee (D.P.C) meeting was held in the month of June, 2002 to fill up 149 vacancies of Superintendent Group-B where the case of the applicants for promotion to the post of Superintendent, Gr-B have not been considered by the D.P.C. although the applicants were eligible and they were within the zone of consideration. But surprisingly the case of promotion of respondent Nos. 04 to 21 were promoted to the post of Superintendent Gr-B vide impugned Estt. Order No. 139/2002 dt. Shillong, the 23rd September, 2002 issued by the Commissioner, Central Excise, Shillong.

A copy of the said impugned promotion order dtd. 23-9-2002 is enclosed as ANNEXURE-I.

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Railash Buxon

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Kailash Baman

5.5. That your applicants beg to state that due to adoption of wrong procedure for allotment of vacancies to reserved category, i.e. Scheduled Caste and Scheduled Tribe is resulting in the Respondents No. 04 to 21, who are junior to the applicants being wrongly adjusted in excess of the entitled reserved quota for Scheduled Caste & Scheduled Tribe, thereby the applicants who are senior to the Respondents No. 04 to 21 have been deprived of their legitimate promotion and resulting in the above Respondents having illegally superseded the applicants in the matter of promotion in the cadre of Group-B Superintendent by the ibid impugned promotion order dated 23 Sept, 2002.

6.6. That as per Govt. of India's O.M.No.1/12/67-Est(C) dated 11 July, 1968, Resolution No. 27/25/68 Estt (SCT) dated 25th March, 1970, OM.36021/7/75-Estt(SCT) dated 25th March, 1970, Department of Personal OM No. 8/12/69-Estt(SCT) Dated 23 Dec, 1970,

AND

GI Deptt., of Per. & A.R. OM No. 10/41/73-Estt(SCT) dated 20th July, 1974, OM No.1/9/74-Estt(SCT) dated 29 April, 1975 & OM No.36011/39/81-Est(SCT) dated 30th Nov, 1981 (Annexure-2) and GI Deptt. of Per. & Trg. OM No.36028/17/2001 Estt(Res) dated 11-07-2002 (Annexure-3).

It is observed that " if Candidates from SCs & STs obtain promotion on the basis of merit with due

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regard to their seniority, on the same basis as others fill in less No. of vacancies than that reserved for them, the difference should be made up by selecting candidates of those communities who are in the zone of consideration irrespective of merit but who are considered fit for promotion. " In other words, these instructions stipulate that if SC/ST candidates are available in accordance with general standards, then there is no need of further filling up additional vacancies as quota reserved for SC/ST candidates who are found fit by general standards. As per para 3(IV) of the OM No.17/68 Estt(SCT) dated 25-3-1970 of Ministry of Home Affairs, New Delhi.

" When the select list of Officers in the general category and those belonging to Scheduled Castes and Scheduled Tribes have been prepared by the Departmental Promotion Committee, these should be merged into a combined list in which the names of all the selected Officers, General as well as those belonging to SC/ST as arranged in the order of their ~~inter-se~~ seniority in the original seniority list of the category or Grade from which the promotion is being made. This combined select list should thereafter be followed for making promotion in vacancies as and when they arise during the year. (ANNEXURE-4).

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Kailash Basman

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which show that SC/ST candidates selected by 'General Standard' to be adjusted against vacancies reserved for them.

In this connection it may be stated that 'by General Standards' does not mean any way "General" that is if some one is fit by general standard, it does not mean his category has become "General", rather it means that he remains in SCs/STs category but promoted by General standard. But in the Commissariate of Central Excise, Shillong the above Government Instructions have been flouted while promoting the Scheduled Caste/Scheduled Tribe candidates from the cadre of Inspectors to the Cadre of Group 'B' Superintendent. As a result excess vacancies are being allotted to SC/ST candidates thereby depriving the general category candidates in the matter of promotion to the posts of Group-'B' Superintendents. In the instant case during the year of 2002, altogether there were 149 vacancies of Group -'B' Superintendents. As per Government Instructions, 7.5% thereof i.e. 11.18, (say 11) vacancies should be filled by ST candidate and 15% thereof i.e. 22.35 (say 22) vacancies should be filled by SC candidates, totalling to 33 candidates, against which 59 vacancies have been filled by these two categories, thereby encroaching into the vacancies of General category, and depriving the officers of General Category by rolling them out from consideration and promotion.

Contd.....10.

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Kailash Basmann.

6.7. That the applicants beg to submit that General category candidates have erroneously been considered upto Serial 121 only of the seniority list, whereas the ST candidates have been considered below Sl. 87, though their quota of 11 vacancies have been filled within that Serial. Rather they have consumed 19 vacancies upto Serial 121. Any vacancies allotted to them below Sl. 87 is therefore, against the Instructions of Govt. of India and principle of Natural Justice to the General Category, as they were not considered beyond Serial 121. Consumption of additional by ST category 20 vacancies/below serial 87 is highly irregular, particularly by the persons below Serial 121.

6.8. That the applicants beg to submit that in case of SC candidates, 05(five) vacancies have been consumed by them within the Serial 121, So, they are entitled for additional 17 vacancies below Serial 121 according to the policy laid down to fill in their quota of 22. Against the same they have consumed additional 23 vacancies below Serial 121. For details please peruse Annexure-5 attached.

6.9. That the Applicants beg to submit that cutting off at Serial 121 of the list for General category has also been incorrect. A perusal of calculations attached as Annexure-5 will highlight the following :-

(a) Vacancies allotted	-	149
(b) Reservation for ST	-	11

Contd....11.

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Kailash Barmar

- (c) Reservation for SC - 22
- (d) therefore vacancies available for General Category = $149 - 33 = 116$.
- (e) Promotion not affected against 8(eight) candidate so, consideration should be upto Serial $116 + 8 = 124$ of the list.
- (f) Further 11 vacancies are for STs, so consideration for upto serial $135(124+11)$ were to be made from General seniority list.
- (g) Further upto Serial 135, 7(seven) vacancies have been consumed by the SCs upto serial 135, so, consideration should have been upto serial $142(135+7)$ of the General list. However, the D.P.C. has considered upto Serial 121 of the general list.

A copy of the seniority list is attached as ANNEXURE- 6.

6.10. That the Commissserate has ultra-vires in violation of the Govt. of India instructions by the ibid order, the applicants raised objection to general consideration and approval of ST candidates junior to them in the seniority list i.e. Serial 146 and below. In case of SC candidates named after fulfillment of 22 vacancies i.e. Serial 278 and below of the seniority lists, as by adoption of this method of consideration & promotion the applicants have been overlooked by the authorities illegally.

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Kailash Boman

7.0. That, your applicants further beg to state that this wrong procedure followed in the Commisserate appears to be undetected by local authority as well as authority of Delhi because of the fact that when SC/ST candidates are promoted in accordance with "General Standard", their names might have been reflected as "General" and not as Reserved categories. This is also evident from the fact that in the past in 1994-95 in promotion to the Assistant Commissioner from Superintendent Group-B, this Commisserate had intimated the Board/Ministry, that some candidates who were reflected as "General" in Ministry's record actually belonged to SC/ST. If in the minutes of the relevant D.P.C. proceedings against each of the names, they indicate their categories, then such grave errors could not have occurred. Similar mistakes occurred in the promotion Board of Superintendent Grade-'B' in 1995 also and the aggrieved candidate had to resort to seeking of justice from this Hon'ble Tribunal only. In this connection, the attention is drawn to Original Application No. 141 of 1997 as decided on 20th August, 1999, in the case of Sri Rathindra Kumar Sarkar -Versus- the Union of India & Ors(Annexure-10).

7.1. That in the present case all the individuals named as Respondents 4 & below, by virtue of the ibid order would supersede the applicants on promotion. However, as their consideration itself was in violation of the laid down norms, their subsequent approval and promotion would mean denial of due natural justice to the applicants.

Contd.....13.

94
Railash Bismah

7.2. That as a result of adoption of wrong procedure in the allotment of vacancies to the reserved category candidates, respondents No.4 to 21, who were junior in cadre of Inspector have been given promotion to the cadre of Superintendent Group-B vide ~~ibid~~ promotion order dated 23-9-2002 of Shillong Commissionerate and as a result the applicants have been deprived of their due legitimate promotion and consequently seniority and other service benefits including ~~monetary~~ monetary. In the compelling circumstances the applicants submitted detailed representations addressed to the Commissioner, Central Excise, Shillong duly forwarded by the Assistant Commissioner, vide his letter No.GI(3) 1/ET/ACG/2001/157 dated 09-01-2003, but the said representations have not yet disposed of by the respondents till filing this Application.

A copy of the letter of the Assistant Commissioner dated 09-01-2003 and copy of representations are annexed herewith and marked as ANNEXURE-7 & 8(series) respectively.

7.3. That your applicants further beg to state that the applicants have been promoted to Superintendent Group-'B' vide Order No. 204/02 dtd. 30th Dec'02. However, by virtue of the earlier impugned order of 8 Sept, 2002, they have lost about 5,000 positions in the All India Seniority list, which should be rectified and status-quo of seniority be maintained.

Contd.....14.

97
Kailash Babbar

7.4. That, this application is made bona-fide and for the cause of Justice.

8. Relief sought :

Under the facts & circumstances stated above, the applicant prays for the following reliefs :-

- (1) That the promotion of Respondents 04 to 21 to the cadre of Superintendent of Group 'B' issued under impugned Estt. Order No. 139/2002 dated 23.9.2002 be set aside and quashed.
- (2) That the promotion of the applicants be anti-dated with effect from the date of promotion of the juniors of the applicant.
- (3) That the Hon'ble Tribunal be pleased to declare that all the promotions made beyond the quota, particularly of the respondents 04 to 21 are illegal and void as the same is excess of reserved quota.
- (4) To pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal.
- (5) Cost of the case.

The above reliefs are prayed on the following amongst other ;

-: GROUNDS :-

- 1) For that the respondents have not followed the Govt. instructions regarding allotment of

Contd.....15.

98
Kailash Berman.

of vacancies in terms of reserved policy (200 points roster) of SC/ST communities.

2) For that the respondents 04 to 21 have been promoted in excess of reserved quota and beyond the numbers considered of the General Seniority list.

3) For that the applicants are senior to respondents 04 to 21.

4) For that the applicants were eligible for promotion to the posts of Superintendent Group-'B' and within the zone of consideration but illegally has not been considered in the D.P.C. held on June, 2002.

5) For that 149 Nos. vacancies of Group-B Superintendents had occurred during the year 2002.

6) For that the incorrect procedure of allotment of vacancies to SC/ST communities have been followed by the respondent with ulterior motive to deny the legitimate claim of the applicants for promotion to the post of Superintendent, Group-'B'.

7) For that the representations of the applicants forwarded on 09-01-2003 have not been disposed of by the respondents till the filing of this application.

9. Interim Reliefs prayed for :

During the pendency of this application the applicants pray for the following relief before the Hon'ble Tribunal.

99
Kailash Bhatnagar

That the respondents be directed not to publish All India Common Seniority List of Group-B Superintendent of the Central Excise for the year 2002, which is not yet published till the disposal of the application.

The above relief is prayed on the grounds explained in paragraph 8 of the Application.

10. Details of remedies exhausted :

That the applicants state that they have no other alternative and other efficacious remedy than to file this application before the Hon'ble Tribunal.

11. Matters not previously filed or pending with any other Court/Tribunal.

The applicant further declares that he has not previously filed any application, Writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other Tribunal nor any such application, Writ petition or suit is pending before any of them.

12. Details of Postal Order :

Postal Order No. : 86 490483
Date of Issue : 22-5-03
Issued from :
Payable at :

13. List of Enclosure :

As per Index.

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

I, Sri Kailash Barman, Son of Late Chandra Kanta Barman, aged about 43 years, working as Superintendent (Technical - II Section), Central Excise, Guwahati Division, Guwahati, one of the applicants in this application, do hereby verify and declare that I have been authorised by all other applicants to sign this Verification on behalf of all applicants. I further declare that all statements made in paragraphs are true to my knowledge and those made in paragraphs are true to my legal advice and I have not suppressed any material facts.

I sign this Verification on this the 23rd day of May, 2003.

Kailash Barman

(SIGNATURE)

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

Vol

ESTABLISHMENT ORDER NO. 139/2002. DATED SHILLONG THE 23rd SEPTEMBER 2002

Subject: Estt. Promotion, transfer and posting in the grade of Supdt. Gr. 'B' - order regarding

PART - I

PROMOTION

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

S.No.	Name
1.	Pankajlal Singha
2.	Tarun Kr. Singha
3.	Pannalal Singha
4.	Ashok Kr. Doy
5.	Smt. H. Moncha Devi
6.	Debashish Mazumder
7.	Jamkhogin Haokip (SI)
8.	Smt. Hilda Mary Synnem (SI)
9.	Abdul Mutalib
10.	Sujit Mishra
11.	Syed Taifique Hussain
12.	Bhanti Ram Das
13.	Pabitra Katakli
14.	Jasalanla Mazumder
15.	Rajkumar Kalita
16.	Oils Debajyoti Sinha
17.	Ganesh Ch. Sharma
18.	Joydeep Dutta
19.	Honi Prasad Sharmah
20.	Swapan Kr. Nath
21.	Tridip Ch. Roy
22.	Hahul Sinha
23.	Imdadur Rehman
24.	Sagar Kr. Dutta
25.	Owigendra Mohan Das
26.	Nikendra Singha
27.	Naziruddin
28.	Sudip Kr. Dutta
29.	Hem Chandra Kalita
30.	Debaswar Chandi (SI)
31.	Pralulla Kr. Taze (SI)
32.	Thangchuollo (SI)
33.	Tushar Kant Sen
34.	Niharoshi Handi (SO)
35.	Lalit Kishor (SI)
36.	S. Gillong (SI)
37.	Dilip Kr. Gogoi
38.	Bibhuti Bhushan Borah
39.	Shyamal Kr. Dutta
40.	Ashok Kr. Chakraborty
41.	Rhagan Borah
42.	Bijoy Bhushan Baruah
43.	Phani Bhushan Roy Choudhury
44.	Dipak Kr. Deb
45.	Basudeb Bhattacharjee
46.	Inuranul Goni
47.	Subinash Gula

Certified to be true

Per.

Advocate

48	Dilip Kr. Chatterji
49	Parag Kr. Baruah
50	Ashit Chakraborty
51	Binayak Bhattacharjee
52	Ashish Adhikary
53	Biswendu Dey
54	Subir Das
55	Bikash Ch. Nath
56	Nihar Ranjan Debray
57	Bhaskar Kanti Bhattacharjee
58	Pannalal Dutta
59	Gopewar Ch. Paul
60	Ajit Mohan Paul
61	Mohit Kanti Dey
62	Mahendra Dutta
63	Minal Kanti Goswami
64	Sasanka Sekhar Das. (SC)
65	Md. Muhibur Rahman
66	Jagadindu Das
67	Ganesh Ch. Deka
68	Pijush Banerjee
69	Md. Hanif Alam Bora
70	Swapnatul Mahanta
71	Harapada Roy
72	Rabindra Kr. Borah
73	Nijit Kr. Nandi
74	Dharani Borah
75	Md. Abdul Munem
76	Prahlad Borborah
77	Ratindra Pathak (SC)
78	Narendra Ch. Talukdar. (ST)
79	Lokendra Nath Sonowal. (SC)
80	Jitendra Kr. Saikia. (ST)
81	Balaram Pegu. (ST)
82	Ratneswar Doley. (ST)
83	Jogesh Sonowal. (ST)
84	John Oscar Marak. (ST)
85	Bishnu Ram Boro. (ST)
86	Ms. Lalchangliani Sailo (ST)
87	Dambaro Bhoktiari. (ST)
88	Paul Peter Kujur. (ST)
89	Ajit Debnath
90	Rex Hungzo (ST)
91	R.K. Darendrajit Singh
92	Ranabir Chakraborty
93	Haridosh Kr. Das
94	Harewar Goswami
95	Sanjay Kr. Mazumdar
96	Dipankar Dey
97	Buddha Pratim Dutta
98	Rajkumar Debendra Singh
99	Subir Dutta Choudhury
100	Ms. Shibani Bhattacharjee
101	Rajkumar Surchandra Singh
102	Ms. Rita Rani Bhowmick
103	Sivaji Chanda
104	Athlit Dey (No 1)
105	Ratnangshu Chakraborty
106	Ms. Champu Shome
107	Phanidhar Kakoti
108	Gobindo Nath Kalita
109	Jasundra Mohon Bora
110	Ms. K. Patricia Laloo. (ST)
111	Ashim Roy
112	Pallav Lochan Saikia
113	Rimel Kr. Das. (SC)

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114	Lobendu Sekhar Das (SC)
115	Dipen Ch. Bania (SC)
116	Kshitendu K. Malakar (SC)
117	L.L. Malo Gangoo (SI)
118	Lalkhorah Simle (SI)
119	Kalcadal (SI)
120	Jayanta K. Pathak (SC)
121	Laltawnlanu (SI)
122	Gautam Ch. Mandal (SC)
123	Stingsing Nongbet (SI)
124	Benu Ranjan Sutradhar (SC)
125	R. Valentine Basaiawmod (SI)
126	Swapan Das (SC)
127	Ms. Zarina Khan Shadap (SI)
128	Tapan K. Rajkhowa (SC)
129	Tapan Ch. Gayan (SC)
130	Anthony Pohhmilong (SI)
131	K. Hmar (SI)
132	Hiramba Basumatari (SI)
133	Ms. Ledyia Dutta (SI)
134	Premnanda Saikia (SI)
135	H.N. Das (SC)
136	Jyotish Ch Das (SC)
137	B.B. Karmakar (SC)
138	Gautam Das (SC)
139	Sribashi Dhar (SC)
140	J.K. Tiliwari (SC)
141	S.K. Roy (SC)
142	M.L. Choudhury (SC)
143	N.C. Sutradhar (SC)
144	G.N. Habor (SC)
145	Golap Ch. Das (SC)
146	H.N. Oeka (SC)
147	S.K. Kundu (SC)
148	Ms. Kiranmoyee Das (SC)
149	G.K. Bhuyan (SC)

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

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

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

TRANSFER AND POSTING

PART - II

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

NOTE

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

86/-

(Z. TOCHIAWING)
COMMISSIONER
CENTRAL EXCISE
SHILLONG.

C.No. II(3)28/ET.III/2000/34608-34788

Dated

23 SEP 2002

Copy forwarded for information & necessary action to :

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

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

Annexure-2 (Extract)

O.M. No. 10/41/73-Estt (SCT) dated 20th July, 1974.,

O.M. No. 1/9/74-Estt (SCT) dated 25.4.1975 &

O.M. No. 36011/19/81-Estt (SCT) dt. 30th Nov. 1981

- (ii) If candidates from Scheduled Casts and Schedule Tribes obtain on the basis of merit with due regard to seniority, on the same basis as other less number of vacancies than that reserved for them, the difference should be made up by selecting candidates of these communities who are in the zone of consideration irrespective of merit but who are considered fit for promotion.

Certified to be true
[Signature]
Advocate

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G.I. Dept. of Per. & Trg. O.M.No.36028/17/2001-Estt.(Res) dated 11.07.2002

Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters

The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation rosters introduce vide DOPT's O.M. No. 35012/2/96 – Estt.(Res) dated 2.7.1997. While it is cleared from the OM dated 2.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation roster, doubt have been raised among SC/ST candidates promoted on their own merit. It is hereby clarified that :-

- i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points.
 - ii) If an unreserved vacancy arises in a cadre and there is any SC/ST candidate
Within the normal zone of consideration in the feeder grade, such SC/ST candidate can not be denied promotion on the plea that the post is not reserved. Such a candidate will be considered for promotion alongwith other candidates treating him as if he belongs to general category. In case he is selected he will be appointed to the post and will be adjusted against the unreserved point.
 - iii) SC/ST candidates appointed on their own merit (by direct recruitment or Promotion) and adjusted against unreserved points will retain their status of SC/ST and will be eligible to get benefit of reservation in future/ further promotion if any.
2. All Ministries / Departments are requested to bring the contents of this OM to the notice of all authorities under them for information.

Certified to be true
Sabharwal
Advocate

Annexure-4 (Extract)

Office Memorandum No. 17/68 Est(SOI) dated 25.3.1970

Subject : Reservation of Scheduled Castes and Scheduled Tribes in posts filled by promotion/promotions on the basis of seniority subject to fitness.

1. XXXXXXXXX

2. X X X X X X

3. XX XXXXXXXXXXXX

(i) XXXXXXXX

(ii) X X X X

(iii) X X X X X

(iv) When the select list of officer in the general category and those belonging to Scheduled Castes and Scheduled Tribes have been prepared by the Departmental Promotion Committee, these could be merged into a combined select list in which the names of all the selected officers, general as well as those belonging to Scheduled Castes and Scheduled Tribes, are arranged in the order of their inter-se seniority in the original seniority list of the category of grade from which the promotion is being made. This combined select list should thereafter be followed for making promotions in vacancies as and when they arise during the year.

(v) The select list thus prepared would normally be operative for a period of one year, but this period of one year may be extended by six months.....

.....

SD/- S. KRISHNAN
Deputy Secretary to the Government of India

Certified to be true
Advocate

Establishment Order No.139/2002 dated 23th. September, 2002 in r/o promotion to the Grade of Supdt. Gr- B. from Gr.-C (Inspector).

Total No. of post—149.

Reservation- 7.5% for ST—11Nos.

15% for SC—22 Nos.

Total— 33 Nos.

General- (149-33)=116

1)Promotion not effected against candidates at Sl. No. 1,2,32,57,61,90,108,109. of the seniority list of Inspectors as on 01.4.2002. (08 Nos)

Sl. No. of the said seniority list will continue to 116 +08=124 for GENERAL.

2) 11 Nos. of ST candidates are earmarked for 11 Nos. post within Sl. No. 01 to 124. Of the said seniority list. Hence quotas for ST are fulfilled. They are as under—

<u>Name of Inspector.</u>	<u>Sl.No. of seniority list.</u>	<u>Sl.No. of the promotion list.</u>
1. Sh. Jamkhogin Haokip	09	07
2. Smt. Hilda Mary Synrem	10	08
3. Sh. Debeswar Chandi	33	30
4. " Prafulla Kr. Taye	34	31
5. " Thangchuoilo	35	32
6. " Larho Krelo	38	35
7. " Sakkam Kilong	39	36
8. " Narendra Ch. Talukdar	83	78
9. " Jitendra Kr. Saikia	85	80
10. " Balaram Pegu	86	81.
11. " Ratneswar Doley	87	82

Sl. No. of the said seniority list will continue to 124+11=135 for GENERAL.

3) 07 Nos. of SC candidates are earmarked for 07 No. posts within Sl. No. 01 to 135 of the said seniority list. Hence, quotas of 07 Nos. of SC candidates are fulfilled. They are as under—

<u>Name of Inspector</u>	<u>Sl.No. of the seniority list.</u>	<u>Sl.No. of promotion list.</u>
1. Sh. Niharesh Nandi	37	34
2. " Sasanka Sekhar Das	69	64
3. " Rabindra Pathak	82	77
4. " Lokhendra Nath Sonowal	84	79
5. " Nirmal Kr. Das	121	113
6. " Lobendu Sekhar Das	132	114
7. " Dipen Ch. Bania	140	115

Sl. No. of the said seniority list will continue to 135+07=142. For GENERAL

4) Total 22-07=15 Nos. of SC candidates will come from down Sl. of the said seniority list. They are as under (Sl. No. of the seniority list and Sl. No. of the promotion list within bracket)

143(116),153(120),158(122),171(124),184(126),186(128),188(129),231(135),237(136),238(137),239(138),241(139),242(140),243(141),247(142),266(143).

5) 12 Nos. of ST candidates wrongly promoted. They are as under-

146(117),150(118),151(119),156(121),162(123),183(125),185(127),189(130), 191(131),197(132),198(133),199(134).

5) 06 Nos. of SC candidates are wrongly promoted. They are as under-

200(144),209(145),201(146),303(147),314(148),316(149).

Certified to be true
[Signature]
Advocate

hms
1/7/02

SENIORITY LIST OF INSPECTOR AS ON 01.04.2002.

Sl.No.	Name & Educational Qualification	Date of Birth	Date of Apptt. In Govt. service	Date of confirmation in Govt. service	Date of appointment as Inspector	Whether DR/PR as Inspector	Remarks
S/Shri							
01	02	03	04	05	06	07	08
1.	Siba Prasad Neog, B.A	29.08.52	22.07.76	10.10.81	22.07.76	DR	
2.	Bikash Kumar Saikia, (ST), B. Com.	01.01.57	08.03.82	13.05.87	08.03.82	DR	
3.	Pankajlal Singha, B.A	28.01.60	20.06.83	13.05.87	20.06.83	DR	
4.	Tarun Kr. Singha, B. Sc	01.02.57	22.10.83	13.05.87	22.10.83	DR	
5.	Pannalal Singha, B.Com	30.01.58	20.06.83	13.05.87	20.06.83	DR	
6.	Ashok Kr. Dey, B.A	10.08.53	10.04.78	01.08.83	15.07.83	PR	
7.	Smt. H. Memcha Devi, B.Sc	01.12.57	05.05.83	13.05.87	05.05.83	DR	
8.	Debashish Mazumder, B.Com	22.01.57	02.05.83	13.05.87	02.05.83	DR	
9.	Jamkhogin Haokip, (ST), B.A	01.03.60	30.05.83	13.05.87	30.05.83	DR	
10.	Smt. Hilida Mary Synrem, (ST), PU	07.12.50	14.02.78	01.08.83	05.07.83	PR	
11.	Abdul Mutalib, B.Sc	01.01.57	31.12.80	13.05.87	07.07.83	DR	
12.	Sujit Mishra, B.Sc	17.01.59	08.09.83	13.05.87	08.09.83	DR	
13.	Syed Taffique Hussain, B.Sc	20.09.58	06.10.83	30.05.87	06.10.83	DR	
14.	Dhani Ram Das, PU	07.02.50	26.02.78	01.09.83	22.07.83	PR	
15.	Pabitra Katak, B.Sc	25.12.57	02.05.83	13.05.87	02.05.83	PR	
16.	Jasabanta Mazumder, B.Sc	03.01.61	18.05.83	13.05.87	18.05.83	DR	
17.	Rajkumar Kalita, B.Sc	15.10.56	05.05.83	13.05.87	05.05.83	DR	
18.	Dils. Debajyoti Sinha, M.A	10.01.58	15.06.83	13.05.87	15.06.83	DR	
19.	Ganesh Ch. Sharma, B.Sc	01.03.59	04.08.83	13.05.87	04.08.83	DR	
20.	Jaydeep Dutta, B.Com	01.09.56	01.09.83	13.05.87	01.09.83	DR	
21.	Horn Prasad Sharmah, B.A	20.01.57	22.10.83	13.05.87	22.10.83	DR	
22.	Swapan Kr. Nath, B.Sc	01.01.58	07.09.83	13.05.87	07.09.83	DR	
23.	Tridip Ch. Roy, B.Sc	18.01.57	30.08.83	13.05.87	30.08.83	DR	On Deputation with DRI, New Delhi
24.	Rahul Sinha, B.Sc	29.11.58	13.05.83	13.05.87	13.05.83	DR	
25.	Imdadur Rehman, M.Sc	03.01.58	07.09.83	13.05.87	07.09.83	DR	On Deputation with DRI, Silchar
26.	Sagar Kr. Dutta, B.Sc	31.08.57	11.07.83	13.05.87	11.07.83	DR	
27.	Dwigendra Mohan Das, B.A	01.09.57	19.09.83	13.05.87	19.09.83	DR	
28.	Nikendra Singha, M.A	02.09.58	02.05.83	13.05.87	02.05.83	DR	
29.	Naziruddin, B.Sc	04.10.56	20.06.83	13.05.87	20.06.83	DR	
30.	Sudip Kr. Dutta, B.A	31.12.58	10.05.83	13.05.87	10.05.83	DR	
31.	Hem Chandra Kalita, B.Sc (H)	01.01.57	07.09.83	13.05.87	07.09.83	DR	On Deputation with DRI, Silchar
32.	Dambaru Borah, (ST)	01.07.55	08.06.83	13.05.87	08.06.83	DR	
33.	Debeswar Chandi (ST), B.A	01.03.58	17.09.83	13.05.87	17.09.83	DR	

certified to be true
for
Advocate

01	02	03	04	05	06	07	08
34.	Prafulla Kr. Taye, (ST), B.A	01.10.58	06.10.83	13.05.87	06.10.83	DR	
35.	Thangchuoilo, (ST), B.A	01.03.52	16.05.83	13.05.87	16.05.83	DR	
36.	Tushar Kanti Sen, B. Com (H)	15.01.57	16.09.83	13.05.87	16.09.83	DR	
37.	Niharesh Nandi, (SC), B.A	01.11.56	10.11.83	13.05.87	10.11.83	DR	
38.	Larho Krelo, (ST), B.A	01.03.60	12.10.83	13.05.87	12.10.83	DR	
39.	Sakkam Kilong, (ST), B.A	04.08.59	01.10.83	13.05.87	01.10.83	DR	
40.	Dilip Kr. Gogoi, B.Sc	01.09.56	11.11.83	13.05.87	11.11.83	DR	
41.	Bibhuti Bhusan Borah, B.Sc	01.03.57	06.10.83	13.05.87	06.10.83	DR	
42.	Shyamal Kr. Dutta, B.Sc	25.01.57	01.11.83	13.05.87	01.11.83	DR	
43.	Ashok Kr. Chakraborty, B.Sc	01.11.58	01.02.84	13.05.87	01.02.84	DR	
44.	Khagen Borah, B.Sc	01.01.59	01.11.83	13.05.87	01.11.83	DR	
45.	Bijoy Bhusan Baruah,	01.09.59	07.09.83	13.05.87	07.09.83	DR	
46.	Phani Bhusan Roy, B.Sc	01.09.56	05.09.83	13.05.87	05.09.83	DR	
47.	Dipak Kr. Deb, B.Sc	16.01.58	06.09.83	13.05.87	06.09.83	DR	
48.	Basudeb Bhattacharjee, M.A	23.02.58	26.09.83	13.05.87	26.09.83	DR	
49.	Imranul Gon?	11.10.56	24.10.83	13.05.87	24.10.83	DR	
50.	Subhasish Guha, B.Com	03.03.60	06.10.83	13.05.87	06.10.83	DR	
51.	Dilip Kr. Chettri, B.Sc	01.03.57	19.02.83	13.05.87	25.05.83	DR	
52.	Parag Kr. Baruah, B.A	12.10.58	10.11.83	13.05.87	10.11.83	DR	On Deputation with DRI, New Delhi
53.	Ashit Chakraborty, B.Sc	02.01.57	28.09.83	13.05.87	28.09.83	DR	
54.	Binayak Bhattacharjee, B.Sc	18.06.58	03.09.83	13.05.87	03.09.83	DR	
55.	Ashish Adhikary, B.Sc	28.02.58	09.11.83	13.05.87	09.11.83	DR	
56.	Biswendu Dey, M.Sc	26.09.56	03.10.83	13.05.87	03.10.83	DR	
57.	Tarun Ch. Mahanta	01.09.58	07.10.83	13.05.87	07.10.83	DR	
58.	Subir Das, B.Sc (H)	01.01.60	20.10.83	13.05.87	20.10.83	DR	On Deputation with DRI, Guwahati
59.	Bikash Ch. Nath, B. Sc.	01.12.58	19.03.84	13.05.87	19.03.84	DR	
60.	Nihar Ranjan DebRoy, B. A	17.10.58	21.03.84	13.05.87	21.03.84	DR	
61.	Guru Prasad Das, B. Sc.	15.06.58	14.11.83	13.05.87	14.11.83	DR	
62.	Bhaskar Kanti Bhattacharjee, B. A	01.04.57	13.10.83	13.05.87	13.10.83	DR	
63.	Pannalal Dutta, B. Sc	01.12.59	03.10.83	13.05.87	03.10.83	DR	
64.	Gopeswar Ch. Paul, B. A	12.09.59	20.07.84	13.05.87	20.07.84	DR	
65.	Ajit Mohan Paul, B. Sc	08.09.59	21.10.83	13.05.87	21.10.83	DR	
66.	Mohit Kanti Dey, B. Com	11.01.58	09.09.83	13.05.87	09.09.83	DR	
67.	Mahendra Dutta, B. Sc	01.02.57	07.09.83	13.05.87	07.09.83	DR	On Deputation with DRI, Guwahati
68.	Mrinal Kanti Goswami, B. A	02.01.57	23.12.83	13.05.87	23.12.83	DR	
69.	Sasanka Sekhar Das, (SC), B. Com	21.02.53	24.08.83	13.05.87	24.08.83	DR	
70.	Md. Muhiyur Rahman, B. Sc	01.12.57	21.01.81	13.05.87	16.09.83	DR	
71.	Jagadindu Das, B. Com	30.12.57	09.09.83	13.05.87	09.09.83	DR	
72.	Ganesh Ch. Deka, B. Sc	01.01.58	26.03.84	13.05.87	26.03.84	DR	
73.	Pijush Barorjee, B. Com	01.01.58	13.01.84	13.05.87	13.01.84	DR	

01	02	03	04	05	06	07	08
✓74	Md. Hanif Alam Bora, B. A	25.01.57	07.10.83	13.05.87	07.10.83	DR	
✓75	Swapnatur Mahanta	01.10.60	29.07.85	29.07.87	29.07.85	DR	
✓76	Harepada Roy, B. Sc	06.10.56	29.03.84	29.07.87	29.03.84	DR	
✓77	Rabindra Kr. Borah	01.01.57	09.12.83	29.07.87	09.12.83	DR	
✓78	Nijit Kr. Nandi, B. Sc	01.09.59	09.12.83	29.07.87	09.12.83	DR	
✓79	Dharani Borah, B. A	01.01.57	19.12.83	29.07.87	19.12.83	DR	
✓80	Md. Abdul Muneem, B. Sc, LLB	01.01.57	13.12.83	29.07.87	13.12.83	DR	
✓81	Prahlad Borborah, B. Sc	01.03.58	10.10.83	29.07.87	10.10.83	DR	
✓82	Rabindra Pathak, (SC), B. A	04.09.60	14.11.83	29.07.87	14.11.83	DR	
✓83	Narendra Ch. Talukdar, (ST), B. A	02.07.51	06.01.84	29.07.87	06.01.84	DR	
✓84	Lokhendra Nath Sonowal (SC), B. Sc	30.10.58	01.10.83	29.07.87	01.10.83	DR	
✓85	Jitendra Kr. Saikia, (ST), B. A	01.12.54	22.12.83	29.07.87	22.12.83	DR	
✓86	Balaram Pegu, (ST), B. Sc	01.07.59	18.11.83	29.07.87	18.11.83	DR	
✓87	Ratneswar Doley, (ST), B. Sc	01.02.56	29.11.83	29.07.87	29.11.83	DR	
✓88	Jogesh Sonowal, (ST), B. A	01.03.56	07.09.83	29.07.87	07.09.83	DR	
✓89	John Oscar Marak, (ST), B. A	01.02.56	31.10.83	29.07.87	31.10.83	DR	
✓90	Priyoram Doley, (ST)	01.01.57	07.12.83	29.07.87	31.10.83	DR	
✓91	Bishnu Ram Boro, (ST), B. A	23.03.57	13.11.83	29.07.87	13.11.83	DR	
✓92	Ms. Laichangliani Sailo, (ST)	01.01.55	26.05.76	29.07.87	20.05.83	DR	
✓93	Dambaro Bhoktiani, (ST), B. A	01.09.59	07.10.83	29.07.87	07.10.83	DR	
✓94	Paul Peter Kujur, (ST)	05.06.58	08.09.83	29.07.87	08.09.83	DR	
✓95	Ajit Debnath, B. A	31.01.52	07.09.84	29.07.87	07.09.84	DR	
✓96	Rex Hungjo, (ST)	01.06.51	11.06.84	29.07.87	11.06.84	DR	
✓97	R.K. Derendrajit Singh, B. A	01.01.59	22.03.84	29.07.87	22.03.84	DR	
✓98	Ranabir Chakraborty, B. Sc	24.02.53	08.01.79	05.03.86	05.03.84	PR	
✓99	Harobosh Kr. Das, B. A	16.05.60	27.10.84	29.07.87	27.10.84	DR	
✓100	Hareswar Goswami, B.Sc, LLB	01.09.58	28.09.84	29.07.87	28.09.84	DR	
✓101	Sanjay Kr. Mazumder, B.Sc.	31.12.58	04.05.84	29.07.87	04.05.84	DR	
✓102	Dipankar Dey, B.Com.	27.01.53	26.05.71	02.02.81	05.03.84	PR	
✓103	Buddha Pratim Dutta, B.Sc.	29.03.58	04.07.84	29.07.87	04.07.84	DR	On Deputation with DRI, Shillong
✓104	Rajkumar Debendra Singh, B.Sc.	01.02.60	20.03.84	29.07.87	20.03.84	DR	
✓105	Subir Dutta Choudhury, B.Sc.	02.12.59	17.05.84	29.07.87	17.05.84	DR	On Deputation with NEPZ, NOIDA
✓106	Ms. Shibani Bhattacharjee, P.U.	01.09.55	28.07.76	13.03.86	14.03.84	PR	
✓107	Rajkumar Surchandra Singh, B.Sc.	01.02.60	14.03.84	29.07.87	14.03.84	DR	
✓108	Ng. Ruston Mon (ST), MA	01.03.57	09.06.84	29.07.87	09.06.84	DR	
✓109	Vungzakhuo Hungzo, (ST), MA	01.03.57	24.04.84	29.07.87	24.04.84	DR	
✓110	Ms. Rita Rani Bhowmick, BA	01.07.57	31.07.76	13.03.86	12.03.84	PR	On Deputation with N.C.S. Imphal
✓111	Sivaji Chanda B.Sc.	23.06.60	27.04.84	29.07.87	27.04.84	DR	
✓112	Abhijit Dey (No.1) B.Sc.(H)	01.02.61	12.06.84	29.07.87	12.06.84	DR	
✓113	Ratnarigshu Chakraborty B.Sc, LLB.	24.12.61	10.04.84	29.07.87	10.04.84	DR	
✓114	Ms. Champa Shome, BA	03.09.51	26.07.76	19.03.86	19.03.84	PR	

Yours faithfully.

01	02	03	04	05	06	07	
115	Phanidhar Kakoti,	01.12.58	26.04.84	29.07.87	26.04.84	DR	
116	Gobindo Nath Kalita, B.Sc. (ExS)	01.12.50	24.09.84	29.07.87	24.09.84	DR	
117	Jatindra Mohon Bora, B.Sc.	01.08.60	01.05.84	29.07.87	01.05.84	DR	
118	Ms. K. Patricia Laloo, (ST) PU	09.07.56	22.07.76	19.03.86	07.03.84	PR	
119	Ashim Roy	21.07.60	28.05.84	29.07.87	28.05.84	DR	
120	Pallav Lochan Saikia, B.Sc.	03.01.60	23.11.84	29.07.87	23.11.84	DR	
121	Nirmal Kr. Das, (SC), B.Com.	01.05.57	11.06.84	29.07.87	23.05.84	DR	
122	Chakrendu Baruah, B.Sc.	01.02.53	03.08.79	07.06.86	09.06.84	PR	
123	Pranab Kr. Phukan, B.Com. (Hon)	01.02.59	30.04.85	29.07.87	30.04.84	DR	
124	Pankaj Kr. Bhattacharjee, B.Com (H)	01.12.59	26.08.81	29.07.87	25.01.84	DR	
125	Sanjeev Kr. Chakraborty, BA	15.08.60	17.04.84	29.07.87	17.04.84	DR	
126	Md. Ali Mazar Bhuiyan, BA	11.02.52	13.03.74	17.06.86	29.11.84	PR	
127	Bhagirath Baruah, M.Sc.	01.01.59	01.10.84	29.07.87	01.10.84	DR	
128	Bikash Chakraborty, BA	30.12.57	04.07.84	29.07.87	04.07.84	DR	
129	Nabendu Narayan Roy, BA	06.01.58	09.06.84	29.07.87	09.06.84	DR	
130	Ashish Roy, B.Sc.	01.06.55	04.05.79	29.11.80	29.11.84	PR	
131	Sanat Kr. Saha, M.Com.	30.06.59	07.06.84	29.07.87	07.05.84	DR	
132	Lobendu Sekhar Das, (SC), MA	01.02.61	07.06.84	29.07.87	06.06.84	DR	
133	Kamal Narayan Choudhury, B.Sc.	01.12.52	15.07.79	29.11.86	29.11.84	PR	
134	Kailash Barman, B.Sc.	01.01.60	12.07.84	29.07.87	12.07.84	DR	
135	Tafuruddin Ahmed, B.Sc.	01.11.57	13.03.84	29.07.87	13.03.84	DR	
136	Binoy Kishore Sharma, B.Sc.	30.03.59	23.06.84	29.07.87	23.06.84	DR	
137	Nabin Ch. Dutta, PU	01.12.49	11.03.74	06.07.87	27.06.84	PR	
138	Jayanta Bhattacharjee, B.Sc.	24.02.59	31.01.83	29.07.87	31.01.83	DR	
139	Prasanna Sharma, BA(H)	01.01.60	26.04.84	29.07.87	26.04.84	DR	
140	Dipen Ch. Bania, (SC) BA(H)	03.04.55	24.04.84	29.07.87	25.04.84	DR	
141	Bhogo Ch. Baruah, PU	07.10.52	11.03.74	29.11.86	12.06.84	PR	
142	Babul Mazumder, B.Com.	10.01.58	14.06.84	29.07.87	14.06.84	DR	
143	Kshitendu Kr. Malakar, (SC) BA	03.03.57	07.05.84	29.07.87	07.05.84	DR	
144	Samiran Das, BA	01.02.58	08.03.84	29.07.87	08.03.84	DR	
145	Pankaj Kr. Chakraborty, B.Com.	29.02.53	12.12.79	27.04.85	23.11.84	PR	
146	L.L. Mate Gangte, (ST) BA(H)	01.03.57	31.03.83	01.04.88	31.03.83	DR	On
147	James Guite, (ST) BA	07.11.59	06.02.82	01.04.88	06.02.82	DR	
148	Dipak Mahanta, B.Sc.	01.05.58	01.08.84	01.04.88	01.08.84	DR	
149	Ranjit Kr. Dutta, -I BA	01.09.54	29.09.84	27.04.87	10.12.84	PR	
150	Lalkhoneh Simte (ST) BA	01.03.58	18.06.84	01.04.88	18.06.84	DR	
151	Kaizadal, (ST) BA	01.03.55	04.07.84	01.04.88	04.07.84	DR	
152	Balendra Nath Sharma, BA	13.09.49	07.06.74	27.04.87	10.02.84	PR	
153	Jayanta Kr. Pathak, (SC) B.Sc.	25.04.59	25.04.84	01.04.88	25.04.84	DR	
154	Kiran Thapa, BA	01.03.58	28.08.81	01.04.88	16.02.84	DR	
155	Jayanta Banik, B.Com.	25.01.61	07.06.84	01.04.88	07.06.84	DR	

with CSI Airport

01	02	03	04	-5-	05	06	07	08
156.	Lilliawnliana, (ST) Matric							
157.	Sherdul Ahmed, B.Sc.	01.03.50	07.10.71	02.02.81	16.11.84	PR		
158.	Gautam Ch. Mandal, (SC) BA	01.03.61	31.04.84	01.04.88	21.04.88	DR		
159.	Ramdev Goswami, B.Sc. (H)	11.02.60	13.07.84	01.04.88	13.07.84	DR		
160.	Salil Bhattacharjee, HSLC	01.04.59	25.04.84	01.04.88	25.04.84	DR		
161.	Santanu Mukherjee, B.Com.(H)	01.01.52	16.03.74	13.12.81	11.06.84	PR		
162.	Stringing Nongbet (ST) BA	14.06.61	19.03.84	01.04.88	19.03.84	DR		
163.	Biswajit Kar, B.Com.	11.10.58	18.04.84	01.04.88	18.04.84	DR		
164.	Nalini Ranjan Das, HSLC	23.03.60	07.06.84	01.04.88	07.06.84	DR		
165.	Indrakanta Kalita, HSLC	01.03.54	20.06.74	13.12.81	10.12.84	PR		
166.	Pabitra Kr. Saikia, B.Com.	29.12.52	06.06.74	13.12.81	10.12.84	PR		
167.	Sunirmal Das Choudhury, B.Sc.	28.05.60	04.05.84	01.04.88	04.05.84	DR		
168.	Amit Kr. Sengupta, B.Sc.	30.08.58	27.04.84	01.04.88	27.04.84	DR		
169.	Bikram Shankar, MA	18.01.59	17.03.82	01.04.88	17.03.82	DR		
170.	Niranjan Dhar, B.Com.	01.03.58	23.04.84	01.04.88	23.04.84	DR		
171.	Benu Ranjan Sutradhar, (SC)	10.09.60	30.04.84	01.04.88	30.04.84	DR		
172.	John Gilbert Kanti, (ST)	21.10.60	23.04.84	01.04.88	23.04.84	DR	On Deputation with C.S.I. Airport	
173.	Amit Dutta, B.Sc.	01.01.55	14.09.84	01.04.88	14.09.84	DR	On deputation with DG Audit, New Delhi	
174.	Pijush Kanti Dey, B.Com.	19.01.59	08.10.84	01.04.88	08.10.84	DR		
175.	Biswajit Paul, B.Sc.	31.12.60	24.04.84	01.04.88	24.04.84	DR		
176.	Ajoy Ghosh, B.Sc.(H)	08.01.61	30.04.84	01.04.88	30.04.84	DR		
177.	Pradip Kr. Mahanta, B.Sc.	09.08.57	03.07.84	01.04.88	03.07.84	DR		
178.	Sashi Prasad Gogoi, B.Sc.	31.12.58	08.03.84	01.04.88	08.03.84	DR		
179.	Dilip Kumar Sharma-I, B.Sc.	20.11.58	08.03.84	01.04.88	01.08.84	DR		
180.	Jogodish Ch. Rajbangshi, B.Sc.	01.02.58	08.08.84	01.04.88	08.08.84	DR		
181.	Ranendu Dutta, B.Com.	01.03.58	24.04.84	01.04.88	24.04.84	DR		
182.	Hem Chandra Sharma, BA	30.11.58	08.03.84	01.04.88	09.03.84	DR		
183.	R. Valentine Basaiawmoit, (ST) BA	01.11.58	04.09.84	01.04.88	04.09.84	DR		
184.	Swapan Das, (SC), BA	19.08.59	06.04.81	01.04.88	21.01.84	DR		
185.	Ms. Zarina Khan Shadap, (ST)	29.07.59	20.03.84	01.04.88	20.03.84	DR		
186.	Tapan Kr. Rajkhowa, (SC), B.Sc.	18.02.59	12.04.84	01.04.88	12.04.84	DR		
187.	Kishore Rn. Nath, B.Sc.	01.04.59	27.04.84	01.04.88	27.04.84	DR		
188.	Tapan Ch. Gayan, (SC), B.Sc.	01.01.58	27.04.84	01.04.88	27.04.84	DR		
189.	Anthony Pohthmilong, (ST)	12.02.57	25.04.84	01.04.88	25.04.84	DR		
190.	Hamilton Cooper Marbaniang, (ST)	01.10.53	01.08.84	01.04.88	01.08.84	DR		
191.	K. Hmar, (ST)	28.12.58	05.03.84	Offg.	05.03.84	DR		
192.	Sanjoy Das, M.Com.	12.03.59	01.09.84	01.04.88	01.09.84	DR		
193.	Sukumar Goswami, B.Sc.	01.01.60	10.04.85	01.04.88	10.04.85	DR		
194.	Ms. Nani Bora, BA	01.03.60	08.02.85	01.04.88	08.02.85	DR		
195.	Sudip Kr. Dey, BA	16.12.56	03.08.76	27.04.87	27.04.85	PR		
196.	Shyam Sunder Joshi, B.Com.	01.12.59	23.12.85	01.04.88	23.12.85	DR		
197.	Hiramba Basumatari, (ST) BA	25.01.61	02.05.85	01.04.88	02.05.85	DR		
		03.04.62	11.06.85	01.04.88	11.06.85	DR		

01	02	03	04	05	06	07	08
198.	Ms. Ledyia Dutta, (ST) PU ✓						
199.	Premananda Saikia, (ST), B.Sc. ✓	16.12.52	29.07.76	27.04.87	03.04.85	PR	
200.	Dharmeswar Deka, (ST), BA ✓	01.01.59	20.11.85	01.04.85	20.11.85	DR	
201.	Liladhar Pait, (ST) B.Sc. ✓	01.03.60	23.07.85	01.04.88	23.07.85	DR	
202.	Makbui H. Borbhuyan, B.Sc.	21.08.59	06.01.86	01.04.88	06.01.86	DR	
203.	Sinam Chittaranjan Singh, BA	31.05.57	05.10.81	27.04.87	17.04.85	PR	
204.	Thoudom Ng. Singh, B.Sc.	13.10.61	12.03.85	01.04.88	12.03.85	DR	
205.	Tarcisius Langstieh, (ST), PU	08.06.62	20.05.85	01.04.88	20.05.85	DR	
206.	Tarun Kr. Dutta, MA	26.12.47	02.03.74	27.04.87	25.04.85	PR	
207.	Sisir Dey, B.Sc.	23.01.60	04.10.85	01.04.88	04.10.85	DR	On Deputation with DRI, Guwahati
208.	Swapan Roy, B.Sc.	29.05.60	14.10.85	01.04.88	14.10.85	DR	
209.	L.N. Deb Purkayastha, HSLC	23.11.60	14.10.85	01.04.88	14.10.85	DR	
210.	Tapas Bhattacharjee, B.Sc.	01.01.52	11.03.74	29.04.87	29.04.85	PR	
211.	Amitabha Bhattacharjee, B.Sc.	31.03.61	14.10.85	01.04.88	14.10.85	DR	
212.	Syed Ahmed Shah, B.Sc.	26.02.61	24.10.85	01.04.88	24.10.85	DR	
213.	Prabal Chakraborty, BA	03.06.60	21.01.86	01.04.88	21.01.86	DR	
214.	Bijoy Thapa, B.Sc.	01.03.54	28.05.74	29.04.87	22.04.85	PR	
215.	Abdus Salam Rukumuddin, B.Sc.	09.02.64	14.10.85	01.04.88	14.10.85	DR	
216.	Uttam Kr. Dey - I, B.Sc.	01.05.60	14.10.85	01.04.88	14.10.85	DR	
217.	Joy Gobinda Paul, BA	28.01.60	14.10.85	01.04.88	14.10.85	DR	
218.	Ashish Kr. Nandi, B.Com.	01.07.48	09.12.74	13.05.87	13.05.85	PR	
219.	Dilip Kr. Sharma - II, B.Sc.	16.03.61	14.10.85	01.04.88	14.10.85	DR	
220.	Samiran Chakraborty, BA	01.11.59	14.10.85	01.04.88	14.10.85	DR	
221.	Annada Ch. Roy, B.Sc.	16.01.57	15.07.81	13.12.81	23.04.85	PR	
222.	Sheikh Amzad Hussain, B.Sc.	12.02.63	14.10.85	01.04.88	14.10.85	DR	
223.	P. Anmoy Dutta, B.Sc.	15.03.60	28.10.85	01.04.88	28.10.85	DR	
224.	Kamaniya Bhattacharjee, B.Sc.	18.02.62	14.10.85	01.04.88	14.10.85	DR	
225.	Abhijit Bhuyan, M.Com.	31.12.60	14.10.85	01.04.88	14.10.85	DR	
226.	Bijen Lyngdoh (ST), BA	01.08.62	14.10.85	01.04.88	14.10.85	DR	On Deputation with NEPZ, NOIDA
227.	Jahar Kar, B.Com.	29.07.59	04.06.80	01.04.88	14.10.85	DR	
228.	Atanu Roy Choudhury, B.Sc.	20.12.59	14.10.85	01.04.88	14.10.85	DR	
229.	Utpal Bhattacharjee, B.Com	30.11.61	14.10.85	01.04.88	14.10.85	DR	
230.	Ms. Tshering T. Bhutiani, (ST) BA	12.12.60	14.10.85	19.02.92	14.10.85	DR	
231.	Nibash Ranjan Das, BA (SC) ✓	04.03.63	28.10.85	01.04.88	28.10.85	DR	
232.	Rownel Martin Chyne, (ST) B.Com.	01.10.58	14.10.85	01.04.88	14.10.85	DR	
233.	Manindra Sarania, (ST) B.Sc.	09.04.56	14.10.85	01.04.88	14.10.85	DR	
234.	Nehru Pegu (ST) B.Sc.	21.01.60	14.10.85	01.04.88	14.10.85	DR	
235.	P.K. Daimary, (ST) BA	01.03.62	14.10.85	01.04.88	14.10.85	DR	On Deputation with CBN, Guwahati
236.	Uttam Kr. Das (ST) B.Sc.	01.03.57	14.10.85	01.04.88	14.10.85	DR	
237.	Jyotish Das, (SC) BA ✓	24.10.59	14.10.85	01.04.88	14.10.85	DR	
238.	Bidhu Bhusan Karmakar, (SC) BA ✓	01.02.59	14.10.85	01.04.88	14.10.85	DR	
239.	Gautam Das, (SC) B.Com ✓	01.02.61	14.10.85	01.04.88	14.10.85	DR	
		08.05.64	14.10.85	01.04.88	14.10.85	DR	

-7-

01	02	03	04	05	06	07	08
240.	Nandeswar Basumatary, (ST) BA	16.08.60	14.10.85	01.04.88	14.10.85	DR	
241.	Sribas Dhar, (SC), B.Sc. ✓	30.09.62	14.10.85	01.04.88	14.10.85	DR	
242.	Jayanta Kr. Hiwari, (SC) B.Com. ✓	01.07.60	20.10.85	01.04.88	20.10.85	DR	
243.	Swapan Kr. Roy, (SC) B.Com. ✓	20.11.56	20.10.85	01.04.88	20.10.85	DR	
244.	Rajkumar Bhuminjoy Singh B.Sc.	01.07.60	20.10.85	01.04.88	20.10.85	DR	On Deputation with D.R.I., Imphal
245.	Paokhokhai Neisial, (ST), BA	01.01.58	28.10.85	01.04.88	28.10.85	DR	
246.	Hawun Hockip, (ST), B.Sc.	01.03.59	28.10.85	01.04.88	28.10.85	DR	
247.	Manik Lal Choudhury, (SC), B.Com. ✓	08.01.61	28.10.85	01.04.88	28.10.85	DR	
248.	Shehtinmong Sithou, (ST), BA	01.03.61	28.10.85	01.04.88	28.10.85	DR	
249.	Suminhang Pulamte, (ST) BA	01.03.61	28.10.85	01.04.88	28.10.85	DR	
250.	Abdul Kader Zilani, B.Sc.	10.01.54	06.10.80	13.12.81	07.04.86	PR	
251.	Meitram Indramoni Singh, B.Sc.	01.03.61	10.03.86	01.04.88	10.03.86	DR	
252.	Sankar Pratim Deb, B.A.	01.09.58	05.01.87	05.01.89	05.01.87	DR	
253.	Santosh Sil, B.A.	04.01.56	10.07.81	13.12.81	29.12.86	PR	
254.	Prabir Kr. Sen, B.Com.	08.01.60	10.03.86	05.01.89	10.03.86	DR	On Deputation with DGCEI, R. Unit, Shillong
255.	Manabendra Banik, M.Com.	16.10.59	07.05.86	05.01.89	07.05.86	DR	
256.	Sujit Bhattacharjee, M.Sc.	28.12.58	12.03.86	05.01.89	12.03.86	DR	
257.	Bhajahari Dutta, B.A.	06.11.58	31.07.81	13.12.81	10.04.86	PR	
258.	Ngairanghan Sanalal Singh, B.Sc.	01.03.60	10.03.86	01.04.89	10.08.86	DR	
259.	Doian Ch. Choudhury, B.Com.	01.01.60	10.03.86	05.01.89	10.03.86	DR	
260.	Th. Madhai Singh, B.Sc.	03.01.61	10.03.86	05.01.89	10.03.86	DR	
261.	Dulal Ch. Sharmah, P.U.	01.09.51	01.06.74	13.12.81	11.08.86	PR	
262.	Debasish Chakraborty, B.Com(Hons.)	29.04.59	10.03.86	05.01.89	10.03.86	DR	
263.	Basudev Bhattacharjee-II, B.Com.	09.03.56	27.07.81	13.12.81	17.03.87	PR	
264.	Sudhir Ch. Barman, (ST), HSLC	01.04.50	14.03.74	13.12.81	21.04.86	PR	
265.	Kartik Sarkar, B.A.	31.01.56	27.07.81	13.12.81	18.04.86	PR	
266.	Nirmal Ch. Sutradhar(SC), B.A. ✓	07.07.48	03.06.74	13.12.81	11.04.86	PR	
267.	Ajit Bora, B.Sc.	01.11.56	14.10.81	13.12.81	14.04.86	PR	
268.	Sankar Sengupta, B.Com.	08.03.57	01.02.82	01.02.82	10.04.86	PR	
269.	Lakhinath Gogoi, B.Sc.	11.06.57	12.08.81	24.06.82	11.04.86	PR	
270.	Khironuddin Ali Ahmed, B.A.	01.12.54	10.12.74	25.06.82	10.04.86	PR	
271.	Deba Prasad Bora, B.Sc.	01.12.55	04.09.81	01.07.82	10.04.86	PR	
272.	Surath Ch. Kalita, HSLC	01.03.52	11.03.74	01.07.83	16.04.86	PR	
273.	Kabin Borkataki, B.A.	01.07.56	19.08.81	01.10.83	11.04.86	PR	
274.	Jayanta Kr. Purkayastha, P.U.	01.03.57	26.09.75	01.03.84	07.04.86	PR	
275.	Chandra Kanta Baruah, B.Sc.	01.03.55	23.11.81	01.03.84	25.04.86	PR	
276.	Smt. Sushila Lyngdoh(ST), HSLC	29.12.56	29.09.75	01.03.84	07.04.86	PR	
277.	Supriyo Chakraborty, P.U.	12.04.55	10.11.75	01.03.84	07.04.86	PR	On Deputation with DRI, Kolkata
278.	Girindra Nath Haloi (SC), B.Sc. ✓	29.02.56	26.09.81	01.03.84	19.12.86	PR	
279.	Niranjan Ch. Malakar, (SC), B.A. ✓	12.09.55	28.09.81	01.03.84	07.04.86	PR	
280.	Nur Mohammed Sheikh, B.A.	01.01.55	21.10.76	01.03.84	11.04.86	PR	

01	02	03	04	05	06	07	08
281.	Smt. K.M.Syiemlieh, (ST), M.A.	19.05.56	27.07.81	01.03.84	07.04.86	PR	
282.	Mukunda Ram Das, HSLC	20.01.55	12.08.76	01.03.84	11.04.86	PR	
283.	Bidhan Hazarika, (ST), B.Sc.	01.01.53	04.12.81	01.03.84	10.04.86	PR	
284.	Smt. Sibani Lanong(ST), B.A.	01.05.55	01.02.82	01.03.84	07.04.86	PR	
285.	Md. Abdur Rouf, B.A	25.03.52	13.08.76	01.03.84	15.04.86	PR	
286.	Bikash Kar, M.A	22.05.58	26.06.81	13.12.81	22.04.87	PR	On deputation with CSI Airport
287.	Subir Kr. Dasgupta, B.A.	05.03.51	05.12.74	13.12.81	22.04.87	PR	
288.	Lalit Chandra Dokey, (ST) P.U.	01.01.50	07.06.74	01.02.82	27.04.87	PR	
289.	Babul Chandra Boro(ST), B.A.	01.01.59	29.09.81	01.03.84	29.04.87	PR	
290.	Dimbeswar Pegu, (ST), B.Com.	05.04.55	16.10.81	01.03.84	23.04.87	PR	
291.	Dipak Kr. Dey, B.Sc.	20.04.56	28.09.81	02.03.84	21.04.87	PR	
292.	Manindra Kumar Karmakar, B.A.(H)	01.12.58	19.01.82	02.03.84	21.04.87	PR	
293.	Lila Phukan, B.Sc.	01.09.59	16.11.81	02.03.84	28.04.87	PR	
294.	Ramesh Chandra Sharma, B.A.(H)	01.10.59	02.11.81	02.03.84	21.04.87	PR	
295.	Girindra Kalita, BA	01.01.58	03.12.81	21.08.85	21.04.87	PR	
296.	Lakhi Kanta Lora, (ST), HSLC	01.08.55	19.03.76	21.07.84	24.04.87	PR	
297.	Pradip Gohain, BA	29.11.55	18.11.81	21.07.84	27.04.87	PR	
298.	Golap Ch. Das, (SC), B.Com. ✓	01.04.54	16.08.76	21.07.84	27.04.87	PR	
299.	Kumud Ch. Bhuyan, B.Sc.	27.01.56	01.10.81	21.07.84	27.04.87	PR	
300.	Someswar Baruah, P.U.	10.03.48	23.03.76	21.07.84	27.04.87	PR	
301.	Nripendra Nath Deka, (SC), BA(H) ✓	01.03.58	26.05.82	21.07.84	21.04.87	PR	
302.	Kuladhar Shyam, (ST), HSLC	01.01.54	17.08.76	21.07.84	29.04.87	PR	
303.	Samir Kumar Kundu, (SC), B.Sc. ✓	29.10.51	22.01.82	21.07.84	24.04.87	PR	
304.	Kripal Ch. Phukan, PU	01.01.56	24.02.76	21.07.84	27.04.87	PR	
305.	Balendra Nath Uzir, (ST), BA	30.06.54	23.01.82	21.07.84	21.04.87	PR	
306.	Dulal Kr. Das, HSLC	30.12.55	28.12.76	12.08.84	26.06.87	PR	
307.	Ms. Daimond Mawthoh, (ST), PU	27.08.50	10.05.76	21.07.84	24.09.87	PR	
308.	Ms. Neiphal Bhattacharjee, PU	01.03.59	14.07.79	01.08.81	10.02.88	PR	
309.	Sanjoy Chettri, BA	12.03.65	03.06.88	03.06.90	03.06.88	DR	
310.	Ramendra Prasad Chanda, B.A.	15.01.53	13.08.76	02.03.84	06.06.88	PR	
311.	Kapil N. Sharma, B.A. (Ex.S)	01.03.53	23.06.88	23.06.90	23.06.88	DR	
312.	Ng. R.K. Singh, B.Sc.	01.09.61	02.06.88	23.06.90	02.06.88	DR	
313.	Mukul Mahanta, BA	01.03.62	14.06.88	23.06.90	14.06.88	DR	
314.	Ms. Kiranmoyee Das (SC), HSLC ✓	26.12.56	05.08.76	21.07.84	02.06.88	PR	
315.	L.J. Synrem, (ST), B.Com.(H)	03.10.64	22.06.88	23.06.90	22.06.88	DR	
316.	Gautam Kr. Bhuyan, (SC), B.Com. ✓	26.09.59	28.06.88	28.06.90	28.06.88	DR	
317.	Andrew Nongrum, (ST) BA	01.03.56	29.07.82	03.12.84	02.06.88	PR	
318.	Biren Bhattacharjee, B.Sc.	01.01.60	26.12.88	26.12.90	26.12.88	DR	
319.	Muktipada Acharjee, B.A.	01.03.58	19.11.82	19.11.84	02.06.88	PR	
320.	Kh. Marjit Singh, B.A. (H)	01.03.64	22.12.88	26.12.90	22.12.88	DR	
321.	Nirmalendu Bhattacharjee, PU	26.07.57	01.03.83	01.03.85	15.06.88	PR	On Deputation with DRI, Imphal
322.	Sangkhuma Mualchin, (ST) HSLC	23.12.58	20.05.83	21.05.85	03.06.88	PR	



सत्यमेव जयते

34
GOVERNMENT OF INDIA
MINISTRY OF FINANCE

Annexure - 7

OFFICE OF THE ASSISTANT COMMISSIONER,
CENTRAL EXCISE ::: GUWAHATI

6TH FLOOR, SETHI TRUST BUILDING, BHANGAGARH, GUWAHATI - 781 005

TELE - (0361) 529435, 529567 FAX - (0361) 529435

E-MAILS - (1) accegau@sancharnet.in (2) cex0603guwahati@rediff.com

SPEED POST

C.NO.EI(3)1/ET/ACG/2001/

Dated : 09.01.2003

To

The Additional Commissioner (P&V),
Customs and Central Excise,
Morello Compound,
Shillong-1.

Sir,

Subject : Representation in connection with Estt.
Promotion, transfer and posting in the
grade of Superintendent Gr.'B'-Estt. Order
No.139/2002 dated 23.09.2002- Regarding.

I am forwarding herewith representations received from
the following officers addressed to the Commissioner, Central
Excise, Guwahati at Shillong in connection with Estt. Promotion,
transfer and posting in the grade of Superintendent Gr.'B'-Estt.
order no.139/2002 dated 23.9.2002 for necessary action please.

1. Shri Kailash Barman, Superintendent.
2. Shri Binoy Krishna Sharma, Superintendent.
3. Shri Kamal Narayan Choudhury, Superintendent.
4. Shri Pankaj Kr. Bhattacharjee, Superintendent.

Yours faithfully,

M 09.01.03.

Encls. As above.

CR

(E.C. SARMAH)
ADMINISTRATIVE OFFICER

certified to be true

W.B.
Advocate

The Commissioner (By name)
Central Excise,
Guwahati at Shillong.

(Through Proper Channel)

Sub;-Representation in connection with Estt. promotion, transfer and posting in the grade of Superintendent Gr. "B."—Estt. Order No.139/2002 dt.23.9.2002—Reg.

Sir,

Kindly refer to my representation dt.25.10.2002 in connection with the above mentioned subject, submitted through the Asstt. Commissioner, Central Excise, Guwahati vide C. No. II(3)1/ET/2001/7994 dt.6.11.2002 and advance copy submitted to your honour on 30.10.2002.

That Sir, in my said representation dt.25.10.2002, it was mentioned that as per existing promotion rules, the Inspectors up to Sl.No.142 of the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate should have been promoted to the grade of Superintendent Gr. "B" in the Estt. Order No.139/2002 dt.23.9.2002 and since my name has been placed at Sl. No.134 of the said seniority list, I should also be promoted to the grade of Superintendent Gr. "B".

That Sir, for implementation of *the Supreme Court Judgement in the case of R.K. Sabharwal Vs. State of Punjab as well as J.C. Mallick Vs. Ministry of Railway*, the DP & T, Govt. of India had issued Deptt's O.M. No.36012/2/96-Estt.(Res) dt. 2nd July,1997 to introduce *reservation roster* for making adjustment, appointments of candidates belonging to SCs/STs/OBCs which were *made on merit* (and not owing to reservation) *so far as direct recruitment is concerned*.

That Sir, the recently published DP&T, Govt. of India's O.M. No.36028/17/2/(XI) Estt. (Res) dt.11.7.2002 in respect of treatment of SC/ST candidates promoted on their own merit in the reservation rosters is the clarification of the said DP&T's O.M. No. 36012/2/96-Estt.(Res) dt.02.7.1997 in case of SC/ST candidates *promoted on their own merit*. Since, the promotion to the grade of Superintendent Gr."B" effected vide Estt. Order No. 139/2002 dt.23.9.2002 was *not on their own merit, but, on seniority-cum-fitness only. So, the said clarification in DP&T's O.M. dt. 11.7.2002 is not applicable*.

That Sir, till date neither any order(s) for promotion nor a line of reply is received from your goodself, so, I once again request your honour to kindly pass necessary order/ orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Yours faithfully

Kailash Barmán
20/12/02

(KAILASH BARMAN)
INSPECTOR
CENTRAL EXCISE
GUWAHATI.

certified to be true
ABES -
Advocate
P/L

To,

36

Annexure - 8 (Series)

The Commissioner,
Central Excise,
Shillong.

(Through Proper Channel)

Sub:-Representation in connection with Estt. Promotion, transfer and posting in the grade of Superintendent Gr. "B" -Order reg. Estt. Order No.139/2002 dt.23.9.2002.

Sir,

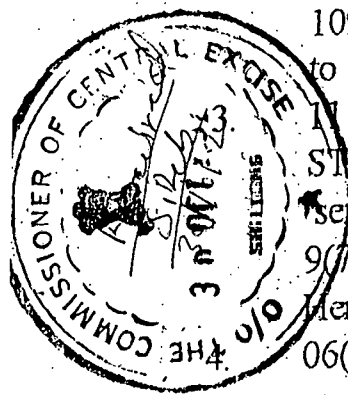
I have the honour to state the following few lines for favour of your kind re-consideration and favorable order/orders.

That Sir, I am an Inspector of Central Excise Shillong Commissionerate, joined on 12.7.1984 and my name has been placed at serial no.134 in the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate. Recently 149 Inspectors were promoted to the grade of Superintendent Gr- "B" vide your Estt. order no.139/2002 dt.23.9.2002 wherein my name did not figure within it though my name is placed at serial no.134 in the said seniority list of Inspectors.

That Sir, as per existing principles of reservation for SC/ST candidates, out of 149 posts, ST will get $11.17 = 11$ posts and SC will get $22.35 = 22$ posts @ 7.5% and @ 15% respectively and the total post for SC/ST candidate would come to $11+22=33$ posts. The details calculation in this regard is shown below -

1. Total post -149, total reservation for SC and ST is $11+22=33$ posts. For general (unreserved) $149-33=116$ posts.
2. 08(eight) Inspectors were not promoted from serial No.1,2,32,57,61,90,108, and 109 of the said seniority list. Hence serial No. of the said seniority list will continue to $116+8=124$ for promotion.
3. 11 Nos. of ST candidates had figured within Sl.No.1 to 124 and hence quotas for ST(11 Nos posts) are adjusted. They are shown below as per Sl. No. of the said seniority list and serial No. of promotion order dt.23.9.2002 within bracket. 9(7),10(8),33(30),34(31),35(32),38(35),39(36),83(78),85(80),86(81),87(82), Hence Sl.No. of the said seniority list will continue to $124+11=135$ for promotion.
4. 06(six) Nos. of SC candidates have figured within Sl. No.1 to 135 of the said seniority list and hence 6 Nos. candidates from SC quota are adjusted. They are shown below as per Sl.No. of the said seniority list and Sl.No. of said promotion order within bracket-37(34),69(64),82(77),84(79),121(113),132(114) Hence Sl.No. of the said seniority list will continue to $135+6=141$ for promotion.
5. One SC candidate has figured at Sl.No. 140 (Sl.No.115 of promotion order) of the said seniority list. Hence total 07(seven) candidates from SC quota are adjusted within Sl.No.1 to 142 of the said seniority list.
6. 15 No. ($22-7=15$) SC candidates will come up after Sl.No.142 of the said seniority list But in the said Estt. order dt 23.9.2002, Sl.No. continued up to 121 of the said seniority list only and all the SC/ST candidates were taken up for promotion after Sl.No.121 of the said seniority list.

Contd....P/2



Certified to be true
After
Advocate

Also as my name has been placed at Sl. No.134 of the said seniority list, so I should also presumably be promoted to the grade of Superintendent Gr. "B" but I have been deprived of getting such promotion and my name did not figure in the said Estt. Order No.139/2002 dt.23.9.2002.

That Sir, it is reliably learnt that the circular O.M No. 360 28/17/2(XI)Estt.(Res) dt.11.7.2002 of Deptt. of Personal and Training in respect of adjustment of SC/ST candidates promoted on their merit has been followed for the said promotion order. The subject matter of the said circular dt.11.7.2002 is "Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters". It is nothing but a clarification of DOP& T's O.M.No.36012/2/96-Estt.(Res) dt.02.7.1997 in connection with SC/ST candidates promoted on their own merit. The contents of the O.M. dated 11.7.2002 of the DOP&T are reproduced as under-

"The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation Rosters introduced vide DOPT's OM No.36012/2/96-Estt. (Res) dated 02.7.1997. While it is clear from the OM dated 02.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation Roster, doubt has been raised among SC/ST candidates promoted on their own merit." It has been clarified in the said OM dated 11.7.2002 as under-

"It is hereby clarified that (i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points....."

It is clear that the name of Inspectors figured in the seniority list as on 01.4.2002 for consideration for promotion to the grade of Superintendent Gr."B" are not based on their own merit. Also the candidates promoted to the grade of Superintendent Gr."B" and figured in the Estt. Order No.139/2002 dt.23.9.2002 are not based on their merit as there was no Departmental Examination / Limited Departmental Examination or other wise to determine their merit. It is purely based on seniority - cum-fitness only which is evident from the said seniority list itself prepared as on 01.4.2002 for Inspectors. On the basis of the said seniority list, promotion to the grade of Superintendent Gr."B" has been effected with out any Departmental examination/ Limited Departmental Examination or otherwise. So the principles of reservation for SC/ST candidates clarified in the said circular/ OM dt 11.7.2002 of DOP&T is not applicable in the said Estt. Order No. 139/2002 dt.23.9.2002.

It is, therefore, prayed before your honour to kindly go through all the facts and figures mentioned above and to consider my representation on the said matter and to pass necessary order/orders for my promotion to the grade of Superintendent Gr."B" with effect from 23.9.2002 on the light of the above mentioned facts.

Waiting for a line of reply from your goodself.

Encl:-1. Copy of Estt. Order No.139/2002 dt.23.9.2002

2. Copy of seniority list of Inspectors as on 01.4.2002

3. Copy of circular O.M No.36012/2/96 -Estt.(Res) dt.02.7.1997 of DOP&T.

4. Copy of circular O.M No.36028/17/2(XI)-Estt(Res) dt.11.7.2002 of DOP&T

Total 10 (Ten) no.sheets.

Yours faithfully,

(Signature)
25/10/2002
(KAILASH BARMAN)
INSPECTOR
CENTRAL EXCISE
GUWAHATI-5

To,

The Commissioner,
Central Excise,
Shillong.

(Through Proper Channel)

Sub:-Representation in connection with Estt. Promotion, transfer and posting in the grade of Superintendent Gr. "B" -Order reg. Estt. Order No.139/2002 dt.23.9.2002.

Sir,

I have the honour to state the following few lines for favour of your kind re-consideration and favorable order/orders.

That Sir, I am an Inspector of Central Excise Shillong Commissionerate, joined on 1.10.84 and my name has been placed at serial no.127 in the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate. Recently 149 Inspectors were promoted to the grade of Superintendent Gr- "B" vide your Estt. order no.139/2002 dt.23.9.2002 wherein my name did not figure within it though my name is placed at serial no.127 in the said seniority list of Inspectors.

That Sir, as per existing principles of reservation for SC/ST candidates, out of 149 posts, ST will get $11.17 = 11$ posts and SC will get $22.35 = 22$ posts @ 7.5% and @ 15% respectively and the total post for SC/ST candidate would come to $11+22=33$ posts. The details calculation in this regard is shown below -

1. Total post -149, total reservation for SC and ST is $11+22=33$ posts. For general (unreserved) $149-33=116$ posts.
2. 08(eight) Inspectors were not promoted from serial No.1,2,32,57,61,90,108, and 109 of the said seniority list. Hence serial No. of the said seniority list will continue to $116+8=124$ for promotion.
3. 11 Nos. of ST candidates had figured within Sl.No.1 to 124 and hence quotas for ST(11 Nos posts) are adjusted. They are shown below as per Sl. No. of the said seniority list and serial No. of promotion order dt.23.9.2002 within bracket. 9(7),10(8),33(30),34(31),35(32),38(35),39(36),43(78),42(80),46(11),47(112). Hence Sl.No. of the said seniority list will continue to $124+11=135$ for promotion.
4. 06(six) Nos. of SC candidates have figured within Sl. No.1 to 135 of the said seniority list and hence 6 No. candidates from SC quota are adjusted. They are shown below as per Sl.No. of the said seniority list and Sl.No. of said promotion order within bracket-37(34),69(64),82(77),84(79),121(113),132(114). Hence Sl.No. of the said seniority list will continue to $135+6=141$ for promotion.
5. One SC candidate has figured at Sl.No. 140 (at 141 of promotion order) of the said seniority list. Hence total 07(seven) candidates from SC quota are adjusted within Sl.No.1 to 142 of the said seniority list.
6. 15 Nos. ($22-7=15$) of SC candidates will come up after Sl.No.142 of the said seniority list. But in the said Estt. order dt.23.9.2002, Sl.No. continued up to 121 of the said seniority list only and all the SC/ST candidates were taken up for promotion after Sl.No.121 of the said seniority list.

That Sir, as per existing principles of reservation for SC/ST candidates and details calculation shown above, it is evidently clear that the candidates figured up to serial No. 142 of the said seniority list should get promotion to the grade of Superintendent Gr- "B".

Contd... P/2.

Certified to be true
Advocate

Also as my name has been placed at Sl. No. 127 of the said seniority list, so I should also presumably be promoted to the grade of Superintendent Gr. "B" but I have been deprived of getting such promotion and my name did not figure in the said Estt. Order No. 139/2002 dt. 23.9.2002.

That Sir, it is reliably learnt that the circular O.M. No. 360 28/17/2(XI) Estt. (Res) dt. 11.7.2002 of Deptt. of Personal and Training in respect of adjustment of SC/ST candidates promoted on their merit has been followed for the said promotion order. The subject matter of the said circular dt. 11.7.2002 is "Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters". It is nothing but a clarification of DOP& T's O.M. No. 36012/2/96-Estt. (Res) dt. 02.7.1997 in connection with SC/ST candidates promoted on their own merit. The contents of the O.M. dated 11.7.2002 of the DOP&T are reproduced as under:-

"The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation Rosters introduced vide DOP&T's OM No. 36012/2/96-Estt. (Res) dated 02.7.1997. While it is clear from the OM dated 02.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation Roster, doubt has been raised among SC/ST candidates promoted on their own merit." It has been clarified in the said OM dated 11.7.2002 as under-

"It is hereby clarified that (i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points....."

It is clear that the name of Inspectors figured in the seniority list as on 01.4.2002 for consideration for promotion to the grade of Superintendent Gr. "B" are not based on their own merit. Also the candidates promoted to the grade of Superintendent Gr. "B" and figured in the Estt. Order No. 139/2002 dt. 23.9.2002 are not based on their merit as there was no Departmental Examination / Limited Departmental Examination or otherwise to determine their merit. It is purely based on seniority - cum-fitness only which is evident from the said seniority list itself prepared as on 01.4.2002 for Inspectors. On the basis of the said seniority list, promotion to the grade of Superintendent Gr. "B" has been effected with out any Departmental examination/ Limited Departmental Examination or otherwise. So the principles of reservation for SC/ST candidates clarified in the said circular/ OM dt. 11.7.2002 of DOP&T is not applicable in the said Estt. Order No. 139/2002 dt. 23.9.2002.

It is, therefore, prayed before your honour to kindly go through all the facts and figures mentioned above and to consider my representation on the said matter and to pass necessary order/orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Waiting for a line of reply from your goodself.

Encls:- 1. Copy of Estt. Order No. 139/2002

dt. 23.9.2002

2. Copy of seniority list of Inspectors

as on 01.4.2002

3. Copy of circular O.M. No. 36012/2/96

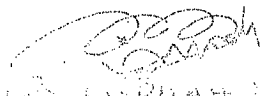
-Estt. (Res) dt. 02.7.1997 of DOP&T.

4. Copy of circular O.M. No. 36028/17/2(XI)-

Estt. (Res) dt. 11.7.2002 of DOP&T

Total 11 (eleven) no. sheets.

Yours faithfully,


S. S. MOHAN
INSPECTOR
CUSTOMS PREV FORCE
MOREH

To,

The Commissioner,
Central Excise,
Shillong.

(Through Proper Channel)

Sub:-Representation in connection with Estt. Promotion, transfer and posting in the grade of Superintendent Gr."B" -Order reg. Estt. Order No.139/2002 dt.23.9.2002.

Sir,

I have the honour to state the following few lines for favour of your kind reconsideration and favorable order/orders.

That Sir, I am an Inspector of Central Excise Shillong Commissionerate. joined on and my name has been placed at serial no in the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate. Recently 149 Inspectors were promoted to the grade of Superintendent Gr- "B" vide your Estt. order no.139/2002 dt.23.9.2002 wherein my name did not figure within it though my name is placed at serial no. in the said seniority list of Inspectors.

That Sir, as per existing principles of reservation for SC/ST candidates, out of 149 posts, ST will get $11.17 = 11$ posts and SC will get $22.35 = 22$ posts @ 7.5% and @ 15% respectively and the total post for SC/ST candidate would come to $11+22=33$ posts. The details calculation in this regard is shown below -

1. Total post -149, total reservation for SC and ST is $11+22=33$ posts. For general (unreserved) $149-33=116$ posts.
2. 08(eight) Inspectors were not promoted from serial No.1,2,32,57,61,90,108, and 109 of the said seniority list. Hence serial No. of the said seniority list will continue to $116+8=124$ for promotion.
3. 11 Nos. of ST candidates had figured within SL No. 1 to 124 and hence quotas for ST(11 Nos posts) are adjusted. They are shown below as per SL No. of the said seniority list and serial No. of promotion order dt 23.9.2002 within bracket. 9(7), 10(8), 33(30), 34(31), 35(32), 38(35), 39(36), 83(78), 85(80), 86(81), 87(82). Hence SL No. of the said seniority list will continue to $124+11=135$ for promotion.
4. 06(six) Nos. of SC candidates have figured within SL No. 1 to 135 of the said seniority list and hence 6 No. candidates from SC quota are adjusted. They are shown below as per SL No. of the said seniority list and SL No. of said promotion order within bracket- 37(34), 69(64), 82(77), 84(79), 121(113), 132(114). Hence SL No. of the said seniority list will continue to $135+6=141$ for promotion.
5. One SC candidate has figured at SL No. 140 (SL No. 115 of promotion order) of the said seniority list. Hence total 07(seven) candidates from SC quota are adjusted within SL No. 1 to 142 of the said seniority list.
6. 15 Nos (22.7=15) of SC candidates will come up after SL No 142 of the said seniority list. But in the said P/S/O order dt 23.9.2002, SL No. continued up to 171 of the said seniority list only and all the SC/ST candidates were taken up for promotion after SL No. 121 of the said seniority list.

That Sir, as per existing principles of reservation for SC/ST candidates and details calculation shown above it is evidently clear that the candidates figured up to serial No. 142 of the said seniority list should get promotion to the grade of Superintendent Gr- "B".

certified to be true
Advocate

Cham. P.D.

Also as my name has been placed at Sl. No. 136 of the said seniority list, so I should also presumably be promoted to the grade of Superintendent Gr. "B" but I have been deprived of getting such promotion and my name did not figure in the said Estt. Order No. 139/2002 dt. 23.9.2002.

That Sir, it is reliably learnt that the circular O.M. No. 360 28/17/2(XI)Estt.(Res) dt. 11.7.2002 of Dep'tt. of Personal and Training in respect of adjustment of SC/ST candidates promoted on their merit has been followed for the said promotion order. The subject matter of the said circular dt. 11.7.2002 is "Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters". It is nothing but a clarification of DOP& T's O.M. No. 36012/2/96-Estt.(Res) dt. 02.7.1997 in connection with SC/ST candidates promoted on their own merit. The contents of the O.M. dated 11.7.2002 of the DOP&T are reproduced as under-

"The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation Rosters introduced vide DOP&T's OM No. 36012/2/96-Estt. (Res) dated 02.7.1997. While it is clear from the OM dated 02.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation Roster, doubt has been raised among SC/ST candidates promoted on their own merit." It has been clarified in the said OM dated 11.7.2002 as under-

"It is hereby clarified that: (1) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points....."

It is clear that the name of Inspectors figured in the seniority list as on 01.4.2002 for consideration for promotion to the grade of Superintendent Gr. "B" are not based on their own merit. Also the candidates promoted to the grade of Superintendent Gr. "B" and figured in the Estt. Order No. 139/2002 dt. 23.9.2002 are not based on their merit as there was no Departmental Examination / Limited Departmental Examination or other wise to determine their merit. It is purely based on seniority -- cum-fitness only which is evident from the said seniority list itself prepared as on 01.4.2002 for Inspectors. On the basis of the said seniority list, promotion to the grade of Superintendent Gr. "B" has been effected with out any Departmental examination/ Limited Departmental Examination or otherwise. So the principles of reservation for SC/ST candidates clarified in the said circular/ OM dt. 11.7.2002 of DOP&T is not applicable in the said Estt. Order No. 139/2002 dt. 23.9.2002.

It is, therefore, prayed before your honour to kindly go through all the facts and figures mentioned above and to consider my representation on the said matter and to pass necessary order/orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Waiting for a line of reply from your goodness.

Encls:- 1. Copy of Estt. Order No. 139/2002 dt. 23.9.2002

2. Copy of seniority list of Inspectors as on 01.4.2002

3. Copy of circular O.M. No. 36012/2/96 -Estt.(Res) dt. 02.7.1997 of DOP&T.

4. Copy of circular O.M. No. 36028/17/2(XI) Estt.(Res) dt. 11.7.2002 of DOP&T

Total ----- 04 sheets

Yours faithfully,

Binay Krishna Sharma
INSPECTOR 25/10/02
CENTRAL EXCISE
GUWAHATI

To,

The Commissioner,
Central Excise,
Shillong.

(Through Proper Channel)

Sub:-Representation in connection with Estt. Promotion, transfer and posting in the grade of Superintendent Gr. "B" -Order reg. Estt. Order No.139/2002 dt.23.9.2002.

Sir,

I have the honour to state the following few lines for favour of your kind re-consideration and favorable order/orders.

That Sir, I am an Inspector of Central Excise Shillong Commissionerate, joined on 29.11.84 and my name has been placed at serial no. 133 in the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate. Recently 149 Inspectors were promoted to the grade of Superintendent Gr- "B" vide your Estt. order no.139/2002 dt.23.9.2002 wherein my name did not figure within it though my name is placed at serial no. 133 in the said seniority list of Inspectors.

That Sir, as per existing principles of reservation for SC/ST candidates, out of 149 posts, ST will get $11.17 = 11$ posts and SC will get $22.35 = 22$ posts @ 7.5% and @ 15% respectively and the total post for SC/ST candidate would come to $11+22=33$ posts. The details calculation in this regard is shown below -

1. Total post -149, total reservation for SC and ST is $11+22=33$ posts. For general (unreserved) $149-33=116$ posts.
2. 08(eight) Inspectors were not promoted from serial No.1,2,32,57,61,90,108, and 109 of the said seniority list. Hence serial No. of the said seniority list will continue to $116+8=124$ for promotion.
3. 11 Nos. of ST candidates had figured within Sl.No.1 to 124 and hence quotas for ST(11 Nos posts) are adjusted. They are shown below as per Sl. No. of the said seniority list and serial No. of promotion order dt.23.9.2002 within bracket. 9(7),10(8),33(30),34(31),35(32),38(35),39(36),83(78),85(80),86(81),87(82), Hence Sl.No. of the said seniority list will continue to $124+11=135$ for promotion.
4. 06(six) Nos. of SC candidates have figured within Sl. No.1 to 135 of the said seniority list and hence 6 No. candidates from SC quota are adjusted. They are shown below as per Sl.No. of the said seniority list and Sl.No. of said promotion order within bracket-37(34),69(64),82(77),84(79),121(113),132(114) Hence Sl.No. of the said seniority list will continue to $135+6=141$ for promotion.
5. One SC candidate has figured at Sl.No. 140 (Sl.No.115 of promotion order) of the said seniority list. Hence total 07(seven) candidates from SC quota are adjusted within Sl.No.1 to 142 of the said seniority list.
6. 15 Nos. ($22-7=15$) of SC candidates will come up after Sl.No.142 of the said seniority list But in the said Estt. order dt.23.9.2002, Sl.No. continued up to 121 of the said seniority list only and all the SC/ST candidates were taken up for promotion after Sl.No.121 of the said seniority list.

That Sir, as per existing principles of reservation for SC/ST candidates and details calculation shown above, it is evidently clear that the candidates figured up to serial No. 142 of the said seniority list should get promotion to the grade of Superintendent Gr- "B".

Contd... P/2.

certified to be true
V. B. S.
Advocate

Also as my name has been placed at Sl. No. 133 of the said seniority list, so I should also presumably be promoted to the grade of Superintendent Gr. "B" but I have been deprived of getting such promotion and my name did not figure in the said Estt. Order No. 139/2002 dt. 23.9.2002.

That Sir, it is reliably learnt that the circular O.M. No. 360 28/17/2(XI)Estt.(Res) dt. 11.7.2002 of Deptt. of Personal and Training in respect of adjustment of SC/ST candidates promoted on their merit has been followed for the said promotion order. The subject matter of the said circular dt. 11.7.2002 is "Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters". It is nothing but a clarification of DOP& T's O.M. No. 36012/2/96-Estt.(Res) dt. 02.7.1997 in connection with SC/ST candidates promoted on their own merit. The contents of the O.M. dated 11.7.2002 of the DOP&T are reproduced as under-

"The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation Rosters introduced vide DOP&T's OM No. 36012/2/96-Estt. (Res) dated 02.7.1997. While it is clear from the OM dated 02.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation Roster, doubt has been raised among SC/ST candidates promoted on their own merit." It has been clarified in the said OM dated 11.7.2002 as under-

"It is hereby clarified that (i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points....."

It is clear that the name of Inspectors figured in the seniority list as on 01.4.2002 for consideration for promotion to the grade of Superintendent Gr. "B" are not based on their own merit. Also the candidates promoted to the grade of Superintendent Gr. "B" and figured in the Estt. Order No. 139/2002 dt. 23.9.2002 are not based on their merit as there was no Departmental Examination / Limited Departmental Examination or other wise to determine their merit. It is purely based on seniority - cum-fitness only which is evident from the said seniority list itself prepared as on 01.4.2002 for Inspectors. On the basis of the said seniority list, promotion to the grade of Superintendent Gr. "B" has been effected with out any Departmental examination/ Limited Departmental Examination or otherwise. So the principles of reservation for SC/ST candidates clarified in the said circular/ OM dt. 11.7.2002 of DOP&T is not applicable in the said Estt. Order No. 139/2002 dt. 23.9.2002.

It is, therefore, prayed before your honour to kindly go through all the facts and figures mentioned above and to consider my representation on the said matter and to pass necessary order/orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Waiting for a line of reply from your goodself.

Encls:-1. Copy of Estt. Order No. 139/2002
dt. 23.9.2002

2. Copy of seniority list of Inspectors
as on 01.4.2002

3. Copy of circular O.M. No. 36012/2/96
-Estt.(Res) dt. 02.7.1997 of DOP&T.

4. Copy of circular O.M. No. 36028/17/2(XI)-
Estt(Res) dt. 11.7.2002 of DOP&T

Total 11 -----no. sheets.

Yours faithfully,

Kamal Narayan Choudhury
18/10/02

(KAMAL NARAYAN CHOUDHURY)
INSPECTOR
CENTRAL EXCISE
GUWAHATI-5

44

To,

The Commissioner,
Central Excise,
Shillong.

(Through Proper Channel)

Sub:-Representation in connection with Estt. Promotion, transfer and posting in the grade of Superintendent Gr. "B" -Order reg. Estt. Order No.139/2002 dt.23.9.2002.

Sir,

I have the honour to state the following few lines for favour of your kind re-consideration and favorable order/orders.

That Sir, I am an Inspector of Central Excise Shillong Commissionerate, joined on 25.1.84 and my name has been placed at serial no 124 in the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate. Recently 149 Inspectors were promoted to the grade of Superintendent Gr- "B" vide your Estt. order no.139/2002 dt.23.9.2002 wherein my name did not figure within it though my name is placed at serial no. in the said seniority list of Inspectors.

That Sir, as per existing principles of reservation for SC/ST candidates, out of 149 posts, ST will get $11.17 = 11$ posts and SC will get $22.35 = 22$ posts @ 7.5% and @ 15% respectively and the total post for SC/ST candidate would come to $11+22=33$ posts. The details calculation in this regard is shown below -

1. Total post -149, total reservation for SC and ST is $11+22=33$ posts. For general (unreserved) $149-33=116$ posts.
2. 08(eight) Inspectors were not promoted from serial No.1,2,32,57,61,90,108, and 109 of the said seniority list. Hence serial No. of the said seniority list will continue to $116+8=124$ for promotion.
3. 11 Nos. of ST candidates had figured within Sl.No.1 to 124 and hence quotas for ST(11 Nos posts) are adjusted. They are shown below as per Sl. No. of the said seniority list and serial No. of promotion order dt.23.9.2002 within bracket. 9(7),10(8),33(30),34(31),35(32),38(35),39(36),83(78),85(80),86(81),87(82). Hence Sl.No. of the said seniority list will continue to $124+11=135$ for promotion.
4. 06(six) Nos. of SC candidates have figured within Sl. No.1 to 135 of the said seniority list and hence 6 No. candidates from SC quota are adjusted. They are shown below as per Sl.No. of the said seniority list and Sl.No. of said promotion order within bracket-37(34),69(64),82(77),84(79),121(113),132(114). Hence Sl.No. of the said seniority list will continue to $135+6=141$ for promotion.
5. One SC candidate has figured at Sl.No. 140 (Sl.No.115 of promotion order) of the said seniority list. Hence total 07(seven) candidates from SC quota are adjusted within Sl.No.1 to 142 of the said seniority list.
6. 15 Nos. ($22-7=15$) of SC candidates will come up after Sl.No.142 of the said seniority list But in the said Estt. order dt.23.9.2002, Sl.No. continued up to 121 of the said seniority list only and all the SC/ST candidates were taken up for promotion after Sl.No.121 of the said seniority list.

That Sir, as per existing principles of reservation for SC/ST candidates and details calculation shown above, it is evidently clear that the candidates figured up to serial No. 142 of the said seniority list should get promotion to the grade of Superintendent Gr.- "B".

Certified to be true
[Signature]
Advocate

Contd... P/2.

Also as my name has been placed at Sl. No. 124 of the said seniority list, so I should also presumably be promoted to the grade of Superintendent Gr. "B" but I have been deprived of getting such promotion and my name did not figure in the said Estt. Order No. 139/2002 dt. 23.9.2002.

That Sir, it is reliably learnt that the circular O.M. No. 360 28/17/2(XI)Estt.(Res) dt. 11.7.2002 of Deptt. of Personal and Training in respect of adjustment of SC/ST candidates promoted on their merit has been followed for the said promotion order. The subject matter of the said circular dt. 11.7.2002 is "Treatment of SC/ST candidates promoted on their own merit in the reservation Rosters". It is nothing but a clarification of DOP& T's O.M. No. 36012/2/96-Estt.(Res) dt. 02.7.1997 in connection with SC/ST candidates promoted on their own merit. The contents of the O.M. dated 11.7.2002 of the DOP&T are reproduced as under-

" The undersigned is directed to say that this Department has been receiving references from various Ministries etc. regarding adjustment of SC/ST candidates promoted on their merit in the reservation Rosters introduced vide DOPT's OM No. 36012/2/96-Estt. (Res) dated 02.7.1997. While it is clear from the OM dated 02.7.1997 that the SC/ST/OBC candidates appointed by direct recruitment on their own merit and not owing to reservation will be adjusted against unreserved points of the reservation Roster, doubt has been raised among SC/ST candidates promoted on their own merit." It has been clarified in the said OM dated 11.7.2002 as under-

" It is hereby clarified that (I) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation for relaxation of qualifications will not be adjusted against the reserved point of the reservation roster. They will be adjusted against unreserved points....."

It is clear that the name of Inspectors figured in the seniority list as on 01.4.2002 for consideration for promotion to the grade of Superintendent Gr. "B" are not based on their own merit. Also the candidates promoted to the grade of Superintendent Gr. "B" and figured in the Estt. Order No. 139/2002 dt. 23.9.2002 are not based on their merit as there was no Departmental Examination / Limited Departmental Examination or other wise to determine their merit. It is purely based on seniority – cum-fitness only which is evident from the said seniority list itself prepared as on 01.4.2002 for Inspectors. On the basis of the said seniority list, promotion to the grade of Superintendent Gr. "B" has been effected with out any Departmental examination/ Limited Departmental Examination or otherwise. So the principles of reservation for SC/ST candidates clarified in the said circular/ OM dt. 11.7.2002 of DOP&T is not applicable in the said Estt. Order No. 139/2002 dt. 23.9.2002.

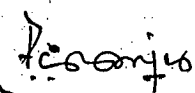
It is, therefore, prayed before your honour to kindly go through all the facts and figures mentioned above and to consider my representation on the said matter and to pass necessary order/orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Waiting for a line of reply from your goodself.

Encls:-1. Copy of Estt. Order No. 139/2002
dt. 23.9.2002

2. Copy of seniority list of Inspectors
as on 01.4.2002
 3. Copy of circular O.M. No. 36012/2/96
-Estt.(Res) dt. 02.7.1997 of DOP&T.
 4. Copy of circular O.M. No. 36028/17/2(XI)-
Estt(Res) dt. 11.7.2002 of DOP&T
- Total ----11-----no. sheets.

Yours faithfully,


 (PANKAJ KUMAR BHATTACHARJEE)
 INSPECTOR
 CENTRAL EXCISE
GUWAHATI-5

To

The Commissioner (By name)
Central Excise,
Guwahati at Shillong.

(Through Proper Channel)

Sub;-Representation in connection with Estt. promotion, transfer and posting in the grade of Superintendent Gr."B."—Estt. Order No.139/2002 dt.23.9.2002—Reg.

Sir,

Kindly refer to my representation dt. 25.10.2002 in connection with the above mentioned subject, submitted through the then Asstt. Commissioner, Central Excise, Guwahati vide C. No. II (3) 11 ET/ACG/2001/7944 dated. 30.10.02

That Sir, in my said representation dt. 25.10.2002, it was mentioned that as per existing promotion rules, the Inspectors up to SL No. 142 of the seniority list of Inspectors as on 01.4.2002 of Shillong Commissionerate should have been promoted to the grade of Superintendent Gr. "B" in the Estt. Order No.139/2002 dt.23.9.2002 and since my name has been placed at SL No. 136 of the said seniority list, I should also be promoted to the grade of Superintendent Gr. "B".

That Sir, for implementation of the *Supreme Court Judgement in the case of R.K. Sabharwal Vs. State of Punjab as well as J.C. Mallick Vs. Ministry of Railway*, the DP & T, Govt. of India had issued Deptt's O.M. No.36012/2/96-Estt.(Res) dt. 2nd. July,1997 to introduce *reservation roster* for making adjustment, appointments of candidates belonging to SCs/STs/OBCs which were *made on merit* (and not owing to reservation) *so far as direct recruitment is concerned*.

That Sir, the recently published DP&T, Govt. of India's O.M. No.36023/17/2/(XI) Estt. (Res) dt.11.7.2002 in respect of treatment of SC/ST candidates promoted on their own merit in the reservation rosters is the clarification of the said DP&T's O.M. No. 36012/2/96-Estt.(Res) dt.02.7.1997 in case of SC/ST candidates *promoted on their own merit*. Since, the promotion to the grade of Superintendent Gr."B" effected vide Estt. Order No. 139/2002 dt.23.9.2002 was *not on their own merit, but, on seniority-cum-fitness only*. So, the said clarification in DP&T's O.M. dt. 11.7.2002 is not applicable.

That Sir, till date neither any order(s) for promotion nor a line of reply is received from your goodself, so, I once again request your honour to kindly pass necessary order/ orders for my promotion to the grade of Superintendent Gr. "B" with effect from 23.9.2002 on the light of the above mentioned facts.

Yours faithfully

123
20.12.02
Receipt for
Assistant Commissioner
Central Excise Guwahati

Certified to be true
[Signature]

Advocate

Binoy Krishna Sharma
INSPECTOR 20/12/02
CENTRAL EXCISE
GUWAHATI



47

Annexure - 9

130

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

ESTABLISHMENT ORDER NO 204 /2002

DATED SHILLONG THE 30th DECEMBER, 2002

Subject : Estt. Promotion, transfer and posting in the grade of Supdt. Gr. 'B' - order regarding.

PART - I

PROMOTION

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

Sl.No	Name
01	T.C.mahanta
02	Chakrendu Baruah
03	PranabKumar Phukan
04	Pankaj kr Bhattacharjee
05	Sanjeev kr Chakraborty
06	Md Ali Mazar Bhuiyan
07	Bhagirath baruah
08	Bikash Chakraborty
09	Nabendu narayan Roy
10	Asish Roy
11	Sanat kr Saha
12	K.N.Choudhury
13	Kailash barman
14	Tafuruddin Ahmed
15	Binoy Krishna Sharma
16	Dharmeswar Deka(SI)
17	Liladhar Pait(ST)
18	Smt T.Tshering Bhutiani(ST)
19	Rownel Marfin Chyne(ST)
20	U.K.Das(SC)

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

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

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

*Done by
02/01/2003*

Certified to be true
[Signature]
Advocate

48

PART - II

TRANSFER AND POSTING

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

NOTE :

1. In the event of any deputationist(s) being reverted to parent Commissionerate, the junior most officer (s) in the above promotion order will be reverted as Inspector.

Sd/-
(Z. TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE
SHILLONG.

C.No. II(3)28/ET.III/2000/44189-44238

Dated: 30 DEC 2002

Copy forwarded for information & necessary action to :-

1. The Joint Secretary (Admn.), Central Board of Excise & Customs, North Block, New Delhi 110 002.
2. The Chief Commissioner, Kolkata Central Excise & Customs, 15/1, Strand Road, Customs House, Calcutta - 700 001.
3. The Commissioner of customs NER, Shillong. The copies meant for the concerned officers are enclosed.
4. The Commissioner (Appeals), Customs & Central Excise, Guwahati.
5. The Additional Commissioner (Tech.), Central Excise Hqs. Office, Shillong.
6. The Joint Commissioner, Dibrugarh C.Ex. Commissionerate.
7. The Dy./Asstt. Commissioner of Central Excise/Customs _____ Division. The copy(s) meant for the concerned officer is (are) enclosed.
8. The CAO/PAO, Central Excise & Customs, Hqs. Office, Shillong.
9. Shri/Smt. Kailash Barman for compliance.
10. Accounts I & II/ET I & II/ Confdl. Br./CIU-cum-VIG Br. Of Hqs. Office, Shillong.
11. The General Secretary, Gr. 'B' / 'C' Executive Officers' Association, Customs & Central Excise, Shillong.
12. Guard File.

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 141 of 1997

Date of decision: This the 30th day of August 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Rathindra Kumar Sarkar,
Superintendent (Law),
Central Excise,
Guwahati. Applicant

By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi.

2. The Chief Commissioner,
Customs & Central Excise,
Eastern Zone, Calcutta.

3. The Commissioner,
Central Excise, Shillong.

4. Shri Biren Saikia,
Superintendent, Central Excise,
Guwahati.

5. Shri Aswini Kumar Das,
Superintendent,
Central Excise, Nagaon Range,
Nagaon (Assam).

6. Shri Jagadish Chandra Das,
Superintendent, Central Excise,
Lumding Range,
Lumding, Assam.

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

..... Respondents

O R D E R

BARUAH.J. (V.C.)

The applicant in this application has challenged
the Annexure 1 Promotion Order, dated 11.12.1995 on the
ground of excess allotment of vacancies of promotional

AB

certified to be true
Advocate

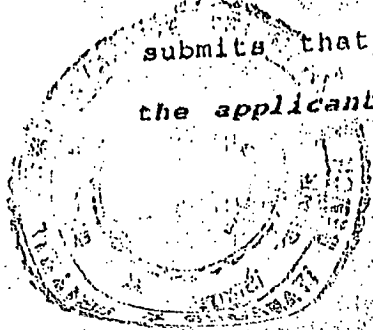
post of Group 'B' Superintendent to the Scheduled Tribe candidates, and prays for direction to the respondents to consider his case for promotion.

2. Facts of the case are:

The applicant, at the material time, belonged to Group 'C' post in the Customs and Central Excise Department. Certain posts of Group 'B' Superintendent fell vacant. Those vacancies were to be filled up from eligible candidates belonging to Group 'C' post. According to the applicant he also came within the zone of consideration. The basis of giving promotion was seniority-cum-merit. Normally the applicant ought to have been considered for promotion against one post. However, he was not given the promotion on the ground that ST quota was available for giving promotion. But, in the present case two ST candidates had been given promotion on seniority-cum-merit basis. Thereafter, the authority again promoted the 4th respondent, who belonged to the ST quota.

3. The respondent Nos. 1, 2, and 3 have entered appearance and filed written statement. However, respondent Nos. 4, 5 and 6 have not entered appearance.

4. We have heard Mr J.L. Sarkar, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. Mr Sarkar submits that offering the post of Group 'B' Superintendent to the ST candidates was not in accordance with the rules. According to Mr Sarkar two posts were earmarked for ST candidates and respondent Nos. 5 and 6 had already been promoted against the ST quota. He further submits that respondent Nos. 4, 5 and 6 are junior to the applicant. Mr Sarkar has also drawn our attention to



[Signature]

: 3 :

Rule 2.3.2 (ii) of the CHEC Digest. We quote the said Rule:

"In promotion by selection to posts/services from Group 'C' to Group 'B' within Group 'B' and from Group 'B' and from Group 'B' to the lowest rung in Group 'A', selection against vacancies reserved for SCs and STs will be made only from those SCs/STs officers, who are within the normal zone of consideration prescribed vide the Department of Personnel & A.R. O.M. No.22011/3/76-Estt.(D) dated 24th December, 1980. Where adequate number of SCs/STs candidates are not available within the normal field of choice, it may be extended to five times the number of vacancies and the SCs/STs candidates (and not any other) coming within the extended field of choice, should also be considered against the vacancies reserved for them. If candidates from SCs/STs obtain on the basis of merit with the due regard to seniority, on the same basis as others, less number of vacancies than the number reserved for them, the difference should be made up by selecting candidates of these communities who are in the zone of consideration irrespective of merit and bench mark but who are considered fit for promotion. Officers belonging to SC/ST selected for promotion against vacancies reserved for them from within the extended field of choice would however be placed en bloc below all the other officers selected from within the normal field of choice."

Mr A. Deb Roy also agrees that the 4th respondent ought not to have been given the promotion in view of the aforesaid rule.

5. We have perused the papers and the rule. On perusal of the papers and the rule, we find sufficient force in the submission of Mr Sarkar. The respondent Nos.5 and 6 had already been promoted against the ST quota. Therefore, it was contrary to the rules to offer the post of Group 'B' Superintendent to the 4th respondent. Mr Sarkar submits that three months thereafter the applicant had also been promoted.

6. As all of them have been promoted the question that now remains is regarding their seniority and date of appointment. Therefore, we direct the respondents to

SR

: 4 :

re-examine the matter in the light of our observations made above and fix the seniority and give all the consequential benefits to the applicant as per law. This must be done as early as possible, at any rate within a period of three months from the date of receipt of the order.

7. The application is accordingly disposed of. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Certified to be true Copy

NOTED

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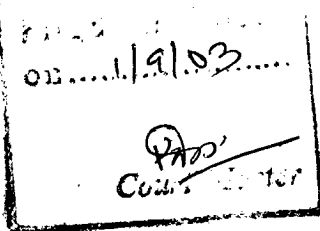
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::GUWAHATI

Union of India & Ors.
- Respondents
Through:-
Anwar Hussain
1/9/03

In the matter of :-

O.A.No.114 of 2003

Shri K. Barman ... Applicant

-Versus-

Union of India & Ors. ..Respondents

WRITTEN STATEMENTS FOR AND ON BEHALF OF
RESPONDENTS NOS.1,2 and 3.

I, Anowar Hussain, Deputy Commissioner, Central
Excise, Guwahati, do hereby solemnly affirm and say as follows :-

1. That I am the Deputy Commissioner, Central Excise, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I am authorised to file the written statements on behalf of all the respondents.

2. That the respondents have no comments to the statements made in paragraph 6.1 and 6.2 of the application.

3. That with regard to the statements made in paragraph 6.3 of the application, the respondents beg to state that the applicants have wrong information regarding number of vacancies created during restructuring as 150 posts of Superintendent were created during restructuring and not 149 as stated by the applicants.

It is a fact that applicants attained the eligibility for promotion to the grade of Superintendent in terms of the recruitment rule at the time of formation of DPC.

4. That with regard to the statements made in paragraph 6.4 and 6.5 of the application, the respondents beg to state that the contention of the applicants is totally wrong. The DPC was held on 30-7-2002 and not on June, 2002 as stated by the applicants.

It is a fact that the applicants were within the consideration zone of the DPC held on 30-7-2002 but mere inclusion of names in the consideration zone does not give rise to the right to promotion.

The officers appearing at Sl.No.113 to 149 of the Promotion Order dated 23-9-2002 were promoted who were junior to the applicants as because they belong the reserved category i.e. SC/ST. The applicants have failed to comprehend the literal meaning of the clarifications issued by the DOP&T vide its O.M.No.36028/17/2001-Estt(Res) dated 11-07-2002 on "treatment of SC/ST candidates promoted on their own merit in the reservation roster".

In para-II of the ibid O.M. it has been stated if an unreserved vacancy arises in a cadre and there is any SC/ST candidate within the normal zone of consideration in the feeder grade such a candidate will be considered for promotion alongwith other candidates treating him as if he belongs to general category. In case he is selected he will be appointed to the post and will be adjusted against the unreserved point.

So, although there were several SC/ST candidates appearing within Sl.No.01 & 112 of the ibid promotion order they should be treated as general candidates for the purpose of this promotion order and they would not be counted in the total number of reserved candidates promoted. Also, their being promoted as general candidates will not take away their reserved status and they will be eligible to get benefit of reservation in future/ further promotion if any (refer para-III of the ibid O.M.)

5. That with regard to the statements made in paragraph 6.6 of the application, the respondents beg to state that the applicants have time and again done the mistake of arriving at vacancy reserved for SC/ST as per the principle of vacancy Based Roster where the percentage prescribed for SCs/STs would be applied directly on the total number of vacancy to determine the vacancies reserved for SCs/STs. However the principle has long been discontinued after the issuance of the DOP&T O.M. No.36012/2/96-Estt(Res), dtd.2-07-1997 on the subject of Reservation roster- Post based Implementation of the Supreme Court Judgement in the case of R.K. Sabharwal -Vs- State of Punjab".

6. That the respondents beg to state that the in the O.A. has inter alia prayed for quashing of the Department's O.M. No.36028/17/2001-Estt(Res)dated 11-7-2002. In this regard, it is mentioned that the Hon'ble Supreme Court in its judgement dated 10-2-1995 in W.P.(Civil) No.79 of 1979 in the matter of R.K. Sabharwal and other versus State of Punjab and others has held that SCs/STs appointed/promoted on their own merit have to be adjusted against unreserved points and reservation, if any would have to be provided in addition. In this regard following extracts from the said judgement are relevant :-

" When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserve posts. On the other hand the reserve category candidates can compete for the non-reserve posts and in the event of their appointment to the said posts their member cannot be added and taken into consideration for working out the percentage of reservation".

xxx

xxx

xxx

"..... When the State Govt. after doing the necessary exercise makes the reservation and provides the extent of percentage of posts to be reserved for the said backward class then the percentage has to be followed strictly. The prescribed percentage cannot be varied or changed simply because some of the members of the backward class have already been appointed/promoted against the general seats. As mentioned above the roster point which is reserved for a backward class has to be filled by way of appointment/promotion of the member of the said class. No general category candidate can be appointed against a slot in the roster which is reserved for the backward class. The fact that considerable number of members of a backward class have been appointed/promoted against general seats in the State Service may be a relevant factor for the State Govt.

Contd..p/4_

-56- 139

to review the question of continuing reservation for the said class but so long as the instructions/Rules providing certain percentage of reservations for the backward classes are operative the same have to be followed. Despite any number of appointees/promotees belonging to the backward classes against the general category posts the given percentage has to be provided in addition".

7. That the respondents beg to state that the O.M. dated 11-7-2002 is in line with the law laid by the Hon'ble Supreme Court.

8. That the respondents have no comments to the statements made in paragraph 6.7, 6.8, 6.9 and 6.10 of the application and the statements made in paragraph 4 and 5 of the written statement are reiterated.

9. That the respondents have no comments to the statements made in paragraph 7.0, 7.1, 7.2 and 7.3 of the application.

10. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

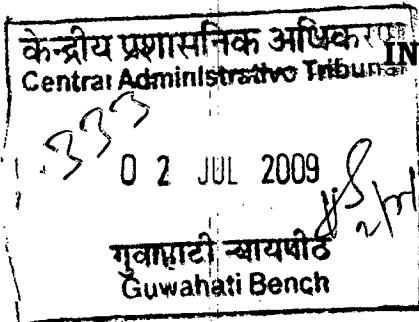
V E R I F I C A T I O N

I, Anowar Hussain, presently working as Deputy Commissioner, Central Excise, Guwahati being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph of the application are true to my knowledge and belief, those made in paragraphs being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 27th day of Aug., 2003.

Anowar Hussain
DEPONENT

Deputy Commissioner,
CENTRAL EXCISE
GUWAHATI DIVISION



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

IN THE MATTER OF
O.A. NO. 114 OF 2003

IN THE MATTER OF :

Shri K. Barman and others

— Applicants

- Versus -

Union of India & ors.

— Respondents

- AND -

IN THE MATTER OF :

Written Statement submitted by the
Respondents to the Additional Affidavit filed by
the applicant.

WRITTEN STATEMENT :

The humble answering respondents submit their
written statement to the Additional Affidavit filed
by the applicants as follows:

1. That with regard to the statements made by applicants in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 of the Additional Affidavit, the answering respondents do not admit anything which is beyond the record and without any rationale as well as legal foundation. The petitioners are put to strict proof thereof.

Undertake to serve the copy on the Counsel & Petitioner
Sri S. Das, who is absent today on 24/6/09

24/6

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filed by
Rajoy Kumar Jore
through M. G. Sharma 24/6/09
Case

02 JUL 2009

गुवाहाटी न्यायपीठ

2. That with regard to the statements made in paragraph 9 of the Additional Affidavit, the answering respondents beg to submit that the contention of the applicant is not correct. The question of misinterpreting the Circular dated 15.02.2005 does not arise as the promotion took place in the year 2002 i.e., prior to issuance of the Circular. In Para-II of the O.M. dated 31.01.2005 clearly mentions that the cases where SC/ST candidates promoted on their own merit before 11.07.2002 have been adjusted against unreserved points need not be re-opened. Moreover, it may also be mentioned here that in Para-3 of the O.M. dated 31.01.2005, it is clarified that in case of promotions by non-selection, promotions are made on the basis of seniority-cum-fitness and the concept of merit is not involved in such promotions, and the O.M. dated 11.07.2002 does not apply to the promotions made by non-selection method. Thus it is understood that O.M. dated 11.07.2002 is applicable for "Non-Selection" and not for "Selection-cum-Seniority".

Further, it is pertinent to mention here that, the present case that it was not a case of simple upgradation of posts but additional posts created by virtue of restructuring, had all the features of promotion and therefore, reservation policy was applicable.

3. That with regard to the statements made in Para 10 of the Additional Affidavit of the Applicants, the answering respondents beg to submit that in Para 3 of the letter dated 19.07.2001 issued by the CBEC, it clearly mentions that no direct recruitment may be made to the various grades for the year 2001-02 without the approval of Ministry/Department as the Cabinet has approved a on-time relaxation for filling of all vacancies by promotion in all cadres. Accordingly, a Departmental Promotion Committee (DPC) was held on 30.07.2002 for promotion to the grade of Superintendent and 149 Inspectors were promoted. Clearly, the question of upgradation would not arise.

Prity Kumar Joshi

02 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

4. That with regard to the statements made in Paragraphs 11, 12, 13, 14 and 15 of the Additional Affidavit of the applicants, the answering respondents have no comments to make.

5. That with regard to the statements made in Paragraph 16 of the Additional Affidavit of the applicants, the answering respondents beg to submit that it is a fact that the applicants attained the eligibility for promotion to the grade of Superintendent in terms of the Recruitment Rules at the time of formation of DPC. But the applicants failed to comprehend the literal meaning of the clarifications issued by the DOP&T vide its O.M. No. 36028/17/2001-Estt.(res) dated 11.07.2002 on "treatment of SC/ST candidates promoted on their own merit in the reservation roster".

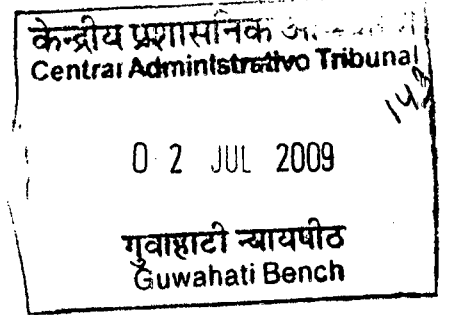
6. That with regard to the statements made in Paragraphs 17 and 18 of the Additional Affidavit of the applicants, the answering respondents have no comments to make.

7. The respondents beg to submit that the applicants have failed to make out a case warranting the interference by the Hon'ble Tribunal. In view of the submission, the respondents, therefore, pray that the Hon'ble Tribunal may be pleased to dismiss the present case in the interest of justice and equity.

Bijoy Kumar Jind

DEPONENT
B. K. Jind
Asst. Commissioner
Central Excise, Guwahati

f



AFFIDAVIT

I, Shri Bijoy Kumar Tiru, s/o Dan Tiru, aged about 57 years, resident of 5, Chilarai Nagar, Guwahati-781005 in the district of Kamrup (Metro), Assam do hereby solemnly affirm and declare as follows:-

1. That I am the Assistant Commissioner of Customs & Central Excise and as such conversant with the facts and circumstances of the case and competent to swear this affidavit.

This is true to my knowledge.

2. That the statements made in this affidavit and paragraphs 2, 2.25 & are true to my knowledge and belief, those made in paragraphs 3 are matters of records, which I believe to be true, and the rests are my humble submission before this Hon'ble Court.

And I sign this affidavit on this 24th day of June, 2009 at Guwahati.

Identified by:

M. K. Sharma

Advocate's ~~Clerk~~

Bijoy Kumar Tiru

DEPONENT

B. K. Tiru
Asstt. Commissioner
Central Excise, Guwahati