

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./T.A No. 95/2003

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SECTION OFFICER (Judl.)

Halita
16/11/07

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 85/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Jones Inghi K. Thakur

- Vs. -

Respondent (s) H. O. I. Jones

Advocate for the applicant (s) B.K. Sharma S. Sarma
D.K. Sharma, U.K. Nair, Mrs U. Das

Advocate for the respondent (s) Case

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time - Condonation Petition is filed / not filed C.F. for Rs. 50/- deposited vide IPO/BB No. 86/490025 Dated... 22/4/03...</p> <p><i>[Signature]</i> By, Registrar</p> <p><i>[Signature]</i> 15/5/03</p> <p>Steps taken alongwith envelopes.</p> <p><i>[Signature]</i></p> <p>Notice freshened & sent to S.B. for filing the Condonation No. 1 to 4 by Regd. A.D.</p> <p>X/No 987/989 dtd 14/5/03</p> <p><i>[Signature]</i> 13/5/03</p>	<p>8.5.2003</p>	<p>Present :</p> <p>The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S. Biswas, Member (A).</p> <p>Heard Mr. S. Sarma, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 16.6.2003 for orders.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

mb

16.6.2003

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

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

No. 1013 has been
b'ked.

21.7.03

Put up again on 22.7.2003 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

23.7.03

W/S submitted
by Respondent No. 3.

22.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Member (A).

Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the U.O.I. prays for time for filing written statement. Four weeks further time is allowed to the U.O.I. to file written statement. None appears for the respondent Nos. 2 and 4. The said respondents may also file written statement within the aforesaid period.

List on 20.8.2003 for orders.

Member

Vice-Chairman

mb

20.8.2003

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

The Hon'ble Mr. K.V. Prahaladan Administrative Member.

The respondent No.3 has already filed written statement. Other respondents may file written statement, if any, within three weeks from today.

Put up the matter on 11.9.2003 for written statement and for fixing a date of hearing.

Member

Vice-Chairman

bb

W/S b'ked by the
R.No-3, other respondents
not yet b'ked.

19.8.03

No W/S from R. no. 1, 2 & 4.

11/9/03

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O.A. 85/2003

Office Note	Date	Tribunal's Order
<p>No. W/S has been biked by R.No-1, 2 & 4.</p> <p><u>30</u> 22.9.03.</p>	<p>11.9.2003</p> <p>mb</p>	<p>Present.: The Hon'ble Sri K.V. Prahaladan, Member (A).</p> <p>List the matter on 23.9.2003 alongwith O.A. 313/2002.</p> <p><i>K.V. Prahaladan</i> Member</p>
	<p>23.9.2003</p> <p>bb</p>	<p>On the prayer made by Mr.A.K.Chau- dhuri, learned Addl.C.G.S.C. the case / is adjourned. Mr.S.Sarma, learned coun- sel for the applicant has no objection.</p> <p>List the case on 20.10.2003 for hearing.</p> <p><i>K.V. Prahaladan</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>20.10.2003</p> <p>bb</p>	<p>The case is adjourned and listed again on 12.11.2003 for hearing.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>12.11.03</p>	<p>no Bench today. Adj'd on 19.11.03.</p> <p><i>370</i> <i>la.</i></p>
	<p>19.1.2004</p> <p>b_D</p>	<p>Present: The Hon'ble Shri Bharat Bhushan Judicial Member</p> <p>The Hon'ble Shri K.V.Prahladan Administrative Member.</p> <p>Ms.U.Das, learned counsel for the applicant and Mr.A.K.Chaudhri, learned Addl.C.G.S.C. for the respondents, have requested for adjournment. So list the case on 5.2.2004 for hearing.</p> <p><i>K.V. Prahaladan</i> Member(A)</p> <p><i>[Signature]</i> Member(J)</p>

Office Note	Date	Tribunal's Order
	19.11.2003	<p>Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman. The Hon'ble Sri S.K. Naik, Administrative Member.</p> <p>Mr. M.K. Mazumdar, learned counsel on behalf of Mr. S. Sarma, learned counsel for the applicant, Mr. A.K. Choudhury, learned Addl. G.G.S.C. for the Respondent No.3 and Mrs. M. Das, learned Govt. Advocate for the State of Assam for respondent Nos. 2 and 4.</p> <p>At the request of Mr. M.K. Mazumdar, learned counsel on behalf of the applicant list on 21.11.2003 for hearing.</p> <p><i>Frank</i> Member</p> <p><i>J.E.</i> Vice-Chairman</p>
<p>Written statement filed on behalf of Respondant No-2 & 4</p> <p><i>23</i> 23.12.03</p>	mb	
	21.11.03	<p>Leftover. put in when not O/A available.</p> <p><i>B/O</i> <i>h</i></p>
	24.12.03	<p>On the prayer of the learned counsel for the parties the case is adjourned to 19.1.2004 for hearing.</p> <p><i>K.P. Bhattacharya</i> Member</p> <p><i>B</i> Vice-Chairman</p>

24.02.2004 Present: The Hon'ble Sri Shanker Raju,
Judicial Member.


The Hon'ble Sri K.V.Prahladan
Administrative Member.

4.2.04

Copy of the order
has been sent to the
D/Sec. for issuing
the order to the
applicant as well
as to the A/Advocate
for the parties.
ssb

After hearing the parties O.A.
stands disposed of with direction to the
respondents to consider a fresh the case
of the applicant for revision of the pay
scale as per the explanatory memorandum
as per the order passed separately.

O.A. is accordingly allowed.


Member (A)


Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos.313 of 2002 & 85 of 2003.

Date of Order : This , the 24th Day of February, 2004.

THE HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER.

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

1. Shri Ananta Kumar Malakar, IAS
Director of Land Records, Survey etc.
Rupnagar, Guwahati. . . . Applicant in O.A.313/2002.

2. Jones Ingti Kathar
Secretary, Industries & Commerce
and Hill Department
Dispur, Guwahati-6. . . . Applicant in O.A.85/2003.

By Advocates Mr.S.Sarma, Mr.U.K.Nair & Ms.U.Das in both the cases.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Personnel,
Public Grievance and Pension
(Deptt. of Personnel and Training)
North Block, New Delhi-1.

2. The State of Assam
Represented by the Chief Secretary
Government of Assam
Dispur, Guwahati-6.

3. The Accountant General(A&E), Assam
Maidamgaon, Beltola
Guwahati.

4. The Secretary
Government of Assam
Department of Personnel (A)
Dispur, Guwahati. . . . Respondents in both the O.A.s.

By Mr.AK.Chaudhuri, Addl.C.G.S.C. for the Respondent Nos. 1 and 3 and Mrs. M. Das, Govt. Advocate for the Respondent Nos. 2 and 4.

O R D E R (ORAL)

SHANKER RAJU, MEMBER(J):

As the indential question of facts and law are involved in these two O.A.s, the same are disposed of by this common order.

1. We have heard Mr.U.K.Nair, learned counsel for the applicants, assisted by Ms.U.Das, learned counsel and also Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents in both the O.A.s.

2. The applicants, who had been inducted into IAS

vide notification dated 30.12.1996, have assailed the action of the respondents in downgrading the pay of the applicant as well as orders passed in January, 2002 and 18.3.2002 ^u rejecting the requests of upward revision of their pay in appointment of IAS.

3. The learned counsel for the applicants contends that the applicants, once confirmed in IAS after probation loose the lien in the State Service and accordingly as per Clause 4, Section I, Schedule II of the IAS (Pay) Rules, 1954 the revision of pay effected in the scale of pay drawn by the applicants in the State Service would not be applicable. Moreover, it is stated that the State revised their pay structure by notification dated 4.7.1998 whereas the applicants stood confirmed in IAS and their lien have been terminated.

4. It is further stated that in the light of the decision of the Apex Court in Bhagwan Shukla vs. Union of India & Others reported in 1998(2) SLJ 30 (SC) no downward revision of pay scale which visits a Govt. Servant with ^uevil consequences would be undertaken without affording reasonable opportunity to the concerned. As no prior opportunity had been accorded, the action of the respondents is not in consonance with the principles of natural justice.

5. The learned counsel for the applicants further states that as per the IAS (Pay) Fifth Amendment Rules, 1997 which had come into effect from 20.11.1997 ^uas per Explanatory Memorandum, which is reproduced below:-

"EXPLANATORY MEMORANDUM

The Central Government has decided to implement the recommendations made by the Fifth Central Pay Commission relating to revision of scales of pay in respect of the All India Services with effect from the 1st January, 1996. With a view to implement those recommendations, the Indian Administrative Service (Pay) Rules, 1954 are being amended accordingly with effect from the 1st January, 1996.

It is certified that no member of the Indian Administrative Service is likely to be adversely affected by giving retrospective effect to these rules."

^u no adverse affect by giving retrospective effect to the

revision would be undertaken.

6. On the otherhand, the learned counsel for the respondents vehemently opposed the contention and stated that as the applicants were not in IAS and were promoted w.e.f. 30.12.1996, the membership of the applicants from 1.1.1996 to 29.12.1996 is to be covered by the revised pay structure of the State. Accordingly, pay slip is issued and downward revision is effected. However, when pointed out the Explanatory Memorandum, the learned counsel for the respondents could not rebut the same.

7. Having regard to the Explanatory Memorandum ibid which protects Govt. Servant from any adverse effect on retrospective revision. The aforesaid explanation has not been taken into consideration by the respondents while issuing pay slip.

8. Keeping in view of the aforesaid and after careful consideration of the rival contentions, we are of the considered view that the matter requires re-consideration. Accordingly, the O.A.s are partly allowed. The impugned pay slips issued by the respondent No. 3 and the orders, whereby the requests of the applicants for upward revision of pay were rejected, are quashed and set aside. Respondents are directed to re-consider the claims of the applicants in the light of the Explanatory Memorandum by passing a separate reasoned and speaking order within three months from the date of receipt of the copy of this order. No recovery shall be effected till then. If the claim of the applicants are acceded to, they shall be entitled to the benefits of pay revision in IAS in accordance with law.

The O.A.s stands disposed of accordingly. No costs.

Copy of this order be kept in each file.

Sd/MEMBER (J)

Sd/MEMBER(ADM)

1P

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 85 of 2003

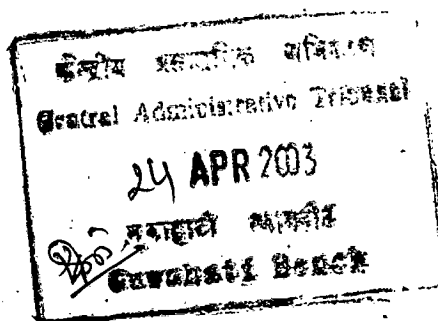
J. I. KATHAR

-VS-

Union of India & Ors.

LIST OF DATES

1. 3.1.97 Notification promoting the applicant to the Grade of IAS.
2. 7.4.97 Pay Slip issued by AG Assam.
3. 3.7.98 Pay Slip issued by the AG Assam incorporating the revision of pay.
4. 16.6.99 Pay slip issued by the AG Assam.
5. 25.6.2001 Judgment and order passed in OA No. 267/99.
6. 2.11.2002 Appeal preferred by the applicant.
7. 18.3.2002 Impugned order.
8. Annexure-B Ammanded Rules guiding the pay fixation of IAS:



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 85 of 2002

BETWEEN

Shri Jones Ingti Kathar Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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7.	Annexure-5	22 to 32
8.	Annexure-6	33 to 44
9.	Annexure-7	45 to 50
10.	Annexure-8	51 to 66

Filed by : ~~Jonesing~~ *Usha Das*
Advocate

Regn.No.:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

O.A.No. 85 of 2003

Filed by
the applicant through
Alsha Das, 2
Advocate
2/4/03

BETWEEN

1. Jones Ingti Kathar
Secry. Industries & Commerce
and Hill Areas Dept.
Dispur, Guwahati-6.
..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Personnel, Public Grievance
and Pension (Deptt. of Personal and Training)
North Block, New Delhi-1.
2. The State of Assam,
represented by the Chief Secretary,
Government of Assam,
Dispur, Guwahati-6.
3. The Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati
4. The Secretary, Government of Assam
Department of Personnel (A) Dispur,
Guwahati.
- Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the
communication dated 18.3.2002 issued under No. 22012/27/99-
AIS(II) rejecting the prayer of the Applicant for upward
revision of his pay on his appointment to IAS. The
application is also directed against the arbitrary and
illegal action on the part of the Respondent No.3 in
proceeding to down grade the pay of the Applicant in the IAS

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Cadre without any authority and in violation of the procedure prescribed for the same.

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

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

4. FACTS OF THE CASE:

4.1. That the applicants is a citizens of India and as such he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2. That the Application was initially appointed in the Assam Civil Service (ACS) in the year 1975. Thereafter vide notification dated 30.12.1996 issued by the Government of India and communicated by the Government of Assam vide notification dated 3.1.97, the Applicant was promoted to the IAS. The said promotion of the Applicant was effected with effect from 30.12.96.

A copy of the said notification dated 3.1.97 is annexed as Annexure-1.

4.3. That on his promotion to the IAS, the pay of the Applicant was fixed in the next higher scale of pay available in the IAS in comparison to the pay scale enjoyed by the Applicant just prior to his such promotion, in the State Service. The Applicant was² allowed the scale of pay of

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Rs. 4800 - 5700/- and he was allowed to draw a substantive pay of Rs. 5375/-. The pay structure of the Applicant on his promotion to IAS was as under:

Substantive Pay	-Rs. 5375.00
Special Pay	-Rs. 250.00
Dearness Allowance	-Rs. 3550.00
Conveyance Allowance	-Rs. 250.00
Interim relief	-Rs. 350.00
	-Rs. 9775.00

A copy of the pay slip dated 7.4.97 issued by the AG, Assam is annexed hereto as Annexure-2.

4.4. That vide notification bearing No. 14021/2/97-AIS(2)-A dated 16.10.97, the Indian Administrative Service (Pay) fifth Amendment Rules, 1997 were notified and the same was made effective from 1.1.96. Accordingly, the scale of pay of Rs. 4800-5700/- enjoyed by the Applicant, stood revised to Rs. 15,100- 18,300/- and the Applicant was sanctioned a substantive pay of Rs. 15,500/-. the pay structure of the Applicant pursuant to the said revision is as under:

Substantive Pay	-Rs. 15,500.00
Special Pay	-Rs. 250.00
Dearness Allowance	-Rs. 620.00
S.D.A.	-Rs. 675.00
C.C.A.	Rs. 250.00

Total Rs. 17,295.00

A copy of the pay slip dated 3.7.98 issued by the AG, Assam

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incorporating the revision is annexed as Annexure-3.

4.5. That the Applicant states that on completion of one year in the IAS, the Application was granted one increment with effect from 1.12.97 and his substantive pay increased to Rs. 15,900/- and the total emoluments drawn by the Petitioner stood increased to Rs. 18,912/-. The pay structure being drawn by the applicant, pursuant to being vices granted an increment w.e.f. 1.12.97 is as follows:

Substantive Pay	-Rs. 15,900.00
Special Pay	-Rs. 250.00
Dearness Allowance	-Rs. 2067.00
C.C.A.	-Rs. 20.00
S.D.A.	-Rs. 675.00

Total Rs. 18,912.00

4.6. That your petitioner states that the Assam Services (Revision of pay) Rules, 1998 came to be notified on 4.7.98. The said revision was made effective, with effect from 1.1.96. Accordingly, the pay of the Applicant in the State Service stood revised and he was issued necessary pay slip to this effect by the Respondent No.3 for the period 1.1.96 to 29.12.96. With effect from 30.12.96 the Applicant on his promotion to IAS ceased to be a member of the State Service. It may be stated here that the said revision of the scale of pay of the State Govt. Employees and any consequence thereof is of no consequence as far as the applicant is concerned, in as much as, the applicant on being confirmed in the IAS, lost any lies he had in the post held by him earlier in State Service.

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4.7. That the Applicant begs to state that he was shocked and surprised to receive a pay slip dated 16.6.99 issued by the Respondent No.3, by which the substantive pay drawn by him on his promotion to IAS as on 30.12.96 was reduced from Rs. 15,500/- to Rs. 11,300/- and from Rs. 15,900/- to Rs. 11,625/- as on 1.12.97. The said reduction in the substantive pay of the Applicant resulted in drastic reduction of the total emoluments being drawn by him, from Rs. 17,295/- to Rs. 12,697/- as on 30.12.96 and from Rs. 18,912/- to Rs. 14,859/- as on 1.12.97. It may be stated here that the said reduction of pay was effected without affording any opportunity to the Applicant to show cause.

A copy of the said slip dated
16.6.99 is annexed as Annexure-4.

4.8. That the Applicant states that on enquiry it was revealed that the Annexure-4 pay slip came to be issued, taking into consideration the revision of pay effected in the scale of pay drawn by the Applicant in the State Service and the same was purportedly stated to have been done as per the provisions of clause 4 section I, Schedule II of the IAS (Pay) Rules, 1954. Bare perusal of the said provision, would clearly reveal that the same is not applicable in the case of the Applicant in as much as at the time of notification of the Assam Services (Revision of Pay) Rules, 1998 on 4.7.98, the Applicant had severed all links that he had with the State Service and the lien he had over the post in the State Service stood severed with effect from 30.12.97 on his confirmation in the IAS. As such according to the provisions of the said Rules, the pay of the Applicant could not have been interfered with pursuant to his confirmation in the State Service. The Respondent's authorities ignoring this

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vital aspect of the matter, proceeded to drastically reduce the pay of the applicant, without application of mind causing untold hardships to the applicant.

4.9. That the Applicant begs to state that being aggrieved by the reduction effected in his scale of pay and the consequent reduction in the emoluments being drawn by him, the Applicant approached this Hon'ble Tribunal by way of an Original Application being OA No. 267 of 1999, interalia amongst others praying for setting aside the Annexure-4 pay slip. This Hon'ble Tribunal vide order dated 25.6.2001 was pleased to dispose of the said original application with a direction to the Applicant to prefer a representation before the concerned authority, who was also directed to dispose the same by way of a speaking order.

A copy of the said order dated 25.6.2001 is annexed as Annexure-5.

4.10. That in pursuance to the directives passed by this Hon'ble Tribunal vide order dated 25.6.2001, the Applicant preferred an appeal before the authorities praying for correction of the irregularities committed in his pay. the Applicant interalia, highlighting the various provisions of law, showed the illegality committed in issuance of the Annexure ____ pay slip by the Respondent No.3. Instead of repeating the contentions raised in the said appeal, the averments made therein be treated as part of this original application.

A copy of the said appeal is annexed hereto as Annexure-6.

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4.11. That the Under Secretary to the Government of India, Department of Personnel, vide letter, dated 18.3.2002 proceeded to dispose of the appeal preferred by the Applicant, holding that the downward revision of pay effected by the Respondent No.3 does not suffer from any vice or misinterpretation of the relevant policy.

A copy of the said letter dated 18.3.2002 is annexed as Annexure-7.

4.12. That the Applicant begs to state that every time pay scales are revised retrospectively, a certificate is appended to the Pay (Amendment) Rules, that retrospective operation of the Rules, will not effect any officer adversely. The said certificate was also appended to the IAS (Pay) Fifth Amendment Rules, 1997. More perusal of the said certificate would reveal that the action on the part of the Respondent No.3 in reducing the pay of the Applicant was without any authority.

A copy of the said amendment Rules, 1997 is annexed as Annexure-8.

4.13. That the Applicant begs to state that the Respondent No.3 and the other authorities have misconstrued the provisions of clause 4, Section I, Schedule II of the IAS (Pay) Rules, 1954. The provisions of the said clause is applicable only in the case of an officer who is on probation and has a lien on the post held by him in the state Service. In the case on hand, the Applicant stood confirmed in IAS with effect from 30.12.1997 and as such no variation in the scale of pay drawn by him in the IAS could have been effected on the basis of the Revision of Pay in the State Service. As such by applying the provisions of the said clause, the pay of the Applicant could not have been

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reduced to his detriment.

4.14. That the Applicant states that on promotion to IAS, the pay of an officer is to be placed at the next higher stage available and the only limitation of the provisions of clause B, Section-I, Schedule II of the said Rules, which lays down that the basic pay of the promote officer shall not at any time exceed the basic pay he would have drawn on the IAS time scale as a direct recruit on that if he had been appointed to the IAS on the date if he had been appointed to the State Civil Service. The pay of the Applicant was fixed keeping in view the said principle and on completion of his period of probation in IAS, the Petitioner is to be given all the benefits flowing from the revision of pay effected by the Government of India basing on the scale in which his pay was fixed at the time of his promotion to IAS.

4.15. That the Applicant begs to state that the authorities have ignored the provisions of the IAS (Pay) Rules, 1956 and the IAS (Probation) Rules, 1954 while proceeding to dispose of the appeal of the Applicant vide letter dated January, 2002. The same has been disposed of without application of mind and basing on surmises and conjunctures. Further the notifications bearing No. 20011/2/93-IAS(II) dated 6.5.94 and 20011/1/950IAS(II) dated 14.7.95 which relate to protection of pay of State Civil Service Officers promoted to IAS has not been taken into consideration while issuing the said letter dated January, 2002.

4.16. That your Applicant states that once his pay has

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been fixed in the selection grade, the same cannot be reduced to the Senior Time Scale inasmuch as the same would amount to reduction in rank and the same cannot be done without following the provisions of Article 311 of the Constitution of India. As such the action on the part of the Respondents No.3 reducing the pay of the petitioner having visited him with civil consequences the same could not have been issued without at least issuing a notice to the Applicant, giving him an opportunity to show cause. It may be stated here that the said Rules nowhere contemplate interim or temporary fixation of pay.

4.17. That your Applicant states that although reduction in the pay of the Applicant has been effected, purportedly as per provisions of clause 4 of section-I of Schedule II of the said Rules, no such reduction was effected in case of his batch mates, Shri Santanu Bhattacharjee, Smti. Sunanda Sengupta, Bhudev Basumatary,. It may be stated here that the said persons have the same year of allotment as that of the Applicant i.e. 1990. Be it stated here that amongst the persons named above there are persons junior to the Applicant.

4.18. That in view of the facts and circumstances stated above the impugned Annexure__ pay slip and the communication dated 18.3.2002 are liable to be set aside and quashed and the Applicant is entitled to draw his pay and allowances as per the fixation made vide Annexure 2 and 3.

4.19. That this application has been made bonafide for securing the ends of justice.

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5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that prima facie the action on the part of the Respondent No.3 is proceeding to reduce the pay of the Applicant is illegal and arbitrary and the same is in violation of the provisions of the Rules holding the field.

5.2. For that the reduction in pay effected in case of the Applicant having visited him with civil consequences, the Applicant was entitled to at least a notice before the said reduction was effected.

5.3. For that the Applicant having been confirmed in IAS with effect from 30.12.1997, the revision of pay in the State Service notified on 4.7.1998, could not have been used to vary his pay in the IAS and as such the action on the part of the authorities in reducing the pay of the Applicant is in clear violation of the express provisions of the said Rules.

5.4. For that the Applicant has been discriminated against inasmuch as cases of persons similarly situated no such reduction was effected.

5.5. For that the authorities while disposing of the appeal preferred by the Applicant miserably failed to take into consideration the relevant provisions of the Rules and as such caused miscarriage of justice.

5.6. For that in any view of the matter the action/inaction

JJ Kattaral

22

on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

8.1. To set aside and quash the impugned Annexure-4 pay slip.

JJ Kathari

25

8.2. To set aside and quash the impugned communication dated 18.3.2002 Annexure-7.

8.3. To direct the Respondents to allow the Applicant to draw his pay and allowances, as per the fixation made and available in Annexure-2 and 3 pay slips issued by the Respondent No.3

8.4. Cost of the application.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays at this stage does not pray for any interim direction.

The application is filed through Advocate.

10.

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

1. I.P.O. No. : 86-490024
2. Date : 22/4/03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

JKathay

VERIFICATION

I, Sri Jones Ingte Kathar, aged about years,
 S/o I. Kathar, presently working as Secry. Industries &
 Commerce and Hill Areas Dept. Dispur, Guwahati-6 I hereby
 solemnly affirm and verify that the statements made in
 paragraphs 2, 3, 41, 413, 414, 416 to 419 & 5 to 12 are
 true to my knowledge and those made in
 paragraphs 1, 42 to 412, 415 are also true to my legal
 advice and the rest are my humble submission before the
 Hon'ble Tribunal. I have not suppressed any material facts
 of the case.

And I sign on this the Verification on this
 the 30th day of March of 2003.

Signature.

✓
 Jones Ingte Kathar

- 14 -

Annexure-I

127(1)

(35)

Annexure (1)

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

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 3rd January, 1997

NO. AAI. 32/94/311 : The following notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Deptt. of Personnel and Training, New Delhi is republished for general information.

"Notification No.14015/4/96-AIS(I), Dated 30th December, 1996.

In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by promotion) Regulations, 1955, the President is pleased to appoint the following members of the State Civil Service of Assam to the Indian Administrative Service on probation with immediate effect and to allocate them to the Joint Cadre of Assam-Highalaya under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954 :

- Sl.No. S/Shri
1. Ananta Kumar Bhaskar
 2. Kunal Krishna Hazarika
 3. Jyoti Ingti Rathi
 4. Ratanendra Nath Sharma
 5. Laxmi Nath Tiwari and
 6. Ball Chandra Singh

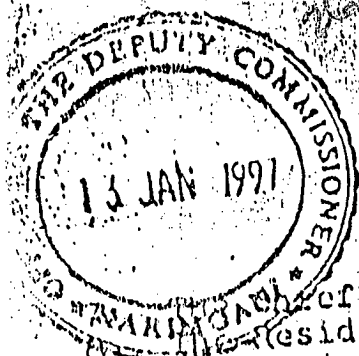
Sd/- R. VAIDYANATHAN
DESK OFFICER

Sd/- S.R.ISLAM
Deputy Secretary to the Govt. of Assam
Dated Dispur, the 3rd January, 1997

For circulation to : (a) Joint Cadre of Assam-Highalaya, Shillong.
(b) Joint Cadre of Assam-Himalaya, Beldingdon, Belitola, Guwahati.
(c) Joint Cadre of Assam-Himalaya, Guwahati.
(d) Joint Cadre of Assam-Himalaya, Guwahati.
(e) Joint Cadre of Assam-Himalaya, Guwahati.
(f) Joint Cadre of Assam-Himalaya, Guwahati.
(g) Joint Cadre of Assam-Himalaya, Guwahati.
(h) Joint Cadre of Assam-Himalaya, Guwahati.
(i) Joint Cadre of Assam-Himalaya, Guwahati.
(j) Joint Cadre of Assam-Himalaya, Guwahati.

Contd.....

Arrested
Advocate



8. The Resident Electoral Officer, Assam, Dispur.
9. The Agricultural Production Commissioner, Govt. of Assam, Assam House, New Delhi.
10. All Commissioners of Divisions, Assam.
11. The Commissioner & Secretary to the Chief Minister, Assam, Dispur.
12. The Chief Secretary to the Govt. of Meghalaya, Shillong.
13. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, New Delhi.
14. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Career Management Division, New Delhi.
15. The Desk Officer, Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, New Delhi.
16. The Secretary to the Governor of Assam, Dispur.
17. The PPS to Chief Minister, Assam, Dispur.
18. The Spl. Officer to Chief Minister, Assam, Dispur.
19. All Principal Secretaries of the Autonomous Councils.
20. All Deputy Commissioners/ Sub-Divisional Officers.
21. All Heads of Deptt./ All Deptts of Assam Secretariat.
22. The Secretary, State Election Commission, House of Complex, Dispur.
23. The Secretary-cum-Registrar, Office of the Lokayukta, Nabinagar, Guwahati.
24. The Supdt., Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the above notification in the Assam Gazette.
25. The PS to Chief Secretary, Assam, Dispur.
26. The PS to Addl. Chief Secretaries, Assam, Dispur.
27. All PS to Ministers/ Ministers of State.
28. Officers concerned.

S. C. Karmongay

By order etc.,

(S. H. ISLAM)

Deputy Secretary to the Govt. of Assam

Attended
Advocate

(A-100)

1005

To

Annexure-2

46

27. Leave Salary Slip

General Order No. 54/11 D.S.O. (P)

OFFICE OF THE ACCOUNTANT GENERAL (P & D) AGRA, U.P. No. GE-1/ACS/PS/25 GUWAHATI dated 7/4/97

Mr. J. S. Kishore, ACS (Now IAS) Dy. Commissioner, Karimganj

is informed that under No. _____ dated _____ (Gazette page 20(12))

he is entitled to draw pay leave salary and allowance at the monthly rates shown below from the dates specified less the amount already drawn.

	From 1-1-96	From 2-9-96	From 14-9-96	From 1-10-96	From 30-12-96	From	From	From	From	From	From
Substantive pay	5375/-	5375/-	5375/-	5375/-	5375/-						
Officiating pay											
Joining time pay	250/-	250/-	250/-	250/-							
Special pay →											
Leave Salary →		5375/-									
Non-practising allowance	3550/-	3550/-	3550/-	3350/-							
Dearness allowance →											
House Rent allowance											
City compensatory allowance											
Conveyance allowance →	250/-	250/-	250/-	250/-							
Winter allowance											
Medical allowance											
Hill allowance											
Total	9775/-	9775/-	9775/-	10,075/-	NIL						

① Payment is subject to production of due & drawn statement.
② Handing over charge report before leave w.e.f. 2-9-96 to 13-9-96 pending.
③ Pay slip w.e.f. 30-12-96 will be issued from M.G. Section, Guwahati.

Relief → 350/- 350/- 350/- 350/-

D.A. admissible from may be computed and claimed at the rates applicable on basic pay only as per this office General Authority No. GEI/DA/State/83-84/546 dated 23rd August, 1984. G.S. dated 15th December, 1984, 1175 dated 5th March 1985, 505 dated 10th September 1985, 664 dated 3rd March 1986.

SE-19-EGGCDTEL

DEPUTY COMMISSIONER KARIMGANJ ASSAM

Prepare arrears bill and send to Dy. Commr. Karimganj last date

25.9.97

Advocate

Advocate
W. W. W.
Attended

N.B. - (1) In case of loss of bill, the bill should be replaced by a new one. (2) Where the bill is lost, the bill should be replaced by a new one. (3) Where the bill is lost, the bill should be replaced by a new one.

RECEIVED
1914

Copy forwarded to the
Treasury Department
Building Division, for
the purpose of being
recorded.

BY ACCOUNTS OFFICER
[Signature]

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Building Division, for the purpose of being
recorded.

BY ACCOUNTS OFFICER
[Signature]

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Building Division, for the purpose of being
recorded.

Provisional.

[M.S.O. (1) 9.]

Pay/Leave Salary Slip

[See paras 162 and 184 (1) M.S.O. (T)]

OFFICE OF THE ACCOUNTANT GENERAL (A & E) ASSAM, GUWAHATI
No. GE Cell/245/330 GUWAHATI the 3.7.98

Shri: James Ingh Khatun J.A.S. Jr Secy P & D + Evaluation & Monitoring Dept -

is informed that under No. Khatun dated (Gazette page)
he is entitled to draw pay leave salary and allowance at the monthly rates shown below from the dates specified less the amount already drawn.

	From	From	From	From	From	From	From	From	From	From	From
	30.12.90	1.1.97	1.7.97	4.7.97	6.7.97	10.8.97	1.12.97				
Substantive pay	15500	15500	15500	15500	15500	15500	15900				
Officiating pay											
Joining time pay	250	250	250	250	250	250	250				
Special pay											
Leave Salary											
Non-practising allowance											
Dearness allowance											
House Rent allowance											
City compensatory allowance											
Kit maintenance allowance											
Winter allowance											
Medical allowance											
Hill allowance											
Total	17295	17915	18694	19451	17915	18468	18917				

Attested
Advocate

N.B.: D.A admissible from may be computed and claimed at the rates applicable only as per this office General authority No. GENDA/State/87-84/45 dated 2nd August, 1984; 2175 dated 5th March 1985, 805 dated 1st September 1985; 11 dated 3rd March 1986

Note: The amount to be drawn should be indicated in the corresponding T.V. Nos. and dates and the amount to be drawn

In case of non-practising certificate, the scale of pay shall be as follows: This scale of pay shall be as follows: In case of non-practising certificate, the scale of pay shall be as follows:

the pay Bill for the month of January and July each year. The pay Bill for the month of January and July each year. The pay Bill for the month of January and July each year.

2. Reduction in the rate of pay shall be as follows: 2. Reduction in the rate of pay shall be as follows: 2. Reduction in the rate of pay shall be as follows:

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]* Signature of Accounts Officer: *[Signature]*

Annexure-4

Annexure-4

Pay/Leave Salary Slip
(A & E)

Office of the Assistant General, Assam, Guwahati-29

Guwahati the 16.6.99 19

No. GE Cell/DAs/257

Shri J. S. Nath J.A.S. Deputy Commissioner Kokrajhar, Assam

is informed that under No. dated (Gazette page)

entitled to draw pay leave Salary and allowance at the monthly rates shown below the dates specified less the amount already drawn.

Particulars	From	From	From	From	From	From	From	From	From	From	From	From	From	From	From
	30.12.98	1.1.99	1.7.99	4.7.99	6.7.99	10.8.99	12.9.99	1.1.99	1.7.99	1.8.99	1.9.99	1.12.98	1.1.99		
Basic pay	11300	11300	11300	11300	11300	11300	11625	11625	11625	11625	11625	11950	11950		
Gratifying pay				11300											
Dearness time pay	250	250	250	250	250	250	250	250	250	375	375	375	375		
Special pay															
Leave Salary															
House rent allowance															
Dearness allowance	452	904	1469	1469	1469	1469	1511	1860	2558	2558	2558	2629	3824		
Compensatory allowance	-	-	-	-	150	20	20	20	20	120	-	-	-		
Maintenance allowance															
Water allowance S.D.A.	675	675	675	-	-	1413	1453	1453	1453	1453	1453	1494	1494		
Compensatory allowance															
Medical allowance	250	250	250	-	-	-	-	-	-	-	375	375	375		
Convey Allow															
Gratuity allowance															
Total	12920	13369	13944	13944	13944	14452	14859	15208	15906	16131	16011	16823	18018		

Payment in respect of production of due drawn sheet. & x.p.e.

(2) Handing over Charge Report as Director, Land Records waiting.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: ::::: GUWAHATI.

Applicant
By P.O.J.

DESPATCH NO. CAT/GHY/JUDL/2737

DATED GUWAHATI, THE 25/7/01

✓ ORIGINAL APPLICATION NO : 336/95
MISC. PETITION NO. :
CONTEMPT PETITION NO. :
REVIEW APPLICATION NO. :
TRANSFER APPLICATION NO.:

Shri Jones Ingli Kathar, I.A.S. APPLICANT(S)

VERSUS

U.O.I. or

RESPONDENT(S)

To

Shri Jones Ingli Kathar, I.A.S.,
Deputy Commissioner,
Kokrajhar, Assam.

Please find herewith a copy of Judgment/Order dated 25.6.2001
passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble Justice
Shri D.N. Chowdhury Vice-Chairman and Hon'ble Shri
K.K. Sharma Member, Administrative in the above noted
case for information and necessary action, if any.

Please acknowledge receipt of the same.

Encls : As stated above.

BY ORDER,

DEPUTY REGISTRAR.

25/7/01

K.K. Sharma

Attested
by
Registrar

Before promotion to the I.A.S. the applicant was drawing substantive pay of Rs. 5050. When the applicant objected the pay fixed as per Pay Slip dated 9.12.97 was revised by Pay Slip in dated 15.6.98 to Rs. 15100. By Pay Slip dated 24.11.98 the applicants pay in the Assam Civil Service was revised w.e.f. 1.1.96 to Rs. 10,375. By pay slip dated 10699, the pay of the applicant was revised to Rs. 10,975 on 30.12.96 and Rs. 11,300 as on 1.12.97.

The applicants have challenged the re-fixation of pay and prays that the impugned pay slip dated 10.6.99 should be corrected and they be allowed to draw salary as per the re-fixation made earlier by pay slip dated. 15.6.98. The impugned pay slip is challenged on the ground that pay has been re-fixed without giving any opportunity and without application of mind and will place them in a disadvantageous position in terms of status and this is clearly contrary to the Constitutional provisions apart from causing a huge financial loss. Mr. B.K. Sharma and Mr. S. Sarma learned counsels appearing on behalf of the applicants submitted that the pay of the applicant in O.A.No.266 of 99, at the time of his promotion was Rs.5050/-. On promotion to the IAS from 30.12.96, pay was fixed at 5050/- in the pay of scale Rs.4800-5700/- (Selection grade). On 17.10.97 the IAS(Pay) Fifth Amendment Rules, 1997 was published effecting revision of pay with effect from 1.1.96. The comparative pay scale in IAS is

reproduced below:-

Pre-revised	Revised
i) Rs. 3200 - 4700 (Time scale)	Rs. 10,650 - 15,850
ii) Rs. 3950 - 5000 (JAG)	Rs. 12,750 - 16,500
iii) Rs. 4800 - 5700 (SG)	Rs. 15,100 - 18,300

contd/-

Amended

WDM

Admitted

K. U. Sharma

24 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Date of Order: This the 25th Day of June, 2001.
HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Shri Laxmi Nath Tamuli (O.A.No. 266 of 99)
-Vs-
Union of India & Ors.
2. Shri Ananta Kr. Malakar (O.A.No. 267 of 99)
-Vs-
Union of India & Ors.
3. Jones Ingti Kather (O.A.No. 336 of 99)
-Vs-
Union of India & Ors.

Applicant.

Applicant.

Applicant

Respondents.

Mr. B.K. Sharma
Mr. S. Sharma

Advocate for the
Petitioner(s)

Mr. B.C. Pathak,
Addl. C.G.S.C.

Advocate for the
Respondent(s)

O R D E R.

K.K. SHARMA, ADMINISTRATIVE MEMBER:

All three applications are taken together as the issue raised is the same. All the three applicants were promoted to IAS from State Civil Service on 30.12.1996. The issue in all three applications relates to the fixation of pay by pay Slip dated 10.6.99. The facts in all the three O.A.s are similar. The facts are discussed below:-

By the Pay Slip dated 11.8.97 the pay of the applicant in O.A.No. 266 of 99 was fixed as under :-

Substantive pay	Rs. 4,700.00
Special Pay	Rs. 250.00
Personal Pay	Rs. 350.00
Dearness Allowance	Rs. 5,593.00
H.R.A.	Rs. 1,040.00
C.C.A.	Rs. 20.00
S.D.A.	Rs. 587.00

Rs. 12,540.50

contd/2.

Attested
by
Advocate

K.K. Sharma

As the applicant's pay was Rs. 5050/-, the Accountant General correctly fixed the pay of the applicant at Rs. 15100/- in the scale of Rs. 15100/- to 18,300/-.

On 4.7.98 the pay revision of State was published effective from 1.1.96. The basic pay of Rs. 5050(Pre-revised) in ACS stood revised to Rs. 10,375(revised). On 10.6.99 the Accountant General, Assam refixed the pay of the applicant and reduced pay in the IAS grade as indicated in the pay slip from Rs. 15,1000 to Rs. 10,975 on (30-12-96) and from Rs. 15,500/- to Rs. 11,300 on (1.12.97). The downward revision of the pay scale of the applicant is contrary to Clause 4 of Section 1 of Schedule II of the IAS(pay) Rules 1954. The learned counsel referring to the Notification dated 20.11.97 notifying the IAS(pay), Fifth Amendment Rules 1997, submitted that under the Explanatory Memorandum it is mentioned that no member of the IAS should be adversely affected by giving retrospective effect to those Rules. The undertaking dated 8.6.98 given by the applicant to refund any excess payment was a routine undertaking required to be given by all such promotee officers and the said undertaking did not envisage the kind of situation now created by the impugned pay slip. They relied upon the following reported cases :-

AIR 1994 SC 2480- Bhagwan Shukla -Vs- U.O.I
(1989) 1 SCC 765- HPCL Vs. H.L. Trehan
(1975) 3 SCC 1.- Divn. Supdt. E.R., Vs. L.N. Keshri

to argue that pay could not be reduced without giving opportunity of being heard.

Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents, referred to the written

contd/-4.

K. U. Sharma

Attested

K. U. Sharma
Advocate

37 statement filed by the respondents. It was submitted that the applicant was promoted to the IAS w.e.f. 30th December 1996 and not from 1.1.96, the date from which the recommendation of the 5th Pay Commission become applicable. At the time of their promotion to the IAS, the applicants were drawing the pay in the pre-revised scale. Their pay was not required to be fixed as on 1.1.96, it was to be fixed with effect from the date of their promotion. He referred to the Department of Personnel Government of India letter No.20015/1/92-AIS(II) dated 10.4.92 and argued that the applicant's pay was fixed initially in terms of this letter. The letter is reproduced below:-

"the pay of State Civil Service/Non-State Civil Service Officers inducted into the Indian Administrative Service may be fixed in the Senior scale at a stage next above their State Pay. Senior scale of Indian Administrative Service in the pre-revised scale consists of (i) Time Scale: Rs.3200-4700(ii) Junior Administrative Grade Rs. 3950-5000; and (iii) Selection Grade Rs.4800-5700. While fixing pay in such a manner, if the pay stage happens to be common to any two grades of the Senior scale, the officer has to be placed in the lower of these two grades. In addition, they may also be allowed annual increments till the attainment of the stage of Rs. 5700/- in the normal course."

As the IAS pay scales were revised with effect from 1.1.86 and are based on Consumer Price Index 608, the element of Dearness Allowance, Additional Dearness Allowance, Adhoc Dearness Allowance and Interim Relief were to be merged at the time of revision of pay scales with effect from 1.1.89 were required to be reduced, from the actual pay of the State Civil Services Officers and the resultant amount would be taken into account as pay for the purpose of pay fixation on appointment in Indian Administrative Service.

contd/-5

K C Sharma

Attested
Wm
Director

K C Sharma

If the resultant amount exceeds the maximum stage of senior time scale of IAS, the pay would be fixed at such maximum and the difference in the state ^{pay U.} would be protected as personal pay, subject to the condition that total pay plus personal pay should not exceed Rs. 5700. The personal pay thus allowed would be absorbed in future increases of pay. On the basis of the letter the applicant's pay would require to be fixed as under :

*Indian Administrative Service was fixed as under:

State Pay:

Indian Administrative Service Pay.

Pay scale Rs. 3825-125-4450 (i) Rs. 3200-4700/- (Time scale)
150-5200-175-5900/-

(ii) Rs. 3950-5000/-

(Junior Administrative Grade)

Pay as on 30.12.96. Rs. 5050 (iii) Rs. 4800-5700/- (Selection grade).

Pay as on 30.12.96 Rs. 4700/
(*) Personal Pay Rs. 350/

Rs. 5050/-

(Pay Fixed in terms of Government of India letter dated 10.4.92.)

Total emoluments of State Pay

Total emoluments of Administrative Service Pay (Central)

Rs. 10120/-

Rs. 12,540/- "

The applicants were promoted to the IAS with effect from 30th December 1996, as they were State Civil Service Officers till 29.12.96. They were authorised the benefits of arrear pay and allowances of the State Service with reference to the Assam Services (Revision of pay) Rules, 1998 with effect from 1.1.96. The pay of Sh. J. N. Tanuli (OA 266/99)

contd/-6

K Ushar

Attached

h2an

as per the State Service Rules was Rs. 10,375 in terms of the Assam Services (Revision of pay) Rules, 1998, and his pay was re-calculated at Rs. 10,975/- in the senior scale of Indian Administrative Service in the scale of Rs. 10,650-325-15850/-. The pay slip dated 10.6.99 was issued on receipt of the Assam Services (Revision of pay) Rules 1998, which was not available at the time of issuing the Provisional pay slip dated 17.6.98. The pay of the applicant was revised from Rs. 5100/- to 15,100/- as an interim measure, in terms of IAS 5th Pay Commission amendment Rule 1997 which came into force from 1.1.96, with reference to a pre-revised State Service pay scale, the pay of the applicant was provisionally fixed at the stage of Rs. 15,100/- in the revised scale of Rs. 15,100/- to 19300/- with the applicant furnishing an undertaking as under:

"I do hereby undertake that any excess payment that may be found to have been made as a result of incorrect fixation of pay or any excess payment detected in the light of the discrepancies noticed subsequently will be refunded by me to the Government either by adjustment against future payments due to me or otherwise."

At that time it was informed that their pay would be fixed on the basis of the reckonable State pay, in pre-revised IAS pay scales. The corresponding stages in the revised IAS scales would then be allowed in the component of the senior scale in which such officers happen to fall in the senior scale. The senior pay scales have been described as under :-

Pre-revised

Revised

- | | |
|--|------------------------|
| (1) 3200-4700 Time scale | (1) 10,650-325-15850 |
| (2) 3950 5000 Junior Administrative Grade. | (2) 12,750-375 - 16500 |
| (3) 4800-5700 (Selection grade) | (3) 15100-400-19300 |

The action of this respondents to re-fix his pay at a lower stage was only as per the relevant rules which lay down

16 (11) hah

contd/-7

Attended
18/11/99

that the IAS pay of such promoted officers is to be fixed at the stage next to the reckonable state pay. The applicant's pay was required to be fixed in the Sr. time scale, not in the selection grade, ^{by} at the selection Grade is allowed on completion of 13 years of service. The applicant's year of allotment is 1990 and he would become eligible for selection grade only in the year of 2003. The fixation of the pay at Rs. 15,100 was only an interim measure and the pay slip issued to the applicant was a provisional one. The retrospective fixation of the pay of the applicant would not adversely affect the applicant ^{and he} is not violative of any rules. In this case as the State Pay of the applicant was revised with effect from 1.1.96. According to ^{respondents the} the applicant was not in IAS on 1.1.96 and his pay was not required to be fixed on the basis of pay revision in State service on 1.1.96. The Notification dated 17.10.97 revised the pay scales of the I.A.S. with effect from 1.1.96 when the applicant was not in the I.A.S. The said notification is to become operative in his case only from 30.12.96 onwards. The respondents deny that there has been any reduction in the applicant's rank on the downward revision of his IAS pay on the basis of his revised State pay. The applicant was not eligible for Selection Grade, in which scale his pay was provisionally fixed. The applicant's pay was required to be fixed in one of the Senior scales of IAS when the State pay was revised with effect from 1.1.96. On 4.7.98 the pay of the applicant was Rs. 10375.

The applicant's pay in the State pay scale as IAS are given below:-

contd/-

K. U. Sharma

10/10/98
10/10/98

4/

Total emoluments of State Pay :

Revised State Pay

Revised Indian Administrative Service Pay.

State pay as on 30.12.96 (Senior Scales)
(revised)

Rs. 10650-325-11025-400- (1) Rs. 10650-325-15850/-
 14525-475-15575/- (2) Rs. 12750-375-16500/-
 (3) Rs. 15100-400-19300/-

Pay fixed at Rs. 10375/- Pay fixed at Rs. 10975/-

Total emoluments of State Pay.Total emoluments in Indian Administrative Service pay scale.

Basis Pay - Rs. 10325/-

Basic pay - Rs. 10975/-

Special Pay Rs. 250/-

Special Pay Rs. 250/-

Dearness allowance 450/-

Dearness allowance Rs. 439/-

House Rent Allowance 600/-

House Rent Allowance Rs. 1000/-

Compensatory Allowance 20/-

Compensatory Rs. 20/-
AllowanceSpecial Duty Rs. 587.50
Allowance

Rs. 11660/-

Rs. 13271.50/-

in U.

It is stated that there is no decrease by the emoluments of the applicant. The respondents have referred to the Circular No.2001/1/95-AIS-(II) dated 17.5.96. The relevant portion of this circular is reproduced below:-

- the pay of State Civil Service/Non-State Civil Service officers inducted into the Indian Administrative Service may be fixed in the Senior Scale at a stage next above their State Pay. Senior scale of Indian Administrative Service in the Pre-revised scale consists of (i) Time Scale Rs. 3200-4700(ii) Junior Administrative Grade Rs. 3950-5000; and (iii) Selection Grade Rs. 4600-5700. While fixing pay in such a manner, if the pay stage happens to be common to any two grades of the Senior Scale, the officer has to be placed in the lower of these two grades. In addition, they may also be allowed annual incre-

contd/-

Attested
 WDM
 Advocate

- 9 - - 31 -

42

ments till attainment of the stage of Rs. 5700/- in the normal course."

We have heard the parties at length. The undisputed fact is that the applicants were promoted to IAS on 30.12.96. The pay of the applicant in O.A. No. 266/99 as on 30.12.96 was Rs. 5050 in the pre-revised State Scale. The IAS pay scale as revised from 1.1.96 was not applicable to the applicant on 1.1.96 as on 1.1.96 he was not in IAS. As such fixation of his pay at Rs. 15100/- in the revised IAS scales in force from 1.1.96 on the basis of his basic pay of Rs. 5050 (pre-revised State pay) was not correct, as in terms of Ministry of Personnel, Public Grievances & Pensions circular No. 20015/1/92-IAS II, the pay of the applicants on promotion was to be fixed in the senior time scale, which was Rs. 3200-4700 (pre-revised). The fixation of pay at Rs. 4700 on 30.12.96 + personal pay of Rs. 350 would make total emoluments of the applicant Rs. 12,540/- as against Rs. 10,120 in State Service (by pay slip dated 11.8.97) on 4.7.98 on revision of State Service scales with effect from 1.1.96, the applicants pay in state service fixed at Rs. 10,375 in the scale of Rs. 10050-325-11025-400-14625-475-15575. The applicants pay in the revised IAS pay scale of Rs. 10,650-325-15850 was fixed at Rs. 10,975. The total emoluments in the revised scale in State Service worked out to Rs. 11,660 against Rs. 13271.50 in IAS. Thus there was no reduction of pay of the applicant. Prima facie, it cannot be said to be reduction ^{of} pay. Fixation of pay at Rs. 15,100/- was only protean measure. No infirmity as such is not discernible in the impugned action of the respondents in re-fixing the pay by the impugned pay slip dated 10.6.99. This is, however, our tentative view. However, as the applicants have come directly, we are of the opinion that

Contd....10

K. C. Sharma

Attested

K. C. Sharma
Advocate

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ends of justice would be met, if a direction is issued on the applicants to ventilate their grievances before the Respondent No.1 by way of a Representation so that the said Respondent can look into their grievances as per law. The applicants are accordingly directed to make a detailed Representation before the Respondent No.1 narrating their grievances within six weeks from receipt of this order. If such Representation or Representations are made, the Respondent No.1 shall examine and consider the same as per law without being influenced by way of our observations, and pass a reasoned order with utmost expedition, preferably within four weeks from the receipt of the Representation. The applicants will be free to move appropriate forum, if they still feel aggrieved on the disposal of their representations.

The applications are disposed of as above.

There shall be no order as to costs.

Sd/VICE CHAIRMAN
Sd/ MEMBER (Adm)

TRUE COPY
shifn

23/7/2007

Section Officer III
Central Administrative Tribunal
Bikaner Bench, Government
Bikaner Bench, Government

18/7/2007

Attested
18/7/2007
Advocate

**BEFORE THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND
PENSIONS, DEPARTMENT OF PERSONNEL & TRAINING,
NORTH BLOCK, NEW DELHI-110001.**

IN THE MATTER OF

**FIXATION OF PAY UNDER THE INDIAN ADMINISTRATIVE
SERVICE (PAY) RULES, 1954.**

IN THE MATTER OF

**REVISION OF PAY UNDER THE INDIAN ADMINISTRATIVE
SERVICE (PAY) FIFTH AMENDMENT RULES, 1997.**

IN THE MATTER OF

**PAY SLIP NO. GE-CELL/IAS/251 DATED 16.6.99 ISSUED BY
THE ACCOUNTANT GENERAL, ASSAM, GUWAHATI-29.**

AND IN THE MATTER OF

**SUBMISSION OF REPRESENTATION IN PERSUANCE OF THE
ORDER DATED 25.6.2001 PASSED BY THE HON'BLE
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH OF THE O.A. NO.266 OF 1999.**

AND IN THE MATTER OF

**SHRI JONES INGTI KATHAR, IAS,
ADDITIONAL SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF INDUSTRIES AND COMMERCE
DISPUR, GUWAHATI -6**

-----PETITIONER.

Contd..2.

Attested
WOM
Advocate

THE ABOVE NAMED HUMBLE PETITIONER MOST
RESPECTFULLY SHEWETH AS UNDER:

A. CIRCUMSTANCES OF THIS REPRESENTATION:

1. That your humble petitioner was initially appointed in the Assam Civil Service in the year 1975 and has worked in several capacities as a member of the Assam Civil Service in the State of Assam.

2. That your humble petitioner was nominated and appointed in Indian Administrative Service vide Government of India Notification No.14015/5/96-AIS(1) dated 30th December, 1996 and accordingly your humble Petitioner joined IAS on 30.12.1996. (Annexure-VI)

A copy of the said Notification which was re-published by the Government of Assam is enclosed hereto and marked as Annexure-I.

3. That at the time of appointment in the IAS your humble petitioner was drawing the salary as per the pay slip issued by the A.G. Assam, bearing No.GE-1/ACS/PS/25, dated 7/4/97 and the basic salary was Rs.5,375.00. A copy of the said pay slip is enclosed hereto and marked as Annexure-II.

4. That the pay of the IAS Officers is guided by the Indian Administrative Service (Pay) Rules, 1954 (here in after referred to as Rules) and Rule 4(3) of the said Rules deals with the fixation of the initial pay of a promoted officer who has not held a cadre post in an officiating capacity and the sub-rule 3 of the Rule 4 of the said Rules reads as under :-

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Attested
h o m
Advocate

"The initial pay of a promoted officer who prior to the date of the appointment to the IAS the officer had not held a cadre post in an officiating capacity shall be fixed in accordance with the principles laid down in Section-I of Schedule-II."

Clause 2 of Section-I of Schedule-II deals with the pay fixation of a promoted officer who is substantive in higher scale of the State Civil Service and your humble Petitioner being in the Senior Grade I of the State Civil Service is naturally guided by the Clause 2 of the Section-I of the said rule in the matter of his pay fixation under the IAS Pay Rules . The Clause 2 of the Section-I of Schedule-II of the said rules as under:-

"The initial pay of a promoted officer who is substantive in the higher scale of the State Civil Service shall be fixed at the stage of senior scale of the IAS next above his actual pay in the higher scale .

Provided that in a case where the pay in the senior scale of the Indian Administrative Service calculated in accordance with Clause (1) is higher than that admissible under this clause, the promoted officer shall be entitled to such higher pay."

5. Thus it is very much clear that the pay of a promoted officer is to be fixed next above to his actual pay in the higher scale of the State Civil Service and the only limitation to this rule is provided for in Clause 8 of the said section which provides that the basic pay of a promoted officer shall not at any time exceed the basic pay he would have drawn on the IAS time scale as a direct recruit on that date if he had been appointed to the State Civil Service which means that the pay of a promoted officer cannot exceed the pay of the direct recruit taking into account his date of entry in the State Civil Service as the entry in IAS.
6. Your humble petitioner at the time of his appointment in the IAS was drawing a substantive pay of Rs.5,375.00 vide Pay Slip No.GE-1/ACS/PS/25, dated 7/4/97 as fixed by the Accountant General , Assam, Guwahati. (Annexure-II)

Contd....4

Attested
 W.D.
 Advocate

7. Your humble petitioner had been drawing his salary in accordance with the said pay slip still his pay was revised in accordance with the Indian Administrative Service (Pay) Fifth Amendment Rules 1997 which was published vide Notification No. 14021/2/97-AIS (II) A, dated 16/10/97. Meanwhile your humble petitioner joined as Joint Secretary, P & D & Evaluation & Monitoring Deptt. on 10.8.97 and got the pay slip issued by the A.G. Assam vide No.GE-Cell/IAS/330 dated 3.7.98 and the pay was fixed as under on 30.12.96.

Substantive pay	.....	Rs. 15,500.00
Special pay	.....	Rs. 250.00
Dearness Allowance	.....	Rs. 620.00
S.D.A.	.....	Rs. 675.00
Convy. Allowance	.....	Rs. 250.00
TOTAL	.....	Rs. 17,295.00

A copy of the said pay slip bearing No.GE-Cell/IAS/330 ,dated 3.7.98 is enclosed hereto and marked as Annexure-III.

8. The said copy slip also allowed your petitioner an increment w.e.f. 1.12.97 fixing his pay as on 1.12.97 as under :-

Substantive pay	.....	Rs. 15,900.00
Special pay	.....	Rs. 250.00
Dearness Allowance	.....	Rs. 2,067.00
City Compensatory Allowance	.....	Rs. 20.00
S.D.A	.....	Rs. 675.00
TOTAL	.....	Rs. 18,912.00

A copy of the said pay slip No.Ge-Cell/IAS/330 dated 3.7.98 is enclosed hereto and marked as Annexure-III.

9. Your humble petitioner has been drawing his pay in accordance with the Pay slip issued by the Accountant General, Assam on 3.7.98 till date . In the meantime the pay of the Assam Civil Service to which your humble petitioner originally belonged was revised w.e.f.

Accepted
 [Signature]
 1/12/2000

(5)

1.1.1996 in the year 1998. Since your humble petitioner did not any more remain in the Assam Civil Service after his induction into

Indian Administrative Service, the Accountant General, Assam issued a pay slip revising his pay in the Assam Civil Service upto 29.12.1996 by a pay slip issued on 7.4.97 bearing No.Ge-I/ACS/PS/25.

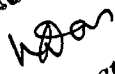
A copy of the said slip is enclosed hereto and marked as Annexure-II.

10. In the said pay slip issued on 7.4.1997 period upto 30.12.1996 only was covered and naturally it did not and could not have covered any period beyond 29.12.1996 because on 30.12.96 onwards your humble petitioner ceased to be a member of the Assam Civil Service on his induction into Indian Administrative Service.

11. Surprisingly enough the Accountant General, Assam has issued a pay slip bearing No. GE-Cell/IAS/251 dated 16.6.99 which was posted by the office of the Accountant General, Assam on 28.6.99 and the same was received by me on 3.7.99. By this Pay slip the Accountant General, Assam has reduced my substantive pay from Rs.15,000/- to Rs.11,300/- as on 30.12.96 and from Rs.15,900/- to Rs.11,625/- as on 1.12.97, thus bringing my total emoluments reduced from Rs.17,295/- to Rs.12,927/- as on 30.12.96 and from Rs.18,912/- to Rs.14,859/- as on 1.12.97. This has been done in violation of all rules, regulations, norms, settled principles of law and of jurisprudence and of natural justice.

A copy of the said impugned pay slip is enclosed hereto and marked as Annexure-IV.

11. Your humble petitioner most respectfully submits that the pay of your humble petitioner was already fixed on 30.12.1996 in accordance with the said Rules and it was only required to be revised in accordance with the principles set forth by Fifth Pay Commission and it was done by the Accountant General, Assam when the substantive pay was revised from Rs.5400/- in the old scale to Rs.15,500/- in the revised scale. Although the benefit of revision was given w.e.f. 1.1.1996 by the Fifth Pay Commission but in case of your humble Petitioner the revision was

Attested

 Advocate.

affected w.e.f. 30.12.1996 i.e., the date of induction of your humble Petitioner into Indian Administrative Service.

13. The retrospective revision of pay can never mean reduction in the substantive pay, as reduction of pay means reduction in the status of a government servant and such a step would be contrary to the constitutional provisions and law. As a matter of fact every time the pay is revised, a certificate is appended in the Pay (Amendment) Rules that the retrospective effect given to the rules will not affect any officer adversely. This certificate was given when the IAS pay rules were revised w.e.f. 1/1/1986 and also when the Fifth Amendment to the IAS pay rules was made in the year 1997 giving retrospective effect from 1/1/1996, an Explanatory Memorandum was appended to the Fifth Amendment of the IAS pay rules which reads as under :-

“The Central Government has decided to implement the recommendations made by the Fifth Central Pay Commission relating to revision of scales of pay in respect of the All India Service with effect from the 1st of January, 1996. With a view to implement those recommendations, the Indian Administrative Service (Pay) Rules, 1954 are being amended accordingly with effect from the 1st of January, 1996.

It is certified that no member of the Indian Administrative Service is likely to be adversely affected by giving retrospective effect to these Rules.”

From the memorandum it is explicitly clear that the Government of India has certified that no member of the Indian Administrative Service is likely to be adversely affected by giving retrospective effect to these Rules and this certification has been rendered false and nugatory by the Accountant General, Assam by reducing pay of your humble petitioner in violation of every set norm, rules, regulation and law.

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Attested
W. Don
Advocate

A copy of the IAS (Pay) Fifth Amendment Rules, 1997 of which the said explanatory Memorandum forms a part and which has been notified by the Government of India vide Notification No.14021/2/97-AIS (II) -A dated 16/10/1997 and republished by the Government of Assam vide Notification No.AAI.19/97/46 dated 20/11/1997 is enclosed hereto and marked as Annexure-V.

14. The Accountant General, Assam has totally misconstrued and misunderstood the legal provisions relating to pay fixation and pay revision by treating the two things as synonymous. The pay once fixed and fixed in accordance with law cannot be reduced in the name of revision simply because the revision has been given retrospectivity.
15. Your humble Petitioner thinks and feels that the Accountant General, Assam has misconstrued the Clause (4) of the Section 1 of the Schedule II of the IAS (Pay) Rules, 1954 which reads as under :-

“In the case of a promoted appointed to the Indian Administrative Service on promotion, on any enhancement of his actual pay in the State Civil Service in which he holds a lien, as a result of an increment in the lower scale or the higher scale of that service, or in the event of confirmation in the higher scale of the State Civil Service the officer, shall during the period of probation, be entitled to his pay in the senior time scale of the Indian Administrative Service recalculated in accordance with the principles laid down in this section on the basis of his enhanced pay in the State Civil Service, as if he was promoted to the Indian Administrative Service with effect from the date of such enhancement.”

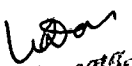
A plain reading of the said clause will reveal that this clause gives an “entitlement” to the officer and does not provide a sword to the Accountant General to cut and reduce the pay already fixed under the Rules. Over and above it applies only in the case of an officer while he is on probation in the Indian Administrative Service and holds a lien to his State Civil Service. Under the IAS Probation

Attested
hda
Advocate

Rules, the probation of your humble petitioner was over on completion of one year in the Indian Administrative Service, i.e. on 30/12/1997 and humble Petitioner ceased to have any lien after the expiry of one year in IAS and as such any revision which has not been effected during his probation period can not affect either to the advantage or to the detriment to the interest of your humble petitioner as the said Clause 4 of the Section I of the Schedule II of the said Rules shall not apply in case of your Petitioner.

16. The Accountant General, Assam by issuing the impugned Pay Slip has violated the Indian Administrative Service (Pay) Rules, 1954 and the Indian Administrative Service (Probation) Rules, 1954. The Accountant General, Assam has not even cared to refer and rely the certificate given in the explanatory memorandum to the Fifth Amendment of the pay Rules where by it has been certified that no existing IAS officer will be adversely affected by the retrospective effect of the Amendment. The impugned Pay Slip has been issued carelessly, if not with malice and with ulterior motive. Before issuing the impugned Pay Slip the Accountant General, Assam ought to have given an opportunity to your humble petitioner to place and explain the legal provisions in this regard, but by not doing so the Accountant General has put at bay all the established canons of Natural Justice.
17. Your humble Petitioner further submits that the impugned Pay Slip reducing the pay of your humble Petitioner will have the effect of reducing the status of your humble Petitioner and will effect you're your humble Petitioner adversely and will place him in a disadvantageous position in terms of status and this is clearly contrary to the Constitutional provisions apart from causing a huge financial loss.
18. Your humble Petitioner begs to refer to the Notification issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training bearing No.20011/2/93-AIS(II)-A dated 6/5/1994 and 14/7/1995. The latest Notification was issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training on 14/11/1996 (i.e.,

Attested


Advocate.

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(9)

one and half month prior to the appointment of your humble Petitioner in IAS) bearing No. 20011/1/95-IAS (II) which relates to protection of pay of the State Civil Service Officers promoted to IAS. In this Notification the Government of India has clearly stated that if the initial pay of an Officer gets fixed somewhere in the selection grade of Rs.4800-5700, he gets further annual increment till he reaches the stage of Rs.5700/- and also a maximum of three stagnation increments if he happens to stagnate thereafter. The pay of your Petitioner in the State Civil Service at the time of his induction in IAS was Rs.5,375/- and as such he was entitled the selection grade scale (Rs.4800-150-5700). Accordingly his pay was fixed at Rs.5400/-. Once the pay was fixed in the selection grade it cannot be refixed in a lower scale. The selection grade scale of Rs.4800-150-5700 was substituted under the Amendment Rules of 1997 as Rs.15100-400-18,300/- and as such the increments availed by your humble Petitioner in the old scale of Rs.4800-150-5700/- should have been added while revising your humble Petitioner's pay and as such his pay ought to have been fixed in the following manner:-

First stage of selection grade	.....	Rs.15,100.00
Two increments @ Rs.400 x 2	.....	Rs. 800.00
TOTAL	.....	Rs.15,900.00

The A.G. Assam has therefore, erred in fixing the pay of your humble Petitioner vide Annexure-IV at Rs.15,100/- in place of Rs.15,900/- as on 30/12/1996. Accordingly, the pay ought to have been Rs.16,300/- as on 1/12/1997 in place of Rs.15,500/-

19. Your humble Petitioner further submits that once the pay is fixed under the selection grade it cannot be reduced to the senior scale as it will mean reduction in the status of your humble Petitioner. Therefore, the reduction in the pay of your humble Petitioner is illegal, violation of Rules and Regulations and contrary to the Government Notifications already issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training.

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Attested
wider
Advocate

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Your humble petitioner begs to submit that the A.G., Assam has refixed his substantive pay by reducing from Rs.15,500/- to Rs.11,300/- as on 30.12.96 and from Rs.15,900/- to Rs.11,625/- as on 1.12.97 with retrospective effect whereby it has reduced his rank and status as in the IAS promotion is effected not from post to post but from one scale to another scale of pay bracketed with Grade and all these had been done by the A.G, Assam without offering opportunity to the petitioner to defend his case before the impugned pay slip was issued. This is a gross violation of the principles natural justice. In Bhagawan Shukla Vs Union of India & Others, the Hon'ble Supreme Court had ruled as follows:

"There is also no dispute that the basic pay of the applicant was reduced to Rs.181/- p.m. from Rs.190/- in 1991 retrospectively w.e.f. 18.12. 1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principle of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect on an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since that was not done, the order dated 27.7.1991, which was impugned before the Tribunal, could not certainly be sustained and the Central Administrative Tribunal fell in an error in dismissing the petition of the appellant. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.93 as well as the order impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant."

Your humble petitioner begs to submit further that your petitioner's case is almost identical with that of the appellant and the judgement quoted above. Even if a concerned statute or a statutory rules is silent on the pre-decisional hearing of the affected person suffering civil consequences, any decision without offering the opportunity of hearing such person would result in miscarriage of justice.

Attested
hdon
Advocate

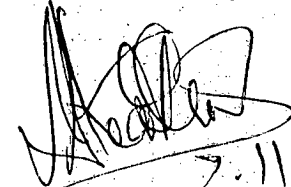
In view of the above decision of the apex court of the country, your petitioner would like to pray to the Government to set aside the impugned pay slip date 16.6.99 (Annexure-IV).

B. RELIEF PRAYED FOR:

In view of the factual position and statutory provisions stated herein above, your humble petitioner earnestly prays that:

- (i) Necessary order may be issued for fixation of pay of the petitioner at the stage of Rs.5400/- in the pre revised scale of pay and at Rs.15,500/- in the revised scale w.e.f. 30.12.96 in accordance with the IAS (Pay) Fifth Amendment Rules, 1997;
- (ii) The impugned pay slip No.GE-Cell/IAS/251, dated 16.6.99 may be set aside,
- (iii) The Accountant General may be directed to issue a fresh pay slip with all consequential benefits; and
- (iv) Direction may be given to provide any other relief/benefits to the petitioner as the Government of India may deem entitled and legal.

Yours faithfully,



(J.I. Kathar)

Additional Secretary to the Govt. of Assam,
Department of Industries & Commerce,
Dispur, Guwahati-781006.

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Attested
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Advocate

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(12)

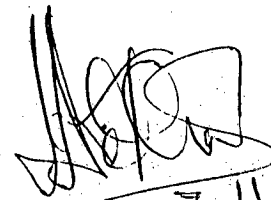
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No.JIK/2001/25,

Dated Guwahati, the 2nd Nov/2001.

Copy to:

The Commissioner & Secretary to the Govt.of Assam,
Deptt. of Personnel,(Personnel-A),Assam Sachivalaya,
Dispur,Guwahati-781006, for information and
necessary action.



(J.I.Kathar)

2.11.2001.

Additional Secretary to the Govt.of Assam,
Department of Industries & Commerce,
Dispur,Guwahati-781006.

Attested
[Signature]
Advocate

- 45 -

2.4.07
No. 22012/27/99-AIS(II)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training

Annexure - 7

New Delhi, Dated : March, 2002.

To

18 MAR 2002

The Chief Secretary
Govt. of Assam
Department of Personnel (Personnel A)
Assam Secretariat (Civil)
Dispur, Guwahati.

Subject : Pay fixation of Sh. J.I. Kathar, IAS (SCS:90) - O.A. No. 336/99 filed in CAT, Guwahati Bench - Representation regarding.

Sir,

I am directed to say that we have received a representation made by Sh. J.I. Kathar, a promoted IAS officer, dated 02.11.2001 subsequent to the directions of the CAT, Guwahati Bench in O.A. No. 336/99 dated 25.06.2001 on the above subject. Sh. Kathar, alongwith two other promoted officers, had gone to the CAT against their pay revision in the IAS as a consequence of the retrospective State pay revision effected from 1.1.96. On his appointment in the IAS from 30.12.96, the IAS pay of Sh. Kathar was first fixed in the pre-revised Selection Grade on the basis of his State pay drawn in a substantive capacity which had not been revised till that time. When the State pay scales were later on revised in 1998 and made effective from 1.1.96, his IAS pay had again to be revised on the basis of the revised State pay being drawn by him at the time of his appointment in the IAS. Necessary action was accordingly taken by the A.G. but it turned out that his pay was brought downwards to the Senior Time Scale. Aggrieved by this, Sh. Kathar moved the CAT who have now pronounced in their judgement dated 25.06.2001 that Sh. Kathar would first make a detailed representation to Respondent No. 1 who would examine and consider the same as per law and would pass a reasoned order preferably within a period of 4 weeks from the date of receipt of representation. Accordingly, Sh. Kathar has now made a representation in this regard on 2.11.2001, a copy of which has also been sent to the State Govt.

2. The representation of Sh. Kathar has been examined in detail. It is found that the action taken by the A.G. in reducing the pay of Sh. Kathar subsequent to the retrospective State pay revision was in order and well in accordance with the relevant rules and instructions. The position as per rules, is as follows :-

- (i) As per the provisions contained in Schedule II of the IAS (Pay) Rules, 1954 by which Sh. Kathar is governed for the purpose of pay fixation on appointment in the IAS from the State Civil Service, the IAS Pay is to be fixed on the basis of the substantive State pay of the officer concerned. Such pay has to be further revised during the period of probation of the officer in the IAS if there is any increase in the

Attested
W.D.
Advocate

substantive State pay during this period. Sh. Kathar was drawing the State pay in a substantive capacity at the stage of Rs.5375/- at the time of his promotion in the IAS on 30.12.96. He was accordingly eligible for pay fixation in the IAS at the stage of Rs.5400/- - a stage which happened to fall in the pre-revised IAS Selection Grade of Rs.4800-150-5700. It is pertinent to note that under normal circumstances, he was not eligible for this grade at that time. This grade becomes admissible on completion of 13 years' service in the IAS, calculated from the Year of Allotment of a promoted officer. Sh. Kathar having been accorded 1990 as his Year of Allotment, would have become eligible for this grade only in the year 2003. The IAS pay scales were revised from 1.1.96 on the basis of the recommendations of the Fifth Pay Commission. As his pre-revised IAS pay fell in the Selection Grade, the revised IAS pay was also fixed in the same revised grade. On issuance of the revised pay scales, the provisional pay of Sh. Kathar, as fixed above, was re-fixed in the revised IAS pay scales at the stage of Rs.15500 in the Selection Grade from 30.12.96, with the next date of increment being 01.12.97 raising his pay to Rs.15900. These pay fixations were however provisional (and therefore subject to adjustments on subsequent revision of the State pay scales).

- (ii) The State pay scales were later on revised in 1998 and were given a retrospective effect from 1.1.96. As Sh. Kathar was in the State Service on 1.1.96 and till 29.12.96, his State pay had to be revised. This was done and on the basis of his revised State pay as on 29.12.96, his IAS pay was re-fixed from 30.12.96. This time, however, the stage of the IAS pay happened to fall within the revised Sr. Time Scale of the IAS and he was accordingly placed in this grade. On the basis of his revised State pay on that date, he was eligible for pay fixation in the IAS at the stage of Rs.11300 in the Sr. Time Scale of Rs.10650-325-15850, with the date of next increment being 01.12.97.
- (iii) The above action was well in accordance with the relevant rules and instructions. It has also been clarified in our letter dated 14.1.98 (copy enclosed) that in case the pay scales of the State Services had not been revised from 1.1.96 on the central pattern, the promoted officers would be allowed the equivalent stages of the replacement pay scales in the IAS. This was to be only provisional and upto the time the State pay scales were revised. The action taken by the A.G. in this case is thus in accordance with this position.
- (iv) If the IAS pay of a promoted officer is revised and the same happens to be at a lower level, as in the present case, the same cannot be construed as a punishment or a reduction in the substantive pay. The original and provisional pay fixation on induction into IAS was actually a case of higher pay - which was not due but was allowed due to non revision of the State pay scales, when the IAS pay scales had already been revised. Later, when State pay scales were revised, the provisional pay fixed in IAS had to be revised (and corrected).

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- (v) With reference to para 13 of the representation, it is stated that the certificate of retrospectivity that an order passed would not adversely affect any officer by its retrospective application, as given in the notification revising the IAS pay scales, is not relevant in the case of the petitioner. He was not in the IAS on 1.1.96 from when the IAS pay scales were retrospectively revised. At that time, he was only in the State Civil Service. Only if it is found that when the State pay scales were retrospectively revised from 1.1.96, his State pay was brought to a lower level or his total emoluments came down, the said certificate - if issued by the State Govt. at the time of the revision of their State pay scales - can be invoked against the State Government's pay fixation for the period when he was an SCS officer.
- (vi) As regards the contention made in para 15 of the representation, as the pay of Sh. Kathar was ab-initio fixed provisionally, it had to be revised once the State pay scales were retrospectively revised. The basis of his pay fixation in the IAS had changed and the same necessitated a re-calculation in his case, based on the reckonable State pay which was allowed to him subsequent to the revision of the State pay scales. The fact that he had by then completed his probation in the IAS does not alter this position. Had it been a converse case whereby he would have been entitled for a higher pay in the IAS after the State pay revision, he would have surely asked for the same and the same would have been allowed too.
- (vii) Regarding para 16 *ibid*, there is no provision of offering any opportunity to any such promoted IAS officer whose pay has been reduced in the said manner. Sh. Kathar therefore cannot ask for an opportunity as a matter of right.
- (viii) As for the contention of Sh. Kathar in para 17 *ibid* that reduction in his pay from Selection Grade to Senior Time Scale has reduced his status, this cannot be helped as he had earlier drawn higher pay, which was not his due, and the same had to be corrected once his reckonable State pay on revision of the State pay scales on the date of his entry into the IAS was found to be such that made him eligible for pay fixation only in the Sr. Time Scale of the IAS. While doing so, no malafide or arbitrariness was involved and the entire action was strictly in accordance with the relevant rules and instructions.
- (ix) Regarding para 18 of the representation, all the relevant rules and instructions are to be read together, and not in an isolated manner. The notifications/instructions issued by this Department of course allowed protection of State pay in respect of promoted IAS officers to a higher level, it is also necessary to ensure that while doing so, other relevant rules etc. are also to be followed. The crux of the matter is that the pay of Sh. Kathar was first fixed in the IAS on the basis of his pre-revised substantive State pay and he was given the benefit of the IAS pay revision effective from 1.1.96. Later, on revision of State pay

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scales from the same date, his State pay was revised as on the crucial date, he was still in the State Service. This time, corrective action was taken while refixing his IAS pay on that basis and while doing so, no irregularity was committed.

- (x) As regards the Supreme Court's judgement in Bhagawan Shukila Vs. Union of India and Others quoted in para 20 of the representation, we are not aware of the facts of that case and are not sure whether the case of Sh. Kathar is similar and can be dealt with in a similar fashion. If this analogy is sought to be drawn, it would first be necessary to have the full facts of that case so as to enable us to examine it further.

3. It would be evident from the above that the action taken by the A.G., Assam, in refixing the pay of Sh. J.I. Kathar subsequent to the retrospective revision of the State pay scales was fully in accordance with the relevant rules and policy in the matter. This action has not been found to be suffering from any vice, malafide or misinterpretation of the relevant policy. It has accordingly been decided that there is no case for an upward revision of the pay of Sh. Kathar on his appointment in the IAS. The action taken by the A.G. in this case is in order and the same does not need any further change.

Yours faithfully,

(Y.P. Dhingra)

Under Secretary to the Government of India

Copy for information to :

- ✓ 1. Sh. J.I. Kathar, Addl. Secretary, Deptt. of Industries & Commerce, Govt. of Assam, Dispur, Guwahati.
2. Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-781029, in the context of his letter no. GE-Cell/AIS/251 dated 16.6.99.

(Y.P. Dhingra)

Under Secretary to the Govt. of India

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No. 20015/4/97-AIS(II)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi, dated 14 January, 1998.

To

1. The Chief Secretaries of
all State Governments &
Union Territories.
2. All Accountants General.

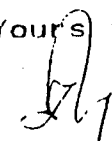
Subject:-IAS (Pay) Rules, 1954 - fixation of pay of
SCS/non-SCS officers promoted in the IAS -
revision of pay scales from 1.1.96 -
clarifications regarding.

Sir,

I am directed to say that subsequent to the revision of the pay scales for the Indian Administrative Service w.e.f. 1.1.1996, a question has been raised in regard to the mode of pay fixation of the SCS/non-SCS officers promoted in the IAS, in case the pay scales of the respective State/non-State Civil Services have not yet been revised. It is clarified in this connection that in these cases, the pay of such promoted officers would first be fixed on the basis of the reckonable State pay in the pre-revised IAS pay scales unless this has been already done. The corresponding stages in the revised IAS scales would then be allowed in the component of the Senior Scale in which such officers happen to fall in the pre-revised IAS pay scales. This has to be done till the State pay scales are revised by the respective State Governments at CPI 1510 which is the base for the revision of IAS pay scales from 1.1.96. Illustrations in this regard are appended with this letter.

2. The above clarifications will apply *mutatis-mutandis* to the promoted officers of the Indian Police Service and the Indian Forest Service.

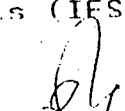
Yours faithfully,


(Y.P. Dhingra)
Desk Officer

Copies also to:-

1. MHA(UTS Section) (with 5 spare copies).
2. MHA (IPS-II)(with 20 spare copies).
3. Ministry of Environment & Forests (IFS-II)
(with 20 spare copies).

Spare copies - 200.


(Y.P. Dhingra)
Desk Officer

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CASE - J

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Hypothetical case of an SCS officer appointed
in IAS w.e.f. 10.7.97

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|--|--|
| 1. Pay drawn in officiating capacity at the time of appointment in IAS. | Rs. 3950
(State pay scale of Rs. 3700-5000) |
| 2. Pay and post in which he was substantive in the State Government. | Rs. 3750
(State pay scale of Rs. 3000-4500) |
| 3. Pay fixed in IAS in the pre-revised scales on the basis of reckonable State pay. | Rs. 3825
(Pre-revised Senior Time Scale of Rs. 3200-4700) |
| 4. Corresponding stage in the revised Senior Time Scale of IAS of Rs. 10650-325-15850. | Rs. 11,300
w.e.f. from 10.7.97. |

CASE-2

Hypothetical case of a promoted officer, appointed
in IAS w.e.f. 1.12.95.

- | | |
|--|--|
| 1. Reckonable pay in the State Government as on 1.12.95. | Rs. 6150
(Selection Grade of Rs. 5100-6300). |
| 2. Pay fixed in the IAS in accordance with the relevant provisions of Section I, Schedule II of the IAS (Pay) Rules, 1954. | Rs. 5700
(The third component of Senior Scale of IAS upto which protection of state pay is allowed) |
| 3. Corresponding stage in the revised Selection Grade of Rs. 15100-400-18300. | Rs. 15,900
(Rs. 1.1.96). |

Affected

6.12.95

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

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 20th November, 1997.

SO. LAL. 19/97/46: The following notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, New Delhi is republished for general information.

"Notification No. 14021/2/97-AIS(II)-A, dated 16.10.97

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government after consultation with the Governments of the States concerned, hereby makes the following rules further to amend the Indian Administrative Service (Pay) Rules, 1954, namely:-

1. (1) These rules may be called the Indian Administrative Service (Pay) Fifth Amendment Rules, 1997.
- (2) They shall be deemed to have come into force from the 1st day of January, 1996.

2. In the Indian Administrative Service (Pay) Rules, 1954 (hereinafter referred to as the said rules), in rule 3,-

- (a) for sub-rule (1), the following shall be substituted, namely :-

"(1) Scales of Pay - The scales of pay admissible to a member of the Service and the dates with effect from which the said scales shall be deemed to have come into force, shall be as follows :-

Junior Scale - Rs.8000-275-13500 (with effect from the 1st day of January, 1996).

(1) Time Scale - Rs.10650-325-15850 (with effect from the 1st day of January, 1996);

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(ii) Junior Administrative Grade-
Rs. 12750-375-16500 (non-functional) with
effect from the 1st day of January, 1996;

Provided that a member of the Service shall be appointed to the senior time scale on his completion of four years of service, subject to the provisions of sub-rule 2 of rule 6A of the Indian Administrative Service (Recruitment) Rules, 1954 and to the junior administrative grade on completion of nine years of service.

Note - The four years and nine years of service in this rule shall be calculated from the year of allotment assigned to him under rule 3 of the Indian Administrative Service (Regulation of Seniority), Rules, 1987.

(iii) Selection Grade- Rs. 15100-400-18300. (with
effect from the 1st day of January, 1996).

Supertime Scale - Rs. 18400-500-22400 (with effect
from the 1st day of January, 1996).

Above Supertime Scales -(i) Rs. 22400-525-24500

(ii) Rs. 26000 (Fixed)

(iii) Rs. 30000 (Fixed)

(with effect from the 1st day of January, 1996).

Provided that a member of the Service may opt to continue to draw pay in the existing scale until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale. The option shall be exercised in accordance with such orders as may be issued by the Central Government in this behalf.

Explanation 1- The option to retain the existing scale under the proviso to this rule shall be admissible only in respect of one existing scale.

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Explanation 2- The said option shall not be admissible to any person appointed to the Service on or after the 1st day of January, 1996 and he shall be allowed pay only in the revised scale.

Explanation 3- Where a member of the Service exercises an option under the proviso to this rule to retain the existing scale in respect of a post held by him in an officiating capacity on a regular basis for the purpose of regulation of pay in that scale, his substantive pay shall be the substantive pay which he would have drawn had he retained the existing scale in the permanent post on which he holds a lien or would have held a lien had his lien not been suspended or the pay of the officiating post which has acquired the character of substantive pay in accordance with any order for the time being in force, whichever is higher."

(b) For sub-rule (3), the following shall be substituted, namely :-

"(3) The initial pay of a member of the Service who opts or deemed to have opted, in accordance with these rules, to be governed by the revised scale on and from the 1st day of January, 1996 or from a later date, shall be re-fixed as from that date separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely:-

(A) in the cases of all members of the Service -

- (1) an amount representing forty per cent of the basic pay in the existing scale shall be added to the 'existing emoluments' of the member of the Service;

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(11) after the existing emoluments have been so increased, the pay shall thereafter be fixed in the revised scale at the stage next above the amount thus computed;

Provided that -

(a) if the minimum of the revised scale is more than the amount so arrived at the pay shall be fixed at the minimum of the revised scale;

(b) if the amount so arrived at is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale;

Provided further that where in the fixation of pay, the pay of a member of the Service drawing pay at more than four consecutive stages in an existing scale gets bunched, that is gets fixed in the revised scale at the same stage, the pay in the revised scale of such member of the Service who is drawing pay beyond the first four consecutive stages in the existing scale shall be stepped up to the stage where such bunching occurs, by the grant of increment(s) in the revised scale in the following manner, namely :-

(a) for a member of the Service drawing pay from the 5th upto the 8th stage in the existing scale - by one increment;

(b) for a member of the Service drawing pay from the 9th upto the 12th stage in the existing scale, if there is bunching beyond the 8th stage - by two increments;

(c) for a member of the Service drawing pay from the 13th upto the 16th stage in the existing scale, if there is bunching beyond the 12th stage - by three increments;

If by stepping up of the pay as above, the pay of a member of the Service gets fixed at a stage in the revised scale which is higher than the stage in the revised scale at which the pay of a member of the

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Service who was drawing pay at the next higher stage or stages in the same existing scale is fixed, the pay of the latter shall also be stepped up to the extent by which it falls short of that of the former.

Provided also that the fixation thus made shall ensure that every member of the Service shall get at least one increment in the revised scale of pay for every three increments [inclusive of stagnation increment(s), if any] in the existing scale of pay.

Explanation - For the purpose of this clause, "existing emoluments" shall include-

- (a) the basic pay in the existing scale;
- (b) dearness allowance appropriate to the basic pay admissible at index average 1510 (1960 = 100), and
- (c) the amounts of first and second instalments of interim relief admissible on the basic pay in the existing scale;

- (B) In the case of a member of the Service who is in receipt of special pay component with any other nomenclature, in addition to pay in the existing scale, such as personal pay for promoting small family norms, Central (deputation on tenure) Allowance, etc., and in whose case the same has been replaced in the revised scale with corresponding allowance or pay at the same rate or at a different rate, the pay in the revised scale shall be fixed in accordance with the provisions of clause (A) above. In such cases, the allowance at the new rate as recommended, shall be drawn in addition to pay in the revised scale of pay.

Note 1- Where the increment of a member of the Service falls on 1st day of January, 1996, he shall have an option to draw the increment in the existing scale or the revised scale.

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Note 2- Where a member of the Service is on leave on the 1st day of January, 1996, he shall become entitled to pay in the revised scale of pay from the date he resumes duty. In case of a member of the Service under suspension, he shall continue to draw subsistence allowance based on existing scale of pay and his pay in the revised scale of pay will be subject to final order on the pending disciplinary proceedings.

Note 3- Where the existing emoluments as calculated in accordance with clause (A) or clause (B), as the case may be, exceed the revised emoluments in the case of any member of the Service, the difference shall be allowed as personal pay to be absorbed in future increases in pay.

Note 4- Where in the fixation of pay under these rules, pay of a member of the Service who in the existing scale was drawing immediately before the 1st day of January, 1996, more pay than another member of the Service junior to him in the same cadre, gets fixed in the revised scale at a stage lower than that of such junior, his pay shall be stepped up to the same stage in the revised scale as that of the junior.

Note 5- Where a member of the Service is in receipt of personal pay on the 1st day of January, 1996, which together with his existing emoluments as calculated in accordance with clause (A) or clause (B) as the case may be, exceeds the revised emoluments, then, the difference representing such excess shall be allowed to such member of the Service as personal pay to be absorbed in future increases in pay.

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advocate

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Note 6- Where a senior member of the Service promoted to a higher post before the 1st day of January, 1996 draws less pay in the revised scale than his junior who is promoted to the higher post on or after the 1st day of January, 1996, the pay of the senior member of the Service shall be stepped up to an amount equal to the pay as fixed for his junior in that higher post. The stepping up shall be done with effect from the date of promotion of the junior member of the Service subject to the fulfilment of the following conditions, namely :-

- (a) both the junior and the senior member of the Service shall belong to the same cadre and the post in which they have been promoted shall be identical in the same cadre;
- (b) the pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay shall be identical;
- (c) the senior member of the Service at the time of promotion has been drawing equal or more pay than the junior; and
- (d) the anomaly shall be directly as a result of the application of the provisions of this sub-rule. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior member of the Service.

The order relating to re-fixation of the pay of the senior member of the Service in accordance with the above provisions shall be issued under the relevant rules and the senior member of the Service shall be entitled to the next increment on completion of his required qualifying service with effect from the date of re-fixation of pay.

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Advocate

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Note 7- Subject to the provisions of sub-rule (1), if the pay as fixed in the officiating post under this sub-rule is lower than the pay fixed in the substantive post, the former shall be fixed at the stage next above the substantive pay.

Note 8- In the case of a member of the Service who is in receipt of personal pay for passing Hindi Pragma and such other examinations under the "Hindi Teaching Scheme" prior to the 1st day of January, 1996, while the personal pay shall not be taken into account for purposes of fixation of initial pay in the revised scale, he shall continue to draw personal pay after fixation of his pay in the revised scale on and from the 1st day of January, 1996 or subsequently for the period for which he would have drawn it but for the fixation of his pay in the revised scale. The quantum of such personal pay shall be paid at the appropriate rate of increment in the revised scale from the date of fixation of pay for the period for which the member of the Service would have continued to draw it.

Explanation - For the purpose of this Note, "appropriate rate of increment in the revised scale" means the amount of increment admissible at and immediately beyond the stage at which the pay of the member of the Service is fixed in the revised scale.

(C) Fixation of pay in the revised scale subsequent to the 1st day of January, 1996. - Where a member of the Service continues to draw his pay in the existing scale and opts for revised scale from a date later than the 1st day of January, 1996, his pay from the later date in the revised scale shall be fixed under these rules and for this purpose, his pay in the existing scale shall have the same meaning as of existing

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emoluments as calculated in accordance with clause (A) or clause (B), as the case may be, subject to the conditions that the basic pay to be taken into account for calculation of those emoluments shall be the basic pay on the later date and where the member of the Service is in receipt of special pay, his pay shall be fixed after deducting from those emoluments an amount equal to the special pay at the revised rates appropriate to the emoluments so calculated.

3. In rule 5 of the said rules, for sub-rule (3A), the following shall be substituted, namely:-

"(3A) The next increment of a member of the Service whose pay has been fixed in the revised scale in accordance with rule 3 shall be granted on the date he would have drawn his increment had he continued in the existing scale:

Provided that where the pay of a member of the Service is stepped up in accordance with the second proviso or Note 4 or Note 6 to sub-rule (3) of rule 3, the next increment shall be granted on the completion of qualifying service of twelve months from the date of stepping up of the pay in the revised scale:

Provided further that in other cases the next increment of a member of the Service whose pay is fixed on the 1st day of January, 1996 at the same stage as the one fixed for another member of the Service junior to him in the same cadre and drawing pay at a lower stage than him in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier:

Provided also that in case a member of the Service had been drawing maximum of the existing scale for more than a year as on the 1st day of January, 1996, the next increment in the revised scale shall be allowed on the 1st day of January, 1996."

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4. In rule 9 of the said rules, in sub-rule (7), for the word and figures "Rs. 8000", the word and figures "Rs. 26000" shall be substituted.

In rule 9C of the said rules, for the words and figures "Rs. 4500-150-5700" wherever they occur and "Rs. 6150", the words and figures "Rs. 14300-400-18300" and "Rs. 18750" shall be respectively substituted.

5. In the said rules, in Schedule II,

(i) for the words and figures "first day of January, 1986", wherever they occur, the words and figures "1st day of January, 1996" shall be substituted;

(ii) in SECTION I, in the explanation (i) to clause (1), for the word and figures "Rs. 100", the word and figures "Rs. 325" shall be substituted.

In the said rules, in Schedule III,

(a) in parts A and C, for the words and figures "Rs. 0500", "Rs. 7300-400-7600", "Rs. 9000-300-6700", "Rs. 4000-150-3700", "Rs. 5000-125-4700-150-5000", and "Rs. 3200-100-3700-125-4700", wherever they occur, the words and figures "Rs. 26000", "Rs. 22400-525-24500", "Rs. 18400-500-27400", "Rs. 15100-400-18300", "Rs. 12750-375-16500" and "Rs. 19650-325-15850" shall respectively be substituted.

(b) in parts B and C, for the word and figure "Rs. 6150" wherever they occur, the word and figure "Rs. 18750" shall be substituted.

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Attorney
Advocate

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EXPLANATORY MEMORANDUM

The Central Government has decided to implement the recommendations made by the Fifth Central Pay Commission relating to revision of scales of pay in respect of the All India Services with effect from the 1st January, 1996. With a view to implement those recommendations, the Indian Administrative Service (Pay) Rules, 1954 are being amended accordingly with effect from the 1st January, 1996.

It is certified that no member of the Indian Administrative Service is likely to be adversely affected by giving retrospective effect to these rules.

Sd/-

(A.K.SARKAR)

Director 16.10.97

(No. 14021/2/97-AIS(II)-A)

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Note:- The principal rules were published vide GSR No. 158, dated the 14th September, 1954 and subsequently amended vide

Sl.No.	G.S.R.No.	Date	Sl.No.	G.S.R.No.	Date
1.	22	12.1.1974	55.	417(E)	22.6.1976
2.	51(E)	26.2.1974	56.	426(E)	25.6.1976
3.	52(E)	28.2.1974	57.	311	10.7.1976
4.	272	16.3.1974	58.	405(E)	16.6.1976
5.	186(E)	25.4.1974	59.	466(E)	23.7.1976
6.	664	29.6.1974	60.	1157	7.8.1976
7.	725	13.7.1974	61.	786(E)	31.8.1976
8.	778	27.7.1974	62.	789(E)	7.9.1976
9.	374(E)	26.8.1974	63.	1368	25.9.1976
10.	376(E)	26.8.1974	64.	822(E)	31.8.1976
11.	378(E)	26.8.1974	65.	849(E)	15.10.1976
12.	976	14.9.1974	66.	859(E)	1.11.1976
13.	979	14.9.1974	67.	947(E)	24.12.1976
14.	1013	21.9.1974	68.	954(E)	27.12.1976
15.	1066	5.10.1974	69.	125	29.1.1977
16.	437(E)	16.10.1974	70.	45	28.1.1977
17.	439(E)	17.10.1974	71.	52(E)	1.2.1977
18.	120	16.11.1974	72.	473	2.4.1977
19.	467(E)	15.11.1974	73.	803	9.7.1977
20.	468(E)	15.11.1974	74.	531(E)	19.7.1977
21.	469(E)	15.11.1974	75.	545(E)	29.7.1977
22.	1260	30.11.1974	76.	549(E)	3.8.1977
23.	1300	7.12.1974	77.	655(E)	23.8.1977
24.	1348	21.12.1974	78.	1206	1-10.1977
25.	92	25.1.1975	79.	655(E)	23.8.1977
26.	176	8.2.1975	80.	45	4.1.1978
27.	43	18.1.1975	81.	5(E)	6.5.1978
28.	309	8.3.1975	82.	215	11.2.1978
29.	185(E)	2.4.1975	83.	952	29.7.1978
30.	281(E)	16.5.1975	84.	586	27.5.1978
31.	278(E)	13.5.1975	85.	666	27.5.1978
32.	293(E)	23.5.1975	86.	923	22.7.1978
33.	296(E)	26.5.1975	87.	1127	16.9.1978
34.	305(E)	28.5.1975	88.	1236	14.10.1978
35.	752	21.6.1975	89.	1281	28.10.1978
36.	345(E)	25.6.1975	90.	1278	28.10.1978
37.	433(E)	31.7.1975	91.	1326	11.11.1978
38.	433(E)	22.8.1975	92.	575(E)	8.12.1978
39.	472(E)	29.8.1975	93.	159	3.2.1979
40.	2061	15.11.1975	94.	472	31.3.1979
41.	2157	25.10.1975	95.	628	28.4.1979
42.	1	3.1.1976	96.	291(E)	10.5.1979
43.	8(E)	1.1.1976	97.	290(E)	10.5.1979
44.	74	17.1.1976	98.	771	9.6.1979
45.	25(E)	17.1.1976	99.	812	16.6.1979
46.	61(E)	31.1.1976	100.	1038	11.8.1979
47.	197	14.2.1976	101.	1016	4.8.1979
48.	73(E)	10.2.1976	102.	591(E)	24.10.1979
49.	234(E)	17.3.1979	103.	1372	17.11.1979
50.	236(E)	17.3.1979	104.	650(E)	27.11.1979
51.	207(E)	6.4.1976	105.	629(E)	17.11.1979
52.	603	1.5.1976	106.	597(E)	30.10.1979
53.	330(E)	11.5.1976	107.	77	26.1.1980
54.	500	26.6.1976	108.	24(E)	30.1.1980

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Adv.

J.	G.S.R.No.	Date	S.No.	G.S.R.No.	Date
100.	150	9.2.1980	167.	708(E)	3.8.1985
110.	220(E)	21.4.1980	168.	792	24.8.1985
111.	222(E)	21.4.1980	169.	919	5.10.1985
112.	268(E)	21.4.1980	170.	1141	14.12.1985
113.	290(E)	5.6.1980	171.	804(E)	4.12.1985
114.	447(E)	24.7.1980	172.	38	18.1.1986
115.	770	26.7.1980	173.	98	8.2.1986
116.	952	20.9.1980	174.	218	22.3.1986
117.	530(E)	8.9.1980	175.	226	29.3.1986
118.	523(E)	8.9.1980	176.	378	31.5.1986
119.	572(E)	7.10.1980	177.	766	20.9.1986
120.	120	8.11.1980	178.	885	18.10.1986
121.	701(E)	17.12.1980	179.	1068	13.12.1986
122.	703(E)	17.12.1980	180.	22	10.1.1987
123.	47(E)	5.2.1981	181.	90	14.10.1987
124.	230	20.2.1981	182.	204(E)	13.1.1987
125.	295	21.3.1981	183.	471	20.6.1987
126.	293(E)	15.4.1981	184.	615	15.8.1987
127.	295(E)	15.4.1981	185.	796(E)	18.9.1987
128.	520	6.6.1981	186.	767	17.10.1987
129.	469	23.6.1981	187.	342	15.11.1987
130.	615	4.2.1981	188.	902	5.12.1987
131.	640	11.7.1981	189.	960	26.12.1987
132.	300	5.9.1981	190.	962	26.12.1987
133.	926	19.10.1981	191.	685(E)	14.12.1987
134.	945	24.10.1981	192.	52	23.1.1988
135.	422	8.5.1982	193.	295	16.4.1988
136.	420	8.5.1982	194.	297	16.4.1988
137.	510	5.6.1982	195.	654(E)	26.5.1988
138.	610	17.7.1982	196.	761(E)	30.6.1988
139.	617	24.7.1982	197.	659	20.8.1988
140.	619	24.7.1982	198.	831(E)	2.8.1988
141.	777	18.9.1982	199.	745	24-9.1988
142.	510(E)	20.10.1982	200.	1223(E)	28.12.1988
143.	631(E)	29.10.1982	201.	1004	31.12.1988
144.	933	20.11.1982	202.	1108	31.12.1988
145.	758	4.12.1982	203.	80(E)	3-2-1988
146.	754(E)	16.12.1982	204.	336(E)	1.3.1989
147.	13(E)	10.1.1983	205.	341(E)	28.3.1989
148.	204	12.3.1983	206.	311	6.5.1989
149.	333	5.4.1983	207.	418	17.6.1989
150.	447(E)	4.5.1983	208.	420	17.6.1989
151.	508	16.7.1983	209.	492	22.7.1989
152.	932	10.12.1983	210.	874	4.11.1989
153.	600(E)	20.12.1983	211.	869	25.11.1989
154.	701(E)	20.12.1983	212.	870	25.11.1989
155.	118(E)	24.12.1983	213.	1044(E)	6.12.1989
156.	20	21.1.1984	214.	263	5.5.1990
157.	400	21.4.1984	215.	394	30.6.1990
158.	470	19.5.1984	216.	490	4.8.1990
159.	1056	13.10.1984	217.	508	18.8.1990
160.	1240	15.12.1984	218.	507	18.8.1990
161.	49	19.1.1985	219.	648	20.10.1990
162.	107	2.2.1985	220.	726	8.12.1990
163.	250	9.3.1985	221.	493	7.9.1991
164.	639	5.7.1985	222.	621	26.10.1991
165.	637	6.7.1985	223.	60	22.2.1992
166.	559(E)	15.7.1985	224.	106	7.3.1992
167.			225.	137	7.3.1992

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Sl.No.	G.S.R. No.	Date	S.No.	G.S.R.No.	Date
226.	194	9.5.1992	251.	95(E)	12.2.1994
227.	199	9.5.1992	252.	343(E)	29.3.1994
228.	224	16.5.1992	253.	436(E)	9.5.1994
229.	226	16.5.1992	254.	310	2.7.1994
230.	239	23.5.1992	255.	334	23.7.1994
231.	405	12.9.1992	256.	302	30.7.1994
232.	407	12.9.1992	257.	443	3.9.1994
233.	413	19.9.1992	258.	357	20.7.1995
234.	449	10.10.1992	259.	434	30.9.1995
235.	480	31.10.1992	260.	470	10.11.1995
236.	503	26.12.1992	261.	569	30.12.1995
237.	527	20.11.1992	262.	60(E)	25.1.1996
238.	20	9.1.1993	263.	232	0.6.1996
239.	21	9.1.1993	264.	235	0.6.1996
240.	34	13.2.1993	265.	311	27.7.1996
241.	126	6.3.1993	266.	455(E)	27.9.1996
242.	230	15.5.1993	267.	555	14.12.1996
243.	259	29.5.1993	268.	277	5.7.1997
244.	535(E)	5.8.1993	269.	205	12.7.1997
245.	447	11.9.1993	270.	207	12.7.1997
246.	590(E)	8.9.1993			
247.	657(E)	15.10.1993			
	655(E)	15.10.1993			
249.	6	1.1.1994			
250.	29	15.1.1994			

Sd/-

16.10.97

(A.K.SARKAR)
Director

Sd/- S.R.ISLAM

Deputy Secretary to the Govt. of Assam
Personnel (A) Department, Dispur

Memo No. AAT. 19/97/46-A :: Dated Dispur, the 20th November, 1997.
Copy to :-

1. The Accountant General (A&E),/(Audit), Meghalaya, Shillong.
2. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-20
3. The Chairman, Assam Administrative Tribunal, Guwahati.
4. The Chairman, Assam Board of Revenue, Guwahati.
5. The Chairman, Assam State Electricity Board, Guwahati.
6. All Principal Secretaries/ Commissioners & Secretaries/ Secretaries to the Govt. of Assam.
7. The Chief Electoral Officer, Assam, Dispur.
8. The Resident Commissioner, Govt. of Assam, Assam House, New Delhi.
9. The Commissioner & Secretary to the Chief Minister, Assam, Dispur.

Contd....

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15/10/97

[Handwritten initials]

10. All Commissioners of Divisions, Assam,
11. The Agriculture Production Commissioner, Assam, Dispur.
12. The Chief Secretary to the Govt. of Meghalaya, Shillong.
13. The Under Secretary to the Govt. of India, Ministry of Personnel, PG & Pensions, Deptt. of Personnel & Training, New Delhi.
14. The Under Secretary to the Govt. of India, Ministry of Personnel, PG & Pensions, Career Management Division, New Delhi.
15. All Principal Secretaries of the Autonomous Councils.
16. All Deputy Commissioners.
17. The Secretary to the Governor of Assam, Dispur.
18. The PPS to Chief Minister, Assam, Dispur.
19. The PS to Chief Secretary, Assam, Dispur.
20. The PS to Addl. Chief Secretaries, Assam, Dispur.
21. All PS to Ministers/ Ministers of State.

By order etc.,

(S.R. ISLAM)

Deputy Secretary to the Govt. of Assam
Personnel (A) Department, Dispur

R. S. Islam
20/11/97

Advocate

CERTIFICATE OF TRANSFER OF CHARGE

KPE.1/96/

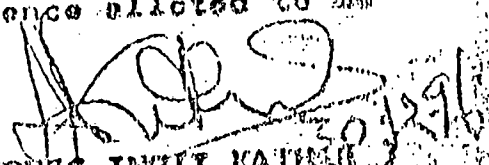
Dated, Karimganj the 30th December, 1996

- 1) The Chief Secretary to the Govt. of Assam, Dispur, Guwahati-6.
- 2) The Secretary to the Govt. of Assam, Department of Personnel (A), Dispur, Guwahati-6.
- 3) The Commissioner of Hills and Barak Valley Division, Dispur, Guwahati-6.
- 4) The Accountant General, Assam & Nagaland, Shillong.
- 5) The Treasury Officer, Karimganj.
- 6) Personal copy.

Sir,

With reference to Rule 0145 of the Assam Financial Rules, I the undersigned have the honour to report that I have this 30th Day of December, 1996 at 11.00 O'clock in the forenoon received charge of the office of the Deputy Commissioner, Karimganj in IAS in the Karimganj District as per orders issued vide Notification No. 14015/4/96-AIS(I), dated 30-12-96, by Desk Officer, Ministry of Personnel, P.G. and Pension, Department of Personnel & Training, Government of India, New Delhi.

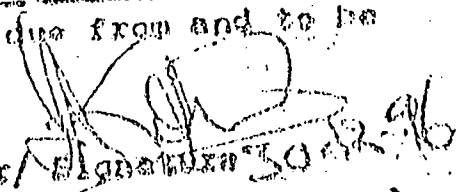
I have occupied the official residence allotted to me with effect from 30th Day of December, 1996.


(JONES INSI KATHAN)
Relieving Officer,
Name (in Block letter)
JONES INSI KATHAN

I have vacated the official residence allotted to me with effect from ..Nil.. day of...Nil...

Relieved Officer,
Name (in Block letter)

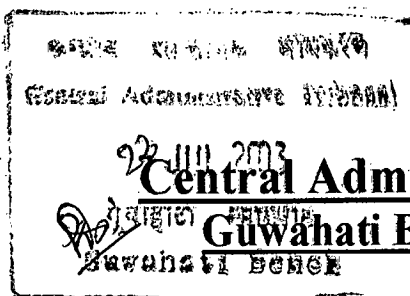
And, with reference to Rule (a) (VII) of the Assam Financial Rules, I (the Relieving Officer) acknowledge to have received _____ Rs. _____ of advance and that the full amount of such is due from and to be accounted for by me.


Relieving Officer / Signature
(JONES INSI KATHAN)
Designation- Deputy Commissioner
Karimganj.
District- KARIMGANJ

Dated 30-12-1996.

The signature should be legible written on when they cannot be distinguished with any delay arises in dealing with those applications.

Wan



In the matter of O.A. No. 85 of 2003

Shri J.I. Kathar - Applicant

Vs

Union of India - Respondent.

Written statement on behalf of the respondent No. 3.

I, Smti. Debolina Thakur, Deputy Accountant General (Admn), Office of the Accountant General (A&E) Assam, Maidamgaon, Beltola, Guwahati-29, do hereby, solemnly affirm and say as follows: -

1. That I am the Deputy Accountant General (Admn) in the Office of the Accountant General (A&E), Assam, Guwahati and as such fully acquainted with the facts and circumstances of the case. I have gone through copy of the application and have understood the content thereof. Save and except whatever is specifically admitted in the written statement, the other contentions and statement may be deemed to have been denied and the applicant should be put to strict proof of whatever they claim to the contrary. I am authorised and competent to file this written statement on behalf of the Respondent No.3.

2. That the answering respondent has no comments to the statement made in the paragraphs 1,2,3 and 4.1.

3. That with regard to the statements made in Para 4.2 of the application, the answering respondent states that prior to the appointment to IAS, the applicant was in the Assam State Civil Service. The applicant has been appointed to IAS on 30/12/1996 vide Govt. of India notification No.14015/4/96-AIS (I) dated 30/12/1996 and communicated by the Govt. of Assam vide Notification No.AAI/32/94/311 dated 3/1/1997.

Filed by:-

Arup Kumar Choudhury

for Respondent No. 3
Adm. Genl. Assam
23/7/03
Guwahati

A copy of the said notification dtd. 03.01.97 is annexed as Annexure-A.

4. That with regard to the statement made in Para 4.3 of the application the Respondent states that the applicant was a State Civil Service Officer till 29/12/96 and on his appointment to IAS on 30/12/96 the Officiating Pay (not substantive pay) of the applicant was fixed provisionally in the revised scale of IAS Pay at Rs.10,650/-(Minimum of the revised IAS Senior scale) + Spl. pay Rs.250/- + DA Rs.426/- + SDA Rs.675 + Conveyance allowance Rs.250/- totalling to Rs.12251/- and the pay was authorised vide pay slip no Cell / IAS/827-28 dtd.11/3/98.

A copy of the payslip dated 11.3. 1998 is annexed as Annexure-'B'

Hence the statement made in the Application that the pay structure of applicant on his promotion to IAS was Rs.5375/- + Spl. pay Rs.250/- + DA Rs.3550/- + Conveyance allowance Rs.250/- + IR Rs. 350/- totalling to Rs 9775/- is not correct.

5. That with regard to the statement made in Para 4.4 of the application the answering respondent states that the applicant was appointed to Indian Administrative Service on promotion w.e.f. 30.12.96 and the officiating pay (not substantive pay) of the applicant was fixed at Rs.10,650/-provisionally in the revised scale of IAS pay as follows.

State pay as on
30.12.1996
Rs.5375/-

Revised IAS pay Scale
Rs.10,650/- - 325 - 15,850/-
Pay fixed at Rs.10,650/-
(minimum of the time scale)

Subsequently, the applicant has been allowed the corresponding revised pay of IAS from the presumptive Pre-revised pay of IAS as an interim measure since the State Pay Scale was not revised by the Assam Govt. at CPI 1510 till that time, which was the base for the revision of IAS pay Scale from 1.1.1996 in terms of GOI clarification issued vide no 20015/A/81-AIS (II) dated 14th January 1998 which states as follows:-

“subsequent to the revision of the pay scale for the Indian Administrative service w.e.f 1.1.1996, a question has been raised in regard to the mode of pay fixation to the SCS/non SCS officers promoted in the IAS, in case the pay scale of the respective State/non State Civil services have not yet

been revised. It is clarified that in these cases the pay of such promoted officers would first be fixed on the basis of the reasonable State pay in the pre-revised IAS pay scale unless this has been already done. The corresponding stages in the revised IAS Scale would then be allowed in the component of the Senior Scale in which such officers happen to fall in the pre-revised IAS pay scales. This has to be done till the State pay scale are revised by the respective State Govt. at CPI 1510 which is the base for the revision of the IAS pay scale from 1.1.1996.

(A Copy of the order is annexed as Annexure "C")

The pay of the applicant, thus fixed at Rs.15,500/- as follows:-

(A). Pre-revised State pay to pre-revised IAS pay

Pre-revised (State Pay)	Pre-revised IAS SR. Scale
ACS-I Sr. Grade Scale Rs.3825-5900/- Pay as on 30/12/96 - Rs.5375/-	(Selection Grade) Scale (Rs.4,800-5700/-) Pay fixed at Rs.5400/- (Next higher stage) with DNI on 1/12/97.

(B). Pre-revised IAS pay to corresponding revised IAS pay.

Pre-revised IAS pay	Revised corresponding IAS
Rs.5400/ on 30/12/96	Pay Scale Rs.15,100-400-18300/- and Pay was fixed provisionally at Rs.15,500/- with D.N.I. on 1.12.97

Provisional Pay slip was authorised on the basis of above fixation vide payslip No.GE Cell/IAS/330-331 dated 3/7/98 (Copy of the Pay slip annexed as Annexure-'D')

On receipt of the Government of Assam (Revision of Pay) Rule 1998 which was given effective from 1/1/96, the State pay of the applicant has been revised as the applicant was in the State Civil Service on 1/1/96 and appointed to IAS on 30/12/96. The fixation on Revision of State pay of the applicant was done as follows:-

Pre Revised State Pay Scale
 Rs.3825/- - Rs.5900/-
 Pay as on 1/1/96 = Rs. 5375/-
 DA as on 1/1/96 = Rs. 3550/-
 IR as on 1/1/96 = Rs. 0350/-
 Total = Rs. 9275/-
 Add 25% of pay = Rs. 1344/-
 Total = Rs.10619/-

Revised State Pay Scale 10050/- - 15575/-

Pay fixed at Rs.10,700/- with DNI on 1/1/97 (Promoted to IAS on 30/12/96)

The Applicant was also authorised all the consequential benefits of the State pay revision vide pay slip no. GEI/ACS/PS/3275-76 dtd.26/3/99 since the applicant was a State Govt. officer on 1.1.1996.

A copy of the pay slip was annexed as Annexure "E"

6. That with regard to the Statement made in Para 4.5 of the application the respondent states that the applicant was allowed one increment w.e.f. 1.12.97 in the same scale after completion of one year service as IAS as the Govt of Assam has not notified the Revision of the pay structure till that time and the applicant officiating pay (not Substantive Pay) was increased to Rs.15,900/-.

7. That with regard to the statement made in Para 4.6 of the application the respondent state that after the notification of Assam Service (Revision of Pay) Rules, 1998 on 4.7.98 which was given effect from 1.1.96, the substantive State Pay of the applicant has been revised as the applicant was on the State Civil Service on 1.1.96 till 29.12.96(A.N.) .The applicant was on probation for one year from the date of joining i.e. up to 30.12.97 and hence the applicant's membership in the State Service cannot cease during the period of Probation. The arrears of pay for the period from 1/1/96 to 29/12/96 therefore, was authorised to the applicant vide pay slip No.GEI/ACS/PS/3275-76 dtd. 26/3/99.

8. That with regard to the Statement made in para 4.7 of the application the respondent states that after the notification of the IAS (pay) fifth Amendment Rule 1997, the applicant was allowed provisionally the pay of Rs.15,500 in the third component of Revised Sr. Scale . This has been done in terms of GOI's clarification issued vide letter No.20015/4/97-AIS (II) dated 14/1/1998,

addressed to the Chief Secretaries of all State Government's and the Accountant General. It was thereby clarified that- "in case the pay scale of State Civil Services have not been revised, the pay of the promoted offices would first be fixed on the basis of the reckonable State pay in the pre-revised IAS pay scale. The corresponding stages in the revised IAS Scale would then be allowed in the component of the Sr. Scale in which such officers happen to fall in the pre-revised IAS pay scale. This was to be done till the State pay scale are revised by the respective State Government at CPI 1510 which is the base for the revision of the IAS pay scale from 1/1/96". This was done as an interim measure and the pay of the applicant was provisionally fixed at the stage of Rs.15,500/- in the revised scale of Rs.15,100 – 400 – 18,300/- of the Indian Administrative Service and the pay slip dated 3/7/98 was issued obtaining undertaking from the applicant as under :-

"I hereby undertake that any excess payment that may be found to have been made as a result of incorrect fixation of pay any excess payment detected in the light of discrepancies noticed subsequently will be refunded by me to the Government either by adjustment against future payment due to me or otherwise".

A copy of the undertaking is annexed as Annexure "F:"

Subsequently on receipt of State ROP'98 which was given effective from 1/1/96 the Substantive State pay of the applicant was revised at Rs.10,700/- on the basis of the state ROP as the applicant was a State Civil Service Officer on 1.1.96 . Thereafter the officiating pay of the applicant in the IAS Service has been finally fixed at Rs.11,300/- P.M. w.e.f. 30.12.96 (Revised State pay to revised IAS pay) and the pay slip dated 16/6/99 was issued in regularisation of the provisional pay slip vide No.GE Cell/IAS/330 dated 3/7/98. A copy of the payslip is annexed at Annexure "G" . This was done in accordance with the rules and regulations and while doing so none of the rule was violated and in such cases there is no provision of giving prior notices to the concerned applicant .

9. That with regard to the statement made in Para 4.8 of the application the respondent states that the applicant was in State Civil Services till 29.12.96 and as such the applicant was entitled to get the benefits of State pay revision of his substantive pay in the State Civil Service which was given effect from 1.1.96. The Applicant was on probation for one year from the date of joining (30.12.96) in the All India services i.e. up to 30.12.97 and hence the applicant's membership in the State Service cannot cease during the period of probation. The arrears of pay for the period from 1.1.96 to 29.12.96 therefore, was authorised to the applicant vide Pay Slip No.GE1/ACS/PS/3275-76 dated 26/3/99. Clause (4) , Section 1 of Schedule II of IAS (Pay) Rules,1954 which states that "In case of a promoted officer to the Indian Administrative Service on promotion, on any enhancement of his actual pay in the State Civil Service in which he holds a lien, as a result of an increment in the lower scale or the higher scale of that service or in the event of confirmation in the higher scale of the State Civil Service, the officer shall during the period of probation, be entitled to have his pay in the Senior time scale of the Indian Administrative Service re-calculated in accordance with principles laid down in this section on the basis of his enhanced pay in the State Civil Service, as if he was promoted to Indian Administrative Service, with effect from the date of such enhancement". Thus the above quoted clause is not applicable in the instant case. The State pay of the applicant was revised in terms of the rules and regulation of the State ROP'98. Necessary arrears pay slip was also issued to the applicant as per the said rules. Thus in no way the applicant's regular pay in the IAS service was interfered.

10. That with regard to the statement made in Para 4.9 , 4.10 & 4.11 the respondent has no comments.

11. That with regard to the Statement made in Para 4.12 of the application the respondent states that the Assam service (Revision of Pay) Rules 1998 has come into effect retrospectively from 1.1.96. Since the applicant was in the

State Service on 1.1.96 to 29.12.96, the revision of substantive pay of the applicant in the state service on 1.1.96 could not be denied. The state pay of the applicant was revised as under: -

<u>Pre Revised State Pay on 1/1/96</u>		<u>Revised State Pay Scale on 1/1/96</u>
Rs.3825-125-4450-150-5200-175-5900/-		Rs.10050-325-11025-400-14625-475-15575/-
Pay as on 1/1/96	= Rs.5,375/-	Revised pay fixed at Rs.10,700/- on 1/1/96.
DA as on 1/1/96	= Rs.3,550/-	
IR as on 1/1/96	= Rs. 350/-	
	<u>Rs. 9,275/-</u>	
Add 25% basic pay	<u>Rs.1,344/-</u>	Total emoluments in the revised Scale was Rs.10,970/- on 1/1/96.
Total emoluments in the pre-revised Scale was Rs.9,545/- on 1/1/96 (P/88) as follows:-		Pay Rs.10,700/- (Revised Scale Pay)
Pay	Rs. 5,375/- (pre revised state pay)	Spl. Pay Rs. 0,250/-
Spl. Pay	Rs. 0,250/-	CA <u>Rs. 0,020/-</u>
DA	Rs.3,350/-	<u>Rs.10,970/-</u>
IR	Rs.0,350/-	
CA	<u>Rs.0,020/-</u>	
	<u>Rs.9,545/-</u>	

It would be seen from the above Revision that the substantive pay of the applicant in the State Service was increased after the State Pay Revision effective from 1/1/96 . Hence, the retrospective operation of the pay revision of the State Service has not adversely effected the applicant in any way and the revision was done as per rules, regulations and proper authority.

11. That with regard to the statement made in Para 4.13 of the application the respondent states that clause (4) of Section I of Schedule II of IAS (pay) Rules,1954 states that "in case of a promoted officer appointed to the Indian Administrative Service on promotion, on any enhancement of his actual pay in the State Civil Service in which he holds a lien, as a result of a Increment in the

lower scale or higher scale of that service, or in the event of confirmation in the higher scale of the State civil Service the officer shall during the period of probation, be entitled to have his pay in the Sr. time scale of the IAS recalculated in accordance with the principles laid down in this section on the basis of his enhanced pay in the State Civil Service, as if he was promoted to the Indian Administrative Service with effect from the date of such enhancement” .

The applicant was in the State Civil Service till 29.12.96 and the revision of Assam State Pay was given effect from 1.1.96 that is within the period of his probation of one year and accordingly in terms of above rules his pay was revised as per Assam Service (Revision of Pay) Rules, 1998 effective from 1.1.96 and all consequential benefits were authorised to him . The respondent, therefore, not debarred any benefit of the applicant while he was in the State Civil Service.

12. That with regard to the statement made in para 4.14 of the application the respondent states that the applicant was appointed to Indian Administrative Service on promotion w.e.f. 30.12.96 and the officiating pay (not substantive pay) of the applicant was fixed at Rs.10,650/-provisionally in the revised scale of IAS pay as follows.

State pay as on

30.12.1996.
Rs.5375/-

Revised IAS pay Scale

Rs.10,650/- - 325-15,850/-
Pay fixed at Rs.10,650/-
(Minimum of the time scale)

Subsequently, the applicant has been allowed the corresponding revised pay of IAS from the presumptive Pre-revised pay of IAS as an interim measure since the State Pay Scale was not revised by the Assam Govt. at CPI 1510 till that time, which was the base for the revision of IAS pay Scale from 1.1.1996

in terms of GOI clarification issued vide no 20015/A/81-AIS (II) dated 14th January 1998 which states as follows:-

“subsequent to the revision of the pay scale for the Indian Administrative service w.e.f 1.1.1996, a question has been raised in regard to the mode of pay fixation to the SCS/non SCS officers promoted in the IAS, in case the pay scale of the respective State/non State Civil services have not yet been revised. It is clarified that in these cases the pay of such promoted officers would first be fixed on the basis of the reconable State pay in the pre-revised IAS pay scale unless this has been already done. The corresponding stages in the revised IAS Scale would then be allowed in the component of the Senior Scale in which such officers happen to fall in the pre-revised IAS pay scales. This has to be done till the State pay scale are revised by the respective State Govt. at CPI 1510 which is the base for the revision of the IAS pay scale from 1.1.1996.

Thus in terms of the above clarification pay of the applicant, was re-fixed provisionally at Rs.15,500/- as follows:-

(A). Pre-revised State pay to pre-revised IAS pay

<u>Pre-revised (State Pay) ACS-I Sr. Grade</u>	<u>Pre-revised IAS SR. Scale (Selection Grade)</u>
Scale Rs.3825-5900/- Pay as on 30/12/96 – Rs.5375/-	Scale (Rs.4,800-5700/-) Pay fixed at Rs.5400/- (Next higher stage) with DNI on 1/12/97.

(B). Pre-revised IAS pay to corresponding revised IAS pay.

Pre-revised IAS pay Rs.5400/ on 30/12/96	Revised corresponding IAS Pay Scale Rs.15,100-400-18300/- and Pay was fixed provisionally at Rs.15,500/- with D.N.I. on 1.12.97
---	---

The revised pay of Rs.15,500/- was authorised to the applicant provisionally pending the final outcome of the Pay Revision of the Govt. of Assam in terms of GOI's letter dated 14.1.98, as a temporary measures.

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13. That with regard to the Statement made in Para 4.15 of the application the respondent states that while the applicant was appointed to IAS on 30.12.96 his substantive pay in the State Civil Service was Rs.5375/- in the pre-revised State Pay Scale of Rs.3825 – 5100/- and the pay in the IAS was fixed at Rs.10,650/- in the next higher stage of revised IAS pay scale of Rs.10650 – 325- 15,850/-

Subsequently, on receipt of the GOI's clarification issued vide no.20015/A/81-AIS (II) dated 14th January 1998 the pay of the applicant was provisionally fixed at Rs.15,500/- as follows :-

A). Pre-revised State pay to pre-revised IAS pay

<u>Pre-revised (State Pay) ACS-I Sr. Grade Scale</u>	<u>Pre-revised IAS SR. Scale (Selection Grade)</u>
Rs.3825-5900/-	Scale (Rs.4,800-5700/-)
Pay as on 30/12/96 – Rs.5375/-	Pay fixed at Rs.5400/- (Next higher stage) with DNI on 1/12/97.

(B). Pre-revised IAS pay to corresponding revised IAS pay.

Pre-revised IAS pay Rs.5400/ on 30/12/96	Revised corresponding IAS Pay Scale Rs.15,100-400-18300/- and Pay was fixed provisionally at Rs.15,500/- with D.N.I. on 1.12.97
--	---

Again, after the Pay Revision of the State Government w.e.f. 1/1/96 the applicant's State Pay was revised as Rs.10,700/- (since the applicant was a State Civil Service Officer on 1/1/96) as follows:-

<u>Pre-revised State Pay Scale on 1/1/96</u> Rs.3825-125-4450-150-5200-175-5900/-	<u>Revised State Pay Scale on 1/1/96</u> Rs.10,050-325-11,025-400-14,625-475-1,575/-
Pay as on 1/1/96 Rs. 5,375/-	Revised Pay fixed as Rs.10,700/-

DA as on 1/1/96	Rs. 3,550/-	on 1/1/96
IR as on 1/1/96	Rs. 350/-	
Total	<u>Rs. 9,275/-</u>	
Add 25% basic Pay	Rs. 1,344/-	
Total	<u>Rs.10,619/-</u>	

And his pay in the IAS was regularised at Rs.11,300/- as follows:-

<u>Revised State Pay</u>	<u>Revised IAS Pay (Sr. Scale)</u>
Rs.10,050 – 15,575/-	Rs.10,650 – 15,850/-
Pay as on 30/12/96 at Rs.10,700	Pay fixed at Rs. 11,300/- (next higher stage of State Pay)

Thus, it would be seen that the Pay of the applicant was well protected in both the occasion (i.e. pre-revised State Pay to pre-revised IAS Pay and revised State Pay to revised IAS Pay).

14. That with regard to the statement made Para 4.16 of the application the respondent states that, immediately after the promotion of the applicant to IAS on 30.12.96, the pay of the applicant was fixed at Rs.10,650/- in the Revised IAS Pay Scale of Rs.10,650 – 15,850/-

Subsequently, on receipt of the GOI's clarification issued vide no.20015/A/81-AIS (II) dated 14th January 1998 the pay of the applicant was provisionally fixed at Rs.15,500/- (till the State pay is revised) as follows :-

A). Pre-revised State pay to pre-revised IAS pay

<u>Pre-revised (State Pay)</u>	<u>Pre-revised IAS Selection Grade</u>
ACS-I Sr. Grade	Scale (Rs.4,800-5700/-)
Scale Rs.3825-5900/-	Pay fixed at Rs.5400/-
Pay as on 30/12/96 – Rs.5375/-	(Next higher stage) with DNI on 1/12/97.

(B). Pre-revised IAS pay to corresponding revised IAS pay.

Pre-revised IAS pay Rs.5400/ on 30/12/96	Revised corresponding IAS Pay Scale Rs.15,100-400-18300/- and Pay was fixed
--	---

provisionally at Rs.15,500/-
with D.N.I. on 1.12.97

Again, after the Pay Revision of the State Government effective from 1/1/96 the applicant's Substantive State Pay was revised (since the applicant was a State Civil Service Officer on 1/1/96) and on the basis of the revised Substantive state Pay, the IAS pay on promotion of the applicant was finally fixed at Rs.11,300/- as follows:-

<u>Pre-revised State Pay Scale on</u> <u>1/1/96</u>	<u>Revised State Pay Scale on 1/1/96</u>
Rs.3825-125-4450-150-5200-175-5900/-	Rs.10,050-325-11,025-400-14,625-475-1,575/-
Pay as on 1/1/96 Rs. 5,375/-	
DA as on 1/1/96 Rs. 3,550/-	
IR as on 1/1/96 Rs. 350/-	
Total <u>Rs. 9,275/-</u>	
Add 25% basic pay <u>Rs. 1,344/-</u>	
Total <u>Rs.10,619/-</u>	
	Revised Pay fixed as Rs.10,700/- on 1/1/96
<u>Revised State Pay</u>	<u>Revised IAS Pay (Sr. Scale)</u>
Rs.10,050 – 15,575/-	Rs.10,650 – 15,850/-
Pay as on 30/12/96 at Rs.10,700/-	Pay fixed at Rs. 11,300/- (Next higher stage of State Pay)

That the pay slip issued vide No.GE Cell/IAS/251 dated 16/6/99 was in regularisation of earlier payslip issued vide No. GE Cell/IAS/330 dated 3/7/98 which was issued as an interim measure in terms of Government of India letter No.20015/4/97-AIS(II) dated 16.1.98.

The pay fixation of the applicant done subsequently after the State pay Revision, was therefore, as per rules and orders. And no violation of Rule was made.

15. That with regard to the Statement made in Para 4.17 of the application the respondent states that Sri Santanu Bhattacharjee, Smti. Sunanda Sengupta, Sri Bhudev Basumatary, are Senior to the applicant and appointed to IAS on 24.3.95 . Hence, they were entitled to the benefits of IAS pay, Fifth Amendment Rules, 1997 effective from 1/1/96. But on that day the applicant was in the State Civil Service and hence, he was entitled to get the benefit of State ROP"98 effective from 1.1.96 .

16. That with regard to the statement made in Para 4.18 and 4.19 of the application the respondent have no comments.

17. That with regard to the statement made in Para 5.1 and 5.2 of the application, respondent states that after the notification of Fifth Amendment IAS (Pay) Rules, 1997 which has been given effective from 1/1/96 , the pay of the applicant was fixed in the IAS Selection Grade Scale in terms of Government of India clarification issued Vide No.20015/4/87 IAS (II) dated 14th January, 1998 as an interim measure till the state pay is revised and pay slip was issued obtaining undertaking from the applicant to the effect that excess payment, if any, detected subsequently, will be refunded. Hence, the provisional arrangement will not confer any right on the applicant.

18. That with regard to the statement made in Para 5.3 of the application the respondent states that after the notification of Assam Service (Revision of Pay) Rules, 1998 on 4.7.98 , which was given effective from 1/1/96 , the substantive State pay of the applicant has been revised as the applicant was on State Civil Service on 1.1.96 and till 29.12.96(A.N.) The applicant was on probation for one year from the date of joining i.e. upto 30.12.97 and hence the applicant's membership in the State Service cannot be ceased during the period from 1/1/96 to 29/12/96 The arrear of pay for the period from 1.1.96 to 29.12.96 therefore was authorised to the applicant vide pay slip No.GE1/ACS/PS/3275-

76 dated 26/3/99. The action therefore, was taken as per existing Rules and orders and no violation of Rule was made.

19. That with regard to the statement made in Para 5.4 of the application the respondent states that in case of the other officer who were allowed the corresponding stage of pay in the IAS revised pay as an interim measure in terms of Government of India order dated 14/1/98, the regularisation pay slip have been issued on the basis of State ROP'98.

20. That with regard to the statement made in Para 5.5 and 5.6 the respondent has not comments.

21. That with regard to the statement made in Para 6 and 7 of the application respondent has no comments.

22. That with regard to the statement made in the Para 8,8.1, 8.2, 8.3, 8.4, .8.5, and Para 9 of the application the respondent has no comments.

VERIFICATION

I, Smti. Debolina Thakur, Deputy Accountant General, Office of the Accountant General (A&E), Assam, Beltola, Guwahati-29 being authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in this written statement are true to my knowledge and belief, and those made in paragraphs ²⁻¹⁹ being matters of records and are true to my information derived therefrom and those made in the rest are humble submission before the Hon'ble Tribunal.

And I sign this verification on this 18th day of July, 2003 at Guwahati.


(Debolina Thakur)

उप महालेखाकार (प्र०)
Dy. Accountant General (Admin.)
महालेखाकार का कार्यालय (वि. प्र. वि. वि.)
O/O the Accountant General (A & E)
असम, गुवाहाटी
Assam, Guwahati

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ANNEXURE - A

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GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : I & A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-781006
OFFICE

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 3rd January, 1997.

NO. AI. 32/94/ 311 : The following notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Deptt. of Personnel and Training, New Delhi is republished for general information.

"Notification No. 14015/4/96-AIS(I), Dated 30th December, 1996.

In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by promotion) Regulations, 1955, the President is pleased to appoint the following members of the State Civil Service of Assam to the Indian Administrative Service on probation with immediate effect and to allocate them to the Joint Cadre of Assam-Meghalaya under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954 :

<u>Sl.No.</u>	<u>S/Name</u>
1.	Arundh Karmakar Talakar
2.	Kamal Krishna Bazarika
3.	Jones Ingti Rather
4.	Ritendra Nath Sharma
5.	Laxmi Nath Tamuly and
6.	Lali Chand Singhi

Sd/- R. VADYANATHAN
DESK OFFICER

Sd/- S.H. ISLAM
Deputy Secretary to the Govt. of Assam.

Memo No. AI. 32/94/311-A : Dated Dispur, the 3rd January, 1997.
Copy to :-

1. The Accountant General (A&E)/(Audit), Meghalaya, Shillong.
2. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-20.
3. The Chairman, Assam Administrative Tribunal, Guwahati.
4. The Chairman, Assam Board of Revenue, Guwahati.
5. The Chairman, Assam State Electricity Board, Guwahati.
6. All Principal Secretaries/ Commissioners & Secretaries/ Officers in the Govt. of Assam.

Contd.....

Attended
AK

7. The Chief Electoral Officer, Assam, Dispur.
8. The Resident Commissioner, C. E. of Assam, Assam House, New Delhi.
9. The Agricultural Production Commissioner, Assam, Dispur.
10. All Commissioners of Divisions, Assam.
11. The Commissioner & Secretary to the Chief Minister, Assam, Dispur.
12. The Chief Secretary to the Govt. of Meghalaya, Shillong.
13. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, New Delhi.
14. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Career Management Division, New Delhi.
15. The Desk Officer, Govt. of India, Ministry of Personnel, P.G. & Pensions, Deptt. of Personnel & Training, New Delhi.
16. The Secretary to the Governor of Assam, Dispur.
17. The PPS to Chief Minister, Assam, Dispur.
18. The Spl. Officer to Chief Minister, Assam, Dispur.
19. All Principal Secretaries of the Autonomous Councils.
20. All Deputy Commissioners/ Divisional Officers.
21. All Heads of Deptt/ All Deptt. of Assam Secretariat.
22. The Secretary, State Election Commission, Houseful Complex, Dispur.
23. The Secretary-cum-Registrar, Office of the Lokayukta, Nalbari, Guwahati.
24. The Supdt., Assam Govt. Press, Bamunimaidan, Guwahati-24 for publication of the above notification in the Assam Gazette.
25. The PS to Chief Secretary, Assam, Dispur.
26. The PS to Addl. Chief Secretaries, Assam, Dispur.
27. All PS to Ministers/ Ministers of State.
28. Officers concerned.

Sd/- A. K. Malakar, M.S.
Jt. Secy, E&A Deptt

By order etc.,

[Signature]

(S. N. ISLAM)

Deputy Secretary to the Govt. of Assam

...

17-84-

45

[M.S.C. (1) 9.]

[See paras 162 and 184 (1) M.S.C. (1)]

OFFICE OF THE JOINT GENERAL & DEPUTY COMMISSIONER GUWAHATI
No. 11/3/827 GUWAHATI dt. 11/3/19

is informed that under No. 11/3/827 dated (Gazette page)

he is entitled to draw pay leave salary and allowance at the monthly rates shown below from the dates specified less the amount already drawn.

	From	From	From	From	From	From	From	From	From	From
Substantive pay	30.11.81	1.12.81	1.12.81	1.12.81	1.12.81	1.12.81	1.12.81	1.12.81	1.12.81	1.12.81
Officiating pay	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81	10.05.81
Joining time pay										
Special pay	250	250	250	250	250	250	250	250	250	250
Leave Salary										
Non-practising allowance										
Dearness allowance	625	625	625	625	625	625	625	625	625	625
House Rent allowance										
City compensatory allowance										
Kit maintenance allowance										
Winter allowance	575	575	575	575	575	575	575	575	575	575
Medical allowance										
Hill allowance	250	250	250	250	250	250	250	250	250	250
Total	1225	1225	1225	1225	1225	1225	1225	1225	1225	1225

N.B. D.A admissible from may be computed and claimed at the rates applicable on basic pay only as per this office General authority No. GEI/DA/State/83-84/546 dated 23rd August, 1984, 815 dated 15th March, 1984, 2175 dated 5th March 1985, 805 dated 10th September 1985, 664 dated 3rd March 1986.

copy 8/10

copy

11/3/82

[Handwritten signature]

New Delhi, dated 14 January, 1986.

ANNEXURE C

1. The Chief Secretaries of
All State Governments &
Union Territories.

2. All Accountants General.

Subject:-IAS (Pay) Rules, 1954 - fixation of pay of
SCS/non-SCS officers promoted in the IAS -
revision of pay scales from 1.1.96 -
clarifications regarding.

Sir,

I am directed to say that subsequent to the revision of the pay scales for the Indian Administrative Service w.e.f. 1.1.1996, a question has been raised in regard to the mode of pay fixation of the SCS/non-SCS officers promoted in the IAS, in case the pay scales of the respective State/non-State Civil Services have not yet been revised. It is clarified in this connection that in these cases, the pay of such promoted officers would first be fixed on the basis of the reckonable State pay in the pre-revised IAS pay scales unless this has been already done. The corresponding stages in the revised IAS scales would then be allowed in the component of the Senior Scale in which such officers happen to fall in the pre-revised IAS pay scales. This has to be done till the State pay scales are revised by the respective State Governments at CPI 1510 which is the base for the revision of IAS pay scales from 1.1.96. Illustrations in this regard are appended with this letter.

The above clarifications will apply mutatis-mutandis to the promoted officers of the Indian Police Service and the Indian Forest Service.

Yours faithfully,

(Y.P. Dhingra)
Desk Officer

Copies also to:-

1. MHA(UTS Section) (with 5 spare copies).
2. MHA (IPS-II)(with 20 spare copies).
3. Ministry of Environment & Forests (IFS-II)
(with 20 spare copies).

Spare copies - 200.

(Y.P. Dhingra)
Desk Officer

Attested
AM

CASE - 1

Hypothetical case of an SCS officer appointed in IAS w.e.f. 10.7.97

1. Pay drawn in officiating capacity at the time of appointment in IAS. Rs. 3950
(State pay scale of Rs. 3700-5000)
2. Pay and post in which he was substantive in the State Government. Rs. 3750
(State pay scale of Rs. 3000-4500)
3. Pay fixed in IAS in the pre-revised scales, on the basis of reckonable State pay. Rs. 3025
(Pre-revised Senior Time Scale of Rs. 3200-4700)
4. Corresponding stage in the revised Senior Time Scale of IAS of Rs. 10650-325-15850. Rs. 11,300
w.e.f. from 10.7.97

CASE-2

Hypothetical case of a promoted officer, appointed in IAS w.e.f. 1.12.95.

1. Reckonable pay in the State Government as on 1/12.95. Rs. 6150
(Selection Grade of Rs. 5100-6300)
2. Pay fixed in the IAS in accordance with the relevant provisions of Section I, Schedule II of the IAS (Pay) Rules, 1954. Rs. 5700
(The third component of Senior Scale of IAS upto which promotion of State pay is allowed)
3. Corresponding stage in the revised Selection Grade of Rs. 15100-400-18300. Rs. 15,900
(Rs. 1.1.98).

②

M.S.O. (1) 9.]

See paras 162 and 184 (1) M.S.O. (T)]

OFFICE OF THE ACCOUNTANT GENERAL (A & E) ASSAM, ETC., GUWAHATI

No. 61/100/330 GUWAHATI the 5.7.78 19

is informed that under No. 7424 dated _____ (Gazette page _____)

he is entitled to draw pay leave salary and allowance at the monthly rates shown below from the dates less the amount already drawn.

[illegible]

N.B.

D.A admissible from may be computed and claimed at the rates applicable only as per this office General authority No. GEI/DA/State/83-84/546 dated 23rd August, 1984, 815 dated 11th November, 1984, 2175 dated 11th March 1985, 805 dated 10th September 1985, 664 dated 3rd March, 1985.

15th

4 orders of the
approved to the
Office (A)

B. :- (1) In case of leave salary the nature of leave may be specified in columns (1) to (2) overleaf.
(2) Where the leave salary during leave is allocable among different Government the allocation should be clearly indicated.

Executive Engineer, P.W.D. Building Division, for

Copy forwarded to the Estate Officer

Date.....

Signature.....
Assistant Accounts Officer

Signature.....
Assistant Accounts Officer

Copy forwarded to the Treasury Officer for information. He should insert the details of pay given above in last pay certificate passed by him in favour of this Government servant.

Signature.....
Assistant Accounts Officer

Date.....

Here state the stage at which a pause or efficiency bar operates.

2- Deductions of fund subscriptions and recoveries of Government due as noted in the last pay certificates should be unless otherwise stated.

Note :- 1- It is particularly requested that the slip may be attached to the first pay Bill drawn at these rate and that No. may be entered at his audit number at the top of every pay bill.

III-Drawal of House Rent is subjected to production of certificate in Annexure I or II or III whichever is applicable as in Finance Department O.M. No. F.M. 63/74/5, dated 11th June 1974/No. F.M. 85/83/11, dated 2nd September 1983 and the pay Bill for the month of January and July each year.

II-Drawal of non-practising allowance is subject to production of usual non-practising certificate. This scale of pay is instruction to the contrary this may be drawn till the stage is reached. in current accrues on every year and in the absence

Note :- A detailed statement showing the amount already drawn together with corresponding T.V. Nos. and dates and the amount to be should be appended to the Bill for arrear claims.

88-89-100

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1) Last P.S. at 5/1
2) P.S. at 22/2

(M.S.O. (1) 9)

Pay/Leave Salary Slip
(A & E)

[See paras. 162 and 134 of M.S.O. (10)] Office of the Accountant General, Assam, Guwahati-29

No. UE-1/PCS/PS/3275-76 Guwahati the 26-3-99 1999

Sri J. K. Kothari, A.C.S. (Now I.A.S.) Dy. Commissioner, Karimganj

is informed that under No. _____ dated _____ (Gazette page 25(13))

he is entitled to draw pay leave salary and allowance at the monthly rates shown below the dates specified less the amount already drawn:

Particulars	From	From	From	From	From	From	From	From	From	From	From	From	From
	1-1-96	1-7-96	2-9-96	11-9-96	30-12-96								
Substantive pay	10700/-	10700/-	10700/-	10700/-									
Officiating pay													
Joining time pay													
Special pay →	2500/-	2500/-	2500/-	2500/-									
Leave Salary →			10700/-										
Non-practising allowance													
Dearness allowance →		428/-	628/-	428/-	NIL								
City compensatory allowance													
Kit maintenance allowance													
Winter allowance													
Compensatory allowance →	2500/-	2500/-	2500/-	2500/-									
Medical allowance													
Hill allowance													
Total	11200/-	11628/-	11628/-	11628/-									

① Payment is subject to production of due & drawn statement

1. D.A. as admissible on basic pay may be drawn as per General Authority issued by this office.

N.B. : Arrear Pay & Allowances from 1st January, 1996 to 31st July 1998 should be credited to G.P. Fund Account vide Govt. Notification No. F.P. 1169 dated 16 July 1998.

[Handwritten signature]

107-91

Note :- I - A detailed statement showing the amount already drawn together the corresponding T.V. Nos. and dates and the amount to be drawn should be agreed between the Government and the claimant.

Note :- II - Drawal of non-practising allowance is subject to production of usual non-practising certificate. This scale of pay is increment accrues on every year and in the absence of contrary this may be drawn till the stage * is reached.

Note :- I. It is particularly requested that the slip may be attached to the first pay Bill drawn at these rates and that No. 20(12) may be entered at his number at the top of every pay bill.

2. Deductions of fund subscriptions and recoveries of Government due as noted in the last pay certificates should be effected unless otherwise stated.

Date
No.
Copy forwarded to the Treasury Officer *Rasungary* for information. He should insert the details of pay given above in any last pay certificate issued by him

Signature
Assistant Accountant General
Sr. Accounts Officers

Date
No.
Copy forwarded to the Treasury Officer *Rasungary* in favour of this Government servant.

Signature
Assistant Accountant General
Sr. Accounts Officers

Signature
Assistant Accountant General
Sr. Accounts Officers

Estate Officer
Copy forwarded to the *Executive Engineer, P.W.D. Building Division.* for information.

N.B. (1) In case of leave salary the nature of leave may be specified in column (1) to (12) overleaf.
(2) Where the leave salary during leave is allocable among different Government the allocation should be clearly indicated.

92-25

ANNEXURE-F

87

Annexe-II 103

UNDERTAKING

I hereby undertake that any excess payment that may be found to have been made as a result of incorrect fixation of pay or any excess payment detected in the light of discrepancies noticed subsequently will be refunded by me to the Government either by adjustment against future payments due to me or otherwise.

Date : 29.1.1998.

Station : Guwahati.

Phone-561640(6).

Attested
MK Chandra

Signature.....

Name..... J. I. Kathari, Jr.
Jt. Secy, P & D. Dept.
and
Designation..... Director, Monitoring
and Evaluation,
Kabilipara,
Guwahati-1

93-104-26
Pay/Leave Salary Slip
 (A & E)

[M.S.O. (19)]

[See paras 162 and 184 (I) M.S.O. (10)]

Office of the Accountant General, Assam, Guwahati-29

No. GL Cell/DAS/251Guwahati the 16.6.98

19

2) Revised final of Shri. Kalia

at P/s

3) 6.7.98. CCA at Delhi Rate

Shri J. S. Kalia, DAS, Secretary, Commissioner, Nagaon, Assam

is informed that under No. _____ dated _____ (Gazette page _____)

Handling over transfer
Tally over on 17.9.98

he is entitled to draw pay leave Salary and allowance at the monthly rates shown below the dates specified less the amount already drawn.

Particulars	From	From	From	From	From	From	From	From	From	From	From	From	From	From	From	From
Substantive pay	11300	11300	11300	11300	11300	11300	11625	11625	11625	11625	11625	11950	11950	11950	11950	11950
Officiating pay																
Joining time pay	250	250	250	250	250	250	250	250	250	375	375	375	375	375	375	375
Special pay																
Leave Salary																
Non-practising allowance																
Dearness allowance	452	904	1409	1409	1409	1409	1511	1511	1511	2558	2558	2558	2620	3524	3524	3524
City compensatory allowance							20	20	20	20	20	20				
Kit maintenance allowance	675	675	675	675	675	675	1413	1413	1413	1453	1453	1453	1453	1494	1494	1494
Winter allowance																
Compensatory allowance	250	250	250	250	250	250						375	375	375	375	375
Medical allowance																
Hill allowance																
Total	12924	13372	13944	13944	13944	14454	14865	14865	14865	15208	15208	15208	15208	16386	16386	16386

② Handing Over Chan
 Report to Director
 Land Records Wante

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1. D.A. as admissible on basic pay may be drawn as per General Authority issued by this Office.

N.B. : Arrear Pay & Allowances from 1st January, 1996 to 31st July 1998 should be credited to G.P. Fund Account vide Govt. Notification No. FPC.5/94/169 dated 4th July 1998.

Alt
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N.B. (1) In case of leave salary the nature of leave may be specified in column (1) to (12) overleaf.
(2) Where the leave salary during leave is allocable among different Government the allocation should be clearly indicated.

Copy forwarded to the Executive Engineer, P.W.D. Building Division, for information.

Estate Officer

No. 10

Date

Copy forwarded to the Treasury Officer
in favour of this Government servant.

75-10015-14 ON

Date _____

* Here state the stage at which a pause or efficiency bar operates.

2. Deductions of fund subscriptions and recoveries of Government due as noted in the last pay certificates should be effected unless otherwise stated

top of every pay bill.

Note :- 1. It is particularly requested that the ship may be attached to the first pay Bill drawn at these rates and that No. 281 N.M. may be entered at his such number at the

consistency this may be drawn till the stage * is reached.

..... This scale of pay is increment accrues on every year and in the absence of instruction to the

II - Drawal of non-practising allowance is subject to production of usual non-practising certificate.

[illegible]

Note :- I - A detailed statement showing the amount already drawn together the co

and dates and the amount to be drawn should be appended to the bill for

St. Accounts Officers

Assistant Accountant General

Signature

S, Accounts Officers

Assistant Accountant General

Signature

St. Accounts Officers

Assistant Accountant Général

Signature

19 DEC 2003

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A.NO. 85/2003

Shri Jones Ingti Kathar

..... Applicant

- Versus -

Union of India & Others

..... Respondents

- AND -

In the matter of :

Written statements on behalf of the State of Assam represented by the Chief Secretary (Respondent No. 2) and the Secretary to the Government of Assam, Personnel (A) Department, Dispur, Guwahati (Respondent No. 4).

(Written statement on behalf of the Respondent Nos. 2 & 4 filed by the applicant).

I, Shri N.C. Misra, S/o Late Easudev Misra presently working as Deputy Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6 do hereby solemnly state as follows :-

1. That, I am the Deputy Secretary to the Govt. of Assam, Personnel (A) Department. Copies of the aforesaid application have been served upon the respondent Nos. 2 & 4, I perused the same and understood the contents thereof. I have been authorised to file this

Contd..... 2/-

98-
106
Filed by :-
The State of Assam Govt.
Respondent No. 2 & 4
Naren K Chandra Mishra
Secy. Sec. Personnel Deptt.
Manoj Kumar Das, Jt. Secy. Govt. Assam
(St. 9. Assam)
EAT. 18/12/03

written statements before the Hon'ble Tribunal on behalf of the respondent Nos. 2 & 4, I do not admit any of the allegations/averments made in the application which are contrary to records. My statements which are not specifically admitted herein after are deemed to be denied.

Narendra Chandra Sharma

2. That in regard to the statements made in paragraphs 4.1 & 4.2 of the application, the answering respondent has nothing to make comment on it as they are the matters of record.

3. That in regard to the statements made in paragraphs 4.3, 4.4, 4.5, 4.6, 4.7, 4.8 and 4.9 it is stated that so far the fixation of pay is concerned the Accountant General i.e. the respondent No. 3 is to fix the pay of the applicant.

4. That in regard to the statements made in paragraph 4.10 of the application, the answering respondent begs to state that as per direction of the Hon'ble Tribunal in O.A. No.266/99 dated 25-6-2001 the applicant made a representation dated 2-11-2001 before the Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, North Block, New Delhi.

The copy of the said representation has been forwarded to the respondent No. 4. Thereafter, the Government of India examine the matter in detail by taking into account of the representation filed by the applicant and found that the action taken by the Accountant General in reducing the pay of the applicant subsequent to retrospective state pay revision was in order and in accordance with the relevant Rules and instructions.

Narek Chandra Miana

5. That in regard to the statements made in paragraphs 4.11 and 4.12 of the application the answering respondent has nothing to make comment on it. He, however does not admit anything which are contrary to record.

6. That in regard to the statements made in paragraphs 4.13 and 4.14 of the application it is stated that the fixing of pay is to be made by the Accountant General i.e. the respondent No.3 and in that case the answering respondent has no comment on it.

7. That in regard to the statements made in paragraphs 4.15 and 4.16 of the application it is stated that as per the judgement passed by this Hon'ble Tribunal vide Order dated 25-6-2001 the applicant made a representation before the Government of India and same has been examined in detail by the Govt. of India i.e. respondent No. 3 in reducing the pay of the applicant subsequent to the retrospective state pay revision was in order and well in accordance with the rules and institutions as it appear in Annexure-7 to the original application.

8. That in regard to the statements made in paragraphs 4.17 and 4.18 the answering respondent has nothing to make comment on it. He however does not admit anything which is contrary to records.

102-98-109

VERIFICATION

I Shri N.C. Misra, Son of Late Basudev Misra, Deputy Secretary to the Government of Assam, Personnel (A) Department, Dispur, Guwahati-6 do hereby verify that the statements made in paragraphs 1,3,4,5,6 and 8 are true to my knowledge; those made in the paragraphs 2 and 7 are being matter of records of the case derived therefrom which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal.

An I sign this verification on this the 18th Day
of December, 2003 at Guwahati.

Narek Chandra Misra
SIGNATURE.