

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

9

(DESTRUCTION OF RECORD RULES, 1990)

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allowed date-11/01/05

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R.A/C.P No. 02/06

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FORM No. 4  
 RULE 121  
 CENTRAL ADMINISTRATIVE TRIBUNAL  
 CIVIL PETITION

ORDER SHEET

Org. app./Misc Petn/Cont. Petn/Rev. Appl. .... 12-7/04

Name of the applicant(s) ... In *S. A. ...* *Shri L. Varle*

Name of the Respondent(s) ... *Union of India & Ors.*

Advocate for the Applicant *Mr. M. Chandra. Mr. G. V. Chakraborty*  
*Mr. S. Nath*

Counsel for the Railway/CGSC. .... *CGSC*

OFFICE NOTE

DATE

31.5.2004

ORDER OF THE TRIBUNAL

Heard Mr. S. Nath, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

The application is admitted, for the records. Issue notice to parties, returnable within four weeks. List on 29.6.2004 for orders.

This application is in form is filed/C.F.C. & 3/-

deposited with the Registrar

No. *1162982980*

Date *3.5.04*

By Registrar

*22/5/04*

*K. D. Meher*  
 Member

Steps taken with envelope.

mb

28.7.2004

Written statement has been filed by the respondents. The applicant is allowed four weeks time to file a rejoinder. List on 31.8.2004 for orders.

*K. D. Meher*  
 Member

Notice & order sent to D/Section for issuing to respondent nos. 1 to 5, by regd. with A/D post.

mb

*7/6/04*

D/Memo No = 101620  
*10/6/04* 1020, D/- 10/6/04

4/10 card return

from resp. No-1,5

31.8.2004

List the case on 2.9.2004  
alongwith the M.P.

7/104

*[Signature]*  
Member (A)

27-7-04

bb

Notre duly served

02.09.2004

on R-No. 1,5

No. 6/15 has been filed

In view of the order passed in  
M.P.80/2004 U.P.S.C. is to be impleaded  
as respondent No.6.

Issue notice to respondent No.  
6.

List the case on 4.10.2004 for  
further orders.

29.7.04

W/s filed by the  
respondent Nos. 1 to 5;

bb

*[Signature]*  
Member (A)

9.8.04

Respondent filed  
the application.

*[Signature]*

8-04

1/5 has been filed

Impleaded resp. No-6,  
ide order dt. 2/9/04.  
pass in MP 80/04.

19/04

0A 127/04

Notes of the Registry

Date

Orders of the Tribunal

1/10/04

04.10.2004

Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman  
The Hon'ble Mr. K.V. Prahladan, Member (A).

- as been filed on
- 1) Draft of two respondents 1 to 5.
  - 2) Rejoinder has been filed by the applicant.
  - 3) A/D cards not received from R-6.
  - 4) S/R is awaited from R-6.

Mr. M. Chanda, learned counsel for the applicant and Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the respondents were present.

Service of respondent No. 6 is awaited. Waiting service of respondent No. 6 adjourned to 24.11.2004.

1/10/04

mb

K.V. Prahladan  
Member (A)

R  
Vice-Chairman

24.11.04.

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

List the case for hearing on 2nd December, 2004.

- 23-11-04
- 1) Notice duly served on R-6 to 1-5.
  - 2) W/S has been filed.
  - 3) S/R awaited.

lm

K.V. Prahladan  
Member

2.12.04.

Though the matter was listed for hearing, yet to file an application for amendment which has been prayed for time to file reply on 18th January

- 1-12-04
- 1) The case is for hearing.

ff/...



Notes of the Registry

Date

Orders of the Tribunal

2.12.04.

Let this case be listed  
alongwith M.P. No. 144 of 04 on  
3rd January, 2005.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

lm

3.01.2005

List on 11.1.2005 alongwith  
M.P. 144/2004.

*[Signature]*  
Member (A)

mb

11.1.2005

In view of the order passed  
in M.P.144/2004, applicant shall  
file consolidated petition within  
three weeks from today with  
copy to learned M.L.C.G.S.C. for  
the respondents.

List on 7.2.2005.

*[Signature]*  
Member

bb

07.02.2005

Present: The Hon'ble Mr.M.K.Gupta  
Judicial Member.

Consolidated O.A. has not been  
filed despite order was passed on  
11.1.2005. Learned counsel for  
applicant Mr.S.Nath seeks time  
to comply with the said direction  
Adjourned to 14.2.2005.

*[Signature]*  
Member

bb

The case is ready for  
hearing as regards  
H/S and Rejoinder.

*[Signature]*  
31/12/04.

4-2-05  
No Consolidated  
petition filed.

lm

10.2.05

Consolidated application  
has been filed by the  
applicant.

*[Signature]*  
10.2.05

O.A. 127/2004

Notes of the Registry Date Order of the Tribunal

14.02.2005

Present : The Hon'ble Mr. M.K. Gupta, Judicial Member.

None appears for the parties. Adjourned to 16.3.2005 for filing reply to condensed/amended O.A.

Member (J)

mb

16.03.2005

Present: The Hon'ble Mr. Justice G. Sivar Vice-Chairman

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

At the request of learned counsel for the parties the case is adjourned to 6.4.2005 for hearing.

Member

Vice-Chairman

bb

6.4.2005

Division Bench is not available. Hence adjourned to 9.5.2005 for hearing.

Vice-Chairman

bb

9.5.05

At the request of Mr. A.K. Choudhury Addl.C.G.S.C. case is adjourned to 19.5.05.

Member

Vice-Chairman

lm

19.5.05

Mr A.K.Choudhury, learned Addl.C.G.S.C is not present.

post on 2.6.05 for hearing.

Member

Vice-Chairman

pg

15-3-05

W/S has been  
entered.

16.3.05

W/S filed by the  
respondents.

Case is ready for hearing.

O.A. 127/2004

Notes of the Registry Date

Order of the Tribunal

2.6.05

Mr A.K. Chaudhuri, learned Addl. C.G. S.C submits that the case may be taken up on 9.6.05 for hearing.

Case is ready for hearing.

Member

Vice-Chairman

pg

9.6.2005

Heard Mr M. Chanda, learned counsel for the applicant, and Mr A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Hearing concluded. Orders reserved.

Member

Vice-Chairman

nkm

08.07.2005

Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order passed in separate sheets.

Member

Vice-Chairman

mb

Copy of the Indent  
been collected by  
applicant and  
the Indent has  
been handed over to the  
Addl. C.G.S.C. on 13.7.05.

Notes of the Registry	Date	Order of the Tribunal
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15.2.06

As per Hon'ble Court's  
order dated 8.7.2005  
passed in O.A 127/2004  
by this Hon'ble Tribunal  
a compliance report  
filed by the respondents.

Submitted before  
the Hon'ble Court for  
further order.

Sincerely yours

Hi.

In respect to the  
Hon'ble Court's order  
dated 8.7.05 passed in  
O.A 127/04 a compliance  
report has been  
received by post from  
The Under Secretary  
to the Govt. of India  
which may kindly  
be seen at place

Submitted for  
your kind  
perusal.

ch.  
28/4.

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./P.A. No. 127 of 2004

DATE OF DECISION : 08.07.2005.

Shri L. Varte

APPLICANT(S)

Mr. M. Chanda

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

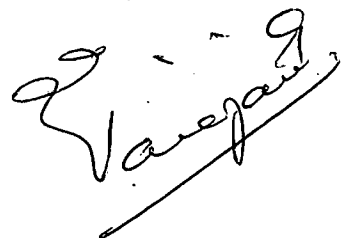
ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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

Judgment delivered by Hon'ble Vice-Chairman.

Yes  


10

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application Nos. 127/2004

Date of Order : This the 88th day of July 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

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

Sri Lienkhawthang Varte  
Son of Sri H.V. Varte  
Rehabilitation Officer  
VRC for handicapped,  
Rehabari, Guwahati - 8.

... Applicant.

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

- Versus -

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Labour,  
New Delhi - 110 001.
2. Deputy Secretary to the  
Government of India  
Ministry of Labour,  
New Delhi - 110 001.
3. The Director General of Employment and Training,  
Joint Secretary to the Government of India,  
Ministry of Labour (DGE&T),  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi - 110 001.
4. The Dy. Director General (Employment)  
Ministry of Labour (DGE&T),  
Shram Shakti Bhawan, Rafi Marg,  
New Delhi - 110 001.
5. Assistant Director (Rehab.)  
V.R.C. for Handicapped,  
Rehabari, Guwahati - 8.
6. U.P.S.C., through its Secretary, 11 Dholpur House,  
Shahjahan Road, New Delhi.

... Respondents.

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

.....

ORDERSIVARAJAN. I. (V.C.)

The applicant belongs to ST community. He was initially appointed as U.D. Clerk in the Office of the Commissioner of Income Tax, NER, Shillong in the year 1984. While so, he applied for the post of Rehabilitation Officer pursuant to a notification dated 25.03.1986 issued by the Union Public Service Commission (UPSC in short). He was selected and appointed as Rehabilitation Officer in the Office of the Directorate General of Employment and Training under the Ministry of Labour, Government of India. Accordingly, he joined as Rehabilitation Officer on 25.03.1986. A gradation list (Annexure - II) was published on 01.01.1989 in which the applicant was placed at Sl. No. 8 as a ST candidate. On 27.11.1996, the applicant submitted a representation to the 3<sup>rd</sup> respondent for consideration of his promotion to the post of Superintendent against the reserved post of ST. Three (3) posts of Superintendents which fell vacant in the year 1997 were filled up on ad hoc basis as per order dated 07.03.1997 (Annexure - III). The applicant then submitted representation dated 19.03.1997 (Annexure - IV) for consideration of his case for promotion. The Additional Superintendent of Employment Exchange, by communication dated 08.05.1997 (Annexure - VI) informed the applicant that four posts of Superintendent had been decided to be filled up and proposal in that regard has already been sent to the UPSC. It is clearly stated therein that out of the four posts one is reserved for ST and being lone ST candidate the applicant was under zone of consideration. Though the said four posts of Superintendent were filled up as per communication dated 13/15-4-1999 (Annexure - VII), the case of the applicant was not considered. He therefore



submitted representation dated 29.04.1999 (Annexure - VIII) before the 3<sup>rd</sup> respondent against denial of promotion in the reserved post which was replied by the 2<sup>nd</sup> respondent by communication dated 26.05.1999 (Annexure - IX), wherein it is stated that four vacancies in the grade of Superintendent VRC had been filled up by promotion and as per revised roster based on the instructions issued by the DOP&T O.M. No. 36012/2/96-Estt.(Res.) dated 02.07.1997, none of the vacancies was required to be reserved for ST category. Again one more vacancy of Superintendent was filled up by the 2<sup>nd</sup> respondent by order dated 07.06.1999 (Annexure - X) without considering the case of the applicant. The applicant then submitted a representation dated 20.08.1999 (Annexure - XI) to the Chairman, National Commission for Scheduled Castes and Scheduled Tribes pointing out non consideration of the case of the applicant to the post of Superintendent. The Commission by communication dated 15.09.1999 (Annexure - XII) took up the matter with the 3<sup>rd</sup> respondent and called for details from the said authority. The 2<sup>nd</sup> respondent then by communication dated 06.10.1999 (Annexure - XIII) informed the applicant with reference to the representation submitted before the Commission that no post is available for ST category. Subsequently, the National Commission for Scheduled Castes and Scheduled Tribes by communication dated 09.11.1999 (Annexure - XIV) issued direction to the 3<sup>rd</sup> respondent to recast the post-based roster for the post of Superintendent and to take necessary action to promote the applicant against the ST carried forward point on immediate basis. Then the 2<sup>nd</sup> respondent by communication dated 26.05.2000 (Annexure - XV) informed the 3<sup>rd</sup> respondent that the case of the applicant was being sent to the UPSC for consideration. The National Commission for





Scheduled Casts and Scheduled Tribes by letter dated 31.05.2000 (Annexure - XVI) informed the applicant that reply of the Directorate seems to be satisfactory. However, the applicant was directed to clarify if there is any disagreement in that regard. In the meantime, the applicant received certain adverse remarks in his ACR for the year 1999-2000 which was later expunged by the 3<sup>rd</sup> respondent as per communication dated 03.09.2001 (Annexure - XVII). Later the 2<sup>nd</sup> respondent by communication dated 11.12.2001 informed the National Commission that UPSC did not agree with the candidature of the applicant against the reserved post of ST and that the case will be considered by DPC alongwith other candidates. This was intimated to the applicant by the National Commission for Scheduled Castes and Scheduled Tribes vide communication dated 02.01.2002 (Annexure - XX). A seniority list of Group 'B' Officers working in VRC was published on 29.01.2002 (Annexure - XVIII). The applicant was granted 1<sup>st</sup> financial upgradation w.e.f. 09.08.1999 on the recommendation of the DPC held on 15.02.2002 by order dated 20.02.2002. Later the respondent by order dated 05.05.2003 (Annexure - XXI) again promoted two other persons to the post of Superintendent without considering the case of the applicant against backlog ST post. The applicant is thus aggrieved by the denial of promotion to him to the post of Superintendent in spite of the fact that he became eligible for promotion to that post of Superintendent as per Recruitment Rules as early as in 1991. It is his case that being the only ST candidate, he is entitled to consider his case for promotion against ST quota which occurred during the year 1996 as is evident from the letter dated 08.05.1997 issued by the Additional Director of Employment Exchange. It is also his case that his case has to be

*gry*

considered in terms of roster points and Rules of Reservation. The applicant had contended that the backlog ST vacancy could not be carried forward from year to year and unreserved candidates could not be appointed against the vacancy reserved for ST candidates, when an ST candidate - namely the applicant was available for promotion in the department. It is also the contention of the applicant that vacancy in the post of Superintendent is required to be filled up as per rules prevailing on the date of occurrence of the vacancy and the subsequent amended rules, if any, cannot apply to fill up the said vacancy and therefore, revised roster points based on the instruction issued by the DOP&T OM dated 02.07.1997 has no application to the present case. It is also contended that denial of promotion of the applicant to the post of Superintendent is in violation of Articles 14 and 16 of the Constitution.

2. The respondents have filed their reply. It is stated therein that the vacancy reserved for ST candidates was a "carried forward vacancy" for the year 1999-2000. The promotion year 1999-2000 which had been referred by the applicant is not correct. It is in the year 2001-2002 that recommendations of DPC were placed in "Sealed Cover", due to non-clearance of vigilance and "Sealed Cover", will be opened only after receipt of vigilance clearance. As per the DPC instructions (Annexure - R-I) at the time of forwarding of proposal to UPSC, vigilance clearance and Integrity Certificate of the candidates who are in the zone of consideration is also required. In case of the applicant, it was intimated that a disciplinary proceeding has been contemplated (Annexure - R-II) for committing financial irregularities. However, no major or minor penalty imposed on him. Since the case of the applicant comes under para 11.1(ii) and para 11.2 (Annexure -

*Jps*

R-II) of DPC instructions, the recommendations of DPC meeting were kept in "Sealed Cover" by the UPSC and on the envelope it was recorded "Not to be opened till Vigilance Clearance is given". Administrative Section has been periodically enquiring about the status of the case to take a view of the "Sealed Cover". Further, it is stated that vacancy pertains to the year 1999-2000 but due to non-availability of ST candidate in the zone of consideration (even in the extended zone) it was carried forward to the year 2001-2002. At the time of forwarding the proposal to UPSC Vigilance Clearance was obtained from the concerned authority. They had intimated that disciplinary proceedings was contemplated against the applicant for committing major financial irregularities while functioning as Superintendent In-Charge in Vocational Rehabilitation Centre for Handicapped, Guwahati. The comments of the applicant, was called for in November 1999 on the financial irregularities. The applicant, while furnishing his comments on the above O.M. dated 12.09.1999 has admitted the charges levelled against him vide his letter dated 30.11.1999 (Annexure - R-5). Hence, disciplinary proceedings were initiated against the applicant before the vacancy was reported to UPSC. The disciplinary proceedings are pending and the chargesheet has been issued to the Charged Officer on 16.03.2004 (Annexure - R-6). It is also stated that based on the inquiry report, necessary action will be taken on the "Sealed Cover".

3. The applicant has filed a rejoinder. The various averments made by the respondents against the applicant were traversed and further stated that no disciplinary proceeding was pending against the applicant in 1999 so as to apply the sealed cover proceedings. The sealed cover proceedings adopted, it is stated, is illegal and against

*Jpt*

the law declared by the Apex Court and against the Government policy. It is also stated that even in 2003 when the UPSC considered the case of the applicant and adopted 'Sealed Cover' proceedings on 05.02.2003 no disciplinary proceeding was pending. It is stated that the disciplinary proceeding was initiated only on 16.03.2004.

4. We have heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Mr. Chanda, learned counsel submitted that the applicant had become eligible for being considered for promotion to the post of Superintendent as early as in 1991 and when there arose a reserved vacancy of Superintendent to be filled up by ST candidates in the year 1996 as is evident from the communication dated 08.05.1997 issued from the office of the Additional Director of Employment Exchange, since the applicant being the only ST candidate available in the department for being promoted against the said post the respondents ought to have promoted the applicant in the year 1999 when they have filled up four vacancies of Superintendent. Mr. Chanda, further submitted that the National Commission for Scheduled Castes and Scheduled Tribes also, after due consideration of the matter, had clearly directed the 3<sup>rd</sup> respondent by their communication dated 09.11.1999 that post based roster system has to be recasted for the post of Superintendent and the applicant had to be promoted against ST carried forward point. Counsel further submitted that this has been agreed to by the 1<sup>st</sup> and 2<sup>nd</sup> respondents specifically but so far the applicant has not been promoted to the post of Superintendent. Mr. Chanda also pointed out that on the date, when his juniors were promoted, no disciplinary proceeding was pending against the applicant before the respondents.



Counsel submitted that even according to the respondents disciplinary proceeding against the applicant was only in contemplation and not initiated. Counsel also submitted that it is well settled that a disciplinary proceeding can be said to have been commenced only when chargesheet is served on the delinquent. Counsel also relied on a Division Bench Judgment of the Hon'ble Gauhati High Court dated 02.06.2004 in W.P. (C) No. 4247/2004 in support. Counsel submitted that in an identical situation, the Hon'ble High Court observed that in the absence of any Rules or Regulations the departmental inquiry shall be deemed to have been commenced from the date the chargesheet is served on the delinquent.

5. Counsel also brought to our notice the following observations made by the Division Bench: -

"The respondent challenged the action of the department and the learned Members of the Tribunal have found that the procedure adopted by the DPC in putting the case of the respondent under sealed cover was not in accordance with law, as on the date the DPC held its meeting there was no departmental enquiry pending against the respondent and consequent thereof the direction was given for notional promotion of the respondent from the date his juniors have been given promotion. We do not find any infirmity in the order passed by the Tribunal."

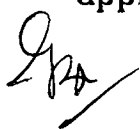
Counsel submitted that for all these reasons the procedure adopted by the respondents including the UPSC was not in accordance with law.

6. We have also heard Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents who made submissions on the lines of the averments made in the written statement. Standing Counsel sought to support stand taken by the respondents.

7. Let us now consider the respective contentions. The applicant is a Rehabilitation Officer in VRC since 25.03.1986. In the seniority list of Psychologists and Rehabilitation Officers dated 01.01.1989 the

*[Signature]*

applicant was Sl. No. 8. He became qualified and eligible for being considered for promotion to the post of Superintendent in the year 1991 on completion of 5 years service in the said post. He belongs to the Scheduled Tribe community. His claim for promotion to the post of Superintendent is not based on seniority but on the basis of reservation available to ST community. The Central Government promoted three persons to the post of Superintendent on ad hoc basis on 07.03.1997. The applicant then submitted representation to the Government for considering his case for promotion against reserved point for ST. The Office of the Additional Director of Employment Exchange, Government of India, Ministry of Labour had informed the applicant that there is a proposal to fill up four posts of Superintendent out of which one post is reserved for ST and since the applicant being the only ST candidate, he is in the zone of consideration. The DPC met pursuant thereto, promoted four other persons as Superintendent from general quota overlooking the point reserved for ST candidates. When the applicant submitted representation before the Government, answer was that as per revised roster based on the instructions by the DOP&T O.M. No. 36012/2/96-ESTT (Res.) dated 02.07.1997 none of the vacancies was required to be reserved for ST category and therefore his claim under ST reservation was not considered. Government of India again promoted another person by name Sri K.K. Bhatt as Superintendent overlooking the applicant's claim. When the applicant took up the matter with the National Commission for Schedule Castes and Scheduled Tribes, New Delhi the said Commission got the details from the Government. While so, the Government again informed the applicant that vacancies in the grade of Superintendents have been



filled up by promotion and that as per the revised roster based on instructions issued by the DOP&T none of the vacancies was required to be reserved for ST candidates. National Commission for Scheduled Castes and Scheduled Tribes has issued clear direction in its order dated 09.11.1999 regarding the manner of preparation of post based roster and observed that an ST carried forward point has been available. The Commission therefore directed the Government to recast the post based roster in the post of Superintendent and to take necessary steps to promote the applicant against the ST carried forward point on an immediate basis. Though the Government had agreed to the same as is evident from the communication dated 25.05.2000 (Annexure - XV) and have observed that since the applicant being within the zone of consideration his case will be considered by the DPC alongwith other candidates, no concrete step is taken for promotion to the post of Superintendent in the carried forward point of ST.

8. In the meantime, certain adverse remarks in the ACR of the applicant for the year 1999-2000 was communicated to him. The applicant got the said remarks expunged as per order dated 03.09.2001 (Annexure - XVII). The respondents had also a case that a disciplinary proceeding for alleged irregularities against the applicant is under contemplation and therefore, question of promotion of the applicant can be considered only after disciplinary proceedings are over.

9. Here it must be noted that the respondents themselves have found the applicant suitable for financial upgradation with effect from 09.08.1999. Admittedly, no disciplinary proceeding against the applicant was pending during the year 1999-2000. Infact, disciplinary

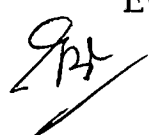
*gpa*

proceeding was initiated by issuing charge sheet to the applicant only in the year 2004. As such, in view of the decisions of the Hon'ble Supreme Court and of the Hon'ble High Court there was no impediment in considering the case of the applicant for promotion to the post of Superintendent in the year 1999 and 2003 when the DPC met for promotion from the post of Rehabilitation Officer to the post of Superintendent.

10. Though more than 14 years have elapsed since the applicant became eligible for consideration for promotion and approximately 9 years have passed since the vacancy in the post of Superintendent to be filled up by ST candidate arose, we are really sorry to note that the applicant's case for promotion was not properly considered by the Government. The National Commission for Scheduled Castes and Scheduled Tribes had issued clear direction in the matter thus :

"5. The seniority list of Supdts. In VRC(H) as on 28.2.87 circulated vide Circular No. DGET-A-23021/1/87-Adm-II dated 16.4.97 reveals that there were 13 number of Supdts. above Shri Attar Singh, the senior most Supdt. in the list of present incumbents, who were either retained or promoted to the higher grade. The roster maintained prior to 2.7.97 should have been included the name of above 13 Supdts. who have vacated the post at present. While implementing the post-based roster, the explanatory notes on the principles for making & operating post-based roster, initial operation, etc. annexed to the DOPT O.M. No. 36012/2/96-Estt(Res.) dated 2.7.97 clearly indicated that at the point of initial operation of the post-based roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-à-vis the points earmarked for each category viz. SC, ST & General in the roster. This may be done by plotting the appoints made against each point of roster starting with the earliest appointee."

Even that was not complied with.





11. As already noted, even according to the respondents out of four vacancies reported to the DPC on 08.05.1997, one post was reserved for ST candidates. The applicant is the only ST candidate in the grade of Rehabilitation Officer in the department. Since the applicant became eligible for being considered for promotion in the year 1991, the applicant's case should have been considered in any one of the four vacancies which arose in the year 1997 by the DPC which met for filling up of the said vacancies. Here it must be noted that there was no disabling factors such as pendency of disciplinary proceeding against the applicant at that time. It is only because the UPSC mentioned about the DOP&T Circular dated 2.7.1997 replacing the point based reservation roster by the post Based Reservation Roster that all the four vacancies are treated as open vacancies.

12. However, the National Commission in the above extracted passage has clearly mentioned about the view taken by the department and observed that a reserved vacancy for ST existed. This apart, the respondents themselves in their written statements dated 27.07.2004 and 10.03.2005 had clearly stated as follows: -

"The Hon. Ble National Commission for SC/ST had advised to fill the vacancy by an ST candidate. Accordingly the vacancy was reported to UPDC but UPDC did not agree to the proposal. In between two (02) more vacancies occurred and out of three vacancies one (01) vacancy was reserved for ST candidate. In the DPC meting held on 05.02.2003, UPSC had recommended the name of the applicant against the reserved vacancy but the recommendation of UPSC had been kept in "Sealed Cover" due to no-vigilance clearance. The "Sealed Cover" will be opened as and when the vigilance clearance/ in respect of the Applicant is received from the concerned section."

*Gps*

It is also stated in para 13 that "in case of ST candidate a carried forward vacancy for the year 1999-2000, the applicant's recommendation of UPSC has been received in a 'Sealed Cover' due to non vigilance clearance" and that the sealed cover will be opened after receipt of vigilance clearance in respect of the applicant.

13. It is seen that the respondents in their reply to the amended application has taken a stand that disciplinary proceedings were initiated against the applicant before the vacancy was reported to UPSC. It is also stated that the chargesheet has been issued to the charged officer (petitioner) on 16.03.2004.

14. In view of the above contention taken by the respondents question to be considered is as to the point of time at which it can be said that a disciplinary proceedings has been commenced against an officer.

15. The decision of the Division Bench of the Hon'ble Gauhati High Court in W.P. (C) No. 4247/2004 has already been noted in para 3 (Supra) where the Division Bench had observed that in the absence of any rules or regulations departmental enquiry shall be deemed to have been commenced from the date chargesheet is served on the delinquent. It is also a settled position (See the decisions of the Supreme Court in Union of India V. Dinanath Shantaram Karekar (1998) 7 SCC 569 Paras 3 & 4 and State of M.P. V. L.P. Tiwari (1994) 4 SCC 468 Para 6). In the instant case admittedly the chargesheet is served on the applicant only on 16.3.2004. Therefore, it has to be taken that no disciplinary proceeding was pending against the applicant in 1999-2000 and on 05.02.2003 when the DPC met. If that be the legal position the sealed cover proceedings adopted by the DPC as held by the Division Bench of the Gauhati High Court is not in

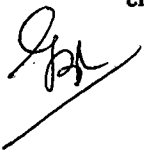
*Jps*

accordance with law and the applicant has to be given notional promotion from the date the reservation vacancy for ST in the post of Superintendent has arisen.

16. The stand of the respondents, as already noted, is that disciplinary action has been initiated earlier, for which the respondents rely on the annexures to the written statement to the amended application, particularly Annexure R-IV dated 12.11.1999. Those documents, it must be noted, only refers to certain irregularities found by the Inspection Team and brings the same to the notice of the applicant. Even according to the respondents vigilance report is that disciplinary action is contemplated. This has materialized only by issuing the charge memo on 16.03.2004 (Annexure - R- VI).

17. In view of the above, we direct the 1st and 2<sup>nd</sup> respondents to consider the case of the applicant for promotion to the post of Superintendent in the department with reference to the vacancy for ST which arose in the year 1996 notwithstanding the Circular of DOP&T as directed by the National Commission for Scheduled Castes and Scheduled Tribes in its communication dated 09.11.1999 (Annexure - XIV) and pass appropriate orders in accordance with law within a period of three months from the date of receipt of this judgment. The recommendation of the UPSC contained in the 'Sealed Cover' has to be opened forthwith and the applicant has to be promoted on provisional basis.

18. We make it clear that we have not pronounced anything with regard to the disciplinary proceeding initiated against the applicant pursuant to the charge memo dated 16.03.2004 issued by the respondents.



The O.A. is disposed of as above. The applicant will produce this order before the 2<sup>nd</sup> respondent for compliance.



( K.V. PRAHLADAN )  
ADMINISTRATIVE MEMBER



( G. SIVARAJAN )  
VICE CHAIRMAN

/mb/



✓  
Bauhati High Court

-AND-

IN THE MATTER OF:

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

*[Handwritten signature]*  
*[Handwritten mark]*

3  
(Page-2)

2. The Controller General of  
Defence Accounts, R.K. Puram,  
New Delhi
3. The Controller of Defence  
Accounts, Udayan Bihar,  
Narangi, Guwahati, Assam

.....Petitioners

-Versus-

Sri Subir Bhattacharjee,  
Assistant Accounts Officer,  
A/C No. 8306317,  
Now serving at AAO BSO Shillong

Meghalaya (Pin-793002)  
Gauhati High Court

.....Respondent

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

WP(C) No.4247/04

BEFORE  
HON'BLE THE CHIEF JUSTICE MR PP NAOLEKAR  
HON'BLE MR JUSTICE IA ANSARI

22-06-04

Heard Mr R Sharma, learned Addl Central Govt. Standing Counsel.

The DPC meeting was held on 19-7-89 for consideration of the promotion of eligible officials to the cadre of Assistant Accounts Officer. The respondent Sri Subir Bhattacharjee was considered for promotion by the DPC but his case was put under the sealed cover on the basis that departmental enquiry is contemplated against him. In fact, the charge sheet has been served on the respondent on 13-10-90. There is nothing on record to show that the decision has been taken by the authority to commence the departmental enquiry against the respondent on or before 19-7-89. In absence of any Rule or Regulation, the departmental enquiry shall be deemed to have been commenced from the date ✓ the charge sheet is served on the delinquent. Later on, the respondent was given promotion on 4-10-93. The respondent challenged the action of the department and the learned Members of the Tribunal have found that the procedure adopted by the DPC in putting the case of the respondent under sealed cover was not in accordance with law, as on the date the DPC held its meeting there



Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>was no departmental enquiry pending against the respondent and consequent thereof the direction was given for notional promotion of the respondent from the date his juniors have been given promotion. We do not find any infirmity in the order passed by the Tribunal.</p> <p>The appeal is dismissed.</p>

Sd/- I. A. Anand  
Judge

Sd/- P. P. Nadkarni  
Chief Justice

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12/12/04

No 24018  
12/04

1.0 FEB 2005

गुवाहाटी न्यायालय  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

CONSOLIDATED APPLICATION

In O. A. No. 127 /2004

Sri Lienkhawthang Varte : Applicant

- Versus -

Union of India & Others. : Respondents.

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Date: 10.02.05.

Filed by  
Subrata Nath  
Advocate

Filed by the applicant  
through  
Subrata Nath  
Advocate  
30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

CONSOLIDATED APPLICATION

In O. A. No. 127 /2004

BETWEEN

Sri Lienkhawthang Varte.  
Son of Sri H.V. Varte.  
Rehabilitation officer,  
VRC for handicapped,  
Rehabari, Guwahati-8.

...Applicant.

-AND-

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Labour,  
New Delhi- 110001.
2. Deputy Secretary to the  
Government of India  
Ministry of Labour,  
New Delhi- 110 001.
3. The Director general of Employment and Training,  
Joint Secretary to the Govt. of India,  
Ministry of labour (DGE & T),  
Sharam Shakti Bhawan,  
Rafi Marg, New Delhi-110001.
4. The Dy. Director General (Employment)  
Ministry of Labour (DGE&T),

Shram Shakti Bhawan, Rafi Marg,  
New delhi-110001.

5. Assistant Director (Rehab.)  
V.R.C for Handicapped,  
Rehabari, Guwahati-8.

... Respondents.

### DETAILS OF THE APPLICATION

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

This application is made against the impugned order of promotion dated ✓ 05.05.2003 and praying for a direction upon the respondents to promote the applicant to the post against existing Schedule Tribe post of Superintendent with retrospective effect at least from the occurrence of the Schedule Tribe vacancy in the light of the communication made under letter No. DGE & T-A-32013/4/96/Admn.II dated 11.12.2001 and also praying for fixation of pay of the applicant in the cadre of Superintendent from the date of occurrence of the Schedule Tribe post by holding the D.P.C/review D.P.C from the date of occurrence of Schedule Tribe post of Superintendent in the Directorate general of Employment and Training.

2. Jurisdiction of the Tribunal

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

3. Limitation.

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

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. The applicant is presently working as Vocational Rehabilitation Centre, Rehabari, Guwahati.

4.2 ✓ That your applicant was initially appointed as U.D.C in the Office of the Commissioner of Income Tax, NER, Shillong. The applicant while working as U.D.C he was selected by the U.P.S.C in the cadre of Assistant Grade in the year 1984 and he was posted in the Office of the Union Public Service Commission, New Delhi as Assistant.

The applicant again pursuant to an advertisement of the Labour & Employment department, applied for the post of Rehabilitation Officer, he was selected by the U.P.S.C for the said post of Rehabilitation Officer and posted in the Directorate General of Employment & Training under the Ministry of Labour, Govt. of India. He joined as Rehabilitation Officer on 25.03.1986. The applicant is presently working in the Vocational Rehabilitation Centre at Guwahati.

A copy of the appointment order dated 12.03.1986 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-I.

4.3 That your applicant was placed at Sl. No. 8 in the gradation list of Rehabilitation Officer published as on 1<sup>st</sup> January 1989 by the Directorate of Employment

Exchanges. It could be evident from the seniority list of Rehabilitation Officer that he is the only candidate belongs to ST Community. As such he is entitled to special privileges and rights as guaranteed by the Constitution of India.

A copy of the extract of seniority list published as on 01.01.1989 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-II.

4.4 That your applicant submitted a representation on 27.11.1996 addressed to the Director General, Employment & Training, New Delhi for consideration of his promotion to the post of Superintendent against the reserved post of ST. However no action was initiated for consideration of his promotion to the post of Superintendent.

4.5 That it is stated that three posts of Superintendent, which were vacant in the year 1997, were filled up on ad-hoc basis by the office order No. DGET-A-30215/8/96-Adm-II dated 07.03.97. It appears from the office order that altogether four posts of Superintendent were vacant even during the year 1997.

A copy of the office order dated 7.3.1997 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure- III.

4.6 That the applicant again submitted representation on 19.03.1997 for consideration of his promotion to the post of Superintendent since he has completed 11 years of service as Rehabilitation Officer. As per Recruitment Rule only 5 years regular service is necessary for promotion to the post of Superintendent. The applicant has attained eligibility long back in the year 1991 to the post of Superintendent.

A copy of the representation dated 19.03.97 and copy of the Recruitment Rule 1995 are enclosed as Annexure- IV & V respectively.

4.7 That it is stated that the Additional Director of Employment Exchange vide his letter bearing No. DGET-A-32018/1/97-EE.II dated 08.05.1997 informed the applicant that 4 posts of Superintendent have been decided to filled up and the proposal have already been sent to the UPSC, out of these 4 posts, 1 post is reserved for ST and being lone ST candidate the applicant is well within the zone of consideration.

A copy of the letter dated 08.05.97 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-VI.

4.8 Most surprisingly the Deputy Secretary to the Govt. of India issued the office order under letter No. 46 of 99 nearing letter No. DGE & T-A-32013/4/96-Adm.II dated 13/15.04.99 whereby 4 posts of Superintendent were filled up on regular basis in the scale of Rs. 8,000-275-13,500 (Gr. A Gazetted) w.e.f. the date they assume the charge of the post. But there is no indication in the said office order how the reserved post of Superintendent earmarked for ST quota was filled up. In the year 1997 itself it was informed to the applicant that there is 1 post of ST was vacant and the applicant being the sole ST candidate is likely to be considered by the UPSC and a proposal to that effect was sent to the UPSC way back in the year 1997 but it appears that the case of the applicant was not considered by the UPSC for promotion to the post of Superintendent for the reasons best known to the authorities. Be it stated that the applicant attained eligibility way back in the year 1991 as per statutory Recruitment Rule as already stated above. As such exclusion of the case of the applicant for promotion of Superintendent is highly arbitrary, illegal and unfair.

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A copy of the promotion order dated 13/15.04.99 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-VII.

- 4.9 That your applicant being highly aggrieved for denial of his promotion submitted a representation on 21.04.99 to the Director General Employment and Training, Govt. of India, New Delhi wherein it was stated that the applicant being only eligible ST candidate ought to have been considered for promotion against the reserved vacancy of Superintendent. However the said representation was replied by the Deputy Secretary, Govt. of India vide Memo dated 26.05.99 wherein it was stated that as per the revised roster based on the instruction of DOPT O.M No. 36012/2/96-ESTT (Res.) dated 02.07.1997, none of the vacancies was required to be reserved for ST category, here the authority have lost sight of the fact that the sole reserved post was fall vacant prior to 1997 which would further be evident from the letter dated 08.05.97 (Annexure-VI) as such the said post ought to have been filled up on the date on which the vacancy occurred and also as per the rule, then it was in force, more particularly the rule of reservation for ST category candidate. From the Memorandum dated 26.05.99 it appears that the respondents filled up the reserved vacancy meant for ST candidate by the unreserved candidate following the instruction contained by D.O.P.T O.M dated 02.07.97. Be it stated that DOPT O.M dated 02.07.97 even assuming same is amended against the interest of the present applicant or instruction is contained in the said memorandum otherwise, the same should not have been applied against a post which fall vacant prior to 02.07.1997. Therefore reserved vacancy which appears to have been filled up by the unreserved candidate denying the legitimate right of the present applicant is highly arbitrary, illegal and unfair and the same is not permissible under the law of the land.



Copy of the representation dated 21.04.99 and memorandum dated 26.05.99 are enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure- VIII & IX respectively.

- 4.10 That it is further stated that by the office order bearing letter No. DGE&T-A-32013/4/96-Adm.II dated 07.06.1999 one more post of Superintendent was filled up by the Deputy Secretary to the Govt. of India. By the said order dated 07.06.1999 one Sri K.K. Bhatt was promoted to the post of Superintendent without considering the case of the applicant who belongs to ST community and a reserve post of ST was although available to the cadre of Superintendent since 1996.

Copy of the promotion order dated 07.06.99 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-X.

- 4.11 That your applicant also submitted representation dated 20.08.1999 to the Chairman, National Commission for SC/ST for denial of his promotion to the post of Superintendent even after completion of 11 years regular service as Rehabilitation Officer at the relevant point of time, on receipt of the said representation the National Commission took up the matter with the Director General of Employment and Training, New Delhi vide letter No. 6/76/99-Gen dated 15.09.99 requesting to furnish parawise comment on the points raised in the representation. However, the Deputy Secretary, Govt. of India vide his letter bearing No. DGE&T-A-32013/4/96-Adm. II dated 06.10.1999 issued a stereotype reply to the applicant, contents of which is similar like the letter dated 26.05.99 i.e. similar reply like earlier one furnished to the applicant. It is stated in the said letter dated 06.10.1999 that as per revised instruction of DOPT dated 02.07.1997

none of the vacancy was required to be reserved for ST category. Be it stated that the post in question ought to have been filled up as per the rules and instruction prevailing prior to the amendment of the reservation rule as indicated in the Memorandum dated 06.10.1999. The vacancy in question for promotion was infact occurred prior to 02.07.1997, therefore the reserved post of ST ought to have been considered as per the prevailing instruction/rules which were in force at the relevant point of time. Hence there is no force in the Memorandum dated 06.10.99 and the same is contrary to the rule.

In the facts and circumstances the applicant ought to have been considered against the reserved vacancy of ST candidate in terms of the Rules, which were in force at that point of time. The applicant has acquired a valuable and legal right for promotion to the post of Superintendent with all consequential service benefit including monetary benefit.

Copy of representation dated 20.08.99 reply dated 15.09.99 and Memorandum dated 06.10.99 are enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-XI, XII and XIII respectively.

- 4.12 That the Director, National Commission for SC/ST, Guwahati after detail examination of the case of the applicant in the light of letter dated 05.11.99 given by the Director General of Employment and Training came to the conclusion that roster point have not been maintained properly and a promotional post of Superintendent is available hence the Commission directed the respondents to promote the applicant against the ST post on an immediate basis. However Deputy Secretary to the Govt. of India on receipt of the Commission's letter dated 09.11.99 informed the Director National Commission for SC/ST, Guwahati that having agreed to the advice a DPC proposal for regular promotion to the post of

Superintendent VRC for handicapped taking the post as reserved for an ST candidate is being sent to the UPSC accordingly. Be it stated that in the said letter dated 26.05.2000 the Director General of Employment and Training, Govt. of India fairly admitted the fact that no ST candidate was ever promoted to the post of Superintendent. However on receipt of the reply dated 26.05.2000 the National Commission for SC/ST wrote a letter to the applicant that Directorate reply dated 26.05.2000 seems to be satisfactory. However, liberty was given to the applicant to submit a reply in the event of his disagreement, otherwise the case stands disposed of.

In this connection it may be stated that when the applicant received the letter dated 26.05.2000 issued by the Deputy Secretary to the Govt. of India with the assurance that they have agreed with the advice of the National Commission for SC/ST and his case is sent for consideration for promotion to the UPSC. There was no question of disagreement with the said assurance of the respondent and the applicant accordingly remained silent with the anticipation that his promotion order would be issued shortly.

Copy of the letter dated 09.11.99 and reply dated 26.05.2000 and letter dated 31.05.2000 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- XIV, XV & XVI respectively.

- 4.13 That it is stated that the applicant received certain adverse remarks on his ACR for the year 1999-2000 vide letter-bearing No. DGET-A-32012/2/2000-EE-II dated 07.11.2000. However, the said adverse remarks in ACR for 1999-00 was finally expunged by the Joint Secretary/DG Employment and Training, New Delhi after long correspondence vide order bearing letter No.DGET-A-28018/1/2001-EE.II dated 03.09.2001. But the applicant is under strong belief that

his case was not considered for promotion to the post of Superintendent due to pendency of the adverse ACR for the year 1999-00 at the relevant point of time when his case was put up before the UPSC for consideration of promotion which is evident from the letter dated 26.05.2000 (Annexure-XV) issued by the Deputy Secretary to the Govt. of India, as because the adverse remarks for the said period of 1999-00 in fact expunged after a long period of time following the order dated 03.09.2001 and in the process the applicant is being denied promotion to the post of Superintendent although his case was put up before UPSC as it appears from the letter of the Deputy Secretary to the Govt. of India dated 26.05.2000.

A copy of the order-dated 03.09.01 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-XVII.

- 4.14 That the seniority list of Group-B Officers working in the VRCs published vide letter-bearing No. DGET.A-23024/1/2001-EE-II dated 29.01.2002. In the said seniority list the applicant was placed at Sl. No. 3 at the group of Rehabilitation Officers. Be it stated that promotion to the post of Superintendent is being made both from the cadre of Rehabilitation Officer and Psychologist and it would be appeared from the seniority list that the applicant is the sole candidate belongs to ST category.

A copy of the seniority list published as on 29.01.02 is enclosed for the perusal of the Hon'ble Tribunal as Annexure-XVIII.

- 4.15 That it is stated that by the office order bearing letter No. DGET-A-32012/1/2002-EE.II dated 20.02.2002 the applicant was granted first financial upgradation w.e.f 09.08.1999 on the recommendation of the DPC held on

15.02.2002 in the pay scale of Rs. 8000-275-13500/-. Be it stated that when the applicant is found eligible by the DPC held on 15.02.2002 on scrutiny of his service record including ACR for first financial upgradation w.e.f 09.08.99, there is no justifiable reason to deny the regular promotion to the cadre of Superintendent against the ST vacancy at least w.c.f. the date of occurrence of ST vacancy which is evident from the letter dated 08.05.1997 (Annexure-VI) issued by the Addl. Director of Employment Exchange. Non-consideration of promotion of an eligible candidate against the available ST post is highly arbitrary, unfair, illegal and the same is contrary to the DOPT instructions issued by the Govt. of India from time to time on the point of reservation. A backlog ST vacancy cannot be abolished or taken away by the respondents at their whims without approval from the National Commission for SC/ST and the present applicant has acquired a valuable and legal right against the ST category post of Superintendent with all consequential benefit at least from the date of occurrence of the ST vacancy. Be it stated that, even now, for SC/ST candidates, bench mark system has been abolished since 2000.

- 4.16 That it is stated that the Under Secretary to the Govt. of India vide his letter bearing No. DGE&T-A-32013/4/96-Adm.II dated 11.12.2001 informed the Research Officer, National Commission for SC/ST that UPSC did not agree with the candidature of the applicant against the reserved post of ST as because his name was at Sl. No. 7 in the combined seniority list which was beyond the zone of consideration of 5 for 1 post even when extended zone is allowed in such a case. Therefore it is further stated that the UPSC has advised to reexamine the matter and expressed the possibility of carrying forward the ST vacancy so that

the applicant could get the benefit of reserve vacancy in future. It is further stated in the said letter dated 11.12.2001 that one more post of Superintendent fall vacant and all together combined proposal to fill up the 2 posts of Superintendent has been sent to UPSC on 01.11.2001. Applicant being within the zone of consideration would be considered by the DPC along with other candidates, the said letter dated 11.12.2001 was communicated to the applicant by the National Commission for SC/ST vide their letter bearing No. 6/76/99-Gen/951 dated 02.01.2002 but surprisingly the respondents are silent thereafter so far promotion of the applicant is concerned.

It appears that the case of the applicant might have been rejected on the ground of adverse ACR for the year 1999-2000 but the same was in fact expunged way back on 03.09.2001 (Annexure-XVII) and thereafter DPC itself found the applicant suitable for financial upgradation w.c.f. 09.08.1999. Therefore there cannot be any ground to deny the legitimate promotion of the applicant with all consequential benefit. Moreover when there was a clear vacancy of ST the case of the applicant should not have been excluded on extraneous consideration on the alleged ground that the applicant does not fall within the extended zone of consideration. The letter itself indicated that the applicant is very much within the zone of consideration. As such the applicant is entitled for promotion to the post of Superintendent with all consequential benefit.

Copy of the letter dated 11.12.2001 and letter dated 02.01.2002 are enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- XIX & XX respectively.

- 4.17 That the respondents vide Office order bearing letter No. 35/2003 dated 05.05.2003 again promoted Smti. P. Chandrika Rani, Psychologist and Shri R.

✓ Lakshman Swamy, Rehabilitation Officer, to the post of Superintendent without considering the case of the applicant against the backlog ST post. Therefore it appears that the respondent deliberately ignoring the case of the applicant for promotion in violation of the statutory Rule holding the field. Hence further cause of action arises as soon as the office order No. 35/2003 has been issued by the Under Secretary to the Govt. of India on 05.05.2003.

In the compelling circumstances stated above the applicant is finding no other alternative but approaching this Hon'ble Tribunal through the instant proceeding for consideration of his promotion to the post of Superintendent at least with effect the date of occurrence of ST vacancy or w.e.f. 08.05.1997 with all consequential benefits including seniority.

A copy of the Office Order dated 05.05.2003 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure-XXI.

4.17A. That it is submitted that the present applicant came to learn for the first time that ✓ recommendation of the UPSC for his promotion in the year 1999-2000 has been kept under sealed cover. It is categorically submitted that as per the service rule in force, the sealed cover procedure can only be adopted only when there is a ✓ pending disciplinary proceeding or criminal proceeding against the concerned employee but there is no rule or law in force which permits that recommendation of the UPSC could be kept in sealed cover due to non-receipt of the vigilance clearance but the instant case of the applicant the authorities deliberately and wrongly adopted the procedure of sealed cover on the recommendation made by the UPSC. It is further categorically submitted that on the basis of vigilance investigation the sealed cover procedure also cannot be adopted even if there is any vigilance case or complain lodged against any civilian Govt. employee.

Therefore vigilance enquiry or investigation also cannot be a ground for adoption of sealed cover procedure. It is submitted that sealed cover procedure can be adopted in respect of findings of the DPC or against the recommendation of the DPC only when a charge sheet in the departmental proceeding is served upon the applicant and it is also the settled position of law that only when charge sheet served upon an employee and thereafter if the case of promotion of the employee concerned is considered by the DPC or UPSC then the said recommendation may be kept under sealed cover but in the instant case the respondents have violated the procedure laid down by the Govt. of India so far adoption of sealed cover is made in respect of the present applicant.

The rule of sealed cover procedure laid down by the Govt. of India which is evident from the chapter 54 of Swamy's Complete Manual on Establishment and Administration for Central Govt. Offices are quoted below:-

**"Procedure to be followed by DPC in respect of Government servants under cloud**

[11.1 At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge-sheet has been issued and the disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

It is stated that before making actual promotion a clearance from vigilance section of the department should be obtained to ensure that no disciplinary



proceeding is pending against the officer concerned. The relevant portion is quoted below:-

**"Implementation of the recommendations of DPC- Vigilance Clearance**

17.1 A clearance from the Vigilance section of the Office/Department should also be obtained before making actual promotion or confirmation of officer approved by DPC to ensure that no disciplinary proceedings are pending against the officer concerned."

In view of the above clear position of rule the sealed cover which is adopted wrongly in respect of the applicant is liable to be opened and the same should be given effect to with immediate affect, if the recommendation is in favour of the applicant in that case applicant is entitled to be promoted to the post of Superintendent with all consequential benefit including seniority and monetary benefit.

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

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

- 5.1 For that, the applicant attained eligibility as per statutory Recruitment Rule way back in the year 1991 for promotion to the post of Superintendent.
- 5.2 For that, one ST vacancy of Superintendent fall vacant during the year 1996, which is also evident from the letter, dated 08.05.1997 of the Additional Director of Employment Exchange.
- 5.3 For that, applicant was the only eligible ST candidate for the post of Superintendent in the department of vocational rehabilitation Centre since 1991

but even then no attempt is made to fill up the vacant ST post when eligible candidate was very much available in the department. Moreover, respondents have violated the Roster points and Rule of Reservation in the instant case.

- 5.4 For that, backlog ST vacancy cannot be carried forwarded from year to year and the same cannot also be filled up by the un-reserved candidate more so when eligible ST candidate is available for promotion in the department, as per statutory Recruitment Rule.
- 5.5 For that, a backlog ST vacancy of Superintendent require to be filled up as per rule prevailing on the date of vacancy and the subsequent amended Rule if any cannot be applied as such the revised roster based on the instructions issued by DOP&T O.M dated 02.07.97 has no application in the instant case of the applicant.
- 5.6 For that, case of the applicant was not considered for promotion even though ST vacancy was available whereas case of the other eligible candidates were considered and promoted by the office order No. 46/99 and 35/2003 dated 05.05.2003, as such the action of the respondents Union of India.
- 5.7 For. that the respondent have filled up another two post of Superintendents. VRC vide office order dated 05.05.2003 ignoring and without considering the case of the present applicant which led to further cause of action.
- 5.8 For that action of the respondents denying promotion to the applicant is in violation of Article 14 of the Constitution.

- 5.9 For that the sealed cover procedure adopted by the respondents on the recommendation of the UPSC is in violation of the rules and the same is liable to be opened and should be given effect to."

6. Details of remedies exhausted.

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

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased direct the respondents to promote the applicant, to the post of Superintendent in the existing reserved post of S.T, at least w.e.f. the date of occurrence of S.T vacancy in the light of the decision

communicated by the respondents in their letter dated 11.12.2001 (Annexure-XIX) with all consequential service benefit

8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be promoted to the reserve post of Superintendent, as per prevailing recruitment rule at the time when the sole post of Superintendent fall vacant in the department of Directorate General of Employment and Training, VRC for handicapped under the Ministry of Labour and Employment, Govt. of India.

8.3 That the Hon'ble Tribunal be pleased to declare that the reserve S.T post of Superintendent can not be filled up by unreserved candidate, when eligible candidate of reserve category is available in the department.

✓ 8.3 A That the Hon'ble Court be pleased to direct the respondents to open the sealed cover and further the pleased to direct the respondents to give effect of the recommendation of the UPSC with immediate effect.

8.3 B That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the post of Superintendent with immediate effect with all consequential service benefit and seniority in the event of recommendation of the UPSC if found favourable in case of the present applicant."

8.4 Costs of the application.

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

9. Interim order prayed for.

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

49  
9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar for the respondents for considering the promotion of the applicant.

10. ....

This application is filed through Advocates.

**11. Particulars of the I.P.O.**

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

**12. List of enclosures.**

As given in the index.

VERIFICATION

I, Shri Lienkhawthang Varte, S/o Shri H.V. Varte, aged about 47 years, working as Rehabilitation Officer, VRC for handicapped, Rehabari, Guwahati-8, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the \_\_\_\_ day of February' 2005.

*Lienkhawthang Varte*

Shram Shakti Bhavan,  
Rafi Marg, New Delhi-110001

March 12, 1986

OFFICE MEMORANDUM

Subject:- Appointment to the post of Rehabilitation Officer in the Vocational Rehabilitation Centre for Handicapped, Guwahati under the Directorate-General of Employment & Training, Ministry of Labour - Reg.

.ccoo.

On the recommendation of the Union Public Service Commission, the Directorate-General of Employment & Training, Ministry of Labour appoints Shri Lienkhaw Thang Varte, as a temporary Rehabilitation Officer in the Vocational Rehabilitation Centre for Handicapped, Guwahati under the DGET, Ministry of Labour in the Scale of pay of Rs. 650-30-740-35-810-EE-35-830-40-1200 (Group 'B' Gazetted) with effect from the date he assumes the charge of the post on the terms and conditions laid down in this Directorate-General letter No. DGET.A.19018/17/85.EE.II dated 10.3.1986.

2. Shri Lienkhaw Thang Varte is directed to report for duty as Rehabilitation Officer to the Superintendent, Vocational Rehabilitation Centre for Handicapped, Rehbari, Guwahati-781008 (Assam), at an early date.

3. The receipt of this Office Memorandum may also please be acknowledged.

( R. ONEKANT RAO )

Director of Employment Exchanges.

Shri Lienkhaw Thang Varte,  
FG-1/97-A, Vikas Puri, New Delhi-110018.

Copy to:-

1. The Pay & Accounts Officer, DGET, New Delhi.
2. The Superintendent, Vocational Rehabilitation Centre for Handicapped, Guwahati with the request that he may get completed the formalities of Oath of Allegiance and Marriage Declaration etc. of Shri Varte and the same may be added to his Service Book. The Suptd. is further requested to send Charge Assumption Report of the Officer.
3. All the Superintendents of VRCs except VRC, Guwahati.
4. The Secretary, UPSC, Dhoolpur House, New Delhi with reference to their letter No. F1/486/85-RU, dated 3.12.1985.
5. Shri M.P. Jain, Under Secretary (Per. Adm.) UPSC, New Delhi w.r.to. their letter No. P.2706/Adm.III dated 6.3.1986 with a request to kindly arrange to relieve Shri Varte immediately to enable him to join his new post of RO at VRC for Handicapped, Guwahati.
6. F.No.DGET. 1/3/83.EE.II(Vol.II).

( S. FASHUDDIN )

Dy. Director of Employment Exchanges  
for Director of Employment Exchanges

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NO. DGET-A-23018/1/89-EE-II  
 GOVERNMENT OF INDIA  
 MINISTRY OF LABOUR  
 DIRECTORATE GENERAL OF EMPLOYMENT AND TRAINING

New Delhi, dated the 23rd February, 89

To

The Superintendent,  
 Vocational Rehabilitation Centre  
 for Handicapped,

SUBJECT:- SENIORITY LIST OF PSYCHOLOGISTS AND  
 REHABILITATION OFFICERS IN THE V.R.C. FOR  
 HANDICAPPED AS ON 1st January, 1989.

Sir,

I am directed to enclose herewith the tentative seniority list of Psychologist/Rehabilitation Officers, in the Vocational Rehabilitation Centres for Handicapped as on the date mentioned above and to say that objections, errors or omissions occurring therein, if any, may be communicated to this Directorate General of Employment & Training immediately and in any case not later than 30 days from the date of issue of this letter. However, if no comments are received within the stipulated time, it would be presumed that the seniority list circulated is in order and it will be finalised.

THIS MAY BE TREATED AS MOST URGENT.

Yours faithfully,

*Braj Mohan*

( Braj Mohan )  
 Section Officer  
 for Director of Employment Exchanges

Copy to:-

All the individual concerned.  
 Guard File, EE-II Section.

*Braj Mohan*

Shri L.K. Varte, P.O.  
 VAc for H. Guwahati

( Braj Mohan )  
 Section Officer  
 for Director of Employment Exchanges



SENIORITY LIST OF THE OFFICERS IN THE GRADE OF REHABILITATION OFFICER

S.No.	Name of the Officer with Qualifications.	Date of birth.	Date of regular appointment in the grade.	UPSC Reference in which recommended	Remarks
1	2	3	4	5	6
1.	Shri G.K. Sokal, (SC) M.S.W.	8.7.1951	15.10.1979	F1/857/78-RB dated 24.4.1979	
2.	Shri M.K. Rastogi, (PH) M.A.	8.8.1949	16.6.1983	F1/610/81/RB dated 10.7.1981	
3.	Shri Arun G. Joshi, B.Sc. Occ. Therapy & P.G. Diploma in Rehabilitation	13.2.1952	17.8.1983	F1/116/82/RB dated 3.3.1982	
4.	Shri B. Lakshmanaswamy, M.S.E. & M.A.	16.2.1948	3.5.1983	F1/333/82-RB dated 2.9.1982	
5.	Shri K.K. Bhatt, MSW, LLB	12.9.1954	6.1.1986	F1/486/84-RB dated 29.1.1985	
6.	Smt. G.K. Malviya, M.A., B.Ed. & LLB	10.10.1944	31.5.1986	- do -	
7.	Shri Prakash P. Ukey, (SC), B.Sc. P.G.C (Rehab.)	9.3.1955	3.6.1986	- do -	
8.	Shri L.K. Varte, (ST) B.A.	1.3.1957	25.3.1986	F1/486/84-RB dated 3.12.1985	
9.	Shri H.K. Sharma (PH) M.A., M.Phil	15.1.1953	26.12.1986	F1/486/84-RB dated	
10.	Miss Promila Louis, M.A.	5.12.1957	14.3.1988	F1/18/87-B-IV dated 17.11.87	Yet on Probation
11.	Smt. M.V. Rita, M.S.W.	4.5.1954	2.3.1988	- do -	-do-
12.	Smt. Sandhya P. Shere (SC) B.Sc. & Diploma in Social Work	9.1.1953	4.3.1988	- do -	- do -

\* JOSHI \*

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No. DG&T-A-32015/8/96-Adm-II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
Directorate General of Employment and Training

Shram Shakti Bhavan, Rafi Marg,  
New Delhi- 110 001

Dated the

7/3/97

OFFICE ORDER No. 32 OF 1997

The President is pleased to appoint on adhoc basis, the following officers, on promotion to the post mentioned against their name for a period of one year from the date they assume charge of the post or till the post is filled on regular basis, whichever is earlier.

Sl. No.	Name & Designation of the Officer	Promoted as and posted to.
1.	Smt. Chandrika Rani, Psychologist VRC, Trivendrum	Suptd, VRC., Ludhiana
2.	Sh. Arun G. Joshi, Rehab. Officer VRC, Mumbai.	Suptd., VRC, Kanpur
3.	Sh. R. Lakshmanaswamy, Rehab., Officer, VRC, Bangalore	Suptd., VRC, Guwahati

2. The appointment of above said officers is purely on ad-hoc basis and will not bestow any claim on them for their continued appointment or for seniority, in the grade. The said ad-hoc appointment can be terminated at any time without assigning any reason.

3. The Officers are also directed to assume charge of the post with immediate effect. If any of the officers does not assume the charge of the post up to 15.04.97, it will be presumed that he is not interested for his promotion on adhoc basis and the other senior most officer will be considered for ad-hoc promotion.

(Raj Pal)

Deputy Secretary to the Govt. of India

Distribution.

1. Officers concerned.
2. Suptd., VRC, Trivendrum/Bangalore/Mumbai/Ludhiana/Kanpur and Guwahati.
3. Pay & Accounts Officer, DG&T, New Delhi.
4. Pay & Accounts Officer, DG&T-II, Guindy, Madras.
5. Pay & Accounts Officer, DGFASLI, Mumbai.
6. PS to DG/JS/ALX/ALX(Stat)/JDX(M)/SS-II.
7. All VRCs under DG&T.
8. Copies to personal file of the concerned officers.
9. Spare copies 10

5/11/97  
Office

-25-

Spread post.

55

To,

The Director General of Employment & Training,  
Ministry of Labour (D.G.E.&T),  
Sharam Sakti Bhawan, Rafi Marg,  
New Delhi-110001.

Sub:-

Promotion of the Undersigned against ST  
Reserved post of Superintendent at the VRCs  
-reg..

Sir,

I have the honour to remind you that being the only Scheduled Tribes, Group 'B' Gazetted Officer among the Rehabilitation Officers and Psychologists of Vocational Rehabilitation Centre for Handicapped, I have represented for my promotion to the post of Superintendent vide my representation dt. 26-11-96, but till date I have not heard action taken by your good Offices. I have been regularly and substantively working as Rehabilitation Officer at V.R.C. for Handicapped, Guwahati for the last 11 Years from 25-3-86 to till date. As per reservation orders, there is reservation for ST/SC Candidates in promotion as well as in direct recruitment from Group 'B' to Group 'A' post i.e. from Rehabilitation Officer/ Psychologists to the post of Superintendent. So far, neither in the direct recruitment Quota nor in promotion Quota no posts of Superintendent have been given to Scheduled tribes Candidates. Being the only eligible ST candidate for promotion to the post of Superintendent, who had been put on 11 Years service as Rehabilitation Officer, I do once again lay my fervent request to offer me promotion to the post of Superintendent in the VRCs for Handicapped against the ST reserved post on regular basis or on adhoc basis which ever is permissible.

For favour of your immediate kind action I shall ever remain grateful to you.

Thanking you.

Yours faithfully,

Encl: previous representation (copy).

(L.K. VARTE) 19/3/97  
Rehabilitation Officer  
& Superintendent i/c.  
VRC For Handicapped,  
Guwahati.

Copy to:-

The Director of Employment Exchanges,  
Ministry of Labour (DGE&T),  
3/10, Jan Nagar House,  
New Delhi-110011

(L.K. VARTE)  
D.O. & Suptd. i/c.

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART-II,  
SECTION 3 SUB-SECTION (1))

Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
Directorate General of Employment and Training  
Shram Shakti Bhavan, Rafi Marg,

New Delhi, dated 1.1.1996

### NOTIFICATION

G.S.R. In exercise of the powers conferred by the provision to article 309 of the Constitution, and in supersession of the Vocational Rehabilitation Centres (Class-I and Class-II posts) Recruitment Rules, 1969, in so far as they relate to the post of Superintendent, Vocational Rehabilitation Centres (Group 'A') except as respect things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the Group 'A' posts of Senior Superintendent and Superintendent in the Vocational Rehabilitation Centres for Handicapped, Directorate of Employment, Directorate General of Employment and Training, Ministry of Labour. Namely:-

1. (1) Short title and commencement:- These rules may be called the Vocational Rehabilitation Centre for Handicapped, Directorate of Employment, Directorate General of Employment and Training (Senior Superintendent and Superintendent) Recruitment Rules, 1995.

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

2. Number of posts, Classification and Scale of Pay :- The number of the said posts, the classification and the scale of pay attached thereto shall be as specified in column 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualification etc. :- The method of recruitment to the said posts, age limit, qualification and other matters relating thereto shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification :- No person

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who having a spouse living, has entered into or contracted a marriage with any person.

shall be eligible for appointment to the said

posts :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

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

6. Saving- Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Caste, the Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government, from time to time, in this regard.

(Here in the schedule)

(K. Krishnamoorthy)  
Deputy Secretary to the Government of India

No. DGET-A-12018/1/91-Adm.II

To  
The Manager,  
Government of India Press (with Hindi version and spare copies)  
New Delhi, Ring Road.

Copy to:-

1. The Secretary, Union Public Service Commission, Dhulpur House, Shahjahan Road, New Delhi (with 5 spare copies) w.r.t. their letter No. 3/12(11)/91-RK dated 28.02.95 (5 copies of the Recruitment Rules are enclosed). By name to Sh. K.G. Nair, Under Secretary.
2. The Department of Personnel and Training, New Delhi (Estt. RK Section) w.r.t. their No. DPET Dy. No. 837/US(RP)/91 dated 24.07.91. (By name to Sh. C.L. Sharma, Under Secretary (RP)).
3. Ministry of Law, Justice and Company Affairs, Legislative Department, Shastri Bhavan, New Delhi.
4. Official Language Commission, Bhagwan Das Road, New Delhi.
5. Rajya Sabha Secretariat.
6. Lok Sabha Secretariat.
7. Director, CIRTES, New Delhi.
8. All the subordinate offices under the Directorate of Employment of DGET.
9. All Administrative Sections under Directorate of Employment of DGET.
10. Library, DGET, New Delhi.
11. Adm.II Section spare copies 100/  
Notification folder.

(Section Officer)

Educational and other qualifications required for direct recruits

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees

Period of probationary if any

8

9.

10

Essential

One year for direct recruits

- (i) Master's Degree in Psychology/Sociology/Social Work/Education from a recognised University or equivalent.
- (ii) Seven years' experience in work relating to rehabilitation or placement or evaluation or training of physically handicapped persons.

No

Note. 1 Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified.

Note. 2 The qualification (s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if, at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

29 59

SCHEDULE

Name of post	No. of post	Classification	Scale of Pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of service admissible under Rule 50 of the CCS (Pension) Rules, 1972
1.	2.	3.	4.	5.	6.	7.
1. Senior Superintendent	6*	General Central Service-Group A Gazetted	Rs. 3000-100-3500-125-4500	Selection	Not exceeding 40 years.	No
		*Subject to variation dependent on workload.				

(Relaxable for Government servants upto 5 years in accordance with the instructions or orders issued by the Central Government).

Note: The crucial date for determining the age-limit shall be the closing date for receipt of application from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State, Lahaul and Spiti district and Pangi Sub-division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep).

Method of recruitment,  
whether by direct  
recruitment or by promotion  
or by deputation/transfer and  
percentage of the vacancies to  
be filled by various methods

In case of recruitment by promotion/  
deputation/transfer, grades from which  
promotion/deputation/transfer to be  
made.

Promotion failing which by  
transfer on deputation  
including short-term  
contract, failing both by  
direct recruitment.

Promotion:

Superintendent in the scale of pay of Rs.  
2200-4000 with five years' regular service in  
the grade

Note:-Where juniors who have completed their  
qualifying eligibility service are being considered for  
promotion, their seniors should also be considered provided  
they are not short of the requisite qualifying/eligibility  
service by more than one year/have successfully completed  
their probation period, if prescribed.

Transfer on deputation (including short-term contract):

Officers under the Central Government/State Government/Union  
Territory Administrations/Autonomous Organisations-

- (a) (i) holding analogous posts on regular basis; or  
(ii) with five years' regular service in posts in the scale of  
Rs. 2200-4000 or equivalent; or  
(iii) with eight years' regular service in posts in the scale of  
Rs. 2000-3500 or equivalent; and  
(b) possessing the educational qualifications and experience  
prescribed for direct recruits under column (8).

The departmental officers in the feeder category who are in the  
direct line of promotion shall not be eligible for consideration  
for appointment on deputation.

Similarly, deputationists shall not be eligible for consideration  
for appointment by promotion.



- 31 -

If a Departmental Promotion Committee exists, what is its composition?

12

(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other Organisation/Department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be, not exceeding 56 years, as on the crossing date of receipt of applications).

13

Group 'A' Departmental Promotion Committee for considering Promotion

1. Chairman/Member, Union Public Service Commission - Chairman
2. Director General/Joint Secretary, Directorate General of Employment and Training - Member
3. Director of Employment Exchanges - Member
4. Deputy Secretary, Directorate General of Employment and Training - Member

Group 'A' Departmental Promotion Committee for considering confirmation of direct recruits

1. Director General/Joint Secretary, Directorate General of Employment and Training - Chairman
2. Director of Employment Exchanges - Member
3. Deputy Secretary, Directorate General of Employment and Training - Member

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

Circumstances in which Union Public Service  
Commission to be consulted in making  
recruitment

14

Consultation with the  
Union Public Service Commission  
necessary while making direct  
recruitment and appointing an officer  
on transfer on deputation (including  
short-term contract).

....

65

32-21

-1-

1. 2. 3. 4. 5. 6. 7.

2. Superin-  
tendent

11\*

General Central  
Service Group A  
Gazetted.

Rs. 2200-75-2800  
EB-100-4000

Selection Not exceeding 35 years No

\*Subject to  
variation  
dependent on  
workload.

(Relaxable for Government servants  
upto 5 years in accordance with the  
instructions or orders issued by the  
Central Government)

Note: The crucial date for determining  
the age-limit shall be the closing  
date for receipt of applications from  
candidates in India (and not the  
closing date prescribed for those in  
Assam, Meghalaya, Arunachal Pradesh,  
Mizoram, Manipur, Nagaland, Tripura,  
Sikkim, Ladakh Division of Jammu and  
Kashmir State, Lehaul and Spiti  
district and Kangri Sub-division of  
chamba district of Himachal Pradesh,  
Andaman and Nicobar Islands or  
Lakshadweep).

...2/-

Essential:

(i) Master's degree of a recognised university or equivalent in psychology, sociology, social work/education.

No

One year for direct recruits and two years for promotees.

Promotion failing which by transfer on deputation (including short term contract failing both by direct recruitment.

(ii) Four years' experience in the work relating to rehabilitation or placement or evaluation or training of physically handicapped persons.

Note 1: Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified.

Note 2: The qualification(s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if, at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from those communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

promotion:

- (i) Psychologists  
(ii) Rehabilitation Officers

with five years' service in the grade  
imposed after appointment thereto on  
regular basis.

Note 1. The eligibility list for promotion  
shall be prepared with reference to the  
date of completion by the officers of the  
prescribed qualifying service in the  
respective grade/post.

Note 2. Those juniors who have completed  
their qualifying eligibility service are  
being considered for promotion their  
seniors should also be considered  
provided they are not short of the  
requisite qualifying/eligibility service  
by more than one year and have success-  
fully completed their probation period,  
if prescribed.

Transfer on deputation (including short  
term contract):

Officers of the Central Government/State Govern-  
ment/ Union Territory Administrations/Autonomous  
organisations:-

- (a) (i) holding analogous posts on regular  
basis; or  
(ii) with three years' regular service  
in posts in the scale of Rs. 2000-3500 or  
equivalent; and

Group 'A' Departmental  
Promotion Committee for  
considering promotion

1. Chairman/Member - Chairman  
Union Public  
Service Commission
2. Director General/Joint - Member  
Secretary, Directorate General of  
Employment and Training
3. Director of Employment - Member  
Exchanges.
4. Deputy Secretary, - Member  
Directorate General and  
Employment and Training

Group 'A' Departmental Promotion Committee  
for considering confirmation of direct recruits

1. Director General / Joint Secretary - Chairman  
Directorate General of Employment  
and Training.
2. Director of Employment Exchanges - Member
3. Deputy Secretary, - Member  
Directorate General of Employment and  
Training.

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

~~38~~

12

(b) assessing the educational qualifications and experience prescribed for direct recruits under column 8.

The departmental officers in the feeder category who are in the direct line of promotion shall not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion.

(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be not exceeding 55 years, as on the closing date of receipt of applications.)

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Regd.

No.DGET-A-32018/1/97-EE.II.  
Government of India  
Ministry of Labour  
(D.G.E.&T.)

14/11, Jam Nagar House,  
New Delhi 110011.

Dated: 8-5-97

To

Shri L.K. Varte,  
Superintendent I/C,  
VRC for Handicapped,  
Guwahati.

Sub: Promotion to the post of Superintendent against  
reserved point for Scheduled Tribe - regarding.  
\*\*\*\*

Sir,

I am directed to refer to your representation dated  
19.3.97 on the above subject and to inform you that a  
D.P.C. proposal to fill up 4 posts of Superintendents is  
being sent to U.P.S.C. Out of these 4 posts one is  
reserved for S/T and being lone S/T candidate, you are  
under zone of consideration.

Yours faithfully,

( Brij Bhushan )  
Section Officer

for Addl. Director of Employment Exchange

GOVT OF INDIA

Ministry of Labour

Guwahati

Slary No.

Section

Date

73

A.P.M.

14/5/97

14/5/97  
97

-38-

68

GOVT OF INDIA  
Ministry of Labour/ Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated 13/04/99  
15.

OFFICE ORDER No. 46/99

The President is pleased to appoint on promotion the following officers to the following posts of Superintendents, Vocational Rehabilitation Centre for Handicapped in the pay scale of Rs.8000-275-13500 (Group 'A' Gazetted) w.e.f. the date they assume the Charge of the post

S.No.	Name of the Officer	Place
1.	Shri M.F.Rastogi, Superintendent (ad-hoc)	Dellii (Hqr.)
2.	Smt. P.Chandrika Rani, Psychologist	VRC, Trivandrum
3.	Shri Arun G. Joshi, Superintendent (ad-hoc)	VRC, Vadodra
1.	Shri G.K.Sokal, Superintendent	VRC, Jabalpur

The following transfers and postings are also here by ordered in public interest with immediate effect.

S.No.	Name of the Officer	From	To
1.	Shri M.F.Rastogi, Superintendent (ad-hoc)	Delhi (Hqr.)	VRC, Agartala
2.	Smt. P.Chandrika Rani, Psychologist	VRC, Trivandrum	VRC, Jaipur
3.	Shri Arun G. Joshi, Superintendent (ad-hoc)	VRC, Vadodra	VRC, Vadodra

For promotion  
order of  
02.5



-39-

S.No.	Name of the Officer	From	To
4.	Shri G.K.Sokal, Superintendent	VRC, Jabalpur	VRC, Jabalpur
5.	Shri Kapil Kumar, Superintendent	VRC, Agartala	VRC, Ludhiana

2. Sh. G.K.Sokal had earlier been appointed as Superintendent, VRC for Handicapped on direct recruitment basis through UPSC. Therefore, he is directed to give his option, whether he wishes to continue his appointment as Superintendent, VRC for Handicapped on Direct Recruitment basis or want to accept his promotion made on recommendation of Departmental Promotion Committee against promotion quota vacancy. His option should reach the undersigned within 15 days from the issue of this order.

3. The Officers should report to the new station at the earliest and not later than one month of the date of this order. Accordingly all the officers are directed to get themselves relieved within the stipulated period. Charge handing over & Charge taking report in respect of above mentioned officers may be sent to the DGE&T (Hqrs.)

*R. J. Pal*  
(RAJ PAL)

Deputy Secretary to the Govt. of India

Distribution

1. Shri M.F.Rastogi, Superintendent (with the direction to immediately move to join new place of posting.)
2. Shri Kapil Kumar, Superintendent, On Camp at DGE&T (Hqrs), with the request to immediately hand over charge to Sh. Rastogi after reaching Agartala. He shall move for Agartala only after obtaining written instructions from Director (LMI).
3. Vocational Rehabilitation Centre for Handicapped, Agartala, Trivendrum, Kampur, Ludhiana, Ahmedabad, Guwahati, Jabalpur.
4. Vocational Rehabilitation Centre for Handicapped, Vadodra.
5. Pay & Accounts Officer, DGE&T, New Delhi/DGFASLI, Mumbai.
6. All Cr. Supdts./Supts. VRC for Handicapped.
7. PS to DGE&T/Adm II (Vig.)/Adm.-III.
8. In-charge LMI/ENL & HFC (E)/Hindi Unit/WSU/Vigilance Section (US).
9. Personal files of the concerned officer.
10. Spare copies 10.

Speed Post

To ✓

The Director General of Employment & Training,  
Government of India, Ministry of Labour (DGE&T)  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi-110 001.

27.2.4.99  
Guwahati

Subject: Promotion to the post of Superintendent against reserved point for Schedule Tribe category-regarding.

Sir,

I have the honour to state that I had been regularly working as Rehabilitation Officer at VRC for Handicapped, Guwahati, since 25-03-1986 and the Govt. have substantively appointed me to the post w.e.f. from 5/7/88. In this connection, my representation for promotion to the post of Supdt. dated 27-11-96 have also replied by your good offices vide letter No.DGET-A-32018/1/97-EE.II. dated 8-5-97(Copy enclosed) informing me the fact that a DPC proposal to fill up four posts of Superintendents is being sent to UPSC and out of these four post one is reserved for S/T and being myself the lone S/T candidate. I was under Zone of consideration. ✓

However, while going through your Office order No. 46/99 dated 15-4-99, I surprisingly found that my name as well as no S/T candidate is found in the list. Thinking that I was deprived of my promotion chance on the basis of Govt. reservation orders.

That Sir, while there is reservation in promotion as well as in direct recruitment for the post of Superintendents, so far neither in the direct recruitment quota nor in promotion quota no post of Superintendent

Contd.-2/-

has been given to Scheduled Tribe candidates and being myself the lone eligible Schedule tribe candidate for promotion, my case may kindly be reconsidered for promotion to the post of Superintendent.

Thanking you Sir;

Yours faithfully,

Encl.: as Stated.

*(Signature)* 21/4/99  
(L.K.Varte)

Rehabilitation Officer  
& Superintendent i/c  
VRC for Handicapped, GHY.

✓ Copy for information with a request to pursue the case-  
The Director (LMI), Ministry of Labour (DGE&T), Shram  
Shakti Bhawan, Rafi Marg, New Delhi-110 001.

*(Signature)* 21/4/99  
(L.K.Varte)

Rehabilitation Officer  
& Superintendent i/c  
VRC for Handicapped  
Guwahati.

- 42 -

12

REGISTERED

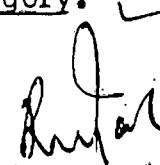
No.DGET-A-32013/4/96-Adm-II  
Government of India  
Ministry of Labour  
Directorate General of Employment & Training

.....

Shram Shakti Bhawan ,Rafi Marg  
New Delhi dated 26th May,99

MEMORANDUM

With reference to his representation dated 21.4.99 regarding promotion to the post of Superintendent, VRC for Handicapped against the vacancy reserved for Scheduled Tribe candidate, Shri L.K.Varte, Rehabilitation Officer is hereby informed that four vacancies in the grade of Superintendent VRC have been filled up by promotion and as per the revised roster based on the instructions issued by DoP&T OM No. 36012/2/96-Estt.(Res.) dated 2.7.97, none of the vacancies was required to be reserved for ST category.



(Raj Pal)  
Deputy Secretary

✓ Shri L.K. Varte,  
Rehabilitation Officer,  
VRC for Handicapped,  
Guwahati.

Ass am

Copy to:- Director (LMI)

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23

By Speed Post

No.DGE&T-A-32013/4/96-Adm.II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/Shram Mantralaya  
 (Directorate General of Employment & Training)

New Delhi, Dated: June 7, 1999

OFFICE ORDER

Consequent upon option given by Shri G.K.Sokal, Superintendent, VRC for Handicapped to continue on the post of Superintendent, VRC for Handicapped on direct recruitment basis, the President is pleased to appoint Shri K.K.Bhatt, Rehabilitation Officer on promotion to the post of Superintendent, VRC for Handicapped in the scale of Rs.8000-275-13500 (Group 'A' Gazetted) w.e.f. date he assumes the charge of post.

2. Shri Bhatt is transferred and posted at VRC for Handicapped, Guwahati in public interest.

3. Shri Bhatt is further directed to report to the new station the earliest but not later than one month of the date of issue of this order. He is also to get himself relieved within stipulated period. His charge handing over and taking over may be sent to DGE&T (Hqr.).

*Raj Pal*  
 (RAJ PAL)

Deputy Secretary to the Govt. of India

Distribution:

1. Shri G.K.Sokal, Superintendent, VRC for Handicapped, Jabalpur.
2. Shri K.K.Bhatt, R.O., VRC for Handicapped, Ahmedabad.  
 His request for transfer at VRC for Handicapped, Vadodara was considered but the same could not be acceded to because there is no vacancy of Superintendent at Vadodra.
3. VRC for Handicapped, Guwahati.
4. Senior Superintendent, VRC for Handicapped, Ahmedabad.
5. All VRCs.
6. The P&AO, DGE&T, New Delhi.
7. PS to DG/JS/Adm.I (Vig)/Adm.III
8. Dir (LMI)/ALX/EE-II/PC(E)/Hindi Unit/IWSU.
9. Personal file of officer concerned.
10. Spare copies 10.

ANNEXURE - 1  
- 44 -  
To  
Dated, Guwahati-8  
The 20th Aug. '99. 74

The Chairman,  
National Commission for Scheduled Castes/Tribes,  
5th Floor, Loknayak Bhavan,  
NEW DELHI-110 003.

Subject: Grievances on promotion to the post of  
Supdt.(Gr.A Gazetted) in the VRC Handicapped,  
Min.of Labour(DGE&T) against reserved post  
for Scheduled Tribe category-reg.

Sir,

I the undersigned, who belong to the Scheduled Tribe, Hmar Community originally from Churachandpur, Manipur in the North-East corner of the country, had grievances in promotion to the above stated post and would like to lay facts and my strong feeling of negligence of my department towards the lone ST Officer in the above promotion case before your good offices for sympathetic consideration.

2. That Sir, on the recommendation of the UPSC, I was appointed as Rehabilitation Officer(Gr.B Gazetted) in the VRC for Handicapped under the Min.of Labour(DGE&T) on regular basis w.e.f.25.03.1986(FN) and posted at Guwahati Centre. Subsequently, on 05.07.88, I was substantively appointed to the post. There is a promotion channel/avenue to the next higher post i.e. Supdt.(Gr.A Gazetted) after completion of 5 yrs. regular service. Accordingly the department had conducted a number of recruitment/promotion and fill up the posts by other categories like general, SC, PH persons. However, since inception of the centres for a span of 20 yrs. not even a single ST candidate had been given a chance for appointment to the post of Supdt. whether in a direct recruitment or on promotion.

On completion of my 10 yrs plus 8 months regular service, I had represented the Director General of Employment & Training, New Delhi vide my representation dated 27.11.96 and subsequent reminder on 19.03.97 (Copy enclosed) was replied by the Hqrs. vide their letter dated 08.05.97 (Copy enclosed) informed me that "a DPC proposal to fill up 4 posts of Supdt. is being sent to UPSC. Out of these 4 posts one is reserved for ST and myself being lone ST candidate, my name was included under zone of consideration". So, with a great hope, I was awaited eagerly for the results of the DPC/UPSC clearance.

3. However, to my surprise, the Hqrs. vide their Office Order No.46/99 dated 15.4.99 (copy enclosed) had filled up the 4 posts vacancies on promotion from the general candidates only, keeping silent to the intimated one post reserved for the ST candidate. Subsequently, out of 4 posts filled by promotion one post was vacated due to option of one direct rectt., and the Hqrs. vide their Order No.DGET-A.32013/4/96-Adm.II dated 07.06.99 had immediately filled up the one vacant post from the general candidate, who happened to be my same rectt./batch, and posted here at Guwahati centre and joined to the post as my Superior Officer/Boss.

contd.....2/-

Therefore, on 21.04.99, I once again represented to the DGE&T, New Delhi (Copy enclosed) for my promotion and the reply for which was negative, informing me that out of four posts, none of the vacancies was required to be reserved for ST category. Again, due to refusal to accept her promotion by another promotee of the same selected list, another one post is likely to be lying vacant and I fear that whether my promotion case will be considered or someone else will be considered.

It is needless to say that during my span of more than 13 yrs. regular service to the same post of Rehabilitation Officer, I had been entrusted to the duties of Supdt. for more than 8 yrs. without any financial benefit, the last in-charge being w.e.f. 11.01.95 to 19.07.99.

That Sir, keeping in view the facts stated above of the non-representation of ST category to the post of Supdt. and non-implementation of Govt.'s reservation orders to the SCs/STs in rectt./promotion to the said post, I do fervently request to kindly look into the matter to consider my promotion case to the post of Supdt. like my fellow officers so as to relieve me from my feeling of negligency being a ST officer, who had been stagnating to the same post for more than 13 yrs. for want of promotion.

Immediate kind action in this regard will be very much appreciated.

Encl: As stated above.

Yours faithfully,

(L.K.Varte)

Rehabilitation Officer,  
Vocational Rehabilitation Centre for  
Handicapped,  
Ministry of Labour (DGE&T)  
Rehabari, Guwahati-781008.

Copy for information & necessary action to-

1. The Director General of Employment & Training, Shram-Shakti Bhawan, Rafi Marg, New Delhi-110 001.
2. The Director (LMI), DGE&T, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi-110 001.
3. The Director,  
National Commission for Scheduled Castes/Tribes,  
G.S. Road, Guwahati-781006.
4. Superintendent,  
Rehabilitation Centre for Handicapped,  
Rehabari, Guwahati-781008.

(L.K.VARTE)

Rehabilitation Officer,  
VRC for Handicapped,  
Rehabari, Guwahati-8.

\*\*\*\*\*

सं/No. 6/76/99-Gen.

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES  
STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ती

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date...15-9-99.....

To

The Director General of  
Employment & Training,  
Ministry of Labour (D.G.E. & T.)  
Govt. of India,  
Sharam Sakti Bhawan, Rafi Marg,  
New Delhi-1.

Sub: Representation from Shri L.K. Varte, Rehabilitation  
Officer, VRC for Handicapped, Rehabari, Guwahati  
alleged deprives of promotion against the reserved  
post for ST category - regarding

Sir,

I have the honour to invite your kind attention to the  
subject noted above and to say that a representation has been  
received in this office from Shri L.K. Varte, Rehabilitation  
Officer, VRC for Handicapped, Rehabari, Guwahati addressed to the  
Commission's Headquarters, New Delhi. It is alleged that he has  
been deprives of promotion to the post of Supdt. (Group 'A' ~~xxxxxx~~  
Gazetted) in the VRC for Handicapped against the reserved post for  
ST category. A copy of the representation is enclosed which is  
self explanatory.

It is requested that the matter may please be examined and  
the details facts of the case alongwith the copy of roster  
register for the grade of Supdt. and parawise comments on the  
points raised in the representation may please be furnished to  
this office at the earliest for further necessary action.

Yours faithfully,

( J. PODDAR )  
DIRECTOR

Encl: As Above.

No. 6/76/99-Gen. 1620

Date: 15-9-99

Copy to Shri L.K. Varte, Rehabilitation Officer, VRC for  
Handicapped, Rehabari, Guwahati-8 for information.

15/9  
DIRECTOR



ANNEXURE - XIII

47 -

BY SPEED POST

No.DGE&T-A-32013/4/96-Adm.II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated: October 6, 1999

MEMORANDUM

With reference to his representation dated 20.08.99 addressed to National Commission for SC/STs and copy endorsed to this Directorate regarding deprivation of promotion to the post of Superintendent, VRC for Handicapped, against the vacancy allegedly reserved for Scheduled Tribe candidate, Shri L.K.Varte, Rehabilitation Officer is hereby again informed that four vacancies in the grade of Superintendent have been filled up by promotion and as per the revised roster based on the instructions issued by DOP&T OM No.36012/2/96-Estt. (Res) dated 02.07.97, none of the vacancies was required to be reserved for ST category.



(RAJ PAL)

Deputy Secretary to the Govt. of India  
Tel. : 3714765

PASS ON  
TO RO  
12/10

✓  
Shri L.K.Varte,  
Rehabilitation Officer,  
VRC for Handicapped,  
Guwahati. - 781 008

Copy to:  
Director (LMI)

- 48 -

ता/Gram : RECASTRIBES

दूरभाष / Phone : 567040

फैक्स / Fax: 0361-567040

सं/No. 6/76/99-Gen

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ति

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date... 9-11-99...

To

The Director General of  
Employment & Training,  
Ministry of Labour (DGE&T)  
Govt, of India,  
Sharam Sakti Bhawan,  
Rafi Marg,  
New Delhi - 110 001.

Sub: Representation from Shri L.K. Varte,  
Rehabilitation Officer, VRC for Handicapped,  
Rehabari, Guwahati alleged deprives of promotion  
against the reserved post for ST category -  
regarding

Sir,

I am to invite the reference to your office letter No.DGE&T-A-32013/4/96-Adm-II dated 5.10.99 on the subject mentioned above and to say that the clarification submitted has been examined in this office with reference to the Annexures enclosed therein. The following observations of this Commission may please be taken into account for further necessary action.

2. It is seen that there are 11 number of sanctioned posts of Superintendent (Group 'A' Gazetted) in VRC(H) in DGE&T as per your office notification DGET-A-12018/1/91-Adm-II dated 1.1.96. The reservation roster for promotion to be applicable as given in Annexure-III to DOPT O.M. NO.36012/2/96-Estt(Res) dated 2.7.97 model roster for promotion to a small cadre - strength of 13 or less. For cadre of 11 posts, in this case, the roster is to be read from entry 1 under column "Cadre strength" till the last post i.e. "11" and then horizontally till the last entry in the horizontal row. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally, against the last post of the cadre (i.e. 11th) (Please see note on appendix to annexure-III to DOPT O.M. dated 2.7.97). This is so to ensure representation of SCs and STs in the small cadre. It may be seen that the 3rd replacement, in the cadre of 11 posts, is reserved for ST.

Contd. ..2/-

*[Handwritten signature]*

3. The vacancies arising from retirement, etc., of candidates belonging to such categories shall be filled by promotion of candidates belonging to the categories to which the relevant roster points belong.

4. The annexure-II to your office letter indicated the present position of incumbents in the grade of Supdts. It appears that the roster for the grade of Supdt. has not been maintained properly as per guidelines issued by the DOPT vide O.M. No.36012/2/96-Estt.(Res.) dated 2.7.97.

5. The seniority list of Supdts. in VRC(H) as on 28.2.87 circulated vide Circular No.DGET-A-23021/1/87-Adm-II dated 16.4.97 reveals that there were 13 number of Supdts. above Shri Attar Singh, the senior most Supdt. in the list of present incumbents, who were either retained or promoted to the higher grade. The roster maintained prior to 2.7.97 should have been included the name of above 13 Supdts. who have vacated the post at present. While implementing the post-based roster, the explanatory notes on the principles for making & operating post-based roster, initial operation, etc. annexed to the DOPT O.M. No.36012/2/96-Estt(Res.) dated 2.7.97 clearly indicated that at the point of initial operation of the post-based roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-a-vis the points earmarked for each category viz. SC, ST & General in the roster. This may be done by plotting the appointments made against each point of roster starting with the earliest appointee.

6. The post-based roster thus prepared, it may be seen that a ST carried forward point is available. Therefore, the post-based roster has to be recast for the post of Supdts. and necessary action may please be taken to promote Shri L.K. Varte, R.O., VRC(H), Guwahati against the ST carried forward point, on an immediate basis.

The action taken in this regard may please be communicated to this office for onward transmission to the Commission Headquarters. New Delhi.

Yours faithfully,

( J. PODDAR )  
DIRECTOR

No.6/76/99-Gen./848 Christian Basti, Guwahati-5, Date:9-11-99

Copy to Shri L.K. Varte, Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati-8 for information.

DIRECTOR

DCE&T.A.320134/96-Adm.II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated : 26 May, 2000

To

The Director,  
(Shri J.Poddar),  
National Commission for Scheduled Caste and Scheduled Tribe  
G.S. Road, Christian Basti  
Guwahati - 781005.

Subject: Representation from Shri L.K.Varte - Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati, deprives of promotion against the reserved post for ST Category - Regarding.

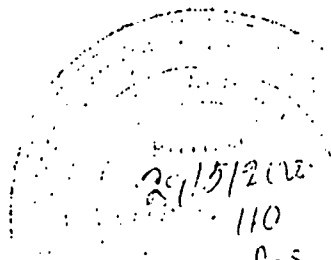
Sir,

I am directed to refer to your letter No.6 76 99-Gen. 1619 dated 09.11.99 and subsequent reminder No.6 76 99-Gen. 993 dated 13.12.99 on the subject mentioned above and to say that as per your advice and guidance recruitment roster for the post of Superintendent, VRC for Handicapped has been recast starting from the earliest appointment in the grade. It is found that no ST candidate has ever been promoted against the post of Superintendent. Having agreed to the advice, a DPC proposal for regular promotion to the post of Superintendent, VRC for Handicapped taking the post as reserved for ST candidate is being sent to UPSC accordingly.

Yours faithfully,

*Rajpal*  
(RAIPAL)

Deputy Secretary to the Govt. of India  
Tel. : 3714765



Registered Post

र/Gr. 11: RECASTRIBES

सं./No.6/76/99-Gen./191

दूरभाष / Phone : 567040  
फैक्स / Fax : 0361-567040

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

पंजीकृत

REGISTERED

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ति

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date 31.5.2000

To

Shri L.K. Verte  
Rehabilitation Officer,  
VRC for Handicapped,  
Rehabari,  
Guwahati-781008.

Sub: His representation dated 20.8.99 - regarding

Sir,

This has a reference to your representation dated 20.8.99 addressed to the Chairman of this Commission with a copy to this office. Your representation was taken up with the Directorate General of Employment & Training, Ministry of Labour, Govt. of India, New Delhi. Recently a reply has been received from the Directorate which seems to be satisfactory (Copy enclosed). However, it is requested that in the matter of disagreement of the said reply, you may clarify the same to this office, otherwise the case stands disposed off.

Yours faithfully,

  
( J. PODDAR )  
DIRECTOR
Encl : As above.

NO. DGET-A-28018/1/2001-EE.II  
Government of India  
Ministry of Labour  
(DGE&T)

Dated at New Delhi the 3<sup>rd</sup>  
September, 2001.

ORDER

Sub: Representation of Shri L.K. Varte, Rehabilitation Officer against adverse remarks in his ACR for the year 1999-2000- consideration of - Reg.

In the A.C.R. for the year 1999-2000 of Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Physically Handicapped, Guwahati adverse remarks had been recorded. These adverse remarks were conveyed to the incumbent vide O.M. No. DGET-A- 32012/2/2000-EE.II dated 7/11/2000 and was informed that if he wants to represent against the adverse remarks he may do so within 30 days. However Shri Varte, Rehabilitation Officer has made a representation dated 18/5/2001.

I have perused the representation and also the comments made by the Reporting Officer. After due consideration, my orders with regard to the adverse remarks are as follows :

1. Nature & Quality of Work	The adverse remarks are on the basis of shortfall in terms of intakes and placements. Shri Varte cannot wash out his hands merely by saying that this is collective responsibility of all the officers and staff dealing with vocational rehabilitation in the centre. A perusal of the work distribution order as also the general norms in the VRC indicate that the RO has a primary responsibility for intake and economic rehabilitation. It is also seen that the Superintendent has issued suitable advice from time to time. The nature and quality of the work done by Shri Varte is also commented upon in the Inspection Report carried out by Shri R. Narasimham, DDX, thereby giving another opportunity for the aggrieved officer to improve his work. He has not taken advantage of the opportunity given to him for improving his work. Under these circumstances the adverse entry regarding nature and quality of work is fully sustained.
2. Quality of Output	Adverse remarks emanate from the quality of supervision and follow-up of programmes and inability to start the community based vocational programmes. From the perusal of the records it is clear that the RO had not made sufficient efforts to arrange sponsorship for the payment of

	honorarium in the programme and also not issued training certificates after completion of training. Based on the technical evaluation report and also the note given by Superintendent, VRC in this regard, I find there is no reason to interfere with the adverse entry given.
3. Knowledge of Sphere of Work	The inspection report dated 18.5.2001 clearly supports the contention of the Reporting Officer that RO and the Intake Assistants had not maintained suitable registers. The information on self-employment schemes was not complied. As such there appears to be lack of willingness to read and assimilate the instructions contained in the National Employment Service Manual. As Shri Varte has been in service for a very long time; it clearly shows lack of knowledge and more importantly unwillingness to learn. Under these circumstances this aspect of the adverse entry is sustained.
4. Part B item 3 Comment on the capacity and resourcefulness in handling normal as well as unforeseen situation, willingness to take additional responsibilities.	Comments on the capacity and resourcefulness of the officer in handling normal as well as unforeseen situations and willingness to accept additional responsibility are not sustained because of inadequate proof given by the Reporting Officer.
5. Part B Item 4 : Attitude to Work	This adverse remark is on the level of motivation and ability to systemize his work. The Reporting Officer has failed to substantiate the comments about the officer being 'self-centric' and hence these adverse remarks need to be expunged.
6. Part B Item 6(a) Supervisory Ability	These remarks are substantiated as there is no evidence of supervision notes of the work of Intake Assistants or visits to concerned units and sections.
7. Part B Item 6(ii) Review of performance	Remarks arising out of financial irregularities committed in purchase and these have been substantiated by the Reporting Officer and also through Audit objection. Therefore, there is no justification for expunging these remarks.
8. Part B Item 6(IV) Maintenance of Discipline	The remarks cannot be sustained on the basis of available evidence.
9. Part B Item 8	The adverse remarks regarding relation with public are sustained because of the aggrieved officer not maintaining contact register which is required as per VRC Manual.
10. Part C Item No. 2	With regard to comments on financial irregularities that have been mentioned in this column, there is no need to keep these remarks on file because these have been covered in the previous column on the question of financial

-54-

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-3-

	irregularity.
	The remarks appear to be made on the basis of overall conduct and quality of work of the officer. As adverse remarks having been sustained in the column of Nature and Quality work, there is no need of adverse remarks in the overall assessment. Moreover, the language employed by the Reporting Officer is subjective and needs to be expunged.

I also do not find adequate justification for the remarks recorded against items 5, 6(iii) and 7 of Part B and accordingly order them to be expunged.

*S. Krishnan*

(S. Krishnan)

Joint Secretary/DG:Employment & Training

Shri L.K. Varte,  
Rehabilitation Officer,  
VRC, Guwahati.

✓



By Speed Post

No.DGET.A-23024/1/2001-EE-II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/ Shram Mantralaya  
 Directorate General of Employment & Training

New Delhi, Dated the 29th January, 2002

To

Senior Supdts/Superintendents,  
All V.R.Cs for Handicapped

Subject: Finalisation of Seniority Lists of the Group-'B'  
 officers working in the V.R.Cs.

Sir,

I am directed to forward herewith a copy of the Final Seniority Lists of Psychologists and Rehabilitation Officers and tentative Seniority Lists of Workshop Engineers and Rehabilitation Counsellors. A copy of the same may be given to the concerned officers. With regard to Tentative Seniority Lists of Workshop Engineers and R.Cs, any objection to the concerned officers may please be intimated to this office for finalization of the same.

Yours faithfully,

*R. Narasimham*  
 (R. Narasimham) 29/1

Deputy Director of Employment Exchanges

Encl: As above.

GOVT OF INDIA  
 DEPT OF LABOUR  
 GOVT OF INDIA  
 NO. 63  
 DATE 21/2/02

O.S.  
 Pl. circulate  
 Amargot PO/By  
 8  
 1/2

### Final Seniority List of Rehabilitation Officers

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	R.Laxmanasamy	16.2.1948	11.6.1976	4.5.1983	DR	General
2	G.K. Malviya, Mrs.	10.10.1944	2.7.1976	4.6.1982	DR	General
3	L.K. Varte	1.3.1957	1.5.1982	25.3.1986	DR	S/T
4	Rajendra K. Sharma	15.1.1953	26.12.1986	26.12.1986	DR	General
5	M.V. Rita, Mrs.	4.5.1954	8.2.1984	2.3.1998	DR	General
6	Sandhya P. Shere	9.1.1953	1.8.1979	4.3.1988	DR	S/C
7	Bhooma Devi Rajan, Mrs.	7.6.1955	1.11.1980	19.4.1991	DR	General
8	Ram K.Sharma	5.3.1962	11.7.1991	11.7.1991	DR	General
9	D.K. Gupta	14.12.1947	8.11.1976	2.6.1999	P	General
10	B.G. Sanyal	22.2.1951	1.12.1976	5.7.1999	P	General
11	S.P. Upadhyaya	4.9.1944	1.2.1972	30.6.1999	P	General
12	Bachchoo Singh	5.1.1953	8.10.1984	8.7.1999	P	S/C
13	V.Sathishchandran Nair	20.5.1954	14.7.1976	6.9.1999	P	General
14	S.Yadav (Smt)	18.10.1955	3.9.1984	3.9.1984	P	General

### Final Seniority List of Psychologists of V.R.Cs

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	P.Chandrika Rani, Mrs.	10.6.53	14.7.83	14.7.83	DR	General
2	C.P.Mohanty, Dr.Mrs.	21.1.53	1.6.85	1.6.85	DR	General
3	Narendra Kumar	11.3.58	6.5.82(TA)	22.11.85	DR	General
4	R.R. Mishra	15.11.52	12.1.88	12.1.88	DR	General
5	T.Santhanam, Dr.	11.8.53	4.10.89	4.10.89	DR	OBC
6	Nutan Pandey, Dr.Mrs.	25.6.57	29.1.90	29.1.90	DR	General
7	D.N. Gayatri	19.12.58	12.9.86	3.9.90	DR	General
8	M.Bhagyam, Mrs.	2.4.56	14.1.88	23.12.91	DR	General
9	Jhuma Moltra, Mrs.	22.3.61	17.2.92	17.2.92	DR	General
10	P.Mondal	2.4.56	20.4.76(IA)	24.8.99	Promotee	S/C
11	M.P. Pathak	15.4.56	24.1.83(RC)	29.6.99	Promotee	General
12	P.K. Cherian	22.9.53	17.8.82(RC)	21.6.99	Promotee	General
13	J.L.Shastri	3.2.49	16.11.77(IA)	22.9.99	Promotee	S/C
14	G.Thangraj	3.1.57	19.1.87(RC)	2.7.99	Promotee	S/C

### Tentative Seniority List of Workshop Engineer in the V.R.Cs

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	K Sundaramma, Mrs.	19.2.1947	17.7.1972	14.7.1983	P	S/C
2	D. Jayaraju	21.6.1951	20.5.1971	16.9.1986	P	General
3	Shobha Meher, Mrs	1.1.1953	31.12.1976	29.10.1986	P	General
4	P.G.Ramachandran	6.8.1958	9.3.1977	23.5.1990	P	S/C
5	P.Ganeshan	15.9.1952	15.5.1981	6.1.1993	P	S/C
6	M.P. Singh	31.7.1949	26.6.1978	20.10.1996	P	S/C

### Tentative Seniority List of Rehabilitation Counsellor in VRCs

1	Yash Pal Singh	1.3.1961	30.10.1987	16.6.1995	P	S/C
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No.DGE&T-A-32013/4/96-Adm.II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/Shram Mantralaya  
 (Directorate General of Employment & Training)

New Delhi, Dated: 11 December, 2001

To

The Research Officer,  
 (Shri Tarun Khanna),  
 National Commission for SC/STs,  
 G.S. Road Christian Basti,  
 Guwahati - 781005.

Subject:

Representation from Shri L.K. Varte, Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati, deprives of promotion against the reserved post for ST category - regarding.

Sir,

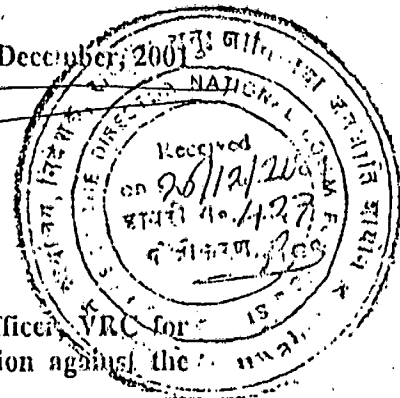
I am directed to refer to your letter No.6/76/99-Gen./734 dated 04/10/2001 on the subject mentioned above and to say that the proposal to fill up the post of Superintendent (reserved for ST candidates), VRC for Handicapped was sent to UPSC as per the advise of the Commission. UPSC did not agree with the candidature of Shri L.K. Varte as his name was at Sl.No.7, in the combined seniority list which was beyond the zone of consideration of five for one post even when extended zone is allowed in such a case. Therefore, UPSC, advised the Department to re-examine the matter. A possibility of carrying forward the ST vacancy for the next year while filling up the vacancy by general candidate was also considered, so that Shri Varte could get the benefit of the reserved vacancy in future.

2. In the mean-time one more vacancy of Superintendent, VRC for Handicapped has become available due to superannuation of one of the incumbent this year. Hence a combined proposal to fill up the two posts of Superintendents, VRC for Handicapped (One each for ST and Genl. candidate) has been sent to UPSC on 01/11/2001. Shri Varte being within the zone of consideration, will be considered by DPC along with other candidates.

Yours faithfully,

*[Signature]*  
 (J. RAJMOHAN)

Under Secretary to the Govt. of India  
 Tel: 3001367



सं./No6/76/99-Gen/1951

दूरभाष /Phone : 267040  
फैक्स /Fax : 0361-267040

भारत सरकार

राष्ट्रीय अनुसूचित जाति एवं अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी. एस. रोड, क्रिश्चियन बस्ती  
G. S. Road, Christian Basti  
गुवाहाटी/Guwahati-781 005  
दिनांक/Date : 02-01-2002

To,

Shri L.K. Verte  
Rehabilitation Officer  
VRC for Handicapped,  
Rehabari,  
Guwahati.-7810 08Sub: Representation regarding promotion to the post  
of Supdt., VRC for Handicapped against the reserved post of ST category - regarding.

Sir,

Please find enclosed herewith a copy of the letter No. DGE &amp; TWA-32012/4/96-Adm.II dated 11-12-2001 on the subject noted above received from the Ministry of Labour/Shram Mantralaya (Director General of Employment &amp; Training), New Delhi, which is self explanatory.

In this regard, it is requested that the outcome on the matter may please be intimated to this office in future for record.

Yours faithfully,

Encl:- As above.( Tarun Khanna )  
Research Officer

246 = 585 - Dev Roy

No.DGE&T-A-32013/4/96-Adm.II  
Bharat Sarkar/Government of India  
Shram Mantralaya/Ministry of Labour  
(Directorate General of Employment & Training)

New Delhi, Dated: 5 May 2003

OFFICE ORDER No.35/2003

On the recommendation of DPC, the President is pleased to appoint the following officers to the following posts on promotion to the post of Superintendents, VRC for Handicapped in the pay scale of Rs.8,000-275-13,500/- (Group 'A' Gazetted) w.e.f. the date they assume the charge of the post.

Sl. No.	Name of the officer	Place
1.	Smt. P.Chandrika Rani, Psychologist	VRC for H, Trivandrum
2.	Shri R.Lakshmana Swamy, Rehabilitation Officer	VRC for H, Hyderabad

2. The above mentioned officers will be on probation for a period of two years w.e.f. the date they assume the charge of the post of Superintendent, VRC for Handicapped. The period of probation may be extended at the discretion of the Competent Authority.

3. The following transfer and postings are also hereby ordered in public interest with immediate effect.

Sl. No.	Name of the Officer	From	To
1.	Shri K.K.Bhatt	VRC for H, Guwahati	VRC for H, Vadodara
2.	Shri Arun G.Joshi	VRC for H, Vadodara ✓	VRC for H, Kanpur ✓
3.	Smt. P.Chandrika Rani	VRC for H, Trivandrum	VRC for H, Kolkata
4.	Shri R.Lakshmana Swamy	VRC for H, Hyderabad	VRC for H, Guwahati
5.	Smt. Uma Kanti Srivastava, ADT	VRC for H, Kanpur	ATI, Kanpur

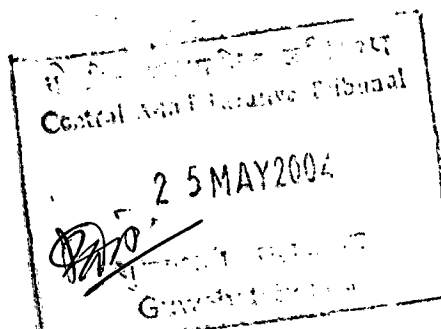
3. The officers should report to the new station at the earliest and not later than one month of the date of this order. Accordingly all officers are directed to get themselves relieved within the stipulated period. Charge handing over & taking over report in respect of above mentioned officers may be sent to the DGE&T (Hqrs.).

(R.K.AHLUWALIA)

Under Secretary to the Govt. of India  
Tel. : 23001367 & 23731398

Distribution:

1. All concerned officers.
2. VRC for Handicapped, Guwahati, Vadodara, Kolkatta, Trivandrum, Kanpur & Hyderabad.
3. Director, ATI, Kanpur.
4. Pay & Accounts Officer, DGE&T, New Delhi.
5. Pay & Accounts Officer, DGE&T-II, Guindy, Chennai.
6. All Senior Superintendents/Superintendents VRC for Handicapped.
7. PS to DG/JS, Dir.(KKM)/DS(NL)/DDG(E)/ALX.
8. VFT/MIWSU/PC(E)/EE(II)/Adm.II/Adm.III/Hindi unit/Library.
9. Personal file of the officer concerned.
10. Office order bundle.



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

**O.A. No. 127 /2004**

**Sri Lienkhawthang Varte.**

**-Vs.-**

**Union of India & Ors.**

**LIST OF DATES AND SYNOPSIS OF THE APPLICATION**

- 1984- Applicant was initially appointed as U.D.C in the Office of the Commissioner of Income Tax, NER, Shillong, while working as U.D.C he was selected by the U.P.S.C in the cadre of Assistant Grade and was posted in the office of the U.P.S.C, New Delhi as Assistant.
- 25.03.1986- Applicant was selected by the U.P.S.C for the post of Rehabilitation Officer and posted in the Directorate General of Employment and Training under the Ministry of Labour, Govt. of India. Accordingly the applicant joined as Rehabilitation Officer on 25.03.86.
- 01.01.1989- Directorate of Employment Exchange published gradation list of Rehabilitation Officer. In the said gradation list applicant was placed at Sl. No. 8 as an ST candidate. (Annexure-I)  
(Annexure-II)
- 27.11.1996- Applicant submitted representation addressed to the Director General, Employment & Training, New Delhi praying for consideration of his promotion to the post of Superintendent against the reserved post of ST.
- 07.03.1997- Three posts of Superintendent, which fall vacant in the year 1997, were filled up on

*Lienkhawthang*

ad-hoc basis by the office order dated 7.3.97. (Annexure-III)

19.03.1997- Applicant submitted representation for consideration of his promotion to the post of Superintendent. (Annexure-IV & V)

08.05.1997- Addl. Superintendent of Employment Exchange vide his letter dated 8.5.97 informed the applicant that 4 posts of Superintendent have been decided to filled up and the proposal have been already sent to the U.P.S.C.

(Annexure-VI)

13/15.04.1999- Deputy Secretary to the Govt. of India issued office order, whereby 4 posts of Superintendent was filled up on regular basis but the case of the applicant was not considered. (Annexure-VII)

21.04.1999- Being highly aggrieved for denial of his promotion the applicant submitted representation to the DG, Employment and Training, Govt. of India. (Annexure-VIII)

26.05.1999- Deputy Secretary vide his memo dated 26.05.99 replied the representation of the applicant. (Annexure-IX)

07.06.1999- One more post of Superintendent was filled up by the Deputy Secretary to the Govt. of India without considering the case of the applicant who belongs to ST category. (Annexure-X)

20.08.1999- Applicant submitted representation to the Chairman, National Commission for SC/ST for non-consideration of his promotion to the post of Superintendent. (Annexure-XI)

15.09.1999- National Commission took up the matter of the applicant with the Director General of

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Employment and Training requesting him to furnish parawise comment on the points raised by the applicant. (Annexure-XII)

06.10.1999- Deputy Secretary, Govt. of India issued a stereotype reply to the applicant.

(Annexure-XIII)

09.11.1999- National Commission for SC/ST, Guwahati directed the respondents to promote the applicant against the ST post. (Annexure-XIV)

26.05.2000- Deputy Secretary to the Govt. of India informed the Director of National Commission for SC/ST, Guwahati that case of the applicant is being sent to the UPSC.

(Annexure-XV)

31.05.2000- National Commission for SC/ST wrote a letter to the applicant that Directorate reply dated seems to be satisfactory. (Annexure-XVI)

07.11.2000- Applicant received certain adverse remarks on his ACR for the year 1999-00 vide letter bearing No.DGET-A-32012/2/2000-EE-II dated 7.11.00.

03.09.2001- Adverse remarks in ACR for 1999-00 was finally expunged by the Joint Secretary/DG Employment and Training, New Delhi vide order bearing No. DGET-A-28018/1/2001-EE.II dated 03.09.01. (Annexure-XVII)

11.12.2001- Under Secretary to the Govt. of India informed the Research Officer, National Commission for SC/ST that UPSC did not agree with the candidature of the applicant against the reserved post of ST. The National Commission communicated the said letter to the applicant for SC/ST vide their letter-dated 02.01.02. (Annexure-XIX & XX)



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- 29.01.2002- Seniority list of Group-B officers working in the VRCs was published. (Annexure-XVIII)
- 20.02.2002- Applicant was granted first financial upgradation w.e.f. 09.08.99 on the recommendation of the DPC held on 15.02.02.
- 05.05.2003- Respondents vide office order bearing No. 35/2003 again promoted Smti. P. Chandrika Rani and Shri R. Lakshman to the post of Superintendent without considering the case of the applicant against the backlog ST post. (Annexure-XXI)

Hence this application.

#### P R A Y E R S

##### **Relief(s) sought for:**

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

1. That the Hon'ble Tribunal be pleased direct the respondents to promote the applicant, to the post of Superintendent in the existing reserved post of S.T, at least w.e.f. the date of occurrence of S.T vacancy in the light of the decision communicated by the respondents in their letter dated 11.12.2001 (Annexure-XIX) with all consequential service benefit
2. That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be promoted to the reserve post of Superintendent, as per prevailing recruitment rule at the time when the sole post of Superintendent fall vacant

in the department of Director General of Employment and Training, VRC for handicapped under the Ministry of Labour and Employment, Govt. of India.

3. That the Hon'ble Tribunal be pleased to declare that the reserve S.T post of Superintendent can not be filled up by unreserved candidate, when eligible candidate of reserve category is available in the department.
4. Costs of the application.
5. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar for the respondents for considering the promotion of the applicant.

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Filed by me applicant  
through: Subrata Nath  
Advocate  
Sd/-  
25.05.04

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 127 /2004

Sri Lienkhawthang Varte : Applicant  
- Versus -

Union of India & Others. : Respondents.

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04.	II	Copy of the extract of seniority list published on 1.1.89.	-22-23
05.	III	Copy of the office order dated 7.3.97.	-24-
06.	IV	Copy of the representation dated 19.3.97.	-25-
07.	V	Copy of the Recruitment Rule	-26-36
08.	VI	Copy of the letter dated 8.5.97.	-37-
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11.	IX	Copy of the memo dt. 26.5.99	-42-
12.	X	Copy of the promotion order dated 7.6.99.	-43-
13.	XI	Copy of the representation dated 20.08.99.	-44-45
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21.	XIX	Copy of the letter dt. 11.12.1	-57-
22.	XX	Copy of the letter dt. 2.2.02.	-58-
23.	XXI	Copy of the Order dt. 5.5.03.	-59-

Date: 25.5.04

Filed by  
Subrata Nath  
Advocate

Lienkhawthang Varte

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: GUWAHATI

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

O. A. No. 127 /2004

## BETWEEN

Sri Lienkhawthang Varte.  
Son of Sri H.V. Varte.  
Rehabilitation officer,  
VRC for handicapped,  
Rehabari, Guwahati-8.

...Applicant.

## -AND-

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Labour,  
New Delhi- 110001.
2. Deputy Secretary to the  
Government of India  
Ministry of Labour,  
New Delhi- 110 001.
3. The Director general of Employment and Training,  
Joint Secretary to the Govt. of India,  
Ministry of labour (DGE & T),  
Sharam Shakti Bhawan,  
Rafi Marg, New Delhi-110001.
4. The Dy. Director General (Employment)  
Ministry of Labour (DGE&T),  
Shram Shakti Bhawan, Rafi Marg,  
New delhi-110001.
5. Assistant Director (Rehab.)  
V.R.C for Handicapped,  
Rehabari, Guwahati-8.

... Respondents.

*Implemented  
Resp. No. 6  
vide order  
dt. 2/9/04  
pass in  
MP 80/04*  
6. U.P.S.C.  
through its Secretary,  
11 Dholpur House,  
Shajahan Road,  
New Delhi.

*Lienkhawthang*

### DETAILS OF THE APPLICATION

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

This application is made against the impugned order of promotion dated 05.05.2003 and praying for a direction upon the respondents to promote the applicant to the post against existing Schedule Tribe post of Superintendent with retrospective effect at least from the occurrence of the Schedule Tribe vacancy in the light of the communication made under letter No. DGE & T-A-32013/4/96/Admn.II dated 11.12.2001 and also praying for fixation of pay of the applicant in the cadre of Superintendent from the date of occurrence of the Schedule Tribe post by holding the D.P.C/review D.P.C from the date of occurrence of Schedule Tribe post of Superintendent in the Directorate general of Employment and Training.

2. Jurisdiction of the Tribunal

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

3. Limitation.

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

*Linkha Thang Varte*

#### 4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. The applicant is presently working as Vocational Rehabilitation Centre, Rehabari, Guwahati.

4.2 That your applicant was initially appointed as U.D.C in the Office of the Commissioner of Income Tax, NER, Shillong. The applicant while working as U.D.C he was selected by the U.P.S.C in the cadre of Assistant Grade in the year 1984 and he was posted in the Office of the Union Public Service Commission, New Delhi as Assistant.

The applicant again pursuant to an advertisement of the Labour & Employment department, applied for the post of Rehabilitation Officer, he was selected by the U.P.S.C for the said post of Rehabilitation Officer and posted in the Directorate General of Employment & Training under the Ministry of Labour, Govt. of India. He joined as Rehabilitation Officer on 25.03.1986. The applicant is presently working in the Vocational Rehabilitation Centre at Guwahati.

A copy of the appointment order dated 12.03.1986 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-I.

4.3 That your applicant was placed at Sl. No. 8 in the gradation list of Rehabilitation Officer published as

*Lijukha Chang Kato*

on 1<sup>st</sup> January 1989 by the Directorate of Employment Exchanges. It could be evident from the seniority list of Rehabilitation Officer that he is the only candidate belongs to ST Community. As such he is entitled to special privileges and rights as guaranteed by the Constitution of India.

A copy of the extract of seniority list published as on 01.01.1989 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-II.

4.4 That your applicant submitted a representation on 27.11.1996 addressed to the Director General, Employment & Training, New Delhi for consideration of his promotion to the post of Superintendent against the reserved post of ST. However no action was initiated for consideration of his promotion to the post of Superintendent.

4.5 That it is stated that three posts of Superintendent, which were vacant in the year 1997, were filled up on ad-hoc basis by the office order No. DGET-A-30215/8/96-Adm-II dated 07.03.97. It appears from the office order that altogether four posts of Superintendent were vacant even during the year 1997.

A copy of the office order dated 7.3.1997 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure- III.

4.6 That the applicant again submitted representation on 19.03.1997 for consideration of his promotion to the

Lienkhatang Varte

post of Superintendent since he has completed 11 years of service as Rehabilitation Officer. As per Recruitment Rule only 5 years regular service is necessary for promotion to the post of Superintendent. The applicant has attained eligibility long back in the year 1991 to the post of Superintendent.

A copy of the representation dated 19.03.97 and copy of the Recruitment Rule 1995 are enclosed as Annexure- IV & V respectively.

- 4.7 That it is stated that the Additional Director of Employment Exchange vide his letter bearing No. DGET-A-32018/1/97-EE.II dated 08.05.1997 informed the applicant that 4 posts of Superintendent have been decided to filled up and the proposal have already been sent to the UPSC, out of these 4 posts, 1 post is reserved for ST and being lone ST candidate the applicant is well within the zone of consideration.

A copy of the letter dated 08.05.97 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-VI.

- 4.8 Most surprisingly the Deputy Secretary to the Govt. of India issued the office order under letter No. 46 of 99 nearing letter No. DGE & T-A-32013/4/96-Adm.II dated 13/15.04.99 whereby 4 posts of Superintendent were filled up on regular basis in the scale of Rs. 8,000-275-13,500 (Gr. A Gazetted) w.e.f. the date they assume the charge of the post. But there is no indication in the said office order how the reserved post of

Lienkhen Thang Vanki



Superintendent earmarked for ST quota was filled up. In the year 1997 itself it was informed to the applicant that there is 1 post of ST was vacant and the applicant being the sole ST candidate is likely to be considered by the UPSC and a proposal to that effect was sent to the UPSC way back in the year 1997 but it appears that the case of the applicant was not considered by the UPSC for promotion to the post of Superintendent for the reasons best known to the authorities. Be it stated that the applicant attained eligibility way back in the year 1991 as per statutory Recruitment Rule as already stated above. As such exclusion of the case of the applicant for promotion of Superintendent is highly arbitrary, illegal and unfair.

A copy of the promotion order dated 13/15.04.99 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-VII.

- 4.9 That your applicant being highly aggrieved for denial of his promotion submitted a representation on 21.04.99 to the Director General Employment and Training, Govt. of India, New Delhi wherein it was stated that the applicant being only eligible ST candidate ought to have been considered for promotion against the reserved vacancy of Superintendent. However the said representation was replied by the Deputy Secretary, Govt. of India vide Memo dated 26.05.99 wherein it was stated that as per the revised roster based on the instruction of DOPT O.M No. 36012/2/96-ESTT (Res.)

Lienkhanthang Varte

dated 02.07.1997, none of the vacancies was required to be reserved for ST category, here the authority have lost sight of the fact that the sole reserved post was fall vacant prior to 1997 which would further be evident from the letter dated 08.05.97 (Annexure-VI) as such the said post ought to have been filled up on the date on which the vacancy occurred and also as per the rule, then it was in force, more particularly the rule of reservation for ST category candidate. From the Memorandum dated 26.05.99 it appears that the respondents filled up the reserved vacancy meant for ST candidate by the unreserved candidate following the instruction contained by D.O.P.T O.M dated 02.07.97. Be it stated that DOPT O.M dated 02.07.97 even assuming same is amended against the interest of the present applicant or instruction is contained in the said memorandum otherwise, the same should not have been applied against a post which fall vacant prior to 02.07.1997. Therefore reserved vacancy which appears to have been filled up by the unreserved candidate denying the legitimate right of the present applicant is highly arbitrary, illegal and unfair and the same is not permissible under the law of the land.

Copy of the representation dated 21.04.99 and memorandum dated 26.05.99 are enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-VIII & IX respectively.

*Leenkhuehang Vaste*

4.10 That it is further stated that by the office order bearing letter No. DGE&T-A-32013/4/96-Adm.II dated 07.06.1999 one more post of Superintendent was filled up by the Deputy Secretary to the Govt. of India. By the said order dated 07.06.1999 one Sri K.K. Bhatt was promoted to the post of Superintendent without considering the case of the applicant who belongs to ST community and a reserve post of ST was although available to the cadre of Superintendent since 1996.

Copy of the promotion order dated 07.06.99 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-X.

4.11 That your applicant also submitted representation dated 20.08.1999 to the Chairman, National Commission for SC/ST for denial of his promotion to the post of Superintendent even after completion of 11 years regular service as Rehabilitation Officer at the relevant point of time, on receipt of the said representation the National Commission took up the matter with the Director General of Employment and Training, New Delhi vide letter No. 6/76/99-Gen dated 15.09.99 requesting to furnish parawise comment on the points raised in the representation. However, the Deputy Secretary, Govt. of India vide his letter bearing No. DGE&T-A-32013/4/96-Adm. II dated 06.10.1999 issued a stereotype reply to the applicant, contents of which is similar like the letter dated 26.05.99 i.e. similar reply like earlier one furnished to the

Lienkhawthang Vanti

applicant. It is stated in the said letter dated 06.10.1999 that as per revised instruction of DOPT dated 02.07.1997 none of the vacancy was required to be reserved for ST category. Be it stated that the post in question ought to have been filled up as per the rules and instruction prevailing prior to the amendment of the reservation rule as indicated in the Memorandum dated 06.10.1999. The vacancy in question for promotion was infact occurred prior to 02.07.1997, therefore the reserved post of ST ought to have been considered as per the prevailing instruction/rules which were in force at the relevant point of time. Hence there is no force in the Memorandum dated 06.10.99 and the same is contrary to the rule.

In the facts and circumstances the applicant ought to have been considered against the reserved vacancy of ST candidate in terms of the Rules, which were in force at that point of time. The applicant has acquired a valuable and legal right for promotion to the post of Superintendent with all consequential service benefit including monetary benefit.

Copy of representation dated 20.08.99 reply dated 15.09.99 and Memorandum dated 06.10.99. are enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-XI, XII and XIII respectively.

4.12 That the Director, National Commission for SC/ST, Guwahati after detail examination of the case of the applicant in the light of letter dated 05.11.99 given

Lienkhathang Varti

by the Director General of Employment and Training came to the conclusion that roster point have not been maintained properly and a promotional post of Superintendent is available hence the Commission directed the respondents to promote the applicant against the ST post on an immediate basis. However Deputy Secretary to the Govt. of India on receipt of the Commission's letter dated 09.11.99 informed the Director National Commission for SC/ST, Guwahati that having agreed to the advice a DPC proposal for regular promotion to the post of Superintendent VRC for handicapped taking the post as reserved for an ST candidate is being sent to the UPSC accordingly. Be it stated that in the said letter dated 26.05.2000 the Director General of Employment and Training, Govt. of India fairly admitted the fact that no ST candidate was ever promoted to the post of Superintendent. However on receipt of the reply dated 26.05.2000 the National Commission for SC/ST wrote a letter to the applicant that Directorate reply dated 26.05.2000 seems to be satisfactory. However, liberty was given to the applicant to submit a reply in the event of his disagreement, otherwise the case stands disposed of.

In this connection it may be stated that when the applicant received the letter dated 26.05.2000 issued by the Deputy Secretary to the Govt. of India with the assurance that they have agreed with the advice of the National Commission for SC/ST and his case is sent for consideration for promotion to the UPSC. There was no

*Leenkauthang Varte*

question of disagreement with the said assurance of the respondent and the applicant accordingly remained silent with the anticipation that his promotion order would be issued shortly.

Copy of the letter dated 09.11.99 and reply dated 26.05.2000 and letter dated 31.05.2000 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- XIV, XV & XVI respectively.

- 4.13 That it is stated that the applicant received certain adverse remarks on his ACR for the year 1999-2000 vide letter-bearing No. DGET-A-32012/2/2000-EE-II dated 07.11.2000. However, the said adverse remarks in ACR for 1999-00 was finally expunged by the Joint Secretary/DG Employment and Training, New Delhi after long correspondence vide order bearing letter No.DGET-A-28018/1/2001-EE.II dated 03.09.2001. But the applicant is under strong belief that his case was not considered for promotion to the post of Superintendent due to pendency of the adverse ACR for the year 1999-00 at the relevant point of time when his case was put up before the UPSC for consideration of promotion which is evident from the letter dated 26.05.2000 (Annexure-XV) issued by the Deputy Secretary to the Govt. of India, as because the adverse remarks for the said period of 1999-00 in fact expunged after a long period of time following the order dated 03.09.2001 and in the process the applicant is being denied promotion to the post of Superintendent although his case was put up before UPSC

Lienkharthang Vasth

as it appears from the letter of the Deputy Secretary to the Govt. of India dated 26.05.2000.

A copy of the order-dated 03.09.01 is enclosed hereto for the perusal of the Hon'ble Tribunal as Annexure-XVII.

4.14 That the seniority list of Group-B Officers working in the VRCs published vide letter-bearing No. DGET.A-23024/1/2001-EE-II dated 29.01.2002. In the said seniority list the applicant was placed at Sl. No. 3 at the group of Rehabilitation Officers. Be it stated that promotion to the post of Superintendent is being made both from the cadre of Rehabilitation Officer and Psychologist and it would be appeared from the seniority list that the applicant is the sole candidate belongs to ST category.

A copy of the seniority list published as on 29.01.02 is enclosed for the perusal of the Hon'ble Tribunal as Annexure-XVIII.

4.15 That it is stated that by the office order bearing letter No. DGET-A-32012/1/2002-EE.II dated 20.02.2002 the applicant was granted first financial upgradation w.e.f 09.08.1999 on the recommendation of the DPC held on 15.02.2002 in the pay scale of Rs. 8000-275-13500/-. Be it stated that when the applicant is found eligible by the DPC held on 15.02.2002 on scrutiny of his service record including ACR for first financial upgradation w.e.f 09.08.99, there is no justifiable reason to deny the regular promotion to the cadre of

*Lienkhawthang Varte*

Superintendent against the ST vacancy at least w.e.f. the date of occurrence of ST vacancy which is evident from the letter dated 08.05.1997 (Annexure-VI) issued by the Addl. Director of Employment Exchange. Non-consideration of promotion of an eligible candidate against the available ST post is highly arbitrary, unfair, illegal and the same is contrary to the DOPT instructions issued by the Govt. of India from time to time on the point of reservation. A backlog ST vacancy cannot be abolished or taken away by the respondents at their whims without approval from the National Commission for SC/ST and the present applicant has acquired a valuable and legal right against the ST category post of Superintendent with all consequential benefit at least from the date of occurrence of the ST vacancy. Be it stated that, even now, for SC/ST candidates, bench mark system has been abolished since 2000.

- 4.16 That it is stated that the Under Secretary to the Govt. of India vide his letter bearing No. DGE&T-A-32013/4/96-Adm.II dated 11.12.2001 informed the Research Officer, National Commission for SC/ST that UPSC did not agree with the candidature of the applicant against the reserved post of ST as because his name was at Sl. No. 7 in the combined seniority list which was beyond the zone of consideration of 5 for 1 post even when extended zone is allowed in such a case. Therefore it is further stated that the UPSC has

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advised to reexamine the matter and expressed the possibility of carrying forward the ST vacancy so that the applicant could get the benefit of reserve vacancy in future. It is further stated in the said letter dated 11.12.2001 that one more post of Superintendent fall vacant and all together combined proposal to fill up the 2 posts of Superintendent has been sent to UPSC on 01.11.2001. Applicant being within the zone of consideration would be considered by the DPC along with other candidates, the said letter dated 11.12.2001 was communicated to the applicant by the National Commission for SC/ST vide their letter bearing No. 6/76/99-Gen/951 dated 02.01.2002 but surprisingly the respondents are silent thereafter so far promotion of the applicant is concerned.

It appears that the case of the applicant might have been rejected on the ground of adverse ACR for the year 1999-2000 but the same was in fact expunged way back on 03.09.2001 (Annexure-XVII) and thereafter DPC itself found the applicant suitable for financial upgradation w.e.f. 09.08.1999. Therefore there cannot be any ground to deny the legitimate promotion of the applicant with all consequential benefit. Moreover when there was a clear vacancy of ST the case of the applicant should not have been excluded on extraneous consideration on the alleged ground that the applicant does not fall within the extended zone of consideration. The letter itself indicated that the applicant is very much within the zone of

*Lienahar Singh Vast*

consideration. As such the applicant is entitled for promotion to the post of Superintendent with all consequential benefit.

Copy of the letter dated 11.12.2001 and letter dated 02.01.2002 are enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- XIX & XX respectively.

4.17 That the respondents vide Office order bearing letter No. 35/2003 dated 05.05.2003 again promoted Smti. P. Chandrika Rani, Psychologist and Shri R. Lakshman Swamy, Rehabilitation Officer, to the post of Superintendent without considering the case of the applicant against the backlog ST post. Therefore it appears that the respondent deliberately ignoring the case of the applicant for promotion in violation of the statutory Rule holding the field. Hence further cause of action arises as soon as the office order No. 35/2003 has been issued by the Under Secretary to the Govt. of India on 05.05.2003.

In the compelling circumstances stated above the applicant is finding no other alternative but approaching this Hon'ble Tribunal through the instant proceeding for consideration of his promotion to the post of Superintendent at least with effect the date of occurrence of ST vacancy or w.e.f. 08.05.1997 with all consequential benefits including seniority.

*Lienanthang Vante*

A copy of the Office Order dated 05.05.2003 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure-XXI.

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

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

5.1 For that, the applicant attained eligibility as per statutory Recruitment Rule way back in the year 1991 for promotion to the post of Superintendent.

5.2 For that, one ST vacancy of Superintendent fall vacant during the year 1996, which is also evident from the letter, dated 08.05.1997 of the Additional Director of Employment Exchange.

5.3 For that, applicant was the only eligible ST candidate for the post of Superintendent in the department of vocational rehabilitation Centre since 1991 but even than no attempt is made to filled up the vacant ST post when eligible candidate was very much available in the department. Moreover, respondents have violated the Roster points and Rule of Reservation in the instant case.

5.4 For that, backlog ST vacancy cannot be carried forwarded from year to year and the same cannot also be filled up by the un-reserved candidate more so when eligible ST candidate is available for promotion in the department, as per statutory Recruitment Rule.

*Lienkhunthay Mte*

5.5 For that, a backlog ST vacancy of Superintendent require to be filled up as per rule prevailing on the date of vacancy and the subsequent amended Rule if any cannot be applied as such the revised roster based on the instructions issued by DOP&T O.M dated 02.07.97 has no application in the instant case of the applicant.

5.6 For that, case of the applicant was not considered for promotion even though ST vacancy was available whereas case of the other eligible candidates were considered and promoted by the office order No. 46/99 and 35/2003 dated 05.05.2003, as such the action of the respondents Union of India.

5.7 For, that the respondent have filled up another two post of Superintendents, VRC vide office order dated 05.05.2003 ignoring and without considering the case of the present applicant which led to further cause of action.

5.8 For that action of the respondents denying promotion to the applicant is in violation of Article 14 of the Constitution.

6. Details of remedies exhausted.

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

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

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The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

**8. Relief(s) sought for:**

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

- 8.1 That the Hon'ble Tribunal be pleased direct the respondents to promote the applicant, to the post of Superintendent in the existing reserved post of S.T, at least w.e.f. the date of occurrence of S.T vacancy in the light of the decision communicated by the respondents in their letter dated 11.12.2001 (Annexure-XIX) with all consequential service benefit
- 8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be promoted to the reserve post of Superintendent, as per prevailing recruitment rule at the time when the sole post of Superintendent fall vacant in the department of Directorate General of

*Subhash Chandra Vasthi*

Employment and Training, VRC for handicapped under the Ministry of Labour and Employment, Govt. of India.

8.3 That the Hon'ble Tribunal be pleased to declare that the reserve S.T post of Superintendent can not be filled up by unreserved candidate, when eligible candidate of reserve category is available in the department.

8.4 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar for the respondents for considering the promotion of the applicant.

10. ....  
This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	11G 389380 -
ii)	Date of Issue	:	12.5.04.
iii)	Issued from	:	G.P.O. Gurwahali
iv)	Payable at	:	G.P.O. Gurwahali.

12. List of enclosures.  
As given in the index.

*Lienkhang Varte*

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**VERIFICATION**

I, Shri Lienkhawthang Varte, S/o Shri H.V. Varte, aged about 47 years, working as Rehabilitation Officer, VRC for handicapped, Rehabari, Guwahati-8, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 24<sup>th</sup> day of May, 2004.

Lienkhawthang Varte

No. DGET.A.19018/17/85.EE.II  
 Bharat Sarkar/Government of India  
 Shram Mantralaya/Ministry of Labour  
 ( D. G. E. & T. )

Shram Shakti Bhavan,  
 Rafi Marg, New Delhi-110001,

March 12, 1986

OFFICE MEMORANDUM

Subject:- Appointment to the post of Rehabilitation Officer in the Vocational Rehabilitation Centre for Handicapped, Guwahati under the Directorate-General of Employment & Training, Ministry of Labour - Reg.

.c00.

On the recommendation of the Union Public Service Commission, the Directorate-General of Employment & Training, Ministry of Labour appoints Shri Lienkhaw Thang Varte, as a temporary Rehabilitation Officer in the Vocational Rehabilitation Centre for Handicapped, Guwahati under the DGET, Ministry of Labour in the Scale of pay of Rs. 650-30-740-35-810-EE-35-830-40-1200 (Group 'B' Gazetted) with effect from the date he assumes the charge of the post on the terms and conditions laid down in this Directorate-General letter No.DGET.A.19018/17/85.EE.II dated 10.3.1986.

2. Shri Lienkhaw Thang Varte is directed to report for duty as Rehabilitation Officer to the Superintendent, Vocational Rehabilitation Centre for Handicapped, Rabbari, Guwahati-781008 (Assam), at an early date.

3. The receipt of this Office Memorandum may also please be acknowledged.

( R. OMKANT RAO )

Director of Employment Exchanges.

Shri Lienkhaw Thang Varte,  
 FL-1/97-A, Vikas Puri, New Delhi-110018.

Copy to:-

1. The Pay & Accounts Officer, DGET, New Delhi.
2. The Superintendent, Vocational Rehabilitation Centre for Handicapped, Guwahati with the request that he may get completed the formalities of Oath of Allegiance and Marriage Declaration etc. of Shri Varte and the same may be added to his Service Book. The Suptd. is further requested to send Charge Assumption Report of the Officer.
3. All the Superintendents of VRCs except VRC, Guwahati.
4. The Secretary, UPSC, Dholpur House, New Delhi with reference to their letter No. FL/486/85-RU, dated 3.12.1985.
5. Shri M.P.Jain, Under Secretary (Per. Adm.) UPSC, New Delhi v.r.to. their letter No.P.2706/Adm.III dated 6.3.1986 with a request to kindly arrange to relieve Shri Varte immediately to enable him to join his new post of RO at VRC for Handicapped, Guwahati.
6. F.No.DGET. 1/3/83.EE.II(Vol.II).

( S. FASHUDDIN )

Dy. Director of Employment Exchanges  
 for Director of Employment Exchanges.

Assessed to be  
 true copy  
 S. F.  
 25.05.04



-22-

Mo

NO. DGET-A-23013/1/89-EE-II  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR  
DIRECTORATE GENERAL OF EMPLOYMENT AND TRAINING

New Delhi, dated the 23rd February, 89  
24

To

The Superintendent,  
Vocational Rehabilitation Centre  
for Handicapped,

SUBJECT:- SENIORITY LIST OF PSYCHOLOGISTS AND  
REHABILITATION OFFICERS IN THE V.R.C. FOR  
HANDICAPPED AS ON 1st January, 1989.

Sir,

I am directed to enclose herewith the tentative seniority list of Psychologist/Rehabilitation Officers, in the Vocational Rehabilitation Centres for Handicapped as on the date mentioned above and to say that objections, errors or omissions occurring therein, if any, may be communicated to this Directorate General of Employment & Training immediately and in any case not later than 30 days from the date of issue of this letter. However, if no comments are received within the stipulated time, it would be presumed that the seniority list circulated is in order and it will be finalised.

THIS MAY BE TREATED AS MOST URGENT.

Yours faithfully,

*Braj Mohan*

( Braj Mohan )  
Section Officer

for Director of Employment Exchanges

Copy to:-

All the individual concerned.  
Guard File, EE-II Section.

*Braj Mohan*

( Braj Mohan )  
Section Officer

for Director of Employment Exchanges

Shri L.K. Varte, P.O.  
VAC for H. Guwahati

Certified to be true  
25.02.89

# SENIORITY LIST OF THE OFFICERS IN THE GRADE OF REHABILITATION OFFICER

S.No.	Name of the Officer with Qualifications.	Date of birth.	Date of regular appointment in the grade.	UPSC Reference in which recommended	Remarks
1	2	3	4	5	6
✓1.	Shri G.K. Sokal, (SC) M.S.W.	8.7.1951	15.10.1979	F1/857/78-RB dated 24.4.1979	
✓2.	Shri M.K. Rastogi, (PH) M.A.	8.8.1949	16.6.1983	F1/610/81/RB dated 10.7.1981	
✓3.	Shri Arun G. Joshi, B.Sc. Occ. Therapy & P.G. Diploma in Rehabilitation	13.2.1952	17.8.1983	F1/116/82/RB dated 3.3.1982	
✓4.	Shri B. Lakshmanaswamy, M.S.E. & M.A.	16.2.1948	3.5.1983	F1/333/82-RB dated 2.9.1982	
5.	Shri K.K. Bhatt, MSW LLB	12.9.1954	6.1.1986	F1/486/84-RB dated 29.1.1985	
6.	Smt. G.K. Malviya, M.A., B.Ed. & LLB	10.10.1944	31.5.1986	- do -	
7.	Shri Prakash P. Ukey, (SC), B.Sc. P.G.C (Rehab.)	9.3.1955	3.6.1986	- do -	
✓8.	Shri L.K. Varte, (ST) B.A.	1.3.1957	25.3.1986	F1/486/84-RB dated 3.12.1985	
✓9.	Shri R.K. Sharma (PH) M.A., M.Phil	15.1.1953	26.12.1986	F1/486/84-RB dated	
10.	Miss Promila Louis, M.A.	5.12.1957	14.3.1988	F1/18/87-R-IV dated 17.11.87	Yet on Probation
11.	Smt. M.V. Rita, M.S.W.	4.5.1954	2.3.1988	- do -	-do-
12.	Smt. Sandhya P. Shere (SC) B.Sc. & Diploma in Social Work	9.1.1953	4.3.1988	- do -	- do -

\* JOSHI \*

- 24 -

No. DGET-A-32015/8/96-Adm-II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
Directorate General of Employment and Training

Shram Shakti Bhavan, Rafi Marg,  
New Delhi- 110 001

Dated the 7/3/97

OFFICE ORDER No. 32 OF 1997

The President is pleased to appoint on adhoc basis, the following officers, on promotion to the post mentioned against their name for a period of one year from from the date they assume charge of the post or till the post is filled on regular basis, whichever is earlier.

Sl. No.	Name & Designation of the Officer	Promoted as and posted to
---------	-----------------------------------	---------------------------

- |    |                                   |                       |
|----|-----------------------------------|-----------------------|
| 1. | Smt. Chandrika Rani, Psychologist | Suptd, VRC., Ludhiana |
|    | VRC, Trivendrum                   |                       |
| 2. | Sh. Arun G. Joshi, Rehab. Officer | Suptd., VRC, Kanpur   |
|    | VRC, Mumbai, Mumbai.              |                       |
| 3. | Sh. R. Lakshmanaswamy,            |                       |
|    | Rehab., Officer, VRC, Bangalore   | Suptd., VRC, Guwahati |

2. The appointment of above said officers is purely on ad-hoc basis and will not bestow any claim on them for their continued appointment or for seniority, in the grade. The said ad-hoc appointment can be terminated at any time without assigning any reason.

3. The Officers are also directed to assume charge of the post with immediate effect. If any of the officers does not assume the charge of the post up to 15.04.97, it will be presumed that he is not interested for his promotion on adhoc basis and the other senior most officer will be considered for ad-hoc promotion.

(Raj Pal)

Deputy Secretary to the Govt. of India

Distribution.

1. Officers concerned.
2. Suptd., VRC, Trivendrum/Bangalore/Mumbai/Ludhiana/Kanpur and Guwahati.
3. Pay & Accounts Officer, DGET, New Delhi.
4. Pay & Accounts Officer, DGET-II, Guindy, Madras.
5. Pay & Accounts Officer, DGFASLI, Mumbai.
6. PS to DG/JS/ALX/ALX(Stat)/JDX(M)/SE-II.
7. All VRCs under DGET.
8. Copies to Personal file of the concerned officers.
9. Spare copies 10

*Copy to be  
true copy  
for  
25.5.01*

To,

The Director General of Employment & Training,  
Ministry of Labour (D.G.E.&T),  
Sharam Sakti Bhawan, Rafi Marg,  
New Delhi-110001.

Sub:-

Promotion of the Undersigned against ST  
Reserved post of Superintendent at the VRCs  
-reg..

Sir,

I have the honour to remind you that being the only Scheduled Tribe, Group 'B' Gazetted Officer among the Rehabilitation Officers and Psychologists of Vocational Rehabilitation Centre for Handicapped, I have represented for my promotion to the post of Superintendent vide my representation dt. 26-11-96, but till date I have not heard action taken by your good Offices. I have been regularly and substantively working as Rehabilitation Officer at V.R.C. for Handicapped, Guwahati for the last 11 Years from 25-3-86 to till date. As per reservation orders, there is reservation for ST/SC Candidates in promotion as well as in direct recruitment from Group 'B' to Group 'A' post i.e. from Rehabilitation Officers/ Psychologists to the post of Superintendent. So far, neither in the direct recruitment Quota nor in promotion Quota no posts of Superintendent have been given to Scheduled tribes Candidates. Being the only eligible ST candidate for promotion to the post of Superintendent, who had been put on 11 Years service as Rehabilitation Officer, I do once again lay my fervent request to offer me promotion to the post of Superintendent in the VRCs for Handicapped against the ST reserved post on regular basis or on adhoc basis which ever is permissible.

For favour of your immediate kind action I shall ever remain grateful to you.

Thanking you.

Encl: previous representation (copy).

Yours faithfully,

(L.K. VARTE) 19/3/97

Rehabilitation Officer  
& Superintendent i/c.  
VRC For Handicapped,  
Guwahati.

Copy to:-

The Director of Employment Exchanges,  
Ministry of Labour (DGE&T),  
3/10, Jam Nagar House,  
New Delhi-110011

(L.K. VARTE) 19/3/97

D.O. &amp; Suptd. i/c.

Certified to be true copy  
Rmt.  
Advocate  
25.5.07

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART-II,  
SECTION 3 SUB-SECTION (1))

Government of India/ Bharat Sarkar  
Ministry of Labour/ Shram Mantralaya  
Directorate General of Employment and Training  
Shram Shakti Bhavan, Rafi Marg, New Delhi

New Delhi, dated 1.1.1996

## NOTIFICATION

G.S.R. In exercise of the powers conferred by the provision to article 309 of the Constitution, and in supersession of the Vocational Rehabilitation Centres (Class-I and Class-II posts) Recruitment Rules, 1969, in so far as they relate to the post of Superintendent, Vocational Rehabilitation Centres (Group 'A') except as respect things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the Group 'A' posts of Senior Superintendent and Superintendent in the Vocational Rehabilitation Centres for Handicapped, Directorate of Employment, Directorate General of Employment and Training, Ministry of Labour. Namely:-

1. (1) Short title and commencement:- These rules may be called the Vocational Rehabilitation Centre for Handicapped, Directorate of Employment, Directorate General of Employment and Training (Senior Superintendent and Superintendent) Recruitment Rules, 1995.

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

2. Number of posts, Classification and Scale of Pay:- The number of the said posts, the classification and the scale of pay attached thereto shall be as specified in column 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualification etc:- The method of recruitment to the said posts, age limit, qualification and other matters relating thereto shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification:- No person

- (a) who has entered into or contracted a marriage with a person having a spouse living; or
- (b) who having a spouse living, has entered into or contracted a marriage with any person.

shall be eligible for appointment to the said

posts :

...2/-

certified to be  
true copy  
Adv.  
25.05.04

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Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

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

6. Saving:- Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Caste, the Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government, from time to time, in this regard.

(Here in the schedule)

(K. Krishnamoorthy)  
Deputy Secretary to the Government of India

No. DGET-A-12Q18/1/91-Adm.II

To  
The Manager,  
Government of India Press (with Hindi version and spare copies)  
New Delhi, Ring Road.

Copy to:-

1. The Secretary, Union Public Service Commission, Dhulpur House, Shahjahan Road, New Delhi (with 5 spare copies) w.r.t. their letter No. 3/12(11)/91-RK dated 28.02.95 (5 copies of the Recruitment Rules are enclosed). By name to Sh. K.G. Nair, Under Secretary.
2. The Department of Personnel and Training, New Delhi (Estt. RP Section) w.r.t. their No. DPET Dy. No. 837/US(RP)/91 dated 24.07.91. (By name to Sh. C.L. Sharma, Under Secretary (RP)).
3. Ministry of Law, Justice and Company Affairs, Legislative Department, Shastri Bhavan, New Delhi.
4. Official Language Commission, Bhagwan Das Road, New Delhi.
5. Rajya Sabha Secretariat.
6. Lok Sabha Secretariat.
7. Director, CIRTES, New Delhi.
8. All the subordinate offices under the Directorate of Employment of DGET.
9. All Administrative Sections under Directorate of Employment of DGET.
10. Library, DGET, New Delhi.
11. Adm.II Section send copies 100/ Notification folder.

(Section Officer)

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SCHEDULE

1.	2.	3.	4.	5.	6.	7.
Name of post	No. of post	Classification	Scale of Pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of service admissible under Rule 30 of the CCS (Pension) Rules, 1971
1. Senior Superintendent	6*	General Central Service-Group A Gazetted	Rs. 3000-100-3500-125-4500	Selection	Not exceeding 40 years. (Relaxable for Government servants upto 5 years in accordance with the instructions or orders issued by the Central Government).	No
*Subject to variation dependent on workload.						

Note: The crucial date for determining the age-limit shall be the closing date for receipt of application from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State, Lahaul and Spiti district and Pangri Sub-division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep).

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-2-

Educational and other  
qualifications required  
for direct recruits

Whether age and educational  
qualifications prescribed for  
direct recruits will apply in  
the case of promotees

Period of  
probation  
if any

8

9.

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Essential

One year for  
direct  
recruits

(i) Master's Degree in Psychology/Sociology/Social  
Work/Education from a recognised recognised  
University or equivalent.

No

(ii) Seven years' experience in work relating to  
rehabilitation or placement or evaluation or  
training of physically handicapped persons.

Notes. 1 Qualifications are relaxable at the discretion  
of the Union Public Service Commission in case  
of candidates otherwise well qualified.

Notes. 2 The qualification (s) regarding experience  
is/are relaxable at the discretion of the  
Union Public Service Commission in the case of  
candidates belonging to the Scheduled Castes  
and Scheduled Tribes, if, at any stage of  
selection, the Union Public Service Commission  
is of the opinion that sufficient number of  
candidates from these communities possessing the  
requisite experience are not likely to be  
available to fill up the vacancies reserved  
for them.



-3-

Method of recruitment,  
whether by direct  
recruitment or by promotion  
or by deputation/transfer and  
percentage of the vacancies to  
be filled by various methods

In case of recruitment by promotion/  
deputation/transfer, grades from which  
promotion/deputation/transfer to be  
made.

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Promotion failing which by  
transfer on deputation  
including short-term  
contract, failing both by  
direct recruitment.

Promotion:

Superintendent in the scale of pay of Rs.  
2200-4000 with five years' regular service in  
the grade

Note:-Where juniors who have completed their  
qualifying eligibility service are being considered for  
promotion, their seniors should also be considered provided  
they are not short of the requisite qualifying/eligibility  
service by more than one year/have successfully completed  
their probation period, if prescribed.

Transfer on deputation (including short-term contract):

Officers under the Central Government/State Government/Union  
Territory Administrations/Autonomous Organisations-

- (a) (i) holding analogous posts on regular basis; or
- (ii) with five years' regular service in posts in the scale of  
Rs. 2200-4000 or equivalent; or
- (iii) with eight years' regular service in posts in the scale of  
Rs. 2000-3500 or equivalent; and
- (b) possessing the educational qualifications and experience  
prescribed for direct recruits under column (8).

The departmental officers in the feeder category who are in the  
direct line of promotion shall not be eligible for consideration  
for appointment on deputation.

Similarly, deputationists shall not be eligible for consideration  
for appointment by promotion.

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If a Departmental Promotion Committee exists, what is its composition?

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(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other Organisation/Department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be, not exceeding 56 years, as on the crossing date of receipt of applications).

Group 'A' Departmental Promotion Committee for considering Promotion

1. Chairman/Member, Union Public Service Commission - Chairman
2. Director General/Joint Secretary, Directorate General of Employment and Training - Member
3. Director of Employment Exchanges - Member
4. Deputy Secretary, Directorate General of Employment and Training - Member

Group 'A' Departmental Promotion Committee for considering confirmation of direct recruits

1. Director General/Joint Secretary, Directorate General of Employment and Training - Chairman
2. Director of Employment Exchanges - Member
3. Deputy Secretary, Directorate General of Employment and Training - Member

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

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-5-

Circumstances in which Union Public Service  
Commission to be consulted in making  
recruitment

14

Consultation with the  
Union Public Service Commission  
necessary while making direct  
recruitment and appointing an officer  
on transfer on deputation (including  
short-term contract).

....

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-1-

1. 2. 3. 4. 5 6 7

2. Superin- 11% General Central Rs. 2200-75-2600 Selection Not exceeding 35 years No  
tendant (1995) Service Group A EB-100-4000 Gazetted.

\*Subject to  
variation  
dependent on  
workload.

(Relaxable for Government servants  
upto 5 years in accordance with the  
instructions or orders issued by the  
Central Government)

Note: The crucial date for determining  
the age-limit shall be the closing  
date for receipt of applications from  
candidates in India (and not the  
closing date prescribed for those in  
Assam, Meghalaya, Arunachal Pradesh,  
Mizoram, Manipur, Nagaland, Tripura,  
Sikkim, Ladakh Division of Jammu and  
Kashmir State, Lehaul and Spiti  
district and Pangi Sub-division of  
chamba district of Himachal Pradesh,  
Andaman and Nicobar Islands or  
Lakshadweep).

Essential:

(i) Master's degree of a recognised university or equivalent in psychology/ sociology social work/ education.

No

One year for direct recruits and two years for promotees.

Promotion failing which by transfer on deputation (including short term contract) failing both by direct recruitment.

(ii) Four years' experience in the work relating to rehabilitation or placement or evaluation or training of physically handicapped persons.

Note 1: Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified.

Note 2: The qualification(s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if, at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from those communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

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Promotion:

- (i) Psychologists  
(ii) Rehabilitation Officers

with five years' service in the grade concerned after appointment thereto on regular basis.

Note 1. The eligibility list for promotion shall be prepared with reference to the date of completion by the officers of the prescribed qualifying service in the respective grade/post.

Note 2. Those juniors who have completed their qualifying eligibility service are being considered for promotion, their seniors should also be considered provided they are not short of the requisite qualifying/eligibility service by more than one year and have successfully completed their probation period, if prescribed.

Transfer on deputation (including short term contract):

Officers of the Central Government/State Government/ Union Territory Administrations/Autonomous organisations:-

- (a)(i) holding analogous posts on regular basis; or  
(ii) with three years' regular service in posts in the scale of Rs. 2000-3500 or equivalent; and

Group 'A' Departmental Promotion Committee for considering promotion

1. Chairman/Member - Chairman Union Public Service Commission
2. Director General/Joint Secretary, Directorate General of Employment and Training
3. Director of Employment Exchanges. - Member
4. Deputy Secretary, Directorate General and Employment and Training - Member

Consultation with Union Public Service Commission necessary on each occasion.

Group 'A' Departmental Promotion Committee for considering confirmation of direct recruits

1. Director General/Joint Secretary - Chairman Directorate General of Employment and Training.
2. Director of Employment Exchanges. - Member
3. Deputy Secretary, Directorate General of Employment and Training. - Member

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

(b) assessing the educational qualifications and experience prescribed for direct recruits under column 8.

The departmental officers in the feeder category who are in the direct line of promotion shall not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion.

Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be not exceeding 55 years, as on the closing date of receipt of applications.

*Certified to be true copy  
Ravi  
Advocate  
25.5.09*

Regd.

No.DGET-A-32018/1/97-EE.II.  
Government of India  
Ministry of Labour  
(D.G.E.&T.)

14/11, Jam Nagar House,  
New Delhi 110011.

Dated: 8-5-97

To

Shri L.K. Varte,  
Superintendent I/C,  
VRC for Handicapped,  
Guwahati.

Sub: Promotion to the post of Superintendent against  
reserved point for Scheduled Tribe - regarding.

\*\*\*\*

Sir,

I am directed to refer to your representation dated  
19.3.97 on the above subject and to inform you that a  
D.P.C. proposal to fill up 4 posts of Superintendents is  
being sent to U.P.S.C. Out of these 4 posts one is  
reserved for S/T and being lone S/T candidate, you are  
under zone of consideration.

Yours faithfully,

( Brij Bhushan )  
Section Officer

for Addl. Director of Employment Exchange

GOVT OF INDIA

Ministry of Labour

Guwahati

Slary No.

Section

Date

73  
14/5/97

14/5/97

Certified to be true copy  
25.05.07



38.

ANNEXURE - VII

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11/11/99

GOVT OF INDIA  
Ministry of Labour/ Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated: 13/04/99  
15.

Order No. 23  
20/4/99

OFFICE ORDER No. 46/99

The President is pleased to appoint on promotion the following officers to the following posts of Superintendents, Vocational Rehabilitation Centre for Handicapped in the pay scale of Rs.8000-275-13500 (Group 'A' Gazetted) w.e.f. the date they assume the Charge of the post.

S.No.	Name of the Officer	Place
1.	Shri M.K.Rastogi, Superintendent (ad-hoc)	Delhi (Hqr.)
2.	Smt. P.Chandrika Rani, Psychologist	VRC, Trivandrum
3.	Shri Arun G. Joshi, Superintendent (ad-hoc)	VRC, Vadodra
4.	Shri G.F.Sokal, Superintendent	VRC, Jabalpur

The following transfers and postings are also here by ordered in public interest with immediate effect.

S.No.	Name of the Officer	From	To
1.	Shri M.K.Rastogi, Superintendent (ad-hoc)	Delhi (Hqr.)	VRC, Agartala
2.	Smt. P.Chandrika Rani, Psychologist	VRC, Trivandrum	VRC, Jaipur
3.	Shri Arun G. Joshi, Superintendent (ad-hoc)	VRC, Vadodra	VRC, Vadodra

Certified to be true copy  
Law Advocate  
25.05.04

S.No.	Name of the Officer	From	To
4.	Shri G.K. Sokal, Superintendent	VRC, Jabalpur	VRC, Jabalpur
5.	Shri Kapil Kumar, Superintendent	VRC, Agartala	VRC, Ludhiana

2. Sh. G.K. Sokal had earlier been appointed as Superintendent, VRC for Handicapped on direct recruitment basis through UPSC. Therefore, he is directed to give his option, whether he wishes to continue his appointment as Superintendent, VRC for Handicapped on Direct Recruitment basis or want to accept his promotion made on recommendation of Departmental Promotion Committee against promotion quota vacancy. His option should reach the undersigned within 15 days from the issue of this order.

3. The Officers should report to the new station at the earliest and not later than one month of the date of this order. Accordingly all the officers are directed to get themselves relieved within the stipulated period. Charge handing over & Charge taking report in respect of above mentioned officers may be sent to the DGE&T (Hqrs.)

R. J. PAL  
(RAJ PAL)

Deputy Secretary to the Govt. of India

#### Distribution

1. Shri M.K. Rastogi, Superintendent (with the direction to immediately move to join new place of posting.)
2. Shri Kapil Kumar, Superintendent, On Camp at DGE&T (Hqrs), with the request to immediately hand over charge to Sh. Rastogi after reaching Agartala. He shall move for Agartala only after obtaining written instructions from Director (LMI).
3. Vocational Rehabilitation Centre for Handicapped, Agartala, Trivendrum, Kampur, Ludhiana, Ahmedabad, Guwahati, Jabalpur.
4. Vocational Rehabilitation Centre for Handicapped, Vadodra.
5. Pay & Accounts Officer, DGE&T, New Delhi/DGFASLI, Mumbai.
6. All Cr. Supply/Supds. VRC for Handicapped.
7. PS to DGE&T/Adm II (Vig.)/Adm.-III
8. Dir LMI/ALN/4-11/PC (E)/Hindi Unit/1W311/Vigilance Section (US).
9. Personal files of the concerned officer.
10. Spare copies 10.

Speed Post.

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To ✓

The Director General of Employment & Training,  
Government of India, Ministry of Labour (DGE&T)  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi-110 001.

Dt. 21-4-99  
Guwahati.

Subject: Promotion to the post of Superintendent against  
reserved point for Schedule Tribe category-  
regarding.

Sir,

I have the honour to state that I had been regularly working as Rehabilitation Officer at VRC for Handicapped, Guwahati, since 25-03-1986 and the Govt. have substantively appointed me to the post w.e.f. from 5/7/88. In this connection, my representation for promotion to the post of Supdt. dated 27-11-96 have also replied by your good offices vide letter No.DGET-A-32018/1/97-EE.II. dated 8-5-97(Copy enclosed) informing me the fact that a DPC proposal to fill up four posts of Superintendents is being sent to UPSC and out of these four post one is reserved for S/T and being myself the lone S/T candidate, I was under Zone of consideration.

However, while going through your Office order No. 46/99 dated 15-4-99, I surprisingly found that my name as well as no S/T candidate is found in the list. Thinking that I was deprived of my promotion chance on the basis of Govt. reservation orders.

That Sir, while there is reservation in promotion as well as in direct recruitment for the post of Superintendents, so far neither in the direct recruitment quota nor in promotion quota no post of Superintendent

Contd.-2/-

Certified to be true copy  
Advocate  
25.5.04

- 2 -

has been given to Scheduled Tribe candidates and being myself the lone eligible Schedule tribe candidate for promotion, my case may kindly be reconsidered for promotion to the post of Superintendent.

Thanking you Sir,

Yours Faithfully,

*(L.K.Varte)* 21/4/99  
(L.K.Varte)

Encl.: as Stated.

Rehabilitation Officer  
& Superintendent i/c  
VRC for Handicapped, GHY.

✓ Copy for information with a request to persue the case-  
The Director (LMI), Ministry of Labour (DGE&T), Shram  
Shakti Bhawan, Rafi Marg, New Delhi-110 001.

*(L.K.Varte)* 21/4/99  
(L.K.Varte)

Rehabilitation Officer  
& Superintendent i/c  
VRC for Handicapped  
Guwahati.

REGISTERED

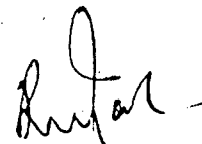
No. DGET-A-32013/4/96-Adm-II  
Government of India  
Ministry of Labour  
Directorate General of Employment & Training

.....

Shram Shakti Bhawan, Rafi Marg  
New Delhi dated 26th May, 99

MEMORANDUM

With reference to his representation dated 21.4.99 regarding promotion to the post of Superintendent, VRC for Handicapped against the vacancy reserved for Scheduled Tribe candidate, Shri L.K. Varte, Rehabilitation Officer is hereby informed that four vacancies in the grade of Superintendent VRC have been filled up by promotion and as per the revised roster based on the instructions issued by DoP&T OM No. 36012/2/96-Estt.(Res.) dated 2.7.97, none of the vacancies was required to be reserved for ST category.



(Raj Pal)  
Deputy Secretary

✓ Shri L.K. Varte,  
Rehabilitation Officer,  
VRC for Handicapped,  
Guwahati.

ASS am

Copy to:- Director (LMI)

Certified to be true  
Advocate  
25.5.99

By Speed Post

No.DGE&T-A-32013/4/96-Adm.II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/Shrami Mantralaya  
 (Directorate General of Employment & Training)

New Delhi, Dated: June 7, 1999

OFFICE ORDER

Consequent upon option given by Shri G.K.Sokal, Superintendent, VRC for Handicapped to continue on the post of Superintendent, VRC for Handicapped on direct recruitment basis, the President is pleased to appoint Shri K.K.Bhatt, Rehabilitation Officer on promotion to the post of Superintendent, VRC for Handicapped in the scale of Rs.8000-275-13500 (Group 'A' Gazetted) w.e.f. date he assumes the charge of post.

2. Shri Bhatt is transferred and posted at VRC for Handicapped, Guwahati in public interest.

3. Shri Bhatt is further directed to report to the new station at the earliest but not later than one month of the date of issue of this order. He is also to be himself relieved within stipulated period. His charge handing over and taking over may be sent to DGE&T (Hqr.).

*Rajpal*  
 (RAJPAL)

Deputy Secretary to the Govt. of India.

Distribution:

1. Shri G.K.Sokal, Superintendent, VRC for Handicapped, Jabalpur.
2. Shri K.K.Bhatt, R.O., VRC for Handicapped, Ahmedabad.  
His request for transfer at VRC for Handicapped, Vadodara was considered but the same could not be acceded to because there is no vacancy of Superintendent at Vadodra.
3. VRC for Handicapped, Guwahati.
4. Senior Superintendent, VRC for Handicapped, Ahmedabad.
5. All VRCs.
6. The P&AO, DGE&T, New Delhi.
7. PS to DG/JS/Adm.I (Vig.)/Adm.III
8. Dir (IMI)/ALX/EE-II/PC(E)/Hindi Unit/TWSU.
9. Personal file of officer concerned.
10. Spare copies 10.

*Certified to be true copy*  
*Advocate*  
*25.05.09*

To

Dated, Guwahati-8  
The 20th Aug. '99.

The Chairman,  
National Commission for Scheduled Castes/Tribes,  
5th Floor, Loknayak Bhavan,  
NEW DELHI-110 003.

Subject: Grievances on promotion to the post of  
Supdt. (Gr. A Gazetted) in the VRC Handicapped,  
Min. of Labour (DGE&T) against reserved post  
for Scheduled Tribe category-reg.

Sir,

I the undersigned, who belong to the Scheduled Tribe, Hmar Community originally from Churachandpur, Manipur in the North-East corner of the country, had grievances in promotion to the above stated post and would like to lay facts and my strong feeling of negligence of my department towards the lone ST Officer in the above promotion case before your good offices for sympathetic consideration.

2. That Sir, on the recommendation of the UPSC, I was appointed as Rehabilitation Officer (Gr. B Gazetted) in the VRC for Handicapped under the Min. of Labour (DGE&T) on regular basis w.e.f. 25.03.1986 (FN) and posted at Guwahati Centre. Subsequently, on 05.07.88, I was substantively appointed to the post. There is a promotion channel/avenue to the next higher post i.e. Supdt. (Gr. A Gazetted) after completion of 5 yrs. regular service. Accordingly the department had conducted a number of recruitment/promotion and fill up the posts by other categories like general, SC, PH persons. However, since inception of the centres for a span of 20 yrs. not even a single ST candidate had been given a chance for appointment to the post of Supdt. whether in a direct recruitment or on promotion.

On completion of my 10 yrs plus 8 months regular service, I had represented the Director General of Employment & Training, New Delhi vide my representation dated 27.11.96 and subsequent reminder on 19.03.97 (Copy enclosed) was replied by the Hqrs. vide their letter dated 08.05.97 (Copy enclosed) informed me that "a DPC proposal to fill up 4 posts of Supdt. is being sent to UPSC. Out of these 4 posts one is reserved for ST and myself being lone ST candidate, my name was included under zone of consideration". So, with a great hope, I was awaited eagerly for the results of the DPC/UPSC clearnace.

3. However, to my surprise, the Hqrs. vide their Office Order No. 46/99 dated 15.4.99 (copy enclosed) had filled up the 4 posts vacancies on promotion from the general candidates only, keeping silent to the intimated one post reserved for the ST candidate. Subsequently, out of 4 posts filled by promotion one post was vacated due to option of one direct rectt., and the Hqrs. vide their Order No. DGET-A.32013/4/96-Adm.II dated 07.06.99 had immediately filled up the one vacant post from the general candidate, who happened to be my same rectt./batch, and posted here at Guwahati centre and joined to the post as my Superior Officer/Boss.

Certified to be true copy  
Jant.  
Advocate  
25.5.04

Therefore, on 21.04.99, I once again represented to the DGE&T, New Delhi (Copy enclosed) for my promotion and the reply for which was negative, informing me that out of four posts, none of the vacancies was required to be reserved for ST category. Again, due to refusal to accept her promotion by another promotee of the same selected list, another one post is likely to be lying vacant and I fear that whether my promotion case will be considered or someone else will be considered.

It is needless to say that during my span of more than 13 yrs. regular service to the same post of Rehabilitation Officer, I had been entrusted to the duties of Supdt. for more than 8 yrs. without any financial benefit, the last in-charge being w.e.f. 11.01.95 to 19.07.99.

That Sir, keeping in view the facts stated above of the non-representation of ST category to the post of Supdt. and non-implementation of Govt.'s reservation orders to the SCs/STs in rectt./promotion to the said post, I do fervently request to kindly look into the matter to consider my promotion case to the post of Supdt. like my fellow officers so as to relieve me from my feeling of negligency being a ST officer, who had been stagnating to the same post for more than 13 yrs. for want of promotion.

Immediate kind action in this regard will be very much appreciated.

Encl:As stated above.

Yours faithfully,

(L.K.Varte)

Rehabilitation Officer,  
Vocational Rehabilitation Centre for  
Handicapped,  
Ministry of Labour (DGE&T)  
Rehabari, Guwahati-781008.

Copy for information & necessary action to-

1. The Director General of Employment & Training, Shram Shakti Bhawan, Rafi Marg, New Delhi-110 001.
2. The Director (LMI), DGE&T, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi-110 001.
3. The Director,  
National Commission for Scheduled Castes/Tribes,  
G.S. Road, Guwahati-781006.
4. Superintendent,  
Rehabilitation Centre for Handicapped,  
Rehabari, Guwahati-781008.

(L.K.VARTE)

Rehabilitation Officer,  
VRC for Handicapped,  
Rehabari, Guwahati-8.

\*\*\*\*\*



-46-

तार/Gram : RECASTRIBES

दूरभाष / Phone : 567040

फैक्स / Fax: 0361-567040

सं/No. 6/76/99-Gen.

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ति

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date...15-9-99....

To

The Director General of  
Employment & Training,  
Ministry of Labour (D.G.E. & T.)  
Govt. of India,  
Sharam Sakti Bhawan, Rafi Marg,  
New Delhi-1.

Sub: Representation from Shri L.K. Varte, Rehabilitation  
Officer, VRC for Handicapped, Rehabari, Guwahati  
alleged deprives of promotion against the reserved  
post for ST category - regarding

Sir,

I have the honour to invite your kind attention to the  
subject noted above and to say that a representation has been  
received in this office from Shri L.K. Varte, Rehabilitation  
Officer, VRC for Handicapped, Rehabari, Guwahati addressed to the  
Commission's Headquarters, New Delhi. It is alleged that he has  
been deprives of promotion to the post of Supdt. (Group 'A' ~~xxxxxx~~  
Gazetted) in the VRC for Handicapped against the reserved post for  
ST category. A copy of the representation is enclosed which is  
self explanatory.

It is requested that the matter may please be examined and  
the details facts of the case alongwith the copy of roster  
register for the grade of Supdt. and parawise comments on the  
points raised in the representation may please be furnished to  
this office at the earliest for further necessary action.

Yours faithfully,

( J. PODDAR )  
DIRECTOR

Encl: As Above.

No. 6/76/99-Gen. / 620

Date: 15-9-99

Copy to Shri L.K. Varte, Rehabilitation Officer, VRC for  
Handicapped, Rehabari, Guwahati-8 for information.

Certified to be true  
Pr. Adv. 25.5.04

15/9  
DIRECTOR

47 -

ANNEXURE - XII

141

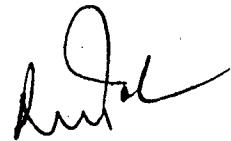
BY SPEED POST

No.DGE&T-A-32013/4/96-Adm.II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/Shram Mantralaya  
 (Directorate General of Employment & Training)

New Delhi, Dated: October 6, 1999

### MEMORANDUM

With reference to his representation dated 20.08.99 addressed to National Commission for SC/STs and copy endorsed to this Directorate regarding deprivation of promotion to the post of Superintendent, VRC for Handicapped, against the vacancy allegedly reserved for Scheduled Tribe candidate, Shri L.K.Varte, Rehabilitation Officer is hereby again informed that four vacancies in the grade of Superintendent have been filled up by promotion and as per the revised roster based on the instructions issued by DOP&T OM No.36012 2/96-Estt. (Res) dated 02.07.97, none of the vacancies was required to be reserved for ST category.



(RAJ PAL)

Deputy Secretary to the Govt. of India  
 Tel. : 3714765

PASS ON  
 TO RO  
 12/10

✓  
 Shri L.K.Varte,  
 Rehabilitation Officer,  
 VRC for Handicapped,  
 Guwahati. - 781 008

Copy to:  
 Director (LMI)

382  
 R/O  
 12/10

Certified to be true copy  
 for  
 Advocate  
 25.10.04

-48-

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ता/Gram : RECASTRIBES

दूरभाष / Phone : 567040

फैक्स / Fax : 0361-567040

सं/No. 6/76/99-Gen

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ति

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date...9-11-99....

To

The Director General of  
Employment & Training,  
Ministry of Labour (DGE&T)  
Govt, of India,  
Sharam Sakti Bhawan,  
Rafi Marg,  
New Delhi - 110 001.

Sub: Representation from Shri L.K. Varta,  
Rehabilitation Officer, VRC for Handicapped,  
Rehabari, Guwahati alleged deprives of promotion  
against the reserved post for ST category -  
regarding

Sir,

I am to invite the reference to your office letter No.DGE&T-A-32013/4/96-Adm-II dated 5.10.99 on the subject mentioned above and to say that the clarification submitted has been examined in this office with reference to the Annexures enclosed therein. The following observations of this Commission may please be taken into account for further necessary action.

2. It is seen that there are 11 number of sanctioned posts of Superintendent (Group 'A' Gazetted) in VRC(H) in DGE&T as per your office notification DGET-A-12018/1/91-Adm-II dated 1.1.96. The reservation roster for promotion to be applicable as given in Annexure-III to DOPT O.M. NO.36012/2/96-Estt(Res) dated 2.7.97 model roster for promotion to a small cadre - strength of 13 or less. For cadre of 11 posts, in this case, the roster is to be read from entry 1 under column "Cadre strength" till the last post i.e. "11th" and then horizontally till the last entry in the horizontal row. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally, against the last post of the cadre (i.e.11th) (Please see note on appendix to annexure-III to DOPT O.M. dated 2.7.97). This is so to ensure representation of SCs and STs in the small cadre. It may be seen that the 3rd replacement, in the cadre of 11 posts, is reserved for ST.

Contd. ...2/-

Certified to be true  
Sd/-  
Advocate  
25.5.04

3. The vacancies arising from retirement, etc., of candidates belonging to such categories shall be filled by promotion of candidates belonging to the categories to which the relevant roster points belong.

4. The annexure-II to your office letter indicated the present position of incumbents in the grade of Supdts. It appears that the roster for the grade of Supdt. has not been maintained properly as per guidelines issued by the DOPT vide O.M. No.36012/2/96-Estt.(Res.) dated 2.7.97.

5. The seniority list of Supdts. in VRC(H) as on 28.2.87 circulated vide Circular No.DGET-A-23021/1/87-Adm-II dated 16.4.97 reveals that there were 13 number of Supdts. above Shri Attar Singh, the senior most Supdt. in the list of present incumbents, who were either retained or promoted to the higher grade. The roster maintained prior to 2.7.97 should have been included the name of above 13 Supdts. who have vacated the post at present. While implementing the post-based roster, the explanatory notes on the principles for making & operating post-based roster, initial operation, etc. annexed to the DOPT O.M. No.36012/2/96-Estt(Res.) dated 2.7.97 clearly indicated that at the point of initial operation of the post-based roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-a-vis the points earmarked for each category viz. SC, ST & General in the roster. This may be done by plotting the appointments made against each point of roster starting with the earliest appointee.

6. The post-based roster thus prepared, it may be seen that a ST carried forward point is available. Therefore, the post-based roster has to be recast for the post of Supdts. and necessary action may please be taken to promote Shri L.K. Varte, R.O., VRC(H), Guwahati against the ST carried forward point, on an immediate basis.

The action taken in this regard may please be communicated to this office for onward transmission to the Commission Headquarters. New Delhi.

Yours faithfully,

( J. PODDAR )  
DIRECTOR

No.6/76/99-Gen./848 Christian Basti, Guwahati-5, Date:9-11-99

Copy to Shri L.K. Varte, Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati-8 for information.

  
DIRECTOR

DCE&TA-320134/96-Adm.II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated : 26 May, 2000

To

The Director,  
(Shri J.Poddar),  
National Commission for Scheduled Caste and Scheduled Tribe,  
G.S. Road, Christian Basti  
Guwahati - 781005.

Subject: Representation from Shri L.K. Varte - Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati, deprives of promotion against the reserved post for ST Category - Regarding.

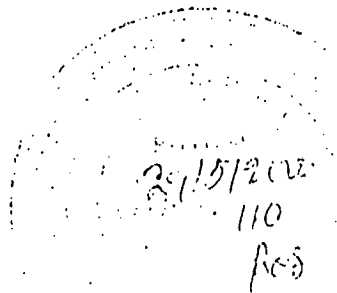
Sir,

I am directed to refer to your letter No.6 76 99-Gen. 1619 dated 09.11.99 and subsequent reminder No.6 76 99-Gen. 993 dated 13.12.99 on the subject mentioned above and to say that as per your advice and guidance recruitment roster for the post of Superintendent, VRC for Handicapped has been re-cast starting from the earliest appointment in the grade. It is found that no ST candidate has ever been promoted against the post of Superintendent. Having agreed to the advice, a DPC proposal for regular promotion to the post of Superintendent, VRC for Handicapped taking the post as reserved for ST candidate is being sent to UPSC accordingly.

Yours faithfully,

*Rajpal*  
(RAJPAL)

Deputy Secretary to the Govt. of India  
Tel. : 3714765



*Certified to be true copy  
Sub. Advocate  
25.5.00*

-51-

Registered Post

R / Gram RECASTRIBES

सं./No.6/76/99-Gen./191

दूरभाष / Phone : 567040

फैक्स / Fax : 0361-567040

भारत सरकार

राष्ट्रीय अनुसूचित जाति तथा अनुसूचित जनजाति आयोग

पंजीकृत

REGISTERED

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी० एस० रोड, क्रिश्चियन बस्ति

G. S. Road, Christian Basti

गुवाहाटी/Guwahati-781 005

दिनांक/Date 31.5.2000

To

Shri L.K. Verte  
Rehabilitation Officer,  
VRC for Handicapped,  
Rehabari,  
Guwahati-781008.

Sub: His representation dated 20.8.99 - regarding

Sir,

This has a reference to your representation dated 20.8.99 addressed to the Chairman of this Commission with a copy to this office. Your representation was taken up with the Directorate General of Employment & Training, Ministry of Labour, Govt. of India, New Delhi. Recently a reply has been received from the Directorate which seems to be satisfactory (Copy enclosed). However, it is requested that in the matter of disagreement of the said reply, you may clarify the same to this office, otherwise the case stands disposed off.

Yours faithfully,



( J. PODDAR )  
DIRECTOR

Encl : As above.

*Certified to be true copy*  
*Advocate*  
*25.5.04*

14/6

NO. DGET-A-28018/1/2001-EE.II

Government of India  
Ministry of Labour  
(DGE&T)

Dated at New Delhi the 3<sup>rd</sup>  
September, 2001.

ORDER

Sub: Representation of Shri L.K. Varte, Rehabilitation Officer against adverse remarks in his ACR for the year 1999-2000- consideration of - Reg.

In the A.C.R. for the year 1999-2000 of Shri L.K. Varte, Rehabilitation Officer, Vocational Rehabilitation Centre for Physically Handicapped, Guwahati adverse remarks had been recorded. These adverse remarks were conveyed to the incumbent vide O.M. No. DGET-A- 32012/2/2000-EE.II dated 7/11/2000 and was informed that if he wants to represent against the adverse remarks he may do so within 30 days. However Shri Varte, Rehabilitation Officer has made a representation dated 18/5/2001.

I have perused the representation and also the comments made by the Reporting Officer. After due consideration, my orders with regard to the adverse remarks are as follows :

1. Nature & Quality of Work	The adverse remarks are on the basis of shortfall in terms of intakes and placements. Shri Varte cannot wash out his hands merely by saying that this is collective responsibility of all the officers and staff dealing with vocational rehabilitation in the centre. A perusal of the work distribution order as also the general norms in the VRC indicate that the RO has a primary responsibility for intake and economic rehabilitation. It is also seen that the Superintendent has issued suitable advice from time to time. The nature and quality of the work done by Shri Varte is also commented upon in the Inspection Report carried out by Shri R. Narasimham, DDX, thereby giving another opportunity for the aggrieved officer to improve his work. He has not taken advantage of the opportunity given to him for improving his work. Under these circumstances the adverse entry regarding nature and quality of work is fully sustained.
2. Quality of Output	Adverse remarks emanate from the quality of supervision and follow-up of programmes and inability to start the community based vocational programmes. From the perusal of the records it is clear that the RO had not made sufficient efforts to arrange sponsorship for the payment of

Copy filed to be submitted  
25.5.04

W.R.

	honorarium in the programme and also not issued training certificates after completion of training. Based on the technical evaluation report and also the note given by Superintendent, VRC in this regard, I find there is no reason to interfere with the adverse entry given.
3. Knowledge of Sphere of Work	The inspection report dated 18.5.2001 clearly supports the contention of the Reporting Officer that RO and the Intake Assistants had not maintained suitable registers. The information on self-employment schemes was not complied. As such there appears to be lack of willingness to read and assimilate the instructions contained in the National Employment Service Manual. As Shri Varte has been in service for a very long time, it clearly shows lack of knowledge and more importantly unwillingness to learn. Under these circumstances this aspect of the adverse entry is sustained.
4. Part B item 3 Comment on the capacity and resourcefulness in handling normal as well as unforeseen situation, willingness to take additional responsibilities.	Comments on the capacity and resourcefulness of the officer in handling normal as well as unforeseen situations and willingness to accept additional responsibility are not sustained because of inadequate proof given by the Reporting Officer.
5. Part B Item 4 : Attitude to Work	This adverse remark is on the level of motivation and ability to systemize his work. The Reporting Officer has failed to substantiate the comments about the officer being 'self-centric' and hence these adverse remarks need to be expunged.
6. Part B Item 6(a) Supervisory Ability	These remarks are substantiated as there is no evidence of supervision notes of the work of Intake Assistants or visits to concerned units and sections.
7. Part B Item 6(ii) Review of performance	Remarks arising out of financial irregularities committed in purchase and these have been substantiated by the Reporting Officer and also through Audit objection. Therefore, there is no justification for expunging these remarks.
8. Part B Item 6(IV) Maintenance of Discipline	The remarks cannot be sustained on the basis of available evidence.
9. Part B Item 8	The adverse remarks regarding relation with public are sustained because of the aggrieved officer not maintaining contact register which is required as per VRC Manual.
10. Part C Item No. 2	With regard to comments on financial irregularities that have been mentioned in this column, there is no need to keep these remarks on file because these have been covered in the previous column on the question of financial



	irregularity.
	The remarks appear to be made on the basis of overall conduct and quality of work of the officer. As adverse remarks having been sustained in the column of Nature and Quality work, there is no need of adverse remarks in the overall assessment. Moreover, the language employed by the Reporting Officer is subjective and needs to be expunged.

I also do not find adequate justification for the remarks recorded against items 5, 6(iii) and 7 of Part B and accordingly order them to be expunged.

*S. Krishnan*

(S. Krishnan)

Joint Secretary/DG:Employment & Training

Shri L.K. Varte,  
Rehabilitation Officer,  
VRC, Guwahati.

*Certified to be true copy  
Advocate  
25.05.07*

By Speed Post

No.DGET.A-23024/1/2001-EE-II  
 Government of India/Bharat Sarkar  
 Ministry of Labour/ Shram Mantralaya  
 Directorate General of Employment & Training

New Delhi, Dated the 29th January, 2002

To

Senior Supdts/Superintendents,  
All V.R.Cs for Handicapped

Subject: Finalisation of Seniority Lists of the Group-'B'  
 officers working in the V.R.Cs.

Sir,

I am directed to forward herewith a copy of the Final Seniority Lists of Psychologists and Rehabilitation Officers and tentative Seniority Lists of Workshop Engineers and Rehabilitation Counsellors. A copy of the same may be given to the concerned officers. With regard to Tentative Seniority Lists of Workshop Engineers and R.Cs, any objection to the concerned officers may please be intimated to this office for finalization of the same.

Yours faithfully,

*R. Narasimham*  
 (R. Narasimham) 29/1

Deputy Director of Employment Exchanges

Encl: As above.

GOVT OF INDIA
Ministry of Labour
Directorate General of Employment & Training
Date 29/1/2002
29/1/2002

O.S.  
 Pl. circulate  
 amongst PO/By  
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O.S.  
 Pl. circulate  
 Confirmed to be true copy  
 Advocate  
 25.05.04

- 56 -

150

**Final Seniority List of Rehabilitation Officers**

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	R.Laxmanasamy	16.2.1948	11.6.1976	4.5.1983	DR	General
2	G.K. Malviya, Mrs.	10.10.1944	2.7.1976	4.6.1982	DR	General
3	L.K. Varte	1.3.1957	1.5.1982	25.3.1988	DR	S/T
4	Rajendra K. Sharma	15.1.1953	26.12.1988	26.12.1988	DR	General
5	M.V. Rita, Mrs.	4.5.1954	8.2.1984	2.3.1998	DR	General
6	Sandhya P. Shere	9.1.1953	1.8.1979	4.3.1988	DR	S/C
7	Bhooma Devi Rajan, Mrs.	7.6.1955	1.11.1980	19.4.1991	DR	General
8	Ram K.Sharma	5.3.1962	11.7.1991	11.7.1991	DR	General
9	D.K. Gupta	14.12.1947	8.11.1976	2.6.1999	P	General
10	B.G. Sanyal	22.2.1951	1.12.1976	5.7.1999	P	General
11	S.P. Upadhyaya	4.9.1944	1.2.1972	30.6.1999	P	General
12	Bachchoo Singh	5.1.1953	8.10.1984	8.7.1999	P	S/C
13	V.Sathishchandran Nair	20.5.1954	14.7.1976	6.9.1999	P	General
14	S.Yadav (Smt)	18.10.1955	3.9.1984	3.9.1984	P	General

**Final Seniority List of Psychologists of V.R.Cs**

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	P.Chandrika Rani, Mrs.	10.6.53	14.7.83	14.7.83	DR	General
2	C.P.Mohanty, Dr.Mrs.	21.1.53	1.6.85	1.6.85	DR	General
3	Narendra Kumar	11.3.58	6.5.82(TA)	22.11.85	DR	General
4	R.R. Mishra	15.11.52	12.1.88	12.1.88	DR	General
5	T.Santhanam, Dr.	11.8.53	4.10.89	4.10.89	DR	OBC
6	Nutan Pandey, Dr.Mrs.	25.6.57	29.1.90	29.1.90	DR	General
7	D.N. Gayatri	19.12.58	12.9.86	3.9.90	DR	General
8	M.Bhagyam, Mrs.	2.4.56	14.1.88	23.12.91	DR	General
9	Jhuma Moitra, Mrs.	22.3.61	17.2.92	17.2.92	DR	General
10	P.Mondal	2.4.56	20.4.76(IA)	24.8.99	Promotee	S/C
11	M.P. Pathak	15.4.56	24.1.83(RC)	29.6.99	Promotee	General
12	P.K. Cherian	22.9.53	17.8.82(RC)	21.6.99	Promotee	General
13	J.L.Shastri	3.2.49	16.11.77(IA)	22.9.99	Promotee	S/C
14	G.Thangraj	3.1.57	19.1.87(RC)	2.7.99	Promotee	S/C

**Tentative Seniority List of Workshop Engineer In the V.R.Cs.**

Sl. No.	Name	DOB	DOJG	DOJP	DR/P	Category
1	K Sundaramma, Mrs.	19.2.1947	17.7.1972	14.7.1983	P	S/C
2	D. Jayaraju	21.6.1951	20.5.1971	16.9.1986	P	General
3	Shobha Meher, Mrs	1.1.1953	31.12.1976	29.10.1986	P	General
4	P.G.Ramachandran	6.8.1958	9.3.1977	23.5.1990	P	S/C
5	P.Ganeshan	15.9.1952	15.5.1981	6.1.1993	P	S/C
6	M.P. Singh	31.7.1949	26.6.1978	20.10.1996	P	S/C

**Tentative Seniority List of Rehabilitation Counsellor in VRCs**

1	Yash Pal Singh	1.3.1961	30.10.1987	16.6.1995	P	S/c
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No.DGE&T-A-32013/4/96-Adm.II  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya  
(Directorate General of Employment & Training)

New Delhi, Dated: 11 December, 2001

To

The Research Officer,  
(Shri Tarun Khanna),  
National Commission for SC/STs,  
G.S. Road Christian Basti,  
Guwahati - 781005.

Subject:

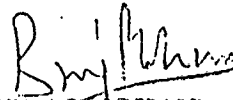
Representation from Shri L.K. Varte, Rehabilitation Officer, VRC for Handicapped, Rehabari, Guwahati, deprives of promotion against the reserved post for ST category - regarding.

Sir,

I am directed to refer to your letter No.6/76/99-Gen./734 dated 04/10/2001 on the subject mentioned above and to say that the proposal to fill up the post of Superintendent (reserved for ST candidates), VRC for Handicapped was sent to UPSC as per the advise of the Commission. UPSC did not agree with the candidature of Shri LK.Varte as his name was at Sl.No.7, in the combined seniority list which was beyond the zone of consideration of five for one post even when extended zone is allowed in such a case. Therefore, UPSC, advised the Department to re-examine the matter. A possibility of carrying forward the ST vacancy for the next year while filling up the vacancy by general candidate was also considered, so that Shri Varte could get the benefit of the reserved vacancy in future.

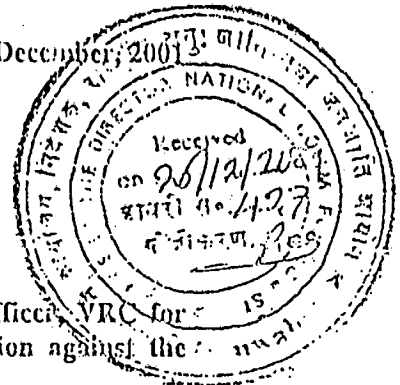
2. In the mean-time one more vacancy of Superintendent, VRC for Handicapped has become available due to superannuation of one of the incumbent this year. Hence a combined proposal to fill up the two posts of Superintendents, VRC for Handicapped (One each for ST and Genl. candidate) has been sent to UPSC on 01/11/2001. Shri Varte being within the zone of consideration, will be considered by DPC along with other candidates.

Yours faithfully,

  
(SRINIVASAN)

Under Secretary to the Govt. of India  
Tel: 3001367

*Certified to be true copy*  
*Shri. Advocate*  
*25.5.04*



सं./No6/76/99-Gen/951

दूरभाष /Phone : 267040  
फैक्स /Fax : 0361-267040

भारत सरकार

राष्ट्रीय अनुसूचित जाति एवं अनुसूचित जनजाति आयोग

राज्य कार्यालय : गुवाहाटी

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

STATE OFFICE : GUWAHATI

जी. एस. रोड, क्रिश्चियन बस्ती  
G. S. Road, Christian Basti  
गुवाहाटी/Guwahati-781 005

दिनांक/Date : 02-01-2002

To,

Shri L.K. Verte  
Rehabilitation Officer  
VRC for Handicapped,  
Rehabari,  
Guwahati, -7810 08

Sub: Representation regarding promotion to the post  
of Supdt., VRC for Handicapped against the reserved  
post of ST category - regarding.

Sir,

Please find enclosed herewith a copy of the letter No.  
DGE & TRA-32012/4/96-Adm.II dated 11-12-2001 on the subject noted  
above received from the Ministry of Labour/Shram Mantralaya (Director-  
General of Employment & Training), New Delhi, which is self  
explanatory.

In this regard, it is requested that the outcome on the  
matter may please be intimated to this office in future for record.

Yours faithfully,

Encl:- As above.

( Tarun Khanna )  
Research Officer

246 = 585 - Dev Roy

Certified to be true copy  
State  
Adm. Secy  
25.1.02

New Delhi, Dated: 5 May 2003

OFFICE ORDER No.35/2003

On the recommendation of DPC, the President is pleased to appoint the following officers to the following posts on promotion to the post of Superintendents, VRC for Handicapped in the pay scale of Rs.8,000-275-13,500/- (Group 'A' Gazetted) w.e.f. the date they assume the charge of the post.

Sl. No.	Name of the officer	Place
1.	Smt. P.Chandrika Rani, Psychologist	VRC for H Trivandrum
2.	Shri R.Lakshmana Swamy, Rehabilitation Officer	VRC for H, Hyderabad

2. The above mentioned officers will be on probation for a period of two years w.e.f. the date they assume the charge of the post of Superintendent, VRC for Handicapped. The period of probation may be extended at the discretion of the Competent Authority.

3. The following transfer and postings are also hereby ordered in public interest with immediate effect.

Sl. No.	Name of the Officer	From	To
1.	Shri K.K.Bhatt	VRC for H, Guwahati	VRC for H, Vadodara
2.	Shri Arun G.Joshi	VRC for H, Vadodara ✓	VRC for H, Kanpur ✓
3.	Smt. P.Chandrika Rani	VRC for H, Trivandrum	VRC for H, Kolkata
4.	Shri R.Lakshmana Swamy	VRC for H, Hyderabad	VRC for H, Guwahati
5.	Smt. Uma Kanti Srivastava, ADT	VRC for H, Kanpur	ATI, Kanpur

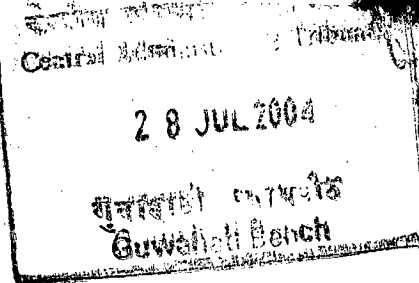
3. The officers should report to the new station at the earliest and not later than one month of the date of this order. Accordingly all officers are directed to get themselves relieved within the stipulated period. Charge handing over & taking over report in respect of above mentioned officers may be sent to the DGE&T (Hqrs.).

(R.K.AHLUWALIA)  
Under Secretary to the Govt. of India  
Tel. : 23001367 & 23731398

Distribution:

1. All concerned officers.
2. VRC for Handicapped, Guwahati, Vadodara, Kolkatta, Trivandrum, Kanpur & Hyderabad.
3. Director, ATI, Kanpur.
4. Pay & Accounts Officer, DGE&T, New Delhi.
5. Pay & Accounts Officer, DGE&T-II, Guindy, Chennai.
6. All Senior Superintendents/Superintendents VRC for Handicapped.
7. PS to DG/JS, Dir.(KKM)/DS(NL)/DDG(E)/ALX.
8. VETA/WSU/PC(E)/EE(II)/Adm.II/Adm.III/Hindi unit/Library.
9. Personal file of the officer concerned.
10. Office order bundle.

*Certified to be true copy*



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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-05**

**In the Matter of ; -**

**O.A. No. 127 of 2004**

**Lienkhawthang Varte**

**-Applicant**

**-Versus-**

**Union of India and Others – Respondents**

*Union of India & or  
through:  
Group Genl. Chandra Shekhar  
23/7/04  
Adl. Central Govt. Standing Counsel  
C. A. T.*

**WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS NO. 1 TO 5**

I, R.Lakshmana Samy, Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped Rehabari, Guwahati, 781008, Assam do hereby solemnly affirm and say as follows: -

1 That I am the Assistant Director (Rehabilitation) and Respondents No -5 in the case and as such I am fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except what ever if specifically admitted in the written Statements the other contentions and Statements may be deemed to have been denied. I am authorized to file the written Statement on behalf of all the Respondents.

VSS

2. Brief Facts.

That the Respondents beg to state the brief facts of the case as follows: -

That there are 11(eleven) sanctioned posts of Superintendent [re-designated as Assistant Director (Rehabilitation),] Vocational Rehabilitation Centre for Handicapped Group 'A' Gazetted in the pay scale of Rs.8000-275-13, 500/-. As per the Recruitment Rules for the post of Superintendent [re-designated as Assistant Director (Rehabilitation),] notified (R-I) in 1996, these posts are required to be filled by promotion failing which by transfer on deputation (including short-term contract) failing both by direct recruitment. Promotion is the primary mode of appointment. The post of Assistant Director (Rehabilitation) is in the lowest rung of Group 'A' Gazetted post and reservation for Schedule Caste/Schedule Tribe is applicable therein.

3.     Para 1           Needs no comments as the matter of record.
4.     Para 2 & 3       No comments being legal one.
- 5     That the Respondents beg to state the Statements made in paragraph 4.1. and 4.2. of the applicant are matters of record.
6.     That with regard to the Statements made in paragraph 4.3 of the application, the Respondents beg to state that as per the Recruitment Rules (R-I) for the post of Superintendents re-designated as Assistant Director (Rehabilitation),] Vocational Rehabilitation Centre for Handicapped . Psychologist/ Rehabilitation Officers with 05



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years regular service in the grade rendered after appointment thereto on regular basis are eligible to be considered for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one 01 by SC candidates.** In between Point Based Reservation roster had been replaced to Post Based Reservation Roster vide DOPT OM No.36012/2/96-Estt.(Res.) dated 02.07.97. According to the point -base reservation roster, the four vacancies fell at point nos. 9 (96-97), 10 (96-97), 11 (96-97) and 12 (97-98) of the first cycle of 40 point. Points No. 9 (96-97) was unreserved. However, it was supposed to be utilized for SC category for being a carry forward vacancy. Point no. 10 (96-97), 11 (96-97) and 12 (97-98) were unreserved. Thus the then year -wise break up of vacancies in so far as reservation concerned was as under:-

Year	General	SC	ST
1996-97	02	01	--
1997-98	01	--	--

As such. One vacancy for the year 1996-97 was reserved for SC candidate and the UPSC vide letter dated 13/05/1997 was requested to hold DPC for promotion. UPSC in turn, vide their letter dated 07/11/1997 requested that the reservation position may be re-examined in accordance with the revised guidelines issued by the DOPT vide their OM No. 36012/2/96-Estt. (Res.) dated 02/07/1997. Thereafter, with the replacement of Point Based Reservation roster by the Post based Reservation Roster vide DOPT OM No. 36012/2/96-Estt.(Res.) dated 02/07/1997 , none of the post was required.

to be filled up by ST candidate. UPSC held a DPC meeting on 03/03/1999 and recommended the names of eligible officers.

7. That the Respondents deny the Statements made in paragraphs 4.4. and 4.5 of the application.

8. That with regard to the Statements made in paragraph 4.6. and 4.7 of the applications, the Respondents beg to state that as per the Recruitment Rules for the post of Superintendent re-designated as Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped . Psychologist/ Rehabilitation Officers with 05 years regular services in the grade rendered after appointment thereto on regular basis are eligible to be considered for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one (01) by SC candidate.** In between point based roster had been replaced to Post- Based roster vide DOPTs OM No. 36012/2/96-Estt (Res.) dated 02.07.97 (R-2). According to the Point -Based Reservation Roster, the four vacancies fell a point nos. 9(96-97) 10, (96-97), 11 (96-97) and 12 (97-98) of the first cycle of 40 point. Point No. 9 (96-97) was unreserved. However, it was supposed to be utilized for SC category for being a carry forward vacancy. Point no. 10 (96-97), 11 (96-97) and 12 (97-98) were unreserved. Thus the then year -wise break up of vacancies in so far as reservation concerned was as under: -

Year	General	SC	ST
1996-97	02	01	--
1997-98	01	--	--

As such, one vacancy for the year 1996-97 was reserved for SC candidate and the UPSC vide letter dated 13/05/1997 was requested to hold DPC for promotion. UPSC in turn, vide their letter dated 07/11/1997 requested that the reservation position may be re-examined in accordance with the revised guidelines issued by the DOPT vide their OM No. 36012/2/96-Estt. (Res.) dated 02.07.1997. Thereafter, with the replacement of the Point Based Reservation roster by the Post-Based Reservation Roster vide DOPT OM No. 36012/2/96(Res.) dated 02/07/1997 (R-II), none of the post was required to be filled up by ST candidates. UPSC held a DPC meeting on 03/03/1999 and recommended the names of eligible officers. ✓

9. That with regard to the Statements made in paragraph 4.8. to 4.10. of the application, the Respondents beg to state that in 1996-97 four (04) vacancies of Superintendent re-designated as Assistant Director (Rehabilitation) had become available and reported to UPSC on 13/05/1997. As per the Recruitment Rules (R-I) notified in 1996, these posts were required to be filled by promotion failing which transfer on deputation (including short term contact) failing both by direct recruitment. Psychologist/ Rehabilitation Officer with 05 years regular service in the grade are eligible for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one (01) by SC candidate.** In between Point-Based Reservation roster had been replaced to Post-Based Reservation Roster vide DOPT's OM No. 36012/2/96-Estt. (Res.) dated 02.07.97 (R-2). As stated above due to change circumstances, ✓ UPSC had recommended the name of Shri M.K. Rostogi, Smt P. Chandrika Rani, Shri Arun G. Joshi and Shri G.K. Sokal

VSA

against the four (04) posts of Superintendent. As Shri G.K. Sokal was already selected against the post of Superintendent to be filled by failing which clause i.e. Direct Recruitment hence. He had refused to accept the post of Superintendent to be filled by promotion. The promotion was given to Shri K.K. Bhatt whose name was recommended by the UPSC in the extended panel against the vacancy for the year 1997-98.

10. That the Respondents beg to state that the Statement in paragraph 4.11 are matters of record.

11. That the Respondents beg to state that the Statements made in paragraph 4.12 are matters of record.

12. That the Respondents deny the Statements made in Paragraph 4.13 of the application.

✓ 13. That with regard to the Statement made in paragraph 4.14 to 4.17 of the application, the Respondents beg to state that the applicant had requested through National Commission for SC/ST for his promotion to the post of Superintendent re-designated as Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped. At that time one post of Superintendent, Vocational Rehabilitation Centre for Handicapped was lying vacant due to refusal of promotion of Smt. P. Chandrika Rani. Hence as per advise of National Commission for SC/ST, a proposal to fill up one post by an ST candidate was sent to UPSC. But UPSC did not agree with the

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candidature of the applicant as his name was at Sl. No. 7 in the combine Seniority List (Psychologist and Rehabilitation Officer ) which was beyond the zone of consideration of five (05) for one (01) post even when extended zone is allowed in such a case. In the meantime two (02) more vacancies of Superintendent had become available due to superannuation of Shri Attar Singh and Death of Shri S.K. Krishna Prasad w.e.f. 01.10.2001 & 15.03.2003 respectively. Out of three (03) vacancies – one (01) was reserved for ST candidate. UPSC had recommended the names of Smt P.Chandrika Rani, Psychologist and Shri R. Lakshmana Samy, Rehabilitation Officer against the two (02) General vacancies for the year 2001-2002 and in case of ST candidate a carried forward vacancy for the year 1999-2000, the applicant's recommendation of UPSC has been received in a "Sealed Cover" due to non-vigilance clearance. As per the advice of UPSC the "Sealed Cover" will be opened after receipt of Vigilance clearance in respect of applicant.

14. That the Respondents has no comments to the Statements in 4.18 of the applicant.

15. That the Respondents beg to state that according to the reservation roster, three (03) vacancies were required to be filled by General candidate and one (01) by SC candidde.in between Point-Based Reservation Roster had been replaced to Post –Based Reservation Roster vide DOPT's OM No. 36012/2/96-Estt.(Res.) dated 02.07.97. According to the Post based Roster all the four (04) vacancies were un- reserved. Hence, the name of the applicant was not recommended by the UPSC in the DPC held on 03.03.1999.

16. That with regard to the Statements made in paragraphs 5.1. to 5.6 of the application , the Respondents beg to state that in view of the fact stated in the foregoing paragraphs the ground stated by the applicant does not hold good and are accordingly opposed.

17. The statements made in paragraphs 5.7 and 5.8 are denied. The Hon. Ble National Commission for SC/ST had advised to fill the vacancy by an ST candidate. Accordingly the vacancy was reported to UPDC but UPSC did not agree to the proposal. In between two (02) more vacancies occurred and out of three vacancies one (01) vacancy was reserved for ST candidate. In the DPC meting held on 05.02.2003, UPSC had recommended the name of the applicant against the reserved vacancy but the recommendation of UPSC had been kept in "**Sealed Cover**" due to no-vigilance clearance. The "**Sealed Cover**" will be opened as and when the vigilance clearance in respect of the Applicant is received from the concerned section.

18. That with regard to the Statements made in paragraph 9 of the application, the Respondents beg to state that the UPSC based on the records, recommendation placement of recommendation of DPC in a "**Sealed Cover**" and to be opened as and when vigilance clearance is received.

19. In view of the above interim relief prayed by the applicant is liable to vacated.


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20. That the Applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.

VERIFICATION

I R. Lakshmana Samy, presently working as Assistant Director (Rehabilitation) Vocational Rehabilitation Centre for handicapped, Rehabari, Guwahati -781008 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the Statements made in paragraph 1 of the application are true to my knowledge and belief, those made in paragraph 2-13 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon.ble Tribunal. I have no suppressed and material facts.

AND I sign this verification on this the 27 the day of July 04 at Guwahati

  
R. Lakshmanasamy

DEPONENT

27-07-04  
Asstt. Director ( )

VRC For Handicapped  
Rehabari, Guwahati-8

R-I

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART-II,  
SECTION 3 SUB-SECTION (1))

Government of India/ Bharat Sarkar  
Ministry of Labour/ Shram Mantralaya  
Directorate General of Employment and Training  
Shram Shakti Bhavan, Rafi Marg, New Delhi

New Delhi, dated 1.1.1996

### NOTIFICATION

G.S.R. In exercise of the powers conferred by the provision to article 309 of the Constitution, and in supersession of the Vocational Rehabilitation Centres (Class-I and Class-II posts) Recruitment Rules, 1969 in so far as they relate to the post of Superintendent, Vocational Rehabilitation Centres (Group 'A') except as respect things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the Group 'A' posts of Senior Superintendent and Superintendent in the Vocational Rehabilitation Centres for Handicapped, Directorate of Employment, Directorate General of Employment and Training, Ministry of Labour. Namely:-

1. (1) Short title and commencement:- These rules may be called the Vocational Rehabilitation Centre for Handicapped, Directorate of Employment, Directorate General of Employment and Training (Senior Superintendent and Superintendent) Recruitment Rules, 1995.

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

2. Number of posts, Classification and Scale of Pay:- The number of the said posts, the classification and the scale of pay attached thereto shall be as specified in column 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualification etc:- The method of recruitment to the said posts, age limit, qualification and other matters relating thereto shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualification:- No person

(a) who has entered into or contracted a marriage with a person having a spouse living; or

(b) who having a spouse living, has entered into or contracted a marriage with any person.

shall be eligible for appointment to the said posts :

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Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

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

6. Saving- Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Caste, the Scheduled Tribes, Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government, from time to time, in this regard.

(Here in the schedule).

(K. Krishnamoorthy)  
Deputy Secretary to the Government of India

No. DGET-A-12010/1/91-Adm.II

To  
The Manager,  
Government of India Press (with Hindi version and spare copies)  
New Delhi, Ring Road.

Copy to:-

1. The Secretary, Union Public Service Commission, Dhulpur House, Shahjahan Road, New Delhi (with 5 spare copies) w.r.t. their letter No. 3/12(11)/91-RP dated 28.02.95 (5 copies of the Recruitment Rules are enclosed). By name to Sh. K.G. Nair, Under Secretary.
2. The Department of Personnel and Training, New Delhi (Estt. RP Section) w.r.t. their No. DPEP Dy. No. 837/US(RP)/91 dated 24.07.91. (By name to Sh. C.L. Sharma, Under Secretary (RP)).
3. Ministry of Law, Justice and Company Affairs, Legislative Department, Shastri Bhavan, New Delhi.
4. Official Language Commission, Bhagwan Das Road, New Delhi.
5. Rajya Sabha Secretariat.
6. Lok Sabha Secretariat.
7. Director, CIRTES, New Delhi.
8. All the subordinate offices under the Directorate of Employment of DGET.
9. All Administrative Sections under Directorate of Employment of DGET.
10. Library, DGET, New Delhi.
11. Adm.II Section send copies 100/ Notification folder.

21/11  
(Section Officer)

-2-

Educational and other qualifications required for direct recruits

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees

Period of probation if any

8.

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One year for direct recruits

Essential

No

(i) Master's Degree in Psychology/Sociology/Social Work/Education from a recognised recognised University or equivalent.

(ii) Seven years' experience in work relating to rehabilitation or placement or evaluation or training of physically handicapped persons.

Note. 1 Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified.

Note. 2 The qualification (s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if, at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

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**SCHEDULE**

No. of posts	Classification	Scale of Pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of service admissible under Rule 50 of the CCS (Pension) Rules, 1972
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1. Senior Superintendent	64 General Central Service-Group A	Rs. 3000-100-3500-125-4500	Selection	Not exceeding 40 years.	No
*Subject to variation dependent on workload.					

(Relaxable for Government servants upto 5 years in accordance with the instructions or orders issued by the Central Government).

Note: The crucial date for determining the age-limit shall be the closing date for receipt of application from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Lachak Division of Jammu and Kashmir State, Lahaul and Spiti district and Pangi Sub-division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep).

had of recruitment,  
ther by direct  
uitment or by promotion  
y deputation/transfer and  
percentage of the vacancies to  
be filled by various methods

In case of recruitment by promotion/  
deputation/transfer, grades from which  
promotion/deputation/transfer to be  
made.

Promotion failing which by  
transfer on deputation  
including short-term  
contract, failing both by  
direct recruitment.

Promotion:

Superintendent in the scale of pay of Rs.  
2200-4000 with five years' regular service in  
the grade

Note:—Where juniors who have completed their  
qualifying eligibility service are being considered for  
promotion, their seniors should also be considered provided  
they are not short of the requisite qualifying/eligibility  
service by more than one year/have successfully completed  
their probation period, if prescribed.

Transfer on deputation (including short-term contract):

Officers under the Central Government/State Government/Union  
Territory Administrations/Autonomous Organisations—

- (a) (i) holding analogous posts on regular basis; or  
(ii) with five years' regular service in posts in the scale of  
Rs. 2200-4000 or equivalent; or  
(iii) with eight years' regular service in posts in the scale of  
Rs. 2600-3500 or equivalent; and  
(b) possessing the educational qualifications and experience  
prescribed for direct recruits under column (8).

The departmental officers in the feeder category who are in the  
direct line of promotion shall not be eligible for consideration  
for appointment on deputation.

Similarly, deputationists shall not be eligible for consideration  
for appointment by promotion.

If a Departmental Promotion Committee exists, what is its composition?

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(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other Organisation/Department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be, not exceeding 56 years, as on the closing date of receipt of applications).

Group 'A' Departmental Promotion Committee for considering Promotion

1. Chairman/Member, Union Public Service Commission - Chairman
2. Director General/Joint Secretary, Directorate General of Employment and Training - Member
3. Director of Employment Exchanges - Member
4. Deputy Secretary, Directorate General of Employment and Training - Member

Group 'A' Departmental Promotion Committee for considering confirmation of direct recruits

1. Director General/Joint Secretary, Directorate General of Employment and Training - Chairman
2. Director of Employment Exchanges - Member
3. Deputy Secretary, Directorate General of Employment and Training - Member

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

-5-

Circumstances in which Union Public Service  
Commission to be consulted in making  
recruitment

14

Consultation with the  
Union Public Service Commission  
necessary while making direct  
recruitment and appointing an officer  
on transfer on deputation (including  
short-term contract).

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(1995)

\*Subject to  
variation  
dependent on  
workload.

General Central  
Service Group A  
Gazetted.

R. 2200-75-2600  
E6-100-4000

Selection Not exceeding 35 years

No.

(Relaxable for Government servants  
upto 5 years in accordance with the  
instructions or orders issued by the  
Central Government)

Note: The crucial date for determining  
the age-limit shall be the closing  
date for receipt of applications from  
candidates in India (and not the  
closing date prescribed for those in  
Assam, Meghalaya, Arunachal Pradesh,  
Mizoram, Manipur, Nagaland, Tripura,  
Sikkim, Lachkh Division of Jammu and  
Kashmir State, Lahaul and Spiti  
district and Pangi Sub-division of  
chamba district of Himachal Pradesh,  
Andaman and Nicobar Islands or  
Lakshadweep).

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Essential:

(i) Master's degree of a recognised university or equivalent in psychology, sociology, social work/education.

No

One year for direct recruits and two years for promotees.

Promotion failing which by transfer on deputation (including casual term contract, failing both direct recruitment.

(ii) Four years' experience in the work relating to rehabilitation or placement or evaluation or training of physically handicapped persons.

Note 1: Qualifications are relaxable at the discretion of the Union Public Service Commission in case of candidates otherwise well qualified.

Note 2: The qualification(s) regarding experience is/are relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes, if, at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

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- 78 -

Promotion:

- (i) Psychologists
  - (ii) Rehabilitation Officers
- with five years' service in the grade considered after appointment thereto on regular basis.

Note 1. The eligibility list for promotion shall be prepared with reference to the date of completion by the officers of the prescribed qualifying service in the respective grade/post.

Note 2. Who are juniors who have completed their qualifying eligibility service are being considered for promotion their seniors should also be considered provided they are not short of the requisite qualifying/eligibility service by more than one year and have successfully completed their probation period, if prescribed.

Transfer on deputation (including short term contract):

Officers of the Central Government/State Government/ Union Territory Administrations/Autonomous organisations:-

- (a) (i) holding analogous posts on regular basis; or
- (ii) with three years' regular service in posts in the scale of Rs. 2000-3500 or equivalent; and

Group 'A' Departmental Promotion Committee for considering promotion

1. Chairman/Member - Chairman  
Union Public Service Commission
2. Director General/Joint Secretary, Directorate General of Employment and Training
3. Director of Employment Exchanges. - Member
4. Deputy Secretary, Directorate General and Employment and Training - Member

Consultation with Union Public Service Commission necessary on each occasion.

Group 'A' Departmental Promotion Committee for considering confirmation of direct recruits

1. Director General/Joint Secretary, Directorate General of Employment and Training. - Chairman
2. Director of Employment Exchanges. - Member
3. Deputy Secretary, Directorate General of Employment and Training. - Member

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

(b) assessing the educational qualifications and experience prescribed for direct recruits under column 8.

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The departmental officers in the feeder category who are in the direct line of promotion shall not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion.

(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall ordinarily not exceed three years. The maximum age limit for appointment by transfer on deputation (including short-term contract) shall be not exceeding 55 years, as on the closing date of receipt of applications.)

Attested  
*[Signature]*  
Addl. C. G. S. O.

R-2

## SECTION 1

## Post-based Rosters (Effective from 2-7-1997)

## COPIES OF ORDERS

(1)

— G.O. Dept. of Per. & Trg., O.M. No. 36012/2/96-Estt. (Res.),  
dated the 2nd July, 1997

**Subject:**—Reservation roster—post based—Implementation of the  
Supreme Court Judgment in the case of *R. K. Sabharwal v.*  
*State of Punjab*.

The undersigned is directed to say that under the existing instructions, vacancy-based rosters have been prescribed in order to implement the Government's policy relating to reservation of jobs for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The application of reservation on the basis of these rosters was called into question before the Courts. The Constitution Bench of the Supreme Court, in the case of *R.K. Sabharwal v. State of Punjab* as well as *J.C. Mallick v. Ministry of Railways* has held that the reservation of jobs for the backward classes SC/ST/OBC should apply to posts and not to vacancies. The Court further held that the vacancy-based rosters can operate only till such time as the representation of persons belonging to the reserved categories, in a cadre, reaches the prescribed percentages of reservation. Thereafter, the rosters cannot operate and vacancies released by retirement, resignation, promotion, etc., of the persons belonging to the general and the reserved categories are to be filled by appointment of persons from the respective category so that the prescribed percentage of reservation is maintained.

2. The Court also held that persons belonging to the reserved categories, who are appointed on the basis of merit — and not on account of reservation — are not to be counted towards the quota meant for reservation.

3. With a view to bringing the policy of reservation in line with the law laid down by the Supreme Court, it has been decided that the existing 200-point, 40-point and 120-point vacancy-based rosters shall be replaced by post-based rosters. All Ministries/Departments and concerned authorities are requested to prepare the respective rosters based on the principles elaborated in the Explanatory Notes given in Annexure - I to this OM and illustrated in the Model Rosters annexed to this OM as Annexures - II, III and IV. Similarly, the concerned authorities may prepare rosters to replace the existing 100-point rosters in respect of local recruitment to Groups 'C' and 'D' posts on the basis of the same principles.

4. The principles for preparing the rosters elaborated upon in the Explanatory Notes are briefly recapitulated below:—

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- (a) Since reservation for OBCs does not apply in promotions, there shall be separate rosters for direct recruitment and for promotions;
- (b) The number of points in the roster shall be equal to the number of posts in the cadre. In case there is any increase or decrease in the cadre strength in future, the rosters shall be expanded/contracted correspondingly;
- (c) Cadre, for the purpose of a roster, shall mean a particular grade and shall comprise the number of posts to be filled by a particular mode of recruitment in terms of the applicable Recruitment Rules. Thus, in a cadre of, say, 200 posts, where the Recruitment Rules prescribe a ratio of 50:50 for direct recruitment and promotion, two rosters — one for direct recruitment and one for promotion (when reservation in promotion applies) — each comprising 100-points shall be drawn up on the lines of the respective model rosters;
- (d) Since reservation does not apply to transfer on deputation/transfer, where the Recruitment Rules prescribe a percentage of posts to be filled by this method, such posts shall be excluded while preparing the rosters;
- (e) In small cadres of up to 13 posts, the method prescribed for preparation of rosters does not permit reservation to be made for all the three categories. In such cases, the Administrative Ministries/Departments may consider grouping of posts in different cadres as prescribed in this Department's O.M. No. 42/21/49-NGS, dated 28-1-1952 and subsequent orders reproduced at Pages 70 to 74 of the Brochure on *Reservation for Scheduled Castes and Scheduled Tribes (Eighth Edition)* and prepare common rosters for such groups. In the event it is not possible to resort to such grouping, the enclosed rosters (Appendices to Annexures-II, III, and V) for cadre strength up to 13 posts may be followed. The principles of operating these rosters are explained in the Explanatory Notes.

5. At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses/shortages, if any, in the respective categories in the cadre. This may be done starting from the earliest appointment and making an appropriate remark—“utilized by SC/ST/OBC/Gen.”, as the case may be, against each point in the rosters as explained in the explanatory notes appended to the model rosters. In making these adjustments, appointments of candidates belonging to SCs/STs/OBCs which were made on merit (and not due to reservation) are not to be counted towards reservation so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments.

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

7. All Ministries/Departments are requested to initiate immediate action to prepare rosters and operate them according to these guidelines.

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8. The existing orders on the subject are deemed to have been amended to the extent herein.

9. These orders shall take effect from the date of their issue. However, where selections have already been finalized, they need not be disturbed and the necessary adjustments in such cases may be made in future. In other cases, recruitment may be withheld till the revised rosters are brought into operation and recruitment effected in accordance with these instructions.

GATE No. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

GATE No. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

## ANNEXURE-I

O.M. No. 36012/2/96-Estt. (Res.), dated 2-7-1997

## EXPLANATORY NOTES.—

## Principles for making and operating post-based rosters

1. As hitherto, these rosters are only an aid to determine the entitlement of different categories with regard to the quota reserved for them. They are not to determine seniority.
2. The model rosters have been drawn up keeping in mind two fundamental principles — the reservation for the entitled categories is to be kept within the prescribed percentage of reservation and the total reservation should in no case exceed 50% of the cadre.
3. There should be separate rosters for direct recruitment and for promotions where reservation in promotion applies.
4. The number of points in each roster shall be equal to the number of posts in a cadre.
5. While cadre is generally to be construed as the number of posts in a particular grade, for the purpose of preparation of roster, it shall comprise posts required to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. To illustrate, in a cadre comprising 200 posts, where the recruitment rules prescribe a ratio of 50:50 for direct recruitment and promotions, the roster for direct recruitment shall have 100-points and that for promotion shall have 100-points — thus making a total of 200.
6. As indicated in the model roster, the method for making a roster is to multiply each post by the prescribed percentages of reservation for the different reserved categories. The point at which the multiple for a community obtains a complete number or oversteps the number is to be reserved for that community — while taking care to evenly space out the different reserved categories. Thus, at point No. 15, in the roster at Annexure-II, both OBC and SC get entitled. However, since earlier reserved point has gone to OBC, point No. 15 has been reserved for SC and point No. 16 for OBC.
7. Since reservation does not apply to transfer/transfer on deputation, where rules prescribe a percentage of posts to be filled by this method, the corresponding proportion of posts should be excluded while drawing up the rosters.

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8. It would be noted that at the end of the roster, "squeezing" has been done for the reserved categories to reach the number of posts to be reserved for them without violating the 50% limit laid down by the Courts. While drawing up rosters, the cadre controlling authorities should similarly "squeeze" the last points to the roster. Such squeezing may not, however, be done where it would violate the rule of 50%.

9. Whenever there is any increase or decrease in the cadre strength, the roster shall be correspondingly expanded or contracted. The same will also apply whenever there is a change in Recruitment Rules which affects the proportion of posts to be filled by a particular mode of recruitment.

10. The roster is to be operated on the principle of replacement and not as a "running account" as hitherto. In other words, the points at which reservation for different categories applies are fixed as per the roster and vacancies caused by retirement, etc., of persons occupying those points shall be filled by appointment of persons of the respective categories.

11. While operating the roster, persons belonging to communities for whom reservation has been made, but who were appointed on merit and not owing to reservation, should not be shown against reserved points. They will occupy the unreserved points.

12. In the case of small cadres (up to 13 posts), all the posts shall be earmarked on the same pattern as in the model post-based rosters. Initial recruitment against these posts shall be by the category for which the post is earmarked. Replacement of incumbents of posts shall be by rotation as shown horizontally against the cadre strength as applicable. While operating the relevant roster, care will have to be taken to ensure that on no occasion the percentage of reserved category candidates exceed 50%. If such a situation occurs at any time, the relevant reserved point occurring as a result of rotation will be skipped.

#### Initial Operation

1. At the point of initial operation of the roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in cadre *vis-a-vis* the points earmarked for each category, viz., SC/ST/OBC and General in the roster. This may be done by plotting the appointments made against each point of roster starting with the earliest appointee. Thus, if the earlier appointee in the cadre happens to be a candidate belonging to the Scheduled Castes, against point No. 1 of the roster, the remark "utilized by SC" shall be entered. If the next appointee is a general category candidate, the remark "utilized by general category" shall be made against point No. 2 and so on and so forth till all appointments are adjusted in the respective rosters. In making these adjustments, SC/ST/ OBC candidates on merit, in direct recruitment, shall be treated as general category candidates.

2. After completing the adjustments as indicated above, a tally should be made to determine the actual percentages of representation of appointees belonging to the different categories in the cadre. If there is an excess

## POST-BASED ROSTERS

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representation of any of the reserved categories, or if the total representation of the reserved categories exceeds 50%, it shall be adjusted in the future recruitment. Vacancies arising from retirement, etc., of candidates belonging to such categories shall be filled by appointment of candidates belonging to the categories to which the relevant roster points, against which the excesses occur, belong.

3. Since recruitment is generally vacancy-based, it may happen that the actual number of promotees and direct recruits in the cadre does not correspond to the number of posts earmarked in the respective reservation roster. For the purpose of calculations of representation of reserved category in a cadre, total of promotees and direct recruits may be taken. Rectification of the representation as per prescribed percentage by the prescribed mode of recruitment at the earliest possible should, however, be the goal.

## POST-BASED ROSTERS

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ANNEXURE-III  
FOR PROMOTION

**Objective :—** Representation of each of the reserved category should at no point of time exceed the reservation prescribed for it.

MODEL ROSTER OF RESERVATION WITH  
REFERENCE TO POSTS

Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked	Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked
	SC @ 15%	ST @ 7.5%			SC @ 15%	ST @ 7.5%	
1.	0.15	0.075	UR	25.	3.75	1.875	UR
2.	0.30	0.15	UR	26.	3.90	1.95	UR
3.	0.45	0.225	UR	27.	4.05	2.025	SC-4
4.	0.6	0.3	UR	28.	4.20	2.1	ST-2
5.	0.75	0.375	UR	29.	4.35	2.175	UR
6.	0.90	0.45	UR	30.	4.50	2.25	UR
7.	1.05	0.525	SC-1	31.	4.65	2.325	UR
8.	1.2	0.6	UR	32.	4.80	2.4	UR
9.	1.35	0.675	UR	33.	4.95	2.475	UR
10.	1.5	0.75	UR	34.	5.10	2.55	UR
11.	1.65	0.825	UR	35.	5.25	2.625	SC-5
12.	1.8	0.9	UR	36.	5.40	2.7	UR
13.	1.95	0.975	UR	37.	5.55	2.775	UR
14.	2.1	1.05	ST-1	38.	5.70	2.85	UR
15.	2.25	1.125	SC-2	39.	5.85	2.925	UR
16.	2.40	1.2	UR	40.	6.00	3	ST-3
17.	2.55	1.275	UR	41.	6.15	3.075	SC-6
18.	2.70	1.35	UR	42.	6.30	3.15	UR
19.	2.85	1.425	UR	43.	6.45	3.225	UR
20.	3.0	1.5	SC-3	44.	6.60	3.3	UR
21.	3.15	1.575	UR	45.	6.75	3.375	UR
22.	3.30	1.65	UR	46.	6.90	3.45	UR
23.	3.45	1.725	UR	47.	7.05	3.525	SC-7
24.	3.60	1.8	UR	48.	7.20	3.6	UR



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Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked	Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked
	SC @ 15%	ST @ 7.5%			SC @ 15%	ST @ 7.5%	
49.	7.35	3.675	UR	80.	12.00	6	ST-6
50.	7.50	3.75	UR	81.	12.15	6.075	SC-12
51.	7.65	3.825	UR	82.	12.30	6.15	UR
52.	7.80	3.9	UR	83.	12.45	6.225	UR
53.	7.95	3.975	UR	84.	12.60	6.3	UR
54.	8.10	4.05	SC-8	85.	12.75	6.375	UR
55.	8.25	4.125	ST-4	86.	12.90	6.45	UR
56.	8.40	4.2	UR	87.	13.05	6.525	SC-13
57.	8.55	4.275	UR	88.	13.20	6.6	UR
58.	8.70	4.35	UR	89.	13.35	6.675	UR
59.	8.85	4.425	UR	90.	13.50	6.75	UR
60.	9.00	4.5	UR	91.	13.65	6.825	UR
61.	9.15	4.575	SC-9	92.	13.80	6.9	UR
62.	9.30	4.65	UR	93.	13.95	6.975	UR
63.	9.45	4.725	UR	94.	14.10	7.05	SC-14
64.	9.60	4.8	UR	95.	14.25	7.125	ST-7
65.	9.75	4.875	UR	96.	14.40	7.2	UR
66.	9.90	4.95	UR	97.	14.55	7.275	UR
67.	10.05	5.025	UR	98.	14.70	7.35	UR
68.	10.20	5.1	SC-10	99.	14.85	7.425	SC-15*
69.	10.35	5.175	ST-5	100.	15.00	7.5	UR
70.	10.50	5.25	UR	101.	15.15	7.575	UR
71.	10.65	5.325	UR	102.	15.30	7.65	UR
72.	10.80	5.4	UR	103.	15.45	7.725	UR
73.	10.95	5.475	UR	104.	15.60	7.80	UR
74.	11.10	5.55	SC-11	105.	15.75	7.875	UR
75.	11.25	5.625	UR	106.	15.90	7.95	UR
76.	11.40	5.7	UR	107.	16.05	8.025	SC-16
77.	11.55	5.775	UR	108.	16.2	8.10	ST-8
78.	11.70	5.85	UR	109.	16.35	8.175	UR
79.	11.85	5.925	UR	110.	16.50	8.25	UR

POST-BASED ROSTERS

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Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked	Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked
	SC @ 15%	ST @ 7.5%			SC @ 15%	ST @ 7.5%	
111.	16.65	8.325	UR	142.	21.30	10.65	UR
112.	16.80	8.40	UR	143.	21.45	10.725	UR
113.	16.95	8.475	UR	144.	21.60	10.80	UR
114.	17.10	8.55	SC-17	145.	21.75	10.875	UR
115.	17.25	8.625	UR	146.	21.90	10.95	UR
116.	17.40	8.70	UR	147.	22.05	11.025	SC-22
117.	17.55	8.775	UR	148.	22.20	11.10	ST-11
118.	17.70	8.85	UR	149.	22.35	11.175	UR
119.	17.85	8.925	UR	150.	22.50	11.25	UR
120.	18	9	ST-9	151.	22.65	11.325	UR
121.	18.15	9.075	SC-18	152.	22.80	11.40	UR
122.	18.30	9.15	UR	153.	22.95	11.475	UR
123.	18.45	9.225	UR	154.	23.10	11.55	SC-23
124.	18.60	9.30	UR	155.	23.25	11.625	UR
125.	18.75	9.375	UR	156.	23.40	11.70	UR
126.	18.90	9.45	UR	157.	23.55	11.775	UR
127.	19.05	9.525	SC-19	158.	23.70	11.85	UR
128.	19.20	9.60	UR	159.	23.85	11.925	UR
129.	19.35	9.675	UR	160.	24	12	ST-12
130.	19.50	9.75	UR	161.	24.15	12.075	UR
131.	19.65	9.825	UR	162.	24.30	12.15	SC-24
132.	19.80	9.90	UR	163.	24.45	12.225	UR
133.	19.95	9.975	UR	164.	24.60	12.30	UR
134.	20.10	10.05	UR	165.	24.75	12.375	UR
135.	20.25	10.125	SC-20	166.	24.90	12.45	UR
136.	20.40	10.20	ST-10	167.	25.05	12.525	UR
137.	20.55	10.275	UR	168.	25.20	12.60	SC-25
138.	20.70	10.35	UR	169.	25.35	12.675	UR
139.	20.85	10.425	UR	170.	25.50	12.75	UR
140.	21	10.50	SC-21	171.	25.65	12.825	UR
141.	21.15	10.575	UR	172.	25.80	12.90	UR

SWAMY'S—RESERVATION AND CONCESSIONS IN GOVT. SERVICES

Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked	Sl. No. of Post	Share of entitlement		Category for which the post should be ear- marked
	SC @ 15%	ST @ 7.5%			SC @ 15%	ST @ 7.5%	
173.	25.95	12.975	UR	187.	28.05	14.025	SC-28
174.	26.10	13.05	SC-26	188.	28.20	14.10	ST-14
175.	26.25	13.125	ST-13	189.	28.35	14.175	UR
176.	26.40	13.20	UR	190.	28.50	14.25	UR
177.	26.55	13.275	UR	191.	28.65	14.325	UR
178.	26.70	13.35	UR	192.	28.80	14.40	UR
179.	26.85	13.425	UR	193.	28.95	14.475	UR
180.	27	13.50	SC-27	194.	29.10	14.55	SC-29
181.	27.15	13.575	UR	195.	29.25	14.625	UR
182.	27.30	13.65	UR	196.	29.40	14.70	UR
183.	27.45	13.725	UR	197.	29.55	14.775	UR
184.	27.60	13.80	UR	198.	29.70	14.85	ST-15*
185.	27.75	13.875	UR	199.	29.85	14.925	SC-30*
186.	27.90	13.95	UR	200.	30	15	UR

\* To allot requisite number of posts without violating rule of 50%.

POST-BASED ROSTERS

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APPENDIX TO ANNEXURE-III

Model Roster for promotion for cadre strength up to 13 posts

REPLACEMENT NO.

Cadre Strength	Initial Recruitment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th
1.	UR	UR	UR	UR	UR	UR	SC	UR	UR	UR	UR	UR	UR	ST
2.	UR	UR	UR	UR	UR	SC	UR	UR	UR	UR	UR	UR	UR	ST
3.	UR	UR	UR	UR	SC	UR	UR	UR	UR	UR	UR	UR	UR	ST
4.	UR	UR	UR	SC	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
5.	UR	UR	SC	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
6.	UR	SC	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
7.	SC	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
8.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
9.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
10.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
11.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
12.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST
13.	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	UR	ST

- NOTE. — 1. For cadres of 2 to 13 posts, the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row, i.e., like "L".
2. All the posts of a cadre are to be earmarked for the categories shown under column Initial Appointment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.
3. The relevant rotation by the indicated reserved category could be skipped over if it leads to more than 50% representation of reserved category.

APK Choudhary  
M. E. G. S. S.

19 Dec 04  
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Filed by Mr. Polit  
through Surajit Das

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

In the matter of:

O.A. No. 127 /2004

**Shri Lienkhawthang Varte.**

**-Vs-**

**Union of India & Ors.**

**-AND-**

In the matter of :

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

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

1. That with regard to the statements made in paragraph 6,8 and 9 of the written statement the applicant begs to state that the respondents of their own shown one vacant post of S.C quota available way back in the year 1996-97 as such the said S.C vacancy ought to have been filled up by the eligible S.T candidates in the absence of S.C candidate, which is very much available in the Department as per provisions contained in the Govt. instructions in the matter of S.C and S.T reservations. Therefore it appears that the respondents deliberately ignored the case of the present applicant who belonged to S.T community. Although the applicant has completed

requisite 5 year regular service long back as required under the recruitment rule and as a result applicant is denied denial his legitimate promotion.

2. That with regard to the statements made in paragraph 12,13 and 15 of the written statement, the applicant begs to say that it appears from the contention of the respondents made in Para 13 of the written statement that the advice of the National Commission for S.C and S.T and the proposal to fill up one post of S.T candidate also violated by the respondents. The contention of the respondents that the case of the applicant was considered against S.T vacancy during the year 1999-2000 and the recommendation of the U.P.S.C was received in a "sealed-cover" due to want of vigilance clearance as per advise of the U.P.S.C. the sealed cover would be opened after receipt of the vigilance clearance in respect of the applicant. In this connection it may be stated that during the year 1999-2000, there was no disciplinary or criminal proceeding was pending against the applicant is contrary to the Govt. policy as well as the Law laid down by the Hon'ble Apex Court. It is categorically stated that there was no charge sheet served upon the applicant during the period 1999-2000 as such the respondents have wrongly adopted the sealed-cover. Therefore the Hon'ble Court be pleased to direct the respondents to open the sealed-cover and give effect of the same and also grant the promotional benefit at least from the date of S.T vacancy or from the date of

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recommendation of the U.P.S.C with all consequential benefits including seniority and monetary benefit.

3. That with regard to the statements made in paragraph 16,17,18 and 20 of the written statement, the same are categorically denies, the statements and the contention of the respondents that sealed-cover was further adopted while DPC meeting held on 05.02.2003 when U.P.S.C has recommended the name of the applicant against the reserved vacancy but the said recommendation of the U.P.S.C also wrongly kept under sealed-cover due to alleged non clearance of vigilance. It is also categorically stated here in that even on 05.02.2003 there was no criminal or disciplinary proceeding pending against the applicant as such further adoption of sealed-cover is contrary to the law. In this connection it may be stated that the disciplinary proceeding was initiated Under Rule 14 of the CCS (CCA) Rule 1965, against the applicant vide memorandum issued under letter No.DGET-I-11018/1/99-EE-II dated 16.03.2004 by the Deputy Director General (Employment). Therefore admittedly there was no disciplinary/criminal proceeding pending against the applicant prior to 16.03.2004. Therefore adoption of sealed-cover procedure on the recommendation of the U.P.S.C for promotion during the year 1999-2000 as well as on 05.02.2003 is wrong and the Hon'ble Court be pleased to direct the respondents to open the sealed-cover and give effect to the same by promoting the applicant to the post of Superintendent.

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



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**VERIFICATION**

I, Shri Lienkhawthang Varte, S/o Shri H.V. Varte, aged about 47 years, working as Rehabilitation Officer, VRC for handicapped, Rehabari, Guwahati-8, do hereby verify that the statements made in Paragraph 1 to 4 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 19<sup>th</sup> day of August, 2004.

Lienkhawthang Varte