

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 16/2004

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet. O.A-16/2004 ..... Pg..... 1 ..... to.... 3 .....
2. Judgment/Order dtd. 15/12/2004 ..... Pg..... 1 ..... to.... 8 ..... Disposed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A.... 16/2004 ..... Pg..... 1 ..... to.... 24 .....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S. Respondents 2, 3 and 5 ..... Pg..... 1 ..... to.... 23 .....
8. Rejoinder..... Pg..... 1 ..... to.... 5 .....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Org.App/ Misc. Petn/Cont. Petn/ Rev. Appl: 16/04

In O.A.

Name of the Applicant(s) M. C. Boruah

Name of the Respondent(s) H. O. I. Tomy

Advocate for the Applicant S. Sarma, U.K. Nair, Mr. U. Das

Counsel for the Railway/ C.G.S.C. Cafe Mr. B. Dey

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

Form filed in time 16.2.2004 Heard Mr. S. Sarma, learned counsel for the applicant.

The O.A. is admitted. Issue notice to the parties, returnable by four weeks.

List on 19.3.2004 for order.

K. D. Debnath  
Member

Steps taken 16/2/04

bb

19.3.2004 Heard Ms. U. Das, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the respondents.

List on 5.4.2004 for orders.

Meanwhile, the respondents are directed to give the provisional pension to the applicant as per rule within four weeks.

L. C. Debnath  
Memr

re. issue notice as per court's order dated

4/1/04

17/2/04

comply order dated

3/2/04 23/3/04

mb

Notice & order dt. 16/2/04  
Sent to D/Section for  
issuing to respondent  
nos 1 to 5.

Clas  
20/2/04.

5.4.2004 Four weeks time is given to  
the respondents to file written  
statement. List on 6.5.2004  
for orders.

*[Signature]*  
Member (A)

The respondent No. 3  
received notice with  
order on 12/3/03, vide  
letter No. FOR/176/pen/97/ mb  
6393-95, dt. 24/3/04 at 6.5.2004  
file No. "e".

Clas  
30/3/04

Notice issued vide  
No. 334-338 dated  
12-3-04.

W/S  
8/4/04

Four weeks time is given to  
the respondents to file written  
statement on the plea of counsel  
for the respondents. List on  
7.6.2004 for orders.

*[Signature]*  
Member (A)

No. W/S has been  
filed.

*[Signature]*  
5.5.04

7.6.2004 On the prayer made by Mr. S. Nath,  
learned proxy counsel for behalf of Mr.  
P. Banerjee, learned Govt. Advocate,  
Arunachal Pradesh, the case is adjour-  
ned for four weeks.  
List on 14.7.2004 for order.

*[Signature]*  
Member (A)

bb

9.8.2004 Written statement on behalf of res-  
pondent Nos. 2, 3 & 5 has been filed. Mr.  
A.K. Chauduri, learned Addl. C.G.S.C. app-  
earing on behalf of respondent No. 1 prays  
for time to file written statement.

Prayer allowed. List the case for  
hearing on 2.9.2004. In the meantime,  
applicant may file rejoinder, if any.

W/S filed by the  
Respondent No. 2, 3 and 5.

*[Signature]*  
6-8-04  
W/S has been filed.

bb

*[Signature]*  
Member (A)

19/

02.09.2004 On the plea of Ms.U.Das, learned counsel for the applicant, let the case be listed after four weeks for hearing.

List on 1.10.2004 for hearing.

6.9.04

Rejoinder filed by the applicant.

*KV Prakash*  
Member (A)

bb

*Rejoinder*  
1.10.2004 On the plea of learned counsel for the applicant, list on 5.11.2004 for hearing.

30.9.04

W/S Submitted by the Respondent Nos. 2, 3 & 5.

except Respondent No. 1. mb Service recalled instead of Respondent No. 4. Rejoinder

Submitted by the Applicant.  
A letter received from Respondent No. 4 (See flag 'A') *Rejoinder*

*KV Prakash*  
Member (A)

5.11.2004 None for the parties.

List on 10.12.2004 for hearing.

*KV Prakash*  
Member (A)

mb

4-11-04 14.12.04. Let the case be listed for

hearing on 15th December, 2004.

*as refused by Addl. C.R. for application*

Vice-Chairman

lm

15.12.2004 Present: Hon'ble Justice Shri R.K. Batta, Vice-Chairman

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

**Case is ready for hearing.**

*13/12/04*  
*Copy*

*Received*  
*6 Dec 2004*  
*App'l Comd.*  
*5/12/04*

*R*  
Vice-Chairman

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / XXX No. 16 of 2004

DATE OF DECISION 15.12.2004

Shri Manmohan Ch Baruah, IFS (Retd) ..... APPLICANT(S)

Mr S. Sarma, Mr U.K. Nair and Ms U. Das ..... ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS -

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

Mr A. Chanchukin Adilacharya. ↗

Mrs A. Sarma, Government Advocate,  
Arunachal Pradesh. ↗  
ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE MR. JUSTICE R.K. BATTA, VICE-CHAIRMAN ↗

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment ? ↗
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ? ↗
4. Whether the judgment is to be circulated to the other Benches ?  
Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.16 of 2004

Date of decision: This the 15th day of December 2004

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

Shri Manmohan Ch Baruah, IFS (Retd)  
Resident of Rajgarh Link Road  
Near Guwahati Commerce College  
Guwahati.

.....Applicant

By Advocates Mr S. Sarma, Mr U.K. Nair  
and Ms U. Das.

- versus -

1. The Union of India, represented by the  
Secretary to the Government of India,  
Ministry of Environment and Forests,  
CGO Complex, New Delhi.

2. The Secretary  
Environment and Forests,  
Government of Arunachal Pradesh,  
Itanagar.

3. The Principal Chief Conservator of Forests  
Department of Environment and Forests,  
Government of Arunachal Pradesh  
Itanagar.

4. The Director of Accounts  
Government of Arunachal Pradesh  
Naharlagun.

5. The Conservator of Forests  
Western Arunachal Circle  
Bandardewa, Arunachal Pradesh. ....Respondents

By Advocates ~~Mr A.K. Chaudhuri, M.A., LL.B., F.I.C.S.~~  
and Mrs A. Sarma, Government Advocate,  
Arunachal Pradesh.

.....

O R D E R (ORAL)

BATTA. J. (V.C.)

The applicant retired from the post of Deputy Conservator of Forests (IFS) on 31.10.2001 from the establishment of Conservator of Forests, Western Arunachal Circle, Bandardewa. In spite of repeated requests the pension papers were not forwarded and the same were forwarded only on 19.4.2002. The Joint Director, Audit and Pension vide letter dated 12.7.2002 raised certain queries

R

and the matter was dragged without any cogent reason. The applicant gave legal notice dated 12.5.2003 to the respondents for release of his pensionary dues with 21% interest. According to the applicant even though he pursued the matter from time to time, the payment of pension and other dues has been delayed without any justification. It is further stated that the Conservator of Forests, Bandardewa wrote letter dated 29.10.2003 to the Director of Audit and Pension to release the pensionary dues of the applicant, but even after that the applicant is yet to receive such dues. The applicant has, therefore, approached this court for directions to release all pensionary benefits including the regular pension and interest on delayed payment. By Tribunal's order dated 19.3.2004 the respondents were directed to give provisional pension to the applicant as per rules.

2. The respondents have in return stated that the applicant submitted his application for pension in Form 5 only on 22.2.2002 and thumb impression on 17.4.2002 and on 19.4.2002 the papers were forwarded to the Director of Audit and Pension. The respondents further contend that the Director of Audit and Pension returned the pension papers of the applicant with observation that there was a huge amount of Rs.16,94,935/- as outstanding Government revenue accumulated during the applicant's tenure in various divisions and Arunachal Pradesh Forest Corporation. The Director of Audit and Pension further stated that the amount of retirement gratuity due to the retired Government servant would not cover the outstanding amount for adjustment and necessary action should be taken for recovery of the outstanding amount before finalization of the pension case of the applicant. The matter relating

*R* -

to.....

8

to non-realisation of outstanding Government revenue by the applicant during his tenure in various offices ~~were~~ examined by the Principal Chief Conservator of Forests and on examination it was found that while the applicant was in service no prima facie case could be made out against him to initiate departmental proceeding for recovery of the outstanding Government revenue and as such the Principal Chief Conservator of Forests vide his letter dated 2.7.2003 directed the Conservator of Forests, Western Circle to take immediate action for payment of all pensionary benefits due to the applicant. The respondents further contended that in view of the queries made by Director of Audit and Pension, the Conservator of Forests, Western Circle had to make correspondence with concerned officers where the applicant served during his tenure. ~~These~~ correspondence~~s~~ <sup>was</sup> made with a view to clear up the queries made by the Director of Audit and Pension and to release the GPF, CGEIS and settlement of unrealized Government revenue of Rs.16,94,935/- accumulated during the tenure of the applicant in various offices. After making the said correspondence~~s~~, the pension papers were resubmitted to the Director of Audit and Pension vide letter dated 12.8.2003. The respondents further state that the applicant did not submit appendix D Form I in time for sending it to the Director of Audit and Pension and updated GPF Pass Book was required to be forwarded to the Director of Audit and Pension for release of his GPF. The same was submitted by the applicant on 13.6.2003 to the Conservator of Forests and the Conservator of Forests forwarded the proposal for release of GPF to the Director of Audit and Pension vide letter dated 6.8.2003. According to the respondents the delay is attributable to the applicant himself. The pension was finally released by

Q1-

Director.....

Director of Audit and Pension on 30.1.2004. Prior to that the cash equivalent to leave salary and DCRG was paid.

3. Ms. U. Das, learned counsel for the applicant, urged before me that the delay in finalisation of the pension papers is primarily attributable to the respondents and it is the respondents who have delayed the finalisation of the pensionary dues. According to her, the applicant is, therefore, entitled to payment of interest on the dues till the same were paid. According to her payment of GPF is yet to be made, but all other pensionary benefits have been paid. Relying upon the judgment of the Apex Court in R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax and another, (1994) 6 SCC 589, she submitted that 10% interest be paid on the pensionary dues from the date the same were due till the same were paid.

4. Mrs A. Sarma, learned counsel for the respondents has urged that the applicant being the seniormost officer in the Division was responsible for the recovery of Government revenue to the tune of Rs.16,94,935/- on account of which the pensionary benefits of the applicant had been withheld pending enquiry; that the applicant was himself responsible for the delay as can be seen from the averments made in paras 3 and 5 of the written statement filed by the respondents; that the matter was required to be enquired into and the enquiry was done well within the time limit after retirement in the light of the judgment of the Apex Court in State of U.P. and another Vs. Shri Krishna Pandey, (1996) 9SCC 395. Accordingly, it is contended that there is absolutely no case for payment of interest.

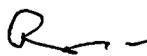
Q-

5. The case of the respondents is that the applicant was himself to be blamed for delay in finalisation of his pensionary benefits and in this connection it is stated that the applicant submitted his papers for pension in Form 5 only on 22.2.2002 and thumb impression on 17.4.2002 and immediately thereafter on 19.4.2002 the pension papers were forwarded to the Director of Audit and Pension. This categorical averment made in para 3 of the written statement has not been specifically rebutted by the applicant in affidavit and rejoinder. The applicant had retired on 31.10.2001 and in view of the averments referred to above the respondents certainly cannot be held liable for payment of any interest till the pension papers were completed by the applicant on 17.4.2002. The pension papers are required to be processed according to the rules within six months and they were processed during the said time limit after the applicant had completed the pension papers on 17.4.2002. The Director of Audit and Pension vide letter dated 12.7.2002 had pointed out that a huge amount of Rs.16,94,935/- was outstanding against the applicant as intimated by letter dated 19.4.2002, which is required to be recovered and since the amount of gratuity due to the applicant will not be sufficient to recover the outstanding amount after adjustment, action should be taken for recovery of the outstanding amount before finalisation of the pension case. It appears that thereafter the issue regarding non-realisation of outstanding Government revenue was examined by the Principal Chief Conservator of Forests and on examination it was found that while the applicant was in service no *prima facie* case could be made out against him to initiate departmental proceeding for recovery of outstanding

*R -*

Government.....

Government revenue. The Principal Chief Conservator of Forests, therefore, directed the Conservator of Forests, Western Arunachal Circle by letter dated 2.7.2003 to take immediate action for settlement of all pensionary benefits due to the applicant. It is pertinent to note that in letter dated 12.7.2002 which is annexed to the return of the respondents and is at page 33 of the record, it is stated that the Conservator of Forests, Western Circle had intimated vide letter dated 19.4.2002 that a huge amount of Rs.16,94,935/- was outstanding against the applicant. Therefore, the respondents should have started enquiries at least from 19.4.2002, if not earlier in relation to the responsibility of the applicant on account of outstanding Government dues amounting to Rs.16,94,935/-. However, the decision in the matter was taken only after a year by the Principal Chief Conservator of Forests and was communicated to the Conservator of Forests, Western Circle vide letter dated 2.7.2003 that on examination of the matter it was found that while the applicant was in service no prima facie case could be made out against him to initiate departmental proceeding against him to recover the outstanding Government revenue. The delay in settling this issue was primarily on the part of the respondents even though the respondents were aware of the same at least with effect from 19.4.2002, if not earlier. The respondents have further stated in para 5 that the applicant did not submit Appendix D in Form I in time for sending the same to the Director of Audit and Pension which were submitted by him on 13.6.2003 to the Conservator of Forests. This fact which is contained in para 5 of the written statement of the respondents has not been specifically controverted by the applicant in



affidavit.....

✓ affidavit and rejoinder. Thus upto 17.4.2002 the applicant was himself responsible for delay in finalisation of his pension papers. But from 19.4.2002 onwards the delay has been primarily due to the respondents who took more than a year to make enquiries in respect of the responsibility of the applicant relating to non-recovery of Government dues to the extent of Rs.16,94,935/- . For some more period, which cannot be ascertained from the record in the light of the submissions made in para 5 of the affidavit filed by the respondents, the applicant was responsible in not submitting Appendix D Form I which was submitted by him on 13.6.2003. It is pertinent to note that in letter dated 2.7.2003 the Principal Chief Conservator of Forests had informed the Conservator of Forests, Western Arunachal Circle to take immediate action for settlement of all pensionary benefits of the applicant and even to pay provisional pension. In spite of this the respondents took almost a year to pay the dues to the applicant. Though it is stated by the respondents that the pension was finally released on 30.1.2004, but it was actually paid on 2.4.2002 according to the learned counsel for the applicant. Even the provisional pension was not released as directed by the Principal Chief Conservator of Forests in letter dated 2.7.2003 and this Tribunal had to pass an order on 19.3.2004 to give provisional pension to the applicant. Thus, the delay in paying the pension as also commuted value of the pension from the month of November 2002 till the same was actually paid on 2.4.2004 is attributable to the respondents. I have taken the said period as November 2002 since the applicant had completed the pension papers on 17.4.2002 and it would naturally take some time to finalise the pension papers and I have

✓ —

also.....

also taken into account that the applicant had not submitted Appendix D for updating GPF Pass Book. Thus from November 2002 till 31.3.2004 the applicant shall be entitled to 10% interest on the pension and commuted value of pension due to him. It may also be mentioned that the respondents had to make enquiries relating to the Government revenue dues and for making enquiries some allowance has to be given.

6. Likewise, since no *prima facie* case was found against the applicant in relation to Government revenue due to the tune of Rs.16,94,935/- withholding of gratuity would not be justified, after reasonable period for making enquiries into the said matter should have been over. The <sup>and</sup> ~~less~~ <sup>less</sup> enquiries ~~and~~ <sup>less</sup> decisions were delayed for more than a year by the respondents themselves. The applicant would, therefore, be entitled to 10% interest on the gratuity amount due to him from November 2002 till the gratuity was actually paid to him. Likewise, the applicant shall also be entitled to 10% interest on CGEIS from November 2002 till the said payment was made to the applicant. Learned counsel for the applicant has stated that the applicant had not been paid the GPF amount as yet. The GPF amount, obviously would be paid with interest due on the said amount and it is not necessary to award any interest on the said amount. However, the respondents are directed to effect the payment of GPF amount within a period of one month of the receipt of this order.

The application stands disposed of in aforesaid terms with no order as to costs.

  
( R. K. BATTA )  
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

16  
Q.A.No. .... of 2004

M. C. Baruah

-VS-

Union of India & Ors.

LIST OF DATES

1. 31.10.81 The applicant retired from service while he was serving as DCF.
2. 12.5.03 Legal notice issued to the respondents.
3. 27.5.03 Pension papers forwarded by the respondents.
4. 16.6.03 Legal Notice issued to the respondents.
5. 1.4.99 Office communication for granting pension.
6. Annexure-5 Representations submitted by the applicant.

\*\*\*\*\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

BETWEEN

Shri Manmohan Ch. Baruah ..... Applicant.

AND

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

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 9
2.	Verification	10
3.	Annexure-1	11-12
4.	Annexure-2	13
5.	Annexure-3	14-16
6.	Annexure-4	17-21
7.	Annexure-5 (colly)	22-24
8.	Annexure-6	

\*\*\*\*\*

Filed by : Alsha Das

Regn. No. :

File No. : 2004/2004/MORBARUAH

Date : 5

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

D.A.No. 16 of 2004

BETWEEN

Sri Manmohan Ch. Baruah IFS, (Retd)  
Resident of Rajgarh Link Road,  
Near Guwahati Commerce College  
Guwahati.

..... Applicant.

- AND -

1. The Union of India.  
Represented by Secretary to the  
Govt. of India.  
Ministry of Environment and Forests.  
CGO Complex, New Delhi.
2. The Secretary  
Environment and Forest,  
Govt. of Arunachal Pradesh  
Itanagar.
3. The Principal Chief Conservator of Forests  
Dept of Environment and Forests.  
Govt. of Arunachal Pradesh,  
Itanagar.
4. The Director of Accounts,  
Govt. of Arunachal Pradesh,  
Nagarlagun. (A.P.)
5. The Conservator of Forests  
Western Arunachal Circle  
Bandarawwa (Arunachal Pradesh)

..... Respondents.

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION

IS MADE:

This application is not directed against any particular order but has made against the action on the part of the respondents in not releasing the pension and other

16  
Filed by  
the applicant through  
the Abhijit Das  
Advocate  
12/1/2003

1X

pensionary dues of the applicant who retired from service on attaining the age of superannuation on 31.10.2001. This application is also made praying for adequate compensation and interest for such delayed settlement of pensionary dues of the applicant.

**2. LIMITATION:**

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

**3. JURISDICTION:**

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

**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, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant who was holding the post of (DCF) IFS retired from service on 31.10.2001, from the establishment of Conservator of Forests, Western Arunachal Circle, Bandardewa. However, the conservator of Forest did not take any initiative for settlement of pensionary dues, and the applicant kept on pursuing the matter before the said authority in vain. The said conservator of Forests,

18

vide his letter bearing No.WAC/E99/81/3000-01 date 19.4.2002 forwarded the pension papers of the applicant to the Director Audit and Pension, Naharlagun (A.P.) after laps of about 6(six) months. The Joint Director Audit and Pension vide letter dated 12.7.2002 raised some quarries regarding the service of the applicant after about 3(three) months from receipt of the pension papers from the concerned dept. On the other hand delay in settlement of pensionary dues started causing hardship to the applicant and having no other alternative he started requesting the authority to release his dues but same yielded no result in positive. The conservator of Forest, thereafter wrote a letter to the Managing Director APFCI dated 7.5.2003 requesting him for updating the GPS passbook of the applicant after about 12 year. The Respondents in that way making official communication kept on dragging the matter from one department to another without any cogent reason.

4.3. That the applicant who retired from service on 31.10.2001 kept on requesting the authority for release of his pension but as on date nothing has been done so far in this matter. The applicant situated thus served a pleader notice dated 12.5.2003 to the Respondents making a demand of release of his pensionary dues within 15 days alongwith an interest of 21% on such delayed settlement.

A copy of the said legal notice dated 12.5.2003 is annexed herewith and marked as Annexure-1

4.4. That on receipt of the aforesaid legal notice dated 12.5.2003 the Principal Chief Conservator of Forest

referred the matter to the Conservator of Forests Bandardewa vide letter dated 29.5.2003. It is pertinent to mention here that after about lapse of 2 years the Conservator of Forests, Western Circle, Bandardewa wrote a letter to the Managing Director APFC Ltd. Itanagar regarding the GPF account which was yet to be made up to date.

A copy of the said communication dated 27.5.2003 is enclosed herewith and marked as Annexure-2.

4.5. That the applicant states that the respondents initiated the process of settlement of his pensionary dues belatedly and admittedly from the communication as referred to above, clearly indicates the fact that the respondents willfully and deliberately have been delaying the matter without any rhyme and reason. On the other hand, the applicant kept on pursuing his matter by submitting representation praying for release of his pensionary dues but nothing has been done so far in this matter. The applicant having no other alternative one again served a legal notice dated 16.6.2003 to the respondents making a demand for release of his pensionary dues like regular pension, DCRG etc. but as on date the respondents have not taken any steps for release of such dues.

A copy of the said legal notice dated 16.6.2003 is annexed herewith and marked as Annexure-3.

4.6. That the applicant begs to state that as stated above the respondents kept on dragging the matter and as on date no action has been initiated for finalisation of the

29

pensionary dues of the applicant. It is pertinent to mention here that the Conservator of Forest Bandardewa wrote a letter dated 29.10.2003 to the Director of Audit and Pension to release the pensionary dues of the applicant but even after such communication the applicant is yet to receive such dues. The applicant kept on pursuing this matter vide his communications dated 18.10.2003, 18.11.2003 and 28.11.2003 but till date the respondents have not yet release the pensionary dues of the applicant even after obtaining the sanction from the competent authority.

4.7. That the applicant begs to state that in the matter of settlement of pensionary dues the Govt. of India, Deptt. of Personnel and Training issued various guidelines relating to settlement of pensionary dues within a stipulated time frame and in this regard the State Govt. concerned has also issued comprehensive standing guidelines/instructions on prompt processing of pension papers, sanction of papers which includes (1) maintenance of time table (2) nomination of pension officers (3) monitoring and reporting (4) maintenance of incumbency list (5) furnishing of list of employees due to retire within next 2 years (6) processing of pension papers etc. It is noteworthy to mention here that the State of Arunachal Pradesh has adopted the guideline and the concerned Ministry has issued various guidelines to that effect. The applicant inspite of his best efforts could not collect the guideline, however a similar guideline issued in this connection which has been reflected in an official communication dated 1.4.99 may be referred to.

92

A copy of the aforesaid official communication dated 1.4.99 is annexed herewith and marked as Annexure-4.

4.8. That the applicant begs to state that since his date of retirement on superannuation w.e.f. 31.10.2001 the Respondents authority have chosen not to release his pensionary dues without any reason and as such the applicant through this application categorically prays before this Hon'ble Court for an appropriate direction for release of his pensionary dues with a normal interest @21% p.a. on the delayed settlement of such dues with an addition of Rs. 1 lacs as awarded by Apex Court in a similar case. As stated above the applicant kept on pursuing the authority concerned for release of his pensionary dues time and again but same yielded no result in positive. In fact, the applicant served two legal notices making a demand to release his pensionary dues but as on date nothing has been communicated to him causing undue hardship to him and now as a last resort the applicant has come under the protective hands of this Hon'ble Tribunal seeking appropriate remedy.

Copies of some of the representation are annexed herewith and marked as Annexure-5 colly.

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

5.1. For that the action/inaction on the part of the Respondents in not settling the pensionary dues and as such same is not sustainable and liable to be set aside.

22

more particularly rule 68 of Pension Rules provides amount of interest on delayed payment of pensionary dues and in terms of the said rules the applicant is entitled to adequate interest and compensation for delayed settlement of pensionary dues.

5.3. For that the Respondents have acted contrary to the rules and guidelines holding the field and with some ulterior motive have been delayed the payment of pensionary dues which has adversely effected the applicant and as such inaction on the part of the respondents is liable to be set aside and quash with an appropriate direction.

5.4. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

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

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other

25

Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

**8. RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to release the all the pensionary dues of the applicant forthwith.

8.2. To direct the respondents to pay an interest @21% p.a. on the delayed payment of such pensionary dues and with further direction to release the interest along with one lac panel interest as ordered in appex court forthwith alongwith with all pensionary dues.

8.3. To direct the respondents to release his regular pension forthwith alongwith the arrears including the interest @21% p.a. on the arrear.

8.4. To direct the respondents to pay adequate compensation for the delayed settlement of his pensionary dues in addition to the penal interest as claimed above.

8.5. Cost of the application.

8.6. Any other relief/reliefs to which the applicant is

entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order directing the respondents to pay provisional pension to the applicant.

10.

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

1. I.P.O. No. : 96 704217  
2. Date : 3/11/03  
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

25

VERIFICATION

I, Sri Manmohan Ch. Baruah, IFS (Retd), aged about .... years, resident of Rajgarh Link Road, Near Guwahati Commerce College, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 4, 2, 3, 4, 1, 4, 2, 4, 6 & 5 to 12..... are true to my knowledge and those made in paragraphs 4, 3, 4, 5, 4, 7, 4, 8.... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 9th day of January of 2004.

Signature.

*Sri Manmohan Chandra Baruah*

SIDDHARTHA SARMA

Advocate

- 11 -

ANNEXURE - 1  
26  
M. A. Road, Rehabari.  
Guwahati- 781008  
Phone No.- 522995  
Date.....

Ref:.....

To

Date : 12.6.03

1. The Chief Secretary,  
Arunachal Pradesh, Itanagar.
2. The Principal Chief Conservator of Forests  
& Principal Secretary to the Department of  
Forests, Arunachal Pradesh, Itanagar.
3. The Conservator of Forests, Arunachal  
Pradesh, Banderdewa.

Sub : Legal notice.

Sir,

Upon authority and as instruction of my  
client Shri M.C. Baruah, IFS (Rtd.), I give you  
this notice as follows :

1. That my aforesaid client Shri M.C. Baruah, IFS  
retired from service with effect from 31.12.2001.  
At the time of his retirement he was holding the  
post of DCF (IFS). However, till date he has not  
received his pensionary benefits which includes  
his provisional pension, final pension, CGPS  
amount, GPF, gratuity and commuted pension etc.  
except leave encashment.

Attested  
Sar  
Advocate.

भारतीय डाक



CHENNAI GPO (781001)

RE: AD 3563

PA: PGM

To THE CHIEF SECRETARY, GOVT OF P.R.S.R.

ITANAGAR, P.M.

78111

1120grams

Rs 0.00, Ad 25.00, 12/05/2003, 13:34:29

Mr. Prabhakar

भारतीय डाक



CHENNAI GPO (781001)

RE: AD 3564

PA: PGM

To THE CHIEF SECRETARY, GOVT OF P.R.S.R.

ITANAGAR, P.M.

1120grams

Rs 0.00, Ad 25.00, 12/05/2003, 13:35:27

HAPPY RANGALI RISHI

भारतीय डाक



CHENNAI GPO (781001)

RE: AD 3570

PA: PGM

To THE CHIEF SECRETARY, GOVT OF A.P.

ITANAGAR, P.M.

1120grams

Rs 0.00, Ad 25.00, 12/05/2003, 13:35:53

Mr. Prabhakar

1120grams

happi

78

2. That my client aforesaid had no chargesheet and any such departmental proceeding pending, at the time of his retirement and as such there should not have been any delay in settling those dues. As per the guidelines issued in the CCS (Pension) Rules, 1973 the settlement of pensionary dues beyond six months is not permissible. Apart from that there are various Office Memorandum and guidelines issued by the Government of India, Ministry of Department and Personnel in this regard emphasising the need of early of settlement of pensionary dues. However in the instant case even after repeated pursuance of the matter (by) my client you have not finalised the matter regarding his pensionary dues amounting to direct violation of the aforesaid guidelines and settled rules. Needless to say here that after retirement an officer like my client deserves sympathy from the department in all respects but adding insult to his injuries his due pensionary benefits even after his repeated pursuance are yet to be released without any rhymes and reasons. The Hon'ble Apex Court in number of cases has viewed very seriously in the matter of delayed settlement of pensionary dues and responsibility is in the matter has been fixed over the errred officials.

3. That my client aforesaid made several representations before the concerned authorities but till date nothing has been communicated to him

Affested  
Ranjan  
Advocate

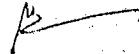
in this regard. It is further stated that my client aforesaid has only received the leave encashment benefit and apart from that other pensionary dues admissible under Rules are yet to be released. In terms of the aforesaid Hon'ble Apex Court judgments my client is entitled to receive adequate compensation and interests on the due amount at the Bank norms for delayed payment.

In view of the above, I issue this legal notice to you making a demand that my client be paid all his pensionary dues immediately as admissible with an interest at the rate 21% (Penal rate) p.a. on the delayed settlement of such dues within a period of 15 days from the date of receipt of this notice, failing which instruction of my is to initiate appropriate legal proceeding against you which may include your personal appearance before the Hon'ble Court to explain the delay.

I hope and trust that there will be no occasion for any further litigation unnecessarily dragging you into the same.

Thanking you.

Yours sincerely

  
S. Sarma

Attested  
now  
Sarman

GOVERNMENT OF ARUNACHAL PRADESH  
 OFFICE OF THE CONSERVATOR OF FORESTS  
 WESTERN CIRCLE: BANDERDEWA  
 G.G.F.C.C.E&C

NO. WAC/88/2002/1918-24

Dt., B/dewa, the 27th May/03.

To

The Managing Director,  
 A.P.F.C., Ltd.,  
 Itanagar.

Sub:

Up-Dating of GPF pass book in respect of  
 Shri M.C.Barush, IFS (Rtd.)

Sir,

While enclosing herewith the GPF pass book of Shri M.C.Barush, IFS (Rtd.), holder of GPF A/C No. AP/FOR/553, it is to inform you that as per service book of Shri M.C.Barush, DCF on deputation to APFC, Ltd. he joined duty as GM (T) w.e.f. 31.8.98 till his reversion to the Department of Environment & Forests on 28.11.99 (AN). While scrutinising his GPF pass book for processing the release of GPF money in favour of Shri M.C. Barush, IFS (Rtd.), it is observed that the pass book is not posted upto date for the period pertaining to his deputation. As such it is requested to kindly post the pass book with upto date entries and the same may be sent to the undersigned at an earliest possible for settling the GPF claims of the retired officer who is pressing hard for the same.

Encle: GPF pass book 2 No.

Yours faithfully,

CONSERVATOR OF FORESTS  
 WESTERN CIRCLE  
BANDERDEWA

Copy to:-

- ✓ Shri M.C.Barush, IFS (Rtd.), Opposite Guwahati Commerce College, Rajgarh Link Road-1, Guwahati-3 (Assam) for information. In this connection he is requested to fill up the enclosed APPENDIX D Form No. 1 (Form of application for final payment/Transfer to corporate bodies/other Govt. balanced in the GPF account) in duplicate alongwith the final annual statement of GPF account for sending it to the Director of Accounts for release. The annual statement pertaining to the year 1996-97 is lying in this office (copy enclosed).
- The G.M. (T), APFC, Ltd., Itanagar for information & necessary action please.
- The Principal Chief Conservator of Forests, AP, Itanagar for information please.
- The Director of Accounts, Govt. of A.P., Naharlegum for information & necessary action please.
- The Divisional Forest Officer, Along Forest Division for information & necessary action.
- Copy to personal file of Shri M.C.Barush, IFS (Rtd.)

Attested  
 K.D.  
 Advocate

M. A. Road, Rehabari.  
Guwahati - 781008  
Phone No. - 522995  
Date.. 16.6.03.....

To

The Principal Chief Conservator of Forest,  
Government of Arunachal Pradesh, Itanagar.

Sub : Reply to the order/communication bearing No.  
WAC/E-99/81/2099-100 dated 6.6.2003.

Sir,

Upon authority and as per instruction of my client  
Shri M.C. Baruah, IFS (Retd. DCF), I give you this  
reply as follows :

1. That as regard the paragraph 1 of the communication  
dated 6.6.2003, it is replied that my client aforesaid  
was retired from service w.e.f. 31.10.2001 and now we  
are in the month of June, 2003 but till date it seems  
that the matter relating to his payment of pension is  
yet to be settled. Needless to say here that  
Government of Arunachal Pradesh being a model employer  
presumption can always be drawn that the said Government  
is also wise and knows the Rules and Laws guiding the  
field. In such a situation I need not cite the rules  
and laws once again. Matter pertaining to settlement of  
pension needs utmost care and promptitude, but in the

Attested  
M  
Advocate

instant case it is seen that inter office communications are more than action. The communication dated 12.07.2002 indicates the fact that assessment of dues are vague, which could not be finalised as yet. Apart from that the said communication does not indicate anything regarding sanction of concerned authority.

2. That as regard the statement contained in paragraphs 2 and 3 of the communication, it is seen that the matter pertaining to settlement of pension of my client has been dealt by the concerned authority in a very casual manner. It is seen from the order dated 12.07.2002 that my client had occasion to hold additional charge in interest of public service and as per the direction from his superior authority, but those matters were brought in alongwith his pension matter to complete the issue and to delay the settlement. Under no circumstances the matter pertaining to pension can be dragged to such a long time in the name of official communication that too by the officials of a responsible Government.
3. That as regard the statement made in paragraph 4 of the communication, my client while reiterating and reaffirming the statement made above. It is once again pointed out that after the retirement under no provisions of law pension and its connected dues can be withheld, that too without ascertaining the factual position by conducting due enquiry. It was open for the Government to clarify those issues during his service tenure but nothing was done. The communication referred to above does not indicate any such proceeding in connection with those so called outstanding amount and therefore it is now not open for any authority to re-evaluate the same.
4. That as regard the statement made in paragraph 5 of the said communication, it once again emphasised that the named authorities are obviously well aware of the rules and laws guiding the field and as such needless to say here that entire action on their part amounts to a gross negligence.
5. That, as regard the statement made in paragraph 6 and 7 of the communication, it is clear that the concerned authority took nearly 20 months time to issue notices to different establishments for submission of realisation particulars etc. in respect of payemt of C.G.E.I.S. (1984), now it is not known what unlimited period be needed to settle up the issue for payment of C.G.E.I.S. amount. Under no stress of imagination, it can be presumed to be bonafide exercise of power.
6. That as regard the statement made in paragraph 8 of the communication, it is stated that the matter pertaining to payment of pensionery dues and provisional pension etc. requires early action and the official procedures are thus maintained to expedite the settlement, but in the instant case it is seen contrary to such proposition. In the instant case, the official procedure as indicated in this communication put my client in a difficult situation even to maintain his minimum requirement. Since the matter pertaining to settlement of dues is old and delayed one, it is a fit

Attested  
Kanu  
Advocate

- 16 -

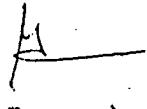
Copy of letter no. DCRG/34/5 dt. 20.9.99  
to the Hon'ble D.C.R.G. Board, G.O.M., Government of Arunachal Pradesh, Itanagar, in the  
case to settle within 30 days, and till such settlement of such  
his DCRG and Provisional Pension, requires to be  
released immediately within 7 days.

In view of the above I ~~now~~ repeat, repeating my  
earlier demand made on behalf of my client giving you the  
this notice once again making a demand that the Hon'ble  
provisional pension and the DCRG of my client be  
released within 7 days and entire pensionary dues of my  
client be settled within 30 days failing in which  
instruction of my client is to initiate appropriate  
proceeding against you for such inaction which may  
include your personal appearance and other penal  
consequences. (including non-payment of pension payable  
to my client).

I hope and trust that there would be no such  
occasion for any further litigation unnecessarily  
dragging you into the same.

Thanking you.

Yours sincerely

  
(S. Sarma)

Copy to :

1. The Chief Secretary, Government of Arunachal Pradesh, Itanagar.
2. The Conservator of Forest, Arunachal Pradesh, Banderdewa.

  
S. Sarma

Attested  
S. Sarma  
Advocate.

Copy of Government letter no. PPG(P)88/99/5 dt. 3.9.99 received from Shri P.C. Sharma, IAS, Commr. & Secy. to the Government of Assam, Pension & Public Grievances Deptt, Dispur to All Commissioners & Secretaries/Secy to the Govt. of Assam with Copy to All Heads/All Deputy Commissioners etc.

Sub : Processing of pension papers and sanction of pension expeditiously.

Sir,

I am directed to say that, the Secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pension vide D.O. no. 38/38/99/P&P.W. (r) addressed to the Chief Secretary Assam, intimated that the Hon'ble Supreme Court recently had awarded penal interest of Rs.1 Lakh to a pensioner for not processing pension in time by the State Government.

The Secretary to the Govt. of India had also indicated in his D.O. that the Central Government have instituted a system of monitoring the pension cases both in the ministry and at the level of Heads of Depts, and have suggested to maintain time table in all the Depts and nominate one nodal officer in each Department for monitoring the processing of pension papers and issue of sanction of pension expeditiously. A copy of the D.O. with its enclosures is enclosed herewith.

In this connection, it may be stated that the State Government have issued comprehensive standing guidelines/instructions on prompt processing of pension papers and sanction of pension which includes amongst others (i) maintenance of time table (ii) nomination of pension officers with staff in every administrative Department/heads of Depts and heads of Offices (iii) monitoring and reporting (iv) maintenance of incumbency list by heads of Offices (v) furnishing of list of employees due to retire within next (two) years (vi) processing of pension papers 2(two) years before the date of retirement.

Amrit Choudhury  
Advocate

You are also requested to take periodical meetings with Heads of Departments, Heads of Offices, panel Officers and all other concerned to monitor the pension cases personally so that penal action like the one awarded by the Hon'ble Supreme Court could be avoided in future. It may be mentioned here that Government have been contemplating introduction of Rules/Orders for fixing responsibility by the Departments or the officers personally requiring them to pay interest for the delay.

Your personal attention and co-operation will be highly appreciated.

Mojo. No. DPE.13/97-99/49. Dated, 5/11/ November, 1999.  
Copy forwarded for information and necessary action to

1. All Heads of Departments/ Offices.

Enclosure above  
(Two Sheets).

Addl. Deputy Commissioner  
Dibrugarh.

Amrit  
Kumar  
Advocate

ANNEXURE - 43

(COPY)

U.O. NO. 34/34/99-PWPW/1

B.B. TANDON  
SECRETARY  
Tele. 3014848  
Fax 3012432

GOVERNMENT OF INDIA  
MINISTRY OF PERSONNEL, PUBLIC GRIVANCES  
AND PENSIONS  
NEW DELHI -110 001

1st April, 1999.

Dear Chief Secretary,

Recently, the Supreme Court awarded penal interest of Rupees One Lakh to a pensioner as her pension case was not processed in time by the State Government. The Supreme Court also observed that there are enough procedures and Rules governing the payment of pension, which if followed would not have resulted in the delay. In this connection, the Supreme Court specifically mentioned about the rule regarding processing of pension papers two years before the retirement of an individual.

2. In the Central Government we have instituted a system of monitoring these cases both at the level of the Ministry as well as at the level of heads of Department. Presently, a Central Govt. employee retiring gets most of his dues including his PPO on the date of his retirement. A time table which can be followed by all the Departments is enclosed which would ensure that the papers get processed in time. You may like to nominate in each Department a nodal officer who will monitor the processing of pension papers and issue sanctions. He should also enquire into the cases of delays and if necessary liaise with other Departments to ensure that the work is completed well in time. Probably, the concerned Secretaries of the Department could take quarterly meetings with the heads of Departments and others to monitor these cases personally.

3. I would be grateful if you could kindly apprise us of the action taken in the matter.

With regards,

Yours sincerely,

SD/-  
(B.B. TANDON)

Shri P.K. Bora,  
Chief Secretary,  
Government of Assam,  
Dispur.

ATTESTED  
V.K. Bora  
Advocate

STEPS TO ISSUE TIMELY SANCTION OF PENSION

1. **PREPARATION OF LIST OF GOVERNMENT SERVANTS DUE FOR RETIREMENT.**  
Prepare six monthly List (1st January and 1st July) of all Govt. servants due to retire within next 24 to 30 months. Send copy of the list to Accounts Office not later than 31st Jan. or 31st July as the case may be.  
Endorse copy to Directorate of Estates if Government servant is an allottee of Government accommodation for issue of "No Demand Certificate".  
In case of Government servant retiring for reasons other than superannuation, promptly inform Accounts Office.
2. **PREPARATION OF PENSION PAPERS**  
(Stage for completion of pension papers)  
(Date of Retirement = D).  
**First Stage - Verification of Service**  
- Prelude : Ensure verification of qualifying service after 25 years, or 5 years before retirement in consultation with Accounts Office.  
- Activities :  
    - Ensure that the service book contains the certification of verification for the entire service.  
    - In respect of unverified portion, verify with reference to paybills or other relevant records and record necessary certificates.  
    - For verification of past service rendered elsewhere, promptly make reference to the concerned Head of the office.  
- If all efforts fail, ask the Government servant to file written statement certifying service rendered and produce all available supporting evidence.  
Complete above activities by D-12 months.  
**Second Stage - Calculation of average emoluments**  
- Verify from the service book correctness of the last 10 months' emoluments to be drawn.  
- Confine cross-verification of Service Book records only to 24 months preceding retirement - not to earlier periods.  
Complete 1. at by D-10 months  
Third Stage - Forwarding of pension papers to the Govt. servant.  
- Provide the retiring Government servant with a certificate regarding the length of qualifying service proposed to be admitted for pension and gratuity.  
- Forward pension papers in triplicate to the individual. Advise him to complete and submit the same within D-8 months.

Contd....2.

Arrested  
Wear  
Advocate

3. FORWARDING OF PENSION CLAIMS : A Checklist

- Ensure attestation of joint photograph to be pasted in the pension application form.
- Ensure completion of all columns in the Data Sheet.
- Ensure correctness of the Calculation sheet.
- Ensure that Savings Bank account number is invariably indicated in Data Sheet, if Government Servant prefers to draw pension through bank.

The following documents should invariably accompany the pension claims being forwarded to the Accounts Office :

1. Data Sheet	: Two Copies.
2. Pension Application	: Two Copies.
3. Photograph/Joint Photograph	: Two Copies.
4. Slip containing specimen signature/ Thumb impression/Finger impression of the claimant.	: Two Copies.
5. Slip containing specimen signatures/ thumb impression of spouse	: Two copies.
6. Details of the members of the Govt. servant under Family Pension Scheme	: One copy.
7. Nomination for DCRG (Retirement Gratuity)	: One copy.
8. Statement regarding non-qualifying service	: One copy.
9. Report regarding verification of qualifying service after completion of 25 years.	: One copy.
10. Commutation application (where applicable).	: One copy.
11. Certificate to the effect that no Judicial/Departmental proceedings have been instituted/are pending against the individual.	: One copy.
12. Identification marks of the individual	: One copy.
13. Identification marks of the spouse	: One copy.
14. Detailed calculation sheet	: One copy.

Forward all above documents duly completed alongwith service book to the Accounts Office.

Copy of each document should be kept for record.

The pension documents should reach the Accounts Office latest by D-6 months.

Attested

K.D.  
Advocate

To:

The Conservator of Forests  
Western Circle,  
Banderdewa.

Sub: A. P. R. in respect of Payment of Gratuity.

Ref: Your letter no. WAC/2/99/A/3257 dated 18.08.03

Sir,

With reference to your above letter, I am to enclose herewith the A. P. R. in respect of payment of Gratuity of Rs. 3,00,455/- for your office record.

Sir, my provisional pension and arrear pension including all balance Pensionary benefits has still not been received. May I now request you to please expedite the payment as the time frame already given has expired long time. *As per*

Yours faithfully,

(M. C. Baruah)  
I.E.S. (Retd.)

Received with thanks an amount of Rs. 3,00,455/- (Rupees Three Lakhs Four hundred fifty five) only vides Bank Draft no. 413337 dated 13.08.03 from Conservator of Forests, Western Circle, Banderdewa. *As per my provisional pension & gratuity*

(M. C. Baruah)

*13/8/03*  
*3.10.8103*

*Attested  
Non  
Advocate.*

23

18/11/03

✓ 33  
S. M.

To,

The Conservator of Forests  
 Western Circle,  
 Bandarwala,

Sub: Pensionery Benefits.

Ref: My letter dated 18/10/03

Sir,

Kindly refer my letter dated 18/10/03 which are sent by speed post and in this respect no action has yet been taken. You are now requested kindly to clear up all due pensionery benefits including the regular pension order along with the accrued interest from the date of my retirement and Rs. 1,00,000/- (Rupees One lac) only as compensation within 10 days from the date of issue of this letter.

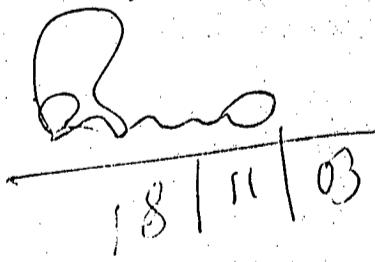
Thanking you sir.

Yours faithfully

M. C. Baruah, IFS (Retd.)  
 Guwahati.

Copy to: i) The Principal Chief Conservator of Forests, Deptt. of Environment and Forests, Itanagar, Arunachal Pradesh for his kind information and necessary action please.

ii) The Joint Director, Deptt. of Audit and Pension, Naharlagun, Arunachal Pradesh for favour of his information and immediate necessary action please.


 18/11/03

Attested  
S. M.  
Advocate

24-

40  
ANNEXURE-5 (colly)

To,

Dated : The 18th Oct. 2003

The Conservator of Forest,  
Western Circle,  
Bandarwā.

Sub: Pensioner's Benefit.

Ref.: Director of Accts. # PEN/AP/9590/02-03/7488 - 90 dated 23/09/03.

Sir,

With reference to the letter stated above, the contents of the letter is noted with surprise. The payment of pensionary benefit are already detained by two years which attracts the provisions of panel interest as per the direction of Hon'ble Apex Court. Now it appears that the Govt. of Arunachal Pradesh is still continuing the process of correspondences then to clear my pension benefits which clearly indicates that the Govt. of Arunachal Pradesh had set aside the directions of the plieder notice issued vide no. Nil. Dated 16/06/03 which is more then 4 months now.

Your letter addressed to Director of Accounts copy to undersigned vide no. WAE/E/ 99/8/ 2245 -46 dated 12/08/03 speeches that PCCF of Govt. of Arunachal Pradesh had already issued the clearance for payment of all my pensionary benefits, but so far no tangible action could be seen except the correspondences. You are, therefore, requested kindly to clear up all my payment along with 18% interest and panel interest of Rs. 1 lakh as awarded by the Hon'ble Supreme Court for not processing the paper on time.

Thanking you.

Yours faithfully

(M.C. Baruah) IFS (Retd.)  
Rajgarh Link Road No. 1  
Chandmari, Guwahati  
781 003

Copy to : i) The Secretary and Principal Chief Conservator of Forests, Govt. of Arunachal Pradesh for his information and necessary action please.

ii) The Director of Audit and Pension with reference to his no. stated above for immediate action please.

(M. C. Baruah)

Attested  
by  
Advocate.

«GUNAHATI BPO (781001)

INDIA POST

Int SP ER46506926 IN

PA: PCH

To CONSERVATOR OF FOREST BANERDENA

ITANAGAR, PIN 79

From: M C BARUAH, GHY 3

Wt:20grams Pre: 0.00

Act: 30.00, 18/10/2003, 12:18:39

HAPPY NEW YEAR 2003

भारतीय डाक

«GUNAHATI BPO (781001)

INDIA POST

Int SP ER46506920 IN

PA: PCH

To PRE-CHIEF CONSERVATOR OF FOREST

ITANAGAR, PIN 79

From: M C BARUAH, GHY 3

Wt:20grams Pre: 0.00

Act: 30.00, 18/10/2003, 12:19:22

HAPPY NEW YEAR 2003

«GUNAHATI BPO (781001) भारतीय डाक

INDIA POST

Int SP ER46506943 IN

PA: PCH

To PI CHIEF CONSERVATOR, NAMARANGON

ITANAGAR, PIN 79

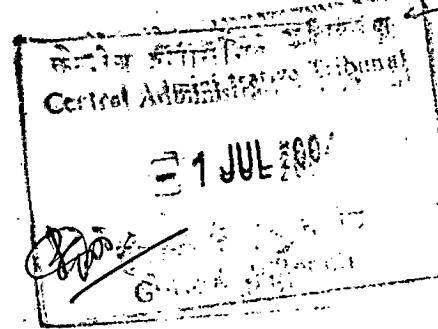
From: M C BARUAH, GHY 3

Wt:20grams Pre: 0.00

Act: 30.00, 19/10/2003, 12:20:10

HAPPY NEW YEAR 2003

ARMED  
VETERAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

IN THE MATTER OF:

O.A.No. 16/2004

Shri Manmohan Ch. Barua

...APPLICANT

-Versus-

Union of India & others

...RESPONDENTS

-And-

IN THE MATTER OF:

- Written Statement on behalf of Respondent 2, 3 and 5.

WRITTEN STATEMENT

The humble Respondents submit their written statements as follows:

- That with regard to the statements made in Paragraph 1 of the application the Respondents beg to state that the averments made in the said paragraph claiming adequate compensation and interest for delayed statement of pensionary benefit is misconceived and the same is liable to be dismissed with compensatory costs.

2/2  
Monton  
Date

2. That with regard to the statement made in paragraphs 2 and 3 of the application the Respondents beg to state that there is no cause of action arose for claiming the compensation and interest in the facts and circumstances stated herein below.

3. That with regard to the statements made in paragraph 4.2 of the application the Respondents beg to state that the applicant was holding the post of Deputy Conservator of Forests (IFS) under the establishment of Conservator of Forest and superannuated on 31.10.2001. It is stoutly denied that the Conservator of Forest, Banderdewa did not take any initiative for settlement of pensionary dues of the applicant.

It is pertinent to mention that the applicant has submitted his application for pension in 'Form 5' only on 22.2.2002 and the thumb impression on 17.4.2002, which are mandatory for submission of pension papers. The Conservator of Forests Banderdewa processed and completed pension papers part I of 'Form 7' within six months as per provision of Pension Rule 60 and forwarded to the Director of Audit and Pension vide letter No. WAC/E-99/81/3000-01 dated 19.4.2002 and as such there is no delay in processing and submitting the pension papers to the Director of Audit and Pension as alleged.

The Respondents further state that on receipt of the pension papers, the Director of Audit and Pension returned the pension paper of the applicant with observation that there is a huge amount of Rs. 16,94,935/- as outstanding Government revenue accumulated during his tenure in various divisions and Arunachal Pradesh Forest Corporation. The Director of Audit and Pension has opined that as the amount of Retirement gratuity due to the retired Government servant will not cover the outstanding amount for adjustment, necessary

43  
Monton

action should be taken for recovering the outstanding amount before finalization of the pension case. The Director of Audit and Pension has also made some other queries regarding incumbency of the applicant in various divisions.

The issue regarding non-realisation of outstanding Government revenue by the applicant during his tenure in various offices were, however examined by the Principal Chief Conservator of Forests and an examination it was found that while the applicant was on service no prima-facie case could be made out against him to initiate departmental proceeding for recovery of outstanding Government revenue. Therefore the Principal Chief Conservator of Forests directed the Conservator of Forests western circle vide letter No. For. 176/Pen/97/559- 67 dated 02.07.03 to take immediate action for settlement of all pensionary benefit due to the applicant.

The queries made by the Director of Audit and Pension and the consequent thereupon the Conservator of Forest, western circle had to make several correspondences with concerned offices where the applicant served during his tenure. These correspondences were done with a view to clear up the queries made by the Director of Audit and Pension and to release his GPF, CGEIS and settlement of unrealized Government revenue of Rs. 16,94,935/- accumulated during the tenure of the applicant in various offices etc and ultimately the pension papers were re-submitted to the Director of Audit and Pension vide letter dated 12.8.2003.

Copies of the letter dated 12.7.02, 2.7.2003 and 12.8.2003 is annexed hereto as Annexure I, II and III respectively to the written statement.

Monton form

4. That with regard to the statements made in paragraphs 4.3 of the application the Respondents beg to state that the allegations made therein is not correct. The Pension papers were processed and submitted to the Director of Audit and Pension on 19.4.2002, but the same was returned by the Director of Audit and Pension vide letter dated 12.7.2002 with some queries. The queries so made by the Director of Audit and Pension is attributable to the applicant himself while he was in service.

A copy of the letter dated 19.4.2002 is annexed hereto as Annexure IV to this written statement.

5. That with regard to the statements made in paragraph 4.4 of the application, the Respondents states the allegations made therein is factually not correct. The applicant did not submit the appendix - D Form I in time for sending it to the Director of Audit and Pension. Updating of GPF pass book was required to be forwarded to the Director of Audit and Pension for release of his GPF and as such the correspondence was made with the Managing Director, Arunachal Pradesh Forest Corporation Ltd where he had served during his tenure endorsing copy to the applicant. The same was submitted by the applicant on 13.6.2003 only to the Conservator of Forest. The Managing Director A.P.F.C Ltd sent the update GPF pass book vide letter dated 22.7.2003 and therefore the Conservator of Forests could finally forwarded the proposal for release of GPF to the Director of Audit and Pension vide letter dated 6.8.03 and therefore the action of delay as alleged cannot be attributed to the Respondents.

Copies of letter dated 6.6.03 and 6.8.03 are annexed hereto as Annexure V and VI respectively to the written statement.

6. That with regard to the statements made in paragraphs 4.5 and 4.6 of the application the Respondents state that the delay, if any, cannot be attributed to the department in releasing the pensionary benefit of the applicant. The delay in settlement of pensionary benefit of the applicant was due to heavy outstanding revenue accumulated during the tenure of the applicant in various offices for which the Director of Audit and Pension was raising legitimate objections. However on the directions of the Principal Chief Conservator of Forests, the Conservator of Forest has accordingly submitted the pension paper to the Director of Audit and Pension on 12.8.03 and the Director of Audit and Pension after fulfilling all the requirements has finally released the pension of the applicant on 30.1.2004. The delay if any in releasing the pension was attributable to the applicant in the facts and circumstances of the case.

A copy of the letter dated 30.1.2004 is annexed hereto as Annexure VII to X respectively to this written statement.

7. That with regard to the statements made in paragraph 4.7 of the application, the Respondents state that there is various guidelines issued by the Government of India, Department of Personnel and Training relating to settlement of pensionary dues. But in the instant case the delay in settling the pension case of the applicant was due to his failure in taking timely action to realize the outstanding Government revenue accumulated during his tenure in various offices and as such the applicant himself has contributed to the delay in

*Montonk San*

settlement of pensionary dues and hence the claim of compensationary and interest in the instant case is liable to be rejected with costs.

8. That with regard to the statements made in paragraph 4.8 of the application the Respondents beg to state that despite of the fact that heavy amount of outstanding Government revenue was accumulated due to lack of timely action by the applicant, the department has taken all possible efforts to release the pensionary dues and as a result his pension was finally released by the Director of Audit and Pension on 30.1.2004. Prior to this his cash equivalent to leave salary and DCPG was paid. As regard the release of GPF and CGEIS, the Conservator of Forests after collecting all relevant documents has forwarded application to the Director of Audit and Pension vide letter dated 6.8.2003 and 22.4.2004 after receiving the necessary forms from the applicant and as such the allegation made therein is not correct and the claim of penal interest @ 21% on the alleged delay in settlement of such dues with an addition of Rs. 1 Lakh falls through and the application deserves to be rejected with costs in the facts and circumstances of the case.

Copies of the letter dated 23.9.2003 and 17.10.2003 are annexed hereto as Annexure XI and XII respectively to this written statement.

9. That with regard to the grounds mentioned in paragraphs 5.1 to 5.4 the Respondents state that the facts/averments made in the forgoing paragraphs of this written statement would show that no case is made out for compensation, interest and in addition to Rs. 1 Lakh and the case is liable to be dismissed in limine with costs.

10. That with regard to the Relief sought and interim order prayed for in paragraphs 8.1 to 9 of the applicant the Respondents state that the pension and commutation of pension including leave encashment and DCPG have already been made to the applicant except GPF and CGEIS. The delay in settling pension was the issue of the outstanding Government revenue of Rs. 16,94,935/- accumulated during the tenure of the applicant in various offices and the delay is attributable to the applicant and hence the demand of the applicant for payment of interest @ 21% on the delayed payment of pensionary dues and payment of Rs. 1 lakh as penal interest is liable to be rejected, since the regular pension has already been released.

--- VERIFICATION

VERIFICATION

I, Shri Montosh Das, Forest Ranger, serving under the Forest Department, Government of Arunachal Pradesh being competent do hereby solemnly declare that the statements made in paragraphs 1,2 and 7 are true to my knowledge and those made in paragraphs 3,4,5,6 and 8 are true to my information derived from the records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 29th day of June 2004 at Guwahati.



SIGNATURE

— 9 —

33

I

Annexure - I

GOVT. OF ARUNACHAL PRADESH  
DIRECTORATE OF AUDIT AND PENSION  
NAHARLAGUN.

NCPEN/AP/9590/2002-03/134/2847-48. Dated 12.7.02.

To  
The Conservator of Forests,  
Western Circle,  
Banderdewa.

Sub :- Pension case of Shri Monmohan Ch. Baruah, Rtd. DCF.  
Ref :- Your letter NO.WAC/E-99/81/3000-3001 dtd. 19.4.2002.

Sir, 8 The pension papers and Service Book of Shri M.C. Baruah, Rtd. DCF received with your letter cited above have been checked and the same are returned in ~~original~~ original with the following observations for your necessary action.

Part-III of Form-I duly filled in all respect and signed by the Head of office may be furnished.

2. Last ten months pay drawal statement may be furnished.

3. He was released from the charge of DFO 'D' Ering Memorial WLS Division, Pasighat w.e.f. 18.11.96, but it is seen that he had taken over the charge of Along Forest Division on 4.11.96, i.e. before his release from Pasighat which is contradictory.

4. Also he was released from the charge of DFO Along w.e.f. 12.9.98 on his transfer to APFC Ltd. on deputation but it appears that he had taken over charge of GM(T) APFC Ltd. on 31.8.98 before his release from the Deptt. which needs to be clarified.

5. There is a huge amount of (Rs.8,11,000+32,807+8,34,645+16,483)= Rs.16,94,935/- outstanding against the name of Shri M.C. Baruah, IFS Rtd. DCF as intimated vide your letter NO.WAC/E-99/81/3000-3001 Dtd. 19.4.2002, which needs to be recovered. Since the amount of R/Gratuity due to the Rtd. Govt. Servant will not cover the outstanding amount for adjustment, necessary action should be taken by you for recovering the outstanding amount before finalisation of the pension case.

However, if the exact outstanding amount could not be finally assessed for recovery, the department may like to consider grant of provisional pension only and ~~then~~ in such case the pension papers may please be resubmitted after attending the observations noted above.



Dontac..... P/2.

After attending the above observations, the Service Book and the required pension papers may be re-submitted to this office for further necessary action.

Yours faithfully,



Enclo : As stated.

Joint Director of Audit & Pension,  
for Director of Audit & Pension,  
Govt. of A.P., Naharlagun.

Memo NO.PEN/AP/9590/2002-03/1341

Dated \_\_\_\_\_.

Copy to :-

1. Shri Monmohan Chandra Baruah, IFS (DCF),  
Opposite Commerce College,  
Rajgarh Link Road-1,  
Guwahati-3 (Assam).

2. Office copy.

Joint Director of Audit & Pension,  
for Director of Audit & Pension,  
Govt. of A.P., Naharlagun.

@@@EOF@

GOVERNMENT OF ARUNACHAL PRADESH  
DEPARTMENT OF ENVIRONMENT AND FORESTS  
ITANAGAR

\*\*\*\*

NO. FOR.176/Pen/97 /S 59-67 Dtd. Itanagar, the 2<sup>nd</sup>. July'03

To

The Conservator of Forests  
Western Arunachal Circle,  
Banderdewa

Sub:- Settlement of retirement dues of Shri M.C.Baruah, IFS, DCF (Retd.)  
- reg.

Ref.: Your letter No.WAC/E-99/81/2055-58 dtd. 24.6.03.

Shri M.C.Baruah, IFS, DCF Retd. on 31.10.2001 and his retirement dues are still to be paid for which the aggrieved Retd. Govt. servant has already served a pleader notice. From the report received on the subject it is clear that while Shri M.C. Barua was in service no prima-facie case could be made out against him to initiate departmental proceeding for outstanding Govt. revenue on account of which his retirement dues are stated to be withheld. Non-settlement of retirement dues of Shri M.C.Baruah under such situation is unjustified. Further as per G.I's instructions (1) 2 (b) below chapter 9 "proceedings after retirement" in the CCS (CCA) Rules departmental proceedings cannot be initiated against Shri Baruah, IFS after his retirement. In view of above, you are directed to take immediate action for settlement of all pensionary benefits due to Shri M.C.Baruah.

In case final settlement is likely to take time due to obtaining report/information to complete the entries in service book of retired officer, you may move to the Director of Accounts for payment of provisional pension to avoid financial hardships to the retired official.

As far as outstanding forest revenue is concerned, action for its recovery from the concerned party should be pursued and continued by the CF/DFOs concerned as already directed vide this office letter No.FOR.CC-1/62/99/1634 38 dtd. 17.11.2000 and No.FOR.CC-1/62/99/466-69 dtd. 19.5.03.

Action for settlement of retirement dues of Shri M.C.Baruah be taken on priority and progress reported every fortnight till all dues are settled.

*Arunchal*  
(S. R. Mehta)  
Principal Chief conservator of Forests  
Govt. of A.P.: Itanagar

2-703

*Onward*

(36)

12  
1/2/1

4V

Copy to:-

1. The Conservator of Forests, Pasighat for information and necessary action to pursue the recovery of outstanding as directed vide letter No.FOR CC-1/62/99/1634-38 dtd. 17.11.2000 and No.FOR.CC-1/62/99/466-69 dtd. 19.5.03 for the amount of Rs. 32,807/- pertaining to Pasighat Division and Rs. 16,483/- pertaining to Along Division. In this connection, DFO, Pasighat's letter No.PFD/6-II/1/1686-87 dtd. 4.5.2000 and CF, Pasighat's letter No.CAC/54/91/729-30 dtd. 28.2.2000 related to outstanding amount also refers.
2. The Conservator of Forests, Deomali for information and necessary action to pursue the recovery of outstanding amount as directed vide this office aforesaid letters for the amount of Rs. 8,34,645.41 pertaining to Nampong Forest Division.
3. The Managing Director, APFC Ltd., for information and necessary action to pursue the recovery of outstanding amount as directed vide this office aforesaid letters for the amount of Rs. 8,11,000/-.
4. The Divisional Forest Officer, Pasighat/Along/Nampong Forest Divisions for information and necessary action.
5. The Confidential section of this office.
6. The Industry section of this office.

(S.R. MEHTA )  
Principal Chief Conservator of Forests  
Govt. of A.P.: Itanagar

~~Annexure 23~~

GOVT. OF ARUNACHAL PRADESH  
 OFFICE OF THE CONSERVATOR OF FORESTS  
 WESTERN CIRCLE: : : BANDERDEWA.  
 0000023000

NO. WAC/E-99/81/...../Sd/A.S-16. Dte. Banderdewa the....12/08/2003

To

The Director of Audit & pension  
 Govt. of Arunachal Pradesh  
 Naharlagun.

Sub:- Pension papers in respect of shri M.C. Baruah, DCF (Rtd)  
 Ref:- Yours letter NO. PEN/AP/9590/2002-03/134/2847-48 dt.  
 12/7/02.

Sir,

With reference to your letter cited above, I am to resubmit herewith the pension paper in respect of shri Men Mohan Ch. Baruah, DCF (Rtd) alongwith his Service Book part-I, II & III and other required papers (as listed earlier) after attending the following observations.

1. Part-III of form-1-A duly filled up and authentication made on the same.

2. Last ten months pay drawal statement enclosed.

3. As per C.I.C, the Officer was relieved from the charge of Divisional Forest Officer 'D' Ering Memorial wild life sanctuary Division Pasighat on 01-11-96 (AN) and taken over the charge of Divisional Forest Officer Along Forest Division on 4-11-96(AN) (CTC Enclosed). Accordingly, the entry in the service Book has been corrected by the Addl. Principal Chief Conservator of Forests (WFL & B.D) Itanagar.

4. He was relieved from the charge of Divisional Forest Officer Along Forest Division on 12-9-98 (AN). He took over the charge of General Manager (I) on 31-8-98 before release on his transfer as General Manager (I) Arunachal Pradesh Forest Corporation Ltd. Deomali as per CTC (enclosed) and entry made in the service Book of the retired Officer.

5. As regards outstanding of Govt. dues of Rs.16,94,935/- against Shri M.C. Baruah, IFS DCF (Rtd) the Principal Chief Conservator of Forest Arunachal Pradesh Itanagar vide his letter NO. FOR/176/pen/97/559-67 dt. 2-7-2003 (copy enclosed) directed this Office for immediate settlement of all pensionary benefits due to the retired Officer since no prima-facie case could be made out against shri M.C. Baruah, while he was in service and departmental proceeding can not be initiated against the Officer after his retirement as per CCS (CCA) Rules, as such action for settlement of pension may be considered immediately as desired by the Principal Chief Conservator of Forest Arunachal Pradesh Itanagar vide his letter under reference.

Yours faithfully

Encle:- As above

CONSERVATOR OF FORESTS  
 WESTERN CIRCLE  
 BANDERDEWA.

Copy to :-

1. The Principal Chief Conservator of Forests Arunachal Pradesh Itanagar for favour of information. please.

145

125/58

Form of letter to the Accounts Officer forwarding the pension papers of a Government servant)

No. WAC/E-99/81/ 3000/300)

Government of India

Ministry of

Department/Office

Dated Bandarawala the 10th April/02

To

The Director of Audit & Pension,  
Government of Arunachal Pradesh,  
Naharlagun.

Sub:- Pension papers of Shri Menmohan Chandra Baruah, IFS (RTD)  
for authorisation of pension.

Sir.

I am directed to forward herewith the pension papers of Shri Menmohan Chandra Baruah, IFS (DCF) of this establishment for further necessary action.

The details of Government dues which will remain outstanding on the date of retirement of the Government servant and which need to be recovered out of the amount of retirement gratuity are indicated below:-

a) Balance of the house building or conveyance advance	Rs.
b) Overpayment of pay and allowances including leave salary	Rs.
c) Income Tax deductible at source under Income Tax Act. 1961 (43 of 1961)	Rs.
d) Arrears of licence fee for occupation of Government accommodation	Rs.
e) The amount of licence fee for the retention of Government accommodation for the permissible period of two months beyond the date of retirement	Rs.
f) Any unassessed other assessed dues and nature thereof	Rs.

As per circular issued to the concerned Head of office has intimated the outstanding position against the retired Officer as follows. (Copies of the following letters are enclosed).

a) Rs. 8,11,000.00 as intimated by the M.D A.P. Forest Corporation Ltd. Itanagar vide his No. RGA FC/ACCT/82/449-50 dt. 25.5.2000.

b) Rs. 32,807.00 as intimated by the DFO Pashighat vide his No. PFD/6-II (I)/1686-87 dt. 4.5.2000

c) Rs. 8,34,645.00 as intimated by the DFO Nampong Forest Divn. Jairampur vide his No. NFD/20/84/1288-90 dt. 21-3-2000

d) There is a proposal to drop an amount of Rs. 16,483.00 being outstanding as intimated by the C.F. Pashighat vide his No. CAC/54/91/729-30 dt. 28.2.2000 pertaining to the Divisional Forest Officer Along Forest Division

Rs. 3,00,455.00 being Provisional Death Cum Gratuity has been withheld due to non finalisation of outstanding lying against the retired officer.

G) The amount of gratuity to be withheld for:-  
adjustment of unassessed dues, if any

3. Your attention is invited to the list of enclosures which are forwarded herewith.

4. The receipt of this letter may be acknowledged and this Ministry/Department/Office informed that necessary instructions for disbursement of pension have been issued to disbursing authority concerned.

5. The retirement gratuity will be drawn and disbursed by this Ministry/Department/Office on receipt of authority from you. The outstanding Government dues as mentioned in Para 2 above will also be recovered out of the retirement gratuity before making payment.

Yours faithfully

Head of Office  
Conservator of Forests  
Western Circle, &  
Barddewa

Copy to:-

The Principal Chief Conservator of Forests, Arunachal Pradesh Itanagar for favour of information and necessary action please. He is requested to give necessary clearance regarding Govt. outstanding dues lying against the Officer to the Director of Audit & Pension, Govt. of Arunachal Pradesh, Naharlagum with an intimation to this office for early settlement of Pension cases of Shri M.C. Baruah, IFS (Rtd). In this connection, copies of the following letters are enclosed herewith for favour of ready reference.

1. No. FCZ ACCTT/82/449-50 dt. 25.5.2000 of the M.D. APPC, Ltd. Itanagar.
2. PED/6-II/(I)/1686-87 dt. 4.5.2000 of the DFO Pashighat.
3. NFD/20/84/P288-90 dt. 21.3.2000 of the DFO Jairamput.
4. CAC/54/91/729-30 dt. 26.2.2000 of the C.F. Central Circle Pashighat.

Conservator of Forests  
Western Circle, &  
Barddewa

-16<sup>th</sup> May 2003

~~ANNEXURE 24~~

(P)

06/06/03 (P)

~~Mr. C. Baruah Put up immediately  
13/5/03~~

~~GUWAHATI - 781003~~

(P)

To:

The Conservator of Forests  
Western Circle  
Barddewa.

17/3/03

Sub - updating of G.P.F. pars book in respect  
of Sir M.C. Baruah, I.F.S (Retd)  
Refr - year acc. WAC/38/2002/1718-24 & 27/12/02/03.  
Refr - year acc. WAC/38/2002/1718-24 & 27/12/02/03.  
addressed to M.D. APAC and copy to me &  
Others.

Sir.

While referring your above letter, I am to enclose  
herewith the appendix 'B' form no I in duplicate  
dated signed by me along with a G.P.F. statement  
pertaining to the year 99-2000. Further more, I am  
to state that these persons were already paid by  
me at the time of my departure on superannuation  
however, as desired by you, I am also sending  
the same to your commandi necessary action please.  
The same as you are badly facing the financial  
hardship, you are requested kindly to discuss  
the amount at the earliest.

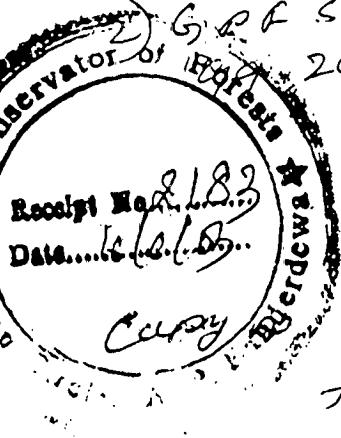
Yours faithfully  
Baruah

Encle.

1) Appendix 'B' form no I  
in duplicate

2) G.P.F. statement for  
2000 (photocopy)

(Sir M.C. Baruah, I.F.S (Retd)  
Opp. Ganesh Commerce College  
Rajbari, Darrang - 781003.



1) The Provincial check for G.P.F. of  
forwards Govt of Assam, 1 Total amount for  
us kind information please.

M.C. Baruah, I.F.S (Retd)

+7 - ANNEXURE 27 - 27 - VI 2003  
~~Annexure 27~~

GOVERNMENT OF ARUNACHAL PRADESH  
OFFICE OF THE CONSERVATOR OF FORESTS  
WESTERN CIRCLE : BANDERDEWA  
& PERIODI

REGD. A/D.

No. WAC/88/02/3121-22

Dt., Banderdewa, the 6th Aug/03.

To

The Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlegun.

Sub:- Submission of GPF final payment application of  
Shri M.C. Baruah, DCF, IFS (Retd.) GPF A/C  
No. AP/FOR/553.

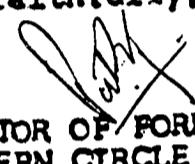
Sir,

This is to enclose herewith the application received  
from Shri M.C. Baruah, DCF/IFS (Retd.) on superannuation w.e.f.  
30.10.2001 (AN) for final payment against his GPF A/C No. AP/FOR/  
553 alongwith the following documents for favour of your early  
necessary action please.

Enclos:-

- 1) Application in orgl.
- 2) GPF pass book 2 Nos.
- 3) Annual GPF A/C statement  
of 1999-2000.

Yours faithfully,

  
CONSERVATOR OF FORESTS  
WESTERN CIRCLE  
BANDERDEWA

Copy to:-

Shri M.C. Baruah, DCF/IFS (Retd.) opposite Guwahati  
Commerce College, Rajgarh Link Road-1, Guwahati-3  
Assam for information please.

ks/-

OK

Gram—ARUNADITPEN

OFFICE OF THE  
DIRECTOR OF AUDIT AND PENSION  
GOVERNMENT OF ARUNACHAL PRADESH  
NAHARLAGUN

No. Pen/AP/9590/2002-C3/134 / 10, 9/5 - 18,  
Dated Naharlagun

30.1.04

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

Sir,  
The Pension Payment Order/G.P.O./C.P.O. whose details are given below in favour  
of Shri/Smti. ~~M.C. Baruah, Reta. U.C.F.O.~~

are forwarded herewith for payment on the Treasury/Bank ~~Guwahati.~~

1. Pension Payment Order No.

Pen/AP/9590/02-C3/134 / 18/04

Superannuation.

2. Category of Pension

3. (a) Ad hoc/Temporary increase  
(b) Amount of basic pension  
(c) Relief on pension  
(d) Family pension in the case  
of death of pensioner

Rs. 6284/- P.M+DR+MA

As per PPO

Rs. 6284/- P.M+DR+MA

11/2/04

7AS

For a period of seven years or upto the death on which the deceased should  
have attained the age of 65 years/7 years had he survived whichever is less, there-  
after ~~Rs. 3780/- P.M+DR+MA~~ In addition Relief/Ad hoc relief sanctioned  
from time to time.

Date of commencement of Pension:— 1-11-2001

PEN/AP/GRU/11,503

3,01,455/-

4. G.P.O. No. .... and amount of D.C.R.G. Rs....  
PEN/AP/COM/5622 and amount of Rs.... 2,95,831/-  
5. C.P.O. No. .... and amount of Rs....  
Guwahati.  
6. Treasury/Bank where payable ...  
7. Conditions attached to pension payment may be made subject to the conditions  
specified in the P.P.O. as well as the C.C.S. Pension Rules and Treasury Rules.

Enclo : 1. P.P.O. Pensioner's &  
Disbursed's Portion.

2. G.P.O., (3) Photo, (4) Specimen Signature Slips,  
(5) C.P.O.

Joint Director  
Director of Audit & Pension  
Joint Director, Arunachal Pradesh  
Arunachal Pradesh  
Guwahati

Memo No. Pen/AP/...

Dated.....

Copy forwarded to :—

1. Shri/Smti. ~~M.C. Baruah, Reta. U.C.F.O.~~  
~~Opposite Commerce College, Rajgarh Line Road, Guwahati.~~  
~~Vill. P.O. ....~~

District..... State.....

2. ~~The Conservator of Forest, Banerdewa, A. P.~~

with reference to his No. ....

3. The Accountant General (A & E) Meghalaya, Arunachal Pradesh etc Shillong

DIRECTOR OF AUDIT & PENSION  
Govt. of Arunachal Pradesh  
Naharlagun

~~Annexure 25 (b) 27 (d)~~43  
9  
288

Gram - ARUNADITPEN

OFFICE OF THE  
DIRECTOR OF AUDIT AND PENSION  
GOVERNMENT OF ARUNACHAL PRADESH  
NAHARLAGUN-791110

Dated Naharlagun, the .....

Audit Enfacement No. Pen/AP/9590/2002-C3/134/

Name and designation of the pensioner Shri ..M.C. Baruah, Retd. ..D.O.P..

1. Total period of qualifying service which has been accepted for grant of pension/gratuity, with reasons for disallowance if any. 40 years 18 days (Limitied to 33 years) .....
2. Amount of superannuation/retiring/ invalid and compensation pension, Terminal/Death/Retirement gratuity that has been admitted and the date from which the pension is admissible. Pension: Rs.6284/-PM+DR+MA Gratuity: Rs.3,01,455/- Commutation: Rs.2,05,831/- 1-11-2001 .....
3. FAMILY PENSION
  - (a) Amount admitted and the period of payment .....
  - (b) To whom admissible Smti. Kalpana Baruah (Wife),
  - (c) D. R. admissible As per order from time to time
4. Head of account to which the pension gratuity is chargeable. 2071 pension and ORB (Arunachal Pradesh) .....
5. Amount to be recovered
6. Anticipatory provisional pension and anticipatory-Death/Retirements gratuity, already paid to be adjusted out of the final payments. Rs.3,00,455/-Paid as (P) gratuity
7. P. P. O./G. P.O./C.P.O. issued in favour of the pensioner.
  - (1) P. P. O. No. Pen/AP/9590/C2-C3/134/ 7894
  - (2) G. P. O. No. Pen/AP/G. P. O. / 11, 503
  - (3) C. P. O. No. Pen/AP/COM/ 5622

To,

1. The Accountant General (A&E),  
Meghalaya, Arunachal Pradesh etc.  
Shillong.

2. The Conservator of Forests.

Banderdewa, Ao P. The Service Books, IPS etc are returned herewith  
for record in your office.

Joint Director  
Director/Joint Director of Audit & Pension  
Govt. of Arunachal Pradesh  
Naharlagun

OFFICE OF THE  
DIRECTOR OF AUDIT AND PENSION  
GOVERNMENT OF ARUNACHAL PRADESH  
NAHARLAGUN

Dated Naharlagun the

No. Pension/Cen/AP/ 5622

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

M.C. Baruah.

Sub :—Issue of authority payment of commuted value of pension to Shri  
Retd. D.C.P. (holder of ppo)

NO.Pen/AP/959C/2002-03/134/

2,95,831/-

Sir,

(I am to request you to make necessary arrangement for payment of eight hundred thirty one) (Rupees two lakhs ninety five thousand eight hundred thirty one) being the commuted value of Rs. 2513/- (Rupees two thousand five hundred thirteen) value of Rs. 6284/- (Rupees six thousand two hundred eighty four) per month granted to Rs. M.C. Baruah. (PPO)

NO.Pen/AP/959C/2002-03/134/789/-

Shri... Consequent on commutation, the reduced rate of pension is 3771/- respect of M.C. Baruah.

Shri... three thousand seven hundred seventy one (Rupees three thousand seven hundred seventy one) per month. The reduction in the amount of pension shall become effective from the date of

receipt of Commuted Value of pension by Shri or three months after the issue of authority by you asking him to collect the commuted value of pension whichever is earlier. Necessary instructions regarding the date from which the pension is to be reduced may also kindly be issued to the Treasurer Guwahati. from which the pensioner is drawing

Officer the pension.

The expenditure is debitable to 2071 Arunachal Pradesh.

Address of the pensioner M.C. Baruah.

Shri.

Yours faithfully,

Director Joint Director  
Directorate of Audit & Pensions  
Govt. of Arunachal Pradesh  
Naharlagun

Copy to :

(i) Shri/Smti...

M.C. Baruah.

Conservator of Forest.

(ii) The Conservator of Forest  
Barddewa, A.P.

(iii) The Accountant General (A and E),  
Meghalaya, Arunachal Pradesh, etc. Shillong.

Director  
Joint Director  
Directorate of Audit & Pensions  
Govt. of Arunachal Pradesh  
Naharlagun

2). -

Annexure 35(1) 37(1)

45

29/1 X 62

Gram-ARUNADITPEN

OFFICE OF THE DIRECTOR OF AUDIT AND PENSION  
GOVERNMENT OF ARUNACHAL PRADESH  
NAHARLAGUN-791110

Dated, Naharlagun, the.....

No. Pen/AP/GPO/.....

11503

To.....

The Accountant General (A&E),

Assam, Beltola,

Guwahati.

Sir,

I am to request that you will be so good as to arrange for payment from.....  
Guwahati..... Treasury of the sum of Rs ... 3,01,455/-

(Rupees... three lakhs one thousand four hundred fifty five).....

only in lump sum Shri/Smt ..... M.C. Baruah..... Recd/Isafe

D.G.C.F. .... being the amount of gratuity sanctioned to him  
in letter No.... PEN/AP/GPO/..... from the Director of Audit and Pension,

debitable to 2071. Pension and ORB etc.

The particulars regarding his/her identification, are/were enclosed with/sent alongwith  
PPO/..... No. Pen/AP/9590/2002-03/134/ 7894

Below Rs 3,01,455/- (Rupees... three lakhs one thousand four hundred fifty five)

N. B. : The date of payment may please be intimated to this office as soon as the  
gratuity debitible to local fund is paid.

3. The Acquittance of gratuitant unless he/she is exempted by rule of special order  
of Government from personal appearance should be taken on the reverse of this order  
with necessary Revenue stamp.

4. The gratuitant is being informed of the issue of this order.

5. The gratuitant should be directed to appear before the Treasury/Sub-Treasury to  
receive payment of gratuity amount.

.....

Yours faithfully,

RECOVERIES:

Rs.3,00,455/- (Rupees three lakhs  
four hundred fifty five) only paid  
as (P) gratuity may be adjusted  
from the final payment of gratuity  
sanctioned.

Directorate of Audit & Control  
Director of Joint Audit & Control  
Naharlagun

22- 29-28  
Annexure 29-28  
- 265 1382

GOVERNMENT OF ARUNACHAL PRADESH  
DIRECTORATE OF AUDIT & PENSION  
NAHARLAGUN.

PEN/AP/9590/02-03/134/7488-20

Dated 23.2.03.

✓ The Conservator of Forest,  
Western Circle,  
Banderdewa.

Sub :- Pensionery benefits in r/o Sri M.C. Baruah, Rtd. D.C.F.

Ref :- Your letter NO. WAC/E-99/81/3245-41 dtd. 12.8.2003.

Sir,

The pension papers and Service Book of Sri M.C. Baruah, Rtd. D.C.F. re-submitted vide your letter cited above have been checked. On scrutiny of the pension papers and Service Book it is found that the amount of Rs. 16,94,935/- being outstanding Govt. revenue against Sri M.C. Baruah, Rtd. D.C.F. has not yet been recovered and the matter regarding outstanding amount of Govt. revenue has also not yet been concluded. The NO Demand Certificate has also not been issued. It is noticed that instead of huge outstanding amount recoverable from the officer, the provisional gratuity for Rs. 3,00,455/- has been sanctioned to the retired Govt. servant which is not in order. This needs to be examined in the light of laid down Rules in CCS(Pension) Rules.

Under the Circumstances, it is requested to suggest us whether ~~provisi~~ provisional pension may be authorised in favour of Sri M.C. Baruah, Rtd. D.C.F. until the matter regarding outstanding Govt. revenue is finally concluded.

Yours faithfully,

  
23/2/03

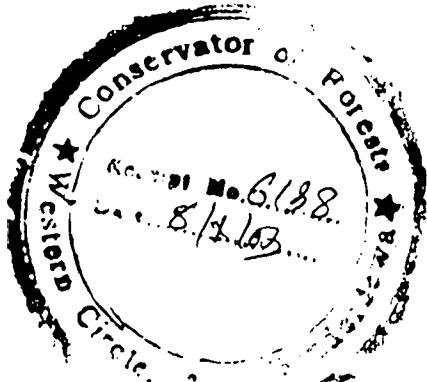
Joint Director of Audit & Pension,  
for Director of Audit & Pension,  
Govt. of A.P. Naharlagun.

Memo NO. PEN/AP/9590/02-03/134

Dated 03.

Copy to :-

1. The Principal,  
Chief Conservator of Forest,  
Govt. of A.P. Itanagar for information.
2. Sri M.C. Baruah,  
Opposite Commerce College Rajgarh Link Road,  
Gauhati-3 for information.



Joint Director of Audit & Pension,  
for Director of Audit & Pension,  
Govt. of A.P. Naharlagun.

23 - (47) XII  
Amendment 300 63  
Govt. of Arunachal Pradesh  
Office of the Conservator of Forests  
Western Circle: Banderdewa.

NO. WAC/E-99/81/5026-28

Dated. Banderdewa. The 24<sup>th</sup> Oct/03

To,

The Director of Audit & Pension  
Govt. of Arunachal Pradesh,  
Naharlagun.

Sub:-

Pensionary benefits in respect of Bhri M.C. Baruah Rtd. DCF.

Ref:-

Your No. PEN/AP/9590/02-03/134/7483-90 dt. 23.9.03.

Sir,

The pension case of Shri M.C. Baruah DCF(Rtd) was submitted to you alongwith the letter of Principal Chief Conservator of Forests, Arunachal Pradesh No. FOR/176/Pen/97/559-67 dt. 2.7.03 wherin it is clearly stated that while Shri M.C. Baruah, was in service no prima facie case could be made out against him to initiate Departmental proceeding for outstanding of Govt. Revenue an account of which his retirement dues are stated to be withheld. Non settlement of retirement dues of Shri M.C. Baruah under such situation is unjustified. Further as per GIS instruction (I) 2(b) below chapter 9 "proceedings after retirement" in the CCS(CCA) Rules Department proceedings can't be initiated against Shri M.C. Baruah IFS after his retirement in view of above, this office was directed to take immediate action for settlement of all pensionary benefits due to Shri M.C. Baruah and as such the provisional Gratuity has been sanctioned.

From the above content it is clear that the pension case and the benefit thereof can not be held up. Hence you are requested to kindly convey your approval to settle the long pending case at an early date.

Yours Faithfully,

  
CONSERVATOR OF FORESTS  
WESTERN CIRCLE  
BANDERDEWA

Copy to :-

1. The Principal Chief Conservator of Forests Arunachal Pradesh Itanagar along with a copy of Director of Account (Audit pen letter quoted above for information and necessary action please

2. Shri M.C. Baruah IFS with reference to Director of Account (Audit & Pension) letter quoted above for information.

68  
Filed by  
Mukta Das  
Advocate  
2/09/04

संघीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

- 3 SEP 2004 41

गुवाहाटी बेंच

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA No. 16/04

Sri M.C. Baruah

.....Applicant

-VS-

Union of India & Ors.

.....Respondents

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE

RESPONDENT NO.2, 3 & 5.

1. That the applicant has received a copy of the written statement filed by the Respondents No.2, 3 & 5 and has gone through the same and understood the contents of the same. Save and except the statements which are specifically admitted herein below, other statements made in this written statement are denied and the statements which are not borne on records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1 of the written statement, the applicant begs to state that the illegal and arbitrary exercise of power as highlighted by the applicant clearly indicates the fact that the respondents have acted contrary to the settled proposition of law and as such while allowing the OA respondents may be directed to pay adequate compensation as well as cost of the application while imposing penal interest on such delayed settlement of dues.

3. That with regard to the statement made in para 2 of the written statement, the applicant while denying the contention made therein begs to state that the course of action arose just immediately after the retirement of the applicant and since same being a continuous wrong, the course of action still survives.

4. That with regard to the statement made in para 3 of the written statement, the applicant while denying the contention made therein begs to state that the Conservator of Forest did not take any initiative for settlement of the pensionary dues of the applicant. The respondents showing the official communication as well as formalities have tried to cover up their undue delay in settling the matter.

The applicant immediately after his retirement (31-10-01) in response to the instruction issued by the respondents submitted his pension paper and completed the formality. However, the respondents without any authority delayed the matter causing serious financial hardship to the applicant.

The applicant while controverting the allegation of outstanding Govt. dues begs to state that the respondents with an intention to harass the applicant delayed the matter without any authority and same has caused serious financial hardship to the applicant.

The letter issued by the Conservator of Forest, Western Circle dated 2.7.03 clearly indicates the fact that the respondents have willfully and deliberately delayed the

- 3 -

settlement process and for which adequate compensation is required to be awarded along with interest in favour of the applicant.

Admittedly the applicant who retired from his service on 31.2.01, the respondents took initiative regarding settlement of his pensionary dues only on 12.8.03 as admitted by them.

5. That with regard to the statement made in para 4 of the written statement the applicant while denying the contention made therein begs to state that, as stated above the respondents in the name of official formalities and correspondences delay the matter without any reason and same clearly depicts the ulterior motive of the respondents in delaying the matter.

6. That with regard to the statement made in para 5 of the written statement, the applicant while denying the contention made therein begs to state that the respondents now shifting the burden to the other authority could not have denied the applicant the right of timely payment of his pensionary dues. The Arunachal Pradesh Forest Corporation Ltd. is on part and parcel of the respondent's organisation/office and as such it is unjustified on their part to advance such untenable plea and on this score alone the OA deserves to be allowed setting aside all the illegal action/inaction on the part of the respondents providing him the reliefs sought for in the OA.

4

7. That with regard to the statement made in para 6 of the written statement, the applicant while reiterating and reaffirming the statements made above begs to state that the respondents in the name of certain unreasonable ground of outstanding Govt. revenue delayed the matter and it was only on 12.8.03 the respondents have sent the pension papers of the applicant to the concern authority.

8. That with regard to the statement made in para 7, 8, 9, 10 of the written statement, the applicant while denying the contentions made therein begs to state that the respondents themselves have admitted the fact that due to official correspondences and formalities, the pensionary dues of the applicant could not be settled in time and as such it is obligatory on their part to compensate and to any interest on such delayed payment.

9. That the applicant begs to state that under the facts and circumstances of the case, is entitled to all the reliefs claimed in the OA including compensation of Rs.1,00,000 and more and interest of 21% on the delayed settlement of pensionary dues.

5

VERIFICATION

I, Sri Manmohan Ch. Baruah, IFS (Retd), aged about .... years, resident of Rajgarh Link Road, Near Guwahati Commerce College, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs ..1, 2, 3, 5, 6, 7, 8, 9..... are true to my knowledge and those made in paragraphs .....4..... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 1st day of September 2004.

*Sri Manmohan Chandra Baruah*

Signature.