

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 132/2003

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SECTION OFFICER (Judl.)

bahts
16.11.17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No.: 134/03

Misc Petition No: _____/

Contempt Petition No: _____/

Review Application No: _____/

Applicants: - S. G. Bhattacharjee

Respondants: - U. O. I 7018

Advocate for the Applicants: - M. Chanda, G.N. Chakraborty

Advocate for the Respondants: - S. Nath
CBSE

Notes of the Registry	Date	File	Order of the Tribunal
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25.6.2003

Heard Mr. M. Chanda, learned counsel for the applicant.

Issue notice to show cause as to why the application shall not be admitted.

List again on 28.7.2003 for admission.

Vice-Chairman

mb

28.7.2003

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Member (A).

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.
No written statement so far filed.
The application is admitted. Call for the records. No further notice need to be issued. The respondents are directed to file written statement within four weeks from today. List on 26.8.2003 for orders.

Steps taken along with
envelops.

pl comply order
dated 25.6.03.

NS
25/6/03

Notice prepared & sent
to DLS for filing the
respondent No 1 to 5
by Regd. A.D.

DINo 1374 to 78

Dtd 30/6/03

20/7/03

28.7.2003

Heard Mr. M. Chanda, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

No written statement so far filed
by the respondents. The application is
admitted. Call for the records. No
further notice need to be issued.

The respondents are directed to
file written statement within four weeks
from today.

List on 26.8.2003 for orders.

Member

Vice-Chairman

mb

26.8.2003 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahala-
dan, Member (A).

Mr. A. Deb Roy, learned Sr.
C.G.S.C. appearing on behalf of the respon-
dents stated the respondents are filing
written statement very soon and requires
two weeks more time to complete the
process. List again on 26.9.2003 for
written statement.

K.V. Prahaldan
Member

Vice-Chairman

mb

26.9.2003

put up the matter on 29.10.2003 to
enable the respondents to file written
statement.

K.V. Prahaldan
Member

Vice-Chairman

bb

No written statement
has been filed.

25.9.03.

No WLS has been
filed.

28.10.03.

3

3

O.A.134/2003

Office Note	Date	Tribunal's Order
	29.10.2003	<p>Mr.A.Deb Roy, learned Sr.C.G.S.C. stated that the respondents are filing its written statement within two days from today.</p> <p>The case may now be listed for hearing on 4.12.2003. Applicant may file rejoinder, if any, within two weeks from receipt of the written statement.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>18.11.03</p> <p>W/s Submitted by the Respondents.</p> <p><i>[Signature]</i></p>	26.12.03	<p>Present : The Hon'ble Mr Justice B. Panipgrhi, Vice-Chairman The Hon'ble Mr K.V.Prahladan Administrative Member.</p> <p>Mr M.Chanda, learned counsel for the applicant submitted that he has not received the copy of the written statement although filed in Court. Let a copy of the written statement be served on the counsel for the applicant By Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.</p> <p>Let rejoinder be filed within two weeks after service of copy. on the other side.</p> <p>Let the matter appear before next available Bench.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
		<p>Member(A)</p> <p>Member(B)</p>

bb

pg

29x3x84

List the case before Division Bench.

Office Note	Date	Tribunal's Order
	29.3.04	<p>On the prayer of learned counsel for the applicant case is adjourned to 1.4.04 for hearing.</p> <p><i>[Signature]</i> Member(A)</p> <p><i>[Signature]</i> Member(J)</p>
	1.4.2004	<p>Present: Hon'ble Shri Kuldip Singh, Judicial Member</p> <p>Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>Learned counsel for the applicant seeks an adjournment. List it for hearing on 20.4.04.</p> <p><i>[Signature]</i> Member(A)</p> <p><i>[Signature]</i> Member(J)</p>
	07.12.2004 Shillong	<p>Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets.</p> <p>The O.A. is disposed of in terms of the order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

pg

nkm

nkm

9.6.04

Response submitted by the applicant.

[Signature]

2-12-04

Case is ready for hearing.

by

[Signature]

15.12.04

Copy of the Judgment has been sent to the Office. On seeing the same to the applicant by post.

Copy of the final Judgment at 7-12-04 served on the SI. C.S. 52 of 2003. No compliance report received. So far. By 5-12

Office Notes	Date	Order of the Tribunal
<p><u>25-5-05</u> Compliance report Submitted by the respondents.</p> <p><i>[Signature]</i></p> <p>Compliance report filed by the respondents.</p> <p><u>24.6.05</u></p>	04.05.2005	<p>Present : Hon'ble Mr. Justice G. Sivaraman Vice-Chairman.</p> <p>The Hon'ble Mr. K. V. Prahladan Administrative Member.</p> <p>The matter is posted for reporting compliance. on Post on 26.5.2005 for reporting compliance. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. will will get instruction from the concerned authori- ty. The applicant shall furnish a copy of the final order in O.A. No. 134/2003 to Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for compliance.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	26.5.2005	<p>mb</p> <p>Ms. U. Das, learned Addl. C.G.S.C. is present for the respondents. Respondents has prayed for some more time to file compliance report since they have recei- ved the order on 25.5.2005. Respondents are granted four weeks time to file compliance. List on 27.6.2005 for repor- ting compliance.</p> <p><i>[Signature]</i> Member</p>
<p><u>30.6.05</u></p> <p>Copy of the order has been sent to the D/Sec. for receiving the order to the L/Secy for the parties.</p> <p><i>[Signature]</i></p> <p>Received Usha Das Addl. C.G.C. 4/7/05</p>	27.6.2005	<p>bb</p> <p>This is come up for compliance report. Ms. U. Das, learned Addl. C.G. S.C. for the respondents submits that compliance report has already been filed. Counsel for the applicant submit text is agreed that the direction has been complied with. In the circums- tances, the O.A. is closed.</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.134 of 2003.

Date of Order : This, the 7th Day of December, 2004.
(At Shillong)

THE HON'BLE SHRI JUSTICE R. K. BATTA, VICE CHAIRMAN.

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

Sri Satya Gopal Bhattacharjee
S/o Late Kumud Chandra Bhattacharjee
Working as Instrument Repairer in the
Office of the Garrison Engineer, M.E.S.
Shillong. Applicant.

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

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence.
New Delhi.
2. The Engineer-in-Chief
Army Headquarters
D.H.Q., P.O: New Delhi.
3. The Commander Works Engineer
S.E.Falls, Shillong-11.
4. The Chief Engineer
S.E.Falls, Shillong-11.
5. The Garrison Engineer
MES, Shillong. Respondents.

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

O R D E R (ORAL)

BATTA, J.(V.C.) :

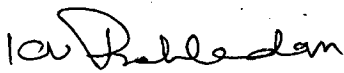
Heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

2. Learned counsel for the applicant has pointed out that pursuant to Army Headquarters letter No.90270/73/86/EIC(3) dated 9.4.2002, the case of the applicant was recommended by Garrison Engineer on 20.7.2002 (Annexure-8 on record) and letter No.1028/427/EIA dated 26.7.2002. No further action has been taken by the respondents and the matter is pending with the respondents. In this view of

R

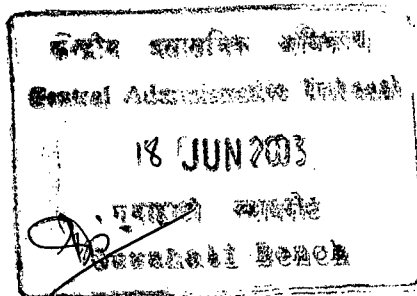
the matter we are of the opinion that the application can be disposed of with direction to the competent authority/ respondents to take appropriate steps and pass reasoned and speaking order pursuant to the letters referred to above within a period of four months from the date of receipt of the order.

3. The application is disposed of in aforesaid terms and the matter be listed on board for compliance to be filed by the competent authority/respondents on 4.5.2005.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(R.K.BATTA)
VICE CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 134 /2003

Sri Satya Gopal Bhattacharjee

-VS-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

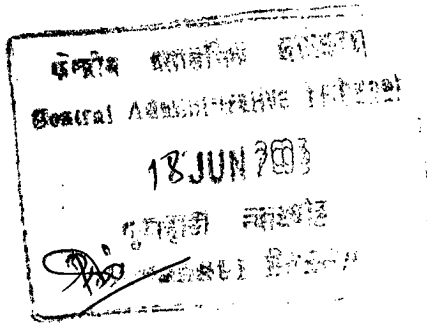
- 19.7.1971 The applicant was initially appointed as Lineman under Garrison Engineer and subsequently promoted as Instrument Repairer equivalent to H.S. Grade I in 1981.
- 15.10.1984 Lineman, Wireman and SBA were redesignated as Electrician S.K. and promoted to the cadre of H.S. II with retrospective effect.
- 24.6.1987 The letter was issued by the Under Secretary, Government of India, Ministry of Defence up grading the juniors namely Lineman, Wireman and SBA to the cadre of HS II.
- 21.2.1994 The post of Instrument repairer was re designated/merged with the electrician cadre.
- 10.2.1995 The instruction was given by the E-in-Chief Branch letter dated 10.2.1995 for constituting Review D.P.C.

*Filed by the applicant
through advocate Sri
G. N. Chakravarty and
16-06-2003*

- 13.1.1997 A Review DPC was constituted and the applicant was accordingly promoted to the post of Electrician H.S. II w.e.f. 15.10.84.
- 20.06.2001 Garrison Engineer decided to re fix the seniority of the applicant in the category as and when his name comes in the DPC but seniority of the applicant was not fixed.
- 8.11.2001 The applicant submitted another representation on 8th November, 2001 seeking re fixation of his seniority in the grade of Electrician H.S. I.
- 20.12.2001 The applicant submitted his representation addressed to CWE, Shillong requesting the authority for consideration of his promotion to the Grade of H.S. I w.e.f. 16.10.1985.
- 15.1.2002 The office of the Commander Works Engineer informed the G.E., Shillong that the promotion of the applicant should be given effect from the date of passing of the Trade Test but no action was taken for promotion.
- 23.3.2002 The applicant again submitted representation praying inter alia for fixation of his seniority in the cadre of H.S. I.
- 17.4.2002 The representation dated 23.03.2002 forwarded to the G.E. through letter directing the G.E. to issue one time reply to avoid further representation.
- 26.7.2002 The C.W.E., Shillong directed the GE for resubmission of the case of the applicant *dt-20-7-2002* attaching Army Headquarters letter dated 9.4.2002.

P R A Y E R

- 8.1 That the respondents be directed to promote the applicant with retrospective effect both in the grade of HS II as well as in the grade of HS I respectively w.e.f. 16.1.1981 to 15.10.1984 and in the cadre of HS-I with effect from 15.10.1984 to 31.12.1985 onwards in the pay scale of Rs. 360-480 (pre-revised) as well as in the scale of Rs. 480-560 (pre-revised) reflecting in the light of the recommendation made by the GE, Shillong which was forwarded to CWE, Shillong and by necessary modification of the promotion order dated 13.1.1997 (Annexure-3) and PTO No. 19 dated 13.5.2002 issued by the GE, Shillong with all consequential benefit.
- 8.2 That the respondents be directed to restore the seniority of the applicant both in the cadre of HS II as well as HS I in the trade of Electrician to facilitate his promotion in the cadre of HS II as well as in the cadre of HS I and also for further promotion.
- 8.3 That the respondents be directed to grant all consequential service benefit including arrear monetary benefit both in the cadre of HS II and HS I.
- 8.4 Costs of the application.
- 8.5 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case :

O. A. No. 134 /2003

Sri Satya Gopal Bhattacharjee :

Applicant

- Versus

Union of India & Others:

Respondents.

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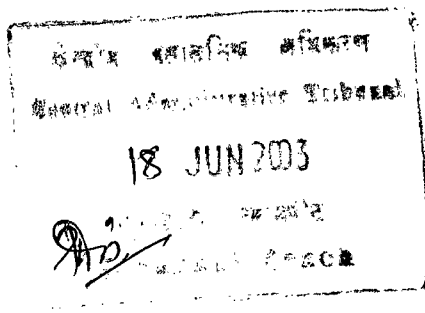
Filed by

Heer Chakravarty

ADVOCATE

Date :- 16.06.2003.

*
Filed by the applicant
through advocate Sri
G.V. Chakravarty on 16-06-2003.
for Advocate



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

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

O. A. No. 134 /2003

BETWEEN

Sri Satya Gopal Bhattacharjee
Son of Late Kumud Chandra Bhattacharjee
Working as Instrument Repairer in the
Office of the Garrison Engineer, M.E.S.,
Shillong.

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence
New Delhi.
2. The Engineer-in-Chief
Army Headquarters
D.H.Q., P.O. New Delhi.
3. The Commander Works Engineer
S.E. Falls, Shillong-11

Satya Gopal Bhattacharjee

4. The Chief Engineer
S.E.Falls, Shillong-11
5. The Garrison Engineer
MES, Shillong

...Respondents.

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents to grant benefit of highly skilled Grade I & II(Electrician) at least with retrospective effect in the cadre of Electrician highly Skilled Grade I and II in the light of the recommendation made by the Garrison Engineer with all consequential service benefit including ^{Arrears} monetary benefit in the cadre of H.S. Gr. I and II.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

Satya Chahal Bhattacharya

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

The applicant is presently working as Electrician H.S. I in the office of the Garrison Engineer, Shillong under the administrative control of Commander Works Engineer, Shillong.

- 4.2 That your applicant was initially appointed as Lineman on 19.7.1971 under Garrison Engineer, Shillong. During the year 1980, the applicant was promoted as Instrument Repairer, the next avenue of promotion was Charged Electrician i.e. equivalent to H.S. Grade -I.

- 4.3 That your applicant begs to state that in the month of October, 1981 all juniors to the applicant who were serving as Lineman, Wireman and SBA were at the relevant time upgraded and placed in the scale of pay of Rs. 260-400/- without granting any further benefit to the present applicant as a result the juniors of the applicant were brought in the same rank and status and also in the same pay scale i.e. at par with the present applicant.

Most surprisingly, again on 15.10.1984 so called juniors namely, Lineman, Wireman and SBA were upgraded, following re designated as Electrician S.K. and promoted to the cadre of H.S. II with retrospective

Satyer Gopal Bhattacharya

effect i.e. with effect from 15.10.1984 in terms of letter bearing No. 91026 BMD/88/116/D(W-II) dated 24.6.1987 issued by the Under Secretary, Government of India, Ministry of Defence. In this connection it is stated that the so called juniors of the applicants were upgraded and were placed in the scale of Rs. 260-400 vide letter No. 3310/DS(O & N)C.IV-I/84 dated 15.10.84. The so called juniors of the applicants were further promoted to the cadre of H.S. II as per instructions laid down in letter dated 24.6.1987 and they were placed in the pay scale of Rs. 330-480/- but the applicant is left out as because there was no specific order for the category of Instrument Repairer for any further promotion from the cadre of Instrument Repairer, although he was also recruited like many of his juniors in the cadre of lineman at the initial recruitment in the same department. But his case was ignored by the respondents or further promotions like his juniors and applicant remained in the cadre of Instrument Repairer for years together without any promotional benefit in the pre revised pay scale of Rs. 260-400/-.

Copy of the letter dated 15.10.1984 and letter dated 24.6.1987 are annexed as Annexure 1 and 2 respectively.

- 4.4 That your applicant being highly disappointed for non consideration of his promotion to the post of Electrician H.S. II as well as for promotion to the

Satya Anfal Bhattacharya

cadre of Electrician H.S. I started submitting representations to the competent authorities claiming promotion to the cadre of Electrician H.S. II w.e.f. 15.10.1984 and Electrician H.S. I w.e.f. 15.10.85 more particularly on the ground that many of his juniors who were working as Wireman, SBA and recruited at later point of time were already granted the promotional benefit to the cadre of HS II w.e.f. 15.10.84. However, the post of instrument repairer since not falling under the category of three grade structure introduced by the Government of India, vide letter bearing No. 3310/BS(O &M)/CIV-I 84 dated 15.10.84 as such he was denied the benefit of promotion to the cadre of Electrician H.S. II in the light of the order dated 15.10.84. The applicant submitted several representations for consideration of his promotion to the grade of H.S. II as well as H.S. I w.e.f. 15.10.1984 and 15.10.85 respectively, vide representation dated 5.2.1998, 12.5.1998, 28.5.1998, 7.10.1998. It is relevant to mention here that the post of instrument repairer was re designated/merged with the Electrician cadre vide Government of India, Ministry of Defence letter No. 91026/EIC(3)/672/D(W-II), dated 21.2.1994. Thereafter, following instructions contained in the E-in-C's Branch Letter dated 10.2.1995, a review DPC was constituted and the applicants was accordingly promoted to the post of Electrician HS II w.e.f. 15.10.84 vide letter No. 1455/DPC/96-97/49/EIA dated 13.1.1997. But the said

Satya Chandra Bhattacharya

91026/EIC(3)/2395/D(W-II) dated 23.6.94 and thereafter only provided the benefit of promotion to the cadre of HS II w.e.f. 15.10.84 vide order bearing letter No. 1455/DPC/96-97/49/EIA, dated 13.1.1997. Therefore, as a result of such inordinate delay in re designating the trade of the present applicant he had suffered loss of seniority as well as promotion benefit to the cadre of Electrician HS I but in the meantime many of his juniors of other trades availed the promotional benefit in the cadre of HS I in the light of the Ministry of Defence letter dated 15.10.1984.

- 4.6 That it is stated that a combined seniority list of Electrician which was recasted after inclusion of Wireman, SBA, Armature Winder and Instrument Repairers, etc. However, the trades Armature Winder and Instrument Repairer were placed senior to the Wireman and SBA who were earlier inducted to the cadre of Electrician vide Ministry of Defence letter dated 24.06.87. It is relevant to mention here that certain Wireman and SBA were already granted higher pay scale of Rs. 360-480 w.e.f. 16.10.81 against 10% vacancies allotted/provided for promotion to the next higher scale of Rs. 360-480 without any requirement of passing any trade test.

But the applicant became a victim of the circumstances as because the trade Instrument Repairer/Mechanic Precision Instrument were not included in the trades which were listed in the Ministry of Defence letter dated 15.10.1984 for

Satyra Gopal Bhattacharya

providing promotion by way of introduction of 3 grade structure, therefore applicant lost promotional avenue both in the grade of HS II as well as in the grade of HS I. However, HS II promotion was granted to the applicant vide letter dated 13.1.1997 w.e.f. 15.10.1984 but thereafter he was not considered for promotion to the post of H.S. I, till 15-1-2002.

- 4.7 That it is stated that the incumbent of other junior trades, at the relevant time ^{not} being a Instrument Repairer had the opportunity under 10% quota released by the Ministry of Defence for providing promotion to the higher scale of Rs. 360-480 as given to other junior trades but the applicant being a person belong to a higher trade was not provided with such benefit of higher pay scale of Rs. 360-480 which was entitled to him w.e.f. 16.10.1981.

Applicant being a member of the senior trade was entitled to the promotion benefit to the cadre of highly skilled grade I w.e.f. 15.10.1984 against the allotted 15% vacancies as most of the juniors who had already put into the pay scale of Rs. 360-480 were promoted to the rank of HS grade II against the 20% allotted vacancies.

- 4.8 That it is stated that Garrison Engineer, Shillong vide its letter bearing No. 371/99/SGB/106/EIC(Legal) dated 20th June, 2001, it is decided to re fix the seniority of the applicant in the category as and when

Satyajit Aspal Bhattacharya

his name came in the DPC but seniority of the applicant was not fixed thereafter in pursuance of the letter dated 20th June 2001. In the circumstances, the applicant submitted another representation on 8th November, 2001 wherein it is stated by the applicant to refix his seniority in the grade of Electrician HS I for conducting review DPC for promotion to the cadre of HS I but to no result. Be it stated that the applicant was promoted to H.S.I vide order dated 15.1.2002.

Copy of the letter dated 20th June, 2001 and promotion order dated 15.1.2002 are annexed as Annexure 5, and 6 respectively.

4.9 That your applicant vide his representation dated 20.12.2001 addressed to CWE Shillong requested the authority for consideration of his promotion to the grade of HS I w.e.f. 16.10.85 i.e. after completion of one year regular service in the grade of Electrician H.S. II. The applicant also stated in the said representation that in view of E-in-C's Branch letter No. 90270/89/EC/EIC(3) dated 10.2.1995 no trade test for HS I (i.e. 15%) was conducted by the respondent till January, 2001. But during February, 2001, trade test was conducted and the applicant was declared passed for HS I but no promotion has been given to the applicant in the cadre of HS I.

Copy of the representation dated 20.12.2001 is annexed as Annexure-7.

4.10 That the office of the Commander Works Engineer, Shillong vide letter bearing No. 1455/DPC/110/EIA,

Satya Gopal Bhattachary.

dated 15.1.2002 promoted the applicant to the post of H.S I w.e.f 15.1.2002, but not granted the retrospective, till filing of this application as per recommendation of G.E, Shillong, made under his letter dated 20.6.2002, which was forwarded to the CWE, Shillong.

A copy of the statement of the case prepared by G.E, Shillong on 20.7.2002 is annexed as **Annexure-8**.

- 4.11 That your applicant submitted representation dated 23.03.2002 praying inter alia for fixation of his seniority in the cadre of HS I in terms of E-in-C's Branch letter dated 10.2.1995. However, the said representation dated 23.3.2002 was duly forwarded to GE, Shillong vide letter bearing No. 1455/DPC/152/EIA dated 17.4.2002 directing the GE to issue one time reply to avoid further representation.

Copy of the representation dated 23.2.2002 and a copy of the letter dated 17.4.2002 are annexed as **Annexure-9 and 10** respectively.

- 4.12 That the CWE, Shillong vide letter bearing No. 1028/427/EIA dated 26th July, 2002 directed the GE, Shillong for resubmission of statement of case of the applicant attaching the copy of Army Headquarters' letter dated 9.4.2002 as well as the details of the juniors to the applicant who were granted higher pay scale.

In this connection it may be stated that the Garrison Engineer while forwarded details statement in

Satya Chandra Bhattacharya

favour of the applicant for consideration of his promotion to the grade of HS I w.e.f. 15.10.1984 to 31.12.1985 onwards and also for grant of financial benefit in the higher scale of Rs. 360-480 with retrospective effect, GE recommended the case of the applicant very strongly with detail justification for entitlement of such retrospective benefit of promotion. But thereafter the respondents are silent regarding the grant of promotional benefit both in the grade of HS II and HS I with retrospective effect hence the present application.

A copy of the letter dated 26.7.2002 is enclosed as **Annexure- 11.**

- 4.13. That it is stated that the Army Headquarter, Engineer-in-Chief Branch, New Delhi vide it's letter bearing No. 90270/73/86/EIC (3) dated 9th April, 2002 it is informed that an expert committee was constituted on the order of the Hon'ble CAT, Kolkata, passed in O.A. No. 118/97 for redressal of grievances of employees and with the view of intention to remove anomalies which are created while implementing the recommendations of the expert committee report and asked for comments of the various commands with the instruction to submit the said comments by 15th May, 2002. In the said expert committee report more particularly in paragraph 13 and 14 it is observed that some of the Wireman, SBA who are junior to the incumbent holding the post of Electrician, Armature, Winder and Instrument Repairer started drawing higher pay scale of Rs. 330-480 because of the upgradation against a quota of 10% of the total

Satya Chahal Bhattacharya

vacancies. Be it stated that the applicant is also a victim of the aforesaid circumstance as such GE Shillong recommended the case of the applicant for the grant of higher financial benefit in the upgraded scale with retrospective effect at least from the date when other incumbents who are juniors to the applicant in other trades be approved but till date no action has been taken by the respondents on flimsy ground. Therefore, finding no other alternative the applicant approaching this Hon'ble Tribunal for a specific direction upon the respondents for grant of financial benefits with retrospective effect both in the cadre of HS II and HS I with immediate effect. Be its stated that the applicant is facing huge financial loss for non fixation of his pay with retrospective effect as such the cause of action arises in this case each and every month for non fixation of his pay from the due date. As such, the Hon'ble Tribunal be pleased to direct the respondents to grant the financial benefit with retrospective effect both in the cadre of HS II and HS I.

- 4.14 That it is stated that the promotion of the applicant in HS I is due long back but the respondent Union of India on different pretext did not take any decision in the light of the direction contained in the GE's recommendation letter and also in the light of the opinion of the expert committee reflected in para 13 and 14 of the Army Headquarter letter dated 09.04.2002, with all consequential benefit.

Satya Gopal Bhattacharya

4.15 That it is stated that the applicant submitted several representations before the respondents for grant of monetary benefit and antedated promotion but to no result. Hence the present application.

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

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

5.1 For that, the applicant has acquired a valuable and legal right for grant of promotion to the cadre of HS I at least with effect from the date of promotion of his immediate juniors who were working in other trades such as Wireman, SBA, in the light of the recommendation made by the Garrison Engineer, Shillong.

5.2 For that, the applicant is entitled to be promoted to the cadre of HS I by virtue of his trade and seniority and also in the light of the report of the Expert Classification Committee constituted by the Army Headquarter, New Delhi for redressal of grievances/anomalies the anomalies, which occurred as a result of implementation of the recommendation of the earlier expert classification committee for fitment of pay scale in the respective trade, in short, in the matter of fitment of Industrial category as indicated in para 13 and 14 of the Army Headquarters letter dated 09.04.2002.

Satya Gopal Bhattacharya

- 5.3 For that, the applicant is entitled to be placed in the higher pay scale of Rs. 360-480 (Pre-revised) instead of Rs. 260-350 with effect from 16.10.1981 to 15.10.1984 and the applicant is further entitled to higher pay scale of Rs. 480-560 (Pre-revised) with effect from 15.10.84 to 31.12.95 in the rank of highly skilled Grade I and thereafter in the revised corresponding scales, in view of the discrepancies/anomalies shown in the statement of the case of the applicant recorded by GE, Shillong.
- 5.4 For that, the applicant is also entitled to be considered for promotion under the 10% quota in the higher pay scale as reflected in para 3 of the GE's recommendation made in the statement of the case in respect of the applicant.
- 5.5 For that, the applicant has been promoted to the cadre of HS I only with effect from 15.2.2002 due to discrepancies in seniority and also in view of anomalies resulted while implementing of the expert classification committee's report.
- 5.6 For that, after a long lapse the trade of Instrument Repairer merged with Electrician Cadre vide Ministry of Defence letter dated 21st February, 1994. As a result, the applicant suffered seniority benefit in the grade of Electrician at the relevant time when juniors of the applicant of other Trades who were merged with Electrician Trade got promotion in the cadre of HS II

Santa Gopal Bhattacharya

and HS I by virtue of their seniority in the cadre of Electrician as because they were merged earlier with the trade of Electrician.

5.7 For that, the applicant was not given the benefit of antedated promotion both in the cadre of HS II and HS I even after discrepancies reflected in GE's statement recommending the case of the applicant for antedating promotion.

5.8 For that, the applicant submitted several representation for consideration of his promotion both in the grade of HS II and HS I but to no result.

5.9 For that, the applicant incurring huge financial loss for non-consideration of his antedated promotion both in the cadre of HS II and HS I and due to non-fixation of pay the applicant further incurring financial loss each and every month which gives rise to further cause of action both in the matter of promotion and fixation of pay.

5.10 For that, the applicant suffering loss of promotional prospect due to wrong adoption of promotion policy by the Army Headquarter Engineer-in-Chief, New Delhi and more particularly in view of the fact that the post of Instrument Repairer was included/merged with the trade of Electrician after a long lapse whereas junior trades like Wireman, SBA were merged with the cadre of Electrician long back. As a result, incumbent who were junior to the applicant but initially holding the post of Wireman and SBA got promotion both in the cadre of

Satya Gopal Bhattacharya

HS and HS II and I long back. As a result the applicant is meted out with hostile discrimination.

5.11 For that the applicant is entitled to promotion to the cadre of HS II w.e.f. 16.10.1981 to 15.10.84 against the 20% vacancies in the pay scale of Rs. 360-480 (pre-revised) as well as he is also entitled to promotion in the H.S. I in the higher pay scale of Rs. 480-560/- with effect from 15.10.84 to 31.12.85 and onwards under 15% quota reflected in the Ministry of Defence letter dated 15.10.84.

6. Details of remedies exhausted.

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

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

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

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased

Satyajit Gupta Bhattacharya

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

- 8.1 That the respondents be directed to promote the applicant with retrospective effect both in the grade of HS II as well as in the grade of HS I respectively w.e.f. 16.10.1981 to 15.10.1984 and in the cadre of HS-I with effect from 15.10.1984 to 31.12.1985 onwards in the pay scale of Rs. 360-480 (pre-revised) as well as in the scale of Rs. 480-560 (pre-revised) in the light of the recommendation made by the GE, Shillong which was forwarded to CWE, Shillong and by necessary modification of the promotion order dated 13.1.1997 (Annexure-3) and PTO No. 19 dated 15.1.2002 issued by the GE, Shillong (Annexure-6) with all consequential benefit.
- 8.2 That the respondents be directed to restore the seniority of the applicant both in the cadre of HS II as well as HS I in the trade of Electrician to facilitate his promotion in the cadre of HS II as well as in the care of HS I and also for further promotion.

Satya Gopal Bhattacharya

8.3 That the respondents be directed to grant all consequential service benefit including arrear monetary benefit both in the cadre of HS II and HS I.

8.4 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to make an observation the pendency of this application shall not be a bar for the respondents to grant the relief to the applicant as has been prayed for in this application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	: 8G 490737.
ii) Date of Issue	: 26.5.2003.
iii) Issued from	: GPO. Guwahati
iv) Payable at	: GPO. Guwahati.

12. List of enclosures.

As given in the index.

Satya Chahal Bhattacharya

VERIFICATION

I, Sri Satya Gopal Bhattacharjee, Son of Late Kumud Chandra Bhattacharjee, aged about 54 years, Working as Instrument Repairer in the office of the Garrison Engineer, M.E.S., Shillong, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 14th day of June, 2003.

Satya Gopal Bhattacharjee

/COPY/

No. 3310/DS/(O&M)/Civ-I/84
Govt of India
Ministry of Defence

New Delhi, the 15th Oct 1984

To

The Chief of Army Staff
New Delhi

Sub :- FITMENT OF INDUSTRIAL WORKERS OF MES IN PAY SCALES RECOMMENDED BY THE THIRD PAY COMMISSION

Sir,

Based on the decisions taken by the Government on the unanimous recommendations of the Anomalies Committee. I am directed to convey the sanction of the President to the Following :-

- (i) Upgradation of the following jobs from semi-skilled grade (Rs. 210-290) to the skilled grade (260-400) :-

<u>Sl No</u>	<u>Jobs Under Title</u>	<u>Existing Scale</u>	<u>Revised Scale</u>
1.	Book Binder	Rs. 210-290	Rs. 260-400
2.	Saddler	-do-	-do-
3.	Boot Maker	-do-	-do-
4.	Carpenter	-do-	-do-
5.	Pipe Fitter	-do-	-do-
6.	Plumber	-do-	-do-
7.	Mason	-do-	-do-
8.	Moulder	-do-	-do-
9.	Painter/Polisher	-do-	-do-
10.	Sign Writer	-do-	-do-
11.	Sawyer	-do-	-do-
12.	Upholsterer	-do-	-do-

These orders supercode the earlier orders in regard to fitment of the above categories workers in the relevant scales of pay from the date of issue of this letter.

Fresh induction to the trades listed in (i) shall be from

Contd.,.,,2/-

Attested
Sd/-
Adm. Secy
16/10/84

- (a) Semi-skilled categories to be identified by you or feeded categories in the pay scale of Rs. 210-290 already existing under the present recruitment rules, subject to the worker having rendered a minimum of three years service in the grade and after passing the prescribed trade test; and
- (b) Direct recruits with ITI certificate/Ex-trade apprentices/NOTVT etc. inducted in the semi-skilled grade, who have rendered 2 years service in that grade.
- (11) Provision/introduction of Highly skilled grade II (Rs. 330-480) and Highly skilled Grade I (Rs. 380-560) for common category jobs listed in Annexure I classified as 'Skilled' depending on the functional requirement of higher skilled jobs, in the following manner as a bench mark percentage :-
- (a) Highly skilled Grade I (Rs. 380-560) 15%
- (b) Highly skilled Grade II (Rs. 330-480) 20%
- (c) Highly skilled Grade (Rs. 260-400) 65%

This should be given to the trades enumerated in Annexure I with viable number of jobs and if there non-viable trades these should be grouped to gether for the purpose of giving the above benefit. In the trades where the above bench-mark percentages are introduced the selection grade for the skilled grade, if provided, will stand simultaneously abolished as a on time measure.

2. These orders will take effect from the date of issue.
3. The expenditure involved shall be debitable to the respective head of the Defence Service Estimates.
4. This issues with the concurrence of the Ministry of Defence (Finance Division) vide their interdepartmental No 1755/Dir/(AI/ Eqpt) of 15th October 1984.

Yours faithfully,

Sd/- x x x x x x x
(RAMA KRISHNA)

DEPUTY SECRETARY TO THE GOVT OF INDIA
Tele No. 375040

ANNEXURE - I

MES

LIST OF COMMON CATEGORY "SKILLED JOBS"

- | | | |
|-------------------|--|---------------------|
| 1. Blacksmith | 2. Carpenter | 3. Electrician |
| 4. Fitter Auto | 5. Fitter Auto Elect | 6. Fitter Gen. Mech |
| 7. Fitter Pipe | 8. Fitter Refrigiger-
tion Mech Refrigerera-
tion Mech | 9. Line Mistry |
| 10. Mason | 11. Moulder | 12. Millwright |
| 13. Pattern Maker | 14. Painter | 15. Turner |
| 16. Welder | | |

/COPY/

116
34

No. 91026/EIC/88/D(W-11)
No. Bldgs/ETG/OC/D(W-18)
Government of India
Ministry of Defence,
New Delhi, the 24 June 1987

Sir,

To

The Chief of the Army Staff
NEW Delhi

Subject :- RATIONALISATION OF TRADES OF THE INDUSTRIAL
CADRE OF THE MES

Sir,

The President is pleased to sanction the redesignation and
condification of the following categories of personnel in the
MES in order to conform to the structure of the National Classification
of Occupations :-

Sl No	Existing Designation	Revised NCO	Code No	Pay scale
1	2	3	4	5
1.	Charge Electrician	Senior Electrician (HS-1)	851.10	380-12-500- EB-15-560
2.	Charge Mechanic	Senior Mechanic - (HS-I)	-	-do-
3.	Charge Mechanic Refrigeration	Senior Mechanic Refrigeration & Air Conditioning (HS-I)	845.70	-do-
4.	Driver Mechanical Equipment	Operator Earth Moving Machinery (SK)	974.10 974.15 974.20 979.10	260-6-290-EB-6 326-8-366-EB-8 390-10-400.
5.	Armature Winder	Electrician (SK)	851.10	-do-
6.	Electrician			
7.	Cabinet Maker	Carpenter (SK)	811.20 (811.20)	-do-
8.	Carpenter	Carpenter (SK)	811.20	-do-
9.	Sawyer			
10.	Fitter Engine	Mechanic Petrol and Diesel Engine (SK)	845.10 845.13	-do-
11.	Engine Artificer			
12.	Instrument Repairer	Mechanic precision Instrument	841.15 841.20 851.20	-do-

Attested
Sd/-
Advocate
16/8/87

Contd....2/-

-2-

	2	3	4	5
13.	Refrigerator Mechanic	Mechanic Refrigerator	845.70	260-6-290-EB-6-326-8-366-EB-8-3900-10-400
14.	Turner	Machinist (SK)	835.10	-do-
	Driver Engine	(a) Driver	961.20	
	Static Driller	Engine Static (SK)	961.25	
	Road Roller (IC) & Small plant Compressors, Dumpers, Dacauville Engines, Concrete Mixers	(b) Driver Mobile Plant (SK) (c) Driver Concrete Mixer (SS)	974.45 974.70	-do-
16.	Driller well Boring	well Driller cum pile Driver	717.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400
17.	Line Man	Electrician (SK)	855.10	-do-
18.	Switch Board Attendant	Electrician (SK)	857.10	-do-
19.	Wireman	Electrician (SK)	-	-do-
20.	Mason	Mason (SK)	951.20 951.40 951.90 952.10 952.30 952.60 955.10 976.00	-do-
21.	Packer Grade I	Packer Gde I	I	
22.	Packer Grade II	Packer GDE II	I	260-6-290-EB-6-326-8-366-EB-8-390-200-210-4-EB-4-250-EB-5-290
23.	Pipe Fitter	Fitter Pipe	871.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400
24.	Plumber	-do-	871.20	-do-
25.	Cane Weaver	Cane man	942.30	210-4-226-EB-4-250-EB-5-290
26.	Lift Attendant	Lift Operator	979.30	-do-
27.	Motor pump Attendant	Pump House Operator	961.70	260-6-290-EB-6-326-8-366-EB-8-390-10-400
28.	Ballow Boy	Ballow Boy	-	210-4-226-EB-4-250-EB-5-290
29.	Cable Jointer	Cable Jointer (HS-II)	857.30	330-8-370-10-400-EB-10-480

-3-

	1	2	3	4	5
10. Lift Mechanic	Lift Mechanic (SK)	-	260-6-290-EB-1-326-8-366-EB-8-390-10-400		
11. Pattern Maker	Carpenter (SK)	891.20	-do-		
12. Vehicle Mechanic	Vehicle Mechanic (SK)	843.20	-do-		
13. Welder	Welder (SK)	872.10 872.20	-do-		
14. Boiler Attendant	Boiler Attendant (SK)	962.20	-do-		
15. Blacksmith	Blacksmith (SK)	831.10	-do-		
16. Moulder	Mouldar (SK)	725.10	-do-		
17. Painter	Painter (SK)	932.10 932.30	-do-		
18. Upholsterer	Upholsterer (SK)	796.10	-do-		
19. Operator Pneumatic Tools	Operator Pneumatic Tools (SK)	713.10 974.42	-do-		
20. Hammerman	Hammerman (SS)	831.40	(226) 210-4-4-866-EB-4-250-EB-5-290.		
21. Mate	Mate (SS)	-	-do-		
22. Valveman	Valveman (SS)	-	-do-		
23. Mazdoor	Mazdoor (USK)	999	196-3-220-EB-3-232		

Sanction is also accorded for the modification in the existing grades as shown below :-

(a) The trade of Tailor will be abolished : existing incumbants will be re-designated as Upholsterers.

(b) The trades of Vcharpoy Stringer, Coal Trimmer and Fireman will be abolished: existing incumbants in the pay scale of Rs.210-290 will be redesignated as Mates. The existing Charpoy Stringers in the pay scale of Rs 196-232 will be redesignated as Mazdoors.

Contd....4/.....

*Attestd
Sant.
Advocate
16/6*

-4-

(a) Signwriter and Driver Compressor will also be abolished and existing incumbants re-designated as painter and Friver Engine Static respectively.

(d) There will be no future recruitment of Glazier, and the category will be abolished when existing holders are washed out.

3. The relevent recruitment rules will be amended as necessary. Pending such amendment, recruitment as well as the channels of promotion and demotion will be on the basis of above modification as an interim measure.

4. The duties of the posts will be laid down by the Engineer-in-Chief.

5. This letter issues with the concurrence of the Ministry of Finance (Defence vide their u.o. No.1809/W-III of 1986).

Yours faithfully,
Sa/
(G.P. BKHUGUNA)
Under Secretary to the Govt
of India

*Attested
Sent. Advertise
16/63*

Tele : Milly 6040

Commander Works Engineers
Spread Eagle Falls
Shillong - 793 011

1455/DPC/96-97/49/E1A

13 Jan 97

GE Shillong
GE (AF) Shillong

**PROMOTION : INSTRUMENT REPAIRERS/MECHANICS
PRECISION INSTRUMENT (RE-DESIGNATED AS
ELECTRICIAN (SKILLED) TO THE GRADE OF
ELECTRICIAN (HIGHLY SKILLED GRADE II)**

1. Consequent to the recommendations of the Review Departmental Promotion Committee meeting held on 05 Nov 96 constituted as per E-in-C's Branch, AHQ, New Delhi order No 90270/39/ELC(3) dated 10 Feb 95, the following ex-MPIs (Re-designated as Electrician (SK) vide Government of India, Ministry of Defence addendum No 91026/ELC(3)/2395/D(W-II) dated 23 Jun 94) are approved for promotion to the grade of Electrician (HS-II) with notional seniority as shown against their names :-

(a)	(b)	(c)	(d)	(e)
MES No, Name & Designation	Promoted to	Date of notional seniority without financial effect	Formation where serving	
1. MES/223370 Shri Satya Gopal Bhattacharjee, Elect (SK)	Elect (HS-II)	15 Oct 34	GE Shillong	
2. MES/229141 Shri Rathindra Nath Brahmachari, Elect (SK)	Elect (HS-II)	11 Aug 85	GE (AF) Shillong	

2. Before the above promotions are implemented, please ensure that these individuals are not involved in any disciplinary cases or Court of Inquiry, SPE cases and there is nothing against the individuals to warrant withholding of the above promotion.

Continued to page....2 -


Attested
Smt. Advaita
16/66

-: 2 :-

3. The date from which the above individuals are brought in position against the promoted grade should be intimated to this HQ. Names of the individuals who could not be placed in position in the higher post stating reasons will be intimated to this HQ by 31 Jan 87 latest.

4. Necessary casualty to this effect should be published in the next issue of your PTO.


5. Please take immediate necessary action and accord DPC priority.


(Ashok Kumar)
Sb
Commander Works Engineers

Copy to :-

- 1) HQ CE BC Calcutta
- 2) HQ CE Shillong Zone
- 3) HQ CE (AF) Shillong Zone
- 4) CWE (AF) Guwahati
- 5) LAO (Army) Shillong
- 6) LAO GE Shillong
- 7) LAO GE (AF) Shillong

KM/


16/06

To,

-28-

Annexure -4 (series)

The Engineer-in-Chief's Branch
Army Headquarters
DHQ PO New Delhi 110011

(Through Proper Channel)

SUB : REVIEW DPC IN RESPECT OF IR/MPI FOR
PROMOTION TO THE POST OF ELECT HS-II/I
AND FINANCIAL BENEFIT WEF 15-10-84

Respected Sir,

Reference my application dated 21 Jul 97 addressed to you-kindself alongwith copy endorsed to others (copy enclosed for ready reference).

2. With reference to my above representation, it is surprise to note that after a lapse of 10 months nothing is heard from you.

3. In view of above, I request your kind honour to kindly let me know the present position of the case whether my seniority and financial benefit will be counted from 15 Oct 84 as per my Juniors or otherwise.

4. It would be a good favour if I am blessed with your early reply.

Thanking you.

Yours faithfully,

Geophakjee

(SG Bhattacharjee)
Elect HS-II

Dated : 21 May 98

Station : Shillong

Encl : As above

Copy to :-

General Secretary
Moghalaya MES Workers Union
Shillong

Mr JL Dasgupta, Member
JCM (Army HQ) Council
AHQ, New Delhi-11

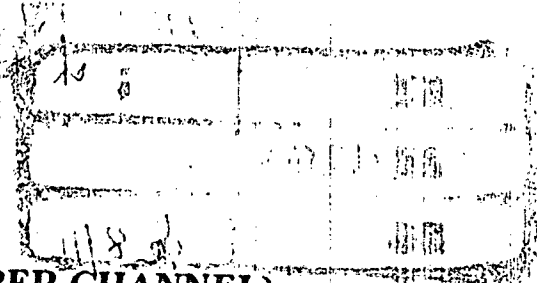
for information and
suitable intervention
please.

Ambedkar
Advocate
18/5/98

To
CWE Shillong
SE Falls Shillong - 793 011

10/3/18 - 29 -

Annexure - 4 Series



(THROUGH PROPER CHANNEL)

FIXATION OF SENIORITY : ELECTRICIAN HS GDE I :
MES/ SHRI SG BHATTACHARJEE, ELECTRICIAN HS II

Sir,

With due respect I request your kind honour to re-fix my seniority in the grade of Electrician HS I in the review DPC in view of my appeal dated 30 Jun 1994 (Copy enclosed) and OA No. 371/99. In this connection, please also refer to GE Shillong letter No. 371/99/SGB/105(Legal) dated 18 Jun 2001 as amended vide No. 371/99/SGB/106/EIC (Legal) dated 20 Jun 2001

My case regarding promotion to Electrician HS II, review DPC was held vide your letter No 1455/DPC/96-97/49/EIA dated 13 Jan 1997 and I was granted notional seniority wef 15 Oct 1984 in view of E-in-C's Branch Army HQ New Delhi letter No./EIC(3) dated 10 Feb 1995.

That Sir, due to non conducting of any trade test in the grade of IR/MPI, I was not considered for promotion earlier. Now I have passed the trade test for Electrician HS Gdc- I, therefore I request your honour to kindly consider my promotion in the review DPC with antedate along with all monetary benefits.

I do hope that the department will do justice in my case.

Thanking you.

Attested
Sub. Advocate
16/06

Yours faithfully,

(SG Bhattacharjee)

MES/228870

Electrician HS Gde II

O/O the GE SHILLONG

Station : Shillong

Dated 27/11 Nov 2001

38
2/11

TELE : MILY : 6060

Garrison Engineer
Shillong Division
Shillong - 2

371/99/SGE/ 106/ EIC (Legal)

20 June 2001

CWE Shillong

FIXATION OF SENIORITY : OA NO 371/99
MS-228870 SHRI SG BHATTACHARYA,
ELECTN HS -II

1. Reference this office letter No. 371/99/SGE/105/EIC (Legal) dated 18 June 2001.

2. FOR : Para 2 : In view of the above, the seniority of the above named individual has to be re-fixed in the category of Electn HS-II with ante-date as and when his name comes in the DPC.

READ : Para 2 : In view of the above, the seniority of the above named individual has to be re-fixed in the category of Electn HS - I with ante-date as and when his name comes in the DPC.

Copy to :-

AGE B/M Shillong : For info please

MS
(P F Singh)
Major
Garrison Engineer

✓ Sri S. G. Bhattacharyya,

*Attested
Sd/-
14/6/01*

1013/10 -32-
Tels : 5645

Annexure - 86
Commander Works Engineers
Spread Eagle Falls
Shillong- 793011

1455/DPC/110 /EIA

15 Jan 2002

GE Shillong

FIXATION OF SENIORITY: ELECTRICIAN HS-I
MES-228879 SHRI SG BHATTACHARJEE, ELECT
HS-II/

1. Reference your letter No. 1013/10/339/ELE dated 22 Dec 2001.

2. Application dated 20 Dec 2001 in respect of the above individual is returned herewith with following reply:-

(a) Refer E-in-C's Branch Army HQ New Delhi letter No. 90270/09/TGS/Policy/LIC(3) dated 12 May 2000 according to which promotion should be effective from the date of passing of Trade Test.

S. Langstich
(S. Langstich)
AO-II
For CWS Shillong

Encls :- As above

Copy to :-

HQ CE Shillong Zone
Spread Eagle Falls
Shillong- 793011

37
12/11

Attested
Sd/-
16/02

CWE Shillong
SE Falls Shillong - 793011

(THROUGH PROPER CHANNEL)

FIXATION OF SENIORITY : ELECTRICIAN HS GDE I
MES/228870 SHRI SG BHATTACHARJEE, ELECT HS II

Sir,

Please refer to my application dated 08 Nov 2001 and your letter No 1455/DPC/42/EIA dated 24 Nov 2001.

With due respect I requested your honour to fix my seniority in the grade of Electrician HS I in the review DPC in view of my appeal dated 30 Jun 1995 for the following reasons :

As per E-in-C's Branch letter No 90270/89/EC/EIC(3) dated 10.2.1995 review DPC are to be convened and IR/MPI who are otherwise eligible for promotion, be considered for promotion to HS II with notional seniority as per with their immediate junior Elect (SK)/wireman who have already promoted to Elect HS II. The overall percentage of HS II/I vacancies are to be maintained as per existing instructions (GOI MOD letter No 3316/OS/(O&M) Civ-I/84 dated 15.10.84), but no chance to appear for trade test for HS I was given to me till Jan 2001. During Feb 2001 Trade Test was conducted and I was declared Pass.

My line of promotion from IR/MPI to Ch Electrician equivalent to HS I (Same Pay Scale) but no Trade Test was conducted till 1980 i.e. upto the date of introduction of three grade structures for other grades. IR cadre merged with Electrician cadre vide GOI MOD No 91026/EL(3)/672/D (W-II) dated 21 Feb 1994 and accordingly to E-in-C's Br letter dated 10.2.95 review DPC was held and I was promoted and placed in position to Elect HS II wef 15.10.1984 vide your letter No. 1455/DPC/96-97/49/EIA dated 13.1.1997.

As per E-in-C's Branch letter No. 10.2.95, no Trade Test for HS I (i.e. 15%) was conducted by you till Jan 2001, during Feb 2001 Trade Test conducted and I was declared pass for HS I.

In view of above I request your honour to consider my case for promotion to HS I wef 16 Oct 1985 i.e. after completion of one year eligible service in the grade of Elect HS II.

I do hope that the department will do justice in my case.

Thanking you,

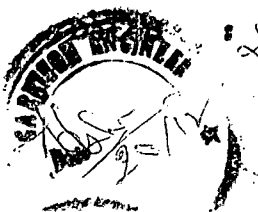
Yours faithfully,

SG Bhattacharjee

(SG Bhattacharjee)
MES/228870
Electrician HS II
O/O the GE Shillong

Station : Shillong

: 20 Dec 2001



STATEMENT OF CASE IN RESPECT OF MES/228870 SHRI SC BHATTACHARJEE,
ELECT HS-I FOR PROMOTION TO THE HIGHER PAY SCALE AS PER HIS
SENIORITY

Annexure-28

INTRODUCTION

1. MES/228870 Shri SC Bhattacharjee, Elect HS-I is initially appointed as Lineman at GE Shillong on 19 Jul 71. During the year 1980 he was promoted as Instrument Repairer for which line of promotion was Ch Electrician (Equivalent HS-I). As per comments of expert classification committee circulated vide E-in-C's Branch, Army HQ letter No 90270/73/86/LIC(3) dated 09 Apr 2002 (copy att), the skilled trades/posts were granted for higher pay scale of Rs. 330/- to Rs. 480/- wef 16 Oct 81.

2. On the combined seniority of Electrician which was re-cast after inclusion of Wireman, SBA etc, the trades Armature Winder & Instrument Repairer were placed senior to Wireman and SBA. However, since certain Wireman and SBA were already granted higher pay scale of Rs. 330/- to Rs. 480/- with effect from 16 Oct 81 against 10% vacancies whereas, they were all to be placed below Electrician, Armature Winder and Instrument Repairer. This thus created a situation that a junior was drawing higher pay scale than his senior.

3. Since the individual is of Instrument Repairer trade which had already in the pay scale of Rs. 260/- to Rs. 350/- he had to be given preference for upgradation in the higher pay scale of Rs. 360/- to Rs. 480/- as already mentioned in Para 2 above against the allotted 10% vacancies without passing any trade test. But, he was not given any opportunity for up gradation to the higher pay scale inspite of his seniority. Resulting, the individual had lost his further promotions by due time and he has not given any opportunity to appear in the trade test of HS Gde-I even after his repeated requests/applications till 2001. Resulting, the individual has upgraded as HS Gde-I only in 2002. Vide Min of Def letter No 3810/DS(One)/Civ.I/84 dated 15 Oct 84, Min of Def introduced three-grade structure in certain common categories of Industrial Tradesmen with benchmark percentages given below: -

(a)	Highly Skilled Gde I	15%
(b)	Highly Skilled Gde II	20%
(c)	Skilled Gde	65%

4. According to the category wise percentage given above, it is clear that if the above individual had given promotion to the higher pay scale of Rs. 360/- to Rs. 480/- as per his seniority, he had automatically to be given as Highly Skilled Gde I against the allotted 15% vacancies being a senior of the Electrician trade after inclusion of the various senior/junior trades.

PROPOSAL

4. It is proposed that an early decision on the matter may be obtained from higher authorities in order to dispose off the case, as the individual is due for promotion to the next higher rank as Master Craftsman as per his appointment date.

Attestd
Sd/-
Advocate
16/6/06

OUTLINE JUSTIFICATION

5. The individual was being a trade of Instrument Repairer at the time of 10% vacancies released by the Min of Def, he has to be given promotion to the higher pay scale i.e. Rs. 360/- to Rs. 480/- as given to the another junior trades to him. Being a senior trade before inclusion of the Electrician trade, he had also to be given as Highly Skilled Gde I wef 15 Oct 84 against the allotted 15% vacancies, as most of the junior who had already put in the pay scale of Rs. 360/- to Rs. 480/- were promoted to the rank of HS Gde-II against the 20% allotted vacancies.

FINANCIAL EFFECT

6. The financial efforts by giving promotion of the higher pay scale will be as Rs. 360/- to Rs. 480/- to the individual instead of Rs. 260/- to Rs. 350/- wef 16 Oct 81 to 15 Oct 84 and in the rank of Highly Skilled Gde I will be Rs. 480/- to Rs. 560/- wef 15 Oct 84 to 31 Dec 95, as the pay scale of HS-II and HS-I has been fixed in the same scale wef Fifth Central Pay Commission

Station : Shillong;

Dated : 26 Jul 2002

[Signature]

(P P Singh)
Major
Garrison Engineer

To,
The Commander Works Engineers.
SE Falls Camp, Shillong
Shillong-793011.

(Through Garrison Engineer, Shillong)

SUB : REQUEST FOR FIXATION OF SENIORITY & ELECTRICIAN
HS GDE-I OF MES-228870 SHRI SC BHATTACHARJEE
ELECT HS-II

R/Sir,

With due respect and most humble I beg to state that the following few lines for your kind consideration and necessary sympathetic order :

With reference to my applications dated on Nov 2001 and 20 Dec 2001 respectively. I the undersigned is requested for fixing of my seniority in the grade of electrician HS-I as per review DPC in view of my appeal dated 30 Jun 1995. Hence, you are requested investigation of the matter may please be taken at earliest.

I therefore earnestly request you as per E-M-C's Branch letter bearing No. 90270/89/RC/EIC(3) dated 10-2-1995 and may please be reviewed and allowed me to seniority accordingly against my junior and for which act of your kindness I shall be grateful to you for ever.

It is also intimated that as per my application dated 08 Nov 2001 and 20 Dec 2001 respectively as I requested for my seniority but till date I have not received any suitable reply which you have intimated vide ~~letter~~ your letter No. 1465/DPC/10/EIR dated 15 Jan 2002 for which I am unsatisfied of your reply.

2. Hence, again I repeated for the same for taking a necessary sympathetic order at your end.

Thanking you,

Dated 23 Mar 2002

Yours, faithfully

Shri SC Bhattacharjee
Advocate
16/06/03

Shri SC Bhattacharjee
(SC Bhattacharjee)
MES/228870
ELECT HS-II
Garrison Engineer
Shillong

16/3/15
Tele Mil 6045

Office of the
Commander Works Engineers
Upred Eagle Falls
Shillong- 783 11

1455/DFC/ 182 /E1A

17 Apr 2002

GA Shillong

END OF APPLICATION:

1. Application dated 23.3.2002 of MES-228670 Shri SC Bhattacharjee, Elec BS-II is returned herewith unattended.
2. No cognisance can be given to his application as reply to his earlier application dated 20 Dec 2001 has already been furnished to your Office vide our letter No 1455/DFC/110/E1A dated 15 Jan 2002.
3. Please issue one time reply to the individual to avoid further representation.

[Signature]

(G. Chakravorty)
Adn Officer
for Commander Works Engineers

93
17/4

Accepted
RMS
Advocate
16/06/03

Annexure-11

Tele : 5045

Commander Works Engineers
Spread Eagle Falls
Shillong-793011

1028/427/EIA

26th Jul 2002

Garrison Engineer
Shillong Division
Shillong-02

STATEMENT OF CASES IN RESPECT OF MES-228870 SHRI S
G BHATTACHARJEE, ELECT. H S I.

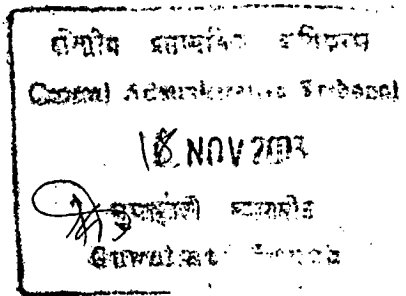
1. Ref. Your letter No. 1013/18/2/EIE dt. 23 Jul 2002.
2. Statement of case in respect of MES-228870 Shri SG Bhattacharjee, Elect-HS-I, received under your above quoted ref. Is returned herewith for re-submission to this office duly complied with the following observations :

- (a) E-in-C's Branch, Army HQ letter No. 90270/73/86/EIC(3) dated 09.4.2002 not found attached with the statement of case. Pl. forward the same to this office for our further action.
- (b) Comparative details of Junior incumbents who according to the individual statement have been created higher pay scale ahead of the individual are invariably required for processing the case to the higher authority. Pl. forward details of such personal at the earliest.

Enclo : (4 sheets)

(B. Murugosh)
Major
DCWE E/M
For CWE Shillong

Atestw
Advocate
18/06/02



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO 134 OF 2003

Shri SG Bhattacharjee Applicant

-Vs-

Union of India and Others Respondents

- AND -

IN THE MATTER OF

Written Statement submitted by the respondents

The humble respondents beg to submit the para-wise written statement as follows:-

1. That with regard to Para 1, 2, 3, 4.1 & 4.2 of the application the respondents beg to offer no comments.
2. That with regard to the statement made in Para 4.3 to 4.11 of the application the respondents beg to state that matter pertains to organizational restructuring by incorporation of three grade structure thereby improving the promotion prospects of industrial staff. However, due to certain anomalies in Govt orders, the post of instrument repairer was not included in three grade structure. However, the said anomaly was rectified vide Min of Defence letter No 91026/EIC(3)/672/D(W-II) dated 21 Feb 94. Thereafter the applicant was given ante date seniority w.e.f 15 Oct 84 as well as monetary benefits as per direction of CAT in OA No 371/99. It is submitted that OA 371/99 (Copy enclosed as Annexure I) filed by the present applicant was also filed to obtain

Contd 2/-

relief from anomalies due to incorporation of three grade structure in MES without incorporating instrument repairer as a part of the same. In OA No 371/99, the present petitioner had sought for the following relief: -

- (a) Financial benefit to the applicant from the date of notional seniority in the cadre of Electrician HS-II modifying the order of promotion of the applicant issued under letter No 1455/IOC/96-97/EIA dated 13 Jan 97.
- (b) Pass any other order or orders as deemed fit and proper in the facts and circumstances of the case.
- (c) Cost of the case.

No claims whatsoever were made for claiming seniority of HS-I or ante-date seniority of HS-II from 1981 through OA 371/99. The present OA too seeks remedial measures for anomalies created by non inclusion of instrument repairer in the three grade structure. To that extent the present OA is a repetition of OA No 371/99 for which judgement (copy enclosed as Annexure 2) has already been delivered and implemented by giving notional seniority and making payment of Rs. 95,411/- on 19 may 2001 (copy of cash receipt enclosed as Annexure 3). Therefore the OA is liable to be dismissed.

3. That with regard to the statement made in Para 5.1 of the application the respondents beg to state that the applicant is asking for the benefit as an after thought and with malafide intention subsequent to getting notional seniority and financial benefits w.e.f 15 Oct 84 through CWE Shillong letter No 1455/DPC/96-97/49/EIA dated 13 Jan 97 (copy enclosed as Annexure 4) and OA No 371/99.

4. That with regard to the statement made in Para 5.2, of the application the respondents beg to state that relative seniority/promotion of industrial staff is fixed at CWE level. As per expert committee opinion in any CWE area if any junior Wireman or SBA had been granted higher pay scale of Rs. 330-480/- with

Contd....3/-

effect from the date their juniors were granted with all consequential benefits. In the instant case the matter is being scrutinised by CWE Shillong. Anomaly if any, may be forwarded to Govt of India for necessary sanction. However if no such anomaly exists in CWE Shillong, the petitioner in that case will not be entitled to any benefit.

5. That with regard to the statement made in Para 5.3 to 5.11, of the application the respondents beg to state that same as in Para 4 above.

6. That with regard to Para 6, of the application the respondents beg to offer no comments.

7. That with regard to the statement made in Para 7, of the application the respondents beg to state that the present OA too seeks remedial measures for anomalies created by non inclusion of of instrument repairer in the three grade structure. To that extent the present OA is a repetition of OA No 371/99 for which judgement has already been delivered and implemented in light of OA No 171/99 the declaration of the petitioner is false and reflects the malafide intent of the petitioner and is liable to be dismissed.

8. That with regard to the statement made in Para 8, of the application the respondents beg to state that the petition has been filed to seek benefits as an after thought and with malafide intent and is therefore liable to be dismissed.

9. That with regard to Para 9 to 11, of the application the respondents beg to offer no comments.

Contd....4/

VERIFICATION

I, Shri Aseem Kumar, AEE, Office of the Garrison Engineer Shillong Division, Shillong – 793 002 being authorized do hereby solemnly affirm and declare that the statements made in Paragraphs _____ being matters of record are true to my information derived therefore and those made in the rest are humble submission before the Hon'ble Tribunal.

And I sign the verification on this 28 day of October 2003.

Aseem Kumar

DEPONENT

Done more

(42)

(Annex-12 II)

54

In the Central Administrative Tribunal

Guwahati Bench : Guwahati.

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

O.A. NO. 371/99

Shri Satyagopal Bhattacharjee

-Versus-

Union of India and others.

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1.	-	Application	1 -11
2.	-	Verification	12
3.	1 & 2	Copy of the letter dated 15.10.1984 and letter dated 24.6.1987.	13-18
4.	3	Copy of the promotional order 13-1-92	19-20
5	4,5,6,7 & 8	Copy of the representations dated 21.4.97, 5.2.98, 21.5.98, 28.5.98, 7.10.98	21-26
6.	9 & 10	Copy of the letter dated 10.6.99 and letter dated 9.8.99	27-28

Signature.

In the Central Administrative Tribunal

Guwahati Bench :: Guwahati.

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

O.A. No. _____/99.

Between

1. Shri Satyagopal Bhattacharjee
S/O Late Kumbh Ch. Bhattacharjee
Working as Instrument Repairer in the
Office of the Garrison Engineer M.E.S &
Shillong.
2. Shri Rathindra Narayan Brahmachari
S/O Late G.R. Brahmachari
Working as Instrument Repairer in the
Office of the G.E., M.F.S,
Shillong.

..... Applicants.

-Versus-

1. The Union of India
Through the Secretary,
Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief
Army Headquarters
D.P.R. P.O., New Delhi- 110011.

3. The Commander Works Engineer
S.E. Falls, Shillong-11.

4. The Chief Engineer
S.E. Falls, Shillong-11.

5. The Garrison Engineer
(Airforce), Shillong.

..... Respondents.

1. Particulars of orders against which this application is made.

This application is made praying for a direction upon the respondents for grant of monetary benefit with effect from 15.10.84 from 11.4.85 in terms of promotion order dated 13.1.97 and in the light of the letter dated 1.2.99 and 10.6.99 issued by the respondents.

2. Jurisdiction.

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

3. Limitation.

The applicants further declare that the instant application has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case

52 4.1. That your applicants are the citizens of India and as such is entitled to all the rights, privileges and protections as guaranteed by the Constitution of India. They are presently working as Instrument Repairer in the office of the Garrison Engineer, MES, Shillong.

4.2. That your applicant No.1 initially appointed as Lineman on 19.7.1971 under Garrison Engineer Shillong thereafter promoted as Instrument Repairer in the scale of 260-400/- in the ~~xxxxxx~~ preremised pay scale on 8.9.1980 and the applicant No.1 is still working as Instrument

Repairer. *Applicant's pay is granted as per provision of the application form dated 19.7.1981 - under the provision of the application Section 4, 5 (a) and (b) of (A) procedure 1981*

4.3. That your applicant No.2 was initially appointed as Lineman in the year 1972 under the Garrison Engineer, Airforce, Shillong.

4.4. That your applicants beg to state that in the month of October 1981 all juniors of the applicants who were serving as Lineman, Wireman and STA were at the relevant time upgrated and placed in the scale of pay of Rs. 260-400/- in that granting any further benefit to the present applicants as a result the juniors of the applicants were brought in the same rank and status and also in the same pay scale i.e. at par with the present applicants.

Most surprisingly again on 15.10.1984 so-called juniors

9

44

namely lineman, Wireman and SBA were upgraded, redesignated as Electrician S.K. and promoted to the cadre of H.S.II with retrospective effect i.e. with effect from 15.10.84 in terms of letter bearing No. 91026 IMC/88/116/D(W-II) dated 24.6.1987 issued by the Under Secretary, Govt. of India, Ministry of Defence. In this connection it is stated that the so called juniors of the applicants were upgraded and were placed in the scale of Rs. 260-400 vide letter No. 3310/DS/(O & N) C.IV-I/84 dated 15.10.84. The so called juniors of the applicants were further promoted to the cadre of H.S.II as per instructions laid down in letter dated 24.6.1987 and they were placed in the pay scale of Rs. 330-480/- but the applicants were left out as because there was specific order for the category of Instrument Repairer for any further promotion from the cadre of Instrument Repairer, although they were also recruited like many of their juniors in the cadre of lineman at the initial recruitment in the same department. But their case were ignored by the respondents for further promotions like their juniors and they remained in the cadre of Instrument Repairer for years together without any promotional benefit in the pre-revised pay scale of Rs. 260-400/-.

Copy of the letter dated 15.10.1984 and letter dated 24.6.1987 are annexed as annexures-1 and 2.

4.5. That your applicants beg to state that nonconsideration of the cases of the applicants and promotion of the cases of the applicants and promotion of the juniors of the applicants with ~~xxxxxxx~~ retrospective monetary benefit and

seniority with effect from 15.10.84 were highly arbitrary, illegal and the same are violative of Article 14 and 16 of the Constitution and the applicants are meted out with hostile discrimination. Finding no other alternative the applicants started submitting representations. The applicant No. 1 submitted representation on 12.7.85, 8.8.85 and 10.9.85, praying inter alia for his promotion to the cadre of charge Electrician which is the normal avenue of promotion of the applicant. The name of the applicant was forwarded for promotion to the post of charge Electrician vide letter dated 17.6.1986. The applicant No.1 was redegraded Electrician(SK).

4.6. That your applicant No.1 and 2 submitted representation for promotion to the cadre of H.S. II and H.S. I on 2.7.94, 2.1.95, 2.8.95, however, on 19.4.95 Headquarter Chief Engineer, Shillong being satisfy regarding bonafide claims of the applicants for promotion to the cadre of H.S. II issued instructions/direction for holding review JPC for promotion of the applicants to the post of Electrician H.S. II, the applicants accordingly appeared in the trade test list and they were declared successful on 23.5.96 and they were promoted to the cadre of Electrician H.S. II with the notional seniority with effect from 15.10.84 without any financial benefit vide letter No. 1455/JPC/96-97/49/EIA dated 13.1.97 issued by the Commander Works Engineer, Shillong. The decision of not granting financial benefit is highly arbitrary and illegal when the similar financial benefit were granted to the juniors of the applicants with effect from 15.10.84 and the applicants were superseded

-11- (48) 69

at the relevant time by their juniors, therefore there can -
not be any justification to deny any monetary benefit when
the applicants were promoted to the cadre of Electrician
H.S.II by holding a review DFC by rectifying the earlier
mistakes committed by the respondents.

copy of the promotional order dated 13.1.97 is
annexed as Annexure- 3.

4.7. That your applicant immediately after receipt of
the promotion order submitted numbers of representations on
8.7.97, 20.1.97, 21.4.97, 21.7.97, 5.2.98, 21.5.98, 28.5.98,
7.10.98, 31.5.99 for granting financial benefit with effect
from 15.10.84 on the ground that the junior of the applicants
were granted the financial benefit with effect from 15.10.84.

However the authority vide their letter bearing No.
1455/DFC/96-97/136/EIA dated 24.7.97 it was informed that they
are not entitle to monetary benefit as such pay fixation
cases of the applicants may be made accordingly. However
considering their subsequent representations the authority
vide their letter dated 1.2.99 asked the concerned authority
to forward the ^{detailes} ~~details~~ of financial effect regarding grant of
financial benefit with effect from 15.10.84.

Copy of the representations dated 21.4.97, 5.2.98,
21.5.98, 28.5.98, 7.10.98 are enclosed as annexure-
4, 5, 6, 7 and 8 respectively.

4.8. That your applicants beg to state that the COME,
Shillong vide its letter dated 9.8.99 communicated the letter

61 ✓
of the Chief Engineer bearing No. 7411/2/1749/NIC(3) dated 10.6.99 wherein it is stated that the Army Headquarter Engr-Gen Branch has taken up the case for grant of financial benefits to the cadre of Electrician R.2. II from the date of notional seniority with the Ministry of Defence to accord Govt. approval to allow financial benefits. It is further stated that the financial benefit ~~gr~~ would be granted after getting approval/decision from the Ministry of Defence .

4.2. That it is stated that the promotion of the applicant were given vide order dated 13.1.97 i.e. after a lapse of 10(ten) years from the date of promotion granted to the juniors to the applicants in the year 1987 juniors are promoted to R.2. II with retrospective effect from 15.10.84 with financial benefit but the same has been denied to the present applicant due to non-consideration of their cases as a result present applicants incurring financial loss each and every month due to non fixation of pay the higher scale in HG II even when the cases were considered for promotion by holding review JTC after approaching the authorities on several occasion through repeated representation but now the authorities against harassing the applicants by not granting the financial benefits from the date notional seniority, therefore in the compelling circumstances finding no other alternative the applicants approaching the Hon'ble Tribunal for grant of financial benefit with effect from 15.10.84 as the financial benefit granted to their juniors with effect from 15.10.84.

(46) 2

It is a settled position of law when promotional benefits granted by holding review DFC the financial benefit cannot be denied to the promotion . - 13

A copy of the letter dated 10.6.99 and letter dated 9.8.99 are enclosed as Annexure - 9 and 10 respectively.

4.10. ~~That~~ your applicant beg to state that the ~~promotion~~ granted deliberately on 13.1.97 without financial benefit thereafter applicants approached number of occasion through representations since 1997, now it is stated vide letter dated 10.6.99 that the case of grant of financial benefit has been taken up with the Ministry of Defence for its approval but till date no decision is communicated regarding grant of financial benefit from the date of grant of notional seniority, therefore Hon'ble Tribunal be pleased to direct the respondents to grant financial benefit the applicants from the date of grant of notional seniority.

4.11. That this application is made bonafide and for the ends of justice.

5. Grounds for relief with legal provisions.

5.1. For that act and actions of the respondents violate the applicants right under articles 14 and 16 of the Constitution of India and also statutory rights.

5.2. For that the act and actions of the respondents affects the applicants right to enjoy their properties

63 14 and as such violates applicants rights under article 21 as well as article 300A of the Constitution of India.

5.3. For that the respondents deprived the applicants their due financial benefits from the date of grant of notional seniority as the same were granted to their juniors while promoted them ignoring the claims of the present applicants, without the authority of law and in colourable exercise of power.

5.4. For that the respondents has no jurisdiction to withhold the arrears of financial benefits when the same were granted to their juniors as such the applicants are legally entitled to financial benefit under the statutory provision of law.

5.5. For that when promotion were granted to the present applicants by holding review DFC the applicants are entitled constitutionally and under the statutory provision of law the reliefs prayed in the application .

5.6. For that the matter for grant of financial benefit has been duly forwarded by the department to the Ministry of Defence long back is still pending without any final decision as reflected of the letter dated 10.6.99.

6. Details of remedies exhausted.

That the applicant state that he has no other alternative and other efficacious remedy than to file the application, representations through proper channel were submitted but to no result.

-15-

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

The applicants further declares that they have not filed any application previously and no case is pending with any other court on this subject matter.

8. Reliefs sought.

In view of the facts and circumstances stated in paragraph-4 above the applicants prays for the following reliefs.

- 8.1. ^{the} That the respondents be directed to grant financial/monetary benefit to the applicants from the date of grant of notional seniority in the cadre of Electrician H.S. II modifying the order of promotion of the applicants issued under letter No. 1455/100/97-97/49/MIA dated 13.1.97.

- 8.2. To pass any other order or orders as deem fit and proper in the facts and circumstances of the case .

- 8.3. Cost of the case.

9. Interim order prayed for.

During the pendency of the application Respondents be directed to consider the claim of financial benefit of the applicants from the date of grant of notional seniority as granted vide order dated 13.1.97 and further be declare that the pendency of this application shall not be a bar for grant of financial benefit as prayed for in this application.

65 16/ 10. That this application has been filed through advocate.

11. Particulars of the IPO.

- i. IIC NO. :
- ii. Date of Issue :
- iii. Issued from : G.P.O at Guwahati.
- iv. Payable at : G.P.O. Guwahati.

12. List of enclosures .

As stated in the Index.

Verification12/-

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

I, Shri Satya Gopal Bhattacharjee, son of late
Kumud Chandra Bhattacharjee aged about 51 years resident
of Shillong working in the office of the Garisson Engineer,
Shillong as instrument repairer do hereby verify that the
statements made in paragraphs 1 to 4 and 6 to 12 are true
to my knowledge and those made in paragraph 5 are true to
my legal advice and I have not suppressed any material fact.
I have been authorised to sign this verification by the
applicant No.2.

And I sign this / verification on this the day of
November, 1999.

Signature.

COPY

No. 3310/LS/(9&M)/Civ-1/84
Govt of India
Ministry of Defence

New Delhi, the 15th Oct 1984

To

The Chief of Army Staff
New Delhi

Sub: FITMENT OF INDUSTRIAL WORKERS OF MES IN PAY SCALES RECOMMENDED BY THE THIRD PAY COMMISSION

Sir,

Based on the decisions taken by the Government on the unanimous recommendations of the Anomalies Committee, I am directed to convey the sanction of the President to the following :-

(1) Upgradation of the following jobs from semi-skilled grade (Rs. 210-290) to the skilled grade (260-400) :-

Sl No.	Jobs under Title	Existing Scale	Revised Scale
1.	Book Binder	Rs. 210-290	Rs. 260-400
2.	Saddler	-do-	-do-
3.	Boot Maker	-do-	-do-
4.	Carpenter	-do-	-do-
5.	Pipe Fitter	-do-	-do-
6.	Plumber	-do-	-do-
7.	Mason	-do-	-do-
8.	Moulder	-do-	-do-
9.	Painter/Polisher	-do-	-do-
10.	Sign Writer	-do-	-do-
11.	Sawyer	-do-	-do-
12.	Upholsterer	-do-	-do-

These orders supercode the earlier orders in regard to fitment of the above categories workers in the relevant scales of pay from the date of issue of this letter.

Fresh induction to the trades listed in (1) shall be from

Contd., , , , /-

14
2
(a) Semi-skilled categories to be identified by you or needed categories in the pay scale of Rs. 210-400 already existing under the present recruitment rules, subject to the worker having rendered a minimum of three years service in the grade and after passing the prescribed trade tests; and

(b) Direct recruits with ITI certificate/Ex-trade apprentices/HWIV etc. inducted in the semi-skilled grade, who have rendered 2 years service in that grade.

(ii) Provision/introduction of Highly skilled grade II (Rs. 320-430) and Highly skilled Grade I (Rs. 380-560) for common category jobs listed in Annexure 1 classified as 'Skilled' depending on the functional requirement of higher skilled jobs, in the following manner as a bench mark percentage :-

(a) Highly skilled Grade I (Rs. 380-560) 15%

(b) Highly skilled Grade II (Rs. 320-430) 20%

(c) Highly skilled Grade (Rs. 260-400) 65%

This should be given to the trades enumerated in Annexure I with viable number of jobs and if there non-viable trades these should be grouped together for the purpose of giving the above benefit. In the trades where the above bench-mark percentages are introduced the selection grade for the skilled grade, if provided, will stand simultaneously abolished as a one time measure.

2. These orders will take effect from the date of issue.

3. The expenditure involved shall be debitable to the respective head of the Defence Service Estimates.

4. This issues with the concurrence of the Ministry of Defence (Finance Division) vide their interdepartmental No 1755/Dir/(4) Eqpt) of 15th October 1984.

Yours faithfully,

Sd/- x x x x x x x

(NAME KRISHNA)

DEPUTY SECRETARY TO THE GOVT OF INDIA

Tele No. 375040

ANNEXURE - I

MES

LIST OF COMMON CATEGORY "SKILLED JOBS"

- | | | |
|-------------------|------------------------------|---------------------|
| 1. Blacksmith | 2. Carpenter | 3. Electrician |
| 4. Fitter Auto | 5. Fitter Auto Elect | 6. Fitter Gen. Mech |
| 7. Fitter Pipe | 8. Fitter Refrigeration Mech | 9. Gun Mistry |
| 10. Mason | 11. Moulder | 12. Millwright |
| 13. Pattern Maker | 14. Painter | 15. Turner |
| 16. Welder | | |

/COPY/

15

16

56

6a

No. 91026/EIC/88/D(W-11)
 No. Bldgs/ETG/OC/D(W-18)-
 Government of India
 Ministry of Defence,
 New Delhi, the 24 June 1987.

Sir,

To

The Chief of the Army Staff
 New Delhi

Subject :- RATIONALISATION OF TRADES OF THE INDUSTRIAL
CADRE OF THE MES

Sir,

The President is pleased to sanction the redesignation and
 condensation of the following categories of personnel in the
 MES in order to conform to the structure of the National Classification
 of Occupations :-

Sl No	Existing Designation	Revised NCO	Code No	Pay scale
1	2	3	4	5
1.	Charge Electrician	Senior Electrician (HS-1)	851.10	330-12-500- EB-15-560
2.	Charge Mechanic	Senior Mechanic (HS-I)	-	-do-
3.	Charge Mechanic Refrigeration	Senior Mechanic Refrigeration & Air Conditioning (HS-I)	845.70	-do-
4.	Driver Mechanical Equipment	Operator Earth Moving Machinery (SK)	974.10 974.15 974.20 979.10	260-6-290-EB: 6 326-8-366-EB-8 390-10-400.
5.	Armature Winder	Electrician (SK)	851.10	-do-
6.	Electrician			
7.	Cabinet Maker	Carpenter (SK)	811.20 (811.20)	-do-
8.	Carpenter	Carpenter (SK)	811.20	-do-
9.	Sawyer			
10.	Fitter Engine	Mechanic Petrol and Diesel Engine (SK)	845.10 845.13	-do-
11.	Engine Artificer			
12.	Instrument Repairer	Mechanic precision Instrument	841.15 841.20 851.20	-do-

Contd...2/-

1	2	3	4	5
13.	Refrigerator Mechanic	Mechanic Refrigerator	845.70	260-6-290-EB-6-326-8-366-EB-8-390-10-400
14.	Turner	Machinist (SK)	835.10	-do-
	Driver Engine Static, Driller	(a) Driver	961.20	
	Road Roller (IC) & Small plant Compressors, Dumpers, Dacauville Engines, Concrete Mixers	Engine Static (SK)	961.25	
		(b) Driver Mobile Plant (SK) (c)	974.45	-do-
		Driver Concrete Mixer (SK)	974.70	
			210-4-226-EB-4-250-EB-5-290.	
15.	Driller well Boring	well Driller cum pile driver	717.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400.
17.	Line Man	Electrician (SK)	855.10	-do-
18.	Switch Board Attendant	Electrician (SK)	857.10	-do-
19.	Wireman	Electrician (SK)	-	-do-
20.	Mason	Mason (SK)	951.20 951.40 951.90 952.10 952.30 952.60 955.10	-do-
21.	Packer Grade I	Packer Gde I	976.00	260-6-290-EB-6-326-8-366-EB-8-390-10-400.
22.	Packer Grade II	Packer GDE II		210-4-EB-4-250-EB-5-290.
23.	Pipe Fitter	Fitter Pipe	871.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400.
24.	Plumber	-do-	871.20	-do-
25.	Cane Weaver	Cane man	942.30	210-4-226-EB-4-250-EB-5-290.
26.	Lift Attendant	Lift Operator	979.30	-do-
27.	Motor pump Attendant	Pump House Operator	961.70	260-6-290-EB-6-326-8-366-EB-8-390-10-400.
28.	Barrow Boy	Barrow Boy	-	210-4-226-EB-4-250-EB-5-290.
29.	Cable Jointer	Cable Jointer (HS-II)	857.30	300-8-370-10-400-EB-10-400

Contd...3/...

30.	Lift Mechanic	Lift Mechanic (SK)	-	260-6-290-EB-326-8-368-EB-8-390-10-400
31.	Pattern Maker	Carpenter (SK)	891.20	-do-
32.	Vehicle Mechanic	Vehicle Mechanic (SK)	843.20	-do-
33.	Welder	Welder (SK)	872.10 872.20	-do-
34.	Boiler Attendant	Boiler Attendant (SK)	962.20	-do-
35.	Blacksmith	Blacksmith (SK)	831.10	-do-
36.	Moulder	Moulder (SK)	725.10	-do-
37.	Painter	Painter (SK)	932.10 932.30	-do-
38.	Upholsterer	Upholsterer (SK)	790.10	-do-
39.	Operator Pneumatic Tools	Operator Pneumatic Tools (SK)	713.10 974.42	-do-
40.	Hammerman	Hammerman (SS)	831.40	(220) 210-4-4-346-EB-4-250-EB-6-290
41.	Mate	Mate (SS)	-	-do-
42.	Valveman	Valveman (SS)	-	-do-
43.	Hazdoor	Hazdoor (USK)	999	196-3-220-EB-3-232

44. Sanction is also accorded for the modification in the existing trades as shown below :-

- (a) The trade of Tailor will be abolished : existing incumbants will be re-designated as Upholsterers.
- (b) The trades of Vcharpoy Stringer, Coal Trimmer and Fireman will be abolished: existing incumbants in the pay scale of Rs.210-290 will be redesignated as Mates. The existing Charpoy Stringers in the pay scale of Rs 196-232 will be redesignated as Mazdoors.

72

(c) Signwriter and Driver Compressor will also be abolished and existing incumbants re-designated as painter and Driver Engine Static respectively.

(d) There will be no future recruitment of Glazier, and the category will be abolished when existing holders are washed out.

3. The relevant recruitment rules will be amended as necessary. Pending such amendment, recruitment as well as the channels of promotion and demotion will be on the basis of above modification as an interim measure.

4. The duties of the posts will be laid down by the Engineer-in-Chief.

5. This letter issues with the concurrence of the Ministry of Finance (Defence vide their u.o. No.1809/M-III of 1986).

Yours faithfully,
Sd/
(G.P. BHINGUNA)
Under Secretary to the Govt
of India

24
1455/DPC/96-97/49/ELM

Commander Works Engineers
Spread Eagle Falls
Shillong - 793 011

GE Shillong
GE (AF) Shillong

13 Jan 97

PROMOTION : INSTRUMENT REPAIRERS/MELCHANICS
PRECISION INSTRUMENT (RE-DESIGNATED AS
ELECTRICIAN (SKILLED) TO THE GRADE OF
ELECTRICIAN (HIGHLY SKILLED GRADE II)

1. Consequent to the recommendations of the Review Departmental Promotion Committee meeting held on 05 Nov 96 constituted as per E-in-C's Branch, HQ, New Delhi order No 90270/89/ELC(3) dated 10 Feb 95, the following Ex-MPIs (Re-designated as Electrician (SK) vide Government of India, Ministry of Defence addendum No 91026/ELC(3)/2395/D(W-11) dated 23 Jun 94) are approved for promotion to the grade of Electrician (HS-II) with notional seniority as shown against their names :-

(a)	(b)	(c)	(d)	(e)
MES No, Name & Designation	Promoted to	Date of notional seniority without financial effect	Formation where serving	
1. MES/223370 Shri Satya Gopal Bhattacharjee, Elect (SK)	Elect (HS-II)	15 Oct 84	GE Shillong	
2. MES/229141 Shri Rathindra Nath Brahmachari, Elect (SK)	Elect (HS-II)	11 Aug 85	GE (AF) Shillong	

2. Before the above promotions are implemented, please ensure that these individuals are not involved in any disciplinary cases or Court of Inquiry, SPE cases and there is nothing against the individuals to warrant withholding of the above promotion.

Continued to page....2 -

3. The date from which the above individuals are brought in position against the promoted grade should be intimated to this HQ. Names of the individuals who could not be placed in position in the higher post stating reasons will be intimated to this HQ by 31 Jan 87 latest.

4. Necessary casualty to this effect should be published in the next issue of your PTO.

5. Please take immediate necessary action and accord DPC priority.

(Ashok Kumar)

Sh

Commander Works Engineers

Copy to :-

- 1) HQ CE EC Calcutta
- 2) HQ CE Shillong Zone
- 3) HQ CE (AF) Shillong Zone
- 4) CWE (AF) Guwahati
- 5) LAC (Army) Shillong
- 6) LAC CE Shillong
- 7) LAC CE (AF) Shillong

KHE/

Annexure - 4

From : MES/229141
Shri RN Brahmachari
Elect HS-II

To : The Garrison Engineer (AF)
Shillong -9

(Through Proper Channel)

ANOMALY IN PUBLICATION OF PART II ORDER

Sir,

1. Reference your PTO No 9 dated 03 Mar 97 (Srl No 13).
2. I was promoted as Elect HS-II wef 30 Jan 97 (FN) and placed in position with effect from the same date but my seniority will count wef 11 Aug 85 notionally without any financial benefit. So, I would request your Sir, to kindly intimate me as to why I should not get financial benefit wef 11 Aug 85, at the earliest and oblige.

Thanking you,

Yours faithfully,

Brahmachari

(RN Brahmachari)
MES/229141
Elect HS-II

Station : Shillong - 9

Dated : 21st-Apr 97

*Recd
A n/g*

22
Annexure-5
To,
The CME Shillong
SE Falls Camp
Shillong-11

96
(Through Proper Channel)

REVIEW DPC IN RESPECT OF IR/MPI FOR PROMOTION
TO THE POST OF ELECT HS-II/I AND FINANCIAL
BENEFITS WEF. 15 OCT 84

Respected Sir,

It is to inform your honour that I had submitted my representation on 21 Apr 97 but no favourable reply has yet been received by your good office. I do hereby again submit the following few lines for your kind and sympathetic necessary action please.

I have been promoted to the post of Electrician HS-II wef. 15 Oct 85 (though my immediate junior in this grade were promoted to the said post wef. 15 Oct 84) in relaxation of passing Trade Test as a one time dispensation.

* 11 Aug 85
It is surprising to note that though my seniority has been given wef. 15 Oct 85, no financial effect/benefit has been allowed vide CME Shillong letter No. 1455/DPC/96-97/49/EIA dated 13 Jan 97 (Appx 'C') depriving me of my legitimate claim for the payment in the higher scale as could have been enjoyed by me if justified redesignation done by the appropriate authorities in due time.

It may also be noted that there is no reason to disallow me the said financial benefit since the incumbents who were promoted to the post of Elect HS-II wef. 15 Oct 84 as mentioned in para 2 of this letter by conducting a DPC Board during 11 Feb 87 has been allowed the pay and allowances in the higher scale wef. 15 Oct 84.

Moreover, due to late realisation by the competent authorities regarding state of the Trade IR/MPI and review DPC conducted during Jan 97 I had also been deprived of my subsequent promotion to the post of Elect HS-I and financial benefit thereof as myself would have been eligible for the same after an year's service.

In the above context I humbly pray that your good office would spare no time to consider my case favourably and issue orders to the effect of :-

- (a) Payment of pay and allowances in the scale of Elect HS-II wef. 15 Oct 84 and
- (b) Conduct a review DPC for promoting me from Elect HS-II to Elect HS-I and payment in the scale of Elect HS-I wef. 15 Oct 85.

It would be a great favour if I am pleased with the above orders within 30 days.

Thanking you.

Yours faithfully,

R. N. Brahmachari
(R. N. Brahmachari)
MES/229141
Elect - HS-II

Station : Shillong
Dated : 05 Feb 98.

Recd
3 copies
me 5/2/98

23
-28'
To,

The Engineer-in-Chief's Branch
Army Headquarters
DHQ PO New Delhi 110011

(Through Proper Channel)

SUB : REVIEW DPC IN RESPECT OF JR/MFI FOR
PROMOTION TO THE POST OF ELECT HS-II/I
AND FINANCIAL BENEFIT WEF 15-10-84

Respected Sir,

Reference my application dated 21 Jul 97 addressed to you-kindself alongwith copy endorsed to others (copy enclosed for ready reference).

2. With reference to my above representation, it is surprise to note that after a lapse of 10 months nothing is heard from you.

3. In view of above, I request your kind honour to kindly let me know the present position of the case whether my seniority and financial benefit will be counted from 15 Oct 84 as per my Juniors or otherwise.

4. It would be a good favour if I am blessed with your early reply.

Thanking you.

Yours faithfully,

Chhabra

(SG Bhattacharjee)
Elect HS-II

Copy fwd & receipt
bwd

ACT	Date
CH	21 May 98
SDC	Station : Shillong
DATE	Andl : As above

Co py to :-

General Secretary
Meghalaya MES Workers Union
Shillong

Mr JL Dasgupta, Member
JCM (Army HQ) Council
AHQ, New Delhi-11

for information and
suitable intervention
please.

(Through Proper Channel)

REVIEW OF THE CASE OF THE ARMY IN THE MATTER OF
THE CASE NO. 1455/100/95-97/49/DIA
DATED 13 JAN 97 (APPR 'C') DEPRIVING ME OF MY LEGITIMATE
CLAIM FOR THE PAYMENT IN THE HIGHER SCALE AS COULD HAVE
BEEN ENJOYED BY ME IF JUSTIFIED REDESIGNATION DONE BY
THE APPROPRIATE AUTHORITIES IN DUE TIME.

Respected Sir,

1. With due respect and humble submission I beg to lay the following facts for your perusal and kind intervention into the matter please :-

- a) That I was appointed as Fireman at GH Shillong in the year 19 and subsequently promoted to Instrument repairer in the year 1972.
- b) That instrument repairer being being not falling under the category of three grade structure, my designation was redesignated to Electrician (SI) by review committee as had been conducted by GH Shillong, ref 15-10-84. Such consideration were made by G. C. Shillong in order to equalise the anomaly, rising out of promotion to my juniors to the post of SI II and in relaxation of passing trade test as a one time dispensation.
- c) It is surprising to note that though my seniority has been given ref 15-10-84 no financial benefit has been allowed vide GH Shillong letter No. 1455/100/95-97/49/DIA dated 13 Jan 97 (Appr 'C') depriving me of my legitimate claim for the payment in the higher scale as could have been enjoyed by me if justified redesignation done by the appropriate authorities in due time.
- d) It may also be noted that there is no reason to disallow me the said financial benefit since the incumbents who were promoted to the post of Elect SI II ref 15-10-84 as mentioned in para 1 of this letter by conducting a APC board during 11 Feb 97 has been allowed the pay and allowances in the higher scale ref 15-10-84.
- e) Moreover due to late realisation by the competent authorities regarding state of the Trade ID/MFI and review RDC conducted during Jan 97 I had also been deprived of my subsequent promotion to the post of Elect SI I and financial benefit thereof as my self would have been eligible for the same after an year's service.
- f) It may please be recalled that the facts of my deprivation due to late decision of the competent authority has already been pointed out by me vide the representation mentioned under reference, wherein Annexure 'A' & 'B' to the representation clearly depicts of how my junior MES/229326 Shri XXXXXXXXX Jambhavan Mishra, Elect SI-I and MES/233921 Shri IN Pan, Corp SI-I had enjoyed benefit extended by the Govt.
- g) In the above context I humbly pray that your good officers would spare no time to consider my case favourably and issue orders to the effect of.
 - a) Payment of pay and allowances in the scale of elect SI-II ref 15-10-84

26
-30-
- 55 -
A
From : MES/238870 Shri SG Bhattacharjee
Elect HC-II
C/O AGS E/M Shillong

Annexure-8

To : The Engineer-in-Chief
Army Headquarters
DIP PO New Delhi-110011

(Through proper channel)

REVIEW BPC IN RESPECT OF IR/ART HC PROMOTION TO THE
POST OF ELECT HC-II/I AND FINANCIAL BENEFIT B/F
15 OCT 1984

Respected Sir,

1. Further to my application dated 21 Jul 87 and 21 May 88 addressed to your office with copy to others.
2. With reference to my above representation, nothing is learned from you, till date. It is seen from the pay fixation under 2nd 87 the my juniors pay was fixed at Rs 4700/- whereas my fixation was done at Rs 4100/-, without any fault of mine.
3. As per your office letter No 90270/89/SC/510(2) dt 10 Feb 85, CAGC has been asked to convene review BPC for IR/ART for promotion to Elect HC-II to CAG Shillong/CSG and no where it was instructed that financial benefit from the date of promotion from IR/ART not to be given. As per CAG letter No 1485/202/PG-87/176/51A dt 24 Jul 87 para 2 it was intimated that financial benefit from 15 Oct 86 to 16 Jan 87 is not entitled, which seems not to be correct as BPC was done late by the department and which is not the fault of the individual.
4. In view of the above, I request you to kindly settle my case at the earliest otherwise I will be bound to take action of law.

Thanking you.

Yours faithfully,

(Signature)

(MES/238870 Shri SG Bhattacharjee
Elect HC-II)

Recd
17. 10. 1988
OFFICE AGS (EIM) SHILLONG
Dated : 07 Oct 88

Copy to :-

1. CAGC
Fort William
Calcutta
2. CAG Shillong
3. CAG Shillong
4. GS Shillong

b). Conduct a review NRS for promoting me from Elect
NS-II to Elect NS I and payment in the scale of
Elect waf 15-10-95.

2. It would be a great favour if I am blessed with
the above orders within 30 days.

Yours faithfully,

Brahmachari

NRS/229141

RM Brahmachari

Elect NS-II

C/O CE (AE) Shillong

Station : Shillong

Dated : 28 May 98

*Received
28/5*

Tele : 6015

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 793 011

70411/2/17/17 /M10(3)

10 Jun 99

OWE Shillong

REVIEW OF DPO IN RESPECT OF INACTI FOR
PROMOTION TO THE GRADE OF ELECTRICIAN HS-II
AND FINANCIAL BENEFITS WEF THE DATE OF NOTIONAL
SENIORITY

1. Reference your letter No 1415/DPO/96-97/174/HIA dated 29 Apr 99.

2. AHQ, E-in-C's Branch has taken up the case for grant of financial benefits to elect HS II from the date of notional seniority with Min of Def to accord Govt approval to allow financial benefits. As such grant of financial benefits wef date of notional seniority only be granted after getting approval/decision from Min of Def.

3. This is for your info please.

(Signature)
(NO Bhatnagar J.S.)
AO-II
for Chief Engineer

1455/DPO/96-97/EIA-

CIVE Skilling

TO

CE Skilling

No. 1455/DPC/96-97/185/E11

Date

09 Aug '99

Review DPC in respect of IR/MPI for promotion to the grade of Elect HS-II and financial benefit w.e.f. the date of the candidates have granted notional seniority

1. Reference your letter NO 1013/18/267/EIE dated 03 Aug '99.
2. In this connection a copy of HQ CE Skilling Zone letter NO 70411/2/1749/EIC(3) dated 10 Jun '99 is forwarded herewith for your reference and information.
3. please inform the individual accordingly.

(S Langstick)

for CIVE Skilling

Encls: As above

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI


ORDER SHEET
APPLICATION NO. 371/99 OF 199

Applicant(s) Sri Satyagopal Bhattacharjee

Respondent(s) Union of India and others

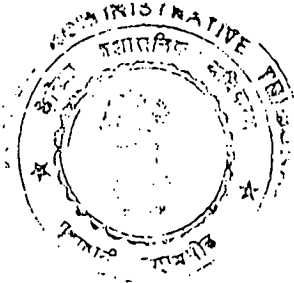
Advocate for Applicant(s) Mr. M. Chanda, Mrs. N. D. Goudami
Mr. G. N. Chakraborty.

Advocate for Respondent(s) Mr B C Pathak
Addl C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
	18.11.99	<p>Present : Hon'ble Mr D.N.Baruah, Vice-Chairman and Hon'ble Mr G.L.Sanglyine, Administrative Member.</p> <p>This application has been filed by the applicants seeking certain directions. The applicants state that the benefits which they are entitled to have not been given to them. However, the matter was placed before the competent authority of the Defence department. The applicants were expecting a decision from the Defence department. However, till now nothing has been done.</p> <p>We have heard Mr M.Chanda, learned counsel for the applicants and Mr B.C. Pathak, learned Addl.C.G.S.C for the respondents. Mr Pathak also states that the decision is yet to be taken. In these circumstances we dispose of this application with a direction to the</p>

contd.,

94 Notes of the Registry	Date	Order of the Tribunal
	18.11.99	<p>respondents to take a decision on the matter of granting financial benefit to the applicants which is pending before them within 2 months from the date of receipt of this order.</p> <p>The application is disposed of. No order as to costs.</p> <p>SD/- VICE-CHAIRMAN SD/- MEMBER (A)</p>



TRUE COPY
प्रतिलिपि

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

30/11/99

36- Annex-II - 58-
85
RECEIPT COPY

I, MES/ 223870 SRI S. G. Bhattacharjee, Electn
HS II received a sum of Rupees 95,411-00 (Rupees Ninety
Five thousand four hundred eleven only on account of
implementation of CAT Judgement vide Or NO 371/92
and the total amount received towards final settlement
of the claim.

Station :- Shillong

Signature S. G. Bhattacharjee

Dated : May'2001

(S.G. BHATTACHARJEE)
Electn HS-II
MES/223870

CONFIDENTIAL

PP Singh
(P P Singh)
Major

Mr Garrison Engineer SHILLONG
gc

Ref HQ ...
A lot of ...
21.5.01

37

Annexure - 4 - 59 -

26

File : Mily 6040

Commander Works Engineers
Spread Eagle Falls
Shillong - 793 011

1455/DPC/96-97/49/ELA

13 Jan 97

GE Shillong
GE (AF) Shillong

PROMOTION : INSTRUMENT REPAIRERS/MELCHANICS
PRECISION INSTRUMENT (RE-DESIGNATED AS
ELECTRICIAN (SKILLED) TO THE GRADE OF
ELECTRICIAN (HIGHLY SKILLED GRADE II)

1. Consequent to the recommendations of the Review Department Promotion Committee meeting held on 05 Nov 96 constituted as per L-in-C's Branch, AHQ, New Delhi order No 90270/89/LIC(3) dated 10 Feb 95, the following ex-MPLs (Re-designated as Electrician (SK) vide Government of India, Ministry of Defence addendum No 91026/LIC(3)/2395/D(W-II) dated 23 Jun 94) are approved for promotion to the grade of Electrician (HS-II) with notional seniority as shown against their names :-

MES No, Name & Designation	Promoted to	Date of notional seniority without financial effect	Formation where serving
(a)	(b)	(c)	(d)
1. MES/223370 Shri Satya Gopal Bhattacharjee, Elect (SK)	Elect (HS-II)	15 Oct 34	GE Shillong
2. MES/229141 Shri Rathindra Nath Brahmachari, Elect (SK)	Elect (HS-II)	11 Aug 35	GE (AF) Shillong

2. Before the above promotions are implemented, please ensure that these individuals are not involved in any disciplinary cases or Court of Inquiry, SPE cases and there is nothing against the individuals to warrant withholding of the above promotion.


Continued to page....2

20
38
57
-: 2 :-

3. The date from which the above individuals are brought in position against the promoted grade should be intimated to this HQ. Names of the individuals who could not be placed in position in the higher post stating reasons will be intimated to this HQ by 31 Jan 87 latest.

4. Necessary casualty to this effect should be published in the next issue of your PTO.

5. Please take immediate necessary action and accord DPC priority.


(Ashok Kumar)

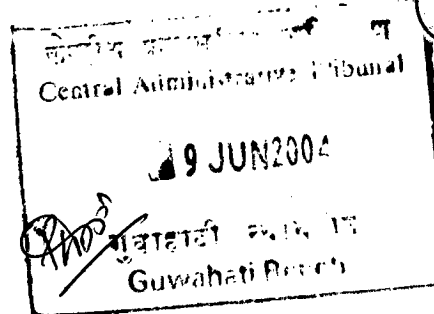
SE

Commander Works Engineers

Copy to :-

- 1) HQ CE EC Calcutta
- 2) HQ CE Shillong Zone
- 3) HQ CE (AF) Shillong Zone
- 4) CWE (AF) Guwahati
- 5) LAO (Army) Shillong
- 6) AAO CE Shillong
- 7) AAO CE (AF) Shillong

KH/



60
88
Filed by the Applicant
Through Surajit Choudhury
Advocate
on 9.6.2004

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

In the matter of:

O.A. No. 134 /2003

Shri Satya Gopal Bhattacharjee

-VS-

Union of India & Ors.

-AND-

In the matter of:

Rejoinder submitted by the applicant in reply to the written statement submitted by the respondents.

The humble applicant above named most humbly and respectfully state as under: -

1. That with regard to the statements made in paragraph 2 and 3 of the written statement, it is stated that the contention of the respondents that the present application is the repetition of the earlier O.A. No. 371 of 1999 and the same has been filed by the present applicant with a malafide intention is categorically denied. It is abundantly clear from the prayer of the O.A. No. 371 of 1999 that the applicant in the said Original Application simply prayed for grant of financial benefit from the date of notional seniority granted to him in the cadre of Electrician H.S II w.e.f

15.10.1984, therefore the relief sought by the present applicant in the instant application has no bearing with the earlier Original Application No.379 of 1999 preferred by the present applicant. A mere perusal of the relief column of the instant application it would be evident that the present applicant prayed for grant of retrospective promotion both in the Grade of H.S II and I w.e.f 16.10.1981 to 15.10.1984, in the cadre of H.S II. Further promotional benefit to the cadre of H.S I w.e.f 15.10.1984 to 31.02.1985 in the scale of pay of Rs. 360-480/-, as well as in the scale of Rs. 480-560/- (pre-revised) in the light of recommendation made by the G.E. Shillong. Therefore contention of the respondents is misleading.

2. That with regard to the statement made in paragraph 4, 7 and 8 of the written statement are categorically denied and further beg to state that the present applicant is entitled to higher revised pay scale of Rs. 360-480/- instead of pay scale of Rs. 260-350/- with effect from 16.10.1981 to 15.10.1984. The applicant is further entitled to Rs. 480-560/- with effect from 15.10.1984 to 31.12.1995 as because the aforesaid pay scales were granted to other junior trade personnel serving in the same department at the relevant point of time under the 10% vacancies released by the Ministry of Defence and 20% vacancies allotted to the rank of H.S Grade I, as such the said benefit cannot be denied to the present applicant. The

aforesaid proposal for grant of higher pay fixation benefit in favour of the applicant was duly forwarded after verification of the records in the G.E's level, as such correctness of the same cannot be questioned. Since the Trade in which the applicant is working during the year 1981 as well as in 1984 was ignored by the respondents for consideration of promotion/upgradation to the scale of pay Rs. 360-480/- as well as in the pay scale of Rs. 480-560/-, therefore the same cannot be denied to the applicant, otherwise the applicant will suffer irreparable loss and injury throughout his service carrier as such the Hon'ble Tribunal be pleased to pass necessary order/direction for re-fixation of pay in the appropriate scale, indicated in the order of recommendation of G.E dated 20.07.2002 (Annexure-8) with all consequential benefit including monetary benefit.

In this connection it may be stated that C.W.E, Shillong vide letter dated 26th July, 2002 made certain quarries to G.E. Shillong, such as for submission of comparative details, however after receipt of the said letter dated 26th July, 2002 no further action was taken regarding grant of higher pay scale as recommended by the G.E, Shillong. It is pertinent to mention here that since the applicant was initially appointed in the instrument repairer which was a Higher Trade than the post of SBA/Wireman at the relevant point of time and the normal channel of promotion was from IR/MPI to Charge Electrician which

was equivalent to the cadre of H.S.I having similar scale of pay, but unfortunately while he was working as IR/MPI no trade test was conducted either for his consideration of promotion to the cadre of Charge Electrician or to the cadre of H.S.I till 1980 i.e. upto the date of introduction of three grade structures for other grades, moreover the cadre of IR/MPI was not merged with the cadre of Electrician till 21st February 1994 (Annexure-7 of the O.A) as a result the applicant sustained irreparable loss and injury so far his promotion to the cadre of H.S.II and H.S.I was concerned.

In the mean while junior trades like Lineman, Wireman, and SBA were merged in the cadre of electrician following the Govt. of India order dated 24th June 1987 (Annexure-2 of the O.A) where as the cadre of IR/MPI were merged in the cadre of Electrician only vide O.M. NO 91026/E1C (3)/672/D(W-II) dated 21st February 1994 and thereafter following the Govt. order dated 10.02.1995 review DPC was held in respect of the applicant only in the month of January 1997 and the applicant was granted benefit of promotion in the cadre of H.S.II with effect from 15.10.1984 vide order dated 13.01.1997 (Annexure-3 of the O.A). Be it stated that the respondents although restored promotion of the applicant to the cadre of H.S.II with effect from 15.10.1984 but no trade test was conducted for his consequential promotion to the cadre of H.S.I. However, trade test for H.S.I was conducted by the respondents

only in the month of February 2001 and the applicant was allowed to appear in the said trade test and declared passed and qualified for the post of H.S.I. In fact the present applicant was victimized so far his promotions are concerned due to non inclusion of his name for merger with the trade of Electrician, more over he was also not considered for promotion although attained eligibility as per rule in the cadre of Charge Electrician, as a result the applicant lost the promotional avenue in both sides at the relevant point of times.

Therefore the applicant is entitled to be considered for promotion to the cadre of H.S.I with the retrospective effect and also entitled to be placed in the higher pay scale of Rs. 360-480 instead of Rs. 260-350 w.e.f. 16.10.1981 upto 15.10.1984 and the applicant is further entitled to be placed in the cadre of H.S.I, in the scale of Rs. 480-560 w.e.f 15.10.1984 to 31.12.1995 as because the pay scale of H.S.II and H.S.I has been fixed in the same scale by the Government following the recommendation of Fifth Central Pay Commission in the light of the recommendation made by G.E Shillong through Annexure-8 of the O.A.

So far the ground or objection raised by C.W.E Shillong in clause (b) of the letter baring No. 1028/427/E1A dated 26th July, 02 wherein C.W.E asked for a comparative details of the junior incumbents who according to the individual statements have been granted higher pay scale ahead of the applicant are

invariably required for processing the case of the applicant for placement of the same before the higher authority. In this connection it is categorically stated that the basic issue involved in the instant case whether a higher Trade could be ignored for the purpose of promotion due to administrative error or lapses while the incumbent holding the post of lower trades were granted the benefit of promotion both in the cadre of H.S. II and H.S. I. It could be evident from the letter dated 15.10.1984, 24.06.1987 that the post of IR/MPI was not included or merged with the post of Electrician. It is only on 21st February, 1994, the post of IR/MPI was merged with the post of Electrician after a lapse of 10 to 20 years and the applicant remain in the same post of IR/MPI for about 17 years without having any promotional avenue due to administrative error and lapses. However, following the Govt. order dated 10.02.95 a review DPC was held after merger of the post of Electrician and the applicant was promoted following recommendation of the review DPC to the post of Electrician H.S. II vide order dated 13.01.1997. Therefore it is quite reasonable that when the department granted the benefit of promotion of H.S.II retrospectively w.e.f. 15.10.1984 to grant the applicant further to the post of H.S. I immediately thereafter as a consequential benefit as per Rule providing in the relevant time. The denial of benefit of promotion to H.S I with retrospective effect as well

as payment of higher scale as recommended by the G.E. Shillong is highly arbitrary, unfair and illegal.

The question of comparative details of junior incumbents as identical in the letter dated 26th July, 2002 (Annexure-11 of O.A) does not arise at all in the facts and circumstances in the instant case. In fact anomalies have developed in the instant case of the applicant due to non-inclusion of the post of IR/MPI with the post of Electrician SK for a very long period of time. Moreover the applicant was not placed in the higher pay scale of Rs. 360-480 instead of Rs. 260-350 at the relevant time due to recommendation letter issued by the G.E Shillong.

It is further submitted that in view of the Army HQ, letter dated 09.04.2002, the applicant is further entitled to the benefit of higher scale of pay and promotion as recommended by the G.E, Shillong. A copy of the extract of the letter dated 09.04.2002 is enclosed hereto for perusal of the Hon'ble Tribunal. It is submitted that the full text of the letter dated 09.04.2002 could not be obtained by the applicant and some pages are still missing. Therefore the Hon'ble Tribunal be pleased to direct the respondents to produce full text of the letter dated 09.04.2002 with appendix.

A copy of the Govt. letter dated 21.02.1994 as well as a copy of the E-in C's letter dated 10.02.1995 and a copy of the extract of letter

dated 09.04.2002 is enclosed herewith as Annexure-
A, B & C respectively.

3. In the facts and circumstances stated above the application deserves to be allowed with cost granting adequate relief to the applicant in the light of the recommendation made by the G.E Shillong with all consequential benefit including monetary benefit.

VERIFICATION

I, Sri Satya Gopal Bhattacharjee, Son of Late Kumud Chandra Bhattacharjee, aged about ...years, Working as Instrument Repairer in the office of the Garrison Engineer, M.E.S., Shillong, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 6th day of June, 2003.

Satya Gopal Bhattacharjee

Annexure - A 97

//COPY//

91026/EIC(3)/672/D(W-II)
Govt of India,
Ministry of Defence,
New Delhi, the 21st February, 1994.

To.

The Chief of the Army Staff,
New Delhi.

ADDENDUM

This Ministry's letter No. 91026/EIC/29/D(W-II) dated 24th June, 1987, as regard rationalisation of Trades of the Industrial cadre of the MES is amended as follows :-

Add the following E.I. No. as 6(a)

6(a) Instrument Repairer Electrician . 651.10

This issues with the concurrence of Ministry of Defence (Finance-Works-III) vide their ID No. 254-Works-I/94 of 1994.

2d/-xxxxxxxxx
(D.R.Dhankani)

Under Secretary to the Govt of India

Copy to :-

The CGDA, New Delhi
All CADA
The DGADS, New Delhi
AG's Br/Org-4(Civ-I) - 3 copies
D(Lab), D(Appt), D(Civ-I)
Cabinet Sectt, Deptt of Pers(Estt-3)
DFA(W) - 2 copies
DFA(AG) - 2 copies
E-in-C's Branch/EIC(3) - 40 copies
Copy signed in ink to all CADA

// COPY //

*Attended
Smt.
Adarsh
29.2.94*

File: 3476

70203/2/3490/EIC(2)
HQ/137WKS Engrs.
CWE Tezpur.
CWE Dinjan.
CWE Shillong.

Headquarters Chief
Engineering Shillong Zone.
S.E. Falls Shillong - 11.
19 Apr '95.

PROMOTION INSTRUMENT REPAIR/MPI (New Redesignated Electrician (SK)).

1. Copy of E-in-C's BR Army HQ letter No. 90270/89/EC/EIC(3) Dated 10 Feb 95 received from HQ CEEC Calcutta vide their letter No. 131500/2A/2850/Engrs/EIC(2) dated 08 Mar '95 is forwarded herewith for your information and necessary action please.
2. HQ 137WKS Engrs only :- This is the disposal of your quarries vide your letter No. 1228/SK/84/EICC(2) dated 31 Aug 94.

(SIC GOYAL)
AEB
SO III (Pers)
For Chief Engineer.

Copy of E-in-C's BR Army HQ New Delhi letter No. 90270/89/EC/EIC(3) dated 10 Feb 95 addressed to CEEC and copies to other CE's command.

PROMOTION :- INSTRUMENT REPAIR/MPI (New Redesignated Electrician (SK)).

1. Reference your letter No. 131500/2A/2752/Engrs/EIC(2) dated 11 Oct 94.
 2. Consequent on redesignation of IR/MPI to Electrician (SK) some representation have been received from exiting IR/MPI with regard to their promotion to Electrician H.S. II/H.S. I. The cases have been gone into and following decisions have been taken :-
 - a). Since prior to introduction Three Grade Structure, Electrician and IR/MPI were the feeder category for promotion to Ch/Electrician, there is no anomaly in redesignation of IR/MPI to Electrician.
 - b). Review PC's are to be convened and IR/MPI who are otherwise eligible for promotion, be considered for promotion to Elec.HS II with notional seniority at par with their immediate junior Elec SK/Wireman who have already been promoted to Elect.HS II.
- However, the over-all percentage of H.S. II/H.S. I vacancies are to be maintained as per existing instructions.

Sd/
(R.S. Kanwar)
S.E.
SOI Engrs Pers
For E-in-C.

GB

Handwritten signature and date:
09.06.01

Annexure-C

99

LRO/013

Tele: 3019107

Army Headquarters
 Engineer-in-Chief's Branch
 DHQ PO, Kashmir House
 New Delhi-110011

No 90270/73/86/EIC(3)

09 Apr 02

Chief Engineer(s)

Southern Command Pune
 Eastern Command Kolkata ✓
 Central Command Lucknow
 Western Command Chandimandir
 Northern Command C/o 56 APO
 ADG (OP) R & I Hyderabad

COMMENTS ON THE REPORT OF THE EXPERT COMMITTEE
FOR IMPLEMENTATION OF CAT KOLKATA BENCH ORDER
IN OA No 118/97 FILED BY SHRI PK MOULANTA & OTHERS

1. An expert Committee was constituted on the orders of the Hon'ble CAT Kolkata to examine the grievances of the applicants of subject OA, for the purpose of removal of anomalies as claimed by the applicants. The Committee has now submitted its report. Copy of extract of the report is forwarded herewith.
2. Action is required to be taken on the recommendations of the Expert Committee regarding the anomalies pertaining to all the affected employees of MES.
3. In view of above, you are requested to offer your comments on the Expert Committee Report so that no further anomalies are created while implementing the recommendations of the Expert Committee Report. Your views/comments should reach this office by 15 May 2002.

Encl: As above

(Raj Kumar)
 Lt Col
 SOMEIC
 For E-in-C

Admitted
 Adv. 9.6.02

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COLLECTION OF INFORMATION AND DATA

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5. In order to conduct this study in the matter, the Committee collected 20 numbers of various government orders and instructions issued by Ministry of Defence and E-in-C's Branch AHQ i.e. EIC. These letters are listed as Annexure I and the copies of the same are enclosed.

6. Besides the above mentioned orders/letters/circulars EIC section of E-in-C's Branch were also requested to furnish certain information and documents by the Committee vide letter No.36323/Court Case/CEI, dated 02 Aug 2001. In response EIC Section provided under mentioned documents for study by the Committee vide EIC Section letter No.90270/IGS/MISE/EIC (3) Dated 03 Oct 2001 (Copy enclosed as Annexure II).

(a) Expert Classification Committee Report in five bound volumes.

(b) Representations submitted by six individuals from Northern Command. Copies of the representations are enclosed as Annexure III to this report.

(c) The copy of executive instructions which was issued by Govt./E-in-C's Branch in which it was ordered to grant higher pay scale of Rs 330-480 to 10 percent of SDA and Wireman with effect from 16 Oct 1981. However, this letter could not be traced out and produced to this Committee.

7. In order to ascertain the nature of problem, its cause and effect on the employees, the committee visited certain selected places and met affected employees, their trade-union representatives and also two of the applicants of the subject O.A. No. 11341907.

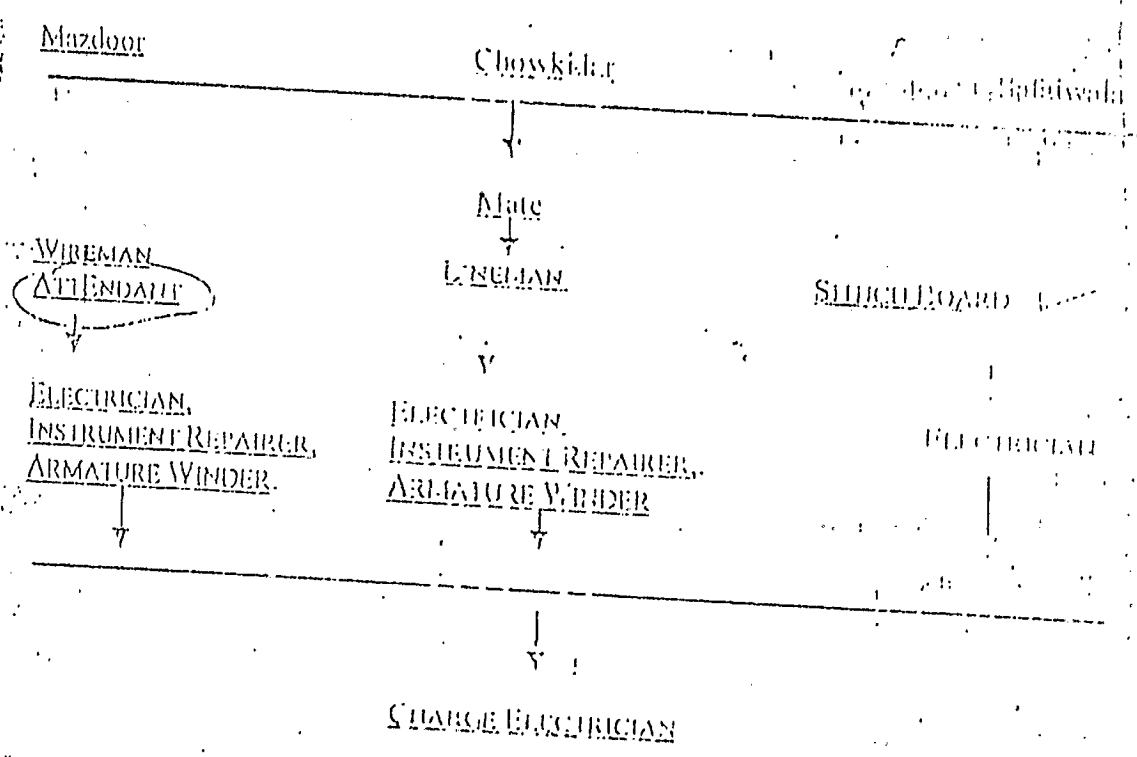
8. The Committee heard the grievances/requests of employees and also the views of the administration side. The orders and instructions issued by the Committee are listed under:-

HO (Chief Engineer, Southern Command), Pune

- (ii) Chief Engineer, Pune Zone, Pune
- (iii) Chief Engineer (Air Force), Bangalore
- (iv) Chief Engineer (Navy), Kochi
- (v) CWF(Navy) Kochi
- (vi) HQ Chief Engineer Eastern Command, Kolkata
- (vii) Chief Engineer Kolkata Zone, Kolkata
- (viii) Chief Engineer Siliguri zone, Siliguri

CIRCUMSTANCES LEADING TO DES. REVISIONS IN THE PAY OF SECTION
VIS-A-VIS HIS JUNIOR

9. Prior to fitment of industrial grade posts in various pay realisation recommendations of Expert Classification Committee and re-structuring of the trades, the components of existing Electrician Category and their line of promotion was as shown below:-



10. The posts of Wireman, Lineman and SwitchBoard Attendant (SBA) were in Semi-Skilled grade with a pay scale of Rs 210-290 and their next higher grade posts for promotion i.e., Electrician, Armature Winder and Instrument Repairer were in the skilled grade with a pay scale of Rs 260-350.

ANOMALIES COMMITTEE

15. Due to implementation of the fitment as brought out above certain anomalies had arisen. Certain Jobs needed re-evaluation and re-structuring of various grades for implementing the three-grade structure and thus grant of Highly Skilled Grade II & Highly Skilled Grade I, as also certain other problems were required to be resolved. In an effort to remove the anomalies, the govt. thus appointed an Anomalies Committee in 1982 which was headed by an Officer of the rank of a Joint Secretary and ten other members (Six from official side and four from staff side). The committee had submitted its report during May 1984.

UPGRADATION OF SKILLED POSTS

13. Further, pursuant to the Expert Classification Committee's recommendation, the Ministry of Defence, after discussing the matter with the staff side, approved the proportion of 10 percent of a few skilled trades posts were granted further, at higher pay scale where it was felt that promotional avenues were limited. Under this scheme, 10 percent of Wireman and SDA were granted a further higher pay scale of Rs 330-430 with effect from 16 Oct 1981. The upgradation was granted strictly on the basis of Seniority without requirement of passing any further trade test etc.

14. After implementation of fitments in the respective pay scales pursuant to ETC recommendations, as approved by the govt., the pay scale of feeder categories of Electrician, Armature Winder and Instrument Repairer not only was upgraded at par with their pay scale, but some of their erstwhile Juniors in the post of Wireman and SDA started drawing even higher pay scale of Rs 330-430 because of the upgradation against a quota of 10 percent of the total vacancies.

CLUBBING OF OTHER TRADES/POSTS WITH ELECTRICIAN

19. In 1987, the Ministry of Defence vide their letter No.91026/E1C/38/D (W-II), dated 24 June 1987 codified and re-designated the under-mentioned categories as Electrician Category:-

- (i) Armature Winder
- (ii) Lineman
- (iii) Switch Board atten Jant (SBA)
- (iv) Wire-man

Subsequently Instrument Repairer Category too was codified/re-designated as Electrician vide Ministry of Defence letter No.91026/E1C (3)/672(D (W-II), dated 21 Feb 1994 read with letter No. 91026/E1C (3)/2395/D (W-II), dated 28 June 1994.

20. Consequent to clubbing up of the above mentioned categories with Electrician Category there was this requirement to review the promotions which were granted earlier to 20 % of Electricians/Linemen. In view of this, instructions were issued by E-in-C's Branch vide letter No.91026/E1C (3), dated 22 Dec 88 instructing the field units to prepare a combined Seniority list of Electricians after the clubbing with these categories. As per the instructions all the Electricians (who were promoted from Lineman, Wireman and SBA) were to be placed en-block senior to others. As per

INTRODUCTION OF THREE GRADE STRUCTURE

16. Based on the recommendations of Anomalies Committee, Ministry of Defence, introduced three-grade structure in certain common categories of Industrial Tradesmen with benchmark percentages as under: -

- (a) Highly Skilled Gde I - 15%
- (b) Highly Skilled Gde II - 20%
- (c) Skilled Gde - 65%

17. Government orders to implement the above-mentioned three-grade structure were issued vide Ministry of Defence letter No. 3810/DS (One)/Civ. I/84 dated 15 Oct 1984. As per this Govt. order the three-grade structure was made applicable to 16 common categories, which included Electrician and Line Mistry (Lineman in MES). This was to be given with effect from 15 Oct 1984. Consequent upon issue of the Govt. Order, the E-in-C's Branch also issued an executive order to club Electrician and Lineman together for the purpose of granting promotion to H/S Gde II and H/S Gde I respectively as both these posts were in the same line of promotion. However, for want of detailed instructions regarding implementation, it was not possible for the field units to implement this scheme of three-grade structure and it was not done in most of the places. These orders regarding implementation of three grade-structure were implemented only after detailed instructions were issued vide Ministry of Defence letter No. 1(I)/30/D (ECC/CC) Vol. III dated 08 Apr 1986.

18. As per above mentioned Govt. order dated 08 Apr 1986 promotion against initial 20% vacancies in the H/S Gde II grade was to be granted on the basis of seniority without any further requirement to pass any trade test etc. (as a one-time measure only) with effect from 15 Oct 1984. Over and above these 20% vacancies a further 15% (wherever applicable) were also to be promoted to H/S Gde II against the vacancies pertaining to H/S Gde I with effect from the same date i.e. 15 Oct 84 after passing the prescribed trade test in two chances. Those promoted to H/S Gde II would thereafter be eligible to be promoted to H/S Gde I against the 15% vacancies in H/S Gde I.

HIGHER PAY SCALE TO A JUNIOR

21. On the combined seniority of Electricians which was recast after inclusion of Wireman, SBA etc Electrician, Armature Winder, Instrument Repairer were placed enmasse senior to Wireman and SBA. However, since certain Wireman and SBA were already granted higher pay scale of Rs 330-480 with effect from 16 Oct 81 against 10% vacancy and they were all to be placed below Electrician, Armature Winder and Instrument Repairer. This, thus created a situation that a junior was drawing higher pay scale than his senior was drawing. Subsequently when they were further promoted to higher grades the anomaly was carried over to HS Gde I and further higher level as well.

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REPRESENTATIONS AND CASES WITH CENTRAL ADMINISTRATIVE
TRIBUNALS AND COURTS OF LAW

22. The anomaly of a junior Electrician drawing higher pay than the senior was thus to become a cause for generating representations from many a number of employees. Due to various reasons, it appears that there was no positive remedial action, which was taken to redress these grievances of the employees. As complete old records/files are not presently available the reasons for not taking action to resolve the issue could not be ascertained by this committee. On account of the anomaly there have been several cases filed by the aggrieved individuals in the Central Administrative Tribunal and the affected employees in most of these cases were granted relief through the orders/judgements by the respective benches of the Central Administrative Tribunal. In 1997, on this very issue, one Shri PK Mahanta and six other Electricians working in Siliguri Area filed an OA No. 118/1997 in the Central Administrative Tribunal Calcutta Bench. In that OA Hon'ble Central Administrative Tribunal instead of directing the respondent department to grant relief to the petitioner has directed the respondent to appoint an Expert Committee to take the decision in the matter and to resolve the anomaly as claimed by the applicants. Accordingly the Ministry of Defence had constituted this committee

*Agastha
Sant
Advocate
4.6.04*

OBSERVATIONS OF THE COMMITTEE

23. After studying the complete case, the committee has come to the conclusion that the disparity in the pay of the senior vis-à-vis his junior in the Electrician category has occurred because of the grant of higher pay scale of Rs 330-480 to 10% of Wiremen and SDAs with effect from 16 Oct 81 as the cut-off date, without considering the fact that the line of promotion of these categories was that of an Electrician. As per the instructions issued, the higher Scale of Rs 330-480 was granted to 10% of the wireman and SDA who were holding their post as on 16 Oct 81. Those Wiremen and SDAs who were already promoted to next higher grade i.e. Electrician, Armature Winder or Instrument Repairer were deprived of the benefit of this up-gradation even though they were senior to these Wiremen and SDAs who did receive the benefit of higher pay scale simply because on the particular cut-off date they happened to be within the first 10% amongst the Wiremen and SDAs on the rolls of a particular CWE. Further, out of three categories of feeder grades to Electrician, Armature Winder and Instrument Repairer, only Wireman and SDA were granted the benefit and the third category i.e. Lineman was excluded.
24. Prior to issue of Ministry of Defence letter No.91026/EIC/88/D (Civ-II) dated 24 Jun 87, the cases of a junior drawing higher pay than the senior was not existing because of the fact that after fitting of trades as per ECC recommendations the post of Wireman and SDA were upgraded to skilled category and had ceased to be in the hierarchy of Electrician category. Their line of promotion to Electrician, Armature Winder and Instrument Repairer had been snapped after their pay scale came at par with their erstwhile promotional post. However, after issue of the govt. letter dated 24 Jun 87, wherein all the categories were again clubbed into one category the anomaly came to surface. Since all the categories were pooled into one combined seniority.
25. It has been observed by the Committee, that as per para 2 (c) (iii) of E-in-C's Branch letter No.91026/EIC (J) dated 22 Dec 88, those Wiremen and SDAs who had been granted higher pay scale of Rs 330-480 against 10% vacancies as on 16 Oct 81 were to be placed in the seniority list IIS Grade II below other IIS Grade II incumbents.
26. The Committee considers that these instructions are not in order because this would place the erstwhile linemen in a category of disadvantage for no fault of theirs. For example, let us illustrate this with an example set out in the subsequent para below.

✓27. Let us assume that there are two individuals Sarvashri A and B. Shri A was promoted as a Lineman in 1977 and Shri B was promoted as a Wireman in 1979. Shri A has got the benefit of higher pay scale of Rs 330-430 w.e.a. 16 Oct 81 against a quota of 10% of the total vacancies of Wireman in a particular CW area without any act on his part because of this one-time up-gradation. Thus it would be observed that Shri A, who is senior to Shri B, remained in the pay scale of Rs 260-400 without any fault or failure on his part because of this one time up-gradation suddenly coming up. Now if Shri B is placed in the seniority of HS Grade II above as compared to Shri A, it will be injustice to Shri A who is placed in the Seniority list of a lower grade and thus will always remain at a disadvantage as compared with Shri B whereas he was senior to him and has done nothing adverse which causes him to deserve this fate.

28. In view of above the Committee suggest that E-in-C's Branch should review the instructions in this regard.

29. It has also been observed by the Committee that in E-in-C's Branch letter dated 22 Dec 1988 the instructions regarding fixing of seniority in combined Electrician category speaks only about placing Electrician category enmasse senior to others. It does not mention anything regarding fixing of Seniority in a similar manner in respect of Armature Winder which was also clubbed with Electrician vide Govt. Order dated 24 June 1987. Further, consequent to inclusion of Instrument Repairer in Electrician Category in 1994, similar treatment is also necessary to be given to this category.

30. The anomalies in the matter of pay etc appear to have occurred because the instructions on fixation, red signification and clubbing of various categories have been issued by different section in the Ministry of Defence viz D(EIC), D(Civ-I) and D(W-I) at different points of time.

RECOMMENDATIONS OF THE COMMITTEE

31. (a) As per the govt. policy a senior employee cannot be allowed to draw lesser pay than his Junior unless there is something adverse against him. This policy is reflected in the Government of India decisions/instructions under Fundamental rules. As per Govt. Order under FR 22, when a Junior employee starts drawing pay at higher stage in the pay scale due to application of pay fixation rules the pay of the senior has to be stepped up at par with the pay of the Junior. Although these provision of the rules cannot be applied in toto in the case of the senior electrician but the committee recommends that the spirit of the govt policy as enunciated in the Fundamental Rules should also be applied in these cases and the senior electrician should be granted higher pay scale of Rs 330-40 with effect from 16 Oct 1981 at par with their juniors. Since seniority/promotion etc. in respect of industrial personnel in MES are CWE area based for the purpose of identification of senior or junior it should be on CWE area basis. In other words in any CWE area if any junior Wireman or SBA had been granted higher pay scale of Rs 330-480 wef 16 Oct 1981, the pay of their senior counterpart who had already been promoted to Electrician, Armature Winder or Instrument Repairer prior to 16 Oct 1981 or those Linemen who were senior in the grade as compared to those 10% of Wireman and SBA their pay should also be upgraded to the scale of Rs 330-480 with effect from the date their juniors were granted with all consequential benefits.

(b) In view of the facts as brought out in the observations of the committee in paras 24 to 27, the instructions regarding fixation of seniority vide E-In-C's Branch letter dated 22 Dec 88 is also recommended to be reviewed.

(c) To obviate any further cases going to the Central Administrative Tribunal or becoming causes for grievances/litigation, it is recommended that the CWE concerned be empowered to deal with such cases in the light of FR 22 which can be applied mutatis mutandis, since this rule is not applicable in toto in this context.

(d) The committee during the course of interaction with all concerned in the field units, have also learnt that similar situation may arise in case of certain other categories such as Fitter General Mechanic, which has been created after clubbing several categories of industrial personnel. It is recommended that the same principle may be made applicable in this case too.

clubbing several categories of industrial personnel. It is recommended that the same principle may be made applicable in this case too.

(e) Experts Classification Committee in their deliberations for first time and analysis had observed that the process of job evaluation and analysis is a continuous one and ought to be made a regular feature and a periodical exercise.

(Paras 8.10 to 8.12 on page 15-16 of the report and recommendations ix, x, xi on pages 71-72 refer)

32. The technological changes have brought in a host of far-reaching consequences in the skills requirements, qualifications, experience, hazard, responsibility etc. of the workers and with more automation coming up, these changes will become faster. It is therefore, imperative that this exercise of job evaluation and analysis is made a regular feature at a periodicity of two/three years.

SURESH CHIBRAL, SAO

SURESH KARNI, AFA

(SK Shingari)

Chief Engineer
Chairman Expert Committee

MEMBER

NUMBER