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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original Application No. 217/04

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants: Jagadish Ch. Bhattacharjee

u. o. I from

Respondents: _____

Advocate of the Applicants: - M. Chanda, G.N. Chakrabarti, S. Nath
S. Chaudhury

Advocate for the Respondents: - Case - M.U. Ahmed.

Notes of the Registry Date Order of the Tribunal

14.9.2004

Present: The Hon'ble Mr. Justice R.K. Batta
Vice-Chairman.

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

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

Notice to respondents on

admission and interim prayer,
returnable within two weeks. Applicant is
granted liberty to take necessary steps.

List on 29.9.2004.

Dy. Registrar
Ranu
(3/9/04)

Steps not taken.

Steps taken on 16/9/04.

16/9/04
Notice & order
sent to D/Section
for issuing to
resp. Nos 1 to 4, by
regd. with A/D post.

16/9/04
D/Memo No - 1535 to
1538, Dt. 22/9/04.
Service report awaited.

K. V. Prahладan
Member (A)

R
Vice-Chairman

Present: Hon'ble Mr. Justice R.K.
Batta, Vice-Chairman.
Hon'ble Mr. K.V. Prahладan, Administra-
tive Member.

Service report is still awaited.
Awaiting service report, steps can be
taken for fresh service, if the applicant
so desires. Stand over to 8th Nov.,
2004. In the meantime, no interim
stay.

K. V. Prahладan

R
Vice-Chairman

08.11.2004

Mr. M. Chanda, learned counsel for the applicant and none for respondents was present.

28/9/04

S/R still awaited.

NS
28/9/04

Order dated 29.9.04 received on behalf of applicant
admitted.

Sengulal Choudhury
Advocate
on 18.10.04

Service of respondents 2 & 4 is awaited. Awaiting service on them/ fresh ~~and~~ steps for service, in case, the petitioner so desires. Stand ^{over} to 6.12.2004 at Shillong.

R
Vice-Chairman

I.C. Palash

Member (A)

bb

6.12.2004
Shillong

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

Learned Sr. C.G.S.C. seeks further eight weeks time to file written statement. His request is allowed. Stand over to 9.2.2005.

I.C. Palash
Member

R
Vice-Chairman

bb

9.2.2005 present: The Hon'ble Mr. M. K. Gupta, Member (J)
The Hon'ble Mr. K. V. Prahladan, Member (A).

None appears for the parties. Adjourned to 15.2.2005.

I.C. Palash
Member (A)

Member (A)

bb

15.2.2005

Adjourned for filing rejoinder, as prayed for to 10.3.2005.

I.C. Palash
Member (A)

Member (J)

bb

10.3.05.

Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

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

All the three cases the learned counsel for the parties seeks time to file rejoinder or to file reply.

Post

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S/R still awaited.

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28/9/04

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admitted.

Sengulal Choudhury
Advocate
on 18.10.04

R
Vice-Chairman

bb

5/11/04

- 1) No W/C has been filed.
- 2) Notice duly served on R.M.C. 1 and 3.
- 3) Service is awaited 2 & 4.

5/11/04

3-12-04

- 1) Notice duly served on 2-11-04-1 & 3
- 2) No. of W/C has been filed.
- 3) S/R - awaited.

S

I.C. Palash
Member (A)

Member (A)

bb

14-12-04

W/C submitted
by the Respondents.

BB

I.C. Palash
Member (A)

Member (J)

bb

10.3.05.

Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

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

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I.C. Palash
Member (A)

Member (A)

bb

14-12-04

W/C submitted
by the Respondents.

BB

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Member (A)

Member (J)

bb

10.3.05.

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14-12-04

W/C submitted
by the Respondents.

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

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14-12-04

W/C submitted
by the Respondents.

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Member (J)

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10.3.05.

Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

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

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Advocate
on 18.10.04

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I.C. Palash
Member (A)

Member (A)

bb

14-12-04

W/C submitted
by the Respondents.

BB

I.C. Palash
Member (A)

Member (J)

bb

10.3.05.

Present: Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

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

All the three cases the learned counsel for the parties seeks time to file rejoinder or to file reply.

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Order dated 29.9.04 received on behalf of applicant
admitted.

Sengulal Choudhury
Advocate
on 18.10.04

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Vice-Chairman

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S

I.C. Palash
Member (A)

Member (A)

bb

14-12-04

W/C submitted
by the Respondents.

BB

I.C. Palash
Member (A)

Member (J)

10.3.05. Present; Hon'ble Mr. Justice G. Sivaranjan,
Vice-Chairman,
Hon'ble Mr. K. V. Prahladan, Member
(A).

At the request of learned
counsel for the parties case is adjourned to 29.3.05.

K. V. Prahladan
Member

G. Sivaranjan
Vice-Chairman

lm

29.3.05.

Post the matter for hearing on

26.4.05.

G. Sivaranjan
Vice-Chairman

lm

18.5.2005

Mr. M.U. Ahmed, learned Addl. C.G.
S.C. for the respondents seeks adjournment
Post on 8.6.2005.

K. V. Prahladan
Member

G. Sivaranjan
Vice-Chairman

mb

8.6.2005

Mr. M. Chanda, learned counsel for the
applicant submits that this case may be
taken on another date. Post on 14.6.2005
for hearing.

K. V. Prahladan
Member

G. Sivaranjan
Vice-Chairman

bb

14.6.05

Mr. M.U. Ahmed, learned Addl. C.G.S.C.
seeks for a short adjournment to produce
the relevant records.

Post on 22.6.05.

K. V. Prahladan
Member

G. Sivaranjan
Vice-Chairman

Order of the Tribunal
Date 22.6.2005
of the Registry

22.6.2005

Adjourned. Post on 1.8.2005.

K. Balakrishnan
Member

E. Balaji
Vice-Chairman

bb

1.8.2005

Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents seeks for short adjournment. Post on 09.08.2005.

3/0
29.7.05

K. Balakrishnan
Member

E. Balaji
Vice-Chairman

mb.

9.8.05.

Mr. M. Chanda learned counsel for the applicant seeks for adjournment.

Post the matter for hearing on

17.8.05.

K. Balakrishnan
Member

E. Balaji
Vice-Chairman

lm.

17.8.05

Due to paucity of time the case is adjourned to next available Division Bench.

K. Balakrishnan
Member

E. Balaji
Vice-Chairman

lm.

3.10.05.

Heard Mr. M. Chanda learned counsel for the applicant and Mr. M. U. Ahmed learned Addl. C.G.S.C. appearing for the respondents.

Hearing concluded. Post the matter for Judgment on 5.10.05.

J. Venkateswaran
Member

E. Balaji
Vice-Chairman

lm.

5.10.2005 Judgment delivered in open Court
kept in separate sheets. The applica-
tion is disposed of in terms of the
order.



Member

mb



Vice-Chairman

7/10/05
Add. C.G.S.C

7.10.05
Copy of the
Judgment handed over
to the Add. C.G.S.C. for
the Respondent C. Copy
has been collected
by the L/Advocate
for the applicant.
K.L.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

ORIGINAL APPLICATION NO. 217 OF 2004.

DATE OF DECISION: 5.10.2005.

Shri Jagadish Chandra Bhattacharjee

APPLICANT(S)

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

ADVOCATES FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

RESPONDENT(S)

Mr M.U. Ahmed, Addl. C.G.S.C

**ADVOCATE FOR THE
RESPONDENT(S)**

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

THE HON'BLE MR M.K. MISRA, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman.

6

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.217 of 2004

Date of decision: This the 5th day of October 2005

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

The Hon'ble Shri M.K. Misra, Administrative Member

**Shri Jagadish Chandra Bhattacharjee,
Head Assistant,
HQ, IGAR (South),
C/o 99 APO,
P.O. Imphal.**

.....Applicant

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

- versus -

1. **The Union of India, represented by the
Secretary to the Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.**
2. **The Director General,
Assam Rifles,
Shillong-793011.**
3. **The Joint Secretary (Police) to the
Government of India,
Ministry of Home Affairs,
New Delhi-110001.**
4. **Shri Jaswant Singh, Col.
Col (Records),
Directorate General,
Assam Rifles,
Shillong-793011.**

.....Respondents

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

.....

ORDER

SIVARAJAN. J. (V.C.)

The applicant is a civilian employee working in the field formation under the 1st respondent. He was initially appointed as a Lower Division Assistant in the year 1968. He was promoted as Upper Division Assistant in the year 1986. The next promotion is to the post of Head Assistant in the scale of pay of Rs.4500-7500. Though the applicant became eligible for promotion to the said post due to want of vacancies the applicant could not get promotion for more than 12 years. Considering this circumstances the applicant was granted 2nd financial up gradation in the pay scale of Head Assistant, Rs.4500-125-7000 under the Assured Career Progression Scheme with effect from 9.8.1999. When the post of Head Assistant fell vacant the office of the 2nd respondent issued order dated 16.4.2001 and 1.6.2001 promoting the applicant as Head Assistant with effect from 1.6.2001 evidenced by Annexure-I. The applicant joined the said post and was working continuously as Head Assistant.

2. The next promotion is to the post of Senior Accountant. As per the Assam Rifles Field Officers (Group 'C' Civilian Ministerial Posts) Recruitment Rules, 2001 (Annexure-IV to the written statement) the post of Senior Accountant has to be filled up by promotion from amongst the members of Assam Rifles holding the rank of Head Assistant with three years regular service in the grade. The applicant had completed three years service in the post of Head Assistant in June 2004 and as such he is eligible for being considered for

Spf
✓

promotion to the post of Senior Accountant. According to him vacancies in the said post are existing.

3. The grievance of the applicant in this O.A. is that the respondents have cancelled the promotion given to the applicant to the post of Head Assistant with effect from 1.6.2001 as per an order dated 14.6.2004 (Annexure-IV) stating that the promotion order dated 1.6.2001 is erroneous as the officials mentioned therein did not fulfill QR for promotion as per Recruitment Rules 2000 on the dates of Promotion. The order of cancellation, however, stated that since the officials have actually fulfilled QR as per Recruitment Rules 2000 with effect from 10.10.2002, they stand promoted with effect from 10.10.2002. The subordinate authorities were directed to implement the said order. The applicant, being aggrieved by the 14.6.2004 order, made a representation dated 22.6.2004 (Annexure-V) to the 2nd respondent wherein it is specifically stated that the cancellation of the promotion of the applicant was made without affording opportunity to the applicant. It was also pointed out that neither the instruction 3/98 nor the Recruitment Rules 2000 applied to the Civilian Clerks and that the promotions were effected in his case based on seniority and availability of vacancies. It is also pointed out that the applicant was promoted as Upper Division Assistant (UDA for short) in 1986 and that he had put in 14 years of service as such when he was promoted as Head Assistant with effect from June 2001. In short, it was stated that the promotion order of 1.6.2001 was strictly in accordance with law and the same was erroneously cancelled.

4. The representations filed by the applicant through proper channel were forwarded to the second respondent by letter dated 26.6.2004 (Annexure-VI) and the same was practically rejected by the

Yps

second respondent by a communication dated 30.7.2004 (Annexure-VIII). It is stated that the second respondent has not met the contentions raised in the representations mentioned above properly. This communication is also challenged in this O.A.

5. The respondents have filed a written statement. The main contention taken is that promotions of combatants and Civilian Clerks were erroneously carried out during the period from June 2000 to May 2002 in terms of Record Office instructions 3/98 in spite of notifications of Recruitment Rules in 2000. It is also stated that while 2 years service in the Grade of WO/UDA was mandatory for promotion to the post of Naik Subedar/Head Assistant as per instructions 3/98 the same was increased to 5 years in the Recruitment Rules 2000. A Court of Inquiry, it is stated, was held during the year 2002 which declared all the promotions of Combatant and Civilian Clerks issued from WO to Naik Subedar and UDA to Head Assistant respectively during the period between 31st May 2000 and 1st May 2002 as irregular. It is stated that the said decision was approved by the Government of India, Ministry of Home Affairs vide letter dated 15.6.2004. In para 5 of the written statement it is stated that the applicant was promoted as UDA with effect from 16.9.1986 and placed in the Common Seniority with Havildar Clerks; all the Havildar Clerks were subsequently promoted as Warrant Officer Clerks with effect from 10.10.1997 by Government order dated 23.4.1999 and the status of UDAs were upgraded to be at par with Warrant Officer Clerks thereby placing them in Common Seniority which implies that their seniority in the post of UDA was fixed afresh with effect from 10.10.1997. It is stated that the seniority of the applicant in the post of UDA for further promotion was counted only from 10.10.1997 and

lpa

✓

as per Recruitment Rules 2000 five years regular service is mandatory in the rank of Warrant Officer Clerk for promotion to the post of a Naik Subedar/Clerk. Similarly, under the Recruitment Rules 2001 five years regular service in the rank of UDA is mandatory for promotion to the post of Head Assistant. Taking into account date of seniority in UDA with effect from 10.10.1997 the applicant was due for promotion to the post of Head Assistant on or after 10.10.2002. As far as the cancellation of the promotion order with prior notice is concerned it is stated that the cancellation order is made with the consent of Ministry of Home Affairs and therefore there is no obligation to issue show cause notice. Again in para 10 of the written statement it is stated that since the applicant was being considered for promotion to Head Assistant on 1.6.2001 (i.e. when the vacancy existed) his promotion was to be considered as per the Rules then in force i.e., Recruitment Rules 2000. It is stated that even though Recruitment Rules 2000 were meant for his Combatant Counterparts, these were equally applicable to Civilian Clerks as well till notification of separate Recruitment Rules. The applicant has filed a rejoinder refuting the averments in the written statement and reiterating the averments in the O.A.

6. We have heard Mr M. Chanda, learned counsel for the applicant and Mr M.U. Ahmed, learned Addl. C.G.S.C. appearing for the respondents. Mr Chanda submitted that so far as Civilian Clerks in the Assam Rifles are concerned there are no Rules or Executive Orders regarding promotion to the hierarchy of posts and that promotions were being made based on seniority in the respective posts. Counsel submitted that the applicant was qualified and eligible for being promoted to the post of Head Assistant and that it is only on

Lpt

that basis the applicant was granted the scale of pay of Head Assistant under the ACP Scheme with effect from 9th August 1999. The counsel, in the circumstances, submitted that the respondents were not justified in holding that the promotion given to the applicant to the post of Head Assistant in 2001 is illegal or irregular. Mr Chanda has also pointed out that the respondents themselves in para 10 of the written statement conceded that the Recruitment Rules 2000 is meant for Combatant Clerks only. He also submitted that the Rules for appointment/promotion etc for Civilian Clerks were framed only in 2001 subsequent to the promotion of the applicant to the post of head Assistant. Counsel also submitted that the respondents were not making any promotion based on any Common Seniority list of Havildar Clerk/UDA or Warrant Officer Clerk/UDA and that promotions were being effected by applying different yardsticks. He also submitted that Warrant Officers and UDAs were never equated by any specific order and that there was no justification in reckoning the seniority of the applicant in the post of UDA from 10.10.1997 when the applicant was promoted to the post of UDA in September 1986. The counsel submitted that if the respondents had afforded an opportunity by issuing notice to the applicant regarding the proposed cancellation of the promotion order of 2001 the applicant would have brought all the above circumstances to the notice of the respondents. The counsel further submitted that in spite of bringing those circumstances in the representation made to the second respondent they were ignored. The counsel has relied on the decision of the Supreme Court in Vimal Kumar Vs. State of Haryana, (1998) 4 SCC 114 in support of the position that in the absence of Rules made under Article 309 promotions can be effected based on seniority. Counsel

Apf

has relied on another decision of the Supreme Court in Ram Ujarey Vs. Union of India, (1999) 2 SLJ 43 for the position that before cancellation of the promotion order the respondent should have given an opportunity to the affected person to have his say in the matter. Counsel has also referred to Swamy's Complete Manual on Establishment and Administration - Chapter 20 dealing with Ad hoc Appointments/Promotions regarding the need for making regular promotions in the absence of Recruitment Rules.

7. Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents has reiterated the stand taken by the respondents in the written statement and also relied on a judgment of the Aizawl Bench of the Gauhati High Court in Hav. Saisang Salio Vs. State of Mizoram, 1999 (2) GLT 471, in support of the position that no legally enforceable right arises when only chances of promotions are reduced but right to be considered for promotion is not affected.

8. We have considered the rival submissions. The respondents have contended that the promotion order of the applicant and others were cancelled after a Court of Inquiry held in 2002 in which the decision to cancel all promotion orders effected between 31st May 2000 till May 2002 was taken and the same was approved by the Ministry of Home Affairs. Neither the details of the Court of Inquiry nor the details of the Government order dated 15.6.2004 are furnished. As already noted the only reason stated for cancellation of the promotion order is that the promotions made were not in accordance with the Recruitment Rules 2000 which provided for 5 years experience in the grade of UDA for promotion to the post of Head Assistant and that the applicant did not satisfy the said requirement on 1.6.2001, i.e. the date of promotion of the applicant to



the post of Head Assistant. The respondents have reckoned the seniority of the applicant in the post of UDA from a notional date 10.10.1997 which according to them is the date on which UDAs were treated on a par with Warrant Officers. Here it has to be noted that the applicant was promoted to the post of UDA in September 1986 from which date he was continuously working as such. Since there was stagnation in the said post without promotion for want of vacancy in the higher post viz. Head Assistant, the applicant was granted the scale of pay of Head Assistant under the ACP Scheme with effect from 9.8.1999. It must also be noted that the Scheme (Annexure-VII to the written statement) Clause 3.2 itself states "Regular Service for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment Rules". Thus it is clear that the parameters for grant of ACP and promotion are the same. The respondents had found that in 1999 itself the applicant became qualified and eligible for being promoted to the post of Head Assistant and that it is only for want of vacancies the applicant was granted the scale of pay of the post of Head Assistant. Further the respondents themselves have admitted that the Recruitment Rules 2000 was meant for Combatant Clerks only. Then how can it apply to the Civilian Clerks? Only reason stated is that there is no separate Rules for Civilian Clerks and that separate Rules are framed only in 2001. The 2000 Recruitment Rules are not made available by the respondents for our perusal. However, the Recruitment Rules 2001 (Annexure-IV to the written statement) produced by the respondents would show that the said Rules are intended for Assam Rifles field officers (Group 'C' Civilian Ministerial Staff). It deals with the recruitment/promotion to the post of Senior

[Signature]

Accountant, Head Assistant, Upper Division Assistant and Lower Division Assistant. The post of Head Assistant as already noted elsewhere has to be filled up by promotion from amongst the members of Assam Rifles holding the rank of UDA with five years regular service in the grade. Apart from the fact that the said Rules were notified only on 6th September 2001 after the promotion of the applicant on 1.6.2001 the applicant being a regular UDA since September 1986 satisfied the requirement of the Rules. The applicant not being a Warrant Officer Clerk at any time, where is the question of applying the Recruitment Rules of 2000 which is applicable to Warrant Officer Clerks and other Combatant Clerks? Even assuming that the post of UDA is equated with Warrant Officer Clerks with effect from 10.10.1997 (this is disputed) the fact remains that the post of UDA always stood apart independently. This and very many other intricate issues arises for consideration while thinking of cancelling the promotions made on 1.6.2001 on the basis that the said promotion is made ignoring the Recruitment Rules 2000. Since the applicant was working as Head Assistant since 1.6.2001 for more than 3 years the applicant should have been afforded an opportunity to have his say in the matter which is a requirement of the principles of natural justice and fair play in administrative action particularly when the civil rights of the applicant are prejudicially affected. The decision of the Supreme Court in Ram Ujarey's case (Supra) (para 17 at page 47) is also relevant. The decision of the Supreme Court in Vimla Kumari's case (supra) (para 7 at page 116 of the report particularly) is relevant on the merits.

9. The applicants representation projected some of the facets of his case which according to us was wrongly brushed aside by the



respondents in their reply (Annexure-VIII) stating that the applicant was granted the scale of pay of Head Assistant since 9th August 1999 and further that the date of promotion has since been changed to 10.10.2002. These circumstances are beside the point at issue. There is no satisfactory disposal of the representation filed by the applicant. The decision of the Gauhati High Court relied on by the Addl. C.G.S.C. does not appear to have any relevance on the facts of this case.

10. On the whole we find that the cancellation of the promotion order dated 1.6.2001 serial No.(K) in Annexure-IV and the modification of the date of promotion of the applicant to the post of Head Assistant from 1.6.2001 to 10.10.2002 without issuing a show cause notice to the applicant in the peculiar facts of his case treating it as a general issue is illegal, arbitrary and unjustified. We accordingly set aside and quash the order dated 14.6.2004 (Annexure-IV) serial No.(K) in so far as it relates to the applicant alone. The subsequent orders based on 14.6.2004 order are also set aside and quashed. The respondents are directed to consider the representation (Annexure-V) forwarded vide covering letter (Annexure-VI) and disposed of by communication (Annexure-VIII) afresh in the light of the observations made in this order and in accordance with law and take a decision within a period of four months from the date of receipt of this order. The applicant is free to file an additional representation before the 2nd respondent setting out all relevant factual details and legal aspects. If such a representation is filed within three weeks the same will also be considered while taking a decision in the matter. In the meantime the respondents are also directed to consider the claim of the applicant for promotion to the post of Senior Accountant in accordance with the provisions of the 2001 Rules (Annexure-IV),



however, subject to the result of the decision to be taken on the representation as directed hereinabove.

11. The O.A. is disposed of as above. The applicant will produce this order alongwith the additional representation before the 2nd respondent for compliance.



(M. K. MISRA)
ADMINISTRATIVE MEMBER



(G. SIVARAJAN)
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 217 /2004

BETWEEN

Shri Jagadish Chandra Bhattacharjee,
Head Assistant,
HQ, IGAR (South)
C/o- 99 APO,
P.O- Imphal.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Home Affairs,
North Block, New Delhi-110001.
2. The Director General,
Assam Rifles, Shillong-793011.
3. The Joint Secretary (Police) to the
Government of India,
Ministry of Home Affairs,
New Delhi-110 001.
4. Shri Jaswant Singh, Col,
Col (Records)
Directorate General
Assam Rifles,
Shillong-793 011.

... Respondents.

J. Bhattacharjee

DETAILS OF THE APPLICATION

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

This application is made against the impugned order dated 14.06.2004 (Annexure-IV), order communicated through telegram dated 14.07.2004 (Annexure-VII) as well as against the impugned letter dated 30.07.04 (Annexure-VIII), whereby promotion of the applicant to the post of Head Assistant is now sought to be cancelled without any prior notice or show cause and also praying for a declaration that the promotion of the applicant to the post of Head Assistant granted vide letter bearing No. Rec (Adm-IV)/ Promotion/2001 dated 01 Jun 2001 is legal and valid and the order dated 14.06.2004, 14.07.2004 and 30.07.2004 issued by the respondents are void-ab-initio.

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.

J.C. Shalikar

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.

4.2 That your applicant was initially appointed as Lower Division Assistant (for short L.D.A) under the Director General Assam Rifles in the year 1968. Be it stated that the applicant is a civilian employee working in the field formation under the Director General of Assam Rifles (for short DGAR). The applicant is presently working as Head Assistant in the office of the Inspector General, Assam Rifles (South), Imphal, C/o 99 APO.

4.3 That your applicant thereafter promoted as Upper Division Assistant (for short U.D.A) in the year 1986, however applicant was again promoted after a lapse of about 14 years to the post of head Assistant vide order bearing letter No. Rec (Admn-IV)/Promotion/2001 dated 01.06.2001. After receipt of the aforesaid promotion order, applicant accordingly joined in the said post of Head Assistant and working continuously to the post of head assistant till date.

A copy of the promotion order dated 01.06.2001 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-I.

4.4 That it is stated that the next promotion of the applicant is to the post of Sr. Accountant as per

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Recruitment Rule namely "The Assam Rifles Field Officers (Group C Civilian Ministerial posts) Recruitment Rules, 2001". He is entitled to be promoted to the post of Sr. Accountant, in terms of the aforesaid recruitment rule 3 years regular service is necessary in the cadre of Head assistant for consideration of post to the sr. Accountant since the applicant has joined in the promotional post of Head assistant in the month of June'2001 as such he has completed his 3 years regular service in the month of June 2004 to the cadre of Head Assistant as required under the rule and thereby attained eligibility for promotion to the post of Sr. Accountant. The applicant is now looking for his further promotion to the post of ✓ Sr. Accountant. In terms of Recruitment Rule 2001 the applicant got his promotion to the post of Head Assistant in the month of July, 2001, vide order-dated 01.06.2001. It is categorically submitted that more than 10 posts of Sr. Accountants are lying vacant under the DGAR, Shillong but no action has been initiated for filling up the post of Sr. Accountant although applicant earned his illegibility long back on 05.06.2004. As per rule a vacancy must be filled up on the date on which the vacancy is occurred. In this connection Govt. of India's instruction in Swamy's Manual on Established and Administration is quoted below: -

"A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy,

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unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies, should be filled as per the Recruitment Rules in force."

In view of the above position of law the applicant is entitled to be considered for his promotion to the post of Sr. Accountant, Moreso in view of the fact when the post of Sr. Accountant available in the establishment of DGAR.

A Copy of the extract from Swamy's Establishment and Administration for Central Government offices as well as the Recruitment Rule 2001 published on 6.9.2001 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-II & III respectively.

4.5 That most surprisingly while the applicant expecting his further promotion to the post of Sr. Accountant the respondents namely respondent No. 4 Col. Jaswant Singh, office of the DGAR, Shillong issued the impugned order bearing letter No. Rec (Adm-IV)/Promotion/204/68 dated 14.06.2004. Whereby series of promotion orders issued during the year 2000/2001/2002 are hereby sought to be cancelled on the alleged ground that those promotion orders were issued erroneously as the official mentioned therein did not fulfill requisite qualification for promotion as per Recruitment Rules 2000 on the dates of promotion but did not disclose the fact that under what rule these employees were promoted by authorities, during the year 2000/2001/2002 but it

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appears that the promotion order issued in respect of the applicant under authority of DGAR, Shillong vide letter No. Rec (Admn-IV)/Promotion/2001 dated 01.06.2001 and the said authority of DGAR, Shillong neither revoked or cancelled the order dated 01.06.2001 till date, therefore cancellation of the promotion order that too by Col. Jaswant Singh, without having any jurisdiction and authority of law. It is further alleged in paragraph 2 of the impugned order that the officials has actually fulfilled requisite qualification only w.e.f 10.10.2002 as per Recruitment Rules 2000 and further instructed the lower formation to issue necessary consequential order granting promotion only w.e.f 10.10.2002 and also directed the pay and accounts officer Assam Rifles to carry out recoveries of excess pay and allowances drawn by the employees whose names are mentioned therein. It is pertinent to mention here that in the impugned order dated 14.06.2004 the promotion order of the applicant dated 01.06.2001 is also included in serial no. (K) and his name is further evident in the appendices to the impugned order. Wherein his name is figured at Sl. No. 6, in Column (e) of the appendices. Respondents shown the date of upgradation of applicant as warrant officer w.e.f 10.10.1997 and his date of promotion to the post of Head assistant shown on 01.06.2001 as per routine order of instruction (in short ROI 3/98) and further it is shown that his date of promotion to the post of Head Assistant as per RR 2000 would be effective w.e.f

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10.10.2002, the aforesaid impugned order has been passed by Col. Jaswant Singh without application of mind in a most arbitrary manner and without consulting the records and rules. In this connection it may be stated that applicant was never upgraded as warrant officer during his entire service career, rather he was always fighting for his promotion/upgradation at par with warrant officer/ Naib Subedar/ Subedar of the combatant side, but the respondents Union of India are vehemently opposing the same, the respondents even refused to grant parity of pay with the applicants counterpart in the combatant side. Therefore the date of 10.10.1997 which is shown in column (e) of the appendices as his upgradation to the post of warrant officer is categorically denied. The applicant was not promoted to the post of Head assistant in terms of Recruitment Rule, 2000 as alleged in the impugned order. Moreover ROI 3/98 is pertaining to combatant staff as such question of cancellation of promotion order to the applicant to the post of Head Assistant does not arise. Moreover the promotion of the applicant not governed by Recruitment Rule 2000 as alleged in the impugned order dated 14.06.2004. As such there is no question of giving effect of his promotion to the post of Head Assistant w.e.f 10.10.2002 instead of 01.06.2001. Therefore entire exercise that has been made by Col. Jaswant Singh with a wrong notion and without consulting the records and also not going

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through the relevant rules which are in force in the office of the DGAR, Shillong.

It is further submitted that the impugned order dated 14.06.2004 whereby promotion order of the applicant is now sought to be cancelled without providing any opportunity, notice or show cause and the said impugned order has been passed in total violation of natural justice on that score alone the impugned order dated 14.06.2004 is liable to be set aside and quashed so far it relates to the applicant.

A copy of the impugned order dated 14.06.2004 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-IV.

4.6 That it is stated that the impugned order dated 14.06.004 issued by the office of the Director General Assam Rifles, Shillong also directed the authorities of the local formation to effect recoveries of the excess pay and allowances which are alleged to have been wrongly drawn due to erroneous promotion in fact led to civil consequences and such order cannot be passed without providing any opportunity to the applicant. Moreover Recruitment Rule, 2000 indicated in the impugned order in fact relates to Combatant staff of DGAR and since the applicant is a civilian employee the said recruitment rules has no application and on that score alone the impugned order dated 14.06.2004 is liable to be set aside and quashed in respect of the present applicant.

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4.7 That it is stated that the impugned order dated 14.06.2004 issued by the office of the Director General Assam Rifles, Shillong also directed to the authorities of the lower formation to effect recoveries of the excess pay and allowances which are alleged to have been wrongly drawn due to erroneous promotion in fact led to civil consequences and such order cannot be passed without providing any opportunity to the applicant. Moreover Recruitment Rule, 2000 indicated in the impugned order in fact relates to Combatant staff of DGAR, since the applicant is a civilian employees the said Recruitment Rules has no application in respect of the present applicant and on that score alone the impugned order dated 14.06.2004 is liable to be set aside and quashed in respect of the present applicant.

4.8 That your applicant submitted a detailed representation on 22.06.2004 to the DGAR, Shillong against the impugned order dated 14.06.2004. In the said representation the applicant inter alia contended that he had never upgraded as Warrant Officer. He also stated that no rule has been made applicable for promotion to the non-combatant Clerks and therefore ROI 3/98 cannot be considered as policy for promotion of non-combatant clerks. It is further contended by the applicant that his promotion in the present rank has been granted on the basis of his ACR and length of service and also inconsideration of their service conditions and instructions issued by the Govt. of

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India. The applicant further stated that Recruitment Rule 2000 has not been circulated declaring the same would be applicable in the case of non-combatant Clerical staff. Moreover the applicant further submitted that Recruitment Rule 2000 cannot be made applicable prospectively to the disadvantage of the employees who have already earned promotion. The applicant further referred letter dated 01.06.2004, 16.03.2004 and 27.11.2003 of the DGAR, Shillong and further contended that it would be evident from the above letters that non-combatant staff although senior in service than the combatant clerical staff of the same gradation list but they were kept outside the purview of promotion/ upgradation of pay scale as already extended to the grade of combatant staff and also stated that the case of the applicant has not been considered for further promotion but order has been passed for cancellation of promotion order dated 01.06.2001. The said representation was duly forwarded by the Commandant of the DGAR, Shillong vide letter bearing No. A/IV-15/2004/643 dated 26.06.2004.

Copies of the representation dated 22.06.2004 and forwarding letter dated 26.06.04 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure- V & VI respectively.

4.9 That it is stated that DGAR, Shillong again telegraphically issued further order to the authorities of lower formation on 14.07.04 for cancellation of promotion order and also for recovery of excess payment

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and further instructed for deferment of promotion of the employees included in the appendices of the impugned order dated 14.06.2004. Be it stated that instruction contained in the telegram dated 14.07.04 has been passed in total violation of principles of natural justice and on that score alone impugned order communicated through telegram dated 14.07.04 is liable to be set aside and quashed.

A copy of impugned order vide telegram dated 14.07.04 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-VII.

4.10 That it is stated that the respondents issued the impugned letter bearing No. Rec (Adm-IV)/HA-JCB/2004/343 dated 30th July, 2004, whereby the representation of the applicant dated 22.06.2004 infact rejected by the DGAR, Shillong. It is stated in the aforesaid impugned order that the respondents has examined in details the representation of the applicant and it has been decided that his date of promotion and seniority to the post of Head Assistant will be changed and it is further stated that the date of promotion to the post of Head Assistant has been changed to 10.10.2002 and he is not eligible for further promotion as on date and further directed the concerned authorities to cancel the BRO Part II Order of promotion of the applicant to the cadre of Head Assistant and also directed to republish the date of promotion of the applicant w.e.f. 10.10.2002 in terms of the impugned order dated 14.06.004. It appears from the contents of the letter

J.C. Bhattacharya

dated 30.07.04 that same has been passed mechanically without even looking into the grounds and objection raised by the applicant in his representation dated 22.06.2004, it is further evident from the aforesaid impugned order that no reason has been disclosed or discussed in the impugned letter dated 30.07.04 while detecting the representation of the applicant submitted against the impugned order dated 14.06.2004. All the aforesaid impugned order are liable to be set aside and quashed on the ground that no opportunity has been provided to the applicant before passing the impugned orders dated 14.06.04 and other consequential orders indicated above canceling the order of promotion of the applicant which was earned by him after a lapse of about 14 years. Moreover no recruitment rule would be published with retrospective effect to the disadvantage of the employees which will lead to civil consequences. Promotion and seniority is a very valuable legal right acquired by the applicant and the same cannot be taken away without following the procedure established by law. Moreover there was no illegibility in granting the promotion to the applicant to the post of Head Assistant after a lapse of about 14 years of service in the cadre of U.D.A.

Normally in all other central Govt. establishment promotion to UDC or UDA is granted immediately after completion of regular service for a period of 5/8 years in the cadre of UDC or UDA. But due to non-availability of Recruitment Rule the applicant is granted promotion

J.C. Shalachari

to the post of Head Assistant after a lapse of more than 14 years. Therefore this benefit cannot be taken away now on the alleged ground that promotion has been granted erroneously and as per Recruitment Rule, 2000 applicant has earned eligibility only w.e.f. 10.10.2002 for promotion to the cadre of Head Assistant. The Recruitment Rule, 2000 in fact not relates to the promotion of civilian employees working in Assam Rifles, moreover said Recruitment Rules cannot be made applicable in case of the present applicant with retrospective effect. It is well settled that promotion of a government employee cannot be denied due to non-availability of Recruitment Rules. Since there was no Recruitment Rules pertaining to civilian employees working in Assam Rifles for promotion from the cadre of U.D.A to the cadre of Head Assistant, therefore it will be presumed in the facts and circumstances of the present case that the promotion of the applicant has been made on regular basis in the absence of proper Recruitment Rules. But at any circumstances the Recruitment Rules, 2000 cannot be made applicable in the instant case of the applicant with retrospective effect to the disadvantages of the applicant. Therefore promotion of the applicant to the post of Head Assistant should be treated as regular promotion in terms of the order dated 01.06.2001 issued by the DGAR, Shillong. It is submitted that the applicant inspite of his best effort could not collect the Recruitment Rule 2000, therefore it is prayed that the Hon'ble Tribunal

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be pleased to direct the respondents to produce the Recruitment Rule 2000 at the time of hearing of the case.

A copy of the impugned order dated 30.07.2004 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure- VIII.

4.11 That your applicant has acquired a valuable legal right after his promotion to the post of Head Assistant in the month of June, 2001, moreover, he has served in the higher post with higher responsibilities and duties and no fraud is committed by the applicant and even assuming but not admitting that promotion was granted erroneously to the post of Head Assistant even then since the service of the applicant was utilized to the higher post and pay and allowances granted to him accordingly to his status and rank and as such the same cannot be taken away that too without providing any opportunity. The applicant has earned seniority in the said post of Head Assistant and now he has become eligible for further promotion to the post of Senior Accountant, as such benefit of promotion and seniority earned by the applicant in the cadre of Head Assistant cannot be taken away by the respondents by issuing impugned order dated 14.06.2004, impugned telegram dated 14.07.04 and impugned order dated 30.07.04. Therefore the impugned orders are liable to be set aside and quashed. It is categorically submitted that impugned orders has not been effected till filing of this Original Application, as such the Hon'ble Tribunal

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may be pleased to pass necessary interim order staying the operation of impugned order dated 14.06.2004, telegram dated 14.07.04 and order dated 30.07.04 till disposal of the instant Original Application since the aforesaid impugned orders has been passed in violation of principles of natural justice.

4.12 That the applicant has no other alternative then to file this application for protection of his valuable and legal rights by passing appropriate orders, interim order protecting the right and interest of the applicant.

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

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

5.1 For that, impugned order dated 14.06.2004 has been passed without application of mind, without consulting the records/rules and also without providing any opportunity by way of issuing show cause or notice and on that score alone the impugned order dated 14.06.2004 which has lead to civil consequences effecting seriously the right and interest of the applicant as well as his service prospect hence the impugned order dated 14.06.004 is liable to be set aside and quashed.

5.2 For that, applicant has acquired a valuable legal right to the post of Head Assistant after effecting his

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promotion from the month of June, 2001 vide DGAR order dated 01.06.2001.

- 5.3 For that, the applicant was duly promoted to the post of Head Assistant vide order DGAR dated 01.06.2001 and respondent Union of India has utilized his service in the higher post and the applicant has performed higher duties and responsibilities to the post of Head Assistant following the order of the respondents, as such the said benefit of promotion which was earned by the applicant way back in the month of June, 2001 cannot be taken away by the respondents without following the procedure established by law and also in violation of principles of natural justice.
- 5.4 For that, promotion and seniority is a valuable and legal right and the same cannot be taken away without giving prior opportunity.
- 5.5 For that, Recruitment Rule, 2000 has no bearing or relevancy with the promotion of the applicant who is a civilian employee working in the establishment of DGAR. Moreover the Recruitment Rule, 2000 cannot be made applicable in the instant case of the applicant with retrospective/prospective effect to the disadvantage of the applicant which has lead to civil consequences.
- 5.6 For that, in the impugned order dated 14.06.2004 it is shown that the applicant was upgraded as Warrant Officer w.e.f. 10.10.97 and his promotion to the post of Head Assistant was granted as per ROI 3/98

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surprisingly the applicant was never upgraded as civilian Warrant Officer and there is no designation namely; "Civilian Warrant Officer" in Assam Rifles. Moreover, ROI 3/98 relates to the promotion of combatant clerical staffs of the Assam Rifles. As such the name of the applicant has been wrongly included in the impugned order dated 14.06.2004 and on that score alone impugned order dated 14.06.04 is liable to be set aside and quashed.

5.7 For that, there was no Recruitment Rule governing promotion of civilian employees working in the Clerical cadre of Assam Rifles and therefore promotion could have been made by Executive orders as per instruction issued by Govt. of India from time to time and all those promotion which are made following the Executive instructions are required to be treated as regular promotion as per order issued by Govt. of India from time to time.

5.8 For that, promotion of the applicant granted to the cadre of Head Assistant after a lapse of 14 years from the cadre of U.D.A, therefore the said promotion cannot be declared erroneous to the disadvantage of the applicant that too after a lapse of 3 years from the date of availing of regular promotion to the cadre of Head Assistant.

5.9 For that the pay and allowances have been granted to the applicant in consideration of his higher status and rank, therefore the same cannot be recovered more so in

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view of the fact that when no fraud is committed by the applicant.

5.10 For that, representation of the applicant has been rejected by the impugned order dated 30.07.04 without disclosing or recording any reasons or also without rebutting any of the grounds raised by the applicant in his representation dated 22.06.2004. As such impugned orders dated 14.06.04, order communicated through telegram dated 14.07.04 and order dated 30.07.04 are liable to be set aside and quashed.

6. Details of remedies exhausted.

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

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

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

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside the impugned orders dated 14.06.2004 (Annexure-IV), order communicated through telegram dated 14.07.2004 (Annexure-VII) and order dated 30.07.2004 (Annexure-VIII) in respect of the present applicant.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to consider promotion of the applicant to the post of Sr. Accountant in the available existing vacancy with immediate effect.
- 8.3 Costs of the application.
- 8.4 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 stay the operation of the impugned orders dated 14.06.2004 (Annexure-IV), order communicated through telegram dated 14.07.2004 (Annexure-VII) and order dated 30.07.2004 (Annexure-VIII) in respect of the present applicant till disposal of this Original Application.

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This application is filed through Advocates.

11. Particulars of the I.P.O.

| | |
|-------------------|-----------------|
| i) I. P. O. No. | 20G 114152 , |
| ii) Date of Issue | 2.9.04 , |
| iii) Issued from | GPO, Guwahati , |
| iv) Payable at | GPO, Guwahati , |

12. List of enclosures.

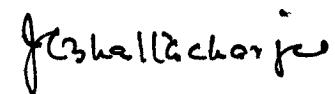
As given in the index.

J. B. Bhattacharjee

VERIFICATION

I, Shri Jagadish Chandra Bhattacharjee, Son of Late J. K. Bhattacharjee, aged about 54 years, working as Head Assistant, HQ, IGAR (South), C/o 99 APO, P.O- Imphal, 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 13th day of September, 2004.



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Annexure-I

uB

PART II ORDER : CIV STAFF

Unit : No. 1 Censtr Cey AR Location : Laitker, Shillong-07

Present part II order No. : 26/2001 Dated : 05 Sep 2001

Last part II order No. : 25/2001 Dated : 18 Aug 2001

GROUP-I

Str increase/decrease

Pesting in

1. Shri J C Bhattacharjee - (a) Posted in from 16 Assam Rifles Head Assistant on permanent posting and TOS wef 07 Aug 2001(FN).
(b) Physically reported on 27 Aug 2001(FN) & assumed the duties of HA wef same date.
(c) Availed 10 days joining time & 10 days E/L wef 07 Aug 2001 to 26 Aug 2001.
(d) Granted HCA XXX(Meghalaya) wef 27 Aug 2001(FN).
(e) Promoted to HA wef 01 Jun 2001 in the scale of pay Rs. 4500-125-7500/ No pay fixation has been done as indl availed ACP scheme.

(Auth : HQ DGAR Sig No. A 5138 dt 16 Apr 2001 and order No. Rec/(Adm-IV)/Promotion/2001 dt 01 Jun 2001)

A/IV-30/2001/93

Hemant Jeshi

Capt

2IC

for Comdt

Dated : 05 Sep 2001

Distr :-

1. HQ DGAR(Rec Branch, Adm-IV)
Shillong-793011
2. Pay and Accts Office AR
Laitumkhrah, Shillong-03
3. Fin Branch(internal)
4. Service book of indl
5. Office copy

RESTRICTED

True copy
Savajit Chaudhury
Advocate
13/9/04

834

SWAMY'S — ESTABLISHMENT AND ADMINISTRATION

2.7 In Group 'A' and Group 'B' services/posts, if none of the officers included in the DPC as per the composition given in the Recruitment Rules is an SC or ST officer, it would be in order to co-opt a member belonging to the SC or ST if available within the Ministry/Department. If no such officer is available within the Ministry/Department, he may be taken from another Ministry/Department.

2.8 *In the case of EB crossing. — ****

PART-II

FREQUENCY OF MEETINGS

Frequency at which DPC should meet

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

[Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question.

[See O.M., dated 8-9-1998 at the end of this section for Model Calendar.]

True copy checked by G.I., Dept. of Per. & Trg., O.M. No. 22011/3/91-Estt. (D), dated the 13th May, 1991.

Swamy
Adm. & Cal.
13/9/04

| | |
|----------------|----------------|
| 11 | 12 |
| लागू नहीं होता | लागू नहीं होता |
| 13 | 14 |
| लागू नहीं होता | लागू नहीं होता |

[फा. सं. I-45028/28/99-का. II]
एस. सी. सक्सेना, डेस्क अधिकारी

MINISTRY OF HOMEAFFAIRS

New Delhi, the 6th September, 2001

G.S.R. 502.—In exercise of the powers conferred by the proviso to article 309 of the Constitution the President hereby makes the following rules regulating the method of recruitment to Group 'C' Civilian Ministerial posts in the Assam Rifles under the Ministry of Home Affairs, namely :—

1. Short title and commencement.—(i) These rules may be called the Assam Rifles Field Officers (Group 'C' Civilian Ministerial Posts) Recruitment Rules, 2001.

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

2. Number of posts, classification and scale of pay.—The number of the said posts, their classification and the scale of pay attached thereto, shall be as specified in columns (2) to (4) of the Schedule annexed to these rules.

3. Method of Recruitment, age limit, and other qualifications.—The method of recruitment to the said posts, age limit, qualifications and other matters relating thereto shall be as specified in columns (5) to (14) of the said Schedule.

“Provided further that direct recruitment in future against any post included in the schedule to these rules shall be in the combatised capacity only”.

4. Initial Constitutions—The incumbents of the posts of Group 'C' combatised posts, who were appointed to the posts before the commencement of these rules shall be deemed to have been appointed under these rules and the services rendered by them in the said posts shall be taken into account for deciding their eligibility for promotion to the next higher grade.

5. Disqualification.—No person,—

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

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

shall be eligible for appointment to the said posts :

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

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

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

True copy
Savjit Chaudhary
Advocate
13/9/01

SCHEDULE

| Name of the Post | Number of posts | Classification | Scale of pay | Whether Selection post or non-Selection posts | Whether benefit of added years of service admissible under rule 30 of the Central Civil Services Pension Rules, 1972 | Age limit for direct recruits |
|-------------------|--|---|---------------------------|---|--|-------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Senior Accountant | 33* (2001) *Subject to variation dependent on workload. | Group 'C' (Non-Gazetted, Ministerial). | Rs. 5000- 150- 8000 | Non-Selection | Not applicable | Not applicable |

| Educational and other qualifications required for direct recruits | Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees | Period of probation, if any | Method of Recruitment, whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods |
|---|---|-----------------------------|--|
| 8 | 9 | 10 | 11 |
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| In case of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made | If a Departmental Promotion Committee exists, what is its composition | Circumstances in which Union Public Service Commission is to be consulted in making recruitment. |
|---|---|--|
| 12 | B' | 14 |
| Promotion for amongst the members of Assam Rifles holding the rank of Head Assistant with three years regular service in the grade. | Departmental Promotion Committee for Considering Promotion (a) Inspector General (HQs) Assam Rifles —Chairman (b) DIG (Admn.) Directorate General Assam Rifles —Member (c) Assistant Director (A), Directorate General Assam Rifles —Member (d) One Group A Officer from SC/ST community. —Member | Not applicable |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-------------------|--|--|---------------------------|-------------------------|----------------|----------------|
| 2. Head Assistant | 50* (2001) *Subject to variation dependent on workload. | Group 'C' (Non-Gazetted, Ministerial) | Rs. 4500- 125- 7000 | Selection-cum-Seniority | Not applicable | Not applicable |

| 8 | 9 | 10 | 11 |
|----------------|----------------|----------------|-------------------|
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| 12 | B | 14 |
|---|--|----------------|
| Promotion from amongst the members of Assam Rifles holding the rank of Upper Division Assistant with five years regular service in the grade. | Departmental Promotion Committee for Considering Promotion | Not applicable |
| | (a) Inspector General (HQs) Assam Rifles —Chairman (b) DIG (Admn.) Directorate General Assam Rifles —Member (c) Assistant Director (A), Directorate General Assam Rifles —Member (d) One Group A Officer from SC/ST community —Member | |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----------------------------|--------------------------------------|--|---------------------------|---------------|----------------|----------------|
| 3. Upper Division Assistant | 352* (2001) *Subject to variation | Group 'C' (Non-Gazetted, dependent Ministerial) on workload. | Rs. 4000- 100- 6000 | Non-selection | Not applicable | Not applicable |

| 8 | 9 | 10 | 11 |
|----------------|----------------|----------------|-------------------|
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| 12 | 13 | 14 |
|--|---|----------------|
| Promotion from amongst the members of Assam Rifles holding the rank of Lower Division Assistant with eight years regular service in the grade. | Departmental Promotion Committee for Considering Promotion: (a) Inspector General (HQs) Assam Rifles —Chairman (b) DIG (Admn.), Directorate General Assam Rifles —Member (c) Assistant Director (A), Directorate General Assam Rifles —Member (d) One Group A Officer from SC/ST community. | Not applicable |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----------------------------|--------------------------------------|--|----------------------------------|----------------|----------------|---|---|
| 4. Lower Division Assistant | 862* (2001) *Subject to variation | Group 'C' (Non-Gazetted, dependent Ministerial) on workload. | Rs. 3050- 75-3950- 80-4590 | Not applicable | Not applicable | 18 to 25 years (Relaxable for Govt. servants upto 5 years in accordance with the instructions or orders issued by the Central Government) Note:—The crucial date for determining the age limit shall be | (a) 10+2 or equivalent (Matriculation/SSLC/HSLC to be pass with English and Mathematics) (b) Typing speed 30 words per minute in English or 25 words in per minute in Hindi. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|

the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State, Lahaul and Spiti district and Pangi Sub-Division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep.)

| 9 | 10 | 11 | 12 |
|----------------|-----------|-----------------------|----------------|
| Not applicable | Two years | By direct recruitment | Not applicable |
| 13 | | 14 | |
| Not applicable | | Not applicable | |

[File No. I. 45028/28/99-Pers. II]
S. C. SAKSENA, Desk Officer

True copy
Sangita Chaudhury
Adroga
13/9/02

L C C A B

DIRECTORATE GENERAL, ASSAM RIFLES, GUWAHATI - 783011

ORDER

Rec(Adm-IV)/Promotion/2004/268

Dated : 14 Jun 2004

The promotion orders in respect of pers at Appendices A, B and C issued by this Directorate vide following orders are hereby cancelled being erroneous as the officials mentioned therein did not fulfill QR for promotion as per Recruitment Rules 2000 on the dates of promotion given in these orders:-

- (a) Rec(Adm-IV)/3-95/Vol-I/2000/277 dated 24 Aug 2000.
- (b) Rec(Adm-IV)/3-95/Vol-I/2000/278 dated 19 Sep 2000.
- (c) Rec(Adm-IV)/3-95/Vol-I/2000/279 dated 27 Oct 2000.
- (d) Rec(Adm-IV)/3-95/Vol-I/2000/280 dated 10 Nov 2000
- (e) Rec(Adm-IV)/3-95/Vol-I/2000/280 dated 23 Nov 2000
- (f) Rec(Adm-IV)/3-95/Vol-I/2000/281 dated 01 Dec 2000.
- (g) Rec(Adm-IV)/Promotion/Steno/284 dated 13 Dec 2000.
- (h) Rec(Adm-IV)/Promotion/2001/01 dated 23 Mar 2001.
- (i) Rec(Adm-IV)/Promotion/Steno/438 dated 27 Mar 2001.
- ✓ (k) Rec(Adm-IV)/Promotion/2001 dated 01 Jun 2001.
- (l) Rec(Adm-IV)/Promotion/2001/700 dated 27 Jun 2001.
- (m) Rec(Adm-IV)/Promotion/2001/678 dated 21 Jun 2001.
- (n) Rec(Adm-IV)/Promotion/2001/715 dated 29 Jun 2001.
- (o) Rec(Adm-IV)/Promotion/2001/740 dated 09 Jul 2001.
- (p) Rec(Adm-IV)/Promotion/2001/815 dated 14 Aug 2001.
- (q) Rec(Adm-IV)/Promotion/2001/894 dated 19 Sep 2001.
- (r) Rec(Adm-IV)/Promotion/2001/01 dated 30 Oct 2001.
- (s) Rec(Adm-IV)/Promotion/2001/0975 dated 12 Nov 2001.
- (t) Rec(Adm-IV)/Promotion/2001/1021 dated 12 Dec 2001.
- (u) Rec(Adm-IV)/Promotion/2001/1071 dated 11 Jan 2002.
- (v) Rec(Adm-IV)/Promotion/2001/1147 dated 11 Feb 2002.
- (w) Rec(Adm-IV)/Promotion/Steno/2002/1206 dated 08 Mar 2002.

To the copy
Surajit Choudhury
Advocate
13/9/04

(x) Rec(Adm-IV)/Promotion/2001/1207 dated 12 Mar 2002.
 (y) Rec(Adm-IV)/Promotion/2001/1300 dated 07 May 2002.
 (z) Rec(Adm-IV)/Promotion/2001/1329 dated 23 May 2002.

2. Since the officials shown in Appendices A, B and C actually fulfilled QR as per Recruitment Rules 2000 wef 10 Oct 2002, they stand promoted with effect from 10 Oct 2002 as shown against their names.

Old BRO relating to their promotion given against each will be cancelled by concerned units where individuals were serving at that time and published a fresh by present units and fwd to all concerned as per instrs.

The fresh assumption certificate as per Appendix 'K' to ROI 4/2002 may please be furnished to this Dte (Adm-IV) alongwith BRO Part II from the date as applicable, at the earliest.

Please ack receipt.


 (Jaswant Singh)
 Col
 Col (Records)

List 'A'

List 'B'

List 'C'

List 'D'

List 'E'

List 'F'

UPAO(AR)
PMS Only

NE I, II & III

- You are requested ^{to} carry out recoveries of excess Pay and Allowances drawn by the pers as mentioned in Appendices A, B, and C respectively.

- Please review all pension cases of those who had retired already either prior to 10 Oct 2002 or thereafter.

| S/ No. | Regt No | Rank | Name | Date of promotion of combatants and upgradation of civilians as WO(CP) | Earlier Date of promotion to Nb Sub/HA as per ROI 3/98 | Fresh date of promotion as Nb Sub (Clk)/HA as per RR 2000 | Unit and BRO II where indl promoted Nb Sub (Clk)/ HA | Present unit | Remarks |
|-----------|---------|--------|-----------------------|--|--|---|--|-------------------|-------------------------|
| (a) | (b) | (c) | (d) | (e) | (f) | (g) | (h) | (i) | (j) |
| 8 | NA | HA | Shri JC Bhattacharjee | 10-10-1997 | 01-06-2001 | 10-10-2002 | | 1 CC/ Dmp Rg B Rg | |
| 9. | NA | HA | Shri H K Barman | 10-10-1997 | 01-06-2001 | 10-10-2002 | | MP Rg | |
| 10. | NA | HA | Shri EC Bhattacharjee | 10-10-1997 | 01-06-2001 | 10-10-2002 | | 27 AR | |
| 11 | NA | HA | Shri B N Deka | 10-10-1997 | 01-06-2001 | 10-10-2002 | | | Pension out on 31-03-02 |
| 12 | NA | HA | Shri MK Purkayastha | 10-10-1997 | 01-06-2001 | NA | | | |
| 13 | 360870 | Nb/Sub | S K Rout | 10-10-1997 | 01-06-2001 | 10-10-2002 | 15 AR-72/59/01 | 15 AR | |
| 14 | 360953 | Nb/Sub | R K Das | 10-10-1997 | 01-06-2001 | 10-10-2002 | IGAR(N)- 36/9/01 | IGAR(N) | |
| 15 | NA | HA | Shri Gam Subbha | 10-10-1997 | 01-07-2001 | NA | | ARSU | Pension out on 31-07-02 |
| 16 | NA | HA | Shri GP Dhar | 10-10-1997 | 01-07-2001 | NA | | | Expired on 30-06-02 |

True copy
Sengil Choudhury
Advocate
13/1/02

From : J C Bhattacharjee, HA
 1 Construction & Maint Coy, AR
 PO - Happy Valley
 Shillong - 793 007

To : The Director General Assam Rifles
 Shillong - 11

(Through proper channel)

ORDER

Sir,

1. With reference to your order No. Rec(Adm-IV)/Promotion/2004/268 dated 14 Jun 2004 I would like bring the following before your kind notice :-

(a) I have been Promoted to UDA wef 16 Sep 1986 and as on date of Upgradation of combatised Hav/Cik to WO(Cik) against the slot of UDA/UDC I was holding the post of UDA in the pay scale of Rs. 4,000-100-6,000/- & never been upgraded as WO(Cik) or given any promotional benefits in the pay scale or in fixation as given to combatant clerks for promotion/upgradation in the same post in the higher scale. In this connection your letter No. Rec(Adm-IV)/5CPC/99/ 157 dt 17 May 99 refers.

(b) No ROI has been made applicable for promotion of non combatant clerks therefore, ROI 3/98 can not be considered as policy for promotion of non combatant clerks.

(c) Non combatant clerical staff are given promotion on the basis of ACR and length of service in present ranks and other condition laid down for promotion of other central government employees.

(d) RR 2000 as referred for considering fresh promotion date has not yet been circulated for info of service terms and condition of non combatant clerical staff. Moreover, RR has been approved by GOI in the year 2000, thus same to be implemented for the staff who are enrolled on and eligible for promotion as per RR 2000 on date of issue of RR and the RR of 2000 can not be given effect with a prospective date as mentioned in the letter date 14 Jun 2004.

(e) Upgradation of non-combatant clerical categories either in rank or in pay scale has not been done. In this connection HQ DGAR following letters/Sig refers. But upgradation/promotion already given to combatant clerical staff wef 10-10-1997 and thereafter.

- (i) A 5108 dated 01 Jun 2004
- (ii) I.14016/140/A-II/2004 dated 16 Mar 2004
- (iii) Record(Adm-IV)/Promotion/2003/0494 dated 27 Nov 2003

*For b6
Confidential
Date 14/4/2004
Vide A/I/15
2004/143 dt
26-Jun-04*

From above you will find that non combatant clerk who were senior in service than the combatant clerical staff in the same gradation list kept suddenly out side the purview of promotion/granting upgraded pay scale as ordered based on approved RPE.

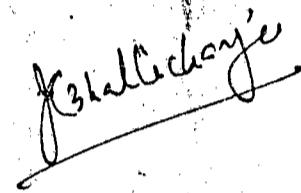
(f) As per HQ DGAR A 5128 dated 20 Feb 2004 my name has been included in the DPC for consideration for next promotion on availability but, till date my promotion to next higher rank has not been considered even after the availability of vacancies.

*Type Gp 2
Sangit Chakraborty
Advocate
13/9/04*

2. In view of the circumstances stated above I pray before your honour to look into the matter in details to avoid financial hardship to poor paid government servants due to error of the department and review the order dated 14 Jun 2004 and further be pleased to remove/cancelled the order dated 14 Jun 2004 immediately.

Thanking you sir.

Yours faithfully



(JC Bhattacharjee)
HA

Dated : 22 Jun 2004

1 Constr & Maint Coy
Assam Rifles
P.O. Happy Valley
Shillong - 793 007

IV-15/2004/643

Jun 2004

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(Rec Branch, Adm-IV)
Shillong - 793 011

51
M

APPLICATION : FWD OF

An application in respect of Shri J C Bhattacharjee, HA
of this coy is fwd herewith duly recommended by Commandant
for your further necessary action please.

h
(Purneet Suri)
Maj
2IC
for Comdt
PS

Encl : 3 (Three) Sheets

True copy
Suryit Chaudhary
Advocate
13/9/04

Ans for 8 Month Copy

RECD TO: 1. RAJYA LOK PAL 2. RAJYA BHARAT

RAJYA BHARAT

RAJYA BHARAT

RAJYA BHARAT

in lieu of msg form RAJYA BHARAT

DTG : 14 7-7-04

UNCLAS..... A

A 5162

From : DGAR

To : LIST A AND B

Info : LIST C, E AND F

promotion order and excess payment (.)

firstly (.) confirm receipt this Dte order Rec(Adm-IV)/
promotion/2004/268 Jun 14 and ensure following
action to be taken (.)

alfa (.) cancellation of BRO part two in
respect of all effected pers at appces
alfa comma bravo and charlie respecti-
vely of ibid order (.)

From : D'bravo (.) publication of fresh BRO part two
(.)

charlie (.) recoveries of excess payment of
pay and allowances drawn by all emp.
incl civ staff (.)

secondly (.) instruct units under your command for
firstly immediate compliance and fwd completion report
by Jul 30 rpt Jul 30 through chain of command
for info of DGAR (.)

lastly (.) all ack -

Col Jaswant Singh Col (R) Adm-IV dated 14 Jul 2004
only of ibid order (.)

charlie (.) publication of fresh BRO part two

Rec(Adm-IV)/Promotion/2004/ TOR hrs

Copy to : -

LIST D AND E instruct for your info and similar action
as above. and similarly for
UPAO/PMS Only. You are requested to carry out
recoveries of excess pay and allowances
drawn by the pers as mentioned in
appes A, B and C respectively and
fwd completion report accordingly
by 21 Jul 2004.

NE I, II & III Only.

True Copy
Surajit Chaudhary
Adm-IV
13/7/04

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong -793011

Rec(Adm-IV)/HA-JCB/2004/ 543

30 Jul 2004

No 1 Constr and Maint Coy
Assam Rifles
PO - Happy Valley
Shillong -793007

APPLICATION FOR CANCELLATION OF RECOVER/PROMOTION ORDER

1. Reference your letter No A/IV-15/2004/643 dated 26 Jun 2004.
2. Application in respect of Shri J C Bhattacharjee, HA received vide your letter under ref has been examined in details and the following is intimated :-
 - (a) Individual has already been granted ACP benefit wef 09 Aug 1999 which stands good. Hence only date of promotion and seniority of HA will be changed.
 - (b) With regard to his name being included in DPC as brought out by indl, to consider further promotion, a case has been taken up by A Branch this Dte vide letter No A/A-II/RPE/Pers/2003 dated 25 Nov 2004 and A/A-II/RPE/Pers/2004 dated 11 Feb 2004, with regard to promotion of civil clerks but reply has not yet been recd from competent auth. Moreover, since the date of his promotion to HA has now been changed to 10 Oct 2002, he is not eligible for further promotion as on date.
4. In view of above, you are requested to cancel his BRO Part II of promotion which was published earlier and re-pub the same wef 10 Oct 2002 as ordered vide our order No Rec(Adm-IV)/Promotion/2004/268 dated 14 Jun 2004.

True copy
Surajit Chaudhury
Advocate
13/9/04

B. Singh
(Bhupendra Singh)
Capt
SO3 (R)
For Col (R)

14 DEC 2004

गुवाहाटी न्यायालय
Guwahati Bench

File No. 57
Date 15/12/04
(A. B. B. Roy
S. C. S. C
A. A. T. Guwahati Bench)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

OA No 217/2004

SHRI JC Bhattacharjee

.....**APPLICANT**

VERSUS

UNION OF INDIA & ORS

.....**RESPONDENTS**

In the matter of :

Written Statement submitted by the respondents.

The humble respondents beg to submit the reply as follows:-

Back Ground and Brief of the case.

1. The clerks category in Assam Rifles consists of both combatants as well as civilian clerks, whose equivalency has been changing from time to time. As per Government of India, Ministry of Home Affairs letter Number 27011/44/88-PF.I dated 19 September 1989, an Upper Divisional Assistant (UDA) was equivalent to Havildar clerk. Later on vide Govt of India, Ministry of Home Affairs letter Number 27011/44/88-PF.I dated 23 April 1999, when all the then existing Havildar clerks were promoted to the rank of Warrant Officer (WO) clerks with effect from 10 October 1997, status of their civilian counterparts ie. UDAs were also upgraded and brought at par with Warrant Officer clerks with effect from the same date.

Now, as per the Re-structured Peace Establishment (RPE) of the Force, approved vide Govt of India, Ministry of Home Affairs letter Number II. 13015/3/96/PF.IV dated 19 August 2003, UDAs have been made equivalent to Naib Subedar clerks.

A copy of Govt of India letter No. 27011/44/88-PF.I dated 19 September 1989 is attached herewith as Annexure I

A copy of Govt of India, letter No. 27011/44/88-PF.I dated 23 April 1999 is attached herewith as Annexure II

A copy of Govt of India, letter No.II.13015/3/96/PF.IV dated 19 August 2003 is attached herewith as Annexure III

2. Promotions of both streams (civilian and combatant) were always regulated from a common roster based on inter-se-seniority. Before notification of Recruitment Rules, promotions of all personnel (including civilian clerks) in the Force were issued on the basis of Record Office instructions issued by Directorate General Assam Rifles from time to time. Promotions of combatants as well as civilian clerks during the period June 2000 to May 2002 were erroneously carried out in terms of Record Office instructions 3/98 inspite of notification of Recruitment Rules in 2000. While 2 years service in the grade of WO/UDA was mandatory for promotion to the post of Naib Subedar/Head Assistant (HA) vide Record Office instructions 3/98, the same was increased to 5 years in the Recruitment Rules 2000. Hence a Court of Inquiry was held during the year 2002 which declared all the promotions of combatant and civilian clerks issued from WO to Naib Subedar and UDA to HA respectively during the period between 31 May 2000 (from date of notification of Recruitment Rules) till 01 May 2002 as irregular. The case was referred to Govt of India, Ministry of Home Affairs and after due approval of the Ministry of Home Affairs forwarded vide their letter No. F-480/2004/Pers-III dated 15 June 2004, recoveries of pay and allowances and change in date of promotions have been ordered vide Directorate General Assam Rifles letter No. Rec(Adm-IV)/promotion/2004/268 date 14 June 2004. Case of the applicant is one of them. He

was promoted to Head Assistant with effect from 01 June 2001 as per Record Office instructions 3/98 whereas he has completed 5 years mandatory service (taking into account his fresh seniority as UDA with effect from 10 October 1997) in the post of UDA on 10 October 2002. Accordingly his date of promotion to HA has been ordered to be changed from 01 June 2001 to read as 10 October 2002 vide ibid order of 14 June 2004. However, recovery of pay and allowances is not involved in his case, as he is already in receipt of pay of Head Assistant with effect from 09 August 1999 under Assured Career Progression Scheme in terms of Govt of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) Office Memorandum Number 35034/1/97-Estt(D) dated 09 August 1999.

A copy of Recruitment Rules for Head Assistant is attached herewith as

Annexure-IV

A copy of Govt of India letter No. F-480/2004/Pers-III dated 15 June 2004 is attached herewith as **Annexure V**

PARAWISE REPLY

3. That with regard to statements made in Para 1,2 and 3 of the application, the respondents beg to offer no comments being matter of record.
4. That with regard to statements made in Para 4.1 and 4.2 of the application, the respondents beg to offer no comments being matter of record.
5. That with regard to statements made in Para 4.3 of the application, the respondents respectfully submit that the applicant was promoted to the rank of UDA with effect from 16 September 1986 and placed in common seniority with Havildar Clerks. All existing Havildar clerk were subsequently promoted the rank of Warrant Officer clerks with effect from 10 October 1997 as per Government of India (GOI), Ministry of Home Affairs (MHA) letter Number 27011/44/88-PF.1 dated 23 April 99 and the status of UDAs were upgraded to be at par with Warrant

Officer clerks thereby placing them in common seniority which implies that their seniority in the post of UDA was fixed afresh with effect from 10 October 1997. Taking this fresh date into account, he has accordingly been granted further promotions alongwith his combatant counterparts and has never been superseded. Thus, his contention that he was promoted to Head Assistant after a lapse of 14 years is his own perception while the position in fact was as stated above. Further more, it is noteworthy that, keeping in view his service as UDA with effect from 16 September 1986, he had already been granted 2nd financial upgradation in the pay scale of Head Assistant Rs.(4500-125-7000) in the hierarchy of civilian posts under Assured Career Progression Scheme with effect from 09 August 1999 as per Govt of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memorandum Number 35034/1/97-Estt(D) dated 09 August 1999 vide Directorate Assam Rifles letter Number Rec(Adm-IV)/ACP Scheme/99 dated 03 December 1999 due to non-availability of vacancies that time.

A copy of DGAR letter No. Rec (Adm-IV)/ACP Scheme/99 dated 03 December 1999 is attached herewith as Annexure VI

A copy of Govt of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memorandum Number 35034/1/97-Estt(D) dated 09 August 1999 is attached herewith as Annexure VII

6. That with regard to statements made in Para 4.4 of the application, the respondents begs to state that all UDAs were placed in the common seniority with Warrant Officer Clerks with effect from 10 October 1997 and thus their fresh seniority for further promotion also counted with effect from 10 October 1997. As per Recruitment Rules 2000, five years regular service is mandatory in the rank of Warrant Officer Clerk for promotion to the post of a Naib Subedar/Clerk. Similarly, as per Recruitment Rules 2001, as mentioned by the petitioner in the

application, five years regular service in the rank of UDA is mandatory for promotion to the post of Head Assistant. Taking into account date of seniority in UDA with effect from 10 October 1997, the applicant was due for promotion for the post of HA on or after 10 October 2002, whereas he amongst others was erroneously promoted with effect from 01 June 2001 while the Recruitment Rules 2000 were already notified and in force. All the promotions during the period June 2000 to May 2002 were issued without complying the criteria laid down in Recruitment Rules 2000 and these were later declared as irregular by an inquiry held during the year 2002. Accordingly his date of promotion to Head Assistant which was earlier erroneously effected from 01 June 2001, has been corrected and regularized to be with effect from 10 October 2002 vide Directorate General Assam Rifles letter Number Rec (Adm-IV)/Promotion/2004/268 dated 14 June 2004. It is admitted that next promotional post for a Head Assistant is Senior Account and is not eligible for promotion as of now. That the petitioner will have to complete 3 years regular service as Head Assistant as laid down in ROI 3/98 and only then he will be eligible for promotion to the post of SA on or after 10 October 2005 (as his date of promotion to Head Assistant has been changed to 10 October 2002). Since, the petitioner is not yet eligible for further promotion, existence and filling up of vacancies in the ibid case is immaterial.

7. That with regard to statements made in Para 4.5 of the application, the respondents begs to state that the contents are not agreed to. The promotions of combatant as well as civilian clerks carried out during the period June 2000 to May 2002 were erroneously issued in terms of Record Office instructions 3/98 without complying the criteria laid down in Recruitment Rules 2000 which already had come into force. The said erroneous promotions were therefore, declared as irregular by an inquiry held during the year 2002. The case was accordingly referred to Government of India, Ministry of Home Affairs and after due approval of the Ministry, all the irregular promotions including those issued vide Order No. Rec (Adm-IV)/Promotion/2001 dated 01 June 2001 were cancelled, thereby also

ordering recoveries of pay and allowances and change in date of promotions vide Directorate General Assam Rifles letter No. Rec(Adm-IV)/Promotion/2004/268 dated 14 June 2004. Thus, Petitioner's contention that the ibid cancellation order has been singed by Colonel Jaswant Singh without any jurisdiction, authority and application of mind in an arbitrary manner and contrary to rules is categorically denied being incorrect. The cancellation order has been issued in compliance with Director General Assam Rifles's directions to clinch the irregularity.

8. In pursuance of Government of India, Ministry of Home Affairs letter Number 27011/44/88-PF.1 dated 23 April 99, all the then existing Havildar clerk were promoted to the rank of Warrant Officer Clerks (in the pay scale of 4000-100-6000) with effect from 10 October 1997. It is submitted that the UDAs were already in that scale of pay hence, only their status was upgraded to be at par with Warrant Officer clerks which was earlier equivalent to Havildar clerks. Hence his statement that he was never upgraded as Warrant Officer is misleading. He has received promotion/financial upgradation under Assured Career Progression Scheme whenever due alongwith his combatant counterparts and never superseded. As regards pay and allowances at parity with combatant equivalents, it is clarified that the pay and allowances for the two streams are laid down in Recruitment Rules and none of them have been denied to the applicant. It is submitted that vide Government of India letter at **Annexure I**, all civilian officials were given an opportunity to opt for combatisation. It has further been stated in the said letter that those who do not opt for combatisation, will continue to hold the said civil post as personal to them till they are superannuated under the then existing conditions of service, meaning thereby that they will have no promotional avenues thereafter. The organization, keeping in mind the services rendered by these civilian employees, still continued granting them promotion under an Administrative decision. The statements that he was not promoted to the post of Head Assistant in terms Recruitment Rules 2000 and that these rules and Record Office instructions 3/98 are not applicable to him and are deliberate misstatement

hence denied. It is submitted that separate Recruitment Rules have later been notified for civilian ministerial staff on 06 September 2001. Prior to the above notification all their promotions were being regulated based on a common seniority with combatants and within the same Rules and Regulations as applicable to combatants. Record Office instructions 3/98 and Recruitment Rules 2000 are one of them. As far as cancellation of promotion order with prior notice or show cause is concerned, the said cancellation has been ordered with consent of Ministry of Home Affairs and as such there is no such obligation on the part of the organization to issue any show cause notice once it was clear that the promotions had been irregular and without authority.

9. That with regard to statements made in Para 4.6 of the application, the respondents begs to deny the same. It is submitted that since the applicant has been already in receipt of pay and allowance of higher post (Head Assistant) ever since 09 August, 1999, firstly the recovery of excess pay and allowances as ordered vide order dated 14 June 2004 is not applicable in his case, and secondly in whichever case it is to be recovered, it has been ordered after due approval of Government of India and, thus no show cause notice need to be issued. His contention that Recruitment Rules 2000 were not applicable to him is imaginary and suffers from false perception. Before notification of separate Recruitment Rules for civilian ministerial staff on 06 September 2001, their promotions were also being governed under the same rules and regulations as applicable to their combatant counterparts on the basis of an inter se- seniority. A provision as mentioned in Swamys Manual of Establishment and Administration which pertains to such a situation is quoted here under :-

"A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per

the Recruitment Rules in force".

10. Since he was being considered for promotion to Head Assistant on 01 June 2001 (i.e. when vacancy existed), his promotion was to be considered as per the rules then in force, i.e. Recruitment Rules 2000. Even though Recruitment Rules 2000 were meant for his combatant counterparts, these were equally applicable to civilian clerks as well till notification of separate Recruitment Rules.
11. That with regard to contents of Para 4.7 our reply in para 7 and 8 supra is reiterated.
12. That with regard to statements made in Para 4.8 of the application, the respondents respectfully submit that the representation dated 22 June 2004 submitted by the petitioner to Directorate General Assam Rifles was received vide No.1 Construction and Maintenance Company, Assam Rifles letter Number A/IV/15/2004/643 dated 26 June 2004. The application was accordingly examined and suitably replied vide Directorate General Assam Rifles letter Number Rec(Adm-IV)/Promotion/JCB/2004/343 dated 30 July 2004. The said application was based on own perception interpretation and imagination of the petitioner.
13. That the contents of Para 4.9 of the application, are denied by the respondents. Since the promotions declared irregular were cancelled. To regularize the said promotions the units were asked to cancel old Battalion Routine Orders relating to their earlier promotions and publish fresh Battalion Routine Orders with changed date of promotions. In order to ensure implementation of aforesaid order, a reminder to all the units in the Force was issued vide this Directorate Signal Number A 5162 dated 14 July 2004. That the said instructions were in furtherance to the approval obtained from the Ministry of Home Affairs on the subject and the same cannot be termed as Violation of Principles of Natural Justice as brought out by the petitioner.

14. That with regard to statements made in Para 4.10 of the application, the respondents begs to state that the petitioner's application was duly examined and suitably replied. The said application was based on own perception and imagination of the petitioner. That the main issues i.e. status of his present post and further promotion were accordingly covered in the reply given to him which was passed after due consideration of the case in the light of all existing rules on the subject and not mechanically as contented by the petitioner. As clarified in preceding paragraphs, all rules and regulations governing promotions of combatants including Record Office instructions 3/98 and Recruitment Rules 2000, were equally applicable to civilian clerks as well. Like any combatant clerk, their counterpart civilians were and are required to fulfill all prerequisites for further promotions as laid down in the rules. There can not be two different bench marks for two categories whose promotions are regulated from a common roster. As far as cancellation of promotion order with prior notice or show cause is concerned, the said cancellation has been ordered with the consent of Ministry of Home Affairs and as such there is no such obligation on the part of the organization to issue any show cause notice since the irregularity was apparent on the face of it.

15. No retrospective effect to Recruitment Rules has been given to the disadvantage of employee as perceived by him. Since he was earlier considered for promotion to Head Assistant on 01 June 2001 (i.e. when the vacancy existed), his promotion was to be considered as per the rules then in force i.e. Recruitment Rules 2000 (notified on 31 May 2000) which was equally applicable to civilians till the time separate Recruitment Rules for them were notified in the year 2001. It is amply clear that his promotion given on 01 June 2001 was within the purview of Recruitment Rules 2000 which were notified on 31 May 2000. Hence no legal right of applicant has been denied.

16. Promotions can not be claimed by a employee of an establishment by comparison with promotional prospects of the other Central Govt Establishments, as they will have different rank structures and authorizations. His promotions have never been delayed due to non-availability of Recruitment Rules as brought out by the applicant, but was due to non-availability of vacancies. As a result, he amongst other Upper Divisional Assistants had been granted 2nd financial upgradation to the pay scale (4500-124-7000) of Head Assistant under ACP Scheme with effect from 09 August 1999 and no recoveries of pay and allowances have been made in such cases. However, his date of promotion from 01 June 2001 to 10 October 2002) has been amended which is in accordance with Recruitment Rules 2000. Further, all rules and regulations governing promotions of combatants including Record Office instructions 3/98 and Recruitment Rules 2000 were equally applicable to civilian clerks as well and no retrospective effect of Recruitment Rules 2000 has taken place in case of the promotion of the petitioner.

17. It is a fact that there were no Recruitment Rules available for promotion of UDA to the post of Head Assistant but so was the case in respect of other posts of civilians as well as combatant clerks of unit cadre upto the year 2001. Before notification of Recruitment Rules, promotions of all personnel (including civilian clerks) in the Force were issued on the basis of Record Office Instructions issued by Directorate General Assam Rifles from time to time. Thus, individual's submission that he had been denied his further promotion due to non-availability of Recruitment Rules is imaginary and misleading. Further, all rules and regulations governing promotions of combatants including Record Office instructions 3/98 and Recruitment Rules 2000 were equally applicable to civilian clerks as well before enactment of separate Recruitment Rules. His promotion order which has been declared irregular by an inquiry in terms of Recruitment Rules 2000. The said erroneous and irregular promotion can not be treated as regular promotion as claimed by the petitioner.

18. That with regard to statements made in Para 4.11 of the application, the respondents beg to deny the same . The individual has been granted pay and allowances of the post of HA with effect from 09 August 1999 under ACP Scheme, where as he has performed the duties in that post only with effect from 27 August 2001. Hence the situation is rather vice-versa. It is also pertinent to mention that other allowances for his higher responsibilities like cash handling allowance for the duties of cash handling have also been granted from time to time. Since no recovery of his pay and allowance drawn with effect from 09 August 1999 has been made, he should have no reasons to state that he has served in a higher post with higher responsibilities. Date of his promotion to Head Assistant has been changed from 01 June 2001 to 10 October 2002 in accordance with Recruitment Rules 2000 and he will not be eligible for promotion to the post of Senior Accountant till 10 October 2005 ie till he completes 3 years regular service in the rank of Head Assistant as required as per Recruitment Rules 2001. As such, no Violation of Principles of Natural justice has taken place.

19. That with regard to statements made in Para 4.12 and 4.13 of the application, the respondents begs to state that the as reiterated in reply in preceding paragraphs the no injustice has taken place by altering the date of promotions of the applicant from 01 Jun 2001 to 10 October 2002, as it has been done to regularize the irregular promotion effected under a bonafide mistake due to non-compliance of the Rules governing the subject.

20. That with regard to averments made in Para 5.1 of the application, the respondents begs to deny the same. It is submitted that the said cancellation order dated 14 June 2004 has been issued with the concurrence consent of the Ministry of Home Affairs and as such there is no such obligation on the part of the organization to issue a show cause notice once it was clear established that the

promotions had indeed been irregular and hence the order of Directorate General Assam Rifles dated 14 June 2004 is justified.

21. That with regard to the contents of Para 5.2 of the application, the respondents begs to differ from the same . Since the promotion was erroneously issued and was without authority no right was conferred on the petitioner. Further, it has been declared irregular and stands cancelled and revised with the order dated 14 June 2004.
22. That with regard to statements made in Para 5.3 of the application, it is categorically denied that the petitioner was duly promoted to the post of Head Assistant vide order dated 01-06-2001. The said promotion order irregular. That the respondents begs to state that the applicant was already granted 2nd financial upgradation under the ACP Scheme with effect from 09 August 1999 for which no recovery of pay and allowances has been made. Only the date of his promotion (from 01 June 2001) has been changed (to 10 October 2002) in accordance with Recruitment Rules 2000. Thus, no procedural lapse or violation of Principles of Natural Justice has occurred by issuing the order dated 14 June 2004.
23. That with regard to statements made in Para 5.4 of the application, the respondents reiterate the averments made in reply in para 20 above.
24. That with regard to statements made in Para 5.5 of the application, the respondents begs to state that before notification of separate Recruitment Rules for civilian ministerial staff on 06 September 2001, their promotions were being governed under the same rules and regulations as applicable to their combatant counterparts on the basis of inter se-seniority. Therefore, petitioner's contention that Recruitment Rules 2000 were not applicable to him are imaginary and misleading. Since the petitioner was being considered for promotion to Head Assistant on 01 June 2001 (i.e. when vacancy existed), his promotion was to be

considered as per the rules then in force which was Recruitment Rules 2000 and in its application no retrospective effect to the disadvantage of petitioner has been involved.

25. That with regard to statements made in Para 5.6 of the application, the respondents begs to state that the as already stated, with the promotion of all the then existing Havildar clerks to the rank of warrant Officer clerks (in the pay scale of 4000-100-6000) with effect from 10 October 1997 the status of UDAs was upgraded to be at par with Warrant Officer clerks which was earlier equivalent to Havildar clerks. This implied that the seniority of a UDA was fixed afresh with effect from 10 October 1997. That , the averment of the petitioner of not being upgraded as Warrant Officer is misleading . It is emphasized that the name of the petitioner was not wrongly included in the order dated 14 June 2004 but was in accordance with the existing rules as already brought out in the preceding paragraphs.

26. That with regard to statements made in Para 5.7 of the application, the respondents begs to state that the statement is misleading and baseless. The applicability of same rules and conditions for both the streams i.e. Combatants as well as civilian has already been clarified in Paragraph 24 above and other preceding paragraphs. There have been no separate Executive instructions for regulating promotions of civilian clerks as contented by the petitioner. Hence, there is no reason to consider the petitioners promotion to Head Assistant on 01 June 2001 as regular.

27. That with regard to statements made in Para 5.8 of the application, the respondents respectfully submit that the petitioner and other 22 UDAs could not be promoted to the post of Head Assistant due to non-availability of vacancies in the Force at that time. However, they were granted 2nd financial upgradation under the ACP Scheme thereby granting them pay scale of higher post ie. Head

Assistant (4500-125-7000) with effect from 09 August 1999 which still stands good. Delay in regular promotion, if any, has taken place due to non-availability of vacancies first and subsequently due to changes in criteria for further promotion.

28. That with regard to statements made in Para 5.9 of the application, the respondents begs to state that the contents are not agreed to, as the same is misleading. As already stated no recovery of pay and allowances is involved in the case of the applicant. He has been receiving pay and allowances of the post of Head Assistant with effect from 09 August 1999 under ACP Scheme i.e. much before the promotion in question. The change in date of his promotion from 01 June 2001 to 10 October 2002 has been ordered as per the rules in force.

29. That with regard to statements made in Para 5.10 of the application, the respondents begs to state that the representation dated 22 June 2004 submitted by the petitioner to Directorate General Assam Rifles was received vide 1 Construction and Maintenance Company Assam Rifles letter Number A/IV-15/2004/643 dated 26 June 2004. The application was accordingly examined and suitably replied vide Directorate General Assam Rifles letter Number Rec(Adm-IV)/Promotion/JCB/2004/343 dated 30 Jul 2004. In reply, the main issues i.e. status of his present post and further promotion were adequately covered.

30. That with regard to statements made in Para 6 of the application, the respondents beg to offer no comments being a matter of record.

31. That with regard to statements made in Para 7 of the application, the respondents beg to offer no comments being a matter of record.

32. That with regard to statements made in Para 8 to 8.4 of the application, the respondents begs to state that it can be clearly seen that the applicant has been

getting all dues as admissible under rules in force from time to time. The present application lacks merits and the Hon'ble Tribunal may be pleased to reject it due to the following :-

- (a) The clerks of Unit Cadre (Combatants as well as civilians) were promoted on the basis of a common seniority roster and the applicant has never been superseded for promotion.
- (b) When it was not possible to grant him promotion due to non-availability of vacancies, he has been granted financial upgradation under ACP Scheme with effect from 09 August 1999 which is much before the regular promotion now in question. Hence he was already in receipt of pay and allowance of Head Assistant from a date much before he actually started performing the duties in that post.
- (c) His promotion issued with effect from 01 June 2001 has been declared irregular with the concurrence of the Ministry of Home Affairs due to non compliance of Recruitment Rules 2000. However, it does not involve any recovery of pay and allowances in case of the applicant.
- (d) In spite of being left with no promotional avenues due to his not opting for combatisation during 1989 in terms at Annexure - I, he has been looked after by the organization under an Administrative Order.

That In view of the facts mentioned herein above it is humbly prayed that the present O.A is liable to be dismissed .

Carun

Deponent

मेजर

Chief Law Officer

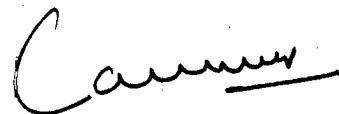
सर्वांग सुरक्षा विधि अधिकारी

पुस्तकालय असाम राजकाल, गोरांग-793001

VERIFICATION

I Major Sameer Salooja, aged 37 years s/o Gp. Capt SC Salooja, working as Assistant Chief Law Officer in the Office of the Directorate General Assam Rifles being authorized by the Director General Assam Rifles the 2nd respondent herein to hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

And I, sign this verification on this 03 day of December 2004.



DEPONENT

Maj
मेजर

Assistant Law Officer
सहायक मुख्य विधि अधिकारी

IB-793011

महानिदेशालय असम राइफल्स, शिलांग-793011

Secret

No. 27011/44/88-FP.I
 Government of India
 Ministry of Home Affairs

New Delhi-110001, the

19th September, 1985

To

The Director General,
 Assam Rifles,
 Shillong.

Sub: Combatisation of ministerial and other civilian posts in the Assam Rifles HQs (Headquarters and Units).

25/9

Sir,

I am directed to convey the sanction of the President to the combatisation by conversion of the civilian posts in Assam Rifles (Headquarters and Units) under the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 with immediate effect subject to the following terms and conditions:-

(a) The equivalence of the ranks and pay scales for the combatised posts shall be as indicated in the Annexure. This is in supersession of the existing orders regarding equivalence of ministerial posts.

(b) On combatisation, the incumbents of the posts who opt for such combatisation will be governed by the Assam Rifles Act, 1941 and Assam Rifles Rules, 1985 as amended from time to time for all purposes and the posts concerned on the civil side shall be deemed to have been abolished.

(c) All future appointments/recruitment against the vacancies in various categories of posts combatised by this sanction shall be in the combatised ranks as per the recruitment rules.

2. The existing incumbents of the posts mentioned in Col. 1 in Annexure will be given option to opt for combatisation within a period of 3 months from the date of issue of this sanction. Those who do not opt for combatisation will continue in the civilian posts until superannuation under the existing conditions of service which will be deemed to continue as personal to them.

3. The expenditure involved shall be met from within the budget grant of the Assam Rifles for the year 1989-90 and subsequent years.

THIS ISSUES WITH THE CONCURRENCE OF THE MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE VIDE THEIR U.O. NO. 113 (33) B-XII/89 DATED 19.7.89 AND THE INTEGRATED FINANCE DEPTT. OF THIS MINISTRY VIDE THEIR U.O. NO. 2605/89 FIN. III (P.I.) DATED 1.9.89.

Yours faithfully,

(K. S. Parthasarathy)
Under Secretary to the Govt. of India

No. 27011/44/B3-FP.I. Dated the 19th September, 1989.

Copy forwarded to:

- (1) Ministry of Finance, Deptt. of Expenditure, E-IIIT Branch, New Delhi.
- (2) Pay & Accounts Officer, Assam Rifles, Shillong.
- (3) Fin. III Desk, MHA.
- (4) FP-IV Desk, MHA.
- (5) Pers. I/Pers. II Desk, MHA.
- (6) Budget, I. Section, MHA.

(K. S. Parthasarathy)
Under Secretary to the Govt. of India

Contd.

Statement indicating the existing posts in Assam Rifles
Headquarters (Headquarters and Units) and the equivalent
rank on combatisation

| <u>Designation of existing post</u> (Scale of pay) | <u>Equivalent rank on combatisation</u> (Scale of pay) |
|---|---|
| (1) | (2) |
| 1. Accounts Officer X | Subedar Major (Accts. Officer) X |
| 2. Addl. Accts. Officer Y | Subedar Major (Addl. Accts. Officer) X |
| 3. Record Officer Y | -do- (Records Officer) Y |
| 4. Hindi Officer X | -do- (Hindi Officer) X |
| 5. Civilian Gazetted Officer Y | -do- (C. G. O.) Y |
| 6. Deputy Asstt. Director (Legal) X | -do- (Legal) X |
| 7. Stenographer Gr-I | Subedar (Steno) X |
| 8. Jr. Accts. Officer | Subedar (Jr. Accts. Officer) X |
| 9. Superintendents | Subedar (Supdt.) X |
| 10. Senior Accountants | Subedar (Accountant) X |
| 11. Head Assistant X | Naib Subedar (Head Asstt.) X |
| 12. Assistant X | Naib Subedar (Asstt.) X |
| 13. Nazir X | Naib Subedar (Nazir) X |
| 14. Overseer X | Naib Subedar (Overseer) X |
| 15. Stenographer (Gr. II) ✓ X | Naib Subedar (Steno) X |
| 16. Hindi Translator (Gr. II) X | Naib Subedar (Hindi Translator) X |

K. S. Parthasarathy
Under Secretary.

(55)

Lower Division Clerk

18. Lower Division Asstt.

19. Typist

20. Record Keeper

21. Peon

22. Messenger

23. Baffry

Rs. 950-1500

X

Rs. 750-1400

X

Rs. 750-940

X

Rs. 775-1025

X

Havildar (Clerk)

X

Havildar (Asstt.)

X

Havildar (Typist)

X

Havildar (Record

keeper)

Follower

Follower

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AM

No. 27011/44/88-PE.1
 Government of India/Bharat Sarkar
 MINISTRY OF HOME AFFAIRS/GRHII MANTRALAYA

New Delhi, Dated 23 Apr 99

To

The Director General
 Assam Rifles
 Shillong - 793011

Subject : Combatisation of Ministerial Staff - Filling slot
 of UDC/UDA in Combatised post and promotion of
 Havildar Clerks on common Seniority List of UDC/UDA

Sir,

1. In continuation of this Ministry's letter of even No dated 29 December 1997 and your letter No. A/5th-Pay/Comb/98 dated 10 December 98 and to convey the sanction of the President to the promotion of Head Constable (Clerks) to Warrant Officers in the pay scale of Rs. 4000-100-6000/-.

2. Those orders will be effective from 10 October 1997.

3. This issue with concurrence of integrated Finance Division of MHA vide Dy No. 628/Fin.V/99 dated 09 Apr 99.

Yours faithfully,

Sd/- xx xx xx
 (Sameer Sharma)
 Deputy Secretary (CPO-I)

No. 27011/44/88-PE.1

Dated the 23 April 1999

Copy forwarded to :

1. Pay and Accounts Officer, Assam Rifles, Shillong.
2. FHO, Fin V, MHA.
3. Pers. 1/Pers-11 Desk, MHA.
4. Budget I Section, MHA.
5. LOAH, New Delhi.

Sd/- xx xx xx
 (Sameer Sharma)
 Deputy Secretary (CPO-I)

Ranji

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B6

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| SER NO | CATEGORY OF POST | Group | BN HQ | HQ COY | | | | | | RF COY x 6 | | | TOTAL | | |
|---------------------|----------------------------|-------|-------|--------|---------|-------|-------|-------|--------|------------|-------|--------|---------|----|----|
| | | | | COY HQ | COMM PL | QM PL | MT PL | HOSPL | WK SEC | AGL PL | SB PL | COY HQ | PL (18) | | |
| 17 | Sub (ORL) | COMN | - | - | 1 | - | - | - | - | - | - | - | - | 1 | |
| 18 | Sub (QM) | GD | - | - | - | 1 | - | - | - | - | - | - | - | 1 | |
| 19 | Sub CLK /Head Asst | CLK | 1 | - | - | - | - | - | - | - | - | - | - | 1 | |
| 20 | Sub (AEC) | AEC | 1 | - | - | - | - | - | - | - | - | - | - | 1 | |
| Total Subedar | | | | 3 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 6 | 6 | 19 | |
| NAIB SUBEDAR | | | | | | | | | | | | | | | |
| 21 | Nb Sub (Lab Asst) | MED | - | - | - | - | - | 1 | - | - | - | - | - | 1 | |
| 22 | Nb Sub (Nursing Asst) | MED | - | - | - | - | - | 1 | - | - | - | - | - | 1 | |
| 23 | Nb Sub (GD) MT | GD | - | - | - | - | 1 | - | - | - | - | - | - | 1 | |
| 21 | Nb Sub (GD) INT | GD | 1 | - | - | - | - | - | - | - | - | - | - | 1 | |
| 22 | Nb Sub (GD) AGL | GD | - | - | - | - | - | - | - | 1 | - | - | - | 1 | |
| 23 | Nb Sub (E & M) | ENGR | - | - | - | - | - | - | 1 | - | - | - | - | 1 | |
| 24 | Nb Sub (B & R) | ENGR | - | - | - | - | - | - | 1 | - | - | - | - | 1 | |
| 25 | Nb Sub (PI Cdr) | GD | - | - | - | - | - | - | - | - | - | 12 | 12 | | |
| 26 | Nb Sub (Ghatak PI) | GD | 1 | - | - | - | - | - | - | - | - | 6 | - | 7 | |
| 27 | Nb Sub (Adm JCO) | GD | - | 1 | - | - | - | - | - | - | - | - | - | 1 | |
| 28 | Nb Sub (Cipher) | COMN | - | - | 1 | - | - | - | - | - | - | - | - | 1 | |
| 29 | Nb Sub (Religious Teacher) | RT | 1 | - | - | - | - | - | - | - | - | - | - | 1 | |
| 30 | Nb Sub CLK/UDA | CLK | 8 | - | - | - | - | - | - | - | - | - | - | 8 | |
| 31 | Nb Sub ORL | COMN | - | - | 1 | - | - | - | - | - | - | - | - | 1 | |
| 32 | Nb Sub Adjt | GD | 1 | - | - | - | - | - | - | - | - | - | - | 1 | |
| Total Naib Subedar | | | | 12 | 1 | 2 | 0 | 1 | 2 | 2 | 1 | 0 | 6 | 12 | 39 |
| Total JCOs | | | | 17 | 2 | 4 | 1 | 1 | 2 | 2 | 1 | 0 | 12 | 18 | 60 |

Approved vide MHA letter No. S.13015/3196/PF. IV

Dated: 19 August 2003.

X5

PEACE ESTABLISHMENT : ASSAM RIFLES STD BATTALION
PERSONNEL ESTABLISHMENT

| SER NO | CATEGORY OF POST | Group | BN HQ | HQ COY | | | | | | RIF COY x 6 | | | TOTAL | |
|----------------------------------|-----------------------------|-------|-------|--------|---------|-------|-------|---------|---------|-------------|-------|--------|---------|----|
| | | | | COY HQ | COMM PL | QM PL | MTP L | HOSP PL | WKR SEC | AGL PL | SB PL | COY HQ | PL (18) | |
| OFFICERS | | | | | | | | | | | | | | |
| 1 | Comdt - Col | OFFR | 1 | - | - | - | - | - | - | - | - | - | - | 1 |
| 2 | 2IC - Comdt | OFFR | 1 | - | - | - | - | - | - | - | - | 6 | - | 6 |
| 3 | Coy Cdr - Maj/Dy Comdt | OFFR | - | - | - | - | - | - | - | - | - | - | - | 1 |
| 4 | HQ Coy Cdr - Maj/Dy Comdt | OFFR | - | 1 | - | - | - | - | 1 | - | - | - | - | 1 |
| 5 | RIMO - Maj (AMC) | OFFR | - | - | - | - | - | - | - | - | - | - | - | 1 |
| 6 | Adjt - Capt/Asst Comdt | OFFR | 1 | - | - | - | - | - | - | - | - | - | - | 1 |
| 7 | QM - Capt/Asst Comdt | OFFR | - | - | - | 1 | - | - | - | - | - | - | - | 1 |
| 8 | INT Offr - Capt/Asst Comdt | OFFR | 1 | - | - | - | - | - | - | - | - | - | - | 1 |
| 9 | Comm Offr - Capt/Asst Comdt | OFFR | - | - | 1 | - | - | - | - | - | - | - | - | 1 |
| 10 | MTO-Capt/Asst Comdt | OFFR | - | - | - | - | 1 | - | - | - | - | - | - | 1 |
| Total Offr | | | 4 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 6 | 0 | 15 |
| JUNIOR COMMISSIONED OFFER | | | | | | | | | | | | | | |
| SUBEDAR MAJOR | | | | | | | | | | | | | | |
| 11 | Sub Maj/Sr Acct Clk | CLK | 1 | - | - | - | - | - | - | - | - | - | - | 1 |
| 12 | Sub Maj (GD) | GD | 1 | - | - | - | - | - | - | - | - | - | - | 1 |
| Total Subedar Major | | | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| SUBEDAR | | | | | | | | | | | | | | |
| 13 | Sub Adjt (GD) | GD | 1 | - | - | - | - | - | - | - | - | 6 | - | 1 |
| 14 | Sub (GD) Coy 2IC | GD | - | 1 | - | - | - | - | - | - | - | 6 | - | 7 |
| 15 | Sub (GD) Pl Cdr | GD | - | - | - | - | - | - | - | - | - | 6 | - | 6 |
| 16 | Sub (Ciph) | COMM | - | - | 1 | - | - | - | - | - | - | - | - | 1 |

सामू नहीं होता

लामू नहीं होता

सामू नहीं होता

लामू नहीं होता

[फा. सं. 1-45028/28/99-का. II]
एस. सी. सर्वसेवा, डेस्क अधिकारी

MINISTRY OF HOME AFFAIRS

New Delhi, the 6th September, 2001

G.S.R. 502.—In exercise of the powers conferred by the proviso to article 309 of the Constitution the President hereby makes the following rules regulating the method of recruitment to Group 'C' Civilian Ministerial posts in the Assam Rifles under the Ministry of Home Affairs, namely :—

1. Short title and commencement.—(i) These rules may be called the Assam Rifles Field Officers (Group 'C' Civilian Ministerial Posts) Recruitment Rules, 2001.

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

2. Number of posts, classification and scale of pay.—The number of the said posts, their classification and the scale of pay attached thereto, shall be as specified in columns (2) to (4) of the Schedule annexed to these rules.

3. Method of Recruitment, age limit, and other qualifications.—The method of recruitment to the said posts, age limit, qualifications and other matters relating thereto shall be as specified in columns (5) to (14) of the said Schedule.

"Provided further that direct recruitment in future against any post included in the schedule to these rules shall be in the combatised capacity only".

4. Initial Constitution.—The incumbents of the posts of Group 'C' combatised posts, who were appointed to the posts before the commencement of these rules shall be deemed to have been appointed under these rules and the services rendered by them in the said posts shall be taken into account for deciding their eligibility for promotion to the next higher grade.

5. Disqualification.—No person,—

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

shall be eligible for appointment to the said posts.

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

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

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

SCHEDULE

| Name of the Post | Number of posts | Classification | Scale of pay | Whether Selection post or non-Selection posts | Whether benefit of added years of service admissible under rule 30 of the Central Civil Services Pension Rules, 1972 | Age limit for direct recruits |
|--|-----------------|--|---------------------|---|--|-------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Senior Accountant *Subject to variation dependent on workload. | 33* (2001) | Group 'C' (Non-Gazetted, Ministerial). | Rs. 5000- 150- 8000 | Non-Selection | Not applicable | Not applicable |

| Educational and other qualifications required for direct recruits | Whether age and educational qualifications prescribed for probation, direct recruits will apply in the case of promotions | Period of probation, if any | Method of Recruitment, whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods |
|---|---|-----------------------------|--|
| 8 | 9 | 10 | 11 |
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| In case of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made | If a Departmental Promotion Committee exists, what is its composition | Circumstances in which Union Public Service Commission is to be consulted in making recruitment |
|---|--|---|
| 12 | 13 | 14 |
| Promotion for amongst the members of Assam Rifles holding the rank of Head Assistant with three years regular service in the grade. | Departmental Promotion Committee for Considering Promotion (a) Inspector General (HQs) Assam Rifles —Chairman (b) DIG (Adm.) Directorate General Assam Rifles —Member (c) Assistant Director (A), Directorate General Assam Rifles —Member (d) One Group A Officer from SC/ST community. —Member | Not applicable |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|--|------------|---------------------------------------|---------------------|----------------------------|----------------|----------------|
| 2. Head Assistant *Subject to variation dependent on workload. | 50* (2001) | Group 'C' (Non-Gazetted, Ministerial) | Rs. 4500- 125- 7000 | Selection- cutt- Seniority | Not applicable | Not applicable |

| 8 | 9 | 10 | 11 |
|----------------|----------------|----------------|-------------------|
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| 12 | 13 | 14 |
|---|--|----------------|
| Promotion from amongst the members of Assam Rifles holding the rank of Upper Division Assistant with five years regular service in the grade. | Departmental Promotion Committee for Considering Promotion | Not applicable |
| | (a) Inspector General (HQs) Assam Rifles —Chairman | |
| | (b) DIG (Admn.) Directorate General Assam Rifles —Member | |
| | (c) Assistant Director (A), Directorate General Assam Rifles —Member | |
| | (d) One Group A Officer from SC/ST community —Member | |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|-----------------------------|---|--|---------------------------|---------------|----------------|----------------|
| 3. Upper Division Assistant | 352* (2001) *Subject to variation dependent on workload. | Group 'C' (Non-Gazetted, Ministerial) | Rs. 4000- 100- 6000 | Non-selection | Not applicable | Not applicable |

| 8 | 9 | 10 | 11 |
|----------------|----------------|----------------|-------------------|
| Not applicable | Not applicable | Not applicable | 100% by promotion |

| 12 | 13 | 14 |
|--|--|----------------|
| Promotion from amongst the members of Assam Rifles holding the rank of Lower Division Assistant with eight years regular service in the grade. | Departmental Promotion Committee for Considering Promotion | Not applicable |
| | (a) Inspector General (HQs) Assam Rifles —Chairman | |
| | (b) DIG (Admn.), Directorate General Assam Rifles —Member | |
| | (c) Assistant Director (A), Directorate General Assam Rifles —Member | |
| | (d) One Group A Officer from SC/ST community —Member | |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----------------------------|---|---|----------------------------------|----------------|----------------|--|---|
| 4. Lower Division Assistant | 862* (2001) *Subject to variation dependent on workload. | Group 'C' (Non-Gazetted, Ministerial). | Rs. 3050- 75-3950- 80-4590 | Not applicable | Not applicable | 18 to 25 years (Relaxable for Govt. servants upto 5 years in accordance with the instructions or orders issued by the Central Government) Note:—The crucial date for determining the age limit shall be | (a) 10+2 or equivalent (Matriculation/SSLC/HSLC to be pass with English and Mathematics) (b) Typing speed 30 words per minute in English or 25 words in per minute in Hindi. |

| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|
| the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State, Lahaul and Spiti district and Pangi Sub-Division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands or Lakshadweep.) | | | | | | |

| 9 | 10 | 11 | 12 |
|----------------|-----------|-----------------------|----------------|
| Not applicable | Two years | By direct recruitment | Not applicable |
| <hr/> | | | |
| 13 | | 14 | |
| Not applicable | | Not applicable | |

[File No. I. 45028/28/99-Pers. II]
S. C. SAKSENA, Desk Officer

63

ANNEXURE - V

81

26

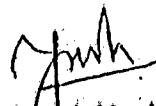
DGAR (Re)

Ministry of Home Affairs
Pers-III Desk

Subject : Recovery of Excess Pay & Allowances made on account
of Erroneous Promotions

AR's letter No. A/C/Pers/WO/2003 dated 11-02-2003 refers.

2. In this context, the undersigned has been directed to inform that no sanction is required for effecting the recovery of excess pay & allowances made on account of erroneous promotions. Assam Rifles must recover the amount paid in excess and also fix responsibility for this lapse.

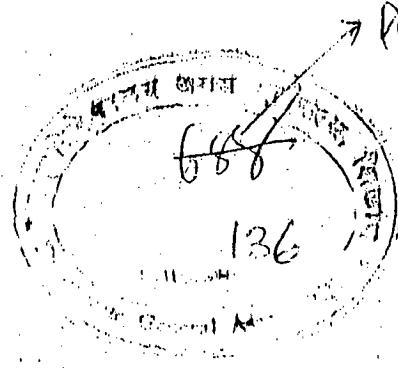

(Yashpal Yadav)
Section Officer (Pers-III)

2309 2547

✓ DG, Assam Rifles
(Through LDAAR)

MHA UO No. F-480/2004/Pers-III

Dated : 15-06-2004



13
23/6

DIRECTORATE GENERAL ASSAM RIFLES : SHILLONG

O R D E R

Rec(Adm-IV)/ACP Scheme/99

Dated 03 Dec 99

1. In pursuance of Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memorandum No. 35034/1/97-Estt(D) dated 09 Aug 99 sanction is hereby accorded for grant of 2nd financial upgradation under Assured career progression scheme (in situ) in the scale of pay Rs 4500-125-7000/- per month to the following Upper Division Assistants of unit cadre with effect from 09 Aug 99 (FN) :-

| Ser. No | Name | Unit/Fmn |
|---------|--|--|
| (a) | Shri Paresh Chandra Sharma, UDA | 5 AR (Proceeded on voluntary retirement wef 31 Aug 99) |
| (b) | Shri Parikhit Das, UDA | 8 AR |
| (c) | Shri Jagmohan Das, UDA | 21 AR |
| (d) | Shri MC Singha, UDA | IGAR(N) |
| (e) | Shri Paritosh Krishna Datta Gupta, UDA | 31 AR |
| (f) | Shri Bhag Singh Sangha, UDA | 3 AR |
| (g) | Shri Gyan Bahadur Dasmal, UDA | 9 AR |
| (h) | Shri KNS Pillai, UDA | 19 AR |
| (j) | Smt Gita Chaudhary, UDA | 2 MGAR |
| (k) | Shri Narayan Chandra Das, UDA | 10 AR |
| (l) | Shri Sudhenagu Bikash Ray, UDA | 27 AR |
| (m) | Shri JC Bhattacharjee, UDA | 16 AR/14 AR |
| (n) | Shri H K Barman, UDA | 5 AR/IGAR(N) |
| (o) | Shri BC Bhattacharjee, UDA | 31 AR/16 AR |
| (p) | Shri NR Bhattacharjee, UDA | Tripura Rg |
| (q) | Shri DK Deb, UDA | 28 AR |
| (r) | Shri KD Sharma, UDA | 21 AR |
| (s) | Shri BN Deka, UDA | 7 AR |
| (t) | Shri MK Purkayastha, UDA | 18 AR |
| (u) | Shri Gum Subba, UDA | B Rg |
| (v) | Shri GP Dhar, UDA | IRTC&S/MR Rg |

(w) Shri N Bhattacharjee, UDA

7 AR

(x) Shri PC Das, UDA

30/31 AR

2. The financial benefit granted to above personnel under the ACP Scheme shall be final and no pay fixation benefit shall accrue to them at the time of their regular promotion.

SD/LXxx

(S. J. B. Sharma)

Maj Gen

Offg Director General

Assam Rifles

Memo No. Rec(Adm-IV)/ACP Scheme/99. Dated Shillong the 07 Dec 9

1. The Additional Accountant General
(Central & Arunachal Pradesh)
Lachatellette Building
Shillong - 793003

2. The Accounts Officer
Pay & Account Office, Assam Rifles
Shillong - 793003

3. List A, B & C

4. NE-T (Interhal)

5. Personal File

6. Office copy

Onward

(B. D. Singha)

Col

By Director (Records)

Prabha/

Recd 10/1/1999

(COPY)

MOST IMMEDIATE

No. 35034/1/97-Estt(D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi 110011
8/1
2 August, 1999

OFFICE MEMORANDUM

Subject :- THE ASSURED CAREER PROGRESSION SCHEME FOR
THE CENTRAL GOVERNMENT CIVILIAN EMPLOYEES

The Fifth Central Pay Commission in its Report has made certain recommendations relating to the Assured Career Progression (ACP) Scheme for the Central Government civilian employees in all Ministries/Departments. The ACP Scheme needs to be viewed as a 'Safety Net' to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Accordingly, after careful consideration, it has been decided by the Government to introduce the ACP Scheme recommended by the Fifth Central Pay Commission with certain modifications as indicated hereunder.

2. GROUP 'A' CENTRAL SERVICES

2.1 In respect of Group A Central services (Technical/Non-Technical), no financial upgradation under the Scheme is being proposed for the reason that promotion in their case must be earned. Hence, it has been decided that there shall be no benefits under the ACP Scheme for Group A Central service (Technical/Non-Technical). Cadre Controlling Authorities in their case would, however, continue to improve the promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre review, etc., as per prescribed norms.

3. GROUP 'B', 'C' AND 'D' SERVICES/POSTS AND ISOLATED
POSTS IN GROUP A, B, C AND D CATEGORIES

While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of adutes, migration either in a cadre or in an isolated post. Keeping in view all relevant factors, it has therefore been decided to grant two financial upgradations as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 1, 1997 (in relation to Group C and D employees) entered into with the State Side of the National Council (JCM) under the ACP Scheme to Group B, C and D employees on completion of 10 years and 14 years (subject to condition no. 1 in Annexure I) for regular service respectively.

Isolated posts in Group A, E, C and D categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), adhoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

3.2 Regular Service for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules.

4. Introduction of the ACP Scheme should, however, in no case affect the normal (regular) promotional avenues available on the basis of Vacancies. Attempts needed to improve promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre reviews, etc as per prescribed norms should not be given up on the ground that the ACP Scheme has been introduced.

5. Vacancy based regular promotions, as distinct from financial upgradation under the ACP Scheme, shall continue to be granted after due screening by a regular Departmental Promotion Committee as per relevant rules/guidelines.

6. SCREENING COMMITTEE

6.1 A departmental Screening Committee shall be constituted for the purpose/processing the cases for grant of benefits under the ACP Scheme.

6.2 The composition of the Screening Committee shall be the same as that the DPC prescribed under the relevant Recruitment Service Rules for regular promotion to the higher grade to which financial upgradation is to be granted. However, in cases where DPC as per the prescribed rules is headed by the Chairman/Member of the UPSC, the Screening Committee under the ACP Scheme shall, instead, be headed by the Secretary or an officer of equivalent rank of the concerned Ministry/Department. In respect of isolated posts, the composition of the Screening Committee (with modification as noted above, if required) shall be the same as that of the DPC for promotion to analogous grade in that Ministry/Department.

6.3 In order to prevent operation of the ACP Scheme from resulting into undue strain on the administrative machinery the Screening Committee shall follow a time-schedule and meet once in a financial year preferably in the first week of January and July for advance processing of the cases. Accordingly, cases maturing during the first-half (April-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committee meeting in the first week of January of the previous financial year.

Similarly, the Screening Committee meeting in the first week of July of any financial year shall process the cases that would be maturing during the second-half (October-March) of the same financial year. For example, the screening Committee meeting in the first week of January, 1999 would process the cases that would attain maturity during the period April 1, 1999 to September 30, 1999 and the Screening Committee meeting in the first week of July 1999 would process the cases that would mature during the period October 1, 1999 to March 31, 2000.

6.4. To make the Scheme operational, the Cadre Controlling Authorities shall constitute the first Screening Committee of the current financial year within a month from the date of issue of these instructions to consider the cases that have already matured or would be maturing upto March 31, 2000 for grant of benefits under ACP Scheme. The next Screening Committee shall be constituted as per the time-schedule suggested above.

7. Ministries/Departments are advised to explore the possibility of effecting savings so as to minimise the additional financial commitment that introduction of the ACP Scheme may entail.

8. The ACP Scheme shall become operational from the date of issue of this Office Memorandum.

9. In so far as persons serving in the India Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

10. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Assured Career Progression Mechanism" for different streams of doctors. It has been decided that the said recommendation may be considered separately by the administrative Ministry concerned in consultation with the Department of Personnel and Training and the Department of Expenditure.

11. Any interpretation/clarification of doubts as to the scope and meaning of the provisions of the ACP Scheme shall be given by the Department of Personnel and Training (Establishment-D).

12. All Ministries/Departments may give wide circulation to these instructions for guidance of all concerned and also take immediate steps to implement the Scheme keeping in view the ground situation obtaining in services/cadres/posts within their administrative jurisdiction.

13. Hindi version would follow.

Sd/x-x-x
(KK Jha)
Director(Establishment)

CONDITIONS FOR GRANT OF BENEFITS
UNDER THE ACP SCHEME

1. The ACP Scheme envisages merely placement in the highest pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose.
2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available will be Rs. 14,200 to 19,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions.
3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later.
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly.
- 5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including *in-situ* promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got the regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him.
- 5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit.
6. Fulfillment of normal promotion norms (benchmark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old resignations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme.

7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay-scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial Upgradation on a dynamic basis (i.e without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated, posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only.

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme.

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(I) a(1) subject to a minimum financial benefit of Rs. 100/- as per the Department of Personnel and Training Office Memorandum No. 1/6/97-Pay. I dated July 5, 1997. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade.

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years

of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade.

11. In the matter of disciplinary/penalty proceedings, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall therefore, be regulated under the provisions of relevant CCS (CCA) Rules, 1965 and instructions thereunder.

12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional(actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly.

13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department-not the employees- shall have the option in the matter to choose between the two schemes, i.e. existing time-bound promotion scheme or the ACP Scheme, for various categories of employees. However, in case of switchover from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz for promotion, redistribution of posts, upgradation involving higher functional duties, etc) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality.

14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme, and

✓ 15. Subject to Condition No.4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.

sc/-

(K.K. JHA)
Director/Establishment

ANNEXURE-II

STANDARD/COMMON PAY-SCALES
As per Part-A of the First Schedule Annexed to the
Ministry of Finance
(Department of Expenditure) Gazette Notification dated
September 30 1997

(REFERENCE PARA 7 OF ANNEXURE I OF THIS OFFICE MEMORANDUM)

| S. No | Revised pay-scales (Rs) |
|----------|-------------------------|
| 1. S-1 | 2550-55-2660-60-3200 |
| 2. S-2 | 2610-60-3150-65-3510 |
| 3. S-3 | 2650-65-3300-70-4000 |
| 4. S-4 | 2750-70-3800-75-4400 |
| 5. S-5 | 3050-75-3950-80-4590 |
| 6. S-6 | 3200-85-4900 |
| 7. S-7 | 4000-100-6000 |
| 8. S-8 | 4500-125-7000 |
| 9. S-9 | 5000-150-8000 |
| 10. S-10 | 5500-175-9000 |
| 11. S-12 | 6500-200-10500 |
| 12. S-13 | 7450-225-11500 |
| 13. S-14 | 7500-250-12000 |
| 14. S-15 | 8000-275-13500 |
| 15. S-19 | 10000-325-15200 |
| 16. S-21 | 12000-375-16500 |
| 17. S-23 | 12000-375-13000 |
| 18. S-24 | 14300-400-18300 |

3.2. 'Regular Service' for the purpose of the ACP Scheme shall be interpreted to mean the eligible services counted for regular promotion in terms of relevant Recruitment Rules.

4. Introduction of the A.C.P. Scheme should, however, in no case affect the form of the promotional avenues available on the basis of vacancies. Attempts need to be made to review prospects in organisations/cities on functional grounds by way of reorganisation, job reviews, etc. As per prescribed norms should not be given up on the ground that the scheme has been introduced.

5. Vacancy based regular promotions, as distinct from financial upgradation on the basis of Scheme, shall continue to be granted after due screening by a regular Departmental Selection Committee as per relevant rules/guidelines.

6. SCREENING COMMITTEE

6.1 A departmental Screening Committee shall be constituted for the purpose of the cases for grant of benefits under the ACP Scheme.

(c) The composition of the Screening Committee shall be the same as that of the DPC prescribed under the relevant Recruitment/Service Rules for regular promotion to the grade to which financial upgradation is to be granted. However, in cases where DPC is not the prescribed rules is headed by the Chairman/Member of the DPC, the Screening Committee under the ACP Scheme shall, instead, be headed by the Secretary or an officer of equivalent rank of the concerned Ministry/Department. In respect of isolated posts, the composition of the Screening Committee (with modification as noted above, if required) shall be the same as that of the DPC for promotion to analogous grade in that Ministry/Department.

6.3 In order to prevent operation of the ACP Scheme from resulting into under utilization of administrative machinery, the Screening Committee shall follow a time-schedule and meet twice in a financial year – preferably in the first week of January and July for advance processing of the cases. Accordingly, cases maturing during the first-half (April-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committee meeting in the first week of January of the previous financial year. Similarly, the Screening Committee meeting in the first week of July of any financial year shall process the cases that would be maturing during the second-half (October-March) of the same financial year. For example, the Screening Committee meeting in the first week of January 1999 would process the cases that would attain maturity during the period April 1, 1998 to September 30, 1999 and the Screening Committee meeting in the first week of July, 1999 would process the cases that would mature during the period October 1, 1998 to March 31, 2000.

6.4 To make the Scheme operational, the Code Controlling Authorities shall constitute the first Selecting Committee of the current financial year within a month from the date of issue of these instructions to consider the cases that have already matured or would be maturing upto March 31, 2000 for grant of benefits under the AGI Scheme. The next Selecting Committee shall be constituted as per the time-schedule suggested above.

No. 350114/97 (Engd.)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Petroleum and Natural Gas)

Anti-Blocker Protection

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Chilean Mammals

Subject: THE ASSURED CAREER PROGRESSION FOR THE MEMBERS
OF THE CENTRAL GOVERNMENT CIVILIAN STAFFS

The Fifth Central Pay Commission in its Report has made certain recommendations relating to the Assisted Career Progression (ACP) Scheme for the Central Government employees in all Ministries/Departments. The ACP Scheme needs to be viewed in a larger context with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Accordingly, after careful consideration it has been decided by the Government to introduce the ACP Scheme recommended by the Fifth Central Pay Commission with certain modifications as indicated hereunder:

GENERAL CENTRAL SERVICES

1. In respect of Group 'A' Central services (Technical) in Ughaighi, no promotion period under the Scheme is being proposed for the reason that promotion in these cases is not required. Hence, it has been decided that there shall be no benefits under the Act for the Group 'A' Central services (Technical/Non-Technical). cadre Controlling Authority can, however, confine to improve the promotional prospects in organisations on the above-mentioned grounds by way of organisational study, cadre review, etc. as per prescribed in the

GROUP B, C AND D SERVICES/PORTS AND ISOLATED POINTS IN GROUP B, C AND D CATEGORIES

1.1 While in respect of these categories also promotion shall continue to be duly granted, it proposed to adopt the ACP Scheme in a modified form to mitigate hardship in respect of a Disqualification in a cadre of 10 or isolated post. Keeping in view of relevant factors, it is therefore been decided to grant two discretionary mitigations (as recommended by the Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997) (i) relating to Group 'C' and 'D' employees) entered into with the State Government Central Council (SCAC) under the ACP Schemes to Group 'B', 'C' and 'D' employees in recognition of 2 years and 2 years (subject to condition laid in Annexure 1) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which does not come under the ACP Scheme shall also qualify for similar benefits on the pattern indicated above. Other categories of employees such as casual employees (including those with permanent, ad hoc and contract employees shall not qualify for benefits under the aforesaid scheme). Disqualification (Mitigation) under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure 1.

Ministries/Departments are advised to explore the feasibility of effecting the additional financial commitment that introduction of the ACP entail.

9. The ACP Scheme shall become operational from the date of issue of this Memorandum.

10. In so far as persons serving in the Indian Audit and Accounts Department concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

11. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also pointed recommended a "Dynamic Assured Career Progression Mechanism" for different categories of doctors. It has been decided that the said recommendation may be considered separately by the Administrative Ministry concerned in consultation with the Department of Personnel and Training and the Department of Expenditure.

12. Any interpretation/clarification of doubt as to the scope and meaning of the present scheme of the ACP Scheme shall be given by the Department of Personnel and Training (Establishment).

13. All Ministries/Departments may give wide circulation to these instructions to their officers of all concerned and also take immediate steps to implement the Scheme keeping in view the ground situation obtaining in services/cadres/ posts within their administrative jurisdiction.

14. Hindi version would follow.

(S. K. JHA)
Director(Establishment)

To

1. All Ministries/Departments of the Government of India
2. President's Secretariat/Vice President's Secretariat/Prime Minister's Office/Supreme Court/Rajya Sabha Secretariat/Lok Sabha Secretariat/Cabinet Secretariat/UPSC/CVC/C&AO/Central Administrative Tribunals(Pinchal Bench), New Delhi
3. All attached/subordinate offices of the Ministry of Personnel, Public Grievances and Pensions
4. Secretary, National Commission for Minorities
5. Secretary, National Commission for Scheduled Castes/Scheduled Tribes
6. Secretary, Staff Side, National Council (JCM), 13-C, Ferozshah Road, New Delhi
7. All Staff Side Members of the National Council (JCM)
8. Establishment (D) Section - 1000 copies

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CONDITIONS FOR GRANT OF BENEFITS UNDER THE ACP SCHEME

1. The ACP Scheme envisages merely placement in the higher pay scale/grade of benefits (through financial upgradation) only to the Government servant concerned on basis and shall, therefore, neither amount to promotional/regular promotion nor involve creation of new posts for the purpose.
2. The highest pay scale upto which the financial upgradation under the Scheme available will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions.
3. The financial benefits under the ACP Scheme shall be granted from the completion of the eligibility period prescribed under the ACP Scheme or from the issue of these instructions whichever is later;
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 24 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In either case, if the first upgradation gets postponed on account of the employee not found fit for departmental proceedings, etc. this would have consequential effect on the second upgradation which would also get deferred accordingly.
- 5.1 Two financial upgradations under the ACP Scheme in the entire tenure (entire career) of an employee shall be counted against regular promotions (including in-situ and last-track promotion availed through limited departmental competitive examination) from the grade in which an employee was appointed as a direct recruit. This shall mean that financial upgradations under the ACP Scheme shall be available only if no regular promotion during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. If two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him.
- 5.2 Residence periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit.
6. ~~For grant of benefits under the ACP Scheme, the departmental authorities shall be responsible for the performance of Group 'D' employees, etc., for grant of financial upgradations, performance of such duties as are entrusted to the employees, e.g., as with respect to retention of old designation, financial upgradations as personal to the individual for purposes and restriction of the ACP Scheme for financial and certain other benefits, e.g., Building Advance, allotment of Government accommodation, advances, etc. and concerning any "privileges" related to higher status (e.g., invitation to ceremonial functions to higher posts, etc.) shall be exempted for grant of benefits under the ACP Scheme.~~

7. Financial upgradation under the Scheme shall be given to the next higher level in accordance with the existing hierarchy in a cadre/category of posts without creating a vacancy for the purpose. However, in case of isolated posts, in the absence of defined hierarchy or grades, financial upgradation shall be given by the Ministries/Departments concerned to the immediately next higher (standard/common) pay-scales as indicated in Annexure II which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be fixed at its existing level (pay-scale) when vacated. Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

8. The financial upgradation under the ACP Scheme shall be purely personal to an employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the person concerned in the grade has got higher pay-scale under the ACP Scheme;

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(1) (i) subject to a minimum financial benefit of Rs. 100/- per month. Department of Personnel and Training Office Memorandum No. 1/6/97-Pay dated 10-1-1997. The financial benefit allowed under the ACP Scheme shall be final and no pay revision shall accrue at the time of regular promotion i.e. posting against a functional post in the same grade;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the employee, while accepting the said benefit, shall be deemed to have given his/her acceptance for regular promotion on occurrence of vacancy subsequently. In case he fails to accept the higher post on regular promotion subsequently, he shall be subject to the debitment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required period of service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debitmed for regular promotion shall not count for the entry. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debitmed for a year and subsequently he is promoted to the higher grade on regular basis after completing 15 years (12+2+1) of regular service, he shall be eligible for consideration for the upgradation under the ACP Scheme only after rendering ten more years in addition to the period of service already rendered by him after the first financial upgradation (2+1) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debitment period of a year cannot be taken into account towards the required 12 years of regular service in that higher grade;

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11. For the matter of disciplinary/penalty proceedings, grant of benefits under the Scheme shall be subject to rules governing normal promotion. Such case shall, if so required, under the provisions of relevant CCS(CCA) Rules, 1965 and higher, from the date of the order.

12. The proposed ACP Scheme contemplates merely placement or pension at higher pay-scale/grade or financial benefits only and shall not amount to actual promotion of the employee concerned. Since orders regarding reservation in promotion, applicable only to the case of regular promotion, reservation orders/letter shall not apply to ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees. However, in the case of regular/promotion, the Cadre Controlling authority shall ensure that all reservation orders are applied strictly.

13. Existing time-bound promotion schemes, including in-situ promotion scheme, Ministries/Departments may, as their choice, continue to be operational for the categories of employees. However, these schemes shall not run concurrently with Scheme. The Administrative Ministry/Department, not the employees, shall option in this matter to choose between the two schemes, i.e. existing time-bound scheme of the ACP Scheme, for various categories of employees. However, in case of over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations for promotion, distribution of posts, upgradation involving higher functional duties under the former (existing) scheme would cease to be operative. The ACP Scheme shall be adopted in its totality.

14. In case of an employee declared surplus in his/her organisation and in case of including unilateral transfer, on request, the regular service rendered by him/her in the organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme; and

15. Subject to Condition No. 11 above, in cases where the employees have already 24 years of regular service with or without a promotion, the second financial upgradation scheme shall be granted only further in order to rationalise unequal level of benefit of various categories. (Taking into account for the first upgradation scheme) shall be given only to those employees (second) of financial upgradation under the ACP Scheme as follows: (i) In respect of employees who have rendered more than 24 years of regular service, while the first upgradation shall be given only to those employees who have rendered services beyond the first 24 years of regular service required for grant of the financial upgradation. (ii) Similarly, they shall be considered for the second financial upgradation and the same may complete 24 years of regular service without completion of 12 years of regular service after the first financial upgradation, etc. granted under the Scheme.

Ch. 31
Director(Estab) (Signature)

STANDARD/COMMON PAY-SCALES
 As part of the First Schedule Annexed to the Ministry of Finance
 (Department of Revenue) Gazette Notification dated September 30, 1981.

[REFERENCE PARA 7 OF ANEXURE I OF THIS OFFICE MEMORANDUM]

| S.No. | Revised pay-scales (Rs) |
|-------|-------------------------|
| 8.1 | 2550-55-2660-60-3200 ✓ |
| 8.2 | 2610-60-3150-65-3540 |
| 8.3 | 2650-65-3300-70-3600 |
| 8.4 | 2780-70-3800-75-4100 ✓ |
| 8.5 | 3030-75-3950-80-4350 ✓ |
| 8.6 | 3200-85-4100 ✓ |
| 8.7 | 4000-100-8000 ✓ |
| 8.8 | 4500-125-9000 |
| 8.9 | 5000-150-10000 |
| 8.10 | 6500-175-16000 ✓ |
| 8.11 | 6900-200-10500 ✓ |
| 8.12 | 7450-225-11500 |
| 8.13 | 7800-250-12000 |
| 8.15 | 8000-275-13500 ✓ |
| 8.16 | 10000-325-15200 |
| 8.17 | 12000-375-16500 |
| 8.18 | 14000-375-18100 |
| 8.19 | 14300-400-18300 |

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C.R. 81

Tribunal

O.A. No. 217/2004

GUW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(2) filed by the applicant -
through Subroto Nath
Advocate
O.A. No. 217/2004

In the matter of:

O.A. No. 217/2004

Shri J.C. 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 statement made in paragraph 1 and 2 of the written statement the applicant begs to say that only the erstwhile Havildar Clerks were promoted to the post of Warrant Officer Clerks and thereafter those Warrant Officers only from the Combatant side were upgraded as Naib Subedar Clerk in the higher pay scale by abolishing the post of Warrant Officer but U.D.A remained as U.D.A in the original pay scale, the benefit of letter dated 19.08.03 has not been extended to the civilian Upper Division Assistants although the Ministry of Home Affairs, already approved the Re-Structured Peace Establishment (RPE). It is further submitted that the contention of the respondents that promotion of both streams i.e. civilian and combatant were always regulated from a common roster based in inter-se-seniority is not factually correct rather inspite of repeated Government orders, more particularly the Director General of Assam Rifles has issued orders for effecting promotion of the

civilian and combatant clerks from a common roster based on inter-se seniority, but the same has not yet been implemented by the respondent department.

Promotion of the applicant who is civilian clerk never governed by the Record office Instructions 3/98 and the case of promotion of the applicant has no bearing with the Recruitment Rule 2000. It can rightly be said that only the combatant Clerks are governed by Recruitment Rule 2000 and it has no application in the case of instant applicant. It is further submitted that in the absence of recruitment rules for promotion for civilian Clerks the executive order of promotion is valid in the eye of law. As such promotion of the applicant has got no relevancy either with Recruitment Rule 2000 or with the Record Office Instruction 3/98. Therefore, the question of referring the date of promotion of the applicant from 01.06.2001 to 10.10.2002 following the DGAR order dated 14.06.2004 is not substantive in the eye of law.

2. That with regard to the statement made in Paragraph 5, 6, 7, 8, 9 and 10 are not correct, save and except which are borne on record, the Respondents contention that the applicant was not superseded is boldly denied and it is further reasserted that the applicant was promoted only after 14 years to the post of Head Assistant. Since the applicant was not promoted for a long time therefore 2nd ACP was granted to the applicant.

So far contention raised in Para 6 of the written statement by the Respondents Union of India that U.D.A was placed in the common seniority with the combatant officers w.e.f. 10.10.1997 but the same was not factually correct. Moreover, Recruitment Rule 2000 is exclusively meant for combatant staff and the said recruitment rules has no application in the instant case of promotion of the applicant and since there was no recruitment rules in force for last 14 years when the applicant got promotion during the year 2001, therefore, the said promotion order is in absence of Recruitment Rules is liable to be treated

as valid or the executive order/rules governs the appointment and promotion of the existing employees hence the question of erroneous promotion and the cancellation of the order of promotion of applicant does not arise at all and the order of promotion of the applicant is perfectly in order. The respondents in Para 7 of the written statement repeatedly stated that the applicant is governed by Recruitment Rule 2000 but surprisingly Recruitment Rule 2001 has been enclosed, respondents deliberately do not enclosed Recruitment Rule 2000 in order to mislead this Hon'ble Court.

Moreover, the contention of ACP is not relevant in the instant case as contended in Para 8 by the respondents. Moreover, promotion of the applicant granted following an administrative decision as indicated in Para 8 is also in order.

Contention of Para 9 and 10 of the written statement are contradictory to each other.

3. That with regard to the statement made in para 11, 12, 13, 14, 15, 16 and 17, the applicant denies the contention raised by the respondents Union of India and reiterates the statement made in Original Application. And further categorically submits that Recruitment Rule 2000 has no application in the instant case.
4. That the applicant denies the correctness of the statement made in paragraphs 18, 19, 20, 21, 22, 23, 24 and 25 and reiterates the statements made in preceding paragraphs.
5. That your applicant further denies the correctness of the statement made in paragraph 26, 28, 29 and 32 except which are borne on record.

In the circumstances stated above the application deserves to be allowed with cost.

VERIFICATION

I, Sri J.C. Bhattacharjee, S/o- Late Jatindra Kumar Bhattacharjee, aged about 53 years, presently working as Head Assistant, HQ, IGAR (South), C/O- 99 APO, Imphal, applicant in the instant application, do hereby verify that the statements made in paragraph 1 to 5 are true to my knowledge and I have not suppressed any material facts.

And I sign this verification on 5th June' 2005.

