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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 237/2004

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Org. App/Misc. Petn/Cont. Petn/Rev. Appl. 237

In O.A.

Name of the Applicant(s) S. N. Sharma

Name of the Respondent(s) UOI & ONS.

Advocate for the Applicant Mr. S. Sharma, Miss U. Das & Miss B. Devi

Counsel for the Railway/C.G.S.C. Case. M. U. Ahmed

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

6.10.04.

The application is in form
is filed in Rs. 50/-
deposited vide PC/BD
No. 204/114/50
Date 29/10/04

Dy. Registrar

Steps taken.

29/10/04

lm

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

Heard learned counsel for the
parties.

Notice to the Respondents on
Admission. Returnable on 18.11.04.

Member

Vice-Chairman

6.12.2004
SHILLONG

Mr. A. Deb Roy, learned Sr. C.G.S.C.
for the respondents stated that written
statement has been filed today. Learned
counsel for the applicant seeks time
to file rejoinder.

Learned counsel for the applicant
also states that the interim relief
in this application in Paragraph 9 of
the application has been inadvertently
sought and as such he may be permitted
to delete the same. The prayer is all-
owed. Office shall accordingly delete
the Paragraph 9 of the application and
make endowment to that effect.

Cont.

fe. comply order dated 6.10.04.

29/10/04

Notice & order sent
to D/Section for
issuing to resp.
Nos. 1 to 3, by regd.
A/D post.

13/10/04

-2-

CA 237/04

Contd.

6.12.2004

Rejoinder, if any, be filed within four weeks with advance copy to the learned Sr.C.G.S.C..

Matter be listed for ~~hearing~~ hearing on 7.2.2005.

8/11/04

Notice returned due to undersigned R. 3.

D
8/11/04

1st Divided
Member

R
Vice-Chairman

2-12-04

1) Service admitted from R. no. 1 & 2. ~~inferred~~
2) Service returned from R. no. 3.

bb

7.2.2005 Present: The Hon'ble Mr. M.K. Gupta,
Judicial Member.

This being a Division Bench matter, list on 14.2.2005 before the Division Bench.

21.12.04

w/s submitted

by the Respondents

Member (J)

bb

14.2.2005

None appears. List on 17.2.2005.

Member (J)

mb

17.2.05.

Adjourned on the request made by learned counsel for the applicant to file rejoinder to 15.3.05.

1st Divided
Member (A)

Member (J)

lm
15.03.2005

Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
The Hon'ble Mr. K.V. Prasad
Administrative Member.

At the request of Mr. S. Sarma, learned counsel for the applicant the case is adjourned. List on 22.03.2005 for hearing.

1st Divided
Member

Vice-Chairman

14-3-05

2.2.2005 R. 3-6-05

Notice duly
Served on
resp. Nos. 1 & 2


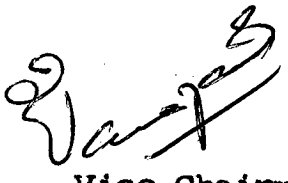
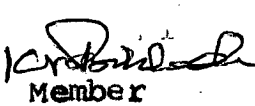
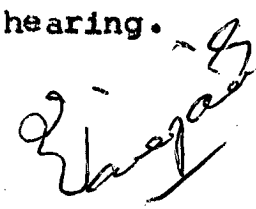
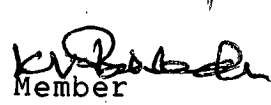
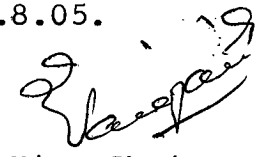

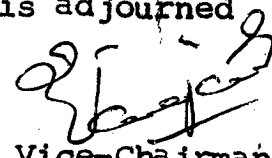
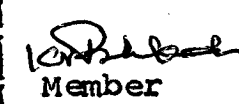
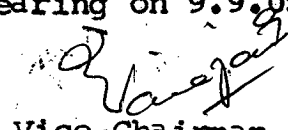
1) Rejoinder not
filed by the
applicant.

2) The case is
ready for hearing
as regards service
and reply.

3' OA 237/04

9

Office Note	Date	Tribunal's Order
21-3-05 No rejoinder has been filed a	22.03.2005	Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman. The Hon'ble Mr. K.V. Prahladan, Administrative Member. At the request of Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents, the case is adjourned. List on 25.4.2005 for hearing, <div style="display: flex; justify-content: space-between;"> <div> <p><i>K.V. Prahladan</i> Member (A)</p> </div> <div> <p><i>G. Sivarajan</i> Vice-Chairman</p> </div> </div>
	mb 25.4.05.	Post the matter on 13.5.05. <div style="display: flex; justify-content: space-between;"> <div></div> <div> <p><i>G. Sivarajan</i> Vice-Chairman</p> </div> </div>
	lm 13.5.2005	At the written request of Mr. S. Sarma, learned counsel for the applicant the case is adjourned to 16.5.2005. <div style="display: flex; justify-content: space-between;"> <div> <p><i>K.V. Prahladan</i> Member</p> </div> <div> <p><i>G. Sivarajan</i> Vice-Chairman</p> </div> </div>
	mb 16.5.05	Miss B.Devi, learned counsel for the applicant seeks for adjournment. Mr M.U.Ahmed, learned Addl.C.G.S.C also wants time. Post on 16.6.05. <div style="display: flex; justify-content: space-between;"> <div> <p><i>K.V. Prahladan</i> Member</p> </div> <div> <p><i>G. Sivarajan</i> Vice-Chairman</p> </div> </div>
① Wks has been filed ② No. Rejoinder has been filed. <div style="display: flex; align-items: center;"> <div style="border-bottom: 1px solid black; width: 50px; margin-right: 5px;"></div> <div>16.6.05</div> </div>	pg	

Office Note	Date	Tribunal's Order
	16.6.2005	Mr. S. Sarma, learned counsel for the applicant and Mr. M.U. Ahmed, learned Adl. C.G.S.C. for the respondents submits that this case may be taken up after two weeks. Post on 25.7.2005. No further adjournment will be granted.
	mb	 Member  Vice-Chairman
	25.7.05	Mr S.Sarma, learned counsel for the applicant seeks for adjournment. Post on 26.7.05 for hearing.
	pg	 Member  Vice-Chairman
① Wks has been filed.	26.7.2005	At the request of the learned counsel for the parties, the case is adjourned to 4.8.05.
② No. respondents has been filed.		 Member  Vice-Chairman
<u>30</u> 3.8.05	nkm	
	4.8.05.	At the request of learned counsel for the applicant case is adjourned to 9.8.05.
The case is ready for hearing.	lm	 Member  Vice-Chairman
<u>70</u> 8.8.05	9.8.05.	Mr.S.Sarma learned counsel for the applicant prays for short adjournment. Post the matter for hearing on 9.9.05.
	lm	 Member  Vice-Chairman

9.9.05.

Post the matter before the next available Division Bench.

Vice-Chairman

lm

5-10-05

① Wts has been filed.

② No Rejoinder has been filed.

my

9-11-05

No Rejoinder has been filed.

my

6.10.2005

Ms.U.Das appearing on behalf of Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the respondents seeks for a short adjournment. Mr.S.Sarma, learned counsel for the applicant has no objection.

post on 10.11.2005.

Member

bb

Vice-Chairman

10.11.2005

post before the next Division Bench.

Vice-Chairman

bb

3-3-06

① Wts has been filed.

② No Rejoinder has been filed.

my

2.1.2006

Ms.S.Devi, learned counsel for the applicant is present. Ms.U.Das on behalf of Mr.M.U.Ahmed, learned Addl.C.G.S.C. seeks for a short adjournment.

Post on 4.1.2006.

Member

bb

Vice-Chairman

4.1.2006

On behalf of the learned counsel for the applicant an adjournment is sought. Post before the next available Division Bench.

Member

nkm

Vice-Chairman

O.A. 137/2006

6.3.2006

Vice-Chairman(J)

Vice-Chairman(A)

bb

06.03.2006 After hearing Mr. S. Sarma, learned counsel for the applicant and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents we feel that the Recruitment Rules concerning the case is very important. Therefore, counsel the respondents is directed to produce the relevant Recruitment Rules on the next date on 10.3.2006.

Post on 10.3.2006.

Vice-Chairman (J)

Vice-Chairman (A)

bb

10.3.2006

Mr. M.U. Ahmed, learned Addl. C.G.S.C. wanted to have further time to produce the Recruitment Rules. Let it be done.

post before the next Division Bench.

Vice-Chairman(J)

Vice-Chairman(A)

bb

9.8.2006

Mr. S. Sarma, learned counsel for the applicant is present. Mr. M.U. Ahmed, learned Addl. C.G.S.C. submits that he requires some more time to produce the relevant records. Let it be done.

Post on 28.8.2006.

Member (A)

Vice-Chairman

bb

The case is ready
for hearing.

8.8.06

O.A. 237/2004

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Post before the next Division Bench.

Vice-Chairman

/mb/

The case is ready
for hearing.

NS
27.2.07

15.2.07 Post before the next available Division
Bench.

Vice-Chairman

pg

The case is ready
for hearing.

MD
15.3.07.

28.2.07

Let the case be posted on 16.3.07.

Member

Vice-Chairman

pg

16.3.07

Heard counsel for the parties.
Hearing concluded. Judgment reserved.

Member

Vice-Chairman

pg

23.3.2007

Order pronounced in open Court
kept in separate sheets.

The O.A. is disposed of in terms of
the order. No costs.

Member

Vice-Chairman

/bb/

Received copy.
H.K. Des.
28.7.06

28/3/07

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

.

O.A. No.237/2004.

DATE OF DECISION: 23.03.2007

Shri S. N. Sharma.

.....Applicant/s

Mr. S. Sarma

..... Advocate for the
Applicant/s

- Versus -

Union of India & Ors.

.....Respondent/s /

Shri M.U.Ahmed Addl.C.G.S.C.

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN
THE HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No ☒
2. Whether to be referred to the Reporter or not? Yes/No ☒
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench & other Benches ? Yes/No ☒
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No ☒


Vice-Chairman/Adm. Member

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.237/2004.

Date of Order: This the 23rd day of March, 2007.

HON'BLE MR. K.V.SACHIDANANDAN, VICE-CHAIRMAN

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Shri Shanglapam Nodiachand Sharma
Office of the North Eastern Police Academy,
Ministry of Home Affairs,
Govt. of India,
Umsaw, Barapani, MeghalayaApplicant

By Advocate Shri S.Sarma

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. The Director,
North Eastern Police Academy,
Ministry of Home Affairs, Govt. of India,
Umsaw, Barapani, Meghalaya.
3. Shri A.K.Ramchandani,
Sr.Librarian and Information Assistant,
North Eastern Police Academy,
Ministry of Home Affairs, Govt. of India,
Umsaw, Barapani, Meghalaya.Respondents

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

ORDER

TARSEM LAL, MEMBER(A),

This case is regarding promotion of the applicant from Assistant Librarian to Senior Librarian in the North Eastern Police, Academy (NEPA), Umsaw, Barapani, Meghalaya.

2. The applicant was appointed as an Assistant Librarian on 23.10.82 in the pay scale of Rs.260-430/-. At the time of his appointment, the qualification required was Pre University with

②

certificate of Library Science and the applicant was having the above qualification. The pay scale of Assistant Librarian was revised vide office order dated 28.3.1984 to Rs.380-640/-. Subsequently, under 'Recruitment Rules 1986' the requirement of qualification was revised for the Assistant Librarian as under :

- "1. Graduate from a recognized University or equivalent,
- 2. Diploma in Library Science from a recognized institute."

3. In March 1984, two posts in Group C namely, Librarian and Assistant Librarian were created in the pay scale of Rs.425-700/- and Rs.380-640/-. After recommendation of the 4th Central Pay Commission, Central Government revised the pay scale of library staff as well as designation with effect from 28.7.90. The qualification prescribed for the post of Library Information Assistant was B.A/B.Sc/B.Com plus bachelor of Library Science and the scale for the said post is Rs.1400-2600/-. A stipulation was made in the above memorandum ^{that} to the incumbent who does not fulfill the qualification may be allowed to continue in the existing pay scale. However, as and when the post falls vacant, the same will be filled up by suitable candidates having requisite qualifications.

4. The applicant was temporarily promoted to officiate as Senior Librarian and Information Assistant in the pay scale of Rs.1640-2900/- with effect from 22.2.1992 (Annexure-5) in place of Sri A.K. Ramchandani who proceeded on deputation. He was also confirmed as Senior Library and Information Assistant with effect

from 30.1.93 (Annexure-6). He was reverted from the post of Senior Library & Information Assistant vide order dated 1.4.1997 with effect from 31.3.1997. Aggrieved by the above impugned order, the applicant approached Hon'ble Central Administrative Tribunal, Guwahati Bench vide O.A.123/97. The Hon'ble Tribunal by order dated 6.6.97 (Annexure-7) directed the applicant to submit his representation and the respondents will dispose of the representation within a period of 15 days. The relevant portion of the order of Hon'ble Tribunal is re-produced below :

"Heard Mr S.Ali, learned Sr.C.G.S.C in this regard. The applicant, therefore, may submit a representation stating in details about his grievances. If such representation is filed within 15 days from the receipt of this order the respondents shall dispose of the representation within a period of 1 month thereafter by a reasoned order. If the applicant is still aggrieved, he may approach this Tribunal.
Application is disposed of. No order as to costs."

5. The applicant accordingly submitted a representation dated 20.6.97 before the 2nd respondent. The respondent passed an order dated 12.8.97 rejecting the representation. The Director, NEPA issued another order dated 19.7.97 stating that the applicant was erroneously placed in the pay scale of Rs.1400-2600/- with effect from 24.7.90 at the revised designation of Library and Information Assistant. By the said impugned order dated 19⁹.7.97, the applicant was reverted to the post of Library and Information Assistant in the scale of Rs.1350-2200/- with effect from 1.4.1997 on the plea that the applicant does not have the requisite qualification as prescribed in Recruitment Rule. The respondents

decided to recover an over payment of Rs.24,449/- paid to the applicant. By the said impugned order the respondent had modified the order dated 1.7.92 by which a special increment was granted to him in the event of tubectomy operation of his wife which was also reduced from Rs.60/- to Rs.40/-.

6. The applicant again approached the Hon'ble Central Administrative Tribunal, Guwahati by O.A.No.236/97 challenging the legality and validity of the impugned order dated 19.9.97 and also alleged that the appointment of Shri A.K.Ramchandani was illegal. He further stated that the promotion made to the applicant to the post of Senior Library & Information Assistant was within the purview of Recruitment Rules of 1986 and the subsequent clarification/modification of the Recruitment Rules however does not disqualify the applicant and same cannot be a ground for his reversion. The Tribunal after hearing the parties set aside the impugned order dated 19.9.97 and directed the respondents vide its order dated 9.9.99 to consider the case of the applicant for promotion to the post of Senior Library & Information Assistant. The operative portion of the order is reproduced below :

"....Accordingly we set aside Annexures 10, 12 and 13 orders. Regarding recovery of the amount the applicant drew while working as Sr. Librarian and Information Assistant, we hold that as the applicant was appointed by the authority and he discharged his duties as sr. Librarian and Information Assistant he was entitled to receive the salary of Sr. Library and Information Assistant. Taking away the money would amount to violation of the Constitutional provisions. Accordingly we direct the respondents not recover the amount paid to the applicant for the period he

2

worked as Sr. Librarian and Information Assistant.

.....We direct the applicant to submit a representation before the authority and the authority shall consider his case in the light of the said O.M."

7. In pursuance of the above, the applicant submitted his application dated 24.7.2003 (Annexure-10) praying for his promotion to the post of Sr. Librarian and Information Assistant. His request was rejected by an order dated 19.12.2003 (Annexure-12) stating that his promotion as Sr. Librarian was conditional and on repatriation of Sri A.K.Ramchandani, he was brought back to his original post of Library and Information Assistant with effect from 1.4.97. Moreover, the applicant does not have requisite qualification to hold the post of Senior Librarian and Information Assistant nor Library and Information Assistant.

8. Aggrieved by the order dated 19.12.03, the applicant sent a legal notice dated 13.2.04 (Annexure-13) for promoting him as Senior Librarian. On receipt of legal notice, the respondent issued orders dated 5.4.04 (Annexure-14) under which his request was rejected. However, he was granted the benefit under ACP scheme. The benefits accrued due to ad hoc promotion were not recovered and status quo maintained.

9. The applicant has now prayed that the respondents may be directed

- (i) to set aside and quash the impugned orders dated 19.12.03 and 5.4.04 and other consequential orders issued in this regard and
- (ii) to direct the respondents to promote the applicant to the post of Sr. Librarian and Information Assistant in NEPA with




retrospective effect with all consequential service benefits including arrear salary and seniority etc.

10. We have heard Mr S.Sarma, learned counsel for the applicant and Mr M.U.Ahmed, learned Addl. C.G.S.C for the respondents. Learned counsel for the applicant pleaded that Shri S.N.Sharma was appointed as Assistant Librarian in October 1982 under the Recruitment Rules in force at that time. He was subsequently promoted and confirmed as Sr. Librarian in 1992. He continued to perform the duties and responsibilities of a Sr. Librarian for the period from 22.2.92 to 31.3.1997. He was placed in lower pay scale of Rs.1350-2200/- without any basis. He was therefore, entitled to the reliefs prayed for in this Original Application under consideration before the Hon'ble Central Administrative Tribunal, Guwahati.

The learned counsel further pleaded that if a regular promotion was not possible by setting aside the promotion orders of Shri A.K.Ramchandani, the applicant may be considered for the post of Sr. Librarian when the post becomes available. He brought to the notice of this Tribunal that there is a provision in the Recruitment Rules under which an Assistant Librarian having an experience of 3 years may be considered with other candidates on deputation, and if he is selected, he may be treated as promotion candidate.

11. The learned counsel for the respondents has not agreed to any of his prayers, pleadings and argued that under Recruitment Rule finalized vide notification dated 18.2.1986, the qualification



for Librarian has been prescribed as (i) Degree from a recognized University and (ii) Degree or Diploma in Library Science from a recognized University. He was not holding the requisite qualification for the post of Assistant Librarian as prescribed in the Recruitment Rules. Therefore, the applicant does not qualify the basic eligibility conditions prescribed for the post in approved Recruitment Rules. He has been retained under a stipulation in the Recruitment Rules that the incumbent who do not fulfill the requisite qualifications may continue in the existing scale of pay. As and when the post is vacated by the existing incumbents the same will be filled by suitable candidates possessing the requisite qualifications.

12. The learned counsel for the respondents pleaded that as per Recruitment Rules 1986, age and qualifications prescribed for the direct Recruitment is not applicable to promotees but the academy has neither invited applications to fill up the post of Sr. Librarian and Information Assistant on deputation nor the applicant possess the requisite qualifications.


13. The learned counsel further pleaded that the promotion of the applicant to the post of Sr. Librarian and Information Assistant was a stop gap arrangement as the regular incumbent ^{g.} Sri A.K.Ramchandani proceeded on deputation. The applicant was never promoted as Senior Librarian on regular basis. Excess payment made to him has not been recovered under the orders of Hon'ble Central Administrative Tribunal, Guwahati Bench.



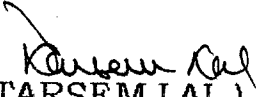
14. We have given our due consideration to the pleadings, evidence and materials placed on record in this case. Admittedly the applicant was recruited as an Assistant Librarian in October 1982 under the Recruitment Rules in force at that time. In 1986, the above Recruitment Rule were revised. Under the revised Recruitment Rules for promotion, there is a provision that Assistant Librarian with 3 years regular service in the grade should be considered alongwith other candidates for appointment on deputation and in the event of his selection, his appointment should be deemed to have been made as promotion.


15. The applicant joined his service as Assistant Librarian in October 1982 and continued to work in that post till he was promoted to officiate as Sr. Librarian and Information Assistant. He performed the duties and responsibilities of Sr. Librarian for the period from 22.2.1992 to 31.3.1997 (Annexure-5). Therefore, he has acquired experience both as Assistant Librarian as well as Sr. Librarian for a period more than 3 years as required under Recruitment Rules.

16. In view of the above, as the applicant has the experience more than three years and there is provision in Recruitment Rules to consider such candidates alongwith deputationist this Tribunal therefore, directs Respondent No.2 to consider the case of the applicant alongwith other candidates when the vacancy of Sr. Librarian becomes available.



The application is disposed of with the above order. In the circumstances there will be no order as to costs.


(TARSEM LAL)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN

//pg//

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH::

O.A No. 237/84.

S.N.Sarma

Versus

Union of India & ors.

LIST OF DATES .

1. 23.10.82. The applicant got his initial appointment as Asstt. Librarian, in N.E.P.A. in the pay scale of Rs 260/ - 430/.
2. 28.3.84 His pay was revised to 380/-640/.
3. 1.9.84 Draft Recruitment Rules was circulated, prescribing the qualification for the post of Asstt. Lib as PU + Diploma in Lib Sc.
4. 1986 Draft R/R was finalised, with the modification of PU by Graduate.
5. 23.3.84 Two posts in Gr-C cadre created i.e, Librarian - 425/-700/ and Asstt Librarian 380/- 640/.
6. 28.4.84 His pay was merged with the pay of Asstt Lib.
7. 24.7.90 4 th CPC was implemented and his pay was merged with the pay of 1400/- 2600/.
8. 30.4.92 He was promoted to the post of Sr. Lib.& Info

22.2.92

Filed by:-

the Applicant

through

Hridip Kr. Das.

Advocate

19.3.07

Asstt.

9. 19.2.93 He was confirmed as Lib. & Info. Asstt by the DPC dated 30.1.93.
10. 1.4.97. He was reverted to Lib & Info Asstt. *W. & f*
31.3.97
11. 6.6.95 - O.A 123/197, disposed of directing consideration of his representation.
12. 20.6.97 He submitted representation.
13. 12.8.97. His claim was rejected.
14. 19.9.97 He was further reverted to the post of Asstt. Lib. with an order for recovery. He filed OA No 236/97.
15. 9.9.99. OA allowed and the order dated 19.9.97 was set aside.
16. 24.7.00 He submitted representation for promotion to the post of Sr. Lib & Info Asstt.
17. 24.11.03. He submitted another representation.
18. 19.12.03. His representation was rejected on the count of not having requisite qualification and at the same time they asked him to apply for the same.
19. 13.2.04. He served legal notice.
20. 5.4.04. Impugned order rejecting his case holding him ineligible for the post of Sr. Lib & Info Asstt.

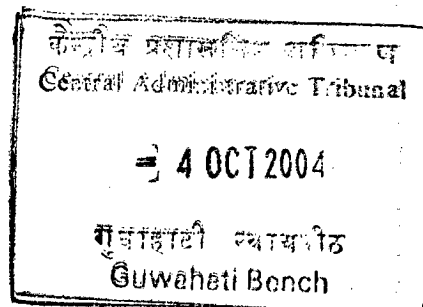
21

HIGHLIGHTED FACTS.

A. The applicant has got the requisite qualification to hold the post of Sr. Lib. & Info Asstt. on promotion .

B. The applicant had occasion to hold the post of Sr. Lib. & Info. Asstt from 1992 to 1997.

C. Since the respondent No 3. got absorption elsewhere, the post of Sr. Lib & Info Asstt is lying vacant since 1997, and the applicant is looking after all the responsibilities.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 237 of 2004

BETWEEN

Shri Shanglapam Nodiachand Sharma

..... Applicant.

AND

Union of India & ors.

..... Respondents.

I N D E X

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Filed by : *Abha Das*

Regn. No. :

File : C:\WS\ensharma

Date :

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 237 of 2004

Shri Shanglapam Nodiachand Sharma

..... Applicant.

AND

Union of India & ors.

..... Respondents.

LIST OF DATES

1. 8.9.79 Rectuitment Rules for Asstt. Librarian.
2. 23.10.82 The applicant got his initial appointment as Asstt. Librarian in the pay scale of Rs.260/- -430 P.M.
3. 1.9.86 Govt. of India, Ministry of Home Affairs, (Griha Mantralaya) circulated the draft Recruitment Rules for the post of Asstt. Librarian.
4. 28.3.84 Respondents issued an order by which two posts in the cadre of group C were created namely (1) Librarian (2) Asstt. Librarian in the pay scale of Rs.425-700/- and Rs.380-640.
5. 28.4.84 Respondent issued another order by which the earlier pay scale of Rs.260-430/- was replaced and thereafter the applicant continued to draw the said pay scale of Rs.380-640 p.m.
6. 28.7.90 The concerned Ministry after consideration of the recommendation of the Forth Central Pay Commission Recommendation as regards the Library staff falling under the purview of Central Govt. took a decision to revise the pay scale of library staff as well as the designation.
7. 18.5.92 Post of Library and Information Assistant has been upgraded prescribing the pay scale of Rs.1400-2600/-.
8. 30.4.92 The Director, NEPA issued an office order by which the applicant was temporarily given the promotion to the post of Senior Librarian and Information Asstt. in place of one Sri A.K.Ramchandrani, Sr. Librarian and Information, Asstt. who was sent on deputation.

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9. 19.2.93 The Respondents issued an order by which the applicant has been declared as a confirmed staff against the permanent post of Library and Information Asstt. w.e.f. 30.1.93.
 10. ✓ 1.4.97 Respondents issued an order by which applicant was reverted to the post of Librarian and information Asstt.
 11. OA No.123/97 The applicant approached Hon'ble Central Administrative Tribunal, Guwahati Bench, making a grievance against the order dated 1.4.97.
 12. 6.6.97 ✓ The aforementioned OA was disposed of directing the applicant to represent the matter before the respondent authority.
 13. 20.6.97 Representation filed by the applicant.
 14. 12.8.97 The Respondents issued an order rejecting the claim of the applicant.
 15. 19.9.97 The Respondents issued an order whereby the applicant was brought down to the scale of Rs.1350-2200/- w.e.f. 24.7.98.
 16. OA No.236/97 OA preferred by the applicant challenging the order dated 19.9.97.
 17. 9.9.99 ✓ Judgment and order passed by the Central Administrative Tribunal, Guwahati Bench.
 18. 24.7.2000 Representation preferred by the applicant.
 19. 24.11.03 Representation preferred by the applicant praying for Representation preferred by the applicant.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

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Filed by
the applicant through
Usha Das
Advocate
30/9/04

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

O.A.No. 237 of 2004

BETWEEN

Sri Shanglapam Nodiachand Sharma.
Office of the North Eastern Police Academy,
Ministry of Home Affairs,
Govt. of India,
Umsaw, Barapani, Meghalaya.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. The Director ,
North Eastern Police Academy,
Ministry of Home Affairs, Govt. of India,
Umsaw, Barapani, Meghalaya.
3. Sri A.K.Ramchandani,
Sr. Librarian and Information Assistant
North Eastern Police Academy,
Ministry of Home Affairs, Govt. of India,
Umsaw, Barapani, Meghalaya.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS

MADE:

The present Original Application is directed against the orders issued under memo No PF(C)/32/82/Vol.II 40-42 dated 5.4.2004 by which the respondent No 2, rejected the claim of the petitioner, while replying the legal notice dated 13/2/2004. This application is directed against the action of the respondents in not appointing the applicant to the post of Sr. Librarian and Information Asstt with retrospective effect.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights protections, and privileges and as guaranteed under the constitution of India and laws framed thereunder.

4.2. That the applicant pursuant to an order issued by the respondents dated 23.10.82, got his initial appointment as Asstt. Librarian in the pay scale of Rs 260/= - 430/= p.m. The recruitment Rules prevailing at the time of such appointment to the post of Asstt. Librarian was, degree of Pre-University with certificate of Library Science. The applicant is in possession of all these eligibility criteria and as such he was considered fit for such appointment. The pay scale of the applicant was further revised to Rs 380/= - 640/=, vide office order dated 28.03.84.

A copy of the order dated 23.10.82 is annexed herewith and marked as ANNEXURE-1.

4.3. That the respondents vide Ministries letter dated 1.9.84 circulated the draft Recruitment Rules for the post of Asstt Librarian as under,

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1. Pre-university,

2. Diploma in Library Science from a recognised University.

It is pertinent to mention here that in the said draft Recruitment Rules, there has been a specific mention that the said draft recruitment rules will not be applicable in case of promotes. The said rule for recruitment to the post of Asstt Librarian was finalised with certain change as under;

1. Graduate from a recognised University or equivalent

2. Diploma in Library Science from a recognised institute.

It is also pertinent to mention here that in the said finalised recruitment rules also there has been mention that the prescription regarding age and educational qualification as prescribed for the direct recruitees will not be applicable to the promotees.

Copy of the 1986 Rule is annexed herewith and marked as ANNEXURE-2.

4.4. That the applicant begs to state that the respondents while finalising the aforesaid Rule however, failed to take into consider the promotional prospect of the applicant as well as the similarly situated persons who were holding the post of Asstt Librarian prior to commencement of the said Rule. In fact, the said recruitment rule came into force four years after the joining of the applicant as Asstt Librarian. It is noteworthy to mention here that prior to commencement of the said recruitment rule, the respondents issued an order dated 8.9.79 by which sanction was accorded for such appointment.

A copy of the said order dated 8.9.79 is annexed herewith and marked as ANNEXURE-3.

4.5. That the respondents thereafter issued an order dated 23.03.1984 by which two posts in the cadre of group C were

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created namely (1) Librarian, and (2) Asstt Librarian in the pay scale of Rs 425-700/= and Rs 380- 640/=, which was followed by another other order dated 28.04.84 by which the earlier pay scale of Rs 260 - 430/= was replaced and thereafter the applicant continued to draw the said pay scale of Rs.380-640 p.m.

4.6. That the applicant begs to state that the concerned Ministry after consideration of the recommendation of the Fourth Central Pay Commission Recommendation as regard the library staff falling under the purview of Central Govt., took a decision to revise the pay scale of library staff as well as the designation w.e.f. 28.7.90. In the said office memorandum liberty was granted to the incumbance who does not fulfill the qualification may be allowed to continue in the existing pay scale, however as and when the post falls vacant, same will have to be filled up by suitable candidates possessing requisite qualification. The qualification as prescribed for the post of Library Information Assistant has been prescribed as B.A./B.Sc./B.Com plus bachelor of Library Science and the scale prescribed for the said post is Rs.1400-2600/-. It is pertinent to mention here that the concerned Ministry i.e. Ministry of Finance revised the said pay scale of Rs.1400-2600 by merging the different scales which were in existence. At the relevant point of time for the post of Library and Information Assistant existing pay scale were 1200-1800/-, Rs.1200-2400/-, 1320-2020/-, 1350-2200/-, 1400-2300/-, 1400-2600/-, and all those pay scales have been merged in the revised pay scale of Rs.1400-2600/-.

Although the revised pay scale of the cadre of Library and Information Assistant the concerned authority infact provided certain condition while placing the existing Library staff. It is

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pertinent to mention here that the said OM has kept provision for the existing staff to draw the existing pay scale even though they do not fulfill the eligibility criteria. Even though the saving clause as mentioned above provided liberty so far as drawal of pay scale is concerned but same is silent about the promotional prospect.

The respondent authority adopting the analogy as laid down in the OM dated 24.7.90 issued an order dated 18.5.92 by which the post of Library and Information Assistant has been upgraded prescribing the pay scale of Rs.1400-2600/-. However, the NEPA authority while adopting the said circular had illegally committed liberty as was granted in the OM dated 24.7.90.

A copy of the said order dated 18.5.92 is annexed herewith and marked as Annexure-4.

4.7. That the respondent No.2 i.e. the Director NEPA vide office order dated 30.4.92 by which the applicant was temporarily given the promotion to the post of Senior Librarian and Information Assistant in place one Sri A.K.Ramchandani, Senior Librarian and Information Assistant who was sent of deputation.

A copy of the order dated 30.4.92 is annexed herewith and marked as Annexure-5.

4.8. That the respondents vide order dated 19.2.93 declared the applicant as a confirmed staff against the permanent post of Library and Information Assistant w.e.f. 30.1.93. It is pertinent to mention here that prior to issuance of the order dated 19.2.93 a regular DPC was convened and the said DPC after considering the satisfactory completion of probationary period

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confirmed the applicant against said permanent vacant post of Library and Information Assistant after following the due process of law.

A copy of the said order dated 19.2.93 is annexed herewith and marked as Annexure-6.

4.9. That the applicant in terms of the aforesaid promotion order dated 30.4.92 kept on discharging his duties to the satisfaction of all concerned and said position continued for about 5 years without any hindrance. However on repatriation of Sri A.K. Ramchandani, Senior Librarian and Information Assistant, the applicant was reverted to the post of Librarian and Information Assistant vide order dated 1.4.97. The applicant making a grievance against the said illegal order dated 1.4.97, approached the Hon'ble Tribunal by filing OA No.123/97. The Hon'ble Tribunal vide its judgment and order dated 6.6.97 was pleased to dispose of the said OA directing the applicant to represent his matter before the respondent authority and authority was also directed to dispose of the said representation within a stipulated time frame.

A copy of the said judgment and order dated 6.6.97 passed in OA No.123/97 is annexed herewith and marked as Annexure-7.

4.10. That the applicant pursuant to the direction contained in the judgment and order dated 6.6.97 passed in OA No.123/97 submitted a representation dated 20.6.97 addressing to the directing NEPA highlighting his aforesaid grievance. The Director on receipt of the said representation issued an order dated 12.8.97 by which the claim made by the applicant was rejected. The then Director in fact expressed his displeasure in

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approaching the Hon'ble Tribunal and in fact reflection of the same continued to remain over the applicant for years together.

4.11. That the then Director NEPA surprisingly enough issued another order dated 19.7.97 holding the applicant to be eligible draw the pay scale of Rs.1400-2600/- per month w.e.f. 24.7.90 at the revised designation of Library and Information Assistant. By the said impugned order dated 19.7.97, the applicant was further brought down to his original post of Assistant Librarian in the pay scale of Rs.1350-2200/- w.e.f. 24.7.90 on the count that the eligibility criteria of the applicant does not cover the recruitment rule as contained in the Ministry's OM dated 24.7.90. The name of the applicant was accordingly deleted from the office order dated 18.5.92. In the said impugned order the respondents have sought to deduct the over payment made towards the applicant totaling an amount of Rs.24,449/-. In the said impugned order the respondents have modified the order dated 1.7.92 by which a special increment which was granted to him in the event oftubectomy operation of his wife, was also reduced from Rs.60 to Rs.40.

A copy of the said order dated 19.7.97 is annexed herewith and marked as Annexure-8.

4.12. That the applicant begs to state that the then Director NEPA with an ulterior motive to harass him issued the aforesaid impugned order dated 19.7.97. Admittedly the applicant who was confirmed in the higher grade after following the due process of law and as per the settled principle of law said confirmed employees can not be brought down/reverted without following the principles of natural justice.

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4.13. That the applicant being aggrieved by the aforesaid action on the part of the respondents, in issuing the impugned order dated 19.9.97 had to approach the Hon'ble Tribunal by filing OA NO.236/97. In the said Original Application the applicant while highlighting the appointment of Sri A.K.Ramchandani to be illegal, pointed out the Ministry of Home Affairs notification dated 18.2.86 whereby the recruitment rule for the post of Librarian and Assistant Librarian was finalised. In fact in the said recruitment rule provision has been made as regard the said recruitment as deputation/promotion or by transfer on deputation. The respondents while violating the said recruitment rule appointed Sri A.K.Ramchandani as a direct recruit to the said post. It was also pointed that such illegal and arbitrary appointment provided to Sri Ramchandani in fact blocked all the promotional avenue of the present applicant. the applicant was eligible for promotion to the post of Senior Library and Information Assistant as per the existing recruitment rule notified vide notification dated 18.2.86 has been illegally brought down to a stage which is not permissible. It is said OM dated 18.2.86 there has been a categorical mention that such promotion would be made on deputation from amongst the persons holding analogous post or equivalent post or post in the lower grade of Rs.380-640/- or with 3 years of service in the grade under Central/State Govt. administration. The said OM dated 18.2.86 also provided promotional prospect to the Departmental Assistant Librarian with 3 years of service in the grade with a provision to consider their cases along the candidates for appointment on deputation. The said recruitment rule notified vide notification dated 18.2.86 on the other hand provided the eligibility criteria for the post of Assistant Librarian as-

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direct recruitment failing which by transfer on deputation. The qualification has also been prescribed as -(1) graduate from a recognised University or equivalent (ii) Discipline in Library Science from a recognised University.

4.14. That the applicant begs to state that from the above eligibility criteria as prescribed in the notification dated 18.2.86, it is crystal clear that the promotion made to the applicant to the cadre of Senior Library and Information Assistant was within the purview of Recruitment Rule of 18.2.86. It is stated that the subsequent clarification/modification of the recruitment rule however does not disqualify the applicant and same can not be a ground for his reversion. It is noteworthy to mention here that the applicant since 30.4.92 in fact entrusted with the entire responsibility of the Library and he continued to remain posted as such till he was reverted to his original post by the impugned order dated 19.9.97.

4.15. That the applicant ventilating his aforesaid grievance and challenging the legality and validity of the impugned order dated 19.9.97 preferred OA No.236/97 before the Hon'ble Tribunal. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA by setting aside the orders dated 19.9.97 and other consequential orders directing further the respondents to consider the case acted of the applicant for promotion to the post of Senior Librarian and Information Assistant.

A copy of the said judgment and order dated 9.9.99 is annexed herewith and marked as Annexure-9.

4.16. That the applicant immediately on receipt of the

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copy of the judgment dated 9.9.99 submitted the same before the concerned authority through his representation dated 24.7.2000. In the said representation the applicant also made a prayer before the concerned authority for consideration of his case on regular basis to the post of Senior Librarian and Information Assistant before taking into account his case under Assured Career Progression (ACP) Scheme.

A copy of the said representation dated 24.7.2000 is annexed herewith and marked as Annexure-10.

4.17. That the applicant begs to state that after pronouncement of the aforesaid judgment and order, the respondents never acted upon on the direction contained in the said judgment and they kept on violating the same even after when the matter was brought to the notice of the concerned authority. The aforesaid inaction on the part of the respondents compelled the applicant to pursue the matter repeatedly through representations after representations but same yielded no result in positive.

4.18. That the applicant as stated above kept on representing his case before the respondents, and lastly he preferred a detailed representation dated 24.11.2003 praying for consideration of his case for promotion to the post of Senior Librarian and Information Assistant highlighting the fact that since the order dated 19.9.97 has been set-aside by the Hon'ble Tribunal, the grounds for non-consideration of his case may amount to violation of the judgment and order dated 9.9.99.

A copy of the said representation dated 24.11.03 is annexed herewith and marked

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as Annexure-11.

4.19. That the respondents immediately on receipt of the said representation dated 24.11.2003 issued an order dated 19.12.2003 by which his representation was rejected. In the said impugned order dated 19.12.2003 the Director NEPA while rejecting his claim highlighted the fact that the deputation highlighted the fact that the deputation order issued to Sri Ramchandani was a conditional one and on his repatriation he was brought back to his original post of Sr. Librarian and Information Assistant and as a consequence of such reversion the applicant had to be reverted to his original post of Library and Information Assistant w.e.f. 1.4.97. Apart from that the Director while reiterating and reaffirming the stand taken in the order dated 19.9.97 again pointed out that the applicant had no requisite qualification to hold the post of Sr. Librarian and Information Assistant nor Library and Information Assistant. It was further contended that the promotion given to the applicant to the post of Sr. Librarian and Information Assistant was a stop gap arrangement. Infact the Director while referring to the recruitment rule virtually kept in open for the applicant allowing him to apply for the said post as and when vacancy arises with an assurance to consider his case along with the similarly situated employees. The applicant being aggrieved by the aforesaid order dated 19.12.2003 served a legal notice dated 13.2.04 making a demand for promotion to the post of Sr. Librarian and Information Assistant with retrospective effect.

Copies of the order dated 19.12.03 and the legal notice 13.2.04 are annexed herewith and marked as Annexure-12 & 11

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respectively.

4.20. That the respondents on receipt of the said legal notice issued the impugned order dated 5.4.04 by which the prayer made by the applicant regarding his promotion to the post of Sr. Librarian and Information Assistant was rejected. However his consequential claim of the benefit under ACP scheme was granted to him while admitting the fact that he was stagnated in an isolated post.

A copy of the said impugned order dated 5.4.04 is annexed herewith and marked as Annexure-14.

4.21. That the applicant begs to state that since the Hon'ble Tribunal vide its judgment and order dated 9.9.99 quashed the order dated 19.9.97, the respondents ought not to have raised the issue once again and rejected his claim. It is not out of place to mention here that the order dated 19.12.03 the respondents have virtually admitted that the applicant is eligible for such promotion under the recruitment rule and he was allowed to apply for the said post along with the other candidates.

4.22. That the applicant begs to state that the orders dated 19.12.03 and 5.4.03 are contradictory and infact same depict total non-application of mind by the respondents. The double standard adopted by the respondents in rejecting the case of the applicant indicates the fact that the entire exercise was done with and arbitrary manner without any sanction of law. On these score alone the action on the part of the respondents are liable to be set aside and quashed.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in rejecting the claim of the applicant is per-se illegal, arbitrary and without any authority, and as such same is liable to be set aside and quashed.

5.2. For that the impugned orders dated 19.12.03 and 5.4.04 reiterating the stand adopted vide order dated 19.9.97 is perse illegal and arbitrary and same is liable to be set aside and quashed.

5.3. For that the Hon'ble Tribunal having quashed the order dated 19.9.97 declared that the reasons of such rejection is not at all sustainable and as such subsequent impugned orders dated 19.12.03 and 5.4.04 are not sustainable and liable to be set aside and quashed.

5.4. For that the respondents having full knowledge about the judgment and order dated 9.9.99 passed in OA No.236/97 wherein the earlier impugned order dated 19.9.97 was set aside and quashed.

5.5. For that the respondents have acted contrary to the judgment and order dated 9.9.99 while issuing the impugned orders dated 19.12.03 and 5.4.04 have tried to rewrite the said judgment which is not permissible and as such appropriate contempt proceeding is required to be drawn against each of the respondents for their willful and deliberate violation of the said judgment and the aforesaid impugned orders dated 19.12.03

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and 5.4.04. are liable to be set aside and quashed.

5.6. For that the respondents have acted contrary to the settled proposition while rejecting his case and as such entire action on the part of the respondents may be declared violative of the constitution mandates and the laws framed thereunder and the impugned orders may be set aside directing the respondents to promote the applicant to the post of Sr. Librarian and Information Assistant with retrospective effect.

5.7. For that in any view of the matter the action/inaction on the part of the respondents is not at all sustainable and liable to be set aside and quashed. •

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the

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

8.1. To set aside and quash the impugned orders dated 19.12.03 and 5.4.04 and other consequential orders issued in this regard.

8.2. To direct the respondents to promote the applicant to the post of Sr. Librarian and Information Assistant in NEPA with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.3. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays before this Hon'ble Tribunal for an interim order, directing the respondents not to make any recovery from the applicant in respect of SDA already paid to them and to allow them to draw current SDA.

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

1. I.P.O. No. : 20 G 114150
2. Date : 2/9/04
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

19/2/03
order
(14) LK
page

As per order dt
6.12.04 para 9
deleted.

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VERIFICATION

I, Sri Shanglapam Nodiachand Sharma, son of Thangu Sharma, aged about 39 years, working as Assistant Librarian (now redesignated as Library and Information Assistant), Office of the North Eastern Police Academy, Borapani, Meghalaya, do hereby solemnly affirm and verify as follows,

1. That I am the applicant in the instant application and as such am well conversant with the facts and circumstances of the case and competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs 2, 3, 4, 5, 4, 17, 4, 21, 4, 22 & 5 to 12 are true to my knowledge and those made in paragraphs 1, 4, 2 to 4, 16, 4, 18 to 4, 20 are ~~based on records~~ based on records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the ^{22nd} of Sept. 2004. *Shanglapam Nodiachand Sharma*

Signature.

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ANNEXURE- 1

GOVERNMENT OF INDIA
NORTH EASTERN POLICE ACADEMY
POST BOX NO.56
P.O. SHILLONG-793001.

No.NEPA/EG/16/81

Dated Shillong the

OCT'82

ORDER

Shri Shanglakpam Nodiachand Sharma, son of late Shri Thagu Sharma of Dimapur is temporarily appointed as Assistant Librarian, in the scale of pay of Rs.260/8-300-EB-8-340-10-380-EB-10-430/- P.M. plus other allowances as admissible from time to time in the establishment of the North Eastern Police Academy, Umsaw, Borapani with effect from the forenoon of 23rd OCT/82.

The appointment is purely temporary and may be terminated by giving one month's notice from either side.

Sd/- Illegible
(A.A.ALI)
Commandant

Memo No.NEPA/EG/16/81/3782-87 dated Shillong, the 23 Oct'82.

Copy to:

1. The Accountant General, Assam, Meghalaya etc. Shillong.
2. The Regional Pay & Accounts Office (IB), Shillong.
3. The Accounts Section, N.E.P.A., Shillong.
4. Shri Shanglakpam Nodiachand Sharma, Camp/Shillong.
5. Dy.S.P.(Admn), North Eastern Police Academy, Umsaw, Borapani.
6. Personal File.
7. Office File.

*Attested
w/om
Advocate*

Sd/-
(A.A.Ali)
Commandant.

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Annexure- 2

No. 6/9/-N.E.II
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi dated Feb '1986

NOTIFICATION

C.S.R.....In exercise of the powers conferred by the provide the article 309 of the Constitution, the president hereby makes the following rules regularising the method of recruitment to Group C posts in the North Eastern Police Academy, Borapani, Meghalaya, namely:-

1. Short title and commencement.

These rules may be called the North Eastern Police Academy Borapani (Group 'C' posts) Recruitment Rules, 1986.

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

2. Application:- These rules shall apply to the posts specified in column 1 of the Scheduled annexed to these rules.

3. Number, classification and scales of pay:-

The number of posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. Method of recruitment, age limit and qualifications:-

The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in column 5 to 14 of the said Schedule.

5. Disqualifications: No person.

(a) Who, has entered into, or contracted a marriage with any 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 any of the said posts. Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such persons 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.

6. Power to relax

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, Whenever necessary, relax any of the provisions of these rules with rempect to any clean or category of persons.

Attended
W. S. S.
Advocate

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7. 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 and other special categories or persons in accordance with the orders issued by the Central Government from time to time in this regard.

The Schedule

Sd/- Illegible
(Shiv Basant)
Deputy Secy. to the Govt. of India

Attested
naren
Advocate

NORTH EASTERN COUNCIL SECRETERAT
SHILLONG

No.RPTC-8/76/251

Dated the 8th September, 1979

ORDER

In exercise of the powers delegated under Rule 13 (I) (Schedule III) of the Delegation of Financial Power Rules, 1972 read with the Govt. of India, Ministry of Home Affairs Letter No.III-14028/13/78-N.E.II dated 29th August, 1978, sanction is hereby accorded to the creation of following temporary posts for the Regional Police Training College, Borapani, Shillong in the scale of pay shown against each plus other allowances as admissible from time to time under the Central Govt. Rules for a period upto 29th February, 1980 with effect from the date of entertainment.

Category of post	No.of post	Scale of pay
Group 'B'		
1. Deputy Supdt. of Police	2 (two)	Rs. 650-30-740-35-810-EB-35-800-40-1000-EB-40-1200 P.M.
Group 'C'		
2. Assistant	3(three)	Rs.425-15-500-EB-650-20-700 p.m.
3. Librarian	1(one)	Rs.380-12-440-EB-15-560-EB-20-640/- P.M.
4. Upper Division Clerk	3(three)	Rs.330-10-380-EB-12-500-EB-15-560/- p.m.
5. Stenographer Grade III	2(two)	Rs.330-10-380-EB-12-500-EB-15-560/- p.m.
6. Pharmacist	1(one)	(a) Rs.330-10-380-EB-12-500-EB-15-560 p.m. for fully qualified pharmacist i.e. those possessing qualification mentioned in section 31 and 32 of Pharmacy Act 1948 but excluding those covered under clause (d) of Sec.31. ibid. (b) Rs.330-8-370-10-480/- p.m. for unqualified Pharmacist i.e. these covered by clause (d) of Section 31 of Pharmacy Act or possessing registrable qualification under this clause.
7. Lower Division	1(one)	Rs.260-6-290-EB-326-8-366-EB-8-390-10-400/- p.m.
8. Assistant Librarian	1(one)	Rs.260-8-300-EB-8-340-EB-10-430/- p.m.
9. Electrician	1(one)	Rs.260/-6-326-EB-8-350/- p.m.

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as
Admte

Group 'D'
Nusing Orderly

1(one)

Rs.210-4-250-EB-5-270/-
p.m.

12. Tailor

1(one)

196-3-220-EB-3-232/-p.m.

13. Mochi

1(one)

196-3-220-EB-3-232/-p.m.

14. Dhobi

1(one)

196-3-220-EB-3-232/-p.m.

2. The expenditure involved is debitable to the major Head 299-Special and Backward Areas P.North Eastern Areas F.9- other expenditure F.9(6)-other Miscellaneous items: F.9(6)(4)- Regional Police Training College under Grant No.52- other Expenditure of Ministry of Home Affairs for 1979-80.

Sd/- Illegible

(K.M.Mirani)

Secretary

North Eastern Council Secretary

Shillong

*Attended
by
Advocate*

22

ANNEXURE-4

Government of India
Ministry of Home Affairs
North Eastern Police Academy, Umsaw,
Borapani:793001:Meghalaya

No.NEPA/PF(C)/8/84

Dated:Umsaw, the 18th May 1992

ORDER

Consequent upon the upgradation of the posts of Librarian and Asstt. Librarian in NEPA, Borapani, Shri A.K. Ramchandrani, Librarian, and Shri N.C.Sharma, Asstt. Librarian, are placed in the scale of pay of Rs.1640-2900 P.M. and Rs.1400-2600 PM in the ranks of Sr. Librarian and Information Asstt. Library Information Asstt. respectively.w.e.f. 24th July 1990.

Authority:MHA Letter No.8/4/91-NE.II dated 24th February, 1992.

Sd/-
G.C.Raiger
Director

No.NEPA/PF(c)/8/84/364-68 dated Umsaw, the 18th May,1992.

Copy to:-

1. RPAO (IB), Shillong.
2. A/c Sec. NEPA
3. Shri A.E. Ramchandrani
4. Shri N.C.Sharma
5. Of.

Sd/- Illegible
(G.C.Raiger)
Director.

Attended
near
Advocate

47

23

ANNEXURE- 5

Government of India
Ministry of Home Affairs
North Eastern Police Academy, Umsaw,
Borapani:793001:Meghalaya

No.NEPA/PF(C)/8/84

Dated:Umsaw, the 30th April/92

ORDER

Shri N.C.Sharma, Library Information Assistant, North Eastern Police Academy, Umsaw (Borapani), is hereby temporarily promoted to officiate as Sr. Librarian and Information Assistant in the scale of pay of Rs.1640-60-2600-EB-75-2900 P.M. plus other allowances as admissible from time to time vice Shri A.K.Ramchandrani, Sr. Librarian and Information Assistant, with effect from the forenoon of 22nd February 1992 until further orders.

Shri N.C.Sharma, will automatically come to his original position on repatriation of Shri A.K.Ramchandrani now on deputation with the Director, Govt. of India, NICEB, New Delhi.

Sd/-
(G.C.Raiger)
Director.

Memo No.NEPA/PF(C)/8/84/266-69 dated Umsaw the 30th April,1992

Copy to:-

1. The RPAO (I) Shillong.
2. The Accounts Section (Local),
3. Shri N.C.Sharma, NEPA, Umsaw,
4. P/F of Shri N.C.Sharma,
5. O O F.

Sd/- Illegible
(G.C.Raiger)
Director

Attested
by
Advocate

nb

- 24 -

Annexure-6

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH EASTERN POLICE ACADEMY
UMSAW-793 123, BORAPANI, MEGHALAYA.

No.A.16012/1/86-Estt/5991-94

Dated: 19.2.93

ORDER

Shri N.C. Sharma, presently officiating as Sr. Library and Information Asstt. is declared confirmed against a permanent post of Library and Information Asstt. in the scale of pay of Rs.1400-40-1600-50-2300-EB-60-2600/- p.m. with effect from 30.1.1993.

Sd/-
(G.C.Raiger)
Director

Memo No.A.16012/1/86-Estt/5991-94

Dated.19.2.93

Copy to:-

1. The RPAO(IB), Shillong-3
2. Shri N.C.Sharma, Sr. Library and Information Asstt.
3. Personal file
4. Office Order file

Sd/- Illegible
(G.C.Raiger)
Director

Attended
N.D. Das
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.123/97

Date of Order: This the 6th Day of June 1997.

HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN

SHRI G.L.SANGLYINE, MEMBER, ADMINISTRATIVE

1. Shri Shanglakpam Nodiachand Sharma
Office of the North Eastern Police Academy,
Umsaw, Borapni, Meghalaya,
Under the Ministry of Home Affairs.

.....Applicant

By Advocate Mr. J.L.Sarkar, Mr. N. Chanda, Mr. N.D. Goswami.

-VS-

1. Union of India
Through Secretary, Govt. of India
Ministry of Home Affairs,
New Delhi.
2. T. Chamcheshekhan
Director (current charge)
North Eastern Police Academy
Umsaw, Borapani,
Meghalalya.
3. A.K.Ramcandrani
Sr. Librarian and Information Assistant
North Eastern Police Academy
Umsaw, Borpani, Meghalaya.

.....Respondents

By Advocate Mr. S.Ali, Sr. C.G.S.C.

ORDER

D.N.BARUAH(J), V.C.

In this applicatin the applicant has challenged Annexure-7 order dated 1st April, 1997, issued by the Director North Eastern Police Academy, Borapani, Meghalaya, reverting the applicant in the Original Post. The applicant is aggrieve by this Annexure-7 order. According to him the order of reversion to the original post in illegal. Hence this present application.

2. Heard Mr. J.L.Sarkar, learned counsel appearing on behalf of the applicant, Mr. A.C.Choudhury, Addl. C.G.S.C. for the respondents. We have also perused the Annexure-7 order Mr. J.L.Sarkar on query submits that he has not filed any representation against the said order. It is always expedient for the applicant to submit representatin before the authority against the order, he is aggrieved by and a reasoned order if

Attested
was
Advocate

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- 26 -

passed by the authority, it is helpful for this Tribunal to adjudicate the matter. Therefore, at this stage we are not inclined to pass any order against in this case.

3. Heard Mr. S.Ali, learned Sr. C.G.S.C. in this regard. The applicant, therefore, may submit a representation stating in details about his grievances. If such representation is filed within 15 days from the receipt of this order the respondents shall dispose of the representation within a period of 1 month thereafter by a reasoned order. If the applicant is still aggrieved, he may approach this Tribunal.

Application is disposed of No. order as to costs.

Sd/- Vice-Chairman

Sd/- Member (A)

*Attended
n.s.s.
Advocate*

27

Annexure-8

51

Govt of India
Ministry of Home Affairs
North Eastern Police Academy
Umsaw 793 123 : Umiam : Meghalaya

No. NEPA/PF(C)/8/84/1/272/5

Date: 14/4/97

ORDER

While scrutinising the relevant records in connection with replying the representation submitted Shri S N Sharma of N E Police Academy through C.A.T., Guwahati, it has come to the notice that the grant of upgraded pay scale and change in designation allowed to the above official from the pay scale of Rs. 1350- 2200/- to the pay scale of Rs. 1400-2600/-, with change in designation from his original post of Asstt Librarian to that of Library Information Asstt. vide Office Order No. NEPA/PF(C)/8/84/364-68 on the strength of the provisions contained in order No. 8/4/91-NE-II Dtd. 24/2/92 of Govt of India, Ministry of Home Affairs, read in conjunction with Annexure I of the Ministry of Finance O.M. dated 24/7/90 is not in order as the official do not qualify the eligibility conditions prescribed in Annexure I of the Ministry of Finance O.M. dated 24/7/90. With a view to regularise the issue, the following orders are passed by way of amendment and alterations to the orders issued earlier with regard to upgradation and adhoc promotion of the official :

1. Shri S.N. Sharma, who was erroneously placed in the scale of pay of Rs. 1400 - 40 - 1600- 50 - 2300 - EB - 60 - 2600/- p.m w.e.f. 24/7/90 with revised designation of Library Information Asstt. vide order No. NEPA/PF(C)/8/84/364 - 68, Dtd. 18/5/92 consequent upon the issuance of order No. 8/4/91- NE - II, 24/2/92 by Govt. of India, Ministry of Home Affairs, New Delhi, in pursuance of Ministry of Finance (Deptt. of Expenditure, Implementation cell) O.M. No. F/9(1)/IC/86, Dtd. 24/7/97, is hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs. 1350-30-1440-40-1800-EB-50-2200/- p.m w.e.f. 24/7/90 as Shri S.N. Sharma does not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M. No. 19(1)/IC/86 Dtd. 24/7/90 Annexure - I. Accordingly name of Shri S N Sharma is deleted from the office order No. NEPA/PF(C)/8/84/364 - 68 Dtd. 18/5/92.

Contd... P-2

Attested
[Signature]
[Signature]

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a) Shri S.N.Sharma, who was temporarily promoted to officiate as Sr Librarian and Information Asstt in the scale of Rs. 1640-2900/- vice Shri A K Ramchandani, Sr Librarian and Infn Asstt., vide order No.NEPA/PF(C)/8/84/266 - 69 Dtd. 30/4/92 w.e.f. the forenoon of 22nd Feb'1992, is hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs. 1350-30-1440-40-1800-EB-50-2200/- p.m. w.e.f. 24/7/90 to the 31st March '97(AN) as Shri S.N. Sharma does not meet the essential educational qualification for the post of Sr. Lib. Info. Asstt in the scale of pay of Rs. 1640 - 60 - 2600 - EB - 75 - 2900/- p.m required under Ministry of Finance's O.M No.19/1/IC/86 Dtd. 24/7/90 Annexure 1. This supersedes the earlier order No.NEPA/PF(C)/8/84/266 - 69 Dtd. 30th April '92.

b) Since the official had performed the duties at the promoted status during the period w.e.f. 22nd Feb 1992 to the 31st March '97(AN), an order pronouncing his adhoc promotion even as Librarian Grade - II in the scale of pay of Rs. 1400-40-1800-EB-50-2300/-p.m. could be issued or otherwise now only after regularising his initial appointment as Library Asstt by seeking condonation for his inadequate educational qualification. Accordingly overpayment of pay and allowances accrued during the above period, excepting the overpayment made by way of personal pay at higher scale, a total of Rs. 12,449/- will be decided subsequent to the receipt of clarification.

3) In partial modification of order No. NEPA/PF(C)/8/84/7756-61, Dt. 1/4/97, Shri S N Sharma, who was reverted to the post of Library Information Asstt in the pay scale of Rs. 1400-2600/-, is hereby placed in the pay scale of Rs. 1350-30-1440-1800-EB-50-2200/- w.e.f. 01/04/97 as the official do not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M.No.19(1)/IC/86 dtd.24/7/90 Annexure - 1.

4) Consequent on the placement of Shri S N Sharma in the pay scale of Rs. 1350-2200/- from 22/2/92 and in partial modification of order No.NEPA/PF(C)/8/82/1145 - 49, Dtd.1st July '92, Shri S.N.Sharma is hereby granted a special increment (for tubectomy operation of his wife) @ Rs. 40/- p.m w.e.f. 1/6/92 in the pay scale of Rs. 1350-2200/- in place of Rs 60/- p.m. erroneously sanctioned in the pay scale of Rs. 1640-2900/- in the form of personal pay not to be absorbed in future increases in the pay either in the same post or on promotion to the higher post in the scale of pay of Rs.1400 - 40 - 2300/- p.m. as Librarian Grade - II.

Contd. P-3

Attested
W.S.M.
20/04/97

(772)
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5) Accordingly, the undersigned also orders that the over payment of pay & allowances amounting to Rs. 810/- (Rupees eight hundred and ten) only for the period from April 1997 to September 1997 resulted due to placement Shri S N Sharma in the pay scale of Rs. 1400-2600/- in place of Rs. 1350-2200/- and overpayment of Rs. 1280/- (Rupees one thousand two hundred and eighty) only being the overpayment of Personal Pay for the period from 1/6/92 to 30/9/97 resulted due to placement of Shri Sharma in the pay scale of Rs. 1350-2200/- from the pay scale of Rs. 1640-2900/- should be recovered (Total amount Rs. 2090/-) from his pay & allowances from the month of Oct' 1997 onwards in 19 equal instalments @ Rs. 110/- P.M. as the official has no legal right on the payment made to him over and above his entitlement. The recovery/regulatory orders pertaining to the overpayment shown in para 2 (b) above will be issued subsequently.

(T Chandrasekharan)
Director

Copy to:

1. The RPAO (IB), Laitumkhrah, Shillong-3.
2. The A/cs Branch, NEPA, Umsaw.
3. The official concerned.
4. Office Order File.

(T Chandrasekharan)
Director

Attest
UDen
Advocate.

30 - Annexure-9 (2)

54

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.236 of 1997

Date of decision: This the 9th day of September 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Shanglakpam Nodiachand Sharma,
Office of the North Eastern Police Academy,
Ministry of Home Affairs, Government of India,
Barapani, Meghalaya.

.....Applicant

By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mr S. Dutta.

- versus -

1. The Union of India,
Through the Secretary,
Government of India,
Ministry of Home Affairs,
New Delhi.

2. The Director (Current Charge),
North Eastern Police Academy,
Barapani, Meghalaya.

3. Mr A.K. Ramchandrani,
Sr. Librarian and Information Assistant,
North Eastern Police Academy,
Barapani, Meghalaya.

.....Respondents

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

O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexures 10, 11, 12 and 13 orders dated 19.9.1997, 12.8.1997, 22.10.1997 and 25.10.1997 respectively, and prays for an order quashing the aforesaid orders.

2. Facts for the purpose of disposal of this application are:

The applicant was initially appointed Assistant Librarian in the scale of Rs.1350-2200. By Annexure 6

19/9/99

Attested
[Signature]
Advocate.

order dated 18.5.1992 the post of Assistant Librarian was upgraded to Library and Information Assistant in the scale of Rs.1400-2600. The applicant was confirmed in the said post with effect from 30.1.1993 by Annexure 8 order dated 19.2.1993. It may be mentioned that before his confirmation in the post of Library and Information Assistant, by Annexure 7 order dated 30.4.1992 he was promoted on ad hoc basis to the post of Sr. Librarian and Information Assistant in the scale of Rs.1640-2900 and he was discharging his duties as such. Regarding some promotional avenue, the applicant approached this Tribunal by filing original application No.123 of 1997. This Tribunal disposed of the said original application by Annexure 9 order dated 6.6.1997 by directing the applicant to file a representation before the authority giving details of his grievances and if such representation was filed within fifteen days from the date of receipt of the order the respondents should dispose of the representation within one month thereafter by a reasoned order.

3. On 19.9.1997 Annexure 10 order was passed by the respondents in reply to the representation filed by the applicant. In para 2 of the said order the respondents have stated as follows:

"Shri S.N. Sharma, who was erroneously placed in the scale of pay of Rs.1400-40-1600-50-2300-EB-60-2600/- P.M. w.e.f 24.7.90 with revised designation of Library Information Asstt. vide order No.NEPA/PF(C)8/84/364-68, Dtd.18.5.92 consequent upon the issuance of Order No.8/4/91-NE-II, 24.2.92 by Govt. of India, Ministry of Home Affairs, New Delhi, in pursuance of Ministry of Finance (Deptt. of Expenditure Implementation Cell) O.M. No.P/9(1)/IC/86, dated 24.7.90 is hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs.1350-30-1440-40-1800-EB-90-2200/- P.M. w.e.f. 24.7.90 as Shri S.N. Sharma does not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M.No.19(1)/IC/86 Dt. 24.7.90....."

Attes

Advocate

56 file was: - 32:3: :
By the aforesaid Annexure 10 order the respondents proposed to recover the excess amount the applicant drew while discharging his duties as Senior Librarian and Information Assistant and by Annexures 12 and 13 orders the respondents refixed his pay in the scale of Rs.1350-2200. Hence the present application.

4. In due course the respondents have entered appearance and filed written statement refuting the claim of the applicant.

5. We have heard Mr M. Chanda, learned counsel for the applicant, assisted by Mr S. Dutta and Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents. Mr Chanda submits that by Annexure 8 order dated 19.2.1993 the applicant was confirmed in the post of Library and Information Assistant in the scale of pay of Rs.1400-2600 with effect from 30.1.1993. Therefore, according to Mr Chanda, the authority had no jurisdiction, whatsoever, to reduce the scale lower than the applicant was drawing without giving any reasonable opportunity. Mr Chanda, however, very fairly concedes that as the applicant was promoted on ad hoc basis to the post of Sr. Library and Information Assistant, the authority had every right to revert him to the original post, i.e. to the post of Library and Information Assistant in the scale of Rs.1400-2600. But, Mr Chanda very strenuously argues that the authority had no right to revert the applicant to the lower scale of Rs.1350-2200 without following the procedure prescribed. Besides, he submits that promotion to the post of Library and Information Assistant was given to the applicant on 18.5.1992 and was confirmed with effect from 30.1.1993. Nothing was done till 1997 and then, suddenly, the impugned orders were passed. This
itself,.....

Attested
Advocate

itself, sufficiently indicates that the authority had no jurisdiction to reopen the matter.

6. Mr Deb Roy, on the other hand, submits that as per rule the applicant was not entitled to hold the post of Library and Information Assistant in the scale of Rs.1400-2600 as he was lacking in educational qualification. But, when asked why there was such a delay in taking steps, Mr Deb Roy has no answer. He only submits that there was some official mistake. Mr Deb Roy, however, agrees that from a confirmed post, even if the applicant was not educationally qualified, he could not be reverted to the next lower grade without following the procedure prescribed.

7. In clause (2) of Erroneous Confirmation, given in Swamy's Complete Manual on Establishment and Administration, it is stated as follows:

"(2) If the order of confirmation was made in contravention of executive or administrative instructions, it was earlier held that it cannot be set aside, as cancellation of confirmation in such cases would amount to reduction in rank without any fault on the part of the officer concerned. This position has been re-examined in the light of the recent decisions of the Courts and it has been decided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official, as otherwise, it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principles of Natural Justice should be complied with by giving the Government servant a show-cause notice and opportunity to be heard before passing any order affecting him."

In the present case, undoubtedly, no opportunity was given to the applicant so far his reduction to the scale of 1350-2200 from Rs.1400-2600 was concerned. Therefore, we find sufficient force in the contention of Mr Chanda in this regard. Accordingly we set aside Annexures 10, 12 and 13 orders. Regarding recovery of the amount the applicant

drew.....

Attest
Wdm
Advocate

58 re. no 4/2
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drew while working as Sr Librarian and Information Assistant, we hold that as the applicant was appointed by the authority and he discharged his duties as Sr. Librarian and Information Assistant he was entitled to receive the salary of Sr. Library and Information Assistant. Taking away the money would amount to violation of the Constitutional provisions. Accordingly we direct the respondents not to recover the amount paid to the applicant for the period he worked as Sr Librarian and Information Assistant.

8. The applicant has claimed compensation for the period of the O.M. dated 9.8.1999 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training. A copy of the said O.M. has been produced by Mr Chanda. We direct the applicant to submit a representation before the authority and the authority shall consider his case in the light of the said O.M.

9. The application is accordingly disposed of. No order as to costs.

30/- VICE-CHIEF
30/- MEMB (A)

TRUE COPY
प्रतिनिधि

[Signature]
21/10/99

Member Officer (A)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-6
गुवाहाटी बेंच, गुवाहाटी-6

[Signature]
21/10/99

Attested
nom
Adhikary

35 -
Dtd., Umsaw, the 24th July'2000. Annexure-10
10

To,

The Director,
N E Police Academy,
Umsaw - 793 123, Umiap
Meghalaya.

Sub : SUBMISSION OF ORDER DTD.9/9/99 PASSED BY
THE GUWAHATI BENCH OF CENTRAL ADMINISTRATIVE
TRIBUNAL.

Sir,

Please find enclosed order dtd. 9/9/99, passed by
by the Guwahati Bench of the Central Administrative Tribunal
for your kind perusal and further consideration for an early
implementation of the order.

In this connection it is also to clarify that the
Guwahati Bench of the Central Administrative Tribunal by its
order dated 09/09/99, passed in O.A. No.236/97, quash the
order dated 19/9/97 by which I was not only denied promotion
but also reverted to the lower Scale of K.1,350 - 2,200/-pm
from the Scale of K.1,400 - 2,600/-pm. The Hon'ble Tribunal
also set aside the orders dated 22/10/97 and 25/10/97 pursuant
to which my pay Scale was reduced at K.1,350 - 2,200/-pm and
order was made to recover excess amount of payment.

Further, I would like to clarify that, my date of
appointment being in the 1982, I have put in more than 17 years
service and total period of service to be matured cannot be
more than 5 to 8 years on normal rules. In view of the above
I request your kind honour to consider my case of promotion
accordingly before taking into account of the case of A.C.P.
as envised in the last para of the Hon'ble Central Administra-
tive Tribunal's verdict.

I hope and trust that, Sir, appropriate measure will
be taken without any delay towards the implementation of the
order of the Hon'ble Tribunal.

Thanking you,

Yours faithfully,



(SH NODIA CHAND SHARMA)
Asstt. Librarian
N.E.P.A., Umsaw, Umiap

-000-

Attested

Advocate

- 36 - Annexure - (11) 10

To
The Director
North Eastern Police Academy
Umsaw, Borapani,
Meghalaya.

Date: 24.11.2003

Sir,

With due deference and profound submission I beg to lay the following few lines for your consideration and necessary action thereof.

That Sir, before going directly to the relevant fact and my relief, I beg to lay the background history of the case which are as follows:-

That in the month of October 1982 I was appointed as Asstt. Librarian in the pay scale of Rs.260/- - 430/- in NEPA and the pay was revised to Rs.380/- - 640/- w.e.f. 1984.

That Sir in NEPA there are two posts in the library affairs viz (1) Asstt. Librarian (1400-2600/-) Revised, (2) Sr. Librarian and Information Asstt. (1640/- 2900/-) revised. The post of Sr. Librarian and information Asstt. was earlier known as Librarian Gr.II. The recruitment Rules indicates that the next promotional post of Asstt. Librarian is Librarian Gr.-II (Sr. Librarian and Information Asstt.). Taking into consideration my appointment as Asstt. Librarian and the Recruitment Rules in force I was due for promotion to the post of Sr. Librarian and Information Asstt. in NEPA but authority ignoring my case one Mr. A.K. Ranchandrani was appointed to the said post of Sr. Librarian and Information Asstt. Admittedly said appointment of Mr. A.K. Ramchandrani

Witnessed
WDM
Advocate.

was not in accordance with Law. Subsequently said incumbent was sent on deputation in the 1992 and vide an order dated 30.4.92. I was promoted on ad hoc basis to the said post Sr. Librarian and Information Asstt. In that Ad hoc capacity I continued to serve up to 1.4.97 and thereafter on joining of Mr. A.K. Ramchandrani at NEPA I was reverted back to my original post of Asstt. Librarian.

I making a grievance against the order dated 1.4.97 reverting me from the post of Sr. Librarian and Information Asstt. to the post of Library Asstt. Also with a prayer for my promotion to the said post of Sr. Librarian and Information Asstt. w.e.f. 30.4.92 i.e. from the date of my adhoc promotion with consequential service benefit, preferred OA NO.123/97 before Central Administrative Tribunal, Guwahati Bench. The Hon'ble Central Administrative Tribunal, Guwahati Bench vide its judgment and order dated 6.6.97 dispose of the said OA directing me to prefer representation for redressal of my grievance and direction was also given to the concerned authority to consider my case and pass a reasoned order.

That Sir, pursuant to such judgment and order I submitted my detailed representation dated 20.6.97 highlighting my grievance. In the said representation I raised the issue that the appointment of said Sri A.K.Ramchandrani to the post of Sr. Librarian and Information Asstt. was not as the Recruitment Rules and my case was not considered although I was due for such promotion. However there was no action on the part of the authority concerned and I kept on pursuing the matter. By my

Handwritten signature and stamp
 4/10/2022

letter dated 17.1.2001 I placed the detailed facts before the concerned authority reiterating my such prayer. The aforesaid representation dated 17.01.2001 was followed by a legal notice dated 12.3.2001 in the subject. Finally an order was issued vide No.NEPA/CCNS/1/97(Pt.)/1711-13 dated 22.6.2001 by which I was provided with the probation so far as my fixation of pay was concerned. In the said order I was assured for considering my case for ACP Scheme subject to my fitness.

That Sir, in the midst of such correspondence my case for promotion to Sr. Librarian and Information Asstt. was never considered on the wrong premises that the Hon'ble Central Administrative Tribunal, Guwahati Bench has not issued any specific order in this regard. It is noteworthy to mention here that the concerned authority issued an order dated 19.9.97, rejecting my representation praying for promotion to Sr. Librarian and Information Asstt. but same has been set aside by the Hon'ble Central Administrative Tribunal, Guwahati Bench in its judgment and order dated 9.9.99 passed in OA No.236/97 and as such my case for non consideration of such promotion held to be illegal. In such a situation, authority should have promoted me to the post of Sr. Librarian and Information Asstt. with retrospective effect. Contrary to that now I have received an order dated 31.1.2003 I even rejecting my case for ACP scheme.

That Sir, immediately I seeking clarification of the said order preferred a representation dated 17.9.2003 to know as to why my case for ACP was not considered. In reply to that now I have been served with a copy of the order

Amended
Order
Advocate.

dated 29.10.2003 reiterating the stand that my case was never considered by Central Administrative Tribunal, Guwahati Bench. However the said authority failed to take into consideration the quoted portion of the order dated 19.9.97 which was quashed by Central Administrative Tribunal, Guwahati Bench. In fact Hon'ble Central Administrative Tribunal, Guwahati Bench holding 19.9.97 an illegal order quashed by which my representation praying for such promotion was rejected. Meaning thereby the Hon'ble Central Administrative Tribunal, Guwahati Bench directed the authority for my promotion to the post of Sr. Librarian and information with retrospective effect. Needless to say here that order dated 29.10.2003 is an order directly against the judgment passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench.

That Sir apart from that rejection of my case for 1st financial upgradation was wrong as mentioned in the orders dated 31.1.2003 and 29.10.2003 on the ground of unsatisfactory ACR's from 1995 to 99. In this connection I beg to state that for these period I am yet to serve with any adverse in my ACP's and as such the rejection of my case on the basis of uncommunicated adverse may lead to illegality once again.

That Sir, in a nutshell my basic grievance is relating to my promotion to the post of Sr. Librarian and Information Asstt. as directed by Central Administrative Tribunal, Guwahati Bench. Since I knocked the door of Court, I have been paralised without any consent ground.

Attested
W.Dens
Adm. Secy.

40 -

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In that view of the matter I request your honour to consider my case for promotion to Sr. Librarian and Information Asstt. in NEPA with retrospective effect as I do not have any other promotional scope further.

I hope and trust that your honour would be laid enough to grant me the above relief.

Thanking you,

Sincerely Yours

Sh. Nodachand Sharma
24.11.2003

Sh. Nodachand Sharma
Lib. & Info. Asstt.
NEPA.

Attested
Wan
Advocate.

Attested

Advocate.

41 - Annexure-12
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Government of India
North Eastern Police Academy
Umsaw, 793 123, Umiam, Meghalaya

No.NEPA/PF©/8/84/ 7098.

Dtd.Umsaw, the 19th Dec, 03.

To

Shri S N Sharma
Library & Infon. Asstt.
NEPA, Umsaw, Meghalaya

Sub :- Your representation dt. 24/11/2003 in connection with the promotion to the post of Sr. Lib. & Infon. Asstt.

The undersigned has gone through the representation carefully and observes the following :-

1. You were granted officiating promotion to the post of Sr. Lib. & Infon. Asstt. from 22/2/92 to 31/3/1997 vide order No.NEPA/PF©/8/84/266-69 dt. 30/4/1992 viz Shri A K Ramchandani, Sr. Lib. & Infon. Asstt. who proceeded on deputation to NICFS, Delhi with a condition that you would automatically come to your original position on repatriation of the said incumbent. Accordingly, consequent on reporting of Shri A K Ramchandani, Sr. Lib. & Infon. Asstt. from NICFS, Delhi, you were reverted to the original post of Lib. & Infon. Asstt. w.e.f. 1/4/97 vide order No.NEPA/pf©/8/84/7756-61 DT. 1/4/97.
2. On scrutiny of your service records, the then Director (In-charge) observed that you are neither having requisite qualifications for the post of Sr. Lib. & Infon. Asstt. nor Lib. & Infon. Asstt. In order to correct the 'erroneous promotion to the post of Sr. Lib. & Infon. Asstt. viz Shri A K Ramchandani, Sr. Lib. & Infon. Asstt. an order was issued vide No. NEPA/PF©/8/84/4272-75 dt. 19/9/97 reverting you to the post of Asstt. Librarian as you do not meet the essential educational qualifications prescribed in Annexure- I of O.M. No. 19(1)/IC/86 dtd. 24/7/90.

Hon'ble CAT, Guwahati Bench, Guwahati while passing decision in O.A. No. 236/97 on 9/9/99, set aside the order ibid along with order No. NEPA/PF©/8/84/5048 dt. 22/10/97 & NEPA/PF©/8/84/5090-92 dt. 25/10/90.

Order dtd. 19/9/97 relates to reversion to the post of Asstt. Librarian from Sr. Lib. & Infon. Asstt. involving recoveries of pay and allowances and order dt. 22/10/90 & 25/10/90 relate to re-pay fixation.

Contd...2/-

[Handwritten signature]

Your claim that the Hon'ble CAT, Guwahati Bench, Guwahati has directed the NEPA authority to grant promotion to the post of Sr. Lib. & Infon. Asstt. is wrong. I observe that at no point of time you were granted regular promotion to the post of Sr. Lib. & Infon. Asstt. but on one occasion when Shri A K Ramchandani went on deputation to NICFS, Delhi. Since the Hon'ble CAT, Guwahati Bench, Guwahati set aside the order dt. 19/9/97, reverting you to the post of Asstt. Librarian, no pay and allowances were recovered but allowed to retain the post of Librarian & Infon. Asstt. The decision of the Hon'ble CAT, Guwahati Bench, Guwahati re-enforced the fact that you have claimed for promotion under ACP Scheme, which was considered.

On the other hand, you can not be promoted to the post of Sr. Lib. & Infon. Asstt. suo-motto as per the existing notified Recruitment Rules for the post of Librarian Grade-II (now Sr. Lib. & Infon. Asstt. for those having requisite qualifications and other conditions for the post).

An extract of the notified Recruitment Rules is given below :-

"Transfer on deputation :- From amongst persons holding analogous or equivalent post of Librarian or posts in the lower grade of Rs. 380-640/-p.m. or equivalent with 3 years service in the grade under Central/State Government/U.T. Administration".

"Promotion :- From Asstt. Librarian in the scale of Rs. 380-640/-p.m. with 3 years regular service in the grade. The departmental Asstt. Librarian will also be considered along with outsiders. If the departmental candidate is selected for appointment to the post it will be treated as having been filled by promotion".

In view of above, you may apply for the post along with outsiders as and when nomination is called for. Your case will be considered subject to having requisite qualifications and other conditions as required.



(Signature)
(T Pachauau, IPS)
Director

Attested
W.D.
Advocate.

Sri Siddhartha Sarma

Advocate,

Gauhati High Court, Guwahati.

Annexure - 13

M. A. Road, Rehabori,
Guwahati-781008

☎ : 0361 - 2522995

Ref. No.

Date : 13/02/04

To
The Director
North Eastern Police Academy
Unsaw, Borapani,
Meghalaya.

Sub:- Legal Notice

Sir,

Upon authority and as per instruction of my client Sri Nodiachand Sharma, Library and Information Assistant, NEPA, I give you this notice as follows:-

That my client aforesaid got his initial appointment as Assistant Librarian in the month of Oct'1982 and his pay was revised in the pay scale of Rs. 380-640/- w.e.f 1984. In the cadre of Librarian in the office of the NEPA as per the recruitment rules, there exists the post of Library & Information Assistant (1400-2600) and Sr. Librarian and Information Assistant (1640-2900). The post of Sr. Librarian and Information Assistant was known as Librarian Grade II and Library & Information Assistant as Assistant Librarian.

That my client aforesaid was due for promotion to the post of Sr. Librarian and Information Assistant in NEPA but ignoring his prospect one Mr. A.K.Ramchandani was appointed directly the said promotion ignoring the recruitment rules holding the field. In that ad hoc capacity my client continued to serve till 1.4.97 and thereafter he was reverted back to his original post of Assistant Librarian which was the subject matter of OA No.123/97 before the Central Administrative Tribunal, Guwahati Bench. In the said OA apart from remuneration my client also made a prayer for his regular promotion from the date when he was promoted on ad hoc basis. The Hon'ble Tribunal while entertaining his relief disposed of the said OA vide judgment dated 6.6.97 directing consideration of his case.

That pursuant to the aforesaid judgment preferred the representation dated 20.6.97 but nothing was done in this regard. My client aforesaid having failed to redressal of his grievances kept of representing his matter time and again. Thereafter the concerned authority issued an order dated 22.6.2001 fixing the pay scale with an assurance for consideration of his case for ACP scheme. However, his case for promotion to the post of Sr. Librarian and Information Assistant was never considered. It is Hon'ble Tribunal while allowing the OA was pleased to set aside the order dated 19.9.97 rejecting the representation preferred by my client praying for promotion to the post of Sr. Librarian and Information Assistant holding the same to be not sustainable in the eye of law. Since the order dated 19.9.97 was treated to be an illegal order, consequences flown from that order automatically got merged with the finding of the competent

Attested
was
Advocate

- ~~145~~ 44 - 68

court of law which attained it's finality. The judgment and order dated 9.9.99 passed in OA No.236.97 has been accepted by the authority as no independent challenge has been made to the said order by filing writ petition before the Hon'ble High Court and as such same is still binding on you. The law is well settled that any violation to a settled position of law laid down by a competent court of law is treated to be contemptuous in nature unless same is implemented. Apart from that consequences of commenting/ interpreting said law in nugatory leads to a clear cut contempt. Since the order dated 19.9.97 is no more in existence, it is clear that the case of my client requires to be considered for promotion to the post of Sr. Librarian and Information Assistant. The later correspondence made in this regard to my client clearly indicates that his case for such promotion is yet to be considered and position of recruitment rule has been interpreted as a cause for such non-consideration which is contrary to the settled position of law as stated above. In this connection the communication made to my client lastly dated 19.12.2003 indicates the fact of such non-consideration.

That reiterating the settled legal position as above the order date 19.12.2003 indicates to be an attempt to rewrite the judgment passed by the Hon'ble Tribunal which is not permissible at all, unless it is altered or modified by a competent Court of law. The order dated 19.9.97 more particularly in para 1(b) indicates as to why this case was not considered for such promotion and in view of the judgment and order dated 9.9.99, the reasons contained in the order dated 19.9.97 automatically got merged and as such the interpretation made in order dated 19.12.2003 has got no substance and force.

In that view of the matter I give you this notice making a demand that my client be promoted to the post of Sr. Librarian and Information Assistant in NEPA with retrospective effect including all consequential service benefits etc. within a period of 30 days from the receipt of this notice failing which instruction of my client is to initiate appropriate legal proceeding.

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

Thanking you,

Sincerely yours

G. Sarma

Copy to:-

The Secretary
Ministry of Home
New Delhi-1

Attended
Naren
Advocate

45 - Annexure - 14

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GOVERNMENT OF INDIA
NORTH EASTERN POLICE ACADEMY
UMSAW, UMIAM - 793 123
(MEGHALAYA)

No. PFC/32/82/Vol.II

40-42

Dated: 5/4/2004

To,

Shri S. Sharma,
Advocate,
Guwahati High Court,
M.A. Road, Rehabari
781 008.

Subject: - Legal Notice

Sir,

Reply to your legal notice dated 13/2/2004 argument below: -

No comment

Shri A K Ramchandani was appointed as Librarian before the finalization of the Recruitment Rules considering his educational qualification. Although Shri S.N. Sharma was appointed before the said incumbent, he didn't have the qualification required of the post and hence there is no question of ignoring his prospects for promotion. It will be pertinent to mention here that as per the judgement of the Hon'ble CAT, Guwahati Bench, Guwahati, benefit accrued due to his adhoc promotion was not denied to him and pay and allowances for holding the post of Librarian/Sr. Librarian and Information Assistant was paid to him fully. On scrutiny of records, it came to the notice of the then Director (I/C), that Shri S N Sharma doesn't have the prescribed educational and other qualifications for the post of Sr. Librarian and Information Assistant, hence an order dated 19/9/97 was issued reverting him to the original post of Library Assistant. Since the order *ibid* was quashed by the Hon'ble CAT, benefits accrued due to adhoc promotion wasn't recovered and status quo maintained. In this connection it is pointed out here that, at no point of time Shri S N Sharma was appointed on regular basis to the post of Librarian/Sr. Librarian and Information Assistant. As a matter of fact, he was only allowed to work against the post on a stop gap arrangement basis. It will be wrong to state that because of quashing the order dated 19/9/97 by the Hon'ble CAT, the Hon'ble CAT has ordered for regular promotion to the post of Sr. Librarian and Information Assistant by ignoring the prescribed educational and other qualifications laid down for the post. The prescribed qualifications are as under: -

Direct entry: Post Graduate with Bachelor in Lib. Science. Promotional Gr. For Lib. Information Asstt. as per OM No. F. 19(1)/IIC/86 dated 24th July, 1990 from govt. of India, Ministry of Finance (Deptt. of Expenditure) (Implementation Cell).

It is further pointed out here that there is no attempt what-so-ever on the part this department to re-write the judgement passed by the Hon'ble CAT. It is wrong on your part to state that in view of the judgement, dated 9/9/99, this office order dated

Attest
M. M. M.
Advocate.

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1997 automatically got merged. Shri S N Sharma was not working against the post of Librarian/ Sr. Librarian and Information Assistant on regular basis but on adhoc basis only. Since the Hon'ble Court quashed the order relating to adhoc promotion (not regular promotion) there is no question of dishonouring the judgement passed by the Hon'ble CAT.

I would like to draw your kind attention to the para 8 of the verdict dated 9/9/99 passed by the Hon'ble CAT in Original Application No. 236 of 1997 wherein it is clearly stated that the applicant - Shri S N Sharma has claimed for promotion on the basis of OA dated 9/8/99 issued by the Govt. of India, Ministry of Personal, Public Grievances and Pension, Deptt of Pers & Training which purely relates to Financial Upgradation under Assured Career Progression Scheme and not promotion by any means.

Wonder how Shri S N Sharma - the applicant could claim both promotion and financial upgradation when promotion is granted on the basis of notified Recruitment Rules with requisite educational and other qualifications, subject to availability of the post and fitness, whereas, ACP is granted to mitigate hardship in cases of acute stagnation either in the cadre or in an isolated post.

As per the final verdict of the court i.e. para 8 the case of Shri S N Sharma was taken up sympathetically and granted financial upgradation.

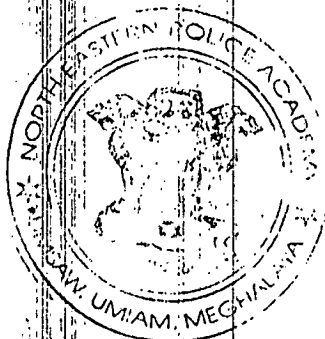
In view of above, there is no contempt of Court order.

Yours faithfully,

(T. Pachua, IPS)
Director

Copy to :-

1. The Secretary, Ministry of Home Affairs, New Delhi - 1 } with reference to
- ✓ 2. Shri S N Sharma, Asstt. Librarian, NEPA. } Legal Notice dated 13/2/2004 issued by Shri S. Sharma, Advocate, Guwahati High Court, Guwahati



(T. Pachua, IPS)
Director

Anteater
V. D. S.
Associate

27 DEC 2004

GUWAHATI BENCH
Guwahati Bench

47-

Filed by
6/12/04
(A. DEB ROY)
Sr. C. C. S. C.
A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 237 OF 2004

Shri A. K. Ranchandani S.N. Sharma

- Vs -

Union of India and others.

In the matter of :

Written Statement submitted by
the respondents.

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

1. That with regard to para 4.1, of the application,
the respondents beg to offer no comments.
2. That with regard to the statement made in para 4.2,
of the application, the respondents beg to state that Shri
S. N. Sharma, now holding the post of Library Info. Asstt.
was appointed as Asstt. Librarian on 23.10.1982 by way of
direct recruitment. Qualification of the applicant at the
time of appointment was/is PUC with four months Certificate
Course of Library Science.

The first draft of the proposed R/Rs for the
post of Asstt. Librarian was sent vide office letter No.
NEPA/EG/8/80/Vol.III/1347 dated 1.9.1984 (copy enclosed)
to MHA. Govt. of India, New Delhi.

Copy of letter dated 1.9.84 is Annexure 1.

Contd.....

Recd
at Shillong
6/12/04

Assistant Librarian Direct Recruitment

- (I) Pre University
- (II) Diploma in Library Science of a
recognized University

However, MHA after consultation with DP & AR made certain alterations and the final draft was sent to this Academy for confirmation, which was subsequently confirmed and returned to MHA vide office letter dated 21.1.85 as under :

Assistant Librarian Direct Recruitment

- (I) Degree from a recognized University
- (II) Diploma in Library Science from a
recognized University

The Govt. of India, MHA, Vide Notification dated 18.2.1986, the R/R for these post was finalized at their end and published as under :

**Assistant Librarian Direct Recruitment failing which by
Transfer on Deputation.**

- (I) Graduate from a recognized University
or equivalent
- (II) Diploma in Library Science from a
recognized University

It could be seen from the above that the Respondent No.2 had proposed the educational qualification as (I) Pre University (II) Diploma in Library Science of a recognized University but at the time of finalisation of R/R, the level of qualification was raised to Degree. When

When the records were scrutinized in connection with providing a reply for a question raised in the representation of the applicant, it was observed that the official do not qualify the basic eligibility conditions prescribed for the post in the approved R/Rs. Since the applicant was not possessing the minimum required educational qualification, which is a Bachelors Degree with Diploma in Library Science, to protect his service interest a proposal was submitted to Respondent No.1 to condone the inadequate educational qualification of the applicant. In reply Respondent No.1, Govt. of India, MHA, vide its letter dated 24.2.1992 (copy enclosed) communicated that as per O.M. dated 24.07.1990 issued by Ministry of Finance (Deptt. of Expenditure) (Implementation of Cell) incumbent who do not fulfill requisite qualification may continue in the existing scale of pay. As and when the existing incumbent vacates the posts, these may be filled up by suitable candidates possessing the requisite qualifications.

Copy of letter dated 24.2.92 is Annexure-B.

The contention Shri Sharma that, there is no provision for promotion in the Approved R/R for the post of Librarian is incorrect. The R/R contains the following provisions .

Librarian By transfer on deputation/promotion failing which
By Direct Recruitment.

By Transfer on deputation

Deputation from amongst persons holding analogous post or equivalent post of Librarian or post in the Lower grade of Rs. 380-640/- with 3 years of service in the grade under Central/State/UT Administration.

Promotion

From Asstt. Librarian in the scale of Rs. 380-640/- p.m. (pre-Revised) with 3 years regular service in the grade. The Departmental Asstt. Librarian will also be considered alongwith outsider. If the departmental candidate is selected for appointment to the post, it will be treated as having been filled by promotion.

Therefore, there is no question of considering the promotion of the Applicant to the post of Sr. Lib. and Infon. Asstt. without inviting application to fill up the post on deputation by the primary method of Notified R/Rs. It will be not out of way to mention here that after issuance of order dated 24.7.1990, provisions in the Notified Recruitment Rules have changed due to requirement of the higher educational qualifications for the post of Sr. Librarian & Information Assistant and Library Information Assistant as well. (copy of the notified R/Rs and O.M. dated 24.7.1990 enclosed herewith as Annexure - A & B).

Copy of notified R/Rs is Annexure - C.

Copy of O.M. dated 24.7.1990 is Annexure - D.

3. That with regard to the the statement made in para 4.3, of the application, the respondents beg to state that it is agreed that as per R/Rs 1986, age and educational qualification prescribed for the direct recruitment is not applicable to promotees. But in this connection, it is clarified that this Academy has neither invited applications

to fill up the post of Sr. Librarian and Information Assistant on deputation basis having requisite qualifications as prescribed vide O.M. N dated 24.7.1990 nor the present incumbent possesses the educational qualifications as prescribed vide O.M. ibid.

4. That with regard to the statement made in para 4.4, of the application, the respondents beg to state that consequent upon the issuance of the O.M. dated 24.7.90 prescribing the higher educational qualification for the post of Sr. Librarian & Information Assistant and Library Information Assistant a proposal was sent to Govt. of India to protect the service interest of Shri Sharma requesting them to condon the inadequate educational qualification vide letter No. NEPA/PRD/32/82/4530 dated 1.10.97 (copy enclosed), but did not find in favour.

Copy of letter dated 1.10.1997 is Annexure - E.

5. That with regard to para 4.5, of the application, the respondents beg to offer no comments.

6. That with regard to the statement made in para 4.6, of the application, the respondents beg to state that it is stated that the old pay scales of Rs. (1) 1200-1800 (2) 1200-2040 (3) 1320-2040 (4) 1350-2200 (5) 1400-2300 (6) 1400-2600 attached to the post of Library Information Assistant have been merged in the revised pay scale of Rs. 1400-2600/- p.m. is wrong. As a matter of fact, the merger is admissible to Library Information Assistant for

direct entry having educational qualification as follows :

Library Information Asstt. BA/B.Sc/B. Com +

Bachelor of Library Science.

Thus the above posts in the new scales and designations have become a personal post only for candidates with requisite qualification.

The applicant was also placed in the revised designation and pay scale vide Office Order No. NEPA/PRO/8/84/364-68 dated 18.5.92 which was observed to be irregular as he has no requisite qualification as per ibid O.M. The applicant was erroneously placed in the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600/- p.m. w.e.f. 24.7.90 with revised designation of Library Information Assistant. In order to correct the erroneous placement an order was issued vide No. NEPA/PRO/8/84/4272-75 dated 19.9.97 which was set aside by the Hon'ble CAT and, therefore, Shri Sharma was allowed to retain the scale of pay of Rs.1400-2600/- p.m. with an a new designation of Librar ary and Information Assistant.

Copy of order dated 19.9.1997 is Annexure-F.

7. That with regard to para 4.7 & 4.8, of the application, the respondents beg to offer no comments.

8. That with regard to the statement made in para 4.9, of the application, the respondents beg to state that it is true that Shri S N Sharma was allowed to officiate as Sr. Librarian and Information Assistant

-7-

viz Shri A.K. Ramchandani, Sr. Librarian Information Asstt. who proceeded on deputation to NICFS, Delhi. Officiating promotion was granted as a stop gap arrangement with a condition that Shri S. N. Sharma will automatically come to his original post in the event of repatriation of regular incumbent. Consequent upon repatriation of Shri A K - Ramchandani to NEPA, Shri Sharma was brought back to his position of Asstt. Librarian. Being aggrieved, the applicant filed an O.A. No. 123/97 in the Hon'ble CAT, Guwahati Bench, Guwahati and the Hon'ble CAT vide its judgement and order dated 06.06.97 was pleased to dispose of the said order with a directed to dispose of the said representation within a stipulated time. Accordingly, Shri S. N. Sharma submitted a representation dated 20.6.97. On receipt of the same the then Director (Incharge) replied vide letter dated 12.8.97 stating that each point of representation was examined carefully and found all the points baseless. Shri Sharma has misinterpreted the verdict passed by the Hon'ble CAT dated 6.6.97. As a matter of fact, Shri Sharma was never promoted to the post of Sr. Librarian and Information Assistant on regular basis but viz Shri A K Ramchandani who proceeded on deputation with the conditions discussed in foregoing paragraphs.

Copy of officiating order is Annexure-G.

Copy of letter dated 12.8.1997 is Annexure-H.

9. That with regard to para 4.10, of the application, the respondents beg to state that same as para 4.9.

10. That with regard to the statement made in para 4.11, of the application, the respondents beg to state that order dated 19.9.97 issued by the then Director (In-charge) was set aside by the Hon'ble CAT and, therefore, below mentioned benefits were restored.

a) Over payment of Pay & Allowances for Rs.810/- for the period from April,97 to Sept, 97, resulted due to placement in the scale of Rs. 1400-2600/- p.m. in place of Rs. 1350-2200/-p.m. along with the status of Library Information Assistant.

b) Over payment of Rs. 1280/- being the Pay and Allowances for the period of 22.2.92 to 31.3.97 for officiating viz Shri Ramchandani who proceeded on deputation to NICFS, Delhi.

11. That with regard to the statements made in para 4.12, of the application, the respondents beg to state that as alleged, there was no attempt on the part of the Director to harass the applicant. It is only after the issuance of O.M. dated 24.7.90, restructuring the pay of the Library Staff, corrective measures were taken and order dated 19.9.97 was issued.

12. That with regard to the statement made in para 4.13, of the application, the respondents beg to state that the post of Librarian and Asstt. Librarian

was created during the year 1979 for the benefits of trainees comprising of Sub-Inspector and Dy. S.P. of the N.E. Region. Library class is one of the Indoor training programmes, where trainees are to go through the books and journals relating to Police subjects.

Since the NEPA was in its initial stage and there was no approved R/Rs, Shri Ramchandani was appointed by direct recruitment against the post of Librarian Grade II on 10.9.84 and Shri S N Sharma was appointed on 23.10.82 as Asstt. Librarian.

Recruitment Rules was notified vide No. 6/9/9-NE.II dated 16.2.86, with the following prescribed provisions :

1. Librarian

Transfer on deputation/promotion

Failing which by direct recruitment.

2. Asstt. Librarian

By direct recruitment.

13. That with regard to the statement made in para 4.14, of the application, the respondents beg to state that as per the provision of R/Rs, educational qualification is not applicable for promotion from Asstt. Librarian to the post of Librarian Grade II (Column 8 of the R/Rs). Whereas, educational qualifications for the post of Sr. Librarian and Information Assistant are mandatory. Shri S N Sharma was allowed to maintain the status quo (i.e. Lib. Infon. Asstt)
he
although ~~he~~ doesn't have the requisite qualifications only

because of fact that the Court has set aside the order dated 19.9.97 reverting him to the post of Asstt. Librarian from Lib. Infon. Asstt. But this does not mean that he has the right to claim the promotion to the post of Sr. Lib & Infon. Asstt. that too without having the requisite qualifications as prescribed vide O.M. dated 24.7.90. It is once again reiterated that Shri Sharma was never promoted to the post of Sr. Lib & Infon. Asstt. on regular basis but temporary basis as per the terms and conditions discussed in the preceding paragraphs.

14. That with regard to the statement made in para 4.15, of the application, the respondents beg to state that Hon'ble CAT, Guwahati Bench, Guwahati set aside the order relating to the temporary officiating promotion from 22.2.92 to 31.3.97 viz Shri A.K. Ramchandani. Verdict dated 9.9.99 passed by the Hon'ble CAT in O.A. No. 236/97 states that the applicant (Shri S. N. Sharma) has claimed for promotion on the basis O.M. dated 9.8.99 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pension Deptt. of Trg. which merely relates to Financial Upgradation under ACP Scheme and not promotion by any means.

15. That with regard to the statement made in para 4.16, of the application, the respondents beg to state that in the cases of this kind, NEPA is not supposed to work basing on the representation written as per the liking of the applicant, but act as per directives of the Hon'ble CAT and granted ACP.

16. That with regard to the statement made in para 4.17, of the application, the respondents beg to state that NEPA has acted as per the direction given vide the last para of the verdict in O.A. No. 236/97 order dated 8.9.99.

17. That with regard to para 4.18, of the application, the respondents beg to state that there is no violation as such.

18. That with regard to the statement made in para 4.19, of the application, the respondents beg to state that NEPA stands by the reply given vide letter No. NEPA/PPO/8/84/7098 dated 19.12.03.

19. That with regard to the statement made in para 4.20, of the application, the respondents beg to state that ACP was granted to the applicant as per Court Verdict before the issue of Legal Notice dated 13.2.2004.

20. That with regard to the statement made in para 4.21, of the application, the respondents beg to state that the claim is baseless. Any body can apply/claim any post but it does not mean that application will be considered without going through the instructions of the Govt. issued from time to time for appointment and promotion etc.

21. That with regard to the statement made in para 4.22, of the application, the respondents beg to state that before issuing any order or replying any representation, NEPA has carefully examined the pros and cons of the issue and, therefore, it is wrong to alleged that the entire exercise was arbitrarily done without any sanction of law.

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

I, T. PACHUAV

, Director,

North Eastern Police Academy Insaw (Meghalaya), do

hereby verify that the statements made in paragraphs

of the written statement are true to

my knowledge, those made in paragraphs being

matter of records are true to my information derived there-

from which I believe to be true and those made in the rest

are humble submissions before the Hon'ble Tribunal. I have

not suppressed any material facts.

And I sign this verification on this 2nd day
of December, 2004.


Director
North Eastern Police Academy
Umsaw (Meghalaya)

(121)
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No. 6/9/84-NE.II
Government of India/ Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi Dated, 9 Feb., 1986

NOTIFICATION

G.S.R. ...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' posts in the North Eastern Police Academy, Barapani, Meghalaya, namely:-

1. Short title and commencement:
(1) These rules may be called the North Eastern Police Academy Barapani (Group 'C' posts) Recruitment Rules, 1986.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Application:- These rules shall apply to the posts specified in column 1 of the Schedule annexed to these rules.
3. Number, classification and scales of pay:-
The number of posts, their classification and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.
4. Method of recruitment, age limit and qualifications:-
The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in column 5 to 14 of the said Schedule.
5. Disqualifications:- No person, -
(a) who has entered into, or contracted a marriage with any 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 any of the said posts;

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such persons 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.

6. Power to relax:-

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

7. 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 and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

The Schedule

(SHIV BASANT)
DEPUTY SECY. TO THE GOVT. OF INDIA

No. 6/9/84.NE.II New Delhi Dated / 8 Feb., 1986

Copy forwarded for information to :-

1. Estt(RR), Deptt. of Personnel & Training, New Delhi

2. The Secretary, North Eastern Council Secretariat, Shillong.

3. The Director, North Eastern Police Academy, Umsaw, Barapani, (Meghalaya) (with 2 spare copies).

4. The Ministry of Law (Official Language Commission) Bhagwan Dass Road, New Delhi.

Guard File.

10 spare copies.

(SHIV BASANT)
DEPUTY SECY. TO THE GOVT. OF INDIA.

15

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

If DPC exists,
what is the
composition.

Circumstances in
which UPSC is to be
consulted in
making recruit-
ment.

Transfer on deputation: - From amongst persons holding analogous
or equivalent post of Librarian or posts in the lower grade
of Rs. 360-640 or equivalent with 3 years service in the
grade under Central/State Government/U.T. Administration.

DPC

Not

- | | | |
|-------------------|-----------|------------|
| 1. Deputy | Director- | Applicable |
| 2. Adjutant | Chairman | |
| | - Member | |
| 3. Administrative | | |
| Officer | - Member | |

Promotion: - From Assistant Librarian in the scale of Rs. 330-640/
with 3 years regular service in the grade. The departmental
Assistant Librarian will also be considered alongwith out-
siders. If the departmental candidate is selected for
appointment to the post, it will be treated as having been
filled by promotion.

(Period of deputation including period of deputation
in another ex-cadre post held immediately preceding this
appointment in the same organisation/department
shall ordinarily not exceed 3 years).

Transfer on deputation from amongst persons holding analogous
or equivalent post of Assistant Librarian or posts in the
lower grade of Rs. 330-560/- or equivalent with 3 years
service in the grade under Central/State Government/UT
Administration

DPC

Not applicable

- | | |
|-------------------|-------------------|
| 1. Deputy | Director-Chairman |
| 2. Adjutant | - Member |
| 3. Administrative | - Member |
| Officer | |

(Period of deputation including period of deputation
in another ex-cadre post held immediately preceding
this appointment in the same Organisation/Department
shall ordinarily not exceed 3 years).

16

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

If DPC exists, Circumstances in
what is the which UPSC is to be
composition. consulted in
making recruit-
ment.

Transfer on deputation From amongst persons holding analogous
or equivalent post of Librarian or posts in the lower grade
of Rs. 380-640 or equivalent with 3 years service in the
grade under Central/State Government/U.T. Administration.

DPC Not
1. Deputy Director- Applicable
Chairman
2. Adjutant - Member
3. Administrative Officer - Member

Promotion:-From Assistant Librarian in the scale of Rs. 530-640/-
with 3 years regular service in the grade. The departmental
Assistant Librarian will also be considered alongwith out-
siders. If the departmental candidate is selected for
appointment to the post it will be treated as having been
filled by promotion.

(Period of deputation including period of deputation
in another ex-cadre post held immediately preceding this
appointment in the same organisation/department
shall ordinarily not exceed 3 years).

Transfer on deputation from amongst persons holding analogous
or equivalent post of Assistant Librarian or posts in the
lower grade of Rs. 330-550/- or equivalent with 3 years
service in the grade under Central/State Government/UT
Administration

DPC Not applicable
1. Deputy Director-Chairman
2. Adjutant - Member
3. Administrative Officer - Member

(Period of deputation including period of deputation
in another ex-cadre post held immediately preceding
this appointment in the same Organisation/Department
shall ordinarily not exceed 3 years).

AK Ramchandani Applied - 4.8.84 } Proposed RR - 1.9.84 } RR Finalised - 18.2.86
 Appointed - 10.9.84 } and - 21.1.85 }

THE SCHEDULE

Name of Post	No. of Posts	Classification	Scale of Pay	Whether selection or non-selection post.	Age limit for direct recruitment.
1	2	3	4	5	6
1. Librarian (Grade II)	*1 (1986)	General Central Service, Group 'C' Non-gazetted Non-Ministerial	Rs. 425-15-500-EB-15-560-20-700/-	Not applicable	Not applicable
*Subject to variation depending on workload.					
2. Assistant Librarian	*1 (1986)	General Central Service, Group 'C' Non-gazetted Non-Ministerial.	Rs. 380-12-400-EB-15-560-EB-20-640/-	Non-Selection	@Not exceeding 28 years (Relaxable upto 35 years for government servants in accordance with the instructions or orders issued by the Central Government).

@Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (Other than those in the Andaman and Nicobar Islands and Lakshadweep).

*Subject to variation depending on workload.

Whether benefit of added years of service admissible under rule 30 of the CCS(Pension) Rules, 1972.	Educational and other qualifications required for direct recruitment.	Whether age and educational qualification prescribed for direct recruits will apply in case of promotees.	Period of probation, if any.	Method of recruitment. Whether by direct rectt. or by deputation/transfer and percentage of the vacancies to be filled by various methods.
7	8	9	10	11
Not applicable	Not applicable	Not applicable	Not applicable	By transfer on deputation/promotion.

Not applicable	✓ Graduate from a recognised University or equivalent and Diploma in Library Science from a recognised Institute.	Not Applicable	2 years	Direct recruitment failing which by transfer on deputation. ✓
----------------	-------------------------------------------------------------------------------------------------------------------	----------------	---------	---------------------------------------------------------------

Qualification: When a person is promoted to the post of V.I (Technical) in the police, he cannot be reverted on the ground that he was not qualified when no rule prescribing the qualifications had been made.

* I.C. Police v. Harbhajan Singh (1989) 4 SLR 630 (P & H) (P & B)

* 1997 (3) SLR 722 (P & H) * 1997 (3) SLR 719 (Raj)

*** Claim of petitioner against higher promotion as Asst. Section Officer was not considered as he had no degree though he had served for 26 years. It was held that for departmental promotion of officers with long service a small promotion in life should not be denied, by insisting on a degree. T.N. Prabhakar Rao v. Registrar, High Court (1988) 3 SLR 300 (AP)

Amex me - "A"
34
Regd. with A/D.

GOVERNMENT OF INDIA
NORTH EASTERN POLICE ACADEMY : UMSAW.
OFFICE SHILLONG POST BOX 56.
P.O. SHILLONG - 793001.

NO. NEPA/EG/8/80/Vol-111/1347 Dtd, Shillong the 1/9/ '84.

To,

The Deputy Secretary,
Government of India,
Ministry of Home Affairs,
NEW DELHI - 110001.

Sub:-

Finalisation of recruitment rules, for
various post in the North Eastern
Police Academy, Shillong (M. A. N.).

Ref:-

Your letter No. 6/10/83-NE.II, dt. 31st
October, 1983. — P. 184 (L.F.)

Madam,

Draft recruitment rules of the following
posts are sent herewith for approval.

Librarian(Grade-II)	-	1.
Assistant Librarian	-	1.
Staff Nurse.	-	1.
Photographer.	-	1.
Cinema Projectionist.	-	1.
Pharmacists	-	1.
Laboratory Assistant	-	1.
Multigraph operator.	-	1.

Yours faithfully,

(A.A.ALI)
COMMANDANT.

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RECRUITMENT RULES FOR THE NORTH EASTERN POLICE ACADEMY, UNSEW

No. of post.	Classification	Scale of pay	Whether selection post or Non-selection post.	Age limit for direct recruit.	Education and other qualifications prescribed for direct recruits.	Whether educational prescriptions prescribed for recruits in case of promotion.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 425-15-500-EB-15-560-20-700/- p.m.	Selection	16-25 years	1) B.A./B.Sc./B.Com degree 2) Degree in Library Science.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 380-12-440-EB-15-560-EB-20-640/- p.m.	Not applicable	18-25 years	1) Pre-University 2) Diploma in Library Science of a recognised University.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 425-15-500-EB-20-640/- p.m.	Not applicable	18-25 years	1) Matriculation or equivalent. 2) Diploma in Nursing and midwifery of a recognised Institute.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 330-10-380-EB-12-500-EB-15-560/- p.m.	Not applicable	18-25 years	1) P.U. (General) 2) Matriculation (SC/ST) 3) Diploma or Certificate in Photography trade from a recognised Tech. Institution.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 330-10-380-EB-12-500-EB-15-560/- p.m.	Not applicable	18-25 years	1) P.U. (General) 2) Matriculation (SC/ST) 3) Diploma or Certificate in cinema projectionist trade from a recognised Tech. Institution.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 330-10-380-EB-12-500-EB-15-560/- p.m.	Selection	18-25 years	1) Matriculation 2) In terms of Section 31 & 32 of Pharmacy Act, 1948 as per requirement vide rule 39(3) and Section 14 ibid.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 260-8-300-EB-8-380-EB-10-430/- p.m.	Not applicable	18-25 years	1) Passed Matriculation with physics, chemistry and Biology as subjects.	Not appl.
1	General Central Service, Group - 'C', Non-Gazetted, Non-ministerial.	N. 260-6-290-EB-6-326-8-366-EB-8-390-10-400/- p.m.	Not applicable	18-25 years	1) Class - X (General) 2) Class - VIII (SC/ST).	Not appl.

Method of recruitment whether by direct recruit. or by deputation/transfer and percentage of the vacancies to be filled in by various Method.	In case of recruitment by promotion/deputation/transfer, from which promotion/deputation/transfer to be made.	If a Departmental Promotion Committee exists, what is its composition.	Circumstances in which it is to be considered for making recruit.
10	11	12	13
Deputation/Promotion/Direct recruitment.	1) Promotion from the post of Assistant Librarian of the North Eastern Police Academy with 8 years service in the grade rendered after appointment thereto on a regular basis. 2) Deputation from analogous post of Librarian or Assistant Librarian with 8 years service in the grade rendered after appointment thereto on a regular basis, belonging to a State/U.T. or Central Organisations. 3) Deputation period shall ordinarily not exceed 3 years. Not applicable, as there is no lower post.	D.P.C. - 1) Deputy Commandant - Chairman 2) Adjutant - Member 3) Administrative Officer - Member	Not appl.
Direct recruitment.	Not applicable, as there is no lower post.	D.P.C. - 1) Deputy Commandant - Chairman 2) Adjutant - Member 3) Administrative Officer - Member	Not appl.
Direct recruitment/Deputation/Transfer.	1) Deputation/Transfer from analogous post of Staff Nurse in the same grade rendered after appointment thereto on a regular basis, belonging to a State/U.T. or Central Organisations. 2) Deputation period shall ordinarily not exceed 3 years. Not applicable, as there is no lower post.	D.P.C. - 1) Deputy Commandant - Chairman 2) Adjutant - Member 3) Medical Officer - Member	Not appl.
Direct recruitment	Not applicable, as there is no lower post.	D.P.C. - 1) Adjutant - Chairman 2) Administrative Officer - Member 3) Chief Drill Instructor - Member	Not appl.
Direct recruitment	Not applicable, as there is no lower post.	D.P.C. - 1) Adjutant - Chairman 2) Administrative Officer - Member 3) Chief Drill Instructor - Member	Not appl.
Deputation/Transfer/Direct recruitment.	1) Deputation/Transfer from analogous post of Pharmacist in the same grade rendered after appointment thereto on a regular basis, belonging to a State/U.T. or Central Organisations. 2) Deputation period shall ordinarily not exceed 3 years. Not applicable, as there is no lower post.	D.P.C. - 1) Deputy Commandant - Chairman 2) Adjutant - Member 3) Medical Officer - Member	Not appl.
Direct recruitment	Not applicable, as there is no lower post.	D.P.C. - 1) Adjutant - Chairman 2) Administrative Officer - Member 3) Asstt. Director (Forensic Aide) - Member	Not appl.
Direct recruitment	Not applicable, as there is no lower post.	D.P.C. - 1) Adjutant - Chairman 2) Administrative Officer - Member 3) Chief Drill Instructor - Member	Not appl.

61-2
No. 8/4/91-NE.II
Government of India/E at Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi - 110 001, the 12th February, 1991. (13)

To

✓ The Director,
North Eastern Police Academy,
Umsaw,
Barapani,
MEGHALAYA - 793 123.

9 FEB 1992

Subject:- Upgradation of the posts of Librarian and Assistant Librarian in the North Eastern Police Academy.

Sir,

I am directed to refer to your letter No. NEPA/PF(C)/8/84/12663 dated the 25th February, 1991 on the above subject. The matter has been examined in consultation with the Integrated Finance. In pursuance of Ministry of Finance (Department of Expenditure) (Implementation Cell) O.M. No. F.19(1)/IC/86 dated the 24th July, 1990, the sanction is hereby conveyed for placing the existing posts of Librarian and Assistant Librarian in the North Eastern Police Academy in the following revised designation and scale of pay:-

Sl. Existing No. designation	Existing pay scale	No. of posts	Revised designation.	Revised pay scale
1. Librarian Grade II	Rs. 1400-2300	1	Sr. Librarian & Information Assistant	Rs. 1640-2900
2. Assistant Librarian	Rs. 1350-2200	1	Library Information Assistant	Rs. 1400-2600

2. The Revised designation and the revised pay will take effect from 24th July, 1990. The order will be further subject to the condition that the incumbents to the posts possess the recruitment qualifications laid down for the above posts in annexure I to the Min. of Finance's O.M. dated 24.7.90 (copy enclosed). The present incumbents who do not fulfill these qualifications may continue in the existing scales of pay. As and when the existing incumbents vacate the post these may be filled up by suitable candidates possessing the requisite qualifications.

....2/-

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Amended - C

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(132)

SCHEDULE.

of post.	No. of posts.	Classification	Scale of pay.	Whether selection or non-selection post.	Age limit for direct recruitment
1	2	3	4	5	6
1. Librarian (Grade II)	*1 (1984)	General Central Service, Group 'C' Non-gazetted Non-ministerial.	Rs. 425-15-500-EB-15-550-20-700/-	Selection	Between 18 & 35 yrs. Relaxable upto 35 yrs for Govt. servants in accordance to the instructions or order issued by the Central Govt./
2. Assistant Librarian	*1 (1984)	General Central Service, Group 'C' Non-gazetted.	Rs. 330-12-400-EB-15-550-20-640/-	Not applicable.	Between 18 & 25 yrs. Relaxable upto 35 yrs for Govt. servants in accordance to the instructions or order issued by the Central Govt./

* Subject of variation dependent on work load.

Note: The crucial date for determining age limit shall be closing date for receipt of applications from candidates in India (Other than those in Andaman & Nicobar Islands and Lakshadweep) in case of appointment through Employment Exchange the crucial date will in each case be the date upon which the Employment Exchange changes are taken into effect.

office letter dated 21/1/85. The R/Rs was notified accordingly vide MHA's Notification No.6/9/84-NE.II Dtd 18/2/86 with the following provisions

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- 2 -

Educational and other qualifications required for direct recruitment.

Whether age and educational qualification prescribed for direct recruits will apply in case of promotees.

Period of probation, if any.

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

Not applicable.

2 years.

Transfer on deputation promotion. failing which by Direct recruitment.

Graduate from a recognised University.

Degree or Diploma in Library Science.

Experience of Library work.

Graduate from a recognised University.

Not applicable.

2 years.

Direct recruitment.

Diploma in Library Science from a recognised University.

Report of the Review Committee on Library Staff and its Implementation
 of Central Government.

The Committee is directed to refer to the recommendations of the Review Committee contained in para 11.53 of the Report where it is stated that the Government may be constituted to undertake review of the pay scales, and the levels of responsibility of the Library Staff. In pursuance of the suggestion, a Review Committee was set up by the Department of Expenditure in 1987.

2.1 After careful consideration of the recommendations made by this Committee, the Government in view of the over all policy, have decided to adopt the following pay structure for Library Staff:—

Sl.No.	Designation	Existing pay scale (Rs.)	Revised pay scale (Rs.)	Remarks
(1)	(2)	(3)	(4)	(5)
1.	Junior Library Attendant	750—940	750—940	Direct entry
2.	Library Attendant	775—1025	775—1025	Middle pass
3.	Senior Library Attendant	800—1150	800—1150	Promotional Grade.
4.	Library Clerk	825—1200 950—1400 950—1500 975—1540 975—1600	950—1500	Direct entry Matriculation
5.	Library Information Assistant	1200—1600 1200—2040 1320—2040 1350—2200 1400—2300 1400—2600	1400—2600	Direct entry Graduate with Bachelor in Lib. Science/ Promotional Grade for Lib. Clerks.
6.	Senior Library & Information Asst.	1640—2900 1600—2660	1640—2900	Direct entry Post Graduate with Bachelor in Lib. Science/ Promotional Grade for Lib. Information Asst.
7.	Assistant Library & Information Officer.	2000—3200 2000—3500 2200—4000	2000—3500	Promotional/ Direct Recruitment.

11.	5900—6700	—do—
12.	7300—7600	—do—

3. Placement of existing Library Staff in the revised grades.

3.1. The employees in the scales of pay indicated in column 3 of table under para 2.1 may be placed in the revised scales shown there against in column 4 provided the incumbent fulfils the recruitment qualifications as indicated in Annexure I to this O. M. In case existing incumbent does not fulfil the qualification as laid down in Annexure I, he will continue in the existing scale of pay on personal basis. However, as and when the post falls vacant, it will be filled up in the appropriate scale in accordance with the rules of recruitment.

3.2. The existing incumbents will also have an option to opt for the revised grade structure or continue in the existing scales of pay. Where an option is for the existing scale of pay, it will be on personal basis and in the event of vacancy the post will be filled up in the appropriate scales in accordance with the rules of recruitment. The employees in the existing scales of pay have been revised in the revised scales of pay. The employees in the existing scale of pay or come over to the revised scales of pay within a period of three months from the date of issue of this order.

3.3. In case of grades where the scales of pay has been revised and the existing incumbents are placed in revised scale, the pay in the revised scales may be fixed in terms of the provisions of F. R. 23 read with F. R. 22(ii) (1).

4. Categorisation of the libraries

4.1 After placement of the existing incumbent in the grade structure indicated in para 2 above, each administrative Ministry may in due action to categorise the Libraries under their control in consultation with F. A. concerned based on the parameters indicated in Annexure II to this O. M. Based on the categorisation of the Libraries so determined the designation and scale of pay of the Librarian, in charge of each category of Library may be adopted on the lines indicated below:—

Category	Post with Designation	Pay Scales (Rs.)
I	Library & Information Assistant	1400—2600
II	Asst. Library & Information Officer	2000—3500
III	Library & Information Officer	2200—4000

Annexure II
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Sl. No.	Post with Designation	Pay Scale (Rs.)
IV	Director (Library & Information)	4500—5700
	Director	5200—6700

4.2. In case the existing incumbent (viz. Librarian Incharge) is in a lower scale of pay than the scale determined based on the categorisation, he may be considered for appointment in the higher scale provided he fulfils the recruitment qualifications laid down for the post in Annexure I to this O. M. subject to the provisions of para 4.3.

4.3. Where based on categorisation the post of the head of a Library gets upgraded by more than one grade, the post will be upgraded only by one step initially. Its upgradation to the appropriate higher grade may be reviewed after three years in consultation with Ministry of Finance.

5. The scale of pay for the post of Language Librarian irrespective of language, may be Rs. 2000—3500. The recruitment qualifications may be post-graduation, Bachelor of Library Science with three years experience as laid down for direct recruits in Annexure I for posts in this scale. The present incumbents who do not fulfil these qualifications may continue in the existing scales of pay. As and when the existing incumbents vacate their posts, these may be filled up in appropriate scales in accordance with recruitment rules.

6. All Ministries/departments are requested to initiate action on priority basis and results of review reported to Implementation Cell, Department of Expenditure.

7. In their application to the employees of the Indian Audit & Accounts Department these orders issue in consultation with Comptroller and Auditor General of India.

ANNEXURE-I

Sl. No.	Designation	Pay Scale (Rs.)	Qualification & Experience
			Direct Promotions
1.	Junior Library Attendant	750—940	Middle pass
2.	Library Attendant	775—1025	Promotional Grade for Jr. Library Attendant
3.	Senior Library Attendant	800—1150	Promotional Grade for Library Attendant
4.	Library Clerk	950—1500	Matriculation.
5.	Library & Information Ass-	1400—2600	B. A./B. Sc./ B. Com. + B. Lib. Science
6.	Senior Library & Information Ass-	1640—2900	M. A./M. Sc./ M. Com. + B. Lib. Science

Sl. No.	Designation	Pay Scale (Rs.)	Qualification & Experience
5.	Information Officer	2000—3500	M. A./M. Sc./ M. Com. + B. Lib. Science with 3/5 years experience.
8.	Library & Information Officer	3000—4500	M. A./M. Sc./ M. Com. + B. Lib. Science with 7 years experience.
9.	Senior Library & Information Officer	3700—5600	M. A./M. Sc./ M. Com. + B. Lib. Science with 10 years of experience.
10.	Principal Library & Information Officer/Director	4500—5700	M. A./M. Sc./ M. Com. + M. Lib. Science with 12 years experience.
11.		5900—6700	M. A./M. Sc./ M. Com. + M. Lib. Science with 15 years experience.

Designation	Pay Scale (Rs.)	Qualification & Experience
		Direct Promotion
	7300—7600	Eminent Librarian/Scholar Ph. D/M. Lib. Science & Research Work, Publications, 20 years experience.

ANNEXURE-II

Formula for the categorisation of the libraries

For the purpose of categorisation of libraries, the primary variables such as collection, services, budget, publications, computer application etc. have been taken into account. Each variable has been quantified and weighed under—

I Collection	Quantity	Points	Max. Point
1. Total collection of books.	1—10000	1	10
2. Annual intake of books	1—150	1	10
3. Titles of serials received annually (including newspapers and magazines).	1—50	1	10
4. Non-book material (Manuscripts, Films, Photographs, Maps, Slides, audio records and tapes, video tapes/Cassettes, Computer Produced tapes, CD-ROM, microfilm/fiche, paintings, drawings etc.	1—10000	1	10
(Note : If there are number of copies of the same books, title etc., it can be taken into account maximum upto 5 as quantity)			
II Services	Quantity	Points	Max. Point
5. Lending (Daily)	1—50	1	—
6. Inter-library loan (Monthly)	1—50	1	—
7. Photocopying (Monthly) (plain papers, bromide prints, slides, microfilm/fiche) only photo	100—10000	1	10

49 26

	Quantity	Point	Max. Point
copies of documents etc. supplied to users to be taken into account.			
8. Reference queries	1—50	1	—
9. Users attended in the library (Daily)	1—50	1	—
10. Indexing (Monthly) (indexing of periodical articles proceedings, report as well as cumulative indexing projects).	100—300	1	—
11. Abstracting (Monthly) (preparation of abstracts of periodical articles, proceedings, reports, as well as extracting abstracts from secondary sources, filing, circulation and master copy preparation)	1—130	1	—
12. Newspaper Clipping including index (Daily)	50—150	1	—
13. Selective Dissemination of information (SDI).	10—50	2	—
III Budget			
14. Annual budget for resource material and equipment of library.	1—50000	1	10
IV Publications (with Examples)			
15. Weekly/Fortnightly	1	3	—
16. Monthly/Quarterly	1	2	—
17. Half-yearly/Yearly	1	1	—
V Computer Application			
18. Computerisation of library activities		10	—
* (Ordering and acquisition—1, Current material cataloguing—1, retrospective cataloguing—1, Serials control—1, Library statistics and MDP1, SDI—2, Circulation—1, indexing, abstracting—1, DTP—1)			
Weightage and ranking have been given to 18 major quantifiable variables in relation to their importance in a library. These variables have further been categorised as active and passive ones. The active variables have been kept open for giving unlimited points whereas the passive variables have been restricted to a maximum limit as in the case of collection and publications respectively.			

The nature, function and the scope of the Government libraries vary from library to library. There are libraries which simply cater to the day-to-day general needs of the clientele whereas, other function as a research and information unit cater to the needs of their clientele accordingly. In such a situation, the same set of fixed variables would not have been helpful. Each variable has been given a broad range etc., 1—150, 1—50, 1—100 etc., to bring maximum flexibility within the range of parameters.

5.7 Categorisation of a library

Government libraries have been grouped into six categories. Type I—V have been categorised on the basis of the variables, whereas category VI has been marked for the National Library, Calcutta.

Category of a library will be decided on the basis of the points it obtains. The minimum qualifying points for a library are five. The range of points for categorisation is as follows:

Category I	5—20 points.
Category II	21—40 points
Category III	41—60 points
Category IV	61—80 points
Category V	81 and above points.
Category VI	National Library, Calcutta.

Again, the range of points within a category has been kept wide enough to give maximum flexibility to allow growth and development activities of a particular library. Some examples have been provided to help in categorising a library based on the data supplied and evaluated:

Multiples of the maximum figure of each variable will carry one point eg: 1—150 annual intake of books; multiples of 150 i.e. 300, 2 points, 450, 3 points, etc. However, for the purpose of calculation to the point will not be counted in fraction. They are being rounded off to the nearest figure. For example, a collection size of 1—1000 will be given 1 point; even when the collection reaches 1499, it will still be put within 1 point limit but 1500—2499 will be given 2 points. Further, for certain variables the maximum limit has been fixed. For example, annual budget of Rs. 5 lakhs will obtain 10 points. At the same time, annual budget of Rs. 10 lakhs will also obtain 10 points which is the maximum limit of the range.

Formal categorization of libraries may be under taken after every 5 years from the date of initial fixation of category.

EXAMPLE — CATEGORISING OF LIBRARIES

Sl. No.	Variables	Category I	Point	Category II	Point	Category III	Point	Category IV	Point	Category V	Point
1.	Collection	6845	1	20000	10	103006	10	321000	10	245000	10
2.	Annual intake of books	266	2	1200	8	2609	10	6392	10	8500	10
3.	Titles of Serials received annually	46	1	1000	3	555	10	2032	10	2040	10
4.	Net book material	—	—	—	—	—	—	42000	4	150000	10
5.	Lending (D)	15	1	1000	3	69	1	72	1	325	7
6.	Inter Library Loan (M)	—	—	—	—	—	—	15	1	95	2
7.	Photocopies (M)	—	—	—	—	4200	4	4200	4	30000	10
8.	Reference Queries (D)	50	1	500	1	71	1	80	2	115	2
9.	Users attended (D)	—	—	500	1	53	1	45	1	150	3
10.	Indexing (M)	—	—	—	—	—	—	—	—	—	—
11.	Abstracting (M)	—	—	—	—	—	—	—	—	—	—
12.	Newspaper Clippings (D)	—	—	—	—	—	—	—	—	—	—
13.	Selective Dissemination of Information	—	—	—	—	—	—	—	—	—	—
14.	Budget	30000	1	130000	3	2767000	10	850000	10	9852000	10
15.	Publications W/F	—	—	—	—	—	3	—	—	—	3

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Amendment - "R"
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Govt. of India
Ministry of Home Affairs
North Eastern Police Academy
Umsaw 793 123 : Barapani : Meghalaya

No. NEPA/PF(C)/32/82/4530

Date: 11/1/97

To

The Director (NEC)
N E II Division
Ministry of Home Affairs
North Block, New Delhi 110 001

Sub : Condonation of Educational Qualification in respect of
Shri S N Sharma, Asstt. Librarian, NEPA.

Madam,

The post of Asstt. Librarian, NEPA, was initially created vide order No. RPTC/8/78/251 Dtd. 8/9/79 in the scale of pay of R. 260-430/- p.m. to be appointed by means of a candidate having educational qualification of PUC with certificate in Library Science. Shri S N Sharma having the above qualification was appointed directly in this Academy as Asstt. Librarian in the scale of pay of Rs. 260-430/- p.m. w.e.f. 23/10/82. Subsequently the post of Asstt. Librarian was up-graded and recreated in the scale of pay of Rs. 380-640/- p.m., with the qualification of "Degree holder with Diploma/Certificate in library science".

The first draft recruitment rules for the post of Asstt. Librarian was sent to MHA vide this office letter No. NEPA/EG/8/80/Vol-III/1437 Dtd. 1/9/84 with the following provision :-

- (I) Pre-University
(II) Diploma in Library Science of a recognised University.

However, the MHA, Govt. of India, in consultation with the DP & AR made certain alteration in the provision in the schedule and the final draft was sent to this Academy for confirmation, which was agreed by this office & returned to MHA vide office letter dated 21/1/85. The R/Rs was notified accordingly vide MHA's Notification No.6/9/84-NE.II Dtd. 18/2/86 with the following provisions.

Direct Recruitment failing which by Transfer on Deputation

- (i) Graduate from a recognised university or equivalent and
(ii) Diploma in Library Science from a recognised institute.

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Lsi
Pl. personally
personally
Securities
after periodic
in the R/R
Original to be R/R
to be sent to
right as per
recd. 11/1/97

Signature

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REGIONAL POLICE COMPUTER TRAINING CENTRE, N.E.P.A

BARAPANI

TRAINING PROGRAMME OF COURSE ON COMPUTER APPRECIATION

DURATION: 1
WEEK

<u>DAY & DATE</u>	<u>TIME</u>	<u>SUBJECT</u>	<u>FACULTY</u>
Monday 29-09-97	0830-1000	Registration	SPK
	0915-1000	Opening Address	TC
	1015-1045	Briefing Police I.F & F	SPK
	1100-1300	Introduction To Computers	DAN
	1500-1630	Visit To Computer Centre & familiarisation with computers	MM
Tuesday 30-09-97	0830-1030	I/O Media & Devices	MM
	1045-1300	Introduction To Operating Systems, Programming Languages And Software Packages	JM
	1500-1630	Training Film	SPK / BD
Wednesday 01-10-97	0900-1130	Introduction To Operating Systems, Programming Languages And Software Packages (Continued)	JM
	1145-1300	Computer Applications In Law Enforcement & Crime Criminal Information System	SPK
	1500-1700	Demonstration On Various Packages	DB

Since 2/10 is holiday & since it is for basic trainees, Registration, PA/ Briefing, Valediction to be done away with. Also keep in mind the duration of one session to be adjusted as per instr of NCRB.

P.T.O.

St. Shamugha

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However, when records were scrutinised in connection with providing a reply for a question raised in the representation of Shri S N Sharma, Asstt Librarian, it is seen that the official do not qualify the basic eligibility conditions prescribed for the post in notified R/R. Necessary condonation of educational qualification in respect of the official, which should have been normally obtained immediately after notification of the R/R, seems to have not been obtained so far. Shri S N Sharma's qualification is P.U.C. with Certificate in Library Science as against Graduation and Diploma in Library Sciences prescribed in the notified R/R. Shri S N Sharma was appointed directly in this Academy as Asstt. Librarian in the scale of pay of Rs. 260-430/- w.e.f. 23/10/82 against the post temporarily created. Subsequently the post of Asstt. Librarian was up-graded and recreated in the scale of pay of Rs. 380-640/- and Shri Sharma was retained in the same post w.e.f. 1/3/84. Shri S N Sharma, who was appointed as Asstt Librarian w.e.f. 23/10/82, has by now completed 15 years of service. ~~To protect his service interest, it would be necessary that his inadequate educational qualification is condoned.~~ In view of above, you are requested to kindly obtain ex-post-facto approval of the competent authority in this regard and the same may be conveyed at the earliest.

Yours faithfully,

T. Chandrasekharan
(T. Chandrasekharan)
Director

Copy of Draft R/R
and Approved R/R
Sent along
with the letter

Request for
Teacher endro

31
 Thursday
 02-10-97

0900-1030 Operation of PCs - Various DOS, WS and Dbase Commands.

D/66

1045-1300 Police Integrated Forms & Filling Of Integrated Forms SPK

1500-1700 Hands-on-training PKS

C-2H
 Friday
 03-10-97

0900-1030 Organisation of Police Network and its operations SPK

1045-1300 Brief Description Of Various Other Packages Available available for Police forces. SPK

1500-1630 Hands On Training of various DOS Commands DAN

Saturday
 04-10-97

0830-1100 Future Trends and developments of Computers in Police Forces TC

1115-1215 Test SPK

1230 1300 Valediction TC

LUNCH BREAK : 1300 Hrs - 1500 Hrs

FACULTY

TC	Shri T Chandrasekharan, Dir (C.C), NEPA
SPK	Shri Satpal Kapoor, Dy. Dir, NEPA
JM	Shri Joseph Mathew, UCC, Barapani
MM	Mrs Merlin Mathew, UCC, Barapani
DAN	Mrs Deepa A Nair, NEPA
TS	Shri Trilok Singh, Dy. Comdt, CRPF, Guwahati
PKS	Shri P K Shanmugham, Steno, NEPA
DB	Shri Dilip Biswas, A.S.I., NEPA
BD	Shri Babu Daniel, A.S.I., NEPA

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India
Home Affairs
Police Academy
102

Date. 7/9/47

102 ✓

Shri S.N. Sharma, who was erroneously placed in the scale of pay of Rs. 1400 - 40 - 1600-50 - 2300 - EB - 60 - 2600/- p.m w.e.f. 24/7/90 with revised designation of Library Information Asstt. vide order No.NEPA/PF/(C)/8/84/364 - 68, Dtd 18/5/92 consequent upon the issuance of order No. 8/4/91- NF - II, 24/2/92 by Govt. of India, Ministry of Home Affairs, New Delhi, in pursuance of Ministry of Finance (Deptt. of Expenditure, Implementation cell) O.M. No.F/9(1)/IC/86, Dtd 24/7/97. ~~is~~ hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs.1350-30-1440-40-1800-EB-50-2200/- p.m w.e.f. 24/7/90 as Shri S.N.Sharma does not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M.No.19(1)/IC/86 Dtd.24/7/90 Annexure - I. Accordingly name of Shri S N Sharma is deleted from the office order No. NEPA/PF(C)/8/84/364 - 68 Dtd 18/5/92.

Contd...P-2

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37) Shri S.N. Sharma, who was temporarily promoted to officiate as Sr. Librarian and Information Asstt in the scale of Rs. 1640-2900/- vice Shri. A K. Manchandani, Sr Librarian and Info Asstt., vide order No. NEPA/PF(C)/8/84/266 - 69 Dtd. 30/7/92 w.e.f. the forenoon of 22nd Feb'1992, is hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs. 1350-30-1440-40-1800-EB-50-2200/- p.m. w.e.f. 21/7/90 to the 31st March '97(AN) as Shri S.N. Sharma does not meet the essential educational qualification for the post of Sr. Lib. Info. Asstt in the scale of pay of Rs. 1640 - 2600 - EB - 75 - 2900/- p.m. required under Ministry of Finance's O.M. No. 19(1)/IC/86 Dtd. 24/7/90 Annexure - 1. This supersedes the earlier order No. NEPA/PF(C)/8/84/266 - 69 Dtd. 30th April '92.

38) Since the official had performed the duties at the promoted status during the period w.e.f. 22nd Feb 1992 to the 31st March '97(AN), an order pronouncing his retro promotion even as Librarian Grade - II in the scale of pay of Rs. 1400-40-1800-EB-50-2300/-p.m. could be issued or otherwise now only after regularising his initial appointment as Library Asstt by seeking condonation for his inadequate educational qualification. Accordingly overpayment of pay and allowances accrued during the above period, excepting the overpayment made by way of personal pay at higher scale, a total of Rs. 12,449/- will be decided subsequent to the receipt of clarification.

39) In partial modification of order No. NEPA/PF(C)/8/84/7756-61, Dt. 1-4/97, Shri S N Sharma, who was reverted to the post of Library Information Asstt in the pay scale of Rs. 1400-2600/-, is hereby placed in the pay scale of Rs. 1350-30-1440-1800-EB-50-2200/- w.e.f. 01/04/97 as the official do not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M. No. 19(1)/IC/86 dtd. 24/7/90 Annexure - 1.

40) Consequent on the placement of Shri S N Sharma in the pay scale of Rs. 1350-2200/- from 22/2/92 and in partial modification of order No. NEPA/PF(C)/8/82/1145 - 49, Dtd. 1st July '92, Shri S.N. Sharma is hereby granted a special increment (for tubectomy operation of his wife) @ Rs. 40/- p.m w.e.f. 1/6/92 in the pay scale of Rs. 1350-2200/- in place of Rs 60/- p.m. erroneously sanctioned in the pay scale of Rs. 1640-2900/- in the form of personal pay not to be absorbed in future increases in the pay either in the same post or on promotion to the higher post in the scale of pay of Rs. 1400 - 2300/- p.m. as Librarian Grade - II.

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5) Accordingly, the undersigned also orders that the over payment of pay & allowances amounting to Rs. 810/- (Rupees eight hundred and ten) only for the period from April 1997 to September 1997 resulted due to placement Shri S N Sharma in the pay scale of Rs. 1400-2600/- in place of Rs. 1350-2200/- and overpayment of Rs. 1280/- (Rupees one thousand two hundred and eighty) only being the overpayment of Personal Pay for the period from 1/6/92 to 30/9/97 resulted due to placement of Shri Sharma in the pay scale of Rs. 1350-2200/- from the pay scale of Rs. 1640-2900/- should be recovered (Total amount Rs. 2090/-) from his pay & allowances from the month of Oct' 1997 onwards in 19 equal instalments @ Rs. 110/- P.M. as the official has no legal right on the payment made to him over and above his entitlement. The recovery/regulatory orders pertaining to the overpayment shown in para 2 (b) above will be issued subsequently.

(T Chandrasekharan)
Director

Copy to

- 1 The RPAO (IB), Laitumkhrah, Shillong-3.
- 2 The Aves Branch, NEPA, Umsaw.
- 3 The official concerned.
- 4 Office Order File.

(T Chandrasekharan)
Director

-75- 35 = Annexure - G'
 ~~Annexure - II~~ 1986

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Govt of India
Ministry of Home Affairs
North Eastern Police Academy
P.O. Umsaw : Barapani 793123.

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No. NEPA/PF(C)/8/84/

Dtd., Umsaw, the

April/92.

ORDER

Shri N C Sharma, Library Information Assistant, North Eastern Police Academy, Umsaw (Barapani), is hereby temporarily promoted to officiate as Sr. Librarian and Information Assistant in the scale of pay of Rs. 1640-60-2600-EB-75-2900/- pm plus other allowances as admissible from time to time vice Shri A K Ramchandani, Sr. Librarian & Information Assistant, with effect from the forenoon of 22nd February 1992 until further orders.

Shri N C Sharma, will automatically come to his original position on repatriation of Shri A K Ramchandani, now on deputation with the Director, Govt of India, NICEE, New Delhi.

Sd/-

(G C Raiger)
Director

Memo No.

NEPA/PF(C)/8/84/266-69 Dtd., Umsaw, the 30 April/1992.

Copy to :-

1. The RPAO (IB), Shillong.
2. The Accounts Section (Local).
3. Shri N C Sharma, NEPA, Umsaw.
4. P/F of Shri N C Sharma.
5. O O F.

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(G C Raiger)
Director

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Govt of India
Ministry of Home Affairs
North Eastern Police Academy
Umsaw 793 123 : Barapani : Meghalaya

No. NEPA/PF(C)/32/82/3296

Date : 12-8-97

To

Shri S N Sharma
Library and Information Assistant
NEPA, Umsaw
Meghalaya

Sub : Regarding promotion to the post of Sr Librarian and Information Assistant.

Ref : Your representation dated 20/6/97.

I have gone through the representation dated 20/6/97 you had submitted with regard to your grievances pertaining to your promotion and career interest. From the available records, I observe as under :

The NEPA was established during 1978 as a Subordinate Office of the MHA, Govt of India, at a remote Village namely Umsaw, 20 Kms away from Shillong City and 65 Kms away from Guwahati. The regular staffing of the Academy to commence its basic functions had started sometime during 1979 with bear minimum staff drawn from various organisations on deputation, etc. The post of Librarian and Asstt Librarian were initially created on temporary basis vide Office Order No. RPTC-8/78/251 Dt. 8/9/79. The qualification prescribed for this temporary recruitment was as under :

- Librarian Rs. 380-640/- Degree Holder with Diploma in Library Sc.
- Asstt Librarian Rs. 260-430/- PUC with Certificate in Library Sc.

The post of Librarian was filled up by recruiting Shri B R Bharali, whose candidature was received on request from the Employment Exchange. However, your appointment was to the post of Asstt Librarian was done by 'directly' receiving your application dated 15/10/82. Your qualification at the time of recruitment was PUC with a 4 months' Certificate in Library Science. You were appointed as Asstt Librarian w.e.f. 23/10/82 in the pay scale of Rs. 260-430/-, subsequently were brought to the pay scale of Rs. 380-640/- vide office order No. NEPA/PF(C)/32/82/8162-65 Dt. 28/3/84. After resignation of Shri B R Bharali, the on 1/4/83 the post of Librarian was circulated to all the Employment Exchanges of N E Region vide Office Letter No. NEPA/EG/16/80/314-30 Dt. 26/4/83. The Employment Exchanges of N E States had sponsored few candidates, whose interview fixed for 6th June 1983 and 11th July, 1983. But no candidate had turned up for interview. Since the creation of the posts indicated above being temporary and for a stipulated period, it was necessary to recreate these posts, hence with the approval of the competent authority, these posts were re-created for a further period of one year in the new scale vide Order No. NEPA/EG/6/80/7996-8004 Dt. 23/3/84 as under :

- Librarian - Rs. 425-700/- - Degree Holder with Degree in Library Sc.
- Asstt Librarian - Rs. 380-640/- - Degree holder with Diploma/Certificate in Library Sc.

The post of Librarian was recirculated in the higher grade to Employment Exchanges of N E States vide this office letter No. NEPA/EG/16/81/6075-81, Dt. Dt. 4/1/84. The three candidature received in response were not considered being devoid of merit. In the intervening period, you were temporarily promoted on adhoc basis w.e.f. 2/4/83 against the post of Librarian vide Office Order No. NEPA/EG/16/82/1109-13 Dt. 4th June 1983. There upon vide this office letter No. NEPA/EG/3/84/7861 Dt. 19/3/84, the post was advertised through Employment News dated 7th April 1984. Of the ten candidates responded, three of them, who had fulfilled all the conditions, were summoned

12/8/97

dated 7th April 1984. Of the ten candidates responded, three of them, who had fulfilled all the conditions, were summoned for interview on 25/6/84. However, no one appeared for the interview, one candidate had expressed inability to attend the interview due to the distance. It was at this time when all efforts to fill up the vacancy of Librarian were failing, that Shri A K Ramchandani had applied for the post on 4/8/84. He was a professionally accomplished candidate with B Com Degree and Degree in Library Science in support of his candidature. He was also working on adhoc basis in National Police Academy, Hyderabad. He was appointed as Librarian w.e.f. 10/9/84. Since the appointment of the regular Librarian was in the pipeline, you were reverted to your original post vide office order No. NEPA/PF(C)/32/82/37-39 Dt. 9/5/84.

It is to be seen here that in selecting the above candidate due process was followed as per the then existing status of R/R. Thus both the posts of Librarian and Asstt Librarian recruitment was done on considering the respective individual application.

The first draft of the proposed R/R for the post of Librarian and Asstt Librarian were sent as under to MHA vide this office letter No. NEPA/EG/8/80/Vo.III/1347 Dt. 1/9/84 :

Librarian By Deputation/Promotion/Direct Recruitment

By Deputation

Deputation from analogous post of Librarian or Assistant Librarian with 8 years of regular service in the grade rendered after appointment thereto on a regular basis, belonging to a State/UT or Central Organisation.

Promotion

Promotion from the post of the Assistant Librarian of the North Eastern Police Academy with 8 years service in the grade rendered after appointment thereto on a regular basis.

Direct Recruitment

By direct appointment of the candidates possessing BA/BSc/BCom degrees with degree in Library Science. (Desirable - Previous experience of working in the Library).

Assistant Librarian Direct Recruitment

(I) Pre University

(II) Diploma in Library Science of a recognised University.

However, MHA after consultation with DP&AR made certain alterations and the final draft was sent to this Academy for confirmation, which was subsequently confirmed and returned to MHA vide office letter dated 21/1/85 as under :

Librarian By transfer on Deputation/Promotion failing which by Direct Recruitment

By transfer on Deputation

Deputation from amongst persons holding analogous post or equivalent post of Librarian or post in the lower grade of Rs. 380-640/- or with 3 years of service in the grade under Central/ State/UT Administration..

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Promotion

Departmental Asstt Librarian with 3 years regular service in the grade should be considered along with candidates for appointment on deputation and in the event of his selection, the appointment should be deemed to have been made on the promotion.

Direct Recruitment

Essential :

- (I) Degree from a recognised service.
- (II) Degree or Diploma in Library Science

Desirable :

Previous experience of working in the Library.

Assistant Librarian

Direct Recruitment

- (I) Degree from a recognised University
- (II) Diploma in Library Science from a recognised University.

However, vide Govt of India, MHA, Notification Dated 18/2/86, the R/R for these posts were finalised at their end and published as under :

Librarian

By transfer on Deputation/Promotion

By transfer on Deputation

Deputation from amongst persons holding analogous post or equivalent post of Librarian or post in the lower grade of Rs. 380-640/- or with 3 years of service in the grade under Central/ State Govt/UT Administration..

Promotion

Departmental Asstt Librarian with 3 years regular service in the grade should be considered along with candidates for appointment on deputation and in the event of his selection, the appointment should be deemed to have been made on the promotion.

Assistant Librarian

Direct Recruitment failing which by Transfer on Deputation

- (I) Graduate from a recognised University or equivalent.
- (II) Diploma in Library Science from a recognised University.

It is to be seen from the above the draft R/R sent by MHA and approved by the Academy vide office letter No. NEPA/EG/8/80/Vol.III/2937 Dt. 21/1/85 had the provision of Direct Recruitment for both the posts of Librarian and Asstt Librarian. The condition proposed for considering promotion of Asstt Librarian to the post of Librarian was initially 8 years. However, later it has been prescribed as 3 years in the notified R/R. From the above it should be seen that at the time of filling up of the post of Librarian as above, you had completed only less than two years of service as against 8 years regular service for the post of Asstt Librarian at NEPA. Further, you also were not possessing the minimum required educational qualification, which is a Bachelors Degree with Degree in Library Science for considering you for appointment to the post of Librarian as a open market candidates. Thus your contention that you were due and eligible for promotion at the time when Shri A K Ramchandani was considered for appointment is incorrect. It is also not correct to presume on your part that undue favour was shown to Shri A K Ramchandani in appointing him. Direct Recruitment was a method of prescribed for recruitment of Librarian as discussed above.

B9 -79- 207 109

Further your belief that the department is now attempting to amend the R/R is also wrong. It was when the pay scales of Librarian and Asstt Librarian were proposed to be reviewed as per the recommendations of the IVth Pay Commission vide NEPA/PF(C)/8/84/1266 Dt. 25/2/91 that the MHA vide their letter No. 8/4/91-NE.II Dt. 8/5/91 sought certain clarification regarding the filling up the post of Librarian. The position was explained vide letter No. NEPA/PF(C)/8/84/2125 Dt. 2/8/91 and the MHA having convinced of the position have suitably upgraded the posts of Librarian as well as of Asstt Librarian to Sr Librarian and Information Asstt and Library and Information Asstt in the pay scale of Rs. 1640-2900/- and Rs. 1400-2600/- respectively vide MHA Letter No. 8/4/91/NE.II Dt. 25/2/92, which reads as under :

"The revised designation and the revised pay will take effect from 24/7/90. The order will further be subject to the condition that the incumbents to the post possess the recruitment qualification laid down in Annexure I to the Ministry of Finance's O.M. Dated 24/7/90. The present incumbents who do not fulfil these qualification may continue in the existing scale of pay. As and when the incumbent vacate the post these may be filled up by suitable candidates possessing requisite qualification".

The qualification for the said posts as per Annexure I to the Ministry of Finance's O.M. Dated 24/7/90 are -

Sr Librarian & Information Asstt	Rs. 1640-2900/-	MA/MSc/MCom + Bachelor of Library Science Promotion grade for Library and Information Asstt
Library and Information Asstt	1400-2600/-	BA/BSc/BCom + Bachelor of Library Science

Thus the above posts in the new scales and designations have become a personal post only for candidates with requisite qualification. Shri A K Ramchandani, who was by then a Post Graduate and already having the Bachelors Degree in Library Science has become personally eligible for the revised designation and pay and accordingly placed. You were also placed in the revised designation and pay scale vide Office Order No. NEPA/PF(C)/8/84/364-68 Dt. 18/5/92, which is now observed to be irregular. Consequent upon Shri A K Ramchandani's proceeding on deputation you were also given promotion as Sr Librarian and Information Assistant purely on temporary basis on the condition that you will automatically come to the original position in the event of repatriation of the permanent incumbent. This temporary promotion was also erroneously allowed to you in the revised pay scale of Rs. 1640-2900/- for which you were not eligible being inadequately qualified.

Shri A K Ramchandani on completion of deputation tenure with NICFS, New Delhi, was repatriated to NEPA and reported duty on 1/4/97. As per the conditions laid down on your temporary promotion, you were reverted to the original post. This was done in the natural course of administration and your contention that this was done due to any bias is incorrect. Shri A K Ramchandani, however, now having selected for permanent appointment with NICFS, the post of Sr Librarian and Information Assistant is vacant. Your claim to this post on promotion, in the absence of requisite basic qualification, perhaps can at best be considered only as Librarian at the pre-revised scale. This would however require regularisation of your appointment to the post of Asstt Librarian (in the absence of prescribed qualifications mentioned in the approved R/R) and your subsequent elevation to the redesignated post of Library and Information Asstt in the pay scale of Rs. 1400-2600/-, which are now observed to be not in order. Further the conditional temporary promotion to the post of Sr Librarian and Information Asstt in the pay scale of Rs. 1640-2900/- w.e.f. 30/4/92 to 1/4/97 also being irregular would also need regularisation in accordance with the R/R in addition to your qualifying the considerations set out for promotion by the DPC. The overpayment of pay and allowances which have been paid to you consequent upon the above irregular appointment/promotion would have to be settled on accordance with the rules.

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Further, your contention that you are being subjected to harassment by issuing several explanatory memos is again incorrect. The letters issued to you have been served on you with the intention of driving you to work, which you have been not performing satisfactorily. The cataloguing and indexing of the Library Books which you were asked to do during 1994, is yet to be completed. There is no system by which a book could be traced by using the Library Information and Indexing System, speaks of the disorganised state of affairs of the library. The physical verification of books, which you were repeatedly asked to be completed had to be ultimately got completed by detailing a board of officers vide ION No. NEPA/JD/2/94/5162-63 Dt. 7/4/94. You have also not been responding to official communication. Your claim that you have been efficiently performing the dual duties of Sr Librarian and information Assistant and Library information Assistant since deputation of Shri A K Ramchandani is also incorrect. You will appreciate that to keep the library functions going smoothly, you have throughout been provided with two capable staff of your choice who have been managing the day to day transactions of the library leaving you with the only job of attending to correspondence and accounting of the books. Even this you could not perform satisfactorily! On the suggestion made by you during June 1997 for seeking external professional support for completing the cataloguing and indexing of the library books, etc though approved, you have not yet submitted the proposal, the remainders issued to you so far unanswered notwithstanding.

In spite of all your short-comings, the administration has been sensitive and sympathetic to all your genuine concerns and aspirations. It is expected of you that you work with the required sense of responsibility and dedication and be worthy of the position you hold. Your by-passing the official channel and submitting your above representation to the CAT mis-representing the fact has been observed to be incorrect and therefore should be avoided.


(T Chandrasekharan)

Director 11/8/97

- 30 - u/ Annexure-9 (2)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH 81- Annexure-I

Original Application No.236 of 1997

Date of decision: This the 9th day of September 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Shanglakpam Nodiachand Sharma,
Office of the North Eastern Police Academy,
Ministry of Home Affairs, Government of India,
Barapani, Meghalaya.Applicant
By Advocates Mr J.L. Sarkar, Mr M. Chanda,
Mr S. Dutta.

- versus -

1. The Union of India,
Through the Secretary,
Government of India,
Ministry of Home Affairs,
New Delhi.
2. The Director (Current Charge),
North Eastern Police Academy,
Barapani, Meghalaya.
3. Mr A.K. Ramchandrani,
Sr. Librarian and Information Assistant,
North Eastern Police Academy,
Barapani, Meghalaya.Respondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

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ORDER

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexures 10, 11, 12 and 13 orders dated 19.9.1997, 12.8.1997, 22.10.1997 and 25.10.1997 respectively, and prays for an order quashing the aforesaid orders.

2. Facts for the purpose of disposal of this application are:

The applicant was initially appointed Assistant Librarian in the scale of Rs.1350-2200. By Annexure 6

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order dated 18.5.1992 the post of Assistant Librarian was upgraded to Library and Information Assistant in the scale of Rs.1400-2600. The applicant was confirmed in the said post with effect from 30.1.1993 by Annexure 8 order dated 19.2.1993. It may be mentioned that before his confirmation in the post of Library and Information Assistant, by Annexure 7 order dated 30.4.1992 he was promoted on ad hoc basis to the post of Sr. Librarian and Information Assistant in the scale of Rs.1640-2900 and he was discharging his duties as such. Regarding some promotional avenue, the applicant approached this Tribunal by filing original application No.123 of 1997. This Tribunal disposed of the said original application by Annexure 9 order dated 6.6.1997 by directing the applicant to file a representation before the authority giving details of his grievances and if such representation was filed within fifteen days from the date of receipt of the order the respondents should dispose of the representation within one month thereafter by a reasoned order.

3. On 19.9.1997 Annexure 10 order was passed by the respondents in reply to the representation filed by the applicant. In para 2 of the said order the respondents have stated as follows:

"Shri S.N. Sharma, who was erroneously placed in the scale of pay of Rs.1400-40-1600-50-2300-EB-60-2600/- P.M. w.e.f. 24.7.90 with revised designation of Library Information Asstt. vide order No.NEPA/PF(C)8/84/364-60, Dtd.18.5.92 consequent upon the issuance of Order No.8/4/91-NE-II, 24.2.92 by Govt. of India, Ministry of Home Affairs, New Delhi, in pursuance of Ministry of Finance (Deptt. of Expenditure Implementation Cell) O.M. No.P/9(1)/IC/86, dated 24.7.90 is hereby brought back to his original post of Asstt. Lib. in the scale of pay of Rs.1350-30-1440-40-1800-EB-90-2200/- P.M. w.e.f. 24.7.90 as Shri S.N. Sharma does not meet the essential educational qualification prescribed for the post of Lib. Info. Asstt. as required under Ministry of Finance's O.M.No.19(1)/IC/86 Dt. 24.7.90....."

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By the aforesaid Annexure 10 order the respondents proposed to recover the excess amount the applicant drew while discharging his duties as Senior Librarian and Information Assistant and by Annexures 12 and 13 orders the respondents refixed his pay in the scale of Rs.1350-2200. Hence the present application.

4. In due course the respondents have entered appearance and filed written statement refuting the claim of the applicant.

5. We have heard Mr M. Chanda, learned counsel for the applicant, assisted by Mr S. Dutta and Mr A. Deb Roy, learned Sr. C.G.S.O. appearing on behalf of the respondents. Mr Chanda submits that by Annexure 8 order dated 19.2.1993 the applicant was confirmed in the post of Library and Information Assistant in the scale of pay of Rs.1400-2600 with effect from 30.1.1993. Therefore, according to Mr Chanda, the authority had no jurisdiction, whatsoever, to reduce the scale lower than the applicant was drawing without giving any reasonable opportunity. Mr Chanda, however, very fairly concedes that as the applicant was promoted on ad hoc basis to the post of Sr. Library and Information Assistant, the authority had every right to revert him to the original post, i.e. to the post of Library and Information Assistant in the scale of Rs.1400-2600. But, Mr Chanda very strenuously argues that the authority had no right to revert the applicant to the lower scale of Rs.1350-2200 without following the procedure prescribed. Besides, he submits that promotion to the post of Library and Information Assistant was given to the applicant on 18.5.1992 and was confirmed with effect from 30.1.1993. Nothing was done till 1997 and then, suddenly, the impugned orders were passed. This

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itself, sufficiently indicates that the authority had no jurisdiction to reopen the matter.

6. Mr Deb Roy, on the other hand, submits that as per rule the applicant was not entitled to hold the post of Library and Information Assistant in the scale of Rs.1400-2600 as he was lacking in educational qualification. But, when asked why there was such a delay in taking steps, Mr Deb Roy has no answer. He only submits that there was some official mistake. Mr Deb Roy, however, agrees that from a confirmed post, even if the applicant was not educationally qualified, he could not be reverted to the next lower grade without following the procedure prescribed.

7. In clause (2) of Erroneous Confirmation, given in Swamy's Complete Manual on Establishment and Administration, it is stated as follows:

"(2) If the order of confirmation was made in contravention of executive or administrative instructions, it was earlier held that it cannot be set aside, as cancellation of confirmation in such cases would amount to reduction in rank without any fault on the part of the officer concerned. This position has been re-examined in the light of the recent decisions of the Courts and it has been decided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official, as otherwise, it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principles of Natural Justice should be complied with by giving the Government servant a show-cause notice and opportunity to be heard before passing any order affecting him."

In the present case, undoubtedly, no opportunity was given to the applicant so far his reduction to the scale of 1350-2200 from Rs.1400-2600 was concerned. Therefore, we find sufficient force in the contention of Mr Chanda in this regard. Accordingly we set aside Annexures 10, 12 and 13 orders. Regarding recovery of the amount the applicant

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draw while working as Sr Librarian and Information Assistant, we hold that as the applicant was appointed by the authority and he discharged his duties as Sr. Librarian and Information Assistant he was entitled to receive the salary of Sr. Library and Information Assistant. Taking away the money would amount to violation of the Constitutional provisions. Accordingly we direct the respondents not to recover the amount paid to the applicant for the period he worked as Sr Librarian and Information Assistant.

8. The applicant has directed the Government of India, the O.M. dated 9.8. 999 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training. A copy of the said O.M. has been produced by Mr Chanda. We direct the applicant to submit a representation before the authority and the authority shall consider his case in the light of the said O.M.

9. The application is accordingly disposed of. No order as to costs.

su/- VICE-DIRECTOR
su/- MEMBER (A)

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[Signature]
21/11/99

Member Officer (A)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-6
গুৱাহাটী বেঞ্চ, গুৱাহাটী-৬

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