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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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closed date- 02/08/05

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original Application No. 342/04

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Mr. A. K. Singh

Respondents: H. D. I. For

Advocates for the Applicant B. P. Borah, B. K. Talukder, D. Borah

Advocates of the Respondents Case

Notes of the Registry Date

Order of the Tribunal

This application is in form
is filed/C. F. for Rs. 10/-
deposited vide IPO No.
No. 204/112/39
Dated 31-12-04

06.01.2005

Heard Mr. B. P. Borah, learned
learned Sr. counsel for the applicant.

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

List on 11.02.2005 for admis-
sion.

Any promotion to the post of
HSG-I shall be subject to the outcome
of the O.A.

Member (A)

mb

11.02.2005

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

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

In view of the order passed in
M.P. 48/05, Amendment O.A. to be file
within two weeks from the date of
receipt of this order and thereafter
fresh notices be issued to the res-
pondents, returnable on 29.3.2005.

Member (A)

Member (J)

bb

Steps taken with
envelope

Notice & order
sent to D/section
for issuing to
resp. Nos. 1 to 5
by regd. A/D post.

2/2/05

10-2-05

5/2-2005

29.3.05.

15.3.05

Amendment Petition has been filed by the petitioner along with steps and envelopes sent for issue fresh notice to the respondents.

The applicant has filed an amended O.A. and notice on the said O.A. sent to the Respondents. Ms. U. Das learned Addl. C.G.S.C. submits that she has not received any instruction from the Respondents. The learned counsel for the applicant prays for interim stay. This issue will be considered after getting instructions in the matter.

Post the matter on 27.4.05.

Vice-Chairman

Steps taken

on 16/3/05.

27.4.2005

Ms. U. Das, learned Addl. C.G.S.C. for the respondents seeks time for filing written statement. Post on 27.5.2005.

Notice & order sent to D/Section for issuing to resp. Nos. 1 to 6 by regd. A/D post

27.5.05.

At the request of learned counsel for the applicant four weeks time is allowed for interim order. Post the matter on 27.6.05.

Vice-Chairman

28-3-05

5/12 - as the

Notice duly

Served on

resp. Nos-2, 3 & 4.

29/3/05.

27.6.2005

At the request of counsel for the applicant the case is adjourned. Post on 19.7.2005.

Vice-Chairman

26-4-05

No. of Ls to be seen filed

19.7.2005

Post the O.A. along with M.P.123/05 on 2.8.2005.

20.6.05

W/S filed by the Respondents.

Member

Vice-Chairman

bb

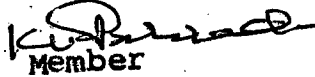
Order of the Tribunal

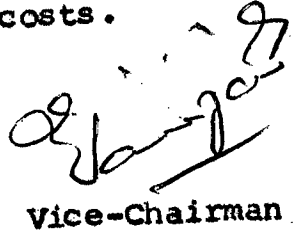
Office Notes

Date

2.8.04

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


Member


Vice-Chairman

pg

Received
Lisha Das -
Add chsc
8/8/05

8.8.05

c.c. of the Judgt has
been collected by the
L/Advocate for the appln
on 8.8.05

Jhs

CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH.

O.A. No. 342 of 2004

DATE OF DECISION: 02-08-2005.

Sri Awadhesh Kumar Singh

APPLICANT(S)

Mr. B.P.Borah

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Miss Usha Das, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivarajan

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 342 of 2004.

Date of Order: This the 2nd day of August, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Awadhesh Kumar Singh,
Sub Postmaster (HSG-II),
Mokakchung, Nagaland.

... Applicant

By Advocate Shri B.P.Borah

-Versus-

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Communication,
New Delhi.
2. The Director General,
Department of Posts,
New Delhi.
3. The Chief Postmaster General,
North East Circle, Shillong.
4. The Director of Postal Services,
Kohima, Nagaland.
5. Shri Susil Kumar Dey,
Sub Post Master,
Naginimora S.O.
6. Shri K. Letso, BCR
OA Divisional office, Kohima,
Nagaland.

... Respondents

By Miss Usha Das, Addl.C.G.S.C.

ORDER (ORAL)

SIVARAJAN J.(V.C)


The applicant is presently working as SPM, HSG-II, Mokakchung, Nagaland. His grievance is against the promotion given to respondents No. 5 and 6 on officiating basis to the post of SPM, HSG I who are admittedly juniors to the applicant as per the seniority list, Annexure-E. The applicant had made representations

[Signature]

dated 11.11.2004 and 3.1.2005 for giving him officiating promotion to the post of SPM HSG-I in the place of officiating promotion given to his juniors Shri S.K.Dey and K. Letso. The applicant has filed this O.A. with the allegation that the said representations have not been responded till date. The applicant has also filed M.P.123/2005 seeking for disposal of the representation dated 3.1.05 within a time frame and also for a direction to the 4th respondent to discontinue the officiating arrangement of any HSG post available in Nagaland Postal Division in terms of the order of this Tribunal dated 6.1.2005 in this case.

2. The respondents have filed their written statement. It is stated in the statement that the representation dated 3.1.2005 submitted by the applicant was disposed of by order dated 20.4.2005, Annexure-VII to the written statement. It is also stated in para 15 of the statement that the applicant was involved in irregular appointment of GDSTM while functioning as SPM, Mokakchung MDG and a disciplinary proceeding was pending against him for irregular appointment of GDSTM and that during the currency period of punishment the official could not be considered for officiating in a higher post. It is further stated that as a result Shri K.Letso who is BCR official has been posted as Postmaster, Kohima H.O. purely on temporary basis and the benefit of pay fixation in HSG-I grade has not been extended to him.

3. We have heard Mr B.P.Borah, learned counsel appearing for the applicant and Miss U.Das, learned Addl.C.G.S.C appearing for the respondents. The counsel for the applicant submitted that two of his juniors Shri S.K.Dey and Shri K.Letso were given officiating promotion to the post of SPM (HSG-I) ignoring the claim of the



applicant who is admittedly senior to the said two persons. Counsel further submitted that though representations were made to the respondents pointing out the above irregularity there was no response at all from the respondents. Counsel submits that a direction has to be issued to the respondents either to promote him to the post of SPM HSG-I or to direct them to dispose of the representations. Counsel submits that the order dated 20.4.2005, Annexure-VII to the written statement does not answer the case projected by the applicant in the representation. Miss U.Das, learned Addl.C.G.S.C submits that Annexure-A order by which an officiating posting was given to Shri S.K.Dey was modified as per order dated 15.12.2004, Annexure-B and Shri S.Boro admittedly senior to the applicant was posted in his place. She further submits that in view of the disciplinary action and the punishment awarded to the applicant the respondents could not promote the applicant to the post of SPM HSG-I and that only in the above circumstances Shri K.Letso who is junior to the applicant was put in charge of SPM HSG-I without monetary benefits.


4. We have considered the rival submissions. The matter relates to the promotion (Officiating) to the post of SPM, HSG-I. The applicant is admittedly senior to Shri S.K.Dey and Shri K.Letso. Instead of posting the applicant to the post of SPM, HSG-I in an officiating capacity Shri S.K.Dey and Shri K.Letso were posted in officiating capacity as SPM HSG-I. The respondents have stated that in the place of S.K.Dey Shri S.Boro, who is senior to the applicant was posted. The applicant, according to the respondents, could not be posted in an officiating capacity as SPM HSG-I since disciplinary action against him was initiated and punishment imposed. It is relevant in this context to note that the respondents have no such a


[Signature]

case in the order dated 20.4.2005, Annexure-VII passed on the representation filed by the applicant. In that order it is merely stated that Shri S. Boro has been posted as SPM Dimapur MDG who is senior to the applicant. In other words nothing is mentioned about the officiating posting given to Shri S.K.Dey and K.Letso. There is also no mention about the disciplinary proceeding and the punishment imposed on the applicant in the order dated 20.4.2005. New facts have been stated in the written statement. In these circumstances we are of the view that the respondents must be directed to consider the representations dated 11.11.2004 and 3.1.2005 filed by the applicant and referred to in the order dated 20.4.2005 afresh and in accordance with law. For the said purpose we set aside the order dated 20.4.2005 and direct the 3rd respondent to consider the matter afresh and to pass a reasoned order with reference to the matters stated in the representations dated 11.11.2004 and 3.1.2005 within a period of 3 months from the date of receipt of this order. The decision so taken will be communicated to the applicant without delay.

The application is disposed of as above. No order as to costs.

The applicant will produce the order before the concerned respondents for compliance.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.S.SIVARAJAN)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

मुद्रांक संख्या ३४२

ORIGINAL APPLICATION NO. 342/2004

Shri Awadhesh Kumar Singh---Applicant
Versus
Union of India & ors---Respondents

LISTS OF DATES AND SYNOPSIS:

- 30.10.2004 : Director of Postal Services, Dimapur, Kohima vide memo No. B-2/Staff/Re./Trf./2004-05 dated 30.10.2004 posted and transferred Shri S.K. Dey as officiating SPM (HSG-II), Dimapur
- 15.12.2004 : Transfer of promotion order dated 15.12.2004 under No. B-2/Staff/Trf./04-05 issued by the Director of Postal Services, Nagaland, Kohima whereby S. Boro (BCR) Off. Post Master, Kohima H.O. is transferred and posted as SPM, Dimapur, MDG vice Shri S.K. Dey who is retired as SPM, Naginimara.
- 28.10.99 : Chief Post Master General, NE Circle Shillong vide memo No. Staff/14-1/94 dated 28.10.99 conveyed the approval for promotion of the officials to the grade of HSG-II including the applicant
- 26.2.2002 : Chief Post Master General, NE Circle Shillong vide memo No. Staff/14-1/94/Pt. II dated 26.2.2002 conveyed the approval for promotion of the officials having completed 26 years of service to the grade of HSG-II under BCR scheme including the applicant
- 11.11.2004 : Representation filed by the applicant to the Chief Post Master General, NE Circle, Shillong
- 31.7.99 : Gradation list of the officials showing the seniority of the officials under HSG-II including the applicant
- 3.1.2005 : Appeal petition filed by the applicant before the Post Master General, North Eastern Circle, Shillong through proper channel praying for a stay of the order dated 30.1.2004 and for posting him at Dimapur.

Filed by

Dibyajoti Borah

Advocate

APPENDIX

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL
ACT, 1985

Title of the case: Original

Application No 342/2004

I N D E X

Sl. Nos.	Description of documents relied upon	Pages
1	Application	1 to
2	Verification	
3	Annexure-A (Order dated 30.10.2004)	
4	Annexure-B (Order dated 15.12.2004)	
5	Annexure-C (Order dated 28.10.1999)	
6	Annexure-D. (Representation dated 26.2.2002)	
7	Annexure-E (Copy of the representation dated 11.11.2004)	
8	Annexure-F (Copy of the Gradation list dated 31.7.99)	
9	Annexure-G (Copy of the reminder dated 3.1.2005)	

Awadhesh Kumar Singh

Signature of the applicant

For use in the Tribunal office:

Date of filing:

Or

Date of receipt by post:

Registration No.

Signature of Registrar:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI

O.A. NO. 342/2004

BETWEEN

Awadhesh Kumar Singh, Sub-
Postmaster(HSG-II), Mokokchung,
Nagaland

---Applicant

AND

1. The Union of India, represented by
the Secretary to the Government of
India, Ministry of Communication,
New Delhi.
2. The Director General, Department of
Posts, New Delhi.
3. The Chief Post Master General,
North East Circle, Shillong.
4. The Director of Postal
Services, Kohima, Nagaland.
5. Shri Susil Kumar Dey
Sub Post Master
Naginimora S.O.
6. Shri K. Letso, BCR
OA Divisional office, Kohima,
Nagaland

--- Respondents.

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Filed by the Applicant
through
Dilipjit Prasad
Advocate
1.3.05

Aksh

DETAILS OF APPLICATION:**1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This application is made against the transfer and posting order dated 30.10.2004 of Shri Susil Kumar Dey (HSG-II) working as Sub Post Master, Naginimora Sub post office is transferred and posted as officiating Sub Post Master (HSG-II), Dimapur in the vacancy created due to retirement of Shri K.C. Das on superannuation. By the aforesaid order, the applicant has been deprived of his legitimate promotion as Shri S.K. Dey has been transferred and posted against the promotional post of Sub Post Master at Dimapur which is a higher post carrying the status of HSG-I and the said order has deprived the applicant from his genuine legal and rightful claim of promotion causing undue harassment, humiliation and mental agony which affect adversely the health condition of the applicant.

The applicant further states that the DPS, Kohima, respondent No. 4, found that the irregular order of transfer and promotion of Shri S.K. Dey could not be materialized due to refusal of Shri Dey to accept the promotion. But the respondent No. 4 now made a fresh attempt to fill up the vacant post of HSG-I (Sub post master) at Dimapur by transferring Shri S.K. Boro, an office senior to the applicant at Dipampur by posting one shri K. Letso, the respondent No. 6, prospective respondent at Kohima who is more that 6 years junior to the applicant. The said order was issued on 15.12.2004 vide memo No. B-2/Staff/Re/Trans/2004-05.

Copies of the aforesaid order dated 30.10.2004 and 15.12.2004 are annexed herewith and marked as Annexure-A & B respectively.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION:

That the applicant declares that the applicant files this application under section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE:-

- 4.1 That the applicant is a citizen of India and a permanent resident of the state of Nagaland and he is serving in the Nagaland Postal Division.
- 4.2 That the applicant was appointed in the cadre of Postal Assistant in Nagaland Postal Division with effect from 23.3.73 and since then he is serving continuously in the same cadre without any blemish from any quarter and the applicant is continuously in the same cadre without any break or interruption during the service period of the applicant.
- 4.3 That the applicant states that after completion of 16 years of continuous and satisfactory service as time scale postal Assistant the applicant was promoted to the higher cadre of lower selection Grade Postal Assistant with effect from 23.3.89 under the time bound promotion scheme by the Director of Postal services, the respondent no.4 by his memo. dated 20.11.89. The applicant states that the pay scale of time scale postal Assistant Cadre was Rs. 975-25-1150-EB-30-1660 and the scale pay of promotional post was Rs.1440-40-1800-EB-50-2300 as on the date of promotion. The date of effect of the promotion was given on 23.3.89.
- 4.4 That the applicant further states that after completion of 26 years of his continuous and satisfactory service as Postal Assistant was promoted to the higher cadre in lower selection grade he was again promoted to higher cadre of Higher Selection Grade-II with effect

from 1.7.99 as per order issued by the Post Master General, Shillong vide his memo no. Staff/14.1.94-Shillong, dated 28.10.99 which was communicated by the Director of Postal Service Kohima vide his memo No. B-II/HSG, dated Kohima the 9.11.1999.

A copy of the aforesaid order dated 28.10.99 is annexed herewith and marked as annexure C.

- 4.5 That the applicant states that by virtue of the length of continuous and satisfactory service of the applicant he became the senior most in higher-selection Grade-II cadre than any other employee including Shri Senapti Boro, who was continuing against the higher section Grade-I at Kohima, HQ has become first eligible and entitled to vacant post of Higher Selection Grade-I at Dimapur which was fall vacant due to superannuation of Sri K.C. Das w.e.f. 30.10.2004.
- 4.6 That the applicant states that the Director of Postal Services, the R-4 herein who is the Head of the Postal Administration in Nagaland most illegally and arbitrarily before issuing the Posting Order against the promotional HSG-I post of Dimapur MDG in a extreme bias and vindictive manner issued most irregular posting order in favour of Sri Sushil Kr. Dey the R-5 herein promoted into HSG-II cadre w.e.f. 1.7.2002 vide order no.stff/14-1/94/pt-II Shillong dated 26.2.2002 by the Chief Post Master General, Shillong the respondent no.3 herein. From the said order itself it is apparent that Sri Sushil Kr. Dey is junior to the applicant by 3 years.
- 4.7 That the applicant states that the pay scale of HSG-I is Rs.6,500/- to Rs.10,500/- with increment of Rs.500/- ^{monthly} per year whereas HSG-II post carries a pay scale of Rs.5,000/- to Rs.8,000/- with annual increment of Rs.1,500/-. Thereafter, the aforesaid posting Order issued by the Respondent No.4 to a junior person depriving the legal and rightful claim of the senior most official herein, has not only created humiliation and mental agony of the applicant but also the said order

has the effect of ruining the service carrier of the applicant in as much as the applicant has been deprived of getting a high scale of pay. Under the circumstances the aforesaid order issued by the DPS Kohima, the R-4 herein violative of Departmental rules and also violative of principle of natural justice and this same order is therefore unsustainable in law.

4.8 That the applicant states that the Respondent No.4 the DPS has been so unkind to the applicant in view of the fact that before issuing the irregular and unjust order promoting a junior to the applicant also pass some very objectionable and unjust and unfair remark with regard to the applicant by saying that so long he will continue as DPS of Nagaland he will not provide any opportunity to the applicant to work in a higher post which is fallen vacant due to superannuation of Sri K. C. Das. The said fact apparently reflects the malafide, attitude the R-4, the DPS and the applicant cannot deserve any justice from the DPS who has determined to ruined to service carrier of the applicant

4.9 That the applicant states that after completion of 26 years of continuous and satisfactory service, he was again promoted to higher cadre of higher selection Grade-II w.e.f. 1.7.1999 vide Chief Post Master General, Shillong, memo no. Staff/14-1-94, dated 28.10.1999 and communicated by the director of Postal Services, Kohima vide memo no. B-II/HSG, dated Kohima the 9.11.1999. Therefore the applicant state that he, by virtue of length of continuous service and also becoming next senior most of higher grade-II cadre than Sri Senapati Boro, who is already continuing again promotional post of higher selection grade-I at Kohima HQs, has become first illegible and entitle official to occupy the vacant post of higher selection Grade-I at Dimapur MDG created due to superannuation Sri K.C. Das w.e.f. 30.10.2004. In this connection the applicant state that there are 2 post of higher selection grade-one at Dimapur and Shri Senapati Boro has been eligible for one post. The applicant further states that

in the other post the applicant may be accommodated as he is the senior most person entitled for the post next to Senapali Boro.

A copy of the aforesaid memo of Chief Post Master General, Shillong vide No. Staff/14-1/94/Pt.-II dated Shillong the 26.2.2002 is annexed hereto and marked as Annexure-D.

4.10

That the applicant states that the applicant filed a representation dated 5.1.2004 before the Director of Postal Services, Nagaland, Kohima, respondent No. 4, on the subject of 'Discriminative, irregular and unjustful order of transfer from Mokokchung to Tuensang sub office and also consideration and modification of the order dated 30.11.2004, stating, inter alia, that the applicant is a diabetic patient and also high blood sugar and required to remain under constant medical check up and treatment. In the said representation, it has also been mentioned that amongst the senior most HSG in Nagaland division, position of the applicant stands at serial No. 3 and the official at serial No. 2 is going to retire on superannuation in Nov., 2004. Therefore, as regards the official at serial No. 2 is officiating against HSG-I post at Kohima Head post office, since the official at serial No. 1 namely Shri K.C. Das will retire (since retired), the vacancy may be filled up full-fledgedly at Dimapur. In the said representation, the application also stated that he has already furnished the option against the vacancy and willingness to serve at Dimapur which will be beneficial to his health conditions and since he has already served the hilly station for several years. The applicant has also pointed out in the said representation that the post of DSPM at Dimapur is manned by a junior staff, who is not confirmed in HSG post and such irregular arrangement persists for long time. Therefore, it has been requested that, considering the health condition of the applicant, he may be posted at Dimapur where medical facilities are available.

In this connection, the applicant also pointed out that he has completed 3 (three) full tenures at hilly stations at

Mokokchung and Kohima and again his transfer to remote hilly area like Tuensang where even no HSG-II post is available, is not only irregular and unjust but also against the general principle and natural justice. Therefore, since the applicant has only few years left for retirement, he may be given opportunity to work at Dimapur which is the plain area and where medical facilities are available.

Under the circumstances, the applicant requested the authority to reconsider the transfer order until a final decision is taken.

4.11-

That the applicant states that since the earlier application was not disposed of by the Director of Postal Services, Nagaland, Kohima, the applicant on 11.11.2004 again submitted an application to the Chief Post Master general, NE Circle, Shillong through Director of Postal Services, Nagaland, Kohima, wherein it has been pointed that the continuous motivated attacks by Director of Postal Service, Nagaland Kohima to damage the service career and life of the applicant and to create undue humiliation, harassment before general and subordinate staff by ordering Shri Sushil Kumar Dey, a junior official, to higher promotional post of HSG-I by depriving the applicant from legitimate right for the aforesaid post being the senior most HSG-I official in Nagaland Postal division and accordingly prayed for due intervention by taking exemplary action against such arbitrary, prejudicial, biased and most irregular action to post junior staff against promotional post to higher selection grade-I depriving the genuine and rightful claim of the senior most and HSG-II official like the applicant. The aforesaid representation/appeal was filed with reference to Director of Postal Services, Nagaland, Kohima memo No. B-2/Staff/R. Trf/2004 dated Kohima the 30.10.2004. In the said representation/appeal, the applicant inter alia, stated that the

irregular order contained in the memo dated 30.10.2004 issued by Director of Postal Service, Nagaland, Kohima whereby one Shri Sushil Kumar Dey has been ordered against the promotional post of sub-Postmaster, Dimapur which carry the status of HSG-I by depriving the genuine, legal and rightful claim of the applicant. In this connection, the applicant also prays for immediate intervention to set aside the unjust, irregular and biased action of the Director of Postal Services, Nagaland which has seriously damaged the service career and life of the applicant and has further created undue harassment, humiliation, mental agony and has adversely affected on health condition.

In the said representation, the applicant also stated inter alia, the facts as to how he has served the Postal department from 23.3.73 as postal assistant in Nagaland Postal department and thereafter on completion of 16 years of continuous and satisfactory service he was promoted to the higher cadre in lower selection grade from 23.3.89 under TBOP scheme by the Chief Post Master General, Shillong and conveyed vide Director of Postal Services, Nagaland memo NO. B-2/staff/One promotion II dated 20.11.89 which was given effect from 23.3.89. In the said representation, the applicant also stated that after completion of 26 years of continuous and satisfactory service he was again promoted to higher cadre of Higher Selection grade-II w.e.f. 1.7.99 vide Chief Post Master General Shillong memo No. Staff/14.1.94 dated the 28.10.99 and communicated by Director of Postal Services, Nagaland which was annexed in the said appeal as Annexure-3.

In the said representation, the applicant mentioned inter alia, that before issuing the posting order against the promotional HSG-I post at Dimapur MDG, the Director of Postal Services, Dimapur, who is not only the head of Postal administration of Nagaland, but also a guardian of all Sub-ordinate staff working

under him, became biased, prejudiced, vindictive and has issued most irregular posting order in favour of Shri Sushil Kumar Dey who was promoted to HSG-II cadre w.e.f. 1.7.2002 vide Chief Post Master General memo No. Staff/14-1/94/Pl. II dated Shillong the 26.2.2002. Therefore, the above person namely Shri Sushil Kumar Dey is junior to the applicant by 3 years. The applicant also mentioned in the said appeal the irregularities committed by the Director of Postal Services, Nagaland whereby the applicant was deprived of his genuine claim in as much as a far junior staff was continuing against HSG-II post at Dimapur and by overlooking the above serious errors and irregularities the transfer of the applicant to a remote area and in Lower selection grade office was the case of gross violation of departmental rules and general principles of transfer. On the other hand, the Director of Postal Services, Nagaland intentionally and purposefully in order to meet his personal grudge ignored the entire episode and forced the applicant to joint at Tuensang where even doctors are not available for regular check up of the applicant who is a chronic diabetic patient. Therefore, the applicant prayed for intervention into the matter immediately and to take suitable action which is deemed proper so that the inhuman, unsocial and undemocratic pattern of action of the Director of Postal Services, Nagaland get an immediate halt and the applicant is immediately posted at Dimapur MDG, as entitled under the law.

A copy of the aforesaid representation/appeal dated 11.11.2004 is annexed hereto and marked as Annexure-E.

The enclosures of this application dated 12.11.2004 have already been annexed herewith and therefore the said enclosures are not enclosed with the aforesaid appeal dated 11.11.2004.

4.12 That the applicant states that since the aforesaid representation dated 5.1.2004 was duly received by the Director of Postal Services, Nagaland but no communication has been made, the applicant has submitted his representation/appeal dated 11.11.2004 to the Chief Post Master General, NE Circle, Shillong. However, the same has not yet been disposed of and accordingly being highly aggrieved by the actions of the aforesaid authorities, and having no other alternative remedy left, the applicant approached this Hon'ble Tribunal to redress the grievances by filing this application

4.13 That the applicant states that from the gradation list dated 31.7.99 in the scale of pay Rs. 4500/- 175 - 7000/- showing the seniority of the applicant and the respondent No. 5, as available in the official record, it has been reflected that the applicant is senior to the respondent No. 5. It is apparent from the said seniority list, that the applicant has entered into the service on 23.3.73 where as the respondent No. 5 has entered into the service on 13.6.76. Therefore the applicant is senior by 3 years to the respondent No. 5 and as such the applicant is entitled to get promotion earlier than that of the respondent No. 5 and that being not done in the instant case, the respondents have committed gross error of law which is not sustainable under the facts and circumstances of the case.

A copy of the aforesaid gradation list dated 31.7.99 is annexed hereto and marked as Annexure-F.

4.14 That the applicant states that from the gradation list, Annexure-F to this application, it is evident and apparent that Shri K. Letso, whose position is against serial No. 8 of the list entered into service on 8.9.79 whereas the applicant entered into service on 23.3.73. Therefore, Shri Letso is junior to the applicant by more

than 6 years and the respondent No. 4, the DPS, Kohima, in an arbitrary manner, made the aforesaid transfer order only to harass the applicant

- 4.15 That the applicant already submitted a reminder to the appeal dated 11.11.2004 on 3.1.2005 before the Post Master General, North Eastern Circle, Shillong through proper channel i.e. through the DPS, Kohima, stating inter-alia that only for the purpose of defeating the claim of the applicant the said respondent took step to transfer Shri S. Boro, Post Master, Kohima who is already officiating as HSG-I at Kohima and intentionally and purposefully to fill up the resultant post of Post Master of Kohima by promoting Shri K. Letso, P.A., Divisional Office, who is about 6 years junior to the applicant, by ignoring the seniority also eligibility of the applicant for the aforesaid post. In the said representation, the applicant prays for stay of the irregular order dated 15.12.2004 and also prayed for posting the applicant at Kohima as Post Master.

A Photocopy of the aforesaid reminder dated 3.1.2005 are annexed herewith and marked as Annexure-G.

- 4.16 That this application has filed bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

- 5.1 That the applicant respectfully submits that the respondents have committed gross violation of law, as apparent on the face of the record, in passing the impugned order dated 30.10.2004 issued by the Director of Postal Services, Nagaland, Kohima by transferring and posting Shri Sushil Kumar Dey, respondent No. 5 herein, as officiating SPM (HSG-I), Dimapur in the vacancy created due to superannuation of shri K.C. Das in as much as

the said Shri Sushil Kuamr Dey is 3 ydears junior to that of the applicant and therefore the said order of promotion is liable to be set aside and quashed.

- 5.2 That the applicant submits respectfully that the post of HSG-I at Dimapur was fell vacant due to superannuation of Shri K.C. Das and the applicant being the senior most person in the said post, he ought to have been given promotion to that post instead of promoting Shri Sushil Kumar Dey who is 3 years junior to the applicant and therefore the impugned order dated 30.10.2004 is liable to be set aside and quashed.
- 5.3 That the applicant submits respectfully that he joined in the Nagaland Postal division in 1973 and, by now, he has completed 32 years of continuous service and during that long period of service he has been posted in hilly areas and accordingly he ought to have been posted at Dimapur by promoting to the post fallen vacant on retirement of Shri K.C. Das considering the seniority of the applicant instead of posting Shri Sushil Kumar Dey, who is junior to the applicant by 3 years in the said post and thereby committed grave error of law in passing the impugned order dated 30.10.2004 and as such the said order is liable to be set aside and quashed.
- 5.4 That the applicant respectfully submits that the impugned order has violated the right of the applicant guaranteed by fundamental rights under Article 16 of the Constitution of India which has granted constitutional right of equality of opportunity including promotion and therefore the impugned order dated 30.10.2004 is liable to be set aside and quashed.
- 5.5 That the applicant respectfully submits that he has already served the Postal department for 32 years and is also senior to the respondent No. 5 by 3 years and considering this aspect of

the matter, the authority namely the respondent No. 4, Director of Postal Services, Nagaland, ought to have promoted the applicant to the next higher post of HSG-I and instead of promoting Shri Sushil Kumar Dey, respondent No. 5, and that being not done in the instant case, the impugned order is liable to be set aside and quashed.

5.6

That the applicant respectfully submits that he being on the verge of retirement having only 3 years of service left, he ought to have been considered by the authorities for promotion which is due to him after the retirement of Shri K.C. Das and for which the applicant has already submitted several representations before the concerned authorities prior to retirement of Shri K.C. Das and, considering this aspect of the matter, the authority namely the Director of Postal Services, Nagaland ought to have promoted the applicant to the said post instead of promoting Shri Sushil Kumar Dey who is 3 years junior to the applicant and that being not done in the instant case, the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.7

That the applicant respectfully submits that he has been discriminated in gross violation of Article 14 of the Constitution of India and also he has been deprived of his genuine and rightful claim of promotion. Therefore, the applicant further respectfully submits that the respondent No. 4, namely the Director of Postal Services, Nagaland, most arbitrarily and in violation of provisions of the Constitution of India as well as principles of natural justice, has promoted the respondent No. 5, namely Shri Sushil Kumar Dey, who is junior to the applicant and accordingly the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.8

That the applicant submits respectfully that inspite of his bad health, he has been continuously serving the department with full satisfaction of all concerned and he is deserved to serve in plain

area as he has already served in the hilly stations for last several years inspite of his bad health and therefore he ought to have been promoted to the post of HSG-I at Dimapur instead of promoting the respondent No. 5 and without considering the case of the applicant, the respondent No. 4 has passed the impugned order which is liable to be set aside and quashed.

5.9 That the applicant respectfully submits that the applicant has filed several representations before the concerned authorities but without considering the said representations or attending the same, the respondent No. 4 has passed the impugned order most mechanically and arbitrarily without proper application of mind and without giving any hearing to the applicant in gross violation of principle of natural justice and as such, the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.10 That the applicant respectfully submits that the impugned order, having been passed in gross violation of principle of natural justice holding the field and so also the principle of natural justice, is not sustainable and therefore liable to be set aside and quashed.

5.11 That the applicant respectfully submits that in any view of the matter, the impugned order, either in law or facts, is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that there is no other alternative and efficacious remedy except by way of filing this application.

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

The applicant declares that the matter was not filed and no application before any Court of Tribunal has been filed and at present no application has been pending before any Tribunal or Court of law.

8. RELIEF SOUGHT FOR:

That in view of the aforesaid facts and circumstances details of which has been mentioned above in paragraphs 4 of the application as well as in the grounds above, the applicant prays for the following relief:

- (i) To set aside and quashed the impugned order dated 30.10.2004 passed by the respondent No. 4 (Annexure-A)
- (ii) To direct the respondent No. 4 to consider the case of the applicant for posting him at Dimapur, a plain district of Nagaland, as the applicant has already served in the hilly station for last several years and not to appoint the respondent.
- (iii) To direct the respondents that the applicant should be given seniority and pecuniary benefits from the date when his junior was officiating in the post of higher selection grade.
- (iv) Costs of the application, and
- (v) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.
- (vi) To set aside and quash the impugned order dated 15.12.2004 passed by the respondent No. 4 (Annexure-B)
- (vii) To direct the respondent No. 4 to consider the case of the applicant for posting him at Dimapur
- (viii) And not to appoint Shri S Boro at Dimapur

- (ix) To direct the respondents to give seniority and pecuniary benefits to the applicant from when his junior was officiating as HSG-I grade.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case, the applicant prays for the following interim relief (s):

- (i) To direct the respondents to consider the case of the applicant who is the senior person to the respondent in HSG-I for promotion and posting in the vacant post whenever available,
- (ii) Until any order by this Hon'ble tribunal, no one should be appointed in the vacant post whenever available, and
- (iii) Any other interim relief that may be deemed proper and adequate to the Hon'ble Tribunal so as to enable the applicant to get proper ad-interim relief.
- (iv) To direct the respondents to consider the case of the applicant who is senior to the respondent NO. 6 for posting on promotion in any vacant post including Dimapur by staying the order dated 15.12.2004.
- (v) Until any order passed by the Tribunal no one should be appointed in the vacant post, and the impugned order dated 15.12.2004 may be suspended.
- (vi) To dispose of the appeals filed by the applicant and also reminder dated 3.1.2005 (Annexure-G) to this application
- (vii) Any other interim relief that may be deemed proper and adequate to the Tribunal so that the applicant get proper ad-interim relief.

10. PARTICULARS OF THE IPO:

- (i) I.P.O. No. : 20G 117139
- (ii) Date : 21.12.2004

28

17

(i) I.P.O. No. : 20G 117139
(ii) Date : 21.12.2004
(iii) Payable at : Guwahati.

11. LIST OF ENCLOSURES:

As stated in the INDEX.

—Verification

VERIFICATION

I, Shri A.K. Singh, son of Late Joy Mangal Singh, presently working as Sub Post Master (HSG-II), Mokokchung, Nagaland, aged about 54 years, do hereby verify that the contents of paragraphs 4.1, 4.2, 4.8, 4.10, 4.11 (partly), 4.12 and 4.16 are true to my knowledge, those made in paragraphs 1, 4.3, 4.4, 4.5, 4.6, 4.7, 4.11 (partly) and 4.13, 4.15 being matters of record are true to my information derived therefrom and the rest are my humble submissions made before this Hon'ble Tribunal that I have not suppressed any material fact.

Awadhesh Kumar Singh.

Signature of the applicant

Date: 28. 2. 05.

- 29 -

ANNEXURE - D A

ANNEXURE:-

A

30

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797001

Memo No.B-2/Staff/R.Tr/2004.

Dated at Kohima the 30.10.2004

Consequent upon retirement of Shri K.C.Das officiating SPM (HSG-I) Dimapur MDG. on Superannuation, the following transfer and posting order is issued, in the interest of service having immediate effect.

- ✓ 1. Shri Sushil Kumar Dey, approved (HSG-II) presently working as SPM Naginimora SO is transferred and posted as officiating SPM, (HSG-I) Dimapur MDG., vice vacancy created due to retirement of Shri K.C.Das on Superannuation. ✓
2. Shri K.D.Jha, OMg C.I. Divisional office, Kohima is transferred and posted as Dy. Postmaster, Kohima HPO.
3. Shri K Zatsovi, officiating Dy. Postmaster, Kohima HO will work as PA, Kohima HO.
4. Shri C.Lembemo Lotha, PA, Dimapur MDG is hereby transferred and posted as SPM, Naginimora SO vice Shri Sushil Kumar Dey, transferred.

The officials at sl. no. 2&4 will move first and join on their new place of posting within a week's time i.e. 8.11.2004. No change in the place of posting will be entertained.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797 001

Copy to:-

1. The Postmaster, Kohima HO for information. He will ensure that no pay and allowances is drawn in favour of officials who fail to join on their new place of posting by stipulated date i.e. 08-11-2004.
- 2-6) The official concerned.
7. The SPM, Dimapur MDG for information. He will receive the official within stipulated date.
- 8) The SPM, Naginimora SO for information.
- 9-10) Office copy.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797 001

*Certified to be true copy
Admstr.*

-8- -20- 31

Annexure - B

DEPARTMENT OF POSTS: INDIA

OFFICE OF THE DIRECTOR OF POSTAL SERVICES

NAGALAND: KOHIMA-797001

No. B-2/Staff/R.Tt/2004-05

Dated at Kohima the 15.12.2004

The following transfer and posting order is issued in the interest of service to take immediate effect.

1. Shri. S. Boro, (BCR) Offg. Postmaster, Kohima HO is hereby transferred and posted as SPM, Dimapur MDG vice Shri. S.K. Dey, who is retained as SPM Naganimora.
2. Shri. K. Letsö, (BCR), OA, Divisional Office, Kohima is hereby transferred and posted as Offg. Postmaster, Kohima HO vice Shri. S. Boro.
3. Smt. Zita Vinokono, PA, Kohima HO is hereby transferred and posted as OA, Divisional Office, Kohima.
4. Shri. T. Thakur, (TBOP) PA, Kohima HO is hereby transferred and posted as SPM Wokha SO vice Smt. R.S. Kithan transferred.
5. Smt. R.S. Kithan, (BCR), SPM Wokha SO is hereby transferred and posted as SPM Tsemnyu SO vice Shri. Mezatsü Angami transferred.
6. Shri. Mezatsü Angami, SPM, Tsemnyu SO is hereby transferred and posted as SPM Chiechama SO vice Shri. Theruovituo Angami transferred.
7. Shri. Theruovituo Angami, SPM Chiechama SO is hereby transferred and posted as SPM Medziphema SO vice Shri. Vitoi Sema transferred.
8. Shri. Vitoi Sema, SPM Medziphema SO is hereby transferred and posted as SPM Akuloto SO vice Shri. Dharmendra Kumar transferred.
9. Shri. Dharmendra Kumar, SPM, Akuloto SO is hereby transferred and posted as PA Dimapur MDG.
10. Smt. K.Z. Doll, Kohima HO is hereby transferred and posted as SPM N.S.C CO vice Shri. V. Angami transferred.
11. Shri. V. Angami (TBOP), SPM N.S.C SO is hereby transferred and posted as Offg. Dy. Postmaster, Kohima HO vice Shri. K.D. Jha transferred.

(Contd.)

*Certified to be true copy
attest, Adv.*

- Shri. K.D.Jha, (BCR), Dy. Postmaster, Kohima HO is hereby transferred and posted as Offg. Complaint Inspector, Divisional Office against vacant post.
3. Smt. Neibeilienuo Khezic, PA, Kohima HO is hereby transferred and posted as PM Kohima Village SO vice Shri. Selebei transferred.
4. Shri. Selebei, SPM Kohima Village SO is hereby transferred and posted as PA Iton MDG against the vacant post.
5. Smt. Amongla Jamir, PA Dimapur MDG is hereby transferred and posted as SPM Chantongia vice Shri. Subodh Kumar; transferred.
6. Shri. Subodh Kumar, SPM Chantongia SO is hereby transferred and posted as PA Dimapur MDG.
7. Smt. Kalpana Nath, PA, Kohima HO is hereby transferred and posted as SPM Nepaligaon SO vice Shri. D. Mandal transferred.
8. Shri. Mandal, SPM Nepaligaon, is hereby transferred and posted as Treasurer, Kohima HO against Shri. Beso Mao, who has completed treasurer tenure and remain as PA Kohima HO.
9. Shri. Kartick Lodh, SPM Chumukedima SO is hereby transferred and posted as SPM Meluri SO vice Shri. Vichutho transferred.
10. Shri. Vichutho, SPM, Meluri SO is hereby transferred and posted as SPM Chumukedima SO.
11. Smt. Neikuoü Angami, PA, Kohima HO is hereby transferred and posted as SPM K.PWD SO vice Shri. K.Solo transferred.
12. Shri. K.Solo, SPM KPWD SO is hereby transferred and posted as PA Kohima HO.
13. Shri. K.Joseph, PA, Dimapur MDG is hereby transferred and posted as PA Kohima HO.
14. Shri. L. Bendangwati, (CBOP) Offg. Dy.SPM Dimapur MDG is hereby transferred and posted as PA ARTC vice Shri. Gautam Jha transferred.
15. Shri. Gautam Jha, PA, ARTC SO is hereby transferred and posted as PA Dimapur MDG.
16. Kum. Elizabeth Yanthan, PA Dimapur MDG is hereby transferred and posted as PA ARTC SO against the vacant post.

(Contd.)

Shri. V. Singhson (TBOP), PA Dimapur MDG is hereby transferred and posted as
Kohima HO.

33-22-

Shri. Vikato Sema, PA Dimapur MDG is hereby transferred and posted as PA
Monsang MDG against the vacant post.

The Officials at Sl. No. 2, 3, 7, 10, 11, 12, 13, 21, 22, 23 & 25 will not be entitled for TA/DA as either they have been posted in the same station or transfer is at their request.

The Officials at Sl. No. 2, 3, 4, 10, 13, 15, 17, 21, 23, 24, 26, 27 & 28 shall have to move first latest by 31.12.2004.

S. S. 15/1404
(Rakesh Kumar)
Director Postal Services
Nagaland, Kohima-797001

Copy to:-

- 1.
- 2-29.
- 30.
- 31-32.

The Postmaster, Kohima HO for necessary action.
All concerned.
The ASPOs Kohima
The SD-IPOs Dimapur / Mokokechung

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE::SHILLONG-1.
888888888888

Memo No, Staff/14-1/94 Dated at Shillong, the 28 /10/99.

The approval of the DPS(HQ), O/O the CPMG, N.E. Circle, Shillong is hereby conveyed for promotion of the following officials to the grade of HSG-II under BCR scheme in the scale of Rs.5000-150-8000/=. They are allotted to their respective divisions. The promotion will be effective from the dates as mentioned against their name.

Aqartala Dn.

<u>Sl.No.</u>	<u>Name of the Official</u>		<u>Date of effect.</u>
1.	Shri Biswaroy Deb Barma,	ST	1-1-99
2.	Shri Ranjit Kr. Dutta,	OC	1-1-99
3.	Shri Sitendra Narayan Datta,	OC	1-1-99
4.	Shri Anil Kanti Sen,	OC	1-7-99
5.	Shri K.M. Choudhury,	OC	1-7-99
6.	Shri Arun Biswas,	OC	1-7-99
7.	Shri Bipin Deb Barma,	ST	1-7-99
8.	Shri Sanjay Roy,	OC	1-7-99

Meghalaya Dn.

1.	Smti T.D. Warjri,	ST	1-1-99
2.	Smti Uma Roy,	OC	1-7-99

Dharmanagar Dn.

1.	Shri Nani Gopal Saha	OC	1-7-99
2.	Shri Birendra Kr. Deb,	OC	1-7-99
3.	Shri Kirtiman Dewan,	ST	1-7-99
4.	Shri Jagadish Choudhury,	OC	1-7-99
5.	Shri Manojanjan Seal,	OC	1-7-99
6.	Smti Sukla Ghosh,	OC	1-7-99

Mizoram Dn.

1.	Shri H. Malsawna,	ST	1-1-2000
2.	Smti F. Laltiani,	ST	1-1-2000
3.	Shri K. Hrangzama,	ST	1-1-2000
4.	Shri K. Vanlalthanga,	ST	1-1-2000
5.	Shri F. Naitihinga,	ST	1-1-2000

*Certified to be true
Secretary, Ad.*

FIC

Manipur Dn.

- | | | | |
|----|---------------------------|----|----------|
| 1. | Shri Y. Birendra Singh, | OC | 1-1-99 |
| 2. | Smti N. Ibemabi Devi, | OC | 1-7-99 |
| 3. | Shri D.C. Brahma, | ST | 1-7-99 |
| 4. | Shri S. Bheigya Singh, | OC | 1-7-99 |
| 5. | Shri I. Joychandra Singh, | OC | 1-7-99 |
| 6. | Shri Tinkholet Vaiphei, | ST | 1-1-2000 |

Nagaland Dn.

- | | | | |
|----|------------------|----|--------|
| 1. | Shri S. Boro, | ST | 1-7-99 |
| 2. | Shri A.K. Singh, | OC | 1-7-99 |
| 3. | Smti R.S. Kithan | ST | 1-7-99 |

PSD/Silchar.

- | | | | |
|----|----------------------|----|--------|
| 1. | Shri Bidhan Ch. Loy, | OC | 1-7-99 |
|----|----------------------|----|--------|

Arunachal P.D. Dn.

- | | | | |
|----|-----------------------|----|--------|
| 1. | Shri B.K. Basumatary, | ST | 1-1-99 |
| 2. | Shri Nomal Ch. Boro, | ST | 1-1-99 |

- A. The officials against whom disciplinary action is pending should be reported to Circle Office before making offer of promotion.
- B. The officials may exercise option for choosing date of fixation of pay on promotion within one month of joining under the provision of F.R-22.
- C. The Divisional heads shall immediately issue posting order as per rules. The Divisional heads shall see that the fact of refusal to accept promotion is noted in service book and fact is reported to Circle Office.

(A.K. Das)
Asstt. Director (Staff)
For Chief Postmaster General,
N.E. Circle, Shillong.

Copy to:-

1. All D.P.S. in N.E. Circle.
2. The Sr. Supt. of P.O. Meghalaya Dn. Shillong
3. The Supt. of P.O. Darrang GPO/PSD/Silchar.
4. The Sr. Postmaster, Shillong-GPO.
5. All Postmaster in N.E. Circle.
6. The officials concerned.
7. Heads of the officials.
8. The A.D. (Staff), C.O. Shillong.
9. The D.A. (P), Calcutta.
10. Space.

For Chief Postmaster General,
N.E. Circle, Shillong.

.....

25
36

~~ANNEXURE~~
DEPARTMENT OF POSTS: INDIA
OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE:
SHILLONG-793 001.

ANNEXURE: D E

Staff/14-1/94/Pt-II

Dated at Shillong, the 26th Feb' 2002.

The approval of the DPS(HQ) O/O the C.P.M.G., N. E. Circle, Shillong is hereby conveyed for promotion of the following official who have completed 26 years of service in PA cadre to the grade of HSG-II under BCR Scheme in the scale of Rs.5000-150-8000/-. They are allotted to their respective Division. The promotion will be effective from the dates as mentioned against their names:-

Sl. No.	Name of the official	Division	Community	D.O.B.	D.O.E. in PA Cadre.	Due Date of effect of BCR Promotion.
1.	2.	3.	4.	5.	6.	7.
1.	Sri N. I. Singh,	Manipur Division.	OC	1-3-48	2-2-74	1-7-2000
2.	Sri Shyamal Nath,	Arunachal Pradesh Dn.	OC	1-5-55	21-1-75	1-7-2001
3.	Sri Dalim Singh,	Manipur Dn.	OC	1-8-54	15-3-75	1-7-2001
4.	Smt. Jharna Deb,	Arunachal Pradesh Dn.	OC	6-1-50	2-4-75	1-7-2001
5.	Smt. Tapati Choudhury,	Meghalaya Dn.	OC	1-6-49	16-4-75	1-7-2001
6.	Sri K. C. Deb Barma,	Manipur Dn.	ST	23-7-46	21-4-75	1-7-2001
7.	Sri G. Gopal Sharma,	-do-	OC	1-3-50	1-6-75	1-7-2001
8.	Sri Narayan Ch. Deb.	Tripura Dn.	OC	1-6-48	2-7-75	1-1-2002
9.	Sri Arun Ch. Kar,	-do-	OC	7-3-45	2-7-75	1-1-2002
10.	Smt. Rosalind Nongrum,	Meghalaya Dn.	ST	15-12-47	3-7-75	1-1-2002
11.	Sri Janardan Deb Nath,	Tripura Dn.	OC	1-1-49	7-7-75	1-1-2002
12.	Sri L. Rajendra Singh,	Manipur Dn.	OC	1-7-43	14-7-75	1-1-2002
13.	Sri Glandsing Wahlang,	Meghalaya Dn.	ST	1-4-45	27-9-75	1-1-2002
14.	Sri H. Rangthuam,	Mizoram Dn.	ST	1-3-54	21-1-76	1-7-2002
15.	Sri S. K. Dey,	Nagaland Dn.	OC	1-3-46	24-2-76	1-7-2002
16.	Sri Jitendra Mazumdar, Kr.	Tripura Dn.	OC	15-10-45	20-3-76	1-7-2002
17.	Sri Bihar Ch. Deb,	Tripura Dn.	OC	19-6-44	20-3-76	1-7-2002
18.	Sri Atul Ch. Deb Nath,	-do-	OC	31-12-48	25-3-76	1-7-2002
19.	Sri Kallpada Kar,	-do-	OC	1-4-46	18-5-76	1-7-2002
20.	Sri Linus Shylla,	Meghalaya Dn.	ST	23-9-50	28-5-76	1-7-2002
21.	Sri Sawbor Ngap,	-do-	ST	27-3-57	1-6-76	1-7-2002
22.	Sri Raj Chandra Deb Barma,	Tripura Dn.	ST	31-3-44	4-6-76	1-7-2002
23.	Smt. Gitanjali Deb Barma,	-do-	ST	6-3-56	7-6-76	1-7-2002
24.	Sri K. D. Jha,	Nagaland Dn.	OC	19-10-55	13-6-76	1-7-2002
25.	Smt. Lakshmi Das,	-do-	OC	16-3-56	16-6-76	1-7-2002

Certified to be true copy
Adm. Adm.

- A. If any disciplinary action/punishment is pending/current against official it should be reported to C.O, before making offer of promotion.
- B. The official may exercise option for choosing date of fixation of pay on promotion within one month of joining under the provision of FR-22.
- C. The Divisional Head shall immediately issue posting order as per rules. The Divisional Heads shall see that the fact of refusal to accept promotion is noted in Service Book and fact is reported to C.O.
- D. If in later stage it is found that any of the official was not eligible for the promotion he/she will be reverted immediately.

(Signature)
 (Niranjana Das)
 Asstt. Director (Staff)
 For Chief Postmaster General,
 N. E. Circle, Shillong.

Copy to:-

1. All DPS, in N. E. Circle. *Kohima*
2. The Sr. Supdt. of P.Os, Shillong.
3. The Supdt. of P.Os, Dharmanagar/PSD, Silchar.
4. The Sr. Postmaster, Shillong-GPO.
5. All Postmasters, in N. E. Circle.
6. The Officials Concerned.
7. P/Fs of the officials.
8. The Dy. D.A.(P), Shillong.
9. Office Copy.

(Signature)
 For Chief Postmaster General,
 N. E. Circle, Shillong.

(Signature)
 5/3/02

(Signature)
 on 5/3/02

To,

The Chief Postmaster General
N.E. Circle, Shillong- 793001.

(A)

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ANNEXURE:-

D E

Through the D.P.S.

Nagaland Kohima- 797001.

Sub: (I) In the matter of continuous motivated personal attacks by (Shri. Rakash Kumar) D.P.S. Nagaland division Kohima to damage the service carrier and life of the applicant and to create un-due humiliation, harassment before general and subordinate staffs by ordering Shri, Sushil Kumar Dey a Junior Official to higher promotional post of HSG-I by depriving me from legitimate right for the aforesaid post being the senior most HSG-II official in Nagaland Postal division.

AND

(II) In the matter of humble appeal (Prayer) for immediate intervention and to take exemplary action against such acrimonious, prejudice, biased and most irregular action to post junior staff against promotional post to higher selection grade-I depriving the genuine and rightful claim of the senior most and HSG-II official like the applicant.

AND

(III) In the matter of humble request to take the further appropriate action which is deemed proper under the law of the land and the rule of the department to diminish the malicious attitude of bringing personal vengeance by misusing official administrative power against the sub-ordinate staff (Like the applicant) etc.

Ref :- D.P.S. Kohima memo no B-2/ Staff/ R.Trf/ 2004 dtd at Kohima the 30-10-2004.

Respected Sir,

The Present application is made against the most irregular order containing memo no B-2/ Staff/ R.Trf/ 2004 dtd at Kohima the 30-10-2004 issued by Shri Rakesh Kumar Director of postal service Kohima. In the aforesaid order one Shri Sushil Kumar Dey has been ordered against the promotional post of Sub-Postmaster Dimapur which carry the status of HSG-I by depriving the genuine, legal and rightful claim of the applicant. In this connection the applicant most humbly and respectfully beg to mention the following facts before your honour for immediate intervention to diminish the unjustful, irregular and biased action of the director Postal Service Nagaland Kohima which has seriously damage the service career and life of the applicant and has further created undue harassment, humiliation, mental agony and has adversely effected on health condition.

A copy of the aforesaid order dated 30-10-2004 is annexed here with and marked as Annexure - (1).

(2) That Sir, the applicant was appointed in the cadre of postal assistant in Nagaland postal division w.e.f 23-03-1973 and since then he is continuously serving in the cadre without any interruption and break in service. There is also no blamish against the applicant during his service period.

Certified to be true copy
20/11/2004, Adv.

(3) That Sir, the applicant after completion of 16 years continuous and satisfactory service as time scale postal assistant was promoted to the higher cadre in lower selection grade from 23-03-1989 under the TBOP Sheme by the Chief Postmaster General Shillong and conveyed vide DPS Nagaland vide memo no. B-2/ Staff/ One Promotion II dated 20-11-1989. The date of effect of promotion was given from 23-03-1989.

A copy of aforesaid order dated 20-11-1989 is annexed herewith and marked as annexure - (2)

(4) That sir, the applicant further beg to state that after completion of 26 years of continuous and satisfactory service he was again promoted to higher cadre of Higher Selection Grade - II wef 01-07-1999 vide Chief Post Master General shillong memo no Staff/ 14-1-94 dated at Shillong the 28-10-1999 and communicated by DPS Kohima in memo no. B-II/ HSG dated Kohima the 09-11-1999.

A copy of aforesaid order is annexed herewith and marked as annexure - (3)

(5) That sir, the applicant by virtue of the length of his continuous service and also becoming next senior most in Higher section Grade -II cadre than Shri Senapati Boro who is already continuing against the promotional post of Higher Selection Grade- I at Kohima HQ has become first eligible and entitled official to occupy the vacant post of Higher Selection Grade -I at Dimapur MDG created due to superannuation of Shri K C Das wef 30-10-2004.

(6) That Sir, It is most unfortunate and un-warranted state of affairs to mention that before issuing the posting order against the promotional HSG- I post at Dimapur MDG, the DPS (Shri Rakesh Kumar) Who is not only the head of postal administration of Nagaland but also a guardian of all Sub-ordinate Staffs working under him became extreme biased, prejudiced, vindictive and has issued most irregular posting order in favour of Sushil Kumar Dey who was promoted to HSG-II cadre wef 01-07-2002 vide Chief Postmaster General Shillong memo no. Staff/ 14-1/94/pt-II dated at Shillong the 26-02-2002. Thus the above Shri Sushil Kumar Dey is Junior to the applicant by 3 years.

A Copy of the aforesaid memo of Chief Postmaster General Shillong bearing memo no. Staff/ 14-1/94/pt-II dated at Shillong the 26-02-2002 is annexed herewith and marked as Annexure - (4).

(7) That Sir, the applicant further beg to state that the pay scale of HSG-I carries Rs. 6500/- to 10,500/- with increment of Rs.200/- per month whereas HSG-II post carries the pay scale of Rs. 5000/- to 8000/- with increment of Rs.150/- P.m. Hence, the aforesaid posting order issued by DPS Kohima to a junior and illegible official depriving the legal and rightful claim of the senior most official (the applicant) has not only created humiliation, mental agony, serious effect on health condition but also has damage his life and service career depriving of getting higher scale of pay. Hence, the aforesaid action of DPS Kohima is totally violative of departmental rules and principle of natural justice which is very much questionable and liable to be scratch out in straight way.

(8) That sir, the applicant further beg to mention with very heavy heart that before issue of the above irregular and unjustful order, the DPS in his personal capacity passed very objectionable and un-parliamentary remark before sub-ordinate staffs that "So—— long he will continue as DPS of Nagaland he will not provide any opportunity to the applicant to work against the higher post which has fallen vacant due to superannuation of Shri. K.C Das". Perhaps such vulnerable and malicious remark of a head of postal family like DPS is very much condemnable.

his also reflects ——— seriously on pre-occupied motivation and clear case of taking personal vengeance for personal cause.

(9) That Sir, the applicant further begs to mention that the cause for cultivating of grudges and formation of indifferent evil harassing cropped of in part of DPS Kohima is not at all related either due to conduct, general behaviour, discipline official work and decorum in part of the applicant but purely due to misunderstanding in the part of the DPS who visited Mokokchung M.D.G. on 24-09-2003 at night by above 1830 pm when the applicant was the incharge of that office. By the time the DPS reached Mokokchung, the market was almost closed and the undersigned could not manage certain commodity desired by him due to non-availability at late hour of night. Unfortunately the DPS without realizing the reality and compelling circumstances marked my failure as intentional and since then he has been harassing by misusing his official administrative power without bothering a little about departmental rules, procedures and law of the land. Immediately after he visited to Mokokchung he created tremendous inconveniences by reducing the clerkial staff strength and GDSM post of the office when the applicant was working as SPM (HSG-II) at Mokokchung MDG. While imposing such motivated biased problem he was very much in know that the applicant is a chronic patient of diabetes and hypertension. Any mental suppression and depression was a cause of aggravation leading to danger of health condition and life. My repeated requests both telephonically and by official references could not yield any result.

(10) That sir, the applicant further beg to mention with un-pleasant mind that when the applicant was facing such un-warranted problems and crisis he was further put to harassment, was transferred to a remote place like Tuensang which is a Lower Selection Grade S.O and where no proper facilities available for treatment of a chronic diabetic patient. At the time of transfer the applicant submitted representation at first to DPS Kohima by endorsing copy to Postmaster General Shillong on 05-01-2004 and humble reminder on 29-01-2004. subsequently the applicant submitted application/ appeal to the Postmaster General Shillong and other higher authorities for immediate intervention on 03-02-2004 as because the posting of a senior most HSG-II official to a LSG.S.O in a remote area was not at all justful and regular. While issuing such irregular transfer order the DPS was very well in known that a far junior staff was continuing against HSG-II post at Dimapur and by overlooking the above serious errors and irregularities the transfer of the applicant to a remote area and in LSG office was the case of a naked violation of departmental rules and general principle of transfer but unfortunately the DPS intentionally and purposefully in order to meet his personal grudge ignored the entire episode and forced the applicant to join at Tuensang. The non-availability of experienced doctors, required medicines and lack of facility of clinic for pathological checks, the health condition of the applicant has far deteriorated and reached to worsen condition. New symptoms like violent palpitation of heart, cardiological unrest and joint pain have aggravated damaging the whole health condition.

The Copies of application/ remainder/ appeal dated 05-01-2004, 29-01-2004 and 03-02-2004 are enclosed marked annexure- (5), (6) and (7).

That sir, the applicant has thus become worst sufferer in the hands of the DPS Kohima. Besides the deprivation of legitimate and entitled claims, the life and service career has been intentionally and purposefully damaged by misusing the official administrative powers. Finding no alternate the applicant has now decided to take appropriate protection from the competent court for compensating the irreparable damage / loss caused to him.

- (12) Therefore, the applicant prays that your honour would kindly intervene into the matter immediately and to take suitable action which is deemed proper so that inhuman, un-social and un-democratic pattern of action enforced by DPS Kohima get an immediate halt. And the applicant is immediately posted at Dimapur MDG against the vacant HSG-I post besides payment of due compensation under the law of the land for intentional damage of service career and causing serious effect on health condition.

With Kind regards

Yours faithfully

A. K. Singh

(A.K SINGH)

Sub Postmaster (HSG-II)
Tuensang MDG- 798612

Advance Copy to:- (1).Shri. Lalhuna Hon'ble Postmaster General N.E.Circle Shillong for favour of his kind information and early interference into the matter as prayed for to save the poor Sub-ordinate from the unjustful environment created by DPS. Kohima.

(2) Shri. A. Ghosh Dastidar, Hon'ble Chief Postmaster General N.E.Circle Shillong for favour of his kind information and immediate intervention into the matter as prayed for.

(A.K SINGH)

Sub Postmaster (HSG-II)
Tuensang MDG- 798612

GRADATION LIST OF LSG (SUPERVISOR) CORRECTED UPTO 31.07.99 SCALE OF PAY Rs. 4500-125-700
Sanctioned Strength - 9 + (1) LSG APM A/C

Sl. No.	Name of the Official	Community	Date of Birth	Date of Entry	Date of Subsequent entry	Designation	Remarks
1	Shri. S.Boro	ST	01.07.52	12.03.73	01.02.89	Dy. PM/Kohima HO	Approved LSG
2	Shri.A.K.Singh	OC	03.07.49	23.03.73	01.08.89	VSAT Supervisor	-do-
3	Smt.R.S.Kithan	ST	01.10.47	25.05.73	21.05.89	SPM, Wokha SO	-do-
4	Shri.T.K.Dey	OC	01.09.44	01.02.74	01.02.90	Dy.SPM/Dimapur SO	-do-
5	Shri.S.K.Dey	OC	19.03.46	24.02.76	24.02.92	SPM, Tuensang SO	-do-
6	Shri.K.D.Jha	OC	19.10.55	13.06.76	03.06.92	Offtg. CI & Acctt.	-do-
7	Smt.L.Das	OC	25.03.56	16.06.76	16.06.92	D.O, Kohima.	-do-
8	Shri.K.Letso	ST	02.04.59	08.09.79	08.03.94	ASPM, Dimapur	-do-
9	Shri. V. Angami	ST	01.04.59	14.04.80	15.04.96	SPM / Kohima Village SO	-do-
10	Vacant					APM I, Kohima HO	-do-
						Acctt. Kohima HO/Offtg.	Shri.T.Thakur, PA Kohima HO.

Sl. no (1) and (2)
Approved
HSG-11 (222) w.e.f
01-07-1999

Certified to be true copy
of the original, Adv.

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Annexure — G

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TO

The Post Master General

North Eastern Circle

Shillong-793001.

Through the Proper Channel (D.P.S. Kohima)

Sub:- In the matter of humble reminder to my appeal dated 11-11-2004

AND

In the matter of humble report against the fresh attempt to suppress the rightful legal claim of undersigned by engineering further plot with malicious, prejudiced and vindictive action to fill-up the vacant post of H.S.G-I (Higher Selection Grade-I) at Dimapur M.D.G. since 30-10-2004 by transferring Sri.S.Boro, Post Master, Kohima who is already officiating against H.S.G-I Post at Kohima.

AND

In the matter of committing further serious irregularities intentionally and purposefully to fill-up the resultant post of Post Master, Kohima by promoting Sri K.Letso P.A.Divisional Office who is junior to me by 6 years and 6 months ignoring my seniority, eligibility against the aforesaid post.

AND

In the matter of humble appeal to take immediate necessary action to stay the operation of impugned orders vide-

- i) Memo No.B-2/Staff/TRF/2004 dated 30-10-2004 and
- ii) Memo No.B-2/Staff/TRF/2004 dated 15-12-2004

And to issue necessary direction/order to D.P.S Kohima to stop mis-use of official power in administrative matters and also to issue further direction to rectify the above irregular orders as your honour deem proper so that undersigned's claim is protected for getting the above promoted post.

Respected Sir,

The present humble reminder is made in respect of my previous appeal dated 11-11-2004 made against the malicious, prejudiced, biased and most irregular order of D.P.S.Nagaland for posting of Sri.Sushil Kumar Dey against the vacant

*Certified to be true copy
of the original, Adm.*

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post of Higher Selection Grade-I at Dimapur M.D.G. by depriving my rightful claim becoming senior most official in Nagaland Postal Division amongst H.S.G.-II and senior to said Sri.S.K.Dey by 3 years. But my appeal has not yet been disposed of. In the meanwhile the Director Postal Services, Kohima is persisting with his fresh attempts to diminish my legitimate claim by any means with further attempts.

2. That Sir, as your honour is aware that in Nagaland Postal Division, there are 2 (two) posts of H.S.G-I i.e. one as Sub-Post Master at Dimapur M.D.G. and the other one at Kohima HO as Post Master.

3. That Sir, on scrutiny of documents submitted along with my appeal dated 11-11-2004, you might have been convinced that I am the Senior most approved HSG-II, except Sri. S.Boro in Nagaland Division who is already officiating as Postmaster at Kohima Head Post office

4. That Sir, the D.P.S. Kohima, when found that his irregular order dated 30-10-04 has not yet been materialised due to refusal by Sri.S.K.Dey a junior official, has now engineered a fresh attempt to fill-up the vacant post of HSG-1 (Sub-postmaster) at Dimapur by transferring Sri S Boro, a senior official to me at Dimapur by posting one Sri K letso at Kohima HO who is junior to me by 8 years and 6 months. A copy of the aforesaid memo is enclosed as Annexure--"A"

5. That sir, it is the matter of much pain and un-pleasant to mention that the repeated attempts of D.P.S., Kohima to damage my life and the Service Career by violating the rules of department and natural justice has nakedly exposed his malicious design and in order to provide proper protection to the undersigned, an immediate intervention of your honour is essential.

Hence, it is requested to kindly take suitable action to issue stay order against the operation of above irregular order dated 30-10-2004 and 15-12-2004 and further extend your justful hands so that the undersigned is posted either against the vacant post of sub-postmaster at Dimapur or in case Shri S Boro is transferred to Dimapur, I may kindly be posted at Kohima as Postmaster as both posts are HSG-1. A photo copy of my appeal dated 11-11-2004 is enclosed for ready reference along with which the entire documents in support of genuine claim has already been sent.

In anticipation of your kind approval, I am endorsing a copy of my reminder appeal to the Director General, Department of Posts, New-delhi.

Dated, Tuensang
The 3rd January '05

Your's faithfully,

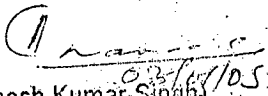
(Self)
(Awadhes Kumar Singh)
Sub-postmaster
Tuensang-788612
Nagaland.

Enclosed :—

1. A copy of representation dated 11-11-04
2. A copy of impugned order of transfer issued by D P S Kohima dated 15-12-2004

Advance copy to:-

1. Sri Lahluna, Postmaster General, N E Circle, Shillong for his kind information and immediate necessary action.
2. The Hon'ble Director General, Department of Posts, New Delhi for his kind intervention against the above wilful whimsical action of D P S Kohima by violating the entire norms and rules of the department. A copy of my appeal dated 11-11-04 is enclosed as ready reference.


(Awadhesh Kumar Singh)
Sub-Postmaster
Tuensang-788612
(Nagaland)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 342 /2004

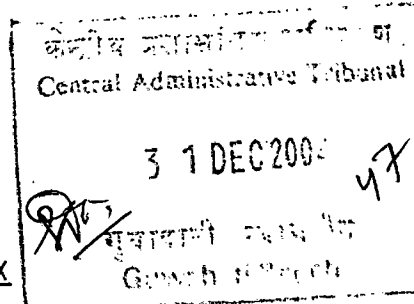
Shri Awadhesh Kumar Singh---Applicant
Versus
Union of India & ors---Respondents

LISTS OF DATES AND SYNOPSIS:

- 30.10.2004 : Director of Postal Services, Dimapur, Kohima
vide memo No. B-2/Staff/R. Trf./2004 dated
30.10.2004 posted and transferred Shri S.K.
Dey as officiating SPM (HSG-II), Dimapur
- 28.10.99 : Chief Post Master General, NE Circle Shillong
vide memo No. Staff/14-1/94 dated 28.10.99
conveyed the approval for promotion of the
officials to the grade of HSG-II including
the applicant
- 26.2.2002 : Chief Post Master General, NE Circle Shillong
vide memo No. Staff/14-1/94/Pt. II dated
26.2.2002 conveyed the approval for promotion
of the officials having completed 26 years of
service to the grade of HSG-II under BCR
scheme including the applicant
- 11.11.2004 : Representation filed by the applicant to the
Chief Post Master General, NE Circle,
Shillong
- 31.7.99 : Gradation list of the officials showing the
seniority of the officials under HSG-II
including the applicant

Filed by

Dibyajyoti Borah
Advocate



APPENDIX

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985

Filed by the applicant through
Dileepjyoti Poojari, Advocate
31.12.2004

Title of the case: Original

Application No- 342 /2004

I N D E X

Sl. Nos.	Description of documents relied upon	Pages
1	Application	1 to 19
2	Verification	20
3	Annexure-A (order dated 30.10.2004)	21
4	Annexure-B (Order dated 20.10.99)	22 to 24
5	Annexure-C (Order dated 26.2.2002)	25, 26
6	Annexure-D (Representation dated 11.11.2004)	27 to 30
7	Annexure-E (Gradation list dated 31.7.99)	31

Awadhesh Kumar Singh
Signature of the applicant

For use in the Tribunal office:

Date of filing:

Or

Date of receipt by post:

Registration No.

Signature of Registrar:

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI

O.A. NO. 342 / 2004

BETWEEN/

Awadhesh Kumar Singh, Sub-
Postmaster (HSG-II),
Mokokchung, Nagaland

---Applicant

— Versus —
AND

1. The Union of India,
represented by the
Secretary to the
Government of India,
Ministry of Communication,
New Delhi.
2. The Director General,
Department of Posts, New
Delhi.
3. The Chief Post Master
General, North East
Circle, Shillong.
4. The Director of Postal
Services, Kohima, Nagaland.
5. Shri Susil Kumar Dey
Sub Post Master
Naginimora S.O.

--- Respondents.

A.K. Singh

DETAILS OF APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is made against the transfer and posting order dated 30.10.2004 of Shri Susil Kumar Dey (HSG-II) working as Sub Post Master, Naginimora Sub post office is transferred and posted as officiating Sub Post Master (HSG-II), Dimapur in the vacancy created due to retirement of Shri K.C. Das on superannuation. By the aforesaid order, the applicant has been deprived of his legitimate promotion as Shri S.K. Dey has been transferred and posted against the promotional post of Sub Post Master at Dimapur which is a higher post carrying the status of HSG-I and the said order has deprived the applicant from his genuine legal and rightful claim of promotion causing undue harassment, humiliation and mental agony which affect adversely the health condition of the applicant.

A copy of the aforesaid order dated 30.10.2004 is annexed herewith and marked as Annexure A.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION:

That the applicant declares that the applicant files this application under section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE:-

- 4.1 That the applicant is a citizen of India and a permanent resident of the state of Nagaland and he is serving in the Nagaland Postal Division.
- 4.2 That the applicant was appointed in the cadre of Postal Assistant in Nagaland Postal Division with effect from 23.3.73 and since then he is serving continuously in the same cadre without any blemish from any quarter and the applicant is continuously in the same cadre without any break or interruption during the service period of the applicant.
- 4.3 That the applicant states that after completion of 16 years of continuous and satisfactory service as time scale postal Assistant the applicant was promoted to the higher cadre of lower selection Grade Postal Assistant with effect from 23.3.89 under the time bound promotion scheme by the Director of Postal services, the respondent no.4 by his memo, dated 20.11.89. The applicant states that the pay scale of time scale postal Assistant Cadre was Rs. 975-25-1150-EB-30-1660 and the scale pay of promotional post was Rs.1440-40-1800-EB-50-2300 as on the date of promotion. The date of effect of the promotion was given on 23.3.89.
- 4.4 That the applicant further states that after completion of 26 years of his continuous and satisfactory service as Postal Assistant was promoted to the higher cadre in lower

selection grade he was again promoted to higher cadre of Higher Selection Grade-II with effect from 1.7.99 as per order issued by the Post Master General, Shillong vide his memo no. Staff/14.1.94-Shillong, dated 28.10.99 which was communicated by the Director of Postal Service Kohima vide his memo No. B-II/HSG, dated Kohima the 9.11.1999.

A copy of the aforesaid order dated 28.10.99 is annexed herewith and marked as annexure B.

4.5 That the applicant states that by virtue of the length of continuous and satisfactory service of the applicant he became the senior most in higher-selection Grade-II cadre than any other employee including Shri Senapti Boro, who was continuing against the higher section Grade-I at Kohima, HQ has become first eligible and entitled to vacant post of Higher Selection Grade-I at Dimapur which was fall vacant due to superannuation of Sri K.C. Das w.e.f. 30.10.2004.

4.6 That the applicant states that the Director of Postal Services, the R-4 herein who is the Head of the Postal Administration in Nagaland most illegally and arbitrarily before issuing the Posting Order against the promotional HSG-I post of Dimapur MDG in a extreme bias and vindictive manner issued most irregular posting order in favour of Sri Sushil Kr. Dey the R-5 herein promoted into HSG-II cadre w.e.f. 1.7.2002 vide order no.stff/14-1/94/pt-II Shillong dated 26.2.2002 by the Chief Post

Master General, Shillong the respondent no.3 herein. From the said order itself it is ~~apparent~~ ^{apparent} that Sri Sushil Kr. Dey is junior to the applicant by 3 years.

4.7 That the applicant states that the pay scale of HSG-I is Rs.6,500/- to Rs.10,500/- with increment of Rs.500/- per year whereas HSG-II post carries a pay scale of Rs.5,000/- to Rs.8,000/- with annual increment of Rs.1,500/. Thereafter, the aforesaid posting Order issued by the Respondent No.4 to a junior person depriving the legal and rightful claim of the senior most official herein, has not only created humiliation and mental agony of the applicant but also the said order has the effect of ruining the service carrier of the applicant in as much as the applicant has been deprived of getting a high scale of pay. Under the circumstances the aforesaid order issued by the DPS Kohima, the R-4 herein violative of Departmental rules and also violative of principle of natural justice and this same order is therefore unsustainable in law.

4.8 That the applicant states that the Respondent No.4 the DPS has been so unkind to the applicant in view of the fact that before issuing the irregular and unjust order promoting a junior to the applicant also pass some very objectionable and unjust and unfair remark with regard to the applicant by saying that so long he will continue as DPS of Nagaland he will not provide any opportunity to the applicant to work in a higher post which is fallen vacant due to superannuation

of Sri K. C. Das. The said fact apparently reflects the malafide, attitude the R-4, the DPS and the applicant cannot deserve any justice from the DPS who has determined to ruined to service carrier of the applicant

4.9 That the applicant states that after completion of 26 years of continuously and satisfactory service, he was again promoted to higher cadre of higher selection Grade-II w.e.f. 1.7.1999 vide Chief Post Master General, Shillong, memo no. Staff/14-1-94, dated 28.10.1999 and communicated by the director of Postal Services, Kohima vide memo no. B-II/HSG, dated Kohima the 9.11.1999. Therefore the applicant state that he, by virtue of length of continuous service and also becoming next senior most of higher grade-II cadre than Sri Senapati Boro, who is already continuing again promotional post of higher selection grade-I at Kohima HQs, has become first illegible and entitle official to occupy the vacant post of higher selection Grade-I at Dimapur MDG created due to superannuation Sri K.C. Das w.e.f. 30.10.2004. In this connection the applicant state that there are 2 post of higher selection grade-one at Dimapur and Shri Senapati Boro has been eligible for one post. The applicant further states that in the other post the applicant may be accommodated as he is the senior most person entitled for the post next to Senapati Boro.

A copy of the aforesaid memo of Chief Post Master General, Shillong vide No. Staff/14-

1/94/Pt.-II dated Shillong the 26.2.2002 is annexed hereto and marked as Annexure-C.

- 4.10 That the applicant states that the applicant filed a representation dated 5.1.2004 before the Director of Postal Services, Nagaland, Kohima, respondent No. 4, on the subject of 'Discriminative, irregular and unjustful order of transfer from Mokokchung to Tuensang sub office and also consideration and modification of the order dated 30.11.2004, stating, inter alia, that the applicant is a diabetic patient and also high blood sugar and required to remain under constant medical check up and treatment. In the said representation, it has also been mentioned that amongst the senior most HSG in Nagaland division, position of the applicant stands at serial No. 3 and the official at serial No. 2 is going to retire on superannuation in Nov., 2004. Therefore, as regards the official at serial No. 2 is officiating against HSG-I post at Kohima Head post office, since the official at serial No. 1 namely Shri K.C. Das will retire (since retired) the vacancy may be filled up full-fledgedly at Dimapur. In the said representation, the application also stated that he has already furnished the option against the vacancy and willingness to serve at Dimapur which will be beneficial to his health conditions and since he has already served the hilly station for several years. The applicant has also pointed out in the said

A.K. Singh

representation that the post of DSPM at Dimapur is manned by a junior staff, who is not confirmed in HSG post and such irregular arrangement persists for long time. Therefore, it has been requested that, considering the health condition of the applicant, he may be posted at Dimapur where medical facilities are available.

In this connection, the applicant also pointed out that he has completed 3 (three) full tenures at hilly stations at Mokokchung and Kohima and again his transfer to remote hilly area like Tuensang where even no HSG-II post is available, is not only irregular and unjust but also against the general principle and natural justice. Therefore, since the applicant has only few years left for retirement, he may be given opportunity to work at Dimapur which is the plain area and where medical facilities are available.

Under the circumstances, the applicant requested the authority to reconsider the transfer order until a final decision is taken.

4.11

That the applicant states that since the earlier application was not disposed of by the Director of Postal Services, Nagaland, Kohima, the applicant on 11.11.2004 again submitted an application to the Chief Post Master general, NE Circle, Shillong through Director of Postal Services, Nagaland, Kohima, ~~on the subject of memorandum~~

AKS:sh

wherein it has been pointed^{that} the continuous motivated attacks by Director of Postal Service, Nagaland Kohima to damage the service career and life of the applicant and to create undue humiliation, harassment before general and subordinate staff by ordering Shri Sushil Kumar Dey, a junior official, to higher promotional post of HSG-I by depriving the applicant from legitimate right for the aforesaid post being the senior most HSG-I official in Nagaland Postal division and accordingly prayed for due intervention by taking exemplary action against such arbitrary, prejudicial, biased and most irregular action to post junior staff against promotional post to higher selection grade-I depriving the genuine and rightful claim of the senior most and HSG-II official like the applicant. The aforesaid representation/appeal was filed with reference to Director of Postal Services, Nagaland, Kohima memo No. B-2/Staff/R. Trf./2004 dated ~~at~~ Kohima the 30.10.2004. In the said representation/appeal, the applicant interalia, stated that the irregular order contained in the memo dated 30.10.2004 issued by Director of Postal Service, Nagaland, Kohima whereby one Shri Sushil Kumar Dey has been ordered against the promotional post of sub-Postmaster, Dimapur which carry the status of HSG-I by depriving the genuine, legal and rightful claim of the applicant. In this connection, the applicant also prays for immediate intervention to set aside the unjust~~the~~,

A.K. Singh

irregular and biased action of the Director of Postal Services, Nagaland which has seriously damaged the service career and life of the applicant and has further created undue harassment, humiliation, mental agony and has adversely affected on health condition.

In the said representation, the applicant also stated inter alia, the facts as to how he has served the Postal department from 23.3.73 as postal assistant in Nagaland Postal department and thereafter on completion of 16 years of continuous and satisfactory service he was promoted to the higher cadre in lower selection grade from 23.3.89 under TBOP scheme by the Chief Post Master General, Shillong and conveyed vide Director of Postal Services, Nagaland memo NO. B-2/staff/One promotion II dated 20.11.89 which was given effect from 23.3.89. In the said representation, the applicant also stated that after completion of 26 years of continuous and satisfactory service he was again promoted to higher cadre of Higher Selection grade-II w.e.f. 1.7.99 vide Chief Post Master General Shillong memo No. Staff/14.1.94 dated the 28.10.99 and communicated by Director of Postal Services, Nagaland which was annexed in the said appeal as Annexure-3.

In the said representation, the applicant mentioned inter alia, that before issuing the posting order against the

A.K. Singh

promotional HSG-I post at Dimapur MDG, the Director of Postal Services, Dimapur, who is not only the head of Postal administration of Nagaland, but also a guardian of all Sub-ordinate staff working under him, became biased, prejudiced, vindictive and has issued most irregular posting order in favour of Shri Sushil Kumar Dey who was promoted to HSG-II cadre w.e.f. 1.7.2002 vide Chief Post Master General memo No. Staff/14-1/94/Pt. II dated Shillong the 26.2.2002. Therefore, the above person namely Shri Sushil Kumar Dey is junior to the applicant by 3 years. The applicant also mentioned in the said appeal the irregularities committed by the Director of Postal Services, Nagaland whereby the applicant was deprived of his genuine claim in as much as a far junior staff was continuing against HSG-II post at Dimapur and by overlooking the above serious errors and irregularities the transfer of the applicant to a remote area and in Lower selection grade office was the case of gross violation of departmental rules and general principles of transfer. On the other hand, the Director of Postal Services, Nagaland intentionally and purposefully in order to meet his personal grudge ignored the entire episode and forced the applicant to joint at Tuensang where even doctors are not available for regular check up of the applicant who is a chronic diabetic patient. Therefore, the applicant prayed for intervention into the matter immediately and to take suitable

A.K. Singh

action which is deemed proper so that the inhuman, unsocial and undemocratic pattern of action of the Director of Postal Services, Nagaland get an immediate ~~ly~~ halt and the applicant is immediately posted at Dimapur MDG, as entitled under the law.

A copy of the aforesaid representation/appeal dated 11.11.2004 is annexed hereto and marked as Annexure-D.

The enclosures of this application dated 12.11.2004 have already been annexed herewith and therefore the said enclosures are not enclosed with the aforesaid appeal dated 11.11.2004.

4.12 That the applicant states that since the aforesaid representation dated 5.1.2004 was duly received by the Director of Postal Services, Nagaland but no communication has been made, the applicant has submitted his representation/appeal dated 11.11.2004 to the Chief Post Master General, NE Circle, Shillong. However, the same has not yet been disposed of and accordingly being highly aggrieved by the actions of the aforesaid authorities, and having no other alternative remedy left, the applicant approached this Hon'ble Tribunal to redress the grievances by filing this application

4.13 That the applicant states that from the gradation list dated 31.7.99 in the scale of pay Rs. 4500/ - 175 - 7000/- showing the

seniority of the applicant and the respondent No. 5, as available in the official record, it has been reflected that the applicant is senior to the respondent No. 5. It is apparent from the said seniority list, that the applicant has entered into the service on 23.3.73 where as the respondent No. 5 has entered into the service on 13.6.76. Therefore the applicant is senior by 3 years to the respondent No. 5 and as such the applicant is entitled to get promotion earlier than that of the respondent No. 5 and that being not done in the instant case, the respondents have committed gross error of law which is not sustainable under the facts and circumstances of the case.

A copy of the aforesaid gradation list dated 31.7.99 is annexed hereto and marked as Annexure-E.

X.14 That this application has filed bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 That the applicant respectfully submits that the respondents have committed gross violation of law, as apparent on the face of the record, in passing the impugned order dated 30.10.2004 issued by the Director of Postal Services, Nagaland, Kohima by transferring and posting Shri Sushil Kumar Dey, respondent No. 5 herein, as officiating SPM (HSG-I), Dimapur in the

vacancy created due to superannuation of Shri K.C. Das in as much as the said Shri Sushil Kuamr Dey is 3 ydears junior to that of the applicant and therefore the said order of promotion is liable to be set aside and quashed.

5.2 That the applicant submits respectfully that the post of HSG-I at Dimapur was fell vacant due to superannuation of Shri K.C. Das and the applicant being the senior most person in the said post, he ought to have been given promotion to that post instead of promoting Shri Sushil Kumar Dey who is 3 years junior to the applicant and therefore the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.3 That the applicant submits respectfully that he joined in the Nagaland Postal division in 1973 and, by now, he has completed 32 years of continuous service and during that long period of service he has been posted in hilly areas and accordingly he ought to have been posted at Dimapur by promoting to the post fallen vacant on retirement of Shri K.C. Das considering the seniority of the applicant instead of posting Shri Sushil Kumar Dey, who is junior to the applicant by 3 years in the said post and thereby committed grave error of law in passing the impugned order dated 30.10.2004 and as such the said order is liable to be set aside and quashed.

AKS:SA

5.4 That the applicant respectfully submits that the impugned order has violated the right of the applicant guaranteed by fundamental rights under Article 16 of the Constitution of India which has granted constitutional right of equality of opportunity including promotion and therefore the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.5 That the applicant respectfully submits that he has already served the Postal department for 32 years and is also senior to the respondent No. 5 by 3 years and considering this aspect of the matter, the authority namely the respondent No. 4, Director of Postal Services, Nagaland, ought to have promoted the applicant to the next higher post of HSG-I and instead of promoting Shri Sushil Kumar Dey, respondent No. 5, and that being not done in the instant case, the impugned order is liable to be set aside and quashed.

5.6 That the applicant respectfully submits that he being on the verge of retirement having only 3 years of service left, he ought to have been considered by the authorities for promotion which is due to him after the retirement of Shri K.C. Das and for which the applicant has already submitted several representations before the concerned authorities prior to retirement of Shri K.C. Das and, considering this aspect of the matter, the

authority namely the Director of Postal Services, Nagaland ought to have promoted the applicant to the said post instead of promoting Shri Sushil Kumar Dey who is 3 years junior to the applicant and that being not done in the instant case, the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.7

That the applicant respectfully submits that he has been discriminated in gross violation of Article 14 of the Constitution of India and also he has been deprived of his genuine and rightful claim of promotion. Therefore, the applicant further respectfully submits that the respondent No. 4, namely the Director of Postal Services, Nagaland, most arbitrarily and in violation of provisions of the Constitution of India as well as principles of natural justice, has promoted the respondent No. 5, namely Shri Sushil Kumar Dey, who is junior to the applicant and accordingly the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.8

That the applicant submits respectfully that inspite of his bad health, he has been continuously serving the department with full satisfaction of all concerned and he is deserved to serve in plain area as he has already served in the hilly stations for last several years inspite of his bad health and therefore he ought to have been promoted to the post of HSG-I at Dimapur instead of promoting the respondent No. 5

A.K.Singh

and without considering the case of the applicant, the respondent No. 4 has passed the impugned order which is liable to be set aside and quashed.

5.9 That the applicant respectfully submits that the applicant has filed several representations before the concerned authorities but without considering the said representations or attending the same, the respondent No. 4 has passed the impugned order most mechanically and arbitrarily without proper application of mind and without giving any hearing to the applicant in gross violation of principle of natural justice and as such, the impugned order dated 30.10.2004 is liable to be set aside and quashed.

5.10 That the applicant respectfully submits that the impugned order, having been passed in gross violation of principle of natural justice holding the field and so also the principle of natural justice, is not sustainable and therefore liable to be set aside and quashed.

5.11 That the applicant respectfully submits that in any view of the matter, the impugned order, either in law or facts, is liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

AKS/7

The applicant declares that there is no other alternative and efficacious remedy except by way of filing this application.

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

The applicant declares that the matter was not filed and no application before any Court of Tribunal has been filed and at present no application has been pending before any Tribunal or Court of law.

8. RELIEF SOUGHT FOR:

In view of the facts and circumstances mentioned herein above in paragraphs 4 as well as in the grounds above, the applicant prays for the following:

- (i) To set aside and quashed the impugned order dated 30.10.2004 passed by the respondent No. 4 (Annexure-A)
- (ii) To direct the respondent No. 4 to consider the case of the applicant for posting him at Dimapur, a plain district of Nagaland, as the applicant has already served in the hilly station for last several years ~~and not to appoint the respondent~~
- (iii) To direct the respondents that the applicant should be given seniority and pecuniary benefits from the date when his junior was officiating in the post of higher selection grade.
- (iv) Costs of the application, and
- (v) Any other relief or reliefs to which the applicant is entitled under the

facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case, the applicant prays for the following interim relief (s):

- (i) To direct the respondents to consider the case of the applicant who is the senior, ~~most~~ ^{to the respondent} person in HSG-I for promotion and posting in the vacant post whenever available,
- (ii) Until any order by this Hon'ble tribunal, no one should be appointed in the vacant post whenever available, and
- (iii) Any other interim relief that may be deemed proper and adequate to the hon'ble Tribunal so as to enable the applicant to get proper ad-interim relief.

10. PARTICULARS OF THE IPO:

- (i) I.P.O. No. : 206 117139
- (ii) Date : 21.12.2004
- (iii) Payable at : Guwahati.

11. LIST OF ENCLOSURES:

As stated in the INDEX.

---Verification

A.K. Singh

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

I, Shri A.K. Singh, son of Late Joy Mangal Singh, presently working as Sub Post Master (HSG-II), Mokokchung, Nagaland, aged about 54 years, do hereby verify that the contents of paragraphs 4.1, 4.2, 4.8, 1.10, 4.11 (partly), 4.12 and 4.14 are true to my knowledge, those made in paragraphs 1, 4.3, 4.4, 4.5, 4.6, 4.7, 4.11 (partly) and 4.13 being matters of record are true to my information derived therefrom and the rest are my humble submissions made before this Hon'ble Tribunal that I have not suppressed any material fact.

Awadhesh Kumar Singh

Signature of the applicant

Date:

ANNEXURE ①

ANNEXURE:-

A

68

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797001

Memo No.B-2/Staff/R.Trf/2004.

Dated at Kohima the 30.10.2004

Consequent upon retirement of Shri K.C.Das officiating SPM (HSG-I) Dimapur MDG on Superannuation, the following transfer and posting order is issued, in the interest of service having immediate effect.

1. Shri Sushil Kumar Dey, approved (HSG-II) presently working as SPM Naginimora SO is transferred and posted as officiating SPM, (HSG-I) Dimapur MDG, vice vacancy created due to retirement of Shri K.C.Das on Superannuation.

2. Shri K.D.Jha, Offg C.I. Divisional office, Kohima is transferred and posted as Dy. Postmaster, Kohima HPO.

3. Shri K Zatsovi, officiating Dy. Postmaster, Kohima HO will work as PA, Kohima HO.

4. Shri C.I.embemo Lotha, PA, Dimapur MDG is hereby transferred and posted as SPM, Naginimora SO vice Shri Sushil Kumar Dey, transferred.

The officials at sl. no. 2&4 will move first and join on their new place of posting within a week's time i.e. 8.11.2004. No change in the place of posting will be entertained.

Sd/-
(Rakesh Kumar)

Director of Postal Services
Nagaland : Kohima-797 001

Copy to:-

1. The Postmaster, Kohima HO for information. He will ensure that no pay and allowances is drawn in favour of officials who fail to join on their new place of posting by stipulated date i.e. 08-11-2004.

2-6) The official concerned.

7. The SPM, Dimapur MDG for information. He will relieve the official within stipulated date.

8) The SPM, Naginimora SO for information.

9-10) Office copy.

*Certified to be true copy
Sd/-, Admstr*

Sd/-
(Rakesh Kumar)

Director of Postal Services
Nagaland : Kohima-797 001

ANNEXURE: ② B

ANNEXURE:-

B

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA-797001

NO: B-II/HSG

Dtd, Kohima the 9.11.99

To,

1. Shri. Senapati Boro
Dy, Postmaster, Kohima
2. Shri. A.K Singh
VSAT Supervisor
3. Smt. R.S Kithan
ASPM Dimapur SO

Sub:- Promotion to HSG-II (BCR)

Please find herewith a C.O memo NO, Staff/14-1/94 dtd, 28.10.99 copy endorsed to you, for information.

Enclosed: AA

(K.R Das)

Supdt of Post Office(HQ)
For Director of Postal Services
Nagaland: Kohima-797001

*certified to be true copy
Branch Admt*

- 23 -

70

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE::SHILLONG-1.
888888888888

Memo No. Staff/14-1/94 Dated at Shillong, the 28/10/99.

The approval of the DPS(HQ), O/O the CPMG, N.E. Circle, Shillong is hereby conveyed for promotion of the following officials to the grade of HSG-II under BCR scheme in the scale of Rs.5000-150-8000/=. They are allotted to their respective divisions. The promotion will be effective from the dates as mentioned against their name.

<u>Agartala Dn.</u>			<u>Date of effect.</u>
<u>Sl.No.</u>	<u>Name of the Official</u>		
1.	Shri Biswaroy Deb Barma,	ST	1-1-99
2.	Shri Ranjit Kr. Dutta,	OC	1-1-99
3.	Shri Sitendra Narayan Datta,	OC	1-1-99
4.	Shri Anil Kanti Sen,	OC	1-7-99
5.	Shri K.M. Choudhury,	OC	1-7-99
6.	Shri Arun Biswas,	OC	1-7-99
7.	Shri Bipin Deb Barma,	ST	1-7-99
8.	Shri Sanjay Roy,	OC	1-7-99
<u>Meghalaya Dn.</u>			
1.	Smti T.D. Warjri,	ST	1-1-99
2.	Smti Uma Roy,	OC	1-7-99
<u>Dharmanagar Dn.</u>			
1.	Shri Nani Gopal Saha	OC	1-7-99
2.	Shri Birendra Kr. Deb,	OC	1-7-99
3.	Shri Kirtiman Dewan,	ST	1-7-99
4.	Shri Jagadish Choudhury,	OC	1-7-99
5.	Shri Manojan Seal,	OC	1-7-99
6.	Smti Sukla Ghosh,	OC	1-7-99
<u>Mizoram Dn.</u>			
1.	Shri H. Malsawna,	ST	1-1-2000
2.	Smti F. Laltiani,	ST	1-1-2000
3.	Shri K. Hrangzama,	ST	1-1-2000
4.	Shri K. Vanlalthanga,	ST	1-1-2000
5.	Shri F. Naichrimga,	ST	1-1-2000

Contd., p, 2/.

FIC

Monitor Dn.

- | | | | |
|----|---------------------------|----|----------|
| 1. | Shri Y. Birendra Singh, | OC | 1-1-99 |
| 2. | Smti N. Ibembi Devi, | OC | 1-7-99 |
| 3. | Shri D.C. Brahma, | ST | 1-7-99 |
| 4. | Shri S. Bheigya Singh, | OC | 1-7-99 |
| 5. | Shri I. Joychandra Singh, | OC | 1-7-99 |
| 6. | Shri Linkholet Vaiphei, | ST | 1-1-2000 |

Nagaland Dn.

- | | | | |
|----|------------------|----|--------|
| 1. | Shri S. Boro, | ST | 1-7-99 |
| 2. | Shri A.K. Singh, | OC | 1-7-99 |
| 3. | Smti R.S. Kithan | ST | 1-7-99 |

PSD/Silchar.

- | | | | |
|----|----------------------|----|--------|
| 1. | Shri Bidhan Ch. Dey, | OC | 1-7-99 |
|----|----------------------|----|--------|

Arunachal P.D. Dn.

- | | | | |
|----|-----------------------|----|--------|
| 1. | Shri B.K. Basumatary, | ST | 1-1-99 |
| 2. | Shri Nimal Ch. Boro, | ST | 1-1-99 |

- A. The officials against whom disciplinary action is pending should be reported to Circle Office before making offer of promotion.
- B. The officials may exercise option for choosing date of fixation of pay on promotion within one month of joining under the provision of F.R-22.
- C. The Divisional heads shall immediately issue posting order as per rules. The Divisional heads shall see that the fact of refusal to accept promotion is noted in service book and fact is reported to Circle Office.

(A.K. Datta)

Asstt. Director (Staff)

For Chief Postmaster General,

N.E. Circle, Shillong.

Copy to:-

1. All D.P.S. in N.E. Circle.
2. The Sr. Supdt. of P.O. Meghalaya Dn. Shillong
3. The Supdt. of P.O. Darrang Dn. PSD/Silchar.
4. The Sr. Postmaster, Shillong-GPO.
5. All Postmaster, in N.E. Circle.
6. The officials concerned.
7. P.O.s of the officials.
8. The A.D. (Staff), C.O. Shillong.
9. The D.A. (P), Calcutta.
10. Spare.

For Chief Postmaster General,

N.E. Circle, Shillong.

.....

ANNEXURE (2)
DEPARTMENT OF POSTS: INDIA
OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE::
SHILLONG-793 001.

ANNEXURE

Staff/14-1/94/Pt-II

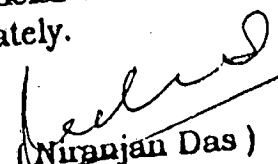
Dated at Shillong, the 26th Feb' 2002.

The approval of the DPS(HQ) O/O the C.P.M.G., N. E. Circle, Shillong is hereby conveyed for promotion of the following official who have completed 26 years of service in PA cadre to the grade of HSG-II under BCR Scheme in the scale of Rs.5000-150-8000/-. They are allotted to their respective Division. The promotion will be effective from the dates as mentioned against their names:-

Sl. No.	Name of the official	Division	Community	D.O.B.	D.O.E. in PA Cadre.	Due Date of effect of BCR Promotion.
1.	2.	3.	4.	5.	6.	7.
1.	Sri N. I. Singh,	Manipur Division.	OC	1-3-48	2-2-74	1-7-2000
2.	Sri Shyamal Nath,	Arunachal Pradesh Dn.	OC	1-5-55	21-1-75	1-7-2001
3.	Sri Dalim Singh,	Manipur Dn.	OC	1-8-54	15-3-75	1-7-2001
4.	Smt. Jharna Deb,	Arunachal Pradesh Dn.	OC	6-1-50	2-4-75	1-7-2001
5.	Smt. Tapati Choudhury,	Meghalaya Dn.	OC	1-6-49	16-4-75	1-7-2001
6.	Sri K. C. Deb Barma,	Manipur Dn.	ST	23-7-46	21-4-75	1-7-2001
7.	Sri G. Gopal Sharma,	-do-	OC	1-3-50	1-6-75	1-7-2001
8.	Sri Narayan Ch. Deb.I	Tripura Dn.	OC	1-6-48	2-7-75	1-1-2002
9.	Sri Arun Ch. Kar,	-do-	OC	7-3-45	2-7-75	1-1-2002
10.	Smt. Rosalind Nongrum,	Meghalaya Dn.	ST	15-12-47	3-7-75	1-1-2002
11.	Sri Janardan Deb Nath,	Tripura Dn.	OC	1-1-49	7-7-75	1-1-2002
12.	Sri L. Rajendra Singh,	Manipur Dn.	OC	1-7-43	14-7-75	1-1-2002
13.	Sri Glandsing Wahlang,	Meghalaya Dn.	ST	1-4-45	27-9-75	1-1-2002
14.	Sri H. Rangthuam,	Mizoram Dn.	ST	1-3-54	21-1-76	1-7-2002
15.	Sri S. K. Dey,	Nagaland Dn.	OC	1-3-46	24-2-76	1-7-2002
16.	Sri Jitendra Mazumdar,	Tripura Dn.	OC	15-10-45	20-3-76	1-7-2002
17.	Sri Bihar Ch. Deb,	Tripura Dn.	OC	19-6-44	20-3-76	1-7-2002
18.	Sri Atul Ch. Deb Nath,	-do-	OC	31-12-48	25-3-76	1-7-2002
19.	Sri Kalipada Kar,	-do-	OC	1-4-46	18-5-76	1-7-2002
20.	Sri Linus Shylla,	Meghalaya Dn.	ST	23-9-50	28-5-76	1-7-2002
21.	Sri Sawbor Ngap,	-do-	ST	27-3-57	1-6-76	1-7-2002
22.	Sri Raj Chandra Deb Barma,	Tripura Dn.	ST	31-3-44	4-6-76	1-7-2002
23.	Smt. Gitanjali Deb Barma,	-do-	ST	6-3-56	7-6-76	1-7-2002
24.	Sri K. D. Jha,	Nagaland Dn.	OC	19-10-55	13-6-76	1-7-2002
25.	Smt. Lakshmi Das,	-do-	OC	16-3-56	16-6-76	1-7-2002

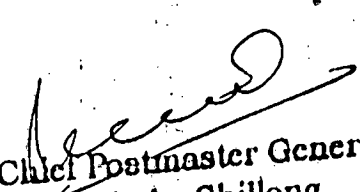
*Confirmed to be true copy
 Shilong, Assam*


- A. If any disciplinary action/punishment is pending/current against official it should be reported to C.O, before making offer of promotion.
- B. The official may exercise option for choosing date of fixation of pay on promotion within one month of joining under the provision of FR-22.
- C. The Divisional Head shall immediately issue posting order as per rules. The Divisional Heads shall see that the fact of refusal to accept promotion is noted in Service Book and fact is reported to C.O.
- D. If in later stage it is found that any of the official was not eligible for the promotion he/she will be reverted immediately.


(Niranjana Das)
Asstt. Director (Staff)
For Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

- 41/5/02
1. All DPS, in N. E. Circle. Kohima
 2. The Sr. Supdt. of P.Os, Shillong.
 3. The Supdt. of P.Os, Dharmanagar/PSD, Silchar.
 4. The Sr. Postmaster, Shillong-GPO.
 5. All Postmasters, in N. E. Circle.
 6. The Officials Concerned.
 7. P/Fs of the officials.
 8. The Dy. D.A.(P), Shillong.
 9. Office Copy.


For Chief Postmaster General,
N. E. Circle, Shillong.


5/3/02
on/Class.

To,
The Chief Postmaster General
N.E. Circle, Shillong- 793001.

(A) - 27 -
ANNEXURE: D

Through the D.P.S.

Nagaland Kohima- 797001.

Sub: (I) In the matter of continuous motivated personal attacks by (Shri. Rakash Kumar) D.P.S. Nagaland division Kohima to damage the service carrier and life of the applicant and to create un-due humiliation, harassment before general and subordinate staffs by ordering Shri, Sushil Kumar Dey a Junior Official to higher promotional post of HSG-I by depriving me from legitimate ~~and~~ right for the aforesaid post being the senior most HSG-II official in Nagaland Postal division.

AND

(II) In the matter of humble appeal (Prayer) for immediate intervention and to take exemplary action against such acrimonious, prejudice, biased and most irregular action to post junior staff against promotional post to higher selection grade-I depriving the genuine and rightful claim of the senior most and HSG-II official like the applicant.

AND

(III) In the matter of humble request to take the further appropriate action which is deemed proper under the law of the land and the rule of the department to diminish the malicious attitude of bringing personal vengeance by misusing official administrative power against the sub-ordinate staff (Like the applicant) etc.

Ref :- D.P.S. Kohima memo no B-2/ Staff/ R.Trf/ 2004 dtd at Kohima the 30-10-2004.

Respected Sir,

The Present application is made against the most irregular order containing memo no B-2/ Staff/ R.Trf/ 2004 dtd at Kohima the 30-10-2004 issued by Shri Rakesh Kumar Director of postal service Kohima. In the aforesaid order one Shri Sushil Kumar Dey has been ordered against the promotional post of Sub-Postmaster Dimapur which carry the status of HSG-I by depriving the genuine, legal and rightful claim of the applicant. In this connection the applicant most humbly and respectfully beg to mention the following facts before your honour for immediate intervention to diminish the unjustful, irregular and biased action of the director Postal Service Nagaland Kohima which has seriously damage the service career and life of the applicant and has further created undue harassment, humiliation, mental agony and has adversely effected on health condition .

A copy of the aforesaid order dated 30-10-2004 is annexed here with and marked as Annexure - (1).

(2) That Sir, the applicant was appointed in the cadre of postal assistant in Nagaland postal division w.e.f 23-03-1973 and since then he is continuously serving in the cadre without any interruption and break in service. There is also no blamish against the applicant during his service period.

*Certified to be true copy
22/01/2005 Advocate*

(3) That Sir, the applicant after completion of 16 years continuous and satisfactory service as time scale postal assistant was promoted to the higher cadre in lower selection grade from 23-03-1989 under the TBOP Scheme by the Chief Postmaster General Shillong and conveyed vide DPS Nagaland vide memo no.B-2/ Staff/ One Promotion II dated 20-11-1989. The date of effect of promotion was given from 23-03-1989.

A copy of aforesaid order dated 20-11-1989 is annexed herewith and marked as annexure - (2)

(4) That sir, the applicant further beg to state that after completion of 26 years of continuous and satisfactory service he was again promoted to higher cadre of Higher Selection Grade - II wef 01-07-1999 vide Chief Post Master General Shillong memo no Staff/ 14-1-94 dated at Shillong the 28-10-1999 and communicated by DPS Kohima in memo no. B-II/ HSG dated Kohima the 09-11-1999.

A copy of aforesaid order is annexed herewith and marked as annexure - (3)

(5) That sir, the applicant by virtue of the length of his continuous service and also becoming next senior most in Higher section Grade -II cadre than Shri Senapati Boro who is already continuing against the promotional post of Higher Selection Grade- I at Kohima HQ has become first eligible and entitled official to occupy the vacant post of Higher Selection Grade -I at Dimapur MDG created due to superannuation of Shri K C Das wef 30-10-2004.

(6) That Sir, It is most unfortunate and un-warranted state of affairs to mention that before issuing the posting order against the promotional HSG- I post at Dimapur MDG, the DPS (Shri Rakesh Kumar) Who is not only the head of postal administration of Nagaland but also a guardian of all Sub-ordinate Staffs working under him became extreme biased, prejudiced, vindictive and has issued most irregular posting order in favour of Sushil Kumar Dey who was promoted to HSG-II cadre wef 01-07-2002 vide Chief Postmaster General Shillong memo no. Staff/ 14-1/94/pt-II dated at Shillong the 26-02-2002. Thus the above Shri Sushil Kumar Dey is Junior to the applicant by 3 years.

A Copy of the aforesaid memo of Chief Postmaster General Shillong bearing memo no. Staff/ 14-1/94/pt-II dated at Shillong the 26-02-2002 is annexed herewith and marked as Annexure - (4).

(7) That Sir, the applicant further beg to state that the pay scale of HSG-I carries Rs. 6500/- to 10,500/- with increment of Rs.200/- per ^{year} month whereas HSG-II post carries the pay scale of Rs. 5000/- to 8000/- with increment of Rs.150/-P.m. Hence, the aforesaid posting order issued by DPS Kohima to a junior and illegible official depriving the legal and rightful claim of the senior most official (the applicant) has not only created humiliation, mental agony, serious effect on health condition but also has damage his life and service career depriving of getting higher scale of pay. Hence, the aforesaid action of DPS Kohima is totally violative of departmental rules and principle of natural justice which is very much questionable and liable to be scratch out in straight way.

(8) That sir, the applicant further beg to mention with very heavy heart that before issue of the above irregular and unjustful order, the DPS in his personal capacity passed very objectionable and un-parliamentary remark before sub-ordinate staffs that "So—— long he will continue as DPS of Nagaland he will not provide any opportunity to the applicant to work against the higher post which has fallen vacant due to superannuation of Shri. K.C Das". Perhaps such vulnerable and malicious remark of a head of postal family like DPS is very much condemnable.

This also reflects ——— seriously on pre-occupied motivation and clear case of taking personal vengeance for personal cause.

(9) That Sir, the applicant further begs to mention that the cause for cultivating of grudges and formation of indifferent evil harassing cropped of in part of DPS Kohima is not at all related either due to conduct, general behaviour, discipline official work and decorum in part of the applicant but purely due to misunderstanding in the part of the DPS who visited Mokokchung M.D.G. on 24-09-2003 at night by above 1830 pm when the applicant was the incharge of that office. By the time the DPS reached Mokokchung, the market was almost closed and the undersigned could not manage certain commodity desired by him due to non-availability at late hour of night. Unfortunately the DPS without realizing the reality and compelling circumstances marked my failure as intentional and since then he has been harassing by misusing his official administrative power without bothering a little about departmental rules, procedures and law of the land. Immediately after he visited to Mokokchung he created tremendous inconveniences by reducing the clerical staff strength and GDSTM post of the office when the applicant was working as SPM (HSG-II) at Mokokchung MDG. While imposing such motivated biased problem he was very much in know that the applicant is a chronic patient of diabetes and hypertension. Any mental suppression and depression was a cause of aggravation leading to danger of health condition and life. My repeated requests both telephonically and by official references could not yield any result.

(10) That sir, the applicant further beg to mention with un-pleasant mind that when the applicant was facing such un-warranted problems and crisis he was further put to harassment, was transferred to a remote place like Tuensang which is a Lower Selection Grade S.O and where no proper facilities available for treatment of a chronic diabetic patient. At the time of transfer the applicant submitted representation at first to DPS Kohima by endorsing copy to Postmaster General Shillong on 05-01-2004 and humble reminder on 29-01-2004. subsequently the applicant submitted application/ appeal to the Postmaster General Shillong and other higher authorities for immediate intervention on 03-02-2004 as because the posting of a senior most HSG-II official to a LSG.S.O in a remote area was not at all justful and regular. While issuing such irregular transfer order the DPS was very well in known that a far junior staff was continuing against HSG-II post at Dimapur and by overlooking the above serious errors and irregularities the transfer of the applicant to a remote area and in LSG office was the case of a naked violation of departmental rules and general principle of transfer but unfortunately the DPS intentionally and purposefully in order to meet his personal grudge ignored the entire episode and forced the applicant to join at Tuensang. The non-availability of experienced doctors, required medicines and lack of facility of clinic for pathological checks, the health condition of the applicant has far deteriorated and reached to worsen condition. New symptoms like violent palpitation of heart, cardiological unrest and joint pain have aggravated damaging the whole health condition.

The Copies of application/ remainder/ appeal dated 05-01-2004, 29-01-2004 and 03-02-2004 are enclosed marked annexure- (5), (6) and (7).

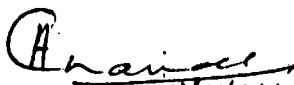
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That sir, the applicant has thus become worst sufferer in the hands of the DPS Kohima. Besides the deprival of legitimate and entitled claims, the life and service career has been intentionally and purposefully damaged by misusing the official administrative powers. Finding no alternate the applicant has now decided to take appropriate protection from the competent court for compensating the irreparable damage / loss caused to him.

- (12) Therefore, the applicant prays that your honour would kindly intervene into the matter immediately and to take suitable action which is deemed proper so that inhuman, un-social and un-democratic pattern of action enforced by DPS Kohima get an immediate halt. The applicant is immediately posted at Dimapur MDG against the vacant HSG-I post besides payment of due compensation under the law of the land for intentional damage of service career and causing serious effect on health condition.

With Kind regards

Yours faithfully



(A.K SINGH)

Sub Postmaster (HSG-II)
Tuensang MDG- 798612

- Advance Copy to:- (1).Shri. Lalhuna Hon'ble Postmaster General N.E.Circle Shillong for favour of his kind information and early interference into the matter as prayed for to save the poor Sub-ordinate from the unjustful environment created by DPS. Kohima.
- (2) Shri. A. Ghosh Dastidar, Hon'ble Chief Postmaster General N.E.Circle Shillong for favour of his kind information and immediate intervention into the matter as prayed for.

(A.K SINGH)

Sub Postmaster (HSG-II)
Tuensang MDG- 798612

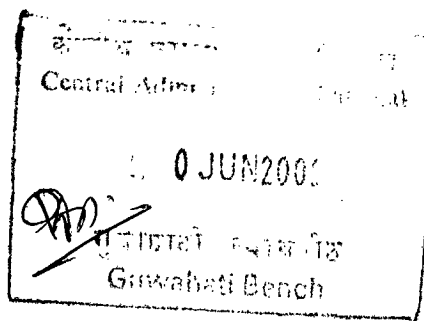
GRADATION LIST OF LSG (SUPERVISOR) CORRECTED UPTO 31.07.99 SCALE OF PAY Rs. 4500-125-700

Sanctioned Strength - 9 + (1) LSG APM A/C

Sl. No.	Name of the Official	Community	Date of Birth	Date of Entry	Date of Subsequent entry	Designation	Remarks
1	Shri. S.Boro	ST	01.07.52	12.03.73	01.02.89	Dy. PM/Kohima HO	Approved LSG
2	Shri.A.K.Singh	OC	03.07.49	23.03.73	01.08.89	VSAT Supervisor	-do-
3	Smt.R.S.Kithan	ST	01.10.47	25.05.73	21.05.89	SPM, Wokha SO	-do-
4	Shri.T.K.Dey	OC	01.09.44	01.02.74	01.02.90	Dy.SPM/Dimapur SO	-do-
5	Shri.S.K.Dey	OC	19.03.46	24.02.76	24.02.92	SPM, Tuensang SO	-do-
6	Shri.K.D.Jha	OC	19.10.55	13.06.76	03.06.92	Offtg. CI & Acctt.	-do-
7	Smt.L.Das	OC	25.03.56	16.06.76	16.06.92	D.O, Kohima.	-do-
8	Shri.K.Letso	ST	02.04.59	08.09.79	08.03.94	ASPM, Dimapur	-do-
9	Shri. V. Angami	ST	01.04.59	14.04.80	15.04.96	SPM / Kohima Village SO	-do-
10	Vacant					APM I, Kohima HO	-do-
						Acctt. Kohima HO/Offtg.	Shri.T.Thakur, PA Kohima HO.

Sl. no (1) and (2)
 Approved
 HSG-11262 w.e.f.
 01-07-1999

Certified to be
 true copy
 of the original
 of the original



1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 342 /04

SHRI A. KR. SINGH
.....APPLICANT
-VERSUS-
UNION OF INDIA & ORS
.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of OA filed by the applicant and have gone through the same and have understood the contentions made thereof. Save and except, the statements, which are specifically admitted herein below, rest may be treated as total denial. The statements, which are not borne on record, are also denied and the applicant is put to the strictest proof thereof.
- 2) That before traversing various paragraphs of the OA, the respondents beg to give the brief history of the case.

The applicant was transferred from the post of SPM, Mokokchung MDG (HSG-II) after completion of tenure of 4 years at Mokokchung and posted as SPM, Tuensang MDG (HSG-II) post vide this office memo no. B-2/Staff/Rotation/Transfer /2003 dated 30.12.2003 (Annexure-VIII). Subsequently, the applicant joined on the new post on 19.02.2004.

Distance between Tuensang and Mokokchung is 108 Kms. And both the offices are in HSG-II grade. The applicant was posted at Tuensang as it was near to Mokokchung involving less expenditure in terms of T.A./D.A. involved in the transfer and the post at Tuensang being manned by a junior official; it was in administrative interest to post a regular HSG-II official against this post. Subsequently, the officiating SPM, Dimapur MDG, Shri K. C Das retired on superannuation on 30.10.04 and to fill up this vacancy, Shri Sushil kr. Dey was posted as officiating SPM, Dimapur MGD vide this memo No. B-2/Staff/R. Trf./2004 dated 30.10.04. Shri Sushil Kr. Dey

Filed by
The Respondents
Shri Sushil Kr. Dey
Addl. Secy
CAT, Guwahati
50/9/9
Rakesh Kumar
(Rakesh Kumar)
Director of Postal Services
Nagaland, Kohima 797 001

was earlier working in a single-handed office at Naganimora Sub Office, which was not befitting his status/seniority and he was posted as officiating SPM, Dimapur MDG to utilize his long experience in the department. Disciplinary proceeding under Rule 16 was initiated against Shri A. K. Singh under DPS Kohima memo no. A12/Mokokchung/Repatula/03 dated 13-07-04, which was finalized vide memo no. A12/Mokokchung/Repatula/03 dated 18-03-05 by awarding him punishment of reduction of pay by four stages from Rs. 6650 to Rs. 6050 for a period of 3 years. As stated above, Shri A. K. Singh was involved in irregular appointment of GDSTM while functioning as SPM Mokokchung MDG and a disciplinary case was pending against him for irregular appointment of GDSTM. During the currency period of punishment, the official cannot be considered for officiating in a higher post. As a result, Shri K. Letso who is a BCR official has been posted as Postmaster Kohima H. O, purely on temporary basis and the benefit of pay fixation in HSG-I has not been extended to him. Shri A. K. Singh was not considered as he had not even completed 1 year of service at Tuensang MDG and he was already working against a HSG-II post. Subsequently, Shri S. K. Dey was not inclined to join on the post of SPM, Dimapur MDG and subsequently his transfer order was changed and Shri Senapati Boro, senior most official amongst HSG-II cadre in Nagaland Division was posted as SPM, Dimapur MDG. Shri S.K. Dey did not join at Dimapur and instead he was retained as SPM, Naganimora.

The post of SPM, Dimapur MDG is in HSG-I grade, the regular posting to which done by Chief PMG, N. E. Circle (Respondent No. 3). In past several officials in regular HSG-I were posted against this post but none of them were willing to join. Therefore, the need for filling up this post on ad hoc arrangement from amongst HSG-II staffs arose. While making ad hoc arrangement against HSG-I posts from amongst HSG-II officials, there was no direction in the order or intention to give higher pay fixation to such official. Such ad hoc arrangement is merely temporary and stands terminated when a regular HSG-I official joins on this post. The financial implication for the department would have been immense in terms of transfer benefits to be given to the applicant as he is posted 320 Kms. away from Dimapur.

The applicant was also found involved in making irregular appointment of Grami Dak Sevak Telegram Messenger (GDSTM) while working as SPM, Mokokchung MDG in complete violation of departmental rules and regulations and without advertising the post. When the same was detected, he failed to terminate this irregular arrangement till his relief from the post of SPM, Mokokchung despite clear-cut instructions of respondent No.4 as contained in the visit remarks on Mokokchung MDG dated 25.09.2003 (Annexure-III). Subsequently, for this irregular appointment he was proceeded under Rule- 16 of CCS9Cca) Rules, 1965 vide RespondentNo.4's memo dated 13.07.2004 (Annexure-IV). The said disciplinary case was finalized by Respondent No. 4 vide his

memo dated 18.03.05 (Annexure-V) vide which he has been awarded the punishment *as stated earlier*

The applicant's performance in computerizing Mokokchung post office when he was posted there for more than 4 years prior to his posting at Tuensang MDG was dismal and posting him at Dimapur MDG would have adversely affected the ongoing computerization program at Dimapur MDG.

In view of the above facts, and keeping in view the pending disciplinary case ~~in past~~ and currency period of the punishment at present, it was not felt desirable to post him on ad hoc basis to the post of SPM, Dimapur MDG. The applicant is in HSG-II cadre and has been posted against a HSG-II post at Tuensang MGD where he has just completed one year. The applicant cannot claim as a matter of right to be posted in a place of his choice as administrative need, convenience and suitability for the post has to be kept in view while issuing such order. On prior occasions, he was worked at Dimapur MGD or its immediate surrounding areas for more than 8 years and at Kohima H. O. for 8 ½ years in different spells, out of total service of 25 years in Nagaland Division, which constitutes two thirds of entire service span in Nagaland Postal Division.

- 3) That with regard to the statement made in paragraph 1 of OA, the respondents beg to state that the post of SPM, Dimapur MDG is in HSG-I grade, the regular posting to which is done by the chief PMG, N. E. Circle (respondent no.3). In past, several officials in regular HSG-I were posted against this post, but none of them joined on the post as they were not willing to join. Therefore, the need for filling of this post on ad hoc arrangement from amongst HSG-II staff arose. Since, Shri S. K. Dey, an official in HSG-II was working in a single handed office at Naganimora which was not befitting his seniority or length of service put in by him, it was decided to post him against a more responsible post of SPM, Dimapur MDG to effectively utilize his long experience in the department. The applicant was not considered as he is working as SPM, Tuensang MDG, which is a HSG-II post. Further, the applicant was working against the post of SPM, Tuensang MDG in HSG-II cadre which is very responsible post seeing the fact Tuensang district happens to be the largest district in Nagaland state in terms of population and area.

Subsequently, Shri S. K. Dey was not inclined to join on his new assignment as SPM, Dimapur MDG and the transfer order dated 30.10.2004 was further modified vide DPS, Kohima order dated 15.12.04. Vide this order Shri S. Boro, who is senior to the applicant, was posted as SPM, Dimapur MDG.

While making ad hoc arrangement against HSG-I post from amongst HSG-II officials, there was no direction in the order or intention to give benefits of higher pay-fixation to such officials. Further, such ad hoc arrangement is merely temporary and stands terminated when a regular HSG-I official joins on the post. The financial implication for the department would have been immense in terms of transfer benefits to be given to the applicant as he is posted at Tuensang, which is 320 Kms. away from Dimapur. Since this ad hoc arrangement was purely temporary and there was no intention of giving benefits of higher pay fixation to such staff, it was much prudent to post other HSG-II staff posted near to Dimapur to the post of SPM, Dimapur MDG.

The applicant's performance in computerizing Mokokchung post office when he was posted there for more than 4 years prior to his posting at Tuensang was dismal and posting him at Dimapur MDG would have adversely affected the ongoing computerizing programme at Dimapur MDG.

The applicant was also found involved in making irregular appointment of Gramin Dak Sevak Tyelegram Messenger (GDSTM) while working as SPM, Mokokchung MDG in complete violation of departmental rules and regulations and without advertising the post. When the same was detected, he failed to terminate this irregular appointment he was proceeded under Rule-16 of CCS (CCA) Rules, 1965 vide Respondent No. 4's memo dated 13.07.2004. The said disciplinary case was finalized by respondent No. 4 via his memo dated 18.03.05 vide which he has been awarded the punishment *as stated earlier*.

In view of above facts, and keeping in view the pending disciplinary case ~~in-pat~~ and currency period of the punishment at present, it was felt not desirable to post him on ad hoc basis to the post of SPM, Dimapur MDG. The applicant is in HSG-II cadre and has been posted against a HSG-II post at Tuensang MDG where he has not completed even one year. The applicant cannot claim as a matter of right to be posted in a place of his choice as administrative need, convenience and suitability for the post has to be kept in view while issuing such order. On prior occasions, he has worked at Dimapur MDG or immediate surrounding areas for more than 8 years and at Kohima H. O. for 8 ½ years in different spells, out of total service of 25 years in Nagaland Division which constitutes two third of entire service span in Nagaland Postal Division.

Copies of the order date 30.10.2004, 15.12.04, 25.09.2003, 13.07.04 and 18.03.05 are annexed herewith and marked as Annexure-R1, R2, R3, R4 & R5 respectively.

- 4) That with regard to the statement made in paragraphs 2 to 4.4 of OA, the respondents beg to offer no comment.

5) That with regard to the statement made in paragraph 4.5 of OA, the respondents while denying the contentions made therein beg to state that the contention of the applicant that he is the senior most in HSG- Cadre is not supported by facts. Both, Shri S. Boro and the applicant got placement under HSG-II w.e.f. 01.07.1999, but in the gradation list Shri S. Boro is senior to Shri Singh, as he had joined the department on 12.03.1973 as against applicant's date of entry in the department on 23.03.1973. Further, Shri Boro got placement under TBOP w.e.f. 10.02.1989 whereas the applicant got it from 01.08.1989. Therefore, this contention of the applicant is not based on facts.

- 6) That with regard to the statement made in paragraph 4.6 of OA, the respondents while denying the contentions made therein beg to state that the charges of bias and arbitrariness leveled against respondent No. 4 are baseless and imaginary in view of reasons cited in Para 3 above. Shri S. K. Dey never joined on the post of SPM, Dimapur MDG and the transfer order was subsequently modified and Shri S. Boro who is senior to the applicant as per the gradation list is working as SPM, Dimapur MDG

A copy of the gradation list is annexed herewith and marked as Annexure-R6.

- 7) That with regard to the statement made in paragraph 4.7 of OA, the respondents vehemently denying the contentions made therein beg to state that the rate of increment in the scale of pay of Rs. 6500-200-10,500 is Rs. 200 and that in the scale of pay of Rs.5500-175-9000 is Rs.175. The contentions made by the applicant that the rate of increment is Rs.500/- in the scale of pay of Rs. 6500-200-10500 and that of Rs.1500 in the scale of pay of Rs.5500-175-9000 is obviously false.

The allegation leveled by the applicant against the respondents that a junior official was given an opportunity to officiate as SPM, Dimapur MDG in HSG-I cadre has been fully explained in paragraph 3 of this reply, which is self explanatory and it is clear there that the contention of the applicant is false, baseless and imaginary.

- 8) That with regard to the statement made in paragraph 4.8 of OA, the respondents while denying the contentions made therein beg to state that the contention of the applicant has no basis and the allegation has been leveled merely to advance his cause and show the respondents in poor light.
- 9) That with regard to the statement made in paragraph 4.9 of OA, the respondents beg to state that the applicant in paragraph 4.5 of his OA, has stated that he is senior most official in HSG-

II including Shri S. Boro. But, in this Para he admits that he is junior to Shri S. Boro. The above contention of the applicant is in contradiction to each other. As has been stated in para-1 of this reply, Shri S. Boro was subsequently posted as SPM, Dimapur MDG vide respondent No4's memo dated 15.12.04 and therefore, the claim of the applicant to the post of SPM, Dimapur MDG no longer exists as Shri Boro is senior to the applicant and the applicant has tried hard to justify his posting as SPM, Dimapur MDG on the basis of seniority alone in HSG-II cadre. It may be pointed out seniority is not only criteria for such posting on officiating arrangement as other critical factors like administrative need, convenience, suitability for the post, etc. has to be taken into consideration.

- 10) That with regard to the statement made in paragraph 4.10 of OA, the respondents while denying the contentions made therein beg to state that the applicant was posted as SPM, Mokokchung MDG prior to his posting as SPM, Tuensang, where he worked for more than 4 years. Both, Mokokchung and Tuensang are district headquarters having identical medical facilities. The logic of his illness or subsequent lack of facilities of treatment is merely imaginary.

The contention of the applicant that his junior has been allowed to officiate is not true as Shri S. K. Dey was not inclined to join the post of SPM, Dimapur MDG and subsequently Shri S. Boro, who is senior to the applicant was posted against the post of SPM, Dimapur MDG vide memo dated 15.12.04.

As for posting against the post of Dimapur MDG, the applicant was posted as SPM, Tuensang MDG which is in a HSG-II post and a very responsible post as Tuensang district is largest in terms of population and area in Nagaland and the Official cannot claim to be posted as a matter of right to a post which he feels to be suitable for him ignoring administration's need, convenience and requirement.

As for contention of the applicant that he was not given due opportunity to work in plain areas, it is humbly submitted that entire Nagaland Division consists of hilly terrain except for Dimapur area and the applicant willfully opted to serve in Nagaland by choosing to be a Postal Assistant in Nagaland Postal Division. As stated in paragraph 3 of this reply, the applicant has served for 8 years in Dimapur or its immediate surroundings areas and 8 ½ years in Kohima in different spells in past out of total service span of 25 years in Nagaland Division. This translates in to the fact that the applicant has spent two third of his entire service in either Dimapur or its immediate surrounding areas and Kohima H. O. Thus, the contention of the applicant is baseless and imaginary.

- 11) That with regard to the statement made in paragraph 4.11 of OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made in paragraph 3 of this WS.
- 12) That with regard to the statement made in paragraph 4.12 of OA, the respondents beg to state that the appeal of the applicant has been rejected by the appellate authority under Chief Postmaster General, N. E. Circle, Shillong vide memo no. Staff/9-4/2002 (L) A.K. Singh dated 20.04.05.

A copy of the order-dated 20.04.05 is annexed herewith and marked as Annexure-R7.

- 13) That with regard to the statement made in paragraph 4.13 of OA, the respondents while denying the contentions made therein beg to state seniority alone is not the criteria for giving ad hoc officiating arrangement. As has been pointed out earlier that Shri S.K. Dey never joined on the post Dimapur MDG and his place of posting was subsequently revised vide this office memo dated. 15.12.04 vide which Shri Dey was retained as SPM, Nagaimora and Shri S. Boro was posted as SPM, Dimapur MDG. Shri S. Boro is senior to the applicant therefore, the contention of the applicant is not correct.
- 14) That with regard to the statement made in paragraph 4.14 of OA, the respondents while denying the contentions made therein beg to state that during the currency period of punishment the official cannot be considered for officiating in a higher post. As a result, Shri K. Letso, who is a BCR Official has been posted as Posted as Post Master Kohima H.O, purely on temporary basis and benefit of pay-fixation in HSG-I grade has not been extended to him.
- 15) That with regard to the statement made in paragraph 4.15 of OA, the respondents while denying the contentions made therein beg to state that the appeal has been rejected by the appellant authority under CPMG, Shillong memo No. Staff/9-4/2002 (L) A. K. Singh under DPS, Kohima memo No.A-12/Mokokchung/Rapatula/03 dated 13.07.04 which was finalized vide memo dated 18.03.05 by awarding punishment of reduction of pay by four stages from Rs.6650 to 6050 for a period of 3 years. As stated above Shri A.K. Shing was involved in irregular appointment of GDSTM while functioning as SPM, Mokokchung MDG and a disciplinary case was pending against him for irregular appointment of GDSTM. During the currency period of punishment, the official cannot be considered for officiating in a higher post. As a result, Shri K. Letso who is BCR official has been posted as Postmaster, Kohima H.O. purely on temporary basis and the benefit of pay fixation in HSG-I grade has not been extended to him.

- 16) That with regard to the statement made in paragraphs 5.1 to 5.7 of OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made in paragraph 13 of this WS.
- 17) That with regard to the statement made in paragraph 5.8 of OA, the respondents while denying the contentions made therein beg to state that the applicant has at his own violation opted to work as P. A. Nagaland Division which is entirely hilly except for Dimapur. The applicant in past has worked for 8 years in Dimapur or its immediate surrounding areas in total service span of 25 years and he can not claim as a matter of right to be posted at a station of his choice. The applicant is in HSG-II grade and has been posted against HSG-II post and he has just completed only one year of service as SPM, Tuensang.
- 18) That with regard to the statement made in paragraph 5.9 to 5.11 of OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made in paragraph 3 of this Written Statement.
- 19) That with regard to the statement made in paragraph 6 & 7 of OA, the respondents beg to offer no comment.
- 20) That with regard to the statement made in paragraph 8.(i) of OA, the respondents while denying the contentions made therein beg to state that as pointed out earlier also, Shri S. K. Dey never joined on the post of SPM, Dimapur MDG and his posting order was change vide this office memo dated 15.12.04 vide which Shri S. Boro, who is senior to the applicant was posted as SPM, Dimapur MDG.
- 21) That with regard to the statement made in paragraph 8(ii) of OA, the respondents while denying the contentions made therein beg to state that the applicant cannot claim as a matter of right to be posted at any place of his choice. In past, the applicant had worked for more than 8 years at Dimapur or its immediate surrounding area. The applicant is in HSG-II grade and has been posted against HSG-II post as SPM, Tuensang MDG where he has completed only one year of service.
- 22) That with regard to the statement made in paragraph 8(iii) of OA, the respondents while denying the contentions made therein beg to state that since Shri S. Boro who is senior to the applicant is working as SPM, Dimapur MDG. The contentions of the applicant, is baseless and imaginary.
- 23) That with regard to the statement made in paragraph 8(iv) of OA, the respondents while denying the contentions made therein beg to state that the applicant has filed the present OA on very flimsy ground wasting the time of Hon'ble Tribunal, therefore the cost of litigation borne by the respondents may be awarded to the respondents.

- 24) That with regard to the statement made in paragraph 9(i) of OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made in paragraph 20 of this WS.
- 25) That with regard to the statement made in paragraph 9(ii) of OA, the respondents while denying the contentions made therein beg to state that the post of SPM, Dimapur MDG is manned by Shri S. Boro who is senior to the applicant. Therefore, the contentions of the applicant that the post is lying vacant is not correct and has been given to senior most HSG-II Official of this Division.
- 26) That with regard to the statement made in paragraph 9(iii) of OA, the respondents beg to offer no comment.
- 27) That in view of the above facts and circumstances of the case the respondents beg to state that the present OA is devoid of any merit and hence the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

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VERIFICATION

I Shri Rakesh Kumar at present
working as Director of Postal Services at Nagaland, Kohima
who is taking steps in this
case, being duly authorized and competent to sign this verification, do
hereby solemnly affirm and state that the statement made in paragraph
1 & 27 are true
to my knowledge and belief, those made in paragraph
2 to 26 being matter of records, are
true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 30th the day of May 2005 at Kohima

Rakesh Kumar
DEPONENT
(रकिश कुमार)
(Rakesh Kumar)
निदेशक डाक सेवा
Director of Postal Services
नगालैंड कोहिमा - ७९७ ००१
Nagaland, Kohima 797 001

2.3 set

11 -

ANNEXURE - I

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DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA - 797001

Memo No.B-2/Staff/R.Trf/2004.

Dated at Kohima the 30.10.2004

Consequent upon retirement of Shri K.C.Das officiating SPM (HSG-I) Dimapur MDG on Superannuation, the following transfer and posting order is issued in the interest of service having immediate effect.

1. Shri Sushil Kumar Dey, approved (HSG-II) presently working as SPM Naganimora SO is transferred and posted as officiating SPM, (HSG-I) Dimapur MDG, vice vacancy created due to retirement of Shri K.C.Das on Superannuation.
2. Shri K.D.Jha, Offtg C.I. Divisional office, Kohima is transferred and posted as Dy.Postmaster, Kohima HPO.
3. Shri K.Zatsovi, officiating Dy. Postmaster, Kohima HO will work as PA, Kohima HO.
4. Shri C.Lembemo Lotha, PA, Dimapur MDG is hereby transferred and posted as SPM, Naganimora SO vice Shri Sushil Kumar Dey, transferred.

The officials at sl. no. 2&4 will move first and join on their new place of posting within a week's time i.e. 8.11.2004. No change in the place of posting will be entertained.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima 797 001

Copy to:-

1. The Postmaster, Kohima HO for information. He will ensure that no pay and allowances is drawn in favour of officials who fail to join on their new place of posting by stipulated date i.e. 08-11-2004.
- 2-6) The official concerned.
7. The SPM, Dimapur MDG for information. He will relieve the official within stipulated date.
- 8) The SPM, Naganimora SO for information.
- 9-10) Office copy.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797 001

DEPARTMENT OF POSTS:INDIA**OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA-797001**

No. B-2/Staff/R.Tfr/2004-05

Dated at Kohima the 15.12.2004

The following transfer and posting order is issued in the interest of service to take immediate effect.

1. Shri. S. Boro, (BCR) Offg. Postmaster, Kohima HO is hereby transferred and posted as SPM, Dimapur MDG vice Shri. S.K. Dey, who is retained as SPM Naganimora
2. Shri. K. Letso, (BCR), OA, Divisional Office, Kohima is hereby transferred and posted as Offg. Postmaster, Kohima HO vice Shri. S. Boro.
3. Smt. Zita Vinokono, PA, Kohima HO is hereby transferred and posted as OA, Divisional Office, Kohima.
4. Shri. T.Thakur, (TBOP) PA, Kohima HO is hereby transferred and posted as SPM Wokha SO vice Smt. R.S.Kithan transferred.
5. Smt. R.S.Kithan, (BCR), SPM Wokha SO is hereby transferred and posted as SPM Tsemenyu SO vice Shri. Mezatsü Angami transferred.
6. Shri. Mezatsü Angami, SPM, Tsemenyu SO is hereby transferred and posted as SPM Chiechama SO vice Shri. Theruovituo Angami transferred.
7. Shri. Theruovituo Angami, SPM Chiechama SO is hereby transferred and posted as SPM Medziphema SO vice Shri. Vitoi Sema transferred.
8. Shri. Vitoi Sema, SPM Medziphema SO is hereby transferred and posted as SPM Akuloto SO vice Shri. Dharmendra Kumar transferred.
9. Shri. Dharmendra Kumar, SPM, Akuloto SO is hereby transferred and posted as PA Dimapur MDG.
10. Smt. K.Z.Dolf, Kohima HO is hereby transferred and posted as SPM N.S.C CO vice Shri. V.Angami transferred.
11. Shri. V.Angami (TBOP), SPM N.S.C SO is hereby transferred and posted as Offg. Dy. Postmaster, Kohima HO vice Shri. K.D. Jha transferred.

(Contd.)

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12. Shri. K.D.Jha, (BCR), Dy. Postmaster, Kohima HO is hereby transferred and posted as Offg. Complaint Inspector, Divisional Office against vacant post.

13. Smt. Neibeilienuo Khezie, PA, Kohima HO is hereby transferred and posted as SPM Kohima Village SO vice Shri. Selebei transferred.

14. Shri. Selebei, SPM Kohima Village SO is hereby transferred and posted as PA Mon MDG against the vacant post.

15. Smt. Amongla Jamir, PA Dimapur MDG is hereby transferred and posted as SPM Changtongia vice Shri. Subodh Kumar, transferred.

16. Shri. Subodh Kumar, SPM Chantongia SO is hereby transferred and posted as PA Dimapur MDG.

17. Smt. Kalpana Nath, PA, Kohima HO is hereby transferred and posted as SPM Nepaligaon SO vice Shri. D. Mandal transferred.

18. Shri. Mandal, SPM Nepaligaon, is hereby transferred and posted as Treasurer, Kohima HO against Shri. Beso Mao, who has completed treasurer tenure and remain as PA Kohima HO.

19. Shri. Kartick Lodh, SPM Chumukedima SO is hereby transferred and posted as SPM Meluri SO vice Shri. Vichutho transferred.

20. Shri. Vichutho, SPM, Meluri SO is hereby transferred and posted as SPM Chumukedima SO.

21. Smt. Neikuoü Angami, PA, Kohima HO is hereby transferred and posted as SPM KPWD SO vice Shri. K.Solo transferred.

22. Shri. K.Solo, SPM KPWD SO is hereby transferred and posted as PA Kohima HO.

23. Shri. K.Joseph, PA, Dimapur MDG is hereby transferred and posted as PA Kohima HO.

24. Shri. L. Bendangwati, (TBOP) Offg. Dy.SPM Dimapur MDG is hereby transferred and posted as PA ARTC vice Shri. Gautam Jha transferred.

25. Shri. Gautam Jha, PA, ARTC SO is hereby transferred and posted as PA Dimapur MDG.

26. Kum. Elizabeth Yanthan, PA Dimapur MDG is hereby transferred and posted as PA ARTC SO against the vacant post.

(Contd)

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27. Smt. V.Singson (TBOP), PA Dimapur MDG is hereby transferred and posted as PA Kohima HO.

28. Shri. Vikato Sema, PA Dimapur MDG is hereby transferred and posted as PA Tuensang MDG against the vacant post.

The Officials at Sl. No.2,3,7,10,11,12,13,21,22,23 & 25 will not be entitled for TA/TP as either they have been posted in the same station or transfer is at their request.

The Officials at Sl. No. 2,3,4,10,13,15,17,21,23,24,26,27 & 28 shall have to move first latest by 31.12.2004.


(Rakesh Kumar)

Director Postal Services
Nagaland, Kohima-797001

Copy to:-

1. The Postmaster, Kohima HO for necessary action.
- 2-29. All concerned.
30. The ASPOs Kohima
- 31-32. The SD-IPOs Dimapur / Mokokchung

ANNEXURE - III

VISIT REMARKS ON MOKOKCHUNG MDG IN ACCOUNT WITH KOHIMA HO RECORDED BY DPS, NAGALAND, KOHIMA ON 25.02.2003.

1. Paid a surprise visit to Mokokchung MDG in account with Kohima HO on 25.2.03 at 09.00 hrs. Shri A.K. Singh is working as the SPM since Jan'2000.

2. The establishment of the office consists of the following :-

<u>Sl.no</u>	<u>Post</u>	<u>Sanction strength</u>	<u>Actual strength</u>	<u>Remarks</u>
1.	SPM	01	01	
2.	PA's	08	04	
3.	Stg. postman	01	01	officiating arrangement from postman
4.	Postmen	09	08	1 post of postman abolished this year & another 4 or 5 post were found surplus on establishment review.
5.	Groub 'D'	06 + 01 (LR)	06 + 02	one of the (LR) was drawing salary without doing his duty.
6.	GDS TM	01	01	the post has not been abolished in accordance with past instruction & is being managed by one MS. Reputola since Mar'03 in contravention of rules.
7.	GDS MC	01	01	managed by substitute Ms. Aienla.
8.	O/S Cash	01	01	
9.	Stamp vendor	01	01	

16 - 24
3. A number of irregularities were noticed in the establishment of this office :-

a) The post of GDS TM which was supposed to be abolished long been is being continued that too on a local arrangement. Ms. Reputola is working on this post since Mar '03, which is totally in contravention of rules. The irregularities becomes more glaring in view of recent circular from division which reiterated the rule position on such issues. Despite these, SPM is continuing with this arrangement. He will immediately terminate the arrangement and report compliance to my office. He will also explain why he allowed this arrangement to go on fully knowing the fact that this is against rules and that there is hardly any traffic of telegrams now a days and the same can be delivered by postmen staff, half of them being surplus in this office. Further, the lady engaged for this purpose is not performing the work of telegram delivery and instead is being utilised as a personal stenographer.

b) Many of the officiating arrangement was found to be going on for months together and no heed is being paid to the departmental rules on such matters.

c) One of the Gr'D' shri Aoshahi Ao is not attending to his duties and still he is being paid full pay & allowances as the SPM is wrongly submitting the absentee statement about his actual attendance. Furthermore, he is being allowed to draw temporary advance out of SO's cash. These instances are highly irregular and SPM should explain for the same. My office will consider unit transfer of the Gr'D'.

4. Examined the SO account book and found the details of O.B. dtd 25.09.03 to be as follows :-

Cash	-	Rs.	182,180.97
P.Stamps	-	Rs.	117,615.00
S.Stamps	-	Rs.	53,674.00
R.Stamps	-	Rs.	33,824.00
IRC	-	Rs.	12,056.00
CRF	-	Rs.	9,606.00
BO balance	-	Rs.	97,787.77
		Rs.	5,06,743.74

On physical verification of cash and stamps, the same was found correct.

5. Out of total cash of Rs. 182,180.97, part of cash amounts to Rs. 1,30,774 and details of which were as follows :-

MMS part of cash	-	Rs.	1,30,774.00
Others part of cash	-	Rs.	14,829.00
Stamp vendor Adv	-	Rs.	1,065.00
		Rs.	1,46,668.00

My office will take immediate steps for sanction of genuine advances and for their early liquidation. The role of mail branch is critical as 90% of the advance pertains to that branch.

6. The state of computerisation in the office is awful and far below the expectation and the SPM does not seems to take any interest in their operationalisation. ESMO installed long back has never functioned in this office. MPCM is being used in unimode as only 'IRC is being booked, whereas there is longstanding rule that MPCM's should be utilised in multimode.

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17 -
7. Western Union Money Transfer (WUMT) has also not functioned in this office right from the start. Now, the SPM has undergone training for the same, he should ensure its early operationalisation.

8. Two sets of new computers have been supplied to this office recently for the purpose of setting up of Customer Care Centre (CCC) and Community Internet Service (CIC). The vendor has come for its commissioning but it could not be done as electrical fittings like power point etc. were not provided.

9. Altogether 333 RD accounts are in operation in this office including that of BO. Proforma report on RD accounts have been submitted to Kohima HO recently.

10. Post office is housed in a departmental building, which is in dilapidated condition. The proposal for construction of a new departmental building by demolishing the existing building is already under process. Towards this objective, the building plan has already been prepared by Postal Civil Wing and sent to my office for getting it approved by Town Committee. The same was sent through C.I, but due to certain queries on mode of acquisition of existing Postal land, the same could not be pursued. My office will provide all necessary information and send the building plans for approval by Mokokchung Town Committee at earliest.

11. SPM complained about the critical staff shortage in his office, keeping in view that this office normally provides staff for manning the nearby single handed sub-offices, when these SPM's are granted leave. There was much strength in his argument and my office will consider more number of PA's to this office.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797001.

Copy to :-

1. SPM, Mokokchung MDG, for information & n/a. He will also submit compliance within 10 days on receipt of this report.

2. Office copy.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797001.

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND : KOHIMA-797 001

No. A-12/Mokokchung/Repatula/03

Dated at Kohima the 13-07-2004


MEMORANDUM

1. Shri A.K.Singh the then SPM (HSG-II), Mokokchung MDG (Now SPM (HSG-II), Tuensang MDG) is hereby informed that it is proposed to take action against him under Rule 16 of CCS (CCA) Rule 1965. A statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken as mentioned above is enclosed.

2. Shri A.K.Singh is hereby given opportunity to make such representation as he may wish to make against the proposal.

3. If Shri A.K.Singh fails to submit his representation within the time specified in the receipt of this memorandum, it will be presumed that he has no representation to make and order will be liable to be passed against him exparte.

4. The receipt of this memorandum should be acknowledged by Shri A.K.Singh the then SPM (HSG-II), Mokokchung MDG (Now SPM (HSG-II), Tuensang MDG)


(Rakesh Kumar)
Director of Postal Services
Nagaland : Kohima-797 001

Registered with A/D

To

Shri A.K.Singh,
Sub-Postmaster (HSG-II),
Tuensang MDG-798 612

IMPUTATION OF MISCONDUCT AND MISBEHAVIOUR FRAMED AGAINST
SHRI A.K.SINGH, THE THEN SPM (HSG-II), MOKOKCHUNG MDG
(NOW SPM (HSG-II), ITENSANG MDG)

While functioning as Sub-Postmaster (HSG-II), of Mokokchung MDG from 22-12-2001 to 05-02-2004, the said Shri A.K.Singh was found responsible for making irregular appointment against the post of GDSTM, Mokokchung.

2. Miss Repatula, D/O Smt. Innasashi Jamir of Salengtem Ward, Mokokchung was provisionally appointed as GDSTM vide his letter No. B-2/Repatula/03 dated 01-03-2003 on the plea that the incumbent GDSTM was absconding since 28-01-2003 and a disciplinary proceeding was pending against him.

3. As per DGP & T letter No. 43-4/77/Pen. dated 18-05-1979 and circular No. 19-34/99-ED & Trg dated 30-12-1999, the provisional appointments should as far as possible, should be avoided and should be made only for specific periods. Further, as per DG Posts, letter No. 41-286/87-PE-II dated 14-12-1987, it was clarified that provisional appointment of GDSDA which are expected to continue for a long period should be made by requisitioning the names from employment exchange and by giving wide publicity to important public institutions. The detailed instruction are contained in DG, P & T, letter No. 45-22/71-SPB-I/Pen. dated 04-09-1982 and DG Posts, letter No. 19-4/97-ED & Trg. dated 19-08-1998.

4. But, it is seen that Shri A.K.Singh, appointed Miss Repatula against the post of GDSTM, Mokokchung MDG directly without approaching the employment exchange or even giving wide publicity. The provisional appointment letter issued vide his letter No. B-2/Repatula/03 dated 01-03-2003 has not been issued in the prescribed format nor any specific period of engagement as GDSTM has been mentioned in the said appointment letter.

5. Further, the traffic of receipt of telegrams has dwindled to an insignificant number and there is no justification of post of a GDSTM at the time of provisional appointment and moreover the number of posts of postmen found surplus during Est-3 review of Mokokchung MDG during 2002 was 6 (Six). Therefore, there was no urgency and need for provisional appointment against the post of GDSTM.

6. Thus, the said Shri A.K.Singh by his above acts has violated Rule-15, Rule-16-A of GDS (Conduct & Employment) Rules, 2001 and instructions contained in D.G Posts letter No.41-286/87-PE-II dated 14-12-1972. By his above omissions, he has also violated the provisions of Rule 3 (i), (ii) and (iii) of CCS (Conduct) Rules, 1967.

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR POSTAL SERVICES
NAGALAND, KOHIMA. 797001.

No.A-12/Mokokchung/Repatula/03

Dated at Kohima the 18.03.05

It was proposed to initiate action against Shri A.K. Singh, the then HPM (HSG-II) Mokokchung MDG, presently working as SPM(HSG-II) Tuensang MDG, under Rule 16 of CCS(CCA) Rules 1965 vide this office memo no. A-12/Mokokchung/Repatula/03 dtd. 13.07.04.

(2) The Charge Official (C.O) vide his defense statement dtd.06.08.04 has stated that he made the irregular appointment to the GDSTM, Mokokchung post due to the following reasons :-

(i) Shri B. Bora, the incumbent GDSTM was absconding since a long time and he had accepted money from many persons under false assurance of handing over his job of GDSTM to such persons, who in turn pressurised the Charge Official to appoint such persons against Shri Bora's post.

(ii) The Charge Official had presumed that Shri B.Bora will never come back on his post of GDSTM, Mokokchung as he was absconding for considerable period of time.

(iii) There was substantial traffic of telegrams from Mokokchung MDG and the post was filled up in the interest of service to tide over this work.

(3) The Charge Official gave appointment to Ms. Repatula without approaching the Employment Exchange or giving wide publicity and he made the provisional appointment on the basis of only one applicant namely Ms. Repatula being interested in that post which is in complete violation of departmental rules and regulations. The Charge Official has cited reasons which are totally extraneous to the facts of the case and cannot be accepted as valid reasons for making irregular appointment to the post of GDSTM, Mokokchung which was technically not vacant as the previous incumbent was not dismissed from service and he has a claim over the post till he is dismissed from service in accordance with rules. Further, any appointment in the government including provisional appointment has to be done by giving wide publicity and involving Employment Exchange for sponsoring of prospective candidates. In the instant case, no advertisement whatsoever, was made for making the provisional appointment and the sole candidate who was interested in the job was given the provisional appointment in total disregard of departmental rules. As per GDS Conduct Rules, any appointment of GDS staff including that of provisional appointment has to be done by giving wide publicity and involving Employment Exchange for sponsoring candidates. The appointing authority can select a candidate only when at least 3 (three) candidates have applied for the posts either through Employment Exchange or directly to the appointing authority. In the instant case, no advertisement was given and decision was on the basis of only one person.

(4) Shri Singh has referred to his letter dtd. 14.02.03 vide which he has submitted the monthly statistics relating to telegrams received at Mokokchung MDG for delivery through GDSTM. As per this statistics, the average monthly telegram received for delivery from Mokokchung MDG comes to 112 per month which means that on average on a given day, telegrams received for delivery were 4 in number which is far too less to justify a post of GDSTM. Further, while doing the EST-3 review of postmen staff during 2002, 6 post of postmen were found surplus out of total sanctioned strength of 9 (Nine) postmen. The work relating to GDSTM could have been easily distributed amongst these Postmen and the number of telegram would not have even come to 1 per postman per day. But the Charge Official being the appointing authority did not take into account the above logical facts before making a provisional appointment to the post which shows that he was pre-determined and personally interested in giving provisional appointment to Ms. Repatula in flagrant violations of departmental rules and regulations on this issue.

(5) Therefore, I am of considered view that charges as contained in this office memo no. A-12/Mokokchung/Repatula/03 dtd. 13.07.04 stands fully proved against the Charge Official.

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ORDER

It is therefore, ordered that the pay of Shri A.K. Singh, SPM, Tuensang MDG be reduced by 4 stages from Rs. 6650 to Rs. 6050 in the time scale of pay of Rs. 5000-150-8000 for the period of 3 yrs. w.e.f. March 2005. It is further directed that Shri A.K. Singh will not earn increment of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effects of postponing his future increments of pay.

Sd/-
(Rakesh Kumar)
Director of Postal Services
Nagaland, Kohima-797001.

Copy to:-

- 1) The Chief Postmaster General, N.E. Circle, Shillong-793001.
- 2) The Postmaster, Kohima H.O. for information and n/a.
- 3) The DA(P), Kolkata (Through the Postmaster, Kohima H.O.)
- 4) Shri A.K. Singh, SPM Tuensang MDG.
- 5) PF/CR of the official.
- 6) Punishment Register
- 7) O/C.

7-18/3/05.
(Rakesh Kumar)
Director of Postal Services
Nagaland, Kohima-797001.

ANNEXURE - VI

GRADATION LIST OF LSG (SUPERVISOR) CORRECTED UPTO 31.07.99 SCALE OF PAY Rs. 4500-125-700
Sanctioned Strength - 9 + (1) LSG APM A/C

No.	Name of the Official	Community	Date of Birth	Date of Entry	Date of Subsequent entry	Designation	Remarks
1.	Shri. S. Boro	ST	01.07.52	12.03.73	01.02.89	Dy. PM/Kohima HO	Approved LSG
2.	Shri. A.K. Singh	OC	03.07.49	23.03.73	01.08.89	VSAT Supervisor	-do-
3.	Smt. R.S. Kithan	ST	01.10.47	25.05.73	21.05.89	SPM, Wokha SO	-do-
4.	Shri. T.K. Dey	CC	01.09.44	01.02.74	01.02.90	Dy.SPM/Dimapur SO	-do-
5.	Shri. S.K. Dey	CC	19.02.46	24.02.76	24.02.92	SPM, Jiansang SO	-do-
6.	Shri. K.D. Jha	CC	19.10.55	13.05.76	03.06.92	Offg. CI & Acct.	-do-
7.	Smt. L. Das	OC	25.03.56	16.06.75	15.05.92	D.O, Kohima	-do-
8.	Shri. K. Letso	ST	02.04.59	08.09.79	08.03.94	ASPM, Dimapur	-do-
9.	Shri. V. Angami	ST	01.04.59	14.04.80	15.04.96	SPM / Kohima Village SO	-do-
10.	Vacant					APM I, Kohima HO	-do-
						Acct. Kohima HO/Offg. Shri. T.Thakur, PA	Kohima HO.

Department of Posts: India

O/o The Chief Postmaster General North Eastern Circle, Shillong

No: Staff/9-4/2002(L)A.K.Singh

dated at Shillong, the 20th April 2005

To

Under Entry

The Director Postal Services,
Nangland Division,
Kohima - 797001

Subject: Representation of A.K.Singh for posting as SPM Dimapur MDG (HSG I)

1. Reference: Your office letter no. B-76/pt-11 dated 30.03.2005

2. The representation of Shri A.K.Singh, SPM Tuensang MDG dated 11.11.2004 has been examined in this office which revealed the followings:-

3. Shri S.Boro, who has been posted temporarily as SPM Dimapur MDG by the DP Kohima appears to be senior to Shri A.K.Singh, SPM, Tuensang MDG. As such there is no irregularity in the said posting.

4. Therefore the claim of Shri A.K.Singh for posting as SPM Dimapur MDG is hereby rejected.

5. The official may be informed accordingly.

(LALHLUNA)

Postmaster General
N.E.Circle, Shillong-793001