

7

FORM NO. @  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(s) Patal Bilami Das 70ns

Respondent(s) M.G.Rao (U.O.I) 90M

Advocate for the Applicants Mrs. S. Salma

Mrs. B. Deni

Advocate for the Respondent(s)

✓ CGSC

Atty St. Counsel

Notes of the Registry

Date

Order of the Tribunal

23.1.06 present: The Hon'ble Shri K.V. Sachidanandan, Vice-Chairman.

This contempt petition has emanated from the non-compliance of the order dated 18-8-2005 passed in O.A.151/04 whereby this Tribunal has directed the respondents to convene a review DPC and promote the applicants from the date from which they were promoted on adhoc basis as Officer Surveyor. It was further directed therein that if the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their adhoc promotion based on review DPC the official respondents will fix the inter se seniority of the applicants without further ~~maxy~~ delay. The contention of the applicants moving the C.P. that the aforesaid directions are not complied with as yet.

However, to ascertain this aspect issue notice to the respondents to show as to what further steps has been taken to implement the order of the Tribunal. post on 27.2.2006.

Vice-Chairman  
Contd....

Re: amony order dated  
23.1.06

✓ 24.1.06

bb

27.2.06

Notice & order  
sent to D/Section  
for issuing to  
resp. nos. 1, 2  
by regd. A/D post.  
D/N0 = 138.

27/1/06. DT = 30/1/06.

24 - 2 - 06

- (1) Service report awaited.
- (2) No. Report has been filed.

My

9 - 3 - 06

~~affidavit has~~  
been filed Cont. no. 2.

My

23. 3. 06

Compliance report  
submitted by the  
Respondent no. 1.

My

Compliance report  
filed by the R.No-2.

My  
27.3.06

1-5-06  
Reply filed by the Contenders.

Reply has been filed.

My  
25.5.06

The learned counsel for the Respondents has submitted that the affidavit of the alleged contemners has been filed within a week.

Post the matter on 13.3.06.

Vice-Chairman

13.03.2006

When the matter came up for hearing, Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submits that he has filed reply. Counsel for the applicant prays for time to file rejoinder. Let it be done.

Post on 28.3.2006.

Vice-Chairman (J)

mb

28.03.2006

Post on 02.05.2006 alongwith

M.P. 24/2006.

Vice-Chairman

mb

02.05.2006

Ms. B. Devi, learned counsel for the applicant wanted to file rejoinder to the reply affidavit filed by the respondents.

Post on 26.5.2006.

Vice-Chairman

mb

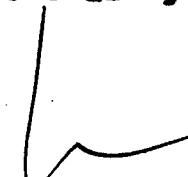
26.05.2006

Post on 21.06.2006 alongwith

M.P. No. 24/2006.

Vice-Chairman

mb

Notes of the Registry	Date	Order of the Tribunal
	21.6.2006	Post the matter on 24.7.2006 along with the M.P.
<u>20 - 6 - 06</u> Reply filed by fine Contemtuner.		 Vice-Chairman
<u>28 - 7 - 06</u> Affidavit filed by in a alleged contemtuner.	24.7.2006 bb	post the matter before the next Division Bench.  Vice-Chairman
<u>Received</u>  Advocate	31.07.2006 bb	Heard learned counsel for the parties. The Contempt Petion is closed in terms of the order passed in separate sheets.  Member
<u>Received</u> 9.8.06  Advocate	mb	 Vice-Chairman
<u>11.8.06</u> Copy of the final order handed over to the L/Advocates for the parties.  Advocate		

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

3 of 2006

C.P. No. ....

31.07.2006

DATE OF DECISION .....

Sri P.B. Das & Ors.

..... Applicant/s

Mr S. Sarma & Ms B. Devi

..... Advocate for the  
Applicant/s.

- Versus -

Sri M.G. Rao & Another

..... Respondent/s

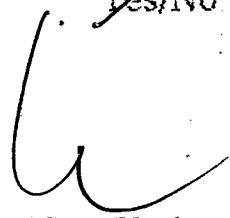
Mr M.U. Ahmed, Addl. C.G.S.C.

..... Advocate for the  
Respondents

CORAM

HON'BLE MR K.V. SACHIDANANDAN, VICE-CHAIRMAN  
H'NBLE SRI GAUTAM RAY, ADMINISTRATIVE MEMBER

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

  
Vice-Chairman

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Contempt Petition No. 3 of 2006

In  
O.A. No. 151 of 2004

Date of Order : This the 31st day of July 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.  
The Hon'ble Sri Gautam Ray, Administrative Member.

1. Shri Patal Bihari Das
2. Shri P. Purkayastha
3. Shri Tushar Kanti Gupta
4. Shri Gakul Ch. Das
5. Shri S. Bamutland Kharbangar
6. Shri Jaspar Mayboon Nongkhlaw
7. Shri Wordkinson Taiang

All the Petitioners are presently holding the posts of Officer Surveyor, in the Director, North Eastern Circle, Post Box No. 89, Shillong - 793001, Meghalaya.

... Petitioners

By Advocates Mr S. Sarma and Smt. B. Devi.

- Versus -

1. Shri MG. Rao  
The Surveyor General of India  
Hathibarkala Estate, Dehradoon.
2. Mr R.N. Nahak  
Director  
North Eastern Circle  
Post Box No. 89  
Shillong - 793 001, Meghalaya.

... Contemners/  
Respondents.

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

**ORDER (ORAL)**

**K.V. SACHIDANANDAN (V.C.)**

This Contempt Petition has emanated for non-compliance of the order dated 18.08.2005 passed in O.A. 151 of 2004. The direction of this Tribunal passed in the O.A. was as follows :-

"6. However, it is a matter of the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Office Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters

from the service records of the applicant and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this Order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their ad hoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay. No other points deserve consideration."

2. The Contemners have filed a reply statement alongwith annexure - A dated 15.02.2006 contending that in compliance of the order of the Tribunal, the Respondents have passed the order dated 15.02.2006 and since eligibility had to be satisfied by the Applicants, their names could not be considered.

3. We have gone through the records and find that liberty was granted to the Respondents to consider and verify all those matters from the service records of the Applicants and if the Applicants do satisfy all the required eligibility criteria the Respondents will arrange for a Review DPC. The grievance of the Applicants is that no Review DPC has been conducted by the Respondents. Learned counsel for the Contemners submitted that the Applicants did not fulfill the eligibility criteria, therefore, question of conducting Review DPC does not arise.

4. We find that the order of this Tribunal dated 18.08.2005 has been substantially complied with. Therefore, the Contempt Petition is closed. However, liberty is granted to the Applicants to approach the appropriate forum, if they have any further grievances.

  
(GAUTAM RAY)  
ADMINISTRATIVE MEMBER

  
( K.V. SACHIDANANDAN )  
VICE-CHAIRMAN

संघीय प्रशासनिक दायिक राज्य  
Central Administrative Tribunal

25 MAR 2006

8/1  
गुवाहाटी न्यायमीठ  
Guwahati Bench

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO. 03/06  
In O.A. No.151/04

IN THE MATTER OF  
Shri Patal Bihari Das  
---- Petitioner  
The Surveyor General of India,  
Dehradun  
---- Alleged Contemnor/  
Respondent No.1

IN THE MATTER OF

An affidavit and / or Compliance Report  
for and on behalf of the aforesaid  
Respondent No.1.

I, Major General M. Gopal Rao, Son of Late Brigadier M. K. Rao, aged about 58 years, working as the Surveyor General of India, Dehradun, do hereby solemnly affirm and state as follows :-

1. That, I am the Respondent No.1 in the instant Contempt Petition and have gone through the aforesaid Contempt Petition filed by the petitioner and have understood the contents thereof and I am well acquainted with the facts and circumstances of the case based on records.
2. At the outset, I submit that I have the Highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any Order passed by the Hon'ble Tribunal. However, I tender unqualified and unconditional apology for any delay or lapse in the compliance of the Order dated, 18-8-2005 in O.A. No.151/2004 Pronounced by this Tribunal.
3. That, there is no any willful or deliberate and reckless disobedience of the aforesaid Order by the respondents and showing any contempt to the order of this tribunal does not arise.
4. That, with regard to the statement / allegation made in Para 1 to 9 of the Contempt Petition are not based on rational foundation devoid of Merit and the answering Respondents do not admit anything except those are in record.

HC

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M. V. Ahmed  
Clerk

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It is pertinent to mention here that Shri P. B. Das, then Surveyor and other applicants were promoted to the post of Officer Surveyors, on Ad-hoc basis w.e.f. 23-07-1998, with the condition that the Ad-hoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. They were later on promoted to the post of Officer Surveyors on regular basis, w.e.f. 17-07-2001 (A/N) after convening regular DPC proceedings. Shri P. B. Das, Officer Surveyor and others filed O.A.No.151/2004 in the Central Administrative Tribunal, Gauhati Bench, Guwahati against Union of India & Others, claiming, promotion from retrospective effect to the post of Officer Surveyor, from the date of Ad-hoc promotion and retain their seniority in the cadre of Officer Surveyor.

5. That, While disposing the subject O.A. vide their Order dated, 18-08-2005, the Hon'ble CAT, Guwahati Bench, Guwahati has observed :

"However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Officer Surveyor as per rules then existed. The Competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their Ad-hoc promotion based on the Review DPC, the official respondents will fix the inter seniority of the applicants without any further delay."

6. That, due to the Compelling circumstances, there may be some delay in compliance of the aforesaid order and it may be termed as an Honest and Genuine mistake - without any hidden and / or malafied, vested interest , since the Respondent being a high ranked Officer of Govt. of India, has very high regard to this Hon'ble Tribunal.

Further, the submission made in the following paragraphs amply clarify that the Respondents have shown due regard to the Orders of this Hon'ble Tribunal and hence, there is no question of showing any Contempt to the aforesaid Order and in this regard a speaking and reknowned Order No.C-300/11 (Shri P. B. Das) dated 13-02-2006 has been issued to the applicants and same is enclosed annexed herewith in Annexure 'A', which is self explanatory.

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HC

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7. That, the Respondent respectfully submit that in compliance of the said Order passed by the Hon'ble CAT, Guwahati Bench, the matter pertaining to the eligibility of the Applicants was carefully examined and / or x-rayed.

It is observed :-

- (a) That, the rules then existed was Survey of India, Officer Surveyor Recruitment Rules, 1983. As per these Rules, appointment by Direct Recruitment was stopped, providing for filling up the posts in the ratio of 75% by DPC promotees and 25% by LDCsLs promotees. The number of posts as per these rules was 359.
- (b) That, in the Cadre Review vide Department of Science & Technology letter No. SM/02/04/088 dated 30-01-1996, out of 359 posts, 21 posts were earmarked for Chief Draffsman for promotion from the Grade of Draffsman Div.I. Hence, 21 posts were reduced in the grade of Officer Surveyor. Thus, sanctioned strength of Officer Surveyor was 338. Further, 136 additional posts were created in this cadre review, thus bringing the total number of posts in the cadre of Officer Surveyor to 474.
- (c) That, the post of Chief Draffsman having been created in the cadre review from the existing strength of Officer Surveyors, amendments / framing of Recruitment Rules of Officer Surveyors was required before any such regular promotion in this grade. However, no action could be initiated in this direction, because there was a ban existing at that time on framing / amendments of Recruitment Rules. It was only in the year 1998 that the Government had lifted the ban. In view of the 5<sup>th</sup> Pay Commission report, The process of framing / amendments of the Recruitment Rules was Initiated and the Rules was notified on 30.11.2000 after consultation with DOPT and the UPSC.
- (d) That, in the meantime, the Surveyors' Association had filed an O.A. 1343/96 in the Central Administrative Tribunal, Allahabad, Nainital Bench to fill up the vacancies. Pending the outcome of the O.A. the Surveyors Association in a meeting held on 11.09.1997 with the Surveyor General of India had suggested/requested that 136 posts of Officer Surveyors created in Cadre Review be filled up conditionally as an interim measure so that the members of the Association would get relief from the acute stagnation. Shri P. B. Das and others were very well aware of this fact being the member of the Association. The Administration took a sympathetic view and action was initiated to grant promotion on ad-hoc basis from the feeder cadre. In the

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absence of Recruitment Rules, after getting approval from the competent authority, promotion on ad-hoc basis was granted with effect from 23.07.1998. On finalizing and notification of the Recruitment Rules, regular DPC was convened and posts were filled on regular basis with effect from 17.07.2001 (A/N).

(e) That, at the time of ad-hoc promotion to the posts of Officer Surveyors based on the Recruitment Rules of 1983, the regular vacancies of the year 1996 and 1997 were also considered along-with 102 posts created by the cadre review (75% of 136 posts) as per the details given under :-

I. Carried forward vacancies from 1996	5
II. 75% of 22 vacancies of 1997	17
III. 75% of 136 vacancies of cadre review	102
<b>Total</b>	<b>124</b>

The Applicants (Sl.No.1 to 7 of the O.A.) stood at Sl.No.73, 60, 87, 100, 129, 131 and 132 respectively in the seniority list prepared for ad-hoc promotion to the post of Officer Surveyor. Even if regular DPC were convened on 23.7.98 i.e. the date of ad-hoc promotion, the said DPC could have considered only 22 vacancies, in which case, the applicants were not eligible to be included for promotion.

8. In view of the above, it is observed that the applicants in OA were not eligible for being promoted to the posts of Officer Surveyor with effect from 23.7.98 as per the rules then existed.

#### PRAYER

In the light of submission made above, your Lordship would be pleased to dismiss the Contempt Petition against the Petitioner.

#### AFFIDAVIT

I, Major General M. Gopal Rao, Son of Late Brigadier M. K. Rao aged about 58 years, working as the Surveyor General of India, Dehradun, do hereby solemnly affirm and state as follows :-

That, I am the Respondent No.1 in the above case and I am fully acquainted with the facts and circumstances of the case and also authorized to swear this affidavit.

HC

2. That, the statement made in Para 1 to 8 of the affidavit are True to my knowledge, belief and information based on the record and nothing has been suppressed thereof.

And I sign this affidavit/report on this 26th day of February/2006 at Guwahati/Dehradun.

Identified by

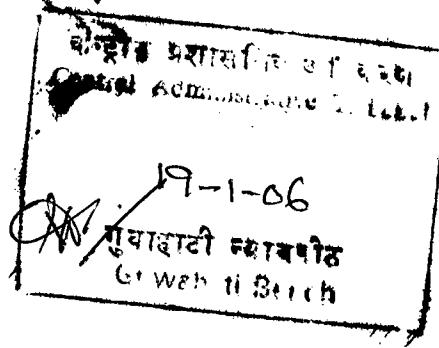


ADVOCATE

M. C. -----

Deponent

Solemnly affirm and declare before me by the deponent who is identified by M. V. Ans, Advocate at Guwahati on this 26th day of February/2006 at Guwahati.



Filed by -  
The Petitioners  
through  
Bordoloi Devi/30  
Advocate  
19.1.06

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

CP NO. ..../06  
IN OA NO. 151/04

Patal Bihari Das & Ors.

-vs-

Union of India & Ors.

IN THE MATTER OF

An application under sec.17 of The Central Administrative Tribunal Act 1985 for drawing up contempt proceeding against the contemners for their willful and deliberate violation of the judgment and order dated 18.08.2005 passed in OA NO 151/04 by this Hon'ble Tribunal.

-AND-

IN THE MATTER OF

An application praying for appropriate execution of the judgment and order dated 18.08.2005 passed in OA NO. 151/04 by the Hon'ble Tribunal invoking Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987.

-AND-

IN THE MATTER OF

1. Sri Patal Bihari Das
2. Shri P. Purkayastha
3. Shri Tushar Kanti Gupta
4. Shri Gakul Ch. Das
5. Shri S. Bamutlang Kharbanger
6. Shri Jaspar Mayboon Nongkhaw
7. Shri Wordkinson Taiang

All the petitioners are presently holding the posts of Officer Surveyor, in the Director, North Eastern Circle, Post Box No.89, Shillong-793001, Meghalaya.

.....Petitioners

-Vs-

1. Shri M.G.Rao  
The Surveyor General of India,  
Hathibarkala Estate, Dehradoon.

2. Mr. R.N. Nahak  
Director  
North Eastern Circle,  
Post. Box No.89  
Shillong-793001, Meghalaya.

.....Contemnors

2 Respondents.

The humble application on behalf of the petitioners above named.

MOST RESPECTFULLY SHEWETH

1. That the petitioners/applicants had approached the Hon'ble Tribunal against the action of the respondents in not assigning to them their correct seniority in the grade of Officer Surveyor and also pray for a direction for effecting their promotion as Officer Surveyor w.e.f. 1995 by filling OA No.151/2004. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said Original Application with a direction to the respondents to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision within a period of four months from the date of receipt of this order. The respondents are further directed that if the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their ad-hoc promotion based on review DPC the official respondents will fix the interse seniority of the applicant without any further delay.

A copy of the judgment and order dated 18.08.2005 passed in OA NO. 151/04 is annexed herewith and marked as ANNEXURE-1

2. That all the petitioners immediately on receipt of the copy of the judgment, preferred representation separately enclosing the copy of the said judgment to the concerned authority praying



for implementation of the same but the respondent authorities have not implemented the Hon'ble Tribunal's order till date .

A copy of one of such representation is annexed herewith and marked as ANNEXURE-2

3. That the petitioners beg to state that the respondents/contemners have full knowledge about the direction passed by the said judgment and order dated 18.8.2005 passed in DA NO.151/2004 but inspite of this the respondents have acted in a contemptuous manner. The respondents by such inaction have shown complete disregard to the directive given by the Hon'ble Tribunal. The respondents for such inaction and willful and deliberate violation of the said judgment and order dated 18.08.2005 made themselves liable to be punished under Contempt of Courts Act.

4. That the petitioners beg to state that the contemners have acted in violation of the judgment (Annexure-1) in not assigning the applicants their correct seniority in the grade of Officer Surveyor and as such they are liable to be punished severely for their such action invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provision under the Central Administrative Tribunal (Contempt of Court's ) Rule 1992 as well as the provisions contained in the Contempt of Court's Act 1971.

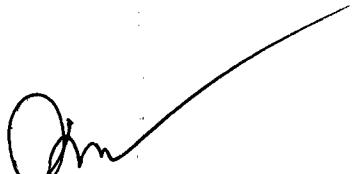
5. The respondents/contemners have received the copy of the said representation but as on date nothing has been communicated to the petitioners.

6. That the petitioners beg to state that the respondents/contemners have willfully and deliberately violated the judgment and order dated 18.8.05 passed by this Hon'ble Tribunal and as such they are liable to be punished for committing contempt of Court's order and accordingly they are required to be punished severely in accordance with law.

7. That the petitioners beg to state that the respondents/contemners have not yet filed any Writ Petition against the judgment and order dated 18.8.05 and as such same has attained its finality. It is therefore, the respondents are bound to follow the said judgment and order dated 18.8.05 passed by the Hon'ble Tribunal in its true spirit. In case of any deviation from the said judgment amounts to committing contempt of Court's order and for the same the contemners are liable to be punished in accordance with law.

8. That the petitioners have filed this application bonafide and secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Yours Lordships would graciously be pleased to admit this petition, call for the records of the case and issue notices to the contemners calling upon them to show cause as to why appropriate contempt proceeding shall not be drawn up against them and punish them severely and after perusal of records and after hearing the parties on the cause or causes that may be shown, be further pleased to draw up appropriate contempt proceeding against each of the



contemners and to punish them severely for their willful and deliberate violation of the judgment and order dated 18.8.05 with a further direction to comply and implement the said judgment forthwith without further delay and/or pass any such order/orders as may be deemed fit and proper considering the facts and circumstances of the case.

DRAFT CHARGE.

Whereas Shri M.B.Rao, the Surveyor General of India, Hathibarkala Estate, Dehradoon and Mr. R.N. Nahak, Director, North Eastern Circle, Post. Box No.89, Shillong-793001, Meghalaya have willfully and deliberately violated the judgment and order dated 18.8.05 passed in O.A No. 151/04, by this Hon'ble Tribunal and as such they are liable to be punished severely for committing contempt of court's order.



AFFIDAVIT.

I, Shri Patal Bihari Das, son of Late P.K.Das, aged about 56 years, resident of Survey of India Estate, barik, Shillong-793001, do hereby solemnly affirm and state as follows:

1. That I am the petitioner No.1 in the instant case and as such I am well acquainted with the facts and circumstances of the case.
2. That the statements made in the affidavit and in the accompanying petition in the paragraphs 4, 5 and 6..... are true to my knowledge and those made in paragraphs .....1, 2 and 3..... are matters of records are true to my information derived therefrom and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign on this affidavit on this the 19<sup>th</sup> day of Jan., 2006.

*Patal Bihari Das*

Applicant.

Identified by.

*Siddhanta Sarmah*  
Advocate.

Solemnly affirm and state by the applicant who is identified by .

*S. Sarmah..... Advocate.*

*Bandana Duni*  
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

Original Application No. 151 of 2004.

Date of Order: This, the 18th day of August, 2005.

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

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

1. Shri Patal Bihari Das
2. Shri P. Purkayastha
3. Shri Tushar Kanti Gupta
4. Shri Gakul Ch. Das
5. Shri S. Bamutlang Kharbangar
6. Shri Jaspar Mayboon Nongkhlaw
7. Shri Wordkinson Taiang. .... Applicants.

All the applicants are presently holding the posts of Officer Surveyor, in the Director, North Eastern Circle, Post Box No.89, Shillong-793001, Meghalaya.

By Advocates Mr.S.Sarma, Mr.U.K.Goswami & Ms. B. Devi.

- Versus -

1. Union of India  
Represented by the Secretary  
to the Government of India  
Dept. of Science and Technology  
Technology Bhawan  
New Delhi -1.
2. The Surveyor General of India  
At-Hathibarkala Estate  
Dehradoon.
3. The Director  
North Eastern Circle  
Post Box No.89  
Shillong-793001  
Meghalaya.
4. Sri Saroj Kumar, J&K GDC  
Survey of India, Dehra Dun,  
Uttaranchal.
5. Sri Anand Kumar, DMC  
Survey of India 17  
EC Road, Karanpur, Dehra Dun  
248001.



Advocate  
Signature

6. Sri D.S.Meher, CS & MP Campus  
Survey of India, Uppal  
Hyderabad-500 039.
7. Sri KPS Sinha, No 11 Party  
Survey of India Complex  
Near Magistrate Colony  
Doranda, P.O: Hinoo  
Rachi-834002  
Jharkhand.
8. Sri B. Paton, UPGDC, Dehra Dun  
17, EC Road, Karanpur,  
Dehra Dun-248001.

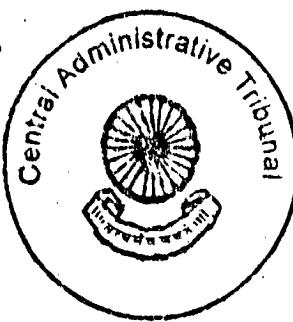
..... Respondents.

O R D E R

SIVARAJAN, J. (V.C.) :

Applicants 7 in number are presently holding the posts of Officer Surveyor in the office of the 3<sup>rd</sup> respondent. They have filed this application seeking for the following reliefs:

- "8.1 To set aside and quash the promotion orders of the applicants as Officer Surveyor to the extent it gives prospective effect to such promotion.
- 8.2 To direct the Respondent authorities to consider the cases of the applicants for promotion to the cadre or Officer Surveyor with effect from the dates vacancies were available in pursuance to the cadre review carried out in the cadre of Officer Surveyor in the year 1995 and to give retrospective effect to the promotions effected in the case of the applicants to cadre of Officer Surveyor with effect from the dates the vacancies were so available in pursuance to the cadre review.
- 8.3 To direct the Respondent authorities to recast the seniority of the applicants in the cadre of Officer Surveyor after giving retrospective effect to the



*Gopu*

promotions of the applicants as Officer Surveyor.

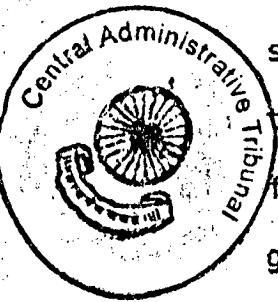
8.4 To restrain the respondent authorities from convening any D.P.C. for considering the cases of eligible persons in the cadre of Officer Surveyor for further promotion to the post of Superintending Surveyor, without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.5 To restrain the respondent authorities from effecting any promotion from the cadre of Officer Surveyor without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.5.a To direct the respondents to effect the promotions made to the applicants vide order dated 17.07.01 with retrospective effect above the private respondents."

Their main case is that as a result of the cadre review made in 1995, in addition to the existing cadre strength of Officer Surveyor, 136 posts of Officer Surveyor were created in cadre review as per order dated 30.1.1996 but the respondents failed to convene regular DPC for regular selection and appointment to the post of Office Surveyors till 2001. It is also stated that instead of convening DPC for regular selection of qualified employees from the lower grade the respondents, in the year 1998, had effected only adhoc promotions to the quota available for promotion. Their grievance is that when the respondent had effected regular promotions in the year 2001 to the posts created in the year 1995 instead of promoting persons qualified on the date of occurrence of the vacancy in the year 1996 that too with retrospective effect, the respondent had effected

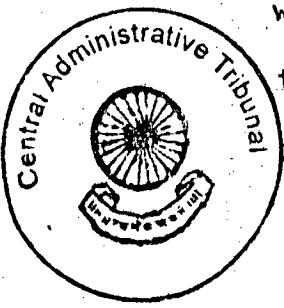
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regular promotions to the said vacancies only prospectively which had adversely affected the further prospects of the applicants. The applicants were promoted to post of Officer Surveyor on adhoc basis from 1998 as per order dated 31.7.1998 (Annexure-1) and promoted on regular basis as per order dated 16.7.2001 (Annexure - 2) with effect from the date they take over charge of the post on promotion. According to them, they, being qualified and eligible for promotion to the post of Officer Surveyors in 1995 itself, should have been promoted to the said post from the date of occurrence of the vacancy based on their seniority in the post of Surveyors and that at any rate since they had worked as Officer Surveyors since July, 1998 their regular promotion should have been made at least with effect from the date of their adhoc promotion i.e. from 31.7.1997. They have also got a case that inter se seniority between 75% quota Officers and 25% quota Officers has not been fixed which has resulted in depriving them of their due promotion to the next higher cadre - viz Superintending Surveyor. It is also stated that the juniors of the applicants, respondents 4 to 8 had a march over them in the matter of promotion to the post of Officer Surveyor based on limited competitive examination.



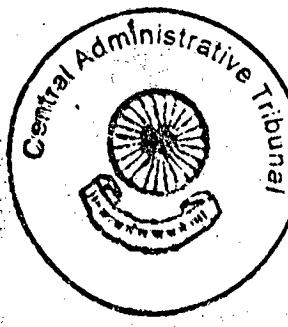
2. The respondents have filed a written statement. It is stated therein that as a result of cadre review made in 1995 the sanctioned strength of Officer Surveyor was reduced from 359 to 338 and additional 136 posts are created as per order dated 30.1.1996. The DPC for the

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created post could not be convened due to some administrative reasons in the absence of recruitment rules and were granted adhoc promotion. As per the existing rules 1983, 75% of the promotional quota is to be filled up by DPC promotees and 25% to be filled up by LDCE promotees. It is also stated that it was clearly stated in the promotion order for the post of Officer Surveyor on adhoc basis as per letter dated 31.7.1998 (Annexure-1) that adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. The reason for the delay in holding DPC for filling up the newly created posts are detailed. The seniority in the cadre of Officer Surveyor between DPC promotees and LDCE promotees, it is stated, had been fixed according to the Rules. An additional written statement is also filed to the amended application. The applicants have filed rejoinder and also reiterated that the applicants have to be promoted on regular basis from the date of occurrence of the vacancy or at any rate from the date on which they were promoted on adhoc basis i.e. from July, 1998.

3. We have heard Mr.S.Sarma, learned counsel for the applicants and Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents. They made submissions on the basis of their respective pleadings.

4. The main contention of the applicants, as already stated, is that on a cadre review of the staff strength of Officer Surveyors, 136 more posts were created in early



1996 but the same was filled up by the official respondents on adhoc basis in July, 1998 and on regular basis only in July, 2001. It is their case that the respondents did not take urgent steps for filling up the additional posts created then and there, that the respondents had inordinately delayed the matter. It is also their case, that even though it is for the respondents to decide as to when the vacancies has to be filled up once they decide to fill up the vacancies the same must be done with reference to the date of occurrence of the vacancies and from those dates. Their further contention is that they were qualified and eligible for being promoted to the post of Officer Surveyor on the basis of their seniority in 1995 itself and therefore they must be promoted on regular basis with retrospective effect from the date on which the vacancies arose. The respondents had promoted the applicants on adhoc basis from July, 1998 in view of the delay in finalizing the Rules to meet the situation which arose on account of restructuring and cadre review as per order dated 30.1.1996. It is their stand that in the adhoc promotion order itself it is stated that the adhoc promotion given to the applicants is only provisional and that it will not confer any right to claim seniority and that it can be terminated at any time. They have also stated that as per the consolidated instructions on Departmental Promotion Committee and Related Matters rule 6.4.4 promotions will be made in the order of the consolidated select list, such

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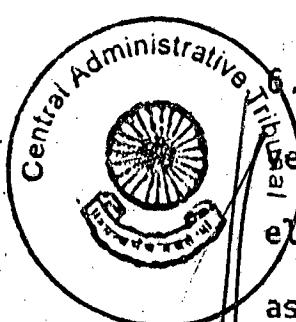


promotions will have only prospective effect even in cases where the vacancies related to the earlier years.

5. In the instant case, the respondents themselves, realizing the difficulty in making regular promotions to the post of Officer Surveyor created in 1996, have decided to make adhoc promotions and had promoted the applicants and others on adhoc basis in July, 1998. If as a matter of fact the applicants were eligible and entitled to be promoted on the basis of their seniority on the date when adhoc promotions were made the DPC for promotion convened in 2001 ought have considered the same and the regular promotion of the applicants should have been made from the date from which they were promoted on adhoc basis as Officer Surveyors. We do not find any rules which prohibits such retrospective promotions. Denial of regular promotion at least from that date is against justice, equity and good conscience. Such action is unreasonable and unjustified.

However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Office Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four

Gpt



months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their adhoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay. No other points deserve consideration.

The O.A. is disposed of as above. In the circumstances of the case there will be no order as to costs.

sd/ VICE CHAIRMAN

sd/ MEMBER (A)



TRUE COPY

प्रतिलिपि

*Naresh*  
23.8.05

अनुभाग अधिकारी

Section Officer (Jud)

Central Administrative Tribunal

गुवाहाटी ২০৫০১৮

GUW ১৮/৮/০৫

গুৱাহাটী, Guwahati-8

*23/8/05*

1956 / DR/R  
2001 / 1964 / 1982 /  
2002 / Party

The Surveyor General of India  
Dehra Dun-248001.

(Through proper channel)

SUB:- JUDGMENT AND ORDER DATED 18-08-2005 PASSED IN OA No.151/04

Respected Sir,

With due respect I beg to place the judgment and order dated 18-08-2005 passed in OA No.151/04 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for your kind consideration and necessary action thereof (Copy of the judgment and order enclosed which will speak itself!)

I therefore request your honour to implement the judgment and to provide me the benefit of the judgment.

Thanking you sir.

Yours faithfully,



(P.B.DAS)

OFFICER SURVEYOR  
MEGHALAYA & ARUNACHAL PRADESH GDC  
SURVEY OF INDIA, SHILLONG-793001

Copy to:- The Director, Meghalaya & Arunachal Pradesh GDC for information please.



Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO.-03/06

In O.A. No.151/04

28 FEB

IN THE MATTER OF  
Shri Patal Bihari Das

গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

----- Petitioner

----- Vs -----

SHRI R. N. NAHAK  
Director,

Meghalaya & Arunachal Pradesh GDC, Shillong

----- Alleged Contemnors/  
Respondent No.2

-AND-

IN THE MATTER OF

An affidavit and / or Compliance Report  
for and on behalf of the aforesaid  
Respondent No.2.

I, Shri R. N. Nahak, Son of Late Kuber Nahak, aged about 54 years, working as the Director, M&Ar.P GDC, Shillong, do hereby solemnly affirm and state as follows :-

1. That, I am the Respondent No.2 in the instant Contempt Petition and have gone through the aforesaid Contempt Petition filed by the petitioner and have understood the contents thereof and I am well acquainted with the facts and circumstances of the case based on records.
2. At the outset, I submit that I have the Highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any Order passed by the Hon'ble Tribunal. However, I tender unqualified and unconditional apology for any delay or lapse in the compliance of the Order dated, 18-8-2005 in O.A. No.151/2004 Pronounced by this Tribunal.
3. That, there is no any willful or deliberate and reckless disobedience of the aforesaid Order by the respondents and showing any contempt to the order of this tribunal does not arise.
4. That, with regard to the statement / allegation made in Para 1 to 9 of the Contempt Petition are not based on rational foundation devoid of Merit and the answering Respondents do not admit anything except those are in record.

It is pertinent to mention here that Shri P. B. DAS, then Surveyor and other Applicants were promoted to the post of Officer Surveyors, on Ad-hoc basis w.e.f. 23-07-1998, with the condition that the Ad-hoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. They were later on promoted to the post of Officer Surveyors on regular basis, w.e.f. 17-07-2001 (A/N) after convening regular DPC proceedings. Shri P. B. Das, Officer Surveyor and others filed O.A.No.151/2004 in the Central Administrative Tribunal, Gauhati Bench, Guwahati against Union of India & Others, claiming, promotion from retrospective effect to the post of Officer Surveyor, from the date of Ad-hoc promotion and recast their seniority in the cadre of Officer Surveyor.

M. V. Ahmed Adil Cse  
27/2/06  
filed 67/46

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5. That, While disposing the subject O.A. vide their Order dated, 18-08-2005, the Hon'ble CAT, Gauhati Bench, Guwahati has observed :-

“However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Officer Surveyor as per rules then existed. The Competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their Ad-hoc promotion based on the Review DPC, the official respondents will fix the *inter se* seniority of the applicants without any further delay.”

6. That, due to the Compelling circumstances, there may be some delay in compliance of the aforesaid order and it may be termed as an Honest and Genuine mistake – without any hidden and / or malafied, vested interest , since the Respondent being a high ranked Officer of Govt. of India, has very high respect to this Hon'ble Tribunal.

Further, the submission made in the following paragraphs amply clarify that the Respondents have shown due regard to the Orders of this Hon'ble Tribunal and hence, there is no question of showing any Contempt to the aforesaid Order and in this regard a speaking and reasoned Order No.C-500/PF (Shri P.B.Das) dated 15-02-2006 has been issued to the applicant and same is enclosed annexed herewith in Annexure 'A' , which is self explanatory.

7. That, the Respondent respectfully submit that in compliance of the said Order passed by the Hon'ble CAT, Guwahati Bench, the matter pertaining to the eligibility of the Applicants was carefully examined and / or x-rayed.

It is observed :-

- (a) That, *the rules then existed* was Survey of India, Officer Surveyor Recruitment Rules, 1983. As per these Rules, appointment by Direct Recruitment was stopped, providing for filling up the posts in the ratio of 75% by DPC promotees and 25% by LDCE promotees. The number of posts as per these rules was 359.
- (b) That, in the Cadre Review vide Department of Science & Technology letter No.SM/02/04/088 dated 30-01-1996, out of 359 posts, 21 posts were earmarked for Chief Draftsman for promotion from the Grade of Draftsman Div.I. Hence, 21 posts were reduced in the grade of Officer Surveyor. Thus, sanctioned strength of Officer Surveyor was 338. Further, 136 additional posts were created in this cadre review, thus bringing the total number of posts in the cadre of Officer Surveyor to 474.
- (c) That, the post of Chief Draftsman having been created in the cadre review from the existing strength of Officer Surveyors, amendments / framing of Recruitment Rules of Officer Surveyors was required before any such regular promotion in this grade. However, no action could be initiated in this direction, because there was a ban existing

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at that time on framing / amendments of Recruitment Rules. It was only in the year 1998 that the Government had lifted the ban, in view of the 5<sup>th</sup> Pay Commission report. The process of framing / amendments of the Recruitment Rules was initiated and the Rules was notified on 30.11.2000 after consultation with DOPT and the UPSC.

(d) That, in the meantime, the Surveyors' Association had filed an O.A. 1343/96 in the Central Administrative Tribunal, Allahabad, Nainital Bench to fill up the vacancies. Pending the outcome of the O.A. the Surveyors Association in a meeting held on 11.09.1997 with the Surveyor General of India had suggested/requested that 136 posts of Officer Surveyors created in Cadre Review be filled up conditionally as an interim measure so that the members of the Association would get relief from the acute stagnation. Shri P. B. Das and others were very well aware of this fact being the member of the Association. The Administration took a sympathetic view and action was initiated to grant promotion on ad-hoc basis from the feeder cadre. In the absence of Recruitment Rules, after getting approval from the competent authority, promotion on ad-hoc basis was granted with effect from 23.07.1998. On finalizing and notification of the Recruitment Rules, regular DPC was convened and posts were filled on regular basis with effect from 17.07.2001 (A/N).

(e) That, at the time of ad-hoc promotion to the posts of Officer Surveyors based on the Recruitment Rules of 1983, the regular vacancies of the year 1996 and 1997 were also considered along-with 102 posts created by the cadre review (75% of 136 posts) as per the details given under :-

I. Carried forward vacancies from 1996	= 05
II. 75% of 22 vacancies of 1997	= 17
III. 75% of 136 vacancies of cadre review	= 102

**Total = 124**

The Applicants (Sl.No.1 to 7 of the O.A.) stood at Sl.No.73, 60, 87, 100, 129, 131 and 132 respectively in the seniority list prepared for ad-hoc promotion to the post of Officer Surveyor. Even if regular DPC were convened on 23.7.98 i.e. the date of ad-hoc promotion, the said DPC could have considered only 22 vacancies, in which case, the applicants *were not eligible* to be included for promotion.

8. In view of the above, it is observed that the applicants in OA were not eligible for being promoted to the posts of Officer Surveyor with effect from 23.7.98 as per the rules then existed.

#### **PRAYER**

In the light of submission made above, your Lordship would be pleased to dismiss the Contempt Petition against the Petitioner.

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**AFFIDAVIT**

I, Shri R. N. Nahak, Son of Late Kuber Nahak aged about 54 years, working as the Director, M&Ar.P GDC, Shillong, do hereby solemnly affirm and state as follows :-

That, I am the Respondent No.2 in the above case and I am fully acquainted with the facts and circumstances of the case and also authorized to swear this affidavit.

2. That, the statement made in Para 1 to 8 of the affidavit are True to my knowledge, belief and information based on the record and nothing has been suppressed thereof.

And I sign this affidavit/report on this \_\_\_\_ day of February/2006 at Guwahati.

**Identified by**

ADVOCATE

**Deponant**

Solemnly affirm and declare before me by the deponent who is identified by \_\_\_\_\_, Advocate at \_\_\_\_\_ on this \_\_\_\_ day of February/2006 at Guwahati.

# SURVEY OF INDIA

Telegram : "SURVEYS"

Fax-cum-Telephone : 0091-135-744064

E-Mail : sgo@nde.vsnl.net.in

*Chancery*  
SURVEYOR GENERAL'S OFFICE  
POST BOX No.37.  
DEHRA DUN-248001 (Uttaranchal), INDIA

No.C- 500/P.F. (Shri P.B. Das, OS)

Dated: 15<sup>th</sup> February, 2006

## ORDER

IN COMPLIANCE OF DIRECTIONS OF HON'BLE CAT, GUWAHATI ORDER DATED 18-8-2005 IN O.A. NO.151/2004 – FILED BY SHRI P.B. DAS, OFFICER SURVEYOR & OTHERS V/s UOI & OTHERS – REGARDING.

Sri P B Das, then Surveyor, and other applicants were promoted to the post of Officer Surveyors, on *ad-hoc basis* with effect from 23.07.1998, with the condition that the ad-hoc promotion is *purely provisional and would not bestow any benefits of seniority and can be terminated at any time*. They were, later on promoted to the post of Officer Surveyor on regular basis, with effect from 17.07.2001(AN), after convening regular DPC proceedings. Sri P.B Das Officer Surveyor & Others filed O.A. No. 151/2004 in the Central Administrative Tribunal, Guwahati Bench, Guwahati, against Union of India & Others, claiming, promotion from retrospective effect to the post of Officer Surveyor, from the date of ad-hoc promotion and recast their seniority in the cadre of Officer Surveyor.

2. While disposing the subject OA vide their Order dated 18th August 2005, the Hon'ble CAT, Guwahati Bench, Guwahati has observed:

*"However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Officer Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their ad-hoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay."*

3. In compliance of the said Order by the Hon'ble CAT, Guwahati Bench, Guwahati, the matter pertaining to the eligibility of the applicants was examined. It is observed:

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- (a) That, the rules then existed was Survey of India, Officer Surveyor Recruitment Rules. 1983. As per these Rules, appointment by Direct Recruitment was stopped, providing for filling up the posts in the ratio of 75% by DPC promotees and 25% by LDCE promotees. The number of posts as per these rules was 359.
- (b) That, in the Cadre Review vide Department of Science & Technology letter No.SM/02/044/088 dated 30-01-1996, out of 359 posts, 21 posts were earmarked for Chief Draftsman for promotion from the Grade of Draftsman Div I. Hence 21 posts were reduced in the grade of Officer Surveyor. Thus sanctioned strength of Officer Surveyor was 338. Further, 136 additional posts were created in this cadre review, thus bringing the total number of posts in the Cadre of Officer Surveyor to 474.
- (c) That, the post of Chief Draftsman having been created in the cadre review from the existing strength of Officer Surveyors, amendments/framing of Recruitments Rules of Officer Surveyors was required before any such regular promotion in this grade. However, no action could be initiated in this direction, because there was a ban existing at that time on framing/amendments of Recruitment Rules. It was only in the year 1998, that the Government had lifted the ban, in view of the 5<sup>th</sup> Pay Commission report. The process of framing/ amendments of the Recruitment Rules was initiated and the Rules was notified on 30.11.2000 after consultation with DOPT and the UPSC.
- (d) That, in the meantime, the Surveyor's Association had filed an O.A. 1343/96 in the Central Administrative Tribunal, Allahabad, Nainital Bench to fill up the vacancies. Pending the outcome of the O.A. the Surveyors Association in a meeting held on 11-09-1997 with Surveyor General of India had suggested/requested that 136 post of Officer Surveyors created in Cadre Review be filled up conditionally as an interim measure so that the members of the Association would get relief from the acute stagnation. Shri P.B. Das and others were very well aware of this fact being the member of the Association. The Administration took a sympathetic view and action was initiated to grant promotion on ad-hoc basis from the feeder cadre. In the absence of Recruitment Rules, after getting approval from the competent authority, promotion on ad-hoc basis was granted with effect from 23.07.98. On finalizing and notification of the Recruitment Rules, regular DPC was convened and posts were filled on regular basis with effect from 17.07.2001(AN).
- (e) That, at the time of ad-hoc promotion to the posts of Officer Surveyors based on the Recruitment Rules of 1983, the regular vacancies of the year 1996 and 1997 were also considered along-with 102 posts created by the cadre review (75% of 136 posts) as per the details given under:
  - i) carried forward vacancies from 1996 = 05
  - ii) 75% of 22 vacancies of 1997 = 17
  - iii) 75% of 136 vacancies of cadre review = 102

Total = 124

1998 Adhoc  
2001 Regm Pmtk

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The Applicants (S.No. 1 to 7 of the O.A.) stood at S.No. 73, 60, 87, 100, 129, 131 and 132 respectively in the seniority list prepared for ad-hoc promotion to the post of Officer Surveyor. Even if regular DPC were convened on 23.7.98 i.e. the date of adhoc promotion, the said DPC could have considered only 22 vacancies, in which case, the applicants were not eligible to be included for promotion.

4. In view of the above it is observed that the applicants in the OA were not eligible for being promoted to the post Officer Surveyor with effect from 23.7.98 as per the rules then existed.

15<sup>th</sup> February 2006

*MC*  
(M. GOPAL RAO)  
MAJOR GENERAL  
SURVEYOR GENERAL OF INDIA

To

Shri P.B. Das, Officer Surveyor & Others,  
C/o Director,  
Meghalaya & Arunachal Pradesh GDC,  
Shillong-793 001

*Presently at 16th DPC  
1996*