

FORM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. 2/12006 (OA 127/04)

Applicant(S) Shri L.K. Varde

Respondants U.O.I GOM

Advocate for the Applicant(S) M. Chanda, G. Chakrabarty, S. Nath

Advocate for the Respondant(S) G. case..... G. B. Bishyap.

Notes of the Registry.	Date	Order of the Tribunal
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23.5.2006

This Review petition

has been filed by the
applicant w/s 22(3)(f)
of the CAT Act, 1985 read
with CAT (Procedure) Rules,
1987. for review the
order passed by this
Hon'ble Tribunal in O.A.
127/2004.

Laid before the
Hon'ble V.C. for circulation
of the same before the
Hon'ble V.C. and Hon'ble
Member (A) passed by
this order.

Section Officer

The Original order was passed by
my predecessor Hon'ble Justice Shri G.
Sivarajan, the then Vice-Chairman and
Hon'ble Shri K.V. Prahladan, the then
Member (A) on 8.7.2005. The Member (A)
has already been retired from service
and the Vice-Chairman has been transfe-
rred to the Bangalore Bench.

Mr. M. Chanda, learned counsel for
the review petitioner was present. Mr.
G. Baishya, learned Sr. C.G.S.C. repre-
sented the ~~xxx~~ respondents.

In the said circumstances, Regi-
stry is directed to sent the R.A.
along with the Condonation petition
for circulation to the Vice-Chairman,
Bangalore Bench forthwith.

Vice-Chairman

bb

May kindly be seen
 from the page regarding
 R.A No. 2/06 with conde-
 nation petition M.P. NO.
 45906 in OA 127/04 passed
 by the Honible Sri Justice
 G. Sivarajan, V.C and Honible
 Sri K.V. Prahladan, Member
 (A) on 8.7.05.

Submitted before the
 Honible V.C. for circulation
 of the same ~~to the~~ before the
 Honible V.C. Bangalore
 Bench.

Honible V.C.

12.5.06

~~Thrust factor~~

Is it are which
 mentioned by the
 Counsel in the 1st Court?
 If so Post it in a
 Counsel day in the
 Bench next week

17/5/06 ve

10.07.2006

Post on 16.08.2006 alongwith

M.P. 45/2006.

'A' file of RA.NO.2/2006 & 'A' file

of MP.45/2006 in RA.2/2006 have been received with letter dated 31.5.06 of Guwahati Bench.

mb

Vice-Chairman

08.08.2006

Post on 08.09.2006 alongwith

M.P. 45/2006.

The said RA & MP have arisen out

of judgment and order dated 8.7.2005 passed in OA.127/2004 by Hon'ble Shri Justice G.Sivarajan, Vice Chairman and Hon'ble Shri KV.Prahladan, Member(A).

mb

Member

Vice-Chairman

04.09.2006

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

The papers have been sent to this

Bench in view of the fact that Hon'ble Shri Justice G.Sivarajan, Vice Chairman is presently Vice Chairman in CAT, Bangalore Bench.

Post on 18.10.2006 alongwith M.P. 45 of 2006.

However, it is noticed that in view of para 1.4 of

/mb/

App. IV of CAT ROP 1993, this RA and MP for condonation of delay have to be posted for preliminary hearing in Guwahati Bench before a fresh Division Bench to be constituted at by Hon'ble Vice Chairman of Guwahati Bench.

lm

Hence Hon'ble Vice Chairman may

like to consider directing the return of this papers to Guwahati Bench. Submitted please.

29.11.06.

Post the matter on 21.12.06. alongwith M.P.No. 45 of 06.

Vice-Chairman

R.U.BURLI

DY.REGISTRAR(J)
CAT, BANGALORE BENCH

Position stated above is correct.
For orders please.

13/6/06

Approved - 14.6.06

F. No. 4/2006 J. II dt. 15.6.06
received from Bangalore Bench
in return of the RA & MP
sent for circulation.

The observation made
at prepage by the
Registry of Bangalore Bench &
approved by the Hon'ble
V.C. may kindly be seen
~~at prepage~~

The matter has been
placed before the Hon'ble
V.C. for consideration
& necessary orders whether
to place before the Bench.

Sub bnl
28/6/06 28/6/06
SO(1) CO.

place before the Bench

SR Hom'ble V.C.
28/6/06 28/6/06

SO(1)

R.A. 2/06

21.12.06

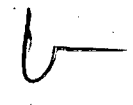
post the matter on 19.1.07 alongwith
M.P. 45/06 for order.


Vice-Chairman

pg

19.1.07.

Post the matter on 7.2.07.
alongwith M.P.No.45 of 06.


Vice-Chairman

lm

7.2.2007

Post the case on 27.2.2007 along
with the M.P.


Vice-Chairman

/bb/

27.2.07.

Post the case on 14.3.07. along-
with M.P.No.45 of 06.


Member


Vice-Chairman

lm

14.3.2007

Post on 19.03.2007.

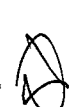

Member

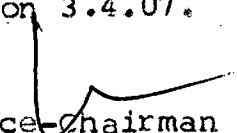

Vice-Chairman

/bb/

19.3.07.

post the matter on 3.4.07.


Member


Vice-Chairman

lm

3.4.07.


Let this case be listed on the
1st day of next Division Bench when the
new Bench will be constituted to dispose
of the matters. Counsel for the parties
are directed to complete the pleadings.

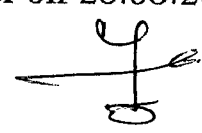
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Vice-Chairman

13.02.2008

On the prayer of Mrs. U. Dutta, learned counsel appearing for the Applicant, call this matter on 26.03.2008.


(Khushiram)
Member (A)

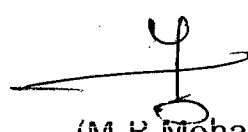

(M.R. Mohanty)
Vice-Chairman

Lm

26.03.2008


Call this matter Division Bench matter on 12.05.2008.

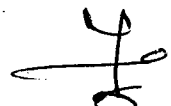
lm


(M.R. Mohanty)
Vice-Chairman

12-05-08

Call this matter on 13.06.08 for filing objection.



(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

pg

13.06.2008

On the request of the learned Counsel for the parties, call this matter on 29.07.2008.


(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

nkm

29.07.2008

Call this matter on 02.09.2008 for hearing.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

19.6.08

Additional Statement
submitted by the
Applicant. Copy
saved.




~~Additional~~
~~Statement~~


28.7.08

Addl. Statement
filed by the applicant.

28.7.08

02.09.2008 Heard learned counsel appearing for both the parties. For the reasons recorded separately, this case stands disposed of.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

24.9.08

Copy of the
order send to the
D/sec. for issue
the same to the
applicant as well
as to the respondents.
1 to 6 with copy
to the L/Adv. for
the parties.


H.F. COPY provided.

M. K. Choudhary
Ad.
6/11/08.

Flag 'A' a letter dated 17.06.2009 is received from Sri R.K. Ahluwalia, under Secretary to the Govt. of India regarding the direction of this Hon'ble Court's order dated 02.08.2009 in Review Application No. 2/2006 in O.A. No. 127/2004.

In compliance of Hon'ble Court order dated 02.08.2009 the Applicant is promoted to the post of Assistant Director (Rehabilitation) on notional basis w.e.f. 09.06.2003 and on actual basis w.e.f. 24.10.2005 and his consequential benefits is under process.

Laid before the Hon'ble Vice-Chairman for perusal.


24/6/09
S.O (J)

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Review Application No. 2 of 2006 (In O.A. 127/04)

DATE OF DECISION : 02 -09 -2008.

Shri Lienkhawthang Varte

.....Applicant/s

Mr M. Chouda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr. G. Baishya, Sr. C.G.S.C.

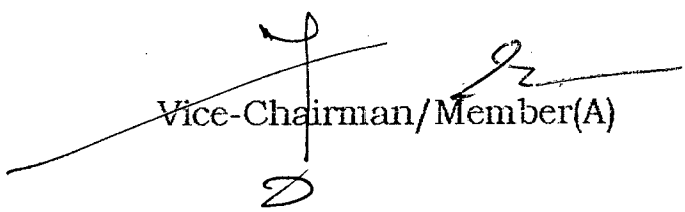
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, 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 their Lordships wish to see the fair copy of the judgment ? Yes/No.


Vice-Chairman/Member(A)

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Review Application No. 2 of 2006 (In O.A.127/2004).

Date of Order : This the 2nd Day of September, 2008.

THE HON'BLE MR MONORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Lienkhawthang Varte
Son of Sri H.V. Varte,
Assistant Director,
VRC for Handicapped,
Abhoynagar, Agartala-799001.
West Tripura.

.....Applicant

By Advocate Shri M. Chanda.

Versus -

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Labour,
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
2. Deputy Secretary to the
Government of India,
Ministry of Labour,
New Delhi-110001.
3. The Director General of Employment & Training,
Joint Secretary to the Govt. of India,
Ministry of Labour (DGE & T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
4. The Dy. Director General (Employment)
Ministry of Labour (DGE & T),
Sharam Shakti Bhawan,
Rafi Marg, New Delhi-110001.
5. Assistant Director (Rehab)
V.R.C for Handicapped,
Rehabari, Guwahati-8.
6. U.P.S.C
Through its Secretary.



11, Dholpur House,
Shahjahan Road, New Delhi

.....Respondents

By Advocate Shri G. Baishya, Sr.C.G.S.C.

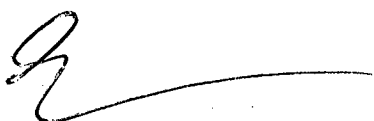
ORDER (ORAL)

KHUSHIRAM (MEMBER(A))

Earlier the Applicant had filed O.A.127/2004 seeking declaration to the effect that (a) the Applicant was entitled to be promoted to the reserve post of Superintendent and (b) the reserve S.T post of Superintendent can not be filled up by unreserved candidate, when eligible candidate of reserve category is available in the department and (c) to open the sealed cover and for direction to the Respondents to give effect of the recommendation of the UPSC with immediate effect and to promote the Applicant to the post of Superintendent with all consequential benefits. The said O.A. was disposed of on 08.07.2005 with the following directions :-

"In view of the above, we direct the 1st and 2nd Respondents to consider the case of the applicant for promotion to the post of Superintendent in the department with reference to the vacancy for ST which arose in the year 1996 notwithstanding the Circular of DOP&T as directed by the National Commission for Scheduled Castes and Scheduled Tribes in its communication dated 09.11.1999 (Annexure-XIV) and pass appropriate orders in accordance with law within a period of three months from the date of receipt of this judgment. The recommendation of the UPSC contained in the 'Sealed Cover' has to be opened forthwith and the applicant has to be promoted on provisional basis.

We make it clear that we have not pronounced anything with regard to the disciplinary proceeding initiated against the applicant pursuant to the charge memo dated 16.03.2004 issued by the Respondents."



In compliance with this order, the Respondents have passed an order dated 10.10.2005 vide Office Order No.74 of 2005 in respect of the Applicant as under :-

"Consequent upon the directions of the Hon'ble Central Administrative Tribunal, Guwahati, Shri L.K.Varte, Rehabilitation Officer, on the basis of recommendations of Departmental Promotion Committee held by Union Public Service Commission, is promoted on provisional basis as Assistant Director (Rehabilitation) in the scale of Rs.8,000-275-13,500/- and posted at VRC for Handicapped at Agartala. The provisional promotion will be effective from the date he assumes the charge of the post at Agartala.

2.Shri Varte is directed to resume the charge of the post immediately.

3.Shri L.K. Varte, will be entitled for TA/DA as admissible under Rules."

The order conveying the "provisional" promotion is now sought to be reviewed by replacing the word "provisional" by "notional" and the Applicant has filed this R.a.2/06 to review the order passed in O.A.127/04 dated 08.07.2005. The Applicant has stated that O.A. 127/04 disposed of by the Tribunal in favour of the Applicant so far as his promotion is concerned, has become infructuous in view of the error in judgment dated 08.07.2005 and thus he has pleaded to delete the word "provisional" in the operative part of para 17 of the judgment and to replace it by the word "notional".

2. We have heard Mr M.Chand, learned counsel appearing for the Review Petitioner and Mr G.Baishya, learned Sr. Standing counsel appearing for the Respondents. The learned counsel for the Applicant pleaded that replacing of the word "provisional" with "notional" has become necessary to grant him consequential benefits. He also invited



the attention of the Tribunal to the Government of India, (Ministry of Labour and Employment) letter dated 26.05.2008 regarding enquiry proceedings against the applicant which reads as under :-

"I am directed to convey the approval of the competent authority for closing the case on the basis of the Inquiry Report submitted by Sh. K.L.Kuli, Inquiry Officer/DDT which revealed no serious allegations against Sh. L.K.Varte.

This issues with the approval of the DG/JS vide their Dy. No.156 dated 15.05.2008."

In view of this order the proceeding initiated against the Applicant has been closed and he is entitled to all consequential reliefs as no allegation against the applicant stand pending. Learned counsel for the Respondents have no objection to grant relief to the Applicant. We have given our anxious consideration to the points raised by the learned counsel for the applicant and we feel that the replacement of the word "notional" in place of the word "provisional" may deprive the applicant from getting the consequential financial benefits. However, since Applicant now fulfills all other conditions also for promotion and it will be helpful for him in getting all the consequential benefits, we are in agreement with the plea of the Applicant made in the R.A. Since the enquiry against the Applicant has already been closed vide order dated 26.05.2008, the Applicant will be entitled to all consequential benefits from the date it was due and last sentence of the operative portion of this Tribunal's order (para-17) dated 08.07.2005 rendered in O.A.No.127/2004 shall stand amended and shall read as under :

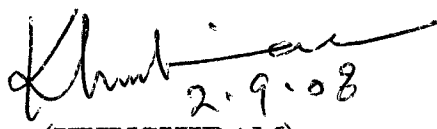
"The recommendation of UPSC contained in the 'sealed cover' has to be opened forthwith and the Applicant has to be promoted on notional basis with all consequential benefits.



3. Accordingly Review Application stands allowed and disposed of.

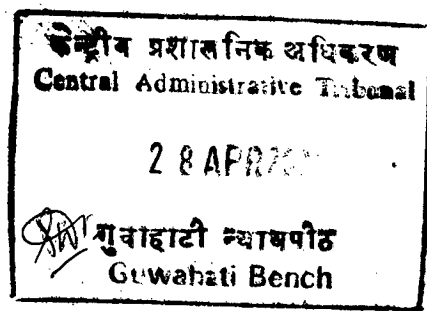
4. In view of the disposal of R.A. Misc. Petition No.45/06 is also stands disposed of.

5. Send copies of this order to the Applicant and the Respondents and free copies be also supplied to the Advocates of both the parties.


2.9.08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER


02/09/08
(MANORANJAN MOHANTY)
VICE CHAIRMAN

//pg//



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Review application No. 2 /2006

Arising out of O.A. No. 127 of 2004.

Shri L.K. Varte

-Vs-

Union of India & Ors.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.		Application	1-15
2.		Affidavit	-16-
3.	A	Copy of written statement.	
4.	B	Copy of the judgment and order dated 08.07.2005	
5.	C	Copy of the office order dated 14.10.2005.	
6	D	Copy of order dated 17.04.2006.	

Filed by:

Date:

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by me applicant
through, S. Nath
Advocate.
28.04.2006.

Review application No. 2 /2006

Arising out of O.A. No. 127 of 2004.

In the matter of:

Shri L.K. Varte.

-Vs-

Union of India and others.

-And-

In the matter of:-

An application under Section 22(3) (f) of
the Administrative Tribunals Act, 1985
read with the CENTRAL
ADMINISTRATIVE TRIBUNAL
(PROCEDURE) RULES, 1987 framed
under the Administrative Tribunals Act,
1985.

-And-

In the matter of: -

O. A. No. 127/2004

Shri L.K. Varte

-Vs-

Union of India and Others.

-And-

In the matter of: -

Shri Lienkhawthang Varte,

S/o- Shri H. V. Varte,

Assistant Director (Rehabilitation)

V.R.C for handicapped,
Abhoy Nagar, Agartala
West Tripura,

---Applicant/Review
petitioner.

-Vs-

1. The Union of India,

Represented by the Secretary to the
Government of India,
Ministry of Labour,
New Delhi- 110 001.
2. Deputy Secretary to the

Govt. of India,
Ministry of Labour,
New Delhi- 110 001.
3. The Director General of Employment
and Training,
Joint Secretary to the Government of
India, Ministry of Labour (DGE & T)
Shram Shakti Bhawan,
Rafi Marg, New Delhi- 110001.
4. The Dy. Director General (Employment)

Ministry of Labour (DGE & T)
Shram Shakti Bhawan,
Rafi Marg, New Delhi- 110001.
5. Assistant Director (Rehab.)

V.R.C. for Handicapped.
Rehabari, Guwahati-8.
6. U.P.S.C,

Through it's Secretary,
11, Dholpur House,
Shahjahan Road, New Delhi.

---- Respondents.

The above named applicant/review petitioner.

Most Respectfully Sheweth:-

1. That your applicant approached the Hon'ble Tribunal by filing an O.A. i.e. O.A. No 127/2004 (L.K. Varte -Vs- U.O.I and Ors.) under Sec 19 of the Administrative Tribunal's Act, 1985 praying following reliefs; -
 - 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the post of Superintendent in the existing reserved post of S.T, at least w.e.f the date of occurrence of S.T vacancy in the light of the decision communicated by the respondents in their letter dated 11.12.2001 (Annexure- XIX) with all consequential service benefit.
 - 8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to be promoted to the reserve post of Superintendent as per prevailing recruitment rule at the time when the sole post of Superintendent fall vacant in the department of Directorate General of Employment and Training, VRC for handicapped under the Ministry of labour and employment, Govt. of India.
 - 8.3 That the Hon'ble Tribunal be pleased to declare that the reserve S.T post of Superintendent can not be filled up by unreserved candidate, when eligible candidate of reserve category is available in the department.
 - 8.3A That the Hon'ble court be pleased to direct the respondents to open the sealed cover and further be pleased to direct the respondents to give effect of the recommendation of the UPSC with immediate effect.
 - 8.3 B That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the post of Superintendent with

immediate effect with all consequential service benefit and seniority in the event of recommendation of the UPSC if found favourable in case of the present applicant."

8.4 Costs of the application.

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

2. That it is stated that the aforesaid O.A was contested by the official respondents before the learned Tribunal by filing a written statement.

(A Copy of the written statement is enclosed as Annexure-A).

3. That your applicant further beg to say that the matter was finally decided on 08.07.2005 with the following direction, the relevant portion of paragraph 17 and 18 of the judgment and order dated 08.07.2005 are quoted below: -

"17 In view of the above, we direct the 1st and 2nd respondents to consider the case of the applicant for promotion to the post of Superintendent in the department with reference to the vacancy for ST which arose in the year 1996 notwithstanding the circular of DOP & T as directed by the National Commission for scheduled Tribes in its communication dated 09.11.1999 (Annexure-XIV) and pass appropriate orders in accordance with law within a period of three months from the date of receipt of this judgment. The recommendation of the UPSC contained in the "Scaled Cover" has to be opened forthwith and the applicant has to be promoted on provisional basis.

18. We make it clear that we have not pronounced anything with regard to the disciplinary proceeding initiated against

the applicant pursuant to the charge memo dated 16.03.2004 issued by the respondents."

It appeared from the last three lines from paragraph 17 that the learned Tribunal has directed to open the sealed cover forthwith and the applicant has to be promoted "on provisional basis".

It is humbly submitted that the word "on provisional basis" is appears to be a typographical error on a careful reading of the entire judgment. In this connection paragraph 13, 14, and 15 of the judgment quoted below for perusal of the Hon'ble Court.

"13. It is seen that the respondents in their reply to the amended application has taken a stand that disciplinary proceedings were initiated against the applicant before the vacancy was reported to UPSC. It is also stated that the charge sheet has been issued to the charged officer (petitioner) on 16.03.2004.

14. In view of the above contention taken by the respondents question to be considered is as to the point of time at which it can be said that a disciplinary proceedings has been commenced against an officer.

15. The decision of the Division Bench of the Hon'ble Gauhati High Court in W.P (C) No. 4247/2004 has already been noted in para 3 (supra) where the Division bench had observed that in absence of any rules or regulations departmental enquiry shall be deemed to have been commenced from the date charge sheet is served on the delinquent. It is also settled position (see the decisions of the Supreme Court in Union of India V. Dinanath Shantaram Karekar (1998) 7 SCC 569 paras 3 & 4 and State of M.P V. L.P. Tiwari (1994) 4 SCC 468 Para 6). In the instant case

admittedly the charge sheet is served on the applicant only on 16.03.2004. Therefore, it has to be taken that no disciplinary proceeding was pending against the applicant in 1990-2000 and on 05.02.2003 when the DPC met. If that be legal position the sealed cover proceeding adopted by the DPC as held by the Division bench of the Gauhati High Court is not in accordance with law and the applicant has to be given notional promotion from the date of reservation vacancy for ST in the post of Superintendent has arisen".

It is quite clear from paragraph 13, 14 and 15 of the judgment and order dated 08.07.2005 that the respondents have wrongly adopted the sealed cover procedure in the instant case of the applicant and as such it has been observed more specifically in paragraph 15 of the judgment as follows: -

"The applicant has to be given notional promotion from the date the reservation vacancy for ST in the post of Superintendent has arisen"

The learned Tribunal arrived in the above conclusion after the following findings;

"In the instant case admittedly the charge sheet is served on the applicant only on 16.03.2004. Therefore, it has to be taken that no disciplinary proceeding was pending against the applicant in 1990-2000 and on 05.02.2003 when the DPC met. If that be legal position the sealed cover proceeding adopted by the DPC as held by the Division bench of the Gauhati High Court is not in accordance with law."

In the background of above findings of the learned Tribunal it is quite clear that the applicant is entitled to be promoted "on notional basis" instead of "on provisional basis".

It is humbly submitted that in the facts and circumstances stated above it appears that the word "provisional" appears to be a typographical mistake occurred in the last sentence of para 17 of the judgment and order dated 08.07.2005, even inclusion of the word "on provisional basis" instead of "on notional basis" in the operative portion of the judgment has totally changed the inevitable conclusion or direction which the learned Tribunal ought to have passed in the facts and circumstances of the case of the review applicant. Therefore, it appears that there is an error apparent on the face of the record in view of inclusion of word "on provisional basis" in the operative portion of the judgment and order dated 08.07.2005 indicated in the last sentence of the para 17 of the judgment dated 08.07.2005 and as a result the judgment and order dated 08.07.2005 failed to give adequate relief to the applicant in a given facts and circumstances and the learned Tribunal also failed to reach to it's logical conclusion in the given circumstances and as such in the facts and circumstances of the case of the review applicant, warrants review of the judgment and order dated 08.07.2005.

Copy of the judgment and order dated 08.07.2005 is enclosed as Annexure-B.

4. That it is stated that after receipt of the judgment and order dated 08.07.2005 the respondents particularly Under Secretary, Govt. of India of the Directorate General of Employment and Training, New Delhi vide office order No. 74 of 2005 bearing letter No. DCE&T-C-18011/3/2004-Adm. II dated 15.10.2005 promoted the applicant on "provisional" basis to the cadre of Asstt. Director (Rehabilitation) and it is stated that the order of promotion would be affected from the date, applicant assume the charge of the post at Agartala, whereas there was a specific direction of the learned Tribunal that the promotion of the applicant shall made effective with reference to the vacancy for ST which arose in the year 1996

but surprisingly vide order dated 14.10.2005 the order of promotion is made "provisional" and prospective. Therefore Hon'ble Court be pleased to pass appropriate order deleting the word "provisional" and including the word "notional" instead of "provisional".

(A copy of the office order dated 14.10.2005 is enclosed as Annexure-C).

5. That your applicant further begs to say that due to inadvertence the said typographical mistake did not come to his notice of the review applicant immediately after receipt of the judgment and order dated 08.07.2005 in O.A. No. 127/2004. As such delay if any in approaching the learned Tribunal for correction of the typographical mistake may kindly be condoned and the Hon'ble Tribunal further be pleased to pass appropriate order deleting the word "provisional" and adding the word "notional" in place of the word "provisional" in the last sentence of the paragraph 17 of the judgment and order dated 08.07.2005.
6. That your review applicant has preferred a separate application for condonation of delay while preferring this review application.
7. That it is stated that inclusion of the word "on provisional basis" in the last sentence of para 17 of the judgment and order dated 08.07.2005 has changed the logical conclusion of the learned Tribunal's decision rendered on 08.07.2005 in O.A. No. 127/2004 as stated in the preceeding paragraphs and as such review is necessary in order to give a meaningful and logical findings and direction of the judgment and order dated 08.07.05. In this connection it may be stated that the review is permissible when decisions relied upon the learned Tribunal did not certainly support the interpretation adopted the judgment in the review. In this connection the review applicant begs to refer decision of the Hon'ble Supreme Court in the case of Commissioner of sales Tax, J & K and others -Vs- Pine Chemicals Ltd. And ors. reported in

1995(1) SCC, 58 has dealt with the occasion when a judgment could be reviewed. The relevant portion of the paragraph 10 is quoted below: -

"It is, however, interesting to notice that when the above two decisions were brought to the notice of the Bench, it referred to the ratio of the said decisions but neither followed it nor made any attempt to distinguish it but proceed to make it a basis for their decision notwithstanding the fact that the said ratio ran exactly counter to the one adopted by the Bench. The two decisions did not certainly support the interpretation adopted in the judgment under review. On the contrary, they, and particular the decision in *Indian Aluminum*, militated against the said interpretation. It is for this reason, coupled with the fact that the interpretation placed in the judgments under review on Section 8(2-A) may affect a large number of cases all over the country, that we agreed to re examine the issue, which we would not have agreed to ordinarily".

The Hon'ble Supreme Court while dealt with the question of review the following views was expressed in the case of Lily Thomas - Vs- U.O.I and others, reported in 2000 (6), SCC, 224, the portion of the relevant paragraph are quoted below; -

"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statue. This Court in *Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji* held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or

technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the court finds that the error pointed out in review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the court from rectifying the error. This Court in *S. Nagaraj V. State of Karnataka* held: (SCC pp.619-20, para 19).

" 19. Review literally and even judicially means re-examination or reconsideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law of courts and the statutes lean strongly in favour of finality of decision legally carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in which it could rectify its miscarriage of justice. In *Raja Prithwi Chand Lal Choudhury V. Sukhraj Rai* the court observed that even though no rules had been framed permitting the highest court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in *Rafunder Narain Rae V. Bijai Govind Singh* that an order made by the court was final and could not be altered.

'..... nevertheless, if by misprision in embodying the judgments, error have been introduced, these courts possess, by common law, the same power which the courts of record and statute have of rectifying the mistakes which have crept in The House of Lords exercises a similar power of rectifying mistakes made in drawing up its own judgments, and this Court must possess the

same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies."

" 54. ----- 1. *Application for review of judgment*- (1) Any person considering himself aggrieved-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.
- (b) By a decree or order from which no appeal is allowed, or
- (c) By a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order."

In the instant case of the review applicant in fact filed for reviewing the inconsistencies with a view for correction of the same. It is needless to mention here that the impugned judgment and order is contrary to the settled law laid down in the series of cases by the coordinating Division Bench as well as by the Full Bench and the judgment laid down by the Hon'ble Supreme Court in this regard.

In all the judgment the Division Bench as well as on the identical question of law the coordinating division bench of C.A.T, Full Bench of C.A.T as well as Hon'ble Supreme Court has held that if the sealed cover procedure adopted prior to issuance of the charge sheet, in that event it is specifically held that sealed cover has been adopted wrongly and as such

the said sealed cover is liable to be opened and accordingly direction has been passed in several cases to open the sealed cover. It is humbly submitted that if the typographical mistake is not rectified by way of review, the same will lead to miscarriage of justice and the applicant will suffer irreparable loss and injury. The applicant begs to refer the decision of the Hon'ble Court in the case of Union of India & Ors. -Vs- K.V. Jankiraman and Ors. reported in (1991) 4 SCC 109, wherein it has been held that sealed cover procedure can be adopted only after the date of issuance of charge memo or charge sheet and that being the date from which the disciplinary proceeding can be taken to have been initiated, admittedly in the instant case the memorandum of charge sheet was issued to the applicant only on 16.03.2004 whereas sealed cover procedure was adopted on 05.02.2003, but charge sheet was served on the review applicant only on 16.03.2004, as such sealed cover was adopted wrongly, therefore, the review applicant is entitled to promotion "on notional basis" instead of "provisional basis" as such learned Tribunal be pleased to pass necessary order/direction for correction/inclusion of words "on notional basis" instead of "on provisional basis" in paragraph 17 of the judgment and order dated 08.07.05, therefore, in order to provide adequate relief to the review applicant which he is otherwise entitled to in view of the settled legal position. In this connection the applicant further begs to rely following decision:

1. (1991) 2 SCC 220
2. (2004) 3 SLJ CAT 105.
3. ATJ June 2003 page 389.
4. (1995) 3 SCC 552.
5. (1991) 4 SCC 109
6. (2004) 2 SLJ SC 62
7. (2004) 2 SLJ Delhi HC 288
8. (1998) 2 SLJ SC 265

9. (2002) 2 SLJ CAT 9 and 303

10. (2001) 1 SLJ SC 113, 399

11. (2001) 3 SLJ CAT 131.

8. That your applicant further begs to say that it appears that there is a serious typographical mistake occurred in the paragraph 17 of the judgment and order dated 08.07.2005, where the word "provisional" has been written instead of the word "notional" as because it has been specifically held by the learned Tribunal in paragraph 14 and 15 of the said judgment dated 08.07.05 that the applicant is entitled to be promoted on notional basis from the date the reservation vacancy of the Superintendent has arisen as such inclusion of the word "notional" is warranted in paragraph 17 deleting the word "provisional" to make the judgment and order dated 08.07.2005 meaningful in view of the given facts and circumstances otherwise there will be a serious miscarriage of justice and the applicant will be denied the fruits of the judgment and order dated 08.07.05 passed in O.A. No. 127/2004. It is stated that in terms of the office order No. 74 of 2005 dated 15.10.2005 another consequential office order has been passed bearing No. DGE&T-C-18011/3/2004-Adm.II dated 17.04.06, wherein it has been stated that the promotion of the applicant is made provisionally in the cadre of Asstt. Director subject to outcome of the pending Disciplinary Proceeding, therefore, it appears that respondents has taken the undue advantage of the typographical mistake occurred in paragraph 17 of the judgment and order dated 08.07.2005.

It is humbly submitted that if the typographical mistake is not rectified by way of review, the same will led to miscarriage of justice and the applicant will suffer irreparable loss and injury. The applicant begs to refer the decision of the Hon'ble Court in the case of Union of India & Ors. - Vs- K.V. Jankiraman and Ors. reported in (1991) 4 SCC 109, wherein it has been held that sealed cover procedure can be adopted only after the date of issuance of charge memo or charge sheet and that being the date

from which the disciplinary proceeding can be taken to have been initiated, admittedly in the instant case the memorandum of charge sheet was issued to the applicant only on 16.03.2004, whereas as per respondents own admission the sealed cover has been adopted on 05.02.2003 as such the Hon'ble Tribunal has rightly observed in paragraph 14 and 15 of the judgment dated 08.07.05 that the applicant is entitled to notional promotion from the date reservation vacancy for ST has arisen in the cadre of Superintendent.

In view of the typographical mistake which occurred on the face of the record the judgment and order dated 08.07.05 passed in O.A. No. 127/2004 is liable to be reviewed. It is stated that review is also necessary for correction of a judgment when there is a typographical mistake occurred and which has far reaching adverse effect.

Copy of the order dated 17.04.06 is enclosed herewith and marked as Annexure- D.

9. That it is stated that the Original Application No. 127/2004 which was decided by the learned Tribunal in favour of the applicant so far his promotion is concerned in fact has become infructuous in view of the error in the judgment dated 08.07.2005, hence in it is prayed that the aforesaid judgment may kindly be reviewed to grant adequate relief to the review applicant.

In the circumstances stated above the learned Tribunal be pleased to delete word "provisional" in the operative part of the paragraph 17 of the judgment and further be pleased to include the word "notional" in place of word "provisional" in view of the observation made in preceeding paragraphs of the judgment and order dated 08.07.2005 passed in O.A No. 127/2004.

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

Upon the premises aforesaid, it is humbly prayed that the Hon'ble Tribunal be pleased to consider this petition, admit the same and issue notice to the opposite parties/respondents to show cause as to why the order dated 08.07.2005 passed in O.A. No. 127/2004 should not be reviewed to the extent, for deletion of the "provisional" and for inclusion of the word "notional" in place of the word "provisional" in paragraph 17 of the operative part of the judgment and order dated 08.07.2005 and cause or causes being shown and upon hearing the parties be pleased to review the order dated 08.07.2005 passed in O.A. No. 127/2004 in view of the circumstances as stated above and further be pleased to pass such other order(s) as this Hon'ble Tribunal may deem fit and proper.

Act for this kindness the applicant/review petitioner shall ever pray.

AFFIDAVIT

I, Shri Lienkhawthang Varte, S/o- Shri H. V. Varte, aged about 50 years, presently working as Assistant Director (Rehabilitation), V.R.C for handicapped, Abhay Nagar, Agartala, applicant in the instant application do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in the instant review petition and as such conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the statements made in paragraphs 1, 5, 6, 7 and 9 in the accompanying petition are true to my knowledge and those made in paragraphs 2, 3, 4 and 8 are being matter of records and true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit on 25th day of April 2006.

Identified by:

Subrata Nath

Advocate

Lienkhawthang Varte
Deponent

The above named deponent-
has solemnly affirmed and
declared before Shri S. Nath
Advocate on 25th April, 2006.

S/C

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2814

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-05

In the Matter of ; -

O.A. No. 127 of 2004

Lienkhawthang Varte - Applicant

-Versus-

Union of India and Others - Respondents

WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS NO. 1 TO 5

I, R.Lakshmana Samy, Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped Rehabari, Guwahati, 781008, Assam do hereby solemnly affirm and say as follows: -

1 That I am the Assistant Director (Rehabilitation) and Respondents No -5 in the case and as such I am fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except what ever if specifically admitted in the written Statements the other contentions and Statements be deemed to have been denied. I am authorized to file the written Statement on behalf of all the Respondents.

Spd
Advocate

2. Brief Facts.

That the Respondents beg to state the brief facts of the case as follows: -

That there are 11(eleven) sanctioned posts of Superintendent [re-designated as Assistant Director (Rehabilitation),] Vocational Rehabilitation Centre for Handicapped Group 'A' Gazetted in the pay scale of Rs.8000-275-13, 500/-. As per the Recruitment Rules for the post of Superintendent [re-designated as Assistant Director (Rehabilitation),] notified (R-I) in 1996, these posts are required to be filled by promotion failing which by transfer on deputation (including short-term contract) failing both by direct recruitment. Promotion is the primary mode of appointment. The post of Assistant Director (Rehabilitation) is in the lowest rung of Group 'A' Gazetted post and reservation for Schedule Caste/Schedule Tribe is applicable therein.

3. Para 1 Needs no comments as the matter of record.

4. Para 2 & 3 No comments being legal one.

5 That the Respondents beg to state the Statements made in paragraph 4.1. and 4.2. of the applicant are matters of record.

6. That with regard to the Statements made in paragraph 4.3 of the application, the Respondents beg to state that as per the Recruitment Rules (R-I) for the post of Superintendents re-designated as Assistant Director (Rehabilitation),] Vocational Rehabilitation Centre for Handicapped . Psychologist/ Rehabilitation Officers with 05

years regular service in the grade rendered after appointment thereto on regular basis are eligible to be considered for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one 01 by SC candidates.** In between Point Based Reservation roster had been replaced to Post Based Reservation Roster vide DOPT OM No.36012/2/96-Estt.(Res.) dated 02.07.97. According to the point -base reservation roster, the four vacancies fell at point nos. 9 (96-97), 10 (96-97), 11 (96-97) and 12 (97-98) of the first cycle of 40 point. Points No. 9 (96-97) was unreserved. However, it was supposed to be utilized for SC category for being a carry forward vacancy. Point no. 10 (96-97), 11 (96-97) and 12 (97-98) were unreserved. Thus the then year -wise break up of vacancies in so far as reservation concerned was as under:-

Year	General	SC	ST
1996-97	02	01	-
1997-98	01	-	-

As such. One vacancy for the year 1996-97 was reserved for SC candidate and the UPSC vide letter dated 13/05/1997 was requested to hold DPC for promotion. UPSC in turn, vide their letter dated 07/11/1997 requested that the reservation position may be re-examined in accordance with the revised guidelines issued by the DOPT vide their OM No. 36012/2/96-Estt. (Res.) dated 02/07/1997. Thereafter, with the replacement of Point Based Reservation roster by the Post based Reservation Roster vide DOPT OM No. 36012/2/96-Estt.(Res.) dated 02/07/1997 , none of the post was required.

to be filled up by ST candidate. UPSC held a DPC meeting on 03/03/1999 and recommended the names of eligible officers.

7. That the Respondents deny the Statements made in paragraphs 4.4. and 4.5 of the application.

8. That with regard to the Statements made in paragraph 4.6. and 4.7 of the applications, the Respondents beg to state that as per the Recruitment Rules for the post of Superintendent re-designated as Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped . Psychologist/ Rehabilitation Officers with 05 years regular services in the grade rendered after appointment thereto on regular basis are eligible to be considered for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one (01) by SC candidate.** In between point based roster had been replaced to Post- Based roster vide DOPTs OM No. 36012/2/96-Estt (Res.) dated 02.07.97 (R-2). According to the Point -Based Reservation Roster, the four vacancies fell a point nos. 9(96-97) 10, (96-97), 11 (96-97) and 12 (97-98) of the first cycle of 40 point. Point No. 9 (96-97) was unreserved. However, it was supposed to be utilized for SC category for being a carry forward vacancy. Point no. 10 (96-97), 11 (96-97) and 12 (97-98) were unreserved. Thus the then year -wise break up of vacancies in so far as reservation concerned was as under: -

Year	General	SC	ST
1996-97	02	01	--
1997-98	01	--	--

As such, one vacancy for the year 1996-97 was reserved for SC candidate and the UPSC vide letter dated 13/05/1997 was requested to hold DPC for promotion. UPSC in turn, vide their letter dated 07/11/1997 requested that the reservation position may be re-examined in accordance with the revised guidelines issued by the DOPT vide their OM No. 36012/2/96-Estt. (Res.) dated 02.07.1997. Thereafter, with the replacement of the Point Based Reservation roster by the Post-Based Reservation Roster vide DOPT OM No. 36012/2/96(Res.) dated 02/07/1997 (R-II), none of the post was required to be filled up by ST candidates. UPSC held a DPC meeting on 03/03/1999 and recommended the names of eligible officers.

9. That with regard to the Statements made in paragraph 4.8. to 4.10. of the application, the Respondents beg to state that in 1996-97 four (04) vacancies of Superintendent re-designated as Assistant Director (Rehabilitation) had become available and reported to UPSC on 13/05/1997. As per the Recruitment Rules (R-I) notified in 1996, these posts were required to be filled by promotion failing which transfer on deputation (including short term contact) failing both by direct recruitment. Psychologist/ Rehabilitation Officer with 05 years regular service in the grade are eligible for promotion. According to the Reservation Roster **three (03) vacancies were required to be filled by General candidate and one (01) by SC candidate.** In between Point-Based Reservation roster had been replaced to Post-Based Reservation Roster vide DOPT's OM No. 36012/2/96-Estt. (Res.) dated 02.07.97 (R-2). As stated above due to change circumstances, UPSC had recommended the name of Shri M.K. Rostogi, Smt P. Chandrika Rani, Shri Arun G. Joshi and Shri G.K. Sokal

against the four (04) posts of Superintendent. As Shri G.K. Sokal was already selected against the post of Superintendent to be filled by failing which clause i.e. Direct Recruitment hence. He had refused to accept the post of Superintendent to be filled by promotion. The promotion was given to Shri K.K. Bhatt whose name was recommended by the UPSC in the extended panel against the vacancy for the year 1997-98.

10. That the Respondents beg to state that the Statement in paragraph 4.11 are matters of record.

11. That the Respondents beg to state that the Statements made in paragraph 4.12 are matters of record.

12. That the Respondents deny the Statements made in Paragraph 4.13 of the application.

13. That with regard to the Statement made in paragraph 4.14 to 4.17 of the application, the Respondents beg to state that the applicant had requested through National Commission for SC/ST for his promotion to the post of Superintendent re-designated as Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped. At that time one post of Superintendent, Vocational Rehabilitation Centre for Handicapped was lying vacant due to refusal of promotion of Smt. P. Chandrika Rani. Hence as per advise of National Commission for SC/ST, a proposal to fill up one post by an ST candidate was sent to UPSC. But UPSC did not agree with the

candidature of the applicant as his name was at Sl. No. 7 in the combine Seniority List (Psychologist and Rehabilitation Officer) which was beyond the zone of consideration of five (05) for one (01) post even when extended zone is allowed in such a case. In the meantime two (02) more vacancies of Superintendent had become available due to superannuation of Shri Attar Singh and Death of Shri S.K. Krishna Prasad w.e.f. 01.10.2001 & 15.03.2003 respectively. Out of three (03) vacancies – one (01) was reserved for ST candidate. UPSC had recommended the names of Smt P.Chandrika Rani, Psychologist and Shri R. Lakshmana Samy, Rehabilitation Officer against the two (02) General vacancies for the year 2001-2002 and in case of ST candidate a carried forward vacancy for the year 1999-2000, the applicant's recommendation of UPSC has been received in a "Sealed Cover" due to non-vigilance clearance. As per the advice of UPSC the "Sealed Cover" will be opened after receipt of Vigilance clearance in respect of applicant.

14. That the Respondents has no comments to the Statements in 4.18 of the applicant.

15. That the Respondents beg to state that according to the reservation roster, three (03) vacancies were required to be filled by General candidate and one (01) by SC candidde.in between Point-Based Reservation Roster had been replaced to Post -Based Reservation Roster vide DOPT's OM No. 36012/2/96-Estt.(Res.) dated 02.07.97. According to the Post based Roster all the four (04) vacancies were un- reserved. Hence, the name of the applicant was not recommended by the UPSC in the DPC held on 03.03.1999.

16. That with regard to the Statements made in paragraphs 5.1. to 5.6 of the application, the Respondents beg to state that in view of the fact stated in the foregoing paragraphs the ground stated by the applicant does not hold good and are accordingly opposed.

17. The statements made in paragraphs 5.7 and 5.8 are denied. The Hon. Ble National Commission for SC/ST had advised to fill the vacancy by an ST candidate. Accordingly the vacancy was reported to UPDC but UPSC did not agree to the proposal. In between two (02) more vacancies occurred and out of three vacancies one (01) vacancy was reserved for ST candidate. In the DPC meeting held on 05.02.2003, UPSC had recommended the name of the applicant against the reserved vacancy but the recommendation of UPSC had been kept in "Sealed Cover" due to no-vigilance clearance. The "Sealed Cover" will be opened as and when the vigilance clearance in respect of the Applicant is received from the concerned section.

18. That with regard to the Statements made in paragraph 9 of the application, the Respondents beg to state that the UPSC based on the records, recommendation placement of recommendation of DPC in a "Sealed Cover" and to be opened as and when vigilance clearance is received.


19. In view of the above interim relief prayed by the applicant is liable to vacated.


20. That the Applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.

VERIFICATION

I R. Lakshmana Samy, presently working as Assistant Director (Rehabilitation) Vocational Rehabilitation Centre for handicapped, Rehabari, Guwahati -781008 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the Statements made in paragraph ____ of the application are true to my knowledge and belief, those made in paragraph _____ being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon.ble Tribunal. I have no suppressed and material facts.

AND I sign this verification on this the _____ the day of _____ at Guwahati


R. Lakshmanasamy
DEPONENT


Advocate

- 26 -
SL. No. 177/01
Annexure - B

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 127/2004

Date of Order : This the 8th day of July 2005.

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

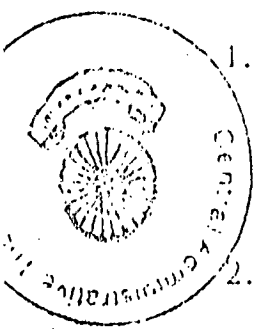
The Hon'ble Sri K.V. Prahladan, Administrative Member.

Sri Lienkhawthang Varte
Son of Sri H.V. Varte
Rehabilitation Officer
VRC for handicapped,
Rehabari, Guwahati - B.

... Applicant.

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

- Versus -

- 
1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Labour,
New Delhi - 110 001.
 2. Deputy Secretary to the
Government of India
Ministry of Labour,
New Delhi - 110 001.
 3. The Director General of Employment and Training,
Joint Secretary to the Government of India,
Ministry of Labour (DGE&T),
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110 001.
 4. The Dy. Director General (Employment)
Ministry of Labour (DGE&T),
Shram Shakti Bhawan, Rafi Marg,
New Delhi - 110 001.
 5. Assistant Director (Rehab.)
V.R.C. for Handicapped,
Rehabari, Guwahati - B.
 6. U.P.S.C., through its Secretary, 11 Dholpur House,
Shahjahan Road, New Delhi.

... Respondents.

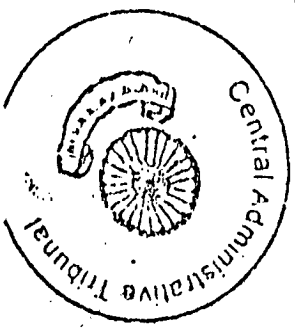
By Mr. A.K. Chaudhuri, Addl. C.G.S.C.

*Shashi
Advocate*

ORDER

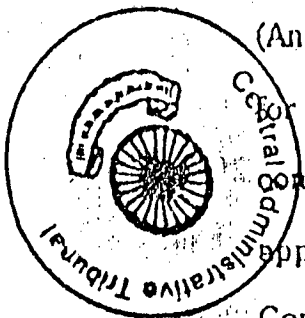
SIVARAJAN. J. (V.C.)

The applicant belongs to ST community. He was initially appointed as U.D. Clerk in the Office of the Commissioner of Income Tax, NER, Shillong in the year 1984. While so, he applied for the post of Rehabilitation Officer pursuant to a notification dated 25.03.1986 issued by the Union Public Service Commission (UPSC in short). He was selected and appointed as Rehabilitation Officer in the Office of the Directorate General of Employment and Training under the Ministry of Labour, Government of India. Accordingly, he joined as Rehabilitation Officer on 25.03.1986. A gradation list (Annexure - II) was published on 01.01.1989 in which the applicant was placed at Sl. No. 8 as a ST candidate. On 27.11.1996, the applicant submitted a representation to the 3rd respondent for consideration of his promotion to the post of Superintendent against the reserved post of ST. Three (3) posts of Superintendents which fell vacant in the year 1997 were filled up on ad hoc basis as per order dated 07.03.1997 (Annexure - III). The applicant then submitted representation dated 19.03.1997 (Annexure - IV) for consideration of his case for promotion. The Additional Superintendent of Employment Exchange, by communication dated 08.05.1997 (Annexure - VI) informed the applicant that four posts of Superintendent had been decided to be filled up and proposal in that regard has already been sent to the UPSC. It is clearly stated therein that out of the four posts one is reserved for ST and being lone ST candidate the applicant was under zone of consideration. Though the said four posts of Superintendent were filled up as per communication dated 13/15-4-1999 (Annexure - VII), the case of the applicant was not considered. He therefore



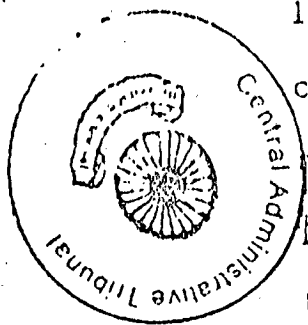
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submitted representation dated 29.04.1999 (Annexure - VIII) before the 3rd respondent against denial of promotion in the reserved post which was replied by the 2nd respondent by communication dated 26.05.1999 (Annexure - IX), wherein it is stated that four vacancies in the grade of Superintendent VRC had been filled up by promotion and as per revised roster based on the instructions issued by the DOP&T O.M. No. 36012/2/96-Estt.(Res.) dated 02.07.1997, none of the vacancies was required to be reserved for ST category. Again one more vacancy of Superintendent was filled up by the 2nd respondent by order dated 07.06.1999 (Annexure - X) without considering the case of the applicant. The applicant then submitted a representation dated 20.08.1999 (Annexure - XI) to the Chairman, National Commission for Scheduled Castes and Scheduled Tribes pointing out non consideration of the case of the applicant to the post of Superintendent. The Commission by communication dated 15.09.1999 (Annexure - XII) took up the matter with the 3rd respondent and called for details from the said authority. The 2nd respondent then by communication dated 06.10.1999 (Annexure - XIII) informed the applicant with reference to the representation submitted before the Commission that no post is available for ST category. Subsequently, the National Commission for Scheduled Castes and Scheduled Tribes by communication dated 09.11.1999 (Annexure - XIV) issued direction to the 3rd respondent to recast the post-based roster for the post of Superintendent and to take necessary action to promote the applicant against the ST carried forward point on immediate basis. Then the 2nd respondent by communication dated 26.05.2000 (Annexure - XV) informed the 3rd respondent that the case of the applicant was being sent to the UPSC for consideration. The National Commission for



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Scheduled Casts and Scheduled Tribes by letter dated 31.05.2000 (Annexure - XVI) informed the applicant that reply of the Directorate seems to be satisfactory. However, the applicant was directed to clarify if there is any disagreement in that regard. In the meantime, the applicant received certain adverse remarks in his ACR for the year 1999-2000 which was later expunged by the 3rd respondent as per communication dated 03.09.2001 (Annexure - XVII). Later the 2nd respondent by communication dated 11.12.2001 informed the National Commission that UPSC did not agree with the candidature of the applicant against the reserved post of ST and that the case will be considered by DPC alongwith other candidates. This was intimated to the applicant by the National Commission for Scheduled Castes and Scheduled Tribes vide communication dated 02.01.2002 (Annexure - XX). A seniority list of Group 'B' Officers working in VRC was published on 29.01.2002 (Annexure - XVIII). The applicant was granted 1st financial upgradation w.e.f. 09.08.1999 on the recommendation of the DPC held on 15.02.2002 by order dated 20.02.2002. Later the respondent by order dated 05.05.2003 (Annexure - XXI) again promoted two other persons to the post of Superintendent without considering the case of the applicant against backlog ST post. The applicant is thus aggrieved by the denial of promotion to him to the post of Superintendent in spite of the fact that he became eligible for promotion to that post of Superintendent as per Recruitment Rules as early as in 1991. It is his case that being the only ST candidate, he is entitled to consider his case for promotion against ST quota which occurred during the year 1996 as is evident from the letter dated 08.05.1997 issued by the Additional Director of Employment Exchange. It is also his case that his case has to be

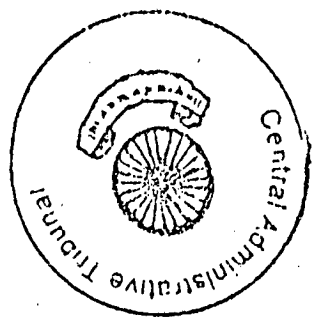


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considered in terms of roster points and Rules of Reservation. The applicant had contended that the backlog ST vacancy could not be carried forward from year to year and unreserved candidates could not be appointed against the vacancy reserved for ST candidates, when an ST candidate - namely the applicant was available for promotion in the department. It is also the contention of the applicant that vacancy in the post of Superintendent is required to be filled up as per rules prevailing on the date of occurrence of the vacancy and the subsequent amended rules, if any, cannot apply to fill up the said vacancy and therefore, revised roster points based on the instruction issued by the DOP&T OM dated 02.07.1997 has no application to the present case. It is also contended that denial of promotion of the applicant to the post of Superintendent is in violation of Articles 14 and 16 of the Constitution.

2. The respondents have filed their reply. It is stated therein that the vacancy reserved for ST candidates was a "carried forward vacancy" for the year 1999-2000. The promotion year 1999-2000 which had been referred by the applicant is not correct. It is in the year 2001-2002 that recommendations of DPC were placed in "Sealed Cover", due to non-clearance of vigilance and "Sealed Cover", will be opened only after receipt of vigilance clearance. As per the DPC instructions (Annexure - R-I) at the time of forwarding of proposal to UPSC, vigilance clearance and Integrity Certificate of the candidates who are in the zone of consideration is also required. In case of the applicant, it was intimated that a disciplinary proceeding has been contemplated (Annexure - R-II) for committing financial irregularities. However, no major or minor penalty imposed on him. Since the case of the applicant comes under para 11.1(ii) and para 11.2 (Annexure -

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R-II) of DPC instructions, the recommendations of DPC meeting were kept in "Sealed Cover" by the UPSC and on the envelope it was recorded "Not to be opened till Vigilance Clearance is given". Administrative Section has been periodically enquiring about the status of the case to take a view of the "Sealed Cover". Further, it is stated that vacancy pertains to the year 1999-2000 but due to non-availability of ST candidate in the zone of consideration (even in the extended zone) it was carried forward to the year 2001-2002. At the time of forwarding the proposal to UPSC Vigilance Clearance was obtained from the concerned authority. They had intimated that disciplinary proceedings was contemplated against the applicant for committing major financial irregularities while functioning as Superintendent In-Charge in Vocational Rehabilitation Centre for Handicapped, Guwahati. The comments of the applicant, was called for in November 1999 on the financial irregularities. The applicant, while furnishing his comments on the above O.M. dated 12.09.1999 has admitted the charges levelled against him vide his letter dated 30.11.1999 (Annexure - R-5). Hence, disciplinary proceedings were initiated against the applicant before the vacancy was reported to UPSC. The disciplinary proceedings are pending and the chargesheet has been issued to the Charged Officer on 16.03.2004 (Annexure - R-6). It is also stated that based on the inquiry report, necessary action will be taken on the "Sealed Cover".

3. The applicant has filed a rejoinder. The various averments made by the respondents against the applicant were traversed and further stated that no disciplinary proceeding was pending against the applicant in 1999 so as to apply the sealed cover proceedings. The sealed cover proceedings adopted, it is stated, is illegal and against

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the law declared by the Apex Court and against the Government policy. It is also stated that even in 2003 when the UPSC considered the case of the applicant and adopted 'Sealed Cover' proceedings on 05.02.2003 no disciplinary proceeding was pending. It is stated that the disciplinary proceeding was initiated only on 16.03.2004.

4. We have heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents. Mr. Chanda, learned counsel submitted that the applicant had become eligible for being considered for promotion to the post of Superintendent as early as in 1991 and when there arose a reserved vacancy of Superintendent to be filled up by ST candidates in the year 1996 as is evident from the communication dated 08.05.1997 issued from the office of the Additional Director of Employment Exchange, since the applicant being the only ST candidate available in the department for being promoted against the said post the respondents ought to have promoted the applicant in the year 1999 when they have filled up four vacancies of Superintendent. Mr. Chanda, further submitted that the National Commission for Scheduled Castes and Scheduled Tribes also, after due consideration of the matter, had clearly directed the 3rd respondent by their communication dated 09.11.1999 that post based roster system has to be recasted for the post of Superintendent and the applicant had to be promoted against ST carried forward point. Counsel further submitted that this has been agreed to by the 1st and 2nd respondents specifically but so far the applicant has not been promoted to the post of Superintendent. Mr. Chanda also pointed out that on the date, when his juniors were promoted, no disciplinary proceeding was pending against the applicant before the respondents.



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Counsel submitted that even according to the respondents disciplinary proceeding against the applicant was only in contemplation and not initiated. Counsel also submitted that it is well settled that a disciplinary proceeding can be said to have been commenced only when chargesheet is served on the delinquent. Counsel also relied on a Division Bench Judgment of the Hon'ble Gauhati High Court dated 02.06.2004 in W.P. (C) No. 4247/2004 in support. Counsel submitted that in an identical situation, the Hon'ble High Court observed that in the absence of any Rules or Regulations the departmental inquiry shall be deemed to have been commenced from the date the chargesheet is served on the delinquent.

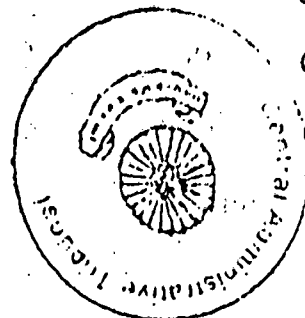
5. Counsel also brought to our notice the following observations made by the Division Bench: -

"The respondent challenged the action of the department and the learned Members of the Tribunal have found that the procedure adopted by the DPC in putting the case of the respondent under sealed cover was not in accordance with law, as on the date the DPC held its meeting there was no departmental enquiry pending against the respondent and consequent thereof the direction was given for notional promotion of the respondent from the date his juniors have been given promotion. We do not find any infirmity in the order passed by the Tribunal."

Counsel submitted that for all these reasons the procedure adopted by the respondents including the UPSC was not in accordance with law.

6. We have also heard Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents who made submissions on the lines of the averments made in the written statement. Standing Counsel sought to support stand taken by the respondents.

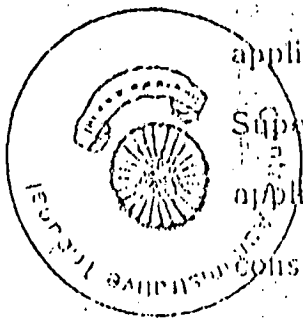
7. Let us now consider the respective contentions. The applicant is a Rehabilitation Officer in VRC since 25.03.1986. In the seniority list of Psychologists and Rehabilitation Officers dated 01.01.1989 the



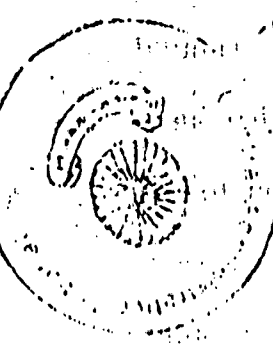
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applicant was Sl. No. 8. He became qualified and eligible for being considered for promotion to the post of Superintendent in the year 1991 on completion of 5 years service in the said post. He belongs to the Scheduled Tribe community. His claim for promotion to the post of Superintendent is not based on seniority but on the basis of reservation available to ST community. The Central Government promoted three persons to the post of Superintendent on ad hoc basis on 07.03.1997. The applicant then submitted representation to the Government for considering his case for promotion against reserved point for ST. The Office of the Additional Director of Employment Exchange, Government of India, Ministry of Labour had informed the applicant that there is a proposal to fill up four posts of Superintendent out of which one post is reserved for ST and since the applicant being the only ST candidate, he is in the zone of consideration. The DPC met pursuant thereto, promoted four other persons as Superintendent from general quota overlooking the point reserved for ST candidates. When the applicant submitted representation before the Government, answer was that as per revised roster based on the instructions by the DOP&T O.M. No. 36012/2/96-ESTT (Res.) dated 02.07.1997 none of the vacancies was required to be reserved for ST category and therefore his claim under ST reservation was not considered. Government of India again promoted another person by name Sri K.K. Bhatt as Superintendent overlooking the applicant's claim. When the applicant took up the matter with the National Commission for Schedule Castes and Scheduled Tribes, New Delhi the said Commission got the details from the Government. While so, the Government again informed the applicant that vacancies in the grade of Superintendents have been



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filled up by promotion and that as per the revised roster based on instructions issued by the DOP&T none of the vacancies was required to be reserved for ST candidates. National Commission for Scheduled Castes and Scheduled Tribes has issued clear direction in its order dated 09.11.1999 regarding the manner of preparation of post based roster and observed that an ST carried forward point has been available. The Commission therefore directed the Government to recast the post based roster in the post of Superintendent and to take necessary steps to promote the applicant against the ST carried forward point on an immediate basis. Though the Government had agreed to the same as is evident from the communication dated 25.05.2000 (Annexure - XV) and have observed that since the applicant being within the zone of consideration his case will be considered by the DPC alongwith other candidates, no concrete step is taken for promotion to the post of Superintendent in the carried forward point of ST.

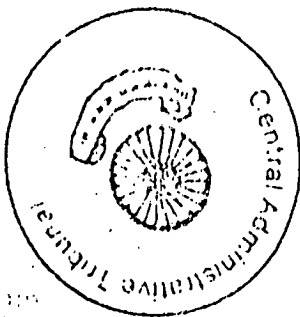
8. In the meantime, certain adverse remarks in the ACR of the applicant for the year 1999-2000 was communicated to him. The applicant got the said remarks expunged as per order dated 03.09.2001 (Annexure - XVII). The respondents had also a case that a disciplinary proceeding for alleged irregularities against the applicant is under contemplation and therefore, question of promotion of the applicant can be considered only after disciplinary proceedings are over.

9. Here it must be noted that the respondents themselves have found the applicant suitable for financial upgradation with effect from 09.08.1999. Admittedly, no disciplinary proceeding against the applicant was pending during the year 1999-2000. Infact, disciplinary

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proceeding was initiated by issuing charge sheet to the applicant only in the year 2004. As such, in view of the decisions of the Hon'ble Supreme Court and of the Hon'ble High Court there was no impediment in considering the case of the applicant for promotion to the post of Superintendent in the year 1999 and 2003 when the DPC met for promotion from the post of Rehabilitation Officer to the post of Superintendent.

10. Though more than 14 years have elapsed since the applicant became eligible for consideration for promotion and approximately 9 years have passed since the vacancy in the post of Superintendent to be filled up by ST candidate arose, we are really sorry to note that the applicant's case for promotion was not properly considered by the Government. The National Commission for Scheduled Castes and Scheduled Tribes had issued clear direction in the matter thus :



"5. The seniority list of Supdts. in VRC(II) as on 28.2.87 circulated vide Circular No. DGET-A-23021/1/87-Adm-II dated 16.4.97 reveals that there were 13 number of Supdts. above Shri Attar Singh, the senior most Supdt. in the list of present incumbents, who were either retained or promoted to the higher grade. The roster maintained prior to 2.7.97 should have been included the name of above 13 Supdts. who have vacated the post at present. While implementing the post-based roster, the explanatory notes on the principles for making & operating post-based roster, initial operation, etc. annexed to the DOPT O.M. No. 36012/2/96-Estt(Res.) dated 2.7.97 clearly indicated that at the point of initial operation of the post-based roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-à-vis the points earmarked for each category viz. SC, ST & General in the roster. This may be done by plotting the appoints made against each point of roster starting with the earliest appointee."

Even that was not complied with.

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11. As already noted, even according to the respondents out of four vacancies reported to the DPC on 08.05.1997, one post was reserved for ST candidates. The applicant is the only ST candidate in the grade of Rehabilitation Officer in the department. Since the applicant became eligible for being considered for promotion in the year 1991, the applicant's case should have been considered in any one of the four vacancies which arose in the year 1997 by the DPC which met for filling up of the said vacancies. Here it must be noted that there was no disabling factors such as pendency of disciplinary proceeding against the applicant at that time. It is only because the UPSC mentioned about the DOP&T Circular dated 2.7.1997 replacing the point based reservation roster by the post Based Reservation Roster that all the four vacancies are treated as open vacancies.

12. However, the National Commission in the above extracted passage has clearly mentioned about the view taken by the department and observed that a reserved vacancy for ST existed. This apart, the respondents themselves in their written statements dated 27.07.2004 and 10.03.2005 had clearly stated as follows:

"The Hon. Ble National Commission for SC/ST had advised to fill the vacancy by an ST candidate. Accordingly the vacancy was reported to UPDC but UPDC did not agree to the proposal. In between two (02) more vacancies occurred and out of three vacancies one (01) vacancy was reserved for ST candidate. In the DPC meeting held on 05.02.2003, UPSC had recommended the name of the applicant against the reserved vacancy but the recommendation of UPSC had been kept in "Sealed Cover" due to no-vigilance clearance. The "Sealed Cover" will be opened as and when the vigilance clearance in respect of the Applicant is received from the concerned section."

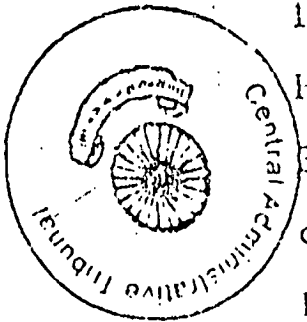
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It is also stated in para 13 that "in case of ST candidate a carried forward vacancy for the year 1999-2000, the applicant's recommendation of UPSC has been received in a 'Sealed Cover' due to non vigilance clearance" and that the sealed cover will be opened after receipt of vigilance clearance in respect of the applicant.

13. It is seen that the respondents in their reply to the amended application has taken a stand that disciplinary proceedings were initiated against the applicant before the vacancy was reported to UPSC. It is also stated that the chargesheet has been issued to the charged officer (petitioner) on 16.03.2004.

14. In view of the above contention taken by the respondents question to be considered is as to the point of time at which it can be said that a disciplinary proceedings has been commenced against an officer.

15. The decision of the Division Bench of The Hon'ble Gauhati High Court in W.P. (C) No. 4247/2004, has already been noted in para 3 (Supra) where the Division Bench had observed that in the absence of any rules or regulations departmental enquiry shall be deemed to have been commenced from the date chargesheet is served on the delinquent. It is also a settled position (See the decisions of the Supreme Court in Union of India V. Dinanath Shantaram Karekar (1998) 7 SCC 569 Paras 3 & 4 and State of M.P. V. L.P. Tiwari (1994) 4 SCC 468 Para 6). In the instant case admittedly the chargesheet is served on the applicant only on 16.3.2004. Therefore, it has to be taken that no disciplinary proceeding was pending against the applicant in 1999-2000 and on 05.02.2003 when the DPC met. If that be the legal position the sealed cover proceedings adopted by the DPC as held by the Division Bench of the Gauhati High Court is not in



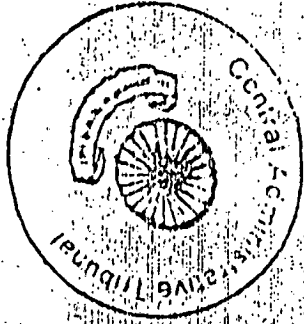
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accordance with law and the applicant has to be given notional promotion from the date the reservation vacancy for ST in the post of Superintendent has arisen.

16. The stand of the respondents, as already noted, is that disciplinary action has been initiated earlier, for which the respondents rely on the annexures to the written statement to the amended application, particularly Annexure R-IV dated 12.11.1999. Those documents, it must be noted, only refers to certain irregularities found by the Inspection Team and brings the same to the notice of the applicant. Even according to the respondents vigilance report is that disciplinary action is contemplated. This has materialized only by issuing the charge memo on 16.03.2004 (Annexure - R- VI).

17. In view of the above, we direct the 1st and 2nd respondents to consider the case of the applicant for promotion to the post of Superintendent in the department with reference to the vacancy for ST which arose in the year 1996 notwithstanding the Circular of DOP&T as directed by the National Commission for Scheduled Castes and Scheduled Tribes in its communication dated 09.11.1999 (Annexure - XIV) and pass appropriate orders in accordance with law within a period of three months from the date of receipt of this judgment. The recommendation of the UPSC contained in the 'Sealed Cover' has to be opened forthwith and the applicant has to be promoted on provisional basis.

18. We make it clear that we have not pronounced anything with regard to the disciplinary proceeding initiated against the applicant pursuant to the charge memo dated 16.03.2004 issued by the respondents.



15

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

SD/ VICE CHAIRMAN

SD/ MEMBER (A)



Notified to be true Copy

প্রমাণিত প্রতিলিপি

Sd/- 8/7/05

সদস্যপদ কর্মকর্তা
Section Officer (Secy)

Central Administrative Tribunal

গুৱাহাটী-৫
GUWAHATI-5.

10/7/05

Accepted
Law
Advocate

Annexure - 10154

By Speed Post

Fax No.: 0361-2609334

No.DGE&T-C-18011/3/2004-Adm.II

Bharat Sarkar/Government of India

Shram Aur Rozgar Mantralaya Ministry of Labour & Employment
(Directorate General of Employment & Training)

New Delhi, Dated: 14th October 2005

OFFICE ORDER No.74 of 2005

Consequent upon the directions of the Hon'ble Central Administrative Tribunal, Guwahati, Shri L.K.Varte, Rehabilitation Officer, on the basis of recommendations of Departmental Promotion Committee held by Union Public Service Commission, is promoted on provisional basis as Assistant Director (Rehabilitation) in the scale of Rs.8,000-275-13,500/- and posted at VRC for Handicapped at Agartala. The provisional promotion will be effective from the date he assumes the charge of the post at Agartala.

2. Shri Varte is directed to resume the charge of the post immediately.
3. Shri L.K.Varte, will be entitled for TA/DA as admissible under Rules.

(R.K.AHLUWALIA)

Under Secretary to the Govt. of India

Tel.: 23718903

Distribution

1. Shri L.K.Varte, Rehabilitation Officer, VRC for H. Guwahati.
2. The Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped, Guwahati.
3. The Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped, Agartala.
4. PS to DG/JS, DDG(E)/DEX/JDXs/DDXs/ADXs.
5. Pay and Accounts Officer, DGE&T(Hqs.), New Delhi.
6. All VRCs for Handicapped under Employment Directorate under DGE&T.
7. VFTA/BP/WSU/EE-II/EE-III Section, DGE&T
8. Personal file of Officer concerned.

Affected
Dated
Admitted

Annexure -D

By Speed Post

Fax No.: 0361-2654324

0361-2654322

0361-2325632

No.DGE&T-C-18011/3/2004-Adm.II

Bharat Sarkar/Government of India

Shram Aur Rozgar Mantralaya/Ministry of Labour & Employment
(Directorate General of Employment & Training)New Delhi, Dated: 17th April, 2006OFFICE ORDER No.23 of 2006

In compliance of the directions of the Hon'ble Central Administrative Tribunal, Guwahati and in partial modification of this Directorate General's Office Order No.81 of 2005 (No.DGE&T-A-19014/2/2005-Adm.II) dated 08/12/2005, Shri L.K.Varte, Rehabilitation Officer (presently working as Assistant Director (Rehabilitation) on provisional basis) is promoted to the post of Assistant Director (Rehabilitation) in the Pay Scale of Rs.8,000-275-13,500/- w.e.f. 05/02/2003 (i.e. the date of last DPC meeting) on regular basis subject to the outcome of the disciplinary proceedings pending against him. Shri L.K.Varte is posted at Vocational Rehabilitation Centre for Handicapped at Agartala.

(R.K.AHLUWALIA)

Under Secretary to the Govt. of India

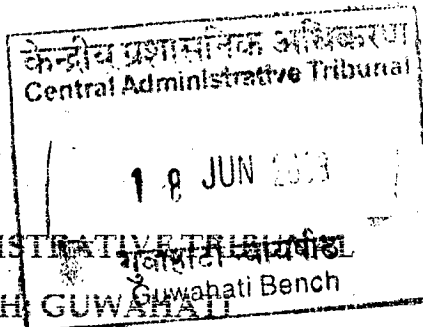
Tel : 23718903

Distribution

1. Shri L.K.Varte, Assistant Director (Rehabilitation), VRC(H), Agartala.
2. The Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped, Guwahati.
3. The Assistant Director (Rehabilitation), Vocational Rehabilitation Centre for Handicapped, Agartala.
4. Pay and Accounts Officer, DGE&T(Hqrs.), New Delhi.
5. PS to DG/JS, DDG(E)/DEX/Dir(SMR)
6. All VRCs for Handicapped.
7. VFTA/EE-II/EE-III/DP/WSL, DGE&T
8. Personal file/Service Book of Officer concerned.
9. Office Order folder.

Attested
Law Advocate

Mr. Begu, please deliver it to Mr. L.K. Varte



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

58

Filed by the applicant
through U. Dutta, advocate
on 13.06.08

In the matter of:-

R. A. No. 2/2006

In

O.A.No. 127 of 2004

Sri L.K.Verde.

-Vs-

Union of India and Ors.

-And-

In the matter of:-

An additional statement submitted
by the applicant.

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

1. That your applicant beg to say that during the pendency of the review application no. 2 of 2006 arising out of O.A.No. 127/2004, the respondents U.O.I. more particularly, Directorate General Employment & Training vide letter no. DCET-C-13013/4/2003-EE-II dtd. 26.05.2008 has given the approval for closing pending disciplinary proceeding against the applicant.

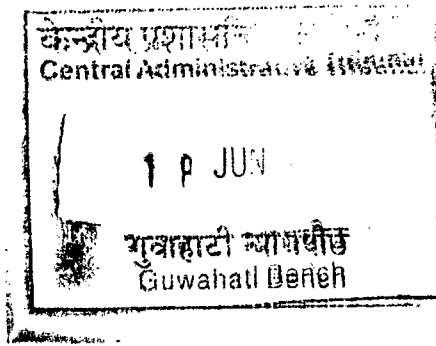
In view of the closure of the disciplinary proceeding, which was initiated against the applicant vide memorandum of chargesheet issued under letter no. DCET-1-11018/1/99-EE-11 dtd. 16.03.2004, the present applicant infact exonerated from the charges brought against him, as such the applicant has acquired a valuable and legal right for retrospective promotion with all consequential service benefit in the cadre of Assistant Director, including arrear monetary benefit and seniority at least from the date when the findings of the DPC was kept under sealed cover.

(A copy of the letter dtd. 26.05.2008 is enclosed as Annexure-A)

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

Received
13.06.08

Lienahawthang Verde



VERIFICATION

I, Shri Lienkhawthang Varte S/o Shri H.V.Varte, aged about 52 years, presently working as Assistant Director (Rehabilitation), V.R.C for handicapped, Indra Nagar, ITI Road, Agartala-799006 do hereby verify that the statements made in Paragraph 1 and 2 of the additional statement is true to my knowledge and I have not suppressed any material fact.

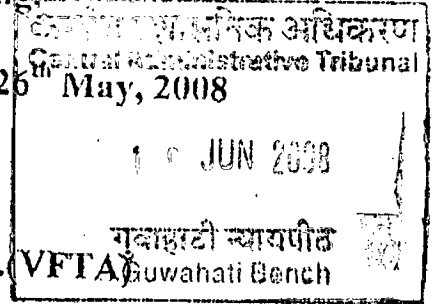
And I sign this verification on this the 8th day of June, 2008.

Lienkhawthang Varte

No.DGET-C-13013/4/2003-EE-II -3-
Government of India/Bharat Sarkar
Ministry of Labour & Employment
Directorate General of Employment & Training.

ANNEXURE-A

New Delhi, dated 26th May, 2008



To

The Under Secretary,
(Adm.II) Vigilance & Foreign Training Adm.(VFTA)
Section, DGE&T, New Delhi

Subject: Inquiry proceedings against Sh.L.K.Varte (Ex-Rch.Officer)
-regarding.

Sir,

I am directed to convey the approval of the competent authority for closing the case on the basis of the Inquiry Report submitted by Sh.K.L.Kuli, Inquiry Officer/DIT which revealed no serious allegations against Sh.L.K.Varte.

This issues with the approval of the DG/JS vide their Dy.
No. 156 dated 15.05.2008.

Yours faithfully,

(R.K. Prasad)

Under Secy. to the Govt. of India
Telephone No. 23001465

Copy to :

1. The Assistant Director (Reh.), Vocational Rehabilitation Centre for Handicapped, Agartala.
2. The Assistant Director (Reh.)/c, Vocational Rehabilitation Centre for Handicapped, Guwahati. Fax No.0361-2309198
3. Sanction Folder, EE-II Section.

(R.K. Prasad)

Under Secy. to the Govt. of India
Telephone No. 23001465

Started
Dutta
Advocate