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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Q.A/T.A No. 91/2005

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original Application No. 91/05
 Misc. Petition NO. _____
 Contempt petition No. _____
 Review Application No. _____
 Applicants. K. B. Bhujel
 Respondents. U.O.I JONS
 Advocates for the Applicant. M. Chanda, G.N. Chakraborty, S. Nath
 Advocates of the Respondents. Case. A.K. Choudhury

Notes of the Registry	Dated	Order of the Tribunal
<p>Application is in form. is filed/C.F. for Rs. 10/- deposited vide P.O. No. 209.11.68.03... Dated 15.3.05</p> <p><i>11/4/05</i> He Dy. Registrar</p> <p>Steps. not taken</p> <p><i>Pl. comply order dated 12.4.05.</i></p> <p><i>13.4.05</i></p> <p>Application copy with order dt. 12.4.05 received on behalf of Respondents Nos. 1 to 6.</p> <p><i>20/4/05</i> Inspector, Central Excise Hqs. Law Cell, Guwahati.</p>	<p>12.4.05.</p>	<p>Present: Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman. Hon'ble Mr. K.V. Prahladan, Administrative Member.</p> <p>Heard Mr. M. Chanda learned counsel for the applicant and Mr. A.K. Choudhury, Addl. C.G.S.C. for the respondents.</p> <p>Application is admitted. Respondents are directed to file their written statement.</p> <p>Post the matter on 12.5.05.</p> <p>This is not stand of the way of the Respondents for considering the matter and for ACRs or are in regard to promotion of the applicant.</p> <p><i>Member</i></p> <p><i>Vice-Chairman</i></p>

12.5.2005

Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents seeks ~~time~~ four weeks time for filing written statement. Adjourned to 14.6.2005.

Notice & order issuing to resp. Nos. 1 to 6 by hand and ^{or} notices issuing to D/section for resp. Nos. 7 to 12 by regd. A/D post.

[Signature]
Member

[Signature]
Vice-Chairman

mb

14.6.05

Mr M.Chanda, learned counsel for the applicant submits that the case may be adjourned. Mr A.K.Chaudhuri, learned Addl.C.G.S.C submits that the case may be disposed of on the next date. Post on 24.6.05.

Notice duly served on resp. Nos. 1 to 6.

[Signature]
Member

[Signature]
Vice-Chairman

D/No = 618 to 623
(R.No = 7 to 12)
Dt = 26/4/05

pg

24.6.2005

Counsel for the parties submit that the matter can be posted for hearing. Post on 2.8.2005.

Notice duly served on resp. Nos. 1 to 6.

[Signature]
Vice-Chairman

Notice for resp. No-11 received back unserved with a remark

2.8.2005

Heard Mr S. Nath, learned counsel for the applicant and Mr A.K. Chaudhuri, learned Addl. C.G.S.C. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

[Signature]
Member

[Signature]
Vice-Chairman

Address is left

No W/S has been filed

Notice duly served

on resp. Nos. 8, 12

nkm

13-6-05

[Handwritten notes]
25.9.05
with the just
has been kept to
the office for
the time to the
R

No W/S
Received on behalf of resp. 5
25/5/05
by
Central Encl

[Signature]
25/5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./P.A.No. 91 of 2005

DATE OF DECISION 2.8.2005

Shri Krishna Bahadur BhujelAPPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty
and Mr S. NathADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India and othersRESPONDENT(S)

Mr A.K.Chaudhuri, Addl. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ? no
 2. To be referred to the Reporter or not ? Is
 3. Whether their Lordships wish to see the fair copy of the Judgment ? no
 4. Whether the judgment is to be circulated to the other benches ? m
- Judgment delivered by Hon'ble Vice-Chairman

[Handwritten signature]

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 91 of 2005

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

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

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

Shri Krishna Bahadur Bhujel,
S/o - Late Ranbir Bhujel,
Upper Mauprem,
Spritika Niwas,
Shillong - 793 002,
Meghalaya.

..... Applicant

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

- Versus -

1. The Union of India, represented by the
Secretary, Ministry of Finance
(Department of Revenue)
Government of India,
North Block, New Delhi - 110 002.
2. The Chairman,
Central Board of Excise & Customs,
North Block,
New Delhi - 110 002.
3. The Member (Personnel & Vigilance),
Central Board of Excise & Customs,
North Block, New Delhi - 110 002.
4. The Under Secretary,
Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi.
5. The Chief Commissioner,
Central Excise & Customs,
N.E. Region, Shillong.

6. The Commissioner, Central Excise,
Morello Compound, Shillong.
7. Shri Prem Chandra,
General Manager,
Govt. Opium Factory,
Gajipur, P.O. - Gajipur,
Uttar Pradesh.
8. Director (HQ),
Ministry of Finance,
Govt. of India (Dept. of Revenue),
North Block, New Delhi - 110 002.
9. Shri Prashant, Director (HQ),
Ministry of Finance, Govt. of India,
(Dept. of Revenue), North Block,
New Delhi - 110 002.
10. Shri Dimbeswar Bora,
Deputy Commissioner,
Central Excise (ST),
Guwahati.
11. Shri Biswajit Sarkar,
Deputy Commissioner, Customs,
C/o - Commissioner of Customs,
Strand Road, Kolkata.
12. Shri Subir Kr. Chakraborty,
Deputy Commissioner,
Central Excise, Shillong Division,
Morello Compound, Shillong.

... Respondents

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

.....

ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The applicant, an Assistant Commissioner of Central Excise and Customs, has filed this application seeking to set aside and quash the four orders, F.No.28018/12/2001-EC/Per dated 20.1.2005 (Annexure-XV), C.No.3/COMMR/ACR/CON/2000 dated 25.4.2001 (Annexure-IV), F.No.A-28017/7/2000-EC/Per dated 13.2.2002

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(Annexure-VI) and F.No.28018/12/2001-EC/Per dated 19.3.2004 (Annexure-XIVA). The applicant has also sought for a direction to the respondents to promote him to the post of Deputy Commissioner of Central Excise from the date his juniors were promoted with all consequential service benefits and monetary benefits including arrears of pay etc. by constituting a Review DPC and ignoring the adverse remarks recorded in his ACRs for the years 1998-99 and 1999-2000. It is stated that the applicant was denied promotion to the post of Deputy Commissioner of Central Excise on account of adverse remarks for the years 1998-99 and 1999-2000. It is further stated that the said adverse remarks were expunged later and therefore, the applicant must be promoted to the said post after conducting Review DPC. Today, when the matter came up for hearing, Mr A.K. Chaudhuri, learned Addl. C.G.S.C. appearing on behalf of the respondents, has placed before us a copy of the Office Order No.72/2005 dated 16.5.2005 issued by the Government of India, Ministry of Finance, Department of Revenue, which reads as follows:

"The President is pleased to order that Shri K.B. Bhujel, Deputy Commissioner of Central Excise-Jorhat be promoted to the grade of Deputy Commissioner of Customs and Central Excise in the Scale of pay of Rs.10,000-325-15,200/- on purely ad-hoc basis notionally with effect from 12.11.2002 i.e. the date his junior was promoted/assumed charge to the grade of Deputy Commissioner. The officer will not be entitled for arrears of pay and allowances for the period of notional promotion.

The above promotion does not confer on the officer so promoted any claim for continued officiation in the grade of Deputy Commissioner and the period of such service will not count for seniority or as qualifying service for further promotions."

Mr A.K. Chaudhuri submits that in view of this order the applicant cannot have any further grievance.

2. Mr S. Nath, learned counsel for the applicant, submits that the order dated 16.5.2005 satisfies only the first part of the relief sought for by the applicant at para 8.2. Counsel submits that in view of the fact that the adverse remarks have been expunged the applicant is entitled to all monetary benefits including arrears of pay etc. based on the notional promotion granted.

3. We find from the order dated 16.5.2005 that the Government has stated that the applicant will not be entitled for arrears of pay and allowances for the period of notional promotion. However, no valid reasons are seen stated for denial of the benefit of arrears of pay etc. There are decisions of the Supreme Court to the effect that once promotion is given with retrospective effect, normally, the incumbent is entitled to all the monetary benefits on account of such retrospective promotion. There are also decisions of the Supreme Court to the effect that if an officer has not worked in the higher post, the principle of 'no work no pay' will apply.

4. We had occasion to consider this situation in O.A.No.185 of 2003 disposed of on 2.5.2005 wherein we have stated that the principles emerging from the decisions of the Supreme Court discussed therein as follows:

"20. The principles laid down by the Supreme Court in the aforesaid decisions can be summed up thus:

1. There will be no pay for no work; i.e., a person will not be entitled to any pay and allowances during the period for which he did not perform the duties attached to a post or of a higher post. In exceptional circumstances, when there is absolutely no fault on the part of the Government servant and the Government servant was always willing to do the work attached to the post but he was denied employment/promotion then the Government is obliged to give the pay and allowances attached to the post from the date from which he was denied the pay and allowances [(1989)

2 SCC 541, (1990) 3 SCC 472, (1996) 7 SCC 533. Exceptional cases are (1998) 8 SCC 388, (1998) 8 SCC 769, (1998) 9 SCC 559].

2. In normal circumstances when retrospective promotions are effected all benefits flowing therefrom, including monetary benefits must be extended to an officer who has been denied promotion earlier. If there are specific rules which provides that if the officers concerned did not actually work in the higher posts they have no right to claim monetary benefits or that arrears shall not be payable for the notional duty periods assigned as a result of revision of seniority position then courts are bound to honour the said rules (1990) 4 SCC 181.

3. To lay down as an inflexible rule that in every case where retrospective promotion is granted the concerned person is entitled to all salary from the date of notional promotion is not practicable. The concerned authorities must be vested with the power to decide whether the officer concerned is entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion and if so to what extent on a consideration of the totality of the circumstances of each case. (1991) 4 SCC 109; 1990 3 SCC 472."

5. We had made an effort to reconcile the said views expressed by the Supreme Court, as above, and observed in para 21 of the said judgment as follows:

"21. The principles, thus deduced from the decisions of the Supreme Court discussed above there appears to have apparent inconsistency between principles specified above. If there is no pay for no work there is no question of payment of back wages when a person is reinstated after disciplinary proceedings and likewise when notional promotion is given retrospectively. However, Supreme Court itself has not taken it as an absolute rule. In certain circumstances it is held otherwise. The Supreme Court has also stated that when a person is fully absolved of all the charges in a disciplinary proceeding or in a criminal case on merits and on that basis he is reinstated in service or promoted with retrospective effect he must be entitled to all monetary benefits on such reinstatement or retrospective promotion. If there is a statutory rule which prohibits payment of arrears of salary in any such situation that will bind the authorities and the court. On a harmonious reading of all the above principles it is clear that the common approach is that the question of payment

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of arrears of salary/back wages on the situations mentioned above will depend on the facts and circumstances of each case and there cannot be a hard and fast rule in the matter except when there is a statutory prohibition as discussed in K.V.L. Narasimha Rao's case (Supra)."

6. In the instant case, the order dated 16.5.2005 does not state the circumstances for depriving the applicant of the monetary benefits on account of notional promotion. In the circumstances we direct the applicant to file a proper representation seeking for the aforesaid relief within a period of one month. If any such representation is filed the respondents will consider the same and pass appropriate orders in the light of the principles laid down by the Supreme Court and stated in the preceding paras and in the light of the observations made hereinabove within three months from the date of receipt of such representation.

5. The applicant will produce this order alongwith his representation, directed to be filed, before the respondents for compliance.

The O.A. is disposed of as above. No order as to costs.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

11 APR 2005

গুৱাহাটী বেঞ্চ
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

O.A. No. 91 /2005

Shri Krishna Bahadur Bhujel

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 25.09.1975- Applicant appointed as Inspector of Central Excise & Customs.
- 13.12.1988- Applicant promoted as Superintendent of Central Excise.
- 12.06.1998- Promoted as Asstt. Commissioner of Central Excise and posted at Gajipur (Uttar Pradesh). (Annexure-I)
- 08.02.2001- This Hon'ble Tribunal passed its order in O.A. No. 237/99 filed by some other Superintendent of Central Excise (not the applicant) directing the Respondents to correct the seniority list of Superintendents since there were some anomalies which resulted into filing of the said O.A. No. 237/99.
- 29.04.2001- Applicant received one letter dated 25.04.01 conveying some adverse remarks recorded in his ACR for the year 1999-2000.
- 15.05.2001- Applicant submitted representation rebutting those alleged remarks in the ACR and prayed for expunction of the same.
✓ Representation not disposed of as required under law.
- 18.06.2001- Pursuant to the order dated 08.02.01 in O.A. No. 237/99 of this Hon'ble Tribunal, the respondents published corrected seniority list of Superintendents wherein the name of the applicant has been shown at Sl. No. 22 with seniority position 462.22 (Annexure-II)
- 03.11.2001- Applicant transferred and posted as Astt. Commissioner at Jorhat, Assam.
- 02.01.2002- Respondents issued one order promoting five Superintendents to the rank of Asstt. Commissioner who were junior to the applicant in the seniority list. This however did not have any immediate adverse effects on the petitioner since he was already promoted in 1998. (Annexure-III)

Krishna Bahadur Bhujel

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- 13.02.2002- Applicant received another letter conveying some adverse remarks recorded in his ACR for the year 1998-99. (Annexure-VI)
- 08.03.2002- Applicant submitted representation against the aforesaid adverse remarks and prayed expunction of the same. (Annexure-VII)
- ✓ This time also, his representation was not disposed of as required under law.
- 11.11.2002- Respondents issued one office order promoting as many as 92 Asst. Commissioners to the grade of Dy. Commissioners but the name of the applicant did not find place in that order, although many of his juniors including those five Superintendents who were promoted as Asst. Commissioners vide order dated 02.01.02 as stated above were promoted under the said order. (Annexure-VIII)
- 14.11.2002- Applicant submitted representation stating therein all the facts and prayed for consideration of his case for promotion to the grade of Dy. Commissioner which was given to his juniors even. (Annexure-IX)
- 18.11.2002- Submitted representation stating that his adverse ACRs against which his representations remained undisposed cannot be acted upon as provided under law. (Annexure-X)
- ✓ Having no response, applicant sent a legal notice to the respondents on 13.01.03 but even thereafter, no result yielded. Eventually applicant filed O.A. No. 93/2003 before this Hon'ble Tribunal.
- 26.02.2004 and 31.03.2004- This Hon'ble Tribunal passed two orders dated 26.02.04 and dated 31.03.04 directing the respondents to dispose of the representations dated 15.05.01 and dated 08.03.02 of the applicant by a speaking order with further direction that if the adverse remarks are toned down or expunged, then a review DPC to be held for consideration of the applicant for promotion to the grade of Dy. Commissioner from the date of his juniors were promoted, with all consequential benefits. (Annexure-XI & XII)

Krishna Bahadur Shajid

05.03.2004 and 29.09.04- Applicant submitted representations forwarding therewith the copies of orders dated 26.02.04 and 31.03.04 to the respondents praying for implementation of the orders. (Annexure-XIII & XIV)

But even thereafter respondents did not respond.

Applicant therefore filed Contempt Petition No. 01/2005 in O.A No. 93/03 and M.P No. 22/04 before this Hon'ble Tribunal.

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29.4.2001 ✓
19.03.2004- Respondent No.8 issued another impugned letter conveying some adverse remarks in the ACR of the applicant for the year 1999-2000.

07.01.2005- This Hon'ble Tribunal was pleased to issued notice in the contempt petition.

20.01.2005- On receipt of notice, Respondents issued one letter informing the applicant of some new adverse remarks in his ACR for the year 1999-2000 (which were not communicated earlier) and informing that those remarks have been expunged but at the same time informed that the other remarks (communicated earlier) have not been expunged.

Hence this application before this Hon'ble Tribunal.

PRAYERS

Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. (1) F. No. 28018/12/2001-EC/Per dated 20.01.05, (2) C. No. 3/COMMR/ACR/CON/2000 dated 25.04.01, (3) F. No. A-28017/7/2000-EC/Per dated 13.02.2002 and (4) F. No. 28018/12/2001-EC/Per dated 19.03.2004.

Krishna Bahadur Bhujel

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2. That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the cadre of Dy. Commissioner of Central Excise from the date his juniors have been promoted, with all consequential service benefits and monetary benefits including arrear pay etc. by constituting a Review DPC and ignoring the adverse remarks recorded against the applicant in his ACRs for the year 1998-99 and 1999-2000.
 3. Costs of the application.
 4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of this application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the Respondents that pendency of this application shall not be a bar for the respondents for considering the case of the applicant for his promotion as prayed for.

Krishna Bahadur Bhujid

Filed by me applicant
through: Subeeta Nath,
Advocate.
08.04.2005.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. /2005

BETWEEN

Shri Krishna Bahadur Bhujel
S/o- Late Ranbir Bhujel,
Upper Mauprem,
Spritika Niwas,
Shillong- 793 002.
Meghalaya.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary,
Ministry of Finance,
(Department of Revenue)
Government of India,
North Block
New Delhi- 110002.
2. The Chairman,
Central Board of Excise & Customs,
North Block,
New Delhi-110002.
3. The Member
(Personnel & Vigilance),
Central Board of Excise & Customs,
North Block
New Delhi-110002.
4. The Under Secretary,
Govt. of India,
Ministry of Finance,
Department of Revenue,
New Delhi.
5. The Chief Commissioner,
Central Excise & Customs,
N.E. Region, Shillong.

Krishna Bahadur Bhujel

6. The Commissioner,
Central Excise,
Morello Compound,
Shillong.
7. Shri Prem Chandra,
General Manager,
Govt. Opium Factory,
Gajipur, P.O- Gajipur.
Uttar Pradesh.
8. Director (HQ),
Ministry of Finance,
Govt. of India
(Dept. of Revenue)
North Block,
New Delhi- 110 002.
9. Shri Prashant
Director (HQ),
Ministry of Finance,
Govt. of India
(Dept. of Revenue)
North Block,
New Delhi- 110002.
10. Shri Dimbeswar Bora,
Deputy Commissioner,
Central Excise (ST)
Guwahati.
11. Shri Biswajit Sarkar,
Deputy Commissioner, Customs
C/O- Commissioner of Customs,
Strand Road,
Kolkata.
12. Shri Subir Kr. Chakraborty,
Deputy Commissioner,
Central Excise, Shillong Division,
Morello Compound,
Shillong.

... Respondents.

Krishna Bahadur Bhuja

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DETAILS OF THE APPLICATION

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

This application is made against the impugned letter bearing No. F. No. 28018/12/2001-EC/Per dated 20.01.2005 issued by the Respondent No. 4 and also the earlier impugned letters bearing No. (1) C. No.3/COMMR/ACR/CON/2000 dated 25.04.2001, (2) No. F. No. A-28017/7/2000-EC/Per dated 13.02.2002 and (3) F. No. 28018/12/2001-EC/Per dated 19.03.04, issued by the Respondent No. 6, 4 and 8 respectively pertaining to alleged adverse remarks recorded in the ACR of the applicant without providing any opportunity as required under rule, and as a result downgraded his ACR and consequentially denying promotion to the applicant to the grade of Deputy Commissioner of Central Excise without disposing his representations against the adverse ACRs as required under law, in an arbitrary and illegal manner.

2. **Jurisdiction of the Tribunal.**

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

3. **Limitation.**

The applicant further declares that this application is filed within the period of limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. **Facts of the Case.**

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

Krishna Bahadur Bhujel

4.2 That your applicant was initially appointed as Inspector of Central Excise and Customs in the year 1975 and joined at Dhubri (Assam) on 25.09.1975. Thereafter he was transferred to various places. While serving at Tinsukia, he was promoted to the post of Superintendent w.e.f. 13.12.1988. Thereafter he was transferred to various places in North Eastern Region and while posted at Imphal, Manipur, he was promoted to the post of Assistant Commissioner vide common order No. 122/1998 dated 12.06.98 wherein his name appears at Sl. No. 22 and was posted as Manager (in the rank of Asstt. Commissioner) at Govt. Opium & Alkaloids Works (G.O.A.W), Gajipur in Uttar Pradesh. Eventually he was transferred and posted as Asstt. Commissioner at Jorhat (Assam) where he joined on 03.11.2001 and has been working in the said post till now.

(Copy of common promotion order dated 12.06.98 is annexed hereto for perusal of the Hon'ble Tribunal as Annexure-I.)

4.3 That the applicant states that the Govt. Opium and Alkaloids Works (G.O.A.W), Gajipur where the applicant joined as Manager on 29.06.98 is a labour oriented factory where opium is cultivated, processed and sent to various authorized establishment etc. Apart from managing the cultivation and processing of opium, the job of Manager involved general administration, tax matters, public relations, security matters, construction works and the likes. The applicant having been entrusted with these new responsibilities, got himself familiarized with those activities within a short time and had been functioning to the satisfaction of the superior authorities and succeeded in holding his reputation as usual as he had in his earlier posts and assignments.

Krishna Bahadur Bhandari

4.4 That it is stated that there were anomalies in the seniority list in the cadre of superintendent of Central Excise on All India basis as well as under Shillong Collectorate. Consequently, some of the Superintendents approached this Hon'ble Tribunal vide O.A. No. 237/99 for correction of their seniority and the Hon'ble Tribunal vide its order dated 08.02.2001 directed the Respondent authorities for correction of the seniority list. Pursuant to the order dated 08.02.01 aforesaid, the Respondents re-fixed the seniority in the cadre of Superintendents of Central Excise under Shillong Commissionerate and published the revised seniority list vide order No. F. No. A 23018/3/97 Ad. 1113 dated 18.06.2001. In the said seniority list the name of the applicant appeared at Sl. No. 22 and his revised seniority position has been shown as 462.22 as against his earlier position at 1067 on All India basis.

It is relevant to mention here that eventually the persons named at Sl. No. 1 to 10 and at Sl. No. 13, 15 and 16 in the aforesaid seniority list have already retired and as such the seniority position of the applicant automatically stands stepped-up at Sl. No. 9 in the list.

(Copy of corrected seniority list dated 18.06.01 is annexed hereto for perusal of the Hon'ble Tribunal as Annexure-II).

4.5 That subsequently vide one order dated 02.01.02, five persons in the rank of Superintendents namely Shri Biswajit Sarkar, Shri Subir Kumar Chakraborty, Shri S.P. Chakraborty, Shri P.S. Purkayastha and Shri Rama Kanta Das were promoted to the rank of Assistant Commissioner. Their seniority positions as Superintendent were 907.14, 907.15, 907.16, 907.17 and 907.23 respectively and as such they were much junior to the applicant whose seniority position was

Krishna Bahadur Bhujel

462.22. Since those persons aforesaid were all junior to the applicant both in respect of seniority position as well as in date of promotion to the grade of Asstt. Commissioner (applicant was promoted on 12.06.98), the applicant had no reasons whatsoever to concern about at the relevant time nor had any reason to apprehend any adverse consequences thereof in his service prospects and further promotions in near future.

(Copy of promotion order dated 02.01.02 is annexed hereto for perusal of the Hon'ble Tribunal as Annexure-III).

- 4.6 That it is stated that after serving for some time at Opium Factory, Gajipur, the applicant was transferred to Shillong as Asstt. Commissioner where he joined on 03.02.2000 and then to Jorhat where he joined on 03.11.01 and is presently serving as such. While serving at Jorhat, the applicant to his utter surprise, received one impugned letter bearing No. C. No. 3/COMMR/ACR/CON/2000/ dated 25.04.2001 from the Respondent No. 6 communicating some adverse remarks recorded against the applicant in his ACR for the year 1999-2000, presumably for the period of his service at Gajipur. As per the said letter four numbers of adverse remarks as stated in the letter were recorded in the ACR (Annexure-IV) and the applicant was directed to represent against the same within thirty days of receipt of the letter if he so desires. The aforesaid letter was received by the applicant on 29.04.01 and thereafter submitted his representation dated 15.05.01 rebutting all the adverse remarks so recorded. In the said representation he explained his position and prayed for expunction of the said adverse remarks from the ACR of 1999-2000.

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(Copy of impugned letter dated 25.04.01 and representation dated 15.05.01 are annexed hereto for perusal of the Hon'ble Tribunal as Annexures-IV and V respectively).

4.7 That the applicant begs to state that although the applicant submitted his representation aforesaid against adverse ACR within time, he did not receive any communication thereafter. Instead he was shocked to receive another impugned letter under No. F. No. A-28017/7/2000-EC/Per dated 13.02.02 from the Respondent No. 4 informing him of two other adverse remarks quoted therein which was stated to have been recorded in his ACR for the year 1998-99, obviously for his period of service at Gajipur i.e. two years prior to the said communication. By the said letter, he was directed to file representation, if any, within 30 days of receipt of the letter. The applicant thereafter submitted his representation dated 08.03.02 explaining all the facts and rebutted the alleged adverse remarks so recorded and prayed for expunction of the adverse remarks from the said ACR. This time also the applicant did not receive any reply/communication against his representation and as such both of his representations dated 15.05.01 and dated 08.03.02 remained undisposed.

(Copy of impugned letter dated 13.02.02 and representation dated 08.03.02 are annexed hereto for perusal of the Hon'ble Tribunal as Annexures-VI and VII respectively).

4.8 That subsequently vide one office order No. 181/2002 dated 11.11.02 issued by the Respondent No. 4 as many as 92 numbers of Assistant Commissioners were promoted to the post of Deputy Commissioners on ad-hoc basis which included those Asstt. Commissioners who were promoted from the grade of Superintendent of Central Excise and also those who were directly recruited as Asstt.

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Commissioners. Surprisingly, the said promotion order did not include the name of the applicant in the group of Asstt. Commissioners promoted from Superintendents who were promoted as Dy. Commissioners under the said order. It is relevant to mention that many persons who were much junior to the applicant in the grade of Superintendent in terms of seniority position and promoted as Asstt. Commissioner much later than the applicant have been found promoted as Dy. Commissioners under the said order dated 11.11.02 whereas the applicant being senior to many of them in terms of seniority position as well as in terms of promotion to the grade of Asstt. Commissioner has not been promoted to the grade of Dy. Commissioner under the promotion order aforesaid. There are a large number of junior persons promoted under the said impugned order and since it is not practically possible to implead all of them, only three of them have been impleaded herein as private Respondent No. 9, 10 and 11. It is relevant to mention and illustrate here that the persons named under Sl. No. 35, 61 to 66, 74, 81, 82, 88 and 89 in Annexure IV attached to the promotion order dated 11.11.02 were all junior to the applicant in the grade of Superintendent in terms of seniority position and also promoted as Asstt. Commissioners later than the applicant as stated earlier who have now been promoted to the grade of Dy. Commissioner superseding the applicant. It is relevant to mention here that the Respondents have not published any seniority/gradation list of Assistant Commissioners. As such the seniority position of all the Asstt. Commissioners are not known to the applicant and hence the names of only those Asstt. Commissioners who are serving under Shillong Commissionerate only and junior to the applicant, now promoted as Dy. Commissioner have been illustrated above. There may be many more Asstt. Commissioners who were junior to the applicant in the grade of

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Suprintendent and who were promoted as Asstt. Commissioner later than the applicant, have now been promoted as Dy. Commissioner under the promotion order dated 11.11.02. The Hon'ble Tribunal may be pleased to call for the relevant seniority lists and records from the respondent authorities for proper adjudication of the matter.

(Copy of promotion order dated 11.11.02 is annexed hereto for perusal of the Hon'ble Tribunal as Annexure-VIII).

- 4.9. That having come to know that his name has not been included in the promotion order dated 11.11.02, the applicant submitted one representation on 14.11.02 stating therein all the facts vis-à-vis his unjust adverse ACR and subsequent representations thereto and prayed for consideration of his case for promotion to the grade of Deputy Commissioner which was given to his juniors even. Since his exclusion from the promotion order aforesaid was presumably on the basis of adverse ACRs, the applicant therefore submitted another representation dated 18.11.02 stating that his adverse ACRs should not be acted upon in case of his promotion since his earlier representations against those adverse ACRs remained undisposed. Having found no response to his representations whatsoever, the applicant sent a legal notice on 13.01.2003 but to his misfortune no result could be yielded.

(Copy of representation dated 14.11.02 and dated 18.11.02 are annexed hereto for perusal of the Hon'ble Tribunal as Annexures-IX and X respectively).

- 4.10 That having failed to get any justice from the respondents, the applicant approached this Hon'ble Tribunal through O.A. No. 93/2003 for justice. This

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Hon'ble Tribunal vide its judgment and order dated 26.02.2004 in O.A. No. 93/2003 and another order dated 31.03.04 in Misc. Petition No. 22/04 (in O.A. No. 93/03) disposed of the said Original Application with the direction upon the respondents to dispose of the representations dated 15.05.2001 and dated 08.03.2002 of the applicant submitted against the adverse ACRs, by a speaking order without prejudice to the applicant with a further direction that if the adverse remarks are toned down or expunged, a review DPC to be held for consideration of the applicant for promotion to Dy. Commissioner from the date his juniors were promoted and in that event he would be entitled to all consequential benefits.

(Copy of judgment and order dated 26.02.04 and dated 31.03.04 are annexed hereto for perusal of the Hon'ble Tribunal as Annexures-XI and XII respectively).

- 4.11 That the applicant thereafter submitted representations dated 05.03.04 and dated 29.09.04 enclosing therewith the copies of judgment and order dated 26.02.04 and dated 31.03.04 and prayed for early decision on his representations and implementation of this Hon'ble Tribunal's orders aforesaid. But even thereafter, the respondents did not show even the slightest interest of being alive on the matter.

(Copy of the representations dated 05.03.04 and dated 29.09.04 are annexed hereto for perusal of the Hon'ble Tribunal as Annexures-XIII and XIV respectively).

- 4.12 That surprisingly, after receipt of the judgment and order dated 26.02.04 of this Hon'ble Tribunal, the Respondents instead of implementing the said order, issued another impugned letter No. F. No. 28018/12/2001-EC/Per. dated 19.03.04, with

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malafide intention and in colourable exercise of power and in total violation of Govt. instruction and rules laid down in the matter of writing ACR, whereby the Respondent No. 8 informed the applicant that few more adverse remarks could be found in his ACR for the year 1999-2000 which run as follows:-

“The officer was found to reach at Conclusion quickly without going into the details.”

“The officer had strength of experience of long working in government but had the shortcoming in knowledge of labour management, purchase management and factory functioning.”

Curiously above remarks were not communicated to the applicant earlier by the Respondents in their previous letter dated 25.04.01 (Annexure-IV) whereby the adverse remarks for the same year i.e. 1999-2000 were conveyed to him. Needless to say that the above quoted adverse remarks were added only after the receipt of the judgment dated 26.02.04 of this Hon'ble Tribunal by the Respondents as a matter of their afterthought only. This clearly indicates their vindictive attitude, malafide intention and unfair practice against the applicant which they resorted to even after receiving the order dated 26.02.04 of this Hon'ble Tribunal and its directions given therein.

Further, it is to be noted that the subsequent adverse remarks quoted above were pertaining to the ACR for 1999-2000 which was conveyed to the applicant in March' 2004 only i.e. after a lapse of 4 years which is in gross violation of rules and as such not sustainable in law. Moreover, communication of an adverse ACR, after a lapse of 4 years, that too, with the sole intention to deny the legitimate promotion of applicant itself is an evidence of malafide. The very purpose and object of writing ACR, which is meant for improvement, infact the

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said very purpose is lost, hence, respondent No. 8 has acted in contravention of rule holding the field, with an ulterior motive to obstruct the promotion of the applicant in an arbitrary and unfair manner. The applicant however submitted representation as he had done in earlier occasions against the above stated adverse remarks.

(Copy of impugned letter dated 19.03.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-XIV A).

4.13 That due to non-compliance of the orders of this Hon'ble Tribunal dated 26.02.04 and dated 31.03.04 stated above, and tangible apathy of the Respondents, the applicant finally filed Contempt Petition No. 01/2005 in O.A. No. 93/2003 and M.P. No. 22/04 before this Hon'ble Tribunal. This Hon'ble Tribunal was pleased to issue notice on 07.01.05 in the Contempt Petition and the Respondents after receipt of the notice from this Hon'ble Tribunal issued the impugned letter No. F. No. 28018/12/2001-EC/Per dated 20.01.05. By the said letter, the Respondent No.4 informed the applicant that the competent authority has expunged the following remarks recorded in his ACR for the year 1999-2000:

“ The officer was found to reach at conclusion quickly without going into the details.”

“The officer has strength of experience of long working in government but had the shortcoming in knowledge labour management, purchase management and factory functioning. Lack of knowledge in Hindi was also his weakness which affected his working”.

It was further stated in the said letter that the competent authority did not find sufficient justification to expunge the following remarks:

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- (a) " The officer showed little initiative of his own and was reluctantly ready to assume responsibilities only when he was asked to take up".
- (b) "He has himself admitted vide his letter addressed to the joint Secretary dated 13.06.99 that he is unable to pick up new field of labour management. Therefore his promptness to attend labour related work was slow"
- (c) "Being at far off place from his home town the officer always was home sick and availed maximum leave during his short tenure at the factory".

(Copy of impugned letter dated 20.01.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-XV).

4.14. That the applicant most respectfully begs to submit that the two subsequent adverse remarks in the ACR of 1999-2000 which have been claimed to have been expunged by the Respondents as stated in the preceding Para were conveyed to the applicant in March' 04 only i.e. after a lapse of 4 years of their being recorded and that too after receipt of the order dated 26.02.2004 of this Hon'ble Tribunal in O.A. No. 93/2003 and as such are malafide, illegal and unsustainable in law and their so called expunction is a vague and superfluous exercise which the Respondents have now communicated vide their impugned letter dated 20.01.05 after receipt of notice in contempt petition as an eye-wash, only with the intention of averting the contempt proceedings, pending before this Hon'ble Tribunal.

4.15 That the applicant most respectfully begs to state that while working as Manager in opium Factory at Gajipur, the applicant found many anomalies at the Factory. The then General Manager of the Factory Shri Prem Chandra used to engage many

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factory workers at his residence for his domestic works at the cost of Factory works which he objected and brought to the notice of the Chief Controller of Accounts during his visit to the Factory. At this the General Manager was annoyed with the applicant which might have resulted into the recording of adverse remarks in his ACR as stated above as a matter of revenge. It is relevant to mention here that due to his honest and dedicated service the applicant could enjoy the trust and confidence of his superiors all along and riding on his unblemished service records only he got successive promotions earlier upto the rank of Asstt. Commissioner.

- 4.16 That the applicant most humbly submits that the adverse remarks recorded in his ACR for the year 1998-99 was communicated to him vide impugned letter dated 13.02.02 (Annexure-VI) only i.e. after a lapse of more than 2 years, which is not sustainable in law. It is relevant to mention here that as per the standing circulars of the Government, all adverse entries in the confidential reports of Government servants, should be communicated within one month of their being recorded to the officer concerned, as quoted in "Swamy's Manual on Establishment and Administration for Central Govt. officers". This rule was not followed in the instant case and on this score alone the adverse remarks recorded during 1998-99 are liable to be ignored and expunged. Similarly, the two adverse remarks recorded in the ACR of 1999-2000 which were conveyed to the applicant vide impugned letter dated 19.03.2004 i.e. after a lapse of 4 years are also liable to be ignored on the same ground. Moreover, those adverse remarks were recorded without issuing any warning, moreover, at the relevant period of time and also without providing any prior opportunity.

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(Copy of the relevant page of Swamy's manual is annexed hereto for perusal of Hon'ble Tribunal as Annexure-XVI).

4.17 That it is stated that after receipt of the communications of adverse remarks, the applicant submitted representation in time on 15.05.01 and 08.03.02 as stated in para 4.6 and 4.7 hereinabove against the adverse remarks pertaining to the year 1999-2000 and 1998-99 respectively praying for expunction of the adverse remarks. But the Respondents did not dispose those representations and no further communication was made to the applicant who was kept completely in dark about the fate of the representations. As per the standing instructions of the Government, all representations against adverse remarks should be decided expeditiously by the competent authority and in any case within three months from the date of submission of the representation. In the instant case the representations of the applicant against the adverse ACRs of 1998-99 and 1999-2000 have not been disposed at all by the Respondents and as such those adverse remarks cannot be acted upon by the Respondents/DPC which is contrary to the Govt. instructions and rules. But in the instant case it appears that the competent Authority/DPC acted upon those adverse remarks, when the same were pending and as a result applicant has been denied promotion to the post of Dy. Commissioner in a most arbitrary manner, when juniors have been superseded him in the matter of promotion.

(Copy of relevant pages of Swamy's manual is annexed hereto for perusal of Hon'ble Tribunal as Annexure-XVII).

4.18 That the applicant most respectfully begs to submit that during the entire period of his service the applicant, at no point of time, received any notice, warning, note of

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caution, advice or any communication whatsoever prior to the recording of the impugned adverse remarks, conveying about any lapses or shortcomings on his part and as such no opportunity or guidance was ever provided to him for rectifying his lapses, if any. It is relevant to mention here that the very purpose of recording confidential reports is to keep the officer informed of recording confidential reports of his performances, lapses if any from time to time and to impart necessary advice/guidance to the concerned official for his improvement as necessary. But in the instant case the Respondents instead of giving any such opportunity to the applicant for his improvement, took the ACR as an instrument for fulfilling their personal grudges and revenges and doing harm to the applicant and acted accordingly, which strikes at the very root of this professed policy and has frustrated the very purpose of the same. It is the case of the applicant that his ACR has been "downgraded" without providing any opportunity, which is not permissible under law, therefore, Hon'ble Tribunal be pleased to direct the respondents to produce all the relevant ACR which were considered by the DPC for promotion to the post of Dy. Commissioner.

- 4.19 That the object of communicating adverse entry is to give an opportunity to the officer reported upon to understand his shortfalls and to correct himself. So it is necessary that the adverse entry should be communicated within the time stipulated. But in the instant case, the adverse remarks recorded in the ACR of 1998-99 was communicated to the applicant in 2002, thereby leaving no scope for the officer to correct himself. Even his representations there against left unattended by the Respondents, which is bad in law.

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Further, the applicant has not been informed of the instances or facts which promoted the reporting officer to make the adverse comments and as such is cryptic in nature.

4.20 That the Respondents/DPC excluded the applicant from being promoted to the post of Dy. Commissioner of Central Excise while promoting as many as 92 Asstt. Commissioners including even his juniors vide order dated 11.11.02 on the basis of adverse ACRs for the year 1998-99 and 1999-2000. While doing so, the Respondents/DPC acted malafide and violated all the rules and procedures in respect of ACRs as stated in the preceding paragraphs and deprived the applicant of his legitimate promotion to the grade of Dy. Commissioner in an arbitrary, unfair, unjust and illegal manner.

4.21 That your applicant most humbly begs to submit that due to non-consideration of his case for promotion to the grade of Dy. Commissioner of Central Excise he is incurring great financial loss as well as loss in terms of promotional prospects. As such finding no other alternative the applicant is approaching this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant directing the Respondents to promote the applicant to the grade of Dy. Commissioner from the date of promotion of his juniors by constituting Review DPC and ignoring the undisposed adverse remarks in the ACRs of 1998-99 and 1999-2000.

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

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

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- 5.1 For that, the persons who were junior to the applicant as per seniority list in the grade of Superintendent and who were promoted as Asstt. Commissioners much later than the applicant have been promoted as Dy. Commissioners by superseding the applicant.
- 5.2 For that, the applicant has acquired a valuable legal right for promotion to the grade of Dy. Commissioner from the date his juniors have been promoted.
- 5.3 For that, the adverse remarks in the ACR for the year 1998-99 were communicated to the applicant by the impugned letter dated 13.02.2002 i.e. after two years from the date of recording and some part of remarks in ACR for 1999-2000 after 4 years which as per rule ought to have been communicated within one month of their being recorded and as such have to be ignored and not to be acted upon.
- 5.4 For that, the adverse remarks pertaining to the year 1999-2000 as conveyed under impugned letter dated 25.04.01 (Annexure-IV) and conveyed thereafter under impugned letter dated 19.03.04 (Annexure-XIV A) are inconsistent and the same are in violation of rules and instructions issued by the Govt. of India and hence not sustainable in law.
- 5.5 For that, the impugned letters dated 25.04.01 and dated 13.02.02 are illegal, arbitrary and against the principles of equity, good conscience, administrative fairness and transparency.
- 5.6 For that, the representations submitted by the applicant against the adverse remarks recorded in the ACRs have not been disposed of by the Respondents

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which as per rules, ought to have been disposed of within the maximum time limit of three months.

- 5.7 For that the impugned adverse remarks against which the representations have not been disposed of, cannot be acted upon, by the DPC/Authority for promotion which is the settled position of law.
- 5.8 For that, no prior notice, memo, note of caution, warning etc. was ever given to the applicant showing his deficiency, shortcomings, if any, nor any guidance was ever imparted to the applicant for his improvement but the impugned remarks were recorded in the ACR at the back of his, and that too not communicated to him as warranted under law.
- 5.9 For that the procedures established by law in respect of communication of adverse remarks, disposal of representations thereto were all violated by the Respondents and as such denial of promotion to the applicant on the basis of those ACRs are illegal, arbitrary, unfair, malafide and not sustainable under law.
- 5.10 For that the impugned adverse remarks were recorded in the ACRs of the applicant under the vices of personal grudge and in order to victimize the applicant in a planned manner and as a result, ACR of the applicant in fact downgraded without providing any opportunity which is not permissible under law.
- 5.11 For that the promotion order dated 11.11.02 (Annexure-VIII) was issued without taking into consideration the case of the applicant for promotion in an illegal, unfair and arbitrary manner.

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5.12 For that the alleged remarks recorded in the ACR as stated above are unfounded, not based on facts and concocted.

6. Details of remedies exhausted.

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

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

The applicant further declares that he had previously filed O.A. No. 93/2003 and Misc. Petition No. 22/04 (in O.A. No. 93/04) before this Hon'ble Tribunal which were disposed off in favour of the applicant and no other application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. (1) F. No. 28018/12/2001-EC/Per dated 20.01.05 (Annexure-XV), (2) C. No. 3/ COMMR/ACR/CON/2000 dated 25.04.01, (3) F. No. A-28017/7/2000-EC/Per dated 13.02.2002 and (4) F. No. 28018/12/2001-EC/Per dated 19.03.2004 (Annexure-XIVA).

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- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the cadre of Dy. Commissioner of Central Excise from the date his juniors have been promoted, with all consequential service benefits and monetary benefits including arrear pay etc. by constituting a Review DPC and ignoring the adverse remarks recorded against the applicant in his ACRs for the year 1998-99 and 1999-2000.
- 8.3 Costs of the application.
- 8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for

During pendency of this application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to direct the Respondents that pendency of this application shall not be a bar for the respondents for considering the case of the applicant for his promotion as prayed for.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | |
|------|---------------|------------------|
| i) | I. P. O. No. | : 206 JJ 6803 |
| ii) | Date of Issue | : 15-03-05. |
| iii) | Issued from | : G.P.O, Gwalah' |
| iv) | Payable at | : G.P.O, Gwalah' |

12. List of enclosures.
As given in the index.

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VERIFICATION

I, Shri Krishna Bahadur Bhujel, S/o Late Ranbir Bhujel, aged about 52 years, resident of Upper Mauprem, Shillong, Meghalaya, presently serving as Asstt. Commissioner, Central Excise at Jorhat, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 3rd day of April, 2005.

Krishna Bahadur Bhujel

ANNEXURE-I

P.No. A32012/6/90-Ad.II
Government of India
Ministry of Finance
Department of Revenue

New Delhi, the 12th June, 1998

OFFICE ORDER NO. 122 /1998

Subject:- Promotion, Posting and transfers of officers in the grade of Assistant Commissioner (Junior Time Scale) - Reg.

The President is pleased to order that the following Superintendents of Central Excise and Superintendents of Customs (Preventive) in the grade of Assistant Commissioner of Customs & Central Excise in the scale of pay of Rs. 8000-275-13500 with effect from the date (s) they assume charge of the higher post till further orders.

SUPERINTS. OF CENTRAL EXCISE, GROUP 'B'

1. A.K. Chakraborty
2. A.K. Prasad
3. ~~U.B. Prasad Das~~
4. Arinal Kanti Chanda
5. Sopinath Dutta
6. C.S. Arekar
7. Anjan Kanti Pandit
8. V.S. Gaur
9. D.V. Sharma
10. B.L. Malhotra
11. R.C. Mahajan
12. D.K. Soni
13. T. Subbiah Nader
14. B.D. Yadav
15. S.S. Mahajan
16. G.C. Poddar
17. N. Chandrasekran
18. R.P. Velhal
19. Smt. Mary Anthony Malickal
20. K.L. Dhawan
21. H.Y. Kokitkar
22. ~~K. K. Roy~~
23. A.K. Roy
24. B.R. Deb Roy
25. Nazarul Islam
26. T.K. Jain

True copy
Int.
Advocate

- 27. Dinesh Chandra
- 28. ✓ Tridibeshwar Nath
- 29. S.C. Pushkarna
- 30. O.P. Bhatia
- 31. Vinod Kumar
- 32. S.J. Thosar
- 33. ✓ Md. Az Hussain
- 34. B.R. Lohia
- 35. ✓ Asanta Bora
- 36. ✓ M. Ch. Hazarika
- 37. R.K. Mittal
- 38. L.S. Bist
- 39. R.C. Agarwal
- 40. Anilkumar Dhabal

SUPDTS. OF CUSTOMS (PREVENTIVE), GROUP 'B'

- 1. A.J. Viera
- 2. S.N. Ghosh
- 3. P.K. Chakraborty
- 4. Samir Kr. Roy
- 5. K.B. Aswani
- 6. M.J. Bhatia
- 7. U.O. Patil
- 8. M. Shaikh
- 9. I. I. Patel
- 10. K.M. Samuel
- 11. V.H. Bhatija
- 12. M.Y. Patel
- 13. A.B. Lala
- 14. R.T. Sahajwal
- 15. L.R. Nayak
- 16. M.V.P. Desai
- 17. A.K. Chowdhury
- 18. J.S.P.L. Fernandes
- 19. Shaikh Hussain
- 20. M. Kaishak Babu
- 21. B. Beera
- 22. V. Kuttal Kalpana
- 23. V. Gnanaparkachari
- 24. R. Vishnudas
- 25. M. Palaniyandan
- 26. Ramesh Ch. Pattanayak
- 27. A.K. Das Gupta
- 28. A. George
- 29. R. Muthukrishnan
- 30. H. Ekamalai
- 31. R. Elango
- 32. Lanakeshwar Sarkar

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33. Ganesh Kachua
34. H.D. Rathod
35. M. Rajayyan
36. P.T. Patil

The above promotions to the grade of Assistant Commissioners have been made on purely ad-hoc basis for a limited period of six months. Besides, the above promotions do not confer on the officers so promoted any claim for continued officiation in the grade of Assistant Commissioner and the period of such service will not count for seniority or as qualifying service for further promotions. The aforesaid promotions are further subject to the outcome of the Cpn.P(C) No.513/97. All India Federation of Central Excise, Gazetted Executive Officers vs Shri R. Gopalanathan, I.A. No. 4 in W.P. No. 306/88 and W.P. (Civil) No. 651/97 pending before the Hon'ble Supreme Court and also implementation of the judgement dated 22.11.1996 of the Supreme Court in Civil Appeals Nos. 257 of 1988 and 4004-07 of 1987 with C.M.P. Nos. 16003/89 and 9014/88 and Writ Petitions No. 106/88, 512, 835 and 1200/88, 4532-33/78.

POSTINGS AND TRANSFERS

S. No.	Name of the Officer S/Shri	Present Posting	Posting on promotion as A.C.
1.	J.R. Chakraborty	Shillong	ACCB, Calcutta
2.	J.K. Paul	Shillong	ACCE, Calcutta
3.	Debaprasad Das	Shillong	ACCE, Calcutta
4.	Harinar Kanai Chanda	Shillong	ACCB, Calcutta
5.	Gopinath Dutta	Shillong	ACCB, Calcutta
6.	G.S. Arekar	Mumbai	ACCB, Rajkot
7.	Anjan Kanti Pandit	Shillong	ACCE, Calcutta
8.	V.S. Gaur	Jaipur	ACC(F), Lucknow
9.	D.V. Sharma	Indore	ACCE, Indore
10.	B.L. Malhotra	Delhi	ACC, Delhi
11.	R.C. Mahajan	Delhi	AD, O&MS, Delhi
12.	D.K. Soni	Delhi	ACCE, Delhi
13.	T. Subbiah Nader	Madurai	ACCE, Madurai
14.	B.D. Yadav	Delhi	AD, LGICCE, Delhi
15.	S.S. Mahajan	Chandigarh	AD, LGICCE, Delhi

16.	G.C. Poddar	Calcutta	ACCE, Patna
17.	N. Chandrasekaran	Chennai	ACCE, Chennai
18.	R.P. Velhal	Mumbai	ACCE, Ahmeda
19.	Smt. Mary Anthony Malickal	Chennai	ACCE, Madura
20.	K.L. Dhawan	Chandigarh	AD, NACEN, Fd
21.	B.Y. Kokitkar	Mumbai	ACCE, Vadoda
22.	K.B. Bhujal	Shillong	Manager, GOAN
23.	A.K. Roy	Shillong	ACCE, Shillong
24.	B.R. Deb Roy	Shillong	ACCE, Bhubane
25.	Nazarul Islam	Shillong	ACCE, Bolpur
26.	T.K. Jain	Chandigarh	ACC, Amritsar
27.	Dinesh Chandra	Chandigarh	AD, DGICCE, D
28.	Tridibeshwar Nath	Shillong	ACCE, Bolpur
29.	S.C. Pushkarna	Delhi	ACCE, Gwalior
30.	O.P. Bhatia	Jaipur	ACCE, CC-Unit Jaipur
31.	Vinod Kumar	Delhi	ACC, Gwalior
32.	S.G. Thosar	Raipur	ACCE, Indore
33.	Md. A. Hussain	Shillong	ACCE, Shillong
34.	B.R. Lohia	Delhi	AD, DGICCE, D
35.	Asanta Hora	Shillong	ACCE, Calcutta
36.	M. Ch. Hazarika	Shillong	ACCE, Shillong
37.	R.K. Mittal	Jaipur	ACC, Jodhpur
38.	L.S. Bist	Jaipur	AD (DPI), De
39.	R.C. Agarwal	Jaipur	ACCE, CC-Unit Jaipur
40.	Anil Kumar Dhaba	Jaipur	AD, DGICCE, D
41.	A.J. Viera	Goa	ACC (P), Ahme
42.	S.N. Ghosh	Calcutta	ACC, Calcutta
43.	P.K. Chakraborty	Calcutta	ACC, Calcutta

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B. Awari
 H. J. Bhatia
 U. O. Patil
 M. Shaikh
 I. Patel
 Y. M. Samuel
 V. H. Bhatija
 M. Y. Patel
 A. B. Lala
 R. T. Sahajwal
 L. R. Nayak
 V. V. P. Desai
 A. K. Chowdhury
 J. S. P. L. Fernandez
 Shaikh Hussain
 K. Kaishak Babu
 H. Beeran
 V. Kutti Krishnan
 V. Gnanparkasham
 R. Vishnudasa
 M. Palanivagan
 Ramesh Ch. Pattanayak
 A. K. Das Gupta
 A. George
 P. Muthukrishnan
 M. Ekamalai
 K. Elango
 Lankeshwar Sarkar

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 ACCE, Surat
 ACCE, Surat
 ACC, Kandla
 ACCE, Bangalore
 ANC, Lucknow
 ACCE, Chennai
 ACCE, Hyderabad
 ACCE, Vadodara
 ACCB, Calcutta
 ACC, Lucknow
 ACCE, Rajkot
 ACCE, Bangalore
 ACCE, Surat
 ACCE, Guntur
 ACCE, Trichy
 AD (Publications)
 Delhi
 ACCE, Coimbatore
 ACCB, Calcutta
 AD, DGICCE, Calcutta
 ACCE, Vizag
 ACCE, Coimbatore
 ACCB, Chennai
 ACC, Trichy
 AD, DGICCE, Calcutta



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|-----|---------------|----------|--------------|
| 73. | Ganesh Kachua | Calcutta | AIC, Neemuch |
| 74. | H.D. Rathod | Mumbai | ACC, Kandla |
| 75. | M. Rajayyan | Mumbai | ACC, Rajkot |
| 76. | P.T. Patil | Mumbai | ACC, Mumbai |

(R. K. MALHOTRA)

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Advocate*

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F.No.A23018/3/97Ad.IIB
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

ANNEXURE-II

New Delhi, Dated the June 18, 2001

Subject: All India Seniority List of Superintendents of Central Excise, Group 'B' promoted / appointed upto 31.12.1992 - Corrections therein in respect of Shillong Commissionerate - regarding

Consequent upon revision of seniority position of Superintendents of Central Excise, Group 'B' in the Commissionerate's seniority list by the Commissioner of Central Excise, Shillong, in the light of implementation of CAT, Guwahati Bench's order dated 8.2.2001 in O.A. No.237/1899, the all India seniority list of Superintendents of Central Excise, Group 'B' appointed / promoted from 1.1.1986 to 31.12.1992 is amended as under :-

Sr. No.	Existing Position	Revised Position	Name/DOB/Category	Date of appl. as Supdl/ Deemed date as appl./ date of appl. as Inspector	Commissionerate	Remarks
1	2	3	4	5	6	7
1.	489	462.1	M.K.CHAKRABORTY 01.03.40	24.04.87 02.08.72	SHILLO- NG	PROMOT ED A.C.
2.	572	462.2	PROBIR KR. BOL 01.05.38	24.04.87 02.08.72	SHILLO- NG	RETIRED
3.	591	462.3	D.K. BHATTACHARJEE 01.02.38	24.04.87 02.08.72	SHILLO- NG	RETIRED
4.	592	462.4	P.SHARMA 01.08.39	24.04.87 02.08.72	SHILLO- NG	RETIRED
	593	462.5	G.C.CHATTERJEE 01.11.39	24.04.87 02.08.72	SHILLO- NG	RETIRED

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6.	595	462.6	M.L. DEY 01.10.42	24.04.87 03.08.72	SHILLO- NG	PROMOT- ED AC
7.	611	462.7	P.K. DEB 02.01.40	24.04.87 02.08.72	SHILLO- NG	PROMOT EDED A.C.
8.	917	462.8	B. RANJAN DAS 01.10.35	24.04.87 03.08.72	SHILLO- NG	RETIRED
9.	736	462.9	LALIT KR. HAZARIKA 01.03.35	24.04.87 04.08.72	SHILLO- NG	RETIRED
10.	744	462.10	A.C. BORA (ST) 01.12.41	24.04.87 02.08.72	SHILLO- NG	PROMOT- ED A.C.
11.	851	462.11	B.K. ROY 24.10.51	24.04.87 29.09.75	SHILLO- NG	PROMOT- ED A.C.
12.	866	462.12	N. KAR 01.01.51	24.04.87 29.09.75	SHILLO- NG	PROMOT- ED A.C.
13.	---	462.13	MS. ANUPAMA DEVI 15.09.36	24.04.87 08.09.75	SHILLO- NG	RETIRED
14.	867	462.14	N.K. BHATTACHARJEE 30.11.51	24.04.87 28.09.75	SHILLO- NG	PROMOT- ED A.C.
15.	818	462.15	D.M. BANERJEE 18.08.41	24.04.87 01.10.75	SHILLO- NG	PROMOT- ED A.C.
16.	---	462.16	SWARAJ KR. ROY 31.07.33	24.04.87 29.09.75	SHILLO- NG	RETIRED
17.	838	462.17	R.K. CHAKRABORTY 20.10.51	24.04.87 23.09.75	SHILLO- NG	PROMOT- ED A.C.
18.	939	462.18	J.K. PAUL 30.01.50	24.04.87 15.10.75	SHILLO- NG	PROMOT- ED A.C.
19.	940	462.19	D.P. DAS 15.02.52	24.04.87 22.09.75	SHILLO- NG	PROMOT- ED A.C.

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20.	841	462.20	M.K.CHANDA 01.05.50	24.04.87 ----- 18.09.75	SHILLO- NG	PROMOT- ED A.C.
21.	842	462.21	G.DUTTA 04.08.50	24.04.87 ----- 18.09.75	SHILLO- NG	PROMOT- ED A.C.
22.	1067	462.22	K.B.BHUJEL 31.01.50	24.04.87 ----- 25.09.75	SHILLO- NG	PROMOT- ED A.C.
23.	869	462.23	R.C.SUKLABAIDYA (SC) 01.10.40	24.04.87 ----- 05.11.76	SHILLO- NG	EXPIRED
24.	870	462.24	RANJIT KR. BAIDYA (SC) 01.04.49	24.04.87 ----- 26.07.76	SHILLO- NG	PROMOT- ED A.C.
25.	1108	462.25	M.C.HAZARIKA (SC) 01.04.48	24.04.87 ----- 28.10.76	SHILLO- NG	PROMOT- ED A.C.
26.	1219	462.26	H.SUKLABAIDYA(SC) 08.03.46	24.04.87 ----- 26.07.76	SHILLO- NG	PROMOT- ED A.C.
27.	916	907.1	DIMBESWAR BORAH 01.01.50	22.04.88 ----- 01.10.75	SHILLO- NG	PROMOT- ED A.C.
28.	1069	907.2	B.R.DEB ROY 08.03.53	22.04.88 ----- 01.10.75	SHILLO- NG	PROMOT- ED A.C.
29.	1070	907.3	NAZRUL ISLAM 01.08.51	22.04.88 ----- 23.09.75	SHILLO- NG	PROMOT- ED A.C.
30.	961	907.4	A.K.PANDIT 01.03.49	22.04.88 ----- 27.09.75	SHILLO- NG	PROMOT- ED A.C.
31.	1084	907.5	T.NATH 25.12.53	22.04.88 ----- 23.09.75	SHILLO- NG	PROMOT- ED A.C.
32.	1147	907.6	MD.A.HUSSAIN 11/08.51	22.04.88 ----- 22.09.75	SHILLO- NG	PROMOT- ED A.C.
33.	962	907.7	D.K.DEB CHOUDHURY 01.04.39	22.04.88 ----- 13.09.75	SHILLO- NG	EXPIRED

34	1068	907.8	ANJAN KANTI ROY 01.09.45	22.04.88 20.10.75	SHILLO- NG	PROMO ED A.C.
35	1131	907.9	SMT. P. R. GHOSH 06.04.40	22.04.88 29.08.75	SHILLO- NG	RETIRED
36		907.10	S. CH. DEB. NATH 01.05.34	22.04.88 19.09.75	SHILLO- NG	RETIRED
37		907.11	KSHITISH CH. DAS 04.11.41	22.04.88 25.09.75	SHILLO- NG	RETIRED
38	1861	907.12	SAMIR CH. ADHIKARY 18.05.40	22.04.88 24.07.75	SHILLO- NG	RETIRED
39	1888	907.13	L. S. VANCHHAWNG (ST) 28.12.51	22.04.88 22.07.76	SHILLO- NG	PROMOT ED A.C.
40	1708	907.14	BISWAJIT SARKAR 01.11.55	22.04.88 02.08.76	SHILLO- NG	✓
41	1755	907.15	SUBIR KR. CHAKRABORTY 03.12.52	22.04.88 24.07.76	SHILLO- NG	✓
42	1756	907.16	S. P. CHAKRABORTY 05.08.50	22.04.88 28.07.76	SHILLO- NG	✓
43	1757	907.17	P. S. PURKAYASTHA- 14.07.53	22.04.88 02.08.76	SHILLO- NG	✓
44	1167	907.18	ASANTA BORAH (SI) 01.05.48	22.04.88 28.07.76	SHILLO- NG	PROMOT ED A.C.
45	1218	907.19	SUJAN KR. DAS (SC) 02.02.53	22.04.88 28.01.77	SHILLO- NG	PROM TED A
46	2197	907.20	SUBODH DHAR (SC) 27.06.54	22.04.88 17.09.77	SHILLO- NG	
47	2198	907.21	CONFERENCE NGAMLAI (ST) 28.02.50	22.04.88 02.08.76	SHILLO- NG	EXPI

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48.	1221	907.22	GOPAL CH. SARKAR (SC) 22.11.39	22.04.88 ----- 23.11.78	SHILLO- NG	RETIRED
49.	2208	907.23	RAMA KANTA DAS (SC) 01.01.54	22.04.88 ----- 03.10.78	SHILLO- NG	✓
50.	1707	1813.1	R.K. LASKAR (SC) 01.10.38	29.08.89 ----- 24.12.73	SHILLO- NG	RETIRED
51.	1758 2	1813.2	RANJIT KR. DUTTA-I 10.08.51	29.08.89 ----- 26.07.76	SHILLO- NG	
52.	1827	1813.3	INDRAJIT GUHA 07.05.56	29.08.89 ----- 27.07.76	SHILLO- NG	
53.	1853	1813.4	A.HORE 31.07.53	29.08.89 ----- 23.07.76	SHILLO- NG	
54.	1863	1813.5	A.DASGUPTA 12.01.55	29.08.89 ----- 26.07.76	SHILLO- NG	
55.	1864	1813.6	B.B. ADHIKARI 22.11.53	29.08.89 ----- 26.07.76	SHILLO- NG	
56.	2194	1813.7	GOPENDRA CH. 01.01.47	29.08.89 ----- 30.1.76	SHILLO- NG	
57.	1900	1813.8	P.K. DAS-I 01.03.55	29.08.89 ----- 02.08.76	SHILLO- NG	
58.	2150	1813.9	R.K. GOSWAMI 07.06.54	29.08.89 ----- 23.07.76	SHILLO- NG	
59.	2151	1813.10	BIDYUT RN. DEB 28.08.52	29.08.89 ----- 24.07.76	SHILLO- NG	EXPIRED
60.	2195	1813.11 20	N. BHATTACHARJEE 15.05.51	29.08.89 ----- 17.11.78	SHILLO- NG	
61.	2242	1813.12 21	A.K. SHARMA 21.01.54	29.08.89 ----- 29.07.76	SHILLO- NG	

62.	2243	1813.13 22	HEMEN GOGO 01.01.55	29.08.89 24.07.76	SHILLO- NG	
63.	2251	1813.14 23	A. B. DUTTA 01.07.55	29.08.89 21.07.76	SHILLO- NG	
64.	2252	1813.16 24	R. K. BHATTACHARJEE 01.04.44	29.08.89 29.10.76	SHILLO- NG	
65.	2308	1813.16 25	S. K. BOSE 4.08.54	29.08.89 30.07.76	SHILLO- NG	
66.	2402	1813.17 26	D. K. NATH 11.07.52	29.08.89 02.08.76	SHILLO- NG	
67.	2642	1813.18 27	S. PAUL 05.04.54	29.08.89 29.07.76	SHILLO- NG	
68.	2412	1813.19 28	S. BANIK 01.02.41	29.08.89 18.11.76	SHILLO- NG	RETIRED
69.	1220	1813.20 28	M. M. SWER (ST) 31.03.38	29.08.89 29.11.76	SHILLO- NG	RETIRED
70.	3265	1813.21 29	M. MARBANIANG (ST) 24.02.54	29.08.89 30.09.78	SHILLO- NG	
71.	2198	1813.22 30	AGNU, RAM DAS (SC) 01.10.43	29.08.89 12.12.78	SHILLO- NG	
72.	3266	1813.23 31	APALAK DAS (SC) 20.02.53	29.08.89 22.08.78	SHILLO- NG	
73.	4073	1813.24 32	CHANDI DAS BAIDDYA (SC) 20.11.46	29.08.89 30.09.78	SHILLO- NG	
74.	2709	2222.1 33	K. C. MOHAN 20.09.53	09.08.80 31.07.79	SHILLO- NG	
75.	2711	2222.2 34	C. M. CHAKRABORTY 26.12.51	09.08.80 26.07.76	SHILLO- NG	

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76	2712	2222.3	T.S. SARKAR 02.05.55	09.08.90 27.07.76	SHILLO- NG	
77	2713	2222.4	H.R. SAHA 18.03.51	09.08.80 13.07.76	SHILLO- NG	
78	2714	2222.5	N.K. CHAKABORTY 01.03.44	09.08.80 02.08.76	SHILLO- NG	
79	2715	2222.6	S. BHOWMICK 23.01.54	09.08.80 26.07.76	SHILLO- NG	
80	3538	2222.7	J.R.H. DIENGDOH (ST) 28.02.50	09.08.80 04.10.78	SHILLO- NG	
81	4100	2222.8	PRANAB KR. BARUA (SC) 05.09.53	09.08.80 03.10.78	SHILLO- NG	
82	2710	2777.1	A.V. DUHA (ST) 01.03.51	20.06.81 13.09.75	SHILLO- NG	
83	2777A	2777.2	R.S. PATNAIK 04.08.51	20.06.81 26.08.81 01.11.75	BHUBA- NES- WAR	
84	2777B	2777.3	P.L. LENKA 16.01.53	26.06.81 04.11.75	BHUBA- NEW- WAR	
85	2715	2777.4	PARIMAL CH. KAR 04.06.45	20.08.81 02.08.76	SHILLO- NG	EXPIRED
86	2717	2777.5	MD. KHURSHED AHMED 01.03.52	20.06.81 30.07.76	SHILLO- NG	
87	2718	2777.6	P.K. DAS NO.2 01.03.48	20.06.81 30.07.76	SHILLO- NG	
88	3264	2777.7	PRANAB BHATTACHARJEE 14.02.52	20.08.81 28.07.76	SHILLO- NG	EXPIRED
89	3491	2277.8	P. SHARMA 01.09.56	20.06.81	SHILLO- NG	

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90	3536	2777.9	U.C. DAS 18.12.53	20.06.91 29.07.76	SHILLO- NG	
91	3537	2777.10	BIMAN DHAR 27.10.53	20.06.91 31.07.76	SHILLO- NG	
92	3818	2777.11	B. PAUL 23.01.53	20.06.91 02.08.76	SHILLO- NG	
93	3819	2777.12	P.B. NAG 25.10.52	20.06.91 28.07.76	SHILLO- NG	
94	2719	2777.13	S.K. SHARMA BORAL 09.01.48	20.06.91 29.10.76	SHILLO- NG	
95		2777.14	R. LALNGURAUVA (ST) 01.03.57	20.06.91 03.10.70	SHILLO- NG	
96	3490	2777.15	RAMPRASAD DAS (SC) 01.10.41	20.06.91 22.11.78	SHILLO- NG	
97		2777.16	ABHIRAM DAS (SC) 01.02.40	20.06.91 20.02.79	SHILLO- NG	RETIRED
98	3820	3644.1	SUNIL CH. BHOWAL 10.01.39	20.06.92 30.10.76	SHILLO- NG	RETIRED
99	3834	3644.2	D.C. BISWAS 01.03.39	20.06.92 30.10.78	SHILLO- NG	RETIRED
100	4004	3644.3	N.C. DAS 31.12.42	20.06.92 29.10.76	SHILLO- NG	
101		3930.1	BIJOY KRISHNA DEB 01.02.39	17.09.92 13.11.76	SHILLO- NG	RETIRED
102		3930.2	M. SUPRA SINGH 01.07.35	17.09.92 28.10.78	SHILLO- NG	RETIRED
103	3821	3930.3	D.K. MAJUMDAR 21.01.51	17.09.92 27.01.77	SHILLO- NG	

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104.	3822	3930.4	A.K. DUTTA 01.02.53	17.09.92 27.01.77	SHILLO- NG	
105.	3998	3930.5	N.L. ROY 01.09.45	17.09.92 28.01.77	SHILLO- NG	
106.	4000	3930.6	P.K. SINGHA CHOUHURY 01.02.51	17.09.92 28.01.77	SHILLO- NG	
107.	4001	3930.7	I.A. HALIM 07.03.57	17.09.92 27.01.77	SHILLO- NG	
108.	4005	3930.8	T. KAR 01.11.53	17.09.92 29.01.77	SHILLO- NG	
109.	---	3930.9	N. K. NATH 17.01.51	17.09.92 19.09.77	SHILLO- NG	
110.	---	3930.10	M.K. BOSE 17.10.51	17.09.92 18.07.77	SHILLO- NG	
111.	---	3930.11	A. K. CHOUHURY 01.08.53	17.09.92 19.09.77	SHILLO- NG	
112.	---	3930.12	KISHOLOY DAS 19.03.53	17.09.92 04.10.78	SHILLO- NG	
113.	---	3930.13	UTPAL KR. DAS (ST) 01.12.52	17.09.92 30.10.78	SHILLO- NG	
114.	2199	3930.14	DANGSHI RAM BORO (ST) 01.02.44	17.09.92 25.11.78	SHILLO- NG	
115.	---	3930.15	SWAPAN KR. ROY (SC) 16.03.51	17.09.92 10.11.80	SHILLO- NG	
116.	---	3930.16	DEBENDRA CH. DAS (SC) 01.07.45	17.09.92 29.11.78	SHILLO- NG	
117.	---	3930.17	N.C. PATRA (SC) 01.01.54	17.09.92 30.06.81	SHILLO- NG	

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F.NoA23018/3/87-Ad.IIB

2. The seniority position, mentioned under column Number 2 stand deleted in the seniority list of Superintendent of Central Excise, Group 'B' mentioned above. The date of assumption of charge against the officers listed at serial Nos. 453 to 462 in the aforesaid seniority is corrected as 24.4.1987.

[Signature]
(R. M. Singh)

for DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

Copy forwarded to :-


1. The under Secretary, Ad.Jl Section, Department of Revenue, New Delhi.
2. All Commissioners of Central Excise,
3. The Commissioner of Central Excise, shillong.
4. Office folder

[Signature]
(R. M. Singh)

for DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

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Advocate*

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 GOVERNMENT OF INDIA
 OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
 M.G.ROAD, SHILLONG - 793001

15/1/02
ANN-NO.3

ESTABLISHMENT ORDER NO.01/2002
 DATED, SHILLONG THE 2ND JANUARY, 2002

ANNEXURE III

Subject :- Estt. Promotion transfer & posting in the grade of Assistant Commissioner of Central Excise (JFS) - order regarding.

In pursuance of Ministry's order No. 156/2001 dated 31.12.2001 the President is pleased to order the following Superintendents of Customs & Central Excise to be promoted purely on ad-hoc basis to officiate in the grade of Assistant Commissioner of Customs & Central Excise in the pay scale of Rs. 3000-275-13500 notionally with effect from 08.09.97 in compliance with the Hon'ble CAT Guwahati Bench's order dated 08.02.2001 in O.A. No. 237/99.

Sl.No.	Name
01.	Shri Biswajit Sarkar
02.	Shri Subir Kr. Chakraborty
03.	Shri S.P. Chakraborty
04.	Shri P.S. Purkayastha-I
05.	Shri Ramakanta Das (SC)

The above officers are also granted promotion to the grade of Assistant Commissioner of Customs & Central Excise on an ad-hoc basis notionally w.e.f. 08.09.97 i.e., from the date their immediate junior viz., Shri A.S. Kharvandikar had been promoted. They are also granted the consequential benefits of fixation of pay and increments in the higher grade. However, they would not be entitled to the arrears of pay and allowances.

The above promotion to the grade of Assistant Commissioner of Customs & Central Excise have been made on purely ad-hoc basis for a limited period of 6(six) months. Besides, the above promotion does not confer on the officer so promoted any claim for continued officiation in the grade of Assistant Commissioner and the period of such service will not count for seniority or as qualifying service for further promotion.

Consequent upon promotion of the above Superintendents the following transfer and postings in the grade of Assistant Commissioner of Customs & Central Excise are ordered with immediate effect.

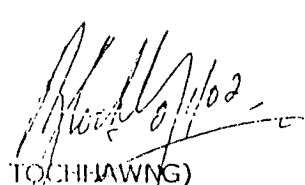
Sl.No.	Name of the Officer	From	To
01.	Shri Biswajit Sarkar	Dhubri CPF (U/O transfer to Dhubri Central Excise)	ACC Kolkata
02.	Shri S.K.Chakraborty	Karimganj Customs Division	Technical Branch, Central Excise Hqrs. Office, Shillong.
03.	Shri S.P. Chakraborty	Bymahal Range (U/o transfer to Hqrs. Audit Unit, Guwahati.	Dhubri C. Excise Division.
04.	Shri P.S. Purkayastha-I	DOAS, New Delhi	ACC, Delhi
05.	Shri Ramakanta Das	Borsora ECS, Shillong Customs Divn. (U/o transfer to Law/ Disposal, Dimpur Divn.)	Legal/Appeal/Adjn./ Inspection of C.Ex. Hqrs. Office, Shillong.

15/1/02
 (S. K. CHAKRABORTY)
 COMMISSIONER
 CENTRAL EXCISE
 SHILLONG

True Copy
 Adv. Advocate

Copy forwarded for information & necessary action to :-

1. Smt. K. Kipgen, Under Secretary to the Govt. of India, Ministry of Finance, Deptt. of Revenue, Central Board of Excise & Customs, North Block, New Delhi - 02.
2. The Chief Commissioner (EZ), Customs & Central Excise, 15/1, Strand Road, Kolkata - 700 001.
3. The Commissioner, Customs NER, Shillong.
4. The Commissioner (Appeals), Customs & Central Excise, Guwahati.
5. The Additional Commissioner (P&V)/(Tech.), Central Excise Hqrs. Office, Shillong.
6. The Assistant Commissioner of Central Excise/Customs Dibrugarh Division. Copy meant for the concerned officer is/are enclosed.
7. The Commissioner, Directorate of O & M Services, Customs & Central Excise, 412-A, Deep Shikha Building, Rajendra Place, New Delhi. Copy meant for the concerned officer is enclosed.
8. The CAO/PAO of Hqrs. Office, Shillong.
9. Accts. I & II/ET I & II/Confdl. Br./CIU-cum-VIG Branch of Hqrs. Office, Shillong.
10. The General Secretary, Group 'B' Superintendents' Association, Central Excise & Customs Shillong.
11. Guard File.


(Z. TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE
SHILLONG.



- 41 -
- 1002 -

~~Ann. No. 4~~
CONFIDENTIAL

ANNEXURE - IV

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
SHILLONG

C.No. 3/COMMR/ACR/CON/2000/

Dated: 25.04.2001

To

Shri K.B. Bhujel,
Assistant Commissioner,
Central Excise,
Jorhat.

Subject:- Adverse remarks recorded in your ACR for the year 1999-2000-
c/r.

I am to convey the following adverse remarks recorded in your ACR for the year 1999-2000.

"The officer showed little initiative of his own and was reluctantly ready to assume responsibilities only when he was asked to take up."

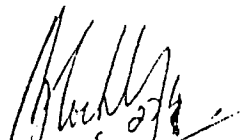
"He has himself admitted vide his letter addressed to Joint Secretary dated 13.06.99 that he is unable to pick up new field of labour management, therefore his promptness to attend labour related work was slow."

"Being at far off place from his hometown the officer always was home sick and availed maximum leave during his short tenure at the factory."

"Lack of knowledge in Hindi was also his weakness which affected his working."

It is also hoped that you would take the deficiency in good spirit. In case you wish to represent, you should do so strictly within 30 days of the receipt of the communication. Such representation, if any should be placed before the Chief Commissioner, under intimation to the Ministry.

True copy
Advocate


(Z TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE :: SHILLONG

C.No. II(9)42/CON/ACR/ACJ/2000/ 602

Dated: 15.5.2001

To,

The Chief Commissioner,
Central Excise,
15/1 Strand Road,
Calcutta - 700001.

Sent by registered post
no. 2343 & 16.5.2001

Sir,

Sub :- Adverse remarks recorded in my ACR for the year 1999-2000 - Representation against.

With reference to the Commissioner, Central Excise, Shillong letter C.No. 3/Commr'/ACR/CON/2000 dated 25.4.2001 resting on the above subject.

I have the honour to inform you that I have been given adverse remarks in my ACR for the year 1999-2000 which I vehemently refused and termed it as irrelevant, irregular and lacking proof. I therefore place below my submission against each of the point as stated below.

It is stated that I showed little initiative of my own and was reluctantly ready to assume responsibilities only when I was asked to take up. This allegation is totally baseless and after thought I have always taken up my responsibilities with total loyalty and sincerity. I took utmost care to discharge my duties to the full satisfaction of my superiors and in many a occasion I looked after and performed the duties of 'sales manager' which is a 'B' grade post. The immediate superior i.e., General Manager was very much satisfied with my job, so I had not received any 'Show Cause' notice/explanation from him, as such the said remarks carries no meaning at all. Further the General Manager used to be away on tour for 4-5 days every month and I was given charge to look after which I did it with utmost dedication to duty and there was no complaint what-so-ever.

Secondly, it is alleged that I was unable to pick up new field of labour management, therefore my promptness to attend labour related work was slow. This allegation is also irrelevant and emanate from my so called representation to the Joint Secretary dated 13.6.99. Though my sudden posting from Shillong Central Excise Commissionerate where I served for over 23 years to Chazipur Opium Factory was a new filed

Contd. on Page No. 2/-

True copy
Mr.
Advocate

for me but I picked up the work very efficiently within a short span of time by frequent consultation with labour Officers and labour leaders. I even managed to fulfill the export targets as well as domestic supply in spite of labour unrest and in adverse weather not conducive for production of opium cakes. And this fact can be well established if labour officers and labourers are questioned, which will prove my promptness to labour related work. There were also occasion when myself and labour officer managed to ^{diffuse} ~~diffuse~~ volatile situation created by the action of General Manager.


Thirdly, I am accused of being home sick and availed maximum leave during ^{my} ~~his~~ short tenure at factory. This is also a baseless allegation. After my medical leave, I devoted myself completely to work with utmost sincerity and loyalty. I did not leave any stone unturned to discharge my duties faithfully, which even prompted me to file a complaint to the C.C.F. Gwalior against the general manager who was using 8 to 10 labourers from factory payroll to his bungalow and his agriculture garden. So I have also made such remarks in attendance register of the labourer which can be verified.

Lastly, it is stated that lack of knowledge in Hindi was also his weakness which affected his working. In this connection I would like to state that before being posted to a Hindi speaking belt, I had put on over 23 years of service in North East where medium of work is totally english, therefore, my knowledge in hindi was certainly less but it has never effected my working. I do use to dispose off over 15 to 20 files daily inspite of noting being totally in hindi.

Under the circumstances stated above I therefore pray your honour to kindly consider my submission and order expunction of the adverse remarks from my ACR of 1999-2000.

For which act of this kindness I shall remain ever pray.

Yours faithfully,


15/5
(K.B. BHUJEL),
ASSISTANT COMMISSIONER,
CENTRAL EXCISE, JORHAT.

Contd. on Page No. 3/-

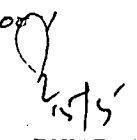
03)

C.No. IX(9)42/CON/ACR/ACJ/2000/ 603-04 Dated: 15-5-2001

Copy to :- Registered Post no. 2342 dt 16.5.2001.

- 1. The Joint Secretary (Adm & NC), Hqrs. Administration C.B.E.C., North Block, New Delhi for favour of information and necessary action.
- 2. The Commissioner, Central Excise, Shillong for favour of information and necessary action. This has a reference to his letter C.No. 3/Commr/ACR/Con/2000 dated 25.4.2001.

Registered Post no. 2341 dt 16.5.2001


 (K.B. BHUJEL).
 ASSISTANT COMMISSIONER,
 CENTRAL EXCISE, JORHAT.

O/c

CONFIDENTIAL

F.No. A-28017/7/2000-EC/Per
Government of India
Ministry of Finance
Department of Revenue

ANNEXURE-VI

New Delhi, the 13th February, 2002

To

✓ Shri K.B. Bhujel,
Assistant Commissioner,
Central Excise,
Jorhat
Shillong.

Subject: Adverse remarks in the ACR of Shri K.B. Bhujel, the then Manager, GAOW, Ghazipur, now Assistant Commissioner for the year 1998-99 - Reg. -

Sir,

I am directed to say that on scrutinizing the ACR, the following remarks recorded in the ACR of **Shri K.B. Bhujel**, Manager for the year 1998-99, have been found adverse :-

"The officer could not show desired level of quality in Inspection of Production work of opium factor which resulted in severe criticism from a committee (headed by Principal Chief Controller of Accounts) who visited this U.T."

"His quality of leadership was 'worker' oriented rather than 'work' oriented therefore output was difficult to improve."

2. It is further informed that the deficiency would be taken by you in good spirit and if you wishes to represent, you wish to do so within 30 days from the date of receipt of this communication.

Yours faithfully,


(K. Kipgen)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

True copy
Advocate



GOVT. OF INDIA
OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL EXCISE DIVISION
JORHAT

47-46-ANNEXURE-VII

ANNEXURE-VII

19

C.NO. II(9)50/CON/ACJ/MISC/2001/

Dated ::

To,

The Under Secretary,
Govt. of India,
Ministry of Finance,
Deptt. Of Revenue,
New Delhi.

(Through The Commissioner, Central Excise, Shillong),

Sub :- Adverse remarks in the ACR of Sri K.B. Bhujel, the then manager GOAW, Ghazipur now Assistant Commissioner for the year 1998-99 - representation reg.

Sir,

With reference to the above I hereby submit my representation against the adverse remarks in my ACR 1998-99.

The adverse remark that "the officer could not show who visited this U.T." is unfounded and far from truth. I resumed my duties on 24.10.98 after availing medical leave and after resuming, I performed my duties with utmost sincerity and dedication in accordance to allotted duties and responsibility (copy enclosed). During the period I found that the General Manager Sri P. Chandra was virtually running the factory as a dictator. He was not only indulged in mis-management for his personal gain but was also engaging no. of labourers to work in his house for farming works and these was duly reported in writing to C.C.F. on 11.6.99 under C. No. 1/10/411/CF/98/1784 dated 11.6.99. During the tenure my primary aim was to save the wastage of Govt. revenue. I also reported the mis-handling of Opium receipt by Sales Manager and wastage of opium found in each container to the General Manager but he did not pay any attention. But when visit of staff from Office of the Chief Controller of Accounts was known, he along with his favourite Sales Manager (Responsible for receipt of opium) managed to hide all such containers with good amount of opium in each container in a safer place. But I being manager and duty bound, pointed such irregularities to the visiting staff of C.C.A. who were very critical of such wastage and loss of Govt. Revenue. And now this criticism is attributed to the level of my quality of inspection.

I, therefore request you to call for the committee report headed by Principal C.C.A., New Delhi along with list of duties and responsibilities allotted to each and every officers of the factory and kindly decide the veracity of adverse remarks.

And as for the quality of leadership being worker oriented rather than work oriented, I am at dilemma to understand the actual meaning of the words. Until or unless you can manage the workers no work can be derived from them. Since my joining it was my utmost effort to see that the labourers (workers) get fair treatment, legitimate medical and other benefit. I found that many of the workers were detailed and utilized in personal works of General Manager and other influential officials which I objected and this can be well verified from attendance registers of workers of different branch where I have remarked to treat such workers absent from work and their salary stopped but my voice were never

True copy
Advocate

heard. This matter also I had informed to C.C.F., Gwalior in writing. Further, there were occasion when the workers were agitated and wanted to go for lightening strike due to dictatorial behaviour of the then General Manager, Sri P. Chandra but it was my apt handling with due support of the then labour officer Sri A.P. Zade, that such situations were averted. So it is very wrong notion to say that my leadership was not work oriented.

I, therefore, pray you to kindly verify that fact and expunge the adverse remarks from my ACR.

For which act of this kindness, I shall remain ever pray.

Yours faithfully,

(K.B.BHUEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE JORHAT

C. No. II(9)50/CON/ACJ/MISC/2001/ 1491

Dated :: 08.03.2002

Advance

Addressed copy by Registered post to Shrimati K. Kipgen, Under Secy, to the Govt. of India
Ministry of Finance, Department of Revenue, New Delhi.

(K.B.BHUEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE JORHAT

Sent to Delhi by the Commr. CC. Kshillap
vide letter No. 9/Commr/ACR/Con/2000/487 dt 21-3-02

OC

F.NO.A.32012/6/2000-Ad.II
Government of India
Ministry of Finance
Department of Revenue

~~ANNEX NO. 8~~

New Delhi, the 11th Nov., 2002

OFFICE ORDER NO. 181/2002

Subject: Ad-hoc to the grade of Deputy Commissioner of Customs & Central Excise - regarding.

The President is pleased to order that the officers mentioned at S.No. 1 to S.No. 27 of Annexure-I, S.No. 1 to S.No. 43 of Annexure-II, S.No. 1 to S.No. 25 of Annexure-III and S.No. 1 to S.No. 92 of Annexure-IV in the grade of Asstt. Commissioner (Grade-VI) of the IC&CES be promoted to officiate on purely ad-hoc basis in the grade of Deputy Commissioner of Customs & Central Excise (Grade-V) of the service in the scale of pay of RS. 10,000-325-15,200/- with immediate effect.

2. The above promotions have been made in compliance with the order dated 08.07.2002 passed by the Hon'ble CAT, Madras Bench in the case of IC&CES Association & Others Vs. Union of India & Others.

3. The above promotions do not confer on the officers so promoted any claim for continued officiation in the grade of Deputy Commissioner of Customs & Central Excise and the period of such service will not count for seniority / confirmation or as qualifying service or as for further promotions.

(K.KIPGEN)

Under Secretary to the Govt. of India

COPY FORWARDED TO :-

1. The officers concerned.
2. All Ch. Comms. / Dir. Generals, Customs & Central Excise.
3. All Comms. / Directors, Customs & Central Excise.
4. Pr. CCA, CBEC, New Delhi.
5. PSs to FM / MOS (R) / Secy (R) / Chairman (EC) / All Members, CBEC / JS (ADMN) / DG (Vig.) / DS(AD.II) / Dir. (Pub.)
6. AS (A) / Dir. (Hqrs. Admn.).
7. All Head of Department under CBEC.
8. SO(P) / AD.V / Hindi Section.
9. The Secretary, UPSC, New Delhi.
10. Office order folder / Personal file.
11. The Web-Site Manager, Delhi
12. The Dir, O&M, Delhi.

(K.KIPGEN)

Under Secretary to the Govt. of India

True copy
for
advocate

Promotion Order on Annex - IV

DELECT RECRUIT ASSISTANT COMMISSIONERS

S.No	Name of the officer & Date of Birth
1.	Binoy Kumar 15.08.67
2.	Sunil Singh Katiyar 10.11.69
3.	Vinod Kumar Gahlout 06.01.72
4.	Manoj Kumar Rajak 01.04.68
5.	Ms. Limatula 22.11.68
6.	Suresh Nandanwar 30.06.72
7.	Ms. Amita Singh 09.07.71
8.	Arvind Madhavan 19.08.72
9.	Jeetesh Nagori 04.05.75
10.	Suresh Babu Bodduluri 12.06.70
11.	Sameer Chitkara 01.10.73
12.	Ms. N.Minu 24.07.73
13.	Dinesh Kumar Gupta 28.01.71
14.	Nilesh Kumar Gupta 11.10.71
15.	Smt. Monika Batra 10.08.73
16.	Amandeep Singh 20.02.71
17.	Amitesh 24.12.72
18.	Shailesh Kumar 02.01.70
19.	Basistha Prasad 06.01.67
20.	K.Ramakrishnan 15.04.69
21.	K.Balamurugan 25.04.70
22.	Ajay 15.05.67
23.	Dhavale Satish Sitaram 15.11.68
24.	Rajesh Kumar Verma 13.04.69
25.	Vinay Kumar Singh 01.07.69
26.	Pulapaka Anand Kumar 01.08.66
27.	Bachhu Singh Mecna 02.04.69

ASSTT. COMMISSIONER PROMOTED FROM THE GRADE OF CUSTOMS APPRAISER.

S.No	Name of the officer & Date of Birth
1.	Anurag Bakshi 01.08.59
2.	H.R.Garg 06.05.56
3.	G.S. Purohit 10.02.59
4.	Anil Kumar Singh 15.01.56
5.	S.N. Ojha 23.06.61
6.	Om Prakash 20.08.54
7.	J.F.X.Ferrao 15.12.48
8.	V.Murugesan 13.05.48
9.	P.D.Roy 26.02.44
10.	A.R.C.Riberio 16.01.46
11.	K. Rajendran 02.10.49
12.	R. Balagurunathan 05.01.46
13.	S.Eswara Sharma 01.07.48
14.	T.Hanumanta Rao 04.03.52
15.	Tapan Kumar Das 05.01.51
16.	Amarjit Singh 12.03.55
17.	Ajit Kumar Chattopadhyay 02.03.49
18.	P.V. George 11.12.49
19.	R.K. Nair 26.06.46
20.	U.Rajkumaran 26.06.43
21.	K.A./THOMAS
23.	K.K.G. Nair 04.03.45
24.	N.V.B. Nair 05.06.46
25.	P.V. Reddy 21.03.47
26.	K.B. Bhatt 24.05.56

27.	A.K. Goswami 13.07.56
28.	P.Kalaichelvan 05.06.56
29.	M.Chandra Bose 09.05.58
30.	L.B. Yadav 01.01.59
31.	P. Viswanathan 11.02.50
32.	T.S.A. Pillai 11.01.51
33.	N. Sreeramchandran 22.02.50
34.	Nagendra Kumar Mishra 24.01.59
35.	Kamala Shankar Mishra 05.06.59
36.	Binod Kumar Choubey 09.08.60
37.	A.C. Pushkarna 09.10.60
38.	J.N. Das 21.02.50
39.	Virendra Kumar 05.04.61
40.	S. Kankaiah 07.02.53
41.	M.K. Mondal 28.03.47
42.	Sahi Ram Meena 14.07.59
43.	A.K. Mandal 16.10.48

ANNEXURE-III

ASSTT. COMMISSIONERS PROMOTED FROM THE GRADE OF SUPDT. OF CUSTOMS (PREVENTIVE).

S.No	Name of the officer & Date of Birth
1.	S.T. Wadile 17.10.45
2.	P.S. Rajput 15.11.51
3.	G.S. Salvi 28.10.47
4.	R.N. Pathak 08.07.46
5.	K.P.R. Nair 23.05.44
6.	D. John 16.05.43
7.	P.V.P. Desai 02.10.44

8.	N.M. Vengurelekar 15.08.49
9.	P. Krishnamurthy 01.06.44
10.	N.V. Perumaliah 07.09.44
11.	P.K. Chakraborty 07.12.42
12.	M. Shaikh 30.09.45
13.	K.M. Samuel 05.05.43
14.	V.H. Bhatija 03.01.47
15.	M.Y. Patel 03.06.48
16.	L.R. Nayak 10.05.47
17.	M.V.P. Desai 17.01.44
18.	J.S.P.L. Fernandez 10.04.47
19.	Shaikh Hussain 03.04.43
20.	M. Kaishak Babu 13.05.43
21.	R. Vishnudas 30.04.51
22.	A. George 07.11.43
23.	Ganesh Kachua 01.08.47
24.	H.D. Rathod 07.04.51
25.	M. Rajayyan 18.08.47

ANNEXURE-IV

ASSTT. COMMISSIONER PROMOTED FROM THE GRADE OF SUPDT OF CENTRAL EXCISE.

S.No	Name of the officer & Date of Birth
1.	B.C. Sahoo 20.07.50
2.	R. Vittal Vivekanandan 05.10.47
3.	R. Karunakaran-I 14.06.50
4.	N. Sasidharan 08.10.51
5.	N.P. Agarwal 16.10.50
6.	M. Jayaraman 22.10.50
7.	K. Kandasamy 10.04.48
8.	K. Rajagopal 13.08.44

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9.	V. Gandhi 03.06.45
10.	Ms. Manjit Kaur 15.08.43
11.	M.Haja Mohideen 02.06.49
12.	M.C. Asthana 02.03.44
13.	S.D.V. Rajkumar 18.06.49
14.	R. Narayanan 14.01.50
15.	Ram Pratap 05.07.56
16.	B.G. Koli 01.06.49
17.	M.Kadar Batcha 15.03.44
18.	P.T. Kamble 14.01.50
19.	Pratap Singh 20.11.45
20.	R. Swaminathan 02.04.49
21.	S.Syed Yaseen 29.05.50
22.	N.V. Udaykumar 31.08.49
23.	M.N. Das 20.09.46
24.	K. Durairaj 25.05.49
25.	V. Ramakrishnan 24.11.50
26.	C.D. Damodaran 28.01.44
27.	P.A. Gangadharan 24.06.51
28.	C.S. Rajput 25.04.49
29.	H.S. Shirsat 23.01.50
30.	P.C.K. Nair 01.04.44
31.	S.C. Gupta 24.07.52
32.	B.L. Sharma 01.06.49
33.	A.A. Kapse 24.10.49
34.	V.M. Basheer Ahmed 28.03.49
35.	L.S. Vanchangwng ✓ 28.12.51
36.	H.C. Verma 27.03.53
37.	V. Raja Ram 29.09.51
38.	John Jacob 13.04.50

39.	M.K. Sascendran 18.03.49
40.	A. Samuel Joyson 16.07.50
41.	R. Ramalingam 20.06.49
42.	R. Sellamuthu 06.05.43
43.	D. Babu Rangaswamy 02.02.51
44.	G.P. Ponnurajendran 25.02.49
45.	A. Iqbal 22.07.49
46.	Drobbhat Singh 01.11.49
47.	M.A. Damodran 26.01.43
48.	T.D. Bodade 09.06.46
49.	N.G. Moone 31.09.49
50.	A V Kamble 20.05.45
51.	S. Sridharan 29.05.50
52.	M. Doraiswamy 04.05.49
53.	R. Muthuswamy 05.04.50
54.	Bijoy Kumar Roy 24.10.51
55.	Tara Chand 15.04.46
56.	Nirupam Kar 01.01.51
57.	N.K. Bhattacharjee 30.11.50
58.	R.K. Baidya 01.04.49
59.	Jagdish Chandra 02.02.49
60.	P.R. Vijayan 07.05.49
61. ✓	Dimbeswar Borah 01.01.50
62. ✓	Biswajit Sarkar 01.11.55
63. ✓	Subir Kr. Chakraborty 03.12.52
64. ✓	S.P. Chakraborty 07.08.50
65. ✓	P.S. Purkayastha-I 14.07.53
66. ✓	Rama Kant Das 01.01.54
67.	A.M. Tilak 26.09.50
68.	R.K. Chakraborty 20.04.51

69.	J.K. Paul 01.02.50
70.	Debaprasad Das 15.02.52
71.	Mrinal Kanti Chanda 01.05.50
72.	Gopinath Dutta 04.09.50
73.	G.S. Arekar 29.01.50
74.	Anjan Kumar Pandit ✓
75.	V.S. Gaur 09.06.52
76.	D.V. Sharma 14.01.50
77.	B.L. Malhotra 04.08.44
78.	D.K. Soni 26.10.54
79.	Smt. Mary Anthony Malickal 13.06.47
80.	A.K. Roy 01.09.45
81.	B.R. Deb Roy ✓
82.	Nazarul Islam ✓
83.	Dinesh Chandra 02.04.43
84.	Tridibeshwar Nath 23.12.53
85.	S.C. Pushkarna 07.03.50
86.	O.P. Bhatia 03.11.42
87.	Vinod Kumar 15.12.48
88.	Md. A. Hussain ✓
89.	M.C. Hazarika ✓
90.	R.K. Mittal 21.09.54
91.	L.S. Bist 10.01.56
92.	R.C. Agarwal 18.12.44

True Copy
Advocate

To,

The Member (P & V),
CBEC, North Block,
New Delhi.

Sir,

Subject:- Non-inclusion of name in Senior Time Scale -Reg.

With most humbly and respectfully I beg to lay down the following few lines for favour of your information and necessary action.

That Sir, on 11.11.02, an order of promotion to the grade of Deputy Commissioner of Customs & Central Excise was released vide O/o No. 181/2002 dated 11.11.2002.

That Sir, in the said list my junior over the period of 4 (four) years found place at Sl. No. 64,65 & 66 but my name was conspicuously missing from the said list.

That Sir, while I was posted at Ghazipur (UP) as Manager of Govt. Opium & Alkaloid Works during 1998-1999 & 1999-2000 I received adverse remarks which I contested and sent my representation through the office of the Commissioner, Central Excise, Shillong. My last representation for the year 1999-2000 was sent to the Chief Commissioner, Central Excise, 15/1 Strand Road Kolkata-700001 under C. No. II(9)42/CON/ACR/ACJ/2000/602 dated 15.5.2001 with a copy to the Joint Secy. (Adm & NC), Hqrs. Administration, CBEC North Block, New Delhi and to the Commissioner, Central Excise, Shillong in response to the Commissioner, Central Excise, Shillong letter C. No. 3/Commr ACR/CON/2000 dated 25.4.2001

That Sir, since than I did not hear anything from the Board. Since so much time has elapsed and therefore, I presumed that my adverse remarks have been expunged.

That Sir, the above order has not only degraded me in the eyes of my colleagues but have given me immense mental worries.

I, therefore, request you to kindly look into the matter and favour me with an order in the light of my above submission.

For which act of this kindness, I shall remain ever pray.

Yours faithfully,

s.d/

(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE JORHAT

C. No. II(9)42/CON/ACR/ACJ/2002/ 1546-48

Date 14.11.2002

Copy to:-

1. The Joint Secy (Adm & NC), Hqrs. Adm. CBEC, North Block, New Delhi for favour of information and necessary action.
2. The Chief Commissioner, Central Excise 15/1 Strand Road, Kolkata for favour of information and necessary action.
3. The Commissioner, Central Excise, Shillong/Guwahati for favour of information and necessary action.

s.d/

(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE JORHAT

C. No. II(9)42/CON/ACR/ACJ/2002/

Date 14.11.2002

✓ Copy to the Secy., NER, Group 'A' Promotee Association for information. He is requested to take up the matter.

(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE JORHAT

Encl:- Copies of representation.

True copy
Advocate

✓ Sent by registered ^{Speed} post no. ~~SPLE 8435 7253 IN~~ & 20.11.2002
SPLE 8435 7253 IN

5042

ANNEX NO. 10

C.NO.II(9)50/CON/ACJ/MISC/2001/

Date: 18.11.2002

To,

The Member (P&V/AS)
Central Board of Excise & Customs
North Block
New Delhi 110002

ANNEXURE - X

Sub: Representation against promotion order No.181/2002 dt 11.11.02-Res

✓ (Through the Commissioner, Central Excise, Guwahati)

Sir,

With humbly and most respectfully, I beg to lay down the following few lines for favour of your information and necessary action.

That Sir, an adhoc promotion list to the grade of Deputy Commissioner (IC&CES) was released on 11.11.2002 under Office Order No.181/2002.

That Sir, I am aggrieved to say that my name did not figure in the said list.

That Sir, after putting 24 years of service at North East region alone I was posted to Ghajipur (U.P.) on promotion to the grade of Assistant Commissioner. I was sent there as Manager of Government Opium & Alkaloids Works in the month of June/98 and during February/2000 I was again transferred to the Shillong Central Excise Commissionerate.

That Sir, in the first week of May/2001 I received adverse remarks communiqué for the year 1990-2000 through the Commissioner of Central Excise, Shillong and according to instruction contained in the said letter, I represented against the adverse remarks (both copies enclosed).

That Sir, I was again favoured with "adverse remarks" for the year 1998-99 vide Board's letter F.No.A-28017/7/2000-EC/Per dated 13.2.2002 and asked to represent within 30 days time if I so desired. I contested this "adverse remarks" also and sent representation to Board on 8.3.2002 (both copies enclosed).

That Sir, both the representations have been sent by speed post of the Postal Department and I have not heard anything since then.

That Sir, para 24 (Part-B) of Chapter 52 of the manual of Establishment and Administration stipulates the time limit for disposal of representation against adverse remarks within 3 (three) months from the date of submission of representation and also says that adverse remarks should not be deemed to be operative if any representation filed within prescribed time limit is pending. (Authority : G.I., Deptt of Per & A.R., OM.No.21011/1/77-Estt dated 30.1.1978). I, therefore, feel that my both adverse remarks are deemed expunged and entitles me a berth in the said promotion order.

That Sir, this promotion order in the grade of Deputy Commissioner where my name is excluded degrades me in the eyes of my colleagues and has also given me immense mental worries.

That Sir, besides aforesaid facts, I also like to invite your kind attention to the Board's letter F.No.A23018/3/97/Ad-IIB dated 18.6.2001, wherein the seniority in the grade of Superintendent, Central Excise, Group-B promoted/appointed upto 31.12.1992 is corrected in the light of implementation of CAT, Guwahati Bench's


TYPE COPY
Advocate

Order of 8.2.2001 in O.A. No.237/1999. In the said list, the names of S/Sri S.K. Chakraborty, S.P. Chakraborty and P.S. Purkayastha-I figure down below the names of other officers who are placed after the names of above officers in the grade of Deputy Commissioner (IC&CES) vide Office Order No.181/2002 dated 11.11.2002.

I, therefore, solicit your attention to the above facts and request you to order amendment of abovesaid promotion order.

For which act of this kindness, I shall remain under the deep debt of gratitude.

Yours faithfully,



(K.B. BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE, JORHAT

C.NO.II(9)50/CON/ACJ/MISC/2001/5043-46

Date : 18.11.2002

Copy for favour of information and necessary action to :

- SP 843572550 IN 1. The Chairman, CBEC, North Block, New Delhi 110002.
- PEE 843572682 IN 2. The Member (-P&V/AS) (Advance Copy) CBEC, North Block, New Delhi 110002.
- PEE 843572625 IN 3. The Joint Secretary (Adm), CBEC, North Block, New Delhi 110002.
- PEE 843572696 IN 4. The Chief Commissioner, Central Excise, 15/1, Strand Road (Customs House), Kolkata 700001.
- PEE 843572753 IN 5. The Commissioner, Central Excise, Guwahati. Shillong

U. dt. 20.11.2002



(K.B. BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE, JORHAT

-59-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE - XI

Original Application No.93 of 2003

Date of decision: This the 26th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

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

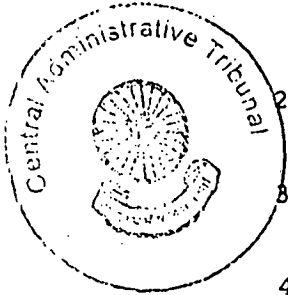
Shri Krishna Bahadur Bhujal
S/o Late Ranbir Bhujal
Assistant Commissioner
Central Excise, Jorhat Division,
Jorhat, Assam.

.....Applicant

By Advocates Mr A.S. Choudhury and
Mr I. Hussain.

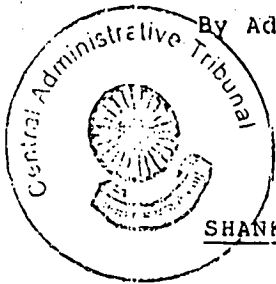
- versus -

1. The Union of India, through the
Secretary,
Ministry of Finance (Department of Revenue),
Government of India,
New Delhi.
2. The Chairman
Central Board of Excise and Customs,
New Delhi.
3. The Member (Personnel & Vigilance)
Central Board of Excise & Customs,
New Delhi.
4. The Chief Commissioner
Central Excise,
Kolkata.
5. The Commissioner
Central Excise
Shillong.
6. Shri Prem Chndra
General Manager
Government Opium Factory, Gajipur,
Uttar Pradesh.
7. Shri Dimbeswar Bora
Deputy Commissioner,
Central Excise (A&E),
Shillong.
8. Shri B.R. Deb Roy
Deputy Commissioner, Customs,
Strand Road, Kolkata.
9. Shri Nazrul Islam
Deputy Commissioner
Siliguri Customs Division
Siliguri, West Bengal.
10. Shri A.K. Pandit
Deputy Commissioner,
Strand Road, Kolkata.
11. Md. A. Hussain
Deputy Commissioner
Central Excise
Bhangagarh, Guwahati.



True copy
Advocate

12. Shri L.S. Vanchuawng
Deputy Commissioner, Customs
Aizwal Division,
Aizwal, Mizoram.
 13. Shri M.C. Hazarika
Deputy Commissioner
Central Excise, Dibrugarh Division,
 14. Shri Biswajit Sarkar
Deputy Commissioner
Customs,
Strand Road, Kolkata.
 15. Shri Subir Kumar Chakraborty
Deputy Commissioner
Central Excise, Shillong Division,
Shillong.
 16. Shri S.P. Chakraborty
Deputy Commissioner
C/o Member (P & V),
Central Board of Excise & Customs,
New Delhi.
 17. Shri P.S. Purkayastha
Deputy Commissioner
New Delhi.
 18. Shri Rama Kanta Das
Deputy Commissioner,
Central Excise, Digboi Division,
Tinsukia, Assam. Respondents
- By Advocate Mr. A.K. Chaudhuri, Addl. C.G.S.C.



O R D E R (ORAL)

SHANKER RAJU, MEMBER (J)

The applicant, an Assistant Commissioner in the Central Excise and Customs seeks promotion as Deputy Commissioner. The DPC held in 2002 has not considered the case of the applicant.

2. Heard Mr I. Hussain, learned counsel for the applicant and Mr A.K.Chaudhuri, learned Addl. C.G.S.C.

3. The learned counsel for the applicant states that as per the instructions on writing of ACRs a representation against adverse remarks in the ACR is to be disposed of within three months from the date of its submission.

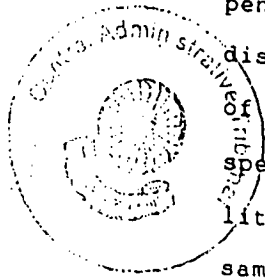
: 3 :

4. We also find that as per the procedure to be adopted in holding the DPC as contained in O.M. dated 10.4.1989, when a representation is pending against adverse remarks in the ACR, the DPC may in their discretion defer the consideration of case until a decision on the representation against the adverse remarks is taken.

5. In case the adverse remarks is toned down or expunged review DPC is to be held to consider the case of the applicant for promotion from the date his juniors were promoted.

6. As it is found that the representation dated 15.5.2001 against the adverse remarks which were communicated to the applicant on 25.4.2001 is still pending and no action taken by the respondents for disposal of the representation, the O.A. stands disposed of with directions to dispose of the representation by a speaking order without taking into consideration the litigation before us and without prejudice to him add the same shall be communicated to the applicant. If the adverse remarks are toned down or expunged a review DPC to be held for consideration of the applicant for promotion to Deputy Commissioner from the date his juniors are promoted and in that event he would be entitled to all consequential benefits.

The O.A. stands disposed of.



Sanctioned to be used (copy)
 28/03/04

Sd/MEMBER (C)

Sd/MEMBER(Adm)

Station Officer (D)
 C.A.T. NEW GUWAHATI BRANCH
 Guwahati, Assam

3/3/04
 28/3/04

Amr
 28/3/04
 (M. SINGHA)
 Superintendent
 Central Excise, Jorhat

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SL. No. 12

~~ANNEXURE II~~

70

ANNEXURE XII

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

RETURN SHEET

Orig. App./ Misc. Petn./ ~~Rev. Appl.~~ 22/04

O.A. 93/03

Name of the Applicant K.B. Borhual

Name of the Respondent(s) No. 2 nos.

Advocate for the Applicant Mr. A.S. Chaudhury & J. Hussain

Counsel for the Railway/ C.G.S.C. Mr. A.K. Chaudhury, Add. C.C.C.

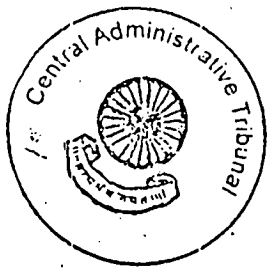
OFFICE NOTE

DATE 31.3.2004

ORDER OF THE TRIBUNAL

The Hon'ble Shri Ruldip Singh Member (J).

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



We have heard Mr. I. Hussain, learned counsel for the petitioner and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

This application has been filed seeking correction in the judgment and order dated 26.2.2004 passed in O.A. 93 of 2003. It is submitted that while passing the said order, no mention was made to consider the representation dated 8.3.2002. We have observed that the same appears to be a typographical omission.

Let the judgment and order dated 26.2.2004 passed in O.A. 93/2003 be corrected. Respondents are directed to pass an order on the representation dated 8.3.2002^{also} filed by the applicant against the adverse remark communicated vide letter dated 13.2.2002.

This order shall supplement the earlier order dated 26.2.2004 passed in O.A. 93/2003.

The N.P. is accordingly disposed of

Sd/MEMBER(J)

Sd/MEMBER(Adn)

Certified to be true Copy
সত্যকপি প্রমাণিত

[Signature]
01/04/04

Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

[Signature]
1/4/04

[Signature]
28/9/04
(N. SINGHA)
Superintendent
Central Excise, Jorhat

True Copy
[Signature]
Advocate

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ANNEXURE-III

NA

Registered A/D

C.No. II(1)1/ET-II/MISC/ACJ/2001/ 4419

Dated: 5/3/04

To,
The Member (P&V),
Central Board of Excise & Customs,
North Block, New Delhi.

ANNEXURE-XIII

Sir,

Subject :- CAT Guwahati Bench order dated 26.02.2003 - Submission of.

I have the honour to forward herewith an attested certified copy of the order dated 26.02.2003 passed by the Hon'ble CAT, Guwahati Bench, the contents of which will be found self explanatory.

In this light of natural justice and fair play, it would be evident that the contentions made in my representations dated 15.05.2001 and dated 08.03.2002 against the adverse remarks deemed accepted by your honourable office, though I am yet to be intimated about the same.

In view of the aforesaid, you are requested to kindly let the undersigned know through a speaking order nullifying the adverse remarks made against me.

I hope, you will be kind enough to accept my contention sympathetically in all fairness.

For this act of kindness I shall remain ever pray.

Yours faithfully,

Enclo: CAT order in 3 (three) pages *OC*

[Signature]
(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE : JORHAT.

C.No. II(1)1/ET-II/MISC/ACJ/2001/ 4420

Dated: 5/3/04

Copy for favour of information and necessary action to :

1. The Commissioner, Central Excise, Morello Compound, Shillong.

[Signature]
(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE : JORHAT.

OC

True copy
Advocate



GOVT. OF INDIA

OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL EXCISE DIVISION::JORHAT

Station Godown Road, Jorhat 785001

Phone: (0376) 2322805 Fax: 2320006 E-mail:div7403.& cenexjor@sancharnet.in

REGD

ANNEXURE - XIV

ANNEXURE - IV

C.No.II/3/3/ET/89/ 2971

Dated : 29/9/04

To,

The Member (P & V)
Central Board of Excise and Customs,
North Block, New Delhi- 110002

(Through the Commissioner, Central Excise, Dibrugarh)

Sir,

Subject :- Hon'ble CAT, Guwahati Bench's order dated 26.2.2004 &
Dated 31.3.2004- Reg.

In continuation of my representation dated 5.3.2004, I have the honour to once again place before you my humble submission along with the copies of honourable CAT, Guwahati Bench order dated 26.2.2004 and dated 31.3.2004 for favour of your kind information and necessary action.

That Sir, much time has elapsed for disposal of my representation dated 15.5.2001 and 8.3.2002 against the adverse remarks for the year 1999-2000 communicated to me on 27.4.2001 through the Commissioner, Central Excise, Shillong under his office letter C.No.3/Commr/ACR/CON/2000 dated 25.4.2001 and another adverse remark for the year 1998-99 sent to me in the month of February,2002 under F.No.A.28017/7/2000/EC/per dated 13.2.2002 and duly represented by me on 15.5.2001 and 8.3.2002 respectively.

That Sir, in accordance to the hon'ble CAT orders my representation may please be decided at the earliest and I may kindly be favoured with promotion to the grade of Deputy Commissioner from the date of promotion of my juniors promotion vide Office Order No.181/2002 dated 11.11.2002 as I have been passing through mental agony and depression.

For which act of this kindness, I shall remain under the deep debt of gratitude.

Yours faithfully,

Encl: 4 (Four) only
sheet

(K.B. BHUJEL),
ASSISTANT COMMISSIONER

C.No.II/3/3/ET/89/ 2972-75

Dated : 29/9/04

Advance copy sent for favour of information to:-

1. The Chairman, Central Board of Excise and Customs, North Block, New Delhi.
2. The Member (P & V), Central Board of Excise & Customs, North Block, New Delhi.
3. The Chief Commissioner, Customs & Central Excise, N.E.R. Shillong.
4. The Commissioner, Central Excise, Dibrugarh.

(K.B. BHUJEL),
ASSISTANT COMMISSIONER

Enc: 4 (Four) only
sheet

True copy
ms.
Advocate - o/c

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ANNEXURE - XIV(A)

CONFIDENTIAL
BY SPEED POST

F.No.28018/12/2001-EC/Per.
Government of India
Ministry of Finance
Department of Revenue

New Delhi, the 19th March, 2004

To

Shri K.B. Bhujel,
Assistant Commissioner,
Central Excise Godown Road,
Jorhat.

Sub: Adverse remarks in the ACR of Shri K.B. Bhujel, Manager for the year 1999-2000 – regarding.

Sir,

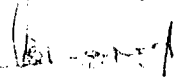
I am directed to refer to Board's letter of even number dated 26.3.2001 communicating the adverse remarks recorded in your ACR for the year 1999-2000 and to say that on careful consideration of the representation dated 15.5.2001 made against the adverse remarks by Shri K.B. Bhujel, Manager, few more adverse remarks have been found in the ACR which are as follows:

"The officer was found to reach at conclusion quickly without going into the details."

"The officer had strength of experience of long working in government but had the shortcoming in knowledge of labour management, purchase management and factory functioning."

The officer is also informed that it is hoped that the deficiency would be taken by him in good spirit. In case the officer wishes to represent, he should do so **strictly within 30 days of the receipt of the communication**. Such representation, if any, should be placed before the **Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, directly.**

Yours faithfully,



(Prashant)

Director (HQ)

Tel. No.23092504

True copy
Advocate

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Most Immediate

F.No.28018/12/2001-EC/Per.
Government of India
Ministry of Finance
Department of Revenue

CONFIDENTIAL

SPEED POST

New Delhi, the 20th January, 2005

✓ To,

Shri K.B.Bhujel,
Assistant Commissioner,
Central Excise Godown Road,
Jorhat-785001 (Assam).

ANNEXURE - XV

Sub:- Adverse remarks in the ACR for the year 1999-2000 in respect of Shri K.B.Bhujel, Assistant Commissioner – reg;

Sir,

I am directed to refer to your representation No.C.No.II(9)42/CON/ACR/ACJ/2000 dated 15.5.2001 and another representation dated 19.4.2004 and to say that after careful consideration of the same the Competent Authority has decided to expunge the following remarks recorded in your ACR for the year 1999-2000 :

"The officer was found to reach at conclusion quickly without going into the details".

"The officer has strength of experience of long wrking in government but had the shortcoming in knowledge of labour management, purchase management and factory functioning. Lack of knowledge in Hindi was also his weakness which affected his working."

2. However the competent authority did not find sufficient justification to expunge the following remarks:

(a) *"The officer showed little initiative of his own and was reluctantly ready to assume responsibilities only when he was asked to take up."*

(b) *"He has himself admitted vide his letter addressed to Joint Secretary dated 13.6.99 that he is unable to pick up new field of labour management. Therefore his promptness to attend labour related work was slow."*

(c) *"Being at far off place from his hometown the officer always was home sick and availed maximum leave during his short tenure at the factory."*

3. With reference to unexpunged remarks stated above, it is mentioned that it has been observed by the Competent Authority that issuing show cause notice / memo. cannot always be possible in an industrial environment which is work-oriented. It also has been observed by the Competent Authority that Shri Bhujel was on leave for about two months period out of

True copy
for
How call

- 67 -

ten months for which the CR was recorded (1.4.1999-21.1.2000). It has further been observed that achievement of targets in a production unit is very often on account of team work and not merely the result of efforts by an individual.

Yours faithfully,

Preeti Pant

(Preeti Pant)

Under Secretary to the Government of India

- (c) the report should give a clear opinion on the main points like character, integrity, industry, etc.;
- (d) there should be no hesitation on the part of the reporting officers to record adverse remarks in justified cases;
- (e) reporting officers should not be in a hurry to write all the reports on one day.

[Para. 174 (9) of P. & T. Manual, Volume III.]

(13) Duties of reviewing/endorsing officer.—By way of amplification or partial modification of earlier instructions, the following instructions are brought to the notice of the Ministries/Departments for information, guidance and compliance:—

- (i) Reporting, reviewing and endorsing officers should have been acquainted with the work of the official reported upon for at least three months during the period covered by the Confidential Report.
- (ii) With a view to enabling the reviewing authority to discharge his responsibility in ensuring the objectivity of the Confidential Reports it has been decided that where he is not sufficiently familiar with the work of the officer reported upon so as to be able to arrive at a proper and independent judgement of his own, it should be his responsibility to verify the correctness of the remarks of the reporting officer after making such enquiries as he may consider necessary, he should also give a hearing to the person reported upon before recording his remarks.

[G.I., D.P. & A.R., O.M. No. 51/3/74-Estt. (A), dated the 22nd May, 1975.]

(14) Mention of warnings/reprimands in C.Rs.—There may be occasions when a superior officer may find it necessary to criticise adversely the work of an officer working under him or he may call for an explanation for some act of omission or commission and taking all circumstances into consideration, it may be felt that while the matter is not serious enough to justify the imposition of the formal punishment of censure, it calls for some formal action such as the communication of a written warning/displeasure/reprimand. Where such a warning/displeasure/reprimand is issued, it should be placed in the personal file of the officer concerned. At the end of the year (or period of report), the reporting authority, while writing the confidential report of the officer, may decide not to make a reference in the confidential report to the warning/displeasure/reprimand, if, in the opinion of that authority, the performance of the officer reported on after the issue of the warning or displeasure or reprimand, as the case may be, has improved and has been found satisfactory. If, however, the reporting authority comes to the conclusion that despite such warning/displeasure/reprimand, the officer has not improved, it may make appropriate mention of such warning/displeasure/reprimand, as the case may be, in the relevant column in Part III of the

form of confidential report relating to assessment by the reporting officer and, in that case, a copy of the warning/displeasure/reprimand referred to in the confidential report should be placed in the C.R. Dossier as an annexure to the confidential report for the relevant period. The adverse remark should also be conveyed to the officer and his representation, if any, against the same disposed of, in accordance with the procedure laid down in the instructions issued in this regard.

[G.I., D.P. & A.R., O.M. No. 21011/1/81-Estt. (A), dated the 5th June, 1981.]

Representations against "warnings" or "communication of the displeasure of the Government" or "reprimand" which are recorded in the confidential report of the Government servant should be dealt with in accordance with the procedure laid down for dealing with representations against adverse entries in confidential reports, unless an opportunity had already been given to the officer concerned to make a representation in the matter relating to the relevant incident or faults and such representation had been duly considered and a decision taken before the "warning" or "reprimand" was administered or the "displeasure of the Government" communicated to him.

[G.I., M.H.A., O.M. No. 51/3/69-Ests. (A), dated the 27th September, 1969.]

(15) Communication of adverse remarks.—All adverse entries in the confidential reports of Government servants, both on performance as well as basic qualities and potentials, whether they relate to remediable or irremediable defects should be communicated within one month of their being recorded to the officer concerned by the countersigning authority, when one is prescribed and by the reporting officer in other cases. Only such of the adverse entries as are accepted by the countersigning authority, if any, need be communicated. The countersigning authority should, therefore, normally indicate whether it agrees or disagrees with the remarks of the reporting officer. It should also record additional remarks, wherever necessary, if the report is too brief, cryptic or vague. Along with the adverse entry, the substance of the entire report including what may have been stated in praise of the officer should also be communicated. The improvements made in respect of the defects mentioned in the earlier report should also be communicated to the officer in a suitable form. A copy of the letter communicating the adverse remarks duly acknowledged by the official concerned should be kept in the C.R. file and the fact of communication of the entries should be recorded in the report itself by the authority communicating them.

Great attention should be paid to the manner and method of communication of adverse remarks in order to ensure that the advice given and warning or censure administered whether orally or in writing shall, having regard to the temperament of the officer concerned, be most beneficial to him. The memo. forwarding the adverse remarks to the officer reported should be couched in such a language that it does not produce a sense of resentment in the officer reported upon and that it makes it clear

to him that the intention of communicating these defects to him is that he should try to improve himself in respect of those defects.

Remarks about the physical defects of the officers noted in the confidential reports need not be communicated. While communicating the adverse remarks, the substance of the favourable entries may also be communicated.

[Rule 174 (12) of P. & T. Manual, Volume III; G.I., M.H.A., O.M. No. 51/7/68-Estt. (A), dated the 19th September, 1969 and G.I., D.P. & A.R., O.M. No. 51/3/74-Estt. (A), dated the 22nd May, 1975.]

(16) Disclosure of identity of superior officers who made adverse remarks not necessary.—It is not necessary to disclose the identity of the superior officer who made the adverse remarks while communicating them to the Government servant concerned since, what the Government servant should be interested in, are the defects/shortcomings which his superior officers have found in his work and conduct and not the particular superior officer who recorded them in the confidential report and the representations on the adverse remarks, if any, should be objective pertaining to the shortcomings noticed. Apart from this, disclosure of identity of the superior officer is also likely to lead to unpleasantness and personal animosity. It is, therefore, desirable that while communicating the adverse remarks to the Government servant concerned, the identity of the superior officer making such remarks should not normally be disclosed.

2. Care should be taken to ensure that the remarks are communicated in such a form that the identity of the officer making particular remarks is not disclosed.

3. If, however, in a particular case, it is considered necessary to disclose the identity of the superior officer, the authority dealing with the representation may at his discretion allow the identity to be communicated.

[G.I., M.H.A., O.M. No. 51/2/64-Estt. (A), dated the 30th March, 1964; G.I., D.P. & A.R., O.M. No. 51/3/74-Estt. (A), dated the 22nd May, 1975.]

(17) Representations against adverse remarks.—Only one representation against adverse remarks (including reference to 'warning' or communication of displeasure of the Government or 'reprimand' which are recorded in the confidential report of the Government servant) should be allowed within one month of their communication. While communicating the adverse remarks to the Government servant concerned, the time limit should be brought to his notice. However, the competent authority may, in its discretion, entertain representations made beyond this time if there is satisfactory explanation for the delay.

Representation against adverse remarks will lie to the authority immediately superior to the countersigning authority, if any, or to the reporting officer. If the immediate superior authority has already reviewed the confidential report in question and has also expressed his view either agreeing or disagreeing with the adverse remarks recorded and accepted

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Annexure-XVII

by the countersigning authority, the representation should, in that event lie to the next higher authority.

[Rule 174 (12) of P. & T. Manual, Volume III and D.G., P. & T., Letter No. 27/4/78-Disc. I, dated the 19th April, 1978.]

(18) Disposal of representation against adverse remarks.—All representations against adverse remarks should be decided expeditiously by the competent authority and in any case within three months from the date of submission of the representation.

The following procedure should be adopted in dealing with representations from the employees against the adverse remarks communicated to them:—

- (1) Representations against adverse remarks should be examined by the competent authority in consultation, if necessary, with the reporting officer and countersigning authority, if any.
- (2) If it is found that the remarks were justified and that the representation is frivolous, a note may be made in the confidential report of the petitioner that he did not take the correction in good spirit.
- (3) If the competent authority feels that there is no sufficient ground for interference, the representation should be rejected and the petitioner informed accordingly.
- (4) If, however, it feels that the remarks should be toned down, it should make necessary entry separately with proper attestation at the appropriate place of the report; the correction should not be made in the earlier entries themselves.
- (5) In the rare event of the competent authority coming to the conclusion that the adverse remark was inspired by malice or was entirely incorrect or unfounded, and therefore deserves expunction, it should order accordingly. Before, however, taking such an action, it should bring it to the notice of the Head of the Circle or other Administrative Office if it does not occupy that position and obtain his concurrence.

When a representation against adverse remarks is wholly or partially upheld, the particulars of the orders based thereon should be recorded in the report itself. If it is decided to tone down the remarks, the competent authority may make the necessary entries at the appropriate place, of the report under proper attestation, but the past entries should not be corrected. If the remarks are ordered to be expunged, they should be effectively obliterated both in the confidential report as well as in the copy of the letter communicating those remarks. A copy of the order based on such a representation should not be kept in the C.R. File. Where a penalty is set aside on an appeal or review, the copy of the punishment order should be removed from the C.R. File as well as the adverse remarks recorded on the basis of the penalty expunged. In a case where the penalty

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