

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

CP-5/2011 - Order sheet 1 to 2  
withdrawn etc-26/5/11 **INDEX**

EP-13/2011 - order sheet 1 to 3  
Dismissed - date-27/9/2011

O.A./T.A No.....

RA/C.P No. 6/2006

E.P/M.A No. 129/05

1. Orders Sheet... RA-6/2006 .....Pg.....1.....to.....2.....allowed date 01/08/06
2. Judgment/Order dtd... 10/01/2007 .....Pg.....1.....to.....6.....dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....Pg.....to.....
5. E.P/M.P. 129/05 .....Pg.....1.....to.....4.....
6. RA/C.P. 6/2006 .....Pg.....1.....to.....50.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

CP-5/2011 — Pg 1 - to 32

EP-13/2011 — Pg 1 to 75

SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 24)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUANATI BENCH:

1. Original Application No. \_\_\_\_\_
2. Mice Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. 6/06 (0794/05)

Applicant(S) Director, RMRC, Dibrugarh & Area.

Respondant(S) P K Saccia

Advocate for the Applicant(S) Mr. K N Chandray, Dr. Adv.  
Mrs. R. Chandray, Mr. B K Pinabti.

Advocate for the Respondat(S).....

Notes of the Registry	Date	Order of the Tribunal
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This R.A. is filed under Sec. 22 (3) (t) of the AT Act, 1985 to review of the judgment & order dt. 22-9-06 passed in SA 94/05 in the Court of Hon'ble Mr. K. V. Saccidevaram, V.C. & Hon'ble Mr. G. Ray, M(A) alongwith a MP no 133/06 & condonation of delay.

The petitions (RA & MP) are checked up & found in order.

Therefore, the same may be placed before the Hon'ble V.C. first for circulation as per rules.

Submitted.

14/12/06

SO(7)

Hon'ble

Judgment delivered in open Court.

Kept in separate sheets. R.A. is dismissed.

Vice-Chairman

22.1.07

Copies of the Budget  
have been sent to  
The D/Sec. for issue of  
the same to the Parties  
by post.  
E.S.N.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

R.A. No.6 Of 2006(In O.A.94/05)

DATE OF DECISION 10.01.2007

Director, Regional Medical Research Centre  
Dibrugarh & another.

.....Applicant/s  
Mr.K.N.Choudhury & Mrs R.S.Choudhury  
..... Advocate for the  
Applicant/s

- Versus -

Sri Pradip Kr Saikia

.....Respondent/s

Mrs.K. Deka

.....Advocate for the  
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN  
THE HON'BLE MR GAUTAM RAY, ADMINISTRATIVE MEMBER

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

Vice-Chairman

4

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Review Application No. 6 of 2006(In O.A.94/2005)

Date of Order: This, the 10th day of January, 2007.

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

THE HON'BLE SHRI GAUTAM RAY, ADMINISTRATIVE MEMBER

1. The Director, Regional Medical Research Centre,  
N.E.Region, Indian Council of Medical Research,  
Post Box No. 105, Dibrugarh-786001,  
Assam.
2. The Administrative Officer,  
Regional Medical Research Centre,  
N.E.Region, Indian Council of Medical Research,  
Post Box No. 105,  
Dibrugarh-786001, Assam. .... Review petitioners

By Advocate Shri K.N.Choudhury & Mrs R.S.Choudhury.

-Versus-

Shri Pradip Kr. Saikia  
Son of Sri Durbal Krishna Saikia  
Resident of Athabari Gaon,  
P.O. Khowang Ghat, P.s.Khwang,  
District Dibrugarh, Assam

....Respondent

By Advocate Mrs K. Deka

**ORDER**

**K.V.SACHIDANANDAN, V.C.**

This review application has been filed by the respondents in the original O.A against the order of this Tribunal dated 22.9.06 passed in O.A.94/05 by a Division Bench. The review applicant has sought the following reliefs :

- i) Review the judgment and order dated 22.9.06 passed in Original application No.94 of 2005 and be further pleased to stay the operation of the Order dated 22.9.06 passed therein; and



- ii) Pass such other Order/s as Your Lordships may deem fit and proper in the facts and circumstances of the case.

The Administrative Member who was associated with the judgment is functioning at Bangalore and therefore this application is disposed of by circulation. The original applicant had filed O.A. aggrieved by the non promotion of the applicant who was working as Field Worker and was granted the pay scale of Laboratory Assistant and sought the following reliefs in the Original Application.

- "A. Setting aside of the order No.RMRC/Dib/Admn-28(DPC)/2003-04/961 dated 18<sup>th</sup> June, 2003, passed by the Administrative Officer for the Director, Regional Medical Research Centre, N.E.Region (ICMR) Dibrugarh, Assam.
- B. Setting aside the orders (Date and No. not known) of promotions whereby the respondents No.4 and 5 were promoted from the posts of Laboratory Attendants to the post of Laboratory Assistants.
- C. Directing the respondent No.2 to pass order promoting the applicant to the post of Field Worker (Senior) which is re-designated as Laboratory Assistant with effect from 12.6.2003."

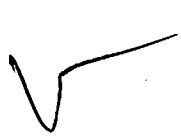
2. The respondents/review applicants have filed a detail written statement contending that the applicant was given financial upgradation under ACP scheme raising his scale of pay from Rs.2550-3200 to Rs.2610-3540 with effect from 9.8.1999 as per the guidelines contained in DOPT letter dated 26.10.1999. This Court has given due consideration of the pleadings and considering the materials, evidence and arguments placed on record passed a considered order allowing the original application with the following directions.

b

"The respondents are directed to consider the same and grant the benefit to the applicant at the earliest. In the meantime the status quo as of now will continue. However, considering the entire aspects it is made clear that the applicant will be entitled to the benefit notionally till the date of issuance of the order. This shall be carried out within four months from the date of receipt of this order by convening a DPC if required."

The review applicants now seek interference of this Tribunal on the ground that "due to inadvertent and unintentional lapses on the part of the applicants to bring to the notice of this Hon'ble Tribunal certain important and relevant factual details which if allowed to stand, will lead to miscarriage of justice and the order of the Tribunal will set up a bad precedent in law and the same is bound to have serious repercussions in the administration of justice within the Regional Medical Research Centre, Dibrugarh. Since the factual matrix of the case could not be placed before the Tribunal a grave error has crept into the order which needs to be reviewed and this judgment will create the situation of unequals being treated equally and the applicant cannot enjoy the undue benefit.

3. We have given due consideration to the pleadings and materials placed on the review application and also in the O.A. The contention of the applicants is that while interpreting the ACP scheme as recommended by 5<sup>th</sup> Central Pay Commission pay scales has been properly fixed which was accepted by the respondent and applicant is entitled to the pay scale of Field Worker, if the applicant is otherwise eligible. The upgradation made to the applicant to the post of Lab Attendant is not justified. On going through the materials placed on record we find that all issues have



been meticulously considered by this Tribunal in the original order and this Tribunal is at a loss to understand what is the inadvertence unintentional lapse on the part of the respondents to bring to the notice of the Tribunal the important and relevant facts. In fact they have filed a detailed written statement covering all the points which has been duly considered and disposed of by a considered order on merit and on going through the order of the Tribunal we find all facts and materials have been duly considered by this Tribunal. We cannot find any mistake or error apparent on the fact of record which needs review.

4. As far as the law position is concerned regarding the review, Section 22(3) of the Administrative Tribunals Act 1985 confers on ad Administrative Tribunal discharging its functions under the Act, the same powers as are vested in a civil court under the Code of Civil Procedure while trying a suit in respect, inter alia, of reviewing its decisions. Section 22(3) (f) is as follows :

"Section 22(3) (f) :

A Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely,-

- (a) to (e) .....
- (f) reviewing its decisions;
- (g) to (i) ....."

A civil court's power to review its own decisions under the Code of Civil Procedure is contained in Order 47 Rule 1. Order 47 Rule 1 provides as follows:

"Order 47 Rule 1:

Application for review of judgment.

- (1) Any person considering himself aggrieved,-
  - (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,




(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a court of Small Causes, and who, from the discovery of new and important matter or evidence which after the due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply a review of judgment to the Court which passed the decree or made the order.

(2) xxx"

The power of review granted to the Tribunal is similar to power given to a civil court under Order 47 Rule 1 of the Code of Civil Procedure. While dealing with similar jurisdiction vested with High Court seeking to review the orders under Article 226 of the Constitution of India the Supreme Court, in the case of *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, (AIR 1979 SC 1047), has held as under :

"It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of




review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court."

It is not the case of the review applicants that they brought the pleadings and materials to the notice of the Bench of the Tribunal and the same are not considered. Though the applicant has whispered that new important matters or pleadings has inadvertently omitted in the written statement by mistake, no such mistake or error could be traced from the pleadings of the Review Application and therefore no interference is called for from the Tribunal and there is no ground for the same. Since we find that there is no mistake on the face of the record nor there is any error in the judgment and order of the Tribunal, the Review Application cannot stand on its leg. In the premises we are of the view that R.A. is frivolous, misconceived and merit-less and the same is rejected.

In the result, the review application is dismissed. In the circumstances there will no order as to costs.

  
( GAUTAM RAY )  
ADMINISTRATIVE MEMBER

  
( K.V.SACHIDANANDAN )  
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Review Application No. 6 /2006

Filed By: The Applicant  
THROUGH: Q.S.

Mrs. R. S. Chowdhury  
Advocate  
12/12/06

In O.A. No.94/2005

**IN THE MATTER OF**

An Application under Section 22(3)(f) of the Administrative Tribunal Act, 1985 for review of the Order dated 22.09.2006 passed in O.A. No.94/2005 by the Hon'ble Sri K. V. Sachidanandan, Vice Chairman & the Hon'ble Sri G. Ray, Administrative Member.

-AND-

**IN THE MATTER OF**

- (1) The Director, Regional Medical Research Centre, N.E. Region, Indian Council of Medical Research, Post Box No.105, Dibrugarh-786001, Assam.
- (2) The Administrative Officer, Regional Medical Research Centre, N.E. Region, Indian Council of Medical Research, Post Box No.105, Dibrugarh-786001, Assam.

...APPLICANTS

-VERSUS-

Sri Pradip Kr. Saikia,  
 Son of Sri Durbal Krishna Saikia  
 Resident of Athabari Gaon,  
 P/o Khwang Ghat, P.S.-Khwang,  
 District- Dibrugarh, Assam.

**...RESPONDENTS**

The humble application of the applicants above named.

**MOST RESPECTFULLY SHEWETH:**

1. That, the Applicants are preferring this Application seeking review of the Order dated 22.09.2006 passed by this Hon'ble Tribunal in O.A. No.94 of 2005.
2. That, pursuant to an advertisement issued by the Applicant No.1 to fill up 2(two) posts of Field Worker (Senior) in the scale of pay of Rs.260/- to 430/- (pre-revised) for the recruitment year 1985-86, out of which one post was reserved for S. T. candidates and the other one was unreserved, the Respondent herein had applied for the said post. Subsequently the Selection Committee after going through the requisite qualifications/experiences of all the candidates, selected one Shri Atul Ch. Rabha against the post reserved for S.T. candidate and for the unreserved post one Shri Jagan Nath Gogoi was selected. Although the Respondent herein was not selected for the said post of Field Worker (Senior), due to want of requisite experience, however, the Respondent was considered for recruitment for the post of Field Worker (Junior) in the reserved category. It is further pertinent to mention herein that against the post of Field Worker (Junior) in the unreserved category one Shri Dipak Dutta was appointed.

A copy of the minutes of the meeting of the Selection Committee held on 07.02.1986 to consider the cases of candidates for recruitment of

“Senior Field Worker” as well as for Field Worker (Junior), Regional Medical Research Centre, N.E. Region, (ICMR), Dibrugarh is annexed herewith and marked as ANNEXURE-‘A’ and ‘B’ respectively.

3. That, accordingly vide letter under Memo No.RMRC/ICMR/Dib/Appointment/85-86/451 dated 02.06.1986 the Respondent No.1 was pleased to appoint the Respondent herein, to the post of Field Worker (Junior) in the scale of pay of Rs.196-3-220-EB-3-232/-. Be it further stated herein that the other incumbent who was selected for the post of Field Worker (Junior), i.e. Shri Dipak Dutta, was also appointed as Field Worker (Junior) in the unreserved category in the same scale of pay. Accordingly the Respondent herein accepted the offer so made by the Petitioners which was communicated by him to the Petitioners vide his letter dated 10.06.1986.

A copy of the appointment letter dated 02.06.1986 issued by the Director, RMRC, N.E. Region, (ICMR), Dibrugarh to the Applicant, letter of acceptance of the Applicant dated 10.06.1986 are annexed herewith and marked as ANNEXURE-‘C’ and ‘D’ respectively.

4. That, the Petitioners at this stage deem it essential to place on record certain essential facts which have a bearing on the issues involved in the instant case.

- (1) Initially in the Regional Medical Research Centre, Dibrugarh the post of Field Worker (Junior) and Lab. Attendant carried the same scales of pay which were subsequently given separate scales of pay as explained herein below:-

Post	Scale of pay at the time of sanction of the post in 1985	Pay-scale as per 4 <sup>th</sup> Central Pay Commission	Pay-scale allowed w.e.f. 01.01.90	Pay-scale as per 5 <sup>th</sup> Central Pay Commission
1. Field Worker (Junior)	Rs.196-232/-	Rs.750-940/- (S-1)	-	Rs.2550-3200/-
2. Lab Attendant	Rs.196-232/-	Rs.750-940/-	Rs.800-1150/-	Rs.2650-4000/-

It is therefore evident that the scale of pay of Lab. Attendants was increased with effect from 01.01.1990. The said action of the authority was as per the instruction issued vide letter under Memo No.49/2/RMRC/88-NCD-II dated 18.05.1990. Accordingly the incumbents who were working as Lab. Attendants in the Institute at that particular point of time were re-fixed in the scale of pay of Rs.800-15-1010-EB-20-1150 w.e.f 01.01.1990. It is categorically stated herein that one Shri Kamaleswar Gogoi and one Shri Punananda Gogoi, who were working as Lab. Attendants were placed in scale of pay of Rs.834/-.

Copies of the letter dated 18.05.1990 and the subsequent re-fixation Order dated 21.06.1990 are annexed herewith and marked as **ANNEXURE-'E' and 'F'** respectively.

5. That, however it is pertinent to mention herein that within these 2 pay scales of 750-940 and 800-1150, there also existed another scale of pay of Rs.775-12-871-14-1025/-. In the year 1995 the Ministry of Finance in the Department of Expenditure vide an Office Memorandum No.F.No.13(2)/IC/92 dated 07.04.1995 decided to revise the scale of pay in the Group 'D' Cadre. As per said Office Memorandum the 3 Group 'D' scales of pay which were in operation were-

1. Rs.750-12-870-14-940/-
2. Rs.775-12-871-14-1025/-
3. Rs.800-15-1010-20-1150/-

Accordingly it was decided that the 2 Group 'D' scales of pay at No.2 and 3 here in above i.e. 775-1025/- and 800-1150/- would be merged into a single elongated scale of pay of Rs.775-12-871-14-955-15-1030-20-1150/- (pre-revised).

A copy of the Office Memorandum dated 07.04.1995 is annexed herewith and marked as **ANNEXURE-'G'.**

6. That, it is further pertinent to mention herein that the said scale so mentioned above were revised as under as per the recommendation of the 5<sup>th</sup> Central Pay Commission.

- |      |               |                          |
|------|---------------|--------------------------|
| i.   | Rs.750-940/-  | = 2550-55-2660-60-3200/- |
| ii.  | Rs.775-1025/- | = 2610-60-3150-65-3540/- |
| iii. | Rs.800-1150/- | = 2650-65-3330-70-4000/- |

Be it stated herein that since the post of Field Worker (junior) was not a promotional post, the Respondent herein continued to draw the scale of pay of Rs.750-940/-, which was revised as Rs.2250-3200/-. It is further stated herein that the other incumbent who had been recruited to the post of Field Worker (Junior) alongwith the Respondent i.e. Shri Dipak Dutta, also continued to render his services at the said scale of pay.

7. That, however, the elongated scale of pay which was recommended by the Ministry of Finance vide Office Memorandum dated 07.04.1995 (Annexure-'G' herein above) was not recommended by the 5<sup>th</sup> Central Pay Commission. The 5<sup>th</sup> Pay Commission infact recommended the replacement scale of pay as

shown in paragraph 6 herein above. In the meantime by an Office Memorandum dated 09.08.1999 the Government of India in the Department of Personnel and Training vide an Office Memorandum No.35034/1/97-Estt (D) adopted an Assured Career Progression Scheme for Central Government employees which provided for two financial upgradations of Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years of regular service. In accordance with the provisions of the said Schemes the Regional Medical Research Centre, Dibrugarh granted financial upgradation to several employees who had completed 12 years of services in the Institute vide Office Memorandum under Memo No.RMRC/Dib/Adm/97/99-2000/2458 dated 23.02.2000. The said upgradation was given w.e.f. 09.08.1999. In the said Order dated 23.02.2000 the names of the Respondent herein figured alongwith the said Shri Dipak Dutta, Field Worker (Junior), and the 2 Lab. Attendants Shri Kameswar Gogoi and Punananda Gogoi who were all accordingly placed in their next higher scale of pay as per the Assured Career Progression Scheme.

A relevant portion of the recommendation of the 5<sup>th</sup> Central Pay Commission, a copy of the said Assured Career Progression Scheme dated 09.08.1999 as well as the Office Order dated 23.02.2000 are annexed herewith and marked as **ANNEXURE-'H' and 'I' and J** respectively.

8. That, however, in the year 2001 the Ministry of Finance vide Office Memorandum issued under Memo No.6/1/98-IC-I dated 12.02.2001 further clarified the issue with regard to the scales of pay and in paragraph 5 of the said Memorandum it was mentioned that " it has been decided to introduce a new elongated pay scale (to be designated as S-2A pay scale) of Rs.2610-60-2810-65-2300-70-4000/- in replacement of the pre-revised pay scale of Rs.775-12-871-14-955-15-1030-20-1150/-". It was further clarified that the pay of all Government servants in the pre-revised pay scale of Rs.775-12-871-



14-955-15-1030-20-1150/- on or before 01.01.1996 shall be fixed in the S-2A scale of pay. Therefore, it is evident that since the Respondent herein was not drawing the scale of pay of Rs.775-1150/- (pre-revised) on 01.01.1996, he could not have become eligible to the grant of the new pay scale which was revised as S-2A scale of pay.

It is further stated that when an incumbent is granted a financial upgradation as per the Assured Career Progression Scheme, it is understood that he has given his unconditional acceptance to the fact that if in future, he is promoted to the next hierarchical post, he would accept the pay scale so attached to the post, even if the scale of pay being drawn by him remains the same after giving effect to such promotion.

A Copy of the Office Memorandum dated 12.02.2001 is annexed herewith and marked as

**ANNEXURE-K**

9. That Subsequently as per the recommendation of the Departmental Promotion Committee (Junior), the Respondent was promoted to the post of Lab Attendant against a vacant post vide Order under Memo. No. RMRC/BLB/Admn-28 (DPC)/2003-04/961 dated 18.06.2003. The said promotion to the post of Lab Attendant had the effect that the Respondent was placed in the Scale of Pay 2A, which was the scale being drawn by the Lab Attendants. The Respondent however felt aggrieved by such promotional order and infact accepted the same only under protest. The case of the Respondent herein is specified herein under: -

1986	Appointed to the post of Field Worker (Junior).
1996	Continues in the said post in the scale of pay of Rs.750-940/- (Pre-revised) i.e. Rs.2550-3200/- (Revised).
09.08.1999	Granted financial upgradation to next scale i.e. 2610-3540/- under the Assured Career Progression Scheme.

18.06.2003 Promotion to the post of Lab. Attendant in the new elongated scale of pay of Rs.2610-4000/- w.e.f. 12.06.2003.

However, the Respondent herein felt extremely aggrieved by such promotional Order and accordingly approached this Hon'ble Tribunal by way of O.A. No. 94 of 2005.

A copy of the promotion order dt18.06.2003 is annexed herewith and marked as ANNEXURE-L

10. That the case of the Respondent in O.A.No.94 of 2005 was that since the scales of pay being drawn by field Worker (Junior) and Lab. Attendants were the same at one point of time, they were equivalent posts and therefore, he ought to have been promoted to the post of Field Worker (Senior). However, as has been explained in the foregoing paragraphs, the post of Field Worker (Junior) and Lab. Attendants were separate posts and the scale of pay being drawn by Lab. Attendants was increased in 1990. It was the further case of the Respondent that the said Sri Kamaleshwar Gogoi and Sri Purnananda Gogoi, who had been serving as Lab Attendants had been illegally promoted to the post of Lab Assistants. (It is pertinent to state herein that the post of Field Worker (Sr.) has been re-designated as Lab Assistant). Therefore, the Respondent in O.A No. 94 of 2005 prayed for a direction that the promotion orders of the aforesaid two incumbents ought to be set aside alongwith the promotion order of the Respondent dated 18.06.2003. The Respondent further prayed that he be promoted to the post of Field Worker (Sr.), which was re-designated as Lab Assistant.
11. That the Applicants herein duly filed a written statement before this Hon'ble Tribunal stating inter-alia that the posts of Field Worker (Jr.) and Lab Attendants are not co-ordinate posts but infact the said posts are attached to different scales of pay. It was further categorically stated that as per the Recruitment Rule of the ICMR, for the post of Lab Assistant [earlier designated as Field Worker (Senior)], the method of recruitment is 75% by promotion of Lab Attendants with 3 years

experience in that grade. It was further stated that in accordance with such promotional/recruitment rules, the said two Lab Attendants namely Sri Punananda Gogoi and Sri Kamaleshwar Gogoi, who were the senior most in the grade of Lab Attendants, were promoted to the post of Lab Assitant. However, inadvertently due to certain administrative lapses, the circulars dated 18.05.1990, 07.04.1995 and 12.02.2001 of the Ministry of Finance could not be placed before this Hon'ble Tribunal at the relevant point of time.

A Copy of the Recruitment Rules for the post of Lab Assistant under ICMR is annexed herewith and marked as ANNEXURE-M

12. That it is respectfully stated that the Hon'ble Tribunal after hearing the matter vide Order dated 22.09.2006 was of the considered view that "the upgradation made to the Applicant to the post of Lab Attendant is not justified and the Applicant will be entitled to the pay scale of Field Worker (Senior) on Assured Career Progression Scheme if the applicant is otherwise eligible."

A copy of the said Order dated 22.09.2006 passed by this Hon'ble Tribunal in O.A. No. 94 of 2005 is annexed herewith and marked as ANNEXURE-N

13. That the Applicants deem it essential to state at this stage that the other Field Worker (Junior) who had been appointed along with the Respondent in the year 1986, continues to draw the same scale of pay as has been fixed in the case of the Respondent. The Respondent is not being discriminated against, in any manner whatsoever and infact both the incumbents i.e. Sri Dipak Dutta and Sri Pradip Kumar Saikia have been promoted to the post of Lab Attendants in equivalent scales of pay. It is further essential to bring to the notice of this Hon'ble Tribunal the fact that Clause 9 of the Assured Career Progression Scheme, categorically lays down that the financial benefit allowed under the Assured Career Progression Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade. As

such, it is evident that having accepted the benefit of the Assured Career Progression Scheme, the Respondent is now estopped from challenging his regular promotion pay scale.

14. That in view of the facts and circumstances narrated hereinabove, the humble applicants have approached this Hon'ble Tribunal by way of this instant Review Application under Section 22(3)(f) of the Administrative Tribunals Act 1985 on the following amongst other: -

**G   R   O   U   N   D   S**

- i.) For that a manifest error of law as well as facts has crept into the Judgement dated 22.09.2006 passed by this Hon'ble Tribunal in O.A. No. 94 of 2005 due to the inadvertent and unintentional lapses on the part of the applicants to bring to the notice of this Hon'ble Tribunal certain important and relevant factual details. The same, if allowed to stand, will lead to miscarriage of justice. On this count alone, the Judgement and Order dated 22.09.2006 passed by this Hon'ble Tribunal in O.A. 94 of 2005 needs to be reconsidered/reviewed.
- ii.) For that there are good and sufficient reasons for review of the Judgement and Order dated 22.09.2006 passed in O.A. No. 94 of 2005 in view of the clarifications made in the instant application. There would be grave miscarriage of Justice if this Hon'ble Tribunal does not review the Order dated 22.09.2006 passed in O.A. No. 94 of 2005.
- iii.) For that in accordance with the documentary evidence adduced herein, it is evident that an error apparent on the face of the record has occurred in the Order dated 22.09.2006 passed in O.A. No. 94 of 2005 which accordingly needs to be reviewed by this Hon'ble Tribunal and to meet the ends of justice, this Hon'ble Tribunal may direct for re-hearing of the entire matter.

- iv.) For that the said Judgement and Order dated 22.09.2006 passed in O.A. No. 94 of 2005 if not reviewed by this Hon'ble Tribunal the same shall set up a bad precedent in law and the same is bound to have serious repercussions in the administration of Justice, within the Regional Medical Research Centre, Dibrugarh itself.
- v.) For that the actual factual matrix of the case could not be placed before this Hon'ble Tribunal in its proper sequential perspective and as such a grave error has crept into the Order dated 22.09.2006, which, if not reviewed by this Hon'ble Tribunal, shall lead to irreparable loss to the Petitioners herein, besides creating a great deal of irregularity in the scales of pay of several employees of the RMRC, Dibrugarh.
- vi.) For that the conclusions reached by this Hon'ble Tribunal in Para 11 of the said Order dated 22.09.2006 are based on erroneous findings of facts, which has in turn resulted in a manifest error of law occurring in the said Order dated 22.09.2006. The facts and circumstances narrated hereinabove clearly reveal that the scales of pay of the post of Field Worker (Junior) and Lab Attendants, though were same at one point of time, the scale of pay of Lab Attendants underwent an increase in the year 1990. Further, no injustice has been caused to the Respondent since as per the Assured Career Progression Scheme, he was rightly placed in the scale of S-2 i.e. 2610-3540, which was prevailing at that point of time and subsequently on being given promotion to the post of the Lab Attendant he was granted the scale of pay of 2610-4000/-, (S-2A) so fixed as per the O.M dated 12.02.2001. Hence, the contentions of the Respondent which were contrary to the aforesaid factual position ought not to hold sway and hence the Order dated 22.09.2006 needs to be reviewed by this Hon'ble Tribunal.
- vii.) For that the respondent cannot claim a benefit to which he is not entitled. The Order dated 22.02.2006 passed by this Hon'ble Tribunal, if allowed to

hold the field shall lead to situation of "unequals being treated equally" which will be contrary to the principles of service jurisprudence, besides being illegal. Hence, the applicant humbly states that this necessitates a Review of the Order dated 22.09.2006 by this Hon'ble Tribunal.

viii.) For that the review of the Judgement and Order dated 22.09.2006 is also essential because the respondent cannot be permitted to enjoy the benefits of his illegal claim and the said Judgement and order if not Reviewed shall lead to the opening of a floodgate of litigations.

ix.) For that in view of the above facts and circumstances, the Order dated 22.09.2006 may be reviewed to meet the ends of justice directing for re-hearing of the entire matter and pending disposal of the Review Application Your Lordships may be further pleased to order for stay of the said Order dated 22.09.2006.

15. For that this Review Application has been filed bonafide and for the ends of justice.

In the premises aforesaid it is therefore respectfully prayed that this Hon'ble Tribunal may be pleased to admit this application, call for records and

i.) Review the Judgement and Order dated 22.09.2006 passed in Original Application No.94 of 2005 and be further pleased to stay the operation of the Order dated 22.09.2006 passed therein; and

ii.) Pass such other Order/s as Your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness the Applicants as in duty bound shall ever pray.

...Affidavit

22

## AFFIDAVIT

I Shri Romen Kumar Dutta, son of Sri Lalit Chandra Dutta, aged about 49 years presently serving as Administrative Officer, RMRC(ICMR), Dibrugarh do hereby solemnly affirm and state as follows:-

1. That I am the Applicant No.2 in the instant Review Application. I am well conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit. I have been duly authorized by the Applicant No.1 to swear this affidavit on their behalf.
2. That the statements made in this affidavit and in the accompanying application in paragraphs 1, 2(partly), 3(partly), 4(partly), 5, 6, 7, 8(partly), 9, 10, 11(partly), 13 and 15 are true to my knowledge and those made in paragraphs 2(partly), 3(partly), 4(partly), 5, 8(partly), 11(partly) and 12.....being matters of records are true to my information derived therefrom. The annexures are true copies of their originals and the grounds urged are as per legal advice.

And I sign this affidavit on this the 12<sup>th</sup> day of December 2006 at Guwahati.

*Romen K. Dutta*

D E P O N E N T

Identified By Me:

*Bhargab Kumar Perchit*

Advocate

*12/12/2006*

Solemnly affirmed and declared by the Deponent, who is being identified by *Rohini Anthonia Chowdhury* Advocate on this the 12<sup>th</sup> day of December, 2006.

*Rohini*

*12/12/06*

Advocate Guwahati.

Minutes of the meeting of the "Selection Committee", which met on 7th (Seventh) February, 1986 at 12 Noon in the office of the Director, Regional Medical Research Centre, N.E. Region (ICMR), Dibrugarh to consider the cases of candidates for recruitment of "Senior Field Worker" for Regional Medical Research Centre, N.E. Region (ICMR), Dibrugarh.

Members present:-

1. Dr. B.D. Baruah,  
Director,  
Regional Medical Research Centre,  
N.E. Region (ICMR), Dibrugarh ..... Chairman.
2. Dr. T.C. Saikia  
Prof & Head  
Department of Physiology  
Assam Medical College  
Dibrugarh (Assam) ..... Member
3. Dr. K.C. Baruah  
Prof & Head  
Department of Pathology  
Assam Medical College, Dibrugarh (Assam) .... Member
4. Dr. N. Pegu  
Chief Medical Officer  
Dibrugarh District  
Dibrugarh (Assam) ..... Member
5. Prof. D. Chaliha  
Prof & Head  
Department of Zoology  
D.H.S.K. College, Dibrugarh (Assam) ..... Member

98 (Ninety eight) candidates applied for the post of "Field Worker Senior". Out of them only 14 (fourteen) candidates were called for interview after proper scrutiny. After interviewing the candidates, the committee recommended the following candidates as suitable for appointment of "Field Worker Senior" in order of merit.

1. Shri Atul Chandra Rabha (Sl No.9) From Schedule Tribe candidate
2. Shri Suryya Kanta Lachan (Sl No.5) from Schedule Tribe candidate

From General:-

1. Shri Jaganath Gogoi (Sl.No.18)
2. Shri Arun Kr. Gogoi (Sl No.17)

The committee recommended Shri Atul Chandra Rabha (ST) and and Shri Jaganath Gogoi for appointment.

(Dr. B.D. Baruah )  
Chairman

(Dr. T.C. Saikia)  
Member

(Dr. K.C. Baruah )  
Member

(Dr. N. Pegu)  
Member

(Prof. D. Chaliha)

Member

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ANNEXURE-B

1. Chowkider :- Lileswar Gogoi.
2. Peon-cum- :- Bisitra Nath Sarmah
3. Uma Kanti Das - Case for interview

Field Worker Junior (unreserved)

1. Dipak Dutta.
2. Arun Gogoi.
3. Lalit Gogoi (Sl. No.6 of F/W -Sr.)

Field Worker Reserved (Junior)

1. Sri Surjya Kanta Laskar (Sl. No. 5 of F/W Sr)
2. Sri Pradip Kr. Saikia (ST) ( F/W Sr.Sl. No.....)
3. Sri Maneswar Borah - ST Sl. No.16 of F/W (Sr)

Lab Attendant (4 posts) : Reserved

1. Sri Maneswar Borah, ST
2. Sri Ba..... Sonowal, ST
3. Sri Padmeswar Das, SC
4. Sri Bulu Das, ----

Unreserved


1. Sri Arun Gogoi- Sl. No.2 of F/W (Sr)
2. Sri Robin Chandra Doloi- Sl. No.19 of F/W (Sr)

Sd/-  
Illegible

Sd/-  
Illegible

Sd/-  
Illegible

Sd/-  
Illegible

CONFIDENTIAL  


25

## Driver

The following candidates are recommended in order of merit

1. Shri Phatik Gogoi
2. Shri Madan Das.

Shri Phatik Gogoi is recommended for the appointment.

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

Sd/-  
Illegible  
07.02.86

1. Chowkisen - Lileman Jom. 26 (20)
2. Deon can  
Dah un kum. - Rimita Wath Samwah.
- ③ Uma kanti des - case for interview.

File number (unreserved)

- ① Dipak mto
- ② ~~Aren Jom~~
- ③ Labat Jom (82 W 6 & R/W - SR)

File number Reserved - (Person)

Dr. fw

- ✓ ① Sri Sengha kanti Lohan - (82 W 5 & R/W)
- ✓ ② Sri Anagip or. Lohb - (STI) SR
- ③ Sri ~~Samraha~~ Lohb - ST 82 W 16 & R/W (SR)

① Lab Affluent (4 posts) - Reserved

- ① Sri ~~Samraha~~ Lohb - ST
- ② Sri ~~Samraha~~ Lohb - ST
- ③ Sri ~~Samraha~~ Lohb - ST

unreserved

- ✓ ① Sri Aren Jom - 82 W 2 & R/W - (SR)
- ✓ ② Sri Robin chouda Lohb - 82 W 13

①

Legat  
7. 12. 80

Dr. Jom

8/1/81 (SR)

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Rohy  
ADVOCATE

Driver

The following candidates are recommended  
in order of merit.

- (1) Shri Phatke Gogoi
- (2) Shri Madan Das

Shri Phatke Gogoi is recommended for  
the appointment.

Selected

M.K.  
21/11/86

S.  
21/11/86

Shri  
21/11/86

S.  
21/11/86

K.S.  
21/11/86

OR

7-2-86

Telephones: { Office-21512  
Res -21445

Grams: "REMRES"  
Telex: 285-222

REGIONAL MEDICAL RESEARCH CENTRE, N.E. REGION (ICMR)  
DIBRUGARH-786 003 (ASSAM)  
\*\*\*\*\*

No. RMRC/ICMR/Dib/Appointment/85-86/451 Dated: 2.6.86

To:

Shri/Dr. Pradip H. Saikia,  
C/O Sri Dubal Kishore Saikia  
Athaloni Village, P.O. Khodongghat  
Dibrugarh, (Assam)

Sub:-

Offer/Appointment to the post of Jr. Field Worker  
Regional Medical Research Centre, N.E. Region (ICMR),  
Dibrugarh, Assam.

With reference to your application dated \_\_\_\_\_  
for the post of Jr. Field Worker, Regional Medical  
Research Centre, N.E. Region (ICMR), Dibrugarh, this is to inform  
you that you are appointed as Jr. Field Worker in the  
scale of pay Rs. 196-3-220-EB-3-232/-  
plus other usual allowances as admissible under the rules to  
the employees of the Council stationed at Dibrugarh (Assam).

The offer/appointment is subject to the following  
terms and conditions of service :-

1. The post is temporary but likely to continue.
2. The appointee will be "on probation" for a period  
of 2(two) years from the date of joining duty. The probation  
period can be extended at the discretion of the competent  
authority. During the probation period, the service of the  
employee can be terminated at any time without giving any  
notice and without assigning any reason.
3. The appointment can be terminated at any time by  
giving of one month's notice on either side. The Council, how-  
ever, reserves the right to terminate the services of the  
employee forthwith or before the expiry of notice period by  
making payment to the employee of a sum equivalent to the pay  
and allowances for the period of notice or the unexpired  
thereof. The employee cannot, however, surrender pay and  
allowances in lieu of notice or unexpired portion thereof any  
be required to serve for the full period of notice.

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20 29

4. Pension with gratuity is admissible subject to rules.

5. Leave will be granted under the Central Civil Service Revised Leave Rules (1972) amended from time to time.

6. The Central Civil Service Conduct Rules and the Civil Service (classification Control and Appeal Rules) are application to the employees.

7. The appointee will have to give declaration in the attached form regarding marital status. In the event of the appointee having more than one wife living or being married to a person having more than one wife living, the appointment will be subject to the exemption being granted by the competent authority.

8. No travelling allowance is admissible for joining the first appointment.

9. Service rendered outside the Council will not be counted for purpose of the leave, grant of increment etc.

10. Prior permission of the Council is to be obtained for publication of papers based on the work carried out under the aegis of the Council and for registering of a Post-Graduate Degree and for the utilisation for work of submission of thesis for a Post-Graduate Degree of Universities or for appearing in an examination.

11. The employee will not be permitted to apply for appointment elsewhere before completing one year service under the Council. Not more than four applications for outside appointment shall be forwarded in a year. All applications should be sent through proper channel and not direct.

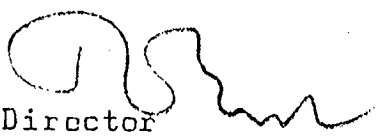
12. Medical aid is admissible under Central Services (Medical Attendance) Rules. A declaration regarding dependents should be furnished in the prescribed form.

13. The appointment is subject to the production of a Medical Fitness Certificate from the Civil Surgeon/Medical Board.

14. He is required to submit an oath of allegiance.

Please let me know your acceptance. You are expected to join your duty on or before 16th June 64.

- (b) Attested copies of Certificates of all examination passed.
- (c) Character Certificate from a trustworthy person, duly attested by a 1st Class Magistrate.
- (d) Declaration of Home Town.
- (e) Declaration of Marital Status.
- (f) Declaration regarding close relations.
- (g) Declaration regarding property from Officers treated on par with Gazetted Officers.
- (h) Declaration of dependents for purpose of medical aid.

  
Director  
Regional Medical Research Centre  
N.E. Region (ICMR) Dibrugarh  
A S S A M.

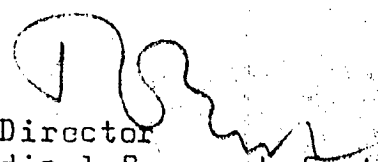
Memo No. RMRC/ICMR/Dib/Appointment/85-86/452-454 Dated: 2.6.86

Copy to :-

- 1) The Director-General  
Indian Council of Medical Research  
Ansari Nagar, Post Box No.4508  
New Delhi - 110 029 for favour of information  
and necessary action.

2)

- 3) Personal file.
- 4) Accounts file.

  
Director  
Regional Medical Research Centre  
N.E. Region (ICMR) Dibrugarh  
A S S A M

ANNEXURE— D

To  
The Director,  
Regional Medical Research Centre  
N. E. Region (ICMR) Dibrugarh,  
Assam.

Dated 10th June 1986.

Sub :- Acceptance

Ref :- No. RMRC/ICMR/Deb/Appointment/85  
481 dated 2.6.86.

Sir,

With reference to the above, I have  
the honour to acknowledge the receipt of your  
~~appointment~~ appointment letter and like to state  
I am agreeable to accept your kind offer.

Kindly furnished with the necessary  
forms to be submitted at the joining time.

Yours faithfully

Pradip Kiz. Saikia

It is acknowledged  
by me on 19-6-86

  
19/6/86

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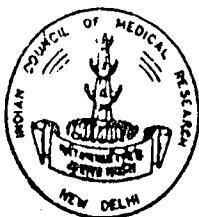
Tele: 667136 653980  
652794 652895

Receipt No. 216

Date 24/5/90

Coaching Fee

तार: सांख्यिक  
ग्राम: SCIENTIFIC  
टेलिफोन: 031-63067



भारतीय आयुर्विज्ञान अनुसंधान परिषद  
INDIAN COUNCIL OF MEDICAL RESEARCH

अन्सारी नगर, पोस्ट बॉक्स 4508, नई दिल्ली-110 029  
ANSARI NAGAR, POST BOX 4508, NEW DELHI-110 029

No.49/2/RMRC/88-NCD-II

Dated, the 18/5/90

To

Dr. L.P. Dutta,  
Director,  
Regional Medical Research Centre,  
Post Box No.105,  
Dibrugarh-786001.

Subject : Regional Medical Research Centre, Dibrugarh -  
Staff of -

Dear Sir,

Please refer to your letter No.RMRC/Dib/ADM-4/89-90/4643  
dated 23rd March, 1990.

It is noted that the staff appointed to the post of Lab.  
Attendant at your Centre are performing technical work of  
Laboratory at present. The Director-General, ICMR has, therefore,  
decided to sanction w.e.f. 1.1.90 the pay scale of Rs.800-15-1010-EB-  
20-1150, to the holders of these posts. Necessary correction in  
the budget statement of the RMRC may be made accordingly. It has  
also been decided that the extra expenditure involved on this  
account may be met from the saving under various heads in the budget  
of the centre for the year 1990-91.

It may be noted that the fixation of pay of the incumbent  
should be done at the same stage and if there is no such stage,  
the stage next below that plus personal pay equal to the difference.

The receipt of this letter may please be acknowledged.

Yours faithfully,

N.K. KOHLI

Administrative Officer,  
for Director-General.

Accountant  
20  
Original letter kept in  
file ADM-4/90-91  
page-17

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ADVOCATE

REGIONAL MEDICAL RESEARCH CENTRE :: N.E. REGION (ICMR)  
POST BOX NO.105 :: DIBRUGARH-786001 :: ASSAM

\*\*\*\*\*

RMRC/Dib/Estt.-1/90-91/685

Dated the 2/11 June, 1990

OFFICE MEMORANDUM

With reference to the Council's letter No.49/2/RMRC/88-NCD-II dated 18th May, 1990, the pay of the following "laboratory Attendants" of RMRC, N.E. Region (ICMR), Dibrugarh have been fixed as under, in the scale of pay Rs.800-15-1010-EB-20-1150/= with effect from 1st January, 1990.

Sl. No.	Name of the Lab. Attendants	Basic Pay as on 1st Jan. 1990 in the scale of pay Rs.750-12-870-EB-14-940/=	Basic Pay as fixed as on 1st Jan. 1990 in the scale of pay Rs.800-15-1010-EB-20-1150/=
1.	Shri Umakanta Dowerah (Period 1-1-1990 to 17-4-1990)	Rs.834=00	Rs.830=00 Plus P.P.Rs.4/=
2.	Shri Kamaleswar Gogoi	Rs.834=00	Rs.830/= Plus P.P.Rs.4/=
3.	" Ponananda Gogoi	Rs.834=00	Rs.830/= Plus P.P.Rs.4/=
4.	" Robin Chandra Doloi	Rs.786=00	Rs.800=00
5.	" Arun Kumar Gogoi	Rs.786=00	Rs.800=00
6.	" Moneswar Borah	Rs.786=00	Rs.800=00
7.	" Bulu Kumar Das	Rs.762=00	Rs.800=00

The extra expenditures to be incurred in this regard, may be met from the savings under the various heads of account in the budget of this Centre for the years 1990-91.

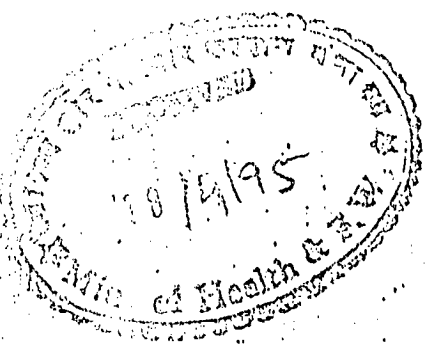
( S.N. Bhagawati )  
Administrative Officer  
for DIRECTOR

Distribution :-

1. Persons concerned
2. The Director General, ICMR, Ansari Nagar, P.B.No.4508, New Delhi - 110 029 for favour of information and necessary action.
3. Accounts Section
4. Budget file
5. Personal files of Lab. Attendants
6. Office copy.

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F.No: 13(2)/IC/92  
Government of India  
Ministry of Finance  
Department of Expenditure



New Delhi, the 7th April, 1995

OFFICE MEMORANDUM

Subject: Cadre Review of Group 'D' cadre - revision of scale of pay.

The undersigned is directed to say that the Staff Side (JCM) had raised a demand in the National Council for cadre review of Group 'D' staff with a view to providing further promotional avenues to them. Presently, the following 3 Group 'D' scales of pay are in operation w.e.f. 1.1.86:-

- (i) Rs. 750-12-870-14-940
- (ii) Rs. 775-12-871-14-1025
- (iii) Rs. 800-15-1010-20-1150

The demand of the Staff Side has been under consideration of a Sub-committee of the Council. It was mutually agreed that the existing scale of Rs. 750-940 may continue as an entry grade and that the other two scales of pay of Rs. 775-1025 and Rs. 800-1150 may be merged into a single elongated scale of pay.

2. Accordingly, the President has now been pleased to decide that the two Group 'D' scales of pay of Rs. 775-1025 and Rs. 800-1150 be merged into a single elongated scale of pay of Rs. 775-12-871-14-955-15-1030-20-1150. As a consequence, the following decisions have also been taken:-

- (i) Henceforth no appointment shall be made either by promotion or through direct recruitment in the scales of pay of Rs. 775-1025 or Rs. 800-1150 and all posts carrying these scales of pay shall be placed in the merged scale of Rs. 775-1150.
- (ii) As the header posts in the scale of pay of Rs. 775-1025 and promotional posts in the scale of pay of Rs. 800-1150 will henceforth carry the same scale of pay of Rs. 775-1150 and no promotions can be made within the same scale of pay, the rules of recruitment for these posts may be suitably amended. And, wherever necessary, the posts may be treated as merged.

contd... 2/-

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*[Signature]*  
ADVOCATE

(iii) All employees in the scale of pay of Rs. 775-1025 may be placed in the merged scale of pay of Rs. 775-12-871-14-955-15-1030-20-1150. Irrespective whether they have been appointed on functional basis or in-situ basis. The pay in the merged scale be fixed in terms of FR 22(T)(a)(2) i.e. the pay in the merged scale may be fixed at the stage which is equal to the pay drawn in the scale of pay of Rs. 775-1025 or if there is no such stage, the stage next above in the scale of Rs. 775-1150.

(iv) The employees already appointed to the scale of Rs. 800-1150 may be allowed to continue in that scale on personal basis.

3. These orders take effect from 1.4.95 and will not be applicable to Industrial/Workshop Staff or Railway employees.

4. The Ministry of Home Affairs etc. are advised to bring the provisions of this O.M. to the notice of all concerned.

5. In so far as persons serving in Indian Audit and Accounts Departments are concerned, these orders are issued in consultation with the CAAG of India.

T.S. Bhatia

(T.S. BHATIA)

Under Secretary to the Govt. of India

To All Ministries / Departments of Government of India as per standard list with usual number of spare copies.

## PART - A

## ANNEXURE

Statement showing the recommendations of the Fifth Central Pay Commission on pay and Dearness Allowance relating to Civilian employees in 'B', 'C' and 'D' and personnel of All India Services and Government's decisions thereon. (References to Chapters and paragraphs in the Statement are to the Pay Commission's Report).

S1. Recommendations of the Fifth  
No. Pay Commission.

Decision of the  
Government

(1) (2) (3)

## 1. PAY

## I. Revised Scales of Pay

Accepted, subject to  
following modifications:

- (1) The Commission has recommended the following revised scales for Civilian Central Government Employees

(i) Scales at S-1 to S-5 and S-13 shall be modified as under:

EXISTING SCALES OF PAY- =====	GRADES =====	REVISED SCALES OF PAY =====	
1. 750-12-870-14-940	S-1	2440-40-3200	S-1 2550-55-2660-60-3200
2. 775-12-871-14-1025	S-2	2550-45-3540	S-2 2610-60-3150-65-3540
3. 800-15-1010-20-1150	S-3	2650-50-4000	S-3 2650-65-3300-70-4000
4. 825-15-900-20-1200	S-4	2750-55-4400	S-4 2750-70-3800-75-4400
5. 950-20-1150-25-1400 950-20-1150-25-1500 1150-25-1500	S-5	3050-70-4590	S-5 3050-75-3950-80-4590 S-13 7450-225-11500
6. 975-25-1150-30-1540 975-25-1150-30-1660	S-6	3200-85-4900	
7. 1200-30-1440-30-1800 1200-30-1560-40-2040 1320-30-1560-40-2040	S-7	4000-100-6000	
8. 1350-30-1440-40-1800- 50-2200 1400-40-1800-50-2300	S-8	4500-125-7000	
9. 1400-40-1600-50-2300- 60-2600 1500-50-2300-60-2660	S-9	5000-150-8000	
10. 1640-60-2600-75-2900	S-10	5500-175-9000	
11. 2000-60-2120	S-11	6500-200-6900	

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12. 2000-60-2300-75-3200 2000-60-2300-75-3200-3500	S-12	6500-200-10500
13. 2375-75-3200-100-3500 2375-75-3200-100-3500-25-3750	S-13	7000-225-11500
14. 2500-4000 (proposed new pre-revised scale)	S-14	7500-250-12000
15. 2200-75-2300-100-4000 2300-100-2800	S-15	8000-275-13500
16. 2630/- FIXED	S-16	9000/- fixed
17. 2630-75-2780	S-17	9000-275-9550
18. 3150-100-3350	S-18	10325-325-10975
19. 3000-125-3625 3000-100-3500-125-4500 3000-100-3500-125-5000	S-19	10000-325-15200
20. 3200-100-3700-125-4700	S-20	10650-325-15850
21. 3700-150-4450 3700-125-4700-150-5000	S-21	12000-375-16500
22. 3950-125-4700-150-5000	S-22	12750-375-16500
23. 3700-125-4950-150-5700	S-23	12000-375-18000
24. 4100-125-4850-150-5300 4500-150-5700	S-24	14300-400-18300
25. 4800-150-5700	S-25	15100-400-18300
26. 5100-150-5700 5100-150-6150 5100-150-5700-200-6300	S-26	16400-450-20000
27. 5100-150-6300-200-6700	S-27	16400-450-20900
28. 4500-150-5700-200-7300	S-28	14300-450-22400
29. 5900-200-6700 5900-200-7300	S-29	18400-500-22400
30. 7300-100-7600	S-30	22400-525-24500
31. 7300-200-7500-250-8000	S-31	22400-600-26000
32. 7600/- fixed 7600-100-8000	S-32	24050-650-26000
33. 8000 /- FIXED	S-33	26000/- FIXED
34. 9000 /- FIXED (Chapter 43, Annexe 43.1)	S-34	30000/- FIXED

-29-

ANNEXURE

I  
38

6-67136 6963984  
6962794 6962893

GRAB  
VICTIM  
989714X

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911-73067  
911-6568662  
911-6510896  
911-6256713



भारतीय आयुर्विज्ञान अनुसंधान परिषद  
INDIAN COUNCIL OF MEDICAL RESEARCH

अन्सरी नगर, पोस्ट बॉक्स 4911, नई दिल्ली - 110 020

ANSARI NAGAR, POST BOX 4911, NEW DELHI - 110 029

No.16/82/99-Admin.II

Dated: 16.9.1999

To

All the Directors/Officers-in-charge of  
ICMR Permanent Institutes/Centres

Subject:- The Assured Career Progression Scheme

Sir/Madam,

The Council is examining the adoption of Assured Career Progression (ACP) Scheme introduced by Govt. of India for Central Govt. civilian employees vide DOPT O.M. No.35034/1/97-Estt(D), dated 9<sup>th</sup> August, 1999. The Scheme provides for two financial upgradations to Group 'B', 'C' & 'D' employees on completion of 12 years and 21 years of regular service, respectively strictly in accordance with the guidelines contained in 'Annexure-I' to DOPT O.M. *ibid*. Isolated posts in Group 'A', 'B', 'C' & 'D' categories which have no promotional avenues shall also qualify for similar benefits. A copy of GOI orders regarding ACP Scheme forwarded vide Ministry of Health & Family Welfare letter No.Z.17015/1/99-Coordn., dated 9<sup>th</sup> August, 1999 is also being enclosed. You are requested to provide the details of the employees at your Institute/Centre who could be covered under the said Scheme. The information may please be supplied separately in the following manner:-

- i) Administrative Cadre (Groupwise);
- ii) Technical Cadre (Groupwise);
- iii) Isolated posts not covered under  
i) & ii) (Groupwise).

The details of individuals may be furnished as per performa enclosed at an early date.

Yours faithfully,

(JAM SINGH)

Administrative Officer  
for Director General

Copy to:- Administration-I, ICMR Hqrs. Office, for similar action.

CERTIFIED TO BE TRUE COPY

ADVOCATE

CONDITIONS FOR GRANT OF BENEFITS  
UNDER THE ACP SCHEME

1. The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Government servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose;

2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions;

3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later;

4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;

5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;

5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit;

6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme;



7. Financial upgradation under the Scheme shall be given to the next higher grade accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given by the Ministries/Departments concerned in the immediately next higher (standard/common) pay-scales as indicated in Annexure-II, which is in keeping with Part-A of the First Schedule annexed to the Notification dated September 30, 1997 of the Ministry of Finance (Department of Expenditure). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6. Financial upgradation on a dynamic basis (i.e. without having to create posts in the relevant scales of pay) has been recommended by the Fifth Central Pay Commission only for the incumbents of isolated posts which have no avenues of promotion at all. Since financial upgradations under the Scheme shall be personal to the incumbent of the isolated post, the same shall be filled at its original level (pay-scale) when vacated. Posts which are part of a well-defined cadre shall not qualify for the ACP Scheme on 'dynamic' basis. The ACP benefits in their case shall be granted conforming to the existing hierarchical structure only;

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme;

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of FR 22(1) a(1) subject to a minimum financial benefit of Rs.100/- as per the Department of Personnel and Training Office Memorandum No.1/6/97-Pay.I dated July 5, 1999. The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unconditional acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;

In the matter of disciplinary/penalty proceedings, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant CCS(CCA) Rules, 1965 and instructions thereunder;

12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/functional promotion of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders ~~to~~ shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional (actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly;

13. Existing time-bound promotion schemes, including in-situ promotion scheme, in various Ministries/Departments may, as per choice, continue to be operational for the concerned categories of employees. However, these schemes, shall not run concurrently with the ACP Scheme. The Administrative Ministry/Department -- not the employees -- shall have the option in the matter to choose between the two schemes; i.e. existing time-bound promotion Scheme or the ACP Scheme, for various categories of employees. However, in case of switch-over from the existing time-bound promotion scheme to the ACP Scheme, all stipulations (viz. for promotion, redistribution of posts, upgradation involving higher functional duties, etc) made under the former (existing) scheme would cease to be operative. The ACP Scheme shall have to be adopted in its totality;

14. In case of an employee declared surplus in his/her organisation and in case of transfers including unilateral transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her new organisation for the purpose of giving financial upgradation under the Scheme; and

15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.

*S. K. Jha*  
(K.K. JHA)

Director (Establishment)

## STANDARD/Common PAY-SCALES

As per Part-A of the First Schedule Annexed to the Ministry of Finance  
(Department of Expenditure) Gazette Notification dated September 30, 1997

[REFERENCE PARA 7 OF ANNEXURE I OF THIS OFFICE MEMORANDUM]

S No.	Revised pay-scales (Rs)	
1.	S-1	2550-55-2660-60-3200
2.	S-2	2610-60-3150-65-3540
3.	S-3	2650-65-3300-70-4000
4.	S-4	2750-70-3800-75-4400
5.	S-5	3050-75-3950-80-4590
6.	S-6	3200-85-4900
7.	S-7	4000-100-6000
8.	S-8	4500-125-7000
9.	S-9	5000-150-8000
10.	S-10	5500-175-9000
11.	S-12	6500-200-10500
12.	S-13	7450-225-11500
13.	S-14	7500-250-12000
14.	S-15	8000-275-13500
15.	S-19	10000-325-15200
16.	S-21	12000-375-16500
17.	S-23	12000-375-18000
18.	S-24	14300-400-18500

4100 — S 300

4500 — S 700

# -34- ANNEXURE - J

REGIONAL MEDICAL RESEARCH CENTRE, N.E. REGION (ICMR)  
DIBRUGARH ::: ASSAM

NO. RMRC/DIB/Adm-97/99-2000/2458

Date: 23/7/2000

## OFFICE MEMO

In view of the recommendations made by Departmental Screening Committee constituted for the purpose, the Director is pleased to grant of financial up-gradation under Assured Career Progression Scheme to the following employees of this Centre who have completed 12 years of regular services respectively strictly in accordance with the guidelines/instructions as mentioned in office Memo No.35034/1/97-Estt(D) dated 9th August, 1999 issued by Govt. of India, Ministry of Personnel & Public Grievances & Pensions (Deptt. of Personnel and Training, New Delhi) as per details given below w.e.f 9-8-1999.

Sl. No.	Name & Designation	Present Pay Scale	Last Pay drawn as per pay-scale as on Aug.99	Upgraded Pay Scale under ACP Scheme w.e.f 9-8-99	Pay fixed in higher scale as on 9-8-99	Next date of increment
1.	Shri A.C. Rabha Field Worker(Sr)	3200-85-4900/=	4135/=	4000-100-6000/=	4300/=	1-8-2000
2.	Shri J.N. Gogoi Field Worker(Sr)	3200-85-4900/=	4135/=	4000-100-6000/=	4300/=	1-8-2000
3.	Shri Kamaleswar Gogoi Lab.Attendant	2650-65-3300-70-4000/=	3105/=	3050-75-3950-80-4590/=	3275/=	1-8-2000
4.	Shri Punananda Gogoi Lab.Attendant	2650-65-3300-70-4000/=	3105/=	3050-75-3950-80-4590/=	3275/=	1-8-2000
5.	Shri R.C. Doloi Lab. Attendant	2650-65-3300-70-4000/=	3040/=	3050-75-3950-80-4590/=	3200/=	1-8-2000
6.	Shri A.K. Gogoi Lab. Attendant	2650-65-3300-70-4000/=	3040/=	3050-75-3950-80-4590/=	3200/=	1-8-2000
7.	Shri Moneswar Borah Lab. Attendant	2650-65-3300-70-4000/=	3040/=	3050-75-3950-80-4590/=	3200/=	1-8-2000
8.	Shri Dipak Dutta Field Worker (Jr)	2550-50-2660-60-3200/=	2960/=	2610-60-3150-65-3540/=	3090/=	1-8-2000
9.	Shri P.K. Saikia Field Worker (Jr)	2550-50-2660-60-3200/=	2900/=	2610-60-3150-65-3540/=	3030/=	1-8-2000
10.	Shri B.N. Sarmah Peon-cum-Dak Runner	2550-50-2600-60-3200/=	2960/=	2610-60-3150-65-3540/=	3090/=	1-8-2000

The pay of the above mentioned employees have been fixed under the provision of FR-22 1(a) I/ normal rules.

### Copy to:

1. All concerned employees.
2. Director General, ICMR, New Delhi
3. Accounts, RMRC, Dibrugarh
4. Bill section.
5. Personal files of employee's concerned.

(S.N. Bhagawati)  
Administrative Officer  
for Director  
REGIONAL OFFICE

RMRC (ICMR) Dibrugarh

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23/7/2000  
*[Signature]*  
ADVOCATE

-28-

-35-

ANNEXURE - K 41

No. 6/1/98-IC-I  
Government of India  
Ministry of Finance  
Department of Expenditure  
[ Implementation Cell ]  
\*\*\*\*\*

Director 365  
By No. 277  
Date

New Delhi, Dated February 12, 2001.

OFFICE MEMORANDUM

Subject : Introduction of Revised Pay Scale corresponding to the pre-revised merged pay scale of Rs. 775-12-871-14-955-15-1030-20-1150.  
\*\*\*\*\*

Based on an agreement with the Staff Side on the JCM National Council, orders were issued in this Department's OM No. 13(2)/IC/92 dated April 7, 1995 prescribing the elongated pre-revised pay scale of Rs. 775-12-871-14-955-15-1030-20-1150 by merging the scales of Rs. 775-12-871-14-1025 and Rs. 800-15-1010-20-1150. This elongated pay scale was applicable to all Group 'D' employees other than those in the industrial and workshop categories and in the Railways.

2. The Fifth Central Pay Commission had not recommended an appropriate replacement pay scale for the merged scale of Rs. 775-12-871-14-955-15-1030-20-1150. They had, however, recommended the replacement scales of Rs. 2550-45-3540 (S-2) and Rs. 2650-50-4000 (S-3) respectively for the pre-revised scales of Rs. 775-12-871-14-1025 and Rs. 800-15-1010-20-1150.

3. Government had, however, modified the S-2 pay scale and had approved the replacement scale of Rs. 2610-60-3150-65-3540. The scales S-2 and S-3 as finally approved by Government were duly notified in the Central Civil Services (Revised Pay) Rules, 1997 issued on September 30, 1997. While notifying these replacement pay scales in the Central Civil Services (Revised Pay) Rules, 1997, the following note was incorporated therein:


.....Government servants drawing pay up to the stage of Rs. 1,030 in the existing scale of Rs. 775-12-871-14-955-15-1030-20-1150 shall be fixed in S-2 scale of pay and those drawing pay beyond the stage of Rs. 1,030 shall be fixed in S-3 scale of pay.

(Note 1 below Rule 7)

4. The Staff Side on the JCM National Council subsequently pointed out that this decision had resulted in certain anomalies. They had also drawn attention to the fact that the two pre-revised pay scales having been merged based on an agreement arrived at in the JCM National Council, Government ought not to have taken a unilateral decision to de-merge the merged scale.

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ADVOCATE

45

5. The demand of the Staff Side has been considered carefully. It has been decided to introduce a new elongated pay scale (to be designated as S-2A pay scale) of Rs. 2610-60-2810-65-3300-70-4000 in replacement of the pre-revised pay scale of Rs. 775-12-871-14-955-15-1030-20-1150. In modification of Note-1 below Rule-7 of the Central Civil Services (Revised Pay) Rules, 1997, the pay of all Government servants in the pre-revised pay scale of Rs. 775-12-871-14-955-15-1030-20-1150 on or before 1.1.1996 shall be fixed in the S-2A scale of pay. Re-fixation of pay with effect from January 1, 1996 in the S-2A scale of pay would result, in a few cases, in the pay of employees being lower than what had already been fixed in terms of Note-1 below Rule-7 of the Central Civil Services (Revised Pay) Rules, 1997. In order to ensure that pay fixation in the S-2A pay scale does not result in monetary loss to any of the employees concerned, it has been further decided that the loss in such cases shall be protected by the grant of a Personal Pay equal to the difference between the pay already fixed and that admissible as a result of re-fixation in the elongated scale, the Personal Pay being absorbed in future increments.

6. Necessary amendments to the Central Civil Services (Revised Pay) Rules, 1997 are being issued separately. Further action to re-fix the pay of Group 'D' employees to whom the pre-revised pay scale of Rs. 775-12-871-14-955-15-1030-20-1150 was applicable may be taken accordingly.

7. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after consultation with the Comptroller and Auditor General of India.

8. Hindi version will follow.

*N. Sunder Rajan*

( N. SUNDER RAJAN )

Joint Secretary to the Government of India

To

All Ministries and Departments of the Government of India as per Standard Mailing List.

Phone Off. : (0373) 2381494, 2381506  
2381548, 2381566

Gram : Remres  
Fax : (0373) 2381748  
E-Mail : icmrredi@hub.nic.in



क्षेत्रीय आयुर्विज्ञान अनुसंधान केन्द्र, पूर्वोत्तर क्षेत्र ( आई. सी. एम. आर. )  
**REGIONAL MEDICAL RESEARCH CENTRE, N. E. REGION**  
INDIAN COUNCIL OF MEDICAL RESEARCH  
Post Box No. 105, Dibrugarh - 786 001 (Assam), INDIA

No.RMRC/Dib/Adm-28 (DPC)/2003-04/961

Dated the 18<sup>th</sup> June, 2003

**ORDER**

**Subject:** Promotion to the post of Laboratory Attendant in the scale of Pay of Rs 2610-60-2910-65-3300-70-4000 at the Regional Medical Research Centre (ICMR), Dibrugarh

On recommendation of the Junior Departmental Promotion Committee held on 12<sup>th</sup> June, 2003, the Director of the Centre accords approval for promotion of Shri Pradip Kr. Saikia, Field Worker (Junior) to the post of of Laboratory Attendant in the scale of Pay of Rs 2610 -60 -2910 -65 -3300 -70 -4000 plus other allowances as admissible as per rules at the Regional Medical Research Centre (ICMR), Dibrugarh with effect from 12<sup>th</sup> June, 2003.

2. The pay of Shri Pradip Kr. Saikia will be fixed as admissible as per rules.
3. He will be governed by the usual terms and conditions of service under the Council
4. He will be on probation for a period of 2 (two) years in the post of Laboratory Attendant from the date of his promotion, i.e. 12-6-2003.
5. Benefits of his service as Field Worker (Junior) will be carried forward to the post of Laboratory Attendant.
6. He is informed to furnish his acceptance or any objection for accepting this promotion within 7 (seven) days of receipt of this letter.

To

Shri Pradip Kr. Saikia  
RMRC (ICMR), Dibrugarh

(S.N. Bhagawati)  
Administrative Officer  
For DIRECTOR

Copy to :-

- 1 The Director General, Indian Council of Medical Research, V. Ramalingaswamy Bhawan, Ansari Nagar, Post Box No. 4911, New Delhi -110029 for favour of his kind information and necessary action
- 2 Personal file of employee concerned.
- 3 Accounts Section
- 4 Bill Section
- 5 Estt. 3 (Increment) file
- 6 Budget file
- 7 Seniority file

Entered in SB & probup for info. pl.

ADVOCATE

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*[Signature]*  
ADVOCATE

RECRUITMENT RULES FOR TECHNICAL POSTS UNDER ICMR

1	Name of the Post	Laboratory Assistant
2	No. of Posts	*207(1996) *Subject to variation dependent on workload
3	Classification	Group-C (Non-Gazetted, Non-Ministerial)
4	Scale of Pay	975-25-1150-EB-30-1540
5	Whether Selection-cum-seniority or selection by merit or non-selection	Non Selection
6	Age limit for Direct Recruits	Below 28 years
7	Whether the benefit of added years of service under Rule 30 of CCS (Pension) Rules 1972 admissible.	Not applicable
8	Educational and other qualifications required for direct recruits	High School with one year Lab. experience
9	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Not applicable
10	Period of probation, if any	Two years
11	Method of recruitment whether by direct recruitment or by promotion or by deputation or by absorption and percentage of vacancies to be filled by various methods	a) 25% by direct recruitment from amongst the candidates sponsored by Employment Exchange. b) 75% by promotion of Laboratory Attendants with 3 years experience in that grade.
12	In case of recruitment by promotion or deputation or absorption grades from which promotion or absorption to be made	Laboratory Attendant
13	Circumstances in which UPSC is to be consulted	Not applicable
14	If a D.P.C. exists, what is its composition	

Selection Committee

ICMR Hqrs.	Institutes/Centres
1. Sr. DDG/Chief	1. Director/OIC
2. DDG/ADC	2. Dy. Director./A.D.
3. Two experts in the field	3. Two experts in the field
4. One expert representing SC/ST	4. One expert representing SC/ST

Departmental Promotion Committee

ICMR Hqrs.	Institutes/Centres
1. Sr. DDG/Chief	1. Director/OIC
2. DDG/ADC	2. Dy. Director./A.D.
3. Sr. A.O./A.O.	3. Sr. A.O./A.O.
4. Member representing SC/ST	4. Member representing SC/ST

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ADVOCATE



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

93

Original Application No. 94 of 2005

Date of Order: This the 22<sup>nd</sup> day of September 2006

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

The Hon'ble Shri G. Ray, Administrative Member

Shri Pradip Kumar Saikia,  
S/o Shri Durbal Krishna Saikia,  
Resident of Athabari Gaon,  
P.O. Khwang Ghat,  
District- Dibrugarh, Assam.

.....Applicant

By Advocate Mrs K. Deka.

- versus -

1. The Union of India, represented by the  
Secretary, Health and Family Welfare,  
Government of India,  
New Delhi-1.

The Director,  
Regional Medical Research Centre,  
N.E. Region (ICMR),  
District- Dibrugarh, Assam.

3. The Administrative Officer,  
Regional Medical Research Centre,  
N.E. Region (ICMR),  
District- Dibrugarh, Assam.

4. Shri Kamaleswar Gogoi,  
Laboratory Assistant,  
Regional Medical Research Centre,  
N.E. Region (ICMR),  
District- Dibrugarh, Assam.

5. Shri Purnananda Gogoi,  
Laboratory Assistant,  
Regional Medical Research Centre,  
N.E. Region (ICMR),  
District- Dibrugarh, Assam.

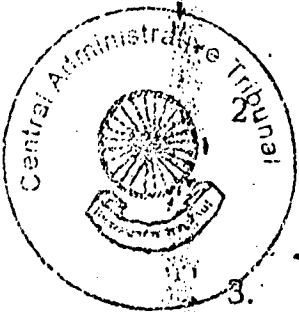
.....Respondents

By Advocate Mrs R.S. Choudhury.

.....

CERTIFIED TO BE TRUE COPY

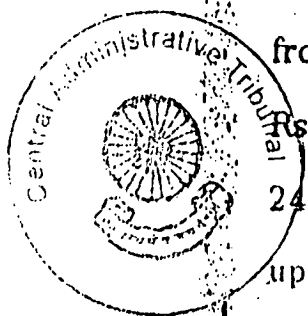
*[Signature]*  
ADVOCATE



ORDER

K.V. SACHIDANANDAN (V.C.)

The applicant who is a graduate belongs to the ST community of Assam (Annexure-I). In response to a notification the applicant applied for the post of Field Worker (Senior) in the pay scale of Rs.260-430. At that time the qualification required was H.S.L.C. Examination passed. A call letter was issued to the applicant. The applicant was selected and appointed as Field Worker (Juniro) instead of Field Worker (Senior) since the applicant had no experience. Thereafter the applicant discharged his duties with full satisfaction. On 22.03.2000 respondent No.2 granted financial upgradation under the Assured Career Progression (ACP for short) Scheme with effect from 09.08.1999 and accordingly the applicant's basic pay became Rs.2610-60-3150-65-3540. The applicant submitted an application on 24.02.2000 praying to consider his promotion to the next higher upgradation i.e. to the post of Field Worker (Senior) in the pay scale of Rs.3200-85-4900 per month. Thereafter on 18.06.2003 vide Annexure-V order the applicant was promoted as Laboratory Attendant with effect from 12.06.2003 in the pay scale of Rs.2610-60-2910-65-3300-70-4000. The applicant submitted a representation contending that the applicant was serving as a Field Worker (Junior) since last sixteen years and the applicant's next promotion was to the post of Field Worker (Senior), which was equivalent to the post of Laboratory Assistant. Those who had joined as Field Worker (Senior) had been promoted as Laboratory Technician and the applicant accepted the post of Laboratory Attendant under protest and requested to reconsider the applicant's promotion to the post of Field



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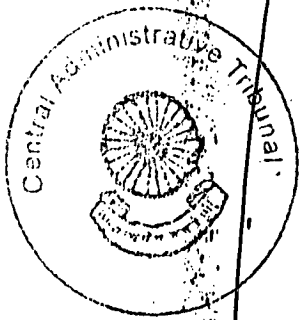
Worker (Senior). The applicant submitted a representation on 30.07.2003 contending that the post of Field Worker (Senior) has been re-designated as Laboratory Assistant but the post of Field Worker (Junior) has not been re-designated and the post and scale of Laboratory Attendant is equivalent to the post of Field Worker (Junior). The pay scale of Laboratory Attendant is not enhanced pay scale to that of Field Worker (Junior) and the pay scale that the applicant has already received in the month of August 1999. Instead of promoting the applicant as Field Worker (Senior) the applicant has been given the scale of Laboratory Attendant. Aggrieved by the said inaction the applicant has filed the present Original Application seeking the following reliefs:

"A. Setting aside of the order No.RMRC/Dib/Adm-28 (DPC)/2003-04/961 dated 18<sup>th</sup> June, 2003, passed by the Administrative Officer for the Director, Regional Medical Research Centre N.E. Region (ICMR) Dibrugarh, Assam.

B. Setting aside the orders (Date and No. not known) of promotions whereby the respondents No.4 and 5 were promoted from the posts of Laboratory Attendants to the posts of Laboratory Assistants.

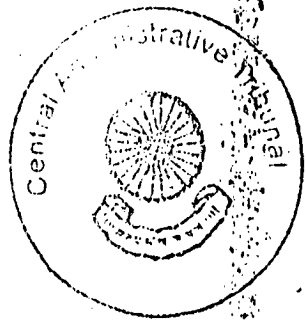
C. Directing the respondent No.2 to pass order promoting the applicant to the post of Field Worker (Senior) which is re-designated as Laboratory Assistant with effect from 12.6.2003."

2. The respondents have filed a detailed written statement contending that the claim is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. The applicant agreed to the terms and conditions and has given his consent as per clause 10 of the Conditions of grant of benefits under the ACP Scheme. Therefore, the applicant cannot have a second thought over the same. The applicant



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was considered for the recruitment to the post of Field Worker (Junior) and accordingly the applicant joined the post. The applicant was given financial upgradation under the ACP Scheme raising his scale of pay from Rs.2550-3200 to Rs.2610-3540 with effect from 9.8.1999 as per the guidelines contained in DOPT letter dated 26.10.1999. The promotion to the higher post can only be considered as and when suitable vacancies arise and that too under the rules and provisions in force. As per the DPC recommendations the applicant was promoted to the post of Laboratory Attendant with effect from 12.6.2003 with a direction to the applicant either to accept the same or to make an objection over the said promotion. As per clause 10 of the ACP Scheme while accepting the benefit under the Scheme, an employee shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of subsequent vacancy and if he refuses to accept the higher post on regular basis he shall be subject to normal debarment for regular promotion. According to the respondents the applicant has given his unqualified acceptance of such promotion on occurrence of such vacancy. The posts of Field Worker (Junior) and Laboratory Attendant are not equivalent posts as contended nor is the post of Laboratory Assistant a reserved post. The right to be considered for promotion is not a fundamental right and as such the applicant cannot claim promotion as a matter of right. Therefore, the applicant is not entitled for the benefit.

3. The applicant has also filed a rejoinder reiterating his contentions in the original application.



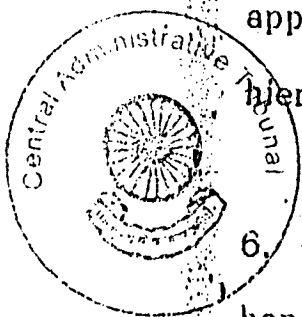
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4. We have heard Mrs K. Deka, learned counsel for the applicant- and Mrs R.S. Choudhury, learned counsel for the respondents. The learned counsel for the parties submitted that since the pleadings are complete and there is some urgency in the matter the matter may be heard even before admission before the Division Bench and the counsel for the parties have taken us to various pleadings, materials and evidence placed on record.

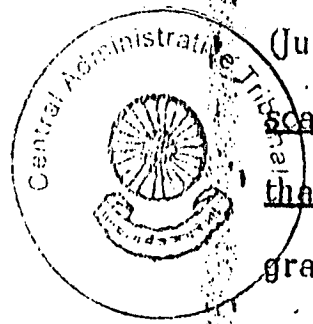
5. The learned counsel for the applicant argued that the applicant who is well qualified for the post of Field Worker (Senior) was not granted the same though the selection was held only for that post. Even thereafter when the ACP was granted, instead of upgrading the salary to the pay scale of Field Worker (Senior) the applicant was placed on a lesser pay scale, which is not in the hierarchy.

6. The learned counsel for the respondents, on the other hand, submitted that the applicant has joined as Field Worker (Junior) and worked for years which cannot be a dispute at this juncture. After the merger of the cadre the applicant was given financial upgradation under the ACP Scheme according to the hierarchal pay scale. The applicant was not denied any benefit and therefore cannot have a case.

7. We have given due consideration to the arguments, pleadings and evidence placed on record. The contention of the applicant that the applicant was called for the selection of Field Worker (Senior) is a thing of the past, which now cannot be agitated.



In the rejoinder the applicant has specifically pleaded that there is no post in between the posts of Field Worker (Junior) and Field Worker (Senior). Only in Dibrugarh RMRC, N.E. Region of Indian Council of Medical Research there is a post of Field Worker (Junior), but there is no such post designated as Field Worker (Junior) in other Regional Medical Research Centre of ICMR. Again the post of Field Worker (Senior) was redesignated as Laboratory Assistant but the post of Field Worker (Junior) is not redesignated till date. The applicant has made a representation on 9.9.2002 with a request to take necessary steps to redesignate the post of Field Worker (Junior) to Laboratory Assistant (Junior) considering the future prospect of the applicant but no reply has been received. It is also the case of the applicant that the post of Laboratory Attendant is equivalent to the post of Field Worker (Junior). The pay scale of Laboratory Attendant is not enhanced pay scale of Field Worker (Junior) and the applicant has already received that pay in the month of August 1999. Therefore, the pay scale granted in the post of Laboratory Attendant is of no consequential benefit to the applicant and the applicant's consistent case is that the applicant should be upgrade to the post of Field Worker (Senior), which is equivalent to the post of Laboratory Assistant. Those who have joined with the applicant as Field Worker (Senior) have been promoted as Laboratory Technician. Therefore, it will be of some use to find out the hierarchal position of the post held by the applicant. Annexure-IX dated 29.8.1985 is a Circular issued by the ICMR sanctioning creation of the new posts right from Deputy Director to Chowkidar. For better elucidation the relevant items (10, 11 and 12) are reproduced as under:



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Sl.No.	Designation	Pay scal	No.of posts
10.	Field Worker (Senior)	Rs.260-400	Two
11.	Field Worker (Junior)	Rs.196-268	One
12.	Laboratory Attendant	Rs.196-268	Four

8. From the said document it is clear that Field Worker (Junior) and Laboratory Attendant are in the same pay scale of Rs.196-268/- at that point of time. Therefore, O.M. dated 04.08.2004 (Annexure XIII) promoting the applicant from the post of Field Worker (Junior) to the post of Laboratory Attendant in the pay scale of Rs.2610-4000/- cannot be said to be an upgradation in the promotional post. The applicant, admittedly, joined service as Field Worker (Junior) and completed more than sixteen years of service. The ACP Scheme which was born on 09.08.1999 by the orders of the Ministry of Personnel, Public Grievances and Pensions had salient features of granting financial upgradation to Group 'B', 'C' and 'D' employees on completion of 12 and 24 years of regular service. For better elucidation clause 3 of the ACP Scheme and clauses 4, 5, 6.1 and also 10 of the conditions for grant of benefits under the ACP Scheme, which are relevant, are reproduced as under:

**"3. GROUP 'B', 'C' AND 'D' SERVICES/POSTS AND ISOLATED POSTS IN GROUP 'A', 'B', 'C' AND 'D' CATEGORIES.**

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to

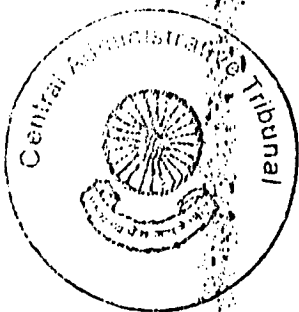
Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)) under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 years (subject to condition no. 4 in Annexure - I) of regular service respectively. Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status) ad hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure - I.

3.2 Regular Service for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment Service Rule.

4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first financial upgradation gets postponed on accounts of the employee not found fit or due to departmental proceedings, etc. this would have consequential effect on the second upgradation which would also get deferred accordingly.

5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall be accrue to him;

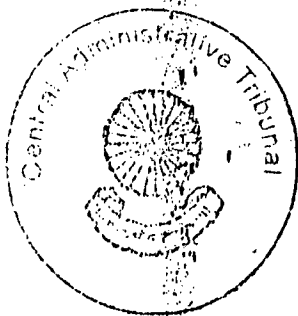
6. Fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purpose and restriction of the





ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc.) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputations to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme;

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee, while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he completes the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example, if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade, i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade;"



9. The Scheme is introduced to mitigate hardship in case of acute stagnation either in a cadre or in an isolated post and decided to grant two financial upgradations on completion of 12 years and 24 years of regular service. Reading from clause 5.1 of the Scheme, admittedly, the applicant was not subjected to any regular promotion during the prescribed period of 12 and 24 years. Therefore, this is a beneficial scheme to the employee. It goes without saying that any technicalities or interpretation of the scheme in denying the eligible

employees for the benefit cannot be accepted. The standard/common pay scale as per Part A annexed to the Ministry of Finance as Annexure-II to the ACP Scheme is as follows:

S.No.		Revised pay scales (Rs)
1	S-1	2550-55-2660-60-3200
2	S-2	2610-60-3150-65-3540
3	S-3	2650-65-3300-70-4000
4	S-4	2750-70-3800-75-4400
5	S-5	3050-75-3950-80-4590

10. Now, it will be interesting to note what are the pay scales that the applicant was drawing and the pay scales of Field Worker (Senior) and Laboratory Assistant:

Laboratory Attendant carries the scale of Rs.2610-60-2910-65-3300-70-4000/-

Field Worker (Junior) carries the scale of Rs.2550-55-2660-60-3200/-

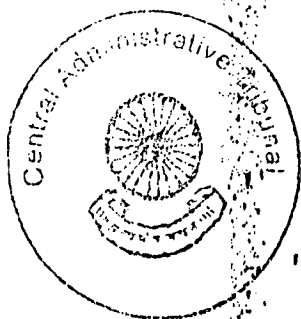
Field Worker (Senior) carries the scale of Rs.3200-85-4900/-

Laboratory Assistant carries the scale of Rs.3200-85-4900/-

11. Admittedly, at the time of the upgradation under the ACP Scheme the applicant was drawing the pay scale of Laboratory Attendant. According to the applicant the next post of promotion was Field Worker (Senior), which was equivalent to the post of Laboratory Assistant. The applicant's line of job was directly related to the job of Field Worker (Senior) and Laboratory Assistant. The job is not related

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to the Laboratory Attendant and pay scale of Field Worker (Junior) and that of Laboratory Attendant is almost the same. The post of Field Worker (Senior) and Laboratory Assistant were merged and redesignated as one, whereas Field Worker (Junior) was not redesignated. Vide Annexure-XIII order dated 4.8.2004 it is evident that a financial upgradation is sought to be granted to the applicant to the pay scale of Rs.2610-4000/- with effect from 12.6.2003 i.e. Rs.3215.00 plus Rs.20.00 as PP (Total Rs.3235.00) which was almost the same that the applicant was drawing at the time of this order as Field Worker (Junior). Therefore, it cannot be said that any upgradation has been granted to the applicant as per the scheme. Admittedly, the Field Worker (Junior) post is analogous and not designated till date and the hierarchical position of the next promotion of the applicant is Field Worker (Senior). We are of the view that the alleged upgradation to the post of Laboratory Attendant is not justified and not in the spirit and interpretation of the ACP Scheme. Though the respondents have contended that as per clause 10 of the ACP Scheme if an employee accepts a post he cannot challenge the same later on cannot be made applicable in this case for the reason that by merger and redesignation of the promotional post which has been compartmentalized stood prejudiced to the applicant and this also has to be taken note of. From the records it is clear that the applicant has objected and given in writing that he cannot accept the upgradation which is very meager in its output. After serving for sixteen years in a stagnated post an employee who is aspiring for the next hierarchical post of Field Worker (Senior) has been down played to give a pittance of putting in the higher scale, which he was almost drawing at the time of alleged upgradation.



12. In the 'conspectus of facts and circumstances we are of the considered view that the upgradation made to the applicant to the post of Laboratory Attendant is not justified and the applicant will be entitled to the pay scale of Field Worker (Senior) on ACP if the applicant is otherwise eligible.

13. The respondents are directed to consider the same and grant the benefit to the applicant at the earliest. In the meantime the status quo as of now will continue. However, considering the entire aspects it is made clear that the applicant will be entitled to the benefit notionally till the date of issuance of the order. This shall be carried out within four months from the date of receipt of this order by convening a DPC if required.



The original application is allowed. In the circumstances there will be no order as to costs.

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (A)

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सुभाष चव्हाण

(Secretary to the Tribunal)

Central Administrative Tribunal

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