

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No.../53/2006

R.A/C.P No.....

E.P/T.M.A No. 90108C01 (58106)

1. Orders Sheet..... O.A Pg. 1..... to 12.....
M.P. 90108 and Pg. 1..... to 2.....
2. Judgment/Order dtd 02.12.2009 Pg. 1..... to 5.....
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 153/2006 Pg. 1..... to 45.....
5. E.P/M.P. 90108 Pg. 1..... to 4.....
6. R.A/C.P..... Pg. to
7. W.S. R.MD 1, 2 & 7 Pg. 1..... to 9.....
W.S.R.MD 1, 2 & 7 Pg. 1..... to 4.....
8. Rejoinder..... Pg. 1..... to 6.....
Rejoinder against W.S.R.MD 3 - Pg. 1..... to 5.....
Rejoinder against W.S.R.MD 4 Pg. 1..... to 5.....
9. Reply..... Pg. 1..... to
10. Any other Papers..... Pg. to
11. Memo of Appearance.....
12. Additional Affidavit..... Pg. 1 to 2.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....
W.S for Respondents page 1 to 10

SECTION OFFICER (Judl.)

Shah
24.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No.
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

153/06

Applicant(s) Ravindra Nath Mathur, IPS

Respondent(s) U.O.P. Tony

Advocate for the Applicant(s) Mr. S. Sarma.....
Ms. B. Devi.....

Advocate for the Respondent(s) Case: M. U. Ahmed, Addl. C.G.S.C

App. Y.K. Phukan, Sr. G.A. Assam
PPS. M. Das, G.A. Assam
PP. R. Gogoi, G.A. Meghalaya

Order of the Tribunal

Notes of the Registry Date

21.6.2006 Present: The Hon'ble Shri K.V. Sachidanandar
Vice-Chairman.

1. Application is in form
is filed/C. F. for Rs. 30/-

2. posted vide I.P.C/90
No. 269/224/217

Dated.....15-6-06.....

Gheetu
Dy. Registrar

Pari

*NS
20.6.06*

Steps not taken and

Re. 15/- or money receipt
against the Respondent Nos.
6, 7 and 8 yet to be
submitted by the applicant.

*DJ
20/6/06*

N.B - copy not yet served
on respondents.

*NS
20.6.06*

Removal -

*NS
20/6/06*

127

Copy not yet served on
Govt. of Assam and State of
Meghalaya.

*NS
20.6.06*

The grievance of the applicant is
that vide Annexure-1 order he was
promoted and posted as Director General
of Police, Vigilance and Anti-
Corruption, Assam but subsequently
demoted from the said post and vide
notification dated 14.3.2005 one of his
juniors W. R. Marbaniang has already
been promoted superceding him, who is
now holding the post of DGP, Meghalaya.
Hence, this O.A. praying for
retrospective promotion of the applicant
w.e.f. 2.4.2004 with all consequential
service benefits.

Mr. S. Sarma, learned counsel for
the applicant, submits that similar
issue has been raised in O.A. No. 215 of
2005, which has already been fixed for
hearing before the next Division Bench.
Mr. M. U. Ahmed, learned Addl. C.G.S.C
represented the respondents.

Contd. P/2

Contd.

21.6.2006

Considering the issue involved in this case the O.A. is admitted. Issue notice to all the respondents including the private respondent. Applicant will take steps for ~~present~~ respondent Nos. 5 to 8. Six weeks time is granted to the respondents to file reply statement.

Post on 7.8.2006.

Vice-Chairman

26/6/06
 Notices
served
R. 3, 5, 6.
7/7/06

Notice & order sent
to D/section for
issuing to resp.
nos - 1, 2, 4, 7 & 8 by
regd. A/D post and

mb

another resp. nos
3, 5 and 6 received
by hand.

lm

D/No-714 to 718

18/7/06 DT = 17/7/06.

Notice duly served
on resp. nos 2, 3, 5, 6.

24/7/06.

24.8.06

no W/S filed

1m

~~He~~ only him been
bkd. by Reps. R. 7.

14.9.06

25 26.10.06 ① DPPAW by R. 1, 2 & 7.

② NO W/S filed so far by the other Reps.

bb

07.08.2006.

Learned counsel for the respondents submitted that they would like to have time to file reply statement. Let it be done.

Post on 08.09.2006.

Member

Vice-Chairman

Post t/matter on 21.11.06 for
filling of written statement.

Vice-Chairman

215/7/06

① Writs filed by R.No. 1, 2 & 7.

② No Writs by the other Respondents.

20
20.11.06.

21.11.2006

Respondents 1, 2 & 7 have filed reply statements. States of Assam and Meghalaya are at liberty to file reply statements.

Post the matter on 11.12.2006. In the meantime applicant may file rejoinder.

bb

11.12.06.

Counsel for the Respondents is directed to furnish the copy of the Annexures to the Written statement. Counsel for the applicant wants to file rejoinder. Let it be done. Post the matter on 10.1.07.

Vice-Chairman

No Rejoinder has been filed.

20
8.12.06.

8. 1. 07

Rejoinder submitted by the Applicant.

lm

10.1.07.

Vice-Chairman

Respondents No. 3 & 6 have filed the Written statement. Registry is directed to keep it on record. However, rejoinder may be filed by the applicant. Post the matter on 5.2.07.

① Writs filed by R.No-1,2 & 7.

② Rejoinder has been filed.

20
9.01.07.

12.1.07

5.2.2007

Writs filed in the Respondt. Nos. 3 & 6 with annexing from page No. 1 to 6, (contd. v. 2nd) 20

The case is ready for hearing.

20
22.2.07.

Mr. M.U.Ahmed, learned Addl. C.G.S.C. submits that Respondent No.1 is separately filing reply statement. Let it brought on record, it is otherwise in order. State of Assam has already filed their reply statement.

Post on 22.02.2007. In the meantime, the other Respondents shall file its reply statement.

Vice-Chairman

22.02.2007

Some of the Respondents have filed reply statement. Others wanted time to file their reply statements. Three weeks time is granted to file the same.

Post on 19.03.2007. In the meantime Applicant is at liberty to file rejoinder.

5.2.07

W/s has been filed by the Respondents at pages 65 — 74

NS
5.2.07

W/s has been filed

/bb/

26.2.07 Post on 19.3.07.

W/s has been filed.

16.3.07

21.3.07 Post on 5.4.2007. Respondent filed by the Applicant.

29.3.07

An affidavit in opposition filed by Respondents.

29.3.07

W/s and rejoinder has been filed.

3.5.07

W/s and rejoinder has been filed.

29.5.07

Vice-Chairman

Respondent No. 4 has submitted that he is going to file written statement. Let it be done. Counsel for the applicant will file rejoinder. Let the case be listed on 5.4.07.

Member

Vice-Chairman

Post on 4.5.2007. By that time parties are directed to complete pleadings, if any.

Vice-Chairman

bb.
4.5.07.

Counsel for the applicant wanted to file rejoinder/reply joinder of the State of Meghalaya. Let it be done. Counsel for the other Respondents wanted time to get instructions. Post the matter on 31.5.07.

Vice-Chairman

O.P. 153/06

31.5.07. At the request of learned counsel for the applicant further two weeks time is granted to file rejoinder. Post the matter on 15.6.07.

Vice-Chairman

Wts and rejoinder
has been filed.

1m

23
14.6.07.

15.6.07.

Counsel for the applicant wanted time to file written statement. Post the matter on 16.7.07.

Vice-Chairman

Wts filed by R.No.

1m

1, 2 & 7, other respondents
not filed.

17.7.2007

Post the case on 16.8.2007 for completion of pleadings.

23
13.07.

Vice-Chairman

Wts and Rejoinder
filed by the parties.

/bb/

23
30.7.07.

31.7.2007

Let the case be posted before the next Division Bench for hearing. In the meantime Respondents are directed to take instruction on the rejoinder filed by the Applicant. By that time Applicant is also at liberty to file rejoinder to the reply statement filed by the Respondent No.4.

20.8.07
Rejoinder submitted
to the Applicant.
Copy served.

23

/bb/

Vice-Chairman

O.A.153/2006

11.01.2008

Call this matter on 07.02.2008 for hearing along with O.A.23/2007.

Dt. 11.1.08.

PL. Send copies of the order to the Applicant and to Mr. S. Sarma & Mrs. B. Devi - Advocates for the applicant.

11.01.08

order dt. 11/01/08
issuing to applicant
and learned counsels
for applicant.

16/01/08 D/No-187,188
D.T = 16/1/08.

Learned counsels appearing for the parties to be informed accordingly. Dr.Y.K.Phukan, Mr.R.Goswami and Mr.M.U.Ahmed, Advocates are informed in Court about the next date of hearing of this case.

Send copies of this order to the Applicant in the address given in the O.A. and to Mr.S.Sarma and Mrs.B.Devi, Advocates for the Applicant.


(Khushiram)
Member (A)

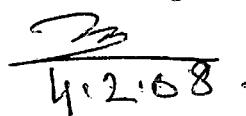

(M.R.Mohanty)
Vice-Chairman

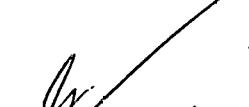
/bb/

The case is ready
for hearing.

05.02.2008

Call this matter on 11.3.2008.


4.2.08


(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

LM

11.03.2008

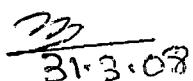
Call this matter on 01.04.2008.

The case is ready
for hearing.


10.3.08. LM


(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

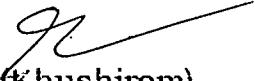

31.3.08

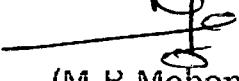
O.A.153 of 06

01.04.2008

On the prayer of Mr.H.K.Das, ^{Conracle} On behalf of Mr.S.Sarma, learned counsel appearing for the Applicant, ^{the} case is adjourned to 06.05.2008.

Call this matter on 6th May 2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

km

06.05.2008

Call this matter on 21.05.2008.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

21.05.2008

Call this matter on 11.06.2008.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nk

11.06.2008

None appears for the Applicant nor the Applicant is present. However, Mr.M.U.Ahmed, learned Addl.Standing Counsel representing the interest of Government of India; Dr. Y. K. Phukan, learned Sr. Advocate (assisted by Mrs.M.Das) representing the interest of State of Assam; Mr. R. Goswami, representing the interest of Government of Meghalaya are present.

It is informed by Mrs. M. Das that the Applicant has already ^{been} promoted to the rank of Director General of Police.

This case, in the aforesaid premises, is dismissed for default of the Applicant/non prosecution.

Send copies of this order to the Applicant and to all the Respondents in the address given in O.A.

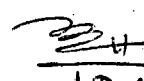

(Khushiram)


(M.R. Mohanty)

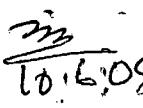
*The case is ready
for hearing*


05.05.08

*The case is ready
for hearing*


19.5.08

*The case is ready
for hearing*


10.6.08

17/6/08

*Copy of the
order Dated 11.6.08
Send to the Office
for issuing to
give to the parties
along with the A.D./D.M.
for the parties*

*18.6.08 Under is
Whole D.N.O.
2860 to 2873
on 18.6.08*

30.07.2008

On the prayer of Mr H.K. Das, learned

Counsel representing the learned Advocate

for the Applicant, this matter is adjourned

to be taken up on 22.08.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

*The case is ready
for hearing.*


21.08.08

22.08.08 Mr M. Bhuyan, Advocate entered appearance on behalf of the Applicant by filing a fresh Vakalatnama. It is stated that he has entered appearance in this case with consent of the previous counsel. Mr M.U.Ahmed, learned Addl. Standing counsel for Union of India and Mrs M. Das, learned coun- representing State of Assam are present. On the prayer of Mr M. Bhuyan (made in presence of the counsel appearing for the Respondent) hearing of this case stands adjourned to 04.09.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

*The case is ready
for hearing.*


3.09.2008

04.09.2008 Mrs. M. Das, learned counsel appearing for the State of Assam seeks an adjournment of hearing of this case. Mr. M.U.Ahmed, learned Addl. Standing Counsel appearing for the Union of India is on accommodation. However, Mr. M. Bhuyan, learned counsel appearing for the Applicant is present. In the aforesaid premises, hearing of this case is adjourned to be taken up on 30.10.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

30. 10.08

Ms. A. Verma, Advocates, appearing on behalf of Mr. M. Bhuyan, learned counsel for the Applicant seeks an adjournment of the hearing of this case. Mr. M.U.Ahmed, learned Addl. Standing Counsel appearing for the Union of India is absent. However, the counsels for the State of Assam and State of Meghalaya are present and they have no objection for hearing of this case.

Call this matter on 4th November 2008.

lm


(S.N. Shukla)
Member(A)

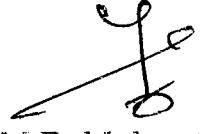

(M.R. Mohanty)
Vice-Chairman

04.11.2008 None appears for either of the parties.

Call this matter on 11.12.2008 for hearing.

nkm

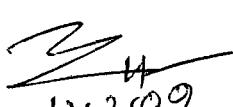

(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

11.12.2008 None appears for the Applicant. Mr. M.U.Ahmed, learned Addl. Standing counsel for the Union of India is on accommodation. None appears for the State of Meghalaya. However, Mrs. M. Das, learned Govt. Advocate for the State of Assam is present.

This, being a Divisional Bench matter and the Division Bench not being available today, call this matter on 20.01.2009.

The case is ready
for hearing.


12.2.09

(S.N. Shukla)
Member(A)

/bb/

20.1.09 Bench is not available
List on 13.2.09


C.O.

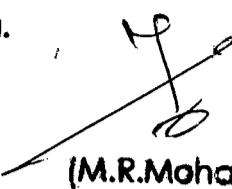
O.A. No. 153-06

The case is ready
for hearing.

29/10/09.

05.10.2009

Call this Division Bench matter on
30.10.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

/bb/

The case is ready
for hearing.

6/11/09

30.10.2009

Mr B. Choudhury, learned proxy
counsel states that Mr M. Bhuyan,
learned counsel for the applicant has
got some personal difficulty and prays
for adjournment.

List on 9.11.2009.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

The case is ready
for hearing.

13/11/09

09.11.2009

Due to general strike call by ULFA, non
appears for parties.

Adjourned to 16.11.2009


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkm

16.11.2009

Heard both sides in Part. For further
argument list on 24.11.2009.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/pb/

13.02.2009

Call this matter on 03.04.2009 for
hearing.

The case is ready
for hearing.


(M.R. Mohanty)
Vice-Chairman

13.02.2009
pg

3
2.4.09.

03.04.2009

Call this matter on 26.05.2009 for
hearing.

The case is ready
for hearing.


(M.R. Mohanty)
Vice-Chairman

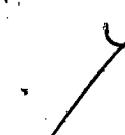
3
25.5.09.

pg

26.05.2009

On the prayer of the counsel
for both the parties call this matter on
17.06.2009 for hearing.

The case is ready
for hearing.


(N.D. Dayal)
Member(A)

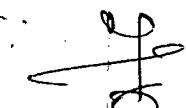
3
10.8.09.

pg

17.06.2009

Call this matter on 11.08.2009 for hearing.

The case is ready
for hearing.


(M.R. Mohanty)
Vice-Chairman

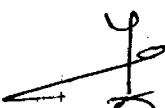
3
11.10.09.

/bb/

11.08.2009

On the prayer of learned counsel
for the Applicant, call this matter on
05.10.2009 for hearing.
(M.K. Chaturvedi)
Member (A)

/bb/


(M.R. Mohanty)
Vice-Chairman

12
12
O.A.153 of 2006

24.11.2009

Mr.M.Bhuyan, learned counsel for
Applicant seeks further time to produce
judgment which clinches the issue raised in
the present O.A.

The case is ready
for hearing.

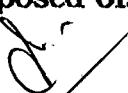
33
1.12.09

List on 02.12.2009.

 (Madan Kumar Chaturvedi) Member (A)
 (Mukesh Kumar Gupta) Member (J)

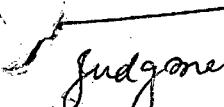
/bb/

02.12.2009 Judgment pronounced in open
Court. Kept in separate sheets. Application
is disposed of. No costs.

 (Madan Kr. Chaturvedi) Member (A)
 (Mukesh Kumar Gupta) Member (J)

/lm/

18-12-09.

 Judgment / Final order
dated 2/12/09, send to the
S/Section or issuing the
all the respondents by Post.
Vide No. 12951 to 12958
Dated — 21-12-2009.

17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:**

O.A. No. 153 of 2006

Date of Decision : 02.12.2009

Mr.R.N.Mathur **Applicant/s**

Mr. M.Bhuyan **Advocates for the
Applicant/s**

- Versus -

U.O.I. & Ors. **Respondent/s**

Mr. M. U. Ahmed, Addl. C.G.S.C.
Mrs. M. Das, G.A., Assam. **Advocate for the
Respondents**

CORAM :

HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER(J)
HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed
to see the Judgment ?

Yes/No

2. Whether to be referred to the Reporter or not ?

Yes/No

3. Whether their Lordships wish to see the fair copy
of the Judgment ?

Yes/No

Judgment delivered by



MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No. 153 of 2006
Date of Order: This the 2nd Day of December 2009.

HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER
HON'BLE MR. MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Sri Ravindra Nath Mathur, IPS
Director General of Civil Defence
and Commandant General of Home Guards, Assam,
Beltola, Guwahati-28. Applicant

By Advocate Mr. M. Bhuyan

-Versus-

1. Union of India,
Represented by the Secretary to the
Govt of India,
Ministry of Home Affairs, New Delhi.
2. Union of India,
Ministry of Personnel and Training,
North Block, New Delhi
3. The State of Assam
Represented by the Chief Secretary,
Govt. of Assam, Dispur, Ghy-6
4. State of Meghalaya,
Represented by the Chief Secretary,
Govt. of Meghalaya, Shillong, Meghalaya.
5. The Joint Cadre Authority,
C/O Chief Secretary, Govt. of Assam,
Dispur, Guwahati - 6.
6. The Commissioner and Secretary
to the Govt. of Assam,
Home and Political Deptt.
Dispur, Ghy-6
7. The Accountant General, Assam
Maidangaon, Beltola, Ghy-22.
8. W.R. Marbaniang, DGP, Meghalaya,
Shillong Respondents.

By Advocate: Mr. M.U. Ahmed, Addl.C.G.S.C.
Mrs. M. Das, G. A. Assam.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER(J):

Shri Ravindra Nath Mathur, IPS, 1973 batch, in this application, challenges Notifications dated 04.10.2005 & 05.01.2006, seeks declaration to treat him as DGP with effect from 02.04.2004 with all consequential benefits. He also prays for a direction to release his arrear of pay & allowances in the rank of DGP w.e.f. 02.04.2004 to 06.01.2006 along with interest @ 21% per annum.

2. Admitted facts are that, vide order dated 02.04.2004 he had been "promoted" to the rank of Director General and Inspector General of Police in the pay scale of Rs.24,050-650-26,000/- and posted as Director General of Police, Vigilance & Anti-Corruption, Assam with effect from the date of taking over charge. Said promotion had been objected to by the Office of the Accountant General (A & E) Assam on 29th April 2004 stating that: "there is no vacant post" and therefore he was not entitled to said promotion. However, he continued to occupy said promotional post as the State Government of Assam had taken up the matter with Central Government to create an ex-cadre post to adjust him. In the meantime, Shri W.R.Marbaniang (Respondent No.8), junior to him, had also been promoted as DGP, Meghalaya on 14.03.2005 (Annexure-6). Ultimately, the Central Government regretted to concur with the proposal of the State Government of Meghalaya to create ex-cadre post to adjust Applicant as well as Respondent No. 6. Rather,

the Central Government directed to revert the Officer promoted in Meghalaya cadre. Grievance of the Applicant is that as he had been promoted vide order dated 02.04.2004 and continue to occupy said promotional post up to 04.10.2005, when he was reverted to the rank of ADGP, therefore he was entitled to pay and allowances attached to the post of Director General of Police, i.e. the pay scale of Rs.24,050-650-26,000/-. Learned counsel for the applicant placed reliance on Hon'ble Supreme Court judgment as reported vide (1998)4 SCC 291, Selvaraj vs. Lt. Governor of Island, Portblair, wherein it was held as follows:-

"It is also not in dispute that the salary attached to the post of Secretary (Scouts) was in the pay scale of 1640-2900. Consequently, on the principle of quantum meruit the respondents authorities should have paid the appellant as per the emolument available in the aforesaid higher pay scale during the time he actually worked on the said post of Secretary (Scouts) though in an officiating capacity and not as a regular promotee. This limited relief is required to be given to the appellant only on this ground."

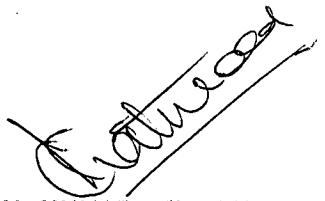
(emphasized supplied)

3. The Respondents have filed their reply and contested the claim stating that there were two posts, one cadre post and the other ex-cadre post and both posts were occupied by Sri P.V.Sumant and Shri B.N.Dutta respectively on the date Applicant was promoted as Director General of Police. Thus in absence of a vacant post, the Respondents could not sanctioned the scale of pay attached to said

post. Government of India vide letter dated 18.08.2004 had requested the Govt. of Assam to rescind the (Applicant's) posting immediately.

4. We have heard learned counsel for both the parties, perused the pleadings and judgment cited above. At the out set we may note that Hon'ble Supreme Court in Selvaraj Vs. Lt. Governor of Island, Portblair & others (Supra) did not approve the order passed by this Tribunal rejecting his claim for salary attached to the post of Secretary (Scouts). Accordingly, directions were issued to the Respondents to grant pay of the post, based on the principle of quantum meruit. The respondents were specifically directed to grant him the pay scale during the time he actually worked though on officiating capacity and not as a regular promotee. In the facts of the present case we may note that the Applicant was "promoted" and had not discharged his duties in "officiating" capacity, as noted in the reply filed by the Respondents. Following dictum laid in case of Selvaraj Vs. Lt. Governor of Island, Portblair the present O.A. is allowed to that extent. Respondents are called upon to grant pay scale of Rs. 24,050-650-26,000/-during the period he worked as DGP i.e. with effect from 2.4.2004 to 4.10.2005. It is made clear that the payment made during the aforesaid period will not be construed as "promotion" to the post of Director General of Police. Said exercise shall carried out within a month from the date of receipt of the copy of this order.

5. Accordingly, application is disposed of. There will be no order as to costs.



(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER



(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

LM

20 JUN 2006

Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 153 of 2006

R.N.Mathur

..... Applicant.

AND

Union of India & ors

..... Respondents.

SYNOPSIS

The applicant in the instant OA is aggrieved by the action of the respondents in not treating him to be the holder of the rank of DGP w.e.f. 1.4.2004 along with the action on the part of the respondents in not releasing his due salary in the said rank w.e.f. 1.4.2004 to 6.1.06. The representations made to the concern authority failed to yield any result in positive except assurances. Having failed to get the grievances redressed, the applicant as a last resort has come under the protective hands of the Hon'ble Tribunal.

R.N.Mathur

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 153 of 2006.

Between

R.N.Mathur Applicant.

AND

Union of India & ors Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 19
2.	Verification	20
3.	Annexure-1	21
4.	Annexure-2	22
5.	Annexure-3	23
6.	Annexure-4	24-25
7.	Annexure-5	26
8.	Annexure-6	27-28
9.	Annexure-7	29-33
10.	Annexure-8	34
11.	Annexure-9	35-36
12.	Annexure-10	37
13.	Annexure-11	38-39
14.	Annexure-12	40
15.	Annexure-13	41-42
16.	Annexure-14	43
17.	Annexure-15	44
17.	Annexure-16	45

Filed by : *Sri*

Regn.No.:

File : d:\private\RNMATHUR

Date : 19.6.06

R.N.Mathur

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 153. of 2006.

BETWEEN

Sri Ravindra Nath Mathur, IPS
Director General Of Civil Defence
and Commandant General of Home Guards, Assam
Beltola, Guwahati-28.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. Union of India,
Ministry of Personnel, Public Grievances and Pension,
Department of Personnel and Training, North Block,
New Delhi.
3. The State of Assam,
Represented by the Chief Secretary, Govt. of Assam,
Dispur, Ghy-6.
4. State of Meghalaya,
Represented by the Chief Secretary, Govt. of Meghalaya,
Shillong, Meghalaya
5. The Joint Cadre Authority,
C/O Chief Secretary, Govt. of Assam,
Dispur, Ghy-6
6. The Commissioner and Secretary to the Govt. of Assam
Home and political Deptt.
Dispur, Ghy-6
7. The Accountant General, Assam
Maidangaon, Beltola, Ghy - 22.
8. W.R Marbaniang,
DGP, Meghalaya, Shillong

..... Respondents.

*Filed by -
The Applicant
22
through
Bomdona Devi
Advocate.*

19.6.06

R.N.Mathur

PARTICULARS OF THE APPLICATION

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

This application is directed against the inaction on the part of the respondents in not promoting the applicant to the rank of Director General of Police applying the principle of "Next Below Rule" and invoking the provision of Indian Police Service (Pay) Rules, 1954 with retrospective effect i.e the date on which his immediate junior in Meghalaya wing of the Assam Meghalaya Joint cadre has been so promoted. This application is also directed against the action on the part of respondents in not releasing the pay of the applicant in the rank of Director General of Police w.e.f 1/4/04 to 6/1/06.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1995.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

R.Mallick

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

4.2. That the applicant belongs to the 1973 batch of direct recruit I.P.S, having his year of allotment as 1973. He was assigned the posting under Assam wing of the Assam-Meghalaya Joint Cadre. The applicant by dint of his sincere and dedicated service riding on the ladder of promotion, got the above Super Time Scale Grade and at present he is holding the post of Director General of Civil Defence, and Commandant General, Home Guards, Assam.

4.3. That the Joint Secretary to the Govt. of Assam, Home Deptt. issued a notification dtd. 2/4/84 promoting the applicant from the post of Addl. Director of Police (CID) Assam, to the rank of Director General and Inspector General of Police. Pursuant to the said notification he was given the posting as Director General of Police, Vigilance and Anti - Corruption, Assam.

A copy of the notification dtd
2.4.84 is annexed herewith and
marked as Annexure-1.

4.4. That the applicant pursuant to the aforesaid notification dtd 2/4/84 took over the charge of DGP, Vigilance and Anti - Corruption and he applied for issuance of pay slip as per the requirement before the Accountant General (AG) of Assam. The Accountant General however

acting beyond his jurisdiction refused to issue the pay slip to the applicant without assigning any reason. The Accountant General to that effect issued a communication dtd. 29/4/84 to the Secretary to the Govt. of Assam, Home Deptt. indicating the fact that the promotion of the applicant was made without there being any vacant post and in the said communication the Accountant General made a request to the Secretary Home to issue necessary notification creating an ex-cadre post.

A copy of the said communication dated 29.4.84 is annexed herewith and marked as Annexure-2.

4.5. That the applicant begs to state that the AG, Assam taking into consideration the Annexure-1 notification dtd. 2/4/84 ought to have issued the pay-slip to the applicant but instead of issuing such pay-slip he kept on writing to the Govt. of Assam for creation of an ex-cadre post. In this connection AG, Assam again wrote to the Secretary, Govt. of Assam, Home Deptt. vide his communication dtd. 9/6/84 for creation of an ex-cadre post in the rank of DGP, Assam.

A copy of the communication dtd 9/6/84 is annexed herewith and marked as Annexure-3.

4.6. That in respect to the aforesaid Annexure-2 communications dtd. 29/4/84, the Govt. of Assam, Home Deptt. issued a Communication to the AG dtd. 7/6/84 and conveyed the sanction of the Govt. of Assam towards retention of the ex-cadre post in the rank of DGP. The said communication is

also indicative of the fact that the ex-cadre post in question was created vide notification dtd. 30/12/02 and its retention was confirmed for another one year w.e.f 1/3/04 to 28/2/05. It is pertinent to mention here that in the said order the concerned authority also mentioned regarding the fund as well as the concurrence of Finance Department.

A copy of the said communication dated 7.6.04 is annexed herewith and marked as Annexure - 4..

4.7 That the Commissioner & Secretary to the Govt. of Assam Home (A) Deptt. issued a communication dated 14.7.04 to the Govt of India, indicating the fact of need of continuance of the service of the applicant as DGP. In the said communication the authority concerned while indicating the fact that the applicant being the senior most in the rank of Addl Director General of Police also placed the request to continue the service of the applicant as DGP Vigilance and Anti Corruption. However, there was no communication from the concerned authority in this regard.

A copy of the said communication dated 14.7.04 is annexed herewith and marked as ANNEXURE - 5.

4.8. That it was during the midst of such eventuality, the Govt of Meghalaya,- a wing of the Assam Meghalaya Joint Cadre, issued an order of promotion to Sri W R Marbaniang, (Respondent No 8) a direct recruit of 1975 batch, junior to the applicant, from the post of ADG (L & O) Meghalaya to the post of DGP, Meghalaya, vide notification dated 14.3.05, ignoring the claim of the present applicant.

-6-

✓

A copy of the notification dated 14.3.05 is annexed herewith and marked as ANNEXURE-6.

4.9. That the applicant begs to state that the respondents in the year 2006 published the Civil List of IPS officers of 2006 indicating the seniority and other service particulars of the said IPS officers. It is apparent from the said Civil List that the applicant is one of the senior most officers in the Assam Meghalaya joint cadre of IPS at serial No 5 of the Civil List, showing his year of allotment as 1973. So far as respective seniority of the applicant vis a vis the Respondent no.8 is concerned, it is crystal clear that the applicant who is at serial No.5 in the said Civil List is far more senior than the said Respondent No.8, whose name appeared at serial No.13, of the said Civil List. It is pertinent to mention here that after retirement of Sri P.V Sumant and H.K Deka, the applicant is the senior most in the cadre, due for promotion to the rank of DGP of a State as all the officers above him have so far been promoted as DGPs and they are holding various posts in the State as well as Govt. of India.

An extract of the civil list of IPS 2006 is annexed herewith and marked as Annexure-7.

4.10. That the applicant preferred another representation dtd.29/3/2005 to the AG reiterating his prayer for issuance of pay slip in the rank of DGP, pointing out the fact of promotion of the respondent no.8 who belongs

to the Meghalaya wing of Assam-Meghalaya joint cadre, but same remains unattended as on date.

A copy of the said representation dtd. 29/3/2005 is annexed herewith and marked as Annexure-8.

4.11. That the applicant was surprised to receive a communication dated 4.10.05 issued by the Govt. of Assam, Home Deptt. regarding creation of an Ex-cadre post of Director Vigilance and Anti-Corruption in the rank of ADGP, with effect from 2/4/2004 to 28/2/2005 with a further indication of retention of said post upto 28/2/2006. This communication is indicative of the fact that the Govt. of Assam has accorded its Ex post facto approval with effect from 2/4/2004 to 28/2/2005, virtually demoting the applicant from the rank of DGP to ADGP with retrospective effect.

A copy of the said communication dtd 4/10/2005 is annexed herewith and marked as Annexure-9.

4.12. That the applicant begs to state that the Govt. of Assam vide communication dtd. 7/6/2004 conveyed its sanction of retention of the Ex-cadre post of DGP (vigilance and anti-corruption) w.e.f 1/3/2004 to 28/2/2005 indicating the budgetary provisions as well the concurrence of the Finance Deptt, towards such retention and as such the subsequent communication dtd. 4/10/2005 is self contradictory and same depicts total non application of mind by the respondents. Apart from that the impugned communication dtd. 4/10/2005 does not indicate anything regarding the earlier communication dtd. 7/6/2004 issued in this regard nor it has

been said to be issued in supersession of the earlier communication. Under any circumstances the impugned communication dtd. 4/10/2005 cannot take away the benefit as well as the right of consequential service with retrospective effect. Under the service jurisprudence such action of retrospective reversion and/or demotion has been held to be illegal and impermissible. Admittedly the applicant shouldered the responsibility of the post of DGP and as such he could not have been denied his legitimate claim of salary.

4.13. That the applicant immediately on receipt of the impugned communication dtd 4/10/2005 preferred a representation dtd 6/10/2005 ventilating his grievances. The applicant in his representation highlighted the fact of promotion of the respondent no.8 to the rank of DGP w.e.f 14/3/2005 and as such he prayed for the service benefit of the post of DGP applying the next below rule.

A copy of the said representation
dtd.6/10/2005 is annexed herewith
and marked as Annexure-10

4.14. That the action on the part of the respondents in not treating the applicant as DGP w.e.f 2/4/2004, that is from the date on which he was so promoted and for which the sanction was conveyed for retention of the ex-cadre post of DGP, vide notification dtd.7/6/2004 can not have the sanction of law. Apart from that having regard to the provision contained in the IPS Pay Rules, 1954 the applicant is entitled to be promoted to the rank of DGP with other

consequential service benefits prior to the date when his junior is so promoted. In the instant case, the respondent no.8 admittedly being junior to the applicant got his promotion to the rank of DGP w.e.f 14/3/2005 and as such the denial of such promotion as well as the consequential benefit of such promotion to the present applicant is a unique example of arbitrary action on the part of the respondents. In this regard the provision contained in the IPS Pay Rules, 1954 is reproduced below for ready reference:

"5. Regulation of Increments.

(1) Subject

(b) When a member of service, while holding a post outside the cadre including a post under the Central Govt., has been granted proforma promotion to a post in the scale of pay above the time-scale of pay specified in rule 3 by the Govt. of the State on the cadre of which he is borne the subsequent revision to the cadre and appointment to a post in said scale, count towards initial fixation of pay and increments, subject to the following conditions namely:-

(i) the member of the service concerned should have been approved by the State Govt. for appointment to the said scale during the relevant period;

(ii) all his senior(excluding those considered unfit) should have started drawing pay in the super time-scale on or before the date from which the proforma promotion is sought to be granted to him;

(iii) the junior next below the officer(or, if that officer has been passed over by reason of inefficiency unsuitability or because he is on leave or serving outside the ordinary line or forgoes promotion on his own volition to that grade, the officer next junior to him not so passed over) should also have started drawing pay in that scale from that date and his appointment there to not being fortuitous ; and

(iv) the benefit should be allowed on 'one for one' basis.

(c) *****

4.15. That the applicant in continuation of his earlier communication/ representation, submitted yet another representation dated 8.11.85, addressed to the Chief Secretary, Govt of Assam, ventilating his aforesaid grievances. It is pertinent to mention here that in the said representation the applicant also highlighted the filing of a similar application before the Hon'ble Tribunal by one Sri B.P.Rao, who is also a senior IPS, officer to the respondents No 8.

A copy of the said representation dated 8.11.05, is annexed herewith and marked as ANNEXURE - 11.

4.16. That the applicant in the midst of such communications, received the Notification dated 5/1/06, issued by the Commissioner and Secretary to the Govt of Assam, Home Dept. by which he has been promoted to the rank of DGP, with the posting as Director General Civil Defence and Commandant General Home Guards, Assam, against an existing vacancy. It is noteworthy to mention here that the Notification dated 5/1/06, itself is indicative of the fact that the applicant has been demoted from the post of DGP to ADGP earlier by the impugned notification dated 4.10.05. It will not be out of place to mention here that the applicant got the promotion to the rank of DGP vide Notification dated 2.4.04 and to that effect due sanction had already been accorded by the competent authority vide notification dated 7.6.04 and as such the respondents in the notification dated 5.1.06 should have transferred him to the present post instead of promoting him again to the rank of DGP, acting on the impugned Notification dated 4.10.05. The impugned Notification dated 4.10.05 as such is not at all maintainable from all angles and the respondents could not have issued the same, more so when the same has been issued without affording the applicant the reasonable opportunity of hearing. Law is well settled in this regard that any order detrimental to the service career/condition of an officer is required to be issued after affording the concerned officer a reasonable opportunity of hearing, otherwise such

action can safely be presumed to be arbitrary, violative of the principle of natural justice and punitive in nature.

A copy of the said Notification dated 5.1.06 is annexed herewith and marked as ANNEXURE - 12.

4.17. That the applicant begs to state that highlighting the aforesaid grievance he preferred a representation dated 10.01.06 to the Chief Secretary to the Govt of Assam but same yielded no result in affirmative. Situated thus, the applicant reiterating his stand again preferred a representation dated 3.3.06, to the Commissioner and secretary to the Govt. of Assam but same also yielded no result in affirmative.

copies of the representations dated 10.1.06 and 3.3.06 are annexed herewith and marked as ANNEXURE - 13 AND 14 .

4.18. That the applicant begs to state that similar situation had arisen in the year 2003, when one Mr. L.Sailo IPS (RR-72) of Meghalaya wing, got his promotion to the rank of DGP, superseding his four seniors in Assam wing of Assam-Meghalaya Joint Cadre, namely Mr. P.V.Sumant, Mr. L.David, Mr. H.K.Deka and Mr. D.N.Dutta. When those senior officers represented the matter before the Ministry of Home Affairs, Govt. of India, the said authority created three Ex-Cadre Posts in the rank of DGP vide Notification dated 9.4.03, in the Assam wing beyond the ratio of 1:1, having

regard to the Regulation 5 of the IPS Pay Rules 1955, to meet the undue hardship to those officers. It will not be out of place to mention here that the Govt. has got power to relax the rules invoking Rule 3 of All India Services (Condition of Service-Resedurary matter) as and when it is required.

A copy of the said notification dated 9.4.03 is annexed herewith and marked as ANNEXURE - 15.

4.19. That the applicant begs to state that the case of the applicant is same and is squarely covered by the principles pursuant to which the aforesaid notification dated 9.4.03, has been issued. In the instant case, the applicant admittedly is one the senior most officers in the rank of ADGP, due for promotion to the rank of DGP and having regard to the sincere and dedicated service he was promoted to the rank of DGP vide notification dated 2.4.04. It is also pertinent to mention here that the Govt. of Assam after receipt of the objection from the AG took up the matter with the concerned authority and the said authority conveyed the sanction of retention of the post of DGP vide Notification dated 7.6.04 which it self is indicative of the fact that the service of the applicant was necessary and as such there should not have been an occasion for issuance of the subsequent impugned notification dated 4.10.05 virtually demoting/reverting the applicant to the rank of ADGP as a punitive manner without there being any notice to that effect. It is further stated that having regard to the provisions of the IPS (Pay) Rule 1955, it can not be presumed that the notification dated 2.4.04 promoting the

applicant to the rank of DGP, can be nullified by the impugned notification dated 4.10.05, more so taking into consideration the fact that when the respondent No 8 has been so promoted superseding him in the Meghalaya Wing. Admittedly, the Notification dated 7.6.04 is still in operation as same is yet to be superseded by any subsequent notification and as such the subsequent notification in this regard dated 4.10.05 has got no force and same is liable to be set aside and quashed treating the applicant to be holding the post / rank of DGP w.e.f, 2.4.04.

4.20. That the Dy. Secretary to the Govt of Assam, Home Dept. on receipt of the representations submitted by the applicant issued a communication dated 4.4.06 assuring him to do the needful in the matter but as on date nothing has been done so far in the matter and the applicant in the process has been continuously suffering both in the matter of promotion as well as salary in the rank of DGP w.e.f, 2.4.04. On the other hand the AG who has no authority in withholding the salary of the applicant has refused to pay his salary on some irrational ground. It is in this situation that the applicant having no other alternative has come under the protective hands of the Hon'ble Tribunal seeking redressal of his grievances.

A copy of the said notification dated 4.4.06 is annexed herewith and marked as ANNEXURE - 16.

4.21. That the applicant begs to state that the respondents having faced with similar situation of hardship

being faced by the officers, issued the above mentioned notification dated 9.4.03, creating as many as three Ex-Cadre posts in the rank of DGP to accommodate them, but in the instant case, though the Ex Cadre post in the rank of DGP was created allowing the applicant to hold the same vide Notification dated 7.6.04 but same was subsequently downgraded to the rank of Addl. DGP, that too with retrospective effect by the impugned notification dated 4.10.05. It is further stated that the notification dated 7.6.04 has been issued as per the sanction accorded by the concerned authority and with the concurrence of the Finance Dept. and as such same could not have been modified and / or altered by the said impugned notification dated 4.10.05 in the manner and method as has been done in the instant case. The respondents by issuing the impugned notification dated 6.10.05 have virtually reverted the applicant from the rank of DGP to the rank of Addl DGP with retrospective effect, nullifying the effect and operation of the earlier notification dated 7.6.04. Such an action on the part of the respondents is not sustainable in the eye of law. The respondents could not have withheld the right enjoyed by the applicant with retrospective effect, that too without affording him the reasonable opportunity of hearing. That apart the respondents could not have issued the impugned notification dated 4.10.05, more so, when the respondent No 8 who is admittedly junior to the applicant, has got the promotion to the rank of DGP, applying the settled principle of " Next below Rule". Under the aforesaid facts and circumstances, the action/ inaction on the part of the respondents are not at all sustainable and having regard to the fact and situation of the case appropriate direction

need be issued to the official respondents redressing the genuine grievances of the applicant.

5. GROUNDS WITH LEGAL PROVISION.

5.1. For that the action/ inaction on the part of the respondents in not treating the applicant to be the holder of the rank of DGP w.e.f, 2.4.04 and not paying him the due salary is illegal, arbitrary and violative of the principles of natural justice and as such same is liable to be set aside.

5.2. For that the applicant being senior to the Respondent No 8 , the official respondents ought not to have refused the promotion of the applicant to the rank of DGP w.e.f, 2.4.04 till date, with the payment of due arrears salary. Having not done so, the respondents have acted contrary to the relevant rules and the provisions of law.

5.3. For that applying the settled principles of law " Next below rules " the denial made to the applicant in the matter of promotion as well as payment of salary, is illegal, arbitrary and violative of the principles of natural justice, and as such same is required to be set aside and quashed.

5.4. For that the respondents have failed to comply with the provisions of the IPS (Pay) Rules 1955 as well as the principles of " Next Below Rule" and as such the impugned action on the part of the respondents are required to be set aside and quashed.

5.5. For that the action/inaction on the part of the respondents in denying the legitimate dues such as promotion as well as payment of salary, in the rank of DGP is per se illegal and arbitrary.

5.6. For that in any view of the matter, the action/inaction on the part of the respondents is not at all sustainable and liable to be set aside.

The applicant craves leave of the Hon'ble Tribunal to place more grounds both factual as well as legal at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the order dated 4.10.05 and consequently to modify the Notification dated 5.1.2006, treating him as DGP w.e.f, 2.4.04, with all consequential service benefits including arrear salary and seniority etc.

8.2. To direct the respondents to release his arrears pay and allowances in the rank of DGP w.e.f, 02.04.04 to 6.1.06 along with an interest @ 21 %.

8.3. To pay the cost of the application.

8.4. To grant any other relief/reliefs to which the applicant is entitled to in the background of the facts and circumstances of the case and as per law.

9. INTERIM ORDER PRAYED FOR ,

Having regard to the facts and circumstances of the case the applicant at this stage does not pray for any

interim relief, but he craves leave of the Hon'ble Tribunal to renew his prayer for interim relief as and when required.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 266 324217
2. Date : 15.6.06
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

A. M. Mathur

VERIFICATION

I, Shri Ravindra Nath Mathur, son of Shri Jai Nath Mathur, aged about 57 years, at present working as Director General Of Civil Defence and Commandant General of Home Guards, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 4.1 are true to my knowledge and those made in paragraphs 4.2 - 4.21 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 19th day of June, of 2006.

Ravindra Nath Mathur
Signature.

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 2nd April, 2004.

NO. HMA. 156/87/Pt.II/35 : In the interest of public service, Shri R.N. Mathur, IPS (AM-73), Addl. Director General of Police (CID), Assam is promoted to the rank of Director General & Inspector General of Police in the pay scale of Rs. 24,050-650-26,000/- and posted as Director General of Police, Vigilance & Anti-Corruption, Assam with effect from the date of taking over charge and until further orders vice Shri S.R. Mehra, IPS.

No. HMA. 156/87/Pt.II/35-(a) : In the interest of public service, Shri S. Barua, IPS (AM-74), Addl. Director General of Police (A), Assam is transferred and posted as Addl. Director General of Police (CID), Assam with effect from the date of taking over charge and until further orders vice Shri R.N. Mathur, IPS promoted.

Sd/- P.P. Barooah,
Joint Secy. to the Govt. of Assam,
Home (A) Department.

Memo. No. HMA. 156/87/Pt.II/35-A, Dtd. Dispur, the 2nd April, 2004.
Copy to :-

1. The P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
3. The P.S. to Minister of State, Home, Assam, Dispur.
4. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.
5. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
6. The Addl. Director General of Police.
7. The Inspector General of Police/Dy. Inspector General of Police.
8. The Superintendent of Police/Commandant.
9. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
10. The Under Secy. to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
11. The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
12. The P.S. to Addl. Chief Secretary, Home, Assam, Dispur.
13. The P.S. to Commissioner & Secretary, Home, Assam, Dispur.
14. The P.S. to Commissioner & Secretary to Chief Minister, Assam, Dispur, Guwahati-6.
15. The P.S. to Secretary, Home Deptt., Assam, Dispur, Guwahati-6.
16. The Superintendent, Assam Govt. Press, Bamunimaidam, Guwahati-21 for publication.
17. Shri

By order etc.

Joint Secy. to the Govt. of Assam
Home (A) Department.

SITAKAK

Attested
Shri
Advocate

= 227
19
ANNEXURE - 2

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
Maidamgaon, Beliabazar, Guwahati-29

NO GE Col1/IPS/2004-05/40

Date-29.4.2004

To,

The Secretary to the Govt. of Assam
Home (A) Deptt.
Dispur, Guwahati-6

Sub-Creation of an Ex-Cadre post of DGP (V&AC) Assam

Sir,

With reference to the subject cited above, I am to state there is only one post of DGP in the scale of pay of Rs. 24050-650-26000/-p.m. The post is presently being held by Shri P.V. Sumant, IPS. Against this cadre post of the Govt of Assam has created one ex-cadre post of DGP (Comndt. General H.G. & Civil Defence) and the post is being held by Shri D.N. Dutta, IPS.

Shri R.N. Mathur, IPS has been promoted as DGP (V&AC) vide Govt of Assam notification No. IIIMA.156/87/pt.II/35 dated 2.4.04. Since there is no vacant post this office is not in a position to authorize pay to Shri Mathur, IPS.

Govt. of Assam is therefore requested to kindly create ex-cadre post with the approval of the Govt of India so that this office can authorize pay & allowances to Shri Mathur, IPS at an early date.

This may kindly be treated most urgent.

Yours faithfully

SD-/Sr. Accounts Officer
i/c GE Cell

Memo No. GE Cell/IPS/2004-05/II

Date-29.4.2004

Copy forwarded to Shri R.N. Mathur, IPS, Director General of Police (Vigilance & Anti Corruption) Assam, R.G. Baruah Road, Guwahati-5 for information.

SD-/ Sr. Accounts Officer.

Attested
Bri
Advocate

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
Maldeangon, Belpola, Guwahati-29

NO.GE.Cell/IPS/Creation/2004-05/96.

Date: 09-06-2004.

09 JUN 2004

To:

The Secretary to the Govt. of Assam,
Home (A) Deptt. Dispur; Guwahati-6.

Sub: - Clarification regarding ex-cadre post beyond prescribed 1:1 ratio thereof.

Sir,

In inviting a reference to the subject cited above, I am to request the Govt. to clarify the position of para (1) & (2) of Govt. of India's letter No. I-11012/2/2002-IPSI, dtd. 09/04/2003 which was enclosed with your forwarding letter No. HMA.167/94/212, dtd. 09/05/2003 regarding the creation & retention of the post of DGP level beyond the prescribed ratio of 1:1.

Further, I am to request you to let this office know the details up to date position of the posts of IPS cadre alongwith the incumbents.

An early action will be highly appreciable.

Yours faithfully

(S) Sr. Accounts Officer
i/c GE Cell

Attested
Brij
Advocate

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA.156/87/Pt.II/40 Dated: Dispur, the 7th June 2004

From: SRI P.P. Barooah, ACS
JOINT SECY TO THE GOVT. OF ASSAM
HOME (A) DEPARTMENT

To: The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.

Sub: Retention to the Ex-Cadre post of DGP (V&AC)

Sir,

I am directed to convey the sanction of the Governor of Assam to the retention of the ex-cadre post of Director General of Police (V&AC), Assam which was created vide this department letter HMA 167/94/Pt.II/53, dated 30.12.2002 for a further period of one year w.e.f. 1.3.2004 to 28.2.2005 in the usual scale of pay plus other allowance as admissible under rules.

The expenditure is debitable to the "Head of Accounts 2055-Police-101-Criminal Investigation and Vigilance (c) Anticorruption" in the budget for the year 2004-05.

Attested
Dr
Advocate

The sanction is issued with the concurrence of Finance (EC II) Department conveyed vide their U/O No.FEC(II)773/2004 dated 26.5.04.

Yours faithfully

Join Secy to the Govt. of
Assam, Home (A) Department

Memo No.HMA.156/87/Pt.II/40 Dated:Dispur, the 7th June'2004

Copy to:

1. The Director General General of Police, Assam, Ulubari, Guwahati-7.
2. The Director General of Police (V&AC) Assam, Guwahati.- for favour information and necessary action.
3. The Dy. Secy. to the Govt. of Assam, Finance (EC II), Department, Dispur with reference to his U/O No.FEC(II)773/2004, dated 26.5.04.

By order etc.

Join Secy to the
Govt. of Assam, Home (A)
Department

Memo No.HMA.156/87/Pt.II/40 Dated:Dispur, the 7th June'2004

Copy forwarded to the Accountant General (A/A), Assam, Maidangaon, Beltola, Guwahati-29

Senior Financial Adviser
Home (A) Department

Memo No.FA/57/35-A Dated Guwahati the 9th June 2004

As directed, Copy forwarded to:-

The Director General of Police (V&AC) Assam, Guwahati.- for favour information.

Asstt. Inspector General of Police (A)
Assam, Guwahati

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

NO. HMA. 167/94/PI/108

Dated Dispur, the 14th July, 2004.

From : DR. B. K. GOHAIN, IAS,
COMMISSIONER & SECRETARY TO THE GOVT. OF ASSAM,
HOME (A) DEPARTMENT.

To : The Under Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.

Sub : APPROVAL FOR CONTINUANCE OF THE POST OF DGP
(VIGILANCE & ANTI-CORRUPTION), ASSAM- MATTER RELATING
TO:

Sir,

I am directed to say that there are, at present, 4 (four) Nos. of IPS Officers in the level of Director General & Inspector General of Police against 1 (one) Cadre post and 3 (three) ex-Cadre posts and the following IPS Officers are holding the posts :-

1. Shri P.V. Suman, IPS (AM-67)
Director General & Inspector General of Police, Assam.
2. Shri H.K. Deka, IPS (AM-68)
Chairman-Cum-Managing Director, Assam Police Housing Corporation.
3. Shri D.N. Dutta, IPS (AM-71)
Director General, Civil Defence & Commandant General, Home Guards, Assam.
4. Shri R.N. Mathur, IPS (AM-73)
Director General of Police, Vigilance & Anti-Corruption, Assam.

2) Consequent upon retirement of Shri L. David, IPS on 31.3.2004 (AN) who was holding the post of Director General of Police, Vigilance & Anti-Corruption, Assam, Shri R.N. Mathur, IPS (AM-73) has been promoted and posted as Director General of Police, Vigilance & Anti-Corruption. The State Government have also created a Directorate of Vigilance & Anti-Corruption to strengthen and ensure effective functioning of the Vigilance & Anti-Corruption Machinery of the State. At present this Directorate is the only organisation dealing with the matter of Vigilance & Anti -Corruption cases of the State pertaining to the Government Officials including the officers of AIS Cadres.

On consideration of the above, after retirement of Shri L. David, IPS, Shri R.N. Mathur who was senior most IPS Officer of the rank of Addl. Director General of Police of the Joint Cadre have been promoted to the rank of Director General of Police and posted as Director General of Police, Vigilance & Anti-Corruption.

You are requested kindly to accord approval to the continuance of the post of Director General of Police (Vigilance & Anti-Corruption) Assam at an early date.

Yours faithfully,

11/6/04

Commissioner & Secretary to the Government of Assam,
Home (A) Department.

Attested
Dr
Advocate

GOVERNMENT OF MEGHALAYA
HOME (POLICE) DEPARTMENT

ORDER BY THE GOVERNOR

NOTIFICATION

DATED Shillong 14.3.2005

No. HPL 98-99 Sri W.R. Marbawang IPS (RR 75) Addl.
 Director
 General of Police (L&O) Meghalaya is hereby promoted to the
 post of Director General Of Police in the pay scale of
 Rs. ~~24950-650-2600~~ w.e.f. the date of taking over charge
 until further orders.

(R V Suchiang)
 Commissioner and Secretary to the Govt. of Meghalaya.
 Home (Police) Department

Memo No. HPL 98-99

Dated 14.3.2005

Copy forwarded to:-

1. The and Secretary to the Governor of Meghalaya, Shillong
2. The Private Secretary to Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to Deputy Chief Minister, Meghalaya, Shillong.
4. The Private Secretary to Minister Home (Police) Meghalaya, Shillong.
5. The Private Secretary to Chief Secretary , Meghalaya, Shillong .
6. The Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi-110001.
7. The Secretary Joint Cadre Authority, Assam-Meghalaya and Principal Secretary to the Government of Meghalaya, Personnel & AR(A) Department, Shillong.
8. The Secretary to the Govt of Assam, Home (A) Department , Dispur, Guwahati-781006.
9. The Director General & Inspector General of Police, Meghalaya, Shillong.
10. The Accountant General (A&E), Meghalaya, Shillong.

Attested
 Dr
 Advocate

11. The Director of Printing and Stationery, Meghalaya, Shillong for favour of publication in the gazette.

12. Shri W. R. Marbaniang, IPS (RR-75) Director General of Police, Meghalaya, Shillong.

13. Personal files/Guard file.

By order etc.

SD/-

Deputy Secretary to the Govt. of Meghalaya
Home (Police) Department



भारतीय पुलिस सेवा
INDIAN POLICE SERVICE

सिविल लिस्ट

CIVIL LIST

2006

गृह मंत्रालय
भारत सरकार

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

Attested
Sri
Advocate

असम-मेघालय

ASSAM & MEGHALAYA

भारतीय पुलिस सेवा की अधिकृत संवर्ग संख्या (01/01/2006 की यथारिति)
Authorised Cadre Strength of the Indian Police Service (As on 01/01/2006)

सरकारी पद जीव मन्त्रिमंडलीय विभाग पुरुष संख्या लिंग विभागीय विभाग अधिकृत संख्या 01/01/2006 की अधिकृत संख्या अनुसार संख्या अधिकृत संख्या 01/01/2006 की अधिकृत संख्या अनुसार संख्या

राज्य संघ सरकार सरकारी पदों के अधीन अधीन

सभी पदों परीक्षित पासी परीक्षा की संख्या

क. विवरण विवरण विवरण
विवरण विवरण विवरण

Senior Posts		Total	Deputation Reserve	Leave Reserve	Junior Reserve	Training Reserve	Direct Recruitment Quota	Promotion Quota	Total Authorised Strength	Direct Recruits	Promot. non	No. of officers in position as on 01/01/2006	
Under the State Govt	Under the Central Govt.									Jr. Scale	Sr. Scale & above		
164	33	117	21		15			107	40	153	9	84	30 120

अधिकृतीय पद नाम, नामीय स्तर, विवरण विवरण, विवरण विवरण, प्रत्येक पद की संख्या

Sl. No.	Name of the IPS Officer/ (Source of Recruitment) Educational qualification, Home State, I.D. No. and Email	Year of Allot- ment	Date of Birth	Date of appoint- ment to IPS	Present Post held	Date of appointment to the Present Post	Pay/ Special Pay	Police Medals if Any	Remarks
---------	--	---------------------	---------------	------------------------------	-------------------	---	------------------	----------------------	---------

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
-----	-----	-----	-----	-----	-----	-----	-----	-----	------

राज्यीय

S/Shri

1 श्याम रतन मेहरा 1970 04/03/1948 05/07/1970 Commissioner of Security (CA) in the Bureau of civil aviation security. 24050 2
Shyam Ratan Mohra (RR) M.A. Delhi 19701014 shyamratanmehra@mail.svpnra.gov.in

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	मेरामती श्रीमती								
2	दीपक नारायण दत्त (RR) M.A.	1971	12/24/1946	7/11/1971	DGP, Assam.	12/31/2005	24050	PM - 1991	1
	Assam							Governor GM - 1971 ASBP - 2002	
	19711019							PRDM - 1000	
	dndutt@mail.svpnpa.gov.in								
3	गणेश मुरली श्रीवास्तवा (RR) M.A.	1972	7/15/1949	7/16/1972	DGP, Tripura Agartala	9/2/2003	24050	PMO - 1984	7
	Uttar Pradesh							KBM - 1972	
	19721012							PM - 1990	
	gmsrivastava@mail.svpnpa.gov.in							PPM - 2001	
								Comin Medal - 1972 Medal - 1972	
								ASBP - 2002	
4	एल सालो (RR) M.A.	1972	3/1/1947	7/17/1972	DG&IO of Police, Mizoram,	6/20/2002	25350	IPM - 1993	7
	Mizoram							PPM - 2003	
	10721046								
	lsallo@mail.svpnpa.gov.in								
5	रविंद्र नाथ मोहर (RR) B.Sc.	1973	4/30/1949	7/23/1973	DOP(V&AC), Assam	4/2/2004	22400	ASBP - 2002	3
	Rajasthan							PM - 1991	
	19731020							SDM - 1991	
	ravindranath@mail.svpnpa.gov.in								
6	शरदा प्रापाद (RR) M.Sc.,LLB,Dip. in International Transport & Aerial	1973	9/12/1950	7/15/1973	Director, NICFS (MHA), New Delhi.	12/8/2002	22400	PM - 1994	2
	Uttar Pradesh							SDM - 2002	
	19731021								
	sprasad@mail.svpnpa.gov.in								
7	बी.के.डे. (RR) B.A.(H)	1973	3/17/1951	7/12/1973	DG, Civil Defence & Home Guards, Meghalaya, Shillong	8/1/2005	26000	IPM - 1998	3
	Meghalaya							PPM - 2006	
	19731049								
	bkdey@mail.svpnpa.gov.in								

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	नाम								
8	S/Shar								
	विवर मकान	1974	12/3/1961	7/29/1974	Chairman-Cum 8/17/2005 MDAPHC, Ltd, Assam.	22400	PM - 1096	3	
	Sankar Barua (RR) B.A.LL.B.						SDM - 2000		
	Assam						PPMDS - 2003		
	19741010								
	baruasankar@mail.svpnpa.gov.in								
9	एस ए पी राम	1974	3/15/1949	11/10/1974	Addl DGP, (CID), Assam	8/17/2005	22400	PM - 1096	1
	S P Ram (RR) M.Sc.								
	Uttar Pradesh								
	19741044								
	spram@mail.svpnpa.gov.in								
10	के री रेडी	1974	12/5/1948	7/21/1974				IPM - 1090	2
	K C Reddy (RR) M.Sc.								
	Assam								
	19741046								
	kcreddy@mail.svpnpa.gov.in								
11	बिरेंद्र प्रसाद राव	1974	6/10/1949	7/14/1974	Addl. DGP, (U), 9/12/2005 Assam.	22400	PSDM - 1099	1	
	Birendra Prasad Rao (RR) M.Sc.						SDM - 1999		
	Bihar						ANMIP - 2002		
	19741051								
	birendraprasad@mail.svpnpa.gov.in								
12	महा शील राज	1974	9/17/1940	7/21/1974	Addl. DGP, 9/12/2006 (TAP), Assam.	22400			
	M Mohan Raj (RR) B.Sc.								
	Karnataka								
	19761013								
	mmohanraj@mail.svpnpa.gov.in								
13	विनार मर्बन्लांग	1975	8/29/1951	7/30/1975	DGP, Meghalaya, Shillong	3/14/2005	24050	PMG - 1089	1
	W R Marbanlang (RR) B.A.						IPM - 1994		
	Meghalaya						PPM - 2003		
	19751045								
	wrnmarbanlang@mail.svpnpa.gov.in								
14	कुलबीर कृष्ण	1976	1/19/1955	11/14/1976				IPM - 1095	2
	Kulbir Krishan (RR) B.Sc.(Hon's)								
	Assam								
	19761002								
	kulbirkrishan@mail.svpnpa.gov.								

गोपालय

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
16	S/Ship S/Ship S/Ship S/Ship	1970	2/1/1951	11/14/1978	Addl. DGP, (Prisons), Assam.	10/10/2005	22400	IPM - 1996 PPM - 2001 ASSP - 2002	3
17	Sibabratu Kakall (RR) M.Sc. Meghalaya 19761062 sibabratukakall@mail.svpnppa.gov.in	1977	12/5/1954	11/11/1977	IGP, CRPF, Kolkata	2/12/2001	21900	SDM - 1999 IPM - 2001	2
18	Subash Goswami (RR) M.Sc. Meghalaya 19771015 subashgoswami@mail.svpnppa.gov.in	1977	7/3/1951	7/12/1977	Addl. DGP (CID), Meghalaya, Shillong	12/14/2005	23450	IPM - 1997 PPM - 2003	3
19	Anil Pradhan (RR) M.Sc. Meghalaya 19771021 anilpradhan@mail.svpnppa.gov.in	1977	4/1/1955	12/2/1978	Addl. DGP (R / PR), Meghalaya, Shillong	7/11/2005	22400	IPM - 1996 PPM - 2003	3
20	Prom Singh (RR) B.A. Himachal Pradesh 19771004 promsingh@mail.svpnppa.gov.in	1978	6/6/1965	7/12/1978		4/17/2003	22400	IPM - 1994 PPM - 2003	2
21	Jayant Narayan Choudhury (RR) M. A. Assam 19781010 jnchoudhury@gmail.svpnppa.gov.in	1978	10/4/1952	11/18/1978	Chairman Cochin Port Trust Willongdom Island, Cochin.	10/17/2005	22400	IPM - 1994 IPMG - 1983 PPM - 2003 ASSP - 2002	2
22	N Ramachandran (RR) B.Sc., M.A., LLB Kerala 19781022 nramachandran@mail.svpnppa.gov.in	1978	9/20/1954	11/14/1978	Addl. DGP (L / & O) Meghalaya, Shillong	12/14/2005	21900		3
23	B Kozo (RR) M.A. Nagaland 19781042 bkozo@mail.svpnppa.gov.in								

OFFICE OF THE DIRECTOR GENERAL OF POLICE
VIGILANCE AND ANTI-CORRUPTION ASSAM GUWAHATI.

Letter No. DGVA/C/PF/05/201

Dated the 29th March/05

To : The Commissioner & Secretary
to the Govt. of Assam,
Home (Police) Department,
Dispur.

Subject : PROMOTION OF MY JUNIOR IN MEGHALAYA
TO THE POST OF DGP MEGHALAYA.

Reference : No. HPL.38/99/Pt.IV/2 dt. 14/3/2005.

Sir,

I am writing to inform you that Shri W.R. Marbaniang, IPS (RR-75) who is junior to me in this cadre has been promoted to the rank of DGP Meghalaya vide Govt. of Meghalaya Notification quoted above, a copy of which is sent to you also. In this connection, I am writing to inform you that the Accountant General Assam has still not issued the Pay Slip to me after my promotion to the rank of DGP and posted in this Office and raised some querries to the Govt. of Assam. Now that my junior has been promoted as DGP in Meghalaya, there should be no problem in issuing the Pay Slip to me.

It is therefore, requested that the matter may be taken with the A.G. Assam and the Govt. of India accordingly.

Yours faithfully,

29/3/05
(R.N. MATHUR)

Director General of Police,
Vigilance and Anti-Corruption
Assam, Guwahati.

Attested
Dr
Advocate

29/3/05
Sr. Superintendent of Police
(DSB), City, Guwahati.

8/3/05
Cm
8/3/05

EEEEE

GOVERNMENT OF ASSAM

HOME (A) DEPARTMENT

No. HMA. 167/94/P/110 Dated: Dispur, the 4th Oct '2005

Dated: Dispur, the 4th Oct '2865

From: SRI D.N.MISHRA, IAS
JOINT SECY TO THE GOVT. OF ASSAM
HOME (A) DEPARTMENT

To: The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.

Sub: Creation of Ex-Cadre post of Directors (V&AC) in the rank of Addl. DGP.

Sir,

I am directed to convey the sanction of the Governor of Assam to the Ex-Post facto creation of an extra cadre post. Director General of Police (V&AC) in the rank of Addl. Director General of Police w.e.f. 2.4.2004 upto 28.2.2005 and also to the retention of the post upto 28.2.2006 w.e.f. 1.3.2005 in the scale of pay and D.A. as admissible under rules.

This ex-cadre post of Director (V&AC) is admissible under as per relevant IPS rules and is within admissible limit of state deputation reserve. The post is personal to Shri R.N.Mathur, IPS and the post will be abolished will relinquishment/promotion/retirement of Shri R.N.Mathur IPS. Further the ex-cadre post of Addl. DGP (A) is kept in abeyance on creation of the post of DGP (V&AC).

Attested
Sir
Advocate

The expenditure is debitable to the Head of Accounts "2055-police-101-Criminal Investigation and vigilance (c)- Anticorruption" in the budget for the year 2005-06.

This sanction has been issued with the concurrence of Finance (EC II) Deptt. vide their U/O No.FEC (II)671/2005 dated 13.4.2005 and No.FEC(II)1268/05 dated 31.8.2005.

Yours faithfully

Join Secy to the Govt. of Assam, Home (A) Department

Memo No.HMA 167/94/Pt/110-A Dated:Dispur, the 4th Oct'2005.

Copy to:

1. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
2. The Director General of Police (V&AC) Assam, Guwahati.
3. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
4. The Dy. Secy. to the Govt. of Assam, Finance (EC II), Department, Dispur.

By order etc.

Join Secy to the Govt. of Assam, Home (A) Department

Memo No.HMA 167/94/Pt/110-B Dated:Dispur, the 4th Oct'2005.

Copy forwarded to the Accountant General (A/A), Assam, Maidangaon, Beltola, Guwahati-29

Senior Financial Adviser
Home (A) Department

OFFICE OF THE DIRECTOR GENERAL OF POLICE
VIGILANCE AND ANTI-CORRUPTION ASSAM GUWAHATI.

Letter No. DGVA/PF/05/533

Dated the 6th Oct/05

From : Shri R.N.Mathur, IPS
Director General of Police,
Vigilance & Anti-Corruption, Assam,
Guwahati-5.

To : The Chief Secretary to the Govt. of Assam,
Dispgr.

Subject : Promotion to the rank of DGP vis my
junior in Meghalaya.

Reference : 1) My letter No.DGVA/C/Pf/05/201 dt29/3/2005,
2) Govt. of Assam Notification No.HMA.167/94/
pt/110 dated 2 4/10/2005.

Sir,

I am writing to inform you that the Govt. of Assam has downgraded the post of DGP V& AC Assam from the rank of DGP to ADG. w.e.f. 2/4/2004 to 28/2/2005 and further upto 28/2/2006 vide Govt. of Assam Notification No. quoted above. This has put me in a very embarrassing position for no fault of my own. Here I would like to state that my junior Shri W.R. Marbaniang, IPS (RR-75) has been promoted to the rank of DGP & IGP Meghalaya w.e.f. 14/3/2005 and I had represented for the same scale of pay as Shri Marbaniang at least w.e.f. the that date, vide my representation to the Govt. of Assam quoted above. However, nothing has been heard about it since then.

It is requested that action on the representation may kindly be taken early and direct the A.G. Assam to issue me a pay slip in the rank of D.G.P. IGP w.e.f. the date of promotion of my junior in Meghalaya.

Yours faithfully,

R.N. MATHUR
6/10/05
Director General of Police,
Vigilance & Anti-Corruption,
Assam, Guwahati.

Attested
Dr.
Advocate

OFFICE OF THE DIRECTOR GENERAL OF POLICE
VIGILANCE AND ANTI-CORRUPTION: ASSAM:GUWAHATI.

Letter No.DGVA/PF/05/567

Dated the 8th Nov/05

From : Shri R.N.Mathur, IPS
Director General of Police,
Vigilance & Anti-Corruption, Assam,
Guwahati-5.

To : The Chief Secretary to the Govt. of Assam,
Dispur-6.

Reference : My earlier letters No.DGVA/C/PF/201
dt. 29/3/05
2) No.DGVA/PF/05/533 dated 6/10/2005 and
3) Govt. of Assam Notification No.HMA.167/
94/Pt./110 dated 4/10/2005.

Sir,

I am writing to inform you that in March/05 I had represented to the Govt. of Assam that my junior Shri W.R.Marbaniang, IPS (RR-75) who is junior to me in this cadre has been promoted to the rank of DGP and posted in Meghalaya and for which I had asked for a similar promotion for myself also, being senior to him. This was followed by another letter in October/05 that I had not received any response from the Govt. till date.

Now I have received a copy of Govt. of Assam Notification No.HMA.167/94/Pt/110-A dated 4/10/05 vide which the post held by me has been re-designated as Director Vigilance & Anti-Corruption, Assam, in the rank of Addl.DGP. This has actually denoted me to the rank of Addl.DGP after I was promoted to the rank of DGP and posted here vide Govt. Notification No.HMA.156/87/Pt.II/35 dated 2/4/2004. Thus, the response from the Govt. of Assam has been just the opposite of what I have been demanding up to now. This has surprised me and has caused anguish to me as my junior in the cadre still continues as DGP in Meghalaya.

I am, therefore, writing to request you to reconsider this order and promote me to the rank of DGP with orders to the A.G. Assam to issue me a pay slip in the rank

contd...2

Attentio
Dr.
Advocate

-2-

of DGP immediately w.e.f. the date of my posting to this office as DGP Vigilance & Anti-Corruption, Assam. I may also mention here that Shri B.P.Rao, IPS (RR-74) has already gone to the CAT on this matter and if I do not receive a suitable response from the Govt. of Assam shortly then I may also be compelled to go to the CAT on this matter.

Yours faithfully,

R.N. MATHUR
(R.N. MATHUR)
Director General of Police,
Vigilance & Anti-Corruption,
Assam, Guwahati.

6/e

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 5th January, 2006.

*C.A
6.1.06*
NO. HMA201/90/130 : Shri R.N. Mathur, IPS (RR-1973), Addl. Director General of Police (V&AC) is promoted to the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and in the interest of public service is transferred and posted as Director General of Civil Defence and Commandant General Home Guards, Assam with effect from the date of taking over charge against existing vacancy.

Shri R.N. Mathur, IPS is allowed to continue to hold the post of Addl. Director General of Police, (V&AC) till alternative arrangements are made.

G.D. 6/1.06
Sd/- V.B. Pyarelal,
Commissioner & Secretary to the Govt. of Assam,
Home (A) Department.

Dated Dispur, the 5th January, 2006.

Memo. No. HMA201/90/130-A.

Copy to :-

1. The P.P.S to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S to Chief Minister, Assam, Dispur, Guwahati-6.
3. The P.S to Minister of State Home, Assam, Dispur, Guwahati-6.
4. The Accountant General, Assam, Hailakandi, Beldola, Guwahati-9.
5. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
6. The Under Secy. to the Govt. of Meghalaya, Home (P) Department, Shillong.
7. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
8. The Director General, Civil Defence and Commandant General, Home Guards, Assam, Beldola, Guwahati.
9. The Addl. Director General of Police, Jorhat.
10. The Inspector General of Police/ Deputy Inspector General of Police.
11. The Superintendent of Police/ Commandant.
12. The P.S to Chief Secretary, Assam, Dispur, Guwahati-6.
13. The P.S to Addl. Chief Secretary, Assam, Dispur, Guwahati-6.
14. The P.S to Commissioner & Secy. to Chief Minister, Assam, Dispur, Guwahati-6.
15. The P.S to Commissioner & Secy. Home & Political, Deptt. (R. Bora), Assam, Dispur, Guwahati-6.
16. The Supdt. Assam Govt. Press, Barunimukhram, Ghy 21 for publication of the above Notification. *(Sd/- R. N. Mathur, IPS A.D.G.P (V&AC))*
17. Officer Concerned.

ASD An-

By order etc.

DRS 5/1/06
Deputy Secretary to the Govt. of Assam,
Home (A) Department.

(P.M. Singh)

Attested
Dr.
Advocate

OFFICE OF THE DIRECTOR GENERAL CIVIL DEFENCE &
COMMANDANT OF HOME GUARDS:ASSAM

Letter No.DGCDCHG/06/PF/1

Dated the 10th Jan '06

To:

The Commissioner & Secretary

to the Govt. of Assam,

Home and Political Department,

Dispur.

Subject:

Clarification regarding status of the
undersigned for the period from 2.4.2004
to 6.1.2006.

Sir,

I am writing to inform you that the Govt. of Assam had promoted the undersigned to the rank of D.G.P. and I.G.P. in the pay scale of Rs.24,050-650-26,000/- and posted him as Director General of Police, Vigilance & Anti-Corruption, Assam vide Notification No.HMA.156/87/Pt.II/85 dated 2.4.2004. Subsequently, the post occupied by the undersigned was down graded to the post of Addl. District General of Police, w.e.f. 2.4.2004 vide No.HMA 167/94/Pt/110 dated 4.10.85. Now the Govt. of Assam has promoted the undersigned to the rank of D.G.P. vide Notification No.HMA.201/90/130 dated 5.1.2006 and posted as DGP Civil Defence & Comndt. General Home Guards Assam. Accordingly, the undersigned has taken over charge of DGP Civil Defence and Comdt. General Home Guards on 6.1.2006. Although the undersigned's post was down graded to the rank of Addl. D.G.P. Vigilance & Anti-Corruption Department as stated

Attested
Brij
Advocate

above, all correspondence to undersigned was being addressed to him as DGP Vigilance of Anti-Corruption Assam, by the Govt. of Assam.. This has created some confusion regarding the undersigned's status whether he is DGP or ADG from 2.4.2004 to 5.1.2006 while he was in the Vigilance and Anti-Corruption Department. The A.G. Assam has also sought a Clarification from your office on this, because of which he has not issued the pay slip to the undersigned for this entire period up to now.

It is therefore, requested that the status of the undersigned may kindly be clarified to the A.G. Assam and to self for this period at an early date.

Yours faithfully,

(R.N.MATHUR)

OFFICE OF THE DIRECTOR GENERAL
CIVIL DEFENCE & COMMANDANT OF
HOME GUARDS:ASSAM, GUWAHATI.

GOVERNMENT OF ASSAM
OFFICE OF THE DIRECTOR GENERAL CIVIL DEFENCE &
COMMANDANT GENERAL OF HOME GUARDS:ASSAM
BELTOLA:GUWAHATI-28

No.CG.10/2006/7

Dated Guwahati the 3rd March/06

To

The Commissioner,
to the Govt.of Assam,
Home Police Deptt., Dispur,
Guwahati-6..

Sub :-

Representation regarding my promotion to the rank of Director General
Of Police Vis-à-vis W.R. Marbaniang (IPS-RR-1975)

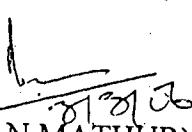
Ref :-

1. My letter No.DGVA/C/PF/201 dtd.29/3/05,
2. No.DGVA/PF/05/533 dtd.6/10/05,
3. Govt. of Assam Notification No.HMA.167/94/Pt/110 dtd.4/10/05 &
4. No.DGVA/PF/05/567 dtd.8/11/05.

Sir,

Please refer to my earlier letters noted above on the above noted subject. I
have not received any reply from the Govt. of Assam or the Govt.of India upto now
regarding the same. It is, therefore, requested that the decisions taken by the Govt. of
Assam and or the Govt. of India on this matter may please be intimated to me at an early
date.

Yours faithfully,


(R.N.MATHUR)

Director Genl.Civil Defence &
Commdt.Genl.Home Guards :
Assam:Beltola:Guwahati-28

-(000)-

*Attended
Sri
Advocate*

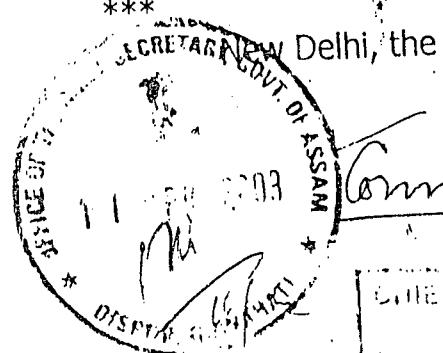
~~SPEED POST~~

~~P. K. Verma~~ ~~(S.P. Verma)~~ ~~MOST IMMEDIATE~~

No. I-11012/2/2002-IPS.I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

- 46 -

ANNEXURE-15



April, 2003.

- 9 APR 2003

Commr & Secy Home

CHIEF SECRETARY'S OFFICE
DY. NO. 1264
17th

Sub: Creation of ex-cadre posts at the level of DGP beyond the prescribed ratio of 1:1 - regarding.

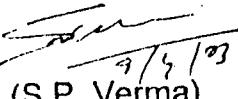
Sir,

I am directed to refer to Government of Assam's Wireless Messages No.HMA.156/87/PT./30 dated 11.12.2001 and 28.2.2002 and Message No.HMA.167/94/PT.II/45 dated 20.9.2002 on the subject cited above and to convey ex-post facto approval of the Govt. of India to the creation of two ex-cadre posts at the level of DGP in the scale of pay of Rs. 24050-26000/- in the Assam Wing of the Joint Assam-Meghalaya IPS Cadre over and above the prescribed ratio of 1:1 under Rule 9(7) of the IPS (Pay) Rules, 1954 as per details given below:

(1) For regularizing the appointment of Shri P.V. Sumant, IPS (AM:RR:67) w.e.f. 1.11.2000 till a vacancy is created by superannuation of Shri L. David, IPS (AM:RR:67) or until further orders, whichever is earlier; and

(2) For promotion of Shri D.N. Dutta, IPS (AM:RR:71) to DGP scale consequent to irregular situation created by promotion of Shri L. Sailo, IPS (AM:72) in Meghalaya, upto 31.1.2005 i.e. till a regular post becomes available due to retirement of Shri H.K. Deka, IPS (AM:RR:68) or until further orders, whichever is earlier.

Yours faithfully,


(S.P. Verma)

Under Secretary to the Govt. of India
Tel: 2309 2527

22/4/03
20/4/03
Attested
Sri
Advocate

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA.116/2006/17

Dated Dispur, the 4th April, 2006

11/4/06
From

SHRI P. BARUA, ACS
DEPUTY SECY. TO THE GOVT. OF ASSAM,
HOME (A) DEPARTMENT.

To

✓ Shri R. N. Mathur, IPS
Director General of Civil Defence & Commdt. General
of Home Guards, Assam, Beltois, Guwahati -28

Sub:

Regarding Promotion to the rank of D.G.P. in conformity
with that of W.R. Marbaniang, IPS, D.G.P. Meghalaya.

Ref:

Your representation dtd. 3.3.2006.

Sir,

I am directed to refer to your representation and the subject cited above and to say that the State Govt. has taken up the matter of Promotion of IPS officers of Assam wing who have been superceded by the promotion of Shri W.R. Marbaniang, IPS Meghalaya wing of the joint cadre of Assam & Meghalaya with the Govt. of India. Govt. of India, in reply has regretted to allow Govt. to create four Ex-cadre posts in the rank of Director General of Police. Rather they have advised to revert the officer Promoted in the Meghalaya wing to the rank of A.D.G.P. and fill up the post of D.G.P. as per the norms laid down for promotion in the joint cadre.

Government of Assam has taken up the matter with Meghalaya Govt. for adhering to the advice of Govt. of India.

Yours faithfully,

Deputy Secretary to the Govt. of Assam,
Home (A) Department

Attested
Dr.
Advocate
4/4/06

46
67
Central Administrative Tribunal
25/09/2006
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :

O.A.No. 153 of 2006

Sri R.N. Mathur

...Applicant

- Versus -

Union of India & Ors.

...Respondents

- AND -

IN THE MATTER OF :

Written Statement submitted by the Respondents No. 1, 2, 7

WRITTEN STATEMENT

The humble answering respondents
submit their written statement as
follows :

1.(a) That I am the Senior Accountant Officer, o/c 12
Account General (A&E), Assam, at present working at Guwahati
and Respondents No. 7 in the case. I have gone through a copy of
the application served on me and have understood the contents thereof.
Save and except whatever is specifically admitted in the written
statement, the contentions and statements made in the application may
be deemed to have been denied. I am competent and authorized to file
the statement on behalf of the above respondents.

(b) The application is filed unjust and unsustainable both on
facts and in law.

(c) That the application is bad for non joinder of necessary
parties and misjoinder of unnecessary parties.

47

58

(d) The application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the respondents, against the applicant had suffered from vice of illegality.

2. That with regard to the statements made in paragraphs 1 to 4.3, 4.7 to 4.19, 4.21, 5.1 to 5.6, 6, 7, 8, 8.1 to 8.4 of the application, the answering respondents do not admit anything except those are based on record and with rational foundation and tenable in the eye of law.

3. That with regard to the statements made in paragraphs 4.4 of the application, the answering respondents beg to submit that there were two posts of DGP. One cadre post and the other ex-cadre post and both posts were occupied by Sri P.V.Sumant, IPS and Sri D.N.Dutta, IPS respectively on the date of promotion of Shri R.N.Mathur, IPS as DGP. The promotion notification was issued vide Govt. of Assam Notification No.HMA.156/87/pt/11/35 dated 2.4.2004 (Copy enclosed as Annexure-I). Thus, in absence of a vacant post, the respondents could not issue pay slip to Sri Mathur, IPS and referred the matter to Govt. of Assam for creation of an ex-cadre post in the rank of DGP for accommodating Sri Mathur, IPS vide respondent office letter No. GE-Cell/IPS/2004-05/40 dated 29.4.2004 (Copy enclosed as Annexure-II).

It would however, be seen from the Govt. of India's letter No.111012/5/2004-IPS.I dated 18.8.2004 that the Govt. of India had requested Govt. of Assam to rescind the posting of Shri R.N.Mathur, IPS from the post of DGP (V&AC), Assam immediately (copy enclosed as Annexure-III).

Further, the respondents beg to state that the examination of related documents/papers/vacancy position etc. regarding authorization of pay & allowances to the Gazetted Officers are under the jurisdiction of Accountant General and he has the authority to check the availability of vacancy in a particular post.

4. That with regard to the statements made in paragraphs 4.5 of the application, the answering respondents beg to submit that due to non availability of post in the rank of DGP to accommodate Sri Mathur, IPS the respondent was left with no other option but to refer the matter to the Govt. for the purpose.

5. That with regard to the statements made in paragraphs 4.6 of the application, the answering respondents beg to submit that even though the Govt. of Assam issued retention to the post of DGP (V&AC) w.e.f. 1.3.2004 to 28.2.2005 vide order No.HMA.156/87/pt.II/40 dated 7.6.2004 (copy enclosed as Annexure-IV), it is stated that as per existing provision the ratio of creation of ex-cadre post of DGP is 1:1 and the ex-cadre post was held by Shri D.N.Dutta, IPS. Thus the retention order communicated by Govt. of Assam vide the order ibiden mentioned above was not valid.

6. That with regard to the statements made in paragraphs 4.7 to 4.19 of the application, the answering respondents beg to submit that they have no comments to offer.

7. That with regard to the statements made in paragraphs 4.20 of the application, the answering respondents beg to submit that he has the authority to check the availability of vacancy of a particular post and if there appear any irregularities the matter referred to the Govt. for clarification. In the instant case since there was no vacant post, the

49

matter was referred to the Govt. The pay slip was issued to Sri Mathur, IPS, only after his placement in the available vacancy of DGP (Commandant General H.G. & Civil Defence).

8. That the answering respondents beg to submit that the application is devoid of merits and the whole suit is a misconceived one against the answering respondents and as such the same is liable to be dismissed.
9. That this written statement is made bona fide and for the ends of justice & equity.

Under the above circumstances your Lordships would be pleased to dismiss the application filed by the applicant for the ends of justice.

VERIFICATION

I, SWREE JIBENDRA MOTHAN ADITYA aged
about 55 years, working as Sr. Accounts
Officer, o/o the Accountant General (AVE), Assam
and competent officer of the answering respondents, do
hereby verify that the statements made in paras
2, 4, 6, 7 are true to my knowledge and those made
in paras 3, 5 being matters of record are
true to my information derived there from which I believe
to be true and the rest are my humble submissions before
this Hon'ble Tribunal.

And I sign this verification on this the
21st th day of August 2006 at Guwahati.

Jibendran Mohan Aditya
Signature

बारिङ्ग लेखा अधिकारी
Sr. Accounts Officer
महालेखाकार कार्यालय (ले. ब. दू.) असम
010-23677000, 010-23677001, 010-23677002
मेदामगाँव, बेस्तला, गुवाहाटी 78129
Meldamgau, Basatola, Guwahati-78129

21/8/06

GOVERNMENT OF /
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 2nd April, 2004.

NO. HMA. 156/87/Pt.II/35 : In the interest of public service, Shri R.N. Mathur, IPS (AM-73), Addl. Director General of Police (CID), Assam is promoted to the rank of Director General & Inspector General of Police in the pay scale of Rs. 24,050-650-26,000/- and posted as Director General of Police, Vigilance & Anti-Corruption, Assam with effect from the date of taking over charge and until further orders vice Shri S.R. Mehra, IPS.

NO. HMA. 156/87/Pt.II/35-(a) : In the interest of public service, Shri S. Barua, IPS (AM-74), Addl. Director General of Police (A), Assam is transferred and posted as Addl. Director General of Police (CID), Assam with effect from the date of taking over charge and until further orders vice Shri R.N. Mathur, IPS promoted.

Sd/- P.P. Barobah,
Joint Secy. to the Govt. of Assam,
Home (A) Department.

Memo. No. HMA. 156/87/Pt.II/35-A, Dtd. Dispur, the 2nd April, 2004.
Copy to :-

1. The P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S. to Chief Minister, Assam, Dispur, Guwahati- 6.
3. The P.S. to Minister of State, Home, Assam, Dispur.
4. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati- 29.
5. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati- 7.
6. The Addl. Director General of Police
7. The Inspector General of Police/Dy. Inspector General of Police
8. The Superintendent of Police/Commandant
9. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
10. The Under Secy. to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
11. The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
12. The P.S. to Addl. Chief Secretary, Home, Assam, Dispur.
13. The P.S. to Commissioner & Secretary, Home, Assam, Dispur.
14. The P.S. to Commissioner & Secretary to Chief Minister, Assam, Dispur, Guwahati-6.
15. The P.S. to Secretary, Home Deptt., Assam, Dispur, Guwahati- 6.
16. The Superintendent, Assam Govt. Press, Bamumaimaidam, Guwahati- 21 for publication.
17. Shri

By order etc.

Joint Secy. to the Govt. of Assam,
Home (A) Department.

SITAKAK

Annexure - II

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
Maidamgaon, Beftola, Guwahati-29

Memo No. GE Cell/IPS/ 2004-05/40.

Date: 29-04-2004.

10 MAY 2004

To

The Secretary to the Govt. of Assam,
Home (A) Deptt.,
Dispur, Guwahati-6.

Sub:- Creation of an Ex-Cadre post of DGP(V&AC) Assam.

Sir,

With reference to the subject cited above, I am to state that there is only one cadre post of DGP in the scale of pay of Rs. 24050-650-26000/-p.m. The post is presently being held by Shri P. V. Suman, IPS. Against this cadre post of the Govt. of Assam has created one ex-cadre post of DGP (Commdt. General H. G. & Civil Defence) and the post is being held by Shri D.N. Dutta, IPS.

Shri R. N. Mathur, IPS has been promoted as DGP (V&AC) vide Govt. of Assam Notification No. HMA.156/87/pt.11/35 dtd. 02-04-2004. Since, there is no vacant post, this office is not in a position to authorize pay & allowances to Shri Mathur, IPS.

Govt. of Assam therefore, is requested to kindly create one ex-cadre post with the approval of the Govt. of India so that this office can authorize pay & allowances to Shri Mathur, IPS at an early date.

This may kindly be treated most urgent.

Yours faithfully

Sr. Accounts Officer
i/c GE Cell
Date: 29-04-2004.

Memo No. GE Cell/IPS/ 2004-05/41.

Copy forwarded to Shri R. N. Mathur, IPS, Director general of Police (Vigilance & Anti Corruption) Assam, R. G. Baruah Road, Guwahati-5 for information.

Sr. Accounts Officer

Recd
Power Corp
4/5/04

W.M.

SP-EE-2004-001

Annexure III

1635

8 -

Annexure III
53 -

No. I.1/012/5/2004-IPS.I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

IMMEDIATE
BY SPEED POST

New Delhi, the
18 AUG 2004

To

The Chief Secretary,
Government of Assam,
Dispur

(Attn: Dr. B. K. Gohain, Commissioner & Secretary, Home Deptt.)

Sub:- Approval for continuance of the post of DGP (Vigilance and Anti Corruption),
Assam -reg.

Sir,

I am directed to refer to State Government's letter No. HMA.167/94/Pt.108 dated 14th July, 2004. on the subject mentioned above and to state that the request of the State Government was examined in terms of the provisions of Rule 9(7) of IPS(Pay) Rules, 1954. According to these provisions, the Government of Assam has power to create only one ex-cadre post at the level of DGP.

1. Under the extant rules, it is not possible to accede to the request of the State Government to continue the post of DGP(Vigilance and Anti Corruption) Assam. The same has, therefore, been rejected by the competent authority. Accordingly, it is requested to rescind the posting of Shri N. Mathur, IPS from the post of DGP(Vigilance and Anti Corruption) Assam immediately.

Yours faithfully,

S. P. VERMA
(S. P. VERMA)
17/8/04
UNDER SECRETARY TO THE GOVERNMENT OF INDIA
TELE.NO. 2309 2527.

Copy to the Accountant General, Assam, Dispur for information.

Assam, Meldamgaon, Boktola, C/7-28
प्रभाग सचिव/विभाग सचिव
S. S. M./B. C. S. No.....

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

Annexure - V

No.HMA.156/87/pt.II/40

Dated Dispur, the 7th June'2004

From : SHRI P.P BAROOAH, ACS
Joint Secy. to the Govt. of Assam,
Home (A) Department.

To : The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.

Sub : RETENTION TO THE EX-CADRE POST OF D.G.P. (V&AC), ASSAM.

Sir,

I am directed to convey the sanction of the Governor of Assam to the retention of the Ex-cadre post of Director General of Police (V&AC), Assam which was created vide this Deptt. Letter no.HMA.167/94/pt.II/53, dtd.30.12.2002 for a further period of one year with effect from 01.03.2004 to 28.02.2005 in the usual scale of pay plus other allowances as admissible under Rules.

The expenditure is debitable to the "Head of Accounts" 2055-Police-101-Criminal investigation and vigilance & Anti Corruption" in the budget for the year 2004-2005.

The sanction is issued with the concurrence of Finance (EC-II)Dept. Conveyed vide their U/O No.FEC(II)773/2004 dtd.26.05.2004.

Yours faithfully
Sd/-

Joint Secy. to the Govt. of Assam,
Home (A) Department

Memo No. HMA.156/87/pt.II/40-A
Copy to

Dtd. Dispur, the 7th June,2004.

1. The Director General of Police, Assam, Ulubari, Guwahati-7.
2. The Director General of Police (V&AC) Assam, Guwahati for favour of information and necessary action.
3. The Deputy Secy. to the Govt. of Assam, Finance (EC-II) Deptt, Dispur with reference to his U/O No.773/2004, dated.26.05.04.

By order etc.
Sd/-

Joint Secy. to the Govt. of Assam,
Home (A) Department

Memo No. HMA.156/87/pt.II/40-B

Dtd. Dispur, the 7th June,2004.

Copy forwarded to the Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.

Sd/-

Senior Financial Adviser,
Home (A) Department

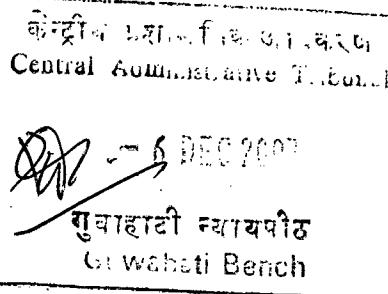
Memo No. FA/57/35-A

Dtd. Dispur, the 9th June,2004.

As Directed, Copy forwarded to: -
The Director General of Police (V&AC) Assam, Guwahati for favour of information.

Sd/-
Asstt. Inspector General of Police (A),
Home (A) Department

attested
F. P. Barooah
Joint Secy. to the Govt. of Assam
Home (A) Department
Maidamgaon, Beltola, Guwahati-29



55-
8/1/07
Filed by
The Applicant
through
Advocate
Hridip Kr Das

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 153 of 2006

Sri R.N. Mathur

-Vs-

Union of India and Ors.

REJOINDER

1. That a copy of the written statement filed by the respondent No.7 has been served upon the applicant and the applicant has gone through the same and has understood the contents thereof. Save and except the statements which are specifically admitted herein below other statements made in the written statement are categorically denied. The statements which are not borne on record are also denied and the respondent is put to the strictest proof thereof.

2. That with regard to the statement made in para 1 of the written statement the deponent while denying the contention made therein begs to state that the respondent No. 7 is not empowered to decide the merits of posting of individual

56
ex
1X

officers to various posts, that power is vested with the respondent Nos. 1 and 2 only. Therefore respondent No. 7 can not file a reply on behalf of respondent No. 1 and 2.

The applicant submits that there is nothing bad in the OA for non-joinder of necessary parties and mis-joinder of unnecessary parties. The applicant has not acquiesced to anything or waived any of his rights as would be clear from his various representations to the state and central Govt.

3. That with regard to the statement made in para 2 of the written statement the deponent begs to state that all the statements made in these para are based on record and hence the respondents can not deny the same.

4. That with regard to the statement made in para 3 of the written statement the deponent while denying the contention made therein begs to state that Govt. of India vide letter No. 111012/5/2004-IPS-I dated 18.8.04 directed the State Govt. to rescind the posting of the applicant from the post of DGP (V&A.C) , which is arbitrary and illegal in the eye of law because in a similar situation, the Govt. of India had created 4 (four) number of posts of DGP (ref. Annexure-15 to the OA). But no such consideration has been shown to the applicant without assigning any reason whatsoever.

5. That with regard to the statement made in para 4,5,6,7,8 and 9 of the written statement the deponent while reiterating and reaffirming the statement made above as well as in the OA begs to state that the respondent No. 1 and 2 have got the power to create posts and have done so in cases

of similarly situated persons. But the said respondents have not done anything in case of the present applicant till date. It is pertinent to mention here that there is nothing sanctimonious regarding creation of Ex-Cadre post in the rank of DGP in the ratio of 1:1 as claimed by the respondent No.7 as the Ministry of Home Affairs has relaxed this norms several times in the past.

6. That in view of the above facts and circumstances of the case the present OA deserves to be allowed with cost.

H
-56-

VERIFICATION

I, Shri Ravindra Nath Mathur, son of Shri Jai Nath Mathur, aged about 57 years, at present working as Director General Of Civil Defence and Commandant General of Home Guards, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 5, 6..... are true to my knowledge and those made in paragraphs 4..... are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 7th day of January of 2007.

Ravindranath Mathur

Signature

Case No. 153/2006
Central Administrative Tribunal
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
O.A. NO. 153/2006

IN THE MATTER OF

O.A NO. 153/2006

Shri R.N. Mathur,.....Applicant

-Vs-

Union of India & others

AND

IN THE MATTER OF

Written statement on behalf of respondent No 6
(Commissioner & Secretary to the Govt.. of Assam
Home Department, Dispur, Guwahati-6) and
Respondent No.3 (Chief Secretary to the Govt. of
Assam, Dispur, Guwahati-6).

[(Written statement on behalf of Respondent No.3 and 6) filed by the applicant]

1 Shri Mrigendra Kalita, ACS, Son of Late Praneswar Kalita, Presently working as Addl. Secretary to the Govt. of Assam, Home (A) Department, Dispur, Guwahati-6, do here by solemnly affirm and state as follows :

1. That I am the Addl. Secretary to the Govt. of Assam, Home (A) Department, Dispur, Guwahati-6. The copies of the aforesaid application have served upon the Respondent No 3 and 6 , I have gone through the same and being the Addl. Secretary to the Govt. of Assam, Home (A) Department, I am conversant with the facts and circumstances of the case thereof.

I have been authorized to file this written statement on behalf of Respondent No.3. and 6 . I do not admit any of the averments except which are specifically admitted
hereinafter and the same are deemed as denied .

2. That with regard to statements made in paragraph 4.1 of the application , humble answering respondent has nothing to make comment on it.

3. That with regard to the Statements made in paragraph 4.2 of the application, the humble answering respondent has nothing to make comment as they are being matters of records of the case.

File No:- 59
The state of Assam & any
Respondent No.3
Mrigendra Das
Jt. Secy. Admin.
Assam
10/1/07

4. That with regard to the Statements made in paragraph 4.3 of the application, the humble answering respondent begs to state that the applicant was promoted to the rank of Director General of Police, with an anticipation to obtain approval of the Govt. of India , but the post could not be created as it was not approved by the Central Govt. Further as per provision of law it is mandatory to obtain approval of the Govt. of India to create ex-cadre post which was beyond permissible ratio.

5. That with regards to the statements made in paragraph 4.4 of the application , the humble answering respondent has nothing to make comment on it.

6. That with regards to the statements made in paragraph 4.5 of the application , the humble answering respondent beg to state that though the Respondent No.7 requested the Govt. to create the post of DGP (V&AC), it could not be created due to not getting of approval from the Govt. of India.

7. That with regards to the statements made in paragraph 4.6 of the application , the humble answering respondent begs to state that the Govt. created the ex-cadre post of DGP (A&AC) dated 30-12-02 . Further Sri R.N. Mathur, IPS, was promoted to DGP rank vide order dated 2-4-2004 and ex-cadre post created against the single cadre post at apex level was held by Shri D.N. Dutt, IPS during that period . The two ex-cadre posts at DGP rank was created in anticipation of obtaining Govt. of India's approval. However, that was turned down by the Govt.of India.

8. That with regards to the statements made in paragraph 4.7 of the application , the humble answering respondent begs to state that the State Govt. approached the Govt. of India to allow to continue the ex-cadre created earlier .

9. That with regards to the statements made in paragraph 4.8 of the application , the humble answering respondent begs to state that the Govt. of Meghalaya promoted Shri W.R. Marbaniang ,IPS a junior officer to DGP rank which in fact was irregular .to meet out the grievance of the officers in Assam wing including the applicant , the State Govt moved Govt. of India several times to allow creation of 4 ex-cadre posts in DGP rank

10. That with regards to the statements made in paragraph 4.9 of the application , the humble answering respondent has nothing to make comment on it as they are being matter of records of the case.

11. That with regards to the statements made in paragraph 4.10 of the application , the humble answering respondent begs to state that the Accountant General, Assam, (Respondent No.7) in fact was not in a position to issue pay slip for 2 ex-cadre posts beyond the permissible ratio. Although A.G. Assam, requested to clarify the matter it could not be done due to not getting the approval from the Govt. of India.

Ministry of
Home Affairs
Government of India

61
3
Ministerial Answer

12. That with regards to the statements made in paragraph 4.11 and 4.12 of the application , the humble answering respondent begs to state that the State Govt. Finance, Department created the post of DGP (V&AC) in the rank of ADGP in stead of DGP depending upon the procedure and same was accordingly conveyed to all concerned.

13. That with regards to the statements made in paragraph 4.13 of the application , the humble answering respondent reiterated and reaffirmed the statements made in paragraph 9 of this written statement.

14. That with regards to the statements made in paragraph 4.14 of the application , the humble answering respondent begs to state that the post created earlier was retained up to 28-2-2005 in anticipation for getting approval of the Govt. of India which in fact was not obtained..

15. That with regards to the statements made in paragraph 4.15 of the application , the humble answering respondent begs to state that it is a fact that Shri B.P. Rao, IPS , who was also superseded by a Junior officer in Meghalaya filed the case in Central Administrative Tribunal, Guwahati Bench and thereafter Govt. of India, vide their letter dated .13-10-06 directed the Govt. of Meghalay to revert to Shri W. R. Marbaniang, IPS in Meghalaya to ADGP rank.

A copy of the said letter dated 13-10-06
is annexed here with and marked as
Annexure-“A”.

16. That with regards to the statements made in paragraph 4.16 of the application , the humble answering respondent begs to state that the applicant was promoted to DGP rank vide Notification dated 5-1-2006 against the existing vacancy.

17. That with regards to the statements made in paragraph 4.17 of the application , the humble answering respondent begs to state that the Govt. of Assam , Home Department vide letter dated 4-4-06 intimidate the reply of the Govt. of India as appears from the Annexure -16 Annexed to the original application.

18. That with regards to the statements made in paragraph 4.18 of the application, the humble answering respondent begs to state that the entire matter for creation of ex-cadre post depends upon the concurrence of the Govt. of India. In the present case the Govt. of India did not allow the State Govt. to create the ex-cadre post.

19. That with regards to the statements made in paragraph 4.19 of the application , the humble answering respondent begs to state that So far the IPS matters are concerned, they are governed by the provisions and rules of Indian Police Service and the State Government can act as per the directive of the Govt. of India. However, the State Govt. created the ex-cadre post in the rank of DGP level on anticipation for obtaining the

approval of the Govt. of India which was ultimately turned down by the Govt. of India. The Govt. of Assam However having no alternative created the post only in ADGP rank instead of DGP.

20. That with regards to the statements made in paragraph 4.20 of the application , the humble answering respondent begs to state that the Govt. of Assam approached the Govt. of India for creation of 4 ex-cadre post in DGP rank expecting to get approval from Govt. of India but the Govt of India vide letter dated 13-10-06 (Annexure-A) expressed their regretness and intimidate the decision to revert Shri W.R. Marbaniang, IPS to the grade of ADGP vide letter dtd. 21-12-05.

21. That with regards to the statements made in paragraph 4.21 of the application , the humble answering respondent reiterates and reaffirms the statements made in paragraph 18of this written statement .

22. That the instant application has no merit at all and is liable to be dismissed .

63

as

VERIFICATION

I, Shri Mrigendra Kalita, ACS Son of Late Praneswar Kalita aged about 56 years years presently working as Addl. Secretary to the Govt. of Assam, Home (A) Department, Dipsur, Guwahati-6 do here by verify that the Statements made in paragraphs, 1,2,4,5,11,14,18,19, and 21 are true to my knowledge those made in paragraph 3,6,7,8,9,10,12,13,15,16,17 and 20 are being matters of records of the case derived there from which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts in this Tribunal.

And, I signed this verification on this day 9th Jan 2007

Mrigendra Kalita
Signature *qM*

(Shri Mrigendra Kalita,
Additional Secretary to the Govt. of Assam,
Home (A) Department, Dispur.

Addl. Secretary
to the Govt. of Assam
Home & Political Deptt
Dispur, Guwahati-6

Mr.G.S. Rajagopal,
Special Secretary (IS)
Tele. No. 2509 2661

Addl.C-S. Home

IEF SECRETARY

NO. 3899

20/10/06

This is regarding promotion of Shri W.R. Marbaniang to the post of DGP, Meghalaya. In this connection, I would draw your attention to the order dated 1.8.2006 (copy enclosed) of Hon'ble CAT, Gauhati Bench in OA No.215/2005 filed by Shri B.P. Rao, IPS.

2. The Central Government received a representation (copy enclosed) from Shri B.P. Rao, IPS, which has been disposed off vide this Ministry's letter of even number dated 10.10.2006 (copy enclosed).

3. You would appreciate that the action of the Government of Meghalaya to promote and appoint Shri Marbaniang as DGP, Meghalaya without adhering to the mechanism of Joint Cadre Authority is in violation of the principles of Joint Cadre and has resulted in a peculiar situation before the Government of India and the Governments of Assam and Meghalaya. The officers who are senior to Shri W.R. Marbaniang and presently working in the Assam segment of the Joint Cadre of Assam and Meghalaya are demanding a benefit, which is not due to them, on the basis of this action of the Government of Meghalaya to promote and appoint Shri W.R. Marbaniang as DGP, Meghalaya.

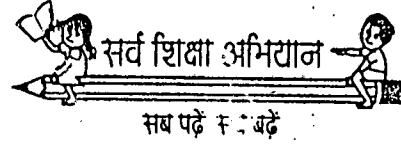
4. I would further draw your attention to the advice given by this Ministry vide its letter No.I.11012/6/2005, IPS.I dated 21.12.2005 (copy enclosed). The Government of Meghalaya has not accepted the request of the Government of India. I would request you to look into this matter personally and to ensure that Shri W.R. Marbaniang is reverted to the grade of ADGP and further action is taken to promote an officer out of the eligible officers of the Joint Cadre of Assam and Meghalaya as per the prescribed norms and the advice given by the Government of India.

Yours sincerely,
-Sd-
(G.S. Rajagopal)

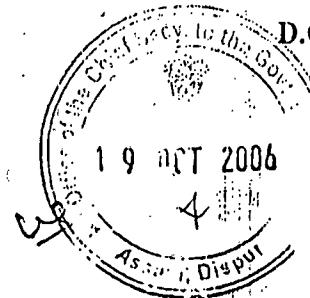
Shri P.J. Bazeley,
Chief Secretary,
Government of Meghalaya,
Shillong

Copy to the Chief Secretary, Government of Assam, Dispur

(G.S. Rajagopal) 13/10/06



Confidential to
M/S



D.O.No.I.16013/32/2005-IPS.II

गृह मन्त्रालय

भारत सरकार

नार्थ घराक, नई दिल्ली-110001

MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI-110001

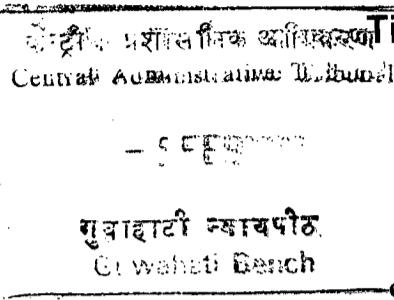
New Delhi, the

6

66

6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



Title of the case : OA NO. 153 of 2006

Between

SH. R.N. Mathur : APPLICANT

AND

UNION OF INDIA & Others : RESPONDENT

I, O.S.Ashok, aged about 46 years, S/o Shri O.K.Nair, working as Under Secretary, Ministry of Home Affairs, do hereby solemnly affirm and state as under:

1. I am conversant with the facts of the case and competent and authorized to file this written statement on behalf of Respondent.
2. That I have read a copy of the Original Application and have understood its contents. I hereby deny the contentions made therein, unless the same are expressly and specifically admitted by me here.
3. That it is submitted that the applicant has prayed for the following reliefs:
 - (i) The applicant has prayed to set aside and quash the order dated 04.10.2005 and consequently to modify the Notifcation dated 05.01.2006, treating him as DGP w.e.f. 02.04.04, with all

(O. S. ASHOK)
Under Secretary
Ministry of Home Affairs
Govt. of India

consequential service benefits including arrear salary and seniority etc.

- (ii) To direct the respondents to release his arrears pay and allowances in the rank of DGP w.e.f 02.04.04 to 06.01.06 along with an interest @ 21%.
- (iii) To pay the cost of the application
- (iv) To grant any other relief/relieves to which the applicant is entitled to in the background of the facts and circumstances of the case and as per law.

CONTENTIONS OF THE APPLICANT

4. The applicant has filed the instant O.A. with following contentions: -

- i. That, he was promoted for the first time to the grade of Director General of Police by the Government of Assam vide its Notification dated 2.4.2004 with the approval of competent authority and approval of the Finance Department, indicating budgetary provisions available for this promotion. However, he was later on demoted to the rank of Additional Director General of Police vide Government of Assam's communication dated 4.10.2005 with retrospective effect. His reversion to the grade of Additional Director General of Police was effected by the respondents without offering him an opportunity to be heard before passing an order detrimental to his official career.
- ii. That, the Accountant General of Assam, acting beyond his jurisdiction did not issue him pay slips w.e.f.

2.4.2004 on his promotion to the rank of Director General of Police.

iii. That, an IPS Officer junior to him in the joint cadre of Assam & Meghalaya and who has been impleaded as respondent no. 8 in the instant application was promoted to the rank of Director General of Police of Meghalaya w.e.f. 14.3.2005 ignoring the claim of the applicant for the said post, which amounts to suppression of his right for promotion because inspite of respondent no. 8 being the junior, the applicant was demoted from the rank of Director General of Police to the post of Additional Director General of Police and the respondent number 8 who was actually junior to him was promoted to the grade of Director General of Police in the same cadre, almost at the same point of time.

iv. That, the applicant is entitled to get his promotion to the rank of Director General of Police atleast w.e.f. the date from which his junior i.e. respondent No. 8 in the instant application was promoted to the rank of Director General of Police applying the settled principal of 'next below rule'.

v. That, a similar situation had arisen in the joint cadre of Assam & Meghalaya in the year 2003 when Mr. L Silo, IPS was promoted to the rank of Director General of Police Meghalaya superceding his 4 seniors in Assam Wing of the joint cadre of Assam and Meghalaya. These 4 officers, namely Mr. P.V. Sumant, Mr. L. David, Mr. H.K. Deka and Mr. D.N. Dutta represented the matter before the Ministry of Home Affairs, New Delhi and the Government of India accorded its approval for creation

(O. S. ASHOK)
Under Secretary
Ministry of Home Affairs
Govt. of India

atleast additional 3 ex-cadre posts to adjust these officers in the Assam Segment of the joint cadre. The case of the applicant is squarely covered by the principle pursuant to which aforementioned approval was given by the Government of India and for this reason also the applicant should be given the promotion to the rank of Director General of Police from the date from which his junior in the Meghalaya Segment has been promoted to the rank of Director General of Police.

Provisions relevant in this case

5. Before replying to the contentions of the applicant, this respondent puts forth the provisions of the various Rules concerning the IPS, which are relevant to this case;

1. Rule 4 of IPS(Cadre) Rules, 1954

4. **Strength of Cadres** - 4(1) *The strength and composition of each of the cadres constituted under rule 3 shall be determined by regulations made by the Central Government in consultation with the State Governments in this behalf and until such regulations are made, shall be as in force immediately before the commencement of these rules.*

(2) *The Central Government shall, ordinarily at the interval of every five years, re-examine the strength and composition of each such cadre in consultation with the State Government or the State Governments concerned and may make such alterations therein as it deems fit:*

(O. S. ASHOK)
Under Secretary
Ministry of Home Affairs
Govt. of India

Provided that nothing in this sub-rule shall be deemed to affect the power of the Central Government to alter the strength and composition of any cadre at any other time:

Provided further that State Government concerned may add for a period not exceeding two years and with the approval of the Central Government for a further period not exceeding three years, to a State or Joint Cadre one or more posts carrying duties or responsibilities of a like nature to cadre posts.

2. Rule 9(7) of IPS (Pay) Rules

9(7) At no time the number of members of the Service appointed to hold posts, other than cadre posts specified in Schedule III and referred to in sub-rule (1) and sub-rule (4), which carry a pay scale of Rs.24050-650-26000 per mensem, as the case may be, and which are reckoned against the State Deputation Reserve, shall except with the prior approval of the Central Government, exceed the number of cadre posts in the pay scale of Rs.24050-650-26000 per mensem, as the case may be, in a State Cadre or, as the case may be, in a Joint cadre.

Reply to the contentions of the Petitioner

6. That as per the Government of India's Notification No. No.I.11052/5/97-AIS(II) dated 28.03.2002, the Joint Cadre of Assam and Meghalaya is sanctioned with two posts of DGPs which are distributed one each between both the segments of the Joint Cadre. Thus, in accordance

with the provisions of Rule 9(7) of IPS (Pay) Rules, 1954, two more posts can be created as ex-cadre posts at DGP level, which are also to be distributed evenly between both the segments. Thus, both the segments can operate only two posts at DGP level i.e. one cadre and one ex-cadre post.

7. That as the Ministry of Home Affairs, Government of India being the Competent Authority whose approval is needed for creating the apex level posts over and above the prescribed ratio of 1:1, the State Govt. of Assam vide its letter no. HMA.167/94/Pt/108 dated 14.07.2004 requested this Ministry's approval for creation of an ex-cadre post of DGP under Rule 9(7) of IPS (Pay) Rules, 1954, in excess of the prescribed ratio of 1:1 for promoting the applicant. Since the state government was already operating with 3 posts (1 cadre post and 2 ex-cadre posts) against the authorized 2 posts (1 cadre and 1 ex-cadre) at DGP level, the request of the state government was rejected by this Ministry vide this Ministry's letter No.I.11012/5/2004.IPS.I dated 18th August, 2004 and the state government was requested to rescind the posting of Shri. R.N. Mathur. Further, when the state government of Meghalaya promoted Shri W.R. Marbaniang, IPS (AM:75) as DGP of Meghalaya, the Government of Assam requested this Ministry's ex-post-facto approval for creation of 4 ex-cadre posts at the apex level to accommodate 4 officers senior to Shri W.R. Marbaniang, IPS, this Ministry vide its DO No. I.11012/6/2005.IPS.I dated 21st December, 2005 rejected the request of the State Government of Assam. It was also advised that both the segments of the Joint Assam-Maghalaya Cadres to place all the cases of promotion before the Joint Cadre Authority for its consideration. Hence, the contention made by the applicant that the Government of Assam hence created the extra ex-cadre post with the approval of the Competent Authority is not correct.

8. Further, the applicant's contention that the approval of the Finance Department, indicating budgetary provisions are available for his promotion is not correct, for the reason that as far as the All India Services are

concerned the financial approval is given by the Ministry of Finance, Government of India by representing them self in the Cadre Review Meeting. In the instance case the Ministry of Finance, Government of India, as mentioned above in para 6, has approved only two posts at the apex level for the Joint Cadre of Assam and Meghalaya which are distributed one each between both the segments of the Joint Cadre. Thus, in accordance with the provisions of Rule 9(7) of IPS (Pay) Rules, 1954, two more posts can be created as ex-cadre posts at DGP level, which are also to be distributed evenly between both the segments. Thus, both the segments can operate only two posts at DGP level i.e. one cadre and one ex-cadre post and so the State Governments concerned cannot create more ex-cadre posts in the All India Services only with the approval of the State Finance Department. Further more it seems that adhering to the request and advice of the Central Government and considering the fact that the creation of the extra ex-cadre post is without the prior approval of the Competent Authority, the State Government of Assam has reverted the applicant to the grade of Additional Director General of Police on 04.10.2005 with retrospective effect. Therefore the contention of the applicant that he should not be reverted with retrospective effect is not in order.

9. The applicant has also contented that he has been reverted back to the next lower grade without offering him an opportunity to be heard before passing an order detrimental to his official carrier can not be accepted as such there is no provision in the IPS(Cadre) Rules, 1954 or in the IPS (Pay) Rules. Further, the promotion of the applicant was itself without proper authority and against the rules. The Government of India intimated its decision accordingly to the State Government. It is for the State Government to specifically comment on this issue.

10. That, as far as the second contention of the applicant is concerned, the submission made by the Accountant General of Assam (Respondent No.7) may please be considered. However, as the Assam segment of Joint

Assam – Meghalaya Cadre of IPS is sanctioned with only one cadre and one ex-cadre post in the rank of DGP, when the state government of Assam creates more posts at the apex level without the approval of the Central Government, the Accountant General of Assam can stop the pay for such posts.

11. That, it is further submitted that on 01.01.2005, in Meghalaya segment, the post of DGP was held by Shri L. Sailo, IPS. He proceeded on inter-cadre deputation to Mizoram and at present is DGP of Mizoram. Thus, one post at DGP level got vacant in the Meghalaya segment of Joint Assam – Meghalaya cadre of IPS. As per the instructions issued by the Government of India and in accordance with the spirit of the Joint Cadre, the appropriate course of action was that mechanism of JCA (Joint Cadre Authority) should have been used and an officer should have been selected to man this post out of the eligible officers of both the segments. However, the Government of Meghalaya did not adhere to the instructions on this issue and appointed the next senior most officer available in the Meghalaya Segment i.e. Shri W.R. Marbaniang as DGP of Meghalaya. This action of the Government of Meghalaya resulted in resentment among the officers of Assam segment who were senior to Shri W.R. Marbaniang. In that situation, the Government of Assam should have taken the matter with the Government of Meghalaya to revert Shri W.R. Marbaniang to the ADGP grade and to select an officer for posting as DGP, Meghalaya through the machinery of JCA instead of requesting the Government of India to allow them to create four more ex-cadre posts beyond the ratio of 1:1 to adjust such four officers who were senior to Shri W.R. Marbaniang and were working in the Assam segment. However, this proposal was considered in this Ministry and was found not acceptable within the Rules. The Government of India therefore, advised the Government of Assam to place all the cases of promotion before the Joint Cadre Authority for its consideration. It is worth mentioning here that in the case of Joint Cadre of Manipur – Tripura of IAS, a similar decision was taken by the Government of India. Further, Government of India vide its DO letter No. I-

11012/6/2005-IPS.I dated 21.12.2005 advised the State Government of Meghalaya to revert Shri W.R. Marbaniang, IPS to the next lower grade and to place all the cases of promotion to Joint Cadre Authority. The Government of India has not approved the promotion of Shri W.R. Marbaniang, IPS to the apex level post without the approval of the Joint Cadre Authority. Therefore, the applicant cannot claim his promotion on the basis of a wrong precedent.

12. That, as far as the contention of the applicant regarding applying the settled principle of 'next below rule' is concerned it is submitted that the Department of Personnel and Training vide its letter No.20011/1/2002-AIS(II) dated 15th April, 2002 has categorically stated that the proforma promotion available under the Next Below Rule is to be given only when an officer is away from the cadre and in his absence, his batch mates and juniors get promoted in the cadre. This being not so in the instant case, as the senior continues to work in his cadre, there would be no question of grant of NBR benefits under Rule 5(5)(b) of the Pay Rules for the All India Services.

13. That, as far as the contention of the applicant regarding the sanction given by the Government of India to create apex level posts over and above the prescribed ratio in the year 2003 is concerned, this Ministry vide its letter No. I.11012/2/2002-IPS.I dated 9th April 2003, (Annexure – 15 to OA) conveyed its ex-post-facto sanction to create two posts only and that too, for a shorter period of time. However, in the instant case as much as 05 posts will have to be created, if the request of the applicant is agreed to. Further, it is not only the number of post, which is the cause of concern for the Government of India but also the length of the tenure for which these posts would have to be created. The year of superannuation of both the officers, at present working in the DGP Grade in Meghalaya is 2011. Thus the present situation, which has arisen because of the promotion of Shri W.R. Marbaniang will continue till then. The details of the officers for

TH
AS

whom the posts may have to be created with their dates of retirement are given below:-

Sl.No.	Name of the officer	Year of retirement
1.	Shri Sharda Prasad, IPS	2010
2.	Shri Shankar Barua, IPS	2011
3.	Shri S.P. Ram, IPS	2009
4.	Shri K.C. Reddy, IPS	2008
5.	Shri B.P. Rao, IPS	2009
6.	Shri M. Mohan Raj, IPS	2008

It may thus be seen that the period for which these posts need to be created ranges from 3 years to 6 years. Creation of additional posts at apex level for such long periods over and above the prescribed ratio, is not in public interest. Moreover creation of posts at apex level is done not merely to accommodate officers but on functional justification. No functional justification exists in the instant case.

14. In view of the above this Hon'ble CAT is requested to pass necessary orders as deemed fit in the interest of justice.

Place: New Delhi

Date : - 4 JAN 2007

THROUGH:

(DEPONENT)
(O. S. ASHOK)
Under Secretary
Ministry of Home Affairs
Govt. of India

VERIFICATION

Verified at New Delhi this the 4 JAN day of January, 2007 that the contents of the foregoing affidavit are true and correct to the best of my knowledge and belief and are based on the official records and the legal submissions are believed to be true based on the advice received.

(DEPONENT)

(O. S. ASHOK)
Under Secretary
Ministry of Home Affairs
Govt. of India

etc
Filed by:-
the Applicant
through
Hirup Kr. Bas.
Advocate
19.3.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

O.A.No. 153 of 2006

Sri R.N. Mathur

-Vs-

Union of India and Ors.

REJOINDER

1. That a copy of the written statement filed by the respondent has been served upon the applicant and the applicant has gone through the same and has understood the contents thereof. Save and except the statements which are specifically admitted herein below other statements made in the written statement are categorically denied. The statements which are not borne on record are also denied and the respondent is put to the strictest proof thereof.

2. That the applicant before parting to the issue directly begs to place the preliminary objection regarding the admissibility of the written statement. The deponent of the said WS has not disclose the identity as well as the

✓ 2 92

authority of the Respondents for whom he has filed the written statement. Apart from that the verification incorporated in the WS is not at all admissible. As such entire statements said in the WS can not be treated as a statement of the respondents.

3. That with regard to the statement made in para 1 and 2 of the WS the applicant begs to state that so far as the competency and authorization is concerned the deponent of the WS is put to the strictest proof thereof.

4. That with regard to the statement made in para 3 & 4 of the WS, the deponent does not admit anything contrary to the relevant records of the case.

5. That with regard to the statement made in para 5 of the WS, the applicant craves leave of the Hon'ble Tribunal to place the relevant rules as well as the interpretation along with the settled law at the time of hearing of this case.

6. That with regard to the statement made in para 6 & 7 of the WS, the applicant while denying the contentions made therein begs to state that the contentions raised by the respondents if taken into consideration as correct in that case there will be a new meaning to the words joint-cadre, seniority, next below rule, pay parity etc. The respondents have miserably failed to explain the reason as to why they are unable to create ex-cadre posts to meet the situation leading to the present controversy.

3
28
78

7. That with regard to the statement made in para 8 of the WS, the applicant while reiterating and reaffirming the statements made above as well as in the OA and its subsequent pleadings beg to state that the respondents has failed to take into consideration the settled law holding the issue relating to retrospective reversion. The law is well settled that there can not be reversion with retrospective effect. In the present case the respondents have reverted the applicant retrospectively whereas the same respondents even after admitting the promotion of Respondent No.8 to be illegal have not been able to revert him to the post of ADGP. In such a situation it is not proper on the part of the respondents to place certain technical works like functional justification in creating ex-cadre post. More so when the said respondents themselves had occasion to create four ex-cadre post in the post of DGP.

8. That with regard to the statement made in para 9, the deponent while denying the contention made therein begs to state that the respondents has miserably failed to take into consideration the settled proposition like Audi-Alterem-partem which is the law of the land and foundation of all the rules including the IFS (Cadre) Rules 1954 and IFS (Pay) Rules. Admittedly the respondents have failed to ~~adhere~~ to the settled principle of law in passing the impugned order and as such same is not tenable in the eye of law and liable to be set aside and quashed.

9. That with regard to the statement made in para 10 of the WS the applicant while denying the contention made therein begs to state that AG has got no power to place any

4 9
78

say/object in the matter relating to due retrospective promotion of the applicant to the rank of DGP.

10. That with regard to the statement made in para 11 of the WS the applicant while denying the contentions made therein begs to state that the respondents who are duty bound to look after the welfare/hardship of the officers have themselves created an ambiguous situation and even after noticing the same instead of resolving the issue created another illegality reverting the applicant to the rank of ADGP. The respondents is presently left with the option of creating ex-cadre post by obtaining ex-post facto approval and thereafter to promote the applicant to the rank of DGP (i.e. the date prior to the promotion of respondent No.8 to the rank of DGP) and to refix the pay of the applicant above the respondent No.8. However the respondents instead of resolving the situation have placed their helplessness in creating ex-cadre post in the rank of DGP while at the same time the respondents have shown their inability to revert the respondent NO.8 retrospectively to the rank of ADGP to maintain the pay parity as well as the seniority. It is noteworthy to mention here that in a similar fact situation the respondents themselves to resolve the situation created ex-cadre posts to accommodate 3 officers namely Sri L.David, Sri H.K.Deka to meet their hardship who were similarly placed like the present applicant and those facts have been admitted by the respondents.

11. That with regard to the statement made in para 12 of the WS the applicant while denying the contentions made

8/79-5
90

therein begs to state that the respondents have miserably failed to understand the meaning of next below rule in the context of seniority and pay fixation. Assam-Meghalaya being a joint cadre the proposition of next below rule is applicable as the respondent NO.8 being a junior to the applicant can not get the promotion to the rank of DGP prior to the applicant. If the contention of the respondents are taken to be correct then the word seniority and the settled proposition like next below rule will loose its identity and there will be total chaos in the entire service jurisprudence opening flood gate for the employer's to misuse their power.

12. That with regard to the statement made in para '13 of the WS the applicant while denying the statement begs to state that the stand taken by the respondents are self contradictory and devoid of any material disclosure. Though the respondents have used the word "functional justification" in refusing to create ex-cadre post in the rank of DGP, the said respondents have failed to understand the meaning of the word functional justification". In the present fact situation as projected by the applicant in the OA vis-a-vis the meaning of functional justification it is a clear case where the respondents instead of forcing the applicant to knock the doors of the court ought to have resolved the situation either by creating ex-cadre post with retrospective effect or by reverting the respondent No.8 retrospectively to the rank of ADGP. The factual disclosure made by the respondents clearly indicates the fact that the respondents have virtually allowed the respondent No.8 to continue as DGP till 2011 even though admittedly that was an

180 6 101

irregularity/illegality committed by them. The respondents have expressed their inability to revert the respondent No.8 and as such the ground taken by them as functional justification is totally baseless and self contradictory.

That the applicant as stated above begs to state that the appropriate Govt. has got power to create ex-cadre post in a given set of circumstances to meet the hardship of the officers. Admittedly in the present fact situation the respondents ought to have created ex-cadre post to meet the hardship of the applicant. The contention raised by the respondents regarding impossibilities in creating ex-cadre post beyond 1:1 ration is totally baseless and self contradictory taking into consideration the following data of various states.

13. That in view of the above facts and circumstances of the case the present DA deserves to be allowed with cost.

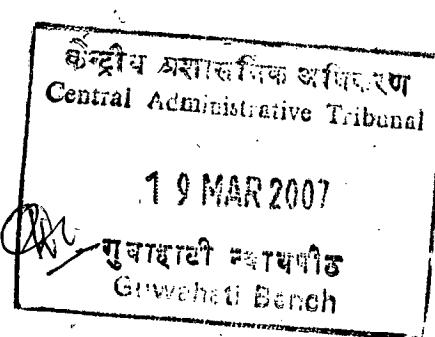
88 7 ✓ 102

VERIFICATION

I, Shri Ravindra Nath Mathur, son of Shri Jai Nath Mathur, aged about 57 years, at present working as Director General Of Civil Defence and Commandant General of Home Guards, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 3, 4, 5, 6, 8, 9, 11, 12 are true to my knowledge and those made in paragraphs 7, 10 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 19th day of March 2007.

Ravindra Nath Mathur
Signature



88
103
Sri K.V. Basu
Advocate
19.3.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 153 of 2006

Sri R.N. Mathur

-Vs-

Union of India and Ors.

REJOINDER

1. That the applicant has received the copy of the written statement filed by the respondents No.6 and 3. The applicant has understood the contents of the same. Save and except the statement which are admitted herein below, other statement made in the written statement may be treated to be total denial by the applicant. The statements which are not borne on records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1,2 and 3 of the written statement filed by the respondents the applicant does not admit anything contrary to the relevant records of the case.

2 104
83'

3. That with regard to the statement made in para 4 of the written statement, the applicant while reiterating and reaffirming the statements made in the OA as well as in the connected pleadings begs to state that the stand taken by the respondents in the impugned order dtd. 18.8.2004 clearly indicates their non-application of mind whereby it was directed to the state govt. to rescind the posting of the applicant from the post of DGP(V & AC), taking into consideration the fact that there are instances where Govt. of India had occasion to create as many of 4 posts of DGP (ref. Annexure-15 of the OA). In the instant case though there was need for such consideration but same was not done and no such reason has been assigned by the authority concerned.

4. That with regard to the statement made in para 5 to 11 of the written statement the applicant while reiterating and reaffirming the statements made above as well as in the OA and its subsequent pleadings, the applicant begs to state that the respondents have admitted the fact that the Govt. of Meghalaya has committed a wrong by not adhering the instructions as well as in promoting the respondent no. 8 as DGP, Meghalaya. The respondents even after such admission of committing wrong have shifted the burden to the Joint Cadre Authority instead of resolving the same. Though the answering respondents have admitted the fact of injustice caused to the applicant and indicated the fact that making correspondence to the Govt. of India by placing proposal for creation of 4(four) ex-cader posts in the rank of DGP but the said respondents have failed to show any record to that effect.

3/10
8/10

5. That with regard to the statement made in para 12 to 22 of the written statement the applicant while reiterating and reaffirming the statements made above as well as in the OA and its subsequent pleadings, the applicant begs to state that the respondent no. 8 continues to remain as DGP, Meghalaya despite the clear cut instruction from the Govt. of India to the Govt. of Meghalaya to revert him to the rank of ADGP, even after the basic admitted fact of his being a junior to the present applicant. The grievances of the applicant could have been resolved by creating ex-cadre post in the cadre of DGP as was done earlier.

The applicant further begs to state that the Annexure-A communication dtd. 13.10.06 indicates the fact that inspite of the afford made by the Govt. of India to revert the Respondent no. 8 from the rank of DGP to ADGP, nothing has been done so far in this matter and as such the respondents now have no option than to create additional ex-cadre posts in the rank DGP to provide relief to the applicant as well as other similarly situated officers senior to the respondent no. 8 to meet the situation as well as the hardship faced by the them. Admittedly after the issuance of the communication dtd. 13.10.06 none of the respondents has taken any positive steps to resolve the situation and at this juncture the only way left open, to the respondents to resolve the admitted hardship and illegalities caused to the applicant, is to create additional ex-cadre posts in the cadre of DGP. The stand taken by the respondents in shifting the burden to one

85' 4' 100

another even after clear cut admission of the wrong committed by the them and placing their helplessness in creating additional posts in the rank of DGP clearly indicates the positive interference by the Hon'ble Tribunal, applying the principles of Next Below Rule as has been done earlier.

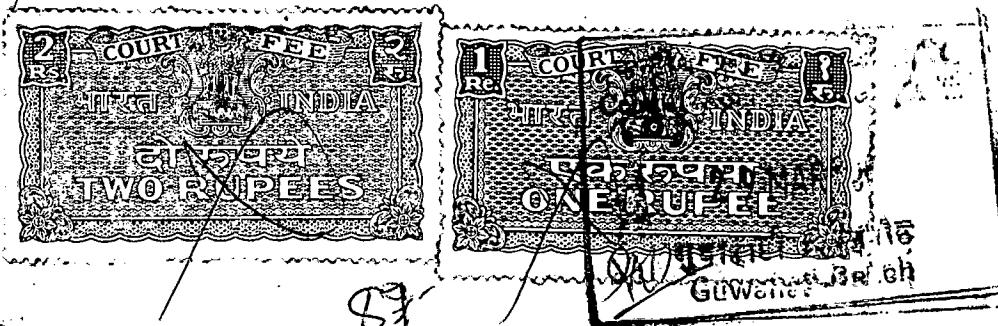
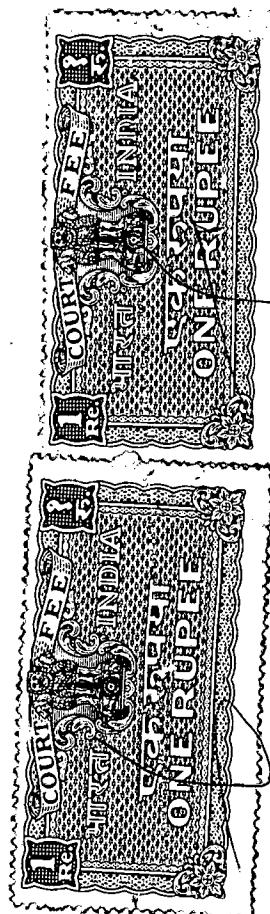
6. That in view of the above facts and circumstances of the case the present OA deserves to be allowed with cost.

VERIFICATION

I, Shri Ravindra Nath Mathur, son of Shri Jai Nath Mathur, aged about 57 years, at present working as Director General Of Civil Defence and Commandant General of Home Guards, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 2, 4, 6, are true to my knowledge and those made in paragraphs 3, 5, are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 19th day of March of 2007.

Ravindra Nath Mathur
Signature



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO.153/2006

R.N. Mathur

..... Applicant

-Vs.-

Union of India and Ors.

..... Respondents

- AND -

IN THE MATTER OF :

An affidavit in opposition filed by the
Respondent No.4 -

I, Shri G. Smiling Marbaniang, Son of Late G.L. Ryngdong, aged about 57 years, resident of Shillong, Meghalaya do hereby solemnly affirm and state as follows:

1. That I am holding the post of Under Secretary to the Government of Meghalaya, in the department of Home (Police). I have received a copy of the abovenoted application numbered as O.A. No.153/2006. I have gone through the said application and have understood the meaning thereof. I do not admit any averment which are contrary to and inconsistent with the record of the case. I am well conversant with the facts and circumstances of the case and I am competent to swear this affidavit.
2. That with regard to the statements made in paragraphs 4.1 to 4.21 of the application filed by the applicant before this Hon'ble Tribunal, the deponent hereby deny all those statements which are contrary to and inconsistent with the record of this particular case.

108
Ranil Guanu
Sr. Government Advocate
Meghalaya
03/03/07

2
88
9

3. That with regard to the statement made in paragraph 4.8 of the application, the deponent begs to state that Mr. W.R. Marbaniang belongs to the 1975 Batch of I.P.S. He has all along been serving in the Meghalaya Wing of the Cadre with distinction. Mr. Marbaniang, being the senior most and having put in 30 years of service, is eligible for promotion to the level of the Director General of Police, as per existing guidelines. Further taking into consideration the problems of militancy, etc. affecting the State of Meghalaya, it was felt necessary to appoint Sri Marbaniang as the Director General of Police of Meghalaya, who is familiar with the ground, situation so as to provide effective leadership to the Meghalaya Police Force. Sri W.R. Marbaniang fulfills all the requirements in such promotion. Further the grade of D.G.P. is a selection post and is filled up on the basis of merit. It is upto the discretion of the State Government to appoint a suitable officer who has fulfilled the eligibility criteria as per the Government of India Guidelines. The matter of promotion of Sri Marbaniang was also placed before the J.C.A. However, the decision is awaiting.

4. That with regard to the statements made in paragraph No.5 of the application the deponent begs to state that Sri W.R. Marbaniang being eligible for promotion was promoted to the level of D.G.P. vide notification No.HPL.38/99/Pt.IV/2 dated 14.3.2005. Sri Marbaniang is now drawing the D.G.P.'s scale of pay. The deponent begs to state that the direction of the Government of India to revert him to the lower grade is violative of the principles as laid down in the Constitution of India.

5. That the circumstances as narrated above may kindly be considered by the Hon'ble Tribunal and further may be pleased to dismiss the application filed by the applicant challenging the promotion of Sri Marbaniang to the post of D.G.P. in Meghalaya.

898

120

6. That the statements made in paragraphs No.1, 5 and 6 of this affidavit are true to my knowledge and paragraphs No.2 to 4 are being matters of record and the knowledge derived therefrom are believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I put my signature hereon this affidavit on this 29th day of March, 2007 at Guwahati.

G. S. Mbanuary
DEPONENT

20 AUG 2007

गुवाहाटी बायांडी
Guwahati Bench

90

Filed by
The Petitioner
through
Bardana Devi
Advocate
20/8/07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

D.A.No. 153 of 2006

Sri R.N. Mathur

-Vs-

Union of India and Ors.

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENT

NO 4.

1. That a copy of the written statement filed by the respondent No.4 has been served upon the applicant and the applicant has gone through the same and has understood the contents thereof. Save and except the statements which are specifically admitted herein below other statements made in the written statement are categorically denied. The statements which are not borne on record are also denied and the respondent is put to the strictest proof thereof.

2. That with regard to the statement made in para 1 and 2 of the written statement the deponent does not admit anything

contrary to the relevant records of the case.

3. That with regard to the statement made in para 3 of the written statement the applicant begs to state that the claim registered by the applicant is based on the settled proposition of law as well as the interpretation of discharging the discretionary power and application of "next below rule". The applicant in fact has elaborately dealt with the issues as well as the law holding the field and as such he craves leave of the Hon'ble Tribunal to place reliance to the said statements at the time of hearing of the case instead of repeating the same.

4. That with regard to the statement made in paras 4 and 5 of written statement the deponent begs to state that the respondents have violated the settled proposition of law and as such any consequential order rectifying the error does not amount to violation of any constitutional mandates. In that view of the matter the OA deserves to be allowed with cost.

The applicant having regard to the facts and circumstances of the case, begs to rely and refer upon the statements made in the OA and its subsequent pleadings at the time of hearing of the case.

92

VERIFICATION

I, Shri Ravindra Nath Mathur, son of Shri Jai Nath Mathur, aged about 57 years, at present working as Director General Of Civil Defense and Commandant General of Home Guards, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4 are true to my knowledge and those made in paragraphs are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 19th day of Aug. of 2007.

Ravindranath Mathur
Signature