

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A./T.A No. 168/2006

R.A./C.P No.

E.P./M.A No.

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16. Counter Reply.....

SECTION OFFICER (Judl.)

Kabli
24.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 168 / 2006.
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Mr A.K. Malakar

Respondant(S) U.O.I. & Oms.

Advocate for the Applicant(S) Mr. U.K. Nair.....

Mr. B. Savema.....

Mrs. B. Chakrabarty

Advocate for the Respondant(S) C.G.S.C. Mr. M. Ahmed

Govt. of Assam

Govt. of Meghalaya

Notes of the Registry

Date

Order of the Tribunal

04.07.2006 Present: Sri Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

The applicant is working as

Secretary, Department of Pension and Public
Grievances. The Selection Committee is
constituted for promotion to the super time
scale. The grievance of the applicant is that at
the fag end of the career of the applicant, a
departmental proceeding has been initiated
against the applicant for which he has
submitted reply and Inquiry Officer was also
appointed. The applicant has one year of
service left to retire. In the event, if he is not
considered for selection great hardship would
be caused to him. The applicant also stated
that the departmental proceeding can also be
finalised within a short time.

Heard Mr U.K. Nair, learned counsel for
the applicant and Mr M.U. Ahmed, learned
Addl. C.G.S.C. for the respondents.

Contd/-

Dy. Registrar

NO steps.

3.7.06

This application is in form, n,
is filed/C. F. for Rs. 50/-
deposited vide IPC/BD
No. 26.07.32.14.73
Dated 9-6-06

Contd/-
04.07.2006

Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submitted that All India Services will not attract the seal cover procedure. Therefore, his case cannot be considered until disciplinary proceedings are completed.

I have given due consideration to the arguments and pleadings. In the interest of justice, I direct that the respondents shall consider the name of the applicant also for promotion to the super time scale. However, the result shall be kept in abeyance, which will be subject to the outcome of the O.A. and the disciplinary proceedings. At this stage in the selection, the disciplinary proceedings will not be taken into account.

Post on 21.08.2006.

Vice-Chairman

/mb/

21.8.06

order dt- 4/7/06
and notice for
resp. no-1 received
by Mr. M.U. Ahmed,
Addl. C.G.S.C., CAT,
C44-5.

Heard Mr. B. Sarma learned
counsel for the applicant and Mr. M. U.
Ahmed, learned Addl. C.G.S.C. for the
Respondents.

Application is admitted.

Issue notice on the respondents.

Post the matter on 18.10.06.

Interim order shall continue.

Vice-Chairman

In

31.10.2006

Mrs. M. Das, learned Govt. Advocate
State of Assam is granted three weeks
time to file reply statement.

Post on 22.11.2006.

Vice-Chairman

order dt- 21/8/06
issuing to learned
advocate's for both
the parties.

22/8/06

30.10.06

No steps taken so far
notice.

Notes of the Registry	Date	Order of the Tribunal
<p>13.11.06</p> <p>W/s filed by the Respondent Nos. 2 & 4.</p> <p><i>[Signature]</i></p>	22.11.2006	<p>Present: Hon'ble Sri K.V. Sachidanandan Vice - Chairman.</p> <p>Mr M.U. Ahmed, learned Counsel for the Respondent No. 1 sought further time to file reply statement. Let it be done. In the meantime, learned Counsel for the Applicant is given liberty to file rejoinder to the reply statement filed by the Respondent Nos. 2 to 4. Post on 21.12.2006.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>21-11-06</p> <p>① W/s filed by R.No-2&4, ② No W/s filed by R.No-1, 3, 5 & 6.</p> <p><i>[Signature]</i></p>	/mb/	
<p>21.12.06</p> <p>① W/s filed by R.No-2&4, ② No W/s filed by R.No-1, 3, 5 & 6.</p> <p><i>[Signature]</i> 20.12.06. pg</p>	21.12.06	<p>Counsel for the respondents submitted that she has filed the written statement.</p> <p>Post on 18.1.07 for filing rejoinder, if any by the applicant.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No rejoinder has been filed.</p> <p><i>[Signature]</i> 17.1.07.</p> <p>No rejoinder has been filed.</p> <p><i>[Signature]</i> 8.3.07.</p>	18.1.2007	<p>Respondent Nos. 2 & 4 has already filed reply statement. The other respondents wanted time to file the same. Four weeks time is granted for the same.</p> <p>Post the matter on 21.2.2007. In the meantime Mrs. B. Chakraborty, learned counsel for the Applicant is directed to ascertain the stage of the disciplinary proceeding.</p> <p><i>[Signature]</i> Vice-Chairman</p>

=4-

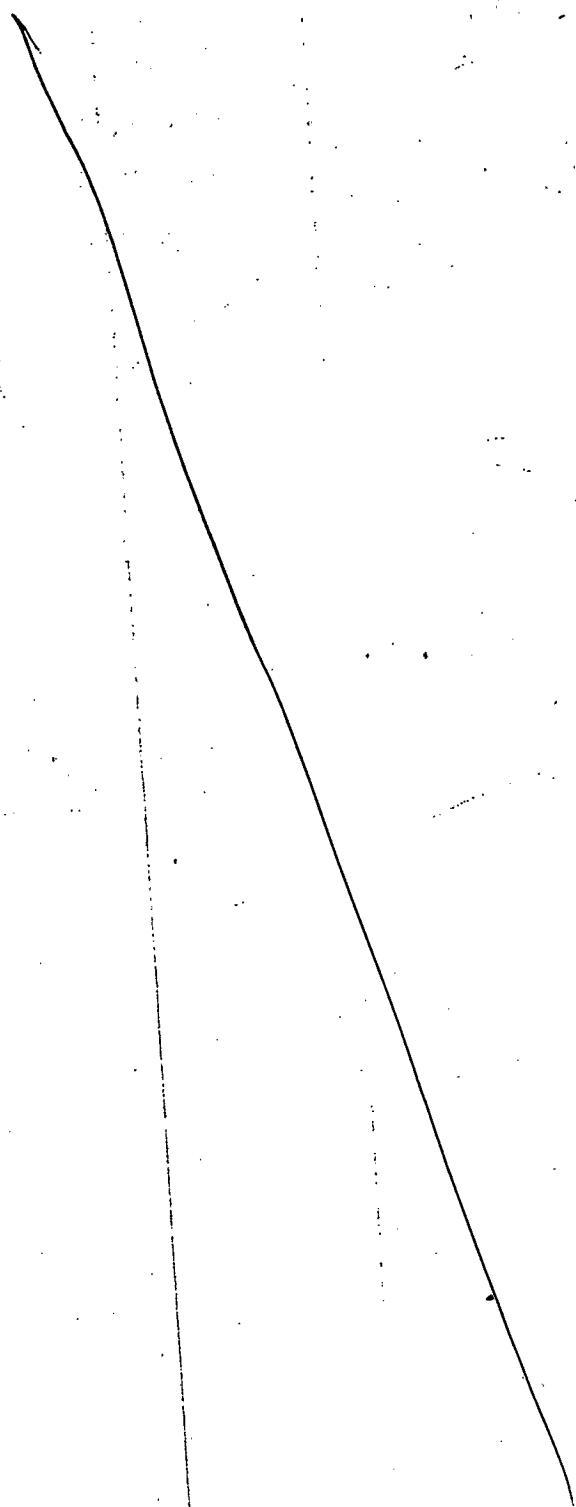
N

07A: 168106

Notes of the Registry

Date

Order of the Tribunal



09.03.07.

Respondent Nos. 2 & 4 written statement has been filed. Copy of the same has received by the applicant. Counsel for the applicant prays for time to file rejoinder. Let it be done. Post the matter on 2.4.07. Liberty is given to the respondents to file written statement if, any.

Vice-Chairman

lm

24
9.5.07.

10.05.2007

Since the Applicant is retiring in the month of July, 2007 the matter has to be urgently expedited. Other Respondents are directed to file reply statement within two weeks.

Hence post the case on 28.5.2007 for filing of reply statement and for fixing the matter before the next Division Bench for hearing.

Vice-Chairman

/bb/

28.5.07.

Yrs M. J. A., learned Counsel appearing for respondent No. 5 seek three weeks' time for filing reply statement.

Put up on 19.6.07. The applicant is at liberty to file rejoinder if any.

Vice-chairman

① Wls filed on behalf of R.No - 2 & 4.

② No rejoinder has been filed.

① Wls filed by R.No 2 & 4,

② other respondents not yet filed.

③ No rejoinder has been filed.

24
25.5.07.

No Wls filed by.

R.No-1, 3, 5 & 6.

24
18.6.07.

U.A. 158 of 1906
19.6.07, Counsel for the respondents want
time to file written statement. Let it
be done. Post the matter on 6.7.07.

lm

Vice-Chairman

W/s not filed
by the R.No. 1,3,5
and 6.

11.7.2007

Mrs. M.Das, learned Govt. Advocate,
State of Assam submitted that reply
statement has already been filed on behalf
of the State of Assam. Post the case before
the next Division Bench for hearing. In the
meantime other Respondents are at liberty
to file reply statement.

Vice-Chairman

Rejoinder not filed. /bb/

07.05.2008

None for the Applicant nor the
Applicant is present. However,
Mr.M.U.Ahmed, learned Addl. Standing
Counsel appearing for the Union of India and
Mrs. M.Das, learned counsel for the State of
Assam are present. None appears for the
State of Meghalaya.

It is stated by Mrs. M.Das, learned
Addl. Standing Counsel for the State of
Assam that connected matter of present
Applicant (O.A.No.71 of 2005) has been
posted to 19.5.2008 and that present matter
may be listed on that date alongwith said
O.A.No.71 of 2005. Prayer is allowed.

Call this matter on 19.05.2008
alongwith O.A.No.71 of 2005 for hearing.

Supply copies of this order to the
counsel appearing for both parties in this
case.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

10.7.07.

6.05.08

Dt. 7.5.08

Pl. send copies of this order
to the counsel appearing
for both the parties in this
case.

elstos

order dt-7/5/08

send to D/Section
or issuing to
counsel appearing
or both parties.

for 15/08. D/No-
DT=

W/s filed.

16.5.08.

19.05.2008

Dt. 19.5.08.

P1. Send copy of this order to the Applicant and Respondents.

Free copies of this order be handed over to the counsel for the parties.

M. 21.5.08

order copy dt. 19/5/08

send to D/Section for issuing to Applicant and to the respondents by post and to the counsel for the parties.

leaf
26/5/08, D/No-2525 to 2534
Dt = 27/5/08.

W/S biled.

pg

M
25.6.08

26.06.08


W/S biled

M
30.6.08

None appears for the Applicant nor the Applicant is present. Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Union of India has filed letter of absence for today. Mrs M.Das, learned counsel representing State of Assam is however, present. None appears for the State of Meghalaya.


Call this matter on 26.06.2008 for hearing along with O.A.71/05. Rejoinder, if any may be filed before the next date of hearing.

Send copy of this order to the Applicant and Respondents in the address given in the O.A and free copies of this order be handed over to the counsel for the parties.


(M.R. Mohanty)
Vice-Chairman

None appears for the Applicant nor the Applicant is present. However, Mr M.U.Ahmed, learned Addl. Standing counsel representing Union of India is present for the Respondents. None appears for the State of Assam nor for the State of Meghalaya.

Call this matter on 01/07.2008 before Division Bench.

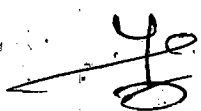

(M.R. Mohanty)
Vice-Chairman

O.A.168/2006

01.07.2008

Mr.B.Sarma, learned counsel appearing for the Applicant. Mr. learned Addl. Standing counsel for the Union of India is also present. However, Mrs.M.Das, learned Advocate representing the State of Assam is absent for the reason of her sickness. None appears for the State of Meghalaya.

Call this matter tomorrow, the 2nd July, 2008 along with O.A.71/2005.


(M.R.Mohanty)
Vice-Chairman

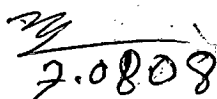
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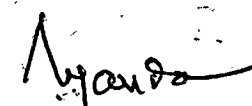
① Wls biled.

② Rejoinder not biled.

02.07.2008

Call this matter on 08.08.2008 for hearing.


2.0808


(R.C.Panda)
Member(A)

nkm

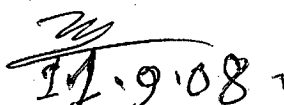

(M.R. Mohanty)
Vice-Chairman

08.08.2008

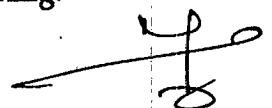
None appears for the Applicant. However, Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents and Mrs. M. Das, learned counsel for the State of Assam are present.

Call this matter on 12.9.2008 before Division Bench for hearing.

Rejoinder not biled.


12.9.08

Lm


(M.R.Mohanty)
Vice-Chairman

O.A. 168/06

- 8 -

a

12.09.2008

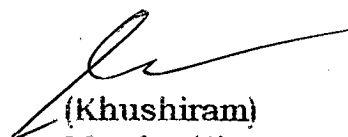
Mr. B. Sarma, learned counsel appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel representing the Union of India is also present. Mrs. M. Das, learned counsel appearing for the State of Assam, is absent. She has sent a leave note.


Call this matter on 07.11.2008 for hearing.

Rejoinder not
filed.

3
6.11.08.

lm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

07.11.2008

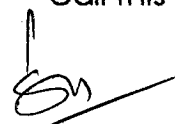
Mr. U.K. Nair, learned counsel for the Applicant is on accommodation.

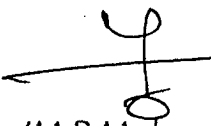
Call this matter on 04.12.2008 for hearing.

Rejoinder not filed.

3
3.12.08

/bb/


(S.N. Shukla)
Member (A)

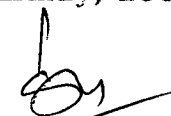

(M.R. Mohanty)
Vice-Chairman

Rejoinder not
filed.

3
5.1.09.

04.12.2008

Call this matter on 6th January, 2009.
for hearing.


S.N. Shukla)
Member(A)

lm

06.01.2009

None appears for the Applicant nor the Applicant is present. Mrs M. Das, learned counsel representing the State Govt. of Assam is however, present. None appears for the State of Meghalaya.

Call this matter on 11.02.2009 for hearing.

Rejoinder not filed.

3
10.2.09


(M.R. Mohanty)
Vice-Chairman


O.A. 168/06

09.02.2009

Call this matter on
20.03.2009 before Division Bench.

No rejoinder
filed.

3
19.3.09


(M.R. Mohanty)
Vice-Chairman

pg

20.03.2009

None for the parties. Adjourned to be
taken up on 30.04.2009.

Rejoinder not
filed.

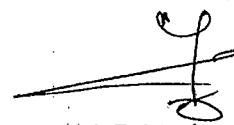
3
29.4.09.


(A.K. Gaur)
Member (J)

/bb/

30.04.2009

Call this matter on 16.06.2009.


(M.R. Mohanty)
Vice-Chairman

Rejoinder not
filed.

/bb/

3
13.8.09.

16.06.2009

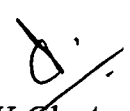
Call this matter on
14.08.2009 for hearing.



(M.R. Mohanty)
Vice-Chairman

lm

14.08.2009

On the prayer of learned
counsel for the parties, call this
matter on 20.08.2009 for hearing.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

O.A. 168/06

-10-

20.08.2009

For the reasons recorded separately, this O.A. stands disposed of as infructuous.

28/8/2008

Judgement order dated 20/8/2008 send to the D/section for issuing to the Applicant and Respects by Regd post, and free copies of both side standing counsels. by hand.

/bb/

(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

D/No. 9853-9859 ^{28/8/09}

dtd 31/8/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:

O.A.No.168 of 2006

Date of Decision 20.08.2009

Sri A.K.Malakar

..... Applicant/s

Mr. B.Sarma

..... Advocate for the
Applicant/s

- Versus -

U.O.I. & Ors.

..... Respondent/s


Ms. M.U.Ahmed Addl.C.G.S.C. for Govt. of India &
Mrs.M.Das for the State of Assam

..... Advocate for the
Respondents

CORAM

MR. MANORANJAN MOHANTY, VICE-CHAIRMAN
MR. M. K. CHATURVEDI, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment ? ~~Yes~~/No
2. Whether to be referred to the Reporter or not ? ~~Yes~~/No
3. Whether their Lordships wish to see the fair copy of the Judgment ? ~~Yes~~/No


Vice-Chairman/Member (A)

14

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.168 of 2006

Date of Order: This, the 20th Day of August, 2009.

HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

HON'BLE MR. M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Sri A.K.Malakar
Son of Late Haladhar Ch. Malakar
Resident of Dispur, Guwahati.

....Applicant

By Advocates: Mr.U.K.Nair & Mr.B.Sarma & Mrs.B.Chakraborty

-Versus-

1. The Union of India
represented by the Secretary to the
Government of India, Ministry of Personnel,
Public Grievances & Pensions, (Department
of Personnel & Training, North Block
New Delhi-110001.
2. The State of Assam
represented by the Chief Secretary
to the Government of Assam
Dispur, Guwahati.
3. The Chief Secretary to the
Government of Meghalaya
Shillong.
4. The Secretary
to the Government of Assam
Personnel (A) Department
Dispur.
5. The Selection Committee constituted
for selection of IAS Officer for promotion
to the supertime scale of IAS
represented by its Chairman, the Chief Secretary
to the Government of Assam
Dispur, Guwahati-6.
6. The Joint Cadre Authority IAS
Assam-Meghalaya Joint Cadre
represented by the Chief Secretary



to the Government of Assam
Dispur.

... Respondents.

By Mr.M.U.Ahmed, Addl. Standing Counsel for the Govt. of India and
Mrs.M.Das, Advocate for the State Govt. of Assam.

ORDER (ORAL)
20.08.2009

MANORANJAN MOHANTY, (V.C.):

Heard Mr.B.Sarma, learned counsel appearing for the Applicant; Mr.M.U.Ahmed, learned Addl. Standing counsel for the Government of India, and Mrs.M.Das, learned Advocate appearing for the State Government of Assam and perused the materials placed on record.

2. Claiming promotion to the supertime scale of IAS, the Applicant (a member of Indian Administrative Service) has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

3. At the outset of hearing, counsel appearing for the parties informed that during pendency of this case the Applicant received promotion and he has already retired from service in the meantime.

4. Thus, this case appears to have already become infructuous and accordingly this case stands disposed of.


(M.K.CHATURVEDI)
ADMINISTRATIVE MEMBER

/BB/


(MANORANJAN MOHANTY)
VICE CHAIRMAN

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 3 JUL 1986

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUMAHATI BENCH: AT GUMAHATI.

ORIGINAL APPLICATION NO. 168 /2006.

Sri A. K. Malakar

.....Applicant.

VERSUS

The Union of India & Ors.

.....Respondents.

SYNOPSIS

The applicant has by way of this application raised a grievance against the arbitrary and illegal action on the part of the respondent authorities in not taking steps for conclusion of the departmental proceedings drawn up against the applicant vide issuance of Memorandum dated 30.12.05 and also the deprivation being sought to be meted out to the applicant in denying to him his due promotion to the supertime scale in view of the said proceedings.

The authorities had vide memorandum dated 30.12.05 framed charges against the applicant basing on flimsy and untenable allegations. The said memorandum dated 30.12.05 came to be issued at the instance of Mr. C. K. Das, IAS, Addl. Chief Secretary who at the relevant point of time was monitoring the functioning of the Revenue Department. The applicant without delay submitted his written statement of defence and enquiry officers also came to be appointed. In spite of the said position no enquiry has been held and the whole proceeding have been kept in cold storage.

That on 5.7.06 the meeting of Departmental

Filed by:-

Unni Krishnan Nair / 16

Advocate

03.07.06.

3/2/06

17

Promotion Committee has been convened for the purpose of considering the case of the officers in the zone of consideration for promotion to the supertime scale and the name of the applicant figures at serial number 2 of the list of officers being considered. The said Departmental Promotion Committee has Mr. C. K. Das, IAS, Addl. Chief Secretary as one of its members and he being biased against the applicant the applicant cannot expect a proper consideration of his merit in the said selection. Further, as before, the said committee would take note of the departmental proceedings pending against the applicant and he would be deprived of his due promotion to the supertime scale.

That the case of the applicant for the said promotion is required to be considered as of 22.12.05 inasmuch as on the said date persons junior to him figuring in the Meghalaya segment of the IAS Assam-Meghalaya Joint cadre came to be promoted to the supertime scale. In the event the said promotion of the applicant is considered as of 22.12.05 then the said departmental proceedings cannot be taken note of in the selection.

The deprivations as faced by the applicant earlier and also the denial that is being sought to be meted out to him now, has forced the applicant to approach this Hon'ble Tribunal praying for redress of his grievances.

10

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUMAHATI BENCH: AT GUMAHATI.**

ORIGINAL APPLICATION NO. 168 /2006.

Sri A. K. Malakar

.....Applicant.

VERSUS

The Union of India & Ors.

...Respondents.

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Filed by: U.K. NAIR

Advocate.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

- 3 JUL 2001

गुवाहाटी ब्याचपीठ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO.

168

12556

Filed by;
The Applicant
Through;
Unni Krishnan Nair
Advocate 03.07.06

Sri A. K. Malakar, son of Late
Haladhar Ch. Malakar, resident of
Dispur, Guwahati.

.....Applicant.

VERSUS

1. The Union of India, represented
by the Secretary to the Government
of India, Ministry of personnel,
Public Grievance and Pension
(Department of Personnel &
Training), North Block, New Delhi -
1.
2. The State of Assam, represented
by the Chief Secretary to the
Government of Assam, Dispur.
Guwahati.
3. The Chief Secretary to the
Government of Meghalaya, Shillong.
4. The Secretary to the Government
of Assam Personnel (A) Department,
Dispur.
5. The Selection Committee
constituted for selection of IAS

officer for promotion to the
supertime scale of IAS,
represented by its chairman, the
Chief Secretary to the Government
of Assam, Dispur, Guwahati-6.

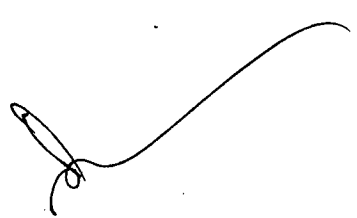
6. The Joint cadre Authority IAS
Assam-Meghalaya Joint Cadre,
represented by the Chief Secretary
to the Government of Assam, Dispur.

..... Respondents.

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

This application is not directed against any
particular order, but is directed against the action on
the part of the respondent authorities in not taking
steps towards early conclusion of the departmental
proceeding drawn up against the applicant and also the
consequent deprivation being sought to be meted out to
the applicant by reckoning the said proceedings only
for the purpose of denying to him a due and proper
consideration of his case for promotion to the
supertime scale of IAS.

This application is also directed against the
inaction on the part of the respondent authorities in
considering the case of the applicant for promotion to
the supertime scale of IAS w.e.f. the date of such
promotion of his juniors, belonging to the Meghalaya



segment of the IAS Assam-Meghalaya Joint cadre.

2. JURISDICTION:

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

3. 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, 1985.

4. FACTS OF THE CASE:

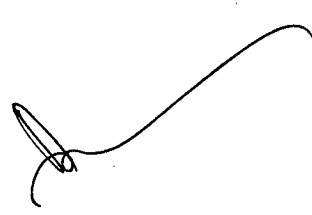
4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder. The applicant belongs to the Indian Administrative service and his Year of Allotment is 1990. The applicant is presently holding a post in the Selection Grade of the service.

4.2 That the applicant states that his service career in the Indian Administrative service has been one of continuous deprivation and discrimination. The authorities have all along been taking steps towards denying to the applicant a proper assessment of his merit and all selections held involving advancement in his service career, came to be coloured by the

departmental proceedings initiated against him on the eve of such consideration resulting in denial to him his due promotions at the appropriate time and thereby facilitating his supercession by juniors in matters of promotion. It may be mentioned here that in none of the proceedings initiated against the applicant he was found to be guilty and all such proceedings came to be dropped.

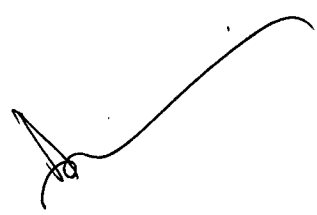
4.3 That the applicant states that he belonged to the 1975 batch of Assam Civil Service Officer and in the state service the applicant had an outstanding service career. The applicant was due for consideration of his case for promotion to the IAS cadre in the year 1993, but the applicant was deprived of such consideration in the year 1993 inasmuch as a department proceeding on flimsy grounds came to be initiated against him just on the eve of consideration by the selection committee of the cases of persons in the zone of consideration for promotion to the cadre of IAS against the vacancies identified for the year 1993. The applicant forced by the circumstances approached this Hon'ble Tribunal by way of filing O.A. No. 72 of 1994. The purpose behind initiation of proceedings against the applicant having been achieved and his juniors promoted to IAS, the disciplinary proceeding initiated against the applicant came to be dropped.

4.4 That this Hon'ble Tribunal vide order dated 08.04.94 proceeded to allow the said original



application no. 72 of 1994 by directing the respondent authorities to consider the case of the applicant for his promotion to the IAS cadre, without taking into account any adverse remark and/or the departmental proceeding drawn up against the applicant. The said directives as passed by this Hon'ble Tribunal came to be ignored and the case of the applicant never came to be placed before the selection committee. The applicant in the face of the hostile discrimination meted out to him again approached this Hon'ble Tribunal by way of instituting O.A. 180 of 1994, inter-alia, praying for consideration of his case for promotion to the IAS against the vacancies of the year 1993 and 1994. This Hon'ble Tribunal vide order dated 07.08.98 proceeded to dispose of the O.A. No. 180 of 94, inter-alia, directing for consideration of the cases of the applicant for promotion against the vacancies in the IAS available for the years 1993 and 1994. However, the said directives and also the directives in this connection passed by this Hon'ble Tribunal in the subsequent original applications as filed by the applicant before this Hon'ble Tribunal are yet to be implemented.

4.5 That the applicant states that he came to be promoted to the Assam Segment of the IAS Assam - Meghalaya Joint cadre against the vacancies available for the year 1996, vide issuance of notification dated 30.12.96 by the Government of India in the Ministry of Personnel Public Grievances and Pension, which was



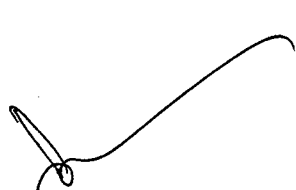
communicated by the Government of Assam, Personnel (A) Department vide notification bearing No. AAI. 32/ 94/ 311-A dated 03.01.97. It is stated that the promotion of the applicant was effected w.e.f. 30.12.96.

A copy of the said notification dated 03.01.97 is annexed as
Annexure - 1.

4.6 That the applicant states that on being appointed to the IAS by way of promotion, the applicant was given year of allotment as 1990. As such all further advancement by the applicant in the IAS is to be determined with reference to his year of allotment i.e. 1990.

4.7 That the applicant states that in terms of the provisions of the IAS (Pay) Rules, 1954, the applicant came to be promoted to the Selection grade w.e.f. 01.01.03 and the next promotion of the applicant is to the supertime scale and the said promotion in terms of the IAS (Pay) Rules, 1954, is to be effected by applying the criteria of Merit-cum-Seniority. In the list of officers in the zone of consideration for promotion to the supertime scale, the names of the applicant figures at serial No. 2.

4.8 That the applicant states that for the states of Assam and Meghalaya there is a joint cadre for IAS. The officers belonging to the said cadre are appointed against the posts available in each of the segment i.e. Assam segment and Meghalaya Segment of the said Joint



cadre. In the event any officer belonging to either of the said segment of the Assam-Meghalaya Joint cadre come to be promoted to the next higher scale of pay, the persons senior to him in the other segment is also required to be considered for such promotion and on being found to be fit are required to be promoted w.e.f. the date of promotion of their juniors.

4.9 That the applicant states that in the amalgamated seniority list (civil list) of the officers of the IAS Assam - Meghalaya Joint cadre, the name of the applicant figures at serial no. 120. The names of D.K. Dkhar, IAS and B. Purkayastha, IAS figures at serial no. 127 and 128 of the said list. Both Sri Dkhar and B. Purkayastha have their respective years of allotment as 1990 and they belong to the Meghalaya segment of the Assam - Meghalaya joint cadre.

4.10 That the applicant states that both said D.K. Dkhar and B. Purkayastha came to be promoted to the supertime scale of IAS vide issuance of notification bearing no. PER. 37/ 87/ 340 dated 22.12.05. The applicant being admittedly senior to the said officers is also entitled to have his case considered for promotion to the supertime scale w.e.f. the dates of promotion of his juniors.

A copy of the notification dated 22.12.05 is annexed as **Annexure - 2.**

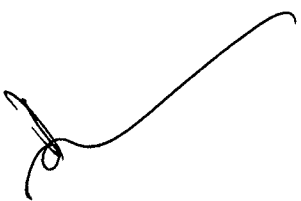
4.11 That as the case of the applicant was ripe

for being considered for promotion to the supertime scale, following the methodology adopted in his case earlier for depriving him of his due promotions, a memorandum of charges came to be issued against the applicant vide memorandum-dated 30.12.05. The charges as framed against the applicant vide the said memorandum dated 30.12.05 were framed basing on some wild and baseless allegations levelled against the applicant pertaining to the discharge by him of the duties attached to the post of Director, Land Records, Survey etc. The said memorandum of charges came to be levelled against the applicant basing on a complaint that was lodged in this connection by Mr. C. K. Das, IAS, Addl. Chief Secretary who at the relevant point of time was monitoring the functioning of the Revenue Department.

A copy of the memorandum dated 30.12.05 is annexed as **Annexure - 3.**

4.12 That the applicant on receipt of the copy of the said memorandum dated 30.12.05 on 10.01.06, proceeded vide his communication dated 17.01.06 to submit his written statement of defence against the charges as framed against him. The applicant had in his written statement of defence clarified the charges levelled against him and had demonstrated the hollowness of the same.

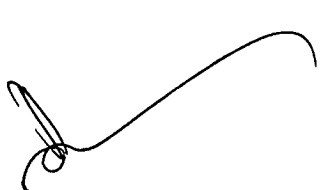
A copy of the said written statement of defence dated 17.01.06 is annexed



as Annexure - 4.

That applicant begs to refer and rely upon the contentions as made in the said written statement of defence dated 17.01.06 and the statements as made therein, be treated to be the statements as made in this original application.

4.13 That the applicant states that the basic theme of the charge no. 1 as framed against the applicant vide the memorandum dated 30.12.05 was that he had placed orders for repair of certain machinery without there being any budget provision for such expenditure during the year 2004-05. The said charge is wholly unsustainable, inasmuch as the Government had accepted the proposal as submitted by the Director of Land Records for repair of machinery and had sanctioned an amount of Rs. 3,42,428/- for the purpose. The financial sanction as accorded was with reference to the bills as submitted in this connections by the approved contractor against the work done and this reveals that the said work was carried out with the approval of the Government. Further, the records as maintained also would demonstrate that the subject matter of the second charge i.e auction of a vehicle of the directorate was also done asper the procedure prescribed. As such the applicant vide his additional written statement of defence brought the said aspects of the matter to the notice of his disciplinary authority.



A copy of the Addl. Written statement of defence dated 18.02.06 is annexed as **Annexure - 5.**

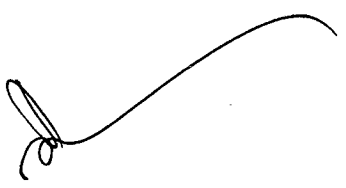
That applicant begs to refer and rely upon the contentions as made in the said Addl. written statement of defence dated 18.02.06 and the statements as made therein, be treated to be the statements as made in this original application.

4.14 That the applicant states that, on not being satisfied with the written statement of defence dated 17.01.06 and 18.02.06, as submitted by the applicant against the memorandum dated 30.12.05, the authorities proceeded to decide to hold an enquiry into the charges framed against the applicant and vide order dated 20.04.06 appointed Sri H. M. Cairae, IAS, as the Enquiry Officer. The Enquiry officer as appointed for conduct of the enquiry initiated against the applicant refused to accept the said appointment. Thereafter, vide order dated 05.06.06, the authorities proceeded to replace that Enquiry officer as appointed vide order dated 20.04.06 and appointed Sri Bhaskar Mushahary IAS as the Enquiry Officer. In spite of appointment of the Enquiry Officer, as way back as on 05.06.06 no enquiry has been started and the whole issue has been put to cold storage. It is stated that the applicant is in no way responsible for the delay occasioning in the conclusion of the proceedings initiated against him.

Copies of the orders dated 20.04.06 and 05.06.06 are annexed as **Annexure = 6 & 7** respectively.


4.15 That the applicant states that mere perusal of the Article of Charges as framed against the applicant vide the memorandum dated 30.12.05 and the written statement of defence dated 17.01.06 and 18.02.06, would reveal that the charges as framed against the applicant are all baseless and cannot sustain the scrutiny of law. In the humble submission of the applicant not more than a day's enquiry is required for concluding the enquiry and the hollowness of the charges as framed against the applicant would come to the forefront. However, inspite of the fact that more than 6 months have elapsed from the date of issuance of the said memorandum of charges, no steps have been taken for conduct of the enquiry and the whole proceedings have been kept in a state of suspended animation.

4.16 That the applicant states that the only intention behind issuance of the memorandum of charges dated 30.12.05 and the non-conclusion of the enquiry is to some how prevent a proper assessment of the merit of the applicant when his case is being considered for promotion to the supertime scale. The sole intention behind the issuance of the said memorandum dated 30.12.05 is to some how show the applicant in bad light and thereby deprive him of his due and legitimate promotion to the supertime scale.



4.17 That the applicant states that as gathered by him a decision has been arrived at by the authorities for promoting the eligible IAS officers in the Assam segment of the IAS Assam - Meghalaya Joint Cadre, to the supertime scale w.e.f. 01.01.06 and a list of eligible officers have also been prepared. The name of the applicant figures at serial no. 2 of the said list. The date from which the promotion to the supertime scale is being sought to be conferred i.e. 01.01.06 is of great relevance insofar as the applicant is concerned, inasmuch as the said date is subsequent to the date of issuance of the said i.e. 30.12.05. The said memorandum dated 30.12.05 would now be used as a ploy to deprive the applicant of his due promotion and facilitate his supercession by his juniors. The charges as framed in the said memorandum dated 30.12.05 would now be taken into account while considering the case of the applicant for promotion to the supertime scale.

4.18 That the applicant states that on 30.06.06 he came across a communication dated 21.06.06 by which it was intimated that the meeting of the Departmental Promotion committee, constituted for considering cases of IAS officers for promotion to the supertime scale would be held on 05.07.06, under the Chairmanship of the Chief Secretary, Government of Assam. The said Department Proceeding Committee was constituted vide the notification dated 20.04.06.



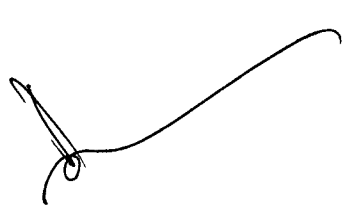
Copies of the communication dated 21.06.06 and 20.04.06 are annexed as **Annexure - 8 & 9** respectively.

4.19 That the applicant states that one of the members of the said Departmental Proceeding Committee happens to be Mr. C.K. Das, Addl. Chief Secretary (II) i.e. the person basing on whose compliant the memorandum of charges dated 30.12.05 came to be issued against the applicant. In the event the said official participates in the selection process, the applicant would be deprived of a proper and due consideration of his case inasmuch as the said authority is biased against him and it was this biasness that had lead to the issuance of the said memorandum dated 30.12.05. The said authority being biased and having revealed the malafide existing in his mind against the applicant, his participation in the selection would vitiate the same.

4.20 That the applicant states that, as gathered by him, insofar as his case for promotion to the supertime scale is concerned, there would be a farcical selection and the selection committee by taking note of the departmental proceeding pending against the applicant would deprive him of his due and legitimate promotion to the supertime scale. It is the cardinal principle of service jurisprudence that the selection committee cannot take note of the charges levelled against an officer, which are yet to be proved in an enquiry. The enquiry initiated against the applicant

having not even begun, the DPC cannot take into account the charges levelled against the applicant vide the memorandum dated 30.12.05, while considering his case for promotion to the supertime scale. It is the settled law that in the event the charge sheet was issued to the officer before the date of consideration of his case for promotion, then the merit of the officers is required to be assessed by the selection committee uninfluenced by the charges framed against the officer in the enquiry pending against him and the results of such consideration is to be kept under seal cover to be opened after conclusion of the enquiry. In the case of the applicant even this procedure is not being contemplated, inasmuch as that would require the consideration of the case of the applicant on merit, by ignoring the charges framed against him vide the memorandum dated 30.12.05 and thereafter keep one post vacant till completion of the said enquiry. In the event the selection committee assesses the merit of the applicant by ignoring the enquiry pending against him, there exists no earthly reason for denying to the applicant his due promotion to the supertime scale.

4.21 That the sole intention behind the issuance of the memorandum of charges dated 30.12.05 being to some how deny to the applicant his promotion to the supertime scale and facilitate promotion of his juniors ahead of him, the applicant apprehends that his case would not be considered in its true and proper prospective and the memorandum of charges dated



30.12.05 would also be taken note of by the selection committee. Further, the presence of the Addl. Chief Secretary (II) would also deprive the applicant of a due and proper consideration of his case.

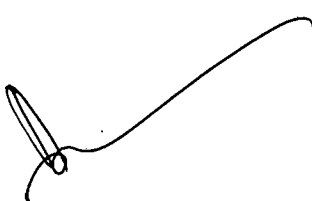
4.22 That the applicant states that although the meeting of the Departmental Promotion Committee as convened vide the communication dated 20.04.06 is for considering the cases of the eligible officers in the zone of consideration for promotion to the supertime scale w.e.f. 01.01.06, it is the case of the applicant that such promotion is to be considered w.e.f. the date when persons junior to him in the Meghalaya segment of the IAS Assam-Meghalaya Joint Cadre was promoted to the supertime scale i.e. 22.12.05. In the event the case of the applicant is considered for promotion to the supertime scale as of 22.12.05, there exists nothing adverse against the applicant as of that date and no charge sheet was pending against him as of that date. Accordingly, the case of the applicant is required to be considered as of 22.12.05 by ignoring the memorandum of charges levelled against him on 30.12.05 and he is to be promoted to the supertime scale with all consequential benefits.

4.23 That the applicant submits that a right is vested on him for having a proper and due consideration of his case for promotion to the supertime scale and the said right being a fundamental right, the respondent authorities cannot be permitted to treat the

same in a casual manner. The respondent authorities are duty bound to consider the case the applicant in the manner prescribed without taking into account matters not germane to the consideration sought to be made.

4.24 That the applicant submits that in the facts and circumstances narrated herein above it is a fit case wherein your lordships would be pleased to pass an interim direction/ directions, as has been prayed for, failing which the applicant stands to suffer irreparable loss and injury.

4.25 That in the event of your Lordship being pleased to pass an interim direction, as has been prayed for, the balance of convenience would be maintained in favour of the applicant inasmuch as there exists nothing adverse against him barring his promotion to the supertime scale. The charges as contained in the memorandum dated 30.12.05 having not been proved, the same cannot be taken into account by the Departmental Promotion Committee while considering his case for promotion to the supertime scale. Further in the event Sri C. K. Das, IAS, Addl Chief Secretary (II) participates in the said selection process, the selection would stand vitiate, inasmuch as, records would reveal that it was Sri C.K. Das, IAS who had taken the initiative for drawing up of departmental proceedings against the applicant and it was the steps as taken by said Sri Das that lead to the issuance of the charge-memo dated 30.12.06.



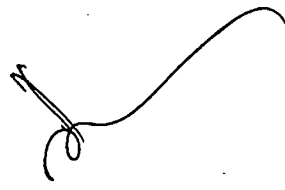
4.26 That this application has been filed bonafide and to secure ends of justice.

5. **GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the impugned action on the part of the respondent authorities is illegal, arbitrary and in violation of the principles natural justice.

5.2 For that the applicant having submitted his written statement of defence to the charges as framed against him vide the Memorandum dated 30.12.05 and enquiry officers having been appointed, it was the bounded duty of the respondent authorities to conclude the said proceedings within a reasonable period of time. Failure on the part of the authorities to even begin the enquiry as ordered has given rise to a reasonable apprehension in the minds of the applicant that the said proceedings are nothing but a ploy to deprive him of his due promotion to the supertime scale.

5.3 For that persons junior to the applicant, figuring in the Meghalaya segment of the IAS Assam-Meghalaya Joint Cadre, having been promoted to the supertime scale w.e.f 22.12.05, the case of the applicant is also required to be considered from the said date, failing which he would be discriminated in matters of consideration of his case for promotion to the supertime scale with reference to his said juniors.



5.4 For that the Departmental Promotion Committee cannot while considering the case of the applicant for his promotion to the Supertime Scale take into account the charges framed against the applicant vide the Memorandum dated 30.12.05, inasmuch as the said charges are yet to be proved against the applicant.

5.5 For that in the event the cases of the persons for promotion to the supertime scale is considered by the Departmental Promotion Committee is considered as of 01.01.06, then also it is the mandate of law that the case of the applicant is required to be considered de-hors the charges as framed against him vide the charge memo dated 30.12.05 and a post is required to be kept vacant till the conclusion of the proceedings currently pending against the applicant.

5.6 For that non-conclusion of the proceedings as initiated against the applicant is clearly illegal, malafide and arbitrary and the same reflects that the said proceeding came to be initiated on flimsy grounds only with the view to deprive the applicant of his due and legitimate promotion to the supertime scale.

5.7 For that the Memorandum dated 30.12.05 being the result of the vindictive and bias attitude adopted against the applicant by Shri. C.K.Das, IAS, Addl. Chief Secretary (II), his participation in the selection process for the purpose of considering the cases of Officers for promotion to the supertime scale, would vitiate the whole selection inasmuch as in his

presence there can never be a proper and due consideration of the case of the applicant.

5.8 For that in any view of the matter the impugned action on the part of the respondents is not maintainable and the applicants are entitled to the relief's prayed for.

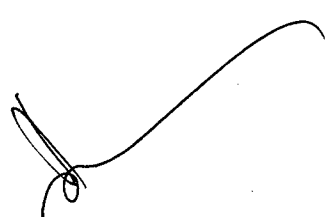
The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF THE REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to them. The urgent nature of the relief's as sought for in this application has forced the applicant to approach this Hon'ble Tribunal at the earliest possible instance.

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

The applicant further declares that they have not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other authority, nor any such application writ petition or suit is pending before any of them.



8. RELIEF SOUGHT FOR:

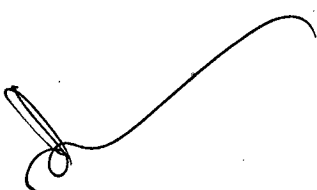
Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicants:

8.1 To direct the respondent authorities to consider the case of the applicant for promotion to the Supertime Scale w.e.f 22.12.05, i.e the date on which persons junior to him in service belonging to the Meghalaya Segment of the IAS Assam-Meghalaya Joint cadre came to be so promoted, without taking into account the charges as framed against the applicant vide the Charge Memo dated 30.12.05.

8.2 To restrain Shri C.K.Das, IAS, Addl. Chief Secretary, from participating as a member of the Departmental Promotion Committee as Constituted for the purpose of considering the cases of eligible officers for promotion to the Supertime scale of the Indian Administrative Service.

8.3 To direct the respondent authorities to conclude the departmental proceedings initiated against the applicant vide issuance of the Memorandum dated 30.12.05 within a specified time frame.

8.4 Alternatively, in the event the promotion to the supertime scale is considered as of 01.01.06, to



direct the respondent authorities to consider the case of the applicant for his such promotion by ignoring the charges framed against the applicant vide the Charge Memo dated 30.12.05 and to keep his case in seal cover pending conclusion of the departmental proceedings initiated against the applicant.

8.5 Cost of the application.

8.6 Any other relief/ reliefs that the applicant may be entitled to.

9. INTERIM ORDER PRAYED FOR:

The applicant in the facts and circumstances of the case prays that your Lordships would be pleased to pass the following interim directions ;

i) To restrain the authorities from proceeding with the selection as proposed to be held for considering the cases of the eligible officers for promotion to the Supertime Scale of IAS.

ii) Alternatively, to direct the respondent authorities to consider the case of the applicant for his promotion to the Supertime scale without taking into account the charges as framed against the applicant vide the Annexure- 3 Memorandum dated 30.12.05 and to keep the result of such consideration in seal cover.

iii) To restrain Shri C.K.Das, IAS, Addl.

Chief Secretray(II) , Government of Assam, from participating in the selection for the purpose of considering the cases of eligible officers for promotion to the Supertime Scale.

10.

11. PARTICULARS OF THE POSTAL ORDER:

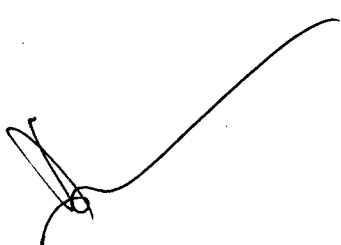
- i) IPO No. - 266 324473
- ii) Issued from - GPO
- iii) Payable at - Guwahati.

12. DETAILS OF INDEX:

An Index showing the particulars of documents is enclosed

13. LIST OF ENCLOSURES:

As per Index.



VERIFICATION

I, Sri A. K Malakar, aged about 59 years, son of Late Haladhar Ch. Malakar, resident of Dispur, Guwahati in the district of Kamrup, Assam, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case; the statements made in paragraph 1 to 3, 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.8, 4.9, 4.12, 4.13, 4.15, 4.16, 4.18 4.19, 4.20, 4.22 and 4.23 and S to 12 are true to my knowledge; those made in paragraphs 4.5, 4.10, 4.11 and 4.14 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 3rd day of July, 2006, at Guwahati.

A. K. Malakar

DEPONENT

ANNEXURE - A

Annexure-1

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL ::A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-781006

ORDERED BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 3rd January, 1997.

NO. AAI. 32/94/311 : The following notification issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Deptt. of Personnel and Training, New Delhi is republished for general information.

"Notification No. 14015/4/96-AIS(I), Dated 30th December, 1996.

In exercise of the powers conferred by sub-rule (1) of Rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by promotion) Regulations, 1955, the President is pleased to appoint the following members of the State Civil Service of Assam to the Indian Administrative Service on probation with immediate effect and to allocate them to the Joint Cadre of Assam-Meghalaya under sub-rule (1) of Rule 5 of the Indian Administrative Service (Cadre) Rules, 1954 :

- | Sl.No. | S/Shri |
|--------|--------------------------|
| 1. | Ananta Kumar Malakar |
| 2. | Kamal Krishna Hazarika ✓ |
| 3. | Jones Ingti Kethar |
| 4. | Ritendra Nath Sharma 1. |
| 5. | Laxmi Nath Tamuly and |
| 6. | Lall Chand Singhi |

Sd/- R. VAIDYANATHAN
DESK OFFICER "

Sd/- S.R.ISLAM
Deputy Secretary to the Govt. of Assam

Memo No. AAI. 32/94/311-A : Dated Dispur, the 3rd January, 1997.
Copy to :-

1. The Accountant General (A&E)/(Audit), Meghalaya, Shillong.
2. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-28.
3. The Chairman, Assam Administrative Tribunal, Guwahati.
4. The Chairman, Assam Board of Revenue, Guwahati.
5. The Chairman, Assam State Electricity Board, Guwahati.
6. All Principal Secretaries/ Commissioners & Secretaries/ Secretaries to the Govt. of Assam.

Contd.....

Attested
Sd/-
S. Arunachal Officer
Sd/-
S. Arunachal Officer
Sd/-
S. Arunachal Officer
Sd/-
S. Arunachal Officer

Attested
Sd/-
(U.K. Nair)
Advocate

- 25 -

GOVERNMENT OF MEGHALAYA
ORDERS BY THE GOVERNOR

Annexure- 2

NOTIFICATION

Dated Shillong, the 22nd December, 2005.

No. PER. 37/87/340 - Shri S. Mendiratta, IAS (RR-81), Resident Commissioner, Meghalaya House, New Delhi is promoted to officiate in the Above Super-time scale of the I.A.S. in the scale of pay of Rs. 22,400 - 525 - 24,450/- p.m. and is posted as Principal Resident Commissioner, Meghalaya House, New Delhi with effect from the date of taking over charge and until further orders.

No. PER. 37/87/340-A - Shri Shreeranjana, IAS (RR-85), Commissioner & Secretary to the Govt. of Meghalaya, Information Technology & Cooperation Departments and Chairman, M.S.W.C. is relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, Information Technology Department with effect from the date of handing over charge.

No. PER. 37/87/340-B - Shri Pankaj Jain, IAS (RR-90), Director, C. & R.D., Director, Evaluation, Meghalaya, Secretary, M.P.S.C. and Secretary to the Govt. of Meghalaya, Industries, Programme Implementation and Information Technology Departments is promoted to officiate in the Super time scale of the IAS viz Rs.18400-500-22400/- with effect from the date of taking over charge and until further orders and is posted as Commissioner & Secretary to the Govt. of Meghalaya, Information Technology and Community & Rural Development Departments. He shall, however, continue to function as Director, Community & Rural Development, Director, Evaluation, Meghalaya, Secretary, M.P.S.C. and Member, Board of Revenue until further orders.

No. PER. 37/87/340-C - Shri D. K. Dkhar, IAS (SCS-90), Secretary to the Govt. of Meghalaya, Agriculture Department is promoted to officiate in the Super time scale of the IAS viz Rs.18400-500-22400/- with effect from the date of taking over charge and until further orders and is posted as Commissioner & Secretary to the Govt. of Meghalaya, Weights & Measures Department.

No. PER. 37/87/340-D - Shri B. Purkayastha, IAS (SCS-90), Secretary to the Govt. of Meghalaya, Forests & Environment Department and Director, Economics & Statistics, Meghalaya is promoted to officiate in the Super time scale of the IAS viz Rs.18400-500-22400/- with effect from the date of taking over charge and until further orders and is posted as Commissioner & Secretary to the Govt. of Meghalaya, Printing & Stationery Department.

Contd ... 2/-

Attested
[Signature]
(U. K. Nain)
Advocate

No. PER. 37/87/340-E - Shri Mebanshailang R. Synrem, IAS (RR-2002) is temporarily and until further orders promoted to officiate in the Senior Scale of the I.A.S. in the scale of pay of Rs.10650-325-15850/-p.m. and is posted as Additional District Magistrate i/c Mairang with effect from the date of taking over charge.

On promotion to the senior scale of the IAS and on assumption of charge as Additional District Magistrate i/c Mairang, Shri Mebanshailang R. Synrem, IAS shall continue to function as Sub-Divisional Officer, (C) Mairang until further orders.

Sd/- R. V. Suchiang
Commr. & Secretary to the Govt. of Meghalaya
Personnel & A.R (A) Department

Memo No. PER. 37/87/340-F,
Copy forwarded to :-

Dated Shillong, the 22nd December, 2005.

1. The Secretary to the Governor of Meghalaya, Shillong.
2. The Private Secretary to the Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to the Minister/Ministers of State, Meghalaya, Shillong.
4. The Private Secretary to the Chairman/Deputy Chairman, State Planning Board, Shillong.
5. The Private Secretary to the Chairman/Deputy Chairman State Level Public Grievances Committee, Shillong.
6. The Private Secretary to the Chief Secretary to the Govt. of Meghalaya, Shillong.
7. The Chief Secretary to the Govt. of Assam, Dispur, Guwahati- 781 006.
8. The Resident Representative, Meghalaya House, Aurangzeb Road, New Delhi-110011.
9. The Principal Secretary/Commissioner & Secretary/Secretary to the Govt. of Meghalaya, Department.
10. The Commissioner of Division for East and West Khasi Hills, Jaintia Hills and Ri-bhoi Districts, Shillong.
11. The Commissioner of Division for East, West and South Garo Hills Districts, Tura.
12. The Resident Commissioner, Meghalaya House, 9-Aurangzeb Road, New Delhi-110011.
13. The Secretary, Meghalaya Legislative Assembly, Shillong.
14. The Advocate General, Meghalaya, Guwahati.
15. The Chairman, Meghalaya Public Service Commission, Shillong.
16. The Accountant General (A&E), Meghalaya, Shillong - 793001.
17. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, North Block, New Delhi 110001.
18. The Director of Printing and Stationery, Meghalaya, Shillong for publication of the Notification in the Meghalaya Gazette.
19. All Deputy Commissioners.
20. The Trade Adviser and Director of Movement, Govt. of Meghalaya, Meghalaya House, 9-10 Russell Street, Calcutta -71.
21. Secretariat Administration Department/ Accounts/Nazarat) Personnel & A.R(B) Department/Personnel & A.R (B) Department (AR, Cell)/Law (A) & (B)/Transport Department Department.
22. The State Informatics Officer, NIC, Shillong.
23. The Treasury Officer, Shillong.
24. Officer concerned/Guard file. Personal file.

Dy Order etc..

Deputy Secretary to the Govt. of Meghalaya
Personnel & A.R(A) Department

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Annexure - 3

CONFIDENTIAL

NO.AAP.49/2005/35
GOVERNMENT OF ASSAM

DEPARTMENT OF PERSONNEL (PERSONNEL :: A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6.

Dated : Dispur, the 30th. December 2005

M E M O R A N D U M

The Governor of Assam proposes to hold an inquiry against Shri Ananta Kumar Malakar, IAS, under Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969. The substance of the imputations of misconduct in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri Ananta Kumar Malakar, IAS is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri Ananta Kumar Malakar, IAS is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or otherwise fails or refuses to comply with the provisions of Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 or the orders/directions issued in pursuance of the said Rule, the Inquiring Authority may hold the inquiry against him ex-parte.

5. Attention of Shri Ananta Kumar Malakar, IAS is invited to Rule 18 of the All India Services (Conduct) Rules, 1968 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Ananta Kumar Malakar, IAS is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 18 of the All India Services (Conduct) Rules, 1968.

6. The receipt of the Memorandum may be acknowledged.

By order and in the name
of the Governor of Assam,

B.K. Gohain

(B. K. Gohain.)

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

28/12/05

:::::

Memo No.AAP.49/2005/35-A, Dated : Dispur, the 30th. December 2005.

Copy to

✓ 1. Shri Ananta Kumar Malakar, IAS, Director, Land Records Etc, Assam, Rupnagar, Guwahati.

2. The Secretary to the Govt. of India, Ministry of Personnel, P.G. and Pensions, Department of Personnel & Training, North Block, New Delhi-110001.

3. The Chief Secretary to the Govt. of Meghalaya, Shillong.

By Order Etc.,

B.K. Gohain

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

28/12/05

Attested
Ananta Kumar
(U.K. Nair)
Advocate

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SHRI ANANTA KUMAR MALAKAR, IAS, DIRECTOR, LAND RECORDS ETC. ASSAM/

ARTICLE - I

That Shri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam during the month of March, 2005 placed order for repairing of as many as 41 numbers of Theodolite Machines belonging to his office and 30 numbers belonging to Assam Survey & Settlement Training Centre with the firm M/S Jagat Baruah & Sons, Chandmari, Guwahati-3 at the following rates mentioned below vide letter No. DLR(PN)44/97/Pt-I/03/111, Dated. 7-3-2005 inspite of knowing the fact fully well that there was no budget provision for such expenditure during, 2004-2005.

1. Repairing/overhauling and Servicing of Theodolite Machine (H & W and stanly) - @ Rs.4000/-each (exclusive of charges for replacement of any parts)
2. Repairing/overhauling and Servicing of wild T₂ Theodolite Machine (Digital). - @ Rs.20,000/-each (inclusive of rates for replacement of any parts).

Shri Ananta Kumar Malakar, IAS was well aware that there was no fund for incurring such expenditure during, 2004-2005 and as such it was his duty and responsibility to take prior approval of the Govt. for undertaking such repair works involving lakhs of rupees. But he did not bother to obtain prior approval of the Govt. and he intentionally and deliberately placed order for repairing of a huge number of Theodolite Machines as mentioned above at his own motion with some ulterior motive.

Besides above, Shri Ananta Kumar Malakar, IAS, while placing order for repairing of Theodolite machines, he never considered it necessary to observe required formalities. He did not invite tenders, prepare comparative statement of rates quoted by different firms, get the rates fixed by Tender Committee before placing the said order. He intentionally and deliberately with some ulterior motive got very exorbitant rates fixed by himself for repairing of Theodolite machines at his own motion. Such activities can never be expected from a very senior member of the Service of his status and rank.

He is, therefore, not only charged with placing order for repairing works without prior approval of the Govt., financial indiscipline, violation of financial rules but also violation of rule 3 of the All India Services (Conduct) Rules, 1968 and gross indiscipline and misconduct.

ARTICLE -II

That Shri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam issued auction notice inviting quotation for two Departmental Vehicles Viz. (1) One Ambassador Car having Registration No. AMA-5175 and (2) One Staff Bus having Registration No. AS-01-D1370 vide No. DLR/Misc/Vehicles/1/99/46, Dated. 13-10-2002. In response, he received four sealed tenders/quotations from 4 bidders.

In the meanwhile, a meeting of the condemnation Board constituted with four members was held on 11-11-2002 for condemnation of the vehicles and fixation of proportionate value of the vehicles as is and where condition. The Board after examination of all aspects condemned the vehicles and fixed the value against each as below :-

1. Ambassador Car Registration No. AMA-5175 - Rs. 4,200/-
2. Staff Bus Registration No. AS-01-D1370 - Rs. 50,000/-

Thereafter he opened the sealed quotations for the said vehicles in presence of others on 20-11-2002 and prepared a comparative statement of the quotations and accepted the rates quoted by the highest bidder and thus he sold out the above two vehicles viz. the Staff Bus having Registration No. AS-01-D1370 at Rs. 13,700/- as

against the value fixed by the said Board at Rs.50,000/- and the Ambassador Car having Registration No. AMA-5175 at Rs.2,500/- as against the value fixed by the said Board at Rs.4,200/-. To cover up his above irregularities he obtained the signature of Shri P. Gogoi, MVI, DTO, Kamrup, Guwahati who was also a member of the said Board and who was absent in the meeting of the said Board dated. 11-11-2002 later on i.e. sometime after the said meeting and interpolated some sentences in the original minutes of the meeting in his own handwriting to give undue benefit to his interested bidder and thereby cause financial loss to the Govt. //

By his above actions, he has not only disregarded the decision of the condemnation Board, fabricated official records /documents to give undue benefit to interested bidder and caused financial loss to the Govt. but also acted in a manner most unbecoming of a member of the service of his status and rank.

He is, therefore, not only charged with violation of the decision of the condemnation Board, manipulation of official records, showing undue favour to particular bidder and causing financial loss to the Government but also violation of rule 3 of the All India Services (Conduct) Rules, 1968 and gross indiscipline and misconduct.

By Order and in the name
of the Governor of Assam,

B. K. Gohain

(B. K. Gohain.)
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

RB
30/12/05

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RB/-

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST SHRI ANANTA KUMAR MALAKAR, IAS, DIRECTOR, LAND RECORDS ETC, ASSAM.

ARTICLE - I

That Shri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam had place order for repairing of as many as 41 numbers of Theodolite Machines belonging to his office and 30 numbers belonging to Assam Survey & Settlement Training Centre at the following rates with the firm namely M/S Jagat Baruah & Sons, Chandamari, Guwahati-3 vide letter No. DLR(PN)44/97/Pt-I/03/111, Dated. 7-3-2005.

- | | | |
|---|---|--|
| 1. Repairing/Overhauling and Servicing of Theodolite Machine (H & W and Stanly) | - | @ Rs. 4000/- each (Exclusive of charges for replacement of any parts). |
| 2. Repairing/Overhauling and Servicing of Wild T2 Theodolite Machine (Digital). | - | @ Rs. 20,000/- each (Inclusive of rates for replacement of any parts). |

Shri Ananta Kumar Malakar, IAS was well aware that there was no budget provision for such expenditures during 2004-2005. But he did not bother to consider it necessary to see the availability of fund for such repairing work during, 2004-2005 and placed the said order without the approval of the Govt. at his own motion.

Besides, Shri Ananta Kumar Malakar, IAS while placing the said order did not observe any formalities as required under Assam Financial Rules for placing such order for repairing works. He did not invited tenders and fixed the said rates without competitive bidding by himself without constituting any Tender Committee to fix the rates.

ARTICLE - II

That Shri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam had issued an Auction Notice inviting quotation for two vehicles viz. (1) One Ambassador Car having Registration No. AMA. 5175 and (2) One Staff Bus having Registration No. AS-01-D1370 vide No. DLR/Misc./Vehicles/1/99/46, Dated. 13-10-2002.

For this purpose, he held a meeting of the condemnation Board consisting of the following members to fix the value of the said vehicles on 11-11-2002.

- | | | |
|------------------------------|---|--|
| 1. Self | - | Director, Land Records & Surveys, Assam. |
| 2. Shri P.C. Bhagawati, ACS. | - | Dy. Secy. to the Govt. of Assam, Revenue Department. |
| 3. Shri P. Gogoi | - | MVI, O/O the DTO, Kamrup (Rural) Ghy-7. |
| 4. Shri A.C. Baruah. | - | F&AO, O/O the Director of Land Records & Surveys, Assam. |

Except Shri P. Gogoi other three members were present in the meeting and they anonymously fixed the minimum auction value of the above two vehicles at Rs. 4,200/- and Rs. 50,000/- respectively. Although Shri P. Gogoi, MVI, office of the DTO, Kamrup (Rural), Guwahati was not present in the meeting, Shri Ananta Kumar Malakar, IAS obtained his signature in the draft minutes of the meeting (Manuscript) later on and interpolated some sentences in his own handwriting bringing down the value of the said vehicles to Rs. 2,000/- and Rs. 12,000/- respectively.

(Contd. P/2)

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On the other hand, in the meanwhile, in response to the auction notice Dated.13-10-2002 inviting quotations, 4 (four) sealed quotations were received and were opened on 20-11-2002 in presence of all concerned and a comparative statement of the quotations was prepared. The quotations of one Shri Tapan Dutta of Old Post Office Lane, Rehabari, Guwahati-8 had quoted the highest rate i.e. Rs. 13,700/- for the Staff Bus and Rs. 2,500/- for the Ambassador Car. Shri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam accepted the above rates quoted by the said bidder as against the value fixed by the condemnation Board at Rs. 50,000/- and Rs. 4,200/- respectively at his own motion and sold out the said vehicles to Shri Tapan Dutta at the rates quoted by him vide order No. DLR/Misc/Vehicle/1/99/53, Dated. 7-12-2002.

By order and in the name
of the Governor of Assam,

B. K. Gehain

(B. K. Gehain.)

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

RB:
30/12/05

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RB/-

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE FRAMED AGAINST SHRI ANANTA KUMAR MALAKAR, IAS, DIRECTOR, LAND RECORDS ETC, ASSAM, ARE PROPOSED TO BE SUSTAINED.

1. File No. RSS.332/2005.
2. File No. RSS.125/2004
3. Letter No. RRA.44/2004/8, Dated. 15-12-2004.
4. Letter No. DLR(PH)44/97/Pt-I/03/111, Dated. 7-3-2005.
5. Letter No. RRG.44/2004/10, Dated. 22-2-2005.
6. Letter No. RRG.44/2004/Pt/21, Dated. 23-3-2005.
7. Letter No. RSS.332/2005/22, Dated. 25-4-2005.
8. Minutes of meeting of condemnation Board held at 2 P.M. on 11-11-2002 in the office chamber of the Director, Land Records & Surveys, Assam, Rajah Bhawan, Rupnagar, Guwahati-32 (typed out).
9. Minutes of meeting of condemnation Board held at 2 P.M. on 11-11-2002 in the office chamber of the Director, Land Records & Surveys etc, Assam (Manuscript copy).
10. Auction Notice No. DLR/Misc/Vehicles/1/99/46, Dated. 13-10-2002 inviting quotations.
11. Quotation submitted by Tapan Dutta vide Reference No. TD-12/2002, Dated. 20-11-2002, by Mrinal Deka vide Reference No. MD-38/2002, Dated. 20-11-2002, by M.K. Motors vide Reference No. MK-08/2002, Dated. 20-11-2002 and by Santanu Automobiles vide Reference No. SA-108, Dated. 19-11-2002.
12. Comparative Statement of quotations.
13. Order No. DLR/Misc/Vehicle/1/99/53, Dated. 7-12-2002.

By order and in the name
of the Governor of Assam,

B. K. Gehain

(B. K. Gehain,)
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

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30/12/05

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LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE FRAMED AGAINST
SHRI ANANTA KUMAR MALAKAR, IAS, DIRECTOR, LAND RECORDS ETC, ASSAM
ARE PROPOSED TO BE SUSTAINED.

1. Shri P.C. Bhagawati, ACS, Deputy Secretary to the Govt. of Assam,
Revenue Department, Dispur, Guwahati-6. ✓
2. Shri A.C. Baruah, F & A.O., Office of the Director Land Records &
Surveys, Assam, Rajah Bhawan, Rupnagar, Guwahati-32. ✓

By order and in the name
of the Governor of Assam,

B. K. Gehain

(B. K. Gehain.)
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

BK.
30/12/05

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RB/-

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To :

The Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department,
Dispur, Guwahati-6.

Ref :

Dated Guwahati the 17th January, 2006
Your memorandum No. AAP.49/2005/35 dated 30.12.05.

Sir,

With due respect and humble submission and in compliance with and in response to the memorandum referred above, I have the honour to state as follows.

1. That Sir, the memo regarding show cause has been received in the after noon of 10.01.06 and I beg to be heard in person.

2. (a) **Charge No.1 (Article-I)**

That Sri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam during the month of March, 2005 placed order for repairing of as many as 41 numbers of Theodolite Machines belonging to his office and 30 numbers belonging to Assam Survey & Settlement Training Centre with the firm M/s Jagat Baruah & Sons, Chandmari, Guwahati-3 at the following rates mentioned below vide letter No. DLR(PN)44/97/Pt-I/03/111 dated 07-03-2005 inspite of knowing the fact fully well that there was no budget provision for such expenditure during 2004-2005.

- | | |
|--|---|
| 1. Repairing/overhauling and Servicing of Theodolite Machine (H&W and stanly) | @ Rs.4000/- each (exclusive of charges of replacement of any parts) |
| 2. Repairing/overhauling and Servicing of Wild T2 Theodolite Machine (Digital) | @ Rs.20,000/- each (inclusive of rate for replacement of any parts) |

Sri Ananta Kumar Malakar, IAS was well aware that there was no fund for incurring such expenditure during 2004-2005 and as such it was his duty and responsibility to take prior approval of the Govt. for undertaking such repair works involving lakhs of rupees. But he did not bother to obtain prior approval of the Govt. and he intentionally and deliberately placed order for repairing of a huge number of Theodolite Machines as mentioned above at his own motion with some ulterior motive.

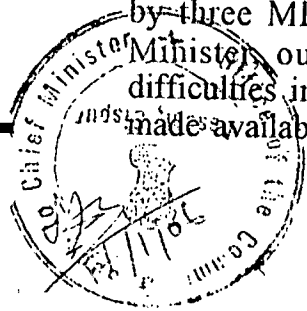
Besides above, Sri Ananta Kumar Malakar, IAS while placing order for repairing of Theodolite Machines, he never considered it necessary to observe required formalities. He did not invite tenders, prepare comparative statement of rates quoted by different firms, get intentionally and deliberately with some ulterior motive get very exorbitant rates fixed by himself for repairing of Theodolite machines at his own motion. Such activities can never be expected from a very senior member of the Service of his status and rank.

He is, therefore, not only charged with placing order for repairing works without prior approval of the Govt. financial indiscipline, violation of financial rules but also violation of rule 3 of the All India Services (Conduct) Rules, 1968 and gross indiscipline and misconduct.

(b) Defence statement : It is not a fact that there was no budget provision.

Long before making the budget provision for the financial year 2004-05 Hon'ble Chief Minister invited me along with Sri M.K. Barooah, IAS the then Commissioner and Secretary, Revenue Department in his chamber which was also attended by three MLAs of the Char Areas. In response to the quarry of the Hon'ble Chief Minister, our Commissioner & Secretary Shri M.K. Baroah stated that there is no difficulties in conducting Char Survey in the Stable Chars provided sufficient funds are made available. The meeting ended with an advice from the Chief Minister for taking all

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Attested
U.K. Nain
Advocate

prior preparation and to under take the survey at the earliest. No minutes were prepared for such informal meeting. Accordingly we found a budget provision of Rs. 50.00 lakhs in the printed budget 2004-2005 for char survey (Office Expenses) under major head of account 2029 (Exhibit-1). During the Tenure of Shri M.K. Baroah and Shri H. Sonowal Commissioner & Secretary, Revenue Department on more than one occasion I and my junior colleagues Shri Akbar Ali and Shri M.C. Deka, Shri B. Bora etc. were asked several times for undertaking all preparations for sending the Survey Teams all over Assam and in Char Areas.

So, it is not a fact that there was no budget provision. We were expecting to get Govt. approval and sanction of schemes which were submitted vide DLR/PN/54/Pt-I/2004/9 dated 22-09-2004 and No.DS/AS/115/04/3 dated 28-09-2004. Even Hon'ble Revenue Minister himself persued the matter more than once for early execution of the scheme of survey. (Exhibit-2 & Exhibit-3)

But suddenly at the end of the financial year when Sri H. Sonowal relinquished the charge we found that the earmarked funds of Rs.50.00 lakhs have been diverted to salary schemes for which we did not make any request to the Govt. I was not informed of this vital decision. Only a sum of Rs.1000/- (Rupees One thousand) kept in the Head of Account 2029 vide No. RRG.44/2004/10 dated 22-02-2005 received on 01-03-2005. (Last month of the Financial Year).

That Sir, as per rule all survey work is to be started with effect from 1st of November and to be ended by 31st May. Naturally all preparatory actions were supposed to be undertaken latest by September or October. So I called for preparatory reports from the office of the Joint Director Surveys, Dakhingaon, 10 Km away from my office in compliance with the decision of the meeting with the Hon'ble Chief Minister. All the technical persons examined the theodolites machines which remained unutilised virtually from for last 12/13 years who requested for repair of the theodolite machines. The Principal, Assam Survey & Settlement Training Centre also requested for repairing the theodolite machines required for training purposes. Accordingly tenders and quotations were called for from the reputed Firms and comparative statement prepared and lowest rate quoted by M/S Jagat Baruah & Sons, Chandmari, Guwahati-3 accepted. (Exhibit-4) It may be stated that this is the only reputed scientific Firm of the North East who did business with the Directorate of survey since last 25 years. I am dependent on the technical guidance of the Joint Director of Survey/Asstt. Director of Surveys and accepted the lowest rate. I had no alternative also.

I therefore like to state that there are 3 Wild T2 Theodolite machines which were valued at more than 4.70 lakhs each. The rest of the theodolites are ordinary theodolite costing Rs.24,700/- each. As all these costly machines remained idle for 12/13 years prior to my joining I found it difficult to honour my commitment given to the Hon'ble Chief Minister unless these machines are not repaired and sent to the field. I was expecting Govt. sanctions every day but all these preparation got dashed to the ground when I found the funds earmarked in the budget was diverted without my knowledge and information received on the last month of the year. Meanwhile some liabilities were incurred in issuing orders for repairing of theodolite machines and procuring of the survey items.

That Sir, while taking all these precautionary advance preparedness, no decision was taken single handed. Indeed, it is my style of functioning that I call for the meeting of all the concerned official in my chamber. These are Addl. Director of Land Records Sri Akbar Ali (2) Asstt. Director of Land Records/Joint Director of Surveys, Sri M.C. Deka (3) Asstt. Director of Surveys Sri B. Bora (4) Finance & Accounts Officer (5) Superintendent (6) D.As and take a decision.

The relevant file will show that as suggested by the Branch officers I have simply accepted the lowest rate (Exhibit-5) as suggested and issued work orders as

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per provision of the powers delegated under Financial rules. I have not exceeded the statutory powers and for the rest I wrote to the Govt. vide letters cited above. I have never been informed of the denials by Govt. even over phone at least for once.

I therefore deny the charge that no formalities were observed, that I never called for quotations and that there was no budget provisions. It is not a fact that I had a bad intention. My only intention was to secure the good will and honour of my higher authority and to do justice to the public cause.

3. **Charge No.2 (Article ii)**

That Sri Ananta Kumar Malakar, IAS as Director, Land Records & Surveys, Assam issued auction notice inviting quotation for two Departmental Vehicles Viz. (1) One Ambassador Car having Registration No. AMA-5175 and (2) One Staff Bus having Registration No. AS-01-D 1370 vide No. DLR/Misc/Vehicles/1/99/46 dated 13-10-2002. In response, he received four sealed tenders/quotations from 4 bidders.

In the meanwhile, a meeting of the Condemnation Board constituted with four members was held on 11-11-2002 for condemnation of the vehicle and fixation of proportionate value of the vehicles as is and where condition. The Board after examination of all aspects condemned the vehicles and fixed the value against each as below :

1. Ambassador Car Registration No. AMA-5175 Rs.4,200/-
2. Staff Bus Registration No. AS-01-D 1370 Rs.50,000/-

Thereafter he opened the sealed quotations for the said vehicles in presence of the others on 20-11-2002 and prepared a comparative statement of the quotations and accepted the rates quoted by the highest bidder and thus he sold out the above two vehicles viz. the Staff Buds having Registration No. AS-01-D-1370 at Rs.13,700/- as against the value fixed by the said Board at Rs.50,000/- and the Ambassador Car having Registration No. AMA-5175 at Rs.2,500/- as against the value fixed by the said Board at Rs.4,200/-. To cover up his above irregularities he obtained the signature of Sri P. Gogoi, MVI, DTO, Kamrup, Guwahati who was also a member of the said Board and who was absent in the meeting of the said Board dated 11-11-2002 later on i.e. sometime after the said meeting and interpolated some sentences in the original minutes of the meeting in his own handwriting to give undue benefit to his interested bidder and thereby cause financial loss to the Govt.

By his above actions, he has not only disregarded the decision of the Condemnation Board, fabricated official records/documents to give undue benefit to interested bidder and caused financial loss to the Govt. but also acted in a manner most unbecoming of a member of the services of his status and rank.

He is, therefore, not only charged with violation of the decision of the Condemnation Board, manipulation of official records, showing undue favour to particular bidder and causing financial loss to the Government but also violation of rule 3 of the All India Services (Conduct) Rules, 1968 and gross indiscipline and misconduct.

(b) Defence statement : It is not a fact that Shri P. Gogoi, M.V.I. and Technical member of the Condemnation Board was absent on 11.11.02. Shri P. Gogoi furnished his assessment report about the actual value of the damaged Vehicle on spot verification of the said vehicles at Dakhingaon-10 K.M. away from the Director of Land Records office. He signed the valuation report under his own signature. After receipt of the report, meeting of the Board was held on 11.11.02. Sri P. Gogoi, MVI had participated in the deliberation held on 11-11-02 and was a part of the decision making process. The signature of said Sri P. Gogoi in the minutes of the meeting clearly shows that he was very much present during the deliberations. The allegation that the signature of Sri P. Gogoi was obtained subsequently is clearly unfounded, baseless and has been so levelled, only to give credence to the said baseless and perverse allegation. Sri P. Gogoi had stood

I do not have practical ideas about the scrap value of the damaged vehicle which remained under open sky over long 4 years. The estimated fetch value of the vehicle No. AS-01- D-1370 was given by him is Rs. 12000/- where as Shri A.C. Baruah, the then Finance & Accounts Officer of the DLR' Office stated that the fetch value of the vehicle will be Rs. 50,000/-. On being asked if he has seen the damaged vehicle at Dakhingaon to which he denied to have seen. However, Mr. P.C. Bhagawati, ACS Deputy Secretary did not pass any comment on it. Opinion of Finance & Accounts Officer who is not a technical member was still recorded by me along with the written views of the MVI. The minutes were recorded by the dealing assistant as dictated by me and corrected by me (copy enclosed) (Exhibit-6). As Chairman of the Board, I have corrected the same which can not be treated as "interpellated" or "manipulated".

I have done the corrections of sentences in front of the members present. I do not find reason as to why the original corrections should not be made by me in order to conform to the decision of the Board. So the opinion of the Finance & Accounts Officer Mr. Baruah should not be given the undue weightage when he himself was neither competent nor inspected the damaged vehicle. The D.T.O generally found absent and depends on M.V.I and the quorum was sufficient to transact business.

These vehicles remained undisposed of for long 4 years' under rain and sunshine when Govt. Circular No.BW.15/2002/39 dated 03-08-2002 issued for condemning the same with a compliance report within 3 months. I therefore acted on Govt. direction with all my honesty and sincerity in the second meeting of the Board on 11-11-2002. It is not a fact that the Boards decision was disregarded. No records were fabricated. The minutes were dictated and corrected by me in presence of all. The most important member is the M.V.I. who gave his written report which is enclosed here as (Exhibit-7) and there is no material to counter the same. I did not do any favour to any bidder.

In view of the above, I beg to pray that your honour would be kind enough to accept the statement of defence, give me a hearing, and exonerate me for the charges framed. I have fought for truth all through out my career and stand by my commitment to the Constitution and public good.

Yours faithfully,

sd/-

(A. K. Malakar)

Director of Land Records & Surveys etc. Assam
Rupnagar : Guwahati-32

Rupnagar : Guwahati-32

Copy to :

1. The Secretary to the Govt. of India, Ministry of Pension and Public Grievances,
Department of Personnel & Training, North Block, New Delhi-110001.
2. The Chief Secretary to the Govt. of Meghalaya, Shillong.

(A. K. Malakar)

17/01/06

Director of Land Records & Surveys etc. Assam

Rupnagar : Guwahati-32

EXHIBIT-1

Appendix 1: Estimation

EXHIBIT-1

Actual, 2002-2003 প্রকৃত				Budget Estimates, 2003-2004 বাজেট অনুমানিক হিসাব				Revised Estimates, 2003-2004 সংশোধিত বাজেট অনুমানিক হিসাব				Head of Account হিসাবের শির্ষক	Budget Estimates, 2004-2005 বাজেট অনুমানিক হিসাব			
General সাধারণ		Sixth Schedule ষষ্ঠ অনুসূচী		General সাধারণ		Sixth Schedule ষষ্ঠ অনুসূচী		General সাধারণ		Sixth Schedule ষষ্ঠ অনুসূচী			General সাধারণ		Sixth Schedule ষষ্ঠ অনুসূচী	
Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান		Plan পরিকল্পনা	Non-Plan নন-প্লান	Plan পরিকল্পনা	Non-Plan নন-প্লান
[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]	[11]	[12]	[13]	[14]	[15]	[16]	[17]
					7.44				7.44			03 Travel Expenses ভ্রমণ ব্যয়		50.00	5.00	
												04 Office expenses কার্যালয় ব্যয়				
												792 Irrecoverable loan written off 24 Written off				
0.55	1.61				7.44				7.44			Total 324- Char. Survey in Char Areas মোট চর অঞ্চলের বিশেষ ভবীণ	50.00	5.00		
												Add amount transferred from Hil-Centrally Sponsored Scheme যোগ- কেন্দ্রীয় পুষ্টি-সহায়তা অর্থ অর্জনের পর পুষ্টি সহায়তাব্যয়				
75.00	1763.55		3.13	114.20	3364.23			114.20	3364.23			Total 103-1 and Recognd মোট ভূমি অফিসের	105.20	4345.17		
												104 Management of Government Estates সরকারী ভূ-সম্পত্তির ব্যবস্থাপনা				
												325 Management of Government Estates সরকারী ভূ-সম্পত্তির ব্যবস্থাপনা				
												Number of Posts--- Nonplan= 19				
					7.67				7.67			01 Salaries সরমহা				
					3.76				3.76			001 Pay মূল সরমহা		7.90		
					1.07				1.07			002 Dearness Allowance মরদীয়া বনস		4.66		
					0.14				0.14			004 Other Allowances অন্যান্য বনস		1.03		
					0.15				0.15			005 L.T.C ছুটি ভরতীন ভ্রমণ খেয়াই		0.14		
												006 Medical Reimbursement চিকিৎসার ব্যয় পরিশোধকরণ		0.16		

AP

GOVERNMENT OF ASSAM
OFFICE OF THE DIRECTOR OF LAND RECORDS & SURVEYS ETC. ASSAM

RUPNAGAR : GUWAHATI-32

No. DLR/PN/54/Pt-1/2004/9

Dated Guwahati the 22nd September/2004

To : The Commissioner & Secretary to the Govt. of Assam
 Revenue (Reforms) Department,
 Dispur, Guwahati-6.

Sub. : Proposal for sanction of the scheme "Cadastral Survey in Char Areas" during the year 2004-05 at an estimated amount of Rs.50.00 lakhs.

Ref. : Letter No. PDP.34/2003/PV3 dated 04-09-2004 issued by the P&D Department, Govt. of Assam.

Sir,

I have the honour to submit the plan scheme of Rs.50.00 lakhs (Rupees fifty lakhs) only for Cadastral Survey in Char Areas during the year 2004-05 as detailed below :

1. Aims and objectives of the scheme :

The scheme aims at Cadastral Survey in Char areas in the districts of Barpeta, Nalbari, Kamrup, Darrang, Sonitpur and Dhemaji. It will also include cadastral survey of NC areas of Lakhimpur, Jorhat, Golaghat, Cachar, Hailakandi and Tinsukia etc. The proposal from the respective Deputy Commissioners have already been received.

2. Materials and supplies :

In order to conduct the survey the NC chars and areas the following items of materials and supplies are required to be made. These materials will be procured through Assam Govt. Marketing Corporation and ASIDC as the case may be as per norms.

Sl. No.	Name of Item	Amount involved
1.	Survey Instruments/Materials	Rs. 6.00 lakhs
2.	Tents and Tarpaulins	Rs. 6.00 lakhs
3.	Repairing of equipments and instruments	Rs. 2.00 lakhs
4.	Supply of other materials for survey	Rs. 1.50 lakhs
5.	Repairing of offset machine for printing of forms (required in Char Survey)	Rs. 2.00 lakhs
6.	Press materials	Rs. 7.00 lakhs
7.	White DFC paper	Rs. 9.75 lakhs
8.	Azurlaid paper	Rs.12.75 lakhs
9.	Storage facilities of paper/form	Rs. 3.00 lakhs
	Total	Rs. 50.00 lakhs
	(Rupees fifty lakhs) only.	

Contd.-2-

-40-

-2-


It may be mentioned here that the survey will be conducted with effect from 1st of November/2004 to 31st of May/2005 as per time schedule. 5

The amount is earmarked in the current years budget under the head of account "2029-LR-102-Survey & Settlement Operation-324-Cadastral Survey in chat areas 04-0E (Plan).

I, therefore, request you to kindly approve the proposal and sanction of Rs.50.00 lakhs at an early date so as to enable us to implement the scheme.

This is for favour of Govt.'s necessary action.

Yours faithfully,


22.9/04
Director of Land Records & Surveys etc.
Assam : Rupnagar, Guwahati-32.

□ □ □

o/c

GOVERNMENT OF ASSAM

OFFICE OF THE DIRECTOR OF LAND RECORDS & SURVEYS ETC. ASSAM

RUPNAGAR :: GUWAHATI-32

No. DS/AS/115/04/3

Dated Guwahati the 28th September/2004

To : The Commissioner & Secretary to the Govt. of Assam
Revenue (Settlement) Department,
Dispur, Guwahati-6

Sub. : Retention of seasonal Grade-IV field staff for the proposed field
survey programme 2004-05.

Sir,

With reference to the subject cited above, I have the honour to enclose herewith the copy of the letter No. M.4/9/A/2004-05/22/1981 dated 09-09-2004 received from the Joint Director of Surveys, Assam and to say that, Joint Director of Surveys, Assam has chalked out a tentative field programme for field season 2004-05 for Survey of Char areas, traversing of NC areas, boundary demarcation between Nagaon-Karbi-Anglong, Golaghat-Karbi Anglong, Indo-Bangla and forest boundary within the state.

The said field programme is to be commenced from November every year for which Joint Director of Surveys, Assam has also proposed for creation of following posts with regular scale of pay and fixed pay of Rs.1800/- for camp attendants.

Sl. No.	Name of Post	No. of Post	Pay Scale
1.	Tindal	15 Nos.	Rs.2530/- to 4390/-
2.	Mate	29 Nos.	Rs.2490/- to 4120/-
3.	Khalasi	203 Nos. = 247	Rs.2450/- to 3670/-
4.	Camp Attendant	29 Nos.	Fixed pay @Rs.1800/-

The above posts were last sanctioned vide Govt. letter No. RSS.595/96/Pt-I/118 dated 22-01-2004 except camp attendants wherein retention was accorded for 27 numbers. This year the number of camp attendant is enhanced to 29 for 29 survey parties. Considering the above facts retention of the above mentioned Grade-IV seasonal field staff is justified and essential.

I would, therefore, request that Govt. may be pleased to accord necessary sanction to the retention of the above mentioned posts of seasonal Grade-IV field staff for a period of 7 months with effect from 01-11-2004 to 31-05-2005.

The expenditure is debitable under the head of account "2029-LR-102-Survey & Settlement Operation-319-Assam Survey-447-Traverse Section" for the year 2004-05.

Yours faithfully,

Director of Land Records & Surveys, Assam
Rupnagar : Guwahati-32.

☐ ☐ ☐

C/L

28.9.04

Comparative Statement showing the different rates quoted for repairing/servicing and overhauling of Theodolite machines of Assam Surveys Deptt.

Nature of repairing of the machine	Rate quoted by various Firm/Supplier as follows			Remarks
	M/s Jagat Barmah & Sons, Chandmani	M/s Bon Avis Business Syndicate Pvt. - Baranica	Mazumdar Associate Amel Nagar, Raygorh Guwahati - T.S.	
2	3	4	5	6
Repairing/overhauling and servicing of Theodolite Machine (H&N and Stanly)	@ Rs= 4000/-	@ Rs= 5000/-	@ Rs= 6,000/-	The rate quoted for each machine is exclusive of charges for replacement of any parts.
Repairing/overhauling and servicing of Theodolite Wild T2 machine	@ Rs= 20,000/- (Including rates for replacement of any parts)	@ Rs= 22,000/- (Excluding of rates for replacement of any parts)	@ Rs= 25,000/- (Excluding of rates for replacement of any parts)	Except M/s Jagat Barmah & Sons the other two Firms has quoted their rates of repairing excluding of rates for replacement of any parts if any.

Accepted
being the lowest
rate

17/3/09

J. L. R. & Sys. etc. Assa.

Accepted

by K.

10/10/09

Mr. P. S. M.

Minutes of meeting of Condensation Board held
 11-11-02 in the office chambers of the Director
 Records & Surveys etc. Assam.

b1 (1/5)

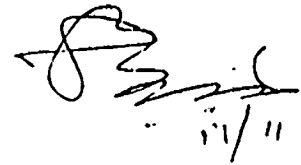
Members present

Signature.

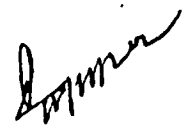
1. Sri A.K. Malakar, DAS
 DLR etc. Assam.


 11/11/02

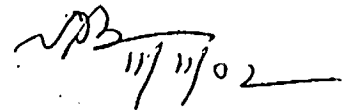
2. Sri P.C. Bhargawala IAS
 D/Secy. to the Govt. of Assam.
 Rev. Dept. Dispm.


 11/11

3. Sri P. Gogoi
 Mr. o/o D.T.O. Kamrup (R.L.)
 Guwahati-7.



4. Sri A.C. Baruah
 F&AO o/o DLR Assam


 11/11/02

1. The History sheet of the vehicle No. AMA-5175
 (Ambassador) could not be produced before the Board
 as the same is not available. As per letter
 No. ABR-8170/296 dt. 24-10-02 of the Assam
 Board of Revenue (B-1), the vehicle was
 purchased in the year 1979 at the price of
 Rs. 43764.22. The vehicle is off the Road
 since Sept '1995 as per report of the principal
 ACET vide his letter No. ASSTC. 94/98-02/665-
 dt. 29-8-02. There is no history sheet of the
 vehicle. Hence the actual weight could
 not be ascertained. However, approximately
 weight has been estimated for the Mr.
 Mr. P. Gogoi at around 600 K.G. approx.

As per Report of the Mr. [unclear]
 which has lost its [unclear] [unclear]
 economically repair. The Board
 [unclear] careful [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]
 condemned the vehicle and the [unclear]
 of the sum ~~as details in~~
~~Rs 4200/-~~ has been fixed at Rs.
 4200/- [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]
 Rs 2000/- only

The meeting ended with thanks to all.

For: 11/11/02

The History sheet of the vehicle no. AS-01-
 D-1370 (Bus) (2) As per History sheet
 the vehicle no. AS-01-D-1370 (TATA Diesel
 - Staff Bus). The date of purchase is 31/3/93
 and the cost of the vehicle is Rs 315388.00
 The vehicle is off the road from 20/5/98
 [unclear] data, report of Jt. D.S. [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]
 after meeting with an accident.

As per

(Contd. - - - 2)

per/MR/Report/2002 dt 03/10/02, ...
 regarding cost per unit etc. Rs. 3.50 lakh.
 and even after repairs, it cannot be
 expected to give trouble free and
 efficient service. As the vehicle
 has suffered large ^{scale} ~~scale~~ ~~damage~~
 and extensive damage due to major
 hit an accident in 1978 and kept
 in the open sky for last 4 years.

Therefore, after careful
 consideration of all the ^{the} ~~except~~ the
 Board has come to concluding ^{that} ~~and~~
 the ^{sale} ~~vehicle~~ and the value has been
 fixed at Rs. 50,000 taking ~~the~~ ~~into~~
 the weight of the vehicle as 5500 kg
 and ^{suggested for long use up to 12000} ~~that~~ ~~suggested~~ to dispose of the
 approximately ^{on the basis of sealed} ~~that~~ ~~vehicles~~ by inviting tender ^{after proper price} ~~practic~~
 with reasonable time.



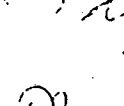
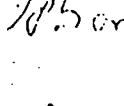
1.  11/11/02
2.  11/11
3.  11/11
4.  11/11

EXHIBIT-7

GOVERNMENT OF ASSAM
OFFICE OF THE DISTRICT TRANSPORT OFFICER, KAMRUP (R&L)
GUWAHATI

No.PG/MVI/Report/2002

Dated Guwahati, the 22nd October 2002.

To: The Director of Land Records & Surveys, Assam,
Rupnagar, Guwahati.

Sub: Condemnation Report.

Ref: No.DLR/Misc/Vehicle/1/99/34 dated 1.10.2002.

Sir,

With reference to your letter cited above, I am to inform you that I have since conducted physical examination of vehicles No. AMA-5175(Ambassador) and No. AS-01-D-1370 (Staff Bus). The findings are indicated below against the vehicles respectively.

No.AMA-5175: This vehicle is found completely damaged both in body system and in mechanical system. The vehicle has lost its utility and is beyond any economical repair. The vehicle should be declared as a scrap material and should be disposed of by weighing basis. The scrap value is fixed at Rs. 2000.00 (Two thousand rupees).

No.AS-01-D-1370: This vehicle has suffered large-scale and extensive damages due to meeting with an accident in 1988. The vehicle has suffered further destruction due to environmental and weather affects as it was kept in the open sky without any cover for the last 4 years. If the vehicle is wanted to be got repaired it will cost around RS. 3.50 lacs. Even after repair it cannot be expected to give trouble free and efficient service. The vehicle should, therefore, be declared as scrap item and disposed of on weigh basis. The total gross weight of the vehicle as scrap material will come around 2000 kilogram. The value of scrap is fixed at Rs. 6.00 per kilogram as per prevailing market rate. The total scrap^{value} will come to Rs. 12000.00 (twelve thousand rupees)

Yours faithfully,

(P. Gogoi)

Motor Vehicle Inspector.

Motor Vehicle Inspector
O/O the D.T.O. Kamrup (R&L)
Guwahati-7

Ex - 6 62-14

SURVEYS ETC. ASSAM

5

Go-A

Dated Guwahati the 19th March/2004

Dear Sir,

You are, therefore, requested to lift the Theodolite machines as per the enclosed list from the office of the Joint Director of Surveys, Assam and to repair the same. The repairing works should be completed within one month after receiving of this letter and hand over the same to the Joint Director of Surveys, Assam after repairing at the rate quoted by you as follows :

- | | | |
|----|--|--|
| 1. | Repairing/Overhauling and servicing of Theodolite machine (H&W and Stanly) | (@ R.4,000/- each
(Exclusive of charges for replacement of any parts) |
| 2. | Repairing/Overhauling and servicing of Theodolite machine (Wild T ₂) | (@ R.20,000/- each
(Including rates for replacement of any parts) |

The original bill in triplicate along with delivery challan may be submitted to this office through the J.D.S. Assam, Dakhingaon for making payment in due course when fund will be available. The bill have to be accompanied with completion certificate issued by the J.D.S. Assam, mentioning that the repairing works of the Theodolite machines have been done satisfactorily by the firm and fit for use. The rate should be inclusive of AGST charge and this may be shown separately in the bill for taking necessary step from this end to deposit the AGST amount to the Tax Department by challan.

Yours faithfully,


Director of Land Records & Surveys etc.
Assam : Rupnagar, Guwahati-32.

Dated Guwahati the 19th March/2004

Copy to : 1. Joint Director of Surveys, Assam, Dakhingaon for information & necessary action with reference to his letter No. ASD.59/87/Vol-1/483 dated 05-07-2003 and No. ASD.59/87/Vol-1/586 dated 06-08-2003. He is requested to hand over all Theodolite machines under his control to the firm which needs repairing. Necessary completion certificate may also be given on the reverse of the bill/challan mentioning the satisfactory report as mentioned above in the last para and forwarded the bill along with delivery challan to the undersigned for further course of action.

Director of Land Records & Surveys etc.
Assam : Rupnagar, Guwahati-32.

Received the original
letters for H/S Jagat Singh & sons.
Mitahi Barmah.
20/3/06



O/C

Plan				
सर्व				
७				

To : The Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department,
Dispur, Guwahati-6.

Dated Guwahati the 18th February, 2006

Ref : Your memorandum No. AAP.49/2005/35 dated 30.12.05.

Sir,

With due respect and humble submission and in addition to my earlier statement furnished on 17-01-2006 I beg to state as follows :

Addl. Defence statement against Charge No. I

1(c) Md. Akbar Ali, ACS, Principal, Assam Survey & Settlement Training Centre put up the file for repairs of the theodolite machines which were considered urgent necessity as most of the theodolite machines purchased long back remained unused and did not record correct reading. During the time batches of ACS officers and Police officers were sent for training under the constant monitoring of the Chief Secretary, Assam who personally visited the Assam Survey & Settlement Training Centre on 29-12-2004. In view of the unprecedented importance given to the training -- it was felt necessary to provide machine to each officer then to get the work done by one machine for the whole class. Besides the surveyors of the Joint Director of Surveys office were pressurising for more machines which remained unutilised for last 12/13 years.

Since tenders and quotations were called for earlier on 18-02-2004 and lowest rate accepted on 17-03-2004 for the scientific firm of M/s Jagat Baruah & Sons who is the only authorised dealer & reputed firms orders were placed at the old rate; with an intention to get the work done at cheaper rate when price escalation take place every day. Besides it was done during the validity period of the previous quotations. From the endorsed copy of the work order No. DLR(PN)44/97/Pt-I/03/111 dated 07-03-2005 (Exhibit-8) it will be seen wherein it has been specially mentioned that payment will be made as and when fund will be available at a later date. Repairing of the theodolite machines can be done under the financial powers of the DLR under Delegation of Financial Power Rules, 1999.

That Sir, Govt. was made aware of the committed liabilities vide our letter No. DLR/PN-54/Pt-I/2004/33 dated 04-03-2005 (Exhibit-9) and as a result unlike previous year Govt. communicated its approval for repairs of the survey machines for Rs.5 lakhs vide No. RRG.42/2004/93 dated 10th May, 2005 and asked for proposal which are readily complied with vide our No. DLR/PN-15/2005/3 dated 30-05-05 (Exhibit-10 & 11)

Meanwhile, Govt. has also sanctioned for the repairs of the theodolite machines @ Rs.4,000/- per piece. (Copy enclosed Exhibit No.12). So for sanction for 3 Wide T₂ theodolite machines is awaited. The repairing cost has been quoted by M/s Jagat Baruah & Sons for Rs.20,000/- per piece. The purchase cost of the machines are of Rs.4.65 lakhs and remained unutilised for last 12/13 years.

A comparative analysis of the cost of repairs of the machines will reveal that the cost of repairs of the ordinary theodolite machines are 16.2% of the total cost while the repair cost of the Wild T₂ machines quoted are 4.3%.

Attested
[Signature]
(H.K. Nain)
Advocate

This repairing cost is considered very high by Govt.. But it is at least 4 times lesser than what Govt. already approved. I leave the reasoning upto Govt. I am supposed to be guided by the lowest quoted rate.

In view of the above, I beg to say that nothing has been done without information of the Govt. and all that was done with a sole intention of running the administration honestly, sincerely and economically within the parameters of rules, norms and practices. I therefore, may be exonerated from the charges.

Charge No.2 (Article-II)

In addition to that I have stated in my reply dated 17-01-2006, I have the honour to state as follows :

2(c) That Sir, the so called loss to the Govt. has been pointed out in office note Page No.11 and 12 of the file No. RRS.332/2005 as follows :

"It is to be noted here that the M.V.I. was not present in the meeting on health ground as stated by the DLR....." again in N.S. Page 12". Besides in Annexure-I (Sl.30) there is no signature of P. Gogoi, M.V.I. in the minutes of the meeting but he was not physically present on that date."

That Sir, it is not a fact that M.V.I. Sri P. Gogoi was not present. It is also not a fact that I have ever expressed of his absence on account of health ground. He is a reputed officer who was instrumental for disposal of hundreds of Government vehicles in Guwahati. He is the technical member of the Condemnation Board and but for his remarks decision of the Board would have remained infructuous. He gave the logical analysis of the valuation about the weight of the vehicle, the market value of the scrap and the simple calculation as to the value of the vehicle to be Rs.12,000/-

On the other hand Sri A.C. Baruah, F.A.O. made a running comment of Rs.50,000/- without any logic. As such I beg to state that Sri P. Gogoi, M.V.I. and Sri Kiran Bhattacharjee the D.A.'s statement may be taken in order to ascertain the veracity of the truth. The so called "interpellation" or "manipulation" and physical presence of M.V.I. will not add or subtract anything from the staunch fact if you go through the written report of the M.V.I. dated 03-10-2004 which was very much in the concerned file ; where as the meeting was held on 11-11-2004. The first meeting held earlier could not resolve the issue for want of the Technical Report by the M.V.I.

That Sir, the so called allegation has no substance and basis is proved on earlier occasions also. I have already informed Govt. vide my letter No. DLR(Pers).1/AKM/2002/150 dated 29-07-2004 available in file No. RSS 125/2004 (report Page-5) that there is a vested interest to oust me from the post of Director of Land Records, Assam. I was brought to stop "illegal training of the Mandals" through back door. For this fictitious complaint was made by S. Bora and Sri Dinesh Ch. Deka both are no existent complainant. The sale of vehicle issue was also referred to in this complaint. It was investigated and enquired into by the C.M.'s Vigilance Cell and Anti Corruption Directorate. To my knowledge this issue ended in Final Report by the Home Department But since the vested interest could not succeed in effort to get me transferred this issue again reappeared.

That Sir, I have done my job, most honestly and sincerely in order up keep the prestige of the Govt. befitting to my status and dignity. The vested interest caused to file as many as 39 High Court cases against me and I extrached 100% victory in favour of the Govt. This has certainly blocked the illegal means of earnings of the

Contd.-3-

interested group. This aspect may kindly be taken into consideration while judging the allegations.

In view of the submission, I beg to request you to kindly exonerate me from the charges. I did everything possible to safeguard the interest of the Govt. honestly and sincerely.

I also like to request you to kindly allow the following witnesses in the event of granting hearing.

1. Sri P. Gogoi, M.V.I.
2. Sri K. Bhattacharjee, D.A.
3. Sri Akbar Ali, ACS, Addl. DLR, Assam
4. Sri M.C. Deka, ACS, Deputy Secretary, Home Department.
5. Sri B.K. Bora, Assistant Director of Surveys, Assam.

Yours faithfully,

(A. K. Malakar)

Director of Land Records & Surveys etc. Assam
Rupnagar : Guwahati-32

- Copy to :
1. The Secretary to the Govt. of India, Ministry of Pensions and Public Grievances, Department of Personnel & Training, North Block, New Delhi-110001.
 2. The Chief Secretary to the Govt. of Meghalaya, Shillong.

(A. K. Malakar)

Director of Land Records & Surveys etc. Assam
Rupnagar : Guwahati-32

3

27/1/06
NO.RRG.31/2005/33.

GOVERNMENT OF ASSAM
REVENUE (REFORMS) DEPARTMENT
DISPUR

Dated Dispur, the 18th January/2006.

FROM : SHRI U. HAZARIKA, ACS,
Deputy Secretary to the Govt. of Assam,
Revenue (Reforms) Department, Dispur.

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

SUB : SANCTION OF RS.3,42,420/- (Rupees Three Lakhs Fortytwo Thou--
sand Four Hundred Twenty) ONLY FOR REPAIRING/PURCHASE OF PARTS
ETC. OF THEODOLITE MACHINES UNDER THE STATE PLAN SCHEME FOR
THE YEAR 2005-2006.

Sir,

I am directed to say that the Governor of Assam is pleased to sanction an amount of Rs.3,42,420/- (Rupees Three Lakhs Fortytwo Thou--
sand Four Hundred Twenty) only for repairing/purchase of parts etc. of
Theodolite Machines in respect of Bill NOs. 029, dated Nil, 044, dated
28-11-2005, 045 dated 28-11-2005, 037 to 043 dated 28-11-2005 subject
to the observance of all required formalities and on condition that
admissible tax as prevailed now in the state should be deducted at
source and deposited to the Government account through Treasury Challan.
(if not done already).

This is further subject to the condition that all provisions
of AFRBM Act, 2005 should be complied with and each bill should be
countersigned by Director of Land Records before payment.

The expenditure is debitable under the Head of Account "2029-
LR-102-Survey and Settlement Operation- 320-Settlement Operation-04-
Office Expenses (Plan) Voted" during the year 2005-2006.

The sanction has been issued with the concurrence of Finance
(EC.II) Department vide their U/O.NB.FEC(II)2275/2005, dated 10-01-2005.

Yours faithfully,

Deputy Secretary to the Govt. of Assam,
Revenue (Reforms) Department.

Dated Dispur, the 18th January/2006.

The Director of Land Records & Surveys, Assam, Rupnagar,
Guwahati- 32 for favour of information and necessary action.

2. The Treasury Officer, Dispur Treasury, Dispur, Guwahati- 6.
3. Finance (EC.II) Department, Dispur, Guwahati- 6.
4. Planning & Development Department, Dispur, Guwahati- 6.

By Order etc.,

Deputy Secretary to the Govt. of Assam,
Revenue (Reforms) Department

Dated Dispur, the 18th January/2006.

Mem NO.RRG.31/2005/33-B,
Copy forwarded to :-

The Accountant General, Assam, Maidamgaon, Beltola,
Guwahati- 29 for favour of information.

Senior Financial Advisor,
Revenue (Reforms) Department.

.....

NO.AAP.49/2005/69

GOVERNMENT OF ASSAM

CONFIDENTIAL

DEPARTMENT OF PERSONNEL (PERSONNEL (A))

ASSAM SECRETARIAT (CIVIL) DISPUR

GUWAHATI-781006

Dated Dispur, the 20th April 2006

ORDER

Whereas, a disciplinary proceeding against Shri Ananta Kumar Malakar, IAS the then Director, Land Records & Surveys, Assam has been initiated vide Memorandum No.AAP.49/2005/35 Dated 30-12-2005 for certain irregularities committed in the matter of repairing of Theodolite Machines and auction of condemned departmental vehicles; and

Whereas, Shri Ananta Kumar Malakar, IAS has submitted Written Statement of defence vide his letters dated 17-1-2006 and 18-2-2006 wherein he has denied the charges framed against him; and

Whereas, after careful examination of the written Statement of defence submitted by Shri Ananta Kumar Malakar, IAS and the materials on records, it has been decided to hold an inquiry into the charges levelled against him by appointment of Shri H.M.Cairae, IAS, Principal Secretary to the Govt. of Assam, Public Enterprises Department as Inquiring Authority;

Accordingly, the Governor of Assam, in exercise of powers conferred under Sub-rule 2 of All India Service (Discipline and Appeal) Rules 1969, is pleased to appoint Shri H.M.Cairae, IAS, Principal Secretary to the Govt. of Assam, Public Enterprises Department, Inquiring Authority to hold the inquiry into the articles of charge against Shri Ananta Kumar Malakar IAS and to submit enquiry report.

The Governor of Assam, further in exercise of powers conferred by Sub-rule 6(e) of Rule 8 of the All India Service (Discipline and Appeal) Rules 1969, hereby appoints Shri Sasanta Nath Sharma, Deputy Secretary to the Govt. of Assam, Personnel (A) Department, Presenting Officer to present the case before the Inquiring Authority.

By Order and in the name
of the Governor of Assam

Sd/- D.N.Saikia

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department, Dispur.

Memo.No.AAP.49/2005/69-A, Dated Dispur, the 20th April, 2006.

Copy to :

1. Shri H.M.Cairae, IAS, Principal Secretary to the Govt. of Assam, Public Enterprises Deptt. Dispur, Guwahati-6. A copy of Memorandum No.AAP.49/2005/35 dtd. 30-12-2005 and copies of written statement of defence dated 17-1-2006 and 18-2-2006 are enclosed. He is requested to conduct the inquiry and submit enquiry report at the earliest.
2. Shri Sasanta Nath Sharma, Deputy Secy. to the Govt. of Assam, Per. (A) Dept. Dispur, Guwahati-6. Copies of Memorandum and written statement of defence are enclosed. He is requested to collect the relevant records from the Department.
3. Shri Ananta Kumar Malakar, IAS, State Enquiry officer, Assam, Dispur, Guwahati-6.

By order etc.,

[Signature]
(D.N.Saikia),

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department, Dispur.

22/4/06

Attested
Am: [Signature]
(H.M. Cairae)
Advocate

- 53 -

Annexine- 7

CONFIDENTIAL

NO.AAP.49/2005/72
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6.

!!!!

Dated : Dispur, the 5th June, 2006.

O R D E R

In continuation of earlier Order No.AAP.49/2005/69, Dated.20-4-2006, the Governor of Assam, in exercise of Power conferred under sub-rule 2 of All India Service (Discipline and Appeal) Rules, 1969, is pleased to appoint Shri Bhaskar Mushahary, IAS, Agriculture Production Commissioner, Assam, Inquiring Authority to hold the inquiry into the articles of charge framed against Shri Ananta Kumar Malakar, IAS and to submit enquiry report in place of Shri H.M.Cairao, IAS, Principal Secretary to the Govt. of Assam, Public Enterprises Department.

By order and in the name
of the Governor of Assam,

Sd/- D. N. Saikia.
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

!!!!

Memo No.AAP.49/2005/72-A, Dated : Dispur, the 5th June, 2006.

Copy to :-

1. Shri Bhaskar Mushahary, IAS, Agriculture Production Commissioner Assam, Dispur, Guwahati-6. A copy of Memorandum NO.AAP.49/2005/35, Dated.30-12-2005 and copies of written statement of defence dated.17-1-2006 and 18-2-2006 are enclosed. He is requested to conduct the enquiry and submit report at the earliest.
2. Shri H.M.Cairao, IAS, Principal Secretary to the Govt. of Assam, Public Enterprises etc. Depts., Dispur, Guwahati-6 with reference to his letter No.HWC/PE/Con/2006, Dated.29-4-2006 for information.
3. Shri Basanta Nath Sharma, Deputy Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6 for information.
4. Shri Ananta Kumar Malakar, IAS, Secretary to the Govt. of Assam, Pension and Public Grievances Department, Dispur, Guwahati-6.

By Order Etc.,

[Signature]
(D. N. Saikia.)

Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

!!!!

Attested
Turi: *[Signature]*
(H.K. Nain)
Advocate

NO. I.I. 21/2005/11
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL :: I)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6.

Dated : Dispur, the 21st June, 2006.

To,

1. Shri P.C. Sharma, IAS,
Additional Chief Secretary (I) to the Govt. of Assam,
Transport Etc. Department, Dispur, Guwahati-6.
2. Shri O.K. Das, IAS,
Additional Chief Secretary (II) to the Govt. of Assam,
Revenue Etc. Department, Dispur, Guwahati-6.
- ✓ 3. Shri N.K. Das, IAS,
Additional Chief Secretary (III) to the Govt. of Assam,
Home Etc. Department, Dispur, Guwahati-6.

Sub. : Departmental Promotion Committee Meeting for Promotion of IAS Officers to its various Grades.

Ref. : This Deptt. Notification No. I.I. 2/2006/11, Dated. 20-4-2006.
(Copy enclosed.).

Sir,

With reference to above, I am directed to inform you that the Departmental Promotion Committee Meeting for Promotion of IAS Officers to the Senior Time Scale, Super Time Scale, Above Super Time Scale, under the Chairmanship of Chief Secretary will be held in the office chamber of Chief Secretary as per Programme below :-

<u>Grade</u>	<u>Date & Time.</u>
1. Senior Time Scale	5-7-06 at 11-00 A.M.
2. Super Time Scale	5-7-06 at 11-00 A.M.
2. Above Super Time Scale	6-7-06 at 11-00 A.M.

You are, therefore, requested to kindly make it convenient to attend said Departmental Promotion Committee Meeting as a member as per Programme mentioned above.

Yours faithfully,

(Signature)
(D. N. Saikia.)
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department & Member Secretary
of the Committee.

Memo No. I.I. 21/2005/11-1, Dated : Dispur, the 21st June, 2006.

Copy to :-

1. The Staff Officer to Chief Secretary, Govt. of Assam for kind information of the Chief Secretary.
2. The Commissioner & Secretary to the Govt. of Assam, Personnel Department, Dispur, Guwahati-6, for information & necessary action.
3. Nazir, Nazarat Branch. He is requested to arrange tea & snacks for at least 10 (ten) Officers on 5th & 6th July, 2006 at 11-00 A.M. in the Office Chamber of the Chief Secretary, Assam.

By Order Etc.,

(Signature)
(N. C. Misra.)
Deputy Secretary to the Govt. of Assam,
Personnel (A) Department.

Attoked
(N.K. Das)
Advocate

-55-
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL-A)
ASSAM SECRETARIAT (CIVIL) :: DISPUR
GUWAHATI-6.

Annexure-9

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated, Dispur, the 20th April, 2006.

NO.AAI,2/2006/11 : In pursuance of guide lines issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, New Delhi vide No.20011/4/92-AIS(II), dated 28th March,2000, the Governor of Assam is pleased to constitute the following Departmental Promotion Committee's for promotion of members of the Indian Administrative Service to its various grades with following members.

A. COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF IAS OFFICERS TO THE SENIOR TIME SCALE OF IAS

- | | | |
|---|---|-------------------|
| 1. Chief Secretary | - | Chairman. |
| 2. Additional Chief Secretaries, (I), (II) and (III) | - | Members. ✓ |
| 3. Commissioner & Secretary/
Secretary, Personnel Department | - | Member-Secretary. |

B. COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF IAS OFFICERS TO THE SELECTION GRADE OF IAS.

- | | | |
|---|---|-------------------|
| 1. Additional Chief Secretary (I) | - | Chairman. |
| 2. Additional Chief Secretaries, (II) and (III) | - | Members. |
| 3. Commissioner & Secretary/
Secretary, Personnel Department | - | Member-Secretary. |

C. COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF IAS OFFICERS TO SUPER TIME SCALE OF IAS (COMMISSIONER & SECRETARY).

- | | | |
|---|---|-------------------|
| 1. Chief Secretary | - | Chairman. ✓ |
| 2. Additional Chief Secretaries, (I), (II) and (III) | - | Members. |
| 3. Commissioner & Secretary/
Secretary, Personnel Department | - | Member-Secretary. |

D. COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION OF IAS OFFICERS TO ABOVE SUPER TIME SCALE (PRINCIPAL SECRETARY).

- | | | |
|---|---|-------------------|
| 1. Chief Secretary | - | Chairman. ✓ |
| 2. Additional Chief Secretaries, (I), (II) and (III) | - | Members. |
| 3. Commissioner & Secretary/
Secretary, Personnel Department | - | Member-Secretary. |

Contd ... 2/-

Attested
Tuni Bosh
(U.K. Nain)
Advocate

COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEE FOR
PROMOTION IN THE GRADE OF CHIEF SECRETARY.

1. Chief Secretary.
2. One officer working in this Grade in the Cadre.
3. Another officer of the cadre serving in Government of India in the same grade.
4. Commissioner & Secretary, Personnel - Member-Secretary.

Sd/- D.N.Saikia.

Commissioner & Secretary to the Govt.
of Assam, Personnel Department.

Memo No. AAI.2/2006/11-A, Dated, Dispur, the 20th April, 2006.
Copy to:-

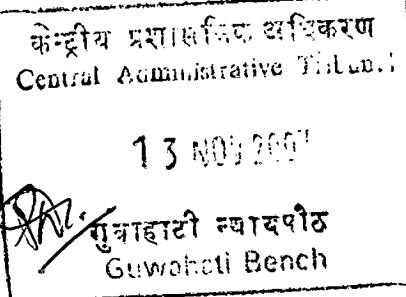
1. The S.O. to Chief Secretary, Dispur for kind information of Chief Secretary, Assam.
2. Shri P.C.Sharma, IAS, Addl. Chief Secretary (I) to the Govt. of Assam, Dispur for information.
3. Shri C.K.Das, IAS, Addl. Chief Secretary (II) to the Govt. of Assam, Dispur for information.
4. Shri N.K.Das, IAS, Addl. Chief Secretary (III) to the Govt. of Assam, Dispur for information.
5. The Commissioner & Secretary to the Chief Minister, Assam, Dispur for information.
6. The Commissioner & Secretary to the Govt. of Assam, Personnel Department, Dispur for information.
7. The Secretary to the Govt. of Assam, Personnel Department, Dispur for information.
8. The Under Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, North Block, New Delhi for information.
9. The Under Secretary to the Govt. of Meghalaya, Department of Personnel & A.R., Shillong for information.

By order etc.,

(N.C.MISRA),

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

20/4/06



Filed by :-
The State of Assam & Mr. 2ndly
Respondent No. 2 & 4
Nareesh Chandra Misra
Manjinder Doss
Jy. A. Assam, CAT, 13.11.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUNAHATI BENCH

In the matter of :-

C.A.NO.168/06

Shri A.K.Malakar

-Vs-

Govt.of India & Others

-AND-

In the matter of :-

**Written statement on behalf
of Respondent No.2 (Chief
Secretary to the Govt. of
Assam) and Respondent No.
4, the Secretary to the Govt.
of Assam, Personnel (A)
Department, Dispur, Guwahati-6.**

**(Written Statement on behalf of Respondent No.2 &
No.4.)**

**I, Shri Nareesh Chandra Misra, son of Late
Basu Dev Misra, presently working as Joint Secre-
tary to the Govt.of Assam, Personnel (A) Depart-
ment, Dispur, Guwahati, do hereby solemnly affirm
and state as follows :-**

**1. That, I am the Joint Secretary to the Govt.
of Assam, Personnel (A) Department, Dispur, Guwahati-
6. The copies of the aforesaid application has been
served upon Respondent No.2 & 4. I have gone throu-
gh the same and being the Joint Secretary of the**

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Narekh Chandra Misra

Department, I have understood the contents thereof. I have been authorised to file this written statement on behalf of Respondent No.2 & 4. I do not admit any of the averments except which are specifically admitted herein after and the same are deemed as denied.

2. That with regard to the statement made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it. He however does not admit any statements which are contrary to the records.

3. That with regard to the statement made in paragraph 4.2 of the application the humble answering respondent denies the statements made in the paragraph. It is stated that the applicant is an IAS officer of 1990 batch and as per Service Rule no member of the service shall be eligible for appointment to the Selection Grade unless he has entered the 14th year of service calculated from the year of allotment assigned to him.

It is stated that the applicant entered 14th Year of Service w.e.f.1-1-03. Further the State Govt. allowed the applicant to officiate in the Selection Grade of IAS w.e.f.1-1-03 vide Notification No.AAI.19/2002/Pt/125, Dated. 27-1-2006.

The humble answering respondent begs to state that the applicant was also considered for promotion to the Supertime Scale of IAS and the matter was place before the Departmental

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Nareish Chandra Misra

Promotion Committee. The Committee in its meeting held on August, 2006 decided to record the decision in respect of applicant in "Seal Cover" due to pending Departmental Proceeding against him.

A copy of the Said order Dated.27-1-06 is annexed herewith and marked as Annexure-I.

4. That with regard to the statement made in paragraph 4.3 & 4.4. of this application the answering petitioner begs to state that in pursuance of the judgement Dated.7-8-98 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A.No.180/94 filed by the same applicant, a Review Selection Committee meeting to review the select list was prepared on 31-3-93 and 29-3-94 and review on 18-9-97 for promotion to the IAS of Assam-Meghalaya a Joint Cadre (Assam Segment) was held on 15-2-99 at New Delhi. The Committee did not recommend any change in the recommendation of the Review Selection Committee which met on 18-9-97.

Further in pursuance of order Dated.8-8-03 of the Hon'ble Central Administrative Tribunal, Guwahati Bench, in O.A.No.176/2001 an order Dated.5-9-03 in Misc.petition filed by the same applicant a Review Selection Committee Meeting was held on 26-10-04 at New Delhi. The Committee did not recommend any change in the recommendation of the Review Selection Committee which met on 18-9-97 & 15-2-1999. Accordingly he was intimated vide letter Dated.6-4-2005.

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Narek Chandra Mina

A copy of the said letter Dated.6-4-85 is annexed herewith and marked as Annexure-II.

5. That with regard to the statement made in paragraphs 4.5 and 4.6 the humble answering respondent admitted the statements made thereon.

6. That with regard to the statement made in paragraph 4.7 the humble answering respondent reiterated and reaffirm the statements made in paragraph 3 of my written statements.

However, it is stated that in the list of officers in the zone of consideration ~~for~~ for promotion to the Supertime Scale the position of the applicant found against the Sl.No. 7 of the list but not against Sl.No.2.

7. That with regard to the statement made in paragraph 4.8 of the application the humble answering respondent begs to state as per instruction/guidelines the promotion of IAS officers to selection grade, Supertime Scale etc. are available subject to availability of the vacancy in the grade.

8. That with regard to the statement made in paragraph 4.9 of the application the humble answering respondent begs to state that the year of allotment to an IAS officer is fixed by the Govt. of India, Department of Personnel and Training under Rule 3(2) of the IAS (Regulation of Seniority) Rules, 1987.

(Contd.P/5.)

Handwritten signature: Navin Chandra Mishra

9. That with regard to the statements made in paragraph 4.10 of the application the humble answering respondent reiterate and reaffirm the statements made in paragraph 3 of my written statement. Further the promotion of IAS officer^{to} Selection Grade, Supertime Scale are available subject to availability of vacancy in the Grade.

10. That with regard to the statements made in paragraphs 4.11 to 4.16 of the application the humble answering respondent begs to state that the matter is under enquiry state and hence at present there is nothing to make comment on it.

11. That with regard to the statements made in paragraph 4.17 of the application the humble answering respondent reiterate and reaffirm the statements made in paragraph 3 of this written statement.

12. That with regard to the statements made in paragraph 4.18 of the application the humble answering respondent begs to state that a Departmental Promotion Committee for promotion of IAS officers to its various grades was constituted by the State Govt. vide No. AAI.2/2006/11, Dated. 20-4-2006.

13. That the humble answering respondent denies the correctness of the statements made in paragraph 4.19 of the application. It is stated that Additional Chief Secretary (II) now (III) to the Govt. of Assam is one of the member of the Departmental Promotion Committee for promotion of IAS officers to the Senior Time Scale, Selection Grade, Supertime Scale, as constituted by the State Govt.

14. That with regard to the statements made in paragraph 4.20 of the application the humble answering respondent reiterate and reaffirm the statements made in paragraph 3 of this written statement.

15. That with regard to the statements made in paragraph 4.21 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 13 of this written statement.

16. That with regard to the statements made in paragraph 4.22 of the application the humble answering respondent reiterate and reaffirm the statements made in paragraph 3 of this written Statement.

17. That the ground set forth in the application are not the good grounds.

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

Naresh Chandra Misra

VERIFICATION

I, Shri Naresh Chandra Misra, son of Late Basu Dev Misra, aged about 54 years presently working as Joint Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6 do hereby verify that the Statements made in Paragraphs 1, 2, 5, 7, 8, 10, 13, 15 are true to my knowledge; those made in paragraphs 3, 4, 6, 9, 11, 12, 14 and 16 ~~are true to my knowledge, those made in paragraphs~~ are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts in this Tribunal.

And, I signed this verification on this the 11th Nov. 2006.

Naresh Chandra Misra

Joint Secretary to the Govt. of Assam,
Personnel (A) Department.

:::::

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL :: A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6.

:::::

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated : Dispur, the 27th January, 2006.

NO. AAI.19/2002/PT/25 : In partial modification to this Department's Notification No. AAI.19/2002/Pt/23, Dated: 17-1-06 Shri Ananta Kumar Malakar, IAS (SCS-1990) is allowed to officiate in the Selection Grade of IAS in the Scale of Pay of Rs. 15,100-400-18,300/- P.M. with effect from 1-1-2003.

Sd/- B. K. Gohain,
Commissioner & Secretary to the Govt. of Assam,
Personnel (A) Department.

:::::

Memo No. AAI.19/2002/PT/25-A, Dated : Dispur, the 27th January, 2006.

Copy to :-

1. The Accountant General, Assam, Guwahati-29.
2. The Chairman, Assam Administrative Tribunal, Guwahati.
3. The Chairman, Assam Board of Revenue, Guwahati.
4. The Chairman, Assam State Electricity Board, Guwahati.
5. The Chairman, Assam Administrative Reforms Commission, Dispur.
6. All Principal Secretaries/Commissioner & Secretaries/Secretaries to the Govt. of Assam.
7. The Chief Electoral Officer, Assam, Dispur.
8. The Resident Commissioner, Govt. of Assam, Assam House, New Delhi.
9. The Agricultural Production Commissioner, Assam.
10. All Commissioners of Divisions, Assam.
11. The Chief Secretary to the Govt. of Meghalaya, Shillong.
12. The Commissioner & Secretary to the Chief Minister, Assam.
13. The Secretary to the Governor of Assam, Guwahati.
14. The Under Secretary to the Govt. of India, Ministry of Personnel P.G. & Pension, Department of Personnel & Training, New Delhi.
15. The Under Secretary to the Govt. of India, Ministry of Personnel Public Grievances, Career Management Division, New Delhi.
16. The Research Officer, Career Management Division, Department of Personnel & Training, Room No. 215, North Block, New Delhi.
17. The Secretary, Assam Legislative Assembly, Dispur.
18. The PPS to Chief Minister, Assam.
19. All Principal Secretaries of the Autonomous Councils, Assam.
20. All Deputy Commissioners/Sub-Divisional Officers, Assam.
21. The Secretary, State Election Commission, Assam.
22. All Heads of Department/All Department of Assam Secretariat.
23. The Deputy Director, Assam Govt. Press, Ghy-21 for publication.
24. The PS to Chief Secretary, Assam.
25. The PS to Additional Chief Secretaries, Assam.
26. The PS to Ministers/Ministers of State, Assam.
27. The PS to Adviser to Chief Minister (I&PR) Assam.
28. The OSD (Press & PR) to the Chief Minister, Assam.
29. Officer concerned.
30. Department concerned.
31. Personal file of the officer.

By Order Etc.,

(N. C. Misra.)

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

:::::

CONFIDENTIAL

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NO.AAP.79/94/PL/335
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL :: A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6

!!!!

Dated : Dispur, the 6th April, 2005.

To,

Shri A.K.Malakar, IAS,
Director, Land Records, Assam,
Rupnagar, Guwahati-32.

Sub. : RSCM to consider the case of Shri A.K.Malakar, IAS,
for inclusion in the Select List of 1992-93 & 1993-
94-Matter relating to.

Sir,

With reference to above, I am directed to inform you that in pursuance of the order dated.8-8-2003, of the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A.NO.176/2001 and order dated.5-9-2003 in Misc. petition No.99/2003 filed by you, a Review Selection Committee Meeting was held at New Delhi on the 26th day of October, 2004. The Committee did not recommend any change in the recommendations of the Review Selection Committee which met on 18-9-1997 and 15-2-1999.

This is for favour of information.

Yours faithfully,

(N. C. Misra.)

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

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RB/-

Photocopy
Handed over to Shri AK Malakar, IAS
on 11.4.05.

Bgm
11/4/05