

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Bahk
25/10/17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDERS SHEET

1. Original Application No. 199/06
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Ashim Kr. Dey & Sons

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

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

G.N. Bhattacharya

Sri. U. Datta

Advocate for the Respondant(S) M. Case - M. I. Ahmed

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

| | | |
|---------------------|------------|--|
| 260325031 7.7.06 | 10.08.2006 | Present: Hon'ble Sri K.V. Sachidanandan, Vice-Chairman. |
|---------------------|------------|--|

Hon'ble Sri Gautam Ray,
Administrative Member.

Issue involved in this case is that the applicants are qualified to the post of Section Officer and DPC was not held under the pretext that G.A. No.115 of 2006 filed by the certain Cr. 'B' staff of the common cadre in this Bench the issue of cadre separation is presently subjudice and status quo order was issued.

Heard Mr M. Chanda, learned counsel for the applicants and Mr M.V. Ahmed, learned Addl. C.G.S.C. for the Respondents.

Learned counsel for the respondents wanted two weeks' time to take instructions.

Post on 25.08.2006.

[Signature]
Member

[Signature]
Vice-Chairman

25.8.06. The counsel for the Respondents prays
for time to get instructions. Post the
matter on 7.9.06.

lm

Vice-Chairman

27.10.2006 post the matter on 13.11.2006
granting time to the respondents for
getting instruction in the matter.

bb

Vice-Chairman

13.11.2006 post on 20.12.2006 granting fur-
ther time to the respondents counsel
for getting instruction.

bb

Vice-Chairman

20.11.2005 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Post on 22.11.2006.

Vice-Chairman

/mb/

22.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice - Chairman.

Post on 11.12.2006 alongwith M.P.
119/2006.

Vice-Chairman

/mb/

11.12.06. Post the matter after three
weeks. on 11.1.06

Vice-Chairman

lm

11.1.07.

In view of the order passed in M.P. the applicant is directed to carryout the amendment and to file consolidated application.

Liberty is given to the respondents to file written statement.

Post the matter on 5.2.07.

2-2-07

No amendment petition filed.

lm

lm

Vice-Chairman

5.2.2007

Post on 28.02.2007 along with

the O.A.

Bms

/bb/

Vice-Chairman

6-3-2007

No amendment petition filed so far.

5.2.2007

10 days time is allowed to the counsel for the Applicant to file amended petition.

Post on 20.02.2007.

12.3.07

An amended application submitted by the Applicant.

/bb/

Vice-Chairman

07.03.07. Counsel for the respondents prays for time to file reply statement. Let it be done. Post the matter on 9.4.07.

Vice-Chairman

No Wls has been filed.

lm

7.5.07.

Written statement has not been filed. Four weeks time is granted to file written statement. Post the matter on 8.6.07.

Vice-Chairman

22

5.4.07.

No Wls has been filed.

lm

22

4.5.07.

No Wls has been filed.

22 7.6.07.

8.6.97.

At the request of learned counsel for respondents further six weeks time is granted to file written statement. Post the matter on 24.7.07.

Vice-Chairman

24.7.07.

Written statement has not been filed. Post the matter on 16.8.07 for filing of written statement and further orders.

Vice-Chairman

7.9.2007

No reply filed. Three weeks further time is granted for filing reply statement. Post the matter on 3.10.2007.

Vice-Chairman

/bb/

03.10.2007

Issue notice to the Respondents requiring them to file replies by 30.11.2007. Mr.M.Chanda, learned counsel for the Applicant undertakes to file 3 copies of the amended Original Application in the Registry by 05.10.2007 failing which the Original Application shall be dismissed.

Amended copies of the Original Application be sent to the Respondents along with the notice.

Call this matter on 30.11.2007.

(Khushiram)
Member (A)

(M.R.Mohanty).
Vice-Chairman

DT 3.10.07.

Pl. issue notice
3/2 amended copies
of OA.

Notice & order sent to D/Section
for issuing to R- 1 to 3 by
regd. A/D post.

5/11/07. D/No-1181 to 1183
DI= 12/11/07.

29-11-07.
Service awaited.

lm

30.11.2007

Copy of the amended O.A. has already been received by the Respondents. Mr.M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents, requests for four weeks time to file written statement. As a matter of last chance, four weeks time is granted to the Respondents to file written statement.

Call this matter on 01.01.2008 awaiting written statement from the Respondents.

[Signature]
30-11-07
(Khushiram)
Member (A)

Notice duly served
on R-3, 1

6/12/07

W/s not filed.

[Signature]
31.12.07

/bb/

01.01.2008

Mrs.U.Dutta, learned Advocate is present on behalf of the Applicant. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Respondents is not present. Despite several opportunities given to the Respondents no written statement has yet been filed in this case.

Having heard Mrs.U.Dutta, learned Advocate appearing for the Applicant, subject to legal pleas to be examined at the final hearing, this case is admitted.

Call this matter on 18.01.2008.

Send copies of this order to all the Respondents in the addresses given in the Original Application.

[Signature]
(Khushiram)
Member (A)

[Signature]
(M.R.Mohanty)
Vice-Chairman

Dt 1.1.08
Pl. send the copies of this
order to all the Respondents
Wt. 100.

order dt. 1/1/08
sent to D/Section
for issuing to
resp. nos. 1, 2 and 3
by post. /bb/

D/No-29 to 31

2/1/08 Dt=2/1/08.

O.A. 199/06

18.01.2007

No written statement has yet been filed in this case. Mr.M.U.Ahmed, learned Addl. Standing counsel seeks a last opportunity to file written statement on behalf of the Respondents.

In the said premises, call this matter on 29.02.2008 awaiting written statement from the Respondents.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

29.02.2008

None for the Applicant. Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents is present. Written statement has not been filed. ^{Meanwhile} The Applicants have been sent to Nagaland with ^{the} bifurcation of the cadre. Since, notice has not been sent to the A.G., Nagaland, issue notice to the Respondents/AG, Nagaland, with direction to file reply by the next date.

Send copies of this order by post to all the respondents and free copies of this may be given to the counsel for the Respondents.

(Khushiram)
Member (A)

Lm

W/S not filed.

17.1.08.

W/S not filed.

28.2.08.

Dt. 29.2.08.

Pl issue notice to the Respondents/AG, Nagaland.

Also Pl. send copies of this order by post to all the respondents and

Free copies of this order be given to the counsel for the Respondents.

[Signature]
23/08

Order Dt. 29/02/08

Send to D/Section for issuing to all the respondents and counsel for the respondents.

17/3/08. D/No-1293 to
Dt- 1296
10/3/08.

| Notes on the Registry | Date | Order of the Tribunal |
|---|---|--|
| May kindly be seen at Regd. | 11.04.2008 | No written statement has been filed by the Respondents. On the request of Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India four weeks time is granted to the Respondents to file written statement. |
| A letter dated 13.2.08 received from A. G. Nagaland, Kohima regarding A.A. Case No. 199/06 which will speak itself. | (Khushiram) Member (A) | Call this matter on 13.05.2008. Send Copies to Respondents. |
| Laid before the Hon'ble Court for further orders. | /bb/ | (M.R.Mohanty) Vice-Chairman |
| SOG | 13.05.2008 | In this case of year 2006, no written statement has yet been filed by the Respondents. By communication dated 13.2.2008 the Accountant General of Nagaland at Kohima, has written a letter to this Tribunal; the contents of which reads as under : |
| As per Court order Dt- 29/2/08, Mr. M. Chouda learned counsel for the applicant submitted a copy of the application for issue notice to A/c Nagaland. | 17/03/08 | "this office is not in a position to furnish any para-wise comments as the cadre of SOs/AAOs/AOs/Sr.AOs were under the control of A. G. Assam, Guwahati, who was the Cadre Controlling Authority for all the North-East offices except Sikkim till 31/07/2006. |
| Notice send to D/Section for issuing to resp. no- 3 by regd. A/D post. | 17/03/08 Dt-18/3/08 | It is clear from the application that the applicants' main grievances are against the Cadre Controlling Authority for not promoting them, though there were clear vacancies in the SOs cadre during 2005-06. The matter of promotion was the sole responsibility of the Cadre Controlling Authority till 31/07/2006. The applicants were declared to have passed the SOG Examination on 31/10/2005 when the cadre was being controlled by A.G. Assam." |
| W/s not filed. | 11.4.08 Pl. send copies to their prov. to the Respondents. | In the aforesaid premises, the Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati should file |

- 8 -

Contd/-

order dt. 11/4/08
send to D/Section
for issuing to
respondents and
counsel for respondents.

5/5/08.

W/S. not filed.

12.5.08.

lm

Dt. 13.5.08

Pl. send copies of this order to the Applicant and to all the Respondents

12.06.2008

16/6/08

order dt. 13/5/08
send to D/Section
for issuing to
applicant and resp.
by post.

16/5/08. Dt. 19/5/08.

W/S not filed.

11.06.08.

No W/S filed.

18.08.2008.

/bb/

13.05.2008

written statement by 12.06.2008; failing which he should appear in person with connected records to assist the Court for proper adjudication of the matter.

Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the union of India is to impress upon the Accountant General, Assam to act promptly in the matter.

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

(Khushiram)
Member

(M.R.Mohanty)
Vice-Chairman

On the request of Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents, call this matter on 19th August, 2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

19.08.2008

Mr.M.U.Ahmed, learned Addl. Standing Counsel for the Union of India, undertakes to file written statement by tomorrow along with Annexures and Index. Mr.M.Chanda, learned counsel for the Applicant (who has received a copy of the written statement from the Respondents) undertakes to file a rejoinder by 11.09.2008.

Call this matter on 11.09.2008.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

- 9 -
O.A 199/06

Notes of the Registry

Order of the Tribunal

28.8.08

W/s filed by the
Respondents. Copy served.

11.09.2008

O.A. 102 of 08

Mr. M. Chanda, learned Counsel appearing for the Applicant is present. No written statement has been filed by the Respondents in this case. Mr. K. K. Das, learned Addl. Standing Counsel appearing for the Union of India is absent. Mr. L. Tenzin,

Di.
NO rejoinder filed
by 10/9/08

11.09.2008.

in this case written statement has already been filed by the Respondents. Mr. M. Chanda, learned counsel appearing for the Applicant prays for an adjournment to file rejoinder.

Call this matter on 25.09.2008 awaiting rejoinder from the Applicant.

Rejoinder not
filed.

by
24.9.08.

lm

(Khushiram)
Member(A)

(M. R. Mohanty)
Vice-Chairman

25.09.2008

Despite adjournments no rejoinder has yet been filed by the Applicant in this case. Mr. M. Chanda, learned counsel appearing for the Applicant undertakes to file rejoinder by 30th October 2008.

Call this matter on 30th October 2008,


(S. N. Shukla)

Notes of the Registry

25.09.2008

Despite adjournments no rejoinder has yet been filed by the Applicant in this case. Mr. M. Chanda, learned counsel appearing for the Applicant undertakes to file rejoinder by 30th October 2008.

Call this matter on 30th October 2008, awaiting rejoinder from the Applicant.


 (S.N. Shukla)
 Member(A)

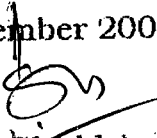

 (M.R. Mohanty)
 Vice-Chairman

lm

30.10.2008

Mrs. U. Dutta, learned counsel appearing for the Applicant is present. No written has yet been filed by the Respondents in this case. Mrs. M. Das, learned Standing Counsel appearing for the Union of India is present and she is not in a position to say by what time the written statement can be filed. However, time till 28th November 2008 is hereby granted to the Respondents to file their written statement.

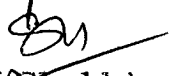
Send copies of this order to the Respondents and call this matter on 28th November 2008.

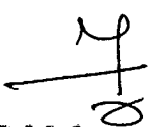

 (S.N. Shukla)
 Member(A)


 (M.R. Mohanty)
 Vice-Chairman

lm

10. 11.2008. On the prayer of Mr.M.Chanda learned counsel appearing for the Applicant, call this matter on 17.11.2008.


(S.N.Shukla)
Member(A)


(M.R.Mohanty)
Vice-Chairman

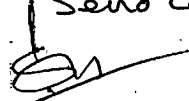
17.11.2008 Mr M. Chanda, learned Counsel appearing for the Applicant, is present. Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, is also present.

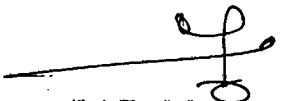
Mr M. Chanda has filed a memorandum seeking permission to withdraw this case with liberty to file a fresh one. A copy of the memorandum has already been served on Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India.

Heard. This case is permitted to be withdrawn with liberty to file a fresh one.

This case, accordingly, stands disposed of being withdrawn.

Send Copies to parties.


(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

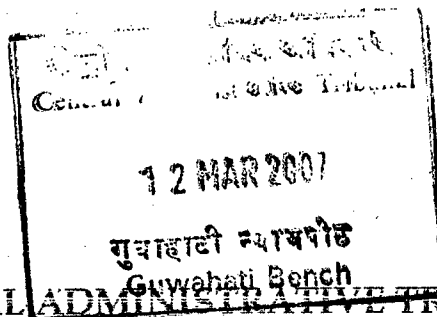
nkmm

18/12.08

*Copy of the order
sent to the office
for issue the same
to the parties.*

*and vide ofrs.
5086 to 5091
dt 31.12.08.*

31/12/08



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

In O. A. No. 199 /2006

Shri Ashim Kumar Dey & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the 3 applicants were initially appointed as Clerk-cum-Typist in the establishment of Accountant General (A&E) Kohima. They were thereafter promoted to the cadre of Accountant and further promoted to the cadre of Sr. Accountant. They are now working as Sr. Accountant and posted in the office of the AG (A&E) Nagaland, Kohima.

9
May 2005- Applicants being eligible and qualified employees, appeared in the Section Officer Grade Examination (for short SOG examination) held in the month of May 2005 and came out successful as such they have attained eligibility for consideration of their promotion in the cadre of Section Officer.

Accountant General (A&E), Assam, Guwahati conducted DPC for filling up of 5 vacancies of Section Officers during the recruitment year 2005-06.

18.01.2006- On the basis of recommendation of DPC 5 Sr. Accountant were promoted to the cadre of Section Officer (Gr. B non-gazetted) in the scale of Rs. 6,500-10,500/- vide order dated 18.01.06, with the condition that the promotee officers are required to intimate the office, whether they accept the promotion or not within 03.02.06 positively, failing which their promotion will be treated as refused.

28.02.06, 29.05.06, 09.06.06- Applicants submitted representations to the respondent No. 1 and 3, seeking grant of opportunity for exercising option as SOG examination passed Sr. Accountant in the event of separation of common Gr. 'B' cadre in NE region. They also stated in their representations that 4 employees did not accept promotion when the same was offered to them within the validity period i.e. still 03.02.06 in terms of the promotion order dated 18.01.06 but in spite of existence of clear vacancies, the applicant have been deprived in getting promotion in combined cadre and thereby

acquiring the right to exercise option in the event of separation of cadres and prayed for grant of retrospective promotion to the combined Section Officer's cadre at the earliest as well as for providing opportunity to exercise option in the event of separation of cadre.

(Annexure- 2 Series)

29.03.06, 29.05.06- AG (A&E) Nagaland after receipt of the representations from the applicants forwarded the same to the AG (A&E) Assam.

(Annexure- 3 Series)

02/5.06.06- AG (A&E) Assam, Guwahati wrote a D.O letter to the AG (A&E) Nagaland, Kohima with reference to the representation of the applicants and other similarly situated employees any further promotion to the cadre of Section Officer have not been effected after the cadre separation policy was issued and option for permanent posting from all the staffs were called for. It is further stated in the said D.O letter that in view of filing an O.A No. 115/2006 by certain Gr. 'B' staff of the common cadre in the Hon'ble CAT, Guwahati Bench the issue of cadre separation is presently subjudice before the Hon'ble CAT where status quo order was issued. Therefore, it has been decided to maintain status quo till the decision from Hon'ble CAT. Guwahati Bench is communicated and it was further requested to inform the aforesaid decision to the applicants.

(Annexure- 4)

24.03.2006/30.03.06- Comptroller and Auditor General of India, New Delhi issued cadre separation policy and circular order dated 30.03.06, which have no relevancy or link with the consideration of the promotion of the present applicants.

(Annexure- 5 and 6)

09.06.2006- Accountant General (Audit) Nagaland, Kohima through his D.O letter dated 09.06.06 informed AG (A&E) Assam that out of the 5 official who have been promoted to the cadre of Section Officer vide order dated 18.01.06 but 3 officials have not yet reported to the concerned offices within the specific time as per promotion order, therefore their promotion will be treated as cancelled. It is also stated in the said D.O letter that no further promotion in respect of other wait listed candidates has not yet been issued and accordingly requested to consider their case of promotion as well as allow them to exercise option to avoid future litigation in the matter but surprisingly no action was initiated thereafter for consideration of the promotion of the applicants in spite of the repeated request made by the AG (Audit) Nagaland.

(Annexure- 7)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to hold the DPC to consider the promotion of the applicants in the cadre of Section Officer with immediate effect in the existing vacancies of Section Officers and further be pleased to direct the respondents to grant retrospective promotional benefit at least with effect from 04.03.2006 with all service benefit including arrear monetary arrear monetary benefit and seniority.
2. That the Hon'ble Tribunal be pleased to declare that the pendency of Original Application No. 115/2006 and the interim order dated 17.05.2006 passed in the aforesaid Original Application cannot stand on the way of consideration of promotion of the applicants to the cadre of Section Officer.
- 2 A That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to exercise their option for permanent posting pursuant to the cadre separation policy date 24.03.2006 and further be pleased to direct the respondents to consider their option in the light of the cadre policy.
3. Costs of the application.
4. Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of the application, the applicants pray for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents to consider the promotion of the applicants to the cadre of Section Officer as an interim measure.
 2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants for providing relief as prayed for.
-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

Title of the case : O.A. No. 199 /2006

Shri Ashim Kumar Dey & Ors. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

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| 4. | 2 (Series) | Copy of representations dated 29.03.06, 29.05.06 and 09.06.06. | 24-34 |
| 5. | 3 (Series) | Copy of forwarding letter dated 29.03.06 and 29.05.06. | 35-36 |
| 6. | 4 | Copy of D.O letter dated 02/05.06.06 | - 37 - |
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| 8. | 6 | Copy of circular dated 30.03.06. | - 40 - |
| 9. | 7 | Copy of D.O letter dated 09.06.06. | - 41 - |

Filed By:

S. Nam

Advocate

Date:- 7.03.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

In O.A. No. 199 /2006

BETWEEN:

1. Shri Ashim Kumar Dey,
S/o- Shri Ajit Kumar Dey,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.
2. Shri Arup Roy,
S/o- Late R.C Roy,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.
3. Shri Akum Chuba,
S/o- A.W. Aluniba,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.

-----Applicants.

-AND-

1. The Union of India,
Represented by
The Comptroller & Auditor General of India,
10, Bahadur/Shah Jafar Marg,
New Delhi- 2.
2. The Accountant General (A&E), Assam,
Maidamgaon, Beltola,
Guwahati- 29.
3. The Accountant General (A&E), Nagaland,
Kohima, Nagaland.

..... Respondents.

Filed by me applicants
through: S. Nath. F.
Advocate
07/03/2007.

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents to consider the promotion of the applicants by holding DPC in the existing vacancies in the cadre of section officer for the recruitment year 2005/2006, since the applicants are qualified candidate, who have already passed Section Officer Grade Examination held in the month of May 2005 with a further direction to consider the promotion of the applicants at least w.e.f. 04.02.2006 with all consequential service benefits including seniority and monetary benefits.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant No. 1 was initially appointed as Clerk- cum-Typist in the year 1990 in the establishment of Accountant General (A&E) Kohima. He was thereafter promoted to the cadre of Accountant in the month of May 1993 and further promoted to the cadre of Sr. Accountant in the scale of pay of Rs. 5500-9000/- in the year 1996 and he is serving in the same

capacity till date posted in the office of the Accountant General (A&E), Nagaland, Kohima.

Applicant No. 2 was initially appointed as Clerk-cum-Typist in the year 1990, thereafter he was promoted as Accountant in the year 1995 and further promoted as Senior Accountant in the year 1998 and he is serving in the same capacity till date and posted in the office of the Accountant General (A&E), Nagaland, Kohima.

Applicant No. 3 was initially appointed as Clerk-cum-Typist, thereafter he was promoted as Accountant in the year 1998 and further promoted as Senior Accountant in the year 2001 and he is serving in the same capacity till date and posted in the office of the Accountant General (A&E), Nagaland, Kohima.

- 4.3 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.4 That your applicants further beg to say that the Accountant General (A&E) Assam is the cadre controlling authority of the Section Officer. The next avenue of promotion of the applicants is to the grade of Section Officer in the scale of pay of Rs. 6,500-10,500/- subject to passing of the Section Officer Grade Examination, however, said promotion is also subject to availability of vacancy.
- 4.5 That it is stated that the applicants being eligible and qualified employees appeared in the Section Officer Grade Examination (for short SOG Examination) held in the month of May 2005, which was conducted by the respondents Union of India. However, the applicants were declared successful in the said examination in the month of October 2005 and as

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such the applicants have attained eligibility for consideration of their promotion in the cadre of Section Officer.

- 4.6 That it is stated that 5 vacancies of Section Officers in the scale of Rs. 6500-10,500/- has occurred during the recruitment year 2005-2006 accordingly DPC was conducted at the instance of the Accountant General (A&E), Assam, Guwahati and subsequently on the basis of the recommendation of the DPC, 5 Senior Accountants were promoted to the cadre of Section Officer (Group 'B' non-gazetted) in the scale of Rs. 6,500-10,500/- vide order bearing No. Admn. 1 Order No. 242 dated 18.01.2006 whereby the Office of the Accountant General (A&E) Assam have issued the offer of promotion order without prejudice to the claim of their seniors and also subject to the condition that the seniority in the cadre of Section Officer will be fixed later. In the promotion order dated 18.01.06 it is stipulated that the promotee officer are liable to be transferred and posted to any of the offices of the Accountant General (A&E) Assam, Nagaland, Tripura, Manipur, Meghalaya etc. or any other offices likely to be opened in future in the NE Region and on promotion they will be placed on probation for a period of 2 years. It is also specifically stated in promotion order dated 18.01.06 that the promotee officers are required to intimate the office whether they accept the promotion or not within 03.02.06 positively failing which their promotion will be treated as refused.

In terms of the aforesaid promotion order dated 18.01.06 the 4 of the promotee officers, namely; Sri Basudev Mandal, Sri Dilip Gupta, Sri Susanta Choudhuri, Sri Pulak Chandra Sen neither reported for promotion nor intimated the acceptance of the promotion order as required, in terms of the condition laid down in the promotion order dated 18.01.06 and as such promotion of the Sl. No. 2 to 5 deemed to have been refused. Therefore, out of the five (5) posts of the Section Officer, 4 posts were remained vacant till date due to non-acceptance of the promotion order by the promotees whose names are indicated in Sl. No. 2

to 5. In the circumstances stated above, 4 posts of Section Officer of the recruitment year 2005-2006 have fallen vacant since 04.02.06, therefore, a duty cast upon the cadre controlling authority i.e. respondent No. 2 to consider the promotion of the other eligible and qualified candidates who have qualified in the SOG Examination held in the month of May 2005 and eagerly waiting for their turn for promotion to the cadre of Section Officer. But the cadre controlling authority i.e. respondent No. 2 did not take any action till date for consideration of the promotion of the applicants although 4 vacancies are lying vacant w.e.f. 04.02.06.

It is stated that promotion is very much important in the service career of a government employee, in the instant case of the applicants, they are well within the zone of consideration and 4 vacancies of the Section Officers are available till date but the respondents, more particularly respondent No. 2 did not consider their promotions till filing of this application.

- 4.7 That it is stated that as per Govt. of India's instructions, on the day when a vacancy is available, the same should be filled up as per DOPT instructions, issued by the Govt. of India from time to time. In this connection the applicant like to draw the attention of the Hon'ble Court on the following instructions issued by the Government of India. The relevant portion is quoted below from Swamy's Manual on Establishment and Administration:

"Frequency at which D.P.C should meet

3.1 The D.P.Cs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List

etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meeting need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

1[Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question."

Surprisingly in the instant case, the respondents did not follow the aforesaid instructions of the Government, as a result, abnormal delay has been caused in considering the case of the applicants for promotion to the

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post of Section Officer Group 'B' and as such they are incurring huge financial loss, loss of seniority, and further promotion prospects to the next higher cadre.

Copy of extract of Govt. of India's instruction regarding holding of DPC (Page-834) from Swamy's Complete Manual of Establishment and Administration for Central Govt. Officials, 2003 Edition is enclosed as Annexure- 1.

- 4.8 That your applicant No. 1 initially on 28.02.06 submitted a representation addressed to the Accountant General (A&E), Nagaland, Kohima, seeking grant of opportunity for exercising option as SOG examination passed Sr. Accountant in the event of separation of common Group 'B' cadre in NE Region. The applicant in his representation also stated that he has acquired eligibility for getting into the Group 'B' cadre since October 2005 when the common cadre system existed in the region. It is further stated that his promotion was held up for last 6 months for no fault of him and probably for want of vacancy in the common cadre. It is further stated that the applicant shall not be subjected to the denial of benefit of exercising option for final placement on promotion and prayed for grant of an opportunity of exercising option for placement on promotion in the separate cadres arising out of the proposed cadre separation scheme. On similar prayer applicant again submitted another representation on 29.05.06 and in the said representation which was addressed to the Comptroller and Auditor General of India, New Delhi, through proper channel, wherein particularly in para 2, the applicant specifically pointed out that 4 employees did not accept promotion when the same was offered to them within the validity period i.e. still 03.02.06 in terms of the promotion order dated 18.01.06, but in spite of existence of clear vacancies, the applicant has been deprived in getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres and prayed for grant of retrospective promotion to the combined Section Officer's cadre at the

earliest as well as for providing opportunity to exercise option in the event of separation of cadre. Applicant No. 1 finding no response again submitted another representation on 29.05.06 and on 09.06.06 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer.

Applicant No. 2 submitted similar representation addressed to the respondent No. 1 and 3 on 29.03.06, 29.05.2006 and on 09.06.2006 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer. Applicant No. 3 also submitted a similar representation addressed to the respondent No. 1 on 29.05.2006 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer.

Copies of the representations dated 29.03.06, 29.05.06, 09.06.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2 (Series).

- 4.9 . That it is stated that the AG, Nagaland after receipt of the representation dated 29.03.06 and 29.05.06 forwarded the same to the AG (A&E) Assam, Guwahati on 29.03.06 and also on 29.05.06. In the forwarding letter the AG (A&E) Nagaland has clearly expressed his opinion with the request that option may be allowed to exercise from those SOG examination passed candidates also who have not been promoted. Again the AG (A&E) Nagaland requested the AG (A&E) Assam to consider promotion of wait listed candidates against the 3 posts where 3 employees did not report for promotion within 03.02.06 and also requested that promotion order of

those candidates may be treated as cancelled since they have not accepted the promotion and also requested to consider the prayer of exercising option of the applicant pending promotion in the cadre of Section Officer to avoid any litigation in the matter but to no result. In this connection it is categorically submitted that the applicants have come to learn from a reliable source that one more person refused to accept promotion within the stipulated period i.e. within 03.02.06 to the cadre of Section Officer, as such altogether 4 vacancies exists to the cadre of Section Officer are still lying vacant against which the present applicants may be considered for promotion to the cadre of Section Officer.

Copy of the forwarding letter dated 29.03.06 and 29.05.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3 (Series).

- 4.10 That it is state that the AG (A&E) Assam, Guwahati wrote a D.O letter on 2/5.06.06 to the AG (A&E) Nagaland, Kohima with reference to a D.O letter dated 29.05.06 wherein with reference to the representations of the applicants and other similarly situated employees any further promotion to the cadre of Section Officer have not been effected after the cadre separation policy was issued and option for permanent posting from all the staffs were called for. It is further stated in the said D.O letter dated 2/5.06.06 that in view of filing an O.A. No. 115/2006 by certain Group 'B' staff of the common cadre in Hon'ble CAT, Guwahati Bench the issue of cadre separation is presently subjudice before the Hon'ble CAT, Guwahati Bench where status quo order was issued. Therefore, it has been decided to maintain status quo till the decision from Hon'ble CAT, Guwahati Bench is communicated and it was further requested to inform the aforesaid decision to the applicants.

Copy of the D.O letter order dated 02/05.06.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

4.11 That it is stated that the AG (A&E) Assam did not consider the case of the applicants for promotion to the cadre of Section Officer, in spite of existence of vacancies only on the ground that certain Group 'B' staff of the common cadre has filed an O.A before this Hon'ble Tribunal i.e. O.A. No. 115/2006 (S.U. Ahmed & Ors. -Vs- U.O.I & Ors.) on the issue of cadre separation and the same is subjudice before this Hon'ble Court where order of status quo has been passed by the learned Tribunal. On the other words the AG (A&E) Assam restrained himself from considering the case of the applicants for promotion since the matter is subjudice before the learned Tribunal and on the ground that status quo has been passed in O.A. No. 115/2006 where certain Group 'B' officers challenged the cadre separation policy issued by the Comptroller and Auditor General of India, New Delhi vide letter bearing No. 144-NGE (App)/17-2004 dated 24.03.2006.

In terms of the cadre separation policy it has been decided to allow the existing Group 'B' officers belonging to common cadre to provide opportunity for exercising one time option indicating their preference in the matter of posting. It is further decided that vacancies in combined cadre may proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required sectioned strength. It is also provided in the policy that if the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz; deficit offices and laid down some more criterias and conditions in the event of cadre separation which also evident from the "Circular on cadre separation" bearing No. AG/Sep/Gr. 'B'/2006/141 dated 30.03.2006.

Therefore, it is quite clear that, those applicants who preferred an Original Application before this Hon'ble Tribunal which was registered as

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O.A. No. 115/2006 are Group 'B' officers, total 6 in numbers. They have challenged the cadre separation policy before the Hon'ble Tribunal and prayed for following relief in O.A No. 115/2006 as follows:

" 10. RELIEF SOUGHT:

In view of the facts and circumstances stated above, the applicants most humbly pray that this Hon'ble Tribunal may be pleased to admit this application, call for the records relating to the aforesaid arbitrary activities of the respondents, quash the letter dated 24.03.2006 (Annexure- 1) and the circulars dated 30.03.2006 and 18.04.2006 (Annexure- 2 and 3) issued by the respondents on the aforesaid dates and to issue directions to the respondents authorities to: -

(A) do away with the so-called schemes/policies of "common cadre" and of the "separation of cadre" including forcing the applicants to exercise their "option" as well as to do away with the respondents' own creation of the so-called "surplus offices" and "deficit offices" forthwith;

(B) not to make any permanent allocation of any officer to any office other than his/her own parent office before preparing and publishing the office-wise and class-wise Gradation Lists of officers in the rank and file of the Section Officers, Assistant Accounts Officers, Accounts Officers and Senior Accounts Officers in each of the offices of the AGs of the North East and only thereafter to post and promote and depute these officers by following the Gradation Lists honestly;

(C) not to compel any officer in the cadre to go to any office other than his parent office permanently unless he/she volunteers so to do suo motu; and

(D) not to give rampant privilege of "deputation" and/or "transfer on deputation" to the officers in the cadre to other offices

of the ACs of the North East or of the Central Government or Government undertakings simply on the basis of the "option" exercised and the procedure be reversed by applying the principles of seniority and equilibrium of opportunity given to the officers of all the offices of the North East without discrimination besides maintaining the optimum level of staff strength in each of the offices of AC of the North East in strict accordance with each of their sanctioned strength."

11. INTERIM RELIEF SOUGHT FOR, IF ANY:

The applicants pray that pending finalization of the present original application this Hon'ble Tribunal may kindly be pleased to issue an order-

(A) staying the operation of the letter dated 24.03.2006 (Annexure- 1) and the circulars dated 30.03.2006 and 18.04.2006 (Annexures- 2 and 3); and

(B) any other order or orders as to this Hon'ble Tribunal may deem fit and proper to pass in the interest of justice."

It is quite clear from the prayers made by the applicants in O.A. No. 115/2006 that those applicants have challenged the cadre separation policy with the sole intention to allow them to continue on permanent basis in the establishment of AG (A&F) Assam and all the applicants are presently holding the post of Gr. B officers. Therefore, pendency of the O.A No. 115/2006 and the interim order of status quo passed by the learned Tribunal in the aforesaid O.A. in fact in no way stand as obstruction for consideration of promotion of the present applicants who are working in the cadre of Sr. Accountant and already qualified in the SOG examination and now due for promotion since vacancies are now available in the cadre of Section Officer. In view of the fact that some of the Sr. Accountant who were offered promotion to the cadre of Section

Officer, has already refused promotion since they have not furnished any acceptance letter in terms of the order of promotion dated 18.01.2006 as such the applicants are entitled to be considered for promotion to be considered for promotion at least from 04.03.06 when the earlier batch of promotees did not accept the promotion order.

Due to non-consideration of promotion of the applicants to the cadre of Section Officer, in spite of existence of vacancies, such action will lead to irreparable loss and injury to the applicants, in as much as they will suffer loss in emolument, seniority as well as loss in further promotion prospect in the event of non-consideration of promotion.

It is categorically submitted that the implementation of cadre separation policy dated 24.03.06 and circular dated 30.03.06 has no relevancy or link with the consideration of the promotion of the present applicants. The status quo order has been passed by this learned Tribunal in O.A No. 115/2006 whereby posting of those applicants are temporarily restrained in the Section Officer cadre. The cadre separation policy means in other words permanent posting of the Gr. 'B' officers in different establishment of the offices of AG (A&E) whereas the applicants are still working as Sr. Accountant and they are entitled to be considered for promotion since vacancies are available and their posting on promotion normally are required to be made where vacancies are available in the cadre of Section Officer Gr. 'B'. As such the interim order passed by this learned Tribunal on 17.05.06 in OA No. 115/2006 has no relevancy or link with the issue of promotion of the applicants.

In the circumstances as stated above the Hon'ble Tribunal would be pleased to direct the respondents consider the promotion of the applicant in the existing vacancies in the cadre of Section Officer and further be pleased to observe that pendency of the O.A. No. 115/2006 is not a bar to consider the promotion of the applicants to the cadre of Section Officer and further be pleased to direct the respondents to grant promotion of the applicants to the cadre of Section Officer and further be pleased to direct

the respondents to grant promotion of the applicants at least w.e.f. 04.03.2006 by holding DPC with all consequential service benefits including seniority and arrear monetary benefits.

Copy of the policy dated 24.03.06 and circular dated 30.03.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5 and 6 respectively.

4.12 That it is stated that the cadre separation policy only on 24.03.2006 and interim order in O.A. No. 115/2006 was passed only on 17.05.2006 whereas the other candidates who were recommended for promotion and given offer of promotion vide order dated 18.01.2006 directing them to report for promotion before 03.02.2006 and also issued instruction to submit their acceptance within 03.02.2006 positively failing which their promotion would be treated as refused. But none of the 4 promotees from Sl. No. 2 to 5 given their acceptance pursuant to the order dated 18.01.06. Therefore, 4 posts of Section Officer fell vacant w.e.f. 04.02.06 and the respondents could have consider the case of the applicants in the month of February 2006 itself, but the respondents remained silent till May 2006 and now taking the plea that the matter is subjudice before this learned Tribunal. Hence the decision of the respondents communicated through D.O letter dated 2/5.06.06 is highly arbitrary, unfair and illegal.

4.13 That it is stated that the Accountant General (Audit) Nagaland, Kohima through his D.O letter bearing No. AGN/SECTT/MISC/2005-2006/79 dated 09.06.2006 whereby it was informed to the AC (A&E) Assam that out of the 5 official who have been promoted as SO vide order dated 18.01.2006 but 3 officials have not yet reported to the concerned offices within the specific time as per promotion order, therefore their promotion will be treated as cancelled since these 3 officials have failed to report in time. It is also pointed out in the said D.O letter that no further promotion in respect of other wait listed candidates has not yet been issued and accordingly

requested to consider their case of promotion as well as allow them to exercise to avoid any future litigation in the matter but surprisingly no action was initiated thereafter for consideration of the promotion of the applicants in spite of the repeated request made by the AC (Audit) Nagaland. In the circumstances applicants has no other alternative but to approach the Hon'ble Tribunal for protection of his valuable, legal and fundamental right for consideration of his promotion to the cadre of Section Officer with retrospective effect with all financial benefits.

Copy of the D.O letter dated 09.06.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7.

4.14 That it is a fit case for the learned Tribunal to interfere with and protect the right and interest of the applicants by passing appropriate order/interim order directing the respondents, more particularly the Accountant General (A&E) Assam to consider the promotion of the applicants to the cadre of Section Officer with immediate effect with arrear monetary benefits and further be pleased to direct the respondents to consider the promotion of the applicants by holding DPC with immediate effect during pendency of this Original Application.

4.14 A That your applicants beg to say that the Office of the Comptroller and Auditor General of India introduced a policy for separation of Common Cadre of Group 'B' Officers in the A&E and Civil Audit Officer in NE Region vide letter No. 144 NGE (App)/17-2004 dated 24.03.2006, whereby it has been decided that the permanent of posting of Group 'B' officers of common cadre against the required strength of various Civil Audit/A&E offices shall be made by the respective cadre controlling authorities strictly on the basis of the seniority of the officers, who have exercised their option for allocation to such offices, irrespective of their base office. It is further clarified that if the number of optees for a particular office is more than the required strength of that office, the excess persons in each

cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz. deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.

In view of the introduction and implementation of the aforesaid cadre separation policy the applicants are also entitled to exercise their option in the event of grant of their promotion due date, posts of Section Officers fell vacant prior to February 2006. But unfortunately the respondents in view of interim order passed in another Original Application i.e. O.A. No. 115/2006 did not conduct the DPC in the month of February 2006 or immediately thereafter, as a result the applicants who were entitled to be promoted prior to 16.04.2006 i.e. the cut off date fixed by the respondents for exercising options in terms of cadre separation policy have been deprived of the said benefit of exercising of option, as because they have been promoted to the cadre of Section Officer during the pendency of the instant Original Application. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to antedate the promotion of the applicant to the cadre of Section Officer at least 04.02.2006 and further be pleased to direct the respondents to allow the applicants to exercise their option pursuant to the cadre separation policy dated 24.03.2006 and also be

pleased to direct the respondents to consider the option of the applicants in the light of the direction contained in the cadre separation policy otherwise it will cause irreparable loss and injury to the applicants.

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

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

- 5.1 For that, the applicants are qualified SOG examination passed candidates due for promotion to the cadre of Section Officer and at least 4 vacancies are available to the cadre of Section Officer with effect from 04.03.2006 since 4 of the officials has not accepted the offer of promotion in the cadre of Section Officer which was issued in terms of promotion order dated 18.01.2006 as such the present applicants have acquired a valuable, legal and fundamental right for consideration of their promotion to the cadre of Section Officer at least with effect from 04.04.2006.
- 5.2 For that, the cadre separation policy dated 24.03.2006 and circular dated 03.03.2006 of the existing Group 'B' officers working in the combined cadre in the various establishments of the Accountant General in the North eastern region has no relevancy or link with the matter of consideration of promotion of the applicants to the cadre of Section Officer as such grounds for non-consideration of promotion of the applicants to the cadre of SO assigned by the AG (A&E) Assam in his D.O letter dated 02.05.2006 is not sustainable in the eye of law.
- 5.3 For that, the order of status quo passed by the learned Tribunal on 17.05.2006 in O.A. No. 115/2006 has no relevancy or link with the claim for consideration of promotion of the applicants to the cadre of Section Officer, by the order of status quo of the learned Tribunal restrained the respondents from posting and transferring the Group B officers who have filed the Original Application No. 115/2006 challenging the cadre separation policy dated 24.03.2006 and other consequential order. Hence

the order of status quo cannot stand on the way of consideration of promotion of the applicants to the cadre of SO who are willing to avail promotion in any establishment of the North Eastern Region.

- 5.4 For that, non-consideration of promotion of the applicants to the cadre of SO even after being declared successful in the rigorous SOC examination held in the month of May 2005 and as such eagerly waiting for consideration of their promotion to the cadre of SO, being eligible and well within the zone of consideration, more so when at least 4 vacancies are available in the cadre of Section Officer.
- 5.5 For that, the decision of the Accountant General (A&E) Assam, not to consider promotion of the applicants on the pretext of issuance of the cadre separation policy dated 24.03.2006, circular dated 03.03.2006 in respect of existing Group B officers and also on the alleged ground that this Hon'ble Tribunal has passed an order of status quo in O.A. No. 115/2006 is highly arbitrary, unfair and illegal and contrary to the factual position inasmuch as the cadre separation policy and order of status quo in no way standing in consideration of promotion of the applicants to the cadre of Section Officer.
- 5.6 For that, in spite of existence of at least 4 vacancies of Section Officer and also in view of the repeated request made by the Accountant General (Audit) Nagaland the case of the applicants for promotion has not yet been considered for promotion since February 2006 till date.
- 5.7 For that, the applicants also made numbers of representations for consideration of his promotion to the cadre of Section Officer in the existing available vacancies which was favourably recommended by the AG (A&E) Nagaland but the AG (A&E) Assam deliberately ignored the legitimate claim of the applicants for promotion to the cadre of Section Officer on the pretext of pendency of O.A. No. 115/2006.

- 5.8 For that denial of promotion to the applicants to the cadre of Section Officer in time will adversely affect the seniority, emolument, increment and promotion prospect for the next higher grade which will cause irreparable loss and injury to the applicants.
- 5.9 For that there is a specific instruction issued by the Govt. of India from time to time for holding DPC frequently to enable the Government employee to avail the benefit of promotion on the day when a vacancy is occurred in the promotional cadre but the respondents in the instant case deliberately violated the aforesaid instructions of the Govt. of India in order to deny the legitimate claim of promotion of the applicants.
- 5.10 For that applicants have been deprived promotion in the month of February 2006 in spite of existence of vacancies to the cadre of Section Officer and as a result they have been also deprived of the benefit of exercising their option pursuant to the cadre separation policy introduced by the Comptroller and Auditor General vide their letter dated 24.03.2006.
- 5.11 For that the applicants are legally entitled to antedated promotion at least w.e.f. 04.02.2006 and also legally entitled to benefit of exercising options for permanent posting pursuant to the cadre separation policy.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to hold the DPC to consider the promotion of the applicants in the cadre of Section Officer with immediate effect in the existing vacancies of Section Officers and further be pleased to direct the respondents to grant retrospective promotional benefit at least with effect from 04.03.2006 with all service benefit including arrear monetary arrear monetary benefit and seniority.
- 8.2 That the Hon'ble Tribunal be pleased to declare that the pendency of Original Application No. 115/2006 and the interim order dated 17.05.2006 passed in the aforesaid Original Application cannot stand on the way of consideration of promotion of the applicants to the cadre of Section Officer.
- 8.2 A That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to exercise their option for permanent posting pursuant to the cadre separation policy date 24.03.2006 and further be pleased to direct the respondents to consider their option in the light of the cadre policy.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.
9. Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider the promotion of the applicants to the cadre of Section Officer as an interim measure.
- 9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants for providing relief as prayed for.

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11. Particulars of the L.P.O

- i) L.P.O No. :
ii) Date of issue :
iii) Issued from :
iv) Payable at :

12. List of enclosures:

As given in the index.

VERIFICATION

I, Shri Arup Roy, S/o- Late R.C Roy, aged about 40 years, Working as Senior Accountant, O/o- The Accountant General (A&E), Nagaland, Kohima, Nagaland, applicant No. 2 in the instant application, duly authorized by the others to verify the statements in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 4th day of March 2007.

Arup Roy

2.7 In Group 'A' and Group 'B' services/posts, if none of the officers included in the DPC as per the composition given in the Recruitment Rules is an SC or ST officer, it would be in order to co-opt a member belonging to the SC or ST if available within the Ministry/Department. If no such officer is available within the Ministry/Department, he may be taken from another Ministry/Department.

2.8 In the case of EB crossing. — ***

PART - II

FREQUENCY OF MEETINGS

Frequency at which DPC should meet

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

[Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question.

[See O.M., dated 8-9-1998 at the end of this section for Model Calendar.]

1. G.I., Dept. of Per. & Trg., O.M. No. 22011/3/91-Estt. (D), dated the 13th May, 1991.

Attested
Advocate

Annexure-2 (series)
up

To

The Accountant General,
Nagaland, Kohima

Sub: Prayer for allowing options to be exercised in the event of separation of cadres of Group 'B' staff in NE Region.

Sir

Kindly refer to my representation dtd. 28th February 2006 seeking grant of opportunity for exercising option as SOGE passed Sr. Accountant in the event of separation of common Group 'B' cadre in NE region (copy enclosed). Although a considerable time has already been elapsed the fate of my representation is not known.

That Sir, separation of group 'B' cadre in the region is now a certainty and fresh options are invited from all persons holding Group 'B' post in the common cadre. Sir, on my passing of SOGE 2005, I have also acquired the eligibility for getting into the Group 'B' cadre since October 2005 when the common cadre system existed in the region. My promotion was held up for none of my fault for last 6 (six) months probably for want of vacancy in the common cadre.

That Sir, on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Under the circumstances, I would request you to take up the matter personally and move to the Cadre Controlling Authority as well as the Comptroller & Auditor General of India for favour of granting me an opportunity of exercising option for placement on promotion in the separate cadres arising out of the proposed cadre separation.

Yours faithfully,

Arup Roy
(Arup Roy) 29/2/06

Encl: As stated above.

*Attested
Advocate*

To
The Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland

Sub : Application for seeking redresal against deprivation of promotion to SO's cadre and consequent denial of opportunity to exercise options for final placement.

Respected Sir,

I Sri Arup Roy, SOGE passed (2005 batch) Sr. Accountant of O/O the Accountant General, Nagaland beg to lay before you the following facts for your kind and sympathetic consideration.

That Sir, when the proposal for separation of cadre in respect of Group 'B' officers in NE region was developing, I have applied to the Cadre Controlling Authority to consider my case and allowing me to exercise option for final placement on the analogy that on my passing SOGE in 2005. I have also acquired the eligibility of getting promotion to the Group 'B' cadre since October 2005 when the common cadre system existed in the region. But my contention was rejected by the cadre controlling Authority {AG(A&E) Assam} on the ground that I have not yet promoted to the group 'B' post.

2. That sir, I have passed SOGE in the year 2005 (October 2005) but as of now despite having vacancies I have not been considered for promotion to the post of SO(A&E). However, in January 2006, 5(five) qualified candidates who had earlier refused promotion in December 2004 had been promoted to available vacancies with validated period till 3rd February 2006 for accepting the offer. Out of 5(five), 4(four) had not accepted the offer within the validated period and the posts till remain vacant. The Cadre Controlling Authority did not consider my case even when the seniors refused the offer and clear vacancies in the grade exists depriving me the benefit of getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres.

3. That Sir, my humble submission that by not considering my case for promotion in February 2006 to the vacancies arising due to refusal by my seniors without assigning any reason was not just, fair and transparent.

In view of above facts, I would fervently request your benign self to interfere into the matter personally and to scrupulously take such action which can bring an appropriate justice in this regard, so that I can get a retrospective promotion to the combined SO's cadre at the earliest as well as opportunity to exercise option in the event of separation of cadre.

Yours faithfully

Arup Roy
(Arup Roy) *29/10/06*

Encls: Promotion Order of 5(five) SOGE passed Candidates.

Copy to: The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati - 29 for information and necessary action Please.

*Attested
With
Advocate*

To
The Principal Director(Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam,

In inviting a reference to the subject cited above I beg to lay before you the following facts for your sympathetic consideration.

That Madam, I have passed the SOGE (A&E) in October 2005 and awaiting promotion to SO (A&E), a Group 'B' posts in the common cadre in NE region. Unfortunately, the reason for not being considered for promotion even after elapse of more than 8 months is beyond my comprehension.

That Madam, the Cadre Controlling Authority of the Group 'B' cadre of the region of Guwahati seeks option for all those officers who have already got promotion to the cadre for final placement in the event of separation of cadres. But in this process I was not given an opportunity for exercising my option even though I have been in line for getting promotion to the cadre.

That Madam, my simple presumption is that since I have acquired the eligibility of being promoted to the grade before actual separation of the common cadre, if finally held, I deserved to be given a chance of exercising my option for final placement in the event of actual separation of cadre to be done at any later stage and this would be the only fair and just course of action in my case.

My presumption is based on the fact that on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Further I would like to refer to the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates seniors to me in line who had earlier refused promotions in December 2004, had been promoted on 18.01.06 to available vacancies with validity period of accepting the offer till 03.02.06. As per the order, if the promotion is not accepted within 03.02.06 their offer of promotion would be treated as

Attested
Advocate

cancelled. Out of the aforesaid five candidates, four candidates did not accept the offer in time and as such, other qualified wait listed candidates should have been considered for promotion against those vacant posts but in the instant case that was not done as of now. In these connection, I would like to refer to the response of my representation dated 29.5.2006 received from CCA, Guwahati wherein it is stated that options were called for from all Group B officers in common cadre as per circular for cadre separation issued on 30.3.2006 and no promotion have effected after cadre separation policy was issued on 30.3.2006. Now, my assumption is that my senior's promotion order has been expired on 3.2.2006 before the cadre separation policy was issued on 30.3.2006, but the CCA, Guwahati did not consider my case in between the periods of 54 days in between the expiry date (3.2.06) of offer and issuance of cadre separation policy (30.3.06).

In view of above facts, I would request your benign self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Yours faithfully,

Arup Roy
(Arup Roy) 9/6/06

Encls: Promotion order's of 242.dtd.18.01.06

Copy to: The Accountant General (A&E), Assam, Maidamgaon, Beltola,
Guwahati-29 for information and necessary action Please.

-28-

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI - 781 029.

Admn.1 Order No. 242

January 18, 2006

Without prejudice to the claim of their seniors and also subject to the condition that their seniority in the cadre of Section Officer will be fixed later, the following officials are hereby promoted to officiate as **Section Officer(Group-B Non-Gazetted)** in the scale of pay of Rs. 6500-200-10500/-p.m. w.e.f. the dates they take over charge in the offices as shown against their names.

| Sl. No | Name Shri/Smti | Office to which Attached | Office to which --- posted |
|--------|-------------------|------------------------------------|------------------------------------|
| 01. | Nepal Ch. Biswas | Sr. D.A.G. (A&E) Tripura, Agartala | Sr. D.A.G. (A&E) Tripura, Agartala |
| 02. | Basudev Mandal | A.G. (A&E) Assam, Guwahati | A.G. (A&E) Meghalaya, Shillong |
| 03 | Dilip Gupta | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 04 | Susanta Chaudhuri | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 05. | Pulok Ch. Sen | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |

The officers are liable to be transferred and posted to any of the offices of the Accountant General (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc., or any other offices likely to be opened in future in the North Eastern Region.

On promotion they will be placed on probation for two years.

On their promotion, the officers are required to exercise option, if any, in the matter of fixation of their pay within one month in terms of G.I.D. No. 19 below FR-22(I)(a)(1).

The officers are required to intimate this office whether they accept the promotion or not within 03-02-06 positively, failing which their promotion will be treated as refused.

The transfer is in public interest

[Authority: AG's order dated 18-01-06 at P/32^N of file no. Sr. DAG(A)/Panel/SO/2004]

sd/-

Sr. Deputy Accountant General (A& VLC)

Memo No. Admn.1/3-5/2004-05/3625

January 18, 2006

Copy forwarded to:

The Comptroller & Auditor General of India,
10- Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi-110 002

sd/-

Sr. Deputy Accountant General (A& VLC)

Attested
Advocate

To

The Principal Director(Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam.

In inviting a reference to the subject cited above I beg to lay you the following facts for your sympathetic consideration.

On my passing of SOGE in 2005, when the common cadre system existed in NE region I have acquired the eligibility for getting promotion into Group "B" cadre. So I have been placed on the same footing as my senior's before cadre separation implemented for final placement.

Secondly, I would like to refer the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates who has earlier refused promotions in December 2004 had been promoted to available vacancies with validated period till 03.02.06. As per the order if the promotion is not accepted within 03.02.06 their promotion will be treated as cancelled. Among 5 eligible candidates 4 eligible candidates have failed to report in time and as such other qualified wait listed candidates should have been promoted against those post(s). In these connection I like to refer the response of my representation dtd.29.05.06 received from CCA.Guwahati wherein it is stated that options were called for from all Group B officers in common cadre as per circular for cadre separation issued on 30.03.06 and no promotion have effected after cadre separation policy was issued. Now my analogy is that my senior's promotion order has cancelled on 03.02.06 before the cadre separation policy issued on 30.03.06. The CCA,Guwahati did not consider my case in between the interim periods of 54 days for none of my fault and depriving me the benefit of getting promotion in common cadre and thereby acquiring the right to exercise option.

*Attested
Advocate*

Thirdly, if the CCA, Guwahati has treated me as the separate cadre then I have to be considered eligible for promotion from November 2005 but due to the existence of common cadre in NE region I have been deprived from my due benefits in time. So, in that juncture I wish your utmost preference in this regard.

In view of above facts, I would request your benign-self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Yours faithfully,

(Ashim Kr. Dey)

Enclo: Promotion Order's of 242, dtd 18.01.06.

Copy to: The Accountant General, (A&E) Assam,

Maidamgaon, Beltola, Guwahati 29 for information and necessary action Please.

**OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI - 781 029.**

Admn.1. Order No. 242

January 18, 2006

Without prejudice to the claim of their seniors and also subject to the condition that their seniority in the cadre of Section Officer will be fixed later, the following officials are hereby promoted to officiate as **Section Officer(Group-B Non-Gazetted)** in the scale of pay of Rs. 6500-200-10500/-p.m. w.e.f. the dates they take over charge in the offices as shown against their names.

| Sl. No | Name Shri/Smti | Office to which Attached | Office to which posted |
|--------|-------------------|---------------------------------------|---------------------------------------|
| 01. | Nepal Ch. Biswas | Sr. D.A.G. (A&E) Tripura, Agartala | Sr. D.A.G. (A&E) Tripura, Agartala |
| 02. | Basudev Mandal | A.G. (A&E) Assam, Guwahati | A.G. (A&E) Meghalaya, Shillong |
| 03 | Dilip Gupta | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 04 | Susanta Chaudhuri | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 05. | Pulok Ch. Sen | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |

The officers are liable to be transferred and posted to any of the offices of the Accountant General (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc., or any other offices likely to be opened in future in the North Eastern Region.

On promotion they will be placed on probation for two years.

On their promotion, the officers are required to exercise option, if any, in the matter of fixation of their pay within one month in terms of G.I.D. No. 19 below FR-22(I)(a)(1).

The officers are required to intimate this office whether they accept the promotion or not within 03-02-06 positively, failing which their promotion will be treated as refused.

The transfer is in public interest

[Authority: AG's order dated 18-01-06 at P/32^N of file no. Sr. DAG(A)/Panel/SO/2004]

sd/-
Sr. Deputy Accountant General (A& VLC)

Memo No. Admn.1/3-5/2004-05/3625

January 18, 2006

Copy forwarded to:

The Comptroller & Auditor General of India,
10- Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi-110 002

sd/-
Sr. Deputy Accountant General (A& VLC)

*Attested
by
Advocate*

To
The Principal Director(Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam,

In inviting a reference to the subject cited above I beg to lay before you the following facts for your sympathetic consideration.

That Madam, I have passed the SOGE (A&E) in October 2005 and awaiting promotion to SO (A&E), a Group 'B' posts in the common cadre in NE region. Unfortunately, the reason for not being considered for promotion even after elapse of more than 8 months is beyond my comprehension.

That Madam, the Cadre Controlling Authority of the Group 'B' cadre of the region of Guwahati seeks option for all those officers who have already got promotion to the cadre for final placement in the event of separation of cadres. But in this process I was not given an opportunity for exercising my option even though I have been in line for getting promotion to the cadre.

That Madam, my simple presumption is that since I have acquired the eligibility of being promoted to the grade before actual separation of the common cadre, if finally held, I deserved to be given a chance of exercising my option for final placement in the event of actual separation of cadre to be done at any later stage and this would be the only fair and just course of action in my case.

My presumption is based on the fact that on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Further I would like to refer to the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates seniors to me in line who had earlier refused promotions in December 2004, had been promoted on 18.01.06 to available vacancies with validity period of accepting the offer till 03.02.06. As per the order, if the promotion is not accepted within 03.02.06 their offer of promotion would be treated as

Attested
Advocate

my fault and depriving me the benefit of getting promotion in common cadre and thereby acquiring the right to exercise option.

In view of above facts I would request your benign self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Dated, 9th/6/56

Yours faithfully,


(Ashim Kr. Dey)

Copy to: The Accountant General,(A&E) Assam,

Maidamgaon,Beltola,Guwahati 29 for information and necessary action Please.

The Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland

Sub : Application for seeking redresal against deprivation of promotion to SO's cadre and consequent denial of opportunity to exercise options for final placement.

Respected Sir,

I Sri Akum Chuba, SOGE passed (2005 batch) Sr. Accountant of O/O the Accountant General, Nagaland beg to lay before you the following facts for your kind and sympathetic consideration.

That Sir, when the proposal for separation of cadre in respect of Group 'B' officers in NE region was developing,, I have applied to the Cadre Controlling Authority to consider my case and allowing me to exercise option for final placement on the analogy that on my passing SOGE in 2005. I have also acquired the eligibility of getting promotion to the Group 'B' cadre since October 2005 when the common cadre system existed in the region. But my contention was rejected by the cadre controlling Authority {AG(A&E) Assam} on the ground that I have not yet promoted to the group 'B' post.

2. That sir, I have passed SOGE in the year 2005 (October 2005) but as of now despite having vacancies I have not been considered for promotion to the post of SO(A&E). However, in January 2006, 5(five) qualified candidates who had earlier refused promotion in December 2004 had been promoted to available vacancies with validated period till 3rd February 2006 for accepting the offer. Out of 5(five), 4(four) had not accepted the offer within the validated period and the posts till remain vacant. The Cadre Controlling Authority did not consider my case even when the seniors refused the offer and clear vacancies in the grade exists depriving me the benefit of getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres.

3. That Sir, my humble submission that by not considering my case for promotion in February 2006 to the vacancies arising due to refusal by my seniors without assigning any reason was not just, fair and transparent.

In view of above facts, I would fervently request your benign self to interfere into the matter personally and to scrupulously take such action which can bring an appropriate justice in this regard, so that I can get a retrospective promotion to the combined SO's cadre at the earliest as well as opportunity to exercise option in the event of separation of cadre.

Yours faithfully

(Akum Chuba)

Enclo: Promotion Order of 5(five) SOGE passed Candidates.

Copy to: The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati - 29 for information and necessary action Please.

Attested
Dutta
Advocate

R.M. JOHRI

D.O.No.AGN/Sep. Cadre/2005-06/ 342
Dated the 29th March 2006.

Subject: Separation of cadre in Group 'B' Cadre in North Eastern Region.

Dear

I am forwarding a representation received from a S.O.G. Examination passed candidate for your consideration. He has passed SOG examination and is awaiting promotion as S.O pending vacancies in Group 'B' cadre.

Since the separation of cadre is to be carried out, those candidates who have passed along with other SOG examination 2005 candidates but could not be promoted due to no vacancy in the cadre, cannot take the benefit of applying of option.

I feel that the option may be obtained from those SOG examination passed candidates also who have not been promoted. I am enclosing his representation with my letter for suitable action.

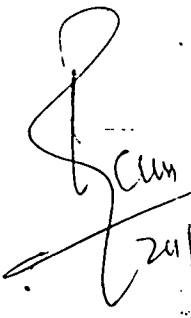
Thanking you,

Yours sincerely,

To

Shri Bhajan Singh
Accountant General (A&E), Assam,
Beltala, Maidamgaon,
Guwahati.

Attested
Advocate


24/3

R.M. Johri
Accountant General, Nagaland

36-
Annexure-3 (series)
D.O.NO.AGN/SECTT/MISC/2005-06/ 63
Dated the 29th May 2006.

Dear Shri

I am enclosing representations of S/Shri Arup Roy, Ashim Kumar Dey, and Akum Chuba, Sr. Accountants who have passed SOG examination 2005 and are awaiting for promotion to the post of Section Officers. As they are not getting promotion in Combined cadre, they are not getting the opportunity to exercise option in the event of Separation of Group 'B' cadres.

I would like to refer the promotion orders dated 18th January 2006 issued by the CCA where 5 officials have been promoted as S.O but 3 officials have not yet reported to the concerned offices within the specific time. As per orders if the promotion is not accepted within 03.02.2006 their promotion will be treated as cancelled. Since these three officials have failed to report in time other qualified wait listed officials should have been promoted against those three posts, whereas no further promotion orders in respect of other wait listed candidates has yet been issued from your office.

I would, therefore, request you to consider them to exercise option pending promotion to the S.Os cadre in the event of Separation of Group 'B' cadre to avoid any litigation in the matter.

Yours sincerely,
Sd/-

Shri Bhajan Singh
Accountant General (A&E), Assam,
Maidamgaon, Beltala,
GUWAHATI - 781 029.

NO.AGN/SECTT/MISC/2005-06/ 64

Dated the 29th May 2006.

Copy to Ms Mamta Kundra, Pr. Director (Staff), Office of the Comptroller and Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi - 100 002 for information.

Accountant General
24/5

Attested
Auth
Advocate



भजन सिंह
BHAJAN SINGH

- 37 -

Annexure-4

महालेखाकार (ले एवं ह) असम

Accountant General (A & E) Assam

मैदामगांव, बेलतोला, गुवाहाटी-७८१०२९

Maidamgaon, Beltola, Guwahati-781029

D.O. No: Sr. DAG(A)/Panel/S.O./2004/52

Dated Guwahati the 2nd June, 2006.

05 JUN 2006

Dear Shri Johri,

Please refer to your letter D.O. No.AGN/Sectt/Misc/2005-06/63 dated 29.5.06 regarding forwarding of representations of S/Shri Arup Roy, Ashim Kumar Dey and Akum Chuba, Sr. Accountants who have passed SOGE 2005 and are awaiting for promotion to the post of Section Officer. As per Cadre Separation policy for Group 'B' Officers, options were called for from all the Group 'B' officers in the common cadre as per Circular for Cadre Separation issued on 30/3/2006. Any further promotions to the cadre of Section Officers have not been effected after the Cadre Separation Policy was issued and options for permanent posting from all the staff were called for. As per OA No.115/2006 filed by certain Group 'B' staff of the common cadre in Hon'ble CAT, Guwahati Bench, the issue of cadre separation is presently sub-judice and the Hon'ble CAT, Guwahati Bench, has issued status-quo order on the case presently.

Keeping these issues in mind, it has been decided to maintain status-quo till the decision from Hon'ble CAT, Guwahati is communicated. This may kindly be communicated to S/Shri Arup Roy, Ashim Kr. Dey and Akum Chuba.

With regards

Yours sincerely,

[Signature]

Shri R.M. Johri, IA&AS,
O/o the Accountant General (A&E) Nagaland,
Kohima : 797 001.

[Signature]
7/6
Attested
Advocate

(Photostat Copy)

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA,
10, BAHADURSHAH ZAFAR MARG, NEW DELHI-110 002.

No: 144-NCE(App)/17-2004

Dated: 24.03.2006

To
The Pr. Accountant General (Audit),
Meghalaya, etc.,
Shillong.

Subj:- Separation of common cadre of Group 'B' Officers in the A&E and
Civil Audit Offices in North East Region.

Sir,

I am to forward herewith the policy for separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region alongwith a format of option form. It is requested that fresh options may be obtained from all the existing Group 'B' officers belonging to common cadre under your cadre control for permanent transfer to the Civil Audit offices in North East Region intimating them the cadre strength of each office and they may be allocated to the concerned offices on the basis of their seniority-cum-options exercised by them as per instruction contained in para 3 of the policy.

2. The junior officers in each cadre who are not likely to be accommodated in the concerned offices as per options exercised by them may be posted on deputation basis to the deficit offices as per instructions contained in para 4 of the policy.

3. The action taken report should be sent to us by 15-05-2006. We intend to have the separated cadres in place as on 01-06-2006.

4. Caveat in the appropriate courts of judicature may be filed in consultation with your standing counsels.

Yours faithfully,

Encl: As above.

Sd/-
(Manish Kumar)
Assistant Comptroller and
Auditor General (N)

Attended
Advocate

**Policy for separation of common cadre of Group 'B' officers
in the A&E and Civil Audit Offices in N.E. Region.**

- I One time option for allocation to a particular office may be called for from the existing Group 'B' officers belonging to common cadre by the present cadre controlling authorities i.e. PAG (Audit) Meghalaya etc., Shillong and AG (A&E) Assam, Guwahati. The optees shall be required to indicate their preference.
- II Vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required strength i.e. sanctioned strength minus vacancies proportionately distributed in each cadre.
- III Permanent posting of Group 'B' officers of common cadre against the required strength of various Civil Audit/A&E offices shall be made by the respective cadre controlling authorities strictly on the basis of the seniority of the officers, who have exercised their option for allocation to such offices, irrespective of their base office.
- IV If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz. deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- V If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled up by deputation of surplus optees as per guidelines laid down at IV above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VI The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.
- VII Direct recruitment will be done in the deficit offices only against the requisition already placed/to be placed to Staff Selection Commission.

*Attested
Advocate*

OFFICE OF THE ACCOUNTANT GENERAL(A&E) ASSAM, GUWAHATI

Circular on Cadre Separation

Circular No.AG/Sep/Gr.'B'/2006/141

Dated 30/3/2006

- I. Headquarters office has decided to separate the common Group 'B' cadre from Section Officers to Sr. Accounts Officers in the A&E offices of the N.E. region hither to controlled by the Accountant General(A&E) Assam, Guwahati.
- II. The offices to which the staff may exercise their one time option are the A&E offices at Assam, Meghalaya, Manipur, Tripura, Nagaland and the newly created offices of Mizoram and Arunachal Pradesh.
- III. The separation of Group 'B' cadres would be in accordance with the following criteria :-
- IV. The existing staff may be allocated on permanent posting against the required strength on the basis of the seniority of the officers who have exercised their option for allocation to such offices, irrespective of their base office.
- V. If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AC/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office for which number of optees is less than the required strength of that office viz deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- VI. If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled by deputation of surplus optees as per guidelines laid down at V above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VII. The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.
- VIII. Direct recruitment will be done in the deficit offices only against the requisition already placed/to be placed to Staff Selection Commission.
- IX. With a view to implement the above scheme of separation of cadres of Group 'B' posts, all the present Group 'B' Officers (Section Officers to Senior Accounts Officers including those on deputation and on foreign service) of this office are hereby directed to exercise their options in the enclosed "FORM OF OPTION" and submit the same to the Senior Accounts Officer/Admn. of this office by 15th April 2006 positively. He should also prepare a list of officers on leave and ensure sending of this circular with 'Option Form' to them by Registered post.

Attested
by
Advocate

Sr. Dy. Accountant General (Admn.)



Ram Mohan Johri

महालेखाकार (लेखापरीक्षा), नागालैण्ड
ACCOUNTANT GENERAL (AUDIT)

कोहिमा - ७९७ ००१

NAGALAND : KOHIMA - 797 001

Tel: (0370) 2243117(O) 2244787(R). Fax: 2244788

D.O.NO.AGN/SECTT/MISC/2005-06 79
Dated the 9th June 2006.

Dear Shri *Blajan Singh.*

I am enclosing representations of S/Shri Arup Roy, and Ashim Kumar Dey. Sr. Accountants who have passed SOG examination 2005 and are awaiting promotion to the post of Section Officers

I would like to refer the promotion orders dated 18th January 2006 issued by the CCA wherein 5 officials have been promoted as S.O but 3 officials have not yet reported to the concerned offices within the specific time. As per orders if the promotion is not accepted within 03.02.2006 their promotion will be treated as cancelled. Since these three officials have failed to report in time and as such other qualified wait listed officials could have been promoted against those three posts, whereas no further promotion orders in respect of other wait listed candidates has yet been issued from your office.

I would, therefore, request you to consider their case of promotion as well as allow them to exercise option to avoid any future litigation in the matter.

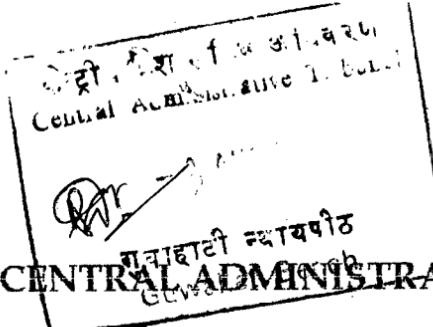
Regards

Yours sincerely,

Ram Mohan Johri

Shri Bhajan Singh
Accountant General (A&F), Assam.
Maidamgaon, Beltala.
GUWAHATI - 781 029.

*Attested
By
Advocate*


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 199 /2006

Shri Ashim Kumar Dey & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the 3 applicants were initially appointed as Clerk-cum-Typist in the establishment of Accountant General (A&E) Kohima. They were thereafter promoted to the cadre of Accountant and further promoted to the cadre of Sr. Accountant. They are now working as Sr. Accountant posted in the office of the AG (A&E) Nagaland, Kohima.

May 2005- Applicants being eligible and qualified employees, appeared in the Section Officer Grade Examination (for short SOG examination held in the month of May 2005 and came out successful as such they have attained eligibility for consideration of their promotion in the cadre of Section Officer.

Accountant General (A&E), Assam, Guwahati conducted DPC for filling up of 5 vacancies of Section Officers during the recruitment year 2005-06.

18.01.2006- On the basis of recommendation of DPC 5 Sr. Accountant were promoted to the cadre of Section Officer (Gr. B non-gazetted) in the scale of Rs. 6,500-10,500/- vide order dated 18.01.06. It is stated in the promotion order dated 18.01.06 that the promotee officers are required to intimate the office, whether they accept the promotion or not within 03.02.06 positively, failing which their promotion will be treated as refused.

28.02.06, 29.05.06, 09.06.06- Applicants submitted representation addressed to the respondent No. 1 and 3, seeking grant of opportunity for exercising option as SOG examination passed Sr. Accountant in the event of separation of common Gr. 'B' cadre in NE region. They also stated in their representations that employees did not accept promotion when the same was offered to them within the validity period i.e. still 03.02.06 in terms of the

promotion order dated 18.01.06 but in spite of existence of clear vacancies, the applicant have been deprived in getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres and prayed for grant of retrospective promotion to the combined Section Officer's cadre at the earliest as well as for providing opportunity to exercise option in the event of separation of cadre. (Annexure- 2 Series)

29.03.06, 29.05.06- AG (A&E) Nagaland after receipt of the representations from the applicants forwarded the same to the AG (A&E) Assam. In his forwarding letter the AG (A&E) Nagaland has clearly expressed his opinion with the request that option may be allowed to exercise from this SOG examination passed candidates also who have not been promoted. AG (A&E) Nagaland also requested AG (A&E) Assam to consider promotion of wait listed candidates against the 3 posts where 3 employees did not report for promotion within 03.02.06 and also requested promotion order of those candidates may be treated as cancelled since they have not accepted the promotion. (Annexure- 3 Series)

02/5.06.06- AG (A&E) Assam, Guwahati wrote a D.O letter to the AG (A&E) Nagaland, Kohima with reference to the representation of the applicants and other similarly situated employees any further promotion to the cadre of Section Officer have not been effected after the cadre separation policy was issued and option for permanent posting from all the staffs were called for. It is further stated in the said D.O letter that in view of filing an O.A No. 115/2006 by certain Cr. 'B' staff of the common cadre in the Hon'ble CAT, Guwahati Bench the issue of cadre separation is presently subjudice before the Hon'ble CAT where status quo order was issued. Therefore, it has been decided to maintain status quo till the decision from Hon'ble CAT, Guwahati Bench is communicated and it was further requested to inform the aforesaid decision to the applicants. (Annexure- 4)

24.03.2006/30.03.06- Comptroller and Auditor General of India, New Delhi issued cadre separation policy and circular order dated 30.03.06, which have no relevancy or link with the consideration of the promotion of the present applicants. (Annexure- 5 and 6)

09.06.2006- Accountant General (Audit) Nagaland, Kohima through his D.O letter dated 09.06.06 informed AG (A&E) Assam that out of the 5 official who have been promoted to the cadre of Section Officer vide order dated 18.01.06 but 3 officials have not yet reported to the concerned offices within the specific time as per promotion order, therefore their promotion will be treated as cancelled. It is also

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stated in the said D.O letter that no further promotion in respect of other wait listed candidates has not yet been issued and accordingly requested to consider their case of promotion as well as allow them to exercise option to avoid future litigation in the matter but surprisingly no action was initiated thereafter for consideration of the promotion of the applicants in spite of the repeated request made by the AG (Audit) Nagaland.

(Annexure- 7)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to direct the respondents to hold the DPC to consider the promotion of the applicants in the cadre of Section Officer with immediate effect in the existing vacancies of Section Officers and further be pleased to direct the respondents to grant retrospective promotional benefit at least with effect from 04.03.2006 with all service benefit including arrear monetary arrear monetary benefit and seniority.
2. That the Hon'ble Tribunal be pleased to declare that the pendency of Original Application No. 115/2006 and the interim order dated 17.05.2006 passed in the aforesaid Original Application cannot stand on the way of consideration of promotion of the applicants to the cadre of Section Officer.
3. Costs of the application.
4. Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents to consider the promotion of the applicants to the cadre of Section Officer as an interim measure.
 2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants for providing relief as prayed for.
-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 199 /2006

Shri Ashim Kumar Dey & Ors. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Date:-

Advocate

Ashim K. Dey

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 199 /2006

62-1
Filed by the applicants
through U. Dutta
Advocate
on 9.08.06

BETWEEN:

1. **Shri Ashim Kumar Dey,**
S/o- Shri Ajit Kumar Dey,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.
2. **Shri Arup Roy,**
S/o- Late R.C Roy,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.
3. **Shri Akum Chuba,**
S/o- A.W. Aluniba,
Working as Senior Accountant,
O/o- The Accountant General (A&E), Nagaland,
Kohima, Nagaland.

-----Applicants.

-AND-

1. The Union of India,
Represented by
The Comptroller & Auditor General of India,
10, Bahadur Shah Jafar Marg,
New Delhi- 2.
2. The Accountant General (A&E), Assam,
Maidamgaon, Beltola,
Guwahati- 29.
3. The Accountant General (A&E), Nagaland,
Kohima, Nagaland.

..... Respondents.

Ashim K. Roy

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents to consider the promotion of the applicants by holding DPC in the existing vacancies in the cadre of section officer for the recruitment year 2005/2006, since the applicants are qualified candidate, who have already passed Section Officer Grade Examination held in the month of May 2005 with a further direction to consider the promotion of the applicants at least w.e.f. 04.02.2006 with all consequential service benefits including seniority and monetary benefits.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. Facts of the case:

4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant No. 1 was initially appointed as Clerk- cum-Typist in the year 1990 in the establishment of Accountant General (A&E) Kohima. He was thereafter promoted to the cadre of Accountant in the month of May 1993 and further promoted to the cadre of Sr. Accountant in the scale of pay of Rs. 5500-9000/- in the year 1996 and he is serving in the same

Ashim M. Ray

capacity till date posted in the office of the Accountant General (A&E), Nagaland, Kohima.

Applicant No. 2 was initially appointed as Clerk-cum-Typist in the year 1990, thereafter he was promoted as Accountant in the year 1995 and further promoted as Senior Accountant in the year 1998 and he is serving in the same capacity till date and posted in the office of the Accountant General (A&E), Nagaland, Kohima.

Applicant No. 3 was initially appointed as Clerk-cum-Typist, thereafter he was promoted as Accountant in the year 1998 and further promoted as Senior Accountant in the year 2001 and he is serving in the same capacity till date and posted in the office of the Accountant General (A&E), Nagaland, Kohima.

- 4.3 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.4 That your applicants further beg to say that the Accountant General (A&F) Assam is the cadre controlling authority of the Section Officer. The next avenue of promotion of the applicants is to the grade of Section Officer in the scale of pay of Rs. 6,500-10,500/- subject to passing of the Section Officer Grade Examination, however, said promotion is also subject to availability of vacancy.
- 4.5 That it is stated that the applicants being eligible and qualified employees appeared in the Section Officer Grade Examination (for short SOG examination) held in the month of May 2005, which was conducted by the respondents Union of India. However, the applicants were declared successful in the said examination in the month of October 2005 and as

Aslim K. Dey

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such the applicants have attained eligibility for consideration of their promotion in the cadre of Section Officer.

4.6 That it is stated that 5 vacancies of Section Officers in the scale of Rs. 6500-10,500/- has occurred during the recruitment year 2005-2006 accordingly DPC was conducted at the instance of the Accountant General (A&E), Assam, Guwahati and subsequently on the basis of the recommendation of the DPC, 5 Senior Accountants were promoted to the cadre of Section Officer (Group 'B' non-gazetted) in the scale of Rs. 6,500-10,500/- vide order bearing No. Admn. 1 Order No. 242 dated 18.01.2006 whereby the Office of the Accountant General (A&E) Assam have issued the offer of promotion order without prejudice to the claim of their seniors and also subject to the condition that the seniority in the cadre of Section Officer will be fixed later. In the promotion order dated 18.01.06 it is stipulated that the promotee officer are liable to be transferred and posted to any of the offices of the Accountant General (A&E) Assam, Nagaland, Tripura, Manipur, Meghalaya etc. or any other offices likely to be opened in future in the NE Region and on promotion they will be placed on probation for a period of 2 years. It is also specifically stated in promotion order dated 18.01.06 that the promotee officers are required to intimate the office whether they accept the promotion or not within 03.02.06 positively failing which their promotion will be treated as refused.

In terms of the aforesaid promotion order dated 18.01.06 the 4 of the promotee officers, namely; Sri Basudev Mandal, Sri Dilip Gupta, Sri Susanta Choudhuri, Sri Pulak Chandra Sen neither reported for promotion nor intimated the acceptance of the promotion order as required, in terms of the condition laid down in the promotion order dated 18.01.06 and as such promotion of the Sl. No. 2 to 5 deemed to have been refused. Therefore, out of the five (5) posts of the Section Officer, 4 posts were remained vacant till date due to non-acceptance of the promotion order by the promotees whose names are indicated in Sl. No. 2

Asliem K. Dey

to 5. In the circumstances stated above, 4 posts of Section Officer of the recruitment year 2005-2006 have fallen vacant since 04.02.06, therefore, a duty cast upon the cadre controlling authority i.e. respondent No. 2 to consider the promotion of the other eligible and qualified candidates who have qualified in the SOG Examination held in the month of May 2005 and eagerly waiting for their turn for promotion to the cadre of Section Officer. But the cadre controlling authority i.e. respondent No. 2 did not take any action till date for consideration of the promotion of the applicants although 4 vacancies are lying vacant w.e.f. 04.02.06.

It is stated that promotion is very much important in the service career of a government employee, in the instant case of the applicants, they are well within the zone of consideration and 4 vacancies of the Section Officers are available till date but the respondents, more particularly respondent No. 2 did not consider their promotions till filing of this application.

- 4.7 That it is stated that as per Govt. of India's instructions, on the day when a vacancy is available, the same should be filled up as per DOPT instructions, issued by the Govt. of India from time to time. In this connection the applicant like to draw the attention of the Hon'ble Court on the following instructions issued by the Government of India. The relevant portion is quoted below from Swamy's Manual on Establishment and Administration:

"Frequency at which D.P.C should meet

3.1 The D.P.Cs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List

Asst. Secy. Mr. Dey

etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meeting need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

1[Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question."

Surprisingly in the instant case, the respondents did not follow the aforesaid instructions of the Government, as a result, abnormal delay has

Ashim M. Dey

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been caused in considering the case of the applicants for promotion to the post of Section Officer Group 'B' and as such they are incurring huge financial loss, loss of seniority, and further promotion prospects to the next higher cadre.

Copy of extract of Govt. of India's instruction regarding holding of DPC (Page-834) from Swamy's Complete Manual of Establishment and Administration for Central Govt. Officials, 2003 Edition is enclosed as Annexure- 1.

- 4.8 That your applicant No. 1 initially on 28.02.06 submitted a representation addressed to the Accountant General (A&E), Nagaland, Kohima, seeking grant of opportunity for exercising option as SOG examination passed Sr. Accountant in the event of separation of common Group 'B' cadre in NE Region. The applicant in his representation also stated that he has acquired eligibility for getting into the Group 'B' cadre since October 2005 when the common cadre system existed in the region. It is further stated that his promotion was held up for last 6 months for no fault of him and probably for want of vacancy in the common cadre. It is further stated that the applicant shall not be subjected to the denial of benefit of exercising option for final placement on promotion and prayed for grant of an opportunity of exercising option for placement on promotion in the separate cadres arising out of the proposed cadre separation scheme. On similar prayer applicant again submitted another representation on 29.05.06 and in the said representation which was addressed to the Comptroller and Auditor General of India, New Delhi, through proper channel, wherein particularly in para 2, the applicant specifically pointed out that 4 employees did not accept promotion when the same was offered to them within the validity period i.e. still 03.02.06 in terms of the promotion order dated 18.01.06, but in spite of existence of clear vacancies, the applicant has been deprived in getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres and prayed for grant of

Ashim K. Roy

retrospective promotion to the combined Section Officer's cadre at the earliest as well as for providing opportunity to exercise option in the event of separation of cadre. Applicant No. 1 finding no response again submitted another representation on 29.05.06 and on 09.06.06 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer.

Applicant No. 2 submitted similar representation addressed to the respondent No. 1 and 3 on 29.03.06, 29.05.2006 and on 09.06.2006 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer. Applicant No. 3 also submitted a similar representation addressed to the respondent No. 1 on 29.05.2006 more or less on the same grounds for non-consideration of his promotion as well as for non-providing opportunity for exercising option in combined cadre of Section Officer and prayed for retrospective promotion to the cadre of Section Officer.

Copies of the representations dated 29.03.06, 29.05.06, 09.06.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2 (Series).

- 4.9 That it is stated that the AG, Nagaland after receipt of the representation dated 29.03.06 and 29.05.06 forwarded the same to the AG (A&E) Assam, Guwahati on 29.03.06 and also on 29.05.06. In the forwarding letter the AG (A&E) Nagaland has clearly expressed his opinion with the request that option may be allowed to exercise from those SOG examination passed candidates also who have not been promoted. Again the AG (A&E) Nagaland requested the AG (A&E) Assam to consider promotion of wait listed candidates against the 3 posts where 3 employees did not report for

Aslem Kr. Roy

promotion within 03.02.06 and also requested that promotion order of those candidates may be treated as cancelled since they have not accepted the promotion and also requested to consider the prayer of exercising option of the applicant pending promotion in the cadre of Section Officer to avoid any litigation in the matter but to no result. In this connection it is categorically submitted that the applicants have come to learn from a reliable source that one more person refused to accept promotion within the stipulated period i.e. within 03.02.06 to the cadre of Section Officer, as such altogether 4 vacancies exists to the cadre of Section Officer are still lying vacant against which the present applicants may be considered for promotion to the cadre of Section Officer.

Copy of the forwarding letter dated 29.03.06 and 29.05.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3 (Series).

- 4.10 That it is state that the AG (A&E) Assam, Guwahati wrote a D.O letter on 2/5.06.06 to the AC (A&E) Nagaland, Kohima with reference to a D.O letter dated 29.05.06 wherein with reference to the representations of the applicants and other similarly situated employees any further promotion to the cadre of Section Officer have not been effected after the cadre separation policy was issued and option for permanent posting from all the staffs were called for. It is further stated in the said D.O letter dated 2/5.06.06 that in view of filing an O.A. No. 115/2006 by certain Group 'B' staff of the common cadre in Hon'ble CAT, Guwahati Bench the issue of cadre separation is presently subjudice before the Hon'ble CAT, Guwahati Bench where status quo order was issued. Therefore, it has been decided to maintain status quo till the decision from Hon'ble CAT, Guwahati Bench is communicated and it was further requested to inform the aforesaid decision to the applicants.

Ashim Kr. Dey

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Copy of the D.O letter order dated 02/05.06.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

4.11 That it is stated that the AG (A&E) Assam did not consider the case of the applicants for promotion to the cadre of Section Officer, in spite of existence of vacancies only on the ground that certain Group 'B' staff of the common care has filed an O.A before this Hon'ble Tribunal i.e. O.A. No. 115/2006 (S.U. Ahmed & Ors. -Vs- U.O.I & Ors.) on the issue of cadre separation and the same is subjudice before this Hon'ble Court where order of status quo has been passed by the learned Tribunal. On the other words the AG (A&E) Assam restrained himself from considering the case of the applicants for promotion since the matter is subjudice before the learned Tribunal and on the ground that status quo has been passed in O.A. No. 115/2006 where certain Group 'B' officers challenged the cadre separation policy issued by the Comptroller and Auditor General of India, New Delhi vide letter bearing No. 144-NCE (App)/17-2004 dated 24.03.2006.

In terms of the cadre separation policy it has been decided to allow the existing Group 'B' officers belonging to common cadre to provide opportunity for exercising one time option indicating their preference in the matter of posting. It is further decided that vacancies in combined cadre may proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required sectioned strength. It is also provided in the policy that if the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz; deficit offices and laid down some more criterias and conditions in the event of cadre separation which also

Asim K. Dey

evident from the "Circular on cadre separation" bearing No. AC/Sep/Cr. 'B'/2006/141 dated 30.03.2006.

Therefore, it is quite clear that, those applicants who preferred an Original Application before this Hon'ble Tribunal which was registered as O.A. No. 115/2006 are Group 'B' officers, total 6 in numbers. They have challenged the cadre separation policy before the Hon'ble Tribunal and prayed for following relief in O.A No. 115/2006 as follows:

" 10. RELIEF SOUGHT:

In view of the facts and circumstances stated above, the applicants most humbly pray that this Hon'ble Tribunal may be pleased to admit this application, call for the records relating to the aforesaid arbitrary activities of the respondents, quash the letter dated 24.03.2006 (Annexure- 1) and the circulars dated 30.03.2006 and 18.04.2006 (Annexure- 2 and 3) issued by the respondents on the aforesaid dates and to issue directions to the respondents authorities to: -

(A) do away with the so-called schemes/policies of "common cadre" and of the "separation of cadre" including forcing the applicants to exercise their "option" as well as to do away with the respondents' own creation of the so-called "surplus offices" and "deficit offices" forthwith;

(B) not to make any permanent allocation of any officer to any office other than his/her own parent office before preparing and publishing the office-wise and class-wise Gradation Lists of officers in the rank and file of the Section Officers, Assistant Accounts Officers, Accounts Officers and Senior Accounts Officers in each of the offices of the ACs of the North East and only thereafter to post and promote and depute these officers by following the Gradation Lists honestly;

Aslam M. Waj

(C) not to compel any officer in the cadre to go to any office other than his parent office permanently unless he/she volunteers so to do suo motu; and

(D) not to give rampant privilege of "deputation" and/or "transfer on deputation" to the officers in the cadre to other offices of the AGs of the North East or of the Central Government or Government undertakings simply on the basis of the "option" exercised and the procedure be reversed by applying the principles of seniority and equilibrium of opportunity given to the officers of all the offices of the North East without discrimination besides maintaining the optimum level of staff strength in each of the offices of AG of the North East in strict accordance with each of their sanctioned strength."

11. INTERIM RELIEF SOUGHT FOR, IF ANY:

The applicants pray that pending finalization of the present original application this Hon'ble Tribunal may kindly be pleased to issue an order-

(A) staying the operation of the letter dated 24.03.2006 (Annexure- 1) and the circulars dated 30.03.2006 and 18.04.2006 (Annexures- 2 and 3); and

(B) any other order or orders as to this Hon'ble Tribunal may deem fit and proper to pass in the interest of justice."

It is quite clear from the prayers made by the applicants in O.A. No. 115/2006 that those applicants have challenged the cadre separation policy with the sole intention to allow them to continue on permanent basis in the establishment of AG (A&E) Assam and all the applicants are presently holding the post of Gr. B officers. Therefore, pendency of the O.A No. 115/2006 and the interim order of status quo passed by the learned Tribunal in the aforesaid O.A. in fact in no way stand as

Ashim Kr. Dey

obstruction for consideration of promotion of the present applicants who are working in the cadre of Sr. Accountant and already qualified in the SOG examination and now due for promotion since vacancies are now available in the cadre of Section Officer. In view of the fact that some of the Sr. Accountant who were offered promotion to the cadre of Section Officer, has already refused promotion since they have not furnished any acceptance letter in terms of the order of promotion dated 18.01.2006 as such the applicants are entitled to be considered for promotion to be considered for promotion at least from 04.03.06 when the earlier batch of promotees did not accept the promotion order.

Due to non-consideration of promotion of the applicants to the cadre of Section Officer, in spite of existence of vacancies, such action will lead to irreparable loss and injury to the applicants, in as much as they will suffer loss in emolument, seniority as well as loss in further promotion prospect in the event of non-consideration of promotion.

It is categorically submitted that the implementation of cadre separation policy dated 24.03.06 and circular dated 30.03.06 has no relevancy or link with the consideration of the promotion of the present applicants. The status quo order has been passed by this learned Tribunal in O.A No. 115/2006 whereby posting of those applicants are temporarily restrained in the Section Officer cadre. The cadre separation policy means in other words permanent posting of the Gr. 'B' officers in different establishment of the offices of AG (A&E) whereas the applicants are still working as Sr. Accountant and they are entitled to be considered for promotion since vacancies are available and their posting on promotion normally are required to be made where vacancies are available in the cadre of Section Officer Gr. 'B'. As such the interim order passed by this learned Tribunal on 17.05.06 in OA No. 115/2006 has no relevancy or link with the issue of promotion of the applicants.

In the circumstances as stated above the Hon'ble Tribunal would be pleased to direct the respondents consider the promotion of the applicant

Ashim K. Dey

in the existing vacancies in the cadre of Section Officer and further be pleased to observe that pendency of the O.A. No. 115/2006 is not a bar to consider the promotion of the applicants to the cadre of Section Officer and further be pleased to direct the respondents to grant promotion of the applicants to the cadre of Section Officer and further be pleased to direct the respondents to grant promotion of the applicants at least w.e.f. 04.03.2006 by holding DPC with all consequential service benefits including seniority and arrear monetary benefits.

Copy of the policy dated 24.03.06 and circular dated 30.03.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5 and 6 respectively.

4.12 That it is stated that the cadre separation policy only on 24.03.2006 and interim order in O.A. No. 115/2006 was passed only on 17.05.2006 whereas the other candidates who were recommended for promotion and given offer of promotion vide order dated 18.01.2006 directing them to report for promotion before 03.02.2006 and also issued instruction to submit their acceptance within 03.02.2006 positively failing which their promotion would be treated as refused. But none of the 4 promotees from Sl. No. 2 to 5 given their acceptance pursuant to the order dated 18.01.06. Therefore, 4 posts of Section Officer fell vacant w.e.f. 04.02.06 and the respondents could have consider the case of the applicants in the month of February 2006 itself, but the respondents remained silent till May 2006 and now taking the plea that the matter is subjudice before this learned Tribunal. Hence the decision of the respondents communicated through D.O letter dated 2/5.06.06 is highly arbitrary, unfair and illegal.

4.13 That it is stated that the Accountant General (Audit) Nagaland, Kohima through his D.O letter bearing No. AGN/SECTT/MISC/2005-2006/79 dated 09.06.2006 whereby it was informed to the AG (A&E) Assam that out of the 5 official who have been promoted as SO vide order dated 18.01.2006

Ashim M. Roy

but 3 officials have not yet reported to the concerned offices within the specific time as per promotion order, therefore their promotion will be treated as cancelled since these 3 officials have failed to report in time. It is also pointed out in the said D.O letter that no further promotion in respect of other wait listed candidates has not yet been issued and accordingly requested to consider their case of promotion as well as allow them to exercise to avoid any future litigation in the matter but surprisingly no action was initiated thereafter for consideration of the promotion of the applicants in spite of the repeated request made by the AG (Audit) Nagaland. In the circumstances applicants has no other alternative but to approach the Hon'ble Tribunal for protection of his valuable, legal and fundamental right for consideration of his promotion to the cadre of Section Officer with retrospective effect with all financial benefits.

Copy of the D.O letter dated 09.06.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7.

4.14 That it is a fit case for the learned Tribunal to interfere with and protect the right and interest of the applicants by passing appropriate order/interim order directing the respondents, more particularly the Accountant General (A&E) Assam to consider the promotion of the applicants to the cadre of Section Officer with immediate effect with arrear monetary benefits and further be pleased to direct the respondents to consider the promotion of the applicants by holding DPC with immediate effect during pendency of this Original Application.

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

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

5.1 For that, the applicants are qualified SOG examination passed candidates due for promotion to the cadre of Section Officer and at least 4 vacancies

Ashim Kr. Dey

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are available to the cadre of Section Officer with effect from 04.03.2006 since 4 of the officials has not accepted the offer of promotion in the cadre of Section Officer which was issued in terms of promotion order dated 18.01.2006 as such the present applicants have acquired a valuable, legal and fundamental right for consideration of their promotion to the cadre of Section Officer at least with effect from 04.04.2006.

- 5.2 For that, the cadre separation policy dated 24.03.2006 and circular dated 03.03.2006 of the existing Group 'B' officers working in the combined cadre in the various establishments of the Accountant General in the North eastern region has no relevancy or link with the matter of consideration of promotion of the applicants to the cadre of Section Officer as such grounds for non-consideration of promotion of the applicants to the cadre of SO assigned by the AG (A&E) Assam in his D.O letter dated 02.05.2006 is not sustainable in the eye of law.
- 5.3 For that, the order of status quo passed by the learned Tribunal on 17.05.2006 in O.A. No. 115/2006 has no relevancy or link with the claim for consideration of promotion of the applicants to the cadre of Section Officer, by the order of status quo of the learned Tribunal restrained the respondents from posting and transferring the Group B officers who have filed the Original Application No. 115/2006 challenging the cadre separation policy dated 24.03.2006 and other consequential order. Hence the order of status quo cannot stand on the way of consideration of promotion of the applicants to the cadre of SO who are willing to avail promotion in any establishment of the North Eastern Region.
- 5.4 For that, non-consideration of promotion of the applicants to the cadre of SO even after being declared successful in the rigorous SOG examination held in the month of May 2005 and as such eagerly waiting for consideration of their promotion to the cadre of SO, being eligible and

Ashim K. Dey

well within the zone of consideration, more so when at least 4 vacancies are available in the cadre of Section Officer.

- 5.5 For that, the decision of the Accountant General (A&E) Assam, not to consider promotion of the applicants on the pretext of issuance of the cadre separation policy dated 24.03.2006, circular dated 03.03.2006 in respect of existing Group B officers and also on the alleged ground that this Hon'ble Tribunal has passed an order of status quo in O.A. No. 115/2006 is highly arbitrary, unfair and illegal and contrary to the factual position inasmuch as the cadre separation policy and order of status quo in no way standing in consideration of promotion of the applicants to the cadre of Section Officer.
- 5.6 For that, in spite of existence of at least 4 vacancies of Section Officer and also in view of the repeated request made by the Accountant General (Audit) Nagaland the case of the applicants for promotion has not yet been considered for promotion since February 2006 till date.
- 5.7 For that, the applicants also made numbers of representations for consideration of his promotion to the cadre of Section Officer in the existing available vacancies which was favourably recommended by the AG (A&E) Nagaland but the AG (A&E) Assam deliberately ignored the legitimate claim of the applicants for promotion to the cadre of Section Officer on the pretext of pendency of O.A. No. 115/2006.
- 5.8 For that denial of promotion to the applicants to the cadre of Section Officer in time will adversely the seniority, emolument, increment and promotion prospect for the next higher grade which will cause irreparable loss and injury to the applicants.
- 5.9 For that there is a specific instruction issued by the Govt. of India from time to time for holding DPC frequently to enable the Government

Asim K. Dey

employee to avail the benefit of promotion on the day when a vacancy is occurred in the promotional cadre but the respondents in the instant case deliberately violated the aforesaid instructions of the Govt. of India in order to deny the legitimate claim of promotion of the applicants.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

- 3.1 That the Hon'ble Tribunal be pleased to direct the respondents to hold the DPC to consider the promotion of the applicants in the cadre of Section Officer with immediate effect in the existing vacancies of Section Officers and further be pleased to direct the respondents to grant retrospective promotional benefit at least with effect from 04.03.2006 with all service benefit including arrear monetary arrear monetary benefit and seniority.

Asliem M. Day

8.2 That the Hon'ble Tribunal be pleased to declare that the pendency of Original Application No. 115/2006 and the interim order dated 17.05.2006 passed in the aforesaid Original Application cannot stand on the way of consideration of promotion of the applicants to the cadre of Section Officer.

8.3 Costs of the application.

8.4 Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider the promotion of the applicants to the cadre of Section Officer as an interim measure.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicants for providing relief as prayed for.

10.

11. Particulars of the I.P.O

| | | |
|------|---------------|--------------------|
| i) | I.P.O No. | : 26G.325031. |
| ii) | Date of issue | : 17.7.06. |
| iii) | Issued from | : G.P.O. Guwahati. |
| iv) | Payable at | : G.P.O. Guwahati. |

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

Ashim Kr. Dey

VERIFICATION

I, Shri Ashim Kumar Dey, S/o- Shri Ajit Kumar Dey, aged about 40 years, working as Senior Accountant, in the office of the Accountant General (A&E), Nagaland, Kohima, Nagaland, applicant No. 1 in the instant application, duly authorized by the others to verify the statements in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 6th day of August 2006.

Ashim K Dey

2.7 In Group 'A' and Group 'B' services/posts, if none of the officers included in the DPC as per the composition given in the Recruitment Rules is an SC or ST officer, it would be in order to co-opt a member belonging to the SC or ST if available within the Ministry/Department. If no such officer is available within the Ministry/Department, he may be taken from another Ministry/Department.

2.8 In the case of EB crossing — ***

PART - II

FREQUENCY OF MEETINGS

Frequency at which DPC should meet

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

[Very often action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question.

[See O.M., dated 8-9-1998 at the end of this section for Model Calendar.]

1. G.I., Dept. of Per. & Trg., O.M. No. 2211/3/91-Estt. (D), dated the 13th May, 1991.

Checked
by
Advocate

Annexure-2 (series)

To

The Accountant General,
Nagaland, Kohima

Sub: Prayer for allowing options to be exercised in the event of separation of cadres of Group 'B' staff in NE Region.

Sir

Kindly refer to my representation dtd. 28th February 2006 seeking grant of opportunity for exercising option as SOGE passed Sr. Accountant in the event of separation of common Group 'B' cadre in NE region (copy enclosed). Although a considerable time has already been elapsed the fate of my representation is not known.

That Sir, separation of group 'B' cadre in the region is now a certainty and fresh options are invited from all persons holding Group 'B' post in the common cadre. Sir, on my passing of SOGE 2005, I have also acquired the eligibility for getting into the Group 'B' cadre since October 2005 when the common cadre system existed in the region. My promotion was held up for none of my fault for last 6 (six) months probably for want of vacancy in the common cadre.

That Sir, on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Under the circumstances, I would request you to take up the matter personally and move to the Cadre Controlling Authority as well as the Comptroller & Auditor General of India for favour of granting me an opportunity of exercising option for placement on promotion in the separate cadres arising out of the proposed cadre separation.

Yours faithfully,

Arup Roy

(Arup Roy)

22/12/2006

*Attested
Pulla
Advocate*

Encl: As stated above.

To

The Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi - 2.

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Through the Accountant General, Nagaland

Sub : Application for seeking redressal against deprivation of promotion to SO's cadre and consequent denial of opportunity to exercise options for final placement.

Respected Sir,

I Sri Arup Roy, SOGE passed (2005 batch) Sr. Accountant of O/O the Accountant General, Nagaland beg to lay before you the following facts for your kind and sympathetic consideration.

That Sir, when the proposal for separation of cadre in respect of Group 'B' officers in NE region was developing,, I have applied to the Cadre Controlling Authority to consider my case and allowing me to exercise option for final placement on the analogy that on my passing SOGE in 2005. I have also acquired the eligibility of getting promotion to the Group 'B' cadre since October 2005 when the common cadre system existed in the region. But my contention was rejected by the cadre controlling Authority {AG(A&E) Assam} on the ground that I have not yet promoted to the group 'B' post.

2. That sir, I have passed SOGE in the year 2005 (October 2005) but as of now despite having vacancies I have not been considered for promotion to the post of SO(A&E). However, in January 2006, 5(five) qualified candidates who had earlier refused promotion in December 2004 had been promoted to available vacancies with validated period till 3rd February 2006 for accepting the offer. Out of 5(five), 4(four) had not accepted the offer within the validated period and the posts till remain vacant. The Cadre Controlling Authority did not consider my case even when the seniors refused the offer and clear vacancies in the grade exists depriving me the benefit of getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres.

3. That Sir, my humble submission that by not considering my case for promotion in February 2006 to the vacancies arising due to refusal by my seniors without assigning any reason was not just, fair and transparent.

In view of above facts, I would fervently request your benign self to interfere into the matter personally and to scrupulously take such action which can bring an appropriate justice in this regard, so that I can get a retrospective promotion to the combined SO's cadre at the earliest as well as opportunity to exercise option in the event of separation of cadre.

Yours faithfully

(Arup Roy)

Encl: Promotion Order of 5(five) SOGE passed Candidates.

Copy to: The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati -- 29 for information and necessary action Please.

Attended
Dutta
Advocate

To
The Principal Director (Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam,

In inviting a reference to the subject cited above I beg to lay before you the following facts for your sympathetic consideration.

That Madam, I have passed the SOGE (A&E) in October 2005 and awaiting promotion to SO (A&E), a Group 'B' posts in the common cadre in NE region. Unfortunately, the reason for not being considered for promotion even after elapse of more than 8 months is beyond my comprehension.

That Madam, the Cadre Controlling Authority of the Group 'B' cadre of the region of Guwahati seeks option for all those officers who have already got promotion to the cadre for final placement in the event of separation of cadres. But in this process I was not given an opportunity for exercising my option even though I have been in line for getting promotion to the cadre.

That Madam, my simple presumption is that since I have acquired the eligibility of being promoted to the grade before actual separation of the common cadre, if finally held, I deserved to be given a chance of exercising my option for final placement in the event of actual separation of cadre to be done at any later stage and this would be the only fair and just course of action in my case.

My presumption is based on the fact that on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Further I would like to refer to the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates seniors to me in line who had earlier refused promotions in December 2004, had been promoted on 18.01.06 to available vacancies with validity period of accepting the offer till 03.02.06. As per the order, if the promotion is not accepted within 03.02.06 their offer of promotion would be treated as

cancelled. Out of the aforesaid five candidates, four candidates did not accept the offer in time and as such, other qualified wait-listed candidates should have been considered for promotion against those vacant posts but in the instant case that was not done as of now. In these connection, I would like to refer to the response of my representation dated 29.5.2006 received from CCA, Guwahati wherein it is stated that options were called for from all Group B officers in common cadre as per circular for cadre separation issued on 30.3.2006 and no promotion have effected after cadre separation policy was issued on 30.3.2006. Now, my assumption is that my senior's promotion order has been expired on 3.2.2006 before the cadre separation policy was issued on 30.3.2006, but the CCA, Guwahati did not consider my case in between the periods of 54 days in between the expiry date (3.2.06) of offer and issuance of cadre separation policy (30.3.06).

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In view of above facts, I would request your benign self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Yours faithfully,

Arup Roy
(Arup Roy)

9/6/06

Encl: Promotion order's of 242, dtd. 18.01.06

Copy to: The Accountant General (A&E), Assam, Maidmgaon, Beltola, Guwahati-29 for information and necessary action Please.

*Attested
for the
Advocate*

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI - 781 029.

Admn.1 Order No. 242

January 18, 2006

Without prejudice to the claim of their seniors and also subject to the condition that their seniority in the cadre of Section Officer will be fixed later, the following officials are hereby promoted to officiate as **Section Officer(Group-B Non-Gazetted)** in the scale of pay of Rs. 6500-200-10500/-p.m. w.e.f. the dates they take over charge in the offices as shown against their names.

| Sl. No | Name Shri/Smti | Office to which Attached | Office to which posted |
|--------|-------------------|------------------------------------|------------------------------------|
| 01. | Nepal Ch. Biswas | Sr. D.A.G. (A&E) Tripura, Agartala | Sr. D.A.G. (A&E) Tripura, Agartala |
| 02. | Basudev Mandal | A.G. (A&E) Assam, Guwahati | A.G. (A&E) Meghalaya, Shillong |
| 03 | Dilip Gupta | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 04 | Susanta Chaudhuri | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 05. | Pulok Ch. Sen | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |

The officers are liable to be transferred and posted to any of the offices of the Accountant General (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc., or any other offices likely to be opened in future in the North Eastern Region.

On promotion they will be placed on probation for two years.

On their promotion, the officers are required to exercise option, if any, in the matter of fixation of their pay within one month in terms of G.I.D. No. 19 below FR-22(I)(a)(1):

The officers are required to intimate this office whether they accept the promotion or not within 03-02-06 positively, failing which their promotion will be treated as refused.

The transfer is in public interest

[Authority: AG's order dated 18-01-06 at P/32^N of file no. Sr. DAG(A)/Panel/SO/2004]

Sr. Deputy Accountant General (A& VLC)

January 18, 2006

Memo No. Admn. 1/3-5/2004-05/3625

Copy forwarded to:

The Comptroller & Auditor General of India,
10- Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi-110 002

Sr. Deputy Accountant General (A& VLC)

Attested
Mita
Advocate

The Principal Director(Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

88

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam,

In inviting a reference to the subject cited above I beg to lay you the following facts for your sympathetic consideration.

On my passing of SOGE in 2005, when the common cadre system existed in NE region I have acquired the eligibility for getting promotion into Group "B" cadre. So I have been placed on the same footing as my senior's before cadre separation implemented for final placement.

Secondly, I would like to refer the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates who has earlier refused promotions in December 2004 had been promoted to available vacancies with validated period till 03.02.06. As per the order if the promotion is not accepted within 03.02.06 their promotion will be treated as cancelled. Among 5 eligible candidates 4 eligible candidates have failed to report in time and as such other qualified wait listed candidates should have been promoted against those post(s). In these connection I like to refer the response of my representation dtd.29.05.06 received from CCA,Guwahati wherein it is stated that options were called for from all Group B officers in common cadre as per circular for cadre separation issued on 30.03.06 and no promotion have effected after cadre separation policy was issued. Now my analogy is that my senior's promotion order has cancelled on 03.02.06 before the cadre separation policy issued on 30.03.06. The CCA,Guwahati did not consider my case in between the interim periods of 54 days for none of my fault and depriving me the benefit of getting promotion in common cadre and thereby acquiring the right to exercise option.

Thirdly, if the CCA, Guwahati has treated me as the separate cadre then I have to be considered eligible for promotion from November 2005 but due to the existence of common cadre in NE region I have been deprived from my due benefits in time. So, in that juncture I wish your utmost preference in this regard.

In view of above facts, I would request your benign-self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Yours faithfully,

(Ashim Kr. Dey)

Encl: Promotion Order's of 242, dtd 18.01.06.

Copy to: The Accountant General, (A&E) Assam,

Maidamgaon, Beltola, Guwahati 29 for information and necessary action Please.

Attested
Mita
Advocate

- 29 -

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI - 781 029.

Admn.1. Order No. 242

January 18, 2006

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| 01. | Nepal Ch. Biswas | Sr. D.A.G. (A&E) Tripura, Agartala | Sr. D.A.G. (A&E) Tripura, Agartala |
| 02. | Basudev Mandal | A.G. (A&E) Assam, Guwahati | A.G. (A&E) Meghalaya, Shillong |
| 03. | Dilip Gupta | A.G. (A&E) Assam, Guwahati | Sr. D.A.G. (A&E) Manipur, Imphal |
| 04. | Susanta Chaudhuri | A.G. (A&E) Assam, Guwahati | Sr. D.A.G. (A&E) Manipur, Imphal |
| 05. | Pulok Ch. Sen | A.G. (A&E) Assam, Guwahati | Sr. D.A.G. (A&E) Manipur, Imphal |

The officers are liable to be transferred and posted to any of the offices of the Accountant General (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc., or any other offices likely to be opened in future in the North Eastern Region.

On promotion they will be placed on probation for two years.

On their promotion, the officers are required to exercise option, if any, in the matter of fixation of their pay within one month in terms of G.I.D. No. 19 below FR-22(I)(a)(1).

The officers are required to intimate this office whether they accept the promotion or not within 03-02-06 positively, failing which their promotion will be treated as refused.

The transfer is in public interest

[Authority: AG's order dated 18-01-06 at P/32^N of file.no. Sr. DAG(A)/Panel/SO/2004]

sd/-
Sr. Deputy Accountant General (A& VLC)
January 18, 2006

Memo No. Admn. 1/3-5/2004-05/3625

Copy forwarded to:

The Comptroller & Auditor General of India,
10- Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi-110 002

sd/-
Sr. Deputy Accountant General (A& VLC)

*Attested
Dutta
Advocate*

al

To
The Principal Director (Staff),
Office of the Comptroller & Auditor General of India,
10- Bahadu Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland.

Sub : Application for seeking redressal against deprivation of Promotion to SO's cadre as well as options.

Respected Madam,

In inviting a reference to the subject cited above I beg to lay before you the following facts for your sympathetic consideration.

That Madam, I have passed the SOGE (A&E) in October 2005 and awaiting promotion to SO (A&E), a Group 'B' posts in the common cadre in NE region. Unfortunately, the reason for not being considered for promotion even after elapse of more than 8 months is beyond my comprehension.

That Madam, the Cadre Controlling Authority of the Group 'B' cadre of the region of Guwahati seeks option for all those officers who have already got promotion to the cadre for final placement in the event of separation of cadres. But in this process I was not given an opportunity for exercising my option even though I have been in line for getting promotion to the cadre.

That Madam, my simple presumption is that since I have acquired the eligibility of being promoted to the grade before actual separation of the common cadre, if finally held, I deserved to be given a chance of exercising my option for final placement in the event of actual separation of cadre to be done at any later stage and this would be the only fair and just course of action in my case.

My presumption is based on the fact that on my passing SOGE during the existence of common cadre system I have been placed on the same footing as my other colleagues who had already made it to the cadre prior to actual separation and on that analogy, I believe I shall not be subjected to the denial of benefits of exercising option for final placement on promotion.

Further I would like to refer to the promotion order no.242, dtd.18.01.06 issued by CCA, Guwahati where 5 eligible candidates seniors to me in line who had earlier refused promotions in December 2004, had been promoted on 18.01.06 to available vacancies with validity period of accepting the offer till 03.02.06. As per the order, if the promotion is not accepted within 03.02.06 their offer of promotion would be treated as

my fault and depriving me the benefit of getting promotion in common cadre and thereby acquiring the right to exercise option.

In view of above facts I would request your benign self to look into the matter which can bring an appropriate justice in this regard so that I can get a retrospective promotion to SO's cadre at the earliest as well as opportunity to exercise options in the event of separation of cadre.

Dated, 9th/6/86

Yours faithfully,

(Ashim Kr. Dey)

Copy to: The Accountant General, (A&E) Assam,

Maidamgaon, Bellota, Guwahati 29 for information and necessary action Please.

Attested
Advocate

The Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi - 2.

Through the Accountant General, Nagaland

Sub : Application for seeking redressal against deprivation of promotion to SO's cadre and consequent denial of opportunity to exercise options for final placement.

Respected Sir,

I Sri Akum Chuba, SOGE passed (2005 batch) Sr. Accountant of O/O the Accountant General, Nagaland beg to lay before you the following facts for your kind and sympathetic consideration.

That Sir, when the proposal for separation of cadre in respect of Group 'B' officers in NE region was developing,, I have applied to the Cadre Controlling Authority to consider my case and allowing me to exercise option for final placement on the analogy that on my passing SOGE in 2005. I have also acquired the eligibility of getting promotion to the Group 'B' cadre since October 2005 when the common cadre system existed in the region. But my contention was rejected by the cadre controlling Authority {AG(A&E) Assam} on the ground that I have not yet promoted to the group 'B' post.

2. That sir, I have passed SOGE in the year 2005 (October 2005) but as of now despite having vacancies I have not been considered for promotion to the post of SO(A&E). However, in January 2006, 5(five) qualified candidates who had earlier refused promotion in December 2004 had been promoted to available vacancies with validated period till 3rd February 2006 for accepting the offer. Out of 5(five), 4(four) had not accepted the offer within the validated period and the posts till remain vacant. The Cadre Controlling Authority did not consider my case even when the seniors refused the offer and clear vacancies in the grade exists depriving me the benefit of getting promotion in combined cadre and thereby acquiring the right to exercise option in the event of separation of cadres.

3. That Sir, my humble submission that by not considering my case for promotion in February 2006 to the vacancies arising due to refusal by my seniors without assigning any reason was not just, fair and transparent.

In view of above facts, I would fervently request your benign self to interfere into the matter personally and to scrupulously take such action which can bring an appropriate justice in this regard, so that I can get a retrospective promotion to the combined SO's cadre at the earliest as well as opportunity to exercise option in the event of separation of cadre.

Yours faithfully

(Akum Chuba)

Encl: Promotion Order of 5(five) SOGE passed Candidates.

Copy to: The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati - 29 for information and necessary action Please.

Advocate
Mutta
Advocate

R.M. JOHRI

D.O.No.AGN/Sep. Cadre/2005-06/342
Dated the 29th March 2006.

Subject: Separation of cadre in Group 'B' Cadre in North Eastern Region.

Dear

I am forwarding a representation received from a S.O.G. Examination passed candidate for your consideration. He has passed SOG examination and is awaiting promotion as S.O pending vacancies in Group 'B' cadre.

Since the separation of cadre is to be carried out, those candidates who have passed along with other SOG examination 2005 candidates but could not be promoted due to no vacancy in the cadre, cannot take the benefit of applying of option.

I feel that the option may be obtained from those SOG examination passed candidates also who have not been promoted. I am enclosing his representation with my letter for suitable action.

Thanking you,

Yours sincerely,

To

Shri Bhajan Singh
Accountant General (A&E), Assam,
Beltala, Maidamgaon,
Guwahati.

Attested
Advocate

24/3

R.M. Johri
Accountant General, Nagaland

34-
Annexure-3 (ser 03)
as
D.O.NO.AGN/SECTT/MISC/2005-06/ 63
Dated the 29th May 2006.

Dear Shri

I am enclosing representations of S/Shri Arup Roy, Ashim Kumar Dey, and Akum Chuba, Sr. Accountants who have passed SOG examination 2005 and are awaiting for promotion to the post of Section Officers. As they are not getting promotion in Combined cadre, they are not getting the opportunity to exercise option in the event of Separation of Group 'B' cadres.

I would like to refer the promotion orders dated 18th January 2006 issued by the CCA where 5 officials have been promoted as S.O but 3 officials have not yet reported to the concerned offices within the specific time. As per orders if the promotion is not accepted within 03.02.2006 their promotion will be treated as cancelled. Since these three officials have failed to report in time other qualified wait listed officials should have been promoted against those three posts; whereas no further promotion orders in respect of other wait listed candidates has yet been issued from your office.

I would, therefore, request you to consider them to exercise option pending promotion to the S.Os cadre in the event of Separation of Group 'B' cadre to avoid any litigation in the matter.

Yours sincerely,
Sd/-

Shri Bhajan Singh
Accountant General (A&E), Assam,
Maidamgaon, Beltala,
GUWAHATI - 781 029.

NO.AGN/SECTT/MISC/2005-06/ 64

Dated the 29th May 2006.

Copy to Ms Manta Kundra, Pr. Director (Staff), Office of the Comptroller and Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi - 100 002 for information.

Accountant General
29/5



भजन सिंह
BHAJAN SINGH

-35-

महालेखाकार (ले एवं ह) असम
Accountant General (A & E) Assam

मैदामगांव, बेलतोला, गुवाहाटी-781029
Maidamgaon, Beltola, Guwahati-781029

Annexure-4

D.O. No: Sr. DAG(A)/Panel/S.O./2004/52
Dated Guwahati the 2nd June, 2006.

05 JUN 2006

Dear Shri Johri,

Please refer to your letter D.O. No.AGN/Sect/Misc/2005-06/53 dated 29.5.06 regarding forwarding of representations of S/Shri Anup Roy, Ashim Kumar Dey and Akum Chuba, Sr. Accountants who have passed SOGE 2005 and are awaiting for promotion to the post of Section Officer. As per Cadre Separation policy for Group 'B' Officers, options were called for from all the Group 'B' officers in the common cadre as per Circular for Cadre Separation issued on 30/3/2006. Any further promotions to the cadre of Section Officers have not been effected after the Cadre Separation Policy was issued and options for permanent posting from all the staff were called for. As per OA No.115/2006 filed by certain Group 'B' staff of the common cadre in Hon'ble CAT, Guwahati Bench, the issue of cadre separation is presently sub-judice and the Hon'ble CAT, Guwahati Bench, has issued status-quo order on the case presently.

Keeping these issues in mind, it has been decided to maintain status-quo till the decision from Hon'ble CAT, Guwahati is communicated. This may kindly be communicated to S/Shri Anup Roy, Ashim Kr. Dey and Akum Chuba.

With regards

Yours sincerely,

Bm

Shri R.M. Johri, IA&AS,
O/o the Accountant General (A&E) Nagaland,
Kohima : 797 001.

Arrested
White
Advocate

Impressed
Moffen

Phone : (0361) 2302956 (O) Fax : (0361) 2303142 E-mail : agaeasm1@sancham.in

(Teletype Copy)

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA,
10, BAHADURSHAH ZAFAR MARG, NEW DELHI-110 002.

No: 144 NCE(App)/17-2004

Dated: 24.03.2006

To

The Pr.Accountant General (Audit),
Meghalaya, etc.,
Shillong.

Sub:

Separation of common cadre of Group 'B' Officers in the A&E and
Civil Audit Offices in North East Region.

Sir,

I am to forward herewith the policy for separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region alongwith a format of option form. It is requested that fresh options may be obtained from all the existing Group 'B' officers belonging to common cadre under your cadre control for permanent transfer to the Civil Audit offices in North East Region intimating them the cadre strength of each office and they may be allocated to the concerned offices on the basis of their seniority-cum-options exercised by them as per instruction contained in para 3 of the policy.

2. The junior officers in each cadre who are not likely to be accommodated in the concerned offices as per options exercised by them may be posted on deputation basis to the deficit offices as per instructions contained in para 4 of the policy.

3. The action taken report should be sent to us by 15-05-2006. We intend to have the separated cadres in place as on 01-06-2006.

4. Appeal in the appropriate courts of judicature may be filed in consultation with your standing counsel.

Yours faithfully,

Encl: As above.

Sd/-

(Manish Kumar)
Assistant Comptroller and
Auditor General (14)

*Attested
White
Advocate*

**Policy for separation of common cadre of Group 'B' officers
in the A&E and Civil Audit Offices in N.E. Region.**

- I One time option for allocation to a particular office may be called for from the existing Group 'B' officers belonging to common cadre by the present cadre controlling authorities i.e. PAG (Audit) Meghalaya etc., Shillong and AG (A&E) Assam, Guwahati. The optees shall be required to indicate their preference.
- II Vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required strength i.e. sanctioned strength minus vacancies proportionately distributed in each cadre.
- III Permanent posting of Group 'B' officers of common cadre against the required strength of various Civil Audit/A&E offices shall be made by the respective cadre controlling authorities strictly on the basis of the seniority of the officers, who have exercised their option for allocation to such offices, irrespective of their base office.
- IV If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz. deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- V If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled up by deputation of surplus optees as per guidelines laid down at IV above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VI The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.
- VII Direct recruitment will be done in the deficit offices only against the requisition already placed/to be placed to Staff Selection Commission.

*Noted
M. A. Datta
Advocate*

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, GUWAHATI

Circular on Cadre Separation

Circular No. AG/Sep/Gr. 'B'/2006/141

Dated 30/3/2006

- I. Headquarters office has decided to separate the common Group 'B' cadre from Section Officers to Sr. Accounts Officers in the A&E offices of the N.E. region hitherto controlled by the Accountant General (A&E) Assam, Guwahati.
- II. The offices to which the staff may exercise their one time option are the A&E offices at Assam, Meghalaya, Manipur, Tripura, Nagaland and the newly created offices of Mizoram and Arunachal Pradesh.
- III. The separation of Group 'B' cadres would be in accordance with the following criteria :-
- IV. The existing staff may be allocated on permanent posting against the required strength on the basis of the seniority of the officers who have exercised their option for allocation to such offices, irrespective of their base office.
- V. If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office for which number of optees is less than the required strength of that office viz deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- VI. If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled by deputation of surplus optees as per guidelines laid down at V above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VII. The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.
- VIII. Direct recruitment will be done in the deficit offices only against the requisition already placed/to be placed to Staff Selection Commission.
- IX. With a view to implement the above scheme of separation of cadres of Group 'B' posts, all the present Group 'B' Officers (Section Officers to Senior Accounts Officers including those on deputation and on foreign service) of this office are hereby directed to exercise their options in the enclosed "FORM OF OPTION" and submit the same to the Senior Accounts Officer/Admin. of this office by 15th April 2006 positively. He should also prepare a list of officers on leave and ensure sending of this circular with 'Option Form' to them by Registered post.

Sr. Dy. Accountant General (Admin.)

Attested
By
Advocate



Ram Mohan Johri

महालेखाकार (लेखापरीक्षा), नागालैण्ड

ACCOUNTANT GENERAL (AUDIT)

कोहिमा - ७९७ ००१

NAGALAND: KOHIMA 797 001

Tel: (0370) 2243117(O) 2244787(R) Fax: 2244789

D.O.NO.AGN/SECTION/MISC 2005-06 77

Dated the 9th June 2006

Dear Shri

Bhajan Singh,

I am enclosing representations of S/Shri Arup Roy, and Ashim Kumar Dey, Sr. Accountants who have passed SOG examination 2005 and are awaiting promotion to the post of Section Officers

I would like to refer the promotion orders dated 18th January 2006 issued by the CCA wherein 5 officials have been promoted as S.O. but 3 officials have not yet reported to the concerned offices within the specific time. As per orders if the promotion is not accepted within 03.02.2006 their promotion will be treated as cancelled. Since these three officials have failed to report in time and as such other qualified wait listed officials could have been promoted against those three posts, whereas no further promotion orders in respect of other wait listed candidates has yet been issued from your office.

I would therefore request you to consider their case of promotion as well as allow them to exercise option to avoid any future litigation in the matter.

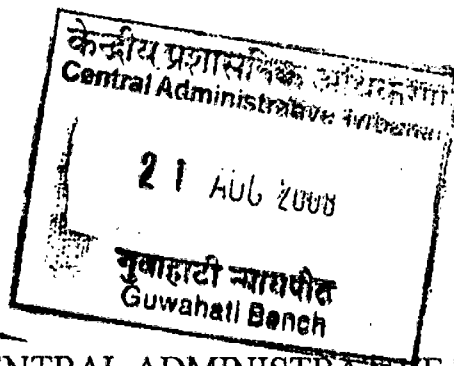
Regards

Yours sincerely

Ram Mohan Johri

Shri Bhajan Singh
Accountant General (A&E), Assam,
Maidamgaon, Beltala.
GUWAHATI - 781 029.

*Attested
Mita
Advocate*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case

OA No 199 of 2006

BETWEEN

Shri Ashim Kumar Dey & others

.....Applicants.

AND

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENTS

I N D E X

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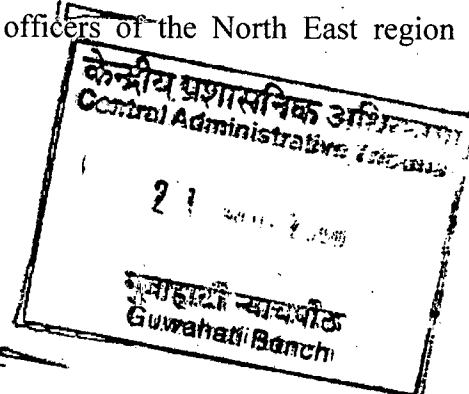
Filed by : M. U. Ahmed
Motin-Uddin Ahmed
Addl CGSC

Date 21/8/06

Received
Mutha
19.08.08

144-NGE (App)/17-2004 dated 24-03-2006 regarding separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region was received from the Office of the Comptroller and Auditor General of India, New Delhi by fax on 24-03-2006, whereby the policy for separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region along with a format of option form was forwarded with a direction to obtain option from all the **existing Group 'B' officers** belonging to the common cadre for permanent transfer to the Civil A&E offices in North East Region (Annexure-VII). As per direction of the Headquarters office, options from all the then **existing Group 'B' officers** (Section Officer/Asstt. Accounts Officer/Accounts Officer/Sr. Accounts Officer) belonging to the common cadre were called for vide Circular No. AG/Sep/Gr.'B'/2006/141 dt.30-03-2006 (Annexure-III). As in terms of the Headquarters office letter dated 24-03-2006 options for permanent allocation to the offices of their choice were to be called for only from the **existing Group 'B' officers**. As per transfer policy further promotion to Group 'B' post after the separation of cadre should be made by the concerned offices from amongst the eligible officials of their office. Further, after issuance of the circular for separation of Group 'B' cadre, some officers filed applications before the Hon'ble CAT, Guwahati against the policy of separation of Group 'B' cadre. The case was sub-judice and the Hon'ble CAT had issued order to maintain status-quo. As a result the separation of common Group 'B' cadre took place w.e.f 31-07-2006 (A.N.), and the applicants remained as Sr. Accountants in the office of the Sr. Deputy Accountant General (A&E), Nagaland.

2. That with regard to Paras 2 and 3, the Respondents beg to state that they have no comments to offer in this regard.
3. That with regard to Paras 4.1 to 4.3, the Respondents beg to state that they have no comments to offer.
4. That with regard to Para 4.4, the Respondents beg to state that the Promotions had to be given according to seniority of the approved Panel, the applicants could not be Promoted before Cadre Separation as there were no vacancies in the Cadre of Section Officer commensurate with the number of officials in the Panel approved by the competent authority. It is further submitted that Accountant General (A&E), Assam ceased to be Cadre Controlling Authority of the combined cadre of Group 'B' officers of the North East region w.e.f. 01-08-2006.



Harish Chandra
 वरिष्ठ उप, महिषाकार (१०)
 Sr. Dy. Accountant General (Admn)
 महिषाकार, वि. वि. ०, ६३०, ६३०
 P.O. Accountant General (Admn)

5. That with regard to Para 4.5, the Respondents beg to state that the applicants could not be promoted before Cadre Separation as they were junior vis-à-vis the other officials empanelled in the approved Panel and in respect of whom promotion orders had been issued.
6. That with regard to Para 4.6, the Respondents beg to state that before expiry of the stipulated date i. e. 3-02-2006 the promoted officials v.i.z Shri Basudev Mandal, Shri Dilip Gupta, Shri Susanta Chudhuri and Shri Pulok Sen sought extension of time to decide whether to accept promotion or not. Accordingly they were permitted extension of time up-to 15-03-2006 with a direction that if they don't accept the promotion by 15.03.2006, their promotion will be treated as refused. But none of the promoted officials accepted promotion within 15-03-2006 and therefore their promotion was treated as refused and they were debarred from promotion for a period of one year w.e.f 16.03.2006 vide letter No. Sr.DAG(A)/Panel/SO/2004/137 dt.22/3/2006 (Annexure- II). In the meantime, process of separation of common Group 'B' cadre began and as per policy options were called for from all the then **existing Group 'B' officers** in the common cadre vide Circular No. AG/Sep/Gr.'B'/2006/141 dt.30-03-2006 (Annexure-III). No further promotions to the cadre of Section Officer had been given after the issuance of the policy for cadre separation. After issuance of the circular for separation of Group 'B' cadre, some officers filed applications before the Hon'ble CAT, Guwahati against the policy of separation of Group 'B' cadre. The case was sub-judice and the Hon'ble CAT had issued order to maintain status-quo. Thereafter, as soon as the judgement order of the Hon'ble CAT was received, the policy of cadre separation was implemented w.e.f 31.07.2006 (A.N). The applicants were junior to the other officials empanelled in the proceedings of Departmental Promotion Committee (DPC). Consequently, they could not be promoted before implementation of separation of Gr. 'B' cadre and remained as Sr. Accountants in the Office of the Sr. Deputy Accountant General (A&E), Nagaland and were outside the scheme of separation of Group 'B' cadre.
7. That with regard to para 4.7, the Respondents beg to state that the Departmental Promotion Committee for the Panel year 2006 had drawn up a panel of 14 (fourteen) SOGE passed officials but all of them could not be promoted due to implementation of Cadre Separation Policy. The DPC was held as soon as vacancy had arisen during the Panel years as per rule and there was no delay in making promotion against the vacancies occurring during the course of a year. In pursuance of Headquarters office instructions, options were called for from all the **then existing Group 'B' officers** who were under Cadre Controlling

Sr. Dy. Accountant General (Admin)
 महाराष्ट्र राज्य मंडलाकार (प्र.)
 महाराष्ट्र राज्य मंडलाकार (प्र.)
 O/O the Accountant General (Admin)
 महाराष्ट्र राज्य मंडलाकार (प्र.)

AUG 2009

Authority i. e. AG (A&E) Assam, Guwahati. As such the applicants were not allowed to exercise option as they were outside the common Group 'B' Cadre.

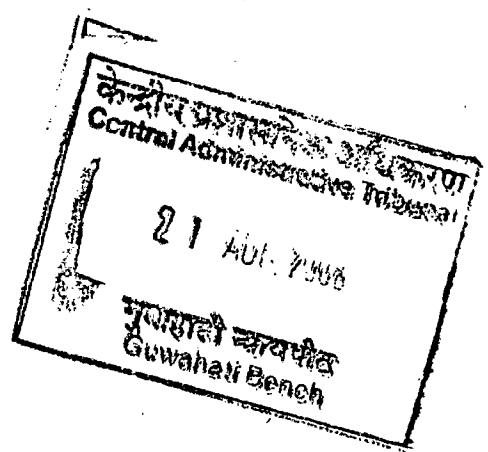
8. That with regard to Para 4.8, the Respondents beg to state that it was intimated vide letter No. Sr.DAG (A) /Panel /SO/2004/1 dt.6-04-2006 (Annexure – IV) that the SOGE passed candidates were not allowed to exercise option under common cadre as they were outside the common cadre strength of Group 'B' officers.
9. That with regard to Para 4.9, the Respondents beg to state that reply is same as given in paras 6 & 8 above.
10. That with regard to Para 4.10, the Respondents beg to state that the applicants who were awaiting promotion to the post of Section Officer were intimated vide letter DO No. Sr. DAG (A) / Panel/SO/52 dt 2.06.2006 (Annexure-V) that as per Cadre Separation policy for Gr. 'B' Officers, options were called for from all Group 'B' Officers in the common cadre as per Circular for Cadre Separation issued on 30-03-2006. Any further promotions to the cadre of Section Officer had not been effected after issuance of policy for cadre separation and options for permanent posting from all the Gr. 'B' officers were called for. Some Group 'B' officers filed applications (O.A. No. 115/2006) before the Hon'ble CAT, Guwahati against the policy of separation of Group 'B' cadre. The case was sub-judice and the Hon'ble CAT had issued order to maintain status-quo.
11. That with regard to Para 4.11, the facts have been stated in the foregoing paras.
12. That with regard to Para 4.12 to 4.15, the Respondents beg to state that the applicants being Senior Accountants were not under common cadre. The common Group 'B' cadre was under the Cadre Controlling Authority of Accountant General (A&E) Assam up-to 31/07/2006 i.e prior to separation of Group 'B' cadre. The question of exercising option by the applicants in connection with separation of Gr. 'B' cadre would have arisen if they had been promoted as Section Officer before Cadre Separation. This being so, the grievance of the applicants does not merit consideration. The applicants were junior to the other officials empanelled in the DPC Panel. In fact, some officials senior to them in the Panel also could not be offered promotion after the commencement of the process of cadre separation in the month of March 2006, and its subsequent implementation on 31-07-2006.

James Chandra
Sr. Dy. Accountant General (Admn)
AG (A&E) Assam, Guwahati
10/08/2006

13. That with regard to Para 5.1 to 5.11, the Respondents beg to state that the grounds of the applicants are not tenable and no relief need to be granted.
14. As regards Para 6 and 7, the Respondents have no comments to offer.
15. That with regard to para 8 and 9, the Respondents beg to state that there being no ground for the application, neither the relief sought for nor the interim order prayed for be granted.

James H. Choudhary

परिष्कृत उप महालेखाकार (प्र०)
Sr. Dy. Accountant General (Admin) Deponent
महालेखाकार का कार्यालय, एच.ए. २५
O/O the Accountant General (A & E) Assam
मैदामगाँव, डूंगा, गुवाहाटी-७८१००२
Maidamgaon, Silluli, Guwahati-781002

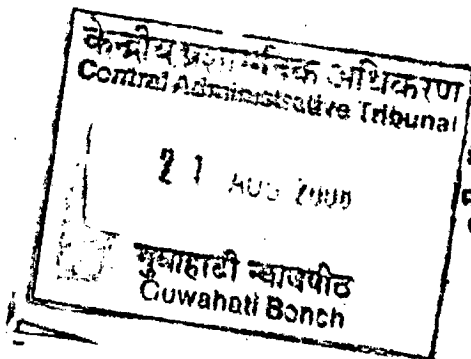


107

(6)

VERIFICATION

I, Shri Ramesh Chandra Das, son of Late Madhab Chandra Das
aged 60 years, Resident of Soakuchi, Kampha being duly
authorized and competent to sign this verification, do hereby solemnly affirm and
verify that the statement made in para 1, 4, 6, 7, 8, 10, 12 are true to my
knowledge, belief and information and those made in para _____
are derived from the record/facts etc., and rests are humble submissions before the
Hon'ble Court and I have not suppressed any material facts.
And I sign this verification on this 14th day of July 2008 at
Guwahati.



Ramesh Chandra Das

ज्येष्ठ उप महालेखाकार (प्र.)
Sr. Dy. Accountant General (Admin)
महालेखाकार का कार्यालय (एड. प्र.)
O/O the Accountant General (Admin)
मैदामगौय, बेलुला, गुवाहाटी-78
Maidamgaon, Belula, Guwahati-78

Deponent

Annexure - T

(129)

7

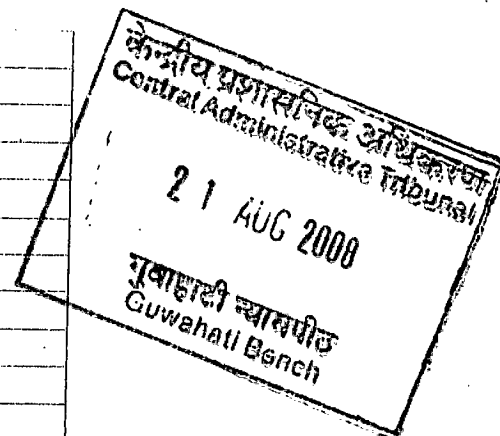
108

PROCEEDING OF THE DEPARTMENTAL PROMOTION COMMITTEE IN CONNECTION WITH THE PROMOTION OF S.O.G.E. PASSED CANDIDATES TO THE GRADE OF SECTION OFFICER DURING THE PANEL YEAR 2006.

The Departmental Promotion Committee consisting of Ms. Naina A. Kumar, Sr. DAG (Admin) O/o the A.G.(A&E) Assam, Guwahati Mr. D Thakur, DAG(Admin) O/o the Pr. A.G. (Admin) Assam, Guwahati and Shri R.C. Barman, Sr. A.O. , O/o the A.G.(A&E) Assam, Guwahati met on 17/01/2006 to consider promotion of S.O.G.E. passed candidates to the grade of Section Officer for the combined N.E. Cadre.

2. The Committee was informed that the following S.O.G.E. passed officials are eligible for promotion to the grade of Section Officer during the panel year 2006.

| Sl. No. | Name (S/Shri/Smt.) |
|---------|----------------------|
| 1. | Nepal Ch. Biswas |
| 2. | Basudev Mandal (SC) |
| 3. | Dilip Gupta (SC) |
| 4. | Susanta Choudhury |
| 5. | Pulok Ch. Sen |
| 6. | S. Balendro Singh |
| 7. | Paritosh Deb |
| 8. | P. Sharat Singh (SC) |
| 9. | Ashim Kr. Dey |
| 10. | Arup Roy |
| 11. | Akum Chuba (ST) |
| 12. | Barun Paul (SC) |
| 13. | Sajal Chakraborty |
| 14. | Rajat K. Deb |



3. The Committee was further informed that for promotion of 14 officials on seniority-cum-fitness basis, the position vis-à-vis requirement of SC/ST officers in the post based working roster is as follows :-

| | | | |
|----|--|---|-----------|
| a) | Sanctioned Strength | = | 40 |
| b) | Men-on-roll | = | 30 |
| c) | Size of the post based working roster | = | 40 |
| d) | Post reserved in a 40 point working roster | = | SC=6 ST=3 |
| e) | No. of SC/ST Officers on roll out of (b) above | = | SC=7 ST=1 |
| f) | No. of SC/ST Officer eligible for promotion | = | SC=4 ST=1 |

19/8/06

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)

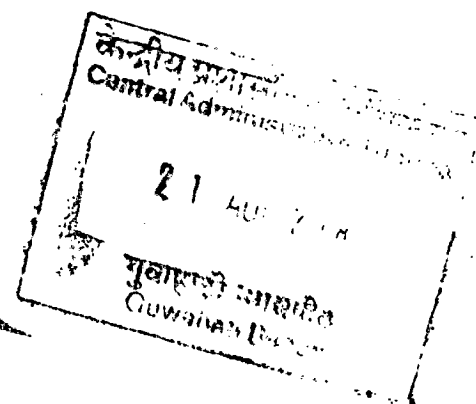
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17/1/06


4. After careful evaluation of individual ACRs, the Committee recommends empanelment of the following officials for promotion to the grade of Section Officer during the panel year 2006.

| Sl. No. | Name (S/Shri/Smt.) |
|---------|----------------------|
| 1. | Nepal Ch. Biswas |
| 2. | Basudev Mandal (SC) |
| 3. | Dilip Gupta (SC) |
| 4. | Susanta Choudhury |
| 5. | Pulok Ch. Sen |
| 6. | S. Balendra Singh |
| 7. | Paritosh Deb |
| 8. | P. Sharat Singh (SC) |
| 9. | Ashim Kr. Dey |
| 10. | Arup Roy |
| 11. | Akum Chuba (ST) |
| 12. | Barun Paul (SC) |
| 13. | Sajal Chakraborty |
| 14. | Rajat Kt. Deb |

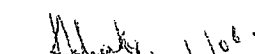


5. The Committee was informed that there is no disciplinary/Court or Vigilance cases pending /contemplated against any of the above officials.

It is certified that none of the candidates being considered by the DPC are related to any members of the DPC in any way.


17-1-06

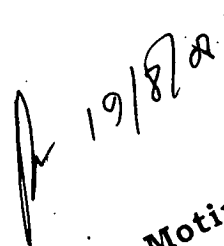
(R.C. Barman)
Sr. Accounts Officer
O/o the A.G.(A&E) Assam
Guwahati


17/1/06

(D. Thakur)
DAG(Admin)
O/o the Pr. AG (Audit)
Assam, Guwahati.


17/1/06

(Naina A. Kumar)
Sr. DAG (Admin)
O/o the A.G.(A&E) Assam,
Guwahati


19/8/06

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)



Annexure - II

महालेखाकार (ले एवं ह) असम का कार्यालय

Office of the Accountant General (A & E)

Assam

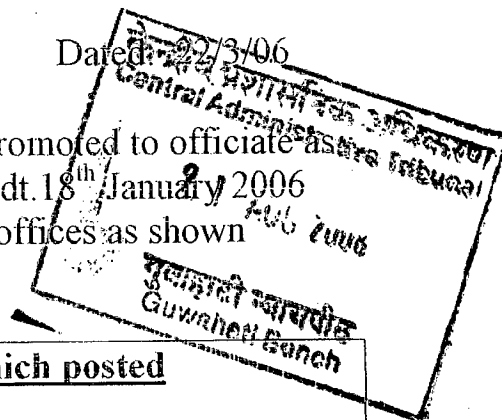
मैदामगांव, बेलतोला, गुवाहाटी-७८१०२९

Maidamgaon, Beltola, Guwahati-781029

No. Sr.DAG(A)/Panel/S.O./2004/137

Dated: 22/3/06

The following SOGE passed candidates were Promoted to officiate as Section Officer vide this office Admn-I order No.242 dt.18th January 2006 with effect from the date they take over charge in the offices as shown against their names.



| Sl.No. | Name S/Shri | Office to which posted |
|--------|-------------------|-------------------------------|
| 1) | Basudev Mandal | A.G.(A&E) Meghalaya, Shillong |
| 2) | Dilip Gupta | Sr.DAG(A&E) Manipur |
| 3) | Susanta Chaudhuri | Sr.DAG(A&E) Manipur |
| 4) | Pulok Ch.Sen | Sr.DAG(A&E) Manipur |

On Promotion, they were given opportunity to intimate this office whether they accept the Promotion or not by 03-02-2006 positively, failing which their promotion will be treated as refused. They represented about their place of posting. Their representations were duly considered by the Accountant General. After careful consideration it was ordered that their requests could not be acceded to as there was no vacancy as per their choice of offices. However, they were allowed time upto 15/3/06 to convey their willingness to accept the Promotion before this date otherwise Promotion will be deemed to have been refused w.e.f. 16-03-2006.

Since they have not accepted the Promotion within the stipulated period, the Promotion is deemed to have been refused by them w.e.f. 16-3-2006 and are, accordingly, liable for consequences arising out of refusal of promotion as per rules/instructions.

Hence, they are debarred for Promotion for a period of 1 (one) year w.e.f. 16-3-2006.

[Authority :- A.G's order dt.22/3/06 at p/37n of F.No.Sr.DAG(A)/Panel/SO/2004]

19/8/07

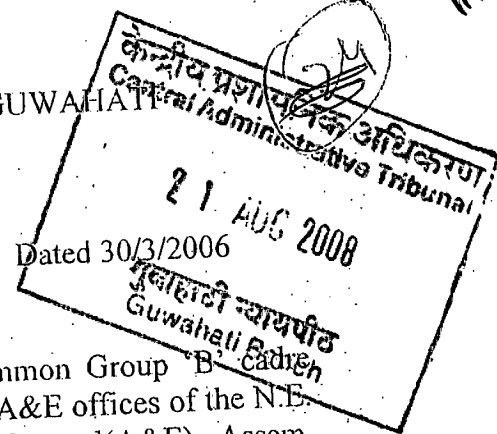
Sr.Dy. Accountant General(A)

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)

OFFICE OF THE ACCOUNTANT GENERAL(A&E) ASSAM, GUWAHATI

Circular on Cadre Separation

Circular No. AG/Sep/Gr. 'B'/2006/141



- I. Headquarters office has decided to separate the common Group 'B' from Section Officers to Sr. Accounts Officers in the A&E offices of the N.E. region hither to controlled by the Accountant General(A&E) Assam, Guwahati.
- II. The offices to which the staff may exercise their one time option are the A&E offices at Assam, Meghalaya, Manipur, Tripura, Nagaland and the newly created offices of Mizoram and Arunachal Pradesh.
- III. The separation of Group 'B' cadres would be in accordance with the following criteria :-
- IV. The existing staff may be allocated on permanent posting against the required strength on the basis of the seniority of the officers who have exercised their option for allocation to such offices, irrespective of their base office.
- V. If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office for which number of optees is less than the required strength of that office viz deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- VI. If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled by deputation of surplus optees as per guidelines laid down at V above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VII. The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the

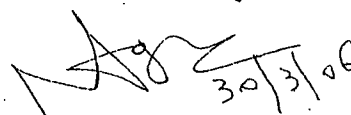
19/8/08

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)

surplus optees posted to deficit offices on deputation basis are accommodated in these offices.

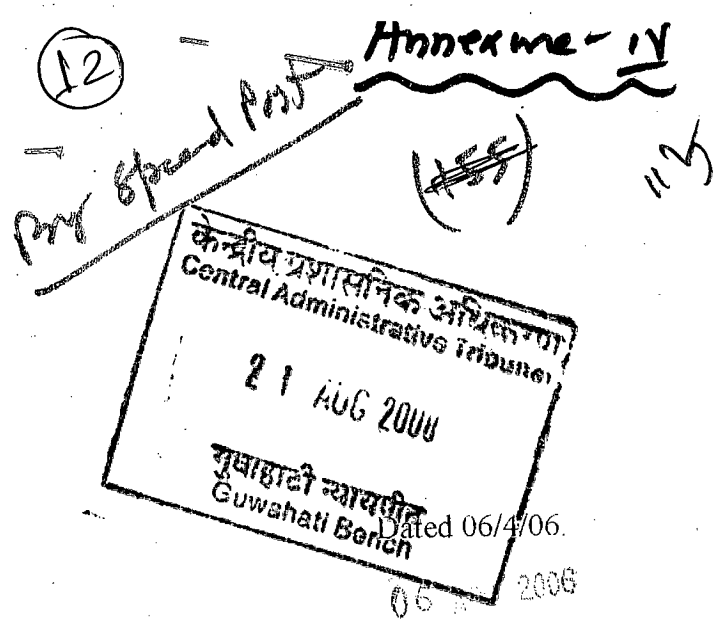
VIII. Direct recruitment will be done in the deficit offices only against the requisition already placed/to be placed to Staff Selection Commission.

IX. With a view to implement the above scheme of separation of cadres of Group 'B' posts, all the present Group 'B' Officers (Section Officers to Senior Accounts Officers, including those on deputation and on foreign service) of this office are hereby directed to exercise their options in the enclosed **"FORM OF OPTION"** and submit the same to the Senior Accounts Officer/Admn. of this office **by 15th April, 2006 positively.** He should also prepare a list of officers on leave and ensure sending of this circular with 'Option Form' to them by Registered post.

 30/3/06

Sr. Dy. Accountant General (Admn.)

NO: Sr.DAG(A)/Panel/S.O./2004/1



To

The Accountant General (Audit) Nagaland
Kohima - 797 001.

Sub:- Separation of cadre in Group 'B' cadre in N.E. Region.

Sir,

I am directed to invite a reference to your letter D.O. No. AGN/Sep.Cadre/2005-06/342 dated 29/3/06 on the subject cited above and to state that the option was called for from the existing Common Cadre Group 'B' officers. The SOGE passed candidates are not allowed to exercise their options under Common Cadre as they are outside the Common Cadre strength of Group 'B' officers.

As and when they come under the cadre of Section Officer they will be asked to exercise option, in case cadre separation takes place after their promotion otherwise they will be on the strength of respective Accountant General's office.

This issues with the approval of Accountant General.

Yours faithfully,

Handwritten signature: 1/9/8/06

Sr. Deputy Accountant General (Admin)

Handwritten: 1/9/8/06

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)

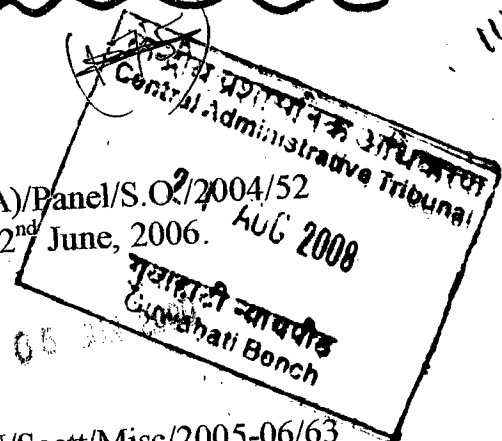
(13)

(14)

Annexure - 1

114

D.O. No: Sr. DAG(A)/Panel/S.O/2004/52
 Dated Guwahati the 2nd June, 2006. AUG 2008



Dear

Please refer to your letter D.O. No.AGN/Sectt/Misc/2005-06/63 dated 29.5.06 regarding forwarding of representations of S/Shri Anup Roy, Ashim Kumar Dey and Akum Chuba, Sr. Accountants who have passed SOGE 2005 and are awaiting for promotion to the post of Section Officer. As per Cadre Separation policy for Group 'B' Officers, options were called for from all the Group 'B' officers in the common cadre as per Circular for Cadre Separation issued on 30/3/2006. Any further promotions to the cadre of Section Officers have not been effected after the Cadre Separation Policy was issued and options for permanent posting from all the staff were called for. As per OA No.115/2006 filed by certain Group 'B' staff of the common cadre in CAT, Guwahati Bench, the issue of cadre separation is presently sub-judice and the CAT, Guwahati Bench, has issued status-quo order on the case presently.

Keeping these issues in mind, it has been decided to maintain status-quo till the decision from CAT, Guwahati is communicated. This may kindly be communicated to S/Shri Anup Roy, Ashim Kr. Dey and Akum Chuba.

Yours sincerely,

Shri R.M. Johri, IA&AS,
 O/o the Accountant General (A&E) Nagaland,
 Kohima : 797 001.

19/8/08
 Motin Ud-Din Ahmed
 M.A., B.Sc., LL.B.
 Addl. Central Govt. Standing Counsel
 Guwahati Bench (CAT)

(14) *Annexure - VI* (12) (119) 115

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI - 781 029.

Admn.1. Order No. 242

Without prejudice to the claim of their seniors and also subject to the condition that their seniority in the cadre of Section Officer will be fixed later, the following officials are hereby promoted to officiate as **Section Officer (Group B Non-Gazetted)** in the scale of pay of Rs. 6500-200-10500/-p.m. w.e.f. the dates they take over charge in the offices as shown against their names.

| Sl. No. | Name Shri/Smti | Office to which Attached | Office to which posted |
|---------|-------------------|------------------------------------|------------------------------------|
| 01. | Nepal Ch. Biswas | Sr. D.A.G. (A&E) Tripura, Agartala | Sr. D.A.G. (A&E) Tripura, Agartala |
| 02. | Basudev Mandal | A.G. (A&E) Assam, Guwahati | A.G. (A&E) Meghalaya, Shillong |
| 03. | Dilip Gupta | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 04. | Susanta Chaudhuri | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |
| 05. | Pulok Ch. Sen | A.G. (A&E) Assam, Guwahati | Sr. DA.G. (A&E) Manipur, Imphal |

The officers are liable to be transferred and posted to any of the offices of the Accountant General (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc., or any other offices likely to be opened in future in the North Eastern Region.

On promotion they will be placed on probation for two years.

On their promotion, the officers are required to exercise option, if any, in the matter of fixation of their pay within one month in terms of G.I.D. No. 19 below FR-22(I)(a)(1).

The officers are required to intimate this office whether they accept the promotion or not within 03-02-06 positively, failing which their promotion will be treated as refused.

The transfer is in public interest.

[Authority: AG's order dated 18-01-06 at P/32^N of file no. Sr. DAG(A)/Panel/SO/2004]

sd/-

Sr. Deputy Accountant General (A& VLC)

Memo No. Admn.1/3-5/2004-05/3625

January 18, 2006

Copy forwarded to:

The Comptroller & Auditor General of India,
10- Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi-110 002

sd/-

Sr. Deputy Accountant General (A& VLC)

19/8/08
Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Addl. Central Govt. Standing Counsel
Guwahati Bench (CAT)

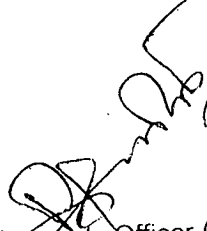
January 18, 2006



- 2 -

Memo No. Admn.1/3-5/2004-05/ 3626-44
Copy forwarded to:

1. The Pr. Director of Audit, N.F. Railway, Maligaon, Guwahati -11.
2. The Deputy Accountant General(A), O/O. the A.G.(A&E) Meghalaya etc., Shillong-1.
He is requested to intimate the date of joining in respect of SI.No. 2 in his office.
3. The Sr. Deputy Accountant General (A&E) Tripura, Agartala with one spare copy.
He is requested to hand over a copy of this order to Shri Nepal Ch. Biswas and intimate the date of his joining as Section Officer.
4. The Sr. Deputy Accountant General(A&E) Manipur, Imphal. He is requested to intimate the date of joining in respect of SI No. 3, 4 & 5 in his office.
5. The Sr. Deputy Accountant General (A&E) Nagaland, Kohima.
6. The Secretary to the Accountant General (A&E) Assam, Guwahati.
7. The Pay & Accounts Officer, O/ O the A.G (A&E) Assam, Guwahati.
8. The P. S. to the Accountant General(A&E) Assam, Guwahati
9. A.A.O./Confidential Cell.
10. A.A.O. /Record (C).
11. A.A.O. /Admn-II.
12. Steno Gr II attached to Sr. DAG (Admn. & VLC)
13. Steno Gr. I attached to Sr. DAG (P&F).
14. Steno Gr. II attached to DAG (A/cs)
15. Hindi Officer/Hindi Cell. Hindi version of this order may be issued from his end.
16. Concerned Officials
17. Posting Group, G.L. Group, Fixation Group, Budget Group.
18. Service Book Group.
19. Admn.1/ Order Book.


Sr. Accounts Officer (Admn)

BY SPEED POST

No. 144-NGE(App)/17-2004



सत्यमेव जयते

Annexure R-1

भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय

10, बहादुरशाह जफर मार्ग,

नई दिल्ली - 110 002

OFFICE OF THE

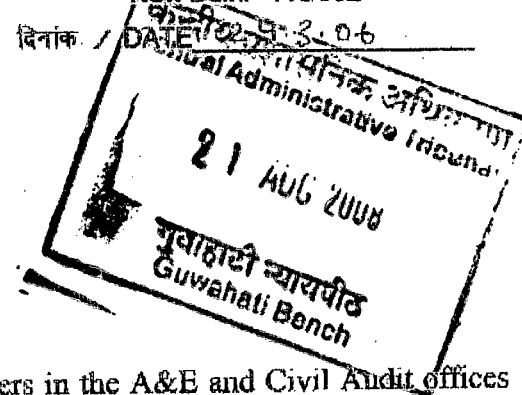
COMPTROLLER & AUDITOR GENERAL

OF INDIA

10, BAHADUR SHAH ZAFAR MARG,

New Delhi - 110 002

दिनांक / DATE 02-08-2006



To

The Accountant General (A&E),
Assam,
Guwahati

Subject: Separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region.

Sir,

I am to forward herewith the policy for separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region alongwith a format of option form. It is requested that fresh options may be obtained from all the existing Group 'B' officers belonging to common cadre under your cadre control for permanent transfer to the Civil A&E offices in North East Region intimating them the cadre strength of each office and they may be allocated to the concerned offices on the basis of their seniority-cum-options exercised by them as per instruction contained in para 3 of the policy.

2. The junior officers in each cadre who are not likely to be accommodated in the concerned offices as per options exercised by them may be posted on deputation basis to the deficit offices as per instructions contained in para 4 of the policy.

3. The action taken report should be sent to us by 15-05-2006. We intend to have the separated cadres in place as on 01-06-2006.

4. Caveat in the appropriate courts of judicature may be filed in consultation with your standing counsels. A format of the Caveat is enclosed herewith.

Yours faithfully,

(Manish Kumar)

Assistant Comptroller and
Auditor General (N)

Encl.: As above.

17/8/06

Motin Ud-Din Ahmed
M.A., B.Sc., LL.B.
Govt. Standing Counsel
(CAT)

तार / Telegram NEW DELHI

Add: Guwahati

फैक्स / Fax : 91-11-23235446, 91-11-23234014

हूटो / Phone : 23231440, 23231761

टैलेक्स / Telex : 031-65981, 031-65847

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Policy for separation of common cadre of Group 'B'
officers in the A&E and Civil Audit offices in N.E.
Region

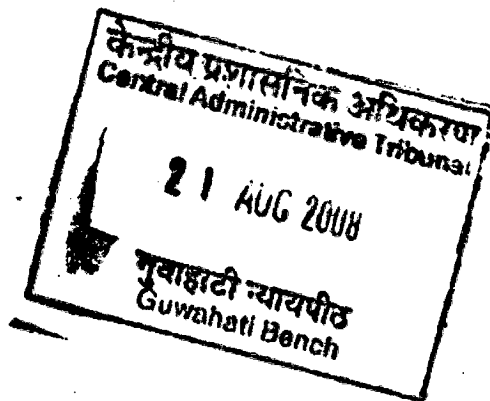
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- I One time option for allocation to a particular office may be called for from the existing Group 'B' officers belonging to common cadre by the present cadre controlling authorities i.e. PAG (Audit), Meghalaya etc., Shillong and AG (A&E), Assam, Guwahati. The optees shall be required to indicate their preference.
- II Vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required strength i.e. sanctioned strength minus vacancies proportionately distributed in each cadre.
- III Permanent posting of Group 'B' officers of common cadre against the required strength of various Civil Audit/A&E offices shall be made by the respective cadre controlling authorities strictly on the basis of the seniority of the officers, who have exercised their option for allocation to such offices, irrespective of their base office.
- IV If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the offices for which number of optees is less than the required strength of that office viz deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.

If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled up by deputation of surplus optees as per guidelines laid down at IV above. The vacancies arising due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.

VI The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.

VII Direct recruitment will be done in the deficit offices only against the requisition already placed/ to be placed to Staff Selection Commission.



19/11/08
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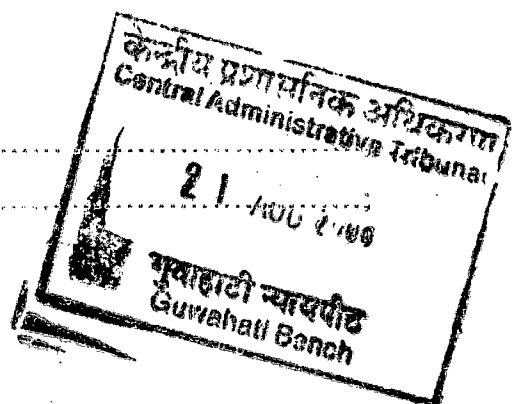
FORM OF OPTION

In the event of separation of existing common cadre for Group 'B' posts of (Sr.AO/AO/AAO/SO) of the A&E offices of the Indian Audit & Accounts Department located in the North East, I Shri/ Smt./ Ms. working in the office of the as (designation), knowing fully that the option so exercised shall be final and no further change in the above option shall be allowed in any case, do hereby opt to be finally allocated to the following office(s) in order of preference:-

1. Office of the

2. Office of the

.....and so on.



(Signature)

Date:

Station:

Name

Designation

O/O the

Employee No.

19/8/00
Motin Ud-Din Ahmed
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Guwahati Bench (CAT)