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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

✓ O.A./T.A No. 139/2005  
R.A/C.P No.....  
E.P/M.A No. 20/2006

- ✓ 1. Orders Sheet..... Pg. 1 to 6  
2. Judgment/Order dtd. 9-08-2006 Pg. 1 to 11 D/O  
3. Judgment & Order dtd.....Received from H.C/Supreme Court  
✓ 4. O.A..... Pg. 1 to 97  
5. E.P/M.P..... Pg. 1 to.....  
6. R.A/C.P..... Pg..... to.....  
✓ 7. W.S..... Pg. 1 to 37  
8. Rejoinder..... Pg..... to.....  
9. Reply..... Pg..... to.....  
10. Any other Papers..... Pg..... to.....  
11. Memo of Appearance.....  
12. Additional Affidavit.....  
13. Written Arguments.....  
14. Amendement Reply by Respondents.....  
15. Amendment Reply filed by the Applicant.....  
16. Counter Reply.....

SECTION OFFICER (Judl.)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

**ORDER SHEET**

Original Application No. 139/05

Misc. Petition No. \_\_\_\_\_

Contempt petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) M. Enshil Kumar Singh

Respondents H.O. I. Jais

Advocate(s) for the Applicant(s) Dr. N.K. Singh, Mr. R.K. Deb Choudhury

Advocate(s) for the Respondents Addl. C.G.S.C. A.K. Chaudhury  
(Govt. Adv. Manipal)

Notes of the Registry	Date	Order of the Tribunal
<p>Final application is in form is filed/C.F. I.R. Rs. 10/- deposited vide P.O. No. 206/133902 Dated 14.6.05</p> <p><i>Amb</i> Dy. Registrar</p> <p><i>Steps taken.</i></p> <p>Extra charge Rs=30/- only for resp. Nos 6 to 11 received and deposited vide receipt No-1490, dt. 17/6/05.</p> <p><i>17/6/05</i></p> <p>Notice &amp; order dt. 17/6/05 sent to D/section for issuing to resp. Nos 1 to 11 by regl. A/D post.</p> <p><i>23/6</i> D/N= <del>139991</del> to D/N-981 to 991, dt=28/6/05</p>	<p>16.6.2005</p> <p align="center">mb</p> <p>17.6.2005</p> <p align="center">mb</p>	<p>On behalf Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. an adjournment is sought. Post 17.6.2005.</p> <p><i>10/June</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Heard Dr. N.K. Singh, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.</p> <p>The application is admitted. Issue notice to the respondents. Post on 21.7.2005. Written statement if any in the meantime</p> <p><i>10/June</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

21.7.2005

Mr. R.K. Deb Choudhury,

learned counsel for the applicant is present. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. submits that he is appearing on behalf of the 1st respondent. Notices is not served to all the respondents.

Post on 24.08.2005.

Notice duly served on resp. No-1, 6

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

24.8.05.

No. written statement has been filed.

Mr. R.K. Deb Choudhury, learned counsel for the applicant is present. Mr. A.K. Choudhury, learned Addl. C.G.S.C. appearing for the 1st respondent. Ms. U. Das learned Addl. C.G.S.C. appearing for the 6th respondent. Service to the other respondents is not completed. The counsel for the applicant will take necessary steps to see that service to the other respondents are completed.

post the matter on 6.10.

lm

*[Signature]*  
Vice-Chairman

06.10.2005

Mr. R.K. Deb Choudhury, learned counsel for the applicant, Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the Respondent No. 1, Ms. U. Das, learned Addl. C.G.S.C. for the respondent No. 6 and Mr. U.K. Nair, learned counsel for the respondents No. 7, 8, 9 and 11 are present. Still Respondents No. 2 and 5 and 10 are yet to be served with notice. Post on 21.11.2005. Appropriate steps will be taken for service of notice.

Please comply with  
dated 6.10.05.  
NS  
7.10.05

Notice & order sent to D/Section for issuing to resp. Nos. 2 to 5 and 10 by regd. AID post. D/No-1509 to 1513.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

C.A 139/05

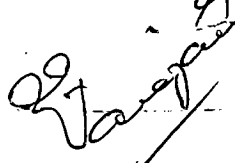
Office Note	Date	Tribunal's Order
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27.10.05  
W/s submitted  
on behalf of  
Respondent No. 6.

21.11.2005

Respondent nos. 2 to 5 entered appearance through Mr. Satyen Sarma, learned counsel. They have filed their written statement also. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. submits that he has not received any instruction from the 1st respondent so far. Ms. U. Bas, learned Addl. C.G.S.C. submits that written statement on behalf of sixth respondent has already been filed.

Post before the next Division Bench. Appearance and written statement of respondents 7 to 11 in the meantime.

  
Vice-Chairman

bb

18.11.05  
① W/s filed on behalf of R. no. 6.  
2. No W/s from R. no. 7, 8, 9 & 11 so far.  
3. Notice issued on R. no. 2 to 5 & 10 on 17.10.05. S/R awaited  
by

3.1.06

Counsel for the applicant is present. Counsel for respondents No. 1 to 6 and respondents 7 to 9 and 11 are also present. Service not complete on 7th respondent. Counsel for respondents 7, 8, 9 and 11 submits that he requires some time to file reply.

Post on 7.2.06 for order. In the meantime the applicant is to take further steps to serve notice on 10th respondent.

  
Member

  
Vice-Chairman

pg

order dt. 21/11/05  
sent to D/section  
for issuing to  
resp. Nos. 7 to 11  
by regd. A/D

post. D/No = 1641 to  
1645

DT = 30/11/05

order dt. 21/11/05 duly  
served on resp. No. 8, 9, 11

14/12 order dt. duly served  
on R-7.



Office Note	Date	Tribunal's Order
<p>2-1-06</p> <p>① W/s filed on behalf of R.No-1 to 6</p> <p>② Respondant No-7 to 11 Service completed.</p> <p>③ No. W/s filed by the R. No-7 to 11.</p> <p><i>mb</i></p> <p><i>2.1.06.</i></p> <p><u>6-2-06</u></p> <p>① W/s filed on b/h of R.no. 2-6.</p> <p>② No W/s from R-1, 7, 8, 9 &amp; 11.</p> <p>③ No appearance on b/h of R.no. 10 as well as reply as regards service &amp; notice though it was issued twice on 28-6-05 and 24-10-05.</p> <p><i>bml</i></p> <p><u>21-2-06</u></p> <p>① W/s filed on b/h of R.No-2 to 6</p> <p>② No W/s filed by the R.No-7 to 11.</p> <p><i>mb</i></p>	<p>07.02.2006</p> <p>22.2.2006</p> <p>13.3.2006</p> <p><i>bb</i></p>	<p>When the matter came up for hearing Dr. N.K. Singh, learned counsel for the applicant submits that the 10th respondent has already retired and sought for <del>xxx</del> two weeks time to <del>xxxx</del> collect the present address of the 10th respondent. Let it be done. Post on 22.02.2006.</p> <p><i>[Signature]</i></p> <p>Vice-Chairman</p> <p>None appeared for the applicant. Post on 13.3.2006. Applicant's counsel is directed to take steps, if any, to issue notice on the 10th respondent.</p> <p><i>[Signature]</i></p> <p>Vice-Chairman</p> <p>When the matter came up for hearing, learned counsel for the applicant submits that he may be given time to furnish the correct address of the 10th respondent and to take steps thereafter. The other respondents may file reply statement.</p> <p>Post on 21.3.2006.</p> <p><i>[Signature]</i></p> <p>Vice-Chairman</p>
<p><i>mb</i></p> <p><i>order dt. 22/2/06 sent to D/section for issuing to learned adv. for applicant.</i></p> <p><i>27/2/06.</i></p>		

21.3.06.

The counsel for the applicant has submitted that he will furnish the correct address of the Respondent No.10 and he will also take steps to serve the notice. Post the matter on 26.4.06.

20-3-06

① No steps taken by the applicant for R.No-10. mb

Vice-Chairman

② No W/S filed by the R.No-1, 7, 8, 9, 10, & 11

26.04.2006

None for the applicant. Post on 19.05.2006.

My

Vice-Chairman

25-4-06

mb

19.5.2006

Learned counsel for the applicant submits that he has received the correct address of Respondent No.10 and would like to give the same to the Registry. Let it be done.

No steps taken by the counsel for the applicant.

My

Let step be taken in respect of Respondent No.10.

Vice-Chairman

Steps taken by the counsel for the applicant on 11/05/06. (R-10)-

bb

14.6.2006

Learned counsel for the respondents requests for time to file reply statement. Let it be done.

post on 7.7.2006.

Vice-Chairman

Notice & order sent to D/section for issuing to resp. no-10 by regd. A/D post.

bb

07.07.2006

Learned counsel for the private respondents wanted time to file reply statement. Post on 25.07.2006. In the meantime, the applicant is at liberty to file ~~reply~~ rejoinder.

Vice-Chairman

D/No-502

DT= 12/5/06

18-5-06

① W/S filed by R.No-2 to 6 mb

② No W/S filed by R.No.1, 7, 8, 9,

24.7.06

No W/S from Pvt. ~~Attorneys~~ mb

25.07.2006

The remaining respondents are at liberty to file reply statement. Learned counsel for the applicant is at liberty to file rejoinder, if any, within 5 days. Let the case be posted on 02.08.2006 in the hearing list.

Vice-Chairman

mb

02.08.2006

Post on 03.08.2006

Member

Vice-Chairman

mb

3.8.06

Heard counsel for the parties.  
Hearing concluded. Judgment reserved.

Member

Vice-Chairman

pg

24.8.06

C. Copy has been collected by the H. Adv. for the applicant.

09.08.2006

Judgment pronounced in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.

Member

Vice-Chairman

mb

Received  
C. Copy  
28.8.06

Received  
H. Adv. for  
Addl. Chse  
29/8/06

- 1-8-06
- ① Wls filed on 6/8/06 R. No. 2 to 6.
  - ② Wls from awaited R. No. 7 to 11.
  - ③ No. rejoinder has been filed.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

O.A. No. 139 of 2005

DATE OF DECISION 09.08.2006

Sri M.S.Singh

Applicant/s

Dr.N.K.Singh

Advocate for the  
Applicant/s.

- Versus -

U.O.I. & Ors.

Respondent/s

Mr.J.Deka, for respndts.2-5 & U.K.Nair

For private respondents

Advocate for the  
Respondents

CORAM

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

THE HON'BLE MR. GAUTAM RAY, ADMINISTRATIVE MEMBER

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

Vice-Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 139 of 2005.

Date of Order: This, the 9<sup>th</sup> day of August, 2006.

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


THE HON'BLE MR. GAUTAM RAY, ADMINISTRATIVE MEMBER

Sri Mayanglambam Sushilkumar Singh  
Superintendent of Police  
Narcotics and Affairs of Border  
Manipur Police Department  
Imphal.

..... Applicant.

By Advocates Dr. N.K.Singh & Shri R.K.Deb Choudhury.

- Versus -

1. Union of India  
Represented by the Secretary  
Ministry of Home Affairs  
Government of India  
New Delhi-110 001.
  2. State of Manipur  
Represented by the Chief Secretary  
Govt. of Manipur, Manipur Secretariat  
South Block, Imphal.
  3. The Commissioner  
Department of Personnel  
Govt. of Manipur  
Manipur Secretariat  
South Block, Imphal.
  4. The Commissioner/Principal Secretary (Home)  
Govt. of Manipur, Manipur Secretariat  
South Block, Imphal.
  5. The Director General of Police  
Manipur Police Deptt  
Police Headquarters  
Indo Burma Road  
Imphal.
- 

6. The Secretary  
Union Public Service Commission  
Dholpur House, Shahjahan Road  
New Delhi - 110 011.
7. Sri W. Meenakumar Singh, IPS  
Deputy Inspector General of Police  
Range - IV, Imphal  
Manipur.
8. Sri N. Kipgen, IPS  
Deputy Inspector General of Police  
Head Quarter/Administration  
Imphal, Manipur.
9. Sri M. Karnajit Singh, IPS  
Special Secretary (Home)  
Govt. of Manipur  
Imphal, Manipur.
10. Sri S. Vaiphei, IPS  
S.P., Manipur Central Jail  
Imphal.
11. Sri R. K. Radhesana Devi, IPS  
Deputy Inspector General of Police  
(AP-1), Imphal.

.....Respondents.

By Mr.G.Baishya, Sr.C.G.S.C for 1st respondent, Mr.J.Deka, for Respondents 2 to 5, Ms.U.Das, Addl. C.G.S.C. for 6th respondent & Mr.U.K.Nair for private respondents 7 to 11.


### O R D E R

SACHIDANANDAN, K.V., (V.C.):

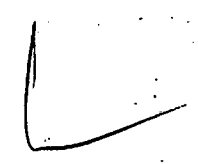
The applicant was appointed to the Manipur Police Service on 25.3.1975 by the Govt. of Manipur and was confirmed on 2.9.1980. In the year 1986, he was appointed in Selection Grade Scale in the Manipur Police Service. On 16.7.1990 the Govt. of Manipur furnished all the information/documents in respect of the eligible State

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Police Officers of Manipur to the Union Public Service Commission (UPSC in short) to be considered for promotion to Indian Police Service (IPS in short) as on 1.4.1990 (Annexure-A/4). Applicant's name appeared at Sl. No.5 of the Select List. Again on 25.2.1995, pursuant to UPSC's letter dated 5.9.1994, the Govt. of Manipur furnished all the information/documents in respect of 10 officers of Manipur part who were eligible for consideration for promotion to IPS as on 1.4.1994. Applicant's name was omitted from that Select List. All others except the officer at Sl.No.1 who had appeared were junior to the applicant. Private respondent Nos. 7 & 8 were appointed to the IPS with the allotment year 1989 by notifications dated 24.12.1995 and 11.1.1996 respectively. The applicant was compulsorily retired from service w.e.f. 15.11.1994 against which he approached the Hon'ble Gauhati High Court Imphal Bench by way of Civil Rule No.1306/1994. Vide Judgment and Order dated 14.3.1997 the High Court quashed the order of compulsory retirement and directed the respondents to take back the applicant in service forthwith with consequential benefits. The applicant was reinstated in service w.e.f. 18.3.1997 and was also paid all the back wages. He was appointed to IPS by Govt. of India notification dated 25.2.2000 allotting the year 1991. During the pendency of the aforesaid Civil Rule, the Govt. of Manipur furnished particulars and a list of 12



officers to UPSC for consideration for appointment to IPS as on 1.4.1995 and out of that three officers junior to him i.e. respondent nos. 9, 10 & 11 were appointed to IPS in the years 1997 and 1998 with allotment year 1990. Being aggrieved, the applicant filed a representation before the Chief Secretary, Manipur on 8.8.2001 but to of no avail. Applicant filed O.A. No.48/2002 before this Tribunal which was disposed of vide order dated 30.9.2002 directing the respondents to pass appropriate order on the representation that would be filed by the applicant. Applicant filed representation to the respondent nos. 1, 2, 3, 5 & 6 as per the aforesaid order of this Tribunal. Vide letter dated 4.10.2004 the 6th respondent rejected the prayer of the applicant. In the meantime, respondent Nos. 7, 8, 9, 10 & 11 were appointed to the IPS Supertime scale of DIGP in the scale of Rs. 16,400-450-20,000/- plus other allowances as admissible under the rules by Govt. of Manipur vide order dated 5.1.2005. The contention of the applicant is that he was eligible for being considered for promotion to IPS as on 1.4.1990 and he has been superseded illegally by his juniors and he must be promoted to the IPS w.e.f. the date on which his juniors were promoted. Hence, this Original Application seeking the following relief:-

- "8.1.. That the respondents No.1 to 6 be directed to appoint the applicant to IPS w.e.f. the date on which his juniors were promoted and
- 



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accordingly allow all the consequential benefits as entitled."

2. The respondent Nos. 2 to 5 have filed a detailed reply statement. The 6th Respondent i.e. UPSC also filed their separate reply statement. The contentions made in these reply statements are that UPSC being a constitutional body, under Article 315 to 323 Part XIV Chapter II of the Constitution, discharge their functions and duties under Article 320 of the Constitution and by virtue of the provisions made in All India Services Act, 1951, separate Recruitment Rules have been framed for the IAS/IPS/IFS. Pursuant to these Rules, the IPS (Appointment by Promotion) Regulations, 1955 have been made. The Selection Committee presided over by the Chairman/Member of the UPSC makes selection of State Police Service (SPS in short) officers for promotion to the IPS. In accordance with Regulation 5(4) of the said Regulations, the aforesaid committee duly classifies the eligible SPS officers included in the zone of consideration as 'Outstanding', 'Very Good', 'Good' or 'Unfit', as the case may be, on overall relative assessment of their service records and thereafter as per provisions of Regulation 5(5) of the Regulations prepares a list classifying as above in order of their respective inter-se-seniority. The Selection Committee also reviews the overall grading recorded in ACRs to ensure that this is not inconsistent

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with the grading/remarks under various parameters or attributes recorded in the respective ACRs. The grading given by the reporting/reviewing officers in the ACRs reflects the merit of the officer. The applicant was considered at Sl. No.3 of the eligibility list for the Select List of 1990-91 and on overall relative assessment of his service records, the Selection Committee assessed him as 'Good'. On the basis of this assessment, he could not be included in the Select List owing to the statutory limit on the size of the Select List. Thereafter also, he was considered for the Select Lists of the years 1991-92, 1992-93 and 1993-94. He was assessed as 'Good' for the year 1991-92 and was included provisionally at Sl. No.1 of the Select List of 1991-92 subject to the State Government certifying his integrity. For the years 1992-93 and 1993-94, he was assessed as 'Very Good' and was provisionally included at Sl. No.1 of the Select Lists of 1992-93 and 1993-94 subject to clearance in the disciplinary proceedings pending against him. The contention of the applicant that he was superseded illegally is baseless since the Selection Committee had assessed all the officers in the eligibility zone following the procedures.

In the reply statement of the official respondents 2 to 5 in para 3(D) it is stated as under:-

"That, for convening Selection Committee Meeting for preparation of Select List for

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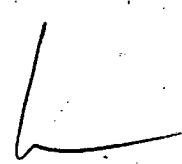
promotion of State Police Officers to the IPS for the year 1994-95, the State Government sent a proposal to the UPSC vide letter No.3/2/95-IPS/DP dated 25.02.95. In Annexure-A of the said proposal, the names of 10 (ten) Manipur Police Officers were shown as eligible for promotion to IPS as on 01.04.94. In the said list of ten Police Officers, the name of the Applicant was not included since he had been compulsorily retired from service w.e.f. 15.11.94 although he was in service as on 01.04.94. This factual position was also communicated to the UPSC vide letter No. 3/2/95-IPS/DP dated 21-03-95. The Selection Committee Meeting for promotion to IPS for the year 1994-95 was held on 24.03.95 and recommended Select List of 4 (four) MPS Officers, namely, (i) Shri W. Meenakumar Singh, (2) Shri N. Kipgen, (3) Shri M. Karnajit Singh and (4) Shri S. Vaiphei. Out of this Select List Shri W. Meenakumar Singh and Shri N. Kipgen were promoted to IPS in the month of January, 1996 and they were assigned 1989 as their year of allotment."

3. We have heard Dr. N. K. Singh, learned counsel for the applicant, Mr.G.Baishya, learned Sr. C.G.S.C. for 1st respondent, Mr. J. Deka, learned Govt. Advocate, State of Manipur for the respondent Nos. 2 to 5, Ms. U. Das, learned Addl.C.G.S.C. for the respondent No.6 and Mr. U.K. Nair, learned counsel for the private respondents Nos.7 to 11. Dr. Singh argued that because of punishment of compulsory retirement from service applicant was not promoted to IPS in the earlier allotment years wherein he was eligible to be promoted. He has drawn our attention to the decision of the Hon'ble Gauhati High Court Imphal Bench dated 14.3.1997, for better appreciation paragraph 7 of which, is reproduced below:-



"17. For the reasons and discussions made above, the impugned order dated 15.11.94 as in Annexure-A/14-1 is hereby quashed, and thus, the respondents are directed to take back the writ petitioner to service forthwith and allow him to work/serve as usual. Further, the writ petitioner is entitled for his back salary for the period from 15.11.94 till date, and for which the respondents are directed to make necessary arrangement for payment of the same within 2 (two) months from to-day. So far the claim of the writ petitioner for his service promotional benefits made by him through his counsel Sri Kotishwar Singh is left open to the wisdom of the Respondents. In the result the writ petition is allowed. No costs."

Mr.J.Deka, counsel for the respondent Nos. 2 to 5 is also agree that the applicant had not been promoted for earlier years allotment because of the cloud of compulsory retirement from service while he was considered for the same. Counsel for the applicant strenuously argued that by virtue of the order of Hon'ble Imphal Bench of Gauhati High Court quashing the order of compulsory retirement with the direction to reinstate him he is entitled to get all service benefits. Counsel for the respondents, on the other hand, drawing our attention to the penultimate sentence of the said order of the High Court which reads - "So far as the claim of the writ petitioner for his service promotional benefits made by him through his counsel Sri Kotishwar Singh is left open to the wisdom of the Respondents" argued that said order never meant that the applicant should be inducted in IPS cadre allotting




year 1990. Subsequently also when the applicant was not inducted to IPS cadre he approached this Tribunal by way of O.A. No.48/2002 and vide order dated 30.9.2002 this Tribunal directed the applicant to make representation and the respondents were directed to pass appropriate order therein. For better elicitation paragraph 3 of the said order is quoted below:-

"3. We have heard Mr.R.K.Deb Choudhury, learned counsel appearing for the applicant, Mr. A. Deb Roy, learned senior C.G.S.C. for respondents No.1 and 6 and Mr. D. Senapati, learned counsel for the State of Manipur. In course of hearing Mr. R.K.Deb Choudhury submitted that he had already submitted a representation before the State Government and the said representation requires to be considered by the State Government. Mr. Deb Choudhury further submitted that now he also wants to submit a representation before the Union of India and Union Public Service Commission for consideration of his case for retrospective promotion. In view of the submission made above we dispose of this application. The applicant may file representation, if any, before the competent authority. It is expected that the competent authority shall pass appropriate order."

Accordingly, the applicant filed representations before the competent authority. While considering his representation the competent authority has informed him as under:-


"both the State Government and the Central Government have stated that the Promotion Regulations do not provide for suo moto review of Select Lists after they have been approved and acted upon unless there are direction of a Court of competent jurisdiction."



3. In the circumstances, no further relief is admissible to the officer under the scope of the present orders."

It is clear from the above, that the respondents have taken the plea that unless there is a Court order review of the Select List for the previous years cannot be entertained and they cannot do it suo moto. Therefore, Dr. Singh, counsel for the applicant, submitted that since the cloud of compulsory retirement from service had already been removed and he is entitled to be considered for the previous years as stated in the reply statements, a direction may be issued to the respondents to review the Select Lists and place the applicant in the appropriate allotment year, if he is otherwise eligible.

4. It is well settled legal position that if the cloud is removed i.e. the punishment imposed by virtue of disciplinary proceedings is revoked, it is to be treated that the employee is having no cloud on that count for the said period, and therefore, the benefits that he should have derived as if he has no cloud, should be granted to him. He is entitled for the same if he is otherwise eligible. Therefore, we are of the considered view that since the punishment of compulsory retirement from service has already been revoked, the applicant is entitled to be considered for induction to IPS cadre for previous years at least on notional basis, if he is otherwise found fit.



We are expressing no opinion on merit but giving a direction to the concerned respondents to consider the case of the applicant for selection and induction in IPS cadre for the earlier allotment years when he could have been considered other than that has been granted to him on notional basis, if necessary by reviewing the Select Lists approved and acted upon. We are also making it clear that while doing so, private respondent Nos. 7 to 11 and others, if any, already inducted in IPS cadre through the lists should not be disturbed. The aforesaid exercise shall be completed as expeditiously as possible in any case within a period of six months from the date of receipt of copy of this order.

The Original Application is disposed of with the above directions. In the circumstances there is no order as to costs.



(GAUTAM RAY)

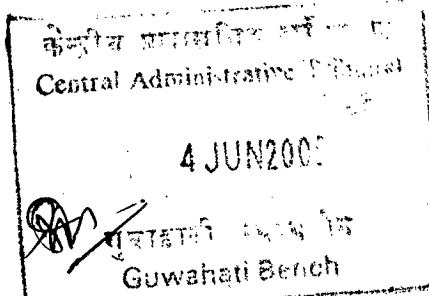
ADMINISTRATIVE MEMBER



(K.V. SACHIDANANDAN)

VICE CHAIRMAN

BB



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

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 139 OF 2005

**BETWEEN**

Sri Mayanglambam Sushilkumar Singh, ----- Applicant

-Versus-

Union of India and Others

----- Respondents

**LIST OF DATES AND SYNOPSIS OF THE CASE**

- |          |  |
|----------|--|
| 25-3-75  | Applicant was appointed by the Govt. of Manipur to the Manipur Police Service.   |
| 2-9-80   | Services of the applicant was confirmed in the Manipur Police Service Grade -II.   |
| 11-9-86  | Applicant was appointed to the Manipur Police Service Selection Grade Scale.   |
| 16-7-90  | Govt. of Manipur furnishes to the UPSC all information in respect of eligible State Police Service Officers eligible to be considered for promotion to Indian Police Service as on 1-4-90. Applicant's name appears in Serial No. 5  |
| 25-2-95  | Govt. of Manipur furnishes to the UPSC all information in respect of ten State Police Service Officers eligible to be considered for promotion to Indian Police Service as on 1-4-94. Applicant's name was omitted from the list. All whose names appeared in the list are junior to the applicant, except Sri Eric Ekka who was in serial No.1. |
| 24-12-95 | Respondent Nos. 7 and 8 appointed to IPS and allotted the year 1989 by notification dated 11-1-96  |
| 15-11-94 | Applicant was compulsorily retired from service. Applicant files CR 1306/94 before Gauhati High Court.   |
| 14-3-97  | Order dated 15-11-94 is quashed by High Court and the applicant is directed to be taken back in service with consequential benefits.   |
| 28-4-97  | Applicant was reinstated in service w.e.f. 18-3-97 and he was also paid all back wages.  |



- 25-2-2000 ✓ Applicant was appointed to IPS and by notification dated 25-8-2000 he was allotted the year 1991.
- ▲ 26-2-96 During pendency of the above C.R. 1306/94 a list of twelve officers is furnished by Govt. of Manipur to UPSC to be considered for appointment to IPS as on 1-4-95. Three of the twelve officers were junior to the applicant.
- 5-11-97 Respondent Nos. 9 and 10 were appointed to IPS and the year 1990 was allotted by notification dated 3-10-98.
- 24-2-98 Respondent No. 11 appointed to IPS and the year 1990 was allotted by notification dated 3-11-98.
- 8-8-2001 ✓ Being aggrieved applicant files a representation to the Chief Secretary, Manipur
- 30-9-2002 ✓ Applicant files O.A. No. 48 / 2002 and the same is disposed of with a direction that the applicant may file representation before the competent authority and further observed that the competent authority shall pass appropriate order.
- 7-6-2003. Applicant files representation before competent authority ventilating his grievance.
- 4-10-2004 ✓ UPSC communicates to the Chief Secretary, Govt. of Manipur rejecting the applicant's prayer.
- 28-12-2004 ✓ A copy of the above letter dated 4-10-2004 is forwarded to the applicant by the Govt. of Manipur.
- 5-1-2005 ✓ Respondents No. 7, 8, 9 and 11 are appointed to the IPS Supertime scale of DIGP.

Filed by

*Ranjit Kumar Dev Choudhury*

Advocate

22

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI**  
(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ACT, 1985)

**ORIGINAL APPLICATION NO. 139 OF 2005**

**BETWEEN**

Sri Mayanglambam Sushilkumar Singh, ----- Applicant

-Versus-

Union of India and Others

----- Respondents

**I N D E X**

Sl.No.	Particulars	Annexure	Page No.
1.	Application		1- 12
2.	Verification		13
3.	Order dtd. 25-3-75	A/1	14 - 16
4.	Order dtd. 18/5/84	A/2	17 - 18
5.	Order dtd. 31-5-88	A/3	19 - 20
6.	Letter dtd. 16-7-90	A/4	21 - 23
7.	Letter dtd. 25-2-95	A/5	24 - 26
8.	Notification dtd. 24-2-95	A/6	27 - 28
9.	Notification dtd. 11-1-96	A/7	29
10.	Order dtd. 15-11-94	A/8	30
11.	Judgment and order dtd. 14-3-97	A/9	31 - 67
12.	Order dtd. 28-4-97	A/ 10	68
13.	Order dated 29-1-98	A/10(i)	69
14.	Order dtd. 2-2-98	A/10 (ii)	70
15.	Notification dtd. 25-2-2000	A/11	71
16.	Notification dtd. 25-8-2000	A/12	72 - 73
17.	Letter dtd. 26-2-96	A/ 13	74 - 76
18.	Notification dtd. 5-11-97	A/ 14	77
19.	Notification dtd. 3-10-98	A/ 15	78 - 79
20.	Notification dtd. 24-2-98	A/ 16	80
21.	Notification dtd. 3-11-98	A/ 17	81- 82
22.	Representation dtd. 8-8-2001	A/ 18	83 - 84
23.	Letter dtd. 17 -8-2001	A/ 19	85
24.	Order dtd. 30-9-2002	A/ 20	86 - 87
25.	Representation dtd. 7-6-2003	A/ 21	88 - 92
26.	Letter dated 4-10- 2004	A/ 22	93 - 95
27.	Letter dtd. 28-12-2004	A/ 23	96
28.	Order of Governor dtd. 5-1-2005	A/ 24	97

23  
Filed by the Applicant  
through  
Ranjit Kumar Dev Choudhury  
Advocate  
14/06/2005

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

◀(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ACT, 1985)

ORIGIANL APPLICATION NO. 139 OF 2005

**BETWEEN**

Sri Mayanglambam Sushilkumar Singh, I.P.S.  
Superintendent of Police  
Narcotics and Affairs of Border  
Manipur Police Department  
Imphal

----- Applicant

-AND-

1. Union of India  
Represented by the Secretary,  
Ministry of Home Affairs,  
Government of India,  
New Delhi - 110001,
2. State of Manipur,  
Represented by -  
The Chief Secretary,  
Govt. of Manipur,  
Manipur Secretariat, South Block,  
Imphal,
3. The Commissioner,  
Department of Personnel ,  
Govt. of Manipur,  
Manipur Secretariat, South Block,  
Imphal,
4. The Commissioner /Principal Secretary  
(Home) , Govt. of Manipur, Manipur,  
Secretariat, South Block, Imphal,

M. Sushil Kumar Singh

5. The Director General of Police,  
Manipur Police Deptt,  
Police Headquarters,  
Indo Burma Road, Imphal,

6. The Secretary,  
Union Public Service Commission  
Dholpur House,  
Shahjahan Road,  
New Delhi - 110011

7. Sri W. Meenakumar Singh, IPS  
Deputy Inspector General of Police  
Range - IV, Imphal  
Manipur,

8. Sri N. Kipgen, IPS  
Deputy Inspector General of Police  
Head Quarter/ Administration,  
Imphal, Manipur

9. Sri M. Karnajit Singh, IPS  
Special Secretary (Home)  
Govt. of Manipur,  
Imphal, Manipur,

10. Sri S. Vaiphei, IPS  
S.P., Manipur Central Jail, Imphal

11. Sri R.K. Radhesana Devi, IPS  
Deputy Inspector General of Police  
(AP-1), Imphal

----- Respondents

### DETAILS OF THE APPLICATION

#### 1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

- (a) This application is directed against non-consideration of the case of the applicants for appointment to the Indian Police Service in the Manipur-Tripura Cadre by the Selection Committee of the Union Public Service

*Dr. Sushil Kumar Singh*

Commission due to non-inclusion of the applicant's name by the Govt. of Manipur from the Seniority List of the State Police Service Officers who were eligible for appointment to Indian Police Service, Manipur - Tripura Cadre as on 1-4-94.

(b) This application also impugns Notification Nos. 3/2/95-IPS/DP dated 25-2-95, Notification No. 3/2/95- IPS dated 26-2-96 passed by the Secretary / Commissioner , Department of Personnel and Administrative reforms (Personnel Division) Govt. of Manipur and Notifications no. (i) 1-14011/30/95-IPS-I dated 24-12-95 (ii) 1-14011/30/95-IPS dated 11-1-96 (iii) 1-15011/1/98-IPS-I dated 3-10-98 and (iv) 1-15911/1/98 -IPS -1 dated 3-11-98 passed by the Secretary, Govt. of India, Ministry of Home Affairs by which officers junior to the applicant were appointed to IPS, Manipur - Tripura Cadre allotting the year 1990 in supersession of applicant.

(c) This application further impugns the letter dated 4-10-2004 issued by the UPSC rejecting the applicant's representation dated 7-6-2003 and Order No. 3/7/90-IPS /DA(A) issued by the Govt. of Manipur, Deptt. of Personnel and Administrative Reforms promoting the respondent Nos. 7, 8, 9 and 11 to the IPS supertime scale of DIGP.

**2. JURISDICTION OF THE TRIBUNAL :**

The applicant declares that the subject matter of the case which he wants to redress is within the jurisdiction of this Hon'ble Tribunal.

**3. LIMITATION :**

*Dr. Sushil Kumar Singh*

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Central Administrative Tribunal Act, 1985.

**4. FACTS OF THE CASE :**

4.1. That the applicant is a bonafide citizen of India and as such he is entitled to all the rights and privileges enshrined in the constitution of India and the Rules framed thereunder.

4.2. That on being recommended by the Manipur Police Service Commission (MPSC) the applicant was appointed by the Govt. of Manipur to the Manipur Police Service vide its order No. 3/44/74-S dated 25-3-75.

Annexure - A/1 is a copy of the order dated 25-3-75.

4.3. That by order No. 3/1/78-MPS /DP (Pt) dated 18-5-84 the Govt. of Manipur was further pleased to confirm the service of the applicant to Manipur Police Service, Grade -II with effect from 2-9-80.

Annexure A/2 is a copy of the above order dated 18-5-84.

4.4. That thereafter on the recommendation of the Manipur Public Service Commission, the Govt. of Manipur appointed the applicant to the Manipur Police Service Selection Grade Scale with effect from 11-9-96 vide its order No. 3/8/87-MPS /DP dated 31-5-85.

Annexure A/3 is a copy of the above order dated 31-5-88.

4.5. That the Govt. of Manipur, Deptt. of Personnel and Administrative Reforms (Personnel Division)

*M. Sushil Kumar Singh*

by its letter No. 31/15/ 88-IPS/DP dated 16-7-90 furnished to the Union Public Service Commission (UPSC) all information/ documents in respect of the eligible State Police Service Officers of Manipur Part to be considered for promotion to Indian Police Service (IPS) as on 1-4-90. The applicant's name appeared in Serial No. 5 of the Select List enclosed therewith. However, the applicant could not get promoted to I.P.S.

Annexure A/4 is a copy of the above letter dated 16-7-90.

- 4.6. That in pursuance to U.P.S.C.'s letter No. F.4/7/94-AIS dated 5-9-94, the Govt. of Manipur, Deptt. of Personnel and Administrative Reforms (Personnel Division) by its letter No. 3/2/95-IPS/DP dated 25-2-95 furnished the information/ documents in respect of ten State Public Service Officers of Manipur Part who are eligible for consideration for promotion to IPS as on 1-4-94. In the enclosed select list the name of the applicant was omitted. Out of the ten officers mentioned in the Select List all were junior to the applicant excepting one Sri Eric Ekka who was at Serial No.1. Two officers included in the list, viz-Sri W. Meenakumar Singh and Sri N. Kipgen were appointed to the Indian Police Service by notification No. 1-14011/30/95-IPS-1 dated 24-12-95 and Notification No. 1-14011/30/95-IPS-1 dated 11-1-96 respectively and they were allotted the year 1989.

Annexure A/5 is a copy of the above letter dated 25-2-95.

Annexure A/6 is a copy of the above notification dtd.24-12-95

*Manipur  
to  
Comm Cadre*

*M. Sushil Kumar Singh*

Annexure A/7 is a copy of the above notification dtd.11-1-96

- 4.7. That the Govt. of Manipur by its order No. 18/58/94-MPS/DP dated 15-11-94 compulsorily retired the applicant from Government Service with immediate effect, i.e. from 15-11-94.

Annexure A/8 is a copy of the above order dated 15-11-94.

- 4.8. That the applicant being aggrieved by the above order dated 15-11-94 filed a writ petition in the Gauhati High Court (Imphal Bench) registered as Civil Rule 1306/94. The Hon'ble Court by its judgment and order dated 14-3-97 quashed the impugned order dated 15-11-94 and directed the respondents to take the writ petitioner (applicant herein) back to service forthwith with consequential benefits.

Annexure A/9 is a copy of the above judgment and order dated 14-3-97 passed by the Hon'ble Gauhati High Court in Civil Rule No. 1306/94.

- 4.9. That in compliance with the judgment and order of the Hon'ble High Court, the Govt. of Manipur by its order No. 18/58/94/MPS/DP (pt) dated 18-4-97 was pleased to revoke the order of compulsory retirement and to reinstate the applicant in service w.e.f. 18-3-97. The applicant was also paid all the back wages from 15-11-94 to 17-3-97 in compliance with orders of even No. dt.29-1-98 and 2-2-98.

Annexure A/10 , A/10(i) and A/10(ii) are the copies of the

M. Sushil Kumar Singh



orders dated 28-4-97, 29-1-98  
and 2-2-98.

- 4.10. That the applicant was appointed to the Indian Police Service by Govt. of India Notification No. 1-14011/14/99-IPS.1 dated 25-2-2000 and allocated to joint cadre of Manipur- Tripura and by another Notification No. 1.15011/12/2000 - IPS.1 dated 25-8-2000 he was allotted the year 1991.

Annexure A/11 is a copy of the above Notification dated 25-2-2000.

Annexure A/12 is a copy of the above Notification dated 28-8-2000.

- 4.11. That it is state that during the pendency of Civil Rule 1306 /94 filed by the applicant as petitioner before the Hon'ble Gauhati High Court, the Govt. of Manipur, Deptt. of Personnel and Administrative Reforms (Personnel Division) by its letter No. 3/23/95-IPS/DP dated 26-2-96 furnished particulars and a select list of twelve officers for consideration for appointment to IPS as on 1-4-95 to UPSC. Three Officers out of the twelve who were all junior to the applicant were appointed as IPS. Sri Karajit Singh and Sri S. Vaiphel were appointed to IPS by Notification No. 1-14011/14/97-IPS-1 dated 5-11-97 and by Notification No. 1.15011/1/98-IPS.1 dated 3-10-98 they were allotted the year 1990, Smti R.K. Reahasana Devi was appointed to IPS by Notification No. 1.14011/14/97-IPS-1 dated 24-2-98 and by Notification No. 1.15011/1/98/IPS-1 dated 3-11-98 she was allotted the year 1990.

M. Sushil Kumar Singh

Annexure A/13 is a copy of the above letter dated 26-2-96.

Annexure A/14 is a copy of the above Notification dated 5-11-97.

Annexure A/15 is a copy of the above Notification dated 3-10-98.

Annexure A/16 is a copy of the above Notification dated 24-2-98.

Annexure A/17 is a copy of the above Notification dated 3-11-98.

- 4.12. That the applicant being aggrieved by the above orders whereby his juniors were allowed to supersede him in their appointment to IPS and whereby they were given earlier year of allotment filed a representation before the Chief Secretary, Manipur on 8-8-2001 with a request to fix his seniority above the persons who were/ are juniors to the applicant in the Manipur Police Service Selection Grade etc. and give him 1989 as the year of allotment to IPS. However, the representation of the applicant was not disposed.

Annexure A/18 is a copy of the above representation dated 8-8-2001.

Annexure A/19 is a copy of the above letter dated 17-8-2001 by which the applicants representation was forwarded to the DGP, Manipur.

- 4.13. That it is submitted that the appointment of Manipur Police Officers who were junior to the

M. Sudhakar Kumar Singh

applicant to IPS before him giving them prior year of allotment is not in accordance with the Rules.

- 4.14. That the applicant filed Original Applicant No. 48/2002 before the Central Administrative Tribunal, Guwahati Bench seeking for a direction to the respondents to consider his case for appointment to the Indian Police Service (IPS) with effect from the date on which his juniors were appointed. The Hon'ble Tribunal by order dated 30-9-2002 disposed of the above O.A. No. 48/2002 with a direction that the applicant may file representation before the competent authority and further observed that the competent authority shall pass appropriate order.

Annexure A/20 is a copy of the above order dated 30-9-2002 passed in O.A. 48/2002.

- 4.15. That as per above order of the Central Administrative Tribunal, Guwahati Bench dated 30-9-2002, the applicant submitted his representation to (1) Secretary, Ministry of Home Affairs, Govt. of India, New Delhi (2) Secretary, Union Public Service Commission, Dholpur House, New Delhi (3) Chief Secretary, Govt. of Manipur, Imphal (4) Commissioner, Deptt. of Personnel & Administrative Reforms, Govt. of Manipur, Imphal; (5) The Director General of Police, Manipur, Imphal (through proper channel) on 7-6-2003. It was prayed that his appointment to IPS may be given effect from the date on which his juniors were appointed and allot him the same year of seniority so that he is not deprived of his rights.

Annexure A/21 is a copy of the above representation dated 7-6-2003.

- 4.16. That the Union Public Service Commission by letter dated 4-10-2004 communicated to the Chief Secretary, Govt. of Manipur, Imphal that the representation of the applicant was considered by the Commission "along with the view of the Govt. of India (MHA) and the

M. Sushil Kumar Singh

32

State Government. It was observed that the State Government have already granted relief to the applicant by reinstating him in the SPS and the Officer has since been promoted to the IPS from the select list of 1999. Further both the State Government and the Central Government have stated that the Promotion Regulations do not provide for suo moto review of select lists after they have been approved and acted upon unless there are direction of a Court of competent jurisdiction".

Annexure A/ 22 is a copy of the  
above letter dated 4-10-2004.

- 4.17. That the Govt. of Manipur, Deptt. of Personnel & Administrative Reforms by letter dated 28-12-2004 forwarded a copy of the above letter of the UPSC dated 4-10-2004 to the applicant.

Annexure A/23 is a copy of the above  
letter dated 28-12-2004.

- 4.18. That in the meantime, the Govt. of Manipur by order No. 3/7/90-IPS/DP(A) dated 5-1-2005 appointed the respondent Nos. 7,8,9 and 11 to the IPS Supertime scale of DIGP in the scale of Rs. 16,400-450-20,000/- plus other allowances as admissible under the rules.

Annexure A/24 is a copy of the above  
order dated 5-11-2005.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

- 5.1. For that the applicant has been discriminated in the matter of his promotion to the IPS and assigning of the year of allotment and as such his rights under Article 14 and 16 of the Constitution of India are violated.
- 5.2. For that the applicant was senior to the respondent Nos. 7,8,9, 10 and 11 and was eligible for being considered for appointment to IPS as on 1-4-90 and as such he has been superseded illegally by his juniors.
- 5.3. For that the name of the applicant was erroneously excluded from the list while furnishing particulars of the State Police Officers eligible for inclusion in the select

M. Sushil Kumar Singh

list for appointment to IPS as on 1-4-94. Under the letter No. 3/2/95-IPS/DP dated 25-2-95 despite the fact that he was very much in service on 1-4-94.

- 5.4. For that there being no adverse entries in the ACRs of the applicant the respondents acted illegally in excluding his name from the list for appointment to IPS as on 1-4-94.
- 5.5. For that since the applicant was reinstated into service with all consequential benefits by order dated 28-4-97 in compliance with the Hon'ble Gauhati High Court's judgment and order dated 14-3-97 passed in CR No. 1306/94. The applicant is entitled to all service benefits as entitled to a regular employee and as such the respondents are duty bound to review the petitioner's position vis-à-vis the respondent Nos. 7 to 11.
- 5.6. For that the Notificaiton / order dated 25-2-2000 and 25-8-2000 are not legally tenable and the same orders needs to be reviewed.
- 5.7. For that the respondent Nos. 1 to 6 acted arbitrarily, malafide and illegally.
- 5.8. For that under the principles of law for the purpose of seniority and promotion the entire period between the order of punishment and reinstatement is to be taken into account and as such the applicant is entitled to all service benefits after the reinstatement.
- 5.9. For that the effect of reinstatement being continuity in service, the applicant is entitled to all service benefits after his reinstatement as a normal course.
- 5.10. For that respondent nos. 5 and 6 considered the applicant's representation dated 7-6-2003 mechanically and without application of mind.

3 (2) 9

M. Sushil Kumar Singh

**6. DETAILS OF REMEDIES EXHAUSTED :**

There is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal.

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

The applicant declares that the matters regarding which this application is made is not pending before any court of law of any other authority or any other bench of the Hon'ble Tribunal.

**8. RELIEF SOUGHT FOR :**

8.1. That the respondents No. 1 to 6 be directed to appoint the applicant to IPS w.e.f the date on which his juniors were appointed and accordingly allow all the consequential benefits as entitled.

**9. INTERIM ORDER IF ANY PRAYED FOR :**

The applicant does not pray for any interim order at this state.

**10. PARTICULARS OF I.P.O.**

No. of IPO 133903

Name of the issuing Post Office :- GPO, Guwahati.

Date of issuance of postal order :- 14/06/2005

Post office at which payable : Guwahati.

**11. LIST OF ENCLOSURES :**

As per Index.

M. Sushil Kumar Singh

**VERIFICATION**

I, Shri Mayanglambam Sushilkumar Singh, I.P.S. , Son of Late M. Sudir Singh, aged about 54 years, working as Superintendent of Police, Narcotics and Affairs of Border, Manipur Police Department, Imphal do hereby verify that the contents of paragraphs Nos. 4.1 to 4.18 are true to my knowledge and paragraphs Nos. 5.1 to 5.10 believed to be true on legal advice and that I have not suppressed any material fact.

Place : *Guwahati*

Date : *14/6/2005*

Signature

*M. Sushil Kumar Singh*

(4)      Annexure / I 36

GOVERNMENT OF MANIPUR  
SECRETARIAT : APPOINTMENT & SERVICES DEPARTMENT.  
—(0)—

ORDERS BY THE GOVERNOR : MANIPUR  
Imphal, the 25th March, 1975.

No.3/44/74-S. On the recommendation of the Manipur Public Service Commission vide their letter No.7/80/73-MPSC(DR) dated 11.10.74 and in exercise of the powers conferred under Rule 5(1)(a) of the Manipur Police Service Rules, 1965, the Governor of Manipur is pleased to appoint the following persons in order of merit to the Manipur Police Service in the scale of Rs.460-30-670-EB-35-950-EB-40-1150/- P.M. plus other allowances as admissible under Rules.

2. They will be on probation for a period of 2 years with effect from the dates they take over charge of the posts. The dates for their joining at the training centre at Phillaur shall be treated as their dates of joining duties.

3. They will report for joining duty first to the Principal, Police Training College, Northern Zone Maharaja Ranjit Singh Fort Phillaur, Punjab on 31.3.75 for undergoing the training course commencing from 1.4.75.

1. Shri Mungleppam Shyamanand Singh.
2. Shri Songate Lalrosem.
3. Shri Md. Abdur Rahman Shah.
4. Shri Mayanglambam Sushil Kumar Singh.
5. Shri Ahanthem Romenkumar Singh.
6. Shri Moirangthem Shantikumar Singh.
7. Shri Sarangthem Dinokumar Singh.
8. Shri Achom Rajendro Singh.
9. Shri Wangkhem Meenakumar Singh.
10. Shri C. Yangya.
11. Shri Sante Tualchinkham.
12. Shri Salam Ibosana Singh.
13. Shri Ngamkhohen Kipgen.
14. Shri Moirangthem Kirnajat Singh.
15. Shri Soitinkhup Vaiphei.

Attested  
of  
Advocate.

P.T.O.



(15)

-2-

16. Kumarl R.K. Radhesana Devi.
17. Shri N. Ngaraipam.
18. Shri L. Khaizamang Haokip.
19. Shri Khwairakpam Netra.

By order and in the name of  
the Governor.

( W. Ithochaoba Singh )

Joint Secretary to the Government of Manipur.

- Copy to :-
- 1) The Secretary to the Governor of Manipur, Raj Bhavan, Imphal.
  - 2) The Secretary/P.A(Sr)/P.A. to the Chief Minister/Ministers/ State Ministers/Deputy Ministers, Manipur.
  - 3) The Secretary, Manipur Public Service Commission, Imphal with reference to his letter No.7/80/73-MPSC(DR) dated 11.10.74 and in continuation of this Govt. letters of even numbers dated 20.3.75 endorsed to him. Out of the 20 candidates recommended by him, one has not accepted the offer of appointment as yet. His appointment order will be issued on receipt of his acceptance of the offer.
  - 4) The Accountant General, Manipur, Imphal.
  - 5) The Inspector General of Police, Punjab Cantt, Gurgaon. The above candidates have been instructed to report to the Principal, Police Training College, Phillaur Punjab on 31.3.75 for the training course, to be started from 1-4.75.
  - 6) The Principal, Police Training College, Northern Zone, Maharaja Ranjit Singh Fort Phillaur, Punjab. The above candidates have been instructed to report to him on 31.3.75. Two more seats may kindly be kept reserved. 6 copies of taking over charge by these candidates may be taken from each candidate out of which 5 copies may kindly be sent to this Govt.
  - 7) The Inspector General of Police, Manipur for information and necessary action.
  - 8) The Treasury Officer, Imphal.
  - 9) The Supdt. Govt. Press, Manipur for publication in the gazette.
  - 10) All concerned persons.
  - 11) Guard file.

-(6)-

- 12) The Registrar Co-Operative Societies, Manipur, Imphal for favour of releasing Shri Samte Tualchinkham, As Inspector Co-Operative, immediately.
- 13) The Publicity Officer, Manipur, Imphal for favour of releasing Shri Soitinkhup Vaiphei, Public Relation Officer, Manipur immediately.
- 14) The Inspector General of Police, Manipur, Imphal for favour of releasing Shri Kh. Netra Singh, S.I (CID) immediately.
- 15) The Principal, Adimjati High School, Imphal for releasing Shri Ngamkohen Kipgen, Asstt. Teacher, Adimjati High School, Imphal immediately.
- 15) The Accountant General, Manipur, Imphal for favour of releasing Sarvi Shri M. Karnaajit Singh and S. Dinkumar Singh immediately.
- 16) The Principal Don Bosco High School, Churachandpur for favour of releasing Shri Lalrosem Songate, Asstt. Teacher immediately.
- 17) The Principal Moirang College, Moirang for favour of releasing Shri S. Ibosana Singh immediately.
- 18) The Principal Phungyar Higher Sec. School, Ukhrul.
- 19) The Principal Maharaj Bodhachandra College, Imphal.
- 20) The Principal Imphal College.
- 21) The Principal G.P. Women's College, Imphal.
- 22) The Principal, Mambol Lakshram Sanol College.
- 23) The Principal, D.M. College, Imphal.
- 24) The Director of Education, Govt. of Manipur.
- 25) The Secondary Education, Govt. of Manipur, Imphal. He is requested kindly to release the all the persons concerned to release the persons concerned serving under Education Deptt. immediately.

For  
informa-  
tion  
and  
necessary  
action.

(17)

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39

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMN. REFORMS  
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 18th May, 1984.

No. 3/178-MPS/DP(PT). In exercise of the powers conferred by Rule 23 of the Manipur Police Service Rules, 1965, the Governor of Manipur is pleased to confirm the following officers to Manipur Police Service Grade-II with effect from the dates shown against their names:-

Sl. No.	Name of Officer	Effective date for confirmation
1	S/Shri	2
(1)	N. Shyamamanda Singh	25-6-77
(2)	Md. Abdur Raheman Singh	16-8-77
(3)	Kalu Singh Rai	7-10-76
(4)	M. Sachilkumar Singh	2-9-80
(5)	A. Romenkumar Singh	4-5-77
(6)	S. Dinokumar Singh	13-7-77
(7)	A. Rajendro Singh	20-2-78
(8)	Th. Kunjabihari Singh	7-10-76
(9)	W. Mochakumar Singh	20-2-78
(10)	Th. Jugeswar Singh	26-2-83
(11)	S. Tualchindum	1-3-80
(12)	S. Ibosma Singh	8-7-77
(13)	Athoinnei Kabul	12-11-76
(14)	H. Chandrakumar Singh	7-10-76
(15)	M. Karmajit Singh	3-7-77
(16)	S. Vidphoi	29-8-81
(17)	Smt. R.K. Radhoman Devi	25-6-77
(18)	Ch. Priyokumar Singh	7-10-76
(19)	H. Nganripun	1-3-80
(20)	L.K. Hrakip	1-3-80
(21)	M. Joykumar Singh	7-10-76
(22)	Rh. Nola	3-7-77

contd. page 2/-

*[Signature]*

Attested  
*[Signature]*  
Advocate

-(2)-

2. Further, the Governor of Manipur is pleased to order that the different date of confirmation of M.P.S. Officers will not affect or alter the inter-se-seniority of direct recruits and promotees which was fixed vide Government order No. 23/19(MPS)/DP dt. 23.9.1982.

By orders and in the name of the Governor,

(A. DWIJANI SINGH)

DEPUTY SECRETARY (DP): GOVERNMENT OF MANIPUR

- Copy to:-
- 1) The Spl. Secretary to the Governor, Manipur Raj Bhavan, Imphal.
  - 2) The Secretary to Chief Minister, Govt. of Manipur.
  - 3) All P.S. to Ministers/State Ministers/Chief Secy./Principal Secretary, Govt. of Manipur.
  - 4) The Vigilance Commissioner, Govt. of Manipur.
  - 5) The Inspector General of Police, Manipur.
  - 6) The Secretary (Home), Govt. of Manipur.
  - 7) All D.I.Gs/S.Ps/Commandants, M.R. of Police Deptt., Manipur.
  - 8) The Accountant General, Manipur.
  - 9) All Treasury Officers, Manipur.
  - 10) All Officers concerned.
  - 11) The Director, Printing & Stationery, Manipur for publication in the gazette.
  - 12) Guard file/ Personal files.

(19)  
Amerson  
A  
41

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMN. REFORMS  
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 31st May, 1988.

No. 3/9/87-MPS/DP. On the recommendation of the Manipur Public Service Commission and in exercise of the powers conferred under Rule 29-A of the Manipur Police Service Rules, 1965, the Governor of Manipur is pleased to appoint the following Officers to the Manipur Police Service Selection Grade scale of Rs. 1560-70-1840-EB-80-2240/- (pre-revised) with effect from the dates mentioned against their names:-

Sl. No.	Name of Officer	On regular basis.	On officiating basis.
<u>S/Shri</u>			
1)	A. Pradeep Singh	- 1-3-81	
2)	K. P. Singh	- 26-11-81	
3)	N. K. Mukhopadhyay	- 26-11-81	
4)	K. Kannan	- 26-11-81	
5)	D. Mishra	- 1-12-83	
6)	P. C. Sharma	- 1-12-83	
7)	M. Shyamananda Singh	- 29-8-85	
8)	A. Ramenkumar Singh	- 29-8-85	
9)	Md. Abdur Rahaman	- 11-9-86	
10)	M. Sushilkumar Singh	- 11-9-86	
11)	S. Dinakumar Singh	- 30-4-87	
12)	W. Meenakumar Singh	- 30-4-87	
13)	Th. Jugeswar Singh	- 20-7-87	
14)	S. Ibasona Singh	- 20-7-87	
15)	N. Kingon	-	27-5-88
16)	H. Chandrakumar Singh	-	27-5-88

2. Further, the Governor of Manipur is also pleased to confirm the Officers under serial No. 1 to 9 above to the Selection Grade Scale of M.P.S. with effect from the dates mentioned against their names.

By order & in the name of  
the Governor,

Attested  
H  
Advocate

(Ng. Luikham)

Deputy Secretary (DP), Govt. of Manipur.

P.T.O.

(20)  
- (2) -

Memo. No. 3/8/87-MPS/DP. Imphal, the 31st May, 1988

Copy to:-

- 1) The Spl. Secy. to Governor, Raj Bhavan, Imphal.
- 2) The Secretary to Chief Minister, Govt. of Manipur.
- 3) All P.S. to Ministers/State Ministers/Chief Secretary, Govt. of Manipur.
- 4) The Vigilance Commissioner, Govt. of Manipur.
- 5) All Commissioners, Govt. of Manipur.
- 6) The Director General of Police, Manipur, Imphal.
- 7) The Secretary, Manipur Public Service Commission, Imphal w.r.t. their letter No. 8-A/54/87-MPSC(P) dated 19-4-88.
- 8) All D.I.Gs/S.Ps/Commandants of M.Ps, Police Deptt., Manipur.
- 9) The Joint Secretary (Home), Govt. of Manipur.
- 10) The Accountant General, Manipur, Imphal.
- 11) All Officers concerned.
- 12) All Treasury/Sub-Treasury Officers, Manipur.
- 13) The Director, Printing & Stationery, Manipur for publication in the gazette.
- 14) Guard file/Personal files.

(Ng. Lunghum)

Deputy Secretary (DP), Govt. of Manipur

No.3/15/88-IPS/DP  
GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMN. REFORMS  
(PERSONNEL DIVISION)

Annexure 4  
WJ

To

Imphal, the 16th July, 1990.

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Subject:- I.P.S.- Selection Committee Meeting for promotion to  
Manipur Cadre.

Sir,

I am directed to refer to Commission's letter No.F.7/12(2)/89-AIS dated 30-4-90 on the above subject and to state that in view of the legal constraint arising out of order dated 22-9-89 of Hon'ble Gauhati High Court, Imphal Bench in the case of Shri Th. Joykumar Singh, MPS, the State Govt. was not in position to submit the names of eligible State Police Service officers for promotion to I.P.S. Manipur Part. Now the State Govt. after due examination have issued a revised seniority list of the State Police Service officers. Accordingly I am to send herewith the following information/documents in respect of the eligible State Police Service officers of Manipur Part to be considered for promotion to I.P.S. as on 1-4-90 as desired.

- (a) Seniority list giving particulars of the 7(seven) State Police Service officers who are eligible for consideration for promotion to I.P.S. as on 1-4-90 in the prescribed proforma (Annexure-A).
- (b) Upto-date character Rolls of 7(seven) eligible officers (Annexure-B).
- (c) The number of senior duty posts borne against item 1(one) of the IPS (Fixation of Cadre strength) Regulations, 1955 in Manipur Part of the Joint IPS M-T Cadre is 31 and the number of senior duty posts shown against item 2(two) of Manipur Part is 12.
- (d) At present there is no any substantive vacancy in the promotion quota of Manipur Part of the Joint M-T Cadre. However, there is 1(one) anticipated vacancy due to retirement of one promotee officer during this year.
- (e) The SC/ST officers eligible to be considered for promotion to IPS are indicated against the name of the officer (Annexure-A).
- (f) Integrity Certificate in respect of the eligible officers is enclosed (Annexure-C).

Attested

P.  
Advocate.

P.T.O.



(g) Certificate in respect of adverse remarks made in the ACR of eligible officers is enclosed (Annexure -D).

It is, therefore, requested that the Selection Committee Meeting may kindly be convened as Special case for consideration of the cases of the State Police Service officers for promotion to IFS Manipur part at an early date.

Yours faithfully,

(H. J. J. J. J.)  
Deputy Secretary (DP), Govt. of  
Manipur

Memo. No. 3/15/33-IPS/EP dated the 13th June, 1990.

Copy to :-

- 1) The Secretary,  
Government of India, Ministry of Home Affairs,  
New Delhi.
- 2) The Chief Secretary,  
Government of Tripura, Agartala.

(H. J. J. J. J.)  
Deputy Secretary (DP), Govt. of Manipur.



(23)

ANNEXURE-1

Particulars of State Police Service Officers Eligible for inclusion in the Select List for promotion to the I.P.S. as on 1-4-90.

Remarks

Sl. No.	Name of officer	Date of birth	Whether had substantive appointment in State Police Service.	Date of commission in State Police Service	Date of continuous commission as I.P.S. or equivalent post.	Date of continuous commission in I.P.S. Cadre Post.	Remarks
1.	D.V. SETHI	6-2-45	Yes	6-2-74	1-12-71	11-3-82 to 23-4-85 and 16-8-87 to date	Select list officer.
2.	M. C. K. K. (SC)	1-1-43	Yes	1-12-73	1-12-71	-	Select list officer
3.	M. J. J. SINGH	1-9-39	Yes	7-10-76	7-10-74	12-9-85 to 23-6-89	-
4.	M. A. A. A.	2-4-42	Yes	16-2-77	25-3-75	6-10-83 to 27-9-86 & 27-10-83 to 15-3-89	Not yet confirmed in S.P.S.
5.	M. S. S. SINGH	1-3-51	Yes	2-9-82	25-3-75	-	-
6.	M. S. S. SINGH	1-9-51	No.	-	25-3-75	21-7-84 to 9-11-88	-
7.	S. D. SINGH	1-3-48	Yes	13-7-77	-	-	-

Attended  
Advocate

Deputy Secretary (DP), Govt. of H.P.

No. 3/2/95-IPS/DP  
Government of Manipur  
Department of Personnel & Admnv. Reforms  
(Personnel Division)

Annexure 15  
u

Imphal, the 25th of Feb., 95.

To

The Secretary  
Union Public Service Commission, Dholpur House,  
Shahjahan Road, New Delhi-110011.

Sub:- Selection Committee Meeting for preparation of  
Select List for promotion to IPS, M-T Cadre during  
1994-95.

Sir,

I am directed to invite a reference to your D.O. letter  
No. F.4/7/94-AIS dated 5-9-94 on the above subject and to fur-  
nish the following information/documents in respect of State  
Police Service officers of Manipur Part who are eligible for  
consideration for promotion to I.P.S. as on 1-4-1994.

- (1) Seniority list giving particulars of 10(ten)  
State Police Service officers who are eligible for  
promotion to IPS as on 1-4-1994 (Annexure-A)
- (2) The number of senior duty posts borne against item  
1(one) of the IPS(Fixation of Cadre Strength)  
Regulations, 1955, in Manipur Part of the Joint IPS  
M-T Cadre is 34 and the number of Senior Duty  
posts shown against item 2(two) of Manipur Part is 14.
- (3) Two anticipated vacancies will be available w.e.f.  
1-11-95 and 1-12-95 vice Shri I.M. Vohra and A.T.  
Thiruvengadam who are retiring on 31-10-95 and  
30-11-95 respectively.
- (4) Complete and upto date A.C.Rs. of 10(ten) eligible  
officers alongwith the certificate for not recording  
the lacking A.C.Rn. (Annexure-B).
- (5) The SC/ST officers eligible to be considered for  
promotion to IPS are indicated against the names  
of the officers (Annexure-A).
- (6) Integrity certificate in respect of eligible  
officers duly signed by the Chief Secretary is  
being sent shortly.
- (7) Certificate regarding officers against whom disci-  
plinary proceedings are pending (Annexure-C) is being sent  
separately.
- (8) Certificate in respect of adverse remarks made in  
the ACR of eligible officers is enclosed in triplicate  
(Annexure-D).

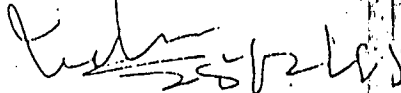
P.T.O.

Attended  
P.  
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It is therefore requested that the Selection Committee Meeting may kindly be convened at an early date.  
Kindly acknowledge receipt.

Yours faithfully



( Kh. Tuleshwar Singh )  
Under Secretary (DP), Government of  
Manipur.

Copy to:-

1. The Secretary, Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Chief Secretary, Govt. of Tripura, Agartala.

(26)

## ANNEXURE - A

Particulars of State Police Service Officers eligible for inclusion in the Select List for promotion to the I.P.S. as on 1-4-1994.

Sl. No.	Name of Officer	Date of Birth	Whether held substantive appointment in State Police	Date of confirmation in State Police Service.	Date of continuous service as Dy. SP or equivalent post.	Date of continuous service in I.P.S. Cadre Post.	Remarks
1.	ERIC KHA (SC)	1-1-1943	Yes	1-12-1973	1-12-1971	—	Posting only.
2.	M. Shanilkumar Singh	1-9-1951	Yes	2-3-1989	25-3-1975	29-12-93	Posting only.
3.	A. Rajendro Singh	28-6-1950	Yes	20-2-1978	25-3-1975	21-10-88 to 30-11-90 & 18-7-92 to date.	Posting only.
4.	M. Heenakumar Singh	15/9/1948	Yes	20-2-1978	25-3-1975	7-12-1984 to date.	Posting only.
5.	S. S. Tulchinkham (ST)	1-3-1947	Yes	1-3-1980	25-3-1975	22-2-93 to 28-12-93	Posting only.
6.	S. Idosana Singh	1-8-1950	Yes	8-7-1977	25-3-1975	—	Posting only.
7.	R. K. P. Gen (ST)	1-3-1948	Yes	19-2-1978	25-3-1975	1-12-90 to 29-10-92	Posting only.
8.	H. Karnajit Singh	1-3-1950	Yes	3-7-1977	25-3-1975	27-9-86 to date	Posting only.
9.	S. Valiphet (ST)	2-3-1944	Yes	29-8-1981	25-3-1975	24-1-86 to 30-11-90	Posting only.
10.	Sat. R. K. Radhasana Devi	1-7-1948	Yes	25-3-1977	25-3-1975	—	Posting only.

Attended  
Advocate

(27)

ACST IMMEDIATE

Annexure 16

No. I-14011/30/95-LPS-I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Manttralaya

24-12-95

New Delhi, dated the

24/12/95

N O T I F I C A T I O N

In exercise of the powers conferred by sub-rule (1) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint the following member of Manipur Police Service to the cadre of Manipur- on probation, and to allocate him to the Indian Police Service (Cadre) Rules, 1954. The appointment will take effect from the date of issue of this Notification.

Sl. No.	Name of the Officer	Date of birth
1.	Shri W. Meenakumar Singh	01-09-1948

Attended  
By  
Advocate

UNDER SECY. TO ( M.L. MIGLARI )  
THE GOVT. OF INDIA.  
TEL: 2011527.

.....2/-

No. I-14011/30/95-IPS-I.

Dated the

27/12/95

A copy each is forwarded to:-

1. The Chief Secretary to the Government of Manipur (Attn. Sh. Birad Kispotta, Jt. Secy. (LP), Deptt. of Pers. & A.R. (Personnel Division) Imphal, w.r.t. their letter No. 3/8/95-IPS/LP dated 6-11-95 (with two spare copies for onward transmission to the officers concerned.).
2. The Accountant General, Manipur, Imphal.
3. The Secretary, UPSC, Attn. Sh. N. Namasivayam, Under Secy., New Delhi.
4. The LG & IGP, Manipur, Imphal.

( M.L. NIGLASHI )  
UNDER SECY. TO THE GOVT. OF INDIA

15 spare copies for IPS Section.

No. I-14011/30/95-IPS.I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya

Annexure / 7

New Delhi, the 11/1/96

NOTIFICATION

In exercise of the powers conferred by sub-rule (2) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 3 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint the following member of Manipur Police Service to the Indian Police Service on probation, and to allocate him to the cadre of Manipur-Tripura under sub-rule (1) of rule 5 of the Indian Police Service (Cadre) Rules, 1954. The appointment will take effect from the date of issue of this Notification.

Sl.No.	Name of the Officer	Date of Birth
1.	Shri N. Kipgen	01-03-1943

(M.L. MIGANI)

UNDER SECY. TO THE GOVT. OF INDIA.  
TELE NO.: 3011527

No. I-14011/30/95-IPS.I.

New Delhi, the 11/1/96

A copy each is forwarded to:-

1. The Chief Secretary to the Govt. of Manipur (Attn. Shri. Binod Kipetta, Jr. Secy) Deptt. of Personnel & AR (Personnel Division), Imphal w.r.t. their letter No. 3/8/95-IPS/DP, dated 04-12-95 (with one spare copy for onward transmission to the Officers concerned).
2. The Accountant General, Manipur, Imphal.
3. The Secretary, UPSC (Attn. Shri N. Namasivayam, Under Secretary, New Delhi).
4. The DGM ICP, Manipur, Imphal.

(M.L. MIGANI)

UNDER SECRETARY TO THE GOVT. OF INDIA.  
TELE NO.: 3011527

15 spare copies for IPS Section.

Attached  
#1  
Associate

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19/11/94  
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Amara (8)

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Govt. of Manipur  
Department of Personnel & Adminv. Reforms  
(Personnel Division)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 15th of Nov., 1994.

No.18/58/94-MPS/OP: Whereas the Governor of Manipur is satisfied that in the interest of the security of the state, it is not expedient to hold inquiry against Shri M.Sushilkumar Singh, MPS, Superintendent of Police, Tamenglong district, Manipur.

Now, therefore, the Governor of Manipur, in exercise of powers conferred upon him under Article 311(2)(c) of the Constitution of India hereby compulsorily retires the said Shri M.Sushilkumar Singh, MPS, from government service with immediate effect.

By order and in the name of the  
Governor

*[Signature]*  
15/11/94.

( Kh.Tuleshwar Singh )  
Under Secretary (OP), Government of  
Manipur.

Copy to:-

1. The Secretary to Governor, Raj Bhavan, Imphal, Manipur.
2. The P.S. to Advisor(P)/Advisor(H)/Chief Secretary, Government of Manipur.
3. The Director General of Police, Manipur, Imphal.
4. The Accountant General(H&E), Manipur, Imphal.
5. The Special Secretary(Home), Govt. of Manipur.
6. The person concerned.
7. All Deputy Commissioners/Manipur.
8. All IGP/DIGs/SPs/Comdts., Manipur.
9. All Treasury Officers, Manipur.

Attested  
P/  
Advocate.



to of appli- Date fixed for Date of delivery Date on which Date on making  
tion for the notifying the of the requisite the copy was ready over the  
copy. requisite stamp & folios, ready for copy to the  
number of stamps and folios. delivery. applicant.

IN THE GAUHATI HIGH COURT  
HIGH COURT OF ASSAM, NAGALAND, MIZORAM, MANIPUR, TRIPURA  
AND ARUNACHAL PRADESH.

IMPHAL BENCH  
MANIPUR

CIVIL RULE NO. 1306 OF 1994.

Shri Mayanglambam Sushilkumar Singh .

PETITIONER

-Versus-

The State of Manipur & Ors.

RESPONDENTS

B E F O R E

THE HON'BLE MR JUSTICE N.S.SINGH.

For the petitioner : Mr.N.Kotishwor Singh.  
Advocate.

For the respondents : Mr.L.Shyamkishore Singh.  
Sr.Government Advocate.

Dates of hearing : 19.11.96, 20.11.96 & 21.11.96.

Date of delivery of : the 14th March, 1997  
Judgment.

JUDGMENT & ORDER

An order dated 15th November, 1994 issued by the Government of Manipur, Department of Personnel and Administrative Reforms ( Personnel Division ) allowing the writ petitioner to retire compulsorily from the Government service with immediate effect by invoking the provisions of law contemplated under Article 311(2) (c) of the Constitution of India, as in Annexure A/11-1 to the writ petition, is the subject matter under

Attested  
By  
Advocate.



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- 2 -

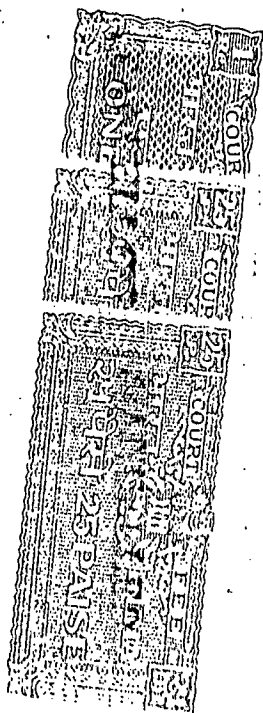
challenge in this writ petition.

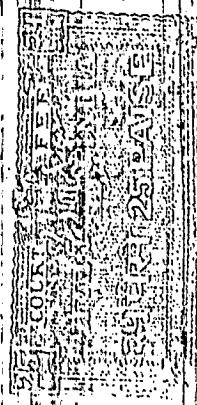
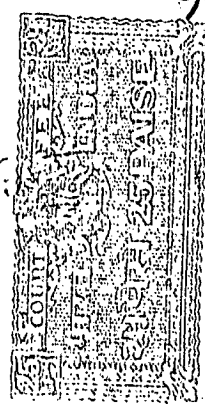
2. Having heard Shri N. Kotishwor Singh, learned counsel for the petitioner and Shri L. Shyamkishore Singh, learned senior Government Advocate, for the respondents, it appears that the writ petitioner has prayed inter alia:

- A. A Writ in the nature of Certiorari for quashing the impugned order as in Annexure-A/14-1;
- B. A Writ in the nature of Mandamus directing the respondents to revoke or recall the impugned order as in Annexure-A/14-1;
- C. A Writ or order directing the respondents to reinstate the petitioner to service to a suitable post, with back pay and allowances and any direction or order appropriate in the nature of the case and cost of the petition;

*m. v. G.*

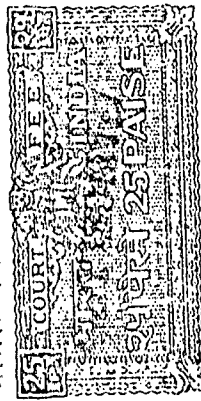
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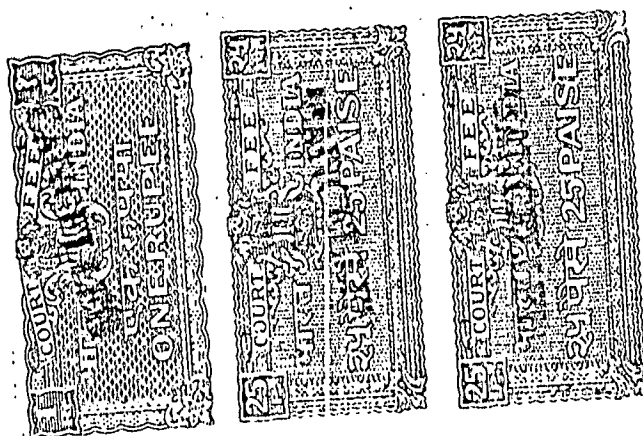
3. According to the writ petitioner, he is a B.A.Hons. and M.A. Economics in educational qualification and he was appointed as a member of Manipur Police Service ( hereinafter referred to as M.P.S.), on the recommendation of the Manipur Public Service Commission, ( in short M.P.S.C. ) vide order dated 25.3.1975 passed by the Joint Secretary, to the Government of Manipur. After the said appointment, the petitioner was deputed to Phillaur, Punjab for getting training in the Police Training College and on completion of the training, he came back and started discharging his duties in different capacities and at different place of postings as an M.P.S. Officer and in the meantime, his service as an M.P.S. Officer was duly confirmed vide an order dated 18th May, 1984 along with other officers and in the said confirmation order, his name appears at serial No. 4. By another Government order dated 31st May, 1988, the petitioner was appointed along with other 15 officers to the Selection Grade of the Manipur Police Service and in the said order was given effect from 11th September 1986. After serving at different place of posting including hill areas, the petitioner lastly transferred to Tamenglong District, Manipur <sup>while he was working</sup> as Superintendent of Police in the Narcotics and Border Affairs Cell.

11/10/88



- 34 -

It is also the case of the writ petitioner that during his last 19 years of services, he apart from successfully completing the Departmental Examination, he had also successfully undergone the training, namely, (i) Elementary Course in Criminology and Forensic Science ( New Delhi ), (ii) Weapon and Tactics Course ( Indore ), (iii) Fundamental Course in Criminology, and Forensic Science ( New Delhi ), (iv) Management Course at (IIPA, New Delhi ). He had also earned various achievements and the instance has been cited by the writ petitioner while <sup>he was</sup> posted <sup>at</sup> Senapati District, an ambush took place, during <sup>with</sup> the petitioner not only escaped unhurt and high risk to his life, but also could catch hold and arrest a member of dreaded underground force of NSCN and also seized <sup>a</sup> Chinese make machine gun M 22 with 49 rounds. In that connection a case being F.I.R. No. 23(8)1991 Senapati Police Station, U/S 121, 121-A, 307 IPC, 3(2)9(11) TDAP and 25(1)(a) of Arms Act, <sup>was registered.</sup> It is also contended that the petitioner after taking over charge of the post of Superintendent of Police, Tamenglong District, a sensitive and vulnerable to underground activities area, took up many measures for effective maintenance of law and order in the District and while checking up, he also found that there were shortage in strength of Police personnels in different ranks and, as such, when an



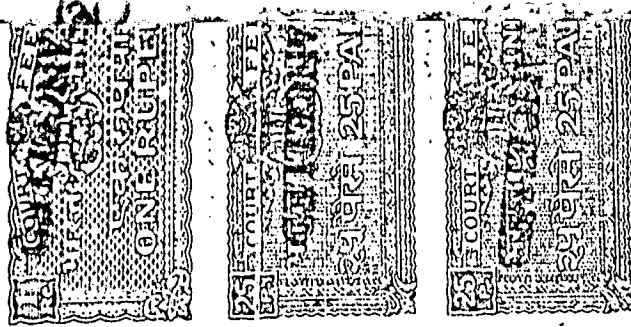
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enquiry has been made to the District Head Quarter about the deployment of police personnels, the petitioner had submitted the deployment chart in the District along with other chart showing the shortage in the sanctioned strength of the District under his forwarding letter dated 4-10-1994 as in Annexure-A/7-1, Annexure-A/7-2 and Annexure-A/7-3 to the writ petition. He also expressed the grievances of the District in the matter of shortage in the man-power as well as number of good condition vehicles etc. It is also further averred that in view of the recent underground activities in and around the District and other ethnic group clashes leading to serious consequences, he being alert and mindful of his duties also wrote a letter dated 24-10-94 to the Post Commander C.R.P.F., which was posted in the District after prior consultation with higher rank of C.R.P.F. to extend their patrolling duties to some strategic locations, which may be used as access points by underground elements after detailed discussion with I.G.P., C.R.F.F. and I.G.P. L/O, Manipur in the office room of I.C.F. (L/O) on 19-10-1994. He also apprised to the Director General of Police of the prevailing situation with a request to strengthen the Police Organisation of the <sup>Jamanglung</sup> District. The petitioner went on to state that the situation in the District

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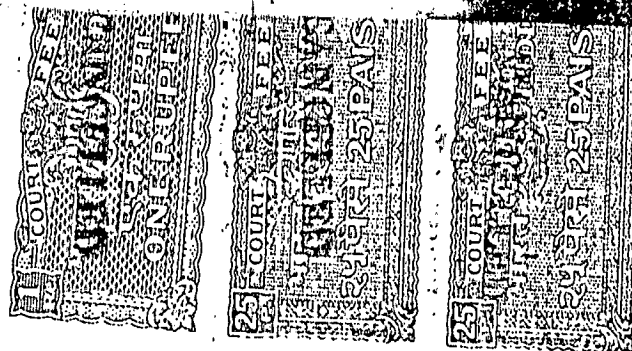


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became worsened due to various occurrences of ethnic clashes between the Naga and Kuki group, and one of such occurrences which took place on the night of 31st October, 1994, some unidentified miscreants belonging to one group shoot one Kaizachawan Paite, who belongs to Paite tribe, as a result, as many as seven (7) employees belonging to the same tribe who were posted at Tamenglong had left the Tamenglong Head Quarter under Police escort and under the supervision of the writ petitioner. Moreover, the Assistant Director of Sericulture/Tassar, in the Industries Department, who was one of them, submitted a report to the Deputy Commissioner, Tamenglong, on 1-11-1994 before these persons left Head quarter, requesting for transferring all of them outside the District and in the night of 31st October, 1994, all these paite officials were given shelter in the District Head quartex at Tamenglong for their safety. It is further avexred that as the tension died down, the petitioner as a follow up action of earlier pressures/ quaries, from the Head Quarter, sent a wireless message to D.I.G.Range on 4-11-1994, intimating that the peti-tioner would be leaving the station for Imphal on the same day to discuss some important matters including preparatory works for the coming General Election.

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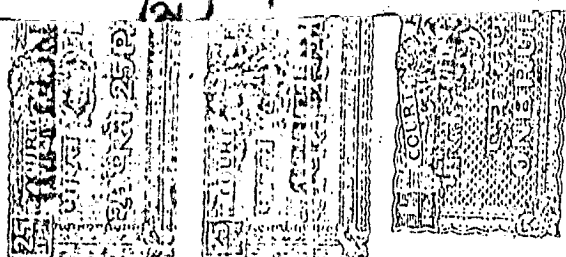
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as repeated reminders had come from the Head quarter in that respect and at the same time the petitioner also directed the S.D.F.D. Nungba, to look after the normal routine works/duties of the S.P. during his absence, and, thereafter, the petitioner proceeded for Imphal in the after noon of 4-11-1994 and he also escorted two Paite officials, namely, K.Chungzathang, Assistant Director of Sericulture and KM Jalam Paite, U.D.C./Senior Accountant of Treasury Office of Tamenglong along with him, since they were taking shelter in the District Police station being afraid of their lives. According to the writ petitioner, 5th November, 1994, being a State Holiday due to 'NINGOL CHAKOUBA' the petitioner deferred the proposed discussion with his Superior Officers including D.I.G. Range and DIG/OPs in order to hold the same on the next working day, but, he went to the residence of the Inspector General of Police ( Law & Order ) and apprised him about the situation, and requested him to provide immediate requirements as requested earlier, in view of the mounting problem of the Law and Order in the District. Over and above, the said discussion, the petitioner also had to collect certain documents and informations from the Food and Civil Supplies Department in connection with a complaint from D.C.Tamenglong

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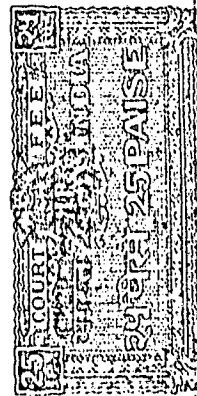
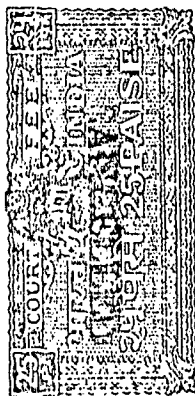


- 38 -



regarding large scale misappropriation of sale proceeds of rice and sugar in the District. However, to the surprise of the petitioner on the night of 5-11-1994 i.e. the next day of his arrival at Imphal, he was informed that during his absence, the arms and ammunitions from the Police Reserve Line were snatched away by the suspected NSCN by over-powering the sentries and on hearing the said information the petitioner immediately rushed to Tamenglong on the same night and reached there at about 8 A.M. in the morning of 6-11-1994 and, on reaching there he found the Director General of Police, Manipur and the Deputy Inspector General of Police, Range, and they along with the petitioner jointly conducted search and raid operation in the locality during which they recovered some arms and ammunitions. According to the writ petitioner both the Officers left the place and whereas the petitioner stayed behind, and continued the operations and in the course of further enquiry, he found some circumstances, which show sings of connivances between the Sentries and the miscreants and in that connection a case being F.I.R. No. 67(11)1994 under Section 457, 382, 121-A I.P.C. was duly registered. It is also contended that while the petitioner was at his place of posting at Tamenglong, he was telephonically informed by the D.I.G. Range that his presence at Imphal, is necessary and, as such, he should come to Imphal and accordingly, he reached Imphal on 16th November, 1994 and met the D.I.G. Range, but to surprise, he was asked to hand over the charge to the





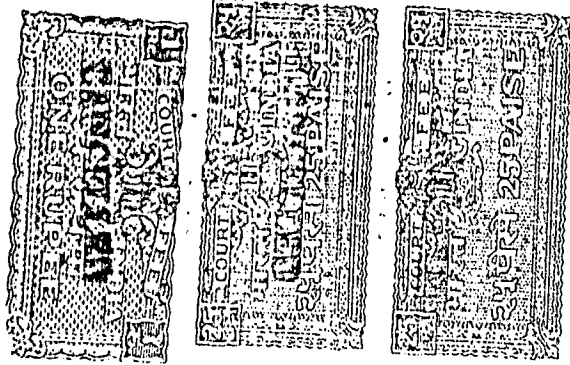
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O.C./5th Manipur Rifle Commandant, only then the petitioner had got some scent that something had happened and on enquiry he was given compulsory retirement.

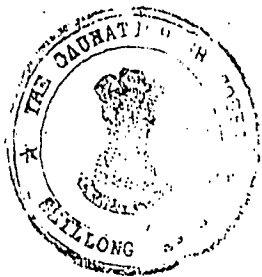


4. According to the writ petitioner, the order of removal of the petitioner was issued under Article 311(2)(c) of the Constitution of India, purporting to be in the interest of the security of the State without stating the material facts and without any materials on record. As per contention of the writ petitioner, during the last about 10 years many occurrences or incident which are <sup>✓</sup> <sup>✓</sup> similar in nature of the incident/occurrence of 5th November, 1994 took place and, as such, the said occurrence at Tamenglong is not an unusual occurrence and almost every day there has been shooting and killing at a particular place and snatching of arms from security forces either by raiding police station, <sup>or</sup> by laying ambushes on petrolling parties, but no action has been taken against any of the Superintendent of Police of the District or Commandant of the Petrol, but only the petitioner has been singled <sup>d</sup> out and action has been taken against him by invoking Extra-Ordinary Provision <sup>✓</sup>

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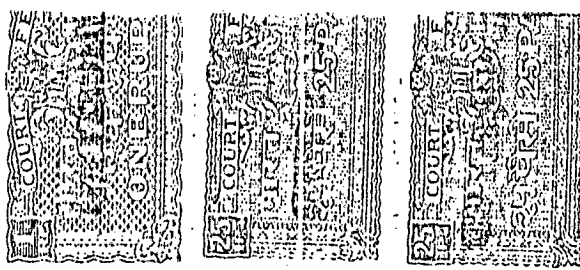
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of Law contemplated under Article 311(2)(c) of the Constitution of India. The petitioner, in this regard has also cited a case in which the Commandant of the 2nd Bn. of Manipur Rifle who ~~was~~ charged for illicit supply of olive green uniform meant for Manipur Rifle Jawan to the underground force of NSCN, for which an enquiry is pending and is still going on and has been kept under suspension by following the normal disciplinary proceeding; <sup>but now reinstated to service.</sup> It is also the case of the writ petitioner that he submitted a representation dated 3rd December, 1994 addressed to His Excellency, the Governor of Manipur, since the State of Manipur has been under President's Rule since 31st December, 1993 till 13th of December, 1994, requesting him to review or cancel the order of compulsory removal of the petitioner, but on enquiry the petitioner came to know that the said representation has not been attended by any person and hence this petition.

5. It is also the case of the writ petitioner that the materials on record clearly show that the impugned compulsory retirement order as in Annexure-A/14-1 is by way of penalty but by avoiding the Constitutional amendment laid down under Article 311(2) of the Constitution and as such the impugned order is ultra vires of the Constitutional provisions laid down under

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- 41 -

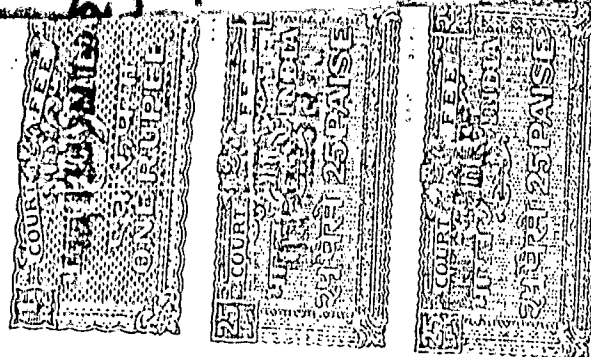
Article 311(2) of the Constitution of India, and the impugned order is mala fide and the same is based on extraneous and non existent grounds and, as such, the same is not legally sustainable. The petitioner also contended that the impugned order of compulsory retirement was passed for unauthorised and extraneous purpose where there is nothing on record to justify the compulsory and premature retirement of the petitioner.



6. The writ petition is opposed by the respondents by filing affidavit-in-opposition. Most of the allegations made by the writ petitioner have been controverted by the respondents in their affidavit-in-opposition. According to the respondents, in Manipur, not only in Tamenglong District but also other remaining Districts, there has been a sensitive and vulnerable underground activities and the security of the State is threatened and, as such, the State Government has been taking different measures for effective maintenance of law and order of Manipur and to help the Manipur Police in maintaining law and orders, the C.R.P.F. Personnels and Para-military Forces have also been deployed and specific instructions have been given by the police Head quarter ( P.H.Q. for short ) to all District Superintendents of Police not to leave station without

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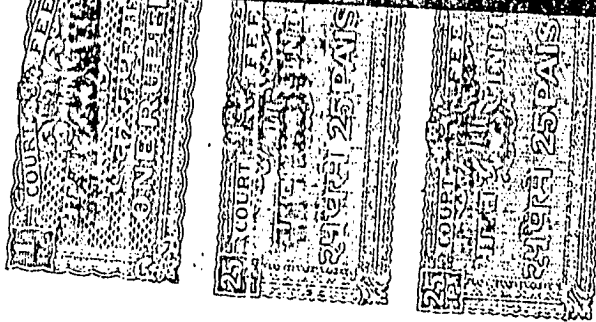
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permission from his Superior Officers well in advance. It is also the case of the respondents that in hill areas of Manipur the law and order situation is not good due to the activities of the underground elements and situation has worsened due to various occurrence of different ethnic clashes between the Naga and Kuki groups. It is also averred that the writ petitioner was posted at Tamenglong Head Quarter as District Superintendent of Police and he was fully responsible for maintenance of law and order situation at Tamenglong District and the petitioner was also fully aware of the worsening law and order situation at Tamenglong areas which are under his supervision and, inspite of knowing the worsening law and order situation and inspite of clear cut instructions to seek prior permission before leaving station, the petitioner who is the most responsible officer of the District, left the station on 4.11.94 without waiting further for any reply to his wireless message dated 4.11.1994. It is also further averred by the respondents that during the absence of the petitioner on the night of 5.11.1994 the fire arms and ammunitions from the Police Reserve Line at Tamenglong District were looted by the National Socialist Council of Nagaland ( for short N.S.C.N ) and prior to the



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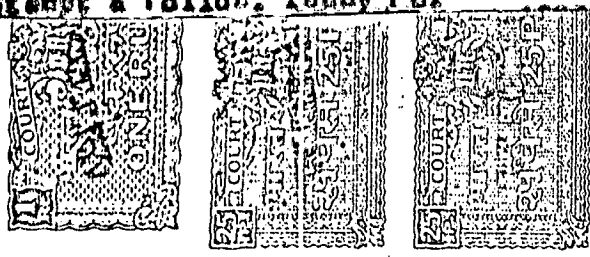
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- 43 -



incident, the petitioner did not take up measures to shift the whole arms and ammunitions to a secured and safe place either to Police station or the C.R.P.F. Camp although he had information of underground elements in that area and despite clear instructions issued by the Director General of Police, Manipur. According to the respondents they have examined the behaviour and conduct of the petitioner and the Government of Manipur was satisfied that the actions of the petitioner has jeopardised the security of the State and Government of Manipur and, as such, the Government of Manipur in exercise of the power given upon him under Article 311(2)(c) of the Constitution of India issued the impugned compulsory retirement order of the petitioner with immediate effect. The main contention of the respondents is that atleast the petitioner would have waited for reply of his wireless message before leaving his station and leaving station by a responsible Officer for a <sup>private</sup> thing is not called for, and in his absence the whole Police force at Tamenglong District was without proper command and leadership. and, as a result, of which the miscreants were able to do whatever they liked in collecting and snatching the arms which were kept in the disposal of the petitioner and as such the petitioner is fully responsible for looting of the

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- 44 -

arms and ammunitions from Police Reserve Line by suspected N.S.C.N and the impugned order was passed <sup>(emphasis laid)</sup> in the public interest and the same was issued in the interest of security of the State and there is no stigma nor any suggestion of misbehaviour. It is also contended by the respondents that the snatching of arms from Police Reserve Line Tamenglong Head Quarter by the miscreants in the absence of the petitioner is very much related with the security of the State. Therefore, the writ petition is misconceived and the same is liable to be dismissed, the respondent contended.



7. At the hearing of this petition, the first contention raised by Shri N.Kotishwor, learned counsel for the writ petitioner is that the materials on record clearly show that the compulsory retirement vide Annexure- A/14-1, is by way of penalty but avoiding the Constitutional mandates laid down under Article 311(2) of the Constitution and, as such, the order in Annexure-14/A-1, is ultravires of the Constitutional provisions laid down in the said Article. Shri Kotishwor further submitted that the provisions of Article 311 of the Constitution of India is concerned with the power of the appointing authority with regard to

- 1.) Dismissal, or;
- 2.) Removal, or
- 3.) Reduction in rank of the government employee

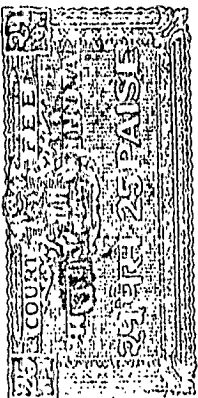
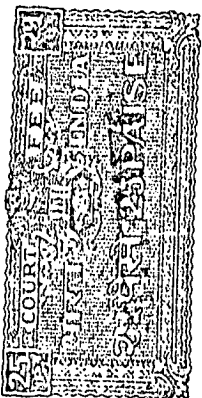
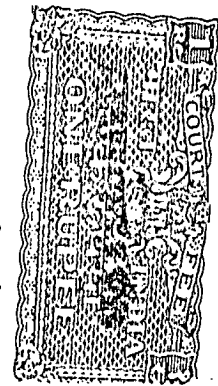
and the safeguards and exceptions with the exercise of said power.

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57

8. Learned counsel for the petitioner went on to state that the provision for compulsory retirement of government servant is provided rather laid down under the relevant service Rules governed by Rule 56(j) of the Fundamental Rules which are adopted by the Government of Manipur. Highlighting the relevant provision of the said Rule 56(j) Shri Kotishwor, submitted that compulsory retirement of a government servant can be effected by,

- (1) Giving Notice of not less than three months in writing or three months' pay and allowances in lieu of such notice,
- (2) or if the Government servant has attained the age of 50 years in case of Group 'A' or Group 'B' or in other case if the employee has attained the age of 55 years in the public interest. However, the respondents, instead of invoking the provisions of Fundamental Rule 56(j), has invoked the provisions of Article 311 (2) (c) for compulsory retirement of the writ petitioner. He also further contended that when the power of compulsory retirement is used by way of punishment by the appointing authority, provisions of the Article 311 can be invoked for protection of the concerned government employee, but, the competent authority cannot invoke the provisions of Article 311 as an enabling provision for compulsory retirement of a government servant. He also submitted that the impugned order suffers from fatal defect inasmuch as, there is no finding of the competent authority that the

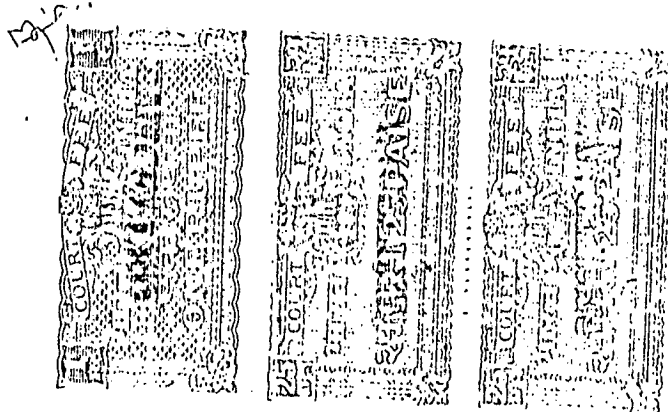


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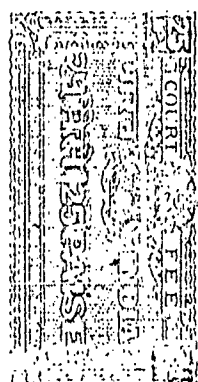
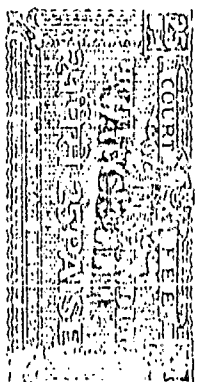
conduct of the petitioner was such that he deserves the punishment for dismissal or removal from his services in the form of compulsory retirement.

9. Supporting the case of the writ petitioner Shri Kotishwar, learned counsel for the writ petitioner relied upon certain decisions of the Apex Court rendered in Tulshiram Patel's case reported in 1985 (3) SCC 398, in A.K. Kaul and another Vrs. Union of India, and Ors., reported in 1995 (4) SCC 73 & in a case between The State of U.P. Vrs. Sri Shyam Lal Sharma, reported in 1972 (2) SCC 514, <sup>and</sup> submitted that misconduct, however, must be deserving of any of the major punishment of dismissal, <sup>or</sup> removal (including punitive compulsory retirement) or reduction in rank before the second (2) proviso of Article 311 of the Constitution of India can be put into operation and if the conduct of the incumbent concerned is such as to deserve a punishment different from those mentioned above, the second proviso cannot come into play at all, because Article 311 (2) is itself confined only to these 3 penalties. He also submitted that there is no material on record for imposing such penalty of compulsory retirement virtually amounting to dismissal or removal from services as against the writ petitioner and as such it is a clear <sup>case</sup> of non application of mind of the competent authority while <sup>2</sup> passing the impugned order. There is also no whispering





in the impugned order as to why it is not expedient to hold such enquiry as against the writ petitioner. In this regard, the respondents are not in a position to satisfy the reasons and the grounds for invoking the provisions of law contemplated under Article 311(2) (c) of the Constitution while passing the impugned order. There is also no material for establishing the fact that the writ petitioner deserves the punishment of dismissal or removal in the form of compulsory retirement on the ground of his misconduct as required by the related provisions of law. There is no subjective satisfaction of the competent authority while passing the impugned order, Shri Kotishwor, contended. Shri Kotishwor, went on to contend that almost every day there has been shooting and killing, at a particular place or other and snatching of arms from security forces, either by raiding police station by laying ambushes on patrolling parties and in this connection he drew the attention of this Court to the instances as narrated in a separate sheet appended to the writ petition and submitted that the petitioner has been singled out and imposed penalty of compulsory retirement amounting to dismissal or removal from services without any justification. He also submitted that the impugned compulsory retire<sup>ment order</sup> is by way of penalty by

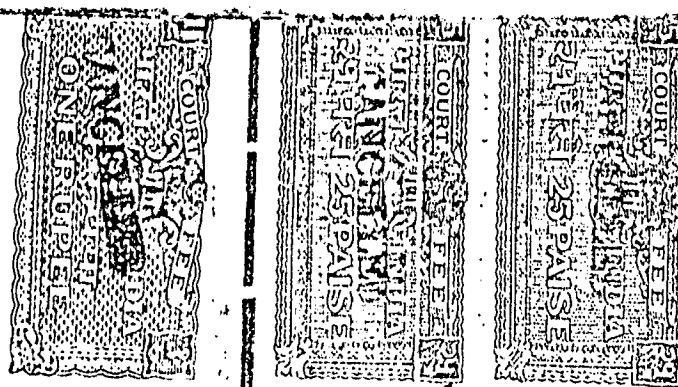




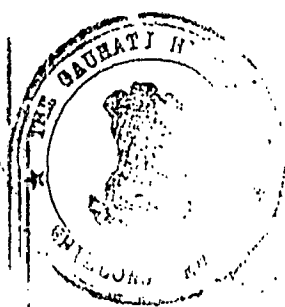
avoiding the Constitutional mandates laid down under Article 311(2) of the Constitution of India, and, as such, the impugned order is ultravires of the Constitution.

10. In reply to the contention of Shri Kotiwar, learned counsel for the writ petitioner, Shri N. Shyamkishore Singh, learned senior Government Advocate of Manipur for the respondents submitted that no illegality has been committed by the authority concerned in passing the impugned order of compulsory retirement as against the writ petitioner and the provision of compulsory retirement falls within the ambit of Article 311 of the Constitution of India. He also submitted that the State Government has been taking different measures for effective maintainance of law and order in Manipur for which specific instructions have been given by the Police Headquarter (MHQ in short ) to all District Superintendent of Police not to leave station without permission from the Superior officers as well in advance. Drawing my attention to the Circular order dated 17.2.92, Circular order dated 24th May, 1993 and Circular order dated 17th October, 1994 as in Annexures-D/1, D/2 & D/3 to the affidavit-in-opposition by Shri Shyamkishore Singh, learned senior Government Advocate for the respondent Nos 1 to 6, he submitted that when the Unit Commanders desire to visit Imphal on any work they must obtain

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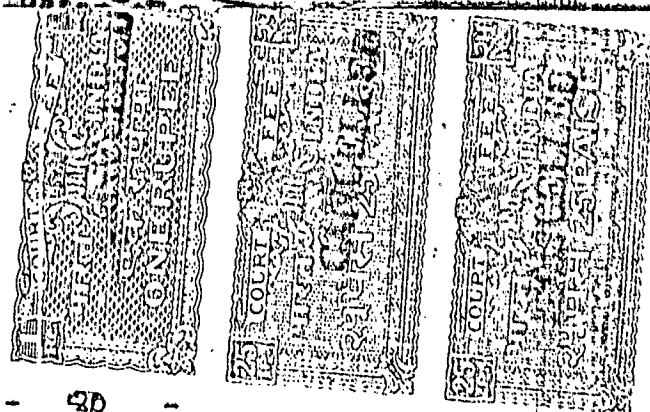
a prior permission of their D.I.G./I.G. concerned and their movement in Imphal must be kept and inform to D.G.Control room so that they can be contacted in emergency and they should seek permission from the Controlling officers for visit to Imphal and to inform their controlling officers/D.G.Control room about their movements in the District, but the writ petitioner had failed to comply with the directions and without waiting further reply from the concerned authority or without permission, the petitioner left the station on 4-11-1994. Atleast the petitioner should have waited for the reply of his wireless message before leaving station from the competent authority, and leaving station by a Responsible Officer for a trivial thing is not called for; and in the absence of the writ petitioner, the whole Police Force at Temenglong District was without proper command and leadership, Therefore, Shri Shyamkishore Singh, contended that ~~the~~ the impugned order as in Annexure A/14-1 was issued in the interest of the security of the State and there is no stigma nor any misbehaviour in the impugned order.

11. Supporting the case of the respondents Shri Shymkishore Singh, learned senior Government Advocate relied upon the decision of the Apex Court in a case between Motiram Deka's case reported in AIR 1964 SC 600 and submitted that the compulsory retirement

15.11.94



- 30 -



of the writ petitioner amounts to removal within the meaning of Article 311 (2) of the Constitution. Shri Shyamkishore Singh, further relying another decision of the Apex Court rendered in a case between Union of India Appellant Vrs. V.P.Seth and another, Respondent, reported AIR 1994 SC 1461, submitted that the Rule "audi alteram partem" <sup>in the instant case,</sup> not applicable since the order of compulsory retirement imposed upon the writ petitioner is not penal in nature. Examining the behaviour and conduct of the writ petitioner, the Government of Manipur was satisfied that the action of the petitioner has jeopardised the security of the State and thus the respondents passed the impugned order. Shri Shyamkishore Singh further contended.

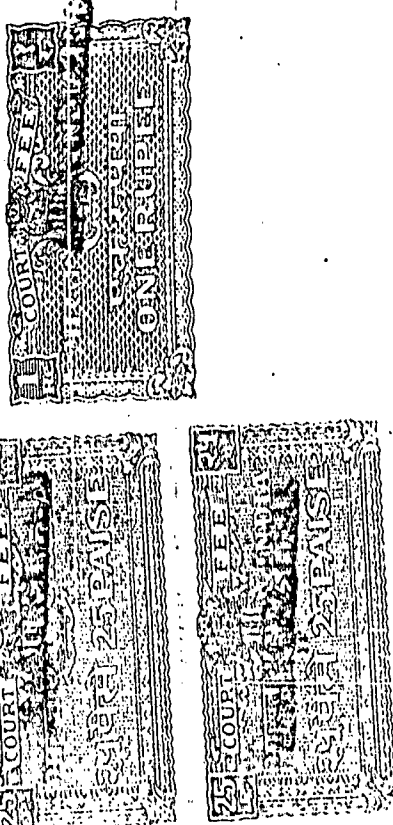
It is also submitted that the impugned order as in Annexure A/14-1 was issued by the competent authority in the interest of the security of the state and in that order of 15.11.94 there is no stigma nor any suggestion of mis-behaviour. According to Mr. L. Shyamkishore Singh, learned Senior Government Advocate, lapses and dereliction to duty on the part of the petitioner is against the interest of the security of the state. He also submitted that at least the petitioner should have waited for the reply of his wireless message before leaving the station.


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Now, this Court is to examine as to whether the respondents had rightly invoked the provisions of Article 311(2)(c) of the Constitution of India while passing the impugned order of 15.11.94 as in Annexure A/14-1 or not. After hearing the learned counsel on both sides and also on careful perusal of the available materials on records, I am of the view that it would be just and proper to formulate the following substantial questions of law for just determination of the rule points in controversies between the parties:

- 
- 1) whether the competent authority can invoke the provisions of Article 311(2)(c) of the Constitution of India when the competent authority decided to compulsorily retire the present writ petitioner from his services;
  - 2) whether the term 'compulsory retirement' amounts to removal or dismissal within the meaning of service jurisprudence or within the purview of Article 311 of the Constitution;
  - 3) whether the impugned order is violative of Article 311(2)(c) of the Constitution and Rule 56(j) of the Fundamental Rules or not.



In order to clarify the points of law as raised in advance by the learned counsel on both sides and for better appreciation in the matter, I once again refer back to the decisions of the Apex Court rendered in Motiram Deka (supra) (AIR 1964 SC 600) and Gurdev Singh Sidhu (supra) reported in AIR 1964 SC 1585, wherein the Apex Court held thus :

" if any Rule permits the appropriate authority to retire compulsorily a civil servant without imposing

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a limitation in that behalf, that such servant should have put in a minimum period of service, that Rule would ~~have~~ be invalid and the so-called retirement ordered under the said Rule would amount to removal of the civil servant within the meaning of Article 311(2)(C) of the Constitution."

In Gurdev Singh Sidhu(supra), the Supreme Court also held thus :-

" It is hardly necessary to emphasise that for the efficient administration of the State, it is absolutely essential that permanent public servants should enjoy a sense of security of tenure. The safeguard which Art.311(2) affords to permanent public servants is no more than this that in case it is intended to dismiss, remove or reduce them in rank, a reasonable opportunity should be given to them of showing cause against the action proposed to be taken in regard to them. It seems that only two exceptions can be treated as valid in dealing with the scope and effect of the protection afforded by Art.311(2). If a permanent public servant is asked to retire on the ground that he has reached the age of Superannuation which has been reasonably fixed, Art.311(2) does not apply, because such retirement is neither dismissal nor removal of the public servant. If a permanent public servant is compulsorily retired under the rules which prescribe the normal age of superannuation and provide for a reasonably long period of qualified service after which alone compulsory retirement can be ordered, that again may not amount to dismissal or removal under Art.311(2) mainly because that is the effect

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of a long series of decisions of this Court.

But where, while reserving the power to the State to compulsorily retire a permanent public servant, a rule is framed prescribing a proper age of superannuation, and another rule is added giving the power to the State to compulsorily retire a permanent public servant at the end of 10 years of his service, that cannot be treated as falling outside Art.311(2). The termination of the service of a permanent public servant under such a rule, though called compulsory retirement, is, in substance, removal under Art.311(2) of the Constitution."

From these decisions of the Apex Court, it is crystal clear that if permanent public servant is compulsorily retired under the relevant Fundamental Rules 56(1) which prescribed a normal age of superannuation and provide for a reasonably long period of qualified services and the reasoned terms and conditions and after which alone compulsory retirement can be ordered, that will not amount to dismissal or removal under Article 311(2) of the Constitution.

But, if any Rule permits the competent authority to retire compulsorily, a civil servant at the end of 10 years of his services or at the end of an unreasonable and unjust period of services, that Rule should be declared as invalid and the order of compulsory retirement issued under the said invalid Rule, that cannot be treated as falling outside Article 311(2) of the Constitution and it will amount to removal within Article 311(2) of the Constitution.

It is well settled that Rule 56(1) of the Fundamental Rules is a valid rule in the eye of law. It is also



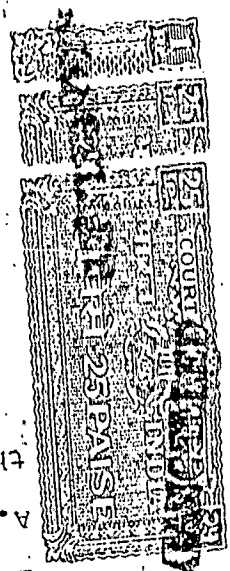
well settled that while exercising the extra-ordinary power vested upon the competent authority under Article 311(2)(c) of the Constitution, the competent authority should exercise such power sparingly but not lightly or whimsically; and that the satisfaction of the President or the Governor for passing an order under Article 311(2)(c) of the Constitution would be vitiated if it is based on circumstances having no bearing on the security of the State. In this regard, I again recall the decision of the Apex Court rendered in A.K. Kaul & Anr -vrs- Union of India & Anr (supra) in which the Apex Court held :

" As regards the scope of judicial review of the President's satisfaction, the view of the majority in S.R. Bommal case was as follows :

- (1) the satisfaction of the President while making a Proclamation under Article 356 (1) is justiciable;
- (11) it would be open to challenge on the ground of mala fides or being based wholly on extraneous and/or irrelevant grounds;

(111) even if some of the materials on which the action is taken is found to be irrelevant, the court would still not interfere so long as there is some relevant material sustaining the action;

- (1v) the truth or correctness of the material cannot be questioned by the court nor will it go into the adequacy of the material and it will also not substitute its opinion for that of the President;





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- (v) the ground of mala fides takes, in inter alia, situations where the Proclamation is found to be a clear case of abuse of power or what is sometimes called fraud on power;
- (vi) the court will not lightly presume abuse or misuse of power and will make allowance for the fact that the President and the Union Council of Ministers are the best judge of the situation and that they are also in possession of information and material and that the Constitution has trusted their judgment in the matter; and
- (vii) this does not mean that the President and the Council of Ministers are the final arbiters in the matter or that their opinion is conclusive.

There is nothing in the provisions of clause (c) of the second proviso to Article 311(2) which compels a departure from the principles laid down in S.R. Bommai governing justiciability of the satisfaction of the President in the matter of exercise of power under Article 356.

Clause (b) of the second proviso to Article 311(2) differs from clause (c) inasmuch as under clause (b) the competent authority is required to record in writing the reasons for its satisfaction and there is no such requirement in clause (c). This difference does not mean that the satisfaction of the President or the Governor under clause (c) is immune from judicial review and is not justiciable. It only means that the provisions contained in clause (c) are more akin to those contained in Article 356(1) which also does not contain any requirement to record the reasons for

28

the satisfaction of the President. Since the satisfaction of the President in the matter of making a proclamation under Article 356(1) is justiciable within the limits indicated in S.R. Bommai the satisfaction of the President or the Governor, which forms the basis for passing an order under clause (c) of the second proviso to Article 311(2), can also be justiciable within the same limits.

Under clause (c) of the second proviso to Article 311(2) the President or the Governor has to satisfy himself about the expediency in the interest of the security of the State to hold an enquiry as prescribed under Article 311(2). But the considerations involving the interests of the security of the State cannot be said to be of such a nature as to exclude the satisfaction arrived at by the President or the Governor in respect of the matters from the field of justiciability. Article 19(2) of the Constitution permits the State to impose, by law, reasonable restrictions in the interests of the security of the State on the exercise of the right to freedom speech and expression conferred by sub-clause (a) of clause (1) of Article 19. The validity of the law imposing such restrictions under Article 19(2) is open to judicial review on the ground that the restrictions are not reasonable or they are not in the interests of the security of the State. Therefore, the courts can be said to be competent also to go into the question whether the satisfaction of the President or the Governor for passing an order under Article 311(2)(c) is based on considerations having a bearing on the interests of the security of the State. In various cases, the Supreme Court has



emphasised the distinction between security of the State and maintenance of public order and has observed that only serious and aggravated forms of public order which are calculated to endanger the security of the State would fall within the ambit of the security of the State. The President or the Governor while exercising the power under Article 311(2)(c) has to bear in mind this distinction. The satisfaction of the President or the Governor for passing an order under Article 311(2)(c) would be vitiated if it is based on circumstances having no bearing on the security of the State."

12. Now, this Court will go to the related provisions of Rule 56(j) of the Fundamental Rules and also relevant laws and decisions in the matter of compulsory retirement.

Rule 56(j) of the Fundamental Rules reads thus:

" F.R.56(j)

(j) Notwithstanding anything contained in this rule the appropriate authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Government servant by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice;

(i) If he is, in Group 'A' or Group 'B' service or post in a substantive, quasi permanent or temporary capacity and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years;

(ii) in any other case after he has attained the age of fifty-five years;

Provided that nothing in this clause shall apply to a Government servant referred to in clause (e), who entered Government service on or before the 23rd July, 1966."

There are other relevant instructions relating to premature retirement of Central Government servants adopted by the Govt. of Manipur which find its place in Appendix 10 of the Swamy's Pension Compilation incorporating CCS Pension Rules containing criteria, procedure and guidelines relating to the Constitution of Review Committee. According to the said instructions, the Rule relating to premature retirement should not be used:-

- (a) to retire a Government servant on grounds of specific acts of misconduct as a short-cut to initiating formal disciplinary proceeding; or
- (b) for reduction of surplus staff or as a measure of effecting general economy without following the rules and instructions relating to retrenchment.

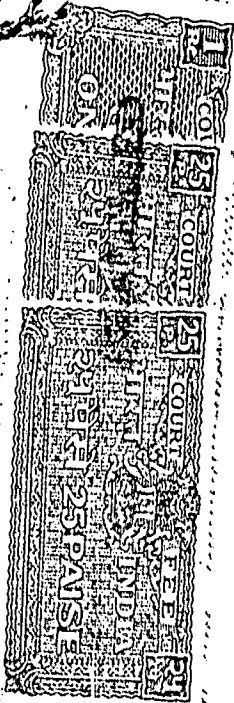
I am of the view that apart from these instructions, there are relevant decisions of the Apex Court as well as principle of law laid down by the Apex Court in the matter of compulsory retirement.

It is well settled that the compulsory retirement is not an order of punishment. It is a prerogative of the Government, but such order should be based on materials and has to be passed on the subjective

satisfaction of the authority. In absence of any malafide or arbitrariness the order passed under F.R. 56(j) is held to be valid. This principle of law finds its place in a decision rendered in a case viz., Union of India and others, appellants V. Dulal Dutta, respondent reported in 1993 (2) SCC 179.

The Apex Court in a case between State of U.P. and another, Appellants V. Bihari Lal, Respondent reported in AIR 1995 SC 1161 held that the decision on compulsory retirement should be taken on consideration of entire service record. Decision taken bona-fide and in public interest, there can be no interference on the ground that different view is possible. In that case; State of U.P. and another, Appellant Vs. Bihari Lal, Respondent (Supra) the Apex Court held thus:-

"..... It is now settled law that the entire service record should be considered before taking a decision to compulsorily retire a Government servant exercising the power under Rule 56(j) of the Fundamental Rules. It is not necessary that adverse remarks should be communicated or every remark, which may sometimes be categorised as adverse, be communicated. It is on an overall assessment of the record the authority would reach a decision whether the Government servant should be compulsorily retired in public interest. In an appropriate case, there may not be tangible material but the reputation of officer built around him could be such that his further continuance would imperil the efficiency of



the public service and would breed indiscipline among other public servants. Therefore, the Government could legitimately exercise their power to compulsorily retire a Government servant. The Court has to see whether before the exercise of the power, the authority has taken into consideration the overall record even including some of the adverse remarks, though for technical reasons might be expunged on appeal or revision. What is needed to be looked into is the bona fide decision taken in the public interest to augment efficiency in the public service. In the absence of any mala fide exercise of power or arbitrary exercise of power, a possible different conclusion would not be a ground for interference by the Court/Tribunal in exercise of its judicial review.....

The Hon'ble Supreme Court in another case between S. Ramachandra Raju, Appellant v. State of Orissa Respondent reported in AIR 1995 SC 111 held that the entire service record, more particular, the latest should form foundation for opinion of Government in the matter of compulsory retirement. In that case the Supreme Court held thus:-

"9..... though the order of compulsory retirement is not a punishment and the government employee is entitled to draw all retiral benefits including pension, the Government must exercise its power only in the public interest to effectuate the efficiency of the service. The dead wood need to be removed to augment efficiency. Integrity in public service need to be maintained. The exercise of power

of compulsory retirement must not be a haunt on public servant but must act as a check and reasonable measure to ensure efficiency of service and free from corruption and incompetence. The officer would live by reputation built around him. In an appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service. But his conduct and reputation is such that his continuance in service would be a menace in public service and injuries to public interest. The entire service record or character rolls or confidential reports maintained would furnish the back drop material for consideration by the Government or the Review Committee or the appropriate authority. On consideration of the totality of the facts and circumstances alone, the government should form the opinion that the government officer needs to be compulsorily retired from service. Therefore, the entire service record more particularly the latest, would form the foundation for the opinion and furnish the base to exercise the power under the relevant rule to compulsorily retire a government officer."

13. I am of the view that this Court is confined to an examination of the material to see whether a rational mind may conceivably be satisfied that compulsory retirement of the officer concerned is necessary in public interest or, in the interest of the security of the State and the present respondents



<sup>had</sup> must disclosed the materials so that the Court may be satisfied that the order is not bad for want of any material, whatever is to a reasonable man, reasonably instructed in law, is sufficient to sustain the ground of "public interest" or "in the interest of the security of the State" justifying the force retirement of the public servant.

84

14. I have perused the relevant original file bearing No.18/1/95-MPS/DP produced by the learned Sr. Govt. Advocate appearing for the respondents. The relevant observations made by the competent authority for passing the impugned order finds its place at P.18 (Note: 1) of the file. For better appreciation of the said findings/observation of the competent authority I hereby reproduce the said Note No.1, 2 and 3 as hereunder to meet the ends of justice:-

(1)  
"On 5.11.94 the Kote of the Reserve Line, Tamenglong was looted by suspected armed UGs in which approximately 42 303 rifles some stenguns/carbines have been taken away. The crime was committed by removing the latch which was attached to the door for locking the room. There does not appear to be any resistance by the sentries on duties. Subsequent to the incident the matter was not reported immediately to the CRPF post or the Police Station nearby. It is suspected that they had colluded with the miscreants in the incident. Adm. is separately being taken against them for their role.



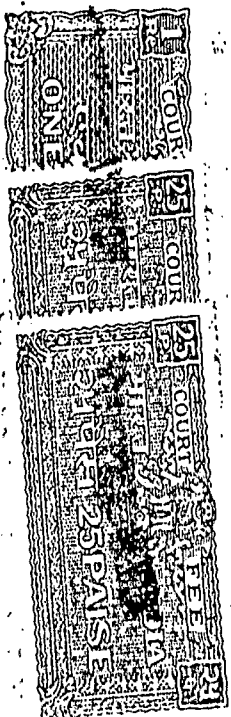
Govt. Secy



(63)

2. This context, the enquiry has thrown doubts about the conduct of SP Tamenglong. Apart from the failure to ensure proper security for the Kote, it was found that the Superintendent of Police Shri M. Sushilkumar Singh was not at his HQ on the day of incidence. The S.P. has left the HQ without obtaining permission from his senior officers. The District Magistrate, Tamenglong was away on an official duty and as per the direction of the Government both DC and SP should not have been simultaneously out of the HQs. Even so SP (Tml) left the HQs without permission from any competent authority. S.P. has sent one W.T. message stating that he was leaving station but he did not wait for permission from DGP. Even in Imphal he did not meet the DGP. On the night of the incident he was in Kakching - his home town. The date of the incident was general holiday of Ningol Chakkouba which is an important festival for Manipur. It was specifically directed that no absenteeism should be permitted. Further, the SP had stated in his W/T message that SDPO Nungba will be in charge at the District HQ in his absence but he left without waiting for the arrival of the SDPO, Nungba. The SP had also taken along the ASI in charge of the Kote with him to Imphal. Thus he did not observe the directions issued by the DGP in respect of absenteeism. He is thus guilty of gross negligence in his duties and is not fit to continue in service.

.....P...34



*Handwritten signature or initials.*

Since, as pointed out by DGP, the departmental enquiry against the delinquent officer would be a long drawn affair and delay is likely to encourage other officers in similar responsible behaviour, it is proposed that prompt action should be taken against the delinquent officer by taking recourse to article 311(2) Proviso (c). It is proposed that Shri M. Sushilkumar Singh should be compulsorily retired.

May kindly approve.

Sd/- 14.xi.94  
(K.K.Sethi)  
Chief Secretary

Advisor (H)  
H.E. Governor

(2) Sd/- 14.11.94  
Illegible

(3)  
Approved

Sd/- 14.11.94  
Illegible

(Seal of Governor's Cell  
Raj Bhavan.  
Dy. No.360  
dt. 14.11.94)

.....u

15. On further perusal of the said file it has been revealed that the competent authority, in case of the writ petitioner, made a decision/recommendation for recalling the impugned order of compulsory retirement of the writ petitioner and for his reinstatement with immediate effect, but the Governor of Manipur disagreed with the said recommendation, and <sup>thus</sup> the Governor of Manipur had opined that as the writ petitioner has already filed an application in the High Court on May 26, 1995, against the State Government, hence to await the learned High Court's decision on the writ petition. On perusal of the observations and findings

.....p.35



87

made in the Note No, (1) as mentioned above, the competent authority opined that the writ petitioner is guilty of gross negligence in his duties and is not fit to continue in service and the departmental enquiry against the writ petitioner will be a long drawn affair and delay is likely to encourage other officers in similar responsible behaviour, as pointed out by the DGP and thus it has been proposed that prompt action should be taken against the delinquent officer by taking recourse to Article 311 (2) (c) of the constitution. There is no whispering in the said recommendation or observation for establishing the fact that it is not expedient to hold an enquiry as against the writ petitioner in the interest of the security of the State.

16. As discussed above the words "in the interest of the security of the state" enshrined under Article 311 of the Constitution and that the words, "in the public interest" as contemplated in F.R. 56(j) have different meanings and they are quite different from each other under service jurisprudence. According to me if an officer/employee is to be allowed to retire compulsorily the competent authority should have/form an opinion that in the public interest the compulsory retirement of the officer/incumbent is called for, and that the competent authority has absolute right to retire any Government servant under due process of law, reasonably by invoking the provisions of law as laid down under F.R. 56(j) as discussed above. In my considered view the impugned order is based on circumstances having no bearing in the "interest of the security of the state" and it is based on extenuous circumstances having no bearing on the "security of the state", and thus the

(66)  
satisfaction of the Governor in passing the impugned order by invoking Article 311 (2) (c) would be vitiated on this ground alone. It is needless to highlight that the respondents had completely mis-appreciated, rather misconceived, the provisions of law laid down under Article 311 (2) (c) of the Constitution of India and F.R. 56(j). With these observations made above this Court, thus, answer the above questions of law.

It is needless to highlight that the respondents did not make any statement in their counter-affidavit denying the factum of discrimination metted out by them to the writ petitioner inasmuch as the officers, who are similarly situated with the writ petitioner, have not been dismissed or removed from their services. There is also no material on record for establishing the fact that the services of the writ petitioner is no longer required in the public interest and the compulsory retirement of the writ petitioner is called for within the ambit of F.R. 56(j); or that there is also no prima facie material to establish the fact that it is not expedient to hold an enquiry as against the writ petitioner in the interest of the security of the State.

17. For the reasons and discussions made above, the impugned order dated 15.11.94 as in Annexure A/14-1 is hereby quashed, and thus, the respondents are directed to take back the writ petitioner to service forthwith and allow him to work/serve as usual. Further, the writ petitioner is entitled for his back salary <sup>from 15.11.94</sup> from 15.11.94 till date, and for which the respondents are directed to make necessary arrangement for payment of the same within 2 (two) months from to-day. So far the claim of the writ petitioner

.....p.37

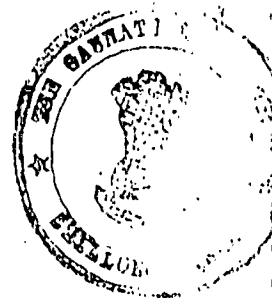
KC P. G.  
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HC

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upon  
Cantaker  
Challenge

(67)

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- 37 -

for his service promotional benefits made by him  
through his counsel Sri Kotishwar Singh is left  
open to the wisdom of the Respondents. In the result  
the writ petition is allowed. No costs.

Per. A. S. Singh  
Judge.

Typed by .....  
Read by .....  
Compared by C. N. Chatterjee

Certified to be true copy  
A. S. Singh  
Gauhati High Court  
Stillmore Bench.

(68)

Amnagar (10)

20

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR : MANIPUR  
Imphal, the 26th April, 1997

No. 18/SB/94/NPS/10(Pt) : Whereas by an order No. 18/SB/94-NPS/DP dated 15-11-1994 issued by Governor of Manipur, Shri M. Sushilkumar Singh, NPS while working as S.P./Jambonglong, was compulsorily retired from service with effect from 15-11-1994;

2. And whereas the Hon'ble High Court in Civil Rule No. 1306/94 passed order on 14-6-1997 to take back Shri Singh to service forthwith and allow him to serve as usual;

Now, therefore, in compliance with the Hon'ble Gauhati High Court's order, the Governor of Manipur is pleased to revoke the order of compulsory retirement and to reinstate Shri M. Sushilkumar Singh in service with effect from 15-3-1997.

Revoked

18/3/97

By order & in the name of the Governor:

*Revised 26/4/97*  
(Sh. Jagmohan Singh)

Under Secretary (DP), Government of Manipur

*DM*

Copy for:-

- (1) The Secretary to Government of Manipur, Raj-Bhawan, Imphal.
- (2) The Secretary to Chief Minister, Imphal.
- (3) and P.S. to Chief Secretary, Govt. of Manipur.
- (4) The D.G.P., Imphal, Imphal.
- (5) The Accountant General, Manipur, Imphal.
- (6) The Special Secretary (Home), Govt. of Manipur.
- (7) All Deputy Commissioners, Manipur.
- (8) All J.D.S./D.G.P.s/S.P.s/Commandants of P.R. Force, Manipur.
- (9) All Treasury Officers/Sub-Treasury Officers, Manipur.
- (10) Shri M. Sushilkumar Singh, NPS
- (11) Under Post/Guard File.

Attached.

*By*  
Associate

(69)      Annexure/10(1)

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 29th January, 1998.

No. 18/56/94-MPS/D(Pt): In continuation of Government order of even number dated 28-4-1997 the Governor is pleased to order that the period intervening between the date of compulsory retirement of Shri M. Sushilkumar Singh and the date of his reinstatement i.e. the period from 15-11-95 to 17-3-97 shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been compulsorily retired.

By orders & in the name of the Governor,

— Ac b  
29/1/98  
(N. Nigou Singh)  
Deputy Secretary to the Government of Manipur.

Copy to:-

1. The P.S. to Chief Secretary, Govt. of Manipur.
2. The Director General of Police, Manipur.
3. The Accountant General, Manipur.
4. The Commissioner (Finance), Govt. of Manipur.
5. The Special Secretary (Home), Govt. of Manipur.
6. The Commandant/B M.R., Manipur.
- ✓ 7. The Officer concerned.
8. The Treasury Officer/Chandel, Manipur.
9. Personal File concerned.

Attended  
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Robocast.



(70) Annexure (6081)

22

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

C O R R I G E N D U M  
Imphal, the 2nd February, 1998.

NO. 18/58/94-MPS/DP(2t): Please read the figures and words  
"15-11-1994 to 17-3-1997" in place of the figures and words  
"15-11-1996 to 17-3-1997" occurring in the 6th line of Govern-  
ment orders of even number dated 29-1-1998.

By orders & in the name of the  
Governor.

*2/2/98*  
(N. Angou Singh)

Deputy Secretary(DP) to the Govt. of Manipur.

Copy to :-

1. The P.S. to Chief Secretary, Govt. of Manipur.
2. The Director General of Police, Manipur.
3. The Accountant General, Manipur.
4. The Commissioner (Finance), Govt. of Manipur.
5. The Special Secretary (Home), Govt. of Manipur.
6. The Commandant/8th M.R., Manipur.
- ✓ 7. The officer concerned.
8. The Treasury Officer/Chandel, Manipur.
9. Personal file concerned.

Attested  
#  
Revocable.

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(71)

Annexure/

NO. 1. 14011/14/99-IPS.I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the

2000

## NOTIFICATION

25 FEB 2000

In exercise of the powers conferred by sub-rule (1) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint the following members of Manipur Police Service to the Indian Police Service on probation, and to allocate them to the joint cadre of Manipur-Tripura under sub-rule (1) of rule 5 of the Indian Police Service (Cadre) Rules, 1954. The appointments will take effect from the date of issue of this notification.

Sl.No.	Name of the Officer	Date of birth
	S/Shri	
1.	M Gushil Kumar Singh	01.03.1951
2.	M Shanti Kumar Singh	01.09.1951

(P.S. PILLAI)  
UNDER SECRETARY TO THE GOVT. OF INDIA  
TEL. NO. 301 1359

NO. 1. 14011/14/99-IPS.I

DATED 25 FEB 2000

A copy each is forwarded to:-

1. The Chief Secretary, Govt. of Manipur (Attn. Shri Raghumani Singh, Deputy Secretary (DP), Deptt. of Personnel & Administrative Reforms, (Personnel Division), Imphal.

2. The Chief Secretary, Govt. of Tripura, Agartala.

3. The Accountant General, Manipur, Imphal.

4. The Secretary, U.P.S.C. (Attn. Mr. Nolly Tiwari, Under Secretary), Dhoolpur House, Shahjahan Road, New Delhi.

5. The DG & ICP, Govt. of Manipur, Imphal.

(P.S. PILLAI)  
UNDER SECRETARY TO THE GOVT. OF INDIA

Computer Cell/Security Seat/IPS.II Section.

Attested  
by  
Associate

LEIKUN 4654  
of receipt 10/9/2000

(72)

Ameyam 12

NO. I. 15011/12/2000-IPS.I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya  
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② 7585-10

New Delhi, the 26/8  
25/10/2000

The Chief Secretary,  
Govt. of Manipur,  
Deptt. of Personnel & Administrative Reforms,  
(Personnel Division),  
IMPHAL.

Subject: Fixation of seniority/year of allotment of promotee IPS Officers of Joint Manipur-Tripura Cadre - regarding.

I am directed to refer to State Govt.'s letter No. 3/3/98-IPS/DP dated 8th August, 2000 in the above noted subject and to say that fixation of seniority/year of allotment of S/ Shri Sushil Kumar Singh & M. Shantikumar Singh, promotee IPS officers of Joint Manipur-Tripura Cadre will be regulated under IPS (Regulation of Seniority) Rules, 1988 as amended vide notification No. 14015/54/96-AIS(1) B dated 31.12.1997.

The details of service in respect of these officers who have been appointed to IPS promotion are as under:

Sl. NO	Name of the Officer	Date of apptt. to IPS	Date from which holding rank not below that of equivalent	Year of select list on the basis of which appointed to IPS.	Completed years of service rendered in the rank not below that of Dy.SP or equivalent till 1st day of December of the year immediately before the year in which the SCM was held to prepare the select list on the basis of which the said officer was appointed to IPS (Fraction, if any, are to be ignored).	Total weight-age in yrs. in terms of the IPS (Regulation of Seniority) Rules, 1988 as amended vide notification No. 14015/54/96-AIS(1) B dated 31.12.97.	Year of allotment
1.	S/ Shri						
2.	M. Sushil Kumar Singh	25.02.2000	25.03.75	1979	23 Yrs	8 Yrs	1999
3.	M. Shantikumar Singh	25.02.2000	25.03.75	1999	23 Yrs	8 Yrs	1999

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(73)

As per Rule 4 of IPS (Regulation of Seniority) Rules, 1908, S/Shri M. Sushilkumar Singh shall be placed below the junior most direct recruit officer of 1991 batch. The gradation list of IPS officers of Manipur-Tripura Cadre in the order in which their names are arranged in paragraph 2 above.

The concerned officers may kindly be informed accordingly.

Yours faithfully,

(R. N. MITRA)

DEPUTY SECRETARY TO THE GOVT. OF INDIA  
TEL. NO. 301 1359

1. 15011/12/2000-IPS.1

Dated AUG 2000

Forwarded for information & necessary action to:

The Shri H. Gyan Prakash, Deputy Secretary to the Govt. of Manipur, Deptt. of Personnel & Administrative Reforms (Personnel Division), Imphal.

The Chief Secretary, Govt. of Tripura, Agartala.

The Accountant General, Manipur, Imphal.

The Accountant General, Tripura, Agartala.

IGP & IGP, Govt. of Manipur, Imphal.

IGP & IGP, Govt. of Tripura, Agartala.

Seniority folder/dealing hand - Civil List/ACR/IPS 1908-1914

(R. N. MITRA)  
DEPUTY SECRETARY

GOVERNMENT OF MANIPUR  
POLICE DEPARTMENT

Endst.No. E/35/16/97-PHQ(Admn)/5671 Imphal, the 8th September, 2000.  
Copy to:-

1. The Commandant 8th Bn.M.R. Leikul.
2. The Supdt. of Police, Ukhrul.
3. p/ File.

For Information.

Dy. Inspector General of Police. (IGP)  
Manipur, Imphal.

(74)

CONFIDENTIAL  
BY SPEED POST

ab

No. 3/23/95-IPS/DP  
Government of Manipur  
Department of Personnel & Adminv. Reforms  
(Personnel Division)

Annexure 13

Imphal, the 26th Feb, 96.

To

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Sub:- Selection Committee Meeting for preparation of  
Select List for promotion to IPS, Manipur-Tripura  
Cadre during 1995-96.

Sir,

I am directed to invite a reference to your D.O. letter  
No. F.4/11/95-ALS dated nil on the above subject and to furnish  
the following information/documents in respect of State Police  
Service officers of Manipur Part who are eligible for considera-  
tion for promotion to IPS as on 1-4-1995.

- (1) Seniority list giving particulars of 12 (twelve)  
SPS officers who are eligible for promotion to  
IPS as on 1-4-1995 (Annexure-A).
- (2) The number of senior duty posts borne against  
item 1 (one) of the IPS (Fixation of Cadre Strength)  
Regulations, 1955, in Manipur Part of the Joint  
IPS Manipur-Tripura Cadre is 34 and the number of  
senior duty posts shown against item 2 (two) of  
Manipur Part is 14.
- (3) Two anticipated vacancies will be available w.e.f.  
1-8-1996 and 1-12-1996 vice Shri V.V. Sardana, IPS  
(MT-69) and Shri D.M. Shra, IPS (MT- ) who are  
retiring on superannuation on 31-7-96 (A.N) and  
voluntarily on 30-11-96 (A.N) respectively.
- (4) Complete and upto date ACRs of 12 eligible MPS  
officers alongwith the certificate for not recording  
the lacking ACRs (Annexure-B).
- (5) The SC/ST officers eligible to be considered for  
promotion to IPS are indicated against the name  
of the officers (Annexure-A).
- (6) Integrity certificate in respect of eligible  
officers duly signed by the Chief Secretary is  
also enclosed (Annexure-C).
- (7) Certificate regarding officers against whom  
disciplinary proceedings are pending is enclosed  
(Annexure-D).

P.T.O.

Attested  
by  
Advocate,

(5)  
-1(2)-

(8) Certificate regarding adverse entries in the ACRs of the eligible officers is also enclosed (Ann.-E)

2. It is therefore requested that the Selection Committee Meeting may kindly be convened at an early date.

Kindly acknowledge receipt.

Yours faithfully

*[Signature]*

( Binod Kispotta )  
Addl. Secretary (DP), Government  
of Manipur.

Copy to:-

1. The Secretary, Govt. of India,  
Ministry of Home Affairs, New Delhi.
2. The Chief Secretary, Govt. of Tripura, Agartala.

ANNEXURE-A

Particulars of State Police Service Officers eligible for inclusion in the Select List for promotion to the I.P.S. as on 1-4-1995.

Sl. No.	Name of officer	Date of birth.	Whether substantive appointment in State Police Service.	Date of confirmation in State Police Service.	Date of continuous officia- tion as Dy.SP or equivalent post.	Date of continuous officia- tion in I.P.S. Cadre Post.	Remarks.
1	2	3	4	5	6	7	8
<u>S/Shri</u>							
1.	Eric Ekka (SC)	1-1-1943	Yes	1-12-1973	1-12-1971	-	
2.	R.Shantikumar Singh	1-9-1951	Yes	2-3-1989	25-3-1975	29-12-93	Posting only.
3.	A.Rajendro Singh	28-6-1950	Yes	20-2-1978	25-3-1975	21-10-88 to 30-11-90 & 18-7-92 to date.	Posting only.
4.	S.Tualchinkham(ST)	1-3-1947	Yes	1-3-1980	25-3-1975	22-2-93 to 28-12-93	Posting only.
5.	S.Ibosana Singh	1-2-1950	Yes	8-7-1977	25-3-1975	5-7-86 to 19-8-90 & 1-10-91 to 3-9-93	Posting only.
6.	M.Karnajit Singh	1-3-1950	Yes	3-7-1977	25-3-1975	27-9-86 to date	Posting only.
7.	S.Vaiphei (ST)	2-3-1944	Yes	29-8-1981	25-3-1975	24-1-86 to 30-11-90	Posting only.
8.	Smt. R.K.Radhesena	1-7-1948	Yes	25-6-1977	25-3-1975	-	
9.	N.Ngaraipam (ST)	5-3-1947	Yes	1-3-1980	25-3-1975	19-7-84 to 20-7-93	Posting only.
10.	L.K.Haokip (ST)	1-3-53	Yes	1-3-1980	25-3-1975	21-7-87 to date	Posting only.
11.	Kh.Netra (SC)	1-9-1944	Yes	3-7-77	25-3-1975	8-2-91 to date.	Posting only.
12.	M. Mani Singh	1-2-1946	Yes	19-3-1988	2-12-1981	1-12-90 to 8-1-92 & 3-9-94 to date.	Posting only.

Attested  
by  
Advocate

Office of the Special Secretary (U.S.)  
R.R. No. 133, 1st. Div. (U.S.)

Annexure / 14  
1997

N O T I F I C A T I O N

In exercise of the powers conferred by sub-rule (1) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint the following members of Manipur Police Service to the Indian Police Service, on probation, and to allocate them to the cadre of Manipur-Tripura under sub-rule (1) of rule 5 of the Indian Police Service (Cadre) Rules, 1954. The appointments will take effect from the date of issue of this Notification.

Sl.No.	Name of the Officer	Date of birth
1.	Shri. Karrajit Singh	1.3.1950
2.	Shri S. Vaiphei	2.3.1944

UNDER SECY. TO THE GOVT. OF INDIA  
( P.S. PILLAI )  
Tel. No. 3011350

No. I-14011/14/97-IPS.I

New Delhi, the 5<sup>th</sup> Nov., 1997

A copy each is forwarded to:-

1. The Chief-Secretary to the Government of Manipur, (Attn. Shri Kh. Raghunani Singh, Under-Secretary) Deptt. of personnel & AR(Personnel Division), Imphal with reference to their letter No.3\23/95-IPS/DP(Pt.I) dated 23.9.97 with two spare copies for onward transmission to the officer concerned.
2. The Accountant General, Manipur, Imphal.
3. The Secretary, UPSC (Attn. Shri N. Nandisivayam, Under Secy.), Dholpur House, Shahjahan Road, New Delhi.
4. The DG & IGP, Manipur, Imphal.
5. The Chief Secretary, Govt. of Tripura, Agartala. (1)

UNDER SECY. TO THE GOVT. OF INDIA

15 Spare Copies for IPS Section.

FORBELL CO.

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Attested  
by  
Advocate.



New Delhi, the 3<sup>rd</sup> October, 1990

To

The Chief Secretary,  
Government of Manipur,  
Deptt. of Personnel & Administrative Reforms,  
Personnel Division,  
IMPHAL.

Sub: Fixation of seniority/year of allotment of promotee IPS officers of  
Manipur Wing of Manipur-Tripura Cadre - regarding.

Sir,

I am directed to refer to State Government's letter No. 3/8/95-IPS/UP,  
dated 6th October, 1990 on the subject mentioned above and to say that year of  
allotment in respect of officers mentioned at Sl. No. 1 to 3 in the aforesaid  
letter will be regulated under IPS ( Regulation of Seniority) Rules, 1988.

2. The details of service in respect of above mentioned officers appointed  
to IPS by promotion are as under:

S.No.	Name of the officer	Date from which holding rank not below that of Dy.SP or equivalent	Date of appointment to IPS	Completed years of service rendered in the rank not below that of Dy. SP or equivalent	Total weightage in terms the IPS (Regulation of Seniority Rules, 1988	Year of allotment
1	2	3	4	5	6	7
	S/Shri					
1.	Eric Ekka	1.12.71	8.01.97	25 yrs	7 yrs* (Restd.)	1990
2.	M.Karanjit Singh	25.03.75	5.11.97	22 yrs	7 yrs	1990
3.	S. Vaiphei	25.03.75	5.11.97	22 yrs	7 yrs	1990

3. The year of allotment of Shri Eric Ekka (Officer mentioned at Sl.No. 1 above) has been restricted in terms of Proviso to Rule 3(3)(ii)(c) of IPS (Regulation of Seniority) Rules, 1988.

Attested  
for  
Signature

Signature  
Date 20/10/90  
Let us also see copy  
in the case of  
work in the  
Signature  
Date 20/11/90

(79)

4. As per Rule 4 of IPS (Regulation of Seniority) Rules, 1988, these officers shall be placed below Shri N. Kipgen, IPS(SPS:90) in the order in which their names are arranged in paragraph 2 above.

5. The concerned officers may kindly be informed accordingly.

Yours faithfully,

(P.S. PILLAI)

UNDER SECRETARY TO THE GOVT. OF INDIA

TEL. NO. 3011359

Copy to:

1. Kh. Raghunani Singh, Deputy Secretary, Govt. of Manipur, Deptt. of Personnel & Administrative Reforms, (Personnel Division), Imphal.
2. Chief Secretary, Govt. of Tripura, Agartala.
3. Accountant General, Manipur, Imphal.
4. Accountant General, Tripura, Agartala.
5. Seniority Folder/Dealing hand - Civil List/ACR, 1/3 [ ] / 1/3 [ ] / 1/3 [ ]

(P.S. PILLAI)

UNDER SECRETARY TO THE GOVT. OF INDIA

Wen

20/11

New Delhi, the 24<sup>th</sup> February, 1998

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954, read with sub-regulation (1) of regulation 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint the following member of Manipur Police Service to the Indian police Service on probation, and to allocate her to the Joint cadre of Manipur-Impura under sub-rule (1) of rule 5 of the Indian Police Service (Cadre) Rules, 1954. The appointment will take effect from the date of issue of this Notification.

Sl. No.	Name of the officer	Date of Birth
1.	Smt R.K. Radhesana Devi	1.7.1948

Under Secretary to the Government of India  
Tel. No. 301 1399

No. 1.14011/14/97-IPS.1

Dated: 24.2.1998

A copy each is forwarded to :-

1. The Chief Secretary to the Government of Manipur (Attn: Shri H. Angou Singh, Dy. Secy. (DP), Deptt. of Personnel A.R. (Personnel Div.) Imphal w.d.e. their letter No J/23/95-IPS/DP/P.C. dated 12.1.98 with one spare copy for onward transmission to the officer concerned.
2. The Accountant General, Manipur, Imphal.
3. The Secretary, UPSC (Attn: Sh. Damodarayam, Under Secy) Bhopal House, New Delhi.
4. The DG & IGP, Manipur, Imphal.

Under Secretary to the Govt. of India

15 spare copies for IPS Section

Attested  
by  
Hobocade.

New Delhi, the 3/11/42

1b: Fixation of Seniority/year of allotment of promotee IPS officer of Manipur Wing of Manipur-Tripura Cadre - regarding.

The details of service in respect of Smt. Radhesana Devi, appointed to IPS by promotion, is as under:

NO	Name of the Officer	Date of apptt. to IPS	Date from which holding rank not below that of Dy.SP or equivalent	Year of select list on the basis of which appointed to IPS.	Completed years of service rendered in the rank not below that of Dy.SP or equivalent till 31st day of December of the year immediately before the year in which the SCM was held to prepare the select list on the basis of which the said officer was appointed to IPS (Fraction, if any, are to be ignored).	Total weight- age in yrs.in terms of the IPS(Regulation of Seniority) Rules, 1988 as amended vide notification No. 14015/54/96-AIS(1) B dated 31.12.97.	Year of allotment
2.	3.	4.	5.	6.	7.		
Smt.R.K. Radhesana Devi	24.2.98	25.3.75	1997	21 yrs	7 yrs	1990	

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3. As per Rule 4 of IPS (Regulation of Seniority) Rules, 1908, Smt. R.K. Radhama Devi, IPS(SPS:90) shall be placed below Shri S. Valphei, IPS(SPS:90) in the gradation list of the Cadre of Manipur-Tripura.

4. The Concerned officer may kindly be informed accordingly.

Yours faithfully,

(P.S. PILLAI)

UNDER SECRETARY TO THE GOVT. OF INDIA  
TEL. NO. 301 1359

NO. I. 15011/1/98-IPS.1

DATED

3/11/98

Copy forwarded for information & necessary action to:

1. Sh. Raghunani Singh, Deputy Secretary, Govt. of Manipur, Deptt. of Personnel & Administrative Reforms (Personnel Division), Imphal.
2. Chief Secretary, Govt. of Tripura, Agartala.
3. Accountant General, Manipur, Imphal.
4. Accountant General, Tripura, Agartala..
5. Seniority Folder/Dealing hand - Civil List/ACR.

(P.S. PILLAI)

UNDER SECRETARY TO THE GOVT. OF INDIA  
TEL. NO. 301 1359

To

The Chief Secy. Govt. of Manipur

Through proper channel

(83)

Annexure - 18

105

Subject:- Year of allotment of I.P.S. in respect of M. Sushilkumar (SPS 1991) and prayer for rectification thereof on justified humanitarian grounds as per rules.

Sir,

I have the honour to state that after joining service as M.P.S. Officer (direct recruit) in 1975 and after putting through many ordeals, I have been ultimately nominated to I.P.S. vide No.114011/14/99-IPS-I dt. 25<sup>th</sup> February 2000 and allotted 1991 as the year of seniority vide No. 1. 13011/12/2000-IPS - Govt. of India Bharat Sarkar dt. 25<sup>th</sup> August 2000, whereas many of my juniors have long been nominated to I.P.S. (Seniority list of M.P.S. Officers enclosed - Annexure- A.)

1. In this regard being intolerably aggrieved and repeatedly victimised by the unprecedented circumstances / eventualities consequent upon the most inhumane, unlawful and unconstitutional orders of the then Govt. vide No. 18/58/94 MPS/DP-1 dt. 15/11/94( order of compulsory retirement under Art. 311-2 (c) of the Constitution of India), which was quashed later on by the Hon'ble Gauhati High Court in Civil rule 1306 of 1994 dt. 14/3/1997 and subsequently revoked by the Govt. vide No. 18/58/94/MPS/DP(Pt) dt. 28/4/1997 (Annexure -D) without any stigma at all and at the same time accruing me all the service/financial benefits, I do hereby submit my representation with firm belief and confidence kindly to UNDO THE WRONG done to me and to rectify it with a sense of natural justice to a humble Government servant in consideration of the facts and circumstances stated hereunder.

2. That consequent upon my placement in the MPS. Selection grade w.e.f. 11/9/86 vide No. 3/8/87-MPS/DP dt. 31/5/1988, it has been learnt that soon thereafter my name remained continuously included / recommended to the Secy. U.P.S.C. as an eligible S.P.S. officer for promotion to IPS along with the names of other colleagues until I was given compulsory retirement all of a sudden -Vide No.18/58/91-M.P.S. Dt. 15/11/91 without holding any departmental enquiry. I was thus seriously victimised and my name was subsequently omitted from the annual list of eligible S.P.S. Officers for promotion to I.P.S., during the pendency of the Writ Petition (Civil Rule 1306 of 1991). (List of selection grade M.P.S. Officers as on 31/5/1988- enclosed as Annexure- B & copy of compulsory retirement order dt. 15/11/91 enclosed as Annexure - C).

3. That following the Land Mark Judgement of the Hon'ble Gauhati High Court in Civil Rule 1306 of 1991 dt. 14/3/97, thereby quashing the Impugned Order of Compulsory Retirement, mentioned above, I was reinstated to my service by revoking the previous order of Compulsory Retirement, giving full Service as well as financial benefits etc. without any stigma Vide No.18/58/91 M.P.S.-D.P.(pt)- dt.28/4/97, therein stating that my service should be deemed to have been continued without any interruption at all.(Copy of reinstatement / revocation order enclosed as Annexure - D).

4. That I was also holding I.P.S. Cadre posts w.e.f. 06/10/93 onwards and continued to hold cadre posts during the periods mentioned below.

- (i) 06/10/83 to 27/09/86 - Addl. S.P./Imphal & SP/IBL
- (ii) 27/10/88 to 31/08/91 - C.O. 1<sup>st</sup> MR, C.O. 9<sup>th</sup> MR & SP/Senapati.
- (iii) 04/11/92 to 14/11/94 - C.O. HG, SP/NAB, & SP/Tamenglong
- (iv) 18/06/97 to 05/03/2001 - SP/Imphal East & C.O. 8<sup>th</sup> MR.

Attended  
by  
Advocate

(84)

- (2) -

5. That subsequently I have been nominated to IPS Vide No.1.14011/1499-I.P.S.-1-Govt. of India-Bharat Sarkar dt. 25/2/2000 and allotted "1991" as my year of seniority in the IPS list whereas my junior colleagues namely (1) W. Meenakumar Singh S.P.S. ('89) (2) N. Kipgen S.P.S.('89) (3) M. Karnaji Singh S.P.S.('90) (4) S. Vamphi S.P.S.('90) (5) R.K. Radhesana Devi S.P.S.('90) have all been already nominated to I.P.S. ahead of me during the pendency of the case although it was explicitly expressed in my writ petition (Civil Rule 1306 of 1994), not to allow any such supersession in promotional matters by any of my juniors during the pendency of the case.

6. Now that, the Hon'ble Gauhati High Court has already quashed the order of compulsory retirement purely on merit and that the Govt. has also already considered all my entitlements of service as well as financial benefits without any stigma at all, there can be no reason as to why my name should not have been deemed to have been continuously included in the list of suitable police officers for nomination to IPS and fix my seniority accordingly.

7. In view of the facts and circumstances stated above I may be allowed to submit my representation that my name should be deemed to have been included in the list of Police Officers eligible for inclusion in the select list for promotion to I.P.S. as on 01/04/1994 and such being the case, in the absence of any other disqualification on the contrary, my name should be deemed to have been considered by the selection committee held in 1995 and fix my seniority and year of allotment to I.P.S. as 1989 above my junior colleagues as per The Indian Police Service (Appointment by Promotion Regulation 1955).

Further, in the light of the facts mentioned above it will be for the better ends of Justice kindly to fix my seniority for IPS all over again and for which considerate act of your kindness with a feeling of *help ever and hurt never* I shall ever remain grateful to you.

With profound regards.

Yours faithfully,

*M. Susil Kumar*

M. Susil Kumar (I.P.S.)  
C.O 10<sup>th</sup> MRV SP Security.

Imphal, the 8<sup>th</sup> August, 2001

Advance Copy to :-

- (1) The Home Secy. to the Govt. of India.
- (2) The Secy. Union Public Service Commission.
- (3) The Chief Secy. Govt. of Tripura.
- (4) The D G. Police Govt. of Tripura.

(85)

Annexure 19

107

No. 9/1/98-INT  
Government of Manipur  
Office of the Inspector General of Police/Intelligence  
Manipur, Imphal.

To Imphal, the 17th August, 2001.

The Director General of Police,  
Manipur.

Sir,

Enclosed kindly find representation of Shri  
M. Sushilkumar Singh, I.P.S., CO 10th MR/SP Security  
dt. 8/8/2001 addressed to the Chief Secretary, Govt.  
of Manipur for rectification of his year of allotment  
into IPS. The representation is self explanatory and  
may be forwarded to the Chief Secretary, Government  
of Manipur for further necessary action at his end.

Yours faithfully,

( M.K. DAS, I.P.S. )  
Inspector General of Police/Intelligence,  
Manipur, Imphal.

Encl:- As above.

Endst. No. 9/1/98-INT/2/6 Imphal, the 17th August, 2001.

Copy to:-

Shri M. Sushilkumar Singh, IPS  
CO 10th MR/SP Security, Manipur - with reference  
to his letter No. nil dt. 8/8/2001.

11/8/01  
( M.K. DAS, I.P.S. )  
Inspector General of Police/Intelligence,  
Manipur, Imphal.

Attended  
A  
Relocate.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 48 of 2002.

Date of Order : This the 30th Day of September, 2002.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Mayanglambam Sushilkumar Singh, IPS  
Commanding Officer,  
10th Battalion Manipur,  
Superintendent of Police (Security)  
Manipur Police Department,  
Imphal . . . Applicant

By Advocate Sri R.K.Deb Choudhury.

- Versus -

1. Union of India,  
represented by the Secretary,  
Ministry of Home Affairs,  
Government of India,  
New Delhi-110001.
2. State of Manipur,  
represented by the Chief Secretary,  
Govt. of Manipur,  
Manipur Secretariat, South Block,  
Imphal.
3. The Commissioner,  
Deptt. of Personnel,  
Govt. of Manipur,  
Imphal.
4. The Commissioner/Principal Secretary  
(Home), Govt. of Manipur,  
Manipur Secretariat, Imphal.
5. The Director General of Police,  
Manipur, Police Headquarters,  
Indo Burma Road, Imphal.
6. The Secretary,  
Union Public Service Commission,  
Dholpur, Shahjahan Road,  
New Delhi-110011.
7. Shri W.Meenakumar Singh.
8. Shri N. Kipgen.
9. Shri M. Karnajit Singh.
10. Shri S. Vaiphei.
11. Smt R.K.Radhesana Devi . . . Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C for respondents 1 and 6  
and Sri D.Senapati for respondents 2, 3, 4 and 5.

Attested  
By  
Advocate

contd..2

O R D E R

CHOWDHURY J. (V.C)

This is an application under Section 19 of the Administrative Tribunals Act 1985 seeking for a direction on the respondents to consider the case of the applicant for appointment in Indian Police Service (IPS) with effect from the date on which his juniors were appointed.

2. The applicant is appointed to the IPS by promotion under Regulation 9 of the Indian Police Service (Appointment by Promotion) Regulation 1955. In this application he has claimed that his name ought to have considered in 1990.

It may be stated here that the applicant was compulsorily retired 15.11.94 and compulsory retirement order was set aside by the High Court on 14.3.97.

We have heard Mr R.K. Deb Choudhury, learned counsel appearing for the applicant, Mr A. Deb Roy, learned senior C.G.S.C for respondents No. 1 and 6 and Mr D. Anapati, learned counsel for the State of Manipur. (In course of hearing Mr R.K. Deb Choudhury submitted that he had already submitted a representation before the State Government and the said representation requires to be considered by the State Government. Mr Deb Choudhury further submitted that now he also wants to submit a representation before the Union of India and Union Public Service Commission for consideration of his case for retrospective promotion. In view of the submission made above we dispose of this application. The applicant may file representation, if any, before the competent authority. It is expected that the competent authority shall pass appropriate order.

With this the application stands disposed of. There

shall, however, be no order as to costs.

Section Officer (Judicial)  
Central Administrative Tribunal  
Gandhi Road, Guwahati

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (Adm)

To

1. The Secretary, Ministry of Home affairs,  
Government of India, New Delhi - 110001.
2. The Secretary, Union Public Service Commission,  
Dholpur House, New Delhi - 110001.
3. The Chief Secretary,  
Government of Manipur, Imphal.
4. The Commissioner, Department of Personnel & A.R.,  
Government of Manipur, Imphal.
5. The Director General of Police,  
Government of Manipur, Imphal.

(Through proper Channel)

Ref:- Central Administrative Tribunal - Guwahati Bench Order dated 30.09.2002 passed in Original Application No.48 of 2002 in the matter of M.Sushilkumar Singh, IPS, Police Dept. Manipur - *Versus* - Union of India & Others.

Subject: REPRESENTATION CONCERNING YEAR OF ALLOTMENT OF IPS IN RESPECT OF M.SUSHILKUMAR SINGH, IPS (SPS-1991) AND PRAYER FOR RECTIFICATION THERE OF.

Sir,

I have the honour to submit a representation as under, as per The Central Administrative Tribunal, Guwahati Bench order dated 30.09.02 which states inter alia that, 'The applicant may file representation, if any, before the competent authority'.

Annexure - A/1 is a copy of the Hon'ble CAT's Order dated 30.09.02.

- 1) The present representation arose/cropped up because of the non-consideration of the case of the applicant for appointment to the Indian Police Service in the Manipur - Tripura Cadre by the Selection Committee of the UPSC due to omission and non - inclusion of the applicant's name erroneously by the Govt. of Manipur in the seniority list of the State Police Service Officers who were eligible for appointment to Indian Police Service, Manipur - Tripura Cadre as on 1.4.94.

That on being recommended by the Manipur Public Service Commission (MPSC) the applicant was appointed by the Govt. of Manipur to the Manipur Police Service vide its order No.2/44/74-S dated 25/3/75.

Annexure - A/2 is a copy of the order dated 25/ 3/75.

Attested  
by  
Advocate.

*Sh*

- 3) That by an order No.3/3/78-MPS/DP (Pt) dated 18/5/84 the Govt. of Manipur was further pleased to confirm the service of the applicant to Manipur Police Service Cadre - II with effect from 2/9/80.

Annexure - A/3 is a copy of the order dated 18/5/84.

- 4) That thereafter on the recommendation of the Manipur Public Service Commission, the Govt. of Manipur appointed the applicant to the Manipur Police Service Selection Grade Scale with effect from 11/9/86. vide its order No.3/8/87- MPS/DP dated 31/5/88.

Annexure - A/4 is a copy of the order dated 31/5/88.

- 5) That the Govt. of Manipur Deptt. Of Personnel and Administrative Reforms (Personnel Division) vide its letter No.31/15/88-IPS/DP dated 16/7/90 furnished to the Union Public Service Commission (UPSC) all information / documents in respect of the eligible State Police Service Officers of Manipur Part to be considered for promotion to Indian Police Service (IPS) as on 1/4/90. The applicant's name appeared in serial No.5 of the select list as enclosed herewith. However, the applicant could not get promoted to I.P.S.

Annexure - A/5 is a copy of the above order dated 16/7/90

- 6) That the Govt. of Manipur by its order No.18/58/94-MPS/DP dated 15/11/94 compulsorily retired the applicant from Government Service with immediate effect, i.e from 15/11/94.

Annexure - A/6 is a copy of the above order dated 15/11/94.

- 7) That the applicant being aggrieved by the above order dated 15/11/94 filed a writ petition before the Guwahati High Court (Imphal Bench) and registered as Civil Rule 1306/94. The Hon'ble Court by its judgment and order dated 14/3/97 quashed the impugned order dated 15/11/94 and directed the respondents to take the writ petitioner (applicant herein) back to service forthwith with all consequential benefits.

Annexure - A/7 is a copy of the above judgment and order dated 14/3/97 passed by Hon'ble Guwahati High Court in Civil Rule 1306/94.

- 8) That in compliance with the judgment and order of the Hon'ble High Court, the Govt. of Manipur vide order No.18/58/94/MPSDP (Pt) dated 28/4/97 was pleased to revoke the order of compulsory retirement and reinstated the applicant in service with effect from 18/3/97. The applicant was also paid all the back wages from 15/11/94 to 17/3/97, vide Govt. of Manipur Order No.18/58/94-MPS/DP(pt) dated 29/1/1998 and its corrigendum dated 2/2/1998.

Annexure - A/8(i) is a copy of the above order dated 28/4/97.

Annexure - A/8(ii) is a copy of the above order dated 29/1/98.

Annexure - A/8(iii) is a copy of the above order dated 2/2/98.

9)

That the applicant was appointed to the Indian Police Service by Govt. of India Notification No.1.14011/14/99-IPS.1 dated 25/2/2000 and allocated to Joint cadre of Manipur - Tripura, and by another Notification No.1.15011/12/2000-IPS.1 dated 25/8/2000 he was allotted the year 1991.

Annexure - A/9 is a copy of the above notification dated 25/2/2000.

Annexure - A/10 is a copy of the above notification dated 25/8/2000.

10)

That what the present petitioner would like to place before the Competent Authority is that in pursuance of U.P.S.C.'s D.O letter No. F.4/7/94-AIS dated 5/9/94, the Govt. of Manipur, Deptt. Of Personnel and Administrative Reforms (Personnel Division) vide its letter No.3/2/95-IPS/DP dated 25/2/95 furnished the information/ documents in respect of ten State Police Service Officers of Manipur Part who are eligible for consideration for promotion to IPS as on 1/4/94. In the enclosed select list the applicant's name was omitted. Out of the ten officers mentioned in the select list all were junior to the applicant excepting one Shri. Eric Ekka who was at serial No.1. Two officers included in the list viz-Sl.No.4 Shri. W.Meena Kumar Singh and Sl.No.7 Shri. N. Kipgen were appointed to the Indian Police Service by notification No.1-14011/30/95-IPS-1 dated 24/12/95 and notification No.1-14011/30/95-IPS-1 dated 11/1/96 respectively and they were allotted the year 1989.

Annexure - A/11 is a copy of the above letter dated 25/2/95.

Annexure - A/12 is a copy of the above notification dated 24/12/95.

Annexure - A/13 is a copy of the above notification dated 11/1/96.

11)

That it is stated that during the pendency of Civil Rule 1306/94 filed by the applicant as petitioner before the Hon'ble Guwahati High Court, the Govt. of Manipur, Deptt. Of Personnel and administrative Reforms (Personnel Division) vide its letter No.3/23/95-IPS/DP dated 26/2/96 furnished a select list of twelve officers along with their full particulars for consideration for appointment to IPS as on 1/4/95 to UPSC. Three officers (namely Sl.No.6 Shri.M. Karnajit Singh, Sl.No.7. Shri S. Vaiphei, and Sl.No.8 Smt. R.K.Radhesana Devi), out of the twelve who were all Junior to the applicant were appointed to IPS. Shri. M.Karnajit Singh and Shri S. Vaiphei were appointed vide Notification No.1-14011/14/97-IPS-1 dated 5/11/97 and vide Notification No.1.15011/1/98-IPS.1 dated 3/10/98 they were allotted the year 1990. Smt.R.K. Radhesana Devi was appointed to IPS vide Notification No.1.14011/1/97-IPS-1 dated 24/2/98 and vide Notification No.1.15011/1/98-IPS.1 dated 3/11/98 she was allotted the year 1990.

Annexure - A/14 is a copy of the above letter dated 26/2/96.

Annexure - A/15 is a copy of the above notification dated 5/11/97

Annexure - A/16 is a copy of the above notification dated 3/10/98

Annexure - A/17 is a copy of the above notification dated 24/2/98

Annexure - A/18 is a copy of the above notification dated 3/11/98

12)

That the applicant being aggrieved by the above orders whereby his juniors were allowed to supersede him in their appointment to IPS and given earlier years of allotment, filed a representation before the Chief Secretary, Manipur on 8/8/2001 with a request for rectification of the year of allotment from that of 1991 to 1989 and fix his seniority above the persons who were/are juniors to the applicant in the Manipur Police Service Selection Cadre etc. (vide Annexure - A/4) and allot him 1989 as the year of allotment to IPS. (Copies were also endorsed to, (1) The Secretary, Ministry of Home Affairs, Govt. of India, New Delhi (2) The Secretary, Union Public Service Commission, (3) The Chief Secretary, Government of Tripura, (4) The DGP, Government of Tripura. However, the representation of the applicant is yet to be disposed of.

Annexure - A/19 is a copy of the above Representation dated 8/8/2001.

13)

That being aggrieved by the non - consideration on the matter by the Chief Secretary, Government of Manipur, the present Applicant filed a case (under section 19 of the Central Administrative Tribunal Act 1985), before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati under original Application No.48 of 2002.

14)

That the Hon'ble Central Administrative Tribunal after, having heard the learned counsels of both sides issued/passed an order on 30th day of September, 2002 in which the Hon'ble Tribunal has directed as under, "The applicant may file representation, if any, before the competent authority. It is expected that the competent authority shall pass appropriate order". Hence the present petition for the following reasons:-

(i) By the time when the Govt. of Manipur furnished detailed particulars of the State Police Officers eligible for inclusion in the Select List for appointment to IPS as on 1/4/94, under letter No. 3/2/95-IPS/JP dated 25/2/95, the petitioner's name should not have been erroneously omitted as the cut-off date was fixed as 1.4.94, on which date the present petitioner was very much in Service (as testified by the Govt. Of Manipur Order No.18/58/94-MPS/DP dated 15.11.94 which is at Annexure 'A/6')

(ii) That the applicant was senior to the respondents No.7,8,9,10 and 11 (appearing in the Hon'ble CAT's ORDER dated 30.9.2002 at Annexure - A/1) and was eligible for being considered for appointment to IPS as on 1/4/90 (vide Annexure - A/5 above) and as such he has been superseded illegally by his juniors.

(iii) There was no communication of any adverse entries in the ACRs of the applicant at the relevant point of time. That being so the Competent Authorities acted illegally in excluding the applicant's name from the list for appointment to IPS as on 1.4.94.

SM

(iv) Since the applicant was reinstated into service with all consequential benefits by orders dated 28/4/97, dated 29/1/98 and dated 2/2/98 (At Annexures A/8(i),(ii) & (iii)), in compliance of the Hon'ble Guwahati High Court's judgment and order dated 14/3/97 passed in CR No.1306/94, the applicant is entitled to all service benefits and as such the competent authorities are duty bound to revise the petitioner's position vis-a-vis the respondents No.7 to 11, appearing in the Hon'ble CAT's order dated 30.9.2002 at A/1).

(v) That the notifications/orders dated 25/2/2000 and 25/8/2000 (At Annexure A/9 & A/10), in respect of the present applicant are not legally tenable and the same order needs to be reviewed.

### Prayer

In the light of the facts and circumstances as mentioned above the undersigned applicant do humbly pray that the appointment of the present petitioner to IPS may be given effect from the date on which his juniors were appointed and allot him the same year of Seniority so that the petitioner should not be felt deprived of his valuable rights and privileges, victimized any longer, and accordingly allow him to get all the consequential benefits as entitled to him.

It is hoped and fully trusted that this representation, of a conditionally victimized member of the Indian Police Service, with an agonized soul, as a last resort, will certainly find the affectionate & judicious attention of the competent authority and dispose of the matter favorably.

Submitted  
with profound regards and prayer "kindly help ever  
and Hurt never"

Yours faithfully

M. Sushil Kumar  
7/6/2003  
PRINCIPAL,  
MANIPUR POLICE TRAINING SCHOOL,  
PANGELIMPHAL (MANIPUR)

Place : Imphal,  
Dated : 25 June 2003

Copy to :-

1. The Chief Secretary,  
Government of Tripura, Agartala.
2. The Director General of Police,  
Government of Tripura, Agartala.

Place : Imphal,  
Dated : 25 June 2003

M. Sushil Kumar, IPS  
PRINCIPAL,  
MANIPUR POLICE TRAINING SCHOOL,  
PANGELIMPHAL (MANIPUR)

M. Sushil Kumar

- 220 -

Annexure A/22

Chief Secy's Office  
27/21

Sd. Secy. (A)  
45-80  
Date 19/10/04

18/10/04

Immediate  
Court Direction

F.No. 11/64/2002-AIS

**UNION PUBLIC SERVICE COMMISSION**

DHOLPUR HOUSE, SHAHJAHAN ROAD,  
NEW DELHI-110069.

Email: upsc@vsnl.net

Fax: 91-11-23782049, 23385345

October 04, 2004

To

The Chief Secretary,  
Government of Manipur,  
Imphal.

[Kind Attn.: Sh. Gyan Prakash, DS(DP)]

**Subject: Order dated 30.09.2002 of Hon'ble CAT Guwahati Bench in O.A. No. 48/2002 filed by Shri M. Sushil Kumar Singh, a promotee IPS officer of Manipur.**

Sir,

I am directed to refer to your letter No. 4/63/97-AIPS/DP(Pt.)/CAT dated 07.04.2004 on the subject and to state as follows:-

- (i) Consequent upon his reinstatement in the State Police Service, Shri M. Sushilkumar Singh filed O.A. No. 48/2002 before the Hon. CAT Guwahati Bench praying that the respondents may be directed to appoint him to the IPS w.e.f. the date on which his juniors were appointed. The O.A. filed by Shri M. Sushilkumar Singh was disposed of by the Hon. Tribunal vide their order dated 30.09.2002 with a direction to the applicant to submit his representation before the competent authority. The operative portion of the aforesaid order reads as under:-

"We have heard Mr. R.K. Deb Choudhury, learned counsel appearing for the applicant, Mr. A. Deb Roy, learned senior C.G.S.C. for respondents No. 1 and 6 and Mr. D. Senapati, learned counsel for the State of Manipur. In the course of hearing Mr. R.K. Deb Choudhury submitted that he had already submitted a representation before the State Government and the said representation requires to be considered by the State Government. Mr. Deb Choudhury further submitted that now he also wants to submit a representation before the Union of India and Union Public Service Commission for consideration of his case for retrospective promotion. In view of the submission made above we dispose of this application. The applicant may file representation, if any, before the

18/10  
Sd. (DP)  
on file  
immediately  
19/10

18/10-5

Attested

by

Associate

Sd. DP-I

20.10.2004  
18/10/04



competent authority. It is expected that the competent authority shall pass appropriate order."

- (ii) In pursuance to the orders of the Hon. Tribunal, Shri M.S. Singh submitted his representation dated 07.06.2003. The said representation was examined and the comments of the State Government and the Central Government on the representation of Sh. M.S. Singh were sought.
- (iii) The Govt. of India, Ministry of Home Affairs vide their letter dated 02.07.2003 furnished their comments on the representation of Sh. M.S. Singh. The MHA stated that there is no provision to consider retrospective promotion from an earlier Select List in which the officer has not been considered and included. According to the MHA, until and unless Sh. Singh is considered and included in the 1994-95 or subsequent Select List, he is not entitled to be considered for appointment on that basis. The MHA have also stated that there is no provision for *suo moto* review of the Select List already finalized and acted upon and any decision to review the Select List of the previous year can be considered only in pursuance of the directions of the Court of competent jurisdiction to that effect.
- ✓ (iv) The Govt. of Manipur vide their letter dated 07.04.2004 also furnished their observations on the representation of Sh. M.S. Singh. The State Government stated that in pursuance to the orders of the Hon'ble High Court dated 14.03.1997, Sh. M.S. Singh has already been given the benefits of his entire service in the Manipur Police Service, including the period from the date of his compulsory retirement to the date of his reinstatement in the service i.e. from 15.11.1994 to 17.03.1997, while determining his year of allotment. According to the State Government, the period from 15.11.1994 to 17.3.1997 has been treated as duty and full pay and allowances have been paid to the officer. The State Government have also stated that there is no provision for *suo moto* review of the Select List already finalized and acted upon and any decision to review the Select List of a previous year finally approved by the UPSC and acted upon by the Govt. of India can be considered only in pursuance of the directions of the Court of competent jurisdiction.

2. The representation of Shri M.S. Singh was considered by the Commission along with the views of the Govt. of India (MHA) and the State Government. It was observed that the State Government have already granted relief to the applicant by reinstating him in the SPS and the officer has since been promoted to the IPS from the Select List of 1999. Further both the State Government and the Central Government have stated that the Promotion Regulations do not provide for suo moto review of Select Lists after they have been approved and acted upon unless there are direction of a Court of competent jurisdiction.

-95-  
-222-

118

3. In the circumstances, no further relief is admissible to the officer under the scope of the present orders.

4. The Govt. of Manipur is, therefore, requested to communicate a copy of this letter to the officer.

Yours faithfully,



(G.C. YADAV)  
Deputy Director (AIS)  
Union Public Service Commission  
Tel. 23382724

Copy to : The Secretary to Govt. of India, Ministry of Home Affairs, North Block, New Delhi [Kind Attention: Sh. S.P. Verma, Deputy Secretary].

(G.C. YADAV)  
Deputy Director (AIS)

No.4/63/97-IPS/DP(Pt)/CAT  
GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

Imphal, the 28<sup>th</sup> December, 2004.

To

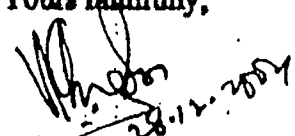
Shri M. Sushilkumar Singh, IPS  
Principal,  
Manipur Police Training School,  
Pangei, Imphal.

**Subject:-** Order dated 30.09.2002 of Hon'ble CAT Guwahati Bench in  
O.A. No.48/2002 filed by Shri M. Sushil Kumar Singh, a promotee  
IPS officer of Manipur.

Sir,

I am directed to refer on the above subject and to forward herewith a copy of  
UPSC's letter F.No.11/64/2002-AIS dated 04-10-2004 and to request you kindly  
acknowledge receipt of the same directly to the Deputy Director(AIS), Union Public  
Service Commission, New Delhi under intimation to this Department.

Yours faithfully,

  
(Setkhalet Lhangum)  
Under Secretary(DP),  
Government of Manipur.

Copy to:-

1. Shri G.C. Yadav,  
Deputy Director,  
Union Public Service Commission,  
Dholpur House, Shahajahan Road,  
New Delhi - 110 069.
2. The Director General of Police, Manipur.

Attested  
by  
Advocate.

Office of the P. M. P. T. C. Patrap

P. R. No

763

29 Jan 05

①

Date

7/1/05

119

GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 5<sup>th</sup> January, 2005.

No.3/7/90-IPS/DP(A): The Governor of Manipur is pleased to appoint the following IPS Officers of Manipur part of Joint MT-Cadre to the IPS Super time Scale of DIGP in the scale of Rs.16,400-450-20,000/- plus other allowances as admissible under Rules with immediate effect:-

1. Shri W. Meenakumar Singh, IPS(MT:89)
2. Shri N. Kipgen, IPS(MT:89)
3. Shri C. Doungel, IPS(MT:90)
4. Shri M. Karnajit Singh, IPS(MT:90)
5. Smt. R. K. Radhesana Devi, IPS(MT:90)

By orders & in the name of the

Governor

(Selkholer Lhangum)  
Under Secretary(DP),  
Government of Manipur.

Copy to:-

1. The Secretary to Governor, Raj Bhavan, Imphal.
2. The Secretary to Chief Minister, Manipur.
3. The Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
4. The P.S. to Chief Secretary, Government of Manipur.
5. The Chief Secretary, Government of Tripura, Agartala.
6. The Principal Secretary(Home), Govt. of Manipur.
7. The Director General of Police, Manipur.
8. The Accountant General, Manipur.
9. The Officer concerned.
10. The Director, Printing and Stationary, Manipur.
11. The Treasury Officer concerned
12. Orders Book/ Guard file.

PROMOTION  
ORDER

GOVERNMENT OF MANIPUR  
POLICE DEPARTMENT

Endsl. No.E/28/17(11)98-PHQ(Adm) 1139

Copy to:-

1. All ADsGP, Manipur.
2. All IsGP, Manipur.
3. All Dy.IsGP, Manipur.
4. The Director, MPR, Manipur
5. All SsP/COs Manipur including Principal, MPTS, Pangei.
6. The A/D, FSL, Pangei.
4. Persons concerned.

Imphal, the 6<sup>th</sup> January, 2005.

SL NO ① ② ④ ⑤ all are juniors  
and none promoted.

Please file the writ soon

Attested  
Associate

(L.M. Khaita)

Inspector General of Police (HQ)  
DGP, Manipur, Imphal.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION No. 139 OF 2005

IN THE MATTER OF :

M.S.K.SINGH

--- APPLICANT

VERSUS

UNION OF INDIA & OTHERS

--- RESPONDENTS

WRITTEN STATEMENT ON BEHALF OF RESPONDENT No.6

Written Statement of (Ms.) Molly Tiwari posted as Under Secretary in the Union Public Service Commission, New Delhi.

2. I solemnly affirm and state that I am an officer in the Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi and am authorised to file the present Written Statement on behalf of Respondent No.6.

3. That I have read and understood the contents of the above Application and in reply I submit as under:

4.1 At the outset, it is submitted that the Union Public Service Commission, being a Constitutional body, under Articles 315 to 323 Part XIV (Services under the Union and the States) Chapter-II of the Constitution, discharge their functions and duties under Article 320 of the Constitution. Further, by virtue of the provisions made in the All India Services Act, 1951, separate Recruitment Rules have been framed for the IAS/IPS/IFS. In pursuance of these Rules, the IPS (Appointment by Promotion) Regulations, 1955 [Promotion Regulations, in short] have been made. In accordance with the provisions of the said Regulations, the Selection Committee presided over by the Chairman/Member of the Union Public Service Commission, makes selection of State Police Service [SPS, in short] officers for promotion to the Indian Police Service.

Attested  
(S. C. AHUJA)  
संयोजक अधिकारी / Section Officer  
संय लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली / New Delhi

(MOLLY TIWARI)  
अवर सचिव / Under Secretary  
संय लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली / New Delhi

Filed by the  
Respondent No.6 Through  
Aisha Das,  
Addl. Secy  
5/10/05

4.2 Thus the Union Public Service Commission, after taking into consideration the records received from the State Government under Regulation 6 and observations of the Central Government received under Regulation 6A of the Promotion Regulations, take a final decision on the recommendations of the Selection Committee in accordance with the provisions of Regulation 7 of the aforesaid Regulations. The selections are done in a fair and objective manner on the basis of relevant records and following the relevant Rules and Regulations.

### PRELIMINARY SUBMISSIONS:

5.1 It is respectfully submitted that selection of State Police Service Officers for promotion to the IPS are governed by the IPS (Appointment by Promotion) Regulations 1955. Regulation 3 of the said Regulations provides for a Selection Committee [SCM, in short] consisting of the Chairman of the Union Public Service Commission or where the Chairman is unable to attend, any other Member of the Union Public Service Commission representing it and in respect of the Manipur-Tripura Joint Cadre (Manipur Segment), the following officers as members: -

i) Chief Secretary to the Government of the constituent States;

ii) DG & IG of Police of the constituent States

or

Where no cadre post of DG & IG of Police exists, then the Inspector General of Police of the constituent States;

iii) A nominee of the Government of India not below the rank of Joint Secretary.

The meeting of the Selection Committee is presided over by the Chairman/Member, UPSC.

The above composition of the Selection Committee has since been amended vide Government of India Notification dated 31.01.2005.

5.2 That as per the provisions of the Regulations, the process of promotions to the IPS starts after the vacancies have been determined by the Central Government and the State Government sends a proposal to the Union Public Service

Attested  
(सुभाष अहुजा)  
(S. C. AHUJA)  
अनुभाग अधिकारी/Section Officer  
संघ लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली/New Delhi

(मोली तिवारी)  
(MOLLY TIWARI)  
अवर सचिव/Under Secretary  
संघ लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली/New Delhi

Commission for convening a meeting of the Selection Committee (SCM, in short) to prepare the Select List for promotion to the All India Services. The proposal of the State Government, *inter-alia*, includes documents and information like the Seniority List, ACRs, Eligibility List, Integrity Certificates, Statement of Disciplinary Cases pending etc. A meeting of the Selection Committee is convened after all the documents have been examined for completeness by the Commission.

5.3 In accordance with Regulation 5(4) of the said Regulations, the aforesaid Committee duly classifies the eligible SPS officers included in the zone of consideration as 'Outstanding', 'Very Good', 'Good' or 'Unfit', as the case may be, on an overall relative assessment of their service records. Thereafter, as per the provisions of Regulation 5(5) of the said Regulations, the Selection Committee prepares a list of suitable officers by including the required number of names first from the officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the State Police Service.

5.4 The ACRs of eligible officers are the basic inputs on the basis of which eligible officers are categorised as 'Outstanding', 'Very Good', 'Good' and 'Unfit' in accordance with the provisions of Regulation 5(4) of the Promotion Regulations. As per the uniform and consistent procedures and practice followed by the Union Public Service Commission, the Selection Committee examines the service records of each of the eligible officers, with special reference to the performance of officers during the years preceding the year for which the Select List is being prepared, deliberating on the quality of the officer as indicated in the various columns recorded by the reporting/reviewing officer/accepting authority in the ACRs for different years and then after detailed deliberations and discussions, finally arrives at a classification to be assigned to each eligible officer in accordance with the provisions of the Promotion Regulations. While doing so, the Selection Committee also reviews the overall grading recorded in the ACRs to ensure that this is not inconsistent with the grading/remarks under various parameters or attributes recorded in the respective ACRs. The grading given by the reporting/reviewing officers in the ACRs reflects the merit of the officer

Attested  
S. Ahuja  
(समर्थ आहुजा)  
(S. C. AHUJA)

संयोजक अधिकारी/Section Officer  
संघ लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली/New Delhi

(मोली तिवारी)  
(MOLLY TIWARI)  
ज्यवर सचिव/Under Secretary  
संघ लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली/New Delhi

reported upon in isolation whereas the classification made by the Selection Committee is on the basis of a logical and in depth examination of the service records of all the eligible officers in the zone. The Selection Committee also takes into account letters of appreciation for meritorious work done by the concerned officers, if any. Similarly it also keeps in view orders awarding penalties or any adverse remarks communicated to the officer, which even after due consideration of his representation, have not been completely expunged. Thus, it may be seen that the Selection Committee makes the assessment in a fair and objective manner. The procedure adopted by the Selection Committee in preparing the Select Lists is uniformly and consistently applied for all States and Cadres for induction of State Service officers into the All India Services.

### CONTENTIONS OF THE APPLICANT

6. The Applicant, Shri M.S.K.Singh, has filed this Original Application against his non-inclusion in the Select List of 1994-95 for promotion to the Indian Police Service of Manipur-Tripura Joint Cadre (Manipur Segment). The main contentions of the Applicant are as follows :-

- (a) Though the Applicant was eligible for consideration for appointment to the Indian Police Service as on 01.04.1990, he was superseded illegally by juniors;
- (b) The name of the Applicant was erroneously excluded from the list of eligible officers for consideration for appointment to the Indian Police Service as on 01.04.1994;
- (c) The Applicant was reinstated in service with all consequential benefits by the Order dated 28.04.1997. As such, he is entitled to all service benefits and the Respondents are duty bound to review his position vis-à-vis Respondent Nos.7 to 11;
- (d) Respondent Nos. 5 & 6 considered and rejected the Applicant's representation dated 07.06.2003 mechanically and without application of mind.

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(S. C. AHUJA)  
अनुभाग अधिकारी/Section Officer  
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*(मोली तिवारी)*  
(MOLLY TIWARI)  
अवर सचिव/Under Secretary  
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124


## FACTUAL POSITION

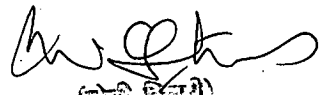
7.1 It is respectfully submitted that, as per the information available with this Respondent, Shri M.Sushil Kumar Singh, a State Police Service officer of Manipur had been compulsorily retired from State Government Service by the State Government w.e.f. 15.11.1994. In view of this, the State Government had not included his name in the list of eligible officers for preparation of the IPS Select Lists of 1994-95 and 1996-97 and thus there was no occasion to consider his name for promotion to the IPS during these years. The submissions by the State Government in this regard would be relevant and may also kindly be referred to. Aggrieved by the non-consideration of his case, a W.P. was filed by the Applicant herein before the Hon'ble Guwahati High Court. The Hon'ble High Court, vide their judgement dated 14.03.1997, quashed the compulsory retirement order and directed that the petitioner be taken back to service with consequential benefits.

7.2 In compliance of the said judgement dated 14.03.1997 of the Hon'ble High Court, the Govt. of Manipur reinstated the applicant in the State Police Service w.e.f. 18.03.1997. In the meantime, officers junior to the Applicant were appointed to the IPS on the basis of their inclusion in the Select Lists of 1994-95 and 1996-97. No meeting of the Selection Committee (SCM) was held during the year 1998. For the SCM held during the year 1999, the applicant was considered and included in the Select List. The Applicant, consequently, was appointed to the IPS vide Govt. of India's notification dated 25.02.2000.

7.3 It is further submitted that the applicant then filed an O.A. No 48/2002 before the Hon'ble CAT, Guwahati Bench, praying that he may be appointed to the IPS from the date his juniors were appointed. The Hon'ble CAT, vide its order dated 30.9.2002 held that the competent authority shall pass an appropriate order on the representation proposed to be filed by the applicant. The representation was to be submitted both to the Govt. of India and the UPSC (Answering Respondent, herein).

7.4 In pursuance to these Orders, the Commission received a representation dated 07.06.2003 from Shri M.S.K. Singh. The said representation was forwarded

  
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to the Govt. of India and the State Government for their comments. Based on the comments furnished by them, it was observed that both the State Government and the Govt. of India were of the view that the Promotion Regulations do not provide for suo-motu review of Select Lists after they have been approved and acted upon unless there are directions of a Court of competent jurisdiction. Keeping these observations and the rule position in view, the representation of the applicant was accordingly disposed of by the Commission vide its letter dated 04.10.2004 [Annexure A/22 of OA].

### REPLY TO THE CONTENTIONS

8.1.1 As regards the contention made by the Applicant at para 6(a), it is submitted that the Applicant was considered at S. No.3 of the Eligibility List for the Select List of 1990-91. On an overall relative assessment of his service records, the Selection Committee assessed him as 'Good'. On the basis of this assessment, he could not be included in the Select List owing to the statutory limit on the size of the Select List. Thereafter, he was considered for the Select Lists of the years 1991-92, 1992-93 & 1993-94. He was graded as 'Good' for the year 1991-92 and was included provisionally at S. No.1 of the Select List of 1991-92 subject to the State Government certifying his integrity. During the years 1992-93 & 1993-94, he was graded as 'Very Good' and he was provisionally included at S. No.1 of the Select Lists of 1992-93 and 1993-94 subject to his clearance in the disciplinary proceedings pending against him. The contention of the Applicant that he was superseded illegally is baseless since the Selection Committee had assessed all the officers in the eligibility zone as indicated in paras 7.1 to 7.4 above of this Reply and following the procedure summarized in paras 5.1 to 5.4 above.

8.1.2 The matter relating to assessment made by the Selection Committee has been contended before the Hon'ble Supreme Court in a number of cases. In the case of **Nutan Arvind Vs. UOI & Ors.** the Hon'ble Supreme Court have held as under:

"When a high level committee had considered the respective merits of the candidates, assessed the grading and considered their cases for

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promotion, this Court cannot sit over the assessment made by the DPC as an appellate authority.”

[(1996) 2 SUPREME COURT CASES 488]

8.1.3 In the case of Durgadevi and another Vs. State of Himachal Pradesh & Ors. the Apex Court have held as under:

“In the first instance, as would be seen from the perusal of the impugned order, the selection of the appellants has been quashed by the Tribunal by itself scrutinising the comparative merits of the candidates and fitness for the post as if the Tribunal was sitting as an appellate authority over the Selection Committee. The Selection of the candidates was not quashed on any other ground. The Tribunal fell in error in arrogating to itself the power to judge the comparative merits of the candidates and consider the fitness and suitability for appointment. That was the function of the Selection Committee. The observations of this Court in Dalpat Abasaheb Solunke case are squarely attracted to the facts of the present case. The order of the Tribunal under the circumstances cannot be sustained. The appeal succeeds and is allowed. The impugned order dated 10-12-1992 is quashed and the matter is remitted to the Tribunal for fresh disposal on other points in accordance with the law after hearing the parties.”

[1997-SCC(L&S)-982]

8.1.4 In the matter of UPSC Vs. H.L. Dev and Others. Hon'ble Supreme Court have held as under: -

“How to categorise in the light of the relevant records and what norms to apply in making the assessment are exclusively the functions of the Selection Committee. The jurisdiction to make the selection is vested in the Selection Committee.”

[AIR 1988 SC 1069]

8.1.5 In the case of State of Madhya Pradesh Vs. Shrikant Chapekar, the Hon'ble Supreme Court have held as under: -

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(MOHLY TIWARI)  
ज्यवर सचिव/Under Secretary  
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“We are of the view that the Tribunal fell into patent error in substituting itself for the DPC. The remarks in the ACR are based on the assessment of the work and conduct of the official/officer concerned for a period of one year. The Tribunal was wholly unjustified in reaching the conclusion that the remarks were vague and of general nature. In any case, the Tribunal outstepped its jurisdiction in reaching the conclusion that the adverse remarks were not sufficient to deny the respondent his promotion to the post of Dy. Director. It is not the function of the Tribunal to assess the service record of a Government servant, and order his promotion on that basis. It is for the DPC to evaluate the same and make recommendations based on such evaluation. This Court has repeatedly held that in a case where the Court/Tribunal comes to the conclusion that a person was considered for promotion or the consideration was illegal, then the only direction which can be given is to reconsider his case in accordance with law. It is not within the competence of the Tribunal, in the fact of the present case, to have ordered deemed promotion of the respondent.”

[JT 1992 (5) SC 633]

8.1.6 In the case of Dalpat Abasaheb Solunke Vs. B.S. Mahajan, the Hon'ble Supreme Court have held as under: -

“It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinise the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject.”

[AIR 1990 SC 434]

8.1.7 In the case of Smt. Anil Katiyar Vs. UOI & Others, the Hon'ble Supreme Court have held as under: -

“Having regard to the limited scope of judicial review of the merits of a selection made for appointment to a service of civil post, the Tribunal has rightly proceeded on the basis that it is not expected to

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play the role of an appellate authority or an umpire in the acts and proceedings of the DPC and that it could not sit in judgement over the selection made by the DPC unless the selection is assailed as being vitiated by mala fides or on the ground of it being arbitrary. It is not the case of the appellant that the selection by the DPC was vitiated by mala fides."

[1997(1) SLR 153]

8.1.8 Hence, it is humbly submitted that in view of the aforementioned judicial pronouncements, the assessment made by the Selection Committee is final. Further, the Applicant has a right for consideration and he was duly considered by the Selection Committee as and when he was included in the eligibility list prepared by the State Government. His non-inclusion in the Select List of 1990-91 was due to the overall grading the officer obtained on the basis of his ACRs assessed by the Selection Committee and the officers that were recommended for inclusion the Select List were on the basis of Regulation 5(4) and 5(5) of the Promotion Regulations. The procedure followed by the Selection Committee has been upheld by the Hon'ble Supreme Court in the case of R.S. Dass (AIR 1987 SC 593) which reads as under :

"The amended provisions of Regulation 5 have curtailed and restricted the role of seniority in the process of selection as it has given priority to merit. Now the committee is required to categorise the eligible officers in four different categories viz. 'Outstanding', 'Very Good', 'Good' or 'Unfit' on overall relative assessment of their service records. After categorisation is made the Committee has to arrange the names of the officers in the Select List in accordance with the procedure laid down in Regulation 5(5). In arranging the names in the Select List, the Committee has to follow the inter-se seniority of officers within each category. If there are five officers who fall within 'Outstanding' category, their names shall be arranged in the order of their inter-se seniority in the State Civil Service. The same principle is followed in arranging the list from amongst the officers falling in the category of 'Very Good' and 'Good'. Similarly, if a junior officer's name finds place in the category of 'Outstanding' he would be placed higher in the Select List in preference to a senior officer finding place in the 'Very

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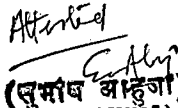
(मोली तिवारी)  
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Good' or 'Good' category. In this process a junior officer having higher grading would supersede his seniors. This cannot be helped. Where selection is made on merit alone for promotion to a higher service, selection of an officer though junior in service in preference to senior does not strictly amount to super-session." (emphasis provided)

8.2 As regards the contention made at para 6(b), it is respectfully submitted that the Government of Manipur vide letter dated 25.02.1995 had furnished a proposal to convene the Selection Committee for preparation of the Select List of 1994-95 for promotion to the IPS of Manipur-Tripura Joint Cadre, Manipur Segment. There were two (02) anticipated vacancies and the size of the Select List was Four (04) in accordance with the then prevailing provisions of the Promotion Regulations. Though the State Government had furnished the names of 10 eligible officers, the name of the Applicant was not included therein. The Commission vide letter dated 08.03.1995 requested the State Government to indicate the reasons for exclusion of the Applicant from the Eligibility List. The State Government vide letter dated 21.03.1995 replied that Shri M Sushil Kumar Singh had been excluded from the Eligibility List as he had been compulsorily retired w.e.f. 15.11.1994. Since the Applicant was no longer in the State Police Service as clarified by the State Government, the Selection Committee that met on 24.03.1995 did not consider him for promotion to the IPS. In view of this, the contention of the Applicant is baseless. The submissions of the State Government in this regard may also kindly be referred to as they are responsible for preparation of the Eligibility List.

8.3 As regards the contention made at para 6(c), it is respectfully submitted that the Promotion Regulations do not provide for reviewing the Select List *suo-motu* once it is approved and acted upon. As such, this contention is denied. However, as the interpretation of the rules and regulations are under the purview of the Central Government, their submissions in this regard may also kindly be referred to.

8.4 As regards the contention made at para 6(d), it is respectfully submitted that the representation of the Applicant was examined by the Commission in the light of the provisions of the IPS (Appointment by Promotion) Regulations indicated


  
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above. Thereafter, the representation was disposed of keeping in view the observations of the State Government as well as the Government of India (Ministry of Home Affairs) on the representation. As such, this contention is also denied.

9. That save those points, which have expressly been admitted hereinabove, others may be deemed to have been denied by the answering Respondent.


10. In view of the facts and circumstances stated above, and also taking into consideration the reply filed by the State Government and the Government of India in the matters pertaining to them, the Hon'ble Tribunal may be pleased to pass appropriate orders in this OA.

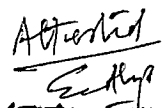
  
(सोनी तिवारी)  
**RESPONDENT** (TIVARI)  
उप सचिव/Under Secretary  
संघ लोक सेवा आयोग  
Union Public Service Commission  
नई दिल्ली/New Delhi

### VERIFICATION

I do hereby declare that the contents of the above Statement are believed by me to be true based on the records of the case. No part of it is false and nothing has been concealed therefrom.

Verified at New Delhi on the 31<sup>st</sup> day of August, 2005.

  
(सोनी तिवारी)  
**RESPONDENT** (TIVARI)  
उप सचिव/Under Secretary  
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(सुनील अहुजा)  
(S. C. AHUJA)  
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केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal

21 NOV 2005

गुवाहाटी न्यायापीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

Filed by  
for Respondents NO.  
2, 3, 4 and 5  
through  
person  
on 21/11/2005

O.A. NO.139 OF 2005.

Sri Mayanglambam Sushilkumar Singh.

.....Applicant.

-Vs.-

Union of India & Ors.

.....Respondents.

Written Statement on behalf of the  
Respondents No.2, 3, 4 and 5.

The answering Respondents beg to state  
as follows:

1. That, the answering Respondents have gone through the copy of the aforesaid Original Application (hereinafter referred to as the said application) and have understood the contents thereof. The answering Respondents deny all the statements made in the said application save and except those, what has been specifically admitted herein below in this written statement.

**PRILIMINARY OBJECTIONS :**

2. That, at the outset, the answering Respondents beg

Contd...2



132  
21.11.2005

to raise the following preliminary objections as regards to the maintainability of the said application on the following grounds and the question of maintainability may be decided first before proceeding with the merit of the case.

(a) That, the relief as prayed for by the Applicant for re-determination of his seniority in the State Police Service cannot be granted by this Hon'ble Tribunal inasmuch as it is a settled law that when a high level Selection Committee had considered the respective merits of the candidates, assessed the grading and considered their cases for promotion, this Hon'ble Tribunal cannot sit over the assessment made by the Committee as an appellate authority. Further, this Hon'ble Tribunal has not been vested with the jurisdiction to entertain matters pertaining to Police Service under the State Government. Therefore, the said application is filed without jurisdiction and is liable to be dismissed.

(b) That, the said application is not maintainable inasmuch as it does not disclose any fresh cause of action. Further, the subject matter of the grievances was already decided by the Hon'ble Gauhati High Court vide Judgement and Order dated 14.03.97 passed in Civil Rule No.1306/1994 as well as by this

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133  
21.11.2002

Hon'ble Tribunal vide Order dated 30.09.02 passed in Original Application No.48/2002 and as such barred by principles of res judicata.

(c) That, the said application is barred by limitation and is also hit by the principles of waiver, estoppel and acquiescence. There is also unexplained delay and laches on the part of the Applicant in praying for redressal of the grievances as rose in the said application. Before filing the said application, the Applicant had not exhausted all the remedies available to him as required by Section 20 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the Act,1985).

(d) That, the said application is bad for non-joinder of the necessary parties inasmuch as the relief sought for by the Applicant for re-fixation of his seniority would affect other officers and all of them have not been made party to this proceeding and in the absence of them the said application is liable to be dismissed.

**FACTS OF THE CASE:**

3.(A) That, the selection of the Manipur Police Service Officers for promotion to the IPS are governed by the Indian

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127  
11.11.12  
[Signature]

Police Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to as the Regulations, 1955). The Regulation 3 of the said Regulations, 1955 provides for a Committee consisting of the Chairman of the Union Public Service Commission (hereinafter referred to as the UPSC) or where the Chairman is unable to attend, any other Member of the UPSC representing it. In respect of the Manipur-Tripura Joint Cadre (Manipur Segment), the following officers are members:

- i) Chief Secretary, Manipur;
- ii) Chief Secretary, Tripura;
- iii) Director General of Police, Manipur;
- iv) Director General of Police, Tripura; and
- v) A nominee of the Government of India not below the rank of Joint Secretary.

The meeting of the Selection Committee is presided over by the Chairman/Member of the UPSC.

(B) That, as per the provisions of the Regulations, 1955 the process of promotion to the IPS starts after the vacancies have been determined by the Central Government and the State Government sends a proposal to the UPSC for convening a Meeting of the Selection Committee to prepare the Select List for promotion to the IPS. While

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125  
File 11/11. 21.11. 2014

sending the proposal by the State Government to the UPSC, the proposal includes inter-alia documents and information, like the Seniority List of MPS Officers, ACRs, Eligibility List, Integrity Certificates, Statement of Disciplinary/Criminal cases pending, etc. Meeting of the Selection Committee is fixed by the UPSC after the proposal/documents sent by the State Government is/are found complete.

(C) That, the Applicant formerly a member of the Manipur Police Service had been compulsorily retired from Government service with effect from 15.11.94 vide Orders No.18/58/94-MPS/DP dated 15.11.94 in the interest of the security of the State by invoking Article 311 (2) (c) of the Constitution of India. The ground for his compulsory retirement was for looting of the Kote of Reserve Line, Tamenglong by suspected armed underground elements in which approximately 42 numbers of .303 Rifles, some Sten Guns and Carbines were taken away. The Applicant, the then S.P. of Tamenglong was not at his Headquarters on the day of the incident and had left the station without awaiting prior permission from the competent authority.

A copy of the said Order dated 15.11.94 is annexed hereto and marked as Annexure : R/I.

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126  
21.11.95  
[Signature]

(D) That, for convening Selection Committee Meeting for preparation of Select List for promotion of State Police Officers to the IPS for the year 1994-95, the State Government sent a proposal to the UPSC vide letter No.3/2/95-IPS/DP dated 25.02.95. In Annexure-A of the said proposal, the names of 10 (ten) Manipur Police Officers were shown as eligible for promotion to IPS as on 01.04.94. In the said list of ten Police Officers, the name of the Applicant was not included since he had been compulsorily retired from service w.e.f. 15.11.94 although he was in service as on 01.04.94. This factual position was also communicated to the UPSC vide letter No.3/2/95-IPS/DP dated 21.03.95. The Selection Committee Meeting for promotion to IPS for the year 1994-95 was held on 24.03.95 and recommended Select List of 4(four) MPS Officers, namely, (1) Shri W. Meenakumar Singh, (2) Shri N. Kipgen, (3) Shri M. Karnajit Singh and (4) Shri S. Vaiphei. Out of this Select List Shri W. Meenakumar Singh and Shri N. Kipgen were promoted to IPS in the month of January, 1996 and they were assigned 1989 as their year of allotment.

Copies of the said letters dated 25.02.95 and 21.03.95 are annexed hereto and marked as Annexure : R/II and R/III respectively.

1-2-94  
94-95

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-/ (1996 in not shown)  
-/ (1994 not shown)  
R/III 18/3/97

137  
See 11.11.94  
[Signature]

(E) That, the Selection Committee Meeting for promotion to IPS for the year 1995-96 was held on 21.03.96 and recommended a Select List of 4(four) Officers namely (i) Shri Eric Ekka, (ii) Shri M. Karnajit Singh, (iii) Shri S. Vaiphei and (iv) Smt. R. K. Radhesana Devi. From this Select List Shri Eric Ekka was appointed to IPS on 08.01.97 and assigned 1990 as the year of allotment. The Applicant, Shri M. Sushilkumar Singh's name did not figure in the eligibility list since he had been compulsorily retired from service with effect from 15.11.94.

(F) That, the Selection Committee Meeting for promotion to IPS for the year 1996-97 was held on 27.02.97 and recommended a Select List of 3(three) Officers namely (a) Shri M. Karnajit Singh, (b) Shri S. Vaiphei and (c) Smt. R. K. Radhesana Devi. From this Select List Shri M. Karnajit Singh and Shri S. Vaiphei were appointed to IPS on 05.11.97. Subsequently, Smt. R.K. Radhesana Devi was also appointed to IPS on 24.02.98. These 3(three) Officers were assigned 1990 as the year of allotment. The Applicant, Shri M. Sushilkumar Singh's name did not figure in the eligibility list since he had been compulsorily retired from service with effect from 15.11.94.

(G) That, the Applicant was re-instated to service (MPS) w.e.f. 18.03.97 in compliance of Judgement & Order

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138  
Signature  
24.11.12

dated 14.03.97 passed by the Hon'ble Gauhati High Court in Civil Rule No.1306 of 1994 quashing the compulsory retirement order and directing the State Government to take back the Writ Petitioner (the Applicant, Sri M. Sushilkumar Singh) to service forthwith. It is pertinent to mention herein that so far as promotion of the Applicant is concerned, in the said Judgement and Order dated 14.03.97 passed by the Hon'ble Gauhati High Court observed as follows:

"So far the claim of the writ petitioner for his service promotional benefits made by him through his Counsel Shri Koteswor Singh is left open to the wisdom of the Respondents".

It may be mentioned that after re-instatement of the Applicant in service w.e.f. 18.03.97, the entire period intervening between the date of compulsory retirement and the date of his re-instatement, i.e. from 15.11.94 to 17.03.97 has been treated as on duty for all purposes and full pay and allowances for the said period have been paid to the Applicant.

(H) That, the Applicant was included in the Select List for the year 1999 and appointed to IPS on 25.02.2000 and he was assigned 1991 as the year of allotment to IPS.

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139  
W. Singh  
2.11.12  
- Sec. 4.1.2

(I) That, the applicant filed an application, which was registered as O.A. No.48/2002, before this Hon'ble Tribunal praying that he may be appointed to the IPS from the date on which his juniors are appointed. The Hon'ble Tribunal vide Order dated 30.09.02 held that the competent authority shall pass an appropriate order on the representation proposed to be filed by the Applicant. The representation was to be submitted both to the Government of India and the UPSC.

(J) That, the Applicant submitted a representation dated 07.06.03 to (1) the Secretary, Ministry of Home Affairs, Government of India; (2) the Secretary, UPSC; (3) the Chief Secretary, Government of Manipur; (4) the Commissioner, Department of Personnel, Government of Manipur and (5) The DGP, Manipur. The Department of Personnel, Government of Manipur has received the representation from the Applicant duly forwarded by the Home Department, Government of Manipur on 03.07.03. Simultaneously, the Ministry of Home Affairs, Government of India forwarded the representation of the Applicant to the State Government vide letter No.I-14013/14/2002-IPS-I dated 02.07.03 asking the State Government to examine the representation and dispose of by the State Government and the UPSC. The Ministry of Home Affairs, Government of India observed in the said letter that there is no provision to consider retrospective promotion from an earlier Select List in which the officer has not been

Contd...10



140  
11/11/12  
2.11.12

considered and included. It was also observed that there are no provisions for suo moto review of the Select List already finalized and acted upon and any decision to review the Select List of a previous year finally approved by the UPSC under Regulation 7(3) of the Regulations, 1955 and acted upon by the Government of India can be considered only in pursuance of the directions of the Court of competent jurisdiction to that effect.

A copy of the said letter dated 02.07.03 is annexed hereto and marked as Annexure : R/IV.

(K) That, the State Government after due consideration of the representation of the Applicant furnished parawise comments/views to the UPSC vide letter No.4/63/97-IPS/DP(Pt)/CAT dated 07.04.04. In the said letter the State Government observed that since the period from the date of compulsory retirement of the Applicant to the date of his reinstatement had been taken as on duty, the Applicant had already got the benefit of weightage for the entire period of his service in MPS, i.e. from 25.03.75 to 31.12.98 (1999 being the year of Select List in which the Applicant was recommended) has been given to him as admissible under the IPS (Regulation of Seniority) Rules, 1988, as amended. Further, under the said Regulations a State Police Officer

Contd...11

141  
21.11.2005  
[Signature]

shall not be assigned a year of allotment assigned to an officer senior to him in the Select List or appointed to the service on the basis of an earlier Select List. Accordingly, since the Applicant was included in the Select List for the year 1999 and had rendered 23 years of service (ignoring fractions as per regulations) upto 31.12.98, he has been given weightage of 8 years and assigned 1991 as the year of allotment. Further, there are no provisions for suo moto review of the Select List already finalized and acted upon and any decision to review the Select List of a previous year finally approved by the UPSC under Regulation 7(3) of the Regulations, 1955 and acted upon by the Government of India can be considered only in pursuance of the directions of the Court of competent jurisdiction to that effect.

A copy of the said letter dated 07.04.04 is annexed hereto and marked as Annexure : R/V.

(L) That, the UPSC finally disposed of the representation of the Applicant vide its letter dated 04.10.04 (Annexure-A/22 to the said application). The said representation was disposed of by the UPSC in accordance with the said Order dated 30.09.02 passed by this Hon'ble Tribunal in O.A. No.48/2002.

Contd...12

42  
V. S. S.  
21.11.20

PARAGRAPH-WISE REPLY:

4. That, with regard to particulars of the orders as mentioned in paragraphs 1.(a), (b) and (c) are matter of records and the answering Respondents do not admit anything which are not borne out of records. The plea of non-consideration of the case of the Applicant due to non-inclusion of his name by the Government of Manipur in Seniority List as on 01.04.94 is incorrect, misleading and denied by the answering Respondents. Further plea of appointment of junior officers to IPS by superseding the Applicant allotting him the year 1990 is misconceived. Moreover, the representation of the Applicant dated 07.06.03 was rejected by the UPSC vide letter dated 04.10.04 in accordance with law after considering all relevant facts and records and with due application of mind.

5. That, with regard to the statements made in paragraph 2 of the said application, the answering Respondents beg to state that the matter of preparation and approval of select list has been done by a high level Selection Committee considering the respective merits of the candidates, assessing the grading and considering their respective cases for promotion and as such this Hon'ble Tribunal has no jurisdiction to sit over the assessment made by the Committee as an appellate authority.

6. That, with regard to the statements made in

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143  
21.11.2008  
[Signature]

paragraph 3 of the said application, the answering Respondents beg to state that the said application is barred by limitation and there is also unexplained delay and laches on the part of the Applicant in praying for redressal of the grievances as rose in the said application.

7. That, with regard to the statements made in paragraphs 4.1, 4.2, 4.3, 4.4 and 4.5 of the said application, the answering Respondents do not admit anything which are not borne out of record.

8. That, with regard to the statements made in paragraph 4.6 of the said application the answering Respondents beg to state that the Applicant was compulsorily retired from 15.11.94 and re-instated to Manipur Police Service with effect from 18.03.97 in compliance of said Judgement and Order dated 14.03.97 passed by the Hon'ble Gauhati High Court. Therefore, the name of the Applicant did not figure in the select list sent during that period.

9. That, with regard to the statements made in paragraphs 4.7, 4.8, 4.9, and 4.10 of the said application, the answering Respondents do not admit anything which are not borne out of record.

10. That, with regard to the statements made in

- Contd...14

124  
15.11.92  
[Signature]

paragraph 4.11, 4.12 and 4.13 of the said application the answering Respondents beg to state that the Applicant was compulsorily retired from 15.11.94 and as such he was no longer in the State Police Service. However, he was re-instated to Manipur Police Service with effect from 18.03.97 in compliance of said Judgement and Order dated 14.03.97 passed by the Hon'ble Gauhati High Court. Therefore, the name of the Applicant did not figure in the select list sent during that period. It is stated that the Applicant was considered at Sl.No.3 of Eligibility List for the Select List of 1990-91. On an overall relative assessment of his service records, the Selection Committee assessed him as 'Good'. On the basis of this assessment, he could not be included in the Select List owing to the statutory limit on the size of the Select List. Thereafter, he was considered for the Select Lists of the years 1991-92, 1992-93 & 1993-94. He was graded as 'Good' for the year 1991-92 and was included provisionally as Sl.No.1 of the Select List of 1991-92 subject to the State Government certifying his integrity. During the years 1992-93 and 1993-94, he was graded as 'Very Good' and he was provisionally included at Sl.No.1 of the Select Lists of 1992-93 and 1993-94 subject to his clearance in the disciplinary proceedings pending against him. Therefore, the contention of the Applicant that his juniors were allowed to superseding their appointment to IPS is baseless since the Selection Committee had assessed all the officers in the

Contd...15

145  
V. Singh  
21/11/12

eligibility zone by following the due procedure. The case of the Applicant was duly considered by the Selection Committee as and when he was included in the eligibility list prepared by the State Government. It is submitted that a junior officer having higher grading could supersede his seniors. Where selection is made on merit alone for promotion to a higher service, selection of an officer though junior in service in preference to senior does not strictly amount to super-session.

11. That, with regard to the statements made in paragraphs 4.14 and 4.15 of the said application, the answering Respondents do not admit anything which are not borne out of record.

12. That, with regard to the statements made in paragraph 4.16 and 4.17 of the said application the answering Respondents beg to state that the representation of the Applicant was examined by the State Government in the light of the provisions of the Regulations, 1955 and the views/comments of the State Government were duly sent to the UPSC for disposal of the representation. Thereafter, the representation was disposed of by the UPSC keeping in view the observations of the State Government as well as the Government of India (Ministry of Home Affairs) and in accordance with law.

Contd...16

146  
11/11/97  
[Signature]

13. That, with regard to the statements made in paragraph 4.18 of the said application, the answering Respondents do not admit anything which are not borne out of record.

14. That, with regard to the grounds for relief with legal provision as set forth in paragraphs 5.1 to 5.10 of the said application are not tenable in view of the facts and circumstances narrated above. There is no discretion in appointing and allotting the year of assignment to the Applicant as the same has been done as per Rules and Regulations. The Applicants non-inclusion in the Select list of 1990-91 was due to the overall grading the officer obtained on the basis of his ACRs assessed by the Selection Committee and the officers who were recommended for inclusion the select list were on the basis of Regulation 5(4) and 5(5) of the Regulations, 1955. It is to be mentioned herein that the Applicant was compulsorily retired from 15.11.94 and re-instated to Manipur Police Service with effect from 18.03.97 in compliance of said Judgement and Order dated 14.03.97 passed by the Hon'ble Gauhati High Court. Therefore, the name of the Applicant did not figure in the select list sent during that period as he was not in service of the State Government. However, he availed full pay and allowances for the said period as per said Judgement and Order dated 14.03.97. In the said Judgement and Order dated the Hon'ble

Contd...17

147  
[Signature]  
20.12.12

High Court made it clear that promotional benefits to the Applicant is left open to the wisdom of the State Government. It is stated that the Regulations, 1955 does not provide for reviewing the Select List once it is approved and acted upon. The Applicant miserably failed to make out a case for interference by the Hon'ble Tribunal inasmuch as the Hon'ble Tribunal may not sit over as an appellate authority over the assessment made by the Selection Committee constituted under a statute and as such the said application is liable to be dismissed.

15. That, with regard to the statements made in paragraph 6 of the said application the answering Respondents beg to state that the Applicant had not exhausted all the remedies available to him as required by Section 20 of the said Act, 1985 and as such the said application is liable to be rejected.

16. That, with regard to the statements made in paragraph 7 of the said application the answering Respondents beg to state that the subject matter of the grievances of the Applicant was already decided by the Hon'ble Gauhati High Court vide Judgement and Order dated 14.03.97 passed in Civil Rule No.1306/1994 as well as by this Hon'ble Tribunal vide Order dated 30.09.02 passed in Original Application No.48/2002 and as such barred by principles of res judicata.

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148  
2-11-75  
[Signature]

17. That, with regard to the statements made in paragraph 8 of the said application, the answering Respondents beg to state that the relief prayed for by the Applicant cannot be granted by the Hon'ble Tribunal in view of the facts and circumstances of case as narrated above. Further, the Regulations, 1955 does not provide for reviewing the Select List once it is approved and acted upon.

18. That, with regard to the statement made in paragraphs 9, 10 and 11 of the said application, the answering Respondents do not admit anything which are contrary to the record.

19. That, in view of the above, none of the grounds as urged by the Applicant are tenable and the Applicant is not entitled to any relief as has been claimed by him and as such the said application is liable to be dismissed.

.....Verification.

V E R I F I C A T I O N

I, Sri Seikholet Lhangum, MSS, Under Secretary(DP), Government of Manipur being duly authorised to sign this verification on behalf of the Respondents No.2, 3, 4 and 5 do hereby verify that the statements made in this written statement in paragraphs 1, 2(a), (b),(c),(d),3(A),(B),(I), 4,5,6,7,9,11,13,14(Part),15,16,18,19 are true to my knowledge and those made in paragraphs 3(C),(D),(E),(F),(G),(H),(J),(K),8,10,12,14(Part) being matters of record are true to my information derived therefrom which, I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this 21st day of November,2005.

Seikholet Lhangum

Govt. of Manipur  
Department of Personnel & Adminv. Reforms  
(Personnel Division)

ORDERS BY THE GOVERNOR, MANIPUR  
Imphal, the 15th of Nov., 1994.

No.18/58/94-MPS/DP: Whereas the Governor of Manipur is satisfied that in the interest of the security of the state, it is not expedient to hold inquiry against Shri M.Sushilkumar Singh, MPS, Superintendent of Police, Tamenglong district, Manipur.

Now, therefore, the Governor of Manipur, in exercise of powers conferred upon him under Article 311(2)(c) of the Constitution of India hereby compulsorily retires the said Shri M.Sushilkumar Singh, MPS, from government service with immediate effect.

By order and in the name of the  
Governor

*[Signature]*  
15/11/94

( Kh. Tuleswar Singh )  
Under Secretary (DP), Government of  
Manipur.

Copy to:-

1. The Secretary to Governor, Raj Bhavan, Imphal, Manipur.
2. The P.S. to Advisor(P)/Advisor(H)/Chief Secretary, Government of Manipur.
3. The Director General of Police, Manipur, Imphal.
4. The Accountant General (A&E), Manipur, Imphal.
5. The Special Secretary (Home), Govt. of Manipur.
6. The person concerned.
7. All Deputy Commissioners/Manipur.
8. All IGP/DIGs/SPs/Comdts., Manipur.
9. All Treasury Officers, Manipur.

CERTIFIED TO BE TRUE COPY

*[Signature]*

ADVOCATE

-21-

ANNEXURE-R/II

CONFIDENTIAL  
BY SPEED POST

No. 3/2/95-IPS/DP  
Government of Manipur  
Department of Personnel & Admnv. Reforms  
(Personnel Division)

Imphal, the 25th of Feb., 95.

To

The Secretary  
Union Public Service Commission, Dholpur House,  
Shahjahan Road, New Delhi-110011.

Sub:- Selection Committee Meeting for preparation of  
Select List for promotion to IPS, M-T Cadre during  
1994-95.

Sir,

I am directed to invite a reference to your D.O. letter  
No. P.4/7/94-AIS dated 5-9-94 on the above subject and to fur-  
nish the following information/documents in respect of State  
Police Service officers of Manipur Part who are eligible for  
consideration for promotion to I.P.S. as on 1-4-1994.

- (1) Seniority list giving particulars of 10(ten)  
State Police Service officers who are eligible for  
promotion to IPS as on 1-4-1994(Annexure-A)
- (2) The number of senior duty posts borne against item  
1(one) of the IPS(Fixation of Cadre Strength)  
Regulations, 1955, in Manipur Part of the Joint IPS  
M-T Cadre is 34 and the number of Senior Duty  
posts shown against item 2(two) of Manipur Part is 14.
- (3) Two anticipated vacancies will be available w.e.f.  
1-11-95 and 1-12-95 vice Shri I.M. Vohra and A.T.  
Thiruvengadam who are retiring on 31-10-95 and  
30-11-95 respectively.
- (4) Complete and upto date A.C.Rs. of 10(ten) eligible  
officers alongwith the certificate for not recording  
the lacking A.C.Rs. (Annexure-B).
- (5) The SC/ST officers eligible to be considered for  
promotion to IPS are indicated against the names  
of the officers(Annexure-A).
- (6) Integrity certificate in respect of eligible  
officers duly signed by the Chief Secretary is  
being sent shortly.
- (7) Certificate regarding officers against whom disci-  
plinary proceedings are pending(Annexure-C) is being sent  
separately.
- (8) Certificate in respect of adverse remarks made in  
the ACR of eligible officers is enclosed in triplicate  
(Annexure-D).

P.T.O.

CERTIFIED TO BE TRUE COPY

*Abul Jawan*  
ADVOCATE

-22-

149

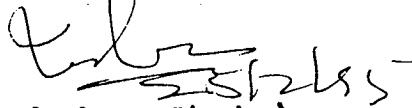
152

-: (2) :-

It is therefore requested that the Selection Committee Meeting may kindly be convened at an early date.

Kindly acknowledge receipt.

Yours faithfully



( Kh. Tuleshwar Singh )  
Under Secretary(DP), Government of  
Manipur.

etc

Copy to:-

1. The Secretary, Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Chief Secretary, Govt. of Tripura, Agartala.

-23-

- 22 -

150

ANNEXURE - A

Particulars of State Police Service Officers eligible for inclusion in the Select List for promotion to the I.P.S. as on 1-4-1998.

S1. Name of Officer No.	Date of birth	Whether held substantive appointment in State Police Service	Date of confirmation in State Police Service.	Date of continuous official duty as Dy.SP or equivalent post.	Date of continuous official duty in I.P.S. Cadre Post.	Remarks
1.	2.	3.	4.	5.	6.	7.
<u>S/Shri</u>						
1. Eric Ekka(SC)	1-1-1943	Yes	1-12-1973	1-12-1971	--	
2. M. Shantikumar Singh	1-9-1951	Yes	2-3-1989	25-3-1975	29-12-93	Posting only.
3. A. Rajendro Singh	28-6-1950	Yes	20-2-1978	25-3-1975	21-10-88 to 30-11-90 & 18-7-92 to date.	Posting only.
4. W. Meenakumar Singh	18/9/1948	Yes	20-2-1978	25-3-1975	7-12-1984 to date.	Posting only.
5. S. Tualchinkhan(ST)	1-3-1947	Yes	1-3-1980	25-3-1975	22-2-93 to 28-12-93	Posting only.
6. S. Ibosana Singh	1-3-1950	Yes	8-7-1977	25-3-1975	--	
7. M. Kipgen(ST)	1-3-1948	Yes	19-2-1978	25-3-1975	1-12-90 to 29-10-92	Posting only.
8. M. Karnajit Singh	1-3-1950	Yes	3-7-1977	25-3-1975	27-9-86 to date	Posting only.
9. S. Vaiphei(ST)	2-3-1944	Yes	29-8-1981	25-3-1975	24-1-86 to 30-11-90	Posting only.
10. Smt. R. K. Radhesana Devi	1-7-1948	Yes	25-6-1977	25-3-1975	--	

153

ANNEXURE-B

DETAILS OF ACRs OF ELIGIBLE M.P.S. OFFICERS

<u>Name of Officer</u>	<u>Period of A.C.R.</u>	<u>Remark</u>
<u>S/Shri</u>		
1. Eric Ekka	1972-73 to 1993-94	
2. M. Shantikumar Singh	1976-77 to 1992-93	1993-94
3. A. Rajendro Singh	1976-77 to 1993-94	
4. W. Meenakumar Singh	1976-77 to 1993-94	(upto 15-9-93)
5. S. Tualchinkham	1976-77 to 1993-94	
6. S. Ibosana Singh	1976-77 to 1993-94	lacking A.C.R. for the period from 7-10-91 to 31-3-92, and 1-4-92 to 31-3-93 and 1-4-93 to 14-9-93.
7. N. Kipgen	1976-77 to 31-8-93	lacking A.C.Rs. from 15-9-90 to, 30-11-90, 1-2-92 to 31-3-92, 1-4-92 to 3-11-92 and 1-9-93 to 1-4-94.
8. M. Karnajit Singh	1976-77 to 1991-92	lacking A.C.Rs. for 1992-93 and 1993-94.
9. S. Vaiphei	1976-77 to 1993-94	
10. Smt. R. K. Radhesana Devi	1976-77 to 1993-94	

It is certified that in the case of the following Officers) the ACRs for the period shown against the his/her name is not available in his/her ACR file for which Certificate for not recording ACR has been placed in his /her ACR file.

1. Smt. R. K. Radhesana Devi - 2-4-1990 to August '90.

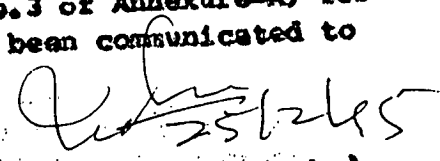
( Kh. Tuleshwar Singh )  
Under Secretary (DP), Government of Manipur.

CERTIFICATE OF ADVERSE REMARK

It is certified that in the case of the following M.P.S. officers there is no adverse entries in their A.C.Rs.

- (1) Shri Eric Ekka.
- (2) Shri M. Shantikumar Singh.
- (3) Shri W. Meenakumar Singh.
- (4) Shri S. Tualchinkham.
- (5) Shri S. Ibosana Singh.
- (6) Shri N. Kipgen.
- (7) Shri M. Karnejit Singh.
- (8) Shri S. Vaiphei.
- (9) Smt. S. K. Radhesana Devi.

It is certified that there is adverse entry in the A.C.R. of Shri A. Rajendro Singh (Sl. No. 3 of Annexure-A) for the period 1993-94, and the same has been communicated to the officer.

  
( Kh. Tuleshwar Singh )  
Under Secretary (DP), Government of  
Manipur.



156 -  
156

BY SPEED POST

No. 3/2/95-IPS/DP  
Government of Manipur  
Department of Personnel & Admny. Reforms  
(Personnel Division)

Imphal, the 21st of March, 95.

To

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Sub:- IPS-Selection Committee Meeting for promotion to  
IPS Cadre of Manipur Part of Manipur-Tripura Cadre  
during 1994-95.

Sir,

I am directed to invite a reference to your letter No.  
F.7/12/95-AIS dated 8-3-95 on the above subject and to state/  
furnish the information/materials called for therein as under:-

- (i) The name of Shri M. Sushilkumar Singh, MPS, considered in the previous year at Sl.No.2 of the eligibility list has been excluded from the present eligibility list as he has been compulsorily retired w.e.f. 15-11-94 vide Govt. order No. 18/58/94-MPS/DP dated 15-11-94 (copy enclosed).
- (ii) Special Assessments in lieu of lacking ACRs in respect of the officers as indicated in your list are enclosed herewith except in the case of Shri. R. K. Radhesana Devi, MPS, in respect of whose ACRs for the period from 1-4-93 to 3-8-93 are enclosed.
- (iii) The Integrity Certificate duly signed by the Chief Secretary is enclosed herewith.
- (iv) A Magisterial Enquiry is pending against Shri A. Rajendro Singh, MPS, and the same is reflected in the relevant proforma/certificate.
- (v) The time to represent against adverse remarks in the case of Shri A. Rajendro Singh is over.
- (vi) The details of other eligible officers, viz., S/Shri H. Ngarnipam, MPS, (ST) and L. K. Bhaskip, MPS, (ST) are appended in the supplementary Annexure-A/1. Their ACRs are also enclosed herewith.

Yours faithfully

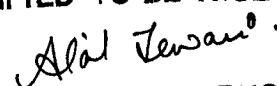
  
( H. Deep Singh )

Deputy Secretary(DP), Government  
of Manipur.

Copy to:-

1. The Secretary, Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Chief Secretary, Govt. of Tripura, Agartala.

CERTIFIED TO BE TRUE COPY



ADVOCATE

-27-

157

SUPPLEMENTARY  
ANNEXURE-A/1

Particulars of State Police Service Officers eligible for inclusion  
in the Select List for promotion to the I.P.S. as on 1-4-1994.

Sl. No.	Name of Officer	Date of birth	Whether held substantive appointment in State Police Service.	Date of confirmation in State Police Service.	Date of continuous official service as Dy.SP or equivalent post.	Date of continuous official service in I.P.S. Cadre Post.	Remarks.
1.	2.	3.	4.	5.	6.	7.	8.
S/Sri							
(CONTINUED FROM THE EARLIER PROPOSAL DATED 25-2-95)							
11.	N.Ngaraipeh(SI)	5-3-1947	Yes	1-3-1980	25-3-1975	19-7-84 to 20-7-93	Posting only.
12.	L.K.Hadkip(SI)	1-3-1953	Yes	1-3-1980	25-3-1975	21-7-87 to date.	Posting only.

157

INTEGRITY CERTIFICATE

With regard to the integrity of the following MPB officers, the Integrity Certificate can not be given due to the reasons given against their names :-

- |                           |  |
|---------------------------|--|
| 1. Shri A. Rajendra Singh | - A Magisterial Enquiry is pending against the officer.  |
| 2. Shri N. Ngareipam      | - A Departmental Enquiry is pending against the officer. |

*200435*  
( K. K. Sethi )  
Chief Secretary to the Government  
of Manipur.

In accordance with Govt. of India, Ministry of Home Affairs' letter No.F.17/3/76-Ad (III) dated 26-5-1970.

Certified that the records of Service in respect of the following Manipur Police Service officers whose names will be placed before the Selection Committee for their selection for appointment to the IPS have been carefully scrutinised to ensure that there is no doubt about their integrity:-

S/Sr

1. S/Sr Eric Ekka.
2. M. Shantikumar Singh.
3. M. Meenakumar Singh.
4. S. Tualchinkham.
5. S. Ibosana Singh.
6. M. Kipgen.
7. M. Karnaajit Singh.
8. S. Veiphei.
9. Smt. R.K. Radhesana Devi.
10. L.K. Haokip.

( K. K. Bethi )  
Chief Secretary to the Government  
of Manipur.

-30-

R.R. NO. 167. / com / DP. 7.7.03

85/DP m. 1878  
7/7/03  
Chief Secy's Office  
F. R. No. 3. 2. 24.  
5-7-03

BY SPEED POST

MOST IMMEDIATE

No. I-14013/14/2002-IPS.I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya  
\*\*\*

ANNEXURE - R/IV

New Delhi, the June, 2003.

- 2 JUL 2003

To,  
The Chief Secretary,  
Government of Manipur,  
**IMPHAL.**

(Attn. Th. Dhananjoy Singh, Under Secretary - Department of  
Personnel & Administrative Reforms - Personnel Division)

Sub: Judgement/Order dated 30.9.2002 passed by CAT, Guwahati Bench in OA No.  
48/2002 filed by Shri M. Sushil Kumar Singh Vs. UOI and Others - regarding.

Sir,

I am directed to say that this Ministry has received an advance copy of representation dated 7.6.2003 (**copy enclosed**), addressed to the Govt. of India (Ministry of Home Affairs) UPSC and the Government of Meghalaya, from Shri M. Sushil Kumar Singh, IPS (SPS:91) for consideration of his case for retrospective promotion to IPS from the date his juniors were considered and appointed to IPS and to assign him same year of allotment as allotted to his juniors. It is observed that Shri Singh has preferred this representation in pursuance of the directions contained in the judgement/order dated 30.9.2002 passed by Hon'ble CAT, Guwahati Bench in OA No. 48/2002 filed by Shri Singh Vs. UOI and others. He has also enclosed a copy of CAT's order and the operative portion reads as under:

**"We have heard Mr. R.K. Deb Chaudhury, learned counsel appearing for the applicant, Mr. A. Deb Doy, learned senior C.G.S.C. for respondents No. 1 and 6 and Mr. D. Senapati, learned counsel for the State of Manipur. In course of hearing Mr. R.K. Deb Choudhary submitted that he had already submitted a representation before the State Government and the said representation requires to be considered by the State Government. Mr. Deb Choudhury further submitted that now he also wants to submit a representation before the Union of India and Union Public Service Commission for consideration of his case for retrospective promotion. In view of the submission made above we dispose of this application. The applicant may file representation, if any, before the competent authority. It is expected that the competent authority shall pass appropriate order."**

2. It is observed that the request of Shri M. Sushil Kumar Singh for his retrospective promotion to IPS from the date his juniors were so considered and appointed is based on the fact that the Selection Committee did not consider him for the year 1994-95 and 1996-97 (no meeting was held during 1998) for promotion to IPS due to non-inclusion of his name by the Govt. of Manipur in the seniority list of SPS/eligibility list furnished to the UPSC. According to him, he was very much in the SPS on 1.4.1995 i.e. the crucial date for determining the eligibility conditions for preparation of 1994-95 Select List and such he should have been considered by the Selection Committee along with his juniors.

3. In this regard it is stated that the appointment by promotion of State Police Service Officers to the IPS is governed by the statutory provisions of the IPS (Appointment by Promotion) Regulations, 1955, as amended from time to time. The IPS Promotion Regulations envisage distinct roles in respect of the State Govt., the UPSC and the Central Government, with specific mandates in the process of preparation of the Select List of SPS officers for promotion to the IPS, right from the stage of drawing the list of eligible officers by the State Government to finally making appointments to the service from the select list by the Central Government.

CERTIFIED TO BE TRUE COPY

CONTD...

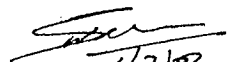
ADVOCATE

Whereas the State Government had the exclusive role in regard to drawing of the consideration zone of the eligible SPS officers to be placed before the Selection Committee in terms of seniority of these officers in the SPS, the UPSC was wholly concerned with reference to the select list prepared and approved under Regulation 7(3) on the basis of the grading made by the Selection Committee and with the aid of observations of the State and the Central Government and Central Government was entirely concerned as the authority concerned in making appointments from the select list on the recommendations of the State Government in the order in which the names of the members of the SPS appear in the select list for the time being in force during the period when the select list remains in force. It may thus be observed that the occasion to consider appointment by promotion of a SPS Officer to IPS arises only after his unconditional inclusion in the Select List duly approved by the UPSC (based on the recommendations of the State Govt. in terms of the Promotion Regulations prevalent at that point of time) and fulfillment of other conditions laid down in the regulations. There is no provision to consider retrospective promotion from an earlier Select List in which the officer has not been considered and included. As such until and unless Shri Singh is considered and included in the 1994-95 or subsequent Select List, he is not entitled to be considered for appointment on that basis.

4. It may also be relevant to mention here that there are no provisions for *suo moto* review of the Select List already finalized and acted upon and any decision to review the Select List of a previous year finally approved by the UPSC under Regulation 7(3) of the Promotion Regulations and acted upon by the Govt. of India can be considered only in pursuance of the directions of the Court of competent jurisdiction to that effect.

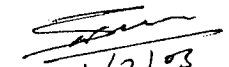
5. In view of the position explained above, the representation of Shri M. Sushil Kumar Singh is required to be examined and disposed of by the State Govt. and the UPSC as the subject matter primarily concerns them. It is accordingly requested that the representation of Shri Singh may please be examined and disposed of by the State Government, in consultation with the UPSC, in light of the statutory provisions of the IPS Promotion Regulations. **The decision taken in the matter may please be communicated to Shri M. Sushil Kumar Singh under intimation to this Ministry.**

Yours faithfully,

  
1/7/03  
(S.P. Verma)

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

Copy (with enclosures) for information and necessary action to the Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi. (Attn: Shri G.C. Yadav, Asstt. Director-AIS).

  
1/7/03  
(S.P. Verma)

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

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No. 4/63/97-IPS/DP(Pt)/CAT  
GOVERNMENT OF MANIPUR  
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS  
(PERSONNEL DIVISION)

ANNEXURE-R/V

Imphal, the 7<sup>th</sup> April, 2004

To

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi - 110011.

[ Kind Attn. : Shri G.C. Yadav, Asstt. Director(AIS) ]

Subject :- Order dated 30-09-2002 of Hon'ble CAT Guwahati Bench in O.A. No. 48/2002 filed by Shri M. Sushilkumar Singh, a promotee IPS officer of Manipur.

Sir,

I am directed to refer to UPSC's letter No. 11/64/2002-AIS dated 07-07-2003 on the above subject and to furnish hereunder the chronological sequence of events leading to the filing of representation of Shri M. Sushilkumar Singh, IPS for his appointment to the IPS w.e.f. the date his juniors were appointed to IPS :-

- 05-11-1994 : The Kote of Reserve Line, Tamenglong was looted by suspected armed UGs in which approximately 42 nos. of 303 rifle, some sten guns/carbines were taken away. Shri M. Sushilkumar Singh, the then S.P/ Tamenglong was not at his Hqrs on the day of incident and had left the station without awaiting prior permission from the competent authority.
- 15-11-1994 : Shri M. Sushilkumar Singh, the then S.P/ Tamenglong was compulsorily retired from service by invoking the provisions of Article 311(2)(c) of the Constitution of India.
- 24-03-1995 : Selection Committee Meeting for promotion to IPS for the year 1994-95 was held and recommended Select List of four MPS officers viz. (i) W. Meenakumar Singh, (ii) N. Kipgen, (iii) M. Karnajit Singh, (iv) S. Vaiphei. Out of this select list for the year 1994-95, Shri W. Meenakumar Singh and Shri N. Kipgen were promoted to IPS in the month of January, 1996 and they were assigned 1989 as the year of allotment.

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ADVOCATE

- 21-03-1996 : Selection Committee Meeting for promotion to IPS for the year 1995-96 was held and recommended select list of 4 officers, namely, (i) Shri Erik Ekka (ii) Shri M. Karnajit Singh (iii) Shri S. Vaiphei and (iv) Smt. K. Radhesana Devi. From this list Shri Erik Ekka was appointed to IPS on 08-01-97 and assigned 1990 as the year of allotment.
- 27-02-1997 : Selection Committee Meeting for promotion to MPS was held and recommended Select List of 3 MPS officers namely viz, (i) Shri M. Karnajit Singh (ii) Shri S. Vaiphei (iii) Smt. K. Radhesana Devi. Shri M. Karnajit Singh and Shri S. Vaiphei were appointed to IPS on 05-11-1997 and subsequently Smt. K. Radhesana Devi was also appointed to IPS on 24-02-1998. The 3 officers were assigned 1990 as the year of allotment.
- 18-03-1997 : Shri M. Sushilkumar Singh was re-instated to service(MPS) in compliance of the Judgment & Order dated 14-03-1997 passed by the Hon'ble Gauhati High Court in Civil Rule No.1306 of 1994 quashing the compulsory retirement order and directing the State Government to take back the Writ petitioner (M. Sushil Kumar Singh) to service forthwith. In the said Order the Hon'ble Gauhati High Court observed that **"So far the claim of the writ petitioner for his service promotional benefits made by him through his Counsel Shri Koteswor Singh is left open to wisdom of the respondents"**.
- 25-02-2000 : Shri M. Sushil Kumar Singh was included in the Select List for 1999 and appointed to IPS assigning 1991 as the year of allotment.
- 30-09-2002 : Central Administrative Tribunal, Gauhati Bench disposed of the application filed by Shri M. Sushil Kumar Singh, IPS with the direction that the applicant may file his representation, if any, before the competent authority. The main plea in his application before the CAT was that his name ought to have been considered by the Selection Committee in its meeting held on 24.03.1995 for the Select List of 1994-95 since he was in service as on 01-04-1994.
- 07-06-2003 : Shri M. Sushilkumar Singh, IPS filed his representation concerning his year of allotment in IPS.

... contd. 3



2. The representation of Shri M. Sushilkumar Singh, IPS has been examined in the above context and para-wise comments on the same are given below :-

Para No.

Comments

1. It is true that the name of Shri M. Sushilkumar Singh was not included in the list of State Police Service Officers eligible for promotion to the IPS as on 01-04-1994 which was sent by the State Govt. to the UPSC vide letter No. 3/2/95-IPS/DP dated 25-02-1995. This was due to the fact that the said officer was no longer in service as on the date of signing/sending the letter dated 25-02-1995 since he had been compulsorily retired from service w.e.f. 15-11-1994. This fact was subsequently clarified to the UPSC vide State Govt's letter No.3/2/95-IPS/DP dated 21-03-1995 (copy enclosed). In other words, this fact of compulsory retirement of the officer was placed before the Select Committee in its meeting held on 24-03-1995. As such, either inclusion or omission of the name of the officer in the said eligibility list would not have made any difference so far as the Select list for the year 1994-95 is concerned.
- 2 to 5 No comments.
- 6 Shri M. Sushilkumar Singh, the then S.P/ Tamenglong was compulsorily retired from service by invoking the provisions of Article 311(2)(c) of the Constitution of India. The ground for his compulsory retirement was the looting of the Kote of Reserve Line, Tamenglong by suspected armed UGs in which approximately 42 nos. of 303 rifle, some sten guns/carbines were taken away. Shri M. Sushilkumar Singh, the then S.P/ Tamenglong was not at his Hqrs on the day of incidence and had left station without awaiting prior permission from any competent authority.
- 7 to 9 No comments.
- 10 Same as indicated against para 1.
- 11 No comments.
- 12 & 13 Not contested.
- 14 (i) Although the name of Shri M. Sushil Kumar Singh was not included in the eligibility list as on 01-04-1994, he was no longer in service when the list was sent to UPSC on 25-02-1995. As such, even if his name was included in the list, he could not have been included in the Select List. Moreover, information about his compulsory retirement was communicated to the UPSC as stated above.

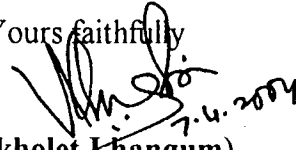
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- (ii) There is no case of superseding Shri M. Sushil Kumar Singh illegally by his juniors since the appointment of his juniors to IPS was done as per rules and regulations while he was not in service.
- (iii) Adverse entries or otherwise in the ACRs has no relevance in the exclusion of the name of Shri M. Sushil Kumar Singh in the eligibility list since his name was omitted on the ground that he had been compulsorily retired from service as stated above.
- (iv) Shri M. Sushil Kumar Singh has already been given the benefits of his entire service in MPS including the period from the date of his compulsory retirement (15-11-94) to the date of his reinstatement to service (18-03-97) while determining his year of allotment to IPS (1991) after his promotion to IPS. In other words, in compliance of the Hon'ble Guwahati High Court's Order dated 14-03-1997 thereby quashing the State Govt's Order date 15-11-94 for compulsory retirement of Shri M. Sushil Kumar Singh, the State Govt. had treated the period from 15-11-94 to 17-03-97 as on duty and full pay and allowances had been paid to the officer. Accordingly, while determining the year of allotment to IPS in respect of Shri M. Sushil Kumar Singh, the benefit of weightage for the entire period of his service in MPS from 25-03-75 to 31-12-1998 (1999 being the year of Select List) has been given to him as admissible under the provisions of I.P.S. (Regulation of Seniority) Rules, 1988 as amended vide Notification No. 14015/54/96-AIS(I)B dated 31-12-1997. Further, under the said regulations a State Police Officer shall not be assigned a year of allotment assigned to an officer senior to him in the Select List or appointed to the service on the basis of an earlier Select List. Accordingly, since Shri M. Sushil Kumar Singh was included in the Select List for the year 1999 and had rendered 23 years of service (ignoring fractions as per regulations) upto 31-12-98, he has been given weightage of 8 years and assigned 1991 as the year of allotment.
- (v) There are no provisions for *suo moto* review of the Select List already finalized and acted upon and any decision to review the Select List of a previous year finally approved by the UPSC under Regulation 7(3) of the Promotion Regulations and acted upon by the Government of India can be considered only in pursuance of the directions of the Court of competent jurisdiction.

..... Contd. 5

3. Taking into consideration the background of the case and the factual position as enumerated in the above paras, it is requested that a view on the representation of Shri M. Sushil Kumar Singh, IPS may kindly be taken by the UPSC and the decision of the Commission may be conveyed to this Government at the earliest under intimation to the officer.

Yours faithfully



( Seikholet Lhangum )

Under Secretary (DP),  
Govt. of Manipur.

Copy to :-

1. The Secretary to Govt. of India,  
Ministry of Home Affairs,  
North Block, New Delhi.
2. The Director General of Police, Manipur.
3. Shri M. Sushil Kumar Singh, IPS,  
Principal, Manipur Police Training School, Pangei.

BY SPEED POST

No. 3/2/95-IPS/DP  
Government of Manipur  
Department of Personnel & Adm. Reforms  
(Personnel Division)

Imphal, the 21st of March, 95.

To

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Subj:- IPS-Selection Committee Meeting for promotion to  
IPS Cadre of Manipur Part of Manipur-Tripura Cadre  
during 1994-95.

Sir,

I am directed to invite a reference to your letter No.  
F.7/12/95-ALS dated 0-3-95 on the above subject and to state/  
furnish the information/materials called for therein as under:-

- (i) The name of Shri M. Sushilkumar Singh, MPS, considered in the previous year at Sl. No. 7 of the eligibility list has been excluded from the present eligibility list as he has been compulsorily retired w.e.f. 15-11-94 vide Govt. order No. 18/58/94-MPS/DP dated 15-11-94 (copy enclosed).
- (ii) Special Assessments in lieu of lacking ACRs in respect of the officers as indicated in your list are enclosed herewith except in the case of Shri. N. K. Radhesana Devi, MP7, in respect of whose ACRs for the period from 1-4-93 to 3-3-93 are enclosed.
- (iii) The Integrity Certificate duly signed by the Chief Secretary is enclosed herewith.
- (iv) A Magisterial Enquiry is pending against Shri A. Rajendro Singh, MPS, and the same is reflected in the relevant proforma/certificate.
- (v) The time to represent against adverse remarks in the case of Shri A. Rajendro Singh is over.
- (vi) The details of other eligible officers, viz., S/Shri M. Ngaraipen, MPS, (ST) and L. K. Machip, MPS, (ST) are appended in the supplementary Annexure-A/1. Their ACRs are also enclosed herewith.

Yours faithfully



( H. Dejeep Singh )  
Deputy Secretary (DP), Government  
of Manipur.

Copy to:-

1. The Secretary, Govt. of India, Ministry of Home  
Affairs, New Delhi.

2. The Chief Secretary, Govt. of Tripura, Agartala.