

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 382/06

R.A/C.P No.

E.P/M.A No. 25/10

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Jan 30/11/17
SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDI PENCH:

1. Original Application No. 282/06
2. Mice Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) N.M. Ali Ahmed

Respondant(S) U.O.I. Govt

Advocate for the Applicant(S) M. Chanda, S. Nath
G.N. Chakrabarti, Ms. U. Dutt

Advocate for the Respondent(S) M. Ali Ahmed

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C.F. for Rs 50/-
deposited vide (P.O. No. 282/06)
Dated 15.11.06

M. Ali
Dy. Registrar

PK

NS
14/11/06

Steps not taken

PK
14.11.06

The copy order dated
15-11-06

NS
15.11.06

Notice & order sent to
D/Section for issuing to
R-1 to 3 and 4 by regd.

A/D post.

10/11/06. D/No-1197 to 1200
DI- 1/12/06.

Advocate for applicant
take steps for R-4.

15.11.06. The applicant is working as Electrician (SK) in the office of the Garrison Engineer(AF), Borjhar. He is aggrieved by non-granting of promotion to the applicant from the post of Electrician (SK) to Electrician (HS), whereas the person junior to the applicant in the seniority list of the feeder cadre of Electrician (SK) has been promoted. When the matter came up for hearing Mr. M. Chanda, learned counsel for the applicant has submitted that an identical matter, O.A.No.282 of 2005 is pending in this Tribunal and notice was issued in that matter.

Application is admitted. Issue notice on the respondents. Post the matter on 4.1.07. The applicant will take notice to the private respondents.

L
Vice-Chairman

19.1.07.

At the request of learned counsel for the respondents four week time is granted to file written statement. Post the matter on 23.2.07.

Vice-Chairman

lm

23.2.07.

At the request of learned counsel for the respondents six weeks time is granted to file written statement.

post the matter on 23.3.07.

Vice-Chairman

lm

23.4.2007

Present: The Hon'ble Mr. G. Shanthappa
Member (J)

The Hon'ble Mr. G. Ray, Member(A)

Mr. S. Nath, learned counsel for the Applicant requests for a short adjournment to take instruction from his Senior Mr. M. Chanda, learned counsel for the Applicant. Mr. M. U. Ahmed, learned Addl. C.G.S.C. is present.

Call on 24.04.2007.

Member (A)

Member (J)

/bb/

24.4.2007

Heard Mr. S. Nath, learned counsel for the Applicant and Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the Respondents for some time. It appears that Applicant does not want to have disposed of this case at this stage. Mr. S. Nath sought for adjournment on the ground that if reply statement is filed, then only he will be able to submit his argument finally. Mr. M. U. Ahmed also sought some more time to file reply statement. Accordingly four weeks time is granted.

Post on 25.05.2007.

Member (A)

Member (J)

Notice duly served
on R-2,4.

① Notice duly served
on R.No-2 & 4,

② Respondents No-1 & 3
from associated.

20
18.1.07.

No Wks hrs been
billed.

20
22.2.07.

No Wks hrs been
billed.

20
5.4.07.

No Wks hrs been
billed.

20
10.4.07.

No Wks hrs been
billed.

20
24.5.07.

(4) OA-282/07

12.11.2007

Mr.S.Nath, learned counsel for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India is also present. He states that on the strength of the para wise comments furnished by the Respondent Department, a draft written statement was made ready and sent to the Respondents on 25.07.2007 and that he, having not received any instruction from the Respondent Department, is not in a position to take any step in the matter.

Call this matter on 17.12.2007 awaiting written statement from the Respondents.

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



(M.R.Mohanty)
Vice-Chairman

Dt. 12.11.07.

/bb/

Pl. send order copies to the Respondents

17.12.2007

No written statement has yet been filed in this case.

Call this matter on 06.02.2008 awaiting written statement from the Respondents.



(M.R.Mohanty)
Vice-Chairman

order dt. 12/11/07
sent to D/Section
for issuing to
R- 1 to 4 day
post.

D/No-1389 to /bb/





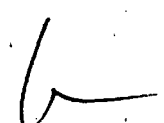
1392
D/- 16/11/07.

W/s not filed.

14.12.07

W/s not filed.

5.2.08


Notes of the Registry	Date	Order of the Tribunal
No wls has been filed. <u>3</u> 15.6.07.	25.05.2007 /bb/ 18.6.07.	Post the case on 18.6.2007 granting time to file reply statement.  Vice-Chairman
wls not filed. <u>34</u> 18.7.07.	lm 19.7.2007	Counsel for the respondents prays for further four weeks time to file written statement. Let it be done. Post the matter on 19.7.07.  Vice-Chairman
wls not filed. <u>35</u> 17.8.07.	pg 20.8.2007	Let this case be posted after four weeks for filing written statement. Post on 20.8.07 for order.  Vice-Chairman
wls not filed. <u>36</u> 19.9.07.	 20.9.07	Further four weeks time is granted to Mr.M.U.Ahmed, learned Addl.C.G.S.C. for filing of reply statement. Post the matter on 20.9.2007.  Vice-Chairman
wls not filed. <u>37</u> 8.11.07.	/bb/	Four weeks time granted to file written statement. Post on 12.11.07 for order.  Vice-Chairman

06.02.2008

No written statement has been filed in this case as yet by the Respondents.

Call this matter on 11.3.2008 awaiting written statement from the Respondents.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

18.3.08

no W/S filed.

Lm

19.03.2008

This case was admitted on 15.11.06 and notices were issued to the Respondents on 01.12.2006. No written statement having been filed, adjournments were granted to the Standing Counsel appearing for the Respondents on 19.01.2007, 23.02.2007, 23.04.2007, 24.04.2007, 25.05.2007, 18.06.2007, 19.07.2007, 20.08.2007, 20.09.2007 and on 12.11.2007; when a further notice was given to the Respondents, Notices were sent to the Respondents on 16.11.2007. Despite that no written statement having been filed, matter was again adjourned on 17.12.2007 and on 06.02.2008. The Respondents have chosen not to file any written statement; as it appears.

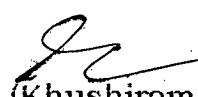
Order dt. 19/3/08
Send to D/Section
for issuing to
respondents and free
copies handed over
to learned advocates
for both the parties.

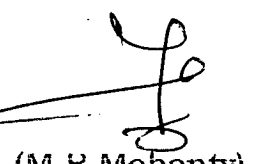
D/No-1432 to 1437

Call
25/3/08. Dt = 26/3/08.

In the aforesaid premises, call this matter on 6th May, 2008 for hearing. Counter, if any, may be filed by the Respondents well before 21st April, 2008.

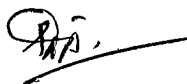
Send copies of this order to the Respondents, and free copies of this order be handed over to the learned counsel appearing for both the parties.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

5.5.08

W/S submitted
by Rspdt. No. 3.
Copy saved.



lm

07.05.2008

Mr.M.Chanda, learned counsel appearing for the Applicant and Mr.M.U.Ahmed, learned Addl.Standing Counsel appearing for the Union of India are present.

On the prayer of counsel for both parties, the case stands adjourned and to be taken up on 4th June, 2008 for hearing.

W/s filed by R.No-3

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

36.08

04.06.2008

On the request of Mr M. Chanda, learned Counsel appearing for the Applicant (made in presence of Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India) this case stands adjourned to be taken up for hearing on 13.06.2008.

12/6/08

Mrs. U. Dutta,

Advocate for the applicant filed the Rejoinder against the W/s filed by the Respondent

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

13.06.2008

On the prayer of Mr M. Chanda, learned Counsel appearing for the Applicant and Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, call this matter on 30.06.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

30.06.2008

Call this matter on 08.08.2008 before the Division Bench for hearing.

the case is ready for hearing.

7.8.08

nkm

(M.R. Mohanty)
Vice-Chairman

~~O.A. 282 of 06~~

08.08.2008

Mrs. U. Dutta learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents are present.

Call this matter on 09.09.2008 for hearing before Division Bench.

the case is ready for hearing.

8.9.08

~~O.A. 117 of 08~~

~~06.11.08~~

Lm

Rejoinder is undertaken to file in course of the day. A copy of the same has already been served on the learned Addl. Standing Counsel appearing for the Respondents.

09.09.2008

Mr. M. Chanda, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents are present.

~~06.11.2008~~

On the request of learned counsel. Call this matter on 06.11.2008, appearing for both the parties. call this matter on 17th December, 2008 for hearing.

the case is ready for hearing.

3.11.08

(S.N. Shukla)
Member(A)

(Khushiram)
(M.R. Mohanty)
Vice-Chairman

lm

lm

O.A.282 of 06

06.11.2008

On the request of learned counsel appearing for both the parties, call this matter on 16th December, 2008 for hearing.

(S.N.Shukla)
Member(A)

(M.R.Mohanaty)
Vice-Chairman

lm

The case is ready
for hearing.

16.12.2008

Call this matter on 5th February, 2009.

(S.N.Shukla)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

05.02.2009

Call this matter on 31.03.2009 for hearing.

(M.R.Mohanaty)
Vice-Chairman

/bb/

31.03.2009

Call this matter on 22.05.2009 for hearing.

(M.R.Mohanaty)
Vice-Chairman

/bb/

22.05.2009

Call this matter on 27.05.2009.

(N.D.Dayal)
Member(A)

(M.R.Mohanaty)
Vice-Chairman

lm

The case is ready
for hearing.

26.5.09.

27.05.2009

On the prayer of Mrs. U.

Dutta, learned counsel appearing for the Applicant (made in presence of Mr. M. U. Ahmed, learned Addl. Standing Counsel for the Government of India), call this matter on 02.07.2009.

The case is ready for hearing.

lm

(N.D. Dayal)
Member(A)

(M.R. Mohanty)
Vice-Chairman

02.07.2009

Call this matter on 24.08.2009 for hearing.

The case is ready for hearing.

nkm

(M.R. Mohanty)
Vice-Chairman

24.08.2009

At the request of counsel for both the parties, call this matter on 09.09.2009 for hearing.

The case is ready for hearing.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

09.09.2009

Call on 10.11.2009 for hearing.

The case is ready for hearing.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/lm

10.11.2009

It is stated by the proxy counsel that Sri M.U.Ahmed, learned Addl. C.G.S.C., is unwell.

List on 17.11.2009.

An additional statement submitted by the Applicant.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

16.11.09

16/11/09

O.A. No. 282-06

17.11.2009

Mr.M.Chanda, learned counsel for Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. for Respondents are present.

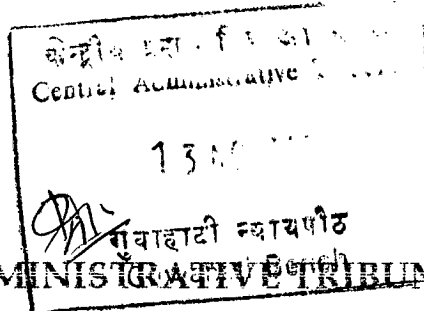
Learned counsel for Applicant states that in view of communication dated 07.07.2009 (Annexure-VI) placed on record along with additional statement made by Applicant dated 16.11.2009, emanating from Headquarter Chief Engineer, Shillong Zone requiring that review DPC be held to consider eligible candidates including Applicant who were not included in the DPC held earlier, present O.A. can be disposed of.

In view of the above, we disposed of the present O.A.. It is expected that concerned authorities shall abide by said direction and take appropriate steps, if not already undertaken. Aforesaid exercise shall be completed within a period of three months from the date of receipt of this order.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 282 /2006

Shri Nur Mohammad Ali Ahmed

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 23.04.1988- Applicant was initially appointed as Switch Board Attendant in the MES and was posted in the office of the Garrison Engineer (A.F), Shillong under the Commander Works Engineer, Shillong. Subsequently he was redesignated as Electrician (SK). Applicant attained eligibility for promotion to the cadre of Electrician (HS) from 1996.
- 19.01.1998- Applicant was transferred from Shillong and posted in the office of the Garrison Engineer (AF), Guwahati under Commander Works Engineer (AF), Borjhar.
- 05.11.2001- Applicant passed the trade test for Electrician HS- II under Commander Works Engineer (AF) Borjhar vide order dated 05.11.01.
- 28.06.2003- Applicant passed trade test for Electrician HS-I vide order-dated 28.06.03.
- 03.03.2004- Applicant is entitled to get promotion to the grade of Electrician HS without trade test as per para 3 (d) of the HQ letter dated 03.03.04 but he has passed trade test, as such he is entitled for promotion to the grade of Electrician HS on all counts. (Annexure- I)
- 06.04.2005- Respondents issued one promotion order dated 06.04.05, whereby some of the Electrician (SK) were promoted to the grade of Electrician (HS) retrospectively w.e.f. 01.01.1996. In the said promotion order some persons junior to the applicant e.g. respondent No. 4 have been promoted to the post of Electrician

Nur Mohammad Ali Ahmed

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(HS) but the applicant in spite of being senior to them has not been promoted. (Annexure- II)

11.07.2006- Applicant submitted representation on 11.07.06 and prayed for grant of his promotion to the grade of Electrician (HS) w.e.f. 01.01.1996, but to no result. (Annexure- III)

Hence this application before this Hon'ble Tribunal.

PRAYERS

Relief (s) sought for:

1. That respondents be directed to consider promotion of the applicant to the post of Electrician (HS) w.e.f. 01.01.1996 i.e. the date on which respondent No. 4 and other juniors have been promoted, with all consequential benefits including arrear monetary benefit and seniority.
2. Costs of the application.
3. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant for his promotion to the grade of Electrician (HS).
-

Nur Mohammad Ali Ahmed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 282 /2006

Shri Nur Mohammad Ali Ahmed. : Applicant.

-Versus-

Union of India and Ors. : Respondents.

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4.	II	Copy of promotion list.	12- 13.
5.	III	Copy of representation dated 11.07.2006	-14 -

Date: - 8. 11. 06

Filed By:

Adutta
Advocate.

Nur Mohammad Ali Ahmed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. _____/2006

BETWEEN:

1. Shri Nur Mohammad Ali Ahmed.

S/o- Late Mvi. Abdul Halim.
MES NO 229638,
Electrician (SK),
O/o- Asstt. Garrison Engineer (E/M),
Guwahati-781029.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Defence,
South Block,
New Delhi- 110001.
2. The Commander Works Engineer.
Spread Eagle falls,
Shillong-793011.
3. The Carrison Engineer,
O/O The Commander Works Engineer (A/F),
Borjhar Area,
Guwahati.
4. Shri Umesh Chandra Kanoo,
Electrician H.S.
O/O The Carrison Engineer (A/F), Shillong,
P.O. Nongleir,
Shillong-793009.

..... Respondents.

Nur Mohammad Ali Ahmed

16¹
Filed by the Applicant
through U. D. D. A., Advocate
on 8/11/06

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but against non-consideration of promotion to the applicant from the post of Electrician (SK) to Electrician (HS), whereas the person junior to the applicant in the seniority list of the feeder cadre of Electrician (SK) has been promoted illegally and arbitrary.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant was initially appointed as Switch Board Attendant (for short SBA) in the MES w.e.f 23.04.1988 and was posted in the office of the Garrison Engineer (AF), Shillong under Commander works Engineer, Shillong. Subsequently he was redesignated as Electrician (SK).
- 4.3 That the applicant attained eligibility for promotion to the cadre of Electrician (HS) from 1996. Subsequently he was transferred from Shillong and posted in the office of the Garrison Engineer (AF), Guwahati under

Nur Mahammad Ali Ahmed

Commander Works Engineer (AF), Borjhar w.e.f 19.01.1998 in the same post of Electrician (SK) without any promotion.

- 4.4 That it is stated that the applicant passed the trade test for Electrician HS-II under Commander Works Engineer (AF) Borjhar Area vide G.E. Guwahati's PTO No. 45 dated 05.11.2001 under Sl. No. 62 and also passed trade test for Electrician HS-I vide PTO No. 25 dated 28.06.2003 under Sl. No. 18. It is relevant to mention here that the applicant is entitled to get promotion to the grade of Electrician HS even without trade test as per para 3 (d) of the HQ letter No. B/21770/E 1 C (3) dated 03.03.2004, but he had passed the trade tests. As such he is legitimately entitled for promotion to the grade of Electrician HS, on all counts.

(Copy of the HQ letter dated 03.03.2004 is annexed hereto and marked as Annexure-I).

- 4.5 That it is stated that the respondents published one seniority list for the Electrician (SK) in 1995 but the applicant in spite of all his efforts could not obtain the said seniority list. In the said seniority list, the name of the applicant was above the name of private respondent No. 4. It is relevant to mention here that the promotion to the post of Electrician HS is given on the basis of seniority in the feeder cadre and the feeder cadre in the instant case is the post of Electrician (SK). The Hon'ble Tribunal be pleased to direct the respondents to produce the seniority list of 1995 for Electrician (SK) before this Hon'ble Tribunal for proper adjudication of this case.
- 4.6 That acting on the letter No. B/21770/EIC (3) dated 03.03.2004 issued by the Army HQ E-in-C's Branch, the respondents issued one promotion order vide No. 1455/RDPC/8/E1A, dated 06.04.2005, whereby some Electrician (SK) were promoted to the grade of Electrician (HS) retrospectively w.e.f 01.01.1996. In the said promotion order some persons junior to the applicant, e.g. the respondent No. 4 Shri Umesh Chandra

Nur Mohammad Ali Ahmed

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Kanoo have been promoted to the post of Electrician (HS) with effect from 01.01.1996, but the applicant in spite of being senior to them has not been promoted. It is relevant to mention here that the applicant joined in service on 19.04.1988, as such in all fitness of the things, the applicant ought to have been promoted to the grade of Electrician (HS) at least w.e.f. the date on which his juniors were promoted i.e. from 01.01.1996. It is categorically submitted that Respondent No. 4 is junior to the present applicant.

(Copy of promotion list is annexed hereto as Annexure-II).

- 4.7 That the applicant was not aware of the promotion order dated 06.04.2005 and as soon as he could learn about the said promotion order, he submitted one representation through proper channel on 11.07.2006 and prayed for grant of his promotion to the grade of Electrician (HS) w.e.f. 01.01.1996 but to no avail.

(Copy of representation dated 11.07.2006 is annexed hereto as Annexure-III).

- 4.8 That the applicant most respectfully begs to submit that the juniors of the applicant including respondent No. 4 have been promoted w.e.f. 01.01.1996 vide promotion order dated 06.04.2005 on the basis of their seniority in the feeder cadre of Electrician (SK) i.e. the seniority list of 1995. At that relevant time i.e. on 01.01.1996, both the applicant and the respondent No. 4 were working at Shillong under the same respondent No. 2 and they were borne in the same seniority list wherein the applicant was senior to the respondent No. 4 and as such both of them were similarly situated. But even thereafter, the respondents promoted the junior person Shri Umesh Chandra Kanoo but denied the same to the applicant who was senior. Such action of the respondents is

Nur Mohammad Ali Ahmed

discriminatory which hits the provisions of Article 14 and 16 of the Constitution of India and also arbitrary, malafide, unfair and illegal.

4.9 That due to non-consideration of his promotion to the grade of Electrician (HS), which he is legitimately entitled to, the applicant has been suffering heavy loss in terms of the financial benefits and service prospects. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and interests and its is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights of the applicant, directing the respondents to promote this applicant to the post of Electrician (HS) w.e.f. 01.01.1996 i.e the date from which his juniors including the respondent No. 4 have been promoted, with all consequential benefits.

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

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

- 5.1 For that, the applicant attained eligibility for promotion to the post of Electrician (HS) way back in 1996 and has therefore acquired a valuable and legal right for his promotion to the said cadre.
- 5.2 For that, the respondents vide their promotion order dated 06.04.2005, promoted even those persons e.g. respondent No. 4 who were junior to the applicant in the seniority list of feeder cadre, and denied the same to the applicant which hits the provisions of Article 14 and 16 of the Constitution of India.
- 5.3 For that, the applicant being senior, his name was above that of the respondent No. 4 in the seniority list of 1995 for the Electrician (SK) which forms the basis of promotion to the post of Electrician (HS). As such the applicant is entitled to get promotion w.e.f the date on which respondent No. 4 and other juniors have been promoted.

Nur Mohammad Ali Ahmed

5.4 For that, the respondent No. 4 and some other juniors have been promoted w.e.f 01.01.1996 at that relevant time, both the applicant and the respondent No. 4 were working at Shillong under the same seniority list wherein the applicant was rather senior to respondent No. 4 and both of them were similarly situated. As such the applicant ought to have been promoted at least w.e.f. the date on which respondent No. 4 and other juniors have been promoted.

5.5 For that, the applicant submitted representation for his promotion but it has not been considered by the respondents.

5.6 For that, the denial of promotion to the applicant which he is legitimately entitled to get, is arbitrary, illegal, malafide, unfair and opposed to the principles of natural justice.

5.7 For that due to illegal denial of his promotion, the applicant has been suffering great loss in terms of financial benefit and service prospects.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

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

3. Relief (s) sought for:

Nur Mahammad Ali Ahmed

7 22

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

8.1 That respondents be directed to consider promotion of the applicant to the post of Electrician (HS) w.e.f. 01.01.1996 i.e. the date on which respondent No. 4 and other juniors have been promoted, with all consequential benefits including arrear monetary benefit and seniority.

8.2 Costs of the application.

8.3 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant for his promotion to the grade of Electrician (HS).

10.

11. Particulars of the I.P.O:

i)	I.P.O No.	: 286,932621
ii)	Date of issue	: 10.11.06
iii)	Issued from	: G.P.O. Guwahati
iv)	Payable at	: G.P.O. Guwahati

12. List of enclosures:

As given in the index.

Nur Mahammad Ali Ahmed.

VERIFICATION

I, Shri Nur Mohammad Ali Ahmed, S/o Late Mvi Abdul Halim, aged about 40 years, presently working as Electrician (SK), MFS No. 229638, in the office of the Asstt. Garrison Engineer, E/M Guwahati-29 do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 7th day of November 2006.

Nur Mohammad Ali Ahmed.

Tele: 23019107

Directorate General of Personnel
Military Engineer Services
Engineer-in-Chief's Branch
Army Headquarters
Kashmir House
DHO PO, New Delhi - 110011

21

B/21770/EIC (3)

03 Mar 2004

Chief Engineer(s)

Southern Command, Pune
Western Command, Chandimandir
✓ Eastern Command, Kolkata
Central Command, Lucknow
Northern Command, C/o 56 APO
ADG (DRDO & R&D) Secunderabad

The Commandant

CME, Pune
BEG, Kirkee
BEG Borekoo
MEG & Center Bangalore

RESTRICTING OF CADRE OF ARTISAN STAFF IN DEFENCE
ESTABLISHMENT IN MODIFICATION OF RECOMMENDATION OF
5TH CPC

1. Reference Govt of India, Ministry of Defence letter No. 11(1)/2002/D(Civ.) dated 20 May 2003 circulated thus HQ letter No. B/21770/EIC(3) dated 27 Jun 2003.

2. As per the above letter, the grade structure of Industrial Cadre has been revised in two phases as under:-

From 01.01.96 to 19.05.2003

3. The grade structure in the industrial as well as in the non-industrial grades, wherever already available and the pay scales of the Defence artisan staff shall stand modified w.e.f 1.1.96 as under:-

(i)	Skilled	Rs. 3050-4590
(ii)	Highly Skilled	Rs. 4000-6000
(iii)	Master Craftsman	Rs. 4500-7000

*Witnessed
M. S. Advoca*

2-
- 10 -
2
(a) The post of HS-I and HS-II shall be merged retrospectively w.e.f 01.01.96 HS-I will be in block senior to HS-II.

(b) All existing HS I and HS II employees in the strength on 1.1.96 (including those who were washed out due to retirement death etc. on or after 1.1.96 but prior to 19.05.03) shall be re-designated as Highly skilled and placed in the corresponding scale of pay.

(c) The above merger shall be effective from 1.1.96 and in relaxation of trade test DPC etc, as one time exception.

* (d) Vacancies arising between 1.1.96 and 19.05.03 in HS post will be filled by promotion to the tune of 35% based on seniority without any trade test as one time measure.

(f) A trade wise seniority list of all highly Skilled as on 1.1.96 (after merging) should be prepared and circulated to all concerned.

(g) Promotions made from HS-II to HS-I after 1.1.96 shall become infructuous in view of the merger of posts.

(h) Since the grade of HS-II & HS-I has been merged and designated as HS in the pay scale of RS. 4000-6000 w.e.f 1/1/96 as clarified by the DOP&T/MOD the second ACP for eligible Skilled/HS employees should be given in the pay scale of RS. 5000-6000 since Master Craftsman in the pay scale of RS. 4500-7000 is not a part of the hierarchy and placement in this grade shall not be treated as promotion for highly skilled grade either under normal promotion rules or under ACP scheme.

(j) As stated above, w.e.f 9.8.99 or from the date the individual completes 24 years of service after 9.8.99 the skilled HS worker should be granted second ACP in the pay scale of RS. 5000-6000 if otherwise eligible vide letter no. 856104/47/ACP/Ind/CSCC dated 10 Oct 2003.

From 20.05.2003 ONWARDS

(a) With effect from 20.05.03, the inter grade ratio in respect of all skilled trades i.e., erstwhile ratio trades and including left out trades shall be in the ratio and corresponding scale as mentioned para 4 (1) of Min of Defence letter quoted above. The Administrative sections should work out the inter-grade ratio on authorized/functional strength as on date.

(b) The promotion of the individuals in the posts resulting from restructuring and ratio revision shall be made on seniority basis w.e.f. 20.05.03 in relaxation of the trade test, DPC, qualifying service etc as one time measure.

20

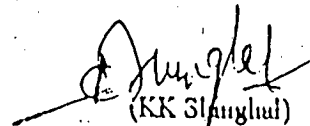
(c) 25% of Highly Skilled grade posts will be placed in the grade of Master Craftsman. There will be no change in procedure of selection of Master Craftsman as laid down in Min of Defence letter No. 1(2)/60/D (Civ.) dated 21 Sep 1962 except that the undertaking that they will forego promotion on supervisory line, which was taken hitherto before, need not be taken now.

(d) If there are non-viable trades having number of workers (say less than five), those trades should be grouped together to arrive at a viable number for giving the above promotional benefit.

(e) DPC for MCM to be conducted by Command HQ.

4. The existing recruitment rules for the tradesman are being amended by CSCC section of this HQ.

5. Syllabus for trade test for Highly Skilled (Industrial personnel) is being issued by this HQ separately. Till such time Syllabus for Highly Skilled trades are issued, the existing syllabus for IIS I and IIS II categories be clubbed and papers for trade test of Highly Skilled categories be prepared at CWE level accordingly.


(KK Sengupta)
Col
Dir (Pers)
For E-in-C

Copy to:-

Min of De(D/Civ.)

AG's Branch/MP-4 (Civ)(d)

Internal

CSCC

Group-II

*Affected
Matters
Advocate*

Appx A

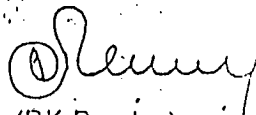
LIST OF TRADESMAN PROMOTED FROM ELECT SK TO HS

Ser. No.	MES No & Name	Promoted		Unit	Effective Date of Promotion
		From	TO		
1	2	3	4	5	6
1	229003 Shri TD Joshi	Elect SK	Elect HS	GE Shg	1-Jan-96
2	22984 Shri SC Sharma	Elect SK	Elect HS	GE Shg	1-Jan-96
3	229032 Shri Shankar Lal Sharma	Elect SK	Elect HS	GE Shg	1-Jan-96
4	229043 Shri BC Ballacharjee	Elect SK	Elect HS	GE Shg	1-Jan-96
5	226267 Shri Birendra Jha	Elect SK	Elect HS	GE Shg	1-Jan-96
6	228537 Shri Bhuben Chakraborty	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
7	228542 Shri KI Roy Kurmakur	Elect SK	Elect HS	GE Umrol	1-Jan-96
8	229999 Shri Saginu Ram	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
9	228509 Shri Rajendra Rai	Elect SK	Elect HS	GE Shg	1-Jan-96
10	229335 Shri Arjun Salia	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
11	228756 Shri Ramji Rai	Elect SK	Elect HS	GE Shg	1-Jan-96
12	228667 Shri BB Chettri	Elect SK	Elect HS	GE Shg	1-Jan-96
13	229035 Shri Ganesh Dhangal	Elect SK	Elect HS	GE Umrol	1-Jan-96
14	228750 Shri Prabhu Dayal Rai	Elect SK	Elect HS	GE Shg	1-Jan-96
15	229077 Shri Bashant Rai	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
16	229453 Shri Bansa Lohar	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
17	229429 Shri Ram Badam Pd Yadav	Elect SK	Elect HS	GE Umrol	1-Jan-96
18	229352 Shri Nageswar Rai	Elect SK	Elect HS	GE Shg	1-Jan-96
19	228427 Shri Ananda Nayak	Elect SK	Elect HS	GE Umrol	1-Jan-96
20	229324 Shri BC Deb Nath	Elect SK	Elect HS	GE Umrol	1-Jan-96
21	228534 Shri KR Bhattacharjee	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
22	228027 Shri Pradip Kr Dey	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
23	228616 Shri Nageswar Pandit	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
24	229054 Shri Musafir Rai	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
25	229385 Shri Gautam Bramachari	Elect SK	Elect HS	GE Shg	1-Jan-96
26	228203 Shri Dina Nath Ram	Elect SK	Elect HS	GE Shg	1-Jan-96
27	228611 Ksh Pd Ram	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
28	228530 Shri Phulena Ram	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96
29	227196 Shri John Rande	Elect SK	Elect HS	GE (AF) Shg	1-Jan-96

Attached
 Shri
 Advocate

LIST OF TRADESMAN PROMOTED FROM ELECT SK TO HS

Ser No	MES No & Name	Promoted		Posted		Effective Date of Promotion	Remark
30	229590 Shri F Dieng Doh	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Jan-96	
31	229714 Shri Sami Sanchloy	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Jan-96	
32	229673 Shri BC Boro	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-96	
33	229586 Shri Subhash Nath	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-96	
34	229710 Shri NA Barbhuva	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Jan-96	
35	229687 Shri Sahdat Hussain	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-96	
36	229781 Shri Parnabasich Kur	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-96	
37	229795 Shri Umesh Ch Kanoo	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Jan-96	
38	229543 Shri Pran Singh Nongrum	Elect SK	Elect HS	GE Umrol	GE Umrol	1-Jan-96	
39	229803 Shri Sheiphlang Tulleng	Elect SK	Elect HS	GE Umrol	GE Umrol	1-Jan-96	
40	229312 Shri F Kharkongor	Elect SK	Elect HS	GE Umrol	GE Umrol	1-Dec-00	
41	229637 Shri Raj Kumar Charkarborty	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-01	
42	A- 710607 Shri Ram Bdr Limbu	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Dec-01	
43	243675 Shri Tapash Nath	Elect SK	Elect HS	GE Shg	GE Shg	1-Jan-02	
44	226732 Shri Kedar Nath Singh	Elect SK	Elect HS	GE Shg	GE Shg	1-Feb-02	
45	229393 Shri Jinus Nongkynih	Elect SK	Elect HS	GE (AF) Shg	GE (AF) Shg	1-Sep-02	
46	229536 Shri Abinash Chandra	Elect SK	Elect HS	GE Umrol	GE Umrol	1-Mar-03	


 (RK Pandey)
 SE
 CWE Shillong

To,
The Commander Works Engineers,
Spread Eagle Falls,
Shillong-793011
(Through proper channel)

SUB :- RESTRUCTURING OF CADRE OF ARTISAN IN DEFENCE ESTABLISHMENT
IN MODIFICATION OF RECOMMENDATION OF 5TH CPC.

Sir,

1. Most humbly and respectfully I beg to state that I was appointed as SBA (Now Electrician SK) by your HQ and posted to GE (AF) Shillong w.e.f. 23/4/1988 (F.N). During entire carrier of my service under your area, I served the department with sincerity and entire satisfaction of my superiors. In recognition of my satisfactory service in the Deptt. your HQ was pleased to accept my compassionate posting and accordingly transferred me to GE Guwahati w.e.f. 19/01/1998 under CWE (AF) Borjhar area.

2. I have now learnt that your HQ was pleased to issue promotion order in compliance with Army HQ E-in-C's Branch Letter No. B/21770/EIC (3) dtd. 3rd March, 2004 w.e.f. 01.01.1996 and some of my juniors e.g. MES/229795 Sri Umesh Chandra Kanoo amongst others of GE (AF) Shillong borne on the strength during my tenure of service in your area were superseded me in your promotion order issued vide 1455/RDPC/8/E1A, dated 06 April, 05 with retrospective effect.

3. It may kindly be recollected that my area seniority list cannot be suo-motu changed/alterd during my period of service/stay in your area although my seniority in CWE (AF) Borjhar area may be changed based on my undertaking while seeking for compassionate transfer.

4. It is also brought to your kind notice that in accordance with para 3(d) of AHQ, E-in-C's branch letter No. B/21770/E1C (3) dated 03 March, 2004, I am eligible for promotions as Electrician HS without any obligation for passing trade test, however, I have passed the trade test under CWE (AF) Borjhar area vide GE Guwahati PTO No.45 dt. 05.11.01 SI No. 62 for HS-II and PTO No. 25 dt. 28.06.03 SI.No. 18 for HS-I (Copy attached).

5. I view of my above submission I hope that your HQ would be pleased to admit my application and after perusal thereof would be further pleased to call for records and issue necessary order of my promotion as Electrician HS w.e.f. 01.01.1996 and for which act of kindness I shall ever pray.

Thanking you and with regards.

Station : Guwahati

Dated : 11 July 2006

Copy to :

- 1) The General Secretary, Meghalaya MES Civilian Worker' Union

Yours faithfully,

(NUR MAHAMMAD ALI AHMED)
Electrician (SK)

MES/229638

AGE EIM. Guwahati, Basistha
Guwahati-29

-with the request to advice CWE
Shillong accordingly.

- 5 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :

O.A. No 282/2006

Shri Nur Mohammad Ali

..... Applicant

- Versus -

Union of India & Ors

..... Respondents

- AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No 3

WRITTEN STATEMENT

The humble answering respondents submitted

their written statement as follows :

1.(a) That I am Shri Devesh Pandey, EE Garrison Engineer Guwahati and Respondents No 3 in the above case and I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the statement on behalf of all the respondents.

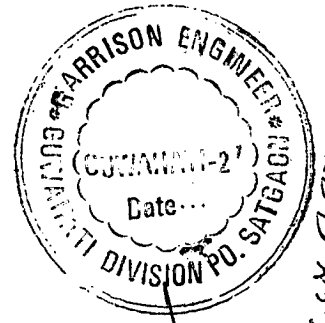
(b) The application is filed unjust and unsustainable both on facts and in law.

(c) That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.

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

15

30



through M. U. Ahmad, Genl Secy

Received
Dutta
05/05/08

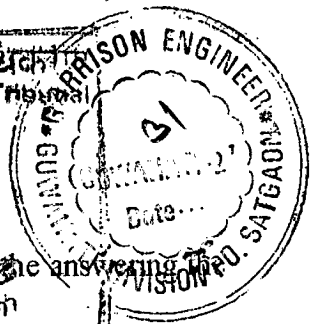
16

- 2 -

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

- 5 MA

गुवाहाटी बेंच
Guwahati Bench



2. That with regard to the statements made in paragraph 1 of the application the answering respondents be to submit that seniority of industrial personnel in MES are CWE area based only.

The applicant has posted to CWE (AF) Borjar area on extreme compassionate ground wef 19th January 1998 with an undertaking that he would forgo his seniority from the date of his posting in new CWE area. As such applicants contention is not base on facts.

Handwritten signature: Pandey

3. That with regard to the statements made in paragraphs 2,3,4.1 and 4.2 of the application the answering respondents beg to state that they do not admit anything except those are based on record only. The applicant is put to strictest proof thereof.

4. That with regard to the statements made in paragraphs 4.3 of the application the answering respondents beg to state that the applicant has posted to CWE (AF) Borjar with an undertaking that he would forgo his seniority and ready to accept revised seniority with effect from the date of his posting i.e. 19th January 1998.

5. That with regard to the statements made in Para 4.4 of the application the answering respondents beg to state that the applicant's promotion will be due as and when future vacancies arises based on his revised seniority with effect from 19th 1998.

6. That with regard to the statements made in Para 4.5 of the application the answering respondents beg to state that on being transferred to new CWE area seniority of the applicant has been revised and new seniority is with effect from 19th January 1998 base on undertaking and as per departmental procedure.

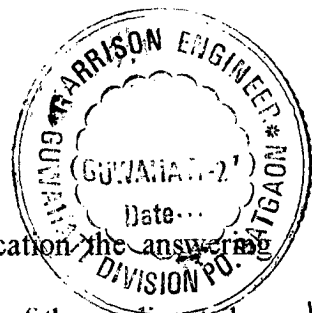
7. That with regard to the statements made in Para 4.6 of the application the answering respondents be to state that on being transferred to new CWE area seniority of the applicants has been revised and new seniority is with effect from 19th January 1998 based on undertaking and as per departmental procedure.

.....3/-

- 5 MAY 1998

मुवाहादी न्यायपीठ

- 3 -



8. That with regard to the statements made in Para 4.7 of the application the answering respondents beg to state that on being transferred to new CWE area, seniority of the applicants has been revised and new seniority is with effect from 19th January 1998 based on undertaking and as per departmental procedure.

9. That with regard to the statements made in Para 4.8, 4.9, 5.1, 5.2, 5.3, 5.4 to 5.7 of the application the answering respondents beg to state that the application the answering respondents beg to state that the applicant cannot claim his seniority has already been revised with effect from the date of his posting to new CWE area according to his undertaking.

Further, the applicant has no right to be promoted but only a right to be considered for promotion and that consideration shall not be contrary to the guidelines/rules which regulate the promotion and the promotion is governed by conditions of employment and not on any general principles of justice and fair play. The past service rendered by the applicant in the earlier department cannot be counted for the purpose of determining his seniority in the new CWE/Deptt. In which he was posted/transferred according to his own interest/will and/or undertaking.

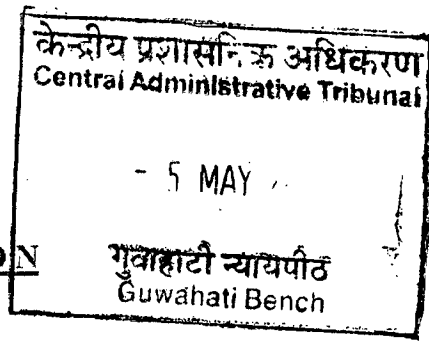
And as such there is no any infirmly, discrimination, malafide, arbitrariness, illegality or violation of natural justice as leveled by the applicant.

10. That with regard to the statements made in Para 8 to 9 of the application the answering respondents beg to state that the application/claim of the applicant is devoid of any merit and not base on any legal foundation and the applicant has conveniently presented the case in a different way without any merit as stated herein above and as such liable to be dismissed with cost.

18

- 4 -

VERIFICATION



I, Shri Devesh Pandey, EE, Son of Shri Shiv Shankar Pandey, aged about 38 years, working as Garrison Engineer Guwahati, PO – Satgaon, Guwahati – 27 being duly authorized and competent to sign this verification, do hereby solemnly affirm and verify that the statements made in Para 1 to 10 are true to my knowledge as per the legal advice and I have not suppressed any material facts.

And I sign this verification on this 30/11 day of Apr 2008 at Guwahati.



Devesh Pandey
(Devesh Pandey)
EE
Garrison Engineer

12 JUN 2008

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

19

34

Filed by the applicant
through M. Duth, advocate
on 12-06-08

In the matter of :-

O.A.No 282/ 2006.

Nur Mohammed Ali Ahmed.

... Applicant

-Versus-

Union of India and Others.

... Respondents.

-And-

In the matter of:-

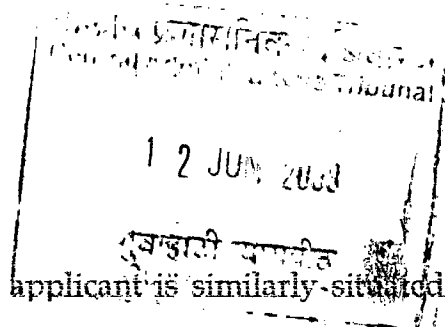
Rejoinder submitted by the applicant
against the written statement submitted
by the respondents.

The applicant most humbly and respectfully beg to state as under:-

1. That with regard to the statement made in paragraph 2, 3, 4, 5, 6 and 7, the applicant categorically denies the statements made by the respondents in those paragraphs and further beg to say that his transfer and posting on compassionate ground in 1998 has no bearing in the instant case of the applicant for his promotion to the grade of Electrician HS atleast w.e.f 01.01.1996 i.e from the date when respondent no. 4 and others have been promoted. Since the consideration of promotion in the grade of Electrician HS has been delayed for a long time and the exercise is carried out which ought to have been considered in the year 1996, therefore denial of the promotion benefit to the applicant in the cadre of Electrician HS is highly arbitrary, illegal and same is in violation of the Article 14 of the Constitution. It appears from Anx-II of the O.A i.e list of promotion that the other employees like the applicant who were due for promotion from 01.01.1996 has been granted the benefit of such promotion pursuant to the

Done
12/6/08
R

Nur Mohammad Ali Ahmed



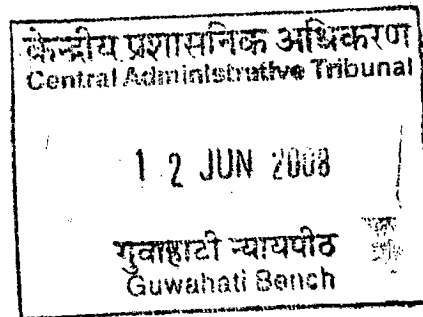
Army HQ letter dtd. 03.03.2004, since the applicant is similarly-situated and the junior of the applicant has been given such benefit as such applicant cannot be denied the benefit of promotion on the pretext of his transfer and posting on his own request.

It is relevant to mention to mention here that CW, Shillong has given such benefit of promotion to Sri K.K.Nath, MES-229541 who was also transferred on his own request from CW, Shillong to CE Air force, Borjhar in 2003. As such the applicant cannot be discriminated when the said benefit is given to Sri K.K.Nath.

(Copy of the promotion order of Sri K.K.Nath bearing letter no. 1455/KDPC/49/E1A dated 02.09.2005 is enclosed herewith and marked as Annexure-IV).

2. That with regard to the statement made in para 8, 9 and 10 are not correct and it is contrary to the law, and also opposed to public policy. Since the promotion of the applicant is due in 1996 therefore the said benefit cannot be denied merely on the ground of his transfer at his own request.
3. That in the facts and circumstances stated above, the applicant most humbly submits that he is entitled to the relief prayed for, and the O.A deserves to be allowed with costs.

Nur Mahammad Ali Ahmed



VERIFICATION

I Shri Nur Mohammad Ali Ahmed, S/o Late Mvi Abdul Halim, aged about 42 years, presently working as Electrician (SK), MES No. 229638, in the office of the Asstt. Carrison Engineer, E/M, Guwahati-29 do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the 8th day of June 2008.

Nur Mohammad Ali Ahmed.

Central Administrative Tribunal

12 JUN 2008

Guwahati Bench

Annexure - IV

22

32

ANNEXURE - V-A

Commander Works Engineers
Spread Engle Falls
Shillong - 793011

1455/KDPC/49/EIA

02 Sep.2005

GE Shillong
GE Umroi
GE (AF) Shillong

PROMOTION INDUSTRIAL PERSONNEL

Reference this HQ letter No. 1455/RDPC/8/EIA dated 06 April, 2005 and 1455/RDPC/EIA dated 05 May 2005.

On the basis of approval accorded by CWE the following amendments to the promotion order issued vide letter reference are hereby made.

LETTER NO. 1455/RDPC/08/EIA DATED 06 APR. 2005

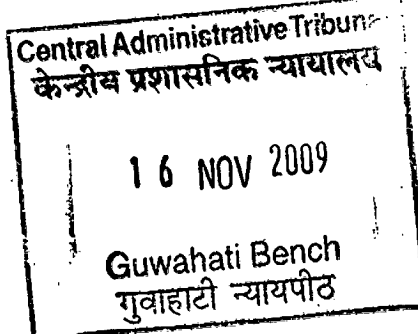
(a) APPENDIX 'A'-ELECT (SK) TO ELECT (HS)

The promotion in respect following individual is hereby made in site basis and added as serial No. 40 & 41.

Sl. No.	MES No. Name	Promoted		Posted		Effective date of promotion	Remarks
		From	To	From	To		
12		3	4	5	6	7	8
40	MES-223778 Sri S.C.Dey	Elect (SK)	Elect (HS)	GE Shg.	GE Shg.	01.01.96	
41	MES-229541 Sri K.N.Nath	Elect (SK)	Elect (HS)	GE Umroi	GE Umroi	01.01.96	

Existing Sec. No.40 to 46 in Appendix 'A' to letter dated 06 Apr. 05 may please be amended to read as 42 to 48

Attested
Mulla
Advocate



23

Filed by me applicant -
28
S. K. Das
Advocate
16/11/2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of: -

O.A. No. 282/ 2006

Shri Nur Mohammad Ali Ahmed

-Versus-

Union of India & Ors.

-And-

In the matter of: -

Additional statements submitted by the
applicant.

The applicant above named most humbly and respectfully begs to state as
under; -

1. That the applicant has approached this Hon'ble Tribunal praying for a direction upon the respondents to consider promotion of the applicant to the post of Electrician (HS) w.e.f. 01.01.1996 i.e. the date on which respondent No. 4 and other juniors have been promoted, with all consequential benefits including arrear monetary benefit and seniority.
2. That it is stated that respondents vide letter dated 26.09.2008 it has been intimated that one Shri Nabin Chandra Das, similarly situated Electrician (SK) who was transferred from GE Umroi to CWE Shillong will be considered for promotion from SK to HS based on seniority in the DPC of CWE Shillong to fill any vacancy between 01 Jan 96 to the date of his transfer from CWE Shillong i.e. Feb, 2000. Similarly, one Shri K. K. Nath, Elect (SK) who was transferred from CWE, Shillong to CWE (AF) Borjar

Recd
16/11/09

Nur Mohammad Ali Ahmed

on his own request like the present applicant will be given promotion to HS in CWE Shillong area if he is eligible in the DPC of CWE Shillong. In the letter dated 26.09.2008 it has also been intimated that the individual with the transfer from CWE Shillong Areas to CWE (AF) Borjar Area has forfeited the past service in CWE Shillong Area is not acceptable and must be reviewed.

It is stated that the applicant attained eligibility for promotion to the cadre of Electrician (HS) from 1996. Subsequently he was transferred from Shillong and posted in the office of the Garrison Engineer (AF), Guwahati under Commander Works Engineer (AF), Borjhar w.e.f. 19.01.1998 in the same post of Electrician (SK) without any promotion. Therefore in terms of clarification given by the respondents vide letter dated 26.09.2008 applicant is also entitled for consideration of his promotion to the post of Electrician (HS) with effect from 1996.

Copy of the letter dated 26.09.2008 is enclosed herewith and marked as Annexure- V.

3. That it is stated that Office of the Chief Engineer, Shillong vide his letter dated 07.07.2009 advised to take action as per direction of CE HQ Eastern Command and further order to convene review DPC to consider the eligible persons namely; Shri Nabin Chandra Das, Shri NM Ahmed (the present applicant) and Shri KK Nath who were not included in the DPC earlier.

Therefore from the letter dated 07.07.09 it is evident that there is no bar to consider promotion of the applicant to the post of Electrician (HS) w.e.f. 01.01.1996.

Copy of the order dated 07.07.09 is enclosed herewith and marked as Annexure- VI.

Nur Mahammad Ali Ahmed.

VERIFICATION

I, Shri Nur Mohammad Ali Ahmed, S/o Late Mvi Abdul Halim, aged about 43 years, presently working as Electrician (SK), MES No. 229638, in the office of the Asstt. Garrison Engineer, E/M, Guwahati-29, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 15th day of November 2009.

Nur Mohammad Ali Ahmed.

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(26)

21/55

ANNEXURE-V

2/ Legal/5 /Engrs/EIC (2)

26 Sep 2008

EIC(2)/(3) SECTION

B/25

PR 56, 57, 63

OA NO 48/08 FILLED BY SHRI NABIN CHANDRA DAS V: UOI

1. Ref your ION No.131900/48/08/43/EI(Legal) dt 17 Sep 2008.

2. The following comments are offered :

(a) Shri Nabin Chandra Das was on the strength of GE Umroi as on 02 Jan 96. As per Para 2(e) of MOD letter No 11(I)/2002/D(Civ I) dt 20 May 2003, and Para 3 of DG(Pers) MES, E-in-C's Branch letter No B/21770/EIC(3) dt 03 Mar 2004, the individual will be considered for promotion from SK to HS based on seniority in the DPC of CWE Shillong to fill any vacancy between 01 Jan 96 to the date of his transfer from CWE Shillong (Feb 2000).

(b) Accordingly, Shri KK Nath, Elect (SK) should also be given promotion to HS in CWE Shillong area if he is eligible in the DPC of CWE Shillong.

(c) A review DPC may be convened since the name of Shri Nabin Chandra Das has been left out in the Area Seniority list of CWE Shillong.

(d) The argument given by CE Shillong Zone vide their letter No 70222/OA-48/2008/22/EI(Legal) that "With the transfer from CWE Shillong Area to CWE(AF) Borjar Area, the individual has forfeited the past service in CWE Shillong Area" is not acceptable and must be reviewed.

(e) The Speaking Order should be amended accordingly.

(f) It is felt that a lot of correspondence on who will deal with the case and necessity of defending the case could have been avoided if this HQ had given suitable advice earlier.

3. Documents received from you are returned herewith.

Encl: As above.

M. Jhalani
(V Jhalani)
Lt Col
SOI (Pers)

EI(Legal)

Copy to:-

CE Shillong Zone
✓ CWE Shillong
CWE(AF) Borjar

- Wrt your letter No 70222/OA-48/2008/22/EI(Legal) dt 12 Jul 2008.

F/25

*Aakash
Sarkar
Advocate*

506 (Mil)
364-2536282
Shillongengrs @ gmail.com

27
ANNEXURE-VI
HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-11

48/2008/ 05 /E1 (Legal)

07 Jul 2009

OA 48/2008 SHRI NABIN CHANDRA DAS VS UOI & OTHERS

Ref HQ Chief Engineer Eastern Command letter No 131900/48/08/53/Engrs/E1 dated 25 Apr 2009 along with their ION No 131543/2/Legal/5/Engr/E1C (2) dated 26 May 2008 fwd to your HQ vide this HQ letter No 70222/OA-48/2008/68/E1 (Legal) dated 08 May 2009 and 70222/OA-48/2008/73/E1 (Legal) dated 18 Jun 2009.

2 HQ Chief Engineer Eastern Command has adequately clarified the matter vide letter dated 26 Sep 2008 and 25 Apr 09 ref above as under:-

(a) Sh Nabin Chandra Das was on the strength of GE Umroi as on 02 Jan 96. As per Para 2(a) of MOD letter No 11(I)/2002/D(Civ I) dt 20 May 2003, and Para 3 of DG(Pers)MES, E-in-C's Branch letter No B/21770/E1C(3) dt 03 Mar 2004 the individual will be considered for promotion from SK to HS based on seniority in the DPC of CWE Shillong to fill any vacancy between 01 Jan 96 to the date of his transfer from CWE Shillong (Feb 2000).

(b) Accordingly, Shri KK Nath, Elect(SK) should also be given promotion to HS in CWE Shillong area if he is eligible in the DPC of CWE Shillong.

3. This HQ had directed your office to take action accordingly vide this HQ letter No 70222/OA-48/2008/68/E1 (Legal) dated 08 May 2009 and 70222/OA-48/2008/73/E1 (Legal) dated 18 Jun 2009.

4. It is therefore advised to take action accordingly as per directions of CE HQ Eastern Command and Review DPC be ordered to consider the eligible persons (namely Sh Nabin Chandra Das, Sh NM Ahmed and Sh KK Nath etc) who were not included in the DPC earlier.

5. No further clarification will be entertained by this HQ in this matter.


(SV Patil)

Col
SO-I (Pers & Legal)
For Chief Engineer

Copy to:-

Chief Engineer
HQ Eastern Command
Fort William
Kolkata-21

for info wrt your HQ letter No 131543/2/Legal/51/
Engrs/E1C (2) dated 13 Jun 2009.

Alister
Shri Nabin Chandra Das
Advocate