

FROM No. 4.  
( See Rule 42 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 63/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Pradip Kr. Das

Respondants U.O.C Jany

Advocate for the Applicant(S) D.K. Das, D. D. Das...

Advocate for the Respondant(S) case  
Govt of Assam

Notes of the Registry	Date	Order of the Tribunal
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This application is in form  
is filed in No. 266/3/8602  
d. pos. No. 266/3/8602  
Dated 11.2.06

09.03.06

Issue notice on the private respondents. Post the matter on 13.4.06.

Vice-Chairman

Vice-Chairman

lm

N. J. Das  
Dy. Registrar  
Di

02.05.2006

Mrs. M. Das, learned Government Advocate for the State of Assam, i.e. Respondent No. 3 and Ms. U. Das, learned Addl. C.G.S.C. for the Respondents No. 1 and 2 are present.

Counsel for the respondents wanted time to get instruction and file reply statement.

Post on 06.06.2006.

Vice-Chairman

mb

Steps not taken.

Di

for comply order dated  
9.3.06.

N. J. Das  
10.3.06

Notice & order sent to  
D/section for issuing to  
private respondents 4 to 15

by regd. A/D post.

Di  
13/3/06. D/No = 339 to 350  
Dt = 20/3/06.

0763/06

06.06.2007 Present : Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Notice for resp. no. 15  
received back as  
unserved.

Cas  
24/3/06

Notice duly served  
on resp. nos. 7, 10, 11.

Cas  
27/3

Notice duly served  
on resp. nos. 4, 5, 6,  
7, 8, 9, 10, 11, 12, 13, 14.

Cas  
30/3

1-5-06

① Notice duly served  
on all Respondents (4-14).

② Notice received unserved  
from R. no. 15.

③ Not

5-6-06

No. wls have been  
lied.

24

30.6.06

wls filed by  
the Respondent No. 2.

/mb/

wls lied by the  
R. No - 2.

24  
20.7.06

The applicant <sup>is</sup> aggrieved for his non-  
promotion to the cadre of IAS in terms of  
his selection for such promotion.  
According to applicant, he was deprived  
for the said promotion only due to the  
arbitrary and illegal action on the part of  
the authorities in denying him the  
integrity certificate though there is no ~~any~~  
reason for withholding ~~of~~ the said  
certificate. No proceeding was pending nor  
any charge sheet was issued to the  
applicant. The applicant could not have  
been deprived of his promotion to the IAS  
cadre at least for the vacancies available  
for the year 2002. Aggrieved by the said  
action, the applicant has filed this  
application.

Considering the larger issue  
involved in this case, I am of the view that  
the O.A. has to be admitted. Accordingly,  
the O.A. is admitted. Six weeks time is  
granted to the respondents to file reply  
statement.

Post on 21.07.2006.

Vice-Chairman

C.A 63/06

Notes of the Registry	Date	Order of the Tribunal
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20.7.06  
W/S filed by  
Respondent No.1

21.7.2006

Time is sought on behalf of State of Assam for filing reply statement. Let it be done within three weeks. Post on 14.8.2006. Liberty is given to applicant to file rejoinder, if any.

Vice-Chairman

20.7.06  
W/S filed by R. no. 1 & 2. bb,  
No W/S from R. no. 3-15.

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Post on 05.09.2006.

Vice-Chairman

25-8-06  
W/S filed by R 1 & 2  
No W/S from R. 3-15.

/mb/

No Rejoinder filed  
by the applicant  
against the W/S filed  
by the Respondant No-  
1 & 2.

05.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

It is submitted that name of the learned Counsel for the Applicant has been shown wrongly in the cause title. The Registry is directed to show the correct name of the learned Counsel for the Applicant in the cause title in the next date.

Post on 19.10.2006. In the meantime, learned Counsel for the Respondents is at liberty to file reply statement, if any.

Vice-Chairman

10-11-06  
① W/S filed by R. No-1 & 2.  
② No W/S filed by R. No.  
1-15.

21  
10.11.06.

/mb/

13.11.2006

Ms.U.Das, learned Addl.C.G.S.C. submits that respondent Nos. 1 & 2 have already filed reply statement. Mrs.M.Das, learned Govt. Advocate, State of Assam submits that reply statement on behalf of 3rd respondent will be filed during the course of the day.

Mr.D.K.Das, learned counsel for the applicant wanted to time to file rejoinder. Let it be done.

post on 14.12.2006.

Vice-Chairman

bb

13.11.06  
W/s filed by  
the Respondent  
Nos. 3.  
D.K.

14.12.2006

Mr.D.K.Das, learned counsel for the applicant submits that he has filed rejoinder today. Let it brought on record, if it is otherwise in order.  
post on 16.1.2007.

Vice-Chairman

bb

① W/s filed on behalf  
of R No - 2 & 3.  
② No rejoinder has  
been filed.  
M  
13.12.06.

16.1.2007

Post before the next available Division Bench.

Vice-Chairman

/bb/

16.3.2007

Due to personal inconvenience learned counsel for the applicant could not be present. post before the Division Bench.

Member

Vice-Chairman

bb

The case is ready  
for hearing.

The case is ready  
for hearing.

The case is ready  
for hearing. 28.4.07.

22.12.06  
An affidavit in reply  
filed on behalf of the  
Applicant.  
D.K.

M  
15.1.07.

M  
12.3.07.



Notes of the Registry

23-4-07

- ① W/s biled by R.No. 1, 2 & 3.
- ② No W/s biled by R.No. 4 to 15.
- ③ Am affidavit biled by the applicant.

ms  
23.4.07.

W/s biled on behalf  
of R.No. 1 to 3.

ms  
8.05.08

27.5.08

A letter dated 26.5.08  
Respondent No. 9 in O.A. 68/06  
inform this Registry as he  
is unable to attend in court.  
Letter is kept in 'C' file.

ms

24.4.07

Mr D.K.Das learned counsel for  
the applicant has filed a letter <sup>for adjournment</sup> ~~of absence~~.  
Ms.U.Das learned Addl.C.G.S.C for the  
respondents is present. None appears for  
the Government of Assam. At the request  
of learned counsel for the applicant case is  
adjourned, ~~not~~ before the next available  
Division Bench.

ms  
Member(A)

ms  
Member(J)

lm

O.A. NO. 63/2006 - 6-

N

Notes of the Registry

Order

Order

Order

09.05.2008

None appears for either of the parties. Call this matter on 02.06.2008 for hearing.

dt. 9.5.08.  
Please send copies of this order to the Applicant and to all the Respondents.

*[Signature]*  
25/5/08

Send copies of this order to the Applicant and to all the Respondents in the addresses given in the O.A., so that they shall come ready for hearing.

*[Signature]*  
(Khushiram)  
Member (A)

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

nkm

Order dt. 9/5/08  
Send to D/Section for issuing to applicant and # to the respondents by post.

02.06.2008

None appears for the Applicant nor the Applicant is present.

Call this matter on 17.06.2008.

*[Signature]*  
(Khushiram)  
Member (A)

/bb/

17.06.2008

Heard Mr D.K. Das, learned Counsel appearing for the Applicant, Ms U. Das, learned Counsel for the Union Public Service Commission, and Mrs M. Das, learned Advocate for the State of Assam, and perused the materials placed on record. Hearing concluded. Orders reserved.

*[Signature]*  
(Khushiram)  
Member(A)

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

nkm

Wls biled.

*[Signature]*  
30.5.08.

Rejoinder not biled.

*[Signature]*  
16.6.08.

Order of 3/2006

4

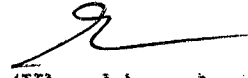
20.06.2008

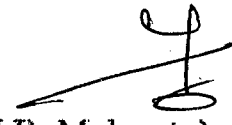
Judgment pronounced in open court,  
kept in separate sheets. The Application is  
allowed. No order as to costs.

Received copy.  
For UPSC  
Usha Son.  
Advocate  
21/8/08

Mhr  
21/8/08  
Addt CGSC

nkm

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman


22.8.08

Copy of the order  
sent to the D/Sec.  
for issue the same  
to the Parties, by  
post  
etc.

✓ OA/CP/RA/MP No. 63/2006

Order dated 25.3.2008

Call the matter for hearing  
on 9-5-08.

  
( M.R. MOHANTY )  
~~Vice-Chairman~~

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 63 of 2006

DATE OF DECISION: 20.06.2008

Shri Pradip Kumar Das

.....APPLICANT(S)

Mr D.K. Das

ADVOCATE(S) FOR THE  
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Mr M.U. Ahmed, Addl. Standing Counsel  
for the Union of India;  
Mrs M. Das, Government Advocate, Assam  
and Ms U. Das for UPSC

ADVOCATE(S) FOR THE  
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. Mohanty, Vice-Chairman

The Hon'ble Mr Khushiram, Administrative Member

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

Vice-Chairman/Member

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Original Application No. 63 of 2006

Date of Order: This the 20<sup>th</sup> day of June 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khushiram, Administrative Member

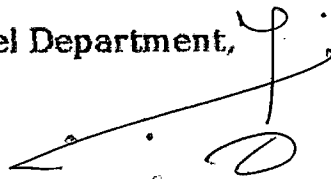
Shri Pradip Kumar Das, son of  
Late Dwijendra Kr. Das, resident  
of Ananda Nagar, Guwahati-6,  
Assam.

.....Applicant

By Advocate Mr D.K. Das

- Versus -

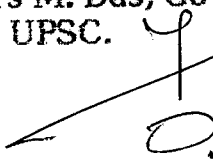
1. The Union of India, represented by the  
Secretary to the Government of India,  
Department of Personnel and Training,  
New Delhi.
2. The Union Public Service  
Commission represented by its  
Secretary, Dholpur House,  
New Delhi.
3. The State of Assam, represented by the  
Secretary to the Government of Assam,  
Department of Personnel, Dispur,  
Guwahati-6.
4. Longki Phangcho,  
Commissioner of Excise,  
Assam, Guwahati.  
5. Joy Chandra Goswami,  
Secretary, Health Department,  
Assam, Dispur.
6. Mahat Chndra Brahma,  
Secretary, W.P.T.B.C. Department,  
Assam, Dispur.
7. Md. Allauddin,  
Secretary, Personnel Department,  
Assam, Dispur.



8. Seikhollen Thadon,  
Managing Director,  
Assam Financial Corporation,  
Guwahati.
9. Rebendra Kumar Das,  
Secretary, S.A. Department,  
Assam, Dispur.
10. Bhaba Gogoi,  
Director,  
Panchayat Development, 6<sup>th</sup> Mile,  
Guwahati.
11. A.B. Mohammad Eunos,  
Managing Director, STATFED,  
Guwahati.
12. Balendra Basumatary,  
Joint Secretary,  
Forest Department,  
Assam, Dispur.
13. Subhash Chandra Longmallai,  
D.C. Chirand, District Dhaligaon.
14. Syed Iftikar Hussain,  
Principal Secretary,  
N.C. Hills District Council,  
Haflong.
14. Rafique Zaman,  
Joint Secretary,  
Assam Secretariat,  
Dispur.
15. Rafique Zaman,  
Joint Secretary,  
Assam Secretariat,  
Dispur.

.....Respondents

By Advocates Mr M.U. Ahmed, Addl. Standing Counsel for the  
Union of India; Mrs M. Das, Government Advocate, Assam  
and Ms U. Das for UPSC.

  
.....

## ORDER

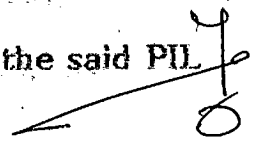
### Manoranjan Mohanty, Vice-Chairman:-

The case of the Applicant, as disclosed in the Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, is as follows:-

In the year 1977, the Applicant was selected by Assam Public Service Commission to be a member of Assam Civil services and was appointed to the said Services and, in course of his said employment; he held a number of responsible posts and discharged his duties all along to the best of his ability and without blemish. At the time of filing of the present Original Application, he was holding the post of Joint Secretary to State Govt. of Assam in Soil Conservation Department. On being within the zone of consideration for promotion (to the posts figuring in the Assam Segment of Assam-Meghalaya-Cadre of the Indian Administrative Service), the case of the Applicant was placed before the Selection Committee constituted by the Union Public Service Commission for the purpose of filling up of the vacancies (identified in the said IAS cadre) for the year 1998, 1999, 2000 & 2001. The Selection Committee in its meeting held on 09.04.2001, prepared separate select lists for each of the said years and, by Notification under Annexure-1 dated 27.08.2001, the Govt. of India published year-wise select lists; wherein the name of the Applicant was figured in each of these lists prepared for the years 1998, 1999, 2000 & 2001. It was, however, indicated that inclusion of the name of the Applicant was subject to clearance of the Disciplinary Proceeding pending against him. A Disciplinary Proceeding was



initiated against him with the issuance of the charge sheet on 16.02.2000. It is the case of the Applicant that since there were no charge-sheet [in any Departmental Proceeding] against him during the years 1998 & 1999 [and even by 1st day of January of 2000]; he could not have been denied his due appointment [by way of promotion] to the cadre of I.A.S. against the vacancies for the years 1998, 1999 & 2000. After he was superseded by his juniors (in the matter of getting promotion to IAS Cadre), the Departmental Proceeding in question was closed by an order that was issued by State Govt. of Assam under Annexure 2 dated 16.07.2002 i.e. after 2 years and six months of initiation of Departmental Proceeding. It has been alleged by the Applicant that, with an ulterior motive, the charge sheet was drawn on 16.02.2000; just to deprive him to get the promotion and in order to benefit his juniors/vested interest. Apprehending that he may, again, be deprived of the promotion (to IAS) of the year 2002, the Applicant made a representation under Annexure-3 dated 18.05.2004 to update his papers to be placed before the Selection Board. Select list, as against the 8 vacancies of the year 2002 (of Assam Segment and Assam Meghalaya Joint Cadre of IAS) was notified by the Government of India under Annexure-4 during May 2004; wherein the name of the Applicant figured at Sl.No.1 of the Select List and it was also disclosed therein that inclusion of the name of the Applicant was provisional for want of integrity certificate from the State Government of Assam. It is the case of the Applicant that PIL No.23 of 2002 that was filed (in the Hon'ble Gauhati High Court) • during 2002 became the reason for the State Government of Assam not to grant 'Integrity Certificate' in his favour and that the said PIL



No.23 of 2002 was virtually dropped by an order dated 22.02.2005;  
the text of which reads as under:

"Heard Mr. A.S. Choudhury, learned senior counsel for the and also Mr. A.M. Mazumdar, learned senior counsel for the respondent.

It appears that the grievance of the petitioner stands redressed by the further orders passed by the Government. Accordingly, no useful purpose will be served in keeping this PIL any more pending in this High Court.

This PIL stands disposed of accordingly."

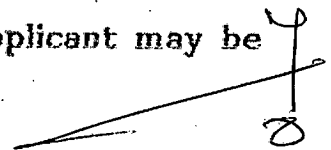
It is the case of the Applicant that despite the dropping of the proceeding (PIL No.23 of 2002) on 22.02.2005 in the Hon'ble High Court, no steps were taken to promote him (to IAS Cadre) as against the vacancies of the year 2002 (for he was recommended under Annexure-4 of May 2004) and, in the said premises, the Applicant submitted a representation under Annexure-6 dated 30.06.2005- and, finally, approached this Tribunal with the present Original Application [filed on 08.03.2006] with the following prayers:-

"8.1 To direct the Respondent authorities to promote the applicant as per his position as obtained in the select list prepared for the years 1998, 1999 and 2000 for promotion to the Assam segment of the IAS of the Assam-Meghalaya cadre with retrospective effect with all consequential benefits including salary, seniority etc.

8.2 Alternatively direct the respondent authorities to promote the applicant as per his position as obtained in the select list prepared for the year 2002 for promotion to the Assam segment of the IAS of the Assam-Meghalaya cadre with retrospective effect with all consequential benefits including salary, seniority etc.

8.3 Cost of the application.

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



2. By filing a written statement, the Union Public Service Commission [Respondent No.2] has disclosed as under:-

"...that the Union Public Service Commission discharge their functions and duties assigned to them 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 IAS (Appointment by Promotion) Regulations, 1955 [Promotion Regulations, in short] have been made. In accordance with the provisions of the Promotion Regulations, the Selection Committee presided over by the Chairman/Member of the Union Public Service Commission, makes selection of State Civil Service [SCS, in short] officers for promotion to the Indian Administrative Service."

"...that in terms of Rule 4[2] [h] of the IAS [Recruitment] Rules, 1954 read with Regulation 5[1] of the IAS [Appointment by Promotion] Regulations, 1955, the Central Govt., in consultation with the State concerned, determines the number of posts for recruitment by promotion of SCS officers of the State to the IAS during the particular year. Thereafter, the State Government forwards a proposal to the Commission along with the Seniority List, Eligibility List [up to a maximum of three times the number of vacancies] of the State Service Officers. Integrity Certificates, certificates regarding disciplinary/criminal proceedings, certificate regarding communication of adverse remarks, details of penalties imposed on the eligible officers etc. and complete ACR dossiers of the eligible officers."

"The above documents received from the State Govt. are examined by the Commission for completeness and after the deficiencies have been resolved and reconciled, a meeting of the Selection Committee is convened for preparing the Select List for promotion to the I.A.S. As per Regulation 3 of the said Regulations, the meeting of the Selection Committee is presided over by either the Chairman or a Member, UPSC."

"...In accordance with the provisions of Regulation 5[4] of the Promotion Regulations, the aforesaid Committee duly classifies the eligible State Civil Service 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

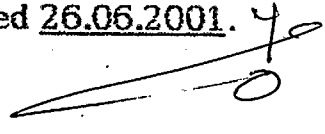
Regulations, the Selection Committee prepares a list by including the required number of names first from officers finally classified as 'Outstanding', then from amongst those similarly classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names within each category is maintained in the order of their respective inter-se seniority in the State Civil Service."

"...Further, the names of the officers whose integrity certificate is withheld by the State Govt., or against whom there are disciplinary/criminal proceedings pending are included in the Select Lists provisionally in accordance with the provisions of proviso to Regulation 5[5].

"...As per the provisions of Regulation 6 and 6-A, the State Govt. and the Central Govt. are required to furnish their observations on the recommendations of the Selection Committee. After taking into consideration the observations of the State Govt. and the Central Govt. and the requisite records received from the State Govt., the Commission take a final decision on the recommendations of the Selection Committee with or without modifications in terms of the provisions of Regulation 7. Thereafter the Govt. of India, Department of Personnel and Training, appoints officers included unconditionally in the Select List to the IAS during the validity period of the Select List."

3. In the said written statement of the UPSC/Respondent No.2, it has also been disclosed as under:-

"....that Selection Committee Meeting for preparation of Select Lists of 1998, 1999, 2000 & 2001 was held on 09.04.2001 for 02, 04, 04 and 02 vacancies respectively. The State Government, vide letter dated 05.01.2001, had informed that disciplinary proceedings were pending against the applicant, Shri Pradip Kumar Das. On an overall relative assessment of the service records, the Selection Committee assessed as 'Very Good' for all the aforesaid years. On the basis of this assessment the applicant, Shri Pradip Kumar Das had been included at S. No.2 in all the aforementioned Select Lists provisionally subject to clearance of disciplinary proceedings pending against him as per Reg.5(5) of the Promotion Regulations. The Commission approved the Select List of 1998, 1999, 2000 and 2001 vide letter dated 26.06.2001. 4



"..... that the Govt. of Assam vide their letter dated 08.10.2002 forwarded a proposal to the Commission for making inclusion of the name of Shri Pradip Kumar Das as unconditional in the Select Lists of 1998, 1999, 2000 and 2001. The Commission examined the proposal and observed that Regulation 7(4) of the Promotional Regulations lays down the following:-

"7(4) The Select List shall remain in force till the 31<sup>st</sup> day of December of the year in which the meeting of the Selection Committee was held with a view to prepare the list under sub-regulation (1) of regulation 5 or up to 60 days from the date of approval of the Select List by the Commission under sub-regulation (1) or as the case may be finally approved under sub-regulation (2) whichever is later.

Provided also that where the select list is prepared for more than one year pursuant to the second proviso to sub-regulation (1) of regulation 5, the Select Lists shall remain in force till the 31<sup>st</sup> day of December of the year in which the meeting was held to prepare such lists or up to 60 days from the date of approval of the Select Lists by the Commission under this regulation, whichever is later.

Provided that where the State Government has forwarded the proposal to declare a provisionally included officer in the Select List as 'Unconditional' to the Commission during the period when the Select List was in force, the Commission shall decide the matter within period of ninety days (amended as 45 days w.e.f. 13.10.2005) or before the date of meeting of the next Selection Committee, whichever is earlier and if the Commission declares the inclusion of the provisionally included officer in the Select List as unconditional and final, the appointment of the concerned officer shall be considered by the Central Government under regulation 9 and such appointment shall not be invalid merely for the reason that it was made after the Select List ceased to be in force."

"In view of the above, the State Government were intimated vide letter dated 09.12.2002 that as the Select Lists of 1998, 1999, 2000 & 2001 for promotion to the IAS of Assam-Meghalaya Joint Cadre were prepared by the Selection Committee at its meeting held on 09.04.2001 and approved by the Commission on 26.06.2001 the validity period of these Select Lists had lapsed on 31.12.2001. Since the proposal of the State Government to make the inclusion of Shri Pradip Kumar Das

unconditional was made vide letter dated 08.10.2002 i.e. after the aforesaid Select Lists had already lapsed on 31.12.2001, the name of Shri Pradip Kumar Das could not be made unconditional as per the provisions of the Promotion Regulations.

"..... that the Govt. of India determined vacancies for 2002 and 2003 as 08 and 'Nil' respectively. The State Government, vide letter dated 03.09.2003, furnished a proposal to convene a Selection Committee Meeting. Vide their letter dated 17.12.2003, the State Government informed that they were unable to certify the integrity of Sh P.K. Das. The Selection Committee meeting which was held on 29.12.2003 considered the applicant, Shri Pradip Kumar Das at S.No.1 of the eligibility list and on an overall relative assessment of his service records, he was assessed as 'Very Good'. On the basis of this assessment, the applicant was included in the Select List of 2002 at S.N.1. However his inclusion therein was provisional subject to grant of Integrity Certificate by the State Govt. No Select List was prepared for 2003 as there was 'Nil' vacancy. The Select List of 2002 was approved by the Commission on 28.04.2004. No proposal was received from the State Govt. to make the name of Shri Pradip Kumar Das unconditional in the Select List of 2002 during the validity period of the Select List. As such, his name could not be made unconditional in the Select List of 2002.

"..... that as per the information submitted by the State Government in their proposal, a charge sheet had already been issued to the applicant on the date of the Meeting of the Selection Committee i.e. 09.04.2001. The Selection Committee had provisionally included the name of the applicant in the Select Lists of 1998, 1999, 2000 & 2001 strictly in accordance with the provisions of Regulation 5(5) of the Promotion Regulations. The said Regulation is quoted below:-

"5(5) The List shall be prepared by including the required number of names first from amongst 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 inter se within each category shall be in the order of their seniority in the State Civil Service.

Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him

unsuitable for appointment to the service has come to the notice of the State Government.

Provided further that while preparing year-wise select lists for more than one year pursuant to the 2<sup>nd</sup> proviso to sub-regulation (1), the officer included provisionally in any of the Select List so prepared, shall be considered for inclusion in the Select List of subsequent year in addition to the normal consideration zone and in case he is found fit for inclusion in the suitability list for that year on a provisional basis, such inclusion shall be in addition to the normal size of the Select List determined by the Central Government for such year."

The Selection Committee takes into account the disciplinary proceedings pending as on the date of preparation of the Select Lists and not the disciplinary proceedings pending as on the first day of the year for which the Select List is prepared."

"..... that the State Government had withheld the integrity certificate in respect of the applicant at the time of the Selection Committee Meeting held on 29.12.2003 and as such the Committee made the applicant's inclusion in the Select List of 2002 provisional. The said action of the Selection Committee was strictly in accordance with the provisions of Regulation 5(5) quoted above."

4. In filing a written statement the Govt. of India [Respondent No.1] stated as under:

"..... the process for appointment of State Civil Service officers to the IAS under IAS (Appointment by Promotion) Regulations, 1955 is initiated by the State Government with determination of year-wise vacancies. Once the vacancies are determined, the State Govt. is required to make available the relevant service records of eligible State Civil Service Officers who fall within the zone of consideration to the Union Public Service Commission. The Commission convenes a meeting of the Selection Committee. The role of Union of India in finalizing the selection is restricted to the functional requirement of nominating two Joint Secretary level officers as its representatives. After the Select List is approved by the Union Public Service Commission, only thereafter the appointments of those State Civil Service officers who are included unconditionally in the Select List are notified by Government of India. Parliament in accordance with Article 309 of the Constitution of India read with Article 312 of the Constitution of India has enacted the All India Services Act, 1951 for the purposes of regulating the

recruitment and conditions of the service of persons belonging to the Indian Administrative Service and the Indian Police Service. Under the All India Services Act 1951, particularly section 3 of the said Act, the Central Government is empowered to make rules to regulate the recruitment and conditions of the service of persons appointed to the Indian Administrative Service. The relevant provisions of section 3 read as under:-

"3(1) The Central Government may, after consultation with the Governments of the State concerned, (including the State of Jammu & Kashmir) (and by notification in the Official Gazette) make Rules for the Regulation of recruitment and conditions of service of persons appointed to an All-India Service....."

"In pursuance of section 3(1) of the All India Services Act, 1951 the Central Government has framed the following rules relevant for the purposes of the present O.A.:-

- a) The Indian Administrative Service (Recruitment) Rules, 1954 (hereinafter referred to in short as the Recruitment Rules)
- b) The Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to in short as Promotion Regulations).
- c) The Indian Administrative Service (Appointment by Selection) Regulations, 1997 (hereinafter referred to as Selection Regulations).

"A person is recruited to the Indian Administrative Service under Rule 4 of the Recruitment Rules by one of the three sources given hereinbelow:-

- a). through competitive examination (i.e. direct recruitment);
- b) by promotion of substantive member belonging to the State Civil Service; or
- c) by selection of officers who hold in a substantive capacity gazetted posts in connection with the affairs of the State and belong to the services other than State Civil Service.

"..... the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training in the Government of India administers the provisions contained in the Indian Administrative Service

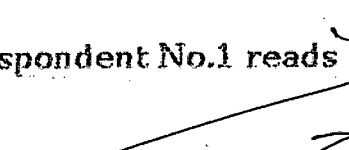


(Appointment by Promotion) Regulations, 1955 (hereinafter called the "Promotion Regulations") and is, therefore, concerned with the application in the matter of recruitment to the Civil Service from amongst State Civil Service officers and interpretation of any of the statutory provisions laid down in the said Regulations as the cadre controlling authority in respect of the Indian Administrative Service.

"..... the State Government and the Union Public Service Commission are primarily concerned with reference to case for consideration of the applicant for promotion to the IAS. The suitable State Civil Service officers who are included in the

"In the process of preparation of the Select List by the UPSC, the Government of India, as Cadre Controlling Authority in respect of the Indian Administrative Service, is concerned with determination of vacancies and nomination of two officers not below the rank of Joint Secretary as members of the Selection Committee and thereafter in making appointments of the officers included in the Select List to the IAS subject to and in accordance with the provisions contained in Regulation 9 of the Promotion Regulations.

"..... the process of preparation of the Select List for vacancies already determined begins with the list of names of State Civil Service Officers being forwarded by the State Government to the Commission for consideration by the Selection Committee. The Select List prepared by the Committee is forwarded by the State Government to the Commission alongwith its observations on the recommendations of the Committee. The observations of the Central Government are also forwarded to the Commission thereon and the final approval to the Select List is conveyed by the Commission to the Central Government. Thereafter, on receipt of Select List, appointments are considered by the Central Government from the Select List on receipt of unconditional willingness for appointment to the IAS from the officers included in the Select List, accompanied with a declaration of marital status and also consent for termination of lien in the State Civil Service in the even of substantive appointment to the IAS.

5. In para 13 & 14 of the written statement, the Govt. of India/Respondent No.1 has disclosed the reason for which the Applicant could not be promoted to the cadre of I.A.S. Text of said para 13 14 of the written statement of the GOI/respondent No.1 reads as under:-
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"As regards the contention of the applicant that he should have been appointed to IAS and the charge sheet was issued with malafide intention, it is submitted that the applicant was considered and included provisionally in the Select List for promotion to IAS. The State Govt. did not make positive recommendations to the Union Public Service Commission to make the name of the applicant as unconditional during the validity period of the Select List, there was, therefore, no occasion for the replying respondent to appointment the applicant to the IAS cadre of Assam. It is

"..... in the light of the above position and particularly the fact that the name of the applicant was not made unconditional during the validity period of the Select List there was no occasion for the replying respondent to issue notification appointing the applicant to IAS cadre of Assam in accordance with the statutory provisions of the IAS (Appointment by Promotion) Regulations, 1955. The Hon'ble Tribunal may be pleased to dismiss the application which is devoid of merit and it is prayed accordingly."

6. By filing a written statement the State Govt. of Assam

[Respondent no.3] stated as under:-

"..... the State Govt. recommended the name of Shri P.K. Das, ACS (i.e. the applicant) to the UPSC several times for considering his promotion to the IAS, Govt. of India, Ministry of Personnel, P.G. & Pensions (DOPT), the applicant was also included in the Selection List provisionally subject to clearance of departmental proceedings (granting of Integrity Certificate.

"..... a departmental proceeding was drawn up by the State Govt. against the applicant while he was working as M.D. Assam Tourism Development Corporation Ltd. Guwahati. Accordingly, the Govt. of Assam after proper enquiry close the said Departmental Proceeding with warning to the applicant to be more careful in future in the matter of following Govt. Rules/Regulation/Instructions and closed the said departmental proceedings and finally disposed of vide State Govt.'s Order No.AAP.36/97/Pt/502, Dated 16.7.2002.

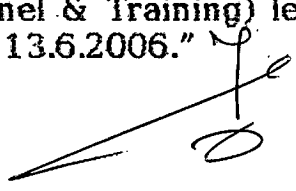
"..... a revised proposals for preparation of Select List of State Civil Service Officers against 2 post for the year, 1998, against 4 post of 1999, again 4 post of 2000 were forwarded to UPSC by State Govt. vide 3 letters Dated 12.12.2000. Proposal for preparation of Select List of Officers against 2 vacancies for the year, 2001 was also forwarded to UPSC vide State Govt. letter Dated 5.1.2001. In all the proposals, Certificate showing Departmental

Proceeding (Charge Sheeted) pending against the applicant were issued along with the aforesaid proposals.

"..... the Govt. of India, Ministry of Personnel, P.G. & Pensions included the applicant in the Select List of 1998, 1999, 2000 and 2001 provisionally subject to clearance in the Disciplinary proceeding pending against the applicant vide letter Dated 27.4.2001.

"..... the UPSC communicated a letter Dated 9.12.2002 of Govt. of Assam stating that in accordance with regulation 7(4) of the IAS (appointment by promotion) regulation 1995, the Select List remains in force till the 31<sup>st</sup> December of the year in which the meeting of the Selection Committee held or upto 60 days from the date of approval of the Select List by the Commission whichever is later. The Select List of 1998, 1999, 2000 and 2001 for promotion of Assam Segment to the IAS were prepared by the Selection Committee in each meeting held on 9.4.01 and approved by the Commission on 26.6.01. The validity period of those Select List therefore lapsed on 31.12.01 and accordingly the request of the State Govt. to declare applicants inclusion in the same Select List as unconditionally cannot be accepted. A proposal for filling up 6 vacancies of ACS Officers for the year 2002 was forwarded to UPSC vide State Govt. letter Dated 1.9.03. In the said proposal it was mentioned that the Departmental Proceeding against the applicant has been concluded and he is exonerated from the charges framed against him.

"However, Integrity Certificate was withheld due to the pending of the vigilance case against the applicant. Accordingly the Govt. of India, included the name of Shri P.K. Das in the Select List of 2002 provisionally subject to grant of Integrity Certificate. The State Govt. submitted 2 proposals to the UPSC for preparation of the Select List of ACS for promotion to IAS for the year 2004 and 2005 vide letter Dated 25.8.04 & 26.9.2005. In both the proposals the name of the applicant was found against Serial No.1. Shri Pradip Kumar Das has been included in the Select List of 2004 & 2005 provisionally subject to grant of Integrity Certificate by the State Govt. vide Govt. of India, Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel & Training) letter No.14015/2003/2005-AIS(I)-A, Dtd. 13.6.2006."



7. From the pleadings of the parties, it reveals that the final recommendation made by UPSC/Central Government in favour of the Applicant (for the years 1998, 1999, 2000 & 2001) stood throttled for the reason of pendency of a Departmental Proceeding and subsequent recommendation for the year 2002, 2004 & 2005 also have been throttled for the reason of "want of integrity certificate from the State Government of Assam".

8. We heard Mr D.K. Das, learned Counsel appearing for the Applicant, Ms Usha Das, learned Counsel appearing for the UPSC and Mrs Manjula Das, learned Counsel appearing for the State Government of Assam and Mr M.U. Ahmed, learned Additional Standing Counsel for Union of India and also perused the materials placed on record.

9. In the present case, it is the stand of the Respondents that for the reason of the provisions in the relevant Recruitment Regulations, the name of the Applicant (who was not only recommended by the Committee headed by Chairman/Member of UPSC; but also was placed in the final list approved by the UPSC and Central Government (for the years 1998, 1999, 2000 and 2001) was treated "provisional" for the reason of pendency of a Departmental Disciplinary Proceeding against him. It is seen that a charge sheet (initiating a Departmental Disciplinary Proceeding) was drawn against the Applicant on 16.02.2000. Proposals of the State Government of Assam pertaining to the Applicant and other ACS Officers was submitted to UPSC (on 12.12.2000 & 05.01.2001) in respect of vacancies of the years 1998, 1999, 2000 & 2001. In all those proposals it was disclosed about pendency of a Departmental

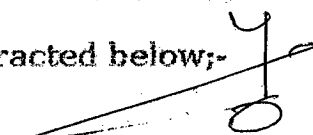
Proceedings against the Applicant. Selection Committee meeting (for preparation of Select Lists for the years 1998, 1999, 2000 & 2001) was held on 09.04.2001. On overall relative assessment of the Service records, the Selection Committee assessed the Applicant to be "Very Good" for all the 4 years and placed him in all the Select List (at Sl.No.2) for the years 1998, 1999, 2000 & 2001, which received the final approval of UPSC on 26.06.2001. However, inclusion of his name in those Select Lists were treated "provisional" for the reason of pendency of the Departmental Disciplinary Proceeding that was initiated with issuance of Charge Sheet on 16.02.2000 and, accordingly, he was not granted promotion; despite approval of his recommendation by the UPSC. It is stated that for the reason of the provisions in the Regulations governing the field, his promotion stood throttled for a Departmental Proceeding was pending against the Applicant since issuance of charge sheet dated 16.03.2000.

10. Similar provision (as that of withholding the promotion, during pendency of a Departmental Disciplinary Proceeding) came for consideration of this Tribunal and was examined by a Full Bench. Later, the said matter (which was examined by the Full Bench of this Tribunal) received consideration of the Hon'ble Apex Court of this Country in the case of 'Union of India and others Vs. K.V. Janakiraman and others' (reported in 1993 SCC (L&S) 387 =(1993) 23 ATC 322 = (1991) 4 SCC 109); wherein it was clearly held that 'promotions should be withhold in respect of a Government Servant, if charge sheet has been issued against him before the meeting of the Selection Committee'. Thus, the provisions of the Regulation (governing the promotion of State Civil Services Officers to IAS) to treat the name of a selected candidate as "provisional" during the pendency of a

Departmental Disciplinary Proceeding (after submission of charge memo/sheet) is consistent with the views of the Hon'ble Apex Court of India rendered in the case of Janakiraman (Supra).

11. Applicant was, virtually, exonerated in the Departmental Disciplinary Proceeding vide an order dated 16.07.2002 and the State Government of Assam, on 08.10.2002, moved the UPSC to remove the condition so that promotion can be granted to the Applicant. But UPSC did not agree on the plea that the validity of the Select lists dated 09.04.2001 (for the years 1998, 1999, 2000 & 2001 in which the name of the Applicant found place, provisionally, subject to condition of disposal of Departmental Proceeding); which received the final approval of UPSC on 26.06.2001; lapsed on 31.12.2001 and the proposal dated 08.10.2002 of the State Government (of Assam) (to remove the condition as against the name of the Applicant) was not submitted within the validity period of the final Select List and as such the UPSC did not agree to remove the condition to grant promotion to the Applicant.

12. Ms Usha Das, learned Counsel appearing for the UPSC argued with reference to the 1<sup>st</sup> proviso to Regulation 7(4) and 2<sup>nd</sup> proviso to Regulation 9 of the Regulations of 1955 that the State Government having not moved the UPSC (to remove the condition imposed in respect of the name of the Applicant in the final select lists) during the validity of the Select Lists (for the years 1998, 1999, 2000 & 2001) the UPSC rightly did not agree to the proposal to lift the condition or to give clearance to promote the Applicant to Indian Administrative Services. Relevant portion of the Regulations of 1955, on which Ms Usha Das has relied upon, are extracted below:-



"7. Select List-(1) .....

(2) .....

(3) .....

(4) The Select List shall remain in force till the 31<sup>st</sup> day of December of the year in which the meeting of the Selection Committee was held with a view to prepare the list under sub-regulation (1) of Regulation 5 or up to sixty days from the date of approval of the select list by the Commission under sub-regulation (1) or, as the case may be, finally approved under sub-regulation (2), whichever is later.

Provided that where the State Government has forwarded the proposal to declare a provisionally included officer in the select list as 'unconditional', to the Commission during the period when the select list was in force, the Commission shall decide the matter within a period of ninety days or before the date of meeting of the next Selection Committee, whichever is earlier and if the Commission declares the inclusion of the provisionally included officer in the select list as unconditional and final, the appointment of the concerned officer shall be considered by the Central Government under Regulation 9 and such appointment shall not be invalid merely for the reason that it was made after the select list ceased to be in force.

Provided further that .....

8. ....

9. Appointments to the service from the Select List-(1).....

Provided that .....

Provided further that the appointment of an officer, whose name has been included or deemed to be included in the Select List provisionally under the proviso to sub-regulation (5) of Regulation 5 or under the proviso to sub-regulation (3) of Regulation 7, as the case may be, shall be made within sixty days after the name is made unconditional by the Commission in terms of the first proviso to sub-regulation (4) of Regulation 7.

Provided also that....."

Relevant portion of Paragraphs 7 and 9 of the Regulations of 1955 (Supra) make it clear, by implication, that any appointment from the Select List, after its validity is spent of, shall become invalid.

But, however, there are relaxations available in the provisos to certain extent where the State Government makes a proposal (to remove the condition in respect of an officer placed provisionally in the approved select list) within the valid period of the Select List and in that event the UPSC can remove the condition within ninety days or before the meeting of the next selection committee (whichever is earlier) and then only appointment on promotion can be considered to be granted in respect of such an officer even after the expiry of the validity period but within sixty days of removal of condition by the UPSC.

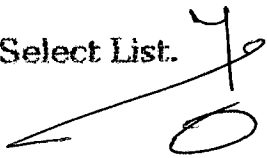
13. Mr D.K. Das, learned Counsel appearing for the Applicant, who has not challenged the provisions of the Recruitment Regulations of 1955 in question, pointed out at the hearing that while extension of validity of the Select List in respect of the proposal (to remove the condition in respect of an officer named provisionally in the Select List) submitted by the State Government within the validity period has been provided; the Regulation is silent about the proposals submitted after the validity period of the Select List. He submitted that there is a gray area in the Regulation pertaining to a situation in hand. He argued that in absence of any prohibition before the UPSC to entertain the proposal submitted after the validity period, the UPSC ought to have examined the case on merit to make the Applicant in the Select List as un-conditional and ought not to have resorted to hyper technical ground of limitation; especially when the next Selection Committee meeting was held long after on 29.12.2003. He argued to state that when the Regulation granted extension of time to UPSC to give consideration to a proposal, submitted at fag end of the validity period, beyond the validity period and up to the next meeting of the Selection Committee, the proposal dated 08.10.2002 of the



State Government (made in favour of the Applicant) ought to have been available to be entertained up to next meeting that was held 29.12.2003 and that the same ought not have been turned down on 09.12.2002.

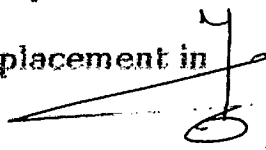
14. We have not found any force in the above arguments of Mr Das. Validity period has been prescribed in the Regulations of 1955; which is applicable to all universally; to the aspirants of the promotion, to the State Governments, to the Central Government and to the UPSC also. It is 31<sup>st</sup> December of the year in which the Select List was drawn or 60 days from the date it received the approval of UPSC, whichever is later. In the present case, the proposal (to remove the condition) having been given by the State Government long after the lapse of the validity period; the same was not entertainable by UPSC/Central Government. In this case the Departmental Proceeding also came to an end long after lapse of the validity period of the select lists.

15. Mr Das, learned Counsel appearing for the Applicant, proceeded to argue that the gray area left in the Recruitment by Promotion Regulations of 1955 has left enough room to malafidely victimize the State Civil Services Officers at the stage of their promotion to IAS. He argued further that in order to deny promotion to an officer or to unduly favour his junior officer, a Departmental Proceeding can be malafidely initiated against a meritorious officer by issuance of a Charge sheet on the day before the meeting of the Selection Committee in order to put his name as Provisional in the Select List and to drop the said Departmental Proceeding after the validity period of the Select List.



16. Above submission of Mr Das, learned Counsel appearing for the Applicant, may be an extreme case; which need be considered by the authorities in control of the matter of recruitment by promotion to IAS. But the case in hand is giving a different picture. After dropping of the Departmental Proceedings (on 16.07.2002) the State Government moved the UPSC on 08.10.2002 to remove the conditions in the Select List (in which the name of the Applicant was placed provisionally) in order to pave the way before the Applicant to get the promotional Appointment in IAS. But long before dropping of the Departmental Proceeding, the validity period of the Select Lists (for 1998, 1999, 2000 and 2001) had lapsed. There are no materials placed on record to show that any attempt unjustly made by anybody to put the Applicant in difficulty in the matter of his promotion to IAS; especially when it is seen that he was charge sheeted (in the Departmental Proceedings) way back on 16.02.2000 and long after 10 months, on 12.12.2000, proposal was submitted by the State Government (naming the Applicant) to UPSC to consider the case of the Applicant and others for promotion to IAS. From that it cannot be stated that Departmental Proceeding was initiated with an intention to throttle promotion of the Applicant to IAS.

17. It is seen that in the proposal to promote Assam State Civil Service Officers to IAS (for the years 2002) that was submitted in State Government letter dated 03.09.2003, the State Government expressed that they are unable to certify the "integrity" of the Applicant. Yet, the Selection Committee, that had a meeting on 29.12.2003, considered the Applicant as 'Very Good' and placed him at Sl.No.1 in the Select List for the year 2002. But such placement in

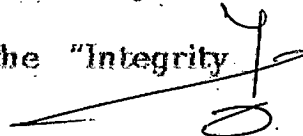


the Select List for the year 2002 had to remain "provisional" for the reason of absence of 'Integrity Certificate' in favour of the Applicant. The said Select List received approval of the UPSC on 28.04.2004. It is also seen that proposal to promote Assam State Civil Service Officers to IAS (for the years 2004 & 2005) was submitted in State Government letters dated 25.08.2004 and 26.09.2005 and the name of the Applicant has again found place in both the Select Lists (of the years 2004 and 2005) provisionally for the reason of want of "Integrity Certificate" from the State Government vide Government of India/DOPT letter dated 13.06.2006.

18. Thus, finally, it is seen that for the reason of non-furnishing of "Integrity Certificate" from the end of the State Government of Assam, the name of the Applicant has remained "provisional" in all the Select Lists for the years 2002, 2004 and 2005.

19. Applicant has disclosed in the Original Application that for the reason of a PIL (No.23 at 2002) pending in the Hon'ble High Court at Guwahati, Integrity Certificate was not granted in his favour and that the said case in the Hon'ble High Court having been disposed of on 22.02.2005; there were no reason to withhold the Integrity Certificate by the State Government. But, in the Written Statement filed by the State Government of Assam, it has been disclosed that "pendency of the Vigilance Case against the Applicant" was the reason for which "Integrity Certificate" was withheld.

20. Mr D.K. Das, learned Counsel appearing for the Applicant argued that mere opening of an administrative file in the Vigilance wing of the Department, pertaining to un-specified allegations against the Applicant, cannot be a ground to withhold the "Integrity



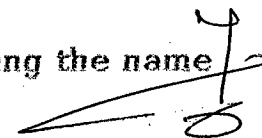
Certificate" resulting withholding of promotion of the Applicant to IAS. He argued further that without confronting the allegations (involved in so called vigilance case) to the Applicant and without giving him an opportunity to have his say on those allegations, the "Integrity Certificate" could not (should not) have been withheld; as a result of which the Applicant (though approved by UPSC for promotion) is continuing to be deprived of his promotion to IAS.

21. On the other hand, Mr Manjula Das, learned Counsel appearing for the State of Assam argued that when a Vigilance Case is under investigation against him, the Integrity Certificate could not have been furnished in favour of the Applicant; because on completion of the investigation, the Applicant is likely to be charge sheeted, may be, for the seriousness of the matter.

22. The point in issue is no more res integra. Hon'ble Supreme Court of India in the case of Janakiraman (Supra) considered similar situation (of withholding of promotion, of an individual, at pre-charge sheet stage, by resorting to sealed cover procedure) and held as under:-

"promotion etc can not be withheld merely because some disciplinary/criminal proceedings are pending against the employee. To deny said benefit, they must be at the relevant time pending at the stage when charge memo/charge sheet has already been issued to the employee."

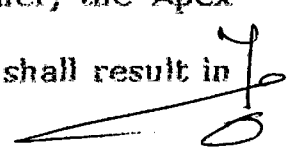
23. In the case of Janakiraman (Supra) the provision to keep the views of DPCs in Sealed Cover (to withhold promotions etc.) was being examined by the Hon'ble Apex Court, when it was held as above. Similar is the position in the present case and we are examining the issue of withholding of promotion by placing the name



of the selected persons in the Select List provisionally/ conditionally for want of Integrity Certificate. We are faced with the question as to at what stage the Integrity Certificate can be withheld resulting withholding of the promotion of an aspirant for promotion to IAS. In the case of Janakiraman (Supra) the answer is available very much; as discussed in the following paragraphs.

24. As it appears, there are certain allegations (against/ involving/touching the Applicant) being investigated/verified from vigilance angle of the State Government and no charge memo initiating Departmental Proceeding/charge sheet in Criminal Proceeding has yet been framed against him nor he has been confronted (to have his say) in the matter as yet. At least no such material has been placed on record of this case by the Respondents. In the said premises, we are constrained to hold that non-furnishing of Integrity Certificate in favour of the Applicant amounts to gross violation of the principles of natural justice.

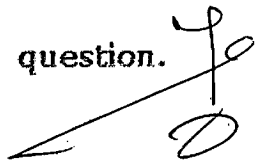
25. Faced with this, Mrs Manjula Das, learned Counsel appearing for the State of Assam proceeded to argue that when there are very serious allegation against a Government Servant and it takes time to collect necessary evidence to prepare and issue charge memo/ charge sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion by granting Integrity Certificate. This point was also raised by the Respondent. Departments of Government of India before the Hon'ble Supreme Court of India in the case of Janakiraman (Supra) and the said stand did not receive the approval of the Apex Court. Rather, the Apex Court took the view that accepting such a proposition shall result in



injustice to the employees. Relevant portion of Para 16 of the Judgment of the Apex Court rendered in the case of Janakiraman (Supra) reads as under:

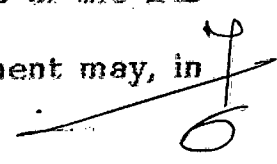
"..... the Full Bench of the Tribunal has held that it only when a charge memo in a disciplinary proceedings or a charge sheet in a criminal prosecution is issued to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge memo/charge sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc. does not impress us. The acceptance of this contention would result in injustice to the employees in many cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/charge-sheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily it should not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are the serious, the authorities have the power to suspend the employee under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. ...."

26. Thus, mere opening of a Vigilance File (Vigilance Case) against the Applicant (which has not reached the stage for issuance of charge sheet/memo) could not have been a reason to withhold Integrity Certificate needed for promotion to IAS, especially when there are no materials to show that he (Applicant) was ever confronted with the allegations involved in the Vigilance Case in question.




27. Thus, we hold that there has been a miscarriage of justice in the decision making process (which led to withholding of the Integrity Certificate in favour of the Applicant) as a result of which the UPSC had to keep his (Applicant's) name as provisional/conditional in the approved Select Lists for the years of 2002, 2004 and 2005 and as a consequence, the Applicant is continuing to be denied promotion to IAS.

28. Since Integrity Certificate has been withhold in gross violation of the principles of natural justice, there has been violation of Article 14 of the Constitution of India also. Therefore, we direct the State Government of Assam to re-consider the matter and take appropriate steps to grant "Integrity Certificate" in favour of the Applicant and all the Respondents should treat the Applicant to be in the approved Select List without any condition/not provisional and, in the peculiar circumstances of this case and in the interest of justice, grant him all consequential relief notwithstanding lapse of the validity period of the approved Select Lists for the years 2002, 2004 and 2005. It may be noted here that this Original Application was filed by the Applicant on 08.03.2006 and the Select List for 2004 and 2005 (in which the name of the Applicant appeared provisionally) was finally approved and published by the DOPT of Government of India on 13.06.2006 (i.e. during pendency of this case) and, therefore, validity of the approved final list for 2004 and 2005 that was notified on 13.06.2006 should be treated (as a special case) to have not lapsed so far the Applicant is concerned; for he is facing a continuing wrong committed by the State Government of Assam. While passing this order we are conscious of the provisions under Rule 8 of the IAS (Recruitment) Rules, 1954; where the Central Government may, in



special circumstances, deal with the recommendations of the State Government in consultation with the UPSC.

29. This Original Application stands allowed to the extent noted above. No costs.

  
( KHUSHIRAM )  
ADMINISTRATIVE MEMBER

  
( M. R. MOHANTY )  
VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

Original Application No. 63/06

63/06

1. a) Name of the Applicant: P.K. Das  
b) Respondants: Union of India & Ors.  
c) No. of Applicant(S): -
2. Is the application is the proper form: Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed : Yes/No
7. Whether all the annexure parties are impleaded :- Yes/No.
8. Whether English translation of documents in the Language: Yes/No.
9. Has the application is in time :- Yes/ No.
10. Has the Vakalatnama/Memo of appearance /Authorisation is filed: Yes/No
11. Is the application by IPO/ED/for Rs. 50/- 266 3/86 02
12. Has the application is maintainable : Yes / No.
13. Has the Impugned order original duly attested been filed: Yes/ No.
14. Has the legible copies of the annexure duly attested filed: Yes/No.
15. Has the Index of the documents been filed all available :- Yes/No.
16. Has the required number of enveloped bearing full address of the respondents been filed: Yes/ No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sought for arises out of the Single: Yes/ No.
19. Whether interim relief is prayed for :- Yes/ No.
20. Is case of Condonation of delay is filed is it Supported :- Yes/No.
21. Whether this Case can be heard by Single Bench/Division Bench:
22. Any other point: -
23. Result of the Scrutiny with initial of the Scrutiny Clerk:  
The application is in order

SECTION OFFICER(J)

DEPUTY REGISTRAR

1. Deposit Rs 50 in  
respondents  
2. Copy not yet  
sent to Tuo Govt.  
of Assam.

8/1  
8-3-06

# Central Administrative Tribunal

Guwahati Bench

GUWAHATI-5

36  
37

Anx 1 - 27.06.2001. (1998) P. Das

2007(6) SCC 704

Ann 141

(1999) P. Das

(2006) P. Das

(2001) P. Das

Anx 2 - DP/2000 (16/02/00)  
16/07/02 ~~2000~~

Anx 3 - Reformat ~~2000~~ 18.05.2004

Anx 4 - 25.05.2004 - <sup>12/03</sup>(2002) P. Das

Q. of Int. Catpr

Anx - 6 - 30.6.2005 reformat (Page 26)

OA 156/04 = ~~18-07~~ 9/5-106

OA 260/02 = 21/02/03

# CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

G. A. R. 6

[See Rule 22 (1)]

RECEIPT

No. 1797

Date. 08/3/2006

Received from Sh. Pradip K. Das with

Letter No. OA 63106 dated. 20

the sum of Rupees. Fifty only

In cash/by IPO on account of Service charge for excess respect  
by bank draft

in payment of

Rs. 50/-

Signature

Cashier

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

8 MAR 2006

गुवाहाटी न्यायपीठ  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO. 63 /2006.

Sri Pradip Kumar Das  
.....Applicant.

- versus -

The Union of India & Ors.  
....Respondents.

**SYNOPSIS**

That the applicant has by way of this application assailed the arbitrary and illegal action on the part of the respondent authorities in depriving the applicant of his due promotion to the cadre of IAS in terms of his selection for such promotion. The applicant was deprived of his said promotion only due to the arbitrary and illegal action on the part of the authorities in denying to him the integrity certificate in spite of the fact that there existed no any cogent and disurnable reason for withholding of the said certificate. There being no proceeding pending against the applicant and no charge sheet having been issued to him the applicant could not have been deprive of his due promotion to the IAS cadre at least for the vacancies available for the year 2002. The action on the part of the respondent authorities in denying to the applicant his due and legitimate promotion to the IAS cadre in terms of his selection is arbitrary, illegal and discriminatory.

\*\*\*\*\*

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

ORIGINAL APPLICATION NO. 63 /2006.

Sri Pradip Kumar Das  
.....Applicant.

- versus -

The Union of India & Ors.  
.....Respondents.

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5.	Annexure - 3	18
6.	Annexure - 4	19 - 20
7.	Annexure - 5	21 - 25
9.	Annexure - 6	26 - 28

Filed by:

Debasish Dnava  
Advocate.

1998 selected  
2002 re-examination (Sr 1)  
Intentional election with road.  
h - R

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

ORIGINAL APPLICATION NO. 63 12006.

FILED BY: THE APPLICANT  
THROUGH: Debasish Dharma,  
Advocate.  
08.03.06.

BETWEEN

Sri Pradip Kumar Das, son of  
Late Dwijendra Kr. Das, resident  
of Ananda Nagar, Guwahati - 6,  
Assam.

.....Applicants.

-AND-

1. The Union of India  
represented by the Secretary to  
the Government of India,  
Department Personal and  
Training, New Delhi.

2. The Union Public Service  
Commission represented by its  
Secretary, Dholpur House, New  
Delhi.

3. The State of Assam  
represented by the Secretary to  
the Government of Assam,  
Department of Personal, Dispur,  
Guwahati - 6.

4. Longki Phangcho, Commissioner  
of Excise, Assam, Guwahati.

5. Joy Chandra Goswami,  
Secretary, Health Department,  
Assam, Dispur.

6. Mahat Chandra Brahma,  
Secretary, W.P.T.B.C Department,  
Assam, Dispur.


7. Md. Allauddin, Secretary,  
Personal Department, Assam,  
Dispur.

8. Seikholien Thadon, Managing  
Director, Assam Financial  
Corporation, Guwahati.

9. Rebendra Kumar Das, Secretary,  
S.A Department, Assam, Dispur.

10. Bhaba Gogoi, Director,  
Panchayat Development, 6th Mile,  
Guwahati.

11. A.B. Mohammad Eunus, Managing  
Director, STATFED, Guwahati.

 12. Balendra Basumatary, Joint  
Secretary, Forest Department,  
Assam, Dispur.

13. Subhash Chandra Longmailai,  
D.C, Chirand, District Dhaligaon.

14. Syed Iftikar Hussain,

47

Principal Secretary, N.C. Hills  
District Council, Haflong.

15. Rafique Zaman, Joint  
Secretary, Assam Secretariat,  
Dispur.

.... Respondents.

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

This application is not directed against any particular order or direction but is directed against the arbitrary and illegal action on the part of the respondent authorities in depriving the applicant of his due promotion to the cadre of IAS in terms of his selection for such promotion. The applicant was deprived of his said promotion only due to the arbitrary and illegal action on the part of the authorities in denying to him the integrity certificate inspite of the fact that there existed no any cogent and discernable reason for withholding of the said certificate.

*Abin*

**2. JURISDICTION:**

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



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**3. LIMITATION:**

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

**4. FACTS OF THE CASE:**

**4.1** That the applicant is a citizen of India and a permanent resident in the state of Assam and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and Laws framed there under.

**4.2** That the applicant was appointed to the Assam Civil Service as a direct recruit on his selection for the same by the APSC in the year 1977. The applicant in course of his service had held number of responsible posts and had discharged his duties all along to the best of his ability and without blemish to any quarter. The applicant is presently holding the post of Joint Secretary Government of Assam, Soil Conservation Department.

**4.3** That your applicant states that on being within the zone of consideration for promotion to the posts figuring in the Assam Segment of the Indian Administrative Service, Assam-Meghalaya cadre, the case of the petitioner came to be placed before the selection committee constituted by the UPSC for the

Done

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purpose of filling up of the vacancies identified in the said cadre for the year 1998, 1999, 2000 & 2001. The selection committee in its meeting held on 09.04.01 on consideration of the cases of all the officers in the zone of consideration proceeded to prepare separate select lists for each of the said years for which the selections were held.

4.4 That your applicant states that vide notification dated 27.06.01 the Government of India proceeded to publish the selection list for the years 1998, 1999, 2000 & 2001. The name of the applicant figured in each of the select list as prepared for the said years. However, it was indicated that the inclusion of the name of the applicant was subject to the clearance of the purported disciplinary proceeding pending against him.

A copy of the said notification dated 27.06.01 is annexed as **Annexure - 1.**

4.5 That your applicant states that as per the provisions of the Regulations holding the field the select list is to be prepared each year for the actual number of vacancies as existing and identified for that year. Accordingly, the selection of the applicant right from the year 1998 to 2001 was against available vacancies. The purported disciplinary proceeding stated to exist against the applicant was drawn up with issuance of a charge sheet on 16.02.00 only. As such on the relevant dates for consideration of the eligibility

*Ben*

of the applicant for inclusion of his name against the select lists as prepared for the year 1998 to 2000 i.e. the first of January of each of the said years, no any departmental proceeding was pending against the applicant. As such he could not have been denied his due appointment by way of promotion to the cadre of IAS against any of the vacancies as identified for the said years.

4.6 That the said departmental proceedings as drawn up against the applicant were based on false and fabricated charges having no substance. The said charge memo came to be issued against the applicant at the behest of a vested circle who had conspired to deny to the applicant his due and legitimate appointment to the IAS cadre by way of promotion. The applicant, basing on the said pretext of pendency of departmental proceedings against him was deprived of his promotion and he came to be superceded by his juniors. After being superceded by his juniors, an order dated 16.07.02 came to be issued closing the departmental proceedings drawn against him holding that the charges levelled were not proved. As such it can be safely inferred that the only intent and purpose for initiation of the said departmental proceeding was with a view to deprive the applicant of his promotion, by contending that his integrity was under a cloud.

A copy of the order-dated 16.07.02 is annexed as **Annexure = 2.**

4.7 That your applicant states that as the process for preparation of the select list of persons for promotion to the Assam Segment of the Assam Meghalaya IAS cadre against the vacancies of 2002 was under way, the applicant being apprehensive that he would again be deprived of his due promotion basing on some untenable grounds, he proceeded vide his communication dated 18.05.04 to pray before the Commissioner & Secretary Government of Assam, Personnel (A) Department, to obtain necessary reports from the CM's vigilance cell as regards the allegations levelled against him and others in a Public Interest Litigation case pending before the Hon'ble Gauhati High Court. The applicant prayed that he be not deprived of his due promotion on the basis of the pendency of the said case, inasmuch as the allegations as levelled against him therein had already been enquired into by the CM's vigilance cell and his name was cleared.

A copy of the said communication dated 18.05.04 is annexed as **Annexure - 3.**

4.8 That your applicant states that Government of India, Ministry of Personal & Training, vide notification dated May, 2004 proceeded to publish the select list for promotion against 8 vacancies as identified and existing for the year 2002 in the Assam segment of the Assam & Meghalaya IAS cadre. The name of the applicant figured at serial no. 1 of the said list. However, it was mentioned in the said notification that the name of the applicant was provisionally included,

subject to grant of integrity certificate by the State Government.

A copy of the notification dated May, 2004 is annexed as **Annexure - 4.**

4.9 That your applicant states that the PIL pending before the Hon'ble Gauhati High Court which was made the basis for the deprivation meted out to the applicant by denying to him his due promotion to the IAS cadre, came to be closed by the said court vide its order dated 22.02.05 without proceeding to direct initiation of any punitive action either against the applicant or any other person. As such the reason for denying to the applicant his due promotion to the IAS cadre also stood withdrawn and negated with the passing of the order dated 22.02.05.

A copy of the said order dated 22.02.05 is annexed as **Annexure - 5.**

4.10 That inspite of the said position, the authorities failed to promote the applicant in terms of his position in the select list for the year 2002 as published vide the Annexure - 4 notification dated May, 2004, and such denial was not on the basis of any tenable ground. As such the applicant vide his representation-dated 30.06.05 proceeded to place his grievances in this connection before the authorities and prayed for doing justice in his case.

A copy of the said representation is annexed as **Annexure - 6.**

**4.11** That your applicant states that as of 1998, 1999 and/ or 2000 there existed nothing adverse against the applicant on the date relevant for the purpose of determining the eligibility of the applicant for promotion to the IAS cadre against the vacancies as identified for the said years. As such on his selection and inclusion of his name in the select lists for the said years i.e. 1998, 1999 & 2000, the applicant could not have been deprived of his due promotion to the IAS cadre against any of the vacancies as available for the said years. The applicant is required to be given promotion to the cadre of IAS in terms of his position in the select lists as prepared for the said years and w.e.f the date his juniors came to be so promoted with all consequential benefits including seniority, salaries etc.

**4.12** That your applicant states that it is a settled law that a person can be denied his promotion only in the event if on the date of selection for such promotion a departmental proceeding has been initiated against him and a charge memo has been issued. In the case on hand as on 29.12.2003 no departmental proceeding was pending against the applicant and no charge sheet was issued and pending against him. As such the applicant could not have been denied his due promotion to the IAS cadre at least from the select list of 2002.

4.13 That your applicant states that as far as the promotion to the IAS cadre is concerned, the power to issue integrity certificate as vested upon the State Government cannot be permitted to be used as per the whims and caprices of the person vested with the power to exercise the same. In the case on hand the integrity certificate came to be denied to the applicant without there being any rhyme or reason for such denial leading to deprivation being meted out to the applicant in the matter of promotion to the IAS cadre.

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

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

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

6. **DETAILS OF THE REMEDIES EXHAUSTED:**

That the applicants declare that he has exhausted all the remedies available to them and there is no alternative remedy available to them.

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

The applicants further declare that he has not

filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other authority, nor any such application writ petition or suit is pending before any of them.

8. **RELIEF SOUGHT FOR:**

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

8.1 To direct the Respondent authorities to promote the applicant as per his position as obtained in the select list prepared for the years 1998, 1999 and 2000 for promotion to the Assam segment of the IAS of the Assam-Meghalaya cadre with retrospective effect with all consequential benefits including salary, seniority etc.,.

8.2 Alternatively direct the respondent authorities to promote the applicant as per his position as obtained in the select list prepared for the year 2002 for promotion to the Assam segment of the IAS of the Assam-Meghalaya cadre with retrospective effect with all consequential benefits including salary, seniority etc.,.



8.3 Cost of the application.

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

9. **INTERIM ORDER PRAYED FOR:**

The applicant prays for an interim direction to the respondent not to effect any further promotion to the Assam segment of the IAS of the Assam-Meghalaya cadre without first promoting the applicant to the said cadre.

10. ....

11. **PARTICULARS OF THE POSTAL ORDER:**

- i) IPD No. - 266-318602
- ii) Issued from - 11-10-05
- iii) Payable at - Guwahati.

12. **DETAILS OF INDEX:**

An Index showing the particulars of documents is enclosed

13. **LIST OF ENCLOSURES:**

As per Index.

**VERIFICATION**

I, Sri Pradip Kumar Das, aged about 52 years,  
Son of Late Dwijendra Kr. Das, resident of Ananda  
Nagar, Guwahati - 6, in the district of Kamrup, Assam,  
do hereby solemnly affirm and verify that I am the  
applicant in this instant application and conversant  
with the facts and circumstances of the case, the  
statements made in paragraph 1, 2, 3, 4, (1, 2, 3, 5, 11, 12,  
13 and 14) and 5 to 10 ----- are  
true to my knowledge, those made in paragraphs 4, (4, 6,  
7, 8, 9 and 10) ----- are true to my information  
derived from the records and the rests are my humble  
submissions before this Hon'ble Tribunal.

And I sign this verification on this the 07 the  
day of March, 2006, at Guwahati.

✓ Pradip Kumar Das.

**DEPONENT**

PUBLISHED IN THE GAZETTE OF INDIA PART 1 SECTION 2)

No.14015/2/2001- IS (1)

Government of India

Ministry of Personnel, Public Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, the 27<sup>th</sup> June, 2001

**NOTIFICATION**

In terms of the provisions contained in sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the Select Lists of 1998, 1999, 2000 and 2001 containing the names of the following State Civil Service officers of the State of Assam prepared by the Selection Committee in its meeting held on the 9.4.2001, towards filling up two vacancies during 1998, four vacancies during 1999, four vacancies during 2000 and two vacancies during 2001, in the Assam Segment of the Indian Administrative Service Assam-Maghalaya Cadre.

Name of the officer (S/SHR)      Date of Birth

**1998**

1.	Abhay Kumar Verma	27.07.1953 &
*2.	Pradip Kumar Das	16.03.1953 ✓

**1999**

1.	Gokul Ch. Sharma	01.03.1948
*2.	Pradip Kumar Das	16.03.1953 ✓
3.	Long 'I Phangocho (STH)	20.04.1952
4.	Joy Chandra Goswami	25.11.1951 &
*5.	Mahat Chandra Brahma (STP)	31.12.1946

**2000**

1.	Gokul Chandra Sharma	01.03.1948
*2.	Pradip Kumar Das	16.03.1953 ✓
3.	Mahat Chandra Brahma (STP)	31.12.1946
4.	Md. Allaiddin	31.12.1950
5.	Md. Nurul Haque	28.02.1946
6.	Seikholi Thadou (STH)	25.09.1948 &
7.	Rabendra Kumar Das	05.02.1954

**2001**

*1.	Gokul Chandra Sharma	01.03.1948
*2.	Pradip Kumar Das	16.03.1953 ✓
*3.	Mahat Chandra Brahma (STP)	31.12.1946
*4.	Md. Nurul Haque	28.02.1946
5.	Bhaba Gogoi	01.03.1949 &
6.	Naba Kumar Chetia	01.04.1949

The officers have been included in the Select List provisionally subject to their clearance in the disciplinary proceedings pending against them.

Contd.. 2/-

*certified to be  
true copy*

# The officer has been Included in the Select List provisionally subject to grant of integrity certificate by the State Government.

R. Vaidyanathan  
(R. VAIDYANATHAN)

Under Secretary to the Government of India

To The Manager  
Government of India Press  
Faridabad (Haryana)

New Delhi, the 2<sup>nd</sup> June, 2001

ME/FA/015/2/2001-AIS(I)

1. The Chief Secretary, Government of Assam, Dispur, GUWAHATI with 12 spare copies for onward transmission to the officers concerned.
2. The Secretary, Union Public Service Commission, Dholpur House, New Delhi. (Ms. Molly Tiwari, Under Secretary)

R. Vaidyanathan  
(R. VAIDYANATHAN)

Under Secretary to the Government of India

Internal Distribution: Under Secretary (S.II)//10 spare copie

DEPUTY COMMISSIONER  
CACHAR & SILCHAR

NO. 30 JUL 2002

Confidential.

NO.AAP.36/97/Pt/502.  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL ( PERSONNEL : A )  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI : 781006.

Annexure-2

Dated Dispur, the 16th July, 2002.

ORDERED BY THE GOVERNOR OF ASSAM.

Whereas, a departmental proceeding was drawn up vide show cause notice No.AAP.36/97/Pt/191 dated 16-2-2000 against Shri Pradip Kumar Das, IAS, the then Joint Secretary to the Govt. of Assam, Tourism Department for allegedly committing certain irregularities during his tenure as Managing Director, Assam Plains Tribes Development Corporation Ltd. Guwahati ; and

Whereas, in his written statement of defence submitted vide letter dated 4-7-2000 Shri Pradip Kumar Das, IAS the then Joint Secretary to the Govt. of Assam, Tourism Department denied the charges framed against him ; and

Whereas, after careful examination of the written statement of defence submitted by Shri Das and the materials on records it was decided to hold an enquiry into the charges against him and accordingly Shri Sanket Jorath, IAS, the then Commissioner & Secretary to the Govt. of Assam, Power (Electricity) Department was appointed as Inquiring Authority to conduct the enquiry into the charges against Shri Das and submit enquiry report at the earliest vide order No.AAP.36/97/Pt/319 dated 30-10-2000 ; and

Whereas, the Inquiring Authority vide his letter No.8/PCOM/END/PKD/2KE dated 16-7-2001 submitted his enquiry report ; and

Whereas, on perusal of the enquiry report submitted by the Inquiring Authority it is found that only the charge No.4,7,9 and 12 out of all together 12 number of charges against Shri Das could be proved by the Inquiring Authority ; and

Whereas, after careful examination of the enquiry report submitted by the Inquiring Authority and the available records, the charge No.4,7,9 and 12 which were found to be proved by the Inquiring Authority are also not found conclusively proved against Shri P.K.Das, IAS and accordingly it is decided to close the departmental proceeding with a warning to the charged officer to be more careful in future in the matter of following Govt.Rules/Regulations/Instructions.

certified to be

Contd.....P/2.

true copy

Accordingly, the Governor of Assam is pleased to warn Shri Pradip Kumar Das, ACS, presently Deputy Commissioner, Cachar, Silchar to be more careful in future in the matter of following Govt. Rules/Regulations/Instructions and close the departmental proceeding drawn up against Shri Pradip Kumar Das, ACS vide show cause notice No.AAP.36/97/PT/191 dated 16-2-2000 and thus the departmental proceeding is finally disposed of.

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

Sd/- J.P.Saikia,

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

Memo.No.AAP.36/97/PT/502-A, Dated Dispur, the 16th July, 2002.

Copy to :-

1. Shri Pradip Kumar Das, ACS, Deputy Commissioner, Cachar, Silchar.
2. The Commissioner & Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati-6.
3. The Commissioner & Secretary to the Governor of Assam, Dispur, Guwahati-6.
4. P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
5. P.S. to Chief Secretary, Govt. of Assam, Dispur, Guwahati-6.
6. Shri Sumeet Jerath, IAS, Director, Govt. of India, Deptt. of Economic Affairs, Ministry of Finance, New Delhi.
7. Personal file of Shri P.K.Das, ACS.

By order etc.,

*J. P. Saikia*  
16/07/2002  
Commissioner & Secretary to the Govt. of Assam,  
Personnel (I) Department.

Dr.  
16/7/2002

-18-

Annexure- 3

Dated, Dispur  
The 18<sup>th</sup> May, 2004

To,  
The Commissioner & Secretary to  
The Govt. of Assam  
Personnel (A) Deptt., Dispur.

Subject : Nomination to I.A.S.

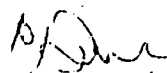
Sir,

I have the honour to submit that my candidature for nomination to I.A.S. is overdue, as per my cadre-seniority in A.C.S. Of course, I am happy that I am in the current select list and I express my gratitude to the Govt. of Assam for this kind gesture.


However, I understand that my name is implicated in a PIL in the Hon'ble Gauhati High Court as one of nine respondents (as D.C., Cachar) filed by an N.G.O., which is pending for hearing. I also do believe that the allegations brought out in the plaint against several officials of D.R.D.A., Cachar have already been thoroughly enquired in to by C.M.'s Vigilance Cell, as per direction of the Hon'ble High Court.

May I therefore, pray that your good self would be kind enough to obtain necessary report/information from the Vigilance Cell and recommend my candidature for promotion to the I.A.S. at your earliest convenience, for ends of justice.

Yours faithfully

  
(P.K. Das) 18/5/04

Jt. Secy. to the Govt. of Assam  
Soil Conservation Deptt., Dispur.

certified to me  


same copy

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No. 14015/06/2003-AIS(I)-A

Government of India

Ministry of Personnel, Public Grievances & Pensions

(Department of Personnel & Training)

New Delhi, May, 2004.

NOTIFICATION

In terms of the provisions contained in Sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the Select List of 2002 for the Assam segment of the joint Assam-Meghalaya Cadre, containing the names of the following State Civil Service officers of the State of Assam prepared by the Selection Committee in its meeting held on 29<sup>th</sup> December, 2003, towards filling up 8 (eight) vacancies during 2002 in the Indian Administrative Service:-

SELECT LIST 2002

<u>Sl. No.</u>	<u>Name of the Officer (S/Sh.)</u>	<u>Date of Birth</u>
S1.	Pradip Kumar Das	16.03.1953 ✓
S2.	Md. Nurul Haque	28.02.1946 ✓
3.	A.B. Md. Eunus	01.02.1953
4.	Balendra Basumatary (STP)	01.04.1948
5.	Subhash Ch. Longmaillet (STH)	23.02.1953
#6.	Gokul Ch. Sarma	01.03.1948
7.	Rafique Zaman	01.02.1951
8.	Syed Iftikhar Hussain	21.09.1954

S The names at S. No. 1 and 2 have been included in the Select List provisionally subject to grant of Integrity Certificate by the State Government. The officer at S. No. 2 cannot be appointed as he has retired on 29<sup>th</sup> February, 2004.

# The name at S. No. 6 has been included in the Select List provisionally subject to grant of Integrity Certificate by the State Government and his clearance in the disciplinary proceedings pending against him.

B. Das  
25/5/04

OK

(K.K. Sharma)  
Desk Officer

To

The Manager  
Government of India Press  
FAKIDABAD (HARYANA).

attached to me

True copy



-20-

No. 14015/06/2003-AIS(I)-ANew Delhi, the May, 2004.

1. The Chief Secretary, Government of Assam, Dispur, with eight spare copies for onward transmission to the officers concerned.
2. The Secretary, Union Public Service Commission, Dholpur House, New Delhi. (Ms. Molly Tiwari, Under Secretary).

  
(K.K. Sharma)  
Desk Officer

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IN THE GAUHATI HIGH COURT  
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)

Annexure - 5

CIVIL APPELLATE SIDE

Appeal from  
Civil Rule

PIL No. 23 of 2002

"ALPADUT" a Non - Govt. Organisation  
Appellant  
Petitioner

Versus  
State of Assam & Others  
Respondent  
Opposite Party

Appellant	Mr. Manojet Bhuyan	Mr. A.M. Mazumdar
For	Mr. Syed M. Tauhid Chisti	Mr. A.B. Choudhary
Petitioner	Mr. M.B. S. Choudhary	Mr. R. Islam
Respondent	Ms. S. Seal	Mr. N. S. Choudhary
For	Mr. A. S. Choudhary	Mr. N. S. Choudhary
Opposite Party	Mr. A.M. Mazumdar, Mr. A.B. Choudhary, Mr. R. Islam,	Mr. N. S. Choudhary
Noting by Officer or Advocate	Serial No. 3	Date 3

certified to be  
true copy

IN THE MATTER OF :-

"AGRADUT",

a Non-Government Organisation,  
Head Quarter at Hospital Road,  
Silchar - 1, Dist.:- Cachar, Assam.

Represented by its Vice-President

Sri Matab Uddin Mazumdar .

.....PETITION R.

**-VERSUS -**

1. The State of Assam, through the Secretary to the Govt. of Assam, Panchayat & Rural Development Department, Dispur, Guwahati-6.
2. The Chief Secretary to the Govt. of Assam, Dispur, Guwahati.
3. The Commissioner & Secretary Govt. of Assam: Chief Minister Secretariat, Dispur, Guwahati-6.
4. The Superintendent of Police, Chief Minister Vigilance Cell, Dispur, Guwahati-6.
5. The Director, Panchayat and Rural Development Department, Bhangagarh Guwahati.
6. The Deputy Commissioner, Cachar, Silchar. P.O. Silchar, Dist.:- Cachar.
7. The Project Director, District Rural Development Agency, Cachar, P.O. :- Silchar, Dist. :- Cachar, Assam.

4-29-

-5-

8. Sri Rashid Ahmed Mazumdar ;  
A.P. O. (T) , D. R. D. A. , Cachar .  
P.O.:-Silchar Dist. Cachar .

9. Sri Afjal Hussain Laskar, Junior  
Engineer ,H.Q., DRDA, Cachar  
P.O.:- Silchar, Dist.:- Cachar.

.....RESPONDENTS.

petitioner

rn h

S-215-

Noting by Officer or Advocate	Serial No.	Date	Officer or Advocate

PIL No. 23 of 2002

BEFORE

HON'BLE MR. JUSTICE B.K. ROY CHIEF JUSTICE  
THE HON'BLE MR. JUSTICE D. AIRWAR

22/02/2005

Heard Mr. A.S. Choudhury, learned senior counsel for the and also Mr. A.M. Mazumdar, learned senior counsel for the respondent.

It appears that the grievance of the petitioner stands redressed by the further orders passed by the Government. Accordingly, no useful purpose will be served in keeping this PIL any more pending in this High Court.

This PIL stands disposed of accordingly.

Sd/Gaunhar Singh Judge  
Sd/Binita K. Roy  
Judge

29165  
28/2/05

CERTIFIED TO BE TRUE COPY  
Date 01/03/05  
Superintendent, Copying Section  
Gauhati High Court  
Amended U/S 76, Act I, 1871

11/3/2005

To,

Dated, Dispur the 30<sup>th</sup> June, 2005

The Commissioner &amp; Secretary

To the Govt. of Assam,

Personnel (A) Deptt.,

Dispur, Guwahati- 6

**Sub: Nomination to I.A.S. Prayer therefore.**

Sir,

With reference to the subject mentioned above, I have the honour to stat that I stand as one of the senior most officers in the A.C.S. cadre as per the prevailing Gradation- List, Published by the Govt. of Assam(Personnel Deptt.). But it is a matter of utter misfortune that I am deprived of nomination into I.A.S. despite my seniority of 28 (twenty-eight) years (1977 Batch) in the state cadre.

That sir, it is a fact that I was selected for nomination into I.A.S. by the U.P.S.C./Govt. of India (Ministry of Personnel, Deptt. of Personnel & Training, New Delhi) as back as in 2001, keeping my name in "Sealed Cover" due to pendency of Departmental Proceedings. However, the said Departmental Proceeding was closed and disposed of without any punishment, vide Govt. of Assam (Personnel "A" Deptt.) Order No. AAP 36/97/Pt./502 Dt. 16-07-2002.

It is matter of grave injustice and misfortune that the Govt. of Assam failed to open the "Sealed Cover" and notify me nominating into IAS as per select-list of 2001. It is also a matter of utter astonishment that till today I am in the dark as to the fate of the "Sealed-cover" as I have not received any communication what-so-ever to this effect from the Govt.

That Sir, may I be permitted to state that the net result of the Govt. inaction is that I have been superseded by several of my juniors in the state-cadre in being nominated to I.A.S.

However, as indicated in Govt. of India {Ministry of Personnel, Public Grievances & Pensions (Dept. of Personnel & Training)} Notification No. 14015/06/2003-AIS (I) - A dt. May, 2004, I was once again included in the U.P.S.C. approved Select List of 2002 and placed at serial number 1 (one), with the remark that the selection was made subject to grant of..... Integrity certificate by the state Govt. May I be permitted again, to state that I did submit a prayer to your

certified to be



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good-self on 18<sup>th</sup> May, 2004 \* seeking justice over the matter, but then, I am completely in the dark as to the Govt. action on my prayer vis-à-vis my nomination to I.A.S. since I have not received any communication in this regard from the Govt. till date.

In this regard, may I be permitted to draw your kind attention to Govt. of India {Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personal & Training)} office Memorandum No. 22012/1/199-Estt. (D) Dt. 25.10.2004 on the subject of promotion and the cardinal policy/principle therefor. The said Office – Memorandum unambiguously clarifies that “The D.P.C. is required to consider the cases of all persons who are other wise eligible in terms of the Recruitment Rules as on the relevant crucial date and are in the Zone of consideration. If, however, case of an employee in the Zone of consideration is covered by any of the three situations, only this fact is to be furnished to the D.P.C. so that the recommendations could be placed in sealed cover. Where none of the three situations has arisen, a simple vigilance clearance would need to be furnished. Vigilance clearance/status would have no other significance and would not be a factor in deciding the fitness of the officer for promotion on merit.

It is also clarified that there is no requirement of furnishing a separate integrity certificate to the D.P.C. In terms of the judgment of the Hon'ble Supreme Court in the case of union of India Vs. K.V. Janakivaman etc. (AIR 1991 SC-2010), no promotion can be withheld merely on the basis of suspicion or doubt or where the matter is under preliminary investigation and has not reached the stage of issue of charge sheet etc. If in the matter of corruption / dereliction of duty etc. , there is a serious complaint and the matter is still under investigation of C.B.I. or other wise, the Govt. is within its right to suspend the official. In that case, the officer's case for promotion would automatically be required to be placed in the sealed cover.”

Now, G.O.I. office memorandum No. 22011/4/91 – Estt. (A) dt. 14-09-1992 has unambiguously laid down the principle / yardsticks to be followed regarding cases of Government servants to whom “Sealed Cover” procedure will be applicable. Para 2, of the said O.M. reads as below :



Quote :

"At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration Zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Committee (DPC) :-

- (i) Govt Servants under suspension;
- (ii) Govt. Servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- (iii) Govt. servants in respect of whom prosecution for a criminal charge is pending"

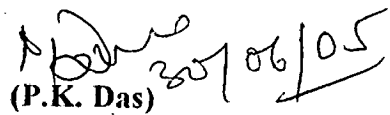
Unquote.

Now, under the circumstances narrated in the foregoing para's and the principle / policy enumerated in the relevant O.M.S. of Govt. of India, may I be permitted to state that none of the three categorised situations is applicable in my case of promotion, nor does there exist any impediment / reason as to why the required vigilance clearance could not have been / cannot be issued in my favour so as to materialise my nomination into I.A.S. as approved by the U.P.S.C. / Govt. of India In May, 2004.

That Sir, I am forced to state that I do consider the deprivation of my nomination to I.A.S. as a case of grave injustice on part of the Govt. of Assam, in violation of the guiding principle / Policy / provisions laid down by G.O.I in this regard and I do pray that justice be not further delayed beyond a period of 30 (thirty) days from today in which case, I shall have no other option but to seek justice in the appropriate court of law.

I remain Sir,

Yours faithfully

  
(P.K. Das)

Joint Secretary to the Govt. of Assam  
Soil Conservation Deptt.  
Assam Sectt., Dispur

SL. No. 38928

DISTRICT:



## IN THE GAUHATI HIGH COURT

[THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI

O. A NO 63 OF 2006

Pradip Kumar Das

APPELLANT  
PETITIONER

VERSUS

Union of India Iors

RESPONDENT  
OPPOSITE-PARTY

Know all men by these presents that the above named Applicant  
do hereby nominate, constitute and appoint Sri/Smti D. K. Das, D. Barua  
Advocate and such of the undermentioned Advocates as shall  
accept this Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above  
and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or  
drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree  
to ratify and confirm all acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-  
payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In Witness Whereof I/We hereunto set my/our hand on this 07th Day of March, 2006

N. M. LAHIRI (Sr. Adv.)	K.R. PATHAK (Sr. Adv.)	D.C. MAHANTA (Sr. Adv.)	K.K. BHATRA
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MONINDRA SINGH	SUBRATA NATH	UJJAL BHUYAN	BISWAJEET GOSWAMI
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DIGANTA DAS	SACHIN KR. SHARMA	DR P. K. BHUYAN	C.T. JAMIR
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DILIP CHOUDHURY	J.N. CHAKRAVARTY	JYOTIRMOY ROY	H.K. SHARMA
LAKSHESWAR TALUKDAR	QZI. S. KUTUBUDDIN	ASHIS BHATTACHARJEE	SUDAMA CHAUHAN
S.P. MAHANTA	S.K. KEJRIWAL	MS. PRANATI SHARMAH	U.K. BORTHAKUR
SK. CH. MOHAMMAD	MS. PRATIMA DAS	KHARGESWAR DAS	MS. GEETA DEKA
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MS. AJANTA DHAR	MD. M. AHMED	BISWA NATH SHARMA	MS. S. ADWANI
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B. MRINAL CHOUDHURY	MS. BAHARUN SAIKIA	PADMA KT. BORAH	R.M. CHOUDHURY
KUMUD BARUAH	MRINAL KR. CHOUDHURY (Sr. Adv.)	H.S. THANGKHIEW	MASLIM GHANI
APURBA KR. SHARMA	MS. AHMEDA BEGUM	P. J. SAIKIA	J.C. BEZ
NAZRUL ISLAM	D.C. KATH HAZARIKA	RAJ KR. AGARWALA	BIJAN CHAKRABORTY
RAJIB BORUAH	MD. MOTIUR RAHMAN	KAMALESH K. GUPTA	A.B. ROY (Sr. Adv.)
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MS. BHUMIKA CHOUDHURY	B. K. BHATTACHARJEE	P.C. DEY	BIPUL SARMAH
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NEERAJ ANAND  
GITARTHA PATHAK  
SANKAR P. BHATTACHARJEE  
MD. KOHINOOR ISLAM  
SYED MUSFIQUR RAHMAN  
PUSPENDRA KR. MEDHI  
SANJIB KR. SINGHA  
MISS. NILAKSHI GOSWAMI  
MISS. MANISHA SHARMA  
GAUTAM RAHUL  
MS. ANITA VERMA  
TONGPOK PONGENER  
ANIL GOHAIN  
MISS. ANUJITA BORA  
SANJAY KR. SINGH  
SANJIB BARUAH  
MISS. SOBHANA SAIKIA  
MISS. MOON BARUAH  
BRIJESH SHARMA  
MISS. RAKHI PATHAK  
RATAN CH. DAS  
NABAJIT NARZARY  
SAFIQUL HUSSAIN  
NASIR UDDIN  
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PRAKASH KR. BOTHRA  
BIJOY CHETIA  
SUBHAJIT BANIK  
SAHADEV DAS  
DR. K. UDDIN AHMED  
MD. A. Q. AKANDA  
PRADIP KR. AGARWALA  
MD. FARID U. BARBHUIYA  
MISS. NIYATI KALITA  
MRS. SADHANA KALITA  
ARUP GOSWAMI (II)  
MS. ARUNDHATI BORA  
MS. RITAMANI GOSWAMI  
SHUROT ZAMAL SHEIKH  
SUMAN CHETIA  
ALAKESH DEV SARMAH  
RANJIT KR. GOSWAMI  
JAKIR HUSSAIN SAIKIA  
BHUPEN CH. PEGU  
KUNTAL SHARMA PATHAK  
DEEPAK KEJRIWAL  
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ANOWAR HUSSAIN  
ADITYA HAZARIKA  
SHIMANTA NEOGI  
RUPAK DHAR  
TAPAS DHAR  
RAJA JOY PHOOKAN  
MANOJ KR. SHARMA (I)  
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MISS. MITALI BHUYAN  
MISS. SABINA YASMIN  
KISHORE KR. HAZARIKA  
MOYNUL H. CHOUDHURY (2)  
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BHASKAR NATH  
ALIN SARMA  
KULA PD. GOGOI  
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MD. JYOTSHNA ALI  
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MISS. MURCHANA SARMA  
ASHOK KR. BORA  
RANJAN KR. BHARALI  
BIJAY KRISHNA SEN  
MISS. MEDHA LILA GOPE  
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MISS. LIYANA RAHMAN  
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MISS. BIJAYA HAZARIKA  
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MISS. DIPANJANA NANDI  
ABDUL KASHIM TALUKDAR  
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MISS. IVALINA DEKA  
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SABYASACHI P. CHOUDHURY  
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MISS. DIPANJALI DEKA  
MD. ALAM GEER  
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ATAL TEWARI  
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NABADIP BAROOAH  
J. A. HASSAN  
MISS. SANGEETA SARKAR  
ANJAN KR. DAS  
MISS. JAYA CHANDA  
NITESH BHATRA  
MISS. DOROTHY ROY  
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MISS. LIPIKA TALUKDAR  
MISS. MEGHALI DEHINGIA  
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ASHIM TALUKDAR  
ABID ALI  
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MISS. SUDAKSHINA KHANIKAR  
ASHIMANTA GOSWAMI  
ANIL SHARMA BHATRA  
K. R. PATGIRI  
DEBENDRA SAHARIA  
RAJIB SARMA  
MUSTAFA JAMAL QUADIR  
MISS. MANASKANTA BARUAH  
MISS. KAVITA K. JAIN  
TAPAN RANJAN DAS  
TRIDIB KALITA  
MS. MAMONI ROY  
SAIDUL ISLAM  
MS. SHAMIMA BEGUM  
DIPANKAR BAGCHI  
SHYAMAL AICH  
MS. KANIK SINGHA  
JAGADISH CH. GOGOI  
MISS. SWARNALI S. CHOUDHURY  
HARIBRATA CHANDA  
MUKUT CH. BHATTA  
SUJIT KR. ROY  
RAJU GOSWAMI  
NANI G. KUNDU  
SHEKHAR CHAKRABORTY  
OM P. AGARWAL  
RANABRATA BANERJEE  
MS. SUMITRA SARMA  
MRS. BANDANA DEKA  
TARUN BORA  
MOTI RAJ ADHIKARI  
MISS. SABBINA YASMIN  
BISWAJIT BURAGOHAIN  
MRS. BOBY G. BURAGOHAIN  
MISS. SANGEETA BURAGOHAIN  
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MISS. DIPANNITA CHAKRABORTY  
NAZMUL I. MAZARBHUIYA  
PRASANTA HAZARIKA  
MS. NAZNEEN AHMED  
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MUKTI RAM LASKAR  
MISS BINITA BARUAH  
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MISS ANUPAMA ROY  
BISWAJIT CHAKRABORTY  
MD. RAFIKUL ISLAM (III)  
BINODAN TALUKDAR  
MISS MINERVA BARTHAUR  
MISS NITU HAWELIA  
RAHUL BEZBARUAH  
ABU NASERUDDIN AHMED  
SUMIT DAS  
SANACHOWBA SINGHA  
YUNUSH AHMED  
MISS RITA DEVI  
N. ANIX SINGH  
BANDAN KR. KAR  
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LALIT KR. MINDA  
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MS. KABERI DEKA  
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SANTANU BORA  
KARABI KALITA  
MISS MANIKA CHOUDHURY  
MISS RUMA DAS  
RAFIQUL ISLAM (IV)  
MASTER SHELIM  
MRS. SUNITI KALITA  
MD. NEKIBUDDIN AHMED  
RAJIB BORPUJARI  
DIGANTA BARMAN  
SAMIR DA  
ABDUL HASHEM KHANDAKER  
DR TILOK DASGUPTA  
ASHIM KUAMR BARUAH  
SANJAY SINGH  
PRATIM KR. CHAKRABORTY  
MOHD. INAM UDDIN  
NEELOTPAL DEKA  
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MS. AYESHA SIDDIKA

MS. BHARATI MUKHERJEE  
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DEVJYOTI CHOUDHURY  
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MANOJ KR. SARMA (II)  
MRS. JENNIFER ZAMAN

GURVINDER SINGH SODHI  
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PRANJAL BORTHAKUR  
BIPUL KR. DAS  
ASHOK KR. BORAH (2)  
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SUKUMAR SARMA  
NAYAN JT. SARMA  
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MISS LIPIKA DEVI  
RITURAJ BISWAS  
MISS SEEMA CHAKRABORTY  
SATYAJIT KR. SHARMA THAKUR  
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MOBARAQUE HUSSAIN  
PURBADRI BANERJEE  
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ZAKIR HUSSAIN  
MAZHARUL ISLAM  
MRIDUL KR. BORAH  
MRS. NANDITA NATH  
MISS KALPANA TALUKDAR  
BHUPEN KUMAR  
MS. MITALI GOGOI  
MISS RULI BARUAH  
DIGBIJOY MANDAL  
SANTANU PARASHAR  
MS. MRINALEE BHUYAN  
SWAPAN KUMAR DAS  
MS. ALPANA SAIKIA  
MISS NASHREEN AHMED  
MISS NILAKSHI BARMAN  
SAIKH MD. A. PAHLAVI  
SHAH NEWAJ AHMED  
MRS. ABHINANDITA CHAKRABARTY  
MRS. NIBEDITA SARMAH  
MANASH HALOI  
MISS SUSMITA KANUNGOE  
MS. TEENA SHARMA  
MS. MANISHA SARMAH  
MISS BIJU RANI KALITA  
MISS BARASHA DAS

SAMUDRAGUPTA DUTTA  
MISS KABITA GOSWAMI  
RAJEEB KALITA  
TRIDEEP BARUAH  
MS. AFSANA IRFAN  
MRS. DIKSHA H. BAROOWA  
MS. TRIPTI PATOWARY  
KRISHNA KT. DAS  
NAYAN MONI HAZARIKA  
ZAKIR HUSSAIN (II)  
ABDUS S. AKAND  
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MRIDUL MAHANTA  
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TILAK RANJAN SARMA  
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MOHENDRA DEKA  
MRS. BABLI DAS SARKAR  
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IFTIQUER RAFIQUE  
IDRISH ALI SHEIKH  
MISS ELAKSHI DEKA  
MD. ABDUL AWAL ALAMGIR  
KAMAL KISHORE GOSWAMI  
BHASKAR JYOTI DAS  
BIBEKA NANDA GOGOI  
DHRUBOJYOTI CHAKRABORTY  
MS. ARUNDHUTI BARUAH  
ARUNANGSHU DHAR  
MS. SHABANA AZIZ CHOWDHURY  
TAPAN RANJAN DEURI  
MANOJ KR. SARMA (III)  
MRIDUPAWAN GOSWAMI  
AMLAN SARMA  
MS. MADHURIMA DUTTA  
AMIT GOYAL  
DEBASISH SINGHA  
YADAV PRAN DAS  
JAGAT CHANDRA BORAH  
ANGSHUMAN SARMA  
MS. TINKU SOM  
MD. IMRUL HASSAN  
MS. APARAJITA BHUYAN  
BHUPEN SARMA  
BISHWAJYOTI PATHAK  
AZIM HUSSAIN LASKAR

Received from the executant,  
satisfied and accepted

Mr/Ms..... will lead  
me/us in the case

And Accepted

Advocate

Advocate

Advocate

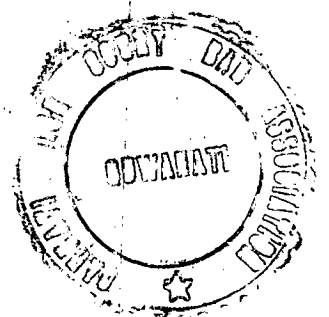
And Accepted

And Accepted

Advocate

Advocate

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NOTICE

16

From:- Mr. D. Dharma  
Advocate, Gt.C.

To:- C.G.S.C.

Ref:- O.A. NO:- /2006

Pradip Kr. Das-

-Versus-

Union of India & Ors

Sir,

Enclosed please find herewith a copy of the original application filed in the above mentioned case before this Hon'ble Tribunal. Kindly acknowledge the receipt of the same.

Thanking You,

Yours faithfully



(D. Dharma)

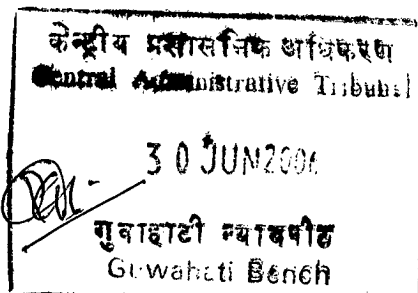
Advocate, Gt.C.

Received Copy:-

Pradip Das

Add. G.C.S.C.  
8/3/06.





Filed by  
the Respondent No. 2  
through  
Alpha Das  
Advocate  
29/6/06

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

**ORIGINAL APPLICATION No. 63/2006**

**BETWEEN:**

**SHRI PRADIP KUMAR DAS**

...

**APPLICANT**

**AND**

**UNION OF INDIA & OTHERS**

...

**RESPONDENTS**

**WRITTEN STATEMENT FILED ON BEHALF OF RESPONDENT No.2**

Written Statement of R.S. Sinha posted as Under Secretary in the Union Public Service Commission, New Delhi.

2.1 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 Respondents No. 2.

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

2.3 At the outset, it is submitted that the Union Public Service Commission discharge their functions and duties assigned to them 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 IAS (Appointment by Promotion) Regulations, 1955 [Promotion Regulations, in short] have been made. In accordance with the

R.S. Sinha

provisions of the Promotion Regulations, the Selection Committee presided over by the Chairman/Member of the Union Public Service Commission, makes selection of State Civil Service [SCS, in short] officers for promotion to the Indian Administrative Service. ] ←

PRELIMINARY SUBMISSIONS:

3. This respondent is filing the present reply to bring out the factual position and the role of UPSC in selections to the All India Services as stipulated under the Promotion Regulations.

3.1 It is respectfully submitted [that in terms of Rule 4(2)(b) of the IAS (Recruitment) Rules, 1954 read with Regulation 5(1) of the IAS (Appointment by Promotion) Regulations 1955, the Central Govt., in consultation with the State Government concerned, determines the number of posts for recruitment by promotion of SCS officers of the State to the IAS during the particular year. Thereafter, the State Government forwards a proposal to the Commission alongwith the Seniority List, Eligibility List (upto a maximum of three times the number of vacancies) of the State Service Officers, Integrity Certificates, certificates regarding disciplinary/criminal proceedings, certificate regarding communication of adverse remarks, details of penalties imposed on the eligible officers etc. and complete ACR dossiers of the eligible officers.] ←

3.2 [The above documents received from the State Govt. are examined by the Commission for completeness and after the deficiencies have been resolved and reconciled, a meeting of the Selection Committee is convened for preparing the Select List for promotion to the IAS. As per Regulation 3 of the said Regulations,

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the meeting of the Selection Committee is presided over by either the Chairman or a Member, UPSC. ] ←

3.3 [ In accordance with the provisions of Regulation 5(4) of the Promotion Regulations, the aforesaid Committee duly classifies the eligible State Civil Service 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 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 Civil Service. ] ←

3.4 [ Further, the names of the officers whose integrity certificate is withheld by the State Govt. or against whom there are disciplinary/criminal proceedings pending are included in the Select Lists provisionally in accordance with the provisions of proviso to Regulation 5(5). ] ←

3.5 [ As per the provisions of Regulation 6 and 6-A, the State Govt. and the Central Govt. are required to furnish their observations on the recommendations of the Selection Committee. After taking into consideration the observations of the State Govt. and the Central Govt. and the requisite records received from the State Govt., the Commission take a final decision on the recommendations of the Selection Committee with or without modifications in terms of the provisions of Regulation 7. Thereafter the Govt. of India, Department of Personnel and Training, ] ←

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appoints officers included unconditionally in the Select List to the IAS during the validity period of the Select List. ] ↙

#### CONTENTIONS OF THE APPLICANT

4. The applicant has made the following contentions in the instant OA:-
- (i) That the selection of the applicant from the year 1998 to 2001 was against the available vacancies. The disciplinary proceedings stated to exist against the applicant were drawn up vide charge-sheet dated 16.02.2000 only. As such on the 1<sup>st</sup> day of January of each of the years 1998 to 2000, no departmental proceedings were pending against the applicant. As such he could not have been denied appointment by promotion to the IAS against any of the vacancies for the said year.
  - (ii) That the departmental proceedings against him were closed vide order dated 16.7.2002. However, his name was included in the Select List of 2002 provisionally subject to grant of integrity certificate by the State Government. A PIL before the Hon'ble Gauhati High Court which was the basis for depriving him of his due promotion was closed by the said Court vide order dated 22.02.2005. In spite of this, he was not promoted from the Select List for the year 2002.
  - (iii) It is settled law that a person can be denied his promotion only if on the date of selection, a departmental proceeding has been initiated against him and a charge memo has been issued. In the applicant's case, there was no departmental proceeding pending against him on 29.12.2003 and no charge

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sheet was issued against him. As such he could not have been denied his due promotion to the IAS at least from the Select List of 2002.

- (iv) That the departmental proceedings drawn up against him were false and fabricated.

### FACTUAL POSITION

5.1 Most respectfully it is submitted that Selection Committee Meeting for preparation of Select Lists of 1998, 1999, 2000 & 2001 was held on 09.04.2001 for <sup>02</sup>02, <sup>04</sup>04, <sup>04</sup>04 and <sup>02</sup>02 vacancies respectively. The State Government, vide letter dated 05.01.2001, had informed that disciplinary proceedings were pending against the applicant, Shri Pradip Kumar Das. On an overall relative assessment of the service records, the Selection Committee assessed as 'Very Good' for all the aforesaid years. On the basis of this assessment the applicant, Shri Pradip Kumar Das had been included at S. No.2 in all the aforementioned Select Lists provisionally subject to clearance of disciplinary proceedings pending against him as per Reg.5(5) of the Promotion Regulations. The Commission approved the Select Lists of 1998, 1999, 2000 and 2001 vide letter dated 26.06.2001.

5.2. It is further submitted that the Govt. of Assam vide their letter dated 08.10.2002 forwarded a proposal to the Commission for making inclusion of the name of Shri Pradip Kumar Das as unconditional in the Select Lists of 1998, 1999, 2000 and 2001. The Commission examined the proposal and observed that Regulation 7(4) of the Promotion Regulations lays down the following:-


*"7 (4) The Select List shall remain in force till the 31<sup>st</sup> day of December of the year in which the meeting of the Selection Committee was held with a*

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*view to prepare the list under sub-regulation (1) of regulation 5 or up to 60 days from the date of approval of the Select List by the Commission under sub-regulation (1) or as the case may be finally approved under sub-regulation (2) whichever is later:*

*Provided also that where the select list is prepared for more than one year pursuant to the second proviso to sub-regulation (1) of regulation 5, the Select Lists shall remain in force till the 31<sup>st</sup> day of December of the year in which the meeting was held to prepare such lists or up to 60 days from the date of approval of the Select Lists by the Commission under this regulation, whichever is later.*

*Provided that where the State Government has forwarded the proposal to declare a provisionally included officer in the Select List as 'Unconditional' to the Commission during the period when the Select List was in force, the Commission shall decide the matter within a period of ninety days (amended as 45 days w.e.f. 13.10.2005) or before the date of meeting of the next Selection Committee, whichever is earlier and if the Commission declares the inclusion of the provisionally included officer in the Select List as unconditional and final, the appointment of the concerned officer shall be considered by the Central Government under regulation 9 and such appointment shall not be invalid merely for the reason that it was made after the Select List ceased to be in force."*

In view of the above, the State Government were intimated vide letter dated 09.12.2002 that as the Select Lists of 1998, 1999, 2000 & 2001 for promotion to the IAS of Assam-Meghalaya Joint Cadre were prepared by the Selection Committee at its meeting held on 09.04.2001 and approved by the Commission on 26.06.2001 the validity period of these Select Lists had lapsed on 31.12.2001. Since the proposal of the State Government to make the inclusion of Shri Pradip Kumar Das unconditional was made vide letter dated 8.10.2002 i.e. after the aforesaid Select Lists had already lapsed on 31.12.2001, the name of Shri Pradip Kumar Das could not be made unconditional as per the provisions of the Promotion Regulations. 

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5.3. It is further submitted that the Govt. of India determined vacancies for 2002 and 2003 as 08 and 'Nil' respectively. The State Government, vide letter dated 03.09.2003, furnished a proposal to convene a Selection Committee Meeting. Vide their letter dated 17.12.2003, the State Government informed that they were unable to certify the integrity of Sh. P.K. Das. The Selection Committee meeting which was held on 29.12.2003 considered the applicant, Shri Pradip Kumar Das at S.No.1 of the eligibility list and on an overall relative assessment of his service records, he was assessed as 'Very Good'. On the basis of this assessment, the applicant was included in the Select List of 2002 at S.No.1. However his inclusion therein was provisional subject to grant of Integrity Certificate by the State Govt. No Select List was prepared for 2003 as there was 'Nil' vacancy. The Select List of 2002 was approved by the Commission on 28.04.2004. No proposal was received from the State Govt. to make the name of Shri Pradip Kumar Das unconditional in the Select List of 2002 during the validity period of the Select List. As such, his name could not be made unconditional in the Select List of 2002.

5.4. It is further submitted that a Selection Committee meeting for preparation of the Select Lists of <sup>04</sup>2004 and <sup>02</sup>2005 was held on 23.12.2005 for promotion of SCS officers to the IAS of Assam-Meghalaya Joint Cadre(Assam segment) for vacancies 04 and 02 respectively. The applicant, Shri Pradip Kumar Das, was considered by the Selection Committee at S.No.1 and 0A of the eligibility list and on an overall relative assessment of his service records, he was assessed as 'Very Good' in both the years. On the basis of this assessment he had been included in the Select List of 2004 at S.No.1 and at S.No. 0A in the Select List of 2005 provisionally subject to grant of Integrity Certificate by the State Govt. These Select Lists have been approved by the Commission on 15.05.2006.

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5.5 As submitted above, the Commission can make the name of an officer included in the Select List unconditional only if a proposal in this connection is received from the State Govt. within the validity period of the said Select List. As the State Government did not furnish such proposals in this case during the validity period of the Select Lists as per the Promotion Regulations, the name of the applicant, Shri Pradip Kumar Das could not be made 'unconditional' by the Commission .

### **REPLY TO THE CONTENTIONS**

6.1 In reply to the contention made by the applicant in para 4(i) above, it is most respectfully submitted <sup>→</sup> that as per the information submitted by the State Government in their proposal, a charge sheet had already been issued to the applicant on the date of the Meeting of the Selection Committee i.e. 09.04.2001. The Selection Committee had provisionally included the name of the applicant in the Select Lists of 1998, 1999, 2000 & 2001 strictly in accordance with the provisions of Regulation 5(5) of the Promotion Regulations. The said Regulation is quoted below:-

*"5 (5) The List shall be prepared by including the required number of names first from amongst 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 inter-se within each category shall be in the order of their seniority in the State Civil Service.*

*Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government.*

*RSS*



*Provided further that while preparing year-wise select lists for more than one year pursuant to the 2<sup>nd</sup> proviso to sub-regulation (1), the officer included provisionally in any of the Select List so prepared, shall be considered for inclusion in the Select List of subsequent year in addition to the normal consideration zone and in case he is found fit for inclusion in the suitability list for that year on a provisional basis, such inclusion shall be in addition to the normal size of the Select List determined by the Central Government for such year."*

The Selection Committee takes into account the disciplinary proceedings pending as on the date of preparation of the Select Lists and not the disciplinary proceedings pending as on the first day of the year for which the Select List is prepared. As such this contention is baseless.

6.2 In reply to the contention at paras 4(ii) and (iii) above, it is most respectfully submitted that the State Government had withheld the integrity certificate in respect of the applicant at the time of the Selection Committee Meeting held on 29.12.2003 and as such the Committee made the applicant's inclusion in the Select List of 2002 provisional. The said action of the Selection Committee was strictly in accordance with the provisions of Regulation 5(5) quoted above. As such, this contention is also baseless.

6.3 In reply to the contention made by the applicant at Para 4(iv) above, it is respectfully submitted that the same comes under the purview of the State Government and their submissions may kindly be referred to in this regard.

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

RSSuh

db

8. That on the facts and circumstances stated above, the Hon'ble Tribunal may, therefore, be pleased to dismiss the Application in so far as this answering Respondent is concerned

*RSSm*  
DEPONENT

### 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 23<sup>rd</sup> day of June, 2006.

*RSSm*  
DEPONENT

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

20 JUL 2006  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

गुवाहाटी न्यायपीठ  
Guwahati Bench  
GUWAHATI BENCH

GUWAHATI

Filed by  
the Respondent No. 1  
through  
Usha Das Esq.  
Addl. C.S.C.  
20/7/06

ORIGINAL APPLICATION NO. 63/2006

SH. PRADIP KUMAR DAS

... APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS



REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1


MOST RESPECTFULLY SHOWETH:


I, Jagan Lal, S/o late Sh. Mange Ram, aged about 59 years, working as Under Secretary in the Department of Personnel and Training, Government of India, North Block, New Delhi, am conversant with the facts of the case and competent & authorised to file this reply affidavit on behalf of Respondent No. 1.

2. That I have read the copy of the O.A. filed by the applicant herein and have understood the contents therein. I hereby deny the contentions made therein, unless the same are expressly and specifically admitted by me herein.

3. That before replying to the contentions of the applicant in the O.A. the answering respondent craves leave of this Hon'ble Tribunal to make the following preliminary submissions.

4. That  the process for appointment of State Civil Service officers to the IAS under IAS (Appointment by Promotion) Regulations, 1955 is initiated by the State Government with determination of year-wise vacancies. Once the vacancies are determined, the State Govt. is required to make available the relevant service records of eligible State Civil Service officers who fall within the zone of consideration to the Union Public Service Commission. The Commission convenes a meeting of the Selection Committee. The role of Union of India in finalizing the selection is restricted to the functional requirement of nominating two Joint Secretary level officers as its representatives. After the Select List is approved by the Union Public Service Commission, only thereafter the appointments of those State Civil Service officers who are included unconditionally in the Select List are notified by Government of India. 

5.  That Parliament in accordance with Article 309 of the Constitution of India read with Article 312 of the Constitution of India has enacted the All India Services Act, 1951 for the purposes of regulating the recruitment and conditions of the service of persons belonging to the Indian Administrative Service and the Indian Police Service.

6.  Under the All India Services Act 1951, particularly section 3 of the said Act, the Central Government is empowered to make rules to regulate the recruitment and conditions of the service of persons appointed to the Indian Administrative Service. The relevant provisions of section 3 read as under :-

" 3(1) The Central Government may, after consultation with the Governments of the State concerned, (including the State of Jammu & Kashmir) (and by notification in the Official Gazette) make Rules for the Regulation of recruitment and conditions of service of persons appointed to an All-India Service....."

7. // In pursuance of section 3(1) of the All India Services Act, 1951 the Central Government has framed the following rules relevant for the purposes of the present OA :-

- a) The Indian Administrative Service (Recruitment) Rules, 1954 (hereinafter referred to in short as the Recruitment Rules)
- b) The Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (hereinafter referred to in short as Promotion Regulations).
- c) The Indian Administrative Service (Appointment by Selection) Regulations, 1997 (hereinafter referred to as Selection Regulations).

8. // A person is recruited to the Indian Administrative Service under Rule 4 of the Recruitment Rules by one of the three sources given hereinbelow :-

- a) through competitive examination (i.e. direct recruitment);
- b) by promotion of substantive member belonging to the State Civil Service; or
- c) by selection of officers who hold in a substantive capacity gazetted posts in connection with the affairs of the State and belong to the services other than State Civil Service.

9. That//the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training in the Government of India administers the provisions contained in the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 (hereinafter called the "Promotion Regulations") and is, therefore, concerned with the application in the matter of recruitment to the Civil Service from amongst State Civil Service officers and interpretation of any of the statutory provisions laid down in the said Regulations as the cadre controlling authority in respect of the Indian Administrative Service.

10. It is submitted that//the State Government and the Union Public Service Commission are primarily concerned with reference to case for

consideration of the applicant for promotion to the IAS. The suitable State Civil Service officers who are included in the Select List are eligible for appointment to the IAS as per provisions of the IAS (Appointment by Promotion) Regulations, 1955.

11. ~~In~~ In the process of preparation of the Select List by the UPSC, the ~~answering Respondent~~ <sup>Govt</sup>, as Cadre Controlling Authority in respect of the Indian Administrative Service, is concerned with determination of vacancies and nomination of two officers not below the rank of Joint Secretary as members of the Selection Committee and thereafter in making appointments of the officers included in the Select List to the IAS subject to and in accordance with the provisions contained in Regulation 9 of the Promotion Regulations.

12. That ~~the~~ process of preparation of the Select List for vacancies already determined begins with the list of names of State Civil Service Officers being forwarded by the State Government to the Commission for consideration by the Selection Committee. The Select List prepared by the Committee is forwarded by the State Government to the Commission alongwith its observations on the recommendations of the Committee. The observations of the Central Government are also forwarded to the Commission thereon and the final approval to the Select List is conveyed by the Commission to the Central Government. Thereafter, on receipt of Select List, appointments are considered by the Central Government from the Select List on receipt of unconditional willingness for appointment to the IAS from the officers included in the Select List, accompanied with a declaration of marital status and also consent for termination of lien in the State Civil Service in the event of substantive appointment to the IAS.

13. As regards the contention of the applicant that he should have been appointed to IAS and the charge-sheet was issued with malafide intention, it is submitted that the applicant was considered and included provisionally in the Select List for promotion to IAS. The State Govt. did

not make positive recommendations to the Union Public Service Commission to make the name of the applicant as unconditional during the validity period of the Select List, there was, therefore, no occasion for the replying respondent to appoint the applicant to the IAS cadre of Assam. It is submitted that the detailed reply filed by the State Govt. and the UPSC may be taken into consideration.

14. That in the light of the above position and particularly the fact that the name of the applicant was not made unconditional during the validity period of the Select List there was no occasion for the replying respondent to issue notification appointing the applicant to IAS cadre of Assam in accordance with the statutory provisions of the IAS (Appointment by Promotion) Regulations, 1955. The Hon'ble Tribunal may be pleased to dismiss the application which is devoid of merit and it is prayed accordingly.

*Jagan Lal*  
(JAGAN LAL)  
Under Secretary  
Deptt. of Personnel & Trg.  
Govt. of India  
**DEPONENT**

### VERIFICATION

I do hereby declare that the contents of the above Reply Affidavit 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.

FOR AND ON BEHALF OF RESPONDENT NO. 1

Place : New Delhi:

Dated : 29.06.2006

*Jagan Lal*  
(JAGAN LAL)  
Under Secretary  
Deptt. of Personnel & Trg.  
Govt. of India

**DEPONENT**

(Advocate)

Notice

Date - 20/7/06

From

Usha Das  
Addl chsc

To,

Mr. D. Das.  
Advocate

Sub: OA No. 63/2006 filed by  
Shri Pradip Kumar Das.

Sir,  
Please find herewith a copy  
of WS filed by the Respondent  
No. 1. Kindly acknowledge the  
receipt thereof.

Thanking You.

Received copy

Sincerely Yours  
Usha Das.  
Addl chsc.

Advocate

I undertake to secure  
a copy of WS filed  
by R. No. 1 as and  
when he will be  
available  
Usha Das.  
Addl chsc.



केन्द्रीय प्रशासनिक अपील  
Central Administrative Tribunal

13 NOV 1977

गुवाहाटी न्यायाधीश  
Guwahati Bench

23  
Filed by:-  
The State of Assam  
Respondent No. 3  
Narenk Chandra Misra  
Mangal Das  
Sr. GAT, 13/11/06

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

**In the matter of :**

**O.A.No.63/06**

**Shri Pradip Kr. Das**

**+ + - - Applicant**

**-Vs-**

**Union of India & Others**

**- - - - Respondent**

**-AND-**

**In the matter of :**

**Written Statement on behalf**

**of the Respondent No.3**

**(Secretary to the Govern-  
ment of Assam, Personnel**

**(A) Department.**

**[ Written Statement on behalf of the  
Respondent No.3 to the application filed  
by the applicant. ]**

**I, Shri N.C.Misra, S/o of Late Basu-  
dev Misra presently working as Joint  
Secretary to the Govt. of Assam, Personnel  
(A) Department, Dispur, Guwahati-6, do here-  
by solemnly affirm and state as follows :-**

**( Contd/P/2. )**

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Narend Chandra Mishra

1. That, I am the joint Secretary to the Govt. of Assam, Personnel (A) Department, Dispur, Guwahati-6. The copies of the aforesaid application has been served upon Respondent No.3. I have gone through the contents thereof. I have been authorised to file this written statement on behalf of Respondent No.3. I do not admit any of the averments except which are specifically admitted herein after and the same are deemed as denied.

2. That with regards to the statements made in paragraph 1 of the application the answering Respondent denies the statements of the applicant that the authorities have deprived him of his due promotion. Indeed [the State Govt. recommended the name of Shri P.K.Bas, ACS (i.e., the applicant) to the UPSC several times for considering his promotion to the IAS, Govt. of India, Ministry of Personnel, P.G. & Pensions (DOPT), the applicant was also included in the Selection List provisionally subject to clearance of departmental proceedings (granting of Integrity Certificate).

3. That with regards to the statements made in paragraphs 2, 3 & 4.1 of the application, the answering respondent has nothing to comment on it.

4. That with regards to the statements made in paragraph 4.2 of the application, ans-

( Contd. P/3. )

Nareesh Chandra Misra 95

-wering respondent denies the fact that the applicant has discharged his duties with his best ability and without any blemish to any quarter. Indeed a departmental proceeding was drawn up by the State Govt. against the applicant while he was working as M.D. Assam Tourism Development Corporation Ltd. Guwahati. Accordingly, the Govt. of Assam after proper enquiry close the said Departmental Proceeding with warning to the applicant to be more careful in future in the matter of following Govt. Rules/Regulation/Instructions and closed the said departmental proceedings and finally disposed of vide State Govt's Order No. AAP.36/97/Pt/502, Dated. 16-7-2002.

A copy of the Order Dated. 16-7-2002 is annexed herewith and marked as Annexure-"A".

5. That with regard to the statements made in paragraph 4.3 of application, it can be referred to the aforesaid paragraph 2 of the written statement.

6. That with regard to the statements made in paragraphs 4.4, 4.5, 4.6, 4.7 & 4.8 of the application, the humble deponent begs to state that a revised proposals for preparation of Select List of State Civil Service Officers against 2 post for the year, 1998, against 4 post of 1999, again 4 post of 2000 were forwarded to UPSC by State Govt. vide 3 letters Dated. 12-12-2000.

Further, proposal for preparation of Select List of Officers against 2 vacancies

96  
Narek Chandra Misra

for the year, 2001 was also forwarded to UPSC  
vide State Govt. letter Dated. 5-1-2001. In all  
the proposals, certificate showing Departmental  
Proceeding (Charge Sheeted) pending against  
the applicant were issued along with the afore-  
said proposals.

Accordingly the Govt. of India, Ministry  
of Personnel, P.G. & Pensions included the appli-  
cant in the Select List of 1998, 1999, 2000 and  
2001 provisionally subject to clearance in the  
Disciplinary proceeding pending against the  
applicant vide letter Dated. 27-6-2001.

Thereafter the UPSC communicated a  
letter Dated. 9-12-2002 of Govt. of Assam stat-  
ing that in accordance with regulation 7(4)  
of the IAS (appointment by promotion) regula-  
tion 1995, the Select List remains in force  
till the 31st December of the year in which  
the meeting of the Selection Committee held  
or upto 60 days from the date of approval of  
the Select List by the Commission whichever  
is later. The Select List of 1998, 1999, 2000  
and 2001 for promotion of Assam Segment to  
the IAS were prepared by the Selection Commi-  
ttee in each meeting held on 9-4-01 and  
approved by the Commission on 26-6-01. The  
validity period of these Select List there-  
for lapsed on 31-12-01 and accordingly the  
request of the State Govt. to declare appli-  
cants inclusion in the same Select List as  
unconditionally cannot be accepted.

Further, a proposal for filling up 6  
vacancies of ACS officers for the year, 2002  
was forwarded to UPSC vide State Govt. letter  
Dated. 1-9-03. In the said proposal it was

Narek Chandra Misra 29

mentioned that the Departmental Proceeding against the applicant has been concluded and he is exonerated from the charges framed against him.

However, Integrity Certificate was withheld due to the pending of the vigilance case against the applicant. Accordingly the Govt. of India, included the name of Shri P.K. Das in the Select List of 2002 provisionally subject to grant of Integrity Certificate.

Further, it is stated that the State Govt. submitted 2 proposals to the UPSC for preparation of the Select List of ACS for promotion to IAS for the year 2004 & 2005 vide letter Dated. 25-8-04 & 26-9-2005.

In both the proposals the name of the applicant was found against Serial No. 1. Shri Pradip Kumar Das has been included in the Select List of 2004 & 2005 provisionally subject to grant of Integrity Certificate by the State Govt. vide Govt. of India, Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel & Training) letter No. 14015/2003/2005, AIS(I)-A, Dtd. 13-6-2006, copy enclosed.

Copies of the proposals vide 3 letters Dated. 12-12-2000 proposal vide letter Dated. 5-1-2001, UPSC's letter Dtd. 9-12-2002, State's proposal Dated. 1-9-2003, letter Dated. 15-11-2003, proposal Dated. 25-8-2004 & 26-9-2005 are

( Contd. P/6. )

Annexed herewith an marked as Annexure-A,B,  
C,D,E,F,G,H and I.

7. That with regards to the Statements  
made in paragraph 4.9 of the application  
the humble answering respondent has nothing  
to comment on it.

8. That with regards to the statements  
made in paragraph 4.10, 4.11, 4.12 and  
4.13 the humble answering respondent reit-  
erates and re-affirms the statements made  
in paragraph 6 of the written statement.

9. That the grounds act forth in the  
application are not good ground and having  
no merit and is liable to be dismissed.

-::: 6 :::-

Narank choudhary  
98

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

I, Shri N. C. Misra, S/o Late Basudev Misra,  
presently working as Joint Secretary to the Govt. of Assam,  
Personnel (A) Department, Dispur, Guwahati-6, do hereby  
solemnly verify that the statements made in this written  
statement and paragraphs 1, 3, and 7 . . . . .  
. . . . . are true to my knowledge.  
Those made in paragraphs 2, 4, 5, 6 and 8 . . . . .  
are being matters of the case derived therefrom, which I  
believe to be true and the rest are humble submission  
before this Hon'ble Tribunal.

I have not suppressed any material facts of  
the case thereof.

And I signed this verification on  
this the 13<sup>th</sup> Nov 2006.

Narash Chandra Misra  
DEPONENT.

-8-

ANNEXURE - A

Annex - I

Confidential.

NO.AAP.36/97/Pt/502,  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL ( PERSONNEL : A )  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI : 781006.

Dated Dispur, the 16th July, 2002.

ORDERS BY THE GOVERNOR OF ASSAM.

Whereas, a departmental proceeding was drawn up vide show cause notice No.AAP.36/97/Pt/191 dated 16-2-2000 against Shri Pradip Kumar Das, ACS, the then Joint Secretary to the Govt.of Assam, Tourism Department for allegedly committing certain irregularities during his tenure as Managing Director, Assam Plains Tribes Development Corporation Ltd. Guwahati ; and

Whereas, in his written statement of defence submitted vide letter dated 4-7-2000 Shri Pradip Kumar Das, ACS the then Joint Secretary to the Govt.of Assam, Tourism Department denied the charges framed against him ; and

Whereas, after careful examination of the written statement of defence submitted by Shri Das and the materials on records it was decided to hold an enquiry into the charges against him and accordingly Shri Sumeet Jerath, IAS, the then Commissioner & Secretary to the Govt. of Assam , Power (Electricity) Department was appointed as Inquiring Authority to conduct the enquiry into the charges against Shri Das and submit enquiry report at the earliest vide order No.AAP.36/97/PT/319 dated 30-10-2000 ; and

Whereas, the Inquiring Authority vide his letter No.8/PCOM/ENQ/PKD/2KI dated 16-7-2001 submitted his enquiry report ; and

Whereas, on perusal of the enquiry report submitted by the Inquiring Authority it is found that only the charge No.4,7,9 and 12 out of all together 12 number of charges against Shri Das could be proved by the Inquiring Authority ; and

Whereas, after careful examination of the enquiry report submitted by the Inquiring Authority and the available records, the charge No.4,7,9 and 12 which were found to be proved by the Inquiring Authority are also not found conclusively proved against Shri P.K.Das, ACS and accordingly it is decided to close the departmental proceeding with a warning to the charged officer to be more careful in future in the matter of following Govt.Rules/Regulations/Instructions.

Contd.....P/2.



Accordingly, the Governor of Assam is pleased to warn Shri Pradip Kumar Das, ACS, presently Deputy Commissioner, Cachar, Silchar to be more careful in future in the matter of following Govt. Rules/Regulations/Instructions and close the departmental proceeding drawn up against Shri Pradip Kumar Das, ACS vide show cause notice No. AAP.36/97/PT/191 dated 16-2-2000 and thus the departmental proceeding is finally disposed of .

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

Sd/- J.P.Saikia,

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

Memo.No. AAP.36/97/Pt/502-A, Dated Dispur, the 16th July, 2002.

Copy to :-

1. Shri Pradip Kumar Das, ACS, Deputy Commissioner, Cachar, Silchar.
2. The Commissioner & Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati-6.
3. The Commissioner & Secretary to the Governor of Assam, Dispur, Guwahati-6.
4. P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
5. P.S. to Chief Secretary, Govt. of Assam, Dispur, Guwahati-6.
6. Shri Sumeet Jerath, IAS, Director, Govt. of India, Deptt. of Economic Affairs, Ministry of Finance, New Delhi.
7. Personal file of Shri P.K. Das, ACS.

By order etc.,

*J.P. Saikia*  
16/07/02  
Commissioner & Secretary to the Govt. of Assam,  
Personnel (A) Department.

Dr.  
16/7/2002

Certified to be true  
*MS*  
13/11/06

NO. AAI. 12/2000/204  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL (PERSONNEL : A)  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI : 781 006  
0000

Annex - II

ANNEXURE - B

Dated Dispur, the 12th December, 2000.

Smt. Molly Tiwari,  
Under Secretary (AIS),  
Union Public Service Commission,  
Dhampur House, Sahjahan Road,  
New Delhi - 110 011.

Sub : Determination of posts in the promotion quota of  
IAS Under Assam Segment of the Assam - Meghalaya  
Joint Cadre during the year 1998, 1999 and 2000.

Sir,  
Madam,

In inviting a reference to the Government of India's  
letter No. F. 14015/30/2000-AIS, dated 8-12-2000 fixing ceiling of  
posts in the promotion quota under the Govt. of Assam during the  
years 1998, 1999 and 2000 as 42, 45 and 47 respectively, I am  
directed to say that the Government of India vide their subse-  
quent letter No. F. 14015/30/2000-AIS(1) dated 8-12-2000 (copy encl-  
osed) has modified para 2(iii) of their letter dated 8-12-2000  
refixing the ceiling of posts for 2000 as 49 instead of 47 as  
earlier fixed vide letter dated 8-12-2000. It may be mentioned  
that as on 1-1-1998 the number of officers (SCS and Non-SCS)  
against the posts in the promotion quota under this State Govt.  
was 40. As the ceiling of posts in the promotion quota for 1998  
was fixed at 42, the select list for 98 is required to be pre-  
pared for 2 posts. Accordingly a revised proposal for preparation  
of select list of SCS Officers against 2 posts for year 98 is  
forwarded herewith for favour of on taking necessary action. The

- proposal includes the following :
- (1) A seniority list of 6 eligible officers in order of  
seniority taking 1-1-1998 as the crucial date for  
calculating the upper age of the officers.
  - (2) Statement showing the position of ACRs of the 6 eligible  
officers.
  - (3) Certificate regarding non-communication of adverse  
remarks.
  - (4) Certificate regarding communicated adverse remarks in  
ACR against which no representation has been received and  
the time for submission of representation is over.
  - (5) Certificate regarding submission of representation  
against adverse remarks in ACR but Govt. decision  
thereon is yet to be taken.
  - (5) Certificate regarding departmental proceedings.

Contd.....2

11 - 107  
List of SCS and Non-SCS officers now in position.

The integrity certificates have already been furnished to the Commission vide letter No.AAI.12/2000/111 dated 5-12-2000.

The C.R.Dessiers of 30(thirty) eligible officers were sent to Commission vide letter No.AAI.12/2000/70, dated 4-9-2000. Some more ACRs were also sent to the Commission vide letter No.AAI.12/2000/95, dated 16-11-2000 and letter No.AAI.12/2000/113, dated 6-12-2000. The ACRs already sent to the Commission also include the ACRs of the officers named in the enclosed proposal for preparation of the select list of 1998 against 2 posts.

It is clarified that in the interest of public service this State Government has decided not to appoint any Non-SCS Officer by selection against any of the 2 posts which are admissible for 1998. Therefore, the select list of SCS Officers for 1998 may kindly be prepared against 2 posts.

The proposals for preparation of select lists of SCS officer for the years 1999 and 2000 are being forwarded separately.

Yours faithfully,

( H.N. SARMA )

Under Secretary to the Govt. of Assam

MEMO NO.AAI.12/2000/204-A; Dated Dispur, the 12th December, 2000.

Copy to :-

1. The Secretary to the Govt. of India, Ministry of Personnel, P.O. & Pensions, Department of Personnel & Training, New - Delhi. A copy of the above proposal is enclosed.

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

By Order etc.

( H.N. SARMA )

Under Secretary to the Govt. of Assam

12 -  
PARTICULARS OF ELIGIBLE SCS OFFICERS UNDER ASSAM WING OF THE ASSAM-MEGBHALAYA JOINT CADRE IN ORDER OF THEIR SENIORITY FOR CONSIDERATION OF THE SELECTION COMMITTEE OF THE U.P.S.C. FOR PREPARATION OF FRESH SELECT LIST FOR APPOINTMENT TO AIS BY PROMOTION.

Sl. No.	Name of officers in order of seniority	Date of birth	Whether held substantive appointment in SCS as on 1.1.1998	Date of continuous officiation as Deputy Collector or its equivalent post	Date of continuous officiation in IAS post	Remarks
1	2	3	4	5	6	7
1.	Shri Gokul Ch.Sarma	1.3.1948	Substantive	1975	Nil	Penalty of stoppage of 3 increments with cumulative effect and stoppage of promotion for 3 years was inflicted vide order No. AAP. 143/87/300 dated 25.9.95 on conclusion of Departmental Proceedings instituted against him. Shri G.C.Sarma filed a writ petition registered under Civil Rule No.3516/96 in the Honourable Gauhati High Court against the Government above order. As the above Civil Rule is still pending, the original seniority of Shri G.C.Sarma has not been disturbed although his juniors (except Sl. 3, 19, 27, 28 & 29) been promoted to Senior Grade-I which is immediately higher than Senior Grade-II held by him (Shri G.C.Sarma).  Another Department proceedings has been instituted against him.
2.	Shri Abhay Kr.Verma	27.7.1953	Substantive	1977	Nil	

	2	3	4	5	6	7
Shri Harendra Nath Bhuyan		25.2.46	Substantive	1977	Nil	Prosecution sanction issued on the basis of vigilance enquiry and Departmental proceedings contemplated. Shri H.W. Bhuyan is now in Senior Grade-II. The decision of the Selection Board regarding his promotion to Senior Grade-I ( which is immediate higher than Senior Grade-II) is in sealed cover.
4. Shri Pradip Kumar Das		16.3.1953	Substantive	1977	Nil	Departmental proceedings (Charge-sheeted) is pending. His name was included in the 1996-97 Select list.
5. Shri Longki Phangcho (STH)		20.4.1952	Substantive	1977	Nil	-
6. Shri Joy Chandra Goswami		25.11.1951	Substantive	1977	Nil	-
Govt. of Assam						

ANNEXURE - 'C' - 14 - 106

By Speed Post.

NO.AAI.34/2000/21,  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL ( PERSONNEL : A )  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI : 781006.

Annex - VII

Dated Dispur, the 5th Jan./2001.

To : The Secretary,  
Union Public Service Commission,  
Dholpur House, Sahjahan Road, New Delhi-110011.  
( Kind attention : Smti.Molly Tewari,  
Under Secretary).

Sub : Proposal for preparation of select list of  
SCS officers for 2001 for promotion to IAS  
against 2 vacancies under Assam wing of the  
Assam-Meghalaya Joint Cadre.

Sir,

In inviting a reference to the Govt.of India,  
Department of Personnel & Training letter No.F.14015/30/ → 4/9C  
2000-AIS(I) etc. 19-12-2000 by which instructions were  
issued to the Union Public Service Commission for  
preparation of Select lists of SCS officers for promotion  
to IAS against 2 vacancies for 1998, 4 vacancies for  
1999 and 4 vacancies for 2000, I am directed to say that  
revised proposals for preparation of Select lists of  
SCS officers in accordance with the Govt.of India's  
instruction regarding admissibility of vacancies for the  
above three years have already been forwarded to the  
Union Public Service Commission.

In addition to the above 10 vacancies, two  
more vacancies have in the meantime occurred, because  
Shri Manoranjan Das, IAS (SCS : 89) <sup>has</sup> proceeded on  
voluntary retirement w.e.f. 1-12-2000 and Shri Matahir  
Ali Borbhuyan, IAS (SCS : 90) has retired on attaining  
the age of superannuation on 31-12-2000. As per the  
rules these two vacancies have to be considered by the  
Selection Committee of the U.P.S.C. for preparation  
of the Select list of 2001. In the interest of public  
service, this State Govt. propose to fill up these two  
vacancies of 2001 by promotion of SCS officers. Accordingly  
a proposal for preparation of Select list of SCS officers  
against 2 vacancies of 2001 is forwarded herewith.

Contd.....P/2.

The proposal includes the following :

1. A list of 16 eligible officers as on 1.1.2001 in order of seniority.
2. A statement showing the position of ACRs of the 16 eligible officers.
3. Certificate regarding non-communication of adverse remarks.
4. Certificate regarding communicated adverse remarks in ACR against which no representation has been received and the time for submission of representation is over.
5. Certificate regarding submission of representation against adverse remarks in ACR but Govt. decision thereon is yet to be taken.
6. A list of officers against whom Departmental proceedings (chargesheeted)
7. A list of IAS officers who are holding posts in the promotion quota.

The C.R. dossiers of the 16 officers named in the proposal are with the Union Public Service Commission. Integrity Certificate required for preparation of Select list of SCS officers for 2001 will be sent separately.

A convenient date preferably within 31-12-2001 may kindly be fixed for preparation of Select lists of SCS officers under this State Government against the admissible vacancies as shown in the respective proposals for the 4 years from 1998 to 2001.

Yours faithfully,




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

Memo No. AAI. 34/2000/21-A:: Dated Dispur, the 5th Jan/2001.  
Copy to :-

1. The Secretary to the Govt. of India, Department of Personnel & Training, New Delhi -110001  
(Kind attention : Shri R. Vaidyanathan,  
Under Secretary). A copy of the above proposal is enclosed.
2. The Chief Secretary to the Govt. of Meghalaya, Shillong.

By order etc.,



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

-16- 23

CULARS OF ELIGIBLE SCS OFFICERS UNDER ASSAM WING OF THE ASSAM-MEGHALAYA JOINT CADRE IN ORDER OF THEIR SENIORITY  
CONSIDERATION OF THE SELECTION COMMITTEE OF THE U.F.S.C. FOR PREPARATION OF FRESH SELECT LIST FOR APPOINTMENT  
AIS PROMOTION.

	Name of officers in Order of seniority	Date of birth	Whether held substantive appointment in SCS as on 1.1.2001	Date of continuous officiation as Deputy Collector or its equivalent post.	Date of continuous officiation in IAS post	Remarks.
1	2	3	4	5	6	7
1.	Shri Gokul Ch.Sarma	1.3.1948	Substantive	1975	Nil	<p>Penalty of stoppage of 3 increments with cumulative effect and stoppage of promotion for 3 years was inflicted vide order No. AAP. 143/87/300 dated 25.9.95 on conclusion of Departmental Proceedings instituted against him. Shri G.C.Sarma filed a writ petition registered under Civil Rule No. 3316/96 in the Honourable Guwahati High Court against the Government above order. As the above Civil Rule is still pending, the original seniority of Shri G.C.Sarma has not been disturbed although his juniors named at sls. 2-16 have been promoted to Senior Grade-I which is immediately higher than Senior Grade-II held by him (Shri G.C.Sarma).</p> <p>Another Departmental proceedings has been instituted against him.</p>
.	Shri Abhay Kr.Verma	27.7.1953	Substantive	1977	Nil	-

contd..

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17.

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	2	3	4	5	6	7
	Shri Pradip Kumar Das	16.3.1953	Substantive	1977	Nil	Departmental proceedings(charge sheeted) is pending.His name was included) in the 1996-97 Select list.
	Shri Longki Phangcho(STH)	20-4-1952	Substantive	1977	Nil	- -
	Shri Joy Chandra Goswami	25.11.1951	Substantive	1977	Nil	- -
	Md. Alauddin	31.12.1950	Substantive	1977	Nil	- -
	Shri Seikholien Thadou(STH)	25.9.1948	Substantive	1977	Nil	- -
	Shri Rabendra Kr.Das	5.2.1954	Substantive	1977	Nil	- -
	Shri Bhaba Gogoi	1.3.1949	Substantive	1977	Nil	- -
0.	Shri Naxa Kumar Chetia	1-4-1949	Substantive	1977	Nil	- -
1.	A. B. Md. Eunus	1-2-1953	Substantive	1977	Nil	- -
2.	Shri Bani Kanta Pegu(STP)	1.11.1947	Substantive	1977	Nil	- -
3.	Shri Balendra Basumatary ( STP )	1.8.1948	Substantive	1977	Nil	- -
4.	Shri Subhash Ch.Longmailai (STH)	23-2-1953	Substantive	1977	Nil	- -
5.	Shri Rafiquz Zaman	1.2.1951	Substantive	1980	Nil	- -
6.	Syed Iftikar Hussain	21-9-54	Substantive	1980	Nil	- -

Gram : UNISERCOM  
FAX : 011-3782049  
Email : [upsc@ysnl.net](mailto:upsc@ysnl.net)

File No.6/2(1)/2000-AIS  
**UNION PUBLIC SERVICE COMMISSION**  
(SANGH LOK SEVA AYOG)  
DHOLPUR HOUSE, SHAHJAHAN ROAD  
New Delhi - 110011

To

The Chief Secretary,  
Govt. of Assam,  
Personnel Department,  
Dispur.

[Attn : Ms. Parul Debi Das, Principal Secretary]

Subject : IAS - SCM for promotion of Assam Segment to the IAS  
of Assam-Meghalaya Joint Cadre during 1998 - making  
inclusion of Shri Pradip Kumar Das as unconditional -  
Regarding ....

\*\*\*\*\*

Sir,

I am directed to refer to your letter No.AAI.34/2000/167 dated 08.10.2002  
on the subject and to say as follows :-

2. In accordance with Regulation 7(4) of the IAS (Appointment by Promotion) Regulations, 1955, the Select List remains in force till the 31<sup>st</sup> December of the year in which the meeting of the Selection Committee is held or upto 60 days from the date of approval of the Select List by the Commission, whichever is later. In the instant case, the Select Lists of 1998, 1999, 2000 & 2001 for promotion of Assam Segment to the IAS of Assam-Meghalaya Joint Cadre were prepared by the Selection Committee in its meeting held on 09.04.2001 and approved by the Commission on 26.06.2001. The validity period of these Select Lists therefore lapsed on 31.12.2001.

3. In view of the above, the request of the State Govt. to declare Shri Das's inclusion in the said Select Lists as unconditional cannot be acceded to.

Yours faithfully,



(Molly Tiwari)  
Under Secretary (AIS)  
Union Public Service Commission  
Tel. 3382724

PMD  
23/12/2002  
6371  
24/12/02

- 18 - ANNEXURE - B'D'

168

Annexure XII

NO

the 09<sup>th</sup> December, 2002

Pr. Secy. Personnel

FORWARDED AS DIRECTED  
BY THE CHIEF SECRETARY  
FOR TRANSMISSION.  
S.O. TO C.S.

JS Per A  
17-12-02

2008  
18/12/02

ANNEXURE - E

Annex - XIII

By Speed post

-19-  
11

148  
NO. AAI.2/2002/139.

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

Dated Dispur, the 1st Sept./2003.

To : The Secretary, U.P.S.C.,  
Dholpur House, Sahjahan Road,  
New Delhi-110069.  
(Attention : Ms. Molly Tiwari, Under Secretary).

Sub : Proposal for preparation of Select List of SCS  
officers for promotion to IAS by Selection  
for 2002.

Ref : Your letter No. 11/39/2003-AIS dtd. 20-5-2003.

Sir,

With reference to the above, I am directed to say that the last meeting of the selection committee of the U.P.S.C. was held on 9-4-2001 when 4 select lists of SCS officers under this State Govt. for the following years were prepared for vacancies shown against each.

1998	-	2 vacancies
1999	-	4 "
2000	-	4 "
2001	-	2 "

Out of the above 12 vacancies 9(nine) have been filled up by promotion of select list officers. The inclusion of the following 2 officers in the respective select lists still continues to be provisional as the cases pending against them have not been finalised.

Name of officers

- 1) Shri Pradip Kumar Das
- 2) Ms. Nurul Haque.

However, it may be mentioned here that Departmental proceedings against Shri P.K. Das and Ms. Nurul Haque have been concluded recently and they are exonerated from the charges framed against them.

These 3 vacancies kept unfilled and in view of provisional inclusion, these 2 officers will again come in the zone of consideration of the selection committee for preparation of the select list for 2002.

Contd.....2

20 -  
(149) (150)  
112

In addition to the three vacancies as mentioned above, seven vacancies in the promotion quota of IAS have occurred during the period after 1-1-2001 due to retirement etc. of the following officers.

1. Shri N.C. Barooah, IAS (SCS:83) - Retired on 31-5-2001
2. Shri D.C. Barman, IAS (SCS:84) - Retired on 28-2-2001
3. Shri Patreswar Basumatary, IAS (SCS:89) - Retired on 31-3-2001
4. Late N.K. Chetia, IAS (SCS:89) - Expired on 21-7-2001
5. Shri N.G. Barooah, IAS (SCS:87) - Retired on assuming the charge of State Election Commission on 27-8-2001.
6. Late Jiban Ch. Pegu, IAS - Expired on 11-2-2002
7. Shri A.K. Verma, IAS - Expired on 26-9-2002.

As J.C. Pegu, IAS died in February, 2002 and A.K. Verma, IAS expired in Sept., 2002 these two resultant vacancies will have to be considered by the selection committee at the time of preparation of select list of 2003.

It may be mentioned that the seniority list of ACS officers published by Govt. on 2-7-2003 was challenged by a group of ACS officers of 1983 batch in the Hon'ble Gauhati High Court and the Court issued direction to the State Govt. not to act upon the said seniority list. However, the Gauhati High Court clarified that the pendency of the writ petition shall be no bar for promotion of the respondents in the misc. case No. 1400/2002 of WP(C) No. 4739/2002. The copy of the aforesaid Misc. case is enclosed.

There was another case No. CA No. 20/2003 in the Hon'ble Central Administrative Tribunal, Guwahati Bench which has since been disposed of (copy of the order dtd. 2-4-2003 in O.A. No. 20/2003 is enclosed).

It has been decided by this State Govt. to fill up 2(two) vacancies by appointment of non-SCS officer through separate proposal.

In view of the above position, a proposal for filling up 6(six) vacancies for SCS officers appointment by promotion to IAS is forwarded herewith. The proposal included the following :

Contd.....3.

1. A list of 24 eligible officers in order of seniority.  
2. A statement showing the position of ACRs of 24 eligible officers.

Certificate regarding non-communication of adverse remarks.

3. Certificate regarding communicated adverse remarks in ACRs against which no representation has been received and the time for submission of representation is over.  
5. Certificate regarding submission of representation against adverse remarks in ACRs but Govt. decision thereon is yet to be taken.  
6. Certificate regarding departmental proceedings.  
7. List of IPS(SCS) officers now in position.  
8. Integrity certificate will be submitted later on.

Yours faithfully,

JPD

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

Memo.No.AAI.2/2002/139-A, Dated Dispur, the 1st Sept./2003.  
Copy to :-

1. The Secretary to the Govt. of India, Ministry of Personnel,  
P.G. & Pension, Deptt. of Personnel & Training, New Delhi.  
2. The Chief Secretary to the Govt. of Meghalaya, Shillong.

By order etc.,

JPD

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

22

Particulars of eligible State Civil Service Officers under Assam wing of the Assam-Meghalaya Joint Cadre in order of their Seniority for consideration of the Selection Committee of the U.P.S.C. for preparation of Select list of SCS officers for appointment to IAS by promotion for the year 2002.

Sl. No.	Name of officers in order of seniority	Date of birth	Whether held substantive appointment in State civil service as on 1-1-2002	Date of continuous officiation as Deputy Collector or its equivalent post	Date of continuous officiation in IAS cadre post.	REMARKS
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Shri Praadip Kumar Das	16-1-53	Substantive	1977	Nil	Departmental Proceeding dropped and exonerated from the charges framed against him.
2.	Ms. Nurul Haque	28-2-46	Substantive	1977	Nil	
3.	Shri A.B.Me.Eunus	1-2-53	Substantive	1977	Nil	Departmental Proceeding dropped and exonerated from the charges framed against him.
4.	Shri Balendra Basumatary (STP)	1-4-48	Substantive	1977	Nil	
5.	Shri Subhash Ch. Longmailai (JTH).	23-2-53	Substantive	1977	Nil	
6.	Shri Rafiquz Zaman	1-2-51	Substantive	1980	Nil	
7.	Syed Iftikhar Hussain	21-9-54	Substantive	1980	Nil	
8.	Shri Karuna Kanta Kalita	1-1-50	Substantive	1980	Nil	

Contd.....2

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	(3)	(4)	(5)	(6)	(7)
9. Shabbir Hussain	1-1-55	Substantive	1980		
10. Shri Apurba Kumar Phukan	1-4-52	Substantive	1980	Nil	
11. Shri Swapnanil Barua	21-7-56	Substantive	1980	Nil	
12. Smti. Sonmai Baruah	1-4-52	Substantive	1980	Nil	
13. Shri Santanu Thakur	4-11-55	Substantive	1980	Nil	
14. Shri Ganesh Ch. Kalita	3-11-55	Substantive	1980	Nil	
15. Shri Bhupendra Nath Das (SC)	1-11-48	Substantive	1980	Nil	
16. Shri Sailendra Kumar Nath	1-1-54	Substantive	1980	Nil	
17. Shri Nawab Mohammad Hussain.	1-1-54	Substantive	1980	Nil	
18. Shri Harendra Nath Bora	19-9-54	Substantive	1980	Nil	

24- ANNEXURE - F

Annex - XIV

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CONFIDENTIAL

GOVERNMENT OF ASSAM  
POLITICAL ::: (A) ::: DEPARTMENT  
( VIGILANCE CELL )  
£££

NO.PLA(V)6/99/Pt.II/78 : Dated Dispur, the 15th Nov/03.

From : Shri K.R. Deb,  
Deputy Secretary to the Govt. of Assam,  
Political (Vigilance Cell) Department.

✓ To : The Deputy Secretary to the Govt. of Assam,  
Personnel (A) Department,  
Dispur.

Sub : Vigilance Report.

Ref : Your letter NO.AAI.2/2002/151, dated 9.9.03.

Sir,

In inviting a reference to your letter quoted above, I am directed to say that there is no vigilance case/enquiry pending against the following ACS officers in this Department at present :

- |1| Shri A.B. Md. Eunus, ACS.
- |2| Shri Balendra Basumatary, ACS.
- |3| Dr. Rafique Zaman, ACS.
- |4| Syed Iftikhar Hussain, ACS.
- |5| Shri Karuna Kt. Kalita, ACS.
- |6| Shri Apurba Kr. Phukan, ACS.
- |7| Shri Swapnanil Baruah, ACS.
- |8| Smti. Sonmai Barua, ACS.
- |9| Shri Santanu Thakur, ACS.
- |10| Shri Ganesh Kalita, ACS.
- |11| Shri Bhupendra Nath Das, ACS.
- |12| Shri Nawab Mahmood Hussain, ACS.
- |13| Shri Harendra Nath Bora, ACS.
- |14| Shri Bhupendra Nath Mahanta, ACS.
- |15| Smti. Marmie Hagjer Barman, ACS.
- |16| Smti. Sumitra Das, ACS.
- |17| Shri Rajib Losan Duara, ACS.
- |18| Shri Chitta Ranjan Kalita, ACS.

Contd....2.



-25-

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( -2- )

In respect of the following officers  
vigilance/other enquiries/cases are pending against  
them at present :

- |1| Shri Pradip Kr. Das, ACS  
(SVC Case).
- |2| Md. Nurul Haque, ACS,  
(Vigilance & Anti-Corruption enquiry).
- |3| Shri Subhash Ch. Longmailai, ACS,  
(Vigilance & Anti-Corruption).
- |4| Shri Sabbir Hussain, ACS,  
(Vigilance & Anti-Corruption).
- |5| Shri Sailendra Kr. Nath, ACS,  
(Who has been placed under suspension by  
Personnel (A) Department recently, However,  
no ACB or SVC enquiry is pending or  
contemplated against him).
- |6| Md. Jiauddin Ahmed, ACS,  
(CBI case, involved in LOC Scam of  
Veterinary Department).

Yours faithfully,

13.11.23

Deputy Secretary to the Govt. of Assam,  
Political (Vigilance Cell) Department.  
...

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ANNEXURE - 'G' Annex XVI

26-115  
IX SPEED POST

NO.AAI.8/2004/30  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL (PERSONNEL - A)  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI-6.

Dated : Dispur, the 25th August, 2004.

To,

The Secretary,  
Union Public Service Commission,  
Dholpur House, Sahjahan Road,  
New Delhi-110069.  
(Attention Ms. Molly Tiwari, Under Secretary.)

Sub. : Proposal for preparation of Select List of SCS  
Officers for promotion to IAS by Selection for  
2004.

Ref. : Your letter D.O.No.4/3/2004-AIS, Dated.10-3-2004.

Sir,

With reference to the above, I am directed to say that the last meeting of the Selection Committee of the UPSC held on 29-12-2003 nominated 8(eight) SCS Officers towards filling up as many vacancies relating to the year 2002 by promotion and 2(two) Non-SCS Officers for filling up 2(two) vacancies relating to the year 2003 by selection in the Indian Administrative Service.

Out of eight vacancies meant for SCS Officers as referred to above, 5(five) have since been filled up. The inclusion of the following 3 in the relevant Select List continue to be provisional as concerned cases against them have not been finalised.

Name of Officers

1. Shri Pradip Kumar Das.
2. Shri Gokul Chandra Sarma.
3. Shri Nurul Haque (Since Retired on 29-2-2004.)

Shri Nurul Haque who figures in the Select List provisionally was not promoted to the IAS since the officer retired on 29-2-2004 before finalisation of the Select List.

In addition to these vacancies mentioned above, one vacancy in the promotion quota of IAS has occurred as on 1-1-2004 due to expiry of Shri T.R.Dey, IAS (SCS-86) on 19-7-2003.

It may be mentioned that the seniority list of ACS Officers published by Govt. on 2-7-2003 was challenged by a group of ACS Officers of 1983 batch in the Hon'ble Gauhati High Court & the Court issued direction to the State Govt. not to act upon the said Seniority List. However, the Court clarified that the pendency of the Writ Petition shall be no bar for promotion of the respondent in the Misc. Case No.1400/2002 of WP(C) NO.4/39/2002. copy of which was sent to the State Govt. on 10-11-2003.

27 - 31 119

- : 2 : -

State Government letter No. AAI.2/2002/148, dated.1-9-2003  
(A photocopy is also enclosed herewith).

Shri Gokul Chandra Sarma, though attained the age of 54 years is included in the proposal as provided vide Sub-Rule 5(3) of the Indian Administrative Service (Appointment by promotion) Regulation, 1955.

This State Government has not received determination of vacancies from the Government of India, Department of Personnel & Training which was requested vide State Government's letter No. AAI.8/2004/26, dated.5th July, 2004 (Copy enclosed). At present there are 4 (four) vacancies including the vacancies kept apart against 2(two) provisionally selected Officers and 1(one) vacancy caused by the retirement of Shri Nurul Haque, before finalisation of the Select List. A Statement showing name of eligible 12(twelve) ACS Officers indicating date of birth, holding of Sub-Stantive Post, Officiating as Deputy Collector of its equivalent Post, Officiating in IAS Cadre, disciplinary proceeding, if any and a Statement of ACR is enclosed with the proposal.

Other documents required by the Union Public Service Commission are being sent.

Yours faithfully,

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

Memo No. AAI.8/2004/30-A, Dated : Dispur, the 25th August, 2004

BY SPEED POST

Copy to :-

1. The Joint Secretary to the Government of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, New Delhi with reference to this State Government letter AAI.8/2004/26, dated.5-7-2004. They are requested to kindly give clearance of determination of vacancies.

By Order Etc..

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

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Particulars of eligible State Civil Service Officers under Assam Wing of the Assam Meghalaya Joint Cadre in ORDER of their Seniority for consideration of the Selection Committee of the UPSC for preparation of Select List of ACS Officers for appointment to IAS by promotion for the year, 2004.

S1. No.	Name of Officers in order of Seniority.	Date of birth.	Whether hold Sub-Stantive appointment in State Civil Service as on 1-1-2003.	Date of continuous officiation as Deputy Collector of its equivalent Post.	Date of continuous officiations in IAS Cadre Post.	Remarks.
1.	2.	3.	4.	5.	6.	7.
1.	Shri Pradip Kumar Das.	16-03-53	Substantive	1977	NIL	
2.	Shri Gokul Chandra Sarma.	01-03-48	Substantive	1975	NIL	
3.	Md. Sabbir Hussain.	01-01-55	Substantive	1980	NIL	D.P. pending
4.	Shri Apurba Kumar Phukan	01-04-52	Substantive	1980	NIL	
5.	Shri Swapnanil Barua.	27-07-56	Substantive	1980	NIL	
6.	Smti Sonmai Barua.	01-01-52	Substantive	1980	NIL	
7.	Shri Santanu Thakur.	04-11-55	Substantive	1980	NIL	
8.	Shri Ganesh Chandra Kalita.	03-11-55	Substantive	1980	NIL	
9.	Shri Sailendra Kumar Nath.	01-01-54	Substantive	1980	NIL	
10.	Shri Nabab Mahmeed Hussain.	01-01-54	Substantive	1980	NIL	U/S. D.P. pending
11.	Shri Harendra Nath Bora.	19-09-54	Substantive	1980	NIL	
12.	Smti Marmie Hagjer Barman.	13-10-54	Substantive	1980	NIL	

1. Shri Pradip Kumar Das.

MOST IMMEDIATE  
BY SPEED POST.29  
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NO.AAI.8/2004/114  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL (PERSONNEL :: A)  
ASSAM SECRETARIAT (CIVIL) DISPUR  
GUWAHATI-6.

!!!!

Dated : Dispur, the 23rd September, 2005.

26/11

To,

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi 110069.

Sub. : Preparation of Select List for appointment to  
IAS by Promotion during the year, 2005.

Ref. : State Govt. letter Faxed No.AAI.8/2004/Pt/28,  
Dated.1-8-2005.

Sir,

In continuation to the State Govt. letter cited above, I am directed to say that the last meeting of the Selection Committee of the UPSC held on 29-12-2003 nominated 8(eight) SCS Officers towards filling up as many as vacancies relating to the year, 2002 by promotion and 2(two) Non-SCS Officers for filling up 2(two) vacancies relating to the year, 2003 by Selection in the Indian Administrative Service.

2. Out of eight vacancies meant for SCS Officers as referred to above, 5(five) have since been filled up. The inclusion of S/Shri Pradip Kumar Das, Gekul Chandra Sarma in the Select List continued to be provisional as the Select List of 2004 is yet to be finalised. Shri Nurul Haque though included in the Select List of 2002 could not be appointed to IAS as the Officer retired from Service on 29-2-2004 before finalisation of said Select List. Accordingly, this State Govt. submitted proposal to the UPSC for preparation of Select List for filling up 4 (four) vacancies from amongst the SCS Officers during the year, 2004 vide State Govt.'s letter under reference. However, a copy of letter No.AAI.8/2004/Pt/28, Dated.1-8-2005 alongwith relevant information/document as required by the Commission vide letter F. No.4/16/2005-AIS, Dated.12-5-2005 is enclosed.

3. In addition to four vacancies during the year, 2004, already determined by the Govt. of India vide letter No.14015/3/2004-AIS(I)(Pt) Dated.9-9-2004, two vacancies in the promotion quota of IAS occurred as on 2005 as stated below :-

- a. Shri Ashutosh Sengupta, IAS(SCS-1988)-Retd. on 31-5-04
- b. Late A.K.Daulagupu, IAS(SCS-1990)-Expired on 12-2-2004.

State Govt. has decided to fill up above two vacancies for the year, 2005 in the promotion quota of IAS by promotion.

(Contd. P/2)

ting SCS Officers only. Said decision was communicated to the Govt. of India, Ministry of Personnel & Public, Grievances and Pensions, Department of Personnel & Training, New Delhi with the request to accord necessary clearance as regards determination of vacancies for preparation of Select List of SCS Officers against the said two vacancies for the year, 2005 vide State Govt's letter No. AAI.8/2004/106, Dated, 16-8-2005. The Govt. of India vide No. 14015/03/2005-AIS(I) Dated, 18th Aug., 2005 have determined these two vacancies to be filled up from among the members of the State Civil Service.

It may be stated that the names of the following officers are not included in the Eligibility List for 2005 due to age bar though they are senior in the Gradation List.

<u>Name</u>	<u>Date of birth</u>	<u>Age as on 1.1.05</u>
i. Shri Jatin Gogoi, ACS	01-01-1949	56 years
ii. Shri Mrigendra Kalita, ACS.	01-09-1950	55 years
iii. Shri Dipak Kr. Goswami, ACS.	01-12-1950	55 years

4. It may, however, be stated that Shri Gekul Ch. Sarma, ACS, though attained the age of 54 years, has figured in the Eligibility List of 2004 & 2005 due to his Selection provisionally in the Select List of 2002, as per provision of Rule 5(3) of the IAS (Appointment by promotion) Regulation, 1955.

5. A group of ACS Officers of 1983 batch challenged the Gradation List of ACS published by the State Govt. on 2-7-2002 in the Hon'ble Gauhati High Court. The Court in the WP(C) No. 4739/2002 issued direction to the State Govt. not to act upon the said Gradation List. However, the Hon'ble High Court vide Misc. Case No. 1400/2002 clarified that the pendency of the writ petition should be no bar for promotion of the applicant of the Misc. Case who was termed as Respondent by the Hon'ble Court. Copies of the Hon'ble Gauhati High Court enclosed. The applicants of the Misc. No. 1400/2002 are of 1975.77 and 1980 batch senior to 1983 batch of ACS Officers.

6. In view of above, the UPSC is requested kindly to hold Selection Committee Meeting for preparation of Select List for appointment to IAS by promotion for the year, 2004 & 2005.

Necessary document as desired by the Commission vide their letter Dated, 12-5-2005, are enclosed.

17 numbers of Dossiers are sent herewith, Dossier in respect of Shri Jiauddin Ahmed, ACS is not readily available.

Encl :- As stated.

Yours faithfully,

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

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(Contd. P/2)

PARTICULARS OF STATE CIVIL SERVICE OFFICERS WHO ARE ELIGIBLE FOR CONSIDERATION TO THE IAS IN THIS ORDER OF SENIORITY AS ON 1-1-2005

Sl. No.	Name of officer in order of Seniority.	Whether Sc/ST OBC.	Date of birth	Date of appointment in State Civil Service.	Date of confirmation in the State Civil Service.	Date of continuous officiation in the post of Dy. Collector or Equiv.	Remarks.
1.	2.	3.	4.	5.	6.	7.	8.
1.	Shri Pradip Kr.Das.	( G )	16-03-53	1977	26-07-83	1977	
2.	Shri Gekul Ch.Sarma.	( G )	01-03-48	13-11-75	30-09-85	1975	
3.	Shri Sahair Hussain	( G )	01-01-55	1980	23-01-84	1980	
4.	Shri Apurba Kr.Phukan.	(OBC)	01-04-52	1980	23-01-84	1980	
5.	Shri Swapnanil Barua.	( G. )	21-07-56	08-03-80	08-03-82	1980	
6.	Smti Sonmai Barua.	( G )	01-01-52	06-02-78	03-09-82	1980	
7.	Shri Santanu Thakur.	( G )	04-11-55	24-03-80	23-01-84	1980	
8.	Shri Ganesh Ch.Kalita.	( G )	03-11-55	20-03-80	03-09-82	1980	
9.	Shri Sailendra Kr.Nath.	(OBC)	01-01-54	1980	01-03-82	1980	
10.	Nabab Mahmood Hussain.	( G )	01-01-54	Marcy, 1980	12-02-84	1980	
11.	Shri Harendra Nath Bora.	( G )	19-09-54	20-03-80	12-11-83	1980	
12.	Smti Marmie Hager Barman.	(STH)	13-10-54	09-05-83	28-11-87	1980	
13.	Smti Sumitra Das	( G )	01-01-53	21-03-80	02-02-85	1980	
14.	Shri Rajeeb Lesan Duarah	( G )	01-10-53	March/1980	30-09-85	1980	
15.	Shri Chitta Ranjan Kalita.	( G )	30-06-52	March/1980	01-12-83	1980	
16.	Shri Jiauddin Ahmed.	( G )	21-01-53	1980	03-09-82	1980	
17.	Shri Pranab Ch.Gohain.	(OBC)	09-01-53	1980	10-11-83	1980	
18.	Shri Kamalason Goswami	( G )	09-11-52	1980	12-09-82	1980	

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION 2)

No. 14015/06/2003-AIS(I)-A

Government of India

Ministry of Personnel, Public Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, May, 2004.

NOTIFICATION

25 MAY 2004

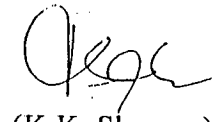
In terms of the provisions contained in Sub-regulation (3) of Regulation 7 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the Union Public Service Commission has approved the Select List of 2002 for the Assam segment of the joint Assam-Meghalaya Cadre, containing the names of the following State Civil Service officers of the State of Assam, prepared by the Selection Committee in its meeting held on 29<sup>th</sup> December, 2003, towards filling up 8 (eight) vacancies during 2002 in the Indian Administrative Service :-

SELECT LIST 2002

<u>Sl. No.</u>	<u>Name of the Officer (S/Sh.)</u>	<u>Date of Birth</u>
\$1.	Pradip Kumar Das	16.03.1953
\$2.	Md. Nurul Haque	28.02.1946
3.	A.B. Md. Eunus	01.02.1953
4.	Balendra Basumatary (STP)	01.04.1948
5.	Subhash Ch. Longmailei (STH)	23.02.1953
#6.	Gokul Ch. Sarma	01.03.1948
7.	Rafique Zaman	01.02.1951
8.	Syed Iflikhar Hussain	21.09.1954

\$ The names at S. No. 1 and 2 have been included in the Select List provisionally subject to grant of Integrity Certificate by the State Government. The officer at S. No. 2 cannot be appointed as he has retired on 29<sup>th</sup> February, 2004.

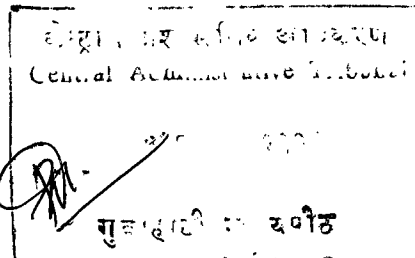
# The name at S. No. 6 has been included in the Select List provisionally subject to grant of Integrity Certificate by the State Government and his clearance in the disciplinary proceedings pending against him.

(K.K. Sharma)  
Desk Officer

To

The Manager  
Government of India Press  
FARIDABAD  
(HARYANA).





**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, AT GUWAHATI**

**IN THE MATTER OF :-**

**Original Application No. 63/2006**

Sri Pradip Kumar Das

**--- Applicant**

- Versus -

Union of India & Ors

**--- Respondents**

- AND -

**IN THE MATTER OF :-**

An Affidavit-in-Reply filed on behalf  
of the Applicant in the aforesaid  
Original Application.

**AFFIDAVIT - IN - REPLY**

I, Shri Pradip Kumar Das, son of Late Dwijendra Kumar Das, aged about 52 years, resident of Ananda Nagar, Guwahati - 781006 within the district of Kamrup, Assam do hereby solemnly affirm and state as follows -

1. That a copy of the Written Statement so filed on behalf of the Respondent No.1 has been duly served upon the Applicant through his Counsel. The Applicant has gone through the same

Contd....

Received copy  
Alsha Das  
Addl. Secy  
14/12/06

12/12/06  
Filed by Applicant  
Pradip Kumar Das  
Guwahati 14.12.06

and understood the contents thereof. Save and except the statements which have been specifically admitted herein below, all other averments /statements made in the Written Statement shall be deemed to have been denied by the Deponent/Applicant.

2. That with regard to the statements made in paragraphs 1 and 2 of the Written Statement, the Deponent/Applicant have no comments to offer.

3. That with regard to the statements made in paragraphs 3 to 12 of the Written Statement, being matter of records, your humble Deponent/Applicant begs to offer no comments but categorically denies anything that may be detrimental to the Deponent/Applicants interests as mentioned in the Original Application.

4. That with regard to the statements made in paragraph 13 of the Written Statement, your humble answering Deponent/Applicant begs to state that the said Charge Sheet was issued only on 16.02.2000 and as such the Deponent/Applicant was eligible to be promoted. The repeated inclusion of the Deponent/Applicant's name in the Select List for promotion to the IAS Cadre had created hopes for the same which has been made futile over and over again only for the inaction of the concerned Respondents and thus prejudicially affecting the Deponent/ Applicant.

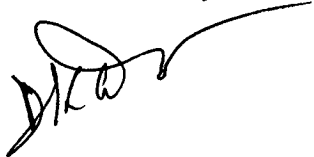
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5. That with regard to the statements made in paragraph 14 of the Written Statement, they are categorically denied by the Deponent/Applicant. The Deponent/Applicant humbly states that the grounds put forth in the Original Application are good and tenable grounds for this Hon'ble Tribunal to intervene and accordingly grant appropriate relief as has been stated in the Original Application.

6. That the statements made in paragraphs 1 to 4 are true to my knowledge and the rests are my humble submission before this Hon'ble Tribunal.

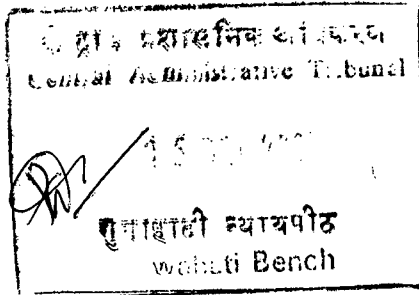
And I sign this Affidavit on this the 14<sup>th</sup> day of December, 2006 at Guwahati.

Identified by me ;



Advocate.

Pradip Kumar Das  
DEPONENT



128  
Filed by Applicant  
Thang R. D. K. DAS  
Advocate 14.12.06

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, AT GUWAHATI**

**IN THE MATTER OF :-**

**Original Application No. 63/2006**

Sri Pradip Kumar Das

**--- Applicant**

**- Versus -**

Union of India & Ors

**--- Respondents**

**- AND -**

**IN THE MATTER OF :-**

An Affidavit-in-Reply filed on behalf  
of the Applicant in the aforesaid  
Original Application.

**AFFIDAVIT - IN - REPLY**

I, Shri Pradip Kumar Das, son of Late Dwijendra Kumar Das, aged about 52 years, resident of Ananda Nagar, Guwahati - 781006 within the district of Kamrup, Assam do hereby solemnly affirm and state as follows -

1. That a copy of the Written Statement so filed on behalf of the Respondent No.2 has been duly served upon the Applicant through his Counsel. The Applicant has gone through the same and understood the contents thereof. Save and except the statements which have been specifically admitted herein below,

Contd....

Received copy  
Alsha Das  
Advocate  
14/12/06

all other averments /statements made in the Written Statement shall be deemed to have been denied by the Deponent/Applicant.

2. That with regard to the statements made in paragraphs 2.1 and 2.2 of the Written Statement, the Deponent/Applicant have no comments to offer.

3. That with regard to the statements made in paragraphs 2.3, 3, 3.1, 3.2, 3.3, 3.4 and 3.5 of the Written Statement, being matter of records the Deponent/Applicant begs to offer no comments.

4. That with regard to the statements made in paragraph 4 of the Written Statement being the contentions of the instant Original Application, the Deponent/ Application reiterates and reaffirms them.

5. That with regard to the statements made in paragraphs 5.1, 5.2, 5.3, 5.4 and 5.5 of the Written Statement being matter of facts the Deponent/Applicant beg to offer no comments but reiterates and reaffirms the contentions made in the Original Application.

6. That with regard to the statements made in paragraphs 6.1, 6.2 and 6.3 of the instant Written Statement, your humble answering Deponent/Applicant beg to point out the prejudice caused by repeatedly including the Deponent/Applicant's name in the Selection List only to be denied the promotion to the IAS cadre and as such reiterates and reaffirms the statements made in the Original Application.

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7. That the statements made in paragraph 7 of the Written Statement are denied by the Deponent/Applicant and the contention of the Original Application are reiterated and reaffirmed.

8. That the statements made in paragraph 8 of the Written Statement are categorically denied by the Deponent/Applicant. The Deponent/Applicant humbly states that the grounds put forth in the Original Application are good and tenable grounds for this Hon'ble Tribunal to intervene and accordingly grant appropriate relief as has been stated in the Original Application.

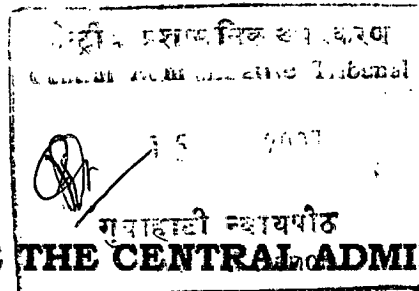
9. That the statements made in paragraphs 1 to 7 are true to my knowledge and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this Affidavit on this the 14<sup>th</sup> day of September, 2006 at Guwahati.

Identified by me ;

  
Advocate

  
DEPONENT



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, AT GUWAHATI**

**IN THE MATTER OF :-**

**Original Application No. 63/2006**

Sri Pradip Kumar Das

**--- Applicant**

**- Versus -**

Union of India & Ors

**--- Respondents**

**- AND -**

**IN THE MATTER OF :-**

An Affidavit-in-Reply filed on behalf  
of the Applicant in the aforesaid  
Original Application.

**AFFIDAVIT - IN - REPLY**

I, Shri Pradip Kumar Das, aged about 52 years, son of  
Late Dwijendra Kumar Das, resident of Ananda Nagar, Guwahati  
- 781006 within the district of Kamrup, Assam do hereby  
solemnly affirm and state as follows -

1. That a copy of the Written Statement so filed on behalf  
of the Respondent No.3 has been duly served upon the Applicant  
through his Counsel. The Applicant has gone through the same  
and understood the contents thereof. Save and except the  
statements which have been specifically admitted herein below,  
all other averments /statements made in the Written Statement  
shall be deemed to have been denied by the Deponent/Applicant.

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Copy Recd  
on 12.06.07.

Shri Pradip Kumar Das

2. That with regard to the statements made in paragraph 1 of the Written Statement, the Deponent/Applicant have no comments to offer.

3. That with regard to the statements made in paragraph 2 of the Written Statement, the Deponent/Applicant denies the same and reiterates and reaffirms the statements made in paragraph 1 of the Original Application.

4. That with regard to the statements made in paragraph 3 of the Written Statement, the Deponent/Applicant begs to offer no comments.

5. That with regard to the statements made in paragraph 4 of the Written Statement, the answering Deponent/Applicant begs to point out that the said departmental proceedings had been dropped after the Deponent/Applicant had been admonished and warned to be more careful in future regarding Govt. Rules/ Regulations/Instructions which itself goes to show that the proceedings were not that of a severe type in nature and as such is not commensurate with the loss and prejudice caused as the Deponent/Applicant had to forego promotion to the I.A.S. Cadre several times.

6. That with regard to the statements made in paragraph 5 of the Written Statement, the Deponent/Applicant once again reiterates and reaffirms the statements made in paragraph 4.3 of the Original Application as well as paragraph 3 of the instant affidavit.

7. That with regard to the statements made in paragraph 6 of the Written Statement, the Deponent/Applicant reiterates

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and reaffirms the statements made in paragraphs 4.4, 4.5, 4.6, 4.7 and 4.8 of the Original Application.

8. That with regard to the statements made in paragraph 7 of the Written Statement, the Deponent/Applicant has no comments to offer.

9. That with regard to the statements made in paragraph 8 of the Written Statement, the Deponent/Applicant reiterates and reaffirms the statements made in paragraphs 4.10, 4.11, 4.12 and 4.13 of the Original Application as well as paragraph 5 of the instant affidavit.

10. That the statements made in paragraph 9 of the Written Statement are categorically denied by the Deponent/Applicant. The Applicant humbly states that the grounds put forth in the Original Application are good and tenable grounds for this Hon'ble Tribunal to intervene and grant appropriate relief to the Applicant as has been stated in the Original Application.

11. That, the statements made in paragraphs 1 to 10 are true to my knowledge and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this Affidavit on this the 14<sup>th</sup> day of November, 2006 at Guwahati.

*Pradip Kumar Das*

Identified by me ;

DEPONENT

*[Signature]*

Advocate