FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No 96 /2006
2. Misc Petition No. /
3- Contempt Petition No. /
4. Review Application No. /

Applicant(S) Shri Chita Ranjan Deb

Respondants UOI & ors.

Advocate for the Applicant(S) Mr. M. Chanda, G.N. Chakrabarty, S. Nath and S. Choudhury.

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

Notes of the Registry	Date	Order of the Tribuna
This application is in form is filed/C.P. for Rs. 50/- deposited vide IPO/BD No. 26G 322948 Dated 27.4.06 Dy. Registrar 28.4.06	17.5.2006	Present: The Hon'ble Shri K.V.Sac Vice-Chairman. The applicant, who is the Postal Department, was p Deputy Postmaster (HSG-I) in 1992 and was further promot cadre of PSD Group B Subsequently, the depar disputed the eligibility applicant for promotion to Deputy Postmaster (HSG-I) o that he was holding the o basis. Consequently vide 30.8.2002 respondents red from Rs.2600/- to Rs.243 all his terminal benefits dated 15.1.2003 ordered Rs.96,792/- as overpay account of wrong fixation the date of his Superintendent of Post O 4.1.1993 till 1.1.2002.

Contd

17.5.2006 Mr.M.Chanda, learned counsel for the applicant submits that the concept of wrong fixation is not correct and even his junior has been promoted and got the benefit. Further, he submits that against the aforesaid orders applicant had approached this Tribunal by way of O.A. No. 175 of 2003 and the Tribunal vide order dated 27.8.2004 had quashed the aforesaid orders pertaining to wrong fixation and recovery thereof giving liberty to the respondents to re-fix the pay/pension of the applicant after affording him an opportunity of hearing or by issuing a show cause notice. Vide letter dated 18.10.2004 respondents had asked explanation from the applicant against which the applicant submitted his representation on 10.11.2004. The respondents vide orders dated 28.11.2005 and 29.11.2005 (Annexures- XXIII & XXIV respectively) rejected the prayer of the applicant, which are impugned in this O.A.

Heard Mr. M. Chanda, learned counsel for the applicant. Mr. M. U. Ahmed, learned Addl.C.G.S.C. representing the respondents submits that notice should be issued to the respondents. Issue notice to the respondents.

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

Post the matter on 29.6.2006.

Vice-Chairman

bb

O.A.96/2006

29.6.2006 Mr.M.U.Ahmed, learned Addl.C.G.S.C. prays for more time to file reply statement. post on 14.8.2006 granting time to file reply statement.

Vice-Chairman

bb

25-8-06
No WS filed.
bn

No. WS has been filed.
1.9.06.

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

Adjourned. Post on 04.09.2006.

Vice-Chairman

/mb/

No WS has been filed.

04.09.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Learned Counsel for the Respondents submitted that reply statement is ready and he wanted some time to file the same. Let it be done.

Post on 15.09.2006.

Vice-Chairman

/mb/

15.9.06. Let this case be listed for hearing on 21.9.06.

Vice-Chairman

lm

18-10-06
No WS filed.
bn

No WS has been filed.
3.11.06.

23.10.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Mr G. Baishya, learned Addl. C.G.S.C. representing Mr M.U. Ahmed, Addl. C.G.S.C. for the Respondents submitted that he is not ready and prays for time. Post on 06.11.2006. In the meantime, Respondents may file reply statement.

Vice-Chairman

/mb/

O.A. 96/2006

06.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted to have further time to file reply statement. Post on 16.11.2006.

Vice-Chairman

/mb/

15-11-06
No WLs has been filed.

21.11.06
WS filed by
Resp. No. 1 to 6

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Mr M.U. Ahmed, learned Addl. Central Government Standing Counsel has submitted that he has filed reply statement. Let it be brought on record, if it is otherwise in order. Post on 08.12.2006. In the meantime, the Applicant may file rejoinder, if any.

Vice-Chairman

/mb/

Rejoinder has been filed.

7.12.06

08.12.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice - Chairman.

Learned Counsel for the Applicant wanted to file rejoinder to the reply statement filed by the Respondents. Post on 11.01.2007.

Vice-Chairman

/mb/

Rejoinder has been filed.

10.1.07.

11.1.07. Counsel for the applicant wanted to file rejoinder to the written statement. Let it be done. Post the matter on 13.2.07.

Vice-Chairman

lm

O.A 196 of 06

13.2.07 Counsel for the applicant prays for time to file rejoinder. Four weeks time is granted to file rejoinder. Post the matter on 15.3.07.

Vice-Chairman

lm

No rejoinder has been filed.

14.3.07.

15.3.07. Counsel for the applicant w to file rejoinder. Let it be dor post the matter on 2.4.07.

Member Vice-Cha

lm

30.3.07

Resps No. 1 to 6 have filed their W/S on 15.11.06 but rejoinder not yet filed by the applnt as prayed for.

2.4.2007 Mr.M.U.Ahmed, learned Add would like to obtain instruction rejoinder filed by the Applicant done.

post on 27.04.2007.

Vice

bb

3.4.07

Rejoinder submitted by the Applicant.

27.4.2007 Present: The Hon'ble Mr.G.Shant Member (J)

The Hon'ble Mr.G.Ray,

Mr.S.Nath, learned coun Applicant and Mr.M.U.Ahmed, C.G.S.C. is present on behalf Pleadings are complete.

Call the case for hearing on

Member (A)

/bb/

W/s and rejoinder filed by the parties.

26.4.07.

The case is ready for hearing.

14.5.07.

OA 96/06 & 6

15.5.2007 Counsel for the applicant wanted to get instruction from the applicant.

Post the matter on 28.5.07 for hearing.

Vice-Chairman

/pg/

case is ready for hearing.

25.5.07.

28-5-07 No representation from either side.
post on 7-6-07.

V.C.

6.6.07
Additional W/S filed by the Respondents. Copy case is ready for hearing.

15.6.07.

7.6.2007 Mr. M.U.Ahmed, learned Addl. C.G.S.C. has filed additional statement. Mr.M.Chanda, learned counsel for the Applicant wanted to get instruction from his client. Let it be done.

Post the case on 18.6.2007.

Vice-Chairman

/bb/

18.6.07. Post the matter on 25.6.07 for hearing.

Vice-Chairman

lm

is ready for hearing.

.07.

lm

Vice-Chairman

24.7.07. Post the matter on 27.7.07.

Vice-Chairman

Lm

27.7.07. Post the matter on 16.8.07.

Vice-Chairman

lm

W/s and rejoinder filed by the parties.

11.9.07.

12.9.07. Counsel for the applicant has submitted that he will file the amendment petition tomorrow. Post the matter on 19.9.07.

Vice-Chairman

lm

No amendment petition filed.

18.9.07.

19.9.2007 Amended O.A. has already been filed. The learned counsel for the respondents is give time for filing reply, if any. Registry will bring the amended O.A. on record, if otherwise in order. List it on 05.11.07.

Vice-Chairman

nkm

21.9.07

Amended petition has been filed by the Applicant.

2.11.07

No reply filed on amendment.

05.11.2007 Mr.M.U.Ahmed, learned Addl. Standing counsel for the Central Government requests for four weeks time to file reply statement to the consolidated O.A.

Call this matter on 06.12.2007.

Member (A)

/bb/

Reply not filed against amended petition.

5.12.07.

No reply filed on amendment petition.

26.2.08

OA-96/06

06.12.2007 Despite opportunities given, no additional written statement has yet been filed. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, is absent today.

In the aforesaid premises, call this matter on 31.12.2007 awaiting additional written statement from the Respondents.

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

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

31.12.2007 Mrs.U.Dutta, learned counsel appearing for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India makes a statement that no additional reply is necessary to the amended portion of the Original Application.

In that view of the matter, this case is to be listed for hearing on 31.01.2008.

(M.R.Mohanty)
Vice-Chairman

/bb/

31.01.2008 On the prayer of Mr M. Chanda, learned counsel appearing for the Applicant the case is adjourned to 27.02.2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Pg

O.A.96/06

27.02.2008 Mr.M.Chanda, learned counsel for the Applicant is present. Mr. M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents has submitted a letter of absence.

Call this matter on 07.04.2008.

(Khushiram)
Member (A)

lm

The case is ready for hearing.

4.4.08.

07.04.2008 No rejoinder has been filed as yet in this case. Call this matter on 29.04.2008.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

9.4.08

Additional rejoinder submitted by the Applicant. /bb/
Copy served.

10.4.2008 This case which was posted to 29.4.08, is now postpond/re-scheduled to be listed on 4.6.08.

Send copies of this order to both parties.

Member(A)

Vice-Chairman

Order dt. 10/4/08 issuing to learned advocate's for both the parties.

21/4/08. D/No-1783, 1784 22/4/08.

The case is ready for hearing.

3.6.08.

04.06.2008 Heard Mr. M. Chanda, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents.

Hearing concluded. Judgment reserved.

(Khushiram
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

26.06.2008 Judgment pronounced in open court, kept in separate sheets. The Application is allowed in part. No costs.

O.A.NO. 96/2006

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Received copy of order dated 20/06/08 for the Advocate 12/8/08

20.06.2008 Judgment pronounced in open court, kept in separate sheets. The Application is allowed in part. No costs.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

12/8/08 Addl. Case

21.8.08

Copy of the Judgment send to the D/Sec. for delivery the same to the parties

Issued vide D/Nos. 3679 to 3685 dtd 26.8.08.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 96 of 2006

DATE OF DECISION: 20.06.2008

Shri Chitta Ranjan Deb .....APPLICANT(S)

Mr M. Chanda, Mr G.N. Chakraborty
Mr S. Nath and Mr S. Choudhury ADVOCATE(S) FOR THE APPLICANT(S)

- versus -

Union of India & Ors. .....RESPONDENT(S)

Mr M.U. Ahmed, Addl. C.G.S.C. 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~~
2. Whether to be referred to the Reporter or not? Yes/~~No~~
3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench and other Benches? Yes/~~No~~
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/~~No~~

Vice-Chairman/Member

.....

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.96 of 2006

Date of Order: This the 20th day of June 2008

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

The Hon'ble Shri Khushiram, Administrative Member

Shri Chitta Ranjan Deb
Retired Superintendent,
S/o Late I.C. Deb,
RMS Division Silchar,
Resident of Link Road,
Lane No.I-A, Silchar, Assam. ..... Applicant

By Advocates Mr M. Chanda, Mr G.N. Chakraborty,
Mr S. Nath and Mr S. Choudhury.

- Versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Department of Posts,
Ministry of Communications,
New Delhi-110001.

2. The Director General
Department of Posts,
Dak Bhawan,
Sansad Marg, New Delhi-110001.

3. The Chief Postmaster General
Assam Circle,
Guwahati-1.

4. The Postmaster General
Dibrugarh Region,
P.O. Dibrugarh,
Assam.

5. Director of Postal Services (HQ)
O/o The Chief Postmaster General,
Assam Circle, Guwahati-I.

6. Director of Accounts (Postal)
Chenikuthi, Guwahati-3. ..... Respondents

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

.....

ORDER

M.R. MOHANTY, VICE-CHAIRMAN

Applicant, who joined as a Postal Clerk on 05.03.1963, was promoted as an Inspector of Post Offices (on passing in the Departmental Examination) during 1973. Later, he was promoted to the rank of Assistant Superintendent of Post Offices. While posted (in the rank of Assistant Superintendent of Post Offices) in the Office of the Chief Postmaster General, orders dated 02.11.1992 was issued appointing him as a "Group 'B' Cadre Officer of Postal Services" and he was attached to N.E. Circle. In the meantime, the Applicant (an Assistant Superintendent of Post Offices, posted in CPMG Office) was asked to work as Deputy Postmaster (purely on ad hoc basis) in the GPO/Guwahati from 04.12.1992 to 22.12.1992 vide an Order dated 01.12.1992. On being relieved from the GPO/Guwahati, he joined as Superintendent of PSD/Silchar (on 04.01.1993) in the Group B Cadre of Postal Services. As a consequence, his pay in the promotional post (of Group B Cadre of Postal Services) was fixed and payment in the higher pay were continued to be made till 30.08.2002; when a Memo was issued re-fixing his pay, retrospectively, from 1993 at a lower rate. Applicant (who faced retirement from service, on attaining the normal age of superannuation, on 31.10.2002) faced the order (dated 15.01.2003) for recovery of the excess amount drawn by him for the reason of wrong pay fixation during 1993. The Applicant, who did not agree to the retrospective re-fixation of pay dated 30.08.2002 and the order of recovery dated 15.01.2003; approached this Tribunal in O.A.No.175 of 2003 and the said case was disposed of on 27.08.2004. After the disposal of the said case, the Respondent Department gave a

show cause notice to the Applicant on 18.10.2004 and the Applicant placed a representation on 10.11.2004. Without hearing from the Respondent Department, the Applicant approached the authorities on 02.11.2005 under Right to Information Act and, thereafter, only, on 28.11.2005; the Respondents (who were sitting over the matter) disposed of the Representation (dated 10.11.2004) of the Applicant and furnished a reply (to the application under RTI) to the Applicant on 29.11.2005. Applicant, then, placed an Appeal before the Respondents on 07.01.2006; which was disposed of on 02.05.2006 without granting any relief to the Applicant. Hence the present Original Application has been filed, on 21.09.2007, under Section 19 of the Administrative Tribunals Act, 1985, with the following prayers;-

"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No.Staff/II-14/89 dated 28.11.2005 (Annexure-XXIII) as well as letter bearing No.CPIO/RTIA-8/05 dated 29.11.2005 (Annexure-XXIV)

8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned show cause notice bearing letter No.AP RP 3-172/02 dated 18.10.04 (Annexure-XXI)

8.3 That the promotion of the applicant as Deputy Postmaster (HSG-I) in the pay scale of Rs.2000-3200 notified vide No.Staff/II-14/89 dated 01.12.92 be declared as regular promotion.

8.4 That the fixation of pay of the applicant in his promoted post of P.S. Group 'B' as Rs.2600/- (Pre revised) on 4.1.1993 and the subsequent fixations thereto in each stage and final last basic pay of Rs.10,250/- at the time of retirement of the applicant be declared as valid.

8.5 That the respondents be directed to pay all the terminal benefits of the applicant on the basis of Rs.10,250/- as his last pay on superannuation with consequential arrear and refund of money recovered from the applicant.

8.5A That the Hon'ble Tribunal be pleased to set aside the impugned order bearing letter No.AP/RP/3-

172/2002 dated 02.05.2006 issued by the Chief Post Master General Assam Circle, Guwahati.

8.6 Costs of the application.

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

2. By filing a written statement the Respondents have disclosed that while working as the ASPOs (Cell) in the Office of the Chief Postmaster General of Assam Circle at Guwahati, the Applicant was ordered to work as Deputy Postmaster (HSG-I) in Guwahati GPO purely on ad hoc basis vide Order No.Staff/11-14/89 dated 01.12.1992 and he worked as DPM-I (HSG-I) of Guwahati GPO from 04.12.1992 up to 22.12.1992 and that, on joining as Superintendent PSD at Silchar, the pay of the Applicant was fixed with reference to pay of HSG-I post (which post he was holding, purely on ad hoc basis, prior to joining the post of PSD at Silchar) and that while verifying the service book of the Applicant (in order to calculate his pension etc.), the Postal Accounts Office noticed that the appointment of the Applicant to a cadre post of HSG-I (DPM-I of Guwahati GPO) vide order dated 01.12.1992 was not confirmed/regularized at any point of time; for which the fixation of his pay (on regular promotion to PSS Grade B Cadre) with reference to the higher pay drawn in HSG-I post, was irregular and that pay of the Applicant on promotion to PSS Grade B Cadre ought to have been fixed with reference to his pay in Assistant Superintendent of Post Office Cadre (in which post/cadre he was continuing substantively, prior to his ad hoc posting in an HSG-I/ Deputy Postmaster post) in terms of Rule 22 (1)(a)(1) of the Fundamental Rules.

Respondents have also pointed out that the Applicant was not eligible to get regular promotion to HSG-I Cadre during December 1992. In para 6 of the written statement, the Respondents have disclosed as under;-

> "..... The applicant was not eligible for regular promotion in the HSG-I post as per criteria laid down for promotion. Moreover, another official, senior to the applicant in the same line of promotion was also not promoted due to non-fulfillment of the eligibility criteria. As such regular promotion to the applicant in HSG-I was not possible at the given period. ....."

In para 15 of the written statement it has also been disclosed that "there were other officials senior to the Applicant, in the same line of promotion, who were not promoted to HSG-I Cadre due to non-fulfillment of eligibility criteria." They have disclosed in the written statement that 'the Applicant was not eligible to get promotion to HSG-I Cadre during December 1992' and, as such, he was/is not eligible to be regularized as against an HSG-I post during December 1992 when certain ad hoc/local arrangements were made.

3. In this case, the Applicant has filed a Rejoinder supporting his case and by filing an additional written statement, the Respondent Department has explained that the prayer to regularize the ad hoc posting of the Applicant (as against an HSG-I/DPM-I post) could not be materialized for valid reasons. Additional Rejoinder has also been filed by the Applicant in this case raising arguments against the recovery of excess payment from terminal benefits

4. We heard Mr M. Chanda, learned Counsel appearing for the Applicant and Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, appearing for the Respondent Department and perused the materials placed on record.

5. It is the positive case of the Respondents that for the reason of Rule 22 of FRSR there were wrong pay fixation. Relevant portion of Rule 22 (1)(a)(1) of the Fundamental Rules of Government of India reads as under;-

> "F.R. 22. (I) The initial pay of a Government servant who is appointed to a post on a time-scale of pay is regulated as follows:-
>
> (a) (1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfillment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or [rupees one hundred only], whichever is more.

Thus, when the Applicant was holding the post of HSG-I/DPM-I purely on ad hoc basis, his pay in the promotional post of PSS was bound to be fixed on the basis of his post in ASPO Cadre; in terms of Rule 22 of FRSR (Supra) and, therefore, the pay fixation during 1993 (which was done with reference to the scale applicable to HSG-I post held on ad hoc basis) was a wrong one.

6. It is the case of Mr Chanda, learned Counsel appearing for the Applicant, that even though the pay fixation was wrong, the excess paid to the Applicant is not available to be recovered after a lapse of long 10 years; especially when nothing has been attributed to the Applicant (and because it is not the case of the Respondents) that he (Applicant) had any contribution in the wrong pay fixation. In support of his said stand, Mr Chanda has placed reliance of the

following reported decisions;-

(a) Syam Babu Verma and others Vs. Union of India and others (reported in 1994 (27)ATC 121);

(b) Kerala State Road Transport Corporation Vs. K.O. Varghese and others (reported in 2003 (12) SCC 293) and

(c) Purusottam Lal Das and others Vs. State of Bihar and others (reported in 2006 (11) SCC 492)

In all the above cases, revision of pay (downward) having been upheld, recoveries of arrears/differential excess payments have not been allowed to take effect; mainly on the ground of "no fault of the Applicants in wrong fixation of pay". In the case of Syam Babu Verma (Supra) the Apex Court held as under;-

> "Although the petitioners were entitled only to the lower scale of pay w.e.f. 1.1.1973 and only after period of 10 years they became entitled to the higher pay scale but as they have received the higher scale since 1973 due to no fault of theirs and that scale was reduced in the year 1984 with effect from 1.1.1973, it shall only be just and proper not to recover any excess amount which has already been paid to them."

In the case of Kerala State Road Transport Corporation (Supra) the Apex Court did not interfere with Kerala High Court's direction not to recover the amount paid in excess in course of wrong pay fixation. In para 36 of their Judgment, their Lordships in the Supreme Court of India held as under;-

> "In addition to the general questions raised in other appeals, one other aspect which needs to be noted is that some amount was sought to be recovered from the respondents on the ground that they were paid amounts in excess of their legal entitlements. The attempt to recover the amount was resisted by the respondent employees who filed writ petitions before the High Court which at the first instance directed disposal of the representations filed by them. On fresh consideration, orders were passed for recovery. The ground taken for directing recovery was that there was wrong fixation of pay. That was again

> challenged before the High Court. Taking note of the fact that pay was fixed in 1974 and the writ petitioners were not responsible for any wrong fixation of pay, the recovery of the amount was held to be inequitable by the learned Single Judge of the High Court. The writ appeal was also dismissed. In addition to the questions raised in other appeals, the Corporation has assailed the directions of the High Court not to recover. On hearing learned counsel for the parties and taking note of the peculiar circumstances notice by the High Court, we do not find any scope for interference with that part of the High Court's directions which related to recovery of the amounts allegedly paid extra to the employees. ....."

In Paras 10 and 11 of the Judgment rendered in the case of Purosottam Lal Das (Supra) their Lordships held as under;-

> "The High Court itself noted that the appellants deserve sympathy as for no fault of theirs, recoveries were directed when admittedly they worked in the promotional posts. But relief was denied on the ground that those who granted (sic) had committed gross irregularities.
>
> "While, therefore, not accepting the challenge to the orders of reversion on the peculiar circumstances, we direct that no recovery shall be made from the amounts already paid in respect of the promotional posts. However, no arrears or other financial benefits shall be granted in respect of the period concerned."

7. In the present case the Applicant was an Assistant Superintendent of Post Offices. He was taken to the post (on ad hoc basis) of HSG-I carrying higher pay scale. Then, he was taken to a higher post (PSS Grade B) carrying a still higher pay scale. While fixing his pay in PSS Grade B post, instead of calculating the same with reference to the pay scale meant for Assistant Superintendent of Post Offices (the post held by the Applicant substantively) in terms of Rule 22 of FRSR; it was wrongly fixed by calculating the same with reference to the pay scale meant for HSG-I (the post held by the Applicant on ad hoc/local arrangement basis) during the year 1993. Long after (almost 10 years) during 2002 the Respondents detected the said wrong pay fixation (at the time of calculating pension etc. of

the Applicant) and, after the retirement of the Applicant, Respondents are asking for recovery.

8. There is no material placed on record to show that the Applicant had any contribution in wrong pay fixation. Applicant has, rather, pointed out that 'despite several opportunities (of Audit etc.) no body pointed out (during the 10 long years) about wrong pay fixation' and the Respondents have no answer to it.

9. Since no fault is attributable to the Applicant, the action of the Respondents to recover the excess paid to the Applicant, after a lapse of 10 long years (that too after retirement) is not sustainable. The amount withheld/recovered from the terminal benefits of the Applicant, in the interest of justice, need be released in favour of the Applicant at an early date; for he has already retired from service during 2002/five years back. Respondents are directed accordingly.

10. The order for recovery dated 15.01.2003 passed (before institution of the previous O.A.No.175/2003) was in gross violation of principles of natural justice; for which this Tribunal passed orders, on 27.08.2004, to grant opportunity to the Applicant to have his say in the matter (by way of giving a show cause notice) and, accordingly, the Applicant was given a show cause notice on 18.10.2004. The Applicant also submitted a representation on 10.11.2004 in reply to the said show cause notice. Thus, the prayer of the Applicant (made in the present case) to quash the said show cause notice dated 18.10.2004 is not acceptable; especially when the same was issued with leave of this Tribunal rendered in O.A.No.175/2003.

11. The Applicant was posted as DPM-I of Guwahati GPO purely on local arrangement during December 1992 and, of course, the said posting order was branded as an ad hoc promotion order. It has been explained in the written statement that he (Applicant) was not eligible to get the promotion by December 1992 and that seniors to him (Applicant) were yet to get promotion by that date. That being the state of the factual position, the prayer of the Applicant for issuance of a direction to the Respondents to treat the ad hoc posting of the Applicant (as against an HSG-I post) as a regular promotion to the said HSG-I post cannot be allowed.

12. Other prayers of the Applicant (pertaining to revision of pay fixation) cannot be allowed; because the pay fixation of the year 1993 was wrong as it was done without following the provisions of Rule 22 of FRSR of Government of India.

13. However, as discussed and ordered in para 9 above, no recovery of excess amount paid to the Applicant (for the reason of wrong pay fixation) should be made from the terminal benefits of the Applicant and the withheld/recovered amount should be released in favour of the Applicant (by the Respondents) at the earliest/within 30 days from the date of receipt of a copy of this order.

14. Thus, the case is allowed in part to the extent noted in paras 9 and 13 above. No costs.

20.6.08

(KHUSHIRAM)
ADMINISTRATIVE MEMBER

20/06/08

(M. R. MOHANTY)
VICE-CHAIRMAN

nkm

OA. 96/06
of C.R. Deb

05.03.1963 – joined as a Postal Clerk

1973 – promoted as Inspector of POs. on passing the Deptl. Examination

– promoted as Asst. Supdt. of POs

01.12.1992 – from 04.12.1992 to 22.12.1992 – While working as ASPO in the Office of CPMG, he worked as the Dy. Postmaster-I (HSG-I) in Guwahati GPO. (Purely on ~~temp~~ ad-hoc Basis) vide order dated 04.12.1992 (Anx-1)

02.11.1992 – promoted as "Postal Service Gr. B. Cadre Officer" & an order dated 02.11.1992 (Anx-2) and allotted to NE ~~Cadre~~ Circle.

(Anx 3) 22.12.1992
(Anx 4) 23.12.1992
04.01.1993 – On being relieved, he joined as Supdt. of PSD/Silchar on 04.01.1993

31.10.2002 – Retired, on attaining the age of superannuation.

30.08.2002 – MEMO (Anx-6) re-fixation?

15.01.2003 – Order (Anx-7) recovery.

18.02.2003 – Letter (Anx 8/8-A) did not agree

2003 – OA 175/2003 filed

27.08.2004 — OA 175/2003 disposed of

11/19-10-2004 — Show-cause notice

10.11.2004 — Representation (Reply to show-cause)

28.11.2005 — Representation dropped (Annx.9)

29.11.2005 — Reply to the application under RTI (Annx-10)

02.11.2005 — Application under RTI

07.01.2006 — Appeal

02.05.2006 — Appeal Dropped

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GHY.

Judgment relied on by the applicant in O.A. NO. 96/2006

C.R. Deb -Vs- U.O.I & ors.

(1) 1994 (27) ATC 121
Shyam Babu Verma & ors -Vs- U.O.I & ors.

(2) 2003 (12) SCC 293
Kerala Road Transport Corp. -Vs- K.O. Varghese & ors.

(3) 2006 (11) SCC 492
Purshottam Lal Das & ors. -Vs- State of Bihar & ors.

Filed by
Dutta
05/06/08

5. On this test the order of the High Court does not appear to be well-founded. Even assuming there was technical breach and the show-cause notice did not spell out those relevant facts which could have empowered the Government to take action the social injury by nominating or appointing the respondent to an office of responsibility must not only have raised the eyebrows in the educational circle but is susceptible of creating unhealthy atmosphere. Reliance was placed on the letter issued by the Director of Education withdrawing his circular debarring the respondent from being entrusted with any examination work. It is not necessary to comment on it. But the letter obviously was issued without properly appreciating the effect of order passed by the High Court. Such hasty actions by superior officers are destructive of discipline which is necessary to be maintained. In any case the Director might have acted under constraints for reasons more than one but the High Court was not bound by it. It was in a better position to appreciate the effect of such order. Therefore, even if the order of the Government was vitiated either because it omitted to issue a proper show-cause notice or it could not have proceeded against the respondent for his past activities the High Court should have refused to interfere in exercise of its equity jurisdiction as the facts of the case did not warrant interference. What could be more harmful to society than appointing the respondent as member of the Board, a position of importance and responsibility, who was found responsible for mass copying at the examination centre of which he was a supervisor. It shakes the confidence and faith of the society in the system and is prone to encouraging even the honest and sincere to deviate from their path. It is the responsibility of the High Court as custodian of the Constitution to maintain the social balance by interfering where necessary for sake of justice and refusing to interfere where it is against the social interest and public good.

6. In the result, this appeal succeeds and is allowed. The order of the High Court quashing the order dated 16-9-1987 is set aside. The writ petition filed in the High Court by the respondent shall stand dismissed. But parties shall bear their own costs.

(1994) 27 Administrative Tribunals Cases 121

Supreme Court of India

(BEFORE J.S. VERMA, N.P. SINGH AND N. VENKATACHALA, JJ.)

SHYAM BABU VERMA AND OTHERS ... Petitioners;

Versus

UNION OF INDIA AND OTHERS ... Respondents.

Writ Petition (C) Nos. 12897 to 12899 of 1984†, decided on 8-2-1994

A. Pay — Equal pay for equal work — Applicability — For the same grade/post different pay scales can be prescribed on the basis of qualification and experience — For Pharmacist Grade B two scales of pay provided w.e.f. Jan. 1, 1973 in accordance with recommendation of Third Pay Commission — Higher scale for fully qualified Pharmacists possessing qualifications mentioned in cls. (a), (b) and (c) of S. 31 of Pharmacy Act and lower scale for unqualified Pharmacists covered by cl. (d) of S. 31

† Under Article 32 of the Constitution of India

Held, it was open to the Govt. to prescribe different scales more so when the Act itself classifies Pharmacists into different categories on the basis of qualification and experience — There being a reasonable basis for the difference in pay scale, principle of equal pay for equal work not attracted — Court would not normally interfere with the decision of body of experts in absence of any unreasonableness — Pharmacy Act, 1948, Ss. 31 and 32 — Constitution of India, Art. 14 — Administrative Law — Judicial review — Expert body

B. Relief — Higher pay scale erroneously given to petitioners since 1973 — Pay scale of petitioners reduced in 1984 — Held, since petitioners received the higher scale due to no fault of theirs, it shall only be just and proper not to recover any excess amount already paid to them

Held:

It is always open to the State Government to put its employees in the same service in different categories for the purpose of the scale of pay according to the qualifications possessed by them. When Section 31 itself conceives of different types of Pharmacists with reference to their academic qualifications and experience, then no fault can be found either with the Third Pay Commission or the respondents in putting the Pharmacists Grade-B in two categories with reference to their qualifications and experience and prescribing two scales of pay. In most of the services the scale of pay is linked with the academic performance and experience and it cannot be held that for one service there should be only one scale of pay ignoring the persons who possess the higher qualifications. (Para 8)

The nature of work may be more or less the same but scale of pay may vary based on academic qualification or experience which justifies the classification. The principle of 'equal pay for equal work' should not be applied in a mechanical or casual manner. Classification made by a body of experts after full study and analysis of the work should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups excludes applicability of the principle of 'equal pay for equal work' to them. Before any direction is issued by the Court, the claimants have to establish that there was no reasonable basis to treat them separately in matters of payment of wages or salary. Then only it can be held that there has been a discrimination, within the meaning of Article 14. (Para 9)

State of M.P. v. *Pramod Bhartiya*, (1993) 1 SCC 539: 1993 SCC (L&S) 221: (1993) 23 ATC 657, *relied on*

In the facts of present case there is no scope for applying the principle of 'equal pay for equal work' when the petitioners belong to a separate category of Pharmacists with reference to the qualifications prescribed under the Act. There is no element of arbitrariness in the decision of the respondents to implement two scales of pay for two categories of Pharmacists Grade-B. It does not violate any of the provisions of the Constitution calling for interference by the Supreme Court. (Para 9)

Although the petitioners were entitled only to the lower scale of pay w.e.f. 1-1-1973 and only after period of 10 years they became entitled to the higher pay scale but as they have received the higher scale since 1973 due to no fault of theirs and that scale was reduced in the year 1984 with effect from 1-1-1973, it shall only be just and proper not to recover any excess amount which has already been paid to them. (Para 11)

Petitions allowed in part 1 R-M/T/12806/CLA

Advocates who appeared in this case:

G. Vishwanatha Iyer, Senior Advocate (*S.N. Singh*, *B.M. Sharma* and *M.L. Srivastava*, Advocates, with him) for the Petitioners;

C.V. Subbarao and *Hemant Sharma*, Advocates, for the Respondents.

The Judgment of the Court was delivered by

N.P. SINGH, J.— These petitions under Article 32 of the Constitution have been filed on behalf of the three petitioners, questioning the validity of an order dated 15-6-1984 issued by the Chief Superintendent, Central Hospital (Northern Railway), New Delhi.

2. After the petitioners had been duly registered as Pharmacists by the Registrar, U.P. State Pharmacy Council, they were appointed as Pharmacists in the Northern Railway, Central Hospital, in the scale of Rs 130-240. Since 1973 petitioners started getting the revised scale of Rs 330-560. A seniority list of Pharmacists in the pay scale of Rs 330-560 was prepared in which names of the petitioners were also included. The impugned orders dated 15-6-1984 were issued to the petitioners, saying that as they were covered by clause (*d*) of Section 31 of the Pharmacy Act, 1948 (hereinafter referred to as the 'Act'), their salary was being fixed in the scale of Rs 330-480 instead of Rs 330-560 with effect from 1973. It was further said that after completion of 10 years of service, they would be getting the scale of Rs 330-560. There is no dispute that after completion of 10 years of service, petitioners have been getting the scale of Rs 330-560. According to the petitioners, the sudden reduction of the scale of pay from Rs 330-560 to Rs 330-480, after several years of the implementation of the said scale has not only affected financially but even the seniority of the petitioners.

3. It has been stated on behalf of the respondents that aforesaid order dated 15-6-1984 had been issued in view of the Railway Board letter dated 12-8-1975. It was pointed out that as the petitioners were not qualified Pharmacists possessing the qualifications mentioned in clauses (*a*), (*b*) and (*c*) of Sections 31 and 32 of the Act, they were not entitled to the pay scale of Rs 330-560 as per recommendation of the Third Pay Commission and by the impugned orders the pay scale recommended for them was implemented.

4. Section 31 of the Act says:

"31. A person who has attained the age of eighteen years shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy, in the State and if he—

(*a*) holds a degree or diploma in pharmacy or pharmaceutical chemistry or a chemist and druggist diploma of an Indian University or a State Government, as the case may be, or a prescribed qualification granted by an authority outside India, or

(*b*) holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry, and has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years, or

(*c*) has passed an examination recognised as adequate by the State Government for compounders or dispensers, or

(*d*) has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on

prescriptions of medical practitioners for a total period of not less than five years prior to the date notified under sub-section (2) of Section 30."

5. The Third Pay Commission recommended the two revised scales of pay to the Pharmacists Grade-B, classifying them into two categories according to their qualifications. In other words, the Pharmacists Grade-B who were getting the scale of Rs 130-240 were put in two categories with reference to their qualification and two scales of pay were recommended which are as follows:

	Original Scale	*Revised Scale*	*Qualification*
Pharmacist Grade-B.	130-240	330-10-380-EB-12-500-EB-15-560	For fully qualified Pharmacist i.e. those possessing qualification mentioned in Sections 31 and 32 of Pharmacy Act, 1948 but excluding those covered by clause (*d*) of Section 31 of the Pharmacy Act.
Pharmacist Grade-B.	130-240	330-8-370-10-400-EB-10-480.	For unqualified Pharmacists i.e. those covered by clause (*d*) of Section 31 of Pharmacy Act, or possessing registerable qualifications under that clause.

The said recommendation was given effect from 1-1-1973. There is no dispute that the petitioners are unqualified Pharmacists as such covered by clause (*d*) of Section 31 of the Act. In terms of the recommendation which was given effect to with effect from 1-1-1973, the petitioners were entitled to the scale of Rs 330-480. But they were getting the pay scale of Rs 330-560 which was meant for qualified Pharmacists i.e. those possessing qualifications mentioned in Sections 31 and 32 of the Act excluding those covered by clause (*d*) of Section 31 of the Act.

6. According to the petitioners, although they possess the qualification prescribed under clause (*d*) of Section 31 but as throughout they had been treated on a par with the Pharmacists possessing qualifications prescribed in clauses (*a*) to (*c*) of Sections 31 and 32 of the Act and they were getting the same scale of pay since 1973, the order dated 15-6-1984 reducing their scale of pay from Rs 330-560 to Rs 330-480 retrospectively, was arbitrary and discriminatory in nature.

7. During the hearing of the writ petitions, it was an admitted position that the petitioners do not hold the qualifications mentioned in clauses (*a*), (*b*) and (*c*) of Section 31 of the Act and they are only covered by clause (*d*) of Section 31. The Third Pay Commission placed Pharmacists Grade-B into two categories for prescribing the scales of pay — (*i*) Pharmacists, fully qualified, who possessed the qualifications mentioned in clauses (*a*) to (*c*) of Section 31, (*ii*) Pharmacists, who are covered by clause (*d*) of Section 31 of the Act. That recommendation was given effect to w.e.f. 1-1-1973. As such in normal course, the petitioners were entitled to the scale of Rs 330-480 and not the scale of Rs 330-560. But they were getting the scale of Rs 330-560 since 1973. Once it is established that the petitioners do not belong to the class of Pharmacists, who possessed the qualifications mentioned in clauses (*a*) to (*c*) of Section 31 for whom the separate scale of pay was recommended by the Third Pay Commission, which was accepted by the Government and implemented w.e.f.

1-1-1973, we fail to understand as to how the petitioners can claim the scale when they do not belong to same class or category.

8. The basis of the claim of the petitioners is that prior to 1-1-1973 there was only one scale of Rs 130-240 for Pharmacists who possessed the qualifications mentioned in clauses (*a*) to (*c*) of Section 31 as well as those who were covered by clause (*d*) of Section 31 i.e. who did not possess the qualifications mentioned in clauses (*a*) to (*c*). It is always open to the State Government to put its employees in the same service in different categories for the purpose of the scale of pay according to the qualifications possessed by them. When Section 31 itself conceives of different types of Pharmacists with reference to their academic qualifications and experience, then no fault can be found either with the Third Pay Commission or the respondents in putting the Pharmacists Grade-B in two categories with reference to their qualifications and experience and prescribing two scales of pay. In most of the services the scale of pay is linked with the academic performance, experience and it cannot be held that for one service there should be only one scale of pay ignoring the persons who possess the higher qualifications.

9. It was then urged on behalf of the petitioners that on principle of 'equal pay for equal work' they were entitled to pay scale of Rs 330-560. It was pointed out that they have been performing the same nature of work, which was being performed by other Pharmacists Grade-B who have been given the scale of Rs 330-560. The nature of work may be more or less the same but scale of pay may vary based on academic qualification or experience which justifies classification. The principle of 'equal pay for equal work' should not be applied in a mechanical or casual manner. Classification made by a body of experts after full study and analysis of the work should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups excludes applicability of the principle of 'equal pay for equal work' to them. The principle of 'equal pay for equal work' has been examined in *State of M.P.* v. *Pramod Bhartiya*[1] by this Court. Before any direction is issued by the Court, the claimants have to establish that there was no reasonable basis to treat them separately in matters of payment of wages or salary. Then only it can be held that there has been a discrimination, within the meaning of Article 14 of the Constitution.

10. In the facts of present case there is no scope for applying the principle of 'equal pay for equal work' when the petitioners belong to a separate category of Pharmacists with reference to the qualifications prescribed under the Act. According to us, there is no element of arbitrariness in the decision of the respondents to implement two scales of pay for two categories of Pharmacists Grade-B. It does not violate any of the provisions of the Constitution calling for interference by this Court.

11. Although we have held that the petitioners were entitled only to the pay scale of Rs 330-480 in terms of the recommendations of the Third Pay Commission w.e.f. 1-1-1973 and only after the period of 10 years, they became entitled to the pay scale of Rs 330-560 but as they have received the scale of Rs 330-560 since 1973 due to no fault of theirs and that scale is being reduced

1 (1993) 1 SCC 539: 1993 SCC (L&S) 221: (1993) 23 ATC 657

in the year 1984 with effect from 1-1-1973, it shall only be just and proper not to recover any excess amount which has already been paid to them. Accordingly, we direct that no steps should be taken to recover or to adjust any excess amount paid to the petitioners due to the fault of the respondents, the petitioners being in no way responsible for the same.

12. The petitions are allowed in part. There will be no order as to costs.

(1994) 27 Administrative Tribunals Cases 126

Supreme Court of India

(BEFORE M.N. VENKATACHALIAH, C.J. AND DR A.S. ANAND, J.)

UNION OF INDIA .. Petitioner;

Versus

HARNAM SINGH (II) .. Respondent.

Review Petition (C) No. 1384 of 1993 in Civil Appeal No. 502 of 1993†, decided on 13-1-1994

Administrative Tribunals Act, 1985 — S. 5(2) — Decision by Single member bench — Validity of — Observation in the decision under review that "ordinarily, keeping in view of the judgment of this Court in Amulya Chandra Kalita case we should have remanded the case to the Tribunal for a fresh disposal because of the fact that the order of the Tribunal was rendered by only one member ..." may be interpreted so as to denude the efficacy of the view taken in Mahabal Ram case — Hence the observation deleted

Union of India v. *Harnam Singh*, (1993) 2 SCC 162: 1993 SCC (L&S) 375: (1993) 24 ATC 92, *corrected*

Amulya Chandra Kalita v. *Union of India*, (1991) 1 SCC 181: 1991 SCC (L&S) 145: (1990) 14 ATC 911; *Mahabal Ram (Dr)* v. *Indian Council of Agricultural Research*, (1994) 2 SCC 401: (1991) 2 LLJ 112: (1994) 27 ATC 97, *referred to*

R-M/12738/CLA

Advocates who appeared in this case :

Ms Shyamla Pappu, Senior Advocate (*J.D. Jain*, Advocate, with her) for the Petitioner;

ORDER

1. We have heard Smt Shyamla Pappu, learned senior counsel for the respondent who has preferred this review petition. On a consideration of the matter, we find that the grounds raised in support of the review, do not justify our interference with the earlier order dated 9-2-1993†.

2. However, there is one other aspect which might bear consideration. In the course of the order, it was observed: (SCC p. 173, para 17)

"Ordinarily, keeping in view the judgment of this Court in *Amulya Chandra Kalita case*[1] we should have remanded the case to the Tribunal for a fresh disposal because of the fact that the order of the Tribunal was rendered by only one member or to have awaited the decision of some cases

† From the Judgment and Order dated May 29, 1992 of the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 1252 of 1992

† *Union of India* v. *Harnam Singh*, (1993) 2 SCC 162: 1993 SCC (L&S) 375: (1993) 24 ATC 92 [Coram: L.M. Sharma, C.J. and Dr A.S. Anand, J.]

1 *Amulya Chandra Kalita* v. *Union of India*, (1991) 1 SCC 181: 1991 SCC (L&S) 145: (1990) 14 ATC 911

(2003) 12 Supreme Court Cases 293

(BEFORE SHIVARAJ V. PATIL AND ARIJIT PASAYAT, JJ.)

KERALA STATE ROAD TRANSPORT CORPORATION .. Appellant;

Versus

K.O. VARGHESE AND OTHERS .. Respondents.

Civil Appeals Nos. 6651-54 of 2000† with Nos. 6656-57, 6655 of 2000, 3487 of 2003‡, 3490-93 of 2003‡† and 181-82 of 2002, decided on April 17, 2003

A. **Labour Law — Pension — Dearness relief — Cut-off date for — Kerala State Road Transport Corporation (for short "KSRTC") if possessed of power to fix for its employees a date of entitlement to dearness relief different from that fixed for government employees — High Court considering only the stand of absorbees from the erstwhile State Transport Department and not of other employees of SRTC — Moreover, it considering only the aspect of entitlement and not that of cut-off date on the assumption that Pt. III of Kerala Service Rules, 1959 (for short "KSR") having been adopted in the past, there was no question of cut-off date — Such a view, held, prima facie not correct as SRTC's stand right through had been that it had fixed the dates in accordance with Government letter dated 24-9-1992 — Whether the said Government letter constituted a direction under S. 34, Road Transport Corporation Act, 1950, held, was an issue linked with other issues like SRTC's power to fix a different cut-off date dehors any special direction of Government under S. 34 — Even if the said question was answered in the negative, the other issues ought to have considered which in the present case had apparently not been done — However, the indication of KSR Pt. III on the question of paying pension in SRTC's order dated 5-5-1984, held, needed consideration — However, the effect of the said letter dated 5-5-1984 and its impact, if any, on SRTC's power to fix the cut-off date remaining unconsidered — In such circumstances, the matter remitted back to High Court for fresh consideration — Road Transport Corporations Act, 1950, S. 34 — Kerala Service Rules, 1959, Pt. III — Constitution of India — Art. 136 — Remand — Omission on the part of High Court to consider relevant issues**

B. **Labour Law — Pension — Recovery from pension — Effect of delay in passing the order of — Recovery sought to be made on the ground of wrong fixation of pay — Pay having been fixed long ago but the matter coming up before High Court 26 long years later — High Court prohibiting the recovery as inequitable — Such order of High Court, held, did not call for interference**

The appellant KSRTC was formed in 1965. Some of the employees of the erstwhile State Transport Department were absorbed by it and their service conditions were protected by a notification dated 22-3-1965 in terms of directions under Section 34 of the Road Transport Corporation Act, 1950 (in short "the Act"). On the basis of conditions of that notification, pension was paid

† From the Judgment and Order dated 14-7-2000 of the Kerala High Court in WAs Nos. 890 of 1993, 258 of 1997, 124 and 2456 of 1998

‡ Arising out of SLP (C) No. 6820 of 2001

‡† Arising out of SLPs (C) Nos. 6518-21 of 2001

to such employees in terms of Part III of the Kerala Service Rules, 1959 (in short "KSR"). In 1978, other employees who opted for pension were also granted pension on a par with such employees. However, in 1992 and 1994 KSRTC fixed the dates of entitlement to dearness relief different from, and subsequent to, the dates fixed by the Government. Financial problems were the reasons indicated for such deferment. Reliance was also placed on a letter of the State Government dated 24-9-1992 which permitted the matter relating to payment of the enhanced amounts, payable as per recommendation of the Fifth Pay Commission, to be deferred for better times. The respondents herein who were pensioners of KSRTC filed several writ petitions before the Kerala High Court seeking declaration about their entitlement to receive pension and dearness relief at enhanced rates on a par with the employees of the State Government. Thereafter cross-appeals were filed before a Division Bench of the High Court. Before the High Court, KSRTC contended that the Government letter dated 24-9-1992 was an instruction in terms of Section 34 of the Act while the pensioners contended that the Government had only allowed KSRTC to defer the matter for some time. The High Court although accepted the pensioner's view, further observed that full payments including the arrears with effect from the date of implementation in government service also were made by KSRTC subsequently. The High Court added that in the past also the same practice had been followed. It further noted that since Part III of KSR had been adopted, there was no rational for fixing the cut-off date for payment of the enhanced pension and the dearness reliefs. That in the absence of any rule or regulation framed by the Corporation, KSR was applicable to the employees appointed by it. Accordingly, the appeals filed by the respondents (writ petitioners) were allowed while those filed by the appellant KSRTC were dismissed. In one of the present cases viz. CA No. 6655 of 2000, some amount was sought to be recovered from the respondents on the ground that they were paid amounts in excess of their legal entitlements. Taking note of the fact that pay was fixed in 1974 and the writ petitioners were not responsible for any wrong fixation of pay, the recovery of the amount was held to be inequitable by the High Court. KSRTC assailed the directions of the High Court not to recover. KSRTC then filed the present appeals by special leave.

Before the Supreme Court, the appellant contended that though the writ petitions had not sought identical reliefs, the High Court had not examined the respective cases and had broadly taken the view about entitlement of the pensioners. That KSRTC as employer had the power to fix the cut-off date for enhanced pension and dearness relief. That even if the Government letter dated 24-9-1992 was not an instruction in terms of Section 34 of the Act, KSRTC was not denuded of that power. That financial stringency was a relevant factor for fixing the cut-off date. That the High Court acted on erroneous premises by proceeding as if there was controversy regarding the conferment of the benefits while really the controversy was about the dates and not about entitlement.

On the other hand, supporting the High Court's judgment, the respondents contended that under the takeover notification whatever was given to the government servants was also to be given to those employees who had been transferred from the department to KSRTC. The entitlements were to be fixed keeping in view the position as it stood on the date of transfer. There was no right to vary the cut-off date. That despite financial difficulties the old pensioners should not be deprived of their legitimate entitlements of pension. That there was no question of fixing a different cut-off date as KSRTC had by letter dated 5-5-1984 taken note of the State Government's letter dated 17-3-1984 by which it had authorised KSRTC to pay pension to its employees as per the Kerala Service Rules. That was the adoption of a statute by incorporation and not by reference. The appellant, however, submitted that although the question whether KSR were applicable by incorporation or by reference had not been decided by the High Court, the same did not materially affect the decision on the question of KSRTC's power to fix a different-cut-off date.

Remitting the matter back to the High Court for fresh consideration, the Supreme Court

Held :

All the writ petitions did not involve identical issues. The High Court's attention was focused on the stand of those employees who originally belonged to the State Transport Department. Their cases stand on a different footing vis-à-vis other employees. Therefore, in the peculiar circumstances, the proper course would be to remit the matter back to the High Court for fresh consideration. (Para 8)

The Division Bench proceeded on the basis as if the questions for consideration related entitlement to receive enhanced pension and dearness reliefs. There was no dispute about entitlement and what was in controversy related to the date for which the payment was to be made. It further proceeded on the basis that there was no question of any cut-off date since Part III of KSR was being adopted in the past. The same prima facie was not correct. The stand of KSRTC right through has been that it had fixed the date from which the payments were to be made and for that purpose relied on the Government letter dated 24-9-1992. Whether the said letter constituted a direction under Section 34 of the Act was an issue which was linked with several other issues like power of the Corporation to fix a different date dehors any special direction of the Government under Section 34 of the Act. Even if the said letter was not in the nature of a special direction, the other issues were required to be considered. That was apparently not done. One of the issues which needed consideration was indication of KSR Part III on the question of paying pension in the Corporation's order dated 5-5-1984. What was the effect of the letter dated 5-5-1984 and its impact on the authority, if any, of KSRTC to fix the cut-off date was not examined by the High Court. (Paras 28 and 35)

In CA No. 6655 of 2000, there is no scope for interference with that part of the High Court's directions which related to recovery of the amounts allegedly paid extra to the employees. However, the other issues should be examined by the High Court afresh. (Para 36)

C. Labour Law — Pension — Concept and object of — Case-law discussed and treatises referred to — Further held, definition of "pension" in Art. 366(17) is not all-pervasive — Constitution of India, Art. 366(17) — Words and phrases — "pension" — Service Law — Pension

(Paras 12 to 20)

D.S. Nakara v. *Union of India*, (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130; *Dodge* v. *Board of Education*, 302 US 74 : 82 L Ed 57 (1937); *State of Kerala* v. *M. Padmanabhan Nair*, (1985) 1 SCC 429 : 1985 SCC (L&S) 278 : AIR 1985 SC 356; *Uma Agrawal (Dr.)* v. *State of U.P.*, (1999) 3 SCC 438 : 1999 SCC (L&S) 742 : AIR 1999 SC 1212; *Union of India* v. *P.N. Menon*, (1994) 4 SCC 68 : 1994 SCC (L&S) 860 : (1994) 27 ATC 515 : AIR 1994 SC 2221; *Union of India* v. *Lieut E. Iacats*, (1997) 7 SCC 334 : 1997 SCC (L&S) 1613; *State of Rajasthan* v. *Amrit Lal Gandhi*, (1997) 2 SCC 342 : 1997 SCC (L&S) 512, *referred to*

Gerald Rhodes: *Public Sector Pensions*, pp. 18-19; Prof. Harry Calvert: *Social Security Law*, p. 1; *Encyclopaedia Britannica*, Vol. 17, p. 575; 24 *American Jurisprudence* 881; 70 *Corpus Juris Secundum*, p. 423; *Halsbury's Law of England*, 4th Edn., Reissue, Vol. 16, *referred to*

D. Statute Law — Legislation by incorporation or by reference — Concepts of and distinction between legislation by incorporation and by reference — Case-law discussed (Paras 29 to 34)

Wood's Estate, Re, ex p Works and Buildings Commrs., (1886) 31 Ch D 607 : 55 LJ Ch 488 : 54 LT 145 (CA); *Mariyappa* v. *State of Karnataka*, (1998) 3 SCC 276; *Minister of Housing and Local Govt.* v. *Hartnell*, (1965) 1 All ER 490 (HL), *referred to*

Sutherland: *Statutory Construction*, Vol. 2, 3rd Edn., p. 550 and Supplement (1956), p. 119, *referred to*

H-M/AKFZ/28064/SL

Advocates who appeared in this case :

L. Nageswara Rao, S. Balakrishnan and P. Krishnamoorthy, Senior Advocates (Harish Beeran, Jayant Muthuraj, M.K.D. Namboodiri, Sree Narain Jha, K.R. Sasiprabhu, John Mathew, Sushil K. Tekriwal, B.V. Deepak, Dilip Pillai, K.M.K. Nair, Ms K. Sarada Devi, Roy Abraham, Himinder Lal and Ranbir Singh Yadav, Advocates) for the appearing parties.

Chronological list of cases cited *on page(s)*

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2. (1998) 3 SCC 276, *Mariyappa* v. *State of Karnataka* 305*f-g*
3. (1997) 7 SCC 334 : 1997 SCC (L&S) 1613, *Union of India* v. *Lieut E. Iacats* 304*b*
4. (1997) 2 SCC 342 : 1997 SCC (L&S) 512, *State of Rajasthan* v. *Amrit Lal Gandhi* 304*b*
5. (1994) 4 SCC 68 : 1994 SCC (L&S) 860 : (1994) 27 ATC 515 : AIR 1994 SC 2221, *Union of India* v. *P.N. Menon* 304*a*
6. (1985) 1 SCC 429 : 1985 SCC (L&S) 278 : AIR 1985 SC 356, *State of Kerala* v. *M. Padmanabhan Nair* 302*c*
7. (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130, *D.S. Nakara* v. *Union of India* 300*a*
8. (1965) 1 All ER 490 (HL), *Minister of Housing and Local Govt.* v. *Hartnell* 305*g-h*
9. 302 US 74 : 82 L Ed 57 (1937), *Dodge* v. *Board of Education* 301*a*
10. (1886) 31 Ch D 607 : 55 LJ Ch 488 : 54 LT 145 (CA), *Wood's Estate, Re, ex p Works and Buildings Commrs.* 305*f*

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J.—

CAs Nos. 6651-54, 6655, 6656, 6657 of 2000, SLPs (C) Nos. 6820, 6518-21 of 2001, CAs Nos. 181-82 of 2002

1. Leave granted in SLPs (C) Nos. 6820 and 6518-21 of 2001.

2. Since these appeals have some similarity so far as pivotal issues are concerned, are, therefore, disposed of by this common judgment.

3. Several writ petitions were filed by the respondents herein before the Kerala High Court seeking declaration about their entitlement to receive pension and dearness relief at enhanced rates on a par with the employees of the State Government. They were employees of Kerala State Road Transport Corporation (hereinafter referred to as "the Corporation") which is the

appellant in all these appeals. Though the reliefs sought for were not exactly identical, by the impugned judgment four appeals were disposed of by a Division Bench of the High Court. Two of the writ appeals were filed by the writ petitioners, while two were filed by the Corporation.

4. The Corporation was formed on 1-4-1965; some persons who were then employed with the State Transport Department were absorbed by the Corporation; their service conditions were protected vide Notification No. 4936/TC4/64/PW dated 22-3-1965 in terms of directions under Section 34 of the Road Transport Corporation Act, 1950 (in short "the Act"). On the basis of Conditions 11 and 12 of the notification, which shall be extracted infra, pension was paid to the erstwhile State Transport Department employees, in terms of Part III of the Kerala Service Rules, 1959 (in short "KSR"). In 1978, other employees who opted for pension were also granted pension on a par with these employees. In 1992 (w.e.f. 1-1-1992), a departure was made by fixing subsequent dates of entitlement to dearness relief. Similar was the situation in 1994. While in the first instance the date fixed was 1-7-1992, for the latter case it was directed to be operative from 1-11-1996, when the Government had fixed the date to be 1-4-1994.

5. Huge extra cost involved and shattered financial condition were the reasons indicated for such deferment. Reliance was also placed on a letter of the State Government dated 24-9-1992 which according to it was a direction in terms of Section 34 of the Act. According to this letter, in view of the financial position of the Corporation, the matter relating to payment of the enhanced amounts may be deferred for better times. This letter was in response to the Corporation's letter to the effect that since it had no means to pay the enhanced rate of pension as per the Fifth Kerala Pay Commission, the date from which the amount is to be paid should be postponed. There is a great detail of controversy as to the true nature of the said government letter (Ext. P-1). While the Corporation's stand is that it is an instruction in terms of Section 34 of the Act, the pensioners took the stand that the Government only allowed the Corporation to defer the matter for some time. The High Court accepted the stand of the writ petitioners. It also observed that the Government only allowed the Corporation to defer the matter for some time, in fact that was deferred, but full payments including the arrears with effect from the date of implementation in government service also were made by the Corporation subsequently. The High Court noted that till 1991 all the orders relating to enhancement of pension as well as dearness reliefs were paid to the pensioners of the Corporation without any difference in dates. It held that in Ext. P-1, what is mentioned relates to deferment of payment for some time, and revised pension benefits were in fact given with arrears after some time. It further noted that since Part III of KSR had been adopted, there was no rational for fixing the cut-off date for payment of the enhanced pension and the dearness reliefs. In the absence of any rule or regulation framed by the Corporation, KSR is applicable to the employees appointed by it. In respect of employees transferred from the State Transport Department, the position was clear that they are to be paid from the date the government servants got it. Reference was made to the conditions of transfer.

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Accordingly, the appeals filed by the respondents (writ petitioners) were allowed while those filed by the appellant Corporation were dismissed.

6. In support of the appeals, it is submitted that the High Court has not examined the respective cases and has broadly taken the view about entitlement of the pensioners, though the writ petitions were not for identical reliefs. There was no pensionable post in the Corporation till 1984. The wage structure is the domain of the employer Corporation and it has the choice to fix the cut-off date for enhanced pension and dearness reliefs. Even if it is accepted for the sake of arguments that the letter of the Government (Ext. P-1) was not an instruction in terms of Section 34 of the Act, yet the Corporation was not denuded of its power to fix the wage structure and when for good and sufficient reasons it fixed the cut-off dates, the High Court should not have interfered. Financial stringency is a relevant factor for fixing the cut-off date. The High Court acted on erroneous premises by proceeding as if there was controversy as regards the conferment of the benefits. What was really in controversy was the dates while there is no dispute about entitlement. The takeover document has not been considered by the High Court properly. It only says that as and when the benefits accrue the relevant rules, notifications and orders of the Governments in force and applicable immediately before the transfer had to operate.

7*. Per contra, learned counsel appearing for the respondents who were originally in the State Transport Department submitted that clauses 11 and 12 of the takeover notification made the position clear that whatever was given to the government servants was also to be given to those employees who had been transferred from the department to the Corporation. The entitlements were to be fixed keeping in view the position as it stood on the date of transfer. There is no right to vary the cut-off date. Even if it is accepted that the Corporation's financial health is failing, the old pensioners should not be deprived of their legitimate entitlements of pension. Keeping in view the laudable object for which pension is paid and its socio-economic importance for the old and infirm pensioners, the order of the High Court suffers from no infirmity. The expression "as and when such benefits accrue" was for the purpose of identification of the rules applicable.

8. Further, all the writ petitions did not involve identical issues. The High Court's attention was focused on the stand of those employees who originally belonged to the State Transport Department. Their cases stand on a different footing vis-à-vis other employees, even according to the pleadings of the parties. Therefore, in the peculiar circumstances as noted above, we feel the proper course would be to remit the matter back to the High Court for fresh consideration, so that it can deal with the respective stands of the parties. It shall be open to the parties to place additional materials in support of their respective stands before the High Court which shall decide the matter de novo.

9. The question of employer having the domain to fix the cut-off date has no relevance so far as the present dispute is concerned. There was no

* Para 7 corrected as per Official Corrigendum No. F.3/Ed.B.J./71/2003 dated 11-7-2003.

question of fixing a different cut-off date as the Corporation by letter dated 5-5-1984 took note of the State Government's letter dated 17-3-1984 by which it authorised the Corporation to pay pension to its employees as per the Kerala Service Rules. This was the adoption of a statute by incorporation and not by reference.

10. Learned counsel for the appellants in response to this plea submitted that whether KSR was applicable by incorporation or by reference has not been decided by the High Court and this may be one of the factors which was to be considered, but it did not have any determinative force on the issue as to whether the Corporation has the power to fix up a different cut-off date taking into account several relevant factors like financial stringencies, etc.

11. There is no appearance on behalf of the other respondents.

12. Before we deal with their respective contentions, it is necessary to appreciate the concept of pension. There are different classes of pensions and different conditions govern their grant. It is almost in the nature of deferred compensation for services rendered. There is a definition of pension in Article 366(17) of the Constitution of India, 1950 (in short "the Constitution"), but the definition is not all-pervasive. It is essentially a payment to a person in consideration of past services rendered by him. It is a payment to a person who had rendered services for the employer, when he is almost in the twilight zone of his life.

13. A political society which has a goal to set up a welfare State, would introduce and has, in fact, introduced as a welfare measure wherein the retiral benefit is grounded on consideration of State obligation to its citizens who having rendered service during the useful span of life must not be left to penury in their old age. But, the evolving concept of social security is a later-day development, and this journey was over a rough terrain. To note only one stage in 1856 a Royal Commission was set up to consider whether changes were necessary in the system established by the operative 1834 Act. The report of the Commission is known as "Northoote-Trevelyan Report". The report was pungent in its criticism when it says that:

> "in civil services comparable to lightness of work and the certainty of provision in case of retirement owing to bodily incapacity, furnish strong inducement to the parents and friends of sickly youth to endeavour to obtain for them employment in the service of the Government, and the extent to which the public are consequently burdened, first with the salaries of officers who are obliged to absent themselves from their duties on account of ill-health, and afterwards with their pensions when they retire on the same plea, would hardly be credited by those who have not had opportunities of observing the operation of the system". (See Gerald Rhodes: *Public Sector Pensions*, pp. 18-19.)

14. This approach is utterly unfair because in modern times public services are manned by those who enter at a comparatively young age, with selection through stiff competitive examinations and ordinarily the best talent gets the opportunity.

15. Let us, therefore, examine; as was done by this Court in *D.S. Nakara* v. *Union of India*[1] as to what are the goals that any pension scheme seeks to subserve. A pension scheme consistent with available resources must provide that the pensioner would be able to live: (*i*) free from want with decency, independence and self-respect, and (*ii*) at a standard equivalent at the preretirement level. This approach may merit the criticism that if a developing country like India cannot provide an employee while rendering service a living wage, how can one be assured of it in retirement? This can be aptly illustrated by a small illustration. A man with a broken arm asked his doctor whether he will be able to play the piano after the cast is removed. When assured that he will, the patient replied, "that is funny, I could not before". It appears that in determining the minimum amount required for living decently is difficult, selecting the percentage representing the proper ratio between earnings and the retirement income is harder. But it is imperative to note that as self-sufficiency declines the need for his attendance or institutional care grows. Many are literally surviving now than the past. We owe it to them and ourselves that they live, not merely exist. The philosophy prevailing in a given society at various stages of its development profoundly influences its social objectives. The law is one of the chief instruments whereby the social policies are implemented and pension is paid according to rules which can be said to provide social security law by which it is meant those legal mechanisms primarily concerned to ensure the provision for the individual or a cash income adequate, when taken along with the benefit in kind provided by other social services (such as free medical aid) to ensure for him a culturally acceptable minimum standard of living when the normal means of doing so failed. (See *Social Security Law* by Prof. Harry Calvert, p. 1.)

16. Viewed in the light of the present-day notions, pension is a term applied to periodic money payments to a person who retires at a certain age considered age of disability; payments usually continue for the rest of the natural life of the recipient. The reasons underlying the grant of pension vary from country to country and from scheme to scheme. But broadly stated they are: (*i*) as compensation to former members of the armed forces or their dependants for old age, disability, or death (usually from service causes), (*ii*) as old age retirement or disability benefits for civilian employees, and (*iii*) as social security payments for the aged, disabled or deceased citizens made in accordance with the rules governing social service programmes of the country. Pensions under the first head are of great antiquity. Under the second head they have been in force in one form or another in some countries for over a century but those coming under the third head are relatively of a recent origin, though they are of the greatest magnitude. There are other views about pensions such as charity, paternalism, deferred pay, reward for service rendered, or as a means of promoting general welfare (see *Encyclopaedia Britannica*, Vol. 17, p. 575). But these views have become otiose.

1 (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130

17. Pension to civil employees of the Government and the defence personnel as administered in India appear to be a compensation for service rendered in the past. However, as held in *Dodge* v. *Board of Education*[2] a pension is closely akin to wages in that it consists of payment provided by an employer, is paid in consideration of past service and the purpose of helping the recipient meet the expenses of living. This appears to be the nearest to our approach to pension with the added qualification that it should ordinarily ensure freedom from undeserved want.

18. Summing up, it can be said with confidence that pension is not only compensation for loyal service rendered in the past, but pension also has a broader significance, in that it is a measure of socio-economic justice which inheres economic security in the foil of life when physical and mental powers start ebbing corresponding to the aging progress and therefore, one is required to fall back on savings. One such saving in kind is when you gave your best in the heyday of life to your employer, in days of invalidity, economic security by way of periodical payment is assured. The term has been judicially defined as a stated allowance or stipend made in consideration of past service or a surrender of rights or emoluments to one retired from service. Thus the pension payable to an employee is earned by rendering long and sufficient service and therefore can be said to be a deferred portion of the compensation for service rendered. In one sentence one can say that the most practical raison d'être for pension is the inability to provide for oneself due to old age. One may live and avoid unemployment but not senility and penury if there is nothing to fall back upon.

19. The discernible purpose thus underlying pension scheme or a statute introducing the pension scheme must inform interpretative process and accordingly it should receive a liberal construction and the courts may not so interpret such statute as to render them obscure (see *American Jurisprudence* 24.881).

20. From the aforesaid analysis three things emerge: (*i*) that pension is neither bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right subject to the statute, if any, holding the field, (*ii*) that the pension is not an ex gratia payment but it is a payment for the past service rendered; and (*iii*) it is a social-welfare measure rendering socio-economic justice to those who in the heyday of their life ceaselessly toiled for employers on an assurance that in their ripe old age they would not be left in the lurch. It must also be noticed that the quantum of pension is a certain percentage correlated to the emoluments earlier drawn. Its payment is dependent upon an additional condition of impeccable behaviour even subsequent to retirement. That is, since the cessation of the contract of service and that it can be reduced or withdrawn as a disciplinary measure.

21. In *Corpus Juris Secundum*, Vol. 70, at p. 423, it is stated that the title "pension" includes pecuniary allowances paid periodically by the

2 302 US 74 : 82 L Ed 57 (1937)

Government to persons who have rendered services to the public or suffered loss or injury in the public service, or to their representatives; who are entitled to such allowances and rate and amount thereof; and proceedings to obtain and payment of such pensions.

22. In its strict sense a pension is not a matter of contract, and is not founded on any legal liability, it is a mere bounty or gratuity "springing from the appreciation and consciousness of the sovereign", and it may be given or withheld at the discretion of the sovereign. It may be bestowed on such persons and on such terms as the law-making body of the Government prescribes, and it is, at the most, an expectancy granted by the law. The term "pension" has been compared and distinguished from "bonus", "compensation", "profits" and "retirement payment". A pension fund is to be distinguished from an annuity fund derived in part from voluntary contributions under a statutory option to contribute or refrain from contributing.

23. In *State of Kerala* v. *M. Padmanabhan Nair*[3] it was observed that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. The view was reiterated in *Uma Agrawal (Dr.)* v. *State of U.P.*[4]

24. It is to be noted that in certain countries wrongful withholding of pension money has been made a criminal offence and it has been observed in some of the Western countries that the federal statute making the wrongful withholding of pension money a criminal offence must be strictly construed. The purpose of the statute, it was held, is to protect the pensioner against fraud until the unconditional payment of the money to him.

25. In *Halsbury's Law of England*, 4th Edn., Reissue, Vol. 16, it has been observed on the subject as follows:

> "Pension means, a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Secretary of State is satisfied that it is to be paid in accordance with any scheme of arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits and, except in the case of such a lump sum which had been paid to the employee, that:
>
> (1) the scheme or arrangements is established by Act of Parliament or of Parliament of Northern Ireland, or other instrument having the force of law, or
>
> (2) the benefits under the scheme or arrangement are secured by an irrecoverable trust which is subject to the laws of any part of the Great Britain; or

3 (1985) 1 SCC 429 : 1985 SCC (L&S) 278 : AIR 1985 SC 356

4 (1999) 3 SCC 438 : 1999 SCC (L&S) 742 : AIR 1999 SC 1212

> (3) the benefits under the scheme or arrangements are secured by a contract of assurance or an annuity contract which is made with:
>
> (*a*) an insurance company to which the Insurance Companies Act, 1982 applies; or
>
> (*b*) a registered friendly society; or
>
> (*c*) an industrial and provident society registered under the Industrial and Provident Societies Act, 1965; or
>
> (4) the benefits under the scheme or arrangement are secured by any regulation or other instrument, not being a regulation or instrument having the force of law, made with the authority of a Minister of the Crown or with the consent of the Treasury for the purpose of authorizing the payment to persons not employed in the civil service of the State of such pensions, gratuities or other like benefits as might have been granted to person so employed; or
>
> (5) the scheme or arrangement is established by an enactment or other instrument having the force of law in any part of the Commonwealth outside the United Kingdom;
>
> and that the provision made to enable benefits to be paid, taking into account any additional resources which could and would be provided by the employer, or any person connected with the employer to meet any deficiency, is adequate to ensure payment in full of such benefits.
>
> 'Pension' includes any part of the pension, 'Pension' does not include:
>
> (*i*) a payment of an employee which consists of solely of a return of his own contributions, with or without interest;
>
> (*ii*) that part of a payment to an addition which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement;
>
> (*iii*) a periodical payment or lump sum, insofar as that payment or lump sum represents compensation under statutory compensation scheme and is payable under a statutory provision whether made or passed before, on or after 31-7-1978.
>
> If in any case the Secretary of State is satisfied that benefits under the scheme or arrangement are wholly or mainly provided for the benefit of persons not resident in Great Britain, he may, if he thinks fit and subject to such conditions, if any, as he thinks proper, waive the requirement contained in head (2) above in respect of a scheme or arrangement the benefits under which are secured by an irrecoverable trust or the requirements of heads 3(*a*), 3(*b*) or 3(*c*) above in the case of a scheme or arrangement the benefits under which are secured by a contract of assurance or an annuity contract."

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26. In *Union of India* v. *P.N. Menon*[5] this Court observed that not only in the matters of revising the pensionary benefits, but also in respect of revision of scales of pay a cut-off date on some rational or reasonable basis has to be and can be fixed for extending the benefits. The cut-off date may be justified on the ground that additional financial outlay is involved or the fact that under the terms of appointment the employee was not entitled to the benefit of the pension on retirement. (See *Union of India* v. *Lieut E. Iacats*[6].) Depending upon financial conditions a cut-off date can be fixed when a new pension scheme is being introduced. (See *State of Rajasthan* v. *Amrit Lal Gandhi*[7].)

27. The High Court has referred to the fact that the Corporation did not frame any regulation and on following Part III of KSR it was paying pension to the employees on a par with the government employees with some conditions. That according to the High Court made the position clear that no fixation of cut-off date was involved.

28. From the perusal of the order passed by the Division Bench, it appears that it proceeded on the basis as if the questions for consideration related entitlement to receive enhanced pension and dearness reliefs. As noted above, there was no dispute about entitlement and what was in controversy related to the date for which the payment was to be made. The High Court further proceeded on the basis that there was no question of any cut-off date since Part III of KSR was being adopted in the past. The same prima facie is not correct. Stand of the Corporation right through has been that it had fixed the date from which the payments were to be made and for that purpose relied on Ext. P-1, letter of the Government. Whether the letter (Ext. P-1) constituted a direction under Section 34 of the Act is an issue which is linked with several other issues like power of the Corporation to fix a different date dehors any special direction of the Government under Section 34 of the Act. Even if it is held that the letter in Ext. P-1 was not in the nature of a special direction, the other issues were required to be considered. That has apparently not been done.

29. One of the issues which needed consideration was indication of KSR Part III on the question of paying pension in the Corporation's order dated 5-5-1984. A distinction has been made between a mere reference or citation of one statute into another and incorporation. A statute may instead of referring to a particular previous statute or to any specific provision therein refer to the law on the subject generally. In such cases a reference is construed to mean that the law is as it reads thereafter including amendments subsequent to the time of adoption, as was noted by Sutherland: *Statutory Construction*, Vol. 2, 3rd Edn., p. 550 and supplement (1956), p.119.

30. The legislation by referable incorporation falls into two categories. That is (*i*) where a statute by specific reference incorporates the provisions of another statute as at the time of adoption, and (*ii*) where a statute

5 (1994) 4 SCC 68 : 1994 SCC (L&S) 860 : (1994) 27 ATC 515 : AIR 1994 SC 2221
6 (1997) 7 SCC 334 : 1997 SCC (L&S) 1613
7 (1997) 2 SCC 342 : 1997 SCC (L&S) 512

incorporates by general reference. The law concerning a particular subject has a genus. In the former case the subsequent amendments made in the referred statute cannot automatically be read into the adopting statute. But in the second category it may be presumed that the legislative intent was to include all the subsequent amendments also made from time to time in the generic law on the subject adopted by the general reference.

31. In the former case a modification, repeal or re-enactment of the statute that is referred will also have effect on the statute in which it is referred; but in the latter case any change in the incorporation statute by way of amendment or repeal has no repercussion on the incorporating statute. The rule that the repeal or amendment of an Act which is incorporated in a later Act has no effect on the later Act or on the provisions incorporated therein is subject to four exceptions. They are: (*i*) where the later Act and the earlier Act are supplemental to each other, (*ii*) where the two Acts are in pari materia, (*iii*) where the amendment of the earlier Act if not imported in the later Act would render it wholly unworkable, and (*iv*) where the amendment of the earlier Act either expressly or by necessary intendment also applies to the later Act. Even though only particular sections of an earlier Act are incorporated into the later statute, in construing the incorporated provisions it may be necessary and permissible to refer to other parts of the earlier statute which are not incorporated. This does not however mean that a provision in the nature of a proviso or exception in the earlier Act which is not brought in by incorporation can be read in a manner so as to limit the meaning of the provision incorporated. Reference to other provisions of the earlier statute is only permissible to cull out the meaning of the provision incorporated.

32. In the illuminating words of Lord Esher, M.R.:

> "If a subsequent Act brings into itself by reference some of the clauses of a former Act, the legal effect of that, as has often been held, is to write those sections into the new Act as if they had been actually written in it with the pen, or printed on it."

(See *Wood's Estate, Re, ex p Works and Buildings Commrs.*[8])

33. It may be added that clear intention of the incorporating Act cannot be defeated by such provision of the earlier Act which have not been incorporated. In the interpretation of an incorporated provision, the Court is sometimes required to formulate variations of details in the context of the incorporating statute. (See *Mariyappa* v. *State of Karnataka*[9].) The merit of legislation by incorporation is brevity which is sometimes counterbalanced by difficulties and obscurities which it is likely to create.

34. In *Minister of Housing and Local Govt.* v. *Hartnell*[10] it was observed that there is a regrettable modern tendency to overdo legislation by reference and to attempt brevity at the expense of lucidity.

8 (1886) 31 Ch D 607 : 55 LJ Ch 488 : 54 LT 145 (CA)
9 (1998) 3 SCC 276 : JT (1998) 1 SC 734
10 (1965) 1 All ER 490 (HL)

35. What is the effect of the letter dated 5-5-1984 and its impact on the authority, if any, of the Corporation to fix the cut-off date has not been examined by the High Court.

CA No. 6655 of 2000

36. In addition to the general questions raised in other appeals, one other aspect which needs to be noted is that some amount was sought to be recovered from the respondents on the ground that they were paid amounts in excess of their legal entitlements. The attempt to recover the amount was resisted by the respondent employees who filed writ petitions before the High Court which at the first instance directed disposal of the representations filed by them. On fresh consideration, orders were passed for recovery. The ground taken for directing recovery was that there was wrong fixation of pay. That was again challenged before the High Court. Taking note of the fact that pay was fixed in 1974 and the writ petitioners were not responsible for any wrong fixation of pay, the recovery of the amount was held to be inequitable by the learned Single Judge of the High Court. The writ appeal was also dismissed. In addition to the questions raised in other appeals, the Corporation has assailed the directions of the High Court not to recover. On hearing learned counsel for the parties and taking note of the peculiar circumstances noticed by the High Court, we do not find any scope for interference with that part of the High Court's directions which related to recovery of the amounts allegedly paid extra to the employees. So far as other issues are concerned, this shall be examined by the High Court afresh as directed.

37. The appeals are disposed of accordingly but in the circumstances with no order as to costs.

(2003) 12 Supreme Court Cases 306

(BEFORE DORAISWAMY RAJU AND ARIJIT PASAYAT, JJ.)

PARASA RAJA MANIKYALA RAO AND ANOTHER .. Appellants;

Versus

STATE OF A.P. .. Respondent.

Criminal Appeal No. 49 of 2003†, decided on October 15, 2003

A. Criminal Trial — Appreciation of evidence — Generally — Relevance of precedents — Dealing with the accusations and consideration of the guilt or otherwise of the accused, on the basis of the decision in another case — Held, not legally permissible on facts in criminal cases

B. Criminal Procedure Code, 1973 — Ss. 386 and 378 — Acquittal by trial court relying on certain rulings of the Supreme Court, despite its observation that evidence against acquitted accused was as nearly cogent as

† From the Judgment and Order dated 6-6-2002 of the Andhra Pradesh High Court in Crl. A. No. 929 of 2001

21. The appellants submitted that, including the period of remission, they had undergone imprisonment of about one month. According to them, the ends of justice would be met if their sentence is reduced to the period already undergone.

22. The learned counsel appearing for the State fairly submitted that the State will have no objection in case while maintaining the conviction, the sentence of the appellants is reduced to the period already undergone.

23. The learned counsel for the State submitted that this concession is made while keeping the following factors in view:

(*i*) Appellant 2 was a young boy of 17 years of age at the time of the commission of the offence;

(*ii*) a small quantity of seeds was seized; and

(*iii*) this was the first case recorded in the State of Tamil Nadu for violation under the Seeds (Control) Order, 1983.

In view of this submission of the learned counsel for the State, we do not deem it appropriate to adjudicate and give our findings on the various issues raised by the counsel for the parties.

24. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during the pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial court, if not already paid, would be paid within four weeks from the date of this judgment.

25. These appeals are partly allowed and disposed of accordingly.

(2006) 11 Supreme Court Cases 492

(BEFORE ARIJIT PASAYAT AND LOKESHWAR SINGH PANTA, JJ.)

PURSHOTTAM LAL DAS AND OTHERS .. Appellants;

Versus

STATE OF BIHAR AND OTHERS .. Respondents.

Civil Appeals No. 4386 of 2006† with No. 4387 of 2006‡, decided on October 10, 2006

A. Service Law — Reversion — Recovery of excess amounts paid during currency of improper occupancy of the promotional posts — When permissible — Culpability/involvement of revertees themselves in having obtained the improper promotion — Relevance — Held, recovery has been permitted only in such cases where revertees were guilty of producing forged certificates or appointments had been secured on non-permissible grounds — In present case, High Court rightly held that revertees deserved sympathy as for no fault of theirs, recoveries were directed when admittedly they worked in the promotional posts — Hence in the peculiar circumstances order for recovery set aside

B. Service Law — Reversion — Validity of reversion order — Legality of the promotion — Grounds to be judged on — Promotion cadre if appropriate, compliance with statutory provisions, including following of procedure specified, approval by, and valid constitution of approval committee, compliance with promotion quota, reservation policy, ban(s) imposed on appointments, etc. — Held, above being reasons which weighed with respondent State to hold that the promotion was illegal, order of reversion cannot be faulted — Promotion — Invalidity of promotion

Disposing of the appeals in the terms below, the Supreme Court

Held :

The reasons which weighed with the respondent State to hold that the promotion was illegal do not suffer from any infirmity. Class III employees could not have been promoted as they belong to the technical cadre and the promotional posts related to non-technical cadre. That apart, the Class III employees were already holding Class III post and, therefore, there was no question of promotion to the same class. So far as Class IV employees are concerned, their promotion was also not considered in terms of statutory provisions. The quota of promotion to Class III from Class IV is fixed and the procedure is provided for deciding the question of promotion. The promotions were granted without placing their cases before the Establishment Committee and the committee which accorded approval was not properly constituted, and the reservation policy was not followed and promotions were given without adopting the procedure relating to advertisement. The High Court also noted that the appointments were made by the Civil Surgeon though a ban had been imposed by the State Government on appointments. Therefore, the order of reversion in each case cannot be faulted. (Para 6)

So far as the recovery of the excess amounts which had been paid is concerned, in the normal course if the promotion/appointment is void ab initio, a mere fact that the employee had worked in the post concerned for long cannot be a ground for not directing recovery. The cases relied upon by the State were rendered in a different backdrop. In those cases the appellants were guilty of producing forged certificates or the appointments had been secured on non-permissible grounds. However, the High Court itself noted that the appellants deserve sympathy as for no fault of theirs recoveries were directed when admittedly they worked in the promotional posts. But relief was denied on the ground that those who granted the promotion had committed gross irregularities. While, therefore, not accepting the challenge to the orders of reversion, in the peculiar circumstances noticed no recovery shall be made from the amounts already paid in respect of the promotional posts. However, no arrears or other financial benefits shall be granted in respect of the period concerned.

(Paras 7, 3, 10 and 11)

Sahib Ram v. *State of Haryana*, 1995 Supp (1) SCC 18 : 1995 SCC (L&S) 248; *Bihar SEB* v. *Bijay Bhadur*, (2000) 10 SCC 99 : 2000 SCC (L&S) 394; *State of Karnataka* v. *Mangalore University Non-Teaching Employees' Assn.*, (2002) 3 SCC 302, *relied on*

† Arising out of SLPs (C) Nos. 20306-08 of 2005. From the Final Order and Judgment dated 7-7-2005 of the High Court of Judicature at Patna in LPAs Nos. 545, 543 and 555 of 2005

‡ Arising out of SLPs (C) Nos. 1827-28

R. Vishwanatha Pillai v. *State of Kerala*, (2004) 2 SCC 105 : 2004 SCC (L&S) 350; *LIC of India* v. *Sushil*, (2006) 2 SCC 471 : 2006 SCC (L&S) 329; *Ram Saran* v. *IG of Police, CRPF*, (2006) 2 SCC 541 : 2006 SCC (L&S) 351, *distinguished*

Saheed Kumar Banerjee v. *Bihar SEB*, CWJC No. 710 of 1994 disposed of on 27-1-1995, *cited*

D-M/AJTZ/35081/SL

Advocates who appeared in this case :

Akhilesh Kr. Pandey and Sudhanshu Sharan, Advocates, for the Appellants in CA No. 4386 of 2006;

Anjani Kr. Jha, Advocate, for the Appellants in CA No. 4387 of 2006;

Gopal Singh and Nishakant Pandey, Advocates, for the Respondents.

Chronological list of cases cited *on page(s)*

1. (2006) 2 SCC 541 : 2006 SCC (L&S) 351, *Ram Saran* v. *IG of Police, CRPF* 495*c-d*
2. (2006) 2 SCC 471 : 2006 SCC (L&S) 329, *LIC of India* v. *Sushil* 495*c-d*
3. (2004) 2 SCC 105 : 2004 SCC (L&S) 350, *R. Vishwanatha Pillai* v. *State of Kerala* 495*c-d*
4. (2002) 3 SCC 302, *State of Karnataka* v. *Mangalore University Non-Teaching Employees' Assn.* 496*a-b*, 497*a-b*
5. (2000) 10 SCC 99 : 2000 SCC (L&S) 394, *Bihar SEB* v. *Bijay Bhadur* 496*a*, 496*a-b*
6. 1995 Supp (1) SCC 18 : 1995 SCC (L&S) 248, *Sahib Ram* v. *State of Haryana* 496*a*, 496*c-d*, 496*f-g*
7. CWJC No. 710 of 1994 disposed of on 27-1-1995, *Saheed Kumar Banerjee* v. *Bihar SEB* 496*f-g*

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J.— Leave granted.

2. In both these appeals, challenge is to the legality of the common judgment passed by the Patna High Court dismissing different letters patent appeals filed by the appellants. By the impugned judgment the High Court dismissed the letters patent appeals. It was held that the view of the learned Single Judge dismissing the writ petitions filed by the appellants challenging their reversion as well as recovery of the amounts paid on account of promotion was in order.

3. Factual position in a nutshell is as follows:

Except some of the appellants who were Class IV employees the remaining appellants were holding Class III posts, that is, Basic Health Workers. They were promoted to the post of clerk in the year 1992. Subsequently, an audit team raised objection to the said promotions expressing the view that the appellants could not have been promoted. On the basis of the audit report, action was taken. The State Government was of the view that promotions granted were illegal and accordingly the appellants were reverted to the original post held by each one of them. Being aggrieved by the said order, some of the appellants moved the High Court which quashed the orders on the ground that adequate opportunity was not granted to show cause before the action was taken. Thereafter, show-cause notices were issued, to which the appellants responded. Ultimately they were reverted to the original post held by each and direction was given to recover

the excess amounts which had been paid. Writ petitions were filed challenging the orders in that regard. In each case the learned Single Judge dismissed the writ petition. As noted above, the letters patent appeals were also dismissed.

4. In support of the appeals learned counsel for the appellants submitted that there was no fault on the part of the appellants and they had been appointed on the basis of the recommendations made by the Selection Committee. Even if it is conceded that there was any procedural irregularity that could not have affected the promotion granted and no action could have been taken after lapse of time. In any event, the recovery of the amount is uncalled for.

5. Learned counsel for the respondent State and its functionaries supported the judgment submitting that the courts below had noted the reasons for directing reversion. Even if the appellants had worked in the promotional post, yet they were not entitled to the higher salary attached to each of the promotional posts. Therefore, the recovery has rightly been directed. Reliance was placed on the decisions of this Court in *R. Vishwanatha Pillai* v. *State of Kerala*[1], *LIC of India* v. *Sushil*[2] and *Ram Saran* v. *IG of Police, CRPF*[3].

6. The reasons which weighed with the respondent State to hold that the promotion was illegal do not suffer from any infirmity. Class III employees could not have been promoted as they belong to the technical cadre and the promotional posts related to non-technical cadre. That apart, the Class III employees were already holding Class III post and, therefore, there was no question of promotion to the same class. So far as Class IV employees are concerned, their promotion was also not considered in terms of statutory provisions. The quota of promotion to Class III from Class IV is fixed and the procedure is provided for deciding the question of promotion. The promotions were granted without placing their cases before the Establishment Committee and the committee which accorded approval was not properly constituted, and the reservation policy was not followed and promotions were given without adopting the procedure relating to advertisement. The High Court also noted that the appointments were made by the Civil Surgeon though a ban had been imposed by the State Government on appointments. Therefore, the order of reversion in each case cannot be faulted.

7. So far as the recovery is concerned, in the normal course if the promotion/appointment is void ab initio, a mere fact that the employee had worked in the post concerned for long cannot be a ground for not directing recovery. The cases relied upon by the learned counsel for the State were rendered in a different backdrop. In those cases the appellants were guilty of producing forged certificates or the appointments had been secured on non-

1 (2004) 2 SCC 105 : 2004 SCC (L&S) 350
2 (2006) 2 SCC 471 : 2006 SCC (L&S) 329
3 (2006) 2 SCC 541 : 2006 SCC (L&S) 351

permissible grounds. In that background this Court held that recovery is permissible. On the contrary, the fact situation of the present case bears some similarity to *Sahib Ram* v. *State of Haryana*[4], *Bihar SEB* v. *Bijay Bhadur*[5] and *State of Karnataka* v. *Mangalore University Non-Teaching Employees' Assn.*[6]

8. In *Bihar SEB case*[5] it was held as follows: (SCC pp. 103-04, paras 9-10)

> "*9.* Further, an analysis of the factual score at this juncture goes to show that the respondents appointed in the year 1966 were allowed to have due increments in terms of the service conditions and salary structure and were also granted promotions in due course of service and have been asked after an expiry of about 14-15 years to replenish the Board exchequer from out of the employees' salaries which were paid to them since the year 1979. It is on this score the High Court observed that as both the petitioners have passed the examination though in the year 1993, their entitlement for relief cannot be doubted in any way The High Court has also relied upon the decision of this Court in *Sahib Ram* v. *State of Haryana*[4] wherein this Court in para 5 of the Report observed: (SCC p. 20)
>
> > '*5.* Admittedly the appellant does not possess the required educational qualifications. Under the circumstances the appellant would not be entitled to the relaxation. The Principal erred in granting him the relaxation. Since the date of relaxation the appellant had been paid his salary on the revised scale. However, it is not on account of any misrepresentation made by the appellant that the benefit of the higher pay scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant. The principle of equal pay for equal work would not apply to the scales prescribed by the University Grants Commission. The appeal is allowed partly without any order as to costs.'
>
> *10.* The High Court also relied on the unreported decision of the learned Single Judge in *Saheed Kumar Banerjee* v. *Bihar SEB*[7]. We do record our concurrence with the observations of this Court in *Sahib Ram case*[4] and come to a conclusion that since payments have been made without any representation or a misrepresentation, the appellant Board could not possibly be granted any liberty to deduct or recover the excess amount paid by way of increments at an earlier point of time. The act or acts on the part of the appellant Board cannot under any circumstances be said to be in consonance with equity, good conscience and justice. The

4 1995 Supp (1) SCC 18 : 1995 SCC (L&S) 248
5 (2000) 10 SCC 99 : 2000 SCC (L&S) 394
6 (2002) 3 SCC 302
7 CWJC No. 710 of 1994 disposed of on 27-1-1995

> concept of fairness has been given a go-by. As such the actions initiated for recovery cannot be sustained under any circumstances. This order however be restricted to the facts of the present writ petitioners. It is clarified that Regulation 8 will operate on its own and the Board will be at liberty to take appropriate steps in accordance with law except however in the case or cases which has/have attained finality."

9. In *Mangalore University Non-Teaching Employees' case*[6] it was held as follows: (SCC p. 313, para 12)

> "*12.* Though the above discussion merits the dismissal of the writ petitions and the denial of relief to the respondents, we are of the view that on the special facts of this case, the employees of the University have to be protected against the move to recover the excess payments up to 31-3-1997. When the employees concerned drew the allowances on the basis of financial sanction accorded by the competent authority i.e. the Government and they incurred additional expenditure towards house rent, the employees should not be penalised for no fault of theirs. It would be totally unjust to recover the amounts paid between 1-4-1994 and the date of issuance of GO No. 42 dated 13-2-1996. Even thereafter, it took considerable time to implement the GO. It is only after 5-3-1997 the Government acted further to implement the decision taken a year earlier. Final orders regarding recovery were passed on 25-3-1997, as already noticed. The Vice-Chancellor of the University also made out a strong case for waiver of recovery up to 31-3-1997. That means, the payments continued up to March 1997 despite the decision taken in principle. In these circumstances, we direct that no recovery shall be effected from any of the university employees who were compelled to take rental accommodation in Mangalore city limits for want of accommodation in the university campus up to 31-3-1997. The amounts paid thereafter can be recovered in instalments. As regards the future entitlement, it is left to the Government to take appropriate decision, as we already indicated above."

10. The High Court itself noted that the appellants deserve sympathy as for no fault of theirs, recoveries were directed when admittedly they worked in the promotional posts. But relief was denied on the ground that those who granted (*sic*) had committed gross irregularities.

11. While, therefore, not accepting the challenge to the orders of reversion on the peculiar circumstances noticed, we direct that no recovery shall be made from the amounts already paid in respect of the promotional posts. However, no arrears or other financial benefits shall be granted in respect of the period concerned.

12. The appeals are accordingly disposed of. No costs.

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File in Court on 4.6.08
Section Officer.

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Filed by the applicant through Advocate on 04.06.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. NO. 96 / 2006

Shri Chitta Ranjan Deb
-Versus-
Union of India & Others.

Lists of dates and synopsis of the case

05.03.1963- Applicant was appointed as Postal Clerk. He passed departmental examination and promoted as Inspector in 1972-73, and thereafter promoted to the cadre of Asstt. Superintendent of Post Offices.

13/11/92 Anx-4
22/11/92 02.11.92 — Hqrs. formated from the ASPO to Supdt. (Anx-2) — temporary/ad-hoc — Consequential order (Anx-3)

01.12.1992- Applicant was further promoted to the cadre of Deputy Postmaster (HSG-I) on 01.12.1992. 2000-3200 (Annexure- I, page27)

4.12.92 — Joined + formation Regd/22.12.92 — Anx-5
23-12-92 — Anx-6

01/01/93 → 04.01.1993- Applicant was promoted to the post of Superintendent, RMS, Silchar in the cadre of PSD Group 'B'. 2000-3500/=

Joined Anx 1.1.93 — LPC 2450/= Anx-7

04.06.1993- Basic pay of the applicant was fixed at Rs. 2,600/- (pre-revised) w.e.f. 04.01.93 in the post of Superintendent, PSD. Anx-8 2000-3500

01.01.1996- Basic Pay of the applicant was revised following the 5th Pay Commissions recommendations and fixed at Rs. 8,750/-.

01.01.1997- Basic pay of the applicant came to Rs. 9000/-.

20.01.97 - Anx-9 Page-46 — 30/9/97 - Pay Rules Cause w.e.f 1/1/96

31.03.1998- Applicant was transferred from the post of Superintendent, PSD, Silchar and posted as Deputy Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati.

08.01.1999- Memo was issued by the CPMG, fixing the basic pay of the applicant at Rs. 9,500/-.

01.01.2002- Having earned the annual increments, the basic pay of the applicant came to Rs. 10,250/- on 01.01.2002.

03.01.2002- Applicant was again transferred from the CPO, Guwahati and was posted as Superintendent, RMS 'S' Division, Silchar.

30.08.2002- Deputy Director Accounts (Postal) issued the letter raising an objection that the fixation of pay of the applicant was wrongly done on 04.01.1993 and reduced his basic pay from Rs. 2600/- to Rs. 2450/- on 04.01.1993 resulting into reduction of pay in each of the subsequent stages with his last pay at Rs. 9500/- instead of Rs. 10,250/- on 01.01.2002 affecting all the terminal benefits.

(Annexure-XIV, page- 51)

12.09.2002- Memo issued by the Postmaster General, Dibrugarh also confirming the basic pay of the applicant at Rs. 10,250/- in the new post of

Superintendent, RMS 'S' Division, Silchar, which was his last pay till his retirement.

03.10.2002- Pursuant to the letter dated 30.08.2002, notification was issued reducing the commutation value and pension amount of the applicant. (Annexure-XV Series, page- 54)

11.10.2002- DCRG of the applicant sanctioned earlier has been reduced.

31.10.2002- Applicant retired on superannuation from the post of Superintendent, RMS 'S' Division, Silchar, in the basic pay of Rs. 10,250/-, which was his last pay.

15.01.2003- Leave encashment sanctioned to the applicant earlier has also been reduced down.

17.10.02, 30.10.02, 07.02.03, 18.03.03- Applicant submitted representations agitating against such action of the respondents and praying for regularisation/ correction of his pay on 04.01.93. (Annexure-XVI Series, page- 58)

26.02.2003- Applicant was informed that his promotion to HSG-I on 04.01.93 on ad hoc basis cannot be taken into reckoning for the purpose of fixation of his pay which was wrongly done and hence such re-fixation was done reducing the pay of the applicant on 04.01.93 onwards. (Annexure-XVII, page- 65)

01.04.2003- Dy. Director Accounts (Postal) rejected prayer of the applicant for review of the calculation of interest in GPF accumulation. (Annexure-XVIII, page- 66)

27.08.2004- Hon'ble Tribunal in O.A. No. 175/2003 was pleased to quash the impugned orders passed by the respondents. However, the Hon'ble Tribunal kept it open to the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay/pension and allowed the O.A accordingly. (Annexure-XIX, page- 67)

10.09.2004- Applicant submitted representation enclosing the judgment and order dated 27.08.04 and prayed for restoring his last pay to his original position i.e. Rs. 10,250/-. (Annexure-XX, page- 72)

18.10.2004- Respondents issued letter dated 18.10.04 asking explanation from the applicant that why his pay would not be re-fixed at Rs. 9500/- instead of Rs. 10,250/- (Annexure-XXI, page- 73)

10.11.2004- Applicant submitted his explanation. (Annexure-XXII, page- 74)

28.11.2005- Respondents issued impugned letter dated 28.11.05 informing the applicant that his promotion to HSG-I issued vide circle office, Guwahati letter dated 01.12.92 was purely temporary which did not confer right to regular absorption in the cadre and as such fixation of his pay on promotion to PS Gr. 'B' based on the pay of the HSG-I

post as not in order and the over payment is liable to be recovered. It was also contended that the appointment of the applicant in HSG-I could not be regularised since he did not complete 3 years service in ASPOs cadre and since the HSG-I post held by him was reserved for ST category. (Annexure-XXII, page- 76)

29.11.2005- Respondents issued another impugned letter dated 29.11.05 in the same line. (Annexure-XXIV, page- 77)

07.01.2006- Applicant submitted one appeal against the impugned letters dated 28.11.05 and 29.11.05 and prayed for re-fixation of his pay restoring the same to Rs. 10,250/- which he was drawing as his last pay at the time of retirement and to refund the amount recovered from his retiral benefits. (Annexure-XXV, page- 79)

02.05.2006- CPMG, Assam Circle, Guwahati vide his impugned letter dated 02.05.06 rejected claim of the applicant for restoration of his pay in the original position and also stated that fixation of the applicant pay with reference to the pay of HSG-1 post on promotion to PSS Group B cadre was irregular as per provision laid down in FR-22 (i)-(a) (i) as the petitioner was not regularly promoted to HSG-1 cadre prior to his promotion and posting in PSS, Group-B cadre. (Annexure- XXXI, page- 92)

16.06.2003- Hon'ble CAT, Bangalore Bench in OA No. 12/2003 (V.N. Habbu Vs-Chief Postmaster General) held that upgraded pay scale given due to wrong fixation to the party concerned therein not on account of misrepresentation by the employee cannot be allowed to be recovered. (Annexure- A of the Additional rejoinder)

Rule 59 (b) (iii) of CCS (Pension) Rules 1972 provides that for the purpose of calculation of average emoluments, the head of office may verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service. (Annexure- B of the Additional rejoinder)

Applicant relies on following decisions:

(1) (1999) 33 ATC 489 P.J. Naidu -Vs- Chief Postmaster General & Ors.

(2) ATJ 2005 (3) 511. Judgment and order dated 29.06.2005 in O.A. No. 2248/2004 (Chintaman Namdeorao Umare -Vs- U.O.I & Ors.).

(3) Judgment and order dated 16.06.03 in O.A. No. 12/2003 (V.N. Habbu Vs-Chief Postmaster General) passed by the Hon'ble CAT, Bangalore Bench (reported in Swamysnews).

(4) (1996) 33 ATC 683

(5) (1997) 6 SCC 473 K. Ajit Babu & Ors. -Vs- U.O.I & Ors.

(6) (1998) 4 SCC 447 Gopabandhu Biswal -Vs- Krishna Chandra Mohanty & Ors.

(7) (2006) 11 SCC 493 Purshottam Lal Das & Ors. -Vs- State of Bihar & Ors.

(8) (1994) 27 ATC 121 (SC) Shyam Babu Verma and Ors. -Vs- U.O.I & Ors.

disciplinary authority and the appellate authority respectively and remit back the case to the disciplinary authority to conduct the DE proceedings from the stage of recording the note of disagreement. The disciplinary authority is directed to complete the DE proceedings and pass final order within a period of four months from the date of receipt of a copy of this order. The O.A. is accordingly disposed of. No costs.

CENTRAL ADMINISTRATIVE TRIBUNAL
(BOMBAY BENCH)
(CAMP AT NAGPUR)
Original Application No. 224/8/04
Decided on 29.6.2005

Chintaman Namdeorao Umare — Applicant

Versus

Union of India and ors — Respondents

For the Applicant — Shri R.K. Shrivastava, Advocate.

For the Respondents — Shri Govind Mishra, Advocate.

PRESENT

The Hon'ble Shri Anand Kumar Bhatt Member (A)
The Hon'ble Shri S.G. Deshmukh Member (J)

Central Civil Services (Pension) Rules, 1972--Rule 59(1)(b)(iii)--Pensionary Benefits--Average Emoluments--Pay Fixation--Recovery--Calculation of average emoluments has to be done on the basis of last 10 months of service for which Head of Office can check the record and verify the correctness of emoluments for the period of 24 months only preceding the date of retirement of Govt. servant and not any further--On facts of the case, impugned order of recalculating the average emoluments and reducing the same for the purpose of fixing pension and consequent order of recovery on account of alleged overpayments not justified and quashed

ORDER

Hon'ble Shri S.G. Deshmukh Member (J) :- The present OA is filed for quashing and setting aside the orders dated 19.02.2003 and 31.01.2003 fixing his pay from 31.7.1989 and directing the respondents to fix his pay under provisions of FR 22 (I)(a)(1) read with 22 (I)(b)(2) read with provision below it and directing the respondents to refund the amount of Rs. 3,849/- recovered from the exgratia payment along with interest at the rate of 12% per annum.

2. The applicant's case is that he joined the service as LDC on 02.11.1970 under Respondent No.2. He was promoted as UDC. As he was the senior most UDC he was granted special pay of Rs. 35/-. Applicant retired under voluntary retirement scheme on 31.01.2003. It is contended that while working as UDC he was given promotion on adhoc basis to the cost of Assistant by order dated 12.4.1985 by respondent No.2. He took charge on 12.4.1985, however, he was reverted to substantive post of UDC by order dated 28.5.1985. On promotion to the post of Assistant his pay was fixed at Rs. 425/- plus Rs. 2/- in the pay scale of Rs. 425-800 with effect from 15.4.1985. He was again promoted as Accountant on adhoc basis under order dated 09.4.1986 and his pay was fixed at Rs. 426/- plus Rs. 14/- in the pay scale of Rs. 425-640 with effect from

10.4.1986 under order dated 29.9.1986 As per 4th Central Pay Commissi the pay scale of UDC was revised to Rs. 1200-1240 and that of Accounta Rs. 1400-2300 and the pay scale of Assistant as Rs. 1200-2600 with e from 1.1.1986. The pay of the applicant was fixed in the revised scale of p Rs. 1350/- plus Rs. 35/- as special pay on 01.10.1986. On his adhoc prom to the post of Assistant on 09.4.1986 his pay was fixed at the minimum of scale of Rs. 1400-2600. However, his pay fixation was modified and wa fixed at Rs. 1480/- as Accountant. While working as Accountant on ad basis the applicant was promoted on adhoc basis as Assistant with imm ate effect. His pay was fixed at Rs. 1560/- He was reverted to the pos UDC with effect from 27.6.1989. He was promoted as Assistant in officia capacity with effect from 31.7.1989 and his pay on promotion was fixe Rs. 1700/- in the pay scale of Rs. 1400-2600 with date of next incremen 01.7.1990. The pay scale of Assistant was revised to Rs. 5000- 8000 with fect from 01.01.1996 as per 5th Central Pay Commission. His pay was fixe Rs. 6350/- as on 01.01.1996 with date of next increment on 01.7.1996. He promoted to the post of Superintendent in the pay scale of Rs. 6500-10500 his pay was fixed at the rate of Rs. 7300/-. He was reverted to his substan post of Assistant and his pay in the post of Assistant was Rs. 7100/- 03 5.2002.

3. It is contended that the pay of the applicant was fixed by the respon at all time either on his promotion or reversion He applied for voluntary re ment with effect from 31.01.2003 under special voluntary retirement schem Ex-gratia payment was paid to the applicant for the remaining years of se ice. accordingly ex-gratia payment was authorised. However, while scruti ing the service book Respondent No. 5 pointed out several difficulties v letter dated 30.01.2003. Applicant submitted representation to Respond No. 3. It is contended that the respondents have finalised the pension ben fits as per re-fixation and effected recovery of Rs. 43,849/- His earlier p sion was correct as per provision of FR 22(i). The respondents wrongly fi the pay of the applicant on his promotion to the pos of Assistant, his pay fixed with reference to his pay drawn as UDC instead of pay drawn by him Accountant from his post he has been promoted. nence this O.A.

4. The respondents resisted the claim of the applicant by filing their coun affidavit. Respondents contended that Respondent No.3 i.e. Pay and Accou Officer is the checking authority for the National Savings Organization. On observation of Respondent No.3 the pay of the applicant has been re-fixed per the provisions of SRFR 22(1). Accordingly admissible pensionary bene have been paid to the applicant and as such over payment has been rec ered. It is contended that the pay of the applicant, which was fixed earlier w incorrect and in accordance with SRFR 22(1). The pay of the applicant h been fixed as per provision of FR 22 so that there may not be delay to pay t pensionary benefits to the applicant.

5. Heard learned counsel Shri R.K. Shrivastava for the applicant and Sh Govind Mishra for the respondents. Learned counsel Shrivastava relied o Rule 59 (1)(b)(iii) of CCS (Pension) Rules, which reads as under:-

> "(iii) Calculation of average emoluments. () For the purpose of calcul tion of average emoluments, the Head of Office shall verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service. In order to ensure that the emol ments during the lat ten months of service, have been correctly shown in the service book the Head of Office may verify the correctness of emoluments for the period of twenty four months only preceding the date of retirement of a Government servant, and not for any period prior to that date."

It is apparent from the above rule that the calculation of average of emoluments has to be done on the basis of last 10 months of service for which Head of Office can check the record. Head of Office can also verify the correctness of emoluments for the period of 24 months only preceding the date of retirement of Government servant and not any further. It appears that the respondents have re-fixed the pay of the applicant from the date he was promoted on regular basis to the post of Assistant with effect from 31.7.1989. We have mentioned that the respondents can verify the correctness of the emoluments for the period of 24 months only preceding the date of retirement and not any further. It appears that the respondents tried to verify the emoluments contrary to the provisions of Rule 59 (1)(b) (iii) of CCS (Pension) Rules. In P.J. Naidu vs. Chief Postmaster General & Others (1996) 33 ATC 489 it has been held that "verifying the correctness of emoluments fixed on promotion more than 24 months age from the date of retirement and recalculating the average emoluments and reducing for the purpose of fixing pension is impermissible." In Manaveer Singh vs. Union of India & Others (1996) 33 ATC 683 the applicant's pension was sought to be revised on the ground that it was determined on the basis of pay which was erroneously fixed and it was held that such a mistake could not be rectified after his retirement and his pension determined on the basis of average pay drawn by him during the last 10 months could not be reduced.

6. It is also apparent that the respondents have fixed the pensionary benefits and as per refixation of pay they have effected the recovery of alleged over payment of salary of Rs. 43,849/-. There is no dispute that the fixation of pay and placement in the grade had been done by Head of Office. We have mentioned that the respondents cannot re-open the issue beyond the period of 24 months preceding the date of retirement and refix the pay. The amount which has been recovered from the DCRG by the respondents towards alleged over payment is required to be refunded. Accordingly impugned orders are quashed and set aside. The retiral dues of the applicant be calculated on the basis of average emoluments as actually and already drawn by the applicant in the last 10 months of his service. The amount of Rs. 43,849/- already recovered towards alleged over payment be refunded to the applicant. The above exercise shall be carried out within a period of three months from the date of receipt of this order. In case there is any further delay in payment the applicant shall be paid interest at the rate of 18% per annum. No order as to costs.

RAJASTHAN HIGH COURT
(DIVISION BENCH)
D.B. Civil Special Appeal (W) No. 780/02
Decided on 2.5.2005

Smt. Manju Menaria — Appellant

Versus

State of Rajasthan and others — Respondents

for considering his case with officers of his batch for empanelment to the post of Joint Secretary.

105. The Memo No. 1/L-20/93 Ka 11777, Patna 15 dated 12-12-1994 issued by the Special Secretary, Government of Bihar Department of Personnel and Administrative Reforms (Annexure 15 to the application) is hereby quashed.

106. The Respondents 2 and 3 shall pay Rs 2000 (Rupees two thousand) as costs of this application to the applicant.

(1996) 33 Administrative Tribunals Cases 489

Central Administrative Tribunal, Hyderabad

(BEFORE A.B. GORTHI ADMINISTRATIVE MEMBER)

P.J. NAIDU . . Applicant.

Versus

CHIEF POSTMASTER GENERAL AND OTHERS . . Respondents.

O.A. No. 1300 of 1994, decided on August 17, 1995

Pension — Revision of — Verifying the correctness of emoluments fixed on promotion more than 24 months ago from the date of retirement and recalculating the average emoluments and reducing for the purpose of fixing pension — Held, impermissible — More so, when it was done without affording opportunity — CCS (Pension) Rules, 1972, Rule 59-A(b)(*iii*) — Natural justice — Hearing

(Para 5, 6, 9 and 10)

H-M/A-05622

Advocates who appeared in this case:
D. Subramanyam, Counsel, for the Applicant;
N.V. Ramana, Addl. CGSC, for the Respondents.

The Order of the Bench was pronounced by

A.B. GORTHI, ADMINISTRATIVE MEMBER.— The applicant who joined the postal department in 1956 retired on reaching the age of superannuation with effect from 31-7-1994. At the time of his retirement he was a Jr. Time Scale Officer of I.P.S. Group-A Services and was drawing salary of Rs 3200. The respondents however without any notice came to the conclusion that his last drawn pay was only Rs 3100 and accordingly they recalculated the average emoluments to the financial detriment of the applicant. Hence this OA with a prayer for a direction to the respondents firstly not to recover any money from the applicant towards the alleged excess payment of salary and consequently to refix the pensionary benefits of the applicant correctly taking into consideration the emoluments that were actually drawn by the applicant during the 10 months preceding his date of superannuation.

2. The essential facts averred by the applicant are not in dispute and may be summarised briefly. The applicant was promoted to HSG Gr-I on 3-5-1987 and his pay was fixed at Rs 2450 in the scale of Rs 2000-75-3200. At that time, the applicant gave an option for fixation of his pay on his promotion with effect from the next date of increment, i.e. 1-6-1987. For administrative reasons, he was reverted to his substantive post of Assistant Superintendent of Post Offices on 21-7-1987 and consequently reverted to the corresponding pay of Rs 2360.

He was again promoted the HSG Gr-I on 5-10-1987 and his pay was fixed at Rs 2450 with the date of next increment as 1-8-1988. Accordingly on 1-8-1988 he was given the next increment and his pay was fixed at Rs 2525. It was at this stage that he was promoted to PSS Group-B in the scale of pay of Rs 2000-75-3200-100-3500. His pay on promotion was fixed under FR 22-C at Rs 2675 with effect from 1-9-1988. It was on this basis that his pay as on 1-9-1992 was Rs 2975. On his next promotion to Junior time scale of IPS Group-A on 24-7-1993 his pay was fixed at Rs 3100 in the scale of Rs 2200-4000. He drew the next increment and his pay was fixed at Rs 3200 with effect from 1-7-1994.

3. Heard learned counsel for both the parties. Shri D. Subramanyam, learned counsel for the applicant first contended that the pay of the applicant was at all times, correctly fixed in accordance with the extant rules/instructions. Further the Accounts Department, from time to time, verified and certified his pay as correct. The respondents therefore have no jurisdiction to unilaterally alter his pay fixation just at the time of his superannuation.

4. Learned standing counsel for the respondents has stated that the initial error in the fixation of pay of the applicant took place in May 1987 when he was promoted to HSG Gr-I and when his pay was fixed at Rs 2450. According to the respondents the promotion of the applicant was on ad hoc basis and he was therefore not entitled to exercise the option for fixation of his pay from the date of next increment. The option thus exercised by the applicant was erroneously accepted and had that not been done, his pay would have been correctly fixed at Rs 2375 only. In this context my attention has been drawn to clarification No. 4 contained in Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms OMS dated 8-2-1983 and 28-1-1985, which is reproduced on pages 65-66 of *Swamy's Compilations of FRSR*, 12th Edition, 1994. The said clarification No. 4 is reproduced below:

> "4. *No option in case of ad hoc promotion.*— The option is not admissible in respect of ad hoc promotions. However, in cases where such a promotion is followed by regular appointment to the higher post without break, the option may be allowed as from the date of initial appointment to the higher post, to be obtained and within one month from the date of such regular appointment."

Shri D. Subramanyam, learned counsel for the applicant, has drawn my pointed attention to the promotion order dated 22-4-1984 (Annexure III to the OA). It is to the effect that the applicant was promoted and posted to *officiate as HSG Gr-I, Postmaster, Visakhapatnam HO till further orders* (emphasis supplied). The contention of Shri D. Subramanyam, learned counsel for the applicant, is that the promotion of the applicant was not ad hoc but was an officiating promotion. He therefore urges that the aforestated clarification No. 4 which governs ad hoc promotions does not apply to officiating promotions. There is merit in the submission made by the applicant's counsel. Nothing has been shown to me to indicate that the ad hoc promotion is same as that of an officiating promotion except that the respondents contended that they should be treated alike as neither of them is a regular promotion but is ordered as local arrangement.

5. Without going into the issue whether the promotion of the applicant in 1987 could be deemed to be ad hoc promotion, there seems to be a legal impediment in the matter of revision/refixation of the emoluments of the applicant as was dome by the respondents. In this regard Shri D. Subramanyam, learned counsel for the applicant, makes references to Rule-59(1)(*b*)(*iii*) of CCS (Pension) Rules, 1972. The said clause reads as under:

> "(*iii*) *Calculation of average emoluments.*— For the purpose of calculation of average emoluments, the Head of Office shall verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service. In order to ensure that the emoluments during the last ten months of service, have been correctly shown in the service book the Head of Office *may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a government servant and not for any period prior to that date.* (emphasis supplied)

6. In view of the above statutory provision, the applicant's counsel urges that the Head of the Office is statutorily prevented from undertaking a verification of the correctness or the otherwise of the emoluments drawn by the applicant during the period 1987, which was 6 to 7 years prior to the date of retirement of the applicant. From a careful reading of clause (*iii*) of Rule 59(1)(*b*) of the Pension Rules, it would be evident that the purport of the said clause is to save a government employee from unexpected harassment at the fag end of his service.

7. In the counter-affidavit filed by the respondents there was not even a whisper as to how and why the respondents did not detect the error, presuming that there is one in the fixation of pay of the applicant at or about the time that the error was committed.

8. Shri D. Subramanyam, learned counsel for the applicant, states that the applicant on his promotion to PSS Group-B had not exercised fresh option for fixation of pay from the date of next increment because of his earlier option in 1987, which was accepted by the respondents. Had the respondents refused to accept his earlier option of 1987, he would have given his fresh option in 1988 on his promotion to Group-B. The respondents did not take this aspect into consideration, while arriving at their unilateral decision of refixation of pay on the presumption that the applicant would not have exercised such option.

9. Last but not the least, it is contended for the applicant that the action of the respondents is violative of the principles of natural justice, in that, the applicant was not given any opportunity to explain his position before the impugned orders were passed by the respondents. This is yet another irrefutable argument advanced by the applicant's counsel.

10. In the result, looking at the case from any angle, I find that the respondents' decision to revise the emoluments of the applicant and to reduce the same on the eve of his retirement is neither legal nor fair. Consequently memo No. CA I/Pen/PJN/94 dated nil, September 1994 and the letter from the Director of Accounts (Postal), Andhra Circle, Hyderabad-1 addressed to the Accounts Officer, Pension Section dated 15-10-1994 are hereby set aside. The respondents are directed to refund the amount, if any, recovered from the applicant on the basis of the impugned order towards the alleged excess salary

paid. The respondents are further directed to calculate the pensionary benefits of the applicant on the basis of the actual emoluments drawn by him during the 10 months preceding the date of his retirement. This shall be done within a period of three months from the date of communication of this order. No order as to costs.

(1996) 33 Administrative Tribunals Cases 492

Central Administrative Tribunal, Guwahati

(BEFORE M.G. CHAUDHARI, J., VICE-CHAIRMAN AND G.L. SANGLYINE, ADMINISTRATIVE MEMBER)

M. LEPDON AO AND OTHERS ... Applicants;

Versus

UNION OF INDIA AND OTHERS ... Respondents.

O.As. Nos. 48 of 1991, 2 of 1994, 11, 37 and 105 of 1995, decided on August 22, 1995

A. Administrative Tribunals Act, 1985 — S. 22(3)(f) — Review — Grounds — Production of an additional document which was already in existence — Held, not a ground for review because that would amount to putting premium on the lapse of Government departments concerned and laches on their part — However, in the facts and circumstances of the case, the additional document taken into consideration because its contents went to the root of the matter (Para 11)

B. Allowances — House Rent Allowance (HRA) — Compensation in lieu of rent-free accommodation — Held, the compensation has two components, HRA and licence fee — Hence, claim of applicants for the compensation could not be decided solely on the basis of OMs issued by Government prescribing from time to time the rates of HRA — Government accommodation — Rent-free accommodation (Para 16)

C. Government accommodation — Rent-free accommodation — Compensation in lieu of — Central Government employees posted in Nagaland — On consideration of relevant OMs issued by Government from time to time, held, all such employees are not entitled to rent-free accommodation as a matter of course — The orders regarding rent-free accommodation "apply only to the incumbents of posts which have been specifically made eligible for the concession of rent-free accommodation" — However, in view of the fact that in an earlier case, the Supreme Court had made certain observations which implied that compensation in lieu of rent-free accommodation was admissible to all the employees without linking their entitlement to this condition, the compensation could not now be denied to the applicants in the present case — The compensation comprised of HRA plus licence fee at prescribed rates — The dates from which arrears were admissible to the applicants also indicated — Further held, Government was free to issue fresh orders without co-relating them with the previous OMs and laying down a formula independent of previous orders (Paras 17 to 80)

Union of India v. *S.K. Ghosh*, Civil Appeal No. 2705 of 1991 (SC), decided on 18-2-1993, *relied on*

D. Allowances — House Rent Allowance (HRA) — Central Government employees posted in Nagaland — Following an earlier decision of the Supreme Court, held, they were entitled to HRA at the rate applicable to 'B' class cities but Government could revise these rates by issuing fresh instructions [Paras 8(v) and 69(v)]

Union of India v. *S.K. Ghosh*, Civil Appeal No. 2705 of 1991 (SC), decided on 18-2-1993, *relied on*

E. Precedent — Law declared by the Supreme Court — Facts not brought to the notice of the Supreme Court — Precedent, held on facts, still applicable because similarly situated employees could not be discriminated — However, Government could

the Hon'ble Court to the effect that the amount already drawn by the Respondent-employees therein towards concessional HRA shall not be recovered from them even though they were held to be not entitled for the same.

[*Bahadur Singh* v. *Union of India and others*, 12/2003, *SwamysnewS* 59, (*Calcutta*), *date of judgment* 1-7-2003]

O.A. No. 7/SKM/2001

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Under Rule 59 (1) (*b*) (*iii*) of CCS (Pension) Rules, 1972, it was not open to make any correction in the pay of an employee fixed in the year 1980, nor it was open to make recovery of emoluments drawn by the employee on that basis of fixation, particularly when the error was not as a result of any fraud or misrepresentation.

Facts: The Applicant entered the Government service as a Postal Assistant in 1963. He was regularly appointed to the post of Accountant on 1-11-1979. He was promoted to the post of Assistant Superintendent of Post Offices with effect from 17-7-1985. Earlier between 1980 and 1985, he had occasion to work as Inspector of Post Offices, on local arrangement basis. At that time, his pay was fixed at Rs. 500 with effect from 1-12-1980 after taking into consideration Special Pay of Rs. 45 for acting as Accountant in broken spells prior to his promotion as Inspector of Post Offices. He took voluntary retirement with effect from 1-12-2001. While fixing pension, the Assistant Chief Accounts Officer held that the pay with effect from 1-12-1980 was wrongly fixed at Rs. 500 by taking into account the special pay of Rs. 45. Excess payment made to the Applicant is sought to be recovered and hence this O.A. was filed.

Held: Rule 59 (1) (*b*) (*iii*) clearly provides that in order to ensure that the emoluments during the last 10 months of service have been correctly shown in the service book, the Head of Office, "may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a Government servant and not for any period prior to that date". In that view of the matter, it was not open to the Respondents to make any correction in the pay of the Applicant fixed in the year 1980 nor was it open to the Respondents to make recovery of the emoluments drawn by the Applicant on the basis of pay fixation done in the year 1980 particularly when the error, if any, in the pay fixation with effect from 1-12-19980 was not as a result of any fraud or misrepresentation of the Applicant.

In *Sahib Ram* v. *State of Haryana and others* (1995) *Supp.* (1) *SCC* 18), their Lordships of the Supreme Court have clearly held that upgraded pay scale given due to wrong fixation to the party concerned

ANNEXURE-B

therein not on account of misrepresentation by the employee cannot be allowed to be recovered. The above decision, in our opinion, applies on all fours to the facts of the present case.

The impugned order directing recovery of alleged excess payment is vitiated yet on another ground. We are of the considered view that settled position for the last more than 20 years prior to retirement of the Applicant ought not to have been unsettled at least without affording an opportunity of showing cause to the Applicant. The impugned order adversely affected the Applicant and having been passed without affording an opportunity and showing cause to him, is liable to be quashed on this ground alone also.

[*V.N. Habbu* v. *Chief Postmaster-General, Bangalore and others*, 12/2003, *SwamysnewS* 62, (*Bangalore*), *date of judgment* 16-6-2003]

O.A. No. 1087 *of* 2002

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According to serial circular No. 139/91 of the Railway Board, when it is later found that Railway employee was really missing and not unauthorizedly absent, the punishment order should be annulled by the appropriate authority and all the relevant benefits like grant of leave encashment, salary dues, retirement benefits, etc., might be extended to the employee or to the legal heirs

Facts: The husband of the applicant was working as a Gangman and was removed from service in 1984 on the ground of his unauthorized absence. According to the Applicant, her husband was missing for the last $17\frac{1}{2}$ years and he suddenly reappeared in the village in an unsound mind on 14-7-2001 and expired on the very next day. She approached the Respondents to settle the dues and pensionary benefits of her late husband, but her prayer was turned down by order, dated 29-7-2002, stating that her husband was removed from service from 7-11-1985. Hence, she filed the present O.A. relying on circular No. 139/91 of the Railway Board regarding the cancellation of penalty of removal from service imposed on the charge of unauthorized absence, where it later transpires that the case is one of genuine missing and grant of consequential benefits to the missing person's family.

Held: I have carefully perused the provisions of the serial circular No. 139/91 issued *vide* Railway Board's letter, dated 22-8-1991. It is seen from the above undisputed facts that the husband of the Applicant was working as a gangman under PWI, Mudkhed and was removed

from service on 7-11-1985 on the ground that he was continuously absent from duty with effect from 22-10-1984. Thereafter, the Applicant approached the Railway authorities by submitting a representation, dated 10-2-1989, after a lapse of more than 3 years, intimating the authorities that her husband was missing due to mental disorder and requesting for settlement of dues and for providing compassionate appointment to her son. Though the applicant has not produced a copy of the representation, dated 10-2-1989, submitted by her in this regard along with the present O.A., the Respondents have admitted this fact in Paragraph 4 of their reply statement as also *vide* copy of their letter, dated 5/11-4-1989 addressed to the Applicant, calling upon her to produce a Succession Certificate from the Court of Law, as per extant rules, and also advising her to furnish a copy of the report, if any, made to the Police authorities. Thereafter, according to the Applicant, she lodged a complaint to the Police of Umri Police Station 27-4-1989. However, a copy of the said complaint has not been produced by the Applicant before to show this fact. However, the Applicant has produced a report furnished by Umri Police, dated 26-7-1999 to the Divisional Railway Manager, MG, Hyderabad Division, Secunderabad, along with extract of Missing Report Register maintained in the said Police Station Register Umri, of the same date. The said report disclosed that the Applicant's husband Govind Chavan, s/o. Laxman, was not found when the Police made inquiries from SSE/P, Way, Mudkhed and local area. They enclosed the report received from the office of the PWI, Mudkhed, dated 1-4-1999, informing them that Govind Laxman, Gangman, Mudkhed, worked in their section and that he was absent from service since October, 1984. The Applicant has also produced a copy of the letter addressed from the office of PWI/Mudkhed, dated 29-3-1990 to the Superintendent, Government Hospital for Mental Care, Hyderabad.

Thus, it is clear from this letter that the husband of the Applicant, Govind Laxman was admitted in the Government Hospital for Mental Care, Hyderabad, in January, 1986, due to some illness. Against the above documents produced by the Applicant, the Respondents have not produced any other document to justify their stand that the absence of the Applicant's husband from duty was unauthorized and not on account of any physical or mental illness. Further, the above documents, placed on record, clearly discloses that the Applicant's husband was found missing during the relevant period and for that reason, he was not attending duty since 22-10-1984, though according to the Railway authorities, the husband of the Applicant took some treatment in the month of January, 1986, in the above Railway Hospital. There is nothing on record to show the nature of illness the husband of the Applicant was suffering from at that time, whether mental or physical. However, the fact remains that thereafter the husband of the Applicant

was found missing and this fact was brought to the notice of the Railway authorities by way of her representation, dated 10-2-1989. This fact is also evident from the report submitted by the Police directly to the Railway authorities. Further, according to the Applicant, her husband returned to the village only on 14-7-2001 in a critical condition and on the very next day, i.e., on 15-7-2001, he expired. The Applicant has alleged in the present O.A. that her husband was found to be in a state of unsound mind when he came back to the village on 14-7-2001. Copy of the Death certificate issued on 10-8-2001, is produced by the Applicant to show that her husband, Late Govind S/o. Laxman Chavan died on 15-7-2001 and at that time, his age was 54 years. The said certificate also shows that he was an ex-servicemen and worked as Gangman, Gang No. 3, Limbgoan Section, Mudkhed. This certificate was issued by the Sarpanch of the village. The above fact alleged in Para 6.2 of the O.A. are not specifically denied in the reply statement. So it can be taken that during the above said period from 22-10-1984 till 14-7-2001, the husband of the Applicant was found missing, though according to the Respondents, he was admitted in a Railway Hospital in the month of January, 1986 for treatment of his illness. But, the Respondents have not produced any certificate issued by the Railway Hospital authorities in the regard in support of their contention that the husband of the Applicant was treated in the said Hospital during the month of January, 1986, and that his actual missing from the place was subsequent to January, 1986. In the absence of any such material, it must be taken that the husband of the Applicant remained absent from duties from 22-10-1984 since he was found missing till 14-7-2001. According to serial circular No. 139/91, when it is later found that the Railway employee was really missing and not unauthorizedly absent, the disciplinary action should be treated as initiated on invalid premises and the ongoing disciplinary action or the punishment order should be annulled by the Appellate/Revisionary authority, and after taking the said action, relevant benefits like grant of leave encashment, salary dues, retirement benefits, etc., may be extended to the employee or to his legal heirs, as outlined in the earlier letter of the Railway Board, dated 19-9-1986.

In the result, this O.A. is allowed. The Respondent authorities are directed to annul the removal order, dated 7-11-1985 and extend the benefits like grant of leave encashment, salary dues, retirement benefits and family pension, etc., to the Applicant, as prescribed in serial circular No. 139/91 issued by the Railway Board on 27-9-1991, subject to furnishing of Indemnity Bond as per letter, dated 27-9-1991. The respondents shall comply with this order within three months from the date of receipt of a copy of this order. The Respondents shall also consider the claim of the Applicant for providing

contains comprehensive instructions on the said subject. Admittedly, the notified post was not reserved for any category. The learned Counsel of the Respondents has however, drawn attention towards Para. 7 of that circular which is applicable in respect of general candidates also. It is as below:—

"It should be ensured that the candidates securing maximum marks in the examination prescribed as the essential/preferential educational qualification in the manner indicated above is selected, if the vacancy is unreserved".

A reading of paragraph quoted above, shows that candidates securing maximum marks in the examination prescribed as essential/ preferential educational qualification is to be selected if the vacancy is unreserved. Keeping this in view, we have examined the charge attached with show-cause, dated 30-11-2002 which reflects the numbers obtained by the candidates in the examination of 8th class and High School. This shows that the Applicant secured 85.66% marks in class 8th and 69.00% marks in High School. Matadin secured 70.16 marks in 8th class and 70.15% marks in High School. Narayanan Das Yadav secured 75.66% marks in 8th class and 86.6% marks in High School. On examination of the marks obtained by the aforesaid three candidates, it is noted that though the Applicant secured maximum marks in the basic essential educational qualification of 8th class, but has not secured the highest marks in the preferential qualification of High School. On the other hand, Narayan Das Yadav has secured higher marks in High School examination but has failed to secure highest marks in 8th class. Thus, if Paragraph 7 of the circular, dated 27-11-1997 is read, as per the submission of the learned Counsel of the Respondents appointment of only such a candidate is to be made who secured the highest marks both in the essential and preferential educational qualification, then none of the candidates can be appointed. It is not necessary that a person who secured the higher marks in 8th class may also secure the higher marks in High School examination. Such a situation may come only in 1% case. Thus, a reasonable meaning has to be assigned to the intention of Paragraph 7. It is admitted to the Respondents that the basic qualification required for the post was only 8th class pass. Only preference was to be given to High School pass. Thus, the merit could be in respect of only basic qualification. If the same is equal, only then the question of preferential qualification and percentage of marks obtained therein is to be considered. From this angle, we find that the Applicant secured 85.66% marks in the 8th class and none of the other candidates including Narayan Das Yadav and Matadin Kumar secured such marks in the 8th class. So, none acquired marks higher than the present Applicant in the 8th class. Consequently, on the basis of the basic essential qualification, the Applicant was most meritorious. The

Applicant also possessed High School qualification. Thus preferential qualification is also with the Applicants only because in the preferential qualification the marks obtained by the Applicant are less than others, the merit of the Applicant vis-a-vis others with regard to preferential qualification cannot be discarded. On this, we are supported by the decision of the Apex Court in the case of *Bibhudatta Mohanty* v. *Union of India and others* [(2002) 4 SCC 16] wherein the Apex Court has observed that "Where any rule or guideline provides preference in respect of some higher qualification, it only means that all other requirements being equal, a person possessing higher educational qualification will be preferred. It cannot, however, be considered as the sole criterion for preference in selection and appointment".

In the light of the discussion made above and the decision of the Apex Court in the case of *Bibhudatta Mohanty* (*supra*), the order impugned in the present case cancelling the Applicant's appointment is not valid and is quashed. The Applicant shall be reinstated into service within one month from today with continuity of service. However, he will not be entitled to any pay for the period he remained out of service. Costs easy.

[*Rajkumar Vishvakarma* v. *Union of India and another*, 12/2003, *SwamysnewS* 57, (*Jabalpur*), *date of judgment* 27-6-2003.]

O.A. No. 366 *of* 2003

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Not granting double HRA to employee transferred to remote areas when he is occupying a Government quarter and not in receipt of HRA and when alternative Government accommodation is not available and he is compelled to hire private accommodation to retain the family at the old station is discriminatory and the OM is to be amended suitably

Facts: The Applicant is a member of Indian Postal Services and was posted at Ranchi as Director of Postal Services. He was allotted a post attached quarter at Ranchi. He was transferred to Gangtok in Sikkim in October, 1998. Applicant vacated the quarters for the new incumbent. As he could not shift his family and as there was no vacant quarters for retaining his family at Ranchi, he hired a private accommodation and kept his family there. But he could not make proper application in time for providing alternative accommodation to retain his family at Ranchi. In order to provide incentive to Government employees for posting in hard stations like N-E. Region, which includes Sikkim, additional house rent allowances is granted to such

transferred employees to retain their families at the old station as per OM, dated 14-12-1983. Therefore, the Applicant started drawing HRA at Ranchi rate from November, 1998. As there was an audit objection in September, 1999 regarding such drawal of HRA, on the ground that he had already claimed TA for shifting his family, the Applicant stopped drawing such additional HRA and recovery was also made of the amount already drawn in September, 1999 itself.

Subsequently, he came to know that by an order, dated 8-3-1988, Government clarified that employees will be entitled to draw HRA at old station irrespective of whether they claimed TA or not. He made a representation and started drawing HRA. The Director of Accounts issued a letter, dated 27-12-2000, advising him to stop further drawal of HRA and to refund the amount already drawn on the ground that he is not entitled to draw the HRA as per OM, dated 28-5-1986. Ministry of Communication also clarified that he was not entitled to draw HRA for his last station of posting while posted at Gangtok. Another order was issued on 30-8-2001, advising recovery of a sum of Rs. 82,650 and aggrieved by the orders, the OA, was filed.

Held: No doubt, payment of double HRA is an incentive to those Government employees serving/transferred to remote areas. However, any payment has to be made only after fulfilment of certain conditionalities as provided in relevant Government orders sanctioning such payment. It is not disputed even by the Applicant that he was not drawing any HRA at his previous station since he was provided with Government accommodation. Even, if payment of HRA is an incentive to the Government employees, but according to Para. 2 of the clarification, dated 28-5-1986, such incentive would be available only to those Government employees who were in receipt of HRA. In other words, all those employees who were occupying post attached or Government accommodation would not be entitled for the incentive as they were not in receipt of HRA. Without doubt, this classification is arbitrary and defeats the objective of the incentive scheme. We find force in the contention of the Applicant that there is discrimination and the clarification No. 2 *ibid* suffers with some lacuna. It does not cover cases where Government employees was occupying Government or post attached accommodation and thus was not in receipt of HRA and alternative Government accommodation is not provided/available to the employee because of its non-availability for which the employee is compelled to hire private accommodation to retain his family at the old station. We, therefore, agree with the contention of the Applicant that suitable amendment is necessary to be introduced to cover such type of cases so that such employees also get the benefit of double HRA though they were not earlier drawing HRA. The competent authority, i.e., Respondent No. 1, is, therefore, directed to consider for carrying

out such amendment in Para. 2 of the clarification, dated 28-5-1986, and intimate this Tribunal regarding the decision taken in this regard within 4 months from the date of communication of this order.

From the above, it is clear that for non-grant of double HRA to the Applicant, the Respondents have raised mainly two grounds. First the Applicant did not apply in time for allotment of alternative accommodation at the old station as required under the Rules. Secondly, the Applicant was provided with post-attached quarter at his old station and was, therefore, not drawing any HRA and as per clarification No. 2 of DoP&T OM, dated 28-5-1986, the concession will be available only in respect of those Government employees who were in receipt of HRA at that place.

We have already observed that the Applicant ought to have applied for allotment of alternative accommodation as per Rules which he did not do as he personally knew that no alternative accommodation was available at the station. He started drawing HRA at his old station rate based on his personal knowledge that no alternative accommodation would be available even if he applied for the same, which was definitely irregular.

However, since the payment of double HRA is a kind of incentive for posting in hard stations in N-E. Regions and the same is admissible even to those Government employees who were residing at their own houses or hired ones and thus drawing HRA, it will be discriminatory not to grant HRA to those who were residing at Government quarters or post attached quarters at the old station and thus were not drawing any HRA and could not be provided with alternative accommodation due to its non-availability. The Respondents have not denied the contention of the Applicant that at Ranchi no Government accommodation was available and even if the Applicant had applied in time for providing alternative accommodation, the Respondents would not have been in a position to provide him any such accommodation. At best, they could provide a hired accommodation at Government expense. Therefore, if HRA is paid to the Applicant in lieu of alternative accommodation, there will not be any extra financial loss to the Government nor any Government accommodation would remain unutilized causing loss to the Government.

Accordingly, we dispose of this OA with a direction to the Respondent authorities, especially Respondent Nos. 2 and 3 to reconsider the case of the Applicant for regularization of his drawal of HRA in the light of our observations made above within a period of three months from the date of communication of this order. While doing so, they would keep in view the decision of the Hon'ble Apex Court in the case of *Union of India and others* v. *M. Lepdon AO and others* [(2001) 8 SCC 375], where the principle has been laid down by

compassionate appointment to the son of the Applicant, Chavan Sanjay, if such an application has been made to them, by passing appropriate orders, within a period of one month from this date, if he is otherwise found eligible.

[*Smt. Savitri Bai* v. *The General Manager, South Central Railway, and others*, 12/2003, *SwamysnewS* 63, (*Hyderabad*), *date of judgment* 16-6-2003.]

O.A. No. 63 *of* 2003

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A pensioner is entitled to interest on his pensionary benefits if no delay has occurred on the part of him/her, in submission of necessary forms in accordance with rules

Facts: The applicant has retired from service from the Ministry of Environment and Forests on 31-5-2002. He had been earlier placed under suspension under the provisions of CCS (CCA) Rules on the plea that a criminal case is pending against him. Though he retired from service on superannuation, pensionary benefits, including provisional pension were not given to him even after a period of 13 months. Hence, he filed the present O.A.

Held: Taking into account the facts and circumstances of the case including the averments made by the Respondents themselves in the aforesaid letter, dated 2-6-2003, the O.A. is disposed of with the following directions:—

(*i*) The Respondents are directed to take necessary steps to make payment of the provisional pension to the Applicant as admissible in accordance with the relevant Pension Rules, with effect from 1-6-2002;

(*ii*) The Respondents shall also take necessary steps to make other payments as stated in their letter as expeditiously as possible and in any case within two weeks from the date of receipt of a copy of this order, with intimation to the Applicant;

(*iii*) The applicant shall be entitled to interest on provisional pension, GPF and such other amounts as he is entitled to as per rules, subject to verification that no delay has occurred on the part of the Applicant, in submission of the necessary forms in accordance with Rules;

(*iv*) The interest shall be, as determined by the Government from time to time on such payments from the due date till the date of actual payment; and

(*v*) The interest shall be paid to the Applicant within one month from the date of receipt of copy of this order.

No order as to costs.

[*P. Kannan* v. *Government of India, Ministry of Environment and Forest, New Delhi*, 12/2003 *SwamysnewS* 66, (*Madras*), *date of judgment* 30-6-2003.]

O.A. No. 159 *of* 2003

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Denial of the pay scale of Rs. 5,500-9,000 to senior Draftsmen in Foreman Training Institute as was granted to their counterparts in different organizations of Central Government, creates invidious discrimination and the Tribunal is justified in interfering with the fixation of pay scales

Facts: The Applicants were working as Senior Draftsmen, Grade I in the Foreman Training Institute and drawing a pay in the scale of Rs. 1,600-2,660. After the 5th Pay Commission, they were granted the pay scale of Rs. 5,000-8,000. The pay scale of Senior Draftsmen in several Central Government Departments, like CPWD, Central Ground Water Board, Central Electricity Authority, Ministry of Defence and Ministry of Railways had been revised from Rs. 1,600-2,660 to 5,500-9,000 by the Ministry of Finance. Applicants made representations for granting them pay scale of Rs. 5,500-9,000 as had been given to their counterparts in other departments. As it was rejected, they filed the above O.A.

Held : It is incomprehensible why the higher pay scale of Rs. 5,500-9,000 given to the Senior Draftsmen Grade I in these Departments and Organizations inspite of the recommendation of the 5th Pay Commission was denied to the Applicants. The reason which dictated grant of higher pay scale to the Draftsmen, Grade I of the aforesaid Departments and Organization of Central Government is applicable to the plea of the Applicants who like their counterparts in the aforesaid Departments/Organizations were also in the pre-revised scale of Rs. 1,660-2,660. The pay scale of Rs. 5,500-9,000 given to Draftsmen, Grade I of CPWD, Central Ground Water Board, Central Electricity Authority, Ministries of Defence and Railways was higher than the replacement scale recommended by the 5th Pay Commission. The plea of the Applicants for giving them the pay scale of Rs. 5,500-9,000 as was given to their counterparts in the aforesaid Departments/Organizations is reasonable, equitable and is calculated to establish partly between the functionaries of same level (Draftsmen Grade I) of different Organizations/Departments of the Central Government.

Thus, the revision of pay scales by the Tribunals may be justified for proper reasons and if a clear case of hostile discrimination is made out. Needless to say, as mentioned above, there are proper reasons for granting the pay scale of Rs. 5,500-9,000 to the Applicants as was granted to their counterparts (Draftsmen, Grade I) in the different Departments/Organizations of Central Government cited above. The denial of this pay scale to the Applicants by the impugned orders creates invidious discrimination between the Applicants and the Draftsmen, Grade I in the aforesaid Departments/Organizations who were all in the pre-revised scale of Rs. 1,600-2,660 and who were given higher scale of pay of Rs. 5,500-9,000 inspite of the recommendation of the 5th Pay Commission for a lower replacement scale.

It may not be out of place to mention that the Madras Bench of the Central Administrative Tribunal considered grant of pay scale of Rs. 5,500-9,000 to Senior Draftsman in the Institute under the Ministry of Labour in [O.A. No. 359 of 2002] *G. Govindan and others* v. *Union of India* and held that the Respondents are directed to consider the case of the Applicants for grant of pay in the pay scale of Rs. 5,500-9,000 with effect from 1-1-1996 with all consequential benefits.

In the light of the facts and circumstances stated above and the judgment of the Madras Bench of the CAT which is squarely applicable to these cases, we are of the view that the Respondents may consider the case of Applicants for grant of pay in the pay scale of Rs. 5,500-9,000 with effect from 1-1-1996 with all consequential benefits.

[*C.A. Ananda Rao and another* v. *The Director, Foreman Training Institute Bangalore and others,* 12/2003 *SwamysnewS* 67, (*Bangalore*) *date of judgment* 1-7-2003.]

O.A. No. 298 *of* 2002

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1. As per Rule 37 (1) of Railway Services (Pension) Rules, 1993, if the payment of gratuity has been authorized after 3 months, the Railway servant is entitled to interest on the amount of gratuity, provided no delay is caused on account of the Railway servant's failure to comply with the procedure.

2. Specific benefits expressly given in a social beneficial legislation cannot be ordinarily denied.

3. It is well settled that the administrative *ipse dixit* cannot infiltrate on arena which stands by judicial order.

Facts: The applicant retired on superannuation on 30-4-1996. Just before his retirement, his pay was reduced and fixed at Rs. 3,400 instead of Rs. 3,500. His gratuity amount of Rs. 50,000 was also withheld. Applicant filed O.A. No. 248 of 1997. Tribunal by order, dated 29-9-1999, directed that any order of refixing the pay may be made only after giving an opportunity to show cause the Applicant and directed the Respondents to release the amount of DCRG withheld by them with interest at 12% per annum. As the order, dated 29-9-1999 was not complied with, Contempt Petition No. 13 of 2000 was filed. But during the pendency of the contempt petition, the respondents released a sum of Rs. 39,399 without interest. By order, dated 7-9-2001, Tribunal directed the Applicant to file a representation for the balance amount of Rs. 10,601 and also for the interest. Applicant made a representation on 18-9-2001. As no orders were passed on his representation, he filed O.A. No. 604 of 2001. The Tribunal by order, dated 3-1-2002 directed the Respondents to dispose of his representation, dated 18-9-2001 within a period of one month. By order, dated 17-10-2001, it was informed that out of the withheld amount of Rs. 50,000, Rs. 39,399 was paid and Rs. 10,601 was deducted towards recovery of Scooter advance and excess payment. They further informed that since no interest is payable on the amount, no interest was paid to the Applicant. Challenging the order, dated 17-10-2001, the above O.A. was filed.

Held: The limited point that arises for consideration and decision in this O.A. is, whether the Respondents were justified in denying the interest on the belated payment of gratuity on the ground that no interest is payable on the amount which is kept in deposit for adjustment of excess payment made to the employee. In order to appreciate the contention urged on behalf of the Respondents, it is necessary to notice the provision of Rule 87 of the Railway Services (Pension) Rules, 1993, to the extent they are relevant. Sub-rule (1) of Rule 87 is to the following effect:—

"(1) If the payment of gratuity has been authorized after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf, on the amount of gratuity in respect of the period beyond three months shall be paid:

Provided that the delay in the payment was not caused on account of failure on the part of the Railway servant to comply with the procedure laid down in this chapter".

The aforesaid rule mandates that if the payment of gratuity had been authorized after three months from the date when its payment

became due on superannuation, the Railway servant shall be entitled to interest as such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond 3 months. However, proviso to this sub-rule postulates that no payment of interest is payable to the Railway Servant, if the delay in the payment was caused on account of failure on the part of the Railway servant to comply with the procedure laid down in this chapter (Chapter VII). It is not the case of the Respondents that the delay in payment of gratuity was caused on account of any lapse/failure on the part of the Railway servant to comply with the procedure laid down in Chapter VII of the Railway Services (Pension) Rules, 1993. Rather, the lapse is on the part of the railway authorities while retaining the amount over and above the amount which was recoverable from the Applicant. As such, they were not authorized to retain the amount of Rs. 39,399 which was subsequently paid to the Applicant pursuant to the order passed by this Tribunal. Therefore, the Applicant was entitled to interest on the withheld amount of Rs. 39,399 in terms of the provisions contained in Rule 87 of the Railway Services (Pension) Rules.

Payment of gratuity with or without interest does not lie in the domain of discretion, but it is a statutory compulsion. Specific benefits expressly given in a social beneficial legislation cannot be ordinarily denied. The employee on retirement has valuable right to get gratuity and any culpable delay in payment of gratuity must be visited with the penalty of payment of interest, was the view taken in *State of Kerala and others* v. *M. Padmanabhan Nayyar* [1985 (1) SLR 7.0 SC].

As already been stated above, it was not the case of the Respondents that delay in payment of gratuity was due to the fault of the employee. As noticed above, there is a clear mandate in the provisions of Rule 87 to the employer for payment of gratuity within time and to pay interest on belated payment of gratuity. Since the Respondents did not satisfy the mandatory requirement of Rule 87 of the Railway Services (Pension) Rules, no discretion was left to deny interest to the Applicant on the belated payment of gratuity.

That apart, in O.A. No. 248 of 1997 decided on 29-9-1999, this Tribunal has specifically directed the Respondents to release the amount of DCRG withheld by them along with interest at the rate of 12% p.a. This order had attained finality and has not been challenged by the Respondents. In view of this finding given in the earlier OA, the Respondents were not justified to scuttle the judicial order by passing the impugned order, dated 17-10-2001 whereby holding that no interest is payable on the amount which is kept in deposit for adjustment of excess payment made to the employee, as it is well

settled that administrative *ipse dixit* cannot infiltrate on arena which stands by judicial order.

In the light of the facts as stated and for the reasons aforementioned, the impugned order, dated 17-10-2001 cannot be sustained. Consequently, it is set aside. The Respondents are directed to pay interest at the rate of 12% per annum of the amount of gratuity, i.e., Rs. 39,399 to which the Applicant was entitled from the date it became payable as Rule 87 *ibid* till the same was actually paid to the Applicant. The OA is allowed accordingly with no order as to costs.

[*A.K. Verma* v. *Union of India and others,* 12/2003 *SwamysnewS* 68, (*Jaipur*), *date of judgment* 2-7-2003]

— *O.A. No.* 551 *of* 2002

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When candidates were selected through prescribed examination and a lapse in not disclosing the circular inviting application that the posts were to be filled up on *ad hoc* basis and even when the appointment orders did not disclose that they were on *ex cadre* posts, candidates are justified in believing that they were regularly promoted to a different cadre

Facts: The Applicants were working as Chargeman in the scale of Rs. 1,600-2,660 in the Maintenance Wing of Diesel Shed of Eastern Railway. As there was acute shortage of eligible staff for promotion to the post of Loco Inspector in the scale of Rs. 2,000- 3,200 in the feeder categories like Loco Running Staff, a decision was taken to fill up 20% posts of Loco Running Supervisors from volunteers of Maintenance Supervisors. The Applicants gave their option and by order, dated 29-12-1992, they were selected and empanelled and were appointed as Loco Inspector in the scale of Rs. 2,000-3,200. When they were working as such, by order, dated 18-8-1997, they were repatriated back to parent cadre of Chargeman. They filed O.A. No. 1037 of 1997. By order, dated 9-9-1997, Tribunal directed the Respondents to consider the O.A. as a representation and dispose of the same. By order, dated 17-3-1998, the repatriation order, dated 18-8-1997 was upheld by the authority, which was challenged in this O.A.

Held: Obviously, the Applicants belong to non-running side and hence they are liable to be repatriated to their parent cadre as per this provision. But the fact remains that the Applicants were selected through prescribed examination and admittedly there was administrative lapse in not disclosing in the circular inviting application that the posts were to be filled only on *ad hoc* basis. Even the appointment order of the Applicants did not disclose that they were on *ex cadre*

posts and may be repatriated at any time. If the Applicants thought that they were regularly promoted as Loco Inspector based on these documents, no fault can be found with them. It is also to be borne in mind that they have served for more than 10 years as Loco Inspectors without any complaint. It is not the case of the Respondents that they are inefficient or incapable of the job. Moreover, only 20% of the vacancies were filled from maintenance side with the approval of the competent authority at a time when there was acute shortage of suitable personnel in the feeder category. Thus, it is a case of appointment in a different cadre in administrative interest. It is also to be noted that when the applicants were actually appointed, the Railway Board's circular was already issued though made effective from 1-1-1993. Even thereafter, the Applicants were not repatriated in terms of this circular and they were allowed to continue till the impugned order, dated 18-8-1997 was issued.

Having considered all aspects of the matter, we are of the view that ends of the justice will be met if the application is disposed of with the following directions and we direct accordingly:

(*i*) The competent authority, i.e., the General Manager, shall consider the case of the Applicants for their absorption as Loco Inspectors or equivalent posts in Loco Running side in the light of our observations made above within three months from the date of communication of this order.

(*ii*) If, however, the consideration goes against the Applicants, they may be repatriated to their parent cadre in accordance with Para. 8.3. of the Railway Board's circular quoted above and while doing so, they shall be adjusted in the maintenance side in identical grade of Loco Inspector, i.e., qualifying Foreman-B or Loco Foreman, as the case may be, without subjecting them to any examination as they had already cleared the examination for promotion to identical grade, and their pay and seniority be protected accordingly.

[*C.D. Bhattacharya and another* v. *Union of India and another*, 12/2003, *SwamysnewS* 71, (*Calcutta*), *date of judgment* 3-6-2003]

O.A. No. 389 *of* 1998 *with M.A. No.* 120 *of* 2000

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Under the ACP Scheme, if the employee does not have an avenue of promotion or even if there be a promotion, does not get actual promotion, he has to be given the benefit under the scheme

Facts: Five Applicants have joined in this O.A. pleading that they have been working as Draughtsman Grade III, II or I. The Respondents had introduced Assured Career Progression Scheme

(ACP Scheme) through OM, dated 9-8-1999 to provide for grant of 2 upgradations in service career and to give relief where there is stagnation. Since all the Applicants had not actually got any promotion, they were given the benefit of the said scheme through order, dated 31-3-2000, by their placement in the next higher grade with effect from 9-8-1999 in the scale of Rs. 5,000-8,000 with pay fixation under FR 22 (1) (*a*) (*i*). They were also granted arrears of difference of pay and allowances. Prior to this, the Applicants were offered promotion but due to their family circumstances they had refused such regular promotion. The Respondents have issued O.M, dated 28-8-2002, proposing to withdraw the financial benefit granted to Applicants under ACP scheme and to recover resultant excess payment made to them. All the Applicants submitted their representations against this. By office order, dated 16-12-2002, Respondent No. 3 has withdrawn the benefits of ACP scheme given to them with retrospective effect, with effect from 9-8-1999 with direction to recover the excess payment made to them as a result. They plead that till the time of filing the O.A. no recovery of arrears have been made. The Applicant have not been supplied the details of recovery.

Held: Since the whole controversy relates to ACP scheme, reference to its provisions has to be made. Copy of the scheme has been placed on file. It provides that after the recommendations of 5th CPC, ACP scheme has been formulated to deal with problem of stagnation or hardship faced by the employees due to inadequate promotional avenues. Annexure-I gives the conditions for grant of this benefit in Paragraphs 1 to 15. No paragraph can be read in isolation. We reproduce Para. 5.1 from the scheme, considering the same relevant to the controversy raised before us.

"5.1 Two financial upgradations under the ACP scheme in the entire Government service career of an employee shall be counted against regular promotions (including *in situ* promotion and Fast Track Promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. *This shall mean that two financial upgradations under the ACP scheme shall be available only if no regular promotions during the prescribed periods* (12 *and* 24 *years*) *have been availed by an employee*. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP scheme. In case two prior promotions on regular basis have already been received by an employee no benefit under the ACP scheme shall accrue to him."

Reading of this paragraph clinch the issue raised by both the parties. Intention is to give financial relief to a Government employee

who might have stagnated either in the same cadre or in the cadre at the level of scale of pay in which he cannot go any further unless actually promoted. It has to be viewed from the angle that if the employee either does not have a avenue of promotion or, even if there be a promotion does not get actual promotion he has to be given the benefit under ACP scheme. Stress is on availing the promotion during the period firstly 12 years then in total service on completing 24 years. If an employee has refused the promotion before the enforcement of the same, the facts would remain that he has actually not been given any financial upgradation which he could have been, by a regular promotion. On refusal of promotion, he remains on the same scale of pay, still stagnated. If interpretation put by Respondents could be accepted the very motive, intention and purpose of ACP scheme would be lost for such employee who, may be because of domestic reasons or because of geographical reasons, have refused regular promotion. At the cost of repetition it is mentioned that Government itself has stressed that its benefit has to be given if regular promotion has not been availed by employee as mentioned in Para. 5.1 reproduced above. In view of the clear language of the scheme itself, we cannot accept the clarification given by the authority at the local level, other than DoP&T.

In these circumstances, the action taken by the respondents declared to be illegal. The impugned orders, dated 16-12-2002, 28-8-2002 and 8-1-2003 so far as these relate, to the Applicants before us, are quashed and set aside. The Respondents are directed to restore the benefits of ACP with effect from 9-8-1999, which was earlier granted to them with all consequential benefits. If any recovery has been made from any one of the Applicants, the same shall be refunded back to him within a period of 2 months from the date of receipt of copy of this order. Respondents shall also comply with above directions within a period stipulated above. OA is thus allowed. No costs.

[*V.R. Patil and others* v. *Union of India and others*, 12/2003, *SwamysnewS* 72, (*Mumbai*), *date of judgment* 20-6-2003.]

O.A. No. 129 *of* 2003

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1. **Fixing of seniority based on the date of confirmation in the cadre is unconstitutional and discriminatory**

2. **If the promotees have not worked on the promotional posts in any capacity, then there could be no question of payment of arrears of salary from the deemed date of promotion**

Facts: The applicant joined the Income Tax Department on 14-7-1970, as LDC and was confirmed in the cadre of LDC with effect from 2-2-1976, much subsequent to confirmation of his juniors. His juniors were promoted as UDC taking into account the date of confirmation and the Applicant was placed much below his juniors. Under similar circumstances, another employee filed O.A. No. 1134 of 1991 praying for a declaration that the general principles of seniority as contained in OM, dated 22-12-1959, insofar as it relates to fixing seniority basing on the date of confirmation in the cadre as illegal and arbitrary and to quash the same and for a direction to refix seniority without reference to the date of confirmation with all consequential benefits. Tribunal allowed O.A. No. 1134 of 1991 on 17-2-1994. Tribunal's order was confirmed by Supreme Court on 12-11-2000 in C.A. Nos. 12410, 12413 of 1996. The Applicant submitted a representation on 28-11-2002 referring to the judgment of the Apex Court and sought for considering his name for promotion to the post of HC/OS on par with his juniors. By letter, dated 27-11-2002 the Applicant was asked to furnish the names of his juniors who were earlier promoted to cadres of HC/OS along with their dates of promotion so as to enable them to take further action. The Applicant furnished the details. But by order, dated 30-12-2002 his claim was rejected and that was challenged in the present O.A.

Held: Since it has been clearly held by the Hon'ble Supreme Court in C.A. Nos. 21410-13 of 1996 arising out of the earlier judgment of this Tribunal in O.A. No. 1134 of 1991 filed by A. Subba Rao and others that the proviso to O.M. No. 9/11/55 RPS, dated 22-12-1959 insofar as it relates to fixing of seniority basing on the date of confirmation in the cadre is unconstitutional, discriminatory and that the Appointees having been appointed on the basis of the competitive test through a process of selection and having been allowed to continue in service. There would be no rhyme or reason not to take the continuous service into account for the purpose of their seniority. It is no longer open to the Respondents to contend that so far as the present Applicant is concerned, the date of confirmation of the Applicant as LDC is to be taken as the date of fixation of his seniority. We are unable to pursuade ourselves to accept the contention of the learned standing Counsel for the Respondents that the above principles is to be applied only for the employees in the cadre of UDCs since the proviso to the above O.M., dated 22-11-1959 which has been held to be unconstitutional and discriminatory relates to the general principles of seniority basing on the date of confirmation in cadres in the Income Tax Department. As rightly pointed out by the learned Counsel for the Applicant, the Respondents ought to have refixed the seniority of the Applicant, who is similarly placed as the applicants in O.A. No. 1134 of 1991 following the above law laid down by the Supreme

Court which operates as a judgment *in rem*. For the same reason, we are also unable to accept the contention of the learned standing Counsel for the Respondents that because there is considerable delay on the part of the Applicant in approaching this tribunal for the above said relief, the Applicant has to be denied the reliefs claimed in the present OA. When it is the bounden duty of the department to refix the seniority on the basis of the law laid down by the Hon'ble Supreme Court in the above decision in respect of all the appointees in the Income Tax Department, it is not open to them to contend that there are laches on the part of the Applicant in seeking for the above said reliefs in the present OA as he has approached this Tribunal at a belated stage. We, therefore, find that the Applicant is entitled to seek for his promotion to the post of Head Clerk/Office Superintendent on par with his juniors taking into consideration the date of his appointment as LDC as the date for the purpose of fixation of his seniority.

The learned Counsel for the Applicant submitted that on refixation of seniority of the Applicant and grant of promotion to the post of HC/OS, the Applicant, is to be granted the consequential relief, viz., arrears of salary. But in a recent judgment of the Supreme Court reported in *State of Haryana* v. *O.P. Gupta* [1996 (7) SCC 533] in the case of it is held that:

> "If the promotees have not worked on the promotional posts in any capacity, then there could be no question of payment of arrears of salary from the deemed date of promotion".

In view of the law laid down by the Supreme Court in the above case, we find that the Applicant is only entitled to pro forma promoting with notional fixation of pay in the promotional post from the date on which his immediate Junior was promoted and he is not entitled for any arrears of salary since he has not worked in the promotional post till now. The Applicant will be entitled to the enhanced pay of the promotional post from the date on which he takes over the charge of the promotional post.

In the result, this O.A. is allowed setting aside the impugned order, dated 30-12-2002 holding the same as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India. The Respondents are directed to promote the Applicant to the post of Head Clerk/Office Superintendent on par with his juniors from the date on which his immediate junior was promoted, taking his date of seniority as the date of his entry into service as LDC. The Applicant will be entitled to all the consequential benefits except arrears of salary from the deemed date of promotion. He will be entitled to higher pay of the promotional post from the date he takes over the charge of that post.

[*V. Sathi Raju* v. *The Chief Commissioner of Income Tax Hyderabad and another*, 12/2003, *SwamysnewS* 74, (*Hyderabad*), *date of judgment* 20-6-2003.]

O.A. No. 274 *of* 2003

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Rule 216 of the Railway establishment manual permits the employees to reckon their seniority from the date of their continuance officiation on *ad hoc* basis

Facts: Applicants, 59 in number, were appointed as Class IV employees from the period 1974 to 1989. They were promoted as Lower Division Clerks and Mobile Checking Clerks, after adjudging their suitability in a written test on various dates from 1981 to 1987 against permanent vacancies. They have further qualified in the examination for promotion to Class III in their quota of 33.33%. Being aggrieved with their non-regularization, O.A. No. 807 of 1987 filed by them was disposed of by the Tribunal on 13-11-1992 directing the Respondents to regularize their services. By orders, dated 8-1-1993 and 6-3-1993, they were regularized as LDCs/MCCS, but their seniority was not fixed. Some of the other employees represented to accord seniority and by an order, dated 22-12-1993, they were regularized with seniority from 1981, though they have qualified test for Class III in 1989. The Applicants had also qualified the suitability test for senior clerks and were promoted as such by order, dated 9-5-1994. Aggrieved with non-accord of seniority, O.A. No. 2417 of 1996 was filed. By order, dated 14-11-1996, Tribunal directed them to file a detailed representation and the Respondents to pass a detailed and speaking order. By order, dated 12-4-1997, referring to Para. 302 of IREM, for assignment of the seniority from the date of *ad hoc* promotion was rejected and rather their seniority was ordered to be maintained from the date of their regular promotion. It was challenged in O.A. No. 1649 of 1997 and by order, dated 25-1-2001, directions have been issued to Respondents to determine the seniority of the Applicants in Class III posts of LDCs/MCCS reckoning their *ad hoc* officiation will all consequential benefits. Writ petition in C.W.P. No. 963 of 2003 was filed against the order, dated 25-1-2001. High Court disposed of the writ petition with remitting of the case back to Tribunal directing the Tribunal to pass fresh orders by considering whether while granting promotion to an official, the requirement of Para. 216 of the Railway Establishment Manual have been complied with or not.

Amended OA 96/06 filed today by the applicant Hon. Advocate Shri R.C. Dutta

21/9/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

AMMENDED ORIGINAL APPLICATION

O. A. NO. 96 / 2006

Shri Chitta Ranjan Deb
-Versus-
Union of India & Others.

Lists of dates and synopsis of the case

05.03.1963- Applicant was appointed as Postal Clerk. He passed departmental examination and promoted as Inspector in 1972-73, and thereafter promoted to the cadre of Asstt. Superintendent of Post Offices.

01.12.1992- Applicant was further promoted to the cadre of Deputy Postmaster (HSG-I) on 01.12.1992. (Annexure- I)

04.01.1993- Applicant was promoted to the post of Superintendent, RS, Silchar in the cadre of PSD Group B.

04.06.1993- Basic pay of the applicant was fixed at Rs. 2,600/- (pre-revised) w.e.f. 04.01.93 in the post of Superintendent, PSD.

01.01.1996- Basic Pay of the applicant was revised following the 5th Pay Commissions recommendations and fixed at Rs. 8,750/-.

01.01.1997- Basic pay of the applicant came to Rs. 9000/-.

31.03.1998- Applicant was transferred from the post of Superintendent, PSD, Silchar and posted as Deputy Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati.

08.01.1999- Memo was issued by the CPMG, fixing the basic pay of the applicant at Rs. 9,500/-.

01.01.2002- Having earned the annual increments, the basic pay of the applicant came to Rs. 10,250/- on 01.01.2002.

03.01.2002- Applicant was again transferred from the GPO, Guwahati and was posted as Superintendent, RMS 'S' Division, Silchar.

30.08.2002- Deputy Director Accounts (Postal) raised an objection that the fixation of pay of the applicant was wrongly done on 04.01.93 and reduced his basic pay from Rs. 2600/- to Rs. 2450/- on 04.01.93 resulting into reduction of pay in each of the subsequent stages

Central Administrative
21 SEP
गुवाहाटी न्यायपीठ
Guwahati Bench

with his last pay at Rs. 9500/- instead of Rs. 10,250/- on 01.01.2002 affecting all the terminal benefits. (Annexure-XIV)

12.09.2002- Postmaster General, Dibrugarh issued memo confirming the basic pay of the applicant at Rs. 10,250/- in the new post of Superintendent, RMS 'S' Division, Silchar, which was his last pay till his retirement.

03.10.2002- Pursuant to the letter dated 30.08.02, notification was issued reducing the commutation value and pension amount of the applicant. (Annexure-XV Series)

11.10.2002- DCRG of the applicant sanctioned earlier has been reduced.

15.01.2003- Leave encashment sanctioned to the applicant earlier has also been reduced down.

17.10.02, 30.10.02, 07.02.03, 18.03.03- Applicant submitted representations agitating against such action of the respondents and praying for regularisation/correction of his pay on 04.01.93.
(Annexure-XVI Series)

26.02.2003- Applicant was informed that his promotion to HSG-I on 04.01.93 on adhoc basis cannot be taken into reckoning for the purpose of fixation of his pay which was wrongly done and hence such refixation was done reducing the pay of the applicant on 04.01.93 onwards. (Annexure-XVII)

01.04.2003- Dy. Director Accounts (Postal) rejected prayer of the applicant for review of the calculation of interest in GPF accumulation.
(Annexure-XVIII)

27.08.2004- Hon'ble Tribunal in O.A. No. 175/2003 was pleased to quash the impugned orders passed by the respondents. However, the Hon'ble Tribunal kept it open to the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay/pension and allowed the O.A accordingly.
(Annexure-XIX)

10.09.2004- Applicant submitted representation enclosing the judgment and order dated 27.08.04 and prayed for restoring his last pay to his original position i.e. Rs. 10,250/-. (Annexure-XX)

18.10.2004- Respondents issued letter dated 18.10.04 asking explanation from the applicant that why his pay would not be refixed at Rs. 9500/- instead of Rs. 10,250/-. (Annexure-XXI)

10.11.2004- Applicant submitted his explanation on 10.11.04. (Annexure-XXII)

28.11.2004- Respondents issued impugned letter dated 28.11.05 informing the applicant that his promotion to HSG-I issued vide circle office, Guwahati letter dated 01.12.92 was purely temporary which did not confer right to regular absorption in the cadre and as such fixation of his pay on promotion to PS Gr. 'B' based on the pay of

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the HSG-I post as not in order and the over payment is liable to be recovered. It was also contended that the appointment of the applicant in HSG-I could not be regularised since he did not complete 3 years service in ASPOs cadre and since the HSG-I post held by him was reserved for ST category. (Annexure-XXII)

29.11.2005- Respondents issued another impugned letter dated 29.11.05 in the same line. (Annexure-XXIV)

07.01.2006- Applicant submitted one appeal against the impugned letters dated 28.11.05 and 29.11.05 and prayed for re-fixation of his pay restoring the same to Rs. 10,250/- which he was drawing as his last pay at the time of retirement and to refund the amount recovered from his retiral benefits. (Annexure-XXV)

02.05.2006- CPMG, Assam Circle, Guwahati vide his impugned letter dated 02.05.06 rejected claim of the applicant for restoration of his pay in the original position and also stated that fixation of the applicant pay with reference to the pay of HSG-1 post on promotion to PSS Group B cadre was irregular as per provision laid down in FR-22 (i)-(a) (i) as the petitioner was not regularly promoted to HSG-1 cadre prior to his promotion and posting in PSS, Group-B cadre. (Annexure- XXXI)

Hence this Amended Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. Staff/11-14/89 dated 28.11.2005 (Annexure-XXIII) as well as letter bearing No. CPIO/RTIA-8/05 dated 29.11.2005 (Annexure- XXIV).

2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned show cause notice bearing letter No. AP RP 3-172/02 dated 18.10.04 (Annexure-XXI).

3. That the promotion of the applicant as Deputy Postmaster (HSG-I) in the pay scale of Rs. 2000-3200 notified vide No. Staff/11-14/89 dated 01.12.92 be declared as regular promotion.

4. That the fixation of pay of the applicant in his promoted post of P.S. Group 'B' as Rs. 2600/- (Pre revised) on 4.1.1993 and the subsequent fixations thereto in each stage and final last basic pay of Rs. 10,250/- at the time of retirement of the applicant be declared as valid.

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5. That the respondents be directed to pay all the terminal benefits of the applicant on the basis of Rs. 10,250/- as his last pay on superannuation with consequential arrear and refund of money recovered from the applicant.

5A That the Hon'ble Tribunal be pleased to set aside the impugned order bearing letter No. AP/RP/3-172/2002 dated 02.05.2006 issued by the Chief Post Master General, Assam Circle, Guwahati.

6. Costs of the application.

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

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this applicant shall not be a bar for the respondents to consider the case of the applicant and redress his grievances.

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THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

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

Sri Chitta Ranjan Deb : Applicant
-Versus

Union of India & Others. : Respondents.

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Filed by:
U. Dutta
Advocate

Date: 19.09.07

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Filed by the applicant through U. Dutta, advocate on 19.09.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

O.A. No. /2006

BETWEEN

Sri Chitta Ranjan Deb,
Retired Superintendent,
S/o Late J.C. Deb
RMS Division, Silchar
Resident of Link Road,
Lane No. 1-A, Silchar, Assam.

...Applicant.

-AND-

1. The Union of India,

   Represented by the Secretary to the
   Government of India,
   Department of Post,
   Ministry of Communications,
   New Delhi- 110001.

2. The Director General
   Department of Posts,
   Dak Bhawan,
   Sansad Marg,
   New Delhi-110001.

3. The Chief Postmaster General
   Assam Circle,
   Guwahati-1.

4. The Postmaster General
   Dibrugarh Region,
   P.O. Dibrugarh
   Assam.

5. Director of Postal Services (HQ)
   O/o- The Chief Postmaster General,
   Assam Circle, Guwahati- 1.

6. Director of Accounts (Postal)
   Chenikuthi, Guwahati-3.

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

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This application is made against the impugned letter No. Staff/11-14/89 dated 28.11.2005 and letter No. CPIO/RTIA-8/05 dated 29.11.05 (Annexure- XXIII), issued by the Respondent No. 5, whereby the claims of the applicant for re-fixation of his pay regularization of promotion and refund of his dues illegally recovered etc. have been rejected by the Respondents even after their earlier impugned orders were quashed by this Hon'ble Tribunal vide it's judgment and order dated 27.08.2004 in O.A. No. 175/2003.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant was initially appointed as Postal Clerk in the Respondent department (i.e. the Department of Posts) on 05.03.1963. Thereafter, he had passed the Departmental Examination in the cadre of Inspector of Post Offices in the year 1972-73 and was thereafter promoted to the cadre of Asstt. Superintendent of Post Offices. Then he was further promoted to the cadre of Deputy Postmaster (HSG-I) on 01.12.92 and eventually promoted to the post of Superintendent, PSD, Silchar (Gazetted) in the cadre of P.S. Group 'B' where he joined on 04.01.93. Subsequently he was posted as Deputy Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati on 31.3.1998 and finally transferred from Guwahati on 03.01.2002 and posted as Superintendent,

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RMS 'S' Division, Silchar where he continued as such till his retirement on superannuation.

4.3 That while working in the post of Asstt. Supdt. Of Post Offices in the scale of pay of Rs. 1640-60-2600-EB-75-2900 (Pre revised), the applicant was promoted on ad hoc basis to the post of Deputy Post Master, Guwahati GPO in the scale of pay of Rs. 2000-60-2300-EB-75-3200 (Pre revised) vide CPMG, Assam Circle's Memo No. Staff/11-14/89 dated 01.12.1992 and the applicant joined in his promoted post, which is in the cadre of HSG-I on 4.12.1992. The post of Deputy Postmaster (HSG-I) in which the applicant joined, was lying vacant at that relevant time.

Copy of Memo dated 01.12.1992 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-I**.

4.4 That meanwhile the applicant got his normal promotion to the cadre of P.S. Group –'B' against regular vacancy according to his seniority on All India basis and was posted on officiating capacity as Superintendent, PSD, Silchar, N.E. Circle w.e.f. 04.01.1993. His order of promotion to P.S. Group 'B' was issued by the Director (Staff), Department of Posts, New Delhi on 02.11.1992 vide his letter No. 9/52/92-SPG and order of posting as Supdt. PSD, Silchar was issued by the Director of Postal Services, Assam Circle, Guwahati on 24.11.1992 i.e. prior to the promotion of the applicant to the post of Deputy Postmaster in a vacant regular post in terms of his seniority but the promotion order was termed as ad hoc which means that the applicant already stood promoted to the cadre of P.S. Group 'B' (Pay scale Rs. 2000-3500/-) on 02.11.92 which is higher than the post of Deputy Postmaster but due to non-implementation of the promotion order of P.S. Group B, the applicant had joined in the post of Deputy Postmaster (HSG-I) on ad hoc basis on 04.12.1992 in terms of order dated 01.12.1992 which was issued when the order of promotion of the applicant to the cadre of P.S. Group-'B' was in force. Be it stated that the post of HSG I i.e. Deputy Postmaster is a cadre immediately below the cadre of Superintendent P.S Group B as per hierarchy therefore applicant's promotion ought to have been considered on regular basis to the post of Deputy Postmaster before granting his promotion on regular basis to the post of Superintendent PS Group B. Applicant was also entitled to fitment on regular basis in the pay

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scale of Rs. 2000-3200. Since the post of PSD, Silchar was under N.E. Circle, the Chief PMG, N.E. Circle, Shillong also confirmed the promotional transfer of the applicant as Superintendent, PSD, Silchar vide his Memo No. Staff/13-15/92 dated 13.11.1992 when the applicant was working as Deputy Postmaster (HSG-I).

Copy of promotion order dated 02.11.1992 and order dated 24.11.1992 and subsequent order dated 13.11.1992 of CPMG, N.E. Circle are annexed herewith for perusal of Hon'ble Tribunal as Annexure-II, III and IV respectively.

4.5 That pursuant to the promotion order aforesaid, the applicant was relieved from the post of Deputy Postmaster by the Chief PMG, Guwahati vide order No. Staff/1/330/88 dated 22.12.1992. He was also relieved from the post of Senior Postmaster, GPO, Guwahati by the Sr. Supdt. Of Post Offices vide order No. B/Z/7/Officer/Ch-III dated 23.12.1992. Thereafter, the applicant joined as Supdt., PSD, Silchar on 04.01.1993.

Copy of release orders dated 22.12.1992 and dated 23.12.1992 are annexed herewith for perusal of Hon'ble Tribunal as Annexure-V and VI respectively.

4.6 That at the time of the release of the applicant from the GPO, Guwahati as stated above, the Senior Post Master, GPO, Guwahati issued the Last Pay Certificate (LPC) of the applicant and as shown in the LPC dated 1.1.1993, the pay of the applicant as on 1.1.1993 was Rs. 2450/- (Pre-revised). On joining as Supdt, PSD on 04.01.1993 his basic pay was fixed at Rs. 2600/- as per provision of FR-22 (a) (1) which was notified vide Pay Slip dated 4.6.1993 issued by the CPMG, N.E. Circle, Shillong, and thereafter the applicant was given his annual increment every year and accordingly his basic pay came to Rs. 2900/- (Pre-revised) as on 1.1.1997 as notified vide Pay slip dated 20.1.1997 issued by the CPMG, Shillong.

Copy of LPC dated 1.1.1993, Pay Slip dated 4.6.1993 and Pay Slip dated 20.1.1997 are annexed herewith for perusal of Hon'ble Tribunal as Annexure-VII, VIII and IX respectively.

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4.7 That subsequently, consequent upon the recommendations of the 5th Central Pay Commission, the pay scale of Rs. 2000-3500/- (Pre-revised) was revised to Rs. 7500-12000/-. Accordingly, the basic pay of the applicant at the revised scale was fixed at Rs. 8750/- on 1.1.1996 which was notified vide D.O.P. order dated 9.10.1997 issued by the CPMG, N.E. Circle, Shillong with his next date of increment on 1.1.1997 when his basic pay was Rs. 9000/- on 1.1.1997.

Copy of D.O.P. order dated 9.10.1997 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-X.

4.8 That thereafter, the applicant was transferred from the post of Supdt. PSD, Silchar and was posted as Dy. Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati vide CPMG, Shillong's Memo No. Staff/97/92 dated 31.3.1998. On his joining as Deputy D.M. (PLI) in the office of the CPMG, Assam Circle, Guwahati, the basic pay of the applicant was fixed at Rs. 9500/- w.e.f. 1.1.1999 as notified under CPMG, Guwahati's Memo No. JAO/1-1/GE/88/(243) dated 8.1.1999 and his consequential pay thereafter in the revised Scale was as follows:

On 1.1.99 - Rs.9500/-(as per Memo dated 8.1.99)
On 1.1.2000 - Rs.9750/-
On 1.1.2001 - Rs.10,000/-
On 1.1.2002 - Rs. 10,250/-(as per Pay Slip dated 07.01.2002)

Copy of Memo dated 8.1.1999 and Pay Slip dated 07.01.2001 are annexed herewith for perusal of Hon'ble Tribunal as Annexure-XI and XII respectively.

4.9 That the applicant was eventually transferred from GPO, Guwahati vide CPMG, Guwahati's Memo No. Staff/3-4/92/Ch II dated 03.01.02 and was posted as Supdt. RMS 'S' Division, Silchar. On his joining at Silchar as Supdt. RMS 'S' Division also he was drawing Rs. 10,250/- as his basic pay as evident from the Memo No. Staff/1/15-38/02(RP) dated 12.9.02 issued by the Postmaster General, Dibrugarh.

Copy of Memo dated 12.9.02 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-XIII.

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4.10 That it is stated that the applicant had been drawing his pay as per fitments/fixation made by the competent authorities since inception and the last basic pay drawn by him at the time of his retirement in 2002 was Rs. 10,250/- p.m. as detailed in the preceding paragraphs. This was checked and examined at every stage and annual Service Book verifications were conducted every year by the concerned authorities and everything was found in order. The fixation of pay of the applicant was also reviewed and authenticated as correct by the Internal Audit Inspection party, Kolkata and there was no irregularity whatsoever.

4.11 That since the applicant was to retire on 31.10.2002, the Accounts department had to work out the retirement dues of the applicant and while doing so, the Deputy Director Accounts (Postal) raised an objection in respect of the fixation of pay of the applicant done in the year 1993 and issued his letter No. PN-58/2002-2003/478 dated 30.08.2002 on the eve of the retirement of the applicant. In the said letter dated 30.08.2002, the Dy. Director Accounts (Postal) in para 5 of the letter observed that consequent upon the promotion of the applicant to PSS Group 'B' on 04.01.03 in the scale of Rs. 2000-3500/- his pay was fixed with reference to his pay in the cadre of HSG-I (Rs. 2000-3200/-) which was alleged to be irregular since the placement of the applicant in HSG-I cadre was not on regular basis but on ad hoc basis and further observed that the pay of the applicant ought to have been fixed with reference to his pay in the cadre of Asstt. Superintendent of Post Offices (Rs. 1640-2900/-) on 04.01.1993 in the pre-revised scale of pay in terms of FR 22 (1)(a) (1) instead of the scale of Rs. 2000-3200/- as the basis. Accordingly the Deputy Director Accounts (Postal) refixed the pay of the applicant in the scale of Rs. 2000-3500/- (Pre-revised) with reference to the scale of Rs. 1640-2900/- (Pre-revised) instead of Rs. 2000-3200/- and reduced his basic pay from Rs. 2600 to 2450 on 04.01.1993, followed by reduction of pay at each subsequent stage and finally reduced his last pay from Rs. 10250/- to Rs. 9500/- p.m. on 1.1.2002 in the scale of Rs. 7500-12000/- (Revised). Further, in the said letter dated 30.8.20002, the Deputy Director Accounts (Postal) made corresponding reduction in all items Viz; Pension, Gratuity/DCRG, Leave salary

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computed on the last basic pay of Rs. 9500/- instead of Rs. 10250/- on 1.1.2002 most arbitrarily and without providing any reasonable opportunity to the applicant for his defence whatsoever.

Copy of letter dated 30.08.2002 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-XIV.

4.12 That acting on the letter dated 30.08.2002 other subsequent letters were issued making reduction in each of the benefits item wise on the reduced pay vide order No. COM-43/2002-03/PN-58/2002-03/D – dated 3.10.2002 reduced the commutation value to Rs. 2,23,668/- and Pension to Rs. 4750/-. Similarly, vide letter No. AP/RP/3-172/02 dated 11.10.2002; the DCRG was sanctioned to the extent of Rs. 2,33,558/- only. The reduced Leave encashment was sanctioned as Rs. 1,42,475/- only vide letter No. AP/RP/3-172/2000 dated 15.01.2003 granting fresh sanction of Leave encashment to the tune of Rs. 45,683/- on the plea of excess drawal of Rs. 96,792/- on revised fixation, recoverable from the applicant.

Thus, the item wise reduction on the basis of revised/reduced fixation in respect of the applicant stood as follows:

Item	Amount due on the last pay actual	Amount sanctioned and paid on reduced pay	Less drawls causing financial loss
Pension	Rs.5125/- + D.R. per month	Rs.4750/- + DR per month	Rs. 375 + DR pm.
DCRG	Rs.2,57,070/-	Rs.2,38,260/-	Rs 18,810/-
Commutation Pension	Rs.2,41,326/-	Rs.2,23,668/-	Rs.17,658/-
Leave encashment	Rs.1,53,722/-	Rs.45,683/-	Rs.1,08,039/-

The aforesaid reductions caused huge financial loss to the applicant in each item, which was inflicted by the Respondents upon the applicant most arbitrarily, unilaterally and without providing any reasonable opportunity to the applicant whatsoever.

Copy of letters dated 3.10.2002; dated 11.10.2002, dated 9.12.2002 and dated 15.1.2003 are annexed herewith for perusal of Hon'ble Tribunal as Annexure- XV (series).

4.13 That thereafter the applicant submitted representation to the Deputy Director Accounts (Postal) on 17.10.2002 and on 30.10.2002 praying for

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correction of discrepancies stated above and settlement of his pensionery benefit and other dues. Thereafter further representations were also submitted to CPMG, Guwahati and Director General (SPB-II), New Delhi on 07.02.03 and 18.03.03 respectively praying for settlement of his dues on the basis of his last pay drawn i.e. Rs. 10,250/- p.m. But the grievances of the applicant remained unattended and CPMG, Guwahati issued another letter No. Staff/11-4/89 dated 26.2.2003 informing that the retrospective regularization of ad hoc arrangements in HSG-I in respect of the applicant cannot be agreed to and his pension case be finalized accordingly.

It is submitted that the Respondent Union of India ought to have granted promotion on regular basis to the applicant to the cadre of Deputy Postmaster i.e. HSG Gr. I vide order dated 01.12.1992 instead of the promotion granted to the applicant on ad hoc basis as because the applicant had attained required eligibility for regular promotion to the said post of Deputy Postmaster HSG-I and at the relevant time a regular post of Deputy Postmaster HSG- I was vacant against which the applicant was promoted on ad hoc basis. In this connection it may also be stated that the applicant was the senior most person in the cadre of HSG-II, therefore there was not difficult on the part of the respondent to consider his promotion on regular basis to the cadre of HSG-I at that relevant time. The applicant was otherwise qualified to hold the post of Deputy Postmaster HSG-I on regular basis, non convening of D.P.C. for consideration of his regular promotion to the post of Deputy Postmaster at the relevant time was highly arbitrary and unfair on the part of the respondent Union of India. Therefore the pay scale of Rs. 2000-3200 which was granted to the applicant to the post of Deputy Postmaster HSG-I and subsequently the said fixation benefit taken into account while granting further promotion to the cadre of Superintendent PSS Group B cannot be said to be contrary to the rule. It is relevant to mention here that as per normal rule the applicant ought to have been granted the promotion of Deputy Postmaster HSG-I on regular basis prior to his promotion to the cadre of Superintendent P.S. Group B as per hierarchy of the line of promotion maintained in the department. However, benefit of fixation of pay in the scale of Rs. 2000-3200 which was granted to the applicant in the

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cadre of Deputy Postmaster HSG-I while promoting the applicant on ad hoc basis also cannot be said to be contrary to the rule, rather applicant was entitled to the benefit of promotion to the cadre of HSG-I as well as fixation benefit in the scale of Rs. 2000-3200. Therefore, subsequent decision of the respondents that the applicant is not entitled to the benefit of pay fixation in the pay scale of Rs. 2000-3200 in the cadre of Deputy Postmaster simply on the plea that such promotion was granted on ad hoc basis is quite contrary to the rule and the alleged ground cannot be sustained in the eye of law. Therefore the Hon'ble Tribunal be pleased to declare that the fixation benefit granted to the applicant in the pay scale of Rs. 2000-3200 in the cadre of Deputy Postmaster HSG I was done in accordance with the existing rule.

Copy of representations dated 17.10.02, 30.10.02, 07.02.03 and 18.03.03 are annexed herewith as Annexure-XVI series and copy of letter dtd. 26.02.03 are annexed herewith for perusal of Hon'ble Tribunal as Annexure-XVII respectively.

4.14 That it is stated that apart from the discrepancies stated in the preceding paragraphs, the applicant was deprived of his other legitimate dues too. The monthly contributions/Premium towards Central Government Employee's Group Insurance Scheme were deducted from the pay of the applicant from 1.1.1982 to 31.10.02. As per rule, the amount accumulated in the Savings fund of the above scheme is to be refunded with interest to the retired Govt. servant immediately after his retirement. In the instant case action has been initiated to pay the dues to the applicant as his accumulation in the said scheme but no action has been taken to pay the interest for 8 (eight) months under the scheme, which the applicant is entitled to get. Further, the interest on the accumulated amount of GPF in respect of the applicant has been calculated up to the month of October' 2002 since the applicant retired on 31.10.2002. But as per provision of C & AG's decision No. 5 below Rule-11 of GPF (CS) Rule, 1960 as notified under C & AG's Circular letter No. 1480-Tech.Admn.11/ 261-68 dated 28.6.1968, the interest shall be computed for the whole month on which the payment order was made after 15th November and as such, the interest

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ought to have been taken into account up to the month of November ' 02 but instead, it was calculated up to October, 02, causing substantial loss to the applicant. The applicant submitted representation praying for review of the calculation of interest in GPF accumulation but the Dy. Director Accounts (Postal) rejected his prayer vide his letter No. GPF/2-37/GHY/2000-01/394 dated 01.04.03.

Copy of letter-dated 1.04.2003 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-XVIII.

4.15 That being aggrieved at the arbitrary and unilateral actions of the Respondents, the applicant approached this Hon'ble Tribunal by filing O.A. No. 175/2003 challenging the validity and legality of the actions. This Hon'ble Tribunal after adjudicating the case, was pleased to pass it's judgment and order dated 27.08.04 in O.A. No. 175/2003 and the operative portion of the judgment runs as follows;-

"In view of the above discussions the impugned orders are quashed. It will, however, be open to the respondents/the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay/pension. The O.A. stands allowed accordingly."

Copy of judgment and order dated 27.08.04 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-XIX.

4.16 That thereafter, the applicant submitted one representation dated 10.09.2004 enclosing therewith a copy of the judgment and order dated 27.08.04 and prayed for restoring his last pay to his original position i.e. Rs. 10,250/- at the time of his retirement with stage-to-stage fitments and refixation of pay and retiral benefits in terms of the judgment and order dated 27.08.04 and refund the amounts recovered from him on the alleged ground of over payment.

Copy of the representation dated 10.09.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XX.

4.17 That although the impugned orders issued by the respondents reducing the last pay of the applicant from Rs. 10,250/- to Rs. 9,500/- were all

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quashed and set side by the Hon'ble Tribunal, but surprisingly the respondents even thereafter adhered to their earlier notion and issued one letter bearing No. AP/RP/3-172/02 dated 18.10.2004 asking explanation from the applicant that why his pay would not be refixed at Rs. 9500/- instead of Rs. 10250/- and why the excess amount paid to him would not be recovered. In the said letter it has been pleaded that his pay in the promoted post of Supdt. PSD, Silchar (PSS Group- B) was wrongly fixed w.r.t his pay in the post of HSG-I cadre in which he was not regularized and as such his revised fixation was done w.r.t the pay of his previous post of ASPOs i.e. his regular post which resulted into reduction of his pay at the relevant stages and subsequent recovery etc. thereto.

Copy of the show cause notice dated 18.10.04 is enclosed herewith and marked as **Annexure- XXI.**

4.18 That in response to the letter dated 18.10.04 aforesaid, the applicant submitted his explanation on 10.11.2004 explaining the position once again and reiterated that his pay cannot be refixed/reduced from Rs. 10,250/- on the following grounds-

(i) That prior to his promotion to the post of Superintendent, PSD, Silchar (PSS Group- 'B'), he was holding the post of DPM (HSG-I grade) at G.P.O, Guwahati which was a regular post and a vacant post and he would have continued in that post had he not been promoted to the next higher post of PSS Group- 'B'. As such his initial pay in his promoted post of PSS Group-'B' was rightly fixed w.r.t his pay in his last post of HSG-I was not regular and his pay cannot be fixed now w.r.t. the pay scale of the lower post of ASPOs as has been done illegally.

(ii) That after his relinquishing the post of Dy. P.M, Guwahati GPO (HSG-I) following his promotion to the PSS Group-'B' cadre, one Shri Sukleswar Das, ASPOs who was junior to the applicant was posted in the said post of Dy. P.M, GPO, Guwahati on adhoc basis who was subsequently regularized in the said post. As such there is no question of treating the applicant's appointment in the said post under similar circumstances as unregularised when the person even junior to him was

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regularized in the said post, which otherwise the applicant would have continued to hold.

Copy of the reply dated 10.11.04 are enclosed herewith and marked as Annexure- XXII.

4.19 That surprisingly, the respondents eventually issued their impugned letter bearing No. Staff/11-14/89 dated 28.11.2005 informing the applicant that his promotion to HSG-I issued vide circle office, Guwahati letter dated 01.12.92 was purely temporary which did not confer right to regular absorption in the cadre and as such fixation of his pay on promotion to PS Gr. 'B' based on the pay of the HSG-I post was not in order and the over payment is liable to be recovered. In the said impugned letter it has further been contended by the respondents that the appointment of the applicant in HSG-I could not be regularized since he did not complete 3 years service in ASPOs cadre and since the HSG-I post held by him was reserved for ST Category.

It is relevant to mention here that the respondents did not mention their above stated pleas in the earlier show cause letter dated 18.10.04 issued by them and it appears to be their after thought which they have now resorted to just to make a desperate bid to substantiate their illegal action.

The respondents issued another impugned letter No. CPIO/RTIA-8/05 dated 29.11.05 in the same line.

Copy of the impugned letter dated 28.11.05 and dated 29.11.05 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XXIII and XXIV respectively.

4.20 That thereafter the applicant submitted an appeal on 07.01.2006 against the impugned letters dated 28.11.05 and 29.11.05 wherein the applicant stated interalia the following facts:-

(i) That the contention of the respondents that the applicant did not complete three years service in ASPOs cadre was wrong and erroneous. The applicant had been working in the post of ASPOs w.e.f. 25.08.85 vide order No. Staff/9-3/85 dated 09.08.85 continuously and without any break which is evident

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from the records maintained in his service book. He was also regularized in the post of ASPOs vide order No. Staff/2-29/91 dated 12.02.91.

(ii) That the contention that the post of Dy. Post Master (HSG-I), GPO, Guwahati was reserved for ST Category is also not true since it was not mentioned in the promotion order of the applicant when he was promoted to the said post and not pleaded at any stage even thereafter. **Had it been so, then how his successor Shri Sukleswar Das who joined as Dy. PM, GPO, Guwahati following relinquishing of the post by the applicant, could be appointed in that post and even regularized subsequently when he does not belong to ST category.**

(iii) That the Director of Accounts (Postal), Guwahati vide his letter No. PN/2003-2004/274 dated 08.03.05 advised the PMG, Dibrugarh Region to take up the case of the applicant with the CPMG, Assam Circle, Guwahati for regularization of his adhoc appointment in the HSG-I post since his junior staff who was similarly appointed to the said post has been regularized.

The applicant therefore appealed for re-fixation of his pay, restoring the same to Rs. 10,250/- which he was drawing as his last pay at the time of retirement and to refund the amount recovered from his retiral benefits of the applicant which they have illegally reduced and slashed down. Therefore, the impugned order dated 28.11.05 and 29.11.05 are liable to be set aside and quashed.

Copies of appeal dated 07.01.06 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- XXV.

4.21 That the applicant most respectfully begs to submit that the respondents have been resorting to different types of pleas at different times so far in order to substantiate their illegal actions and those pleas are not only inconsistent but having no nexus to one another. Their main contentions so far are; -

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(i) That on his promotion on regular basis to the post of Supdt., PSD, Silchar (PSS Group-'B' post) on 04.01.93, his pay was wrongly fixed w.r.t. his pay in the grade of HSG-I (Rs. 2000-3200/-) which ought to have been w.r.t. the grade of ASPOs (Rs. 1640-2900), both pre-revised scales, since his appointment in the HSG-I was not regularized but was on adhoc basis only.

(ii) That the post of HSG-I which the applicant had been holding prior to his promotion on 04.01.93 aforesaid, was reserved for ST category and as such he could not be regularized in that post since he does not belong to ST category, and

(iii) That the applicant did not complete 3 years service in the cadre of ASPOs, prior to his promotion to HSG-I grade and hence cannot be regularized and hence cannot be regularized in HSG-I.

4.22 That the applicant most respectfully begs to submit and reiterate the factual positions as under; -

(i) The applicant was promoted to the post of ASPOs vide order No. Staff/9-8/85 dated 09.08.85 on adhoc basis and assumed charges on 24.08.85 which is also evident from his service Book. He was regularized in the post of ASPOs w.e.f. 12.02.1991. He was regularized in the post of ASPOs w.e.f. 12.02.91 as evident from the order No. Staff/2-29/91 dated 29.11.94 in which post he continued until he was promoted to the next higher post of Dy. Post Master (HSG-I grade) w.e.f. 04.12.1992 vide order dated 01.12.92 (Annexure-I).

As such the contention of the respondents that the applicant did not complete 3 years service in the cadre of ASPOs, even after his rendering services for more than 7 years, is false, misleading and amounts to deliberate suppression of material fact.

(ii) As regards his promotion to the post of HSG-I Grade on 01.12.92 the applicant begs to state that at the relevant time, he was duly eligible for and entitled to get the promotion to the post of

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HSG-I on regular basis. Further, the post of Dy. Postmaster (HSG-I), which he was promoted to, was lying vacant also as evident from the order dated 01.12.92 (Annexure-I) and he would have continued in that post had he not been promoted subsequently to the next higher grade of PSS Group 'B' on 04.01.93 on regular basis which is evident from the Respondents letter No. Staff/11-14/89 dated 21.05.93. This apart, the applicant was the senior most person in the HSG-I grade. As such in all fitness of the things the applicant's appointment ought to have been regularized in the post of HSG-I prior to his regular promotion to the next higher grade i.e. PSS Group 'B' grade, which the respondents did not do for the reasons best known to them. Surprisingly, following the relinquishing of the post of Dy. Post Master (HSG-I) by the applicant on his promotion, one Shri Sukleswar Das who was a junior staff of the applicant was appointed in that post as the successor to the applicant vide CPMG, Guwahati's Office memo No. Staff/11-14/89 dated 04.11.94. The applicant was similarly situated, rather was on a better footing by having served for a longer period and was senior to Shri Das but even thereafter he was not regularized in HSG-I post which is discriminatory, illegal, arbitrary, unfair and malafide.

As such there is no reason to treat the appointment of the applicant in HSG-I post as adhoc or temporary, merely on technical ground as contested by the respondents but it was a regular appointment for all purposes and under all cannons of law. It is on this ground that his pay on his promotion to the post of PSS Group 'B' on 04.01.93 was fixed w.r.t the scale of his previous post in HSG-I and there is no reason to deny the same subsequently and refix/reduce the pay of the applicant on 04.01.93 and thereafter on the erroneous plea of wrong fixation. The illegality and lapses done by way of non-regularising the appointment of the applicant in HSG-I, is attributable to the respondents only.

(iii) The contention of the respondents that the HSG-I post which the applicant had been holding was reserved for ST candidate is also not

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sustainable. Had it been so, then how Shri Sukleswar Das could be confirmed in that post when he is not a ST candidate.

As such all the contentions of the respondents are malafide, false, arbitrary, unfair and illegal and the refixation/reduction of pay and the retiral benefits of the applicant and recovery thereof leads to gross injustice and has caused irrepairable loss to the applicant.

(Copy of order dated 09.08.85, order dated 29.11.94 and letter dated 21.05.93 are annexed hereto as Annexures-XXVI, XXVII and XXVIII respectively).

4.23 That the applicant begs to submit further that in the upward hierarchy of promotion, the order of the posts are ASPOs- HSG-I- PSS Group 'B'. As such in all fitness of the things, the applicant, is deemed to have been regularized in the post of HSG-I before being promoted to the next higher grade of PSS Group 'B' since it cannot be presumed that he was directly promoted from the grade of ASPOs to the PSS Group 'B' skipping the intermediate post in HSG-I which lacks any rationale or principles of law.

This apart, this Hon'ble Tribunal in it's judgment and order dated 27.08.04 in O.A. No. 174/2003 has clearly held that;-

"From what has been discussed above it is clear that the pay fixation cannot be revised to the disadvantage of the employee without affording him opportunity of hearing."

In its judgment aforesaid, the Hon'ble Tribunal has discussed at length a series of judgments which have abundantly laid down the laws in the subject issue in favour of this applicant and as such the Hon'ble Tribunal has quashed the impugned actions of the respondents also. But even thereafter, the respondents have adhered to their illegal action have issued the impugned letter dated 28.11.05 and dated 29.11.05.

4.24 That it is stated that in the almost similar facts and circumstances the respondent Union of India granted notional promotion to cadre of HSG-I to Sri H. Ahmed, AD (W), office of the Chief PMG, Assam Circle, Guwahati vide letter No. Staff/7-83/92 dated 3.4.2002 with all consequential benefits as because he was incurring financial loss due to

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non-fixation of his pay in the cadre of HSG-I. As such the applicant is also entitled to a similar benefit.

A copy of the letter dated 03.04.2000 is annexed for perusal of Hon'ble Tribunal as **Annexure- XXIX**.

4.25 That the fixation of the pay of the applicant as on 04.01.93 in his promoted post of PSS Group 'B' was done by the expert authorities after consulting all financial rules and his pay was fixed at Rs. 2,600/- on 04.01.03 in the scale of Rs. 2,000-3,500/- (pre-revised) which was in accordance with rules. Accordingly the fitments were done in the subsequent stages also and incremental benefits paid to the applicant for 10 years raising his last pay to Rs. 10,250/- as on 04.01.2002. This was passed by the Accounts experts including the Dy. Director of Accounts experts including the Dy. Director of Accounts (P) and even the Auditors and duly approved by the competent authorities for long 10 years until the impugned objection has been raised by the Dy. Director Accounts (Postal) after 10 years on the eve of retirement of the applicant.

It is relevant to mention here that the Director of Accounts (Postal) could subsequently realize the mistakes and addressed his letter No. PN/2003-2004/274 dated 08.03.05 to the Post Master General, Dibrugarh Region and advised him to take up the case with the CPMG, Assam Circle, for regularization of the adhoc appointment of the applicant in HSG-I post since his junior staff had been regularized in the said post under similar situation, but even thereafter the applicant has been denied justice. The Hon'ble Tribunal be pleased to direct the respondents to produce the letter dated 08.03.05 of Director of Accounts (P) before this Hon'ble Tribunal.

4.26 That the applicant most humbly submits that due to the wrong interpretation of the Dy Director Accounts (Postal), the respondents acted upon erroneously and refixed the basic pay of the applicant reducing the same from Rs. 2600/- to Rs. 2450/- (Pre-revised) with effect from 04.01.1993 retrospectively after the applicant retired on 31.10.2002 i.e. after 10 (ten) years which resulted into reduction of pay in all subsequent stages and finally reducing his last pay before his retirement from Rs.

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10,250/- to Rs. 9500/-. Such reduction of pay had further cumulative effect on all terminal benefits of the applicant viz. Pension amount, commutation values, DCRG, Leave encashment, PF interest etc. causing huge financial loss to the applicant in an illegal and unjustifiable manner.

4.27 That it is stated that in the similar facts and circumstances the respondent Union of India had forced on Mr. Samarendra Shyam to avail promotion in the higher post of Superintendent PS Group-B while he was working as Assistant Superintendent of Post offices under CPMG, NER, Shillong without granting him the benefit of promotion to the cadre of HSG-I and as a result he had sustained huge financial loss in the matter of fixation of pay which was recurring in nature in such compelling circumstances, Shri S. Shyam approached this Hon'ble Tribunal through O.A No. 303/2002 against the similar grievance and the said Original Application was allowed by the Hon'ble Tribunal vide it's judgment and order dated 02.09.2003. Similar benefit further granted to Sri H. Ahmed another employee of the Office of the CPMG, Guwahati when the matter is taken up by the Minority Commission. Therefore denial of similar benefit of regularization/confirmation to the present applicant by the same Directorate is violative of Article 14 of Constitution of India. The applicant cannot suffer due to the fault or lapses of the administration. As such contention of the respondents is contrary to the settled position of law.

It would be evident from the decision rendered by this Hon'ble Tribunal in O.A. No. 303/02 that many of the employees who were working in the cadre of A.S.P.O had been promoted to the cadre of P.S Group-B for the interest of the department without considering their cases for promotion to the cadre of HSG-I and those facts would be evident more particularly from the record of O.A. No. 303/02 decided on 02.09.2003. Therefore, the present applicant cannot be held responsible for non-consideration of his promotion on regular basis to the cadre of HSG-I. However, the applicant was eligible as per Rule for promotion to the post of HSG-I and also discharged his duty to the said post, as such, benefit of fixation granted to the applicant in the cadre of HSG-I cannot be taken away by the respondents without notice.

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Copy of the judgment and order dated 02.09.2003 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XXX.

4.27 A That it is stated that the Chief Post Master General, Assam Circle, Guwahati has issued the impugned order bearing letter No. AP/RP/3-172/2002 dated 2.5.2006, whereby the claim of the applicant has been rejected alleging that there is no merit on the representation of the applicant for restoration of his pay in the original position. In para 2 of the impugned order dated 02.05.2006, it is stated that fixation of the applicants, pay with reference to the pay of HSG-1 post on promotion to PSS Group B cadre was irregular as per provision laid down in FR-22 (i)-(a) (i) as the petitioner was not regularly promoted to HSG-1 cadre prior to his promotion and posting in PSS, Group-B cadre. Therefore applicants pay should have been fixed with reference to the pay with the post of Assistant Superintendent of post in the pay scale of Rs. 1640-2900/-, which he had held regularly and substantively prior to his temporary posting as Dy. Post Master (HSG-1) in the Guwahati Post office, as such it is further held that recovery of overpayment to the tune of Rs. 96,792/- is justified. But the Chief Post Master General, Assam Circle, Guwahati has lost sight of the fact that the Chief Post Master General in fact initiated a proposal for retrospective regularization of ad-hoc promotion of the applicant to the cadre of HSG-1, after the Chief Post Master General felt it justified and therefore such proposal was initiated and referred to the higher Head Quarter, but the same was rejected by the Directorate vide letter dated 18.02.2003, which was in turn communicated vide letter dated 26.02.2003 (Annexure-XVII) of the original application. It is pertinent to mention here that even assuming if there is any irregularity occurred in fixing the pay of the applicant taking into consideration of his pay in the cadre of HSG-1 i.e. Dy. Post Master, Guwahati. But the said irregularity has been occurred at the instance of the respondents and as such the applicant cannot be made to suffer for wrong committed by the respondents and on that score alone the impugned letter dated 02.05.2006 is liable to be set aside and quashed. Moreover, Sri Samarendra Shyam, Retd. Asstt. Post Master General as well as in the case of Sri H.Ahmed, an

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officer of the Assam Circle has been extended the similar benefit by the Department even without holding the post of HSG-1 on ad-hoc basis. Whereas the present applicant at least worked in the said post of HSG-1 on ad-hoc basis. Therefore applicant cannot be discriminated in the matter of promotion and fixation of pay in the cadre of HSG-1 and the same is extended to the others, otherwise it will attract Article 14 of the Constitution of India.

Copy of the impugned order dated 02.05.06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- XXXI.

4.28 That this application is made bona fide and for the cause of justice.

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

5.1 For that, the applicant was working in the cadre of HSG-I against regular vacancy although it was termed as ad hoc arrangement prior to his promotion to the cadre of PSS Gr. 'B'.

5.2 For that the applicant had attained eligibility as per rules for consideration of promotion on regular basis during the year 1992 to the post of Deputy Postmaster HSG-I which fall vacant at the relevant time but the respondents did not hold the DPC for the reasons best known to the authorities.

5.3 For that one Sri H. Ahmed similarly circumstanced was granted the benefit of promotion of HSG-I notionally w.e.f. 17.1.1989 vide order dated 3.4.2000, as such there cannot be any impediment on the part of the respondents to extend the similar benefit to the applicant.

5.4 For that, the applicant was entitled for the post of HSG-I prior to his promotion to the cadre of PSS Gr. 'B' and he would have continued in the in cadre of HSG-I had he not been promoted to the cadre of PSS Gr.-'B' irrespective of the matter whether he was holding the post of HSG-I on ad hoc basis or otherwise.

5.5 For that according to his normal avenue of promotion also, the applicant would have been promoted to the cadre of HSG-I prior to his promotion to the next higher grade of PSS Gr. 'B'.

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5.6 For that on his promotion to the cadre of PSS Gr. 'B' on 4.1.93, his basic pay was rightly fixed with respect to his pay in the HSG-I cadre i.e. the post which he had been holding at the time of his promotion.

5.7 For that the pay of the applicant in his Promoted post of cadre of PSS Gr. 'B' was fixed at Rs. 2600/- (Pre-revised) on 4.1.93 with respect to his pay drawn by him in the HSG-I post which he was holding at the relevant time and accordingly his pay was fixed in all subsequent stages for 10 years i.e. till 31.10.02 when he retired on superannuation with his last basic pay of Rs. 10,250/- (revised scale).

5.8 For that the fixation of pay of the applicant on 4.1.93 and in all subsequent stages were examined and passed by the competent authorities including the audit officers for all those 10 years and no anomalies were found. Even the Dy. Director Accounts (Postal) also passed the earlier fixations in all stages until he raised objection on the eve of retirement of the applicant.

5.9 For that due to non-holding of regular DPC by the respondent, the applicant was deprived of his regular promotion to the post of Deputy Postmaster HSG-I in the pay scale of Rs. 2000-3200.

5.10 For that the re fixation of the pay of the applicant on the eve of his retirement in 2002 and reduction of the same from Rs. 2600/- to Rs. 2450/- on 4.1.1993 and further reduction in all subsequent stages retrospectively, finally reducing all his terminal benefits are illegal, mala fide, arbitrary and violative of the principles of natural justice.

5.11 For that the action of the respondents to the extent of reduction of pay and allowance without providing reasonable opportunity to the applicant is violative of the due process of law.

5.12 For that the applicant made series of representations to the respondents for redressal of his grievances but of no avail.

5.13 For that the wrong and illegal action of the respondents caused huge financial loss to the applicant in respect of his retirement benefits.

5.14 For that learned Tribunal has set aside all the impugned orders bearing Nos. (1) PN-58/2002-2003/478 dated 30.08.2002 (2) COM-43/2002-03/PN-58/2002-03/D- dated 3.10.2002 (3) AP/RP/3-172/02 dated 11.10.02 (4) AP/RP/3-172/02 dated 9.12.2002 (5) AP/RP/3-172/2000 dated 15.01.03 (6) Staff/11-14/89 dated 26.2.03 and (7) GPF/2-37/GHY/2000-01/394

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dated 01.4.03, whereby the pay of the applicant was arbitrarily refixed and huge amount of deduction were effected on the alleged ground of wrong fixation of pay but surprisingly even after setting aside of the impugned orders the excess amount which was unauthorisedly deducted from the pensionary dues of the applicant has not been refunded back till filing of this application.

5.15 For that, consequent upon the relinquishing of the post of Dy. Post Master (HSG-I) by the applicant, one Shri Sukleswar Das who was even junior to the applicant was appointed in the said HSG-I Post and immediately thereafter Shri Das was confirmed in that post and as such the applicant ought to have been regularized in the said post in similar manner, since the applicant was not only eligible for the post but had served in the post for a relatively longer period and was even senior to his successor Shri Sukleswar Das.

5.15 For that, the Director of Accounts (Postal) himself, vide his letter dated 08.03.05 advised the competent authorities to regularize the adhoc appointment of the applicant in HSG-I post.

5.16 For that the grounds on which wrong fixation of pay in respect of applicant has been alleged by the respondents, the similar issue under the same facts and circumstances came before the learned Tribunal in O.A. No. 303/02 in the case of S. Shyam –Vs- U.O.I & Ors. And the same was decided by this learned Tribunal in favour of the applicant in that O.A. Moreover, in case of H. Ahmed the respondents themselves have settled the issue in favour of H. Ahmed which is evident from the judgment passed by the learned Tribunal in the case of S. Shyam.

5.17 For that the learned Tribunal granted liberty only to the extent to afford an opportunity to the applicant in the matter of fixation of pay/pension but no liberty has been granted authorizing the respondents to retain the deducted amount on the ground of alleged excess payment made to the applicant in view of wrong fixation of pay.

5.18 For that applicant is a retired person facing financial hardship due to deduction of huge amount of money from the pensionary benefit.

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5.19 For that as per the settled position of law, the pay fixation cannot be revised to the disadvantage of the employee on the ground of wrong fixation after the same being paid for 10 years.

5.20 For that the arbitrary decision of the respondents communicated through impugned letter dated 28.11.05 and 29.11.05 are contrary to the factual position as well as contrary to the settled position of law, as such impugned letter dated 28.11.05 and 29.11.05 are liable to be set aside and quashed.

5.21. For that no reason has been assigned for rejection of the representation for claim of the applicant, while issuing the impugned order dated 02.05.2006 and the such action of the respondents is in violation of Article 14 of the Constitution of India, since the similar benefit has been extended to the similarly situated employees of the department.

6. **Details of remedies exhausted.**

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

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

The applicant further declares that save and except the filing of O.A No. 175/2003 before this Hon'ble Tribunal, the applicant had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief(s) sought for:**

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

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8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. Staff/11-14/89 dated 28.11.2005 (Annexure-XXIII) as well as letter bearing No. CPIO/RTIA-8/05 dated 29.11.2005 (Annexure- XXIV).

8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned show cause notice bearing letter No. AP RP 3-172/02 dated 18.10.04 (Annexure-XXI).

8.3 That the promotion of the applicant as Deputy Postmaster (HSG-I) in the pay scale of Rs. 2000-3200 notified vide No. Staff/11-14/89 dated 01.12.92 be declared as regular promotion.

8.4 That the fixation of pay of the applicant in his promoted post of P.S. Group 'B' as Rs. 2600/- (Pre revised) on 4.1.1993 and the subsequent fixations thereto in each stage and final last basic pay of Rs. 10,250/- at the time of retirement of the applicant be declared as valid.

8.5 That the respondents be directed to pay all the terminal benefits of the applicant on the basis of Rs. 10,250/- as his last pay on superannuation with consequential arrear and refund of money recovered from the applicant.

8.5A That the Hon'ble Tribunal be pleased to set aside the impugned order bearing letter No. AP/RP/3-172/2002 dated 02.05.2006 issued by the Chief Post Master General, Assam Circle, Guwahati.

8.6 Costs of the application.

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

9. <u>Interim order prayed for.</u>

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

21 SEP 2007
गुवाहाटी न्यायपीठ
.ch

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this applicant shall not be a bar for the respondents to consider the case of the applicant and redress his grievances.

10. .....
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. :
ii) Date of Issue :
iii) Issued from :
iv) Payable at :

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I Shri Chitta Ranjan Deb, Son of Late J.C. Deb, aged about 63 years, Retired Superintendent, RMS 'S' Division, Silchar, resident of Link Road, Lane No. 1-A, Silchar -788 006, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 19th day of September 2007.

Chitta Ranjan Deb

ANNEXURE-I

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE :GUWAHATI-1

No. Staff/11-14/89 dated at Guwahati 1.12.92.

The following orders of adhoc arrangement are issued to have immediate effect in the interest of public service.

Sri C.R.Deb, ASPOs(Cell), O/O CPMG, Guwahati has been promoted temporarily as HSG-I and posted against the post of DPM lying vacant in Guwahati GPO. Shri Deb may be relieved on office arrangement.

Usual charge report may be exchanged and sent to all concerned.

(M IAWPHNIAW)
Director of Postal Services
Assam Circle, Guwahati-1

Copy to:-

1. Sri C R Deb, ASPOs(Cell), CO
2. SSPOs, Guwahati
3. Sr. PM, Guwahati
4. AAO(Bgt), CO
5. AD A/cs, CO
6. Office Supdt// SS , CO, /RO
7. All Group Officers, CO/RO

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(P NATH)
APMG(STAFF)
O/O CPMG:GUWAHATI-1.

Attested
Mukta
Advocate

ANNEXURE-II

(28)

No. 9/52/92-SPG
Government of India
Department of Posts

4 NOV 1997

Dak Bhawan
Sansad Marg
New Delhi-110001.

Dated : 2-11-92

Subject : Promotions and postings to Postal Supdt./Postmasters Group 'B'.

...

The Director General (Posts) is pleased to appoint the following officials to officiate in Postal Superintendent/ Postmasters Group 'B' with immediate effect and until further orders.

The officials on promotion to Postal Superintendent/ Postmasters Group 'B' are posted to the Circle mentioned against each :

S.N.	NAME OF THE OFFICER S/SHRI	CIRCLE WHERE WORKING	CIRCLE TO WHICH POSTED
1.	J.P. Jain	Raj.	Delhi
2.	K.M. Sankaran	Kerala	Kerala
3.	Om Prakash	Raj	Delhi
4.	P.V. Bhaskaran	Kerala	Kerala
5.	Pratap Singh	KTK	KTK
6.	K. Janardhanan	KTK	KTK
7.	P.C. Tiwari	MP	MP
8.	M.N. Das	Orissa	WB
9.	Patitpaban Goswamy	Orissa	WB
10.	G.S. Thakur	MP	MP
11.	A.K. Diswas	Assam	Assam
12.	R.S. Dubey	MP	MP
13.	N. Bhattacharjee	Assam	Assam
14.	M.C.S. Reddy	AP	AP
15.	P.K. Maini	APS	NBR

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SL. 140

Attested
Mitra
Adv

....2/-

..	K.P. Roychoudhary	WB	WB
7.	S. Santhanam	TN	TN
1.	R. Rajaraman	TN	TN
1.	M. Umapathi	TN	TN
2.	P.N. Singh	Bihar	Bihar
21.	M.Venkata Reddy	AP	AP
22.	V. Sadasivan	TN	TN
23.	H.K. Gupta	J&K	J&K
24.	G. Narasimhan	TN	TN
25.	O.S. Gangal	Raj	Delhi
26.	P.B. Kulkarni	Mah	Mah
27.	B.R. Katiyar	UP	Postal Staff College, Ghaziabad.
28.	P. Up[illegible]liah	AP	AP
29.	P. Devarajan	TN	TN
30.	J.K.S. Edgar Wesley	TN	TN
31.	V.K. Thiruvengadathan	TN	TN
32.	A.L. Gupta	Har	Har
33.	A.C. Bose	TN	TN
34.	H. Subba Rao	AP	AP
35.	H.S. Sastry	AP	AP
36.	N.D. Joshi	Guj	PTC Vadodara
37.	B.K. Rao	AP	AP
38.	M.S. Farook	TN	TN
39.	S. Vengappa	AP	AP
40.	K. Pd. Verma	Bihar	PTC Darbhanga

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..... 3/-

41.	P.N.R. Kurup	Kerala	Kerala
42.	S. Rajagopalan	TN	TN
43.	S. Varadarajulu	TN	TN
44.	N.L. Gupta	UP	UP
45.	P. Subramanian	TN	TN
46.	A.A. Khan	APS	NBR
47.	Mohd. Hussain	AP	AP
48.	Banwari Lal Saini	Raj	Delhi
49.	P. Venkataratnam	AP	AP
50.	T.V. Chalapathi	AP	AP
51.	P.O. John	AP	AP
52.	K.P. Valsan	Kerala	~~Kerala~~ Mah
53.	R.C. Sharma	UP	UP
54.	S.P. Deshpande	Mah	Mah
55.	C. Kannappan	TN	TN
56.	Abdul Alam	AP	AP
57.	G. Murahari	AP	AP
58.	N. Pitchai	APS	NBR
59.	S. Balasundaram	TNS	TN
60.	S. Arunachalam	TN	TN
61.	R.A. Maurya	UP	UP
62.	V.M. Pandya	Mah	Mah
63.	G. Venkatachalam	TN	TN
64.	B. Gurudas	AP	AP
65.	P.A. Balakrishnan	APS	NBR

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.... 4/-

67.	M.A. Moidin	KTK	KTK
67.	N. Somaskandan	TN	TN
68.	V.P. Annamalai	TN	TN
69.	S. Gopal	TN	TN
70.	S. Subbaraman	TN	TN
71.	N. Venkataraman	TN	TN
72.	S.A. Fernando	TN	TN
73.	K.E. Ilayaperumal	TN	TN
74.	R.P. Tripathi	UP	UP
75.	K.V. Achary	Kerala	Mah
76.	S.N. Sharma	Raj	Mah
77.	S.S. Yadav	UP	UP
78.	C.D. Bhathla	UP	UP
79.	Syamkosh Ghosh	WB	WB
80.	J.M. Chhabra	Delhi	Delhi
81.	S.P. Singh	NE	NE
82.	B.P. Verma	UP	UP
83.	P.D. Srivastava	UP	UP
84.	I.D. Malhotra	Har	Har
85.	V.D. Sharma	UP	UP
86.	K.K. Gagnaja	UP	UP
87.	T.N. Gopalakrishnan	Kerala	Mah
88.	P. Asokan	Kerala	Mah
89.	K.M. Kumaran	Kerala	Mah
90.	Shafiquddin	UP	UP

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91.	N.K. Pande	Mah	Mah
92.	M.A. Iyer	Kerala	Mah
93.	G.S. Ghooli	KTK	KTK
94.	C.S. Krishna	KTK	KTK
95.	A. Raja	Kerala	Mah
96.	S.R. Verma	Delhi	Delhi
97.	Bhaskar Misra	Orissa	WB
98.	A.S. Saini	HP	HP
99.	P.K. Narayanan	Kerala	Mah
100.	V.M. Karanjia	Guj	PTC Vadodara
101.	B. Venkateshan	KTK	KTK
102.	S.D. Kamanhalli	KTK	KTK
103.	R.S. Baraja	Har	PTTC Saharanpur
104.	H.P. Sharma	Har	Delhi
105.	M.S. Rao	Orissa	WB
✓106.	J.C. Saha	NE	NE
107.	R.G. Sharma	APS	NBR
108.	C.A. Mathew	Kerala	Mah
109.	B.S. Sisodia	Raj	Mah
110.	T.P. Nambiar	Kerala	Mah
111.	A.G. Abrahim	Kerala	~~Mah~~ Kerala
112.	P.J. Shanishchara	Guj	Guj
113.	K. Ramachandran	Kerala	Mah
114.	B.D.L. Srivastava	UP	UP
115.	P.P. Soni	Guj	Guj

..... 6/-

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116.	S.M.I. Haji	Guj	PTC Vadodara
117.	N.G. Nair	Kerala	Mah
118.	P. Gopalakrishnan	AFS	N3R
119.	M.M.N. Nambiar	Kerala	Mah
120.	P.P.G. Nambiar	Kerala	Mah
121.	T.R.R. Nair	APS	NdR
122.	Kishan Chand	Raj	Mah
123.	R.C. Rath	Orissa	JB
124.	C.C. Mohanty	Orissa	WB
125.	Bhubaneshwar Sautra	Orissa	WB
126.	R.S. Tokas	Delhi	Delhi
127.	D.C. Bardhan	WB	WB
128.	Sayed Saliha	Orissa	JB
129.	B.C. Darji	Guj	Guj
130.	J.S. Dogra	Delhi	Delhi
131.	Sridhar Panda	Orissa	JB
132.	E. Shanmugaval	TN	TN
133.	J.C. Kumar	Har	J&K
134.	Srinivas Mishra	Orissa	WB
135.	S.K. Bora	Assam	Assam
136.	J.C. Mohanty	Orissa	JB
137.	B.K. Dam	Assam	NE
138.	B.R. Bose	WB	WB
139.	V.D. Khedkar	MP	MP
140.	C.R. Deb	Assam	NE

..... 7/-

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		Assam	NE
141.	B.B. Choudhary	WB	Delhi
142.	J.J. Paul	(on deputation)	
143.	M.K. Shingaram	Mah	Mah
144.	Pritam Singh	Raj	Mah
145.	M.L. Sharma	Delhi	Delhi
146.	S.K. Kundu	WB	WB
147.	Binanda Hazarika	Assam	NE
148.	V.P. Wani	Mah	Mah
149.	M. Sukumaran	Kerala	Mah
150.	B.M. Solanki	Guj	Guj
151.	P.T. Savlani	APS	NBR
152.	C. Sreedharan	Kerala	Mah
153.	R. Ponniah	TN	TN
154.	A.P. Radhakrishnan	APS	NBR
155.	S. Pandian	TN	TN
156.	S.S. Rawat	UP	UP
157.	P.C. Philip	APS	NBR
158.	A.W. Beg	UP	UP
159	M.S. Ali	TN	TN
160.	A.S. Muthukumaraswamy	TN	TN
161.	Gulam Mohiuddin	UP	UP
162.	C.P. Arora	Raj	Mah
163.	P. Kandasuami	TN	TN
164.	A.G. Palsekar	Mah	Mah
165.	P. Raghavaiah	AP	AP

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	S.L. Hatkar	KTK	KTK
7.	T. Sanjeevi	AP	AP
8.	Ramjee Ram	Bihar	Bihar
9.	S.N. Ram	Bihar	Bihar
70.	Laldhari Ram	Bihar	PTC Darbhanga
71.	C. Choodaiah	KTK	KTK
172.	V. Balapa	AP	AP
173.	Shanker Das	Bihar	PTC Darbhanga
174.	P. Premanandam	AP	AP
175.	B.L. Bhambhi	Raj	Mah
176.	A.D. Vankar	Guj	Guj
177.	Chandrawal Kharwal	MP	MP
178.	B.L. Shakya	MP	MP
179.	K.S. Ramaswamy	TN	TN
180.	R.J. Parmar	Guj	Guj
181.	G.L. Dhakre	MP	MP
182.	C.M. Gahlot	Raj	Mah
183.	N.B. Solanki	Guj	Guj
184.	J.K. Das	WB	WB
185.	S.R. Vaghela	Guj	Guj
186.	C.B. Parmar	Guj	Guj
187.	Damnash Kumar	Delhi	Delni
188.	P.C. Bachar	WB	WB
189.	K.T. Rangan	TN	TN
190.	A. Lingaraju	Orissa	WB

..... 9/-

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191.	C.R. Paramanick	WB	WB
192.	Ram Phal-II	Delhi	Delhi
193.	G.M. Meshram	MP	MP
194.	Bandigaiah	KTK	Mah
195.	Jagdish Pd. Verma	Raj	Mah
196.	K. Vasudevan	Kerala	Mah
197.	B.P. Dohre	MP	UP
198.	Baboo Lal	Delhi	Delhi
199.	A.P. Parmar	Guj	Guj
200.	G.D. Nihenia	Delhi	Delhi
201.	D.N. Gajbe	Mah	Mah
202.	Bhagwan Marandi	Bihar	WB
203.	K.V. Rao	AP	AP
204.	C.Varaprasada Rao	AP	AP
205.	R.S. Kardam	Delhi	Delhi
206.	Ram Nagina	UP	UP
207.	P.C. Bunkar	Raj	Mah
208.	N.V. Vedi	TN	TN
209.	M. Mohan Das	Kerala	Mah
210.	R.Ch.V. Prasad	AP	AP
211.	A.B. Patel	Guj	Mah

3. VIGILANCE/DISCIPLINARY CASE IF ANY

In case any vig./disc. case, of the type referred to in O.M.No. 22011/4/91-Estt.(A) dated 14-9-92 from DOP&T circulated vide this office memo no. 25-19/88-SPG dated 13-10-92 is pending against any of the officials, he should not be relieved for posting without obtaining specific orders from this office. The officials against whom any punishment is current they should not be promoted before expiry of currency of punishment. A report in this regard be submitted immediately.

..... 10/-

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4. PROBATION PERIOD

All the officials who have been promoted to the Postal Supdt./Postmasters Group 'B' will be on probation for 2 years and their suitability to hold this post will be adjudged on completion of two years of probation. If any official proceeds on leave for a period exceeding 30 days during this period, the probation period will be extended depending upon the period of leave.

5. TRAINING

All the officials, including those who have not been imparted training, will be directly promoted to the Postal Supdt./Postmasters Group 'B' without any training for the present.

6. OFFICERS ALLOTTED OUT OF PARENT CIRCLES

The Circles of allotment will immediately issue posting orders, and in any case not later than 15-11-92. In case of any difficulty in issue of posting orders, the matter should be brought to the notice of Directorate by 10-11-92. The parent Circles of such officials, on receipt of posting orders, will immediately relieve the officials unless they submit unconditional declination. The CPMGs of the Circle of allotment/ parent Circles will personally ensure issue of posting orders by the due date and immediate relief of officials. Despite issue of posting orders, if any official does not join by 15th Dec. 1992, it will be presumed that they have declined promotion.

7. The charge reports in consolidated form (not individually) may be sent by o/o CPMG to this office for issuing notification clearly indicating the order no. and date.

(T.S. Govindarajan)
Director(STAFF)

Copy to:

1. All Chief Postmasters General / CFM Bombay/ Postmasters General
2. Director, Army Postal Service, c/o 56 APO.
3. Principal, Postal Training Centres.
4. Training-P Cell, Directorate.
5. All Directors/Dy. Directors of Postal Accounts.
6. Work Study/Vig. Sections of Postal Dte.
7. All concerned associations/CS to Member(P)
8. SOs Guard file.

(Y.D. Mahta)
Section Officer (SPG)

ANNEXURE-III

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI - 781 001.

No. Staff/3-7/81/Ch.II dated at Guwahati the 24.11.1992.

In pursuance of Directorate, New Delhi order no. 9/52/92-SPG, dated 2.11.92 and CO, Shillong memo no. Staff/13-15/92, dtd 13.11.92, the following approved officers of Assam Circle are transferred/posted to officate in Postal Services, Group-B in N.E. Circle at the offices and against the posts mentioned below against their names.

Name	Place of working	Posted at
1. Shri B. K. Das	Dy. PM, Guwahati GPO	Dy.Supdt of Posts O/O DPS, Itanagar N.E. Circle.
2. Shri C. R. Deb	ASPOs(Cell),CO,Guwahati	Supdt. PSD, Silchar. N.E.Circle wef 1.1.93.
3. Sri B. B. Chowdhury	ASPOs(Inv),RO,Guwahati	Supdt. PSD, Guwahati under N.E.Circle.
4. Sri Binanda Hazarika	ASPOs, Dhubri	Dy. Supdt of Posts O/O DPS, Kohima N.E. Circle.

The officials may be relieved on office arrangement to enable them to join by 15.12.1992 except in the case of Sri C.R.Deb, who is to be relieved by 1.1.93 as he has been posted against retirement vacancy.

The promotion of the officials are subject to the condition that no disc/ vigilance case is pending or contenplated against them. In case any disc./ vigilance case is pending against them, they should not be relieved and the matter referred to this office immediately.

The officials are yet to be undergone Institutional and field training.

Usual charge reports should be sent to all concerned.

(M IAWPHNIAW)
DIRECTOR OF POSTAL SERVICES
ASSAM CIRCLE: GUWAHATI - 1.

Copy to:-

1. The Director General(SPG), Deptt of Posts, Dak Bhavan, New Delhi-1 wto Dto No. 9/52/92-SPG dt 2.11.92.
2. The Chief Postmaster General(Staff), N.E. Circle, Shillong-793001.
3. The RPMG, Guwahati-1
4. Sr. Supdt of Post offices, Guwahati Dn, Guwahati-1
5. The Supdt of Post offices, Goalpara Dn, Dhubri
6. Sr. Postmaster, Guwahati GPO.
7. The Postmaster, Dhubri HO
8. AAO(Dgt), CO// RO, Guwahati
9. The AD A/cs, CO // RO, Guwahati
10. All Group Officers, CO// RO, Guwahati
11-14. Officials concerned.
15-18. P.F. of the officials concerned.
19-20. O/C/Spare.
21. Supdt PSD, Guwahati/Silchar.

केन्द्रीय प्रशासनिक अधिकरण
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Director of Postal Services
Assam Circle, Guwahati-1

Attested
Dutta
Advocate

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

ANNEXURE-IV

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: N.E.CIRCLE: SHILLONG

Memo No. Staff/13-15/92 Dated Shillong, the 13-11-92

In pursuance of the Director General(Posts) New Delhi's order No. 9/52/92-SPG dated 2-11-92, the following approved officers are posted to officiate in Postal Supdt./ Supdt. PSD/Postmasters Group 'B' at the offices and against the post mentioned below against their names. In terms of Dte's instruction, the new officers should be relieved to enable them to join by 15-12-1992 except in the case of Shri C.R. Deb.

Name	Post	
1) Shri S.P. Singh	Dy.Supdt. of P.Os	O/O DPS Manipur Imphal.
2) Shri J.C. Saha	Dy.Supdt. of P.Os	O/O DPS Mizoram Aizawl relieving Shri A.R.Bhowmik transferred.
3) Shri B.K. Dam	Dy.Supdt. of P.Os	O/O D.P.S., Itanagar.
4) Shri C.R. Deb	Superintendent	P.S.D., Silchar w.e.f. 1-1-93.
5) Shri B.B. Choudhury	Superintendent	P.S.D., Guwahati.
6) Shri Binanda Hazarika	Dy.Supdt.of P.Os	O/O the D.P.S., Nagaland, Kohima.

2. They will be on probation for two years and their suitability to hold this post will be adjudged on completion of two years of probation. If any official proceeds on leave for a period exceeding 30 days during the first two years, the probation period will be liable to be extended accordingly.

3. They may be called for institutional and field trainings at any time.

4. The following officers are transferred and posted to the offices noted below against each.

1) Shri A.R. Bhowmick, Dy. Supdt. of P.Os, Mizoram Division.	Dy. Supdt. of P.Os, Agartala Division vice Shri P.K. Nandi Mazumder transferred.
2) Shri P.K. Nandi Mazumder, Dy. Supdt. of P.Os, Agartala.	Supdt. of P.Os, Meghalaya Divn. Shillong without exchange relieving Shri S. Shyam.
3) Shri S. Shyam, S.P.Os, Shillong.	Asstt. Director (Estt.), Circle Office, Shillong.

Attested
Advocate

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5. Charge reports should be sent to Circle Office on relief and assumption of charge by each official.

6. Shri A.R. Bhowmick, Shri P.K. Nandi Mazumder and Shri S. Shyam will move only when their relievers join.

(I. Munga)
Asstt. Postmaster General (S&E)

Copy to :-

1) The Director General (Posts) New Delhi with reference to his order No. 9/52/92 -SPG dated 2-11-92.
2) The Chief P.M.G., Assam Circle, Guwahati.
3) All Directors of Postal Services in N.E. Circle.
4) The Supdt. of P.Os, Shillong/Dharmanagar.
5) The Supdt. P.S.D., Guwahati/Silchar.
6) The Director of Accounts (Postal), Calcutta.
7) The Officers concerned.
8) P/F of the officers.
9) The Sr. Postmaster, Shillong G.P.O.
10) All Head Postmasters in N.E. Circle.
11) Spare.

For Chief Postmaster General,
N.E. Circle, Shillong.

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ANNEXURE-V

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE
GUWAHATI - 781001.

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To,

The Sr. Postmaster,
Guwahati GPO.

No. Staff/1-320/93 Dated at Guwahati the 22-12-92.

Sub:- Arrangement for release of Sri C.R.Deb officiating Sr. Postmaster, Guwahati G.P.O.

1=H.S.G.I on adhoc basis.

Shri C.R.Deb, DPM, Guwahati G.P.O. and officiating Sr. Postmaster, Guwahati G.P.O. may be relieved on assumption of charge by Sri A.K.Biswas, so as to enable Shri Deb to join as Supdt. of Postal Store Depot, Silchar as ordered under Chief P.M.G., Guwahati is memo No. Staff/1-7/91/Ch-II dated 24-11-92.

(D.NATH)
P M G (Staff)
For Chief Postmaster General,
Assam Circle, Guwahati.

Copy to :-

The Sr. Supdt. of Post Offices/Guwahati for information. The work of DPM may be managed locally till selection of approved candidate is made available.

For Chief Postmaster General,
Assam Circle, Guwahati.

Attested
Mitra
Advocate

Para/491/92.

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ANNEXURE-VI.

Department of Posts
Office of the Sr. Supdt. of Post Offices
Guwahati Division:3rd Floor, Meghdoot Bhawan:Guwahati-781001.

No.B/2/7/Officer/Ch-III dated Guwahati-1, the 23-12-92

In accordance with the Chief Postmaster General, Assam Circle, Guwahati-1 letter No.Staff/1-330/88 dated 22-12-92, Shri C.R. Deb, oftg. Senior Postmaster, Guwahati HO may be relieved on office arrangement on assumption of charge of Senior Postmaster Guwahati HO by Shri A. K. Biswas, so as to enable Shri C. R. Deb to join as Supdt. P.S.D./Silchar as ordered under Chief PMG Guwahati-1 memo No.Staff/3-7/81/Ch-II dated 24-11-92.

Senior Supdt. of P.Os
Guwahati Division::Guwahati-1

Copy to:-

(1) The Senior Postmaster, Guwahati HO for information and necessary action.

(2) Shri C. R. Deb, oftg. Senior Postmaster, Guwahati HO for information.

(3) The Chief PMG, Assam Circle, Guwahati-1 for information.

Senior Supdt. of P.Os
Guwahati Division:Guwahati-1

Attested
Dutta
Advocate

केन्द्रीय प्रशासनिक अधिकरण
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ANNEXURE-VII

(रेलवे ... द्वारा दिया) (Issued by ... Railway)
Schedule Appendix 8

फार्म 16
FORM 16

स्था०आ०पु० (ग)-16
M.S.O.(T)-16

अन्तिम वेतन पत्र/LAST PAY CERTIFICATE

क. ..... का अन्तिम वेतन पत्र
K. ..... पर रवाना हो रहा है।
Last pay Certificate of ..... proceeding on .....

ख. उसे निम्नलिखित दरों पर ..... तक के लिए अदायगी कर दी गई है :—
He has been paid upto 31-12-92 at the following rates :—

मद/Particulars	दर/Rate	कटौतियां/Deductions	
मूल वेतन Substantive Pay	Pay = 2450 -	GGEGIS -	Rs. 30.00
स्थानापन्न वेतन Officiating Pay	DA = 2084	GPF Cont -	" 1600.00
भत्ते आदि Allowances etc.	HRA = 450	PLI NV 296227-P	" 8.00
	SCA = 80	" " 95784-P	" 12.00
मदों/Particulars		" " NE-942-P	" 29.00
		" " AM-5200-P	" 110.00

ग. उसकी सामान्य भविष्य निधि लेखा संख्या ..... महालेखाकार ..... द्वारा रखा जाता है।
His General Provident Fund Account No. PTC/60380 maintained by Accountant General A/C(P) Calcutta

घ. उसने ..... के पूर्वाह्न/अपराह्न को ..... का पद भार सौंप दिया।
He made over charge of the office of Sr Postmaster/GH on the ..... noon of 26-12-92 (F/N)

ङ. पृष्ठभाग पर दिए गए ब्यौरे के अनुसार सरकारी कर्मचारी के वेतन में से कटौतियां की जानी है।
Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

च. उसे नीचे दिए गए ब्यौरे के अनुसार छुट्टी वेतन अदा किया गया है। पृष्ठभाग पर लिखे अनुसार कटौतियां की गई है।
He has been paid leave salary as detailed below. Deductions has been made as noted on the reverse.

अवधि/Period		दर/Rate	
From	to	at Rs.	a month .....
From	to	at Rs.	a month .....
From	to	at Rs.	a month .....

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छ. वह निम्नलिखित लेने का हकदार है :—
He is entitled to draw the following :—

ज. वह ..... दिन के कार्यग्रहण अवधि का भी हकदार है।
He is also entitled to joining time for 28 days & bbb

झ. निम्नलिखित बीमा पालिसियों की किस्त व्यवस्था वह भविष्य निधि में से करता है :—
He finances the insurance policies detailed below from Provident Fund :—

बीमा कम्पनी का नाम Name of the Insurance Company	पालिसी सं० No. of Policy	प्रीमियम की राशि Amount of Premium	प्रीमियम अदा करने की नियत तारीख Due date for the date of Premium

ञ. इस वर्ष के आरंभ से अब तक उनके वसूल किए गए आयकर का विवरण पृष्ठभाग पर लिखा है।
The details of the income-tax recovered from him up to the date from the beginning of the ~~current~~ year are noted on the reverse.

तारीख/Dated 1-1-93 19.

हस्ताक्षर/Signature SENIOR POSTMASTER
पदनाम/Designation Guwahati G.P.O.

टिप्पणी।—क्रम संख्या 3 के सामने की सूचना अराजपत्रित सरकारी कर्मचारियों के मामले में कार्यालय अध्यक्ष द्वारा और राजपत्रित अधिकारियों के मामले में सम्बन्धित लेखा अधिकारी/स्वयं अधिकारी द्वारा भरी जानी चाहिए। इसके अलावा जब कोई सरकारी कर्मचारी एक लेखापरीक्षा परिमंडल से दूसरे परिमंडल में स्थानांतरित किया जाए तो स्थानांतरण के बाद जो लेखा अधिकारी उसका सामान्य भविष्य निधि का लेखा रखे उसका नाम भी राजपत्रित अधिकारी के मामले में अन्तिम वेतन पत्र पर प्रति हस्ताक्षर करते समय महालेखाकार द्वारा और अराजपत्रित सरकारी कर्मचारियों के मामले में, यदि संभव हो, कार्यालय अध्यक्ष द्वारा किया जाना चाहिए।

Note :—Against Serial No. 3 the information should be incorporated by the Head of the office in case of non-gazetted Government servants and by the Treasury Officer/Officer himself in case of Gazetted Officers. In addition when a Government servant is transferred from one audit circle to another, the name of the Accounts Officer who will maintain his General Provident Fund account after transfer should also be recorded in the case of a Gazetted Officer by the Accountant General while countersigning the Last Pay Certificate and by the head of the office in the case of non-gazetted Government servants, if possible.

Attested
Dutta
Advocate

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(पृष्ठभाग)
(REVERSE)

वसूलियों का विवरण
Details of recoveries

(1) Rs 20,000/- being the Land Purchase advance drawn in
वसूली का स्वरूप C.G.H. Vide No. C/1/91
Nature of recovery

(2) Rs 400/- out of Rs 584/- being the Irregular
राशि रु० Payment of CCA to be recovered @ Rs 20/- pm
Amount Rs.

(3) Rs 400/- out of Rs 600/- being the Festival Advance
वसूली किस्तों में की जानी है। drawn vide C.G.H. Vide No. [illegible] to be recovered
Instalments. @ Rs 100/- pm.
वेतन से वसूली की जाने वाली राशि
Deductions made from pay/salary

(4) From Rs 6000/- to being the on account of PF Advance Rs drawn in
से तक रु० बाबत रु० C.G.H. Vide No. dt. 17/12/92 to be recovered @ Rs 300/- pm

(5) From Rs 2400/- to being the on account of Pay Advance Rs drawn in bill
से तक रु० बाबत रु० dt. 29/12/92 to be on account of recovered from Salary.

(6) T.A. Advance Rs 3000/- drawn vide B.P. 29/12/92 to be
adjusted from the

मदों का नाम Name of months	वेतन Pay	उपदान, कोष आदि Gratuity, fee etc	भविष्य निधि और अन्य कटौतियां Provident Fund and other deductions	वसूल की गई आयकर की राशि Amount of Income-tax recovered	टिप्पणियां Remarks
1	2	3	4	5	6
अप्रैल 19 April 19					
मई 19 May 19					
जून 19 June 19					
जुलाई 19 July 19					
अगस्त 19 August 19					
सितम्बर 19 September 19					
अक्तूबर 19 October 19					
नवम्बर 19 November 19					
दिसम्बर 19 December 19					
जनवरी 19 January 19					
फरवरी 19 February 19					
मार्च 19 March 19					

NO:- A 2/ C.R. Deb /92 dtd 1-1-93.

Copy to

(1) The Supdt PSD Silchar for information and
(2) The Chief Postmaster General, NE. Circle, Shillong along with Service book and leave
(3) The D.A.(P) Calcutta for favour of information through Supdt PSD/Sil
(4) Shri C.R. Deb for information.

SENIOR POSTMASTER
Guwahati G.P.O. 1/1/93

N.B. (1) Assam T. Tax Rs. 18/- recovered vide C.O/GH dt. 10/92
(2) Decision may kindly be recovered @ Rs 60/- w.e.f. 1-1-93

MGIPRRND-64—6-GIFS/87—6-87 500 Copies

Annexure-VIII

OFFICE OF THE CHIEF POSTMASTER-GENERAL N.E. CIRCLE. SHILLONG

PAY/LEAVE SALARY ETC. SLIP.

NO.BGT/AAO/[illegible] Pay Slip. Dated at Shillong the 4-6-1993

Shri, C. R. Deb

Supdt PSD Silchar-1

Is entitled to pay/Leave salary and allowance at the monthly rates shown below from the date(s) specified this issubject to usual deduction productions of prescribed Certificates and last the amount already draw and also subject to existance of section for the Post held by him/her.

Scale of pay 2000-60-2300-EB-75-3200-100-3500/- 1/pp.

	Pre. Pay	Fixed
		04-1-93
Pay/Offg Pay	2600/-	
Special pay	-	
N.P.A.	-	
Transit Pay/ Leave Salary	-	
S.D.A.	325/-	
Dearness Allo.	2392/-	
H.C.A.		
City Compensatory allowances.	As admissible	
Fore Serv. Allo.		
A [illegible]		
B This is in cancellation to Memo of even no dtd. 27-4-93.		
C		
D		

(P.K. Roy)
For [illegible] Chief Office (PGT
[illegible] Shillong-1.

Copy to:-

1. Supdt. PSD, Silchar-1
2. Shri C. R. Deb, Supdt. PSD, Silchar-1
3. Director of [illegible] (P) Calcutta.
4. Service Book.
5. Personal [illegible]

Note:- [illegible] of Annual Increment [illegible] of Govt. Servants [illegible] pay [illegible] effected unless otherwise [illegible] in the rate [illegible] due to [illegible] Offrs or any other [illegible] [illegible] in favour of [illegible]

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2000
गुवाहाटी न्यायपीठ
Guwahati Bench

Attested
Advocate

ANNEXURE- IX

DEPARTMENT OF POST: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE SHILLONG.

PAY/LEAVE SALARY ETC. SLIP

No. BGT/AAO/1-1/GO/Pay Slip Dated at Shillong the 20th Jan '97.

Shri/Smti C.R. Deb
Supdt PSD
Silchar.

Is entitled to pay/leave salary and allowance at the monthly rates shown from the date(s) specified. This is subject to usual deduction priductions of prescribed Certificates and last the amount already drawn and also subject to existance of section for the Post held by him/her.

Scale of pay 2000 - 60 - 2300 - 75 - 3200 - 100 - 3500

Particulars	From	From	From
	01- 01- 97		
Pay/Offg.Pay	R 2900/-		
Special pay			
N.P.A.			
Transit pay/ Leave salary			
S.L.A.			
Dearness Alls.	as admissible		
H.C.A.			
City Comp.Alls.			
House rent Alls.			
A. Total			
B.			
C.			
D.			

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Central Administrative Tribunal
21 OCT 2002
गुवाहाटी न्यायपीठ
Guwahati Bench

Asstt.Director (A/Cs)
For Chief Postmaster General
N.E. Circle, Shillong.

Attested
Advocate

Copy to:-

1. The Asstt.Director(A)/Sr.Postmaster
2. Director of Accounts (P) Calcutta.
3. Service Book of Shri C.R. Deb C.P PSD/SC
4. Personal File of Shri ---

Note:- Dediction of funds Sub Scributing and recoveries of Govt.Dues as noted in the last pay certificate should be effected unless other wise stated.(2) Whether there is change in the rate HRA due to actual of increment occupation of Govt.Qrt. or any other easuse this office should be specifically intimated immediately for issue of revised pay entitalement slip in favour of the office.

sd/-
For Chief Postmaster General
N.E. Circle, Shillong-1.

4/I

PAY FIXATION MEMO. 5/11/97 19

ANNEXURE - X

D.O.P. Order No.23-8/97/PE.I(PCC) dt. 9.10.97

M.O.F.Order No.(MOF)Gazette Notification vide GSR 569(E) dated 30.9.97.

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1. Name :-CHITTARANJAN DEB Designation SUPDT.PSS Gr.'B' SUBSTANTIVE.

2. Existing Pay Scale : 2000-60-2300-EB-75-3200-100-3500.

3. Revised Pay Scale : 7500-250-12000

4. Existing basic pay as on 1.1.96: Rs.2,825.00

5. D N I : 1-1- 97

6. DA at index 1510 as on 1.1.96: Rs.4,181.00
148% upto Rs.3500
111% from 3501 to 6000 = Minimum = 5180
96% 6001 above = Minimum = 6660.

7. First instalment of I.R. : Rs. 100.00

8. 2nd instalment of I.R. : Rs. 283.00

9. Add 40% of existing pay : Rs.1,130.00

TOTAL :- Rs.8,519.00

10. Stage next above in the proposed scale including benefit of bunching, if admissible. Rs.8,750.00

11. If 1 increment is ensured in the proposed scale for every 3 increments in the existing scale, the stage of pay in the proposed scale. Rs.8,500.00

12. Pay to be fixed in the proposed scale (stage of pay at Sl. No. 9 of 10 whichever is higher) Rs.8,750.00

Pay fixed to Rs. 8,750.00 on 1.1.96.

D N I :-1-1-97Rs. 9,000.00

CPMG Fixation Order No. AP/AAO/FIXN/V CPC/97 dated _____

Copy to :-

1. The Officer/Official concerned.
2. The S/Book of the Officer/Official.
3. The ~~Pay Bill section~~. Manager P.S.D. Silchar
4. P/F of the Officer/Official.
5. O/C.

Revised

STORES DEPOT SILCHAR NOV

(Niranjan Das)
Asstt. Director (A/cs),
for Chief Postmaster General,
N.E.Circle,Shillong.

केन्द्रीय प्रशासनिक अधि
Central Administrative Tr
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गुवाहाटी न्यायपीठ
Guwahati Bench

Attested
Mukta
Advocate

ANNEXURE-XI

C.O's Case mark

"PAY/LEAVE SALARY ETC.SLIP"

NO.AM.O/1-1/GE/88.(243) Dated at Guwahati the, 8/1/99

TO.

U/T Shri/Smti. Sri C. R. Deb
D. O. M. (PLI)
CO, Gauhati-781 001.

Is entitled to pay/leave salary and allowances at the monthly rates shown below from the date(s) specified. This is subject to usual deduction production of prescribed certificates and less the amount already drawn and also subject to existence of sanction for the Post held by him/her

Scale of Pay Rs.7500-250-12,000/-

Particulars	From	From	From	To the date of transfer/Promotion or retirement
Pay/Office Pay	Rs. 9,500/- w.e.f			which is earlier 01-01-1999.
Special Pay				
N.P.A.				
S.D.A.				
T.P./Leave salary				
D.A.				
Add. D.A.				
Ad-hoc-D.A.				
C.C.A.				
Hill allowance	As admissible			
H.R.A.				
Remote/Difficult Area Allowances				
Amount Total				

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

(H. Ahmed)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001

Copy to:

(1) ~~The~~ DA(P) Calcutta

~~Hqrs. to the~~ Copy to:

(2) ~~The Sr. Fin/SPRO~~ A.O(Adm) Co. Gauhati for info.

(3) ~~The Accts/SSAMS, Gauhati~~

(4) The AAO(Bgt) Co. Gauhati

(5) The Official concerned ***

(6) The O/C

(S.V.)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001

Attested
Mukta
Advocate

Annexure-XII

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
OFFICE OF THE DY. DIRECTOR OF ACCOUNTS (POSTAL)
GUWAHATI –781003

PAY/LEAVE SALARY SLIP

No. Admn/1-237/2001-2002/ 38 Dated at Guwahati the 07.01.2002

To,

Shri/Smti: C. R. Das
DPM (PL-3) C/o The CPMG
Assam Circle Guwahati - 781001

Is entitled to pay/leave salary and allowance at the monthly rate shown below from the date (s) specified. This is subject to usual deduction, production of prescribed certificates and less the amount already drawn and also subject to existence of sanction for the post held by him.

Due to annual increment if otherwise admissible.

Scale of pay Rs 7500 - 250 - 12000

Particulars	From 01-01-2002 Rs.	From Rs.	Remark
Pay/Off. Pay	Rs 10250/-		
Spl. Pay			
Personal Pay			
Transit Pay/Leave Salary			
Dearness Allowance			
Spl. Comp. Allowance.	As admissible		
House Rent Allowance			
Spl. Duty Allowance			
Transport Allowance			
TOTAL			

(P-K Roy)
Accounts Officer (Central)
O/o the Dy. Director of Accounts (Postal)
Guwahati -781001

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Central Administrative Tribunal
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Guwahati Bench

Copy to:

1. The Chief Postmaster General (Staff), Assam Circle, Guwahati
2. The Postmaster General, Assam Region, Dibrugarh-786001
3. The Asstt. Director (Accounts), O/o the Chief Postmaster General, Guwahati-781001
4. The Asstt. Director (Accounts), O/o the Postmaster General, Dibrugarh.
5. The Sr. Postmaster / Postmaster / H.R.O.....
6. The Dy. Director of Accounts (Postal), Guwahati-3 through CPMG Assam Circle Gtt.
7. The Accounts Officer (Cash), O/o the Dy. Director of Accounts (Postal), Guwahati –3
8. Office Copy.

(P K Roy)
Accounts Officer (Central)
O/o the Dy. Director of Accounts (Postal)
Guwahati -781001

Attested
Mukta
Advocate

Annexure-XIII

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE POSTMASTER GENERAL:DIBRUGARH REGION
DIBRUGARH-786 001

Memo No. Staff/1/15-38/02(RP) Dibrugarh the 12th Sept/02

The Postmaster General, Dibrugarh Region, Dbrugarh is pleased to grant Earned Leave for (14) Fourteen days w.e.f 20.09.02 to 3.10.02 without medical certificate to Sri C.R.Deb SRM 'S' Dn Silchar with station leave permission.

Pay and allowance of the officer is shown below.

Pay Rs.10,250/- + Allowance as admissible.

Certified that Sri Deb would have continued to officiate in the same post for his proceeding on leave for the above periods.

Sri R.R. Das ASRM (Computer) Silchar will look after the current duties of Sri Deb during his leave period without extra remuneration.

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

(A.B.SEAL)
A.D.P.S(Staff)
O/O The Postmaster General
Dibrugarh Region,Dibrugarh-786 001

Copy to:

1. The DDA(P), Guwahati for information w.r.t. his letter no. Admn/1-238/2001-2002/1069 dtd. 04.09.02.
2. The Chief Postmaster General(Staff) Assam Circle, Guwahati for kind information.
3. The SRM'S' Dn, Silchar w.r.to his letter no. B-2/srm/pf DTD. 13.8.02.
4. Sri C.R. Deb, SRM 'S' Dn, Silchar.
5. The HRO Silchar RMS, Silchar.
6. The ASRM RMS'S'Dn, Silchar.
7. O/C.

For Postmaster General
Dibrugarh Region, Dibrugarh-786 001

Attested
Advocate

ANNEXURE-XIV

OFFICE OF THE DIRECTOR OF ACCOUNTS(POSTAL)::GUWAHATI-3

No.PN-58/2002-2003/112 Dated Guwahati the 30/08/2002

1.Ref: Your No. AP/RP/3-172/02 dtd. 07-08-2002

2.Name of officials: Shri Chitta Rn Deb

3.Designation: Supdt. of R.M.S. 'S' Division, Silchar

4.Total period of qualifying services which has been accepted for the grant of superannuating / ~~retiring~~ / ~~invalid~~ pension and Gratuity. : Over 33 Years

केन्द्रीय प्रशासनिक अधिकरण
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Rules applicable: Liberalised pension Rules, 1950 para-2 of G.IMF. O.M. No. FB(16) Estt. (Spl.158) dt. 2-1-1961)

Amount of pension and gratuity Has been admitted.

(a)Pension (not exceeding). Rs. 4750/- + DR w.e.f. 01-11-2002
P.P.O. No. GH-
(b). DCR Gratuity (not exceeding) Rs. 2,33,558/- in lump
D.C.R.G. Int. No.
ISSUED

7.Family Pension admissible in the event of death Rs.4750/-+DR upto 31-10-09 and Rs.2850/-+DR thereafter payable to Smt/~~Shri~~ Sadhna Deb (Wife) wife/~~husband~~ of Sri/~~Smt~~. Chitta Rn. Deb the family pension will be paid from the day following the day of death of the official.

8. Amount of pension/Gratuity admissible after taking into account the reduction in pension and Gratuity ordered by the sanctioning authority.

9. The amount of assessed/unassessed Govt. dues as shown in Form-8(revised) and to be recovered from the amount of DCRG Gratuity.

Attested Mukta Adv

Proposed order

P.T.O.

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केन्द्रीय प्रशासनिक अधिकरण
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10. Date from which the Superannuation / Retiring/~~invalid~~/pension is admissible — 01-11-2002

11. Place of payment: SILCHAR -HPO

12. Head of Account: Pension-major Head 3201-Postal Service 07-Pension Superannuation plus Retirement Allowances voted (C Officers retired on or after 15-8-1947. DCRG 9(4) Gratuities D.C.R.G Gratuity. voted.

REMARKS

1. Particulars of the documents wanting for in the claim papers should be furnished
   (i) Final last pay certificates local verification in
   (ii) the period from 01-04-2002 to 31-10-2002
   (iii) Final monetary responsibility certificate
   (iv) Certificate under Rule-62 of C.C.s (pen Rule
   (v) Statement of family of the retired official
   (vi) Joint photo (in triplicate)
2. Particulars of the govt. dues (outstanding against the retired official which should be recovered in lump from the amount of D.C.R. Gratuity. — Govt. dues if any should be assessed recovered.
3. Pension/ DCRG calculation has been made on the basis of Rs. 9500/-. This C.R. holds provided that there will be no change in the emoluments during the last 10 month Service. If any change or any event occurs which has bearing in the amount pension/DCRG etc, the case should promptly be sent to this office for taking neces action. 49% D.A. has been taken into account towards calculation of DCRG.
4. The Service Book should be completed in all respects till the date of retirement forwarded to this office alongwith final LPC/MRC for verification and return.
5. It is seen form the entries in the Service Book of the officer that he was promote HSG-I on temporary & adhoc basis & posted as DPM, GH-GPO vide Co/GH memo Staff/11-14/89 Dtd 01-12-92 which was also confirmed to C.P.M.G, N.E. Circle, Shil vide C.O./GH memo No. Staff/11-14/89 Dtd. 21-05-93. The officer worked in HS during the period form 04-12-92 to 19-12-92. His pay in HSG-I was fixed at Rs. 2450 the meantime he was promoted to PSS Group on regular basis and Postal as Supdt. P. Silchar. He assumed the charge of Supdt. PSD Silchar on 04-01-93. On his promotio PSS Group his pay was fixed w.r.t. his pay in HSG-I which is irregular Since his promo in HSG-I was not regular. His pay should have been fixed w.r.t. his pay in ASPOs c (Regular Post) under FR 22(1)(a)(1). The revised fixation of his pay is shown below.

(Contd. P-3)

Date	Pay required to be fixed	Pay already Fixed as shown in the Service book
4-01-93	2450	2600
1-01-94	2525	2675
1-01-95	2600	2750
1-01-96	8000	8750
1-01-97	8250	9000
1-01-98	8500	9250
1-01-99	8750	9500
1-01-00	9000	9750
1-01-01	9250	10000
1-01-02	9500	10250

Rs 2000 - 60 - 2300 - EB - 75 - 3200 - 100 - 3500 → Rs 7500 - 250 - 12,000

The case may be examined in the above light and over payment involved form 04-01-93 onwards may be assessed and recovered from his DCRG.

6. P.P.O., intimation of DCRG Com. Authority will be issued in due course.

Accounts Officer(Postal)
Pen Section, Guwahati-3

To,

The Postmaster General (A/Cs)
Dibrugarh Region
DIBRUGARH – 786001

No notice or show cause

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

Annexure-XV (Seri

OFFICE OF THE DY.DIRECTOR OF ACCOUNTS(POSTAL):GUWAHATI

No. Com.- 43/2002-03/ PN-58/2002-03/ D- Dated: 3/10/2002

To, Sri.
The Postmaster
S.C.Char HPO.

Below Rs. 2,23,669/=

The PMG, Dibrugarh DN. Dibrugarh-786001. in his letter No, AP/RP/3-172/02 dtd: 7-8-2002 sanctioned the payment of Rs. 2,22,668/=(Rupees Two Lakh Twenty three Thousand Six hundred Sixty eight) only being the commuted value of Rs. 1900/= (Rupees) out of the pension of Rs. 4750/= per month granted to Sri/Smt. Chitta Ro. Deb holder of PPO No. GH- 43. I would request you to please arrange payment of the amount as soon as possible.

2. Reduce pension of Rs. 2850/= (Rupees Two thousand Eight Hundred fifty) only per month consequent on commutation may please be paid to Sri/Smt. Chitta Ro. Deb from the date of receipt of the commuted value of 3 months after issue of this authority whichever is earlier. A note to this effect may please be made on the reverse of Both Halves of the above No. PPO under attestation quoting this letter as authority.

3. A separate Bill should be prepared for the payment of commuted money quoting the No. and date of this letter as authority and the paid Bill alongwith the original authority and Form 'C' should be forwarded to this office.

4. Payment has to be made through S.C.Char HPO.

5. Receipt of this authority may please be acknowledged and it may be certified that the changes have been arrived out in the Both Halves of PPO No. GH - 43.

6. The over payment of pension @ Rs. 1900/= per month if any, from the date of receipt of the Com./value of 3 months after the issue of this authority whichever is earlier may please be recovered from the pensioner and credited to Govt. in the schedule of UCR under intimation to this office.

order of recovery

Sd/-
Accounts Officer(P)
O/o DDA(P), Guwahati-3

No.
D-
D-D.396

Copy forwarded for information to:-

1. The
2. Shri/Smt. Chitta Ro. Deb
Lane No. 1A, Link Road.
S.C.Char - 788006.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

Attested
Advocate

for Dy.Director of A/Cs(P)
Assam Circle, Guwahati-3

Annexure-XV(Se

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DEPARTMENT OF POSTS::INDIA
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION,
DIBRUGARH-786001.

No. AP/RP/3-172/02 Dated at Dibrugarh the 11th Oct./02

In pursuance of the DDA(P), Guwahati letter no. DCRG Int. No. 48/2002-03/PN-58/2002-03/D-392 dtd 3-10-02, the sanction of the Postmaster General, Dibrugarh Region, Dibrugarh is hereby conveyed for payment of Rs. 2,33,558/-(Two lakhs thirty three thousand five hundred fifty eight) only on being the DCRG amount payable to Sri Chitta Rn. Deb, SRM "S" Dn, Silchar who is due to retire on 31-10-2002.

The amount of DCRG is debitable to MH-3201-07 Pen (104) DCRG voted.

The outstanding dues if any recovered may please be credited through DCR with appropriate details to facilitate proper classification of Accounts.

sd/-
(A. B. SEAL)
AD(A/Cs)
For Postmaster General
Dibrugarh Region, Dibrugarh-786001.

Copy to:-

1. The Sr. Postmaster, Silchar HO for effective payment.
2. The SRM "S" Dn, Silchar for information.
3. The DDA(P), Guwahati for information.
4. Sri C. R. Deb, SRM "S" Dn, Silchar for information
5. O/C

For Postmaster General
Dibrugarh Region, Dibrugarh.

Attested
Adv

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2002
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Guwahati Bench

Annexure-XV (Series)

DEPARTMENT OF POST: INDIA
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH

No:-AP/RP/3-172/2002

Dated Dibrugarh the 09-12-2002

Sanction of the Postmaster General, Dibrugarh Region, Dibrugarhxx is conveyed for Rs.1,42,475/- (Rupees One lakh forty two thousand four hundrad seventy five) only to Sri C.R.Deb Ex-SRM RMS 'S' Dn, Silchar being the leave encashment for un-utilised EL for 296 days, who retired on superannuation on 31-10-2002(A/N).

(A.B.SEAL)
AD(A/C)
For Postmaster General,Dibrugarh Region
Dibrugarh

Copy to:-
1. The DA(P) Kolkata for information.
2. The DDA(P) Ghy-3 with referrance to his letter No.Admn/1-238/2001-2(2002/1298 Dte.29-10-2002.
3. The Sr. Postmaster Silchar for information
4. The SRM RMS 'S' Dn. Silchar for information.
5. The HRO RMS 'S' Dn. Silchar for effecting payment.
6. Sri C.R.Deb, Lane No 1/A, Link Road Silchar-6.
7. Bgt. Section R.O. Dibrugarh.
8. Office copy.

(A.B.SEAL) 9/12/2002
AD(A/C)
For Postmaster General,Dibrugarh Region
Dibrugarh.

Attested
Advs

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

Annexure-XV (Series)

Impugned order

DEPARTMENT OF POST : INDIA
O/O THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH

NO:- AP/RP/3-172/2000 Date- 15-01-03

Sanction of Postmaster General, Dibrugarh Region, Dibrugarh vide this office memo of even No. dt. 09-12-02 for Rs.1,42,475/-(Rupees One lakh forty two thousand four hundrad seventy five) only being the leave encashment for EL of 296 days in/r/o Sri C.R.Deb ex-SRM/Silchar is hereby cancelled.

An amount of Rs.96,792/-(Ninty six thousand seven hundrad ninty two) only has been assesed excess drawal in/r/o Sri C.R.Deb as per revised fixation of pay and allowance for the period from 04-01-93 to 31-10-02.

As such the said amount of Rs.96,792/-(Ninty six thousand seven hundrad ninty two) only should be recovered from his actual Leave encahhment of Rs.1,42,475/- as shown in earlier memo and the balance of Rs.45,683/-(Rupees forty five thousand six hundrad eighty three) is only be payable to Sri C.R.Deb ex-SRM/Silchar.

(A.B.SEAL)
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh

Impugned order

Copy to :-
1.The Sr. Postmaster, Silchar for information
2.The HRO RMS 'S' Dn. Silchar for effecting payment.
3.The SRM 'S' Dn Silchar
4.The DA(P)Kolkata
5. The DDA(P) Gauhati
6. Sri C.R.Deb,Lane No 1/A,Link Road,Silchar-6
7. Bgt. Section,RO, Dibrugarh.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2004
गुवाहाटी न्यायपीठ
Guwahati Bench

Attested
Advocate

(A.B.SEAL) 15/1/2003
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh.

Annexure-XVI (Seri

-58-

Dated at Silchar-788001
The 17th October, 2002.

To

The Deputy Director of Accounts (Postal)
Nabagraha Road, Chenikuti Hill side,
Guwahati.

Sub : Discrepancy in the amount of pensionery benefit in respect of superannuation case of Sri C.R. Deb, Superintendent. RMS.

Ref : Your letter No. DCRG/INT No. 48/2002-03/Pen-58/2002-03 dated 03-10-02.

Sir

With reference to your Memo No. cited above, I beg to state the following for favour of information and necessary action.

1. I am drawing pay at stage Rs. 10,250/- with effect from 01-01-02 in the scale of Rs. 7500-250-12000 as per pay slip issued under your Memo No. Admn/1-237/2001-02/38 dated 07-01-02 on the basis of my pay fixed in PSS Group 'B' cadre since the date of my joining to that cadre.

2. I was working in PSS Group 'B' from 04-01-93 and my pay to the PSS Group 'B' cadre was fixed by the authority and authorization for drawal of pay has been issued annually by the authority.

3. As per my basic pay being drawn, I am entitled to get the following amount of pensionery benefit.

a) Pension	Rs. 5125 + DA per month.
b) Gratuity	Rs. 252005/-
c) Commutation of payment	Rs. 241326/-

But your office has authorized the following amount for payment.

a) Pension	Rs. 4750/- + DA per month.
b) DCRG	Rs. 233558/-
c) Commutation of payment	Rs. 23668/-

(Contd...page-2)

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

Attested
Advocate

Representation

(Page-2)

I would request you kindly arrange to revise my legitimate claim of pensionery benefit early so that I may enjoy the pensionery benefit without monitary hardship and relief me from mental agony and tension.

(C. R. Deb)
Supdt. RMS 'S' Division,
Silchar-788001.

Copy forwarded to :

1. The Postmaster General
Dibrugarh Region,
Dibrugarh-786001

for favour of information and necessary action for revising the amount of pensionery benefit early. This refers to RO's letter No. AP/RP/3-172/02 dated 11-10-02.

2. The Chief Postmaster General(Mails)
Assam Circle, Meghdoot Bhawan,
GUWAHATI-781001.

for favour of information and necessary action.

(C. R. Deb)
Supdt. RMS 'S' Division,
Silchar-788001

To

The Postmaster General
Dibrugarh Region,
Dibrugarh-786001

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

Sub : Prayer for Casual Leave on 18-10-2002.

Sir,

I have the honour to request you kindly to grant me Casual Leave on 18-10-2002 on account of urgent piece of business.

Yours faithfully,

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To,

The Deputy Director of Accounts (Postal)
Nabagraha Road, Chenikuti Hill Side,
Guwahati – 781003.

Sub:- Regularization of superannuation pension case of Shri C.R. Deb, Supdt. RMS 'S' Division, Silchar.

Ref: - KRG/INT No. 48/2002-03/Pen-58/2002-03 dtd. 03-10-2002.

Sir,

In continuation of my previous representation dtd 17-10-2002, I beg to state that I am going to retire from service from 31-10-2002 afternoon.

The pension case was not settled as per my due legitimate claim. I was allowed to draw the pay as per authorization issued annually since my promotion to PSS Gr-B and accordingly I was allowed to draw my pay at stage Rs. 10250/- from 01-01-2002. I was appointed as DPM Guwahati HO before my promotion to PSS Gr-B and it was certified that had I not been promoted to PSS Gr-B; I would have continued to work as DPM in HSG-I post. There was no anomaly in fixation and drawal of pay at any stage. The fixation of pay was also duly verified and certified by the Internal check Audit Inspection with recorded remark dtd 21-9-99 made in the service book that fixation of pay was found correct.

In view of the fact and circumstances, I request you kindly to issue revise sanction memos early.

Date: - 30-10-2002

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

Your's faithfully

(C.R. Deb)
Superintendent
RMS 'S' Division
Silchar – 788001.

Copy forwarded to: -

1. The Postmaster General, Dibrugarh Region, Dibrugarh – 786001 for favour of information and necessary action for revising the amount of pensionery benefit early. This refers to RO's letter No. AP/RP/3-172/02 dtd. 11-10-2002.

2. The Chief Postmaster General, Assam Circle, Meghdoot Bhawan, GUWAHATI – 781001 for favour of information and necessary action.

(C.R. Deb)
Superintendent
RMS 'S' Division
Silchar – 788001.

Attested
Advocate

-89- -61- Annexure-XVI (Series)

-92-

From:-

Shri C.R. Deb,
(Ex-SRM "S" Division)
Lane No. 1A Link Road,
Silchar-788006

To,

Shri M.K. Banerjee,
Chief Postmaster General,
Assam Circle, Guwhati-781001

(Through SRM "S" Division Silchar)

Sub:- Non regularization of superannuation Pension case of Shri C.R. Deb, Ex-SRM Silchar.

Respected Sir,

With due respect and humble submission I beg to state that my superannuation pension and all other pensionery benefit has not been settled as per my legitimate claim.

I was retired from Service on my superannuation from the post of SRM "S" Division w.e.f 31-10-2002 (Afternoon). I was allowed to draw pay at the stage of Rs. 10250/- w.e.f 1-1-02 in the scale of Rs. 7500/-250-12000/- I am entitled to draw my pension and the pensionery benefit as follows. But the same was not sanctioned and paid to me. I have submitted representations to PMG Dibrugarh on 17-10-2002, 30-10-02 and 23-12-02 endorsing copy to your office and also to DDA(P) Guwahati but no action was taken to regularize my pension etc. as yet. The amounts sanctioned and paid is also mentioned against each item.

Item	Due amount to be sanctioned	Amount sanctioned and paid	Less Drawal amount.
1	2	3	4
Pension	Rs. 5125 plus DR PM	Rs. 4750 Plus DR	Rs. 375 plus DR P.M
DCRG	Rs.257070/-	Rs. 233558/-	Rs. 23512/-
Commutation of pension	Rs. 241326/-	Rs. 223668/-	Rs. 17658/-
Leave encashment	Rs. 153722/-	Rs.45683	Rs.108039/-
CGIS	Not yet sanctioned	and paid	(Rs. 96,792/- was recovered as excess drawal of Pay)

In the connection, I beg to mention here that I was promoted to PSS Gr. "B" w.e.f 4-1-93 and prior to my promotion I was appointed to work as Dy. Postmaster, Guwahati GPO in HSG-I Post in the scale of Rs. 2000-60-2300 EB 75-

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3200/-. The pay of the Post Rs. 2450/- was paid to me. It was also certified under CO/Guwahati memo No. Staff/11-14/89 dated 21-5-93 that I would have continued to work as DPM/Guwahati had I not been promoted to PSS Gr. "B" Post. According to the position, my pay in PSS Gr. "B" Post was fixed taking into account the pay of DPM /GH: During the course of last 10 years of my incumbency as PSS Gr. "B" Officer. Pay slip was issued year after year by the authorities correctly and lastly it was issued by the DDA(P) Guwahati allowing me to draw pay @ Rs. 10250/- w.e.f. 1-1-02.

But, unfortunately, while pension case was settled by the authorities the pay benefit of DPM Post as mentioned above was not taking into account arbitrarily. As a result, I have been deprived of getting my legitimate claim.

I would therefore, earnestly pray to your good self to be so kind enough to kindly consider my case and allow me to draw my pension and the pensionery benefit as per my legitimate claim.

With kind regards,

Yours faithfully,

Dated: Silchar the 7-3-03

(CHITTA RANJAN DEB)

Copy to:-

1. Shri A.N.D. Kachari, Postmaster General, Dibrugarh Region, Dibrugarh for favour of information and early action. This in continuation of my earlier representation dated 17-10-02, 30-10-02 and 23-12-02.

2. Shri A.C. Biswas, Dy. Director of Accounts (Postal) Nabagarh Path, Chennikuthi Hill side, Guwahati-3(781003) for favour of information and early action to regularize my pension case. This is in continuation of my earlier representation dated 17-10-02, 30-10-02 and 23-12-03.

(CHITTA RANJAN DEB)

केन्द्रीय प्रशासनिक अधिकरण
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From:-

Shri C.R. Deb,
Ex- SRM "S" Dn"Silchar
Lane No. 1A Link Road
Silchar-788006

To,

The Director General,
(SPB-II)
Department of Posts,
Dak Bhawan, New Delhi
110 001

Sub:- Non settlement of superannuation pension case of Shri C.R. Deb, Ex-SRM "S" Division, Silchar as per legitimate claim.

Ref:- Dte's No. 4-52/2002 SPB-II dated18-2-2003 a/t CPMG/Guwahati.

Sir,

With due respect and humble submission I beg to state the following facts for favour of kind and sympathetic consideration and favourable orders.

1. I have retired on superannuation from the post of SRM Silchar on 31-10-2002.(A/N)

2. I worked in PSS Group 'B' Cadre from January, 93 having approved in PSS Group 'B' Cadre vide Dte's memo No. 9/52/92-SPG dated 2-11-92.

3. Prior to my promotion to PSS Gr. 'B', while I was working as ASPOs (Cell) O/O the CPMG Guwahati in the scale of Rs. 1640 –6- -2600 EB 75-2900/- I was promoted to work as Deputy Postmaster Guwahati G.P.O. (HSG –I) in the scale of Rs. 2000-60-2300 EB 75 - 3200/-. I was allowed to draw pay Rs. 2450/- in the post of DPM Guwahati. It was also certified under CPMG /Guwahati memo No. Staff/11-14/89 dated 21-5-93 that I would have continued to work as DPM (HSG-I) had I not been promoted to PSS Gr. 'B' (copy enclosed)

4. On my promotion to PSS Gr. 'B' my pay was fixed at stage of Rs. 2600/- with effect from 4-1-93 in the scale of Rs. 2000-60-2300-75-3200-100-3500/- (pre-revised scale) vide PMG/Shillong memo No. BGT/AAO/1-1/CO/Pay slip dated 4-6-93 (copy enclosed) and subsequently pay was fixed at stage Rs.8750 in the scale of Rs. 7500-250-12000/- with effect from 1-1-96 under the guiding principle of 5th C.P.C.

5. According to the pay fixation, I was allowed to draw pay on the strength of annual authorization issued by the authority for last 10 (ten) years. The last Pay Slip was issued by the DDA (P) Guwahati, allowing me to draw pay at stage Rs. 10250/- with effect from 1-1-02 vide Pay Slip authorization No. Admn/1-237/01-02/38 dated 7-1-02 (copy enclosed)

6. The pay fixation made has also been approved by the Internal Check Organization of DA(P) Kolkata.

Attested Mitra Adv

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

7. I am entitled to get my pension and other pensionery benefit based on last pay drawn i.e. Rs. 10250/-. But unfortunately, the DDA(P) Guwahati did not allow me to get my pension and other benefits as per my legitimate claim, instead the DDA(P) Guwahati has calculated the pension etc. on their calculated pay Rs. 9500/-. They had not taken the benefit of pay of HSG-I as mentioned afore-said. They have also recovered the excess drawal of pay from 4-1-93 to 31-10-02 to the tune of about Rs. 1 lakh from my leave encashment benefit.

8. As a result I have been deprived of getting my legitimate claim and forcefully I have been deprived of about Rs. 2 lakh, besides, the reduce amount of pension per month.

In view of the above facts and circumstances, I beg to request your honour most fervently to kindly allow me to get the pension and pensionery benefit on my last pay drawn Rs. 10,250/- and also kindly pass necessary orders to refund the amount recovered from my leave encashment benefit.

For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

Dated Silchar
The18-03-2003

(C. R. DEB)

केन्द्रीय प्रशासनिक अधिकरण
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21 SEP 2003
गुवाहाटी न्यायपीठ
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Annexure-XVII

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001

No.Staff/11-4/89 Dated at Guwahati the 26.2.03..

To

The DDA(P)
Guwahati –3

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
21 SEP 2004
गुवाहाटी न्यायपीठ
Guwahati Bench

Sub :- HSG-I – Case of Sri C.R.Deb, retired PS Gr-B Officer

Ref :- DDA(P) ,Guwahati No.PN-58/2002-03/175 dtd. 29.8.02.

In pursuance of Directorate's letter No.4-52/2002-SPB-II dated 18.2.03, I am directed to inform you that such proposals for retrospective regularization of adhoc arrangements in HSG-I cannot be agreed to and the pension case of the officer be finalised accordingly.

(S.SHYAM)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

Sri C.R.Deb,Ex.SRM, Silchar, Lane No. 1A Link Road, Silchar-788006 for information. This refers to his representation dtd.7.2.03.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Attested
Mutta
Adv

Enquired under
not agreed to

Annexure-XVIII

-66-

(37)

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DY. DIRECTOR OF ACCOUNTS, (POSTAL)
GUWAHATI-781 003.

No.:- GPF/2-37/GHY/2000-01./394 Dated at Guwahati, the 1-4-03.

Regd

To,

Sri C.R. Deb
(Ex-SRM 'S' Division)
Lane No.-1A
Link Road
Silchar - 788 006.

केन्द्रीय प्रशासनिक अधिकरण
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Sub.:- Payment of interest to GPF amount accumulated in A/C No.- C/60380 held by Shri C.R. Deb.

Ref.:- Your letter dtd. 7-2-03.

Sir,

It is for your kind information that in your case Interest for Nov'02 is not admissible as counting of interest is to be counted after excluding the immediate succeeding month of retirement as per C&AG's decision No.2 below GPF Rule 11 and G.O.I. decision No.2 below GPF Rule 35. You retired on 31-10-02 and your GPF final payment case has been settled on 22-11-02 allowing interest up to Oct 02 accordingly.

Yours faithfully

(P.K. Roy.)
Accounts Officer (GPF)
o/o the Dy. Director of Accounts (P)
Guwahati-3.

Attested
Mukta
Adv

.....

ANNEXURE-XIX

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 175 of 2003.

Date of Order : This the 27th Day of August, 2004.

The Hon'ble Shri D.C.Verma, Vice-Chairman

The Hon'ble Shri K.V.Prahladan, Administrative Member.

Sri Chitta Ranjan Deb,
Retired Superintendent,
RMS Division, Silchar,
Link Road, Lane No. 1-A,
Silchar, Assam. . . . Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Department of post,
Ministry of Communications,
New Delhi.

2. The Director General,
Department of Posts,
Dak Bhawan,
Sansad Marg, New Delhi.

3. The Chief Postmaster General,
Assam Circle,
Guwahati.

4. The Postmaster General,
Dibrugarh Region,
P.O. Dibrugarh,
Assam.

5. The Deputy Director,
Accounts (postal)
Chenikuthi,
Guwahati. . . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

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O R D E R

K.V.PRAHLADAN, MEMBER(A)

The applicant joined service as a postal Clerk in the Postal Department on 5.3.1963. In 1973 he was promoted as Inspector of post offices. Then he was promoted as Assistant Superintendent of Post Offices. He was temporarily promoted as Deputy Post Master on 1.12.1992. He was

Attested
Advocate

contd..

promoted and joined as Superintendent of post Offices at Silchar on 4.1.1993. The salary of the Assistant Superintendent of Post Offices was Rs.1640-2900/- (pre revised and Rs. 5500-9000 (revised). Salary of the Deputy Post Master was Rs.2000-3200 (pre-revised) and Rs.6500-10500 (revised). Salary of the Superintendent of Post Offices was Rs.2000-3500 (pre revised) and Rs.7500-12000 (revised scale). He was promoted as Deputy Divisional Manager in the office of the Chief postmaster General, Assam Circle, Guwahati by order dated 31.3.1998 in the pay scale of Rs.7500-12000/-. He was working as Superintendent, RMS, Silchar when he retired on 31.10.2002 with basic pay of Rs.10,250/-. This Original Application has been filed against the order of the Director of Postal Accounts dated 30.08.2002 at Annexure - 6, and the order of the Post Master General, Dibrugarh dated 15.1.2003 at Annexure - 7 ordering a recovery of Rs.96,792/- as over-payment made on account of wrong fixation of pay with effect from the date of his promotion as Superintendent of Post Offices from 4.1.1993 till 1.1.2002.

The respondents say that the applicant was an Assistant Superintendent of post Offices when he was temporarily promoted as Deputy Post Master and then as Superintendent. Therefore, his pay as Superintendent should have been fixed taking into consideration his pay in the substantive post of Assistant Superintendent of post Offices and not the scale of Dy.Post Master. His pay was accordingly refixed and re-calculated with effect from 4.1.1993 to 1.1.2002 vide order dated 30.8.2002 at Annexure - 6. An over payment of Rs.96,792/- was calculated and ordered to be recovered from his Leave Encashment amount due to him vide letter dated 15.1.2003 at Annexure-7.

We have heard Mr.M.Chanda, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the

Contd./3

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respondents. The respondents want to refix the pay of the applicant after he has been drawing his pay in various scales right from 1993 to 2002. The Department with its internal check, internal audit and administrative verification failed to notice any anomaly in the pay drawn by the applicant. At the fag end of his career the applicant is directed to refund a huge amount. In this connection, the Hon'ble Supreme Court in Bhagwan Shukla -vs- Union of India & Others reported in (1994) 6 SSC 154 has given the following judgment:

> "2. The controversy in this appeal lies in a very narrow compass. The appellant who had joined the Railways as a Trains Clerk w.e.f. 18.12.1955 was promoted as Guard, Grade-C w.e.f.18.12.1970 by an order dated 27.10.1970. The basic pay of the appellant was fixed at Rs.190 p.m. w.e.f.18.12.1970 in a running pay scale. By an order dated 25.7.1991, the pay scale of the appellant was sought to be refixed and during the refixation of his basic pay was reduced to Rs.181 p.m. from Rs.190 p.m. w.e.f. 18.12.1970. The appellant questioned the order reducing his basic pay with retrospective effect from 18.12.1970 before the Central Administrative Tribunal, Patna Bench. The justification furnished by the respondents for reducing ~~xxx~~ the basic pay was that the same had been 'wrongly' fixed initially and that the position had continued due to 'administrative lapses' for about twenty years, when it was decided to rectify the mistake. The petition filed by the appellant ~~xxx~~ was dismissed by the Tribunal on 19.9.1993.
>
> 3. We have heard learned counsel for the parties. That the petitioners' basic pay had been fixed in since 1970 at Rs.190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been flagrant violation of the priniciple of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the (sic employee) concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative

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Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the ofdeheof the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant from Rs.190 to Rs.181 w.e.f. 18.12.1970."

In the case of N.Mandal vs. Union of India (CAT Calcutta) reported in 1989 (3) SLR 148 it was observed that :

"The applicant was promoted in a post in higher scale which was not in existence. By mistake or clerical error, his pay was later noticed and his pay was fixed in the lower scale. Meanwhile, the employee retired and expired. The excess amount already paid not to be deducted from the retirement benefits."

The Himachal High Court in 1997 (5) SLR 237 in the case of Mahavir Singh vs. Union of India and others held that :

"Reducing the scale of pay from the date of initial appointment and ordering excess recovery amount without effording any opportunity to the petitioner to make representation - order is violative of Rules of natural justice."

From what has been disaussed above it is clear that the pay fixation cannot be revised to the disadvantage of the employee without affording him opportunity of hearing. In this case there is nothing to show that any show cause notice was given to the applicant before refixation of pay. The applicant has now retired so refixation of pay would reduce the pay last drawn consequently pension amount would also get reduced. It would thus be a recurring loss to the applicant. Such an action of the respondents, without affording opportunity, cannot be sustained.

In view of the above discussions the impugned orders are quashed. It will, however, be open to the respondents/ the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix

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the pay/pension. The O.A. stands allowed accordingly.

No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER(Adm).

Central Administrative Tribunal

"Certified to be true Copy"
प्रमाणित प्रतिलिपि

31/8/09

Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

31/8

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ANNEXURE- XX

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To

The Post Master General,
Dibrugarh Region
P.O- Dibrugarh,
Assam.

Sub: - Judgment and order dated 27.08.2004 in O.A No.175 of 2003 passed by the CAT, Guwahati Bench.

Sir,

Most respectfully I am enclosing herewith a copy of the judgment and order dated 27.08.2004 passed by the Hon'ble CAT, Guwahati Bench in O.A. No. 175/2003 pertaining to wrong fixation of my pay and recovery thereof. The judgment is self-contained, and in this context I beg to emphasis that the Hon'ble CAT vide its judgment aforesaid has quashed the impugned orders. As such all the impugned orders issued under Nos. (1) PN-58/2002-2003/478 dated 30.08.2002, (2) COM-43/2002-03/PN-58/2002-03/ D- dated 03.10.2002, (3) AP/RP/3-172/02 dated 11.10.02, (4) AP/RP/3-172/02 dated 09.12.2002, (5) AP/RP/3-172/2000 dated 15.01.03, (6) Staff/11-14/89 dated 26.02.03 and (7) GPF/2-37/GHY/2000-01/394 dated 01.04.03 have been quashed and thereby the Hon'ble Tribunal has restored me to my original position i.e. the position where I was prior to the issuance of the impugned orders aforesaid.

You are therefore requested to implement the order of the Hon'ble CAT within the earliest restoring my pay to my original position i.e. the pay which I was drawing prior to re-fixation/reduction of my pay and refund me the difference of pay occasioned by the impugned reduction including the entire amount of Rs. 96,792/- which has been recovered from me on account of so called over payment. Further, my pay and other retiral benefits should be fixed giving stage-to-stage fitments benefit by fixing my last basic pay at Rs. 10,250/- at the time of retirement and my pension be fixed accordingly with all terminal benefits consequential thereto.

This is for your kind early action.

Enclo: - Copy of judgment dated 27.08.04.

Yours faithfully

Attested
Mitta
Adv

Date: 10.9.04

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Chitta Ranjan Deb

(CHITTA RANJAN DEB)
Retired Superintendent,
RMS Division, Silchar,
Link Road, Lane No.1-A,
Silchar, Assam.

Spld Bnch
& Hrs 10/4/04
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ANNEXURE-XXI

Regd/AD

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL
DIBRUGARH REGION, DIBRUGARH

No. AP/RP/3-172/02 Dated 11-10-2004

To
Sri Chitta Ranjan Deb
(Retired SRM, Silchar)
Link Road, Lane No. 1-A, Silchar-6.

It is seen from entries in your Service Book that you were promoted to HSG-I on temporary and adhoc basis and posted as DPM, GH-GPO vide CO/GH memo No.staff/11-14/89 dt.1-12-92 which was also confirmed by CPMG, NE Circle, Shillong vide CO/GH memo No.staff/11-14/89 dt. 21-5-93. You had been working in HSG-I during the period from 4-12-92 to19-12-92. Your pay in HSG-I was fixed at Rs.2450/-. In the meantime you were promoted to PSS group 'B' on regular basis and posted as Supdt PSD, Silchar and assumed the charge of Supdt. PSD, Silchar on 4-1-93 (Forenoon) to PSS group 'B' Your pay was fixed w.e.f. your pay in HSG-I which is overstated as your promotion to HSG-I cadre was not regular. Your pay should have been fixed in the scale pay in ASPO cadre (Regular post) under FR-22(i)(a)(i).

The revised fixation of your pay is shown below:-

Date	Pay required to be fixed	Pay fixed as shown in Service book	
4-1-93	2450	2600	Rs.2000-60-2300-EB-75-3200-100-3500
1-1-94	2525	2675	
1-1-95	2600	2750	
1-1-96	8000	8750	Rs.7500-250-12000
1-1-97	8250	9000	
1-1-98	8500	9250	
1-1-99	8750	9500	
1-1-00	9000	9750	
1-1-01	9250	10000	
1-1-02	9500	10250	

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From the above discussion it is observed that the pay fixed by the DA(P)GHY was in order i.e. 2450/- on 4-1-93.

Now I am directed to ask you as to why your pay will not be refixed in the light of above noted circumstances and why excess amount paid will not be recovered from you? Your explanation should received this office within Ten days of receipt of this communication, otherwise case will be decided ex-parte.

Attested
Advocate

Dear Sir Sir

(A.K.Dewri)
For Postmaster General
Dibrugarh Region, Dibrugarh

ANNEXURE-XXII

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To
The Postmaster General,
Dibrugarh Region,
Dibrugarh: 786001.

Sub: Issue of show cause Notice for – Irregular re-fixation of pay of Shri C.R.Deb, Retired SRM 'S' RMS Divn. Silchar.
Ref: PMG Dibrugarh letter No.AP/RP/3-172/02 dated 18.10.04.

Sir,

In reply to your office letter cited above, I have the honour to inform you that the proposal sent under your letter cited above is misconceived of ruling provision of the Department of Posts and denial of justice. I, therefore, disagree with your proposal on the following ground;-

That I would like to mention that every promotion and employment in a particular post/grade at the first instance is made on temporary/adhoc basis followed by confirmation had the incumbent of the post is allowed to continue in that promotional post.

That, it is fact that under CPMG/GH memo No. Staff/11-14/89 dated 1.12.92, I was promoted and posted in the vacant Post of DPM (HSG-I) lying vacant in GPO, Guwahati. In your above letter, the word "**VACANT**" was not discussed which is the crucial deciding factor of my future continuity in the post of DPM (HSG-I) (promotional post) had I not been further promoted in the PSS. Group B cadre in continuation of my officiating in the Post of Dy.PM (HSG-I) in GPO, Guwahati. Thus to substantiate my statement that I was posted on promotion in a vacant post, I am annexing a xerox copy of CPMG/GH letter dated 1.12.02 for your kind perusal & consideration.

That after my relieve from the post of Dy.PM GPO/GH, my junior staff namely Sukleswar Das, ASPOs was ordered by the CPMG/GH vide his memo No. Staff/11-14/89 dated 8.7.93 to officiate in the resultant vacant post of Dy. PM. Guwahati GPO. In addition, some more junior staff of general line namely (1) Shri J.C.Laskar, LSG was ordered to work as Dy. PM, GPO/GH immediately after my relief on promotion in PSS Group B cadre. In support of my statement, I am annexing the xerox copy of the charge report dtd. 19.12.92 for your kind consideration.

It is also a point to add that Shri Sukleswar Das (Respondent No. 3 of OA 175 of 2003) a junior staff of mine was also ordered by the CPMG/GH under his memo No.Staff/11-14/89 dated 8.7.93 as discussed above and posted as HSG-I Dy. PM GPO, Guwahati. In support of my statement that Shri S. Das is junior to

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a xerox copy of CPMG/GH Memo No.Staff/2-29/91 dated 19.11.94 is annexed for your kind perusal. Above all, it was rightly mentioned in your above letter that the CPMG, N.E.Circle, Shillong was confirmed under CPMG/GH memo No. Staff/11-14/89 dated 21.5.93 that I would have continued in the post of Dy. PM GPO Guwahati had I not been promoted to PSS Group 'B' cadre (Xerox copy annexed).

All these above points fully justify that your proposal sent to me under your letter dated 18.10.04 is a total misconceived of ruling provision of the Department of Posts. I would further remind you that my appointing authority for the post of HSG-I Dy. PM is the Head of the Circle. In my case, the Head of the Circle clearly confirmed to the CPMG N.E.Circle, Shillong about my continuity in the post of Dy. PM (HSG-I) GPO/GH vide his letter dated 21.5.93 discussed above.

It is also an another point to bring it to your notice that the Authority competent to issue my annual pay slip used to issue correct Pay-slips annually and vide his last Memo No. ADM/1-237/2001-2002/98 dated 07.1.2002; at his own accord issued my annual pay slip showing my scale of pay as Rs.10,250/- from 01.1.2002 with all other allowances without any objection. Then how on later stage the same authority irregularly stepped down my scale of pay from Rs.10.250/- to Rs.9500/- all on a sudden on 1.1.02 mentioned in your above letter which is the subject matter of the objection raised in DDA(P)/Guwahati Memo No.PN-58/2002-2003/178 dated 30.8.2002 just before 2(two) months of my retirement.

That I would like to remind you that your letter/show cause noticed dated 18.10.04 was issued as per judgement and order of the Hon'ble CAT/GH in OA No.175 of 2003 where there was nothing mention that reply to the show cause should be given within 10 days, otherwise the case will be decided exparte. Thus may I presume that the Issue of show cause notice with such a warning is nothing but an act of injustice to the retired Officer who served the Department for ....39..... Years with full devotion/dedication.

Lastly, I once again inform you that I disagree with your proposal sent to me and request you to take action for refund of all my pensionery benefits which were irregularly deducted from my pensionery dues.

Yours faithfully,

(C.R. Deb)
Retired SRM 'S' RMS Divn.
Silchar,

Encle: As above

10.11.04.

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ANNEXURE-XXIII

DEPARTMENT OF POSTS::INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE::GUWAHATI

No.Staff/11-14/89 Dated at Guwahati the November 28, 2005

To

Shri Chitta Ranjan Deb
Retired SRM, Silchar
Link Road Lane No.IA, Silchar-6.

Sub:- Re-fixation of Pay and recovery of excess amount – case of Shri C. R. Deb, retired SRM, Silchar.

Ref:- Your representation dated 10.11.04.

It appears from this office records that your case for regularisation of adhoc promotion in HSG-I (DPM-I), Guwahati GPO has already been thoroughly examined. The Directorate (Posts), New Delhi was also requested vide this office letter of even no. dated 25.9.02 and 23.12.2002 for advice in the matter. The Directorate conveyed instruction vide letter No.4-52/2002-SPB-II dated 18.2.03 (copy enclosed) that the proposal for retrospective regularisation of adhoc arrangements made in HSG-I cannot be agreed to.

You were promoted to HSG-I posts temporarily vide Circle Office, Guwahati letter of even no. dated 1.12.92. The temporary promotion of Govt. servant can be reverted at any time without assigning any reason and he cannot claim for regular absorption in the cadre as per rules. As regards regularisation in HSG-I post as per roster in 1992, the post comes under the reserved category (ST). There was also one ST official. But he was not considered for promotion to HSG-I as he did not complete 3 years in ASPOs cadre. You did not also complete 3 years in ASPOs cadre. Since the ST official could not be considered for promotion to HSG-I due to non completion of required regular service of 3 years in ASPOs cadre, your case could not be considered for promotion to HSG-I on the same reason on regular basis.

Your promotion to HSG-I issued vide Circle Office, Guwahati letter dated 1.12.92 was purely temporary which did not confer right to regular absorption in the cadre. As such fixation of your pay on promotion to PS Gr. 'B' based on the pay of HSG-I post held on temporary basis was not in order and the overpayment is liable to be recovered.

Enclo : As above.

Director Postal Services(HQ)
O/o Chief Postmaster General
Assam Circle, Guwahati – 781 001

Attested
Advocate

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ANNEXURE-XXIV

RIGHT TO INFORMATION ACT
TOP PRIORITY

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE
GUWAHATI-781001

No: CPIO/RTIA-8/05 Dated at Guwahati -11-05
29-11-05

To,

Shri C.R Deb (Retired SRM'S' Division)
Lane no 1/A
PO Link Road
Silchar 788006

Sub: Irregular re-fixation of pay resulting in regularization of less pension (ii) Non refund of irregular recovery made from leave encashment benefit & (iii) Non payment of GPF interest for delay payment.

Ref: your request under RTI Act/05 letter nil no dated 02-11-05

Sir,

Please refer to your above request letter dated 02-11-05 made under RTI Act/05 received by this office on 07-11-05. Your requests has been examined in this department and following para-wise information are furnished to you as per record available at office of the CPMG Assam Circle.

1. With regard to item no. (i) of your request, it is to inform you that a show cause notices was issued to you by the office of the PMG Dibrugarh Region, Dibrugarh vide his office memo no AP/RP/3-172/02 dated 18-10-04 in accordance with the Hon'ble CAT's judgement and order dated 27-08-04 in OA 175/03.

2. With regard to item no. (ii) of your request, it is to inform you that the representation submitted by you dated 10-11-04 has been replied by the office of the CPMG, Assam Circle, Guwahati vide memo no. Staff/11-14/89 dated 28-11-05.

3. With regard to item no. (iii) of your request, it appears from the records of the office of the CPMG, Assam Circle, Guwahati, that your grievance will be listed in the next pension Adalat to be held in the month of Dec/05.

It is to mention that if you want to have the copy of the above mention documents you have to pay Rs. 2/- per page in nearest post office against ACG-67 as per the provision of RTI Act 2005. The above mentioned documents will be supplied to you after receiving a copy of the ACG 67 by this office.

Thanking you

Contd.....

Sd/- J. CHARUKESI
Central Public Information Officer
&
Director Postal Services
O/o the C.P.M.G/ Guwahati

Attested
Dutta
Adv

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ANNEXURE- XXV

To

The Deputy Director General(PG)
& Central Public Information Officer,
Department of Posts , Dak Bhawan,
New Delhi:110001

Dated at Silchar the 7th January'2006.

Sub: Appeal against the order/findings of Chief Public Information Officer in short CPIO at Circle level in Assam Circle,Guwahati communicated under CPIO & DPS(HQ) Assam Circle, Guwahati letter No.CPIO/RTI A-8/05 dated 29.11.05. in the case of ;- Irregular re-fixation of pay resulting in (i) fixation of less Pension (ii) Non refund of irregular recovery made from leave encashment benefit & (iii) Non payment of GPF interest for delay payment while deciding the case of Shri C. R. Deb, retired 'S' R M S RMS DN. Silchar.

Sir,

At the out set, I must take the opportunity & privilege of RTI Act -2005 promulgated in the Department of Posts to maintain transferency in dealing with personal grievances of the employees /customers in general & prompt disposal of the grievances based on office records.

2. But it is a matter of great regret that the DPS(HQ) & CPIO , O/o the Chief PMG, Assam Circle, Guwahati while decided my case under his memo No.CPIO/RTI A-8/05 dated 29.11.05, he disposed of my grievances in a single sentence in para- 2 of his above letter that-'with regard to item No ii of your request, it is to inform you that the representation submitted by you dated 10-11-04 has been replied by the office of the Chief PMG,Assam Circle, Guwahati vide memo No. staff/11-14/89 dated 28-11-05which means that the CPIO, Guwahati did not apply his mind and had gone through the relevant records of the office of the Chief PMG,Assam Circle,Guwahati in depth of my grievances in it's true sense and disposed my case giving a vague reply concealing the real fact of my case. Similarly the CPIO did not give justice to my point No. (ii) that-nature of action taken on CAT'S Judgement and order dated 27-8-04 in OA No. 125 of 2003. Beause-

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(a) the CPMG,Assam Circle, Guwahati mispresented my case before the CPIO ,Assam Circle ,Guwahati citing the very old order of the Postal Directorate, New Delhi No. 4-52/2002-SPB-II dated 18-2-03 with out giving any importance on subsequent development of my case viz. (i) advices of the Director of Accounts (Postal),Guwahati (ii) verdict of the Hon'ble CAT,Guwahati stated below. Had my case been properly presented to the Postal Directorate, New Delhi, the Directorate surely could have revised it's earlier order. The Hon'ble CPIO, Assam Circle also erred in similar way and over looked this important point.

(b) the Hon'ble CAT,Guwahati in it's Judgement and order dated 27-8-04 in OA No. 125 0f 2003 ordered-

"Impugned orders are quashed" i.e. order for recovery of (i)alleged over payment from leave encashment benefit(ii) order for less payment of DCRG & (iii) order for less payment of pension, all are quashed recommending refund of all unjustified recoveries/ wrong re-fixation of pay/pension etc. In this line, inaction on the part PMG, Dibrugarh was not discussed/commented by the Ho'nble CPIO, Assam Circle,Guwahati in his above order dated 29-11-05.

© As regard to my point No. (ii), the CPIO disposed of my case in a short cut process with out going through the relevant records and files and concluded his findings in a casual manner on the basis of the CPMG's incorrect memo No. staff/11-14/89 dated 28-11-05 which is unfortunate for me because of the following fact of my case:-

(i) I was continuing in the post of ASPO's cadre w.e.f. 24-8-85as approved/promoted in ASPO's cadre un interrupted vide erstwhile PMG, N.E. Circle, Shillong memo No. staff/9-3/85 dated 9-8-85 (Xerox copy of the order and Xerox copy of the relevant portion of the service book are annexed) followed by confirmation in the said cadre of ASPOs with out any break under CPMG, Assam Circle, Guwahati memo No.staff/2-29/91 dated 12-2-91.

(ii) That the Chief PMG, Assam Circle, Guwahati confirmed my officiation in the post of DY. Postmaster, GPO, Guwahati (H.S.G-I) and communicated to the Chief PMG,N.E.Circle,Shillong under vide his office memo No. staff/11-14/89 dated 21-5-1993(Xerox

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copy of the order is annexed) with a copy to me that I would have continued in the post of Dy. Post master,GPO,Guwahati had I not been promoted to PSS Gr-B cadre.

That I was promoted and posted as Dy. Post master,(H.S.G-I),GPO, Guwahati under CPMG, Guwahati memo No. staff/11-14/89 dated 1-12-92 against the vacant post(Xerox copy of the order is annexed) without mentioning that the post was kept reserved for S.T. It is also a fact that there so many posts in H.S.G-I cadre in Assam circle viz. in Silchar HPO, in Dhubri HPO, in Jorhat HPO, in Nalbari HPO etc. all these posts of Post masters are manned by ASPO's cadre after promoting them in HSG-I grade irrespective of any caste status. Thus the plea of earmarking the post for S.T. is nothing but a clever plea of the Postal Department to victimize me financially. It is also a matter of surprise that the Chief P.M.G,Assam Circle, Guwahati has now put a new baseless self made condition that I had not completed 3 years regular service in ASPOs cadre though I was continuing in the said ASPOs cadre since 24-8-85 uninterruptedly followed by confirmation as stated above. This can be easily proved that after my relief from the post of H.S.G-I Dy. Post master, GPO, Guwahati, my junior staff namely Sri Sukleswar Das,ASPOs, belonging to O.C. community (figured at serial – 7 in memo dated 9-8-85 discussed above) was ordered by the CPMG,Guwahati vide his office memo No.staff/11-14/89 dated 8-7-93 to officiate in the resultant vacant post of Dy. Postmaster,GPO,Guwahati (H.S.G-I) followed by his (Sri Sukleswar Das) confirmation in the adhoc promotion of HSG-I Dy-Post Master,Guwahati for a period from 16-7-93 to 23-11-93 vide CPMG,Guwahati, Assam Circle, memo staff/11-14/89 dated 4-11-94.Had there been a fixed condition to require complete 3 years regular service in ASPOs cadre, how the case of Shri Sukleswar Das was considered? **Is not this example a clear case of denial of natural justice and financial victimization to me?** This vital point was raised and pointed out by the Director of Account (Postal), Guwahati to the Post master General, Dibrugarh Region, Dibrugarh under his letter No. PN/2003-2004/274 dated 8-3-05 and advised him to take up the case with the CPMG,Assam Circle, Guwahati for regularization of my adhoc arrangement in the HSG-I post since my junior staff discussed above was given

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adhoc promotion in the same post and on later stage his adhoc promotion was regularized. It is also most confusing how the CPMG,Assam Circle, Guwahati regularized the adhoc arrangement of shri Sukleswar Das had the post been really reserved for S.T. candidate? I fervently request my Hon'ble **Appellate Authority** to call for that letter of the DA(P),Guwahati from the CPMG, Assam Circle, Guwahati who ignored the juditious advices of the DA(P), Guwahati for examination then the truth of the entire case will come to light. Inspite of all these valid ground, I, being a poor pensioner have not been given due justice raising irrilevent and incorrect information by the CPMG, Assam Circle, Guwahati before the Postal Directorate and also my Hon'ble CPIO .Assam Circle, Guwahati rejected my case as stated above.

In view of the fact of my case narrated above , I beg to pray before the Hon'ble Appellate Authority to kindly look into my case sympathetically and take suitable action for refund of all my dues irregularly deducted from pay and pensionary benefit at your earliest convenient time.

Yours faithfully
Chitta Ranjan Deb
(C . R. DEB)
Retired SRM,S Dn., Silchar.
Lane no 1/A
Link Road
Silchar-6
788006

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DEPARTMENT OF POSTS: INDIA
OFFICE OF THE POSTMASTER GENERAL: N.E.CIRCLE: SHILLONG.

Memo No. Staff/9-3/85 Dated at Shillong the 9-8-85

The following promotions, transfer and posting in the cadre of Asstt. Supdt. of post offices are issued in the interest of public service. These are in consequence upon the upgradation of the posts vide this office memo No. Est/29-1/76 dated 9-8-85. The promotions are temporary and on adhoc basis and will not confer any claim for regular absorption or counting seniority in the cadre of A.S.P.Os.

Name and designation of the official.		Posted on promotion as-
1. Shri Chitta Ranjan Deb, SDO Silchar.	—	ASPOs, O/O SSPOs, Silchar.
2. Shri Binoy Bhusan Choudhury IPOs(Plg), O/O the D.P.S. Guwahati.	—	ASPOs(Inv), O/O the DPS Guwahati.
3. Shri Binanda Hazarika, C.I. Tezpur.	—	ASPOs, O/O the SPOs, Tezpur.
4. Md. Mahasin Ali, IPOs(PMI), O/O the DPS Guwahati.	—	ASPOs, O/O the SPOs, Nowgong.
5. Shri Kulesh Chandra Sarma, Office Supervisor, O/O the SSPOs, Guwahati.	—	ASPOs, O/O the SPOs, Jorhat.
6. Shri N.R.Baul, IPOs(PMI), Dibrugarh.	—	ASPOs, O/O the SPOs, Dibrugarh.
7. Shri Sukleswar Das, SDIPOs, Bijoynagar.	—	ASPOs(Cell), C.O.Shillong.
8. Shri Paritosh Majumdar, SDIPOs, Nalbari.	—	ASPOs, O/O the SPOs, Dhubri.
9. Shri Sudhir Ghosh, IPOs(Inv) O/O the DPS, Guwahati.	—	ASPOs(Inv), C.O.Shillong.
10. Shri Madhab Chandra Das, SDIPOs(W), Silchar.	—	ASPOs, Shillong Central Sub Dvn.
11. Shri Sailendra Roy, C.I. Kohima.	—	ASPOs, O/O the SSPOs, Shillong.
12. Shri Lal Ram Chhana, SDIPOs, Churachandpur.	—	ASPOs, O/O the DPS Aizawl.

.../2/.....

Attested
Advocate

Joined to ASP's

Director, Postal Services (HQ)
N.E.Circle, Shillong.793001.

Copy to:-

1. The D.P.S. Guwahati/Imphal/Kohima/Aizawl.
2. The SSPOs/SPCs, Silchar/Shillong/Guwahati/Tezpur/ Dibrugarh/Nalbari/Dhubri/Jorhat/ Nowgong.
3. The Postmaster G.P.O. Guwahati/Silchar/Shillong.
4. The Postmaster, Imphal/Kohima/Aizawl/Tezpur/ Dibrugarh/Nalbari/Dhubri/Jorhat/N Nowgong.
5. The Group Officers concerned in C.O. Shillong.
6. P/F of the officials concerned.
7. The A.D. (Accounts), C.O. Shillong.
8. The AO (Bgt), C.O. Shillong.
9. S.S. A&P Section, C.O. Shillong.
10. Spare.

For Postmaster General
N.E.Circle, Shillong.

ANNEXURE-XXVII

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1

No. Staff/2-29/91 dated at Guwahati the 29.11.94

In this office memo of even No. dtd 12.2.91 the officials named below were approved for appointment as ASPOs on regular basis in the scale of pay of Rs. 1640-60-2600-EB-75-2900/-. The seniority of the ASPOs in the approved cadre were not shown in the said memo.

The DPS, Assam Circle, Guwahati is now pleased to issue the modified memo [illegible] proper seniority of the officials in ASPOs cadre as [illegible]

Sl.	Name of officials
1.	Sri S.K Bora
2.	Sri B.K Dam
3.	Sri C.R Deh
4.	Sri B.B Chowdhury
5.	Sri B Hazarika
6.	Sri M.Ali
7.	Sri K.C Sarma
8.	Sri N.R Baul
9.	Sri S Das
10.	Sri S Ghosh
11.	Sri R C Paul
12.	Sri P Chakrabarty
13.	Sri [illegible] (SC)
14.	Sri N.N Mitra (SC)
15.	Sri Atul Das (SC)

(I.C SARMA)
APMG(STAFF)
O/O CPMG: GUWAHATI-1

Copy to:-

1-9. All Sr.Supdt /Supdt of POs, Assam Circle.
10-11. Sr. P.M., Guwahati / Silchar.
12-27. All Postmasters, Assam Circle.
28-35. Officials concerned.
36-43. PF of the officials.
44-49. All Group officers c/o/RO.
50. The PMG,RO/Ghy.

(I.C SARMA)
APMG(STAFF)
O/O CPMG: GUWAHATI-1

Attested
Advocate

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DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL :: ASSAM CIRCLE,
MEGHDOOT BHAWAN : GUWAHATI-781 001.

To,

The Chief Postmaster General(Bgt)
N.E. Circle, Shillong-793 001.

No. Staff/11-14/89 Dated at Guwahati, the 21-05-93.

Sub:- Promotion of Shri C.R. Deb to the cadre of HSG-I (Dy P.M., Guwahati H.O.)

Ref:- Your No. Bgt/AAO/1-1/GO/Payslip dtd.14-5-93.

.....

With reference to your letter cited above, I am directed to inform you that Shri C.R. Deb, then ASPOS (Cell) C.O./ Guwahati was promoted to the cadre of HSG-I (IPOS line) on adhoc basis and posted as DPM(I) Guwahati H.O. vide this office memo of even No., dated 1-12-92. But he would have continued had he not been promotted to PS Group "B".

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(P. NATH)
Asstt.Postmaster General(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

Copy to Sri C.R. Deb, Supdt., Postal Stores Depot, Silchar for information.

Attested
Advt

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

ANNEXURE-XXVIII

~~Annexure-XX~~

Department of Posts
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE,
SHILLONG

To
The Chief Postmaster Geneal
Assam Circle, Guwahati-781001

(Attention : Shri A.N.D. Kachari, DPS -HQ)

No. Staff/7-83/92 Dated at Shillong the 3rd April 2000

Sub : **Notional promotion of Shri H. Ahmed, AD(W), o/o the Chie PMG, Assam Circle, Guwahati.**

I am directed to send a copy of Dte's letter No. 8/24-vig dated 27.3.2000 & No. 9-57/97-SPG dated 29.3.2000 regarding above subject and intimate that A review DPC has been held on 03.04.2000 and in pursuance with the recommendation of Review DPC, the competent Authority has approved the notional promotion of Shri H.Ahmed to the HSG-I cadre w.e.f. 17.1.89 i.e. from the date of promotion of his junior official too that cadre. Necessary action may kindly be taken for implementation of the promotion and consequential benefit if any.

I am also directed to request to cause to send a report to Dte, intimating the implementation of notional promotion w.r. to their letter u/r endorsing a copy to the office for records.

Enclo : As above.

Sd/- Illegible
(Niranjan Das)
Asstt. Director (Staff)
O/o the Chief Postmaster General
N.E.Circle, Shillong-793001

Copy to
1. Smt. Aruna Jain, Director (Staff)for information and necessary action w.r. to Dts letter No. 9-57/97-SPG dtd. 29.3.2000.

Asstt. Director (Staff)
For Chief Postmaster General
N.E.Circle, Shillong-793001

Attested
Advocate

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Annexure-XXX

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 303 of 2002.

Date of Order : This the 2nd Day of September, 2003.

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

The Hon'ble Mr K.V.Prahaladan, Administrative Member.

Sri Samarendra Shyam,
Assistant Postmaster General,
Working under the Chief Postmaster General,
Assam Circle,
Guwahati-781001. ...Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.

2. The Deputy Director General (Personnel)
Office of the Director General,
Department of Posts, Dak Bhawan,
Parliament Street,
New Delhi-110001.

3. The Chief Postmaster General,
North East Postal Circle,
Shillong-793001. ...Respondents

By Sri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The crux of the issue pertains to promotion of the applicant in the Grade of HSG-I. According to the applicant he was eligible for promotion to HSG Grade-I on 7.7.1990 when his junior Sri J.C.Saha was instead given the benefit of promotion to the cadre of HSG-I. In the earlier O.A. the applicant pleaded that on 6.10.1980 he was promoted to the Grade of Assistant Superintendent of Post Offices. The next promotional avenue in the non gazetted status was the HSG-I in the scale of pay of Rs.2000-3200/- instead the applicant was promoted to P.S.Group B cadre in the scale of pay of Rs.2000-3500/- and posted as the Assistant Director of Postal Services on 4.8.1989, a higher post with higher responsibility in

Attested
Advocate

केन्द्रीय प्रशासनिक अधिकरण
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spite of the fact that senior officers above him were available. According to the applicant he ought to have offered the post of Assistant Superintendent of Post Offices and the post of Assistant Director of Postal Service ought to have offered to his senior. On 16.7.1990 Sri A.R.Bhowmik was promoted to the cadre of P.S.Group B and the post of Postmaster, Agartala became vacant. Instead of appointing the applicant in the said post his junior Sri J.C.Saha, ASPO was posted as Postmaster, Agartala. The applicant was relieved from the post of Assistant Director on 9.10.1990 and ordered to be reverted to the cadre of Assistant Superintendent though his junior was working as HSG-I. The Senior Superintendent of Post Offices, Meghalaya proceeded on leave with effect from 17.10.1990 instead of posting a senior officer in the post advised the applicant to join as Superintendent of Post Offices, Meghalaya Division. The incumbent did not return to the post. The applicant submitted representation which was turned down by the authority and therefore he moved the Tribunal finally by the aforementioned O.A.

2. On consideration of the respective cases the Tribunal found that when the post of HSG-I fell vacant the applicant was entitled to be considered for promotion to the post and held that there was no justifiable reasons for not giving him the promotional benefit in the cadre. The reasonings assigned in the impugned communication dated 16/21.5.2001 in rejecting the representation was held to be unlawful and the same was set aside and quashed. The respondents more particularly, Chief Postmaster General was directed to examine the case afresh

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and pass a fresh order. The applicant thereafter submitted representation alongwith the judgment of the Tribunal. By the impugned order dated 9.8.2000 the representation was rejected. Hence this application assailing the legality and validity of the order.

3. The respondents contested the claim of the applicant and submitted the written statement. We have heard Mr M.Chanda, learned counsel for the applicant and Mr A.K.Choudhuri, learned Addl.C.G.S.C for the respondents at length. While passing the impugned order dated 9.8.2002 the Chief Postmaster General, N.E.Circle assigned the following reasons :

> "a) That Shri Shyam has never been posted to HSG-I grade but was directly promoted from ASP cadre to PSS Gr.B.
>
> b) There is no HSG-I post vacant during the material period in 1991 and 1992 against which the notional promotion of Shri S.Shyam can be considered.
>
> c) The case for the above notional promotion had already been considered by Director General Posts, an authority superior to Chief PMG Shillong and had been rejected."

The reasons ascribed in para 5 is liable to be rejected at the first instance. The reference to the order/decision purportedly made by the Director is a non existent order. T said order dated 16/21.5.2001 was set aside and quashed in O.A.439/2001. It only speaks of total non application of mind of the respondents. The other reasonings indicating about the want of vacancy during the period 1991-1992 for providing notional promotion to the applicant is also equally incomprehensible if not inane. in the written statement itself the respondents indicated that during the period of oficiation of the applicant in Group B a "short term" vacancy in HSG-I cadre fell vacant at Agartala post office and Sri A.R.Bhowmik was posted there. The said vacancy was did exist for more than a year. On the other hand a junior of the

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applicant was allowed to officiate at Agartala as per order of the Director of Postal Services. The respondents also admitted about his representation to officiate in HSG-I could not be considered as his posting in the higher cadre was required in the interest of service. The aforementioned post of HSG-I cadre was transferred to open general line only vide office letter dated 3.7.91. The reasonings ascribed in the impugned order that for want of vacancy the applicant "could not be promoted", cannot be sustained. Sri H.Ahmed who is senior to the applicant and promoted only after his acquittal from the court cases and in accordance with the direction of the directorate and Minority Commission. In the written statement the respondents cited the extent of the power of the Commission. The decision of the Tribunal was also not meant to be disregarded, under the Constitutional scheme, the executive is subject to judicial restraint. They must do what is lawful by lawful means and not be unlawfully. The course of justice must not be deflected or interfered with. Those who strike at it, they knowk at the very foundation of the society where they live. The offence of contempt is really a wrong done to the public by weakening the authority and influence of Courts and Tribunals, which exist for their good. In the earlier O.A the Tribunal clearly observed that there was no justification in not giving the benefit to the applicant and issued direction to the respondents to consider the same in the light of the observations. The impugned order passed by the respondents which was set aside ad quashed by that O.A. was sought to be resurrected in defiance of the order passed by the Tribunal. The imugned communication dated 9.8.2002 and the reasonings thereof is also runs counter to the earlier directions of the Tribunal. Accordingly the order

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dated 9.8.2002 is also set aside and quashed. The respondents are directed to consider the case of promotion of the applicant to HSG-I and to provide all the consequential benefits forthwith.

The application is allowed to the extent indicated with a cost of Rs.2000/-.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

19/9/03

Section Officer (J)
C.A.T. GUWAHATI BANCH
Guwahati-781005

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Annexure-XXXI

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL,
DIBRUGARH REGION, DIBRUGARH.

No. AP/RP/3-172/2002 Dated Dibrugarh ~~27-04~~ 2006

Sub:- Refixation of pay and refund of recovery made- case of Sri Chitta Ranjan Deb, retired Supdt. of RMS 'S' Dn. Silchar and compliance of the judgement / order dtd. 28-08-2004 of the Hon'ble CAT, Guwahati in OA No. 175/2003.

ORDER

Sri Chitta Ranjan Deb hereafter called petitioner while posted as Asstt. Supdt. of POs (cell) in the office of the Chief Postmaster General, Assam Circle , Guwahati was temporarily promoted as HSG-I in the pay scale of (Rs. 2000 – 3200) and posted as Deputy Postmaster , Guwahati GPO vide order No. Staff/11-14/89 dt. 01-12-92 issued by the Director of Postal Service, Assam Circle, Guwahati. The petitioner joined as DPM-I(HSG-I), Guwahati GPO on 19-12-92 accordingly. Meanwhile the petitioner was approved for promotion to PSS Group'B' cadre in the pay scale of (Rs. 7500-12000) vide Postal Directorate No. 9/52/92-SPG dt. 2-11-92 and joined as Supdt. of Postal Store Depot, Silchar on 4-1-93 as per posting order. The petitioner after rendering service in different capacity in N.E. and Assam Circle, retired on superannuation of 31-10-2002 as SRM/ Silchar.

2. While verifying the services in connection with calculation of pension and other retiral benefits, it was noticed by the Postal Accounts office that the pay of the petitioner was fixed with reference to the pay in HSG-I post on promotion to PSS Group 'B' cadre. This was irregular as per provisions laid down in FR-22(i) (a) (i) as the petitioner was not regularly promoted to HSG-I cadre prior to his promotion and posting in PSS Group 'B' cadre. His pay should have been fixed with reference to the pay of the post of Asstt. Supdt. Posts in the scale of (Rs. 1640-2900) which he held regularly and substantively prior to his temporary posting as Dy. Postmaster (HSG-I) in the Guwahati GPO.

3. This wrong fixation resulted in overpayment to the tune of Rs. 96,792/- which was recovered from the amount of encashment of unutilized leave of the petitioner. The pay of the petitioner was refixed as eligible as per rule.

4. The petitioner represented for regularization of the adhoc arrangement in HSG-I cadre and to refix his pay in the original position towards repayment of the recovered amount . The case was examined carefully and also referred to Postal Directorate for advice. The Postal directorate vide its No.4-52/2002-SPB-II dtd.18-2-03 has not agreed for retrospective regularization of the adhoc arrangement made in HSG-I. The petitioner being aggrieved, approached the Hon,ble Tribunal by filing an OA No.175/2003 seeking direction to set aside the order of recovery of Rs.96,792/-. The

Attested
Advocate

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Hon,ble Tribunal disposed the OA allowing the OA and quashed the order dtd. 15-1-2003 for recovery on the ground that the applicant/ petitioner was not given show cause notice before refixation/reduction of pay. However, the Hon,ble Tribunal has given liberty to the responding Deptt./appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay and pension of the petitioner.

5. In compliance of the direction of the Hon,ble Tribunal a show cause was issued on 11/18-10-2004 to the petitioner vide No. AP/RP/3-172/02. The petitioner replied to the show cause notice on 10-11-2004. The reply was examined carefully and after consultation with the circle authority a reply was sent to the petitioner vide No. staff/11-14/89 dt. 28-11-2005 from the Director of Postal Service (HQ), Assam Circle, Guwahati rejecting the request of the petitioner for restoration of his pay to original position. Keeping in view the instruction of the circle office, Guwahati and CAT verdict, the matter has been examined by the undersigned and finds no merit or grounds to consider the representation dt. 10-11-04 of the petitioner towards refixation of the pay and refund of the recovery of Rs. 96,792/- made from the petitioner in the light of facts discussed above.

The representation of the petitioner Sri Chitta Ranjan Deb, ex- SRM/ Silchar is disposed of as above.

Regd.

To
Sri C.R.Deb
SRM, Silchar(Retired)
Link Road, Lane No. 1/A
Silchar-6.

04.5.06

(A. Ghosh Dastidar)
Chief PMG, Assam Circle
Guwahati-1

Copy to:-

1. The Director of Accounts(P) Guwahati.
2. The APMG(staff), O/Othe CPMG, Guwahati-1. u/r to CO's No. Staff/11-14/89 is refered to.
3. The APMG(Vig), O/O the CPMG, Guwahati-1, u/r to CO's No. Vig/5/VII/03 dt. 20-1-06.
4. The register, CAT, Guwahati Bench, Bhangagarh, Guwahati-5. This refer to OA No.175/2003 filed by Sri C.R.Deb.
5. O/C.

4/5/06

For Chief PMG,
Assam Circle , Guwahati-1.

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NOTICE.

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From,

Subrata Nath.
Advocate.
Central Administrative Tribunal.

To,

Mr. M. U. Ahmed
Add. C.G.S.C.
Central Administrative Tribunal.

Ref:- Amendment petition of C.R. Deb in O.A No. 96/2006.

Sir,

Please kindly find herewith a copy of amendment petition as mentioned above.

Which has been filed Today.

This is for your kind information and necessary action.

Thanking You -

Subrata Nath 19/09/07
Advocate.

Received Copy.

(M.U. Ahmed),
C.G.S.C.

I undertake to serve a copy to Mr. M.U. Ahmed, Add. C.G.S.C

S. Nath 19/09/07.
Advocate

It is prayed that following matters may be permitted to be listed on 17.05.2006 for admission.

O.A.No. 96/2006

Shri C.R.Deb

-Vs-

U.O.I & ors.

listed on 17.05

Counsel

Advocate

12/5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLECATION NO. 96/06

1. a) Name of the Applicat:- Chitta Rajan Deb

   b) Respondants:- Union of India & Ors

   c) No. of Applicant(S) :- one

2. Is the application is the proper form:- Yes/~~No~~.

3. Whether name & desription and address of the all papers been furnished in cause title :- Yes/ ~~No~~.

4. Has the application been dully signed and varified :- Yes ~~/ No~~.

5. Have the Copies duly signed :- Yes / ~~No~~.

6. Have sufficiant 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 ducuments in the Language : Yes/~~No~~.

9. Is 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/BD/For Rs: 50/- 26G 322948 dtd

12. Has the application is maitanable :- ~~Yes~~/No.

13. Has the Impugned order original duly ~~attested~~ been filed : Yes/~~No~~

14. Has the ligible copies of the annexures dully attested filed:-Yes/~~No~~

15. Has the Index of ducuments been filed all available:- Yes/~~No~~.

16. Has the required number of envoloped bearing full address of the respondants 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 the interim relief is prayed for :- Yes/ ~~No~~.

20. In 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:-
This application is in form.

28.4.06
SECTION OFFICER(J)

DEPUTY REGISTRAR

Address of R-1 is not complete
28/4

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 96 /2006

Shri Chita Ranjan Deb

-Vs-

Union of India & Ors.

List of dates and synopsis of the application

05.03.1963- Applicant was appointed as Postal Clerk. He passed departmental examination and promoted as Inspector in 1972-73, and thereafter promoted to the cadre of Asstt. Superintendent of Post Offices.

01.12.1992- Applicant was further promoted to the cadre of Deputy Postmaster (HSG-I) on 01.12.1992. (Annexure- I)

04.01.1993- Applicant was promoted to the post of Superintendent, RS, Silchar in the cadre of PSD Group B.

04.06.1993- Basic pay of the applicant was fixed at Rs. 2,600/- (pre-revised) w.e.f. 04.01.93 in the post of Superintendent, PSD.

01.01.1996- Basic Pay of the applicant was revised following the 5th Pay Commissions recommendations and fixed at Rs. 8,750/-.

01.01.1997- Basic pay of the applicant came to Rs. 9000/-.

31.03.1998- Applicant was transferred from the post of Superintendent, PSD, Silchar and posted as Deputy Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati.

08.01.1999- Memo was issued by the CPMG, fixing the basic pay of the applicant at Rs. 9,500/-.

01.01.2002- Having earned the annual increments, the basic pay of the applicant came to Rs. 10,250/- on 01.01.2002.

03.01.2002- Applicant was again transferred from the GPO, Guwahati and was posted as Superintendent, RMS 'S' Division, Silchar.

30.08.2002- Deputy Director Accounts (Postal) issued the letter raising an objection that the fixation of pay of the applicant was wrongly done on 04.01.1993 and reduced his basic pay from Rs. 2600/- to Rs. 2450/- on 04.01.1993 resulting into reduction of pay in each of the subsequent stages with his last pay at Rs. 9500/- instead of Rs. 10,250/- on 01.01.2002 affecting all the terminal benefits. (Annexure-XIV)

12.09.2002- Memo issued by the Postmaster General, Dibrugarh also confirming the basic pay of the applicant at Rs. 10,250/- in the new post of Superintendent, RMS 'S' Division, Silchar, which was his last pay till his retirement.

03.10.2002- Pursuant to the letter dated 30.08.2002, notification was issued reducing the commutation value and pension amount of the applicant. (Annexure-XV Series)

11.10.2002- DCRG of the applicant sanctioned earlier has been reduced.

15.01.2003- Leave encashment sanctioned to the applicant earlier has also been reduced down.

17.10.02, 30.10.02, 07.02.03, 18.03.03- Applicant submitted representations agitating against such action of the respondents and praying for regularisation/ correction of his pay on 04.01.93. (Annexure-XVI Series)

26.02.2003- Applicant was informed that his promotion to HSG-I on 04.01.93 on adhoc basis cannot be taken into reckoning for the purpose of fixation of his pay which was wrongly done and hence such refixation was done reducing the pay of the applicant on 04.01.93 onwards. (Annexure-XVII)

01.04.2003- Dy. Director Accounts (Postal) rejected prayer of the applicant for review of the calculation of interest in GPF accumulation. (Annexure-XVIII)

27.08.2004- Applicant being aggrieved with the action of the respondents approached this Hon'ble Tribunal through O.A. No. 175/2003 and the Hon'ble Tribunal by the judgment and order dated 27.08.04 was pleased to quash the impugned orders passed by the respondents. However, the Hon'ble Tribunal kept it open to the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay/pension and allowed the O.A accordingly. (Annexure-XIX)

10.09.2004- Applicant submitted representation enclosing the judgment and order dated 27.08.04 and prayed for restoring his last pay to his original position i.e. Rs. 10,250/-. (Annexure-XX)

18.10.2004- Respondents issued letter dated 18.10.04 asking explanation from the applicant that why his pay would not be refixed at Rs. 9500/- instead of Rs. 10,250/- (Annexure-XXI)

10.11.2004- Applicant submitted his explanation on 10.11.04. (Annexure-XXII)

28.11.2004- Respondents issued impugned letter dated 28.11.05 informing the applicant that his promotion to HSG-I issued vide circle office, Guwahati letter dated 01.12.92 was purely temporary which did not confer right to regular absorption in the cadre and as such fixation of his pay on promotion to PS Gr. 'B' based on the pay of the HSG-I post as not in order and the over payment is liable to be recovered. It was also contended that the appointment of the applicant in HSG-I could not be regularised since he did not complete 3 years service in ASPOs cadre and since the HSG-I post held by him was reserved for ST category. (Annexure-XXII)

29.11.2005- Respondents issued another impugned letter dated 29.11.05 in the same line. (Annexure-XXIV)

07.01.2006- Applicant submitted one appeal against the impugned letters dated 28.11.05 and 29.11.05 and prayed for re-fixation of his pay restoring the same to Rs. 10,250/- which he was drawing as his last pay at the time of retirement and to refund the amount recovered from his retiral benefits. (Annexure-XXV)

Hence this Original Application.

Reliefs sought for:

Under the facts and circumstances as stated in the Original Application applicant prays for the following reliefs:

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. Staff/11-14/89 dated 28.11.2005 (Annexure-XXIII) as well as letter bearing No. CPIO/RTIA-8/05 dated 29.11.2005 (Annexure- XXIV).

2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned show cause notice bearing letter No. AP RP 3-172/02 dated 18.10.04 (Annexure- XXI).

3. That the promotion of the applicant as Deputy Postmaster (HSG-I) in the pay scale of Rs. 2000-3200 notified vide No. Staff/11-14/89 dated 01.12.92 be declared as regular promotion.

4. That the fixation of pay of the applicant in his promoted post of P.S. Group 'B' as Rs. 2600/- (Pre revised) on 4.1.1993 and the subsequent fixations thereto in each stage and final last basic pay of Rs. 10,250/- at the time of retirement of the applicant be declared as valid.

5. That the respondents be directed to pay all the terminal benefits of the applicant on the basis of Rs. 10,250/- as his last pay on superannuation with consequential arrear and refund of money recovered from the applicant.

6. Costs of the application.

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

<u>Interim order prayed for.</u>

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this applicant shall not be a bar for the respondents to consider the case of the applicant and redress his grievances.

THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 96 /2006

Sri Chitta Ranjan Deb : Applicant
-Versus
Union of India & Others. : Respondents.

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filed by: S. Nath
Advocate

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Filed by the applicant through S. Nath Advocate 24.02.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 96 /2006

BETWEEN

Sri Chitta Ranjan Deb,
Retired Superintendent,
S/o Late J.C.Deb
RMS Division, Silchar
Resident of Link Road,
Lane No. 1-A,
Silchar, Assam.

...**Applicant.**

-AND-

1. The Union of India,

   Represented by the Secretary to the
   Government of India,
   Department of Post,
   Ministry of Communications,
   New Delhi- 110001.

2. The Director General
   Department of Posts,
   Dak Bhawan,
   Samsad Marg,
   New Delhi-110001.

3. The Chief Postmaster General
   Assam Circle,
   Guwahati-1.

4. The Postmaster General
   Dibrugarh Region,
   P.O. Dibrugarh
   Assam.

5. Director of Postal Services (HQ)
   O/o- The Chief Postmaster General,
   Assam Circle, Guwahati- 1.

6. Director of Accounts (Postal)
   Chenikuthi, Guwahati-3.

.....**Respondents.**

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DETAILS OF THE APPLICATION

1. **Particulars of order against which this application is made.**

This application is made against the impugned letter No. Staff/11-14/89 dated 28.11.2005 and letter No. CPIO/RTIA-8/05 dated 29.11.05 (Annexure- XXIII), issued by the Respondent No. 5, whereby the claims of the applicant for refixation of his pay regularization of promotion and refund of his dues illegally recovered etc. have been rejected by the Respondents even after their earlier impugned orders were quashed by this Hon'ble Tribunal vide it's judgment and order dated 27.08.2004 in O.A. No. 175/2003.

2. **Jurisdiction of the Tribunal.**

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

3. **Limitation.**

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. **Facts of the case.**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant was initially appointed as Postal Clerk in the Respondent department (i.e. the Department of Posts) on 05.03.1963. Thereafter, he had passed the Departmental Examination in the cadre of

Chitta Ranjan Deb

Inspector of Post Offices in the year 1972-73 and was thereafter promoted to the cadre of Asstt. Superintendent of Post Offices. Then he was further promoted to the cadre of Deputy Postmaster (HSG-I) on 01.12.92 and eventually promoted to the post of Superintendent, PSD, Silchar (Gazetted) in the cadre of P.S. Group 'B' where he joined on 04.01.93. Subsequently he was posted as Deputy Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati on 31.3.1998 and finally transferred from the GPO, Guwahati on 03.01.2002 and posted as Superintendent, RMS 'S' Division, Silchar where he continued as such till his retirement on superannuation.

4.3 That while working in the post of Asstt. Supdt. Of Post Offices in the scale of pay of Rs. 1640-60-2600-EB-75-2900 (Pre revised), the applicant was promoted on ad hoc basis to the post of Deputy Post Master, Guwahati GPO in the scale of pay of Rs. 2000-60-2300-EB-75-3200 (Pre revised) vide CPMG, Assam Circle's Memo No. Staff/11-14/89 dated 01.12.1992 and the applicant joined in his promoted post, which is in the cadre of HSG-I on 4.12.1992. The post of Deputy Postmaster (HSG-I) in which the applicant joined, was lying vacant at that relevant time.

Copy of Memo dated 01.12.1992 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-I**.

4.4 That meanwhile the applicant got his normal promotion to the cadre of P.S. Group -'B' against regular vacancy according to his seniority on All India basis and was posted on officiating capacity as Superintendent, PSD, Silchar, N.E. Circle w.e.f. 01.01.1993. His order of promotion to P.S. Group 'B' was issued by the Director (Staff), Department of Posts, New Delhi on 02.11.1992 vide his No. 9/52/92-SPG and order of posting as Supdt. PSD, Silchar was issued by the Directo. of Postal Services, Assam Circle, Guwahati on 24.11.1992 i.e. prior to the promotion of the applicant to the post of Deputy Postmaster in a vacant regular post in terms of his seniority but the promotion order was termed as ad hoc which means that the applicant already stood promoted to the cadre of P.S. Group 'B' (Pay

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scale Rs. 2000-3500/-) on 02.11.92 which is higher than the post of Deputy Postmaster but due to non-implementation of the promotion order of P.S. Group B, the applicant had joined in the post of Deputy Postmaster (HSG-I) on ad hoc basis on 04.12.1992 in terms of order dated 01.12.1992 which was issued when the order of promotion of the applicant to the cadre of P.S. Group-'B' was in force. Be it stated that the post of HSG I i.e. Deputy Postmaster is a cadre immediately below the cadre of Superintendent P.S Group B as per hierarchy therefore applicant's promotion ought to have been considered on regular basis to the post of Deputy Postmaster before granting his promotion on regular basis to the post of Superintendent PS Group B. Applicant was also entitled to fitment on regular basis in the pay scale of Rs. 2000-3200. Since the post of PSD, Silchar was under N.E. Circle, the Chief PMG, N.E. Circle, Shillong also confirmed the promotional transfer of the applicant as Superintendent, PSD, Silchar vide his Memo No. Staff/13-15/92 dated 13.11.1992 when the applicant was working as Deputy Postmaster (HSG-I).

Copy of promotion order dated 02.11.1992 and order dated 24.11.1992 and subsequent order dated 13.11.1992 of CPMG, N.E. Circle are annexed herewith for perusal of Hon'ble Tribunal as **Annexure-II, III and IV** respectively.

4.5 That pursuant to the promotion order aforesaid, the applicant was relieved from the post of Deputy Postmaster by the Chief PMG, Guwahati vide order No. Staff/1/330/88 dated 22.12.1992. He was also relieved from the post of Senior Postmaster, GPO, Guwahati by the Sr. Supdt. Of Post Offices vide order No. B/Z/7/Officer/Ch-III dated 23.12.1992. Thereafter, the applicant joined as Supdt., PSD, Silchar on 04.01.1993.

Copy of release orders dated 22.12.1992 and dated 23.12.1992 are annexed herewith for perusal of Hon'ble Tribunal as **Annexure-V and VI** respectively.

Chitta Ranjan Deb

4.6 That at the time of the release of the applicant from the GPO, Guwahati as stated above, the Senior Post Master, GPO, Guwahati issued the Last Pay Certificate (LPC) of the applicant and as shown in the LPC dated 1.1.1993, the pay of the applicant as on 1.1.1993 was Rs. 2450/- (Pre-revised). On joining as Supdt, PSD on 04.01.1993 his basic pay was fixed at Rs. 2600/- as per provision of FR-22 (a) (1) which was notified vide Pay Slip dated 4.6.1993 issued by the CPMG, N.E. Circle, Shillong, and thereafter the applicant was given his annual increment every year and accordingly his basic pay came to Rs. 2900/- (Pre-revised) as on 1.1.1997 as notified vide Pay slip dated 20.1.1997 issued by the CPMG, Shillong.

Copy of LPC dated 1.1.1993, Pay Slip dated 4.6.1993 and Pay Slip dated 20.1.1997 are annexed herewith for perusal of Hon'ble Tribunal as **Annexure-VII, VIII and IX** respectively.

4.7 That subsequently, consequent upon the recommendations of the 5th Central Pay Commission, the pay scale of Rs. 2000-3500/- (Pre-revised) was revised to Rs. 7500-12000/-. Accordingly, the basic pay of the applicant at the revised scale was fixed at Rs. 8750/- on 1.1.1996 which was notified vide D.O.P. order dated 9.10.1997 issued by the CPMG, N.E. Circle, Shillong with his next date of increment on 1.1.1997 when his basic pay was Rs. 9000/- on 1.1.1997.

Copy of D.O.P. order dated 9.10.1997 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-X**.

4.8 That thereafter, the applicant was transferred from the post of Supdt. PSD, Silchar and was posted as Dy. Divisional Manager (PLI) in the office of the CPMG, Assam Circle, Guwahati vide CPMG, Shillong's Memo No. Staff/97/92 dated 31.3.1998. On his joining as Deputy D.M. (PLI) in the office of the CPMG, Assam Circle, Guwahati, the basic pay of the applicant was fixed at Rs. 9500/- w.e.f. 1.1.1999 as notified under CPMG, Guwahati's Memo No. JAO/1-1/GE/88/(243) dated 8.1.1999 and his consequential pay thereafter in the revised Scale was as follows:

Chitta Ranjan Deb

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On 1.1.99 - Rs.9500/-(as per Memo dated 8.1.99)
On 1.1.2000 - Rs.9750/-
On 1.1.2001 - Rs.10,000/-
On 1.1.2002 - Rs. 10,250/-(as per Pay Slip dated 07.01.2002)

Copy of Memo dated 8.1.1999 and Pay Slip dated 07.01.2001 are annexed herewith for perusal of Hon'ble Tribunal as **Annexure-XI and XII** respectively.

4.9 That the applicant was eventually transferred from GPO, Guwahati vide CPMG, Guwahati's Memo No. Staff/3-4/92/Ch II dated 03.01.02 and was posted as Supdt. RMS 'S' Division, Silchar. On his joining at Silchar as Supdt. RMS 'S' Division also he was drawing Rs. 10,250/- as his basic pay as evident from the Memo No. Staff/1/15-38/02(RP) dated 12.9.02 issued by the Postmaster General, Dibrugarh.

Copy of Memo dated 12.9.02 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-XIII**.

4.10 That it is stated that the applicant had been drawing his pay as per fitments/fixation made by the competent authorities since inception and the last basic pay drawn by him at the time of his retirement in 2002 was Rs. 10,250/- p.m. as detailed in the preceding paragraphs. This was checked and examined at every stage and annual Service Book verifications were conducted every year by the concerned authorities and everything was found in order. The fixation of pay of the applicant was also reviewed and authenticated as correct by the Internal Audit Inspection party, Kolkata and there was no irregularity whatsoever.

4.11 That since the applicant was to retire on 31.10.2002, the Accounts department had to work out the retirement dues of the applicant and while doing so, the Deputy Director Accounts (Postal) raised an objection in respect of the fixation of pay of the applicant done in the year 1993 and issued his letter No. PN-58/2002-2003/478 dated 30.08.2002 on the eve of

Chitta Ranjan Dey.

the retirement of the applicant. In the said letter dtd. 30.08.2002, the Dy. Director Accounts (Postal) in para 5 of the letter observed that consequent upon the promotion of the applicant to PSS Group 'B' on 04.01.03 in the scale of Rs. 2000-3500/- his pay was fixed with reference to his pay in the cadre of HSG-I (Rs. 2000-3200/-) which was alleged to be irregular since the placement of the applicant in HSG-I cadre was not on regular basis but on ad hoc basis and further observed that the pay of the applicant ought to have been fixed with reference to his pay in the cadre of Asstt. Superintendent of Post Offices (Rs. 1640-2900/-) on 04.01.1993 in the pre-revised scale of pay in terms of FR 22 (1)(a) (1) instead of the scale of Rs. 2000-3200/- as the basis. Accordingly the Deputy Director Accounts (Postal) refixed the pay of the applicant in the scale of Rs. 2000-3500/- (Pre-revised) with reference to the scale of Rs. 1640-2900/- (Pre-revised) instead of Rs. 2000-3200/- and reduced his basic pay from Rs. 2600 to 2450 on 04.01.1993, followed by reduction of pay at each subsequent stage and finally reduced his last pay from Rs. 10250/- to Rs. 9500/- p.m. on 1.1.2002 in the scale of Rs. 7500-12000/- (Revised). Further, in the said letter dated 30.8.20002, the Deputy Director Accounts (Postal) made corresponding reduction in all items Viz; Pension, Gratuity/DCRG, Leave salary computed on the last basic pay of Rs.9500/- instead of Rs. 10250/- on 1.1.2002 most arbitrarily and without providing any reasonable opportunity to the applicant for his defense whatsoever.

Copy of letter dated 30.08.2002 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-XIV.

4.12 That acting on the letter dated 30.08.2002 other subsequent letters were issued making reduction in each of the benefits item wise on the reduced pay vide order No. COM-43/2002-03/PN-58/2002-03/D - dated 3.10.2002 reduced the commutation value to Rs. 2,23,668/- and Pension to Rs. 4750/-. Similarly, vide letter No. AP/RP/3-172/02 dated 11.10.2002; the DCRG was sanctioned to the extent of Rs. 2,33,558/- only. The reduced

Chitta Ranjan Deb

Leave encashment was sanctioned as Rs. 1,42,475/- only vide letter No. AP/RP/3-172/2000 dated 15.01.2003 granting fresh sanction of Leave encashment to the tune of Rs. 45,683/- on the plea of excess drawal of Rs. 96,792/- on revised fixation, recoverable from the applicant.

Thus, the item wise reduction on the basis of revised/reduced fixation in respect of the applicant stood as follows:

Item	Amount due on the last pay actual	Amount sanctioned and paid on reduced pay	Less drawls causing financial loss
Pension	Rs.5125/- + D.R. per month	Rs.4750/- + DR per month	Rs. 375 + DR pm.
DCRG Commutation Pension	Rs.2,57,070/- Rs.2,41,326/-	Rs.2,38,260/- Rs.2,23,668/-	Rs 18,810/- Rs.17,658/-
Leave encashment	Rs.1,53,722/-	Rs.45,683/-	Rs.1,08,039/-

The aforesaid reductions caused huge financial loss to the applicant in each item, which was inflicted by the Respondents upon the applicant most arbitrarily, unilaterally and without providing any reasonable opportunity to the applicant whatsoever.

Copy of letters dated 3.10.2002; dated 11.10.2002, dated 9.12.2002 and dated 15.1.2003 are annexed herewith for perusal of Hon'ble Tribunal as **Annexure- XV (series)**.

4.13 That thereafter the applicant submitted representation to the Deputy Director Accounts (Postal) on 17.10.2002 and on 30.10.2002 praying for correction of discrepancies stated above and settlement of his pensionery benefit and other dues. Thereafter further representations were also submitted to CPMG, Guwahati and Director General (SPB-II), New Delhi on 07.02.03 and 18.03.03 respectively praying for settlement of his dues on the basis of his last pay drawn i.e. Rs. 10,250/- p.m. But the grievances of the applicant remained unattended and CPMG, Guwahati issued another letter No. Staff/11-4/89 dated 26.2.2003 informing that the retrospective

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regularization of ad hoc arrangements in HSG-I in respect of the applicant cannot be agreed to and his pension case be finalized accordingly.

It is submitted that the Respondent Union of India ought to have granted promotion on regular basis to the applicant to the cadre of Deputy Postmaster i.e. HSG Gr. I vide order dated 12.1992 instead of the promotion granted to the applicant on ad hoc basis as because the applicant had attained required eligibility for regular promotion to the said post of Deputy Postmaster HSG-I and at the relevant time a regular post of Deputy Postmaster HSC- I was vacant against which the applicant was promoted on ad hoc basis. In this connection it may also be stated that the applicant was the senior most person in the cadre of HSG-II, therefore there was not difficulty on the part of the respondent to consider his promotion on regular basis to the cadre of HSG-I at that relevant time. The applicant was otherwise qualified to hold the post of Deputy Postmaster HSC-I on regular basis, non convening of D.P.C. for consider of his regular promotion to the post of Deputy Postmaster at the relevant time was highly arbitrary and unfair on the part of the respondent Union of India. Therefore the pay scale of Rs. 2000-3200 which was granted to the applicant to the post of Deputy Postmaster HSG-I and subsequently the said fixation benefit taken into account while granting further promotion to the cadre of Superintendent PSS Group B cannot be said to be contrary to the rule. It is relevant to mention here that as per normal rule the applicant ought to have been granted the promotion of Deputy Postmaster HSG-I on regular basis prior to his promotion to the cadre of Superintendent P.S. Group B as per hierarchy of the line of promotion maintained in the department. However, benefit of fixation of pay in the scale of Rs. 2000-3200 which was granted to the applicant in the cadre of Deputy Postmaster HSG-I while promoting the applicant on ad hoc basis also cannot be said to be contrary to the rule, rather applicant was entitled to the benefit of promotion to the cadre of HSG-I as well as fixation benefit in the scale of Rs. 2000-3200. Therefore, subsequent decision of the

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respondents that the applicant is not entitled to the benefit of pay fixation in the pay scale of Rs. 2000-3200 in the cadre of Deputy Postmaster simply on the plea that such promotion was granted on ad hoc basis is quite contrary to the rule and the alleged ground cannot be sustained in the eye of law. Therefore the Hon'ble Tribunal be pleased to declare that the fixation benefit granted to the applicant in the pay scale of Rs. 2000-3200 in the cadre of Deputy Postmaster HSG I was done in accordance with the existing rule.

Copy of representations dated 17.10.02, 30.10.02, 07.02.03 and 18.03.03 are annexed herewith as **Annexure-XVI** series and copy of letter dtd. 26.02.03 are annexed herewith for perusal of Hon'ble Tribunal as **Annexure-XVII** respectively.

4.14 That it is stated that apart from the discrepancies stated in the preceding paragraphs, the applicant was deprived of his other legitimate dues too. The monthly contributions/Premium towards Central Government Employee's Group Insurance Scheme were deducted from the pay of the applicant from 1.1.1982 to 31.10.02. As per rule, the amount accumulated in the Savings fund of the above scheme is to be refunded with interest to the retired Govt. servant immediately after his retirement. In the instant case action has been initiated to pay the dues to the applicant as his accumulation in the said scheme but no action has been taken to pay the interest for 8 (eight) months under the scheme, which the applicant is entitled to get. Further, the interest on the accumulated amount of GPF in respect of the applicant has been calculated up to the month of October'2002 since the applicant retired on 31.10.2002. But as per provision of C & AG's decision No. 5 below Rule-11 of GPF (CS) Rule, 1960 as notified under C & AG's Circular letter No. 1480-Tech.Admn.11/ 261-68 dated 28.6.1968, the interest shall be computed for the whole month on which the payment order was made after 15th November and as such, the interest ought to have been taken into account up to the month of

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November ' 02 but instead, it was calculated up to October, 02, causing substantial loss to the applicant. The applicant submitted representation praying for review of the calculation of interest in GPF accumulation but the Dy. Director Accounts (Postal) rejected his prayer vide his letter No. GPF/2-37/GHY/2000-01/394 dated 01.04.03.

Copy of letter-dated 1.04.2003 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-XVIII**.

4.15 That being aggrieved at the arbitrary and unilateral actions of the Respondents, the applicant approached this Hon'ble Tribunal by filing O.A. No. 175/2003 challenging the validity and legality of the actions. This Hon'ble Tribunal after adjudicating the case, was pleased to pass it's judgment and order dated 27.08.04 in O.A. No. 175/2003 and the operative portion of the judgment runs as follows;-

"In view of the above discussions the impugned orders are quashed. It will, however, be open to the respondents/the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix the pay/pension. The O.A. stands allowed accordingly."

Copy of judgment and order dated 27.08.04 is annexed herewith for perusal of Hon'ble Tribunal as **Annexure-XIX**.

4.16 That thereafter, the applicant submitted one representation dated 10.09.2004 enclosing therewith a copy of the judgment and order dated 27.08.04 and prayed for restoring his last pay to his original position i.e. Rs. 10,250/- at the time of his retirement with stage-to-stage fitments and refixation of pay and retiral benefits in terms of the judgment and order dated 27.08.04 and refund the amounts recovered from him on the alleged ground of over payment.

Copy of the representation dated 10.09.04 is annexed hereto for perusal of Hon'ble Tribunal as **Annexure- XX**.

4.17 That although the impugned orders issued by the respondents reducing the last pay of the applicant from Rs. 10,250/- to Rs. 9,500/- were all quashed and set side by the Hon'ble Tribunal, but surprisingly the respondents even thereafter adhered to their earlier notion and issued one letter bearing No. AP/RP/3-172/02 dated 18.10.2004 asking explanation from the applicant that why his pay would not be refixed at Rs. 9500/- instead of Rs. 10250/- and why the excess amount paid to him would not be recovered. In the said letter it has been pleaded that his pay in the promoted post of Supdt. PSD, Silchar (PSS Group- B) was wrongly fixed w.r.t his pay in the post of HSG-I cadre in which he was not regularized and as such his revised fixation was done w.r.t the pay of his previous post of ASPOs i.e. his regular post which resulted into reduction of his pay at the relevant stages and subsequent recovery etc. thereto.

Copy of the show cause notice dated 18.10.04 is enclosed herewith and marked as **Annexure- XXI.**

4.18 That in response to the letter dated 18.10.04 aforesaid, the applicant submitted his explanation on 10.11.2004 explaining the position once again and reiterated that his pay cannot be refixed/reduced from Rs. 10,250/- on the following grounds-

(i) That prior to his promotion to the post of Superintendent, PSD, Silchar (PSS Group- 'B'), he was holding the post of DPM (HSG-I grade) at G.P.O, Guwahati which was a regular post and a vacant post and he would have continued in that post had he not been promoted to the next higher post of PSS Group- 'B'. As such his initial pay in his promoted post of PSS Group-'B' was rightly fixed w.r.t his pay in his last post of HSG-I was not regular and his pay cannot be fixed now w.r.t. the pay scale of the lower post of ASPOs as has been done illegally.

(ii) That after his relinquishing the post of Dy. P.M, Guwahati GPO (HSG-I) following his promotion to the PSS Group-'B' cadre, one Shri Sukleswar Das, ASPOs who was junior to the applicant

was posted in the said post of Dy. P.M, CPO, Guwahati on adhoc basis who was subsequently regularized in the said post. As such there is no question of treating the applicant's appointment in the said post under similar circumstances as unregularised when the person even junior to him was regularized in the said post, which otherwise the applicant would have continued to hold.

Copy of the reply dated 10.11.04 are enclosed herewith and marked as Annexure- XXII.

4.19 That surprisingly, the respondents eventually issued their impugned letter bearing No. Staff/11-14/89 dated 28.11.2005 informing the applicant that his promotion to HSG-I issued vide circle office, Guwahati letter dated 01.12.92 was purely temporary which did not confer right to regular absorption in the cadre and as such fixation of his pay on promotion to PS Gr. 'B' based on the pay of the HSG-I post was not in order and the over payment is liable to be recovered. In the said impugned letter it has further been contended by the respondents that the appointment of the applicant in HSG-I could not be regularized since he did not complete 3 years service in ASPOs cadre and since the HSG-I post held by him was reserved for ST Category.

It is relevant to mention here that the respondents did not mention their above stated pleas in the earlier show cause letter dated 18.10.04 issued by them and it appears to be their after thought which they have now resorted to just to make a desperate bid to substantiate their illegal action.

The respondents issued another impugned letter No. CPIO/RTIA-8/05 dated 29.11.05 in the same line.

Copy of the impugned letter dated 28.11.05 and dated 29.11.05 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XXIII and XXIV respectively.

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4.20 That thereafter the applicant submitted an appeal on 07.01.2006 against the impugned letters dated 28.11.05 and 29.11.05 wherein the applicant stated interalia the following facts;-

(i) That the contention of the respondents that the applicant did not complete three years service in ASPOs cadre was wrong and erroneous. The applicant had been working in the post of ASPOs w.e.f. 25.08.85 vide order No. Staff/9-3/85 dated 09.08.85 continuously and without any break which is evident from the records maintained in his service book. He was also regularized in the post of ASPOs vide order No. Staff/2-29/91 dated 12.02.91.

(ii) That the contention that the post of Dy. Post Master (HSG-I), GPO, Guwahati was reserved for ST Category is also not true since it was not mentioned in the promotion order of the applicant when he was promoted to the said post and not pleaded at any stage even thereafter. **Had it been so, then how his successor Shri Sukleswar Das who joined as Dy. PM, GPO, Guwahati following relinquishing of the post by the applicant, could be appointed in that post and even regularized subsequently when he does not belong to ST category.**

(iii) That the Director of Accounts (Postal), Guwahati vide his letter No. PN/2003-2004/274 dated 08.03.05 advised the PMG, Dibrugarh Region to take up the case of the applicant with the CPMG, Assam Circle, Guwahati for regularization of his adhoc appointment in the HSG-I post since his junior staff who was similarly appointed to the said post has been regularized.

The applicant therefore appealed for re-fixation of his pay, restoring the same to Rs. 10,250/- which he was drawing as his last pay at the time of retirement and to refund the amount recovered from his retiral

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benefits of the applicant which they have illegally reduced and slashed down. Therefore, the impugned order dated 28.11.05 and 29.11.05 are liable to be set aside and quashed.

Copies of appeal dated 07.01.06 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- XXV.

4.21 That the applicant most respectfully begs to submit that the respondents have been resorting to different types of pleas at different times so far in order to substantiate their illegal actions and those pleas are not only inconsistent but having no nexus to one another. Their main contentions so far are; -

(i) That on his promotion on regular basis to the post of Supdt., PSD, Silchar (PSS Group-'B' post) on 04.01.93, his pay was wrongly fixed w.r.t. his pay in the grade of HSG-I (Rs. 2000-3200/-) which ought to have been w.r.t. the grade of ASPOs (Rs. 1640-2900), both pre-revised scales, since his appointment in the HSG-I was not regularized but was on adhoc basis only.

(ii) That the post of HSG-I which the applicant had been holding prior to his promotion on 04.01.93 aforesaid, was reserved for ST category and as such he could not be regularized in that post since he does not belong to ST category, and

(iii) That the applicant did not complete 3 years service in the cadre of ASPOs, prior to his promotion to HSG-I grade and hence cannot be regularized and hence cannot be regularized in HSG-I.

4.22 That the applicant most respectfully begs to submit and reiterate the factual positions as under; -

(i) The applicant was promoted to the post of ASPOs vide order No. Staff/9-8/85 dated 09.08.85 on adhoc basis and assumed charges on 24.08.85 which is also evident from his service Book. He

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was regularized in the post of ASPOs w.e.f. 12.02.1991. He was regularized in the post of ASPOs w.e.f. 12.02.91 as evident from the order No. Staff/2-29/91 dated 29.11.94 in which post he continued until he was promoted to the next higher post of Dy. Post Master (HSG-I grade) w.e.f. 04.12.1992 vide order dated 01.12.92 (Annexure-I).

As such the contention of the respondents that the applicant did not complete 3 years service in the cadre of ASPOs, even after his rendering services for more than 7 years, is false, misleading and amounts to deliberate suppression of material fact.

(ii) As regards his promotion to the post of HSG-I Grade on 01.12.92 the applicant begs to state that at the relevant time, he was duly eligible for and entitled to get the promotion to the post of HSG-I on regular basis. Further, the post of Dy. Postmaster (HSG-I), which he was promoted to, was lying vacant also as evident from the order dated 01.12.92 (Annexure-I) and he would have continued in that post had he not been promoted subsequently to the next higher grade of PSS Group 'B' on 04.01.93 on regular basis which is evident from the Respondents letter No. Staff/11-14/89 dated 21.05.93. This apart, the applicant was the senior most person in the HSG-I grade. As such in all fitness of the things the applicant's appointment ought to have been regularized in the post of HSG-I prior to his regular promotion to the next higher grade i.e. PSS Group 'B' grade, which the respondents did not do for the reasons best known to them. Surprisingly, following the relinquishing of the post of Dy. Post Master (HSG-I) by the applicant on his promotion, one Shri Sukleswar Das who was a junior staff of the applicant was appointed in that post as the successor to the applicant vide CPMG, Guwahati's Office memo No. Staff/11-14/89 dated 04.11.94. The applicant was similarly situated, rather was on a better footing by having served for a

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longer period and was senior to Shri Das but even thereafter he was not regularized in HSG-I post which is discriminatory, illegal, arbitrary, unfair and malafide.

As such there is no reason to treat the appointment of the applicant in HSG-I post as adhoc or temporary, merely on technical ground as contested by the respondents but it was a regular appointment for all purposes and under all cannons of law. It is on this ground that his pay on his promotion to the post of PSS Group 'B' on 04.01.93 was fixed w.r.t the scale of his previous post in HSG-I and there is no reason to deny the same subsequently and refix/reduce the pay of the applicant on 04.01.93 and thereafter on the erroneous plea of wrong fixation. The illegality and lapses done by way of non-regularising the appointment of the applicant in HSG-I, is attributable to the respondents only.

(iii) The contention of the respondents that the HSG-I post which the applicant had been holding was reserved for ST candidate is also not sustainable. Had it been so, then how Shri Sukleswar Das could be confirmed in that post when he is not a ST candidate.

As such all the contentions of the respondents are malafide, false, arbitrary, unfair and illegal and the refixation/reduction of pay and the retiral benefits of the applicant and recovery thereof leads to gross injustice and has caused irrepairable loss to the applicant.

(Copy of order dated 09.08.85, order dated 29.11.94 and letter dated 21.05.93 are annexed hereto as **Annexures-XXVI, XXVII and XXVIII** respectively).

4.23 That the applicant begs to submit further that in the upward hierarchy of promotion, the order of the posts are ASPOs- HSG-I- PSS Group 'B'. As such in all fitness of the things, the applicant, is deemed to have been regularized in the post of HSG-I before being promoted to the next higher grade of PSS Group 'B' since it cannot be presumed that he was directly

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promoted from the grade of ASPOs to the PSS Group 'B' skipping the intermediate post in HSG-I which lacks any rationale or principles of law.

This apart, this Hon'ble Tribunal in it's judgment and order dated 27.08.04 in O.A. No. 174/2003 has clearly held that;-

> "From what has been discussed above it is clear that the pay fixation cannot be revised to the disadvantage of the employee without affording him opportunity of hearing."

In its judgment aforesaid, the Hon'ble Tribunal has discussed at length a series of judgments which have abundantly laid down the laws in the subject issue in favour of this applicant and as such the Hon'ble Tribunal has quashed the impugned actions of the respondents also. But even thereafter, the respondents have adhered to their illegal action have issued the impugned letter dated 28.11.05 and dated 29.11.05.

4.24 That it is stated that in the almost similar facts and circumstances the respondent Union of India granted notional promotion to cadre of HSG-I to Sri H. Ahmed, AD (W), office of the Chief PMG, Assam Circle, Guwahati vide letter No. Staff/7-83/92 dated 3.4.2002 with all consequential benefits as because he was incurring financial loss due to non-fixation of his pay in the cadre of HSG-I. As such the applicant is also entitled to a similar benefit.

A copy of the letter dated 03.04.2000 is annexed for perusal of Hon'ble Tribunal as <u>Annexure- XXIX</u>.

4.25 That the fixation of the pay of the applicant as on 04.01.93 in his promoted post of PSS Group 'B' was done by the expert authorities after consulting all financial rules and his pay was fixed at Rs. 2,600/- on 04.01.03 in the scale of Rs. 2,000-3,500/- (pre-revised) which was in accordance with rules. Accordingly the fitments were done in the subsequent stages also and incremental benefits paid to the applicant for 10 years raising his last pay to Rs. 10,250/- as on 04.01.2002. This was passed by the Accounts

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experts including the Dy. Director of Accounts experts including the Dy. Director of Accounts (P) and even the Auditors and duly approved by the competent authorities for long 10 years until the impugned objection has been raised by the Dy. Director Accounts (Postal) after 10 years on the eve of retirement of the applicant.

It is relevant to mention here that the Director of Accounts (Postal) could subsequently realize the mistakes and addressed his letter No. PN/2003-2004/274 dated 08.03.05 to the Post Master General, Dibrugarh Region and advised him to take up the case with the CPMG, Assam Circle, for regularization of the adhoc appointment of the applicant in HSG-I post since his junior staff had been regularized in the said post under similar situation, but even thereafter the applicant has been denied justice. The Hon'ble Tribunal be pleased to direct the respondents to produce the letter dated 08.03.05 of Director of Accounts (P) before this Hon'ble Tribunal.

4.26 That the applicant most humbly submits that due to the wrong interpretation of the Dy Director Accounts (Postal), the respondents acted upon erroneously and refixed the basic pay of the applicant reducing the same from Rs. 2600/- to Rs. 2450/- (Pre-revised) with effect from 04.01.1993 retrospectively after the applicant retired on 31.10.2002 i.e. after 10 (ten) years which resulted into reduction of pay in all subsequent stages and finally reducing his last pay before his retirement from Rs. 10,250/- to Rs. 9500/-. Such reduction of pay had further cumulative effect on all terminal benefits of the applicant viz. Pension amount, commutation values, DCRG, Leave encashment, PF interest etc. causing huge financial loss to the applicant in an illegal and unjustifiable manner.

4.27 That it is stated that in the similar facts and circumstances the respondent Union of India had forced on Mr. Samarendra Shyam to avail promotion in the higher post of Superintendent PS Group-B while he was working as

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Assistant Superintendent of Post offices under CPMC, NER, Shillong without granting him the benefit of promotion to the cadre of HSG-I and as a result he had sustained huge financial loss in the matter of fixation of pay which was recurring in nature in such compelling circumstances, Shri S. Shyam approached this Hon'ble Tribunal through O.A No. 303/2002 against the similar grievance and the said Original Application was allowed by the Hon'ble Tribunal vide it's judgment and order dated 02.09.2003. Similar benefit further granted to Sri H. Ahmed another employee of the Office of the CPMG, Guwahati when the matter is taken up by the Minority Commission. Therefore denial of similar benefit of regularization/confirmation to the present applicant by the same Directorate is violative of Article 14 of Constitution of India. The applicant cannot suffer due to the fault or lapses of the administration. As such contention of the respondents is contrary to the settled position of law.

It would be evident from the decision rendered by this Hon'ble Tribunal in O.A. No. 303/02 that many of the employees who were working in the cadre of A.S.P.O had been promoted to the cadre of P.S Group-B for the interest of the department without considering their cases for promotion to the cadre of HSG-I and those facts would be evident more particularly from the record of O.A. No. 303/02 decided on 02.09.2003. Therefore, the present applicant cannot be held responsible for non-consideration of his promotion on regular basis to the cadre of HSG-I. However, the applicant was eligible as per Rule for promotion to the post of HSG-I and also discharged his duty to the said post, as such, benefit of fixation granted to the applicant in the cadre of HSG-I cannot be taken away by the respondents without notice.

Copy of the judgment and order dated 02.09.2003 is enclosed hereto for perusal of Hon'ble Tribunal as **Annexure-XXX**.

4.28 That this application is made bona fide and for the cause of justice.

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

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(83)

5.1 For that, the applicant was working in the cadre of HSG-I against regular vacancy although it was termed as ad hoc arrangement prior to his promotion to the cadre of PSS Gr. 'B'.

5.2 For that the applicant had attained eligibility as per rules for consideration of promotion on regular basis during the year 1992 to the post of Deputy Postmaster HSG-I which fall vacant at the relevant time but the respondents did not hold the DPC for the reasons best known to the authorities.

5.3 For that one Sri H. Ahmed similarly circumstanced was granted the benefit of promotion of HSG-I notionally w.e.f. 17.1.1989 vide order dated 3.4.2000, as such there cannot be any impediment on the part of the respondents to extend the similar benefit to the applicant.

5.4 For that, the applicant was entitled for the post of HSG-I prior to his promotion to the cadre of PSS Gr. 'B' and he would have continued in the in cadre of HSG-I had he not been promoted to the cadre of PSS Gr.-'B' irrespective of the matter whether he was holding the post of HSG-I on ad hoc basis or otherwise.

5.5 For that according to his normal avenue of promotion also, the applicant would have been promoted to the cadre of HSG-I prior to his promotion to the next higher grade of PSS Gr. 'B'.

5.6 For that on his promotion to the cadre of PSS Gr. 'B' on 4.1.93, his basic pay was rightly fixed w.r.t his pay in the HSG-I cadre i.e. the post which he had been holding at the time of his promotion.

5.7 For that the pay of the applicant in his Promoted post of cadre of PSS Gr. 'B' was fixed at Rs. 2600/- (Pre-revised) on 4.1.93 w.r. to his pay drawn by him in the HSG-I post which he was holding at the relevant time and accordingly his pay was fixed in all subsequent stages for 10 years i.e. till 31.10.02 when he retired on superannuation with his last basic pay of Rs. 10,250/- (revised scale).

5.8 For that the fixation of pay of the applicant on 4.1.93 and in all subsequent stages were examined and passed by the competent authorities including

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the audit officers for all those 10 years and no anomalies were found. Even the Dy. Director Accounts (Postal) also passed the earlier fixations in all stages until he raised objection on the eve of retirement of the applicant.

5.9 For that due to non-holding of regular DPC by the respondent, the applicant was deprived of his regular promotion to the post of Deputy Postmaster HSG-I in the pay scale of Rs. 2000-3200.

5.10 For that the re fixation of the pay of the applicant on the eve of his retirement in 2002 and reduction of the same from Rs. 2600/- to Rs. 2450/- on 4.1.1993 and further reduction in all subsequent stages retrospectively, finally reducing all his terminal benefits are illegal, mala fide, arbitrary and violative of the principles of natural justice.

5.11 For that the action of the respondents to the extent of reduction of pay and allowance without providing reasonable opportunity to the applicant is violative of the due process of law.

5.12 For that the applicant made series of representations to the respondents for redressal of his grievances but of no avail.

5.13 For that the wrong and illegal action of the respondents caused huge financial loss to the applicant in respect of his retirement benefits.

5.14 For that learned Tribunal has set aside all the impugned orders bearing Nos. (1) PN-58/2002-2003/478 dated 30.08.2002 (2) COM-43/2002-03/PN-58/2002-03/D- dated 3.10.2002 (3) AP/RP/3-172/02 dated 11.10.02 (4) AP/RP/3-172/02 dated 9.12.2002 (5) AP/RP/3-172/2000 dated 15.01.03 (6) Staff/11-14/89 dated 26.2.03 and (7) GPF/2-37/GHY/2000-01/394 dated 01.4.03, whereby the pay of the applicant was arbitrarily refixed and huge amount of deduction were effected on the alleged ground of wrong fixation of pay but surprisingly even after setting aside of the impugned orders the excess amount which was unauthorisedly deducted from the pensionary dues of the applicant has not been refunded back till filing of this application.

5.15 For that, consequent upon the relinquishing of the post of Dy. Post Master (HSG-I) by the applicant, one Shri Sukleswar Das who was even junior to

the applicant was appointed in the said HSG-I Post and immediately thereafter Shri Das was confirmed in that post and as such the applicant ought to have been regularized in the said post in similar manner, since the applicant was not only eligible for the post but had served in the post for a relatively longer period and was even senior to his successor Shri Sukleswar Das.

5.15 For that, the Director of Accounts (Postal) himself, vide his letter dated 08.03.05 advised the competent authorities to regularize the adhoc appointment of the applicant in HSG-I post.

5.16 For that the grounds on which wrong fixation of pay in respect of applicant has been alleged by the respondents, the similar issue under the same facts and circumstances came before the learned Tribunal in O.A. No. 303/02 in the case of S. Shyam -Vs- U.O.I & Ors. And the same was decided by this learned Tribunal in favour of the applicant in that O.A. Moreover, in case of H. Ahmed the respondents themselves have settled the issue in favour of H. Ahmed which is evident from the judgment passed by the learned Tribunal in the case of S. Shyam.

5.17 For that the learned Tribunal granted liberty only to the extent to afford an opportunity to the applicant in the matter of fixation of pay/pension but no liberty has been granted authorizing the respondents to retain the deducted amount on the ground of alleged excess payment made to the applicant in view of wrong fixation of pay.

5.18 For that applicant is a retired person facing financial hardship due to deduction of huge amount of money from the pensionary benefit.

5.19 For that as per the settled position of law, the pay fixation cannot be revised to the disadvantage of the employee on the ground of wrong fixation after the same being paid for 10 years.

5.20 For that the arbitrary decision of the respondents communicated through impugned letter dated 28.11.05 and 29.11.05 are contrary to the factual position as well as contrary to the settled position of law, as such

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impugned letter dated 28.11.05 and 29.11.05 are liable to be set aside and quashed.

6. **Details of remedies exhausted.**

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

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

The applicant further declares that save and except the filing of O.A No. 175/2003 before this Hon'ble Tribunal, the applicant had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief(s) sought for:**

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. Staff/11-14/89 dated 28.11.2005 (Annexure-XXIII) as well as letter bearing No. CPIO/RTIA-8/05 dated 29.11.2005 (Annexure- XXIV).

8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned show cause notice bearing letter No. AP RP 3-172/02 dated 18.10.04 (Annexure-XXI).

8.3 That the promotion of the applicant as Deputy Postmaster (HSG-I) in the pay scale of Rs. 2000-3200 notified vide No. Staff/11-14/89 dated 01.12.92 be declared as regular promotion.

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8.4 That the fixation of pay of the applicant in his promoted post of P.S. Group 'B' as Rs. 2600/- (Pre revised) on 4.1.1993 and the subsequent fixations thereto in each stage and final last basic pay of Rs. 10,250/- at the time of retirement of the applicant be declared as valid.

8.5 That the respondents be directed to pay all the terminal benefits of the applicant on the basis of Rs. 10,250/- as his last pay on superannuation with consequential arrear and refund of money recovered from the applicant.

8.6 Costs of the application.

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

9. **Interim order prayed for.**

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

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that pendency of this applicant shall not be a bar for the respondents to consider the case of the applicant and redress his grievances.

10. .....

This application is filed through Advocates.

11. **Particulars of the I.P.O.**

i)	I. P. O. No.	:	26G 322948.
ii)	Date of Issue	:	27.3.06.
iii)	Issued from	:	GPO. Guwahati.
iv)	Payable at	:	GPO. Guwahati.

12. **List of enclosures.**

As given in the index.

Chitta Ranjan Deb

VERIFICATION

I, Shri Chitta Ranjan Deb, Son of Late J.C. Deb, aged about 63 years, Retired Superintendent, RMS 'S' Division, Silchar, resident of Link Road, Lane No. 1-A, Silchar -788 006, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 22nd day of April, 2005.

Chitta Ranjan Deb.

ANNEXURE-I

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE :GUWAHATI-1

No. Staff/11-14/89 dated at Guwahati 1.12.92.

The following orders of adhoc arrangement are issued to have immediate effect in the interest of public service.

Sri C.R.Deb, ASPOs(Cell), O/O CPMG, Guwahati has been promoted temporarily as HSG-I and posted against the post of DPM lying vacant in Guwahati GPO. Shri Deb may be relieved on office arrangement.

Usual charge report may be exchanged and sent to all concerned.

Sd/-
(M LAWPHNIAW)
Director of Postal Services
Assam Circle, Guwahati-1

Copy to:-

1. Sri C R Deb, ASPOs(Cell), CO
2. SSPOs, Guwahati
3. Sr. PM, Guwahati
4. AAO(Bgt), CO
5. AD A/cs, CO
6. Office Supdt// SS , CO, /RO
7. All Group Officers, CO/RO

(P NATH)
APMG(STAFF)
O/O CPMG:GUWAHATI-1.

Attested
Advocate

ANNEXURE-II

(25)

No. 9/52/92-SPG
Government of India
Department of Posts

4 NOV 1997

Dak Bhawan
Sansad Marg
New Delhi-110001.

Dated : 2-11-92

Subject : Promotions and postings to Postal Supdt./Postmasters Group 'B'.

...

The Director General (Posts) is pleased to appoint the following officials to officiate in Postal Superintendent/Postmasters Group 'B' with immediate effect and until further orders.

2. The officials on promotion to Postal Superintendent/Postmasters Group 'B' are posted to the Circle mentioned against each :

S.N.	NAME OF THE OFFICER S/SHRI	CIRCLE WHERE WORKING	CIRCLE TO WHICH POSTED
1.	J.P. Jain	Raj.	Delhi
2.	K.M. Sankaran	Kerala	Kerala
3.	Om Prakash	Raj	Delhi
4.	P.V. Bhaskaran	Kerala	Kerala
5.	Pratap Singh	KTK	KTK
6.	K. Janardhanan	KTK	KTK
7.	P.C. Tiwari	MP	MP
8.	M.N. Das	Orissa	WB
9.	Pattapaban Goswamy	Orissa	WB
10.	G.S. Thakur	MP	MP
11.	A.K. Biswas	Assam	Assam
12.	R.S. Dubey	MP	MP
13.	N. Bhattacharjee	Assam	Assam
14.	M.C.S. Reddy	AP	AP
15.	P.K. Malhi	APS	NBR

....2/-

Attested
Saul Advocate

SL. 140

25/5/06

[illegible]	K.P. Roychoudhary	WB	WB
[illegible]	S. Santhanam	TN	TN
[illegible]	R. Rajaraman	TN	TN
[illegible]	M. Umapathi	TN	TN
20.	P.N. Singh	Bihar	Bihar
21.	M.Venkata Reddy	AP	AP
22.	V. Sadasivan	TN	TN
23.	H.K. Gupta	J&K	J&K
24.	G. Narasimhan	TN	TN
25.	D.S. Gangal	Raj	Delhi
26.	P.B. Kulkarni	Mah	Mah
27.	B.R. Katiyar	UP	Postal Staff College, Ghaziabad.
28.	P. Upaliah	AP	AP
29.	P. Devarajan	TN	TN
30.	J.K.S. Edgar Wesley	TN	TN
31.	V.K. Thiruvengadathan	TN	TN
32.	A.L. Gupta	Har	Har
33.	A.C. Bose	TN	TN
34.	H. Subba Rao	AP	AP
35.	H.S. Sastry	AP	AP
36.	N.D. Joshi	Guj	PTC Vadodara
37.	B.K. Rao	AP	AP
38.	M.S. Farook	TN	TN
39.	S. Vengappa	AP	AP
40.	K. Pd. Verma	Bihar	PTC Darbhanga

..... 3/-

192

41.	P.N.R. Kurup	Kerala	Kerala
42.	S. Rajagopalan	TN	TN
43.	S. Vagadanayudu	TN	TN
44.	M.L. Gupta	UP	UP
45.	P. Subramanian	TN	TN
46.	A.A. Khan	APS	NBR
47.	Mohd. Hussain	AP	AP
48.	Banwari Lal Saini	Raj	Delhi
49.	P. Venkataratnam	AP	AP
50.	T.V. Chalapathi	AP	AP
51.	P.O. John	AP	AP
52.	K.P. Valson	Kerala	~~Kerala~~ Mah
53.	R.C. Sharma	UP	UP
54.	S.P. Godhpande	Mah	Mah
55.	C. Kannappan	TN	TN
56.	Abdul Alam	AP	AP
57.	G. Murahari	AP	AP
58.	N. Pitchai	APS	NBR
59.	S. Balasundaram	TN	TN
60.	S. Arunachalam	TN	TN
61.	R.A. Maurya	UP	UP
62.	V.M. Pandya	Mah	Mah
63.	G. Venkatachalam	TN	TN
64.	B. Gurudas	AP	AP
65.	P.A. Balakrishnan	APS	NBR

.... 4/-

66.	M.A. Moidin	KTK	KTK
67.	N. Somaskandan	TN	TN
69.	V.P. Annamalai	TN	TN
69.	S. Gopal	TN	TN
70.	S. Subbaraman	TN	TN
71.	N. Venkataraman	TN	TN
72.	S.A. Fernando	TN	TN
73.	K.E. Ilayaperumal	TN	TN
74.	R.P. Tripathi	UP	UP
75.	K.V. Achary	Kerala	Mah
76.	S.N. Sharma	Raj	Mah
77.	S.S. Yadav	UP	UP
78.	C.D. Bhathla	UP	UP
79.	Syamkosh Ghosh	WB	WB
80.	J.M. Chhabra	Delhi	Delhi
81.	S.P. Singh	NE	NE
82.	B.P. Verma	UP	UP
83.	P.D. Srivastava	UP	UP
84.	I.D. Malhotra	Har	Har
85.	V.D. Sharma	UP	UP
86.	K.K. Gagnaja	UP	UP
87.	T.N. Gopalakrishnan	Kerala	Mah
88.	P. Asokan	Kerala	Mah
89.	K.M. Kumaran	Kerala	Mah
90.	Shafiquddin	UP	UP

.... 5/-

91.	N.K. Pande	Mah	Mah
92.	M.A. Iyer	Kerala	Mah
93.	G.S. Ghooli	KTK	KTK
94.	C.S. Krishna	KTK	KTK
95.	A. Raja	Kerala	Mah
96.	S.R. Verma	Delhi	Delhi
97.	Bhaskar Misra	Orissa	WB
98.	A.S. Saini	HP	HP
99.	P.K. Narayanan	Kerala	Mah
100.	V.M. Karanjia	Guj	PTC Vadodara
101.	B. Venkateshan	KTK	KTK
102.	S.D. Kamanhalli	KTK	KTK
103.	R.S. Baraja	Har	PTTC Saharanpur
104.	H.P. Sharma	Har	Delhi
105.	M.S. Rao	Orissa	WB
✓106.	J.C. Saha	NE	NE
107.	R.G. Sharma	APS	NBR
108.	C.A. Mathew	Kerala	Mah
109.	B.S. Sisodia	Raj	Mah
110.	T.P. Nambiar	Kerala	Mah
111.	A.G. Abrahim	Kerala	~~Mah~~ Kerala
112.	P.J. Shanishchara	Guj	Guj
113.	K. Ramachandran	Kerala	Mah
114.	B.D.L. Srivastava	UP	UP
115.	P.P. Soni	Guj	Guj

..... 6/-

116.	S.M.I. Haji	Guj	PTC Vadodara
117.	N.G. Nair	Kerala	Mah
118.	P. Gopalakrishnan	APS	N3R
119.	M.M.N. Nambiar	Kerala	Mah
120.	P.P.G. Nambiar	Kerala	Mah
121.	T.R.R. Nair	APS	N3R
122.	Kishan Chand	Raj	Mah
123.	R.C. Rath	Orissa	JB
124.	G.C. Mohanty	Orissa	WB
125.	Bhubaneshwar Sautra	Orissa	WB
126.	R.S. Tokas	Delhi	Delhi
127.	D.C. Bardhan	WB	WB
128.	Sayed Saliha	Orissa	WB
129.	D.C. Darji	Guj	Guj
130.	J.S. Dogra	Delhi	Delhi
131.	Sridhar Panda	Orissa	JJ
132.	E. Shanmugaval	TN	TN
133.	J.C. Kumar	Har	J&K
134.	Srinivas Mishra	Orissa	WB
135.	S.K. Bora	Assam	Assam
136.	J.C. Mohanty	Orissa	WB
137.	B.K. Dam	Assam	NE
138.	B.R. Bose	WB	WB
139.	V.D. Khudkar	MP	MP
140.	C.R. Deb	Assam	NE

..... 7/-

141.	B.B. Choudhary	Assam	NE
142.	J.J. Paul	WB	Delhi (on deputation)
143.	M.K. Shingaram	Mah	Mah
144.	Pritam Singh	Raj	Mah
145.	M.L. Sharma	Delhi	Delhi
146.	S.K. Kundu	WB	WB
147.	Binanda Hazarika	Assam	NE
148.	V.P. Wani	Mah	Mah
149.	M. Sukumaran	Kerala	Mah
150.	B.M. Solanki	Guj	Guj
151.	P.T. Savlani	APS	NBR
152.	C. Sreedharan	Kerala	Mah
153.	R. Ponniah	TN	TN
154.	A.P. Radhakrishnan	APS	NBR
155.	S. Pandian	TN	TN
156.	S.S. Rawat	UP	UP
157.	P.C. Philip	APS	NBR
158.	A.W. Beg	UP	UP
159	M.S. Ali	TN	TN
160.	A.S. Muthukumaraswamy	TN	TN
161.	Gulam Mohiuddin	UP	UP
162.	C.P. Arora	Raj	Mah
163.	P. Kandaswami	TN	TN
164.	A.G. Palsekar	Mah	Mah
165.	P. Raghavaiah	AP	AP

	S.L. Hatkar	KTK
7.	T. Sanjeevi	AP
68.	Ramjee Ram	Bihar
69.	S.N. Ram	Bihar
70.	Laldhari Ram	Bihar
71.	C. Choodaiah	KTK
172.	V. Balapa	AP
173.	Shanker Das	Bihar
174.	P. Premanandam	AP
175.	B.L. Bhambhi	Raj
176.	A.D. Vankar	Guj
177.	Chandrawal Kharwal	MP
178.	B.L. Shakya	MP
179.	K.S. Ramaswamy	TN
180.	R.J. Parmar	Guj
181.	G.L. Dhakre	MP
182.	C.M. Gahlot	Raj
183.	N.B. Solanki	Guj
184.	J.K. Das	WB
185.	S.R. Vaghela	Guj
186.	C.B. Parmar	Guj
187.	Damnagh Kumar	Delhi
188.	P.C. Bachar	WB
189.	K.T. Rangan	TN
190.	A. Lingaraju	Orissa

KTK	KTK
AP	AP
Bihar	Bihar
Bihar	Bihar
Bihar	PTC Darbhanga
KTK	KTK
AP	AP
Bihar	PTC Darbhanga
AP	AP
Raj	Mah
Guj	Guj
MP	MP
MP	MP
TN	TN
Guj	Guj
MP	MP
Raj	Mah
Guj	Guj
WB	WB
Guj	Guj
Guj	Guj
Delhi	Delhi
WB	WB
TN	TN
Orissa	WB

..... 9/-

191.	C.R. Paramanick	WB	WB
192.	Ram Phal-II	Delhi	Delhi
193.	G.M. Meshram	MP	MP
194.	Gandigaiah	KTK	Mah
195.	Jagdish Pd. Verma	Raj	Mah
196.	K. Vasudevan	Kerala	Mah
197.	B.P. Dohre	MP	UP
198.	Baboo Lal	Delhi	Delhi
199.	A.P. Parmar	Guj	Guj
200.	G.D. Nihania	Delhi	Delhi
201.	D.N. Gajbe	Mah	Mah
202.	Bhagwan Marandi	Bihar	WB
203.	K.V. Rao	AP	AP
204.	C.Varaprasada Rao	AP	AP
205.	R.S. Kardam	Delhi	Delhi
206.	Ram Nagina	UP	UP
20[illegible].	P.C. Bunkar	Raj	Mah
208.	N.V. Vedi	TN	TN
209.	M. Mohan Das	Kerala	Mah
210.	R.Ch.V. Prasad	AP	AP
211.	A.B. Patel	Guj	Mah

3. VIGILANCE/DISCIPLINARY CASE IF ANY

In case any vig./disc. case, of the type referred to in O.M.No. 22011/4/91-Estt.(A) dated 14-9-92 from DOP&T circulated vide this office memo no. 25-19/88-SPG dated 13-10-92 is pending against any of the officials, he should not be relieved for posting without obtaining specific orders from this office. The officials against whom any punishment is current they should not be promoted before expiry of currency of punishment. A report in this regard be submitted immediately.

..... 10/-

4. PROBATION PERIOD

All the officials who have been promoted to the Postal Supdt./Postmasters Group 'B' will be on probation for 2 years and their suitability to hold this post will be adjudged on completion of two years of probation. If any official proceeds on leave for a period exceeding 30 days during this period, the probation period will be extended depending upon the period of leave.

5. TRAINING

All the officials, including those who have not been imparted training, will be directly promoted to the Postal Supdt./Postmasters Group 'B' without any training for the present.

6. OFFICERS ALLOTTED OUT OF PARENT CIRCLES

The Circles of allotment will immediately issue posting orders, and in any case not later than 15-11-92. In case of any difficulty in issue of posting orders, the matter should be brought to the notice of Directorate by 10-11-92. The parent Circles of such officials, on receipt of posting orders, will immediately relieve the officials unless they submit unconditional declination. The CPMGs of the Circle of allotment/ parent Circles will personally ensure issue of posting orders by the due date and immediate relief of officials. Despite issue of posting orders, if any official does not join by 15th Dec. 1992, it will be presumed that they have declined promotion.

7. The charge reports in consolidated form (not individually) may be sent by o/o CPMG to this office for issuing notification clearly indicating the order no. and date.

(T.S. Govindarajan)
Director(STAFF)

Copy to:

1. All Chief Postmasters General / CFM Bombay/ Postmasters General
2. Director, Army Postal Service, c/o 56 APO.
3. Principal, Postal Training Centres.
4. Training-P Cell, Directorate.
5. All Directors/Dy. Directors of Postal Accounts.
6. Work Study/Vig. Sections of Postal Dte.
7. All concerned associations/CS to Member(P)
8. SOs Guard file.

(Y.D. Mehta)
Section Officer (SPG)

ANNEXURE-III (4)

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI - 781 001.

No. Staff/3-7/81/Ch.II dated at Guwahati the 24.11.1992.

In pursuance of Directorate, New Delhi order no. 9/52/92-SPG, dated 2.11.92 and CO, Shillong memo no. Staff/13-15/92, dtd 13.11.92, the following approved officers of Assam Circle are transferred/posted to officate in Postal Services, Group-B in N.E. Circle at the offices and against the posts mentioned below against their names.

Name	Place of working	Posted at
1. Shri B. K. Das	Dy. PM, Guwahati GPO	Dy.Supdt of Posts O/O DPS, Itanagar N.E. Circle.
2. Shri C. R. Deb	ASPOs(Cell),CO,Guwahati	Supdt. PSD, Silchar. N.E.Circle wef 1.1.93.
3. Sri B. B. Chowdhury	ASPOs(Inv),RO,Guwahati	Supdt. PSD, Guwahati under N.E.Circle.
4. Sri Binanda Hazarika	ASPOs, Dhubri	Dy. Supdt of Posts O/O DPS, Kohima N.E. Circle.

The officials may be relieved on office arrangement to enable them to join by 15.12.1992 except in the case of Sri C.R.Deb, who is to be relieved by 1.1.93 as he has been posted against retirement vacancy.

The promotion of the officials are subject to the condition that no disc/ vigilance case is pending or contenplated against them. In case any disc. vigilance case is ponding against them, they should not be relieved and the matter referred to this office immediately.

The officials are yet to be undergone Institutional and field training.

Usual charge reports should be sent to all concerned.

M Lawphniaw
(M LAWPHNIAW)
DIRECTOR OF POSTAL SERVICES
ASSAM CIRCLE: GUWAHATI - 1.

Copy to:-

1. The Director General(SPG), Deptt of Posts, Dak Bhavan, New Delhi-1 wto Dto No. 9/52/92-SPG dt. 2.11.92.
2. The Chief Postmaster General(Staff), N.E. Circle, Shillong-793001.
3. The RPMG, Guwahati-1
4. Sr. Supdt of Post offices, Guwahati Dn, Guwahati-1
5. The Supdt of Post offices, Goalpara Dn, Dhubri
6. Sr. Postmaster, Guwahati GPO.
7. The Postmaster, Dhubri HO
8. AAO(Dgt), CO// RO, Guwahati
9. The AD A/cs, CO // RO, Guwahati
10. All Group Officers, CO// RO, Guwahati
11-14. Officials concerned.
15-18. P.F. of the officials concerned.
19-20. O/C/Spare.
21. Supdt PSD, Guwahati/Silchar.

M Lawphniaw
Director of Postal Services
Assam Circle, Guwahati-1

Attested
Advocate

ANNEXURE-IV

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: N.E.CIRCLE: SHILLONG

Memo No. Staff/13-15/92 Dated Shillong, the 13-11-92

In pursuance of the Director General(Posts) New Delhi's order No. 9/52/92-SPG dated 2-11-92, the following approved officers are posted to officiate in Postal Supdt./ Supdt. PSD/Postmasters Group 'B' at the offices and against the post mentioned below against their names. In terms of Dte's instruction, the new officers should be relieved to enable them to join by 15-12-1992 except in the case of Shri C.R. Deb.

Name	Post	
1) Shri S.P. Singh	Dy.Supdt. of P.Os	O/O DPS Manipur Imphal.
2) Shri J.C. Saha	Dy.Supdt. of P.Os	O/O DPS Mizoram Aizawl relieving Shri A.R.Bhowmik transferred.
3) Shri B.K. Dam	Dy.Supdt. of P.Os	O/O D.P.S., Itanagar.
4) Shri C.R. Deb	Superintendent	P.S.D., Silchar w.e.f. 1-1-93.
5) Shri B.B. Choudhury	Superintendent	P.S.D., Guwahati.
6) Shri Binanda Hazarika	Dy.Supdt.of P.Os	O/O the D.P.S., Nagaland, Kohima.

2. They will be on probation for two years and their suitability to hold this post will be adjudged on completion of two years of probation. If any official proceeds on leave for a period exceeding 30 days during the first two years, the probation period will be liable to be extended accordingly.

3. They may be called for institutional and field trainings at any time.

4. The following officers are transferred and posted to the offices noted below against each.

1) Shri A.R. Bhowmick, Dy. Supdt. of P.Os, Mizoram Division.	Dy. Supdt. of P.Os, Agartala Division vice Shri P.K. Nandi Mazumder transferred.
2) Shri P.K. Nandi Mazumder, Dy. Supdt. of P.Os, Agartala.	Supdt. of P.Os, Meghalaya Divn., Shillong without extra remuneration relieving Shri Shyam.
3) Shri S. Shyam, S.P.Os, Shillong.	Asstt. Director (Estt.), Circle Office, Shillong.

Attested Advocate

16 NOV 1992

5. Charge reports should be sent to Circle Office on relief and assumption of charge by each official.

6. Shri A.R. Bhowmick, Shri P.K. Nandi Mazumder and Shri S. Shyam will move only when their relievers join.

(L. Munga)
Asstt. Postmaster General (S&E)

Copy to :-

1) The Director General (Posts) New Delhi with reference to his order No. 9/52/92-SPG dated 2-11-92.
2) The Chief P.M.G., Assam Circle, Guwahati.
3) All Directors of Postal Services in N.E. Circle.
4) The Supdt. of P.Os, Shillong/Dharmanagar.
5) The Supdt. P.S.D., Guwahati/Silchar.
6) The Director of Accounts (Postal), Calcutta.
7) The Officers concerned.
8) P/F of the officers.
9) The Sr. Postmaster, Shillong G.P.O.
10) All Head Postmasters in N.E. Circle.
11) Spare.

For Chief Postmaster General,
N.E. Circle, Shillong.

~~ANNEXURE-IV~~ 29

ANNEXURE-V

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE
GUWAHATI - 781001.

To,

The Sr. Postmaster,
Guwahati GPO.

No. Staff/1-320/93 Dated at Guwahati the 22-12-92.

Sub:- Arrangement for release of Sri C.R.Deb officiating Sr. Postmaster, Guwahati G.P.O.

t = H.S.G.-I on adhoc basis.

Shri C.R.Deb, DPM, Guwahati G.P.O. and officiating Sr. Postmaster, Guwahati G.P.O. may be relieved on assumption of charge by Sri A.K.Biswas, so as to enable Shri Deb to join as Supdt. of Postal Store Depot, Silchar as ordered under Chief P.M.G., Guwahati is memo No. Staff/3-7/91/Ch-II dated 24-11-92.

(P.NATH)
D P M G(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati.

22/12/92

Copy to :-

The Sr. Supdt. of Post Offices/Guwahati for information. The work of DPM may be managed locally till selection of approved candidate is made available.

For Chief Postmaster General,
Assam Circle, Guwahati.

Date/22/12/92.

Affidavit
Advocate

~~Annexure-VI~~

ANNEXURE-VI

Department of Posts
Office of the Sr. Supdt. of Post Offices
Guwahati Division:3rd Floor, Meghdoot Bhawan:Guwahati-781001.

No.B/2/7/Officer/Ch-III dated Guwahati-1, the 23-12-92

In accordance with the Chief Postmaster General, Assam Circle, Guwahati-1 letter No.Staff/1-330/88 dated 22-12-92, Shri C.R. Deb, oftg. Senior Postmaster, Guwahati HO may be relieved on office arrangement on assumption of charge of Senior Postmaster Guwahati HO by Shri A. K. Biswas, so as to enable Shri C. R. Deb to join as Supdt. P.S.D./Silchar as ordered under Chief PMG Guwahati-1 memo No.Staff/3-7/81/Ch-II dated 24-11-92.

Senior Supdt. of P.Os
Guwahati Division::Guwahati-1

Copy to:-

(1) The Senior Postmaster, Guwahati HO for information and necessary action.

(2) Shri C. R. Deb, oftg. Senior Postmaster, Guwahati HO for information.

(3) The Chief PMG, Assam Circle, Guwahati-1 for information.

Senior Supdt. of P.Os
Guwahati Division:Guwahati-1

-43-

ANNEXURE-VII

(See Appendix IX)

फार्म 16
FORM 16

स्था०आ०पु०(ए)-16
M.S.O.(T)-16

अन्तिम वेतन पत्र/LAST PAY CERTIFICATE

श्री ..... का अन्तिम वेतन पत्र

Last pay Certificate of Sri Chitta Ranjan Deb ..... of the

Asstt. Engr. ..... proceeding on transfer

to Asstt. Engr. Supdt. of PSD Silchar (under NE Circle)

वेतन निम्नलिखित दरों पर ..... तक के लिए अदायगी कर दी गई है :—

Pay has been paid upto 31-12-92 at the following rates :—

ब्यौरा/Particulars	दर/Rate	कटौतियां/Deductions	
मूल वेतन Substantive Pay	Pay = 2450 -	CGEGIS -	Rs. 30.00
स्थानापन्न वेतन Officiating Pay	DA = 2034	GPF Cont -	" 1600.00
भत्ते आदि Allowances etc.	HRA = 450	PLI NV 296227-P	" 8.00
	SCA = 80	" " 95784-P	" 12.00
ब्यौरा/Particulars		" " NE-942-P	" 29.00
		" " AM-5830-P	" 110.00

सहायक सामान्य भविष्य निधि लेखा संख्या ..... महालेखाकार .....

His General Provident Fund Account No. PTC/60380 maintained by Accountant General A&E(E) Calcutta

उसने ..... से पूर्वाह्न/अपराह्न को

He made over charge of the office of Sr Postmaster/GH ..... का पद भार सौंप दिया।

forenoon on the 26-12-92 (F.N.)

पृष्ठभाग पर दिए गए ब्यौरे के अनुसार सरकारी कर्मचारी के वेतन में से कटौतियां की जानी है।
Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

नीचे दिए गए ब्यौरे के अनुसार छुट्टी वेतन अदा किया गया है। पृष्ठभाग पर लिखे अनुसार कटौतियां की गई है।
He has been paid leave salary as detailed below. Deductions has been made as noted on the reverse.

अवधि/Period	दर/Rate	राशि/Amount
From ..... से ..... to ..... तक को	at Rs.	प्रतिमास a month .....
From ..... से ..... to ..... तक को	at Rs.	प्रतिमास a month .....
From ..... से ..... to ..... तक को	at Rs.	प्रतिमास a month .....

वह निम्नलिखित लेने का हकदार है :—
He is entitled to draw the following :—

वह ..... दिन के कार्यग्रहण अवधि का भी हकदार है।
He is also entitled to joining time for ..... days.

निम्नलिखित बीमा पालिसियों की किस्त व्यवस्था वह भविष्य निधि में से करता है :—
He finances the insurance policies detailed below from Provident Fund :—

बीमा कम्पनी का नाम Name of the Insurance Company	पालिसी सं० No. of Policy	प्रीमियम की राशि Amount of Premium	प्रीमियम अदा करने की नियत तारीख Due date for the date of Premium

चालू वर्ष के आरंभ से अब तक उनके वसूल किए गए आयकर का विवरण पृष्ठभाग पर लिखा है।
The details of the income-tax recovered from him up to the date from the beginning of the current year are noted on the reverse.

दिनांक/Dated 1-1-93 19.

हस्ताक्षर/Signature SENIOR POSTMASTER

पदनाम/Designation Gauhati G.P.O.

टिप्पणी :—क्रम संख्या 3 के सामने की सूचना अराजपत्रित सरकारी कर्मचारियों के मामले में कार्यालय अध्यक्ष द्वारा और राजपत्रित अधिकारियों के मामले में सम्बन्धित अधिकारी/स्वयं अधिकारी द्वारा भरी जानी चाहिए। इसके अलावा जब कोई सरकारी कर्मचारी एक लेखापरीक्षा परिमंडल से दूसरे परिमंडल में स्थानांतरित किया जाए तो, स्थानांतरण के बाद जो लेखा अधिकारी उसका सामान्य भविष्य निधि का लेखा रखे उसका नाम भी राजपत्रित अधिकारी के मामले में अन्तिम वेतन पत्र पर प्रति हस्ताक्षर करते समय महालेखाकार द्वारा और अराजपत्रित सरकारी कर्मचारियों के मामले में, यदि संभव हो, कार्यालय अध्यक्ष द्वारा लिखा जाना चाहिए।

Note :—Against Serial No. 3 the information should be incorporated by the Head of the office in case of non-gazetted Government servants and by the Treasury Officer/Officer himself in case of Gazetted Officers. In addition when a Government servant is transferred from one audit circle to another, the name of the Accounts Officer who will maintain his General Provident Fund account after transfer should also be recorded in the case of a Gazetted Officer by the Accountant General while countersigning the Last Pay Certificate and by the head of the office in the case of non-gazetted Government servants, if possible.

Attested
Advocate

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2

(पृष्ठभाग)
(REVERSE)

(1) Rs 20,000/- being the Liquid purchase advance drawn in
(2) Rs 400/- out of Rs 584/- being the irregular
Payment of CCA to be recovered @ Rs 20/- pm
(3) Rs 400/- out of Rs 600/- being the Festival Advance
drawn vide C.O/GH Vr. No. dt. 1/10/91 to be recovered
@ Rs 100/- pm
(4) Rs 6000/- being the A/c of PF Advance drawn in
C.O/GH Vr. No. dt. 17/12/92 to be recovered @ Rs 300/- pm
(5) Rs 2400/- being the Pay Advance drawn in bill
from 8/12/92 to be recovered from Salary
(6) TA Advance Rs 3000/- drawn vide B/C 12/12/92 to be
adjusted from TA Bill

महीनों का नाम Name of months	वेतन Pay	उपदान, कोर्ट वार्ड Gratuity, Fee etc.	भविष्य निधि और अन्य कटौतियां Provident Fund and other deductions	वेतन कर की कटौती Amount of Income-tax recovered	अनुस्मारक Remarks
1	2	3	4	5	6
अप्रैल 19 April 19					
मई 19 May 19					
जून 19 June 19					
जुलाई 19 July 19					
अगस्त 19 August 19					
सितम्बर 19 September 19					
अक्तूबर 19 October 19					
नवम्बर 19 November 19					
दिसम्बर 19 December 19					
जनवरी 19 January 19					
फरवरी 19 February 19					
मार्च 19 March 19					

NO- A2/C.R-Deb/92 dtd 1-1-93.

Copy to

(1) The Supdt PSD Silchar ~~(duplicate)~~ for information and n/a
(2) The Chief Postmaster General, NE. Circle, Shillong along with Service book and leave
(3) The A.A.(P) Calcutta for favour of information through Supdt PSD/Sil
(4) Shri C.R. Deb for information.

SENIOR POSTMASTER
Guwahati G.P.O. 1/1/93

NB- Assam P. Tax has been recovered upto 10/92 and C.O/GH

NB- Premium may kindly be recovered @ Rs 60/- wef 1-1-93

NGIPRRND-64—6-GIFS/87—6-87 500 Duplicate Copies

Annexure-VIII

OFFICE OF THE CHIEF POSTMASTER-GENERAL N.E. CIRCLE. SHILLONG

PAY/LEAVE SALARY ETC. SLIP.

NO.BGT/AAO/[illegible] Pay Slip. Dated at Shillong the 4-6-1993

Shri/Smti C.R. Deb

Supdt PSD Silchar-1

is entitled to pay/Leave salary and allowance at the monthly rates shown below from the date(s) specified this issubject to usual deduction productions of prescribed Certificates and last the amount already draw and also subject to existance of section for the Post held by him/her.

Scale of pay 2000-60-2300-EB-75-3200-100-3500 // pp.

From To From

04-1-93

Pay/Grade Pay	2600/-
Special pay	-
N.P.A.	-
Transit Pay/ Leave Salary	-
S.D.A.	325/-
Dearness Allis.	2392/-
H.C.A.	
City Compensatory allowances.	As admissible
Fortune Term Allis.	
A Total	
B	This is in cancellation to the
C	memo of even no dtd. 27-4-93. Sd/-
D	(P.K. Roy)

[illegible] the Office (I/C)
For [illegible] Shillong.

Copy to:-

1. Sr. Supdt. PSD, Silchar-1
2. Shri C.R. Deb, Supdt. PSD, Silchar-1
3. Director of [illegible] Calcutta.
4. Service Book
5. Personal [illegible]

Note:- [illegible] of Govt. [illegible] effected unless [illegible] in the rate [illegible] Otherwise any other [illegible] in favour [illegible]

Attested
Advocate

ANNEXURE-IX

DEPARTMENT OF POST: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE SHILLONG.

PAY/LEAVE SALARY ETC. SLIP

No. BGT/AAO/1-1/GO/Pay Slip Dated at Shillong the 20th Jan '97.

Shri/Smti C.R. Deb
Supdt PSD
Silchar

Is entitled to pay/leave salary and allowance at the monthly rates shown from the date(s) specified. This is subject to usual deduction priductions of prescribed Certificates and last the amount already drawn and also subject to existance of section for the Post held by him/her.

Scale of pay 2000-60-2300-75-3200-100-3500

Particulars	From	From	From
	01-01-97		
Pay/Offg.Pay	Rs 2900/-		
Special pay			
N.P.A.			
Transit pay/ Leave salary			
S.D.A.			
Dearness Alls.			
H.C.A.			
City Comp.Alls.			
House rent Alls.	as admissible		
A. Total			
B.			
C.			
D.			

Asstt.Director(A/Cs)
For Chief Postmaster General
N.E. Circle,Shillong.

Copy to:-

1. The Asstt.Director(A)/Sr.Postmaster
2. Director of Accounts (P) Calcutta.
3. Service Book of Shri C.R. Deb S.I PSD/SC
4. Personal File of Shri do

Note:- Dediction of funds Sub Scributing and recoveries of Govt.Dues as noted in the last pay certificate should be effected unless other wise stated.(2) Whether there is change in the rate HRA due to actual of increment occupation of Govt.Qrt. or any other eaause this office should be specifically intimated immediately for issue of revised pay entitalement slip in favour of the office.

sd/-
For Chief Postmaster General
N.E. Circle, Shillong-1.

Attested
Advocate

PAY FIXATION MEMO. 5/11/97 19

~~ANNEXURE~~ ANNEXURE-X

D.O.P. Order No.23-8/97/PE.I(PCC) dt. 9.10.97

M.O.F.Order No.(MOF)Gazette Notification vide GSR 569(E) dated 30.9.97.

1. Name :-CHITTARANJAN DEB Designation: SUPDT.PSS Gr.'B' SUBSTANTIVE.

2. Existing Pay Scale : 2000-60-2300-EB-75-3200-100-3500.

3. Revised Pay Scale : 7500-250-12000

4. Existing basic pay as on 1.1.96: Rs.2,825.00

5. D N I : 1-1- 97

6. DA at index 1510 as on 1.1.96: Rs.4,181.00
   140% upto Rs.3500
   111% from 3501 to 6000 = Minimum = 5180
   96% 6001 above = Minimum = 6660.

7. First instalment of I.R. : Rs. 100.00

8. 2nd instalment of I.R. : Rs. 283.00

9. Add 40% of existing pay : Rs.1,130.00

TOTAL :- ~~XXXXXXXX~~ Rs.8,519.00

10. Stage next above in the proposed scale including benefit of bunching, if admissible. Rs.8,750.00

11. If 1 increment is ensured in the proposed scale for every 3 increments in the existing scale, the stage of pay in the proposed scale. Rs.8,500.00

12. Pay to be fixed in the prpposed scale (stage of pay at Sl. No. 9 of 10 whichever is higher) Rs.8,750.00

Pay fixed to Rs. 8,750.00 on 1.1.96.

D N I :-1-1-97Rs. 9,000.00

CPMG Fixation Order No. AP/AAO/FIXN/V CPC/97 dated _____

Copy to :-

1. The Officer/Official concerned.
2. The S/Book of the Officer/Official.
3. ~~The Pay Bill section.~~ Manager P.S.D. Silchar Revised
4. P/F of the Officer/Official.
5. O/C.

(Niranjan Das)
Asstt. Director (A/cs),
for Chief Postmaster General,
N.E.Circle,Shillong.

Attested Faruk Advocate

C/S Case mark

"PAY/LEAVE SALARY ETC.SLIP" ANNEXURE-XI

NO.AM.O/1-1/GE/86 (243) Dated at Guwahati the, 8/1/99

TO.

U/T Shri/Smti. Sri C. R. Deb
S.D.M (PL)
Co, Gauhati-781001.

210

Is entitled to pay/leave salary and allowances at the monthly rates shown below from the date(s) specified. This is subject to usual deduction production of prescribed certificates and less the amount already drawn and also subject to existence of sanction for the Post held by him/her

Scale of Pay Rs.7500-250-12,000/-

Particulars	From	From	From	To the date of transfer/Promotion or retirement
Pay/Office Pay	Rs. 9,500/- W.e.f			which is earlier 01-01-1999.
Special Pay				
H.P.A.				
S.D.A.				
T.P./Leave salary				
D.A.				
Add. D.A.				
Ad-hoc-D.A.				
C.C.A.				
Hill allowance	As admissible			
H.R.A.				
Remote/Difficult. Area Allowances				
Amount Total				

(H. Ahmed)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001

Copy to:

(1) ~~The~~ DA(P) Calcutta

~~Copy to:~~

(2) ~~The Sr.SPM/SPRO~~ A.S(HQ) Co. Gauhati for info.

~~(3) The Supdt. SSRM's Gauhati.~~

(3) The AAO (Bgt) Co. Gauhati

(4) The Official concerned

* * *

(5) ~~The~~ O/C

For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

Attested
Advocate

Annexure-XII

GOVERNMENT OF INDIA
DEPARTMENT OF POSTS
OFFICE OF THE DY. DIRECTOR OF ACCOUNTS (POSTAL)
GUWAHATI –781003

PAY/LEAVE SALARY SLIP

No. Admn/T-237/2001-2002/ 38 Dated at Guwahati the 07.01.2002

To,

Shri / Smti C. R. Deb,
DPM (PJ.3) O/o The CPMG
Assam circle Guwahati - 781001

Is entitled to pay/leave salary and allowance at the monthly rate shown below from the date (s) specified. This is subject to usual deduction, production of prescribed certificates and less the amount already drawn and also subject to existence of sanction for the post held by him.

Due to annual increment if otherwise admissible.

Scale of pay Rs 7500 - 250 - 12,000

Particulars	From 01-01-2002 Rs.	From Rs.	Remark
Pay/Off. Pay	Rs 10250/-		
Spl. Pay			
Personal Pay			
Transit Pay/Leave Salary			
Dearness Allowance			
Spl. Comp. Allowance.	As admissible		
House Rent Allownace			
Spl. Duty Allowance			
Transport Allowance			
TOTAL -			

(P K Roy)
Accounts Officer (Central)
O/o the Dy. Director of Accounts (Postal)
Guwahati -781001

Copy to:-

1. The Chief Postmaster General (Staff), Assam Circle, Guwahati
2. The Postmaster General, Assam Region, Dibrugarh-786001
3. The Asstt. Director (Accounts), O/o the Chief Postmaster General, Guwahati-781001
4. The Asstt. Director (Accounts), O/o the Postmaster General, Dibrugarh.
5. The Sr. Postmaster / Postmaster / H.R.O..... Through CPMG Assam Circle Gtt.
6. The Dy. Director of Accounts (Postal), Guwahati-3
7. The Accounts Officer (Cash), O/o the Dy. Director of Accounts (Postal), Guwahati –3
8. Office Copy.

(P K Roy)
Accounts Officer (Central)
O/o the Dy. Director of Accounts (Postal)
Guwahati -781001

Attested
Advocate

Annexure - XIII

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE POSTMASTER GENERAL:DIBRUGARH REGION
DIBRUGARH-786 001

Memo No. Staff/1/15-38/02(RP) Dibrugarh the 12th Sept/02

The Postmaster General, Dibrugarh Region, Dbrugarh is pleased to grant Earned Leave for (14) Fourteen days w.e.f 20.09.02 to 3.10.02 without medical certificate to Sri C.R.Deb SRM 'S' Dn Silchar with station leave permission.

Pay and allowance of the officer is shown below.

Pay Rs.10,250/- + Allowance as admissible.

Certified that Sri Deb would have continued to officiate in the same post for his proceeding on leave for the above periods.

Sri R.R. Das ASRM (Computer) Silchar will look after the current duties of Sri Deb during his leave period without extra remuneration.

(A.B.SEAL)
A.D.P.S(Staff)
O/O The Postmaster General
Dibrugarh Region,Dibrugarh-786 001

Copy to:

1. The DDA(P), Guwahati for information w.r.t. his letter no. Admn/1-238/2001-2002/1069 dtd. 04.09.02.
2. The Chief Postmaster General(Staff) Assam Circle, Guwahati for kind information.
3. The SRM'S' Dn, Silchar w.r.to his letter no. B-2/srm/pf DTD. 13.8.02.
4. Sri C.R. Deb, SRM 'S' Dn, Silchar.
5. The HRO Silchar RMS, Silchar.
6. The ASRM RMS'S'Dn, Silchar.
7. O/C.

For Postmaster General
Dibrugarh Region, Dibrugarh-786 001

Attested
Advocate

ANNEXURE-XIV

OFFICE OF THE DY DIRECTOR OF ACCOUNTS(POSTAL)::GUWAHATI-3

No.PN-58/2002-2003/412 Dated Guwahati the 30/08/2002

1.Ref: Your No. AP/RP/3-172/02 dtd. 07-08-2002

2.Name of officials: Shri Chitta Rn Deb

3.Designation: Supdt. of R.M.S. 'S' Division, Silchar

4.Total period of qualifying services which has been accepted for the grant of superannuating / ~~retiring~~ / ~~invalid~~ pension and Gratuity. : Over 33 Years

Rules applicable: Liberalised pension Rules, 1950 para-2 ⊖of G.IMF. O.M. No. FB(16) Estt. (Spl.158) dt. 2-1-1961)

Amount of pension and gratuity Has been admitted.

(a)Pension (not exceeding). Rs. 4750/- + DR w.e.f. 01-11-2002
P.P.O. No. GH-
(b). DCR Gratuity (not exceeding) Rs 2,33,558/- in lump
D.C.R.G. Int. No.
ISSUED

7.Family Pension admissible in the event of death Rs.4750/- +DR upto 31-10-09 and Rs.2850/-+DR Thereafter payable to Smt/~~Shri~~ Sadhna Deb (Wife) wife/~~husband~~ of Sri/~~Smt~~. Chitta Rn. Deb the family pension will be paid from the day following the day of death of the official.

8. Amount of pension/Gratuity admissible after taking into account the reduction in pension and Gratuity ordered by the sanctioning authority.

9. The amount of assessed/unassessed Govt. dues as shown in Form-8(revised) and to be recovered from the amount of DCRG Gratuity.

P.T.O.

Attested
Advocate

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10. Date from which the Superannuation / Retiring/~~invalid~~/pension is admissible — 01-11-2002

11. Place of payment: — SILCHAR -HPO

12. Head of Account: — Pension-major Head 3201-Postal Service 07-Pension Superannuation plus Retirement Allowances voted (C Officers retired on or after 15-8-1947. DCRG 9(4) Gratuities D.C.R.G Gratuity. voted.

REMARKS

1. Particulars of the documents wanting for in the claim papers should be furnished — (i) Final last pay certificates local verification m
(ii) the period from 01-04-2002 to 31-10-2002
(iii) Final monetary responsibility certificate
(iv) Certificate under Rule-62 of C.C.s (pen Rule
(v) Statement of family of the retired official
(vi) Joint photo (in triplicate)

2. Particulars of the govt. dues (out-standing against the retired official which should be recovered in lump- from the amount of D.C.R. Gratuity. — Govt. dues, if any should be assesse recovered.

3. Pension/ DCRG calculation has been made on the basis of Rs. 9500/-. This C.R. holds provided that there will be no change in the emoluments during the last 10 month Service. If any change or any event occurs which has bearing in the amount pension/DCRG etc, the case should promptly be sent to this office for taking neces action. 49% D.A. has been taken into account towards calculation of DCRG.

4. The Service Book should be completed in all respects till the date of retirement forwarded to this office alongwith final LPC/MRC for verification and return.

5. It is seen form the entries in the Service Book of the officer that he was promote HSG-I on temporary & adhoc basis & posted as DPM, GH-GPO vide Co/GH memo Staff/11-14/89 Dtd 01-12-92 which was also confirmed to C.P.M.G. N.E. Circle, Shil vide C.O./GH memo No. Staff/11-14/89 Dtd. 21-05-93. The officer worked in HS during the period form 04-12-92 to 19-12-92. His pay in HSG-I was fixed at Rs. 2450 the meantime he was promoted to PSS Group on regular basis and Postal as Supdt. P. Silchar. He assumed the charge of Supdt. PSD Silchar on 04-01-93. On his promotio PSS Group his pay was fixed w.r.t. his pay in HSG-I which is irregular Since his promo in HSG-I was not regular. His pay should have been fixed w.r.t. his pay in ASPOs c (Regular Post) under FR 22(1)(a)(1). The revised fixation of his pay is shown below.

(Contd. P-3)

Date	Pay required to be fixed	Pay already Fixed as shown in the Service book
4-01-93	2450	2600
1-01-94	2525	2675
1-01-95	2600	2750
1-01-96	8000	8750
1-01-97	8250	9000
1-01-98	8500	9250
1-01-99	8750	9500
1-01-00	9000	9750
1-01-01	9250	10000
1-01-02	9500	10250

Rs 2000 - 60 - 2300 - EB - 75 - 3200 - 100 - 3

→ Rs 7500 - 250 - 12,000

The case may be examined in the above light and over payment involved form 04-01-93 onwards may be assessed and recovered from his DCRG.

6. P.P.O., intimation of DCRG Com. Authority will be issued in due course.

Accounts Officer(Postal)
Pen Section, Guwahati-3

To,

The Postmaster General (A/Cs)
Dibrugarh Region
DIBRUGARH – 786001

Annexure-XV(ser.

OFFICE OF THE DY.DIRECTOR OF ACCOUNTS(POSTAL):GUWAHATI

No. Com.-43/2002-03/ PN-58/2002-03/ D- Dated: 3/10/2002

To, Sr.
The Postmaster
S.C.Char HPO.

Below Rs. 2,23,669/=

The PMG, Dibrugarh DN. Dibrugarh-786001.
in his letter No. AP/RP/3-172/02 dtd. 7-8-2002 sanctioned the payment of Rs. 2,22,666/=(Rupees Two Lakh Twenty three thousand Six hundred Sixty six) only being the commuted value of Rs. 1900/= paid out of the pension of Rs. 4750/= per month granted to Sri/Smt. Chilla Kr. Deb holder of PPO No. GH- 43. I would request you to please arrange payment of the amount as soon as possible.

2. Reduce pension of Rs. 2850/= (Rupees Two thousand Eight Hundred fifty) only per month consequent on commutation may please be paid to Sri/Smt. Chilla Kr. Deb from the date of receipt of the commuted value of 3 months after issue of this authority whichever is earlier. A note to this effect may please be made on the reverse of Both Halves of the above No. PPO under attestation quoting this letter as authority.

3. A separate Bill should be prepared for the payment of commuted money quoting the No. and date of this letter as authority and the paid Bill alongwith the original authority and Form 'C' should be forwarded to this office.

4. Payment has to be made through S.C.Char HPO.

5. Receipt of this authority may please be acknowledged and it may be certified that the changes have been arrived out in the Both Halves of PPO No. GH- 43.

6. The over payment of pension @ Rs. 1900/= per month if any, from the date of receipt of the Com./value of 3 months after the issue of this authority whichever is earlier may please be recovered from the pensioner and credited to Govt. in the schedule of UCR under intimation to this office.

order of recovery

Sd/-
Accounts Officer(P)
O/o DDA(P), Guwahati-3

No.
D-
B-D-396
Copy forwarded for information to:-
1. The
2. Shri/Smt. Chilla Kr. Deb
C/Lane No. 1A, Link Road.
S.C.Char - 788006.

Attested
Advocate

Annexure-XV(Series

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GOVERNMENT OF POSTS::INDIA
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION,
DIBRUGARH-786001.

No. AP/RP/3-172/02 Dated at Dibrugarh the 11th Oct./02

In pursuance of the DDA(P) Guwahati letter no. DCRG Int. No. 48/2002-03/PN-58/2002-03/D-392 dtd 3-10-02, the sanction of the Postmaster General, Dibrugarh Region, Dibrugarh is hereby conveyed for payment of Rs. 2,33,558/-(Two lakhs thirty three thousand five hundred fifty eight) only on being the DCRG amount payable to Sri Chitta Rn. Deb, SRM "S" Dn, Silchar who is due to retire on 31-10-2002.

The amount of DCRG is debitable to MH-3201-07 Pen (104) DCRG voted.

The outstanding dues if any recovered may please be credited through UCR with appropriate details to facilitate proper reconciliation of Accounts.

sd/-
(A. B. SEAL)
AD(A/Cs)
For Postmaster General
Dibrugarh Region, Dibrugarh-786001.

Copy to:-

1. The Sr. Postmaster, Silchar HO for effective payment.
2. The SRM "S" Dn, Silchar for information.
3. The DDA(P), Guwahati for information.
4. Sri C. R. Deb, SRM "S" Dn, Silchar for information
5. O/C

For Postmaster General
Dibrugarh Region, Dibrugarh.

Attested
Advocate

Annexure-XV (Series)

DEPARTMENT OF POST: INDIA
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH

No:-AP/RP/3-172/2002 Dated Dibrugarh the 09-12-2002

Sanction of the Postmaster General, Dibrugarh Region, Dibrugarhxx is conveyed for Rs.1,42,475/- (Rupees One lakh forty two thousand four hundrad seventy five) only to Sri C.R.Deb Ex-SRM RMS 'S' Dn, Silchar being the leave encashment for un-utilised EL for 296 days, who retired on superannuation on 31-10-2002(A/N).

(A.B.SEAL)
AD(A/C)
For Postmaster General,Dibrugarh Region
Dibrugarh

Copy to:-
1. The DA(P) Kolkata for information.
2. The DDA(P) Ghy-3 with referrance to his letter No.Admn/1-238/2001-2(2002/1298 Dte.29-10-2002.
3. The Sr. Postmaster Silchar for information
4. The SRM RMS 'S' Dn. Silchar for information.
5. The HRO RMS 'S' Dn. Silchar for effecting payment.
6. Sri C.R.Deb, Lane No 1/A, Link Road Silchar-6.
7. Bgt. Section R.O. Dibrugarh.
8. Office copy.

(A.B.SEAL) 9/12/2002
AD(A/C)
For Postmaster General,Dibrugarh Region
Dibrugarh.

Attested Law Advocate

Annexure-XV (Series)

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DEPARTMENT OF POST : INDIA
O/O THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH

No:- AP/RP/3-172/2000 Date- 15-01-03

Sanction of Postmaster General, Dibrugarh Region, Dibrugarh vide this office memo of even No. dt. 09-12-02 for Rs.1,42,475/-(Rupees One lakh forty two thousand four hundrad seventy five) only being the leave encashment for EL of 296 days in/r/o Sri C.R.Deb ex-SRM/Silchar is hereby cancelled.

An amount of Rs.96,792/-(Ninty six thousand seven hundrad ninty two) only has been assesed excess drawal in/r/o Sri C.R.Deb as per revised fixation of pay and allowance for the period from 04-01-93 to 31-10-02.

As such the said amount of Rs.96,792/-(Ninty six thousand seven hundrad ninty two) only should be recovered from his actual leave encahhment of Rs.1,42,475/- as shown in earlier memo and the balance of Rs.45,683/-(Rupees forty five thousand six hundrad eighty three) is only be payable to Sri C.R.Deb ex-SRM/Silchar.

Sd/-

(A.B.SEAL)
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh

Copy to :-
1. The Sr. Postmaster, Silchar for information
2. The HRO RMS 'S' Dn. Silchar for effecting payment.
3. The SRM 'S' Dn Silchar
4. The DA(P)Kolkata
5. The DDA(P) Gauhati
6. Sri C.R.Deb, Lane No 1/A, Link Road, Silchar-6
7. Estt. Section, RO, Dibrugarh.

15/1/2003

(A.B.SEAL)
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh.

Advocate

Annexure-XVI (Series)

Dated at Silchar-788001
The 17th October, 2002.

To

The Deputy Director of Accounts (Postal)
Nabagraha Road, Chenikuti Hill side,
Guwahati.

Sub : Discrepancy in the amount of pensionery benefit in respect of superannuation case of Sri C.R. Deb, Superintendent. RMS.

Ref : Your letter No. DCRG/INT No. 48/2002-03/Pen-58/2002-03 dated 03-10-02.

Sir

With reference to your Memo No. cited above, I beg to state the following for favour of information and necessary action.

1. I am drawing pay at stage Rs. 10,250/- with effect from 01-01-02 in the scale of Rs. 7500-250-12000 as per pay slip issued under your Memo No. Admn/1-237/2001-02/38 dated 07-01-02 on the basis of my pay fixed in PSS Group 'B' cadre since the date of my joining to that cadre.

2. I ~~was~~ working in PSS Group 'B' from 04-01-93 and my pay to the PSS Group 'B' cadre was fixed by the authority and authorization for drawal of pay has been issued annually by the authority.

3. As per my basic pay being drawn, I am entitled to get the following amount of pensionery benefit.

a) Pension	Rs. 5125 + DA per month.
b) Gratuity	Rs. 252005/-
c) Commutation of payment	Rs. 241326/-

But your office has authorized the following amount for payment.

a) Pension	Rs. 4750/- + DA per month.
b) DCRG	Rs. 233558/-
c) Commutation of payment	Rs. 23668/-

(Contd...page-2)

Attested
Advocate

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(Page-2)

I would request you kindly arrange to revise my legitimate claim of pensionery benefit early so that I may enjoy the pensionery benefit without monitary hardship and relief me from mental agony and tension.

(C. R. Deb)
Supdt. RMS 'S' Division,
Silchar-788001

Copy forwarded to :

1. The Postmaster General
Dibrugarh Region,
Dibrugarh-786001

for favour of information and necessary action for revising the amount of pensionery benefit early. This refers to RO's letter No. AP/RP/3-172/02 dated 11-10-02.

2. The Chief Postmaster General(Mails)
Assam Circle, Meghdoot Bhawan,
GUWAHATI-781001.

for favour of information and necessary action.

(C. R. Deb)
Supdt. RMS 'S' Division,
Silchar-788001

To

The Postmaster General
Dibrugarh Region,
Dibrugarh-786001

Sub : Prayer for Casual Leave on 18-10-2002.

Sir,

I have the honour to request you kindly to grant me Casual Leave on 18-10-2002 on account of urgent piece of business.

Yours faithfully,

Annexure - XVI (Series)

To,

The Deputy Director of Accounts (Postal)
Nabagraha Road, Chenikuti Hill Side,
Guwahati – 781003.

Sub: - Regularization of superannuation pension case of Shri C.R. Deb, Supdt. RMS 'S' Division, Silchar.

Ref: - KRG/INT No. 48/2002-03/Pen-58/2002-03 dtd. 03-10-2002.

Sir,

In continuation of my previous representation dtd 17-10-2002, I beg to state that I am going to retire from service from 31-10-2002 afternoon.

The pension case was not settled as per my due legitimate claim. I was allowed to draw the pay as per authorization issued annually since my promotion to PSS Gr-B and accordingly I was allowed to draw my pay at stage Rs. 10250/- from 01-01-2002. I was appointed as DPM Guwahati HO before my promotion to PSS Gr-B and it was certified that had I not been promoted to PSS Gr-B; I would have continued to work as DPM in HSG-I post. There was no anomaly in fixation and drawal of pay at any stage. The fixation of pay was also duly verified and certified by the Internal check Audit Inspection with recorded remark dtd 21-9-99 made in the service book that fixation of pay was found correct.

In view of the fact and circumstances, I request you kindly to issue revise sanction memos early.

Your's faithfully

Date: - 30-10-2002

(C.R. Deb)
Superintendent
RMS 'S' Division
Silchar – 788001.

Copy forwarded to: -

1. The Postmaster General, Dibrugarh Region, Dibrugarh – 786001 for favour of information and necessary action for revising the amount of pensionery benefit early. This refers to RO's letter No. AP/RP/3-172/02 dtd. 11-10-2002.

2. The Chief Postmaster General, Assam Circle, Meghdoot Bhawan, GUWAHATI – 781001 for favour of information and necessary action.

(C. R. Deb)
Superintendent
RMS 'S' Division
Silchar – 788001.

Attested
Law Advocate

Annexure-XVI (Series)

From:-

Shri C.R. Deb,
(Ex-SRM "S" Division)
Lane No. 1A Link Road,
Silchar-788006

To,

Shri M.K. Banerjee,
Chief Postmaster General,
Assam Circle, Guwhati-781001

(Through SRM "S" Division Silchar)

Sub:- Non regularization of superannuation Pension case of Shri C.R. Deb, Ex-SRM Silchar.

Respected Sir,

With due respect and humble submission I beg to state that my superannuation pension and all other pensionery benefit has not been settled as per my legitimate claim.

I was retired from Service on my superannuation from the post of SRM "S" Division w.e.f 31-10-2002 (Afternoon). I was allowed to draw pay at the stage of Rs. 10250/- w.e.f 1-1-02 in the scale of Rs. 7500/-250-12000/- I am entitled to draw my pension and the pensionery benefit as follows. But the same was not sanctioned and paid to me. I have submitted representations to PMG Dibrugarh on 17-10-2002, 30-10-02 and 23-12-02 endorsing copy to your office and also to DDA(P) Guwahati but no action was taken to regularize my pension etc. as yet. The amounts sanctioned and paid is also mentioned against each item.

Item	Due amount to be sanctioned	Amount sanctioned and paid	Less Drawal amount.
1	2	3	4
Pension	Rs. 5125 plus DR PM	Rs. 4750 Plus DR	Rs. 375 plus DR P.M
DCRG	Rs.257070/-	Rs. 233558/-	Rs. 23512/-
Commutation of pension	Rs. 241326/-	Rs. 223668/-	Rs. 17658/-
Leave encashment	Rs. 153722/-	Rs.45683	Rs.108039/-
CGIS	Not yet sanctioned	and paid	(Rs. 96,792/- was recovered as excess drawal of Pay)

In the connection, I beg to mention here that I was promoted to PSS Gr. "B" w.e.f 4-1-93 and prior to my promotion I was appointed to work as Dy. Postmaster, Guwahati GPO in HSG-I Post in the scale of Rs. 2000-60-2300 EB 75-

Attested
Advocate

3200/-. The pay of the Post Rs. 2450/- was paid to me. It was also certified under CO/Guwahati memo No. Staff/11-14/89 dated 21-5-93 that I would have continued to work as DPM/Guwahati had I not been promoted to PSS Gr. "B" Post. According to the position, my pay in PSS Gr. "B" Post was fixed taking into account the pay of DPM /GH. During the course of last 10 years of my incumbency as PSS Gr. "B" Officer. Pay slip was issued year after year by the authorities correctly and lastly it was issued by the DDA(P) Guwahati allowing me to draw pay @ Rs. 10250/- w.e.f 1-1-02.

But, unfortunately, while pension case was settled by the authorities the pay benefit of DPM Post as mentioned above was not taking into account arbitrarily. As a result, I have been deprived of getting my legitimate claim.

I would therefore, earnestly pray to your good self to be so kind enough to kindly consider my case and allow me to draw my pension and the pensionery benefit as per my legitimate claim.

With kind regards,

Yours faithfully,

Dated: Kokrajhar 7.2.03

(CHITTA RANJAN DEB)

Copy to:-

1. Shri A.N.D. Kachari, Postmaster General, Dibrugarh Region, Dibrugarh for favour of information and early action. This in continuation of my earlier representation dated 17-10-02, 30-10-02 and 23-12-02.

2. Shri A.C. Biswas, Dy. Director of Accounts (Postal) Nabagarh Path, Chennikuthi Hill side, Guwahati-3(781003) for favour of information and early action to regularize my pension case. This is in continuation of my earlier representation dated 17-10-02, 30-10-02 and 23-12-03.

(CHITTA RANJAN DEB)

Annexure-XVI (Series

From:-

Shri C.R. Deb,
Ex- SRM "S" Dn"Silchar
Lane No. 1A Link Road
Silchar-788006

To,

The Director General,
(SPB-II)
Department of Posts,
Dak Bhawan, New Delhi
110 001

Sub:- Non settlement of superannuation pension case of Shri C.R. Deb, Ex-SRM "S" Division, Silchar as per legitimate claim.

Ref:- Dte's No. 4-52/2002 SPB-II dated18-2-2003 a/t CPMG/Guwahati.

Sir,

With due respect and humble submission I beg to state the following facts for favour of kind and sympathetic consideration and favourable orders.

1. I have retired on superannuation from the post of SRM Silchar on 31-10-2002.(A/N)

2. I worked in PSS Group 'B' Cadre from January, 93 having approved in PSS Group 'B' Cadre vide Dte's memo No. 9/52/92-SPG dated 2-11-92.

3. Prior to my promotion to PSS Gr. 'B', while I was working as ASPOs (Cell) O/O the CPMG Guwahati in the scale of Rs. 1640 –6- -2600 EB 75-2900/- I was promoted to work as Deputy Postmaster Guwahati G.P.O. (HSG –I) in the scale of Rs. 2000-60-2300 EB 75 - 3200/-. I was allowed to draw pay Rs. 2450/- in the post of DPM Guwahati. It was also certified under CPMG /Guwahati memo No. Staff/11-14/89 dated 21-5-93 that I would have continued to work as DPM (HSG-I) had I not been promoted to PSS Gr. 'B' (copy enclosed)

4. On my promotion to PSS Gr. 'B' my pay was fixed at stage of Rs. 2600/- with effect from 4-1-93 in the scale of Rs. 2000-60-2300-75-3200-100-3500/- (pre-revised scale) vide PMG/Shillong memo No. BGT/AAO/1-1/CO/Pay slip dated 4-6-93 (copy enclosed) and subsequently pay was fixed at stage Rs.8750 in the scale of Rs. 7500-250-12000/- with effect from 1-1-96 under the guiding principle of 5th C.P.C.

5. According to the pay fixation, I was allowed to draw pay on the strength of annual authorization issued by the authority for last 10 (ten) years. The last Pay Slip was issued by the DDA (P) Guwahati, allowing me to draw pay at stage Rs. 10250/- with effect from 1-1-02 vide Pay Slip authorization No. Admn/1-237/01-02/38 dated 7-1-02 (copy enclosed)

6. The pay fixation made has also been approved by the Internal Check Organization of DA(P) Kolkata.

Attested
Advocate

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7. I am entitled to get my pension and other pensionery benefit based on last pay drawn i.e. Rs. 10250/-. But unfortunately, the DDA(P) Guwahati did not allow me to get my pension and other benefits as per my legitimate claim, instead the, DDA(P) Guwahati has calculated the pension etc. on their calculated pay Rs. 9500/-. They had not taken the benefit of pay of HSG-I as mentioned afore-said. They have also recovered the excess drawal of pay from 4-1-93 to 31-10-02 to the tune of about Rs. 1 lakh from my leave encashment benefit.

8. As a result I have been deprived of getting my legitimate claim and forcefully I have been deprived of about Rs. 2 lakh, besides, the reduce amount of pension per month.

In view of the above facts and circumstances, I beg to request your honour most fervently to kindly allow me to get the pension and pensionery benefit on my last pay drawn Rs. 10,250/- and also kindly pass necessary orders to refund the amount recovered from my leave encashment benefit.

For this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

Dated Silchar
The18-03-2003

(C. R. DEB)

Annexure-XVII

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001

No.Staff/11-4/89 Dated at Guwahati the 26.2.03..

To

The DDA(P)
Guwahati –3

Sub :- HSG-I – Case of Sri C.R.Deb, retired PS Gr-B Officer.

Ref :- DDA(P) ,Guwahati No.PN-58/2002-03/175 dtd. 29.8.02.

In pursuance of Directorate's letter No.4-52/2002-SPB-II dated 18.2.03, I am directed to inform you that such proposals for retrospective regularization of adhoc arrangements in HSG-I cannot be agreed to and the pension case of the officer be finalised accordingly.

(S.SHYAM)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

Sri C.R.Deb,Ex.SRM, Silchar, Lane No. 1A Link Road, Silchar-788006 for information. This refers to his representation dtd.7.2.03.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Attested
Advocate

Impugned order not agreed to

Annexure-XVIII

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DY. DIRECTOR OF ACCOUNTS , (POSTAL)
GUWAHATI-781 003.

No.:- GPF/2-37/GHY/2000-01./394 Dated at Guwahati, the 1-4-03.

Regd

To,

Sri C.R. Deb
(Ex-SRM 'S' Division)
Lane No.-1A
Link Road
Silchar - 788 006.

Sub.:- Payment of interest to GPF amount accumulated in A/C No.- C/60380 held by Shri C.R. Deb.

Ref.:- Your letter dtd. 7-2-03.

Sir,

It is for your kind information that in your case Interest for Nov'02 is not admissible as counting of interest is to be counted after excluding the immediate succeeding month of retirement as per C&AG's decision No.2 below GPF Rule 11 and G.O.I. decision No.2 below GPF Rule 35. You retired on 31-10-02 and your GPF final payment case has been settled on 22-11-02 allowing interest up to Oct 02 accordingly.

Yours faithfully

(P.K. Roy.)
Accounts Officer (GPF)
o/o the Dy. Director of Accounts (P)
Guwahati-3.

Attested
Advocate

.....

ANNEXURE-XIX

229

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 175 of 2003.

Date of Order : This the 27th Day of August, 2004.

The Hon'ble Shri D.C.Verma, Vice-Chairman

The Hon'ble Shri K.V.Prahladan, Administrative Member.

Sri Chitta Ranjan Deb,
Retired Superintendent,
RMS Division, Silchar,
Link Road, Lane No. 1-A,
Silchar, Assam. . . . Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Department of post,
Ministry of Communications,
New Delhi.
2. The Director General,
Department of Posts,
Dak Bhawan,
Sansad Marg, New Delhi.
3. The Chief Postmaster General,
Assam Circle,
Guwahati.
4. The Postmaster General,
Dibrugarh Region,
P.O. Dibrugarh,
Assam.
5. The Deputy Director,
Accounts (postal)
Chenikuthi,
Guwahati. . . . Respondents.

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

K.V.PRAHLADAN, MEMBER(A)

The applicant joined service as a postal Clerk in the Postal Department on 5.3.1963. In 1973 he was promoted as Inspector of post Offices. Then he was promoted as Assistant Superintendent of post Offices. He was temporarily promoted as Deputy post Master on 1.12.1992. He was

Attested
Advocate

contd..

promoted and joined as Superintendent of Post Offices at Silchar on 4.1.1993. The salary of the Assistant Superintendent of Post Offices was Rs.1640-2900/- (pre revised and Rs. 5500-9000 (revised). Salary of the Deputy Post Master was Rs.2000-3200 (pre-revised) and Rs.6500-10500 (revised). Salary of the Superintendent of Post Offices was Rs.2000-3500 (pre revised) and Rs.7500-12000 (revised scale). He was promoted as Deputy Divisional Manager in the office of the Chief Postmaster General, Assam Circle, Guwahati by order dated 31.3.1998 in the pay scale of Rs.7500-12000/-. He was working as Superintendent, RMS, Silchar when he retired on 31.10.2002 with basic pay of Rs.10,250/-. This original Application has been filed against the order of the Director of Postal Accounts dated 30.08.2002 at Annexure - 6, and the order of the Post Master General, Dibrugarh dated 15.1.2003 at Annexure - 7 ordering a recovery of Rs.96,792/- as over-payment made on account of wrong fixation of pay with effect from the date of his promotion as Superintendent of Post Offices from on 4.1.1993 till 1.1.2002.

The respondents say that the applicant was an Assistant Superintendent of post offices when he was temporarily promoted as Deputy Post Master and then as Superintendent. Therefore, his pay as Superintendent should have been fixed taking into consideration his pay in the substantive post of Assistant Superintendent of post offices and not the scale of Dy.Post Master. His pay was accordingly refixed and re-calculated with effect from 4.1.1993 to 1.1.2002 vide order dated 30.8.2002 at Annexure - 6. An over payment of Rs.96,792/- was calculated and ordered to be recovered from his Leave Encashment amount due to him vide letter dated 15.1.2003 at Annexure-7.

We have heard Mr.M.Chanda, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the

Contd./3

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respondents. The respondents want to refix the pay of the applicant after he has been drawing his pay in various scales right from 1993 to 2002. The Department with its internal check, internal audit and administrative verification failed to notice any anomaly in the pay drawn by the applicant. At the fag end of his career the applicant is directed to refund a huge amount. In this connection, the Hon'ble Supreme Court in Bhagwan Shukla -vs- Union of India & Others reported in (1994) 6 SSC 154 has given the following judgment:

> "2. The controversy in this appeal lies in a very narrow compass. The appellant who had joined the Railways as a Trains Clerk w.e.f. 18.12.1955 was promoted as Guard, Grade-C w.e.f.18.12.1970 by an order dated 27.10.1970. The basic pay of the appellant was fixed at Rs.190 p.m. w.e.f.18.12.1970 in a running pay scale. By an order dated 25.7.1991, the pay scale of the appellant was sought to be refixed and during the refixation of his basic pay was reduced to Rs.181 p.m. from Rs.190 p.m. w.e.f. 18.12.1970. The appellant questioned the order reducing his basic pay with retrospective effect from 18.12.1970 before the Central Administrative Tribunal, Patna Bench. The justification furnished by the respondents for reducing ~~xix~~ the basic pay was that the same had been 'wrongly' fixed initially and that the position had continued due to 'administrative lapses' for about twenty years, when it was decided to rectify the mistake. The petition filed by the appellant ~~xxx~~ was dismissed by the Tribunal on 17.9.1993.
>
> 3. We have heard learned counsel for the parties. That the petitioners' basic pay had been fixed in since 1970 at Rs.190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been flagrant violation of the priniciple of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the (sic employee) concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative

-70-

Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the ordereof the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant from Rs.190 to Rs.181 w.e.f. 18.12.1970."

In the case of N.Mandal vs. Union of India (CAT Calcutta) reported in 1989 (3) SLR 148 it was observed that :

"The applicant was promoted in a post in higher scale which was not in existence. By mistake or clerical error, his pay was later noticed and his pay was fixed in the lower scale. Meanwhile, the employee retired and expired. The excess amount already paid not to be deducted from the retirement benefits."

The Himachal High Court in 1997 (5) SLR 237 in the case of Mahavir Singh vs. Union of India and others held that :

"Reducing the scale of pay from the date of initial appointment and ordering excess recovery amount without effording any opportunity to the petitioner to make representation - order is violative of Rules of natural justice."

From what has been discussed above it is clear that the pay fixation cannot be revised to the disadvantage of the employee without affording him opportunity of hearing. In this case there is nothing to show that any show cause notice was given to the applicant before refixation of pay. The applicant has now retired so refixation of pay would reduce the pay last drawn consequently pension amount would also get reduced. It would thus be a recurring loss to the applicant. Such an action of the respondents, without affording opportunity, cannot be sustained.

In view of the above discussions the impugned orders are quashed. It will, however, be open to the respondents/ the appropriate authority to issue a show cause or afford the applicant an opportunity of hearing and then to refix

the pay/pension. The O.A. stands allowed accordingly.

No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER(Adm)

Central Administrative Tribunal

Certified to be true Copy
प्रमाणित प्रतिलिपि

31/8/11

Section Officer (J)
C.A.T. GUWAHATI BANCH
Guwahati-781005

31/8

ANNEXURE XX

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To

The Post Master General,
Dibrugarh Region
P.O- Dibrugarh,
Assam.

Sub: - Judgment and order dated 27.08.2004 in O.A No.175 of 2003 passed by the CAT, Guwahati Bench.

Sir,

Most respectfully I am enclosing herewith a copy of the judgment and order dated 27.08.2004 passed by the Hon'ble CAT, Guwahati Bench in O.A. No. 175/2003 pertaining to wrong fixation of my pay and recovery thereof. The judgment is self-contained, and in this context I beg to emphasis that the Hon'ble CAT vide its judgment aforesaid has quashed the impugned orders. As such all the impugned orders issued under Nos. (1) PN-58/2002-2003/478 dated 30.08.2002, (2) COM-43/2002-03/PN-58/2002-03/ D- dated 03.10.2002, (3) AP/RP/3-172/02 dated 11.10.02, (4) AP/RP/3-172/02 dated 09.12.2002, (5) AP/RP/3-172/2000 dated 15.01.03, (6) Staff/11-14/89 dated 26.02.03 and (7) GPF/2-37/GHY/2000-01/394 dated 01.04.03 have been quashed and thereby the Hon'ble Tribunal has restored me to my original position i.e. the position where I was prior to the issuance of the impugned orders aforesaid.

You are therefore requested to implement the order of the Hon'ble CAT within the earliest restoring my pay to my original position i.e. the pay which I was drawing prior to re-fixation/reduction of my pay and refund me the difference of pay occasioned by the impugned reduction including the entire amount of Rs. 96,792/- which has been recovered from me on account of so called over payment. Further, my pay and other retiral benefits should be fixed giving stage-to-stage fitments benefit by fixing my last basic pay at Rs. 10,250/- at the time of retirement and my pension be fixed accordingly with all terminal benefits consequential thereto.

This is for your kind early action.

Enclo: - Copy of judgment dated 27.08.04.

Yours faithfully

Chitta Ranjan Deb

Date: 10.9.04

(CHITTA RANJAN DEB)
Retired Superintendent,
RMS Division, Silchar,
Link Road, Lane No.1-A,
Silchar, Assam.

Attested
Advocate

Sri D Das 10/4/04
EE-85 377459 IN
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ANNEXURE-XXI

Regd/AD

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL
DIBRUGARH REGION, DIBRUGARH

No. AP/RP/3-17/2002 Dated 11-10-2004

To
Sri Chitta Ranjan Deb
(Retired SRM, Silchar)
Link Road, Lane No. 1-A, Silchar-6.

It is seen from entries in your Service Book that, you were promoted to HSG-I on temporary and adhoc basis and posted as DPM, GH-GPO vide CO/GH memo No.staff/11-14/89 dt.1-12-92 which was also confirmed by CPMG, N.E.Circle, Shillong vide CO/GH memo No.staff/11-14/89 dt. 21-5-93. You had been working in HSG-I during the period from 4-12-92 to19-12-92. Your pay in HSG-I was fixed at Rs.2450/- In the meantime you were promoted to PSS group 'B' on regular basis and posted as Supdt. PSD, Silchar and assumed the charge of Supdt. PSD, Silchar on 4-1-93. On promotion to PSS group 'B' your pay was fixed w.r.t your pay in HSG-I which is irregular since your promotion to HSG-I cadre was not regular. Your pay should have been fixed w.r.t your pay in ASPO cadre (Regular post) under FR-22(i)(a)(i).

The revised fixation of your pay is shown below:-

Date	Pay required to be fixed	Pay fixed as shown in Service book	
4-1-93	2450	2600	Rs.2000-60-2300-EB-75-3200-100-3500
1-1-94	2525	2675	
1-1-95	2600	2750	
1-1-96	8000	8750	Rs.7500-250-12000
1-1-97	8250	9000	
1-1-98	8500	9250	
1-1-99	8750	9500	
1-1-00	9000	9750	
1-1-01	9250	10000	
1-1-02	9500	10250	

From the above discussion it is observed that the pay fixed by the DA(P)GHY was in order i.e. 2450/- on 4-1-93.

Now I am directed to ask you as to why your pay will not be re-fixed in the light of above noted circumstances and why excess amount paid will not be recovered from you? Your explanation should received this office within Ten days of receipt of this communication, otherwise case will be decided ex-parte.

Dear Shri Ghosh
Kindly help me in this
matter, otherwise
I will be in trouble

(A.K.Dewri)
For Postmaster General
Dibrugarh Region, Dibrugarh

Attested
Advocate

ANNEXURE-XXII

To
The Postmaster General,
Dibrugarh Region,
Dibrugarh: 786001.

Sub: Issue of show cause Notice for -- Irregular re-fixation of pay of Shri C.R.Deb, Retired SRM 'S' RMS Divn. Silchar.
Ref: PMG Dibrugarh letter No.AP/RP/3-172/02 dated 18.10.04.

Sir,

In reply to your office letter cited above, I have the honour to inform you that the proposal sent under your letter cited above is misconceived of ruling provision of the Department of Posts and denial of justice. I, therefore, disagree with your proposal on the following ground;-

That I would like to mention that every promotion and employment in a particular post/grade at the first instance is made on temporary/adhoc basis followed by confirmation had the incumbent of the post is allowed to continue in that promotional post.

That, it is fact that under CPMG/GH memo No. Staff/11-14/89 dated 1.12.92, I was promoted and posted in the vacant Post of DPM (HSG-I) lying vacant in GPO, Guwahati. In your above letter, the word **"VACANT"** was not discussed which is the crucial deciding factor of my future continuity in the post of DPM (HSG-I) (promotional post) had I not been further promoted in the PSS Group B cadre in continuation of my officiating in the Post of Dy.PM (HSG-I) in GPO, Guwahati. Thus to substantiate my statement that I was posted on promotion in a vacant post, I am annexing a xerox copy of CPMG/GH letter dated 1.12.02 for your kind perusal & consideration.

That after my relieve from the post of Dy.PM GPO/GH, my junior staff namely Sukleswar Das, ASPOs was ordered by the CPMG/GH vide his memo No. Staff/11-14/89 dated 8.7.93 to officiate in the resultant vacant post of Dy. PM. Guwahati GPO. In addition, some more junior staff of general line namely (1) Shri J.C.Laskar, LSG was ordered to work as Dy. PM, GPO/GH immediately after my relief on promotion in PSS Group B cadre. In support of my statement, I am annexing the xerox copy of the charge report dtd. 19.12.92 for your kind consideration.

It is also a point to add that Shri Sukleswar Das (Respondent No. 3 of OA 175 of 2003) a junior staff of mine was also ordered by the CPMG/GH under his memo No.Staff/11-14/89 dated 8.7.93 as discussed above and posted as HSG-I Dy. PM GPO, Guwahati. In support of my statement that Shri S. Das is junior to

Attested
Advocate

i.e, a xerox copy of CPMG/GH Memo No.Staff/2-29/91 dated 19.11.94 is annexed for your kind perusal. Above all, it was rightly mentioned in your above letter that the CPMG, N.E.Circle, Shillong was confirmed under CPMG/GH memo No. Staff/11-14/89 dated 21.5.93 that I would have continued in the post of Dy. PM GPO Guwahati had I not been promoted to PSS Group 'B' cadre (Xerox copy annexed).

All these above points fully justify that your proposal sent to me under your letter dated 18.10.04 is a total misconceived of ruling provision of the Department of Posts. I would further remind you that my appointing authority for the post of HSG-I Dy. PM is the Head of the Circle. In my case, the Head of the Cirtle clearly confirmed to the CPMG N.E.Circle, Shillong about my continuity in the post of Dy. PM (HSG-I) GPO/GH vide his letter dated 21.5.93 discussed above.

It is also an another point to bring it to your notice that the Authority competent to issue my annual pay slip used to issue correct Pay-slips annually and vide his last Memo No. ADM/1-237/2001-2002/98 dated 07.1.2002; at his own accord issued my annual pay slip showing my scale of pay as Rs.10,250/- from 01.1.2002 with all other allowances without any objection. Then how on later stage the same authority irregularly stepped down my scale of pay from Rs.10.250/- to Rs.9500/- all on a sudden on 1.1.02 mentioned in your above letter which is the subject matter of the objection raised in DDA(P)/Guwahati Memo No.PN-58/2002-2003/178 dated 30.8.2002 just before 2(two) months of my retirement.

That I would like to remind you that your letter/show cause noticed dated 18.10.04 was issued as per judgement and order of the Hon'ble CAT/GH in OA No.175 of 2003 where there was nothing mention that reply to the show cause should be given within 10 days, otherwise the case will be decided exparte. Thus may I presume that the Issue of show cause notice with such a warning is nothing but an act of injustice to the retired Officer who served the Department for ....40..... Years with full devotion/dedication.

Lastly, I once again inform you that I disagree with your proposal sent to me and request you to take action for refund of all my pensionery benefits which were irregularly deducted from my pensionery dues.

Yours faithfully,

(C.R. Deb)
Retired SRM 'S' RMS Divn.
Silchar,

Encle: As above

10.11.05.

ANNEXURE-XXIII

DEPARTMENT OF POSTS::INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE::GUWAHATI

No.Staff/11-14/89

Dated at Guwahati the November 28, 2005

To

Shri Chitta Ranjan Deb
Retired SRM, Silchar
Link Road Lane No.IA, Silchar-6.

Sub:- Re-fixation of Pay and recovery of excess amount – case of Shri C. R. Deb, retired SRM, Silchar.

Ref:- Your representation dated 10.11.04.

It appears from this office records that your case for regularisation of adhoc promotion in HSG-I (DPM-I), Guwahati GPO has already been thoroughly examined. The Directorate (Posts), New Delhi was also requested vide this office letter of even no. dated 25.9.02 and 23.12.2002 for advice in the matter. The Directorate conveyed instruction vide letter No.4-52/2002-SPB-II dated 18.2.03 (copy enclosed) that the proposal for retrospective regularisation of adhoc arrangements made in HSG-I cannot be agreed to.

You were promoted to HSG-I posts temporarily vide Circle Office, Guwahati letter of even no. dated 1.12.92. The temporary promotion of Govt. servant can be reverted at any time without assigning any reason and he cannot claim for regular absorption in the cadre as per rules. As regards regularisation in HSG-I post as per roster in 1992, the post comes under the reserved category (ST). There was also one ST official. But he was not considered for promotion to HSG-I as he did not complete 3 years in ASPOs cadre. You did not also complete 3 years in ASPOs cadre. Since the ST official could not be considered for promotion to HSG-I due to non completion of required regular service of 3 years in ASPOs cadre, your case could not be considered for promotion to HSG-I on the same reason on regular basis.

Your promotion to HSG-I issued vide Circle Office, Guwahati letter dated 1.12.92 was purely temporary which did not confer right to regular absorption in the cadre. As such fixation of your pay on promotion to PS Gr. 'B' based on the pay of HSG-I post held on temporary basis was not in order and the overpayment is liable to be recovered.

Enclo : As above.

-S. Chaudhuri
Director Postal Services(HQ)
O/o Chief Postmaster General
Assam Circle, Guwahati – 781 001

Attested
Advocate

ANNEXURE-XXIV

RIGHT TO INFORMATION ACT
TOP PRIORITY

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE
GUWAHATI-781001

No: CPIO/RTIA-8/05 Dated at Guwahati 29-11-05

To,

Shri C.R Deb (Retired SRM'S' Division)
Lane no 1/A
PO Link Road
Silchar 788006

Sub: Irregular re-fixation of pay resulting in regularization of less pension (ii) Non refund of irregular recovery made from leave encashment benefit & (iii) Non payment of GPF interest for delay payment.

Ref: your request under RTI Act/05 letter nil no dated 02-11-05

Sir,

Please refer to your above request letter dated 02-11-05 made under RTI Act/05 received by this office on 07-11-05. Your requests has been examined in this department and the following para-wise information are furnished to you as per record available at office of the CPMG Assam Circle.

1. With regard to item no. (i) of your request, it is to inform you that a show cause notices was issued to you by the office of the PMG Dibrugarh Region, Dibrugarh vide his office memo no AP/RP/3-172/02 dated 18-10-04 in accordance with the Hon'ble CAT's judgement and order dated 27-08-04 in OA 175/03.

2. With regard to item no. (ii) of your request, it is to inform you that the representation submitted by you dated 10-11-04 has been replied by the office of the CPMG, Assam Circle, Guwahati vide memo no. Staff/11-14/89 dated 28-11-05.

3. With regard to item no. (iii) of your request, it appears from the records of the office of the CPMG, Assam Circle, Guwahati, that your grievance will be listed in the next pension Adalat to be held in the month of Dec/05.

It is to mention that if you want to have the copy of the above mention documents you have to pay Rs. 2/- per page in nearest post office against ACG-67 as per the provision of RTI Act 2005. The above mentioned documents will be supplied to you after receiving a copy of the ACG 67 by this office.

Thanking you

~~Contd~~.....

Sd/- J. CHARUKESI
Central Public Information Officer
&
Director Postal Services
O/o the C.P.M.G/ Guwahati

Attested
Advocate

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ANNEXURE- XXV

To

The Deputy Director General(PG)
& Central Public Information Officer,
Department of Posts , Dak Bhawan,
New Delhi:110001

Dated at Silchar the 7th January'2006.

Sub: Appeal against the order/findings of Chief Public Information Officer in short CPIO at Circle level in Assam Circle,Guwahati communicated under CPIO & DPS(HQ)Assam Circle, Guwahati letter No.CPIO/RTI A-8/05 dated 29.11.05. in the case of ;- Irregular re-fixation of pay resulting in (i) fixation of less Pension (ii) Non refund of irregular recovery made from leave encashment benefit & (iii) Non payment of GPF interest for delay payment while deciding the case of Shri C. R. Deb, retired 'S' R M S RMS DN. Silchar.

Sir,

At the out set, I must take the opportunity & privilege of RTI Act -2005 promulgated in the Department of Posts to maintain transferency in dealing with personal grievances of the employees /customers in general & prompt disposal of the grievances based on office records.

2. But it is a matter of great regret that the DPS(HQ) & CPIO , O/o the Chief PMG, Assam Circle, Guwahati while decided my case under his memo No.CPIO/RTI A-8/05 dated 29.11.05, he disposed of my grievances in a single sentence in para- 2 of his above letter that-'with regard to item No ii of your request, it is to inform you that the representation submitted by you dated 10-11-04 has been replied by the office of the Chief PMG,Assam Circle, Guwahati vide memo No. staff/11-14/89 dated 28-11-05which means that the CPIO, Guwahati did not apply his mind and had gone through the relevant records of the office of the Chief PMG,Assam Circle,Guwahati in depth of my grievances in it's true sense and disposed my case giving a vague reply concealing the real fact of my case. Similarly the CPIO did not give justice to my point No. (ii) that-nature of action taken on CAT'S Judgement and order dated 27-8-04 in OA No. 125 of 2003. Beause-

Attested
Advocate

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(a) the CPMG,Assam Circle, Guwahati mispresented my case before the CPIO ,Assam Circle ,Guwahati citing the very old order of the Postal Directorate, New Delhi No. 4-52/2002-SPB-II dated 18-2-03 with out giving any importance on subsequent development of my case viz. (i) advices of the Director of Accounts (Postal),Guwahati (ii) verdict of the Hon'ble CAT,Guwahati stated below. Had my case been properly presented to the Postal Directorate, New Delhi, the Directorate surely could have revised it's earlier order. The Hon'ble CPIO, Assam Circle also erred in similar way and over looked this important point.

(b) the Hon'ble CAT,Guwahati in it's Judgement and order dated 27-8-04 in OA No. 125 0f 2003 ordered-

"Impugned orders are quashed" i.e. order for recovery of (i)alleged over payment from leave encashment benefit(ii) order for less payment of DCRG & (iii) order for less payment of pension, all are quashed recommending refund of all unjustified recoveries/ wrong re-fixation of pay/pension etc. In this line, inaction on the part PMG, Dibrugarh was not discussed/commented by the Ho'nble CPIO, Assam Circle,Guwahati in his above order dated 29-11-05.

© As regard to my point No. (ii), the CPIO disposed of my case in a short cut process with out going through the relevant records and files and concluded his findings in a casual manner on the basis of the CPMG's incorrect memo No. staff/11-14/89 dated 28-11-05 which is unfortunate for me because of the following fact of my case:-

(i) I was continuing in the post of ASPO's cadre w.e.f. 24-8-85as approved/promoted in ASPO's cadre un interrupted vide erstwhile PMG, N.E. Circle, Shillong memo No. staff/9-3/85 dated 9-8-85 (Xerox copy of the order and Xerox copy of the relevant portion of the service book are annexed) followed by confirmation in the said cadre of ASPOs with out any break under CPMG, Assam Circle, Guwahati memo No.staff/2-29/91 dated 12-2-91.

(ii) That the Chief PMG, Assam Circle, Guwahati confirmed my officiation in the post of DY. Postmaster, GPO, Guwahati (H.S.G-I) and communicated to the Chief PMG,N.E.Circle,Shillong under vide his office memo No. staff/11-14/89 dated 21-5-1993(Xerox

copy of the order is annexed) with a copy to me that I would have continued in the post of Dy. Post master,GPO,Guwahati had I not been promoted to PSS Gr-B cadre.

That I was promoted and posted as Dy. Post master,(H.S.G-I),GPO, Guwahati under CPMG, Guwahati memo No. staff/11-14/89 dated 1-12-92 against the vacant post(Xerox copy of the order is annexed) without mentioning that the post was kept reserved for S.T. It is also a fact that there so many posts in H.S.G-I cadre in Assam circle viz. in Silchar HPO, in Dhubri HPO, in Jorhat HPO, in Nalbari HPO etc. all these posts of Post masters are manned by ASPO's cadre after promoting them in HSG-I grade irrespective of any caste status. Thus the plea of earmarking the post for S.T. is nothing but a clever plea of the Postal Department to victimize me financially. It is also a matter of surprise that the Chief P.M.G,Assam Circle, Guwahati has now put a new baseless self made condition that I had not completed 3 years regular service in ASPOs cadre though I was continuing in the said ASPOs cadre since 24-8-85 uninterruptedly followed by confirmation as stated above. This can be easily proved that after my relief from the post of H.S.G-I Dy. Post master, GPO, Guwahati, my junior staff namely Sri Sukleswar Das,ASPOs, belonging to O.C. community (figured at serial – 7 in memo dated 9-8-85 discussed above) was ordered by the CPMG,Guwahati vide his office memo No.staff/11-14/89 dated 8-7-93 to officiate in the resultant vacant post of Dy. Postmaster,GPO,Guwahati (H.S.G-I) followed by his (Sri Sukleswar Das) confirmation in the adhoc promotion of HSG-I Dy-Post Master,Guwahati for a period from 16-7-93 to 23-11-93 vide CPMG,Guwahati, Assam Circle, memo staff/11-14/89 dated 4-11-94.Had there been a fixed condition to require complete 3 years regular service in ASPOs cadre, how the case of Shri Sukleswar Das was considered? **Is not this example a clear case of denial of natural justice and financial victimization to me?** This vital point was raised and pointed out by the Director of Account (Postal), Guwahati to the Post master General, Dibrugarh Region, Dibrugarh under his letter No. PN/2003-2004/274 dated 8-3-05 and advised him to take up the case with the CPMG,Assam Circle, Guwahati for regularization of my adhoc arrangement in the HSG-I post since my junior staff discussed above was given

adhoc promotion in the same post and on later stage his adhoc promotion was regularized. It is also most confusing how the CPMG,Assam Circle, Guwahati regularized the adhoc arrangement of shri Sukleswar Das had the post been really reserved for S.T. candidate? I fervently request my Hon'ble **Appellate Authority** to call for that letter of the DA(P),Guwahati from the CPMG, Assam Circle, Guwahati who ignored the juditious advices of the DA(P), Guwahati for examination then the truth of the entire case will come to light. Inspite of all these valid ground, I, being a poor pensioner have not been given due justice raising irrilevent and incorrect information by the CPMG, Assam Circle, Guwahati before the Postal Directorate and also my Hon'ble CPIO .Assam Circle, Guwahati rejected my case as stated above.

In view of the fact of my case narrated above , I beg to pray before the Hon'ble Appellate Authority to kindly look into my case sympathetically and take suitable action for refund of all my dues irregularly deducted from pay and pensionary benefit at your earliest convenient time.

Yours faithfully
Chitta Ranjan Deb
(C . R. DEB)
Retired SRM,S Dn., Silchar.
Lane no 1/A
Link Road
Silchar-6
788006.

ANNEXURE-XXVI

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE POSTMASTER GENERAL: N.E.CIRCLE: SHILLONG.

Memo No. Staff/9-3/85 Dated at Shillong the 9-8-85

The following promotions, transfer and posting in the cadre of Asstt. Supdt. of post offices are issued in the interest of public service. These are on consequence upon the upgradation of the posts vide this office memo No.Est/29-1/76 dated 9-8-85. The promotions are temporary and on adhoc basis and will not confer any claim for regular absorption or counting seniority in the cadre of A.S.P.Os.

Name and designation of the official.		Posted on promotion as-
1. Shri Chitta Ranjan Deb, SDO Silchar.	—	ASPOs, O/O SSPOs, Silchar.
2. Shri Binoy Bhusan Choudhury, IPOs(Plg), O/O the D.P.S. Guwahati.	—	ASPOs(Inv), O/O the DPS Guwahati.
3. Shri Binanda Hazarika, C.I. Tezpur.	—	ASPOs, O/O the SPOs, Tezpur.
4. Md. Mahasin Ali, IPOs(PMI), O/O the DPS Guwahati.	—	ASPOs, O/O the SPOs, Nowgong.
5. Shri Kulesh Chandra Sarma, Office Supervisor, O/O the SSPOs, Guwahati.	—	ASPOs, O/O the SPOs, Jorhat.
6. Shri N.R.Baul, IPOs(PMI), Dibrugarh.	—	ASPOs, O/O the SPOs, Dibrugarh.
7. Shri Sukleswar Das, SDIPOs, Bijoynagar.	—	ASPOs(Cell), C.O.Shillong.
8. Shri Paritosh Majumdar, SDIPOs, Nalbari.	—	ASPOs, O/O the SPOs, Dhubri.
9. Shri Sudhir Ghosh, IPOs(Inv), O/O the DPS Guwahati.	—	ASPOs(Inv), C.O.Shillong.
10. Shri Madhab Chandra Das, SDIPOs(W), Silchar.	—	ASPOs, Shillong Central Sub Dvn.
11. Shri Sailendra Roy, C.I. Kohima.	—	ASPOs, O/O the SSPOs, Shillong.
12. Shri Lal Ram Chhana, SDIPOs, Churachandpur.	—	ASPOs, O/O the DPS Aizawl.

...2/.....

Attested
Advocate

--2--

Posting of Shri Madhab Chandra Das is in partial modification of this office earlier memo of even number dated 3-5-85.

The officials may be relieved after 20-8-85 and before 2-9-85 positively on local arrangements possible to them to join their new assignment without delay.

(I.DEWRI)
Director, Postal Services (HQ),
N.E.Circle, Shillong.793001.

Copy to:

1. The D.P.S. Guwahati/Imphal/Kohima/Aizawl.
2. The SSPOs/SPCs, Silchar/Shillong/Guwahati/Tezpur/Dibrugarh/Nalbari/Dhubri/Jorhat/Nowgong.
3. The Postmaster (G), Guwahati/Silchar/Shillong.
4. The Postmaster, Imphal/Kohima/Aizawl/Tezpur/Dibrugarh/Nalbari/Dhubri/Jorhat/Nowgong.
5. The Group Officers concerned in C.O. Shillong.
6. P/E of the officials concerned.
7. The A.D. (Accounts), C.O. Shillong.
8. The AO (Bgt), C.O. Shillong.
9. S.S. A&P Section, C.O. Shillong.
10. Spare.

For Postmaster General,
N.E.Circle, Shillong.

ANNEXURE-XXVII

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1

No. Estt/2-29/91 dated at Guwahati the 29.11.94.

In this office memo of even No. dtd 12.? 91, the officials named below were approved for appointment as ASPOs on regular basis in the scale of pay of Rs. 1640-60-2600-EB-75-2900/-. The seniority of the ASPOs in the approved cadre were not shown in the said memo.

The PMG, A[illegible] Circle, Guwahati is now pleased to issue the modified memo showing proper seniority of the officials in ASPOs cadre as follows:-

Sl.	Name of officials
1.	Sri S K Bora
2.	Sri B K Das
3.	Sri C R Deh
4.	Sri B B Chowdhury
5.	Sri B Hazarika
6.	Sri M Ali
7.	Sri K C Sarma
8.	Sri N R Baul
9.	Sri S Das
10.	Sri S Ghose
11.	Sri R C Paul
12.	Sri P Chakrabarty
13.	Sri S. Roy (SC)
14.	Sri N.V Mitra (SC)
15.	Sri Atul Das (ST)

(I C SARMA)
APMG(STAFF)
O/O CPMG: GUWAHATI-1.

Copy to:-

1-9. All Sr.Supdt /Supdt of POs, Assam Circle.
10-11. Sr. P.M., Guwahati / Silchar.
12-27. All Postmasters, Assam Circle.
28-35. Officials concerned.
36-43. PF of the officials.
44-49. All Group officers CO/RO.
50. The PMG,RO/Ghy.

(I C SARMA)
APMG(STAFF)
O/O CPMG: GUWAHATI.

Attested
Advocate

-14- -85-

ANNEXURE-XXVIII

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DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL :: ASSAM CIRCLE,
MEGHDOOT BHAWAN : GUWAHATI-781 001.

To,

The Chief Postmaster General(Bgt)
N.E. Circle, Shillong-793 001.

No. Staff/11-14/89 Dated at Guwahati, the 21-05-93.

Sub:- Promotion of Shri C.R. Deb to the cadre of HSG-I (Dy P.M., Guwahati H.O.)

Ref:- Your No. Bgt/AAO/1-1/GO/Payslip dtd.11-5-93.

.....

With reference to your letter cited above, I am directed to inform you that Shri C.R. Deb, then ASPOS (Cell) C.O./ Guwahati was promoted to the cadre of HSG-I (IPOS line) on adhoc basis and posted as DPM(I) Guwahati H.O. vide this office memo of even No. dated 1-12-92. But he would have continued had he not been promotted to PS Group "B".

(P. NATH)
Asstt.Postmaster General(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781 001.

Copy to Sri C.R. Deb, Supdt., Postal Stores Depot, Silchar for information.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Attested
Law Advocate

ANNEXURE-XXIX

Annexure-XX

Department of Posts
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE,
SHILLONG

To
The Chief Postmaster General
Assam Circle, Guwahati-781001

(Attention : Shri A.N.D. Kachari, DPS -HQ)

No. Staff/7-83/92 Dated at Shillong the 3rd April 2000

Sub : Notional promotion of Shri H. Ahmed, AD(W), o/o the Chie PMG, Assam Circle, Guwahati.

I am directed to send a copy of Dte's letter No. 8/24-vig dated 27.3.2000 & No. 9-57/97-SPG dated 29.3.2000 regarding above subject and intimate that A review DPC has been held on 03.04.2000 and in pursuance with the recommendation of Review DPC, the competent Authority has approved the notional promotion of Shri H.Ahmed to the HSG-I cadre w.e.f. 17.1.89 i.e. from the date of promotion of his junior official too that cadre. Necessary action may kindly be taken for implementation of the promotion and consequential benefit if any.

I am also directed to request to cause to send a report to Dte. intimating the implementation of notional promotion w.r. to their letter u/r endorsing a copy to the office for records.

Enclo : As above.

Sd/- Illegible
(Niranjan Das)
Asstt. Director (Staff)
O/o the Chief Postmaster General
N.E.Circle, Shillong-793001

Copy to :
Smt. Aruna Jain, Director (Staff)for information and necessary action w.r. to Dts letter No. 9-57/97-SPG dtd. 29.3.2000.

Asstt. Director (Staff)
For Chief Postmaster General
N.E.Circle, Shillong-793001

Attested Law Advocate

Annexure

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.

Original Application No. 301 of 2002.

Date of Order : This the 2nd Day of September, 2003.

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

The Hon'ble Mr K.V.Prahladan, Administrative Member.

Sri Samarendra Shyam,
Assistant Postmaster General,
Working under the Chief Postmaster General,
Assam Circle,
Guwahati-781001. ...Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.

2. The Deputy Director General (Personnel)
Office of the Director General,
Department of Posts, Dak Bhawan,
Parliament Street,
New Delhi-110001.

3. The Chief Postmaster General,
North East Postal Circle,
Shillong-793001. ...Respondents

Sri A.K.Choudhuri, Addl.C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The crux of the issue pertains to promotion of the applicant in the Grade of HSG-I. According to the applicant he was eligible for promotion to HSG Grade-I on 7.7.1990 when his junior Sri J.C.Saha was instead given the benefit of promotion to the cadre of HSG-I. In the earlier O.A. the applicant pleaded that on 6.10.1980 he was promoted to the Grade of Assistant Superintendent of Post Offices. The next promotional avenue in the non gazetted status was the HSG-I in the scale of pay of Rs.2000-3200/- instead the applicant was promoted to P.S.Group B cadre in the scale of pay of Rs.2000-3500/- and posted as the Assistant Director of Postal Services on 4.8.1989, a higher post with higher responsibility in

Attested
Advocate

spite of the fact that senior officers above him were available for it. According to the applicant he ought to have offered the post of Assistant Superintendent of Post Offices and the post of Assistant Director of Postal Service ought to have offered to his senior. On 16.7.1990 Sri A.R.Bhowmik was promoted to the cadre of P.S.Group B and the post of Postmaster, Agartala became vacant. Instead of appointing the applicant in the said post his junior Sri J.C.Saha, ASPO was posted as Postmaster, Agartala. The applicant was relieved from the post of Assistant Director on 9.10.1990 and ordered to be reverted to the cadre of Assistant Superintendent though his junior was working as HSG-I. The Senior Superintendent of Post Offices, Meghalaya proceeded on leave with effect from 17.10.1990 instead of posting a senior officer in the post advised the applicant to join as Superintendent of Post Offices, Meghalaya Division. The incumbent did not return to the post. The applicant submitted representation which was turned down by the authority and therefore he moved the Tribunal finally by the aforementioned O.A.

2. On consideration of the respective cases the Tribunal found that when the post of HSG-I fell vacant the applicant was entitled to be considered for promotion to the post and held that there was no justifiable reasons for not giving him the promotional benefit in the cadre. The reasonings assigned in the impugned communication dated 16/21.5.2001 in rejecting the representation was held to be unlawful and the same was set aside and quashed. The respondents more particularly, Chief Postmaster General was directed to examine the case afresh

contd..3

and pass a fresh order. The applicant thereafter submitted representation alongwith the judgment of the Tribunal. By the impugned order dated 9.8.2000 the representation was rejected. Hence this application assailing the legality and validity of the order.

3. The respondents contested the claim of the applicant and submitted the written statement. We have heard Mr M.Chanda, learned counsel for the applicant and Mr A.K.Choudhuri, learned Addl.C.G.S.C for the respondents at length. While passing the impugned order dated 9.8.2002 the Chief Postmaster General, N.E.Circle assigned the following reasons :

> "a) That Shri Shyam has never been posted to HSG-I grade but was directly promoted from ASP cadre to PSS Gr.B.
>
> b) There is no HSG-I post vacant during the material period in 1991 and 1992 against which the notional promotion of Shri S.Shyam can be considered.
>
> c) The case for the above notional promotion had already been considered by Director General Posts, an authority superior to Chief PMG Shillong and had been rejected."

The reasons ascribed in para 9 is liable to be rejected at the first instance. The reference to the order/decision purportedly made by the Director is a non existent order. The said order dated 16/21.5.2001 was set aside and quashed in O.A.439/2001. It only speaks of total non application of mind of the respondents. The other reasonings indicating about the want of vacancy during the period 1991-1992 for providing notional promotion to the applicant is also equally incomprehensible if not inane. In the written statement itself the respondents indicated that during the period of oficiation of the applicant in Group B a "short term" vacancy in HSG-I cadre fell vacant at Agartala post office and Sri A.R.Bhowmik was posted there. The said vacancy was did exist for more than a year. On the other hand a junior of the

contd..4

applicant was allowed to officiate at Agartala as per order of the Director of Postal Services. The respondents also admitted about his representation to officiate in HSG-I could not be considered as his posting in the higher cadre was required in the interest of service. The aforementioned post of HSG-I cadre was transferred to open general line only vide office letter dated 3.7.91. The reasonings ascribed in the impugned order that for want of vacancy the applicant "could not be promoted", cannot be sustained. Sri M.Ahmed who is senior to the applicant and promoted only after his acquittal from the court cases and in accordance with the direction of the directorate and Minority Commission. In the written statement the respondents cited the extent of the power of Commission. The decision of the Tribunal was also not meant to be disregarded, under the Constitutional scheme, the executive is subject to judicial restraint. They must do what is lawful by lawful means and not be unlawfully. The course of justice must not be deflected or interfered with. Those who strike at it, they knowk at the very foundation of the society where they live. The offence of contempt is really a wrong done to the public by weaking the authority and influence of Courts and Tribunals, which exist for their good. In the earlier O.A the Tribunal clearly observed that there was no justification in not giving the benefit to the applicant and issued direction to the respondents to consider the same in the light of the observations. The impugned order passed by the respondents which was set aside ad quashed by that O.A. was sought to be resurrected in defiance of the order passed by the Tribunal. The imugned communication dated 9.8.2002 and the reasonings thereof is also runs counter to the earlier directions of the Tribunal. Accordingly the order

contd.

dated 9.8.2002 is also set aside and quashed. The respondents are directed to consider the case of promotion of the applicant to HSG-I and to provide all the consequential benefits forthwith.

The application is allowed to the extent indicated with a cost of Rs.2000/-.

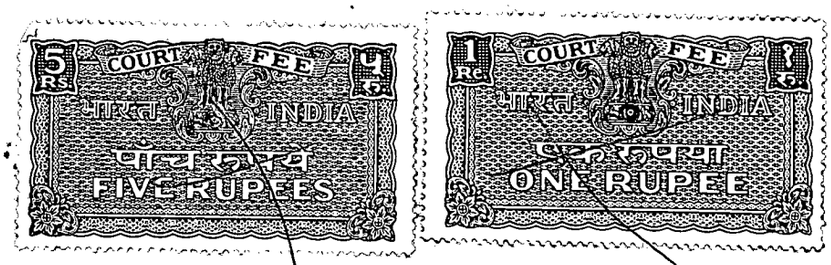
Sd/VICE CHAIRMAN

Sd/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

19/9/03

Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005



VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 96 /2006

...Applicant(s)

Shri Chitta Ranjan Deb.

-Vs-

Union of India & ors.

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri G.N. Chakraborty, and Sri S. Nath, S. Choudhury, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case 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 such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 24th day of April 2006

Received from the Executant, Mr. _____ And accepted satisfied and accepted. Senior Advocate will lead me/us in the case.

Advocate Advocate Advocate

Advocate

NOTICE

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From:-
S. Nath
Advocate

To. Mr. G. Baishya,
Sr. C.G.S.C.

Sub: O.A. No. ——— /2006
(Shri G.R. Deb -Vs- U.O.I & ors)

Sir, find please enclosed herewith a copy of the O.A which is being filed today. This is for your necessary action. Please acknowledge receipt of the same.

Yours Sincerely

S. Nath
Advocate
24.04.06.

Received
Baishya
(G. Baishya)
Sr. C.G.S.C.

MEMORANDUM OF APPEARANCE

Date : 6/6/06

To,

The Registrar
Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 96 of 2006

Sri Chitta Ranjan Deb.

------- Applicant

- Vs -

Union of India & Others

------ Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. ✓ in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.

(Motin Ud-Din Ahmed)
Addl. C.G.S.C.

Central Administrative Tribunal
16 JAN 2006
गुवाहाटी न्यायपीठ
Guwahati Bench

N. Vinod Kumar

Director of Postal Services (HQ)

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

IN THE MATTER OF

O.A.NO.96 of 2006

Shri Chitta Ranjan Deb : Applicant

- vs -

Union of India & Others : Respondents

- AND -

IN THE MATTER OF:

Written statement submitted by the Respondent Nos.1 to 6

WRITTEN STATEMENT:

The humble answering respondents submit their written statements a follows:

1(a). That I am ~~Dr~~ N The Director of Postal Services, Assam circle, Guwahati-1 and respondent No. 5 in the above case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the written statement on behalf of all the respondents.

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

(c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.

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

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

(2) **Brief History of the Case, which may be treated as an integral part of the written statement.**

Shri C.R. Deb (applicant) entered in the Department of Posts on 05.03.1963 as Postal Clerk. He was promoted to the cadre of Inspector of Post Offices in 1973 on passing the Departmental examination. Thereafter he was promoted to Asstt Superintendent of Post Offices cadre on usual course on seniority cum fitness. While working as the ASPOs (Cell) in the office of the Chief Postmaster General, Assam Circle, Guwahati he was ordered as Deputy Postmaster-I (HSG-I) Guwahati G.P.O. on purely ad-hoc promotion vide Staff/11-14/89 dated 01.12.1992 (Annexure-1). Accordingly, Shri Deb joined as DPM-I on 04.12.92. In the meantime Shri C.R. Deb was promoted to Postal Service Group-'B' cadre

officer vide the Postal Directorate, New Delhi No.9/52/92-SPG dated 02.11.92 (Annexure-2) and allotted to N.E. Circle, Head Quarter, Shillong. Shri Deb worked as the DPM-I (HSG-I) Guwahati G.P.O. up to 22.12.92 and being relived, he joined in the promotional post of the Supdt. of PSD, Silchar on 04.01.1993 in pursuance of the order dated 22.12.92 and 23.12.92 (Annexures-3 & 4).

On joining as the Supdt. PSD, Silchar the pay of the applicant was fixed with reference to the pay of HSG-I post which he was holding on ad-hoc appointment prior to his joining in the said promotional post. The applicant retired on 31.10.2002 on attaining the normal superannuation age.

While verifying the service book of the officer (applicant) in order to calculate the pension etc. the Postal Account Office (respondent No.6) noticed that the appointment of the applicant to the cadre of HSG-I post of DPM-I Guwahati G.P.O. vide order No.Staff/11-14/89 dated 01.12.92 (Annexure-I) was not confirmed/regularized subsequently. The fixation of his pay on promotion to PSS Group-'B' grade with reference to the pay drawn in HSG-I was irregular. In fact, the pay of the applicant in PSS Group-'B' cadre should have been fixed with reference to the pay in Asstt. Supdt. of Post Offices cadre which he held substantively prior to his promotion to PSS Group-'B'

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in terms of Fundamental Rule-22(1)(A)(1). An extract of the FR is enclosed as Annexure-5.

In view of the above noted anomaly, the pay of the applicant was re-fixed retrospectively with effect from the date of promotion in PSS Group-'B' i.e. 04.01.93 with reference to the pay in his substantive post of Asstt. Supdt. and the pension due was calculated accordingly vide memo dated 30.08.02 (Annexure-6). In consequence of re-fixation of the pay as above, an amount of Rs.96,792/- was found overpaid to the applicant. As the overpayment was irregular and inadmissible, the said amount was ordered to be recovered from the leave encashment due to the applicant vide order No.AP/RP/3-172/2000 dated 15.01.2003 (Annexure-7).

The case of the applicant with regard to regularization of the adhoc appointment in HSG-I DPM-I post was referred to the Postal Directorate, New Delhi for necessary order. The Directorate vide its letter No.4-52/2002-SPB-II dated 18.02.2003 (Annexure-8 & 8A) did not agree to the proposal for regularization of the ad-hoc promotion of the applicant in DPM-I (HSG-I) post retrospectively as it is against the policy of the Department.

Shri C.R. Deb has filed the OA No.175/2003 seeking direction of the Hon'ble CAT to grant him regular

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promotion in DPM (HSG-I) post and fix his pay in his promoted post of PSS Group 'B' with reference to the pay Scale in HSG-I post and pay him other terminal benefits on the basis of the pay drawn last superannuation including the consequential arrears and as well as sought for refund of the amount recovered from him. The Hon'ble CAT, Guwahati delivered the judgment in the said OA on 27.08.2004. In compliance to the CAT's order, the representation dated 10.11.2004 submitted by the applicant was disposed of vide Staff/11-14/89 dated 28.11.2005 (Annexure-9).

Shri C.R. Deb also preferred request dated 02.11.2005 under provision of Right to information Act 2005 and he was replied by the Central Public Information Officer, Assam Circle, Guwahati vide No.CPIO/RTIA-8/05 dated 29.11.05 (Annexure-10).

Being aggrieved, Shri C.R. Deb filed the present O.A.No.96 of 2006.

Parawise Comments:

3. That with regard to the statements made in paragraphs 1 of the Original Application, the respondents beg to state that prior to retirement of the applicant on 31.10.2002, the verification of the Service Book of the applicant by the Postal Account Officer (Respondent No.6) revealed that his pay was wrongly fixed at the time of his promotion to P.S. Group 'B' w.e.f. 04.01.1993. The

applicant worked as the DPM-1, Guwahati G.P.O. on ad-hoc promotion in HSG cadre for the period from 04.12.1992 to 22.12.1992 prior to promotion in P.S. Group 'B' cadre. His pay was fixed with reference to the pay in HSG-I grade which he had drawn while holding the post of DPM, Guwahati G.P.O. on ad-hoc promotion. As per FR 22(1)(a)(1) the fixation of the applicant's pay in P.S. Group 'B' should have been fixed with reference to the pay of the Asstt. Superintendent of Posts (1640-2900, pre revised) which he held substantively prior to his regular promotion to PS Group 'B'. But the pay was wrongly fixed with reference to the pay of the HSG-I cadre (2000-3000, pre revised) belonging to DPM-I post which he held on adhoc appointment prior to his regular promotion to PS Group 'B' cadre. As a result of which there was overpayment to the applicant to the tune of Rs.96,795. The pay of the applicant was refixed retrospectively w.e.f. 04.01.1993 and the pension and other terminal benefits were calculated accordingly and communicated to the sanctioning authority vide No.PN-58/2002-03/172 dated 30.08.2002 by the PAO (respondent No.6). Accordingly the pension etc. was sanctioned and paid to the applicant.

4. That with regard to the statements made in paragraphs 2 to 4.2 of the Original Application, the answering respondents do not admit anything except those that are based on records and tenable in the eye of law with rationale foundation.

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5. That with regard to the statements made in paragraph 4.3 of the Original Application, the answering respondents beg to submit that the applicant while working as the Assistant Superintendent of Post Offices in the scale of Rs.1640-2900 (pre revised) on regular promotion was appointed as DPM-I, Guwahati G.P.O. (HSG-I cadre) in the scale of Rs.2000-3200 (pre revised) on purely ad-hoc promotion vide Memo No.Staff/11-14/89 dated 01.12.1992 (copy enclosed as Annexure-1). The applicant joined in the HSG-I post on 04.12.1993 and worked up to 22.12.1992.

04/12/92

6. That in reply to the statements made in paragraph 4.4 of the Original Application, the answering respondents beg to the state that while working as the DPM-I (HSG-I), Adhoc, the applicant was regularly promoted as P.S. Group 'B' officer vide Postal Directorate No.9/52/92-SPG dated 02.11.1992 (copy enclosed as Annexure-2). He joined in the promoted post as the Supdt. PSD, Silchar on 04.01.1993 after being relieved from the post of HSG-I vide orders No.Staff/1-330/88 dated 22.12.1992 and No.B/2/7/Officer/CR-III dated 23.12.1992 (copy enclosed as Annexures- 3 & 4). The appointment of the applicant in HSG-I post to his prior promotion to his P.S. Group 'B' was purely ad-hoc and on local arrangement. The applicant was not eligible for regular promotion in the HSG-I post as per criteria laid down for promotion. Moreover, another official, senior to the applicant in the same line of promotion was also not promoted due to non-fulfillment of the eligibility

criteria. As such regular promotion to the applicant in HSG-I post was not possible at the given period. The applicant was promoted to P.S. Group 'B' regularly on 04.01.1993 but his adhoc promotion to HSG-I (Dy. Postmaster) could not be regularized as stated above.

7. That in reply to the statements made in paragraph 4.5 of the Original Application, the answering respondents beg to state that the statements made in this paragraph are admitted, as the same are the facts on record.

8. That with regard to the statements made in paragraph 4.6 of the Original Application, the answering respondents beg to state that the Last Pay Certificate issued on relieve of the applicant from the post of DPM-I (HSG-I) was based on the pay drawn in HSG-I post which applicant held in ad-hoc appointment prior to his being relieved. The pay of the applicant on joining in the promoted P.S. Group 'B' post should have been fixed with reference to his pay in the post of ASPOs which he held regularly/substantively prior to his promotion to P.S. Group 'B'. The pay of the applicant was fixed on the basis of the Last Pay Certificate at the stage of Rs.2600 (pre revised) instead of Rs.2450 (pre revised) in term of FR-22(1)(a)(1) (copy enclosed as Annexure-5).

9. That in reply to the statements made in paragraphs 4.7 of the Original Application, the answering

respondents beg to state that the wrong fixation of the applicant as stated above had a consequent effect on revision of the pay at the corresponding stage recommended by the 5th Central Pay Commission w.e.f. 01.01.1996. His pay in revised scale should have been fixed at Rs.8000/- instead of Rs.8750/-. This cumulative error in fixation occurred due to wrong fixation of the P.S. Group 'B' with reference to the pay in HSG-I as discussed in pre paras.

10. That in reply to the statements made in paragraph 4.8, the answering respondents admit the same as these are matters of record. It is however, added that the applicant had been drawing the pay more than what he was entitled due to wrong fixation of his pay on his promotion to P.S. Group 'B' w.e.f. 04.01.1993.

11. That with regard to the statements made in paragrap 4.9 of the Original Application, the answering respondents admit the same as these are matters of record. However, it is added that the applicant was drawing the pay of Rs.10,250/- w.e.f. 01.01.2002 which he was not entitled to due to the reasons discussed above.

12. That with regard to the statements made in paragraph 4.10 of the Original Application, the answering respondents beg to submit that it is not true that the applicant was entitled to the pay of Rs.10,250/- at the time of his retirement on 31.10.2002. While examining and

verifying the Service Book of the applicant in connection with the preparation and calculation of pension etc. the Postal Accounts Officer (Respondent No.6) detected the irregularity and refixed the pay at Rs.9500/- instead of Rs.10,250/- already fixed and drawn w.e.f. 01.01.2002 and the consequent overpayment was reported to the authority vide No.PN-58/2002-03/172 dated 30.08.2002 (copy enclosed as Annexure-6). The fact that the audit inspection and verification at earlier dates did not detect and point out the irregularity can not be a genuine ground to condone the error and allow the applicant the undue benefit causing undue loss to the Government exchequer amounting to Rs.96,792/-.

13. That with regard to the statements made in paragraph 4.11 of the Original Application, the answering respondents beg to submit that the Postal Accounts Office (respondent No.6) rightly exercised their role and pointed out the irregularity to the authority for needful action. Accordingly, the competent authority sanctioned the pension and other terminal benefits on the pay actually due to the applicant. There was no any arbitrariness on the part of the Postal Accounts Office or the pension sanctioning authority while calculating and determining the pay and pension of the applicant as per rules.

14. That with regard to the statements made in paragraph 4.12 of the Original Application, the answering

respondents beg to submit that on the basis of calculation of the pension, DCRG etc and authority issued by the Director of Accounts (Postal), the competent authority sanctioned the pension etc. to the applicant. The overpayment of Rs.96,692/- was ordered to be recovered from the payment due on leave encashment vide order dated 15.01.2003 (enclosed as Annexure-7). The respondent acted in strict adherence to financial rules and there was no question of giving the applicant an opportunity to represent against the valid step.

15. That with regard to the statements made in paragraph 4.13 of the Original Application, the answering respondents beg to submit that the request of the applicant was considered at highest level of the Department. It was considered to be non justified to allow the applicant to be promoted to the HSG-I cadre retrospectively in the terms of the policy guidelines. The applicant was informed accordingly vide communication dated 26.02.2003 (enclosed as Annexure 8 & 8A). It is not a fact that the applicant became eligible for regular promotion in HSG-I cadre at the relevant period. There were other officials senior to the applicant in the same line of promotion, who were not promoted to HSG-I cadre due to non fulfillment of eligibility criteria. As such, the promotion of the applicant in the HSG-I post regularly by suppression of his senior did not arise and also against the rules. In these circumstances, the request of the applicant for giving him

regular promotion in HSG-I post retrospectively w.e.f. 04.12.1992 is not justified. Since the applicant drew more pay and emoluments due to error in fixation of his pay in P.S. Group 'B' officer cadre, the consequential overpayment of Rs.96,792/- has been ordered to be recovered from the applicant to recoup the undue loss to the Government exchequer.

16. That with regard to the statements made in paragraph 4.14 of the Original Application, the answering respondents beg to submit that the payment in respect of the contribution to the Central Government Employees Group Insurance Scheme due to the applicant was initiated on retirement of the applicant. As the admissibility of the amount and sanction is required to be prechecked and authorized by the Postal Accounts Office, Kolkata, some reasonable time is required to settle such case. The claim of the applicant for additional interest for 8 (eight) months is not covered by rules in the scheme. There is no provision of post-termination interest in the scheme.

As regards the calculation of interest for GPF accrued to the applicant, the averment of the applicant to the fact that he is entitled to interest up to November 2002 has no merit. The applicant retired on 31.10.2002. As per CAG's decision No.2 below GPF Rule-II and Government of India's decision No.2 below GPF Rules 34, the interest on the GPF is calculated upto the close of the month of

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retirement. The GPF of the applicant was settled on 22.11.2002 allowing the interest up to 31.10.2002 accordingly. An extract of the CAG's as well as GOI decision are annexed as Annexures-11 & 12). No interest in payable as the final payment was settled within one month of his retirement.

17. That with regard to the statements made in paragraph 4.15 of the Original Application, the answering respondents beg to submit that in compliance to the Judgment dated 27.08.2004 passed by the Hon'ble CAT, Guwahati in OA No.175/2003 filed by the applicant, the representation dated 10.11.2004 submitted by the applicant was disposed of vide No.Staff/11-14/89 dated 28.11.2005 informing him that his promotion to HSG-I cadre vide order dated 01.12.1992 was purely temporary which did not confer any right to regular absorption in the cadre and as such his pay on promotion to P.S. Group 'B' based on the pay of HSG-I post in temporary basis was not in order and the overpayment is liable to be recovered (copy enclosed as Annexure-9).

18. That with regard to the statements made in paragraphs 4.16 and 4.17 of the Original Application, the answering respondents beg to submit that in compliance of the direction of the Hon'ble Tribunal a show cause was issued on 11/19.10.2004 to the petitioner vide No.AP/RP/3-172/0. The petitioner replied to the show cause on

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10.11.2004. Accordingly Director of Postal Service, Assam Circle rejecting the request of the applicant for restoration of his pay to original post vide Staff/11-14/89 dated 28.11.2005. It is to mention here that the applicant was promoted to work in HSG-I cadre on ad-hoc basis and the same period of ad-hoc arrangement was not regularized by the competent authority. Hence, his pay cannot be fixed as notional promotion.

19. That with regard to the statements made in paragraph 4.18 of the Original Application, the answering respondents beg to submit that as it is mentioned in earlier paras that the applicant was promoted to HSG-I cadre on ad-hoc basis and the same period was not regularized. The pay of the applicant was fixed wrongly and on detection the same has been recovered from the applicant.

The matter of the applicant for regularization of ad-hoc period was taken up with the higher authority but the same was not agreed to.

A copy of the same is enclosed herewith.

It is to mention here that the case of Shri Sukleswar Das is a separate issue and not similar to the present case of the applicant.

20. That with regard to the statements made in paragraph 4.19 of the Original Application, the answering respondents beg to submit that the ad-hoc promotion period of the applicant and the letter dated 28.11.2005 non-regularization was issued in compliance of the applicant's representation dated 10.11.2004. The representation was disposed in accordance with departmental rules and which is not meant to any illegal action. It is to mention here that the applicant was promoted on ad-hoc basis in HSG-I cadre as Deputy Postmaster, Guwahati GPO in the Scale of Pay of Rs.2000-60-2300-EB-3200 (regularized) vide Chief PMG, Assam Circle's Memo No.Staff/11-15/87 dated 01.12.1992 and he joined in the cadre of HSG-I on 4.12.1992. The applicant got his normal promotion to the cadre of PS Group-B as Superintendent of PSD, Silchar N.E. Circle since 04.01.1995.

It is further mentioned here that letter No.CMO/RTIA-8/85 dated 29.11.2005 in the reply under TYI Act/05, the applicant cannot use the word impugned letter as per provision of RTI Act/05.

21. That with regard to the statements made in paragraph 4.20 of the Original Application, the answering respondents beg to submit that the appeal of the applicant dated 07.01.2006 was disposed of by the Chief PMG, Assam Circle vide No.AP-RP/3-1/172/02 dated 02.05.2006. Hence,

the plea of the applicant for restoring his scale of pay is not maintainable in the eye of law.

22. That with regard to the statements made in paragraphs 4.21 and 4.22 of the Original Application, the answering respondents beg to submit that as mentioned in the earlier paragraph the plea of the applicant for re-fixation of his pay was examined and the same was not agreed to for restoring his pay and other retirement benefit.

23. That with regard to the statements made in paragraph 4.23 of the Original Application, the answering respondents beg to submit that the letter dated 28.11.2005 was the reply of the representation of the applicant and the letter dated 29.11.2005 was the reply to the applicant under RTI Act/05.

24. That with regard to the statements made in paragraph 4.24 of the Original application, the answering respondents beg to submit that the reference made in this paragraph of the application about granting notional promotion of Sri H. Ahmed to HSG-I cadre is a separate issue and not similar to the present case of the applicant Sri Ahmed was given the notional promotion on being recommended by the review DPC.

25. That with regard to the statements made in paragraph 4.25 of the Original Application, the answering respondents beg to submit that the ad-hoc promotion of the applicant in HSG-I cadre was not regularized and n verification of service book the mistake has been detected and thereafter his pay has been re-fixed and excess amount drawn recovered from the applicant.

26. That with regard to the statements made in paragraph 4.26 of the Original Application, the answering respondents beg to submit that the averments made in this paragraph has been admitted as the same are matters of record. It is however added that the applicant had been drawing pay more than what he was entitled to, due to wrong fixation of his pay on his promotion to PS Group-B with effect from 4.1.1993.

27. That with regard to the statements made in paragraph 4.27 of the Original Application, the answering respondents beg to submit that the case of Shri Shyam is a separate issue and not similar to the present case of the applicant.

28. That the Original Application is entirely misconceived and devoid of any merits and as such the same is liable to be dismissed.

29. That the Written Statement is made bonafide and for the ends of justice and equity.

.....

VERIFICATION

I, Dr. N. VinodKumar aged about 47 years, working as Director of Postal Service, Assam Circle, Guwahati and competent officer of the answering respondents, do hereby verify that the statements made in paras 4, 6, 8, 10, 12, 25 are true to my knowledge and those made in paras 3, 7, 11, 8, 26 being matters of record are true to my information derived there from which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 7th day of August 2006 at Guwahati.

Signature

N. Vinod Kumar

डॉ. एन. विनोद कुमार
Dr. N. VINOD KUMAR
निदेशक डाक सेवाएं (मुख्यालय विभाग)
Director of Postal Services (H.Q.)
असम परिमंडल, गुवाहाटी-781001
Assam Circle, Guwahati-781001

(19)

ANNEXURE-1

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE :GUWAHATI-1

No. Staff/11-14/89 dated at Guwahati 1.12.92.

The following orders of adhoc arrangement are issued to have immediate effect in the interest of public service.

Sri C.R.Deb, ASPOs(Cell), O/O CPMG, Guwahati has been promoted temporarily as HSG-I and posted against the post of DPM lying vacant in Guwahati GPO. Shri Deb may be relieved on office arrangement.

Usual charge report may be exchanged and sent to all concerned.

(M LAWPHLIAW)
Director of Postal Services
Assam Circle, Guwahati-1

Copy to:-

1. Sri C R Deb, ASPOs(Cell), CO
2. SSPOs, Guwahati
3. Sr. PM, Guwahati
4. AAO(Mgt), CO
5. AD A/cs, CO
6. Office Supdt// SS , CO, /RO
7. All Group Officers, CO/RO

(P NATH)
APMG(STAFF)
O/O CPMG:GUWAHATI-1.

(20)

(20)

Annexure-A

No. 9/52/92-SPG
Government of India
Department of Posts

4 NOV 1992

Dak Bhawan
Sansad Marg
New Delhi-110001.

Dated : 2-11-92

Subject : Promotions and postings to Postal Supdt./Postmasters Group 'O'.

...

The Director General (Posts) is pleased to appoint the following officials to officiate in Postal Superintendent/ Postmasters Group 'O' with immediate effect and until further orders.

2. The officials on promotion to Postal Superintendent/ Postmasters Group 'O' are posted to the Circle mentioned against each :

S.N.	NAME OF THE OFFICER S/SHRI	CIRCLE WHERE WORKING	CIRCLE TO WHICH POSTED
1.	J.P. Jain	Raj.	Delhi
2.	K.M. Sankaran	Kerala	Kerala
3.	Om Prakash	Raj	Delhi
4.	P.V. Bhaskaran	Kerala	Kerala
5.	Pratap Singh	KTK	KTK
6.	K. Janardhanan	KTK	KTK
7.	P.C. Tiwari	MP	MP
8.	M.N. Das	Orissa	WB
9.	Patitapaban Goswamy	Orissa	WB
10.	G.S. Thakur	MP	MP
11.	A.K. Biswas	Assam	Assam
12.	R.S. Dubey	MP	MP
13.	N. Bhattacharjee	Assam	Assam
14.	M.C.S. Reddy	AP	AP
15.	P.K. Maini	APS	NOR

....2/-

[illegible].	K.P. Roychoudhary	WB	WB
[illegible].	S. Santhanam	TN	TN
[illegible].	R. Rajaraman	TN	TN
[illegible].	M. Umapathi	TN	TN
20.	P.N. Singh	Bihar	Bihar
21.	M.Venkata Reddy	AP	AP
22.	V. Sadasivan	TN	TN
23.	H.K. Gupta	J&K	J&K
24.	G. Narasimhan	TN	TN
25.	O.S. Gangal	Raj	Delhi
26.	P.B. Kulkarni	Mah	Mah
27.	B.R. Katiyar	UP	Postal Staff College, Ghaziabad.
28.	P. Upaiah	AP	AP
29.	P. Devarajan	TN	TN
30.	J.K.S. Edgar Wesley	TN	TN
31.	V.K. Thiruvengadathan	TN	TN
32.	A.L. Gupta	Har	Har
33.	A.C. Bose	TN	TN
34.	H. Subba Rao	AP	AP
35.	H.S. Sastry	AP	AP
36.	N.D. Joshi	Guj	PTC Vadodara
37.	B.K. Rao	AP	AP
38.	M.S. Farook	TN	TN
39.	S. Vengappa	AP	AP
40.	K. Pd. Verma	Bihar	PTC Darbhanga

..... 3/-

41.	P.N.R. Kurup	Kerala	Kerala
42.	S. Rajagopalan	TN	TN
43.	S. Varadarajulu	TN	TN
44.	R.L. Gupta	UP	UP
45.	P. Subramanian	TN	TN
46.	A.A. Khan	APS	NBR
47.	Mohd. Hussain	AP	AP
48.	Banwari Lal Saini	Raj	Delhi
49.	P. Venkataratnam	AP	AP
50.	T.V. Chalapathi	AP	AP
51.	P.O. John	AP	AP
52.	K.P. Watson	Kerala	~~Kerala~~ Mah
53.	R.C. Sharma	UP	UP
54.	S.P. Bodhpande	Mah	Mah
55.	C. Kannappan	TN	TN
56.	Abdul Alam	AP	AP
57.	G. Murahari	AP	AP
58.	N. Pitchai	APS	NBR
59.	S. Balasundaram	TN	TN
60.	S. Arunachalam	TN	TN
61.	R.A. Maurya	UP	UP
62.	V.M. Pandya	Mah	Mah
63.	G. Venkatachalam	TN	TN
64.	B. Gurudas	AP	AP
65.	P.A. Balakrishnan	APS	NBR

.... 4/-

66.	U.A. Moidin	KTK	KTK
67.	N. Somaskandan	TN	TN
68.	V.P. Annamalai	TN	TN
69.	S. Gopal	TN	TN
70.	S. Subbaraman	TN	TN
71.	N. Venkataraman	TN	TN
72.	S.A. Fernando	TN	TN
73.	K.C. Ilayaperumal	TN	TN
74.	R.P. Tripathi	UP	UP
75.	K.V. Achary	Kerala	Mah
76.	S.N. Sharma	Raj	Mah
77.	S.S. Yadav	UP	UP
78.	C.D. Bhathla	UP	UP
79.	Syamkash Ghosh	WB	WB
80.	J.M. Chhabra	Delhi	Delhi
81.	S.P. Singh	NE	NE
82.	B.P. Verma	UP	UP
83.	P.D. Srivastava	UP	UP
84.	I.D. Malhotra	Har	Har
85.	V.D. Sharma	UP	UP
86.	K.K. Gagnoja	UP	UP
87.	T.N. Gopalakrishnan	Kerala	Mah
88.	P. Asokan	Kerala	Mah
89.	K.M. Kumaran	Kerala	Mah
90.	Shafiquddin	UP	UP

.... 5/-

91.	N.K. Pande	Mah	Mah
92.	M.A. Iyer	Kerala	Mah
93.	G.S. Ghonli	KTK	KTK
94.	C.S. Krishna	KTK	KTK
95.	A. Raja	Kerala	Mah
96.	S.R. Verma	Delhi	Delhi
97.	Bhaskar Misra	Orissa	WB
98.	A.S. Saini	HP	HP
99.	P.K. Narayanan	Kerala	Mah
100.	V.M. Karanjia	Guj	PTC Vadodara
101.	B. Venkateshan	KTK	KTK
102.	S.D. Kamanhalli	KTK	KTK
103.	R.S. Bareja	Har	PTTC Sahibabad
104.	H.P. Sharma	Har	Delhi
105.	M.S. Rao	Orissa	WB
✓106.	J.C. Saha	NE	NE
107.	R.G. Sharma	APS	NBR
108.	C.A. Mathew	Kerala	Mah
109.	B.S. Sisodia	Raj	Mah
110.	T.P. Nambiar	Kerala	Mah
111.	A.G. Abrahim	Kerala	~~Mah~~ Kerala
112.	P.J. Shanishchara	Guj	Guj
113.	K. Ramachandran	Kerala	Mah
114.	B.D.L. Srivastava	UP	UP
115.	P.P. Soni	Guj	Guj

..... 6/-

116.	S.M.I. Haji	Guj	PTC Vadodara
117.	N.G. Nair	Kerala	Mah
118.	P. Gopalakrishnan	APS	NBR
119.	M.M.N. Nambiar	Kerala	Mah
120.	P.P.G. Nambiar	Kerala	Mah
121.	T.R.R. Nair	APS	NBR
122.	Kishan Chand	Raj	Mah
123.	R.C. Ruth	Orissa	JB
124.	G.C. Mohanty	Orissa	WB
125.	Bhubaneshwar Sautra	Orissa	WB
126.	R.S. Tokas	Delhi	Delhi
127.	D.C. Bardhan	WB	WB
128.	Sayed Saliha	Orissa	JB
129.	D.C. Darji	Guj	Guj
130.	J.S. Dogra	Delhi	Delhi
131.	Sridhar Panda	Orissa	JB
132.	E. Shanmugaval	TN	TN
133.	J.C. Kumar	Har	J&K
134.	Srinivas Mishra	Orissa	WB
135.	S.K. Bora	Assam	Assam
136.	J.C. Mohanty	Orissa	JB
137.	B.K. Dam	Assam	NE
138.	B.R. Bose	WB	WB
139.	V.D. Khadkar	MP	MP
140.	C.R. Deb	Assam	NE

..... 7/-

141.	B.B. Choudhary	Assam	NE
142.	J.J. Paul	WB	Delhi (on deputation)
143.	M.K. Shingaram	Mah	Mah
144.	Pritam Singh	Raj	Mah
145.	M.L. Sharma	Delhi	Delhi
146.	S.K. Kundu	WB	WB
147.	Binanda Hazarika	Assam	NE
148.	V.P. Wani	Mah	Mah
149.	M. Sukumaran	Kerala	Mah
150.	B.M. Solanki	Guj	Guj
151.	P.T. Savlani	APS	NBR
152.	C. Sreedharan	Kerala	Mah
153.	R. Ponniah	TN	TN
154.	A.P. Radhakrishnan	APS	NBR
155.	S. Pandian	TN	TN
156.	S.S. Rawat	UP	UP
157.	P.C. Philip	APS	NBR
158.	A.W. Beg	UP	UP
159.	M.S. Ali	TN	TN
160.	A.S. Muthukumaraswamy	TN	TN
161.	Gulam Mohiuddin	UP	UP
162.	C.P. Arora	Raj	Mah
163.	P. Kandaswami	TN	TN
164.	A.G. Palsekar	Mah	Mah
165.	P. Raghavaiah	AP	AP

	S.L. Hatkar	KTK	KTK
7.	T. Sanjeevi	AP	AP
8.	Ramjee Ram	Bihar	Bihar
9.	S.N. Ram	Bihar	Bihar
70.	Laldhari Ram	Bihar	PTC Darbhanga
171.	C. Choodaiah	KTK	KTK
172.	V. Balapa	AP	AP
173.	Shanker Das	Bihar	PTC Darbhanga
174.	P. Premanandam	AP	AP
175.	B.L. Bhambhi	Raj	Mah
176.	A.D. Vankar	Guj	Guj
177.	Chandrawal Kharwal	MP	MP
178.	B.L. Shakya	MP	MP
179.	K.S. Ramaswamy	TN	TN
180.	R.J. Parmar	Guj	Guj
181.	G.L. Dhakre	MP	MP
182.	C.M. Gahlot	Raj	Mah
183.	N.B. Solanki	Guj	Guj
184.	J.K. Das	WB	WB
185.	S.R. Vaghela	Guj	Guj
186.	C.B. Parmar	Guj	Guj
187.	Damnash Kumar	Delhi	Delhi
188.	P.C. Bachar	WB	WB
189.	K.T. Rangan	TN	TN
190.	A. Lingaraju	Orissa	WB

..... 9/-

191.	C.R. Paramanick	WB	WB
192.	Ram Phal-II	Delhi	Delhi
193.	C.M. Meshram	MP	MP
194.	Bandigaiah	KTK	Mah
195.	Jagdish Pd. Verma	Raj	Mah
196.	K. Vasudevan	Kerala	Mah
197.	B.P. Dohre	MP	UP
198.	Baboo Lal	Delhi	Delhi
199.	A.P. Parmar	Guj	Guj
200.	G.D. Nihenia	Delhi	Delhi
201.	D.N. Gajbe	Mah	Mah
202.	Bhagwan Marandi	Bihar	WB
203.	K.V. Rao	AP	AP
204.	C.Varaprasada Rao	AP	AP
205.	R.S. Kardam	Delhi	Delhi
206.	Ram Nagina	UP	UP
207.	P.C. Bunker	Raj	Mah
208.	N.V. Vedi	TN	TN
209.	M. Mohan Das	Kerala	Mah
210.	R.Ch.V. Prasad	AP	AP
211.	A.D. Patel	Guj	Mah

3. VIGILANCE/DISCIPLINARY CASE IF ANY

In case any vig./disc. case, of the type referred to in O.M.No. 22011/4/91-Estt.(A) dated 14-9-92 from DOP&T circulated vide this office memo no. 25-19/88-SPC dated 13-10-92 is pending against any of the officials, he should not be relieved for posting without obtaining specific orders from this office. The officials against whom any punishment is current they should not be promoted before expiry of currency of punishment. A report in this regard be submitted immediately.

..... 10/-

4. PROBATION PERIOD

All the officials who have been promoted to the Postal Supdt./Postmasters Group 'B' will be on probation for 2 years and their suitability to hold this post will be adjudged on completion of two years of probation. If any official proceeds on leave for a period exceeding 30 days during this period, the probation period will be extended depending upon the period of leave.

5. TRAINING

All the officials, including those who have not been imparted training, will be directly promoted to the Postal Supdt./Postmasters Group 'B' without any training for the present.

6. OFFICERS ALLOTTED OUT OF PARENT CIRCLES

The Circles of allotment will immediately issue posting orders, and in any case not later than 15-11-92. In case of any difficulty in issue of posting orders, the matter should be brought to the notice of Directorate by 10-11-92. The parent Circles of such officials, on receipt of posting orders, will immediately relieve the officials unless they submit unconditional declination. The CPMGs of the Circle of allotment/ parent Circles will personally ensure issue of posting orders by the due date and immediate relief of officials. Despite issue of posting orders, if any official does not join by 15th Dec. 1992, it will be presumed that they have declined promotion.

7. The charge reports on consolidated form (not individually) may be sent by o/o CPMG to this office for issuing notification clearly indicating the order no. and date.

(T.S. Govindarajan)
Director(STAFF)

Copy to:

1. All Chief Postmasters General / CFM Bombay/ Postmasters General
2. Director, Army Postal Service, c/o 56 APO.
3. Principal, Postal Training Centres.
4. Training-P Cell, Directorate.
5. All Directors/Dy. Directors of Postal Accounts.
6. Work Study/Vig. Sections of Postal Dte.
7. All concerned Associations/CS to Member(P)
8. SOs Guard file.

(Y.D. Mahta)
Section Officer (SPG)

(30)

ANNEXURE-3

286

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE
GUWAHATI - 781001.

To,

The Sr. Postmaster,
Guwahati C.P.O.

No. Staff/1-3?0/?? Dated at Guwahati the ??-12-??.

Sub:- Arrangement for release of Sri C.R.Deb officiating Sr. Postmaster, Guwahati C.P.O.

Shri C.R.Deb, DPM, Guwahati C.P.O. and officiating Sr. Postmaster, Guwahati C.P.O. may be relieved on assumption of charge by Shri [illegible] Biswas, so as to enable Shri Deb to join as Supdt. of Postal Store Depot, Silchar as ordered under Chief P.M.G., Guwahati's memo No. Staff/1-7/91/Ch-II dated 24-11-??.

(P.NATH)
P.M.G.(Staff)
for Chief Postmaster General,
Assam Circle, Guwahati.

Copy to :-

The Supdt. of Post Offices/Guwahati for information. The work of DPM may be managed locally till selection of approved candidate is made available.

For Chief Postmaster General,
Assam Circle, Guwahati.

Date/??-12-??.

(31)

ANNEXURE-4

Department of Posts
Office of the Sr. Supdt. of Post Offices
Guwahati Division:3rd Floor, Meghdoot Bhawan:Guwahati-781001.

No.B/2/7/Officer/Ch-III dated Guwahati-1, the 23-12-92

In accordance with the Chief Postmaster General, Assam Circle, Guwahati-1 letter No.Staff/1-330/86 dated 22-12-92, Shri C.R. Deb,oftg. Senior Postmaster, Guwahati HO may be relieved on office arrangement on assumption of charge of Senior Postmaster Guwahati HO by Shri A. K. Biswas, so as to enable Shri C. R. Deb to join as Supdt. P.S.D./Silchar as ordered under Chief PMG Guwahati-1 memo No.Staff/3-7/81/Ch-II dated 24-11-92.

Senior Supdt. of P.Os
Guwahati Division::Guwahati-1

Copy to:-

(1) The Senior Postmaster, Guwahati HO for information and necessary action.

(2) Shri C. R. Deb,oftg. Senior Postmaster, Guwahati HO for information.

(3) The Chief PMG, Assam Circle, Guwahati-1 for information.

Senior Supdt. of P.Os
Guwahati Division:Guwahati-1

ANNEXURE-5

Anx = 5

abolished while they are on active service, they will be treated to have ceased to be in Civil employment.

II. Benefits under the "Next Below Rule".—The period of service rendered by the Reservists (Officers) will be treated as service outside the ordinary line for the purpose of proviso to FR 30 (1) [now FR 22 (III)]; accordingly they will be entitled to pro forma promotion in their parent department under the "Next Below Rule". They will also get seniority in higher post to which they would otherwise be entitled, had they not gone on active service.

[G.I., M.H.A., O.M. No. 47/19/62-Ests. (A), dated the 5th March, 1963.]

AUDIT INSTRUCTION

A Government servant who is treated as on duty during a course of instruction or training and who at the time when he was placed on such duty was drawing pay on account of an officiating appointment, may be allowed to draw such officiating pay which he would have drawn from time to time had he been on duty other than duty under Rule 9 (6) (*b*) and not necessarily the one drawn immediately before proceeding on training. The "pay which the Government servant would have drawn" would also include special pay, if any, which he would have drawn from time to time but for his proceeding on training.

[Correction Slip No. 51 to the Manual of Audit Instructions (*Reprint*).]

F.R. 21. *Deleted.*

[1][F.R. 22. (I) The initial pay of a Government servant who is appointed to a post on a time-scale of pay is regulated as follows:—

(*a*) (1) Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or [2][rupees one hundred only], whichever is more.

[3][Save in cases of appointment on deputation to an ex adre post, or to a post on *ad hoc* basis or on direct recruitment basis], the Government

---

1. *Substituted* by G.I., Dept. of Per. & Trg., Notification No. 1/10/89-Estt. (Pay-I), dated the 30th August, 1989, published in the Gazette of India as GSR 679, dated the 16th September, 1989, as amended by Notification of even number, dated the 28th November, 1990.

2. *Substituted* for "Rupees twenty-five" by G.I., Dept. of Per. & Trg., Notification No. 1/6/97-Estt. (Pay-I), dated the 30th January, 2001 and takes effect from the 1st January, 1996.

3. *Substituted* by G.I., Dept. of Per. & Trg., Notification No. 13/6/95-Estt. (Pay-I), dated the 10th August, 2000.

servant shall have the option, to be exercised within one month from the date of promotion or appointment, as the case may be, to have the pay fixed under this rule from the date of such promotion or appointment or to have the pay fixed initially at the stage of the time-scale of the new post above the pay in the lower grade or post from which he is promoted on regular basis, which may be refixed in accordance with this rule on the date of accrual of next increment in the scale of the pay of the lower grade or post. In cases where an *ad hoc* promotion is followed by regular appointment without break, the option is admissible as from the date of initial appointment/promotion, to be exercised within one month from the date of such regular appointment:

Provided that where a Government servant is, immediately before his promotion or appointment on regular basis to a higher post, drawing pay at the maximum of the time-scale of the lower post, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post held by him on regular basis by an amount equal to the last increment in the time-scale of the lower post or [1][rupees one hundred], whichever is more.

(2) When the appointment to the new post does not involve such assumption of duties and responsibilities of greater importance, he shall draw as initial pay, the stage of the time-scale which is equal to his pay in respect of the old post held by him on regular basis, or, if there is no such stage, the stage next above his pay in respect of the old post held by him on regular basis:

Provided that where the minimum pay of the time-scale of the new post is higher than his pay in respect of the post held by him regularly, he shall draw the minimum as the initial pay:

Provided further that in a case where pay is fixed at the same stage, he shall continue to draw that pay until such time as he would have received an increment in the time-scale of the old post, in cases where pay is fixed at the higher stage, he shall get his next increment on completion of the period when an increment is earned in the time-scale of the new post.

On appointment on regular basis to such a new post, other than to an ex cadre post on deputation, the Government servant shall have the option, to be exercised within one month from the date of such appointment, for fixation of his pay in the new post with effect from the date of appointment to the new post or with effect from the date of increment in the old post.

(3) When appointment to the new post is made on his own request under sub-rule (*a*) of Rule 15 of the said rules, and the maximum pay in the time-scale of that post is lower than his pay in respect of the old post held regularly, he shall draw that maximum as his initial pay.

1. *Substituted* for "Rupees twenty-five" by G.I., Dept. of Per. & Trg., Notification No. 1/6/97-Estt. (Pay-I), dated the 30th January, 2001 and takes effect from the 1st January, 1996.

29 (34)

Annexure - ~~XIV~~ 6

OFFICE OF THE DY DIRECTOR OF ACCOUNTS(POSTAL)::GUWAHATI-3

No.PN-58/2002-2003/ 612

Dated Guwahati the 30/08/2002

1.Ref: Your No. AP/RP/3-172/02 dtd. 07-08-2002

2.Name of officials: Shri Chitta Rn. Deb.

3.Designation: Supdt. of R.M.S. 'S' Division, Silchar

4.Total period of qualifying services which has been accepted for the grant of superannuating / ~~retiring~~ / ~~invalid~~ pension and Gratuity. : Over 33 Years

Rules applicable: Liberalised pension Rules, 1950 para-2 of G.IMF. O.M. No. FB(16) Estt. (Spl.158) dt. 2-1-1961)

Amount of pension and gratuity Has been admitted.

(a)Pension (not exceeding). Rs. 4750/- + DR w.e.f. 01-11-2002
P.P.O. No. GH-
(b). DCR Gratuity (not exceeding) Rs 2,33,558/- in lump
D.C.R.G. Int. No.
ISSUED

7.Family Pension admissible in the event of death Rs.4750/- +DR upto 31-10-09 and Rs.2850/-+DR Thereafter payable to Smt/~~Shri~~ Sadhna Deb. (Wife) wife/~~husband~~ of Sri/~~Smt~~. Chitta Rn. Deb the family pension will be paid from the day following the day of death of the official.

8. Amount of pension/Gratuity admissible after taking into account the reduction in pension and Gratuity ordered by the sanctioning authority.

9. The amount of assessed/unassessed Govt. dues as shown in Form-8(revised) and to be recovered from the amount of DCRG Gratuity.

P.T.O.

35

-2-

10. Date from which the Superannuation / ~~Retiring/invalid/pension is admissible~~ : 01-11-2002

11. Place of payment: SILCHAR -HPO

12. Head of Account: Pension-major Head 3201-Postal Service 07-Pension Superannuation plus Retirement Allowances voted (C) Officers, retired on or after 15-8-1947. DCRG 9(4) Gratuities D.C.R.G Gratuity voted.

REMARKS

1. Particulars of the documents wanting (i) Final last pay certificates local verification memo for in the claim papers should be furnished

(ii) the period from 01-04-2002 to 31-10-2002
(iii) Final monetary responsibility certificate
(iv) Certificate under Rule-62 of C. C. s (pen Rules
(v) Statement of family of the retired official
(vi) Joint photo (in triplicate)

2. Particulars of the govt. dues (out standing against the retired official which should be recovered in lump from the amount of D.C.R. Gratuity. Govt. dues if any should be assessed & recovered.

3. Pension/ DCRG calculation has been made on the basis of Rs. 9500/-. This C.R. holds good provided that there will be no change in the emoluments during the last 10 months of Service. If any change or any event occurs which has bearing in the amount of pension/DCRG etc, the case should promptly be sent to this office for taking necessary action. 49% D.A. has been taken into account towards calculation of DCRG.

4. The Service Book should be completed in all respects till the date of retirement and forwarded to this office alongwith final LPC/MRC for verification and return.

5. It is seen form the entries in the Service Book of the officer that he was promoted to HSG-I on temporary & adhoc basis & posted as DPM, GH-GPO vide Co/GH memo No. Staff/11-14/89 Dtd 01-12-92 which was also confirmed to C.P.M.G. N.E. Circle, Shillong vide C.O./GH memo No. Staff/11-14/89 Dtd. 21-05-93. The officer worked in HSG-I during the period form 04-12-92 to 19-12-92. His pay in HSG-I was fixed at Rs. 2450. In the meantime he was promoted to PSS Group on regular basis and Postal as Supdt. P.S.D. Silchar. He assumed the Charge of Supdt. PSD Silchar on 04-01-93. On his promotion to PSS Group his pay was fixed w.r.t. his pay in HSG-I which is irregular Since his promotion in HSG-I was not regular. His pay should have been fixed w.r.t. his pay in ASPO's cadre (Regular Post) under FR 22(1)(a)(1). The revised fixation of his pay is shown below.

(Contd. P-3)

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Date	Pay required to be fixed	Pay already Fixed as shown in the Service Book
4-01-93	2450	2600
1-01-94	2525	2675
1-01-95	2600	2750
1-01-96	8000	8750
1-01-97	8250	9000
1-01-98	8500	9250
1-01-99	8750	9500
1-01-00	9000	9750
1-01-01	9250	10000
1-01-02	9500	10250

Rs 2000 – 60 – 2300 – EB – 75 – 3200 – 100 – 3500

→ Rs 7500 – 250 – 12,000

The case may be examined in the above light and over payment involved form 04-01-93 onwards may be assessed and recovered from his DCRG.

6. P.P.O., intimation of DCRG Com. Authority will be issued in due course.

Accounts Officer(Postal)
Pen Section, Guwahati-3

To,

The Postmaster General (A/Cs)
Dibrugarh Region
DIBRUGARH – 786001

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ANNEXURE-V

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DEPARTMENT OF POST : INDIA
O/O THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH

No:- AP/RP/3-172/2000

DATE:- 15-01-03

Sanction of Postmaster General, Dibrugarh Region,
Dibrugarh vide this office memo of even No. dt. 09-12-02 for
Rs.1,42,475/-(Rupees One Lakh forty two thousand four hundred seventy
five) only being the leave encashment for EL of 296 days in/r/o Sri
C.R.Deb ex-SRM/Silchar is hereby cancelled.

An amount of Rs.26,792/-(Rupees twenty six thousand seven hundred
ninty two) only has been sanctioned excess drawal in/r/o Sri C.R.Deb
as per revised fixation of pay and allowance for the period from
4-01-93 to 31-10-02.

As such the said amount of Rs.26,792/-(Rupees twenty six thousand
seven hundred ninty two) only should be recovered from his account
leave encashment of Rs.1,42,475/- as shown in earlier memo and the
balance of Rs.115,683/-(Rupees one lakh fifteen thousand six hundred eighty
three) is only to be payable to Sri C.R.Deb ex-SRM/Silchar.

(A.B.SEAL)
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh

Copy to :-
The Sr. Postmaster, Silchar for information.
The HRO RRS 'S' in Silchar for effecting payment.
The SRM 'S' in Silchar.
The DA(P)Kolkata
The DDA(P) Gauhati
Sri C.R.Deb, Lane No.1/A, Link Road, Silchar-6
Estt. Section, RO, Dibrugarh.

(A.B.SEAL)
AD(I)
For Postmaster General
Dibrugarh Region, Dibrugarh.

ANNEXURE-8

Anx-8

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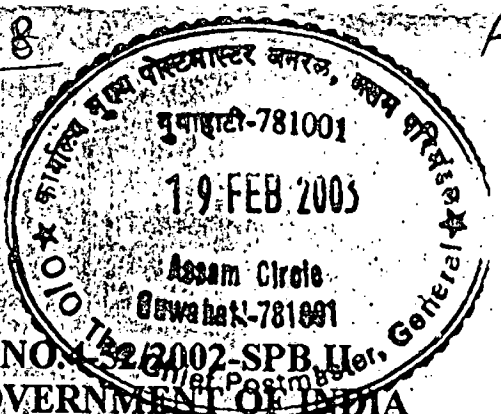

NO.4-32/2002-SPB II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS & IT
DEPARTMENT OF POSTS
DAK BHAVAN, SANSAD MARG,

NEW DELHI DATED THE 18TH FEBRUARY, 2003.

To

Shri S. Shyam
Assistant Postmaster General(Staff)
O/o the Chief Postmaster General
Assam Circle
GUWAHATI.

SUBJECT: HSG.I case of Shri C.R. Deb, Retired PS Gr.B Officer.

Sir,

I am directed to refer to your letter No.Staff/11-14/99 dated 23-12-2002 on the above subject and to invite your attention to this Department's letter No.4-5/97-SPB.II/Pt. dated 22-09-1999. In view of the instructions contained therein, such proposals for retrospective regularization of adhoc arrangements made in HSG.I cadre cannot be agreed to.

Yours faithfully

Srivastava

(ARCHNA SRIVASTAVA)
SECTION OFFICER

ANNEXURE-8A

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DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001.

No.Staff/11-4/89 Dated at Guwahati the 26.2.03.

To

The DDA(P)
Guwahati –3

Sub :- HSG-I – Case of Sri C.R.Deb, retired PS Gr-B Officer.

Ref :- DDA(P) ,Guwahati No.PN-58/2002-03/175 dtd. 29.8.02.

In pursuance of Directorate's letter No.4-52/2002-SPB-II dated 18.2.03, I am directed to inform you that such proposals for retrospective regularization of adhoc arrangements in HSG-I cannot be agreed to and the pension case of the officer be finalised accordingly.

(S.SHYAM)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

Sri C.R.Deb,Ex.SRM, Silchar, Lane No. 1A Link Road, Silchar-788006 for information. This refers to his representation dtd.7.2.03.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

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DEPARTMENT OF POSTS::INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE::GUWAHATI

No.Staff/11-14/89

Dated at Guwahati the November 28, 2005

To

Shri Chitta Ranjan Deb
Retired SRM, Silchar
Link Road Lane No.IA, Silchar-6.

Sub:- Re-fixation of Pay and recovery of excess amount – case of Shri C. R. Deb, retired SRM, Silchar.

Ref:- Your representation dated 10.11.04.

It appears from this office records that your case for regularisation of adhoc promotion in HSG-I (DPM-I), Guwahati GPO has already been thoroughly examined. The Directorate (Posts), New Delhi was also requested vide this office letter of even no. dated 25.9.02 and 23.12.2002 for advice in the matter. The Directorate conveyed instruction vide letter No.4-52/2002-SPB-II dated 18.2.03 (copy enclosed) that the proposal for retrospective regularisation of adhoc arrangements made in HSG-I cannot be agreed to.

You were promoted to HSG-I posts temporarily vide Circle Office, Guwahati letter of even no. dated 1.12.92. The temporary promotion of Govt. servant can be reverted at any time without assigning any reason and he cannot claim for regular absorption in the cadre as per rules. As regards regularisation in HSG-I post as per roster in 1992, the post comes under the reserved category (ST). There was also one ST official. But he was not considered for promotion to HSG-I as he did not complete 3 years in ASPOs cadre. You did not also complete 3 years in ASPOs cadre. Since the ST official could not be considered for promotion to HSG-I due to non completion of required regular service of 3 years in ASPOs cadre, your case could not be considered for promotion to HSG-I on the same reason on regular basis.

Your promotion to HSG-I issued vide Circle Office, Guwahati letter dated 1.12.92 was purely temporary which did not confer right to regular absorption in the cadre. As such fixation of your pay on promotion to PS Gr. 'B' based on the pay of HSG-I post held on temporary basis was not in order and the overpayment is liable to be recovered.

Enclo : As above.

T. Chaudhuri
Director Postal Services(HQ)
O/o Chief Postmaster General
Assam Circle, Guwahati – 781 001

Copy to :-

The Postmaster General, Dibrugarh for information and necessary action.

T. Chaudhuri
For Chief Postmaster General
Assam Circle, Guwahati – 781 001

Annexure-10

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RIGHT TO INFORMATION ACT
TOP PRIORITY

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE
GUWAHATI-781001

No: CPIO/RTIA-8/05 Dated at Guwahati 28-10-05

To,

Shri C.R Deb (Retired SRM'S' Division)
Lane no 1/A
PO Link Road
Silchar 788006

Sub: Irregular re-fixation of pay resulting in regularization of less pension (ii) Non refund of irregular recovery made from leave encashment benefit & (iii) Non payment of GPF interest for delay payment.

Ref: your request under RTI Act/05 letter nil no dated 02-11-05

Sir,

Please refer to your above request letter dated 02-11-05 made under RTI Act/05 received by this office on 07-11-05. Your requests has been examined in this department and following para-wise information are furnished to you as per record available at office of the CPMG Assam Circle.

1. With regard to item no. (i) of your request, it is to inform you that a show cause notices was issued to you by the office of the PMG Dibrugarh Region, Dibrugarh vide his office memo no AP/RP/3-172/02 dated 18-10-04 in accordance with the Hon'ble CAT's judgement and order dated 27-08-04 in OA 175/03.
2. With regard to item no. (ii) of your request, it is to inform you that the representation submitted by you dated 10-11-04 has been replied by the office of the CPMG, Assam Circle, Guwahati vide memo no. Staff/11-14/89 dated 28-11-05.
3. With regard to item no. (iii) of your request, it appears from the records of the office of the CPMG, Assam Circle, Guwahati, that your grievance will be listed in the next pension Adalat to be held in the month of Dec/05.

It is to mention that if you want to have the copy of the above mention documents you have to pay Rs. 2/- per page in nearest post office against ACG-67 as per the provision of RTI Act 2005. The above mentioned documents will be supplied to you after receiving a copy of the ACG 67 by this office.

Thanking you

J. Charukesi

(J. Charukesi)
Central Public Information Officer
&
Director Postal Services (HQ) & Sd),
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781001.

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(*i*) The family must lodge a report with the concerned Police Station and obtain a report that the employee has not been traced after all efforts had been made by the police.

(*ii*) An Indemnity Bond should be taken from the nominee/dependants of the employee that all payments will be adjusted against the payments due to the employee in case he appears on the scene and makes any claim.

2. One of the Accountants-General has sought clarification as to the period up to which interest could be allowed on General Provident Fund balance in respect of past cases consequent on the issue of the OM, dated 29-8-1986.

^[Under Provident Fund Rules, interest can be paid on the Provident Fund balance of a subscriber up to a period of 6 months from the date of quitting of service. [Rule 11 (4) of GPF (CS) Rules]. Accordingly, the interest can be allowed up to 6 months from the date report has been obtained by the family from the Police Department that the employee has not been traced after all efforts have been made by the Police. The position may kindly be confirmed.]

Ministry of Personnel, Public Grievances and Pensions (Department of Pension & P.W.), New Delhi.

C & A.G., U.O. No. 1043-AC/II/132-88, dated 5-9-1988.

DEPARTMENT OF PENSION AND PENSIONERS' WELFARE

We may confirm the position as at ^[ ] of C & AG Note, dated 5-9-1988.

C. & A.G.

D/P & PW., Dy. No. 1983-P & PE, dated 21-10-1988.

[C. & A.G., Lr. No. 1429-AC-II/132-88, dated the 30th November, 1988.]

(8) **Interest on Final Payment.**— *See* GID (2) below Rule 34.

C. & A.G'S DECISIONS

(1) **Head of Accounts Office in IA & AD.**— It is hereby clarified that for Indian Audit and Accounts Department, "Head of Accounts Office" means the PAO (Audit), wherever and the immediate superior to the Head of Accounts Office" means the Accountant-General in whose office the PAO (Audit) is located and functioning.

[C. & A.G's Circular No. 98-Audit/28-83, dated the 19th February, 1983.]

(2) **When a subscriber retires on superannuation, the period of six months for allowing interest to exclude the immediate succeeding month.**— In a concrete case where the subscriber's last day of service was

the 31st of May, a doubt was felt as to whether for the purpose of computing 6 months within the meaning of Rule 11 (4) of the GPF(CS) Rules, the month of June should be reckoned and interest allowed up to the end of November only or the 6 months should be computed excluding the month of June. It was decided in consultation with the Government of India that in such a case the subscriber actually quits the service on the 1st of June which is his first non-working day, irrespective of whether he actually hands over charge in the afternoon of the 31st of May or on the forenoon of the 1st of June and as such the amount of Provident Fund money does not become payable to him before the 1st of June in terms of Rule 29 ibid. In this view, when a subscriber retires on the last day of a month, the period of 6 months for the purpose of Rule 11 (4) ibid should be counted after excluding the immediate succeeding month, that is to say, for instance, when a subscriber's last day of service is the 31st of May, the period of 6 months should be computed from July to December and not from June to November.

[C. & A.G.'s No. 1820-Admn. II/52-N.G.E. II/56-Pt. I, dated the 21st August, 1957.]

(3) How to reckon six months when a subscriber dies on the forenoon of the last day of a month.— A question was raised as to how the period of six months should be reckoned in the case of a subscriber who dies in the forenoon of the last day of a month before retirement. It has been decided by the Comptroller and Auditor-General of India, in consultation with the Government of India, that as under Rule 233 of Compilation of Treasury Rules, Volume-I, the pay and allowances can be drawn for the day of a Government servant's death even though he may have died in the forenoon of that day, the day of death of the subscriber should be treated as the last day of his service and he should be deemed to have quit the service the following day. Therefore, in all such cases the period of six months for purposes of Rule 11 (4) of the GPF (CS) Rules, 1960, should be reckoned from the second month following the month in which the subscriber dies.

[C. & A.G.'s Circular Letter No. 1562-Tech. Admn. II/265-64, dated the 26th September, 1964.]

(4) Interest to be allowed on PF balances in cases of delayed submission of bills by the DDOs.— ..... C & AG's UO Note*, dated the 2nd May, 1986, regarding clarification on certain points relating to payment of interest on delayed payment of PF balances. It is clarified that interest will be payable in a situation mentioned by you in Para. 2 of your note, dated the 2nd May, 1986. This is for the reason that interest is to be allowed when there is no delay on the part of the subscriber but payment is delayed due to administrative reasons.

[G.I., Dept. of Pen. & P.W., D.O. No. 20 (3)-87/P. & P.W., dated the 16th February, 1987.]

**Copy of UO Note referred to—*

Rule 11 (4) of the General Provident Fund (CS) Rules provides that the interest on Provident Fund balance should be paid up to the end of the month

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2. It has been observed that in the case of a subscriber whose account is maintained by AGs/Pay and Accounts Officers and who dies while in service, the payment of the amount due to the nominee/nominees is sometimes delayed for the reason that the intimation about the death of the subscriber is not received by the Accounts Officer concerned promptly and there is also delay in submission of the required applications by the nominee/nominees. To obviate and reduce such delays, the Ministry of Home Affairs, etc., are requested to direct the Heads of Offices/Departments under them to take the following steps:—

(*i*) Intimation about the death of a subscriber while in service should be sent to the Accounts Officer promptly to enable him to initiate action for completion of the Provident Fund Account. The Accounts Officer may at the same time be requested to inform the Head of Office/Department the details of nomination, etc., made by the deceased subscriber.

(*ii*) Action should be taken to get the application for final payments of Provident Fund money from the nominee/family members of the subscriber for submission to the Accounts Officer without waiting for the legal heirs to initiate action.

[G.I., M.F., O.M. No. F. 35 (2)-E. V/67, dated the 18th May, 1968.]

(2) **Interest on final payment of GPF on retirement/quitting of service not payable for one month after submission of application.**—Frequent references are being received for clarification regarding the admissibility of interest of final payment to the subscribers who retire on superannuation or otherwise, or quit service. Rule 34 of the GPF (CS) Rules, 1960, as amended from time to time, lays down the manner of payment of amount in the event of the subscriber's quitting service. The final payment entails two essential requirements before the amount becomes payable—

(*i*) the subscriber should have retired or quit service; and

(*ii*) he should submit an application in the prescribed form in writing for final payment.

Either of the two requirements not being fulfilled, causes delay attributable to the subscriber in claiming the final payment. The rules lay down that steps have to be taken by the authorities concerned to make the payment to the subscriber payable on the date of retirement, and if the payment cannot be made within one month after the date of retirement, due to administrative difficulties or otherwise, the subscriber is entitled to interest under Rule 11 on the expiry of said one month from the second month onwards. If the subscriber submits application for final payment after retirement, he is not entitled to any interest for the period of delay in submission of the application, and in addition, interest is not payable for one month after submission of the application

for final payment. In short, the subscriber is entitled to interest under Rule 11 on the final balances after he quits service and submits application for final payment and the date of commencement of interest will be one month after the date of quitting service or submission of application, whichever is later. Ministries/Departments may please decide the cases in accordance with these clarifications.

2. To ensure speedy settlement of final payment of GPF, the Office of the Controller-General of Accounts have amended Rule 176 of the Central Government Account (Receipts and Payments) Rules, 1983, dispensing with the requirement of issue of authority, as required under Rule 34 (3) of the GPF (CS) Rules and instead, it has been laid down that the Pay and Accounts Officer shall issue a "pre-closing Statement of Accounts" not later than 10 weeks in advance of the said event based on ledger card and other records maintained by him specifying therein the month up to which the deductions and payments effected and interest element are included, to the DDO under intimation to the subscriber. It has also been laid down by the CGA that the DDO shall prefer, irrespective of whether he has received the said pre-closing statement of account from Accounts Officer or not, a bill in Form GAR-42 so as to reach the Accounts Officer one month in advance along with a calculation sheet indicating the manner in which the amount of final payment claimed, has been arrived at. The bill then will be checked by the Accounts Officer and passed for payment. This procedure has been designed to cut delay in the submission of bill by the DDO to the PAO.

3. All the Ministries/Departments of the Government of India are requested to bring the contents of this OM to the notice of all concerned.

[G.I., Dept. of Per. & Trg., O.M. No. 20 (3)-P. & P. W./92-E, dated the 5th August, 1994.]

TRANSFER OF ACCUMULATION IN THE FUND

35. Procedure on transfer of a Government servant from one Department to another

(*a*) If a Government servant who is a subscriber to any other non-Contributory Provident Fund of the Central Government or of a State Government is permanently transferred to pensionable service in a Department of the Central Government in which he is governed by these rules, the amount of subscriptions, together with interest thereon, standing to his credit in such other fund on the date of transfer shall be transferred to his credit in the Fund:

Provided that where a subscriber was subscribing to a non-Contributory Provident Fund of a State Government, the consent of that Government shall be obtained.

(*b*) If a Government servant who is a subscriber to the State Railways Provident Fund or any other Contributory Provident Fund of the

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
13 APR 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

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Filed by the applicant through S. Nath, advocate

IN THE CENTRAL ~~ADMINISTRATIVE~~ TRIBUNAL

GUWAHATI BENCH: GUWAHATI

In the matter of: -

O.A. No. 96 of 2006.

Shri Chitta Ranjan Deb.

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of: -

Rejoinder submitted by the applicant in reply to the written statements submitted by the Respondents.

The humble applicant above named most humbly and respectfully state as under: -

1. That with regard to the statements in para 1 (b), (c), (d), and (e) of the written statement, the applicant begs to state that the application is filed bonafide which is based on facts and in accordance with law. The application does not suffer from any mis-joinder or non-joinder of parties, nor hit by the principles of waiver, estoppels and acquiescence whatsoever and the actions of the respondents are arbitrary and illegal.

2. That with regard to the Brief History of the case as stated in the written statement, the applicant begs to state that the applicant was

initially appointed as Postal Clerk on 05.03.01963. Having passed the Departmental examination, he was promoted as Inspector of Post Offices in 1973 and thereafter promoted to the cadre of Asstt. Superintendent of Post Offices in the normal channel of promotion. Then he was further promoted on ad hoc basis to the cadre of Deputy Postmaster (in the grade of HSG-I) on 01.12.1992 at GPO, Guwahati where he joined on 04.12.1992. But in the meantime, the applicant got his normal promotion against regular vacancy vide promotion order dated 02.11.1992 and posting order dated 24.11.92 to the higher cadre of Postal Services Group 'B' and posted as Superintendent, PSD, Silchar (P.S. Group 'B' post) where he joined on 04.01.1993. Subsequently he was posted at Deputy Divisional Manager (PLI) in the Office of CPMG, Assam Circle, Guwahati on 31.03.1998 and finally transferred from Guwahati on 03.01.2002 and posted as Superintendent, RMS 'S' Division, Silchar where he continued as such till he retired on superannuation on 31.10.2002.

The applicant prior to his joining in the promotional post of Superintendent, PSD, Silchar (PS Group 'B' Cadre), worked as Deputy Postmaster, GPO, Guwahati on ad hoc basis. The post of Deputy Postmaster is in the cadre of HSG-I which is next below the post of PS Group 'B', his pay was fixed with reference to the pay of HSG-I post which he had been holding prior to the promotion. His pay was therefore fixed on the basis of his last pay drawn in the cadre of HSG-I in terms of the provision of FR- 22 (a) (1), which was duly notified and his annual increments were accordingly paid every year for 1994 onwards till he retired in 2002. This was approved by the competent Authority and passed the scrutiny of Accounts department including the Auditors for years together. But the same Accounts

office, while calculating the pension etc. of the applicant on his retirement, has surprisingly raised an objection now that the fixation of pay of the applicant with reference to the pay of HSG-I in 1993 was irregular which ought to have been done with reference to the post of Asstt. Superintendent of Post offices which he held substantively prior to his promotion to PS Group 'B' cadre. The objection is based on the fact that the applicant held the intermediate post of HSG-I on ad hoc basis which was not confirmed and as such the same ought not to have been taken into account for fixation of pay. Hence the pay of the applicant has been re-fixed at a lower stage and the amount of Rs. 96,792/- found as over payment and inadmissible and settlement of pension etc. has been done accordingly.

It is relevant to mention here that the applicant was first promoted from the post of Asstt. Superintendent of Post Offices to the post of HSG-I and then to the next higher post of PS Group 'B' cadre. In all fitness of the things, the ad hoc promotion of the applicant in HSG-I ought to have been regularised/confirmed prior to his promotion to the next higher grade of P.S Group 'B'. Non-regularisation of his ad hoc appointment in the cadre of HSG-I is merely a technical lapse which is not attributable to the applicant and as such re-fixation of his pay downward at a belated stage subsequently on the plea of a technical lapse, not attributable to the applicant, and recovery thereof is not sustainable and opposed to the settled position of law.

3. That the applicant categorically denies the statements made in paragraph 3, 4, 5 and 6 of the written statement and begs to state that prior to his promotion to P.S Group 'B', the applicant was promoted to HSG-I cadre where he worked for a short spell. His promotion to

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HSG-I, though on ad-hoc basis, was in terms of his seniority and against a regular post which was vacant and his pay etc. were accordingly fixed as done in case of regular promotion. He would have continued in the said HSG-I post had he not been promoted in P.S. Group 'B' post in the meantime and would have been regularised in HSG-I ought to have been regularised before promoting him to the next higher post in P.S. Group 'B' since as per normal hierarchy, the P.S Group 'B' post is higher than HSG-I post. Non-regularisation of his service in HSG-I is a technical lapse which is not attributable to the applicant. As such fixation of his pay in his P.S Group 'B' post with reference to this last pay in his P.S. Group 'B' post with reference to his last pay in HSG-I post was in conformity with the provisions of Fundamental rules and subsequent re-fixation of his pay with reference to his pay in previous to his pay in previous post of ASPOs, thereby reducing his pay from Rs. 2600/- to Rs. 2450/- (pre-revised) w.e.f. 04.01.1993 after so many years and recovery thereof is arbitrary, unfair, illegal and opposed to the principles of natural justice.

4. That the applicant emphatically denies the statements made in paragraph 8, 9, 10 and 11 of the written statement and begs to submit that his pay in the promoted post of P.S. Group 'B' was fixed on the basis of Last pay certificate issued by the Competent Authority, which was a valid certificate and not wrong one as contented by the respondents. This was accepted and acted upon by the same Accounts department for years together which has raised the objection now at a belated stage when the applicant has to retire from service. The fixation of pay and subsequent annual increments paid to the applicant leading to his last pay on superannuation at Rs. 10,250/- which he was

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entitled to, was passed by the Auditors for long 9 (nine) years and even thereafter the fixation of his pay on 04.01.1993 and the relevant last pay certificate in respect of the applicant cannot be terms as wrong in an arbitrary manner and huge recovery and reduction of retiral benefits etc. of the applicant and that too without any prior notice to the applicant, is unfair, illegal and opposed to the settled position of law.

5. That the applicant denies the statements made in paragraph 12, 13, 14, 15, 17, 18, 20, 25 and 26 of the written statement and begs to submit that the last pay of Rs. 10,250/- paid to the applicant at the time of his retirement was based on his pay fixed at different stages by the same Postal Accounts which he was entitled to. This cannot be denied now on a vague plea of technical lapse i.e. non-regularisation of his service at HSG-I grade prior to his promotion to the next higher post. The onus of regularization vested on the respondents and non-performance of the same is not attributable to the applicant and as such the onus cannot be shifted on the applicant now to his disadvantage so as to penalise him in an arbitrary and unfair manner. The statement that appointment of the applicant in HSG-I could not be regularised by suppression of his senior is not sustainable since his promotion to HSG-I was on his seniority basis.

6. That with regard to the statements made in paragraph 16 of the written statement, the applicant begs to state that as per rule, the amount accrued in his savings under the Central Government Employee's Group Insurance Scheme has to be refunded with interest to him immediately after his retirement. But it took long 8 (eight) months for the respondents to settle the said dues which is unreasonable and as

such the applicant is entitled to get the interest for 8 months as per general rules for which no special provision of post-retirement interest in the Scheme is required as contended by the respondents.

7. That the applicant categorically denies the statements made in paragraph 19 of the written statement and begs to submit that the case of Shri Sukleswar Das is not a separate case as the respondents has sought to interpret but stands on the same footing as that of the applicant. Shri Das was promoted to the same post in HSG-I cadre which was vacated by the applicant on his promotion to P.S. Group 'B' and subsequently Shri Das was junior to the applicant and when he could be regularised in HSG-I, there is no reason for non-regularising the applicant in the said post since he was the senior incumbent in the post. But the applicant was not regularised in HSG-I for the reasons best known to the respondents only and the applicant is in no way responsible for such lapses. As such reduction of pay of the applicant at the time of his retirement and recovery thereof on the plea of wrong fixation vis-à-vis over payment is malafide, arbitrary, unfair, illegal and opposed to the settle position of law.

8. That the applicant denies the statements made in paragraph 21, 22, 23 and 24 of the written statement and begs to submit that the applicant is legitimately entitled for restoration of his pay as per original fixation prior to reduction and last pay on superannuation Rs. 10,250/- and consequential retirement benefits calculated thereon and denial of the same is arbitrary and illegal.

Further, the case of Shri H. Ahmed who was granted notional promotion to HSG-I, was similarly situated and the plea of the respondents that it was a separate case simply because it was a

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separate case simply because it was recommended by the review DPC, is not sustainable in the eye of law. The case of the applicant being similarly situated could also be processed for regularization even by holding a DPC as has been done in case of Shri Ahmed since quality before and equal protection under law are the cardinal principle enshrined in the Constitution of India.

9. That the applicant categorically denies the statements made in paragraph 27 and 28 of the written statement and further begs to submit that in a similar case, when Mr. S. Shyam was promoted to P.S. Group 'B' without giving him the benefit of HSG-I post, Shri Shyam approached this Tribunal by O.A. No. 303/2002 and following the judgment and order dated 02.09.2003 in OA No. 303/2002 of this Hon'ble Tribunal, the case of Shri Shyam was regularised and the benefit of HSG-I was extended to him. Similarly, in another case, such benefit was extended to Shri H. Ahmed, when the matter was pressed upon by the Minority Commission. As such denial of the same benefit to the applicant hit at the root of Article 14 and 16 of the Constitution of India and violative of the settled position of law, and this application is full of merit which deserves to be allowed with costs.

10. That the applicant reiterates the contention raised in Original application and further begs to state that under the facts and circumstances stated above the O.A. deserves to be allowed with costs.

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VERIFICATION

I, Shri Chitta Ranjan Deb, Son of Late J.C. Deb, aged about 64 years Retired Superintendent, RMS 'S' Division, Silchar, resident of Link Road, Lane No. 1-A, Silchar –788 006, Assam, applicant in the instant Original Application, do hereby verify that the statements made in paragraph 1 to 10 of the rejoinder are true to my knowledge and rest are my humble submission before the Hon'ble Tribunal, I have not suppressed any material fact.

And I sign this verification on this the 31st day of March 2007.

Chitta Ranjan Deb

NOTICE

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From

S. Nath
Advocate

To

Sri M. U. Ahmed
Addl. C.G.S.C
Central Administrative Tribunal
Guwahati Bench, Guwahati

Sir,

Please find herewith a copy of the rejoinder filed by the applicant in O.A. NO. 96/2006, Sri C.R. Deb -vs- Union of India & ors. for your kind and necessary action. Kindly acknowledge the receipt of the same.

Yours sincerely
S. Nath
Advocate

Recieved.
2/4/07
(M. U. Ahmed)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
- 6 JUN 2006
गुवाहाटी न्यायपीठ
Guwahati Bench

Filed by
Moin Ud-Din Ahmed, M.A,B
Addl. Central Govt. Standing
Gauhati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHTI

OA NO. 96/2006

SHRI CHITTA RANJAN DEB

.....APPLICANT

-VERSUS-

UNION OF INDIA & OTHERS

.....RESPONDENTS

IN THE MATTER OF

Additional written statement filed by the respondents

1) That the respondents have received a copy of the rejoinder and have gone through the same and understood the contentions made thereof. Save and except, the statements, which are specifically admitted herein below, rests, may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.

2) That with regard to the statement made in paragraph 1 of the rejoinder, the answering respondents beg to state that the reply has been submitted through written statement by the respondents against the Original Application of the applicant. The respondents further beg to state that the action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the respondents against the applicant had suffered from the vice of illegality.

Recd Copy

3) That with regard to the statement made in paragraph 2 of the rejoinder the respondents beg to submit that as it has already stated in the Written Statement that as the overpayment was irregular and inadmissible, the said amount was ordered to be recovered from the encashment due to the applicant vide order No. AP/RP/3-172/2000 dated 15.1.2003.

4) That with regard to the statement made in paragraph 3 of the rejoinder the respondents beg to submit that as mentioned in the Written Statement, the case of the applicant with regard to regularization of the adhoc appointment in HSG-I, DPM-I post was referred to the Postal Directorate, New Delhi. The Directorate vide its letter No. 4-52/2002-SPB-II dated 18.2.2003 did not agree to the proposal for regularization of the adhoc promotion of the applicant in DPM-I (HSG-I) post retrospectively as it is against the policy of the Department.

5) That with regard to the statement made in paragraph 4 and 5 of the rejoinder, the respondents beg to submit that as it is mentioned in the written statement by the respondents, the applicant had been drawing the pay more than what he was entitled due to wrong fixation of his pay on his promotion to PS Group 'B' with effect from 4.1.1993. The pay of the applicant was fixed on the basis of the last pay certificate at the stage pf Rs. 2600(Pre-revised) instead of Rs. 2450(pre-revised) in terms of FR 22(1)(c) (1) as enclosed with the written statement as Annexure- 5.

6) That with regard to the statement made in paragraph 6 of the rejoinder, the respondents beg to submit that, as it is mentioned in written statement that there is no provision of post termination interest in the scheme.

7) That with regard to the statement made in paragraph 7 and 8 of the rejoinder the respondents beg to submit that as it is mentioned in written statement the cases of Shri S. Das and Shri H. Ahmed is a separate issue and not similar to the present case of the applicant.

8) That in view of the facts and circumstances and the submissions made above the respondents pray that the Hon'ble Tribunal may be pleased to dismiss the OA with costs.

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VERIFICATION

I ..... Dr. N. Vinodkumar ....., aged about ...40.. years at present working as ..... Director of Postal Services (HQ), Assam circle .....,who is one of the respondents and taking steps in this case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph 1 to 7 are true to my knowledge and belief, those made in paragraph ✓ being matter of records, are true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this ----6th---th day of June 2007 at Guw---.

DEPONENT

N. VINODKU

निदेशक डाक सेवाएं (मुख्यालय)
Director of Postal Services (H
असम परिमंडल, गुवाहा
Assam Circle, Guwah

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
- 8 APR 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

Filed by the applicant through M. Dutta, advocate on 07.04.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A. No. 96/2006.

Shri Chitta Ranjan Deb.

-Versus-

Union of India and others.

-And-

In the matter of:-

Additional rejoinder submitted by the applicant against the additional written statements submitted by the respondents.

The applicant above named most respectfully begs to state as follows:-

1. That the applicant categorically denies the statements made in para 2, 3, 4 and 5 of the additional written statement and begs to submit that the applicant joined in the post of Deputy Post Master in the grade of HSG-I on 04.12.1992 on ad-hoc basis. He was promoted to the next higher post in the grade of P. S. Group-B w.e.f. 04.01.1993. It is pertinent to mention here that the applicant would have continued in the post of Deputy Post Master had he not been promoted to the next higher grade of P. S. Group-B and would legitimately have been regularized in the post of Dy. P.M eventually since the post of Dy. Post Master in which he was working, was a regular vacant post and he was entitled for the said post. His ad hoc service in the post of Dy. Post Master (HSG-1) was not regularized due to his promotion to the P.S. Group-B post, which is not his fault. The respondents ought to have regularized the applicant in the post of Dy. Post Master (HSG-I) prior to his promotion to the next higher cadre of P.S. Group-B and ought to have fixed his pay accordingly as per the normal procedure since one cannot be promoted to the higher post without being regularized in the lower post particularly when the lower post was a regular post which was lying vacant and the applicant was entitled for the

Chitta Ranjan Deb

Central Administrative Tribunal
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Guwahati Bench

post and had also been working in the said post of Dy. P.M (HSG-I) through on ad hoc basis. Non regularization of his service in the post of Dy. P.M is a lapse on the part of respondents and not attributable to the applicant. As such the respondents cannot take a vague plea on the technicalities of the phrase "ad hoc" subsequently at the time of retirement of the applicant and cannot re-fix his pay resulting into reduction of his pay and recovery thereof on the plea of wrong fixation done about ten years back. As such the plea of wrong fixation after about 10 years is not sustainable and opposed to the settled position of law.

Even assuming but not admitting that the fixation of pay done on 04.01.1993 was wrong yet its re-fixation after about 10 years and recovery thereof is not permissible as per the settled position of law. In **Sahib Ram-Vs- State of Haryana and Ors**, the Hon'ble Supreme Court has held that upgraded pay scale given due to wrong fixation to the party concerned therein not on account of misrepresentation by the employee cannot be allowed to be recovered. The same principle was followed by the Bangalore Bench of this Hon'ble Tribunal in **V.N. Habbu -Vs- Chief Post Master General, Bangalore & Ors**. The case of this applicant is also squarely covered by the above decisions. As such the re-fixation and reduction of pay of the applicant on the plea of wrong fixation and recovery thereof is against the settled position of law and violative of the procedures established by law.

It is relevant to mention here that the calculation of pay and its fixation on 04.01.1993 was done by a competent accounts department and verified by the Head of the office as warranted under rules and thereafter only the same was paid to the applicant. It has been clearly provided under Rule 59 (b) (iii) that-

> **"For the purpose of calculation of average emoluments, the head of office may verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service."**

Needless to say that the verification as quoted above had been done prior to the fixation of pay of the applicant on 04.01.1993 and the

Chitta Ranjan Deb

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subsequent statutory audits also found it in order. Even thereafter, the respondents do not have any right to re-fix and reduce the pay of the applicant on the plea of wrong fixation and the lead the pay of the applicant from a settled position to an unsettled position just before retirement of the applicant. Such action of the respondents is illegal, arbitrary, unfair and violative of the settled position of law.

Copy of extract of Rule 59 (b) (iii) of CCS (Pension) Rules 1972 from Swamy's Pension Compilation (Seventh Edition) and judgment and order dated 16.06.03 in O.A. No. 12/2003 (V.N. Habbu Vs- Chief Postmaster General) passed by the Hon'ble CAT, Bangalore Bench (reported in Swamysnews) are enclosed herewith for perusal of Hon'ble Tribunal as **Annexure- A and B** respectively.

2. That with regard to statements made in para 6, 7 and 8 of the additional written statement, the applicant begs to submit that the interest claimed is compensatory against the illegality done by the respondents and it is irrelevant whether there is any provision or not in the scheme.

Further, the contention of the respondents that the case of Shri S. Das and Shri H. Ahmed are separate issues and not similar to the present case is not tenable since the respondents have not attributed any reasons thereof. As such the Original Application deserves to be allowed with costs.

3. That in the facts and circumstances stated above, the applicant most humbly and respectfully prays that the application be allowed with costs.

Chitta Ranjan Deb

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
- 9 APR 2008
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गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Shri Chitta Ranjan Deb, Son of Late J.C. Deb, aged about 65 years, Retired Superintendent, RMS 'S' Division, Silchar, resident of Link Road, Lane No. 1-A, Silchar -788 006, Assam, do hereby verify that the statements made in Paragraph 1 to 3 are believe to be true and to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 4th day of ~~February~~ April, 2008.

Chitta Ranjan Deb.

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58. Preparation of pension papers

Every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government servant is due to retire on superannuation, or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

59. Stages for the completion of pension papers

(1) The Head of Office shall divide the period of preparatory work of two years referred to in Rule 58 in the following three stages:—

(*a*) *First Stage.*— Verification of service:

(*i*) The Head of Office shall go through the Service Book of the Government servant and satisfy himself as to whether the certificates of verification for the entire service are recorded therein.

(*ii*) In respect of the unverified portion or portions of service, he shall arrange to verify the portion or portions of such service, as the case may be, with reference to pay bills, acquittance rolls or other relevant records and record necessary certificates in the Service Book.

(*iii*) If the service for any period is not capable of being verified in the manner specified in sub-clause (*i*) and sub-clause (*ii*), that period of service having been rendered by the Government servant in another office or Department, a reference shall be made to the Head of Office in which the Government servant is shown to have served during that period for the purpose of verification.

(*iv*) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in sub-clause (*i*), or sub-clause (*ii*), or sub-clause (*iii*), the Government servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service, and shall, at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall in support of such declaration produce all documentary evidence and furnish all information which is in his power to produce or furnish.

(*v*) The Head of Office shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, admit that portion of service as having been

Attested
Advocate

ANNEXURE-A

rendered for the purpose of calculating the pension of that Government servant.

(*b*) *Second Stage.*— Making good omission in the Service Book.—

(*i*) The Head of Office while scrutinizing the certificates of verification of service, shall also identify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension.

(*ii*) Every effort shall be made to complete the verification of service, as in Clause (*a*) and to make good omissions, imperfections or deficiencies referred to in sub-clause (*i*) of this clause. Any omissions, imperfections or deficiencies including the portion of service shown as unverified in the Service Book which it has not been possible to verify in accordance with the procedure laid down in Clause (*a*) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the Service Book.

(*iii*) Calculation of average emoluments.— For the purpose of calculation of average emoluments, the Head of Office shall verify from the Service Book the correctness of the emoluments drawn or to be drawn during the last ten months of service. In order to ensure that the emoluments during the last ten months of service, have been correctly shown in the Service Book, the Head of Office may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a Government servant, and not for any period prior to that date.

[1](*c*) *Third Stage.*— As soon as the second stage is completed and in any case not later than ten months prior to the date of retirement of the Government servant, the Head of Office shall take the following action:—

(*i*) He shall furnish to the retiring Government servant a certificate regarding the length of qualifying service proposed to be admitted for purpose of pension and gratuity as also the emoluments and the average emoluments proposed to be reckoned with for retirement gratuity and pension. In case the certified service and emoluments as indicated by the Head of Office are not acceptable to him, he shall furnish to the Head of Office the reasons for non-acceptance, *inter alia*,

1. Substituted by G.I., Dept. of P. & P.W., Notification No. 38/34/89-P. & P.W. (F), dated the 3rd September, 1993, published as G.S.R. No. 449, in the Gazette of India, dated the 11th September, 1993.

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the Hon'ble Court to the effect that the amount already drawn by the Respondent-employees therein towards concessional HRA shall not be recovered from them even though they were held to be not entitled for the same.

[*Bahadur Singh* v. *Union of India and others*, 12/2003, *SwamysnewS* 59, (*Calcutta*), *date of judgment* 1-7-2003]

O.A. No. 7/SKM/2001

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Under Rule 59 (1) (*b*) (*iii*) of CCS (Pension) Rules, 1972, it was not open to make any correction in the pay of an employee fixed in the year 1980, nor it was open to make recovery of emoluments drawn by the employee on that basis of fixation, particularly when the error was not as a result of any fraud or misrepresentation.

Facts: The Applicant entered the Government service as a Postal Assistant in 1963. He was regularly appointed to the post of Accountant on 1-11-1979. He was promoted to the post of Assistant Superintendent of Post Offices with effect from 17-7-1985. Earlier between 1980 and 1985, he had occasion to work as Inspector of Post Offices, on local arrangement basis. At that time, his pay was fixed at Rs. 500 with effect from 1-12-1980 after taking into consideration Special Pay of Rs. 45 for acting as Accountant in broken spells prior to his promotion as Inspector of Post Offices. He took voluntary retirement with effect from 1-12-2001. While fixing pension, the Assistant Chief Accounts Officer held that the pay with effect from 1-12-1980 was wrongly fixed at Rs. 500 by taking into account the special pay of Rs. 45. Excess payment made to the Applicant is sought to be recovered and hence this O.A. was filed.

Held: Rule 59 (1) (*b*) (*iii*) clearly provides that in order to ensure that the emoluments during the last 10 months of service have been correctly shown in the service book, the Head of Office, "may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a Government servant and not for any period prior to that date". In that view of the matter, it was not open to the Respondents to make any correction in the pay of the Applicant fixed in the year 1980 nor was it open to the Respondents to make recovery of the emoluments drawn by the Applicant on the basis of pay fixation done in the year 1980 particularly when the error, if any, in the pay fixation with effect from 1-12-19980 was not as a result of any fraud or misrepresentation of the Applicant.

In *Sahib Ram* v. *State of Haryana and others* (1995) *Supp.* (1) *SCC* 18), their Lordships of the Supreme Court have clearly held that upgraded pay scale given due to wrong fixation to the party concerned

Attested
Advocate

ANNEXURE-B

therein not on account of misrepresentation by the employee cannot be allowed to be recovered. The above decision, in our opinion, applies on all fours to the facts of the present case.

The impugned order directing recovery of alleged excess payment is vitiated yet on another ground. We are of the considered view that settled position for the last more than 20 years prior to retirement of the Applicant ought not to have been unsettled at least without affording an opportunity of showing cause to the Applicant. The impugned order adversely affected the Applicant and having been passed without affording an opportunity and showing cause to him, is liable to be quashed on this ground alone also.

[*V.N. Habbu* v. *Chief Postmaster-General, Bangalore and others*, 12/2003; *SwamysnewS* 62, (*Bangalore*), *date of judgment* 16-6-2003]

O.A. No. 1087 *of* 2002

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According to serial circular No. 139/91 of the Railway Board, when it is later found that Railway employee was really missing and not unauthorizedly absent, the punishment order should be annulled by the appropriate authority and all the relevant benefits like grant of leave encashment, salary dues, retirement benefits, etc., might be extended to the employee or to the legal heirs

Facts: The husband of the applicant was working as a Gangman and was removed from service in 1984 on the ground of his unauthorized absence. According to the Applicant, her husband was missing for the last 17½ years and he suddenly reappeared in the village in an unsound mind on 14-7-2001 and expired on the very next day. She approached the Respondents to settle the dues and pensionary benefits of her late husband, but her prayer was turned down by order, dated 29-7-2002, stating that her husband was removed from service from 7-11-1985. Hence, she filed the present O.A. relying on circular No. 139/91 of the Railway Board regarding the cancellation of penalty of removal from service imposed on the charge of unauthorized absence, where it later transpires that the case is one of genuine missing and grant of consequential benefits to the missing person's family.

Held: I have carefully perused the provisions of the serial circular No. 139/91 issued *vide* Railway Board's letter, dated 22-8-1991. It is seen from the above undisputed facts that the husband of the Applicant was working as a gangman under PWI, Mudkhed and was removed

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NOTICE

From
U. Dutta
Advocate

To
Mr. M. U. Ahmed
Addl. C.G.S.C

Sir, Please find herewith a copy of the additional rejoinder filed in O.A. No. 96/2006., Sri C.R. Deb -Vs- U.O.I & ors. for your kind perusal.
Kindly acknowledge the receipt of the same.

Thanking you
Dutta
(U. Dutta)

Recieved
~~17/4/08~~
7/4/08
M. U. Ahmed.