CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH;



| Original Application No | | |
|--|----------------|---|
| 2. Misc Petition No. | | ED, mo. 5 200 8 |
| 3. Contempt Petition No. | | EP, no. 5/2008 14 108 in O.A 86/06 |
| 4. Review Application No | : | |
| | | |
| Applicant(S)NS | Rathore | VS- Union Of India & Ors |
| . Caraba Anglicon | ica W. Chi | anda, S. Nath, Ms. le Dulla |
| | | |
| Advocate for the Responde | ent(S) | 5.5. — |
| | Date | Orders of the Tribunal |
| Notes of the Registry | Date | Orders of the Tribuna. |
| This Contempt perk | 24 | |
| This Contempt perk to been filed to | , | On the oral prayer of Mr. M. Chanda, |
| the comment for the 25 | .09.2000 | ned counsel appearing for the Applicant, |
| petitioner MS17 00 | | C.P. No.14 of 2008 be renumbered as an |
| the CAT Act 1985 | | of the year 2008. The said E.P. be listed |
| proving for imitiation | | orrow for orders. |
| of a contempt proce | edisq | In the meantime, Mr. M. Chanda, |
| against the alleged | | ned counsel for the Applicant, to serve a |
| Contemnors for non- | Compliance cop | y of this petition on Mr. G. Baishya, |
| or the Other dated | lear | lied St. Standing courses upp 8 |
| 22.5.2008 paned | the w | Respondents. |
| O. A No. 86/2006. | | Call this matter on 26.09.2008. |
| 1 | (6.1 | (M.R.Mohanty) |

Seek on of Feer

Received on behalf of

Addr. Casc Meka . 8.10.08 Member(A)

This EP is disposed of vide order passed

separately.

26.09.2008

/bb/

(S.N.Shukla) Member (A) (M.R.Mohanty) Vice-Chairman

Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL **GUWAHATI BENCH**

Execution Petition No. 5 of 2008

In

Original Application No.86 of 2006

Date of Order: This, the 26th Day of September, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI S.N.SHUKLA, ADMINISTRATIVE MEMBER

Shri Narendra Singh Rathore Son of Late Sriram Singh Rathore Hindi Translator Grade-I HQ, Tripura Range Assam Rifles PIN: 932 421, C/o 99 APO.

..... Applicant.

By Advocate:

Mrs.U.Dutta.

- Versus -
- 1. Shri Mudhukar Gupta, I.A.S. Secretary to the Govt. of India Ministry of Home Affairs Room No.113 North Block, New Delhi - 110 001.
- 2. Lt. General Karan Singh Yadav Director General, Assam Rifles DGAR (HQ), Shillong-793 011.

..... Respondents.

By Advocate: Mrs. M. Das, Addl. C.G.S.C.

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E.P. No.5/2008 (O.A. No.86/2006) ORDER(ORAL) 26.09.2008

MANORANJAN MOHANTY, (V.C.)

Heard Mrs. U. Dutta, learned counsel appearing for the Applicant and Mrs. M. Das, learned Addl. Standing counsel appearing for the Respondents and perused the materials placed on record.

2. O.A. No. 86/2006 was filed by the present Applicant seeking promotion and, after hearing rival parties, this Tribunal appreciated the facts of the case with the following words:-

"From the records it is apparent that Director General of Assam Rifles vide letter dated 16.08.2004 while disposing representation of the Applicant (in O.A.86/06) has clearly directed that the case of the Applicant be considered by the next DPC for promotion to the post of Hindi Officer. This statement does not appear to be correct, if the post of Hindi Officer on civilian side stood abolished w.e.f. 26.08.2003 as per Annexure-R10 (Restructuring of Peace Establishment of Assam Rifles) which also indicated two posts of Hindi Officer under JCOs. Obviously if the post for promotion is available only on combatised side, the Applicant has no case whatsoever in the light of these observations. However, it needs to be further probed by the Respondents as to how a letter by the Director General of Assam Rifles dated 16.08.2004 could have been

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<u>issued in the light of Annexure-R10 filed with</u> their written statement."

(emphasis supplied by us)

3. In the premises discussed in the forgoing paragraph, this Tribunal disposed of the said O.A. No.86 of 2006, on 22.05.2008 with the following directions:-

"Respondents are, therefore, directed to reexamine the matter in the light of these contradictions and pass appropriate orders so that the case of the Applicant could be considered for promotion in case post is available on civilian (non-combatised) side."

- 4. After disposal of the case (O.A.86/2006) with the aforesaid directions, it appears that the Applicant submitted a representation on 02.06.2008; which was forwarded to the Directorate General of Assam Rifles on 03.06.2006. Applicant, again, submitted a representation on 29.07.2008; which was also forwarded to the Directorate General of Assam Rifles on 24.07.2008. Thereafter also, Applicant submitted another representation on 06.09.2008 to the Directorate General Assam Rifles.
- 5. It has been alleged by the Advocate for the Applicant, in course of hearing, that the Respondents are not passing any order/giving due regard to the directions dated 22.05.2008 of this Tribunal; and that by taking advantage of the

12

fact that this Tribunal did not fix any time limit, the Respondents are sitting over the matter for all these period.

- 6. In the aforesaid premises, this Execution Petition is disposed of with direction to the Respondents (of the O.A. No. 86/2006) to pass a reasoned order by end of December, 2008.
- 7. Send copies of this order, along with copies of this Execution Petition, to the Respondents (of O.A. No.86 of 2006, described at page 7 of the present Execution Petition No.5/2008) who should act promptly to comply with the order dated 22.05.2008 of this Tribunal rendered in O.A. No.86 of 2006. Free copies of this order be also supplied to the learned counsel appearing for both the parties.

(S.N.SHUKLA)

ADMINISTRATIVE MEMBER

(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

केन्द्रीय प्रशासनिक अधिरहरण Central Administrative Inbune 2 4 SEP 2008 BUNAL पुषाहाडी न्यावपीठ Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIB

GUWAHATI BENCH: GUWAHATI

(An application under Section 17 of the Administrative Tribunals' Act 1985)

C. P.No. 14 /2008) Ep NO. 5 /2008

Shri Narendra Singh Rathore.

-Versus-

Union of India & Ors.

INDEX

| Sl. No. | Annexure | Particulars Particulars | Page No. |
|---------|----------|--|----------|
| 1. | | Petition | 1-4 |
| 2. | | Affidavit | -5- |
| 3. | <u></u> | Draft charge | -6- |
| 3. | I | Copy of the judgment and order did. 22.05.2008 | 7-18 |
| 4. | II | Copy of the representation dated 02.06.2008 | 19 - 20. |
| 5. | Ш | Copy of the forwarding letter dated 03.06.08. | -21- |
| 6. | IV | Copy of representation dated 29.07.2008. | - 22- |
| 7. | Ų | Copy of the forwarding letter dated 24.08.2008 | - 23- |
| 8. | VI | Copy of the representation dated 06.09.2008. | -24- |

Filed By:

Advocate

Date: - 24.09.08

IN THE CENTRAL ADMINISTRATIVE, VIE BUN

GUWAHATI BENCH: GUWAHA

(An Application under Section 19 of the Administrative Tribunals Act

Converted to FP NO 5 /2008 (Contempt petition No. 14 /2008)

In O.A No. 86 of 2006.

In the matter of:

Shri Narendra Singh Rathore.

...... Petitioner.

al Administrative Inbune

-Versus -Union of India and Others.

...... Alleged Contemners.

-And -

In the matter of

An application under section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the order dated 22.052008 passed in O.A. No. 86/2006.

-And -

In the matter of

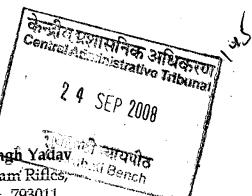
Shri Narendra Singh Rathore, Son of Late Sriram Singh Rathore Hindi Translator Grade-I, HQ, Tripura Range Assam Rifles, Pin-932421, C/O-99 APO.

..... Petitioners.

- Versus-

1. Shri Mudhukar Gupta, I.A.S
Secretary to the Govt. of India
Ministry of Home Affairs
Room No. 113,
North Block, New Delhi- 110001.

Narendra Sigh Rathon



 Lt. General Karan Singh Yadav Director General, Assam Rifles, DGAR (HQ), Shillong- 793011.

> Respondents/ Alleged Contemnors.

The humble petitioner above named-Most respectfully sheweth:-

- 1. That the petitioner approached this Hon'ble Tribunal through O.A. No. 86/2006, praying for a direction upon the respondents for consideration of his promotion to the cadre of Hindi Officer with all consequential service benefits at least from the date of vacancy in the light of the direction/order issued by the DGAR on 16.8.2004 communicated to the applicant vide letter dated 17.8.2004.
- 2. That the Hon'ble Tribunal after hearing the contentions of the parties was pleased to dispose of the O.A. No. 86/2006 vide common order dated 22.05.2008 directing the respondents as follows:-
 - "7. We have perused the records placed before us and have considered the arguments advanced by the learned counsel for both the parties. From the records it is apparent that Director General of Assam Rifles vide letter dated 16.08.2004 while disposing of the representation of the applicant (in O.A. No. 86/06) has clearly directed that the case of the Applicant be considered by the next DPC for promotion to the post of Hindi Officer. This statement does not appear to be correct, if the post of Hindi Officer on civilian side stood abolished w.e.f. 26.08.2003 as per Annexure- R 10 (Restructuring of Peace Establishment of Assam Rifles) which also indicated two posts of Hindi Officer under JCOs. Obviously if the post for promotion is available only on combatised side, the applicant has no case whatsoever in the light of these observations. However, it needs to be further probed by the Respondents as to how a letter by the Director General of Assam Rifles dated 16.08.2004

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could have been issued in the light of Annexure 10 filed with their written statement. Respondents are, therefore, directed to reexamine the matter in the light of these contradictions and pass appropriate orders so that the case of the Applicant could be considered for promotion in case post is available on civilian (non-combatised) side. Applicant has not, however, claimed his right for promotion against a post on combatised side."

9. Resultantly O.A. No. 86/2006 is disposed of as directed above....."

Copy of the Judgment and order dated 22.05.2008 is annexed hereto and marked as <u>Annexure-I</u>.

चीय ग्रंगासनिक

4. That your petitioners immediately after receipt of the judgment and order dated 22.05.2008 submitted representation on 02.06.2008 to the alleged contemner No. 2 enclosing therewith copy of the judgment and order dated 22.05.2008 in O.A No. 86/2006 for compliance of the judgment and order dated 22.05.2008. The said representation was duly forwarded on 03.06.2008 to the alleged contemner No. 2. However, finding no response regarding compliance of the judgment and order dated 22.05.2008, the petitioner again approached the alleged contemner No. 2 through representations dated 29.07.2008, which was forwarded to the alleged contemner No. 2 by the Asstt. Comdt SO-3 (A) vide his letter dated 24.08.2008. Similar representation was filed by the petitioner on 06.09.2008. But to no avail.

Copy of the representation dated 02.06.2008, forwarding letter dated 03.06.08, representation dated 29.07.2008 and forwarding letter dated 24.08.2008 and representation dated 06.09.2008 are annexed hereto and marked as <u>Annexure-II</u>, <u>III, IV, V and VI</u> respectively.

5. That the humble petitioner begs to state that in spite of repeated representations submitted by him enclosing the judgment and order dated 22.05.2008 in O.A. No. 86/2006 for compliance of the judgment and order

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dated 22.05.2008 but the alleged contemnors have not initiated and for implementation of the Judgment aforesaid.

not initiated any action

- 6. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 22.05.2008 passed by this Hon'ble Tribunal in O.A. No. 86 of 2006 which amounts to Contempt of Court. Therefore the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order of the Hon'ble Tribunal dated 22.05.2008 in O.A. No. 86/2006 and further be pleased to impose punishment upon the alleged contemners in accordance with law.
- 7. That this application is made bonafide and for the cause of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance of the order dated 22.05.2008 in O.A. No. 86/2006 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Noren doa Sigh Rathore

Central Administrative Tribunal 2 4 SP 2008 Guwahati Babout gh Rathore, aged about

AFFIDAVIT

I, Shri Narendra Singh Rathore, S/o- Late Sriram Singh Rathore, aged about 48 years, presently working as Hindi Translator Grade-I, HQ, Tripura Range Assam Rifles, Pin- 932421, C/O- 99 APO, do hereby solemnly declare as follows: -

- 1. That I am the petitioner in the instant petition, as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
- 2. That the statement made in para I to 7 are true to my knowledge and belief and I have not suppressed any material fact.
- 3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 22.05.2008 passed in O.A. No. 86/2006.

And I sign this Affidavit on this 219 day of September, 2008.

Nazendoa Singh Kaltwood

Deponent

Identified by

Advocate

The above named deponentsolennly affirm and declare before me on 21st september 2008. Uena Dutta Advocate



DRAFT CHARGE

Laid down before the Hon'ble central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 22.05.2008 passed in O.A. No. 86/2006 and to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of order dated 22.05.2008 passed in O.A. No. 86/2006 of the Hon'ble Tribunal.

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Guwahati Bench

SLN079

July Original Application No. 86 of 2006

Original Application No. 244 of 2006 days

Date of Order: This, the 22nd Day of May, 2008 near Attention of May, VICE CHAIRMAN THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Narendra Singh Rathore Son of Late Sriram Singh Rathore Senior Translator ARTC School, Assam Rifles Dimapur

C/O: 99 APO.

..... Applicant (in O.A.86/2006).

Ndvocates S/Shri M.Chanda & S.Nath.

- Versus -

- The Union of India 1. Represented by the Secretary to the Government of India Ministry of Home Affairs New Delhi-110 001.
- The Director General of Assam Rifles 2. Shillong - 793 011.
- The Inspector General, Assam Rifles 3. (North), C/O: 99 APO.
- The DIG, Assam Rifles Assam Rifles Training Centre & School Dimapur, Nagaland.

... Respondents (in O.A.244/2006).

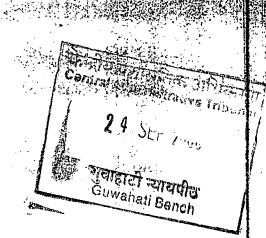
By Mr.G.Baishya, Sr.C.G.S.C.

Shri Devendra Singh Son of Shri Mahendra Singh Working as Hindi Translator Gr.II ARTC School, Assam Rifles Dimapur, Nagaland Applicant (in O.A.244/2006.) C/O: 99 APO.

By Advocates S/Shri M.Chanda, S.Nath, G.N.Chakraborty U. Dutta.

- Versus -

- 1. The Union of India
 Represented by the Secretary
 to the Government of India
 Ministry of Home Affairs
 South Block
 New Delhi-110 001.
- 2. The Director General
 Assam Rifles
 Shillong 793 011.
- 3. Additional Director General Assam Rifles Shillong - 793 011.
- The Deputy Inspector General Assam Rifles Dimapur, Nagaland.



.... Respondents (in O.A.244/2006).

Central Agray Mr.G.Baishya, Sr.C.G.S.C.

0 R D B R 22,05.2008

KHUSHIRAM, MEMBER (A):

Since the points raised in both the two O.A.s and the reliefs sought for therein are of similar nature, both these two O.A.s are taken up together and decided by this common order.

2. The Applicant in O.A.86/06 is presently working with Assam Rifles as Hindi Translator Grade-I w.e.f. 29.06.1999. He was selected for appointment in post of Hindi Officer through UPSC by 'transfer on deputation' on 13.06.2000 and the Applicant joined as such in the pay scale of Rs.6,500-10,000/- w.e.f. 29.06.2000. He submitted several representations on different dates for

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regularization of his appointment but no action was by the Respondents. Instead of acceding to his request for regularization/absorption as Hindi Officer he was reverted/repatriated on completion of his deputation tenure to the post of Hindi Translator Grade-I on 27.06.2003. Aggrieved by this decision of repatriation, Applicant approached this Tribunal by way of filing O.A. No.154/2003; which was disposed of by order dated 31.03.2004 directing the Applicant to file with direction to the representation within a month Respondents to dispose of the same by passing a speaking order within 3 months. In compliance with the said-Administration, the Applicant filed representation before the Respondents on 20.04.2004. Applicant was informed (vide letter dated 16.08.2004 communicated through letter dated 27.08.2004) that his appointment to the post of Hindi Officer has been considered by the DPC for the year 2003-04 but his case was not recommended by the DPC "due to lack of ACR". It was also stated therein that the case of DPC for the Applicant will be considered next appointment to the post of Hindi Officer. The Applicant represented to the Respondents on 31.08.2004 for his Officer with Hindi of post the retrospective effect with all consequential benefits by holding review DPC. On 25.10.2005 Applicant was informed that review DPC in his case is not applicable. Further Decentral Administrative Tribunal not holding representation for

Ğuwahati Bench

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2004/January 2005 for the recouitment year 2004-05 not been responded to by the Respondents. Hence this O.A. under section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:-

> "8.1 That the Hon'ble Tribunal be pleased to hold the the respondents to hold direct DPC/review DPC to consider promotion of the applicant to the cadre of Hindi Officer in the scale of pay of Rs.6,500-10,000/- with without taking into effect immediate uncommunicated the is consideration downgrading ACRs of the years 2000-2001 and 2001-2002 and also ignoring any other uncommunicated downgrading ACR, if recorded in the subsequent year.



That the Hon'ble Tribunal be pleased to respondents to promote the direct the applicant to the post of Hindi Officer with retrospective effect at least from the date eligibility with all consequential benefit of including benefits service seniority."

The Applicant in O.A.244/2006 was appointed as 3. Hindi Translator Grade-II on 25.11.1999. He was promoted to the post of Hindi Translator Grade-I w.e.f. 25.10.2002 but he was, later on, reverted back to his original post of Hindi Translator Grade-II vide order dated 16.7.2003. issued in compliance with 'signal' dated which was several representations, on filed 30.06.2003. He different dates, for promotion to the post of Hindi Translator Grade-I but the Respondents have not convened any DPC after 2002-2003 and promotion to the Applicant could not be granted. Hence this O.A.No.244/2006 under

section 19 of the Administrative Tribunals Act, seeking the following main reliefs:-

- "8.1 That the Hon'ble Tribunal be pleased to declare the reversion of the applicant from Uwahan Dunch Hindi Translator Grade 1 Grade II as illegal and void ab-initio.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to hold DPC from 2003-04 onwards to prepare year wise panel and to consider the case of the applicant for promotion to the grade of Hindi Translator Grade-I.



That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the post of Hindi Translator Grade-I retrospectively w.e.f. 25.10.2002 with all consequential service benefits including monetary benefits."

Respondents have filed their written statement in O.A. No.86/2006 contesting the claim of the Applicant. In the written statement it has been stated that Assam Rifles has been combatised vide Govt. of India, Ministry No.27011/44/88,-FP.I dated letter Affairs Home of 19.09.1989 with effect from 19 September 1989. Thereafter restructuring of Peace Establishment of Assam Rifles has been sanctioned by Ministry of Home Affairs vide sanction order dated 26.08.2003 and now the vacancy of Hindi Officer is that of a "Subedar Major", a combatised appointment - and the Applicant being a non-combatised cadre cannot be considered for the same. It has been further stated that the employees of Assam Rifles were given option to become combatised vide Director General of Assam Rifles letter dated 04.10.2005; in compliance of

which the Applicant preferred not to become combatised vide option certificate dated 14.01.2006. It has also been clarified that the Applicant earlier, on deputation, was holding the post of Hindi Officer from 29.06.2000 to 29.06.2003. When the Applicant was holding the post of was not a Hindi Officer on deputation, the post promotional post which, as per the Recruitment Rules, had been converted as promotional post; for which the Applicant, not being combatised personnel, is not eligible to be considered. Additional posts of Hindi Officer were also created with fresh Recruitment Rules Administ, for which departmental officer in the feeder category who

re the line of promotion shall not be considered for ppointment on deputation. Similarly deputatinists also Gowahatare not eligible for consideration for appointment by The Applicant after completion promotion. deputation period, as Hindi Officer, has been reverted to his original post of Hindi Translator Grade-I. According to the Respondents, Applicant was awarded the grading of "Average" in his ACR for the year 2001-2002 which (not being adverse) is not required to be communicated to-the Applicant. The Director General of Assam Rifles vide order dated 16.08.2004 has directed that the case of the Applicant "be considered in the next DPC for promotion to the post of Hindi Officer", (In the written statement it has been added that) in case the Government decides at

Contral Administrative Tribul

any stage to de-combatise the post which at present is available for promotion to the combatised cadre only.

In O.A. No.244/2006 Respondents have also filed 5. A CONTRACTOR OF THE SECOND OF their written statement denying and disputing the claim The state of the state of of the Applicant. In the written statement it was stated that the Applicant was temporarily promoted to officiate as Hindi Translator Grade I until further order w.e.f 25.10.2002 against the then existing vacancy on account of Shri Narendra Singh Rathore, Hindi Translator Grade I (Applicant in O.A.86/2006) being on deputation as Hindi, Administratories. The Applicant had to be reverted back as Hindi Translator Grade-II w.e.f. 29.06.2003 due to reversion of shri Narendra Singh Rathore (Applicant in O.A.86/2006). from deputation to his original post of Hindi Translator Grade-I on completion of his deputation period. Since there was no vacancy of Hindi Translator Grade-I left to accommodate the Applicant there was no option but to the written has been clarified (in It statement) that there are only 3 sanctioned posts of Hindi Translator Grade-I with Assam Rifles and with the reversion of Applicant in O.A.86/2006 there 1983年 1985年 1 1.32 persons against 3 vacancies. Since sanctioned posts are only 3, Applicant had to be reverted back for want post to accommodate him. The post of Hindi Officer in [] 李敬 [] 李敬 [] 李敬 [] 李敬 [] designated Assam Rifles has been combatised and "Subedar Major w.e.f. 26.08.2003. As per the Recruitment

Rules, 2001 33% posts of Hindi Officer are required to be

filled up by deputation and 67% posts of Hindi Officer are required to be filled up by promotion. Pursuant to the combatisation civilians have to be promoted to a post tenable to civilian only. The Applicant was taken on deputation for a period of 3 years w.e.f. 11.7.2002 to 10.7.2005. The deputation period has been extended w.e.f. 11.07.2005 to 10.07.2006 and again from 11.07.2006 to 10.07.2007. Since there is no scope for further extension he had to be repatriated to his parent organization vide order dated 20.02.2007.

Since the post of Hindi Officer has been combatised (which is tenable by Subedar Major only) the DPC could not be held as there is no non-combatised vacancy against which the case of the Applicant in O.A.

No.86/2006 could be considered. Hence reversion of the Applicants to the post of Hindi Translator Grade - I has been on the Applicant of O.A.

244/2006 as Hindi Translator Grade-I.

6. Heard Mr. M.Chanda, learned counsel appearing for the Applicant in both the O.A.s, and Mr. G. Baishya, learned Sr. Standing counsel for the Union of India in both the O.A.s. Learned counsel for the Applicant in O.A.86/2006 argued that Director General of Assam Rifles under Annexure-L dated 16.08.2004 (page 38 of the O.A.) while disposing of the reresentation of the Applicant directed that the case of the Applicant be considered by

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the next DPC for promotion to the post of Hindi Officer. Therefore, contention of the Respondents that the post is combatised is misleading and he also pointed out that the DPC should be held for vacant post every year and in case of non-availability of eligible candidates or for want of then DPC, is not possible to hold vacancy具it certificate to that effect has to be issued by the competent officer. He has invited attention to the Assam Rifles Hindi Officer and Hindi Translator Grade I (Group 'B') Recruitment Rules, 2002 annexed at Annexure - R5 of the written statement in O.A.86/2006, Columns 12, 13 and 14 of Schedule after Rule 7 of Assam Rifles Hindi Officer

and Hindi Translator Grade I (Group 'B') Recruitment

Reles, 2002 reads as under:-

who have already completed such

Guwahat

|) v/ | · | |
|---|---|--|
| In case of recruitment by promotion/deputation/absorption grades from which promotion/deputation/absorption to be made | If a Departmental Promotion Committee exists, what is its composition | Circumstances, in which Union Public Service Commission is to be consulted in making recruitment |
| 12 | 13 | |
| Hindi Translator Grade-I with three years' regular service in the grade. NOTE: Where Junior who have completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualification/eligibility service or two years, whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors | Considering Promotion and Confirmation):- 1. Deputy Director General, Assam Rifles - Chairman 2. Director (Adm), Dte General, Assam Rifles - Member | direct |

qualifying/ eligibility service.

Deputation :

Central under officers

Government:

(a) (i) Holding analogous posts on Regular basis; or

(ii) With three years' regular service in post in the scale of Rs.5500-9000 or equivalent; and

(b) Possessing the educational experience qualifications and prescribed for Direct recruit

under column 8 (The Department Officers is in the feeder category who are in the direct line of promotion eligible be not consideration for appointment on similarly, deputation, not be shall deputationists eligible for consideration for appointment by promotion (period of deputation including period of deputation in another immediately post held cadre preceeding this appointment in some or same organization/department of the shall Government Central appointment by deputation shall not exceeding 56 years as on the colosing date of receipt of applications). three

3. Assistant Director(A), Dte General, Assam Rifles -Member Contract Addition No. Guwahati

Learned counsel further contended that according to these Rules, the post is to be filled up by promotion through departmental candidates and as such denial of promotion to the Applicant is injustice and therefore, his case should be considered by holding DPC year wise from the date when post fell vacant and Applicant should be given submitted that also benefits. Не consequential all promotion of combatised and non-combatised is held in Sibst Take their line and the Applicant is relying his claim on the promotional post on civilian side.

Mr.G.Baishya, learned counsel for the Respondents in O.A.86/2006 argued that the Applicant is not in the line of promotion as he is not a combatised personnel nor he opted to become combatised so that he could earn eligibility for consideration for promotion to the post of Hindi Officer on combatised side. Earlier when the case of the Applicant was considered by the DPC for the year 2001-2002 his record was not found upto the mark. It is also submitted by learned counsel Mr. Baishya that the post of Hindi Officer has been combatised w.e.f. 26.08.2003 as per Annexure-R10 filed with the written statement.

We have perused the records placed before us and have considered the arguments advanced by the learned counsel for both the parties From the records it is apparent that Director General of Assam Rifles vide while disposing of the 16.08.2004 dated letter O.A.86/06) has Applicant (in the representation οf Applicant the of case clearly directed that the considered by the next DPC for promotion to the post of

Central Administrative Tribunal

2 4 SEP 2000 abolished w.e.f. 26.08.2003 as per Annexure-R10

ministrative

Guwahati Bench which also indicated two posts of Hindi Officer under JCOs. Obviously if the post for promotion is available only on combatised side, the Applicant has no case

whatsoever in the light of these observations. However, it needs to be further probed by the Respondents as to how a letter by the Director General of Assam Rifles dated 16.08.2004 could have been issued in the light of their written statement with filed Annexure-R10 Respondents are, therefore, directed to re-examine the matter in the light of these contradictions and pass appropriate orders so that the case of the Applicant considered for promotion in case available on civilian (non-combatised) side. Applicant has not, however, claimed his right for promotion against. Administration on combatised side.

The case of Applicant No.244/2006 has no merit now the Applicant has any right to continue or get absorbed in a post with the Respondents as he had Translator Grade-I on occupied the post of Hindi deputation only and on completion of the tenure and for want of vacancy he has been reverted.

Resultantly O.A.No.86/2006 is disposed of as directed above and O.A. No.244/2006 is dismissed. costs. Manoranjan Mohanty

Date of Application: 23.508 Date on which copy is ready: Date on which copy is delivered: ... Cortified to be true copy

Section Officer (Judl) C. A. T. Guwahati Bench

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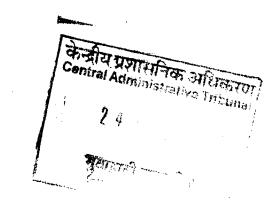
ANNEXURE-II

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From: Narendra Singh Rathore
Hindi Translator, Grade – I
HQ Tripura Range Assam Rifles
PIN – 932421
C/O 99 APO

To : Directorate General Assam Rifles
(Law Branch)
Shillong - 11

(Through proper channel)



Sub:- SUBMISSION OF ORDER DATED 22 MAY 2008 IN O.A NO 86/2006 FOR RE-EXAMINATION OF CASE OF PROMOTION TO THE POST OF HINDI OFFICER.

Sir.

- 1. Most humbly and respectfully I beg to enclose the order of Hon ble CAT. Guwahati dated 22 May 2008 in case No 86/2006 on the above subject to request you to promote me as Hindi Officer with retrospective effect by holding a review DPC.
- 2. That sir, following points may kindly be noted that DPC for the post of Hindi Officer was held in Jan 2003 but I was allegedly not recommended by the DPC on the ground of lacking of ACR. At this juncture may I once again submit that the alleged lacking of ACR cannot be justified because of following grounds:-
 - (a) That sir, I was holding and shouldering higher responsibility as a group 'B' Officer in the Income Tax Dept, (Govt of India) for about 5 years. Similarly I have shouldered the higher responsibility of Group 'B' Officer as Hindi Officer in this Dept also for three years. So far the promotion to a grade in which the candidate shouldering higher responsibility should be given the benefit of one grade higher ACR to his ACR for the concerned period of 5 years and 3 years respectively. For example if the required bench mark for promotion is 'Good' a candidate having 'Average' grading should be considered as 'Good' similarly where requirement is 'Very Good' a candidate having higher responsibilities should be considered 'Good' as 'Very Good'. The law is well settled in this regard.

The provision exists vide OA No 846 of 1988 published at ser No 36 page No 75 of the Swamy's News Letter Mar 2001 (Copy enclosed). That if an officer is working in higher grade while comparing his case with others who are in feeder cadre his ACR is to be upgraded by one grade. In Shambu's case (Supra) it was held by Hon'ble Supreme Court that when two sets of officers are compared, one who is in higher post on adhoc promotion and the other who are still in feeder cadre, then it is a case of treating uneaqual and in such a case the ACRs of an officer on adhoc promotion in higher grade should be upgraded by one grade.

As already submitted in preceding paragraph I performed as in higher grade of Hindi Officer from 29 Jun 2000 to 28 Jun 2003. Taking into account the above ruling my 'Average' grading in the ACR for the period from 01 Apr 2001 to 31 Mar 2002 should have been upgraded to be 'Good' while considering my suitability for the post of Hindi Officer either by HQ DGAR or by the DPC and my last five years grading automatically become Very Good, Very Good, Very Good, Very Good and Good whereas the bench mark for promotion to Hindi Officer is Good. Thus I fulfilled the ACR criteria for promotion as Hindi Officer on the date of conducting of DPC.

phatalia

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(b) That sir, I have been awarded 'Average' grading in the ACR in the year 2001-2002. I have never been communicated any adverse remarks in the entire of 24 years of service. Vide OA No 270 of 1999 published at ser no 118 page no 51 'Swamy's News Leter' of Dec 2003 (Copy enclosed). It has been laid down that an adverse report in ACR can not be acted upon to deny promotional opportunities unless it is communicated to the pers concerned. A grading which was below the bench mark amount to adverse ACR and hence is required to be conveyed. Hon'ble Supreme Court held in Gurdial Singh Fijji Vs State of Punjab (1979) (1) SLR 804.

"Principal is well settled that in accordance with the rules of natural justice and adverse report in CR can not be acted upon to deny promotional opportunities unless is communicated to the pers concerned."

Thus, Average awarded in the year 2001-2002 is below bench mark and may be treated as adverse entry and it was required to be communicated for making improvements of the individual, hence it is required to be ignored or expunged.

- 3. Sir, it is worth mentioning for your kind information that Govt of India. Ministry of Home Affairs vide their letter No I. 15022/167/2000-Pers.1 dt 09 Mar 2001 (copy enclosed) ruled that in CPMF Civilian cadre will continue to enjoy the same promotional avenues as are presently existing in the hierarchy. Accordingly promotions to civilians are being ordered in HQ DGAR and Units such as Accounts Officer, Supdt. Head Assistant, Senior Accountant etc despite being shown as combatised in restructured peace establishment of Assam Rifles in 2003 (Copy of promotion order enclosed). Whereas no combatised staff is held in Assam Rifles in Hindi Cadre as on date. Hence promotions to Hindi Translator Grade I (feeder grade) could be extended to Hindi Officer.
- 4. In view of aforesaid, it is humbly requested that the case may kindly be considered at the earliest and I may be promoted with retrospective effect to avoid demoralisation and financial losses.
- 5. For this act of kindness I shall always remain grateful to you.

Yours faithfully,

oterse Die 21812

Place: Field

Dated : 02 Jun 2008

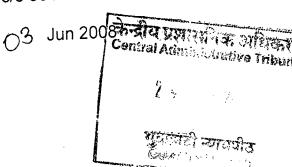
(Narendra Singh Rathore)

ANNEXURE-III

Headquarters
21 Sector Assam Rifles
Pin-932421
c/o 99 APO

A/15036/2008/ 1094

Mahanideshalaya Assam Rifles Directorate General Assam Rifles (Law Branch) Shillong – 793011



OA NO 86/2006 FILED BY SHRI N S RATHORE Vs UOI AND OTHERS

Application dated 02 Jun 2008 submitted by Shri Narendra Singh Rathore, Hindi Translator Grade-I of this Sector is fwd herewith alongwith copy of Hon'ble CAT Guwahati order dt 22 May 2008 in O A No 86/2006 for your necessary action please.

(Anil Kumar KM) Asst Comdt SO-3 (A)

for Cdr

Encl: As above

Copy to :-

Mahanideshalaya Assam Rifles Directorate General Assam Rifles Record Branch (Adm - I) Shillong – 793011 Fwd alongwith a copy of above Hon'ble CAT Guwahati order for info and necessary action please.

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From: Narendra Singh Rathore

Hindi Translator, Grade - I

HQ Tripura Range Assam Rifles

PIN - 932421 C/O 99 APO

To

: Directorate General Assam Rifles

(Law Branch) Shillong - 11

(Through proper channel)

Sub :- SUBMISSION OF ORDER DATED 22 MAY 2008 IN O.A NO 86/2006 FOR RE-EXAMINATION OF CASE OF PROMOTION TO THE POST OF

HINDI OFFICER.

Sir,

- Most humbly and respectfully I beg to refer my application dated 02 Jun 2008 on the aforesaid subject and have the honour to submit that as per HQ DGAR letter No Rec (Adm IV)/Promotion/411 dated 11 Oct 2006 there is ban on initial enrolment of civilian employees but there is no ban on promotion till their wastage. This fact has been submitted to the Hon'ble CAT Guwahati in the Written Statement in the case OA No 195 of 2007 (Annexure R-5, R-15 and R-17 of Written Statement refers and copy att).
- Sir, I rely on, para 6, 12, 14, 15 and 23 of ibid written statement and the position taken by the Director General Assam Rifles in the ibid case which is relevant in my case also kindly be perused and considered at your end. I may kindly be communicated about the decision taken in this regard within 30 days.

For this action of your kindness I shall always remain grateful to your honour. 3.

Yours faithfully,

tral Admir.io. at

(Narendra Singh Rathore) (Hindi Translator Grade-I)

Dated: 29 Jul 2008

Copy to :-

Directorate General Assam Rifles (Rec Branch (Adm-IV)

Shillong – 11

For info alongwith a copy of annexure refered above.

Headquarters

21 Sector Assam Rifles

ANNEXURE- Y

Pin-932421

c/o 99 APO

A/15036/2008/2009

Mahanideshalaya Assam Rifles Directorate General Assam Rifles (Law Branch) Shillong-11

OA NO 86/2006 FILED BY SHRI N S RATHORE VS UOI AND OTHERS

- 1. Further to our letter No A/15036/2008/1094 dt 03 Jun 2008.
- 2. Application dated 29 July 2008 submitted by Shri Narendra Singh Rathore, Hindi Translator Grade-I on the aforesaid subject is fwd herewith for your necessary action please.

(R K Chhetri) Asst Comdt SO-3(A)

for Cdr

End: 04 pp

Copy to :-

Mahanideshalaya Assam Rifles Directorate General Assam Rifles (Record Branch (Adm-IV) Shillong-11 for necessary action alongwith a copy of application.

Otto Della

: Narendra Singh Rathore Hindi Translator, Grade-I 21 Sector, Assam Rifles

C/O 99 APO

To

: Mahanideshalaya Assam Rifles Directorate General Assam Rifles

(Law Branch) Shillong - 793011

(Through proper Channel)

Sub :-

SUBMISSION OF ORDER DATED 22 MAY 2008 IN O.A NO 86/2006 FOR RE- EXAMINATION OF CASE OF PROMOTION TO THE POST OF HINDI OFFICER

-24-

Sir,

- Most humbly and respectfully I beg to refer my applications dated 02 Jun 1. 2008 and 29 Jul 2008 which were fwd to DGAR vide 21 Sector letter No A/15036/2008/1098 dated 03 Jun 2008 and No A/15036/2008/2009 dated 24 Aug 2008 in which I submitted order of Hon'ble CAT Guwahati dated 22 May 2008 in O.A. No 86 of 2006.
- According to order of Hon'ble CAT Guwahati, my case for promotion to the post of Hindi offr is required to be re-examined at your kind disposal. Even after period of 90 days since submission of aforesaid application, decision of the dept has not been communicated to me.
- In view of above, it is once again requested that I may kindly be 3. communicated about the decision taken in this regard.
- For this act of your kindness I shall always remain grateful to your honour.

(Narendra Singh Rathore) (Hindi Translator Grade-I)

Yours faithfully,

Copy to:-

Directorate General Assam Rifles - for necessary action please.

Rec (Adm IV) Shillong -11

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| 1. Mr.Mrs.Miss.Dr. | entigetermentermente is per materialmentermentermente (des la solocia) in materialmente materialmente material | / Advocate,Ga | auhati High Court. |
| 2. Mr.Mrs.Miss. | | /sr.cgsc.add | CGGC |
| 3. Mr.Mrs.Miss.Dr. | er "Bhanda" (1897) (Shandad ales Ashreshkan a Shandada an ama an adhlas mear agus a | /63 | |
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| | | Nagaland,Ma | nipur, Mizoram. |
| | | Tribura & A | runachal Pradech |
| | | Tripura & A | runachal Pradeeh, t.Respondents |