

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH;

137

1. Original Application No. \_\_\_\_\_
2. Misc Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. \_\_\_\_\_

EP, no. 5/2008  
(14/08) in O.A 86/06

Applicant(S).....N. S. Rathore.....VS- Union Of India & Ors

Advocate for the Applicant(S).....M. Chanda, S. Nath, Ms. U. Datta

Advocate for the Respondent(S).....CGSC.....

Notes of the Registry	Date	Orders of the Tribunal
<p>This Contempt petition has been filed by the counsel for the petitioner W/s 17 of the CAT Act, 1985 praying for initiation of a Contempt proceeding against the alleged Contemnors for non-compliance of the order dated 22.5.2008 passed in O.A No. 86/2006.</p> <p>Laid before the Hon'ble Court for further orders.</p> <p><u>Section Officer</u></p> <p>Pd 24/9/08</p> <p>Received on behalf of Mrs M. Das Addl. CGSC Deka . 8.10.08</p>	<p>25.09.2008</p> <p>26.09.2008</p> <p>/bb/</p>	<p>On the oral prayer of Mr. M. Chanda, learned counsel appearing for the Applicant, this C.P. No.14 of 2008 be renumbered as an E.P. of the year 2008. The said E.P. be listed tomorrow for orders.</p> <p>In the meantime, Mr. M. Chanda, learned counsel for the Applicant, to serve a copy of this petition on Mr. G. Baishya, learned Sr. Standing counsel appearing for the Respondents.</p> <p>Call this matter on 26.09.2008.</p> <p>(S.N.Shukla) Member(A)</p> <p>(M.R.Mohanty) Vice-Chairman</p> <p>This EP is disposed of vide order passed separately.</p> <p>(S.N.Shukla) Member (A)</p> <p>(M.R.Mohanty) Vice-Chairman</p>

24.11.08

139

Copy of the  
order DTD. 26.9.08  
along with copy of  
the Petition sent to  
the D/Sec. for filing  
in due to the Regd.  
in OA. and copy of  
the order to the  
Applicant & L/421  
for the Applicant.

at

Serial vide D/No.  
4587 to 4592  
9. 27.11.08

11/11/08

139

**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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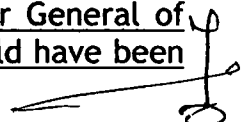
E.P. No.5/2008  
(O.A. No.86/2006)  
O R D E R (ORAL)  
26.09.2008

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 of the 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



issued in the light of Annexure-R10 filed with 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 re-examine 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.”

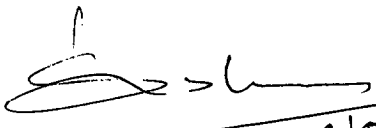
4. After disposal of the case (O.A.86/2006) with the aforesaid directions, it appears that the Applicant submitted a representation on 02.06.2008; which was forwarded to the Directorate General of Assam Rifles on 03.06.2006. Applicant, again, submitted a representation on 29.07.2008; which was also forwarded 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

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.

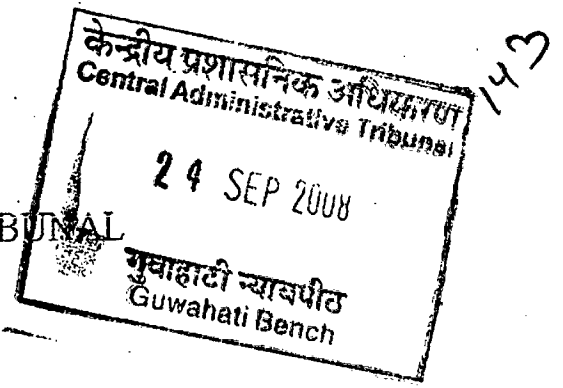
7. Send copies of this order, along with copies of this Execution Petition, to the Respondents (of O.A. No.86 of 2006, described at page 7 of the present Execution Petition No.5/2008) who should act promptly to comply with the order dated 22.05.2008 of this Tribunal rendered in O.A. No.86 of 2006. Free copies of this order be also supplied to the learned counsel appearing for both the parties.

  
26/09/08  
(S.N.SHUKLA)  
ADMINISTRATIVE MEMBER

  
26/09/08  
(MANORANJAN MOHANTY)  
VICE-CHAIRMAN

/bb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI



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

Converted to  
C. P No. 14/2008 EP No. 5/2008  
In O.A No. 86/2006

Shri Narendra Singh Rathore.

-Versus-

Union of India & Ors.

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Date: - 24.09.08

Filed By:

Putta  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

Converted to EP NO 5/2008

( Contempt petition No. 14 /2008 )

In O.A No. 86 of 2006.

In the matter of:

Shri Narendra Singh Rathore.

..... Petitioner.

-Versus -

Union of India and Others.

..... Alleged Contemnors.

-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 22.05.2008 passed in O.A. No. 86/2006.

-And -

In the matter of

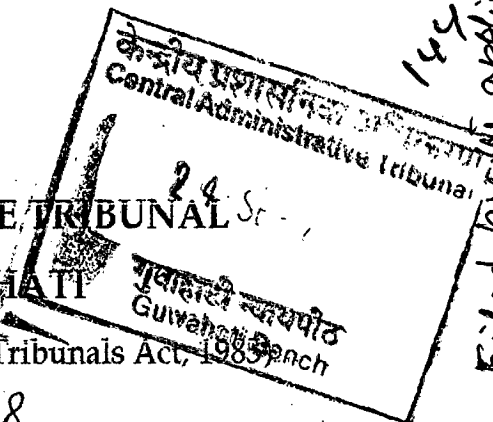
Shri Narendra Singh Rathore,  
Son of Late Sriram Singh Rathore  
Hindi Translator Grade-I,  
HQ, Tripura Range Assam Rifles,  
Pin- 932421, C/O- 99 APO.

..... Pctitioners.

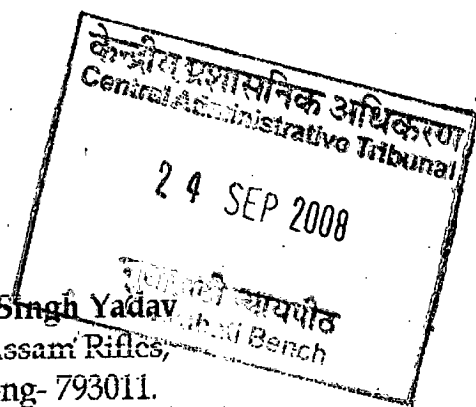
- Versus-

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 Singh Rathore







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

..... Respondents/  
Alleged Contemnors.

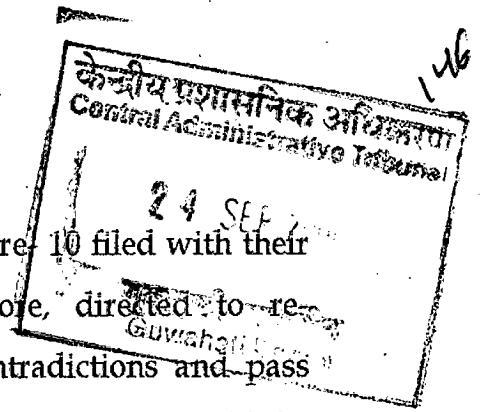
The humble petitioner above named-

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

*Yashendra Singh Rathi*



could have been issued in the light of Annexure-10 filed with their written statement. 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 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....."

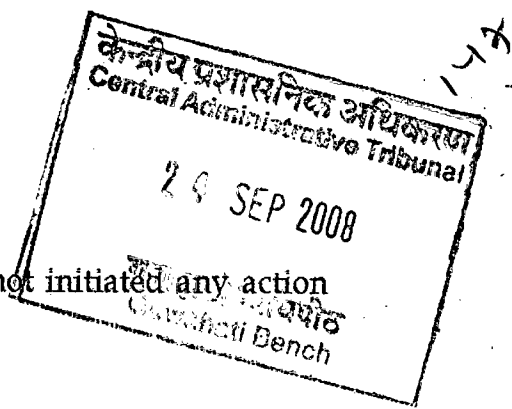
Copy of the Judgment and order dated 22.05.2008 is annexed hereto and marked as Annexure-I.

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 Annexure- II, III, IV, V and VI 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

Narendra Singh Rathore



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

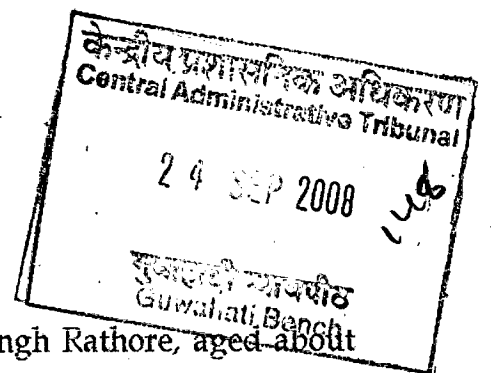
6. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 22.05.2008 passed by this Hon'ble Tribunal in O.A. No. 86 of 2006 which amounts to Contempt of Court. Therefore the Hon'ble Tribunal be pleased to 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 contemnors 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.

Narendra Singh Rathore



### 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 1 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 21st day of September, 2008.

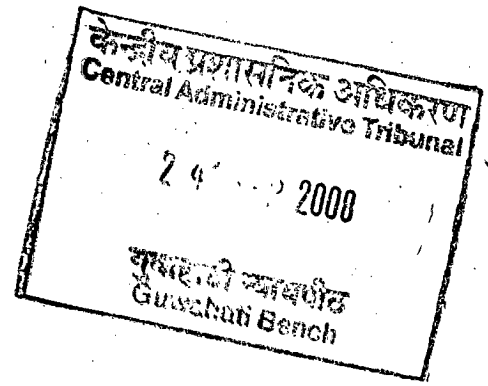
*Narendra Singh Rathore*

Deponent

Identified by

*Sulanta Nath*  
21/09/08.  
Advocate

*The abovesigned deponent  
solemnly affirm and declare  
before me on 21st September 2008.  
Uma 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.

Alexandra Singh Rathore

- 7 -

SL No 79

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 86 of 2006

&  
Original Application No. 244 of 2006

Date of Order: This, the 22nd Day of May, 2008

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).

By Advocates S/Shri M.Chanda & S.Nath.

- Versus -

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

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

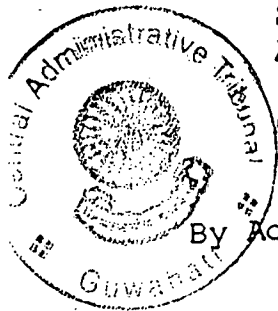
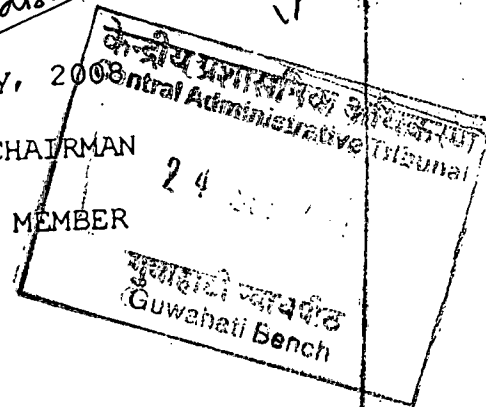
By Mr.G.Baishya, Sr.C.G.S.C.

Shri Devendra Singh  
Son of Shri Mahendra Singh  
Working as Hindi Translator Gr.II  
ARTC School, Assam Rifles  
Dimapur, Nagaland  
C/O: 99 APO.

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

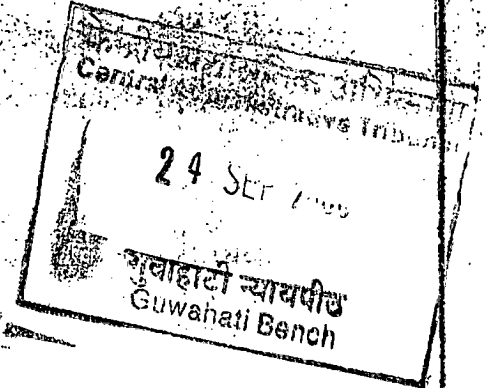
By Advocates S/Shri M.Chanda, S.Nath, G.N.Chakraborty &  
U.Dutta.

*Attested  
U.Dutta  
Adv*



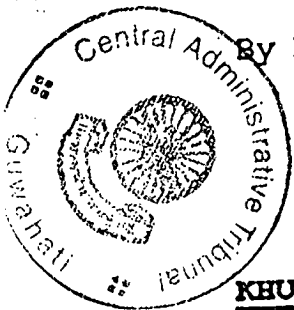
- Versus -

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.
4. The Deputy Inspector General  
Assam Rifles  
Dimapur, Nagaland.



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

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



ORDER  
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.

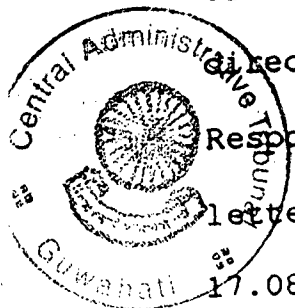
2. The Applicant in O.A.86/06 is presently working with Assam Rifles as Hindi Translator Grade-I w.e.f. 29.06.1999. He was selected for appointment in post of Hindi Officer through UPSC by 'transfer on deputation' on 13.06.2000 and the Applicant joined as such in the pay scale of Rs.6,500-10,000/- w.e.f.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

*R*

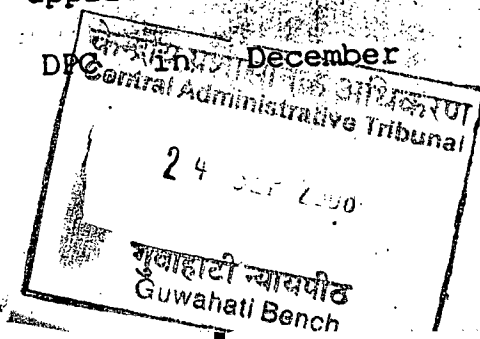
regularization of his appointment but no action was taken by the Respondents. Instead of acceding to his request for regularization/absorption as Hindi Officer he was reverted/repatriated on completion of his deputation tenure to the post of Hindi Translator Grade-I on 27.06.2003. Aggrieved by this decision 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 fresh representation within a month with direction to the Respondents to dispose of the same by passing a speaking order within 3 months. In compliance with the said-

direction, the Applicant filed representation before the Respondents on 20.04.2004. Applicant was informed (vide letter dated 16.08.2004 communicated through letter dated 17.08.2004) 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 the Applicant will be considered in next DPC for appointment to the post of Hindi Officer. The Applicant represented to the Respondents on 31.08.2004 for his appointment to the post of Hindi Officer with 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 representation for not holding



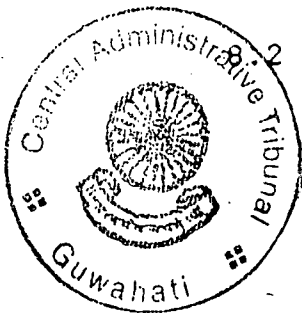
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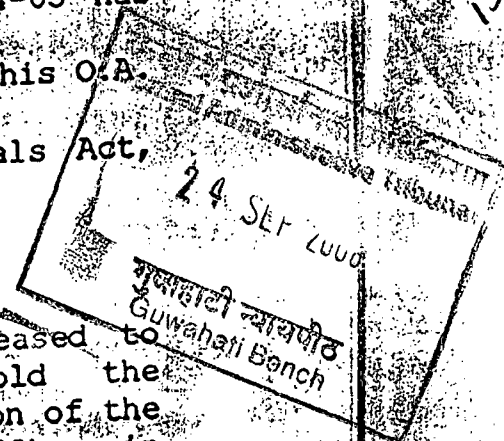
2004/January 2005 for the recruitment year 2004-05 has not been responded to by the Respondents. Hence this O.A. under section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to direct the respondents to hold the 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 immediate effect without taking into consideration the uncommunicated 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 direct the respondents to promote the applicant to the post of Hindi Officer with retrospective effect at least from the date of eligibility with all consequential service benefits including benefit of seniority."

3. The Applicant in O.A.244/2006 was appointed as 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, which was issued in compliance with 'signal' dated 30.06.2003. He filed several representations, on 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



*[Handwritten signature]*

5 - 11 -  
section 19 of the Administrative Tribunals Act, 1985  
seeking the following main reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to declare the reversion of the applicant from Hindi Translator Grade I to 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.

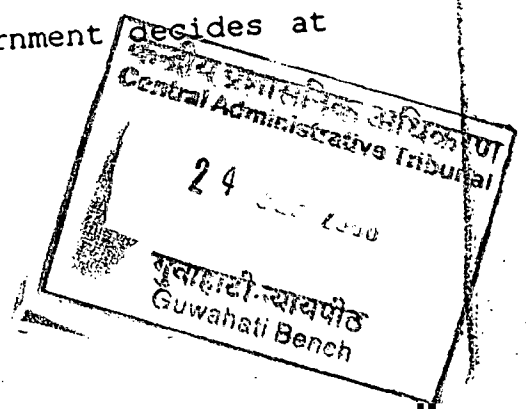
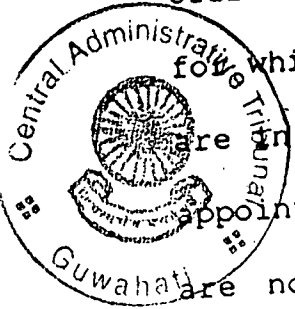
8.4 That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the post of Hindi Translator Grade-I retrospectively w.e.f. 25.10.2002 with all consequential service benefits including monetary benefits."



4. 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 of Home Affairs letter No.27011/44/88-FP.I dated 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

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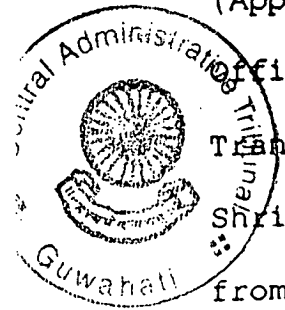
which the Applicant preferred not to become combatised vide option certificate dated 14.01.2006. It has also been clarified that the Applicant earlier, on deputation, was holding the post of Hindi Officer from 29.06.2000 to 29.06.2003. When the Applicant was holding the post of Hindi Officer on deputation, the post was not a 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 for which departmental officer in the feeder category who are in the line of promotion shall not be considered for appointment on deputation. Similarly deputatinists also are not eligible for consideration for appointment by promotion. The Applicant after completion of his 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



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

5. In O.A. No.244/2006 Respondents have also filed their written statement denying and disputing the claim 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 Officer. 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 revert him. It has been clarified (in the written 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 were 4 persons against 3 vacancies. Since sanctioned posts are only 3, Applicant had to be reverted back for want of post to accommodate him. The post of Hindi Officer in Assam Rifles has been combatised and designated as "Subedar Major w.e.f. 26.08.2003. As per the Recruitment Rules, 2001 33% posts of Hindi Officer are required to be

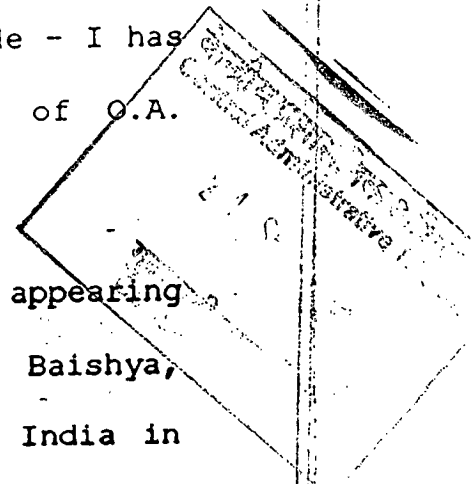
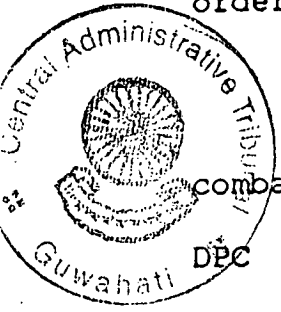
24 SEP 2006  
Guwahati Bench



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 left no scope for continuing the Applicant of O.A. 244/2006 as Hindi Translator Grade-I.

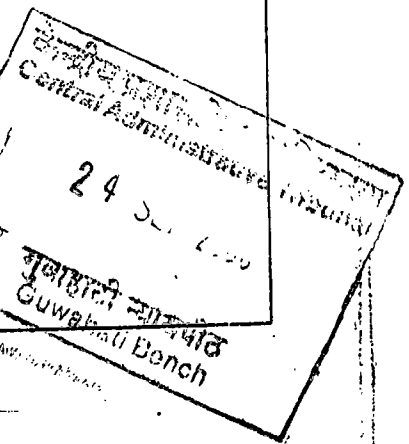
6. Heard Mr. M.Chanda, learned counsel appearing for the Applicant in both the O.A.s, and Mr. G. Baishya, learned Sr. Standing counsel for the Union of India in both the O.A.s. Learned counsel for the Applicant in O.A.86/2006 argued that Director General of Assam Rifles under Annexure-L dated 16.08.2004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



9

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 vacancy<sup>2</sup> it is not possible to hold DPC, then a 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 Rules, 2002 reads as under:-

In case of recruitment by promotion/deputation/absorption grades from which promotion/deputation/absorption to be made	If Departmental Promotion Committee exists, what is its composition	Circumstances, in which Union Public Service Commission is to be consulted in making recruitment
12	13	14
<b>Promotion:-</b> Hindi Translator Grade-I with three years' regular service in the grade. <b>NOTE:</b> 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 who have already completed such	Group 'B' Departmental Promotion Committee (For Considering Promotion and Confirmation):- 1. Deputy Director General, Assam Rifles - Chairman 2. Director (Adm), Dte General, Assam Rifles - Member	Consultation with UPSC necessary while making direct recruitment



15

qualifying/ eligibility service.

**Deputation :**

**Officers** under **Central Government:**

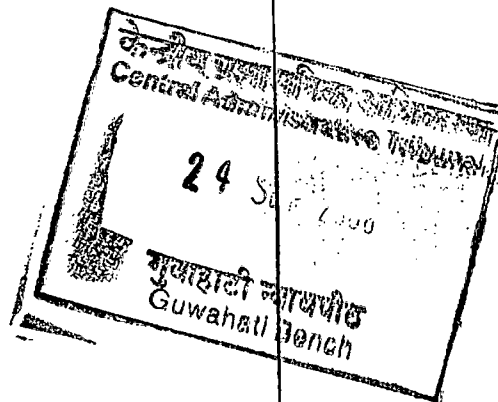
(a) (i) Holding analogous posts on Regular basis; or

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

(b) Possessing the educational qualifications and experience prescribed for Direct recruit under column 8

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

3. Assistant Director(A), Dte General, Assam Rifles - Member



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

all consequential benefits. He also submitted that

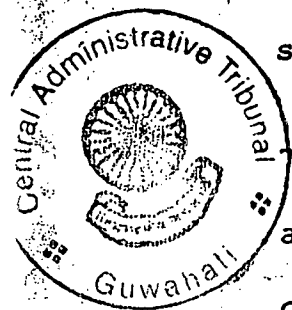
promotion of combatised and non-combatised is held in

their line and the Applicant is relying his claim on the

promotional post on civilian side.

*[Handwritten signature]*

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 letter dated 16.08.2004 while disposing of the 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

केन्द्रीय प्रशासनिक न्यायाधीश  
Central Administrative Tribunal

24 SEP 2008

गुवाहाटी न्यायाधीश  
Guwahati Bench



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 Annexure-R10 filed with their written statement. 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 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

post on combatised side.

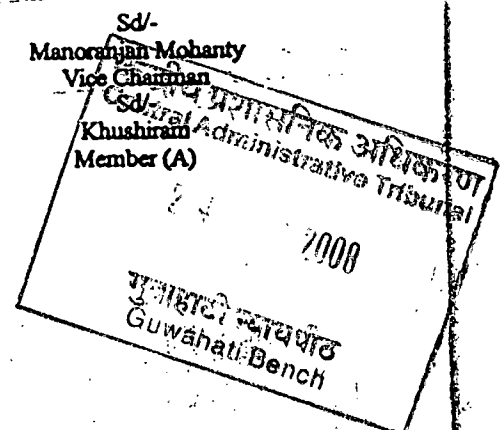
8. The case of Applicant No.244/2006 has no merit nor the Applicant has any right to continue or get absorbed in a post with the Respondents as he had occupied the post of Hindi Translator, Grade-I on deputation only and on completion of the tenure and for want of vacancy he has been reverted.

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

Date of Application : 23.5.08  
 Date on which copy is ready : 26.5.08  
 Date on which copy is delivered : 26.5.08  
 Certified to be true copy

Section Officer (J.dl)  
 C. A. T. Guwahati Bench  
 Guwahati

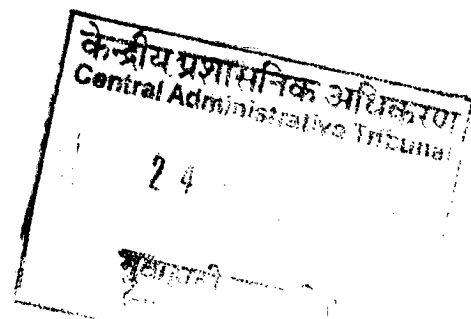
Sd/-  
 Manoranjan Mohanty  
 Vice Chairman  
 Khushiram  
 Member (A)



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 unequal 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.

Attested  
Mulla  
Adh

(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) (I) 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,

नरेंद्र सिंह राठौर

(Narendra Singh Rathore)

Place : Field

Dated : 02 Jun 2008

ANNEXURE-III

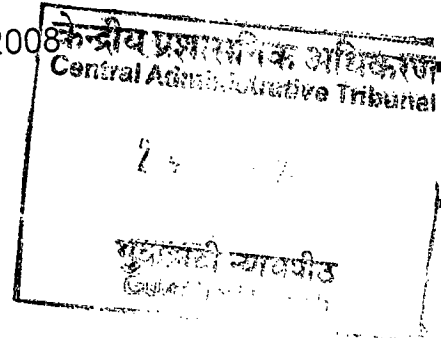
164

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

03 Jun 2008



**OA NO 86/2006 FILED BY SHRI N S RATHORE Vs UIO 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

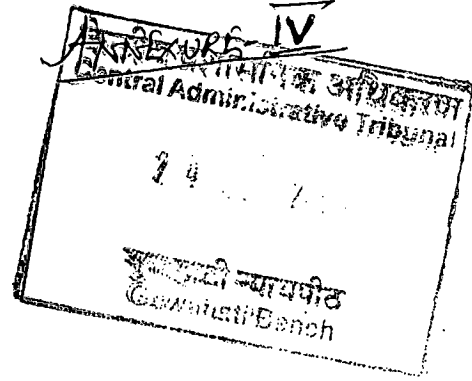
Fwd alongwith a copy of above  
Hon'ble CAT Guwahati order for info  
and necessary action please.

*Attended  
Wulla  
Adm*

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 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).

2. 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.

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

Yours faithfully,

(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.

*Attended  
Marta  
don*

-23-

ANNEXURE-V

166

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


24 Aug 2008

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

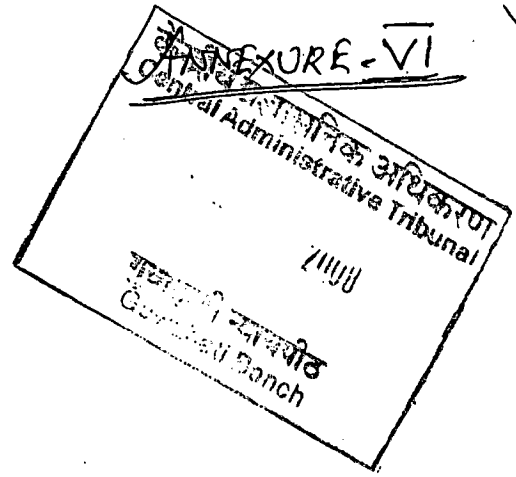
- for necessary action alongwith a  
copy of application.

*Attended  
Bulla  
Adv*

From : 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

Sir,

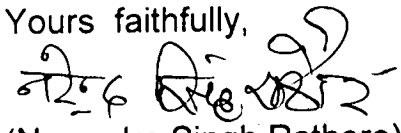
1. Most humbly and respectfully I beg to refer my applications dated 02 Jun 2008 and 29 Jul 2008 which were fwd to DGAR vide 21 Sector letter No A/15036/2008/1098 dated 03 Jun 2008 and No A/15036/2008/2009 dated 24 Aug 2008 in which I submitted order of Hon'ble CAT Guwahati dated 22 May 2008 in O.A. No 86 of 2006.

2. 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.

3. In view of above, it is once again requested that I may kindly be communicated about the decision taken in this regard.

4. For this act of your kindness I shall always remain grateful to your honour.

Dated : 06 Sep 2008

Yours faithfully,  
  
(Narendra Singh Rathore)  
(Hindi Translator Grade-I)

Copy to :-

Directorate General Assam Rifles -  
Rec (Adm IV)  
Shillong -11

for necessary action please.

*Submitted  
Shillong  
d.w.*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

DESPATCH NO. CAT/CHU/JUDL/ 4587 to 4592 / DTD. GUWAHATI.

Execution Petition No. 5108

ORIGINAL APPLICATION NO. /200

MISC. PETITION NO. /200

CONTEMPT PETITION NO. /200

REVIEW APPLICATION NO. /200

OC 168

Applicant

24/04/86/08 27-11-08

Sri Narendra Singh Rathore

/APPLICANT(S)

VERSUS

U.O. 99 APO.

/RESPONDENT(S)

To

Sri Narendra Singh Rathore

S/o Late Srinam Singh Rathore

Sp. Translator

ARTE School, Assam Rifles,

Dispur.

C/o 99 APO.

Please find herewith a copy of Judgment/order dated 26.9.08

passed by the Bench of this Tribunal comprising of Hon'ble Shri M.R.

Mohanty, Vice-Chairman and Hon'ble Shri S.N.

Shukla, Member (Admn.) in the above noted case for information and necessary action, if any.

please acknowledge the receipt of the same.

By Order

Enclo : As above

(Copy of the Petition in

O.A.No. )

(Signature) 24/11/08  
SECTION OFFICER (JUDL)

24/11

Memo.No. \_\_\_\_\_

Dtd. \_\_\_\_\_

Copy for information to :

1. Mr. Mrs. Miss. Dr. U. Dutta / Advocate, Gauhati High Court.

2. Mr. Mrs. Miss. / Sr. CGSC, Addl. CGSC.

3. Mr. Mrs. Miss. Dr. / Rly. Standing Counsel,  
Govt. Advocate, Assam,  
Nagaland, Manipur, Mizoram,  
Tripura & Arunachal Pradesh,  
KVS, for Pvt. Respondents  
No.

Received  
Dutta  
01/12/08



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : : : : : GUWAHATI

DESPATCH NO. CAT/CHU/JUDL/ / DTD. GUWAHATI.

Execution Petition No. 5708 in OA 86/06

ORIGINAL APPLICATION NO. /200

MISC. PETITION NO. /200

CONTEMPT PETITION NO. /200

REVIEW APPLICATION NO. /200

169  
Resp 9 No 1

Sri Narendra Singh Rathore /APPLICANT(S)

VERSUS

U.O.? - V OPS. /RESPONDENT(S)

To

The Secretary to The Govt. of India,  
Ministry of Home Affairs,  
New Delhi - 110001.

Please find herewith a copy of Judgment/order dated 26.9.08  
passed by the Bench of this Tribunal comprising of Hon'ble Shri M.R.  
Mohanty, Vice-Chairman and Hon'ble Shri S.N.  
Shukla, Member(Admn.) in the above noted case for infor-  
mation and necessary action, if any.

Please acknowledge the receipt of the same.

Enclo : As above

(Copy of the Petition in

Execution Petition No. 5708  
in OA 86/06.

By Order

(Signature) 24/11/08  
SECTION OFFICER(JUDL)

Memo.No. \_\_\_\_\_

Dtd. \_\_\_\_\_

Copy for information to :

1. Mr.Mrs.Miss.Dr. \_\_\_\_\_ / Advocate, Gauhati High Court.
2. Mr.Mrs.Miss. \_\_\_\_\_ / Sr.CGSC, Addl.CGSC.
3. Mr.Mrs.Miss.Dr. \_\_\_\_\_ / Rly.Standing Counsel,  
Govt.Advocate, Assam,  
Nagaland, Manipur, Mizoram,  
Tripura & Arunachal Pradesh,  
KVS, for Pvt.Respondents  
No.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

DESPATCH NO. CAT/CHU/JUDL/ / DTD. GUWAHATI.

*Execution Petition No. 5708 in OA 88/06*

170  
Resp. No. 2

ORIGINAL APPLICATION NO. /200

MISC. PETITION NO. /200

CONTEMPT PETITION NO. /200

REVIEW APPLICATION NO. /200

Sri Narendra Singh Rattore /APPLICANT(S)

VERSUS

U.O.I. v OIS /RESPONDENT(S)

To

The Director General of Assam Rifles,  
Shillong - 793 011

Please find herewith a copy of Judgment/order dated 26.9.08  
passed by the Bench of this Tribunal comprising of Hon'ble Shri M.R  
McIntyre, Vice-Chairman and Hon'ble Shri S.N  
Shukla, Member(Admn.) in the above noted case for infor-  
mation and necessary action, if any.

please acknowledge the receipt of the same.

Enclo : As above

(Copy of the Petition in  
Execution Petition No. 5708  
O.A. No. OA 88/06)

By Order  
*[Signature]* 24/11/08  
SECTION OFFICER(JUDL)  
15/11/11

Memo.No. Dtd.

Copy for information to :

1. Mr.Mrs.Miss.Dr. / Advocate, Gauhati High Court.
2. Mr.Mrs.Miss. / Sr.CGSC, Addl.CGSC.
3. Mr.Mrs.Miss.Dr. / Rly.Standing Counsel,  
Govt.Advocate, Assam,  
Nagaland, Manipur, Mizoram,  
Tripura & Arunachal Pradesh,  
KVS, for Pvt.Respondents  
No.

DESPATCH NO. CAT/CHU/JUDL/ / DTD. GUWAHATI.

*Execution Petition No 5708 in OA/86/06*

ORIGINAL PETITION NO. /200  
MISC. PETITION NO. /200  
CONTEMPT PETITION NO. /200  
REVIEW APPLICATION NO. /200

/APPLICANT(S)

*Sri Narendra Singh Rathore*

VERSUS

/RESPONDENT(S)

*U.O.I. Nos.*

To

*The Inspector General,  
Prison Dept. (North),  
C/o J.P.O.*

Please find herewith a copy of Judgment/order dated 26.9.08  
passed by the Bench of this Tribunal comprising of Hon'ble Shri H.R.  
Mostant, Vice-Chairman and Hon'ble Shri S.N.  
Shukla, Member(Admn.) in the above noted case for infor-  
mation and necessary action, if any.

please acknowledge the receipt of the same.

Enclo : As above;

(Copy of the Petition in

*Execution O.A. No. 5708 in OA/86/06*

By Order  
*Narendra Singh Rathore*  
SECTION OFFICER(JUDL)

Dtd.

*HS 24/11*

Memo.No. \_\_\_\_\_

Copy for information to :

1. Mr.Mrs.Miss. Mr. \_\_\_\_\_ / Advocate, Gauhati High Court.
2. Mr.Mrs.Miss. \_\_\_\_\_ / Sr.CGSC, Addl.CGSC.
3. Mr.Mrs.Miss. Dr. \_\_\_\_\_ / Rly.Standing Counsel,  
Govt.Advocate, Assam,  
Nagaland, Manipur, Mizoram,  
Tripura & Arunachal Pradesh,  
KVS, for Pvt.Respondents  
No.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

Regd No 4

DESPATCH NO. CAT/CHU/JUDL/

DTG. GUWAHATI.

Execution Petition No. 5708-11/11

OA 86/06

ORIGINAL APPLICATION NO. /200

MISC. PETITION NO. /200

CONTEMPT PETITION NO. /200

REVIEW APPLICATION NO. /200

Shri Narendra Singh Rathore

/APPLICANT(S)

VERSUS

U.O.P. V OPS

/RESPONDENT(S)

To

THE DIG, Assam Rifles,  
Assam Rifles Training Centre &  
School, Dimapur,  
Nagaland.

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Sankar, Member(Admn.) in the above noted case for infor-  
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By Order

SECTION OFFICER (JUDL)

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