

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH;

O R D E R S S H E E T

1. Original Application No. 260/07
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Smt. Sabita Paul Das -VS- Union of India & Ors
2 Ors.

Advocate for the Applicants:- Mr. S. Bhattacharya, M. Bhattacharya
Ms. M. Engtipi.

Advocate for the Respondents:- ~~Ms. U. L. Ahmed~~, Add. case.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>154925906</u> Dated <u>25.9.07</u></p> <p><u>Registrar 26/9/07</u></p> <p><u>Pam.</u></p> <p><u>Petitioner's copy for issue notices are received with envelopes. copy saved</u></p> <p><u>Pam.</u> <u>26/9/07</u></p>	27.9.2007	<p>On the prayer of Mr.S.Bhattacharya, learned counsel for the Applicant, this Original Application No.260/2007 is confined in respect of Applicant No.1, Smti. Sabita Paul (Das) only. He seeks permission, on behalf of Applicant No.2, Sri Indu Kumar Hazarika and Applicant No.3, Sri Jogeswar Nath to withdraw themselves (Applicant Nos. 2 & 3) from this Original Application with liberty to file separate Original Applications by the said Applicant Nos. 2 & 3. Prayer is allowed.</p> <p>This Original Application No. 260/2007 shall be treated to be an Original Application filed by Applicant No.1, Smt. Sabita Paul (Das). While permitting the Applicant Nos. 2 and 3 to withdraw, liberty as prayed is granted to those two Applicants to file separate Original Application individually.</p>

Contd...

Contd
27.9.2007

Issue notice to the Respondents
requiring them to file reply by 12.11.2007.

Call the matter on 12.11.2007.

27.9.07.

Please issue Notice

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

Notice & order sent /bb/
to D/Section for issuing
to resp. nos. 1 to 6 by
regd. A/D post.

12.11.2007

Mr.S.Bhattacharjee, learned counsel
is present. Learned Standing counsels for
the Union of India appearing for the
Respondents seek more time to file reply
statement. Prayer is allowed.

Call this matter on 31.12.2007
expecting reply statements from the
Respondents.

① Service report
awaited.

8/11/07.

(M.R.Mohanty)
Vice-Chairman

Notice duly served
on R-1

18.12.2007

On being mentioned by
Mr.S.Bhattacharya, learned counsel
appearing for the Applicant, this matter is
taken up.

22.11.07

One notice from Respondent No.6
returned without serve with a
comment that neither the applicant's
service record book nor payment &
salary documents with that unit.
One same is maintained with Station
cell HQ 51 Sub Area, C/099 APO.
So, we may issue fresh notice to
the above mentioned address vide letter
dated 20.10.07 at place. He shall
file before the
Honble Court for fresh notice issued
further order.

2. Notice issued to the Respondents No.6
was apparently duly received by him. He has
returned those notices under his forwarding
letter No.1632/2C/01/Sigs/Gen dated
20.10.2007; which was received in the Registry
on 08.11.2007. The ^{text} of the said letter read
as under:-

Contd ...

SOC

22/11/07

Contd.
18.12.2007

"1. The following court notice in respect of CSBO as shown against their names of CSBO are returned herewith as neither their Service Record Book, payment of salary nor any documentation is done by this unit. The same is maintained with Station Cell, HQ 51 Sub Area, C/O 99 APO:-

- (a) Case No.260/2007 filed by Smt. Sabita Paul Das vs Union of India and others
- (b) Case No.265/2007 filed by Farida Begum vs Union of India and others
- (c) Case No 264/2007 filed by Smt G Mahanta (Devi) Union of India and others.

2. In view of the above you are requested to address the same in favour of under mentioned address:-

Station Cell (Legal Cell)
HQ 51 Sub Area
PIN-908651
C/O 99 APO."

3. Notice to the aforesaid Respondent

No.6 is hereby treated to have been made sufficient. As an abundant caution, Mr.S.Bhattacharya (learned counsel for the Applicant, to whom a copy of the letter dated 28.11.2007 was sent) undertakes to take notice of this case to the Station Cell (Legal Cell), HQ 51 Sub Area PIN-908651 C/O 99 APO. Mr.S.Bhattacharya undertakes to file extra copy of this Original Application by day after tomorrow.

Registry to issue notice to the Officer I/C, Station Cell (Legal Cell) HQ 51 Sub Area PIN-908651 C/O 99 APO requiring him to file reply/counter/written statement by 31.01.2008.

Call this matter on 31.01.2008.

Contd...

O.A. 260/2007

Contd.
18.12.2007

Dt. 18.12.07.

Pl. issue notices to
the officers & staff cell.

Pl. send order copies
to the respondents.

29.02.2008

Copies of this order be sent to each of
the Respondents (including Respondent
No.6); who should take expeditious step to file
reply/counter/written statement by 31.01.2008;
and to learned counsel appearing for both

the parties and Mr. M.U.Ahmed, learned

(M.R.Mohanty)
Vice-Chairman

Steps for resp. No. 6
received on 27/12/07.

27/12/07.

/bb/

31.01.2008

Mr. S .Bhattacharyya, learned
counsel appearing for the Applicant is
present.

Mr. M.U. Ahmed, learned Addl.
Standing Counsel appearing for the
Respondents department seeks four weeks
time to file reply in this case.

In the aforesaid premises, call this
matter on 29th February, 2008 awaiting
written statement from the Respondents.

Notice & order sent
to D/Section for
issuing to resp. no.
6 by regd. A/D post.

And order dt. 18/12/07
issuing to resp. nos. 1 to
5 by post.

27/12/07. D/No-2005

Dt. 28/12/07.

D/No-1988 to 1992

Dt. 28/12/07.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

lm

W/S not filed.

29.02.2008

28.2.08.

Mr. S. Bhattacharjee, learned counsel
for the Applicant and Mr.M.U.Ahmed, learned
Addl. Standing Counsel appearing for the
Respondents are present. Written statement
has not been filed. Counsel for the
Respondents prays for three weeks time to
file written statement. Prayer is granted.

Call this matter on 27.03.2008.

(Khushiram)
Member (A)

W/S not filed.

26.3.08.

27.03.2008 In this case written statement has already been filed in Court. Copy served.

Call this matter on 31.03.2008 for Admission.




(M.R. Mohanty)
Vice-Chairman

lm

31.03.2008

Heard Mr. S. Bhattacharya, learned Counsel appearing for the Applicants and Mr. M.U. Ahmed learned Additional Standing Counsel for the Respondents.

In terms of the order recorded separately, this O.A. stands disposed of along other analogous OAs.



[Khushiram]
Member[A]



[Manoranjan Mohanty]
Vice-Chairman

cm

16.5.08

Indgt sent
vide D. Nos 2/57
to 2/73 to the
parties alongwith
L/Advs for the parties.
H.S.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No. 260 of 2007
With
O.A.No. 263 of 2007
With
O.A.No.264 of 2007
With
O.A.No.265 of 2007
With
O.A.No.305 of 2007
With
O.A.No.306 of 2007

Guwahati, this the 31st March, 2008

CORAM: The Hon'ble Mr. Manorajan Mohanty, Vice-Chairman
The Hon'ble Mr. Khushiram, Member [Administrative]

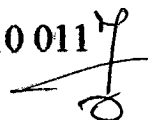
O.A.260 of 2007

- [i] Smt. Sabita Paul [Das]
Wife of Ritwik Ranjan Paul
Resident of Railway Line Bye Lane No.4
PO Udayan Vihar
Dist.Kamrup [Assam]
- [ii] Sri Indu Kumar Hazarika
Son of Sri Bega Ram Hazarika
Resident of Nagaon,
Dist. Nagaon, Assam.
- [iii] Sri Jogeswar Nath
Son of Late Pawal Chandra Nath
Resident of Bihoguri, Tezpur
Dist. Sonitpur, Assam

Applicants

By Advocates Mr. S. Bhattacharya and Ms. M. Bhattacharjee

- [i] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi.
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi.
- [iii] Director General of Signal [Sigs-4[c].
General Staff Branch
Army Head Quarters
DHQ PO: New Delhi-110 011



- [iv] GOC IN-C
HQ Eastern Command
Kolkata
- [v] Chief Signal Record Officer
Signal Records
Post Bag No.5
Jabalpur-482001, Madhya Pradesh
- [vi] Commanding Officer
2 Coy. Signal Regiment
Army Exchange, Narengi Cantt.
C/O 99 APO

Respondents

By Advocate Mr. M.U.Ahmed, Addl. Central Govt. Standing Counsel

O.A.263 of 2007

Indu Kumar Hazarika
Son of Sri Bega Ram Hazarika
Resident of Vill-Bor Roidongia
PO-Aibhiti, Dist. Nagaon, Assam

Applicant

By Advocates: Mr. S. Bhattacharya and Ms.M.Bhattacharjee
versus

- I] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi-1
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi-110 011
- [iii] Director General of Signal [Sigs-4[c]
General Staff Branch
Army Head Quarters
DHQ PO: New Delhi-110 011
- iv] GOC IN-C
HQ Eastern Command
Kolkata.
- [v] Chief Signal Record Officer
Signal Records
Post Bag No.5
Jabalpur-482 001, Madhya Pradesh
- [vi] Commanding Officer
Western Command, Composite Signal Regiment
Chandimandir
C/O-56 APO..

Respondents

By Advocate Mr.G. Baishya, Senior Central Govt. Standing Counsel //

O.A.No.264 of 2007

Mrs. Gayatri Mahanta [Devi]
Wife of Saroj Kumar Mahanta
Resident of House No.62
Satgaon, Guwahati,
PO Udayan Vihar
Dist. Kamrup [Assam]

Applicant

By Advocates Mr. S. Bhattacharya and Ms. M.Bhattacharjee
versus

- [I] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi.
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi.
- [iii] Director General of Signal [Sigs-4[c]
General Staff Branch
Army Head Quarters
DHQ PO: New Delhi-110 011
- [iv] GOC IN-C
HQ Eastern Command
Kolkata
- [v] Chief Signal Record Officer
Signal Records
Post Bag No.5
Jabalpur-482001, Madhya Pradesh
- [vi] Commanding Officer
2 Copy.Signal Regiment
Army Exchange, Narengi Cantt.
C/O 99 APO

Respondents

By Advocate Mrs. M.Das, Addl. Central Govt. Standing Counsel

O.A. No.265 of 2007

Smt. Farida Begum
Wife of Nijam Ali
Resident of Satgaon,
PO Udayan Vihar,
Narengi, Guwahati,
Dist. Kamrup, [Assam]

Applicant

By Advocates Mr. S.Bhattacharya and Ms.M.Bhattacharjee

versus

- [I] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi-1
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi-110011
- [iii] Director General of Signal [Sigs-4[c]
General Staff Branch
Army Head Quarters
DHQ PO: New Delhi-110 011
- [iv] GOC IN-C
HQ Eastern Command
Kolkata
- [v] Chief Signal Record Officer
Signal Records
Post Bag No.5
Jabalpur-482001, Madhya Pradesh
- [vi] Commanding Officer
2 Coy.Signal Regiment
Army Exchange, Narengi Cantt.
C/O 99 APO

Respondents

By Advocate Ms. U. Das, Additional Central Govt. Standing Counsel

O.A. 305 of 2007

Sri Jogeswar Nath
Son of Late Powal Ch. Nath
Resident of Vill-Balikuti
PO-Bapubheti
Dist.-Sonitpur, Assam.
By Advocates: Mr. S. Bhattacharya and Ms. M. Bhattacharjee

Applicant

Versus

- i] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi-11 001
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi-110 011
- [iii] Director General of Signal [Sigs-4[c]
General Staff Branch
Army Head Quarters

- iv] DHQ PO: New Delhi-110 011
GOC IN-C
HQ Eastern Command
Kolkata-700 021
- [v] Chief Signal Record Officer
Signal Records
Post Bag No.5
Jabalpur-482 001, Madhya Pradesh
- [vi] Commanding Officer
Western Command, Composite Signal Regiment
Chandimandir
C/O-56 APO..

Respondents

By Advocate Ms. U .Das, Addl. Central Govt.Standing Counsel

O.A.No. 306 of 2007

Sri Saroj Kumar Mahanta
Son of Late K.C. Mahanta
Resident of Vill-Gatanga
PO-B.P.Tiniali, Dist. Sonitpur, Assam

Applicant

By Advocate Mr.S.Bhattacharya and Ms.M.Bhattachajee
Versus

- [i] Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi-11 001
- [ii] Commander in Chief
Army Head Quarter
D.H.Q., New Delhi-110 011
- [iii] Director General of Signal [Sigs-4[c]
General Staff Branch
Army Head Quarters
DHQ PO: New Delhi-110 011
- [iv] GOC IN-C
HQ Eastern Command
Kolkata-700 021
- [v] Chief Signal Record Officer
Signal Records
Post Box No.5
Jabalpur-482001, Madhya Pradesh
- vi] Chief Record Officer,
Army Ordnance Corps.Records
900453, C/O 56 APO
- [vii] Officer Commanding
41, Veh.Coy.
C/O 99 APO.

Respondents

By Advocate Mr.M.U. Ahmed, Addl. Central Govt. Standing



OAs No. 260/07, 263/07, 264/07, 265/07, 305/07 and 306/07

ORDER[ORAL] dated 31.3.2008

MANORANJAN MOHANTY, VICE-CHAIRMAN:-

The Applicants named above were engaged as Civilian Switch Board Operators [CSBO] in Military Telephone Exchanges on temporary basis with effect from dates specified below:-

Table No.1

Applicants of	Date of temporary Engagements
OA 260/07	01.03.1985
OA 263/07	01.03.1985
OA 264/07	06.06.1987
OA 265/07	05.11.1986
OA 305/07	01.05.1985
OA 306/07	01.03.1985

2. Applicants have pointed out that only after approaching the Guwahati Bench of this Tribunal, they were regularized/treated as regular employees with effect from 17.11.1993 [and not from the dates of their initial temporary engagements] and that similarly placed other employees of the same Respondent Organisation [who were regularized with intervention of Calcutta Bench of this Tribunal] were, however, regularized with effect from the dates of their initial/temporary engagements and, as such, there were gross discrimination among the same class/grade of employees of the Respondents Organisation.

3. For the reason of stagnation [in the matter of promotion], Govt. Servants were/are to get certain stagnation benefits under a Scheme; known as One Time Bound Promotion Benefit'/OTBP Scheme. Under the said

scheme , the Govt. Servants, being under stagnation, are to get the next higher pay scale at the end of 16 years of their services and to get next higher pay scale at the end of 26 years of their services.

4. As per the Applicants, they have completed 16 years of their services on the dates mentioned below; by computing the said period with effect from the date of their initial engagement on temporary basis:-

Table No.2

Applicants of	Date of completion of 16 years of Service From the date of their initial engagement
OA 260/07	01.03.2001
OA 263/07	01.03.2001
OA 264/07	06.06.2003
OA 265/07	05.11.2002
OA 305/07	01.05.2001
OA 306/07	01.03.2001

5. It is the case of the Applicants that though they have completed 16 years of service [on the dates mentioned in the above Table No.2], the Respondents are not extending the stagnation benefits [under the Scheme; known as OTBP Scheme] by computing their services [for grant of OTBP benefits only] with effect from the date of their regularization that was granted w.e.f. 17.11.1993.

6. In the above premises, the Applicants have approached this Tribunal with the present Original Applications filed under Section 19 of the Administrative Tribunals Act, 1985; wherein they have, virtually, prayed to direct the Respondents to compute the 16 years of their [Applicants] services with effect from the dates of their initial/temporary engagements [as given in Table No.1 Supra] and not from the dates of their regularization.



7. By way of filing written reply, the respondents have disclosed [in O.A.No.263/2007] to the following effect:-

14. xxx xxx xxx

“Signals Records have collected the info of casual service of CSBOs from affected units/est to project their cases to higher authorities for counting of their casual service into regular service for calculation of 16 years service for grant of time bound promotion.”

15. xxx xxx xxx

“On receipt of representation dated 08 Feb 2006 from affected CSBOs incl. Shri Indu Kumar Hazarika, Signals records have immediately called statement of case vide their letter No.3669/CA-6/3/ACP-TBP/60 dt 19 May 2006 for obtaining sanction from Min of Def alongwith estimated financial implication involved in this case. On receipt of statement of case from West Comd Comp Sig Regt vide their letter No.3045/C2/Revised Pay/Civ adm dt 20 Jun 2006, a case was projected to Min of Def through IHQ of MoD [Army] for their approval vide Signals Records letter No.3669/CA-6/T-3/MSN/75 dt.10 Aug 2006.”

18. xxx xxx xxx

“However, to remove the anomaly and uniform pay scale to all similarly placed CSBOs, a case was projected to Min of Def through IHQ of Mod [Army] for approval vide Signals Records letter No.3669/CA-6/T-3/TBP/MSN/75 dt 10 Aug 2006 but Min of Def have advised to refer all the matters related to cadre review, proposal for upgradation/anomalies, new allowances or enhancement of existing allowance to sixth CPC. Accordingly the same was forwarded to AG/MP4 [Civ/PCC] for onward submission to sixth CPC vide IHQ of MoD [Army] Note No B/44572/TBP/Sigs 4[c]/211 dt 02 Mar 2007. The case for counting of service from the date of temp appt in respect of CSBOs is presently under consideration of Min of Def in consultation with DOP & T as intimated vide IHQ of MoD [Army] [AG/MP 4[Civ] PCC] vide their letter No.15608/5/MP 4[Civ] [PCC] dated 26 Oct 2007.”

In O.A.No.264/07, the Respondents have disclosed that by an order dated 30.06.1995, the services of the Applicant therein [who was initially engaged on 06.06.1987] was regularized with effect from 17.11.1993 and that she is entitled to get 1st benefit under OTBP Scheme in

the pay scale of Rs.5000-8000/- after 16 years of service and that since she was regularized with effect from 17.11.1993, she is eligible to get 1st financial upgradation only on 17.11.2009. Stating so, the Respondents have disclosed in para 7 of the written reply [filed in said OA No.264/07] as under:-

"7. That however, a separate consolidated proposal for counting of services from the date of temporary appointment of Civilian Switch Board Operators has been forwarded to the 6th Central Pay Commission which is presently under consideration of Ministry of Defence in consultation with Department of Personnel and Training."

In O.A.No.265/07, the Respondents have also contested the cases of the Applicant in the same way as that of above 2-cases.

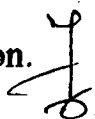
8. We have heard Mr. S. Bhattacharya, learned Counsel appearing for the Applicants and the learned Senior/Additional Standing Counsels appearing in different cases, one after the other, and disposing of them by this common order.

9. At the hearing, the learned Counsel appearing for the Applicants stated that the Respondents ought not have discriminated the Applicants from that of their counterparts; who got the relief [of regularization with effect from the date of initial/temporary engagements] after approaching the Calcutta Bench of this Tribunal and that equal treatment ought to have been granted to all the similarly placed Civilian Switch Board Operators by regularizing all of them with effect from the dates of their initial/temporary engagements. He has relied upon the decision dated 30.11.2006 of the Hon'ble Supreme Court of India rendered in the case of Union of India &

others Vs. Carpenter Workers Union & others [reported in [2006] 12 SCC 435] in which case the Respondents implemented the Orders of this CAT in respect of similarly placed employees of one Zone and contested the matter, again, in respect of employees of another Zone. Hon'ble Apex Court, in that case, held that since the order of CAT was complied with by the Department in respect of East Zone Carpenters, there was no need to entertain SLP of the Department in respect of the grievances of the Carpenters of other Zone.

10. In the above premises, since the Respondent Organisation of the present case have already regularized the similarly placed SBCOs [who approached Kolkata Bench of this Tribunal, for their regularization] with effect from the dates of their initial/temporary engagements, they [Respondents] should not discriminate in the matter and treat the present Applicants to have been regularized with effect from the dates of their [Applicants] initial/temporary engagements as given in Table 1 Supra.

11. Applicants' side have also placed on records following few reported cases to say that, 'while computing periods for grant of stagnation benefits [like ACP benefits/OTBP benefits/BCR benefits] the entire period of experiences gathered [prior to inter-cadre transfers] should not be wiped out/ignored and that the said period should be counted for grant of such benefits'. Stating so, the Advocate for the Applicants has argued that the Respondents, for the purpose of granting OTBP benefits, should compute the entire period of service rendered, by the Applicants, prior to their regularization.



12. In the case of Dwijen Chandra Sarkar and another vs. Union of India & others [reported in 1999[2] SCC 119] the Hon'ble Apex Court held that the Govt. Servants would be entitled to time bound promotion to the higher grade from the date they completed 16 years of service by counting their service in previous/Rehabilitation Department also.

13. In the case of Union of India vs. V.N. Bhat [reported in 2004 SCC [L&S] 167]; it has been held as under:-

"4. The submission of the learned counsel for the appellants in short is that having regard to the admitted fact that the respondent herein has not completed 16/26 years in the postal service, the One Time-Bound Promotion Scheme or BCR Scheme is not applicable in his case. The fact that the respondent herein had completed 18 years of service in the Ministry of Defence is not disputed. The question, which, therefore, arises for consideration, is as to whether the period of service rendered by the respondent in the Ministry of Defence should be wiped off for all purposes. The well-settled principle of law that even in the case where the transfer has been allowed on request, the employee concerned merely loses his seniority, but the same by itself would not lead to a conclusion that he should be deprived of the other benefits including his experience and eligibility for promotion. In terms of the Schemes aforementioned, promotion is to be granted for avoiding stagnation only within the said parties. The said Schemes have been framed because they are beneficial ones and are thus required to be implemented. The Scheme merely perused that any person having rendered 16/26 years of service without obtaining any promotion could be entitled to the benefit therefore. It is, therefore, not a case where promotion to the higher post is to be made only on the basis of seniority. Even in a case where the promotion is to be made on selection basis, the employee concerned, even if he be placed at the bottom of the seniority list in terms of the order of transfer based in his favour, he cannot be deprived of being considered for promotion to the next higher post if he is eligible therefor. This aspect of the matter is clearly covered by the three decisions of this Court, namely, A.P.SEB v. R. Parthasarathi [1998] 9 SCC 425], Scientific Advisor to Raksha Mantri v. V.M. Joseph [1998] 5 SCC 305] and Renu Mullick v. Union of India [1994] 1 SCC 373].

5. The aforesaid decisions have been followed by this Court in Dwijen Chandra Sarkar v. Union of India [1999] 2 SCC 119] in the following paras: [SCC pp.124-25, paras 14 & 17]

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"14. The words 'except seniority' in the 1983 circular, in our view, mean that such a benefit of a higher grade given to the transferees will in no way affect the seniority of employees in the P&T Department when the turn of the P&T employees comes up for promotion to a higher category or post. The said words 'except seniority' are intended to see that the said persons who have come from another Department on transfer do not upset the seniority in the transferee Department. Granting them higher grade under the Scheme for time-bound promotion does not, therefore, offend the condition imposed in the transfer order. We are, therefore, of the view that the appellants are entitled to the higher grade from the date on which they have completed 16 years and the said period is to be computed on the basis of their total service both in the Rehabilitation Department and the P&T Department.

*

*

*

17. On the facts of the present case and especially in view of the aforesaid decisions, we are of the view that when the transfer is in public interest and not on request, the two employees transferred cannot be in a worse position than those in the above rulings who have been transferred on request and who in those cases accepted that their names could appear at the bottom of the seniority list. Even in cases relating to request transfers, this Court has held, as seen above, that the past service will count for eligibility for certain purposes though it may not count for seniority."

6. As the contention raised by the appellants herein is squarely covered by this Court in *Dwijen Chandra Sarkar* we do not find any merit in these appeals. They are, accordingly, dismissed. There shall be no order as to costs."

14. In the case of *Union of India v. M.Mathivanan* [reported in 2006[6] SCC 57] it has been held as under:-

"11. The learned counsel for the respondent, in our opinion, is right in relying on para 1 of the Time-Bound Promotion Scheme. Para 1, which relates to placing of an employee in "next higher grade", reads thus:

"[1] The Scheme will come into effect from 30-11-1993. All officials belonging to basic grades in Group 'C' and Group 'D' to which there is direct recruitment either from outside and/or by means of limited competitive examination from lower

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cadres, and who have completed 16 years of service in that grade, will be placed in the next higher grade. Officials belonging to operative cadres listed in Annexure A-1 to the agreement will be covered under the Scheme."

12. Para 2 speaks of "promotion" and reads as under:

"The Heads of Circles/Divisional Superintendents/Heads of other functional units will take immediate action to identify the officials who have completed sixteen years of regular service in the cadres covered under the Scheme as on 30-11-1983 as well as the officials who will complete 16 years of service from 1-12-1983 to 30-3-1984. Thereafter, action will be initiated by the Heads of Circles to convene Departmental Promotion Committee meetings to consider promotion of the officials in the operative cadres to the next higher scale pay. The Departmental Promotion Committee which will be constituted in accordance with the existing instructions applicable to the different cadres will assess the fitness of the identified officials for promotion to the higher scale of pay. The formalities in this regard should be complete within a period of three months. The promotion to the next higher scale of pay will be granted from the date following the date on which the identified officials complete sixteen years of regular service. In case of officials who have completed sixteen years of service before 30-11-1983, the promotions to the next higher scale of pay will take effect from 30-11-1983."

13. Reading of the above two paragraphs makes it abundantly clear that so far as placing of an officer in the "next higher grade" is concerned, what is relevant and material is that such official belonging to basic grades in Groups 'C' and 'D' must have completed "sixteen years of service in that grade". The said paragraph nowhere uses the connotation "regular" service. Para 2 which provides for the Departmental Promotion Committee and consideration of cases of officials for "promotion", provides for sixteen years of "regular" service. The Tribunal, therefore, rightly considered para 1 as relevant and held that basic eligibility condition for being placed in the next higher grade is that the officer must have completed sixteen years of service in the basic grade in Group 'C' and Group 'D'. Though in other paragraphs, the service was qualified by the adjective "regular", the said qualification was not necessary for the purpose of para 1. Since the employee wanted the benefit of placement in "next higher grade", what was required to be established by him was that he had completed sixteen years of service in the grade and the said requirement had been complied with in view of the fact that with effect from 30-9-1983 he was appointed as Warrant Officer. He was, therefore, entitled to the benefit of "next higher grade" under para 1 from 1999. The authorities were, therefore, not justified in rejecting

the claim and accordingly the petition was allowed. The High Court rightly upheld the direction of CAT.

14. The learned counsel for the respondent is also right in placing reliance on the decision of this Court in *Dwijen Chandra Sarkar v. Union of India*. Almost in similar circumstances, the Court considered the extent and applicability of Time-Bound Promotion Scheme and held that the benefit of the said Scheme would be available to a person who had completed "sixteen years of service" in the grade. In that case, two appellants were working in the Posts and Telegraphs Department and they had claimed the benefit of the Scheme. Initially, they were serving to the Rehabilitation Department of the Government of India, but were transferred to the Department of Posts and Telegraphs afterwards. The question before the Court was whether the appellants were entitled to count the services rendered by them earlier in the Rehabilitation Department of the Government of India and whether they would be entitled to the benefit of the Scheme by taking into account past services. The Court considered the scheme of December 1983 and held that what was required under the Scheme was contemplated of sixteen years of service in that grade. If the said requirement is complied with, an employee would be entitled to be placed in the next higher grade. It was observed two concepts, namely, [i] "time-bound promotion" and [ii] "regular promotion" were different. So far as the "time-bound promotion" was concerned, the Court observed that since there were large number of employees who were not likely to get promotion in the near future because of their comparatively low position in the seniority, the Government thought it necessary that in order to remove frustration, the employees should be placed in the "next higher grade" in terms of emoluments while retaining them in the same cadre. This is what is generally known as the "time-bound promotion". Such "time-bound promotion" does not affect seniority of those higher up.

15. The Court then stated: [SCC pp.123-24, para 12]

"12. If that be the true purpose of a time-bound promotion which is meant to relieve frustration on account of stagnation, it cannot be said that the Government wanted to deprive the appellants who were brought into the P&T Department in public interest-of the benefit of a higher grade. The frustration on account of stagnation is a common factor not only of those already in the P&T Department but also of those who are administratively transferred by the Government from the Rehabilitation Department to the P&T Department. The Government while imposing an eligibility condition of 16 years' service in the grade for being entitled to time-bound promotion, is not intending to benefit only one section of employees in the category and deny it to another section of employees in the same category. [emphasis supplied]. The

common factor for all these employees is that they have remained in the same grade for 16 years without promotions. The said period in a term of eligibility [emphasis in original] for obtaining a financial benefit of a higher grade.”

The Court added that for the purpose of “regular promotions” to the higher cadre in the Department, their seniority should be counted only from the date of their transfer in the Posts and Telegraphs Department.

16. The Court, therefore, concluded: [SCC p.124, para 14]

“14. The words ‘except seniority’ in the 1983 circular, in our view, mean that such a benefit of a higher grade given to the transferees will in no way affect the seniority of employees in the P&T Department when the turn of the P&T employees comes up for promotion to a higher category or post. The said words ‘except seniority’ are intended to see that the said persons who have come from another department on transfer do not upset the seniority in the transferee department. Granting them higher grade under the Scheme for time-bound promotion does not, therefore, offend the condition imposed in the transfer order. We are, therefore, of the view that the appellants are entitled to the higher grade from the date on which they have completed 16 years and the said period is to be computed on the basis of their total service both in the Rehabilitation Department and the P&T Department.”

“17. It is no doubt true as observed by the High Court that Dwijen Chandra Sarkar was not an identical case, inasmuch as in that case, the appellants were transferred “in public interest”, whereas in the instant case, the transfer was volunteered by the respondent employee for enrolment in army. That, however, in our opinion, does not make difference since to us, the language in para 1 of the Scheme is clear, unambiguous and leaves no room for doubt. That aspect was also considered in Dwijen Chandra Sarkar. But, in any case, even that point is also finally concluded by another decision of this Court in Union of India v. V.N. Bhat in which the employee was initially appointed in the Ministry of Defence and voluntarily transferred himself to the office of the Post Master General. The question which came up for consideration was as to whether he would be entitled to get benefit of the Scheme. Relying on Dwijen Chandra Sarkar this Court held that the employee would be entitled to the benefit of the Scheme on completion of sixteen years of service.

18. Relying on Dwijen Chandra Sarkar this Court observed:[V.N.Bhat case, SCC p.716,para 4]


“The well-settled principle of law that even in the case where the transfer has been allowed on request, the employee

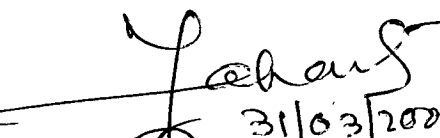
concerned merely loses his seniority, but the same by itself would not lead to a conclusion that he should be deprived of the other benefits including his experience and eligibility for promotion. In terms of the Schemes aforementioned, promotion is to be granted for avoiding stagnation only within the said parties. The said Schemes have been framed because they are beneficial ones and are thus required to be implemented. The Scheme merely perused that any person having rendered 16/26 years of service without obtaining any promotion could be entitled to the benefit therefor. It is, therefore, not a case where promotion to the higher post is to be made only on the basis of seniority."

19. Since the respondent had completed sixteen years of service in 1999, he would be entitled to the benefit of para 1 of the Time-Bound Promotion Scheme and the action of the authorities in not granting the said benefit was illegal and contrary to law. The Central Administrative Tribunal as well as the High Court were, therefore, right in setting aside the said action and by directing the authorities to extend the benefit of the Scheme to the respondent. We see no infirmity in the reasoning adopted and conclusion recorded by CAT or by the High Court and find no substance in the appeal of the appellants."

15. In the above view of the matter, the experiences of the Applicants [from the date of their initial engagement, till the date of their regularization] cannot totally be expunged and, as a consequence, the Applicants are entitled to OTBP benefits with effect from the dates mentioned in Table-2 of para 5 above. The Respondents should grant OTBP benefits to the Applicants with effect from the dates they completed 16 years of their initial engagements [mentioned in Table-2 of para 5 above] and such benefits should be extended to them within 90 days from the date of receipt of a copy of this order.

16. As a consequence, this case is allowed. No costs.


[KHUSHIRAM]
Member[Administrative]


[MANORANJAN MOHANTY]
Vice-Chairman
31/03/2008

22-9-07

केन्द्रीय प्रशासनिक न्यायाधीश
Central Administrative Tribunal

25 SEP 2007

गुवाहाटी न्यायाधीश

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

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985)

O.A. NO. 260 of 2007

Smt. Sabita Paul (Das) & Ors.

-Vs-

Union of India

.....Applicants

..... Respondents

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Filed by

Siddhartha Bhattacharya

Siddhartha Bhattacharya.

Advocate.

GAUHATI HIGH COURT.

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(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985)

260

-Vs-

Union of India

.....Applicants

..... Respondents

Synopsis

That the applicants are all working as civilian Switch Board Operator in Military Telephone Exchanges under the Director General of Signals of Indian Army.

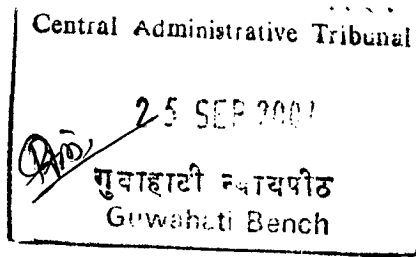
The applicants are aggrieved by the willful denial of the time bound promotion and non-consideration of their service from the date of their initial appointment for the purpose of consideration of grant of time bound promotion as has been granted to similarly situated Civilian Switch Board Operators working in Military Telephone Exchange, Panagarh in West Bengal by the Respondent Authorities in implementing the Judgment and Order passed by CAT Kolkata Bench in O.A. No.668 of 2004 dated 06/05/2005.

Blatterchange

Siddhartha Bhattacharya.

Advocate.

GAUHATI HIGH COURT.



Sabita Paul (Das)

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

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION. NO. 260 of 2007

Smt. Sabita Paul (Das) & Ors.

-Vs-

Union of India & Ors

.....Applicants

..... Respondents

LIST OF RELEVANT DATE OF EVENTS


1. 01.03.1985 : The Applicants were appointed as temporary Civilian Switch Board Operators in Military Telephone Exchanges situated at different location in Eastern Command.
01.03.1985
01.03.1985
2. 26.02.1992 : Judgment and Order passed by CAT, Calcutta Bench directing the respondent authorities to appoint temporarily employed CSBO's working at Military Exchange at Panagarh, West Bengal in permanent post.
3. 21.02.1994 : Common Judgment and Order of CAT, Guwahati Bench passed in O.A. No.173 of 1991, 174/1991, 175/1991, 176/1991, 177/1991 directing the Respondent Authorities to appoint the present applicants who were working as Civilian Switch Board Operators as permanent employees.
4. 13.09.2002 : Judgment and order passed by CAT, Chandigarh Bench in O.A. No.150/HR/2002 directing the respondent authorities to grant the benefit of one time bound promotion as has been given to the employees of the Telecom Department to C.S.B.O's Military Exchanges.

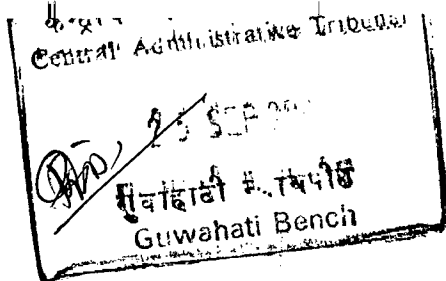
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Sabita Paul (Das) 54

5. 27.02.2004 : Sanction for grant of similar Three Pay Scales (which were given to Telephone Operators working in Telecom Department) to CSBO's working under General Staff Branch Common Roster of Defence Department w.e.f 01/01/1996.
6. 28.04.2004 : **O.A. No. 668 of 2004** filed before **CAT, Calcutta Bench** by 3 nos of CSBO's working in Army Telephone Exchange at Panagarh claiming the benifit of one time bound promotion as CSBO Grade II in the Scale of Rs 5,000-8,000 on completion of 16 years of service counting from the date of initial date of appointment as Temporary CSBOs instead of 01/01/1996 as Ordered vide Ministry of Defence letter No. B/4457/Balraj/Sigs 4(c)/ 92/CC/D(QS)
7. 06.05.2005 : Judgment and Order passed by **CAT, Calcutta Bench** in **O.A. No. 668 of 2004** directing the Respondent Authorities to grant the benefit of time bound promotion to CSBO's working in Panagarh Military Exchange on completion of 16 years of service from the date of initial appointment as temporary CSBO's.
8. 10.05.2006 : Letter circulated by Senior Record Officer for OIC Records vide letter No.3669/CA6/3/ACP-TBP/60 to Army formations having Military Telephone Exchanges calling for statement of case for obtaining sanction from Ministry of Defence for giving time bound promotion in pay scale of Rs.5000-150-8000 considering their initial date of appt. on the same lime as has been given to Shri M.S. Nayak and two other CSBO's of Stn. HQ Panagarh.
9. 10.08.2006 : A Telegraphic message circulated vide Message No.DTG : 10, UNCLAS /CSBO's for grant of time bound promotion in persuant to the Judgment and order dated 06/05/2005 in O.A. No.668/2004 passed by **CAT, Calcutta Bench** granting time bound promotion and consequent financial benefits to CSBO's working at Military Telephone Exchange at Panagarh, West Bengal.
10. 08.03.2007 : Legal Notice sent by the counsel of the present applicants for consideration of the present applicants grievence in the light of promotion and benefits given to similarly situated CSBO's in Panagarh at West Bengal.
11. 13.04.2007 : The Respondent authorities rejected the prayer of the applicants vide letter No.B/4572/Sigs/4(c)/23.

Submitted by


Siddhartha Bhattacharya
Advocate.
GAUHATI HIGH COURT.



Filed by:-
(DAS) the Applicant

Filed through:-

Siddhartha Bhattacharya,
Advocate.

GAUHATI HIGH COURT.
25-09-2007

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

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION. NO. 260 of 2007

Smt. Sabita Paul (Das) & Ors.

-Vs-

Union of India

.....Applicants

..... Respondents

(A) PARTICULARS OF THE APPLICANTS :

- (i) Smt. Sabita Paul (Das)
Wife of Ritwik Ranjan Paul
Resident of Railway Line Bye Lane No. 4
P.O. Udayan Vihar
Dist. Kamrup (Assam)
- (ii) Sri Indu Kumar Hazarika
Son of Sri Bega Ram Hazarika
Resident of Nagaon,
Dist.-Nagaon, Assam.
- (iii) Sri Jogeswar Nath
Son of Late Pawal Chandra Nath
Resident of Bihoguri, Tezpur
Dist.-Sonitpur, Assam.

(B) PARTICULARS OF THE RESPONDENTS :

- (i) Union of India
Represented by Secretary
Ministry of Defence
Govt. of India, New Delhi

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25 SEP 2004

गुवाहाटी न्यायपीठ
Guwahati Bench

[2]

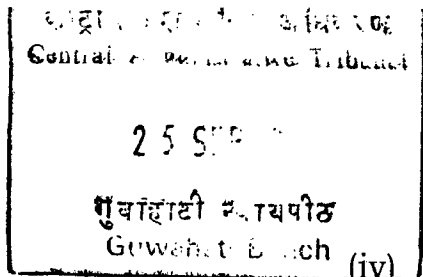
52
Sabita Paul (Dob)

- (ii) Commander in Chief
Army Head Quarter
D.H.Q., New Delhi.
- (iii) Director General of Signal (Sigs - 4(c)
General Staff Branch
Army Head Quarters
DHQ P.O.: New Delhi - 110 011
- (iv) GOC IN-C
HQ Eastern Command.
Kolkata
- (v) Chief Signal Record Officer
Signal Records
Post Bag No.-5
Jabalpur - 482001, Madhya Pradesh
- (vi) Commanding Officer
2 Coy. Signal Regiment
Army Exchange, Narengi Cantt.
C/O 99 APO

(C) PARTICULARS FOR /AGAINST WHICH THE APPLICATION IS MADE:-

- (i) Letter No.-B / 44572 / Balraj /
Signs4(c)/134 issued by Director
General Signal=ls, Signs 4(c)
General Staff Branch Army HQ
forwarding Govt. of India Ministry of
Def Letter No.B/44572/Balraj/
Signs 4(c)/92/CC/D (OS) dtd. 27
Feb., 2004 in the subject matter of
Implementation of Order of CAT
Chandigarh in OA No.-450/HR/
2003.
- (ii) Signal Records Message No.DTG:10,
UNCLAS A-3562 Dtd. 10th August,
2006.
- (iii) Judgment and order dated 13th
Sept., 2002 in O.A. No.150/HR/
2002 passed by CAT, Chandigarh
Bench.

Contd..



[3]

Judgment and order dated 06/05/2005 passed by CAT, Kolkata Bench in O.A. No.668/2004.

(v) Letter No.B/4572/Signs/4(c)/23 dated 13th April, 2007.

(D) (i) LIMITATION :

The applicants further declare that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

(D) (ii) Prayer under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987 :

That, your applicants beg to state that as the grievances and reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4(5)(a) of the Central Administrative Tribunal (Procedure) rules, 1987 to move this application jointly.

(E) BRIEF FACTS OF THE CASE :

(i) That, the present applicants most respectfully submit that they were appointed as Temporary Civilian Switch Board Operators in Military Telephone Exchanges in the years shown against their names as herein below :-

<u>Name</u>	<u>Date of initial appointment</u>
(a) Smt. Sabita Paul (Das)	01/03/1985
(b) Sri Indu Kumar Hazarika	01/03/1985
(c) Sri Jogeswar Nath	01/03/1985

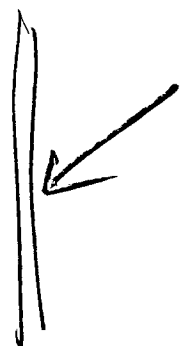
**A copy of one of their
Appointment Letter is annexed
herewith as Annexure No. 1**

(ii) That, since their appointments as Civilian Switch Board Operators, the present applicants have been rendering service in Military Telephone Exchanges regularly even though the Respondent Authorities had created intermittent artificial breaks in between.

(iii) That, your humble petitioners beg to state that like them, in other Military Exchanges around the country, other similarly situated C.S.B.O.'s were also rendering continuous service with artificial breaks in between and a few of these C.S.B.O's being apprehensive about future regularization of their services had approached Central Administrative Tribunal in their respective areas.

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Sabita Paul (Das)



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Guwahati Bench

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(iv) That, your humble petitioners beg to state that a few similarly situated Civilian Switch Board Operators working in the Military Telephone Exchange at Panagarh in West Bengal had also approached the Central Administration Tribunal, Calcutta Bench with similar greivances through an Original Application which was numbered as O.A No.1102/88 and the Hon'ble CAT, Calcutta Bench vide its judgment delivered on 26/02/1992 had delivered its Judgment and Order on the O.A. and in Para 7 of the aforementioned Judgement and Order had been pleased to pass the following directions to the Respondent authorities:

Sabita Paul (Devs)

- " (a) The respondents should prepare a scheme for absorption of the applicants taking into account the requirements of any recruitment rule if, there be any;
- (b) The applicants should be given their due weightage for having worked as Switch Board Operators during the period from 01/03/85 till upto the last date of their work on casual basis;
- (c) Till such scheme is prepared and the applicants are absorbed they should be appointed against temporary vacancies as and when they arise in preference to fresh persons."

A copy of the said Judgment and Order dated 26/02/92 in O.A. 1102/88 is annexed herewith as Annexure No. 2

(v) That, before the Central Administrative Tribunal, Guwahati Bench also several of the similarly situated CSBOs had filed a number of Original Applications praying for regularization of their services and these Original Applications were numbered as O.A. 173/91, O.A. 174/91, O.A. 175/91, O.A. 176/91, O.A. 177/91 and the Hon'ble CAT, Guwahati Bench vide its common Judgment & Order dated 21st February 1994 allowed the application and directed

25 SEP 1994

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Guwahati Bench

[5]

the Respondent Authorities to regularise the services of the applicants for the post of CSBOs.

A copy of the said Judgment & Order dated 21st Feb. 1994 is annexed herewith as Annexure No. 3

Sabita Paul (DAB)

(vi) That, in pursuant to the Judgment & Order of the Hon'ble Central Administrative Tribunal, Guwahati Bench, Commanding Officers of Military Exchange where the petitioners were working had passed Orders which were similar in content and nature. in one such Orders the officiating Admn. Commandant of Station HQ, Tezpur vide Duty Order Part II dated 30th June 1995 issued the following Order: -

"APPOINTMENT"

The following individuals have been appointed as CIVILIAN SWITCH BOARD OPERATORS with effect from 17th Nov.93 the date of Court Judgment decided in their favour.

(vii) That in the said orders eventhough the dates of initial appointment were duly recorded yet the date of permanent regularization was shown as 17th November 1993, and the said order remained silent on the question of conferment of seniority and consideration of the initial period of employment upto the date of regularisation as permanent employee for the purpose of considering the length of service.

(viii) That the present petitioners have brought to the notice of the concerned departmental authorities this aspect of non-conferment of seniority and the non-consideration of the initial period of employment upto the date of regularization for the purpose of consideration of length of service on a number of occasions through written representations but the same remained unresolved till date.

25 SEP 2002

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Guwahati Bench

[6]

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Sub. to Poul (D.O.S)

(ix) That it is pertinent to mention here that in the Telecom Department of Government of India there were similarly placed temporary telephone Operators and these temporary telephone operators had been given time bound promotions. The Civilian Switch Board Operators working in the Military Exchanges in Chandigarh area filed an Original Application before the Chandigarh Bench of Central Administrative Tribunal wherein a prayer was made for conferment of similar time bound promotion as was granted to employees working in the department of Telecom.

(x) That, the Hon'ble CAT, Chandigarh Bench admitted the O.A. filed by C.S.B.O's of Military Exchanges in Chandigarh area as O.A. No.150/HR/2002 and passed it's Judgement and Order on 13th September, 2002 wherein the Respondent Authorities were directed that the benefit of one time bound promotion as has been given to the employees of Telecom Dept. should also be granted to CSBOs of Military Telephone Exchanges.

A copy of the Judgement and Order passed by C.A.T. Chandigarh , is annexed herewith as Annexure No. 4

(xi) That against the aforementioned Judgment of CAT, Chandigarh Bench , the departmental authorities first filed a Writ Petition before the Hon'ble High Court of Punjab and Haryana as WP No.8759 and on dismissal of the W.P. by the Hon'ble Court, Departmental Authority filed a Special Leave Petition before the Hon'ble Apex Court which was numbered as SLP No.CC 143/2004 but even this S.L.P. was also dismissed by the Hon'ble Apex Court.

A copy of the Judgement and Order of Supreme Court of India rejecting the S.L.P. (Civil) No.-143/2004 is annexed herewith as Annexure No - 5

25 SEP 2004

गुवाहाटी न्यायपीठ
Guwahati Bench

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Sabitla Paul (DAs)

(xii) That , on dismissal of the S.L.P. by the Apex Court , the present respondent authorities vide its letter No.B/44572/Balraj/ Sigs 4(c)/134 dated 27th February, 2004 passed an order for implementation of order of Hon'ble CAT Chandigarh Bench by proposing a scheme of three Pay Scales for Civilian Telephone Operator working in Military Exchanges.

A copy of the said letter is annexed herewith as Annexure No. 6

xiii) That the categorization and pay scales and other ancillary related matters were conveyed through letter No.BN/44572/Balraj/ Sigs 4 (c)/92/CC/D (QS) dated 27th February, 2004 wherein it was conveyed that sanction has been given for the grant of three Pay Scales as mentioned here in below..

(a)	CSBO Gde-II	Rs.3200	-	4900
(b)	CSBO Gde-I	Rs.5000	-	8000
(c)	Tele/SB Supvr	Rs.5500	-	9000
(d)	After completion of 16 years service	Rs.5000	-	8000
(e)	After completion of 26 years service	Rs.5500	-	9000

A copy of the said letter dated 27th Feb., 2004 is annexed herewith as Annexure No. 7

xiv) That it is pertinent to mention here that the aforementioned Order passed by the Respondent Authorities fixed 01/01/1996 as the date from which the calculations will be made for determining the length of service for consideration of grant of time bound promotion to salary scales as mentioned in the Para 1(d) and Para 1(e) of the memo dated 27/02/2004.

(xv) That being aggrieved with the fixation of 01/01/1996 as the base date from which the length of service for consideration of time bound promotion instead of their original date of appointment, CSBOs working at Military Telephone Exchange at Panagarh had

Sabit
Paul (Daes)
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approached the Central Administrative Tribunal, Calcutta Bench through O.A. No.668 of 2004 wherein the issue of non-consideration of their service from their date of initial appointment for the purpose of consideration of grant of one time promotion was raised.

(xvi) That vide its Judgment and Order dated 06/05/2005 passed in O.A. No.668 of 204 the Hon'ble CAT Calcutta Bench allowed the original applications and directed the respondents to consider the grant of higher pay scale of Rs.5000/- - 8000/- to the applicants from the date of completion of their 16 years of service from the date of initial appointment in the grade with the consequential monitory benefits.

A copy of the said Judgment and Order passed by CAT, Calcutta Bench in OA. No.668 of 2004 dated 06/05/2005 is annexed herewith as Annexure No. 8

(xvii) That the respondent authorities in view of the Judgment of CAT, Kolkata Bench considering the temporary/casual service rendered by the CSBOs to be counted as regular service for the grant of time bound promotion circulated a list of CSBOs grade-II who have been appointed on temporary basis and subsequently absorbed in the regular EST under G.S. Branch, Common rooster for grant of such benefit to all similarly placed CSBOs.

A copy of the said letter dated 10th August, 2006 is annexed herewith as Annexure No. 9

(xviii) That your humble petitioner had great expectation that in view of the aforementioned letter dated 10th August, 2006 they will also be granted the same financial upgradation and time bound promotion as has been granted to their colleagues in Panagarh in view of the order of the CAT, Kolkata Bench in O.A. No.668 of 2005.

Sabita Paul (DAB) 23

(xvix) That even after a wait of more than 6 (six) months when no action was taken by the respondent authorities the present petitioners through their counsel sent a legal notice to the Respondent Authorities for conferment of their due and legitimate claims.

A copy of the said Legal Notice dated 8th March, 07 is annexed herewith as Annexure No. 10

(xx) That to the utter surprise of your humble petitioners instead of uniformly implementing the Hon'ble CAT's Orders, vide its letter No.B/4572/Sigs/4 (c)/23 dated 13th April, 2007 the respondent authorities have intimated that their cases will now be sent to 6th (sixth) Pay Commission through AG's.

A copy of the said letter dated 13th April, 2007 is annexed herewith as Annexure No. 11

(F) RELIEF SOUGHT FOR :-

In the facts and circumstances of the case as stated above the applicants pray for the following reliefs :-

- (i) That, the Respondent Authorities be directed to give effect to the 3 (three) pay scales as per the D.O. No. B/44572/Balraj/Sigs4(c)/92/CC/ D (QS) dated 27th February, 2004
- (ii) That, the Respondent Authorities be directed to give time bound promotion to the applicants by considering their initial date of appointment (01/03/1985) as has been granted to Sri M.S. Nayak and 2 (two) other CSBOS, Station HQ, Panagarh in West Bengal implementing CAT, Kolkata Bench's Judgment & Order dated 6th May, 2006 in O.A. No. 668 of 2004.

Sabita Paul (Das)

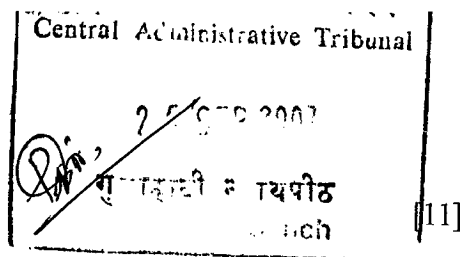
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- (iii) That, the Respondent Authorities be directed to grant the Pay Scale of Rs 5,000-8,000 w.e.f. 01/03/2001 as they will be completing 16 (Sixteen) years of service on that particular date if their initial date of appointment (i.e. 01/03/1985) is taken as the date from which the number of years is calculated in terms of CAT, Kolkata Bench's Judgment & Order dated 6th May, 2006 in O.A. No. 668 of 2004.
- (iv) That, the Respondent Authorities be directed to pay arrears of salaries accruable to the applicants from the date of completion of 16 (Sixteen) years of service from the date of their initial appointment (01/03/1985).
- (v) Any other such Order/Orders as the Hon'ble Tribunal may deem fit and proper for ends of justice.

The above reliefs are sought for on amongst others, the following grounds :-

(G) GROUNDS :

1. For that there can not be two sets of service terms and conditions for employees who are similarly situated and working in the same Organisation.
2. For that non-implementation of Judgment of the CAT, Kolkata Bench dated 6th May, 2006 in O.A. No. 668 of 2004 uniformly amongst similarly situated CSBOs violates administrative fairplay and equity and the principle of equal pay for equal work.
3. For that non-consideration of the Judgement and Order of CAT, Chandigarh Bench passed in O.A. No. 450/HR/2003 circulated vide letter No. B/44572/Balraj/ Sigs 4 (C)/134 dated 27th February, 2004 is discriminatory, biased and is violative of the Principles of natural justice.



Sabita Paul (Dab) 25

(H) DETAILS OF RELIEF EXHAUSTED :-

That the applicants declare that they have availed all departmental redressal forums for settlement of their grievances and have submitted numerous representations without any response and thus has exhausted all efficacious alternative remedies available to the applicant.

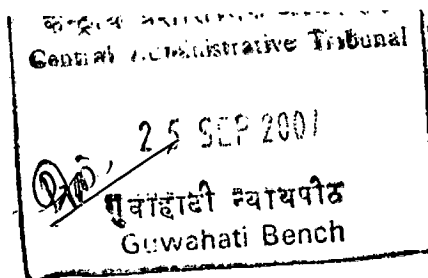
(I) MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT/TRIBUNAL :-

That the applicants further declare that they have not filed any applications, writ petition, suits etc. except the Original Applications referred above which were disposed off by this Hon'ble Tribunal and no case is pending in any Court of law with regard to the present grievances.

(J) PARTICULARS OF POSTAL ORDER SUBMITTED AS APPLICATION FEE :-

- (i) Postal Order No. :- **15H 925906**
- (ii) Date of Issue :- 01/09/2007
- (iv) Issued from :- G.P.O, Gauhati,
- (v) Payable at :- Guwahati

(K) LIST OF ENCLOSURES :- AS PER INDEX.



-12-

VERIFICATION

I, **Mrs. Sabita Paul (Das)**, aged about 47 years, W/O Ritwik Ranjan Paul, a permanent resident of Rly Line Bye Lane No.-4, P.O.- Udayan Vihar, P.S. - Noonmati, Guwahati - 781027, Dist- Kamrup, Assam and presently working at 2 Coy. Signal Regiment, Army Exchange, Narengi Cantt., C/O 99 APO in the District of Kamrup, Assam do hereby verify that those made in paragraphs E-~~ii, iii, v, vi, x, xi, xii, xiii, xvi, xvii~~ ^{xix, xx} are true to my information derived from records which I believe to be true and the statements made in paragraphs E-~~ii, iii, vii, viii, ix, xiv, xv, xvii~~ are true to the best of my knowledge, and the rests are my humble submissions before this Hon'ble Court.

And I sign this verification on this 25th day of September, 2007 here at Guwahati.

Sabita Paul (Das)
Signature

APPOINTMENT LETTER

1. The undersigned hereby offers Shri/MISS Jageswar Nath a post of Temporary Civilian Switch Board Operator Grade II Military Telephone Exchange under Station Headquarters Misamari at the scale Rs 250-6-290-EB-6-326-3-366-EB-4-390-400(400). The appointee will also be entitled to draw dearness and other allowances at the rates admissible and subject to conditions laid down in rules and orders governing the grant of such allowances.
2. The appointee will be on temporary post for a period three months from the date of his/her appointment which may be extended by the competent authority.
3. Other conditions of service will be governed by the relevant rules and orders in force time to time.
4. The appointment will be subject to the following :-
 - (a) Production of a medical certificate of fitness from the competent medical authority.
 - (b) No person, (i) who has entered into or contracted a marriage with a person having a spouse living, or (ii) who having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the post, provided that the Government may, if satisfied that such marriage is permissible under the personnel law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.
 - (c) Taking of an oath of allegiance/faithfulness to the constitution of India (or making a solemn affirmation to that effect) in the prescribed form.
 - (d) Production of the following original certificates:-
 - (i) Certificate of education.
 - (ii) Discharge certificate in the prescribed form from the previous employment, if any.
 - (iii) Scheduled Caste/Scheduled Tribe certificate, if any.

....2/-

Certified to be true copy

Dr. Bhattacharya
Advocate

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information he/she will be liable to removal from service and such other action as Government may deem necessary.

6. If Shri/Ms *Jogeswar Nath* accepts the offer on the above, terms, he/she should report for duty on 01 May 85 at 0730 hours alongwith the medical certificate and other documents mentioned in the preceding paragraphs.

400/53/EST
Station Headquarters
Misamari

30 Apr 85

[Signature]

(P. L. Ohri)
Lt Col
Adn Comdt
for Sqn Cdr

To

Shri/Ms *Jogeswar Nath*

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 1102 of 1988

Present : Hon'ble Mr. J. C. Roy, Administrative Member
Hon'ble Mr. N. Sengupta, Judicial Member



MADHUSUDAN NAYAK & ORS

VS

UNION OF INDIA & ORS

For the applicants : Mr. P. K. Chatterjee, counsel

For the respondents : Mrs. Uma Bhattacharya, Addl. SC

Heard on : 12.2.92 : Judgement on : 26.2.92

J U D G E M E N T

N. Sengupta, J.M.

This is an application by five persons for a direction on the respondents to regularise their services as Civilian Switch Board Operators.

2. The case of the applicants is that after passing their Matriculation Examinations they underwent training in operating switch boards and responding to an advertisement they appeared at a test and interview for appointment as Civilian Switch Board Operators under the Ministry of Defence at Panagarh. They were registered in the Employment Exchange. After appearing at the test they were temporarily appointed on a casual basis as Switch Board Operators on 1.8.85 for a period of three months initially and subsequently with some breaks of one to three days, they were given further appointments for similar spells. The last of such order of appointment was issued on 8.10.88 which recited that they were being appointed temporarily from 9.10.88 to 27.12.88. But queerly

Certified to be true Copy.

Bhattacharya
Advocate

the Station Commander by a verbal order terminated their service on 4.12.88 and did not allow them to work till upto 27.12.88 till which date their temporary appointment was to last. They have further stated that in fact the requirement of 10 Switch Board Operators is there but the respondents with an improper motive were keeping the posts vacant without appointing qualified persons permanently.

3. The respondents in their reply besides traversing the material allegations in the application have taken the stand that it is not within the competence of the applicants to assess the requirements of Switch Board Operators, it is for the administration to assess. They have further stated in their reply that in accordance with the rules the applicants were given appointments for 89 days at a time and of necessity there have to be breaks. Since the applicants were merely casual workers, they cannot claim regularisation. Other facts averred in the reply need no mention.

4. Mr. P.K.Chatterjee, the learned counsel for the applicants has during the course of arguments produced a copy of a common judgement delivered by this Tribunal in O.A. 743/88 (Akhil Chandra Deb & Ors -vs- UOI) and O.A. 105/90 (Biswajit Bhaduri -vs- UOI) on 25.9.90. Those cases were filed by some civilian Switch Board Operators and as may be found from the copy of the judgement, the relief that was claimed by the applicants of those applications was to regularise their services as civilian Switch Board Operators. This Bench after noticing the case laws on the point allowed the applications and gave a direction to the respondents for preparation of a scheme on a rational basis for the absorption of the applicants, as far as possible within six months from the date of delivery of that judgement, for payment of pay and allowances at the minimum of the scale mentioned in their appointment letters and to ignore the periods of breaks. The present case is a similar one. Therefore, unless any

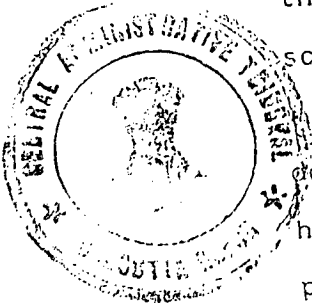
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: 3 :

distinguishing feature is shown by the respondents, similar directions are to be given in the present case. We would add a few more reasons for the directions on the respondents we propose to give.

5. The respondents have annexed a memorandum dated 22.3.82 as Annexure-A to the reply. This annexure is a model Standing Order for casual labour in Central Govt. offices. The relevant paragraphs of the model standing orders are para 6(1) and 6(2). Those paragraphs deal with the wage rates and it is recommended that either 1/30th of the monthly emoluments at the minimum of the scale or the minimum wages prescribed in the particular State, whichever is more, is to be paid to the casual workers. Para 15 deals with regularisation. Of course in that paragraph a reference has been made to Industrial Disputes Act and the term used in that paragraph is "a casual workman". It appears that even though a Switch Board Operator may not answer the description of a workman under the Industrial Disputes Act, yet the respondents treated them as if they were workmen and that is why they employed them only for 90 days at a stretch so as to deprive them of continuity of service or to claim regularisation on working continuously for 120 days. Therefore, even according to the model standing orders, the question of regularisation would arise.

6. Mrs. Uma Bhattacharya, the ld. Addl. Standing Counsel appearing for the respondents has urged that there is no permanent post of Civilian Switch Board Operator in the station headquarter at Panagarh. Therefore, the applicants cannot ask for regularisation of their services as such Operators. We do not find much of a necessity to examine as to whether there is any vacancy in the post of permanent Switch Board Operators at the station nor do we propose to examine whether there is any necessity for appointment of Switch Board Operators on a permanent basis, that is a matter which must be left to the Govt. for its consideration. However,



Telephone : P

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all that we can indicate is that in view of the fact that the five of the applicants, except for short artificial breaks, worked for more than three years, it would be better for the respondents to examine whether the creation of permanent additional posts of Switch Board Operators would be necessary.

7. In view of what has been stated above, we would dispose of this application by giving the following directions :

i) The respondents should prepare a scheme for absorption of the applicants taking into account the requirements of any recruitment rule, if there be any;

ii) The applicants should be given their due weightage for having worked as Switch Board Operators during the period from 1.8.85 till upto the last date of their work on casual basis;

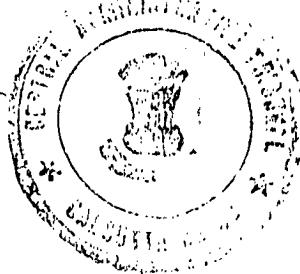
iii) The respondents may, if not already done, fix the seniority amongst the applicants by making such test as they deem necessary in the circumstances of the case;

iv) The scheme etc. should be prepared as early as possible but in any case within 120 days from the date of receipt of a copy of this order;

v) Till such scheme is prepared and the applicants are absorbed, they should be appointed against temporary vacancies as and when they arise in preference to fresh persons.

8. O.A. 1102 of 1988 is disposed of accordingly leaving the parties to bear their own costs.

(J.C.ROY)
MEMBER (A)
26.2.92



(N. SENGUPTA)
MEMBER (J)
26.2.92

No. of copies of the order	1122
Name of the applicant	Mrs. L.L. Bhattacharya
Date of receipt	26.2.92
No. of copies of the order	4
Cost of preparation of copy	Free
Date of preparation of copy	26.2.92

CERTIFIED TO BE TRUE COPY

Supervisor
COURT OFFICER
Central Administrative Tribunal
Calcutta Bench, Calcutta

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

Original Application Nos. 173/91, 174/91, 175/91, 176/91
and 177/91.

Date of Order:- This the 21st day of February, 1994.

Hon'ble Justice Shri S. Haque, Vice-Chairman

Hon'ble Shri G.L. Sanglyine, Member (Administrative)

O.A. 173/91

Shri Sahab Uddin Barbhuiya
son of Shri Sarafat Ali Barbhuiya,
Village, Saptagram, P.O. Dholai,
District, Cachar. ...Applicant

-Versus-

1. Admn. Commandant, Signal Centre, 57, Mtn.
D.W. Sig. Regt., Station H.J., Silchar Cantt.,
C/O 99 A.P.O.

2. Union of India (Through Secretary, Defence,
Government of India).

...Respondents.

By Advocates Shri G.N. Saheewalla, Shri N. Choudhury
and Shri M. Chanda on behalf of the applicant..

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C. on
behalf of the respondents.

O.A. No. 174/91.

Shri Babu Mia Choudhury, son of
Shri Nur Uddin Choudhury, Village, Moragang,
P.O. Sibpur, Dist. Cachar.

...Applicant.

By Advocates Shri G.N. Saheewalla, Shri N. Choudhury
and Shri M. Chanda.

-Versus-

1. Admn. Commandant, Signal Centre, 57, Mtn. D.W.
Sig. Regt., Station H.J., Silchar Cantt.,
C/O 99 A.P.O.

2. Union of India (Through Secretary, Defence,
Government of India).

....Respondents.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.



contd. 2/-

Certified to be true copy

Bhattacharya
Advocate

O.A. 175/91

Miss Indrani Biswas, O/O Sub Maj K.C.
Biswas, Village, Assami Basti, P.O. Tarapur,
Pt. II, Silchar Dist. Cachar (Assam).

.... Applicant

By Advocates Shri G.N. Sahewalla, Shri N. Choudhury
and Shri M. Chanda.

-Versus-

1. Admn. Commandant, Signal Centre, 57, Mtn.
D.W. Sig. Regt. Station H.I., Silchar Cantt.,
C/O 99 A.P.O.
2. Union of India (Through Secretary, Defence,
Government of India, New Delhi).

.... Respondents.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.

O.A. 176/91.

Mrs. Anita (Sharma) Bhattacharjee, wife of
Shri Nirmalendu Bhattacharjee, Chandmari Road,
Silchar-3, Dist. Cachar.

.... Applicant.

By Advocates Shri G.N. Sahewalla, Shri N. Choudhury
and Shri M. Chanda.

-Versus-

1. Admn. Commandant, Signal Centre, 57, Mtn. D.W.
Sig. Regt., Station H.I., Silchar Cantt.,
C/O 99 A.P.O.
2. Union of India (Through Secretary, Defence,
Government of India, New Delhi).

.... Respondents.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.

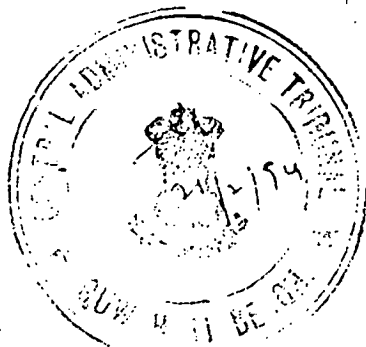
O.A. 177/91.

Shri Ranjit Kumar Dutta, son of late
Rabindra Chandra Dutta, P.O. & Village-
Noonapani, District, Cachar (Assam), presently
posted at Station H.I. Silchar Cantt.,
Dist. Cachar.

.... Applicant.

By Advocates Shri G.N. Sahewalla, Shri N. Choudhury and
Shri M. Chanda.

contd. 3/-



-Versus-

1. Admn.Commandant,Signal Centre,57,Mtn.D.W.
Sig.Regt.Station H.I.,Silchar Cantt.,
C/O 99 A.F.O.
2. Union of India,(Through Secretary,Defence,
Government of India,New Delhi).

...Respondents.

By Advocate Shri A.K.Choudhury,Addl.C.G.S.C.

O R D E R

HAIJUE, J.

All the above five applications are heard analogously for common cause of action and reliefs sought for by the five applicants serving as Civilian Switch Board Operators under respondent No.1 namely,Admn.Commandant,Signal Centre,57,Mtn.D.W. Sig.Regt.Station H.I.,Silchar Cantt.,C/O 99 A.F.O. Applicant Mrs.Anita (Sarma) Bhattacharjee is serving since June,1985 continuously with artificial breaks as temporary casual CSBOs. Applicants Shri Babu Mia Choudhury and Shri Ranjit Kumar Dutta are serving since February,1986 continuously with artificial breaks as temporary casual CSBOs. Applicant Miss Indrani Biswas is serving since August,1986 continuously with artificial breaks as temporary casual CSBO. Applicant Shri Sahabuddin Barbhuiya is serving since October,1989 continuously with artificial breaks as temporary casual CSBO. Presently, all the five applicants are serving continuously since last date of appointments pursuant to order dated 10.1.92 passed in Misc.Petition Nos. 3 to 7 of 1992. They have now prayed for directions on the

contd./-



respondents to regularise their services in the posts of CSBOs with effect from the date of their initial appointments. Perused statement of grievances common in the applications with similar prayers. The respondents have filed written statements in each case with similar pleas and stating mainly in para 20 that the unit concerned is on the move in short notice, as such, CSBO cannot be taken along with unit and therefore regular appointments are not made.

2. Learned counsel Mr M.Chanda on behalf of applicants submits that the grievances of the five applicants are similar to the grievances of the applicants of O.A.No.185/90 and series (three cases) and O.A.No.184/92 and series (three cases) disposed of on 25.5.93 and 17.11.93 respectively directing respondents to regularise the temporary CSBOs and prays for similar reliefs. Perused facts and law of the disposed of cases and found that the grievances of the present five applications are similar and therefore the present applicants deserve similar treatment and reliefs.

3. Learned Addl.C.G.S.C.Mr A.K.Choudhury submits with reference to para 20 of the written statement and the difficulties faced by respondents on that ground to regularise services of applicants. Mr Chanda submits that regular incumbents of some permanent establishments may also suffer for move of the establishments or parts thereof and for such anticipated situation process of regularisation of

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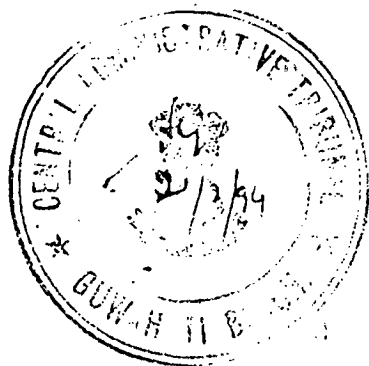


temporary employees cannot be stopped. There is force in the submissions of Mr Chanda. Plea taken by respondents to defeat claim of applicants cannot be accepted.

4. All observations and findings of the previous judgments referred to above are aptly applicable in these cases. We also rely on the decision in the case Akhil Ch.Dev & Ors. -Vs- Union of India & Ors. reported in 1991(1)SLR 417 of CAT Calcutta Bench. That decision relates to temporary CSBO for regularisation and directions were given. It will be unjust for the applicants if their services are utilised by respondents like past years with artificial breaks without regularisation then they would suffer irreparable loss due to age bar to seek other employments. The service-employment ethics do not permit that they should be kept under uncertain expectation of regularisation after serving so many years. By now some of them have attained age bar for pursuit of other employments. The only recourse now left is to regularise them in the posts of CSBOs under the respondents to uphold the service-employment ethics and to safeguard their service career. We decide to award them similar reliefs granted in the earlier cases.

5. All the five applications are allowed. The five applicants are entitled to be regularised in their services as CSBOs under respondents.

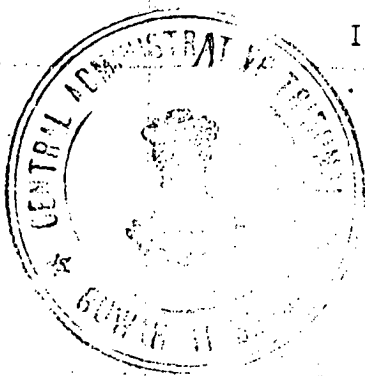
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-: 6 :-

Accordingly, the respondents are directed to regularise the services of the applicants in the post of CSOs within a period of 90 days from the date of receipt copy of this Judgment/Order. Respondents are further directed not to interfere or terminate the services of the applicants before regularisation and in that view our interim orders dated 10.1.92 passed in Misc.Petition Nos. 3 to 7 of 1992 are made absolute.

Inform all concerned.



Sd/- S. Haque
VICE CHAIRMAN

Sd/- S.L.Sanglyine
MEMBER (ADMN)

TRUE COPY

B. Sanglyine
Section officer (Judicial)
Central Administrative Tribunal
Guwahati Bench, Guwahati.

[Signature]
24/1/94

Despatch No. 7111

Dated. 11/11

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH, CHANDIGARH

From

The Registrar,
Central Administrative Tribunal,
Chandigarh Bench.

To

1. ✓ SN. S. K. Bhatnagar, Advocate
New BSE Room No. 18
Chandigarh
2. SN. Sanjay Sharma Adv.
9c CAT, BSE BS,
Chd

ORIGINAL / TRANSFER APPLICATION

117/48/04

Han Singh

APPLICANT(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sir,

I am directed to forward herewith a copy of order
dated 1/9/04. passed by a Bench of this Tribunal comprising
Hon'ble Mr. J. S. Dhalwal, Jm and
Hon'ble Mr. A. M. Nishit, Jm/AM

in the above mentioned case for information / compliance and necessary
action please.

Yours faithfully,

[Signature]

SECTION OFFICER(J)
FOR REGISTRAR

Encl. As above.

Certified to be true copy

Bhattacharya
Advocate

26 - 80
OA 117/HR/2004

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH

O A. No. 117/HR/2004

Date of Order: 01.09.2005

CORAM: HON'BLE SH. JASBIR S. DHALIWAL, MEMBER (J)
HON'BLE SH. L. M. MEHTA, MEMBER (A)

1. Mr. Hawa Singh, Supervisor, No. 114271472
2. Mrs. Usha Bawa, Gr. I, 3176
3. Mrs. S. K. Nijhawan, Supervisor, 3179
4. Mrs. AGC Pagary, Gr-I, 14203067
5. Mr. Kulbir Singh, Gr-I, 14213916
6. Mrs. S. Bhardwaj, Gr. II 14213920
7. Mr. Kuldeep Singh, Gr-I, 6275509
8. Mr. Dharam Paul, Gr-I, 14271456
9. Mr. Ravinder Kumar, Gr. I, 14271467
10. Mr. Sohan Lal, Grade-I, 6226
11. Mrs. Gurmali Kaur, Grade-I, 14271663
12. Mrs. Kiran Chopra, Grade-II, 14271408
13. Mrs. Pushpa Sood, Grade-II, 14271455
14. Mrs. Shashi Kaushik, Grade-II, 14271462
15. Mrs. Vima, Grade-II, 6227
16. Minakshi Aggarwal, No. 14213923
17. Mr. Bhupinder Singh, Supervisor, 9850018
18. Mr. Sardara Singh, CSBO, Grade-I, 9850014
19. Mr. Subash Chander, CSBO, Grade-I, 9850029
20. Mr. Surjit Singh, CSBO, Grade-I, 9850026
21. Mr. Joginder Lal, CSBO, Grade-I, 9850029
22. Mr. Rachpal Singh, CSBO, Grade-I, 14272382
23. Mr. Joginder Paul, CSBO, Grade-I, 9850030
24. Mrs. Prasanna Kr. Das, CSBO, Grade-I, 14272468 K
25. Narinder Kaur, CSBO, Grade-I, 9850030
26. Sh. Dinesh Kumar, CSBO, Grade-II, 6649
27. Smt. Indu Kumar Hazarika, CSBO, Grade-II, 14272469
28. Sh. Jogeswar Nath, CSBO, Grade-II, 14272467

29. Sh. Madan Ch. Urma, CSBO, Grade-II, 14272476
30. Sh. Deepak Kumar, CSBO, Grade-II, 14272497
31. Shyashpaul Singh, CSBO, Grade-I, 9875757
32. Sh. Dharam Pal Chawla, CSBO, Grade-I, 99875759
33. Sh. Kishori Lal Mehta, CSBO, Grade-I, 9875761
34. Sh. Hans Raj pathania, CSBO, Grade-I
35. Mrs. Deepika Thapa, CSBO, Grade-II, SD-510503.

(all working under Nominal Roll of CSBO's of Mil-II Exchange
Chandigarh (western Command Composite Signal Regiment)

....Applicants

Versus

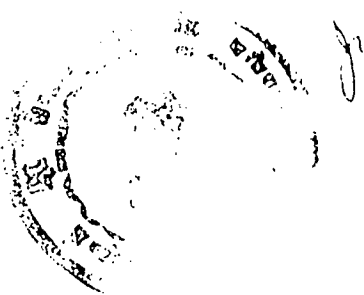
1. Union of India through Defence Secretary, Ministry of Defence, DHQ, Post Office, New Delhi.
2. The Signals Mahanideshalaya Sigs 4(c), General Staff branch, Sena Mukhyalaya
3. Dte. Gen. of Signals Sigs 4(c), General Staff Branch, Army HQ, DHQ, ~~PO~~ PO, New Delhi-110011
4. C.O. Western Command, COMP SIG RECT, Chandimandir.

....Respondents

Preset: Sh. S.K. Biriwal, Counsel for applicants
Sh. Sanjiv Sharma, Counsel for respondents

ORDER (Oral)
HON'BLE SH. JAS BIR S. DHALIWAL, JM

Thirty-five applicants have joined in this O.A., pleading that they are all working as Civil Switch Board Operators (CSBOs for short). They claimed that they have been working under the respondents ^{since} before 1.1.1986. Respondents had,



on representation of staff side, initially, decided to give the scale of Rs. 260-480 instead of Rs. 260-400, but later on it was withdrawn unilaterally. Some of persons similarly placed like the applicants had approached the Court in litigation which went up to the Special Leave Petition before Hon'ble Supreme Court. Ultimately, on the statement made by the Director General, it was decided that scale of Rs. 260-480 shall be given to the category of applicants who had been working prior to 01.01.1986. The decision of the department earlier to grant this scale was on the ground that applicants are performing duties similar to those of Telephone Operators in the Telecom Department. This scale had been denied to the applicants as they were not party to the earlier litigation. Applicants have prayed for grant of this scale like similarly placed other persons with all consequential benefits. They seek further direction to respondents that after completion of service of 16 years and 26 years, they should be placed in the scale of Rs. 6500-10,000/- as given to the employees of DOT and that applicants are entitled to promotion or otherwise to this scale.

2. Respondents have filed a detailed reply pleading therein that in view of the opinion expressed by the Hon'ble Supreme Court vide statement made by representative of UOI i.e. Attorney General, the scale of Rs. 260-480/- has already been extended to the CSBOs, who are in service prior to 1.1.1986. They have also annexed with the written statement Annexure R-1, a copy of letter No. B/44572/Balraj/Sigs4(c)/92/cc/D(QS) dated 27.2.2004 which conveys sanction of the President for grant of the three pay scales as given to telephone operators in the Telecom Department to the category of CSBOs under General Staff Branch working on roster of Defence department. The relevant portion of Annexure R-1 is reproduced herein below:-

".....I am directed to convey the sanction of the president of India for the grant of following three pay scales of telephone operators as prevalent in telecom department to CSBOs under General Staff Branch common roster of Defence department with effect from 1.1.96:-

- | | | |
|-----|---|---------------|
| (a) | CSBO Gde II | Rs. 3200-4900 |
| (b) | CBSO Gde I | Rs. 5000-8000 |
| (c) | Tele/SB Supvr | Rs. 5500-9000 |
| (d) | After completion of
16 years service | Rs. 5000-8000 |
| (e) | After completion of
26 years service.. | Rs. 5500-9000 |

This is in satisfaction of the orders of CAT Chandigarh bench on O.A. No.450/HR/2002 passed on 13 Sep 2002, consequent to dismissal of CWP 8759 by High Court of Punjab & Haryana and dismissal of SLP No. CC 143/2004 filed by Union of India by Hon'ble Supreme Court.

Consequent to implementation of these orders, ACP scheme introduced vide GOI letter No.35034/1/97-Estt (D) dated 09 Aug 1999 will be treated as withdrawn in so far as CSBOs under General Staff Branch common roster are concerned, as both the schemes i.e. ACP scheme and time-bound promotion scheme of Telecom Deptt as granted by CAT Chandigarh to all CSBOs cannot run concurrently. Hence the benefits granted to all CSBOs under ACP scheme will be withdrawn and benefits of time bound promotion scheme as per court order will be implemented.

Employees who feel that they will be adversely affected by these orders, may submit their representations to the Govt. through Signal Records, Jabalpur within two two months of issue of this order, which will be examined by Govt. on merits. In case no objection is received within two months, it will be considered that the employee(s) have no objection to implement this sanction in their case."

3. It appears that it is by way of implementation of the orders of Bench of Tribunal in the case of Balraj Singh & Ors. Vs. Union of India & Ors. , O.A. No.450/HR/2002 decided on 13.9.2002 reference to which is made in Annexure R-1. Learned counsel for applicant, however, states that all the applicants have not been extended the benefit stipulated in the Judgment in the case of Balraj (Supra) whereas learned counsel for respondents asserts that this benefit has already been extended to all the CSBOs who were in fact in position prior to 1.1.1986 with the grant of revised scale of Rs. 260-480 which has been revised to the scale as mentioned in Annexure R-1. In our opinion, that should satisfy the claim made by the applicants in Para 8(i). However, as a matter of caution, we order that case of applicants or similarly placed like persons in case of Balraj Singh & Ors. (Supra) are not given the benefit of Judgment in case of Balraj (Supra). The same shall be immediately done within a period not exceeding three months from the date of receipt of copy of this order by showing the refixation of pay of each of the applicants strictly in terms as given in the Judgment in the case of Balraj Singh as taken up to the Hon'ble Supreme Court. We find on reading of the Judgment that the bench has been careful to define the meaning of consequential benefits also which means benefits of arrears of pay fixation in that case.

As to the claim of applicants for grant of scale of Rs. 6500-10,000/- as by way of promotion or by way of next available scale of Rs. 5500-9000/- on completion of 26 years is concerned, we are of the opinion that this is a matter best left to the Expert Bodies like Pay Commission. The Courts are hardly equipped to go into the details of duties of persons working under DOT and the duties of the applicants for performance of detailed evaluation to arrive on finding as to same can be said to be identical or similar. We cannot forget that working in DOT has

gone under a sea change with improvement in technology. The applicants will be at liberty to make a representation to the respondents for further improvement in their career and pay scales which will be considered by the respondents. It has been so mentioned in letter dated 27th February, 2004. Respondents have taken a plea that for grant of scale of Rs. 6500-10,000/- respondents will be compelled to create new posts as neither the scale is available for the categories CSBOs nor such a post exists in their cadre. In these circumstances, the prayer made for a direction to respondents for grant of this scale cannot be allowed by this Tribunal and it is left to the decision of respondents, particularly respondent No.1. With these observations this O.A. is disposed of

(LM MEHTA)
MEMBER (A)

(JASBIR S. DHALIWAL)
MEMBER (J)

Dated: September 1, 2005

/SK/

Certified True Copy

Signature

[Handwritten Signature]

(J)

Original

and garh Bench

WITNESSED BY: HAND/CARE

[Handwritten Signature]

32 Acts

32-

ANNEXURE 5

SECTION IVB

Court No. I

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition (s) for special Leave to Appeal (Civil)...../2003
(CC 143/2004)

from the judgement and order dated 18/07/2003 in GWP 8759/03
the HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

IN FAVOUR OF INDIA & ORS.

petitioner (s)

VERSUS

Respondent (s)

GOVERNMENT OF INDIA & ORS.

appn (s) for c/delay in filing SLP and office report)

Dated : 19/01/2004 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

For petitioner (s)

Mr. Manish Singhvi, Adv
For Ms. Sushma Suri, Adv

For Respondent (s)

Mr. R.S. Hagde, Adv
Mr. Chandra Prakash, Adv
Mr. S. Pandey, Adv
for Mr. P.P. Singh, Adv

Upon hearing counsel the Court made the following

O R D E R

Delay condoned.

The special leave petition is dismissed.

Sd/-x-x-x
(Alka Dudeja)
Court Master

Sd/-x-x-x-x
(Janki Bhatia)
Court Master

Certified to be true copy.
Bhattacharya
Advocate

33
Tele :-23373702

ANNEXURE 6

Signals Mahanideshalaya Sigs 4 (c)
General Staff Branch
Sena Mukhyalaya
Die. Gen. Of Signals Sigs-4 (c)
General Staff Branch
Army Headquarters
DHQ PO, New Delhi-110 011

B/44572/Balraj/Sigs 4 (c)/134

27/Feb.2004

CGDA, RK Puram, New Delhi
CDA, Southern Command, Pune
CDA, Eastern Command, Patna
CDA, Western Command, Chandigarh
CDA, Central Command, Lucknow
CDA, Northern Command, Jammu
Signals Records, Jabalpur, (MP).

IMPLEMENTATION OF ORDER OF HON'BLE CAT CHANDIGARH
IN OA No.450/HR/2003 FILED BY SH BALRAJ SINGH & OTHERS

1. An ink signed copy of Govt. of India, Min of Def letter No.B/44572/Balraj/Sigs 4(c)/92/CC/D (QS) dated 27 Feb. 2004 is forwarded herewith for your info. and necessary action.
2. Please acknowledge receipt.

Sd/-
(PK Gera)
Dy Dir.
Sigs 4 (c)
For SO-in-C

Copy to :

HQ Delhi Area (legal Cell) (Supreme Court)
HQ Western Command (DJAG), Chandimandir
1 Army HQ Sig Regt.

A copy of ibid Govt. Letter is enclosed for your info please.

Certified to be true copy
Bhattacharya
Advocate

Typed copy

B/44572/Balraj/Sigs. 4 (c)
Government of India
Ministry of Defence
New Delhi the 27th Feb. 2004

To,
The Chief of the Army Staff.

Subject : Implementation of Order of Hon'ble CAT Chandigarh Bench in OA No.450/HR/2002 filed by Shri Balraj Singh & Others.

Sir,

I am directed to convey the sanction of the President of India for the grant of following three pay scales of telephone operators as prevalent in telecom department to CSBOs under General Staff-Branch common roster of defence department with effect from 1.1.96.

(a)	CSBO Gde II	Rs.3200-1900
(b)	CSBO Gde I	Rs.5000-8000
(c)	Tele/SB Super	Rs.5500-9000
(d)	After completion of 16 years service	Rs.5000-8000
(e)	After completion of 26 years service	Rs.5500-8000

2. This is in satisfaction of the orders of CAT (Chandigarh Bench on OA No.150/HR/2002 passed on 13 Sep. 2002 consequent to dismissal of CWP 8759 by High Court of Punjab & Haryana and dismissal of SLP NO.CC143/2004 filed by Union of India by Hon'ble Supreme Court.

3. Consequent to implementation of these orders, ACP scheme introduced vide GOI Letter No.36034/1/97-Estt. (D) dated 09 Aug, 1999 will be treated as withdrawn in so far as CSBOs under General Staff Bench Common roster are concerned as both the scheme i.e ACP scheme and time bound promotion scheme of Telecom Deptt. as granted by CAT Chandigarh to al CSBOs cannot run concurrently. Hence the benefits granted to al CSBOs under ACP scheme will be withdrawn and benefits of time bound promotion scheme as per court order will be implemented.

4. Employees who feel that they will be adversely effected by these orders may submit their representations to the Govt. through Signal Records Jabalpur within two months of issue of this order which will be examined by Govt. on merits. In case no objection is received within two months, it was be considered that the employee(s) have no objection implement this sanction in their case.

5. This issues with the concurrence of Defence (Finance) vide their U.O. No.417/GS/2004 dated 26 Feb, 2004

Yours faithfully,

(R Chaturvedi)
Under Secretary to Govt. of India

Copy to:

CGDA, New Delhi

FA (GS

CDA, Western Command, Chandimandir

CDA, Southern Command, Pune

CDA, Eastern Command, Patna

CDA, Central Command, Lucknow

CDA, Northern Command, Jammu

1 Army HQ Sig Regt.

Signals Records, Jabalpur, (MP).

HQ Delhi Area (Legal Cell) (Supreme Court)

Western Command Signal Regiment

Western Command Comp Sig Regt.

HQ Southern Command (Sigs)

HQ Eastern Command (Sigs)

HQ Western Command (Sigs)

HQ Central Command (Sigs)

HQ Northern Command (Sigs)

GS Signals, Signals 4 (c)

Certified to be true copy.
Bhattacharya Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

NO. O.A.668 of 2004

PRESENT: HON'BLE MR. JUSTICE B. PANIGRAHI, VICE-CHAIRMAN
HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER

MADHU SUDAN NAYAK & 2 ORS.

VS.

1. Union of India, through the Secretary Ministry of Defence, Government of India, New Delhi-11.
2. The Director General of Signals 4(c) General Staff Branch, Army Head Quarters DHQ, New Delhi-66.
3. General Officer Commanding, Bengal Area, FORT WILLIAM, Kolkata-21.
4. Administrative Commandant, Station Head Qrs., Panagarh, P.O.- Panagarh, PIN-713419, Dist.- Burdwan.
5. Station Commander, Station Head Qrs., Panagarh Military Base, P.O. - Panagarh, (PIN 713 419), Dist. Burdwan.
6. Chief Record Officer, Signal Abhilekh Karyala Signal Records, Post Bag No.5, Jabalpur, M.P. -482 001.

For the Applicant : Mr. A.K. Banerjee, Counsel

For the Respondents : Mr. S. Choudhury, Counsel

Heard on: 19.4.05

Date of Order: 06-05-2005

ORDER

PER JUSTICE B. PANIGRAHI, V.C.:

This application has been filed jointly by three applicants claiming the benefit of one time bound promotion as Civilian Switch Board Operator Grade-II in the scale of Rs. 5000-8000/- w.e.f. 1.8.01 on completion of 16 years of service.

2. The applicants were initially appointed as Civilian Switch Board Operators (CSBO) in the Military Telephone Exchange at Panagarh against temporary posts on and from 1.08.85 after having been selected by the respondent authorities. They were also medically examined and were issued formal appointment orders. Their initial appointment was for three months but subsequently their appointments continued with

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Bhattacharya
Advocate



occasional breaks. The last appointment order was issued on 8.10.1988 which was to expire on 27.12.88. However, before completion of the term of their appointment, their services were terminated verbally on and from 4.12.88. Being aggrieved, the applicants moved an original application before this Tribunal being O.A. No.1102 of 1988 which was decided on 26.2.92. The respondents in that OA contended that since the applicants were appointed on casual basis, they did not have any right to such appointment and that the respondents were free to terminate their services when the need for such casual employees was over. The Tribunal after considering the rival contentions directed the respondents to consider their absorption by giving weightage to their service from 1.8.85. It appears that thereafter the intermittent break periods of the applicants from the date of their initial appointments were regularized by grant of leave and as such their continuity of service was restored. Subsequently, when permanent posts were sanctioned for the unit in which the applicants were working, their services were formally regularized w.e.f. 05.01.94 and the applicants have been working as such without any interruption.

3. After the introduction of A.C.P. Scheme by the Government of India for Civilian Employees w.e.f. 9.8.99, the applicants preferred a claim for grant of financial upgradation under the ACP Scheme on completion of 12 years of service reckoning from the date of their initial appointment. However, their such prayer was not acceded to by the respondent authorities taking the plea that since the applicants were initially appointed on casual basis and were regularized only w.e.f. 05.01.1994, they could not get such financial upgradation as according to the ACP Scheme itself casual service or ad hoc service is not taken into consideration for grant of ACP benefit.

4. However, it appears that a case was filed before the Chandigarh Bench of this Tribunal wherein it was directed that the Civilian Switch Board Operators of the Military Telephone Exchange should be granted the benefit of one time bound promotion on completion of 16 years of service as is prevalent in the Department of Telecom. The matter was ultimately taken to the Hon'ble Supreme Court and the Hon'ble Supreme Court upheld the decision of the Tribunal vide their order dated 19.01.04. Consequently,



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the respondent authorities have withdrawn the benefit of financial upgradations under the ACP Scheme and introduced the scheme of one time bound promotion as is prevalent in the Department of Telecom vide order dated 27.2.04. It was provided that the Civilian Switch Board Operators (C.S.B.O) under the General Staff Branch of the Defence Department will be provided time bound promotions after completion of 16 years of service to the scale of Rs.5000-8000/- and the next higher scale of Rs.5500-9000/- after completion of 26 years of service. Consequently, the ACP Scheme would stand discontinued.

5. The case for the applicants is that since they were initially appointed as Civilian Switch Board Operators on 1.8.85, they had completed 16 years of continuous service as on 1.8.2001, and, therefore, they should be granted the scale of Rs. 5000-8000/- i.e. C.S.B.O. Grade-II w.e.f. that date.

6. However, the respondent authorities refused to grant such benefit to the applicants taking the ground that since the applicants were regularized as C.S.B.O. w.e.f. 05.01.94 and they would be eligible to get such benefit only after completion of 16 years from that date i.e. on 05.01.2006. It has further been contended that the casual service rendered by the applicants prior to 05.01.94 shall not be counted for grant of such benefit. In view of this decision, the applicants felt aggrieved and had filed this application for appropriate direction.

7. The respondents have filed a reply in which they have reiterated the stand stated above that the applicants having not completed 16 years of service from the date of their regularisation i.e. from 05.01.94, they cannot be granted such benefit. They have relied on a decision of this Tribunal in O.A. No. 1469 of 1998 dated 17.04.2001.

8. The applicants have filed a rejoinder reiterating their stand taken in the O.A.

9. We have heard the ld. counsel for both parties at length.

10. The only question for decision in this case is whether the service rendered by the applicants from 1.8.85 till 05.01.94 can be taken into account for the purpose of grant of one time bound promotion as has been introduced by the respondent authorities.



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11. Ld. counsel for the applicant has argued that the applicants were not appointed on casual basis as contended by the respondents. He has submitted that no doubt the applicants were initially appointed for a fixed period of three months and their term of appointment was being extended regularly after giving artificial breaks of a few days. However, after the decision of this Tribunal in O.A. No.1102 of 1988, the respondent authorities regularized the break periods by grant of leave. Thus, applicants have been continuously working as C.S. B.O w.e.f. 1.8.85 and they were formally regularized against permanent posts in the centralized cadre w.e.f. 5.1.94. His contention is that a casual employee cannot get a regular scale of pay but, in the instant case, the applicants were granted regular increments in the time scale of Rs. 260-400/- all along and by virtue of getting regular increments for all these periods they have reached at a stage of stagnation and they have not yet received any promotional benefits and therefore they cannot be denied the benefit of one time bound promotion as has been introduced w.e.f. 1.1.96.

12. The ld. counsel for the respondents has mainly contended that the applicants were initially appointed on casual basis, therefore, their such casual service cannot be taken into consideration for the purpose of counting 16 years of service for grant of one time bound promotion.

13. Regarding the controversy whether the applicants were initially appointed on casual basis or not, we have gone through the appointment orders issued to the applicant No.1 Sri Madhusudan Nayak, a copy of which is available at Annexure-A, which is dated 25.7.1985. It reads as follows:-

**"APPOINTMENT LETTER FOR TEMPORARY POST
OF CENTRAL SWITCH BOARD OPERATOR IN
MILITARY TELEPHONE EXCHANGE**

1. You are hereby appointed in the temporary vacancy of Central Switch Board Operators in Military Telephones Exchange Panagarh Base in the pay scale of Rs. 200-6-290-EB-6-326-6-EB-8-390-10-400.
2. The terms and conditions of your appointment are as under:-
 - (a) Your employment is for a period of 3(three) months i.e. upto 29th Oct, 1985.



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- (b) You are not entitled for any kinds of leave during the period.
- (c) You will work in shifts during day and night as per laid down charter.
- (d) No accommodation (single/married) will be allotted to you.
3. You are requested to join your duty w.e.f. 01st Aug, 1985 (Thursday) at 08.30hrs."

Thus it appears that nowhere the term 'casual basis' was used by the respondents. In fact, the applicants were appointed against temporary posts in regular time scale of pay but their such appointment was for a fixed period of three months. However, as already pointed out, their such temporary appointment was extended from time to time with occasional breaks. Then again their such break periods were also regularized restoring continuity in service. They were also medically examined and after having been sponsored by the employment exchange, they were also interviewed by a selection committee before their appointment as will appear from interview letter dated 18.6.85 at page 23. Thus it appears that they were appointed after observing all formalities.

14. A casual employee is not appointed against a permanent or temporary post and normally in Group-'C' post no casual appointment is made. There may be contract appointment on fixed rate of pay which is also not the case here. In the instant case, the applicants were only appointed against temporary posts and not against any permanent posts. But such appointment can never be termed as casual.

15. The respondents have however drawn our attention to the decision of this Tribunal in O.A. No. 1469 of 1998 which was decided on 17.4.01. It appears that some such Civilian Switch Board Operators filed the aforesaid O.A. claiming regularisation w.e.f. their initial appointment. The Tribunal however rejected their claim and approved their regularisation from 05.01.1994. In the instant case, the question is not regarding regularisation. What the applicants are claiming is reckoning of the service rendered by them against temporary posts after having been selected by the respondent authorities themselves followed by their regularization against permanent posts in centralized cadre, for the purpose of grant of one time bound promotion which is not related to any



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seniority. According to OTBP/BCR scheme, a person, who has rendered 16 years of service in the grade is eligible to get such higher pay scale to avoid stagnation. It is true that the ACP Scheme introduced by the Government in 1999, there is a specific clause that only regular service which is counted for eligibility for promotion is only to be reckoned for the purpose of grant of financial upgradation under the ACP Scheme, but under the one time bound promotion scheme, as has been introduced by the respondents at par with the Department of Telecom as per order dated 27.2.04 (Annexure-I), it is clearly mentioned that after completion of 16 years of service, such higher scale will be admissible. There is no mention of "regular service".

16. In this context we may refer to a decision of the Hon'ble Supreme Court in the case of Dwijen Ch. Sarkar Vs. Union of India and Ors 1999 SCC (L &S) 486. In that decision, the Hon'ble Supreme Court examined the Time Bound Promotion Scheme introduced in the P & T department which is analogous to the present scheme, which has been made applicable to the applicants at par with Department of Telecom. This scheme was originally introduced in the P & T Deptt. on 17.12.83. The relevant portion of the scheme reads as follows:-



"The Scheme will come into effect from 30-11-1983. All official belonging to basic grades in Group 'C' and Group 'D' to which there is direct recruitment either from outside and/or by means of limited competitive examination from lower cadres, and who have *completed 16 years of service in that grade* will be placed in the next higher grade. Officials belonging to operative cadres listed in Annexure 'A-1' to the agreement will be covered under the Scheme."

17. The Apex Court has observed that the expression used is completion of "16 years of service in that grade". No doubt, the present applicants have completed 16 years of service in the grade of Rs.260-400/- now revised to Rs.3200-4900/-. It is also true that they were initially appointed against temporary posts but subsequently by an order dated 08.06.95, five additional posts of C.S.B.O. were created at Panagarh Station Head Quarter and against those posts the applicants were regularized from 05.01.1994 vide annexure-R/3.

18. The only ground for which the respondents have declined to extend the benefit of one time bound promotion is that the applicants were regularized only w.e.f. 05.01.94 and

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that the service rendered by them prior to that date from 1.8.85 was not regular but casual. As we have seen above, in the appointment order of the applicants, there was no mention of the term 'casual' rather we have found that they were appointed against temporary posts. Whether the posts were temporary or permanent that may have some bearing on regularization or confirmation in service of an employee but the fact remains that the applicants have completed 16 years of continuous service from the date of their initial appointment, may be against temporary posts but they have all along get regular increments. It is pertinent to note here that although in their regularization order dt. 8.6.95 (annexure-RIII), in clause 4(b) it was indicated that service rendered on casual basis prior to appointment in regular establishment 'will not be counted for the purpose of pay fixation, but ^{it} appears that the applicants have been granted increments all along, that is to say such so called casual service was taken into consideration for the purpose of pay fixation in respect of the applicants as stated by them.

19. The applicants have also raised a ground of discrimination by stating that in case of one Shri Bhaskar Chakraborty, service was counted from the date of his initial appointment from 8.5.88. The respondents have replied that he was appointed on regular basis against an existing vacancy and brought on the GS Branch common roster with effect from the same date which is not the case of the applicants. It appears that the respondents are making the differentiation on the basis of inclusion in the common roster against permanent vacancy. But that does not mean that the past service of the rendered against temporary post before being brought on centralised common roster against permanent posts has to be wiped out. May be it may not be counted for seniority purpose.

20. The purpose of introducing time bound promotion is to remove frustration amongst the employees who may not get normal promotion in the higher grade due to their low seniority position. These applicants having worked for 16 years at a stretch without any interruption in the basic grade of Switch Board Operators, their break periods having been regularized, they cannot possibly be denied the benefit of higher pay scale under one time bound promotion scheme. Of course, they cannot claim any



Beary

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3d-
VICE-CHAIRMAN

(a) Sl No of the Appin.....**3339**
 (b) Name of the applicant **M. B. S. N.**
 (c) Dt. of presentation or
 application for copy.....**27-7-77**
 (d) No. of pages.....**8**
 (e) Copying fee charged/**COT**
 urgent or ordinary.....**per page**
 (f) Dt. of preparation of copy.....**28-8-77**
 (g) Dt. of delivery of the copy
 to the applicant.....**28-8-77**

OP IMDT

DTG : 10

UNCLAS

A - 3562

From : Sigrecords

To : Stn Cell HQ 101 Area
Stn Cell HQ 51 Sub Area
Stn Cell HQ 41 Sub Area
Stn HQ Binaguri
Stn HQ Misumari
Stn HQ Dimpur
Stn HQ Silchar
Stn HQ Bengdubi

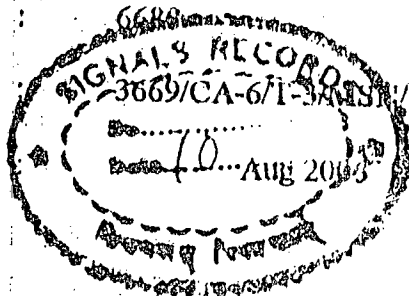
Counting of seniority in respect of CSBOs who appointed initially on casual oblique temp basis (.) CSBOs of Stn HQ Panagarh in view of a recent judgement of CAT Kolkata bench have got their temp/casual service counted as regular service for grant of Time Bound Promotion (.) a case is being projected by this office to Indamny for grant of such benefits to all similarly placed CSBOs (.) request intimate name of all such CSBOs held in your posted strength who were initially appointed on casual/temp basis with date of their casual-oblique temp appt (.) date of temp appt these CSBOs when they initially appointed for 89 days prior to absorption in regular est is reqd urgently for inclusion in Statement of Case (.) request fwd details through Fax oblique Sig indtly

Drafter's Name : D N Sharma, VSM
Rank : Lt Col
Appt : Chief Record Officer

Tele Mtl

Case file No

Dated



Lt Col :
TOR : h

Certified to be true copy

Bhattacharya
Advocate

LIST OF CSBOs GDE- II WHO HAVE BEEN APPOINTED ON TEMP BASIS AND SUBSEQUENTLY
ABSORBED IN THE REGULAR EST UNDER GS BRANCH COMMON ROSTER

Ser No	Name of CSBO	Unit	Date of appt on temp basis	Date of appt on regular basis	Remarks
(a)	(b)	(c)	(d)	(e)	(f)
1.	Shri Prasanna Kumar Das (Now CSBO Gde-I)	West Comd Comp Sig Regt	01 May 85	25 May 93	* Please fill up correct dates on column (d). Where dates have already been filled, this may be checked again before forwarding to Signals Records
2.	Shri B K Mistry (Now CSBO Gde-I)	Sta HQ Binnaguri	*	11 Aug 93	
3.	Shri Ravi Lama (Now CSBO Gde-I)	Sta HQ Binnaguri	*	15 Dec 93	
4.	Smt Dhaneswari Debn (Now CSBO Gde-I)	Sta Coll HQ 101 Area	*	19 Dec 94	
5.	Shri Dhan Kumar Hazarika (Now CSBO Gde-I)	Sta HQ Dimapur	*	17 Nov 93	
6.	Shri Pranjit Baruah (Now CSBO Gde-I)	Sta HQ Dimapur	*	17 Nov 93	
✓ 7.	Shri Jogeshwar Nath	West Comd Comp Sig Regt	01 May 85	25 May 93	
8.	Kum Moon Moon Das	Sta HQ Binnaguri	01 May 85	25 May 93	
9.	Shri Madan Chandra Urma	West Comd Comp Sig Regt	11 Nov 87	25 May 93	
10.	Shri Lakhinder Khosla	Sta HQ Dehradun	01 May 85	25 May 93	
11.	Smt Bedvati Das	Sta HQ Binnaguri	01 May 85	25 May 93	
12.	Shri Pulin Sharma	Sta HQ Cell Dehradun Cantt	01 May 85	25 May 93	
13.	Smt K D Guring	East Comd Sig Regt	*	11 Aug 93	

(a)	(b)	(c)	(d)	(e)	(f)
14.	Shri A K Patnaik	Stn HQ Gopalpur	*	11 Aug 93	
15.	Smt Labanya Sekhawat	1 Army HQ Sig Regt	*	17 Nov 93	
16.	Smt Chandi Sarkar	Stn HQ Cell HQ 101 Area	*	17 Nov 93	
✓ 17.	Smt Savita Paul	Stn HQ Cell HQ 51 Sub Area	01 Mar 85	17 Nov 93	
18.	Kum Mina Salkia	Stn HQ Cell HQ 41 Sub Area	*	17 Nov 93	
19.	Smt Depali Kalita	Stn HQ Misamari	*	17 Nov 93	
20.	Smt Ratna Borah	Stn HQ Paragarh	*	17 Nov 93	
✓ 21.	Smt Gayatri Mahanta Devi	Stn HQ Cell HQ 51 Sub Area	06 Jun 87	17 Nov 93	
✓ 22.	Shri Indu Kumar Hazarika	West Comd Comp Sig Regt	01 Mar 85	17 Nov 93	
23.	Shri Satyajit Baruah	Stn HQ Gaya	*	17 Nov 93	
24.	Shri Biren Kumar Kalita	Stn HQ Dimapur	01 Mar 85	17 Nov 93	
25.	Shri Amal Chanda	Stn HQ Binnaguri	01 May 85	13 Dec 93	
26.	Shri Manoj Kumar Bisoyi.	IMA Dehradun	*	13 Dec 93	
27.	Shri Vijaya Rajan D	Stn HQ Ramgarh	*	13 Dec 93	
28.	Shri Sunil Kumar Das	South Comd Sig Regt	*	13 Dec 93	
29.	Shri Anil Kumar Das	Stn HQ Binnaguri	27 Jan 86	05 Jan 94	
30.	Shri B L Narayana	Stn HQ Gopalpur	16 Sep 88	05 Jan 94	
31.	Shri Nk Rudra	Stn HQ Binnaguri	27 Jan 86	05 Jan 94	

(a)	(b)	(c)	(d)	(e)	(f)
32.	Shri AC Sarkar	Stn HQ Binnaguri	27 Jan 86	05 Jan 94	
33	Shri A Surya Narayana Rao	Stn HQ Gopalpur	12 Sep 88	05 Jan 94	
34	Shri Bisweshwar Banik	Stn HQ Binnaguri	27 Jan 86	05 Jan 94	
35.	Smt Farida Begum	Stn HQ Cell 51 Sub Area	05 Nov 86	05 Jan 94	
36.	Smt S Guha Roy	Bengal Area Sig Coy	27 Jan 86	05 Jan 94	
37.	Shri Biswajit Bhaduri	Stn HQ Binnaguri	27 Jan 86	05 Jan 94	
38.	Kumr Anima Tigga	Stn HQ Bengdubi	*	05 Jan 94	
39.	Shri Deepak Nirala	Stn HQ Missamari	17 Dec 85	05 Jan 94	
40.	Shri Mohd Riazuddin Ahmed	Stn HQ Missamari	01 May 85	05 Jan 94	
41.	Smt A Lakshmi Mohanty	Stn HQ Gopalpur	14 Sep 88	05 Jan 94	
42.	Shri A K Shrivastava	Stn HQ Cell Allahabad Sub Area	01 Aug 85	05 Jan 94	
43.	Smt Alka Sharma	UB Area Sig Regt	10 Jan 89	05 Jan 94	
44.	Shri Sukanta Prusty	Stn HQ Gopalpur	09 Sep 88	05 Jan 94	
45.	<u>Shri Babu Mia Choudhary</u>	Stn HQ Silchar Cantt	*	21 Feb 94	
46.	<u>Smt Anita Bhattacharjee</u>	-do-	*	21 Feb 94	
47.	<u>Shri Ranjit Kumar Dutta</u>	Stn HQ Dimapur	*	21 Feb 94	
48.	<u>Shri Sahabuddin Barbhuiya</u>	CIJW School	*	21 Feb 94	
49.	Shri Kumar Pushkar	Bengal Area Sig Coy	*	18 Aug 94	

(a)	(b)	(c)	(d)	(e)	(f)
50.	Shri D N Bhorpujari	Stn HQ Jamnagar	11 Aug 86	19 Dec 94	
51.	Smt Bimla Dutta Mazumdar	Stn HQ Cell HQ 41 Sub Area	*	19 Dec 94	
52.	Smt Nani Sharma	Stn HQ Jalapahar	*	19 Dec 94	
53.	Shri Debabrata Das	Stn HQ Devlali	23 Jul 86	19 Dec 94	
54.	Smt Saieha Begum	Stn HQ Cell HQ 101 Area	*	19 Dec 94	
55.	Shri Shankar Bhowmik	Stn HQ Yol	*	19 Dec 94	
56.	Kam Manju Thakuria	Stn HQ Panagarh	*	19 Dec 94	
57.	Shri Subrata Purkayastha	Stn HQ Dimapur	*	19 Dec 94	
58.	Smt Mina Sharma Bar hakur	MG & G Area Sig Coy	*	19 Dec 94	
59.	Shri Jayanta Kumar Dey	East Comd Sig Regt	*	19 Dec 94	
60.	Smt Seema Chakraborty	Stn HQ Cell HQ 41 Sub Area	*	19 Dec 94	
61.	Smt Rita Choudhary	Stn HQ Cell HQ 101 Area	*	19 Dec 94	
62.	Smt Bharti Das	-do-	*	19 Dec 94	
63.	Smt Biju Kalita Das	MG & G Area Sig Coy	*	19 Dec 94	
64.	Smt Nazia Begum	Stn HQ Cell HQ 51 Sub Area	*	19 Dec 94	
65.	Smt Sabita Kar	Stn HQ Cell HQ 101 Area	*	19 Dec 94	
66.	Smt Rita Singha	-do-	*	19 Dec 94	
67.	Shri Gupada Chakraborty	Stn HQ Jalapahar	*	19 Dec 94	
68.	Smt Bhabeswari Devi	Stn HQ Cell 101 Area	*	19 Dec 94	

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O/C

Siddhartha Bhattacharya. M.A., LL.B.

Advocate

GAUHATI HIGH COURT

THE HIGH COURT OF ASSAM, NAGALAND, TRIPURA,
MIZORAM, MANIPUR, NITOWARI, THIRUPUR PRADESH.

ANNEXURE 10

Chamber Address
G. S. B. & Associates

Seventh Heaven Complex
P.O. Ulubari, G.S. Road, Guwahati
Assam Pin - 781007

(Mobile) 94350 - 10789

(Chamber) 0361 - 2457905

(Residence) 0361 - 2528341

To,

1. Director General of Signals [Sigs-4 (c)]
General Staff Branch
Army HQs.
DHQ PO. New Delhi- 110011.

2. Col. Records
Signal Records
Post Bag No.-5
Jabalpur - 482001
Madhya Pradesh.

Our Ref. No. GSBA/LN/25/07
Dated : Guwahati 8 March, 2007

3. Admn. Commandant
Station Headquarter, Tezpur
4. Corps
C/o. 99 A.P.O.

4. Commanding Officer
2 Coy Signal Regiment
Army Exchange, Narengi Cant
C/o. 99 A.P.O.

Sub: - Legal Notice

Sir,

Take notice that the following individuals, namely (1) **Indu Kumar Hazarika** (2) **Soroj Kr. Mahanta** (3) **Sabita Paul** (4) **Jogeswar Nath** (5) **Farida Begum** (6) **Gayatri Devi**. who are working as Civilian Switch Board Operators in Military Telephone Exchanges under your jurisdiction have engaged me as their Legal Counsel by signing a Vakalatnama in my favour.

That on instruction of my above named clients I am to inform you,

1. — That my above mentioned clients have been working in your department for a long time and as over the years their services had not been regularised, they had been compelled to approach the Hon'ble Central Administrative Tribunal, Guwahati Bench for redressal of their grievances through O.A. No. 176 of 1991, O. A. Nos 185 of 1990, 70 of 1992 and 104 of 1992

2. That the Central Administrative Tribunal, Guwahati Bench passed its Judgment & Order in the Original Applications filed by my clients on 17th Nov, 1993 and on 25th May, 1993 wherein inter alia the Hon'ble CAT have directed the authorities to regularise their services along with certain other directions.

Certified to be true copy

Siddhartha Bhattacharya
Advocate

Contd..

3. That in pursuant to the aforementioned Judgment & Orders of the Hon'ble Central Administrative Tribunal, Guwahati Bench, the then Officiating Adm. Commandant of Station HQ. Tezpur Vide daily Order Part-II dated 30th June, 1995 issued the following Order.

“APPOINTMENT”

The following individuals have been appointed as CIVILIAN SWITCH BOARD OPERATORS with effect from 17th Nov, 93 the date of court Judgment decided in their favour.

Auth: Govt. of India, Min. of Def DO No. 3877/JS (O) 95 dt. 10th May 95 and Signals Records Jabalpur letter No. 3681/ I/CA6/PE/EC/46 dt. 16 June, 95”.

4. That, in the said D.O. Part-II No. 01/CSBO/95 (SHEET 2) issued by Station Head Quarter, Tezpur dated 0th June, 1995 the date of permanent regularisation was shown to be 17th November, 1993 and in the column showing date of initial employment the following dates were shown against the names of present applicants.

Name	Date of Initial Appointment
(i) Indu Kr. Hazarika	01.03.1985
(ii) Soroj Kr, Māhanta	01.03.1985
(iii) Sabita Paul	01.03.1985
(iv) Jogeswar Nath	01.05.1985
(v) Farida Begum	05.11.1986
(vi) Gayatri Devi	06.06.1987

5. That, the question of confirmation of seniority and consideration of the initial period of employment upto the date of regularization as permanent employee for the purpose of consideration of length of Service was not settled by the aforesated Order.

6. That, my clients brought this aspect to the notice of the concerned departmental authorities on several occasions but the departmental authorities apart from time to time assurances of redressal of their grievances did not take any concrete steps to mitigate the grievance of my clients.

Contd...

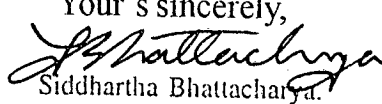
7. That my clients were further aggrieved by the fact that similarly placed CSBO's working at Pannagarh in West Bengal have been given due seniority from their initial date of appointment by the Department but no such steps have been taken by you in case of my clients .

8. That in the aforestated facts and circumstances my client have instructed me to serve a legal notice on you to accord and consider their services from the date of their initial appointment in matters of determining length of service , seniority and such other related issues in the light of the Orders passed by you in the case of CSBO's working at Pannagarh in West Bengal ,within four (4) weeks of receipt of this notice.

9. I am further instructed to inform you that in case of your failure to do so, my clients will be compelled to approach an appropriate forum of law for redressal of their grievances.

10. It is also to inform you that this notice is served without any prejudice to any of my clients legal rights and remedies.

Please acknowledge receipt of this notice.

Your's sincerely,

Siddhartha Bhattacharya
Advocate.
GAUHATI HIGH COURT.

बीमा नहीं NOT INSURED

संलग्न गये डाक टिकटों का मूल्य रु. 22/ P
Amount of Stamps affixed Rs. 22/ P
एक रजिस्ट्र* R. Gen of Signals प्राप्त किया
Received a Registered* Army H.Q.
पानेवाले का नाम
Addressed to N. DEIN-11

क्रमांक
No. 1407
तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बीमा नहीं NOT INSURED

संलग्न गये डाक टिकटों का मूल्य रु. 22/ P
Amount of Stamps affixed Rs. 22/ P
एक रजिस्ट्र* Comm. Coy. Signal Regt. प्राप्त किया
Received a Registered* Coy. Signal Regt.
पानेवाले का नाम
Addressed to Co - 99 B.P.O.

क्रमांक
No. 1408
तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बीमा नहीं NOT INSURED

संलग्न गये डाक टिकटों का मूल्य रु. 22/ P
Amount of Stamps affixed Rs. 22/ P
एक रजिस्ट्र* Adm. Comm. Station H.Q. प्राप्त किया
Received a Registered* Station H.Q.
पानेवाले का नाम
Addressed to Tezpur

क्रमांक
No. 1409
तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

बीमा नहीं NOT INSURED

संलग्न गये डाक टिकटों का मूल्य रु. 22/ P
Amount of Stamps affixed Rs. 22/ P
एक रजिस्ट्र* Col. Records प्राप्त किया
Received a Registered* Signal Panel
पानेवाले का नाम
Addressed to Gabalpur - 1

क्रमांक
No. 1410
तारीख मोहर
Date Stamp

पानेवाले अधिकारी के हस्ताक्षर
Signature of Receiving Officer

- 52 -

ANNEXURE 11

REGD BY POST
IMMEDIATE

Tele : 23333702

Dte General of Signals, Sigs 4 (c)
General Staff Branch
Integrated HQ of MoD (Army)
DHQ PO New Delhi - 110011.

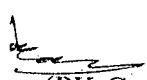
B/44572/Sigs 4 (c)/23

13 Apr 07

Sh Sddhartha Bhattacharya, Advocate
The High Court of Assam, Nagaland, Tripura
Meghalaya, Manipur, Mizoram, Arunachal Pradesh
G.S.B. & Associates
G-1, Seventh Heaven Complex
PO-Ulubari, GS Road, Guwahati (Assam) 781007

LEGAL NOTICE

1. Reference your Notice No BSBA/LN/25/07 dated 08 Mar 2007.
2. The case for confirmation of seniority and consideration of the initial period of employment upto the date of regularization as permanent employee for the purpose of length of service in respect of the following CSBOs has been examined in detail:-
 - (a) Sh Indu Kumar Hazarika
 - (b) Sh Saroj Kumar Mahanta
 - (c) Smt Sabita Paul
 - (d) Shri Jogesh Nath
 - (e) Smt Farida Begum
 - (f) Smt Gatatri Devi
3. It is intimated that the case on the subject in respect of all affected CSBOs was projected by Signals Records and was further referred to Ministry of Defence. Ministry of Defence have returned the same unactioned stating that all matters related to cadre reviews (of all categories of employees) proposal for upgradation/anomalies, new allowances or enhancement of existing allowance should also be referred to Sixth CPC.
4. Therefore, as per the directions of Ministry of Defence, the case has now been forwarded to Sixth CPC through AG's Branch, Army HQ for their consideration.
5. Your clients may please be apprised accordingly.

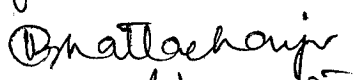

(PK Gera)
Dy Dir
Sigs 4 (c)
For SO-in-C

Copy to :-

The Records Signals -
PIN-901124, C/O 56 APO

For info wrt your Sig No A 9488 dated 05 Apr 07.

Certified to be true copy


Advocate