

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T/A No. 52/2007

R.A/C.P No.

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SECTION OFFICER (Judl.)

Shah
22/9.2007

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

2A DEBAR SHEET

1. Original Application No. 52/07
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) S.K. Bhattacharyee VS Union of India & Ors

Advocate for the Applicant(s) J. P. Chanhem

Advocate for the Respondant(s) A. Sarma
Mr. G. Barik
MCASE

Notes of the Registry	Date	Order of the Tribunal
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File application is in form
is filed for Rs. 50/-
d.p. for new P.O. No.
No. 346.651.466
Dated 27.2.07

Recd
Dy. Registrar

Pri.

5.3.07.

The claim of the applicant is that he has been promoted to the Upper Division Clerk (UDC, for short) w.e.f 15.06-1997 instead of January, 1992. On the strength of the decision of the Tribunal and other documents which he has filed in this O.A, the relevant portion of the order in O.A.No.22/2000, passed by the Tribunal, dated 22.8.2001 is reproduced below:

"Therefore, the applicant would march over the respondent Nos. 3 & 4 Ms. J. Lingkhohi & Shri M. P. Rimal, the impugned orders dated 9.4.99 and 11.8.2000 are set aside and the respondents are directed to refix the inter-se-seniority of the applicant vis-à-vis respondent Nos.3 & 4 on the basis of the observations made above."

Petitioner's copy along with
envelops are received

Pri.

contd/-

5.3.07

The respondents have taken up the matter before the Hon'ble Gauhati High Court. The High Court has dismissed the appeal in favour of the applicant. But on 25.9.2006 the respondent No.2 has issued office order promoting the applicant to the post of UDC w.e.f. 15.06.1997.

Considering the facts and circumstances the application has to be admitted. Application is admitted. Issue notice on the respondents. Post the matter on 23.4.07.

Vice-Chairman


lm

23.4.2007 Present: The Hon'ble Mr. G. Shanthappa
Member (J)

The Hon'ble Mr. G. Ray, Member (A)

Mr. A. Sarma, learned counsel for the Applicant is present. Ms. U. Das, learned Addl. C.G.S.C. representing the Respondents request for time to file reply statement. Her request for four weeks time to file reply statement is granted.

Call on 23.05.2007.


Member (A)


Member (J)

/bb/

Notice & order sent
to D/Section for
issuing to R-1,2 by
regd. A/D post.

(10/3) D/No-308,309
16/3/07 Dt: 19/3/07

① Service "repost"
awarded.

② No W/Ls has been
filed.

24
19.4.07.

is W/Ls has been
filed.

22
22.5.07.

OA. 52/2007 - 3

23.5.2007

Post on 31.5.2007 granting one week time to Ms.U.Das, learned Addl.C.G.S.C. to file reply statement.

No Wks has been filed

30.5.07

/bb/

Vice-Chairman

31.5.07

Post the matter on 04.6.07. In the meantime the respondents will file the written statement.

1.6.07
Wks filed by the Respondents. page 1 to 34. Copy saved.

lm

Vice-Chairman

28.6.2007

Learned counsel for the Applicant submitted that Applicant has no rejoinder to file. Pleadings are over.

Wks filed.

27.6.07

Post the case on 27.7.2007 for hearing.

Rejoinder not filed

26.7.07

/bb/

Vice-Chairman

Rejoinder not filed.

26.7.07

27.7.07

This matter is pertaining to promotion. Counsel for the respondents has submitted that matter may be fixed before the Division Bench, because it, no doubt, falls under Rule 154© Appendix 7 of the C.A.T. Rules.

27.7.07

Pl verify & report.

Verified and found that promotion matter be fixed before the Division Bench as per Rule 154 (c) Appendix VII of CAT Rules of Practice, 1993.

Registry is directed to verify the same. Post the matter before next Division Bench.

Rejoinder not filed.

14.5.08

Vice-Chairman

lm

15.05.2008

Heard Mr. A. Sarma, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing counsel appearing for the Respondents.

In course of hearing Mr. A. Sarma, learned counsel appearing for the Applicant has filed a memorandum wherein he has disclosed that a part of the relief claimed in this Application has already been granted by the Respondent Department and that for the remaining grievances the Applicant wishes to approach the authorities for necessary redressal.


In the said premises, the Applicant wishes to withdraw the O.A. to approach the higher authorities for redressal of his grievances.

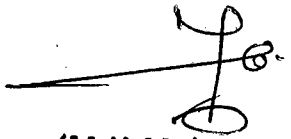
Having heard the learned counsel appearing for both parties the O.A. is permitted to be withdrawn with liberty to approach the higher authorities and to workout his remedy by approaching this Tribunal in the event no redressal is granted to him by the authorities.

In the above premises, this case stands dismissed as being withdrawn.

Send copies of this order to the Applicant and to the Respondents in the addresses given in the O.A.

Free copies of this order be supplied to the learned counsel appearing for the parties.

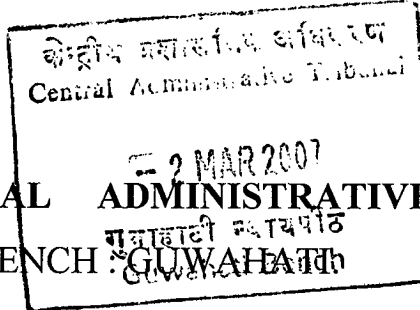

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Lm

Received.
K. Paul, Adv.
for A. Sarma
Advocate
(for the applicant).
22/5/08.

22.5.08
Copy of the order
sent to the D/Sec.
for issuing the
order to the parties
along with the copy
to the Asst. Secy.
H.S.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

[An application under Section 19 of the Administrative Tribunals Act, 1985]

ORIGINAL APPLICATION NO. 52 OF 2006.

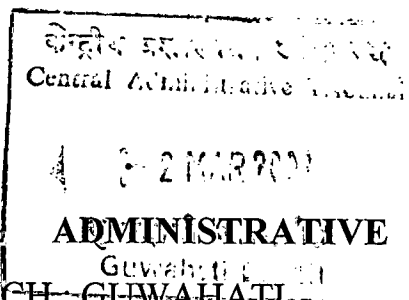
Sri Susanta Kumar Bhattacharjee ...APPLICANT.
-Vs-
The Union of India and Ors. ...RESPONDENTS.

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Signature of the applicant
For use in the Tribunal's office
Date of filing :-
Registration No.

Susanta Kumar Bhattacharjee



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: GUWAHATI.

ORIGINAL APPLICATION NO. 52 OF 2006.

Sri Susanta Kumar Bhattacharjee ...APPLICANT.

-Vs-

The Union of India and Ors. ...RESPONDENTS.

LIST OF DATES.

<u>Date</u>	<u>Particulars</u>
05-01-1993	Applicant promoted to the post of UDC consequent upon the recommendations of the Selection Committee, MoEF, NE[RO], Shillong. [Annexure A Page 15]
05-07-1996	Applicant promoted to the post of UDC in the then parent department. [Annexure A-1 Page 16]
22-08-2001	Order passed by this Hon'ble Tribunal in O.A. No.227/2000. [Annexure B Pg 17-26]
23-09-2005	Judgment and Order passed by the Hon'ble Gauhati High Court in WP[C] No.6734 of 2004[G] upholding the order dated 22-08-2001 passed by this Hon'ble Tribunal in O.A. No.227/2000. [Annexure C Page 27-44]
30-10-1992	Recruitment rules for the post of UDC. [Annexure D Page] ← 45-57
05-07-2000	Recruitment rules for the post of Assistant. [Annexure D-1 Page] ← 45-57
17-10-2005	Representation submitted by the applicant to the authority concerned for promotion to the post of Assistant with effect from 2002. [Annexure E Page 58]
28-11-2005	Representation for considering the case of the applicant for promotion to the post of Assistant with effect from 2002. [Annexure F Page 59]
27-02-2006	Representation for consideration of promotion to the post of Assistant after giving notional promotion to the post of UDC [which was held by the applicant after being duly selected by the DPC/Selection Board during 1992] [Annexure G Page 60-61]
06-07-2006	Reply given by the respondent no.2 to the effect that request has been made to the respondent no.1 for convening DPC for considering the applicant's promotion to the post of UDC and also for the post of Assistant. [Annexure H Pg 62]
08-08-2006	Applicant represented about the undue delay in ordering promotion to the post of Assistant by giving notional promotion to the post of UDC. [Annexure I Page 63]
29-08-2006	Representation to the respondent no.1 through proper channel regarding the inordinate delay in ordering promotion to the post of Assistant. [Annexure J Page 64-67]
18-09-2006	Representation for immediate ordering of promotion to the post of UDC. [Annexure K Page 68-69]
25-09-2006	Office Order promoting the applicant to the post of UDC w.e.f. 15-06-1997. [Annexure L Page 70-70A]
02-08-1996	Communication regarding counting of past service rendered in the parent department [Annexure M Page 71]
31-10-2006	Representation filed by the applicant regarding his promotion to the post of UDC with effect from January, 1992 and to the post of Assistant with effect from 2002. [Annexure N Page 72]

Filed by-
Anwarul Haq Samra
Advocate
01/03/07

Susanta Kumar Bhattacharjee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985.

ORIGINAL APPLICATION NO. 52 OF 2006.

Shri Susanta Kumar Bhattacharjee
Son of Late S.B. Bhattacharjee
Upper Division Clerk
Office of the Chief Conservator of Forests (Central),
Ministry of Environment & Forests, Regional Office,
(NER), Upland Road, Shillong-3, Meghalaya.

.....APPLICANT.

-VERSUS-

1. The Union of India, represented by the Secretary
to the Government of India, Ministry of Environment
and Forests, Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi – 110 003.
2. The Chief Conservator of Forests (C), Government of India,
Ministry of Environment & Forests, Regional Office
(NER), Upland Road, Shillong – 3, Meghalaya.

.....RESPONDENTS.

Filed by
Susanta Kumar Bhattacharjee
(Through, Aiswaryya Sarma
Advocate,
01-03-07)

DETAILS OF APPLICATION:

1. Particulars of the order against which the application is made:

The applicant is aggrieved by the wrong fixation of the date of his promotion to the post of Upper Division Clerk (UDC, for short) on 15-06-1997 instead of January 1992 as well as non-consideration of his case for promotion to the post of Assistant.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redress is within the jurisdiction of the Tribunal.

3. Limitation:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

4.1 That the applicant is working in the post of Upper Division Clerk ('UDC', for short) in the office of the Chief Conservator of Forests (C), Ministry of Environment & Forests, Regional Office, (NER), Upland Road, Shillong-3 [MoEF, NE (RO), for short].

4.2 That the applicant joined as Lower Division Clerk (LDC, for short) on 01-08-1980 in the Directorate of Census Operations. Thereafter, he was appointed in the same capacity in the North Eastern Police Academy, Ministry of Home Affairs, Umsaw, Barapani (NEPA, for short) with effect from 16-01-1986, with all benefits of past service, pay protection, etc. He

Susanta Kumar Bhattacharya

was confirmed in service as LDC on 16-01-1989. While the applicant was working in the NEPA, he was sent on deputation to the MoEF, NE(RO). The applicant joined in the MoEF, NE (RO) on 15-06-1989 where he was permanently absorbed with effect from 30-10-1992.

4.3 That the applicant was promoted as UDC in the MoEF (RO), Shillong, vide recommendation of the Selection Committee dated 09-06-1992. The applicant was again promoted as UDC with effect from August, 1995, by his parent department (NEPA) after holding DPC; vide order dated 05-07-1996.

Copies of the aforesaid orders are annexed hereto and marked as ANNEXURE – 'A' and 'A-I'.

4.4 That thereafter the applicant was conditionally reverted to the post of LDC to facilitate his absorption in the MoEF (RO), Shillong. However, the respondents fixed the date of absorption on 03-04-1996 instead of 15-06-1989(date of joining in the MoEF) or 30-10-1992(when the recruitment rules came in force). Being aggrieved, the applicant preferred an Original Application before this Hon'ble Tribunal, being O.A. No.227 of 2000, which was disposed of on 22-08-2001. It was made clear by the Tribunal that the date of absorption of the applicant cannot be lowered down beyond 30-10-1992.

A copy of the said Judgment and Order dated 22-08-2001 passed in O.A. No.227/2000 is annexed hereto and marked as ANNEXURE – 'B'.

4.5 That the respondents thereafter preferred a writ petition before the Hon'ble Gauhati High Court, being WP(C) No.41{SH}/2002, challenging

Sunder Kumar Ghorai

the aforesaid judgment and order dated 22-08-2001 passed in O.A. No.227/2000. The said writ petition, renumbered as WP(C) No.6734 of 2004{G}, after being transferred to the Principal Seat at Guwahati from the Shillong Bench of the Hon'ble High Court, was dismissed vide judgment and order dated 23-09-2005, and the judgment and order dated 22-08-2001 passed by this Hon'ble Tribunal in the previously mentioned O.A. was upheld.

A copy of the said judgment and order dated 23-09-2005 passed in WP(C) No.6734/2004 is annexed hereto and marked as ANNEXURE- 'C'.

4.6 That the applicant states that recruitment rules contemplate 8 [eight] years of regular service in the post of LDC to be eligible for promotion to the post of UDC. The applicant became eligible for promotion to the post of UDC with effect from 01-08-1988 [considering his date of entry in Government service to be 01-08-1980] but at that time there was no vacancy and the applicant was promoted to the post of UDC with effect from 04-01-1992 when the post of UDC fell vacant. The borrowing department also promoted the applicant to the post of UDC from January 1992 since he was the seniormost LDC at that point of time.

*Copy of the R.R. are annexed hereto
and marked as ANNEXURE D & D₁*

4.7 That as the applicant was originally promoted as UDC in the year 1992 after holding DPC and being selected by the Selection Board, he became eligible for promotion to the post of Assistant in the year 2002 under the Recruitment Rules. Accordingly, the applicant vide his representation dated 17-10-2005 addressed to the respondents, requested that his case for promotion to the post of Assistant be considered as per recruitment rules.

A copy of the said representation dated 17-10-2005 is annexed hereto and marked as **ANNEXURE – 'E'**.

4.8 That the applicant by another representation dated 28-11-2005 requested for consideration of his case for promotion to the post of Assistant with effect from 2002 because he was granted proforma promotion to the post of LDC with effect from January, 1992 by the then parent department after holding DPC.

A copy of the said representation dated 28-11-2005 is annexed hereto and marked as **ANNEXURE – 'F'**.

4.9 That since no reply was forthcoming, the applicant submitted a fresh representation on 27-02-2006, requesting the authority concerned to consider his case for promotion to the post of Assistant after promoting him to the post of UDC on notional basis, the post to which the applicant was initially promoted in 1992 in the Regional Office and also granted proforma promotion to UDC by the then parent department with effect from 1992.

A copy of the said representation dated 27-02-2006 is annexed hereto and marked as **ANNEXURE – 'G'**.

4.10 That the respondents vide communication dated 06-07-2006 informed the applicant that the Regional Office had requested the Ministry for convening of DPC for considering promotion of the applicant to the post of UDC and also for the post of Assistant.

Susanta Kumar Bhattacharya

A copy of the said communication dated 06-07-2006 is annexed hereto and marked as ANNEXURE - 'H'.

4.11 That, since nothing happened thereafter, the applicant submitted another representation on 08-08-2006 before the respondents, requesting them to consider his case for promotion to the post of Assistant by giving notional promotion to the post of UDC.

A copy of the said representation dated 08-08-2006 is annexed hereto and marked as ANNEXURE - 'I'.

4.12 That the applicant then submitted a representation before the Ministry of Environment & Forests, New Delhi on 29-08-2006, through proper channel, expressing his grievance and praying for his promotion to the post of UDC and to the post of Assistant, both of which fell due long back.

A copy of the said representation dated 29-08-2006 is annexed hereto and marked as ANNEXURE - 'J'.

4.13 That the applicant submitted another representation before the authority concerned on 18-09-2006 requesting for his promotion to the post of UDC in the Regional Office.

A copy of the said representation dated 18-09-2006 is annexed hereto and marked as ANNEXURE - 'K'.

Susanta Kumar Bhattacharya

4.14 That, thereafter, the respondents vide office order No.11-27/96/E-RONE/Vol.I/2232-36 dated 25-09-2006, promoted the applicant to the post of UDC w.e.f. 15-06-1997, after holding yet another DPC.

A copy of the said order dated 25-09-2006 is annexed hereto and marked as ANNEXURE- 'L'.

4.15 That the applicant states that recruitment rules contemplate 8 [eight] years of regular service in the post of LDC to be eligible for promotion to the post of UDC. The basis for ordering his promotion to the post of UDC with effect from 15-06-1997 is that he has completed 8 [eight] years of regular service in the post of LDC counted from 15-06-1989 [the date on which the applicant was transferred on deputation to the MoEF].

In this connection, the applicant states that 8 [eight] years of regular service has to be reckoned with effect from 01-08-1980 and not from 15-06-1989 as the services of the applicant in his parent department [NEPA] ought to be included while considering his case for promotion to the post of UDC. This is evident from the letter No.4-1/89-RO[HQ] dated 02-08-1996 issued by the Ministry of Environment and Forests, New Delhi to the Regional Office at Shillong. The Hon'ble Supreme Court in the case of Sub-Inspector Rooplal v. Lt. Governor, reported in [2000] 1 SCC 644, held that a person should get the benefit of length of service rendered on regular basis in equivalent grade for the purpose of fixation of his seniority. Service rendered on equivalent post in parent department before absorption in deputation department, counts for seniority.

A copy of the aforesaid letter dated 02-08-1996 is annexed hereto and marked as ANNEXURE- 'M'.

Susanta Kumar Bhattacharya

4.16 That the applicant states that as per recruitment rules, he became eligible for promotion to the post of UDC with effect from 01-08-1988 but at that time there was no vacancy and the applicant was promoted to the post of UDC with effect from 04-01-1992 when the post of UDC fell vacant. The borrowing department also promoted the applicant to the post of UDC from January 1992 since he was the seniormost LDC at that point of time.

4.17 That although the applicant was promoted to the post of UDC w.e.f. 15-06-1997 vide the aforementioned order dated 25-09-2006, infact, he ought to have been promoted to the said post with effect from a much earlier date, i.e., January, 1992, when the applicant was promoted to UDC by the MoEF (RO), Shillong, and was also granted proforma promotion to the post of UDC by the then parent department (NEPA). Accordingly, the applicant is eligible for promotion to the post of Assistant from 2002, for which the applicant had represented for long. The applicant again submitted a representation on 31-10-2006 before the authority concerned highlighting all these facts and informing them that he would now pursue the matter regarding his promotion with the higher authority.

A copy of the said representation dated 31-10-2006 is annexed hereto and marked as
ANNEXURE - 'N'.

4.18 That the applicant has repeatedly requested the respondent authority to consider his case for promotion to the post of UDC, with effect from January 2002, but the said authority has failed to look into the matter with right earnest. Hence, he has approached this Hon'ble Tribunal praying for a suitable direction towards the respondents to consider his case for promotion

Susanta Kumar Bhowmik

to the post of UDC with effect from January, 1992 and further promotion to the post of Assistant, with effect from 2002.

4.19 That the applicant states vacancies existed at the time when the applicant was initially promoted in the year 1992. Besides, there are 2[two] available vacancies to accommodate the applicant in the post of Assistant in the office of the respondent No.2. The applicant is legally entitled to hold the post of Assistant in terms of the recruitment rules. Since the respondents have failed to consider the case of the applicant for promotion to the post of UDC with effect from January 1992 as well as promotion to the next higher post of Assistant with effect from 2002, they may be directed by this Hon'ble Tribunal to consider the case of the applicant accordingly.

5. Grounds for relief with legal provision:

5.1 For that the case of the applicant for promotion to the post of UDC ought to have been considered with effect from January, 1992 instead of 15th June, 1997 by the respondents, for which the applicant was selected by the Selection Committee in the MoEF (RO) vide recommendation dated 09-06-1992 as well as by the NEPA vide order dated 05-07-1996.

5.2 For that the respondent never disputed the correctness or otherwise of the orders dated 05-01-1993 (issued by the MoEF, RO) and 05-07-1996 (issued by the NEPA), whereby the applicant was promoted as UDC with effect from January, 1992, therefore they cannot in legitimate exercise of power reject the claim of the applicant for retrospective promotion as UDC with effect from the said date instead of 15-06-1997.

Susanta Kumar Bhattacharya

5.3 For that the respondents have failed to dispose of the representation filed by the applicant for promotion to the post of UDC with effect from January, 1992 although in terms of Govt. of India, D.O.P.T., O.M. No. 28034/6/2002-Estt (A), dated 11-01-2002, a representation made by an employee should be disposed of within a maximum period of six weeks.

5.4 For that the impugned action of the respondents reveals non-application of mind to the attending facts and circumstances of the case and a lackadaisical approach to the grievance raised by the applicant.

5.5 That the respondents ought to have considered the case of the applicant for promotion to the post of UDC with effect from January, 1992 in terms of the recommendations of the Selection Committee as revealed from the office order[s] dated 05-01-1993 as well as 05-07-1996 wherein it has been clarified that the applicant has already been promoted as UDC with effect from January, 1992. Therefore, the respondents cannot, now, refuse to promote him to the post of UDC, with effect from the said date in the past.

5.6 That the applicant has been made to suffer for no fault of his. Due to administrative failure, the applicant was deprived of his promotion to the post of UDC with effect from 1992. Had the respondents acted in accordance with law and considered the case of the applicant for promotion to the post of UDC when it was due, then in that case the applicant would have got his promotional benefits with effect from 1992. In this connection, the Apex Court in the case of K.V. Jankiraman, reported in (1991) 4 SCC 109, has made it clear that arrear salary cannot be denied if the employee is kept out of work for no fault on his part. The Apex Court in the abovementioned case held as follows:

Susanta Kumar Bhattacharya

“The normal rule of “no work no pay” is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him”

Therefore, the respondents, in all fairness, ought to have given the benefit of promotion to the post of UDC with effect from January 1992 instead of 15-06-1997, and the failure in this regard has violated the fundamental and other legal rights of the applicant.

5.7 For that the respondents cannot ignore the past service of the applicant with effect from 01-08-1980 to 15-06-1989 rendered as LDC for the purpose of fulfilling the requisite number of years for promotion to the post of UDC in view of the law laid down by the Apex Court in the case of Sub-Inspector Rooplal v. Lt. Governor reported in [2000] 1 SCC 644, wherein the Apex Court has held that a person should get the benefit of length of service rendered on regular basis in equivalent grade for the purpose of fixation of his seniority. Service rendered on equivalent post in parent department before absorption in deputation department, counts for seniority.

This leads to the inevitable conclusion that the applicant is entitled to the benefit of service rendered by him on regular basis with effect from 01-08-1980. In other words, his seniority in the post of LDC is to be fixed after counting his service in his parent department from 01-08-1980 onwards. Therefore, the applicant is eligible for promotion to the post of UDC from January 1992 [when the post of UDC fell vacant and when infact the applicant was promoted as UDC after holding regular DPC] and further promotion to the next higher post of Assistant from 2002.

Susanta Kumar Bhattacharya

6. Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

7. Matters not previously filed or pending with any other court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter, in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought:

In the premises aforesaid, it is most respectfully prayed that Your Lordships may be graciously pleased to admit this application, issue necessary notices, call for the records of the case and after hearing the cause/causes being shown and upon perusal of the records, Your Lordships may direct the respondents to revise the date of promotion of the applicant to the post of UDC with effect from January, 1992 and on that basis consider his case for promotion to the post of Assistant with effect from 2002, and/or be pleased to pass any such further or other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness, the humble applicant as in dutybound, shall ever pray.

Susanta Kumar Bhattacharya

9. Interim order, if any prayed for: Nil.

10. Particulars of Bank Draft/Postal Order: I.P.O. No.

dated for Rs.50/- (Rupees fifty only) is enclosed.

11. List of enclosures: As stated in the index.

Susanta Kumar Bhattacharya

VERIFICATION.

I , Shri Susanta Kumar Bhattacharjee, son of Late S.B. Bhattacharjee, aged about 50 years, working as Upper Division Clerk in the Office of the Chief Conservator of Forests (Central), Ministry of Environment & Forests, Regional Office, (NER), Upland Road, Shillong – 3, Meghalaya, do hereby verify that the contents of paragraphs 2,3,4,6 and 7 are true to my personal knowledge and paragraph 5 believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this the ^{March} 2nd day of ~~February~~, 2007 at Guwahati.

Date : 2-3-07.

Place : Guwahati.

Susanta Kumar Bhattacharjee

- 15 -

Government of India
Ministry of Environment & Forests
North Eastern Regional Office

ANNEXURE - A

Annexure - A

Upland Road
Laitumkhrah
Shillong-793 003

No. 6-25-47/92/E-RO-NE

Dated the 5th Jan. 93.

OFFICE ORDER

Consequent upon the recommendations of the Selection Committee, Ministry of Environment & Forests, North Eastern Regional Office, Shillong dated 9th June 92 and with the approval of the competent authority, Shri S.K. Bhattacharjee, LDC of the North Eastern Police Academy, Barapani, presently on deputation as LDC in the Ministry of Environment & Forests, North Eastern Regional Office, Shillong is appointed as UDC in the pay scale of Rs.1200-30-1560-EB-40-2040/- in the Ministry of Environment & Forests, North Eastern Regional Office, Shillong with effect from 15th Dec. 92(FN) on deputation basis till 13th June 1993 or until further orders whichever is earlier.

2. He shall draw a basic pay of Rs.1200/- plus other allowances admissible under the rules.

ODC

(K R LYNGDOH)
DEPUTY CONSERVATOR OF FORESTS (CENTRAL)

DISTRIBUTION

1. The Asstt. Inspector General of Forests RO(HQ)
Ministry of Environment & Forests, Paryavaran Bhavan
CGO Complex, Lodhi Road, New Delhi - 110 003.
2. The Pay & Accounts Officer, Ministry of Environment
& Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road,
New Delhi - 110 003.
3. The Director, North Eastern Police Academy
Umsaw, Barapani - 793 123.
4. Shri S.K. Bhattacharjee, U D C M/ERF RO Shillong
5. Accounts Section M/ERF RO Shillong
6. P/F
7. Rtd. Section

Certified to be

True Copy -

Ainawyya Samra

Advocate

01/03/07

(K R LYNGDOH)

DEPUTY CONSERVATOR

(CENTRAL)

C

- 16 -

ANNEXURE- A1.

Government of India
Ministry of Home Affairs
North Eastern Police Academy
Umsaw, 793 123, Barapani, Meghalaya

No.NEPA/PF(C)/1/86/Vol-I/2133-36

Dtd.Umsaw, the 5th July '96.

O_R_D_E_R

Shri S K Bhattacharjee, L.D.C. of this institution, who was on deputation with Deputy Conservator of Forests(C), Govt of India, Ministry of Environment and Forests,NER,Shillong-03, is hereby granted "Proforma Promotion" on adhoc basis to the post of U.D.C in the scale of pay of Rs.1200-30-1560-EB-40-2040/-p.m. plus other allowances as admissible from time to time, under the provision of "next below rule" of FR-30, with effect from 4/1/92(FN) (i.e. the date on which his junior was promoted to the post of U.D.C.) to 30/9/93(AN) (i.e. the date on which Shri S.K. Bhattacharjee, was reverted from the post of U.D.C to L.D.C. at his own request) while on deputation.

Further, Shri S K Bhattacharjee, L.D.C is hereby promoted to the post of U.D.C. in the scale of pay indicated above from 07/08/1995(FN)(i.e. the date of reporting to this office) to 02/04/1996(AN)i.e.the date of release from this office to accept his absorption in Govt of India, Ministry of Environment and Forests,NER,Shillong-03, as L.D.C.

T. Chandrasekharan
(T.Chandrasekharan)
Director (Current Charge)

Memo No.NEPA/PF(C)/1/86/Vol-I/2133-36 Dtd.Umsaw, the 5th July '96
Copy to :-

1. The Deputy Conservator of Forests(C), Govt of India, Ministry of Environment & Forests, NER, Upland Road, Laitumkhrach, Shillong-03.
2. Shri S K Bhattacharjee, L.D.C., O/O the Dy. Conservator of Forests(C), Govt of India, Ministry of Environment & Forests, NER, Upland Road, Laitumkhrach, Shillong-03.
3. The RPAC(IB), Shillong-03.
4. The A/cs Section(Local), NEPA, Umsaw.
5. Office Order File.

724

22/7/96

T. Chandrasekharan
(T.Chandrasekharan)
Director (Current Charge)
02/7/96

Certified to be
true Copy -

Aiswaryya Barm

Adhoc cafe,

01/03/07

Recd - 18/8

17
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 227 of 2000.

Sl. No. 494
ANNEXURE-B

Date of Order : This is the 22nd Day of August, 2001.

HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE CHAIRMAN

HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

Shri Susanta Kr. Bhattacharjee
Lower Division Clerk
Ministry of Environment & Forests
Government of India
Regional Office (NER)
Shillong-3, Meghalaya.

. . . Applicant.

By Mr.R.Dutta, Mr.K.Paul & Mrs.G.Dutta.

- Vs -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Environment & Forest
Paryavaran Bhawan, CGO Complex
Lodhi Road, New Delhi - 110 003.
2. The Chief Conservator of Forests
Ministry of Environment & Forests
Regional Office (NER)
Upland Road, Laitumkhrah
Shillong - 793 003.
3. Smt. J. Lyngkhol
LDC, Ministry of Environment & Forest
Govt. of India, Regional Office (NER)
Shillong-3, Meghalaya.
4. Shri M.P.Rimal
LDC, Ministry of Environment & Forest
Government of India, Regional Office (NER)
Shillong-3, Meghalaya.

. . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.,
Respondent Nos.3 & 4 in Person.

ORDER

CHOWDHURY J. (V.C.) :

This application under section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the order dated 9.4.99 and the order conveyed vide communication dated 11.9.2000 both passed by the Chief Conservator of Forest (Central) i.e. Respondent No.2. This is the fourth bout of the litigative

Contd.. 2

certified to be
true copy
Aiswarya Sharma
Date 01/03/07

Attested
to
Private Secretary
Government of India
Min. of Environment & Forests
Regional Office N.E. Region
Shillong-793001

3. 1993


battle for resolving the service condition of the applicant who initially came on deputation.

2. The applicant was first appointed as Lower Division Clerk with effect from 16.1.86 in the North Eastern Police Academy, Borapani (Umsoo) under the Ministry of Home Affairs. His services were lent to the Regional Office of the Ministry of Environment and Forest at Shillong under the Chief Conservator of Forest and he was posted as LDC on deputation with effect from 15.6.89 in the department. The period of deputation was extended from time to time totalling for five years or more. During that period he was ordered to officiate as UDC. The applicant sought for permanent absorption in the borrowing department. He was advised to intimate his willingness for absorption as LDC and the applicant consented for absorption as LDC. The parent department initially showed its willingness to spare the applicant for permanent absorption, but later on, it turned around and asked the respondent authority to take necessary action to repatriate the applicant immediately after the expiry of his deputation period on 14.6.94 vide communication dated 11.11.93.

3. The applicant moved this Tribunal by filing an Original Application which was numbered as O.A.43 of 1994. By order dated 3.10.94 the said O.A. was disposed of leaving it to the respondents to sympathetically consider the requests of the applicant for absorption. After disposal of the aforementioned O.A., the parent department i.e. North Eastern Police Academy issued a No Objection Certificate for permanent absorption of the applicant in the borrowing department vide memo dated 29.12.94 in response to the letter of the Deputy Conservator of Forest (C), Ministry of Environment & Forest dated 1.12.94. By order dated 13.5.95 the applicant was relieved by the

Contd.. 3

respondent directing him to report to duty to the Director, North Eastern Police Academy immediately. The applicant assailed the same by filing another O.A. in this Tribunal which was numbered as 68 of 1995. By an interim order dated 22.2.95 the Tribunal left it open to the applicant to join in his parent department without prejudice to his claim for absorption in the Regional Office of the Environment and Forests. The Tribunal by the judgment and order dated 18.10.95 disposed the ^{said} O.A. directing the respondents to consider the absorption of the applicant in the Environment and Forest Department in the light of the discussion made in the said O.A.. The judgment of the Tribunal in the said O.A. was detailed and explicit wherein it also expressed its unhappiness of the casual approach to the matter on the part of the respondents.



The respondents preferred a Misc. Application No. 22 of 1996 before this Tribunal wherein it sought for extension of time for compliance of the order of O.A. 68/95. By order dated 22.2.96 the Tribunal allowed the application and extended time to the respondents accordingly. The applicant was finally absorbed against the vacant post of Lower Division Clerk (Hindi Typist) in the Regional Office of Shillong in the scale of Rs.950-20-1150-EB-25-1500/- plus DA & other allowances as admissible to Central Government Employees with effect from 20.3.96. Subsequently by order dated 17.4.96 the above order was modified to the extent that the order would be operative from the date of joining his duty. The applicant again moved this Tribunal assailing the prospective date of absorption and sought for giving effect to the earlier direction for giving him retrospective absorption.

The Tribunal by the order dated 21.1.99 disposed the D.A. 128 of 1996 with a direction on the respondents to consider the case of the applicant with retrospective effect.

5. Consequent upon the order of the Tribunal, the respondent no.2 The Chief Conservator of Forest (Central) passed the order dated 9.4.99, which is impugned in this proceeding. In the said order the respondents mentioned about the appointment of respondent Nos.3 & 4 in the Regional Office. In the said order it was stated that the date of absorption of the applicant as per the order dated 20.3.96 was with effect from 20.3.96. In the Grade of LDC, there were two persons working as on 20.3.96. one was Ms. J. Lyngkholi i.e. respondent no.3, who joined on regular basis on 4.5.93 on the basis of examination conducted by the Staff Selection Commission in 1991. The other post was filled up by respondent no.4 Shri M.P.Rimal on 3.4.95 by allotment from the Staff Selection Commission. With 20.3.96 as the date of absorption, the applicant is placed below both of them. The respondents also mentioned about the policy decision reflected in the memo dated 29.5.86. In response to the claim of the applicant that his absorption was to be treated from the date of deputation, the Chief Conservator of Forest held that the applicant was accommodated in the Office not in the public interest, but in his own interest, therefore, he could not be absorbed from the date of deputation. In the end, however, the Chief Conservator of Forest held that the order of absorption of the applicant was to be determined on and from 13.2.95, which was the order of repatriation to the parent department. The respondent no.3 who joined on 4.5.93 was in that grade on 13.2.95 and the seniority of the applicant was accordingly determined below the respondent no.3 and above the respondent no.4. As regards



Contd.. 5

the prayer of the applicant for promotion to UDC, it was ordered that the said post would be filled up in due course after processing by the DPC, but on the basis of seniority and even though on adhoc promotion. The case of the applicant could not be considered for giving adhoc promotion, when senior eligible person was already there. The applicant preferred an appeal against the aforesaid order, but the Chief Conservator of Forests (Central), Ministry of Environment & Forests turned down his appeal and held that the seniority of the applicant would be counted from the date of his absorption i.e. 3.4.96 and the seniority was accordingly modified placing the applicant junior to both respondent nos. 3 & 4. By the appellate order the applicant's date of absorption was fixed on 3.4.96. Hence, this application assailing the legitimacy and validity of the aforesaid order.

6. All the respondents contested the case and denied and disputed the claim of the applicant and submitted their respective written statements. Shri K. Paul, learned counsel appearing for the applicant in assailing the impugned order passed by the respondents contended that the respondents fall into obvious error in ^{its} decision making process in determining his date of absorption and in deciding his seniority. Mr. Paul contended that it was the respondents who borrowed the services of the applicant in public interest. The applicant was brought in to the borrowed department on transfer by deputation where he was finally absorbed permanently. According to Mr. Paul, the deputation of the applicant ended in permanent absorption by way of transfer. ^{not} Transfer could, under any circumstance, wipe out his past services and wipe out the services ~~conducted~~ that he rendered prior to absorption. Mr. Paul, in support of his contention, referred to the factual matrix of the case as well as the decision of the Supreme Court rendered in

Sub-Inspector Roop Lal & Another v. Lt. Governor Delhi & Others reported in (2000) 1 SCC 644.

7. Opposing the application, on behalf of respondent nos. 1 & 2 Mr. B.C. Pathak, Addl. C.G.S.C. submitted that the respondents, on considering all the material aspects of the matter and on balancing the respective claims of the parties, passed the impugned orders bona fide. Mr. Pathak, referring to the Office memo no. 20020/7/80-ESTT(D) dated 29.5.86, submitted that seniority in the Grade in which a person is absorbed normally be counted from the date of absorption. It could also date back in the case when the Officer was holding the same post of equivalent Grade in his borrowed department, but such benefit would only be given in the case where such transfers were made strictly in public interest. If, it was other than public interest, benefit of the past services would not be taken into account.

8. Ms. J. Lingkhoh and Shri M.P. Rimal, respondent nos. 3 & 4 respectively appeared in person and ably contested their case. Both the respondents pointed that they were regularly appointed in the department as per law and it was contended that both of them joined in the department in the Grade of LDC prior to date of absorption of the applicant. The terms of deputation was ^{put to an end} snapped when the applicant was repatriated to his parent department. In this circumstance, the respondent authority rightly determined the date of absorption of the applicant vis-a-vis the respondent nos. 3 & 4.

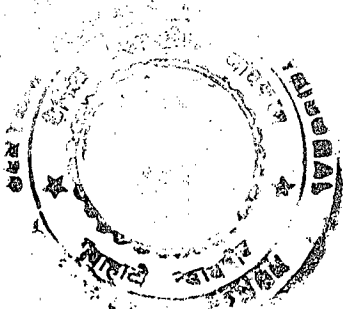
9. By the order of the appellate authority the date of absorption of the applicant was reckoned from 3.4.96. The rationality and legitimacy of the order is to be tested for ascertaining the equality in the Equality Clause defined in the Article 14 and 16 of the Constitution. There was no denying the fact that the applicant

Contd..7

was posted as Lower Division Clerk under the respondent on deputation basis with effect from 15.6.89. Prior to that he was working as LDC in a substantive post with effect from 16.1.86. There is no dispute that the parent department issued No Objection Certificate on 14.6.89 for placing the services of the applicant at the disposal of the department of the Chief Conservator of Forest, Shillong wherein it also expressed his concern for final absorption in the Office.

10. From the materials on records including the statement of facts mentioned in the judgment of the Tribunal in O.A.68/95, it appears that the office order was issued on 30.10.91 which contained the following observations.

"Shri S.K.Bhattacharjee, LDC on deputation to this Office is allowed to continue on deputation till finalisation of the recruitment rules and eventual absorption of said Shri S.K.Bhattacharjee in the services of this office as per Govt. of India, Ministry of Environment & Forests, letter No.5/91-RD(HQ) Dt.02.05.1991. This order issued after taking into consideration the No Objection of his parent department as contained in that department's letter No.NEPA/PF(C)/1/86/VOL-I/1789 Dated 14.06.1989 (emphasis laid)."



Entry in column No.11 of the Recruitment Rules, pertains to LDC in the schedule provides for 75% by direct recruitment failing which by transfer on deputation/transfer and 25% by promotion from amongst Group 'D' employees. The applicant also fulfilled the eligibility criteria prescribed in Column No.8. On coming into force of the Recruitment Rules in October, 92 there was no impediment on the part of the respondents to absorb the applicant and act as per the decision of the 14.12.92. All these aspects were duly dealt with in the decision of the Tribunal mentioned above.

11. Finally the applicant was also absorbed vide order dated 20.3.96 with effect from 20.3.96, which was also altered later to the date of joining vide order

dated 17.4.96, which was later on fixed on 6.4.96. No reasons are discernible for ignoring the past services of the applicant. There is no justifiable reason for ignoring the past services of the applicant. Under the known service jurisprudence transfer of the employees cannot wipe out the past service he rendered in the Original post. It is also well established that where the impugned orders unfairly overlooked the past services of the applicant, the same requires to be rectified. The law is interpreted aptly, by the Supreme Court in K.Madhavan -vs- Union of India reported in (1987) 4 SCC 566 relying on R.S.Makashi - vs - I.M.Memon (1982) 1 SCC 379 and Wing Commander J.Kumar - vs - Union of India (1982) 2 SCC 116.

"It will be against all rules of service jurisprudence, if a government servant holding a particular post is transferred to the same or an equivalent post in another government department, the period of his service in the post before his transfer is not taken into consideration in computing his seniority in the transferred post. The transfer cannot wipe out his length of service in the post from which he has been transferred. It has been observed by this Court that it is a just and wholesome principle commonly applied where persons from different sources are drafted to serve in a new service that their pre-existing total length of service in the parent department should be respected and presented by taking the same into account in determining their ranking in the new service cadre."

In K.Anjaiah v.K.Chandraiah (1998) 3 SCC 218 this Court held: (SCC Headnote)

"It is a just and wholesome principle commonly applied to persons coming from different sources and drafted to serve a new service to count their previous length of service for determining their ranking in the new service cadre."

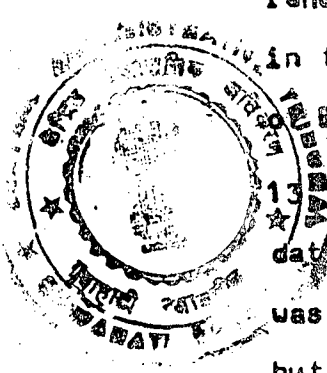
The Government of India, by memo dated 29.5.86 issued the guidelines to determine the seniority of persons absorbed on being deputation. As per the guidelines the service in the parent department is also to be computed.

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- 25 -

The applicant was holding a substantive post of Lower Division Clerk in the parent department prior to his transfer on deputation. The nature of duties and the responsibilities and powers exercised by the applicant in the two posts both in the parent department and in the deputation post are of similar nature. He possessed the necessary qualification to hold the post of LDC both in the parent department as well as in the deputation post. The services he rendered in the parent department, under no circumstances, could have been ignored.

12. In the context of the 1986 Office memo and the consistent view of the Supreme Court rendered in R.S. Makashi, Wing Commander J. Kumar and Madhavan and Sub-Inspector Roop Lal vs. Lt. Governor (2000) 1 SCC 644, we are of the view that the applicant is entitled to count the services rendered by him for the purpose of counting his seniority in the Office of the Chief Conservator of Forest, Ministry of Environment & Forest, Regional Office.



The findings of the respondents in its orders dated 9.4.99 and 11.8.2000 to the effect that the applicant was absorbed by the respondents not in public interest, but in the interest of the applicant on the ground of sympathy is not sustainable. The applicant was legitimately absorbed in the department by the respondents under the rules. No question of compassion and commiseration did arise in the matter of absorption. Therefore, there cannot be any justification for computing the seniority of the applicant as LDC in the Office below the respondent Nos. 3 & 4. The date of absorption will have to be computed in terms of the Office Order dated 30.10.91 which indicated its nexus with the framing of the recruitment rules and in the case recruitment rules came into force

Contd.. 10

on 30.10.92, the applicant's absorption, in this circumstance, ^{lowered down} ~~could not be downgraded~~ beyond 30.10.92. In the inter-se-seniority, ^{therefore,} the applicant would march over the respondent nos. 3 & 4 Ms.J.Lingkhoh & Shri M.P.Rimal, The impugned orders dated 9.4.99 and 11.8.2000 ^{are set aside} and the respondents are directed to re-fix the inter-se-seniority of the applicant vis-a-vis respondent nos.3 & 4 on the basis of the observations made above.

The application is accordingly allowed.

There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)



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प्रमाणित प्रतिलिपि

Section Officer (J)

प्रमुख अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati

प्रकाराधीन न्यायाधीश, गुवाहाटी-२

23/8/2001

ANNEXURE-2

তারিখ Date fixed for notifying the requisite number of stamps and folios.	তারিখ Date of delivery of the requisite stamps and folios.	তারিখ Date on which the copy was ready for delivery.	তারিখ Date of making over the copy to the applicant.
২০০৫ ২৭/০৭/২০০৫	২৭/০৭/২০০৫	০৪/১০/২০০৫	০৪/১০/২০০৫

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

WRIT PETITION (C) NO. 6734 of 2004 (G)
(WRIT PETITION (C) NO.41 (SH)/2002)

1. Union of India
represented by the Secretary to
the Government of India, Ministry of
Environment & Forest Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi.

2. The Chief Conservator of Forests,
Ministry of Environment and Forests,
Regional Officer (NER)
Upland Road, Laitumkhrach
Shillong - 793 003.

3. Smt J. Lyngkhai
LDC, Ministry of Environment & Forest
Govt. of India, Regional Office (NER)
Shillong - 3, Meghalaya.

4. Shri M.P. Rimal
LDC, Ministry of Environment &
Forest, Govt. of India, Regional
Office (NER), Shillong -3,
Meghalaya.

..... PETITIONERS

-Versus-

1. Smt Sushanta Kr. Bhattacharya,
Division Clerk,
Ministry of Environment & Forests,
Govt. of India,
Regional Officer (NER),
Shillong - 3, Meghalaya.

Certified to be
true copy
Simarupya Sarma
Advocate.
01/03/07

P R E S E N T

HON'BLE MR. JUSTICE D. BISWAS, CHIEF JUSTICE (ACTING)
THE HON'BLE MR. JUSTICE B.P. KATAKEY

For the Petitioners : Mr. D.C. Chakravorty,
Asstt. Solicitor General.

For the respondent : Mr. K. Paul,
Mr. G.D. Paul, Advocates.

Date of hearing : 6.9.2005

Date of Judgment and Order : 23.9.05

JUDGMENT AND ORDER

By Katakey, J.

This writ petition is directed against the order dated 22.8.2001 passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No.227/2000 allowing the said application and setting aside the orders dated 9.4.1999 and 11.8.2000, both passed by the Chief Conservator of Forests (Central), petitioner No.2 herein, and by directing the petitioners No.1 and 2 to refix the inter-seniority of the applicant (Respondent No.1 herein) vis-à-vis the petitioners No.3 and 4, the Respondents No.2 and 3 in Original Application, by holding that the past services rendered by the original applicant in the parent Department is to be counted for the purpose of fixing the seniority in the borrowing Department after he was permanently absorbed in the said Department.

2. The facts leading to the filing of the writ petition is that the Respondent No.1 herein, who was initially appointed as Lower Division Clerk (LDC) with effect from 16.1.1985 in the North Eastern Police Academy, Barapani, under the Ministry of Home Affairs, Government of India was sent on deputation as LDC with effect from 15.6.1989 in terms of the offer of appointment dated 11.5.1989, in the office of the Chief Conservator of Forests (Central), Government of India, which was accepted by the Respondent No.1 herein. The

Respondent No.1 herein accordingly joined the said post of LDC on deputation in the said office under the Ministry of Environment and Forests, Government of India on 15.6.1989. Though the initial period of deputation was for three years, the said period was extended from time to time totalling for a period of five years, during which period, he was even officiated as 'Upper Division Clerk (UDC)'. The Respondent No.1 (original applicant) in due course of time requested for permanent absorption in the borrowing Department and though the parent Department initially issued a 'No Objection' for his permanent absorption in the borrowing Department, subsequently, they vide communication dated 11.11.1993 requested the borrowing Department to repatriate him on expiry of the deputation period on 14.6.1994. The Respondent No.1, thereafter, moved the Central Administrative Tribunal in O.A. No. 43/94, which was disposed of vide order dated 3.10.1994 leaving it to the respondents therein to sympathetically consider his request for permanent absorption. The parent Department, namely, North Eastern Police Academy, thereafter, issued a no-objection certificate for permanent absorption of the respondent No.1 herein in the borrowing Department vide Memo dated 29.12.1994 in response to the letter of the Deputy Conservator of Forests, Ministry of Environment and Forests dated 1.12.1994. The parent Department, thereafter, vide order dated 13.5.1995 directed the Respondent No.1 to report to his parent Department immediately, which was assailed by him by filing another O.A. being O.A. No.68/95 before the Central Administrative Tribunal, Guwahati Bench, Guwahati wherein vide interim order dated 22.2.1995, the learned Tribunal left it open to the applicant (Respondent No.2 herein) to join his parent Department without prejudice to his claim for absorption in the borrowing Department. The said OA came to be disposed of vide Judgment and Order dated 18.10.1995 directing the respondents therein to consider the case of the applicant for absorption in the borrowing Department permanently in the light of the discussion made in the said judgment. The respondents in the said O.A. vide Misc. Case No.22/1995 filed before the learned Tribunal sought for extension of time for compliance of the said Judgment and Order dated 18.10.1995 which was allowed by the learned Tribunal vide order dated 22.2.1995 extending time for compliance of the said order. The Deputy Conservator

11.5.95

Forests (C), Ministry of Environment and Forests, i.e. the borrowing department vide office order dated 20.3.1996 permanently absorbed the original applicant (Respondent No.1 herein) against the vacant post of L.D.C. in the Regional Office at Shillong with effect from the date of issuance of the said order which was, however, been modified vide order dated 17.4.1996 to the effect that the order of permanent absorption would be operated from the date of joining his duty. The Respondent No.1 again moved the learned Tribunal assailing the prospective absorption in the parent Department in O.A. No.128/96 which was disposed of vide order dated 21.1.1999 directing the respondents therein, i.e. the borrowing Department to consider the case of the applicant for permanent absorption with retrospective effect. The Chief Conservator of Forests (Central), on the basis of the direction issued by the learned Tribunal in the said order dated 21.1.1999, vide order dated 9.4.1999 held that the order of absorption of the original applicant (Respondent No.1 herein) was to be determined with effect from 13.2.1995 i.e. the date on which the repatriation to the parent department was passed by the borrowing Department, on the ground that the original applicant was absorbed in the borrowing Department not in public interest but as per his own request and, therefore, his past service in the parent Department cannot be counted for the purpose of determining the seniority in the borrowing Department after absorption in view of the office memorandum dated 29.5.1986 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions. However, taking the date of absorption as 13.2.1995 i.e. the date when the order of repatriation was passed by the borrowing Department, the original applicant's seniority was fixed below the writ petitioner No.3 and above the writ petitioner No.4. The original applicant being aggrieved filed an appeal against the said decision. Another appeal was also preferred by the writ petitioner No.4 herein, which was disposed of by the Ministry of Environment and Forests, Government of India and communicated by the Chief Conservator of Forests (Central) vide memorandum dated 11.8.2000, holding that the applicant's seniority has to be fixed after both the present writ petitioner No.3 and on the basis of his date of absorption i.e. from 3.4.1995. Both the orders were challenged in O.A. No.227/2000 before the Administrative Tribunal.

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[Signature]

Guwahati Bench, Guwahati, which was disposed of, vide order-dated 22.8.2001. Hence, the present writ petition filed by the Union of India as well as the Chief Conservator of Forests, Ministry of Environment and Forests and Smt. J. Lyngkhoi and Shri M.P. Rimal who were respondents in the said O.A. It will not be out of place to mention herein that though the writ petition has been filed by arraying Smt. J. Lyngkhoi and Shri M.P. Rimal, over whom the original applicant claims seniority, no power has been filed by the learned Central Government counsel in preferring the present writ petition along with the Union of India as well as the Chief Conservator of Forests.

3. We have heard Mr. DC Chakraborty, learned Central Government Counsel appearing on behalf of the writ petitioners and also Mr. K. Paul, learned counsel appearing on behalf of the Respondent No.1, who was original applicant before the learned Tribunal.

4. Mr. Chakraborty, learned Central Government Counsel has assailed the order passed by the learned Tribunal on the ground that the seniority of the original applicant (Respondent No.1 herein) above the writ petitioner Nos. 3 and 4 cannot be fixed in view of the fact that the original applicant was permanently absorbed in the borrowing department i.e. in the office of the Chief Conservator of Forests (Central), Ministry of Environment and Forests, Government of India on his own request and not in public interest, in view of the Office Memorandum dated 29.5.1986 issued by the Government of India, Minister of Personnel, Public Grievances and Pensions, wherein it is stipulated that where the transfers are not strictly in public interest, the transferred officers will be placed after the officers appointed regularly to the grade on the date of absorption. According to the learned Central Government Counsel, though the initial order of transfer by way of deputation of the original applicant was in public interest, he was subsequently permanently absorbed in the borrowing Department as per his own request and, therefore, it cannot be said that he was permanently absorbed in public interest and, hence, by applying the office memorandum dated 29.5.1986, his seniority has to be fixed with the writ petitioner Nos.3 and 4 and, accordingly, the seniority has to be fixed by

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Government of India, which was communicated by the Chief Conservator of Forests (Central) vide order dated 11.8.2000. The learned Counsel, therefore, submits that the learned Tribunal has committed illegality in setting aside the orders dated 9.4.1999 and 11.8.2000 and directed fixation of seniority of the original applicant by taking into account his past service in the parent Department.

5. Mr. Paul, learned counsel appearing on behalf of the Respondent No.1 has raised a preliminary objection as to the maintainability of the present writ petition filed on behalf of the writ petitioner Nos. 3 and 4, over which the present Respondent No.1 claims seniority, on the ground that though in the writ petition they have been arrayed as petitioners No.3 and 4 along with the Union of India and Chief Conservator of Forests, filed by the learned Central Government Counsel, no power has been filed by the learned Central Government Counsel on behalf of the said petitioners No.3 and 4 and, therefore, the writ petition can only be treated as the petition challenging the order passed by the learned Tribunal on behalf of the writ petitioners No.1 and 2 only i.e. the Union of India and the Chief Conservator of Forests (Central). On merit, the learned counsel has submitted that since the Respondent No.1, who was original applicant before the learned Tribunal, was deputed to the Department of Environment and Forests, Government of India in public interest and not on his own request, even by applying the office memorandum dated 29.5.1986, the past services of the Respondent No.1 herein in the parent Department cannot be wiped out and said period of service has to be taken into consideration for the purpose of fixation of seniority in the borrowing Department after his permanent absorption, even though he was permanently absorbed on his own request. The further submission of the learned counsel is that as the Respondent No.1 on his deputation to the borrowing department was serving in the equivalent cadre as in the parent department, the period of service rendered by him in the parent Department has to be counted for the purpose of fixation of seniority in the deputed post after he is permanently absorbed in the borrowing Department and if the said period is not counted for the purpose of fixation of seniority, the same would be violative of Article 16(1) of the Constitution of India.

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According to the learned counsel, the past services rendered by the Respondent No.1 in the parent Department cannot be taken away by issuing an office memorandum i.e. office memorandum dated 29.5.1986 as the law requires that the previous service of a transferred official has to be counted for seniority in the transferred post as both the posts are equivalent. The further submission of the learned counsel is that the borrowing Department never at any point of time before his permanent absorption had informed the applicant that his past services in the parent Department shall not be taken into consideration for the purpose of fixation of seniority and also about the existence of the office memorandum dated 29.5.1986 and had that been made known to the Respondent No.1, he would not have accepted the permanent absorption in the borrowing Department. Therefore, according to the learned counsel, the learned Tribunal has rightly passed the impugned order directing the respondent authorities to re-fix the seniority by taking into account past services rendered by him in the parent Department and in setting aside the orders dated 9.4.1999 as well as decision of the Government of India communicated vide communication dated 11.8.2000. The learned counsel in support of this contention has placed reliance on the decision of the Apex Court rendered in K. Madhavan and another -Vs.- Union of India and others, reported in 1987 (5) SLR 725 [1987 (4) SCC 566] as well as in S.I. Rooplal and another -Vs.- Lt. Governor to Chief Secretary, Delhi and others, reported in 2000(1) SCC 644.

6. We have considered the submissions of the learned counsel for the parties and also perused the pleadings as well as the records of O.A. No.227/2000 pertaining to the learned Central Administrative Tribunal, Guwahati Bench.

7. The main thrust of argument of the learned Central Government Counsel is that the Respondent No.1's permanent absorption in the office of the Chief Conservator of Forests (Central), Ministry of Environment and Forests is on the basis of the request made and, therefore, such absorption is not to be considered to have been made on public interest and, hence

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in the parent Department prior to his absorption in the borrowing Department in view of the office memorandum dated 29.5.1986 cannot be taken into account.

8. There is no dispute that the Respondent No.1 was initially appointed as Lower Division Clerk under the North Eastern Police Academy, Barapani under the Ministry of Home Affairs, Government of India with effect from 16.1.1986 and vide order dated 11.5.1989 offer of appointment to the post of L.D.C. in the office of the Chief Conservator of Forests (Central), Ministry of Environment and Forests, Government of India, on deputation for three years was made to the Respondent No.1 who duly accepted the said offer and joined as Lower Division Clerk in the borrowing Department on being released by the parent Department. There is also no dispute that the post held by the Respondent No.1 in the parent Department and in the borrowing Department on deputation are equivalent. In fact, in the borrowing Department, the Respondent No.1 was given ad-hoc promotion to the post of Upper Division Clerk which promotional post he has relinquished on being informed by the borrowing Department that his case for permanent absorption in the said Department can only be considered if he remains as LDC in the borrowing Department.

9. The question which arose for determination before the learned Tribunal as well as before this Court is "whether the Respondent No.1 is entitled to get the benefit of his past services in the parent Department after he was permanently absorbed in the borrowing Department?"

10. The respondent No.1 was offered for appointment to the post of L.D.C. in the borrowing Department on deputation vide order dated 11.5.1989 and on being accepted the said offer, the Director (Coopn.), Ministry of Environment and Forests, Government of India, requested the Respondent No.1 to report for duties to the Chief Conservator of Forests (Central), on or before 15.6.1989. Accordingly, the Respondent No.1, released by the parent Department, joined the borrowing Department on 15.6.1989. There is no dispute to the fact that the said

offer of appointment on deputation was issued in public interest. The parent Department, in fact on 14.6.1989 issued a No Objection Certificate for permanent absorption of the Respondent No.1 in the borrowing Department, but subsequently, it has asked the borrowing Department to repatriate the respondent No.1 upon expiry of his deputation period on 14.6.1994. Though the Respondent No.1's deputation was initially for a period of three years commencing from the date of joining i.e. 15.6.1989 expiring on 14.6.1992, as his services in the borrowing Department was needed in public interest, the Chief Conservator of Forests vide communication dated 2.4.1992 addressed to the Secretary to the Government of India, Ministry of Environment and Forests, requested for extension of the deputation of the Respondent No.1 as in the interest of works in the Department his services were required. The Deputy Conservator of Forests (Central) also vide communication dated 23.4.1992 requested the Assistant Inspector General of Forests, Government of India, Ministry of Environment and Forests, requested for extension of the deputation period by two years as the Respondent No.1's services was required in public interest. Accordingly, the period of deputation of the Respondent No.1 was extended by two years in public interest.

11. The Conservator of Forests (C) by taking into account the no objection given by the parent Department on 14.6.1989 and on the basis of the order dated 2.5.1991 issued by the Government of India, Ministry of Environment and Forests, vide office order dated 30.10.1991 allowed the Respondent No.1 to continue on deputation till finalization of the recruitment rules and his eventual absorption in service in the borrowing Department. It is evident from the said office order dated 30.10.1991 that the permanent absorption of the Respondent No.1 in the borrowing Department was actively under consideration, which could not be done because of non-finalization of the recruitment rules. The Government of India vide notification published in the Gazette framed a recruitment rules, namely, Regional Offices, Ministry of Environment and Forests, Group-C and Group-D, Rec. 2. Herein it provides that the post of Lower Division Officer is filled up by direct recruitment failing which by deputation. Therefore, service

rules also contemplate the transfer on deputation being a mode of appointment to the post of Lower Division Clerk in the present borrowing Department.

12. The Respondent No.1 earlier approached the learned Tribunal in O.A. No.43 of 1994 praying for his permanent absorption in the borrowing Department as no final order has been passed by the authority about his permanent absorption although the Department was sympathetically considering his case for absorption. The said O.A. was disposed of vide order dated 30.10.1994 directing the respondents therein i.e. the borrowing Department to sympathetically consider the case of the respondent No.1 for absorption in the borrowing Department in the light of the observation made in the said Judgment. Pursuant to the said order, the parent Department issued a no objection certificate vide Memo dated 29.12.1994, but the borrowing Department vide order dated 13.5.1995 relieved the Respondent No.1 directing him to report for duty in the parent Department immediately since no order for permanent absorption in the borrowing Department was passed. The Respondent No.1 challenged the same by filing O.A. No.68 of 1995 wherein an interim order dated 22.2.1995 was passed to the effect that it is open to the Respondent No.1 (applicant therein) to join the parent Department without prejudice to his claim for absorption in the borrowing Department. The learned Tribunal vide Judgment dated 18.10.1995 disposed of the said O.A. directing the respondent to consider the absorption of the Respondent No.1 in the borrowing Department and ultimately the borrowing Department vide order dated 20.3.1996 permanently absorbed the Respondent No.1 against vacant post of Lower Division Clerk with effect from the date of the order. However, the said order was modified vide order dated 17.4.1996 to the effect that the order of absorption shall come into effect from the date of joining of the duty. On being dissatisfied with the said prospective absorption of the Respondent No.1 in the borrowing Department, O.A. No.128/1996 was filed by him which was disposed of by the learned Tribunal directing the Respondent No.1 to consider his case for retrograde absorption. Pursuant to the said order, the Chitwan District Forests Department passed an order dated 9.4.1996

respondent No.1 with effect from 13.2.1995 i.e. the date when he was released from the borrowing Department and fixing seniority between the writ petitioners No.3 and 4. The said order was modified in the appeal preferred by the Respondent no.1 as well as the present writ petitioner No.4 by the Government of India by holding that his date of absorption should be 3.4.1996 and his seniority is to be fixed after the writ petitioners No.3 and 4.

13. The contention of the learned Central Government Counsel appearing on behalf of the writ petitioners is that the services rendered by the respondent No.1 in the parent Department cannot be treated for the purpose of computation of seniority after his absorption in the borrowing Department in view of the Office Memorandum dated 25.9.1986 as his absorption in the borrowing Department was not in public-interest but on his own request. For better appreciation, the said Office Memorandum dated 29.5.1986 is quoted below :-

No.20020/7/80-ESTT(D)

Gauhati High Court at Guwahati
Government of India/Bharat Sarkar
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training.

New Delhi, the 29th May, 1986.

OFFICE MEMORANDUM

Subject : Seniority of persons absorbed after being
on deputation.

The undersigned is directed to say that the existing instructions on seniority of transferees contained in para 7 of the Annexure to this Department's O.M. No. 9/11/55-RPS dated 22nd December, 1959 (copy enclosed) mainly deal with cases where persons are straight way appointed on transfer. It is, however, observed that most of the cases of permanent absorption are those where the officers were taken on deputation initially under the method of 'transfer on deputation/transfer' contained in the relevant recruitment rules. This O.M. is intended to fill this gap in the existing instructions.

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2) Even in the type of cases mentioned above that is where an officer initially comes on deputation and is subsequently absorbed, the normal principle that the seniority should be counted from the date of such absorption, should mainly apply. Where, however, the officer has already been holding on the date of absorption in the same equivalent grade on regular basis in his parent department, it would be equitable and appropriate that such regular service in the grade should also be taken into account in determining his seniority subject only to the condition that at the most it would be only from the date of deputation to the grade in which absorption is being made. It has also to be ensured that the fixation of seniority of a transferee in accordance with the above principle will not affect any regular promotions made prior to the date of absorption. Accordingly, it has been decided to add the following sub-para(iv) to para 7 of general principles communicated vide O.M. dated 22nd December, 1959 :-

Gauhati High Court at Guwahati

“(iv) In case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for Transfer on deputation/Transfer), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (in the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from the date he has been holding the post on deputation.

Or

- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department (whichever is later).
The fixation of seniority of a transferee in accordance with the above principle will not however, affect any regular promotions to the next higher grade made prior to the date of such absorption.

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it will be operative only in filling up of vacancies in higher grade taking place after such absorption.

In case in which transfers are not strictly in public interest, the transferred officers will be placed below all officers appointed regularly to the grade on the date of absorption".

3) All the Ministers/Department are requested kindly to bring these instructions to the notice of all concerned in the Ministries/Departments and Attached and subordinate officers under them for their guidance and to ensure their compliance.

4) These orders will not be applicable to transfers within the India Audit and Accounts Department which are governed by orders issued by the C & AG from time to time.

5) Hindi version is attached.

Sd/-

(K.S.R. KRISHNA RAO)
Deputy Secretary to the Govt. of India."

Gauhati High Court at Guwahati

14. It appears from the said office Memorandum, as quoted above, that in case of a person who is initially taken on deputation and absorbed later, for the purpose of fixation of his seniority in the grade, in which he is absorbed, the period of services rendered by him in the parent Department shall be taken into consideration if he is holding the same or equivalent grade on regular basis in the borrowing Department. However, the said provision was qualified by putting a rider to the effect that in case the transfers are not strictly in public interest, the transferred employee will be placed below all the officers appointed regularly to the grade on absorption. It is the case of the writ petitioners that the writ petitioners No.3 and 4 were appointed regularly as Lower Division Clerk prior to the date of absorption of the Respondent No.1 in the borrowing Department and as he was absorbed strictly not in public interest but for his own benefit, his seniority has to be fixed after the writ petitioners No.3 and 4. There is no dispute to the fact that the Respondent No.1 was on deputation and absorption in the

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borrowing Department was holding an equivalent regular post in the parent Department.

15. It is a fact that the Respondent No.1 has applied for his permanent absorption in the borrowing Department and the borrowing Department though initially appointed him on deputation for three years, his deputation was initially extended by two years in public interest as his services were required in the Department. As already observed above, there is no dispute regarding the initial appointment of the respondent No.1 on deputation in public interest and subsequent extension of the deputation in public interest. The Respondent No.1's claim is that his past services in the parent Department cannot be wiped out as he was holding equivalent post in the parent Department on regular basis.

16. It is evident from the office order dated 30.10.1991 that the borrowing Department even during continuance of the petitioner's service on deputation for first three years was actively considering the permanent absorption of the Respondent No.1 in the borrowing Department in terms of the no objection given by the parent Department on 14.6.1989. It is also evident from the communication dated 2.4.1992 issued by the Chief Conservator of Forests (Central) and dated 23.4.1992 issued by the Deputy Conservator of Forests (Central) that the services of the Respondent No.1 is required in the borrowing Department in public interest as there was no such efficient person in the said Department. Accordingly, the period of deputation of the Respondent No.1 was extended by two years. The Respondent No.1 was permanently absorbed vide office order dated 20.3.1996 issued by the Deputy Conservator of Forests (Central) which is quoted below :-

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENTAL FORESTS
NORTH EASTERN REGIONAL OFFICE

UPLAND ROAD
LAITUMKHAH
SHILLONG-793 003.

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NO.11-5-89/E-RO-NE/6081-87

Dated 20-03-1996

OFFICE ORDER

With reference to letter No.4-189(RD)Part-II dated 20-03-1996 from the Ministry, New Delhi, Shri S.K. Bhattacharjee of North Eastern Police Academy, Umsaw, is hereby absorbed against the vacant post of L.D. Clerk (Hindi Typist) in this Regional Office, Shillong in the scale of Rs.950-20-1150-EB-25-1500/- plus DA and other allowances as admissible to the Central Government employees with effect from 20-03-1996.

Sd/- K.R. LINGDOH
Deputy Secretary of Forests (C)

17. The said order dated 20.3.1996 does not reflect that the Respondent No.1 was absorbed on his request and not in public interest. Moreover, it is not the case of the petitioners that the Respondent No.1 was made known about the office Memorandum dated 29.5.1986 to the effect that if he is permanently absorbed in the borrowing Department, in view of the application filed by him to that effect, his past services in the parent Department will not be taken into consideration for the purpose of fixation of seniority in the borrowing Department, on being permanently absorbed. Had that been made known to the Respondent No.1, he would not have opted for permanent absorption in the borrowing Department to his detriment. The writ petitioners, therefore, after Respondent No.1's absorption permanently in the borrowing Department cannot take recourse to the said office memorandum to deny the Respondent No.1 the benefit of his past service in the parent Department. Moreover, as discussed above, it is not that the Respondent No.1 was permanently absorbed in the borrowing Department only on the basis of his request, but also because his services are required in the borrowing Department in public interest. The Apex Court in the case of K. Madhavan (supra), while dealing with the matter which is similar in nature as in the present case, has held that it will be against all rules of service jurisprudence if a Government servant holding a particular post is transferred to same or an equivalent post in another Government Department during the period of his services in the post before his transfer is not taken into consideration in

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computing his seniority in the transferred post as the transfer cannot wipe out his length of service in the post from which he has been transferred. The Apex Court relying on the decision in R:S. Mokashi and others -Vs.- I.M. Meenon and others, reported in 1982(1) SCC 379 as well as in Wing Comm. J. Kumar -Vs.- Union of India and others, reported in (1982) 3 SCR 453 has further held that it is a just and wholesome principle commonly applied where persons from different sources are drafted to serve in a new service, their pre-existing total length of service in the parent Department should be taken into account for determining their rank in the new service cadre. The Apex Court in S.I. Rooplal (supra) while considering a similar question has also held that in law it is necessary that the previous service of transferred official is to be counted for seniority in the present post if the post held by him in the parent Department as well as in the borrowing Department are equivalent. The Apex Court while dealing with the Office Memorandum dated 29.5.1986 has also held that equity demands that before applying the said memorandum, the officer must be made known about the conditions contained in the said memorandum before he is permanently absorbed in the borrowing Department and if the same is not done, then it will go to show that the memorandum has in fact never been acted upon. It has further been held that the period of service rendered by a deputationist in the parent Department cannot be arbitrarily taken away and any rule, regulation or executive instruction which has the effect of taking away the service rendered by the deputationist in an equivalent cadre in the parent Department while counting his seniority in the deputed post would be violative of Articles 14 and 16 of the Constitution of India. The Apex Court in view of the facts involved in the said case has in fact struck down the words "which ever is later" as appeared in the said memorandum in amended Clause (iv).

18. In the instant case, as observed above, the services of the respondent No.1 was lend to the borrowing Department in public interest, his deputation was extended from time to time in public interest, and though he made a request for permanent absorption, in fact he was absorbed in public interest in the borrowing Department. Had the borrowing Department's consent for absorbing

17/5/87

Respondent No.1 permanently, he could have very well been told to that effect and repatriated to his parent Department after completion of his period of deputation, which has not been done. Therefore, at this stage the borrowing Department cannot say that the order of absorption dated 20.3.1996 was passed in view of the direction issued by the learned Tribunal on 18.10.1995 in O.A. No.68 of 1995 as the learned Tribunal by the said order only directed the borrowing Department to consider absorption of the Respondent No.1 in Environment and Forests Department as LDC and there is no direction to absorb. The borrowing Department upon consideration of the entire matter has passed the order of absorption dated 20.3.1996 and, therefore, it cannot subsequently say that there was no public interest involved in absorbing the Respondent No.1.

19. In view of the above, we are of the view that the learned Tribunal has rightly set aside the orders dated 9.4.1999 as well as the decision of the Central Government communicated vide communication dated 11.6.2000 and directed the authorities to re-fix the inter-se-seniority of the Respondent No.1 vis-à-vis the writ petitioners No.3 and 4 by taking into account the past services rendered by the Respondent No.1 in the parent Department.

20. Before parting, we may also like to observe that the Union of India has filed the present writ petition on behalf of the writ petitioners No.3 and 4 also, above whom the respondent No.1 claims seniority, that too without filing any power on their behalf. The Apex Court in S.I. Rooplal (supra) has observed that in the matter of dispute relating to the service condition of its employees, the State should only play a role of impartial employer in inter se disputes between his employees and if the matter is dragged to a judicial forum, the State should confine its role to that of an amicus curiae by assisting the judicial forum to arrive at a correct decision and once a decision is rendered by a judicial forum, thereafter, the State should not further involve itself in litigation and the matter thereafter should be left to the parties concerned to litigate further if they so desire. It has further been observed that after the judicial forum delivers a judgment, the State should not further involve itself in litigation and the matter thereafter should be left to the parties concerned to litigate further if they so desire.

etc. it gives an impression that it is espousing the cause of a particular group of employees against another group of its own employees, unless of course there are compelling reasons to resort to such further proceedings. In the instant case, as observed above, no writ petition in fact been filed by the persons above whom the present Respondent No. 1 claims seniority and the present writ petition filed on their behalf cannot be treated as a writ petition on their behalf in the absence of any power executed by them in favour of the learned Central Government Counsel.

21. In view of the above, the writ petition has no merit and, hence, the same is dismissed. The order passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No.227 of 2000 on 22.8.2001 is upheld.

No costs.

Sd/ B. P. Kalakay

Judge

Gauhati High Court at Guwahati

Sd/ D. Biswas

Chief Justice (Acting)

CERTIFIED TO BE TRUE COPY

Atk on Borpatra Gohain

Date 04/10/05

Superintendent (Copyin: Section)

Gauhati High Court

Authorised U/S 76, Act I, 1872

Pet no 41172
dt 27/9/05

Called
04/10/05

1-8-1998

15/8/1997

July 1992

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ANNEXURE-D

(TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (1) OF THE
GAZETTE OF INDIA)

Government of India
Ministry of Environment & Forests

Dated: New Delhi the 30th 11/1992.

N O T I F I C A T I O N

G.S.R.....In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to Group 'C' and Group 'D' posts in the Regional Offices of the Ministry of Environment and Forests, namely:-

1. Short title and commencement: (1) These rules may be called the Regional Offices, Ministry of Environment And Forests (Group 'C' and Group 'D' posts) Recruitment Rules, 1992.

(2) They shall come into force on the date of their publication in the Official Gazette.
2. Application: These rules shall apply to the posts specified in Column.1 of the Schedule annexed to these rules.
3. Number of posts, Classification and scale of pay: The number of the said posts, their classification and the scale of pay attached thereto shall be as specified in column 2 to 4 of the said Schedule.
4. Method of recruitment, age limit and other qualifications etc: The method of recruitment, age limit, qualifications and other matters relating to these posts shall be as specified in Column 5 of the said Schedule.
- 4.1. Liability of persons appointed as posts to undergo training as Home Guards: Notwithstanding anything contained in these rules, every person appointed as a peon under these rules shall undergo training as a Home Guard for a period of three years, save those who are physically handicapped to undergo such training.

Provided that the Commandant-General Home Guards, may having regard to the performance of and standard of training achieved by any person during the period of training reduce such period to two years for reasons to be recorded in writing.

Per/Spec to be
true copy
Diswanayya Bame
Date
01/03/07

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5. Disqualification - No person -
(a) Who has entered into or contracted a marriage with a person having a spouse living; or
(b) Who having a spouse living, has entered into or contracted a marriage with any person,
shall be eligible for appointment to any of the said posts:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal 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.

6. Power to relax - Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

7. Saving - Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, the Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

(THE SCHEDULE)

(M.G. GROVER)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA
No.4-1/89-RO(HQ)

30/10/82

The Secretary
Govt. of India
New Delhi.

COPY TO: (1) Chief Conservator of Forests(C), Regional Offices.
(2) Bare Copies.

Hindi Version will follow:

(1)	(2)	(3)	(4)	(5)	(6)
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Upper Division	11 * (1992) * Subject to variation dependent on work load.	General Central Service Group 'C' Non-Gazetted Minist rial.	Rs. 1200-30-1560 13-40-2040	Non-selection Not applicable	
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(7)

(8)

(9)

(10)

Not applicable

Not applicable

Not applicable

Not applicable.

(11)

By promotion
failing which by
transfer on
deputation,

(12)

Promotion

Lower Division Clerk with a
minimum of eight years regular
service in the grade.

Transfer on deputation

Officers of the Central/State
Governments/Public Sector Under-
takings/Autonomous bodies:

- (a) Holding analogous posts on
regular basis; or
- (b) With eight years regular service
in a post in the pay scale of
Rs. 950-1500 or equivalent.

(The Departmental Officers who are
in the direct line of promotion
will not be eligible for consider-
ation for appointment on deputation.

Similarly deputationists shall
not be eligible for consideration for
appointment by promotion. Period of
deputation including period of depu-
tation in another ex-cadre posts held
immediately preceding this appoint-
ment in the same or some other orga-
nisation/department of the Central
Government shall ordinarily not
exceed three years).

(13)

Group 'C' Departmental Promotion
Committee consisting of:

1. Deputy Secretary (Administration)
- CHAIRMAN
2. Assistant Inspector General of
Forests (Regional Office
Headquarter) - MEMBER
3. Deputy Conservator of Forests
(Central) - MEMBER
4. Scientist 'SD' - MEMBER
5. One group 'A' Officer belonging
to Scheduled Caste/Scheduled
Tribes. - MEMBER
6. One Group 'A' Officer belonging to
minority Community
- MEMBER

(14)

Not Applicable

(1)	(2)	(3)	(4)	(5)	(6)
Lower Division Clerk	18 * (1992) * subject to variation depend- ent on work load	General Central Service Group 'C' Non-Gazetted Minist rial.	Rs.950-20- 1150-EB-25- 1500	Non-Sele- ction.	Upto 25 years(relaxable for Government servants upto 35 years in accordance with the instructions or orders issued by the Central Government).

Note:

The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu & Kashmir state, Lahaul Spiti Distt. and Pangi Sub-Division of Chamba District of Himachal Pradesh the Union Territory of the Andaman and Nicobar Islands or the Union Territory of Lakshadweep).

(7)	(8)	(9)	(10)
-----	-----	-----	------

No

- (i) Matriculation or equivalent qualification from a recognised Board/University.
- (ii) Typing speed of 30 words per minute in English or 25 words per minute in Hindi.

Age - No
Educational
qualifications- Yes

Two years

52

तार : **ANNEXURE-D1**
Telegram : PARYAVARAN,
NEW DELHI
दूरभाष :
Telephone :
फैक्स :
FAX :

No.4-8/91-RO(HQ)

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स
PARYAVARAN BHAWAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODI ROAD, NEW DELHI-110003

To

The Chief Conservator of Forests ©
All Regional Offices

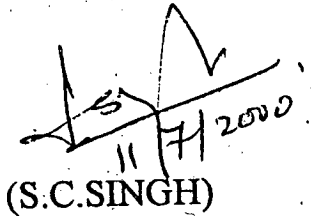
Dated 11th July 2000

Subject:- Recruitment Rules for the post(s) of Senior Persional Assistant,
Persional Assistant, Assistant for the Regional Offices located at
Bangalore, Bhopal, Bhubanesware, Lucknow, Shillong and
Chandigarh of the Ministry of Environment and Forests-reg.

Sir,

I am directed invite your kind attention on the subject cited above to
forwarded herewith two copies (Each in English & Hindi) version) of Recruitment
Rules for the post(s) of Senior Persional Assistant, Persional Assistant, Assistant
for taking necessary action and compliance with immediate effect. The receipt of
the letter may please be acknowledged.

Yours faithfully,


11/7/2000
(S.C.SINGH)

Technical Officer, RO(HQ)

Encl: As above.

certified to be
true copy -
Simarjya Samu
Advocate
02/03/07

ISSUED IN PART II SECTION, SUBSECTION (I) OF GAZETTE OF INDIA)

GOVERNMENT OF INDIA
Ministry of Environment and Forests

New Delhi the 5th July' 2000

NOTIFICATION

G.S.R..... In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the methods of recruitment of Group "B" posts in the Regional Offices of the Ministry of Environment and Forests.

1. **Short title and commencement:-**

- (1) These rules may be called the Regional Offices of the Ministry of Environment and Forests (Group "B" posts) Recruitment Rules 2000.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. **Number of posts, classification and scale of pay:-**

The number of said posts, their classification and scale of pay attached thereto shall be as specified in column (3) to (4) of the said schedule.

3. **Method of recruitment, age limit and other qualification etc:-**

The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns (5) to (14) of the aforesaid schedule.

Disqualification:- No person:-

- (a) Who has entered into or contracted a marriage with a person having a spouse living; or
- (b) Who having a spouse living has entered into or contracted marriage with any person shall be eligible for appointment to any of the said posts provide that the Central Government may, if satisfied that such marriage is permissible under the personal 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.

- 54 -

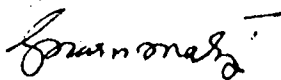
Power to relax and in Consultation with the Union Public Service Commission

Where the Central Government is of the opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission relax any of the provisions of these rules with respect to any class or category of persons.

Saving:-

Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes, the Ex-servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regards.

(THE SCHEDULE)


(G.C. BASUMATARY)
DIRECTOR

**The Manager
Government of India Press
Mayapuri, Ring Road,
New Delhi.**

NAME OF POST.	NO OF POST	CLASSIFICATION	SCALE OF PAY	WHETHER SELECTION BY MERIT OR SENIORITY OR NON-SELECTION-POST	AGE LIMIT FOR DIRECT RECRUITS.	WHETHER BENEFIT OF ADDED YRS OF SERVICE • ADMISSIBLE UNDER RULE 30 OF THE CENTRAL CIVIL SERVICE (PENSION RULES, 1972)	EDUCATIONAL AND OTHER QUALIFICATION REQUIRED FOR DIRECT RECRUITS.	WHETHER AGE AND EDUCATIONAL QUALIFICATION PRESCRIBED FOR DIRECT RECRUITS WILL APPLY IN THE CASE OF PROMOTEES
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
SENIOR PERSONAL ASSISTANT * (2000) SUBJECT TO VARIATION DEPENDANT ON WORK LOAD Region-wise break up of the posts Bangalore(SZ)-02 Bhubaneswar(EZ)-02 Lucknow.(CZ) -02 Shillong (NEZ)- 02	08*	GENERAL CENTRAL SEERVICE GROUP B GAZETTED MINISTERIAL	6500-200-10500	Non-Selection	NOT APPLICABLE	NO	NOT APPLICABLE	NOT APPLICABLE

- 56 -

- 7 -

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
ASSISTANT	11*	GENERAL CENTRAL SEERVICE GROUP B NON- GAZETTED MINISTER-IAL	5500-175- 9000	Non-Selection	NOT APPLICABLE	NO	NOT APPLICABLE	NOT APPLICABLE
<p>• (2000) SUBJECT TO VARIATION DEPENDANT ON WORK LOAD</p> <p>REGION-WISE BREAK UP OF THE POSTS</p> <p>Bangalore(SZ)-02 Bhopal(WZ)-02 Bhubaneswar(EZ)-02 Lucknow (CZ) -02 Shillong (NEZ)- 02 Chandigarh-01</p>								

(10)	(11)	(12)	(13)	(14)
NOT APPLICABLE	PROMOTION FAILING WHICH BY DEPUTATION	<p>PROMOTION</p> <p>UDC in the scale of Rs. 4000-6000/- in the respective Regional office with ten years regular service in the grade.</p> <p>NOTE :- Where juniors who have completed their qualifying eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years whichever is less and have successfully completed their probation period for promotion to the next higher grade alongwith their juniors who have already completed such qualifying/eligibility service.</p> <p>DEPUTATION</p> <p>Officers under the Central/State Governments:-</p> <p>(a) (i) holding analogous posts on a regular basis; or (ii) with three years regular service in posts in the scale of Rs. 5000-8000/- or equivalent; or (iii) with six years regular service in posts in the scale of Rs. 4500-7000/- or equivalent; or (iv) with ten years regular service in posts in the scale of Rs.4000-6000/- or equivalent; and</p> <p>NOTE. 1 The departmental officers in the feeder grade who are in direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion.</p> <p>NOTE.2 The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department of the central Government shall not ordinarily exceed three years. The maximum age limit for appointment on deputation shall be not exceeding fifty six years as on the closing date prescribed for receipt of application</p>	<p>GROUP "B" DEPARTMENTAL PROMOTION COMMITTEE FOR PROMOTION CONSIDERING</p> <p>1. Additional Inspector General of Forests/Joint Secretary (Administration), Ministry of Environment and Forests-Chairman</p> <p>2. Deputy Secretary (Administration) Ministry of Environment and Forests-Member</p> <p>3. Assistant Inspector General of Forests, Regional Office (Head Quareter)- Member</p> <p>4. Deputy Conservator of Forests (Central) of respective regional office- Member</p>	<p>CONSULTATION WITH UNION PUBLIC SECRVICE COMMISSION NECESSARY WHILE APPOINTING AN OFFICER ON DEPUTATION</p>

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ANNEXURE-E

To

Date: 17-10-2005.

The Addl. Director(S)
& HOO, MOEF, (RO),
NER, Shillong.

Sub: Judgement & Order of the Hon'ble High Court in W.P.(C)
No.6734 of 2004(G), W.P.(C) No.41(SH)/2002 - information
regarding.

Sir,

Referring to the above, I am to say that the Hon'ble High Court has delivered Judgement in my favour and upheld the order of the hon'ble CAT. This office, has of late, received copy of the Judgement & Order of the hon'ble High Court as intimated. In this connection, it is most humbly and respectfully say that I am the seniormost LDC since before 1992 (over Sl.No.3 & 4 who were appointed as LDC 1993 & 1995 respectively) and held the post of U.D.C. during 1992 after conducting DPC & selected by Selection Board. My promotion to the post of Assistant is due from 2002 as per R/R.

This is for favour of your kind information and necessary action.

With regards,

Yours faithfully,

(S K Bhattacharjee)

Copy to:

The Chief Conservator of Forests(Central), Shillong, for kind information.

(S K Bhattacharjee)

Diary No. 1820
Date 17-10-05
GOVT OF INDIA
Ministry of Environment And Forest
Regional Office, Shillong

Certified to be
true copy
Diswanaya Same
Advocate
02/03/07

- 59 -

ANNEXURE-F

To

Date: 28-11-2005.

The Addl. Director
& HOO, MOEF,
RO(NER), Shillong.

Sub: To consider for promotion to the post of Assistant consequent on the Hon'ble High Court order in the W.P.(C) No.6734/2004 dated 23-9-2005 in favour of Shri S K Bhattacharjee, LDC. - A request.

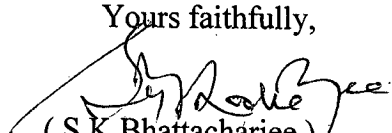
Sir,

I beg most respectfully to refer to your letter No.11-27/96/E-RONE/Vol-I/3109 dated 14-11-2005 and to inform you that I was granted Proforma Promotion to the post of UDC w.e.f. January 1992 by my the then parent department after conducting DPC.

2. In my present office also, I was granted promotion to the post of UDC in the past after being duly selected both by the DPC and the Selection Board.
3. In view of the facts stated in para 1 and 2 above, I request you kindly to consider to order my promotion to the post of Assistant with effect from 2002 when it was due as referred in para 1 and 2 above.
4. In this connection, I beg most respectfully to point out that I am the seniormost LDC (not beyond 30-10-1992) over applicant nos 3 and 4 (Kindly refer Hon'ble HC's order) when they were not even appointed in this Regional Office.

With most respectful regards.

Yours faithfully,


(S K Bhattacharjee)
Self Copy
Sub P/24

Slary No. 1911

Date 28/11/05

GOVT OF INDIA
Ministry of Environment and Forests
Regional O. I. Shillong

Assigned to be
true copy
Himanshu Sam
Janoate.
02/03/07

- 60 -

ANNEXURE - G

To

Date: 27-2-2006.

The Chief Conservator of Forests(C)
Govt of India, Min of Env & Forests,
Regional Office(NER),
Shillong.

Sub: Representation for consideration of promotion to the post of Assistant after Giving notional promotion to the post of UDC (which I held duly selected by DPC/Selection Board during 1992.)

Ref: Hon'ble Court's Judgement & Orders.

Most respected Sir,

Most humbly and respectfully, I beg to invite a reference to your office order No.11-27/96/E-RONE/Vol-1/4595-98, dated 8-2-2006 and respectfully state as follows:

1. I joined as LDC in 1980 and confirmed in service as LDC in 1989 and by fact thereof I am the seniormost LDC in your office.
2. My absorption in your office has taken effect from 30-10-1992.
3. I was originally promoted UDC in your office w.e.f. 1992. Hence, my promotion to the post of UDC has fallen due from 1992 as per the Hon'ble Courts order. ^{My seniority} My promotion to the post of Assistant due from 2002 as per R/Rules.
4. Smti J Lyngkhoi and Shri M P Rimal, both LDC(Promoted to officiate UDC during 2002 and 2005 when the case was subjudice before the Hon'ble Court) are juniors to me more than 13(thirteen) and 15(fifteen) years respectively. It was mentioned that the officiating promotion were subject to outcome of WP(C) NO.41(SH)/2002 of Gauhati High Court.
5. I beg most respectfully to point out that in your office letter No.11-27/96/E-RONE/Vol-1/538, dated 9-5-2005(In reply to my representation dated 25-4-2005 and 26-4-2005), it was mentioned that the Ministry had asked to take action for promotions.
6. In the circumstances, facts and premises I beg to pray as follows:
 - (a) My promotion to the post of Assistant after giving me notional promotion to the post of UDC which post I was initially promoted in 1992 in this Regional Office (after duly conducted by DPC/Selection Board) I was also granted Proforma Promotion to UDC w.e.f. 1992) may kindly be considered w.e.f. January 2002 with all consequential benefits as per rules.
7. In this connection, I respectfully enclose a copy of Hon'ble SC's order on 'Employees Promotion Rights' for your kind perusal (subject to look over Newspaper for confirmation of authentication).
8. I am suffering from my promotional benefits for long. I pray that you may be graciously pleased to pass orders on my prayer contained in Para 6 above at the earliest thereby finally ending my sufferings and mental agonys.

Diary No. 2264

Date 27/2/06

GOVT OF INDIA
Ministry of Environment And Forests
Regional Office, Shillong

Self copy

*Authenticated to be
true Copy
Ainwaryya Same
Advocate. 02/03/07*

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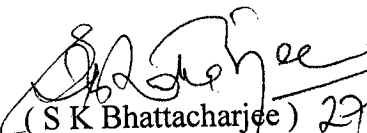
And for this act of your high kindness, my family and I shall remain in deep debt of gratitude to you and to your administration forever.

With deep respectful regards,

Enclosures:

- (1) The Sentinel, dated 8-9-2000
On Employees Promotional
Rights.
- (2) Ministry's Letter No.
4-1/89-RO(HQ), dated
2-8-1996.

Yours faithfully,


(S K Bhattacharjee) 27/2/06

ANNEXURE - H

Government of India
Ministry of Environment & Forests
North Eastern Regional Office, Shillong

No.11-27/96/E-RONE/Vol.I 1154

Dated 6-7-2006

To

Shri S.K. Bhattacharjee
LDC
MOEF, Shillong.

Sub: Convening of DPC for promotion - your representation dated 8-6-2006 regarding.

With reference to above subject, I am directed to state that this office has already requested the Ministry for convening of DPC for considering your promotion to the post of UDC and also for the post of Assistant. This is for your information.

(R.L. Sanga)
Deputy Conservator of Forests (C)

certified to be
true copy
Simwanya Sam
Associate
01/03/07

Aling

06/07/2006
संयुक्त निदेशन / Joint Order
पर्यावरण एवं वन विभाग
Ministry of Environment and Forests
क्षेत्रीय कार्यालय, शिलांग / Regional Office, Shillong

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ANNEXURE-I

To

Date: 8-8-2006.

The Head of Office,
Ministry of Environment & Forests,
Govt of India, Regional Office (NER),
Shillong - 793 003.

Sub: **UNDUE DELAY IN ORDERING PROMOTION TO THE POST OF ASSISTANT BY GIVING NOTIONAL PROMOTION TO THE POST OF UDC.**

Sir,

I beg most respectfully to invite your kind attention to your letter No.11-27/96/E-RONE/VOL-II/1154, dated 6th July, 2006 in which I was informed that a DPC meeting is being convened for considering my promotion. The proposed DPC meeting was held on 31st July, 2006. My case for promotion is pending for long years for which I have no responsibility. Delay in ordering my promotion over so many years has caused me mental agony, and humiliation since my juniors were promoted earlier to me. Justice requires that in ordering my promotion, no further delay is made.

2. I have already put in about 26(twenty six) years of Govt. service and now in the last part of my service career. Normally, a promotion from the post of LDC to the next higher post is to be ordered within a period of 8(eight) years which has long years back completed by me.

3. I beg therefore earnestly pray that you would be kind enough to look into my case for promotion personally and secure me my promotion at the earliest. I personally will expect my promotion order in ~~about two weeks.~~
the earliest.

With respectful regards,

Yours faithfully,

(S K Bhattacharjee)

1016
8/8/06
GOVT OF INDIA
Ministry of Environment and Forests
Regional Office, Shillong

*Certified to be
true copy
Shirwan Singh
Advocate
02/03/07*

Self copy.

64 -

ANNEXURE-J

To

Date: 29-8-06.

The Regional Chief Conservator of Forests,
Govt of India, MOEF, RO(NER), Shillong.

Sub: Prayer for forwarding representation to the Joint Secretary (Grievance), Min of Env & Forests, New Delhi, in connection extra-ordinary delay of overdue two promotions in respect of Shri S K Bhattacharjee, LDC - regarding.

Respected Sir,

Referring to the above, I beg most respectfully to request you kindly to forward my representation (enclosed herewith) to the Joint Secretary (Grievance), Govt of India, Min of Env & Forests, New Delhi, in connection with extra-ordinary delay in issuing orders of overdue two promotions and oblige.

With high regards,

Enclo: As stated.

Yours faithfully, (


(S K Bhattacharjee)

Sup copy

Copy to SKB

Sl. No. 1197
Date 29/8/06

GOVT OF INDIA
Ministry of Environment and Forests
Regional Office, Shillong

Certified to be
true copy -
Dinwarrya Bora
Advocate
01/03/07

- 65 -

BY SPEED POST

To

Date: 29-8-2006

The Joint Secretary(Grievance),
Govt. of India, Ministry of Environment & Forests,
Paryavaran Bhavan, CGO Complex, Lodi Road,
New Delhi- 110 003.

(THROUGH PROPER CHANNEL)

Sub: INORDINATE DELAY IN ORDERING PROMOTION TO THE POST OF ASSISTANT BY GIVING NOTIONAL PROMOTION TO THE POST OF UDC, IN RESPECT OF SHRI S K BHATTACHARJEE, LDC, MOEF, RO (NER), SHILLONG.

Ref: (1) Hon'ble Central Administrative Tribunal, Gauhati Bench, order dated 24-7-96 & 18-11-96 in O.A No.128/96 (Annexure-I).
(2) Hon'ble Central Administrative Tribunal's Judgement & Order dated 22-8-2001 in O.A. No.227 of 2000 (Annexure-II).
(3) Hon'ble Gauhati High Court's Judgement & Order dated 23-9-2005 in W.P.(C) No.6734 of 2004(G)/W.P.(C) No.41(SH)/2002, (Annexure- III).
(4) Govt. of India, Ministry of Environments, Letter No.14-3/99-RO (HQ), dated 23-1-2006 directing to comply with the Hon'ble Gauhati High Court Order dated 23-9-2005 (Annexure-IV).
(5) Seniority list of LDCs of the Ministry of Env. & Forests, Regional Office (NER) at Shillong issued under office order No.11-27/96/E-RONE/Vol-I/4595-98, dated 8-2-2006 (Annexure-V).
(6) My representation dated 8-8-2006 to the MOEF, RO (NER), Shillong,(Annexure-VI).
(7) MOEF, RO (NER), Shillong, order No.13-22/2000/E-RONE/181-85, Dated 15-4-2005 in regard to the date of entry in Govt. Service, (Annexure-VII).

Most respected Sir,

I, your humble subordinate in your Regional Office at Shillong beg to state and submit as under:-

1. As will be seen from column 3 of the table in Annexure-
Contd...2...

VII, hereto this representation, I entered Central Govt. Service on 1-8-1980, and have by now put in 26(twenty six) years of service as LDC without any promotion so far.

2. In your Regional Office at Shillong, there are two UDC posts and although I am the senior most amongst all the two officiating UDCs, my promotion to the post of UDC has not yet been ordered.

3. Meanwhile, my promotion to the post of Assistant has also become overdue. As already stated, I was appointed in Central Govt. Service in 1980, I was granted 'Proforma Promotion' in the past way back in January 1992.

4. Although, about a year has passed, after the Hon'ble High Court passed its Judgement & Order in my favour, my promotion initially to the post of UDC and then to the post of Assistant has not yet been ordered. Meanwhile, the DPC has also been held on 31-7-2006 and my promotion has been recommended. Despite all these, my promotion first to UDC and then to the post of Assistant have yet to be ordered by the Competent Authority.

5. In this connection, it is respectfully pointed out that two of my very junior LDCs (Annexure-V), namely, Smti J Lyngkhoi (13 years junior to me) and Shri Moti Prasad Rimal (15 years junior to me) were given OUT-OF-TURN and conditionally officiating promotion to the post of UDC. Smti J Lyngkhoi was promoted in 2002 and Shri Moti Prasad Rimal in 2005, which was subject to the outcome of the case in the Hon'ble High Court (Office L/No.13-25/2004/E-RONE/194-98, dated 15-4-2005.) These two officiating promotions were ordered during the pendency of the Court Case and both the incumbents (also a party of the case) are holding the posts till date. The Hon'ble Central Administrative Tribunal in their Interim Order dated 24-7-1996 and 18-11-1996 had ordered to keep one post of UDC vacant till finalization of the case (Annexure-II).

6. In view of the facts stated in Para 5 above, I am feeling very sad and humiliated having been still retained as LDC. As already stated, I am the senior most LDC over other two employees (Annexure-V) who are 13 and 15 years juniors to me. Having had put in 26 years of service as LDC, I am now at the last part of my service career.

Contd...3...

- 67 -

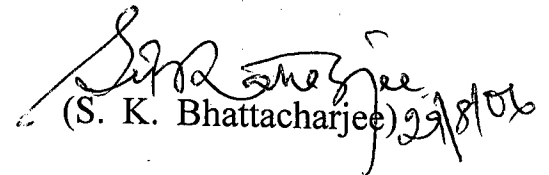
-3-

PRAYER:

I beg most respectfully pray and request you to order my promotion to the post of UDC and to the post of Assistant, both of which fell due for long years, without any further delay.

With high regards,

Yours faithfully,


(S. K. Bhattacharjee) 29/8/06

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ANNEXURE-K

To

Date: 18-9-2006.

The Head of Office,
Govt of India, MOEF,
RO(NER), Shillong.

Sub: Prayer for immediate ordering of promotion of Shri S K Bhattacharjee, LDC, to the post of UDC consequent on the Hon'ble High Court's judgement and Order dated 21-9-2005 in his favour.

Sir,

1. Most respectfully I am to state that although about a year has passed after the Hon'ble High Court passed their judgement & order referred to above, in my favour, my promotion to the post of UDC has not yet been ordered. Meanwhile, the Govt of India, in their letter No.14-3/1993-RO(HQ), dated 6-9-2006 has allowed me promotion to the post of UDC w.e.f. 15-6-1997. The Govt of India in their said letter has requested your office to order my promotion 'immediately'. The Govt order was received on 6-9-2006 itself.
2. It is most respectfully bring to your kind information that (a) The hon'ble Court had ordered to keep vacant one post of UDC in the past (Kindly refer order of the hon'ble Court available in office), (b) The junior most LDC (who is 15 years junior to me) was conditionally promoted to offg. UDC in April, 2005, during pendency/subjudice of the case, which was subject to the outcome of the Judgement & Order of the hon'ble High Court (Kindly refer order No.13-25/2004/E-RONE/194-98, dated 15-4-2005, available in office).

It is fervently prayed and most humbly requested you kindly to look into my promotion matter and be kind enough to consider to issue order within 2-3 (two to three) days if possible to avoid further prolongation of my mental agony and humiliation

Diary No. 1364
Date 20/9/06

GOVT OF INDIA
Ministry of Environment And Forest
Regional Office, Shillong

Certified to be
true copy

Atmangya Sam
Advocate 01/03/07

- - - 2 - - -
[Signature]

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- 2 -

arising out of my very junior two colleagues (juniors to me about 13/15 years) holding higher post of UDC while I still continue as LDC.

With deep and respectful regards,

Yours faithfully,


(S K Bhattacharjee)

Copy to:

The Regional Chief Conservator of Forests, MOEF, RO,
(NER), Shillong, for kind information.


(S K Bhattacharjee)



ANNEXURE - L

भारत सरकार

पर्यावरण एवं वन मंत्रालय

पूर्वोत्तर क्षेत्रीय कार्यालय

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT AND FORESTS

NORTH EASTERN REGIONAL OFFICE

No.11-27/96/E-RONE/Vol.I /2272-36

Dated 25-9-2006

OFFICE ORDER

With reference to Ministry's letter F.No.14-3/1993-RO(HQ) dated 6-9-2006 and in terms of the minutes of DPC held in the Ministry on 31-7-2006, Shri S.K. Bhattacharjee, LDC is hereby promoted to the post of UDC w.e.f. 15-6-1997 in the pay scale of Rs.4000-100-6000/-.

(B.N. Jha)

Chief Conservator of Forests (C)

Copy to:

1. Shri A.K. Johari, Director (Admn.), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110003 for information.
2. The Pay & Accounts Officer, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110 003.
3. Director (FC & ROHQ), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110003 for information.
4. Shri S.K. Bhattacharjee, UDC, MoEF, RO, Shillong.
5. DPC file.

Chief Conservator of Forests (C)

Certified
to be true copy
Jinwaraya Sarma
Advocate.
01/03/07 -

C. H. S. K. S.
26/09/2006
मुख्य निदेशक / Joint Director
पर्यावरण एवं वन मंत्रालय
Ministry of Environment and Forests
पूर्वोत्तर क्षेत्रीय कार्यालय / Regional Office, Shillong

अपलैण्ड्स रोड, लाइमुखरा, शिलांग - 793 003

UPLANDS ROAD, LAITUMKHRAH, SHILLONG - 793 003

ली/Tel : (0364) 2227673, 2227929, 2227565, 2306088, 2502278; फैक्स/Fax - (0364) 2227673; ईमेल/email - mofner@shillong.meg.nic.in

OM :

FAX NO. : 91 11 24363964

Sep. 06 2006 03:13PM P1

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

F.No.14-3/1993-RO(HQ)

Dated:- 6/09/2006

To

Shri R.L. Sanga, IFS
Deputy Conservator of Forests
Regional Office (NEZ),
Ministry of Env. & Forests,
Uplands Road, Laitumkhrak,
Shillong-793003
Phone No, (0364) 2227673.

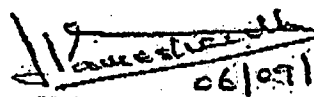
Subject:-

Promotion of Shri S.K. Bhattacharjee, from the post of LDC to UDC
in RO, MoEF, Shillong-regarding

Sir,

Reference to your letter No 13-25/2004/E-RONE/1578 dated 3-8-2006 on the subject noted above and in this context I am directed to inform you that the competent authority in the Ministry has decided to allow promotion to Shri S.K. Bhattacharjee, LDC in the Regional Office, MoEF, Shillong to the post of Upper Division Clerk (UDC) w.e.f 15-06-1997 in terms of the minutes of DPC held in the MoEF, New Delhi on 31/07/2006. The order's of promotion of Shri S.K. Bhattacharjee may kindly be issued immediately under intimation this Ministry

Yours faithfully,


06/09/06
(R.K.DUTTA)

Technical Officer (Forestry), RO(HQ)



पहले ई. हरियाली।
सबसे ई. सुशासनी।।

पर्यावरण भवन, सी.पी.ओ. कॉम्प्लेक्स, लोदी रोड, नई दिल्ली-110003
PARYAVARAN BHAVAN, C.G.O. COMPLEX, LODHI ROAD, NEW DELHI-110003

Annexure M

~~Annexure M~~

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Ministry of Environment & Forests
Regional Office (Headquarters)
.....

ANNEXURE-M

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110 003

Dated the 2nd August, 1996

No. : 4-1/89-RO(HQ)

To

The Chief Conservator of Forests(C),
Regional Office(NEZ),
Upland Road, Latuunkhrah,
Shillong.
Fax No. : 0364227673

Subject :- DPC for filling up the post of UDC on deputation.
.....

Sir,

I am directed to refer to your fax message No. 13-7/94/E-RO-NE/1001 dated 30.7.96 on the subject cited above and to say that the earlier service period of shri S.K. Bhattacharjee, LDC, in his parent department, should also be included while considering his case for promotion to the post of UDC.

Yours faithfully,

S.K. Sehrawat

(S.K. SEHRAWAT)

ASSTT. INSPECTOR GENERAL OF FORESTS

*Confirmed to be
true copy*

*Dimwallya Sam
Advocate 02/03/07*

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ANNEXURE-N.

To

272 31-10-06

The Head of Office,
Govt of India, Min of Env & Forests,
Regional Office(NER), Upland Road,
Shillong-3.

Sir,

I beg most respectfully to state that I have been granted promotion to the post of UDC retrospectively w.e.f. 15-6-1997. It appears that as per rule my promotions for the post of UDC requires to be made effective from January 1992 (when I was promoted to UDC by this office and also awarded Proforma Promotion), and for the post of Assistant is due from 2002 (Kindly refer my representation dated 27-2-2006 alongwith other representations submitted to office). The matter was discussed earlier in the recent past and I was advised to pursue the matter with the higher authority to redress my grievance for the aforementioned matter. It is therefore respectfully stated that I desire to pursue with higher authority for settlement the aforementioned matter.

2. It is respectfully bring to your kind information that I shall pursue the matter to the high authority since I have been suffering for long to get my due benefits. This is for favour of your kind information.

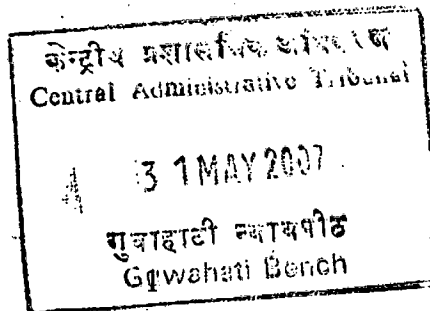
With high regards,

Yours faithfully,

(S K Bhattacharjee) 31/10/06

Copy filed to be
enclosed
Advocate
01/03/07

1784
1/11/06



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO. 52/2007

SHRI S. K. BHATTACHARJEE

.....APPLICANT

-VERSUS-

UNION OF INDIA & OTHERS

.....RESPONDENTS

IN THE MATTER OF

Written statement submitted by the respondents

- 1) That the respondents have received copy of the OA, have gone through the same and understood the contentions made therein. Save and except, the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1 to 3 of the OA, the respondents beg to offer no comment.
- 3) That with regard to the statement made in paragraphs 4.1 of the OA, the respondents beg to submit that the applicant is presently working as UDC in the office of the Respondent No.2.
- 4) That with regard to the statement made in paragraph 4.2 of the OA, the respondents beg to submit that the applicant joined the office of the Respondent No. 2 as LDC on 15.6.1089 on deputation for a period of three years from North Eastern Police Academy which was later extended by another two years. He was permanently absorbed in the office of the Respondent No. 2 as per judgment of the Hon'ble CAT Guwahati Bench in OA No. 227/2000 dated 22.8.2001 and upheld by the Hon'ble Guwahati High Court in WP (C) No. 6734/2004 dated 23.9.2005 and the date of absorption of the applicant was reckoned as 30.10.1992.

Filed by

Deputy Conservator of Forests (General)
Min. of Environment & Forests
Regional office, Shillong
D.C.F. (Central)
Moff, Shillong
Through
Moff, Shillong
Addl. Dy.
Moff, Shillong

- 5) That with regard to the statement made in paragraph 4.3 of the OA, the respondents beg to submit that the applicant was given adhoc promotion to UDC during his deputation period of six months and thereafter from the 14.10.1992 for a period of six months. The applicant was again given adhoc promotion from 15.12.1992 till 13.6.1993 while he was still on deputation to the office of the Respondent No. 2. The applicant was also granted promotion on adhoc basis to the post of UDC by his parent department i.e. North Eastern Police Academy with effect from 4.1.1992 to 30.9.1993 and again from 7.8.1995 to 2.4.1996.

Copies of the aforesaid letters dated 10.3.1992, 14.4.1992, 14.10.1992, 5.1.1993 and 5.7.1996 are annexed herewith and marked as Annexure A-I, A-II, A-III, A-IV & A-V respectively.

- 6) That with regard to the statement made in paragraph 4.4 of the OA, the respondents beg to submit that while still holding the post of UDC on adhoc basis, he requested for reversion to the post of LDC on 17.9.1993 to enable his absorption in the Office of the respondent No.2. Accordingly the applicant was reverted to the post of LDC w. e. f. 1.10.1993. The Ministry vide letter-dated 24.10.1993 extended the deputation period of the applicant for the fifth years w. e. f. 15.6.1993 to 31.3.1994. Before the expiry of the deputation period the applicant filed OA No. 43/1994 in the Hon'ble CAT, Guwahati which was disposed of vide order dated 3.10.1994 leaving it to the respondents therein to sympathetically consider his request for permanent absorption. The parent department namely NEPA, thereafter issued a NOC for permanent absorption of the applicant in the office of Respondent No. 2 vide memo dated 29.12.1994 in response to MoEF, RO, Shillong letter dated 1.12.1994 NEPA vide order dated 13.5.1995 directed the applicant to report immediately which was assailed by him filing another OA No. 68/1995 before the Hon'ble CAT, Guwahati Bench wherein vide interim order dated 22.2.1995 the Hon'ble Tribunal left open to the applicant to join his parent department without prejudice to his claim for absorption in the borrowing department. The said OA was disposed of vide judgment and order dated 18.10.1995 directing the respondents therein to consider the case of the applicant for absorption in the borrowing department permanently in the light of the said judgment. MoEF, RO,

Shillong vide order dated 20.3.1996 permanently absorbed the applicant against the vacant post of LDC w. e. f. the date of issuance of the said order which was however been modified vide order dated 17.4.1996 to the effect of the permanent absorption would be operated from the date of joining his duty. The applicant again moved the Hon'ble Tribunal assailing the prospective absorption in the parent department in OA No. 128/96 which was disposed of vide order dated 21.1.1999 directing the respondents therein i.e. the borrowing department to consider the case of the applicant for permanent absorption with retrospective effect. The Chief Conservator of Forests (Central) on the basis of the direction issued by the Hon'ble Tribunal in the said order dated 21.2.1999 vide order dated 9.4.1999 held that the order of absorption of the applicant was to be determined with effect from 13.2.1995 i.e. the date on which the repatriation to the parent department was passed by the borrowing department, on the ground the applicant was absorbed in the borrowing department not in public interest but as per his request and therefore his past service in the parent department cannot be counted for the purpose of determining the seniority in the borrowing department after absorption in view of the Office Memorandum dated 29.5.1986 issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions. However, taking the date of absorption as 13.2.1995 i.e. the date when the order of repatriation was passed by the borrowing department, the applicant's seniority was fixed below the other LDCs. The applicant being aggrieved filed an appeal against the said decision in OA No. 227/2000 before the Hon'ble CAT, Guwahati Bench, which was disposed of vide order dated 22.8.2001 directing that the applicant's date of absorption cannot be lowered beyond 30.10.1992.

Copies of the aforesaid letters dated 17.9.1993, 24.10.1993 and 29.5.1986 are annexed herewith and marked as Annexure- A-Vi, A-VII and A-VIII respectively.

- 7) That with regard to the statement made in paragraphs 4.5 of the OA, the respondents beg to submit that the respondents preferred a Writ Petition before the Hon'ble Gauhati High Court being WP(C) No. 42(SH)/2002 in the Shillong Bench challenging the order of Hon'ble CAT, Guwahati bench dated 22.8.2001 in AO No. 227/2000. The Writ Petition No. 41(SH)/2002 was later transferred to Gauhati High Court, Principal Seat at

Guwahati and renumbered as WP(C) No. 6734/2004(G). The Hon'ble High Court dismissed the above Writ Petition vide order dated 23.9.2005 and the Judgment and order dated 22.8.2001 passed by the Hon'ble CAT, Guwahati in OA No. 227/2000 was upheld and directed the respondents to refix the inter-se-seniority of the applicant vis-à-vis other LDCs by taking into account the past services rendered by the applicant in the parent department i.e. North Eastern Police Academy.

- 8) That with regard to the statement made in paragraph 4.6 of the OA, the respondents beg to submit that the recruitment rules provides 8 years of regular service in the post of LDC to be eligible for promotion to the posts of UDC. However, keeping in view the direction of the Hon'ble Gauhati Court in WP(C) No. 6734/2004(G) wherein the Hon'ble High Court upheld the judgment of Hon'ble CAT in OA No. 227/2000 which directed the applicant's date of absorption cannot be lowered down beyond 30.10.1992 and accordingly directed the respondents to refix the inter-se-seniority of the applicant vis-à-vis LDCs by taking into account the past services rendered by the applicant in the parent department. The respondents issued the seniority list of LDCs vide Office Order No. 11-27/96/E-RONE/4595-98 dated 8.2.2006 wherein the applicant was made the senior most LDC with effect from 30.10.1992 as the date of absorption and the date of appointment to the grade of LDC in MOEF, RO, Shillong was reckoned as 15.6.1989 i.e. the date on which he joined MoEF in the post of LDC (on deputation). The seniority of the applicant was regulated in accordance with the Ministry of Personnel OM No. 200220/7/80-Estt (D) dated 29.5.1986 which provides that-

In case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for transfer on deputation/transfer), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he had, however, been holding already (in the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from

- the date he has been holding the post on deputation

Or

- the date from which he has been appointed on regular basis to the same or equivalent, whichever is later.

Accordingly in pursuant to Ministry of Personnel OM dated 29.5.1986 the respondent absorbed the applicant in the post of LDC from 30.10.1992. However since the applicant has been holding the equivalent post of LDC on the date of absorption his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997, i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment and Forests; Govt. of India letter No. 14-3/1993-RO (HQ) dated 6.9.2006.

Copies of the order dated 8.2.2006 and letter dated 6.9.2006 are enclosed herewith and marked as Annexure- A-IX and A-X respectively.

- 9) That with regard to the statement made in paragraph 4.7 of the OA, the respondents beg to submit that the applicant was given adhoc promotion to UDC by Respondent No. 2, on the recommendation of Selection Committee being constituted for considering recommendation of deputationists and not by Departmental Promotion Committee which considers matters related to regular employees during his deputation periods from 14.1.1992 for a period of three months and from 14.4.1992 for a period of six months and thereafter from 14.10.1992 for period of six months. The applicant was gains given adhoc promotion from 15.12.1992 to 13.6.1003 while he was still on deputation. The applicant was also granted Performa promotion on adhoc basis to the post of UDC by his parent department i.e. north Eastern Police Academy with effect from 4.1.1992 to 30.9.1993 and again from 7.8.1995 to 2.4.1996 i.e. the date of his release from his parent department for joining MoEF, RO, Shillong in the post of LDC on absorption. Since the applicant has been holding the equivalent post of LDC on the date of absorption his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment and Forests, Govt. of India Letter No. 14-3/1993-RO(HQ) dated 6.9.2006. The applicant submitted a representation dated 17.10.2005 requesting the respondents to promote him to the post of Assistant w. e. f. 2002. It is submitted that since the applicant has been absorbed w.e. f. 30.10.1992 as per his request in OA No. 227/2000 and since the applicant was

holding equivalent post of LDC on the date of absorption his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC in MoEF, RO, Shillong. The Recruitment Rules 1992 stipulates 8 years regular service in the post of UDC to be eligible for consideration against the post of Assistant is prescribed by Recruitment Rules 2000 for group B posts. As such the applicant will be eligible for consideration against the post of Assistant only after 15.6.2007. Since the applicant has not completed the mandatory requirement of 10 years regular service in the post of UDC as per Recruitment Rules 2000 for group B posts, he cannot be considered for the post of Assistant. The appointment of the applicant in the post of UDC (on deputation) w. e. f. 15.12.1992 to 13.6.1993 was purely of transitory and temporary nature; as such he has no claim over the officiating post.

- 10) That with regard to the statement made in paragraph 4.8 of the OA the respondents beg to submit that since the applicant has not completed and fulfilled 10 years of regular service in the post of UDC, i.e. the requisite period for eligibility to the post of Assistant, his request cannot be considered at the moment. He will qualify for consideration to the post of Assistant only after 15.6.1007 i.e. the date of completion of 10 years of regular service on the post of UDC as per Recruitment Rules 2000 for Group B posts. It is admitted that the applicant was granted proforma promotion to the post of UDC by his parent department, however the applicant was relieved by his parent department to join MoEF, RO, Shillong in the post of LDC on absorption as per direction of the Hon'ble CTA, Guwahati in OA No. 68/95. As such the applicant has not complied with the mandatory 10 years of regular service in the post of UDC to be eligible for the post of Assistant as per the requirement of Recruitment Rules 29000 for group B posts.

A copy of the Recruitment Rules 2000 is annexed herewith and marked as Annexure-A-XI.

- 11) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to submit that the applicant does not fulfill the eligibility for the post of Assistant due to the reasons stated in paragraph 10 of the Written Statement.

12) That with regard to the statement made in paragraph 4.10 of the OA, the respondents beg to submit that the respondent No.2 requested the MoEF, New Delhi to convene DPC for considering the case of applicant for the post of UDC vis-a-vis to examine his request for consideration for the post of Assistant.

13) That with regard to the statement made in paragraph 4.11 of the OA, the respondent beg to submit that Departmental Promotion Committee meeting was held on 31.7.2006 at New Delhi which recommended the promotion of the applicant to the post of UDC w. e. f. 15.6.1997 assigning seniority in the grade of LDC w. e. f. 15.6.1989 in pursuance to the direction of the Hon'ble High Court, Guwahati dated 23.9.2005 in WP (C) No. 6734/2004 and Ministry's letter No. 14-3/99-RO (HQ) dated 23.1.2006. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 vide office order No. 11-27/96/E-RONE/Vol.I/2232-36 dated 25.9.2006 as per the approval conveyed by the Ministry vide letter No. 14-3/1993/RO (HQ) dated 6.9.2006.

A copy of the office order dated 25.9.2006 is annexed herewith and marked as Annexure-A-XII.

14) That with regard to the statement made in paragraph 4.12 of the OA, the respondents beg to submit that the respondents have nothing to comment due to the reasons stated in foregoing paras.

15) That with regard to the statement made in paragraph 4.13 of the OA, the respondents beg to submit that the applicant's case for promotion to the of UDC was considered and approved by the DPC meeting held on 31.7.2006 and was promoted to post of UDC w. e. f. 15.6.1997 vide office order No. 11-27/96/E-RONE/Vol.I/2232 dated 25.9.2006.

16) That with regard to the statement made in paragraph 4.14 of the OA, the respondent beg to submit that as per the approval conveyed by the Ministry the respondents No. 2 issued the promoted order in favour of the applicant to the post of UDC w. e. f. 15.6.1997 vide Office Order No. 11-27/96/E-RONE/Vol.I/2232-36 dated 25.9.2006.

17) That with regard to the statements made in paragraphs 4.15 of the OA, the respondents beg to submit that the applicant has been holding the equivalent post of LDC on the

date of absorption i.e. 30.10.1992 as his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC as per Ministry of which he has been appointed on deputation to the post of LDC as per Ministry of Personnel OM dated 29.5.1986. Accordingly, the appointed was promoted to the post of UDC w. e. f. 15.6.1997, i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment & Forests, Govt. of India Letter No. 14-3/1993-RO (HQ) dated 6.9.2006. The Ministry of Personnel OM dated 29.5.1986 provides that-

In case of a person who is initially taken on deputation and absorbed latter (i.e. where the relevant recruitment rules provide for transfer on deputation/ transfer), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (in the date of absorption) the same or equivalent shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from

- the date he been holding the post on deputation
- or
- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later.

Accordingly in pursuant to Ministry of Personnel OM dated 29.5.1986 the respondent absorbed the applicant in the post of post of LDC on the date of absorption his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was appointed on deputation to the post of UDC w. e. f. 15.6.1997, i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment & Forests, Govt. of India Letter No. 14-3/1993-RO (HQ) dated 6.9.2006.

- 18) That with regard to the statements made in paragraph 4.16 of the OA, the respondents beg to submit that the applicant has been holding the equivalent post of LDC on the date of absorption i.e. 30.10.1992 as his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC as per Ministry of Personnel OM dated 29.5.1986. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997, i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment & Forests, Govt. of India

letter No. 14-3/1993-RO (HQ) dated 6.9.2006. The applicant has not completed and fulfilled 10 years of regular service in the post of UDC, i.e. the requisite period for eligibility to the post of Assistant, as per the Recruitment Rules 2000 for Group B posts, his request cannot be considered at the moment. He will qualify for consideration to the post of Assistant only after 15.6.2007 i.e. the date of completion of 10 years of regular service in the post of UDC as per the requirement of Recruitment Rules 2000 for Group B posts. It is admitted that the applicant was granted proforma promotion to the post of UDC by his parent department, however the applicant was relieved by his parent department to join MoEF, RO, Shillong in the post of LDC on absorption as per the direction of the Hon'ble CAT, Guwahati in OA No. 68/95. The applicant has not completed the requisite 10 years of regular service in the post of UDC to be eligible for the post of Assistant as such his request cannot be entertained at the moment.

- 19) That with regard to the statement made in paragraph 4.18 of the OA, the respondents beg to reiterate and reaffirm the statement made above paragraph.
- 20) That with regard to the statement made in paragraph 4.19 of the OA, the respondents beg to submit that there are vacancies of Assistant in the office of the Respondent No. 2 at present. However the applicant cannot be considered for the post of Assistant at the moment as he has not fulfilled the essential requirement of completion of 10 years of regular service in the grade of UDC for the post of Assistant as per the mandatory requirement provided by the Recruitment Rules 2000 for Group B posts.
- 21) That with regard to the statement made in paragraph 5.1 of the OA, the respondents beg to submit that applicant was given adhoc promotion to UDC by Respondent No.2, on the recommendation of Selection Committee being constituted for considering recruitment of deputationists and not by Departmental Promotion Committee which considers matters related to regular employees during his deputation periods from 14.1.1992 for a period of three months and from 14.2.1992 for a period of six months and thereafter from 14.10.1992 to for a period of another six months. He was given adhoc promotion from 15.12.1992 till 13.6.1993 while he was still on deputation. The applicant was also granted proforma promotion on adhoc basis to the post of UDC by his parent department i.e. North Eastern Police Academy with effect from 4.12.1992 to 30.9.1993 and again from 7.8.1995 to 2/4/1996, i.e. the date of his release from his

parent department for joining MoEF, RO, Shillong in the post of LDC on absorption vide NEPA letter date 30.3.1996. Since the applicant has been holding the equivalent post of LDC on the date 30.3.1996, his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment and Forests, Govt. of India letter No. 14-3/1993-RO (HQ) dated 5.9.2006.

- 22) That with regard to the statement made in paragraph 5.2 of the OA, the respondents beg to submit that the applicant was appointed as UDC, w. e. f. 15.12.1992 to 13.6.1993 on deputation basis by the respondent No.2 on the recommendation of the Selection Committee being constituted for recruitment of staff on deputation basis, while the applicant was working as LDC on deputation to the office of the respondent No.2, vide letter dated 5.1.1993 was purely of transitory nature as such he cannot claim right/seniority over officiating post. As already stated in the foregoing paras the applicant has been holding the equivalent post of LDC on the date of absorption, his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Personnel OM dated 29.5.1985 regulating the case of a person initially taken on deputation and absorbed later on.
- 23) That with regard to the statement made in paragraph 5.3 of the OA, the respondents while denying the contentions made therein beg to submit that it is not true that the respondent No. 2 has not acted upon the representations submitted by the applicant. Actions have been taken by the respondent No. 2 in the matter as per the directions/orders of the Hon'ble CAT and Hon'ble Gauhati High Court, details of which has been stated in the reply to the paragraphs 4.2,4.3,4.4,4.5 and 4.6 above and according to the standing Recruitment Rules.
- 24) That with regard to the statement made in paragraph 5.4 of the OA, the respondents beg to rely and refer upon the statement made above.

25) That with regard to the statement made in paragraphs 5.5 and 5.6 of the OA, the respondent beg to submit hat the applicant was holding the equivalent post of LDC on the date of absorption i.e. 30.10.1992 as his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC as per Ministry of Personnel OM dated 29.5.1986. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 i.e. after completion of 8 years regular service in the post of UDC vide Ministry of Environment and Forests, Govt. of India letter No. 14-3/1993-RP (HQ) dated 6.9.2006. The Ministry of Personnel OM dated 29.5.1986 provides that-

In case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for transfer on deputation/transfer), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (in the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from

- the date he has been holding the post on deputation
- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later.

Accordingly in pursuance to Ministry of Personnel OM dated 29.5.1986 the respondents absorbed the applicant in the post of LDC on the date of absorption his seniority has been reckoned from 15.6.1989, i.e. the date on which he has been appointed on deputation to the post of LDC. Accordingly, the applicant was promoted to the post of UDC w. e. f. 15.6.1997 i.e. after completion of 8 years regular service in the post of LDC vide Ministry of Environment and Forests, Govt. of India letter No. 14-3/1993-RO (HQ) dated 6.9.2006.

26) That with regard to the statement made in paragraph 5.7 of the OA, the respondents beg to submit that the applicant was taken on deputation as LDC from North Eastern Police Academy, Barapani, in the office of respondent No. 2, on 15.6.1989 for a period of three years. Soon after joining on deputation the applicant started pleading permanent absorption in the office of the Respondent No. 2 vide his letter dated 22.1.1991, 2.1.1992 and 1.12.1992 on the ground of personal/family problems. While he was still

on deputation to the office of the respondent No. 2 the applicant was given adhoc promotion to UDC from 14.1.1992 for a period of three months and again from 14.3.1992 for a period of six months and thereafter from 14.10.1992 for a period of six months. He was again given adhoc promotion from 15.12.1992 till 13.6.1993 while he was still on deputation on adhoc basis to the post of UDC by his parent department i.e. North Eastern Police Academy with effect from 4.1.1992 to 30.9.1993 and again 7.8.1995 to 2.4.1996. While still on deputation and holding the post of UDC on adhoc basis, he requested for reversion to the post of LDC on 17.9.1993 to enable his absorption in the office of the respondent No. 2. Accordingly the applicant was reverted to the post of LDC w. e. f. 1.10.1993. The Ministry vide letter dated 24.10.1993 extended the deputation period of the applicant for the fifth year w. e. f. 15.6.1993 to 31.3.1994. Before the expiry of the deputation period the applicant filed OA No. 43/1994 in the Hon'ble CTA, Guwahati which was disposed of vide order dated 3.10.1994 leaving it to the respondents therein to sympathically consider his request for permanent absorption. The parent Department namely NEPA, thereafter issued a NOC for permanent absorption of the applicant in the office of the respondent No. 2 vide memo dated 29.12.1994 in response to MoEF, RO, Shillong letter dated 1.12.1994. North Eastern Police Academy vide order dated 13.5.1995 directed the applicant to report immediately which was assailed by him filing another OA No.68/1995 before the Hon'ble CAT, Guwahati wherein vide interim order dated 22.2.1995 the Hon'ble Tribunal left it open to the applicant to join his parent department without prejudice to his claim for absorption in the borrowing department. The said OA was disposed of vide Judgment and order dated 18.10.1995 directing the respondents therein to consider the case of the applicant against the vacant post of LDC w. e. f. the date of issuance of the said order which was however been modified vide order dated 17.4.1996 to the effect that the order of permanent absorption would be operated from the date of joining his duty. The applicant again moved the Hon'ble Tribunal assailing the prospective absorption in the parent department in OA No. 128/1996 which was disposed of vide order dated 21.1.1999 directing the respondents therein, i.e. the borrowing department to consider the case of the applicant for permanent absorption with retrospective effect. The Chief Conservator of Forests (Central), on the basis of the order dated 9.4.1999 held that the order of absorption of the applicant was to be determined with effect from 13.2.1995, i.e. the date of repatriation to the parent department was passed by the borrowing department, on the ground the applicant was absorbed in the borrowing

department not in public interest but as per his own request and therefore his past service in the parent department cannot be counted for the purpose of determining the seniority in the borrowing department after absorption in view of the OM dated 29.5.1986 issued by the Govt. of India, Ministry of Personnel, Public grievances and Pensions. However, taking the date of absorption as 13.2.1995, i.e. the date when the order of repatriation was passed by the borrowing department, the applicant's seniority was fixed below the other LDCs. The applicant being aggrieved filed an appeal against the said decision in OA No. 227/2000 before the Hon'ble Tribunal, which was disposed of vide order dated 22.8.2001 directing that the applicant's date of absorption cannot be lowered beyond 30.10.1992.

- 27) That with regard to the statement made in paragraph 6 and 7 of the OA, the respondents beg to offer no comment.
- 28) That with regard to the statement made in paragraph 8 of the OA, the respondents beg to submit that the relief sought by the applicant is devoid of merit as there is no violation of rules and procedures. Hence, it is prayed that it may be dismissed with cost.
- 29) That in view of the above facts and circumstances of the case and the submissions made by the respondents it is prayed that the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

- 14 -

VERIFICATION

I R. LALNUN SANGA, aged
about 40 years at present working as

DEPUTY CONSERVATOR OF FORESTS (C), MINISTRY OF ENVIRONMENT & FORESTS, SHILLONG, GOVT. OF INDIA who is one of the respondents and taking steps in this case, being

duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph

1, 28, 29 are true

to my knowledge and belief, those made in paragraph

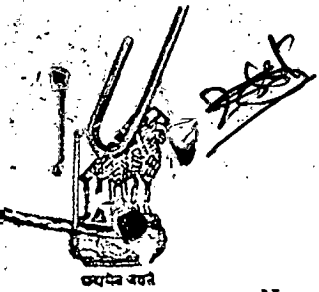
2 to 27 being matter of records, are

true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 26th day of MAY 2007 at SHILLONG.

✓ 

DEPONENT
(R. LALNUN SANGA)
Deputy Conservator of Forests (Centre)
Min. of Environment & Forests
Regional office, Shillong



-15- ANNEXURE A-I

(176)

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS
NORTH EASTERN REGIONAL OFFICE

Telegram : PARYAVARAN
Telephone : (O) 27673, 27929, 27565

UPLAND ROAD, LAITUMKHEAH
SHILLONG - 793 003

No. RC-NE/1-18-89/PF/1403

Dated the 10-3-92.

OFFICE ORDER

Shri S K Bhattacharjee, LDC, is permitted to officiate as U.D.C. w.e.f. 14-1-92 for a period of three months, (Due to repatriation of Smti R Rapmai, UDC, from that post). He is appointed on ad-hoc basis without prejudice to his seniors, and he shall have, no claim on the post, for regular appointment and this will not count towards his seniority in the grade/for promotion and confirmation etc.


(S S PATNAIK)
CHIEF CONSERVATOR OF FORESTS (C)

Memo No. RO-NE/1-18-89/PF/

Dated Shillong, The _____ '92.

Copy for information to:

1. The Asstt. Inspector General of Forests (HQ),
Govt of India, Min of Env & Forests,
Paryavaran Bhavan, CGO Complex, Lodhi Road,
New Delhi-3.
2. The Pay and Accounts Officer,
Govt of India, Min of Env & Forests,
Paryavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi-3.
3. Shri S K Bhattacharjee.
4. Personal file of the person concerned.
5. Office Order File.


(S S PATNAIK)
CHIEF CONSERVATOR OF FORESTS (C)

No.RO-NE/1-18-89/PF

Dated the 14th Apr.92.

OFFICE ORDER

Shri S.K. Bhattacharjee, LDC is permitted to officiate as UDC w.e.f.14.4.92 for a period of 6 months (Due to repatriation of Smt. R.Rapmai, UDC from that post). He is appointed on ad-hoc basis without prejudice to his seniors, and he shall have no claim on the post for regular appointment and this will not count towards his seniority in the grade/for promotion and confirmation etc.

This is issued with the approval of the competent authority.

[Signature]

(K R LYNGDOH)
DEPUTY CONSERVATOR OF FORESTS (CENTRAL)

DISTRIBUTION

1. The Assistant Inspector General of Forests (HQ)
Ministry of Environment & Forests, Paryavaran Bhawan,
CGO Complex, Lodi Road, New Delhi - 110 003.
2. The Pay & Accounts Officer, Ministry of Environment &
Forests, Paryavaran Bhawan, CGO Complex, Lodi Road,
New Delhi - 110 003.
3. Shri S.K. Bhattacharjee
4. Personal file of S K Bhattacharjee
5. Office order file
6. Accounts Section, R O Shillong.

[Signature]

(K R LYNGDOH)
DEPUTY CONSERVATOR OF FORESTS (CENTRAL)

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT & FORESTS
NORTH EASTERN REGIONAL OFFICE

17- ANNEXURE - A-III 174 95
Telegram : PARYAVARAN

Telephone : (O) 27673, 27929, 27565

UPLAND ROAD, LAITUMKHAH
SHILLONG - 793 003

No.RO-NE/1-18-89/PF

Dated the 14th Oct. 92.

OFFICE ORDER


Shri S.K. Bhattachajee, LDC is permitted to officiate as UDC w.e.f. 14.10.'92 for a period of 6 months (due to repatriation of Smt. R.Rapmai, UDC from that post). He is appointed on adhoc basis without prejudice to his seniors, and he shall have no claims on the post for regular appointment and this will not count towards his seniority in the grade/for promotion and confirmation etc.

This is issued with the approval of the competent authority

(K.R.Lyngdoh)
Deputy Conservator of Forests(Central)

Distribution:

1. The Assistant Inspector General of Forests(HQ)
Ministry of Environment & Forests, Paryavaran Bhavan,
CGO Complex, Lodi Road, New Delhi: 110 003.
2. The Pay & Accounts Officer, Ministry of Env. & Forests,
Paryavaran Bhavan, CGO Complex, Lodi Road,
New Delhi: 110 003
- ✓ 3. Shri S.K.Bhattacharjee
4. Personal file of S.K.Bhattacharjee
5. Office order file
6. Accounts Section, R.O. Shillong.


(K.R.Lyngdoh)
Deputy Conservator of Forests(Central)

- 18 - ANNEXURE - A - IV (173)

Government of India
Ministry of Environment & Forests
North Eastern Regional Office

Upland Road
Laitumkhrach
Shillong-793 003

No. 6-25-47/92/E-RO-NE

Dated the 5th Jan. 93.

OFFICE ORDER

Consequent upon the recommendations of the Selection Committee, Ministry of Environment & Forests, North Eastern Regional Office, Shillong dated 9th June 92 and with the approval of the competent authority, Shri S.K. Bhattacharjee, LDC of the North Eastern Police Academy, Barapani, presently on deputation as LDC in the Ministry of Environment & Forests, North Eastern Regional Office, Shillong is appointed as UDC in the pay scale of Rs.1200-30-1560-EB-40-2040/- in the Ministry of Environment & Forests, North Eastern Regional Office, Shillong with effect from 15th Dec. 92(FN) on deputation basis till 13th June 1993 or until further orders whichever is earlier.

2. He shall draw a basic pay of Rs.1200/- plus other allowances admissible under the rules.

(K R LINGDOH)
DEPUTY CONSERVATOR OF FORESTS (CENTRAL)

DISTRIBUTION

1. The Asstt. Inspector General of Forests RO(HQ) Ministry of Environment & Forests, Paryavaran Bhavan CGO Complex, Lodhi Road, New Delhi - 110 003.
2. The Pay & Accounts Officer, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road New Delhi - 110 003.
3. The Director, North Eastern Police Academy, Umsaw, Barapani - 793 123.
4. Shri S.K. Bhattacharjee, U D C M/E&F RO Shillong
5. Accounts Section M/E&F RO Shillong
6. P/F

Estt. Section

- 19 ANNEXURE-A V 47 (H2)
Government of India
Ministry of Home Affairs
North Eastern Police Academy
Umsaw, 793 123, Barapani, Meghalaya

No. NEPA/PF(C)/1/86/Vol-I/2133-36

Dtd. Umsaw, the 5th July '96.

O R D E R

Shri S K Bhattacharjee, L.D.C. of this institution, who was on deputation with Deputy Conservator of Forests(C), Govt of India, Ministry of Environment and Forests, NER, Shillong-03, is hereby granted "Proforma Promotion" on ad hoc basis to the post of U.D.C in the scale of pay of Rs.1200-30-1560-EE-40-2040/-p.m. plus other allowances as admissible from time to time, under the provision of "next below rule" of FR-30, with effect from 4/1/92(FN) (i.e. the date on which his junior was promoted to the post of U.D.C.) to 30/9/93(AN) (i.e. the date on which Shri S.K. Bhattacharjee, was reverted from the post of U.D.C to L.D.C. at his own request) while on deputation.

Further, Shri S K Bhattacharjee, L.D.C is hereby promoted to the post of U.D.C. in the scale of pay indicated above from 07/03/1995(FN) (i.e. the date of reporting to this office) to 02/04/1996(AN) i.e. the date of release from this office to accept his absorption in Govt of India, Ministry of Environment and Forests, NER, Shillong-03, as L.D.C.

(Signature)
(T. Chandrasekharan)
Director (Current Affairs)

Memo No. NEPA/PF(C)/1/86/Vol-I/2133-36 Dtd. Umsaw, the 5th July '96

Copy to :-

1. The Deputy Conservator of Forests(C), Govt of India, Ministry of Environment & Forests, NER, Upland Road, Laitumkhrach, Shillong-03.
2. Shri S K Bhattacharjee, L.D.C., O/O the Dy. Conservator of Forests(C), Govt of India, Ministry of Environment & Forests, NER, Upland Road, Laitumkhrach, Shillong-03.
3. The RPAC(EB), Shillong-03.
4. The A/cs Section (Local), NEPA, Umsaw.
5. Office Order File.

Sl. No. 723
Date 22/7/96

GOVT OF INDIA
Ministry of Environment and Forests

20 - 17 -
(TRUE COPY)

ANNEXURE, ~~AVI~~ AVI
18
(174) 203 194
Dated Shillong,
The 17/9/93.

The Chief Conservator of Forests (Central),
Govt of India, Min of Env & Forests,
Regional Office (NER), Upland Road,
Laitumkhrah, Shillong-3.

(Through Proper Channel)

Sub: Application for reversion to the post of LDC for
facilitating permanent absorption of Shri S K
Bhattacharjee, presently UDC, to the post of LDC,
in the Regional Office, Min of Env & Forests,
Govt of India, Shillong.

Respected Sir,

For quite some time past, I had been requesting for my
permanent absorption as LDC in your Regional Office. My representation
was supported by No Objection Certificate to my absorption to your
Regional Office, issued by my parent department, the North Eastern
Police Academy, Ministry of Home Affairs, Govt of India, Barapani
(Meghalaya).

2. Keeping in view the outstanding track record of my service
in your Regional Office on deputation, now running 5(five) years,
you were pleased to recommend my case to the Ministry for my
permanent absorption in your Regional Office. In this connection a
reference is invited to your office order No. RO-NE/A/PF/749(a), dated
30-10-1991, in which it was ordered that I may be retained on
deputation till my eventual absorption after finalisation of
Recruitment Rules.

3. Recruitment Rules-1992, issued by the Govt of India provides
for absorption of deputationist only in the LDC post provided the
parent department of the deputationist issues NOC to his absorption
as stated in para 2 above. My parent deptt has issued the necessary
NOC long back.

4. Since I am at present working as UDC and since absorption
is permissible only in the post of LDC, I am given to understand
that my absorption in the LDC post of this Region
be done if I seek...

(170) 21-18-
-2-

It is mentioned here that I was working as LDC on deputation in your Regional Office since June 1989 till my temporary promotion to the post of UDC in your office in 1992. I am thus the seniormost LDC in your R.O. when considered from my joining your Regional Office. I am also a Staff Selection Commission's qualified candidate for LD post.

6. One post of LDC in your R.O. is still lying vacant against which I may be absorbed w.e.f. the date when the Recruitment Rules-1992 came into effect in consideration of my seniority in the LDC Cadre and uninterrupted service in that post.

7. If my absorption in the LDC post of your Regional Office with effect from the date of coming into force of the Recruitment Rules-1992 is ordered, this application may kindly be treated as my willingness for reversion to the ~~past~~ LDC post in order to facilitate my permanent absorption in your Regional Office for which I am representing for quite long.

With high regards,

Yours faithfully,

Sd/- (S K BHATTACHARJEE)
UDC. 17/9/93.

22 - ANNEXURE ~~Part 169~~ A-VII
169

No.4-1/8
Government
Ministry of Envir

ests

PARYAVARAN BHAWAN,
CGO COMPLEX, LODI ROAD,
NEW DELHI-110 003.

Dated the 24th October, 1993.

To

The Chief Conservator of Forests(C),
Regional Office(NEZ),
Upland Road, Laitumkhrach,
SHILLONG-793 003.

SUBJECT: EXTENSION OF DEPUTATION IN RESPECT OF SHRI S.K.BHATTACHARJEE, UDC
(SUBSTANTIVE LDC) FOR THE FIFTH YEAR W.E.F. 15.6.1993 TO
14.6.1994.

Sir,

I am directed to refer to your letter No.6-25-47/92/E-RO-NE/211,
dated 14.5.1993, on the subject cited above and to convey the approval of
extension of deputation period for 5th year w.e.f. 15.6.1993 to 31.3.1994
in respect of Shri S.K.Bhattacharjee, L.D.C., Regional Office, Shillong.

Yours faithfully,



(C.S. VEDANT) 24/11/93
DEPUTY INSPECTOR GENERAL OF FORESTS (FF)

Deffer to release
w/o. Shri SK to
report on 31.3.94. as
6/5 yr deputation/extension
will be difficult to may
comply with the matter.

dev
20.12.93

Agst 2.
forward

No. 20020/7/80-ESTT(D)
Government of India/Bharat Sarkar
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the 29th May, 1986.

OFFICE MEMORANDUM

Subject: Seniority of persons absorbed after being on deputation.

The undersigned is directed to say that the existing instructions on seniority of transferees contained in para 7 of the Annexure to this Department's O.M.No.9/11/55-RPS dated 22nd December, 1959 (copy enclosed) mainly deal with cases where persons are straightway appointed on transfer. It is, however, observed that most of the cases of permanent absorption are those where the officers were taken on deputation initially under the method of 'transfer on deputation/transfer' contained in the relevant recruitment rules. This O.M. is intended to fill this gap in the existing instructions.

2. Even in the type of cases mentioned above, that is, where an officer initially comes on deputation and is subsequently absorbed, the normal principle that the seniority should be counted from the date of such absorption, should mainly apply. Where, however, the officer has already been holding on the date of absorption in the same or equivalent grade on regular basis in his parent department, it would be equitable and appropriate that such regular service in the grade should also be taken into account in determining his seniority subject only to the condition that at the most it would be only from the date of deputation to the grade in which absorption is being made. It has also to be ensured that the fixation of seniority of a transferee in accordance with the above principle will not affect any regular promotions made prior to the date of absorption. Accordingly, it has been decided to add the following sub-para (iv) to para 7 of general principles communicated vide O.M. dated 22nd December, 1959 :

"(iv) In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for "Transfer on deputation/transfer"), his seniority in the grade in which he is absorbed will normally be from the date of absorption.

153 (167) - 2 -
taken into account in fixing his seniority, subject to the condition that he will be given seniority from

- the date he has been holding the post on deputation,
- Or
- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later.

The fixation of seniority of a transferee in accordance with the above principle will not, however, affect any regular promotions to the next higher grade made prior to the date of such absorption. In other words, it will be operative only in filling up of vacancies in higher grade taking place after such absorption.

In cases in which transfers are not strictly in public interest, the transferred officers will be placed below all officers appointed regularly to the grade on the date of absorption".

3. All the Ministries/Departments are requested kindly to bring these instructions to the notice of all concerned in the Ministries/Departments and Attached and Subordinate offices under them for their guidance and to ensure their compliance.

4. These orders will not be applicable to transfers within the Indian Audit and Accounts Department which are governed by orders issued by the C&AG from time to time.

5. Hindi version is attached.

Sd/-
(K.S.R. KRISHNA RAO)
Deputy Secretary to the Govt. of India

To

1. All Ministries/Departments of Govt. of India
2. President's/Vice President's Secretariat.
3. Prime Minister Office.
4. Lok Sabha/Rajya Sabha Secretariat.
5. Central Bureau of Investigation.
6. Staff Selection Commission.
7. Institute of Secretariat Training & Management.

Copy also forwarded to :-

1. The Union Public Service Commission with 10 spare copies w.r.t. their letter No.2/22/81-S.II dated 9.9.1981 and in continuation of this Department's letter of even number dated 3.1.1983.
2. The Controller & Auditor General of India w.r.t. their U.O.No. 383-GE.1/71-81(Seniority-transferee) dated 18.2.1982.
3. All Sections of the Deptt. of Personal & Training.

Sd/-
(K.S.R. KRISHNA RAO)
Deputy Secretary to the Govt. of India

25-
SI.No.46(I)

ANNEXURE-2/1 A 7-IX
(166) 110

Government of India
Ministry of Environment & Forests
North Eastern Regional Office, Shillong

No.11-27/96/E-RONE/Vol.I 14585-98

Dated 8-2-2006

OFFICE ORDER

In pursuance to direction of Hon'ble Gauhati High Court, Guwahati in WP (C) No.6734/2004 on 23-9-2005 and Ministry's letter F.No.14-3/99-RO (HQ) dated 23-1-2006, the seniority list of LDCs in the Ministry of Environment & Forests, North Eastern Regional Office, Shillong is refixed as below:

Sl. No.	Name and Educational Qualifications	Date of Birth	Whether SC/ST, if not say Neither	Date of appointment to the grade in MoEF, NE (RO)	Date of confirmation	Remarks
1.	Shri S.K. Bhattacharjee P.U. Science	25-10-1955	Neither	15-6-1989	16-1-1989	Confirmed by NEPA
2.	Smt. J. Lyngkhoi BA (Hons) Khasi	16-9-1970	ST	4-5-1993	4-5-1995	
3.	Shri M.P. Rimal BA (Hons) Political Science	10-8-1972	Neither	3-4-1996	3-4-1997	

Date of absorption of Shri S.K. Bhattacharjee as per the direction of Hon'ble CAT in O.A. No. 227 of 2000 on 22-8-2001 upheld by Hon'ble Gauhati High Court, Guwahati in WP (C) No.6734/2004 on 23-9-2005 is 30-10-1992.

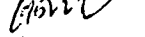
102
Chief Conservator of Forests (C)
(Khazan Singh)

(165)

- 26 -

Copy to:

1. Shri A.K. Johari, Director (RO HQ), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110 003 for information.
2. Shri R.K. Dutta, Technical Officer (Forestry), RO (HQ), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi with reference to your letter F.No.14-3/99-RO(HQ) dated 23-1-2006.
3. All concerned.
4. Guard File.


Chief Conservator of Forests (C)



- 27 -
भारत सरकार
पर्यावरण, एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS

ANNEXURE - ~~200~~

AX

164

F.No.14-3/1993-RO(HQ)

Speed Post

Most Immediate

Dated - 6/09/2006

To

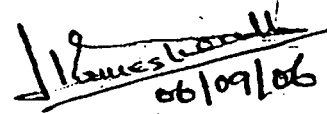
Shri R.L. Sanga, IFS
Deputy Conservator of Forests ©
Regional Office (NEZ),
Ministry of Env. & Forests,
Uplands Road, Laitumkhrach,
Shillong-793003
Phone No, (0364) 2227673.

Subject - Promotion of Shri S.K. Bhattacharjee, from the post of LDC to UDC
in RO, MoEF, Shillong-regarding

Sir,

Reference to your letter No 13-25/2004/E-RONE/1578 dated 3-8-2006 on the subject noted above and in this context I am directed to inform you that the competent authority in the Ministry has decided to allow promotion to Shri S.K. Bhattacharjee, LDC in the Regional Office, MoEF, Shillong to the post of Upper Division Clerk (UDC) w.e.f 15-06-1997 in terms of the Minutes of DPC held in the MoEF, New Delhi on 31/07/2006. The order's of promotion of Shri S.K. Bhattacharjee may kindly be issued immediately under intimation to this Ministry

Yours faithfully,


06/09/06
(R.K.DUTTA)

Technical Officer (Forestry), RO(HQ)

Slary No. 1363
Date 20/9/06
GOVT OF INDIA
Ministry of Environment And Forest
Regional Office, Shillong

Int(R)
Rh
19/9

28
52

ANNEXURE-1

(22) (163)

ANNEXURE-~~1~~ AXI

तार :
Telegram : PARYAVARAN,
NEW DELHI
दूरभाष :
Telephone :
फैक्स :
FAX :

No.4-8/91-RO(HQ)

To

The Chief Conservator of Forests ©
All Regional Offices

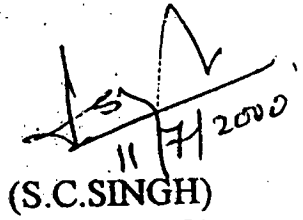
Dated 11th July 2000

Subject:- Recruitment Rules for the post(s) of Senior Persional Assistant, Persional Assistant, Assistant for the Regional Offices located at Bangalore, Bhopal, Bhubanesware, Lucknow, Shillong and Chandigarh of the Ministry of Environment and Forests-reg.

Sir,

I am directed invite your kind attention on the subject cited above to forwarded herewith two copies (Each in English & Hindi) version) of Recruitment Rules for the post(s) of Senior Persional Assistant, Persional Assistant, Assistant for taking necessary action and compliance with immediate effect. The receipt of the letter may please be acknowledged.

Yours faithfully,


11/7/2000
(S.C.SINGH)

Technical Officer, RO(HQ)

Encl: As above.

-29-53-

(24/7/2000)

NOTIFIED IN PART II SECTION, SUBSECTION (I) OF GAZETTE OF
INDIA)

GOVERNMENT OF INDIA
Ministry of Environment and Forests

New Delhi the 5th July' 2000

NOTIFICATION

S.R. In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the methods of recruitment of Group "B" posts in the Regional Offices of the Ministry of Environment and Forests.

Short title and commencement:-

- (1) These rules may be called the Regional Offices of the Ministry of Environment and Forests (Group "B" posts) Recruitment Rules 2000.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Number of posts, classification and scale of pay:-

The number of said posts, their classification and scale of pay attached thereto shall be as specified in column (3) to (4) of the said schedule.

Method of recruitment, age limit and other qualification etc:-

The method of recruitment, age limit, qualifications and other matters relating to the said posts shall be as specified in columns (5) to (14) of the aforesaid schedule.

Disqualification:- No person:-

- (a) Who has entered into or contracted a marriage with a person having a spouse living; or
- (b) Who having a spouse living has entered into or contracted marriage with any person shall be eligible for appointment to any of the said posts provide that the Central Government may, if satisfied that such marriage is permissible under the personal 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.

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to relax and in Consultation with the Union Public Service Commission
where the Central Government is of the opinion that it is necessary or expedient so to
may by order, for reasons to be recorded in writing and in consultation with the Union
Public Service Commission relax any of the provisions of these rules with respect to any
class or category of persons.

Saving:-

Nothing in these rules shall affect reservations, relaxation of age limit and other
concessions required to be provided for the Scheduled Castes, the Scheduled Tribes and
Other Backward Classes, the Ex-servicemen and other special categories of persons in
accordance with the orders issued by the Central Government from time to time in this
regards.

(THE SCHEDULE)

G.C. Basumatary
(G.C. BASUMATARY)
DIRECTOR

The Manager
Government of India Press
Mayapuri, Ring Road,
New Delhi.

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NAME OF POST	NO OF POST	CLASSIFICATION	SCALE OF PAY	WHETHER SELECTION BY MERIT OR SENIORITY OR NON-SELECTION-POST	AGE LIMIT FOR DIRECT RECRUITS.	WHETHER BENEFIT OF ADDED YRS OF SERVICE • ADMISSIBLE UNDER RULE 30 OF THE CENTRAL CIVIL SERVICE (PENSION RULES, 1972)	EDUCATIONAL AND OTHER QUALIFICATION REQUIRED FOR DIRECT RECRUITS.	WHETHER AGE AND EDUCATIONAL QUALIFICATION PRESCRIBED FOR DIRECT RECRUITS WILL APPLY IN THE CASE OF PROMOTEEES
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
SENIOR PERSONAL ASSISTANT	08*	GENERAL CENTRAL SEERVICE GROUP B GAZETTED MINISTERIAL	6500-200-10500	Non-Selection	NOT APPLICABLE	NO	NOT APPLICABLE	NOT APPLICABLE

* (2000) SUBJECT TO VARIATION DEPENDANT ON WORK LOAD

Region-wise break up of the posts

Bangalore(SZ)-02
Bhubaneswar(EZ)-02
Lucknow (CZ) -02
Shillong (NEZ)- 02

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(11)	PROMOTION Failing WHICH BY DEPUTATION	PROMOTION	PROMOTION FOR PROMOTION	COMMITTEE CONSIDERING PROMOTION WITH UNION PUBLIC SERVICE COMMISSION NECESSARY WHILE APPOINTING AN OFFICER ON DEPUTATION
		UDC in the scale of Rs. 4000-6000/- in the respective Regional office with ten years regular service in the grade. NOTE :- Where juniors who have completed their qualifying eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years whichever is less and have successfully completed their probation period for promotion to the next higher grade alongwith their juniors who have already completed such qualifying/eligibility service. DEPUTATION Officers under the Central/State Governments:- (a) (i) holding analogous posts on a regular basis; or (ii) with three years regular service in posts in the scale of Rs. 5000-8000/- or equivalent; or (iii) with six years regular service in posts in the scale of Rs. 4500-7000/- or equivalent; or (iv) with ten years regular service in posts in the scale of Rs.4000-6000/- or equivalent; and NOTE. 1 The departmental officers in the feeder grade who are in direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly, deputationists shall not be eligible for consideration for appointment by promotion. NOTE.2 The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department of the central Government shall not ordinarily exceed three years. The maximum age limit for appointment on deputation shall be not exceeding fifty six years as on the closing date prescribed for receipt of application	1. Additional Inspector General of Forests/Joint Secretary (Administration), Ministry of Environment and Forests- Chairman 2. Deputy Secretary (Administration) Ministry of Environment and Forests- Member 3. Assistant Inspector General of Forests, Regional Office (Head Quareter)- Member 4. Deputy Conservator of Forests (Central) of respective regional office- Member	

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No.11-27/96/E-RONE/Vol.I 12232-38

Dated 25-9-2006

OFFICE ORDER

With reference to Ministry's letter F.No.14-3/1993-RO(HQ) dated 6-9-2006 and in terms of the minutes of DPC held in the Ministry on 31-7-2006, Shri S.K. Bhattacharjee, LDC is hereby promoted to the post of UDC w.e.f. 15-6-1997 in the pay scale of Rs.4000-100-6000/-.

(B.N. Jha)

Chief Conservator of Forests (C)

Copy to:

1. Shri A.K. Johari, Director (Admn.), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110003 for information.
2. The Pay & Accounts Officer, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110 003.
3. Director (FC & ROHQ), Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi - 110003 for information.
4. Shri S.K. Bhattacharjee, UDC, MoEF, RO, Shillong.
5. DPC file.

B.N. Jha 25/9/06
Chief Conservator of Forests (C)

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